

07.05.2019

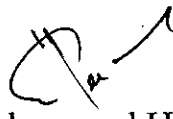
None present on behalf of the appellant. Notice be issued to appellant and his counsel for attendance and preliminary hearing for 25.06.2019 before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

25.06.2019

Learned counsel for the appellant present, seeks withdrawal of the present service appeal and submitted application to this effect.

In view of above, the present service appeal is hereby dismissed as withdrawn. No order as to costs. File be consigned to the record room.


(Muhammad Hamid Mughal)
Member

ANNOUNCED.
25.06.2019

Handwritten notes:
25-6-19
S.B.

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1950

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20.12.2018
29.01.2019

Appellant absent. Learned counsel for the
appellant absent. Adjourn. To come up for preliminary

hearing on 29.01.2019 before S.B.

29.01.2019 before S.B.


Member

29.01.2019

Counsel for the appellant present and requested for adjournment.

Adjourned. To come up for preliminary hearing on 20.02.2019 before S.B.

81/8/2019


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

20.02.2019

Learned counsel for the appellant present. Heard.

Learned counsel for the appellant was confronted with the point that how the present service appeal is maintainable when the same is hopelessly time barred. Learned counsel for the appellant seeks adjournment for proper assistance. Adjourn. To come up for preliminary hearing on 04.04.2019 before S.B.


Member

04.04.2019

None for the appellant present. Addl: AG for respondents
Due to general strike of the bar, the case is adjourned. Case to
come up for further proceedings on 07.05.2019 before S.B.



(Ahmad Hassan)
Member

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1022/2018

S.No.	Date of order proceedings, (w/)	Order or other proceedings with signature of judge
1	2	3
1	<p>16/08/2018</p> <p>17-8-2018</p> <p>11</p>	<p>The appeal of Mr. Ihsan Ullah presented today by Mr. Muhammad Suleman 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;"><i>[Signature]</i> REGISTRAR 16/8/18</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>1-10-2018</u>.</p> <p style="text-align: center;"><i>[Signature]</i> CHAIRMAN</p> <p>01.10.2018</p> <p>Clerk of the counsel for appellant present and requested for adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for preliminary hearing on 05.11.2018 before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> (Muhammad Amin Khan Kundi) Member</p> <p>S-11-2018</p> <p><i>Due to Retirement of Honorable Chairman the Tribunal is non functional therefore the case is adjourned to come up for the same on</i></p> <p>21-12-2018</p> <p style="text-align: right;"><i>[Signature]</i> Reader</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. 1022 /2018

Ihsan Ullah.....Appellant

V E R S U S

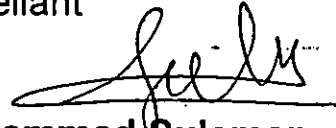
Govt. of KPK through Chief Secretary & others..... Respondents

I N D E X

S#	Description of Documents	Annex	Pages
1.	Service		1-5
2.	Service		1-5
3.	Copy of the appointment order	A	6
4.	Copy of letter to D.C.O	B	7
5.	Copy of Leave Application	C	8
6.	Copy of the Order dated 25.02.2014	D	9
7.	Copies of the Departmental Appeal & Order dated 26.07.2018	E & E1	10-13
8.	Wakalatnama		14

Through


Appellant


Muhammad Suleman
Advocate
High Court, Peshawar
Cell No.0332-9279437

Dated: 15.08.2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1290

Dated 16-8-2018

Service Appeal No. 1022/2018

Ihsan Ullah S/O Muhammad Umar R/O New seer Aman kaley,
Jahangir abad P.O. Jandi kalpani, Tehsil Takht bai Disrict
Mardan.....Appellant

VERSUS

1. Govt. of KPK through Chief Secretary Civil secretariat,
Peshawar.
2. Secretary to Govt. of KPK Public Health Engineering
department, Civil Secretariat, Peshawar.
3. Chief Engineer (South) Public Health Engineering
Department KPK Peshawar.
4. Chief Engineer (North) PHED Peshawar.
5. Executive Engineer PHE Division Battagram.
6. Superintending Engineer PHE Circle Abbottabad.
7. Distrct Accounts Officer Battagram.....Respondents

Filed to-day

[Signature]
Registrar

16/8/18

Appeal U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order No. SO (Estt)/PHED/17-3/2017-18, Dated Peshawar, the July 26, 2018 whereby the Departmental Appeal Dated 18-05-2018 of the appellant against the order/notification bearing No. No.05/E-9/PHE Dated Peshawar, the 25 /02/2014 whereby appellant was removed from service, has been dismissed/rejected.

PRAYER IN APPEAL:

On acceptance of this appeal the impugned orders No.SO(Esst)/PHED/17-3/2017-18 Dated Peshawar, the July 26, 2018 and No. 05 /E-9/PHE Dated Peshawar, the 25 /02/2014 may kindly be set aside and the appellant be re- instated in service with all back benefits.

RESPECTFULLY SHEWETH:

1. That the appellant joined the Public Health Engineering Department Khyber Pakhtunkhwa, Peshawar, in the capacity of junior clerk BPS-7 in the office of the Executive Engineer, PHE Division Battagram. (Copy of the appointment order is annexed as annexure "A")
2. That the appellant was performing his duties with the utmost devotion and dedication and there were no complaints against the appellant from his High ups.
3. That during the course of his employment, the family of the appellant became engaged in enmity with their co-villagers and the situation became so intense that there were serious risks to the life of the appellant.
4. That facing serious threats to life, the appellant applied for Free Arm Licenses which application was forwarded to the D.C.O. Mardan for necessary action, vide letter No. 02/E-4/PHED/BTM dated Battagram. The, 06/07/2012. (Copy of the letter to D.C.O. is annexed as annexure "B")

5. That in order to save his life, the appellant had to leave his village and take leave from his office. For this purpose on 18/12/2012, the appellant left an application for leave in his office addressed to the Executive Engineer PHE Division Battagram but could not stay due to threats to his life. (Copy of the Leave Application is annexed as annexure "C")
6. That through the efforts of the elders, the enmity of the appellant and his family with their co-villagers came to an end where after the appellant reported to his office for duty on 23/04/2018 where he came to know that he had been terminated from service on 25/02/2014. Vide order No. 05 /E-9 /PHE. Dated Peshawar, the 25 /02/2014. (Copy of the order dated 25/02/2014 is annexed as annexure "D")
7. That the appellant filed departmental appeal/representation against the order dated 25/02/014 which was dismissed through order dated 26/07/2018. (Copies of the Departmental Appeal and Order dated 26/07/2018 are annexed as annexure "E-E/1")
8. That feeling aggrieved of the orders dated 25/02/2014 and 26/07/2018, the appellant invokes the appellate jurisdiction of this Honourable Tribunal for setting aside the impugned orders on the following grounds inter alia:

GROUNDS:

- A. That the impugned orders are illegal, unlawful, against the facts and circumstances of the case of the

appellant hence not tenable in the eyes of law and are liable to be set aside.

- B. That the appellant had left application for leave at his office which application was concealed by the respondents/department and the appellant was removed from service.
- C. That the appellant has been condemned unheard as no opportunity of hearing has been provided to the appellant neither before nor at the stage of departmental appeal in which the appellant had also requested for personal hearing.
- D. That the appellant never gave any opportunity of complaint to his high-ups/superiors which fact bears testimony to the good conduct of the appellant.
- E. That the law relating to the removal of Government employees from service has not been followed in the case of the appellant.
- F. That the post against which the appellant was appointed is still lying vacant and the appellant, having good physique, the experience and the requisite qualifications fully deserve to be re-instated in the service.
- G. That the impugned orders are unjust, arbitrary and violative of all norms of justice hence the same are liable to be set aside by this Honourable Tribunal.

- H. That the appellant is a married person and belongs to a poor family who has to support his family including minor children and have no other means of income.
- I. That any additional grounds, with leave of this Honourable Tribunal, will be raised at the time of arguments.

It is, therefore, humbly prayed that on acceptance of this appeal the impugned orders may kindly be set aside and the appellant may kindly be re-instated in service with all back benefits. Any other relief to which the appellant is entitled under the facts and circumstances of the case may also be granted to the appellant.

[Signature]
Appellant

Through *[Signature]*
Muhammad Suleman
Niaz Ali, Advocates.

Dated: ___/___/2018



AFFIDAVIT:

I, Ihsan Ullah S/O Muhammad Umar R/O village Miraman Tehsil Takht bai, District Mardan do hereby solemnly affirm and declare on oath that the contents of the accompanying Service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable tribunal.

[Signature]
DEPONANT

(6) *Amir* A

OFFICE OF THE CHIEF ENGINEER (SOUTH)
PUBLIC HEALTH ENGG: DEPARTMENT
KHYBER PAKHTUNKHWA, PESHAWAR

No. 14 / E-4 / PHE
Dated Peshawar, the 26 / 03 / 2012

OFFER OF APPOINTMENT

On the recommendation of Departmental Selection Committee, Mr. Ihsan Ullah S/O Muhammad Umar is hereby offered a post of Junior Clerk BPS-7 (Rs.5800-320-15400) plus usual allowances as admissible under the rules in the office of the Executive Engineer, PHE Division Battagram subject to the following Terms & condition mentioned hereunder.

TERMS & CONDITIONS

- 1 He will get pay at the minimum of BPS-7 (Rs.5800-320-15400) Plus usual allowance as admissible under the Rules. He will also be entitled to the annual increment as per existing policy.
- 2 He shall, be governed by the Khyber Pakhtunkhwa Civil Servants Act-1973 and the laws applicable to the Civil Servants and Rules made there under
- 3 He shall, for all intents and purposes, be a civil servant, except for the purpose of pension or gratuity. In lieu of pension and gratuity, he will be entitled to receive such an amount contributed by you towards contributory provident fund (C.P.F) alongwith the contributions made by the Government to his account in the said fund, in the prescribed manner and rates, fixed by the Government from time to time.
- 4 His employment in the Public Health Engg: Deptt: is purely temporary and his services are liable to be terminated without assigning any reasons at fourteen (14) days prior notice or on the payment of 14-days salary in lieu of the notice. In case he desires to resign, 14 days notice will be necessary or in lieu thereof 14-days pay will be forfeited.
- 5 He will, initially be on probation for a period of Two years extendable upto 3-years.
- 6 He will produce a Medical Certificate of fitness from the Medical Superintendent of Distt: Headquarter Hospital Battagram before reporting for duty as required under the rules.
- 7 He will join duty at his own expenses.
- 8 He will have to serve anywhere in Khyber Pakhtunkhwa Province.

If he accepts the post on the above terms & conditions, He should report in the Office of Executive Engineer, PHE Division Battagram within 14-days of the receipt of this offer and produce original certificate in support of his qualification, domicile and health/age etc.

CHIEF ENGINEER (S)

Copy forwarded to the:-

6. Special Assistant to Chief Minister, Khyber Pakhtunkhwa Peshawar
7. Secretary to Govt of Khyber Pakhtunkhwa PHED Peshawar.
8. Chief Engineer (N) Public Health Engg: Deptt: Peshawar.
9. Superintending Engineer, Public Health Engg: Circle Abbottabad
10. Executive Engineer, PHE Division Battagram
5. District Accounts Officer Battagram
6. Mr. Ihsan Ullah S/O Muhammad Umar Village New Miraman Kalli Tehsil Takht Bhai Distt: Mardan.

Ihsan

ATTESTED

(7)

A B
meo

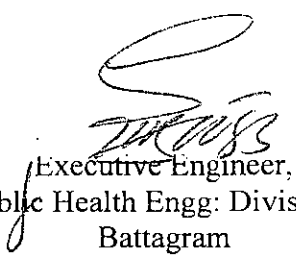
**OFFICE OF EXECUTIVE ENGINEER,
PUBLIC HEALTH ENGINEERING DIVISION BATTAGRAM.**

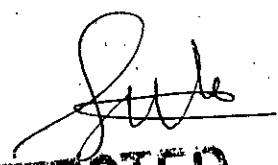
No. 33/E-4/PHED/BTM dated Battagram. The, 07/07/2012.

To.
The District Coordination Officer,
Mardan.

Subject :- **FREE ARM LICENCES.**

Enclosed please find herewith as application in respect of Mr: Ihsan Ullah S/O Muhammad Umar Village New Miraman Kallai Tehsil Takht Bhai District Mardan is Employee Junior Clerk of Public Health Engineering Division Battagram for free Arm License is hereby submitted for further necessary action please.


Executive Engineer,
Public Health Engg: Division.
Battagram


ATTESTED

حسب

حضرت جناب آئیگزیکٹو انجینئر ماہر پبلک ہیلتھ (8) ایجوکیشن ڈویژن ٹنڈرا

جناب عالی!

عوربانہ گزارش کی جاتی ہے کہ سائل آپ کے زیر سایہ بطور جونیئر فلک خرمات
رائف سراج نام دے رہا ہے۔ زیر عرض یہ ہے کہ سائل کو اپنے گاؤں میں
خاندانی دشمنی کا سامنا ہے۔ جسکی وجہ سے سائل کی زندگی کو شریر خطرات
راحق ہے۔ اور سائل اسکا ذکر بار بار آفس میں کر چکا ہے۔ سائل آپ کی حرمت میں
یہ حرمت عرض کرنا چاہتا ہے کہ زیر اپنا ڈیوٹی باقاعدگی سے سرانجام دے سکتا
اور سائل کو مسلسل دھکیاں مل رہی ہے۔ جس کی وجہ سے سائل کو ڈیوٹی پر حاضر ہونا
ناممکن ہے۔ سائل کچھ عرصہ کے لیے کسی محفوظ جگہ منتقل ہونا چاہتا ہے۔ تاکہ سائل کی
جان کو درپیش خطرات ختم ہو سکے۔

لہذا آپ سے عوربانہ التجا ہے کہ سائل کو کچھ عرصے کے لیے
رحمت عطا فرمائی جائے۔ آپ کی بڑی میربانی ہوگی اور سائل
اور سائل کی فیملی تاحیات دعا گو رہے گی۔

خوڑنا
18/12/2019

آپ کا تابع رار

احسان اللہ #1
جونیئر فلک

Sule

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OFFICE OF THE CHIEF ENGINEER (SOI)
PUBLIC HEALTH ENGG. DEPARTMENT
KHYBER PAKHTUNKHWA, PESHAWAR

No. 05 / E-9 / PHE

Dated Peshawar, the 25 /02/2014

OFFICE ORDER

Due to prolong absence, not assuming duty despite of notices issued on his address as well as published in news paper and recommended by the Superintendent Engineer Public Health Engg: Circle Abbottabad vide his No. 01/E-3 dated 12.02.2014 Mr. Ihsanuulah S/O Muhammad Umer Junior Clerk attached to Public Health Engg: Division Battagram is hereby terminated from service with immediate effect.

Chief Engineer (South)

Copy forwarded to

1. The Chief Engineer (North) PHED Khyber Pakhtunkhwa Peshawar w/r to his letter No. 2/E-2/PHE (N) dated 21.02.2014.
2. The Superintending Engineer PHE Circle Abbottabad.
3. The Executive Engineer PHE Division Battagram.
4. The District Accounts Officer Battagram.
5. The official concerned.

[Signature]
Chief Engineer (South)

Chief Engineer (North)

18297
25-02-14
E-9

May file
A.O. 26/2/14
P.C.

[Signature]

[Signature]
ATTESTED

TO

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Ames

The Government of KPK through
Secretary Public health Civil
Secretariat Peshawar.

Subject: Departmental Appeal / representation
Against the order/ notification bearing
No. o5 / E-9 / PHE dated 25/02/2014.

Respected Sir,

The appellant submits as under:

1. That the appellant was appointed against vacant post of junior clerk BPS-07 in the office of Executive Engineer, PHE division Battagram (copy of the appointment order is enclosed as annexure A)
2. That the appellant made his arrival in the office and started performing his duty according to the terms and condition of his service.
3. That the appellant remained very punctual and dutiful during the course of his service and did not violate any terms and condition of his service.
4. That after about 2 years of service the family of the appellant became engaged in enmity with their co-villager

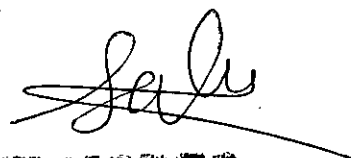

ATTESTED

and the appellant had to leave the place of his permanent residence and went abroad in order to avoid any unpleasant incidence.

- 5. That due to his absence from office, which was because of valid and reasonable cause, the appellant was terminated from service, vide the impugned notification/order. (Copy of the Notification is annexure "B")
- 6. That the appellant requests for his re-instatement on the following grounds inter alia:

Grounds:

- A. That after the appointment the appellant performed his duty according to the terms and conditions of his service and remained punctual during the period of his service.
- B. That appellant never give any opportunity of complaint to his high-ups / superiors which fact bears testimony to the good conduct of the appellant.
- C. That the appellant during the period of his service never committed any act attracting any disciplinary action in terms of the E&D rules.
- D. That the absences of the appellant from service was neither willful nor intentional but due to the circumstances mentioned above.



ATTESTED

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- E. That the appellant was not provided any opportunity of explaining his position and the appellant was condemned unheard.
- F. That the appellant left for abroad under compelling circumstances which was unavoidable because the life of the appellant was at stake.
- G. That the post against which the appellant was appointed is still laying vacant and the appellant fully deserve to be re-instated in service.
- H. That the appellant also request for personal hearing so that he can explain his case / position.
- I. That any additional grounds will raised at time of personal hearing of the appellant

It is therefore most humbly prayed that on acceptance of this departmental appeal the appellant may kindly be re-instated with all back benefits.


Ihsan Ullah S/O
Muhammad Umar
R/O Village Miraman
P.O Jhandi Kalpani
Distt Mardan Tehsil
Takhtbhai
Cell- 03119511177

Dated 18/05/2018


ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT

No.SO(ESII)/PHEID/17-3/2017-18
Dated Peshawar, the July 26, 2018

To

The Chief Engineer (South),
Public Health Engg: Department,
Khyber Pakhtunkhwa Peshawar

Subject: DEPARTMENTAL APPEAL/REPRESENTATION AGAINST THE ORDER/
NOTIFICATION BEARING NO.05/E-2/PHE DATED 25-07-2018.

I am directed to refer to your letter No.10/E-2-B/PHE dated 17-07-2018 on the subject noted above and to inform that the appeal of ex-official concerned has been considered by the competent authority at an appropriate level and regretted, being time barred and devoid of any merit.

SECTION OFFICER (ESTT)

ENDST: NO & DATE AS ABOVE:

Copy forwarded for information to PS to Secretary PHE Department Peshawar.

SECTION OFFICER (ESTT)

Suley
ATTESTED

Before The Hon,ble Service Tribunal Khyber Pakhtun Khwa
Peshawar

Ihsan ullah

vs

Govt of KPK

Application for withdrawal of
The above title Service appeal

Respectfully Sheweth:

- ① That the above title Service appeal is pending in this Honable court and is fixed for today.
- ② That the appellant/applicant wants to withdraw the instant appeal.

It is therefore humbly requested that the instant appeal may be allowed to be withdrawn.

Dated 25/6/19

Through

Applicant/Appellant
Counsel 