


# FORM OF ORDER SHEET

Court of \_\_\_\_\_

**Appeal No.** 2492/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	19/11/2024	<p>The appeal of Mr. Muhammad Younas Afridi presented today by Mr. M.Asif Yousafzai Advocate. It is fixed for preliminary hearing before Single Bench/ at Peshawar on 25.11.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

**BEFORE THE KP SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 2492/2024

Muhammad Younas Afridi

V/S

Govt: of KP etc.

**INDEX**

S.No.	Documents	Annexure	Page No.
01.	Memo of appeal	-----	01-05
02.	Certificate	-----	06
03.	Affidavit	-----	07
04.	Copy of notification 14.04.2014	---A---	08
05.	Copy of Arrival report 22.02.2013.	---B---	09
06.	Copy of High Court judgment 12.03.2015.	---C---	10-18
07.	Copy of the power of Attorney	---D---	19-20
08.	Copy of Fact finding inquiry 30.08.2022.	---E---	21-22
09.	Copy of Charge Sheet.	---F---	23-24
10.	Application	---G---	25-29
11.	Copy of inquiry report, show cause & reply	---H---	30-37
12.	Personal hearing & reply	---I---	38-41
13.	Impugned order	---J---	42
14.	Departmental Appeal	---K---	43-46
15.	Vakalat Nama	-----	47

**APPELLANT**

Muhammad Younas Afridi

**THROUGH:-**

(M. ASIF YOUSAFZAI)  
ADVOCATE SUPREME COURT  
OF PAKISTAN.

(S. NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT

& (HILAL ZUBAIR YOUSAFZAI)  
ADVOCATE PESHAWAR.

Room No.FR-08, 4<sup>th</sup> Floor,  
Bilour Plaza Peshawar Cantt:  
Cell # 03339103240  
03129103240

**BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR**

APPEAL NO. 2492 /2024

Muhammad Younas Afridi, BS-18,  
District Officer Social Welfare Department,  
Charsadda.

(APPELLANT)

VERSUS

1. The Chief Secretary Khyber Pakhtunkhwa Civil Secretariat,  
Peshawar
2. The Secretary to Govt: of Khyber Pakhtunkhwa Zakat, Ushr &  
Social Welfare Department

(RESPONDENTS)

-----

**APPEAL UNDER SECTION 4 OF KP SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 23.07.2024, WHERE BY PENALTIES OF WITH HOLDING OF THREE ANNUAL INCREMENTS FOR A PERIOD OF THREE YEARS AND REVERSION FROM BS-18 TO BS-17 FOR A PERIOD OF TWO YEARS, HAVE BEEN IMPOSED UPON THE APPELLANT AND NOT DECIDING THE DEPARTMENTAL APPEAL OF THE APPELLANT WITH IN STATUTORY PERIOD OF 90 DAYS.**

**PRAYER IN APPEAL**

ON ACCEPTANCE OF THIS SERVICE APPEAL THE ORDER DATED 23.07.2024, MAY PLEASE BE SET-ASIDE AND THE APPELLANT MAY BE RESTORED TO HIS ORIGINAL SCALE/GRADE ALONG WITH RESTORATION OF INCREMENTS WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF THE APPELLANT.

**RESPECTFULLY SHEWETH:**

**FACTS:**

1. That the appellant has been serving in the Social Welfare Deptt: since, 1995, and has good service record throughout his service career. The appellant was awarded BPS-18 vide order dated 14-4-2014, and the appellant is presently performing his duties as Dy: Director in BPS-18. **Copy of the notification dated 14-04-2014 is attached as annexure A.**
2. The appellant was posted as Superintendent in the Government Institution for the Blinds (BOYS) Peshawar vide order dated. 18.04.2013 in pursuant of which the appellant submitted his arrival on 22.04.2013. **Copy of arrival report is attached as annexure B.**
3. That a Civil Revision (C.R No. 1285-P/2012) was pending in the Peshawar High Court since 2012 ,which was later on decided against the Institution on 12-03-2015 , where after, the attested copy of the judgment was obtained on 6-04-2015 , and forwarded the same on 07-04-2015 to the Director Social Welfare Zakat & Ushr, KPK Peshawar. **Copy of High Court judgment is attached as annexure C.**
4. That, later on, the Secretary to the Government of KPK Social Welfare Department Peshawar and all the concerned gave power of attorney on 28-05-2015, to the AOR Supreme Court for filing CPLA against the judgment of Peshawar High Court which was also signed by the appellant. But unfortunately the CPLA was delayed by the concerned officials which was not the fault of the appellant. **Copy of Power of attorney is attached as annexure-D.**
5. That due to delay in CPLA, the fact finding inquiry was conducted on 30-08-2022 regarding the submission of judgment (7-04-2015), where it is pertinent to mention here that appellant was never associated with that fact finding inquiry, but despite that the said inquiry recommended regular inquiry against the appellant by giving safe passage to other responsible high grade officers. **Copy of fact-finding Inquiry is attached as annexure-E.**
6. That thereafter, a charge sheet was issued (undated) which was never communicated to the appellant. However, the allegation of delay in supply of required documents for filling of CPLA No. 335-P/2015 against judgment date 12.03.2015 of Peshawar High Court in the apex Court was leveled against the appellant. **Copy of the Charge Sheet is attached as annexure-F.**

7. That the inquiry committee conducted the inquiry but without giving a proper chance of self defence to the appellant as per Rule-11 of the E&D Rules, 2011.
8. That the appellant gave an application on 27-06-2023 to inquiry officer regarding the non-receipt of inquiry letter / Corresponding documents and upon sensing the illegality, the appellant was provided the different correspondence letters of dated 21-03-2022, 14-12-2022, 15-05-2023, on one and the same day in the office of the appellant without following the proper official way. However, the appellant submitted his replies to the letters on 10-07-2023, though received delayed. **Copies of the Applications are attached as annexure-G.**
9. That the appellant also gave an application on 23-2-2024 to the inquiry officer for the provision of inquiry report and the same was provided to the appellant on 27-02-2024. Along with the copy of show cause notice. The appellant gave reply to the show cause notice and denied the entire allegation level against him **Copy of the inquiry report show cause notice and reply are attached as annexure-H.**
10. That the appellant was called for personal hearing on 09.05.2024, while the appellant submitted his written defence on 16-05-2024 and denied all the allegations level against him again . **Copy of the personal hearing and reply are attached as annexure I.**
11. That the worthy Secretary to Govt: of Khyber Pakhtunkhwa Zakat, Ushr & Social Welfare Department vide order dated. 23.07.2024 imposed major penalty of "*with holding of three increments for a period of three years and reversion of the accused from BS-18 (personal) to BS-17 for a period of two years*" upon the appellant. **Copy of the order dated 23-07-2024 is attached as annexure-J.**
12. That the appellant, aggrieved from the above mentioned impugned order dated 23-07-2024, filed departmental appeal on 5-08-2024 , but the same was not respond within period of 90 days. **Copy of the departmental appeal is attached as annexure-K .**
13. That having no other remedy against the acts/omissions of the respondents, the appellant is constrained to come to this august Tribunal on the following grounds amongst the others.

## GROUNDS:-

- A. That the impugned order dated. 27.07.2024 and not taking action on the departmental appeal of appellant within statutory period is against the law, fact, norms of justice and material on record. Hence liable to be set-aside.
- B. That the appellant has not been treated in accordance with law hence the appellant's rights secured and guaranteed under the law are badly violated.
- C. That neither proper procedure was followed before awarding the major penalty, nor proper inquiry was conducted. The appellant had not been properly associated with the inquiry proceedings, i.e statements of witnesses, if any, were never taken in the appellant's presence nor the appellant was allowed opportunity to cross examination. Thus the proceedings so conducted are defective in the eyes of law.
- D. That the impugned penalty order was passed by an incompetent authority, i.e Secretary of the Deptt: whereas the Hon'able Chief Minister was the competent authority for appellant because the appellant was in BPS-18 ( Deputy Director). Thus the impugned order is illegal and Coram Non Judice.
- E. That according to the judgment of Superior Courts, it is held that the report on which an inquiry officer relies in which the appellant official was neither participated nor confronted with evidence, then the penalty on the basis of such report is a nullity in the eyes of law. The same is the case of appellant because the inquiry committee violated Rule-11 of the E&D Rules, 2011.
- F. That the case is still sub-judice before the Civil Court and is not yet finally decided, which means that no loss is caused to the Govt: so far and the appellant is penalized for a damage which is not done yet.
- G. That the appellant has been punished for no fault on his part as evident from the record. The appellant informed the concerned quarters well in time but the concerned quarter was failed in filing CPLA in time and the same fault cannot be attributed to the appellant by making him a scapegoat.
- H. That the impugned order is totally against the laws and norms of justices, because the appellant was punished for the faults of the others which is not legally justified.

- I. That the attitude and conduct of the department shows that they were bent upon to impose minor and major penalties upon the appellant at any cost to save skin of the actual responsible officers of the Deptt:.
- J. That according to the judgments of Supreme Court it was held that every action against the natural justice should be treated as void and unlawful order. The natural justice should be considered as part and parcel of every statute. Hence impugned order is liable to be set-aside as the appellant was totally condemned unheard in violation of spirit of Article-10A of the Constitution. (2017 PLD 173 AND 1990 PLC (C.S)727, 1997 PLD (SC) Page 617).
- K. That the charges leveled against the appellant were never proved in the inquiry, and the worthy inquiry committee had not proved the guilt of appellant beyond shadow of doubt, especially the letters which were shown in the table of the fact finding inquiry were never described as inadmissible or otherwise.
- L. That the appellant has not been treated fairly, properly, and the whole proceedings were taken in violation of the spirit of E&D Rules, 2011 as well as Article-10-A of the Constitution.. Therefore, the impugned order is liable to be set aside.
- M. That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

**APPELLANT**

Muhammad Touqas Afridi

**THROUGH:-**

(M. ASIF YOUSAFZAI)  
ADVOCATE SUPREME COURT  
OF PAKISTAN.

(S. NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT  
OF PESHAWAR.

&  
(HILAL ZUBAIR YOUSAFZAI)  
ADVOCATE PESHAWAR.

**BEFORE THE KP SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 4 /2024

Muhammad Younas Afridi,

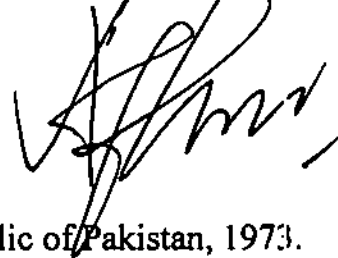
V/S

Govt: of KP etc.

**CERTIFICATE:**

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.

DEPONENT



**LIT OF BOOKS:**

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE.
3. Any other case law as per need.

APPELLANT

Muhammad Younas Afridi,

THROUGH:-

(M. ASIF YOUSAFZAD)  
ADVOCATE SUPREME COURT  
OF PAKISTAN.

(S. NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT  
OF PESHAWAR.

& (HILAL ZUBAIR YOUSAFZAD)  
ADVOCATE PESHAWAR.



**BEFORE THE KP SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. \_\_\_\_\_/2024

Muhammad Younas Afridi,

V/S

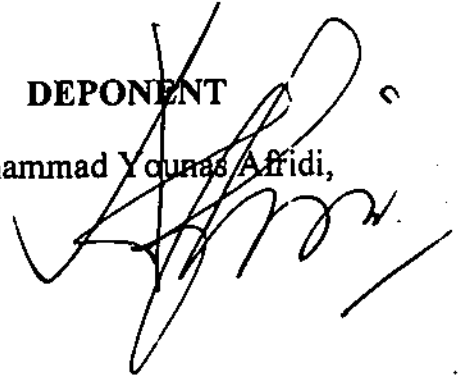
Govt: of KP etc.

**AFFIDAVIT**

I Muhammad Younas Afridi, BS-18 District Officer Social Welfare Department, Khyber Pakhtunkhwa, Peshawar (Appellant), do hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this honorable Tribunal.

  
19/11/24

**DEPONENT**  
Muhammad Younas Afridi,





GOVERNMENT OF KHYBER PAKHTUNKHWA  
ZAKAT, USHR, SOCIAL WELFARE, SPECIAL EDUCATION  
& WOMEN EMPOWERMENT DEPARTMENT

A (143) 8

Dated Peshawar the 14<sup>th</sup> April, 2014.

**NOTIFICATION:** 356-3-7724

**No. SOIL (SW)II-197/2011/** In pursuance of the recommendation of Upgradation Committee, twenty one (21) posts of Social Welfare Officers/Assistant Directors are upgraded from BPS-17 to BPS-18 (personal) and consequently the following officers on the basis of seniority are allowed personal upgradation to BPS-18 with immediate effect:-

Sr #	Name of Officer
1.	Mr. Fazal Wahid
2.	Mr. Saeed-ur-Hassan
3.	Mr. Sher Nawaz
4.	Mst. Tahira Navèed
5.	Mst. Shamsah Begum
6.	Mr. Abdul Rashid Malik
7.	Mst. Yasmin Akhtar
8.	Mst. Tahira Ali
9.	Mr. Shah Zaman
10.	Mr. Shafiqat Amin
11.	Mr. Yasmin Ara
12.	Mst. Salma Nasrullah
13.	Mr. Muhammad Adil Khan
14.	Mr. Abdur Rasheed
15.	Mr. Ifikhar Ali
16.	Mst. Iffat Nasir
17.	Mr. Muhammad Younas Afridi
18.	Mst. Bibi Yasmin Saeed
19.	Mst. Syeda Nudrat
20.	Mst. Azra Begum
21.	Mst. Ghazala Tabassum

2-11/12  
MOC(BAW)

2. The posts shall automatically be downgraded as and when vacated by the upgraded officers.

Secretary to Govt: of Khyber Pakhtunkhwa  
Zakat, Ushr, Social Welfare, Special Education  
& Women Empowerment Department.

**Endst: No. FD/SO(FR)FD/7-21/2011:**

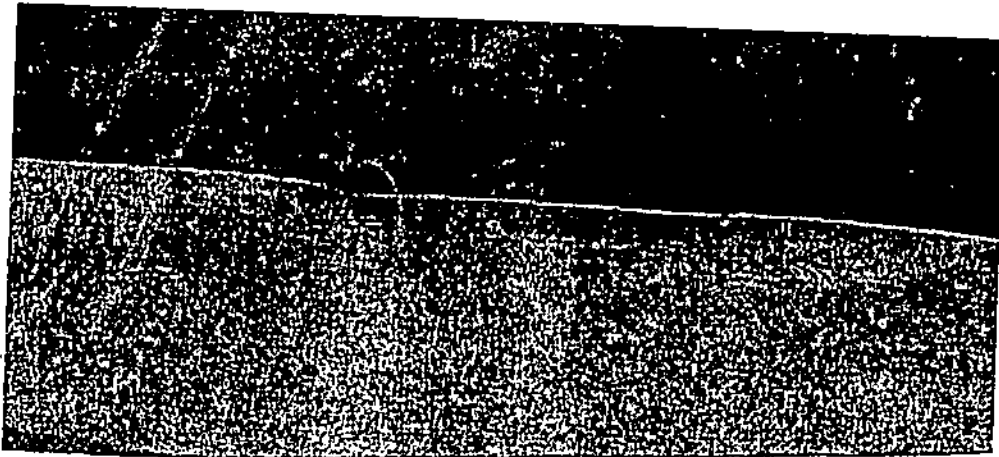
Copy forwarded for Information and necessary action to:-

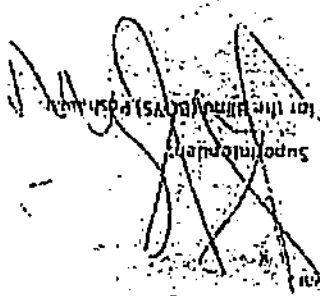
1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. All District Account Officers in Khyber Pakhtunkhwa.

(Shaukat Ullah)  
Section Officer (FR)  
Finance Department

3606  
18-4-014  
...2...  
M/2/14

F-1/1/14



  
 Superintendent  
 Govt. Institute for the Blind (BOYS) Peshawar

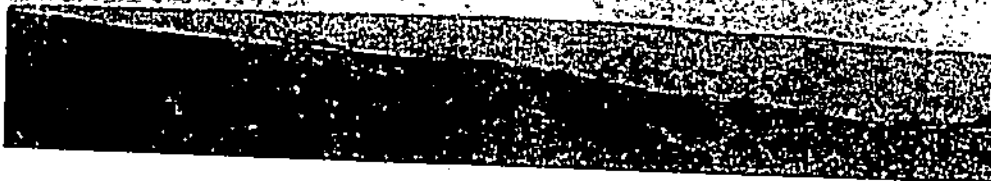
The District Officer, Social Welfare Department, Peshawar  
 The PS to Secretary, Social Welfare & Women Devt. Department,  
 The Director, Social Welfare Dept., Peshawar  
 The Accountant General, PPR Peshawar  
 Copy To:

Government of Punjab  
 (Muhammad Younis Arif)  
 Superintendent  
 Govt. Institute for the Blind (BOYS) Peshawar

Subject: ARRIVAL REPORT  
 Consequent upon Administrative Department Notification No  
 -SC/ISW/2-57/2013, 2116-40 dated 18-04-2013, Muhammad Younis Arif submit my arrival at  
 a superintendent Govt Institute for the Blind (Boys) Peshawar on 22-04-2013 (A N)

Office of the Superintendent  
 Govt. Institute for the Blind (BOYS),  
 Social Welfare Department, Peshawar.  
 MO: 511 (BOYS)/  
 2417-20  
 Dated Peshawar the 22-04-2013

9  
 B  
 AS



JUDGMENT SHEET  
IN THE PESHAWAR HIGH COURT, PESHAWAR  
JUDICIAL DEPARTMENT

CR No. 1285 of - P 2009 with,  
CM 560-P/2013

JUDGMENT

Date of hearing

12/03/2015

Appellant Govt of K.P.K by M/S Mr. Zia-ur-Rehman Advocate  
and Mr. Rahim Shah A.A.G.

Respondent Maqsood Ahmad by M/S Muhammad T. Afzali and Aftikhar Elahi Advocates.



NISAR HUSSAIN KHAN, J.- Petitioners have questioned the judgment and decree of learned Additional District Judge-IX, Peshawar dated 25.9.2012 whereby dismissing their appeal, judgment and decree of the learned Civil Judge-V, Peshawar dates 29.10.2010 has been maintained.

2. Precisely stated facts of the case are that respondent No.1 Maqsood Ahmad and predecessor of respondents No. 2/1 to 2/5 filed a suit for possession through partition of property measuring One Kanal from Khasra No.650/336 measuring 2 kanals & 12 Marla. It is averred in the plaint that respondent/plaintiff purchased the suit property, vide mutation No.4020 dated 6.10.1983 in equal shares of 10 Marla each; that plaintiff No.1 was settled in Karachi in connection

ATTESTED  
EXAMINER  
Peshawar High Court  
06 APR 2015

with his job. While plaintiff No.2 is handicapped because of loss of eye-sight, due to which defendant No.3, has wrongly taken over possession; that different notices were sent for vacation of the site but to no avail. Petitioners/defendants filed written statement wherein they particularly alleged that RL-II No.171, on the basis of which mutation No. 3033 was effected, is fake, fictitious and fraudulent as its record is neither available in the Settlement Office at Peshawar nor at Lahore. It is further alleged that they have filed representation before the Senior Member, Peshawar High Court for cancellation of the said RL-II No.171, 1973 which is pending subjudice. The learned trial court, after framing issues, recorded evidence of the parties and after conclusion of the case, suit of the plaintiff was decreed against which petitioners filed appeal which was dismissed, hence the instant revision petition.

3. Learned Additional Advocate General has argued that the learned trial court has not afforded ample opportunity to lead evidence, particularly, the official witnesses were not summoned which were mentioned in the list of witnesses which resulted into impugned decree of the trial court while learned Appellate court has

ATTESTED  
 EXAMINER  
 Peshawar High Court  
 06 APR 2015

also failed to consider this aspect of the case and dismissed the appeal.

4. Learned counsel for respondents argued that they are owner of the suit property and their title deeds have not been challenged so far before any competent forum; that they are owners of the suit property on the basis of RL-II No.171 and consequential mutation, hence they are entitled for separation of their share through partition which has wrongly been taken over for construction. He maintained that petitioners were afforded opportunity to lead evidence and to bring on record any document in rebuttal but they have failed and that at such belated stage, they are not entitled to reversal of the decree.

5. I have heard learned counsel for the parties at length and have gone through the record with their valuable assistance.

6. Perusal of the record transpires that Maqsood Ahmad etc. respondents filed a suit for partition of their 20 shares to the extent of One Kanal out of Khasra No.650/336 measuring 2 Kanal & 12 Marla which was initially Evacuee property and later on recorded as ownership of the Central Government, vide Jamabandi of the year 1968-69 Ex.PW.1/6 and shown in possession of the Settlement

10

ATTESTED  
EXAMINER  
Rashawar High Court  
05 APR 2015

Department. Its RL-II was issued alongwith other property in favour of Abdul Khaliq and Abdul Qadir sons of Abdul Rehman on the basis of which mutation No.3033 dated 10.5.1974 was attested, vide which two Kanals property was transferred in their favour, reference of which is incorporated in the Jamabandi for the year 1968-69 Ex.PW.1/7. This mutation had been incorporated in successive Jamabandi for the year 1976-77. According to Ex.PW.1/9, Jamabandi for the year 1980-81, Abdul Khaliq and Abdul Rehman sold out one Kanal out of said property in favour of Maqsood Ahmad and Abdul Jalil in equal share, vide mutation No.4020, dated 6.10.1983. While one Kanal was transferred to Masil Khan and Muhammad Khan vide mutation No. 4021 on the same date. These mutations were incorporated in subsequent Jamabandi for the year 1984-85 Ex.PW.1/10. The Central Government transferred 12 Marla in favour of Ali Gohar S/O Sher Muhammad, vide mutation No.6336, dated 17.3.1995 as per remarks column of Jamabandi for the year 1993-94 Ex.PW.1/12. In subsequent Jamabandi, the Central Government is omitted from the column of ownership as well as cultivation on the basis of preceding entries because of exhausting their proprietorship and was no more recorded as owner in the revenue record.

ATTESTED  
EXAMINER  
Peshawar High Court  
06 APR 2015

7. It is borne out from the record that there is a school constructed in the suit property for blind children which is in operation since long. The instant suit was filed in 1993 and once it was remanded by this court on 8.5.2006 for impleadment of Central Government and other co-owners in the panel of defendants being necessary party. In first round of litigation, the parties adduced evidence, as they wished and after remand, ample opportunities were provided to the appellant. However, when the court failed to procure attendance of their official witnesses from Lahore and Charsadda, as a last resort, they were allowed to produce certified copies of those documents required to be produced by them. The said concession was also not availed by the defendants and the trial court was constrained to invoke Order 17 CPC. Despite that, the court again granted to enable the defendants to produce the record but they failed and consequently the defence was struck-off.

8. Learned AAG vehemently argued that the petitioners have been deprived from leading evidence while the law requires disposal of cases on merits by providing ample opportunity to the parties to lead evidence what they wished but the petitioners have

ATTESTED  
 EXAMINER  
 Peshawar High Cou  
 06 DEC 2015



been deprived from that right. As it has already been pointed out that case was remanded by this court in 2006 for impleadment of the Central Government in panel of the defendants, who have all the resources at their disposal and could easily procure the attendance of their witnesses but they failed. Main stance of the petitioners/defendants in the written statement was that RL-II was fake and fictitious which has been challenged before Chief Settlement Commissioner. In view of this particular stance, petitioners may lead evidence in that respect. The order of the Member Board of Revenue/Chief Settlement Commissioner dated 26.3.2011 is available on the record, from the recital of which it transpires that the Superintendent Government Institute for the Blind filed an application on 23.2.2005, praying therein that RL-II No.171 in favour of Abdul Khaliq etc. is a forged and fictitious document which has been issued with collusion and mis-representation, hence the said RL-II and subsequent mutations may be cancelled and the property be restored in the name of Central Government which has been acquired for noble cause for Government Institute for Blinds. The said application was rejected on 26.3.2011 mainly for lack of jurisdiction with the advice to seek administrative enquiry into the matter. There is nothing on the record in black and white to indicate

ATTESTED  
EXAMINER  
Peshawar High Court  
05 APR 2013

that the said RL-II and consequential mutations have formally been challenged before any competent forum by the petitioners. Rather there is preponderance of evidence on the record clearly demonstrating that the respondents are owner of the suit property since 1983 till date and no adverse order whatsoever has been produced which may stigmatize their title.

9. In view of this factual background of the case, respondents are being deprived of their property since long and same were the observations of this court while remanding the case in 2006.

10. No doubt, procedural law embodied in Code of Civil Procedure\*1908 provides every opportunity to a party to prove its case through its evidence and when the documentary evidence is to be produced by the official witnesses, the court is required to procure their attendance. But in the instant case, petitioners/defendants are not ordinary litigants who are helpless and only depend on the court process but it is Central Government on whose disposal, are the official witnesses. Had the case been seriously pursued, their witnesses might have been procured by themselves on first, second or third date but it appears from the

ATTESTED  
EXAMINER  
Rashavur High Court  
05 APR 2015

order of the trial court dated 24.7.2010 that umpteen opportunities were provided but petitioners have failed to avail the same.

11. Keeping in view the chequered history of the case, it can safely be deduced that the petitioners are prolonging the matter on one pretext or the other and thereby deprived the private owners from the fruits of their ownership. Thus they cannot be allowed to misuse the court process for their malafide designs. It has come to limelight that there is a School, built on the suit property, and that too for blind children which is a welfare institution. In this backdrop of the facts, government has constructed a school without realizing that the property is not their ownership on one hand, while the respective respondents have also acquiesced in the said construction by not raising any objection in time or seeking aid of the court, on the other. It has been agitated from the petitioners' side that the school was constructed much prior to the allotment of the property in 1962, so it could not have been allotted. Be that as it may, in the given circumstances, it would be in the fitness of things that the Government shall acquire the property and pay its compensation to the respondents/owners. The matter shall be concluded within a period of six months. In case of failure, the

ATTESTED  
EXAMINER  
Roshanpur High Court.  
05 APR 2015

15

18

respondents may get possession by partition on payment of cost of improvement/construction because they have acquiesced thereto.

12. For the foregoing reasons, this petition is disposed of in the above terms.

office

Announced on 06 APR 2015

JUDGE

Sd/ Nisat Hussain Khan - J

CERTIFIED TO BE TRUE COPY

Peshawar Examining High Court, Peshawar  
Authorized Under Article 87 of  
The Constitution of Pakistan

06 APR 2015

17938

No. .... 17938

Date of Presentation of Application 30-3-15

No of Pages 22 Pages

Copy fee

Legal fee

Cost

Form of Preparation of copy 06 APR 2015

Date Given For Delivery 06 APR 2015

Date of delivery Copy 06 APR 2015

Syed - M - Ayub

Date of delivery



Signature (D)  
 (D) a (19)

**POWER OF ATTORNEY**  
**IN THE SUPREME COURT OF PAKISTAN**  
**(APPELLATE JURISDICTION)**  
**ORIGINAL JURISDICTION**  
 SUBJECT CIVIL APPEAL NO. 1075 OF 2017

Govt. of Khyber Pakhtunkhwa  
 through Secretary Social Welfare  
 Department, Peshawar.

PETITIONERS  
 WITNESSES  
 RESPONDENTS

I, through my competent/authorized agent (M. A. Khan) in the above petition, do hereby appoint and constitute Mian Nadeemullah Jandoji, Advocate-on-Record, Supreme Court, for Govt. of Khyber Pakhtunkhwa the Attorney for the aforesaid Petitioners to commence and prosecute and defend this action/appeal/petition/interference on my/our behalf and all proceeding that may be taken in respect on any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take back documents, to accept the proceeds of the Court, to appoint and instruct Counsel, to represent the aforesaid Petitioners in the above matter and to do all things incidental to such acting for the aforesaid Petitioners.

All terms and conditions (a) hereby agree/agrees to ratify all acts done by the aforesaid Attorney in pursuance of this authority.

In witness whereof I have do hereunto set my/our hand/hands

Signed with Official seal/Stamp

Received  
 Mian Nadeemullah Jandoji  
 Advocate-on-Record  
 Supreme Court of Pakistan  
 (for Khyber Pakhtunkhwa)  
 Office No. 11, High Court Building, Peshawar.  
 Office Tel. # 091-9210012, 9210119

1- Secretary to Govt. of Khyber Pakhtunkhwa, Social Welfare Department, Peshawar.  
 2- Director, Social Welfare Department, Khyber Pakhtunkhwa, Peshawar.

Principal School for Blind Nishat  
 Altd. Peshawar.  
 Issued on 28.05.2015

Superintendent  
 Govt. Institute for the Blind  
 Peshawar.

20

OFFICE OF THE ADVOCATE GENERAL KHYBER PAKHTUNKHWA  
PESHAWAR

RECEIPT

Received a sum of Rs. 4200/- ( Four Thousand and two hundred only) as expenses (Court fees, photo state, binding and notices to the respondents ) for filing CPLA in the Supreme Court of Pakistan in its Branch Registry at Peshawar in connection with case title C.R.No. 1285-P/2012 Govt. of Khyber Pakhtunkhwa and others. Versus Maqsood Ahmad and others.

JA  
Superintendent  
Govt Institute for the Blind  
Peshawar.

Advocate-on-Record  
Supreme Court of Pakistan  
Govt of Khyber Pakhtunkhwa  
Peshawar.  
9/6/2015

Subject: **FACT-FINDING INQUIRY**

In pursuance of orders notified vide letter No. SO/Lit (SWD)/1161/Civil Sulte/2015 by Section Officer (Litigation), Social Welfare Department, undersigned conducted fact-finding inquiry regarding submission/filing of time barred CPLA No. 335-P/2015 against the judgment dated 12-03-2015 of Peshawar High Court, Peshawar in the Apex Court.

**Background:**

Brief background of the case is that Mr. Maqsood Ahmad & others filed a civil suit for possession of land measuring one kanal in the premises of Govt. Institute for the Blinds (Male) at Nanak Pura, GT Road Peshawar in the year 1983. The trial Court, Addl. Distt & Session Judge, Peshawar as well as Honorable Peshawar High Court decided the suit against the department and in favor of the respondent viz. Mr. Maqsood Ahmad.

**Findings:**

Perusal of record reveals that instant case is an old one. Record as provided by Section Officer (Lit.) Social Welfare Department in its chronological order i.e. from the date of pronouncement of Judgment of Peshawar High Court which is 12-03-2015 to filing of CPLA on 29-06-2015 as conveyed to Social Welfare Department by Advocate on Record Mian Saadullah Jandoll vide letter dated 01-07-2015 is as under:

S #	Activity	Date
1	Pronouncement of Judgment of High Court	12/03/2015
2	Attested Copy received from High Court	06/04/2015
3	<del>Letter of Superintendent School to Director Social Welfare Department regarding submission of Judgment</del>	<del>07/04/2015</del>
4	Letter of Director Social Welfare Department to Secretary Social Welfare Department for conveying Judgment.	15/04/2015
5	Letter of Section Officer (Lit) SWD to District Officer directly (thereby bypassing office of Director SWD) for provision of relevant record	16/04/2015
6	Reminder of Section Officer (Lit) SWD to District Officer (SWD)	07/05/2015
7	Letter of District Officer to Section Officer (Lit) SWD regarding Provision of record	08/05/2015
8	Letter of Section Officer (Lit) SWD to Secretary Law for admissibility of filing CPLA in Apex Court	12/05/2015
9	Letter of Law Department for conduct of meeting of Scrutiny Committee on 15-05-2015	13/05/2015
10	Letter of District Officer (SWD) to Superintendent Blind School conveying his displeasure for irresponsible behavior of Superintendent School	18/05/2015
11	Letter of Section Officer (Lit) Law Department to Advocate General Office regarding filing of CPLA in Supreme Court of Pakistan	20/05/2015
12	Letter of Office of Advocate General KP to Secretary Social Welfare Department for provision of documents and well conversant departmental representative	22/05/2015
13	Letter of Deputy Director (SWD) to District Officer (SWD) regarding giving top priority to instant Court case	26/05/2015
14	Letter of Section Officer (Lit) to Director (SWD) for nominating well conversant officer to attend officer of Advocate General with record on 28-05-2015	27/05/2015

E  
27

24 day  
25 day

CPLA - 26-4-2015

	Activity	Date
15	Letter of Deputy Director (SWD) to District Officer for nominating well conversant officer to attend officer of Advocate General with record on 28-05-2015	27/06/2015
16	Letter of Deputy Director (SWD) to District Officer (SWD) for provision of documents and submission of application for condonation of delay on advice of Advocate on record as case became time barred on 18-05-2015	02/06/2015
17	Letter of District Officer to Superintendent Blind School for Provision of documents in response to decision of meeting of 28-05-2015 at the earliest as the case was already time barred	08/08/2015
18	Letter of Advocate on record to Secretary Social Welfare Department Regarding filing of CPLA on 29-06-2015 being time barred by Approximately 30 days	01/07/2015

22

In light of Supreme Court Rules and Orders 1980, the total time allowed for filing CPLA against the judgment of High Court is 80 days, which is counted from the day and date of announcement of judgment of the Court; however, it is also important that in light of Section 12 of Limitation Act, time after submission of application for provision of attested copies of the judgment till provision of attested copy of judgment is condoned/computed. From all the above referred letters, it is revealed that main delay of 25 days took place in receiving attested copies of the judgment but again it is not clear that why it took so long and who is responsible for this delay, who attended the Court Proceedings that day and when application for provision of attested copy was submitted. The second delay of 22 days in correspondence was caused by District Officer Peshawar, as Section Officer (Litigation), Social Welfare Department sent a letter to District Officer for provision of relevant record for seeking opinion of Law department on 16-04-2015. In continuation of that letter, Section Officer (Lit) Social Welfare Department sent a reminder to District Officer for provision of record on 07-05-2015, whereas, its response was received on 08-05-2015 from the District officer (SWD) as per available record. From record it is not clear that whether relevant documents/record was submitted in time by the Superintendent Blind School to the District Officer, Peshawar or otherwise. Moreover, the rift indicated between District Officer concerned and the Superintendent, Government Institute for the Blinds, Peshawar vide letter dated 18-05-2015 regarding irresponsible behavior of Superintendent is also a factor which cannot be ignored as well. Apart from the above mentioned facts the case was also delayed due to various procedural requirements i.e. supply of documents, lengthy correspondence amongst various tiers within Department, correspondence with Law Department and with Advocate General Office.

In view of the forgoing, it is submitted that a formal inquiry under E & D Rules may be instituted against the then District Officer, Peshawar Mr. Saad-Ullah Bangash and the then Superintendent Blind School Mr. Younis Afridi, to probe in detail by taking in to account all the relevant record and evidence for fixing the responsibility of delay in filing of CPLA in Supreme Court of Pakistan.

*M. Wardhany*  
 Deputy Secretary (SW)  
 30/8/2022





Mohsin2

yesterday at 1:03 PM



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ZAKAT USHR, SOCIAL WELFARE, SPECIAL EDUCATION  
& WOMEN EMPOWERMENT DEPARTMENT


F  
23

CHARGE SHEET

1. Dr. Shahzad Khan Bangash, Chief Secretary, Khyber Pakhtunkhwa as Competent Authority, hereby charge you, Mr. Younas Afridi (BS-18 Personal), Ex-Superintendent Blind School (Male) at Nanak Pura, GT Road Peshawar, now Deputy Director Vocational Training Center for Disabled Persons Special Education Complex, Hayatabad Peshawar as follows:-

*That you delayed supply of required documents for filing of CPLA No. 335-P/2015 against judgment date 12.03.2015 of Peshawar High Court, Peshawar in the Apex Court.*

2. By reasons of the above, you appear to be guilty of misconduct under Rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011 and have rendered yourself liable to all or one of the penalties specified in Rule 4 of the rules ibid.
3. You are, therefore, required to submit your written defence within (14) fourteen days of the receipt of this Charge Sheet.
4. Your written defence, if any, should reach within the specified period, failing which, it shall be presumed that you have no defence to put in and that case ex-parte action shall be taken against you.
5. Intimate whether you desire to be heard in person.
6. A statement of allegations is enclosed.

  
(DR. SHAHZAD KHAN BANGASH)  
CHIEF SECRETARY  
KHYBER PAKHTUNKHWA

MR. YUNAS AFRIDI (BS-18 Personal),  
Deputy Director  
Vocational Training Center for Disabled Persons,  
Special Education Complex, Hayatabad Peshawar



Mohsin2

yesterday at 1:04 PM



24



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ZAKAT USHR, SOCIAL WELFARE, SPECIAL EDUCATION  
& WOMEN EMPOWERMENT DEPARTMENT

Disciplinary Action

I, Dr. Shahzad Khan Bangash, Chief Secretary, Khyber Pakhtunkhwa as competent authority, am of the opinion that Mr. Younas Afridi (BS-18 Personal), Ex-Superintendent Blind School (Mal.) at Nanak Pura, GT Road Peshawar, now Deputy Director Vocational Training Center for Disabled Persons Special Education Complex, Hayatabad Peshawar has rendered himself liable to be proceeded against, as he committed the following acts/ omissions within the meaning of rule 3 of the Khyber Pakhtunkhwa, Government Servants (Efficiency and Disciplinary) Rules 2011:-

Statement of Allegations

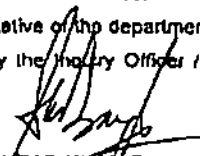
That he delayed supply of required documents for filing of CPLA No. 335-P/2015 against judgment date 12.03.2015 of Peshawar High Court, Peshawar in the Apex Court.

2 For the purpose of inquiry against the said accused with reference to the above allegations an inquiry officer/ inquiry committee, consisting of the following is constituted under rule 10 (1) (a) of ibid rules.

- (I) Musharraf Khan Marwat A.S. Excise  
(II) Mr. Rayyan Khan D.D (Admin)  
(III) Directorate of S.W.

3. The Inquiry Officer / Inquiry Committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity for hearing to the accused, record its findings and make recommendations within (60) sixty days of the receipt of this order as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Inquiry Officer / Inquiry Committee.

  
(DR. SHAHZAD KHAN BANGASH)  
CHIEF SECRETARY  
KHYBER PAKHTUNKHWA

MR. YUNAS AFRIDI (BS-18 Personal),  
Deputy Director  
Vocational Training Center for Disabled Persons,  
Special Education Complex, Hayatabad Peshawar

9091-9217366

Government of Khyber Pakhtunkhwa  
Social Welfare, Special Education & Women Empowerment  
Vocational Training Centre for Disabled Persons  
Special Education Complex Hayatabad Peshawar

PF.NO.61/2022/VTCDPI/625

Peshawar 27/June/2023

To

Mr. Musharraf Khan  
Director/Chief Instructor PSA/Inquiry Officer

Subject:- NON RECEIPT OF INQUIRY LETTERS/CORRESPONDENCES/DOCUMENTS

Dear sir,

This is with the reference to the meeting held with your goodself on 26 June 2023 in the office of Director Special Education Complex Hayatabad, Peshawar, wherein you were very gracious to intimate the undersigned about ongoing inquiry proceedings and correspondence issued thereunder vide letter No. DD(A)/PSA/General File/3-4/2014 Dated 14-12-2022, No. DD(A)/PSA/General File/3-4/2014 dated 21-03-2022 and No. DD(A)/PSA/General File 3-4/2014 dated 15-05-2023 (copies enclosed), which are not in receipt by the undersigned till date. The same were shared by your goodself with the undersigned by hand during the meeting ibid.

2. It is therefore requested that matter may be strictly probed for delaying important official inquiry letters/correspondences/documents leading to unnecessary delay and doubts, please.

3. Thanking you for your valuable cooperation. (Enclosed as above)

Regards,  
Your Truly,

(Muhammad Younas Afridi)  
Deputy Director

Copy for Information

1. PSO to Chief Secretary Khyber Pakhtunkhwa Peshawar
2. PS TO Secretary Establishment Department
3. PS to Secretay Social Welfare Department
4. PA to Director Social Welfare Department
5. PA to Director Special Education Complex

(Muhammad Younas Afridi)  
Deputy Director



(26)

**GOVERNMENT OF KHYBER PAKHTUNKHWA**  
**PROVINCIAL SERVICES ACADEMY**

Ground Floor Block-II, Ex-FDA Building, Phase-V Hayatabad, Peshawar .  
Phone # 091-9219654 Fax # 091-9219655

No. DD (A)/PSA/General File/3-4/2014  
Dated 21-03-2022

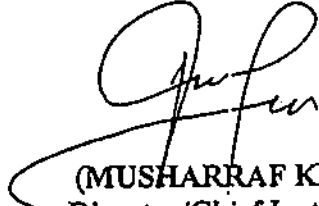
To


Mr. Younas Afridi,  
Deputy Director,  
Special Education Complex, Hayatabad Peshawar

Subject: - EARLY SUBMISSION OF WRITTEN STATEMENT AND PERSONAL APPEARANCE IN RESPECT OF INQUIRY AGAINST YOU IN CONNECTION WITH DELAYED SUPPLY OF REQUIRED DOCUMENTS FOR FILING CPLA NO:335-P/2015 IN THE SUPREME COURT OF PAKISTAN.

This is second letter to you. You are once again informed that the Chief Secretary Khyber Pakhtunkhwa had been pleased to appoint the undersigned along with Mr. Qayyum Khar Deputy Director (Admn) Directorate of Social Welfare as Inquiry Officers in the above mentioned inquiry. You have already been conveyed verbally through various sources to submit written statement and appear personally before the Inquiry Committee for recording statement but in spite of all the above you failed.

You are once again directed to appear personally before the Inquiry Committee for doing the above needful as soon as possible.

  
(MUSHARRAF KHAN)  
Director/Chief Instructor  
PSA, Peshawar





# GOVERNMENT OF KHYBER PAKHTUNKHWA

## PROVINCIAL SERVICES ACADEMY

Ground Floor Block-II, Ex-FDA Building, Phase-V Hayatabad, Peshawar  
Phone # 091-9219654 Fax # 091-9219655



No. DD (A)/PSA/General File/3-4/2014  
Dated 14-12-2022

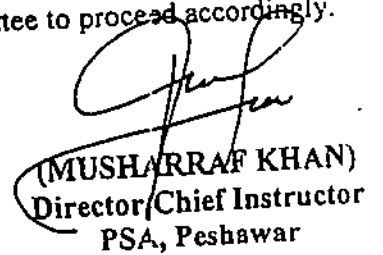
To

Mr. Younas Afridi,  
Deputy Director,  
Special Education Complex, Hayatabad Peshawar

Subject: - EARLY SUBMISSION OF WRITTEN STATEMENT AND PERSONAL APPEARANCE IN RESPECT OF INQUIRY AGAINST YOU IN CONNECTION WITH DELAYED SUPPLY OF REQUIRED DOCUMENT FOR FILING CPLA NO.335-P/2015 IN THE SUPREME COURT OF PAKISTAN.

It is to intimate that the Chief Secretary, Khyber Pakhtunkhwa had been pleased to appoint the undersigned along with Mr. Qayyum Khan Deputy Director (Admn) Directorate Social Welfare as Inquiry Officers in the above mentioned inquiry. According to the requirements you are supposed to submit detailed written reply in response to the allegations mentioned in the Charge Sheet and statement of Allegations as soon as possible and appear personally for recording your statement.

Please do intimate to enable the Inquiry Committee to proceed accordingly.

  
(MUSHARRAF KHAN)  
Director/Chief Instructor  
PSA, Peshawar





28

**GOVERNMENT OF KHYBER PAKHTUNKHWA**  
**PROVINCIAL SERVICES ACADEMY**

Ground Floor Block-II, Ex-FDA Building, Phase-V Hayatabad, Peshawar  
Phone # 091-9219654 Fax # 091-9219655

No. DD (A)/PSA/General File/3-4/2014  
Dated 15-05-2023

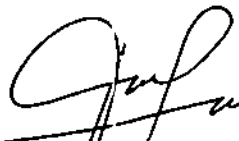
To

Mr. Younas Afridi,  
Deputy Director,  
Special Education Complex, Hayatabad Peshawar

Subject: - EARLY SUBMISSION OF WRITTEN STATEMENT AND PERSONAL APPEARANCE IN RESPECT OF INQUIRY AGAINST YOU IN CONNECTION WITH DELAYED SUPPLY OF REQUIRED DOCUMENT FOR FILING CPLA NO:335-P/2015 IN THE SUPREME COURT OF PAKISTAN.

This is third and final letter to you. As has earlier been intimated that the Chief Secretary, Khyber Pakhtunkhwa has been pleased to appoint the undersigned along with Mr. Qayyum Khan Deputy Director (Admn) Directorate of Social Welfare as Inquiry Officers in the above mentioned inquiry. You have been conveyed time and again verbal directions through various sources to submit written statement and appear personally before the Inquiry Committee for recording statement but in spite of all the above you failed to comply.

You are last time directed to submit the written reply and intimate date and time for appearing personally before the Inquiry Committee within three days positively otherwise the Inquiry Committee will submit detailed report accordingly to the competent authority for further necessary action.

  
(MUSHARRAF KHAN)  
Director/Chief Instructor  
PSA, Peshawar

JUC



Government of Khyber Pakhtunkhwa  
 Social Welfare, Special Education & Women Empowerment  
 Vocational Training Centre for Disabled Persons  
 Special Education Complex Hayatabad Peshawar

091-9217366

Peshawar, 10 July 2023

29

PF.NO.61/2022/VTCOPI 631

To  
 Mr. Musharraf Khan  
 Director/Chief Instructor PSA/Inquiry Officer

Subject:- WRITTEN STATEMENT/DEFENCE

Dear sir,

This is with reference to your letters No.DD(A)/PSA/General File/3-4/2014 dated 21-03-2022, No.DD (A)/PSA/General File/3-4/2014 dated 14-12-2022 and No.DD (A)/PSA/General File/3-4/2014 dated 15-03-2023 subsequent meeting held with your good self in your office on 05-07-2023 and to submit my written statement/defense as under

1.
  - (i) That the said inquiry is time barred as the issue has been brought on to the surface after 8 long years having no sound justification.
  - (ii) That the undersigned has been only targeted for reasons unknown while leaving other important and connected dealing hands of the case.
  - (iii) That the undersigned has no vested interest of the issue and had performed his duty quite diligently with full zeal and devotion, which can safely be ascertained from timely submission of case documents for filling of CPLA in the August Court (Copies enclosed).
  - (iv) That as evident from the record the undersigned received copy of Peshawar High Court Judgment in case No. 335-P/2015 dated 12-03-2015 on 06-06-2015 officially, while the case for filling CPLA was made by the undersigned ON 09-06-2015 i.e. Within three days of the receipt of Peshawar High Court Judgement hence no delay was made by the undersigned deliberately in the matter.
  - (v) That the instant case is still subjudice in August Court for hearing and the undersigned can not be held responsible for its delay whatsoever and that too all alone.
  - (vi) That I was intimated by your good self about ongoing inquiry proceeding and correspondence to which I was not timely informed and the receipt by any quarter concerned. The same was unofficially shared by your good self with the undersigned during a meeting held in the office of Director Special Education. (Copies enclosed)

2. In view of above submissions, it is therefore requested that a fair, transparent and unbiased investigation may be recommended in the instant case please.

3. Thanking you for your valuable cooperation.

Regards

(Muhammad Younas Afridi)  
 Deputy Director

Copy for Information :-



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ZAKAT, USHR, SOCIAL WELFARE, SPECIAL EDUCATION  
& WOMEN EMPOWERMENT DEPARTMENT

No. SO-II/SWD/1-44/Complaint/Enquiry  
Dated Peshawar the 27<sup>th</sup> February, 2024

H (30)  
6067

To

Mr. Younas Afridi,  
Deputy Director, Vocational Training Center for Disabled Persons,  
Special Education Complex, Hayatabad Peshawar.

Subject: - **SHOW CAUSE NOTICE**

Reference to your letter No. PF.No.61/2022/VTCDP/716 dated 23.02.2024 on the subject noted above and to enclose herewith complete report conducted by Mr. Musharraf Khan, Director/Chief Instructor PSA, Peshawar as desired, please.

Encl: as above

  
SECTION OFFICER-II

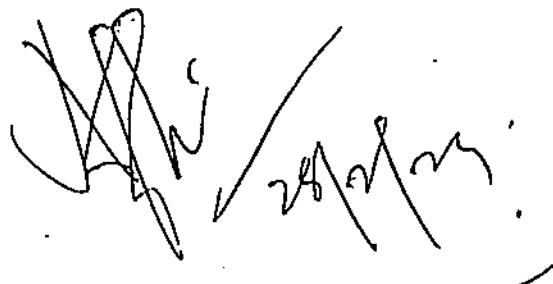
Endst: of Even No. & Date: -

Copy is forwarded to:-

1. Director, Social Welfare, Special Education & Women Empowerment
2. PS to Secretary, Zakat, Ushr, Social Welfare, Special Education & Women Empowerment Department Peshawar.
3. Master file.

  
SECTION OFFICER-II

1343  
28-2-2024





## INQUIRY REPORT

REGARDING DISCIPLINARY PROCEEDINGS AGAINST MR. YOUNAS AFRIDI  
(BS-18 PERSONAL) EX-SUPERINTENDENT BLINDS SCHOOL (MALE)  
AT NANAK PURA G.I. ROAD PESHAWAR NOW DEPUTY DIRECTOR  
VOCATIONAL TRAINING CENTER FOR DISABLED PERSONS SPECIAL  
EDUCATION COMPLEX PESHAWAR

31

The Chief Secretary, Government of Khyber Pakhtunkhwa was pleased to appoint me the undersigned as Inquiry Officer in accordance with the provisions of the E&D Rules, 2011 vide Zakat, Ushar, Social Welfare, Special Education & Women Empowerment Department letter No. SO-II/SWB/Complain/Enquiry/8844-49 dated January 17th, 2022 to probe and conduct formal inquiry into the allegations levelled against one Mr. Younas Afridi (BS-18 Personal), Ex-Superintendent Blind School (Male) at Nanak Pura G.I. Road Peshawar now Deputy Director, Vocational Training Center for Disabled Persons, Special Education Complex Hayatabad Peshawar with reference to the following allegations (Flag A):

That, he (the accused) delayed supply of required documents for filing of CP/A No. 335-P/2015 against the judgment dated 12-03-2015 of Peshawar High Court, Peshawar in the apex court.

### PROCEEDINGS:

Before embarking upon the proceedings of the subject inquiry, it is appropriate to highlight brief background of the case:

Mr. Maqsood Ahmad & Others had filed a civil suit for ownership of the One Kanal of land located in the premises of the Government Institute for Blind (Male) Nanak Pura Peshawar back in 1993. The case was tried in the court of Additional district and Session Judge Peshawar which later on decided the case in favour of the petitioner and against the government. After that the Government filed petition against the judgment of the ADJ Peshawar in the Peshawar High Court Peshawar which also decided the case in favour of the petitioner. However, delay occurred on the part of the dealing hands in the SW Department, Directorate of Social Welfare, District Office Social Welfare Peshawar and Superintendent Blind School Nanak Pura Peshawar on account of which the case became time barred and was dismissed by the Supreme Court of Pakistan during its initial hearing and hence the government was deprived of state property owned by Blind School Nanak Pura Peshawar under the administrative control of Zakat, Ushar, Social Welfare, Special Education and Women Empowerment Department. Accordingly, a Fact Finding Inquiry has been made in the instant case by Deputy Secretary Social Welfare Department and as per requirement the instant (Formal) Inquiry has been ordered the proceedings of which are illustrated in the below lines:

As per inquiry requirements and in light of the Charge Sheet/Statement of Allegations duly enshrined in E&D Rules, 2011 the accused (Mr. Younas Afridi) was asked for submission of

Written defence to the charges leveled against him in the Charge Sheet/Statement of Allegations three i.e. 14-12-2022, 21-03-2023 and 06-5-2023. In response the accused submitted two written replies i.e. on 27-06-2023 and on 10-07-2023 which can be perused at (Annex-B & C).

39

**Reply of the accused:**

**First Written Reply:**

In his first reply to the charge, the accused (Mr. Younas Afridi) is of the view that the said inquiry is time barred as the issue has been brought in the notice of the surface after 18 long years having no sound justification. He has been only targeted for reasons unknown while leaving other important and connected dealing hands of the case. He has no vested interest of the issue and had performed his duty quite diligently with full zeal and devotion which can safely be ascertained from timely submission of case documents for filing of CPLA in the august court. As evident from the record he received copy of the Peshawar High Court Judgment in case No. 335-P/2015 dated 12-03-2015 on 08-06-2015 officially while the case for filing CPLA was made by him on 09-06-2015 i.e. within three days of the receipt of the Peshawar High Court judgement hence no delay occurred on his part deliberately in the matter. The instant case is still subjudice in the august court for hearing and he cannot be held responsible for its delay whatsoever and that too all alone. He has not officially informed by any quarter about the ongoing inquiry proceedings until the inquiry officer personally contacted and shared the inquiry documents with him.

*[Handwritten signature]*

**Second Written Reply:**

As far as his second written reply is concerned the accused (Mr. Younas Afridi) is of the view that with reference to the meeting held with the undersigned on 26-06-2023 in the office of the Director Special education Complex Hayatabad Peshawar wherein the undersigned was very gracious to intimate him about the ongoing inquiry proceedings and correspondence issued thereunder vide letter No. DD(A)/PSA/General/3-4/2014 dated 14-12-2022, No. DD(A)/PSA/General/3-4/2014 dated 21-03-2023 and No. DD(A)/PSA/General/3-4/2014 dated 15-05-2023 which are not in receipt by the undersigned till date. The same were shared by your good self with the undersigned by hand during the meeting held.

*[Handwritten mark]*

In the end he requested that the matter may be strictly probed for delaying important official inquiry letters/correspondences/documents leading to unnecessary delay and doubts.

**Personal Hearing of the Accused:**

As per inquiry requirements under E&D Rules, the accused was also directed to appear before the Inquiry Committee for recording his oral statement. There also two sessions of personal hearings. In the first session, only the undersigned and the accused separately discussed the matter. However, that was not proved sufficient. Consequently he was again

ected that another session will be held in which the departmental representatives who are connected with the case. Accordingly, the administration of the Social Welfare Department was asked to send all departmental representatives i.e. SO Litigation concerned staff of the Blind School Nanak Pura and Deputy Director Directorate of Social Welfare Department along with complete record to appear before the Inquiry Committee for their statement.

33

Accordingly, in the second session, the undersigned and the accused were accompanied by the departmental representatives from Social Welfare Department, the Directorate of Social Welfare and the Blind School Nanak Pura Peshawar. All of them were given separate opportunity of personal hearings but their statements were not in line with the facts as have been enumerated by the Inquiry Officer in the earlier Preliminary Fact Finding Inquiry made by Deputy Secretary Social Welfare Department (Annex B). All of them were of the view that they had referred the case to Scrutiny Committee of Law Department for declaring fitness of the case for filing of CPLA in the Supreme Court of Pakistan. They declared that they had submitted the court fee along with all requirements of the case in the Supreme Court of Pakistan well in time. However, they were unable to respond when the undersigned asked that when all the requirements were carried out then why the case became time barred on account of which the Supreme Court dismissed the case and hence stand decided in favour of the petitioners. They also handed over all the relevant documents to the undersigned which were when perused those revealed that all the developments were made but after the stipulated period i.e. after 12-05-2015 on account of which the court dismissed the case vide their order dated 06-07-2022 which is reproduced below:

"This petition is barred by 36 days. The application for condonation of delay (CMA No.638-P/2015) does not disclose sufficient cause for condonation of delay, hence dismissed. The main petition is, therefore dismissed being barred by time"

Hence from the above short order, it is quite clear that the dealing hands showed irresponsible attitude leading to unnecessary and unwanted delay on account of this embarrassment was created for the government which led to ending of government control over important state property on which an institute has already been built and its property functioning.

Perusal of the inquiry earlier made by the Deputy Secretary Social Welfare Department and the facts mentioned therein proved correct and she has enumerated all facts and figures in proper chronological order which clearly reveals the facts that what delaying actions were made and who had the role in that unwanted delay.

### Findings & Recommendations:

From perusal of the Fact Finding inquiry made by Deputy Secretary Social Welfare Department, it reveals the facts that on 12-03-2015 Peshawar High Court announced the judgment in the instant case however, no one from the Blind School, Directorate of Social Welfare, SO (Litigation) Social Welfare Department and others who were parties or concerned with the case in the subject case bothered to get attested copy of the judgement immediately. As a result, it took 27 days almost to receive attested copy of the judgement of Peshawar High Court. (34)

Next step was to take up the case with Scrutiny Committee of Law Department for filing CPLA in the Supreme Court of Pakistan for which time-consuming correspondence took place between SO (Litigation) SW Department, District Officer SW Peshawar, Director Social Welfare and the Head/Superintendent Blind School. At all cost the case was required to be filed before 12-05-2015 in the Supreme Court against the judgement of Peshawar High Court however, on that very day SO (Litigation) of SW Department referred the case to Law Department for admissibility of the case for CPLA and after that day the case automatically stand time barred because that had exceeded the time allowed for filing of CPLA.


Although all codal formalities were fulfilled and carried out and rest of steps taken by all concerned for the subject CPLA but all those steps had already exceeded the time limit allowed for filing of case in the Supreme Court against the judgement of the Peshawar High Court. This include correspondence among all concerned offices of Social Welfare Department, referring the case to Scrutiny Committee of Law Department, meeting of the Scrutiny Committee, admissibility of the case for filing CPLA, taking up the case with Advocate-on-Record in the Supreme Court, signing of Power of Attorney by all concerned, submission of case in the Supreme Court etc but according to law after 12-05-2015 all the developments were futile exercise on the part of dealing hands and as a result this led to dismissal of the case in the first hearing in the Supreme Court of Pakistan.


From the above discourse it can be safely conclude that the concerned officials/officers failed to pay proper heed to such an important case on account of which the government deprived from important state land/property of one kenel on which official activities are already going on and which is presently owned by the Government Institute of Blind (Male) at Nanak Pura Peshawar City. As a result the government has to vacate that very land to the petitioner.

Besides, it can also be concluded that the case has not been rigorously pursued from the very start (since 1993) as in all the trial courts which include Additional District & Session Judge, Peshawar, the Peshawar High Court and in the Supreme Court of Pakistan, government failed to win the case even in a single court of law thus leading to deprivation of the important nature of government property of high value and worth located in the municipality.

of Peshawar. Not only the accused rather all concerned were required to have paid special attention to the case in light of the extremely sensitive nature of the case and was supposed to be dealt that with most urgent nature rather taking it as a routine official issue especially by the Head/Superintendent Blind School who was directly concerned with the case. Hence the allegation against the accused seems proved to great extent.

In light of the Fact Finding Inquiry made by Deputy Secretary SW Department, written defence and personal statements of the accused and all others and perusal of all available record related to the petition and unexpected lethargic attitude which he expressed in dealing with this most sensitive and serious nature of court case, the Inquiry Committee recommends reduction of the accused to lower grade pending of already granted personal grade

  
(MR. QAYYUM KHAN)  
Deputy Director (Admn)  
Directorate of SW&WDD  
(Inquiry Officer)

  
(MUSHARRAF KHAN)  
Director/Chief Instructor  
Provincial Services Academy,  
Peshawar  
(Now Secretary Transport  
Deptt)  
(Inquiry Officer)

SHOW CAUSE NOTICE

36

I, Naideem Aslam Chaudhary, Chief Secretary, Khyber Pakhtunkhwa as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, do hereby serve you, Mr. Younas Afridi (BPS-18 Personal), Ex-Superintendent (Blind School) (Male) at Nanak Pura, OT Road, Peshawar (Now Deputy Director, Vocational Training Center for Disabled Persons Special Education Complex, Hayatabad, Peshawar, as follows:

- (i) that consequent upon the completion of inquiry conducted against you by the Inquiry Officer/Inquiry Committee for which you were given opportunity of hearing vide communication No. DDA(A)/PSA/General File/3-4/2014 dated 14.12.2022, 21.03.2023 & 15.05.2023; and
- (ii) On going through the report and findings of the inquiry officer/inquiry committee, the material on record and other connected papers including your defence before the inquiry officer/inquiry committee: -

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

- (a) Inefficiency
- (b) Guilty of misconduct

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Withholding of three increments for three years and withholding of promotion for two years besides reversion to the post of BS-17. under Rule 4 of the said rules.

3. You are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within ten days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

5. A copy of the findings of the inquiry officer/inquiry committee is enclosed.

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





091-9217366

Government of Khyber Pakhtunkhwa  
Social Welfare, Special Education & Women Empowerment  
Vocational Training Centre for Differently Abled Persons  
Special Education Complex Hayatabad Peshawar

37

PF.NO.61/2022/VTCDP/718-19

Peshawar, 28<sup>th</sup> February 2024

To

The Secretary,  
Social Welfare,  
Khyber Pakhtunkhwa.

Subject:-  
Dear Sir,

**SHOW CAUSE NOTICE.**

Kindly refer your letter NO. SO-II/SWD/1-44/Complaint/Inquiry dated Peshawar the 14/2/2024 and to state that in reply to the show cause notice dated 14/2/2024 received to my office on 16/2/2024 Diary NO. 1342 the record of which is available in my office.

It is with respect submitted that no notice was served with respect to the inquiry upon me rather it was purposely delayed and all the letters No. DD(A)/PSA/General File/3-4/2014 dated 21/3/2022, No. DD(A)/PSA/General File/3-4/2014 dated 14/12/2022 and No. DD(A)/PSA/General File/3-4/2014 dated 15/5/2023 were handed over to me by hand at belated stage which is violation of Laws and Rules. (Copies enclosed Annex-A). In fact, there was no official communication made (Annex-8).

2 That on the pretext of the Honorable Court litigation the undersigned was principal Blind School Social Welfare Department GT Road Peshawar. The case after the appeal court was presented to the High Court which was decided on 12/3/2015 the CR was presented by Ahmed Saleem who was entrusted the said case. Secondly, Mr. Ayub Khan on behalf of Government obtained the copy of judgment on 6/4/2015, which was further transmitted to concerned quarter on 7/4/2015. Therefore, no responsibility could be attributed to the undersigned (copies of relevant record attached Annex-C).

As per SOPs/procedure, the Directorate level and Secretariat level officers were required to do the needful in time on which those officers were totally failed. This aspect is evident from the date of various memos recorded in fact finding inquiry.

Thus, the undersigned was made a scapegoat whereas in fact, the undersigned was neither entrusted the case nor was responsible for pleadings on behalf of Government that the documents endorsed along with this reply shows my clean handedness and have performed my duties with due care and diligence and there is no inefficiency on my part. Thus no inefficiency or misconduct is proved on my part.

It is therefor, requested on acceptance of this reply the undersigned may kindly be exonerated of the charges levelled against me.

It is also requested that an opportunity of personal hearing may be granted to me please.

(Muhammad Younas Afridi)  
Deputy Director

Copy to:-

PS to Deputy Secretary (Admin) SW SE & WE Department Khyber Pakhtunkhwa.

(Muhammad Younas Afridi)  
Deputy Director

**MOST IMMEDIATE**



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMINISTRATION  
DEPARTMENT**

Telephone No: 091-9210514

NO. PS(ASE)/E&AD/1-1/2024/Personal Hearing  
Dated Peshawar the May 09, 2024

To

The Secretary to Govt. of Khyber Pakhtunkhwa,  
Zakat Ushr, Social Welfare, Special Education & Women  
Empowerment Department.

Subject: -

**DISCIPLINARY PROCEEDINGS AGAINST MR. YUNAS AFRIDI (BS-18 PERSONAL) EX-SUPERINTENDENT BLIND SCHOOL (MALE) AT NANAK PURA, GT ROAD PESHAWAR, NOW DEPUTY DIRECTOR VOCATIONAL TRAINING CENTER FOR DISABLED PERSONS SPECIAL EDUCATION COMPLEX, HAYATABAD PESHAWAR.**

Dear Sir,

I am directed to refer to the subject noted above and to state that worthy Chief Secretary, Khyber Pakhtunkhwa has nominated the undersigned to hear accused in person namely Younas Afridi (BS-18 Personal) Ex-Superintendent Blind School (Male) at Nanak Pura, GT Road Peshawar (Now Deputy Director Vocational Training Center for Disabled Persons Special Education Complex, Hayatabad Peshawar). In this regard, personal hearing is fixed on **16<sup>th</sup> May, 2024 at 1100 hours** in office of the undersigned located at Azam Khan Block, Establishment & Administration Department.

2. It is, therefore, requested that above named accused officer may be informed to attend Office of the undersigned on the date & time mentioned above and also depute a well conversant officer of your department to attend the personal hearing alongwith complete record, please.

Yours faithfully,

  
Additional Secretary (Estab)

Copy forwarded to the:

1. PSO/ CSO to Chief Secretary, Khyber Pakhtunkhwa,
2. P.S to Secretary, Establishment Department.
3. P.S to Special Secretary, Establishment Department.
4. Master file.

  
Additional Secretary (Estab)





GOVERNMENT OF KHYBER PAKHTUNKHWA  
ZAKAT USHR SOCIAL WELFARE, SPECIAL EDUCATION  
& WOMEN EMPOWERMENT DEPARTMENT

No. SOII(SW)1-44/Complaint 2022  
Dated Peshawar the 10<sup>th</sup> May 2024

39

576

To

Mr. Younas Afridi  
Deputy Director,  
Vocational Training Centre for Disabled Persons  
Special Education Complex, Hayatabad, Peshawar

Mr. Qayyum Khan  
Departmental Representative/Deputy Director  
Directorate of Social Welfare, Special Education & Women  
Empowerment, Khyber Pakhtunkhwa

Subject: - DISCIPLINARY PROCEEDINGS AGAINST MR. YOUNAS AFRIDI (BS-18 PERSONAL), EX-SUPERINTENDENT BLIND SCHOOL (MALE) AT NANAK PURA, GT ROAD PESHAWAR, NOW DEPUTY DIRECTOR VOCATIONAL TRAINING CENTER FOR DISABLED PERSONS SPECIAL EDUCATION COMPLEX, HAYATABAD PESHAWAR

I am directed to refer to the subject noted above and to enclose herewith Establishment Department letter No. PS(ASE)/E&AD/1-1/2024/Personal Hearing dated 09.05.2024.

I am further directed to inform that office of the Additional Secretary (Estab), Establishment Department may be attended with complete record for personal hearing on 16.05.2024 at 11:00 AM, please

SECTION OFFICER-II

Endst. of Even No. & Date: -

Copy forwarded to the

1. The Director Social Welfare, SE & WE.
2. PS to Secretary, Social Welfare SE & WE Department, Khyber Pakhtunkhwa, Peshawar.
3. PA to Additional Secretary (Estab), Establishment Department
4. Master file

ok

SECTION OFFICER-II

To,

The Additional Secretary (Establishment),  
Establishment Department

Subject: - WRITTEN STATEMENT

Dear Sir,

This is with reference to letter No. PS(ASE)/E&AD/1-1/2024/Personal Hearing dated 09.05.2024 and "Personal Hearing" of the undersigned held in your good office on 16.05.2024 and to submit my written statement as under: -

- (i) That the said Institute i.e. Government School for Visually Impaired Children GT Road Peshawar was established in 1981;
- (ii) That since its establishment a land dispute case was subjudice in the Honorable Court;
- (iii) That the undersigned was posted as Incharge of the said Institute in 2013 and was informed that the said case was pursued by a Dispenser of the Institute in the Court since long;
- (iv) That the undersigned approached the Administrative Department to hire a private counsel to effectively / properly defend the subjudice Government case;
- (v) That the Department agreed with the proposal of the undersigned and a private counsel was hired however, the case was decided against the Department on 12.03.2015<sup>5</sup> 12.3.2015
- (vi) The undersigned got the attested copy of the Court judgment on 06.04.2015 and timely forwarded to the Director Social Welfare on 07.04.2015;
- (vii) It is pertinent to mention here that in the instant case no concerned officer from Administrative Department as well as Directorate of Social Welfare i.e. Section Officer (Litigation) and / or Assistant Director (Litigation) took notice / attended the Court proceedings as required under the rules;
- (viii) That on 28.05.2015 after quiet long delay the Administrative Department / Directorate of Social Welfare managed to issue Power of Attorney in the instance case;
- (ix) It is further to state that Inquiry was only proposed against the undersigned who performed his duties efficiently while bypassing other relevant quarters;

40

16/05/24

41

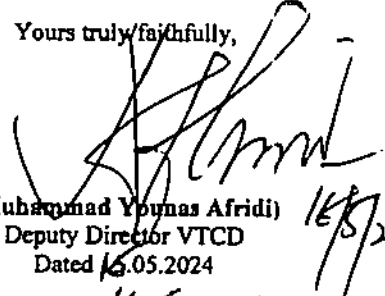
(x) The undersigned has no role / part in delaying of filing CPLA in the instant case as the said matter is purely concerned with the Administrative Department as well as Directorate of Social Welfare.

(xi) It is added here that the said Inquiry is based on ill will, malafide intentions and targeted for reason unknown as the undersigned was totally uninformed during the Inquiry proceedings and till date not in possession of Inquiry report. The Inquiry was also not held in proper manner as the Inquiry Officer unnecessarily delayed the proceedings for more than six (06) months which is not justified. The Inquiry Officer himself attended the office of Director Special Education and handed over three different in different dates to the undersigned (copy of inquiry proceedings duly Annexed);

2. In view of the above clarifications, it is most humbly requested that the undersigned may very graciously be exonerated of all the levelled charges so as to meet the ends of justice, please.

(Encls.As Above)

Yours truly/faithfully,

  
(Muhammad Younas Afridi)  
Deputy Director VTCD

Dated 16.05.2024

16.5.2024



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ZAKAT USHR SOCIAL WELFARE, SPECIAL EDUCATION  
& WOMEN EMPOWERMENT DEPARTMENT

Dated the Peshawar 23<sup>rd</sup> July, 2024

J  
42

**NOTIFICATION:**

**NO: SOII/SWDV-112/Younas Afridi/PE** WHEREAS Mr Younas Afridi, Social Welfare Officer (BPS-18-Personal), Directorate of Social Welfare, Special Education & Women Empowerment Khyber Pakhtunkhwa was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, for the charges as mentioned in the charge sheet & statement of allegations.

AND WHEREAS Mr. Musharraf Khan Marwat PMS (BS-19) Additional Secretary, Local Government Department was appointed as Enquiry Officer to conduct inquiry against the accused officer.

AND WHEREAS the Enquiry Officer after having examined the charges, evidences on record and explanation of the accused officer, submitted his report, wherein the charges were proved against the accused officer beyond reasonable doubt:

AND WHEREAS, the Competent Authority, after considering the Inquiry Report and other related documents, of the case, served a Show Cause Notice upon the above officer to which he replied, and he was provided the opportunity of personal hearing by the Competent Authority.

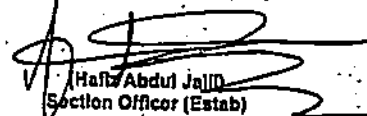
NOW THEREFORE, the Competent Authority, after having considered the charges, evidence on record, findings of the Inquiry Officer, the explanation of the accused officer, hearing him in person and exercising his power under Rule-14(5)(b), of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, read with Rule 4(1)(a)(i)&(ii)&(iii) of the Rules ibid, has been pleased to impose minor penalties of "withholding of three increments for a period of three years and reversion of the accused from BS-18 (Personal) to BS-17 for a period of two years" upon Mr. Younas Afridi, Social Welfare Officer (BPS-18-Personal), Directorate of Social Welfare, Special Education & Women Empowerment Khyber Pakhtunkhwa with immediate effect.

Sd/-  
Secretary to Govt. of Khyber Pakhtunkhwa  
Zakat Ushr, Social Welfare Department

**End of Even No. & Date:**

Copy is forwarded for information and further necessary action to the:

1. Accountant General, Khyber Pakhtunkhwa.
2. PSO to Chief Secretary Khyber Pakhtunkhwa.
3. PS to Advisor to Chief Minister for Zakat Ushr, Social Welfare, Khyber Pakhtunkhwa
4. Director, Social Welfare, Special Education & Women Empowerment Khyber Pakhtunkhwa with the request to implement the said orders in letter & spirit under intimation to this department.
5. District Accounts Officer, Charsadda for necessary action under intimation to this department.
6. District Officer, Social Welfare, Charsadda.
7. PS to Secretary, Zakat, Ushr, Social Welfare, Department Khyber Pakhtunkhwa.
8. Younas Afridi, Ex-Superintendent, Blind School (Male) at Nanak Pura, GT Road Peshawar (Now District Officer, Social Welfare, Charsadda).
9. Personal File/Master File.

  
Hafiz Abdul Jalil  
Section Officer (Estab)


No-9370-74  
Dated. 2/8/2024.

To

The Worthy Chief Minister,  
Khyber Pakhtunkhwa Peshawar.

Through Proper Channel.

Received + K (43)

  
05/8/24.  
PS to Secretary  
Zakat, Ushr, Social Welfare, Special Education  
& Women Empowerment Department

**SUBJECT: DEPARTMENTAL APPEAL UNDER RULE- 17 OF THE KP CIVIL SERVANTS E&D RULES, 2011 AGAINST THE ORDER DATED 23.07.2024, WHEREBY PENALTY OF WITH HOLDING OF THREE ANNUAL INCREMENTS FOR A PERIOD OF THREE YEARS AND REVERSION FROM BS-18(PERSONAL) TO BS-17 FOR A PERIOD OF TWO YEARS HAS BEEN IMPOSED UPON THE APPELLANT.**

**PRAYER IN APPEAL**

ON ACCEPTANCE OF THIS DEPARTMENTAL APPEAL THE ORDER DATED 23.07.2024, MAY PLEASE BE SET-ASIDE AND THE APPELLANT MAY BE RESTORED TO HIS ORIGINAL POSITION/ SCALE/GRADE ALONG WITH RESTORATION OF INCREMENTS WITH ALL BACK AND CONSEQUENTIAL BENEFITS.

**RESPECTED SIR,**

Most profoundly the appellant submits as under:-

1. That the appellant has been serving in the Social Welfare Deptt. since, 1995, and has good service record throughout his service career. The appellant was awarded BPS-18 vide order dated 14-4-2014, and at the time of incident, the appellant was presently performing his duties as Dy: Director in BPS-18.
2. The appellant was posted as Superintendent in the Government Institution for the Blinds (BOYS) Peshawar vide order dated. 18.04.2013 in pursuant of which the appellant submitted his arrival on 22.04.2013.
3. That a civil suit (C.R No. 1285-P/2012) was pending in the Peshawar High Court since 2012, which was later on decided against the Institution on 12-03-2015, where after, the attested copy of the judgment was obtained on 6-04-2015, and forwarded

44

the same on 07-04-2015 to the Director Social Welfare Zakat & Ushr, KPK Peshawar.

4. That later on the Secretary to the Government of KPK Social Welfare, Department Peshawar and all the concerned gave power of attorney on 28-05-2015, to the AOR Supreme Court for filing CPLA against the judgment of Peshawar High Court which was also signed by the appellant. But unfortunately the CPLA was delayed by the concerned officials which was not the fault of the appellant.
5. That due to delay in CPLA, the fact finding inquiry was conducted on 30-08-2022 regarding the submission of judgment (7-04-2015), where it is pertinent to mention here that appellant was never associated with that fact finding inquiry, but despite that the said inquiry recommended regular inquiry against the appellant by giving safe passage to other responsible high grade officers.
6. That thereafter, a charge sheet was issued (undated) which was never communicated to the appellant. However, the allegation of delayed in supply of required documents for filling of CPLA No. 335-P/2015 against judgment date 12.03.2015 of Peshawar High Court in the apex Court.
7. That the inquiry committee conducted the inquiry but without giving a proper chance of self defence to the appellant as per Rule-11 of the E&D Rules, 2011.
8. That the appellant give an application on 27-06-2023 to inquiry officer regarding the non-receipt of inquiry letter / Corresponding documents and upon sensing the illegality, the appellant was provided the different corresponding letters of dated . 21-03-2022, 14-12-2022, 15-05-2023, on one and the same day in the office of the appellant without following the proper official way. However, the appellant submitted the replies to the letters on 10-07-2023, though received delayed.
9. That the appellant also gave an application on 23-~~3~~<sup>2</sup>-2024 to the inquiry officer for the provision of inquiry report and the same was provided to the appellant on 27-02-2024.
10. That the appellant was served with a show cause notice and also called for personal hearing on 09.05.2024 to which the appellant submitted his written defence and denied all the allegations.

45

11. That the worthy Secretary to Govt: of KHYBER Pakhtunkhwa Zakat, Ushr & Social Welfare Department vide order dated. 23.07.2024 imposed major penalty of "withholding of three increments for a period of three years and reversion of the accused from BS-18 (personal) to BS-17 for a period of two years" upon the appellant.
12. That the appellant being aggrieved from the order dated 23.07.2024 files the instant departmental appeal on the following grounds amongst the others.

#### GROUNDS

- A. That the appellant has not been treated in accordance with law hence the appellant rights secured and guaranteed under the law are badly violated.
- B. That no proper procedure was followed before awarding the major penalty, nor proper inquiry was conducted, the appellant had not been properly associated with the inquiry proceedings, i.e statements of witnesses, if any, were never taken in the appellant presence nor the appellant was allowed opportunity of cross examination, thus the proceedings so conducted are defective in the eye of law.
- C. That the impugned penalty order was passed by an incompetent authority, i.e Secretary of the Deptt: whereas the Hon'able Chief Minister was the competent authority for appellant because the appellant was in BPS-18 ( Deputy Director). Thus the impugned order is illegal and Coram Non JUDGE.
- D. That according to the judgment of Superior Courts, it is held that the report on which an inquiry officer relies in which the appellant official was neither participated nor confronted with evidence, then the penalty on the basis of such report is a nullity in the eyes of law. The same is the case of appellant because the inquiry committee violated Rule-11 of the E&D Rules, 2011.
- E. That the case is still subjudice before the Civil Court and is not yet finally decided, which means that no loss is caused to the Govt: so far and the appellant is penalized for a damage which is not in existences yet.
- F. That the appellant has been punished for no fault on his part as evident from the record the appellant informed the concerned quarters well in time but the concerned quarter was failed in filing

46


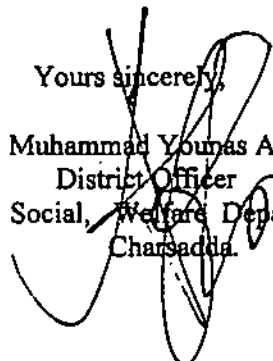
CPLA in time and the same fault cannot be attributed to the appellants by making him a scape goat.

- G. That the impugned order is totally against the laws and norms of justices, because the appellant was punished for the faults of the others which is not legally justified.
- H. That the attitude and conduct of the department shows that they were bent upon to impose minor and major penalties upon the appellant at any cost to give safe passage to the actual responsible officers of the Deptt..
- I. That according to the judgments of Supreme Court it was held that every action against the natural justice should be treated as void and unlawful order. The natural justice should be considered as part and parcel of every statute. Hence impugned order is liable to be set-aside as the appellant was totally condemned unheard in violation of spirit of Article-10A of the Constitution. (2017 PLD 173 AND 1990 PLC (C.S)727, 1997 PLD (JSC) Page 617).
- J. That the charges leveled against the appellant were never proved in the inquiry, and the worthy inquiry committee had not proved the guilt of appellant beyond shadow of doubt, especially the letters which were shown in the table of the fact finding inquiry were never described as inadmissible or otherwise.
- K. That the appellant has not been treated fairly, properly, and the whole proceedings were undertaken in violation of the spirit of E&D Rules, 2011 as well as Article-10-A of the Constitution.. Therefore, the impugned order is liable to be set aside.

It is, therefore, humbly requested that on acceptance of this departmental appeal the order dated 23.07.2024 may please be set aside and the appellant may be restored to his grade and pay with restoration of increments with all back and consequential benefits.

Yours sincerely,

Muhammad Younas Afridi,  
District Officer  
Social, Welfare Department,  
Charsadda.





VAKALAT NAMA

47

NO. \_\_\_\_\_/2021

IN THE COURT OF Kp Service Tribunal, Peshawar

Muhammad Younas Afzidi (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Sozial Welfare Dept. (Respondent)  
(Defendant)

I/We, Muhammad Younas Afzidi

Do hereby appoint and constitute M. Asif Yousafzai, Advocate Supreme Court of Pakistan & Syed Noman Ali Bukhari, Advocate High Court & Hilal Zubair Advocate 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

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

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

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

Dated \_\_\_\_\_/2021

(CLIENT)  
ACCEPTED

(M. ASIF YOUSAFZAI)  
ADVOCATE SUPREME COURT,  
OF PAKISTAN.  
(BC No. 10-7327)

& SN  
(S. NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT,

& HZ  
HILAL ZUBAIR YOUSAFZAI  
Advocate

**OFFICE:**  
Room # FR-8, 4<sup>th</sup> Floor,  
Bilour Plaza, Peshawar,  
Cantt: Peshawar  
Cell No. 0302-5548451  
0333-9103240  
0306-5109438  
0310-9503909