

30.03.2022

Clerk to counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present.

Written reply/comments on pre-admission notice not submitted. Notices be issued to the respondents for submission of written reply/comments. Adjourned. To come up for written reply/comments /preliminary hearing on 22.06.2022 before S.B.



(MIAN MUHAMMAD)
MEMBER(E)

22nd June, 2022

Learned counsel for the appellant present. Syed Naseer Ud Din Shah, Asst: AG alongwith Mr. Waheed Ur Rehman, Sr. Assistant Director, LG & RDD, Peshawar for respondents present.

Written reply on behalf of the respondents submitted which is placed on file. A copy of the same is handed over to the learned counsel for the appellant. To come up for preliminary hearing on 05.08.2022 before S.B.

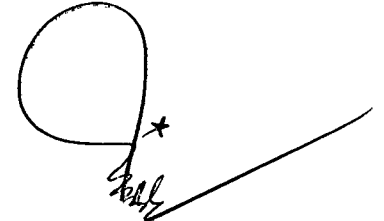


(Kalim Arshad Khan)
Chairman

22.11.2021

Counsel for the appellant present. Preliminary arguments have been heard.

Learned counsel for the appellant contended that the appellant is aggrieved of the impugned order dated 09.09.2008 whereby he was awarded the major penalty of "dismissal from service". The appellant preferred departmental appeal to the appellate authority on 23.01.2020 which was not responded, hence, the instant service appeal filed in the Service Tribunal on 20.05.2020. According to learned counsel for the appellant the impugned order is void ab-initio as no prescribed procedure has been followed to conduct a formal/regular enquiry and the impugned order has been issued with retrospective effect i.e from the date of his absence (19.09.2006) as ex-parte action without meeting the ends of justice. Moreover, as per judgement of Larger Bench in service appeal No. 562/2016 titled Rahim-ud-Din-vs-Inspector General of Police, Khyber Pakhtunkhwa and others, it has been held that in case of void order(s) limitation does not run. On the contrary, the supreme court of Pakistan in CP No. 2478 of 2019 dated 24.12.2020 has held that even a void order needs to be challenged and the period of limitation provided by the law, is to be taken into account. Let pre-admission notice be issued to respondents to submit reply/parawise comments and assist the Tribunal. To come up for preliminary hearing on 28.01.2022 before S.B.

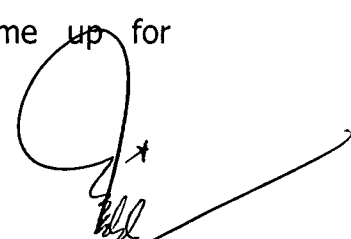


(Mian Muhammad)
Member(E)

28.01.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

Written reply on pre-admission notice not submitted. Learned AAG seeks time to contact the respondents for submission of written reply. Adjourned. To come up for reply/preliminary hearing on 30.03.2022 before S.B.



(Mian Muhammad)
Member(E)

18.02.2021

The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 30.06.2021.


Reader

30.06.2021

Junior to counsel for appellant present.

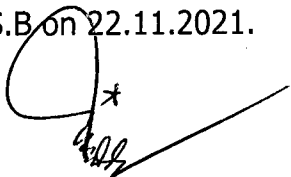
He made a request for adjournment as senior counsel is busy before Hon'ble Peshawar High Court, Mingora Bench. In this regard, application was also submitted which is placed on file of Service Appeal No.2238/2019 titled Muhammad Ismail. Case is adjourned. To come up for preliminary hearing on 28.09.2021 before S.B.


(Rozina Rehman)
Member(J)

28.09.2021

Junior of counsel for the appellant present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned senior counsel is busy before the Peshawar High Court, Peshawar. Adjourned. To come up for preliminary hearing before the S.B on 22.11.2021.


(MIAN MUHAMMAD)
MEMBER (E)

12.08.2020

Counsel for the appellant present.

Learned counsel referred to the impugned order dated 09.09.2008 and stated that the same was given effect from 19.09.2006. In the circumstances, a request for adjournment of instant matter to a date after the decision of similar proposition by a Larger Bench of this Tribunal is made.

Adjourned to 23.09.2020 before S.B.


Chairman

23.09.2020

Counsel for the appellant present.

On the last date of hearing instant matter was adjourned to avail the outcome of cases pending before the Larger Bench and having similar nature. The Larger Bench has not yet concluded the proceedings before it, therefore, instant matter is adjourned to 03.12.2020 before S.B.


Chairman

03.12.2020

Counsel for the appellant present.

The proposition regarding retrospectivity of penalty has not been decided by the Larger Bench as yet. Instant case is, therefore, adjourned to 18.02.2021 before S.B.





Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- ~~1072/2020~~ 4934 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/05/2020	<p>The appeal of Mr. Meraj Gul presented today by Mr. Noor Muhammad Khattak 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>
2-	08.06.2020	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>08/06/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Junior to counsel for the appellant present.</p> <p>Requests for adjournment due to general strike of the Bar.</p> <p>Adjourned to 12.08.2020 before S.B.</p> <p style="text-align: right;"> Chairman</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. ~~4934~~ ⁴⁹³⁴ /2020

MERAJ GUL

V/S

LOCAL GOVT: DEPTT:

INDEX

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5	Forwarding letter	D	8.
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APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

APPEAL NO 4934 /2020.

Mr. Meraj Gul, Ex- Village Secretary,
Union Council Kakshal-I, District Peshawar.....**APPELLANT**

VERSUS

- 1- The Secretary Local Government, Elections & Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director Local Government Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Assistant Director LG&RD Department, Peshawar.

..... **RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 09.09.2008 WHEREBY MAJOR PENALTY OF DISMISSAL FROM SERVICE HAS BEEN IMPOSED ON THE APPELLANT AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD OF NINTY DAYS.

PRAYER:

That on acceptance of this appeal the impugned order date 09.09.2008 may very kindly be set aside and the appellant may be re-instated into service with all back benefits. Any other remedy which this August tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

- 1- That appellant was initially appointed as Village Secretary (BPS-06) in the respondent Department vide order dated 30.04.1988. That after appointment the appellant started performing his duty quiet efficiently and up to the entire satisfaction of his superiors. Copy of the appointment order is attached as annexure.....**A.**

- 2- That during service the appellant was charged in case FIR No.787 U/S 302/34 PPC, P.S Badaber Peshawar, dated 19.09.2006. That after chalking of the said FIR against the appellant, the appellant submitted an application for leave before the concerned authority which was properly forwarded vide forwarding letter dated 02.11.2006. Copies of the FIR, application & letter are attached as annexure.....**B, C & D.**
- 3- That due to involvement in criminal case the respondent No.4 suspended the appellant vide order dated 05.12.2006. Copy of the suspension order is attached as annexure.....**E.**
- 4- That due to the aforementioned reason the respondent Department issued the impugned order dated 09.09.2008 whereby major penalty of the dismissal from service has been imposed on the appellant without fulfilling the codal formalities.
- 5- That subsequently compromise has been made between the parties and the appellant was acquitted by the Additional Sessions Judge-IX, Peshawar, vide judgment dated 06.12.2019. Copy of the Judgment is attached as annexure.....**F.**
- 6- That appellant feeling aggrieved from the impugned order dated 09.09.2008 filed departmental appeal before the appellate authority but no reply has been received so far. Copy of the departmental appeal is attached as annexure.....**G.**
- 7- That appellant feeling aggrieved and having no other remedy but to file the instant service appeal on the following grounds amongst others.

ON GROUNDS:

- A- That the impugned order dated 09.09.2008 is against the law, facts, norms of natural justice and material on record hence not tenable and liable to be set aside.
- B- That appellant has not been treated by the respondent department in accordance with law and rules on the subject noted above and as such the respondents violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.

- C- That respondent department acted in arbitrary and malafide manner while issuing the impugned order dated 09.09.2008.
- D- That the respondent dismissed the appellant in a hasty manner without waiting the outcome of the trial which was pending before the Sessions Court at that relevant time.
- E- That no charge sheet and statement of allegation has been issued to the appellant before issuance of the impugned order dated 09.09.2008.
- F- That no show cause notice has been served on the appellant before issuing the impugned order dated 09.09.2008.
- G- That no chance of Personal Hearing / Defense been provided to the appellant before issuance of the impugned order dated 0.09.2008.
- H- That no regular inquiry has been conducted against the appellant which is as per Supreme Court judgments is necessary in punitive actions against the civil servant.
- A- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 18.05.2020

APPELLANT


MIRAJ GUL

THROUGH:


NOOR MUHAMMAD KHATTAK


MIR ZAMAN SAFI

&


AFRASIAB KHAN WAZIR
ADVOCATES

BETTER COPY OF PAGE-4

OFFICE ORDER

Dated pesh: the 30th April, 1988.

No.DG(RWP) 2(11)/73. On the recommendation of Departmental Selection Committee, the following candidates are hereby appointed as secretaries union councils in this department in BPS-6 (Rs.725-28-1285) with effect from the dates of their taking over charge of duties:-

S/No name and address of candidates/

place of posting

6- Mr. Meraj Gul s/o Nazar gul vill: abdara PO
Peshawar university, Teh & Distt: Peshawar.

To report to assistant director local Govt
And rural development, Khyber bazar
Peshawar.

DIRECTOR GENERAL
LOCAL GOVT AND RURAL DEVELOPMENT DEPTT:
NWFP, PESHAWAR

No.DG(RWP) 2(11)/73,
Copy forwarded:

Dated Pesh: the 30th April, 1988.

ATTESTED
ml

OFFICE ORDER

Dated Pesh: the 30th April, 1988 A-4

No. DG(RWP) 2(11)/73. On the recommendation of Departmental Selection Committee, the following candidates are hereby appointed as Secretaries Union Councils in this department in BPS-6 (Rs. 725-28-1285) with effect from the dates of their taking over the charge of duties :-

<u>S/No</u>	<u>Name and address of Candidate</u>	<u>Place of Posting</u>
1.	Mr. Amjad Ali S/O Shamsul Haq Vill: Sheikh Abad PO: Rajar Teh: Charsadda Distt: Peshawar	To report to Assistant Director Local Govt and Rural Development Department, Khyber Bazar Peshawar.
2.	Mr. Ashraf Khan S/O Khalid Khan Area Shahdhand Moh: Hanif Abad Nazar Bostan Road C/O Hakim Nasruddin, Pesh: City.	
3.	Mr. Ikram Ullah S/O Gulab Khan Moh: Hajikhel Tehkal Bala Peshawar.	
4.	Mr. Mohammad Zubair S/O Saida Gul Moh: Khattak Vill & PO: Akora Khattak Teh: Nowshera Distt: Pesh:	
5.	Mr. Tahir Ali S/O Saifur Rehman Village: Barabanda PO: Risalpur Teh: Nowshera District: Peshawar	
6.	Mr. Meraj Gul S/O Nazar Gul Vill: Abdara PO: Peshawar University, Teh & Distt: Peshawa-r.	
7.	Syed Zahid Shah S/O Syed Khitab Shah Vill: Nasarpur Teh & Distt: Peshawar.	
8.	Mr. Feroz Shah, S/O Mohammad Iqbal Vill: Sufaid Dheri Moh: D ora Teh & Distt: Peshawar	
9.	Mr. Wasil Khan S/O Maha z Khan Vill: Garhi Hamza PO: Nahaqi Teh & Distt: Peshawa-r.	
10.	Mr. Murad Ali Shah S/O Faqir Hussain Shah Prang Shaheeda Bazar Teh: Charsadda Distt: Peshawar	
11.	Mr. Zahoor Ahmad S/O Israr Mohd Vill: Parang Teh: Charsadda District: Peshawar.	

ATTESTED

[Signature]

(contd on page..2...)

28. Mr. Amjad Ali Shah S/O Noorul Anwer
Moh: Degankhel MARDAN
29. Mr. Mohammad Rauf S/O Mohd Akber Khan
Vill: PO: Garyala
Teh & Distt: Mardan
30. Mr. Bahadar Shah S/O Akber Said
Khaksar Manzil Bank Road Mardan
31. Mr. Akbare Azam S/O Qaiser Khan
Vill: Nawan Killi Rustam
Teh & Distt: Mardan
32. Mr. Mohammad Shafiq S/O
Mohammad Ismail
Vill: Batakra Teh: Swabi
Distt: Mardan.
33. Mr. Roohul Amin S/O Mohd Aya z
Moh: Isakhel Vill: PO: Gandaf
Teh: Swabi Distt: Mardan
34. Mr. Habibur Rehman S/O Amirzada
Vill & PO: Yar Hussain
Tehsil: Swabi Distt: Mardan.

⑤

To report
to Assistant
Director,
Local Govt and
Rural Develop-
ment Department
MARDAN.

2. Their appointments will be subject to production of the following documents:-

1. Health and age certificate.
2. Academic Qualification Certificate.
3. Domicile Certificate.
4. Character Certificate.

3. The appointments are made purely on temporary basis and can be terminated at any time without any notice or assigning any reasons. In case if they desire to leave the job, they will either give fifteen days notice in advance or shall deposit fifteen days pay in lieu thereof.

4. They will also be required to complete a training/course successfully as and when arranged by the Divisional Director, Local Govt and Rural Development Department, Peshawar in due course of time.

(continued on page ..4..)

ATTESTED

M

ابتدائی اطلاعی رپورٹ B-6

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ 152 مجموعہ ضابطہ فوجداری

VC = 3
P = 155

ضلع لاہور

سٹرک نمبر

تاریخ 19/06/06 وقت 11:00 بج

علا 787

1

وقت رپورٹ

19/06/06 وقت 13:10 بج

مکونت اطلاع دہندہ مستغث مسمندر خان ولد سجاد خان
بافتہ جرم (معد دفعہ) حال اگر کچھ لیا گیا ہو۔
مقامات محلہ ساٹان باڑہ محلہ خیال خیل کلاں

A# 302-34

نوعہ فاصلہ تھانہ سے اور دست

نمبر واقع سکیم جی

مکونت ملزم

سرخ گل، سماں گل، سیرا گل
انہی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو

مدرسہ اسلامی رپورٹ لکھی درج روک کتا جائیے۔

سے روایت کی تاریخ و وقت

گھوڑا گل رپورٹ

ابتدائی اطلاع نیچے درج کرو۔
نظر حسن بچہ عمر 18/19 سال بہادر آباد ایلیانہ کلاں ضلع لاہور کراچی ہیکل کے خلاف
نظر حسن بچہ عمر 18/19 سال بہادر آباد ایلیانہ کلاں ضلع لاہور کراچی ہیکل کے خلاف
نظر حسن بچہ عمر 18/19 سال بہادر آباد ایلیانہ کلاں ضلع لاہور کراچی ہیکل کے خلاف
نظر حسن بچہ عمر 18/19 سال بہادر آباد ایلیانہ کلاں ضلع لاہور کراچی ہیکل کے خلاف
نظر حسن بچہ عمر 18/19 سال بہادر آباد ایلیانہ کلاں ضلع لاہور کراچی ہیکل کے خلاف

ATTESTED

19-9-06
A51 P52RB

To

The District Coordination
Officer City District Govt.
Peshawar District.

C-7

SUBJECT: REQUEST FOR THE GRANT OF 120 DAYS EARNED
LEAVE FROM 1ST NOVEMBER 2006.

Sir

I have the honor to submit that I am serving in the local Government Department and presently posted against the post of secretary Union Council Daag ward No. 87 Town -II District Peshawar.

During the last rain season the building of my house got damaged and now requires re- construction and there is no other male member of my family to look after the reconstruction process of my house.

It is therefore requested that on acceptance of this application 120 days Earned leave may kindly be granted to me w.f.e.1st November 2006 and obliged please.

ATTESTED

[Signature]

[Signature]

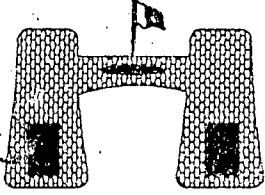
Obediently Yours

Maraj Gul

Secretary Union Council

Daag No. 87 District

Peshawar.



Shamsul Bari (M.A.LLB) Nazim 311

U/C Daag No 87 Peshawar

Tel off: 5202524 Res: 5200526 Mob: 0321-9064306

Date: 2/11/2006

No. 63/UCD

From

Office of the Nazim Union Council
Daag No. 87 Town—II Peshawar

To

The District Coordination Officer
City District Govt. Peshawar.

SUBJECT: REQUEST FOR THE GRANT OF 120 DAYS EARNED LEAVE

Memo;

Kindly find enclosed herewith an application (in original) submitted by Mr. Maraj Gul Village secretary union council Daag, No. 87, on the subject cited above for necessary action please.

It is further stated that I strongly recommend the approval of this application as I have no objection over the same, however I will recommend and forward the name of Mr. Abdul Wahid Village secretary Union council Panam Dheri of the same Town having confidence over his ability to control the dual charge of both the union councils during the leave period of the applicant Maraj Gul.

Sincerely Yours

Shamsul Bari
SHAMSUL BARI
M.A.LLB Nazim
U.C. Daag No 87 Pesh.

18068

14/11

ATTESTED

[Signature]

[Signature] 14/11/06

EIA

33
OFFICE OF THE
DISTRICT COORDINATION OFFICER
CITY DISTRICT GOVERNMENT
PESHAWAR.

No. 20750 /DCO(P)EA
Dated Pesh.the 30/11/2006.

To

The Nazim,
Union Council Daag, Peshawar.

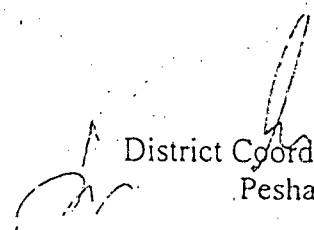
8/A

Subject: REQUEST FOR THE GRANT OF 120 DAYS EARNED LEAVE.

Memo:

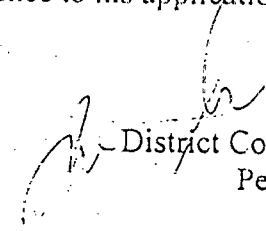
Please refer to your letter No.63/UCD, dated 02/11/2006 on the subject cited above.

The request for grant of 120 days earned leave in respect of Mr. Mairaj Gul, Village Secretary of your Union Council forwarded vide letter under reference has not been acceded due to shortage of staff in the Union Councils. Thus the applicant may be informed accordingly.


District Coordination Officer
Peshawa.

Endst: No. _____ /DCO(P)/EA.

Copy forwarded to Mr. Mairaj Gul, Village Secretary Union Council Dagg, Peshawar for information with reference to his application dated nil.


District Coordination Officer
Peshawar

ATTESTED


OFFICE OF THE
DISTRICT COORDINATION OFFICER
CITY DISTRICT GOVERNMENT
PESHAWAR.

Dated Pesh.the 05 /12/2006.

OFFICE ORDER.

No. 20917 /DCO(P)EA. As reported by Nazim, Union Council, Daag vide letter dated 2/12/2006 that you Mr. Mairaj Gul, Village Secretary have willfully absented yourself from official duty since last 2 months which tantamount to ill-discipline and disobedience under the law/rules and led to disciplinary action against you.

Therefore, you are hereby suspended from service with immediate effect. However, you will be allowed to draw your pay and allowance as admissible under the rules during the period of suspension.

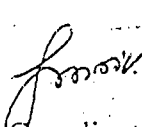
Mr. Abdul Wahid, Village Secretary, Union Council, Panam Dheri is hereby ordered to perform the duty as Village Secretary, UC, Daag, in addition to his own duty till further orders.

Sd/-
District Coordination Officer
Peshawar

Endst: No. 20918-25 /DCO(P)/EA.

Copy forwarded to the:

1. Secretary to Govt: of NWFP., LG&RDD, Peshawar.
2. PSO to Zilla Nazim Peshawar.
3. Tehsil Municipal Officer concerned.
4. Budget Assistant DCO Office, Peshawar for further necessary action.
5. Mr. Mairaj Gul, Village Secretary, UC, Daag.
6. Mr. Abdul Wahid, Village Secretary, UC, Panam Dheri, Peshawar.
7. Focal Person concerned.
8. Personal file/Office order file.


Assistant Coordination Officer
Peshawar

ATTESTED


BETTER COPY OF PAGE-10

OFFICE ORDER

No.16043/ DCO(P)EA. Whereas Mr. Mairaj Gul, village secretary UC Daag (now V/S UC kakshal-1 under suspension) remained absent from duty with effect from 19/09/2006.

AND WHEREAS the above named official was proceeded under the NWFP removal from service (special power) ordinance-2000, for the charges mentioned in the charge sheet dated 16.12.2006.

AND WHEREAS the said official served with the charge sheet/statement of allegations under the NWFP removal from service (special power) ordinance, 2000, could not replied.

AND WHEREAS, Mr. Jehanzeb khan, deputy district office, judicial Peshawar, was appointed as inquiry officer. The accused official did not appeared before him and as such the inquiry officer submitted his findings/enquiry report. He recommended that it has been established that the charges leveled against the accused official have been fully proved and that Major penalty of Removal from service may be imposed on him.

AND WHEREAS, after having considered the charges, evidence on record, findings of the enquiry officer, found him guilty of the miss conduct was served with a show cause notice alongwith copy of the enquiry report giving an opportunity to be heard in person on 20.08.2008 but he failed to appear.

AND WHEREAS the accused official was given another opportunity to appear before the undersigned on 03.09.2008 for personal hearing, which he could not availed. And whereas considering the charge sheet on show cause notice findings of the enquiry officer and other relevant record on file, I Sahibzada Muhmmad Anis District Coordination Officer, Peshawar in capacity as competent authority, is of the opinion that the charges of willful absence from official duty leveled against the accused official stand proved.

Now therefore in exercise of the powers conferred under section-3 of the NWFP removal from service (Special power) ordinance-2000 and amended ordinance 2001, the major penalty of dismissal from service is hereby imposed on Mr. mairaj gul village sectary UC Daag with effect from 19.9.2006.

(Sahibzada Muhammad Anis)
District coordination Officer
Peshawar
(Competent Authority)

ATTESTED
m

Endst: No.16044-54/DCO(P)/EA

09/09/2008

10

OFFICE ORDER

No. 1643 /DCO(P)/EA. WHEREAS Mr. Maryaj Gul, Village Secretary

(C/Dang (now V/S (C/ Kakshat-I under suspension) remained absent from duty with effect from 19/09/2006.

AND WHEREAS the above named official was proceeded under the N.W.F.P. Removal from Service (Special Power) Ordinance-2000, for the charges mentioned in the Charge Sheet dated 10/12/2006.

AND WHEREAS, the said official, served with the Charge Sheet/Statement of allegations under the N.W.F.P. Removal from Service (Special Powers) Ordinance-2000, could not replied.

AND WHEREAS, Mr. Jehanzeb Khan, Deputy District Officer, Judicial Peshawar was appointed as Inquiry Officer. The accused official did not appeared before him and as such the Inquiry Officer submitted his findings/Inquiry report. He recommended that it has been established that the charges leveled against the accused official have been fully proved and that Major Penalty of Removal from service may be imposed on him.

AND WHEREAS, after having considered the charges, evidence on record, findings of the enquiry officer, found him guilty of the miss conduct was served with a show cause notice alongwith copy of the enquiry report giving an opportunity to be heard in person on 20/08/2008 but he failed to appear.

AND WHEREAS the accused official was given another opportunity to appear before the undersigned on 03/09/2008 for personal hearing, which he could not avail.

AND WHEREAS, considering the charge sheet on Show Cause Notice, findings of the Enquiry Officer and other relevant record on file, I Sahibzada Muhammad Anis District Coordination Officer, Peshawar, in capacity as Competent Authority, is of the opinion that the charges of willful absence from official duty leveled against the accused official stand proved.

NOW THEREFORE, in exercise of the powers conferred under Section -3 of the N.W.F.P. Removal from Service (Special Power) Ordinance-2000 and amended ordinance 2001, the major penalty of DISMISSAL from Service is hereby imposed on Mr. Maryaj Gul Village Secretary, (C/Dang with effect from 19/09/2006).

(Sahibzad Muhammad Anis)
District Coordination Officer
Peshawar
(Competent Authority)

ATTESTED

W

Endst: No. 16044-57 /DCO(P)/EA.

9/7/2008

(11)

Copy of the above is forwarded for information and necessary action to the:-

1. Secretary to Government of NWFP, Establishment Deptt: Peshawar.
2. Secretary to Government of NWFP, LG&RDD, Peshawar.
3. Accountant General, NWFP, Peshawar.
4. Executive District Officer (F&P), Peshawar.
5. District Officer (Revenue & Estates), Peshawar.
6. District Comptroller of Accounts, Peshawar.
7. All TMOs City District Govt: Peshawar.
8. Section Officer (Admin) LG & RDD, Peshawar.
9. Budget Assistant of this suffice for further necessary action at your end.
5. Mr. Mairaj Gul, Village Secretary, UC Dagg Resident of Mohallah Zamindaran Kandi Sultan Khel, Village Bazid Khel, Peshawar.

(Sahibzada Muhammad Anis)
District Coordination Officer,
Peshawar.

ATTESTED

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برای آرشیف و خلاصه نگاری

C-12

بعدالت جناب واجد علی خان ایڈیشنل ڈسٹرکٹ و سیشن جج - IX پشاور

انڈیکس
15/4/19
6/12/19
29

محرر

نام



ADK	تعمیر دران	12/6/2

Certified that papers, as detailed above have properly been indexed.

(Signature)
(Moharrir)

(Signature)

Countersigned by:

(Signature)

(Wajid Ali Khan)
Additional District & Sessions Judge-IX
Peshawar.

ATTESTED

17 DEC 2019

(Examiner)
Session Judge, Peshawar

13

76

**IN THE COURT OF WAJID ALI KHAN,
ADDITIONAL SESSIONS JUDGE -IX, PESHAWAR**

Sessions Case No. 29 of 2019
The Statevs..... Miraj.

ORDER-10
06-12-2019

Accused Miraj Gul and Subhan Ud Din on bail with counsel present. Dy.PP for the State present.

The accused named above was charged by Samandar Khan complainant/brother of deceased Nazar Hussain vide case FIR No. 787 dated 19-09-2006 u/s 302/34 PPC of Police Station Bhadber Peshawar.

Today Mst.Shahida mother of deceased present and submitted an compromise deed EXPA and proforma Ex PB and informed the court regarding the compromise effected with the accused facing trial. In this respect her statement recorded wherein she confirmed the factum of compromise and expressed her no objection on acquittal of the accused facing trial. They further stated that deceased was un-married and the deceased has also left behind her and complainant/brother Samandar Khan and there is no other major legal heir of deceased.

On 28-10-2019 complainant/brother of the deceased appeared and he has informed the court regarding the compromise effected with the accused facing trial. In this respect his statement was recorded wherein he has confirmed the factum of compromise and expressed his no objection on acquittal of the accused facing trial. He further stated that deceased was un-married.

Hence, keeping in view the factum of compromise between the parties and the offence U/S 302 PPC being compoundable in nature within the meaning of 345 CrPC, the accused facing trial Miraj Gul and Subhan Ud Din are acquitted of the charges levelled against

11/ 06-12-19

ATTESTED

17 DEC 2019

(Examiner)

Session Court Peshawar

14

them. Accused are on bail the and their sureties are discharged from the liability of bail bonds.

Case property if any be kept intact till the expiry of period of appeal/revision whereafter it be disposed of in accordance with law.

File be consigned to record room after its completion.

Announced:
06-12-2019

Wajid Ali Khan
Additional Sessions Judge -IX,
Peshawar.

No:	23906
Date:	17-12-19
Name:	
Word:	4000
Page:	218/2/ea
Sign:	
Date of Issue:	17-12-19
Date of Receipt:	17-12-19

~~CERTIFIED TO BE TRUE COPY~~

7 DEC 2019

(Examiner)
Copying Agency Session Court
Peshawar

To,

The Secretary to Government of Khyber Pakhtunkhwa
Local Government Department
Peshawar.

H (15)

Subject: DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 09/09/2008
PASSED BY THE DISTRICT COORDINATION OFFICER CITY
DISTRIC GOVT, PESHAWAR, WHEREBY THE APPELLANT WAS
AWARDED MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE.

Respected Sir,

My Humble Submission Are As Under.

1. That the applicant was appointment as secretary Union Council in BPS-6 on 30/04/1988 and has rendered more than 18 years service with unblemished service recorded.
2. That on 19/09/2006 the applicant was falsely charged in case F I R No 787 u/s 302/34 PPC, P S Badaber Peshawar.
3. That the applicant submitted an application to the District Coordination Officer Peshawar for the grant of earned leave from 1st November 2006.
4. That the District Coordination Officer City District Government Peshawar has not been acceded the earned leave application of the applicant Vide letter No 20750 dated 30/11/2006.
5. That the District Coordination Officer City District Government Peshawar vide office order No 20917/DCO (P) EA dated 05/12/2006, suspended the applicant from service with immediate effect, however the applicant can be allowed to draw the pay and allowance according to the rule during the period of suspension.

ATTEST

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6. That the applicant was charged by the district coordination officer city district Government Peshawar on 16/12/2006 in inquiry was insisted in this regard.
7. That the show cause notice was issued to the applicant on 13/08/2008.
8. That the applicant was imposed major penalty of dismissal from service by the District Coordination Officer City District Government Peshawar vide order 09/09/2008.
9. That the applicant was acquitted by the competent court of law from all charges levelled against them in case FIR No. 787 dated 19/09/2006 U/S 302, 324 PPC P.S Badaber vide order and judgment dated 06/12/2019.(Copy of Judgment is attached with).
10. That the applicant being innocent and wrongly been dismissed by the District Coordination Officer City District Government Peshawar is going to file instant departmental appeal for reinstatement of the applicant with all back benefit on the following grounds.

Grounds:-

A. That the dismissal order of the applicant dated 09/09/2008 is illegal, unlawful, void -ab- initio and against the judgments of august Supreme Court of Pakistan as well as judgments of the Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar.

B. That no show cause notice was serve upon the appellat by the inquiry officer.

C. That the appellat was not provided fair chance of personal hearing rather the applicant was conduct unheard, that no codal formalities regarding imposing major penalty in the shape of dismissal from service was followed which is against the well settle principal of law and natural justice.

ATTESTED

D. That no publication into ^{the} leading news paper was made which is mandatory requirement in such like cases.

E. That the applicant has already been acquitted from all the charges in a criminal case FIR No. 787 dated 19/09/2006 U/S 302, 324 PPC P.S Badaber vide order and judgment dated 06/12/2019, therefore no allegation substantive against the applicant.

F. That the District Coordination Officer City District Government Peshawar, opted to proceed with the matter in an un necessary hast manner merely on the registration of criminal case and without waiting of the decision of criminal court.

G. That no major penalty could be imposed without regular inquiry or by dispensing with requirement of regular inquiry but this golden principal has been violated in the instant case.

H. That the applicant is entitled for reinstatement in his service after acquittal from Criminal case as per judgment of the august Supreme Court of Pakistan reported as 1998 SCMR 1993 and 1999 SCMR 2870 and Supreme Court judgment dated 23/11/2006 in Civil Petition No. 1097-L/2004 Superintendent Engineer GEPCO Sialkot vs Muhammad Yousaf and others judgments reported as 2009 SCMR 1197 & PLD 1996 SC 840 , PLJ 2010 Tr.C. (Services) 103 [Punjab Service Tribunal, Lahore] and another judgment dated 06/01/2020 of the Khyber Pakhtunkhwa Service Tribunal in Service Appeal No. 673/2013 Rehmat Ali VS DPO Bunir and others

I. That the applicant is entitled to reinstate in service as per judgment of the Supreme Court of Pakistan in a case reported as 1996 SCMR 1185 titled Hameed Akhtar Niazi vs The Secretary Establishment Division, Government of Pakistan "If the Service Tribunal or Supreme Court decides a point of law relating to the terms of Service of a Civil Servant which covers not only the case of civil servant who litigated, but also of other civil servants, who may have not taken any legal proceedings. in such a case, the dictates and

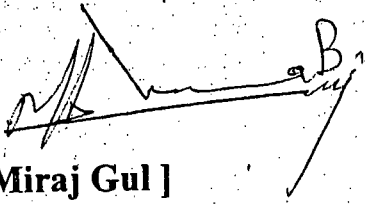
STED

(18)

rule of good governance demand that the benefit of such judgment by Service Tribunal/ Supreme Court be extended to other civil servants, who may not be parties to the litigation instead of compelling them to approach the Service Tribunal or any other forum”.

It is, therefore, most humbly prayed that on acceptance of instant departmental appeal the applicant may very kindly be re-instated in his service in the light of various judgments of the superior Courts as well as Honourable Tribunal mentioned above with all back benefits

Dated: 23/01/2020



[Miraj Gul]

Ex – Union Council Secretary
U/C Daag District Peshawar
r/o Mohalla Zamindaran Kandi Sultan
Khel village Bazid Khel Peshawar
Cell No. 0306-3971825

ATTESTED
n

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2020

Meraj Gul

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Local Gont: Dept:

(RESPONDENT)
(DEFENDANT)

I/We Meraj Gul

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** 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 cost. 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.

Dated. ____/____/2020

CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI

MIR ZAMAN SAFI

&

AFRASIAB KHAN WAZIR
ADVOCATES

OFFICE:

Flat No.4, 2nd Floor, Juma Khan
Plaza, near FATA Secretariat,
Warsak Road, Peshawar.
Mobile No.0345-9383141

"B"

GOVT: OF KPK
Diary No
Date
LGE & RND

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

No.

4934

20

Appeal No. of 20

Mr. Meraj Gul

Appellant/Petitioner

- The Secy Local Govt. KPK Pesh.

Respondent

1

The Secretary Local Govt. Elections &

Respondent No.

Notice to:

- Rural Development Dept. Peshawar.

5/4/22

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.

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.....

31th

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

March 22

Pay of.....20

(For Reply)

Handwritten signature/initials

Handwritten signature

Registrar

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

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. *Recd*

4934 *20*
Appeal No. *5* of 20

the Secy. Local Court Kpu Appellant/Petitioner
Versus
2 Respondent

the Director Local Court: Deptt:
Respondent No. *Peshawar*

Notice to: —

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 appelland/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..... *7/11*

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

Day of.....20

(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

Regd
No.

Appeal No..... 4934 of 20 20

Moraj Gul Appellant/Petitioner

Versus

The Secy. Local Govt, KPt Respondent
Respondent No..... 3

Notice to: - The Assistant Director LG & RD
Dept. 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..... 28/1/22 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.

Pre-Admission Notice

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.. 7/12

Day of..... Dec 20 21

(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, S.B
PESHAWAR.

No.

Appeal No. 4934 of 20 20

H.
10-12-21

M. A. Gul Appellant/Petitioner

The Secy. Local Govt. UPK Respondent

Respondent No. 1

Notice to: -

The Secretary Local Govt. Elections & Rural Development Deptt. 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 28/1/22 at 8:00 A.M. If you wish to urge any thing 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 a forementioned, 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.

Pre-Admission Notice

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 7th

Day of.....Dec.....20 21

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.

Recd

Appeal No..... 4934 of 20 20

Mr. Meraj Gul Appellant/Petitioner
Versus

The Secy Local Govt. Kp Pesh: Respondent
Respondent No. 2

Notice to: The Director Local Govt, Dept: 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..... 22/6/2022at 8.00 A.M. If you wish to urge anything against the appellan/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.....

Day of..... March 2220

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(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.

20

Recd
No.

4934
Mr. Meraj Gul

Appeal No..... of 20

The Secy Local Govt, Kp Pesh. Appellant/Petitioner

Versus

3

The Assistant Director LG & RD Dept. Respondent
Respondent No.....
Peshawar.

Notice to: —

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, on 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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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.....
31/3

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

March 22

(For Reply) Given under my hand and the seal of this Court, at Peshawar this.....

Day of.....20

P

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.