


FORM OF ORDER SHEET

Court of _____

Appeal No. 1833 /2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1-	08/10/2024	<p>The appeal of Mr. Abdullah Jan presented today by Mr. Noor Muhammad Khattak Advocate, It is fixed for preliminary hearing before Single Bench at Peshawar on 14.10.2024. Parcha Peshi given to counsel for the appellent.</p> <p>By. order of the Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPEAL NO. 1833 /2024

Abdullah Jan VS GOVT OF KPK & OTHERS:

APPLICATION FOR FIXATION OF THE ABOVE TITLED CASE AT
PRINCIPAL SEAT, PESHAWAR.

Respectfully Sheweth:

1. That the above mentioned case is pending adjudication before this Hon'ble Tribunal in which no date has been fixed so far.
2. That according to Rule 5 of the Khyber Pakhtunkhwa Service Tribunal Rules 1974, a Tribunal may hold its sittings at any place in Khyber Pakhtunkhwa which would be convenient to the parties whose matters are to be heard.
3. That it is worth mentioning that the offices of all the respondents concerned are at Peshawar and Peshawar is also convenient to the appellant/applicant meaning thereby that Principal Seat would be convenient to the parties concerned.
4. That any other ground will be raised at the time of arguments with the permission of this Hon'ble court.

It is therefore prayed that on acceptance of this application the case may please be fixed at principal seat Peshawar for the Convenience of parties and best interest of justice.

Applicant

Dated: - 30 / 9 /2024

Through

NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

SERVICE APPEAL No. 1833 / 2024

MR. ABDULLAH JAN

V/S

EDU: DEPTT:

INDEX

S. NO.	DOCUMENTS	ANNEX	PAGE
1.	Memo of appeal with affidavit	.....	1-4
2.	Application for interim relief with affidavit		5
3.	Copy of FIR	A	6-7
4.	Copy of impugned notification dated 09/09/2008	B	8
5.	Copy of judgment dated 09/02/2010	C	9-16
6.	Copy of order dated 05/07/2011	D	17
7.	Copy of GIT Report is attached	E	18-24
8.	Copy of judgment dated 14/07/2012	F	25-29
9.	Copy of judgment	G	30-48
10.	Copy of pension papers	H	49-64
11.	Copy of departmental appeal	I	65-67
12.	Vakalat Nama	.....	68

APPELLANT

THROUGH:

NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL No. 1833 -P/2024

Mr. Abdullah Jan, Ex-Senior Clerk (BPS-14)
GHS Ghazi Qilla, FR Bannu

..... APPELLANT

VERSUS

- 1) The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 2) The Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 3) The District Education Officer (M) Bannu.

..... RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 09/09/2008, WHEREBY MAJOR PENALTY OF RECOVERY OF LOSS TO THE GOVERNMENT EXCHEQUER AMOUNTING TO RS. 24,38,031/- HAS BEEN IMPOSED UPON THE APPELLANT AND NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STIPULATED PERIOD OF 90 DAYS.

Prayer:-

That on acceptance of the instant service appeal, impugned order dated 09/09/2008 may kindly be set aside to the extent of recovery of loss to the Government exchequer amounting to Rs. 24,38,031/- and the respondents may further be directed to reimburse the amount recovered from appellant. Any other remedy which this august Tribunal deem fit may also be awarded in favour of the appellant.

R/SHEWETH:

Brief facts giving rise to the present appeal are as under:-

ON FACTS:

1. That the appellant while posted as Senior Clerk (BPS-14) GHS Ghazi Qilla F.R Bannu was charged in FIR No 3 dated 17/03/2007 u/s 419/420/468/471 PPC/5 (2) PC Act of P.S ACE Bann. Copy of FIR is attached as annexure.....**A**
2. That beside the said FIR, departmental proceedings were also initiated against the appellant, whereafter major penalties of (1) Compulsory retirement & (2) recovery of loss to the Govt: exchequer amounting Rs. 24,38,031/- were imposed upon the appellant vide impugned notification dated 09/09/2008. Copy of impugned notification dated 09/09/2008 is attached as annexure.....**B**
3. That feeling aggrieved, the appellant filed Service Appeal No 562/2009 before the Khyber Pakhtunkhwa Service Tribunal, which was dismissed vide judgment dated 09/02/2010 before conclusion of the criminal trial against the appellant upon the same allegations, which was initiated in the Anti-Corruption Court. Copy of judgment dated 09/02/2010 is attached as annexure.....**C**
4. That the ibid judgment was challenged before Apex Court of Pakistan vide C.P No 212-P/2010, which was dismissed vide order dated 05/07/2011 being time barred. Copy of order dated 05/07/2011 is attached as annexure.....**D**
5. That it is pertinent to mention here that upon recommendation of the Governor Khyber Pakhtunkhwa an inquiry regarding the allegations against the appellant was conducted by Governor's Inspection Team, whereby it was recommended that the complaint against the appellant has no locus standi and therefore, unfounded and may be filed. Copy of GIT Report is attached as annexure.....**E**
6. That it is also worth mentioning here that the appellant was also acquitted from the charges levelled against him by competent court of law i.e. Additional Special Judge Anti-

Corruption Southern Region Headquarter at Bannu. Copy of judgment dated 14/07/2012 is attached as annexure.....F

7. That the complainant/Pakistan Traders (in the aforementioned FIR) filed a Civil Suit against the appellant for recovery of the above mentioned amount before the Senior Civil Judge, Peshawar which was decreed against the Department and not against the appellant vide judgment dated 24/01/2024. Copy of judgment is attached as annexure.....G
8. That it is worth mentioning here that before conclusion of the aforementioned Civil Suit, the appellant reached to the age of superannuation, however, the respondent department started recoveries from the pension of the appellant. Copy of pension papers are attached as annexure.....H
9. That the appellant feeling aggrieved from the impugned order to the extent of recoveries of Rs. 24,38,031/-, filed departmental appeal/representation before the appellate authority, but the same has not been responded till date. Copy of departmental appeal is attached as annexure.....I
10. That the appellant having no other officious remedy, hence file the instant Service Appeal inter alia on the following grounds:-

Grounds:

- A. That the impugned order to the extent of recoveries of Rs. 24,38,031/ is against the law, facts, norms of natural justice and materials on record, hence not tenable.
- B. That under Article 38(e) of the Constitution of Pakistan 1973 state is bound to reduce disparity in the income and earning of the individuals including persons in the various service of Pakistan.
- C. That the action of the department is illegal, unlawful and against the basic fundamental rights of the appellant.
- D. That the appellant has been acquitted from the charges by the competent trial court of law and also the recovery suit

-4-

against the appellant has been dismissed by the learned civil court, in the circumstances the impugned order to the extent of recoveries of Rs. 24,38,031/- is illegal.

- E. That the action and inaction of the respondents are based on malafide and arbitrary intentions, hence not tenable and liable to be set aside.
- F. That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal may kindly be accepted as prayed for.

Dated:- 30/09/2024

عبدالله جان
APPELLANT

THROUGH:

NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

UMAR FAROOQ MOHMAND

WALEED ADNAN

KHANZAD GUL

ADVOCATES HIGH COURT

CERTIFICATE:

No such like appeal is pending or filed between the parties on the subject matter before this Honorable Tribunal.

Advocate

AFFIDAVIT

I, Mr. Abdullah Jan, Ex-Senior Clerk (BPS-14) GHS Ghazi Qilla, FR Bannu, do hereby solemnly affirm and declare on oath that the contents of this **Service Appeal** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

عبدالله جان
DEPONENT

-5-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

SERVICE APPEAL No _____ / 2024

MR. ABDULLAH JAN

V/S

EDU: DEPTT:

APPLICATION FOR RESTRAINING THE RESPONDENTS
FROM MAKING FURTHER RECOVERIES FROM THE
PENSION OF THE APPELLANT, TILL THE DISPOSAL OF
THE SERVICE APPEAL.

R/SHEWETH:

- 1- That the above-mentioned appeal along with this application has been filed before this august service Tribunal in which no date has been fixed so far.
- 2- That appellant filed the above-mentioned service appeal against the impugned order dated 09/09/2008, whereby major penalty of recovery of loss to the government exchequer amounting to rs. 24,38,031/- has been imposed upon the appellant.
- 3- That all the three ingredients necessary for the stay is in favor of the appellant.
- 4- That the impugned action of the respondents in utter disregard of law and prevailing Rules on the subject.

It is therefore, most humbly prayed that on acceptance of this application, the respondents may kindly be restrained from making further recoveries from the pension of the appellant, till the disposal of the instant service appeal.

Dated:- 30 /09/2024


APPELLANT

THROUGH:


NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

AFFIDAVIT

I, Mr. Abdullah Jan, Ex-Senior Clerk (BPS-14) GHS Ghazi Qilla, FR Bannu, do hereby solemnly affirm and declare on oath that the contents of this **application** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.


DEPONENT

Handwritten notes in Persian script, likely a list or report, covering the top half of the page.

7	...	...
6	...	...
5	...	...
4	...	...
3	...	...
2	...	...
1	...	...

Handwritten notes and stamps at the bottom of the page, including a circular stamp with the number 36 and various signatures.

Handwritten text in a cursive script, possibly Arabic or Persian, located at the top of the page.

Handwritten text or a small signature, positioned between two horizontal lines.

Handwritten text or a small signature, positioned between two horizontal lines.

Handwritten text or a signature, located in the lower right quadrant of the page.

Handwritten text in a cursive script, located in the lower middle section of the page.

Handwritten text or a signature, located at the bottom center of the page.

"B" -8-

GOVERNMENT OF N.W.F.P.
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the 09-09-2008.

NOTIFICATION.

NO.SO(S)4-17/2007/ Said Muhammad WHEREAS Mr. Abdullah Jan, Ex-Accountant o/o, Agency Education Officer, FR Bannu/Lakki (now Senior Clerk (BS-14) GHS Ghazi Qila FR Bannu) was proceeded against under the NWFP, Removal from Service (Special Power) Ordinance, 2000 for the charges mentioned in the Charge Sheet and Statement of Allegations dated 14-01-2008.

2- AND WHEREAS Mr. Hukam Khan, Principal (BS-20) RITE (Male) Thana Malakand was appointed as Inquiry Officer to conduct inquiry against the accused officers/official, for the charges leveled against him in accordance with the rules.

3- AND WHEREAS the Inquiry Officer after having examined the Charges, evidence on record and explanation of the accused officer has submitted the report.

4- AND WHEREAS a show cause notice was served upon Mr. Abdullah Jan, Ex-Accountant o/o, Agency Education Officer FR Bannu/Lakki (now Senior Clerk (BS-14) GHS Ghazi Qila FR Bannu).

5- AND WHEREAS the Competent Authority (Chief Minister, NWFP), after having considered the charges, evidence on the record, inquiry report, explanation of the accused officer is of the view that the charges against the officer have been proved.


6- NOW, THEREFORE, in exercise of the powers conferred by the NWFP, Removal from Service (Special Powers) Ordinance, 2000, the Competent Authority (Chief Minister, NWFP), is pleased to impose major penalties of (i) Compulsory retirement & (ii) Recovery of loss to the Government exchequer amounting to Rs: 24,38,031/- upon Mr. Abdullah Jan, Ex-Accountant o/o, Agency Education Officer FR Bannu/Lakki (now Senior Clerk (BS-14) GHS Ghazi Qila FR Bannu).

SECRETARY.

Encls: No. SO(S) 4-17/2005.

Copy forwarded to:-

- 1- Accountant General, NWFP Peshawar.
- 2- Secretary Administration FATA Peshawar.
- 3- Special Secretary to Chief Minister, NWFP Peshawar.
- 4- The Director Elementary & SE, NWFP, Peshawar.
- 5- The Director of Education (FATA) Peshawar.
- 6- Mr. Abdullah Jan, Ex-Accountant o/o, Agency Education Officer FR Bannu/Lakki (now Senior Clerk (BS-14) GHS Ghazi Qila FR Bannu).
- 7- District Accounts Officer, D.I.Khan.
- 8- PS to Chief Secretary, NWFP, Peshawar.
- 9- PS to Secretary, E&SE Deptt: NWFP.
- 10- PA to Additional Secretary, E&SE Deptt: NWFP.
- 11- PA to Deputy Secretary (Admn), E&SE Deptt: NWFP.
- 12- Office order file.

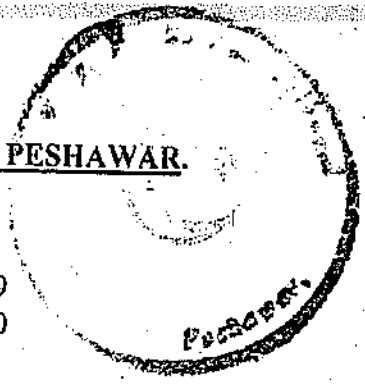

(SYED AHMAD KHAN)
SECTION OFFICER (SCHOOLS).

-9- "C"

BEFORE THE N.W.F.P. SERVICE TRIBUNAL, PESHAWAR.

APPEAL NO. 562/2009

Date of institution ... 09.02.2009
Date of decision ... 09.02.2010



Abdullah Jan, Accountant,
O/O A.E.O. F.R. Bannu/Lakki Marwat.

(Appellant)

VERSUS

1. The Provincial Government through Chief Secretary, NWFP, Peshawar.
2. The Secretary (S&E), NWFP, Peshawar.
3. The Director of Education FATA, NWFP, Peshawar. .. (Respondents)

APPEAL U/S 4 OF THE SERVICE TRIBUNALS ACT 1974 AGAINST THE ORDER DATED 9.9.2008 WHEREBY MAJOR PENALTY OF COMPULSORY RETIREMENT WAS IMPOSED ON THE APPELLANT AND AGAINST THE ORDER DATED 17.01.09 WHEREBY THE DEPARTMENTAL APPEAL HAS BEEN REJECTED.

Mr. Muhammad Asif Yousafzai,
Advocate.
Mr. Zahid Karim, A.G.P.

For appellant
For respondents

Mr. Qalandar Ali Khan,
Mr. Sultan Mehmood Khattak.

Chairman
Member

JUDGMENT

QALANDAR ALI KHAN, CHAIRMAN:- Mr. Abdullah Jan, appellant,

while posted as Accountant in the office of Agency Education Officer F.R. Bannu/Lakki Marwat, was accused of mis-appropriation and causing loss to the tune of Rs.24,26,029/- to the National Exchequer. He was served with charge sheet and statement of allegations, to which he replied in writing, and Mr. Hukam Khan, Principal, Regional Institute of Teachers Education (Male), Malakand, was appointed as Inquiry Officer by the Authority i.e. the Chief Minister NWFP. The Inquiry Officer conducted inquiry and submitted his report, wherein, he recommended the imposition of major penalty of reversion/demotion to the lower grade/pay scale on the appellant. A final show cause notice was also served on the appellant, but the Authority imposed the penalty of compulsory retirement as well as recovery of the embezzled amount vide impugned order dated 9.9.2008, hence this appeal, inter-alia, on the grounds that the inquiry proceedings were conducted

ATTESTED
 EXAMINER
 NWFP Service Tribunal
 Peshawar.

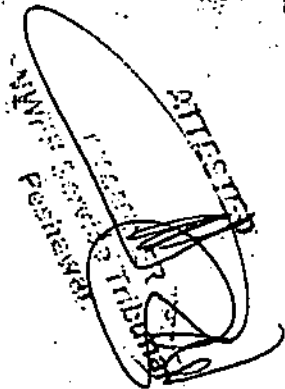
in questionnaire form in violation of the rules; that no opportunity of personal hearing and defence was afforded to the appellant; that no period has been specified for the penalty; and, that the Authority has imposed the penalty in disregard of the recommendation of the Inquiry Officer, without a fresh enhancement notice.

2. The respondents appeared in response to the notices and contested the appeal by filing their written replies, wherein, they defended the impugned action on the ground that the penalty was imposed after fulfillment of all codal formalities and proper inquiry. The respondents further contended that on the basis of allegation of embezzlement of Government money FIR has also been registered against the appellant.

3. We have heard arguments of the learned counsel for the appellant and learned AGP and have perused the record.

4. The main questions which fall for determination in this appeal are whether the appellant was involved in the alleged mis-appropriation/embezzlement of the public money, whether departmental proceedings against him were carried out in accordance with law and the prescribed procedure and whether the penalties imposed on him commensurate with the gravity of charges and are in accordance with law/rules.

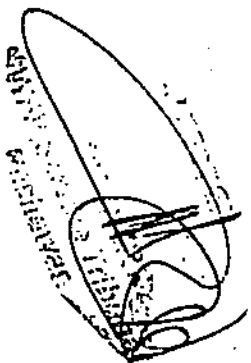
5. It is not difficult to find answer to the question of involvement of the appellant in the alleged mis-appropriation/embezzlement of the public money, as the appellant himself, in all his replies to the show cause notices and statement of allegations, admitted that as Accountant in the office of Agency Education Officer, F.R Bannu/Lakki Marwat, during the period in-question, he withdrew the amount in June 2004 and kept the same in his custody in the shape of Bank Drafts. According to him, the Bank Drafts were encashed and the amount was paid to the supplier/dealer before supply of the items, including computers, diesel-generators



-11-

and furnitures etc. He clearly admitted that the amount was not deposited in the Government treasury when the items were not supplied; and, instead, the same was paid to the supplier/dealer even before the supply could be made, allegedly, on the verbal directions of Director FATA Abdur Rauf and Assistant Director P&D Gohar Din. He, however, miserably failed to produce anything in black and white showing such directions coming from the said two officers and also could not show the law/rules obliging him to comply with verbal directions of his superiors in the performance of his official duty. He himself encashed the Bank Drafts and allegedly paid the amount to the supplier/dealer before supply of the items; but was unable to prove payment to the supplier/dealer, which led to litigation between the supplier/dealer and the Government and arrangement of payment of the amount through additional grant.

6. All the above facts, admitted by the appellant in writing, were sufficient to lead to the establishment of a case of mis-conduct against the appellant, but even then he was subjected to proper departmental proceedings under the NWFP Removal from Service (Special Powers) Ordinance, 2000 and served with charge sheet and statement of allegations by the Authority i.e. the Chief Minister NWFP, who also appointed Mr. Hukam Khan, Principal, Regional Institute of Teachers Education (Male) Malakand as Inquiry Officer. The Inquiry Officer conducted inquiry proceedings while associating the appellant with the proceedings and examining the relevant persons through questionnaire as well as recording statement of supplier/dealer i.e. M/S Pak.Traders, Mardan. After examining the entire evidence before him, the Inquiry Officer arrived at the conclusion that the appellant was the main accused in the case, who failed to produce anything in his defence, rather he confessed his guilt of being solely responsible for the alleged mis-appropriation/embezzlement of the public money; therefore, the Inquiry Officer proposed the imposition of major penalty for in-efficiency and corruption.



albeit reversion/demotion to lower grade/pay scale. The Authority, however, on the basis of its assessment of the evidence and extent of involvement of the appellant, decided to impose the penalty of compulsory retirement from service and recovery of the mis-appropriated/embezzled amount of Rs. 24,38,031/-, which was conveyed to the appellant in the final show cause notice. After reply of the appellant to the final show cause notice was found not satisfactory, the Authority imposed the proposed penalties vide the impugned order dated 9.9.2008.

7. The appellant assailed the inquiry proceedings on the ground that the Inquiry Officer adopted the procedure of enquiring on questionnaire without recording statements of the witnesses and providing opportunity to the appellant to conduct cross-examination on the witnesses. Apart from the fact that statement of the main witness, namely, supplier/dealer was recorded in the presence of the appellant and he had the opportunity of conducting cross-examination on the witness, the Inquiry Officer could adopt any procedure including restoring to the questionnaire formate for ascertaining facts for arriving at a just conclusion with regard to the guilt or otherwise of the appellant. Even otherwise, the admission/confession of guilt by the appellant in his written replies left nothing more for the Inquiry Officer to establish charges against the appellant (2003 SCMR 367 (Supreme Court of Pakistan)).

8. The appellant next questioned the imposition of the penalty of compulsory retirement and recovery of the amount in-question against the recommendations of the Inquiry Officer, who had proposed the major penalty of reversion/demotion to lower grade/pay scale. Notwithstanding the recommendations of the Inquiry Officer, it was within the competence of the Authority to decide about the quantum of punishment/penalty in the light of evidence available and the extent of involvement of the appellant under section 3 of the NWFP Removal from Service (Special Powers) Ordinance, 2000; and the Authority did exercise the powers

vested in him under the law and served the final show cause notice to that effect on the appellant containing his decision to impose the aforesaid penalties on him.

9. The last and most forceful objection of the appellant was the imposition of two major penalties of compulsory retirement from service and recovery of the amount in-question; but this objection is also ill-founded in view of the fact that the penalty of compulsory retirement, imposed on the appellant due to his misconduct/corruption, could not make good the loss caused to the public exchequer, which could only be compensated through recovery of the amount in-question. As such, the imposition of two penalties would not amount to double jeopardy; and a reference in this connection can be made to the judgments reported as 2005 SCMR 1098 (Supreme Court of Pakistan) and 2007 PLC(C.S) 171.

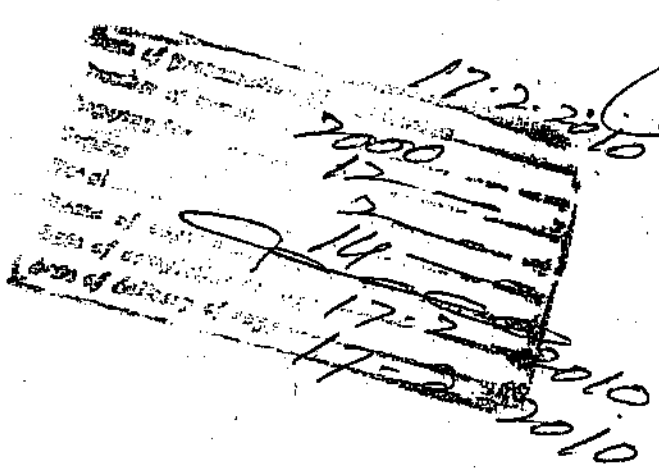
10. Besides, an appeal, on the basis of same facts of another official/co-accused in the case, namely, Muhammad Din Khan Mahsud, has been dismissed by this Tribunal vide judgment dated 01.06.2009 (Appeal No. 4/2009 titled Muhammad Din Khan Mahsud-vs-Government of NWFP and others).

11. Consequently, finding no merit in the appeal, the same is dismissed with costs.

ANNOUNCED
09.02.2010


(SULTAN MEHMOOD KHATTAK)
MEMBER


(QALANDAR ALI KHAN)
CHAIRMAN

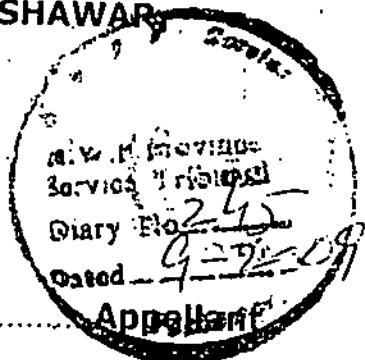




-14-

BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 562 /09.



Mr. Abdullah Jan Accountant
O/O, A.E.O,FR- Bannu/Lakki Marwat.....

VERSUS

*Impugnated
order No. 3
dated 17.1.09
S-6-2009.*

- 1- The Provincial Govt: Through Chief Secretary NWFP, Peshawar.
- 2- The Secretary of (S&E), NWFP, Peshawar.
- 3- *Director of Education FATAN, NWFP, Peshawar*
..... Respondents.

APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNALS ACT 1974 AGAINST THE ORDER DATED 9.9.08 WHEREBY MAJOR PENALTY OF COMPULSORY RETIREMENT WAS IMPOSED ON THE APPELLANT AND AGAINST THE ORDER DATED 17.1.09 WHEREBY THE DEPARTMENTAL APPEAL HAS BEEN REJECTED.

*Filed on
9/11/09*

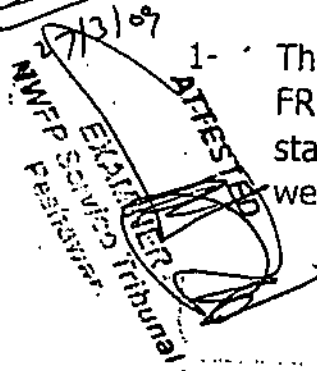
PRAYER:

That on acceptance of this appeal the impugned orders may be set aside and the appellant may be reinstated with all back benefits keeping in view the recommendations of Inquiry Officer. Any other remedy which this august Tribunal deems fit may also be awarded in favour of the appellant.

submitted to-
filed.

M. A. J.

R. SHEWETH:



1- That the appellant while working as Acctt: in the office of A.E.O FR-Bannu/Lakki Marwat was served with charge sheet, statement of allegations wherein certain monetary irregularities were alleged against the appellant. The appellant submitted

detail reply to the said allegations. Copies of Charge sheet, statement of allegations and reply are attached as Annexure – A, B, C.

- 2- That the competent authority ordered the inquiry in the matter and resultantly a regular inquiry was conducted and the inquiry officer recommended penalty of REVERSION/DEMOTION for the appellant. Copy of the inquiry Report is attached as Annexure – D.
- 3- That after the inquiry final show cause notice was issued to the appellant and to which the appellant filed detail reply proving his innocence therein. Copies of notices and reply are attached as Annexure – E & F.
- 4- That on 9.9.08 the penalty of compulsory retirement and recovery was imposed upon the appellant in disregard of the recommendations of the inquiry officer. Copy of the order is attached as Annexure – G.
- 5- That the appellant filed appeal against the said order and the same was rejected on 17.1.09. Hence the present appeal on the following grounds amongst the others. Copies of appeal and rejection order are attached as Annexure – H & I.

GROUND:

- A- That the impugned orders are against the law, facts, natural justice and materials on the records therefore not tenable and liable to be set aside.
- B- That no chance of personal hearing and personal defense was given to the appellant. Even the inquiry was conducted in questionnaire form which is also violation of the rules.
- C- That no period has been specified for the imposed penalty which is the violation of the rules itself.
- D- That the appellant has not been awarded the punishment as per recommendations of the inquiry officer and in case of such diversion from the recommendation, fresh enhancement notice is must which has not been done in the present case.

ATTESTED
BY
[Signature]
[Name]
[Designation]

- E- That the appellant can not be held guilty on the fault of the other Officials.
- F- That the appellant seeks permission to advance other grounds and proofs at the tome of hearing.

It is therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for

APPELLANT
ABDULLAH JAN

THROUGH:

M.ASIF YOUSAFZAI
ADVOCATE

NOR MOHAMMAD KHATTAK



17-2-2010

Serial of presentation	1300
Number of pleas	2
Reasons for appeal	17-2-2010
State of appeal	17-2-2010
Date of completion of work	17-2-2010
Name of officer of court	17-2-2010

"D"

[Signature] -17-

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Nasir-ul-Mulk
Mr. Justice Tariq Parvez.

CIVIL PETITION NO. 212-P OF 2010

(On appeal from the judgment/order dated
09.02.2010 passed by *NWFP Service Tribunal*,
Peshawar in Appeal No. 562 of 2010)

Abdullah Jan vs. The Provincial Govt. through
Chief Secretary-KPK, Peshawar.

For the petitioner : Haji Muhammad Zahir Shah, AOR.

Respondents : Not represented.

Date of hearing : 05.07.2011.

ORDER

NASIR-UL-MULK, J. - This petition is barred by 8 days and the only reason given in the application for condonation of the delay is the law and order situation in the area where the petitioner resides. He hails from FR-Bannu and the reason given for condonation of the delay is not acceptable because the law and order situation of the said area is not as such to prevent the petitioner to have recourse to the legal remedy. The petition is

being barred by time.



Sd/- Nasir-ul-Mulk, J.
Sd/- Tariq Parvez, J.
Certified to be true copy
[Signature]
Assistant Registrar
Supreme Court of Pakistan
Peshawar.

"E" - 18-

16-465/119/cont/2007

GOVERNOR'S INSPECTION TEAM, NWFP

Sub: 2/2/2008

INQUIRY INTO ALLEGED EMBEZZLEMENT OF RS. 2.5 MILLION IN
PURCHASE OF COMPUTERS BY AGENCY EDUCATION OFFICE,
FR BANNU

Introduction:

1. The FATA Secretariat forwarded a complaint of Chairman, Action Committee all FATA Education, submitted to the Governor NWFP for conducting inquiry into the captioned case by GIT and submission of report (Annex: A).

Ex DWO 1
2
K. J. Khan
24/12/2007

The complaint:

2. In his complaint (Annex: B), the complainant has leveled the following allegations therein that:-

1315 sheets

a. Mr. Abdullah Jan, Accountant in the Agency Education Office, FR Bannu is involved in misappropriation in the purchase of computers worth Rs.25 lacs.

b. He further stated that an inquiry in the matter is also under process with the Anti-corruption Deptt., but the Director ACE, receiving gifts/cashes on monthly bases from the accused, and therefore, no action has been taken against him so far.

ATTESTED

14/12/2007

Proceedings:

(Examiner)
Session Court Peshawar.

3. On receipt of above orders, the Chairman GIT deputed Mr. Ghulam Jilani Asst. Member (Gen) alongwith Asstt. Secretary to conduct a detailed inquiry into

Attest
30/11/07

Shahid
from Base
03-01-12
Indira 7 caric

ATTESTED

(Examiner)
Session Court Peshawar

ASSISTANT SECRETARY,
Governor's Inspection Team
Peshawar

63-69

The matter. The team requisitioned all the relevant record alongwith comments from the Directorate of Education FATA (Annex: C) and thereafter proceeded to Bannu on 12th March 2007, discussed the matter with the concerned Agency Education Officers and officials, held discussions with them, recorded their statements and collected the relevant record also for scrutiny.

4. After perusal of the collected record, once again visited AEO office Bannu and inter-alia collected the cancelled bank drafts from the office of AEO which were received to them by the National Bank after our last visit.

5. The team thereafter asked the Directorate of Education (FATA), AEO FR Bannu to direct Mr. Abdullah Jan, the accused junior clerk (accounts clerk) and M/S Pakistan Traders Mardan to appear before the team for recording their statements.

6. After protected correspondence with all concerned, the team succeeded in recording statements of Mr. Abdullah Jan, M/S Riaz and Israr of Pakistan Traders Mardan in Oct/Nov 2008 and hence this report.

223

Background of the Case:

7. A detailed background of the case is that :-

a. A scheme for the purchase of computers, generators, stationery & furniture etc for FATA was approved, which also includes FR Bannu/Lakki for which a sum of about Rs.2.5 million was allocated during the year 2003-04 as per following detail :-

S/No.	Description	Allocation	
(1)	40 Nos Computers	Rs. 10,00,000/-	Annex: D
(2)	10 Nos Computers	Rs. 2,46,890/-	Annex: E
(3)	20 Nos Computers	Rs. 4,93,780/-	Annex: F
(4)	06 Nos Diesel Generators	Rs. 5,63,400/-	Annex: G

30/10/03

ABDUL KALAM
DIRECTOR GENERAL
PESHAWAR

P-03

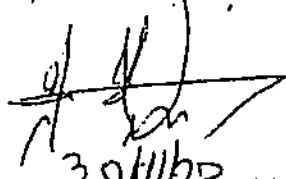
(5)	201 Nos table chairs	Rs. 1,24,419/-	Annex: H
(6)	Stationery Items	Rs. 20,193/-	Annex: J
(7)	Sports gear	Rs. 10,000/-	Annex: K
	Total ::	Rs.24,46,242/-	

c. The process of purchase was obviously carried out by the Directorate of Education (FATA) as per prevalent practice. In as much as the amount was at the disposal of Agency Education Officer, Bannu being DDO, the Director Education (FATA) advised him through the above letters (Annexed D to K) to issue supply orders to the selected/ approved firms for the items noted against each.

d. The AEO Bannu / Lakki accordingly issued supply orders inter-alia to M/S Pakistan Traders Mardan for supply of 70 computers, 6 diesel generators, 201 table chairs and some sports/stationery items (Annex: L).

224

e. The amount was drawn by AEO Bannu/Lakki on 30-6-2004 which was kept in designated account of the AEO Bannu. Later on 15-7-2004, the said amount was drafted to Pakistan Traders Mardan through National Bank Bannu (Annex: M). However, since the supply was not made by the said firm, the amount payable to them was not disbursed and the original draft was kept in custody by Mr. Abdullah Jan, accountant and some money was again deposited in designated account of AEO Bannu. The non-supply of the items in question by the Pakistan Traders till Dec 2005 was confirmed verbally to the inquiry team by Mr. Said Muhammad, AEO FR Bannu. According to him, he re-iterated the firm many times to complete the supply but no action was taken. However, they completed the supply in 2006. In this regard statement of accused Mr. Abdullah Jan Clerk was also recorded and placed at Annex: N.

Alleged

 30/11/03

ASSISTANT SECRETARY,
 Governor's Inspector Team
 Peshawar.

Pd
67

However, some of the items were supplied by the firm in 2005 which were received by the AEO office on various dates i.e. 17-2-05, 01-8-05, 23-11-2005 & 13-12-2005 (Annex: O).

g. After supply was completed by the firm, as per the record of AEO office the payments were made to the said firm on different dates and received by the representative of the dealing firm namely Muhammad Israr Khan under his signatures (Annex: P) as per following detail :-

S/No.	Date	Receipt No.	Amount
(1)	27-2-2005	8952	Rs. 10,00,000/-
(2)	27-8-2005	8910	Rs. 1,20,064/-
(3)	27-8-2005	8936	Rs. 7,90,571/-
(4)	27-8-2005	9133	Rs. 20,193/-
(5)	27-8-2005	9179	Rs. 3,773/-
(6)	27-8-2005	9215	Rs. 9,650/-
(7)	16-9-2005	8923	Rs. 4,93,780/-
		Total :-	Rs. 24,38,031/-

225

h. After receipt of the above mentioned payments by the dealer (Mr. Muhammad Israr Khan), he also received the call deposits on 22-6-2006 from the office of AEO FR Bannu (Annex: Q).

i. The GIT summoned the dealers concerned and recorded their statements, according to which they refused to receive the above mentioned payments from the accused Mr. Abdullah Jan. They further stated that copies of the payment receipt slips provided by Mr. Abdullah Jan to the team, are fake and the signature on it is not original but scanned through the computer (Annex: R).

However, according to the statement of Mr. Riaz Hussain, ex-partner of Pakistan Traders (now proprietor of Darul Fanoon Mardan), there is set procedure of Trading Companies/Firms that when a firm

[Handwritten signature]
30/11/03

ASSISTANT SECRETARY,
Governor's Inspection Dept.
Punjab.

P-05

60

complete the supply and receive all the dues from the purchaser, only then they receive/return their call deposits from the purchaser. Therefore, in his opinion the dealer (Muhammad Israr) must have received all the payments otherwise he would never received the call deposits (Annex: S).

The signature on receipt of call deposits was owned by Mr. Muhammad Israr, the recipient dealer of the firm (at Annex: R). The receipt of call deposits proves without any doubt that he has received all the money as per the receipts (at Annex: O). Otherwise the receipt of call deposits (which always is the final stage of sale proceedings) could not be understood.

Findings:

226

4. The GIT inquiry team, after thoroughly perusing record of the entire issue, interviewing the concerned officers / officials reached to the following findings :-

- a. The then AEO FR Bannu in collaboration of Mr. Abdullah Jan, accounts clerk prepared bills in the name of Pakistan Traders Mardan and got the same passed from the accounts office and the amount was cashed and deposited in designated account/in bank through drafts in the name of firms concerned. All this might have been made in good faith to avoid lapse of the funds on 30-6-2004 which is a common practice in FATA as per the first hand knowledge of the GIT. However, under the Financial Rules it is a financial irregularity which was committed by the AEO office FR Bannu.
- b. Despite the fact that it was recorded on the bill that the items in question received and taken on stock register, the supply was not made. It was made later-on in parts on various dates as enumerated above. As and when the items were received, payment for the

Handwritten signature
30/11/83

ASSISTANT SECRETARY,
Governor's Inspector Tax
Peshawar

sale was made to the representative of the firm getting his signatures as token of receipt.

On completion of supply of all the items, the payments were made to them in full, where after the said representative also received the call deposits as a last transaction of the deal as per purchase procedure of the Govt. The GIT inquiry team cannot, therefore, believe that the amount in question for the supply of items was not received by him and his signature, although, not fake but duly scanned by the accused Abdullah Jan, accounts clerk.

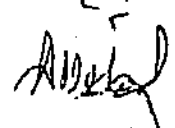

The drawal of the drafted amount back from the Bank was due to the fact that the supply was not made by the firm and if they might receive the amount in advance, the supply of items could be delayed by the firm inordinately. However, had the firm not received the due amount (cost of the articles supplied), they could never receive the call deposits. It is also one of the partners of Pakistan Traders.

Recommendations:

227

In view of the above findings, it is recommended that :-

- a. The ex and the present AEOs FR Barinu and Mr. Abdullah Jan, Accounts Clerk may be censured for their mismanagement in that they were not required to draw the money, if they had not actually received the purchased goods.
- b. They may also be warned that no fake bill (with fake certificates that the items have been received and taken on the stock register) is entertained, in future. They may also be advised that in future as and when the call deposits are returned to the dealer(s), a certificate should be received from them to the effect that the entire amount due for the supplied items has been received.



 ASSISTANT SECRETARY,
 Director's Inspector Team
 Peshawar.
 30/11/23

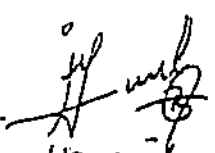
-24-

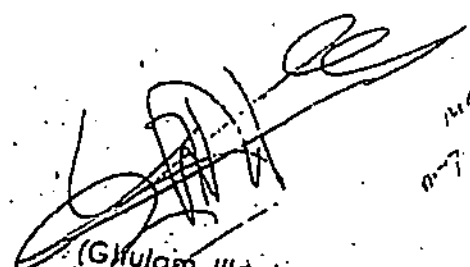
807

10

c. All the dealing firms associated with the Directorate of Education FATA (especially Pakistan Traders Mardan) may be directed to ensure timely completion of supply orders in future, so as to avoid any mis-happening otherwise the defaulting firm(s) be black-listed, if found.

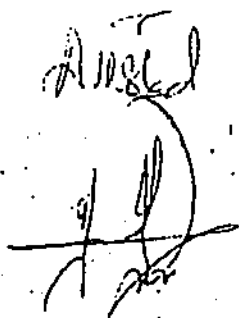
d. The complaint, according to the investigation of the team, has no locus-standi and therefore, unfounded and may be filed.

Assisted by: 
(Jan Gul)
Asstt: Secretary


(Ghulam Jilani Asif),
Member (Gen)

228

CONFIDENTIAL



30/11/23

ASSISTANT SECRETARY,
Governor's Inspector Taxes
Peshawar.

"F" -25-

IN THE COURT OF GOHAR REHMAN, ADDITIONAL SPECIAL JUDGE, ANTI-CORRUPTION, SOUTHERN REGION, HEAD QUARTER AT BANNU.

Case file No: 04/2008
Date of Institution..... 12.2.2008
Date of Decision..... 14.7.2012

State.....VS.....

Abdullah Jan s/o Sher Muhammad r/o Isak Kheh Tehsil & Distt. Lakki Marwat (Ex: Accountant Agency Education Officer FR Bannu/Lakki Marwat)

(Accused)

Case FIR No. 03 Dated 17.3.2007 U/Ss: 419/420/468/471 PPC S(2) PC Act of P.S ACE Bannu.

JUDGMENT:

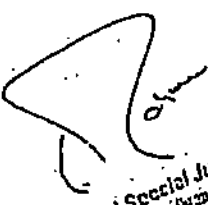
The accused named above is facing trial in the above mentioned case.

Brief facts of the case are that complainant Muhammad Younas the then AEO FR Bannu / Lakki Marwat sent a letter No. 8979 dated 01.4.2006 to the Assistant Director ACE Bannu in which it was alleged that different items valuing Rs. 24,37,531/- were purchased for school and offices of FR Bannu/Lakki Marwat and the demand drafts were drawn in the name of Pakistan Traders from whom these items were purchased. That these demand drafts were in the custody of accused Abdullah Jan but he had not paid it to the Dealer and misappropriated the same.

Upon this letter of the complainant an open inquiry was conducted and the C.O in his final report Ex:Pw7/4 recommended for registration of case against the accused and this case vide FIR Ex:Pw7/6 was registered. After completion of investigation challan has been submitted against the accused.

The accused was summoned to face the trial and he was provided copies on 28.2.2008, and was formally charged on 27.3.2008 to which the accused pleaded not guilty and claimed trial. Prosecution was directed to produce its evidence against the accused. Prosecution in support of its case has produced 08 witnesses against the accused. Brief resume of the prosecution evidence is as under:-

PW-1, is the statement of Muhammad Aslam Khan Bangish, who has conducted a departmental inquiry against the accused and after the inquiry he submitted his interim report, the copy of which is Ex:Pw1/1.


Additional Special Judge
Anti-Corruption, Southern Region
at Bannu

14/7/2012

PW-8 is the statement of Zakir Ullah DG-1, NBP main branch Bannu. Who stated that accused brought TRV No. 4866855 dated 27.8.2005 and after cancelling the same he paid Rs. 7,90,571/- to the accused. The TRV is Ex:PW8/1 and in this regard he also issued a certificate, which is Ex:PW8/2.


It is manifest to mention here that after the statement of PW-8, the remaining witnesses i.e. complainant Younas Ali and the owner namely Muhammad Israr of Pakistan Traders were repeatedly summoned and every effort was made to procure their attendance. Even Muhammad Israr was contacted through phone by the reader of this court under my directions but he has not bothered to appear before this court. Hence, the accused filed an application for his acquittal U/Sec: 249-A Cr.PC and this court through order dated 17.12.2011 disposed of the application and instead of acquitting the accused, stopped the proceedings U/Sec: 249 Cr.PC and the Prosecution was directed to produce the record along with remaining PWs on any working day. The accused filed a revision against the order dated 17.12.2011 of this court before the Peshawar High Court Peshawar Bench Bannu and the case was remanded back to this court to decide it within a period of six months through judgment dated 21.2.2012.

After the remand of case back to this court, numerous efforts were again made to procure the attendance of remaining PWs, but the Prosecution failed to produce the remaining PWs. Lastly, Muhammad Siddique Khan the C.O of Police Station ACE Bannu was examined as SW-1, to whom the warrants against the PWs were entrusted. He stated that the PWs are in knowledge of the instant case and they are deliberately avoiding their appearance before this court. The warrants issued by this court are Ex:Sw1/1 and Ex:Sw1/2 and his report on the back of warrants is Ex:Sw1/3 and Ex:Sw1/4. In the light of statement of SW-1, the learned PP had closed the Prosecution Evidence.

After the closure of Prosecution evidence, the statement of accused has been recorded u/s-342 CrPC in which he has denied the allegations leveled against him and has professed his innocence. However, he has not opted to appear as his own witness on oath or to produce any defense evidence.

I have heard the arguments and gone through the record.


The case of Prosecution is that certain items consisting of furniture and computers etc were purchased for the offices and schools of FR Bannu/Lakki Marwat from a firm namely Pakistan Traders Mardan. That the firm has completed the supply and the payments were made to the firm through Demand drafts which were issued in the name of the firm on the request of accused by the concerned bank. It is further case of Prosecution that accused


Additional Special Judge
Anti-Corruption, Peshawar
23.02.2012

instead of giving the demand drafts to the said firm, cancelled the same and misappropriated the amount.

From the scrutiny of Prosecution evidence, it has revealed to me and it is also evident from the bank record collected by the C.O from the bank which is Ex:PW7/9, that three demand drafts bearing No. 601282 amounting Rs. 7,90,571/- No: 601283 for Rs. 4,93,790/- and No. 601281 for Rs. 10,00,000/- were produced by the accused in the bank for cancellation and the amount was paid to the accused. This fact has also been admitted by the accused in his statement U/Sec: 342 Cr.PC that he has cancelled these demand drafts, but he has further stated that demand drafts were cancelled under the orders of AEO FR Bannu/Laloo Marwat and he had paid the amount to owner of the company. The accused had also produced some receipts which are Ex:PD and a certificate regarding receiving of call deposits by the owner which is Ex:DA. Hence, the receipts Ex:DA also reveal that the amount mentioned in above DDs were received by the owner of the company. The owner Muhammad Israr has denied in his statement U/Sec: 161 Cr.PC that he has received the amount from the accused but I have already stated that said Muhammad Israr has not appeared before this court, despite providing him numerous opportunities to appear before this court. Hence, in the absence of any rebuttal, this court has left with no option, but to accept the statement of accused as true. It is also in the statement of accused that owner Muhammad Israr had received the call deposits and in this regard his certificate is Ex:DA. Admittedly, the call deposits are returned to the contractor after completion of the contract, and the payment of the bill. If the payment was not made to the owner then he should not have received his call deposits.

The Prosecution has also relied upon an inquiry report conducted by PW-1. This report is an interim report and is not the final report as it is admitted by PW-1 himself. Furthermore, PW-1 has also recommended for blacklisting the name of the company because the supply was not made in time. But the complainant in his letter No. 8979 addressed to Assistant Director ACE Bannu has mentioned that supplies were made by the supplier in time. It is also in the above mentioned letter of the complainant that Govt funds have been embezzled or misappropriated by the accused. If it was the Govt Fund, then the complainant should have been vigilant to proceed against the accused, but the complainant has also not appeared against the accused during trial. This fact also shows that complainant is not interested to proceed against the accused. However, as the case may be, in my opinion if any amount has been embezzled by the accused then this amount is of Pakistan Traders because according to the complainant the supply was completed by the firm and the payment was to be made to it. So in the light of above mentioned fact, the amount was of Pakistan Traders and not the Govt amount. The owner of the Pakistan Traders has also not


Additional Special Judge
And Civil Judge, District Bannu

PW-2 is the statement of Nazar Ali Head Constable who is the marginal witness of the recovery memo Ex:PW2/1, through which the C.O has taken into possession different documents, the details of which are mentioned in the memo.


PW-3 is the statement of Muhammad Attique Khan Manager NBP Cantt. Branch Bannu, and he had produced the documents to the C.O which are mentioned in the recovery memo Ex:PW2/1.

PW-4 is the statement of Qazir Nibaz Ud Din OG-I NBP Chowk Bazar Bannu Branch. He stated that on the demand of accused Abdullah Jan he issued DD No. 432822 for Rs. 4,93,780/-, DD No. 601283 dated 15.7.2004 for Rs. 4,93,780/-, DD No. 601282 for Rs. 7,90,571/- and DD No. 601281 for Rs. 10,00,000/-. He had also issued DD No. 601278 for Rs. 1,20,064/-, DD No. 60285 for Rs. 20,193/-, DD No. 2991395 for Rs. 9650/- and DD No. 2991396 for Rs. 3773/-. In this regard also submitted a written explanation to the C.O which is Ex:PW4/1.

PW-5 is the statement of Mati Ullah AVP Manager NBP Fatima Khel Branch Bannu and he has stated that DD No. 601281 was presented by the purchaser for cancellation on 23.7.2004 and he cancelled the same in accordance with bank rules and refunded the amount to the purchaser. In this regard his certificate is Ex:PW5/1.

PW-6 is the statement of Dildar Muhammad Manager Tall Branch Distt. Hangu and he was the officer in NBP main branch Bannu during the relevant days. He had issued a F-11 7 on the request of accused Abdullah Jan and issued the demand draft after depositing the money. Later on the purchaser approached the bank for cancellation of said draft and it was paid to the purchaser.

PW-7 is the statement of Aman Ullah Khan SP.FRP D.I.Khan, who was the C.O of Police Station ACE Bannu who received the complaint and started an open inquiry. He visited the Education office of FR Bannu and collected the record which is Ex:PW7/1. He through his application Ex:PW7/2 requested for the audit and the report of auditor is Ex:PW7/3. Thereafter, he submitted his final report which is Ex:PW7/4. He obtained permission Ex:PW7/5 for registration of case and registered the case vide F.I.R Ex:PW7/6. He through his application Ex:PW7/7 approached the Distt. & Sessions Judge Bannu and requested to permit him to receive the bank record. In this regard the order of Distt. & Sessions Judge Bannu is Ex:PW7/8. He took into possession the record from bank through recovery memo already exhibited as Ex:PW2/1 and copy of record is Ex:PW7/9. He arrested the accused and sent him to the judicial lockup. He recorded the statement of bank employees U/Sec: 161 Cr.PC and the statement of accused. After completion of investigation he submitted complete Challan against the accused which is Ex:PW7/10.


Additional Special Judge
Sd/- Ghaffar Khan, District Bannu
4-11-2004

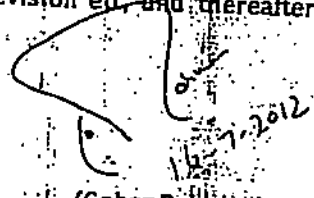
bothered to appear before this court. It is also very astonishing to note that the owner of Pakistan Traders had not made any complaint before any forum in respect of non-payment of his money and on the entire file, there is no complaint on his behalf and only a reply of questionnaire is available on the file.

The nutshell of the above discussion is that prosecution has failed to prove its case against the case beyond any reasonable shadow of doubt, therefore, the accused, namely Abdullah Jan s/o Sher Muhammad is acquitted from the charges leveled against him by extending benefit of doubt to him. He is on bail and is discharged from the liabilities of bail bonds.

Before parting with this judgment, I would like to mention here that my judgment would not affect any departmental proceedings pending against the accused and the departmental proceedings would be decided independently without affecting the mind of Inquiry Officer by this judgment.

Case property be kept intact till the expiry of period of limitation of appeal / revision etc, and thereafter be disposed off according to law.

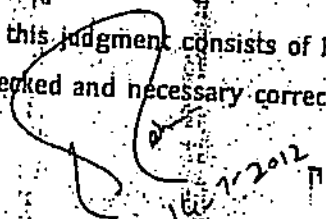
Announced
14.7.2012



(Gohar Rehman)
Special Addl. Judge Anti-Corruption for
Southern District Head Quarter Bannu.

CERTIFICATE

It is hereby certified that this judgment consists of Five pages and each page has been read and checked and necessary corrections are been made by me.



(Gohar Rehman)
Special Addl. Judge Anti-Corruption for
Southern District Head Quarter Bannu.

"9"

-30-

20

IN THE COURT OF ASMA ZAHR, CIVIL JUDGE-XVI

PESHAWAR.

Suit No. 500/1/Neem
Date of institution in this Court 03.05.2023
Date of original 27.04.2009
Date of Decision 24.01.2024

M/S Pakistan Traders, Gajju Khan Road, Mardan through:

1. Muhammad Israr Khan S/o Jamroz Khan R/o Gajju Khan Road, Mardan.
2. Muhammad Javed S/o Salah Uddin R/o Baricham, Mohallah Haiderabad, Shamsi Road, Mardan.

.....Plaintiffs

Versus

1. Secretary Administration FATA, FATA Secretariat, Warsak Road, Peshawar.
2. Government of NWFP through Additional Chief Secretary FATA, Civil Secretariat, Peshawar.
3. Director of Education, FATA NWFP Peshawar, FATA Secretariat, Warsak Road, Peshawar.
4. Agency Education Officer (Secretary FT Purchase Company), FR Bannu/Lakki at Tarezi Bezankhel near Township Kohat Road, Bannu.
5. Abdullah Jan, Ex-Accountant, Agency Education Officer, FR Bannu through Director Education FATA, Warsak Road, Peshawar.
6. Muhammad Din, Ex-Agency Education Officer, Bannu Education Officer FR Bannu through Director Education FATA, Warsak Road, Peshawar.
7. Syed Muhammad, Ex-Agency Education Officer, Bannu Education Officer FR Bannu through Director Education FATA, Warsak Road, Peshawar.
8. Project Director (IT), Directorate of Education, FATA Governor Secretariat, Peshawar.

.....Defendants

SUIT FOR RECOVERY

ATTESTED

1 MAY 2024

(Examiner)
Session Court Peshawar

27

JUDGMENT

1. Parties through counsel present.
2. The succinct facts emerging out of the plaint are that the plaintiffs' suit is regarding recovery of amount of twenty four lakhs, twenty six thousand and forty nine rupees. (Rs.24,26,049/-) along with profit from 13.12.2005 till the payment from defendants for the articles and goods supplied to the defendants as a result of awarded contract.
3. Claim of the plaintiffs so far decipherable from the contents of the plaint is that they are the owners and partners in the registered firm namely *Pakistan Traders* and deal in supply of different types of items to Government and Non-Governmental institutions/ organizations. That defendant No. 04 published tender notice in daily "*Mashriq*" dated 03.02.2004 for procuring different items. Plaintiffs participated and submitted bid. That defendant No. 4 and District Coordination Officer in the presence of all the others bidders/applicants opened the tender and the bids and approved the plaintiffs' bid. Resultantly, the plaintiffs supplied 85 computers, 06 generators, 201 chairs and other sports equipments to the defendants. That after supply of items, the plaintiffs were declared to be entitled for recovery of amount of supplied items by the inspection committee. That the plaintiffs as per instructions of the defendants submitted demand bill which was approved to the extent of supplied items after due inspection on 20.02.2006 and clearance by the Inspection Committee. Later on, the

[Handwritten signature]
29/11/2024

ATTESTED
17 MAY 2024
(Examiner)
Session Court Peshawar.

defendants returned 15 computers being not needed to them. That when defendants were contacted for payment, it was disclosed that payment has already been made to the plaintiffs. That the defendants No. 4 and 5 have managed to withdraw the amount from the designated account of defendant No. 04 through bank cheque and had drawn a bank-draft in the name of plaintiffs which was later on cancelled and the cash was received from the bank. While it was reflected that payment was made to the plaintiffs through fake, forged and bogus receipts. When the matter was brought into the notice of the high-ups, they initiated departmental proceedings against defendants No. 4 to 7. As a result of which they were found guilty. Defendant No. 5 was charged with major penalty of compulsory retirement from his service. While, defendant No. 06 was demoted to Grade-18 from Grade-19, whereas, defendant No. 07 was awarded with the punishment of deduction of one increment and defendant No. 04 was vexed with penalty of recovery of damages to the Government. Despite that the plaintiffs were not compensated by paying of due amount. That the plaintiffs asked the defendants time and again to make payment of the supplied items to them but the defendants said to them that whenever the embezzled amount is recovered from the concerned accountant (defendant No. 5), then the payment would be made, hence the present suit in hand.

28

24/11/2024

ATTESTED

17/11/2024

(Examiner)
Session Court Peshawar.

4. Defendants were summoned through process of the Court. Defendant No. 03 responded and submitted written

"M/S Pakistan Traders etc Vs Secretary Administration FATA etc"

statement by raising legal and factual objections. In para No. 07 he has categorically admitted that the alleged articles were supplied by the plaintiffs, however, payment was not made in time as they did not deliver the articles within stipulated time. The alleged departmental proceedings against defendants No. 04 to 07 have also been conceded in para No. 09 of the written statement (para-wise comments).

5. Defendant No. 05 also came up with written statement by raising legal and factual objections but he has not denied the supply of alleged articles by the plaintiffs. He mainly focused on the explanation that his CPLA was pending in the August Supreme Court of Pakistan against his conviction and also claimed reprieve under the principle of double jeopardy.

6. Defendant No. 07 vehemently contested the suit by submitting written statement, wherein he has denied the allegations of embezzlement and has taken plea that in the year 2004 he was not posted on that seat. That the Worthy Service Tribunal has acquitted him of the allegations by setting aside the order dated 09.09.2008. That the said judgment of the worthy Service Tribunal has not been impugned by the department being informed by the committee that the case is not fit for CPLA. Like defendant No. 05, the plea of double jeopardy was also taken by him.

The suit was initially ex-parte decreed in favour of the plaintiffs vide order dated 22.11.2013. However, the said ex-parte order was set aside by appellate court vide its order dated 13.11.2021 and suit was restored. Wherein-after, the instant case was adjourned sine die vide order of this court

ATTESTED

MAY 2024

(Examiner)
Session Court Peshawar.

dated 10.05.2022 due to pendency of a civil revision bearing No. 207-P/2022. Wherein-after the instant case was restored on 03.05.2023.

8. The pleadings of the parties culminated into the following issues:

1. Whether plaintiffs have got cause of action against defendants? OPP
2. Whether the instant suit is maintainable in its present form? OPD
3. Whether plaintiffs are estopped by their own act and conduct to file the instant suit against defendants? OPD
4. Whether this court has got no jurisdiction to entertain the instant suit? OPD
5. Whether the instant suit is time barred? OPD
6. Whether the instant suit is bad by misjoinder and non-joinder of necessary parties to the suit? OPD
7. Whether plaintiffs are entitled for recovery of amount Rs.24,26,049/- alongwith profit since 13.12.2005 till payment of amount by defendants? OPP
8. Whether defendant No. 4 and 5 have misappropriated the payment as alleged by plaintiffs and had not paid to plaintiffs? OPP
9. Whether defendant No. 4, 5, 7 cannot be punished twice for the same cause of action and falls within the principle of double jeopardy? OPD
10. Whether plaintiffs are entitled for decree as prayed for?
OPP
Relief

During the initial days, the defendant No. 7 was placed and proceeded ex-parte whereas defendants No. 1 to 4 and 5 were placed and proceeded ex-parte during the stage of evidence. While the remaining defendants did not bother to appear before the Court. Hence, they were also placed and proceeded ex-parte. Plaintiffs were asked to produce

ATTESTED
14/05/2024

(Examiner)
Session Court, Rawalpindi

evidence in their support, which they did accordingly.

10. During course of which plaintiffs produced and examined *Bashir Ullah*, Officer Grade 1, National Bank of *Pakistan Bannu*, as CW-1, *Khursheed Rauf* (Agency Education Officer, FR *Bannu*), as PW-1, *Daud Jan* Superintendent, Directorate of Education, FATA Secretariat, as PW-2, *Muhammad Israr Khan S/o Jamroz Khan* (plaintiff No.1), as PW-3 and *Muhammad Javaid S/o Sallah Ud Din* (plaintiff No.2), as PW-4.

11. CW-1 *Bashir Ullah*, Officer Grade 1, National Bank of *Pakistan Bannu* appeared before the Court and recorded his statement and exhibited Cheque No. 432818, as Ex: CW-1/1; Draft Voucher (consists of 10 sheets), as Ex: CW-1/2; Demand Draft No. 601283 (consists of 2 sheets), as Ex: CW-1/3; cancellation application of Demand Draft No. 601281, as Ex: CW-1/4; voucher No. 4996149, as Ex: CW-1/5; cancelled Demand Draft, as Ex: CW-1/6; Demand Draft No. 601282, as Ex: CW-1/7 and Voucher No. 4366855, as Ex: CW-1/8 which are placed on file.

PW-1 *Khursheed Rauf* (Agency Education Officer F.R. *Bannu*) appeared before the Court and recorded his statement and exhibited supply order regarding computers etc. its sanction order, as Ex: PW-1/1 and Ex: PW-1/2 respectively; diesel generators and computers sanction orders, as Ex: PW-1/3 to Ex: PW-1/5; AC Bill regarding tablet share, its sanction order and its demand bill as Ex: PW-1/6 to Ex: PW-1/8, AC Bill regarding computers etc. its sanction order, its demand bill and its supply order as Ex: PW-1/9,

ATTESTED

17 MAY 2024

(Examiner)
Session Court Peshawar.

Ex:PW-1/10, Ex:PW-1/11 and Ex:PW-1/12 respectively; AC Bill regarding sports items, its sanction order and its supply order as Ex:PW-1/13, Ex:PW-1/14 and Ex:PW-1/15 respectively; AC Bill regarding Science items, its sanction order and its demand bill as Ex:PW-1/16, Ex:PW-1/17 and Ex:PW-1/18 respectively; AC Bill regarding stationary items, its sanction order and its demand bill as Ex:PW-1/19, Ex:PW-1/20 and Ex:PW-1/21 respectively; AC Bill regarding computers, its sanction order and its demand bills as Ex:PW-1/22, Ex:PW-1/23 and Ex:PW-1/24 respectively. AC Bill regarding computers and generators, its sanction order, its demand bill (2 in Nos.) and its supply order, as Ex:PW-1/25, Ex:PW-1/26, Ex:PW-1/27, Ex:PW-1/28 and Ex:PW-1/29 respectively; stock register regarding supply of computers, as Ex:PW-1/30; stock register regarding generators, as Ex:PW-1/31; stock register regarding sports items and tablets chairs, as Ex:PW-1/32; stock register regarding stationary items, as Ex:PW-1/33; cash book register, as Ex:PW-1/34; bank statement Agency Education Officer F.R Bannu for the year 2003-04, as Ex:PW-1/35; letter dated 28.10.2011, as Ex:PW-1/X-1 and list of key responsibilities of DDO, as Ex:PW-1/X-2 which are placed on file.

PW-2 Daud Jan, Superintendent, FATA Secretariat appeared before the Court and recorded his statement and also exhibited letter No. 17077-78, as Ex:PW-2/1 and copy of notification No. SO(S)4-17/2007 dated 09.09.2008, as Ex:PW-2/2 which are placed on file.

PW-03 Muhammad Israr Khan s/o Jamroz Khan (plaintiff

29/11/2023

28

ATTESTED
14 MAY 2024
(Examiner)
Session Court Peshawar.

No.1) appeared before the Court and recorded his statement to this effect and also exhibited partnership deed as Ex:PW-3/1; Registration Form, as Ex:PW-3/2 & Ex:PW-3/3 and N.T.N certificate, as Ex:PW-3/4; CNIC, as Ex:PW-3/X-1; copy of newspaper cutting, as annexure-A; copy of FIR No. 3, as annexure-A/X-1; copy of order of High Court dated 02.07.2007, as annexure-B/X-2; copies of demand bills, as annexure-B; copies of receipt, as annexure-C1 to annexure-C4; copy of notification, as annexure-D; copy of letter No. 4952-53 dated 06.05.2006, as annexure-E and agreement deed between the plaintiffs, as annexure-F. which are placed on file.

[Handwritten signature]
24/11/2024

PW-04 Muhammad Javaid s/o Sallah Ud Din (plaintiff No.2) recorded his statement and stated that he relies on the statement of PW-03.

12. After setting aside *the* ex-parte proceedings, all these witnesses have been subjected to lengthy cross-examination from defendants' side i.e. by defendant No. 05 on all the PWs except CW-1 and PW-2. Defendants No. 1 to 4 have cross-examined only PW-3. They have recorded statement to the effect that they would not cross-examine PW-1, PW-2 and PW-4.

13. Only defendant No. 05 has appeared in the witness box and was examined, as DW-01. He produced his CNIC, as Ex:DW-1/1; Governor Inquiry Report, as Ex:DW-1/2; order of Anti-Corruption Court dated 14.07.2012, as Ex:DW-1/3 and copy of application to Secretary, Governor Inspection Team, as annexure-A.

ATTESTED
14 MAY 2024

(Examiner)
Session Court Peshawar.

"M/S Pakistan Traders etc Vs Secretary Administration FATA etc"

14. Before advertng to the Issue-wise findings, it is necessary to mention that what has been deposed by the PWs i.e. by the PW-1, PW-2 & PW-4 and CW-1, would be considered as admitted by defendants No. 1 to 4 and defendants No. 6 to 8 being uncontested by them and hence not subject to cross-examination. Similarly, what has been deposed by the CW-1 and by the PW-2 would be considered as admitted against defendant No. 5 because he has not cross-examined them despite availability of opportunity of cross-examination. Another pertinent point is that except the defendant No. 5, no other defendant has produced evidence in rebuttal.

28

[Handwritten signature]
24/1/2024

15. In the light of available record and evidence recorded by both the parties. Issue-wise findings of this court are as under:

Issue No. 1.

Whether this court has got no jurisdiction to entertain the instant suit? OPD

16. All the contesting defendants have raised the question of jurisdiction (most probably the territorial jurisdiction) of the Court. Even a separate application for return of plaint was also moved on this score by defendant No. 1, which was contested by the plaintiffs. The then learned Civil Judge-XXV, Peshawar vide order No. 48 dated 22.01.2013 dismissed the said application by holding that the Court at Peshawar has got the jurisdiction. The said order is still in field and has got finality. Therefore, this Court cannot give different findings upon the point of jurisdiction as the same has already been

ATTESTED
14 MAY 2024
(Examiner)
Session Court Peshawar

decided and now this Court is not legally competent to review it. The issue is decided in negative.

Issue No. 3.

Whether plaintiffs are estopped by their own act and conduct to file the instant suit against defendants? OPD

17. Though the legal issue of estoppel has been raised in preliminary objections by the defendant No. 3 but he has not explained it contextually. To the understanding of this Court, this legal issue has been raised on the touchstone of the claim that plaintiffs failed to ensure the supply in the year 2004 rather they have supplied the articles in the year 2005. However, this is not a sufficient factual dissertation and exposition to attract the principle of estoppel upon the plaintiffs. Defendants were required to bring on record by adducing evidence that plaintiffs have either stated against their claim for forgoing it or they have acted in such a manner that their conduct has been sufficient to attract the principle of estoppel. Since, no such positive evidence has been brought on record by the defendants which could have been counted towards the proof of estoppel being applicable against the plaintiffs. Hence, this issue is decided in negative.

Issue No. 6.

Whether the instant suit is bad by misjoinder and non-joinder of necessary parties to the suit? OPD

18. The plaintiffs have applied by submitting bids against the tender notice issued by the Agency Education Officer (defendant No. 4, Secretary FR Purchase Committee).

ATTESTED

17 MAY 2024

(Examiner)
Session Court Peshawar

Secretary Administration FATA (defendant No. 1), the Provincial Government of the then NWFP through Additional Chief Secretary FATA (defendant No. 2), the Director of Education FATA (defendant No. 3) and all other office bearers at District Administration level including the Project Director IT FATA Directorate and Governor Secretariat (defendant No. 8) who are already been arrayed as defendants. Thus, objection of non-joinder and misjoinder has been alleged by the defendants but only in preliminary objections. However, they have failed to point out that which necessary party was not impleaded and among them which necessary party was impleaded in the column of the defendants. Even otherwise too the choice of bringing forth the claim against the specific authorities/persons belongs to the plaintiffs as it is them who are 'dominus litis'. Hence, this issue being not proved is thus decided in negative.

Issue No. 5.

Whether the instant suit is time barred? OPD

19. The plaintiffs have filed the suit on 27.04.2009 and in para No. 14 of the plaint they have specifically referred to the English letter No. 4952-53 (endorsement dated 06.05.2006) which has been addressed to defendant No. 4 by the defendant No. 8 and a copy of the letter has been issued to the plaintiffs. Plaintiffs have relied upon this letter for cause of action as-well-as limitation.

20. The normal period for limitation provided for suit for recovery of money is 03 years. Similarly, for the recovery of

ATTESTED

14 MAY 2024

(Examiner)
Session Court Peshawar.

-41-

price of goods sold and delivered, where no fixed period of credit is agreed upon, the period of limitation is also three years as per Article 52 of the first schedule of the Limitation Act, 1908. If the said period of three years is counted and computed from the letter 'Annexure-E' brought by the PW-3, it expires on 05.05.2009 while the suit has been brought on 27.04.2009 i.e. before the expiry of period of three years. Thus, the suit is within time and this issue is decided in negative.

37

29/11/2024

Issue No. 2.

Whether the instant suit is maintainable in its present form? OPD

21. Plaintiffs (being partners) have filed the suit under the registered name of registered firm against the then Secretary FATA and Additional Chief Secretary FATA, Government of the then NWFP now *Khyber Pakhtunkhwa*. The suit is for recovery of amount which has been invested by the plaintiffs in procuring the contract of supply order by bidding procedure. Since, they have performed their commitment undertaken under the contract. Thus, there is no denial of the fact that plaintiffs' firm has performed its part undertaken under the contract.

22. Hence, the objection raised against the form of the suit by the defendant in preliminary objections is neither proved nor explained by them. Thus, this court sees no wrong in the form of the suit which can cause fatality of the suit. Hence, this issue is decided in affirmative.

ATTESTED

MAY 2024

(Examiner)
Session Court Peshawar

Issues No. 7 and 8.

- Whether plaintiffs are entitled for recovery of amount Rs.24,26,049/- along with profit since 13.12.2005 till payment of amount by defendants? OPP
- Whether defendant No. 4 and 5 have misappropriated the payment as alleged by plaintiffs and had not paid to plaintiffs? OPP

23. Both these issues are interconnected, hence taken up together for discussion to avoid the repetition of facts and reference to the pleadings and evidence.

Handwritten signature and date: 24/11/2024

24. The prime allegations of the plaintiffs were against defendants No. 4 and 5. Defendant No. 4 Agency Education Officer, Frontier Region, Bannu (Secretary FR Purchase Committee) and Abdullah Jan ex Accountant, Agency Education Officer have been blamed for misappropriation and embezzlement of funds to be paid to the plaintiffs but yet they have not recovered any amount from them. In this respect, defendant No. 4 has not contested the suit. While defendant No. 5 did contest the suit by filing of a written statement. In his written statement he has sought amnesty under the principle of double jeopardy which impliedly concedes that the plaintiffs' averment regarding his compulsory retirement. Though in written statement he has talked about the CPLA but he has not explained that whether he was not vexed with compulsory retirement or if he was whether he was later-on reinstated. When he appeared as DW-1, he produced receipts, as Ex:DW-1/2. He deposed that

ATTESTED

14 MAY 2024

(Examiner)
Session Court Peshawar

BS

he has paid the suit amount to *Muhammad Israr* (plaintiff No. 1). These receipts have been objected by the plaintiffs' counsel. In fact defendant No. 5 has tried to set a new defense in the evidence which was not taken by him in his written statement. This part of his statement in his defense has not been formed part of his defense given in the written statement. Since, anything that is beyond the pleadings would not be admissible as evidence. Similarly, the report of Governor's Inspection Team part of Ex:DW-1/2 has not specifically been pleaded in the written statement. While, the law on this point is clear that when any document in defense is available at the time of written statement but not relied upon and produced along with the written statement, it could not be utilized during evidence. Moreover, the said inquiry report has recommended the issuance of censures for mismanagement in withdrawal of amount. This inquiry report and its findings itself goes against the defendant No. 5 because it has confirmed the role of defendant No. 5 for unauthorized withdrawal of the money.

24/11/2024

25. Leaving alone the fact that whether defendants No. 4 and 5 have misappropriated the funds or not because after the admission of all the contesting defendants that plaintiffs have delivered the goods but they have not been issued funds as per demand order due to plaintiffs' failure to supply the goods within time, the nature of controversy has changed altogether. Now the plaintiffs are not bound to prove the issue that whether defendants No. 4 and 5 have misappropriated/ embezzled the funds.

ATTESTED

14 MAY 2024

(Examiner)
Session Court Peshawar.

26. Plaintiffs have brought sufficient record from all the concerned quarters on the file and have substantiated by producing documentary proof of purchasing the alleged articles and its delivery to the defendants. They have also produced the then office correspondence amongst the defendants which confirms that the plaintiffs have delivered the articles as per contract awarded to them. Moreover, all the documents exhibited by PW-1 to PW-4 and CW-1 are sufficient proof of delivery of goods to the defendants. However, the defendants were unable to bring on record any proof regarding the payment to the plaintiffs 'nor' did they substantiate the same by cogent and reliable evidence.

Handwritten signature
24/11/2023

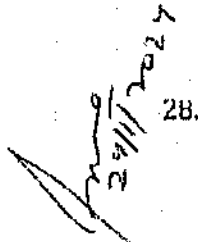
27. Since, the departmental inquiry against the defendants No. 4 to 7 and awarding of punishment to all of them and the recovery order from defendant No. 4 is intact. As the defendant No. 4 and the Government's top officials (defendants) have not contested the suit. Therefore, under these circumstances plaintiffs have proved their claim while defendants have failed to rebut the plaintiffs' claim adducing satisfactory evidence. Now the defendants could not be exempted on the pretext that when the amount is recovered from defendant No. 4. After that the plaintiffs would be compensated because the Government and the top officials' hierarchy are bound by the principle of 'vicarious liability'. Under this principle, the employer is responsible for the act of employees. The superior courts of the country are unanimous on the point that in case of composite negligence by two or more persons, each of the tortfeasor is jointly and

ATTESTED

14 MAY 2024

(Examiner)
Session Court Peshawar

severally liable to make good the loss to the persons who have suffered. In the instant case the Government is responsible for the acts of the officers who have been held guilty. The administrative control of the Government went so loose that the higher rank officers embezzled the amount and bravely prepared fake documents for its withdrawal. The judgment in Civil Appeal No. 1000 of 2006 titled "National Logistic Cell ...Vs... Irfan Khan & others" dated 30.01.2015 is relied upon on the point of vicarious liability.

28. 

The picture becomes visible from the wholesome events and the evidence led and brought on the file clearly lead the Court to the conclusion that plaintiffs have proved their case convincingly and defendants have badly failed to counter the plaintiffs' case. Since the plaintiffs have faced inconvenience due to the Government's culpability and were entitled for recovery of amount of twenty four lakhs twenty six thousand and forty nine rupees (Rs.24,26,049/-) in the year 2005. Therefore, the plaintiffs are not only entitled for recovery of the principle amount of Rs.24,26,049/- but also entitled of recovery of interest/profit at bank rate from 13.12.2005 till final recovery of the recoverable amount. Resultantly, both these issues are decided in affirmative.

ATTESTED

14 MAY 2024

(Examiner)
Session Court Peshawar

Issue No. 9.

Whether defendant No. 4, 5, 7 cannot be punished twice for the same cause of action and falls within the principle of double jeopardy? OPD

29. Since the plaintiffs have supplied the goods to the

Government and the officers of the Government. Therefore, it is the Government to reimburse the amount to the plaintiffs. The Government can recover the loss caused to the Government in its administrative capacity. Defendants No. 4, 5 and 7 are the Government functionaries and have been punished after being held guilty. Now if they are again held responsible for payment to the plaintiffs through instant case, it would amount to vexing them twice. Thus, the principle of double jeopardy would come into play. Hence, this issue is decided in affirmative.

Issues No. 1 and 10.

- Whether plaintiffs have got cause of action against defendants? OPP
- Whether plaintiffs are entitled for decree as prayed for? OPP

30. In view of findings rendered under above issues, it is held that plaintiffs have not only got cause of action but are also entitled for the decree as prayed for.

Relief.

31. As the plaintiffs have successfully proved their case against the defendants No. 1 to 3; therefore, the suit in hand is hereby decreed, as prayed for in the plaint, against them. Furthermore, it is essential to point out that after merger of the FATA and PATA into the Province of Khyber Pakhtunkhwa, the decree in the case in hand shall be considered as decree against the Chief Secretary and

ATTESTED

14 MAY 2024

(Examiner)
Session Court Peshawar

"M/S Pakistan Traders etc Vs Secretary Administration FATA etc"

97-

Secretary Education, the Government of Khyber Pakhtunkhwa. Since the plaintiffs have been dragged into litigation for their due right. Therefore, the suit is decreed with cost throughout and the plaintiffs are held entitled for recovery of the principle amount of Rs.24,26,049/- along with recovery of interest/profit at bank rate from 13.12.2005 till recovery of the recoverable amount.

32. File be consigned to the record room after its necessary completion and compilation.

Announced
24.01.2024

(Asma Zahir)
Civil Judge-XVI, Peshawar

CERTIFICATE

Certified that this judgment consists of eighteen (18) pages. Each page has been read over, corrected and signed by me wherever was necessary.

(Asma Zahir)
Civil Judge-XVI, Peshawar

No.	5514
Dated of Application	27/01/24
Name of Applicant	88 P-44
Case No.	2006
Signature	[Signature]
Date of Issue	14/5/24

ATTESTED
14/5/24
(Examiner)
Session Court Peshawar

"DECREE SHEET"

-48-
2/8

In the court of Asma Zahir, Civil Judge-XVI, Peshawar

"M/S Pakistan Traders etc Vs Secretary Administration FATA etc"

Suit No. 500/1 Neem Date of institution: 27.04.2009 Date of Decision: 24.01.2024

Parties through counsel present.

As the plaintiffs have successfully proved their case against the defendants No. 1 to 3; therefore, the suit in hand is hereby decreed, as prayed for in the plaint, against them.

Furthermore, it is essential to point out that after merger of the FATA and PATA into the Province of Khyber Pakhtunkhwa, the decree in the case in hand shall be considered as decree against the Chief Secretary and Secretary Education, the Government of Khyber Pakhtunkhwa. Since the plaintiffs have been dragged into litigation for their due right. Therefore, the suit is decreed with cost throughout and the plaintiffs are held entitled for recovery of the principle amount of Rs.24,26,049/- along with recovery of interest/profit at bank rate from 13.12.2005 till recovery of the recoverable amount.



(Handwritten signature)

(Asma Zahir)
Civil Judge-XVI, Peshawar

خرچہ نالٹش

روپے	مدعا علیہم	مدعی	روپے
	امٹامپ عرضی	امٹامپ عرضی	
	دعوی	دعوی	
	امٹامپ مختیار نامہ	امٹامپ مختیار نامہ	
	خرچہ خوراکہ	خرچہ خوراکہ	
	گواہان	گواہان	
	فیس ایل کیشن	فیس ایل کیشن	
	مسترق	مسترق	
	بیان حلفی	بیان حلفی	
	کل میٹرن		

حکم اخیر بتاریخ _____ کو یہ قیمت دستخط دیوے اور سہر حالات کے جاری ہوا۔



ATTESTED

13 MAY 2024

(Examiner)
Session Court Peshawar

(Handwritten signature)

(Asma Zahir)
Civil Judge-XVI, Peshawar

Pensioner Data Verification Sheet

out standing
 "H"
 -49-

Date of Issue : 27.12.2022
 PG Type : FRESH
 PPO Number : 00180685-01
 File No:
 Pension Register No:
 Pensioner's Name : ABDULLAH JAN
 Father / Husband name : SHER MUHAMMAD
 Designation: COMPUTER OPERATOR
 NIC No.: 1120103748695
 Grade / Scale : 09
 Department.Min: SUB DIVL EDU OFFICE FEMAL
 Pensioner's Type: SELF
 Pension Type: COMPULSARY RETIREMENT
 Date of Birth : 18.04.1960
 Date of appointment: 23.12.1979
 Date of retirement: 27.10.2008
 Date of Death:
 Date of commencement : 28.10.2008
 Date of Restoration :
 Accounts office ID : BU
 Accounts office Name : Bannu
 Federal / Province : Dist. Govt. KP-Provincial
 Length of Qualifying Service : 28 years, 10 months, 4 days
 Old PPO Number :
 No. and Date of sanction of pension / Letter No. :
 and the date of the other Audit and Accounts officer authorising
 the Pension/Gratuity/Commutation
 Permanent Address: BANNU

Note : ROP.RS.2440526/MAY BE RECOVERED
 Age : 49 years
 Last Drawn pay/Emoluments(Rs.): 8880.00
 Gross Pension(Rs.) : 6008.80
 1/4th Surrendered Portion (Rs.) :
 Commuted Portion (Rs.) : 2103.08
 Net Pension (Rs.) : 3905.72
 Net Family Pension (Rs.) : 0.00
 Amount of Commutation(Rs.) : 479101.00
 With Held Amount (Rs.) : 0.00
 Life Time Arrears (Rs.) : 0.00
 Arrears Of Pension (Rs.) : 0.00
 Special Additional Pension (Rs.) : 0.00
 Commutation Percentage : 35.00
 Commutation Table value : 18.98
 Recovery on A/C of :
 Debitable to Govt : Dist. Govt. KP-Provincial
 Total Net Share
 Federal : 0.00 Punjab : 0.00
 Sindh : 0.00 NWFP : 0.00
 Balochistan : 0.00
 Provincial/District/Federal Autonomous : 0.00
 AJK : 0.00
 Pass for Rs = 9300
 Payment Mode :
 Bank Branch : *None thousand 2*
 DDO *Supplied by*
 Bank Account Number :
 Employee Station : SUB DIVL EDU OFFICE FEMALE WAZIR
 Bannu

2965/81/201

classification

He/She is also entitled to the following increases

Sr No.	Period	Increase of amount	Amount	E.F.
1	JUL.2005	10.00%	200.57	28.10.2008
2	JUL.2006	15.00%	290.83	28.10.2008
3	JUL.2009	15.00%	334.65	28.10.2008
4	JUL.2010	15.00%	384.25	28.10.2008
5	JUL.2011	10.00%	422.67	28.10.2008
6	JUL.2012	10.00%	464.94	28.10.2008
7	JUL.2013	15.00%	534.68	28.10.2008
8	JUL.2014	10.00%	588.15	28.10.2008
9	JUL.2015	10.00%	647.06	28.10.2008
10	JUL.2016	10.00%	711.77	28.10.2008
11	JUL.2017	10.00%	783.15	28.10.2008
12	JUL.2018	10.00%	862.27	28.10.2008
13	JUL.2019	10.00%	949.30	28.10.2008
14	JUL.2021	10.00%	1044.23	28.10.2008
15	JUL.2022	15.00%	1200.86	28.10.2008
16	0	Rs. 0.00	0.00	
17	<i>20%</i>		1633.53	28.10.2008
18	<i>25%</i>		408.38	28.10.2008
19				
20				
21				
22				
23				
24				
25				
26				
27				

A sum of Rs. 479101.00 (Rupees FOUR HUNDRED SEVENTY-NINE THOUSAND ONE HUNDRED ONE) on account of commuted value of pension is also payable.

The Payment value is debitale to the head.

- Major Object A04 - Transfer Payments.
- Minor Object A041 - Superannuation Allowance and Pension
- Detailed Object A04101 - Pension
 - A04102 - Commuted value Pension.
 - A04103 - Gratuity Civil
 - A04104 - Other Pension
 - A04105 - Gratuity Pension (Where Pension is not mature)
 - A04170 - Others

(Signature).....
 (Designation).....

Total arrears: 2440526
deducted by 2440526
as reported by 9300 = arrears.
Directed by 25290 already mentioned
Pension of 12/22 34580 in total arrears

PENSION ROLL SLIP FOR THE MONTH OF February 2023

-50-

Pensioner: 85 ABDULLAH JAN 4,846,469.00
 CNIC: 8695

Bank Branch: 50617 Account No: 0010091260740014
 Bank T: 85,140.00

Pensioner / Recoveries Details

0100 -	Pension - Self	3,906.00
0101 -	Increases - Self	19,333.00
1599 -	Allow - Pensioner	1,634.00
5901 -	of Pension	4,906,328.00
1600 *	2015 Pensioner	408.00

Pension Payments	4,931,609.00
Deductions / Recoveries	0.00
NET AMOUNT PAYABLE	4,931,609.00

PENSIONER PRINTED ON 18.02.2023 AT 12:01:17

OFFICE OF THE DISTRICT COMPTROLLER OF ACCOUNTS BANNU
Admissibility Report

IN RESPECT OF ABDULLAH JAN S/O SHER MUHAMMAD S/DW OF 0 HOLDER OF PPO NO.0 EX-EX SENIOR CLERK
OF 0

DOB

P No - 180685 DOB 18-04-1960 -51-
 DOK 23-12-1979
 DOR 27-10-2008

Debttable to Provincial Government.		BPS - 9		ARREAR				
Rate %	Amount Rs.	Payable w.o.f.	To	Total Months	Total Monthly due	Total Monthly Drawn	Difference	Total
Regular Pension								
Gross Pension	3,905.72	28-10-2008						
Commuted Portion		28-10-2008 Retrd						
Net Pension	3,905.72	28-10-2008						

The Pensioner is also entitled to:

Rate %	Amount Rs.	Payable w.o.f.	To	Total Months	Total Monthly due	Total Monthly Drawn	Difference	Total
0.00%								
0.00%								
0.00%								
0.00%								
IIP 2005	10.00%	390.57	28-10-2008	27-10-2008	0	4,296.29		
IIP 2006	15.00%	644.44	28-10-2008		0	4,940.73		
	0.00%				0	4,940.73		
IIP 2008	0.00%		28-10-2008	30-06-2009	8-1/8	4,940.73	4,940.73	40,163.35
IIP 2009	15.00%	741.11	01-07-2009	30-06-2010	12	5,681.84	5,681.84	68,182.08
IIP 2010	15.00%	852.28	01-07-2010		0	6,534.12		
MA 2010	25.00%	1,633.53	01-07-2010	30-06-2011	12	8,167.65	8,167.65	98,011.80
IIP 2011	15.00%	980.12	01-07-2011	30-06-2012	12	9,147.77	9,147.77	109,773.24
IIP 2012	20.00%	1,502.85	01-07-2012	30-06-2013	12	10,650.62	10,650.62	127,807.44
IIP 2013	15.00%	1,352.56	01-07-2013	30-06-2014	12	12,003.18	12,003.18	144,038.16
IIP 2014	10.00%	1,036.96	01-07-2014	30-06-2015	12	13,040.14	13,040.14	156,481.88
IIP 2015	10.00%	1,140.66	01-07-2015	30-06-2016	12	14,589.18	14,589.18	175,070.19
MA 2015	0.00%	408.38	01-07-2015	30-06-2016	12	15,843.91	15,843.91	190,126.95
IIP 2016	10.00%	1,254.73	01-07-2016	30-06-2017	12	17,224.11	17,224.11	206,689.35
IIP 2017	10.00%	1,380.20	01-07-2017	30/06/2018	12	20,412.37	18,742.33	224,907.99
IIP 2018	10.00%	1,518.22	01-07-2018	30/06/2019	24	22,249.42	20,412.37	489,896.99
IIP 2019	10.00%	1,670.04	01-07-2019	30/06/2021	24	25,280.55	22,249.42	268,993.05
IIP 2021	10	1,837	01-07-2021	30/06/2022	12		25,280.55	151,683.28
IIP 2022	15%	3,031	01-07-2022	31/12/2022	6			

Summary		
Not/Family Pens.	3,905.72	
Pens. Incr. upto 7-2015	8,641.55	
Pens. Incr 7-2016	1,254.73	
IIP 2017	1,380.20	
Total Pension	15,182.20	
Medical Allow	2,041.91	
Grand Total	17,224.11	
IIP 2018	10%	1518.22
EP 2018	10%	
IIP 2019	10%	1670.042
IIP 2021	10%	1,837.05
IIP 2022	15%	3,031.13
M.PEN		25,280.55

Recovery (already drawn) Arrear
 Grand Total **2,449,826**

2440526-
 -9300/
 DISTRICT ACCOUNTS OFFICER BANNU
 22480/5

1.12
 2022



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

-52-

Peshawar the December 15, 2022

NOTIFICATION

NO. AO/E&SE/6-3/LPR/Bannu: In pursuance of Article 931 of Civil Service Regulations, sanction of the Government of Khyber Pakhtunkhwa, Elementary & Secondary Education Department is hereby accorded to the grant of pension w.e.f 27-10-2008 (i.e date of compulsory retirement) in favour of Mr. Abdullah Jan Ex-Senior Clerk GHS Ghazi Killa Bannu subject to fulfillment of all the codal formalities.

SECRETARY
Govt. of Khyber Pakhtunkhwa
Elementary & Secondary Edu: Department

Endst: of even No. & date:

Copy forwarded to:

1. The Director, Elementary & Secondary Education, Peshawar.
2. The District Accounts Officer, Bannu.
3. The District Education Officer (Male), Bannu.
4. Mr. Abdullah Jan Ex-Senior Clerk GHS Ghazi Killa FR Bannu

Abdul Ghaffar
(ABDUL GHAFFAR)

SECTION OFFICER (ACCOUNTS)

*Pension
A.O.*

Handwritten initials and date: 26/12/22

*50 97B
P. 23*

*Dringro-852
26/12/22*

*26/12/22 mfd
26/12/22*



136
-53-

OFFICE OF THE
AGENCY EDUCATION OFFICER
FR BANNULAKKI AT BANNU

Subject: IMPLEMENTATION OF PENALTY IMPOSED BY COMPETENT AUTHORITY.

Memo: Consequent upon the notification No. 50(S)4-17/2007, dated: Peshawar the: 9/9/2008 by the competent authority, and Director Education (FATA) letter No. 17076, dated: 26/9/2008, received in the AEO office FR Bannu/Lakki on 21/10/2008, Mr. Abdullah Jan S/Clerk of GHS Ghazi Killa is hereby allowed to go on compulsory retirement with immediate effect.

(SAID MOHAMMAD KHAN)
Agency Education Officer
FR Bannu/Lakki at Bannu.

Endstr No. 7962-71 / Estab.

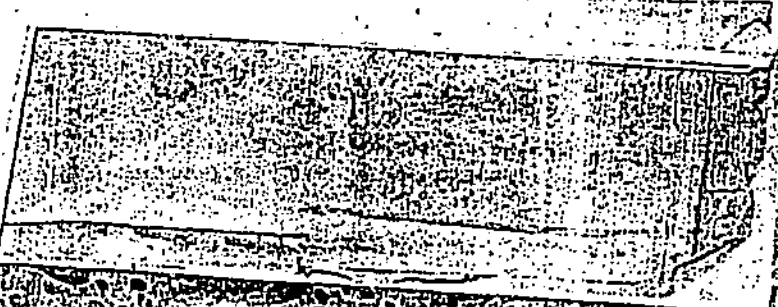
Dated: 27 / 10 / 2008.

Copy forwarded to the:

- 1) Director Education (FATA) NWFP, Peshawar w/r to his No. cited above for information please.
- 2) District Accounts Officer Bannu, with the remarks to stop his salary as per the details given in the attached source II proforma. Moreover all sorts of payments i.e GP Fund, Commutation etc, other than salary also be stopped, till the directions to be received from the Directorate of Education (FATA).
- 3) Headmaster GHS Ghazi Killa for information and necessary action.
- 4) Mr. Abdullah Jan Ex-S/Clerk, GHS Ghazi Killa to make arrangement of the amount Rs. 2438031/- shown in the notification of the competent authority/ DE, FATA letters No. cited above.

Handwritten signature
30/10/08

Handwritten signature
27/10/08
Agency Education Officer
FR Bannu/Lakki at Bannu.



1357 -54-

SN:1 Bannu
 Pers #: 00188685 Buckle:
 Name: ABDULLAH JAW
 SENIOR CLERK
 CNIC No. 1120103748695
 GPF Interest Free
 OU Retiree/Pensioner

P Sec:001 Month:October 2008
 BU0022 HM: GHISMAZI KILLA BU
 Min. of Education
 NTN:
 GPF #: EDU0003742
 Old #:

PAYS AND ALLOWANCES:		BU0022
0001-Basic Pay		8,650.00
1000-House Rent Allowance		1,146.00
1300-Medical Allowance		500.00
1528-Unattractive Area Allow		200.00
1770-Spl. Additional allowance		401.00
1830-Special Relief All(2005)		753.00
1831-Adhoc Relief (2005)		753.00
1864-Deernes Allowance (2006)		908.00
Gross Pay and Allowances		13,311.00
DEDUCTIONS:		
GPF Balance	73,587.00	
6585-GPF Loan Principal Instal	Bal: 19,500.00	Subtrce 268.00
3604-Group Insurance		1,500.00
3701-Benevolent Fund(Exchange)		67.00
Total Deductions		15.00
		1,862.00
		11,449.00

D.O.D. 18.04.1960 LFP Quota:
 25 Years 10 Months 010 Days THE BANK OF KHYBER BANNU BRANCH BANNU
 PLS 3655-8

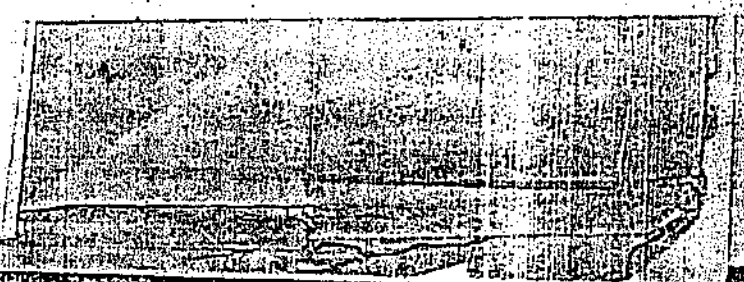
XP
-SS-

LIST OF FAMILY MEMBERS IN RESPECT OF MR. ABDULLAH JAN EX.
ACCOUNTANT S.D.W BANNU

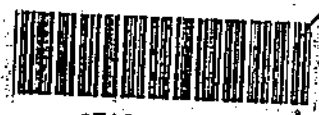
S.No	Name	Relation	D/o Birth	Married/Unmarried
1 ✓	Misal Bibi	Wife	1961	Married
2 ✓	Dil Jana	Daughter	01-03-1982	Marr
3 ✓	Irfan Ullah	Son	10-04-1990	Married
4 ✓	Kifayat Ullah	Son	01-04-1992	Married
5 ✓	Rizwan Ullah	Son	31-08-1994	Unmarried
6 ✓	Quratul-ai-ain	Daughter	01-05-2003	Unmarried
7 ✓	Fida Ullah	Son	09-04-2006	Unmarried

Abdullah
24/9/2022
C.A.S. Bannu
S.D.W. Bannu

Shahid
11201-0464454-5
LECTURER
G.P.G.C LAKKI MARWAZ
GAZZETED OFFICER



-56-




EA34950821

FAMILY REGISTRATION CERTIFICATE


Applicant Name: Abdullah Jan
Citizen Number: 1120103748695
Document Number: EA34950821

Family Members: 8


It is to certify that the family comprising of the following members is registered in NADRA with the particulars mentioned below as per the information provided.


Name: Abdullah Jan
Identity No: 11201-0374869-5
Date of Birth: 18/04/1960
Father Name: Siver Muhammad
Mother Name: Bibi Ayeetha
Relation With Applicant: Self


پدر نام: محمد اسد
والد کا نام: سیر محمد
والدہ کا نام: بی بی ایثا


Name: Misal Bibi
Identity No: 11201-0311708-6
Date of Birth: 1961
Father Name: Payo Khan
Mother Name: Sahiba Bibi
Relation With Applicant: Wife


پدر نام: پیر خان
والد کا نام: پیر خان
والدہ کا نام: سہیبا بی بی


Name: Dili Jan
Identity No: 11201-0311706-6
Date of Birth: 01/03/1962
Father Name: Abdullah Jan
Mother Name: Misal Bibi
Relation With Applicant: Daughter


پدر نام: محمد اسد
والد کا نام: محمد اسد
والدہ کا نام: میسال بی بی


Name: Irfan Ullah Khan
Identity No: 11201-8771822-1
Date of Birth: 10/04/1990
Father Name: Abdullah Jan
Mother Name: Misal Bibi
Relation With Applicant: Son

پدر نام: محمد اسد
والد کا نام: محمد اسد
والدہ کا نام: میسال بی بی


Name: Kifayat Ullah Khan
Identity No: 11201-2072223-1
Date of Birth: 01/04/1992
Father Name: Abdullah Jan
Mother Name: Misal Bibi
Relation With Applicant: Son

پدر نام: محمد اسد
والد کا نام: محمد اسد
والدہ کا نام: میسال بی بی


Name: Nirwan Ullah
Identity No: 11201-4022416-5
Date of Birth: 31/08/1994
Father Name: Abdullah Jan
Mother Name: Misal Bibi
Relation With Applicant: Son

پدر نام: محمد اسد
والد کا نام: محمد اسد
والدہ کا نام: میسال بی بی

- Note:
- The above mentioned family members are linked in NADRA database
 - There could be other family members that may be registered but not linked to this family in NADRA database

(Signature)

REGISTRAR GENERAL OF PAKISTAN

Date of Issue: 24/09/2022



1120103748695

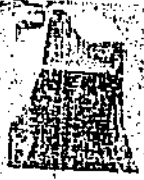


This certificate can be verified at <https://d.nadra.gov.pk/id/>

-57-



EA34950821



Name: Qura U Ain
Identity No: 11201-7302095-B
Date of Birth: 01/05/2003
Father Name: Abdullah Jan
Mother Name: Misal Bibi
Relation With Applicant: Daughter

قریہ کا سین :
عبدالرحمان : والد کا نام :
مسال بی بی : والدہ کا نام :



Name: Fida Ullah
Identity No: 11201-4351355-3
Date of Birth: 09/04/2006
Father Name: Abdullah Jan
Mother Name: Misal Bibi
Relation With Applicant: Son

فدا اللہ :
عبدالرحمان : والد کا نام :
مسال بی بی : والدہ کا نام :

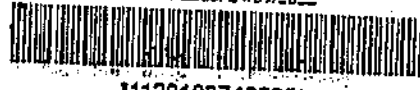
Notes:
1. The above mentioned family members are linked in NADRA database
2. There could be other family members that may be registered but not linked to this family in NADRA database

(Signature)

REGISTRAR GENERAL OF PAKISTAN



Date of Issue: 24/09/2022



1120103748695

-58-

LAST PAY CERTIFICATE

- 1- Last Pay Certificate of Mr. Abdullah Jan Sri Clerk
- 2- Of the GHS Ghazi Killa SDW BU
- Proceeding to on Compulsory Retirement
- 3- He has been up to on 21-10-2008

As the following rates: -

PAY AND ALLOWANCES

Personal 176 = 00180685
Particulars

Substantive Pay:-

Officiating Pay:-

Exchange Compensation Allowance:-

0001	BASIC PAY	Rs.	8650
1000	H.R.A	Rs.	1146
15 28	UAA	Rs.	200.
	SAA	Rs.	401
	MA	Rs.	500
	ARA	Rs.	753
	SRA	Rs.	753
	DEARNES ALL	Rs.	908
GRAND TOTAL Rs-			

DEDUCTIONS:-

3609	INCOME TAX		
GP/F	GP/PUND	Rs.	250
3990	EPF/ND	Rs.	35
	Group All	G.I.F.	67
	Gr. Provident Loan		1500
GRAND TOTAL			

- 4- He made over charge of the Office of Sri Clerk
- On the At noon of 21-10-2008
- 5- Recoveries are to be made from the pay of the Government servant as detailed on the reverse.
- 6- He has been paid leave salary as detailed below. Deductions have been made as noted on the reverse.
- From / to / at Rs / a month
- From / to / at Rs / a month
- From / to / at Rs / a month
- 7- He is entitled to draw the following:-
- 8- He is also entitled to joining time fordays.
- 9- The details to the Income Tax recovered from him up to date from the beginning of the current years are noted on the reverse.

Dated / /

Signature: [Signature]
 Designation: Principal
 GHS Ghazi Killa
 Sub Division West Barak

00/00912607400H ← Account NO

DETAIL OF RECEIVED ORDER
 Acknowledgment Receipt for
 Original Order Form, photocopies of indemnity bond - C.M.F.C. and Original bond
 (PPO) Received

TO BE ISSUED BY ACCOUNTS OFFICE

1	ACCOUNT TITLE (NAME)	Abdullah Khan
2	ACCOUNT NO. (01000912607400H)	00180685
3	BRANCH NAME	481
4	BRANCH ADDRESS	Lahore, Punjab
5	BRANCH CODE	0517
6	INDemnITY BOND SUBMITTED BY THE MEMORANDUM (YES/NO)	NO

DETAIL VERIFICATION TO BE MADE BY THE BRANCH

SM	P.P.O. NO.	
1	SAP PERSONNEL NO.	
2	ACCOUNTS OFFICE	00180685
3	NAME OF PENSIONER	DAQ. Bhatti
4	FATHER/HUSBAND NAME	ABDUL RAHMAN
5	FAMILY PENSIONER NAME	SHER MUHAMMAD
6	SPOUSE/FATHER/OTHER NAME	
7	PENSIONER NIC NO. (OLD)	
8	PENSIONER CNIC NO.	15660223987
9	FAMILY PENSIONER CNIC NO.	1121123748695
10	RESIDENTIAL ADDRESS (CURRENT)	
11	RESIDENTIAL ADDRESS (PERMANENT)	
12	DESIGNATION & GRADE	
13	MINISTRY/DEPARTMENT/ORGANIZATION	
14	PRESENT MRP ADDRESS & CODE NO.	
15	CONTACT NO.	0313576941
16	SECOND ADDRESS (IF ANY)	
17	DATE OF BIRTH	

OPTION POINT FOR DIRECT CREDIT PENSION THROUGH BANK ACCOUNT
 Pensioner's Information (to be filled in by the Pensioner)

159

Note

The entries in this page should be removed or re-stamped at least every five years and the signatures in items 9 and 10 should be dated. Finger prints need not be taken after every 5 years under this rule.

PRINCIPAL
G.H.S Ghazi Killa
Sub Division Wazir Bannu

Re - Alleged
24/11/2001

Govt High School
Wazir Bannu

Signature of Government servant
Signature and designation of the Head of the Office or other Alleging Officer

Appointed against vacant
Junior Clerk post at G.H.S
Wazir Bannu
NO: 16520-25 Dated 29/12/99

2965/Bu/Prin

Fore Finger (Left)

Thumb (Left)

Middle Finger (Left)

Left hand/right hand thumb and finger impressions of (None gazetted) Govt

Little Finger (Left)

Ring Finger (Left)

Name
Abdullah Jan
Nationality and Religion
Pakistani
Residence
Village Satak Khar, Tehsil Kaka Marwat, Dist. Bannu
Father's name and residence
Mr. Shan
Date of birth by Christian era as nearly as can be ascertained
18.4.1960
Exact height by measurement
5-6
Personal mark for identification
Scar on left leg

Five feet six inches
Tehsil Kaka Marwat, Dist. Bannu
Village + P.O. Satak Khar
Tehsil Kaka Marwat, Dist. Bannu
Tehsil Kaka Marwat, Dist. Bannu
Tehsil Kaka Marwat, Dist. Bannu

-60-

②

1	2	3	4	5	6	7
Name of post	Whether vacant and whether permanent or temporary	If officiating, state (1) substantive appointment or (2) whether vac. contract	Pay to be paid	Additional pay for officiating	Other emoluments falling under the term "pay"	Date of appointment
D/C	E.H.S. Tok	290/-	290/-	290/-	290/-	23/12 F/M
No. I. G. H. S.	KAKKI Maswar	Do	290/-	290/-	290/-	14/8/80 N. Ad. Lok. J.
B.H. S.	Bak Kar.	Do	310/-	310/-	310/-	15/8/80 (A.N.) Ad. Lok. J.
Do	Do	Do	320/-	320/-	320/-	Ad. Lok. J.
Do	Do	Do	330/-	330/-	330/-	Ad. Lok. J.
Do	Do	Do	392/-	392/-	392/-	Ad. Lok. J.
Do	Do	Do	610/-	610/-	610/-	Ad. Lok. J.
Do	Do	Do	628/-	628/-	628/-	Ad. Lok. J.

Signature of Government
 Date of appointment

19/11/2025
 G. GUZAR...
 Sub Division...

G. B. S. Lakki Khep
Headmaster

Other Office
From the ...
From 15-8-81 to 30-11-81

Sl. No.	Date	Description	Particulars	Amount	Total
12	19/11/2022	...	...	...	...
13	...	...	...	...	...
14	...	...	...	...	...
15	...	...	...	...	...

① SERVICE VERIFIED
From 15-8-81 to 30-11-81
Headmaster
G. B. S. Lakki Khep

② SERVICE VERIFIED
From 14-5-82 to 14-8-82
Headmaster
G. B. S. Lakki Khep

③ SERVICE VERIFIED
From 14-8-82 to 14-11-82
Headmaster
G. B. S. Lakki Khep

17
-62-

(1)

1	2	3	4	5	6	7	8	9
Name of post	Whether subsistent or officiating, permanent or temporary	If officiating, state - (i) substantive or vice quanta for pension under C.S.R. (PB) volume II	Pay to substantive post	Additional pay for officiating	Other elements of pay	Date of appointment	Signature of Government servant	Signature and designation of the Head of the Office or other Officer in charge of column 1 to 8
1-12-86	664/	628/	629/	646/	1-12-1983	N.D.M. G.H.S. Jone (B&I)	1-12-86	1-12-86
1-12-85	664/	628/	629/	646/	1-12-85	N.D.M. G.H.S. Jone (B&I)	1-12-85	1-12-85
1-12-84	664/	628/	629/	646/	1-12-84	N.D.M. G.H.S. Jone (B&I)	1-12-84	1-12-84

SERVICE VERIFIED
From 1-12-86 to 1-12-86

Signature and designation of the Head of the Office or other Officer in charge of column 1 to 8

Signature of Government servant

Date of appointment

Other elements of pay

Additional pay for officiating

Pay to substantive post

If officiating, state - (i) substantive or vice quanta for pension under C.S.R. (PB) volume II

Whether subsistent or officiating, permanent or temporary

Name of post

THE LEAVE RULES, 1955.
CONTINUOUS/TEMPORARY SERVICE EXCEEDING 3 YEARS

Date of attaining the age of 55/58 years :

Date of coming under the leave Rules, 1955.

ABDULLAH JAN

LEAVE TAKEN

BALANCE ON RETURN FROM LEAVE

On Half Average pay				BALANCE ON RETURN FROM LEAVE				REMARKS
14	15	16	17	18	19	20		
Column certificate number of terms at (a) total	Date	Against column 9	Leave not due (up to a maximum of 12 months in the whole service if supported by medical certificate of 3 months otherwise)	Total (columns 13(b)-15+16)	Leave on average pay subject to a maximum of 12 months (columns 11)	Leave on average pay in excess of 42 months (columns 8-12)	Leave on half average pay (columns 9-17)	

M	D	From	To	Y	M	D	Y	M	D	Y	M	D	Y	M	D	Y	M	D
		From	To															
		3/12/1979	21/10/2008															

Leave at credit
1384 days.

Signature
Principal
G.H.S Ghazi Killa
Sub Division Wazir Bani

"I"
-65-

To
The Secretary
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

Subject:- DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER DATED 09/09/2008 TO THE EXTENT OF RECOVERIES OF RS 24,38,031/- MADE FROM THE PENSION OF THE APPELLANT.

Respected Sir!

1. That upon a complaint dated 25/01/2007 an FIR No 3 dated 17/03/2007 was registered against the appellant u/s 419/420/468/471 PPC/5 (2) PC Act. Copy of FIR is attached.
2. That beside the said FIR a departmental proceedings was also initiated against the appellant and upon conclusion of departmental inquiry, through impugned notification dated 09/09/2008 the appellant was compulsory retired from service and recovery of loss to Govt: exchequer amounting Rs. 24,38,031/- issued against the appellant.
3. That feeling aggrieved, the appellant filed Service Appeal No 562/2009 before the Khyber Pakhtunkhwa Service Tribunal and the same has been dismissed vide judgment dated 09/02/2010 before conclusion of the criminal trial against the appellant upon the same allegations, which was initiated in the Anti-Corruption Court.
4. That against the ibid judgment of Service Tribunal, the appellant filed C.P No 212-P/2010, but the same has been dismissed vide order dated 05/07/2011 being time barred.
5. That it is important to mention here that the criminal proceedings initiated against the appellant on the same allegation before the competent trial court and after recording pro and contra evidence, the court of Anti-Corruption acquitted the appellant from the charges levelled against the appellant through judgment dated 14/07/2012.
6. That the complainant/Pakistan Traders (in the aforementioned FIR) brought a Civil Suit for recovery of the above mentioned amount mentioned in the compulsory retirement order, against the appellant before the Senior Civil Judge, Peshawar and after conclusion of the trial, the suit has been decreed against the Department and not against the appellant vide judgment dated 24/01/2024.


7. That before conclusion of the aforementioned Civil Suit, the appellant reached to the age of superannuation and your good-self department made recoveries from the pension of the appellant.
8. That the appellant feeling aggrieved from the impugned order to the extent of recoveries of Rs. 24,38,031/-, filed the instant departmental appeal/representation before your honor on the following grounds:-

GROUNDS:

- a) That the impugned order to the extent of recoveries of Rs. 24,38,031/ is against the law, facts, norms of natural justice and materials on record, hence not tenable.
- b) That under Article 38(e) of the Constitution of Pakistan 1973 state is bound to reduce disparity in the income and earning of the individuals including persons in the various service of Pakistan.
- c) That the action of the department is illegal, unlawful and against the basic fundamental rights of the appellant.
- d) That the action of the department is against the rules/regulations, good governance, transparency and the general principles of justice, fair play and equity, which in turn would definitely jeopardize the legitimate rights of the appellant.
- e) That the appellant has been acquitted from the charges by the competent trial court of law and also the recovery suit against the appellant has been dismissed by the trial court, in the circumstances the impugned order to the extent of recoveries of Rs. 24,38,031/- is illegal.
- f) That any other ground will be raised at the time of hearing if need so.

It is therefore, most humbly prayed that on acceptance of this departmental appeal, the impugned order to the extent of recoveries of Rs. 24,38,031/- may kindly be set aside.

Dated:- 20.06.2024


Abdullah Jan
Senior Clerk (BS-14)
GHS Ghazi Qila FR Bannu.

-67-

d31

For Insurance Notices see reverse.
Stamps affixed except in case of
uninsured letters of not more than
th **RGL141317489**
Post Office Outside or on which no
acknowledgement is due.

Rs. Pg.
60-

Insured a registered
addressed to Sandy Date-Stamp

Write here "letter", "postcard", "packet" or "parcel"
Name of Receiving Officer with the word "insured" before it when necessary.
Insured for Rs. (in figures) Rs. 50 (in words)

Insurance fee Rs. Ps. (in words) Rs. 2.00
Name and address London
Weight Kilo Grams

- 68 -

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No /2024

Abdullah Jay

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Edu Deptt

(RESPONDENT)
(DEFENDANT)

I/we Abdullah Jay

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. / /202


CLIENT


ACCEPTED

**NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT**


WALEED ADNAN


UMAR FAROOQ MOHMAND

&


**MAHMOOD JAN
ADVOCATES**

OFFICE:

Flat No. (TF) 291-292 3rd Floor,
Deans Trade Centre, Peshawar Cantt.
(0311-9314232)