


FORM OF ORDER SHEET

Court of _____

Appeal No. 1498/2024


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/09/2024	<p>The appeal of Mr. Hurmat Yab Khan resubmitted today by Mr. Farman Ullah Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 30.09.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Humrat Yab Khan received today i.e on 11.09.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ①- Check list is not attached with the appeal.
- 2- Memorandum of appeal is not signed by the appellant.
- 3- Annexures of the appeal are unattested.
- ④- Two more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 769 /Inst./2024/KPST,

Dt. 12/9 /2024.



OFFICE ASSISTANT
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Farman Ullah Khattak Adv.
High Court at Peshawar.

with reference to objections, dated, 12-09-2024.

- (i) Check List annex (deficiencies removed).
- (ii) Memorandum of appeal signed from appellant (deficiencies removed).
- (iii) Annexures of the appeal are already attested but its escape from your notice.
- (iv) Original + one set. and there are three respondents. So additional three sets has been placed on record.

Re-submitted for filing on date.


16/9/2024

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Hurmat Job VS Government Govt. of K-Pak

S#	CONTENTS	YES	NO
1	This Appeal has been presented by <u>Fayman Ullah Khattar</u>		
2	Whether counsel / appellant/ responder t/ deponent have signed the requisite document?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent oath commissioner?	✓	
8	Whether Appeal / Annexures are properly paged?	✓	
9	Whether Certificate regarding filing any earlier appeal on the subject, furnished?	✓	
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/ clear?	✓	
13	Whether copy of appeal is delivered to AG/ DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by Petitioner/ Appellant / Respondents?	✓	
15	Whether number of referred cases given are correct?	✓	
16	Whether appeal contains cutting / overwriting?	✓	
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this Court?	✓	
19	Whether requisite number of spare copies are attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether security and process fee deposited? On _____	NO	NO
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, Notice along with copy of Appeal and annexures has been sent to Respondents? On _____		NO
26	Whether copies of comments / reply / rejoinder submitted? On _____		NO
27	Whether copies of comments/ reply/ rejoinder provided to opposite party? On _____		NO

It is certified that formalities /documentations as required in the above table, have been fulfilled.

Name:- Fayman Ullah Khattar

Signature: - [Signature]

Dated: - 20/9/2024

BEFORE THE PROVINCIAL SERVICE TRIBUNAL
KHYBER PAKHTUNKHAWA, PESHAWAR

Service Appeal No. 1498 of 2124.

Hurmat Yab Khan Chief Instructor (TEVETA).
.....Appellant.

Versus


Chief Minister through Principal Secretary, Chief Minister
Secretariat, Khyber Pakhtunkhwa, Peshawar and others.
..... (Respondents).

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S. No	Description of Documents	Annex	Pages
1.	Service Appeal with Affidavit.		1-5
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3.	Copy of the Charge Sheet & Statement of allegation.	A1 & A/2	7-8
4.	Copy of the Written Reply.	B	9-11
5.	Copy of the enquiry Report	C	12-16
6.	Copy of the letter, dated, 13 th September, 2023 and Final show cause notice.	D & D/1	17-18
5.	Copy of the Reply of the final show cause notice.	E	19-27
6.	Copy of the impugn order, dated, 6 th May, 2024.	F	28
7.	Copy of the Departmental Appeal/Review petition sent through UMS, dated, 21 th May, 2024.	G	29-34
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9.	Vakalat Nama in original.	I	

Your humble appellant,

Through


(Farman Ullah Khattak),
Advocate, Supreme
Court of Pakistan.

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BEFORE THE PROVINCIAL SERVICE TRIBUNAL
KHYBER PAKHTUNKHAWA, PESHAWAR

Service Appeal No. 1498 of 2024.

Hurmat Yab Khan Chief Instructor, TEVETA Head Office, Phase-07, Hayat Abad, Peshawar near Hajj Complex, Peshawar. (Appellant).

Versus

1. **Chief Minister through Principal Secretary, Chief Minister Secretariat, Khyber Pakhtunkhwa, Peshawar.**
2. **Chief Secretary Govt. of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.**
3. **Government of Khyber Pakhtunkhwa through Secretary Culture, Tourism, Archeology & Museums, Department, Peshawar.**

..... (Respondents).

**APPEALS UNDER SECTION-4 OF THE KHYBER
PKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST IMPUGNED ORDER NO.
SO(TOURISM)5-81-2022/VOL-III, DATED, 6TH
MAY, 2024, VIDE WHICH MINOR PENALTY OF
“WITHHOLDING OF INCREMENT AND
PROMOTION FOR TWO YEARS” HAS BEEN
IMPOSED UNDER RULE-14(5)(II) OF KHYBER
PAKHTUNKHWA E & D RULES, 2011, AGAINST
WHICH DEPARTMENTAL APPEAL/REVIEW
PETITION HAD BEEN FILED THROUGH UMS
ON 21ST MAY, 2024, BUT THE SAME HAS NOT
BEEN DECIDED WITHIN STIPULATED PERIOD
OF 90 DAYS, HENCE, THE INSTANT APPEAL
WITHIN STATUTORY PERIOD OF 30 DAYS:**

Respectfully Sheweth:

The appellant very humbly submitted as under:-

1. That the Competent Authority initiated an enquiry proceeding against appellant on the ground that you have promoted 07 employees of PAITHOM without prior approval of the Competent etc duly mentioned in the statement of allegation/charge sheet and Mr. Amer Latif (PCS-EG BS-20) Member-I, Board of Revenue was appointed as an inquiry officer. **(Copy of the notification, Statement of Allegation & Charge Sheet is hereby encsleod as Annex-A, A/1 & A/2 respectively).**
2. That the on the basis of Charge Sheet/Statement of Allegation, Appellant was asked to submit Written Defense Within seven days to the inquiry Officer , which was accordingly submitted within stipulated period of time. **(Copy of which is hereby encsleod as Annex-B).**
3. That thereafter the inquiry officer conducts the enquiry in Questioner form and reply has been asked from the Appellant. Finally inquiry report was submitted in which the Charge/Allegation No. 1 & 2 stands proved, however, the allegation No. 3 does not stand proved. **(Copy of the Inquiry Report is herby enclosed as Annex-C).**
4. That thereafter on the basis inquiry report, final show cause notice was served on 13rd September, 2023, in which the Competent Authority have tentatively decided minor penalty of **“Withholding of increment and Promotions for two years”** and Appellant was asked to reply within 14 days on delivery of show cause notice which was formally submitted by refuting allegation in the Show Cause Notice. **(Copy of the letter with Show Cause and reply is hereby encsleod as Annex-D, D/1 & E respectively).**
5. That competent authority after considering the charge sheet/Statement of allegations and reply to the show cause notice imposed minor penalty of **“Withholding of increment and promotions for two years”** vide, impugn order, dated, May 06, 2024. **(Copy of the impugn order is hereby enclosed as Annex-F).**
6. That appellant aggrieved from the impugn order filed review petition/department appeal before the Chief Minister Khyber Pakhtunkhwa on 21 May, 2024 through UMS, however, Appeal/ review petition of the appellant

was not decided within stipulated period of 90 days.
(Copy of the review petition with UMS receipt is hereby enclosed as Annex- G & G/1 respectively).

7. That the appellant herein seriously aggrieved from the impugned orders in which two overlapping minor punishments has been awarded, hence, approach to this Hon'ble Tribunal, through the instant appeal, inter-alias, on the following grounds:-

GROUND:

- A. That the order passed by the competent authority, impugned herein is discriminatory, arbitrary, legally and factually incorrect and thus are liable to be set-aside by this Hon'ble Tribunal.
- B. That the impugn order of minor penalty based upon unsubstantiated allegations because the promotion order of 07 employees of PAITHOM has been subsequently withdrawn, despite of which Minor Penalty has been imposed.
- C. That the Competent Authority recommended Minor Penalty within the meaning of Section-4(a) (ii) but instead of withholding Promotion or increment for two years" the two overlapping minor punishment has been simultaneously awarded for the same charge which is not sustainable in the eyes of law.
- D. That the allegation leveled in the charge sheet had never been proved against appellant. The inquiry officer neither recorded any evidence nor brought on record any documents through Departmental Representative in order to confront the appellant and inquiry in shape of questioner was recorded, irrespective of the fact that the appellant was not awarded any opportunity of any cross examination upon the evidence brought on record.
- E. That enquiry committee report is based upon on assumption and presumption. There is nothing on record which can suggest that charges No-1 & 2 can prove against the appellant, while, on the other hand, appellant submitted sufficient material in reply which was not discussed at all in the inquiry report.
- F. That the appellant was subjected to discriminatory treatment as he done the order of promotion in good

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faith which was subsequently withdrawn, despite of which minor penalty has been awarded.

- G. That the appellant rendered meritorious service and there is no adverse entry of any misconduct or insubordination during the entire service and the penalty impugned herein would ruin the bright career of the appellant in the long run. The enquiry officer totally deviated from the procedure laid down in the E&D Rules.
- H. That the order passed and impugned herein caused grave miscarriage of justice to the appellant without solid proof of allegations. The enquiry Officer utterly failed to conduct the enquiry as per procedure laid down in the E&D rules.
- I. That the appellant will seek permission of this Hon'ble Tribunal to urge additional grounds at the time of argument of this appeal.

It is therefore most humbly prayed that on acceptance of the instant appeal, this Hon'ble Tribunal may graciously be pleased to set-aside the impugned order No. SO (Tourism) 5-81-2022/VOL-III, dated, 6th May, 2024, vide which overlapping punishment of minor penalty of "Withholding of increment and promotion for two years" has been imposed simultaneously under Rule-14(5)(ii) of Khyber Pakhtunkhwa E & D Rules, 2011, and the same may be declared being illegal, void-ab-initio and of no legal effect and not in accordance with the law OR any other remedy deemed proper and appropriate may also be allowed.

Through

Appellant,

(Farman Ullah Khattak),
Advocate Supreme Court,
Pakistan.

&
(Haseeb Shah)
Advocate, Peshawar.

BEFORE THE PROVINCIAL SERVICE TRIBUNAL
KHYBER PAKHTUNKHAWA, PESHAWAR

Service Appeal No. _____ of 2024.

**Hurmat Yab Khan Chief Instructor, Pakistan Austrian
Institute of Tourism & Hotel Management
(PAITHOM), Gulibagh, Swat.**
..... (Appellant). •

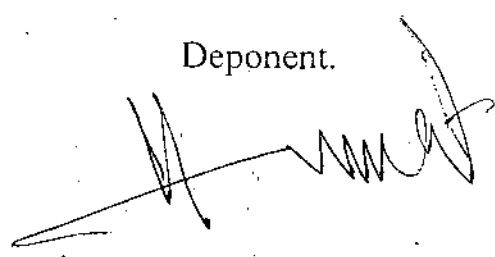
Versus

**Chief Minister through Principal Secretary, Chief
Minister Secretariat, Khyber Pakhtunkhwa, Peshawar
and others.....(Respondents).**

Affidavit.

I, Hurmat Yab Khan Chief Instructor, Chief Instructor
TEVETA Head Office, Phase-07, Hayat Abad, Peshawar, do
hereby solemnly declare on oath that the contents of the above
Service Appeal as given by me are true and correct to the best of
my knowledge and that nothing has been concealed or kept secret
from this Hon'ble Tribunal.

Deponent.



Identified BY

**(Farman Ullah Khattak),
Advocate Supreme Court, Pakistan.**



(6)

**GOVERNMENT OF KHYBER PAKHTUNKHWA,
CULTURE, TOURISM, ARCHAEOLOGY & MUSEUMS
DEPARTMENT.**

(A)
Amir

Dated Peshawar 30th May, 2023

NOTIFICATION:

No.SO(T)/5-81/PAITHOM/2023/3553-59 : The Competent Authority (Chief Secretary, Khyber Pakhtunkhwa) is pleased to appoint Mr. Amer Latif (PCS EG BS-20), Member-I, Board of Revenue, Revenue & Estate Department as Inquiry Officer to conduct inquiry against Mr. Hurmat Yaab Khan, Chief Instructor (BS-19), Pakistan Austrian Institute of Tourism & Hotel Management (PAITHOM) for the charges mentioned in the Charge Sheet and Statement of Allegations.

2. The Inquiry Officer shall submit report alongwith recommendations within 30 days positively.

-Sd-

Secretary to Government of Khyber Pakhtunkhwa
Culture, Tourism, Archaeology & Museums Department

Endst: No. & Date even:

Copy forwarded to:

1. Mr. Amer Latif (PCS EG BS-20), Member-I, Board of Revenue, Revenue & Estate Department, Khyber Pakhtunkhwa alongwith copy of inquiry report, Charge Sheet and Statement of Allegations.
2. Chief Instructor (PAITHOM), Gullibagh Swat alongwith copy of Charge Sheet and Statement of Allegations.
3. PSO to Chief Secretary, Khyber Pakhtunkhwa.
4. PS to Secretary, Establishment Department, Khyber Pakhtunkhwa.
5. PS to Secretary Culture & Tourism Department Khyber Pakhtunkhwa.
6. PS to AS, Culture & Tourism Department.
7. PA to DS (Tourism), Culture & Tourism Department.
8. Master File.


(AKHLAQ AHMAD)
SECTION OFFICER (TOURISM)

30/05/2023

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DISCIPLINARY ACTION

I, Nadeem Aslam Chaudhry, Chief Secretary, Khyber Pakhtunkhwa as Competent Authority am of the opinion that Mr. Hurmat Yaab Khan, Chief Instructor (BS-19), Pakistan Austrian Institute of Tourism & Hotel Management (PAITHOM), has rendered himself liable to be proceeded against as he committed the following acts / omissions within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011;

STATEMENT OF ALLEGATIONS

- i. He promoted Seven (07) employees of PAITHOM vide Office Orders dated 19.02.2020 and 02.03.2020, without prior approval of the competent authority, since the case of regularization of PAITHOM's employees was adjudicated before the court of law at that time.
 - ii. He re-designated the post of Supervisor (BS-07) to House Engineer (BS-16) in favor of Mr. Haq Nawaz vide Office Order dated 20.06.2013, without approval of the competent authority; and
 - iii. He failed to perform his functions as assigned to him under the law / rules and did not frame / draft service rules for the employees of PAITHOM till date.
2. For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer / inquiry committee, consisting of the following is constituted under rules 10 (1)(a) of the ibid rules:

i).

Mr. Ammar Latif

ii).

Member I BOR

3. The Inquiry Officer / Inquiry Committee shall, in accordance with the provisions of the ibid Rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty (30) days of the receipt of this order, recommendations to punishment or other appropriate action against the accused.
4. The accused and a well conversant representative of the administrative department shall join the proceedings on the date, time and place fixed by the Inquiry Officer / Inquiry Committee.

Handwritten initials

Handwritten signature of Nadeem Aslam Chaudhry

(NADEEM ASLAM CHAUDHRY)
CHIEF SECRETARY, KHYBER PAKHTUNKHWA
(COMPETENT AUTHORITY)

Mr. Hurmat Yaab Khan,
Chief Instructor (BS-19),
Pakistan Austrian Institute of Tourism
& Hotel Management (PAITHOM)

CHARGE SHEET

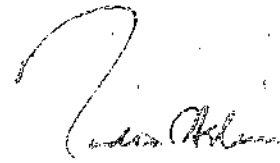
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I, Nadeem Aslam Chaudhry, Chief Secretary, Khyber Pakhtunkhwa as Competent Authority, hereby charge you, Mr. Hurmat Yaab Khan, Chief Instructor (BS-19), Pakistan Austrian Institute of Tourism & Hotel Management (PAITHOM), Gulibagh Swat, as follows:-

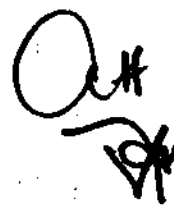
That you while posted as Chief Instructor (BS-19), PAITHOM committed the following acts / omissions:

- i. You promoted 07 employees of PAITHOM vide Office Orders dated 19.02.2020 and 02.03.2020, without prior approval of the Administrative Department, since the case of regularization of PAITHOM's employees was adjudicated before the court of law at that time;
 - ii. You re-designated the post of Supervisor (BS-07) to House Engineer (BS-16) in favor of Mr. Haq Nawaz vide Office Order dated 20.06.2013, without approval of the Administrative Department; and
 - iii. You failed to perform your functions as assigned to you under the law / rules and did not frame / draft service rules for the employees of PAITHOM till date.
2. By reasons of the above, you appear to be guilty of **MISCONDUCT** and **IN-EFFICIENCY** under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the rules ibid.
3. You are, therefore, required to submit your written defense within seven (07) days of the receipt of this Charge Sheet to Inquiry Officer / Inquiry Committee, as the case may be.
4. Your written defense, if any, should reach the Inquiry Officer / Inquiry Committee within the specified period, failing which it shall be presumed that you have no defense to put in and in that case the ex-parte action shall be taken against you.
5. Intimate whether you desire to be heard in person.
6. A statement of allegations is enclosed.



(NADEEM ASLAM CHAUDHRY)
CHIEF SECRETARY, KHYBER PAKHTUNKHWA
(COMPETENT AUTHORITY)

Mr. Hurmat Yaab Khan.
Chief Instructor (BS-19).
Pakistan Austrian Institute of Tourism
& Hotel Management (PAITHOM)



Dated 7th June, 2023

To,

Mr. Amir Latif, (Member I, BoR)
Inquiry Officer,
Board Of Revenue,
Revenue & State Department,
Peshawar.

Subject: SUBMISSION OF WRITTEN DEFENSE AGAINST CHARGE SHEET

Respected Sir,

I, Hurmat Yab Khan, Chief Instructor hereby submit my written statement as defense against charge sheet vide notification no. SO(T)/5-81/PAITHOM/2023/3553-59 dated 30-05-2023 received to the undersigned on dated 03-06-2023 wherein the undersigned is charged with following statement of allegations wherefore defense is submitted as under please.

1. He promoted seven (07) employees of PAITHOM vide Office Orders dated 19.02.2020 and 02.03.2020 without prior approval of the competent authority, since the case of regularization of PAITHOM's employees was adjudicated before the court of law at that time.

Defence:

- a. It is true to the extent that undersigned only promoted Five (05) employees under powers conferred upon the undersigned under governing rules & regulations of PAITHOM attached as **Annex-A**. Under the same rules the Ministry of Tourism (Defunct) while regularizing the services of 21 employees of PAITHOM under the direction of Establishment Division, Regulation Wing notification attached as **Annex-B** allowed the undersigned to regularize the services of these 21 employees w.e.f 01-07-2008 attached as **Annex-C** under deliberations of the governing rules and regulations of PAITHOM as the power of Appointment, Confirmation and Promotion lies with the Head of the Institute vide Rule 12 sub rule II.
- b. The undersigned had a staff of 26 employees without any assigned duties and were only drawing salaries. The PAITHOM purpose built building located at Gulibagh Swat was under control of PAK ARMY since 2007 due to which institute had to function as camp office in private rented building in Amankot, Mingora Swat. In order to architect and provide a professional office atmosphere the undersigned being administrative head picked up those lower staff who were educated and ability to perform were allocated additional duties without any extra remuneration. (**Annex-D**) One of them had also got trained from Tourism Department in accounts section in 2015 (**Annex-D-I**). The PAITHOM employees have filed a writ petition claiming after service benefits which was graciously allowed by the August High Court, Dar ul Qaza, Mingora Bench on 18-04-2018 decision attached as **Annex-E** wherein the PAITHOM employees were awarded status of Civil Servants along with all back benefits. Before the vary decision PAITHOM employees were drawing their salaries on regular basis but without any deductions of GP fund, death compensation, Tax etc., but in contrary to this the department did not implemented the decision of the August Court and in response thereto filed a CPLA in the honourable Supreme Court of Pakistan which was disposed off in January, 2020 due to 21 days time barred attached as **Annex-E**. So at time

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of promoting staff there was no adjudication in progress which is evident and attached as proof and undersigned in due prudence and diligence promoted staff as allowed under governing rules of PAITHOM institute and a copy for information was sent to the department and in response thereto the department vide their order dated 22-06-2020 directed the undersigned to hold these promotions and up-gradations in abeyance which was complied with on dated 24-06-2020 and since then these promotions are laying held in abeyance attached as **Annex-F-1 & F-2**.

- c. Later on an inquiry was initiated on the appeal of Mr. Akbar Ali who was promoted to the post of Cashier by the departmental inquiry committee and the whole proceedings of the committee are attached as **Annex-H** for your inspection please.
- d. The rest of the two employees were promoted vide a PAITHOM departmental promotion committee and the minutes of same are attached herewith as **Annex-H-I**.

2. He re-designated the post of Supervisor (BPS-07) to House Engineer (BPS-16) in favour of Mr. Haq Nawaz vide Office Order dated 20-06-2013 without approval of the competent authority.

Defense:

1. The undersigned redesignated Mr. Haq Nawaz to the post of Engineer Incharge, a sanctioned post in BPS-16 (sanctioned posts PAITHOM attached as **Annex-I**) but not on the post of House Engineer because undersigned has got a precedent in hand which is detailed in the following paragraphs. Mr. Haq Nawaz was appointed in January, 2000 (contract attached as **Annex-J**) as House Engineer on a consolidated salary of Rs:15000/- per month initially for a period of one year by the then Ministry of Tourism (Defunct). The President of Pakistan approved sanction for creation of 93 regular posts in the institute in 2004 (**Annex-K**) wherein the nomenclature of the post of House Engineer was converted to Engineer Incharge BPS-16.
2. Mr. Haq Nawaz had continuous grievances on the reason being that in 2011 while regularizing the services of employees working on contract for last two years under regularization policy under directive of Establishment Division Office Memorandum the MoT (defunct) regularized the services of Mr. Haq Nawaz by redesignating him on the post of Supervisor (07) instead of House Engineer BPS-16 under the same rules and regulations of PAITHOM. (**Annex-C as reference**)
3. Under deliberations of 18th constitutional amendment the institute was transferred and handed over to Provincial Government KPK in 2011 along with assets and employees (**Copy attached as Annex-L**). The Tourism Department appointed a Focal Person as dealing desk for the institute from Tourism Corporation Khyber Pakhtunkhwa. Among these PAITHOM employees, 21 employees were having regular status while others 3 officers level staff were on contract. One among three resigned from his job as he had got job in Malakand University. In December 2012, the services of two officers (Chief Instructor BPS-19 & Management Secretary BPS-16) were regularized in PAITHOM from date of initial appointment but it is again worth noting that the post of Management Secretary BPS-16 were redesignated as Administrative Officer BPS-17 and so much so the services rendered in BPS-16 were also not calculated setting aside

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rules and regulations and his pay was also affixed in BPS-17 with his initial date of Appointment. (Copies of proof attached as Annex-M).

4. The department while implementing order of the court in CoC (**attached as Annex-N**) the department created 27 posts on the current side vide Finance Department Notification attached as **Annex-P** wherein the post of Mr. Haq Nawaz was created as House Engineer BPS-16.
5. The undersigned would also like to bring into your notice that in 2011 when institute was executing a NAVTTC sponsored training project the Focal Person PAITHOM directed the undersigned to adjust a person in this project and also sent a letter for this adjustment on the demand of the undersigned attached as Annex-Q and the undersigned adjusted him as visiting faculty instructor for a fixed period of 6 months Annex-Q-I. Thereafter the project was completed and he left. Thereafter, Focal Person again requested to adjust him on any post in PAITHOM and he was appointed as Housekeeping Incharge BPS-5 Annex-Q-II.
6. To cover up these redesignations the department requested Finance Department for recreating of 03 posts in PAITHOM and in response thereto Finance Department created 03 posts as requested by department (Annex-R) wherein the post of House Engineer BPS-16 was abolished and post of Supervisor BPS-07 was created as well as the post of Housekeeping Incharge BPS-05 was abolished and created as Instructor BPS-17 and post of Management Secretary BPS-16 was abolished and post of Administrative Officer BPS-17 was created.
7. Mr. Haq Nawaz refused to submit his undertaking in the tourism department and filed a CM in the CoC which was decided in his favour and department again created his post as House Engineer BPS-16. The department issued his notification with immediate effect. The case is still adjudicated before August High Court which if decided in his favour the department has to notify him w.e.f 01-07-2008 as House Engineer BPS-16. (Attached as Annex-S)
8. August Court has already addressed his grievances and granted him relief by ordering his regularization on the post of House Engineer w.e.f date of regularization of his other colleagues. (**Attached as Annex-S**)

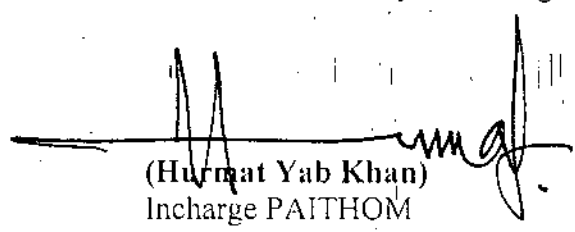
3. He failed to perform his functions as assigned to him under the law/rules and did not frame service rules for the employees of PAITHOM till date.

Defense:

As far as the drafting of service rules is concerned the MoT (defunct) has constituted a committee (**Annex-T**) for drafting service rules of PAITHOM and undersigned was the member/secretary of the committee. These service rules were also sent to the Focal Person PAITHOM (Annex-T-1) for perusal. Thereafter it was the liability of the department to finalize service rules by vetting them from concerned forum and undersigned may please be not held responsible for duties of the administrative department.

The fact and grounds elucidated above are true and to the best of my knowledge and wisdom. Submitted as desired please.

Enclosed: As Above


 (Hurmat Yab Khan)
 Incharge PAITHOM

- ✓ Copy for information to:
1. Office copy



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C
Annex

Report of inquiry proceedings against Mr. Hurmat Yab Khan Chief Instructor; Pakistan-Austria Institute of Tourism and Hotel Management

Preliminary

This inquiry report, hereinafter called report is based on inquiry proceedings, hereinafter called inquiry, conducted after Culture, Tourism, Archaeology & Museum Department Khyber Pakhtunkhwa, hereinafter called department, Notification No. SO (T)/5-81/PAITHOM/2023/3553-59 dated 30th May, 2023. This Inquiry has been initiated and completed against Mr. Hurmat Yab Khan, the Accused Officer hereinafter called AO who is posted as Chief Instructor at the Pakistan-Austria Institute of Tourism and Hotel Management, hereinafter called PAITHOM.

Proceedings of inquiry are annexed as Annexure-1 to this report in the form of inquiry Order Sheet. Letter No. PS to MBR-I/Inq/Tourism/13640-41 dated 05th June, 2023 sent to all concerned to attend inquiry on 26th June 2023 is annexed as Annexure-2. This inquiry has been made into three allegation communicated to all concerned vide Statement of Allegations which is annexed as Annexure-3 to this report. Reply of AO to Statement of Allegations is annexed as Annexure-4 to this report. Mr. Akhlaq Ahmed Section Officer of department assisted in inquiry as Departmental Representative, hereinafter called DR. Questionnaires framed by undersigned and replies of AO and DR are annexed as Annexures 5 and 6 respectively to this report.

The term Public Servant used in this report means a person as defined in Section-21 of the Pakistan Penal Code 1860 and is hereinafter called public servant. The term Civil Servant used in this report means a person as defined in the Section 2(b) of the North-West Frontier Province Civil Servants Act, 1973 and is hereinafter called civil servant.

Inquiry

During inquiry each one of the allegations, reply of AO to allegations and annexures, reply of AO in questionnaire, office record presented by DR and relevant notifications issued by Government of Khyber Pakhtunkhwa, hereinafter called government, from time to time were examined in detail following which finding against each allegation has been recorded as follow:

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Allegation No-1.

You promoted 07 employees of PAITHOM vide Office Order dated 19.02.2020 and 02.03.2020, without prior approval of the Administrative Department, since the case of regularization of PAITHOM's employees was adjudicated before the court of law at that time;

1. AO promoted a total of seven (07) employees of PAITHOM in various pay scales through two separate orders (Annexures-7 and 8) as follows:

	Order No	Date	No of employees promoted
1	3(1)/2011/PAITHOM/ADMN/Vol-IV	19-02-2020	5
2	3(1)/2011/PAITHOM/ADMN/Vol-IV	02-03-2020	2

2. These employees were appointed on contract basis as PAITHOM employees, hereinafter called employees, and were therefore public servants. In April 2011 PAITHOM was transferred to government after 18th Constitutional Amendment and services of employees were devolved accordingly. PAITHOM was taken over by department.
3. As a result of Dar-ul-Qaza Swat order dated 18th April, 2018 in a Writ Petition No 507-M/2017 and after dismissal of departmental appeal by department in the Supreme Court of Pakistan on 11th January, 2020 services of employees were regularized with back benefits vide department's Notification on 21st January, 2022. This regularization meant that employees became civil servants instead of public servants.
4. Immediately after dismissal of departmental appeal in the Supreme Court of Pakistan and almost two years prior to issuance of regularization notification by department, AO issued above promotion orders on 19th February and 2nd March 2020. He did not receive any advice of department in this matter nor did he approach it for consultation prior to issuing promotion orders.
5. Since the services of employees were regularized by Dar-ul-Qaza with back benefits therefore they were civil servants at the time of issuance of their promotion orders by AO regardless of the fact that their regularization notification was issued two years later by department.
6. AO in his reply and answers to questions has argued that he had issued these promotion orders on the basis of 'powers conferred upon' him 'under governing rules & regulations of 'PAITHOM', hereinafter called regulations, (Annexure-9). The subject of PAITHOM rules have been discussed in detail under third allegation. Here, it is sufficient to record that:
- Regulations which were framed prior to devolution under Federal Ministry of Tourism, hereinafter called ministry, were no longer applicable to employees once they were regularized as civil

servants. Terms and Conditions of service and Promotion of civil servants are governed by the North-West Frontier Province Civil Servants Act, 1973 read with Rule 5 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 which have not been applied in these cases.

- ii. Regulation No 12(II) conferred promotion powers upon Principal / Director (Annexure-10) whereas AO was and is Chief Instructor PAITHOM. He has been called Incharge PAITHOM in official correspondence but there is nothing on the record that he was entrusted with responsibility of Principal / Director as additional charge or even to look after this post.
- iii. Service regulations under Regulation Serial No. 12 (II) were never approved prior to or after devolution. Therefore even if employees are considered as public servant in February / March 2020 there were no service regulations under which they could be promoted.

7. Therefore the following irregularities have been noted on the part of AO:

- i. Promotion of seven (07) civil servants employees of PAITHOM vide Office without prior approval of department which resulted in violation of Rule 5 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.
- ii. Exercising of powers of Principal / Director without explicit orders by department to this effect.
- iii. Application of incorrect and unapproved service regulations in promotion process of employees who were civil servants.

Finding

The allegation stands proved against AO.

Allegation No-2.

You re-designated the post of Supervisor (BPS-07) to House Engineer (BPS-16) in favor of Mr. Haq Nawaz vide Officer Order dated 20.06.2013, without approval of the Administrative Department.

1. Immediately before devolution of PAITHOM to department Mr. Haq Nawaz was regularized as Supervisor in BPS-7 as public servant as evident from para-4 of Government of Pakistan Ministry of Tourism Memo No. 2(25)/2002-Plug (Pt-III) dated 9th February, 2011 (Annexure-11).
2. He was later regularized as civil servant along with other employees as a result of litigation noted above. But instead of accepting his regularization as Supervisor in BPS-7 he resorted to further litigation seeking for himself the post of House Engineer in BPS-16 on the grounds

Q. H. NAWAZ
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that Incharge PAITHOM had already promoted him to the post of House Engineer BPS-16 in 2013 through process of redesignation of the post of Supervisor BPS-7 as House Engineer BPS-16 vide letter No.3 (1)/2011/PAITHOM-ADMN on 20th June 2013 when services of employees were not yet regularized as civil servants in government.

3. AO has not denied this fact and has candidly admitted in his reply to allegation and in his reply to question No-3 that he has carried out this redesignation on the analogy of redesignation once carried out by department in 2012. Therefore it is evident that AO has carried out redesignation of the post Supervisor BPS-7 to House Engineer BPS-16. Therefore the following irregularities on the part of AO have been noted in this redesignation process.

- i. Irregular promotion from BPS-7 to BPS-16 under garb of redesignation. Redesignation is carried out in same BPS. Raising BPS of a same post is called upgradation. He thus carried out both upgradation and redesignation at the same time without due process.
- ii. Lack of authority to carry out such redesignation in absence of approved regulations for public servants as in 2013 PAITHOM employees were working as public servants not civil servants.
- iii. Negligence of duty as incharge PAITHOM to seek guidance and prior approval of department to issue redesignation / upgradation order under question if it was necessary at all though no relief was granted by any court in 2013 to beneficiary Mr. Haq Nawaz.
- iv. Exercising of powers of Principal / Director without explicit orders by department to this effect

Findings

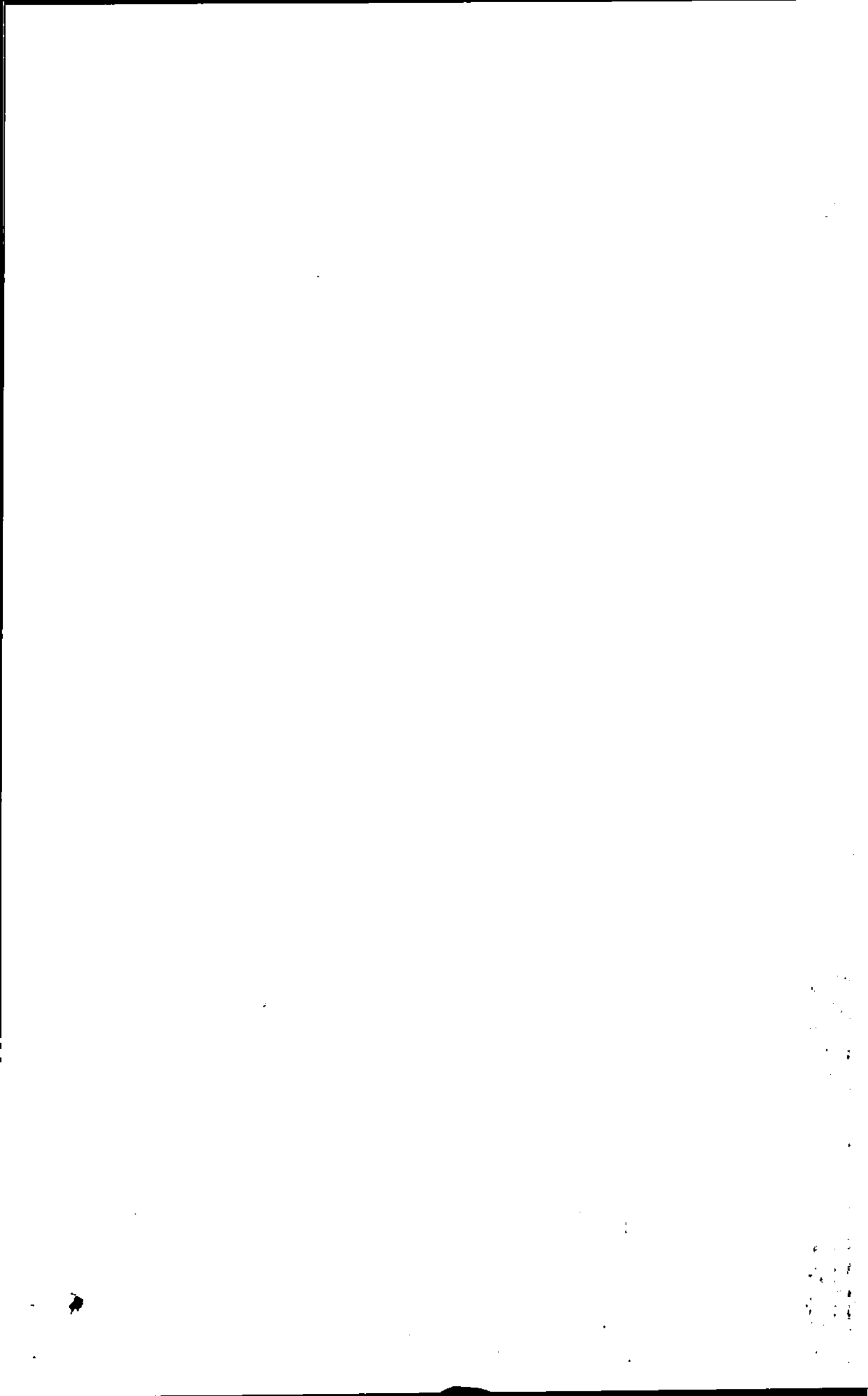
The allegation stands proved against AO.

Allegation No-3.

You failed to perform your functions as assigned to you under the law / rules and did not frame / draft service rules for the employees of PAITHOM till date.

- 1. Prior to devolution, PAITHOM was governed by its regulations which were issued by ministry (Annexure-9). However no supporting service regulations were operational at that time under regulation number 12 (II).
- 2. It has come to fore that in June 2009 the Federal Ministry of Tourism constituted a committee to draft service rules for employees, hereinafter called rules (Annexure-12). On 16th February 2010, Board of Governors of PAITHOM, hereinafter called board, approved rules subject to proper signing of the draft by Convener and Secretary of board so that rules

Att. Haq
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could be communicated to the Finance and Establishment Divisions for their concurrence (Annexure-13). However nothing has been found on the record that rules were either sent to Finance and Establishment Divisions or their concurrence to rules was received in PAITHOM prior to devolution in April 2011.

3. Instead, after devolution, on 24th July, 2011 rules were submitted to one Mr. Sajeed Hameed 'focal person' PAITHOM in Tourism Department Khyber Pakhtunkhwa 'for further perusal in the matter' (Annexure-14). DR in his reply in questionnaire has stated that 'as per available record draft rules of PAITHOM are not approved by competent forum'.
4. After regularization of employees as civil servants in 2020 these draft rules became irrelevant as these were meant for public servants and were to be approved by board. Under changed circumstances it became the mandate of Standing Service Rules Committee, hereinafter called SSRC, of department constituted under Services and General Administration Department Notification No. SOR. VI(E&AD)2-69/2003 dated 29th January, 2005 amended from time to time read with Rule 3(2) of the NWFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1989. Service rules framed by SSRC were required to be approved by government.
5. Therefore no irregularity noted on the part of AO as the following facts have come to fore:
 - i. AO had submitted draft service rules inherited from ministry in 2011 to focal person PAITHOM in department for approval of board which remained unapproved till regularization of employees as civil servants
 - ii. Since regularization of employees in 2020, department has yet to convene meeting of SSRC to draft service rules for them

Finding

The allegation does not stand proved against AO.

Recommendations as requested by department

- i. In short run department should frame service rules for employees through SSRC.
- ii. In long run department may improve over all operational performance including service conditions of PAITHOM by introducing legislation on the analogy of KP TEVTA Act 2012

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(Amer Latif)

Inquiry Officer/ Member-1, Board of Revenue



GOVERNMENT OF KHYBER PAKHTUNKHWA,
TOURISM, CULTURE, ARCHAEOLOGY & MUSEUMS
DEPARTMENT.

13-A, KHYBER ROAD, PESHAWAR CANTT:

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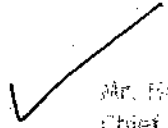
Amir

No. SO (T)S-81/2022/Vol-III

Dated Peshawar the 13th September, 2023

6822-24

To



Mr. Humayun Yash Khan,
Chief Instructor,
Pakistan Austrian Institute of Tourism & Hotel Management (PAITHOM).

Subject: SHOW CAUSE NOTICE

I am directed to refer to the subject noted above and to enclose herewith a copy of Inquiry Report and Show Cause Notice, wherein the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) has tentatively decided to impose minor penalty of "Withholding promotion and increments for a period of two years" under Rule-4 (1) (a) (ii) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 in connection with the charges levelled against you.

Your reply to the Show Cause Notice shall reach to this Department within 14 days of delivery of this letter otherwise an ex-parte action shall be taken against you.

(AKHTAB AHMAD)
SECTION OFFICER (TOURISM)

Encl: As Above.

Copy forwarded for information to:

1. PS to Secretary Culture & Tourism Department, Khyber Pakhtunkhwa.
2. P4 to Additional Secretary, Culture & Tourism Department.
3. Master file.

SECTION OFFICER (TOURISM)

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Adm

SHOW CAUSE NOTICE

I, Muhammad Azam Khan, Chief Minister Khyber Pakhtunkhwa as Competent Authority under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Hurmat Yab Khan, Chief Instructor (BS-19), Pakistan Austrian Institute of Tourism & Hotel Management (PAITHOM) as follows:

- (i) The consequent upon the completion of inquiry conducted against you by the inquiry officer for which you presented your written defense before the inquiry officer.
- (ii) On going through the findings and recommendations of the inquiry report, the material on record and other connected papers including your defense before the inquiry officer.

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

"Guilty of Misconduct"

2. As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you the penalty of withholding promotion and increments under Rule-4 of the said rules. For a period of two years

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 findings of the inquiry report is enclosed.

M. Azam Khan
(MUHAMMAD AZAM KHAN)
CHIEF MINISTER, KHYBER PAKHTUNKHWA
(COMPETENT AUTHORITY)

Mr. Hurmat Yab Khan,
Chief Instructor (BS-19),
Pakistan Austrian Institute of Tourism
& Hotel Management (PAITHOM)

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The Chief Minister,
Chief Minister Secretariat (Public),
Government of Khyber Pakhtunkhwa,
Peshawar.

Through the Secretary to the Government of Khyber Pakhtunkhwa,
Tourism, Culture, Archaeology and Museums Department, 13-A, Khyber Road, Peshawar.

Subject: REPLY BY HURMAT YAB KHAN, ACCUSED OFFICER (A.O.) TO THE SHOW CAUSE NOTICE SERVED UPON HIM BY THE CHIEF MINISTER KHYBER PAKHTUNKHWA FOR BEING ACCUSED OF MISCONDUCT.

Respected Sir,

This is with reference to the Tourism, Culture, Archaeology & Museums Department's letter No. SO(T)5-81/2022/Vol.III, dated 13th September, 2023 (received to the A.O. on 18th September, 2023) on the subject cited above.

2. I, Hurmat Yab Khan, Chief Instructor (BPS- 19), Pakistan Austrian Institute of Tourism and Hotel Management (PAITHOM), Swat, may hereinafter be called as Accused Officer (A.O.). Similarly, the Tourism, Culture, Archaeology & Museums Department, Government of Khyber Pakhtunkhwa hereinafter be called as Administrative Department.

3. Copies of the Charge Sheet, Reply given thereto by the A.O. and the letter under reference with copy of the Show Cause Notice are attached, along with their accompaniments, as Annexure AA-I, Annexure AA-II and Annexure AA-III respectively for the facility of reference.

4. Sir, The Show Cause Notice appears to have been served upon the A.O. on the basis of three concocted allegations and on some finding of the Inquiry Officer whereby the view point of the A.O. was not reflected in its true perspective as is evident from the following submissions;

Allegation No.1

"You promoted 07 employees of PAITHOM vide Office Orders dated 19.02.2020 and 02.03.2020, without prior approval of the Administrative Department, since the case of regularization of PAITHOM employees was adjudicated before the Court of law at that time."

- (a) Inquiry Officer's observations at Paras 1 & 2 under this Allegation No.1 are admitted for being matter of record.
- (b) Inquiry Officer's observations at Para 3 under this allegation No.1 seems to be misleading because the Inquiry Officer appears to have tried to hoodwink the Competent Authority by, inter-alia, stating that ".....services of employees were regularized with back benefits vide department's Notification No.SO(Tourism)/5-81/2020/4350-88 on 21st January, 2022 (Annexure A-1). This regularization meant that

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employees became civil servants instead of public servants." This statement is somewhat confusing and the factual position in this regard is as under:

(b-i) That on a Writ Petition No.507-M/2017, filed by PAITHOM employees, the Dar-ul-Qaza, Swat passed an order on 18th April, 2018 that PAITHOM employees be treated as Civil Servants. However, the Administrative Department filed CPLA in the Supreme Court of Pakistan against the aforesaid Order of Dar-ul-Qaza, which was dismissed on 6th January, 2020 for being time barred. But the implementation on the Order of Dar-ul-Qaza continue lingering on till the Administrative Department notified the regularization of PAITHOM employees as Civil servants with back benefits vide their Notification dated 21st January, 2022 (Annexure A-I). This clarification proves that PAITHOM employees were Public Servants till 20th January, 2022 and there services were regulated under the Rules and Regulations of PAITHOM till that date (i.e. 20.01.2022).

(b-ii) That the facts narrated at Sub-para (b-i) above also prove that there was no adjudication for regularization of PAITHOM employees in any Court of law during the months of February and March, 2020. As such the promotion orders issued by the A.O. on 19.02.2020 and on 02.03.2020 were quite in order.

(b-iii) Inquiry Officer's observation at Para 4 under Allegation No.1 is not based on some legal provision. The Inquiry Officer should also have asked the DR as to how and why the Administrative Department framed this charge :-after around three and a half year?After getting these promotions held in abeyance vide their letter dated 22nd June, 2020? andon none actualized promotions?

(b-iv) Inquiry Officer's observations at para 5 under allegation No.1 are again misleading as any court decision doesn't automatically become applicable on the employees of Public Sector Institutions, Ministries, Divisions, Departments till its implementation by the concerned department is notified. In this case, Dar-ul-Qaza, Swat gave its decision on 18th April, 2018 declaring the PAITHOM employees as civil servants with back benefits and the Supreme Court of Pakistan dismissed the Administrative Department's CPLA on 6th January, 2020. Yet the PAITHOM employees were not treated to have been regularized as Civil servants till the issuance of Administrative Department's Notification on 21st January, 2022. Whereas, the Inquiry Officer is of view that the PAITHOM employees are Civil Servants from the date of Decision of Dar-ul-Qaza i.e. 18.04.2018 or from the date on which the Departmental CPLA was dismissed by the Supreme Court of Pakistan i.e. 6th January, 2020. If the view point of Inquiry Officer is admitted, then why the PAITHOM employees were obliged to file a COC in Dar-ul-Qaza in July 2020 for getting their decision of 18.04.2018 implemented? It is, therefore, clear that there was nothing wrong with the 7 promotions of public servants of PAITHOM employees carried out by A.O. in his capacity as Incharge PAITHOM on 19.02.2020 and 02.03.2020.

(b-v) Inquiry Officer's observation at para 6 under allegation no.1 appears to have been made on distorted and self interpreted facts/rules. Here the Inquiry Officer states that



"The subject of PAITHOM Rules have been described in detail under third allegation. Here it is sufficient to record that.....:-"

The Inquiry Officer's observation at para 6(i) under allegation No.1 that "Regulations which were framed prior to devolution under Federal Ministry of Tourism, hereinafter called Ministry, were no longer applicable to employees once they were regularized as Civil servants...." The A.O., while agreeing to this view point, intends to add that PAITHOM employees were regularized as Civil servants with back benefits only on 21st January, 2022 whereas the impugned promotions were made by the A.O. on 19.02.2020 and 02.03.2020. As such this allegation after around three and a half year, that too after getting the impugned promotions held in abeyance by the Administrative Department vide their letter dated 22.06.2020, appears to have been concocted with malafide just to victimize the A.O. with the view to teach him a lesson for being straight forward.

Inquiry Officer's observation at para 6(ii) under allegation No.1 appears to have been made without knowing the background of the case. Being a Senior bureaucrat, the Inquiry Officer must be aware that the northern areas of Pakistan, including Swat valley was hit by a 7.8 magnitude earthquake in October 2005 and left behind thousands of dead bodies, injured humanity and large scale destruction of properties, infrastructure, Schools and hotels and PAITHOM was not an exception. The Federal and Provincial Governments had been trying their best to, inter alia, revive the Tourism Industry in Swat, when in 2007, the Taliban revolted and took over the control of Swat Velly occupying the buildings of Malam Jabba Resort Limited and PAITHOM Guli Bagh Swat. This control was got back by Pakistan Army as a result of an agreement concluded between Pakistan Army and Taliban Pakistan. However, in the first quarter of 2009 second battle of Swat, known as Operation Rah-e-Rast began. During this time, the Pakistan Army took over the control of PAITHOM's building, which is still in their occupation. Under these circumstances, the defunct Ministry of Tourism postponed the idea to fill in the post of Principal/Director (equal to BPS-20) and appointed the incumbent A.O. in October, 2007 as Chief Instructor (BPS-19) besides assigning him the additional responsibility to look after the Administrative and Financial matters of PAITHOM, Swat until further orders as Incharge of the Institute vide defunct Ministry of Tourism's letter No.2(31)/2007, dated 11th July, 2008 (Annexure B-1) As such the A.O. was very much competent to exercise all the powers of the Principal/Director PAITHOM under the Rules and Regulations of PAITHOM including the powers mentioned under Sub Rule

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II of Rule 12 of the Rules *ibid*. As a precedent it is submitted that when an additional secretary is notified as Additional Secretary Incharge he uses all the administrative and financial powers of Secretary of the Ministry or the provincial department.

Inquiry Officer's observations at Para 6(iii), under allegation No.1, does not appear to have been based on some logical or justified grounds. The impugned observation reads that "Service regulations under Regulation Serial No. 12(II) were never approved prior to or after devolution. Therefore, even if employees are considered as public servants in February/March, 2020 there were no service Regulations, under which they could be promoted." In my explanation to the Inquiry Officer's observation at para 6(ii) above, it has been briefly explained as to under what circumstances the Institute was kept functional by the A.O. However, the Inquiry Officer seems to have already made his mind to prove the allegation Otherwise, being a Senior Bureaucrat he must be aware that Rules making for newly established institutions is a lengthy process in normal circumstances whereas, ever since it's becoming functional in late nineteen nineties the circumstances for PAITHOM never remained normal. The Austrian Principal left the institution at its fledgling stage. Thereafter a Pakistani Mr. Omer Mir was appointed as Principal PAITHOM in 2006 who also left in 2007. There was no one to look after the day to day affairs till the appointment of incumbent A.O. to whom the Inquiry Officer, in his finding on allegation No. 3, himself can not held responsible for any delay at his part in making service rules of PAITHOM. It has been the normal practice in almost all Federal and Provincial government set ups that wherever some institution's service rules are in drafting/approval process or their framed rules are silent on some service matter, the Government rules are applied till the framing of institutions own rules. The incumbent A.O. and all other employees of PAITHOM were appointed by the defunct Federal Ministry of Tourism/A.O following Government rules. So there was nothing wrong in promoting 7 officials of PAITHOM following Government Rules.

The clarifications/explanations to the observation of the Inquiry Officer on allegation No.1 amply establish that the Inquiry Officer based his observation on the one sided feedback provided to him by the DR whereas the A.O's written reply to the charge sheet and his verbal clarifications made during the course of Inquiry were totally ignored. Hence the findings, based on the one sided story told by DR, of the Inquiry Officer under Para 7 of the Inquiry Report on Allegation No.1 are neither justified nor supported by facts of the case. As such these are

unjustified and are liable to be rejected/dropped by the competent authority on following grounds:-

- A. Para 7(i) of the inquiry report on Allegation No.1 the impugned 7 promotions were made by the A.O in his capacity as Incharge PAITHOM in February/March, 2020 whereas the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules 1989 became applicable on PAITHOM employees on 21st January, 2022 (Annexure A-I). As such, the question of the violation of Rule 5 of the Rules ibid does not arise, particularly when the Administrative Department vide their letter dated 22.06.2020 (Annexure B-II) had got the impugned promotions held in abeyance and these promotions were never actualized.
- B. Para 7(ii) of the Inquiry Report on Allegation No.1 is based on an incorrect statement. An explicit order was issued by the defunct Ministry of Tourism empowering the A.O. to look after the Administrative and Financial matters of PAITHOM as Incharge of the institute vide their letter No.2(31)/2007-PAITHOM, dated 11th July, 2008 supported by a copy of the Office Note containing approval of the Federal Secretary, Ministry of Tourism (Annexure B-I).
- C. Para 7(iii) of the Inquiry report on allegation No. 1 is incorrect as the PAITHOM employees were not Civil Servants till 20th January, 2022. They became Civil Servants only when the Administrative Department issued a notification regularizing them as civil servants with back benefits on 21st January, 2022 (Annexure A-I). Hence the finding of the Inquiry report is baseless and is liable to be rejected.

Allegation No.2

"You re-designated the post of Supervisor (BPS- 7) to House Engineer (BPS- 16) in favor of Mr. Haq Nawaz vide Office Order dated 20.06.2013 without approval of the Administrative Department."

- (a) Para 1 of the Inquiry Report under Allegation No.2 is correct being matter of record.
- (b) Para 2 of the Inquiry Report under allegation No.2 was based on selective facts of the case. Therefore, it is necessary to go through all the facts relevant to this allegation, which are given hereunder:-

(b-i) Mr. Haq Nawaz was appointed as House Engineer on a consolidated salary of Rs.15000/- per month initially for a period of one year from 01.01.2000 to 31.12.2000 as Pre-opening Team Member of PAITHOM Project vide Ministry of Culture, Sports, Tourism and Youth Affairs letter No. 2(3)/97-Vol-V, dated 21st October, 2000 (Annexure B-V);

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(b-ii) In 2004, the Ministry of Tourism, Government of Pakistan, issued a Sanction letter sanctioning therein 93 regular posts changing therein the nomenclature of the post of House Engineer (BPS- 16) to Engineer Incharge (BPS- 16). **Annexure B-III**

(b-iii) As a result of some economy measures and because of taking over the Building of PAITHOM by Pakistan Army, the post of Engineer Incharge (BPS- 16) was re-designated and downgraded as Supervisor (BPS- 07) by the defunct Ministry of Tourism vide their Memo dated 9th February, 2011 (**Annexure B-IV**)

(b-iv) Finance Department, Government of Khyber Pakhtunkhwa, inter alia, endorsed the conditional regularization of the posts of House Engineer in BPS-16, Management Secretary in BPS-16 and House Keeping Incharge in BPS-5 vide their Corrigendum No. BO-III/FD/1-22/2021-22, dated 08.07.2021 (**Annexure A-II**);

(b-v) Finance Department, Government of Khyber Pakhtunkhwa, vide their another letter No. BO-III/FD/5-14/SNEs/2021-22, dated 29.09.2021 (**Annexure A-III**) changed their earlier sanction by again conditionally abolishing/creating the above said three posts of PAITHOM with changed nomenclatures and pay Scales as under:-

- (1) House Engineer (BPS-16) to Supervisor (BPS-07)
- (2) Management Secretary (BPS- 16) to Administrative Officer (BPS- 17) and
- (3) Housekeeping Incharge (BPS- 05) to Instructor (BPS- 17).

This unique example of discrimination merits to be noted.

(b-vi) Administrative department vide its Notification No. SO(Tourism)/5-81/2020/4350-88 dated 21st January, 2022 (**Annexure A-I**), inter-alia, conditionally regularized the Services of M/s. Haq Nawaz as Supervisor (BPS- 07), Mr. Liaquat Raza as Administrative Officer (BPS- 17) and Mr. Waheed Murad as Instructor (BPS-17). Please note that post of House Engineer (BPS-16) was downgraded as Supervisor (BPS- 07), whereas the post of Management Secretary (BPS-16) was upgraded to BPS-17 with changed nomenclature of Administrative Officer and the post of Housekeeping Incharge (BPS-05) was upgraded to BPS-17 with its changed nomenclature of Instructor.

(b-vii), Administrative department vide Notification No. SO(Tourism)/5-81/2020/3284-95, dated 23rd May, 2023 (**Annexure A-IV**), has once again regularized the Services of Mr. Haq Nawaz as under:

- As Supervisor (BS-07) from 01.07.2008 to 30.06.2013,
- As House Engineer (BPS- 16) from 01.07.2013.



(b-viii) Being an aggrieved of down grading Mr. Haq Nawaz had constantly been agitating for getting his grievance settled, the A.O., in his capacity as Incharge PAITHOM, in exercise of the powers vested in him vide Sub Rule II of Rule 12 of the Rules and Regulations of PAITHOM re-designated and upgraded Mr. Haq Nawaz as Engineer Incharge (BPS- 16) on 20.06 2013 and there was no objection on this re-designation/up-gradation for long ten years both by the Audit department, and Administrative Department. Rather the Administrative Department endorsed this re-designation and up-gradation vide their letter dated 23rd May, 2023 (Annexure A-IV).

(b-ix) The Inquiry Officer did not bother to ask the DR as to why this allegation was included in the Charge Sheet, served upon the A.O. on 30.05.2023, ten years after the impugned up-gradation, particularly when the Administrative Department had itself regularized the impugned up-gradation/re-designation of Mr. Haq Nawaz on 23rd May, 2023?

(b-x) Earlier in the month of April, 2023, the undersigned/A.O was posted in PTDC Motel Saidu Sharif without mentioning the post/duties. The said Motel is generally headed by a Unit Manager equal to BPS-16 or 17. When the A.O. raised some questions about his placement in PTDC Motel Saidu Sharif vide his application, dated 25-05-2023 (Annexure B-IV), it was not responded till to date thereby closing the chapter of A.O. placement in PTDC Motel Saidu Sharif.

(b-xi) The Inquiry Officer's finding at Para 3(i) is endorsed to the extent that re-designation/up-gradation were made by the A.O. in exercise of the powers vested in him under sub-rule II of Rule 12 of the Rules & Regulations PAITHOM.

(b-xii) However, the Inquiry Officer's finding under Para 3(i), 3(ii), 3(iii) and 3(iv) are ill-conceived and frivolous and are liable to be rejected.

Allegation No. 3

"You are failed to perform your functions as assigned to you under the law/rules and did not frame / draft service rules for the employees of PAITHOM till date."

Since allegation could not be proved by the Inquiry Officer, hence no comments are required to be offered on his observation under this allegation.

GIST OF ALLEGATIONS AND REPLIES GIVEN THERETO BY A.O

1. The A.O., being a chief Instructor (BPS-19), PAITHOM, was not explicitly authorized to exercise the powers vested in Principal/Director (BPS-20) of the institute in terms of sub rule I, II, III & IV of Rule 12 of the Rules and Regulations PAITHOM.

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The defunct Ministry of Tourism vide letter No.2(31)/2007-PAITHOM, dated 11th July, 2008 (Annexure B-I) explicitly empowered the A.O. to look after the administrative and financial matters of PAITHOM by declaring him as Incharge PAITHOM. As such, the objection is baseless.

2. Since the service rule under sub rule II of Rule 12 of the Rules and Regulations of PAITHOM has not so far been framed hence the impugned promotions and up-gradation of an official should not have been carried out/made.

Service Rule making is a lengthy process and PAITHOM, ever since its establishment, remained in turmoil till date therefore, although the A.O. tried his best to frame the service rules of PAITHOM and to get them approved from the administrative department yet despite submission of draft service rules to the administrative department on 24th July, 2011 the same has not been approved till the employees of PAITHOM became civil servants on 21st January, 2022. However, to keep the organization functional the Ministry of Tourism/A.O. had been making appointments/regularizations and up-gradations etc. applying the government service rules in exercise of the powers vested in Incharge PAITHOM under sub rule II of Rule 12 of the Rules and Regulations of PAITHOM. It is further submitted that the practice of following government rules in those institutions whose rules are either silent on some particular matter(s) or their rules are not yet framed is in vogue in almost all the Federal and Provincial institutions. Therefore, applying of government service rules in case of PAITHOM employees is in order.

3. Since the case of regularization of PAITHOM employees was being adjudicated before the court of law at that time hence the seven promotions cannot be made by the A.O.

The writ petition in Dar-ul-Qaza No.546,655,507-M/2017 filed by the employees of PAITHOM was decided in favor of the petitioners on 18-04-2018 declaring the PAITHOM employees as civil servants. However, the administrative department filed a CPLA against the aforesaid decision and that CPLA was also dismissed by the Supreme Court of Pakistan on 06-01-2020 as such there was no adjudication before any court of law during the months of February and March when the A.O. made these 07 promotions hence there was nothing wrong therein.

4. Approval of the competent authority (i.e. administrative department) was not solicited to the up-gradation of Mr. Haq Nawaz.

The administrative department and Inquiry Officer did not quote any rule under which the A.O./Incharge PAITHOM was required to seek approval of the administrative department and even the administrative department and Audit department did not raise objection thereto for long ten years.

5. You did not frame the service rules for the employees of PAITHOM.

The A.O. being Incharge PAITHOM drafted the service rules in 2011 and submitted the same to the administrative department on 24th July, 2011 but the same are still laying there despite personal follow up. Due to this, the Inquiry Officer could not prove this allegation.



(27)

6. Employees of PAITHOM were civil servants and administrative department should have been consulted for 07 promotions in February, March 2020.

PAITHOM employees became civil servants on 21st January, 2022 hence there was nothing wrong in promoting the 07 employees of PAITHOM in February, March, 2020.

In view of the situation elucidated above it has become crystal clear that the three allegations against the A.O. were proved by the Inquiry Officer in collusion with DR with malafide intentions and not on merits of the case.

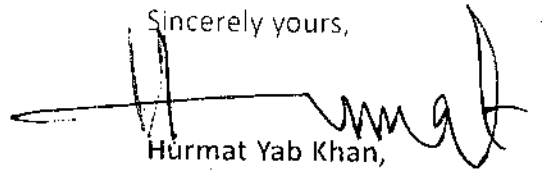
Prayers

It is humbly prayed that the A.O. may please be honorably exonerated from all the three allegations as the Inquiry Officer had not made any recommendation to punish the A.O. Moreover, the A.O. may please be allowed personal hearing with the Chief Secretary and Chief Minister, Government, of Khyber Pakhtunkhwa enabling him to brief them as to how he is victimized throughout his service in PAITHOM after devolution, just because he always tried to go by the book.

Enclsd: As above

With Best Regards;

Sincerely yours,



Hurmat Yab Khan,
Chief Instructor (BPS-19)/
Incharge PAITHOM, Swat.





28

(F)
Answer

**GOVERNMENT OF KHYBER
PAKHTUNKHWA, 11-16
CULTURE, TOURISM, ARCHAEOLOGY &
MUSEUMS DEPARTMENT**

Dated Peshawar the 6th May, 2024

ORDER:

No. SO(Tourism)5-81/2022/Vol-III WHEREAS, Mr. Hurmat Yab Khan, conditionally regularized as Chief Instructor (BS-19), vide letter No. SO(Tourism)5-81/2020/4350-88 dated 21.01.2022 of Pakistan Austrian Institute of Tourism & Hotel Management (PAITHOM), Culture & Tourism Department was proceeded under the Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011, for the alleged charges that he promoted 07 employees of PAITHOM illegally without the approval of competent authority and committed the act/omission of misconduct and negligence in the official business.

2. **AND WHEREAS**, for the said act/omission specified in rule-3(b) of the rules ibid, he was served charge sheet/statement of allegations.

3. **AND WHEREAS**, an inquiry committee comprising of Mr. Amer Latif, Inquiry Officer/ Member-1 Board of Revenue & Estate Department was constituted, who submitted the inquiry report wherein the charges were proved against the accused.

4. **AND WHEREAS**, he was provided an opportunity of personal hearing as required under Rule- 15 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 so as to fulfill the legal requirements.

5. **NOW THEREFORE**, the Competent Authority, after having considered the charges, material on record, inquiry report of the inquiry committee and explanation of the officer concerned, in exercise of the Powers under Rule-14 (5)(ii) of Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011, has been pleased to impose the minor penalty of "Withholding of increments and promotion for two years" upon the aforementioned officer.

Secretary to Govt. of Khyber Pakhtunkhwa
Culture & Tourism Department

Endst. No. & date even.

Copy of the above is forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Secretary, Establishment Department, Khyber Pakhtunkhwa.
3. Mr. Amer Latif, Inquiry Officer/ Member-1 Board of Revenue & Estate Deptt.
4. PSO to Chief Minister, Khyber Pakhtunkhwa.
5. PSO to Chief Secretary, Khyber Pakhtunkhwa.
6. District Accounts Officer, Saidu Sharif, Swat.
7. Admin Officer, PAITHOM for necessary action.
8. Officer concerned.
9. PS to Secretary Culture & Tourism Department.
10. PA to Additional Secretary, Culture & Tourism Department.
11. Master file.

M. A. Iqbal
6/5/24
Section Officer (Tourism)

J. H. Khan

29

G
Amir

The Chief Minister,
Chief Minister Secretariat (Public),
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: DEPARTMENTAL APPEAL/REVIEW PETITION BY HURMAT YAB KHAN, ACCUSED OFFICER (A.O.) AGAINST ORDER DATED 06-05-2024 UNDER RULE 17 E&D RULES FOR FAIR JUSTICE

Respected Sir,

This is with reference to the Tourism, Culture, Archaeology & Museums Department's letter No. SO(T)5-81/2020/4350-88, dated 6TH May, 2024 (received to the A.O. on the same date through whatsapp) on the subject cited above.

GROUND

1. I, Hurmat Yab Khan, Chief Instructor (BPS- 19), Pakistan Austrian Institute of Tourism and Hotel Management (PAITHOM), Swat, may hereinafter be called as Accused Officer (A.O.). Similarly, the Tourism, Culture, Archaeology & Museums Department, Government of Khyber Pakhtunkhwa hereinafter be called as Administrative Department.

2. That the impugned order appears to have been served upon the A.O. on the basis of three concocted allegations and on some finding of the Inquiry Officer whereby the view point of the A.O. was not reflected in its true perspective as is evident from the following submissions;

i. That the clarifications/explanations to the observation of the Inquiry Officer on allegation No.1 amply establish that the Inquiry Officer based his observation on the one sided feedback provided to him by the DR whereas the A.O's written reply to the charge sheet and his verbal clarifications made during the course of Inquiry were totally ignored. Hence the findings, based on the one sided story told by DR, of the Inquiry Officer under Para 7 of the Inquiry Report on Allegation No.1 are neither justified nor supported by facts of the case. As such these are unjustified and are liable to be rejected/dropped by the competent authority on following grounds:-

A. Para 7(i) of the inquiry report on Allegation No.1 the impugned 7 promotions were made by the A.O in his capacity as Incharge PAITHOM in February/March, 2020 whereas the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules 1989 became applicable on PAITHOM employees on 21st January, 2022. As such, the question of the violation of Rule 5 of the Rules ibid does not arise, particularly when the Administrative Department vide their



letter dated 22.06.2020 had got the impugned promotions held in abeyance and these promotions were never actualized.

- B. Para 7(ii) of the Inquiry Report on Allegation No.1 is based on an incorrect statement. An explicit order was issued by the defunct Ministry of Tourism empowering the A.O. to look after the Administrative and Financial matters of PAITHOM as Incharge of the institute vide their letter No.2(31)/2007-PAITHOM, dated 11th July, 2008 supported by a copy of the Office Note containing approval of the Federal Secretary, Ministry of Tourism.
- C. Para 7(iii) of the Inquiry report on allegation No. 1 is incorrect as the PAITHOM employees were not Civil Servants till 20th January, 2022. They became Civil Servants only when the Administrative Department issued a notification regularizing them as civil servants with back benefits on 21st January, 2022. Hence the finding of the Inquiry report is baseless and is liable to be rejected.

2. That allegation No.2 was based on selective facts of the case. Therefore, it is necessary to go through all the facts relevant to this allegation, which are given hereunder:-

(i) Mr. Haq Nawaz was appointed as House Engineer on a consolidated salary of Rs.15000/- per month initially for a period of one year from 01.01.2000 to 31.12.2000 as Pre-opening Team Member of PAITHOM Project vide Ministry of Culture, Sports, Tourism and Youth Affairs letter No. 2(3)/97-Vol-V, dated 21st October, 2000.

(ii) In 2004, the Ministry of Tourism, Government of Pakistan, issued a Sanction letter sanctioning therein 93 regular posts changing therein the nomenclature of the post of House Engineer (BPS- 16) to Engineer Incharge (BPS- 16).

(iii) As a result of some economy measures and because of taking over the Building of PAITHOM by Pakistan Army, the post of Engineer Incharge (BPS- 16) was re-designated and downgraded as Supervisor (BPS- 07) by the defunct Ministry of Tourism vide their Memo dated 9th February, 2011

(iv) Finance Department, Government of Khyber Pakhtunkhwa, inter alia, endorsed the conditional regularization of the posts of House Engineer in BPS-16, Management Secretary in BPS-16 and House Keeping Incharge in BPS-5 vide their Corrigendum No.BO-III/FD/1-22/2021-22, dated 08.07.2021.

(v) Finance Department, Government of Khyber Pakhtunkhwa, vide their another letter No. BO-III/FD/5-14/SNEs/2021-22, dated 29.09.2021 changed their earlier sanction by again conditionally abolishing/creating

the above said three posts of PAITHOM with changed nomenclatures and pay Scales as under:-

- (1) House Engineer (BPS-16) to Supervisor (BPS-07)
- (2) Management Secretary (BPS- 16) to Administrative Officer (BPS- 17) and
- (3) Housekeeping Incharge (BPS- 05) to Instructor (BPS- 17).

This unique example of discrimination merits to be noted.

(vi) Administrative department vide its Notification No. SO(Tourism)/5-81/2020/4350-88 dated 21st January, 2022, inter-alia, conditionally regularized the Services of M/s. Haq Nawaz as Supervisor (BPS- 07), Mr. Liaquat Raza as Administrative Officer (BPS- 17) and Mr. Waheed Murad as Instructor (BPS-17). Please note that post of House Engineer (BPS-16) was downgraded as Supervisor (BPS- 07), whereas the post of Management Secretary (BPS-16) was upgraded to BPS-17 with changed nomenclature of Administrative Officer and the post of Housekeeping Incharge (BPS-05) was upgraded to BPS-17 with its changed nomenclature of Instructor.

(vii) Administrative department vide Notification No. SO(Tourism)/5-81/2020/3284-95, dated 23rd May, 2023 has once again regularized the Services of Mr. Haq Nawaz as under:

- As Supervisor (BS-07) from 01.07.2008 to 30.06.2013,
- As House Engineer (BPS- 16) from 01.07.2013.

(viii) Being an aggrieved of down grading Mr. Haq Nawaz had constantly been agitating for getting his grievance settled, the A.O., in his capacity as Incharge PAITHOM, in exercise of the powers vested in him vide Sub Rule II of Rule 12 of the Rules and Regulations of PAITHOM re-designated and upgraded Mr. Haq Nawaz as Engineer Incharge (BPS- 16) on 20.06 2013 and there was no objection on this re-designation/up-gradation for long ten years both by the Audit department, and Administrative Department. Rather the Administrative Department endorsed this re-designation and up-gradation vide their letter dated 23rd May, 2023.

(b-ix) The Inquiry Officer did not bother to ask the DR as to why this allegation was included in the Charge Sheet, served upon the A.O. on 30.05.2023, ten years after the impugned up-gradation particularly when the Administrative Department had itself regularized the impugned up-gradation/re-designation of Mr. Haq Nawaz on 23rd May, 2023?

3. That 3rd allegation ("You are failed to perform your functions as assigned to you under the law/rules and did not frame / draft service rules for the employees of PAITHOM till date.")

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could not be proved by the Inquiry Officer, hence no comments are required to be offered on his observation under this allegation.

FACTS

1. The A.O., being a chief Instructor (BPS-19), PAITHOM, was not explicitly authorized to exercise the powers vested in Principal/Director (BPS-20) of the institute in terms of sub rule I, II, III & IV of Rule 12 of the Rules and Regulations PAITHOM. ***The defunct Ministry of Tourism vide letter No.2(31)/2007-PAITHOM, dated 11th July, 2008 (Annexure B-I) explicitly empowered the A.O. to look after the administrative and financial matters of PAITHOM by declaring him as Incharge PAITHOM. As such, the objection is baseless.***
2. Since the service rule under sub rule II of Rule 12 of the Rules and Regulations of PAITHOM has not so far been framed hence the impugned promotions and up-gradation of an official should not have been carried out/made.
3. Service Rule making is a lengthy process and PAITHOM, ever since its establishment, remained in turmoil till date therefore, although the A.O. tried his best to frame the service rules of PAITHOM and to get them approved from the administrative department yet despite submission of draft service rules to the administrative department on 24th July, 2011 the same has not been approved till the employees of PAITHOM became civil servants on 21st January, 2022. However, to keep the organization functional the Ministry of Tourism/A.O. had been making appointments/regularizations and up-gradations etc. applying the government service rules in exercise of ***the powers vested in Incharge PAITHOM under sub rule II of Rule 12 of the Rules and Regulations of PAITHOM.*** It is further submitted that the practice of following government rules in those institutions whose rules are either silent on some particular matter(s) or their rules are not yet framed is in vogue in almost all the Federal and Provincial institutions. Therefore, applying of government service rules in case of PAITHOM employees is in order.
4. Since the case of regularization of PAITHOM employees was being adjudicated before the court of law at that time hence the seven promotions cannot be made by the A.O. The writ petition in Dar-ul-Qaza No.546,655,507-M/2017 filed by the employees of PAITHOM was decided in favor of the petitioners on 18-04-2018 declaring the PAITHOM employees as civil servants. However, the administrative department filed a CPLA against the aforesaid decision and that CPLA was also dismissed by the Supreme Court of Pakistan on 06-01-2020 as such there was no adjudication before any court of law during the months of February and March when the A.O. made these 07 promotions hence there was nothing wrong therein.
5. Approval of the competent authority (i.e. administrative department) was not solicited to the up-gradation of Mr. Haq Nawaz. The administrative department and Inquiry Officer did not quote any rule under which the A.O./Incharge PAITHOM was required to seek approval of the administrative department and even the administrative department and Audit department did not raise objection thereto for long ten years.



6. The A.O. being Incharge PAITHOM drafted the service rules in 2011 and submitted the same to the administrative department on 24th July, 2011 but the same are still laying there despite personal follow up. Due to this, the Inquiry Officer could not prove this allegation.

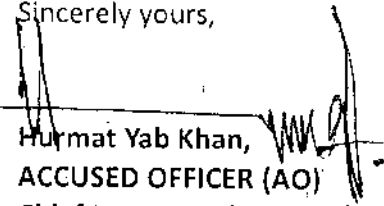
7. Employees of PAITHOM were civil servants and administrative department should have been consulted for 07 promotions in February, March 2020. PAITHOM employees became civil servants on 21st January, 2022 hence there was nothing wrong in promoting the 07 employees of PAITHOM in February, March, 2020. In view of the situation elucidated above it has become crystal clear that the three allegations against the A.O. were proved by the Inquiry Officer in collusion with DR without proper knowledge of rules time being in force thus not on merits of the case.

Prayers

It is humbly prayed that the A.O. may please be honorably exonerated from all the three allegations as the Inquiry Officer had not made any recommendation to punish the A.O. Facts and grounds clearly show that how AO is victimized throughout his service in PAITHOM after devolution, just because he always tried to go by the book. Moreover, the A.O. has come up with clean hands and has not done anything wrong under the rules ibid wherefore he was penalized unjustly. Honorable Chief Minister is humbly prayed to set aside the penalty as a notion of fair justice please.

With Best Regards;

Sincerely yours,


 Hurmat Yab Khan,
 ACCUSED OFFICER (AO)
 Chief Instructor (BPS-19)/
 Incharge PAITHOM, Swat.

Copy to;

1. The Secretary to the Government of Khyber Pakhtunkhwa, Tourism, Culture, Archaeology and Museums Department, 13-A, Khyber Road, Peshawar.
2. Copy for Record





M&P Express Logistics (Pvt) Ltd. (Sales Tax Invoices)

34



Shipment Information		Client Information		Price Information	
Tracking/CN#: 391000357407		To: M. A. KHAN		Pieces:	1
Ref No:		Address: CHIEF MINISTER KHYBER		Charged Weight:	0.5
Service: overnight		PAKHTONKHTA CM HOUSE PESHAWAR		Dimension:	0 x 0 x 0
Origin: MINGORA		Contact: 0919211705		Val. Declared:	
Dest: PESHAWAR		From: HURMAT YAB KHAN		Insurance:	
Booking Date: 21-May-2024 14:14		Address: SHAGAI SWAT		Amount:	29.50
User: Sajjad.Ali_Rse@mulphilog.com		Contact: 03004581004		Discount:	N/A
KNTN: 0860540-8 Booking Code: 23584		CNIC/NTN:		KPST: @15%	4.50
Signature:		Supplementary:		Net Amount (Rs.):	25.00
		Special Instructions:		Description: On Shipper Risk	
				Package Contents:	

Note: Please refer to our website for terms and conditions

[Handwritten Signature]

UAN: 111-202-212 www.mulphilog.com



M&P Express Logistics (Pvt) Ltd. (Sales Tax Invoices)



Shipment Information		Client Information		Price Information	
Tracking/CN#: 391000357408		To: THE SECRETARY		Pieces:	1
Ref No:		Address: PESHAWAR		Charged Weight:	0.5
Service: overnight		Contact: 0		Dimension:	0 x 0 x 0
Origin: MINGORA		From: HURMAT YAB KHAN		Val. Declared:	
Dest: PESHAWAR		Address: SHAGAI SWAT		Insurance:	
Booking Date: 21-May-2024 14:16		Contact: 03004581004		Amount:	29.50
User: Sajjad.Ali_Rse@mulphilog.com		CNIC/NTN:		Discount:	N/A
KNTN: 0860540-8 Booking Code: 23584		Supplementary:		KPST: @15%	4.50
Signature:		Special Instructions:		Net Amount (Rs.):	25.00
				Description: On Shipper Risk	
				Package Contents:	

Note: Please refer to our website for terms and conditions

[Handwritten Signature]

UAN: 111-202-212 www.mulphilog.com

No.3 (6)2010 ADMIN
GOVERNMENT OF PAKISTAN
MINISTRY OF TOURISM
TOURISM DIVISION

Islamabad, the 31st March, 2011.

NOTIFICATION

On reorganization of Federal Secretariat in pursuance of Constitution (Eighteenth Amendment) Act, 2010 (Act No. X of 2010) the following Organization (alongwith employees) under the Ministry of Tourism is transferred to the Government of Khyber Pakhtunkhwa: -

1. Pakistan Austrian Institute of Tourism and Hotel Management (PAITHOM) temporarily located at PTDC's Tourist Information Centre, Club Annexee, Jinnah Road, Abbottabad with its building under occupation of Pakistan Army, Guli Bagh, Swat.

(SAMREEN ZAHARA)
Joint Secretary (Admin)

The Manager,
Printing Corporation Pakistan Press,
Karachi.

Copy to: -

1. The Chairman, Implementation Commission on the 18th Amendment, Islamabad.
2. The Chief Secretary, Government of The Khyber Pakhtunkhwa, Peshawar
3. The Secretary, Inter-Provincial Coordination Division, Islamabad.
4. The Secretary, Cabinet Division, Islamabad.
5. The Secretary, Establishment Division, Islamabad.
6. The Secretary, Finance Division, Islamabad.
7. The Secretary, Planning & Development Division, Islamabad.
8. The Addl. Secretary (Mian Muhammad Younas), Finance Division, Islamabad.
9. The AGPR Islamabad / The ACPR Sub Office Peshawar.
10. Mr. Attiq Hussain Khokhar, Director General, Management Services Wing, Establishment Division, 4th Floor, Shaheed-e-Millat Sect., Islamabad, with copy the list of employees of the Insititute.
11. The Secretary, Sports, Culture, Tourism, Archaeology, Museums & Youth Affairs Department, Government of Khyber Pakhtunkhwa, Peshawar, with copy the list of employees of the Insititute.
12. The Managing Director, PTDC, Rawalpindi.
13. Mr. Hurmat Yab Khan, Chief Instructor/Incharge, Pakistan Austrian Institute of Tourism and Hotel Management (PAITHOM), PTDC's Tourist Information Centre, Club Annexee, Jinnah Road, Abbottabad.

(SAMREEN ZAHARA)
Joint Secretary (Admin)

Handwritten initials and signature.



(36)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT**

Finance Department, Chief Secretariat, Peshawar

Finance GEP 04

Finance.gov.pk

Finance.gov.pk

No. BO-III/FD/1-22/2021-22

Dated Peshawar the 08-07-2021

CORRIGENDUM

The nomenclature/Title & DDO Code, mentioned at Pages 291- 292 of the Budget Book "Schedules of New Expenditures for 2021-22 Current, Vol-IV Part-A (Fresh) (Provincial & District)" may be read as "SW4591-Conditional Regularization of Services of PAITHOM employees Swat" instead of "PR4896-Secretary Sports Archaeology Tourism and Museums Department". The following posts are also shifted from DDO Code PR4896-Secretary Sports Archaeology Tourism and Museums to DDO Code SW4591-Conditional Regularization of Services of PAITHOM employees Swat: -

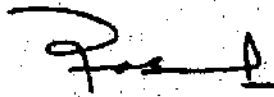
DESCRIPTION	BPS	No. of Posts
Chief Instructor	19	1
House Engineer	16	1
Management Secretary	16	1
Walter	06	7
Electrician	05	1
House Keeping Incharge	05	1
Receptionist	05	1
Room Attendant	05	2
Washer/Presser	05	3
Cook	03	3
Gardner	03	2
Helper	03	1
Office attendant	03	1
Security guard	03	2
Total		27

ADDITIONAL SECRETARY (BUDGET)

ENDST: OF EVEN NO. & DATE

Copy forwarded to the:-

1. Secretary to Government of Khyber Pakhtunkhwa, Sports, Culture and Tourism Department.
2. Accountant General Officer, Khyber Pakhtunkhwa.
3. Director General Tourist Services, Khyber Pakhtunkhwa.
4. Director FMIU, Finance Department.
5. District Accounts Officer, Swat.
6. Master File.


(MASOOD AHMAD JAN)
BUDGET OFFICER-III





(37)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT**

Finance Department Civil Secretariat Peshawar

<http://www.finance.gkp.pk>

facebook.com/GoKPFD

twitter.com/GoKPFD

No. BO-III/FD/5-14/SNEs/2021-22

Dated Peshawar the 29-09-2021

To,

The Secretary to Government of Khyber Pakhtunkhwa,
Sports, Tourism, Archaeology, Museums and Youth Affairs Department,
Khyber Pakhtunkhwa, Peshawar.

Subject: - **CONDITIONAL REGULARIZATION OF THE SERVICES OF PAITHOM EMPLOYEES IN COMPLIANCE WITH JUDGMENT DATED 18-04-2018 OF THE PESHAWAR HIGH COURT, MINGORA BENCH SWAT IN WP NO.546-M/2017 AND OTHER 15-12-2020 WP NO. 250 M/2018 SUBJECT TO FINAL DECISION OF THE SUPREME COURT OF PAKISTAN IN CPLAS FILED BY TOURISM DEPARTMENT, KP**

Dear Sir,

I am directed to refer to your letter No.SO(Tourist)5-8/2020-21/PAITHOM/2917-18 dated 10-09-2021 on the subject noted above and to state Finance Department agrees to accord sanction to the creation of posts under DDO Code SW-4591 Conditional Regularization of the Services Of PAITHOM Employees District Swat, as approved in the SNE Committee meeting held on 15-09-2021, with immediate effect, as per following breakup, subject to the condition that (03) posts i.e. Management Secretary (BPS-16), House Engineer (BPS-16), and House Keeping Incharge (BPS-05) will stand abolished in lieu of the newly created posts and subject to observance of all codal formalities by the Administrative Department:-

SW-4591 Conditional Regularization of the Services Of PAITHOM employees District Swat				
S.No.	Designation	BPS	No. of Post	Position Codes
1.	Administrative Officer	(BPS-17)	01	81119340
2.	Instructor	(BPS-17)	01	81119338
3.	Supervisor	(BPS-07)	01	81119339
Total Posts:-			03	

2.

The expenditure involved is debitable to the function-cum-object-classification "08-Recreational, Culture and Religion, 081-Recreational and Sporting Services, 081120-Others, DDO Code **SW-4591 Conditional Regularization of the Services Of PAITHOM employees District Swat**, and will be met within the sanctioned Budget Grant during financial year 2021-22.

3.

Audit copy may be prepared and sent to this Department for authentication.

Yours faithfully

(MASOOD AHMAD JAN)
BUDGET OFFICER-III

Endst: No and Date Even:

Copy forwarded to the:-

1. Director General Tourist Services Khyber Pakhtunkhwa.
2. Director FMIU, Finance Department.
3. District Accounts Officer, Swat
4. Assistant Director-VI, FMIU Finance Department.
5. Master File.

BUDGET OFFICER-III

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PAKISTAN AUSTRIAN INSTITUTE OF TOURISM AND HOTEL MANAGEMENT
CLUB ANNEXE JINNAH ROAD ABBOTTABAD
PHONE: 0992-543989 FAX: 0992-336533

Ref No: 2(2)/PAITHOM/NAVTEC

5th November, 2011

OFFICE ORDER


To,

✓ Mr. Waheed Murad
Chargulli, Mardan.

Subject: **APPOINTMENT AS INSTRUCTOR (VISITING FACULTY) FOR
NAVTEC COURSES AT DISTRICT, SWAT**

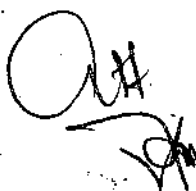
Refer to your application on the subject cited above and recommendation of the Secretary Tourism intimated through focal person letter No.STC/FOCAL PERSON/PAITHOM/ dated 31-10-2011, initially for a fixed period of six months on a competitive salary of Rs:14,466/ per month.

2. You will be responsible to take two classes of Front Office and Housekeeping three days a week. You will not be entitled to any benefit usually available to other government employees. You are advised to report on duty at Swat w.e.f 01-12-2011. If the above terms and conditions are acceptable to you please intimate your written acceptance to the undersigned within a period of 7-days from the issue date of this letter.


(Hurmat Yab Khan),
Incharge PAITHOM
Local Coordinator, NAVTEC

Cc:

1. PS to Regional Director, NAVTEC, Peshawar.
2. Focal Person, PAITHOM, Tourism Department.
3. Personal file.
4. Master file NAVTEC



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**PAKISTAN AUSTRIAN INSTITUTE OF
TOURISM AND HOTEL MANAGEMENT**
Camp Office: PTDC MOTEL SAIDUSHARIF SWAT
FAX: 0946-700618



Ref No. 3(1)/2011/PAITHOM-ADMN


Dated: 27/07/2012

To, ✓
Mr. Waheed Murad,
Village & P.O Chargulli,
District Mardan
Ph:0937-800588 Cell#0345-9372538

Subject: FIXED PERIOD APPOINTMENT ON CONTRACT BASIS

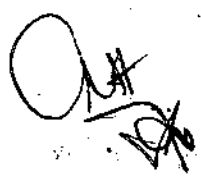
I am directed to convey the approval of the competent authority for your appointment for a period of six months (renewable on mutual consent) against the post of Housekeeper Incharge in PAITHOM on standard terms and conditions of contract appointment on a monthly consolidated salary of 15,000/- per month.

2. If you agree with this offer of appointment as mentioned in the para above then a written consent in black & white to the undersigned
3. This issues with the approval of the competent authority.


(Lisqat Raza)
Management Secretary

Copy to:

1. Incharge PAITHOM Swat
2. Focal Person PAITHOM, Tourism Department, Peshawar
3. Master File
4. Personal File





**PAKISTAN AUSTRIAN INSTITUTE OF
TOURISM AND HOTEL MANAGEMENT**
Camp Office PAITHOM, DTS Building, Shagar, Saidu Sharif,
SWAT



PAITHOM
Gateway to Excellence

Ref.No.3(1)/2011/PAITHOM-ADMN/Vol-IV

Dated 02/01/2024

40

OFFICE ORDER

1. Mr. Akbar Ali, Waiter
2. Mr. Alisha, Waiter
3. Mr. Israr Ali, Waiter
4. Mr. Nasarullah Khan, Electrician
5. Mr. Mian Sher Ali, Washer/Presser
6. Mr. Tahir Khan, Room Attendant
7. Mr. Akbar Khan, Cook

Subject: WITHDRAWAL OF PROMOTION ORDER

In compliance to the departments letter No. SO(T)5-81/2022/Vol-III/5545-47 dated 29-12-2023 which is self explanatory wherein the undersigned is directed to withdraw the office order No. 3(1)/2011/PAITHOM-ADMN/Vol-IV dated 19-02-2020 & 02-03-2020. (Copy attached)

Therefore, the above mentioned office orders, issued by the undersigned, are hereby withdrawn and declared as null and void. The seven employees who were promoted vide above mentioned office orders shall be considered as not promoted and are restored to their original pay scales whereon they were regularized.

ENCLSD;AS ABOVE

(Hurmat Yab Khan)

Chief Instructor/Incharge PAITHOM

Cc to:

1. Section Officer (Tourism), Tourism Department, Govt. of Khyber Pakhtunkhwa
- Office Copy



GOVERNMENT OF KHYBER PAKHTUNKHWA,
CULTURE, TOURISM, ARCHAEOLOGY & MUSEUMS
DEPARTMENT.

13-A, KHYBER ROAD, PESHAWAR CANTT:

No. 50 (T)5-81/2022/Vol-III
Dated Peshawar the 29th December, 2023

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To

The In-charge PAITHOM,
Pakistan Austrian Institute of Tourism & Hotel Management (PAITHOM).
Saidu Sharif Swat.


Subject: APPROVAL OF PROMOTION

Kindly refer to the subject noted above and state that the in-Charge PAITHOM carried out the promotions of seven employees in contravention of the rules and regulations of the Provincial Government vide office order No. 3(1)/2011/Paithom-Admn/Vol-IV dated 19.02.2020 & dated 02.03.2020. When the same came into the knowledge of the department through Writ Petitions and civil Appeals filed by other employees for similar treatment, the subject promotion orders were held in abeyance vide this department letter No. SO(T)5-81/2016 dated 22.06.2020 and a fact-finding inquiry was conducted against him for illegal exercise of powers. The inquiry officers established substantial facts in the preliminary and the subject fact-finding inquiry was followed by a full-fledged inquiry. The inquiry officers proved the following facts against the in-charge PAITHOM in their proceedings vide letter No. PS to MBR-1/Inq/Tourism/15971-76 dated 06.07.2023

- I. Promotion of (07) civil servants employees of PAITHOM vide office order without prior approval of the department which resulted in a violation of Rule 05 of the Khyber Pakhtunkhwa Civil Servants (Appointment, promotion, and transfer.) Rules 1989.
- II. Exercising of powers of the Principal/Director without explicit orders by the Department to this effect.
- III. Application of incorrect and unapproved service regulations in the promotion process of employees who were civil servants.

2. Keeping in view the position explained above this department hereby withdraws the order of held in abeyance vide letter No. SO(T)5-81/2016 dated 22.06.2020 and declares the promotion orders of the employees of PAITHOM as null and void.

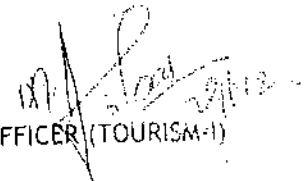
3. You are hereby directed to immediately withdraw the subject promotion orders of the seven employees which were conducted by you vide office order No. 3(1)/2011/Paithom-Admn/Vol-IV dated 19.02.2020 & dated 02.03.2020 and restore the subject employees to their original pay scales under intimation to this department, please.


SECTION OFFICER (TOURISM-I)

Encl: As Above.

Copy forwarded for information to:

1. PS to Secretary Culture & Tourism Department, Khyber Pakhtunkhwa.
2. PA to Additional Secretary, Culture & Tourism Department.
3. Master file.


SECTION OFFICER (TOURISM-I)

(42)

No. 2(25)/2002-Plng (Pt-III)
Government of Pakistan
Ministry of Tourism

9th Floor, Green Trust Tower, Blue Area,
Islamabad, the 9th February, 2011

→ Mr. Hurmat Yab Khan,
Chief Instructor/Incharge,
Pakistan Austrian Institute of Tourism
& Hotel Management (PAITHOM),
C/o PTDC Tourist Facilitation Centre,
Club Annexe, Jinnah Road,
Abbottabad Fax # 0992-336533

Subject: MINUTES OF THE MEETING HELD ON 13.01.2011

Dear Sir,

I am directed to refer to your letter No.2(1)/2009-PAITHOM-Admn dated 29th January, 2011 on the above cited subject.

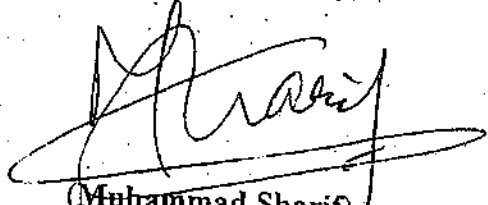
2. The services of the following employees, working on Contract Basis in the Pakistan Austrian Institute of Tourism and Hotel Management (PAITHOM), Guli Bagh, Swat are hereby regularized with effect from 1st July, 2008 in accordance with the Establishment Division's O.M. No.10(30)/2008-R-II, dated 29th August, 2008 and as approved by the Board of Governors of PAITHOM, Guli Bagh, Swat in its meeting held in Abbottabad on 7th June, 2010 and in compliance with the decisions taken in the subject meeting:

- | S# | Name of the Employees & Designation |
|-----|---|
| 1. | Mr. Ali Shah, Waiter (BPS-6) |
| 2. | Mr. Nisar-ul-Haq, Waiter (BPS-6) |
| 3. | Mr. Akbar Ali, Waiter (BPS-6) |
| 4. | Mr. Akbar Hussain, Waiter (BPS-6) |
| 5. | Mr. Abid Shah, Waiter (BPS-6) |
| 6. | Mr. Adil Shah, Waiter (BPS-6) |
| 7. | Mr. Israr Ali, Waiter (BPS-6) |
| 8. | Mr. Haider Ali, Receptionist (BPS-5) |
| 9. | Mr. Javed Iqbal, Receptionist (BPS-5) |
| 10. | Mr. Akbar Khan, Cook (BPS-5) |
| 11. | Mr. Mumtaz Ali, Cook (BPS-5) |
| 12. | Mr. Murad Ali, Cook (BPS-5) |
| 13. | Mr. Asghar Shah, Room Attendant (BPS-5) |
| 14. | Mr. Tahir Khan, Room Attendant (BPS-5) |
| 15. | Qari Nasrullah, Electrician/Plumber (BPS-5) |
| 16. | Mian Sher Ali, Washer/Presser (BPS-5) |
| 17. | Mr. Arshad, Washer/Presser (BPS-5) |
| 18. | Mr. Mehboob-ur-Rehman, Washer/Presser (BPS-5) |
| 19. | Mr. Ghafoor-ur-Rehman, Helper (BPS-1) |
| 20. | Mr. Abdul Khaliq, Office Attendant (BPS-1) |

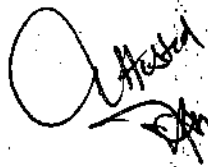
Contd.....




3. With the regularization of the above employees their pay and allowances stand re-fixed in Basic Pay Scale as per attached proforma.
4. Moreover, Mr. Haq Nawaz, Maintenance Supervisor, has also been regularized as Supervisor BPS-7 and his pay has also been fixed in the attached proforma with effect from 01.07.2008. Over payment of Rs.238,622/- to Mr. Haq Nawaz will be adjusted against his future increment.
5. Incharge, PAITHOM is requested to issue necessary orders accordingly and to make payments of arrears to each employee as calculated in the attached proforma.
6. The existing wages of 07 Daily Wagers are hereby increased to Rs.7000/- each per month with effect from 1st July, 2010. They may also be paid arrears with effect from 1st July, 2010.
7. The proposal for hiring of building for PAITHOM has been deferred by the competent authority as the final outcome of devolution is still awaited.
8. This issues with the approval of the competent authority.

Yours truly,



(Muhammad Sharif)
Public Relations Officer
Tel: 051-9204550
Fax: 051-9217488



قیمت 50 روپے	48443	پشاور بار ایسوسی ایشن، خیبر پختونخواہ
ایڈویکیٹ:	حزانہ اسرار علی اسرار	  
بار کونسل ایسوسی ایشن نمبر:	bc-10-7589	
رابطہ نمبر:	0333-9121157	

بعدالت جناب: ایڈووکیٹ اسرار علی اسرار

منجانب:	Appellant	دعویٰ:
	Hurmat yabo	علت نمبر:
	بنیام	مورخہ:
	Govt. of K. P. and others	جرم:
		تھانہ:

باعت تحریر آئیکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واضح پیروی و جواب دہی کارروائی متعلقہ
 آن مقام سرحدی ججز ہائی کورٹ حزانہ اسرار علی اسرار کے اقرار پر

کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کر لے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سندر ہے

الرقوم: 109/2024

Acceptd

مقام کے لئے منظور ہے۔