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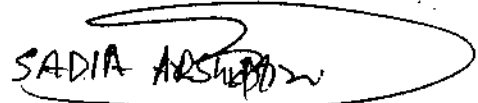
**BEFORE THE HON'BLE SERVICE TRIBUNAL,**  
**KHYBER PAKHTUNKHWA, PESHAWAR**

**Service Appeal No.598/2024**

**Bilal Raza VS D&SJ Mansehra & another**

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District & Sessions Judge

Mansehra

District & Sessions Judge

Mansehra

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

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 15238

Dated 28/8/24

SERVICE APPEAL No. 598/2024

Bilal Raza s/o Abdur Razzaq, Junior Clerk, Muharrir, District  
Courts, Mansehra ..... **(Appellant)**

Versus

The District & Sessions Judge, Mansehra, District Courts,  
Mansehra and another..... **(Respondents)**

**REPLY/COMMENTS ON BEHALF OF RESPONDENTS:**

Respectfully submitted;

Para-wise comments/reply on behalf of the  
respondents is as under.

**PRELIMINARY OBJECTIONS:**

- I. That the appellant has impugned the penalty order dated 29.11.2023 in the instant appeal. Against the said order, the appellant filed departmental appeal on 02.01.2024 i.e. with a delay of 4/5 days without any justification for delay. Since, departmental appeal of appellant was not filed within time, therefore, instant service appeal is also time barred. Needless to mention here that no application for condonation of delay has been filed by the appellant.
- II. That the appellant has been awarded penalty after observing all legal formalities. Proper departmental inquiry was conducted into the matter wherein full opportunity was afforded to the appellant to defend himself against the charges but he failed to defend.

The inquiry officer after finding him guilty of the charges, recommended the penalty which was accordingly awarded to him vide impugned order dated 29.11.2023.

- III. The appellant has also questioned the DPC and promotion processes of the Junior Clerks held on 26.03.2022 and 22.10.2022; however, no departmental appeal/representation has been filed against the said orders of promotions before the appellate authority, therefore, on this score alone instant appeal is not maintainable.
- IV. The appellant has questioned the promotions of other officials/staff members who have not been arrayed as party in the instant appeal; therefore, the appeal in hand is bad for miss-joinder/non-joinder of necessary parties.
- V. No illegality or irregularity has been committed in the inquiry proceedings; thus, the impugned order is well reasoned and justified.
- VI. That through the appellant made clear breast confession/admission for committing forgery, but upon directions of this Hon'ble Tribunal, full-fledged inquiry was conducted and the appellant was awarded the penalty.
- VII. That since the appellant has been awarded minor penalty; therefore, under the law, he cannot question the quantum of punishment awarded to him.

**FACTUAL OBJECTIONS:**

- 1) Contents to the extent of appointment of appellant, hence needs no reply, however, the performance of the appellant never remained up to the mark as he has been subjected to disciplinary proceedings.

- 2) Correct to the extent of dismissal of appellant from service are correct, rest of the Para regarding false allegations is denied. The allegations levelled against the appellant were well founded and his earlier dismissal from service was based on his confession/admission rendered by him in writing through an affidavit. **(Copy of affidavit is attached as Annexure A)**
- 3) Contents need no reply however, the judgement of this Hon'ble Tribunal has been complied with by reinstating the appellant into service and initiating fresh disciplinary proceeding against him which on conclusion, resulted into imposition of penalty. **(Copy of the reinstatement order is attached as Annexure B)**
- 4) Reluctance on part of the respondents to comply the judgment of Hon'ble tribunal are incorrect. The respondents filed CPLA against the judgment of Hon'ble Service Tribunal and in the meantime, the appellant was also reinstated into service subject to the outcome of CPLA. Moreover, as per directions of service tribunal, denovo inquiry was initiated against him by issuing him charge sheet and statement of allegation dated 15-09-2022 with the following allegations:
- a) *Preparation of forged and fictitious order dated 07-12-2020 in Civil Suit No.176/1 of 2020 title "M/S Saghi Traders & Contracting Vs. Govt. of Pakistan & others"*
  - b) *Putting of fake signatures of Qazi Muhammad Adnan, the then Civil Judge/Judicial Magistrate-V, Mansehra and affixing seal of the Court, on above referred forged and fictitious order dated 07-12-2020.*

c) *Managing to get prepared the attested copy of aforesaid fake, forged and fictitious order dated 07-12-2020 from copying branch District Courts, Mansehra.*

The learned Civil Judge-II, Mansehra was appointed as Inquiry Officer who after conducting full-fledged inquiry found the appellant guilty of the above charges and through Inquiry report dated 26-07-2023, recommended him for the penalty of "withholding of promotion for a period of three years". **(Copies of the charge sheet and statement of allegation and Inquiry report are attached as Annexure C & D).**

- 5) Incorrect and misleading. During the course of inquiry, the appellant himself filed multiple applications including an application for transfer of inquiry to other District before the Hon'ble Peshawar High court, Peshawar. The appellant also absented himself on different occasions. These factors added in delay in conclusion of inquiry. Importantly, permission for extension of time in inquiry was duly sought by the inquiry officer which was accordingly granted by the competent authority. Even otherwise, as per the proviso attached to Rule 11 (07) of the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rule 2011, the inquiry shall not be vitiated merely on the ground of non-observance of the time schedule for completion of the inquiry.
- 6) Contents to the extent of submission of inquiry report with recommendation of penalty are correct however rest of the para regarding arbitrariness and overlooking facts etc as levelled in the para are incorrect and misleading. During the full-fledged

inquiry the allegation remained proved against the appellant while he failed to defend himself against the charges.

- 7) Contents incorrect and misleading one. After receiving the inquiry report, the competent authority/respondent No.1 issued final showcase notice to the appellant and also afforded an opportunity of personal hearing where after vide impugned order the penalty was imposed upon him. It is further added that keeping in view the mitigating circumstances lenient view was taken while awarding minor penalty upon the appellant. The impugned order is thus well justified and well-reasoned. **(Copies of the show cause notice, order sheet dated 29-11-2023 and impugned order dated 29.11.2023 are attached as annexure E, F & G)**
- 8) Contents to the extent of DPCs and promotions of Junior clerks to the post of Senior Clerks are correct. It is added that the case of appellant was duly considered in both the DPCs held on 26.03.2022 and 10.12.2022, however, his case was deferred. In the first DPC held on 26.03.2022, since the appellant was not in service nor in the seniority list, therefore, he couldn't be considered for promotion from amongst the candidates list. Similarly, in the second DPC held on 10.12.2022, the case of appellant was considered but was found lacking prerequisite for consideration for promotion. Firstly, because the seniority relevant for the purpose of promotion at the relevant time was that of the year 2021 notified in January 2021 and by then the appellant was not in service; therefore, his name was not included in the

seniority list. Secondly, the requisite PER/ACR of the appellant for the year 2021 was not available because of his dismissal in the said year and he had yet to earn PER/ACR. Therefore, for the above reasons, the committee unanimously recommended to defer his case for consideration in the next DPC. **(Copy of the minutes of the DPC meetings dated 26.03.2022 and 10.12.2022 are attached as annexure H & I).**

- 9) Contents misleading one. The appellant has been awarded the penalty of withholding the promotion for two years and till the penalty is in field, he cannot be considered for promotion.
- 10) Contents incorrect and misleading. The appellant has been treated in accordance with law and rules on the subject. He has been found guilty in the inquiry and accordingly been awarded penalty.
- 11) Contents need no reply, however it is added that the instant appeal is time barred. Besides, the appellant has not referred any departmental appeal against the promotion orders at the relevant time; therefore, to that extent, instant appeal is not maintainable.

**GROUND:**

- a. Contents incorrect and misleading. The appellant has been treated well in accordance with law and rules. Due procedure as prescribed under the law and rules has been followed. During the inquiry proceedings the charges levelled against the appellant stood proved. Besides, the appellant had made admission of his guilt in presence of the witnesses through an

affidavit. The witnesses of the affidavit so rendered by the appellant were also examined during the inquiry who deposed the appellant. The appellant was given ample opportunity at every stage of the proceedings to defend himself but he failed to defend.

b. Contents incorrect and misleading. The appellant was found guilty in the inquiry proceedings and no ill-will or malice on part of the Authority is involved. The appellant has levelled bald allegations against the Authority without any proof.

c. Contents incorrect and misleading. Moreover, as explained above.

d. Contents incorrect and misleading. The charges levelled against the appellant were well proved during the inquiry. The impugned order is lawful and justified.


e. Contents incorrect and misleading. Moreover, as explained above.

f. Contents incorrect and misleading. Before imposition of penalty, due process of law has been observed. The appellant has been afforded ample opportunity at every stage of proceeding to defend him but he failed to defend himself.

g. Contents incorrect and misleading. Moreover, explanation already given in reply to para No.8.

h. Contents incorrect and misleading. The appellant has been awarded the penalty of



- withholding of promotion and till the penalty he cannot be considered for promotion.
- i. Contents incorrect and misleading one. There is not hard and fast rule that the all the witnesses should be examined and cross examined on the same day. Moreover, the appellant himself sought time on different occasion for preparation for cross examination of the witnesses which was accordingly granted to him.
  - j. Contents incorrect and misleading. As explained above, the charges remained well proved against the appellant. All the witnesses deposed against the appellant and the appellant failed to bring forward any material contradiction. Needless to mention here that admission of the guilt by the appellant in shape of affidavit.
  - k. Contents need no reply, however, it is added that the appellant has also agitated the matter of his promotion while as per section 4(b)(i) of the Khyber Pakhtunkhwa Service Tribunals Act, 1974, no appeal shall lie to a tribunal against an order or decision of the departmental authority determining the fitness or otherwise of a person to be appointed to or hold a particular post or to be promoted to a higher post or grade.
  - l. Contents need no reply however, the departmental appeal of the appellant was time barred; therefore, instant appeal being
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continuation of said appeal is also time barred.

In view of the above, it is therefore humbly requested that the appeal in hand being devoid of any merit, time barred and not maintainable may kindly be dismissed.

**Respondents**

*Sadia Nooruddin*  
District & Sessions Judge,  
Mansehra.

**District & Sessions Judge  
Mansehra**

*IKHTIAR KHAN*  
Registrar  
Peshawar High Court,  
Peshawar.



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

**Service Appeal No.598/04**

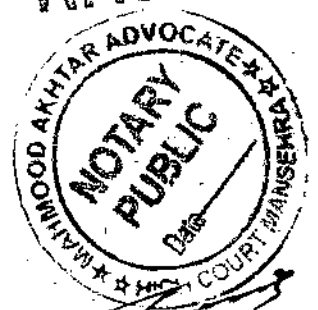
**Bilal Raza VS D&SJ Mansehra & another**

**Affidavit**

On oath stated that the contents of foregoing comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court. *It is further stated on oath that in this appeal the answering respondent neither has been placed ex parte nor their in defence has been struck off/court.*

**Deponent**  
**SADIA ARSHAD**  
District and Sessions Judge, Mansehra/  
Respondent No.1

**ATTESTED**

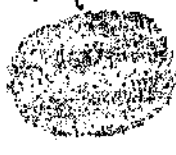


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Annexure B

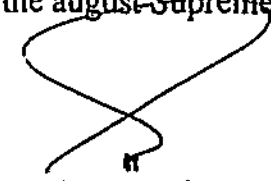
OFFICE OF THE  
DISTRICT & SESSIONS JUDGE  
MANSEHRA

Ph: 0997-301848, 0997-304924  
Fax: 0997301848  
E-Mail: sessionscourt\_mansehra@yahoo.com  
No. 15245-52 /D&SJ(MA)  
Dated 15 / 09 /2022

ORDER.

Consequent upon the judgment dated 31.01.2022 in Appeal No. 6698/2021 passed by hon'ble The Khyber Pakhtunkhwa Service Tribunal Peshawar read with directions contained in order dated 18.07.2022 in execution petition No. 344/22 regarding conditional implementation of aforesaid judgment, Mr. Bilal Raza, Junior Clerk (BPS-11) is reinstated in service w.e.f. 15.09.2022 for the purpose of de-nevo inquiry, subject to final decision of CPLA # 534-P, 2022 filed before august Supreme Court of Pakistan (Appellate jurisdiction). The back benefits and arrears of the official shall be worked out thereafter. The official named above shall furnish an affidavit/undertaking ensuring surrender & return of pay and allowances in case of decision against him by the august Supreme Court of Pakistan in said CPLA.

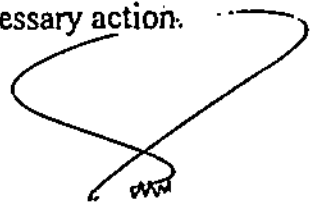
attested  
supdt

  
(Zia-ur-Rehman)  
District & Sessions Judge  
Mansehra/Authority.

No. 15245 - 52 / Dated Mansehra the 15 September, 2022.

Copy forwarded for information to:-

1. The Registrar, August Supreme Court of Pakistan
2. The Registrar, Peshawar High Court, Peshawar.
3. The Chairman, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
4. The Director, HR&W, Secretariat of District Judiciary, Peshawar High Court, Peshawar.
5. The Senior Civil Judge (Administration), Mansehra.
6. The District Accounts Officer, Mansehra for necessary action.
7. Budget & Accounts Assistant for necessary action.
8. Official concerned for compliance.

  
District & Sessions Judge,  
Mansehra.

# Annexure 'C'



D  
OFFICE OF THE  
DISTRICT & SESSIONS JUDGE  
MANSEHRA

Ph: 0997-301848, 0997-304924  
Fax: 0997301848  
E-Mail: sessionscourt\_manshra@yahoo.com  
No. 15260-68 JD&SJ(MA)  
Dated 15 / 09 / 2022

## CHARGE SHEET

Consequent upon the directions contained in judgment dated 31.01.2022 passed by Hon'able Khyber Pakhtunkhwa Service Tribunal Peshawar in appeal No. 6698/2021, I Zia-ur-Rehman, District & Sessions Judge, Manshra, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby charge you Mr. Bilal Raza, Junior Clerk, (BPS-11), Manshra, as follows;

- 1) That you while posted as Muharir, to the court of Qazi Muhammad Adnan the then learned Civil Judge/Judicial Magistrate-V, Manshra has committed the following omissions and misconduct in discharge of your duty:
- 2) Whereas; on 04.01.2021 Qazi Muhammad Adnan, the then learned Civil Judge/Judicial Magistrate-V, Manshra vide letter No.360 dated 04.01.2021 reported the matter on the strength of his order No.03 dated 02.01.2021 in Review petition No.99/6 titled "M/S Saghi Traders & Contracting Vs. Govt. of Pakistan, Ministry of Communication through Secretary & others" that civil suit bearing No.176/01 under titled "M/S Saghi Traders & Contracting Vs. Govt. of Pakistan, Ministry of Communication through Secretary & others" was dismissed after recording the statement of plaintiff vide order dated 07.12.2020. Defendants No. 01 to 06 by annexing attested copy of order dated 07.12.2020 filed review petition bearing No.99/6 on 21.12.2020 vide which suit No.176/01 is shown as "disposed off accordingly", despite that the alleged order dated 07.12.2020 annexed by defendants No.01 to 06 with review petition was neither dictated nor signed by Qazi Muhammad Adnan, Civil Judge/Judicial Magistrate-V, Manshra. Original order dated 07.12.2020 dictated, announced and signed by Qazi Muhammad Adnan, the then learned Civil Judge/Judicial Magistrate-V, Manshra is still available in Civil Suit bearing No.176/01, which would show the said suit as "dismissed having become infructuous".
- 3) Whereas; vide letter No.361 dated 07.01.2021 Qazi Muhammad Adnan, Civil Judge/Judicial Magistrate-V, Manshra forwarded an affidavit submitted by you before him, according to which you managed to prepare fake and fictitious order dated 07.12.2020 in Civil Suit No. 176/1 of 2020 under titled "M/S Saghi Traders & Contracting Vs. Govt. of Pakistan, & others". You had also put fake signature of Qazi Muhammad Adnan, the then Civil Judge/Judicial Magistrate-V, Manshra with seal of the court and also managed to get the said fake order attested from the Copying Branch District Courts, Manshra.

15/09/22  
attested  
super

Whereas; the above referred affidavit sworn by you is duly signed and thumb impressed by you as well as by the witnesses namely Ehsan-ul-Haq, Computer Operator, Khurram Shahzad, Senior Clerk/Reader, Sajjad Shah, Steno-typist, Muhammad Shoaib, Naib-Qasid & Rabnawaz, attach Muharir of the court of the then Civil Judge/ Judicial Magistrate-V, Manshra. Wherein you admitted the following acts, contrary to Conduct Rules amounting to unbecoming of a government servant and a gentleman and prejudicial to good service order and discipline within the meaning of Rule 2(I)(L)(i)(ii) & (iii) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, culpable under Rule 3 of the ibid Rules.

- (a) Preparation of forged and fictitious order dated 07.12.2020 in Civil Suit No.176/1 of 2020, titled "M/S Saghi Traders & Contracting Vs. Govt. of Pakistan, & others".
- (b) Putting of fake signature of Qazi Muhammad Adnan, the then Civil Judge/ Judicial Magistrate-V, Manshra and affixing seal of the court, on above referred forged and fictitious order dated 07.12.2020.

(2)

(c) Managing to get prepared the attested copy of aforesaid fake, forged and fictitious order dated 07.12.2020 from Copying Branch, District Courts, Manshra.

- 5) Whereas; the acts of preparing fictitious order, putting fake signature, managing to get attested copy from Copying Branch and deception are obvious which amount to inefficiency and misconduct within the meaning of Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011, culpable under Rule 3 of ibid Rules.
- 6) Your written defence, if any, should reach the inquiry officer within 07 days of receipt of this communication, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.
- 7) Statement of allegations is enclosed.

*attested*  
*[Signature]*

*[Signature]*  
(Zia-ur-Rehman)  
District & Sessions Judge,  
Mansehra/Authority.

No. 15260-68 / Dated Mansehra the 15, September, 2022.

Copy forwarded for information to:-

- 1. The Registrar, Peshawar High Court, Peshawar.
- 2. The Chairman, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
- 3. The Director, HR&W, Secretariat of District Judiciary, Peshawar High Court, Peshawar.
- 4. Mr. Sajid Ameen, Civil Judge-II/Inquiry Officer for information & proper inquiry against the delinquent official concerned under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011
- 5. The Senior Civil Judge (Administration), Mansehra.
- 6. The District Accounts Officer, Mansehra for necessary action.
- 7. Budget & Accounts Assistant for necessary action.
- 8. Mr. Abdul Rasheed, Assistant/ Incharge English Office for information, being Departmental Representative
- 9. Mr. Bilal Raza, Junior Clerk, accused/official for information & compliance.
- 10. Office Copy.

*[Signature]*  
15/09/22  
(Zia-ur-Rehman)  
District & Sessions Judge,  
Mansehra/Authority





OFFICE OF THE  
DISTRICT & SESSIONS JUDGE  
MANSEHRA

Ph: 0997-301848, 0997-304924  
Fax: 0997301848  
E-Mail: sessionscourt\_mansehra@yahoo.com  
No. 15269-74 JD&SJ/(MA)  
Dated 15 / 09 / 2022

DISCIPLINARY PROCEEDING

I, Zia-ur-Rehman, District & Sessions Judge, Mansehra, as Competent Authority, am of the opinion that Bilal Raza, Junior Clerk District Courts Mansehra, has rendered himself liable to be proceeded against, as he committed the following act/omission within the meaning of Rule-3, of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- 1) Whereas; on 04.01.2021 Qazi Muhammad Adnan, the then learned Civil Judge/Judicial Magistrate-V, Mansehra vide letter No.360 dated 04.01.2021 reported the matter on the strength of his order No.03 dated 02.01.2021 in review petition No.99/6 titled "M/S Saghi Traders & Contracting Vs. Govt. of Pakistan, Ministry of Communication through Secretary & others" that civil suit bearing No.176/01 under titled "M/S Saghi Traders & Contracting Vs. Govt. of Pakistan, Ministry of Communication through Secretary & others" was dismissed after recording the statement of plaintiff vide order dated 07.12.2020. Defendants No. 01 to 06 by annexing attested copy of order dated 07.12.2020 filed review petition bearing No.99/6 on 21.12.2020 vide which suit No.176/01 is shown as "disposed off accordingly", despite that the alleged order dated 07.12.2020 annexed by defendants No.01 to 06 with review petition was neither dictated nor signed by Qazi Muhammad Adnan, Civil Judge/Judicial Magistrate-V, Mansehra. Original order dated 07.12.2020 dictated, announced and signed by Qazi Muhammad Adnan, the then learned Civil Judge/Judicial Magistrate-V, Mansehra is still available in Civil Suit bearing No.176/01, which would show the said suit as "dismissed having become infructuous".
- 2) Whereas; vide letter No.361 dated 07.01.2022 Qazi Muhammad Adnan, the then Civil Judge/Judicial Magistrate-V, Mansehra forwarded an affidavit, according to which he (Mr. Bilal Raza, Junior Clerk, District Courts, Mansehra) managed to prepare fake and fictitious order dated 07.12.2020 in Civil Suit No.176/1 of 2020 under titled "M/S Saghi Traders & Contracting Vs. Govt. of Pakistan & others". He had also put fake signature of Qazi Muhammad Adnan, the then Civil Judge/Judicial Magistrate-V, Mansehra with seal of the court and also managed to get the said fake order attested from the copying branch of District Courts, Mansehra.
- 3) Whereas; he (Bilal Raza, Junior Clerk) sworn affidavit with his signature and thumb impression as well as with the signatures and thumb impressions of witnesses namely Ehsan-ul-Haq, Computer Operator, Khurram Shahzad, Senior Clerk/ Reader, Sajjad Shah, Steno-typist, Muhammad Shoaib, Naib Qasid & Rabnawaz attached Muharrir of the court of the then Civil Judge/Judicial Magistrate-V, Mansehra in which he admitted preparation of forged and fictitious order dated 07.12.2020 in Civil Suit No.176/1 of 2020, putting of fake signature of Qazi Muhammad Adnan, Civil Judge/Judicial Magistrate-V, Mansehra, affixing seal of the court on ibid referred order and managed to get prepared the attested copy from Copying Branch, District Courts, Mansehra.
- 4) Whereas; the highlighted omissions and misconduct on his part are deception, which amount to inefficiency and misconduct, contrary to the conduct Rules, amounting to unbecoming of a government servant and prejudicial to good service order and discipline, within the meaning of Rule 2 (1)(L)(i)(ii) & (iii) of Khyber Pakhtunkhwa Government (Efficiency & Discipline) Rules, 2011 culpable under Rule 3 of the ibid Rules. Thus he has been charge sheeted accordingly.
- 5) For the purpose of Inquiry against the said accused/official namely Bilal Raza, Junior Clerk District Courts, Mansehra with reference to above allegations, an Inquiry Officer named below is nominated under Rule-10 (1)(a) of the ibid Rule.

attested  
[Signature]

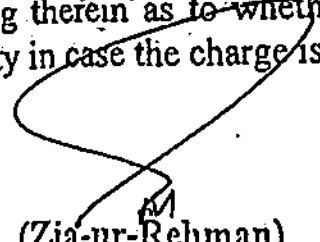
[Signature]  
15/09/22

Mr. Sajid Amin, Civil Judge-II, Mansehra.

(2)

6) The Inquiry Officer shall, in accordance with the provisions of the *ibid* Rules, provide reasonable opportunity of hearing to the accused/official, record evidence to be produced by the Departmental Representative, if any, and by the accused/official and thereby record his findings, and submit his report within sixty days of the receipt of this order, opining therein as to whether the charge stands proved or not & to recommend the penalty in case the charge is found proved.

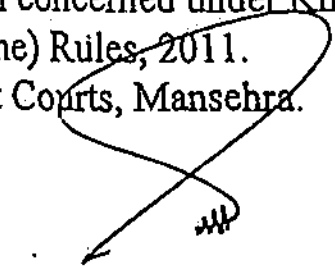
*affested*  
*DR*



(Zia-ur-Rehman)  
Authority/District & Sessions Judge  
Mansehra.

No. 15269-74 / Dated Mansehra the 15, September, 2022.

1. The Registrar, Peshawar High Court, Peshawar.
2. The Chairman, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
3. The Director, HR&W, Secretariat of District Judiciary, Peshawar High Court, Peshawar.
4. The Senior Civil Judge (Administration), Mansehra.
5. Mr. Sajid Amin, Civil Judge-II, Mansehra for information & proper inquiry against the delinquent official concerned under Khyber Pakhtunkhwa (Efficiency & Discipline) Rules, 2011.
6. Mr. Bilal Raza, Junior Clerk, District Courts, Mansehra.
7. Office copy.



(Zia-ur-Rehman)  
Authority/District & Sessions Judge  
Mansehra.

**IN THE COURT OF SAJID AMIN,**  
**CIVIL JUDGE-II, MANSEHRA**

**FINAL INQUIRY REPORT DATED: 26-07-2023,**  
**AGAINST BILAL RAZA JUNIOR CLERK**

**INTRODUCITON**

1. Instant departmental inquiry has been initiated against Bilal Raza, Junior Clerk presently posted at Tehsil Courts, Balakot (hereinafter referred to as accused official), under the Government Servants (Efficiency and Discipline) Rules, 2011 for the charges mentioned in the charge sheet dated 15.09.2022.

**BACKGROUND**

2. A review petition No. 99/6 titled "*M/S Saghi Traders and Contracting Vs Government of Pakistan, Ministry of communication through Secretary Ministry of communication and others*" was filed on 21.12.2020, in the court of Qazi Adnan, the then learned Civil judge-V Mansehra for review of order dated 07.12.2020, passed in suit No. 176/1 of 2020. Upon requisitioning original record of the suit No.176/1, and after hearing the review petition, the learned Civil Judge-V in Para No.3 of the order No. dated 02.01.2021 passed in review petition No. 99/6 observed that;

*"Perusal of record would reveals that the alleged order dated 07-12-2020 ought to be reviewed through instant review petition is not available on original record (civil suit bearing # 176/1 of 2020), however, original order dated 07-12-2020 passed by this court is available on record file. Even otherwise, the alleged order dated 07-12-2020 is neither dictated nor announced by the undersigned and most importantly not signed by undersigned. The alleged order dated 07-12-2020 & signature of undersigned over alleged order ought to be reviewed, apparently seems to be bogus and fictitious one."*

3. Vide letter No. 360 dated 04.01.2021, Qazi Adnan the then Learned Civil Judge-V, Mansehra reported the matter to the honourable District & Sessions Judge Mansehra/competent authority for

*affected*

*26-07-2023*

information and further necessary action. Later-on, vide letter No. 361 dated 07.01.2021, an affidavit submitted by Bilal Raza (accused official), then attached as Muharir to the court of Civil Judge-V, Mansehra, was also forwarded to the Honorable District & Sessions Judge Mansehra. As per the affidavit, the accused official confessed that he engineered the forged and fictitious order dated 07.12.2012. On the basis of his admission, accused official was proceeded against departmentally by issuing him show cause notice dated 01.01.2021, which resulted into his dismissal from service vide order dated 10.02.2021. Accused official challenged the said order before the Khyber Pakhtunkhwa Service Tribunal in Service Appeal No. 6698/2021 titled; Bilal Raza son of Abdul Razzaq, Ex-Junior Clerk/ Muharir, District Courts Mansehra Versus The District and Sessions Judge, District Courts Mansehra. The Tribunal vide its judgment dated 31.01.2022, while setting aside the order of dismissal from service, remanded back the case to the competent authority for de-novo inquiry in accordance with law.

4. Accordingly, fresh departmental proceedings were initiated by the worthy District and Sessions Judge, Mansehra/ competent authority against the accused official by issuing him charge sheet and statement of allegations dated 15-09-2022 and the undersigned was appointed as Inquiry Officer to probe the charges against the accused official and submit report within sixty days.

**REASONS OF DELAY:**

The reasons for delay in proceedings were that the accused official filed different miscellaneous applications which needed to be decided. Similarly, on conclusion of evidence, application for additional evidence was also filed by the departmental representative. As such, decisions on these applications and recording of additional evidence coupled with other unavoidable circumstances caused delay in conclusion of the inquiry. However, extension in time was duly

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sought from time to time and the same was accordingly granted. The last extension was granted on 22-07-2023 for fifteen days.

### CHARGES

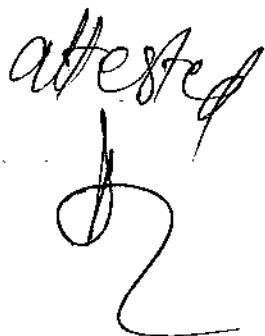
6. The charges levelled against the accused official vide charge sheet dated 15.09.2022, are as under:
- (a) Preparation of forged and fictitious order dated 07-12-2020 in Civil Suit No.176/1. of 2020, titled "M/S Saghi Traders & Contracting Vs. Govt. of Pakistan & others."
  - (b) Putting of fake signature of Qazi Muhammad Adnan, the then Civil Judge/Judicial Magistrate-V, Mansehra and affixing seal of the Court, on above referred forged and fictitious order dated 07-12-2020.
  - (c) Managing to get prepared the attested copy of aforesaid fake, forged and fictitious order dated: 07-12-2020 from Copying Branch, District Courts, Mansehra.

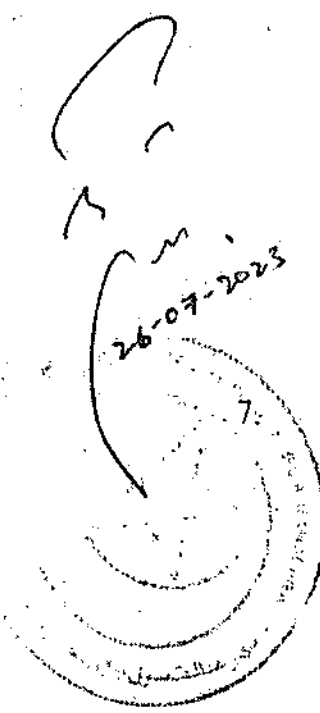
### PROCEEDINGS

On receipt of the inquiry file, the accused official as well as departmental representative were noticed. On 28-09-2022, accused official appeared and submitted his detailed defence reply to the charge sheet, denying the allegations levelled against him on multiple grounds.

### EVIDENCE

8. During the course of evidence the following evidence was recorded:-
- PW-1 Muhammad Zuqaib Iqbal Khan, Incharge Record Room Sessions Court Mansehra produced copies of letter No.360 dated 04-01-2021 as Ex.PW-1/1, letter No.361 dated 07-01-2021 as Ex.PW-1/2, affidavit as Ex.PW-1/3, Show Cause Notice No.311 dated 12-01-2021, Order No.6 dated 10-02-2021 of file No.7/D-1 "Inquiry VS Bilal Raza" and Office Order No.959-64 dated 10-02-2021 as Ex.PW-1/4 to Ex.PW-1/6, respectively.

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PW-2, Kamran Khan Jehangiri Incharge Record Room Lower Courts produced file No.176/1 titled "M/S Saghi Traders VS Government etc", out of which photocopy of order dated 07-12-2020, is exhibited as Ex.PW-2/1. Similarly he also produced file No.99/6, out of which photocopy of review application is posted as Ex.PW-2/2, attested copy of order dated 07-12-2020 (fake order) is Ex.PW-2/3.

PW-3, Ihsan-ul-Haq Computer Operator marginal witness of affidavit of the accused official, on oath stated that Bilal Raza after admitting his guilt in presence of other marginal witnesses duly signed and thumb impressed the affidavit in the court and submitted the same to Mr. Qazi Muhammad Adnan (learned Civil Judge), which is already available on file as Ex.PW-1/3. The witness admitted that affidavit correctly bears his signature and thumb impression.

PW-4, Khuram Shehzad Khan (Reader), PW-5 Sajjad Shah (Stenographer), PW-6 Rabnawaz (Muharrir) and PW-7 Muhammad Shoaib (Naib Qasid) all are the marginal witnesses of the affidavit submitted by the accused official, they reiterated the same facts as narrated by the marginal witness PW-3.

PW-8, Abdul Rasheed Incharge English Office/Departmental Representative produced copy of order dated 31-01-2022, of the Service Tribunal through which accused official was reinstated for the purpose of inquiry as Ex.PW-8/1, copy of CPLA No.534-P/2022 filed by the department against Judgment dated 31-01-2022, before the Supreme Court of Pakistan as Ex.PW-8/2, appeal filed by accused official before Service Tribunal as Ex.PW-8/3, order No.15245-52 dated 15-09-2022 as Ex.PW-8/4 through which accused official was reinstated and inquiry proceedings were initiated against him. Similarly, letter No.15253 dated 15-09-2022 regarding appointment of departmental representative is also exhibited as Ex.PW-8/5.

PW-9, Muhammad Ashraf ex-examiner of Copying Branch produced application for obtaining attested copies bearing No.11335 as Ex.PW-

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9/1 and copy of entry of said application in Register CD-1 as Ex.PW-9/2.

**PW-10**, Kamran Khan Jehangiri In-charge Record Room produced Challan No.30 dated 14-12-2020 and challan No.31 dated 26-12-2020 as Ex.PW-10/1 and Ex.PW-10/2 respectively.

**PW-11**, Qazi Muhammad Adnan, the then learned Civil Judge-V, Mansehra on oath stated that at the relevant time he was posted as Civil Judge-V Mansehra; that upon institution of review petition No.99/6 and requisition of file No.176/1 titled "Saghi Traders VS NHA", he came to know regarding forged order, upon which the matter was reported to the worthy District & Sessions Judge through letter No.360 (Ex.PW-1/1). That upon interrogation, the accused official confessed his guilt regarding preparation of forged order and submitted confessional affidavit, which was signed and thumb impressed by the other court officials as marginal witnesses. The said affidavit was sent to the worthy District & Sessions Judge Mansehra vide letter No.361 (Ex.PW-1/2).

Accused official was given ample opportunity to cross examine all the witnesses of the prosecution/Department produced against him, which he availed by cross examining the witnesses.

Thereafter accused official was given opportunity to produces the witnesses in his defence, if he so desires. Accordingly, total three witnesses (accused official included) were examined as defence witnesses. Needless to mention that accused official cited total 12 witnesses through list of witnesses submitted by him with the prayer for summoning of several witnesses through process of court which prayer was however, declined through order No.27 dated 17.01.2023.

**DW-1**, Syed Asif Shah Superintendent District and Sessions Court Mansehra, in his statement deposed that he has been listed as witness by the accused, however he has no concern with the inquiry.

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DW-2, Muhammad Rizwan Ex-copyist copying branch in his statement also stated that he has been listed as defence witness by the accused but he does not want to give statement as he has only prepared copy as per the application.

Accused official Bilal Raza recorded his statement as DW-3. Gist of his statement is that ever since his appointment, he has always performed his duties with zeal and devotion without giving any chance of complaint regarding his performance. That the alleged fake order dated 07.12.2020 was the order initially passed in the suit and the same was dictated by the presiding officer himself. That after receiving the file from the court, the said order was part of the record, he prepared the file for consignment alongwith with other files and also prepared challan and put the files before the presiding officer Qazi Adnan for signature on its index, however, upon instructions of the presiding officer, he did not consigned the disputed file as the presiding officer intended to make some changes in the order. That on 16.12.2020, he received duly allowed application for attested copies of the order dated 07.12.2020 from one Arif Shehzad advocate, counsel for the NHA, upon which he took the file No. 176/1 to the copying branch for providing copy of the order which was accordingly prepared and provided to the applicant by the copying branch. That later-on the order was changed by the presiding officer and file was consigned on 21.12.2020. Regarding his admission on affidavit, accused official stated that the same was the result of undue pressure and intimidation exerted by the Presiding officer and in order to safe his skin, he was made escape goat. That the order was changed by the presiding officer at the behest of a colleague Judge, then posted at Mansehra, as her husband is Assistant Director NHA and he was the representative of NHA in the said case. He also exhibited his Reply to the Charge sheet, Review petition No. 100/6, Dak Bahi, Call

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Data Record and certain applications for obtaining copies as Ex.DW-3/1, to Ex-DW-3/5.

### FINDINGS

10. After going through the charges levelled against the accused official, his defence reply and the evidence brought on record, I intend to record my detailed findings through the following paragraphs.
11. For the purpose of convenience it would be appropriate to briefly re-state the case of department against the accused. Accused official has been charge sheeted for; a) preparing fake order in respect of proceedings conducted on 07.12.2020 in civil suit No. 176/1 of 2020, b) Putting fake signature of the learned presiding officer Qazi Adnan the then civil Judge on the said order, c) managing the copying process and thereby getting attested the copy of forged and fictitious order mentioned above. Evidence cited by the department towards the proof of aforementioned allegations was that the then presiding officer (Learned CJ-V) was the first receiver of the information regarding the foul play on the part of the accused official. As a sequence of events it has been further alleged that smelling some nexus of accused official with the said fake order, the presiding officer confronted the former with the situation and verbally sought his explanation which was followed by complete admission of the acts of forgery/fabrication by the accused official. It is further alleged that accused official recorded his statement in the shape of affidavit before the learned presiding officer wherein he confessed to have fraudulently prepared the order in question, unlawfully authenticated and processed the same through official machinery in order to pose and present it as genuine. It is worth to mention here that accused official has not straightforwardly denied the said affidavit, but has rather taken the plea that the same was the result of undue pressure and intimidation exerted by the Presiding Officer and the department.

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12. During course of evidence, the department formally got exhibited, the affidavit (Ex PW-1/3) of the accused official, letters dated 04.01.2021 (Ex-PW-1/1) and 07.01.2021 (Ex-PW-1/2) whereby the Honorable District and Sessions Judge/competent authority was informed about the foul play, besides exhibiting the genuine order dated 07.12.2020, passed in civil suit No. 176/1 as Ex.PW-2/1 and the fake order dated 07/12/2020 as Ex.PW-2/3. Since the affidavit Ex.PW-1/3 was relied upon by the department as their prime evidence against the accused and the same was not utterly denied by the latter, the same has therefore, attained pivotal role in the determination of instant controversy. Witnesses of the affidavit were examined as PW-3 to PW-7. Presiding officer of the court concerned was also examined as PW-11. Despite being subjected to cross examination there is consistency among the witnesses of the affidavit. Nothing of the sort was extracted from any witness of affidavit which may create contradiction among the PWs and thereby persuade this forum to disbelieve the story of department. All the PWs of the affidavit have been consistent inter-se as regards material facts of the incident i.e. time, place, manner and attending circumstances of scribing and executing of affidavit. Needless to mention that non denial on the part of the accused official regarding the signing and submitting of the affidavit further establishes the fact that the affidavit is genuine and is not a document falsely doctored or is the result of any force or coercion. The accused official has actually shifted burden to himself by advancing different version in respect of the affidavit by taking the plea of undue pressure used against him.

13. By producing the file of main civil suit 176/1 & exhibiting original order date 07-12-2020 (Ex.PW-2/1), the department has succeeded in establishing that the fake order (Ex.PW-2/3) whose copies were obtained on 16-07-2020 & which was impugned through review petition No.96/6 was not genuine & did not exist on authentic judicial

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record. All other PWs examined by the department went in concurrence with material witnesses (those of affidavit) and nothing incompatible was extracted from them which could cast aspersions on the testimony and veracity of witnesses of prime importance. Similarly, despite availing ample opportunity of cross examination, the accused official couldn't suggest anything credible which could convince this forum to disbelieve any witness of the department or infer anything adverse regarding the credibility of any PW. Combined effect of exhaustive appreciation of evidence produced against the accused official by the department is that this forum is inclined to observe that the department has overwhelmingly shifted the burden to accused official to substantiate that the acts of forgery & fabrication were not conceived and done by him and/or he was coerced against his consent to confess it.

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14.

The burden substantially shifted to accused official when he, instead of categorical denial, admitted all attending circumstances of executing of affidavit and took the hard-to-prove plea of intimidation and undue pressure allegedly exerted against him. By doing so he maximised his evidential burden and was therefore, required to come up with clear & convincing evidence to dislodge the probability of version of the department. The evidence led by accused official turned out to be too little too small to be believed as against the evidence of the department. There is nothing compelling in the defence evidence of the accused which could establish with sufficient degree of probability that in fact the affidavit was the outcome of intimidation and pressure and that accused official had no nexus with the acts of forgery, fabrication, indiscipline & foul play.

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15. Besides, the accused official had also taken the plea that the fake order was in-fact the original and genuine order and that the same was later on replaced by the presiding officer himself. However, this

defence plea could also not be established on record. The suit No. 176/1 was decided on 07.12.2020, while accused official admitted that he received the file from the court after 2/3 days of the order. Thereafter file remained in his custody till 21.12.2020, when it was finally consigned to record room vide challan No.30 dated 21.6.2020 (Ex.PW-10/1). Accused official also admitted that on 16.12.2020, after receiving application for attested copies from one Arif Shehzad Advocate, he took the file to the copying branch for preparation of the copy and later on attested copy of the order dated 07.12.2020 (fake) was delivered to applicant on the same day after its preparation by the copying branch. Muhammad Ashraf, the examiner Copying Branch in his statement as PW-9, stated that the file alongwith application for provision of copies was brought by the accused official accompanied by Khuram Shehzad Advocate. After preparation of copies by the copyist, he compared it with the order on the file and it was found matching with the one available on file, the signature of presiding officer and seal of court was available on it. Application/Sawalnama (Ex.PW-9/1) of one Arif Shehzad Advocate was duly allowed by the Superintendent District and Sessions Court on 16 12.2020, and the advocate concerned presented the same to the accused official being Muharir of the court. At the relevant time file was not consigned to record room rather remained in custody of the accused official being Muharir of the court. Being decided case, the accused official was required to have consigned the file instead of processing the same for provision of copies, so that file could be processed from the record room for copies. It can thus safely be inferred that the file was purposely not consigned by the accused official so that he could himself process it for preparation of copies. It is also astonishing to note that on the one hand, the accused official has taken the plea that file was not consigned upon instructions of presiding officer as he intended to make correction/changes in the order, while on the other

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hand on 16.12.2020, accused official upon application processed the file for preparation of attested copies. Had any such instructions been given to the accused official, he would have not processed the application or at least would have brought it into the knowledge of the presiding officer before taking the file to the copying branch for preparation of the copy of order (fake). This aspect of the matter makes paradoxical the defence plea under discussion and reveals the inherent inconsistency in the stance of the accused official.

16. The file was consigned to record room on 21.12.2020, and it is admitted position that at the time of consignment, the original order (Ex-PW-2/1) was part of the file while the fake order (Ex.PW-2/3) was not available on record. It is pertinent to mention here that initially while awarding penalty of dismissal from service to the accused official, the matter was also reported to the DPO Mansehra for criminal action who further forwarded it to Anti-Corruption Establishment, however the criminal proceedings could not reached to logical conclusion for the reasons that the original of the fake order was missing/not available, due to which the same could not be verified through forensics. This fact is also reflected in the fact finding inquiry report dated 07/12/2022 (Ex.APW-1/1) conducted to trace out the original of the fake order. In the said fact finding inquiry, the learned inquiry officer also fixed responsibility upon accused official and observed that the original of the fake order was replaced on file with original Order after obtaining its copies before consignment. All events leading to the foul play i.e. presentation of fake order, obtaining its copies by using official machinery and later-on misplacement of the fake order happened during the time when the file remained in custody of the accused which fact also associates him with the charges levelled against him.

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- A date stamp: 26-07-2023.
- A circular stamp with illegible text.
- The word "attested" written in cursive.
- A large handwritten signature below "attested".

17. The accused official further attempted to substantiate his plea in respect of nexus/contact of the presiding officer with representative of NHA and a colleague Civil Judge being interested in the case. Towards the proof of this plea the accused official produced Call Data Record as Ex.DW-3/3, notwithstanding many other legal flaws around the exhibited CDR, one major infirmity in respect of it, in view of this forum, is that the same has not come from the direct custody of an authorized person, nor was any relevant witness produced to certify the genuineness of the CDR. As such, the CDR papers are discarded being inadmissible for the reason recorded above.

**Degree of probability of the stance of the department:**

18. As is ascertainable from the discussion carried out in the above paragraphs, the department has outweighed the stance of the accused official through the evidence produced by the former. Simply put, version of the department has turned out far more probable than that of the accused official. For the determination of present controversy, it is however relevant to analyse the extent and degree of probability attained by the version of the department. Such an analysis is also necessary because it is a settled position of law that awarding some kind of relief to a successful party has to be commensurate with the degree of probability of the stance of the successful party. When analysed clinically for the aforementioned purpose, other pieces of evidence of the department notwithstanding, it is the affidavit Ex.PW-1/13 which emerges impactful and instrumental in the proof of version of the department. Had it not been for the affidavit Ex.PW-1/13 the stance/case of the department might have ended up like a pack of bare allegations and speculations. If said affidavit as a piece of evidence is excluded from the evidence of the department, a prudent mind may not be inclined to give any credence to its version. Such status of probative value of the evidence makes the case of the department one of just fair and moderate probability. In simplest terms, it is observed

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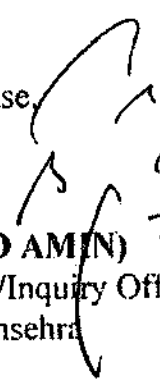
that case of the department is proved to a degree of probability which is moderate and is lesser than any higher degree. As I am advancing towards recommendations part of instant inquiry it is just and fair to record here that weighing on extent of recommendations I have also taken into consideration the fact that by tendering aforementioned affidavit the accused official actually helped the department to prove its case. As such, accused official deserves some leniency.

**RECOMENAIJOINS**

- 19. Keeping in view the above findings, the charges levelled against the accused official stands proved and he has been found guilty of misconduct as defined under Rule 2(1) of the Government Servants (Efficiency and Discipline) Rules, 2011. However, for the reasons discussed in Para No.17 above, it is recommended that he may be awarded penalty of **withholding of promotion for a period of 3 years** as provided under Rule 4 sub-rule (1)(a)(ii) of the Government Servants (Efficiency and Discipline) Rules, 2011. It further recommended that the accused official may also be kept under strict observation during the period of penalty.

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Report is submitted for further appropriate order, please.

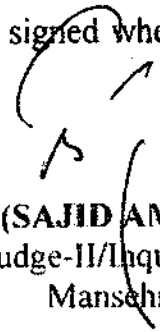
  
**(SAJID AMIN)**  
Civil Judge-II/Inquiry Officer,  
Manshra

*mm*  
*26-07-2023*

**CERTIFICATE**

Certified, that this inquiry report consists of (13) pages. Each and every page has been read over, corrected and signed wherever it was necessary.

**Dated: 26-07-2023**

  
**(SAJID AMIN)**  
Civil Judge-II/Inquiry Officer,  
Manshra

*mm*  
*26-07-2023*



Annexure 'E'



OFFICE OF THE  
DISTRICT & SESSIONS JUDGE,  
MANSEHRA.

Ph: 0997-301848 0997-304924  
Fax: 0997-301848  
Email: [sessionscourt\\_mansehra@yahoo.c](mailto:sessionscourt_mansehra@yahoo.c)  
No. 7207 /D&SJ(MA)  
Dated: 15 / 09 / 2023

SHOW CAUSE NOTICE

I, Zia-ur-Rehman, District & Sessions Judge, Mansehra as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Bilal Raza, Junior Clerk, as follows:

Whereas, you were proceeded against and charge sheeted vide order bearing No. 15260-68 dated 15.09.2022 for preparation of the fake and factitious order dated: 07.12.2020, in suit No. 176/01, titled "M/s Saghi Traders & Contracting Vs Govt of Pakistan & Others", putting fake signature of Qazi Muhammad Adnan, the then Civil Judge-V, Mansehra, affixing of seal of the Court on above referred forged and factitious order and managing to get prepared the attested copy of aforesaid order from the Copying Branch and inquiry into the matter was directed by appointing Mr. Sajid Amin, the then learned Civil Judge-II as inquiry officer.

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Whereas, the inquiry officer concluded his proceedings by affording opportunity of hearing and defense to you and thereby found you guilty of allegation enumerated in the charge.

Whereas, I, being Competent Authority am satisfied that the inquiry has been conducted in accordance with the procedure prescribed and thus by agreeing with the findings and recommendation of the inquiry officer hold that the charge against you stands proved and you are found guilty of the Misconduct and Inefficiency

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you anyone or more of the minor penalties, specified under Rul-4 (1)(a)( ii) of the said Rules.
3. You are, thereof required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

A Copy of the inquiry report is enclosed.

*Bilal Raza*  
BILAL RAZA  
Dated 19-09-2023

Competent Authority  
*Zia-ur-Rehman*  
15/09/23  
Zia-ur-Rehman  
District & Sessions Judge  
Mansehra



OFFICE OF THE DISTRICT & SESSIONS JUDGE, MANSEHRA/  
COMPETENT AUTHORITY.

Departmental Inquiry No. 17 of 2022  
Inquiry against Bilal Raza, Junior Clerk/Muharrir

ORDER  
29.11.2023

Present:

Accused official Bilal Raza Junior Clerk/Muharrir.

Mr. Abdul Rasheed, Assistant/Departmental Representative.

Accused Official heard in person.

2. Brief background of the instant inquiry is that the accused official was dismissed from service by my learned predecessor in office vide order dated 10.02.2021 (Ex.Pw-1/5) by adopting the shorter procedure by dispensing with inquiry. He was awarded major penalty of dismissal from service under Rule 4 (1)(b)(iv) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 on account of tempering and preparing fake and fictitious order dated 07.12.2022 in suit # 176/1 of 2020 and affixing court seal & signature of the presiding officer and to manage its attested copy from copying branch. The matter was also referred to the District Police Officer Mansehra for initiation of criminal proceedings against him.

3. Qazi Muhammad Adnan, the then learned Civil Judge-V, Mansehra vide letter No. 360 dated 04.01.2021 (Ex.PW-1/1) reported the matter for information and necessary action, which is reproduced as under:

*"Alleged order dated 07-12-2020 ought to be reviewed through review petition # 99/6 is not available on the original record (civil suit bearing # 176/1 of 2020), however, original order dated 07-12-2020 passed by his court is available on record file and it is very astonished & surprising for the court, as to how, someone managed to get prepared fake and factitious order as well as put fake signature of the undersigned and also obtained the attested copies of same, which factum requires further probe; therefore, the matter alongwith certified copy of order passed in review petition # 99/6 as well as copies of fake & factitious order dated 07-12-2020 alongwith original order dated 07-12-2020 be referred to your good self for information and further necessary action."*

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4. Subsequently the said Presiding Officer vide letter No. 361, dated 07.01.2021 (Ex PW 1/2) forwarded the affidavit (Ex PW 1/3) submitted by accused official Bilal Raza, according to which accused official accepted that he has prepared the fake and factitious order in the referred suit as well as affixed bogus signature of the then learned Civil Judge-V/Judicial Magistrate-V, Mansehra and affixed seal of the court. He also admitted that he got its attested copy from copying branch District Court Mansehra, with the collusion of one Ifikhar Clerk of counsel of plaintiff in above mentioned suit. The affidavit was signed and thumb impressed by witnesses namely Ehsan-ul-Haq Computer Operator, Khurram Shahzad Senior Clerk/Reader, Sajjad Shah Steno Typist, Rab Nawab Attached Muharrir and Muhammad Shoaib Naib Qasid to the court of Civil Judge-V, Mansehra. He was, thus, proceeded against.

5. The accused/official preferred appeal against said dismissal order before the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar which was partially accepted vide judgment dated 31.01.2022 (Ex.PW-8/1), whereby, his case was remanded to the competent authority for de-novo inquiry in accordance with law and accused/official was reinstated in the service for the purpose of inquiry. Later on, the accused/official also preferred execution petition # 344 of 2022 for implementation of above order of Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar. The department preferred CPLA # 534/P of 2022 before august Supreme Court of Pakistan (appellate Jurisdiction) against the ibid judgment/order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar, which is pending.

6. The accused was reinstated in service in compliance with the ibid judgment and fresh inquiry was initiated by appointing Mr. Sajid Ameen, Civil Judge-II, Mansehra as Inquiry Officer, the statement of allegations and charge sheet were served accordingly. The Inquiry Officer received reply to the charge sheet and list of witnesses submitted by the accused/official and department. After examining 11 witnesses of the department, duly cross examined by

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the accused at length and recording defense version, the inquiry officer submitted his report on 15.08.2023.

7. Before proceeding further with the matter it was referred to Hon'ble Peshawar High Court, Peshawar for guidance as to whether the matter should be proceeded or kept pending until the final decision of ibid CPLA. The Hon'ble Peshawar High Court, Peshawar vide letter # 4347/ADMN Dated 12.02.2023 responded that since order of KP Service Tribunal directing de-novo inquiry has not been suspended by the apex court as such, there appears no justification to halt the inquiry proceedings for indefinite period of time. Therefore, further proceedings were initiated.

8. The findings and recommendations of inquiry officer are reproduced as under:-

*"The charge levelled against the accused/official stands proved and he has been found guilty of mis-conduct as defined under Rule 2 (1) of the Government Servant (Efficiency and Discipline Rules, 2011). However, for the reason discussed in para # 17 above it is recommended that he may be awarded penalty of withholding promotion for a period of Three Years as provided under Rule 4 sub-rule (1) (a) (II) of the ibid Rules. It is further recommended that the accused/official may also be kept under strict observation during the period of penalty"*

9. Vide order dated 15.09.2023, it was observed that the inquiry was conducted in accordance with the procedure prescribed by the Rules and the accused official was afforded full opportunity of hearing. Thus by concurring with the above findings & recommendations of the learned inquiry officer, the charge against accused/official was found proved. Accordingly, he was served with the final show cause notice under Rule 14 (4) of Khyber Pakhtunkhwa (Efficiency and Discipline Rules, 2011), stating therein as to why anyone or more of the penalties specified under Rule 4 of the said Rules should not be imposed upon him. The accused/official submitted his reply to the show cause notice. He pleaded to be a dutiful official who had never been guilty of misconduct or inefficiency during his service.

attested  
29/11/23

10. He was given ample opportunity during personal hearing wherein, he claimed that the affidavit (Ex.PW-1/3) was obtained from him by the then learned Civil Judge-V, Mansehra through undue influence. He further stated that he tendered the affidavit without his free consent and for the sake of honor of his court. He further added that statements of PWs of the affidavit are contradictory and the order dated 07.12.2020 (Ex PW 2/3, fake order) is the real order while the order (Ex PW 2/1, original order) is fake one prepared by the then learned Civil Judge-V, Mansehra and that he underwent financial crises & bore mental agony due to his appearances before different forums since his dismissal and lastly put himself at the mercy of the court being innocent.

11. After going through the entire record and taking into account all the attending circumstances, it is amply proved that the accused official has been guilty of the alleged misconduct. The very affidavit tendered by him has reasonably been proved during the course of inquiry, particularly when no malafide or ill-will on the part of the witnesses concerned or the presiding officer concerned could be established by the accused official. The mere plea of submission of the said affidavit as a result of undue influence or pressure of the presiding officer is not enough for exoneration from the charge. The findings of learned inquiry officer are well reasoned, detailed and based upon proper appreciation of the facts and the evidence on record. It is pertinent to mention that the accused official has not denied execution of the very affidavit even during the course of personal hearing and in his reply to the show cause, rather kept on reiterating the plea of its execution under intimidation and undue pressure, which burden he could never discharge during the proceedings.

12. Though the charge of misconduct is established, yet a lenient view is taken in imposition of the penalty so as to afford an opportunity to the accused official for reformation and to mend his ways. Accordingly, minor penalty of withholding promotion for a period of two years, w.e.f this order, in accordance with Rule 4 (1) (a) (ii) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 is awarded and imposed upon the accused

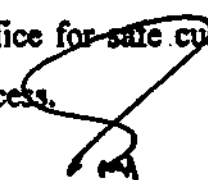
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29/11/21  
attested  


official Bilal Raza, Junior Clerk/Muharrir. The matter of back benefits of the official shall be taken up after decision of CPLA No. 534-P of 2022, pending before the august Supreme Court of Pakistan. The office is directed to initiate necessary correspondence in this respect and forward a copy of this order as well as the office order to follow to the office of the Advocate General Khyber Pakhtunkhwa through proper channel for information and appropriate action.

13. Copy of this order be forwarded to the Budget and Accounts Assistant of this establishment for necessary action. Copy be placed on personal file/service record of the official. File be handed over to the Incharge English office for safe custody and its consignment after completion of due process.

Announced  
29.11.2023

  
Zia-ur-Rehman  
District & Sessions Judge/  
Competent Authority, Manshra

*attested*  




OFFICE OF THE  
DISTRICT & SESSIONS JUDGE  
MANSEHRA

Ph: 0997-301848, 0997-304924

Fax: 0997301848

Email: sessionscourt\_manshra@yahoo.com

No. — /D&SJ/(MA)

Date: 29 November, 2023

Annexure

38

OFFICE ORDER

Whereas, Mr. Bilal Raza, Junior Clerk, was proceeded against and charge sheeted vide order bearing No. 15260-68 dated 15.09.2022, on account of preparation of fake & fictitious court order dated: 07.12.2020, in suit No. 176/01, titled "M/s Saghi Traders & Contracting Vs Govt of Pakistan & Others", putting fake signature of Qazi Muhammad Adnan, the then Civil Judge-V, Manshehra, affixing seal of the Court on the above referred forged and fictitious order and managing to get prepared its attested copy, and the inquiry into the matter was directed by appointing Mr. Sajid Amin, Civil Judge-II, Manshehra as inquiry officer.

Whereas, the inquiry officer conducted the inquiry in accordance with procedure prescribed & thereby found the accused official guilty of the allegations enumerated in the charge sheet and recommended minor penalty of withholding promotion for a period of three years under Rule-4(1)(a)(ii) of the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Disciplinary) Rules, 2011.

Whereas, I being satisfied, that the inquiry was conducted in accordance with the procedure prescribed and by affording fair opportunity of defense to the accused official, concurred with the findings that the accused is guilty of the charge of misconduct.

Whereas, he was served with the show cause notice under Rule 14(4) of the ibid Rules and also heard in person.

Whereas, reply to the above show cause notice does not reveal any new ground nor he could satisfy during personal hearing about his un-established persistent plea and innocence.

Now, therefore, I, as Competent Authority, award & impose upon him minor penalty of withholding of promotion for a period of two years w.e.f. this order, in accordance with Rule-4(1)(a)(ii) of the ibid Rules.

attested  
D

Zia-ur-Rehman  
District & Sessions Judge,  
Manshehra

No. 8853-56/ Dated: 29 November, 2023.

Copy forwarded for information to:

1. The Inquiry Officer/Civil Judge-II, Manshehra.
2. The Budget & Accounts, Assistant, Manshehra.
3. Mr. Bilal Raza, Junior Clerk.
4. Office Record.

29/11/23  
District & Sessions Judge,  
Manshehra

Annexure — A

37

**MINUTES OF MEETING OF THE DEPARTMENTAL PROMOTION COMMITTEE OF THE ESTABLISHMENT OF THE DISTRICT AND SESSIONS JUDGE, MANSEHRA.**

Subject meeting was held in the chamber of District & Sessions Judge, Manshra on 26.03.2022 at 10:00 AM. The following attended the meeting.

1. Zia-ur-Rehman, District & Sessions Judge, Mansehra.  
*Chairman.*
2. Syed Arif Shah, Additional District & Sessions Judge, Abbottabad.  
*Member/Nominee of Peshawar High Court, Peshawar*
3. Mr. Abdul Qayum Siddiqui, Additional District & Sessions Judge-VI, Mansehra.  
*Member/Nominee of District & Sessions Judge, Mansehra.*

The meeting started in the name of Allah Almighty. The chair welcomed the participants.

The following posts were lying Vacant and to be filled by way of promotion.

S. No.	Post.	BPS	Vacancies.
1.	Assistant	16	01
2.	Senior Clerk.	14	08

**ASSISTANT (BPS-16).**

This post fell vacant due to retirement of Mr. Mufeez-ur-Rehman, Ex-Assistant (BPS-16). The committee was apprised that as per seniority list for the year 2021, one Shakeel Akhtar, Senior Clerk was at the top of seniority list to be considered for promotion to the post of Assistant (BPS-16).

attested

26.3.22

26/03/22

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However, as per record he was suspended vide order dated: 01.03.2022 by the competent authority and departmental proceedings are pending against him. In this regard, perusal of record comprising PERs and service record of Senior Clerk namely Shakeel Akhtar transpires that there is no adverse remarks against him and he was found fit for promotion. No doubt inquiry is pending against him however, in view of the dictums of the Superior Courts, it is observed that pendency of departmental inquiry could not be considered to withhold promotion of an official. In this regard, wisdom is derived from the worthy judgments of the Hon'able Superior Court reported in 2003 PLC (CS) 1496 [Lahore], 2012 PLC (CS) 1043 [Lahore], 2016 PLC (CS) 1099 [Lahore], 2009 PLC (CS) 40 [Lahore], 2007 PLC (CS) 716 [Karachi] and PLC (CS) 2018 Peshawar Note 66. Therefore the committee unanimously recommends Mr. Shakeel Akhtar, Senior Clerk (BPS-14) to the post of Assistant (BPS-16) on promotion.

SENIOR CLERK (BPS-14).

At the very outset of the proceedings Superintendent put up an application submitted by Mr. Bilal Raza Ex-Junior Clerk for including his name in seniority list and to consider him for promotion as his name falls within the senior most junior clerks and further prayed that after his reinstatement by the learned Khyber Pakhtunkhwa Service tribunal on 31.01.2022, he is eligible for promotion to the post of Senior Clerk. The committee unanimously was of the firm view that till date attested copy of the judgment referred by the applicant has not been obtained nor produced before the competent authority for consideration, hence at the moment the applicant is not in service nor in the seniority list due to which could not be considered for promotion amongst the candidates in the list.

It is also observed that Mr. Tahir Mehmod Qurashi and Mr. Shahzad Asghar (at serial No. 03 and 06 of seniority list respectively) had received adverse remarks by their reporting and countersigning officer for the year 2021. In this regard they preferred departmental representation/appeals and the same had been allowed by the competent authority. Thus they were

Attested



unanimously recommended by the committee to be considered for promotion amongst the candidates in the seniority list.

The committee was informed that one post of Senior Clerk (BPS-14) is likely to be vacant due to retirement of Syed Abdul Ali Shah, Senior Clerk (BPS-14) on 31.03.2022 in the same financial year, therefore the same post was also unanimously recommended to be considered for promotion amongst the candidates in anticipation. Hence total number of available posts for consideration became 08.

The relevant record including seniority list, PERs and service record of the following senior most Junior Clerks (BPS-11) were considered and recommended for promotion to the post of senior clerks (BPS-14) on the basis of seniority cum fitness. The officials at serial No. 01 to 07 were recommended for promotion with immediate effect from the date of notification by competent authority, whereas the official at serial No. 08 was unanimously recommended for promotion with effect from 01.04.2022 on account of retirement of Syed Abdul Ali Shah, Senior Clerk (BPS-14) on 31.03.2022. The following officials/junior clerks (BPS-11) were unanimously recommended by the committee for promotion to the post of senior clerk (BPS-14).

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26.3.22

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15/03/22

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S. #	Name and designation	Recommended for promotion to the post
01	Yasir Mehmood, Junior Clerk (BPS-11)	Senior Clerk (BPS-14)
02	Muhammad Junaid, Junior Clerk (BPS-11)	Senior Clerk (BPS-14)
03	Tahir Mehmood Qurashi, Junior Clerk (BPS-11)	Senior Clerk (BPS-14)
04	Rashid Ali, Junior Clerk (BPS-11)	Senior Clerk (BPS-14)
05	Syed Tasaddaq Hussain Shah, Junior Clerk (BPS-11)	Senior Clerk (BPS-14)
06	Shahzad Asghar, Junior Clerk (BPS-11)	Senior Clerk (BPS-14)
07	Zaheer Abbas, Junior Clerk (BPS-11)	Senior Clerk (BPS-14)
08	Qaiser Shahzad, Junior Clerk (BPS-11)	Senior Clerk (BPS-14)

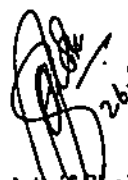
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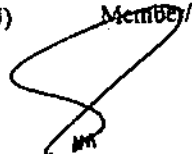
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The meeting ended with a vote of thanks to and from the Chair.

26<sup>th</sup> March, 2022.

  
Abdul Qasim Siddiqui  
Additional District & Sessions Judge-VI  
Manshra  
(Member/Nominee of D&SJ)

  
26.3.22  
Syed Arif Shah  
Additional District & Sessions Judge  
Abbottabad  
Member/Nominee of PHC, Peshawar

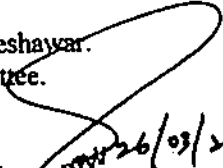
  
(Zia-ur-Rehman)  
District & Sessions Judge  
Manshra  
(Chairman)

No. 3246-491

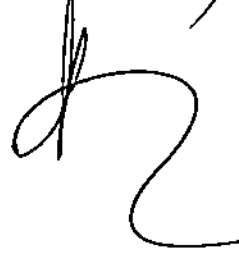
Dated the Manshra 25 March, 2022.

Copy forwarded for information to:

1. The Registrar, Hon'able Peshawar High Court, Peshawar.
2. Members of the Departmental Promotion Committee.
3. Office copy.

  
26/03/22  
(Zia-ur-Rehman)  
District & Sessions Judge  
Manshra(BPS-

11)

attested  


**MINUTES OF MEETING OF THE DEPARTMENTAL PROMOTION  
COMMITTEE OF THE ESTABLISHMENT OF THE  
DISTRICT AND SESSIONS JUDGE, MANSEHRA.**

Subject meeting was held in the chamber of District & Sessions Judge, Mansehra on 10.12.2022 at 9:00 AM. The following attended the meeting.

1. Zia-ur-Rehman, District & Sessions Judge, Mansehra.  
*Chairman.*
2. Syed Arif Shah, Additional District & Sessions Judge, Abbottabad.  
*Member/Nominee of Hon'ble Peshawar High Court,  
Peshavar*
3. Mr. Wajid Ali, Additional District & Sessions Judge-IV, Mansehra.  
*Member/Nominee of District & Sessions Judge, Mansehra.*

The meeting started in the name of Allah Almighty. The chair welcomed the participants.

The following posts were lying Vacant and to be filled by way of promotion.

S. No.	Post.	BPS	Vacancies.
1.	Senior Scale Stenographer	16	01
2.	Senior Clerk	14	05
3.	Junior Clerk	11	02
4	Record Lifter	04	01

attested

Senior Scale Stenographer (BPS-16).

One promotion post of Senior scale stenographer (BPS-16), will be falling vacant on 31.03.2022 as Mr. Tufail, Senior scale stenographer (BPS-16) will be superannuating on 30.03.2022, and presently one post of Senior scale stenographer of initial recruitment is lying vacant as Mr. Jameel Ahmed (Senior scale stenographer) joined Service at Hon'ble Peshawar High Court. The promotion case being falling in same financial year is taken in first instance due to the instant DPC and recruitment post shall be filled in near future. The committee was apprised that as per seniority list for the year 2021, one Waheed Ahmed, Junior scale stenographer was at the top of seniority list to be considered for promotion to the post of senior scale stenographer (BPS-16). In this regard, perusal of record comprising PERs and service record of above named junior scale stenographer transpires that there is no adverse remarks against him and he was found fit for promotion. For assessment of short hand and typing skills he was undergone to Short Hand and Typing ability test and his performance was found satisfactory. Thereafter, the committee unanimously recommends Mr. Waheed Ahmed, Junior Scale Stenographer (BPS-14) for promotion to the post of Senior scale stenographer (BPS-16) with immediate effect.

Note: Though it is not relevant but Mr. Abdul Hakeem (serial No. 4 on the seniority list) is ahead in the order of merit from Mr. Ishtiaq Ahmad (serial No.3) but mentioned at serial No.4, however it might be due to the date of assumption of the charge. The committee recommended that this issue needs to be taken care of while circulating fresh seniority list.

SENIOR CLERK (BPS-14).

The committee discussed application of Mr. Bilal Raza who would be the senior most Junior Clerk, had he been included in the seniority list. According to the record he was dismissed from service on 10.02.2021, however vide order dated 15.09.2022, in the light of verdict of KP Service Tribunal dated.

attested  
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31.01.2022 read with execution petition No. 34/22 regarding his conditional implementation (reinstatement), he was reinstated subject to decision of CPLA No. 534-P of 2022 pending before the august Supreme Court of Pakistan. In his application dated 01.11.2022 he prayed for his consideration for promotion being the senior most junior clerk on the roll.

14/12/22

The committee thoroughly discussed the issue and reached to the conclusion that although pendency of disciplinary proceedings, despite a ground for deferment according to para V (A) (ii) of the promotion policy 2009, is no more an impediment in the way of promotion in the light of numerous judgments of worthy Superior Courts as already discussed and relied upon by the then departmental promotion committee in its last meeting dated 26.03.2022.

10-12-22

However, considering the pre-requisites for consideration for promotion of a candidate, the committee unanimously decided that the applicant Bilal Raza Junior Clerk does not qualify the criteria for promotion on two grounds.

10/12/22

Firstly, the seniority list relevant for the purpose is that of the year 2021 which was notified initially in the January this year and by then he was not in service, so his name has not been included in the seniority list.

Secondly, the requisite PER/ACR for the year 2021 is not available because of his dismissal and he is yet to earn PER, therefore the committee unanimously recommended to defer his case for consideration in the next departmental promotion committee meeting.

Five post of Senior Clerk (BPS-14) have newly been created and are to be filled by promotion from amongst the holders of the post of Junior Clerk (BPS-11). The seniority list was circulated but no objection was filed. It was observed that the candidate at serial # 4, Muhammad Shabir and serial # 5 Abid

Attested

Hussain were initially appointed on 17.10.1998 and 22.09.1993 respectively, however, they were appointed in the District Judiciary Mansehra in the year 2008 by the way of transfer and they were placed at the bottom of the then seniority list.

It is pertinent to mention that minor penalty was awarded to Mr. Abid Hussain (candidate at serial # 1), however, according to paragraph # VIII (B) of promotion policy 2009, award of minor penalty is no ground for withholding promotion.

Mr. Abid Hussain  
10-12-2012

The relevant record including seniority list, PERs and service record of the five senior most Junior Clerks (BPS-11) were considered. Keeping in view the nature of the job particularly role of IT and CFMIS etc typing ability being basic criteria was also assessed. The committee on the basis of seniority cum fitness, by taking into account service record & PERs, unanimously recommended the top five candidates for appointment with the further condition that the promotees be bound down to improve their typing skills and to acquire minimum IT proficiency during their probation period, so as to ensure effective implementation of CFMIS.

10-12-2012

10/12/2012

The officials at serial No. 01 to 05 were recommended for promotion with immediate effect from the date of notification by competent authority.

S. #	Name and designation	Recommended for promotion to the post
01	Abid Hussain-I, Junior Clerk (BPS-11)	Senior Clerk (BPS-14)
02	Shafqat Ali, Junior Clerk (BPS-11)	Senior Clerk (BPS-14)
03	Muhammad Masood, Junior Clerk (BPS-11)	Senior Clerk (BPS-14)


*[Handwritten signature]*

04	Muhammad Shabbir, Junior Clerk (BPS-11)	Senior Clerk (BPS-14)
05	Abid Hussain-II, Junior Clerk (BPS-11)	Senior Clerk (BPS-14)

**JUNIOR CLERK (BPS-11).**

As per working papers, there are 19 promotion Posts of Junior Clerks(BPS-11) @ 30% promotion quota as against 17 positions were filled and 02 are to be filled through instance DPC. As per common seniority list of Daftris & Record Lifer, Record lifter namely Amjid Hussain possesses Secondary School Certificate and none of the two daftris have matriculation degree, therefore, only Record lifter could be considered for promotion. The only eligible official Amjid Hussain possessed his SSC Examination in the annual session 2020 and entry in service record has duly been made. He joined service in the year 2004, therefore taking into account the prescribed length of service, and seniority cum fitness in the light of PER, for the last two years 2020 and 2021, the committee unanimously recommended him for promotion. By taking into account job description/IT proficiency the committee recommended that the official be bound down to acquire minimum IT proficiency and typing skills during period of probation. So far as the second slot, the common seniority list of the post of Chowkidar, Mali, Sweeper and Naib Qasid was taken up; which has been maintained having due regard to the latest directions of the Hon'ble Peshawar High Court Peshawar dated 30.03.2022 so far as the anomaly pertaining to the effect of acquisition of SSC is concerned:

Mr. Sadaqat Ali who joined service on 25.03.2005 and is matriculate having obtained SSC in the year 2019. By taking into account the prescribed

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U  
10-12-22

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10/12/22

length of service, seniority cum fitness in the light of PERs, the committee unanimously recommended him for promotion. By taking into account job description/IT proficiency, the committee recommended that official be bound down to acquire minimum IT proficiency and typing skills during period of probation.

**RECORD LIFTER (BPS-04).**

The Single post of Record Lifter will become vacant as a result of promotion of Mr. Amjid Hussain, Record Lifter through instant DPC. The common Seniority list of class-IV officials (Chowkidar, Sweepers, Naib Qasid and Mali) who have middle standard qualification has been maintained.

However, when record inspected it is observed that Ali-ur-Rehman (on top in seniority list) does not possess middle standard education. He was called for verification. He frankly admitted that he possesses Primary School Certificate, hence he was not found eligible. His statement has been recorded to this effect. Similarly, Mr. Muhammad Farhad (at serial No.2) was also not found eligible on account of possessing Primary Education and not Middle. He was also called and confronted with the service record. He stated that though he had middle standard education but admitted that he never applied for entry in the service record in this effect. His statement was recorded in this respect.

Mr. Sajjad Ahmad (serial No.3 at working paper as well as in seniority list) has middle standard education. However the committee was apprised that no PER was ever maintained in the establishment in the past as far as class-IV employees, who do not possess SSC qualification are concerned. The committee unanimously recommended that let the official should not suffer due to the mistake of the establishment. Therefore, it was decided that the post be left

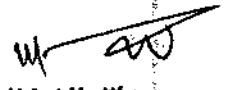
attested





vacant and direction be issued for making up the deficiency by procuring PERs of all the relevant staff members for at least last two years (2020-2021) and thereafter DPC may be scheduled.

The meeting ended with a vote of thanks to and from the Chair.

10<sup>th</sup> December, 2022.

  
Wajid Ali  
Additional District & Sessions Judge-IV  
Mansehra  
(Member/Nominee of D&SJ)

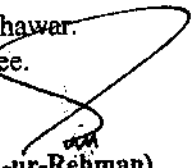
  
10-12-22  
Syed Arif Shah  
Additional District & Sessions Judge  
Abbottabad  
(Member/Nominee of PHC, Peshawar)

  
(Zia-ur-Rehman)  
District & Sessions Judge  
Mansehra  
(Chairman)

No. \_\_\_\_\_ / Dated the Mansehra \_\_\_\_\_ December 2022.

Copy forwarded for information to:

1. The Registrar, Hon'able Peshawar High Court, Peshawar.
2. Members of the Departmental Promotion Committee.
3. Office copy.

  
(Zia-ur-Rehman)  
District & Sessions Judge  
Mansehra

attested  
