Form- A

FORM OF ORDER SHEET Court of ______

	Case No	904/ 2022
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/06/2022	The appeal of Mr. Arshad Ali presented today by Mr. Muhammad Irshad Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.
2-	15-6-22	This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on 28-6-22. Notices be issued to appellant
		and his counsel for the date fixed. CHAIRMAN
28.0	bu ac	Junior of learned counsel for the appellant and quested for adjournment as his senior counsel is sy in honn'ble Peshawar High Court. Request cepted. To come up for preliminary arguments on .08.2022 before S.B. (Fareeha Paul) Member (E)

BEFORE THE KHYBER PAKHTOON KHAWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. <u>904</u> /2022.

Arshad Ali

...(APPELLANTS)

VERSUS

Secretary Excise, Taxation & Narcotics Control KPK etc

....(RESPONDENTS)

INDEX

S.NO	DESCRIPTION	ANNEXURE	PAGES
1-	Appeal & Affidavit		1-5
2-	Copy of FIR # 613 with better copy	A, A-1	6-7
3-	Copy of dismissal order	В	8
4-	Copy of CNIC	С	9
5-	Copy of Service Card	D	10
6-	Copy of Departmental Appeal	E	11
7-	Wakalat Nama / Power of Attorney		12

Petitioner / Complainant

Dated: __/06/2022.

Through Counsel

(Muhammad Irshad Khan)

Advocate High Court Distt: Jourts Nowshera

BEFORE THE KHYBER PAKHTOON KHAWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.	/2022.	•	•	
Arshad Ali S/o Khaqa	n R/o Mohall	ah Bara Khel, N	Nowshera Kalan	Tehsil &
District Nowshera	·	(A	PPELLANTS)	

VERSUS

- 1- Secretary Excise, Taxation & Narcotics Control, KPK.
- 2- Director General Excise, Taxation & Narcotics, Control, KPK
- 3- Regional Director, Excise, Taxation & Narcotics, Control, Mardan
- 4- Excise, Taxation Officer Charsadda

.....(RESPONDENTS)

SERVICE APPEAL U/S 4 OF THE KHYBER PAKHTUN KHAWA SERVICE TRIBUNAL ACT AGAINST THE NON ACTION ON THE DEPARTMENTAL APPEAL DATED 23.02.2022 OF THE APPELLANT WHICH WAS FILED AGAINST THE IMPUGNED ORDER DATED 17-02-2022 PASSED BY DIRECTOR GENERAL EXCISE, TAXATION NARCOTICS, CONTROL, KHYBER PAKHTUN KHAWA, PESHAWAR.

PRAYER IN APPEAL:-

BY ACCEPTING THIS APPEAL IMPUGNED ORDER DATED 17-02-2022, PASSED BY DIRECTOR GENERAL EXCISE & TAXATION / RESPONDENT NO. 02 MAY PLEASE BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED ON HIS SERVICE WITH ALL BACK BENEFITS.

RESPECTFULLY SHEWETH:-

- That, the appellant belongs to Bara Khel Tehsil & District Nowshera and was appointed as chowkidar excise taxation and narcotics control KPK.
- 2. That, since his appointment i.e since 2013 and he performed his duty with devotion dedication and with entire satisfaction of his high-ups and during his 6 year service no complaint or show cause notice was served upon him.
- 3. That, the appellant belongs to a poor family and no source of income except this service.
- 4. That, the appellant was implicated in the fake and fabricated case FIR No. 613 Dated 07-07-2018 under section 324 PPC in which the appellant was absconding for the period of 11 months. (Copies of FIR No. 613 alongwith better copy is attached as *annexure A & A-1*).
- 5. That, the appellant was released on bail from the high court on 04-10-2019.
- 6. That, the first explanation was called by the director (ADMN) on 09-07-2019, while the appellant was behind the iron rods at that time.
- 7. That, during the departmental inquiry the appellant was in jail.
- 8. That, the appellant facing the trial in the court of ASJ-V Nowshera after his bail from high court.
- 9. That, the appellant performed his duty regularly after his release on bail from high court.
- 10. That, later on appellant came to know that he has been removed from his service vide order dated 17-02-2022 by director general excise taxation and narcotics control KPK. (Copy of removal order dated 17.2.2022 is attached as *annexure B*).
- before secretary excise taxation and narcotics control KPK but Action has been traced (Copies CNIC Card, Service Card and departmental appeal are attached as annexure C, D & E).

12. That, appellant preferred to move this honorable tribunal though filing of the instant appeal for the following amongst other Grounds:-

GROUNDS:-

- A- That, the impugned order of removing from service dated 17-02-2022 is against the law and facts on record, hence liable to be set aside.
- B- That, during the departmental inquiry the appellant was in Jail due to which he could not explain his stance to the inquiry officer and he was condemned unheard.
- C- That, the appellant has been wrongly penalize as dismissed from service.
- D-That, the appellant was never serve with any notice and he did not know that the departmental inquiry has been conducted against him.
- E- That, the quantum of punishment i.e removing from service, is much harsher than the gravity of allegation leveled against the appellant.
- F- That, respondents have awarded maximum punishment to the appellant and these have cause serious miscarriage of justice.
- G- That, the appellant seeks leave of this honorable tribunal to raise additional grounds at the time of arguments.

ACCEPTING OF THIS APPEAL THE IMPUGNED ORDER OF RESPONDENT DATED 17-02-2022 IMPOSING MAJOR PENALTY OF REMOVAL FROM SERVICE MAY VERY GRACIOUSLY BE SET ASIDE AND THE APPELLANT MAYBE REINSTATED INTO SERVICE ALONGWITH ALL BACK BENEFITS.

Petitioner Aug LAD. N.

Dated: 09/06/2022.

Through Counsel

(MUHAMMAD IRSHAD KHAN)

Advocate, High Court Distt: Courts Nowshera

Advocate Stranger Str

CERTIFICATE:-

As per information provided by my client that this is the first appeal against removal order the same subject on grounds before this Honorable Court and no such like appeal is pending or has been filed earlier before any Court of law.

BEFORE THE KHYBER PAKHTOON KHAWA SERVICE TRIBUNAL PESHAWAR

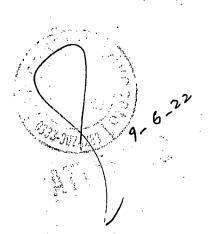
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Arshad Ali	•			
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- · · · ·			•	
Service Appeal No	/2022.			

VERSUS

Secretary Excise, Taxation & Narcotics Control KPK etc(RESPONDENTS)

AFFIDAVIT

I, Mr. Arshad Ali S/o Khaqan R/o Mohallah Bara Khel, Nowshera Kalan Tehsil & District Nowshera, do here by solemnly declare and on oath that the contents of the accompanying *APPEAL* are true and correct to the best of my knowledge and belief and nothing has been concealed form this honorable Court.



DEPONENT

(ARSHAD ALI) CNIC No: 17201-5715385-7

Annen - A البندائي اطلاعي ربور ط لعني الر 329035 (م 346- 346) التراكي اطلاع نبئت جرم قابل دست أندازي پوليس ر پورث شده زيرد فعر ١٥ مجموعه ضابط فوجداري المستونة علام المرافع من ارده من ازده من از

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ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شده زیرد فعه ۱۵۴ مجموعه ضابط فوجداری

ضلع:۔ نوشهره

Anexan-A-L

تھانہ:۔ نوشہرہ کلاں

تاريخ: ـ 2018-07-07ونت 15:30 يج

علت نمبر: -613

اِد	تاریخ ووقت رپورٹ	07-2018 بيكي كرچه 2018-07-07ونت 16:40 بيكي كالم يولي الماء 16:40 بيكي الماء الماء 16:40 بيكي الماء الم
_٢	نام وسكونت اطلاع د مهنده مستغيث	ستارخان ولدسبزعلی بعمر 50 سال ساکن مانه خیل نوشیره کلان
		17201-5836659-5
		0344-9142517
٣	مخضر كفيت جرم (معمد دفعه) حال اگر پچھليا گيا ہو۔	324 PPC
ام	جائے وقوعہ فاصلہ تھانہ سے اور سمت	راسته رونده نزد جنگریز نیوب ویل اراضیات
	نام وسكونت ملزم	ارشدولدخا قان ساكن باره خيل
-`	کاروائی جو تفتیش کے متعلق کی گئی اگراطلاع درج کرنے میں	براسدگی تحریری مراسله پرمقدمه قائم کیاجا تاہے
	تو قف ہوا ہوتو وجہ بیان کرو۔	(· · · · · · · · · · · · · · · · · · ·
-4	تھانہ سے روائلی کی تاریخ ووقت	يسيل ڈاگ

ابتذائی اطلاع فیجے درج کرو: تحریری مراسلہ بنا ب مراد خان ا ASI انچارج برست کا شیبل فیم 30 موصول ہوکر بہ مضمون ذیل ہے بخد مت جناب ASI صاحب نوشم وہ کلال جسب اطلاع بمقام DHQ ہیتال فوشم وہ کلال آکر جہال پر مجروح ستار خان والد برطی ہم وہ کال سکنہ مانہ شیل فوشم وہ کلال آکر جہال پر مجروح ستار خان ہوں دیورٹ کرتا ہے کہ میں نے بہیئس چرانے کے دریا ہے کے تاریخ ہوائی پر قت وقو عہ پر اٹن سرتاج خان ہم 29 سال موجود پا کر مجروح ستار خان ہوں دیورٹ کرتا ہے کہ میں نے بہیئس چرانے کے دریا ہے کے تاریخ ہوائی پر قت وقو عہ بھا م جائے وقو عبدالا پر بہیئچ قو محمی ارشد ولد خاتان ساکن بارہ خیل فوشم و کلال سلم بہیتوں کھڑے سے الیا کہ آبال راست سے کیوں آئے ہوا ورساتھ ہی ہما اس ساتھ بھی کا اور سر پر ڈئی ہوا ہوں اور پھر پہتوں ساتھ بھی کا دریخ ہوا ہوں وجہوعاد پر داست پر آئی ہوا ہوں اور پھر پہتوں سے مجھے پر باادارہ قبل فائر تھی کرے جن کی فائر تھی سے بائی پائی ہوا ہوں واقع بندا شاہد کی نے دیکھا ہوں وجہوعاد پر داست پر آئی ہوا ہوں بالا کی تا بادارہ قبل فائر تھی کرنے کا چشم دید ہوں نہ کورہ وارشد کے دیویدار ہوں نشان اگو تھا بجہد ہر آئی ہر آئی سرتاج خان امروک کی دیورٹ خور اگو تھا بجہد ہر آئی ہورٹ خور اگو تھا بجہد سے کہوں ادروکاروائی پولیس حسب گفتہ سائل رپورٹ حق دریخ بالا کی تائی ہورٹ کے نشو شر دیر خور کاروائی تھا نہ آئی وہر سرتا ہوں مقد بین کرتا ہوں صفحوں دیورٹ جسم بالا پائی جاتی ہے بجروح کے نقشہ فرد برطابی زشات مرتب کرے والد آن کے نشان الم کرتا کی دریخ کاروائی تھا نہ آئی کی مراسلہ بغرض قائی مواسلہ بغرض قائی مقد مدرست کا شیل فیم 20 ارسال تھا نہ ہم دریخ درجنوکاروائی تھا نہ آئی کی مراسلہ بغرض قائی مواسلہ بغرض قائی مقد مدرست کا شیل فیم 20 ارسال تھا نہ ہم دریخ درجنوکاروائی تھا نہ آئی کری مراسلہ بغرض قائی مقد مدرست کا شیل فیم 20 ارسال تھا نہ ہم مدرین درجنوکاروائی تھا نہ آئی کری مراسلہ بغرض کری اور اس کے دورہ کرانے کو کہوں کرانے کو کر کرانے کو کر کے کو کر کو کرانے کو کرانے کو کرنے کرنے کو کرانے کو کر کے کو کر کرنے کرنے کرنے کرنے

Sd-x-x-x-

PS: NK

07-07-2018

EXCISE, TAXATION & NARCOTICS CONTROL, KHYBER PAKHTUNKHWA, PESHAWAR.

Augal Complex, Shami Road, Peshawar Cantt Phone Nos. 091-9212260-921120

ANDERE

Dated Peshawar the

/Estb/XXXV-D-82 Mr. Arshad Ali, Chowkidar, Excise & Taxation Office Charsadda has remained absent from his official duties since long without any approval of the Competent Authority.

In this regard, explanation was called by Director (Admn) Excise Taxation & Narcotics Control Khyber Pakhtunkhwa. Peshawar vide letter No.321/Estab dated 09-07-2019, however, he failed to respond. Resultantly, he was placed under suspension and an inquiry was initiated vide this office order No.3414/Estb/XXXV-D-82 dated 30-09-2019 , wherein Director Mardan Region, Excise, Taxation & Narcotics Control was nominated as inquiry officer. But he neither appeared before the inquiry officer nor anything has been heard from his end.

Subsequently, this office directed Regional Director Excise, Taxation \$ Narcotics Control Mardan Region vide this office letter Noi8529/Estab dated 29-01-2020 ic submit the fact finding report and recommendation if any. However, as per the correspondence with Regional Director. Mardan Excise Taxation & Narcotics Control, he has been summoned/ directed several times to resume the official duties and explain reasons his prolong absentees but he failed to turn-up.

Accordingly proceedings under Rule-9 of the Khyber Pakhtunkhyva Government Şervants Efficiency & Discipline Rules 2011 was initiated and notice via registered post vide this Office Letter No. 9083/Estb/P File; dated 12-02-2020, was sent to both on his home and official addresses to resume his official duties within lifteen days and to explain his position with respect to the prolonged unauthorized absence, but he failed to turn up As fitnitier taid down in the ibid rule, proclamation in two leading news papers i.e. Not Basil dated, 23-01-2022 and Daily Aaj Newspaper, dated, 22-01-2022, was also published givino him further chance to resume his official duty within fifteen days and explain his position However, despite the lapse of the dead he he that he resumed his official duty nor replied. this regard.

In view of the above, the undersigned is left with no other option but is proceed under Rule 4(1)(b)(iii) of the Khyber Pakhtunkhwa Government Servants Efficiency Discipline Rules, 2011 & to impose the major penalty of removal from service upon Arshad All Chowkidai (BPS-03), office of the Excise and Taxation officer, Charsadda with immediate

> DIRECTOR GENERAL. EXCISE, TAXATION & NARCOTICS CONTROL KHYBER PAKHTUNKHWA, PESHAWAR

FAKS - 4 /Estab/XXXV-D-/92

Copy forwarded for information to the:-

Accountant General, Khyber Pakittunkhwa

Director (Admn) Excise, Faxation & Narcotics Control Khyber Pakhtuhkhyla

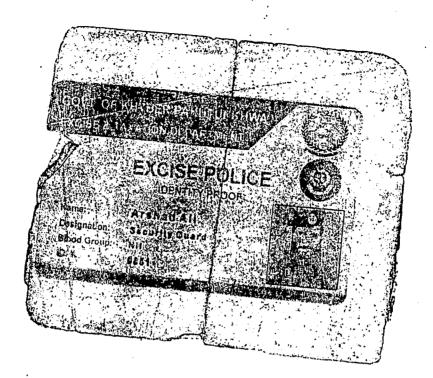
Begional Director Excise, Taxation & Narcollus Control, Mardan Region-

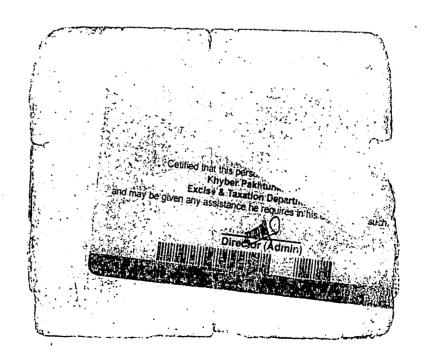
Excise and Taxation Officer Charsadda w/r to his letter No.4644/ET&NC dated 05.01.2022.

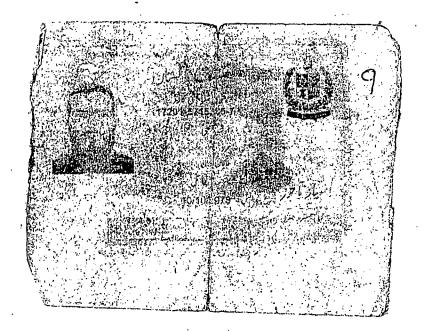
District Accounts Officer, Charsadda,

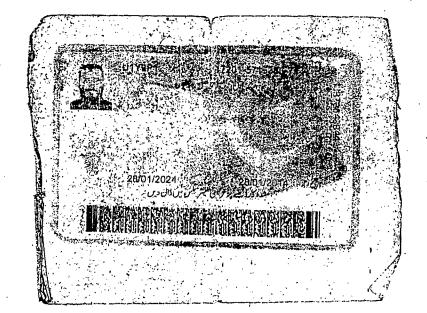
Arshad Ali S/o Khakan Khan R/o Mehallah Bala Newshera Kalan District Nowshera.

Personal File.









EXCISE, TAXATION & NARCOTICS CONTROL, KHYBER PAKHTUNKHWA, PESHAWAR. Augaf Complex Shami Road, Peshawar Cantt Phone Nos. 091-9212260-921120910

ORDER

Dated Peshawar the 7/2/2022.

No 9567 /Estb/XXXV-D-82. Mr. Arshad Ali. Chowkidar. Excise & Taxation Office Charsadda has remained absent from his official duties since long without any approval of the Competent Authority.

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DIRECTOR GENERAL, EXCISE, TAXATION & NARCOTICS CONTROL KHYBER PAKHTUNKHWA, PESHAWAR

/Estab/XXXV-D-/2

Copy forwarded for information to the

- 1 Accountant General. Khyber Pakhtunkhwa
- 2 Director (Admn) Excis axation & Narcotics Control Khyber Pakhtunkhw Peshawar,
- 3. Regional Director Excise Taxation & Narcos Control Mardan Region
- 4.Excise and Taxation Officer Charsadda wir to his letter No.4644/ET&NC dated
- 5. District Accounts Officer Charsanda
- 6Arshad Ali Slo Khakan Khan Ro Mohallah Bala Nowshera Kalan Disti Nowshera.
- 7 Personal File

مر ون من فی سرم مرد المسالر لدلست و نارتو نسس استرون عشر مختون مو عنوان . ایس ماراد ماین کروک ایمالی: الزوائل كى ١٥٠ كى يا . كر مين قسمى ارسترى بلور جواليدار امر مرے والہ کو فاو ڈال ۔ جمعن کر وجر میں میں رن وسمی کمنے ویم بھوئی۔ مس کی رحبر سے سری ذرینی کر مسینا تی میں صدیدرا میوا . ایسی کا مدافظ مسافظ الی کرسیانی کی وجر سے مربرے والرہ اور گفروالی میں ر مر کیا ال مرست منون مين معرا ميوكر مسرا و مركم ان من منشل ميو كنا - ادر اسي 4. Our BA CB 1 1/2 / 1/2 / 1/2 / 2018 2/ 10 Se / 1/2 Se / 1/2 / 2/2 Se / 2/ مان مراع د فرا ما ما مراد المرام المون المون المرام المون المو 1/3/0/201 & 17/2/2022-19/2 2967/ESIb/XXXX-D-23, 1 i Johnson العرف المرف المرف المرف المواد المعالي المعالي المعالي المعالي المعالية الم النزائن مامان مع الى سى بعد كر الى المرائل در والست در الله المراق دعا كو الله الله المرام الموج على الله المرادة مان ہے۔ زر بعر معامی کی کوئی اور درنور سنی ہے۔ Agripa A. Ali ol vell الغي ت مورار ارست على محاسرار الكرائز النسين أن عوراره. 0.3/2/2022 210

3299 236-8888302) (*lo* دارس ایک مقدمه مندر جه عنوان بالامیں اپنی طرف سے واسطے پیروی وجوارب دی کاروائی متعلقه ان مقام ____ ورار ملاحم الرسمار حال الروسين وكيل مقررك اقرار کیاجا تاہے کہ صاحب موسوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کوراضی نامہ کرنے وتقسرر ثالث وفيصله برطف دييغ جُواب دعوي اقبال دعوي اور درخواست از هرقهم كي تصيديان زريل پر دسخط كرنے كااختسار ہوگا، نیز بصورت عدم پیروری یا د گری میطرفه یا اپیل کی برآمد کی اورمنسوخی، نیز دار کرنے اپیل بگرانی ونظر ثانی و پسیسروی كرنے كامخار موكا _اور بصورت ضرورت مقدم بمذكوره كل ياجزوى كاروائى كے واسطے اور وكسيل يامخار قانونى كواسين ہمراہ یاا بینے بچائے تقرر کا اختیار ہوگا،اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات مامسل ہول کے اور اسس کا ماخة پرواخة منظور و قبول جو كارد وران مقدمه مين جُوخرچه برجاندالتوات مقدمه كے سبب سے جو كاو ، وكيل موصوف وصول كرنے كاحقدار ہوگا كوئى تاریخ بیشى مقام دور یامدے باہر ہوتو وكیل صاحب پابندید ہوں مگے كه بیروى مذكوره كریں البذا وكالت نامدككوديا تاكەمندىرے۔

گــوا ه شــد

. نونط: اس وكالت نامه كي فو لو كا بي نا قابل قبول جو كي ـ

as fre Altested