

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 1203/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	02/08/2022	<p>The appeal of Mr. Kachkol Khan presented today by Mr. Habib Ullah Mohmand Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 03-08-2022 . Notices be issued to appellant and his counsel for the date fixed.</p> <p style="text-align: right;">By the order of Chairman</p> <p style="text-align: right;">REGISTRAR</p>

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No. 1203 /2022

Mst. Farhad Begum.....Appellant

V E R S U S

Govt of KPK and others.....Respondents

I N D E X

S.No	Description of Documents	Annex	Pages
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	Copy of impugned order notification order dated 29-03-2022	B	8
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Through Appellant



Date: 02/08/2022

Habib Ullah Mohmand
Advocate, Peshawar
Cell: 0321-9087842

(1)

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No. _____/2022

Kachkool khan ex-driver(BPS-6) of welfare population department
kpk district peshawar.....Appellant

V E R S U S

1. Govt of KPK Through chief Secretary, kpk Peshawar.
 2. Secretary social population welfare department kpk Peshawar.
 3. District population welfare officer kpk Peshawar.
-Respondents

SERVICE APPEAL U/S 4 OF THE
KPK SERVICES TRIBUNAL ACT,
1974 WHERE BY THE
APPELLANT HAS BEEN REMOVE
FROM THE SERVICE BY THE
RESPONDENT ON DATED 29-03-
2022 IE MAJOR PENALTY HAS
BEEN AWARDED AND THE
APPELLANT WAS ALSO
SUBMITTED DEPARTMENTAL
APPEAL/REPRESENTATION FOR
REINSTATEMENT ON DATED 04-
04-2022 BUT AFTER PASSING OF
STITURERY PERIOD THERE WAS

NO RESPONSE BY THE
RESPONDENT DEPARTMENT

Prayer in Appeal:

On acceptance of this service appeal, the impugned order dated 29-03-2022 ie removal from service may kindly be declare as illegal against law against norms of justice and also be set aside and appellant may graciously be reinstated in the parent department along with back benefits wages etc, for sake of justice and for which the appellant is eligible and entitle under the law

Respectfully Sheweth:

1. That the appellant is law abiding citizen of Pakistan which are guaranteed by the constitution of Islamic republic of Pakistan 1973.
2. That appellant was initially appointed as driver (BPS-6) in 2008 at defunct department that is FATA development authority but after passing of 25th amendment the present appellant has been declare as civil servant and also regularized and with the passage of time present appellant was transfer to DC Peshawar office then further transfer to respondent to 2 & 3 Department.
3. That appellant also render more then 15 years services with the parent department with the great zeal and zest furthermore that there was no complaint against him nor allegation etc.

4. That respondent department without any kinds of adapting the legal procedure the service of the appellant has been removed with the a one pin of stroke which is illegal against law and also against norms of justice.
5. That infact the present appellant also submitted an application for leave on dated 14-12-2021 for granted of leave from 20-12-2021 to 20-02-2022 but the leave application has been turn down by the respondent which is illegal against law against norms of justice.
6. that without proper inquiry without show cause notice. without allegation without charge sheet and with out giving opportunity of personal hearing the respondent department the awarded the major penalty ie removal which is illegal against law and also against norms of justice.
7. that the order has been passed by the respondent ie without authority without jurisdiction and corumnonjudice but despite of that the respondent department passed illegal order against the appellant which is also against (END) rules of 2011.
8. that basic criteria of (END) efficiency discipline rule 2011 has not been adopted by respondent but passed an order ie removal from service by the department which is illegal against law against norms of justice.

9. that under the judgment of the worthy supreme court of Pakistan the authority can not awarded the major penalty without proper inquiry without giving opportunity to the appellant without giving reply of show cause notice to the respondent department but all these legal/coddles procedure have been ignored/bypassed by the respondent department which is against law against norms of justice.
10. that at last the present appellant submitted the departmental appeal/representation on dated 04-04-2022 but after passing of statutory period there was no response from the respondent which is illegal against law against norms of justice.

GRUNDS:

- A. That the removal of the appellant by the respondents is illegal, against law and facts and record of the case.
- B. That the appellant was appointed after performance of all codal formalities and is performing his duties since 29-03-2022 upto the entire satisfaction of his superiors, without any fault on the part of appellant, and the removal of the appellant is without any justification and against the fundamental rights of the appellant.
- C. That fundamental rights of the appellant guaranteed under the provision of Constitution of Pakistan as well as under the other laws/ rules of the land and the authority can not deprived the

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appellant from his own fundamental rights which is illegal unlawful and also against law.

D. That any other ground may be raised at the time of arguments, with the kind permission of this Honourable Tribunal, if needed so.

It is, therefore, most humbly prayed that on acceptance of this service appeal may kindly be accepted as prayed for sake of justice.

Any other order/remedy may also be consider which is not specifically mentioned in the instant service appeal may also be consider in favor of appellant for sake of justice.

Through Appellant



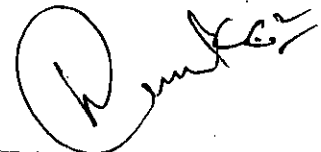
Habib Ullah mohmand

Asim khan

Advocate, High court
Peshawar

AFFIDAVIT

I, kachkool khan s/o nadir khan do hereby solemnly affirm and declare on oath that the contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



DEPONENT
17301-95352837

(6)

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No. _____/2022

Kachkool khan ex-driver(BPS-6) of welfare population department
kpk district peshawar.....Appellant

V E R S U S

1. Govt of KPK Through chief Secretary, kpk Peshawar.
 2. Secretary social population welfare department kpk Peshawar.
 3. District population welfare officer kpk Peshawar.
-Respondents

ADDRESSES OF PARTIES

APPELLANT:

Kachkool khan S/o nadir khan R/o outside gunj shah dhand,
shaheen muslim town Peshawar.

RESPONDENTS:

1. Govt of KPK Through chief Secretary, kpk Peshawar.
2. Secretary social population welfare department kpk Peshawar.
3. District population welfare officer kpk Peshawar.

Appellant

Through



Habib Ullah Mohmand
Advocate High court,
Peshawar

Date: 02/08/2022



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Annex A

PAKISTAN National Identity Card
ISLAMIC REPUBLIC OF PAKISTAN

Name
Kachkol Khan

Father Name
Nadir Khan

Gender: M | Country of Stay: Pakistan

Identity Number: 17301-9535283-7 | Date of Birth: 02.02.1981

Date of Issue: 05.05.2015 | Date of Expiry: 05.05.2025

Holder's Signature

17301-9535283-7

تازین مسلم ناڈن ریٹائرڈ

سٹیشنری سٹارڈ اسٹریٹ، ڈی ایچ، رائل وارث آباد

تازین مسلم ناڈن ریٹائرڈ

101601076327
115-81-571096

Usman Y. Motin
Registrar General of Pakistan

گمشدہ کارڈ ملنے پر قریبی لیو بکس میں ڈال دیں

Adverse

(8) Ans B

GOVERNMENT OF KHYBER PAKHTUNKHWA
OFFICE OF THE DISTRICT POPULATION WELFARE OFFICER
| PLOT NO. 18, SECTOR E/8 NEAR HAJI CAMP PHASE-VII HAYATABAD,
PESHAWAR PHONE NO 0919219051

F.No.1 (15)/2021-22/Admn

Dated 21/03/2022

OFFICE ORDER

Whereas Mr. Kachkol, Driver, BPS-06 is unauthorized absent from duty w.e.f 27/01/2022. He was served with a notice under Rule-9 of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011 vide registered (AD) memo of even number dated 09/02/2022.

And whereas he failed to respond to the notice within the stipulated time, therefore, Show Cause notice was served upon him through newspapers dated 08/03/2022 to resume duty and explain the reasons of his willful absence from duty within 15 days of its publication.

And whereas he failed to respond to the said notice till date.

Now, therefore, I, Muhammad Aleem, District Population Welfare Officer, Peshawar being competent authority impose the major penalty of "Removal From Service" under Rule-4 of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011 upon Mr. Kachkol, Driver, BPS-06 with immediate effect.

-sd-

District Population Welfare Officer
Peshawar

Copy to:

- 1- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- PS to Deputy Commissioner, Peshawar.
- 3- PS to Director General, Population Welfare Department, KP, Peshawar.
- 4- Accountant (Local) for necessary action.
- 5- Mr. Kachkol, Ex-Driver, Shah Dhand, O/S Ganj, Moh: Waris Abad, Shaheen Muslim Town, Peshawar.
- 6- Personal File of Ex-Official.

District Population Welfare Officer
Peshawar

Advised by
(H)

To

The Director General,
Population Welfare Department,
KPK Peshawar

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Annex C

APPLICATION/ DEPARTMENTAL APPEAL AGAINST
THE IMPUGNED OFFICE ORDER NO F.1(15)2021-
22.Admin DATED 29/03/2022 PASSED BY DISTRICT
POPULATION WELFARE OFFICER, PESHAWAR.

Dear Sir,

With due respect it is stated that applicant was serving the department as Driver BPS-06 with full abilities, maintained the highest of the discipline and integrity.

That the applicant submitted application for two months leave from 20/12/2021 to 20/02/2022 to the District Population Welfare Officer, Peshawar dated 14/12/2021.

That when the applicant join his duty after two months leave, came in knowledge that the applicant has been removed from service through impugned order passed by District Population Welfare Officer, Peshawar dated 29/03/2022.

That no notice has been served upon applicant and also no show case notice issued against me and without giving any opportunity of hearing, passed the impugned order by District Population Welfare Officer, Peshawar dated 29/03/2022.

Date: 04-4-2022

Abdul AM
R

(10)

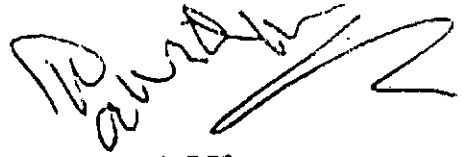
That without giving any opportunity of personal hearing and explanation awarding major penalty is against the rules and law is amount to condemned unheard.

It is therefore humbly prayed that on acceptance of this departmental appeal, the applicant may be reinstated on duty with all back benefit.

Thanking you in anticipation.

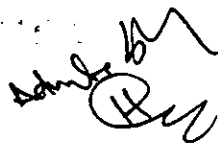
Dated:

Yours Sincerely



Kachkol Khan

Driver (DPWO Peshawar)



To.

**Deputy Commissioner,
Peshawar.**

Subject:- ARRIVAL REPORT.

Dear Sir.

In compliance of Establishment Department Govt. of Khyber Pakhtunkhwa, letter No. SOE-III/E&AD/1-3/2020 Defunct FDA dated:-14.09.2020 (Copy attached).

I Kachkol Khan, Driver (BPS-05) is hereby submitted my arrival report today dated:16.09.2020 (F/N).

Yours faithfully.

[Handwritten signature]

16/9/2020

etc

**Kachkol Khan
Driver (BPS-05)**

Arrival
[Handwritten signature]

Date: 12/12/2021

14/12/2021

THE DISTRICT POPULATION
WELFARE OFFICER, PESHAWAR

SUBJECT: APPLICATION FOR THE TWO MONTHS STATION LEAVE


R/Sir,

May I draw your attention that I have an important work out of the city, due to which I will be out of station for the period of 2 months. For the said reason, I am unable to perform my duties and therefore it is requested to kindly grant me station leave for the said period w.e.f from 20/12/2021 to 20/02/2022.

I shall be very thankful to you for this act of kindness.

Thank you

Yours Sincerely
Mr. Kachkol Khan
Driver (DPWD Pesh)

Respected Sir

15/12/2021
D. Singh
Asstt

Informed the applicant

15/12
Sitara Pat order PL
104
15/12

ADULT (4)
N.T.C
ASSTH

Mr. Khan
Voc for Pesh

THE DISTRICT - POPULATION.

Date
14/12/22

Subject: - APPLICATION FOR THE
TWO MONTHS STATION
LEAVE

13

R/Sir
May I draw your attention that
I have an important work out
of the city due to which
I will be out of station for
the period of 2 months for
the said reason. I am unable
to perform my duties
and therefore it is -
- requested to kind grant
- me station leave for the
said period w.e.f from
20/12/2021 to 20/2/2022.

I shall be very thankful
to you for the act of
kindness

Adm
⑪


Thank you


Yours sincerely
Mr. Kanchisat Khan
Driver DP/160 Peshawar

Dated: 26/10/2020

E.No:1(27)/2020/Admn

OFFICE ORDER

With reference to Deputy Commissioner Peshawar revised office order No. 00758/DC(P)/EA dated 06.10.2020 received in this office on 26.10.2020 and subsequent arrival report for duty dated 26.10.2020, Mr. Kachkol Khan BPS-05 is hereby taken on the staff strength of District Population Welfare Office Peshawar against the vacant post of Driver (BPS-06) in his own pay and scale w.e.f. 26.10.2020 till further orders.


District Population Welfare Officer,
Peshawar


Copy to:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Commissioner, Peshawar with reference to his order referred above.
3. PS to Director General, PWD, Khyber Pakhtunkhwa, Peshawar.
4. Accountant (local) for information.
5. Official concerned.
6. P/F of the official concerned.


26-10

27/10/2020

27/10/2020


District Population Welfare Officer,
Peshawar

Dispatched to 4102758
Date: 26/10/2020
Sd/-
D/-

my acknowledgement




(15)

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(15)



GOVERNMENT OF KHYBER PAKHTUNKHWA
 OFFICE OF THE DISTT. POPULATION WELFARE OFFICER
 Phase-VII Sector E/8 Near Allied Bank Haji Camp Hayatabad Peshawar
 P.O. No. 091/21/09/1

F.No:1(4)/2020-21/Admn

Dated Peshawar the 27/12/2021.


21/12/2021

To,

Mr. Kachkool (Driver)
 District Population Welfare Office
 Peshawar.

Subject:- **EARNED LEAVE**

I am directed to state that your application dated Nil for two months earned leave w.e.f. 20.12.2021 to 20.02.2022 is hereby regretted by the competent authority.


 Dy. District Population Welfare Officer
 Peshawar.

Copy to:

1. Personal File of the official concerned

Dy. District Population Welfare Officer
 Peshawar.

(#25)



THE DEPUTY COMMISSIONER, PESHAWAR

Tel: 091-9212301-02, Fax: 091-9212303. DCPeshawar

No. 00758 /DC(P)/EA

Dated 5-October-2020

ORDER:

In pursuance to Deputy District Population Officer Peshawar letter No.1(27)/2020-Admn dated 29-09-2020 and in pursuance to the Govt. of Khyber Pakhtunkhwa Surplus Pool Policy dated 19/01/2007, the services of following surplus Drivers of Defunct FDA are hereby placed at the disposal of District Population Welfare Officer Peshawar against the vacant posts of the same cadre

S.No.	Name of Official.	Designation of Surplus Staff	Department from which declared surplus
1.	Mr. Sami Ullah	Driver (BPS-05)	Defunct FDA
2.	Mr. Kachkol Khan	Driver (BPS-05)	-do-
3.	Mr. Imran Ullah Jan	Driver (BPS-05)	-do-

Pay of the above officials shall remain protected in light of Section 11-A of the Khyber Pakhtunkhwa Civil Servants (amendment) ordinance 2002.

(MUHAMMAD ALI ASGHAR)
DEPUTY COMMISSIONER

Endst: No. and Date Even:

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar
2. District Population Welfare Officer Peshawar w/r to his letter referred above for further necessary action.
3. Section Officer (E-III), Govt. of Khyber Pakhtunkhwa Establishment Department, Peshawar.
4. Accounts Officer of this office for further necessary action.
5. Officials concerned by name for strict compliance.

DEPUTY COMMISSIONER

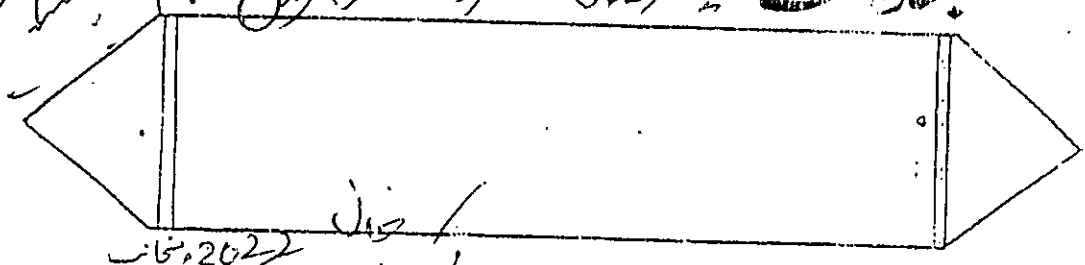
Handwritten signature and date: 07/10/2020

RECEIVED

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بعدالت پیس میں سرورسز ٹریبونل CPK لاہور



خون
کیلول

بنام 2022ء پنجاب

- موزخہ
- مقدمہ
- دعویٰ
- جزم

باعث تحریر آنکھ

مقدمہ مندرجہ عذران باآئنا میں اپنی نظر انداز سے واسطے پیروی اور جواب دہی وکل کارروائی متعلقہ
 آج مقام ~~لمشاور~~ کیلئے حبیب اللہ ٹیمندر محمد علی احمد
 مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
 وکیل صاحب کو راضی نامہ کرنے سے قبل تفریبات ہ فیصلہ برحلف دیے جواب دہی اور اقبال دعویٰ اور
 بنا ورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرا میں پر دستخط کرنے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
 نیز دائر کرنے سے اپیل غمرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
 کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لانا اپنے بجائے تفریبات کا اختیار
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا سہولت
 و اخذ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائے التوائے مقدمہ کے سبب سے ہوگا۔
 کوئی اتاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
 مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سند ہے۔

CPK لاہور

دوسرا

ابتداء کی

Altaf

and accept

(Handwritten signature)

(Handwritten signature)

ماہ جولائی 2022ء

Appellant (Handwritten signature)

Petitioner (Handwritten signature)