



﴿وکالت نامہ﴾

بعدالت جناب جسٹس محترم <sup>جراہ</sup> سپریئر کورٹ لاہور دہلی ضلع۔ کرم

مقدمہ فوجداری ادویاتی

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام <sup>کیلئے</sup> <sup>نیشنل</sup> <sup>کیلئے</sup>

علت ..... مورخہ ..... جرم ..... تھانہ .....  
رائے خانے ..... بنام مگر نیشنل کیلئے عدلیہ

باعث تحریر آنکہ

محمد الیاس اور کزنٹی ایڈووکیٹ ہائی کورٹ، پشاور اینڈ محمد شبیر

خلیل ایڈووکیٹ ہائی کورٹ، پشاور 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 تقرر ثالث و فیصلہ بر حلف دیئے جواب دعویٰ اور

اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زراں پر دستخط

کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیر دائر کرنے اپیل نگرانی و پیروی کرنے کا

اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کواپنے ہمراہ یا اپنے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہو

گا دوران مقدمہ میں جو خرچہ و ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل

صاحب پابند ہوں گے۔ کہ پیروی مذکورہ کریں۔

لہذا وکالت نامہ لکھ دیا تاکہ سند رہے۔

المرقوم:- 10 ماہ دسمبر 2021ء

العبد

العبد

کے لئے منظور ہے۔

بمقام <sup>نیشنل</sup> <sup>کیلئے</sup> <sup>عدلیہ</sup>

Attested & Accepted



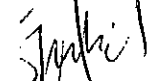
Muhammad Ilyas Orakzai

Advocate High Court

BC No:- 10-3471

CNIC 14101-0798923-7

Cell 0333-9191892



Muhammad Shabir Khalil

Advocate High Court

BC No:- 11-10999

CNIC 17301-1490356-7

Cell 0333-9047138

ابن العبدین ولہ حمتان خان سائنس فونڈا فیصلہ عدلیہ  
کا مکمل فیصلہ کس نے کیا ہے

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.

S.B

No.

Appeal No. 7860 of 20 21

*Recd*

Rai Khan Appellant/Petitioner  
Versus

High Secy Home & Tribal Affairs Respondent  
Respondent No. 3

Notice to: The Regional Police officers, Kohat  
Region Kohat.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 9/5/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....  
11/5

Day of.....May 20 22

(For Reply)

[Signature]  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.

S.B

No.

Appeal No. 7860 of 2021

Recd

Rai Khan Appellant/Petitioner

Versus

Through Secy Home & Tribal Affairs Respondent

Respondent No. 4

Notice to:

The Dist. Police Officer, Dist. Kurram.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 9/5/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No. .... dated .....

Given under my hand and the seal of this Court, at Peshawar this 11<sup>th</sup>

Day of May 2022

(For Reply)

Registrar,

Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**“B”**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
**JUDICIAL COMPLEX (OLD), KHYBER ROAD,**  
**PESHAWAR.**

S.B

No.

Appeal No..... 7860 ..... of 20 21

Recd

..... Rai Khan ..... Appellant/Petitioner

Versus

..... through Secy Home & Tribal Affairs ..... Respondent

Respondent No..... 5 .....

Notice to:

Distt. Account office Distt. Kurram.

**WHEREAS** an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal ~~on~~ 9/6/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No..... dated.....

Given under my hand and the seal of this Court, at Peshawar this 11/15

Day of..... May ..... 20 22

( For Reply )

Registrar,

Khyber Pakhtunkhwa Service Tribunal,  
 Peshawar.

- Note:
1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
  2. Always quote Case No. While making any correspondence.

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
**JUDICIAL COMPLEX (OLD), KHYBER ROAD,**  
**PESHAWAR.**

No. S.B

Appeal No. .... of 20 ..

7860

<sup>21</sup> Appellant/Petitioner

Rai Khan Versus

Respondent

Through Secy Home & Tribal Affairs

1

Notice to:

Govt. of KPK Through Secretary Home & Tribal Affairs, Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. .... dated .....

Given under my hand and the seal of this Court, at Peshawar this.....

Day of.....20 ..

11th

May 22

(For Reply)

Registrar,

Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
**JUDICIAL COMPLEX (OLD), KHYBER ROAD,**  
**PESHAWAR.** 9.B

No.

Appeal No. 7860 of 20 21

Rai Khan

Appellant/Petitioner

Versus

Through Secy Home & Tribal Affairs at Peshawar

Respondent

Respondent No. 2

Notice to: —

The Inspector General of Police KPK  
Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 9/6/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. Copy of appeal has already been sent to you vide this  
 office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 11<sup>th</sup>

Day of May 20 22

(For Reply)

[Signature]  
03/06

[Signature]  
 Registrar,

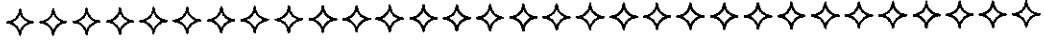
**Khyber Pakhtunkhwa Service Tribunal,**  
**Peshawar.**

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**BEFORE THE SERVICES TRIBUNAL KPK, PESHAWAR**

Service Appeal No:- 7860/1/2021

Rai Khan **Versus** Govt: of KPK & others  
 ..... Appellant ..... Respondents



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Dated:- 10/12/2021

*RA*  
Appellant

Through:-

*AW*  
Muhammad Ilyas Orakzai  
Advocate High Court

&

*Shabir Khalil*  
Muhammad Shabir Khalil  
Advocate High Court





with all back benefits with such other relief as may deem fit in the circumstances of the case may also be granted.

***Respectfully Sheweth:-***

1. *That the appellant was appointed as Naib Subaidar (hon-rary) in Kurram Levies Force in the year, 1999 since then he was performing his duties with full devotion and honesty and he rendered almost 23 years service to the department. (Copy of Service Card is attached as annexure "A").*
2. *That in the moth of February, 2018 the appellant was appointed and sent to Afghanistan as a Jirga Member for Peace Mission by the Government of Pakistan.*
3. *That there the appellant was arrested by the Afghan Security Forces in the pretext of informer (ISI Pakistan) and kept in Jail for a period of 3-1/2 years, after the Taliban take over in Afghanistan, the innocent peoples were released from the Jail, including the appellant. (Copies of Afghanistan Jail Papers are attached as annexure "B").*
4. *That after release from the Jail, the appellant as soon as approached to the office of respondent No 4 for joining his service, but astonishingly the impugned dismissal order No*

3

2630-36/PA dated 16/08/2021 was handed over to the appellant. (Copy of impugned dismissal order is attached as annexure "C").

5. That against the impugned dismissal order of respondent No 4 dated 16/08/2021 the appellant submitted departmental appeal before the respondent No 3 through Registry No 100 dated 09/09/2021, but till date no order has been passed by the respondent No 3. (Copies of Departmental appeal and Registry Slip are attached as annexure "D").
6. That feeling aggrieved from the impugned order of respondent No 4 as well as the act and action of the respondent No 3, the appellant filed the instant Service Appeal on the following grounds, inter alia:-

**Grounds:-**

- A. That the impugned order of respondent No 4 as well as the act and action of the respondent No 3 are illegal, against the facts and law, liable to be set aside.
- B. That the impugned order of respondent No 4 as well as the act and action of the respondent No 3 are cubical, void ab-initio, unwarranted and are liable to be set aside.

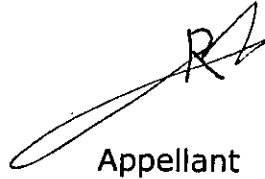
- C. *That in case of the appellant, no show cause notice or statement of allegation or charge sheet were personally served upon the appellant, thus appellant remained unheard and the order consequent to such a legally defective order as of no legal effect, the law treats such order illegal, void ab-initio.*
- D. *That the appellant has served the department for more than 23 years, while the appellant is deprived from his bread and butter alongwith his family on the basis of alleged occurrence, because the appellant was behind the bar in Afghanistan, so the situation was not in the control of the appellant, so the absence of the appellant from his duty was not willfully, but due to the above reasons,.*
- E. *That the under the principle of natural justice, fair play and equity, the appellant is entitled for restoration into service.*
- F. *That from all prospective, the dismissal order as well as that of the action of appellate authority are illegal, wrong, unwarranted, hence liable to be set aside.*
- G. *That the appellant reserves the right to agitate any other ground at the time of arguments.*

(5)


*It is, therefore, respectfully prayed that on acceptance of this Service Appeal, the impugned dismissal order dated 16/08/2021 of respondent No 4 may kindly be set aside and the appellant may kindly be re-instated on his service with all back benefit.*

*Any other relief deemed fit and appropriate may also very graciously be granted in favour of the appellant.*

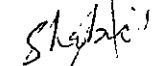
Dated:- 10/12/2021

  
Appellant

Through:-

  
Muhammad Ilyas Orakzai  
Advocate High Court

&

  
Muhammad Shabir Khalil  
Advocate High Court

***CERTIFICATE:-***

*It is certify that no such like Service Appeal has earlier been filed by the Appellant in this Honourable Tribunal.*

  
Advocate

6

**BEFORE THE SERVICES TRIBUNAL KPK, PESHAWAR**

Service Appeal No:- \_\_\_\_\_-P/2021

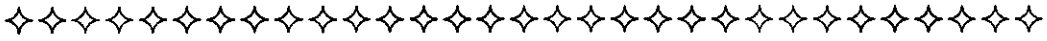
Rai Khan

**Versus**

Govt: of KPK & others

..... Petitioner

..... Respondents



**AFFIDAVIT**

I, Rai Khan S/o Usman Khan R/o Cast Khudaid Khel, Village Dhand Tehsil Central District Kurram, (Appellant) do hereby solemnly affirm and declare on oath that the contents of this accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Identified by

Muhammad Ilyas Orakzai  
Advocate High Court

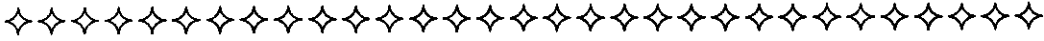
DEPONENT  
CNIC No:- 21302-1709585-3  
Cell No:- 0300-5207772

ATTESTED  
MIRAN KHAN ADVOCATE  
Avdh  
Commissioner  
High Court Peshawar 17/01/21

**BEFORE THE SERVICES TRIBUNAL KPK, PESHAWAR**

Service Appeal No:- \_\_\_\_\_-P/2021

Rai Khan **Versus** Govt: of KPK & others  
..... Appellant ..... Respondents



**ADDRESSES OF PARTIES**

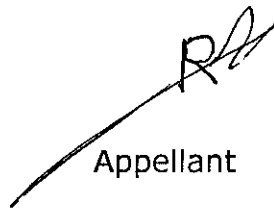
**APPELLANT**

Rai Khan S/o Usman Khan R/o Cast Khudaid Khel, Village Dhand  
Tehsil Central District Kurram.

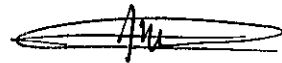
**RESPONDENTS**

1. Government of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs, Civil Secretariat, Peshawar
2. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. The Regional Police Officer, Kohat Region, Kohat.
4. The District Police Officer, District Kurram
5. District Account Office District Kurram.

Dated:- 10/12/2021

  
Appellant

Through:-



Muhammad Ilyas Orakzai  
Advocate High Court

&



Muhammad Shabir Khalil  
Advocate High Court

⑧ Annex - A

**PAKISTAN** National Identity Card  
ISLAMIC REPUBLIC OF PAKISTAN

Name: Rai Khan

Father Name: Usman Khan

Gender: M Country of Stay: Pakistan

Identity Number: 21302-1709585-3 Date of Birth: 1966

Date of Issue: 08.09.2021 Date of Expiry: 08.09.2031

Holder's Signature

21302-1709585-3  
 قوم خواتین اور بچوں، ڈاک خان صدر، دہلی، پاکستان  
 تحصیل سنٹرل کرم، ضلع کرم

510341006700  
 146-66-147380

سیاست و تنظیم  
 Secretary General of Pakistan

گمشدہ کارڈ ملنے پر قریبی لینے بکس میں ڈال دیں

**PAKISTAN**

Name: Rai Khan.

S/O: Usman Khan.

Date of Birth: 1966

Nationality: Khudad Khal

Vill./Tehsil: Dera (RR)

Identification Mark: NSJ

Sig. Authorized Officer

**Surram Levy Force**

Date of app: 18-09-1999

Designation: Honorary Naib Subedar

Salary Code No: 182

G.P. Fund No: NIL

Pay on: 1.10.1999 (1245-35-1770)

Sig./Thumb





سوره سابع

جمهوری اسلامی افغانستان

ستره محکمه

دیوان رسیدگی به جرایم علیه امنیت داخلی و خارجی

۵۷۵

قرار قضائی ع ۱۳۹۸/۳ /

شهرت خارنوال :- فایق

شهرت متهم :- رای خان ولد عثمان خان ولدیت سرور مسکونه کر مه ایجنسی پاکستان

نوعیت اتهام :- جاسوسی

تاریخ گرفتاری :- ۱۳۹۶/۱۲/۱۳

سبب تحریک دعوی :- فرجام خواهی و عدم قناعت (متهم) بر فیصله شماره (۲۱۲) مورخ ۱۳۹۷/۱۲/۱۹

دیوان امنیت عامه ریاست محکمه استیناف ولایت خوست

اجراءات اداری :- دوسیه انضمام مکتوب شماره (۲۹۸) مورخ ۱۳۹۸/۱/۲۸ ریاست خارنوالی ستره محکمه مبارزه با جرایم امنیت داخلی و خارجی واصل که به وارده شماره (۳۶۲) مورخ ۱۳۹۸/۲/۱۵ دفتر تحریرات دیوان ثبت و قید میباشد.

فشرده جریان قضیه و اجراءات محاکم تحتانی :- بملاحظه اوراق دوسیه (متهم) فوق الذکر بتاريخ ۱۳۹۶/۱۲/۱۳

در پیوند به قضیه (جاسوسی) از جانب نیروهای امنیتی نسنگیرو تحت تحقیق قرار گرفته و در پیرویه تحقیق از اتهام منسوبه (انکار) میباشد بعد از اكمال تحقیق و ترتیب اتهام نامه و صورت دعوی دوسیه به غرض انفصال به دیوان امنیت عامه ابتدائیه ولایت خوست احاله و دیوان مذکور ذریعه فیصله شماره (۱۰۵) مورخ ۱۳۹۷/۶/۲۰ خویش متهم مذکور را در قضیه جاسوسی طبق بند (۳) فقره (۱) ماده (۲۴۰) کودجزا به مدت شانزده سال و یکماه حبس تنفیذی محکوم به مجازات نموده اند.

متعاقباً اوراق دوسیه نسبت عدم قناعت (طرفین دعوی) مرحله استینافی وارد و دیوان امنیت عامه ریاست محکمه استیناف ولایت خوست با صدور فیصله شماره (۲۱۲) مورخ ۱۳۹۷/۱۲/۱۹ خویش فیصله صادره محکمه ابتدائیه را تشدیداً تعدیل نموده و رای خان مذکور را در قضیه جاسوسی مطابق فقره (۳) ماده (۲۴۰) کودجزا به مدت هجده سال حبس تنفیذی محکوم به مجازات نموده اند.

دوسیه بنابر عدم قناعت (متهم) تابع رسیدگی مرحله فرجامی گردیده و (خارنوال) فرجام خواه تحریر داشته ازینکه فیصله صادره محکمه استیناف در محدوده احکام قانون و مناسب به عملکرد متهم مذکور میباشد بران قناعت صورت گرفت ولی متهم مذکور بر فیصله صادره استیناف فرجام خواهی نموده.

تحلیل و ارزیابی مستشاران قضائی :- طوریکه بالاثر عدم قناعت و اعتراض (متهم) فیصله شماره (۲۱۲) مورخ

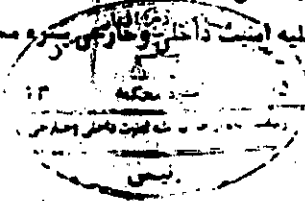
۱۳۹۷/۱۲/۱۹ دیوان امنیت عامه ریاست محکمه استیناف ولایت خوست از لحاظ صحت تطبیق قانون تحت غور و بررسی قرار گرفت جریان قضیه طوریکست که متهم مذکور تبعه کشور پاکستان بوده و به اتهام جاسوسی به نفع ای اس ای پاکستان از ولایت خوست گرفتار شده. خود متهم مذکور گفته که بالای چند نفر که نام ها و مقدار آنرا ذکر ننموده قرض داشتم و برای گرفتن قرض های خود با گرفتن ویزه از راه تورخم ولارد افغانستان شده به کابل و بعداً به خوست رفته و چند روز را در خوست گذرانده و بتاريخ

۱۳۹۶/۱۲/۷ به بوجه واره و تاریخ ۱۳۹۶/۱۲/۱۳ برقرار شده و بعد از خواندن بگر گفته که دولت  
 حال از ولایت حوت باکام سر پاکستان لایحه داده و برای حل آن آمده بوده که نیز اعتبارات حوت  
 حوات های صورتی از آن بوده ولی استیضاحی در آن گفته که وی از طرف متحد سول ای این  
 ای و ام ای برای حاسوبی فرستاده شده بود و همین استیضاحی و استیضاحی های شده و عملی های  
 حاسوبی وی را در حوضه قضایی محکمه استیضاحی داد و به قضات محترم نشان داده اند که حکم  
 آن بیرون میسر و حتم بوده است از آنکه وی از آن حوبه که چندین از وی فرستاد بوده این را هم  
 تحقیق نموده اند که موضوع رد شده شده است و این در حوضه حاسوبی ثابت بوده و محصله مذکور  
 مستند قانونی و عادلانه استوار یافته و در آن کدام شخصی و بی کسی که موحنات العا، نقض و بیاطلاق فصله  
 را فراهم ساخته مشاهده حیرت انگیز است و اعتراض فرجام خرد و واحد شرایط مندرج در احزابی (۳-۲-۱) بند (۱)  
 ماده (۲۷۰) قانون احزاب حرامی بوده بر فیصله و است که روی این دلایل قانونیت فصله  
 محصوریه مرفوق نیوان استیضاحی از نظر ماستیضاحی این دولت ثابت میباشد.

تحلیل و ارزیابی فوق منطبق حدیث ماده (۵۶) قانون تشکیل و صلاحیت قوه قضائیه به حله قضایی تقدیم است  
 (( مستطاب قضایی ))

نفس قراره - نیوان ریجستی به حرایب علیه امنیت داخلی و خارجی سزده محکمه در حله قضایی مورخ  
 ۱۳۹۸/۳/۱ متکی به حکم فقره (۲) ماده ۵۶ قانون تشکیل و صلاحیت قوه قضائیه به ثابت قانونیت فصله  
 سزده (۲۱۲) مورخ ۱۳۹۷/۱۲/۱۹ منبت اعمال ولایت محکمه استیضاحی ولایت حوت (حوت) تحسید  
 تحقیق قرار صادر شده  
 امریست تحریرات اوراق را به منظور تثبیت حکم و احکام مقتضی به مرجعش ارسال نماید

عضو شورای عالی و سرپرست نیوان ریجستی  
 حرایب علیه امنیت داخلی و خارجی سزده محکمه



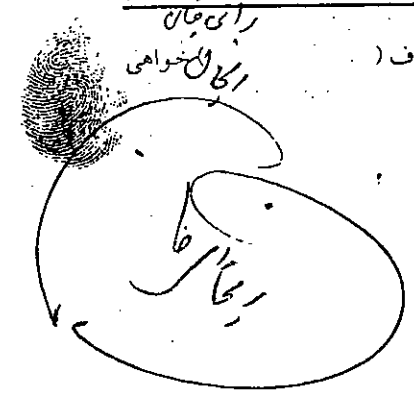
پارچه ابلاغ حکم

شماره ۱۲۱  
دیوان عالی کشور در جلسه قضائی مورخه ۱۹ / ۱۲ / ۱۳۹۷ فی حکم ذیل صادر نمود: اتفاق آراء و بحضور طرفین تقریر طبق ماده ۱۰۵ قانون آیین دادرسی کیفری و مستحضران را استیناف تقدیر و ترور خان ولد عثمان را در قلمرو این محکمه محکوم به قطع شکست آن اس آری در داخل خاک افغانستان طبق فقره سوم ماده (۳۰) کد جزا بند ۱ هجری سال ۱۳۹۷

بدون وسیله خلاصه نص حکم ساعت ( ) روز ( ) ماه ( ) سال ( ) بشمار ابلاغ شد.

از حکم فوق مستحضر و پارچه ابلاغ را تسلیم شدم محل امضاء یا مهر و شصت مبلغ الی

قناعت نوری

رای خان  
الکلی خواهی  


( استادعای استیناف )

در صورت عدم قناعت بحکم محکمه میتوانید ازین تاریخ تا مدت (

خود را به محکمه استیناف ) تقدیم نمایند در غیر آن تمیز

حکم محکمه قطعیست می یابد

12

شماره شناسایی محبوس

اسم: حاجی رایى خان ولد : حاجى عثمان خان  
ولديت : سرور خان

**137545**

نمبر شناسایی توقیفی

13

ش - 152483

ولادت سرور خان

ولد عثمان خان

اسم راه خان



OFFICE OF THE  
DISTRICT POLICE OFFICER  
KURRAM, KHYBER PAKHTUNKHWA

Tel/Fax: 0926-311354 Email: policekurram@gmail.com

No. 2530-36/PA Dated Parachinar. 16-8-2021.

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Anz - C

**ORDER**

This order is passed on the Charge Sheet against Constable Rai Khan Personal No. 669299s/o Usman Khan under the Khyber Pakhtunkhwa, Police Rules, 1975 (Amendment 2014).

Brief of the fact is that Constable Rai Khan Personal No. 669299s/o Usman Khan has been charged that he is a part of TTP and confined in Afghanistan Jail and also involved in anti state activities.

That consequent upon the completion of inquiry conducted against Rai Khan Personal No. 669299s/o Usman Khan by the inquiry officer for which constable Rai Khan was given opportunity vide this office No. 2148A/PA dated Parachinar the 07.07.2021 and charge Sheet No. 2149-B/PA dated Parachinar the 07.07.2021.

Concluded through the findings and recommendations of the inquiry officer vide No. 261/DSP(Inv.) dated 09.08.2021, the material/evidence on record and other connected papers including defense the inquiry officer that constable Rai Khan has committed the acts as charged against him and recommended for major punishment.

In view of the above I, Tahir Iqbal District Police Officer Kurram in exercise of the powers conferred upon me, hereby award him a major punishment of "Dismissal from Service" under the Khyber Pakhtunkhwa, Police Rules, 1975 (Amendment 2014) with immediate effect.

  
District Police Officer  
Kurram

No. & date is even:

Copy forwarded to the:

1. Regional Police Officer Kohat Region Kohat.
2. District Account officer Kurram.
3. All DSPs/SHOs in Kurram
4. SRC Kurram Police
5. Pay Officer Kurram.
6. OASI Kurram Police.
7. Official concerned.

  
District Police Officer  
Kurram

## خدمت جناب ڈپٹی انسپکٹر جنرل آف پولیس کوہاٹ ریجن کوہاٹ

### محکمہ اپیل

جناب عالی! اپیلانٹ حسب ذیل عرض گزار ہے۔

اپیلانٹ سال 1999ء میں بطور نائب صوبیدار (اعزازی) کرم لیوی فورس میں بھرتی ہوا تھا اور اپیلانٹ اپنی تعیناتی سے لیکر تاحال اپنے فرائض ایمانداری، قومی جذبے اور جانفشانی کے ساتھ سرانجام دیتا چلا آ رہا ہے اور افسران بالا کو کبھی کسی شکایت کا موقع فراہم نہ کیا ہے۔ اپیلانٹ فروری 2018ء میں حکومت پاکستان نے امن کوششوں کیلئے سرکاری جرگے میں بطور ممبر افغانستان بھیجا تھا واپسی پر افغان حکام نے اپیلانٹ کو شک کی بناء پر جاسوس ظاہر کر کے پابند سلاسل کیا اور تقریباً 1/2-3 سال تک افغانستان کی جیل میں رہا۔ طالبان کی حکومت قائم ہوتے ہی بے گناہ لوگوں کو جیل سے رہا کیا گیا۔ جس میں اپیلانٹ بھی رہا ہو کر پاکستان واپس اپنے گھر آیا۔ گھر میں آرام کے دو تین دن بعد اپیلانٹ نے ڈسٹرکٹ پولیس آفیسر کرم کے دفتر اپنے فرائض منصبی سرانجام دینے کیلئے گیا تو وہاں سے اپیلانٹ کو بذریعہ آفس آرڈر نمبر 2630-36 مورخہ 16/08/2021 کے ذریعے نوکری سے برخاستگی کا علم ہوا۔ (نقل برخاستگی لف ہے)۔ اپیلانٹ کے برخلاف آرڈر برخاستگی میں غلط بے بنیاد الزامات لگائے گئے ہیں۔ جو کہ حالات و واقعات کے منافی ہے۔ جس کا کوئی ثبوت نہ ہے۔ مزید برآں اپیلانٹ کو کوئی Show Cause Notice نہیں دیا گیا ہے اور نہ ہی Personal hearing کا موقع فراہم کیا گیا ہے اور نہ اپیلانٹ کے کیس میں کوئی proper regular inquiry ہوئی ہے۔ بدیں وجہ آرڈر برخاستگی خلاف قانون و واقعات ہے اور قابل منسوخ ہے۔ اپیلانٹ نے اپنے محکمہ کیلئے 22 سال خدمات سرانجام دی ہیں۔ اپیلانٹ کی غیر حاضری قصداً عمدتاً تھی بلکہ بوجہ بالاتھی۔

لہذا گزارش کی جاتی ہے کہ اپیلانٹ کی اپیل منظور فرما کر اپیلانٹ کو اپنی نوکری پر بمعہ back

benefits بحال فرمایا جاوے۔

المرقوم:- 09/09/2021

الحاجی رائے خان ولد عثمان خان سابقہ صوبیدار لیوی فورس ضلع کرم

سکنہ قوم خواں سید ادخیل، گاؤں ڈھنڈ تحصیل سنٹرل ضلع کرم

شناختی کارڈ نمبر 3-1709585-21302

موبائل نمبر 0300-5207772

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9/9/21





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with all back benefits with such other relief as may deem fit in the circumstances of the case may also be granted.

*Respectfully Sheweth:-*

1. *That the appellant was appointed as Naib Subaidar (hon-rary) in Kurram Levies Force in the year, 1999 since then he was performing his duties with full devotion and honesty and he rendered almost 23 years service to the department. (Copy of Service Card is attached as annexure "A").*
2. *That in the moth of February, 2018 the appellant was appointed and sent to Afghanistan as a Jirga Member for Peace Mission by the Government of Pakistan.*
3. *That there the appellant was arrested by the Afghan Security Forces in the pretext of informer (ISI Pakistan) and kept in Jail for a period of 3-1/2 years, after the Taliban take over in Afghanistan, the innocent peoples were released from the Jail, including the appellant. (Copies of Afghanistan Jail Papers are attached as annexure "B").*
4. *That after release from the Jail, the appellant as soon as approached to the office of respondent No 4 for joining his service, but astonishingly the impugned dismissal order No*

③

2630-36/PA dated 16/08/2021 was handed over to the appellant. (Copy of impugned dismissal order is attached as annexure "C").

5. That against the impugned dismissal order of respondent No 4 dated 16/08/2021 the appellant submitted departmental appeal before the respondent No 3 through Registry No 100 dated 09/09/2021, but till date no order has been passed by the respondent No 3. (Copies of Departmental appeal and Registry Slip are attached as annexure "D").
6. That feeling aggrieved from the impugned order of respondent No 4 as well as the act and action of the respondent No 3, the appellant filed the instant Service Appeal on the following grounds, inter alia:-

**Grounds:-**

- A. That the impugned order of respondent No 4 as well as the act and action of the respondent No 3 are illegal, against the facts and law, liable to be set aside.
- B. That the impugned order of respondent No 4 as well as the act and action of the respondent No 3 are cubical, void ab-initio, unwarranted and are liable to be set aside.

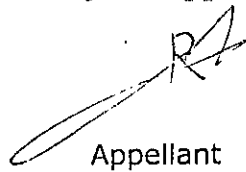
- C. *That in case of the appellant, no show cause notice or statement of allegation or charge sheet were personally served upon the appellant, thus appellant remained unheard and the order consequent to such a legally defective order as of no legal effect, the law treats such order illegal, void ab-initio.*
- D. *That the appellant has served the department for more than 23 years, while the appellant is deprived from his bread and butter alongwith his family on the basis of alleged occurrence, because the appellant was behind the bar in Afghanistan, so the situation was not in the control of the appellant, so the absence of the appellant from his duty was not willfully, but due to the above reasons,.*
- E. *That the under the principle of natural justice, fair play and equity, the appellant is entitled for restoration into service.*
- F. *That from all prospective, the dismissal order as well as that of the action of appellate authority are illegal, wrong, unwarranted, hence liable to be set aside.*
- G. *That the appellant reserves the right to agitate any other ground at the time of arguments.*

(5)

*It is, therefore, respectfully prayed that on acceptance of this Service Appeal, the impugned dismissal order dated 16/08/2021 of respondent No 4 may kindly be set aside and the appellant may kindly be re-instated on his service with all back benefit.*

*Any other relief deemed fit and appropriate may also very graciously be granted in favour of the appellant.*

Dated:- 10/12/2021

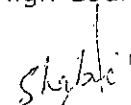
  
Appellant

Through:-



Muhammad Ilyas Orakzai  
Advocate High Court

&

  
Muhammad Shabir Khalil  
Advocate High Court

**CERTIFICATE:-**

*It is certify that no such like Service Appeal has earlier been filed by the Appellant in this Honourable Tribunal.*

  
Advocate

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**BEFORE THE SERVICES TRIBUNAL KPK, PESHAWAR**

Service Appeal No:- \_\_\_\_\_ -F/2021

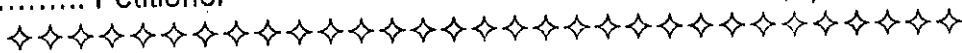
Rai Khan

**Versus**

Govt: of KPK & others

..... Petitioner

..... Respondents



**AFFIDAVIT**

I, Rai Khan S/o Usman Khan R/o Cast Khudaid Khel, Village Dhand Tehsil Central District Kurram, (Appellant) do hereby solemnly affirm and declare on oath that the contents of this accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Identified by

Muhammad Ilyas Orakzai  
Advocate High Court

DEPONENT  
CNIC No:- 21302-1709585-3  
Cell No:- 0300-52077772

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NO  
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**BEFORE THE SERVICES TRIBUNAL KPK, PESHAWAR**

Service Appeal No:- \_\_\_\_\_ -P/2021

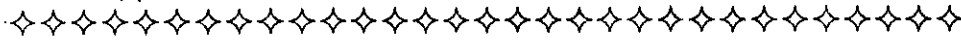
Rai Khan



Govt. of KPK & others

..... Appellant

..... Respondents



**ADDRESSES OF PARTIES**

**APPELLANT**

Rai Khan S/o Usman Khan R/o Cast Khudaid Khel, Village Dhand  
Tehsil Central District Kurram.

**RESPONDENTS**

1. Government of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs, Civil Secretariat, Peshawar
2. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. The Regional Police Officer, Kohat Region, Kohat.
4. The District Police Officer, District Kurram
5. District Account Office District Kurram.

Dated:- 10/12/2021

Appellant

Through:-

Muhammad Ilyas Orakzai  
Advocate High Court

&




Muhammad Shabir Khalil  
Advocate High Court

Form- A

FORM OF ORDER SHEET

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

Case No.- \_\_\_\_\_ 7860/2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	13/12/2021	<p>The appeal of Mr. Rai Khan presented today by Mr. Muhammad Ilyas Orakzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p> <p>8-2-2022</p> <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>08/02/22</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Due to retirement of the Honable Chairman the case is adjourned to come up for the same as befor on 21-04-2022</p> <p style="text-align: right;"> Reader.</p>



21.04.2022

Counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant argued the case and contended that the appellant was appointed as Naib Subaidar in Kurram Lavies Force back in 1999. In February, 2018 he was deputed as Jirga Member on peace mission to Afghanistan where he was arrested and confined to imprisonment. On the departmental side, he was proceeded against and awarded major penalty of "dismissal from service" vide impugned order dated 16.08.2021. The appellant preferred departmental appeal on 09.09.2021 which was not decided within the statutory period, hence the instant service appeal filed under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 on 13.12.2021.

The appeal is admitted to regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to respondents for submission of reply/comments. To come up for reply/comments on 09.06.2022 before S.B.

Rs-700/-

A. J. 21/4/22

(Mian Muhammad)  
Member(E)

10.06.2022

Appellant present through representative.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General present. Nemo for respondent Department.

Reply on behalf of respondents is still awaited. Notice be issued to respondents for submission of comments. To come up for reply/comments on 20.07.2022 before S.B.

(Rozina Rehman)  
Member (J)