

12/11/2015 P. 35

میں نے سندھ سرورس کمپنی کے کسی بھی فرد کو ڈالیا
میں نے اس کے ساتھ ہوں

میں نے اس کے ساتھ کسی بھی شخص کو ڈالیا
میں نے اس کے ساتھ

M

M. Ajmal ASDEO

محمد امجد اسد

22/04/05

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محمد امجد اسد

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بین ADP/SET برقی جو اسٹاک - ADEO (M.C) کی بوسٹ ڈاٹ کام / ایف اے جی

تہہ لکھنے کے لئے وائیل ڈون - 3 سے 4

بین دو واہلست نام میں دونوں کے نام لکھنا ہے -

بشرافہ میں بیک بین نام میں نام لکھنا ہے جو اسٹاک / برقی
تہہ لکھنے کے لئے وائیل ڈون کی میں اسٹاک لکھنا ہے

یہ لکھنا ہے کہ جو اسٹاک لکھنا ہے اسٹاک لکھنا ہے
تہہ لکھنے کے لئے وائیل ڈون کی میں اسٹاک لکھنا ہے

احد اللہ کو قلم جو اسٹاک لکھنا ہے اسٹاک لکھنا ہے
تہہ لکھنے کے لئے وائیل ڈون کی میں اسٹاک لکھنا ہے
تہہ لکھنے کے لئے وائیل ڈون کی میں اسٹاک لکھنا ہے

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بین برقی - اسٹاک لکھنا ہے اسٹاک لکھنا ہے
(تہہ لکھنے کے لئے وائیل ڈون کی میں اسٹاک لکھنا ہے)

سورج

ADP/SET M.C. 1339 1817 2018

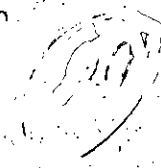
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میں آج پوسٹ پر نمبر لکھا گیا ہے۔ اس کے ساتھ ساتھ ASDEO کے نام سے بھی ایک نمبر لکھا گیا ہے۔

میرا تعلق زون اور عدالت کے ساتھ ہے۔

میں نے اپنے درخواست نام میں بھی زون لکھا ہے۔

جس میں appointment ہوئے تو اس میں زون لکھا گیا ہے۔ چونکہ اس کے ساتھ ساتھ ایک نمبر لکھا گیا ہے تو اس میں بھی لکھا گیا ہے۔

میرا تعلق Selection کے تحت زون میں ہونے کا یہ اس وقت تک ہے۔ اس کے ساتھ ساتھ ایک نمبر لکھا گیا ہے۔ اس کے ساتھ ساتھ ایک نمبر لکھا گیا ہے۔

میرا تعلق اس کے ساتھ ساتھ ایک نمبر لکھا گیا ہے۔ اس کے ساتھ ساتھ ایک نمبر لکھا گیا ہے۔ اس کے ساتھ ساتھ ایک نمبر لکھا گیا ہے۔

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تعمیراتی کام

۱۱۱ - یہاں سے - میں کمپنیز آفس کے کسی سربراہ کو
دانی طور پر نہیں جانتا -

۱۱۱ - یہاں سے - مجھے کمپنیز آفس سے کسی بھی سربراہ
کے متعلق کسی بھی نام سے جاننے کا یہ سبب نہیں آیا -

20/4/15
تعمیراتی کام

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ENQUIRY REPORT

Annex-E

Subject: - PRELIMINARY ENQUIRY TO PROBE INTO THE IRREGULARITIES COMMITTED IN MALE ASSISTANT DISTRICT OFFICERS (BPS-16)

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The Chairman KP PSC constituted a committee comprising the following vide Office Order No. KP/ PSC/ Admn/GF-319/012440-45 dated 10.03.2015 (Annex-I): -

1. Prof. Dr Sarah Safdar Member-I, PSC.
2. Prof. Dr Muhammad Farooq Swati Member-VII, PSC.
3. Mr. Ghulam Dastagir Ahmed Director Recruitment, PSC.

2. The Committee is required to examine the complaint of Mr Saqibullah (Complainant) regarding alleged wrong recommendations of three candidates from Zone-5 against the post of Male Assistant District Officer (BPS-16) to summon and hear all the three recommendees, to probe into the alleged involvement of the three candidates with Commission's staff, and fix responsibility and to examine as to whether after a lapse of about four years, the Commission can entertain such applications, complaints, and make reallocation and fresh recommendations or otherwise.

3. First meeting of the Committee was held on 11.03.2015. Syed Ilyas Shah Deputy Director II was asked to produce applications forms of the three candidates alongwith application of the complainant Mr Saqibullah and complete record of recruitment of ADO BPS-16 advertised in Advertisement No. 5/2009.

4. In the 2nd meeting of the Committee held on 16.03.2015, the applications of the three candidates namely Mr Muhammad Ajmal S/O Jamal ud Din, Mr Sarfaraz S/O Shahabud Din and Mr Shafiq ur Rehman S/O Abdur Rehman and other record were thoroughly checked and the Committee found the following: -

- i. In the applications forms / departmental permissions, all the three candidates have clearly mentioned their zone as "Zone-3" but in the descriptive sheets prepared by the concerned officer/ officials for interview, the zone of the three candidates has been reflected as Zone-5 (Annex-II, III, IV).
- ii. The applications of Mr Ajmal and Mr Sarfaraz were signed only by Mr Rustam Khan the then Superintendent and no orders of eligibility of the Member were obtained.
- iii. Application of Mr Shafiq ur Rehman is signed by Mr Amir Ilyas the then Assistant and Mr Masood Zaman the then Deputy

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5. Next meeting of the Committee was held on 24.03.2015. Statement Mr Masood Zaman DS, Mr Rustam Khan the then Supdt, Mr Amir Ilyas the then dealing Assistant, Mr Muhammad Shahab the then Sr Clerk/ KPO, Mr Muhammad Sajjad Qureshi the then Supdt were recorded. Statement of the three recommendees were also recorded whereas Mr Saqib Ullah did not attend the enquiry proceedings.

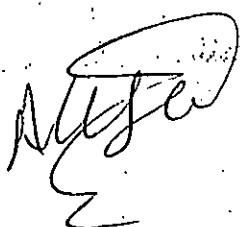
STATEMENT OF MR MASOOD ZAMAN THE THEN DEPUTY SECRETARY:-

6. In his statement at Annex-VI, Mr Masood Zaman has stated that his job description is file work, scrutiny of applications, preparation of result and supervision of his Branches. Eligibility of candidates is done by the Assistant then by the Supdts and is sent to the DS for onwards submission to Director/ Member. Descriptive sheet is prepared by the dealing Assistant. He submits the same to the Supdt. The Supdt submit the same for countersignature to the DS. No file move up without my signature except when I am on leave. On conclusion of interview, the Director or the DS takes the result from Member, makes the calculations, prepare the merit list and allocation is made as per vacancies. The result is signed from dealing Assistant to the Director.

7. During the interviews it was decided that experience may be counted from B.Ed and not BA. There were five panels of interview. The Members had directed that after conclusion of the running interviews, scrutiny may be carried out and the experience be counted after B.Ed. They prepared fresh descriptive sheets as per orders and were handed over to the Members concerned. Due to load of work, he could not sign every descriptive. Before conveying the result, the Chairman had constituted a checking committee. The committee had taken the result and all the original applications of selected candidates. After checking the same, the result and applications were returned.

8. The three candidates in question belonged to District Mansehra (UDA). They were inadvertently considered in Mansehra Zone-5 instead of Mansehra (UDA) Zone-3. The descriptive was not changed but only zone 5 was mistakenly recorded instead of Zone-3. As per orders of the Chairman that the DS concerned will prepare the result, therefore, with the help of Mr Shahab computer operator prepared the result.

9. He stated that he knows Mr Saqib for the last 3-4 years. He met with Mr Saqib for the last time in the office of Director some 2-3 months ago. When I was DS and the result was prepared, he had given me a cheque of Rs. 750,000/- with the request to select him for the post. Photocopy of the said cheque is still with him for proving myself innocent. Mr Saqib had also offered him a Hotel at Abbottabad but he refused him. Mr Saqib had met with him through Mr Muhammad Sajjad Qureshi during the currency of interviews. He has not cashed the cheque till date because he does not takes bribe. The copy has been kept only for record.



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STATEMENT OF MR RUSTAM KHAN THE THEN SUPDT: (NOW RETIRED):-

10. In his statement at Annex-VIII, Mr Rustam Khan has stated that scrutiny of application forms is done by Assistant and is submitted to the Supdt and the process completes after approval of Member whereas descriptive sheet for interview is prepared by Assistant, checked by Supdt and rechecked and countersigned by the Deputy Secretary. We checked everything from application form and then signed the note. Descriptive Sheets of Mr Sarfaraz and Mr Ajmal bear my signature whereas descriptive sheet of Mr Shafiqur Rehman has been signed by Mr Amir Ilyas and Mr Masood Zaman. Experience was first taken from Bachelor Degree. When it was decided to take the experience from B.Ed, the descriptive sheets were prepared by Mr Shahab in the Office of Mr Masood Zaman DS. Mr Masood called him and told that Members are asking for revised descriptive. Please signed the descriptive. Therefore, Mr Shahab printed the descriptive and he signed the same. Some descriptive sheets were signed by Mr Masood alone, some descriptive sheets were given to me for signature, some to Mr Amir Ilyas and some descriptive sheets were unsigned. Result was prepared only by Mr Masood Zaman and Mr Shahab but was signed by Mr Masood and no one else were involved. The recommendations were also sent by Mr Masood. He stated on oath that he neither know the four candidates nor has even seen them.

STATEMENT OF MR AMIRILYAS SUPDT: -

11. In his statement (Annex-VIII), Mr Muhammad Amir Ilyas the then Assistant has stated that he used to make scrutiny of applications and prepare the descriptive sheets and then submit the same to the Supdt who after checking submit the same to the DS. Submission of applications to panels was done by Mr Masood Zaman. He signed the descriptive sheets which he himself prepared. He has carefully mentioned the correct zones of candidates in descriptive. Though he has signed the revised descriptive sheet, but the applications were lying in the Office of Mr Masood Zaman therefore, he could not check the same with application. Eligibility is done by the Member through a channel. It is possible that approval of the authority in some cases has inadvertently not be obtained. He knows Mr Ajmal, Sarfaraz and Shafiq and does not know Mr Saqibullah. Result is prepared under supervision of Director and he himself sign it. Result has neither been prepared by him nor signed. They may be called so that the case becomes clear. During interviews, he was not pressurized by any Member/ Officer.

STATEMENT OF MR MUHAMMAD SAJJAD QUREHI SUPDT:-

12. In his statement at Annex- IX, Mr Muhammad Sajjad Supdt has stated that He knows Mr Saqibullah who was referred to him by Mr Majid Khan, a Headmaster at Mansehra. He had to enquire about interviews for the post of ADO, therefore, he was sent by someone else and he did not remember that he took him or sent him to the Office of Mr Masood Zaman DS. He does not know any dealing between Saqibullah and Mr Masood Zaman because neither he met him again nor Mr Masood

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say something about him. He came to know about this thing about 02 months ago when the matter became known to most of the persons in the office that some dealing of cheque has taken place between Mr Masood and Mr Saqibullah. As far as I remember, he did not receive call for interview. Mr Masood should not take the cheque but he took the same and kept it with him.

STATEMENT OF MR MUHAMMAD SHAHAB ASSISTANT

13. Mr Muhammad Shahab Assistant Recruitment Wing has admitted in his statement at Annex-X that at that time he was Senior Clerk attached with Mr Masood Zaman and was typing descriptive of candidates for 05 panels of interview. The branch Assistant used to provide him application forms of the candidates and he prepared the same from application forms. He used to sit in the Office of Mr Masood Zaman DS and do the work. He had done all the entries after checking and used to give the same printing without alteration. He used to make entries and gave the same to the Assistant / Supdt. who after checking return the same to him for correction or otherwise. He does not know that the wrong entry of the zone of Mr Shafiq, Sarfaraz and Ajmal was committed by him or the Supdt. / Assistant. Result was prepared by him from descriptive in the Office of Mr Masood Zaman which was correct. He does not know how a candidate was twice interviewed. Visitors used to come to the Office of DS including candidates but he does not know Mr Saqib. He also does not know about the cheque given by Mr Saqib to Mr Masood.

MR SAQIB ULLAH, CANDIDATE

14. Mr Saqib Ullah the complainant was issued a letter dated 03.04.2015 to attached the enquiry proceedings (Annex-Xii) and was telephonically contacted by Syed Ilyas Shah Deputy Director but he refused to come the Commission's Office. Another letter dated 24.04.2015 was issued was issued to Mr Saqib to attend the enquiry proceedings on 17.04.2015 (Annex-Xiii) but he again refused to attend the proceedings. After that on several occasions it was tried to contact him telephonically but his phone was powered off.

STATEMENTS OF MR SARFARAZ KHAN, MR SHAFIQR REHMAN AND MR MUHAMMAD AJMAL

15. Mr Sarfaraz Khan, Mr Shafiq ure Rehman and Mr Muhammad Ajmal were also called for personal hearing on 22.04.2015. Their statement were recorded (Annex-XIII XIV & XV). According to their statement no fault lied on their part as they had clearly mentioned their zones (Zone-3) in their applications. They did not conceal anything from

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FINDINGS:-

16. From the foregoing the enquiry committee came to the following conclusion: -

- i) A number of gross irregularities have been committed by the staff upto the DS in the process of selection of candidates for the posts of ADOs BPS-16 in Elementary and Secondary Education Department, All of them know the legal procedures as reflected in their statements but the procedures were not followed in this case for ulterior motives.
- ii) No care was taken into account in the eligibility of candidates. Candidates were made eligible for interview simply with the signature of the Dealing Assistant or Supdt or DS and approval of the competent authority i.e., Member was not obtained. Moreover, proper checking of zones of the three candidates namely Mr Sarfaraz, Mr Ajmal and Mr Shafiqur Rehman was not made for which Mr Masood Zaman DS, Mr Rustam Khan the then Supdt, Mr Amir Ilyas the then Assistant and Mr Muhammad Shahab the then KPO are equally responsible for the gross irregularities.
- iii) Due to the extremely careless attitude of the concerned staff, one candidate was twice interviewed and was twice recommended.
- iv) The acceptance of cheque amounting to Rs.750,000/- in bribe by Mr Masood Zaman Deputy Secretary from Mr Saqib in return of selecting him for the post of ADO has been proved beyond doubt.
- v) Though Mr Muhammad Sajjad Qureshi accepts that he took Mr Saqib to the Office Mr Masood Zaman for enquiry but it is not possible for a candidate to offer bribe directed to an unknown officer. There is an active role of Mr Muhammad Sajjad Qureshi in the offer of bribe by Mr Saqib to Mr Masood.
- vi) All the officers/ officials involved in this case also enjoy bad reputation in the Office.

RECOMMENDATIONS:-

17. The Committee, recommends that: -
- i) Mr Masood Zaman Deputy Secretary may be dismissed from service.
 - ii) Mr Amir Ilyas Superintendent, Mr Muhammad Sajjad Qureshi Supdt and Mr Muhammad Shahab Assistant may be removed from service. Show cause notices may be issued to the officials under Rule 5 (a) of the E&D Rules 2011.

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- iii) As Mr Rustam Khan the then Supdt; has now retired from service. In his case, opinion of the Establishment Department may be obtained as to what punitive actions can be taken against him after his retirement.
- iv) Mr Saqib Ullah may be disqualified from applying to the Commission for ever and his case be referred to the Elementary and Secondary Education Department for taking punitive action against him under the rules. No 7407/AG
- v) In pursuance of the Supreme Court Decision dated 19.4.14 (Annex-XVI) that if a candidate is mistakenly recommended by the Commission without any fault on his part then he will not be disturbed while proceedings will be initiated against the officials concerned. Since there is no fault on the part of the recommended candidates, namely Mr Shafiq ur Rehman, Mr Sarfaraz and Mr Ajmal Khan therefore, their recommendations may not be disturbed and the case of readjustment/ reallocation may not be processed after a lapse of almost five years of the recommendations.

(Signature)
(Ghulam Dastagir Ahmed)
Director Recruitment
Member of the I.C.

(Signature) 02/06/15
(Prof: Dr Muhammad Farooq Swati)
Member PSC
Member of the I.C.

(Signature) 02.6.15
(Prof: Dr Sarrah Safdar)
Member PSC
Chairperson of I.C.

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Annex - F



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

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Appeal No. 424 /2016

W.P. Proceedings
Service Tribunal
Diary No. 396
Dated 20/4/2016

Mr. Muhammad Sajjad Qureshi Ex-Superintendent
KPK Public Service Commission, Peshawar.....Appellant

VERSUS

1. The Governor through Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. The Secretary Establishment Govt: of Khyber Pakhtunkhwa Peshawar.
3. The Chairman Khyber Pakhtunkhwa Public Service Commission Peshawar.
4. The Secretary Khyber Pakhtunkhwa Public Service Commission Peshawar

.....Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 READWITH RULE - 19 OF E&D RULES, 2011 AGAINST THE ORDER DATED 15.1.2016 WHEREBY THE PENALTY OF REMOVAL FROM SERVICE WAS IMPOSED UPON THE APPELLANT AND AGAINST THE ORDER DATED 18.04.2016 WHEREBY THE REVIEW PETITION OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS

Filed to the Registrar 20.4.16

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EXAMINED
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

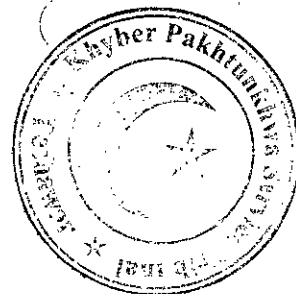
SERVICE APPEAL NO. 424/2016

Date of institution ... 20.04.2016

Date of judgment ... 11.04.2017

Muhammad Sajjad Qureshi Ex-Superintendent,
Khyber Pakhtunkhwa Public Service Commission, Peshawar.

... (Appellant)



VERSUS

1. The Governor through Chief Secretary Khyber Pakhtunkhwa.
2. Secretary Establishment Govt: of Khyber Pakhtunkhwa Peshawar.
3. The Chairman Khyber Pakhtunkhwa Public Service Commission Peshawar.
4. The Secretary Khyber Pakhtunkhwa Public Service Commission Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 READ WITH RULE-19 OF E&D RULES, 2011 AGAINST THE ORDER DATED 15.01.2016 WHEREBY THE PENALTY OF REMOVAL FROM SERVICE WAS IMPOSED UPON THE APPELLANT AND AGAINST THE ORDER DATED 18.04.2016 WHEREBY THE REVIEW PETITION OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

Mr. Muhammad Asif Yousafzai, Advocate.

.. For appellant.

Mr. Ziaullah, Government Pleader

.. For respondents.

MR. AHMAD HASSAN

.. MEMBER (EXECUTIVE)

MR. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

JUDGMENT

AHMAD HASSAN, MEMBER: Muhammad Sajjad Qureshi, Ex-Superintendent hereinafter referred to as appellant, through the instant appeal under section-4 of Khyber Pakhtunkhwa Service Tribunal Act 1974 read with Rule-19 of E&D Rules, 2011 against the order dated 15.01.2016 whereby penalty of removal from service was imposed upon him and against the order dated 18.04.2016, whereby review petition of the appellant was rejected, hence the instant service appeal on 20.04.2016.

2. Brief facts of the case giving rise to the instant appeal are that the appellant was appointed as Assistant in the Khyber Pakhtunkhwa Public Service Commission on 26.01.1996. Thereafter promoted to the post of Superintendent (BPS-17) in 2007. That the Public Service Commission advertized 241 posts of Assistant District Officer (ADO BPS-16) in Elementary and Secondary Education vide Advertisement No. 05/2009. Interviews for the said posts were

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Service Tribunal,
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held in 2010. Some complaints of irregularities were received and a fact finding inquiry was ordered to probe the issue and fix responsibility for lapses, if any. Result was declared and complainant was not selected due to low merit position. There-after disciplinary proceedings under Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules-2011 were initiated against the appellant, & others, which culminated in his removal from service. The appellant preferred departmental appeal, which was rejected on 18.04.2016, hence the instant service appeal.

3. Learned counsel for the appellant argued that after a lapse of about four years, in October 2014, Mr. Saqibullah, submitted two written complaints to the Chairman Khyber Pakhtunkhwa Public Service Commission on 14.10.2014 and 27.10.2014 pointing out some discrepancies in zonal allocation in the selection of ADOs. That the Chairman Public Service Commission (respondent No.3) constituted an inquiry committee to conduct a fact finding inquiry with well defined (TORs) to ascertain veracity of allegations leveled by the complainant and fixing responsibility for lapses, if any. Recommendations made by the enquiry committee were not in in-tandem with the assigned TORs and were without solid evidence against the appellant. Statement of the complainant was not recorded by the enquiry committee. Inquiry was conducted in questionnaire form in violation of superior courts judgments. Mr. Saqibullah and Mr. Masood Zaman did not lodge any complainant regarding involvement of the appellant in this case. As direct show cause notice was served on the appellant in contravention of Sub-Rule(a) of Rule-7, read with Rule-5 (i) (a)... of the Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules, 2011, where it is clearly mentioned reasons will have to be recorded for dispensing with regular enquiry. It is a well settled principle that in case of imposing of major penalty upon a Civil Servant regular enquiry shall have to be conducted by serving Charge Sheet, Statement of Allegations, recording statement of witnesses and opportunity to the accused to cross examine witnesses, if any, but in this case these formalities were not fulfilled. The appellant was also not afforded opportunity of personal hearing by the Competent Authority being a basic requirement of the rules. Though show cause notice was served by the Governor Khyber Pakhtunkhwa, but the removal order was signed by the Chairman Public Service Commission having no authority under the rules. The appellant has twenty years service at his credit and on acceptance of this appeal the impugned order dated 15.01.2016 and dated 18.04.2016 may be set aside the appellant may be reinstated into service with all back benefits.

4. Learned Government Pleader in his rebuttal invited attention to para-1 of the show cause notice, wherein reasons were recorded for dispensing with regular enquiry, as such show cause notice was served in pursuance of Rule-5(1)-A of Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules-2011. Reliance was laid on 2005 SCMR 1802, wherein the Supreme Court held that inquiry in questionnaire was permissible under the rules.

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He further contended that all codal formalities were fulfilled and the appellant has rightly been removed from service. He requested that appeal being devoid on any merit be dismissed.

5. We have heard arguments of learned counsel for the appellant and learned Government Pleader for the respondents and have gone through the record available on file.

6. After having gone through the record, it transpired that the enquiry committee constituted to carry out fact finding enquiry went beyond the limits of assigned TORs and made recommendations not covered by their mandate. Statement of the complainant was not recorded during the course of above inquiry. The inquiry committee recommended imposition major penalty of removal from service against on the appellant being not part of its assigned mandate and that too without any solid evidence. In Para-16 (v) the inquiry committee talked about nexus between Mr. Sajjad Qureshi, Mr. Saqibullah and Mr. Masood Zaman but failed to bring any solid evidence in black and white to prove the charge. Perhaps their assessment was based on inference drawn on the basis of intuition/super natural power possessed by them. The appellant never worked in the recruitment branch dealing with aforementioned appointments. In the absence of concrete documentary evidence charge of bad reputation leveled against the appellant and others appeared to the figment of imagination of the inquiry committee. Neither Mr. Saqibullah nor Mr. Masood Zaman, Deputy Secretary gave statements regarding involvement of the appellant in this case. As provided in Rule 5(i)(a) Read with Rule-7 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules-2011, the competent authority failed to record reasons for dispensing with regular enquiry and serving direct show cause notice on the appellant and others. In this case major penalty of removal from service was imposed on the appellant and others without holding regular enquiry by serving the Charge Sheet, Statement of Allegations, recording statements of witnesses, providing opportunity of cross examination to the appellant, personal hearing etc. As such numerous judgments of superior courts were violated. Hence, proper opportunity of defense and fair trial was not afforded to the appellant. Charges mentioned in the Show Cause Notice were altogether different from those mentioned in the removal order. It was Mr. Masood Zaman, Deputy Secretary, while recording his statement during the fact finding voluntarily informed that complainant gave him a cheque of Rs. 750000/- to be considered for appointment. Photocopy was still in his possession, but he did not encash it being not a corrupt person. It is not only a sufficient proof about innocence of Deputy Secretary, but also proves moral courage to speak the truth. Mr. Sajjad Qureshi also flatly refused about any dealing between complainant Deputy Secretary. He only took the complainant to the office of Deputy Secretary to inquire about the date of interview. complainant did not appear for interview on 09.03.2000, so it was rescheduled on 30.06.2010. That result of entire batch was declared on 03.02.2011, but cheque was given to Deputy Secretary on 01.08.2011, six months after the declaration of result. Similarly the appellant referred Mr. Saqibullah to Deputy Secretary in

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June, 2010, while cheque was given on 01.08.2011 after fourteen months. According to the statement of the Bank Manager, the said account was closed in 2003, while account holder died on 29.11.2006. Departmental appeal of the appellant was disposed of vide order dated 18.04.2016 without assigning reasons, hence, Sec-24-A of the General Clauses Act, 1897 was violated. In the fact finding enquiry, the appellant was not held responsible for the charges leveled against him.

8. In view of the fore-going, we are constrained to accept the instant appeal by setting aside the impugned order dated 15.01.2016 and 18.04.2016 and appellant is reinstated into service from the date of removal from service and direct to the respondents to conduct *de-novo* enquiry strictly in accordance with law and rules within a period of three months from the date of receipt of this judgment. Appellant may be fully associated with the inquiry proceedings. All formalities given in the rules must be observed. If the respondents failed to conduct the *de-novo* enquiry within the stipulated period, the appellant shall be deemed to have been reinstated in service from the date of removal from service. Issue of back benefits shall be subject to final outcome of the *de-novo* inquiry.

9. Our this single judgment will also dispose of in the same manner appeals No. 513/16 titled Muhammad Shahab, No. 514/2016 titled Masood Zaman and No. 524/2016, titled Amir Ilyas where common question of law and facts are involved.

Edt. Ahmad Hassan,
Member

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Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Edt. M. Amin Khan Kund,
Member

Date of Presentation of Application 28-4-17
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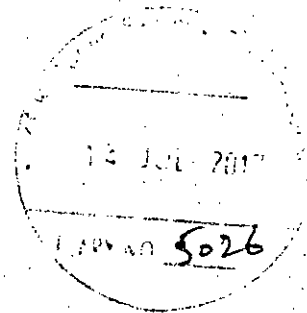
ANNEX - G -



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To,

The Secretary,
Khyber Pakhtunkhwa,
Public Service Commission.




Subject: Arrival Report:

In compliance of this office letter No. 69684 dated: 11/07/2017.
In am hereby submitting arrival report to resume my official duty today on
14/07/2017 at 08:30 AM, and obliged.

Thanks

Yours Obediently

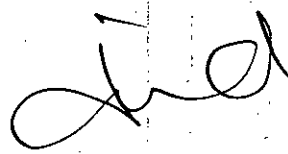
 14/7/2017

(Muhammad Shahab)

Assistant

Dated: 14/07/2017

ATTESTED





KHYBER PAKHTUNKHWA PUBLIC SERVICE COMMISSION

CHARGE SHEET

1. I, Iqbal Zafar Jhagra, Governor Khyber Pakhtunkhwa as competent authority, hereby charge you, Mr. Muhammad Shahab Assistant (BPS-16), Khyber Pakhtunkhwa PSC as follows:-

That while posted as Senior Clerk (BPS-14) in the office of Khyber Pakhtunkhwa Public Service Commission committed the following irregularities:-

- (a) That you committed gross irregularities in the process of selection of candidates for the posts of ADOs (Male) BPS-16 in Elementary & Secondary Education Department.
- (b) That you did not follow legal procedures in the selection process of ADOs for ulterior motives.
- (c) That you did not take care in the eligibility of the candidates. Candidates were declared eligible for interview with the approval of the dealing Assistant or Superintendent or Deputy Secretary and order of the competent authority was not obtained.
- (d) That you did not properly check documents / Zones of three candidates namely Mr. Muhammad Ajmal S/O Jamal Uddin, Mr. Sarfaraz Khan S/O Shahab Uddin and Mr. Shafiq-ur-Rehman S/O Abdur Rehman and they were recommended against the seats reserved for Zone-V, although they had clearly mentioned / attached domiciles of Zone-III with their application forms. By doing so, three candidates hailing from Zone-V were deprived from their legitimate right of selection.
- (e) That due to your careless and lethargic attitude, one candidate was interviewed twice and his name was twice reflected in the merit list.
- (f) That you also enjoy bad reputation in the office.

2. By reason of the above, you appear to be guilty of misconduct under Section-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Section-4 rules ibid.

3. You are therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Enquiry Officer/Enquiry Committee, as the case may be.

4. Your written defence, if any should reach the Enquiry Officer/Enquiry Committee within the specified period, failing which it shall be presumed that you have no defence to put and in 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.

(IQBAL ZAFAR JHAGRA)
GOVERNOR KHYBER PAKHTUNKHWA
(COMPETENT AUTHORITY)

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10,

1. Mr. Hifz Ur Rehman, Member PSC
2. Mr. Manzor Ul Haq, Member PSC
(Enquiry Officers)

Subject: **REPLY TO ALLEGATIONS MENTIONED IN THE CHARGE SHEET**

Sir,

With reference to your Charge Sheet Notice conveyed vide PSC letter No.63372-75 dated 07.07.2017 which I received on 12.07.2017. My reply to the Charge Sheet/ Statement of Allegation is as under:-

ALLEGATIONS IN THE CHARGE SHEET / SOA

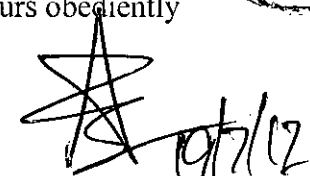
- a. Submitted that I performed my duties as Senior Clerk cum Key Punch Operator at that time with Mr Masood Zaman the then Deputy Secretary and performed the typing work of the Branch under him.
- b. I was Senior Clerk / Key Punch Operator, and only typing work with Mr. Masood Zaman DS, was my duty, which performed satisfactory.
- c. Eligibility of the candidates is determined/ decided by the Member concerned and the files are moved by the Dealing Assistant through the Supdt: and the DS concerned. My task was to type work. I fully concentrated on my duties only typing work and in this case no typing error, omission, mistake, or my blunder is on my behalf.
- d. Though the descriptive of the three candidates namely Mr. Muhammad Ajmal S/O Jamal ud Din, Mr. Sarfaraz Khan S/O Shahab ud Din and Mr Shafiq ur Rehman S/O Abdur Rehman were typed by the undersigned from approved application cover. Assistant / Supdt: and DS concerned had the responsibility of scrutiny/eligibility, according to notification No. **DR 54/2013 dated 06.05.2013** (copy Annexure A)
- e. Calling of candidates twice for interview was not my job. Assistant/ Supdt: and DS were concerned.
- f. I do not enjoy any bad reputation during 12 years unblemished service record and my ACR's are free of adverse remarks or any such remarks relating to bad reputation.

3 Keeping in view the above reply/ clarification, I earnestly request to kindly ~~exonerate~~ exonerate from the charges leveled against me and obliged.

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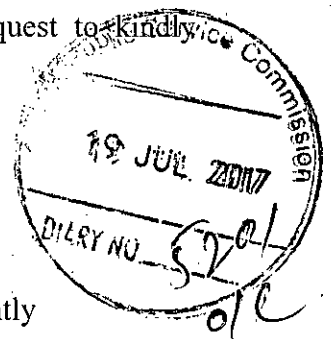


Yours obediently


(Muhammad Shahab)

Assistant: Rectt:

Dated 19.7.2017



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DISCIPLINARY ACTION

1. I, Iqbal Zafar Jhagra Governor Khyber Pakhtunkhwa as Competent Authority am of the opinion that Mr. Muhammad Shahab Assistant (BPS-16) Khyber Pakhtunkhwa PSC, has rendered himself liable to be proceeded against as he committed the following act/omission within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- (a) That he committed gross irregularities in the process of selection of candidates for the posts of ADOs (Male) BPS-16 in Elementary & Secondary Education Department.
- (b) That he did not follow legal procedures in the selection process of ADOs for ulterior motives.
- (c) That he did not take care in the eligibility of the candidates. Candidates were declared eligible for interview with the approval of the dealing Assistant or Superintendent or Deputy Secretary and order of the competent authority was not obtained.
- (d) That he did not properly check documents / Zones of-three candidates namely Mr. Muhammad Ajmal S/O Jamal Uddin, Mr. Sarfaraz Khan S/O Shahab Uddin and Mr. Shafiq-ur-Rehman S/O Abdur Rehman and they were recommended against the seats reserved for Zone-V, although they had clearly mentioned / attached domiciles of Zone-III with their application forms. By doing so, three candidates hailing from Zone-V were deprived from their legitimate right of selection.
- (e) That due to his careless and lethargic attitude, one candidate was interviewed twice and his name was twice reflected in the merit list.
- (f) That he also enjoy bad reputation in the office.

2. For the purpose of Enquiry against the said accused with reference to the above allegations, an Enquiry Officer/Enquiry Committee consisting of the following is constituted under Rule 10(a) of the ibid rules.

- i. Mr. Hitz-ur-Rehman Member Psc.
- ii. Mr. Manzoor ul-Haq Psc.

3. The Enquiry Officer/Enquiry Committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make within thirty (30) days of the receipt of this order, recommendations as to the punishment or other appropriate action against the accused.

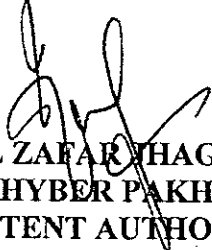
4. The accused and a well conversant representative of the Department shall join the proceeding on the date, time and place fixed by the Enquiry Officer/Enquiry Committee.

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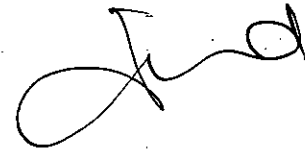
(IQBAL ZAFAR JHAGRA)
GOVERNOR KHYBER PAKHTUNKHWA
(COMPETENT AUTHORITY)

A copy of above is forwarded to:-

1. Mr. Hifzur-Rehman and Manzoor-ul-Haq for initiating proceedings against the accused under the provision of the Khyber Pakhtunkhwa Govt: Servants (Efficiency and Discipline) Rules, 2011.
2. Mr. Javed Anwar Secretary, Khyber Pakhtunkhwa Public Service Commission, with directions to assist the Enquiry Officer/Enquiry Committee during the enquiry proceeding and provide the relevant record.
3. Mr. Muhammad Shahab Assistant, Khyber Pakhtunkhwa Public Service Commission with the directions to appear before Enquiry Officer/Enquiry Committee, on the date, time and place fixed by Enquiry Officer/Enquiry Committee, for the purpose of enquiry proceedings.


(IQBAL ZAFAR BHAGRA)
GOVERNOR KHYBER PAKHTUNKHWA
(COMPETENT AUTHORITY)

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REPORT IN THE INQUIRY AGAINST MR. MUHAMMAD ZAMAN ASSISTANT
DIRECTOR PUBLIC SERVICE COMMISSION KHYBER PAKHTUNKHWA AND
OTHERS.

- 1- Brief facts leading to this inquiry are that in the year 2009 Khyber Pakhtunkhwa Public Service Commission herein referred to as commission advertised 241 posts of Assistant District Officers BPS-16 on receipt of requisition from Elementary & Secondary Education Department herein referred to as department. On conclusion of the selection process the commission recommended the appointment of successful candidates to the department. Some complaints were received regarding misplacement of three candidates from Zone – III into Zone – V and their selection. These complaints were magnified with institution of writ petition. As a result of these complaints and litigation the commission carried out a fact finding inquiry which concluded that Mr. Muhammad Zaman Assistant Director BPS-17, Mr. Muhammad Sajjad Qureshi Superintendent BPS-17, Mr. Aamir Ilyas Assistant BPS-16 and Mr. Muhammad Shahab Assistant BPS-16 all employed in commission were responsible for omissions and commission leading to misallocation and consequent / reflections on the selection process in litigation in complaints. During the course of inquiry it was found that one Mr. Saqib Ullah, a candidate from Zone – V had been meeting some employees and had maneuvered tempering in official documents and taking his interview marks from 35 to 38. On the basis of the facts finding inquiry, these employees were served with show cause notices and major penalty of dismissal and removal from service on January 15, 2016. The impugned these orders in service appeal before the service tribunal. On April 11, 2017 the Tribunal reinstated the respondents officials and directed a de-novo inquiry. As a result this inquiry was commissioned.
- 2- Charges in allegations respondents are charge in the following manners:
 - a) Common Charges against respondents namely Muhammad Zaman, Mr. Aamir Ilyas, Mr. Muhammad Shahab relate to the commission of gross irregularities in the process of selection of candidate for the post of ADO's in the department, carelessness in checking of eligibility of candidates and declaring their eligibility with approval of the competent authority, misallocation of Mr. Muhammad Ajmal, Mr. Sarfraz Khan and Mr. Shafique ur Rehman to Zone – V instead of Zone – III to which they belonged, reflection of one candidate on two different serial numbers in the merit list and carrying bad reputation.
 - b) Individually Mr. Muhammad Zaman also charged to have received a cheque amounting to Rs. 7, 50, 000/- from Mr. Saqib Ullah Son of Rafi Ullah as illegal gratification for assisting him in selection as ADO and
 - c) Individually Mr. Muhammad Sajjad Qureshi is charged to have taken Mr. Saqib Ullah to Mr. Masood Zaman into have played active role in the offer of bribe by him to Masood Zaman.
- 3- On receipt of the case, all respondents were summoned and provided adequate opportunity to submit their written statements and details of other evidence. Written statement of all respondents are Annexure A,B,C and D.

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K.

REPORT IN THE ENQUIRY AGAINST MR. MASOOD ZAMAN, ASSISTANT DIRECTOR,
PUBLIC SERVICE COMMISSION KHYBER PAKHTUNKHWA AND OTHERS

- 1) **Brief Facts:** Brief facts leading to this enquiry are that in the year 2009, Khyber Pakhtunkhwa Public Service Commission (here-in-after referred to as Commission) advertised 241 posts of Assistant District Officers (BPS-16) on receipt of requisition from Elementary and Secondary Education Department (here-in-after referred to as Department). On conclusion of selection process, the Commission recommended the appointment of successful candidates to the Department. Some complaints were received regarding misplacement of three candidates from Zone-3 into Zone-5 and their selection. These complaints were magnified with institution of writ petitions. As a result of these complaints and litigation, the Commission carried out a fact finding enquiry which concluded that Mr. Masood Zaman, Assistant Director (BPS-17), Mr. Mohammad Sajjad Qureshi, Superintendent (BPS-17), Mr. Amir Ilyas, Assistant (BPS-16) and Mr. Mohammad Shahab, Assistant (BPS-16) all employed in Khyber Pakhtunkhwa Public Service Commission were responsible for omissions and commissions leading to the misallocation and consequent oblique reflections on the selection process in litigation and complaints. During the course of enquiry it was found that one Mr. Saqibullah, a candidate from Zone-5, had been meeting some employees and had maneuvered tampering in official documents and jacking his interview marks from 35 to 38. On the basis of the fact finding enquiry, these employees were served with Show Cause notices and awarded major penalty of dismissal and removal from service on January 15, 2016. They impugned these orders in service appeals before the Service Tribunal. On April 11, 2017, the Tribunal reinstated the respondent officials and directed a de-novo enquiry. As a result this enquiry was commissioned.
- 2) **Charges and Allegations:** Respondents are charged in the following manner:
- Common charges** against respondents namely Mr. Masood Zaman, Mr. Amir Ilyas, and Mr. Mohammad Shahab, relate to the commission of gross irregularities in the process of selection of candidates for the posts of Assistant District Officers in the Department, carelessness in checking of eligibility of candidates and declaring their eligibility without approval of the Competent Authority, misallocation of Mr. Mohammad Ajmal, Mr. Srafaraz Khan and Mr. Shafiq ur Rahman to Zone-5 instead of Zone-3 to which they belonged, reflection of one candidate on two different serial numbers in the merit list and carrying bad reputation;
 - Individually Mr. Masood Zaman** is also charged to have received a cheque amounting to Rs. 750,000 from Mr. Saqibullah S/O Rafiullah as illegal gratification for assisting him in selection as Assistant District Officer; and
 - Individually Mr. Mohammad Sajjad Qureshi** is charged to have taken Mr. Saqibullah to Mr. Masood Zaman and to have played active role in the offer of bribe by him to Mr. Masood Zaman.
- 3) **Proceedings of Enquiry:** On receipt of the case, all respondents were summoned and provided adequate opportunity to submit their written statements and details of other evidence. Written statements of all respondents are at Annexure "A", "B", "C" and "D".

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Record relevant to the inquiry was requisitioned and perused. All respondents were heard in person and in detail.

4- Findings of inquiry: The inquiry in hand pertains to the record of selection process for the post of ADO in the department. As such all elements of the charges have been looked through the record and details provided by respondents in their statements. Respondents were also confronted with record and their corresponding averments were heard and duly considered. Keeping in view the record, written statements and personal hearing of the respondents the following facts stand established.

a) Misallocation of three candidates: Mr. Muhammad Ajmal Son of Jamal ud Din, Mr. Sarfraz Khan Son of Shahab ud Din and Mr. Shafiq ur Rehman Son of Abdur Rehman belonging to Zone - III were reflected in Zone - V and subsequently selected on seats reserved for Zone - V. This fact is proved from record maintained in the commission Mr. Masood Zaman then posted as Deputy Secretary, Mr. Aamir Ilyas and Muhammad Shahab, (Assistants) constituted the staff responsible for scrutiny of applications, preparation of descriptive roles and placement of candidates in their respective Zones. They are responsible for his misallocation and wrong selection. This matter was taken Peshawar High Court in Writ Petition No.357-A of 2011 titled "Jehanzeb Khan VS Public Service Commission and others" including those selected due to misallocation. This case was decided on May 30th 2016 and orders of the High Court contained details regarding this misallocation and a directive issued to the commission to examine the case of Jehanzeb (Petitioner) in view of consensus between the commission and the petitioner. Orders in the writ petition are annexed "E". The factum of misallocation and subsequent selection of these candidates on seats reserved for Zone - v is proved and nonelse but the three respondents are responsible for this irregularity and misallocation which had generated and otherwise avoidable chain reaction. Three candidates genuinely hailing from Zone - V were deprived of their selection chances. Likewise three candidates who should have been selected on seats reserved for Zone-III were selected due to deletion of the above three candidates from this Zone. In addition to the case instituted by Mr. Jehanzeb, the matter also echoed in another writ petition No.898-A/2014 titled "Mr. Saqib Ullah VS Public Service Commission and others"

b) Receipt and retention of cross cheque of Rs.75,000/- drawn in the name of Mr. Masood Zaman in his written statement. Mr. Masood Zaman has given the following narration of this incident:

"Charge of acceptance the cheque as a bribe is far from reality. In fact Mr. Saqib Ullah had offered me a cheque of Rs.7,50,000/- as ^{back as} advance on 01/08/2011 for selecting him for the post of ADO. Since I am not in the habit of accepting any bribe from candidates throughout my 32 years unblemished record of career. I plainly refused to accept the cheque and asked him to take it back and leave my office immediately. As some members had called me for a official work I went to his office Mr. Saqib Ullah left the cheque on my table covered in an envelop and left office before my return I tried my best to find him and return the cheque "

Attended by me - ITUC
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Record relevant to the enquiry was requisitioned and perused. All respondents were heard in person and in detail.

- 4) **Findings of Enquiry:** The enquiry in hand pertains to the record of selection process for the posts of Assistant District Officers in the Department. As such all elements of the charges have been looked through the record and details provided by respondents in their statements. Respondents were also confronted with record and their corresponding averments were heard and duly considered. Keeping in view the record, written statements and personal hearing of the respondents, the following facts stand established:

- a. **Misallocation of Three Candidates:** Mr. Mohammad Ajmal S/O Jamal-ud-Din, Mr. Srafaraz Khan S/O Shahab-ud-Din and Mr. Shafiq ur Rahman S/O Abd-ur-Rahman belonging to Zone-3 were reflected in Zone-5 and subsequently selected on seats reserved for Zone-5. This fact is proved from record maintained in the Commission. Mr. Masood Zaman, then posted as Deputy Secretary, Mr. Amir Ilyas, and Mr. Mohammad Shahab (Assistants) constituted the staff responsible for scrutiny of applications, preparation of descriptive rolls and placement of candidates in their respective zones. They are responsible for this misallocation and wrong selection. This matter was taken to Peshawar High Court in Writ Petition # 357A of 2011 titled "Jehanzeb Khan Versus Public Service Commission and Others" including those selected due to misallocation. This case was decided on May 30, 2016 and orders of the High Court contain details regarding this misallocation and a directive issued to the Commission to examine the case of Jehanzeb (Petitioner) in view of consensus between the Commission and the petitioner. Orders in the Writ Petition are at Annexure "E". The factum of misallocation and subsequent selection of these candidates on seats reserved for Zone-5 is proved and none else but the three respondents are responsible for this irregularity and misallocation which had generated an otherwise avoidable chain reaction. Three candidates genuinely hailing from Zone-5 were deprived of their selection chances. Likewise three candidates who should not have been selected on seats reserved for Zone-3 were selected due to deletion of the above three candidates from this zone. In addition to the case instituted by Mr. Jehanzeb, the matter also echoed in another Writ Petition # 898A of 2014 titled Mr. Saqibullah Khan Versus Public Service Commission and others.
- b. **Receipt and retention of Crossed Cheque for Rs.750,000 drawn in the name of Mr. Masood Zaman:** In his written statement, Mr. Masood Zaman has given the following narration of this incident.

"...The charge of acceptance the cheque as a bribe is far from reality. In fact, Mr. Saqibullah had offered me a cheque of Rs. 750,000 - as back as on 01/08/2011 for selecting him for the post of ADO. Since I am not in habit of accepting any bribe from candidates throughout my 32 years unblemished record of my career, I plainly refused to accept the cheque and asked him to take it back and leave my office immediately. As some Member had called me for an official work I went to his office. Mr. Saqibullah left the cheque on my table covered in an envelope and left office before my return. I tried my best to find him and return the cheque.

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but all in vain. I still understand that he has given this cheque to me with unethical and bad designs so as to keep me under pressure and defame me because the result had already announced on 04/02/2011 and no one could recommend him after announcement of result. I understood his ploy and as such destroyed the original cheque and kept a photostat copy of the said cheque so as to prove my innocence....the cheque was issued on 01/08/2011 whereas the result....was displayed on 03/02/2011 and conveyed to the Department on 04/02/2011....I personally inquired and came to know that the cheque was not that of Saqibullah account but belong to someone Hafiz Munibullah and more astonishingly the said account is closed from 2003 and the account holder has already died on 29/06/2006...the allegations are totally incorrect, wrong and baseless, rather based on malafide. I have not accepted the cheque."

The above narration clearly establishes some facts which include:

- a) That Mr. Saqibullah had visited Masood Zaman (respondent) and offered illegal gratification and had left a cheque on his table;
 - b) Respondent is an experienced officer and should have understood the consequences of a cheque crossed in his name and left in his office by a failed candidate;
 - c) That the respondent never reported this incident to anyone till the constitution of the fact finding enquiry;
 - d) That the respondent retained the cheque despite the fact that he had an opportunity to dispatch it back to Saqibullah on his address given in his candidacy application;
 - e) That the respondent even did not feel it necessary to find out the actual details of the cheque and account despite the institution of Writ Petitions and complaints till an enquiry was ordered;
 - f) The respondent could not justify his prolonged silence on this incident despite the fact that he had ample opportunities to apprise his superiors and frame Saqibullah for offering illegal gratification; and
 - g) The allegation to the extent that he had received and retained a cheque from Saqibullah stands established in view of his own admission and this issue requires no further substantiation.
- c) **The Role of Mr. Mohammad Sajjad Querishi:** This respondent is charged to have taken Mr. Saqibullah to Mr. Masood Zaman after which he offered illegal gratification to him. On this count the respondent has offered this version:
- ".... As far as I remember, during 2010, while interviews of ADOs were in process a candidate namely Saqibullah of District Mansehra came to my office through reference of an acquaintance Mr. Majid Khan, Head Master at District Mansehra to inquire about his interview date for the post of ADO due to non receipt of interview letter. Since I was not working in the respective

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branch and not dealing with ADOs as such I as a routine matter either referred or took him to the office of concerned officer namely Masood Zaman..... I only neither referred or took the candidate to the office of Masood zaman for inquiring about interview date in 2010. Thereafter, the said candidate never came to my office nor met me nor Masood Zaman said something about him due to which I had no knowledge if some dealing etc had done between them. However I came to know about this when Masood Zaman opened this secret before the highups after lapse of about four years in 2015 and the matter became known to all in the office."

After receipt of this version, Mr. Masood Zaman and Mr. Mohammad Sajjad Querishi were heard together. The former acknowledged that Mr. Qureshi had taken Mr. Saqibullah to his office in 2010 when the interviews were in progress and he wanted rescheduling of his interview. After this the said Saqibullah visited his office on two other occasions i.e once in February, 2011 when the result was announced and then in August, 2011 when he left the cheque on his table. He plainly stated that on both these occasions, Mr. Sajjad Querishi did not accompany him. In view of these facts, there is no evidence to suggest that Mr. Sajjad Querishi has played any role in the offer of illegal gratification or facilitation in this regard;

- d) **Allegations of Bad Reputation:** While enquiring into this charge, the committee could not find any proof on the bad reputation of the accused from the record of the commission. It has no evidence to substantiate this allegation;
- e) **Allegation Regarding Reflection of One Candidate at Two Different Serial Numbers:** This charge pertains to the interview of Syed Mehmood-ul-Hasan S/O Syed Sarwar Shah whose name appeared on two different serial numbers in the merit list. The record reveals that the name appeared on two different serial numbers. This is once again collective responsibility of Mr. Masood Zaman, Mr. Amir Ilyas, and Mr. Mohammad Shahab as members of the staff responsible for scrutiny of applications and preparation of papers for interview. This issue was unsuccessfully exploited by Mr. Saqibullah Khan for his adjustment in the merit list. The record reveals that the name appeared at two different serial numbers but this reflection has not resulted in any kind of loss to any other candidate. In ultimate recommendations, the anomaly was corrected when he was recommended against one position. The Commission has reported these facts to the High Court while submitting para-wise comments in writ petition instituted by Saqibullah. Parawise comments are at Annex-"F".

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- 5) **Conclusions of the Enquiry:** Based on the above details the following recommendations are made:
- a. Respondents Mr. Masood Zaman, then posted as Deputy Secretary, Mr. Amir Ilyas, and Mr. Mohammad Shahab (Assistants) are guilty of negligence leading to misallocation of three candidates and their selection against vacancies reserved for Zone-5 instead of Zone-3 to which they belonged. All the three respondents are also responsible for duplication of the name of Mr. Mehmood-ul-Hasan at two different serial numbers;

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[Signature]

Dated: 7th August, 2017

[Signature]
Hiz-ul-Kahman
Member
7/8

[Signature]
Manzoor-ul-Haq
Member

actions:

9) Recommendations of the Enquiry: The Enquiry Committee recommends following

a. Respondent Mr. Masood Zaman may be awarded the punishment of Compulsory Retirement from Service for his role in misallocation of three candidates from one zone to another zone, their sequential wrong selection, duplication of the name of one candidate at two different serial numbers;

b. Respondents Mr. Amir Ilyas, and Mr. Mohammad Shahab may be awarded the punishment of Compulsory Retirement from Service for their role in misallocation of three candidates from one zone to another zone, their sequential wrong selection, duplication of the name of one candidate at two different serial numbers and receipt of a cheque from a failed candidate;

c. All the respondents may be exonerated from the charge of carrying bad reputation as it could not be substantiated from the record of the Commission; and

d. Respondents Mr. Mohammad Sajjad Querishi may be exonerated from all charges as he could not be connected with any of the allegations mentioned in (a) and (b) above.

The allegation of carrying bad reputation could not be established against any of the respondents; and

Respondent Mr. Masood Zaman is found guilty of receiving and retaining a cheque amounting to Rs. 750,000 from Mr. Saqibullah a candidate for the position of Assistant District Officer;



Annex-I

(62)

KHYBER PAKHTUNKHWA PUBLIC SERVICE COMMISSION

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M.

I, Iqbal Zafar Jhagra, Governor Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 do hereby serve you Mr. Muhammad Shahab Assistant (BPS-16), with Show Cause Notice:-

1. (i) that consequent upon the completion of inquiry conducted against you by the Inquiry Committee comprising Mr. Hifz-ur-Rehman and Mr. Manzoor-ul-Haq Members PSC for which you were given opportunity of personal hearing and recording of your written statement.
- (ii) on going through the findings and recommendations of the Inquiry Committee, the material on record and other connected papers including your defence before the inquiry committee;

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

- (a) Gross irregularities have been committed by you in the process of selection of candidates for the posts of ADOs' (Male) BPS-16 in Elementary & Secondary Education Department.
- (b) Legal procedures were not followed in the selection process of ADOs for ulterior motives.
- (c) No care was taken into account in the eligibility of the candidates. Candidates were declared eligible for interview with the approval of the dealing Assistant or Superintendent or Deputy Secretary and order of the competent authority was not obtained.
- (d) Documents / Zones of three candidates namely Mr. Muhammad Ajmal S/O Jamal Uddin, Mr. Sarfaraz Khan S/O Shahab Uddin and Mr. Shafiq-ur-Rehman S/O Abdur Rehman were not properly checked and they were recommended against the seats reserved for Zone-V, although they had clearly mentioned / attached domiciles of Zone-III with their application forms. By doing so, three candidates hailing from Zone-V were deprived from their legitimate right of selection.
- (e) Due to negligence and careless attitude, name of one candidate was reflected twice in the merit list.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the Compulsory Retirement under Rule 4(1)(b)(ii) of the said rules.

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

4. If no reply to this notice is received within 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 Committee is enclosed.

GOVERNOR KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

ATTESTED

(627)/A

Admission - J.

The Honorable Governor,
Khyber Pakhtunkhwa Peshawar.

M

Through: PROPER CHANNEL

SUBJECT: REPLY OF SHOW CAUSE NOTICE

R/Sir,

With due respect it is most humbly submitted that in reply to Show Cause Notice conveyed vide PSC letter No.KP/PSC/Admn/GF-521/159328 dated 09.10.2017, I place the following facts / submissions before your good-self for kind perusal and consideration in order to reach at a just and fair conclusion which speaks volume and crystal clear proof of my innocence in the allegations.

All the charges / allegations leveled against me in the Show Cause Notice are not based on facts and I deny the same on the ground that the Enquiry Committee in its report has wrongly involved and entangled me in the case taking stance that during 2010, I was working as Assistant in the respective branch dealing with Assistant District Officers (BPS-16) in E&SE Department and held me responsible for omissions, commissions in the scrutiny of applications and preparations of paper for interviews of ADOs (Copy of enquiry report is attached as Annexure-I) whereas at that specific period I was working/posted as TYPIST in the respective branch. I had no concern with the rest of recruitment process of ADOs except typing work. Therefore, all the allegations leveled against me in the showcase noticed were not a part of my assigned duty as typist. It is pertinent to mention here that I was promoted to the post of Assistant on 02.01.2013. copy of my promotion order is attached as (Annexure-II) for your kind perusal.

In view of the above mentioned facts and grounds it is respectfully requested that I may kindly be exonerated from the allegations leveled in the Show Cause Notice as I was working in the respective branch as TYPIST and had no role with the rest of recruitment process except typing work. I wish to be heard in person so as to prove my innocence.

Yours Obediently,

(MUHAMMAD SHAHAB)
Assistant, PSC



ATTESTED

63



Amir K

KHYBER PAKHTUNKHWA PUBLIC SERVICE COMMISSION

NOTIFICATION

WHEREAS, Mr. Muhammad Shahab, Assistant PSC (BPS-16) was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 for committing gross irregularities in the selection process to fill the vacant posts of Assistant District Officers (Male) (BPS-16) in Elementary and Secondary Education Department, Khyber Pakhtunkhwa; and

WHEREAS, in compliance of Khyber Pakhtunkhwa Service Tribunal judgment dated 11.04.2017, a *de-novo* enquiry was conducted by the Inquiry Committee, comprising Mr. Hifz-ur-Rehman and Mr. Manzoor-ul-Haq Members Khyber Pakhtunkhwa Public Service Commission; and

WHEREAS, the Inquiry Committee after having examined the charges, evidence on record and explanation of the accused official, submitted its report recommending imposition of major penalty of compulsory retirement; and

WHEREAS, Show Cause Notice was accordingly served upon the accused official under sub rule 4 (a) of Rule-14 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 communicating the decision regarding imposition of the tentative penalty of compulsory retirement; and

WHEREAS, the accused official was provided an opportunity of personal hearing by the Competent Authority on 27.12.2017 for his defence. The accused official however, failed to produce any new ground / evidence in his defence; Now

THEREFORE, the Competent Authority, in exercise of powers conferred under sub rule 5(ii) of Rule-14 is pleased to impose the major penalty of **Compulsory Retirement** on him as provided under Rule 4(1)(b)(ii) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

GOVERNOR
KHYBER PAKHTUNKHWA

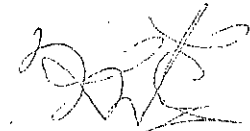
No.KP/PSC/Admn/GF-521/

01475

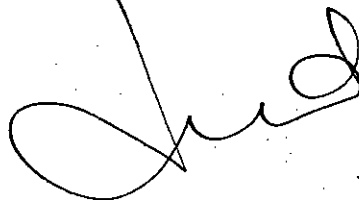
Dated: 29-12-2017

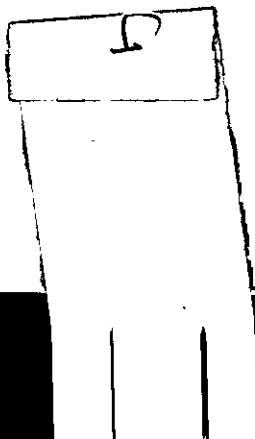
Copy forwarded to:-

1. Secretary to Governor Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Accountant General, Khyber Pakhtunkhwa Peshawar.
4. PS to Chief Secretary, Khyber Pakhtunkhwa.
5. PS to Secretary Establishment, Khyber Pakhtunkhwa.
6. Mr. Muhammad Shahab Assistant, Khyber Pakhtunkhwa PSC.
7. Personal file of official concerned.
8. Office Order file.


SECRETARY, 9.12.2017

ATTESTED





Annex →

(64)

The Hon'ble Governor
Khyber Pakhtunkhwa,
Peshawar

Subject: REVIEW / REPRESENTATION /
DEPARTMENTAL APPEAL AGAINST
THE ORDER DATED 16/01/2016.

Respected Sir,

With great reverence and humble submission, it is stated: -

1) That I was an employee of Agriculture Department and due to the restructuring policy of the government, my services were placed at the disposal of surplus pool, established for such kind of employees.

That I was absorbed in Khyber Pakhtunkhwa Public Service Commission as UDC/Junior Clerk in 2003 but keeping in view of my professional skill in the field of Computer Operating I was deputed to work on the post of Key Punch Operator (KPO) in the Computer Section of the commission.

3) That keeping in view my performance and spotless service career, I was promoted to the post of UDC (Senior Clerk) on 02/12/2014 but still I continued to work as Key Punch Operator in the Computer Section, then I was promoted to the

ATTESTED

[Handwritten Signature]

post of Assistant on 02/01/2013. (Copy is annexed herewith).

- 4) That in April 2015 I was informed that an inquiry committee has been constituted to probe into the alleged irregularities in the selection process of ADOs in education department.
- 5) That the appellant appeared before the said inquiry committee and fully explained his position who also admitted in principal that at that time, the appellant was performing his duties as "KPO".
- 6) That besides the above clarification /explanation, I was served with a show cause notice, which was properly replied.
- 7) That although, I had no role in the whole alleged irregularities i.e. process of checking and scrutiny of the candidate's form, I was shocked to know that I have been removed from service vide order dated 15/01/2016.
- 8) That I submitted a review /departmental appeal against the above order of removal from service, and then filed service appeal before the Hon'ble Khyber Pakhtunkhwa Service Tribunal. That my appeal was accepted and I was reinstated in

ATTESTED

[Handwritten Signature]

service vide order /judgment dated 11/04/2017, with a condition of De-novo inquiry.

- 9) That the so-called De-novo inquiry has conducted, the report of which is totally wrong and baseless and against the facts as besides other things I have been stated shown, to have been working as Assistant, instead that I was performing my duties as KPO/Typist, at that time.
- 10) That on the basis of that inquiry show cause notice was issued to me which was responded through a written reply. (Copy is attached herewith) and vide order dated 29/12/2017 I have been compulsorily retired from service.
- 11) That I was performing my duties as Typist / KPO, at that time and as per practice of the office (which was later on regularized Office Letter dated 06/05/2013) my job / duty was just to type DFAs and print the papers given / assigned to me, so I have no concern with the allegations leveled against me.

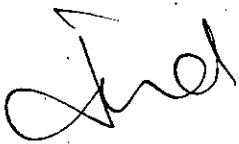
ATTESTED

[Signature]

It is, pertinent to mention here that the checking /scrutiny of the candidate's forms were the job /duty of the Assistant and Superintendent of the Section. (Copy of the Office order is annexed herewith).

- 12) That I have been compulsorily retired from service on wrong presumptions / findings of the inquiry committee and not been treated justly and fairly, rather have been discriminated as one of my colleague against whom the same allegations were laying, have been exonerated of the charges. .
- 13) That the so-called findings and recommendations of the inquiry are baseless and discriminatory.
- 14) That I have a 26/27 years of un-blemished services career / record, as there is not a single entry /remarks in my annual confidential reports, this fact is also evident from the fact that I have been promoted from time to time.
- 15) That the inquiry has not been conducted in according with law and rules, rather have been initiated / conducted in hurry meaning thereby that some vested hands were bent upon to get me removed from services as the charge sheet was issued to on 07/07/2017 before my formal reinstatement vide Notification dated 11/07/2017.
- 16) That the impugned order is passed in sheer violation of rules and regulations, without observing the codal formalities and therefore, liable to be reviewed/ modified and I may please be reinstated in service with all back benefits.

ATTESTED



- 17) That without prejudice to the forgoing ground it is humbly submitted that the punishment awarded to me is too harsh and does not commensurate to the alleged guilt of negligence / discriminatory as one of my colleague has been exonerated in de-novo inquiry against whom the same charges were leveled.
- 18) That I may please be provided a chance of personal hearing, so that I could be able to explain my position.

It is, therefore, humbly prayed that on acceptance of this departmental appeal, my order of compulsorily retirement issued vide order dated 29/12/2017 may kindly be reviewed / modified and cancelled and I may be reinstated in service with all back benefits.

Dated 23/01/2018

Appellant

Muhammad Shahab
S/o Muhammad Kamal
R/o Kandy Ghari Miangan
Surizai Payan Peshawar

ATTESTED





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KHYBER PAKHTUNKHWA PUBLIC SERVICE COMMISSION

OFFICE ORDER

In order to regulate and streamline the internal working of the Recruitment Wing regarding processing and disposal of cases, the following instructions are hereby issued for strict compliance: -

1. On receipt of requisition, the dealing Assistant will examine it in accordance with regulation 3 of the Khyber Pakhtunkhwa Public Service Commission Regulations, 2003 and submit it alongwith record of service rules and previous zonal allocation of seats within a week as per Regulation 4 of Khyber Pakhtunkhwa Public Service Commission Regulations.
2. After clearance of the requisition and obtaining orders of the member concerned, the draft advertisement will be put up to the Deputy Secretary by the dealing Assistant within three days as per Regulation 4 through the Superintendent concerned and all the three will sign it and will forward it to the quarter concerned for inclusion in the consolidated advertisement.
3. As provided under regulation 8 (c) (d) (e), the dealing Assistant will be responsible for receipt, checking and sorting of application forms relating to his subjects. All the applications and files will remain in charge of the dealing Assistant and he will be held responsible for safe custody thereof.
4. After receipt of application forms from the Diary Branch, the dealing Assistant and the Branch Clerk will immediately separate all the applications subject wise and will identify the number of applications in each subject by putting serial number on each application. A consolidated statement showing the number of posts and applications shall be submitted to Deputy Secretary within a week time as per Regulation 8 (e) for the purpose of shortlisting.
5. After receipt of order for short listing, the dealing Assistant will hand over the applications for the post(s) in which screening or ability test are fixed, to the Computer / IT Section for entry. Cases recommended for direct interview should immediately be scrutinized without waiting for interview programme. All the rejected candidates shall be informed immediately through registered post so that they are enabled to submit their representations, if any, for review of rejection orders well in time as per Regulation 13.
6. While putting the applications forms in covers, the Branch Clerk will keep the sequence of papers in the following order:-
 - (i). All certificates or Degree from Metric onwards.
 - (ii). All Detailed Marks Certificates from Metric onwards.
 - (iii). National Identity Card and Domicile.
 - (iv). Experience Certificates.
 - (v). Others.

ATTESTED

(50)

7. On each certificates of experience plus minus of the period of experience should be recorded and on the last certificate total period of experience must be recorded by the dealing Assistant for convenience in determination of eligibility and experience marks.
8. While scrutinizing the applications, the dealing Assistant will scrupulously check age, qualification, domicile and experience etc. in the light of advertisement. Initial scrutiny will be carried out by the Assistant, the dealing Superintendent and the Deputy Secretary will counter check the scrutinized applications and forward them to the Director for obtaining order of the Member concerned. Scrutiny must be completed before scheduling of interviews.
9. After receipt of test result from Examination Wing, the dealing Assistant will submit the result for fixation of target. Sorting and checking of application of qualified candidates will be the responsibility of the dealing Assistant and Clerk. They will record test marks with target on application of each candidate. The section will thus scrutinize and process the applications of qualified candidates accordingly.
10. All Assistants and Superintendents shall submit the list of ripe cases for scheduling of interview programme to Deputy Secretary-I upto 3rd of each month. The Deputy Secretary-I will prepare the interview programme upto 5th and put up to the Director Recruitment for obtaining approval of the worthy Chairman. The interview program should be issued by the first week of every month as per Regulation 28(b).
11. Test and interview call letters will be sent under signature of the dealing Superintendent. The Superintendent will thoroughly check address and other particulars in the call letters and will be responsible for timely and error free dispatch of the letters as per Regulation 28(a).
12. For interview, the dealing Assistant will put up letter of advisors to the Deputy Secretary concerned for signature and shall be issued at least a week before the date of interview as per Regulation 31(3). However the dealing Assistant or Superintendent will Contact the advisors telephonically to ensure their attendance on the interview panels.
- ✓13. Descriptive sheet for interview shall be prepared and checked by the dealing Assistant under his signature. The Superintendent and Deputy Secretary will counter check it and sign it.
- ✓14. The dealing Assistant or Superintendent will attend the interview panel and will check attendance of the candidates and their deficiencies, if any. However the Superintendent or Deputy Secretary concerned will attend and satisfy the panel for any mistake / problem occurring during the interview.
- ✓15. Interview result shall be prepared and checked by the dealing Assistant, Superintendent and Deputy Secretary under supervision of the Director Recruitment. After approval of the result by the Commission, the branch shall submit the recommendation letter on the same day to the Director Recruitment for conveying the recommendation to the concerned department as per Regulation 35(1).

ATTESTED

(1/5/01)

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16. Similarly the recommended candidates shall also be informed through proforma letters under signature of the Deputy Secretary concerned and those candidates who are not recommended shall be informed under signature of the superintendent concerned as per Regulation 35(1).
17. Every dealing Assistant shall maintain a register, as per specimen at Annex-I, wherein complete information from receipt of requisition till final recommendations shall be recorded. Before submitting the requisition to the member concerned for orders, he will ensure entry thereof in the concerned register. The dealing Assistant will be responsible for proper maintenance of the register with regard to his subjects.
18. A quarterly review report of all requisitions and their present status shall be put up by the branch Assistant and Superintendent to the Member concerned through Deputy Secretary/Director Recruitment for perusal.

No. DR-54/2013

Sd/-
CHAIRMAN, PSC

Dated: 06.05.2013.

Copy to: -

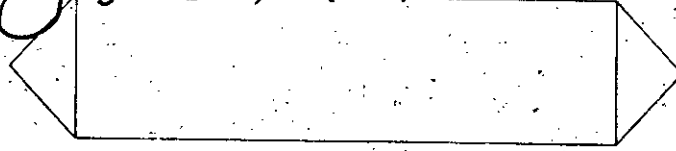
1. The Secretary, PSC.
2. The Director Examination, PSC.
3. The Senior Psychologist, PSC.
4. Deputy Secretary-I, II, III and IV, PSC.
5. Computer Programmer.
6. Account Officer, PSC.
7. Admin Officer, PSC.
8. Private Secretary to Chairman, PSC.
9. All Private Secretaries to Members, PSC.
10. All Superintendents, Recruitment Wing, PSC.
11. All Assistants, Recruitment Wing, PSC.
12. All Senior Clerks, Recruitment Wing, PSC.
13. All Computer Operators, Recruitment Wing, PSC.
14. All Junior Clerks, PSC.
15. Office Order file.

~~DR/GW~~
DIRECTOR RECRUITMENT
P.S.C.

ATTESTED

[Handwritten Signature]

بعدالت صدا سروس ٹریبونل اپن اور



مورخہ
مقدمہ
دعویٰ
جرم

محمد شیبا

2 منجانب

بنام سروس ٹریبونل اپن

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام لپش اور کیلئے عبداللہ جامی و جان محمد اللہ لکھنوی
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقریر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

2018

مئی

ماہ

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المرقوم

Shubul

All signed

Accepted

الع ہ گ الع ہ
مقام کے لئے منظور ہے

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 639/2018


Muhammad Shahab, Ex Assistant, KP PSC..... Appellant.

VERSUS

Govt of KP through Chief Secretary & others Respondents.

I N D E X

S.NO.	PARTICULARS	ANNEXURE	PAGE NO
1.	Parawise Comments of the Commission		1-10 ✓
2.	Affidavit		11 ✓
3.	Copy of Charge Sheet with statement of allegations	A ✓	12-18 ✓
4.	Copy of Complaints to Chairman	B, C ✓	19-22 ✓
5.	Copy of PSC Recommendation Letter with Better Copy	D ✓	23-32 ✓
6.	Copy of Advocate General letter to Law Department	E ✓	33-36 ✓
7.	Copy of Male Assistant District Officer Merit List with Better Copy	F, G ✓	37-56 ✓
8.	Copy of petitioner's Review / Representation Departmental Appeal	H ✓	57-60 ✓
9.	Copy of Petitioner Appeal No. 513/2016 in Service Tribunal Peshawar	I ✓	61-66 ✓
10.	Copy of Service Tribunal Judgment dated 11.04.2017	J ✓	67-71 ✓


Assistant Director
Khyber Pakhtunkhwa
Public Service Commission Peshawar
✓ (Respondent)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 639/2018

Muhammad Shahab, Ex Assistant, KP PSC..... Appellant.

VERSUS

Govt of KP through Chief Secretary & others Respondents.

JOINT PARA-WISE COMMENTS OF (RESPONDENT NO. 01 to 03)

Respectfully Sheweth,

PRELIMINARY OBJECTIONS

1. That appellant has got no cause of action and / or locus standi to file the instant service appeal.
2. That the allegations of the appellant are baseless and misleading.
3. Appellant is not an 'aggrieved person' under the law. He has not approached this honorable Tribunal with clean hands.
4. That no discrimination / injustice have been done to the appellant.
5. That the appeal is not based on facts and is unjustified and illegal demand against the lawful authority of the Commission.
6. That the service appeal is bad in the eyes of Law.
7. That the Service appeal is an embodiment of falsehood and misrepresentation / concealment of material facts. It is based on gross mis-statement, hence bad in law and facts both.
8. That the appellant is estopped by his own act and / or character. He filed the present service appeal dishonestly, by design / scheme and after thought not only to malign the Commission but to get sympathy /dogged this honorable Tribunal.
9. That all the acts of the replying respondents are in line with the norms and principles of natural justice.
10. That the compulsory retirement from service of the appellant is based on the proper procedure of law and that too on the directions of this honorable tribunal vide order dated 11.04.2017.

ON FACTS

1. No comments. Pertains to record.
2. The appellant was adjusted and absorbed as Junior Clerk in the Khyber Pakhtunkhwa Public Service Commission. The Junior Clerks are supposed to perform typing work. From the date of his absorption in the Commission he enjoys bad reputation.
3. The appellant was promoted to the post of Senior Clerk and Assistant on the basis of his seniority.
4. No comments.
5. Pertains to record.
6. Incorrect. It was noticed that officials of the Commission were also involved. They provided documents to unauthorized persons without obtaining approval of the competent authority for personal gain. As per findings of the Enquiry Report, the appellant is involved in illegal and corrupt practices. His service career is full of offences and consequential punishments. He had been issued warnings and explanations from time to time (**Annex- A**).
7. Incorrect. Both the complaints were submitted by Mr. Saqibullah on 14.10.2014 (**Annex B & C**). Selection process was finalized on 04.02.2011. His complaints were on the basis of documents provided by the officials/officers involved in this case. On the basis of unattested documents a time barred case was reopened through Writ Petition. The Khyber Pakhtunkhwa Public Service Commission advertised 241 posts of Assistant District Officer (BPS-16) vide Advertisement No. 05/2009 Serial No. 07 on 04.06.2009. After conducting interviews with effect from 03.12.2009 to 25.08.2010, recommendations were sent to Secretary Elementary & Secondary Education Department vide letter No. KPPSC/SR-1/1078 dated 04.02.2011 (**Annex-D**). After a lapse of four years when the case attained finality, the one Saqibullah offered bribe amounting to rupees 7,50,000/- in the shape of crossed cheque bearing No. 63301 dated 01.08.2011 and obtained documents which are meant for official use only. On the basis of these

documents he filed Writ Petition No. 898-A/2014 in Peshawar High Court Abbottabad Bench with a malafide and dishonest intension. Since documents meant for official record were produced with Writ Petition No. 898-A/2014, therefore it was decided that an enquiry may be got conducted to point out as to who provided these documents without permission of the Competent Authority and how a time barred case has been reopened after a lapse of four years. Before submission of comments in the Peshawar High Court Abbottabad Bench, an enquiry was conducted in order to meet the ends of justice. The Khyber Pakhtunkhwa Public Service Commission can't afford such illegal activities hence strict disciplinary action was initiated against four officials involved in it. All the documents which are for official use were provided to Mr. Saqibullah without obtaining approval of Chairman, Khyber Pakhtunkhwa Public Service Commission. The Chairman Khyber Pakhtunkhwa Public Service Commission constituted a committee comprising the following vide Office Order No. KP/PSC/Admn/GF-319/012440-45 dated 10.03.2015 :

- i. Prof: Dr Sarah Safdar, The Then Member-I, PSC
- ii. Prof: Dr Muhammad Farooq Swati, The Then Member-VII, PSC
- iii. Mr. Ghulam Dastagir Ahmed, Director Recruitment, PSC

The Committee was required to examine the complaint of Mr. Saqibullah (Complainant) regarding alleged wrong recommendations of three candidates from Zone-5 against the post of (Male) Assistant District Officer (BPS-16), to summon and hear all the three recommendees, to probe into the alleged involvement of the three candidates with Commissions' Staff and fix responsibility and to examine as to whether after a lapse of about four years, the Commission can entertain such applications/ complaints and make reallocation and fresh recommendations or otherwise. The enquiry committee came to the following conclusion:

- i) A number of gross irregularities have been committed by the staff up to the Deputy Secretary in the process of selection of candidates for the

posts of ADOs (BPS-16) in Elementary and Secondary Education Department. All of them know the legal procedures as reflected in their statements but the procedures were not followed in this case for ulterior motives and personal gain.

- ii) No care was taken in account in the eligibility of candidates. Candidates were made eligible for interview simply with the signature of the Dealing Assistant or Superintendent or Deputy Secretary. Approval of the competent authority i.e. Member, Public Service Commission was not obtained. Moreover, proper checking of zones of the three candidates namely Sarfaraz, Ajmal and Shafiqur Rehman was not made for which Masood Zaman Deputy Secretary, Rustom Khan the then Superintendent, Amir Ilyas the then Assistant and **Muhammad Shahab the then Key Punch Operator** are equally responsible for gross irregularities.
- iii) Due to the extremely careless attitude of the concerned staff, one candidate was twicely interviewed and his name was twicely included in the Merit list.
- iv) **The acceptance of cheque amounting to Rs. 750,000/- as bribe by Masood Zaman, Deputy Secretary from Saqibullah in return of selecting him for the post of ADO has been proved beyond doubts.**
- v) Though Muhammad Sajjad Qureshi accepts he took Saqibullah to the office of Masood Zaman for collecting some information. It is however, quite obvious that it is not possible for a candidate to offer bribe directly to an unknown officer. Thus the active role of Muhammad Sajjad Qureshi in the offer of bribe by Saqib Ullah to Masood Zaman was quite clear.
- vi) All the officers/officials involved in this case also enjoy bad reputation in the office.

The Committee recommended that:

- i. Mr. Masood Zaman, Deputy Secretary may be dismissed from service.

- ii. Mr. Amir Ilyas Superintendent, Mr. Muhammad Sajjad Qureshi Superintendent and **Mr. Muhammad Shahab Assistant may be removed from service.** Show cause notices may be issued to the officials under Rule 5(a) of the E&D Rules 2011.
- iii. As Rustam Khan the then Superintendent; has now retired from service. In his case, opinion of the Establishment Department may be obtained as to what punitive actions can be taken against him after his retirement.
- iv. **Mr. Saqibullah may be disqualified from applying to the Commission for ever and his case be referred to the Elementary and Secondary Education Department for taking punitive action against him under the rules.**
- v. **In pursuance of the Supreme Court Judgment No. 7407/AG dated 19.04.2014 that if candidate is mistakenly recommended by the Commission without any fault on his part then he will not be disturbed while proceedings will be initiated against the officials concerned. Since there is no fault on the part of the recommended candidates namely Shafiqur Rehman, Sarfaraz and Ajmal Khan therefore, their recommendations may not be disturbed and the case of readjustment/ reallocation may not be processed after the lapse of almost five years of recommendations. (Annex-E)**

Name of **Mr. Syed Mahmood ul Hassan S/O Syed Sarwar Shah** was reflected in the list and called for interview twice. His name was reflected in the merit list at serial number **211 & 276 (Annex-F & G)**. It was noticed by senior officers and rectified otherwise it might have created embarrassing situation for the Commission. Candidates names and particulars given below in their application forms have clearly recorded Zone-III. **Mr. Muhammad Shahab, Senior Clerk and other accused have included them against Zone-V.**

S.NO	Name and father's name	Zone recorded in application form	Recommended against
1.	Muhammad Ajmal S/O Jamal Ud Din	Zone-III	Zone-V

2.	Shafiq ur Rehman S/O Abdur Rehman	Zone-III	Zone-V
3.	Sarfaraz Khan S/O Shahab ud Din	Zone-III	Zone-V

It was gross irregularity. Candidates from Zone-III have been recommended against quota reserved for Zone-V. This gross negligence was for personal gain which can't be ignored. Therefore, the appellant was removed from service in light of the recommendation of the Inquiry Committee.

8. Incorrect. The inquiry committee after fulfilling all codal formalities recommended the appellant for major punishment (Copy of Charge Sheet, Statement of allegations, Inquiry report and final Showcause notice and Reply are at **Annex A, B, C, D & E**).
9. Incorrect. The appellant was removed from service after fulfilling all the norms of justice.
10. That the review petition of the appellant being devoid of merits was rightly turned down. The orders of this honorable tribunal were also complied with in letter and spirit (copy of original Departmental Appeal, Appeal and orders are at **Annex H, I and J**)
11. No comments.
12. Incorrect. The worthy Governor Khyber Pakhtunkhwa was pleased to award the punishment of compulsory retirement from service upon Mr. Masood Zaman for his role in misallocation of three candidates from one zone to another zone, their sequential wrong selection and duplication of the name of one candidate at two different serial numbers. All the respondents were exonerated from the charge of carrying bad reputation as it could not be substantiated. Accused Mohammad Sajjad Qureshi was however exonerated from all charges as he could not be connected with any of the allegations mentioned.

GROUND.

- A. Incorrect. The order and entire procedure adopted by the inquiry committee is in accordance with the Khyber Pakhtunkhwa Govt. Servants (Efficiency and Discipline) Rules, 2011 hence legal, just, impartial and based on facts and

circumstances. Involvement of appellant in corrupt practices was proved beyond any shadow of doubt. The Khyber Pakhtunkhwa Public Service Commission being constitutional body cannot afford and allow such illegal practices.

- B. Incorrect. The departmental Inquiry Committee comprising the senior most Members and reputable officer was established under the lawful authority. The Inquiry Committee submitted its impartial findings whereby the illegal act, malafide intention and misconduct of the appellant was proved and established beyond any doubt.
- C. Incorrect. The appellant is compulsorily retired from service after fulfillment of all necessary codal formalities. He is liable to be taken to task for his misdeeds and serious misconduct. Otherwise confidence of general public in the Public Service Commission will be shaken. The entire record was provided for personal gain. Approval of the competent authority was not obtained. Similarly approval of the Member incharge was also not obtained.
- D. Incorrect. The guilt of the appellant was proved beyond reasonable doubts by the inquiry committee. Under the Khyber Pakhtunkhwa Government Servants Efficiency and Discipline rules 2011 Show Cause notice can be served directly. Appellant was provided opportunity of personal hearing by the competent authority. Subsequently major penalty of compulsory retirement from service was imposed, being the most lenient punishment with full pensionary benefits.
- E. Incorrect. All the norms of justice and fairplay have been followed in the case of the appellant. The inquiry committee has acted in accordance with law and provided each and every opportunity to the appellant to prove his innocence but he failed to do so. He was also provided an opportunity of personal hearing by the competent authority. The appellant had not objected and also submitted reply to the Show Cause Notice thus availing himself with a fair chance to defend his stance properly.
- F. Incorrect. The Commission constituted enquiry to probe into the involvement of other officers/officials in the instant case, and as a result of Enquiry Report the

appellant was awarded the penalty of compulsorily retirement from service. The gross irregularity committed by the appellant was proved beyond any doubt was enough to prove his compulsory retirement from service. The appellant has been removed from service after observing all the codal formalities and legally valid procedures as per approval of the Governor Khyber Pakhtunkhwa being Competent authority. The service career of appellant is full of offences and consequential punishments. He was retired from service compulsorily vide office order dated 29.12.2017. He had been issued warnings and explanations from time to time. Orders passed by Chairman Public Service Commission / Governor, Khyber Pakhtunkhwa are liable to be maintained being legal and in accordance with law and facts. The Instant appeal is without legal footings whereby an illegal demand has been made against the lawful authority. The orders passed by the Respondents are legal, based on law and facts hence liable to be maintained. Since, the service record and conduct of the delinquent appellant has been thoroughly examined and allegations leveled against him stand proved beyond any doubt, therefore, the instant appeal may be dismissed being without merit. The respondents also seek leave of this Honorable Tribunal to raise additional grounds at the time of arguments. Retention of person involved in corrupt practices shall shake trust of general public in Khyber Pakhtunkhwa Public Service Commission.

- G. Incorrect. All norms of justice stand observed in letter and spirit.
- H. Incorrect. Guilt of the appellant was proved beyond reasonable doubts.
- I. Incorrect. Compulsory retirement from service of the appellant is in the best interests of the prestige of the Khyber Pakhtunkhwa Public Service Commission. The appellant exercised unrestrained authority and approval of the member in-charge was not obtained. Cases were decided by the Assistant, Superintendent and Deputy Secretary. Name of a candidate was included twice in the Merit list. He was called twice for interview. Zones of the candidates were altered and replaced to give others undue benefits because of secret complicity.

- J. Incorrect. The inquiry committee is competent to recommend imposition of minor/major penalty. The appellant has been compulsorily retired from service after fulfillment of all norms of justice allowing him the benefit of pension facilities.
- K. Incorrect. The appellant has been involved in the irregularities as per findings of the Enquiry Report. All officers/officials involved in the instant case have mutual connivance while committing irregularities.
- L. Incorrect. The appellant failed to prove his innocence before the Inquiry Committee and competent authority.
- M. Incorrect. The appellant has been treated in accordance with law and rules. Case has been decided on the basis of documentary proof and record.
- N. Incorrect. There is sufficient documentary proof on the basis of which major penalty has been imposed. No short cut procedure has been adopted rather the appellant has been compulsorily retired after fulfilling all codal formalities. Under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, Show Cause Notice stands properly served and opportunity of personal hearing provided by the Inquiry Committee as well as appointing Competent authority i.e. Governor Khyber Pakhtunkhwa.
- O. Incorrect. No irregularity has been committed by the Commission. The appellant enjoys bad reputation. He still commits crimes / cheating candidates giving impression as so called employee of Khyber Pakhtunkhwa Public Service Commission. His service career is full of offences and consequential punishments. He had been issued warnings and explanations from time to time.
- P. Incorrect. The Khyber Pakhtunkhwa Public Service Commission cannot afford such like corrupt practices otherwise trust of general public shall be shaken.
- Q. Incorrect. The appellant has rightly been compulsorily retired from service.
- R. Incorrect. No discrimination / injustice has been done to the appellant.
- S. Incorrect. The appellant being guilty may not be allowed to raise other grounds at the time of arguments.

It is therefore humbly prayed that on acceptance of this reply/submission made herein above the instant appeal being void may kindly be dismissed.



CHIEF SECRETARY
KHYBER PAKHTUNKHWA
PESHAWAR
(RESPONDENT NO.01)



CHAIRMAN
KHYBER PAKHTUNKHWA
PUBLIC SERVICE COMMISSION
PESHAWAR
(RESPONDENT NO.02)



SECRETARY
KHYBER PAKHTUNKHWA
PUBLIC SERVICE COMMISSION
PESHAWAR
(RESPONDENT NO.03)