

13.11.2019

Appellant absent. Learned counsel for the appellant absent. Mr. Zia Ullah learned Deputy District Attorney alongwith M. Arif Superintendent present. Adjourn. To come up for arguments on 15.11.2019 before D.B.

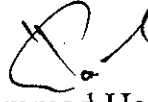

Member


Member

15.11.2019

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Muhammad Arif Superintendent present. Learned counsel for the appellant requested for withdrawal of the present service appeal. Consequently the present service appeal is hereby dismissed as withdrawn. No order as to costs. File be consigned to the record room.


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member


ANNOUNCED.
15.11.2019

14.05.2019 Counsel for the appellant and Addl: AG alongwith Muhammad Arif, Supdt for respondents present. Arguments could not be heard due to complete breakdown of electricity. Adjourned to 03.07.2019 for arguments before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member


03.07.2019 Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Javed, Assistant for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 29.08.2019 for arguments before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

29.08.2019 Learned counsel for the appellant and Mr. Riaz Khan Paindakheil learned Assistant Advocate General present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 13.11.2019 before D.B


Member


Member

18.01.2019

Counsel for the appellant present. Mr. Kabirullah Khattak, Adll: AG for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 13.03.2019 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

13.03.2019

Junior to counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Junior to counsel for the appellant seeks adjournment as senior counsel is not in attendance. Adjourn. To come up for arguments on 11.04.2019 before D.B


Member


Member

11.04.2019

Clerk of counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Muhammad Arif, Superintendent for the respondents present. Due to strike ^{on the call} of Pakistan Bar Council, learned counsel for the appellant is not available today. Adjourned. To come up for arguments on 14.05.2019 before D.B.



(AHMAD HASSAN)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

17.07.2018

Learned counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 06.09.2018 before D.B.



(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

06.09.2018

Junior to counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney alongwith Mr. Atta Ullah Assistant Secretary for the respondents present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 26.10.2018 before D.B.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

26.10.2018

Due to retirement of Hon'able Chairman, the Tribunal is defunct. Therefore, the case is adjourned for the same on 10.12.2018 before D.B.


Reader

10.12.2018

Learned counsel for the appellant and Mr. Riaz Paindakheil learned Assistant AG alongwith Mr. Arif Superintendent present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 18.01.2019 before D.B.


Member


Member

1392/14

31.10.2017


Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mukhtiar Ali, Assistant Secretary for the respondents present. Counsel for the appellant seeks adjournment. Granted. To come up for arguments on 18.1.2018 before D.B.



Member


Chairman

18.01.2018


Clerk of the counsel for appellant present. Mr. Muhammad Jan, DDA for the respondents present. Clerk of the counsel for appellant seeks adjournment as ~~his~~ senior counsel is not in attendance today. Adjourn. To come up for arguments on 22.03.2018 before D.B.


(Gul Zohra Khan)
Member (E)


(Muhammad Hamid Mughal)
Member (J)

22.03.2018

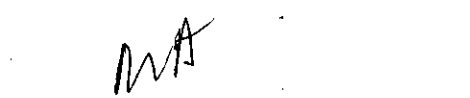
Learned counsel for the appellant and Learned Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 24/5/2018 before D.B


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

24.05.2018

Clerk of the counsel for appellant and Addl: AG for the respondents present. Arguments could not be heard due to incomplete bench. Adjourned. To come up for arguments on 17.07.2018 before D.B.


(Muhammad Amin Khan Kundi)
Member

13.12.2016

Counsel for the appellant and Mr. Ibrar Ali, Assistant Secretary alongwith Mr. Muhammad Jan, GP for the respondents present. Learned counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 20.4.17 before D.B.


(ASHFAQUE TAJ)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

20.04.2017


Counsel for the appellant present. Mr. Muhammad Jan, Government Pleader for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 08.08.2017 before D.B.



(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

08.08.2017

Clerk of the counsel for appellant present. Mr. Mukhtiar Ali, Assistant Secretary alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents present. Arguments could not be heard as lawyer community is on general strike. Adjourned. To come up for arguments on 31.10.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member (J)


(Muhammad Hamid Mughal)
Member (J)

02.09.2015

Appellant in person and Addl: A.G for respondents present.
Requested for adjournment. To come up for written reply/comments
on 24.11.2015 before S.B.


Chairman

24.11.2015

Counsel for the appellant and Mr. Mukhtiar Ali, Supdt.
alongwith Addl: A.G for respondents present. Comments submitted on
behalf of respondents No. 1, 2 and 4. The learned Addl; AG relies on
the same on behalf of respondent No. 3. The appeal is assigned to D.B
for rejoinder and final hearing for 13.4.2016.



Chairman

13.04.2016

Clerk to counsel for the appellant and Mr. Ziaullah, GP for
respondents present. Rejoinder on behalf of appellant submitted, copy
whereof handed over to learned GP. To come up for arguments on

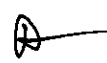
18.8.16


Member


Member

18.08.2016

Counsel for the appellant and Mr. Ziaullah, GP for
respondents present. Learned GP requested for adjournment. To
come up for arguments on 13.12.2016.


Member


Member

3.3.2015

Counsel for the appellant present. The learned Member (Judicial) is on leave, therefore, case to come up for preliminary hearing on 21.04.2015.


MEMBER

21.04.2015

Clerk of counsel for the appellant present. Learned counsel for the appellant is stated ^{to be} busy before ^{howble} august Peshawar High Court. To come up for preliminary hearing on 9.6.2015.


Member

09.06.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was appointed as Assistant in the office of SMBR on 25.6.2010 which order was withdrawn on 16.9.2010 where-after the appellant preferred departmental appeal which was rejected and appellant then preferred service appeal No.3044/2010 wherein directions were issued by the Tribunal vide judgment dated 8.7.2011 to the effect that departmental appeal be decided by the competent authority which was then decided by the Chief Secretary on 14.11.2014 rejecting the same and hence the instant service appeal on 9.12.2014.

That the impugned orders of withdrawal of the appointment of the appellant and rejection of appeal vide order dated 14.11.2014 are against facts and law.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 2.9.2015 before S.B.


Chairman

Appellant Deposited
Security & Process Fee


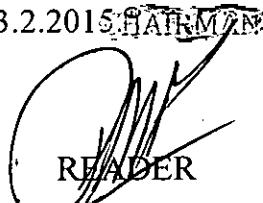




Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1392/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	09.12.2014	<p>The appeal of Mr. Muhammad Nasir Khan presented today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	21.1.2015	<p>This case is entrusted to Bench for preliminary hearing to be put up there</p> <p>Since 20th January, 2015 has been declared as public holiday by the provincial government, therefore, case to come up for the same on 3.2.2015.</p> <p style="text-align: right;"> READER</p>
	3.2.2015	<p>None is available on behalf of the appellant. Notices be issued to appellant and his counsel. To come up preliminary hearing on 03.03.2015.</p> <p style="text-align: right;"> MEMBER</p>

Sit next for

 9-2-15

BEFORE THE SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1392 /2014

M. NASIR KHAN..... APPELLANT

Vs

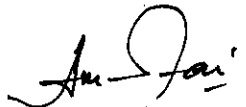
SMBR,KPK,PESHAAWAR..... RESPONDANT

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S.No.	Documents	Annexure	Page No.
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3.	Withdrawal order	B	8
4.	Departmental appeal.	C	9
5.	Copy of judgement	D	10-11
6.	Order 14.11.2014	- E -	12
7.	Order of Shah Khalid	- F -	13
8.	Order of Mustafa	- G -	14
9.			
10.	Vakalat Nama	-----	15

APPELLANT
Muhammad Nasir Khan

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.


GOHER SAJJAD KHAN
ADVOCATE


TAIMUR ALI KHAN
Advocate

BEFORE THE SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1392 /2014

Mr. Muhammad Nasir Khan, Ex-Asstt:

Board of Revenue, KPK Peshawar

M. W. P. Peshawar
Case No. 1424
Dated 09-12-2014

.....Appellant

Vs

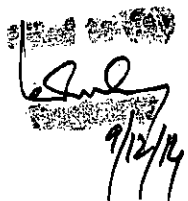
- 1- The Chief Secretary KPK Peshawar.
- 2- The SMBR, KPK Peshawar.
- 3- The DOR & EC Mardan.
- 4- The Asstt: Secretary (Estt:) Board of Revenue KPK Peshawar.

.....Respondent

APPEAL UNDER SECTION-4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 14.11.2014 WHEREBY THE APPELLANT'S DEPARTMENTAL APPEAL AGAINST THE ORDER DATED. 16.09.2010 WHICH WAS SENT BY THIS AUGUST TRIBUNAL WAS REJECTED FOR NO GOOD GROUNDS.

PRAYER:

That on the acceptance of this appeal the impugned order dated. 14.11.2014 & 16.9.2010 may be set aside being passed in volition of



the law and rules with the direction to the respondent to re-instate the appellant into service with all back benefits. Any other remedy, which this honourable Tribunal deems fit that, may also be awarded in favour of appellant.

R.SHEWETH.

- 1- That the appellant was appointed by competent authority as Asstt: in BPS-14 in the Board of Revenue KPK Peshawar vide order dated. 25/06/2010. The appellant was further deputed as to the office of DOR Mardan. Copy of the order is attached as annexure (A)
- 2- That the appointment order of the appellant was withdrawn on the basis of non-availability of post in BOR on 16/09/2010 without any notice to the appellant or chance of personal hearing to appellant. (Copy of the withdrawal order is attached as Annexure-B).
- 3- That the appellant filed departmental appeal against the above mentioned withdrawal order and the same has been rejected for no good grounds on 28/10/2010, the copy of which was received by the appellant on 08/11/2010. Copy of appeal is attached as Annexure – C.
- 4- That after rejection of departmental appeal, the appellant filed appeal No. 3044/2010 against the impugned order of withdrawal dated 16/09/2010 in this honourable Service Tribunal and this honourable Service Tribunal on 08/07.2011 decided the case. In its judgement the honourable Service Tribunal declared that SMBR was the appointing authority so the SMBR can not be appellate authority under the definition contained in section-2 of Civil Servants (Appeal) Rules, 1986, and SMBR was having no jurisdiction to entertain and decide

the departmental appeal of the appellant so the rejection order by the SMBR dated 28/10/2010 on departmental appeal are without jurisdiction and not sustainable in eye of law. So the appeal of the appellant was accepted and the SMBR was directed to send the departmental appeal of the appellant to the Chief Secretary. (Copy of Judgement attached as annexure D).

5- That on 14.11.2014 the appellant was informed that the Chief Secretary has rejected the departmental appeal. Hence the present appeal on the following grounds amongst the others. Copy of order is attached as Annexure – E.

GROUND:

- a) That the orders dated. 16/09/2010 and 14.11.2014 are against law facts norms of justice, material on record, therefore, not tenable and liable to be set-aside.
- b) That the other assistants (Mr. Shah Khalid, Mr. Muhammad Mustafa) were appointed with the appellant are still in service. Removal of appellant from service is discrimination with appellant. Copies of orders are attached as Annexure – E&F.
- c) That the appellant has been appointed condemned unheard because neither prior notice was given to appellant nor any chance of personal hearing was given to the appellant.
- d) That the appellant was appointed by competent authority, therefore under the principles of Locus Poenitentiae, the appointment order of the appellant couldn't be so simply withdrawn.

- 3
- e) That the impugned withdrawal order is also against the basic rules because after taking over charge of the post the appellant became a civil servant and the appellant could only be treated under the civil servant act and the rules made there under.
 - f) That the appellant has not been treated according to law and rules.
 - g) That the appellant has been punished for the fault of others, which is not permissible under the law.
 - h) That the appellant's appointment order was issued by competent authority and the same was fully acted upon which created valuable rights in favour of the appellant. Therefore, the appointment order of appellant cannot be withdrawn.
 - i) That the appellant seeks permission to advance other grounds and proof at the time of hearing.

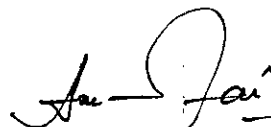
It is therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPELLANT

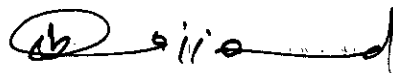


MUHAMMAD NASIR KHAN

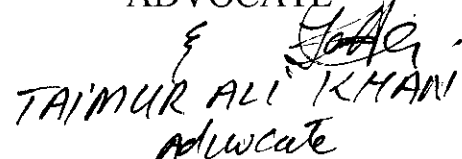
THROUGH:



MUHAMMAD ASIF YOUSIFZAI
ADVOCATE



GOHER SAJJAD KHAN
ADVOCATE



TAIMUR ALI KHANI
Advocate

A
7

GOVERNMENT OF KHYBER PAKHTUNKHWA
REVENUE & ESTATE DEPARTMENT

Dated the 25/06/2010

ORDER.

No. _____ /Admn:II/ The Competent Authority has been pleased to appoint Mr. Muhammad Nasir Khan S/O Lal Badshah R/O Mohallah Sharif Abad P/O Takht Bahai Tehsil District Mardan as Assistant (BPS - 14) in the Board of Revenue Khyber Pakhtunkhwa on temporary basis.

Furthermore, Mr. Muhammad Nasir Khan is deputed to the office of District Officer (R&E)/Collector, Mardan and will draw his salary against the post of Mr. Sardar Ali Assistant in the office of District Officer (R&E)/Collector, office Mardan.

By Order of,
Senior Member,
Board of Revenue, Khyber Pakhtunkhwa

No. 12258-59 /Admn:II/

Copy to:-

1. District Officer (R&E)/Collector, Mardan
2. District Accounts Officer Mardan
3. Official concerned.
4. Office Order File.


Assistant Secretary (Estt)
Board of Revenue Khyber Pakhtunkhwa

ATTESTED
/



B (8)

**GOVERNMENT OF
KHYBER PAKHTUNKHWA
REVENUE & ESTATE DEPARTMENT**

PESHAWAR DATED. 16.9.2010

ORDER

No. _____/Admn:II/DPC/Mardan. WHEREAS Mr. Mohammad Nasir Khan S/O Lal Badshah R/O Mohallah Sharif Abad P. O Takht Bahai Tehsil & District Mardan was appointed as Assistant (BPS - 14) in the office of Board of Revenue Khyber Pakhtunkhwa purely on temporary basis vide order No. 12455/Admn:II/ dated, 25.06.2010 and was deputed to the office of District Officer (R&E)/Collector, Mardan for drawing his salary against the post of Mr. Sardar Ali Assistant (BPS - 14) of the office of District Officer (R&E)/Collector, Mardan who was on Ex-Pakistan leave w.e.f 15.06.2009 to 31.08.2010.

AND WHEREAS, after expiry of Ex-Pakistan leave, Mr. Sardar Ali Assistant (BPS -- 14) of the office of District Officer (R&E)/Collector, Mardan submitted his arrival report for duty on 01.09.2010 (F.N). Hence the District Officer (R&E)/Collector, Mardan surrendered / returned the services of Mr. Mohammad Nasir Khan to Board of Revenue Khyber Pakhtunkhwa w.e.f. 31.08.2010.

AND WHEREAS, there is no vacant post of Assistant against which he could be retained, as he was appointed purely on temporary basis in the office of Board of Revenue Khyber Pakhtunkhwa, as such, this office order issued vide No. 12455/Admn:II, dated 25.06.2010 is withdrawn.

By order of
Senior Member
Board of Revenue Khyber Pakhtunkhwa

16512-15
No. _____/Admn:II/DPC/Mardan.

Copy to:-

1. District Officer (R&E)/Collector, Mardan with to his letter No. 1328/Leave/Pin, dated 01.09.2010.
2. District Accounts Officer, Mardan.
3. Official Concerned.
4. Office Order File.

Assistant Secretary (Estt)
Board of Revenue Khyber Pakhtunkhwa

ATTESTED
P

9

To

The Senior Member,
Board of Revenue, Khyber Pakhtunkhwa.

Subject. REPRESENTATION.

Respected Sir,

With humble submission I beg to submit that I was appointed as Assistant in BPS-14 in the Board of Revenue on 25/06/2010.

After that my services were placed at the disposal of D.O.R. Mardan for further posting.

Later on 16/09/2010 I was returned to B.O.R.

Hence the B.O.R. has withdrawn its order dated 25/06/2010 un-lawfully.

It is therefore requested that the said order may kindly be cancelled & oblige.

Put up case

ASA

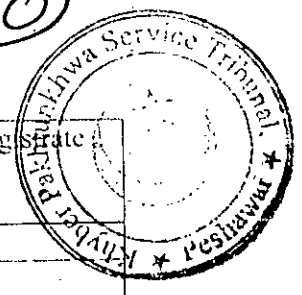
18/10

Yours Sincerely,

Mohammad Nasir Khan
Assistant.

ATTACHED

D (10)



S.No. of order or proceedings	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3

8.7.2011

[Handwritten signature]

Appeal No. 3044/2010
Muhammad Nasir Khan-Vs-SMBR, KPK ETC.

Counsel for the appellant and Mr. Sher Afgan Khattak, AAG on behalf of the respondents present. Arguments heard and record perused.

At the out-set of the arguments of the learned counsel for the appellant; it was noted that the appellant, Muhammad Nasir Khan, had preferred departmental appeal/representation against the order of withdrawal of his appointment order dated 25.6.2010 by the Senior Member Board of Revenue, Khyber Pakhtunkhwa vide his impugned order dated 16.9.2010, to the same Senior Member Board of Revenue, Khyber Pakhtunkhwa, who not only assumed jurisdiction but also filed/rejected the departmental appeal /representation vide letter dated 28.10.2010; though in the definitions contained in section-2, of the NWFP (Khyber Pakhtunkhwa) Civil Servants (Appeal) Rules, 1986, the 'appellate authority' means the officer or authority next above the competent authority. In this case, the competent authority was, admittedly, the Senior Member Board of Revenue who had made the appointment order as well as had withdrawn the appointment order, therefore, he was not the 'appellate authority' within the meaning of section-2 of the Appeal Rules, referred to above. In a situation when the departmental appeal/representation was wrongly moved to him, the SMBR had the option of either forwarding the departmental appeal/representation to the next above authority or return the same to the appellant for presentation before the proper forum. In any case, the impugned order of filing/rejection of the departmental appeal by the SMBR (Respondent No.1) is without jurisdiction and not sustainable in the eyes of law.

Consequently, on the partial acceptance of the appeal, the order conveyed to the appellant vide letter dated 28.10.2010 is set-aside, and the departmental appeal/representation of the appellant is remanded/sent back to the Senior Member Board of Revenue (Respondent No. 1) for forwarding the same to the next above

ATTESTED

[Handwritten signature]

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

[Handwritten signature]

authority for decision on merits, within the time prescribed by law for disposal of the departmental appeal, where-after, if aggrieved of the final order of the appellate authority, the appellant may seek remedy available to him under the law. No order as to costs.

ANNOUNCED

8.7.2011

(Sultan Mahmood Khattak)
Member,

(Qalandar Ali Khan)
Chairman

Certified to be true copy

JEF. WAZIR
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 11-7-2011
 Number of Words. 800
 Copying Fee 6-00
 Urgent 2-00
 Total 8-00
 Name of Copyist 4
 Date of Completion of Copy 11-7-2011
 Date of Delivery of Copy 11-7-2011

ATTESTED

[Signature]

REGISTERED

E 12

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

No. Estt:II/ 22900
Peshawar dated the 14/11/2014

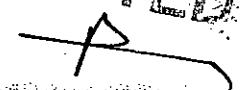
To

Muhammad Nasir Khan
S/O Lal Badshah R/O Mohalla Sharif Abad
P.O Takht Bai Tehsil and District Mardan.

SUBJECT: APPLICATION OF ISSUANCE A COPY OF FORMAL ORDER ACTION
TAKEN IN PURSUANCE OF THE JUDGMENT OF SERVICE
TRIBUNAL DATED 08.07.2011.

Your attention is invited to this office letter No. Estt:II/ M.Nasir Khan/
14097, dated 02.07.2012 wherein a detailed reply has been incorporated that your appeal
has been rejected by Chief Secretary (copy of which is again enclosed for your
information).


Assistant Secretary (Estt)

ATTESTED


GOVERNMENT OF KHYBER PAKHTUNKHWA
REVENUE AND ESTATE DEPARTMENT

Peshawar dated the 01/10/2010.

OFFICE ORDER.

No. 20944 /Admn:II/KK The Competent authority is pleased to order appointment of Mr. Muhammad Mustafa s/o Alam Khan of District Bannu on contract basis against the vacant post of Computer Operator in the Revenue Academy, / Revenue School, Karak with the following terms and conditions -

13

- 1) He shall for all intents and purposes, be Civil Servant, except for purpose of pension and gratuity. In lieu of pension and gratuity, he shall be entitled to receive such amount contributed by him toward contributory provident fund (C.P.F) alongwith the contributing made by government to his account the said Fund in the prescribed manner.
- 2) He will be governed by rules governed for contract employees.
- 3) His service shall be liable to termination at any time without assigning any reason at any time before the expiry of the period of his probation. In such an event, he will be given a month's notice of termination from the service or one month pay in lieu thereof.
- 4) He will join duty at his own expenses and he will not be entitled to any TA/DA on his first appointment as Computer Operator.
- 5) He will produce medical fitness certificates from the Authorized Medical Authority.


If the above terms and conditions of appointment are acceptable to him, he should report his arrival to this office immediately. His offer of appointment shall be deemed cancel if he failed to report his arrival in a week time from the date of issuance of this order.


By Order
SENIOR MEMBER,
BOARD OF REVENUE,
KHYBER PAKHTUNKHWA

Endst: No 20945-50 /Admn:

Copy forwarded to the:-

- 1) Director Land Records, Khyber Pakhtunkhwa, Peshawar.
- 2) District Officer (R & E)/Collector, Karak.
- 3) Principal, Revenue Academy, Karak.
- 4) District Accounts Officer, Karak.
- 5) Official concerned.
- 6) Personal file.


ASSISTANT SECRETARY (Estab:),
BOARD OF REVENUE, KHYBER
PAKHTUNKHWA.

ATTESTED


(14) 9

GOVERNMENT OF KHYBER PAKHTUNKHWA
REVENUE AND ESTATE DEPARTMENT

Peshawar dated the 22/10/2010.

OFFICE ORDER.

No. _____ /Admn: 11 The Competent authority is pleased to order appointment of Mr. Shah Khalid s/o Shah Baz Khan of District Mardan on contract basis against the vacant post of Assistant (Accounts) in the Revenue Academy, / Revenue School, Karak with the following terms and conditions:-


- 1) He shall for all intents and purposes, be Civil Servant, except for purpose of pension and gratuity. In lieu of pension and gratuity, he shall be entitled to receive such amount contributed by him toward contributory provident fund (C.P.F) alongwith the contributing made by government to his account the said Fund in the prescribed manner.
- 2) He will be governed by rules governed for contract employees.
- 3) His service shall be liable to termination at any time without assigning any reason at any time before the expiry of the period of his probation. In such an event, he will be given a months notice of termination from the service or one month pay in lieu thereof.
- 4) He will join duty at his own expenses and he will not be entitled to any TA/DA on his first appointment as Assistant (Accounts).
- 5) He will produce medical fitness certificates from the Authorized Medical Authority.

If the above terms and conditions of appointment are acceptable to him, he should report his arrival to this office immediately. His offer of appointment shall be deemed cancel if he failed to report his arrival in a week time from the date of issuance of this order.

By Order
SENIOR MEMBER,
BOARD OF REVENUE,
KHYBER PAKHTUNKHWA

Endst: No 20247 -- Admn: 11

- Copy forwarded to the:-
- 1) Director Land Records, Khyber Pakhtunkhwa, Peshawar.
 - 2) District Officer (R&E)/Collector, Karak.
 - 3) Principal, Revenue Academy, Karak.
 - 4) District Accounts Officer, Karak
 - 5) Official concerned.
 - 6) Personal file.


ASSISTANT SECRETARY (Estab:),
BOARD OF REVENUE, KHYBER
PAKHTUNKHWA.

ATTESTED


VAKALAT NAMA

NO. _____/20

IN THE COURT OF Service Tribunal, Peshawar.

Muhammad Nasir Khan (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Revenue Deptt. (Respondent)
(Defendant)

I/We Muhammad Nasir Khan

Do hereby appoint and constitute M. Asif Yousafzai, Advocate, Peshawar, ^{q. Taimur Ali Khan} ^{Goher Sajjad} ^{Advocate} to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter; without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated 8-12/2014

M. Asif
(CLIENT)

ACCEPTED

M. Asif Yousafzai
Advocate.

Taimur Ali Khan
Advocate
Goher Sajjad Khan
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:
Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1392/2014.

Muhammad Nasir Khan Ex-Assistant Board of Revenue.

VERSUS

Senior Member, Board of Revenue, Khyber Pakhtunkhwa, and others.

COMMENTS ON BEHALF OF RESPONDENTS NO.2.

Preliminary objection.

1. That the appeal is badly time barred.
2. That the appeal is not maintainable in its present forum.
3. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
4. That the appellant has not come to this Tribunal with clean hands.
5. That the appellant has concealed the facts as his first appeal has been implemented/ disposed off (Annexure-A). The appellant is only wasting the precious time of the Tribunal.

ON FACTS.

1. The appellant was appointed as Assistant (BPS-14) purely on temporary basis in the Board of Revenue Khyber Pakhtunkhwa on 25.06.2010 and was deputed to the office of District Officer (R&E)/Collector, Mardan to draw salary against the post of Mr. Sardar Ali Assistant of the office of District Officer (R&E)/Collector, Mardan, who was on Ex-Pakistan leave as there was no vacancy in Board of Revenue.
2. Mr. Sardar Ali Assistant of the office of District Officer (R&E)/Collector, Mardan submitted his arrival report after Ex-Pakistan leave on 01.9.2010; therefore, the Respondent No.3 returned the service of appellant to Board of Revenue w.e.f 31.08.2010. There was no vacant post of Assistant (BPS-14) in the Board of Revenue to adjust the appellant against the said vacant post. Moreover, the appellant was appointed purely on temporary basis, so his appointment order dated 25.6.2010 was withdrawn.
3. Incorrect. The appellant was appointed as Assistant (BPS-14) purely on temporary basis and due to non availability of post, his appointment order was withdrawn hence no illegality was done in this regard.

4 Incorrect. The Departmental appeal of appellant was filed by the Competent Authority Chief Secretary, Khyber Pakhtunkhwa (Annexure-A)

5. As in para-4 above.

GROUND.

A. Incorrect. Both the orders are in accordance with law.

B. Incorrect. Both the officials were appointed by competent authority on contract basis. No discrimination has been done with appellant as the appellant was not appointed on contract basis but was appointed purely on temporary basis.

C. Incorrect. The appointment order was withdrawn by competent authority therefore, there was no need of personal hearing.

D. As in 'C' above.

E. Incorrect. The withdrawal of appointment order was issued in accordance with law/rules.

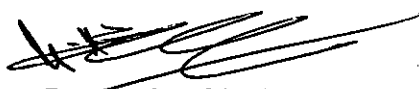
F. Incorrect. The appellant has been treated in accordance with law.

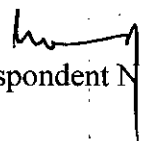
G. Incorrect. As para-2 of the facts.

H. Incorrect. As in 'E' above.

I. The respondent will also seek permission to advance additional grounds at the time of arguments.

Keeping in view of the above, the appeal may please be dismissed with costs.


Respondent No.4.


Respondent No.1 & 2.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

Implementation Petition No. 152/2012
In Service Appeal No. 3044/2010

560
10-7-12

Mr. Muhammad Nasir Khan,
S/O Lal Badshah,
R/O Mohalla Sharif Abad,
P.O. Takht Bhai, Tehsil & District Mardan.

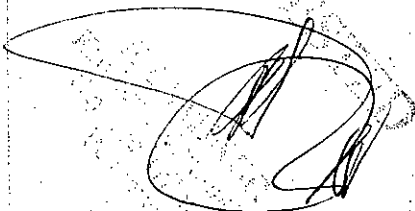
APPELLANT

VERSUS

1. The Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Senior Member Board of Revenue, (SMBR), Khyber Pakhtunkhwa, Peshawar.
- 3.

RESPONDENTS

**IMPLEMENTATION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE direction of
this Honourable Tribunal dated 8.7.2011 IN
LETTER AND SPIRIT.**



13 15.01.2015

Agent of counsel for petitioner and Addl. A.G. for respondent present. Application for consigning the petition submitted according to which the petition has been fully implemented.

In view of the application, the implementation petition is disposed of being fully implemented. File be consigned to the record.

ANNOUNCED
15.01.2015

[Handwritten signature]
Registrar

[Handwritten signature]
Chairman

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1392/2014

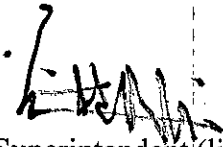
Muhammad Nasir Khan Ex-Assistant Board of RevenueAppellant

VERSUS

Senior Member, Board of Revenue, and others.....Respondents

AFFIDAVIT

I Mukhtiar Ali Superintendent (Lit;II), Board of Revenue Khyber Pakhtunkhwa do hereby solemnly affirm that the contents of the written reply are true and correct to the best of my knowledge and belief information provided to me, and noting has been deliberately concealed from this Hon'able Tribunal.


Superintendent (lit;II)
Board of Revenue

**BEFORE THE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 1392/2014

Muhammad Nasir Khan

VS

Revenue Deptt:

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-5) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

1. Not specifically denied by the respondent's department, which mean that they have admitted Para-1 of the appeal as correct. Moreover, Para-1 of the reply is incorrect.
2. Not specifically denied by the respondent's department, which mean that they have admitted Para-2 of the appeal as correct. Moreover, Para-2 of the reply is incorrect.
3. Not replied according to the Para-3 of the appeal. Moreover, Para-3 of the reply is incorrect. While Para-3 of the appeal is correct.
4. Incorrect. While Para-4 of appeal is correct as mentioned in the main appeal, of the appellant.
5. Incorrect. While Para-5 of appeal is correct as mentioned in the main appeal, of the appellant.

GROUND:

- A. Incorrect. While Para-A of grounds of the appeal is correct as mentioned in the main appeal, of the appellant. Moreover, the order dated 16.9.2010 and 14.11.2014 are against the law, rules, norms of justice.
- B. Incorrect. While Para-B of grounds of the appeal is correct as mentioned in the main appeal, of the appellant. Moreover, the conduct of respondents is discriminatory in nature against the appellant.
- C. Incorrect. While Para-C of grounds of the appeal is correct as mentioned in the main appeal, of the appellant. Moreover, the chance of hearing is right of appellant and the appellant is properly appointed by the competent authority. It is also added that no chance given to appellant for personal hearing, which is violation of principle "AUDI ALTEREM PERTREM".
- D. Incorrect. While Para-D of grounds of the appeal is correct as mentioned in the main appeal, of the appellant. Moreover, the appellant is properly appointed by the competent authority, thus the valuable rights created in favor of appellant, which is not taking away by any one without following proper procedure.
- E. Incorrect. While Para-E of grounds of the appeal is correct as mentioned in the main appeal, of the appellant. Moreover as explained in the above Para-D of the grounds of rejoinder.
- F. Incorrect. While Para-F of grounds of the appeal is correct as mentioned in the main appeal, of the appellant.
- G. Incorrect. While Para-G of grounds of the appeal is correct as mentioned in the main appeal, of the appellant.
- H. Incorrect. While Para-H of grounds of the appeal is correct as mentioned in the main appeal, of the appellant. Moreover, the appellant is properly appointed by the competent authority, thus the

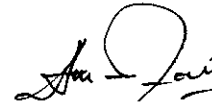
valuable rights created in favor of appellant, which is not taking away by any one without following proper procedure.

I. Legal.

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

APPELLANT

Through:



**(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.**

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder and appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from the Hon'able Tribunal.



DEPONENT

