

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 5774/2020

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)
MR. MUHAMMAD AKBAR KHAN ... MEMBER (E)

Aman Ullah, Senior Clerk Government Degree College Palae Malakand.
.... (Appellant)

VERSUS

1. Provincial Government through Secretary, Higher Education Department, Secretariat Peshawar.
2. The Director Higher Education Colleges Khyber Pakhtunkhwa, Peshawar.
3. The Principal Government Degree College, Kabal, Swat.
.... (Respondents)

Mr. Yasir Saleem
Advocate ... For appellant

Mr. Muhammad Jan
District Attorney ... For respondents

Date of Institution.....15.06.2020
Date of Hearing.....30.11.2023
Date of Decision.....30.11.2023

JUDGMENT

RASHIDA BANO, MEMBER (J):The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

“On acceptance of instant appeal, the order dated 24.12.2019, may kindly be set aside and the increments may be restored to the appellant and the alleged embezzled amount may not be recovered from him and he may be allowed all consequential and back benefits of the intervening period.”

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2. Brief facts of the case, as given in the memorandum of appeal, that the appellant was initially appointed as Junior Clerk on 01.11.1984 in Education Department and was posted at Government High School Besham Mera. While posted at Government Degree College Kabal appellant was charged in case FIR No. 3 dated 05.05.2008 U/S 409, 468, 471, PPC/5(2) P.C Police Station Kabal. After trial by the Special Judge Anti Corruption, Khyber Pakhtunkhwa punishment of imprisonment alongwith recovery of embezzled amount to the tune of Rs. 1913786/- was awarded to him. The appellant assailed the said judgment through an appeal in Peshawar High Court, Mingora Bench (Daar-UI-Qaza) Swat and vide judgment dated 29.04.2014, he was acquitted of the charges and released from jail on 14.05.2014. The Peshawar High Court, Mingora Bench had also given directions for constituting an enquiry committee to probe the issue of embezzled government funds. However, the respondents conducted a partial inquiry after removing him from service. The issue of his removal from service was not brought to the notice of the inquiry committee. He preferred an application dated 22.05.2014 for release of salary but no response from the respondents was given. The respondents challenged the judgment of the Peshawar High Court, Mingora Bench, Swat in the august Supreme Court of Pakistan, which was dismissed vide judgment dated 24.11.2015. As a sequel to the aforementioned judgment he again approached the department for adjustment and release of salary but to no avail. Appellant further contended that circumstances compelled him to again knock the door of High Court/Daar-UI-Qaza, Swat through constitution petition no. 195-M/2016. When the respondents filed comments the appellant came to know that he had already been removed from service vide order dated 02.05.2014, which was never communicated to him. After obtaining a copy of the parawise comments filed by the respondents he submitted an application before the Peshawar High Court, Mingora Bench for



withdrawal of his writ petition, so as to agitate his grievances at an appropriate forum. Vide order dated 13.12.2016 his writ petition was dismissed as withdrawn. Thereafter he filed service appeal No. 439/2017 before this Tribunal which was partially allowed and case was remanded back to the respondents for denovo enquiry vide order dated 09.01.2019. Partial enquiry was conducted and the inquiry committee without associating the appellant with the inquiry proceedings submitted report wherein charges leveled against the appellant were proved. Thereafter, appellant was awarded minor punishment of withholding of two annual increments and recovery of alleged embezzled amount vide order dated 24.12.2019. Feeling aggrieved, he filed departmental appeal which was not responded, hence the instant service appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned District Attorney and perused the case file with connected documents in detail.

4. Learned counsel for the appellant argued that appellant has not been treated in accordance with law and rules. He further argued that inquiry committee did not associate the appellant in enquiry proceedings. Not a single witness has been examined during enquiry in his presence nor he has been given opportunity of to cross examine those who may have deposed anything against him during the enquiry. He further argued that the charges leveled against the appellant were neither proved during the inquiry proceedings, nor any independent and convincing proof/evidence has been brought against him. Reliance is placed on case law reported as 2002 SCMR 57, 2001 SCMR 566, 2000 SCMR 1321, 1994 PLC(CS) 1717 and 1993 SCMR 603.

5. Learned District Attorney argued that the then Principal, Govt: Degree College, Kabal, Swat had assigned duties pertaining to the financial/accounts



matters to the applicant. When internal audit conducted in 2008, it unearthed misappropriation/embezzlement in college funds. On the complaint of the Principal, Director Higher Education lodged FIR against the appellant and subsequently arrested by the police. The matter referred to the Director Anti Corruption Establishment, Khyber Pakhtunkhwa for investigation. During investigation, it came to light that Rs. 1913768/- had been embezzled/misappropriated by the appellant. The case was referred to the Special Judge Anti Corruption and after trial the appellant was awarded punishment of imprisonment and fine. In pursuance of the above judgment he was removed from service with effect from 04.09.2013 vide order dated 02.05.2014. He was further directed to deposit the misappropriated funds. Though he was acquitted by the Peshawar High Court, Mingora Bench but directions for holding inquiry were also contained in the said judgment. In pursuance of the said judgment fact finding enquiry was conducted by the respondents. All codal formalities were observed before passing the impugned order. The appellant has treated according to law and rules.

6. Perusal of record reveals that appellant was found guilty of embezzlement of the government funds to the tune of Rs. 1913786/- and awarded punishment of imprisonment/fine by Special Judge Anti Corruption vide judgment dated 05.09.2013. On the strength of Section-8(a) of E&D Rules 2011, the appellant was removed from service w.e.f 04.09.2013 vide order dated 02.05.2013. For the sake of transparency and fairness, we observed that the appellant was acquitted by the Peshawar High Court, Mingora Bench on 29.04.2014, while order of removal from service was issued on 02.05.2014. It clearly manifested malafide, ill will and bias of respondents against the appellant. We could not get any satisfactory response from the official respondents that's why judgment of Special Judge Anti Corruption dated 05.09.2013 was implemented after a lapse of



seven months? The record further revealed that after his acquittal, time and again he approached the respondents for adjustment and release of salary but did not get any positive response. We were unable to comprehend as to what stopped the respondents from communicating the impugned removal order to the appellant? The only justification we inferred was that they were hell bent to get rid of him by hook or crook.

7. The Peshawar High Court, Mingora Bench in concluding para of all the judgment gave directions to the respondents to constitute an enquiry committee for recovery of embezzled funds from all those responsible including the appellant, complaint, employee of the college and concerned Bank within a period of two months. Here again we noticed that instead of conducting formal enquiry under E&D Rules 2011 a fact finding enquiry was conducted by the respondents for the reasons best known to them. The record was silent whether any action was taken by the respondents on the findings of the above enquiry or otherwise? It is worth mentioning that the respondents were cognizant of the fact that no action could be taken on the findings of the fact finding enquiry. Our stance is further substantiated by para-4 of the specific recommendations of the fact finding enquiry report which is reproduced below:-

"The competent authority to initiate proper formal disciplinary proceedings against the responsible person i.e Mr. Amanullah, the then dealing clerk of accounts, under the clause of misconduct, the then audit party of the Directorate of Higher Education for negligence and"


Whatever has been stated above is sufficient to proof inefficiency, indifference criminal negligence on the part of the respondents in sorting out


sensitive and important issue in accordance with law and rules. The respondents owe an explanation for lapses/blunders.

8. Admittedly this Tribunal sent the matter for conducting denovo/formal inquiry strictly in accordance with law, rules and direction of Peshawar High Court order but inquiry officer only recorded statement of Ex-Principal Mohammad Iqbal and complainant and complete the enquiry process in one day i.e 04.08.2019. Again chance of hearing, self-defence specially cross examination upon Mr. Mohammad Iqbal Ex. Principal and all other relevant who depose against him was not provided to the appellant besides no one else held responsible or even associated with inquiry proceedings by the inquiry committee which render inquiry proceeding against the rules. Therefore, it is held that inquiry was not conducted in accordance with direction of this Tribunal given vide order dated 09.01.2019.

9. As a sequel to above, the impugned order dated 24.12.2019 is set aside and the appellant is reinstated in service for the purpose of denovo enquiry. The respondents are directed to conduct formal enquiry under E&D Rules 2011 strictly in accordance with the directions of the Peshawar High Court, Mingora Bench, Swat referred to above within a period of sixty days from the date of receipt of this judgment in accordance with order dated 09.01.2019. The issue of back benefits shall be subject to the outcome of the formal enquiry. Costs shall follow the events. Consign.

10. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 30th day of November, 2023.*


(MUHAMMAD AKBAR KHAN)
Member (E)


(RASHIDA BANO)
Member (J)


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Peshawar

ORDER

30.11.2023 1 Learned counsel for the appellant present. Mr. Mohammad Jan learned District Attorney alongwith Mr. Sohrab Khan, Law Officer for the respondents present.

2. Vide our detailed judgement of today placed on file, the impugned order dated 24.12.2019 is set aside and the appellant is reinstated in service for the purpose of denovo enquiry. The respondents are directed to conduct formal enquiry under E&D Rules 2011 strictly in accordance with the directions of the Peshawar High Court, Mingora Bench, Swat referred to above within a period of sixty days from the date of receipt of this judgment in accordance with order dated 09.01.2019. The issue of back benefits shall be subject to the outcome of the formal enquiry. Costs shall follow the events. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 30th day of November, 2023.*


(MUHAMMAD AKBAR KHAN)
Member (E)


(RASHIDA BANO)
Member (J)

15.11.2023

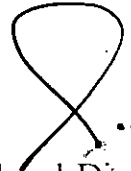
Appellant alongwith his counsel present. Mr. Muhammad Jan, District Attorney for the respondents present.

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Learned counsel for the appellant seeks adjournment for preparation of arguments. Adjourned. To come up for arguments on 30.11.2023 before the D.B. Appellant is directed to provide second member copy of the instant appeal on or before the next date of hearing. Parcha Peshi given to the parties.



(Fareeha Paul)
Member (E)



(Salah-ud-Din)
Member (J)

25.10.2023

Appellant in person present. Mr. Sohrab Khan, Lecturer alongwith Mr. Muhammad Jan, District Attorney for the respondents present.

Appellant requested for adjournment on the ground that his counsel is busy in the Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 31.10.2023 before the D.B. Parcha Peshi given to the parties.

(Muhammad Akbar Khan)
Member (E)

(Salah-ud-Din)
Member (J)

Naeem Amin

31.10.2023

Appellant in person present. Mr. Sohrab Khan, Lecturer alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney the respondents present.

Appellant requested for adjournment on the ground that his counsel is busy in the Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 15.11.2023 before the D.B. Parcha Peshi given to the parties.

(Fareeha Paul)
Member (E)

(Salah-ud-Din)
Member (J)


Naeem Amin

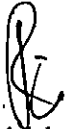
09th Oct, 2023

1. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney alongwith Mr. Sohrab, Lecturer for the respondents present.

2. The appeal in hand was partially heard by a bench comprising of worthy Chairman and Mr. Salah-ud-Din learned Member (Judicial), therefore, the same may be fixed before the said bench. Adjourned. To come up for arguments on 18.10.2023 before the concerned bench. P.P given to the parties.

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Peshawar


(Muhammad Akbar Khan)
Member (E)


(Rashida Bano)
Member (J)


Kamranullah


18.10.2023

1. Learned counsel for the appellant present. Mr. Muhammad Jan learned District Attorney for the respondents present.

2. The appeal in hand was partially heard by a bench comprising of Worthy Chairman as well as Mr. Salah-Ud-Din learned Member (Judicial) therefore, the same may be fixed before the said. Adjourned. To come up for consideration and order before the said bench on 25.10.2023 before D.B. P.P given to the parties.

SCANNED
KPST
Peshawar


(Fareeha Paul)
Member (E)


(Rashida Bano)
Member (J)

Kaleemullah

1st Sept. 2023

1. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney alongwith Mr. Sohrab, Lecturer for the respondents present.

2. This case was fixed for order but one of us (Chairman) is not feeling well, therefore, case is adjourned. To come up for order on 14.09.2023 before D.B. P.P given to the parties.



(Salah-Ud-Din)
Member (J)



(Kalim Arshad Khan)
Chairman

SCANNED
KFPT
Peshawar
Mutazem Shah

14th Sept, 2023

1. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

2. The matter was fixed for consideration and order but during recording of judgment, we could not find compliance of the directions of the Tribunal made on 02.03.2023, as the relevant record directed to be produced has not been yet produced, therefore, let that record be produced and matter be relisted thereafter on 09.10.2023 before D.B. P.P given to the parties.



(Salah Ud Din)
Member (Judicial)



(Kalim Arshad Khan)
Chairman

SCANNED
KFPT
Peshawar


Adnan Shah

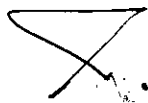
29.05.2023

Learned counsel for the appellant present. Mr. Farhan, Assistant alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Representative of the respondents submitted record consisting of 22 sheets, copy of which handed over to learned counsel for the appellant, who sought time for perusal of the same. Adjourned. To come up for arguments on 28.08.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED
KMDT
PESHAWAR


(Fareeha Paul)
Member (E)

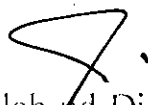

(Salah-ud-Din)
Member (J)

Naeem Amin

28th August, 2023

1. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney alongwith Mr. Muhammad Sohrab, Lecturer for the respondents present.

2. Arguments heard. To come up for consideration and order on 31.08.2023 before the D.B. Parcha Peshi given to the parties.


(Salah-ud-Din)
Member (Judicial)


(Kalim Arshad Khan)
Chairman

Naeem Amin


14.03.2023

Learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General for respondents present.

Former made a request for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 17.04.2023 before D.B. P.P given to the parties.



(Salah-Ud-Din)
Member (J)



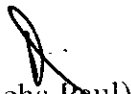
(Kalim Arshad Khan)
Chairman

SCANNED
KPST
Peshawar

17th April, 2023 1. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney alongwith Mr. Farhan, Assistant for the respondents present.

2. Mr. Farhan, Assistant showing himself to be posted in the Litigation Section when asked about non-production of entire record of enquiry proceedings, he said that that was lying in the Establishment Section and when confronted with the situation that he was representing the respondents and was required to produce the record wherever that was lying he had no explanation. Therefore, he is directed to produce the requisite record positively on 29.05.2023 before D.B. P.P given to the parties.

SCANNED
KPST
Peshawar



(Fareeha Paul)
Member (E)




(Kalim Arshad Khan)
Chairman

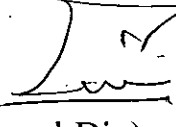
Adnan Shah, P.A.

30.01.2023

Appellant in person present. Mr. Muhammad Khan Paindakhel, Assistant Advocate General for the respondent.

Appellant requested for adjournment on the ground that his counsel is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 02.03.2023 before the D


(Fareeha Paul)
Member (E)



(Salah-ud-Din)
Member (J)


2nd Mar, 2023

Counsel for the appellant present. Mr. Muhammad Jan, District Attorney for respondents present.

During the course of arguments learned counsel for the appellant pointed out that the appellant was not provided opportunity of cross examination whereas the inquiry report shows that such opportunity was granted to him. It is therefore, deem appropriate that the entire record of the inquiry proceedings be produced within 7 days. To come up for arguments on 14.03.2023 before DB. PP given to the parties.

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KPST
Peshawar


(Rozina Rehman)
Member (Judicial)


(Kalim Arshad Khan)
Chairman

3rd Nov. 2022

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present. Ayaz Khan, Lit. Officer for the respondents also present.

Learned counsel for the appellant seeks adjournment in order to further prepare the brief. Adjourned. To come up for arguments on 02.01.2023 before the D.B.

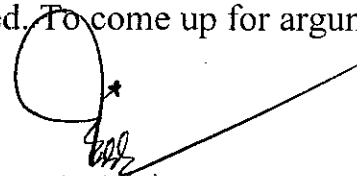

(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman

02.01.2023

Learned counsel for the appellant present. Mr. Qazi Ayaz, Litigation Officer alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 30.01.2023 before the D.B.


(Mian Muhammad)
Member (E)

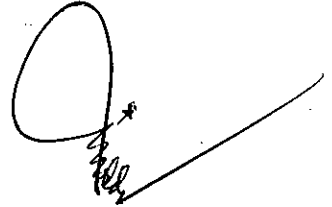

(Salah-Ud-Din)
Member (J)

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07.04.2022

Clerk of learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Jehanzeb, Supdt for respondents present.

Written reply /comment on behalf of respondents No. 1 to 3 submitted which is placed on file. A copy of the same is also handed over to the clerk of learned counsel for the appellant. Adjourned. To come up for rejoinder/arguments on 28.06.2022 before J.B.



(MIAN MUHAMMAD)
MEMBER(E)

28.06.2022

Learned counsel for the appellant present. Mr. Farhan Khan Assistant alongwith Mr. Naseer Ud Din Shah, Assistant Advocate General for respondents present.

Learned counsel for the appellant sought adjournment as he has not made preparation of the case. Adjourned. To come up for arguments on 11.08.2022 before the D.B.



(Rozina Rehman)
Member (J)



(Salah Ud Din)
Member (J)

11.8.2022

Proper DB not available the case is
adjourned to 3.11.2022



Reader

02.12.2021

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

Written reply/comments on behalf of respondent No.3 not submitted. Learned AAG seeks time to contact the respondent No.3 for submission of written reply/comments. Request is acceded^{to} but as a last chance. To come up for written reply/comments on 07.02.2022 before S.B.



(MIAN MUHAMMAD)
MEMBER (E)

07.02.2022

Due to retirement of the Hon'able Chairman, the case is adjourned to 07.04.2022 before S.B for the same.



Reader



5774/20

14.07.2021

Junior to counsel for the appellant and Jehanzaib Superintendent for the respondents No. 1 & 2 alongwith Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Respondents No. 1 & 2 has furnished reply/comments. Learned AAG is required to contact the respondent No. 3 for submission of written reply/comments in office within 10 days, positively. If written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 02.12.2021 before the D.B.

Stipulated period has passed and reply has not been submitted.


Chairman

P.S

28.07.2021

Learned Addl. A.G be reminded about the omission and for submission of Reply/comments within extended time of 10 days.


Chairman

ds

23.12.2020

Junior counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Wahid Gul ADEO representative of respondents No.1 & 2 present.

Representative of respondents No. 1 & 2 submitted reply/comments, placed on file. Learned A.A.G made a request for time to furnish reply on behalf of respondent No.3. Granted. To come up for reply/comments of respondent No.3 on 08.02.2021 before S.B.

08.02.2021

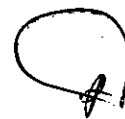
Appellant in person present.



(Rozina Rehman)
Member (J)

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Written reply on behalf of respondent No.3 is still awaited. Representative of respondent No.3 is not in attendance. Case is adjourned on the request of learned A.A.G by way of last chance, for submission of reply/comments on behalf of respondent No.3. To come up for written reply/comments on 07.04.2021 before S.B.



(Rozina Rehman)
Member (J)

07.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 14.07.2021 for the same as before.



READER

7575/2020

10.09.2020

Counsel for the appellant present.

States that security and process fee have not been deposited within due time inadvertently and submitted an application for permission to deposit the same.

Application is allowed. The appellant is required to deposit security and process within three working days from today. Thereafter, notices be issued to the respondents for submission of reply/comments on 28.10.2020 before S.B.

Appellant Deposited
Security & Process Fee

15/9/20

Chairman

28.10.2020

Nemo for appellant.

Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Muhammad Siddique ADO (Litigation) for respondents present.

Written reply on behalf of respondents is still awaited. Representative of respondents made a request for adjournment in order to furnish written reply/comments; granted. To come up for written reply/comments on 23.12.2020 before S.B.



(Rozina Rehman)
Member (J)

7574/2020

11.09.2020

Counsel for the appellant present.

States that security and process fee have not been deposited within due time and submitted an application for permission to deposit the same.

Application is allowed. The appellant is required to deposit security and process within three working days from today. Thereafter, notices be issued to the respondents for submission of reply/comments on 28.10.2020 before S.B.

Appellant Deposited
Security & Process Fee

11/9/20



Chairman

28.10.2020

Appellant in person present.

Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Jehanzeb Superintendent for respondents present.

Written reply on behalf of respondents was not submitted. Representative of respondents requests for adjournment to furnish reply/comments. Opportunity is granted. To come up for written reply/comments on 23.12.2020 before S.B.



(Rozina Rehman)
Member (J)

17.07.2020

Counsel for the appellant present. Preliminary arguments heard and case file perused. The appellant was initially appointed as Junior Clerk on 01.11.1984. That the appellant while performing his duties in Govt: Degree College Kabal Swat, was charged in case FIR No.3 dated 05.05.2008 U/S 409,468,471 PP/5(2) P.C Police Station Kabal. That the appellant was convicted by the Special Judge Anti Corruption, Khyber Pakhtunkhwa vide judgment dated 05.09.2013. The appellant challenged the said judgment before Dar-ul-Qaza Mingora Swat in criminal appeal No. 232/2013 which was allowed and the appellant was acquitted from the charge level against him. After acquittal of the charges by the Hon'able court, the appellant approached the respondent-department for adjustment and release of his salary vide application dated 17.12.2015 but no response was given to him. The appellant approached Dar-ul-Qaza Mingora Swat in petition No. 195-M/2016. During the pendency of the said writ petition, the appellant was removed from service. The appellant, thereafter, filed service appeal No. 439/2017 in this Tribunal which was decided vide judgment dated 09.01.2019, wherein the respondents were directed to conduct de-novo enquiry. Finally vide impugned order dated 24.12.2019, the appellant was awarded minor penalty of withholding of two annual increments and recovery of allegedly embezzled amount of Rs. 1602609/-. Feeling aggrieved, the appellant preferred departmental appeal on 15.02.2020 which was not responded within the statutory period of ninety days, hence, the instant service appeal on 15.06.2020. Learned counsel for the appellant further argued that the appellant has not been treated in accordance with law and rules because Principal of the College was responsible as cheque issuing authority but only the Appellant has been charge sheeted and singled out.

Points urged need consideration. Service appeal is admitted subject to all legal objections. Appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 11.09.2020 before S.B.




(MIAN MUHAMMAD)
MEMBER(E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 5774/2020

1S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	15/06/2020	<p>The appeal of Mr. Amanullah presented today by Mr. Yasir Saleem Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>17/07/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

SCANNED
KF ST
Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

**SCANNED
KPST
Peshawar**

Appeal No. ST/16/2020

Aman ullah, Senior Clerk Government Degree College Palae
Malakand. (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa, through Secretary
Higher Education Department, Peshawar. (Respondents)

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3	Copy of the Order and Judgment dated 05.09.2013	B	9-24
4	Copies of the Order and Judgment dated 29.04.2014 and release certificate dated 14.05.2014	C & D	25-40
5	Copy of Court Order dated 24.11.2015	E	41-42
6.	Copy of application dated 17.12.2015	F	43-44
7.	Copy of Constitutional petition no.195-M/2016	G	45-48
8.	Copies of Comments and Removal from Service Order dated 02.05.2014	H & I	49-59
9.	Copies of application dated 28-11-2016 and Order dated 13-12-2016	J & K	53-55
10.	Copy of order and judgment dated 09.01.2019	L	56-60
11.	Copy of charge sheet	M	61
12.	Copy of inquiry report	N	62-64
13.	Copy of show cause notice	O	65
14	Copy of office order dated 24.12.2019	P	66
15	Copy of departmental appeal dated 15.02.2020 along-with TCS receipt is attached as annexure Q	Q	67-72
16.	Vakalatnama		73

Through

Asif
Appellant

Yasir Saleem
YASIR SALEEM
Advocate high court

Jawad & ur - Rehman
JAWAD- UR- REHMAN
Advocate Peshawar.

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5049

Dated 15/6/2020

Appeal No. 5775/2020

Aman ullah, Senior Clerk Government Degree College Palae
Malakand.

(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa, through Secretary Higher Education Department, Peshawar.
2. The Director Higher Education (Colleges), Khyber Pakhtunkhwa Peshawar.
3. The Principal Government Degree College, kabal, Swat.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the Notification dated 24.12.2019, communicated to the undersigned on 25.01.2020 whereby the appellant has been awarded the minor punishment of withholding of two annual increments and recovery of alleged embezzled amount of Rs. 1602609/- against which his departmental appeal dated 15.02.2020 has not been responded within the statutory period of 90 days.

Filed to-day
[Signature]
Registrar
15/6/2020.

Prayer in Appeal: -

On acceptance of this appeal the Order dated 24.12.2019, may kindly be set aside and the increments may be restored to the appellant and the alleged embezzled amount may not be recovered from him and he may be allowed all consequential and back benefits of the intervening period.

Respectfully sheweth ,

The appellant humbly submit as under.

1. That appellant was initially appointed as junior clerk on 01.11.1984 in education department was posted at Government High School Besham Mera in the then District Shangla.
2. That during the course of employment the services of the appellant was transfer to Higher education Department vide order dated 04.11.2006. The appellant was lastly posted at Government Degree College Kabal Swat vide order dated 01.12.2006.
3. That ever since his appointment, the appellant had performed his duties as assigned with zeal and devotion and has never given any chance of complaint whatsoever regarding his performance.
4. That while performing his duties in the said capacities in Government Degree College Kabal Swat, the appellant was charged in case FIR No. 3 dated 05.05.2008 U/S 409,468,471 P.P.C / 5(2) P.C. Police station Kabal. *(Copy of the FIR is attached as Annexure A)*
5. That the case was tried by the Learned Special Judge Anti Corruption, Khyber Pakhtun Khwa camp court Swat. The learned Court convicted the appellant vide order and judgment dated 05.09.2013. *(Copy of the Order and Judgment dated 05.09.2013 is attached as Annexure B)*
6. That feeling aggrieved from the order and judgment dated 05.09.2013, the appellant filed criminal appeal NO. 232/2013 before the Dar-ul-Qaza Mingora Swat. The appeal was accepted and the appellant was acquitted from charged leveled against him vide order and judgment dated 29.04.2014. Accordingly after acquittal the appellant was released from jail on 14.05.2014. *(Copies of the Order and Judgment dated 29.04.2014 and release certificate dated 14.05.2014 are attached as Annexure C & D).*
7. That the respondent challenged the order and judgment dated 29.04.2014 before the August Supreme Court of Pakistan however the same was also dismissed by the August Court and maintained the order and judgment dated 29.04.2014 of the Dar-ul-Qaza Mingora

swat vide order dated 24.11.2015. *(Copy of Court Order dated 24.11.2015 is attached as annexure E)*

8. That after the order and judgment dated 24.11.2015, the appellant again requested the respondent for his re-adjustment and about release of his salaries vide application dated 17.12.2015, again no response was given to him. *(Copy of application dated 17.12.2015 is attached as annexure F)*
9. That since the appellant was not allowed to join his duties nor a single penny (salary) was paid to him from the date of FIR uptill his acquittal, the appellant was constrained to knock the doors of the Honorable High Court/ Dar ul Qaza Mingora swat in constitutional petition No. 195-M/2016. *(Copy of Constitutional petition no.195-M/2016 is attached as annexure as G)*
10. That during the pendency of writ petition, the department also filed comments in the said writ petition. When the appellant obtained the copy of the comments from the High Court, it transpired to him that the appellant was already removed from service vide order dated 02.05.2014, however the said order was never communicated and intimated to the appellant. *(Copies of Comments and Removal from Service Order dated 02.05.2014 are attached as annexure H & I).*
11. That on the same date appellant applied and obtained the certified copy of the comments. Thereafter appellant filed application before the High Court for the withdrawal of his writ petition with the permission to approach proper forum. The application was allowed and the writ petition was dismissed as withdrawn vide Order dated *(Copies of application dated 28-11-2016 and Order dated 13-12-2016 are attached as annexure J & K)*
12. That thereafter the appellant filed Service Appeal No. 439/2017 before the KP Service Tribunal which was partially allowed and the case was remanded back to the Department for de-novo inquiry vide order and Judgment dated 09.01.2019. *(Copy of order and judgment dated 09.01.2019 is attached as annexure L)*
13. That after remand, the appellant was served with charge sheet and statement of allegations, communicated to him on 09.04.2019, containing baseless allegations. He duly replied to the charge sheet and refuted allegations leveled against him. *(Copy of charge sheet is attached as annexure M)*
14. That a partial inquiry was also conducted in the matter and the inquiry committee without associating the appellant with the inquiry proceedings, submitted its report wherein charges leveled against the appellant were held to be proved. *(Copy of inquiry report is attached as annexure N)*

15. That there after the appellant was served with show cause notice dated 28.05.2019 communicated to him on 31.05.2019 wherein a major penalty of dismissal from service, beside recovery of Rs. 1602609/-, was proposed to be imposed against me. Again the appellant duly replied to the show cause notice and refuted allegations leveled against him. *(Copy of show cause notice is attached as annexure O)*
16. That however without considering defense, quite illegally the appellant has been awarded the minor punishment of withholding of two annual increments and recovery of alleged embezzled amount of Rs. 1602609/- vide office order dated 24.12.2019, communicated to me on 25.01.2020. *(Copy of office order dated 24.12.2019 is attached as annexure P)*
17. That the appellant also filed departmental appeal dated 15.02.2020 however the same has not been responded within the stipulated period of ninety days, hence the instant appeal. *(Copy of departmental appeal dated 15.02.2020 along-with TCS receipt is attached as annexure Q)*
18. That the impugned order dated 24.12.2019 is illegal unlawful against the law and facts hence liable to be set aside inter alia on the following grounds:

GROUND OF DEPARTMENTAL APPEAL.

- A. That the appellant has not been treated in accordance with law hence my rights secured and guaranteed under the law are badly violated.
- B. That the appellant is a responsible, cautious employee of the department and cannot even think of the display of the charges leveled against him.
- C. That it has been alleged in the charge sheet that the appellant was given control by the then Principal over the account matters, is not true. With great respect it is submitted that the appellant was mere clerk in the accounts department while the Principal was the controlling authority and the drawing and disbursing officer for all intents and purposes.
- D. That it has also been alleged that some embezzlement was committed in the college fund, however it is pertinent to mention here that the appellant was not aware of any such embezzlement. The alleged incident took place on 05.07.2007 while the letter has been issued on 19.04.2008 after nine months. The principal was the DDO and being DDO he used to check the accounts every month. Had there been any such embezzlement on the part of the undersigned, the principal would have brought it in the knowledge of the high ups. If there were any embezzlement why he kept mum for nine long months. In-fact if at all there were any

embezzlement, it would be committed by the Principal and the undersigned was made a scapegoat as was mentioned by the August Supreme Court of Pakistan.

- E. The factum of checking the accounts once in a month was admitted by the principal during his statement before the special judge anti corruption/ trial court. When the drawing and disbursing officer was the principal then how can the appellant be held responsible for any embezzlement. Accounts maintaining, fund raising and most importantly, the supervising of expenditure was the responsibility of the principal. The principal used to check the cash book from time to time and after each check he used to endorse his signature on the same. The appellant had no authority from the principle to withdraw money from bank. So, for the reasons cited above, the allegations regarding the involvement of the appellant in embezzlement is strongly denied.
- F. That although initially the appellant was convicted by the special judge anti corruption vide order dated 05.09.2013, however the same was set-aside by the Honorable judge Darul Qaza Swat vide order and judgment dated 29.04.2014. The Honorable Court very minutely discussed the issues and exonerated him from the charges of embezzlement leveled against him and acquitted him vide the said order.
- G. That this fact was also observed by *the August Supreme Court of Pakistan* that *"it is evident from the record that the accounts of the relevant institution were regularly checked by the Principal of the said institution him self and he never found any embezzlement in the accounts"*. The Apex courts further observed that *"the FIR in this case had been registered after about 8/9 months of unearthing of the alleged embezzlement which indicates that the respondent No. 1 (the appellant) could well have been made a scapegoat"*. The August Supreme Court also dismissed the appeal and upheld the order and judgment dated 29.04.2014 of the Honorable Dar ul Qaza Swat whereby the undersigned was acquitted.
- H. That the inquiry committee did not associate the appellant properly with the inquiry proceedings. Not a single witness has been examined during the enquiry in his presence nor he has been given opportunity to cross examine those who may have deposed anything against him during the inquiry.
- I. That the charges leveled against the appellant were neither proved during the inquiry proceedings, nor any independent and convincing proof/ evidence has been brought against me in the

inquiry that could even remotely associate me with the charges, as such the charges remained unproved during the inquiry and the inquiry committee has thus rendered its findings on mere surmises and conjunctures wholly and solely relied on the statement of the complainant. It is pertinent to mention here that the appellant was not allowed to cross examine him regarding his allegations against the appellant.

- J. That the inquiry committee wrongly stated in its report that the Honorable High Court directed the competent authority to take action against the appellant and recover the amount from him. In fact the Honorable court in its judgment dated 29.04.2014, while acquitting the appellant, directed the department to take action against all those who are responsible for the embezzlement including the principal and bank staff. Despite the clear directions of the Honorable Court only the appellant has been victimized which is illegal.
- K. That the inquiry committee also did not give attention to the statement of the appellant that he was arrested from his office and the office was not sealed in his presence and was left open to the principal and he made and prepared the fake documents in the appellant's absence.
- L. That the appellant has at his credit an unblemished and spotless service career, during entire service career, he has never given any chance of complaint whatsoever regarding his performance. He always preferred the interests of the department over and above his personal interests. The imposed penalty, is illegal and is stigma on the bright and spotless service record of the undersigned.

It is, therefore, humbly prayed that on acceptance of this appeal the Order dated 24.12.2019, may kindly be set aside and the increments may be restored to the appellant and the alleged embezzled amount may not be recovered from him and he may be allowed all consequential and back benefits of the intervening period.

[Handwritten signature]

Appellant

Through

[Handwritten signature]
YASIR SAEEM
Advocate High Court

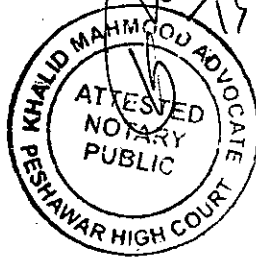
&
[Handwritten signature]
JAWAD-UR-REHMAN
Advocate Peshawar

AFFIDAVIT

I **Aman ullah**, Senior Clerk Government Degree College Palae Malakan, do hereby solemnly affirm and declare on oath that the contents of the above noted appeal as well as accompanied application for condonation of delay are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.

[Handwritten signature]
13-6-20
[Handwritten signature]

Deponent



(8)

Annex A

گورنر برسر خدمت اور ریٹائرمنٹ پر ۲۰۰۸ء کے فیصلے کے تحت
فارم نمبر ۲۴ - ۵ (۱)

گورنر برسر خدمت فارم نمبر ۲۴

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاعی رپورٹ نسبت ختم قابل دست اندازی پورس رپورٹ شدہ ریفرنس نمبر ۱۵۴ مجموعہ ضابطہ تجدیدی

صورت

ACE
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تاریخ و وقت رپورٹ	19/10/08 صبح 17:10
نام و سکونت اطلاع دہندہ مستفیض	محمد اقبال پرنسپل گورنمنٹ ڈگری کالج کابل
محقق کیفیت ختم (موضوعہ) حال اگر کہہ لیا گیا ہو	ACE 5/2008-468-409
جائے وقوعہ فاصلہ تھانہ سے اور سمت	گورنمنٹ ڈگری کالج کابل 9/10/08
نہم و سکونت منظم	آمان اللہ ستیارتھ گورنمنٹ ڈگری کالج کابل
کارڈ ایڈیشن کے متعلق لکھی اگر اطلاع دیج کرے میں وقت بل پر موجود بیان کر	رہنما چیف منسٹر 2071/ACE 29.4.08
تھانہ سے زیادگی کا تاریخ و وقت	بیسین ڈار

ابتدائی اطلاع نیچے درج کرو چھوٹے اکٹریٹری 2071/ACE 29.4.08 حوالہ میں جو
 106/08 19/10/08 409/5/08 تھانہ آجین دو سالہ اسٹریٹ ڈار ڈیوٹی میں تھے
 ڈیوٹی میں آئے تھے۔ یہ ڈیوٹی میں آئے تھے۔ 371/08 19/4/08 تھانہ آجین ڈیوٹی میں آئے تھے۔
 ڈیوٹی میں آئے تھے۔ مختلف اوقات میں تھانہ آجین ڈیوٹی میں آئے تھے۔ NBP میں
 تھانہ آجین ڈیوٹی میں آئے تھے۔ 727996/08 تھانہ آجین ڈیوٹی میں آئے تھے۔
 تھانہ آجین ڈیوٹی میں آئے تھے۔ 4110/08 تھانہ آجین ڈیوٹی میں آئے تھے۔
 تھانہ آجین ڈیوٹی میں آئے تھے۔ 2071/ACE حوالہ میں جو
 تھانہ آجین ڈیوٹی میں آئے تھے۔ 727996/08 تھانہ آجین ڈیوٹی میں آئے تھے۔
 تھانہ آجین ڈیوٹی میں آئے تھے۔ 4110/08 تھانہ آجین ڈیوٹی میں آئے تھے۔
 تھانہ آجین ڈیوٹی میں آئے تھے۔

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G.O. ACE Smt
5.5.2008

ANINZ B

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In the Court of Fazal Subhan, Special Judge, Anti-Corruption,
(Provincial) Khyber Pukhtoonkhwa, (Camp at Swat).

Case No. 08 of 2009.

Date of Institution. 21.03.2009.

Date of Decision. 05.09.2013.

State..... Versus.

Amanullah S/o Faramosh,
R/o Mohallah Haryankhel,
Navey kaley Mingora Swat,
Senior clerk Degree college Kabal.

Case FIR No.03 dated 05.05.2008 U/S 409/468/471/PPC read
with section 5(2) PC Act at P.S. ACE, Swat.

Judgment.

Accused Amanullah S/o Faramosh R/o Mohallah Haryankhel Navey kaley Mingora Swat, was sent to face his trial for fraudulent misappropriation of an amount of Rs.19,13,786/- in the capacity of senior clerk Degree college Kabal, and thus causing huge financial loss to the government ex-chequer and corresponding benefits to himself.

[Signature]
5.9.2013

Special Judge
Anti-Corruption
Khyber Pukhtoonkhwa, Peshawar

Facts of the case are that complainant Muhammad Iqbal, Principal Degree College Kabal made a complaint through letter No.371 dated 19.04.2008, Ex.PW1/s to the SHO P.S. Kabal, Swat, that Mr. Amanullah senior clerk of the said college has embezzled/misappropriated a draft of Rs.4,00,000/- meant for the purchase of furniture for the college but the same draft was not received to the firm i.e. Pak German Wood Working Timergara. Similarly, he draw Rs.22,996/-, Rs.4000/-, Rs.15,000/- and Rs.2,50,000/- through cheque No.686607, 686641, 686642, 684443 from private fund through fake signatures while other misappropriation not so far traced is to

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[Signature]

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[Signature]
Special Judge
Anti-Corruption
Khyber Pukhtoonkhwa, Peshawar
05/9/2013

be sought out from college record. On the basis of this latter case FIR No.106 Ex.PA was registered u/s 409/PPC of P.S. Kabal Swat against the accused Amanullah and case was investigated by PW-8 Tajbar khan S.I. During investigation of the case, opinion of the District Public Prosecutor was obtained who recommended that the case has to be transferred to the Anti-Corruption agency. Accordingly case was transferred to the ACE and in the light of the directions of Director ACE, the present case FIR No.3 dated 05.05.2008 u/s 409/468/471/PPC read with section 5(2) Pc Act was registered. Accused being in jail, was interrogated. At the same time the signature of complainant Muhammad Iqbal were obtained before the court of Illaqa Magistrate and were sent to the FSL/hand writing expert for opinion alongwith duplicate ID card, service card and other routine signatures and report received from finger expert confirm that signatures on the question cheques are fake and bogus. Moreso, audit was conducted through auditor who reported the embezzlement of Rs.19,13,786/- from government fund and private fund, and after completion of investigation challan against the accused was submitted.

[Signature]
5-9-2013
Special Judge
Anti Corruption
Khyber Pakhtunkhwa Peshawar

On receipt of challan, accused, who was already released on bail, was summoned who appeared and after observing legal formalities u/s 241-A Cr.Pc, formal charge was framed against him u/s 409/468/471/PPC read with section 5(2)Pc Act. The accused did not plead guilty and claimed trial, hence to prove its case the prosecution examined the following witnesses:-

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[Signature]
Court Clerk
District Court

Statement of Bashir Ahmad khan recorded as PW-1, who on 19.4.2008 was posted as ASHO P.S. Kabal. A letter bearing endorsement No.371 dated 19.4.2008 addressed to SHO P.S. Kabal Swat from Principal Government Degree College Kabal Ex.PW1/1. with the request for lodging FIR against Mr. Amanullah Senior clerk of government degree college kabal Swat regarding allegations of mass

05/9/2013

(11)

embezzlement/misappropriation of college fund as well as drawing huge amount from the bank through bogus cheques. In the light of above letter he lodged an FIR against Amanullah senior clerk government degree college kabal initially u/s 409/PPC. The FIR is Ex.PA which correctly bears his signature. He entered the contents of the above letter in the FIR and entrusted the investigation to Tajbar khan ASI investigation P.S. Kabal.

Muhammad Rasool Assistant Professor Government Degree College Kabal appeared and examined as PW-2. He signed recovery memo Ex.PW2/1, which correctly bears his signature vide which ACE personals recovered documents from the principal Muhammad Iqbal in college. He has seen recovery memo Ex.PW2/2 which bears his signature, vide which ACE personal recovered documents from the college principal. He also signed on Ex.PW2/3 (pardon deed) vide which accused Amanullah sought pardon from principal by admitting his guilt.

PW-3 is the statement of Muhammad Iqbal, Principal Government College Kabal. In the year 2006 he was transferred from GDC Puran to GC Kabbal. Accused Amanullah senior clerk transferred to this college on 06.11.2006 and he assumed his duty on 17.11.2006. Accused Amanullah was dealing private and government fund and accounts matter of the college. In this connection he issued an office order regarding his duties and responsibilities which is Ex.PW3/1 and at serial No.1 the accused has signed the said order. An amount of Rs. 4 lac were sanctioned by the Provincial government for the purchase of furniture from Pak German Wood Company at Timergara. The accused under his signature encashed the above said cheque from the bank and after that the accused prepared a fake and fictitious bank draft of Rs.4 lac in the name of manager Pak German Wood Working Timergara. The photo stat copy of the bank draft is attached

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with the file. He directed the accused to produce the above said bank draft. He stated that he has sent the original bank draft to the firm concerned and handed over to him the Photostat copy of the bank draft. He contacted time and again telephonically the concerned firm in connection with supply of furniture but they replied that the furniture will take time. Later on he was telephonically informed by the Director Education and concerned firm that the bank draft for purchasing of the furniture in question has not received to the firm. Accused was summoned by him in connection with query to know as to what happened to the bank draft for the purpose of purchase of furniture. He would come up with evasive reply and avoid appearance. He showed him a file with fake entry showing dispatch of the bank draft. He then verified the issuance of bank draft from NBP main branch Mingora copy of that letter is marked "A". In reply thereof he received bank letter, he produce the original letter which is Ex.PW3/2. Similarly he procured the bank statement of our college account bearing A/C No.128-9 NBP Kabbal branch and detected that some amount had been withdrawn illegally. The arrival report and charge assumption report of the accused are Ex.PW3/3 and Ex.PW3/4 respectively. He sent a letter dated 17.04.2008, the office copy is Ex.PW3/5 to the Manager NBP main branch Saidu Sharif Swat for verification of the said draft. In response the Manager NBP vide letter Ex.PW3/6 explained that the above said draft of Rs.4 lac have not been issued from this bank. The accused misappropriated the above mentioned amount of Rs.4 lac through forged and fake bank draft. The accused further embezzled and misappropriated Rs.3,05,000/- under the head of college private fund through three cheques bearing No.686641, 686642, & 686643 dated 11.03.2007, 11.06.2007, 11.12.2007 respectively with his fake signatures. The photo copies of the cheques are available on the file and marked "B". He has personally verified the issuance of

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cheques with bogus signature by visiting personally to the bank and having seen the said signature. The bank authorities on his instance gave him the bank statement which is Ex.PW3/7 and it has reference to withdrawal on the said three cheques. Similarly in the head of student admission fund accused misappropriated Rs.5,14,389/- in the year 2007 and he further misappropriated Rs.3,54,700/- which he collected from students but did not deposit it into treasury. For office record he prepared a detailed statement of the misappropriation committed by the accused, as per that total embezzlement committed by the accused comes to Rs.15,74,089/-. The detail statement is Ex.PW3/8. On discovery of the misappropriation the accused absented himself and was trying for his transfer, so he addressed a letter Ex.PW3/9 to the Director Higher Education requesting for withholding his transfer. He also sought an explanation Ex.PW3/10 from the accused regarding his absence. Later on the accused came to the college, admitted the misappropriated amount and promised with him that he will deposit the same and submitted an under taking/Mafi nama, photo copy of which is already Ex.PW2/3 (original seen and returned). The accused submitted the said under taking in the presence of marginal witnesses which included college professors and staff as mentioned on the back of the deed. The accused also signed and thumb impressed the same as token of its correctness. Subsequently he informed Director Education telephonically, verbally and also wrote a letter to him with a copy to C.O. ACE Swat for information and necessary action. The office copy of the same is Ex.PW3/11 (2 pages). He submitted a written complaint already Ex.PW1/1 to SHO P.S. Kabal Swat with the request for lodging an FIR against the accused Amanullah. He saw the complaint cited above, which is correct and correctly bears his signature, designation and his name. On the instruction of the SHO P.S. Kabal he sent vide his letter Ex.PW3/12 the photo stat of bank

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cheques, service certificate of Amanullah, specimen signature of the principal and detail of government and private fund. The I.O. got his specimen signature before the court for comparison. In this matter a departmental inquiry was also initiated and Mr. Bacha Nawab Principal Govt: Jehanzeb college was appointed as inquiry officer. In the said inquiry the accused was held responsible, copy of inquiry report is placed on file. During investigation his written statement was procured by the I.O. The accused embezzled the government money and admitted it in his affidavit.

Statement of Abdul Hameed SDPO Puran District Shangla recorded as PW-4. He during the relevant days was posted as C.O. ACE Swat. Initially the case in hand was registered vide FIR No.106 dated 19.04.2008 u/s 409/PPC at P.S. Kabbal which was transferred to the Director ACE Peshawar by the District Police Officer Swat vide letter No.4110 dated 22.04.2008 which is Ex.PW4/1 which was marked to him through proper channel vide order Ex.PW4/2 with the permission of registration of case and accordingly he registered the FIR Ex.PA/1. He conducted the investigation in the instant case and vide application Ex.PW4/3 he applied for the services of auditor and the report of the auditor is placed on file. As accused Amanullah was in judicial lock up in case FIR No.106 dated 19.04.2008 u/s 409/PPC of P.S. Kabbal, therefore vide his application Ex.PW4/4 he applied for the issuance of zamima B which was accepted vide order Ex.PW4/5 dated 13.05.2008. He vide his application Ex.PW4/6 applied for the police custody of the accused, which was accepted for one day and he interrogated the accused. He vide application Ex.PW4/7 applied for further custody of the accused, which was turned down. He vide application Ex.PW4/8 applied for obtaining specimen signatures of accused Amanullah which was accepted and the specimen signature of the accused was obtained. He recorded

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statement of accused u/s 161 Cr.Pc and he was sent to judicial lock up. Vide application Ex.PW4/9 he applied for obtaining specimen signature of Muhammad Iqbal complainant which was accepted vide order Ex.PW4/10 and accordingly his specimen signatures were obtained which are Ex.P-1 (three sheets). He vide application Ex.PW4/11 applied to the learned Sessions Judge for issuance of cheque bearing No.686641, 686642 & 686643 from the NBP Kabbal branch, which was accepted vide order Ex.PW4/12 and he went to the said bank and vide recovery memo Ex.PW4/13 he took into possession cheques mentioned above Ex.P-2 to P-4. He vide recovery memo already Ex.PW2/1 took into possession duplicate CNIC of complainant Muhammad Iqbal, duplicate service card for the purpose of FSL in the presence of marginal witnesses which are Ex.P-5 and P-6 respectively from the complainant. Similarly he vide recovery memo already Ex.PW2/2 took into possession from the complainant a letter for vacant post Ex.P-7, a letter with respect of contract employees Ex.P-8, a letter with respect additional teaching staff Ex.P-9 and invitation of inauguration of college Ex.P-10, notice of inauguration to the student Ex.P-11, for the purpose of FSL. He vide application Ex.PW4/14 sent specimen signature of complainant sealed in parcel having 4 seals of monogram MW and three original cheques mentioned above having bogus signatures made by the accused facing trial and had withdrawn Rs.3,05,000/-, sealed parcel having three seals of monogram MW and 5 letters mentioned above, with the request to opine whether signatures on the cheques mentioned above are forged or otherwise. The report of FSL is Ex.PZ, which reveals that signatures on the disputed cheque do not tally with specimen signature and routine signature of the complainant. He recorded the statement of the PWs u/s 161 Cr.Pc supplementary statement of complaint. He also took into possession copy of an affidavit of accused produced

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complainant. After completion of investigation he submitted his final report Ex.PW4/15 consisting of two sheets seeking permission for submission of challan, which was accorded then he submitted complete challan Ex.PW4/16, which is correct and correctly bears his signature.

Siraj Ahmad Manager NBP Kabal Swat appeared and examined as PW-5. He stated that there were two accounts bearing No.128-9 and 169-9 of the Government Degree College Kabal in our branch. The cheque bearing No.686641 dated 03.11.2002 of Rs.40,000/- already Ex.P-2 having signature of the principal on the back of the said cheque. Apart from signature of principal there were two other signatures. Similarly on the back of the cheque bearing No.686643 dated 11.12.2007 of Rs.2,50,000/- already Ex.P-4 there is signature of accused Amanullah who encashed/received the amount. Whereas on the back of the cheque bearing No.686642 dated 15.11.2007 of Rs.15,000/- already Ex.P-3 having signature of principal as well as accused facing trial. His written statement is Ex.PW5/1 which is correct and correctly bears his signature. He handed over cheques mentioned above to the I.O. which he took into possession vide recovery memo Ex.PW4/13, which is correct and correctly bears his signature.

PW-6 is the statement of Salahuddin, Naib Qasid, Government Degree College Kabal, Swat, who deposed that accused facing trial was senior clerk in their college. The accused facing trial in his presence as well as in the presence of other college staff has written a pardon deed which is already Ex.PW2/3 in which the accused facing trial has admitted his guilt and promised to pay the embezzled amount till 01.05.2008. On 05.11.2007 accused facing trial gave him a cheque bearing No.686642 of Rs.15,000/- already Ex.P-3 for encashment from the bank. He encashed the same and handed over the amount to accused facing trial Amanullah. He put his

ATTESTED

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signature on the back of the cheque mentioned above in the bank at the time of its encashment. He has seen the pardon deed which correctly bears his signature.

Statement of Abdul Qayum, Assistant Director FIA Islamabad recorded as PW-7, who during the relevant days was posted as senior auditor ACE, Peshawar. In the instant case as per request of the C.O. ACE, he was deputed to conduct audit in the instant case. He conducted audit of the accounts and prepared his detailed audit report, which is Ex.PW7/1 alongwith annexure (3 sheets), which is correct and correctly bears his signature.

2.

Tajbar Khan S.I appeared and examined as PW-8. He stated that in the year 2008, he was posted as ASI investigation wing police station Kabul District Swat. FIR already Ex.PA was registered against the accused Amanullah senior clerk u/s 409/PPc. After registration of FIR case file along with letter bearing No.371 already Ex.Pw1/1, pardon deed Ex.Pw2/3 and a letter of National Bank of Pakistan main branch Swat Ex.Pw3/2 were handed over to him and he started/conducted investigation. On 20.4.2008 he arrested the accused Amanullah and prepared card of arrest Ex.Pw8/1. On 21.4.2008 vide his application Ex. PW8/2 he requested for police custody against the accused and one day police custody was granted by the judicial Magistrate-II Swat. On the same date he proceeded to government degree college Kabul where the principal of the college handed over to him the photo state of press cutting of Daily News paper Mashriq, which he attached with the case file. In the press cutting of daily news paper, the misappropriation and arrest of the accused was reported. He wrote an application to the principal government degree college Kabul Swat with the request that attested photo state copy of the Bank cheques Nos.886607,686641,686642 and 686643, service certificate of accused Amanullah,

specimen signature of the principal and detail of the misappropriated amount. The letter is Ex.Pw8/3, on the same day he prepared the site plane of the office of the accused Amanullah with the pointation of Muhammad Iqbal principal government degree college Kabul. The site plain is Ex.Pw8/4. In response of his letter Ex.Pw8/3, the principal of said college through a letter No.376 already Ex.Pw3/12, sent the required documents through SHO Kabul along with his specimen signature which is Ex.Pw8/5. On 21.4.2008 he interrogated the accused Amanullah. The interrogation report is Ex.PW8/6 consisting of 4 pages. On 22.4.2008 he again requested to the court for further police custody of the accused vide his application Ex.PW8/7 and on his request further 2 days custody was granted. As government and private funds were allegedly misappropriated by the accused as such he got opinion of the District public prosecutor through Ex.PW8/8, asking whether the case of the accused will be further investigated by the local police or to be transferred to ACE. On his application dt:22.4.2008 the DSP Swat opined in written shape that it is a case of Anti-corruption and further directed that section 5(2)Pc. Act be added and case be handed over to the Anti-corruption Agency. The written opinion of DPP is Ex.PW8/9. In light of DPP opinion he added section 5(2)Pc. Act and in this regard he prepared parwana for addition which is PW8/10. He wrote an application to his superior for transfer instant case to ACE vide his application Ex.PW8/11. In his application the DPO Swat addressed a letter dated 22.4.2008 to Director ACE for transfer of the case file is already Ex.PW4/1. As the transferring of case is in process, therefore the case file was still in the possession of PDSP Swat. He also asked to the court for sending the attested photo state of the accused vide his application Ex.PW8/12. He also requested for the photo state of impugned bank

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cheques which were already handed over to him by the principal. The accused was government official, hence he wrote an application for departmental action against him by the authority concerned. The application is Ex.Pw8/13. On 23.4.2008 he recorded the statement u/s 161Cr.Pc. in which the accused categorically admitted his guilt. On 24.4.2008 vide his application Ex.PW8/14 he produce the accused in the court of judicial Magistrate/Illoqa Qazi Kabul with the request for recording the statement of accused u/s 164/364 Cr.Pc but on refusal of the accused he was ordered to be kept in judicial lockup. On instruction of higher authorities he handed over the case file on 24.4.2008 to the Muhorrer police station Kabul to send the case file further to the ACE through the investigation branch. All the documents exhibited as Ex.PW8/1 to 8/14 are in his own hand writing and correctly bear his signature.

With these statements, the prosecution closed its evidence whereafter statement of accused was recorded u/s 342 Cr.Pc, wherein he pleaded his innocence and alleged his false implication in the case. Thereafter I heard arguments of P.P. for state and defence counsel and have thoroughly gone through the record.

From the appraisal of record it is clear that prosecution has brought the charge against the accused that in the year 2006 he while posted as Senior Clerk in the Government Degree College Kabal Swat, and dealing with account matters of the said college, by misusing his official position has drawn Rs.3,05,000/- through fake signature, through cheque No.686641, 686642 and 686643, embezzled Rs.8,40,795/- of prospectus and fines and Rs.4,00,000/- drawn for purchase of furniture and for payment to Pak German Firm and thereby caused loss of Rs.19,13,786/- to government ex-chequer, punishable u/s 409/468/471/PPC read with section 5(2)Pc Act.

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For proving its case, the prosecution examined Muhammad Iqbal, Principal Government College Kabal Swat, who deposed that accused Amanullah Senior Clerk was posted in the GDC Kabal on 06.11.2006 and was dealing with private and government fund and accounts. In this respect office order No.212-KA/duty roster dated 07.02.2006 was produced and is Ex.PW3/1 through which accused Amanullah Khan senior clerk, mentioned at serial No.1 was assigned work, which amongst other jobs, includes maintenance of all kind of accounts i.e. government non-government, budget preparation, GP fund cases etc. The arrival report of accused was placed on file as Ex.PW3/3 while charge assumption report is Ex.PW3/4 and being vacant post, it is only signed by accused Amanullah. He also deposed that a cheque of Rs.4 lacs was issued under his signature for payment to Pak-German Wood Working Taimergara but bank draft of this amount was not sent to the concerned company and upon verification the company has denied the receipt of any draft of Rs.4 lacs. Letter issued to the Manager NBP main Branch Saidu Sharif is Ex.PW3/5 and reply thereof is Ex.PW5/6 wherein the concerned bank has explained that the relevant draft is not issued from their bank and the accused misappropriated the amount. He also stated that Rs.3,05,000/- from college private funds were drawn by accused Amanullah through his fake signature on cheque No.686641, 686642 and 686643. The bank statement of the account was produced as Ex.PW3/7 to show withdrawal of above cheques. He also deposed that accused has drawn Rs.5,14,380/- in the year 2007 and Rs.3,54,700/- of the student admission fund by not depositing the said amount in government treasury. He also stated that after detection of misappropriation, the accused disappeared and later on came to the college and admitted the misappropriation and furnished an undertaking/mafinama Ex.PW2/3. The said witness was thoroughly cross examined on different aspects but

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surprisingly no question was put to him regarding the material aspects of the statement of PW- Muhammad Iqbal nor the figures and details given by him were refuted. Even the documents exhibited during the statement of PW- Muhammad Iqbal were objected or denied. All the figures given and documents exhibited goes un-rebutted and unquestioned. So far as the question regarding the obtaining of his signature by the I.O. is concerned, reference must be made to examination in chief, wherein PW- Muhammad Iqbal has stated about procuring his specimen signature by the I.O. before the court for comparison. In cross examination he replied that he does not remember as to whether the I.O. has taken his signature on his statement which means that this reply is not in relation to the specimen signature of said PW taken for the comparison, and thus has no nexus with the statement regarding obtaining his signature for comparison. In my view, the initiation of internal probe leading to the letter to the SHO P.S. Kabal for lodging of FIR (Ex.PW1/1) is a circumstance to show that PW- Muhammad Iqbal, after realizing the embezzlement by the accused has acted in good faith to secure the interest of the government and there seems to be no malafide on his part. From his statement it is amply proved that accused Amanullah was posted as senior clerk, entrusted with financial and other responsibilities. From the statement of PW Muhammad Iqbal and record produced by him the misappropriation of Rs.15,74,089/- is proved, convincingly.

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From the evidence of PW- Muhammad Iqbal it is clear that after the detection of embezzlement, accused Amanullah appeared and furnished a pardon deed Ex.PW2/3 in the presence of PW-6 Salahuddin Naib Qasid and other staff of the college, admitting his guilt. PW-Salahuddin in his statement has furnished details about the pardon deed as well as deposed to have encashed cheque No.686642 of Rs.15,000/- (ExiP-3) and

handing over of amount to the accused Amanullah. Though his witness has replied in cross examination that he has purchased the stamp paper for accused and that it is not written in the stamp paper (pardon deed) as to who has scribed the same, but the question arise as to why the said PW bothered to have bought the stamp paper for the accused. He was and is a Naib Qasid in the college and normally such task are entrusted to the lower staff. Secondly the pardon deed bears the signature as well as thumb impression of accused Amanullah and throughout the evidence he has not denied his signature/thumb impression on the pardon deed nor has alleged the same to have been procured through undue pressure. No malafide, ill will or grudge is alleged against PW- Salahuddin and therefore his statement corroborates the prosecution evidence.

The prosecution has also examined Abdul Qayum, Assistant Director FIA, who conducted audit in the case and his report is on the file as Ex.PW7/1 showing total embezzled amount of Rs.18,79,089/-. The only objection raised on the audit report is regarding non-association of accused Amanullah during audit proceedings, however, it is not mandatory to associate him during such process because the auditor has only to consult the record and secondly, it is in the evidence that soon after the detection of misappropriation, the accused disappeared and was not available at the time of audit and therefore could not be associated with the audit proceedings. Moreso, no flaws or short comings have been pointed in the audit report by itself and hence the embezzlement of Rs.18,79,089/- is established from the said report.

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Besides these evidence, PW-1 Bashir Ahmad has confirmed the lodging of report FIR Ex.PA on the basis of letter No.371 dated 19.04.2008 whereas PW-Tajbar khan the then ASI and PW-4 Abdul Hameed the then C.O. ACE in their statements deposed about the investigation held by them. PW-

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Abdul Hameed, besides collecting evidence/record, has also sent the questioned cheques No.686641, 686642 and 686643 alongwith specimen signature of PW - Muhammad Iqbal and the FSL report Ex.P-Z also confirmed that the signatures on these cheques does not tally with set of signatures supplied and are forged. Moreso, Siraj Ahmad, Manager NBP Kabal was examined regarding the encashment of cheques No.686641 dated 03.11.2002 of Rs.40,000/- (Ex.P-2), cheque No.686642 (Ex.P-3) and cheque No.686643 having the signature of Principal and that of accused Amanullah, who took those cheques to the bank concerned and received the amount of Rs.40,000/-, Rs.15,000/- and Rs.2,50,000/- respectively. After withdrawal of these amounts the accused during inquiry/investigation as well as trial has not furnished any record as to where these amounts were utilized.

From the prosecution evidence the entrustment as well as illegal misappropriation of college and private funds of Rs.19,13,796/- has been sufficiently and convincingly proved. Moreso, the signatures on the cheques Ex.P-2, P-3 and P-4 were also declared to be fake and forged and thus the prosecution has proved the guilt of accused facing trial beyond shadow of doubt and therefore finding the accused Amanullah senior clerk Degree college kabal guilty of offences charged for, he is convicted and sentenced as following.

- 1) Under section 409/PPC, Five (5) years R.I. with a fine of Rs.50,000/- (Fifty thousand) or in default thereof shall undergo S.I. for six (6) months.
- 2) Under section 468/PPC, Two (2) years R.I. with a fine of Rs.30,000/- (Thirty thousand) or in default thereof shall undergo S.I. for six (6) months.
- 3) Under section 471/PPC, Two (2) years R.I. with a fine of Rs.30,000/- (Thirty thousand) or in default thereof shall undergo S.I. for six (6) months.

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- 4) Under section 5(2) Pc Act, Two (2) years R.I. with a fine of Rs.30,000/- (Thirty thousand) or in default thereof shall undergo S.I. for six (6) months.
- a) The benefit of section 382-B Cr.Pc is extended in favour of convict, if he had spent any period as under trial prisoner in jail, in this case.
- b) All the sentences shall run concurrently.
- c) The accused shall also deposit the embezzled amount of Rs.19,13,786/- in the government treasury, if not already recovered departmentally or shall be recovered by sale of moveable and immovable property of accused.

Accused Amanullah is on bail, he is taken into custody and sent to jail for execution of sentence awarded to him.

The case property, if any, be kept intact till the expiry of the period of limitation prescribed for appeal/revision.

Order announced and file of the case be consigned to the record room after its necessary completion.

Announced.
Swat.
05.09.2013.

Certificate.

Certified that this judgment consists of sixteen pages, each page has been corrected and signed by me wherever necessary.

ATTACHED

Appellate C
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PESHAWAR HIGH COURT MINGORA BENCH
(DAR-UL-QAZA), SWAT
JUDICIAL DEPARTMENT

JUDGMENT SHEET

Cr. A. No. 232/2013

Date of hearing: 29.4.2014.

Positioner/Appellant (AMAN ULLAH) by
Mr. Abdul Halim Khattak, Advocate.

Respondents (The State & others) by
Muhammad Javed, AAG.



ABDUL LATIF KHAN J. - This criminal appeal has been filed against the judgment dated 5.9.2013 passed by learned Special Judge, Anti Corruption, Khyber Pakhtunkhwa, Camp Swat, whereby the appellant has been convicted and sentenced in case FIR No. 3 dated 5.5.2008, registered at Police Station ACE, Swat, as under:-

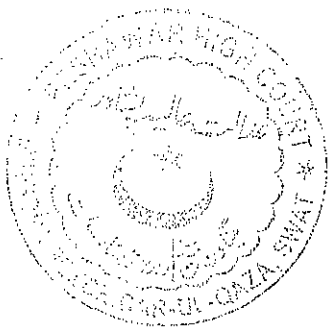
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- (i) Under section 409 PPC to undergo five years RI with fine of Rs. 50,000/- or in default thereof shall undergo six months SI.

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- (ii) Under section 468 PPC to undergo two years R.I with a fine of Rs. 30,000/- or in default thereof shall undergo six months S.I.
- (iii) Under section 471 PPC to undergo two years R.I with a fine of Rs. 30,000/- or in default thereof shall undergo six months S.I.
- (iv) Under section 5(2) P.C Act to undergo two years R.I with a fine of Rs. 30,000/- or in default thereof shall undergo six months S.I.



All the sentences were directed to run concurrently, however, benefit of Section 382-B Cr.P.C was extended to him. The appellant was also directed to deposit Rs. 19,13,786/- in Government Treasury, if not already recovered departmentally or shall be recovered by sale of moveable and immoveable property of accused.

2. According to story of prosecution, Principal, Government Degree College, Kabal, District Swat, addressed a letter bearing No. 371 dated 19.4.2008, Ex PW 1/1, to Station House Officer, Kabal, for registration of case against Aman Ullah, appellant. As per contents of letter Aman Ullah, Senior Clerk of the college concerned, embezzled/misappropriated a draft of Rs. 4, 00,000/- in the

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name of Pak German Wood Working, Timergara, for the supply of furniture, issued on 5.7.2007, which was not received by the said Firm and when the said clerk was asked, he confessed that he has used the money for his personal purposes. It has been further alleged in the letter that cheques Nos. 686607, 686641, 686642, 686643 amounting to Rs. 22996/-, 40,000/-, 15000/- and 25,0000/- respectively has been cashed from private fund (NBP, Kabal) by fake signatures and other misappropriation, which is in lacs, will be sorted out from the college record, as such, the above referred FIR was registered.

3. After completion of investigation challan in the case was submitted before the Court of Judge, Anti Corruption, Khyber Pakhtunwa, Peshawar. Learned trial court after framing of charge, recording statements of

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prosecution witnesses and examination of accused under section 342 Cr.P.C. convicted and sentenced the appellant. as stated above, hence, the present appeal.



4. Learned counsel for the appellant contended that there is sufficient delay in lodging of the report regarding the alleged embezzlement with no explanation. He added that forging of signature has not been established through any ocular evidence. He contended that story of preparing forge draft and signing of cheques has been manipulated against the appellant. He added that the impugned judgment is based on mis-appreciation of evidence on record as the evidence produced by the prosecution is not worthy of credence and confidence inspiring.

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6. As against that, learned AAG contended that the appellant was performing his duty as Accountant and has embezzled a huge amount from the college fund. He added that prosecution has produced sufficient evidence which established the guilt of the appellant and supported the impugned judgment.



7. I have considered arguments of learned counsel for parties and have gone through record of the case.

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8. The record reveals that the report has been registered on the letter posted as Ex PW 1/1 addressed to SHO concerned by PW-3, Principal Government Degree College, Kabal, Swat. As per contents of letter the draft in question was issued in the name of Pak German Wood Working, Timergara, on 5.7.2007 while the letter has been

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issued on 19.4.2008, after more than nine months. but there is no explanation as to why the matter was not reported to police earlier. Muhammad Iqbal, Principal College, appeared as PW-3 has categorically admitted in his cross examination that as DDO he checked the account registers once in a month. He admitted that earlier audit was conducted by Abdul Qayum, Senior Auditor, who in his report has implicated both the accused and the bank authorities but he did not lodge any report. He admitted that being Principal of the College he was DDO and further admitted that accounts maintaining, fund raising and supervising of expenditure was his responsibility. He stated that he used to check the cash book from time to time and admitted that after each cheque he used to endorse his signature. He admitted that cheque book for official account

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was maintained by him being Principal. He stated that college check book is in his possession and further stated that the accused was arrested from the office and responsibility of his offence was handed over to Peon and he did not take into possession all the relevant registers and record. Though, the principal denied the suggestion that prior to the registration of instant case against the accused, people of Kabal had raised the issue of embezzlement against him but admitted that he is in possession of copy of that application. PW-4, deposed that two separate applications were filed by the inhabitants of village Kabal against the Principal of Government Degree College Kabal and further admitted that the application filed by one Ali Akbar was marked to him for necessary action but he has not initiated any inquiry against the Principal on the basis of

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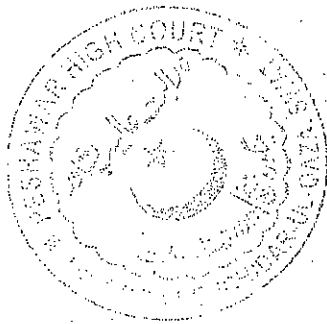
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that application. The I.O further deposed that he has not been provided any letter through which the cheque book was entrusted to the accused. The complainant also admitted in statement that he has engaged a private counsel in this case and personally putting the expenses of the counsel and shown his ignorance regarding departmental permission for engaging a private counsel. From his statement it has not been established that it was the appellant who embezzled the amount.



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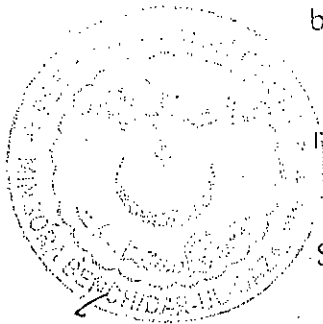
9. It was the responsibility of the Bank employee to compare signature with specimen signature of the Account holder. Abdul Hameed, who investigated the case, appeared as PW-4 and deposed that he has not included the staff of the bank concerned as an accused person in this case; however, he associated them as

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witnesses in the case. He stated that report in respect of
embezzled amount prepared by the Principal is different
from the report prepared by the auditor. He stated that in
his view the report of auditor is more authentic because he
is a responsible person. He admitted that no amount has
been recovered from the accused. He deposed that the entire
record was produced to him by the Principal (complainant).
Siraj Ahmad, Manager NBP, appeared as PW-5, who
deposed that cheque book was issued in the name of
Principal and being account holder of their Bank the
specimen signature were available with them in the Bank.
He admitted that they issue pass book alongwith the cheque
book but he failed to show any authority letter on behalf of
Principal which could suggest that the Principal had
authorized the accused facing trial to withdraw money from

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the bank. He admitted that normally an official cheque contain the signature of DDO and the person who encash the cheque.

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The entire evidence produced by the prosecution reveals that there is no direct evidence against the appellant and the evidence available on record is in shape of circumstantial evidence. As rule of prudence, it is required that each piece of circumstantial evidence shall be supported by independent corroboration, which shall, by itself, be sufficient to establish the guilt. However, each circumstance shall be so connected with each other that it shall make one complete chain, without there any broken link and at any stage any of the link in the chain is found missing, the benefit of which goes to the accused. From the evidence it has not been established that the signature has



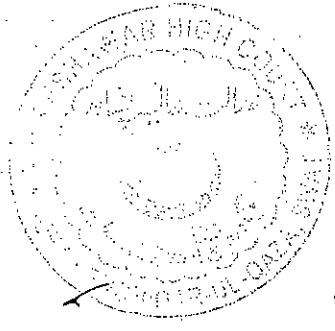
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been forged by the appellant. The appellant was not the competent authority and it was complainant to sign the financial matter being DDO of the College concerned. It has not been established that it was the appellant who managed to replace the original draft and made the signature of the Principal and even no person has been examined from the firm known Pak German Wood Company. There is also delay in sending the specimen signature because PW-4 deposed that the signatures were obtained on 17.5.2008 and were sent to the expert on 22.5.2008, after five days and there is no explanation regarding such delay, which makes the case of prosecution doubtful.



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8. As far as extra judicial confession is concerned, any admission made by the appellant before the departmental authority could not be used as evidence against

him in the criminal trial. In Sajid Mumtaz and others' case

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(2006 SCMR 231) it has been observed by the honourable

apex court that an extra judicial confession is not direct

evidence, it must be corroborated in material particulars

before being made the basis of conviction. Status of the

person before whom the extra judicial confession is made

must be kept in view and it has further been observed that

extra judicial confession is always a weak type of evidence

which can easily be procured whenever direct evidence is

not available. Even otherwise the document/pardon deed

does not confirm any date nor proved on record as there exist

numerous lacunas in it, fatal to the case and cannot be relied

upon safely for conviction. In the case in hand, inhabitants

had already made complainant, as depicts from the evidence

available on record, regarding embezzlement of the school



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fund against the principal and complainant remained mum for more than nine months, therefore, the story advanced by the prosecution is not free from doubt and the benefit of which must go the accused. It has been now settled that conviction must be based on unimpeachable evidence and certainty of guilt and any doubt arising in the prosecution case must be resolved in favour of the accused. It is also well settled principle of criminal jurisprudence that number of accused may escape unpunished, for lack of sufficient evidence or for the reason that prosecution failed to prove their guilt beyond reasonable doubt but no innocent person should be convicted or punished for what he has not done and the doubt, therefore, repel punishment. Moreover, an enquiry was conducted in the matter by Principal, Jehanzeb College, Saidu Sharif, Swat, which has not been brought on

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record. The same was admitted by the complainant in his statement, however, not handed over to local police nor Investigating Officer took the same into possession. The findings arrived at by the learned trial court, in view of the above discussion, cannot be held to have been made on the basis of correct appreciation of evidence and as such the same cannot be maintained.

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For the aforesaid reasons, I am of the view that the prosecution has failed to prove the guilt against the convict-appellant beyond reasonable shadow of doubt, therefore, while extending the benefit of doubt, I accept the appeal filed by the appellant-convict by setting aside his conviction and sentence recorded by the trial court and acquit him of the charges levelled against him. He is in custody and be set free forthwith, if not required in any other case.

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Before parting with this judgment, I deem it appropriate, in the interest of justice and to save public exchequer from heavy loss of Rs. 18,79,089/-, to direct the worthy Secretary, Higher Education, Peshawar, to constitute a Committee with the direction to probe into the matter and recover the embezzled amount from all those responsible including the appellant, complainant, employees of the College and concerned Bank within shortest possible time not later than two months positively and inform the Additional Registrar of this Court accordingly.

3d: Abdul Quadir Khan

Announced.
Dated: 29.4.2014.

ATTESTED

No. 3787
Name of Applicant: Amanullah Khan
Date of Presentation of Application: 27-9-16
Date of Grant of Order: -
No of Copies: 200
Urgent Fee: -
Fee Charged: 40/-
Date of Delivery of Copies: 27-9-16

Office

30/04/2014

g-xuv

Certified to be true copy

[Signature]

EXHIBIT
Peshawar High Court, Mingora, District-Dira, Swat

07/9/16

Admitted D

OFFICE OF THE SUPERINTENDENT CENTRAL PRISON HARIPUR

CERTIFICATE

(Handwritten marks)

It is certified that Mr. Amanullah S/o Faramosh Khan R/O Naway Kalay District Swat has released from jail today on 14-05-2014 on acquittal by Peshawar High Court Mingora Bench in case FIR No. 03 dated 05-05-2008 U/S 409/468/471 PPC of Police Station Anti Corruption Swat. He remained confined in jail from 05-09-2013 to 14-05-2014.

This certificate is issued on his own request.

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Sardar J. Khan
SUPERINTENDENT
CENTRAL PRISON HARIPUR

14/5/14

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Asif Saeed Khan Khosa
Mr. Justice Gulzar Ahmed
Mr. Justice Iqbal Hameedur Rahman

Criminal Appeal No. 558 of 2014

(Against the judgment dated 29.04.2014 passed by the Peshawar High Court, Mingora Bench (Dar-ul-Qaza), Swat in Criminal Appeal No. 232 of 2013)

Muhammad Iqbal

...Appellant

versus

Aman Ullah, etc.

...Respondents

For the appellant:

Mir Adam Khan, AOR
with the appellant in person.

For respondent No. 1.

In person.

For the State:

Mr. Zahid Yousaf, ASC

Date of hearing:

24.11.2015

JUDGMENT

Asif Saeed Khan Khosa, J.: An application has been received from the learned counsel for respondent No. 1 seeking an adjournment on the ground that his services have been engaged quite recently and he needs time to prepare his brief. We note that this appeal has been hanging fire since the year 2014 and it is not understandable as to why respondent No. 1 has decided to engage his learned counsel now and not before. In the circumstances of the case we have not felt persuaded to grant the adjournment prayed for.

2. The facts of this case as well as the evidence produced before the trial court find an elaborate mention in the judgments passed by the courts below and, therefore, the same may not be

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ATTESTED
Court Associate
Supreme Court of Pakistan

Asif Saeed Khan Khosa
Iqbal Hameedur Rahman
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reproduced here so as to avoid duplication and unnecessary repetition.

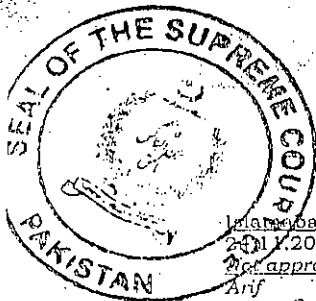
3. After hearing the learned Advocate-on-Record for the appellant, respondent No. 1 appearing in person and the learned counsel for the State and having gone through the record of the case with their assistance we have observed that it had nowhere been established by the prosecution that it was none other than respondent No. 1 himself who had forged the signatures of the Principal of the relevant educational institution. Nothing had been recovered from the custody of respondent No. 1 during the investigation of this case. It is evident from the record that the accounts of the relevant institution were regularly checked by the Principal of the said institution himself and he had never found any embezzlement in the accounts. It is also not clear from the record as to how and in which capacity respondent No. 1 was alleged to be involved in maintenance of accounts of the relevant institution. The FIR in this case had been registered after about 8/9 months of unearthing of the alleged embezzlement which indicates that respondent No. 1 could well have been made a scapegoat. Upon appreciation of the evidence the High Court had concluded that the prosecution had failed to prove its case against respondent No. 1 beyond reasonable doubt and upon our own independent evaluation of the evidence we have not been able to take a view of the matter different from that taken by the High Court. This appeal is, therefore, dismissed. The bail bond and sureties of respondent No. 1 shall stand discharged.

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Sd/- Asif Saeed Khan Khosa, J
Sd/- Gulzar Ahmed, J
Sd/- Iqbal Hameedur Rahman, J

Card No. 25/11-15

Court Associate
Supreme Court of Pakistan
Islamabad



Islamabad
20/11/2015
Approved for reporting
Arif

ATTESTED

GR No. 16984/15
Date of Receipt 25-11-15
No. of Pages 69
Provisions 6
Copy for 6
Court Fee 3-25
Date of Completion of Copy 1-12-15
Date of delivery of Copy 3-12-2015
Card No. 25/11-15
Prepared by M.S. Khattar
Received by AM

To

The Honourable Director,
of Higher Education,
KPK, Peshawar.

Through: The Principal Dr. Khan Shaheed
Degree College Kabal, Swat.

Subject: APPLICATION FOR RE-ADJUSTMENT IN THE
LIGHT OF THE JUDGMENT DATED 29.04.2014
PASSED ON THE HONOURABLE PESHAWAR HIGH
COURT MINGORA SWAT AND DECISION THE
HONOURABLE SUPREME COURT OF PAKISTAN
DATED 24.11.2015

Dear Sir,

It is submitted that Anti Corruption Special Judge gave decision dated 05.09.2013 against me and well in time I filed appeal against his decision in Peshawar High Court Swat Bench vide Cr.A. No. 232/2013.

The Peshawar High Court Swat bench decided the appeal case in my favour vide Judgment dated 29.04.2014 and declared the judgment of Anti Corruption Judge as null and void. And have acquitted me.

The Principal concerned filed an appeal against the decision in the Honourable Supreme Court of Pakistan Islamabad, which was dismissed and the decision was announced in my favour vide No. 16984/15 dated 24.11.2015 (copy attached).

Now I request your honour that I am very poor and have large family, so please adjust me locally and also pay my outstanding salary etc. to me, for which I shall be highly obliged and pray for your long life.

Thanks.

Yours obediently,

ATTESTED

AMANULLAH
SENIOR CLERK
MOB: 03429647710

Dated: _____

17/12/2015

No. 1021

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or of which no acknowledgement is due.

38 PS

44

Received a registered addressed to:

Date Stamp

Initials of Receiver

Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for

(in words)

if insured.

Insurance fee Rs. Name and address of sender

Ps. (in words)

Weight

Kilo

Grams

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ATTESTED

45 April 13

BEFORE PESHAWAR HIGH COURT, BENCH AT
MINGORA/ DARUL QAZA, SWAT

Writ Petition No. 195 of 2016

Aman Ullah son of Faramosh resident of Muhalla Burhankhel, Nawakalay,
Tehsil Babozi, District Swat. ...Petitioner

VERSUS

- (1) Principal Degree College Kabal, District Swat.
- (2) Director Higher Education, Khyber Pakhtunkhwa at Peshawar.
- (3) Secretary Higher Education, Khyber Pakhtunkhwa at Peshawar.
- (4) Government of Khyber Pakhtunkhwa through Chief Secretary,
Peshawar. ...Respondents

Writ Petition under Article 199 of the Constitution
of Islamic Republic of Pakistan, 1973;

Respectfully Sheweth:

1. That the petitioner was serving as Senior Clerk on permanent post, in Degree College Kabal, District Swat.
2. That F.I.R No. 3 dated 05/05/2008 under section 409, 468, 471 PPC, section 5(2) P.C. Act was

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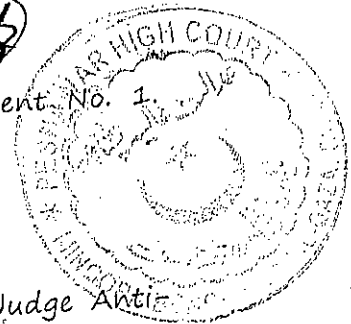
REGISTRAR PESHAWAR

(2)

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lodged against the petitioner by respondent No. 1.
(Copy of the F.I.R is Ann: A).



3. That the case was tried by the special Judge Anti Corruption, Khyber Pakhtunkhwa Camp Swat and the petitioner was convicted vide judgment dated 05/09/2013. (Copy of the judgment is Ann: B).
4. That the petitioner assailed the said judgment by filing Criminal Appeal No. 232 of 2013 before this August Court which was accepted vide judgment dated 29/04/2014 and the petitioner was acquitted from the charge. (Copy of the judgment is Ann: C).
5. That the judgment of this Hon'ble Court was challenged before the August Supreme Court which was dismissed vide judgment dated 24/11/2015. (Copy of the judgment is Ann: D).
6. That after the judgment of the August Supreme Court, the petitioner requested the respondents vide application dated 17/12/2015 (Ann: E) for re-adjustment of his post/service. But up till now, no response whatsoever has been given to the petitioner.
7. That after the lodging of the said F.I.R, the petitioner has never been allowed to perform his duties as senior

ATTESTED

05 APR 2016

[Signature]

(3)

clerk. Since about two and a half years, the respondents have not paid the salary to the petitioner. The respondents are also reluctant to re-adjust the petitioner on his post/service.

8. That the respondents, on one hand not responding the request/application of the petitioner and on the other neither re-adjusting the petitioner nor given any intimation whatsoever to the petitioner regarding his readjustment.

10. That there is no efficacious remedy available to the petitioner, hence the petitioner is compelled to file the instant writ petition.

GROUNDS:-

a. That the petitioner is legally entitled for his readjustment on his post / service and also for his salary since January 2014, and the respondents are legally obliged to readjust the petitioner on his post / service and to pay the said salary to the petitioner.

b. That some grounds may be argued at the time of arguments with the prior permission of this Hon'ble Court.

ATTESTED

FILED TODAY
05 APR 2018

AMIR KHAN



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4B

It is humbly prayed that on acceptance of the instant writ petition, this Honorable court may graciously be pleased to direct the respondents to readjust the petitioner on his post / service and to pay the salary to the petitioner from January 2014. Any other remedy / relief, for which the petitioner is entitled, may also very graciously be granted.




Petitioner through counsel

(ABDUL HALIM KHAN)
ADVOCATE HIGH COURT.
Office: 1st Floor, Nisar Plaza,
Opp: Grassy ground, Saidu
Sharif, Road, District Swat.
Mobile No. 0333-9480936

Certificate:-

It is certified that no such like Writ Petition is either pending or decided by this August Court.


Abdul Halim Khan
Advocate High Court.

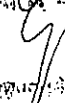
List of Books:-

1. Constitution of Islamic Republic of Pakistan, 1973
2. Case law according to need.


Abdul Halim Khan
Advocate High Court.

ATTACHED

05 APR 2016



(1) *Handwritten marks*

BEFORE THE HONOURABLE HIGH COURT, Mingora
Bench, Swat.

W.P.No.195-M/2016

Aman Ullah..... Petitioner.

Versus

Govt. of Khyber Pakhtunkhwa through secretary and Director, Higher Education
Peshawar..... Respondents.

Subject: Para Wise Comments On Behalf of Respondent No. 2, And No. 3

Preliminary Objections:

Respectfully Sheweth:

1. That the petitioner has no locus standi/cause of action to file the instant writ petition.
2. That the petitioner is trying to conceal material facts from the honourable High Court.
3. That the petitioner has not come to the court with clean hands.
4. That the Honourable High Court lacks jurisdiction to entertain the writ petition as it relates to the terms and conditions of civil servants. The proper forum for his Redressal of grievances is Service Tribunal.
5. That the instant writ petition is time barred.
6. The petitioner has been estopped by his own conduct.

ON FACTS.

1. Correct.
2. Correct.
3. Correct that the petitioner was removed by the special judge Anti Corruption Khyber Pakhtunkhwa. Then the petitioner filed appeal in Peshawar High Court, Mingora Bench against the judgement of Anti Corruption Court. The Peshawar High Court, Mingora Bench acquitted him and further directed that a departmental inquiry must be conducted and the embezzled amount be recovered from the responsible persons including the petitioner (Judgement of PHC, Swat as Annex A). In pursuance thereof, the department conducted inquiry and found the petitioner guilty and embezzled amount should be recovered and as a result thereof, he was removed from service (Copy of inquiry report as Annex B).
4. Correct to the extent that Peshawar High Court, Mingora Bench has acquitted the petitioner by further directing the Department to probe into the matter and recover the embezzled amount from those responsible including the petitioner. The Department conducted inquiry to probe the matter and the inquiry committee recommended the removal of the petitioner from service and he was removed from his service vide office order dated 2/5/2014 (Annex C).
5. Correct.
6. Correct to the extent that Apex court of Pakistan has dismissed the appeal and rely on the Judgement of Peshawar High Court, Mingora Bench, Swat (Annex D). However it is pertinent to mention here that PHC, Mingora Bench, Swat has directed the Department to probe into the matter and recover the embezzled amount from those responsible including the petitioner. The Department conducted inquiry to probe the matter and the inquiry committee recommended the removal of the petitioner from service and he was removed from his service vide office order dated 2/5/2014 and the embezzled amount should be recovered from the petitioner.
7. Incorrect. According to the conduct rules when a criminal case is registered against the Government Servant, he will be suspended from Service till the final proceeding of the Court. As FIR was lodged against the petitioner and he was suspended from service on 3/6/2008 (Annex E), hence he was not entitled for salary under suspension.
8. Already explained in Para 6.

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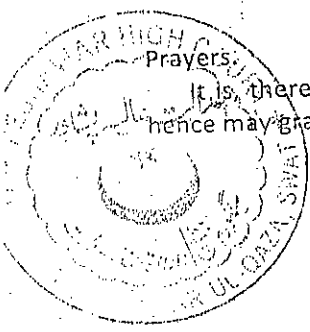
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(S) (S) (2)

10. Incorrect. That the honourable court lacks jurisdiction and the proper forum for Redressal of his grievances is Khyber-Pakhtunkhwa service Tribunal.

Grounds.

- a. Incorrect. The petitioner has been removed from service, therefore, he cannot be re-adjusted.
- b. No comments.



Prayers.

It is, therefore, most humbly prayed that the writ petition is based on misconception, hence may graciously be dismissed with cost.

Chief Secretary, Khyber Pakhtunkhwa.
Respondent No.4

Sulim
 Secretary, Higher Education Department.
 Respondent No.3
 17/ July 16.

ATTESTED

Zudaris
 Director, Higher Education Department.
 Respondent No.2

FN
M
 17/ July 16

(12) (SP)

IN THE PESHAWAR HIGH COURT MINGOR BENCH PART I

Case No. 195-M/2016

Amir Ullah (Petitioner)

VERSUS

Secretary to Govt. of Khyber Pakhtunkhwa Higher Education Department and others
..... (Respondents)



AFFIDAVIT

I, Muhammad Khan, Section Officer (Litigation), Higher Education Department, Government of Khyber Pakhtunkhwa, do hereby declare and affirm on oath, that the contents of the Para-wise Comments are correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.

Subscribed and sworn to before me by
Muhammad Azeemul General
Khyber Pakhtunkhwa

Muhammad Khan
Deponent
CNIC No. 17101-00924110
22/7/16
Section Officer (Litigation)
Govt. of Khyber Pakhtunkhwa
Higher Education Archives
& Libraries Department

ATTESTED

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I, the undersigned, do hereby certify that the above was verified on solemn affirmation before me on this 22nd day of July 2016 at Peshawar, Khyber Pakhtunkhwa, who was identified to me by *Mr. Amir Ullah*

Amir Ullah
22/7/16
Amir Registrar
Peshawar High Court
Mingor Bench (Lower Swat)

Amir
22/7/16



**DIRECTORATE OF HIGHER EDUCATION KHYBER
PAKHTUNKHWA PESHAWAR**

Phone No.091-9210242, 9211025, 9211803, Fax No.9210215

Date: 2/15 /2014

OFFICE ORDER:-

Consequent upon the judgment dated 05/09/2013 of Special judge Anti Corruption Khyber Pakhtunkhwa in case No. 8/2009, instituted on 21/03/2009 in the light of FIR No.3 dated 05/05/2008 under section.409/468/471 PPC read with section-5(2) PC and PS ACE Swat and exercise of power conferred under section-4 sub section-B(III) of E&D rules 2011, the Competent Authority is pleased to award major penalty of removal from service to Mr. Aman Ullah Khan Ex- Senior Clerk Govt Degree College Kabal Swat with effect from 05/09/2013 and recovery of outstanding amount Rs.19,13,786/- from his movable or immovable property.

Endst No. 1006/74

Director Higher Education
Khyber Pakhtunkhwa

Copy of the above is forwarded to the:-

1. Principal Govt Degree College Kabal, Swat with the request to make arrangements for the recovery of out standing amount Rs.19, 13,786/- from his GP fund etc, moreover if his liabilities at the College is not sufficient for the said outstanding amount then approach to the Deputy Commissioner Swat to make arrangements for the recovery, from his movable or immovable property.
2. Deputy Commissioner Swat to extend full co-operation to the Principal Govt Degree College Kabal Swat for the recovery of out standing amount.
3. District Account Officer, Swat.
4. Mr. Aman Ullah Khan Ex-Senior Clerk C/o Principal Govt Degree College Kabal, Swat.
5. PA to Director Higher Education Khyber Pakhtunkhwa.

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Deputy Director (Establishment)

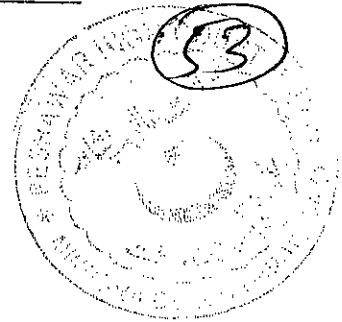
(4/5)

Aman Ullah

BEFORE PESHAWAR HIGH COURT, BENCH AT
MINGORA/ DARUL QAZA, SWAT

C.M. No. 118 of 2016 IN

W.P. No. 195-M. of 2016



Aman Ullah

... Petitioner

VERSUS

Principal Degree College Kabal, District Swat and others

... Respondents

Application for withdrawal of the writ petition with permission to avail the legal remedy, against the dismissal order of the petitioner / applicant before the competent forum;

Respectfully Sheweth:

1. That the above cited writ petition is pending before this August Court, in which no date has yet been fixed, while the previous date was 03/05/2016.
2. That while getting the attested copies of the parawise comments on 22/11/2016, filed by the respondents in the above cited writ petition, it has come to the knowledge of the petitioner / applicant, that the respondents have dismissed the petitioner / applicant from the service.
3. That the said act of the respondents is wrong, illegal, unconstitutional and against the settled principle of law / natural justice, against

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28 NOV 2016

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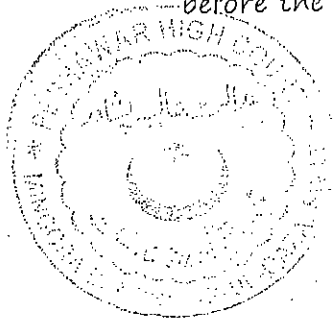
which the petitioner / applicant wants to avail his legal remedy before the competent forum.

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It is humbly requested that the above cited writ petition may kindly be allowed to be withdrawn, with permission to avail his remedy before the competent forum.



Petitioner through
Abdul Halim Khan 27/11/16
Advocate High Court

Affidavit:

It is stated on oath that all the contents of this application are true and correct to the best of my knowledge and belief.

Deponent

Aman Ullah

~~ATTESTED~~

S.No. 4799
Certified that the above was verified on solemn affirmation before me on this 28th day of Nov 2016 by Amanullah S/o Farooq R/o Court who was identified by Who is personally known to me.

Atth. Registrar
Peshawar High Court
Mingora Bench, Dar-ul-Qaza, Swat

FILED TODAY
28 NOV 2016

Additional Registrar

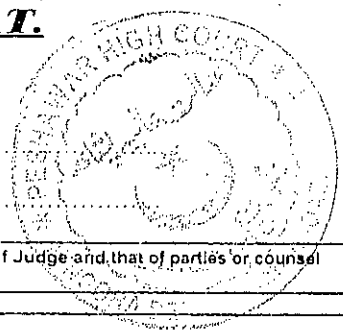
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Amirul K

SS

**PESHAWAR HIGH COURT, MINGORA BENCH
(DAR-UL-QAZA), SWAT.**

FORM OF ORDER SHEET



Court of
Case No. of

Serial No. of order or proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
	06.12.2016	<p><u>C.M No. 1119-M/2016</u> <u>In W.P No.195/2016.</u></p> <p>Present: Mr. Abdul Halim Khan, Advocate for petitioner.</p> <p style="text-align: center;">***</p> <p><u>MUSARRAT HILALE</u>- Through the instant C.M, the petitioner seeks withdrawal of captioned writ petition bearing No.195-M/2016 with permission to approach the proper forum.</p> <p>In support of above, learned counsel for the petitioners stated before the Court that the petitioner is no more interest to prosecute in instant petition and wants to withdraw the same with permission to approach the proper forum.</p> <p>In view of above, we allow this C.M and dismissed the main writ petition No.195-M/2016 as withdrawn, however, the petitioner would be at liberty to approach the proper forum for his remedy, if so he desired.</p> <p style="text-align: right;">Sd./Ms. Musarrat Hilale</p> <p>Announced <u>6.138</u> 06.12.2016. <u>Amirul Khan</u> 5.12.16 7.P 14/16 13.12.16</p>

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Certified to be true copy

[Signature]
Peshawar High Court, Mingora Bench, Dar-ul-Qaza, Swat
13/12/16

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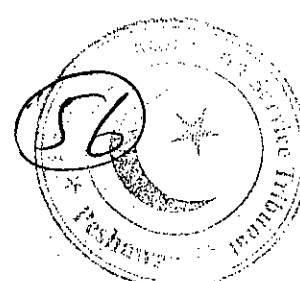
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Annex-L

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

Service Appeal No.439/2017

Date of Institution ... 18.04.2017

Date of Decision ... 09.01.2019



Aman Ullah, Ex-Senior Clerk Government Degree College Kabal District Swat.
... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Higher Education
Department Peshawar and two others. ... (Respondents)

MR. YASIR SALEEM,
Advocate

For appellant.

MIAN AMIR QADAR,
District Attorney

For respondents

MR. AHMAD HASSAN,
MR. MUHAMMAD AMIN KHAN KUNDI

MEMBER(Executive)
MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the parties heard and record perused.

ARGUMENTS.

2. Learned counsel for the appellant argued that the appellant joined the Education Department as Junior Clerk on 01.11.1984. While in service, he was transferred to the Higher Education Department vide order dated 04.11.2006 and posted at Govt: Degree College, Kabal Swat on 01.12.2006. During posting at the above college, he was charged in FIR no. 3 dated 05.05.2018 under Section 409,468,471 PPC/5(2) P.S Kabal, Swat. After trial by the Special Judge Anti Corruption, Khyber Pakhtunkhwa punishment of imprisonment alongwith recovery of embezzled amount to the tune of Rs. 1913786/- was awarded to him. The appellant assailed the said judgment through an appeal in Peshawar High Court.

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Mingora Bench (Daar-UI-Qaza) Swat and vide judgment dated 29.04.2014, he was acquitted of the charges and released from jail on 14.05.2014. The Peshawar High Court, Mingora Bench had also given directions for constituting an enquiry committee to probe the issue of embezzled government funds. However, the respondents conducted a partial enquiry after removing him from service. The issue of his removal from service ~~from service~~ ^m was not brought to the notice of the inquiry committee. He preferred an application dated 22.05.2014 for release of salary but without any response from the respondents. The respondents challenged the judgment of the Peshawar High Court, Mingora Bench, Swat in the august Supreme Court of Pakistan, which was dismissed vide judgment dated 24.11.2015. As a sequel to the aforementioned judgment he again approached the department for adjustment and release of salary but to no avail. Learned counsel for the appellant further argued that circumstances compelled him to again knock the door of High Court/Daar-UI-Qaza, Swat through constitution petition no. 195-M/2016. When the respondents filed comments the appellant came to know that he had already been removed from service vide order dated 02.05.2014, which was never communicated to him. After obtaining a copy of the parawise comments filed by the respondents he submitted an application before the Peshawar High Court, Mingora Bench for withdrawal of his writ petition, so as to agitate his grievances at an appropriate forum. Vide order dated 13.12.2016 his writ petition was dismissed as withdrawn. Thereafter he preferred departmental appeal on 20.12.2016 which failed to evoke any response from the respondents, hence, the instant service appeal.

ATTESTED

Learned counsel for the appellant further contended that major penalty was awarded to the appellant without conducting regular enquiry so action on the part of the respondents lacked legal backing. In support of his arguments, he relied on case

ATTESTED



law reported as 2002 SCMR 57, 2001 SCMR 566, 2000 SCMR 1321, 1994 PLC(CS) 1717 and 1993 SCMR 603.

4. Learned District Attorney argued that the then Principal, Govt. Degree College, Kabal, Swat had assigned duties pertaining to the financial/accounts matters to the applicant. When internal audit was conducted in 2008, it unearthed misappropriation/embezzlement in college funds. On the complaint of Principal, Director Higher Education lodged FIR against the appellant and was subsequently arrested by the police. The matter was referred to the Director Anti Corruption Establishment, Khyber Pakhtunkhwa for investigation. During investigation, it came to light that Rs. 1913786/- had been embezzled/misappropriated by the appellant. The case was referred to the Special Judge Anti Corruption and after trial the appellant was awarded punishment of imprisonment and fine. In pursuance of the above judgment he was removed from service with effect from 04.09.2013 vide order dated 02.05.2014. He was further directed to deposit the misappropriated funds. Though he was acquitted by the Peshawar High Court, Mingora Bench but directions for holding inquiry were also contained in the said judgment. In pursuance of the said judgment fact finding enquiry was conducted by the respondents. All codal formalities were observed before passing the impugned order. The appellant has treated according to law and rules:

CONCLUSION.

5. It is not disputed that the appellant was found guilty of embezzlement of the government funds to the tune of Rs. 1913786/- and awarded punishment of imprisonment/fine by Special Judge Anti Corruption vide judgment dated 05.09.2013. On the strength of Section-8(a) of E&D Rules 2011, the appellant was removed from service w.e.f 04.09.2013 vide order dated 02.05.2013. For the sake of transparency and fairness, we observed that the appellant was acquitted by the

ATTESTED

ATTEST

[Signature]
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

Peshawar High Court, Mingora Bench on 29.04.2014, while order of removal from service was issued on 02.05.2014. It clearly manifested malafide, ill will and bias of respondents against the appellant. We could not get any satisfactory response from the official respondents that why judgment of Special Judge Anti Corruption dated 05.09.2013 was implemented after a lapse of seven months? The record further revealed that after his acquittal, time and again he approached the respondents for adjustment and release of salary but did not get any positive response. We were unable to comprehend as to what stopped the respondents from communicating the impugned removal order to the appellant? The only justification we inferred was that they were hell bent to get rid of him by hook or crook.

6. The Peshawar High Court, Mingora Bench in concluding para of the judgment gave directions to the respondents to constitute an enquiry committee for recovery of embezzled funds from all those responsible including the appellant, complainant, employee of the college and concerned Bank within a period of two months. Here again we noticed that instead of conducting formal enquiry under E&D Rules 2011 a fact finding enquiry was conducted by the respondents for the reasons best known to them. The record was silent whether any action was taken by the respondents on the findings of the above enquiry or otherwise? It is worth mentioning that the respondents were cognizant of the fact that no action could be taken on the findings of the fact finding enquiry. Our stance is further substantiated by para-4 of the specific recommendations of the fact finding enquiry report which is reproduced below:-

"The competent authority to initiate proper formal disciplinary proceedings against the responsible persons i.e Mr. Amanullah, the then dealing clerk of accounts, under the clause of misconduct, the then audit party of the Directorate of Higher Education for negligence and"

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ATTESTED

[Signature]
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 Service
 Peshawar

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Whatever has been stated above is sufficient to proof inefficiency, indifference criminal negligence on the part of the respondents in sorting out sensitive and important issue in accordance with law and rules. The respondents owe an explanation for lapses/blunders.

7. As a sequel to above, the appeal is accepted, the impugned order dated 02.05.2014 is set aside and the appellant is reinstated in service. The respondents are directed to conduct formal enquiry under E&D Rules 2011 strictly in accordance with the directions of the Peshawar High Court, Mingora Bench, Swat referred to above within a period of ninety days from the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of the formal enquiry. Parties are left to bear their own costs. File be consigned to the record room.

(AHMAD HASSAN)
Member
Camp court Swat

Muhammad Amin
(MUHAMMAD AMIN KHAN KUNDI)
Member

ANNOUNCED
09:01.2019

Certified to be true copy
[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar
ATTESTS

Date of Registration 16-01-19
Number 2450
Copy 14
Page 2
Total 16
Date of Delivery of Copy 16-01-19
Date of Delivery of Cost 16-01-19

CHARGE SHEET

Annex = M (61)

I, Mr. Zahoor Ul Haq Shah, Director, Higher Education, Khyber Pakhtunkhwa as Competent Authority, hereby charge you, Mr. Aman Ullah, Senior Clerk, Government Degree College, Kabal Swat as follows:

That you, while posted as Senior Clerk at Government Degree College, Kabal Swat committed the following irregularities:

- i. That you were posted against the vacant post senior clerk at Government Degree College Kabal, Swat on 17-11-2006.
 - ii. That, the then Principal of the college, Professor (Retired) Muhammad Iqbal made you in charge of all kinds of account matters in the college.
 - iii. That, the college Principal noticed huge embezzlements in the college fund after performing internal audit.
 - iv. That, a committee comprising Principal, GC, Daggar and Principal Govt. Postgraduate College, Saidu Sharif conducted an enquiry and held you responsible for the embezzlement of the amount Rs 15,36,403/-.
 - v. In light of the above you appear to be guilty of misconduct under Rule 3 (b) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any penalties specified in rule 04 of the Rule ibid.
 - vi. You are, therefore, required to submit your written defence within 07 days of the receipt of this charge sheet to the inquiry officer, as the case may be.
2. Your written defense, if any, should reach the inquiry officer/committee within the specific period, failing which it shall be deemed that you have no defense to put in and you shall be proceeded exparte.
 3. Intimate whether you desire to be heard in person.
 4. A statement of allegations is enclosed.

ALLIED

(ZAHOOR UL HAQ)
DIRECTOR, HIGHER EDUCATION
KHYBER PAKHTUNKHWA

Received on
27/4/19

Manisior
Process immediately
 23/4/19
 The Director
 Higher Education
 Khyber Pakhtunkhwa, Peshawar.

AMMAN

Ref Page 122

Subject: INQUIRY AGAINST MR. AMANULLAH SENIOR CLERK GOVT. DEGREE COLLEGE KBAL SWAT.

DATE OF INQUIRY: 08-04-2019
PLACE OF INQUIRY: GOVT DEGREE COLLEGE KABAL SWAT
INQUIRY OFFICERS: (i) Prof Irfan Ullah
Principal Govt. College Mathra, Peshawar
 (ii) Prof. Bakhtiar
Principal Govt College Lahore, Swabi

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Terms of Reference: Appointment Letter + Statement Allegation + Charge Sheet.
Procedure: Interview in Person and Examination of Accounts record.

BRIEF HISTROY OF THE CASE:

Govt Degree College Kabal, Swat was established in the year 2006 and Mr. Aman Ullah was transferred to this college on 17/11/2006 and posted against the vacant post of Senior Clerk. Mr. Muhammad Iqbal (The then Principal Govt Collge Kabal, Swat) assigned responsibilities of all kinds of Account matters pertaining to the college to Mr. Amanullah (The accused Senior Clerk) through an office order dated 07/12/2006. In 2008, the then Principal realized that college funds were not properly maintained and utilized. The then Principal immediately constitute an internal audit committee of the college Professor who digged out misappropriation/embezzlement in the college funds. The matter of embezzlement was reported to the Director Higher Education, Khyber Pakhtunkhwa Peshawar who directed the then Principal to lodge FIR against Mr. Amanullah. Mr. Amanullah was arrested by the local Police by lodging FIR against him on 19/04/2008. After preliminary investigations, the Police referred the case to Anti-Corruption department. The Anti-corruption Department carried out audit of the college Account and found that huge amount of Rs. 1913786/- had been misappropriated/embezzled by the then senior clerk, Mr. Amanullah. The anti-corruption department referred the embezzlement case to the court of special Judge Anti-corruption Khyber Pakhtunkhwa at Swat. The Honorable special Judge anti-corruption decided the case against Mr. Amanullah. Mr. Amanullah filed appeal in Honorable Peshawar High Court Bench. Dar-ul-Qaza at Mingora, Swat against the Judgment passed by special judge Anti-corruption. The Honorable Peshawar High Court Bench. Dar-ul-Qaza, Swat directed the secretary Higher Education Department Govt. of Khyber Pakhtunkhwa to prob into the matter and recover the embezzled amount from Mr. Amanullah (The accused Senior Clerk). In light of the directives, issued by honorable Peshawar High Court Bench Swat. The fact finding inquiry was conducted by the then special Secretary Higher Education Archives & Library Department along with Director, Directorate of Archives & Libraries and deputy director (colleges) Directorate of Higher Education.

PROCEEDINGS:

In Compliance With The Directives Of The Director Higher Education Khyber Pakhtunkhwa, Peshawar vide the letter No:6502-3/Ad-lit/DHE/SA(43a/2017) dated 04/04/2019, the inquiry committee comprising of Professor Irfan Ullah (Principal Govt. College Mathra Peshawar) and Professor Bakhtiar (Principal Govt. College Lahor Swabi) visited Govt. Degree Collge Kabal Swat on 8/4/2019 in order to dig out the factual position about the illegation level against Mr. Amanullah, the then senior Clerk of the Govt Degree College Kabal Swat.

Mr. Muhammad Iqbal (The Then Principal) and Mr. Amanullah (The Accused Senior Clerk) were contacted telephonically to appear before the inquiry committee at Govt. Degree College Kabal Swat on 8/4/2019. Mr. Amanullah (the accused Clerk) was also served with charge sheet and was given full liberty and ample opportunity to offer his defence. The afore mentioned officer/official were also provided opportunity of personal hearing and cross examination and recorded their statement.

A. Mr. Muhammad Iqbal (Retired), the then Principal GDC Kabal (Swat).

Mr. Muhammad Iqbal took charge of the office of Principal at Govt. College Kabal Swat on 1/9/2006 and got retirement on 3/8/2011 on superannuation. Mr. Muhammad Iqbal told the inquiry committee that he assigned responsibilities of all kinds of accounts matter pertaining to the college to Mr. Amanullah through an office order dated 7/12/2006.

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Mr. Muhammad Iqbal told the committee that in early 2008, he sensed misappropriation/Embezzlement in the college funds, Therefore he constituted an audit committee of the local college Professors, who digged out misappropriation/embezzlement amount of Rs. 1574089/-. The Principal told the committee that when Amanullah was informed about the embezzlement amount, he came to the college and signed a pardon deed on Judicial stamp paper in presence of witness and promise in written that he will return the embezzled amount upto 01/05/2008(Annex-A).

When asked about the cheque book of Private funds, Mr. Muhammad Iqbal replied that it was under the custody of Mr. Amanullah. Mr. Muhammad Iqbal informed the inquiry committee that Mr. Amanullah had drawn Rs.30,5000/- from the National Bank Kabal Branch under fake signature of the D.D.O (The Then Principal Mr. Muhammad Iqbal) through various cheques bearing No:686641 date 11/3/2007 for Rs. 40,000/- bearing no: 686642 Dated: 05/11/2007 for Rs. 15000/- and bearing No: 686643 dated: 11/12/2007 for Rs. 250,000/- (Records of cheques were in custody of the Anti-corruption department). The entire amount was misappropriated.

It was also brought into the notice of the inquiry committee that amount of Rs.400,000/- had been granted to the college in ADP Scheme during the Year 2006-2007 for Purchase of the furniture but the entire amount was misappropriated by the then senior clerk, Mr. Amanullah. The committee was informed that bank draft of Rs.20,000/- bearing No:742966 dated 05/07/2007 issued in the name of National Book foundation. Mr. Amanullah after tempering, produced the same Bank draft bearing No.742966 for a payment of Rs.400,000/- to Pak-German wood working Timergara. The tempered bank draft was duly verified by the Manger National-bank of Pakistan main branch Saidu Sharif, Swat. (Copy of Bank Draft Also in custody of Anti-corruption dept).

The Committee was also informed that soon after the establishment of Govt Degree Collge Kabal Swat, the admission in first year and 3rd Year classes were carried out by Govt Post Graduate Jehanzeb Collge, Swat. The admissions in first year & 3rd Year class for the next session 2007-2008 were carried out by Govt Degree College Kabal. The amount of Rs. 70700/- realized from the sale of prospectus were not deposited in the college account and thus misappropriated/ embezzled by Mr. Amanullah.

B. Mr. Amanullah, The Accused Senior Clerk, G.D.C Kabal, Swat.

Mr. Amanullah took charge on 6/11/2006 at Govt Degree Collge Kabal, Swat against the vacant post of senior clerk. Mr. Amanullah assured the inquiry committee that he had been shouldered responsibilities of all kind of accounts matters pertaining to the college through an office order dated 7/12/2006 and since then he was performing his duties nonestly and efficiently. He replied that in early 2008, the then Principal conducted an audit of college accounts through college professors and they charged me for embezzlement of Rs.1574689/-. The Anti-corruption establishment also held me responsible for embezzlement Rs.1913786/-. He also told the committee that record of the relevant account was in his custody.

On inquiring about the cheque for Rs.400,000/- issued in the name of Pak-German wood working Timergara, he replied that the drawl of the aforementioned amount was made through AC bill and cheque sent to Pak-German Timergara, but he failed to produced AC bill and copy of the said cheque.

When asked about the pardon deed, Mr. Amanullah replied that he signed pardon deed on 16/04/2008 under pressure in the custody of Police. The officers/official who signed the pardon deed as witness are also summoned by the inquiry committee and obtained written statement from them(Annex - B)

It is important to mention that pardon deed was signed by Mr. Amanullah on 16/4/2008 while FIR was lodged against him on 19/04/2008(Annex- C)

When asked to produce the approval of the Principal for Rs.40,000/- for Rs.15000/- and for Rs. 250,000/- that had been drawn through cheques bearing No.686641,686642 and 686643 Mr. Amanullah denied that he had no record.

C. Calculation of Realized Amount from Students, Expenditure Incurred and Misappropriated/Embezzled Amount.

The inquiry committee checked admission withdrawal register, Private funds register, Govt funds register and cash book register for the Period 2006-2007 & 2007-2008 and found significant shortcomings on these registers. The cash book register for the period Oct 2006 to

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May 2008 was thoroughly checked and found no entry of Challan/Pay-of establishment/AC Bills/TA Bills/Electricity Bills/Telephone Bills and newspaper-bills etc.

Discrepancy between the amount realized from the students at the time of admission & the amount deposited in the college account was also noticed by the inquiry committee.

The following table shows the amount realized from the students under the heading Private funds & Govt funds.

Realized amount in Private/Govt funds for Session 2006-2007

Class	Faculty	PRIVATE FUND			GOVT FUND	
		No. of students admitted	Rate of deduction of private funds	Total Amount realized	Rate of Deduction of Govt Funds	Total Amount Realized
First Year	Science	219	219x840=Rs183960/-	Rs321720/-	219x530=Rs116070/-	Rs 194790/-
	Arts	164	164x840=Rs137769/-		164x480=Rs78720/-	
3 rd Year	Science	75	75x1250=Rs93750/-	Rs306750/-	75x690=Rs51750/-	Rs143700/-
	C/Science	30	30x2350=50Rs70500/-		30x690=Rs20700/-	
	Arts	14	114x1250=Rs142500/-		114x625=Rs71250/-	
Total				Rs628470/-		Rs338490/-

Realized Amount in Private funds/Govt funds for session 2007-2008

Class	Faculty	PRIVATE FUND			GOVT FUND	
		No. of students admitted	Rate of deduction of private funds	Total Amount realized	Rate of Deduction of Govt Funds	Total Amount Realized
1 st Year	Science	156	156x910=Rs141960/-	Rs458340	156x530=Rs82680/-	Rs229070/-
	C/Science	51	51x2510=Rs128010/-		51x530=Rs27030/-	
	Arts	207	207x910=Rs188370/-		207x480=Rs99360/-	
2 nd Year	Science	179	179x300=Rs53700/-	Rs85800/-	179x530=Rs94870/-	Rs146730/-
	Arts	107	107x300=Rs32100/-		107x480=Rs51360/-	
3 rd Year	Science	84	84x1250=Rs105000/-	Rs295400/-	84x690=Rs57960/-	Rs139195/-
	C/Science	19	19x2850=Rs54150/-		16x690=Rs11100/-	
	Arts	109	109x1250=Rs136250/-		109x625=Rs68125/-	
4 th Year	Science	57	57x300=Rs17100/-	Rs46200/-	57x690=Rs39330/-	Rs100995/-
	C/Science	16	16x300=Rs4800/-		16x690=Rs11040/-	
	Arts	81	81x300=Rs24300/-		81x625=Rs50625	
Total				Rs885740/-		Rs595490/-

SUMMARY OF EMBEZZLEMENT

a. Private (Pupil) Funds:

Total Amount realized during the session 2006-7/2007-8	Rs: 1514210/-
Amount realized from the sale of prospectus	= (+) Rs 70700/-
Total realized Amount	=Rs: 1584910/-

Registration of students (Board/University) and other

Miscellaneous expenditure	-(+) Rs 405533,
Amount available in college Account on 1/11/2000	-(+) Rs 345943/-
Embezzled Amount	= Rs 833429/-

b. Govt. Funds

Total realized amount during the session 2006-7/2007-8	=Rs933980/-
Amount deposited in treasury	= Rs564800/-
Embezzled Amount	=Rs: 369180/-

c. Total Embezzled Amount in ADP Scheme

-Rs: 400,000/-

The Gross Embezzled amount is calculated as follows:

i. Embezzlement in pupil funds	=Rs 833429/-
ii. Embezzlement in Govt funds	=Rs 369180/-
iii. Embezzlement in ADP Scheme	=Rs 400,000/-
Gross Embezzlement	=Rs: 1602609/-

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INDINGS:

Consequent upon examining the entire relevant available record of the instant case, facts finding report, charge sheets and arguments made by the accused Senior Clerk, Mr. Aman ullah and the then Principal (retired) Mr. Mohammad iqbal including Personal hearing, the following facts were noticed

1. The incident is not only the case of embezzlement but also a case of negligence on the Part of the then Principal, Mr Mohammad iqbal as he failed to check the college account on regular basis and failed to check the activities of the accused clerk Mr. Aman Ullah with vigilant eye.
2. The Incident took Place due to the fact that the then Principal did not bother to appoint college bursar, who is bound to check the Income and expenditure of the college account on monthly basis.
3. It was found that cheque book of Private funds was in custody of Mr. Aman Ullah who made draws of Rs: 305000/- from the college account through various cheques bearing no 686641 dated 11/3/2007 for Rs: 40,000/-, no 686642 dated 05/11/2007 for Rs: 15000/- and no 686643 dated 11/12/2007 for 250,000/- by inserting fake signatures of the then Principal, Mr Mohammad: Iqbal.
4. The involvement of the concerned staff of National Bank of Pakistan, Kabal branch who Processed and verified the signature of the Principal on the cheques bearing no 686641 dated 3/11/2007, no 686642 dated 5/11/2007 and no: 686643 dated 11/12/2007. Cannot be ignored.
5. It was also found that Govt degree college Kabal was granted Rs 400,000 /- in ADP Scheme during the Year 2006 - 2007 for Purchase of furniture. The entire amount was embezzled by the then Senior Clerk, Mr Aman ullah, by Producing a Photo copy of a tempered Bank Draft bearing no 742966 dated 05/07/2007 in the name of Pak-German wood working, timergara. It is important to mention that the aforementioned Bank Draft bearing no 742966 had already been issued in the name of National Book foundation for Rs: 20,000 /- which was verified by the Manager, National Bank of Pakistan main branch saidusharif Swat.
6. The actual loss of amount could be more than Rs: 1602609 /- because some relevant record of accounts was found missing. Since Mr Aman ullah was the dealing Clerk, therefore he was duty bound to keep the record in his custody/ under lock. Mr Aman ullah is fully held responsible for missing of the relevant record.
7. It was found that Rs: 70700 /- realized from the sale of college Prospectus at the time of admission in the college, but the Said amount was not deposited in the college account and thus misappropriated by the then Senior Clerk, Mr Aman Ullah.
8. Mr, Aman Ullah, the accused senior Clerk confessed the embezzlement as is evident from the Parden deed duly Signed by him in presence of witnesses

Recommendations:

After thoroughly examining the instant case of Mr Aman Ullah, the inquiry committee reached to the conclusion that.

1. Mr Aman Ullah, was the custodian of the cheque book of private funds and all other relevant records of the college account, therefore he is held responsible for the entire embezzlement.
2. Release of back benefit to Mr Aman Ullah is subject to the condition that embezzled amount of Rs 1602609/- may be recovered from him.
3. The inquiry committee also recommends imposition of minor penalty of stoppage of two increments for 2 years upon Mr Aman Ullah.

The competent authority / Director Higher Education Khyber pakhtunkhwa may like to Pass or as deemed appropriate

Irfan Ullah
(Inquiry Officer)
Principal
Govt. Degree College Mathra
Peshawar

Bakhtiyar Khan
(Inquiry Officer)
Principal
Govt Degree College Lahor
Swabi

ATTESTED

SHOW CAUSE NOTICE

Annex=0

(65)

I, Zahoor Ul Haq, Director Higher Khyber Pakhtunkhwa as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Aman Ullah, Senior Clerk Government Degree College, Kabal, Swat, as follows:-

- (i) That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing.
- (ii) On going through the findings and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the said inquiry Committee.

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

- a) Mis-conduct.
- b) In-Efficiency.

2. As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you the penalty of REMOVAL FROM SERVICE ALONG WITH RECOVERY OF RS 1602609/- under rule 4(b) (iii) of the said Rules.
3. You are, therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defense to put in and in that case, an ex-parte action shall be taken against you.
5. A copy of the findings of the inquiry Officer is enclosed.

The show Cause Notice
Received
30/5/2019

(ZAHOOR UL HAQ)
DIRECTOR HIGHER EDUCATION

ATTESTED



**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA
RANO GHARI NEAR CHAMKANI MOR, PESHAWAR**

Annex-D

E-mail:- dhekpkesh@gmail.com Facebook.com/dhekpkeshwar Twitter.com/dhekpkeshwar1

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No. _____ / CA-VII/Estt: Branch/A-167/SA#439/2017, Ammanullah Dated Peshawar the _____ / _____ /2019

NOTIFICATION

Whereas Mr. Amanullah. Sr.Clerk (BPS -14) of Higher Education Department was proceeded against, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, for the charges mentioned in the Charge Sheets and statement of Allegations.

1. **AND WHEREAS**, an inquiry committee comprising Mr. Irfan Ullah, Principal Govt: Degree College Mathra and Mr. Bakhtiar Khan Principal Govt: Degree College Lahor, Swabi was constituted to conduct inquiry into the allegations.
2. **AND WHEREAS**, the inquiry Committee after having examined the charges, evidence on record and explanation of accused officers, submitted report.
3. **NOW THEREFORE**, the competent authority after having considered the charges, evidence on record, the explanation of the accused officers, and after affording the opportunity of personal hearing while exercising the powers conferred upon him under Rule-14 of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules 2011, has been pleased to impose minor penalties upon the accused officer as under:

Name & Designation	Penalty Imposed
Mr. Amanullah. Sr.Clerk (BPS -14) of Higher Education Department.	1. Withholding of two annual increments. 2. Recovery of embezzled amount of Rs. 1,602,609/-

DIRECTOR, HIGHER EDUCATION

Endst; No 30705-37 / Estt: Branch/ SA#439/2017, Ammanullah

Copy of the above is forwarded to the following:

1. Principal Govt: Degree College, Pallai Malakand with request to recover the embezzled amount from the official concerned under intimation to the Directorate Higher Education along with original receipt.
2. Principal Govt: Degree College Kabal Swat.
3. District Account Officer Swat.
4. District Account Officer Malakand.
5. Official Concerned.

Alleged
3/2/19
Principal Govt Degree College

Mi. Amanullah (S/c)
Do as directed by the DHE
with immediate effect
3/2/19
24/01/2019

29/01/2019

24/12/19
 (Muhammad Yousaf)
 DEPUTY DIRECTOR

Annex-Q

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To
The Worthy Secretary
Higher Education,
Khyber Pakhtunkhwa, Peshawar

Subject: *Departmental Appeal against the Notification dated 24.12.2019, communicated to the undersigned on 25.01.2020 whereby the undersigned has been awarded the minor punishment of withholding of two annual increments and recovery of alleged embezzled amount of Rs. 1602609/-.*

Prayer in Departmental Appeal.

On acceptance of this Departmental Appeal the Order dated 24.12.2019, may kindly be set aside and the increments may be restored to the undersigned and the alleged embezzled amount may not be recovered from him and he may be allowed consequential & back benefits of the intervening period.

Respected Sir,

I very humbly submit the following few lines for your kind and sympathetic consideration:

1. That the undersigned was initially appointed as junior clerk on 01.11.1984 in education department was posted at Government High School Besham Mera in the then District Shangla.
2. That during the course of employment the services of the undersigned was transfer to higher education department vide order dated 04.11.2006. The undersigned was lastly posted at Government Degree College Kabal Swat vide order dated 01.12.2006.
3. That ever since my appointment, I had performed my duties as assigned with zeal and devotion and has never given any chance of complaint whatsoever regarding my performance.
4. That while performing my duties in the said capacities in Government Degree College Kabal Swat, the undersigned was charged in case FIR No. 3 dated 05.05.2008 U/S 409, 468, 471 P.P.C / 5(2) P.C. Police station Kabal.
5. That the case was tried by the Learned Special Judge Anti Corruption, Khyber Pakhtunkhwa camp court Swat. The learned

Court convicted the undersigned vide order and judgment dated 05.09.2013.

6. That feeling aggrieved from the order and judgment dated 05.09.2013, the undersigned filed criminal appeal NO. 232/2013 before the Dar-ul-Qaza Mingora swat. The appeal was accepted and the undersigned was acquitted from charged leveled against him vide order and judgment dated 29.04.2014. Accordingly after acquittal the undersigned was released from jail on 14.05.2014.
7. That the respondent challenged the order and judgment dated 29.04.2014 before the August Supreme Court of Pakistan however the same was also dismissed by the August Court and maintained the order and judgment dated 29.04.2014 of the the Dar-ul-Qaza Mingora swat vide order dated 24.11.2015.
8. That since the undersigned was not allowed to join his duties nor a salary was paid to him, I was constrained to knock the doors of the Honorable High Court/ Dar-ul-Qaza Mingora swat in Constitutional Petition No. 195-M/2016.
9. That during the pendency of writ petition, the department also filed comments in the said writ petition. From comments it was transpired to me that I was already removed from service vide order dated 02.05.2014.
10. That I filed application before the high court for the withdrawal of my writ petition with the permission to approach proper forum. The application was allowed and the writ petition was dismissed as withdrawn.
11. That I thereafter filed Service Appeal No. 439/2017 before the KP Service Tribunal which was partially allowed and the case was remanded back to the Department for de-novo inquiry vide order and Judgment dated 09.01.2019.
12. That after remand, I was served with charge sheet and statement of allegations, communicated to the undersigned on 09.04.2019, containing baseless allegations. I duly replied to the charge sheet and refuted allegations leveled against me.
13. That a partial inquiry was also conducted in the matter and the inquiry committee without associating me with the inquiry proceedings, submitted its report wherein charges leveled against me were held to be proved.

14. That there after I was served with show cause notice dated 28.05.2019 communicated to me on 31.05.2019 wherein a major penalty of dismissal from service, beside recovery of Rs. 1602609/- was proposed to be imposed against me. Again I duly replied to the show cause notice and refuted allegations leveled against me.
15. That without considering my defense, quite illegally the undersigned has been awarded the minor punishment of withholding of two annual increments and recovery of alleged embezzled amount of Rs. 1602609/- vide office order dated 24.12.2019, communicated to me on 25.01.2020.
16. That the impugned order dated 24.12.2019 of _____ service is illegal unlawful against the law and facts hence liable to be set aside inter alia on the following grounds:

GROUND OF DEPARTMENTAL APPEAL

- A. That I have not been treated in accordance with law hence my rights secured and guaranteed under the law are badly violated.
- B. The undersigned is a responsible, cautious employee of the department and cannot even think of the display of the charges leveled against me.
- C. That it has been alleged in the charge sheet that I was given control by the then Principal over the account matters, is not true. With great respect it is submitted that I was mere clerk in the accounts department while the Principal was the controlling authority and the drawing and disbursing officer for all intents and purposes.
- D. That it has also been alleged that some embezzlement was committed in the college fund, however it is pertinent to mention here that I was not aware of any such embezzlement. The alleged incident took place on 05.07.2007 while the letter has been issued on 19.04.2008, after nine months. The principal was the DDO and being DDO he used to check the accounts every month. Had there been any such embezzlement on the part of the undersigned, the principal would have brought it in the knowledge of the high ups. If there were any embezzlement why he kept mum for nine long months. In fact if at all there were any embezzlement, it would be committed by the Principal and the undersigned was made a scapegoat as was mentioned by the August Supreme Court of Pakistan.

- E. The factum of checking the accounts once in a month was admitted by the principal during his statement before the special judge anti corruption/ trial court. When the drawing and disbursing officer was the principal then how can the undersigned be responsible for any embezzlement. Accounts maintaining, fund raising and most importantly, the supervising of expenditure was the responsibility of the principal. The principal used to check the cash book from time to time and after each check he used to endorse his signature on the same. The undersigned had no authority from the principle to withdraw money from bank. So, for the reasons cited above, the allegations regarding the involvement of the undersigned in embezzlement is strongly denied.
- F. That although initially I was convicted by the special judge anti corruption vide order dated 05.09.2013, however the same was set-aside by the Honorable judge Darul Qaza Swat vide order and judgment dated 29.04.2014. The Honorable Court very minutely discussed the issues and exonerated the undersigned from the charges of embezzlement leveled against him and acquitted him vide the said order.
- G. This fact was also observed by *the August Supreme Court of Pakistan* that *"it is evident from the record that the accounts of the relevant institution were regularly checked by the Principal of the said institution him self and he never found any embezzlement in the accounts"*. The Apex courts further observed that *"the FIR in this case had been registered after about 8/9 months of unearthing of the alleged embezzlement which indicates that the respondent No. 1 (the undersigned) could well have been made a scapegoat"*. The August Supreme Court also dismissed the appeal and upheld the order and judgment dated 29.04.2014 of the Honorable Dar ul Qaza Swat whereby the undersigned was acquitted.
- H. That the inquiry committee did not associate me properly with the inquiry proceedings. Not a single witness has been examined during the enquiry in my presence nor I have been given opportunity to cross examine those who may have deposed anything against me during the inquiry.
- I. That the charges leveled against the appellant were neither proved during the inquiry proceedings, nor any independent and convincing proof/ evidence has been brought against me in the inquiry that could even remotely associate me with the charges, as such the charges remained unproved during the inquiry and the inquiry committee has thus rendered its findings on mere surmises and conjunctures wholly and solely relied on the

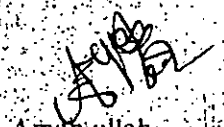
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statement of the complainant. It is pertinent to mention here that I was not allowed to cross examine him regarding his allegations against me.

- J. That the inquiry committee wrongly stated in its report that the Honorable High Court directed the competent authority to take action against me and recover the amount from me. In fact the Honorable court in its judgment dated 29.04.2014, while acquitting the undersigned, directed the department to take action against all those who are responsible for the embezzlement including the principal and bank staff. Despite the clear directions of the Honorable Court only I have been victimized which is illegal.
- K. That the inquiry committee also did not give attention to my statement that I was arrested from my office and the office was not sealed in my presence and was left open to the principal and he made and prepared the fake documents in my absence.
- L. That the undersigned has at his credit an unblemished and spotless service career, during entire service career, I have never given any chance of complaint whatsoever regarding my performance. I always preferred the interests of the department over and above my personal interests. The imposed penalty, is illegal and is stigma on the bright and spotless service record of the undersigned.

It is, therefore, humbly prayed that on acceptance of this Departmental Appeal the Order dated 24.12.2019, may kindly be set aside and the increments may be restored to the undersigned and the alleged embezzled amount may not be recovered from him and he may be allowed consequential and back benefits for the intervening period.

Yours Obediently



Aman Ullah
Senior Clerk
presently posted at GDC
Pallae Malakand

Dated: 15-02-2020

GST No. 12-009808-002-73



CN: 4763596481

Product: 6 Service Type: 0

Payment Mode: CASH Date-Time: 2020-02-15 15:59

ORG-DEST: SWT-PEW Pieces: 1 Pcs - .5 Staff: 110248 Route: X35107

Shipper Details: Name: AMAN ULLAH Phone: 03429647710 Address: GDC PALAI MALAKAND

Consignee Details: Name: THE SECRETARY Phone: 03009999999 Address: OF HIGHER EDUCATION KPK PESHAWER

Insured value: Rs. 0

Express Center Cut of Time: 15:00

Payment Details: Service CHG 220.0 Other Amount 0.0 VAS 0 Insurance CHG 0 GST 0 Premium 0 TOTAL 220.0

Remarks

Instructions

Customer Signature

For Terms & Conditions Visit www.tcscouriers.com/tnc TCS Headquarters, 101-104, Civil Aviation Club Road Karachi - 75202, Pakistan UAN : 111 123456 Web : tcs.com.pk (Shipper Copy) V-1.47

GST No. 12-009808-002-73



CN: 4763596482

Product: 6 Service Type: 0

Payment Mode: CASH Date-Time: 2020-02-15 18:00

ORG-DEST: SWT-PEW Pieces: 1 Pcs - .5 Staff: 110248 Route: X35107

Shipper Details: Name: AMAN ULLAH Phone: 03429647710 Address: GDC PALAI MALAKAND

Consignee Details: Name: THE DIRECTOR OF Phone: 03009999999 Address: HIGHER EDUCATION KPK PESHAWER

Insured value: Rs. 0

Express Center Cut of Time: 15:00

Payment Details: Service CHG 220.0 Other Amount 0.0 VAS 0 Insurance CHG 0 GST 0 Premium 0 TOTAL 220.0

Remarks

Instructions

Customer Signature

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POWER OF ATTORNEY



In the Court of K.P. Service Tribunal Peshawar

Amanullah

For
Plaintiff
Appellant
Petitioner
Complainant
**SCANNED
KPST
Peshawar**

VERSUS

Court of KPK

Defendant
Respondent
Accused

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

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

**YASIR SALEEM,
JAWAD UR REHMAN &
PIRZADA MUHAMMAD TAYAB AMIN** Advocates Peshawar

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

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

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

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

IN WITNESS whereof I/we have hereto signed at _____ the _____ day to _____ the year _____

Executant/Executants _____
Accepted subject to the terms regarding fee _____

Jawad - ur Rehman

JAWAD UR REHMAN
Advocate High Court

Yasir Saleem
YASIR SALEEM
Advocate High Court, Peshawar

M. Tayyab
PIRZADA MUHAMMAD TAYAB AMIN
Advocate, Peshawar

Before KP Service Tribunal, Peshawar.

Appeal NO. 5765/2020

Aman Ullah MIS Education Deptt:

Application for allowing the appellant to submit security & process fees after the stipulated period of time.

Respectfully Sheweth:

1. That the above mentioned appeal was admitted for regular hearing on 17/7/2020 and direction has given to the appellant to submit security & process fee by this august Tribunal, However the appellant did not submit security & process fee in stipulated period.
2. That the instant appeal is fair for today and in reply stage and the appellant wants to submit his security & process fee.

It is therefore, most humbly prayed that on acceptance of this application, the appellant may kindly be allowed to submit his security & process fee.

Appellant
Through Yasir Kaleem

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal# 5774-P/2020
Amanullah.....

SCANNED
Appellate
KPST
Peshawar


Versus

Govt. of Khyber Pakhtunkhwa
Through Secretary, Higher Education
& another.....

Respondents

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Superintendent
Directorate of Higher Education
Khyber Pakhtoon Khwa Peshawar

BEFORE THE HONOURABLE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL
PESHAWAR

SA # 5774/2020

Aman Ullah.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa
Through Secretary, Higher Education
& others.....Respondents

SUBJECT: PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 to 3

Respectfully Sheweth: That the respondents submit as under:

Preliminary Objections:-

1. That, the appellant has neither got cause of action nor locus standi to file the instant Service Appeal.
2. That the appellant has not come to the Honourable Tribunal with clean hands..
3. That the appellant is estopped by his own conduct to file the instant Service Appeal.
4. That the instant Service Appeal is time-barred.

Facts: -

- 1- Pertains to record.
- 2- Correct to the extent that the appellant was serving in Higher Education Department and lastly posted at Govt. Degree College, Kabal Swat.
- 3- Incorrect. During his posting at Govt. Degree College, Kabal Swat, he was assigned the task to deal accounts matters of the college. The Principal of the concerned college lodged complaint against the appellant that he had embezzled/misappropriated college funds.
- 4- Correct that Principal, Govt. Degree College, Kabal, Swat made a complaint through letter No. 371 dated: 19-04-2008 to the Station House Officer, Police Station Kabal Swat that the appellant has embezzled/misappropriated college funds, being the custodian of the accounts matter. On the basis of this letter FIR No. 106 was registered U/s 409/PPC against the appellant.
- 5- Correct.
- 6- Correct to the extent that the appellant filed criminal appeal No. 232/2013 before the Honorable Peshawar High Court, Dar-ul-Qaza, Swat the appeal was accepted in the following terms

“Before parting with the judgment. I deem it appropriate, in the interest of justice and to save public exchequer from heavy loss of Rs. 18,79,089/- to direct the worthy Secretary, Higher Education, Peshawar to constitute a Committee with the direction to probe into the matter and recover the embezzled amount from all those responsible including the appellant,

- 2
- complainant employees of the College and concerned Bank within shortest possible time not later than two months positively and inform the Additional Registrar of this Court accordingly. “
- 7- Correct.
 - 8- Incorrect. In pursuance of the judgment dated: 29-04-2014, the respondent department conducted an inquiry, wherein, the appellant was found guilty and recommended that the embezzled amount be recovered from him. **(Annex-A)**
 - 9- Incorrect. As the appellant was removed from Service, therefore, he was not entitled for the grant of salaries. Moreover, it is correct that the appellant filed Writ Petition # 195-M/2016.
 - 10- Pertains to record.
 - 11- That the Writ Petition # 195-M/2016 was dismissed as withdrawn vide order dated: 13-12-2016.
 - 12- Correct.
 - 13- Correct to the extent that a denovo inquiry was conducted in the light of the directions contained in the department dated: 09-01-2019. Consequently, charge sheet and statement of allegations were served upon the appellant.
 - 14- Incorrect. Proper inquiry was conducted to probe into the matter. The inquiry officers contacted the appellant via telephone to appear before the inquiry committee. Resultantly, the appellant recorded his statement before the inquiry committee. In recommendations, the inquiry committee held responsible the appellant for the entire embezzlement. **(Annex-B)**
 - 15- Correct. When the charges against the appellant were proved correct, then the Competent Authority served a show cause notice dated: 28-05-2019 to the appellant.
 - 16- Correct to the extent that the competent authority imposed minor penalty of with holding of two annual increments and recovery of embezzled amount of Rs. 1,602,609/-
 - 17- Department appeal of the appellant has been regretted. **(Annex-C)**
 - 18- Incorrect.

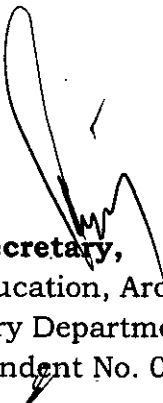
Grounds: -


- A. Incorrect. The appellant has been treated in accordance with law/rules.
- B. Incorrect as already explained in the precedings Paras of facts.
- C. Already explained in the precedings of facts.
- D. Already explained in the precedings of facts.
- E. Already explained in the precedings of facts.
- F. Already explained in the precedings of facts.

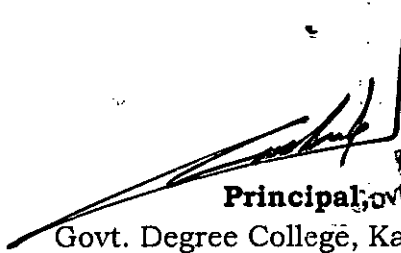
- 3
- G. The respondent department proceeded in the light of the judgment dated 29-04-2014 and judgment dated: 09-01-2019 pursued by the Honorable Service Tribunal, Khyber Pakhtunkhwa
- H. Already explained in the preceding paras of facts.
- I. Already explained in the preceding paras of facts.
- J. Already explained in the preceding paras of facts.
- K. Already explained in the preceding paras of facts.
- L. Already explained in the preceding paras of facts.

Prayers:-

It is, therefore, humbly prayed that the instant Service Appeal is based on misconception/mis-statement, hence may graciously be dismissed with appropriate cost.


Secretary,
Higher Education, Archives
& Library Department
Respondent No. 01


Director,
Higher Education Department
Respondent No. 02


PRINCIPAL
Principal, Govt. Degree College
Kabal Swat.
Govt. Degree College, Kabal Swat
Respondent No. 03

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**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

S.A 5774/2020

Mr. Aman Ullah Appellant

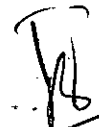
Versus

Govt. of Khyber Pakhtunkhwa
Through Secretary, Higher Education Department,
Peshawar & Others Respondents

AFFIDAVIT

I, Jehanzeb Khan Superintendent (Litigation) Higher Education Department do hereby declare and affirm on oath that the contents of Para Wise Comments are correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Court.

Identified by:


~~Deponent~~ 7/5/22
Superintendent
Directorate of Higher Education
Khyber Pakhtoon Khwa Peshawar

~~Annex-A~~

ANNEXURE N

Annexure S


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ENQUIRY REPORT IN EMBEZZLEMENT CASE OF GOVERNMENT
DEGREE COLLEGE, KABAL (SWAT)

In compliance with the directions of Hon'able Peshawar High Court, Mingora Bench, DarulQaza, Swat issued in Criminal Appeal No. 232.M of 2013 titled as Amanullah Versus the State & Principal GDC Kabal, the competent authority constituted Facts Finding Enquiry Committee under the Chairpersonship of Special Secretary, Higher Education, Archives & Libraries Department (Annexure-A) to probe into the matter and recover the embezzled amount from all the responsible dealing hands. Though the enquiry committee tried its best to complete the task within the time limit given by the Hon'able Court yet delay in submission of report is regretted because thorough investigation into the matter/audit of accounts was involved in the matter not only to point out the actual amount of embezzlement but also to unveil the responsible dealing hands so that the embezzled amount could be recovered from them.

Background of the Case

One Mr. Amanullah, clerk was transferred to Government Degree College, Kabal, District Swat (hereinafter referred to as "the college") on 17/11/2006 and posted against the vacant post of Senior Clerk. The then Principal of the college, namely Professor (Retired) Muhammad Iqbal (hereinafter referred to as "the then Principal"), assigned him official duty / responsibilities through an office order dated 07/12/2006 including all kind of accounts matters pertaining to the college. During the 1st quarter of 2008, the then principal through internal audit detected misappropriation / embezzlement in the college funds and informed the Director, Higher Education, Peshawar about the matter. The then Principal, on the direction of the Director, Higher Education lodged FIR against the then Sr. Clerk Mr. Amanullah in Police Station Kabal. The then Sr. Clerk Mr. Amanullah was arrested by the local Police. The Police, after necessary investigation, referred the case to the Director, Anti-Corruption Establishment, Khyber Pakhtunkhwa (hereinafter referred to as "the ACE"). The auditor of ACE made audit of the accounts of the college & found that a huge amount of Rs. 19,13,786/- had been misappropriated / embezzled by the then Sr. Clerk Mr. Amanullah. The Director, ACE, therefore, registered FIR against the then Sr. Clerk Mr. Amanullah u/s 409/468/471 PPC at Police Station ACE, Swat and referred the case to the Court of Special Judge, Anti-Corruption, Khyber Pakhtunkhwa at Swat Camp. The Hon'able Court of Special Judge, Anti-Corruption, decided the case against the then Sr. Clerk Mr. Amanullah and awarded him sentence of fine with rigorous imprisonment (Annexure-B). The then Sr. Clerk Mr. Amanullah filed appeal in Hon'able Peshawar High Court, Bench at Mingora, DarulQaza, Swat against the judgment passed by the Court of Special Judge, Anti-Corruption. The Hon'able High Court, DarulQaza, Swat setting aside the judgment of Anti-Corruption Court and directed the Secretary Higher


Superintendent
Directorate of Higher Education
Khyber Pakhtoon Khwa Peshawar

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Education Department, Government of Khyber Pakhtunkhwa to probe into the matter and recover the embezzled amount from all those responsible including the then Sr. Clerk Mr. Amanullah (Annexure-B/1).

Proceedings

The Enquiry Committee, in light of the available record, summoned the concerned staff including employees of NPB, Kabal Branch and recorded their statements on oath. Gist of their statements is produced hereunder for convenience:-

1. Statement on oath in respect of Mr. Siraj Ahmed, Manager, NPB Kabal Branch.

The Manager, NPB Kabal Branch stated on oath that;

"I have been working as Manager NPB, Kabal Branch since 2006. The then Principal, GDC Kabal (DDO of the college) was our client/accounts holder and his specimen signatures were available on record. I had compared his signatures put on the Cheque No. 686641 dated 11/03/2007 for Rs. 40,000/-, No. 686642 dated 05/11/2007 for Rs. 15,000/- & No. 686643 dated 11/12/2007 for Rs. 2,50,000/- with the specimen signatures of the DDO of the college. I had compared these signatures with naked eye. I had annexed photocopy of CNIC of Mr. Amanullah Sr. Clerk of the college with the Cheque No. No. 686643 dated 11/12/2007 for Rs. 2, 50,000/-. The original cheques had been taken by the ACE authorities during the enquiry proceedings of embezzlement case of GDC Kabal and still in their custody."

Statement is enclosed in original at (Annexure-C).

2. Statement on oath in respect of Mr. Mr. Ayaz, Head Cash Officer, NPB Kabal Branch.


The Head Cash Officer, NPB Kabal Branch stated on oath that;

"I have been working as Head Cash Officer at NPB, Kabal Branch from 2006 to 2009. I am fully aware of my job description. The Principal, GDC Kabal (DDO of the college) is our client/accounts holder and we have kept his specimen signatures. Cheque No. 686641 dated 11/03/2007 for Rs. 40,000/-, No. 686642 dated 05/11/2007 for Rs. 15,000/- & No. 686643 dated 11/12/2007 for Rs. 2,50,000/- were sent by the Principal (DDO) of GDC Kabal on various dates which were duly verified and signed by the Branch Manager. I had encashed the above mentioned cheques after getting signatures of the payee on the back side of these cheques."

Statement is enclosed in original at (Annexure-D).

3. Statement on oath in respect of Prof. Muhammad Iqbal, Retired Principal (DDO) of GDC Kabal.

He stated that;

Supr: 
Directorate of Higher Education
Khyber Pakhtoon Khwa Peshawar

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"I had been working as Principal (DDO) of Government Degree College, Kabal since 2006 to 2011. I had assigned the duty of accountant of the college to Mr. Amanullah, Sr. Clerk. During the 1st quarter of 2008 I detected misappropriation in the college fund. I audited the accounts of the college through certain professors and staff of the college and found that the said clerk had embezzled a huge amount of Rs. 15,74,089/-. He had signed a pardon deed with me on judicial stamp paper in the presence of college staff with the promise to return the embezzled amount but in vain. I informed the Director, Higher Education, Khyber Pakhtunkhwa, Peshawar immediately about the matter who directed me through phone to lodge FIR against the said clerk. Accordingly I wrote letter No. 371 dated 19/04/2008 to SHO Police Station, Kabal for lodging FIR against the said clerk. The Sr. Clerk had also embezzled Rs. 4,00,000/- ADP fund of furniture. He also had withdrawn Rs. 3,05,000/- from the college bank account through various cheques under bogus signatures and misappropriated the amount. The Anti-Corruption Establishment and the Directorate of Higher Education had carried out thorough audit of the embezzled amount and held him responsible. Besides the above account, Mr. Amanullah Clerk had also signed an agreement deed with me in the presence of certain staff members of the college, duly signed by them as witnesses, wherein he had admitted the embezzlement and promised to return the total amount upto 01/05/2008 but in vain."

Statement is enclosed in original at (Annexure-E).

Statement on oath in respect of Mr. Amanullah, Ex-Sr. Clerk, GDC Kabal

The Ex-Sr. Clerk Mr. Amanullah stated that;

"I had taken over charge as Sr. Clerk in Government Degree College, Kabal on 17/11/2006. The then Principal had assigned me the duty of accounts matters of the college through an office order. Since then I was performing my duty with full responsibility. During the year 2008, the then Principal charged me for embezzlement of Rs. 15,74,089/- in various funds of the college, therefore, lodged FIR against me in Police Station Kabal. The Auditor of Anti-Corruption Establishment had shown total embezzlement of Rs. 19,13,786/- while the departmental enquiry committee had calculated it as many as Rs. 18,88,786/- and both of them had held me the sole responsible.

It is incorrect that I had signed a pardon deed with the then Principal on judicial stamp paper in the presence of college staff wherein I had admitted the embezzlement with the promise to return the embezzled amount but, in fact, the said pardon deed was signed by me under pressure in the custody of Police.

It is correct that I had dealing with the accounts of the college and since my taking over charge i.e. 17/11/2006 till suspension I had kept the entire record under lock in proper

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order. After my arrest by police in the embezzlement case I am not responsible for missing, if any, existed in the record. The record might be misplaced by someone during the audit proceedings.

It is also correct that the audit party of the Directorate of Higher Education, during audit proceedings in 2010, had called me to attend the college to make them available necessary record for audit purpose but I refused to do so because I had been suspended from service, however, I regret the charge of embezzlement"

Statement is enclosed in original at (Annexure-F).

5. Statement on oath in respect of Mr. Muhammad Rasool, Associate Professor of Zoology, GDC Kabal

He stated that:-

"I have been serving as Associate Professor of Zoology at Government Degree College, Kabal since November, 2006 till date. The pardon deed had been signed by Mr. Amanullah in my presence and had put my signature as witness wherein he had confessed that he had made embezzlement in the college accounts & promised that he would return the embezzled amount. I hereby confirmed my signature."

Statement is enclosed in original at (Annexure-G).

6. Statement on oath in respect of Mr. Muhammad Rasheed, Librarian, GDC Kabal

He stated that:-


"I have been serving as Librarian at Government Degree College, Kabal since August, 2006 till date. During the year 2008 the then Principal Mr. Muhammad Iqbal detected huge embezzlement in the college accounts & called the ex-dealing clerk Mr. Amanullah, who confessed the embezzlement. He assured the Principal that he will return the entire amount. The Principal directed him to write it on Judicial Stamp Paper. Mr. Amanullah ex-dealing clerk wrote a pardon deed in my presence and other college staff wherein he had confessed the embezzlement made in the college accounts & promised that soon he will return the embezzled amount. The pardon deed was written by the then dealing clerk Mr. Amanullah, on his own request and not under pressure. I hereby confirmed my signature put on the pardon deed."

Statement is enclosed in original at (Annexure-H).

7. Statement on oath in respect of Mr. Salahuddin, Naib Qasid, GDC Kabal

He stated that:-

"I have been serving as Naib Qasid at Government Degree College, Kabal since its establishment till date. The then Sr. Clerk Mr. Amanullah had dealing with accounts matters of the college and misappropriated a huge amount. He had written a pardon deed on judicial stamp paper in my presence and other college staff wherein he had


Superintendent
Directorate of Higher Education,
Khyber Pakhtoon Khwa Peshawar

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2. During 1st quarter of the year 2008, the then Principal detected misappropriation in the college accounts, thus carried out audit and found that an amount of Rs: 15,74,089/- was missing/misappropriated (Annexure-L).
3. The concerned Clerk, Mr. Amanullah, after detection of such misappropriation in the accounts of the college, appeared before the then Principal on 16/04/2008 and admitted plead guilty regarding the entire embezzlement. He, in the presence of college staff, also tendered a Promissory Note / Pardon Deed on judicial stamp paper, under his own signature as well as thumb impression, with regard to return the embezzled amount very soon. The Promissory Note/Pardon Deed was also signed by certain staff members as witnesses and countersigned by the then Principal of the college (Annexure-M). The authenticity of the Promissory Note/Pardon Deed was confirmed by the witness staff in their attached statements recorded on oath.
4. The then Principal, under the directives of the then Director, Higher Education, Khyber Pakhtunkhwa, Peshawar had lodged FIR against the concerned clerk, Mr. Amanullah, who during investigation, had admitted the entire embezzlement (Annexure-N). The police further referred the case to the Director, Anti-Corruption Establishment (ACE), Khyber Pakhtunkhwa, Peshawar.
5. It was further found that the Director, ACE had pointed out an amount of Rs. 19,13,786/- was misappropriated / embezzled by the then dealing clerk, Mr. Amanullah (Annexure-O).
6. The Director, Higher Education, Khyber Pakhtunkhwa had conducted two facts finding enquiries into the matter at different times through Principals, GC Daggar (Buner) (Annexure-P) and GPGJC Saidu Sharif (Swat) (Annexure-Q). The former enquiry found nothing while the latter pointed out embezzlement of Rs. 18,88,786/- and held the concerned clerk, Mr. Amanullah, sole responsible for the entire embezzlement.
7. It was also found that an amount of Rs. 4,00,000/- had been granted to the college in the ADP Scheme, during the year 2006-07, for purchase of furniture but the entire amount was misappropriated by Mr. Amanullah, the then clerk who had prepared fake bank draft bearing No. 742966 dated 07.07.2007 and issued to the Manager of Pak German Wood Working, Timergara under his own signature (Annexure-R). The same Bank Draft was duly verified from the Manager, NBP Main Branch Saidu Sharif and he stated that the said Bank Draft was not for Rs. 4,00,000/- but for Rs. 20,000/- which was issued in the name of National Book Foundation Peshawar on 05/07/2007 (Annexure-R/1)
8. It was also found that the Cheque Book of Private Fund was always remained in custody of the concerned clerk, Mr. Amanullah, who had drawn Rs. 3,05,000/- from the NBP Kabal Branch under fake signatures of the then DDO through various cheques bearing No. 686641 dated 11/03/2007 for Rs. 40,000/-, No. 686642 dtd 05/11/2007 for Rs. 15,000/- and No. 686643 dated 11/12/2007 for Rs. 2,50,000/- (Annexure-S). The entire amount was found misappropriated.
9. Administrative negligence was also found on the part of the then DDO/Principal, Prof. (Retired) Muhammad Iqbal. He had failed to check the income and expenditures of the college on regular basis. He had also failed to supervise the activities of the concerned accounts clerk with a vigilant eye.

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Superintendent
Directorate of Higher Education
Khyber Pakhtoon Khwa Peshawar

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10. The active involvement of the employees of NHP, Kabal Branch for encashment of various cheques for Rs. 3,05,000/- under bogus signatures of the concerned clerk, Mr. Amanullah cannot be ignored.

11. It was also found that internal check of accounts of the college under GFR-13 & 16 (Vol-I) was not properly carried out by the then Director, Higher Education. The college was established in 2006, embezzlement occurred in 2008 but a single audit till then had not been carried out. Audit was done after more than five years of the establishment of the college (i.e. in December, 2010) (Annexure-T).

12. Some relevant record of accounts was found not available in the college. The sitting Principal, Prof. Nowsherawan, stated in black & white that the relevant record is either missing or deficient (Annexure-U). In absence of complete record the actual loss of amount could not be ascertained. However, it was found that the concerned dealing clerk, Mr. Amanullah was duty bound to keep proper record of accounts under lock as evident from duty roaster and his own statement recorded on oath. So he was found fully responsible for missing of the relevant record.

13. The Enquiry Committee found that, during the year 2006-07 & 2007-08, the college accounts were suffering from huge misappropriation/ embezzlement. Detail is given as under:

A) PUPILS FUND

Total amount received in Pupils fund in the year 2006-07 and 2007-08 = Rs. 1213506/-
Amount available in the College Accounts on 1/1/2008 = Rs. 345948/-

Total missing funds (1213506 - 345948) = Rs. 8,67,558/-

B) GOVERNMENT FUND

Total receipt for Government funds in the year 2006-07 and 2007-08 = Rs. 933980/-
Total amount deposited in Treasury = Rs. 665135/-


Total Embezzlement in Government Fund = Rs. 2,68,845/-

C) Total Embezzlement in the ADP Scheme = Rs. 4,00,000/-

Therefore, during the year 2006-07 & 2007-08, the public exchequer had suffered the following financial loss:-

1. Total Loss in Pupils Fund = Rs. 8,67,558/-
2. Total Loss in Government Fund = Rs. 2,68,845/-
3. Total Loss in ADP Fund = Rs. 4,00,000/-

Total Embezzlement = Rs. 15,36,403/-


Superintendent
Directorate of Higher Education
Khyber Pakhtoon Khwa Peshawar

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Specific Recommendations

1. The concerned dealing clerk, Mr. Amanullah was responsible for maintenance and transaction of the college accounts. It was his foremost duty to keep proper record of accounts, its monthly checking from the DDO concerned and proper reconciliation from the DAO concerned. Cheque Book of Private Fund remained in his custody. He is also responsible for collection of Government and Private Fund as well as dealing with bank account. Therefore, Mr. Amanullah, the concerned clerk, is held responsible for the entire embezzlement.
2. The embezzled amount Rs. 15,36,403/- should be recovered from the concerned clerk, Mr. Amanullah.
3. The concerned employees namely (i) Siraj Ahmad, Manager and (ii) Mr. Ayaz the then head cash Officer of NBP, Kabal Branch for encashment of various cheques for Rs. 3, 05,000/- under bogus signatures are held equally responsible. Banks high ups be approached by Director Higher Education, Khyber Pakhtankhwa, Peshawar for disciplinary action against them under their relevant rules.
4. The competent authority to initiate proper formal disciplinary proceedings against the responsible persons i.e. Mr. Amanullah, the then dealing clerk of accounts, under the clause of misconduct, the then audit party of the Directorate of Higher Education for negligence and

General Recommendations

- i) The portfolio of "Bursar" for dealing with Financial Matters should be kept functional in order to avoid such like things in future.
- ii) Clerks of the general cadre usually show lack of expertise in financial matters. For coping with the situation proper training may be made mandatory as short term measure. While on long term basis, the post of Accountant/Bursar may be created in colleges, on which only men of Accounts/commerce graduate be appointed.
- iii) The Internal Audit System should be activated to ensure the audit at the end of each fiscal year.

DEPUTY DIRECTOR (Colleges)
DIRECTORATE OF HIGHER EDUCATION

DIRECTOR,
DIRECTORATE OF ARCHIVES & LIBRARIES

SPECIAL SECRETARY
HIGHER EDUCATION, ARCHIVES
AND LIBRARIES DEPARTMENT
25/9/12

Superintendent
Directorate of Higher Education
Khyber Pakhtoon Khwa Peshawar

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The Director
Higher Education
Khyber Pakhtunkhwa, Peshawar.



Ref Page 122

Subject: INQUIRY AGAINST MR. AMANULLAH SENIOR CLERK GOVT. DEGREE COLLEGE KBAL, SWAT.

DATE OF INQUIRY: 08-04-2019
PLACE OF INQUIRY: GOVT DEGREE COLLEGE KABAL, SWAT
INQUIRY OFFICERS: (i). Prof Irfan Ullah
Principal Govt. College Mathra, Peshawar
(ii). Prof. Bakhtiar
Principal Govt College Lahore, Swabi

Terms of Reference: Appointment Letter + Statement Allegation + Charge Sheet.
Procedure: Interview in Person and Examination of Accounts record.

BRIEF HISTROY OF THE CASE:

Govt Degree College Kabal, Swat was established in the year 2006 and Mr. Aman Ullah was transferred to this college on 17/11/2006 and posted against the vacant post of Senior Clerk. Mr Muhammad Iqbal (The then Principal Govt Collge Kabal, Swat) assigned responsibilities of all kinds of Account matters pertaining to the college to Mr. Amanullah (The accused Senior Clerk) through an office order dated 07/12/2006. In 2008, the then Principal realized that college funds were not properly maintained and utilized. The then Principal immediately constitute an internal audit committee of the college Professor who digged out misappropriation/embezzlement in the college funds. The matter of embezzlement was reported to the Director Higher Education, Khyber Pakhtunkhwa Peshawar who directed the then Principal to lodge FIR against Mr. Amanullah. Mr. Amanullah was arrested by the local Police by lodging FIR against him on 19/04/2008. After preliminary investigations, the Police referred the case to Anti-Corruption department. The Anti- corruption Department carried out audit of the college Account and found that huge amount of Rs. 1913786/- had been misappropriated/embezzled by the then senior clerk, Mr. Amamnullah. The anti-corruption department referred the embezzlement case to the court of special Judge Anti-corruption Khyber Pakhtunkhwa at Swat. The Honorable special judge anti-corruption decided the case against Mr. Amanulah. Mr. Amanullah filed appeal in Honorable Peshawar High Court Bench. Dar -UI- Qaza at Mingora, Swat against the Judgment passed by special judge Anti-corruption. The Honorable Peshawar High Court Bench. Dar -UI- Qaza, Swat directed the secretary Higher Education Department Govt: of Khyber Pakhtunkhwa to prob ino the matter and recover the embezzled amount from Mr. Amanullah (The accused Senior Clerk). In light of the directives, issued by honorable Peshawar High Court Bench Swat. The fact finding inquiry was conducted by the then special Secretary Higher Education Archives & Library Department along with Director, Directorate of Archives & Libraries and deputy dorector (colleges) Directorate of Higher Education.

PROCEEDINGS:

In Compliance With The Directives Of The Director Higher Education Khyber Pakhtunkhwa, Peshawar vide the letter No:6502-3/Ad-lit/DHE/SA(43a/2017) dated 04/04/2019, the inquiry committee comprising of Professor Irfan Ullah (Principal Govt. College Mathra Peshawar) and Professor Bakhtiar (Principal Govt. College Lahor Swabi) visited Govt. Degree Collge Kabal Swat on 8/4/2019 in order to dig out the factual position about the illegation level against Mr. Amanullah, the then senior Clerk of the Govt Degree College kabal Swat.

Mr. Muhammad Iqbal (The Then Principal) and Mr. Amanullah (The Accused Senior Clerk) were contacted telephonically to appear before the inquiry committee at Govt. Degree College Kabal Swat on 8/4/2019. Mr. Amanullah (the accused Clerk) was also served with charge sheet and was given full liberty and ample opportunity to offer his defence. The afore mentioned officer /official were also provided opportunity of personal hearing and cross examination and recorded their statement.

A. Mr. Muhammad Iqbal (Retired) , the then Principal GDC kabal (Swat).

Mr. Muhammad Iqbal took charge of the office of Principal at Govt. College Kabal swat on 1/9/2006 and got retirement on 3/8/2011on superannuation. Mr. Muhammad iqbal told the inquiry committee that he assigned responsibilities of all kinds of accounts matter pertaining to the college to Mr. Amanullah through on office order dated 7/12/2006.

Mr. Muhammad Iqbal told the committee that in early 2008, he sensed misappropriation/Embezzlement in the college funds, Therefore he constituted an audit committee of the local college Professors, who digged out misappropriation/embezzlement amount of Rs. 1574089/-. The Principal told the committee that when Amanullah was informed about the embezzlement amount, he come to the college and signed a pardon deed on Judicial stamp paper in presence of witness and promise in written that he will return the embezzled amount upto 01/05/2008(Annex-A).

When asked about the cheque book of Private funds, Mr. Muhammad Iqbal replied that it was under the custody of Mr. Amanullah, Mr. Muhammad Iqbal informed the inquiry committee that Mr. Amanullah had drawn Rs.30,5000/- from the National Bank Kabal Branch under fake signature of the D.D.O (The Then Principal Mr. Muhammad Iqbal) through various cheques bearing No:686641 date 11/3/2007 for Rs. 40,000/- bearing no: 686642 Dated: 05/11/2007 for Rs. 15000/- and bearing No: 686643 dated: 11/12/2007 for Rs. 250,000/- (Records of cheques were in custody of the Anti-corruption department). The entire amount was misappropriated.

It was also brought into the notice of the inquiry committee that amount of Rs.400,000/- had been granted to the college in ADP Scheme during the Year 2006-2007 for Purchase of the furniture but the entire amount was misappropriated by the then senior clerk, Mr. Amanullah. The committee was informed that bank draft of Rs.20,000/- bearing No:742966 dated 05/07/2007 issued in the name of National Book foundation. Mr. Amanullah after tempering, produced the same Bank draft bearing No.742966 for a payment of Rs.400,000/- to Pak-German wood working Timergara. The tempered bank draft was duly verified by the Manger National bank of Pakistan main branch Saidu Sharif, Swat. (Copy of Bank Draft Also in custody of Anti-corruption deptt).

The Committee was also informed that soon after the establishment of Govt Degree Collge Kabal Swat, the admission in first year and 3rd Year classes were carried out by Govt Post Graduate Jehanzeb Collge, Swat. The admissions in first year & 3rd Year class for the next session 2007-2008 were carried out by Govt Degree College Kabal. The amount of Rs. 70700/- realized from the sale of prospectus were not deposited in the college account and thus misappropriated/ embezzled by Mr.Amanullah.

B. Mr..Amanullah, The Accused Senior Clerk, G.D.C Kabl, Swat.

Mr. Amanullah took charge on 6/11/2006 at Govt Degree College Kabal, Swat against the vacant post of senior clerk. Mr. Amullah assured the inquiry committee that he had been shouldered responsibilities of all kind of accounts matters pertaining to the college through an office order dated 7/12/2006 and since then he was performing his duties honestly and efficiently. He replied that in early 2008, the then Principal conducted an audit of college accounts through college professors and they charged me for embezzlement of Rs.1574089/-. The Anti-corruption establishment also held me responsible for embezzlement Rs.1913786/-. He also told the committee that record of the relevant account was in his custody.

On inquiring about the cheque for Rs.400,000/- issued in the name of Pak-German wood working Timergara, he replied that the drawl of the aforementioned amount was made through AC bill and cheque sent to Pak-German Timergara, but he failed to produced AC bill and copy of the said cheque.

When aske about the pardon deed, Mr. Amanullah replied that he signed pardon deed on 16/04/2008 under pressure in the custody of Police. The officers/official who signed the pardon deed as witness are also summoned by the inquiry committee and obtained written statement from them(Annex - B)

It is important to mention that pardon deed was signed by Mr. Amanullah on 16/4/2008 while FIR was lodged against him on 19/04/2008(Annex- C)

When asked to produce the approval of the Principal for Rs.40,000/- for Rs.15000/- and for Rs. 250,000/- that had been drawn through cheques bearing No.686641,686642 and 686643 ,Mr.Amanullah denied that he had no record.

C. Calculation of Realized Amount from Students, Expenditure Incurred and Misappropriated/Embezzled Amount.

The inquiry committee checked admission withdrawal register, Private funds register, Govt funds register and cash book register for the Period 2006-2007 & 2007-2008 and found significant shortcomings on these registers. The cash book register for the period Oct 2006 to

May 2008 was thoroughly checked and found no entry of Challan/Pay of establishment/AC Bills/TA Bills/Electricity Bills/Telephone Bills and newspaper bills etc.

Discrepancy between the amount realized from the students at the time of admission & the amount deposited in the college account was also noticed by the inquiry committee.

The following table shows the amount realized from the students under the heading Private funds & Govt funds .

Realized amount in Private/Govt funds for Session 2006-2007

PRIVATE FUND					GOVT FUND	
Class	Faculty	No. of students admitted	Rate of deduction of private funds	Total Amount realized	Rate of Deduction of Govt Funds	Total Amount Realized
First Year	Science	219	219x840=Rs183960/-	Rs321720/-	219x530=Rs116070/-	Rs 194790/-
	Arts	164	164x840=Rs137769/-		164x480=Rs78720/-	
3 rd Year	Science	75	75x1250=Rs93750/-	Rs306750/-	75x690=Rs51750/-	Rs143700/-
	C/Science	30	30x2350=50Rs70500/-		30x690=Rs20700/-	
	Arts	14	114x1250=Rs142500/-		114x625=Rs71250/-	
Total				Rs628470/-		Rs338490/-

Realized Amount in Private funds/Govt funds for session 2007-2008

PRIVATE FUND					GOVT FUND	
Class	Faculty	No. of students admitted	Rate of deduction of private funds	Total Amount realized	Rate of Deduction of Govt Funds	Total Amount Realized
1 st Year	Science	156	156x910=Rs141960/-	Rs458340	156x530=Rs82680/-	Rs209070/-
	C/Science	51	51x2510=Rs128010/-		51x530=Rs27030/-	
	Arts	207	207x910=Rs188370/-		207x480=Rs99360/-	
2 nd Year	Science	179	179x300=Rs53700/-	Rs85800/-	179x530=Rs94870/-	Rs146230/-
	Arts	107	107x300=Rs32100/-		107x480=Rs51360/-	
3 rd Year	Science	84	84x1250=Rs105000/-	Rs295400/-	84x690=Rs57960/-	Rs139195/-
	C/Science	19	19x2850=Rs54150/-		16x690=Rs11100/-	
	Arts	109	109x1250=Rs136250/-		109x625=Rs68125/-	
4 th Year	Science	57	57x300=Rs17100/-	Rs46200/-	57x690=Rs39330/-	Rs100995/-
	C/Science	16	16x300=Rs4800/-		16x690=Rs11040/-	
	Arts	81	81x300=Rs24300/-		81x625=Rs50625	
Total				Rs885740/-		Rs595490/-

SUMMARY OF EMBEZZLEMENT

a. Private (Pupil) Funds:

Total Amount realized during the session 2006-7/2007-8	Rs: 1514210/-
Amount realized from the sale of prospectus	= (+) Rs 70700/-
Total realized Amount	=Rs: 1584910/-

Registration of students (Board/University) and other Miscellaneous expenditure	=(-) Rs 405533/-
Amount available in college Account an 1/11/2000	=(-) Rs 345948/-
Embezzled Amount	= Rs 833429/-

b. Govt. Funds

Total realized amount during the session 2006-7/2007-8	=Rs933980/-
Amount deposited in treasury	= Rs564800/-
Embezzled Amount	=Rs: 369180/-

c. Total Embezzled Amount in ADP Scheme

-Rs: 400,000/-

The Gross Embezzled amount is calculated as follows:

i. Embezzlement in pupil funds	=Rs 833429/-
ii. Embezzlement in Govt funds	=Rs 369180/-
iii. Embezzlement in ADP Scheme	=Rs 400,000/-
Gross Embezzlement	=Rs: 1602609/-

1295

FINDINGS:

Consequent upon examining the entire relevant available record of the instant case, facts finding report, charge sheets and arguments made by the accused Senior Clerk , Mr.Aman ullah and the then Principal (retired) Mr Mohammad iqbal including Personal hearing, the following facts were noticed

1. The Incident is not only the case of embezzlement but also a case of negligence on the Part of the then Principal , Mr Mohammad iqbal as he failed to check the college account on regular basis and failed to the cheek the activities of the accused clerk Mr. Aman Ullah with vigilant eye.
2. The Incident took Place due to the fact that the then Principal did not bother to appoint college bursar , who is bound to check the Income and expenditure of the college account on monthly basis.
3. It was found that cheque book of Private funds was in custody of Mr. Aman Ullah who made drawls of Rs: 305000/- from the college account through various cheques bearing no 686641 dated 11/3/2007 for Rs: 40,000/-, no 686642 dated 05/11/2007 for Rs: 15000/- and no 686643 dated 11/12/2007 for 250,000/- by inserting fake signatures of the then Principal, Mr Mohammad: Iqbal.
4. The Involvement of the concerned staff of National Bank of Pakistan, Kabal branch who Processed and verified the signature of the Principal on the cheques bearing no 686641 dated 3/11/2007, no 686642 dated 5/11/2007 and no: 686643 dated 11/12/2007. Cannot be ignored.
5. It was also found that Govt degree college Kabal was granted Rs 400,000 /- in ADP Scheme during the Year 2006 – 2007 for Purchase of furniture. The entire amount was embezzled by the then Senior Clerk , Mr Aman ullah , by Producing a Photo copy of a tempered Bank Draft bearing no 742966 dated 05/07/2007 in the name of Pak-German wood working, timergara. It is Important to mention that the aforementioned Bank Draft bearing no 742966 had already been issued in the name of National Book foundation for Rs: 20,000 /- which was verified by the Manager National Bank of Pakistan main branch saidusharif Swat.
6. The actual loss of amount could be more than Rs: 1602609 /- because some relevant record of accounts was found missing. Since Mr Aman ullah was the dealing Clerk , therefore he was duty bound to keep the record in his custody/ under lock. Mr Aman ullah is fully held responsible for missing of the relevant record.
7. It was found that Rs: 70700 /- realized from the sale of college Prospectus at the time of admission in the college, but the Said amount was not deposited in the college account and thus misappropriated by the then Senior Clerk , Mr Aman Ullah.
8. Mr , Aman Ullah , the accused senior Clerk confessed the embezzlement as is evident from the Parden deed duly. Signed by him in presence of witnesses.

Recommendations:

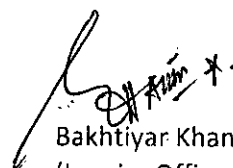
After thoroughly examining the instant case of Mr Aman Ullah, the inquiry committee reached to the conclusion that.

1. Mr Aman Ullah, was the custodian of the cheque book of private funds and all other relevant records of the college account, therefore he is held responsible for the entire embezzlement.
2. Release of back benefit to Mr Aman Ullah is subject to the condition that embezzled amount of Rs 1602609/- may be recovered from him.
3. The inquiry committee also recommends imposition of minor penalty of stoppage of two increments for 2 years upon Mr Aman Ullah.

The competent authority / Director Higher Education Khyber pakhtunkhwa may like to Pass or as deemed appropriate



Irfan Ullah
(Inquiry Officer)
Principal
Govt. Degree College Mathra
Peshawar



Bakhtiyar Khan
(Inquiry Officer)
Principal
Govt Degree College Lahor
Swabi

BY REGISTERED POST



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES AND
LIBRARIES DEPARTMENT

Dated Peshawar the, January 26, 2021.

NOTIFICATION.

No. SO (C-IV)/HED/19-7/Aman Ullah/2020:- WHEREAS, Mr. Aman Ullah Jr. Clerk Higher Education Department was proceeded against and as a result a **minor penalty of stoppage of 02 increments and recovery of embezzled amount of Rs. 16,02,609/-** were imposed upon him on 24.12.2019. The accused upon imposition of the penalty preferred an appeal to worthy Secretary, Higher Education Department.

2. **AND WHEREAS**, he was transferred to Govt. Degree College Kabal, Swat since 01.12.2006. He was charged with FIR No. 3 dated 05.05.2008 U/S 409, 468, 471 PPC/5(2) P.C, Police Station Kabul for huge embezzlement/corruption and illegal appropriation in college funds.

3. **AND WHEREAS**, the matter was investigated by Anti-Corruption Court Mingora Swat and illegal appropriation of Rs. 19, 13,796/- was established on him. Subsequently, he appealed to the Peshawar High Court, Mingora Branch which acquitted the accused and ordered the department to conduct an inquiry and recover the amount from all involved in the embezzlement. The Supreme Court also upheld the decision of Peshawar High Court.

4. **AND WHEREAS**, in the light of Honorable Peshawar High Court, the department conducted inquiry and proved embezzlement of Rs. 15,36,403/- and recovery of the said was recommended from him.

5. **AND WHEREAS** the accused was removed from service on 02.05.2014. He filed service appeal in Khyber Pakhtunkhwa Service Tribunal which reinstated him with the directions to the department to conduct a de novo inquiry. Inquiry committee once again found the accused guilty and imposed minor penalty of stoppage of 02 increments and recovery of embezzled amount of Rs. 16,02,609/-

6. **NOW THEREOF**, the Competent Authority after having considered the facts of the case under the existing Act/Rules, is pleased to decide that the appeal submitted by Mr. Aman Ullah, Sr. Clerk (BPS-14), Govt. Degree College Pallee, Malakand for exoneration from the penalties imposed upon him, is devoid of merits, and hence **regrets** the same.

SECRETARY
HIGHER EDUCATION DEPARTMENT

Endst; No. & Date as above.

Copy forwarded to the:

1. Director, Higher Education Khyber Pakhtunkhwa, Peshawar.
2. Principal Govt. Degree College Pallee, Malakand.
3. District Accounts Officer, Malakand.
4. Deputy Director (HEMIS CELL) Higher Education Department.
5. Mr. Aman Ullah, Sr. Clerk (BPS-14), Govt. Degree College Pallee, Malakand
6. PS to Secretary Higher Education Department.
7. Master file

Directorate of Higher Education
Khyber Pakhtunkhwa
RECEIVED ON
24 JAN 2021
Entry # 253 Page # 142

Superintendent
Directorate of Higher Education
Khyber Pakhtoon Khwa Peshawar

SECTION OFFICER (C-IV)

183/16

1797-99.

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011

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE

TRIBUNALS

Khyber Pakhtunkhwa
Service Tribunal

CM

in

SA # 5774/2020

Mr. Aman Ullah.....

SCANNED
KPST
Peshawar

Diary No. 5638

Dated 29/5/2023

Petitioner

Versus

Govt. of Khyber Pakhtunkhwa
Through Secretary, Higher Education
& others.....

Respondents

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Respondent

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

**CM Application
In
SA # 5774/2020**

1. Secretary to government of Khyber Pakhtunkhwa Higher education department Peshawar.
2. Directorate higher education department of Khyber Pakhtunkhwa Peshawar.
3. Principal Govt: Degree College, Kabal, Swat

.... Applicants.

Versus

Aman Ullah Senior Clerk (BPS-14). Govt: Degree College, Kabal, Swat.

.... Respondent.

**SUBJECT: - CM APPLICATION FOR SUBMISSION OF DOCUMENTS IN
COMPLIANCE OF ORDER DATED 17.04.2023**

Respectfully Sheweth,

1. That the instant case is pending before this Hon'ble Tribunal and was fixed for hearing on 17.04.2023
2. That vide order dated 17.04.2023 this Hon'ble Tribunal directed to provide the entire record of enquiry proceedings.
3. That the entire record of the enquiry proceedings are enclosed herewith as desired by this Hon'ble Tribunal. (**Annexures A - L**)

Prayer:

it is humbly prayed that the instant CM for additional documents desired by this Hon'ble tribunal may be allowed.


Director,
Higher Education Department
Khyber Pakhtunkhwa, Peshawar.

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS

CM

in

SA # 5774/2020

Mr. Aman Ullah..... Petitioner

Versus

Govt. of Khyber Pakhtunkhwa
Through Secretary, Higher Education
& others.....

Respondents

AFFIDAVIT

I, Farhan, Assistant (Litigation), Higher Education Department do hereby declare and affirm on oath that the contents are correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Court.

Identified By.

[Handwritten Signature]
Deponent

ATTESTED

[Circular Stamp: Azmat Ali, Notary Public, Khyber Pakhtunkhwa]
[Handwritten Signature]
5-223



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DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA
KHYBER ROAD, PESHAWAR

A

Tel # 091-9210242 / 9211025 Fax # 091-9211803
E-mail:- dhekpkesh@gmail.com Facebook.com/dhekpkeshwar Twitter.com/dhekpkeshwar1

Dated Peshawar the 4/4/2019

REINSTATEMENT ORDER:


In pursuance of the judgment passed by Khyber Pakhtunkhwa, Service Tribunal, Peshawar on 09-01-2019 in Service Appeal No. 439/2017, the Competent Authority is pleased to reinstate Mr. Aman Ullah, Senior Clerk, Govt; Degree College, Kabal, District Swat, at Government Degree College, Palai against the vacant post with immediate effect. However financial benefits shall be subject to the outcome of the formal enquiry as per the direction of the Honorable Service Tribunal.

DIRECTOR HIGHER EDUCATION

Endst. No 6005-12 /AD (Lit)/HED/SA (439/2017)

Copy of the above is forwarded for information/necessary action to the:-

1. Registrar, Khyber Pakhtunkhwa, Service Tribunal, Camp Court Swat.
2. Principal, Govt; Degree College Kabal, Swat
3. Principal, Govt; Degree College Palai, Malakand.
4. Section Officer (Litigation), Higher Education Department, Khyber Pakhtunkhwa Peshawar.
5. District Account Officer, Malakand.
6. District Account Officer, Swat
7. PA to Director Higher Education Khyber Pakhtunkhwa Peshawar.
8. Official concerned.


(Muhammad Iqbal)
DEPUTY DIRECTOR
(M)

Attested
Jahangir

etc



B

4 122

**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA
KHYBER ROAD, PESHAWAR**

Tel # 091-9210242 / 9211025

Fax # 091-9210215

E-mail:- dhekpesh@gmail.com

Facebook.com/dhekpeshawar

Twitter.com/dhekpeshawar1

No. 609-3 AD Lit/DHE/ S.A (439/2017),

Dated Peshawar the 4 / 4 /2019

To

- The Principal,
1. Govt: Degree College, Mathra (Peshawar)
2. Govt: Degree College Lahor, (Swabi)

SUBJECT: INQUIRY AGAINST MR. AMAN ULLAH, SENIOR CLERK GDC KABAL SWAT.

Memo:-

I am directed to refer to the subject cited above and to state that Director Higher Education Khyber Pakhtunkhwa is pleased to appoint you as Inquiry Officer in the case of the above named official & conduct an inquiry under E&D Rules 2011 in the light of attached statement of allegation and charge sheet and point out factual position with recommendation/opinion within 15 days positively for the perusal of Director Higher Education Khyber Pakhtunkhwa.


(Muhammad Iftikhar)
DEPUTY DIRECTOR
(M)

Endst.No 6004-5 / AD Lit/DHE/ S.A (439/2017)

Copy of the above is forwarded for information to the

1. Principal, Govt. Degree College Kabal Swat with the remarks to direct the accused official to appear before the inquiry Officer on the date, time and place fixed by the inquiry Officer for the purpose of Inquiry proceedings with further direction to extend all possible assistance to the Inquiry officer by deputing an Officer/official who is well conversant with the case.
2. Section Officer (Litigation), Higher Education Department, Khyber Pakhtunkhwa, Peshawar.

*Attended
Jahangir*


(Muhammad Iftikhar)
DEPUTY DIRECTOR
(M)

o/c

G

5 4/8

CHARGE SHEET

I, Mr. Zahoor Ul Haq Shah, Director, Higher Education, Khyber Pakhtunkhwa as Competent Authority, hereby charge you, Mr. Aman Ullah, Senior Clerk, Government Degree College, Kabal Swat as follows:

That you, while posted as Senior Clerk at Government Degree College, Kabal Swat committed the following irregularities:

- i. That you were posted against the vacant post snior clerk at Government Degree College Kabal, Swat on 17-11-2006.
 - ii. That, the then Principal of the college, Professor (Retired) Muhammad Iqbal made you in charge of all kinds of account matters in the college.
 - iii. That, the college Principal noticed huge embezzlements in the college fund after performing internal audit.
 - iv. That, a committee comprising Principal, GC, Daggar and Principal Govt: Postgraduate College, Saidu Sharif conducted an enquiry and held you responsible for the embezzlement of the amount Rs 15,36,403/-.
 - v. In light of the above you appear to be guilty of misconduct under Rule 3 (b) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any penalties specified in rule 04 of the Rule ibid.
 - vi. You are, therefore, required to submit your written defence within 07 days of the receipt of this charge sheet to the inquiry officer, as the case may be.
2. Your written defense, if any, should reach the inquiry officer/committee within the specific period, failing which it shall be deemed that you have no defense to put in and you shall be proceeded exparte.
 3. Intimate whether you desire to be heard in person.
 4. A statement of allegations is enclosed.


(ZAHOOR UL HAQ)
DIRECTOR, HIGHER EDUCATION
KHYBER PAKHTUNKHWA

DISCIPLINARY ACTION

D

6 HE

I, Mr. Zahoor Ul Haq, Director, Higher Education, Khyber Pakhtunkhwa as Competent Authority, am of the opinion that Mr. Aman Ullah, Senior Clerk, Government Degree College, Kabal Swat has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning/Specified in Section-03 of the Government Servant (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS.

- i. That you were posted against the vacant post Senior Clerk at Government Degree College Kabal, Swat on 17-11-2006.
 - ii. That, the then Principal of the college, Professor (Retired) Muhammad Iqbal put you in charge of all kinds of account matters in the college.
 - iii. That, the college Principal noticed huge embezzlements in the college fund after performing internal audit.
 - iv. That, a committee comprising Principal, GC, Daggar and Principal Govt: Postgraduate College Saidu Sharif conducted a fact finding enquiry and held you responsible for the embezzlement of amount Rs 15,36,403/-.
2. For the purpose of Inquiry against the said accused with reference to the above allegations, a formal inquiry committee consisting of the following, is constituted under rule 10(1)(a) of the ibid rules.
 - a. Irfan Ullah Government Degree College, Mathra (Peshawar)
 - b. Bakhtiar Muhammad, Government Degree College Lahor.
 3. The inquiry officer/Inquiry Committee shall, in accordance with the provisions of the Rules, ibid provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
 4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/inquiry committee.


(ZAHOOR UL HAQ)
DIRECTOR, HIGHER EDUCATION
KHYBER PAKHTUNKHWA

Attested
Jalil

AC

To,

The inquiry committee,

Subject: REPLY TO THE CHARGE SHEET DATED NIL
COMMUNICATED TO THE UNDERSIGNED ON
08.04.2019

Respected Sir,

Reference you charge sheet dated NIL, the undersigned submits my reply for your kind and sympathetic consideration as under:

1. That the undersigned was initially appointed as junior clerk on 01.11.1984 in education department was posted at Government High School Besham Mera in the then District Shangla.
2. That ever since my appointment, I had performed my duties as assigned with zeal and devotion and has never given any chance of complaint whatsoever regarding my performance.
3. That I at the very outset deny the allegations leveled against me as false, and baseless. The charges so leveled against me are based on mis-conception and are liable to be struck down.
4. That it has been alleged that I was given control by the then Principal over the account matters, is not true. With great respect it is submitted that I was mere clerk in the accounts department while the Principal was the controlling authority and the drawing and disbursing officer for all intents and purposes.
5. That it has also been alleged that some embezzlement was committed in the college fund, however I was not aware of any such embezzlement. The alleged incident took place on 05.07.2007 while the letter has been issued on 19.04.2008 after nine months. The principal was the DDO and being DDO he used to check the accounts every month. Had there been any such embezzlement on the part of the undersigned, the principal would have brought it in the knowledge of the high ups. If there were any embezzlement why he kept mum for nine long months. In-fact if at all there were any embezzlement, it would be committed by the Principal and the undersigned was made a scapegoat as was mentioned by the August Supreme Court of Pakistan.
6. The factum of checking the accounts once in a month was admitted by him during his statement before the special judge

*Attested
Jahangir*

anti corruption/ trial court. When the drawing and disbursing officer was the principal then how can the undersigned be responsible for any embezzlement. Accounts maintaining, fund raising and most importantly, the supervising of expenditure was the responsibility of the principal. The principal used to check the cash book from time to time and after each check he used to endorse his signature on the same. The undersigned had no authority from the principle to withdraw money from bank. So, for the reasons cited above, the allegations regarding the involvement of the undersigned in embezzlement is strongly denied.

- 7. That so far the constitution of fact finding inquiry is concern, it did not adopted the procedure which was required under the law to be followed, the statement of the principal was not recorded, and if recorded I was not allowed to cross examine him. The inquiry committee conducted a partial inquiry, I do not know whom else recorded their statement before the inquiry committee what record was brought and presented before the committee which could connect the undersigned with the embezzlement. Both the inquiry members conducted separate inquiries on different dates which was also illegal. It is also pertinent to mention here that the report of fact finding inquiry was also not provided to me so that I could know on what grounds I was held responsible for the alleged embezzlement.
- 8. That although later on I was convicted by the special judge anti corruption vide order dated 05.09.2013, however the same was setaside by the Honorable judge Darul Qaza Swat vide order and judgment dated 29.04.2014. The Honorable Court very minutely discussed the issues and exonerated the undersigned from the charges of embezzlement leveled against him and acquitted him vide the said order.
- 9. This fact was also observed by *the August Supreme Court of Pakistan* that *"it is evident from the record that the accounts of the relevant institution were regularly checked by the Principal of the said institution him self and he never found any embezzlement in the accounts"*. The Apex courts further observed that *"the FIR in this case had been registered after about 8/9 months of unearthing of the alleged embezzlement which indicates that the respondent No. 1 (the undersigned) could well have been made a scapegoat"*. The August Supreme Court also dismissed the appeal and upheld the order and judgment dated 29.04.2014 of the Honorable Dar.ul Qaza Swat whereby the undersigned was acquitted.
- 10. I have performed my duties through out my service career with punctuality and honesty. My whole service record which was more than 25 years would reflect that there was not a single complaint regarding the embezzlement.

*Attested
Jawary*

11. That I had a spotless service career at my credit, during my entire service I have performed my duties with zeal, devotion and sincerity and have always kept the interest and integrity of my department.

12. That I also desire to be heard in person.

It is, therefore, humbly prayed that on acceptance of this reply, the subject charge sheet may kindly be dropped and I may be exonerated of the charges leveled against me.

Received on
20/4/2019
[Signature]
20/4/19

Yours obediently,

[Signature]

Aman ullah
Senior Clerk
presently posted at GDC Pallae
Malakand

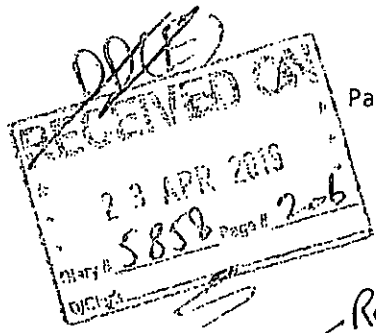
Dated: 15/4/2019

Attested
[Signature]

Mansoor

Process immediately 23/4/19

F



10/3

Ref Page 12

The Director
Higher Education
Khyber Pakhtunkhwa, Peshawar.

Subject: INQUIRY AGAINST MR. AMANULLAH SENIOR CLERK GOVT. DEGREE COLLEGE KBAL, SWAT.

DATE OF INQUIRY: 08-04-2019

PLACE OF INQUIRY: GOVT DEGREE COLLEGE KABAL, SWAT

INQUIRY OFFICERS: (i). Prof Irfan Ullah
Principal Govt. College Mathra, Peshawar
(ii). Prof. Bakhtiar
Principal Govt College Lahore, Swabi

Terms of Reference: Appointment Letter + Statement Allegation + Charge Sheet.

Procedure: Interview in Person and Examination of Accounts record.

BRIEF HISTROY OF THE CASE:

Govt Degree College Kabal, Swat was established in the year 2006 and Mr. Aman Ullah was transferred to this college on 17/11/2006 and posted against the vacant post of Senior Clerk. Mr Muhmmad Iqbal (The then Principal Govt Collge Kabal, Swat) assigned responsibilities of all kinds of Account matters pertaining to the college to Mr. Amanullah(The accused Senior Clerk) through an office order dated 07/12/2006. In 2008, the then Principal realized that college funds were not properly maintained and utilized. The then Principal immediately constitute an internal audit committee of the college Professor who digged out misappropriation/embezzlement in the college funds. The matter of embezzlement was reported to the Director Higher Education, Khyber Pakhtunkhwa Peshawar who directed the then Principal to lodge FIR against Mr. Amanullah. Mr. Amanullah was arrested by the local Police by lodging FIR against him on 19/04/2008. After preliminary investigations, the Police referred the case to Anti-Corruption department. The Anti- corruption Department carried out audit of the college Account and found that huge amount of Rs. 1913786/- had been misappropriated/embezzled by the then senior clerk, Mr. Amamnullah. The anti-corruption department referred the embezzlement case to the court of special Judge Anti-corruption Khyber Pakhtunkhwa at Swat. The Honorable special judge anti-corruption decided the case against Mr. Amanullah. Mr. Amanullah filed appeal in Honorable Peshawar High Court Bench. Dar -UI- Qaza at Mingora, Swat against the Judgment passed by special judge Anti-corruption. The Honorable Peshawar High Court Bench. Dar -UI- Qaza, Swat directed the secretary Higher Education Department Govt: of Khyber Pakhtunkhwa to prob ino the matter and recover the embezzled amount from Mr. Amanullah (The accused Senior Clerk). In light of the directives, issued by honorable Peshawar High Court Bench Swat. The fact finding inquiry was conducted by the then special Secretary Higher Education Archives & Library Department along with Director, Directorate of Archives & Libraries and deputy dorector (colleges) Directorate of Higher Education.

PROCEEDINGS:

In Compliance With The Directives Of The Director Higher Education Khyber Pakhtunkhwa, Peshawar vide the letter No:6502-3/Ad-lit/DHE/SA(43a/2017) dated 04/04/2019, the inquiry committee comprising of Professor Irfan Ullah (Principal Govt. College Mathra Peshawar) and Professor Bakhtiar (Principal Govt. College Lahor Swabi) visited Govt. Degree Collge Kabal Swat on 8/4/2019 in order to dig out the factual position about the illegation level against Mr. Amanullah, the then senior Clerk of the Govt Degree College kabal Swat.

Mr. Muhammad Iqbal (The Then Principal) and Mr. Amanullah (The Accused Senior Clerk) were contacted telephonically to appear before the inquiry committee at Govt. Degree College Kabal Swat on 8/4/2019. Mr. Amanullah (the accused Clerk) was also served with charge sheet and was given full liberty and ample opportunity to offer his defence. The afore mentioned officer /official were also provided opportunity of personal hearing and cross examination and recorded their statement.

A. Mr. Muhammad Iqbal (Retired), the then Principal GDC kabal (Swat).

Mr. Muhammad Iqbal took charge of the office of Principal at Govt. College Kabal swat on 1/9/2006 and got retirement on 3/8/2011 on superannuation. Mr. Muhammad iqbal told the inquiry committee that he assigned responsibilities of all kinds of accounts matter pertaining to the college to Mr. Amanullah through on office order dated 7/12/2006.

Attested
Jury

Mr. Muhammad Iqbal told the committee that in early 2008, he sensed misappropriation/Embezzlement in the college funds, Therefore he constituted an audit committee of the local college Professors, who digged out misappropriation/embezzlement amount of Rs. 1574089/-. The Principal told the committee that when Amanullah was informed about the embezzlement amount, he come to the collge and signed a pardon deed on Judicial stamp paper in presence of witness and promise in written that he will return the embezzled amount upto 01/05/2008(Annex-A).

When asked about the cheque book of Private funds, Mr. Muhammad Iqbal replied that it was under the custody of Mr. Amanullah, Mr. Muhammad Iqbal informed the inquiry committee that Mr. Amanullah had drawn Rs.30,5000/- from the National Bank Kabal Branch under fake signature of the D.D.O (The Then Principal Mr. Muhammad Iqbal) through various cheques bearing No:686641 date 11/3/2007 for Rs. 40,000/- bearing no: 686642 Dated: 05/11/2007 for Rs. 15000/- and bearing No: 686643 dated: 11/12/2007 for Rs. 250,000/- (Records of cheques were in custody of the Anti-corruption department). The entire amount was misappropriated.

It was also brought into the notice of the inquiry committee that amount of Rs.400,000/- had been granted to the collge in ADP Scheme during the Year 2006-2007 for Purchase of the furniture but the entire amount was misappropriated by the then senior clerk, Mr. Amanullah. The committee was informed that bank draft of Rs.20,000/- bearing No:742966 dated 05/07/2007 issued in the name of National Book foundation. Mr. Amanullah after tempering, produced the same Bank draft bearing No.742966 for a payment of Rs.400,000/- to Pak- Ger man wood working Timergara. The tempered bank draft was duly verified by the Manger National bank of Pakistan main branch Saidu Sharif, Swat. (Copy of Bank Draft Also in custody of Anti-corruption deptt).

The Committee was also informed that soon after the establishment of Govt Degree Collge Kabal Swat, the admission in first year and 3rd Year classes were carried out by Govt Post Graduate Jehanzeb Collge, Swat. The admissions in first year & 3rd Year class for the next session 2007-2008 were carried out by Govt Degree College Kabal. The amount of Rs. 70700/- realized from the sale of prospectus were not deposited in the college account and thus misappropriated/ embezzled by Mr.Amanullah.

B. Mr..Amanullah, The Accused Senior Clerk, G.D.C Kabl, Swat.

Mr. Amanullah took charge on 6/11/2006 at Govt Degree College Kabal, Swat against the vacant post of senior clerk. Mr. Amullah assured the inquiry committee that he had been shouldered responsibilities of all kind of accounts matters pertaining to the college through an office order dated 7/12/2006 and since then he was performing his duties honestly and efficiently. He replied that in early 2008, the then Principal conducted an audit of college accounts through college professors and they charged me for embezzlement of Rs.1574089/-. The Anti-corruption establishment also held me responsible for embezzlement Rs.1913786/-. He also told the committee that record of the relevant account was in his custody.

On inquiring about the cheque for Rs.400,000/- issued in the name of Pak-German wood working Timergara, he replied that the drawl of the aforementioned amount was made through AC bill and cheque sent to Pak-German Timergara, but he failed to produced AC bill and copy of the said cheque.

When aske about the pardon deed, Mr. Amanullah replied that he signed pardon deed on 16/04/2008 under pressure in the custody of Police. The officers/official who signed the pardon deed as witness are also summoned by the inquiry committee and obtained written statement from them(Annex - B)

It is important to mention that pardon deed was signed by Mr. Amanullah on 16/4/2008 while FIR was lodged against him on 19/04/2008(Annex- C)

When asked to produce the approval of the Principal for Rs.40,000/- for Rs.15000/- and for Rs. 250,000/- that had been drawn through cheques bearing No.686641,686642 and 686643 ,Mr.Amanullah denied that he had no record.

C. Calculation of Realized Amount from Students, Expenditure Incurred and Misappropriated/Embezzled Amount.

The inquiry committee checked admission withdrawal register, Private funds register, Govt funds register and cash book register for the Period 2006-2007 & 2007-2008 and found significant shortcomings on these registers. The cash book register for the period Oct 2006

Handwritten notes:
 Attached
 Annex A
 Annex B
 Annex C

May 2008 was thoroughly checked and found no entry of Challan/Pay of establishment/AC Bills/TA Bills/Electricity Bills/Telephone Bills and newspaper bills etc.

Discrepancy between the amount realized from the students at the time of admission & the amount deposited in the college account was also noticed by the inquiry committee.

The following table shows the amount realized from the students under the heading Private funds & Govt funds.

Realized amount in Private/Govt funds for Session 2006-2007

PRIVATE FUND					GOVT FUND	
Class	Faculty	No. of students admitted	Rate of deduction of private funds	Total Amount realized	Rate of Deduction of Govt Funds	Total Amount Realized
First Year	Science	219	219x840=Rs183960/-	Rs321720/-	219x530=Rs116070/-	Rs 194790/-
	Arts	164	164x840=Rs137769/-		164x480=Rs78720/-	
3 rd Year	Science	75	75x1250=Rs93750/-	Rs306750/-	75x690=Rs51750/-	Rs143700/-
	C/Science	30	30x2350=50Rs70500/-		30x690=Rs20700/-	
	Arts	14	114x1250=Rs142500/-		114x625=Rs71250/-	
Total				Rs628470/-		Rs333490/-

Realized Amount in Private funds/Govt funds for session 2007-2008

PRIVATE FUND					GOVT FUND	
Class	Faculty	No. of students admitted	Rate of deduction of private funds	Total Amount realized	Rate of Deduction of Govt Funds	Total Amount Realized
1 st Year	Science	156	156x910=Rs141960/-	Rs458340	156x530=Rs82680/-	Rs209070/-
	C/Science	51	51x2510=Rs128010/-		51x530=Rs27030/-	
	Arts	207	207x910=Rs188370/-		207x480=Rs99360/-	
2 nd Year	Science	179	179x300=Rs53700/-	Rs85800/-	179x530=Rs94870/-	Rs149230/-
	Arts	107	107x300=Rs32100/-		107x480=Rs51360/-	
3 rd Year	Science	84	84x1250=Rs105000/-	Rs295400/-	84x690=Rs57960/-	Rs139195/-
	C/Science	19	19x2850=Rs54150/-		16x690=Rs13110/-	
	Arts	109	109x1250=Rs136250/-		109x625=Rs68125/-	
4 th Year	Science	57	57x300=Rs17100/-	Rs46200/-	57x690=Rs39330/-	Rs10995/-
	C/Science	16	16x300=Rs4800/-		16x690=Rs11040/-	
	Arts	81	81x300=Rs24300/-		81x625=Rs50625	
Total				Rs885740/-		Rs593490/-

SUMMARY OF EMBEZZLEMENT

a. Private (Pupil) Funds:

Total Amount realized during the session 2006-7/2007-8	Rs: 1514210/-
Amount realized from the sale of prospectus	= (+) Rs 70700/-
Total realized Amount	=Rs: 1584910/-
Registration of students (Board/University) and other Miscellaneous expenditure	=(-) Rs 405533/-
Amount available in college Account on 1/11/2000	=(-) Rs 345948/-
Embezzled Amount	= Rs 833429/-

b. Govt. Funds

Total realized amount during the session 2006-7/2007-8=Rs933980/-	
Amount deposited in treasury	= Rs564800/-
Embezzled Amount	=Rs: 369180/-

c. Total Embezzled Amount in ADP Scheme

-Rs: 400,000/-

The Gross Embezzled amount is calculated as follows:

i. Embezzlement in pupil funds	=Rs 833429/-
ii. Embezzlement in Govt funds	=Rs 369180/-
iii. Embezzlement in ADP Scheme	=Rs 400,000/-
Gross Embezzlement	=Rs: 1602609/-

Handwritten signatures and notes on the left margin.

FINDINGS:

Consequent upon examining the entire relevant available record of the instant case, facts finding report, charge sheets and arguments made by the accused Senior Clerk, Mr. Aman ullah and the then Principal (retired) Mr. Mohammad iqbal including Personal hearing, the following facts were noticed

1. The Incident is not only the case of embezzlement but also a case of negligence on the Part of the then Principal, Mr. Mohammad iqbal as he failed to check the college account on regular basis and failed to check the activities of the accused clerk Mr. Aman Ullah with vigilant eye.
2. The Incident took Place due to the fact that the then Principal did not bother to appoint college bursar, who is bound to check the Income and expenditure of the college account on monthly basis.
3. It was found that cheque book of Private funds was in custody of Mr. Aman Ullah who made draws of Rs: 305000/- from the college account through various cheques bearing no 686641 dated 11/3/2007 for Rs: 40,000/-, no 686642 dated 05/11/2007 for Rs: 15000/- and no 686643 dated 11/12/2007 for 250,000/- by inserting fake signatures of the then Principal, Mr. Mohammad: Iqbal.
4. The Involvement of the concerned staff of National Bank of Pakistan, Kabal branch who Processed and verified the signature of the Principal on the cheques bearing no 686641 dated 3/11/2007, no 686642 dated 5/11/2007 and no: 686643 dated 11/12/2007. Cannot be ignored.
5. It was also found that Govt degree college Kabal was granted Rs 400,000 /- in ADP Scheme during the Year 2006 – 2007 for Purchase of furniture. The entire amount was embezzled by the then Senior Clerk, Mr. Aman ullah, by Producing a Photo copy of a tempered Bank Draft bearing no 742966 dated 05/07/2007 in the name of Pak-German wood working, timergara. It is important to mention that the aforementioned Bank Draft bearing no 742966 had already been issued in the name of National Book foundation for Rs: 20,000 /- which was verified by the Manager National Bank of Pakistan main branch saidusharif Swat.
6. The actual loss of amount could be more than Rs: 1602609 /- because some relevant record of accounts was found missing. Since Mr. Aman ullah was the dealing Clerk, therefore he was duty bound to keep the record in his custody/ under lock. Mr. Aman ullah is fully held responsible for missing of the relevant record.
7. It was found that Rs: 70700 /- realized from the sale of college Prospectus at the time of admission in the college, but the Said amount was not deposited in the college account and thus misappropriated by the then Senior Clerk, Mr. Aman Ullah.
8. Mr. Aman Ullah, the accused senior Clerk confessed the embezzlement as is evident from the Parden deed duly. Signed by him in presence of witnesses.

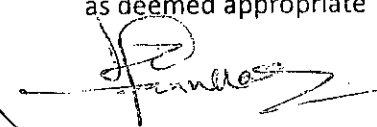
Recommendations:

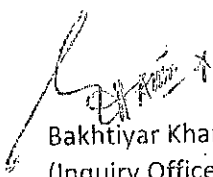
After thoroughly examining the instant case of Mr. Aman Ullah, the inquiry committee reached to the conclusion that.

1. Mr. Aman Ullah, was the custodian of the cheque book of private funds and all other relevant records of the college account, therefore he is held responsible for the entire embezzlement.
2. Release of back benefit to Mr. Aman Ullah is subject to the condition that embezzled amount of Rs 1602609/- may be recovered from him.
3. The inquiry committee also recommends imposition of minor penalty of stoppage of two increments for 2 years upon Mr. Aman Ullah.

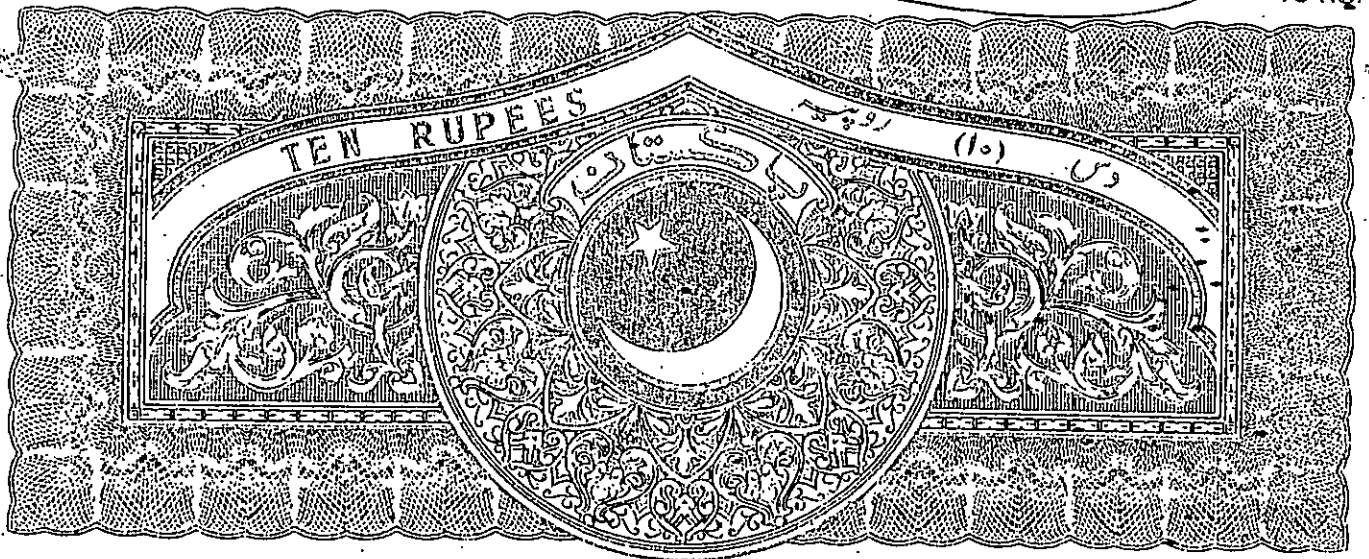
The competent authority / Director Higher Education Khyber pakhtunkhwa may like to Pass or as deemed appropriate

Attested
for


Irfan Ullah
(Inquiry Officer)
Principal
Govt. Degree College Mathra
Peshawar


Bakhtiyar Khan
(Inquiry Officer)
Principal
Govt Degree College Lahor
Swabi

6
Annex-A-B



معافی باقی

میں امان الودعہ سرکار کو ملنے ڈر نی کا رخ و افرا
 تیر کے نام سے ہوں کہ میں نے اپنے دوستوں سے
 کاغذ کی رقم مختلف چیکوں کے ذریعہ لگائی ہیں
 میرے سر پر ہوں۔ میں نے لگایا کہ میں نے ڈیڑھ لاکھ
 اوزر 17²⁰⁰⁸ آپ کے ادارے کا یا نہیں ہونا۔
 آپ کے دفتر کے نام ڈرافٹ کی رقم لا جا رہی ہے۔
 جو میں نے رقم نہیں لکھی اور وہ رقم میں نے لگائی ہے
 اس کا بھی رقم ہوں اور یہ ادارہ کو منگوانا یا لا رہا ہے
 جس سے میری رقم زبردستی آ رہی ہے۔ یہ رقم بھی میں نے
 ادارے کے کا یا نہیں ہونا۔ خلاف میں نے لگائی ہے
 کا ڈرافٹ میں نے لگائی ہے۔ یہاں تک کہ میں نے منگوانا
 رقم ادا نہیں کروا سکا وہ آ رہی ہے۔ میں نے منگوانا
 میں نے رقم لگائی ہے۔ وہ بھی ادارے کے
 اپنے رقم کی رقم لگائی ہے اور اس کے ادا ہونے
 کاغذ (تیار کرنے کی رقم) میں نے لگائی ہے اور لگا۔

Attested

(جگمگادی)

4268
16/4/85

مکوردیاں مشرف

گوپان



Sher Alam Asstt. Professor
Govt. Degree College,
Kabal, Swat.
G.D.C. Kabal

مکوردیاں مشرف
بک

Muhammad Ali
Govt. Degree College,
Kabal, Swat.
G.D.C. Kabal Swat

Muhammad Rasool (4)
Lect: in Zoology
G.D.C. Kabal Swat

Fazli Rehman (3)
Govt. Degree College,
Kabal, Swat.
G.D.C. Kabal Swat

Counter Signed

Principal
Govt. Degree College,
Kabal, Swat

مکوردیاں مشرف

فارم نمبر ۱۲-۵ (۱)

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۲ مجموعہ ضابطہ فوجداری

ضلع	سوات	کسب	21
تاریخ	۱۹/۰۴/۰۸	عدد	106
تقریب	۱۹/۰۴/۰۸	تقریب	۱۷:۱۵
مقام	پرنسپل گورنمنٹ ڈگری کالج کسب سوات	مقام	کسب
مذکورہ جرم (معدومہ احوال اگر بتایا گیا ہو)	۴۰۹ / ۵/۲ / ۱۹۰۸	مذکورہ جرم	۴۰۹ / ۵/۲ / ۱۹۰۸
مذکورہ جرم سے اور مست	GDC کسب ضلع ۱/۲ وکٹ صاحبہ شرق ارضیات	مذکورہ جرم سے اور مست	GDC کسب ضلع ۱/۲ وکٹ صاحبہ شرق ارضیات
مذکورہ جرم سے اور مست	آمان اللہ منیر میٹک GDC کسب	مذکورہ جرم سے اور مست	آمان اللہ منیر میٹک GDC کسب
مذکورہ جرم سے اور مست	پرنسپل گورنمنٹ ڈگری کالج کسب سوات	مذکورہ جرم سے اور مست	پرنسپل گورنمنٹ ڈگری کالج کسب سوات
مذکورہ جرم سے اور مست	پرنسپل ڈاکٹر	مذکورہ جرم سے اور مست	پرنسپل ڈاکٹر

ابتدائی اطلاع نیچے درج کرو۔ ایک فٹنری چیمنج انٹرنیٹری 371 وقت ۱۹.۴.۰۸

مذکورہ جرم سے اور مست پرنسپل گورنمنٹ ڈگری کالج کسب سوات

OFFICE OF THE PRINCIPAL GOVT, DEGREE COLLEGE KABAL DISTT SWAT
Enofst No-371 Dated-19.4.08. TO The S.H.O Kabal Swat. Subject: REQUEST
FOR LODGING FIR. Memo, your attention is invited towards the
involvement of Mr. Amanullah S/ clerk of this college in mass
embagglment / misappropriation. (A draft of Rs. 40000/- in the name
of Pak German wood working Tamergara for the supply of furnit-
issued on 5/7/2007 was not received by the said firm when I
same clerk was asked, he confessed that he has used the mo-
for personal purposes (Xerox copy of the draft) is attached.

② Cheques Nos. 686607, 686641, 686642, 686643 worth of Rs 22996
40000/-, 15000/- and 25000/- respectively cashed from Privat
fund (NBP Kabal) by fake signatures. Others will be detecte
after analysing the bank record. ③ Other misappropriation
which is in lacs, will be sorted out from the collage record
sd: Principal Govt, Degree College Kabal Distt: Swat

آمان اللہ منیر میٹک صاحبہ شرق ارضیات کسب سوات

پرنسپل گورنمنٹ ڈگری کالج کسب سوات

پرنسپل ڈاکٹر

Attended
Jalany



DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA
KHYBER ROAD, PESHAWAR

16/38

I

Tel # 091-9210242 / 9211025

Fax # 091-9210215

E-mail:- dhekpesh@gmail.com

Facebook.com/dhekpeshawar

Twitter.com/dhekpeshawar1

No. 11815-16/AD (Litigation)/SA# 439/2017 (Aman Ullah)

Dated Peshawar the 28/5/2019

To

1. The Principal,
Government Degree College,
Palai (Malakand).
2. The Principal,
Government Degree College,
Kabal (Swat).

SUBJECT: SHOW CAUSE NOTICE.

Memo:

I am directed to enclose herewith a copy of Show Cause Notice duly signed by the Director, Higher Education, Khyber Pakhtunkhwa in respect of Mr. Aman Ullah, Senior Clerk of your college with the request that the same may be served upon the accused official and return one copy after obtaining his signature as token of receipt to this office at an early date.

Encl: As above:

M
28/5/19
(Muhammad Iftikhar)
DEPUTY DIRECTOR
M

Endst.No 11817-20/AD (Litigation)/SA# 439/2017 (Aman Ullah)

Copy of the above is forwarded to the:-

1. Section Officer (Litigation), Higher Education Department, Khyber Pakhtunkhwa.
2. Deputy Director (IT), Local Directorate with the remarks to electronically circulate the letter to concerned.
3. CA-VII (Establishment Branch), Local Directorate.
4. Mr. Aman Ullah, Senior Clerk, Government Degree College, Palai (Malakand).

*Attested
for
[Signature]*

M
28/5/19
(Muhammad Iftikhar)
DEPUTY DIRECTOR
M

o/c

SHOW CAUSE NOTICE

I, Zahoor Ul Haq, Director Higher Khyber Pakhtunkhwa as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Aman Ullah, Senior Clerk Government Degree College, Kabal, Swat, as follows:-

- (i) That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing.
- (ii) On going through the findings and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the said inquiry Committee.

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

- a) Mis-conduct.
- b) In-Efficiency.

2. As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you the penalty of REMOVAL FROM SERVICE ALONG WITH RECOVERY OF RS 1602609/- under rule 4(b) (iii) of the said Rules.
3. You are, therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defense to put in and in that case, an ex-parte action shall be taken against you.
5. A copy of the findings of the inquiry Officer is enclosed.

*Attested
Zahoor*

Zahoor Ul Haq
(ZAHOOR UL HAQ)
DIRECTOR HIGHER EDUCATION

I very humbly submit my reply to the subject Show Cause Notice as under:

Respected Sir,

1. That the undersigned was initially appointed as junior clerk on 01.11.1984 in education department was posted at Government High School Besham Mera in the then District Shangla.

2. That ever since my appointment, I had performed my duties as assigned with zeal and devotion and has never given any chance of complaint whatsoever regarding my performance.

3. That while serving in the said capacity I was served with a charge sheet dated NIL, containing certain false and baseless allegations. I duly replied the charge sheet and refused the allegations leveled against me as false and baseless vide my detailed reply.

4. That thereafter a partial inquiry has been conducted and the inquiry committee held the undersigned responsible for embezzlement and recommended that the whole amount has to be recovered from me and beside this I have also been recommended for minor punishment.

5. That it has been learnt by me vide the subject show cause notice that I have been recommended for major punishment of Removal from service beside recovery of amount i.e. 1602609/-

6. That I once again deny the allegations leveled against me in the instant show cause notice, as false and baseless, the undersigned has been falsely roped in the instant case.

7. The undersigned is a responsible, cautious employee of the department and cannot even think of the display of the charges leveled against me.

Handwritten notes:
AD (LIT)
~~AD (LIT)~~
18/6/19
Attache
18/6/19

REPLY TO THE SHOW CAUSE NOTICE DATED 28.05.2019 TO THE UNDERSIGNED ON 31.05.2019

Subject:

The Director Higher Education,
Peshawar,

To,

RECEIVED ON 18 JUN 2019 11:57 AM
Page # 115
Date # 18/6/19
DOLAGAL
19/6/19

res

Alleged
Jawad

12. This fact was also observed by the August Supreme Court of Pakistan that "it is evident from the record that the accounts of the relevant institution were regularly checked by the Principal of the said institution him self and he never found any embezzlement in the accounts". The Apex courts further observed that "the FIR in this case had been registered after about 8/9 months of unearthing of the alleged embezzlement which indicates that the respondent No. 1 (the undersigned) could well have been made a scapegoat. The August Supreme

11. That although initially I was convicted by the special judge anti corruption vide order dated 05.09.2013, however the same was set-aside by the Honorable Judge Darul Qaza Sawai vide order and judgment dated 29.04.2014. The Honorable Court very minutely discussed the issues and exonerated the undersigned from the charges of embezzlement leveled against him and acquitted him vide the said order.

10. The factum of checking the accounts once in a month was admitted by the principal during his statement before the special judge anti corruption trial court. When the drawing and disbursing officer was the principal then how can the undersigned be responsible for any embezzlement. Accounts maintaining, fund raising and most importantly, the supervising of expenditure was the responsibility of the principal. The principal used to check the cash book from time to time and after each check he used to endorse his signature on the same. The undersigned had no authority from the principle to withdraw money from bank. So, for the reasons cited above, the allegations regarding the involvement of the undersigned in embezzlement is strongly denied.

9. That it has also been alleged that some embezzlement was committed in the college fund, however it is pertinent to mention here that I was not aware of any such embezzlement. The alleged incident took place on 05.07.2007 while the letter has been issued on 19.04.2008 after nine months. The principal was the DDO and being DDO he used to check the accounts every month. Had there been any such embezzlement on the part of the undersigned, the principal would have brought it in the knowledge of the high ups. If there were any embezzlement why he kept mum for nine long months. In-fact if at all there were any embezzlement, it would be committed by the Principal and the undersigned was made a scapegoat as was mentioned by the August Supreme Court of Pakistan.

8. That it has been alleged in the charge sheet that I was given control by the then Principal over the account matters, is not true. With great respect it is submitted that I was mere clerk in the accounts department while the Principal was the controlling authority and the drawing and disbursing officer for all intents and purposes.

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Handwritten signature

- Court also dismissed the appeal and upheld the order and judgment dated 29.04.2014 of the Honorable Dar ul Qaza Swat whereby the undersigned was acquitted.
13. That the inquiry committee did not associate me properly with the inquiry proceedings. Not a single witness has been examined during the enquiry in my presence nor I have been given opportunity to cross examine those who may have deposed anything against me during the inquiry.
14. That the charges leveled against the appellant were neither proved during the inquiry proceedings, nor any independent and convincing proof evidence has been brought against me in the inquiry that could even remotely associate me with the charges, as such the charges remained unproved during the inquiry and the inquiry committee has thus rendered its findings on mere surmises and conjectures wholly and solely relied on the statement of the complainant. It is pertinent to mention here that I was not allowed to cross examine him regarding his allegations against me.
15. That the inquiry committee wrongly stated in its report that the Honorable High Court directed your good self to take action against me and recover the amount from me. In fact the Honorable court in its judgment dated 29.04.2014, while acquitting the undersigned, directed the department to take action against all those who are responsible for the embezzlement including the principal and bank staff. Despite the clear directions of the Honorable Court only I have been victimized which is illegal.
16. That the inquiry committee also did not give attention to my statement that I was arrested from my office and the office was not sealed in my presence and was left open to the principal and he made and prepared the fake documents in my absence.
17. That the undersigned has at his credit an unblemished and spotless service career, during entire service career, I have never given any chance of complaint whatsoever regarding my performance. I always preferred the interests of the department over and above my personal interests. The proposed penalty if imposed upon me, it would be too harsh and would stigmatized the bright and spotless service record of the undersigned.
18. That the undersigned also desires to be heard in person.

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Keeping in view the above submission, It is very humbly requested that on acceptance of the in this reply the subject show cause notice may very kindly be dropped and I may be exonerated of the charges leveled against me.

Yours obediently,



Aman ullah
Senior Clerk
presently posted at GDC Pallae
Malakand

Dated: 12/6/2019

Attested
for



K 22

**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA
RANO GHARI NEAR CHAMKANI MOR, PESHAWAR**

E-mail:- dhekpkeshe@gmail.com Facebook.com/dhekpkesheawar Twitter.com/dhekpkesheawar1

No. _____ / AD (Litigation)/SA#439/2017 (Aman Ullah)

Dated Peshawar the 22/8/2019

OFFICE ORDER:

Consequent upon the charges of embezzlement amounting to Rs 1602609/- in the light of inquiry against you (Mr. Aman Ullah), Senior Clerk Government Degree College, Kabal (Swat) now posted at Government Degree College, Palai (Malakand), resulting into a showcase notice served upon you; and your subsequent reply to the showcase notice, the Director Higher Education Khyber Pakhtunkhwa, is pleased to give you an opportunity for personal hearing on 04-09-2019 at 10:00 AM in his office to defend your reply to the showcase notice served upon you.

DIRECTOR HIGHER EDUCATION

Endst; No. 18174-70 / AD (Litigation)/SA#439/2017 (Aman Ullah)

Copy of the above is forwarded for information/necessary action to the:

1. Principal, Government Degree College, Palai (Malakand), with the request to inform Mr. Aman Ullah Khan, Senior Clerk to ensure his presence on the date and venue as mentioned above.
2. Principal, Government Degree College, Kabal (Swat).
3. Deputy Director (IT), with the request to circulate the same electronically, please.
4. PA to Director Higher Education Department, Khyber Pakhtunkhwa.
5. Official concerned.

*Attested
Jalawar*

o/c

M. S. 23/08/19
(Muhammad Istikhhar)
DEPUTY DIRECTOR
Jalawar



23
165

**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA
RANO GHARI NEAR CHAMKANI MOR, PESHAWAR**

E-mail:- dhekpesh@gmail.com Facebook.com/dhekpeshawar Twitter.com/dhekpeshawar1

No. _____ / CA-VII/Estt: Branch/A-167/SA#439/2017, Ammanullah Dated Peshawar the 24/11/2019

NOTIFICATION

Whereas Mr. Amanullah. Sr.Clerk (BPS -14) of Higher Education Department was proceeded against, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, for the charges mentioned in the Charge Sheets and statement of Allegations.

1. **AND WHEREAS**, an inquiry committee comprising Mr. Irfan Ullah, Principal Govt: Degree College Mathra and Mr. Bakhtiar Khan Principal Govt: Degree College Lahor, Swabi was constituted to conduct inquiry into the allegations.

2. **AND WHEREAS**, the inquiry Committee after having examined the charges, evidence on record and explanation of accused officers, submitted report.

3. **NOW THEREFORE**, the competent authority after having considered the charges, evidence on record, the explanation of the accused officers, and after affording the opportunity of personal hearing while exercising the powers conferred upon him under Rule-14 of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules 2011, has been pleased to impose minor penalties upon the accused officer as under:

Name & Designation	Penalty Imposed
Mr. Amanullah. Sr.Clerk (BPS -14) of Higher Education Department.	1. Withholding of two annual increments. 2. Recovery of embezzled amount of Rs. 1,602,609/-

DIRECTOR, HIGHER EDUCATION

Endst; No 30705-9 / Estt: Branch/ SA#439/2017, Ammanullah

Copy of the above is forwarded to the following:

1. Principal Govt: Degree College, Pallai Malakand with request to recover the embezzled amount from the official concerned under intimation to the Directorate Higher Education along with original receipt.
2. Principal Govt: Degree College Kabal Swat.
3. District Account Officer Swat.
4. District Account Officer Malakand.
5. Official Concerned.

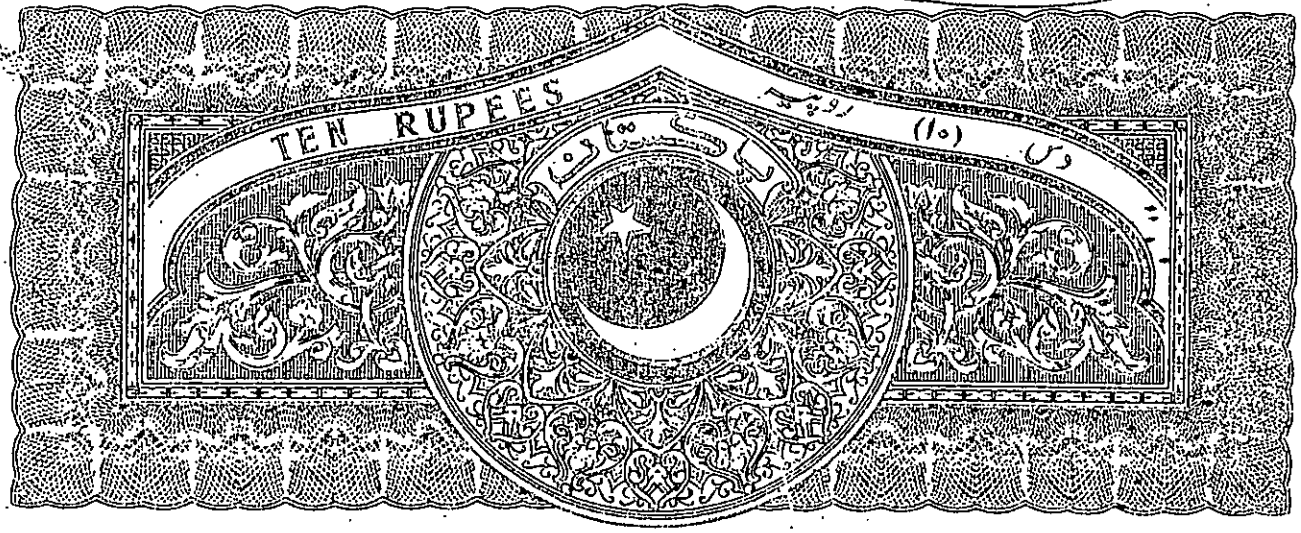
Attested
for
[Signature]

o/c
[Signature]
(Muhammad Iftikhar)
DEPUTY DIRECTOR
ga

Annex-A-B

PAKISTAN

10 RS.



معافی مانگا

میں امان اللہ سرگرم گورنمنٹ ڈرنری کالج لاہور
 کے نام لکھ رہا ہوں کہ میں نے اپنے دوستوں سے
 کالج میں جو رقم مختلف چیزوں کے ذریعہ لگائی ہے
 میرے پیراڈیو کے لئے لے کر آئی ہے۔ میں نے پیراڈیو
 اور دیگر چیزوں کے لئے 17 آئی کے آؤٹر کے ساتھ لکھنؤ
 ٹاؤن کے پورٹ کے نام ڈاک کے ذریعہ 40000/- روپے جمع
 کر کے تم کو بھیجا اور وہ رقم میں نے لکھ رہا ہوں
 اس کے ساتھ پیراڈیو اور دیگر چیزوں کے لئے لکھنؤ
 میں نے یہ رقم بھی جمع کیا ہے۔ یہ رقم میں نے
 ادارے کے کاموں کے لئے لکھ رہا ہوں۔ میں نے
 کالج میں لکھ رہا ہوں۔ یہاں تک کہ میں نے
 رقم اور آؤٹر کے لئے لکھ رہا ہوں۔ میں نے
 یہ رقم بھی جمع کیا ہے۔ وہ رقم میں نے
 ادارے کے کاموں کے لئے لکھ رہا ہوں۔ میں نے
 کالج میں لکھ رہا ہوں۔ یہاں تک کہ میں نے

معاذ اللہ

4268
10/4/85

مکوردینا کسٹریو

گوپان



S. M. Khan
Asstt. Professor
G.D.C. Kabal
Asstt. Professor
Govt. Degree College
Kabal, Swat

انٹرنیٹ سٹریٹن
کابل

M. A. Khan
Govt. Degree College
Kabal, Swat
Lecturer
G.D.C. Kabal Swat

Muhammad Rasool
Lect. in Zoology
G.D.C. Kabal, Swat
G.D.C. Kabal Swat

Fazli Rahman
Lect. in Botany
G.D.C. Kabal
Swat
Lecturer
Govt. Degree College
Kabal, Swat

Counter Signed

Principal
Govt. Degree College
Kabal, Swat

10/4/85