

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1094/2018

Date of institution ... 04.09.2018

Date of judgment ... 23.10.2019

Syed Salamat Shah Ex-Assistant Establishment Department,
Khyber Pakhtunkhwa, S/o Syed Server Shah
R/o Village and P/O Jinkiari Tehsil and District Mansehra.

... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. Government of Khyber Pakhtunkhwa, Establishment Department (Establishment Wing) through its Secretary.
3. Secretary Establishment, Establishment Department, Civil Secretariat, Peshawar.
4. Secretary Auqaf, Hajj, Religious and Minority Affairs Department, Khyber Pakhtunkhwa.

... (Respondents)

M. Amin
23.10.2019

AMENDED APPEAL BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL FOR DECLARATION TO THE EFFECT THAT RESPONDENT NO. 2 REGRETTED/DISMISSED DEPARTMENTAL APPEAL VIDE LETTER NO. SOE-IV (E&AD) 2 (727) 2015 DATED PESHAWAR THE 31.08.2018 OF THE APPELLANT AND MAINTAINED THE ORDER OF THE RESPONDENT NO. 1, MAJOR PENALTY OF REMOVAL FROM SERVICE UPON THE APPELLANT VIDE THE IMPUGNED NOTIFICATION NO. SOE.IV (E&AD) 2 (727)/2015 DATED 26.04.2018 WHICH IS AGAINST THE LAW AND RULES ON THE SUBJECT, HENCE, THE IMPUGNED ORDER DATED 31.08.2018 IS LIABLE TO BE SET-ASIDE.

Mr. Abdullah Shah, Advocate.

.. For appellant.

Mr. Ziaullah, Deputy District Attorney

.. For respondents.

MR. HAMID FAROOQ DURRANI

.. CHAIRMAN

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Appellant

alongwith his counsel and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Zar Muhammad, Assistant for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was serving as Assistant (BPS-16) in Auqaf, Hajj, Religious and Minority Affairs Department. He was imposed major penalty of removal from service vide order dated 26.04.2018 on the allegation of absence from duty with effect from 08.12.2017 to 12.12.2017 without permission of the competent authority. The appellant filed departmental appeal on 07.05.2018 which was rejected vide order dated 31.08.2018 hence, the present service appeal.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant was serving as Assistant (BPS-16) in Auqaf, Hajj, Religious and Minority Affairs Department. It was further contended that the appellant was imposed major penalty of removal from service on the allegation of absence from duty with effect from 08.12.2017 to 12.12.2017. It was further contended that the appellant had submitted application on 07.12.2017 to the effect that his elder sister was admitted in hospital for major surgery, therefore, he requested for short leave on 07.12.2017 and casual leave for 08.12.2017. It was further contended that the application was allowed and the copy of application alongwith sanctioned of leave order of the competent authority is available on record. It was further contended that 9th and 10th December 2017 were also holiday due to Saturday and Sunday. It was further contended that the competent authority has ignored such fact that the appellant was on leave for 7th and 8th December 2017 while 9th and 10th December 2017 were holiday. It was further contended that the appellant was imposed major penalty for the alleged absence of 11th and 12th December 2017. It was further contended that the appellant was appointed in the year 2003, therefore, he was also having more than fifteen years service in his credit but the respondent-department has also not taken into consideration the said long service of the appellant in the said

M. Hassan
23.10.2019

department. It was further contended that neither charge sheet, statement of allegation was served upon the appellant nor proper inquiry was conducted nor a proper regular inquiry was dispensed in the show-cause notice dated 30.01.2018 nor any reason for dispensing the regular inquiry has been mentioned by the competent authority in the show-cause notice. It was further contended that neither any absence notice was issued at the home address of the appellant nor any advertisement in two newspapers was published by the competent authority regarding the absence of the appellant as required under rule-9 of Government Servants (Efficiency & Discipline) Rules, 2011. It was further contended that the competent authority has issued show-cause notice for absence with effect from 08.12.2017 to 12.12.2017 and also mentioned the previous warning and deduction of two days salary from 28.09.2017 to 29.09.2017 in the show cause notice. It was further contended that the same was past and close transaction and the major penalty on the basis of which is amounted to double jeopardy which is not permissible, therefore, it was contended that the impugned order is illegal and liable to be set-aside and prayed for acceptance of appeal.

5. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant remained absent from duty without permission of the competent authority. It was further contended that a show-cause notice was issued for the aforesaid absence period but the appellant failed to satisfy the competent authority therefore, the appellant was rightly imposed major penalty of removal from service after fulfilling all the codal formalities and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was serving as Assistant (BPS-16) in Auqaf, Hajj, Religious and Minority Affairs Department Khyber Pakhtunkhwa. He was imposed major penalty of removal from service vide

M. J. Khan
23.10.2019

order dated 26.04.2018 on the allegation of absence from duty with effect from 08.12.2017 to 12.12.2017. The record further reveals that the competent authority has granted leave to the appellant for 08.12.2017 while 9th and 10th December 2017 were holiday due to Saturday and Sunday but the competent authority has ignored this fact while imposing the major penalty of removal from service. Meaning thereby, that the appellant was imposed major penalty of removal from service for a period of two days i.e 11th and 12th December 2017. The record further reveals that neither any charge sheet, statement of allegation was framed or served upon the appellant nor proper inquiry was conducted nor regular inquiry was dispensed by the competent authority in the show-cause notice nor any reason has been mentioned for dispensing the regular inquiry in the show-cause notice nor any absence notice was issued to the appellant at his home address nor any absence notice was published in the two newspapers. Moreover, show-cause notice was issued to the appellant for absence period with effect from 08.12.2017 to 12.12.2017 and the major penalty of removal from service was also imposed to the appellant for the aforesaid absence period with effect from 08.12.2017 to 12.12.2017 but the appellant was granted leave for 08.12.2017, the order of sanctioned of leave for 08.12.2017 of the competent authority is available on record. Moreover, 9th and 10th December 2017 were also holiday due to Saturday and Sunday but the competent authority has ignored such fact. Furthermore, the competent authority has also mentioned in the show-cause notice that despite the warning letter issued to the appellant vide letter No. SO(Admn)AHR & MAD/2-11/2016 dated 28.09.2017 and deduction of two days salary from 28.09.2017 and 29.09.2017 but he failed to improve himself. Meaning thereby, that the major penalty of removal from service was also imposed by the competent authority for already deduction of two days salary although the same is past and close transaction and the penalty of removal from service on the basis of aforesaid reason will be amounted to

M. Anwar
 23.10.2019

double jeopardy which is not permissible under any law. It is also proved from the record that the appellant was having more than fifteen years service in his credit but the same was not considered by the competent authority while imposing major penalty of removal from service, as such, the whole proceeding is illegal and liable to be set-aside. Therefore, we partially accept the appeal, set-aside the impugned order and reinstate the appellant into service from the date of removal from service while the intervening period will be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

23.10.2019




(HAMID FAROOQ DURRANI)
CHAIRMAN


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

08.08.2019

Appellant in person present. Mr. Muhammad Jan, DDA for respondents present. Appellant seeks adjournment due to general strike on the call of Pakistan Bar council. Adjourn. To come up for arguments on 23.10.2019 before D.B.


Member


Member

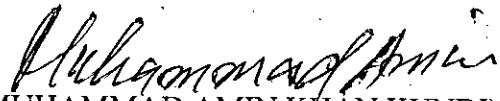
23.10.2019

Appellant alongwith his counsel and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Zar Muhammad, Assistant for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of five pages placed on file, we partially accept the appeal, set-aside the impugned order and reinstate the appellant into service from the date of removal from service while the intervening period will be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
23.10.2019


(HAMID FAROOQ DURRANI)
CHAIRMAN


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

13.2019

Appellant in person present and request for time to deposit security and process fee. The appellant is directed to deposit security and process fee within seven (07) days. Thereafter notices be issued to the respondents for submission of written reply/comments. To come up for written reply/comments on 18.04.2019 before S.B.

M
Appellant Deposited
Security & Process Fee

(Hussain Shah)
Member

18.04.2019

Clerk to counsel for the appellant present. Written reply not submitted. Sultan Shah Assistant representative of the respondent department absent. He be summoned with direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 12.06.2019 before S.B.

Member

12.06.2019

Appellant with counsel, Addl: AG alongwith Mr. Saleem, Supdt for respondents present. Written reply/comments submitted which is placed on file. Case to come up for arguments on 08.08.2019 before D.B.

(Ahmad Hassan)
Member

1094/18

06.02.2019

Appellant in person.

States that he was removed from service vide order dated 26.04.2018 against which his departmental appeal was not responded to. It was further stated that the impugned order was the outcome of misreading and non-reading of personal file of appellant. In fact, the appellant was on leave w.e.f. 07.12.2017 to 12.12.2017, while on the other hand, the allegation made basis for his removal from service was in terms of absence from duty w.e.f 08.12.2017 to 12.12.2017.

Prima-facie, the appellant has been proceeded against on account of absence of a few days and the punishment awarded in the circumstances seems to be harsh in nature. The appeal in hand is, therefore, admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 20.03.2019 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1094/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	04/09/2018 <i>5-9-18</i>	<p>The appeal of Syed Salamat Shah presented today by Mr. Abdullah Shah Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR <i>4/9/18</i></p>
2-	01.10.2018	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>1-10-18</u>.</p> <p style="text-align: right;"><i>[Signature]</i> MEMBER</p> <p>Appellant with counsel present and requested for adjournment. Adjourned. To come up for preliminary hearing on 02.11.2018 before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> (Muhammad Amin Khan Kundi) Member</p>
02.11.2018		<p>Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 20.12.2018.</p> <p style="text-align: right;"><i>[Signature]</i> READER</p>

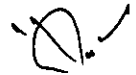
LIST OF D.B-II CASES FOR 21.12.2018 BEFORE MR. MUHAMMAD AMIN KHAN KUNDI MEMBER (J) AND MR. HUSSAIN SHAH MEMBER (E) KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

ARGUMENTS:

1.	1259/11	FAZAL MALIK	ESTAB	
2.	315/18	GUL ZADA (1)	EDU	
3.	847/16	M. SHOIB	L.GOV'T	
4.	273/14	M. HAYAT	SMBR	
5.	1375/12	JAN MUHAMMAD	EDU	
6.	951/17	QAZI ASLAM	POLICE	
7.	447/16	SHER ALAM	EDU	
8.	238/15	IFTIKHAR UZ ZAMAN (2)	ENVIRONMENT	
9.	1294/17	KIFAYAT ULLAH	HEALTH	
10.	734/16	ABID KHAN		
11.	1046/16	SHER WALI	EDU	
12.	1094/14	SAIRA TAJ	H.EDU	
13.	217/17	RAHAT ULLAH	POLICE	
14.	433/18	ABDUL HAMEED	E&T	
15.	1259/17	ABDULLAH	AGRI	
16.	628/15	SAJJAD KHAN	EDU	
17.	300/17	FEROZ ALI SHAH	POLICE	
18.	906/14	ATTA ULLAH	SMBR	
19.	1280/13	KHALID SALEEM	SMBR	
20.	1109/16	MUHAMMAD TAHIR	EDU	
21.	410/17	SAID KAMAL	LIVESTOCK	
22.	1115/17	SAMIN UL HAQ	EDU	
23.	595/18	ISRAEEL KHAN	POLICE	
24.	156/17	SHAH ROOM	JUDICIARY	
25.	692/17	KAMRAN	SMBR	
26.	1302/17	AMANAT KHAN	PHE	
27.	589/15	IMRAN KHAN	POLICE	
28.	608/12	MUSLIM KHAN (2)	PSC	
29.	258/16	SADIA KHATOON	EDU	
30.	1266/17	FARHAD KHAN	POLICE	
31.	1061/18	MUHAMMAD FAYAZ	POLICE	
32.	414/13	MUHAMMAD BILAL	EDU	
33.	810/18	PIRZADA MUHAMAD ISMAIL	HEALTH	
34.	1064/18	SAEED KHAN BANGASH	POLICE	
35.		ORDER		
36.	1067/15	GHULAM SARWAR (1)	EDU	
37.	456/18	HABIB UR REHMAN	POPULATION	
38.	736/17	MAZHAR JEHAN	POLICE	

20.12.2018

Appellant with counsel present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for preliminary hearing on 06.02.2019 before S.B



Member

06.12.2018

Appellant in person present

Requests for adjournment

Learned counsel is unable to appear due to general strike of

the bar

Adjourned to 08.03.2019 before the S.B.

08.03.2019

P-18
S/delay

BEFORE THE SERVICES TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Amended Appeal No. 1094 /2018

Syed Salamat Shah **Appellant**

V E R S U S

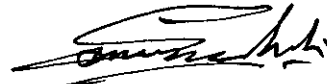
Govt of KPK and others..... **Respondents**

I N D E X

S. No	Description of Documents	Annex	Pages
1.	Grounds of Amended appeal & affidavit		1-11
2.	Copy of application	A	12
3.	Copies of relevant medical record	B	13-15
4.	Copy of Show Cause Notice	C	16-17
5.	Copy of Reply to the Show Cause Notice	D	18
6.	Copy of impugned Notification	E	19
7.	Copy of the order dated 31/08/2018	F	20-21
8.	Addresses of Parties		
9.	Wakalat Nama		

Through

Date: ___/___/2018



Appellant

ABDULLAH SHAH

&

HASSAN NASIR

Advocates High Court

7

BEFORE THE SERVICES TRIBUNAL, KHYBER

PAKHTUNKHWA, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 2051

Dated 25-10-18

Amended Appeal No. 1094 /2018

Mr. Syed Salamat Shah Ex-Assistant Establishment Department,
KP

S/o Syed Server Shah

R/o Village and P/O Jinkiari Tehsil and District
Mansehra..... **Appellant**

V E R S U S

1. Govt. of KPK
Through Chief Secretary Khyber Pakhtunkhwa,
Peshawar.
2. Govt. of KPK, Establishment Department (Establishment
Wing) through its Secretary.
3. Secretary Establishment, Establishment department,
Civil Secretariat, Peshawar.
4. Secretary Auqaf, Hajj, Religious and Minority Affairs
department, khyber Pakhtunkhwa

RESPONDENTS

AMENDED APPEAL BEFORE THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL FOR DECLARATION TO THE
EFFECT THAT RESPONDENT NO.2
REGRET/DISMISSED DEPARTMENTAL
APPEAL VIDE LETTER NO. SOE-IV

2

(E&AD) 2 (727) 2105 DATED PESHAWAR
THE 31/08/2018 OF THE APPELLANT
AND MAINTAIN THE ORDER OF THE
RESPONDENT NO. 1, MAJOR PENALTY
OF REMOVAL FROM THE SERVICE
UPON THE APPELLANT VIDE THE
IMPUGNED NOTIFICATION NO.
SOE.IV(E&AD) 2(727)/2015 DATED
26/04/2018 WHICH IS AGAINST THE
LAW AND RULES ON THE SUBJECT,
HENCE, THE IMPUGNED ORDER DATED
31/08/2018 IS LIABLE TO BE SET ASIDE.

Prayer in Appeal:

On acceptance of this appeal, the impugned order No. SOE-IV (E&AD) 2(727)/2015 dated the Peshawar 31/08/2018, passed by respondent No. 2 may kindly be set aside and the appellant may please be reinstated in service with all back benefits.

Respectfully Sheweth:

Brief facts giving rise to the appeal are as under:

1. That on 17/09/2003, the appellant was appointed as Junior Clerk (BPS-5) in Establishment Department and was performing his duties regularly and to the entire satisfaction of his superiors. Moreover due to efficiency and discipline the appellant have been promoted by the competent authority from time to time and presently at the time of awarding penalty the Appellant was serving as Office Assistant (BPS-16).
2. That the appellant performed his duties to the entire satisfaction of his superior and entire service record of the appellant is spotless and blameless.
3. That the Appellant is the only source of income o his family and his father had died before his appointment in the said department on the death of his father the Appellant became the custodian of the family since then the Appellant is looking after his family.
4. That on 07/12/2017 the Appellant received a phone call from his home that his younger sister is admitted in the hospital for a major surgery therefore the applicant wrote down application for short leave for 07/12/2017 and one day leave for 08/12/2017 to the competent authority which was duly allowed/accepted after all formal proceeding. Moreover on acceptance of the application the applicant left for his home town to attend her sister in the hospital as earlier stated that

after the death of his father the applicant became the custodian of the entire house. **(Copy of application is attached as Annexure "A")**.

5. That 09/12/2017 & 10/12/2018 were public holidays whereas on 11th and 12th Dec the Appellant stayed at home as her sister was still lying on the bed being custodian of the family it was the foremost duty of the Appellant to be with his sister at the time of her illness. Moreover the Appellant submitted an application for extension of leave through one of his colleague to the competent authority and also informed his office through phone call about his problem. Furthermore the Appellant was informed that his leave application was allowed. **(Copies of relevant medical record are attached as annexure "B")**.
6. That Appellant was shocked to received a Show Cause Notice which was issued to the Appellant vide Establishment Department letter no. SOE.IV(E&AD) 2(727)/2015 dated 30/01/2018 wherein deferent allegations were leveled against the Appellant. **(Copy of Show Cause Notice is attached as Annexure "C")**
7. That the appellant submitted written reply to the said Show Cause Notice wherein the Appellant denied/ refused the so-called allegation leveled in the Show Cause against the Appellant vide reply to the Show Cause Notice dated 7/02/2018 within the time

mentioned therein. Moreover the Appellant properly explain his position in the said reply. **(Copy of Reply to the Show Cause Notice is attached as Annexure "D")**

8. That to the extreme shock and dismay of the appellant Respondent No. 1 has issued an Order/ Notification No. SOE.IV(E&AD) 2(727)/2015 Dated 26/04/2018 wherein major penalty was awarded to the Appellant by removing the Appellant from service. **(Copy of Impugned Notification is attached as Annexure "E")**.
9. That feeling aggrieved from impugned Order/ Notification No. SOE.IV(E&AD) 2(727)/2015 Dated 26/04/2018 the Appellant filed Departmental Representation to the competent authority on 7th May, 2018 which was regretted on 31/08/2018 vide order No. SOE-IV (E&AD) 2 (727)2015 dated Peshawar the 31/08/2018 despite the fact that the appellant provide all the correct information in his departmental representation along with all the medical receipts reply of the show cause notice etc.. **(Copy of the order dated 31/08/2018 is attached as Annexure "F")**
10. That feeling aggrieved from above referred order of respondent No. 2, the appellant assails these order before this Honorable Tribunal, inter alia, on the following grounds:

G R O U N D S :

- A. That the impugned order dated 31/08/2018 of respondent No.2, is against law, facts and record of the case, hence liable to be set aside.
- B. That the impugned order dated 31/08/2018 was issued due to miss-reading and non-reading of personal file of the appellant, because the appellant was on leave w.e.f. 07/12/2017 to 12/12/2017 accepted application of short leave and full day leave of 07/12/2017 and 08/12/2017 is already attached.
- C. That as stated above the application of the Appellant for leave was allowed by the competent authority on 09/12/2017 and 10/12/2017 were public holidays as Saturday and Sunday, according to the rules if an employee is on approved leave then next to his approved leave would not be counted in the leaves.
- D. That only two days absentee i.e. 11/12/2017 and 12/12/2017 has been committed by the Appellant but the Appellant has also submitted leave application through one of his colleague. Moreover the Appellant was in knowledge of approval of his leave therefore the Appellant did those two absentee. Moreover the Applicant never willfully absented himself from the

duty but due to unavoidable circumstances and Applicant had to stay with his younger sister as it was the duty of the Applicant.

- E. That one of the charges leveled against the Appellant in the Show Cause Notice was previously absentees from duty for which the Applicant was punished by deduction of two days salary from 28/09/2017 to 29/09/2017. Moreover for the previous absentees the Appellant has been punished and as per fundamental rights guaranteed by the Constitution of Islamic Republic of Pakistan 1973, one cannot be awarded punishment twice for the same act which comes in the principles of double jeopardy.

- F. That the respondent No. 2 issued the said order without giving opportunity of personal hearing to the Appellant. It is well settled principle of law that no one can be condemn unheard, hence the impugned order is not maintainable in the eyes of law.

- G. That the respondent No 2 ignored the entire facts, record, circumstances before issuance of impugned order in respect of Appellant violated the E&D Rules and malafidely issued the said impugned Order to deprive the appellant in his depended from his legal right.

- 8
- H. That the appellant received the impugned order dated 31/08/2018 from the office of respondent No.2 on 29/09/2018, hence the representation/Departmental Appeal before the competent authority is within time.
- I. That the major penalty has been imposed upon the appellant by respondent No. 2 by removing from service illegally without holding regular independent inquiry, which was pre-requisite for imposing such penalty, so, non-holding of regular inquiry is against law, procedure and canons of principles of administration of justice.
- J. That the impugned order dated 31/08/2018 passed by respondent No.2 in a slipshod manner and is based on assumptions & presumptions, arbitrary and is not sustainable in the eyes of law.
- K. That order passed by respondent No. 2 is not speaking order, passed without assigning any cogent reasons, so, it cannot be termed by no stretch of imagination to be a speaking order.
- L. That appellant has not been provided an opportunity to explain his position with regarded to the charges leveled against him during the inquiry proceedings, so, he was condemned unheard.

- M. That impugned order is arbitrary, capricious and not maintainable and is the result of misreading and non-reading evidence, hence liable to be set aside.
- N. That impugned order is result of malafide of respondents, which is so evident that respondents are not providing record of inquiry to the appellant due to the reason that no such inquiry has been held by the Respondents, which is also against the natural justice.
- O. That appellant belongs to a poor family, low-scale employee, jobless since his removal from service and is sole bread-earner of his entire family. He is not engaged in any profitable activity for earning butter & bread, so, his removal from service, in such circumstances, is against the rights of fundamental enshrined in Constitution of Islamic Republic of Pakistan, 1973.
- P. That any other ground may be adduced during the course of arguments, with the kind permission of this Honourable Tribunal.

It is, therefore, most humbly prayed that on acceptance of this appeal, the impugned order dated 31/08/2018, passed by respondent No. 2 may kindly be set aside and the appellant may please be reinstated in service with all back benefits.

10
AND

Any other relief which may be deemed proper in circumstances of the case may also be granted in favor of the appellant.

Through


Appellant

Date: __/__/2018

ABDULLAH SHAH

Advocate High Court

Office at 15-A Nasir Mension,
Chinar Building, Shoba Bazar,
Peshawar

Cell# 0331-9206687

Email:shah_abdullah15@yahoo.com

&


HASSAN NASIR

Advocate High Court

Office at C-1 Haroon Mension,
Khyber Bazar, Peshawar.

Cell# 0314-9214909

Email:hassan_sub@hotmail.com

BEFORE THE SERVICES TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Amended Appeal No. _____/2018

Syed Salamat Shah **Appellant**

V E R S U S

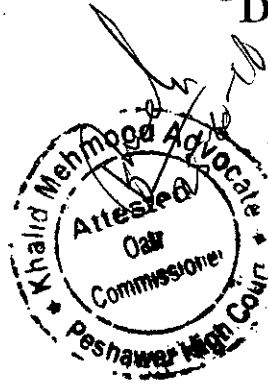
Govt of KPK and others..... **Respondents**

AFFIDAVIT

I, Mr. Syed Salamat Shah Ex-Assistant Establishment Department, KP S/o Syed Server Shah R/o Village and P/O Jinkiari Tehsil and District Mansehra, do hereby solemnly affirm and declare 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 Hon'ble Tribunal.

Identified by
Masood Khan
Qazi

[Signature]
DEPONENT





حرفہ جاب سیکشن ایف (Dec) حکم اذکار شیخ (ملکیت) فدیہ پشاور

Annex A

حاجہ عالی

(A)

وہاں گزارشیں دیکھ کر یہی نہیں ہوتا ہے کہ
 داخلہ اس وقت آپریشن ہو گیا ہے۔
 طبیٹ فراہم نہیں کی گئی ہے۔
 فوراً ڈاکو دیکھنا چاہئے۔
 فرمائے گئے کو آج فوری 07/12/17 کی تاریخ پر
 کل عرفہ 08/12/17 کی رضیت بنا کر لے کر
 شیخ نواز شیں ہوئی۔

الحسن

07/12/2017
 (Signature)

The Affidavit of the Applicant
 is submitted for Recommended and will
 perform his duty in his absence of
 go. 02V.

Allowed

(Signature)
 07/12

ATTESTED
 Hassan Nasir
 Advocate Peshawar

(Signature)

07/12/17

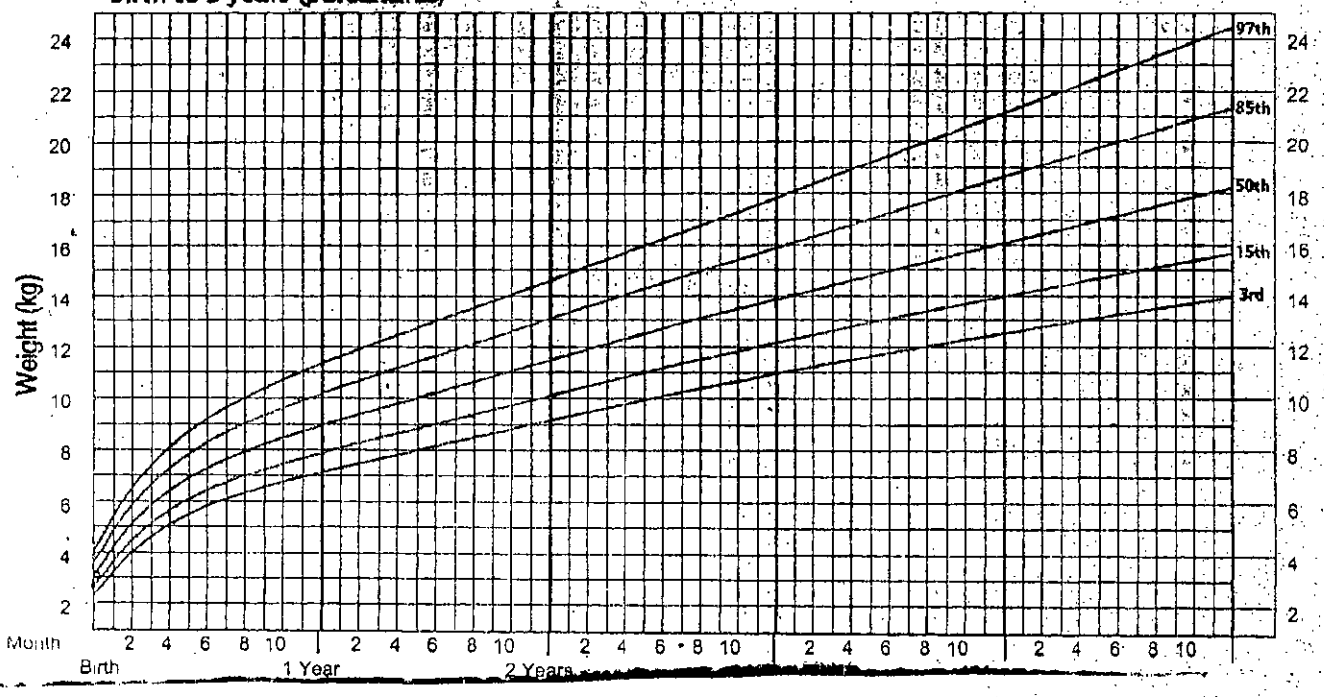
13

12

Annex 13

BACH CHRISTIAN HOSPITAL

Birth to 5 years (percentiles)



Mons MR

9545

Name S/ Asim

No

Date 5/12/17

Relative D/O Salim Shah Address Narsehara

Age NB

History Bcd 5/12 Time 1:10pm O/S

Lab

mom on + Vx

T P BP Weight 2750 Kg

7-12-17. microbil 11.7
 Assessment 12/12/17. microbil 10.7 Temp ↑
 in antibiotic given 2 days
 Treatment LAMA go to Home

General
 Neck
 Heart
 Lungs
 Abdomen
 Extremity

4c B.3
 9 #
 5 12 17
 8 12 12

Advocate Peshawar
[Signature]

14
18

BACH CHRISTIAN HOSPITAL

Miscellaneous Lab Slip

Name
Ward

H. A. ms Saloom

MR #
Bed #

19227

Lab Test	Report	Normal Value
<i>CRP # 241</i>		

Examined By
Date

7/12/17

07 DEC 17 12:01

ID 19227 241

MODE (OPEN)

SAMPLE TYPE Blood

WBC 16.5H 10³/uL

RBC 4.00 10⁶/uL

HGB 14.0 g/dL

HCT 41.8 %

MCV 105H fL

MCH 35.0H pg

MCHC 33.5 g/dL

PLT 318 10³/uL

Y 4.5 [27.2 %]

MO 1.5H [9.1 %]

GR 10.5H [63.7 %]

RDWCV 14.4H %

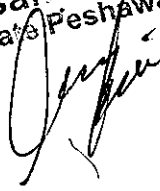
RDWSD 60.2H fL

PCT 0.24 %

MPV 7.6 fL

PDW 19.4H %

ATTESTED
Hassan Nasir
Advocate Peshawar



Annex c 16



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(Establishment Wing)

No. SOE.IV (E&AD) 2(727)/2015
Dated Peshawar, the 30.01.2018

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Auqaf, Hajj, Religious and Minority Affairs
Department.

Subject:- SHOW CAUSE NOTICE – WILLFUL ABSENCE FROM DUTY.

Dear Sir,

I am directed to refer to letter No. SO(Admn) AHR&MAD/2-11/2017 dated 10.01.2018 on the subject and to enclose herewith Show Cause Notice duly signed by the Competent Authority of **Syed Salamat Shah, Assistant (BS-16)** for its compliance within stipulated time period and further necessary action.

Yours faithfully,

Encl: As above

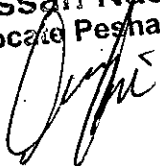
(HAZRAT JAMAL)
SECTION OFFICER (E-IV)

Copy to:-

Syed Salamat Shah, Assistant, Auqaf Department.


SECTION OFFICER (E-IV)

ATTESTED
Hassan Nasir
Advocate Peshawar



Received by: 2:00 PM
Dated: 01-02-2018

17

SHOW CAUSE NOTICE

I, Muhammad Azam Khan, Chief Secretary Khyber Pakhtunkhwa as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve upon you, Syed Salamat Shah, Assistant (BPS-16), Auqaf, Hajj, Religious & Minority Affairs Department.

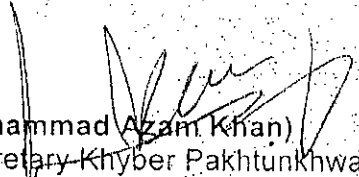
1. While posted in Auqaf Department you have committed the following omissions/commission:-

- i. That you while posted in the Development Section of Auqaf, Hajj, Religious & Minority Affairs Department absented yourself from duty w.e.f 08.12.2017 to 12.12.2017 without prior approval of the competent authority and without any intimation to the Department. As matter of fact you have made it a permanent routine to willfully leave the office early in the morning and join the office at late hours after weekends. This practice on your part is neither legal nor lawful.
- ii. That despite of warning letter issued to you vide letter No.SO(Admn) AHR & MAD/2-11/2016 dated 28.09.2017 and deduction of two days from your salary from 28.09.2017 to 29.09.2017, you failed to improve yourself.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Removal from service under rule 4 of the said rules.


3. You are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.


(Muhammad Azam Khan)
Chief Secretary Khyber Pakhtunkhwa
(Competent Authority)

Syed Salamat Shah, Assistant (BPS-16),
Auqaf, Hajj, Religious & Minority Affairs Department

ATTESTED
Hassan Nasir
Advocate Peshawar



The Chief Secretary,
Khyber Pakhtunkhwa,
Peshawar.

11/8/2018
08-7-2018
Annex D 18

SUBJECT: REPLY TO THE SHOW CAUSE NOTICE -WILFUL ABSENCE FROM DUTY

Dear Sir,

With reference to the Show Cause Notice served vide Establishment Department letter No. (L&AD)2(727)/2015 dated 30-01-2018, the undersigned would like to submit few observations:

That on 7-12-2017 I was present in the office for duty when I was informed on 7-12-2017 that my younger sister had to undergo major surgery who had no one to take care and for which I had to take Short Leave for 7-12-2017 as well Long Leave for 8-12-2017 (Flag-A) from the then Section Officer and proceeded to my hometown at Mansehra.

9th Dec and 10th Dec were public holidays while on 11th and 12th Dec, the undersigned had to stay at home at Mansehra as my sister was confined to bed and I had to attend her. However I informed Mr. Taqweemul Haque, Stenographer on telephone. This fact can be corroborated from Mr. Taqweem ul Haque.

The undersigned would like to submit that my mother is an old lady of 70 years and is suffering from multiple diseases. Furthermore, the family of the undersigned is residing at village in Mansehra. The undersigned never willfully absented himself from duty neither has the undersigned ever arrived late or left the office. The undersigned had appealed against imposition of penalty of deduction of salary to the competent authority whose fate has not yet been conveyed to the undersigned.

That although I did not absent myself willfully previously on 28-9-2017 and 29-9-2017 rather Mr. Monitoring Officer had deputed the undersigned to provide some documents to Mr. Ravi Kumar, Assistant to the Chief Minister, KPK and I had also to visit the Accountant General's Office for my pay-ment (for which I have already been punished by the Secretary Auqaf Department by deducting two-days salary vide Notification dated 3-10-2017 Flag- B and against which; I appealed to the competent authority / Secretary Auqaf Department- Flag-C. As per provisions of the constitution of the Islamic Republic of Pakistan, double punishment on the same count, cannot be meted out to the citizen of Pakistan yet the Show Cause Notice carry the same charges) and hence could not return to the office while on 29-9-2017 the then Section Officer asked me to leave Application dated 28-9-2017(Flag-D)for Casual Leave on the table and proceed to the village at Mansehra. Hence I visited my village at Mansehra.

That apart from the above submission, the undersigned would like to be heard in person and request your good self to convey suitable date and time for personal hearing.

Yours faithfully,

(SYED SALAMAT SHAH)
Assistant
Auqaf Department, KPK

ATTESTED
Hassan Nasir
Advocate Peshawar

Date: 7 Feb, 2018

- 1 PS to Secretary Auqaf, Hajj, Religious & Minority Affairs Department, Peshawar.
- 2 P S to Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.

(SYED SALAMAT SHAH)
Assistant

Handwritten signature

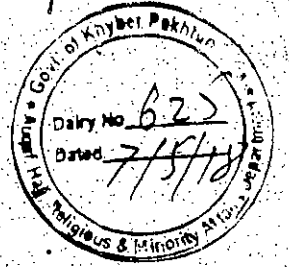


Annex E

19

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(ESTABLISHMENT WING)

Dated Peshawar, the 26th April, 2018



NOTIFICATION

No. SOE.IV(E&AD) 2(727)/2015:- WHEREAS, Syed Salamat Shah, Assistant (BPS-16), Auqaf, Hajj, Religious and Minority Affairs Department, Civil Secretariat, Khyber Pakhtunkhwa was proceeded against under the Khyber Pakhtunkhwa, Government Servant (Efficiency & Discipline) Rules, 2011.

AND WHEREAS, the Competent Authority in exercise of the powers conferred under rule 7 read with rule 5 of Khyber Pakhtunkhwa Government Servant (E&D) Rules, 2011, dispensed with formal/departmental inquiry as sufficient documentary proof/evidence is available that the accused absented himself from duty w.e.f. 08.12.2017 to 12.12.2017 without proper approval of the Competent Authority and without intimation to the department.

AND WHEREAS, after having examined the charges, evidence on record and after approval of the Competent Authority show cause notice was served upon the accused official.

NOW, THEREAFTER, the Competent Authority, after having considered the charges, evidence on the record, the explanation of the accused official and defense offered by the accused official during personal hearing and exercising his powers under Rule-14 of Khyber Pakhtunkhwa Government Servant (E&D) Rules, 2011, has been pleased to impose major penalty of "Removal from Service" upon Syed Salamat Shah, Assistant (BPS-16).

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

Enlist No. and dated even.

Copy forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Section Officer (Admn), Administration Department.
3. Section Officer (Secret), Establishment Department.
4. Estate Officer, Administration Department
5. Section Officer (Admn.), Auqaf, Hajj, Religious and Minority Department,
6. Deputy Director (IT), Establishment & Administration Department
7. PS to Secretary Establishment, Establishment Department.
8. PS to Special Secretary (Estt), Establishment Department.
9. PA to Adult Secretary (HRD Wing), Establishment Department.
10. PA to Deputy Secretary (Estt), Establishment Department.
11. Syed Salamat Shah, Assistant (BPS-16), Auqaf, Hajj, Religious and Minority Affairs Department.
12. Personal file of the official concerned.

(HAZRAT JAMAL)
SECTION OFFICER (E-IV)

ATTESTED
Nasir Nasir
Peshawar

To,

The Hon'ble Chief Minister,
Khyber Pakhtunkhwa, Peshawar.

~~Amir~~ 19 20

SUBJECT: APPROVAL FOR RE-INSTATEMENT IN GOVERNMENT SERVICE

Respected Sir,

It is reverently stated that the undersigned is serving as Assistant (BS-16) in the Provincial Civil Secretariat and was serving in the Auqaf, Hajj, Religious & Minority Affairs Department. It is further stated that the competent authority imposed the major penalty of "Removal from Service" upon the applicant vide Notification No. SOE.IV(E&AD)2(727)/2015 dated 26th April, 2018 (Annex-I) on account of absence from duty w.e.f 8-12-2017 to 12-12-2017(05 days).

The applicant would like to submit the following grounds for sympathetic considerations:

1. That on 7-12-2017 I was present in the office for duty when I was informed on 7-12-2017 that my younger sister Miss Asma had to undergo major surgery (Annex-II) and had no one to take care for which I had to take Short Leave for 7-12-2017 as well as Casual Leave for 8-12-2017(Annex-III) from the then Section Officer and proceeded to my hometown at Mansehra.
2. That 9-12-2017 (Saturday) and 10-12-2017(Sunday) were public holidays while on 11th and 12th Dec, 2017 the undersigned had to stay at home at Mansehra as my sister was still confined to bed and I had to attend her. However, I had informed Mr. Taqweem ul Haque, stenographer on telephone about that emergency and had asked them to convey my message to the competent authority. This fact can be corroborated from Mr. Taqweem ul Haque.
3. That my mother is an old lady of 70 years and is suffering from multiple diseases. Furthermore, the family of the undersigned is residing at village in Mansehra. The undersigned has neither willfully absented from duty nor he ever arrived late or left the office early.
4. That the penalty imposed upon me is much large than my quantum of lapse and I was removed from service which amounts to financial murder of my family comprising of 08 persons including my mother and 04 school-going children who have no other source of income to sustain their expenditures of life.
5. That at this stage of my life, I am unable to perform any other work to sustain expenditures of my family as I have spent the prime part of my life in serving the Provincial Government and no other person is ready to hire my service.

It is, therefore, requested to give due to considerations to my submissions and approve my request by re-instating me into government service on humanitarian grounds. I shall pray for the long life and prosperity of your good self.

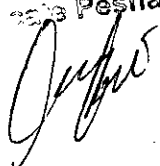
Yours faithfully,


(SYED SALAMAT SHAH)

Ex-Assistant Establishment Department, KP
R/O Village & Post Office Jinkiari Teshil and District Mansehra
Mobile No. 0343 - 5992940, 0313-5831976

Dated 07th May, 2018

Encl. As Above.

INTERESTED
Syed Nasir
Peshawar


Reg = Annex F 21



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(Establishment Wing)

No.SOE-IV (E&AD) 2 (727)/2015.
Dated Peshawar the 31.08.2018.

To

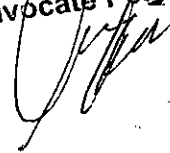
Syed Salamat Shah,
Ex-Assistant, Auqaf Department,
R/o Village & P.O Jinkhari,
Tehsil & District, Mansehra.

Subject: APPEAL FOR RE-INSTATEMENT IN GOVERNMENT SERVICE.

I am directed to refer to the subject noted above and to inform that your appeal dated 07.05.2018 has been processed and rejected by the appellate authority


(HAZRAT JAMAL)
SECTION OFFICER (E.IV)

ATTESTED
Hassan Nasir
Advocate Peshawar



BEFORE THE SERVICES TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 1094 /2018

Syed Salamat Shah **Appellant**

V E R S U S

Govt. of KPK and others..... **Respondents**

I N D E X

S. No	Description of Documents	Annex	Pages
1.	Grounds of service appeal & affidavit		1-10
2.	Copy of application	A	11
3.	Copies of relevant medical record	B	12-14
4.	Copy of Show Cause Notice	C	15-16
5.	Copy of Reply to the Show Cause Notice	D	17
6.	Copy of impugned Notification	E	18
7.	Copy of Representation/ Departmental Appeal with application	F	19-20
8.	Copy of appeal	G	21
9.	Addresses of Parties		22
10.	Wakalat Nama		23

Through

Appellant


ABDULLAH SHAH

Date: 31/08/201

&


HASSAN NASIR
Advocates High Court

I

BEFORE THE SERVICES TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1394

Dated 04-9-2018

Service Appeal No. 1094 /2018

Mr. Syed Salamat Shah Ex-Assistant Establishment
Department, KP

~~S/o Syed Salamat Shah~~

R/o Village and P/O Jinkiari Tehsil and District
Mansehra.....

Appellant

[Signature]

V E R S U S

1. Govt. of KPK
Through Chief Secretary Khyber Pakhtunkhwa,
Peshawar.
2. Chief Secretary Khyber Pakhtunkhwa, Civil
Secretariat, Peshawar.
3. Secretary Establishment, Establishment department,
Civil Secretariat, Peshawar.
4. Secretary Auqaf, Hajj, Religious and Minority Affairs
department, khyber Pakhtunkhwa

RESPONDENTS

Filed to-day

Registrar

4/9/18

APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974 FOR DECLARATION TO THE EFFECT
THAT RESPONDENT NO.2 IMPOSED MAJOR
PENALTY OF REMOVAL FROM THE SERVICE
UPON THE APPELLANT VIDE THE IMPUGNED
NOTIFICATION NO. SOE.IV(E&AD)

2

2(727)/2015 DATED 26/04/2018 WHICH
IS AGAINST THE LAW AND RULES ON THE
SUBJECT, HENCE, THE IMPUGNED
NOTIFICATION DATED 26/04/2018 IS
LIABLE TO BE SET ASIDE.

Prayer in Appeal:

On acceptance of this service appeal, the impugned order/Notification No. SOE.IV (E & AD) 2(727)/2015 dated 26/04/2018, passed by respondent No. 2 may kindly be set aside and the appellant may please be reinstated in service with all back benefits.

Respectfully Sheweth:

Brief facts giving rise to the appeal are as under:

1. That on 17/09/2003, the appellant was appointed as Junior Clerk (BPS-5) in Establishment Department and was performing his duties regularly and to the entire satisfaction of his superiors. Moreover due to efficiency and discipline the appellant have been promoted by the competent authority from time to time and presently at the time of awarding penalty the Appellant was serving as Office Assistant (BPS-16).
2. That the appellant performed his duties to the entire satisfaction of his superior and entire service record of the appellant is spotless and blameless.

3. That the Appellant is the only source of income of his family and his father had died before his appointment in the said department on the death of his father the Appellant became the custodian of the family since then the Appellant is looking after his family.
4. That on 07/12/2017 the Appellant received a phone call from his home that his younger sister is admitted in the hospital for a major surgery therefore the applicant wrote down application for short leave for 07/12/2017 and one day leave for 08/12/2017 to the competent authority which was duly allowed/accepted after all formal proceeding. Moreover on acceptance of the application the applicant left for his home town to attend her sister in the hospital as earlier stated that after the death of his father the applicant became the custodian of the entire house. **(Copy of application is attached as Annexure "A")**.
5. That 09/12/2017 & 10/12/2018 were public holidays whereas on 11th and 12th Dec the Appellant stayed at home as her sister was still lying on the bed being custodian of the family it was the foremost duty of the Appellant to be with his sister at the time of her illness. Moreover the Appellant submitted an application for extension of leave through one of his colleague to the competent authority and also informed his office through phone call about his problem. Furthermore the

Appellant was informed that his leave application was allowed. **(Copies of relevant medical record are attached as annexure "B")**.

6. That Appellant was shocked to received a Show Cause Notice which was issued to the Appellant vide Establishment Department letter no. SOE.IV(E&AD) 2(727)/2015 dated 30/01/2018 wherein deferent allegations were leveled against the Appellant. **(Copy of Show Cause Notice is attached as Annexure "C")**
7. That the appellant submitted written reply to the said Show Cause Notice wherein the Appellant denied/ refused the so-called allegation leveled in the Show Cause against the Appellant vide reply to the Show Cause Notice dated 7/02/2018 within the time mentioned therein. Moreover the Appellant properly explain his position in the said reply. **(Copy of Reply to the Show Cause Notice is attached as Annexure "D")**
8. That to the extreme shock and dismay of the appellant Respondent No. 2 has issued an Order/ Notification No. SOE.IV(E&AD) 2(727)/2015 Dated 26/04/2018 wherein major penalty was awarded to the Appellant by removing the Appellant from service. **(Copy of Impugned Notification is attached as Annexure "E")**.
9. That feeling aggrieved from impugned Order/ Notification No. SOE.IV(E&AD) 2(727)/2015 Dated

26/04/2018 the Appellant filed Departmental Representation to the competent authority on 7th May, 2018 which was regretted on 28/08/2018 known by the applicant through some reliable recourses, & for which the applicant move an application 28/08/2018 for grant of attested copies which application is still pending and competent authority have not issued attested copies to the applicant till date. **(Copy of Representation/ Departmental Appeal along with application is attached as Annexure "F")**.

10. That feeling aggrieved from above referred order of respondent No. 1, the appellant assails these order before this Honorable Tribunal, inter alia, on the following grounds:

GROUND S:

- A. That the impugned order dated 26/04/2018 of respondent No.2, is against law, facts and record of the case, hence liable to be set aside.
- B. That the impugned order dated 26/04/2018 was issued due to mis-reading and non-reading of personal file of the appellant, because the appellant was on leave w.e.f. 07/12/2017 to 12/12/2017 accepted application of short leave and full day leave of 07/12/2017 and 08/12/2017 is already attached.
- C. That as stated above the application of the Appellant for leave was allowed by the competent authority on 09/12/2017 and 10/12/2017 were public holidays as Saturday and Sunday, according to the rules if an employee is on approved leave

2

then next to his approved leave would not be counted in the leaves.

- D. That only two days absentee i.e. 11/12/2017 and 12/12/2017 has been committed by the Appellant but the Appellant has also submitted leave application through one of his colleague. Moreover the Appellant was in knowledge of approval of his leave therefore the Appellant did those two absentee. Moreover the Applicant never willfully absented himself from the duty but due to unavoidable circumstances and Applicant had to stay with his younger sister as it was the duty of the Applicant.
- E. That one of the charges leveled against the Appellant in the Show Cause Notice was previously absentees from duty for which the Applicant was punished by deduction of two days salary from 28/09/2017 to 29/09/2017 upon which the Appellant has filed appeal. Moreover for the previous absentees the Appellant has been punished and as per fundamental rights guaranteed by the Constitution of Islamic Republic of Pakistan 1973, one cannot be awarded punishment twice for the same act which comes in the principles of double jeopardy. **(copy of appeal is attached as Annexure "G")**
- F. That the respondent No. 2 issued the said order without giving opportunity of personal hearing.

the Appellant. It is well settled principle of law that no one can be condemn unheard, hence the impugned order is not maintainable in the eyes of law.

- G. That the respondent No 2 ignored the entire facts, record, circumstances before issuance of impugned order in respect of Appellant violated the E&D Rules and malafidely issued the said impugned Order to deprive the appellant in his depended from his legal right.
- H. That the appellant received the impugned order dated 26/04/2018 from the office of respondent No.2 on 07/05/2018, hence the representation/Departmental Appeal before the competent authority is within time.
- I. That the major penalty has been imposed upon the appellant by respondent No. 2 by removing from service illegally without holding regular independent inquiry, which was pre-requisite for imposing such penalty, so, non-holding of regular inquiry is against law, procedure and canons of principles of administration of justice.
- J. That the impugned order dated 26/04/2018 passed by respondent No.2 in a slipshod manner and is based on assumptions & presumptions, arbitrary and is not sustainable in the eyes of law.

- K. That order passed by respondent No. 2 is not speaking order, passed without assigning any cogent reasons, so, it cannot be termed by no stretch of imagination to be a speaking order.
- L. That appellant has not been provided an opportunity to explain his position with regarded to the charges leveled against him during the inquiry proceedings, so, he was condemned unheard.
- M. That impugned order is arbitrary, capricious and not maintainable and is the result of misreading and non-reading evidence, hence liable to be set aside.
- N. That impugned order is result of malafide of respondents, which is so evident that respondents are not providing record of inquiry to the appellant due to the reason that no such inquiry has been held by the Respondents, which is also against the natural justice.
- O. That appellant belongs to a poor family, low-scale employee, jobless since his removal from service and is sole bread-earner of his entire family. He is not engaged in any profitable activity for earning butter & bread, so, his removal from service, in such circumstances, is against the rights of fundamental enshrined in Constitution of Islamic Republic of Pakistan, 1973.

P. That any other ground may be adduced during the course of arguments, with the kind permission of this Honourable Tribunal.

It is, therefore, most humbly prayed that on acceptance of this appeal, the impugned order dated 26/04/2018, passed by respondent No. 2, may kindly be set aside and the appellant may please be reinstated in service with all back benefits.

AND

Any other relief which may be deemed proper in circumstances of the case may also be granted in favor of the appellant.



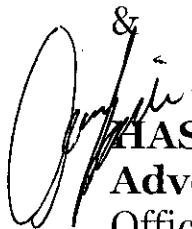
Appellant

Through



Date: 31/08/2018

ABDULLAH SHAH
Advocate High Court
 Office at 15-A Nasir
 Mension, Chinar Building,
 Shoba Bazar, Peshawar
 Cell# 0331-9206687
 Email:shah_abdullah15@yahoo.com

&

HASSAN NASIR
Advocate High Court
 Office at C-1 Haroon Mension,
 Khyber Bazar, Peshawar.
 Cell# 0314-9214909
 Email:hassan_sub@hotmail.com

BEFORE THE SERVICES TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. _____/2018

Syed Salamat Shah **Appellant**

VERSUS

Govt of KPK and others..... **Respondents**

AFFIDAVIT

I, Mr. Syed Salamat Shah Ex-Assistant Establishment Department, KP S/o Syed Server Shah R/o Village and P/O Jinkiari Tehsil and District Mansehra, do hereby solemnly affirm and declare 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 Hon'ble Tribunal.

[Signature]

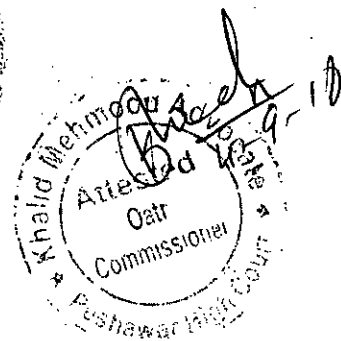
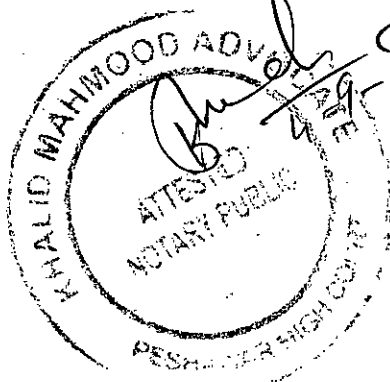
DEPONENT

CNIC No. 17301-1246033-1

Identified by

*Hassan Nasir
Advocate High Court*

[Signature]



بلا فوجا بکیشن اینڈ (Dev) ملک اذکار (ملک) و فوجا

11 (A)

Annex A

II - حاجی عالی

و دیگر گزارشیں صحت سے بہتر نہیں ہیں ہسپتال میں
داخل ہے اس کے بعد آپریشن کیا گیا ہے اور اس
کی حالت خراب ہے اس میں تھکاوٹ ہے ہسپتال میں
رہتا ہے اور اس کو دیکھنا چاہئے۔ لہذا ہرگز
فرماندہ حائل کو آج حوضہ 07/12/17 کی طرف
نکل کر 08/12/17 کی رخصت کیا گیا ہے اس کی طرف
میں گزارش ہوئی۔

الحاصل

07/12/2017

آپ کا فریڈیشن میں شہادت
The Applicant of the Applicant
is submitted for recommended and will
perform his duty in his absence of
go. Dev.

Allowed

07/12

ATTESTED
Hassan
Advocate Peshawar

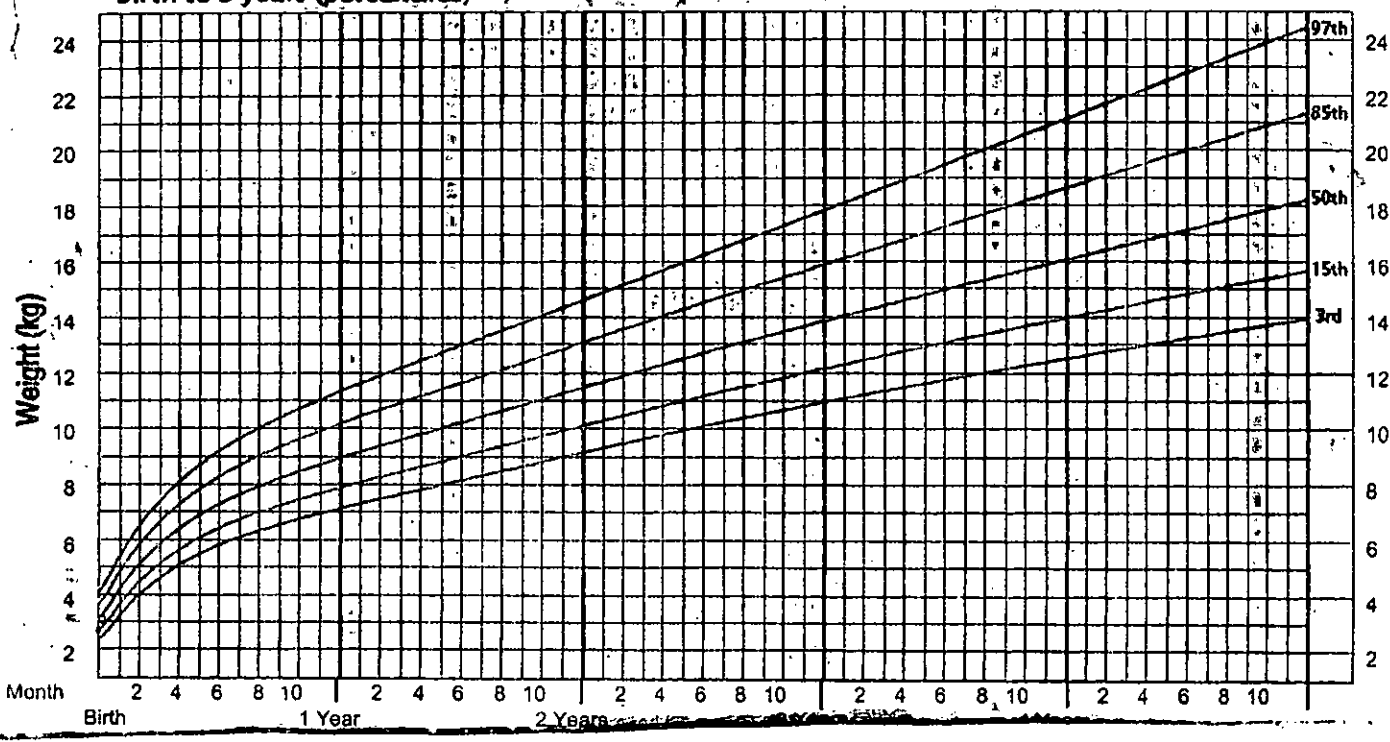
07/12/17

Annex B

12

BACH CHRISTIAN HOSPITAL

Birth to 5 years (percentiles)



Name B/s Asma

Moms NR
9545

No

Date 5/12/17

Relative D/O Salim Shah Address Nansebara

Age 13

History Bd. 5/12. Time: 1:10pm. C/S

Lab

mom -c+v

T P BP Weight 27.50 Kg

Assessment 7-12-17. Microbil 11-7-1
2/12/17. Microbil 10-7 Temp ↑
In Antibiotic given. 2 days

Treatment LAMA go to Home.

- General
- Neck
- Heart
- Lungs
- Abdomen
- Extremity

4c B3
9. ++

5	12	17
12	12	

ATTESTED
Hassan Nasir
Advocate Peshawar

13

CBS

BACH CHRISTIAN HOSPITAL

Miscellaneous Lab Slip

Name B. Asim Saleem MR # 19227
Ward _____ Bed # _____

Lab Test	Report	Normal Value
CBC # 241		

Examined By SM
Date 7/12/17

07 DEC '17 12:01

ID 19227 241
MODE (OPEN)

SAMPLE TYPE : Blood

WBC 16.5H 10³/uL
RBC 4.00 10⁶/uL
HGB 14.0 g/dL
HCT 41.8 %
MCV 105H fL
MCH 35.0H pg
MCHC 33.5 g/dL
PLT 318 10³/uL

Y 4.5 [27.2 %]
MO 1.5H [9.1 %]
GR 10.5H [63.7 %]

RDWCV 14.4H %
RDWSD 50.2H fL
PCT 0.24 %
MPV 7.6 fL
PDW 19.4H %

ATTESTED

Hassan Nasir
Advocate Peshawar

74

Bach Christian Hospital Qalandarabad

Date: 08 Dec 2017

Discharge Bill

Patient No.: 9545
 Name: ASMA
 Father/Husband Name: W/O SALIM
 Address: MNS, MNS.

Admission Date: 04 Dec 2017

Discharge Date: Not Discharged

Date	Description	Actual Charges	Advance
06/12/2017	Advance Deposit		9,500
04/12/2017	Advance Deposit		20,000
04/12/2017	Register		0
	Lab	750	
	Medicine	1,880	
	Xray	0	
	Ultrasound	0	
	Admission Fees	1,150	
	Room Charges	0	
	Service Charges	3,500	
	Operation	21,933	
	Misc	1,780	

Total Advance:	29,500
Total Charges:	30,993
Less Refunds:	0
Less Charity:	8,967
Refund/Ad.Payment Due:	-7,474

Handwritten signature in Urdu script

Patient/Relative Signature:

Authorized Signature:

Stamp: BACH CHRISTIAN HOSPITAL QALANDARABAD

ATTESTED
Hassan Nasir
 Advocate Peshawar

Annex C 15



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(Establishment Wing)

No. SOE.IV (E&AD) 2(727)/2015
Dated Peshawar, the 30.01.2018

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Auqaf, Hajj, Religious and Minority Affairs
Department.

Subject:- **SHOW CAUSE NOTICE – WILLFUL ABSENCE FROM DUTY.**

Dear Sir,

I am directed to refer to letter No. SO(Admn) AHR&MAD/2-11/2017 dated 10.01.2018 on the subject and to enclose herewith Show Cause Notice duly signed by the Competent Authority of **Syed Salamat Shah, Assistant (BS-16)** for its compliance within stipulated time period and further necessary action.

Yours faithfully,

Encl: As above

(HAZRAT JAMAL)
SECTION OFFICER (E-IV)

Copy to:-

Syed Salamat Shah, Assistant, Auqaf Department.


SECTION OFFICER (E-IV)

ATTESTED
Hassan Nasir
Advocate Peshawar

Received, Training 21.00 (PM)
Date 01-02-2018

SHOW CAUSE NOTICE

I, Muhammad Azam Khan, Chief Secretary Khyber Pakhtunkhwa as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve upon you, Syed Salamat Shah, Assistant (BPS-16), Auqaf, Hajj, Religious & Minority Affairs Department.

1. While posted in Auqaf Department you have committed the following omissions/commission:-

- i. That you while posted in the Development Section of Auqaf, Hajj, Religious & Minority Affairs Department absented yourself from duty w.e.f 08.12.2017 to 12.12.2017 without prior approval of the competent authority and without any intimation to the Department. As matter of fact you have made it a permanent routine to willfully leave the office early in the morning and join the office at late hours after weekends. This practice on your part is neither legal nor lawful
- ii. That despite of warning letter issued to you vide letter No.SO(Admn) AHR & MAD/2-11/2016 dated 28.09.2017 and deduction of two days from your salary from 28.09.2017 to 29.09.2017, you failed to improve yourself.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Removal from Service under rule 4 of the said rules.

3. You are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

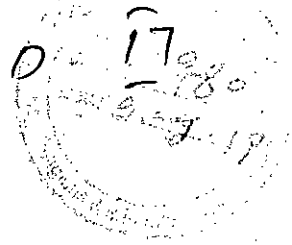
4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

(Muhammad Azam Khan)
Chief Secretary Khyber Pakhtunkhwa
(Competent Authority)

Syed Salamat Shah, Assistant (BPS-16),
Auqaf, Hajj, Religious & Minority Affairs Department

ATT/STED
Hassan Nasir
Advocate Peshawar

Annex D



The Chief Secretary,
Khyber Pakhtunkhwa,
Peshawar.

SUBJECT: REPLY TO THE SHOW CAUSE NOTICE -WILFUL ABSENCE FROM DUTY

Dear Sir,

With reference to the Show Cause Notice served vide Establishment Department letter No. SOL.IV(E&AD)2(727)/2015 dated 30-01-2018, the undersigned would like to submit few observations :

1. That on 7-12-2017 I was present in the office for duty when I was informed on 7-12-2017 that my younger sister had to undergo major surgery who had no one to take care and for which I had to take Short Leave for 7-12-2017 as well Long Leave for 8-12-2017(**Flag-A**) from the then Section Officer and proceeded to my hometown at Mansehra.
2. 9th Dec and 10th Dec were public holidays while on 11th and 12th Dec, the undersigned had to stay at home at Mansehra as my sister was confined to bed and I had to attend her .However I informed Mr. Taqweemul Haque, Stenographer on telephone . This fact can be corroborated from Mr. Taqweem ul Haque.
3. The undersigned would like to submit that my mother is an old lady of 70 years and is suffering from multiple diseases. Furthermore, the family of the undersigned is residing at village in Mansehra. The undersigned has never willfully absented himself from duty neither has the undersigned ever arrived late or left the office early. The undersigned had appealed against imposition of penalty of deduction of salary to the competent authority whose fate has not yet been conveyed to the undersigned.
4. That although I did not absent myself willfully previously on 28-9-2017 and 29-9-2017 rather Mr. Kamran Monitoring Officer had deputed the undersigned to provide some documents to Mr. Ravi Kumar, Coordinator to the Chief Minister, KPK and I had also to visit the Accountant General's Office for my pay-fixation (for which I have already been punished by the Secretary Auqaf Department by deducting two-days salary vide Notification dated 3-10-2017 **Flag- B** and against which; I appealed to the competent authority / Secretary Auqaf Department- **Flag-C**. As per provisions of the constitution of the Islamic Republic of Pakistan, 1973 (double punishment on the same count , cannot be meted out to the citizen of Pakistan yet the Show Cause Notice carry the same charges) and hence could not return to the office while on 29-9-2017 the then Section Officer asked me to leave Application dated 28-9-2017(**Flag-D**)for Casual Leave on the table and proceed to the village at Mansehra. Hence I visited my village at Mansehra.
5. That apart from the above submission, the undersigned would like to be heard in person and request your good self to convey suitable date and time for personal hearing.

Yours faithfully,

(SYED SALAMAT SHAH)
Assistant
Auqaf Department, KPK

ATTESTED
Hassan Nasir
Advocate Peshawar

Dated 7th Feb, 2018

Copy to

1. PS to Secretary Auqaf, Hajj, Religious & Minority Affairs Department, Peshawar.
2. P S to Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.

Syed Salamat

(SYED SALAMAT SHAH)
Assistant

12/2/18

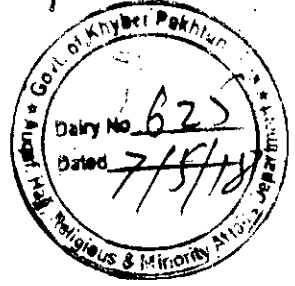


Annex E

18

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(ESTABLISHMENT WING)

Dated Peshawar, the 26th April, 2018



NOTIFICATION

No. SOE.IV(E&AD) 2(727)/2015:-

WHEREAS, Syed Salamat Shah, Assistant (BPS-16), Auqaf, Hajj, Religious and Minority Affairs Department, Civil Secretariat, Khyber Pakhtunkhwa was proceeded against under the Khyber Pakhtunkhwa, Government Servant (Efficiency & Discipline) Rules, 2011.

2. AND WHEREAS, the Competent Authority in exercise of the powers conferred under rule 7 read with rule 5 of Khyber Pakhtunkhwa Government Servant (E&D) Rules, 2011, dispensed with formal/departmental inquiry as sufficient documentary proof/evidence is available that the accused absented himself from duty w.e.f. 08.12.2017 to 12.12.2017 without proper approval of the Competent Authority and without intimation to the department.

3. AND WHEREAS, after having examined the charges, evidence on record and after approval of the Competent Authority show cause notice was served upon the accused official.

4. NOW, THEREAFTER, the Competent Authority, after having considered the charges, evidence on the record, the explanation of the accused official and defense offered by the accused official during personal hearing and exercising his powers under Rule-14 of Khyber Pakhtunkhwa Government Servant (E&D) Rules, 2011, has been pleased to impose major penalty of "Removal from Service" upon Syed Salamat Shah, Assistant (BPS-16).

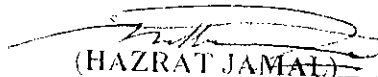
CHIEF SECRETARY
KHYBER PAKHTUNKHWA

Encls: No. and dated even.

Copy forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Section Officer (Admn), Administration Department.
3. Section Officer (Secret), Establishment Department.
4. Estate Officer, Administration Department
5. Section Officer (Admn), Auqaf, Hajj, Religious and Minority Department.
6. Deputy Director (IT), Establishment & Administration Department.
7. PS to Secretary Establishment, Establishment Department.
8. PS to Special Secretary (Est), Establishment Department.
9. PA to Addl. Secretary (HRD Wing), Establishment Department.
10. PA to Deputy Secretary (Est), Establishment Department.
11. Syed Salamat Shah, Assistant (BPS-16), Auqaf, Hajj, Religious and Minority Affairs Department.
12. Personal file of the official concerned.

ATTESTED
Hassan Nasir
Advocate Peshawar


(HAZRAT JAMAL)
SECTION OFFICER (E-IV)

To,

The Hon'ble Chief Minister,
Khyber Pakhtunkhwa, Peshawar.

Annex F 19

SUBJECT: APPROVAL FOR RE-INSTATEMENT IN GOVERNMENT SERVICE

Respected Sir,

It is reverently stated that the undersigned is serving as Assistant (BS-16) in the Provincial Civil Secretariat and was serving in the Auqaf, Hajj, Religious & Minority Affairs Department. It is further stated that the competent authority imposed the major penalty of "Removal from Service" upon the applicant vide Notification No. SOE.IV(E&AD)2(727)/2015 dated 26th April, 2018 (Annex-I) on account of absence from duty w.e.f 8-12-2017 to 12-12-2017(05 days).

The applicant would like to submit the following grounds for sympathetic considerations:

1. That on 7-12-2017 I was present in the office for duty when I was informed on 7-12-2017 that my younger sister Miss Asma had to undergo major surgery (Annex-II) and had no one to take care for which I had to take Short Leave for 7-12-2017 as well as Casual Leave for 8-12-2017 (Annex-III) from the then Section Officer and proceeded to my hometown at Mansehra.
2. That 9-12-017 (Saturday) and 10-12-2017 (Sunday) were public holidays while on 11th and 12th Dec, 2017 the undersigned had to stay at home at Mansehra as my sister was still confined to bed and I had to attend her. However, I had informed Mr. Taqweem ul Haque, stenographer on telephone about that emergency and had asked them to convey my message to the competent authority. This fact can be corroborated from Mr. Taqweem ul Haque.
3. That my mother is an old lady of 70 years and is suffering from multiple diseases. Furthermore, the family of the undersigned is residing at village in Mansehra. The undersigned has neither willfully absented from duty nor he ever arrived late or left the office early.
4. That the penalty imposed upon me is much large than my quantum of lapse and I was removed from service which amounts to financial murder of my family comprising of 08 persons including my mother and 04 school-going children who have no other source of income to sustain their expenditures of life.
5. That at this stage of my life, I am unable to perform any other work to sustain expenditures of my family as I have spent the prime part of my life in serving the Provincial Government and no other person is ready to hire my service.

It is, therefore, requested to give due to considerations to my submissions and approve my request by re-instating me into government service on humanitarian grounds. I shall pray for the long life and prosperity of your good self.

Encl. As Above.

ATTESTED
Hassan Nasir
Advocate Peshawar

Yours faithfully,

(SYED SALAMAT SHAH)

Ex-Assistant Establishment Department, KP.
R/O Village & Post Office Jinkiari Teshil and District Mansehra.
Mobile No. 0343 – 5992940, 0313-5831976
Dated 07th May, 2018

20

10

secretary establishment
Civil secretariat,
Peshawar.

Subject

provide attested copies of
my regretted departmental
Appeal.

ATTESTED
Hassan Nasir
Advocate Peshawar

a

Respected sir,

1. That my departmental appeal was pending as
"Principal Secretary to C.M from Summary number
232438" before your good self.
2. That I submit my appeal on 19.6.2018 and now
I have informed through some reliable resources
that my appeal is regretted today.
3. That I want the attested copies of the same
regretted order.

It is then bore most humbly prayed
that on the acceptance of this application the attested
copies may be given to me.

Date 28/08/2018

Yours faithfully
Hassan Nasir
Advocate Peshawar



Amex G 24
**CHIEF MINISTER'S SECRETARIAT
KHYBER PAKHTUNKHWA**

No. SO (Admn)/CMS/KP/2018
Dated Peshawar the, 11th May, 2018/19985-86

To

The Secretary to,
Government of Khyber Pakhtunkhwa,
Establishment Department.

Subject:- **APPEAL FOR RE-INSTATEMENT IN GOVERNMENT SERVICE**

Dear Sir,

I am directed to forward herewith a copy of self-contained appeal, submitted by Syed Salamat Shah, ex-Office Assistant, Establishment Department, Khyber Pakhtunkhwa, addressed to the Chief Minister, Khyber Pakhtunkhwa, on the subject noted above, alongwith its enclosures for necessary action, as per rules/policy, under intimation to this Secretariat, as desired by the Chief Minister, Khyber Pakhtunkhwa, please.

Yours faithfully,

Encls: As above

ASU
(Usman Ali Shah)
Section Officer (Admn.)

Endst: NO & Date (even)

Copy for information is forwarded to:

1. PS to Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. Syed Salamat Shah, ex-Office Assistant/Resident of Village & Post Office, Jinkiari, Tehsil & District Mansehra. (0313-5831976)

ASU
Section Officer (Admn.)

ATTESTED
Hassan Nasir
Advocate Peshawar

HN

**BEFORE THE SERVICES TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

Service Appeal No. _____/2018

Syed Salamat Shah**Appellant**

V E R S U S

Govt of KPK and others.....**Respondents**

ADDRESSES OF PARTIES

APPELLANT

Mr. Syed Salamat Shah Ex-Assistant Establishment
Department, KP
S/o Syed Server Shah
R/o Village and P/O. Jinkiari Tehsil and District Mansehra

RESPONDENTS

1. Govt of KPK
through Chief Secretary Khyber Pakhtunkhwa, Civil
Secretariat, Peshawar.
2. Chief Secretary Khyber Pakhtunkhwa, civil
Secretariat, Peshawar
Secretary Establishment,
Establishment department, Civil Secretariat,
Peshawar.
3. Secretary Establishment, Establishment department,
Civil Secretariat, Peshawar.
4. Secretary Auqaf, Hajj, Religious and Minority Affairs
department, khyber Pakhtunkhwa.



Appellant






ABDULLAH SHAH

Through

Date: 31/08/201 &

**HASSAN NASIR
Advocates High Court**

  	<p>50</p> <p>ایڈووکیٹ: <u>Hasan Nisar, Adv</u></p> <p>بار کونسل ایسوسی ایشن نمبر: <u>Be No - 4833</u></p> <p>رابطہ نمبر: <u>03149214909</u></p> <p><u>03149206677</u></p>
---	---

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سر عزیز بیونل و خیبر پختونخواہ

<p>Petitioner: <u>Syed Salamet Shuh</u></p> <p>بنام: <u>Court of Pk & others</u></p>	<p>مخائب:</p> <p>دعویٰ:</p> <p>علت نمبر:</p> <p>مورخص:</p> <p>جرم:</p> <p>تھانہ:</p>
--	--

باعت تحریر آئکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی کاروائی متعلقہ کو
 آن مقام کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف سے یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظرتانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخلہ منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانب التوا کے مقدمہ کے سبب سے ہوگا، کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

WESHAWAR ASSOCIATION
 KHYBER PAKHTUNKHA

المقام: سر عزیز بیونل و خیبر پختونخواہ

Attested & Accepted by
Abdullah Shuh Adv
Hasan Nisar

نوٹ: اس وکالت نامہ کی نوٹوکالی ناقابل قبول ہوگی۔

Before the service tribunal perkenax

aged salamat shah

vs

Govt of kpk and others

Application for the grant of permission
to submit amended appeal.

Respectfully shereeth.

I that the above title appeal is pending before
this honorable court which is fix in today;

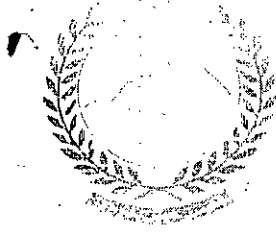
that at the time of filing service appeal before
service tribunal the rejection order of the appeal
dated 31-8-2008 was issued to the appellant

It is therefore most humbly prayed that on
the receipt of this application the applicant may
be grant the permission to amend the Appeal
and to challenge the impugned order.

Date 8-10-2008

Applicant
Signature
Hassan Khan

Regd



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(Establishment Wing)

No.SOE-IV (E&AD) 2 (727)/2015.
Dated Peshawar the 31.08.2018.

To

Syed Salamat Shah,
Ex-Assistant, Augaf Department,
R/o Village & P.O Jinkiari,
Tehsil & District, Mansehra.

Subject: APPEAL FOR RE-INSTATEMENT IN GOVERNMENT SERVICE.

I am directed to refer to the subject noted above and to inform that your appeal dated 07.05.2018 has been processed and rejected by the appellate authority.


(HAZRAT JAMAL)
SECTION OFFICER (E.IV)

2

**BEFORE THE HONOURABLE SERVICES TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

Service Appeal No. 1094/2018

ed Salamat Shah.

(Appellant/Petitioner)

VERSUS

Chief Secretary Khyber Pakhtunkhwa
Secretariat, Peshawar

Respondents

Secretary to Govt. of Khyber Pakhtunkhwa,
Establishment Department.

Respondents

Secretary Auqaf, Hajj, Religious and Minority Affairs
Department, Khyber Pakhtunkhwa.

Respondents

Joint parawise comments / reply on behalf of respondents No. 1-3

PRELIMINARY OBJECTIONS.

1. That the appellant has got no cause of action against the respondents.
2. The appellant is estopped by his own conduct to file the present appeal in the Court.
3. That the appeal is time barred.
4. The appellant has not come to this Honorable Court with clean hands and has concealed material facts from this Honorable Court.

ON FACTS

1. Correct to the extent that though the appellant was appointed as junior Clerk (BPS-5) in Establishment Department on 17.09.2003, however, his performance was not satisfactory. His habit of absenteeism, explanations (**Annex-I**), warnings (**Annex-II**), habitually availing leave on one or another pretext, Charge Sheet /Statement of Allegation (**Annex-III**), penalties (**Annex-IV**), was started from the very beginning of his service and his absence period w.e.f 03.02.2005 to 09.02.2005 (07 days) was treated leave without pay (**Annex-V**). Despite of above facts, the appellant still terming his service record as efficient, disciplined, spotless, blameless and regular. As evident from the above, the appellant was not a willing worker and had always indulged himself in absenteeism throughout his service career.
2. **As explained in Para-1 above.**
3. **No comments.**
4. In reply to para No.04 it is submitted that the appellant moved application for short leave on 07-12-2017 and for full day leave for 08-12-2017 which was allowed by the competent authority. However, it was not been verified that the sister of appellant was really admitted in the hospital at the relevant time or not.

5. Para. No.05 to the extent of submission of application by the appellant for extension of leave is wrong and incorrect. It is further submitted that the appellant like his past practice i.e in habit of absenteeism, has absented on 11th & 12th of December, 2017 without having any application. Moreover his past history sheet of absenteeism is attached herewith as **Annex-A**. On different occasions explanation and warning were issued to the appellant but he has never paid heed to the same. Copy of explanation and warning letters are attached herewith as **Annex-B&C**, respectively.
6. In reply to Para No.06 it is submitted that the willful absence of the appellant was got into the notice of respondent No.2 through letter dated 21-12-2017 with the request for initiating proceeding against the appellant. Copy of the letter is attached herewith **Annex-D**. Furthermore, respondent No.02 in the light of the previous record and letter of the respondent No.4 issued show cause notice to the appellant.
7. Correct to the extent that the appellant had Submitted reply to the Show Cause Notice, which was not satisfactory hence was rejected.
8. Incorrect. The appellant was treated as per law.
9. Incorrect. The appellant produced nothing in his defense in his appeal, hence, was regretted
10. No comments.

GROUND

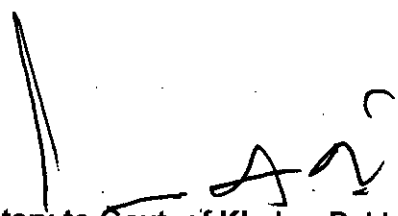
- A. **Incorrect.** The appellate authority after perusal of record, reply to show cause notice, had rejected the appeal.
- B. **Incorrect.** The appellate authority after perusal of his previous record which shows his habitual absenteeism and no interest in improving himself despite of warning and penalties and being a unwilling worker had rejected the appeal.
- C. Ground C is wrong and incorrect. As replied above.
- D. Ground D is also wrong and incorrect. Detailed reply is given above.
- E. **Incorrect.** The appellant was punished for his absence period w.e.f 08.12.2017 to 12.12.2017.
- F. **Incorrect.** Before imposition of major penalty of removal from service, the Appellant was given opportunity of personal hearing for defense by the competent authority (**Annex-VI**).
- G. **Incorrect.** The competent authority after perusal of the record, reply of Appellant to the show cause notice, had imposed major penalty in accordance with the true spirit of Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011, hence no rule was violated.
- H. Incorrect. The letter dated 31.08.2018 addressed to the appellant, was delivered to appellant on his mailing address on the same date i-e 31.08.2018 (**Annex-VII**).
- I. Incorrect. The major penalty was imposed in light of Rule 5(b)(ii) of Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011. (**Annex-VIII**)
- J. Incorrect. The letter dated 31.08.2018 was issued after fulfillment of all codal formalities.

- K. Incorrect. The appeal of appellant was processed and rejected by the appellate authority after perusal of the record.
- L. Incorrect. Before imposition of major penalty of removal from service, the Appellant was given opportunity of personal hearing for defense by the competent authority (Annex-IX).
- M. Incorrect. The appeal of the appellant was rejected by the appellate authority on the basis of his explanation given in the appeal and his previous service record which show his habitual absenteeism and lack of interest in improving his attitude towards official duty despite of warnings and penalties.
- N. Incorrect. The appellant was proceeded under Rule 5 (b) (ii) of the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rule, 2011 (Annex-X) and was removed from service after fulfillment of all codal formalities. The appellant was also given full opportunity for self defense through his reply to Show Cause Notice and personal hearing.
- O. As replied above.
- P. The respondents seek leave to raise additional grounds at the time of arguments.

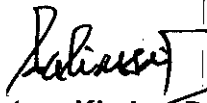
It is therefore, humbly prayed that on acceptance of instant joint Parawise comments/ reply, the appeal of the appellant may be dismissed with costs.



Secretary to Govt. of Khyber Pakhtunkhwa
 Auqaf Department
 (Respondent No.3)
 Secretary
 Govt. of Khyber Pakhtunkhwa
 Auqaf, Hajj, Religious & Minority Affairs
 Department



Secretary to Govt. of Khyber Pakhtunkhwa
 Establishment Department
 (Respondent No.2)



Chief Secretary Khyber Pakhtunkhwa
 (Respondent No.1)
 CHIEF SECRETARY
 Govt. of Khyber Pakhtunkhwa

Section Officer (S-IV)

Diary No. 202

Dated 2-5-05

Addl. Secretary (Estab)
Establishment & Adm. Deptt.

Diary No. 962

Dated 4/5/2005

Annex I

Page 1 of 1

21
53

387/ha
5/5/5

GOVERNMENT OF NWFP
HIGHER EDUCATION DEPARTMENT

No.SOG/HE/ 1-47/2001
Dated Peshawar the May 2, 2005

Secy - 32/c

To

The Secretary to Govt. of NWFP,
Establishment Department

Subject: WILFUL ABSENCE FROM DUTY OF MR. SALAMAT
SHAH, JR. CLERK, HIGHER EDUCATION DEPARTMENT

Dear Sir,

I am directed to refer to the above-cited subject and to state that Mr. Salamat Shah, Jr. Clerk posted in this Department, vide Establishment Department letter No. SOE.IV/E&AD/1-14/2003 dated 01-10-2003 is habitual to avail frequent leave on one and another pretext, and always remain away from duty without permission. Despite of many warnings there is no change in the behaviour of the official. Details of warning letters issued to him is as under:-

- | | |
|----------------|------------------|
| 1. Warning | Dated 09-12-2003 |
| 2. Warning | Dated 21-2-2004 |
| 3. Warning | Dated 11-8-2004 |
| 4. Warning | Dated 27-8-2004 |
| 5. Explanation | Dated 14-1-2005 |
| 6. Explanation | Dated 10-2-2005 |
| 7. Explanation | Dated 22-3-2005 |

Reply still not submitted
by the official under report

It is worth-submitted that the absent period of the official w.e.f. 03-02-2005 to 09-02-2005 was treated as leave without pay as he remained absent from official duty at his own will.

He is absent from his official duty w.e.f. 02.04.2005 till date. It is therefore recommended that the official may be proceeded against under Removal from Service (Special Powers) amendment Ordinance 2001, under intimation to this office and his substitute may kindly be provided so that official work may not be suffered please.

Yours faithfully,

[Signature]
SECTION OFFICER (GENERAL)

Encl: As above

[Signature]
5-5-2005
Secy: Estt:

AS/E

[Signature]
SOG/IV
233

[Signature]
7/5/05

105
6

**GOVERNMENT OF NWFP,
INFORMATION & PUBLIC RELATIONS DEPARTMENT PESHAWAR.**

No.SOG(INF)PF/1-60/2003/
Dated Peshawar, the 13th September, 2007

To

Mr. Salamat Shah,
Junior Clerk,
Information & PRs Department, NWFP, Peshawar.

Subject: - EXPLANATION.

It has been brought to the Notice of Secretary Information that you are involved in activities which are of un-becoming a Government Servant. You often remain absent from duty and leaves the office before the office hours without prior permission of the competent authority. You are also habitual and coming late to office.

You on the following dates remain absent from duty:

A.	S.N	Day/Date.	Day/Date	Absent	Arrival Day / date at 10.00 AM even Tuesday.
	1	Saturday 14/7/2007.	Sunday 15/7/2007.	Monday 16/7/2007	Tuesday 17/7/2007.
	2	Saturday 21/7/2007.	Sunday 22/7/2007	Monday 23/7/2007	Tuesday 24/7/2007
	3	28/7/2007 Saturday	Sunday 29/7/2007	Monday 6/8/2007	Tuesday 7/8/2007
	4	Saturday 4/8/2007	Sunday 5/8/2007	Monday 6/8/2007	Tuesday 7/8/2007
	5	Saturday 25/8/2007	Sunday 26/8/2007	Monday 27/8/2007	Tuesday 28/8/2007

B. And on the following dates you leave office without prior permission of the competent authority.

S.No.	Day/Date.
1	Saturday 14/7/2007.
2	Saturday 21/7/2007.
3	28/7/2007 Saturday
4	Saturday 4/8/2007
5	Saturday 25/8/2007

C. You came too late to attend office on the following dates:-

S.No.	Arrival Day / date.
	Tuesday 17/7/2007.
	Tuesday 24/7/2007
	Tuesday 7/8/2007
	Tuesday 28/8/2007

Moreover it is further stated that Section Officer (Admn.) directed you on Saturday 8th September 2007 to attend the office on 10th September 2007 on Monday, but you failed to attend the office on 10th September, 2007 without any intimation and remained absent till 12th September 2007.

GOVERNMENT OF NWFP,
INFORMATION AND PUBLIC RELATIONS DEPARTMENT.

NO SOG (INF) PF/1-60/2003,
Dated Peshawar the 31st March 2008

To

Mr. Salamat Shah,
Junior Clerk,
Information and PRs Department NWFP.

[Handwritten signature]
02-04-08

71

Subject:- EXPLANATION.

You have been absent from the office duty with effect from 12th November 2007 to 16-03-2008. You have also been submitting Medical Certificates in piece meal up to 11-12-2007 and after that neither you have submitted medical certificate nor attended the office.

Consequently the case was referred to Director General Health for your medical check-up. The Medical Board was arranged on 09-01-2008 and as such you were directed to appear before the Board vide this department registered letter bearing No. SOG (INF) PF1-60/2003, dated 5-1-2008 but you did not comply with the same and failed to appear before the Board. After remaining 120 days absent from duty you joined the office on 17-03-2008 and did not produce medical fitness certificate of the respective Health Unit. It shows that you are intentionally avoiding to obey the orders of your superiors and not taking interest in the official duties.

Your above act amounts to disobedience of the orders of the competent authority and also misconduct as a result of which you have rendered yourself liable for disciplinary action under the RSO 2000.

You are called upon to explain as why disciplinary action should not be taken against you for the above disobedience and misconduct. Your explanation should reach the undersigned within two days from the receipt of this letter failing ^{which} you will be proceeded against under the law.

[Handwritten signature]
Section Officer (General)

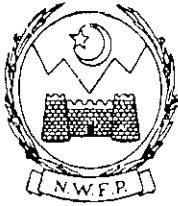
Endst:of even No & date.

Copy of the above is forwarded to:-

1. Section Officer-E-IV Establishment Department with reference to his letter SOE-IV (E & AD) 5-333/2003 dated 17-03-2008;
2. PA to Additional Secretary Information.

[Handwritten initials]

[Handwritten signature]
Section Officer (General)



223
8

GOVERNMENT OF NWFP
ESTABLISHMENT DEPARTMENT
(ESTABLISHMENT WING)
NO. SOE-IV (E&AD) -/2003
Dated Peshawar the 09.02.2009

To

16-02-09
Mr. Salamat Shah,
Junior Clerk, Health Deptt:
NWFP, Peshawar

Subject: EXPLANATION:

On your transfer from Food department to Health department on 15/12/2008 vide this department order: No SOE-IV (E&AD) 1-14(G)/2008, dated 15/12/2008, you have failed to report yourself for duty in the Health department thus far.

Hence, you are hereby required to explain in writing the cause/reason of your failure (as described above,) within three (03) days positively. In case of failure, you would be liable to be proceeded against under the provisions of Removal from Service (special powers) ordinance, 2000.

Asad Malik
Section Officer (E-IV)
Est b'ishment &
Administration Deptt

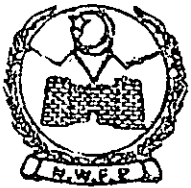
Endst. No. & date even

Copy forwarded to:

Section Officer (General) Health Department with reference to his letter No. SOG (Health)/2-5/2009, dated 15th January, 2009 for further necessary action.

Asad Malik
SECTION OFFICER (E.IV)

18
20
21
22
223
224
225
226
227
228
23
23
23
24
24
2



GOVT. OF N.W.F.P.
ESTABLISHMENT & ADMN: DEPARTMENT.
(REGULATION WING)

NO.SOR.III(E&AD)9-1/09
Dated Pesh: the 23-05-2009.

331
9

To

S.Saiamat Shah,
Junior Clerk,
Regulation-III, Section,
(Regulation Wing), Establishment Department.

Subject: - EXPLANATION

You are directed to explain the position as on 16-05-2009, you was asked to bring Most-Important documents, i.e. Allotment of Plots Rules, 1989, from the concerned department. The documents were required in an important case, but you did not comply with to rather left the office at about 12.30 p.m on the same day without any intimation and remained absent upto the closing hours.

2. On 18-05-2009, you are found absent from duty without any intimation/application. You are found habitual absentee and not a willing worker. Time and again you have been directed not to avail C/Leave in such a manner i.e. without prior intimation/approval. You have also directed to maintain a Diary/Index Register and keep the record of each and every file according to the rules but you failed to comply with the instructions/directic:ns of your seniors.

3. WHY disciplinary action should not be taken against you?

4. You are, therefore, directed to explain your position within three days after receipt of this letter. otherwise exparte action will be taken against you under E&D Rules, 1989.

(AQEEL AHMAD)
SECTION OFFICER(R-III)

Endst. No. & Date as above

Copy forwarded to: -

The Section Officer (E-IV), Establishment Department with the request to post a suitable substitute in place of S.Salamat Shah, Junior Clerk, in R-III Section as the official concerned is absent from duty without intimation/prior approval w.e.f. 18-05-2009 till date.

SECTION OFFICER(R-III)

219
220
221
222
223
224
225
226
227
228
230
231
232
233
238
244
245
250

29/5/09

23/5/9



Annex II

GOVERNMENT OF N.-W.F.P.
INFORMATION AND PUBLIC RELATIONS
DEPARTMENT.

10

NO SOG (INF) PF/1-60/2003,
Dated Peshawar the 22nd September 2007.

To

Mr. Salamat Shah,
Junior Clerk,
Information and PRs Department NWFP.

Subject:-

WARNING.

Reference your reply of the Explanation dated 22-09-2007 called upon by the undersigned on the direction of Additional Secretary vide letter of even number dated 13-09-2007 received instead of 16-09-2007 is found incorrect and un-satisfactory.

However, you are hereby warned and directed to ensure punctuality/ attendance and careful in future otherwise strict disciplinary action will be initiated against you under RSO 2000/ Amended Ordinance 2001, at that time no excuse will be accepted.

O/c

Section Officer (Admin) 22/9/07

Endst:of even No & date.

Copy of the above is forwarded to:-

PA to Additional Secretary Information, NWFP.

O/c

Section Officer (Admin) 22/9/07

Annex UI

FIB

56
11

DISCIPLINARY ACTION.

I, Mián Sahib Jan, Secretary to Govt: of NWFP Establishment Department, as competent authority, am of the opinion that Mr. Salamat Shah, has rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of section-3 of the North-West Frontier Province Removal from Service (Special Powers) Ordinance, 2000:-

STATEMENT OF ALLEGATION

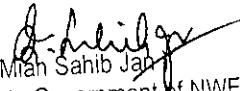
- a. He is habitual to avail leave at his own will.
- b. He has not replied to the explanation calls served upon him vide No.SO(U)H.E/13-1/2000 DATED 14-1-2005, 28-1-2005, 22-3-2005 AND 5-5-2005.
- c. He remained absent from official duty w.e.f. 2-4-2005 to 2-5-2005 without permission of the concerned authorities.
- d. He has produced fake documents such as Blood Transfusion Card issued from Armed Forces Institute of Transfusion Rawalpindi dated 2-4-2005 alongwith other doctor prescriptions in support of his plea that he was ill w.e.f. 2-4-2005 to 2-5-2005.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an enquiry committee consisting of the following is constituted under section 5 of the Ordinance:-

- i. Mr. Ghaznafar Ali Section Officer.
- ii.

3. The Enquiry Committee shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

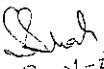
4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the enquiry committee.


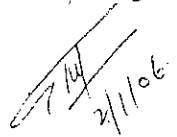

(Mián Sahib Jan)
Secretary to Government of NWFP,
Establishment Department.


No. SO E-IV (E+AD) 5 (333) / 203 Dated Pesh. 16, 31.12.2005

A copy of the above is forwarded to the:-

1. The Enquiry Officer for initiating proceedings against the accused under the provisions of the Removal from Service (Special Powers) Ordinance, 2000.
2. Mr. Salamat Shah, with the directions to appear before the Inquiry Committee, on the date, time and place fixed by the Committee, for the purpose of the inquiry proceedings.
3. Secretary to Govt: of NWFP Higher Education Department with the request to detail a departmental representative well conversant with the facts of the case alongwith relevant record to assist the Inquiry Committee during the inquiry proceedings.


2-01-06


2/1/06

2/1/06


Section Officer (E-IV)
Establishment &
Administration Deptt

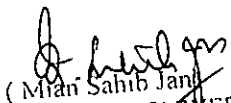
CHARGE SHEET.

I, Mian Sahib Jan, Secretary to Government of NWFP, Establishment Department
as competent authority, hereby charge you, Mr. Salamat Shah as follows:-
H. Edu: Deptt.

That you while posted as Jr. Clerk / committed the following
irregularities:

12

- a. You are habitual to avail leave at his own will.
 - b. You have not replied to the explanation calls served upon him vide No. SO(U)H.E/13-1/2000 DATED 14-1-2005, 28-1-2005, 22-3-2005 AND 5-5-2005.
 - c. You remained absent from official duty w.e.f. 2-4-2005 to 2-5-2005 without permission of the concerned authorities.
 - d. You have produced fake documents such as Blood Transfusion Card issued from Armed Forces Institute of Transfusion Rawalpindi dated 2-4-2005 alongwith other doctor prescriptions in support of your plea that you were ill w.e.f. 2-4-2005 to 2-5-2005.
2. By reasons of the above, you appear to be guilty of misconduct under Section-3 of the NWFP (Removal from Service) Special Powers, 2000, and have rendered yourself liable to all or any of the penalties specified in Section-3 of the Ordinance ibid.
3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Enquiry Office/Committee, as the case may be.
4. Your written defence, if any, should reach to the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex parte action shall follow against you.
5. Intimate whether you desire to be heard in person.
6. A statement of allegations is enclosed.


(Mian Sahib Jan)
Secretary to Govt. of NWFP,
Establishment Department.

① Shah
2-01-06

13

INQUIRY AGAINST SALAMAT SHAH, J/C, HIGHER EDUCATION DEPTT

Establishment, Deptt Endt vide its endt at Annex-A, directed the undersigned to conduct inquiry against Mr. Salamat Shah, the accused official, serving as J/C in Higher Education Deptt on the Charges mentioned in the above mentioned Enst. As the Charge-Sheet was also communicated to the official concerned, so he submitted his written reply to the undersigned on 4/11/2006 (Annex-B). The undersigned visited the Higher Education Deptt thrice on different dates but the accused official was on leave, so the inquiry couldn't not be conducted as the same required personal presence of the accused official. Later on, the undersigned was verbally informed by Higher Education Deptt that the said J/C was granted 3-months Leave for Tableegh purpose. The Establishment Department was informed accordingly. The Establishment Department allowed the undersigned to carry out the Inquiry after the accused returns from Leave on 2.9.2006, vide their letter No.S.O(E &AD) 5(33)/2003, Dated 21/7/2006 (Annex-C).

2. When the accused official returned from Leave, the undersigned requested the Higher Education Department to provide the relevant record and ensure the availability of the accused official on 7.10.2006 for the purpose of Inquiry. The Higher Education Department furnished the relevant record according vide its letter at Annex-D

3. The undersigned sifted and checked the personal file of the accused official, to ascertain facts pertaining to the allegations contained in the Statement of Allegations and Charge Sheet. The details of the same are given in seriatim as under:

a)- ALLEGATION NO: 1:

He is habitual to avail leave at his own will.

The personal file and written reply of the accused official was checked with reference to the abovementioned charge. The personal file of the accused official shows the following record of leave which were availed in violation of laid down procedure:

1. He submitted application for leave w.e.f. 31.10.2003 to 3.11.2003, but did not wait for its approval. He left the office and consequently remained absent from office during the said period.(Annex- E)
2. On 24.11.2005, he conveyed message to his colleague to submit application for leave and did not care for its approval or otherwise. (Annex-F)
3. After the expiry of Eid Leave, he conveyed his request for grant of further Leave for two days i.e., 1st and 2nd December, 2003 and did not bothered for its approval. (Annex- F)
4. He remained absent on 6 & 7. 4. 2004 without intimating his officer or submitting application. (Annex-G)
5. He remained absent on 26.1.2005 without any permission/approval. (Annex-H)
6. He remained absent for three days w.e.f., 11.1.2005 to 13.1.2005 without submitting any application for leave. (Annex- I)
7. He remained absent for seven consecutive days w.e.f. 3.2.2005 to 9.2.2005(both days inclusive) without submitting any application for leave. (Annex-J)
8. He remained absent for two days w.e.f., 14.3.2005 to 15.3.2005 without any leave application. (Annex- K)
9. He remained absent for 32 days i.e., w.e.f., 2.4.2005 to 2.5.2005. The detail of the same is given in Allegation No. 4.
10. He applied for leave for two days i.e., 5 & 6.9.2005 but the it was refused by the Department because of exigency of office work and he was duly informed but he did not care for the same and remained absent for 5 & 6.9.2005 and remained absent for two further days i.e., 7th and 8th of the same month. (Annex-1.)

Furthermore, the correspondence in his personal file shows that he was again advised and later on warned to desist from such practice

Department of Establishment
Section Officer (S-IV)
Diary No. 262
Dated 21/2/08

Section Officer (S-IV)
Diary No. 262

156
14/7/08
20-2-8

GOVERNMENT OF NWFP
INFORMATION AND PUBLIC RELATIONS DEPARTMENT

NO. SOG (INF)/1-60/2007
Dated Peshawar the 17th February 2008.

Addl. Secretary (Estab)
Establishment & Adm. Dep.
File No. 305
Dated 21-2-08

14

To The Secretary to Government of NWFP,
Establishment Department, Peshawar.

Attention:- Section Officer-E-IV, Establishment Department.

Subject:- PROCEEDINGS AGAINST MR. SALAMAT SHAH JUNIOR
CLERK.

Dear Sir,

I am directed to refer to the subject noted above and to say that Mr. Salamat Shah Junior Clerk has been transferred to the Information Department vide Establishment Department Order No. SOE-IV (E & AD) 5 (333)/07 dated 9-7-2007. Since his arrival to this department he remained absent from his official duties due to which his explanation was called and was warned but he could not improve his behavior. It is further added that on 13-11-2007 Mr. Salamat Shah showed himself as ill and went to Police Hospital for necessary treatment, wherein Medical Officer Police and Services Hospital advised him 2 days bed rest, but he wrote an application to SOG for grant of 3 days extra leave up to 17-11-2007. On the expiry of his leave he did not come to office on 18-11-2007 and produced further Medical Certificates as per details given below:-

1. 4 days with effect from 19-11-2007 to 22-11-2007.
2. 3 days with effect from 23-11-2007 to 25-11-2007.
3. 3 days with effect from 26-11-2007 to 28-11-2007.
4. 3 days with effect from 29-11-2007 to 01-12-2007.
5. 5 days with effect from 02-12-2007 to 06-12-2007.
(Private Doctor).
6. 5 days with effect from 07-12-2007 to 11-12-2007
(Private Doctor).
7. No further Medical Certificate received and absent from duty with effect from 12-12-2007.

(Medical Certificates are attached in original).

The case was sent to the Director General Health Department for arrangement of Medical Board and Mr. Salamat Shah was informed through AD Registered letter (copy attached). The date of the Medical Board was fixed by the Director General Health, which was also communicated to Mr. Salamat Shah through

Private Secretary to
Section Officer (S-IV)
Diary No. 333
Dated 27/2/08
AS/E
DS/ES
27/2/08

153/19

Endst. No. & date even

Copy of the above is forwarded to:-

1. Mr. Khalid Olyas, Section Officer (E-IV) FSLD Department for initiating proceeding against the accused under the provisions of the NWFP Removal from Service (Special Powers) Ordinance, 2000 and to communicate the charge sheet & statement of allegations (enclosed herewith) to the accused officer.
2. Mr. Salamat Shah, Junior clerk, Information Department now with the directions to appear before the Inquiry Officer, on the date, time and place fixed by the Committee, for the purposes of the inquiry proceedings.
3. The Secretary to Govt. of NWFP, Information Department with the request to detail a departmental representative well conversant with the facts of the case alongwith relevant record to assist the Inquiry Officer during the inquiry proceedings.

Ayub Waleed
SECTION OFFICER (E.IV)

No.SOE.IV(E&AD)5(333)/2003

Dated Peshawar the 10.06.2008

Recd
10/6/08

Recd To day
[Signature]
10/6/08

[Signature]
10/6/08

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30


CHARGE SHEET

16

I, Mian Sahib Jan, Secretary Establishment Department, Government of NWFP, as competent authority, hereby charge you, Mr. Salamat Shah, Junior Clerk, Information Department, Civil Secretariat, NWFP as follows:-

- I. That you have submitted medical certificates from 13th November, 2007 to 11th December, 2007 without break.
 - II. That when you failed to attend the office on expiry of medical leave, the Administrative Department arranged a medical board through Director General Health Services on 09.01.2008, and informed you through registered letter, but you failed to appear before the Medical Board.
 - III. That your explanation has been called again, but in response you have submitted medical certificates upto 17.03.2008. Through (Superintendent of Information Department), the medical certificates were checked from Ayub Medical Hospital, Abbottabad which were found fake/bogus.
2. By reasons of the above, you appear to be guilty of misconduct under section-3 of the NWFP Removal from Service (Special Powers) Ordinance 2000 and have rendered yourself liable to all or any of the penalties specified in Section-3 of the Ordinance *ibid*.
 3. You are, therefore, required to submit your written defence within seven (07) days of the receipt of this charge sheet to the Enquiry Officer/Committee.
 4. Your written defence, if any, should reach the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that you have no defence to put in and in that case *ex-parte* action shall follow against you.
 5. Intimate whether you desire to be heard in person.
 6. The statement of allegations is enclosed.

18
16
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40


SECRETARY ESTABLISHMENT DEPTT.
(COMPETENT AUTHORITY)

Dated June 7, 2008

224
173

DISCIPLINARY ACTION

I, Mian Sahib Jan, Secretary to Govt. of NWFP, Establishment Department, as Competent Authority, am of the opinion that Mr. Salamat Shah, Junior Clerk (BS-07), Information Department, has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning of Section 3 of the North West Frontier Province Removal from Service (Special Powers) Ordinance, 2000 as amended vide NWFP Removal from Service (Special Powers) (Amendment) Ordinance, 2001.

STATEMENT OF ALLEGATIONS

He has submitted medical certificates from 13th November, 2007 to 11th December, 2007 without break.

He failed to attend the office on expiry of medical leave, the Administrative Department arranged a medical board through Director General Health Services on 09.01.2008, and informed you through registered letter, but you failed to appear before the Medical Board.


His explanation has been called again, but in response he has submitted medical certificates upto 17.03.2008. Through Superintendent of Information Department, the medical certificates were checked from Ayub Medical Hospital, Abbottabad which were found fake/bogus.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an enquiry officer/committee consisting of the following is appointed/constituted under Section 5 of the Ordinance.

- i. Mr. Khalid Ilyas SOE-II, Establishment Deptt.
- ii. _____

3. The Inquiry Officer/Committee shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused record its findings and make, within 25 days of the receipt of this order/ recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the Department shall join the proceedings on the date, time and place fixed by the Inquiry Officer/Committee.


SECRETARY TO GOVT OF NWFP
ESTABLISHMENT DEPARTMENT
(COMPETENT AUTHORITY)

19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

228
189

CHARGE SHEET

I, Mian Sahib Jan, Secretary Establishment Department, Government of NWFP, as competent authority, hereby charge you, Mr. Salamat Shah, Junior Clerk, Information Department, Civil Secretariat, NWFP as follows:-

- I. That you have submitted medical certificates from 13th November, 2007 to 11th December, 2007 without break.
 - II. That when you failed to attend the office on expiry of medical leave, the Administrative Department arranged a medical board through Director General Health Services on 09.01.2008, and informed you through registered letter, but you failed to appear before the Medical Board.
 - III. That your explanation has been called again, but in response you have submitted medical certificates upto 17.03.2008. Through (Superintendent of Information Department), the medical certificates were checked from Ayub Medical Hospital, Abbottabad which were found fake/bogus.
2. By reasons of the above, you appear to be guilty of misconduct under section-3 of the NWFP Removal from Service (Special Powers) Ordinance 2000 and have rendered yourself liable to all or any of the penalties specified in Section-3 of the Ordinance *ibid*.
3. You are, therefore, required to submit your written defence within seven (07) days of the receipt of this charge sheet to the Enquiry Officer/Committee..
4. Your written defence, if any, should reach the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that you have no defence to put in and in that case *ex-parte* action shall follow against you.
5. Intimate whether you desire to be heard in person.
6. The statement of allegations is enclosed.


SECRETARY ESTABLISHMENT DEPTT.
(COMPETENT AUTHORITY)

Dated June 7, 2008

229
19

DISCIPLINARY ACTION

I, Mian Sahib Jan, Secretary to Govt. of NWFP, Establishment Department, as Competent Authority, am of the opinion that Mr. Salamat Shah, Junior Clerk (BS-07), Information Department, has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning of Section 3 of the North West Frontier Province Removal from Service (Special Powers) Ordinance, 2000 as amended vide NWFP Removal from Service (Special Powers) (Amendment) Ordinance, 2001.

STATEMENT OF ALLEGATIONS

He has submitted medical certificates from 13th November, 2007 to 11th December, 2007 without break.

He failed to attend the office on expiry of medical leave, the Administrative Department arranged a medical board through Director General Health Services on 09.01.2008, and informed you through registered letter, but you failed to appear before the Medical Board.

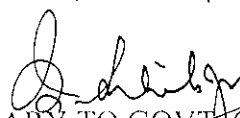
His explanation has been called again, but in response he has submitted medical certificates upto 17.03.2008. Through Superintendent of Information Department, the medical certificates were checked from Ayub Medical Hospital, Abbottabad which were found fake/bogus.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an enquiry officer/committee consisting of the following is appointed/constituted under Section 5 of the Ordinance.

- i. Mr. Khalid Ilyas SOE-II, Establishment Deptt.
- ii. _____

3. The Inquiry Officer/Committee shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused record its findings and make, within 25 days of the receipt of this order/ recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the Department shall join the proceedings on the date, time and place fixed by the Inquiry Officer/Committee.


SECRETARY TO GOVT. OF NWFP
ESTABLISHMENT DEPARTMENT
(COMPETENT AUTHORITY)

293
20

DISCIPLINARY ACTION

I, Mian Sahib Jan, Secretary to Govt. of NWFP, Establishment Department, as Competent Authority, am of the opinion that Mr. Salamat Shah, Junior Clerk (BS-07), Food Department, presently working in Establishment Department has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning of Section 3 of the North West Frontier Province Removal from Service (Special Powers) Ordinance, 2000 as amended vide NWFP Removal from Service (Special Powers) (Amendment) Ordinance, 2001.

STATEMENT OF ALLEGATIONS

- I. That you while posted in Health Department from Food Department vide Order NO. SOE.IV (E&AD) 1-14 (G)/2008, dated 15.12.2008, failed to report yourself for duty in the said department as is evident from Health department letter No. SOG (Health) 2-5/2009, dated 15.01.2009;
 - II. That you were called upon to explain your position viz-a-viz your reported absence (which in total comes to 53 days) vide our letter No. SOE.IV (E&AD) 5-333/2003, dated 09.02.2009;
 - III. That in support thereof you submitted medical certificates/prescriptions suggesting rest(s) for various days, details whereof are listed below:--
 - (a) 07 days rest w.e. from 15.12.2008 onwards;
 - (b) 01 days gap i.e 22.12.2008
 - (c) 07 days rest w.e. from 23.12.2008 onwards;
 - (d) 08 days rest w.e. from 30.12.2008 to 06.01.2009.
 - (e) 10 days gap between 07.01.2009 to 16.01.2009. —
 - (f) 07 days rest from 17.01.2009 to 23.01.2009.
 - (g) 02 days gap i.e 24 & 25/01/2009. —
 - (h) 07 days rest from 26.01.2009 to 01.02.2009; and
 - (i) 04 days absence w.e. from 02.02.2009 to 05.02.2009
 - IV. That the aforesaid medical certificates/prescriptions (in original) were sent to Medical Superintendent, Ayub Teaching Hospital, Abbottabad for verification vide our letter No. SOE.IV (E&AD) 5(333)/2003, dated 20.03.2009; and in response thereto, the said quarter found the prescriptions in question bogus; thus declined to verify them as per their letter No. 4164/PA/MS//ATH, dated 01.04.2009.
2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an enquiry officer/committee consisting of the following is appointed/constituted under Section 5 of the Ordinance.

- i. Mr. Muhammad Javed Siddiqi
- ii. _____

8
6
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

294
21

3. The Inquiry Officer/Committee shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused record its findings and make, within 25 days of the receipt of this order/ recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the Department shall join the proceedings on the date, time and place fixed by the Inquiry Officer/Committee.

A. Ishaq
SECRETARY TO GOVT. OF NWFP
ESTABLISHMENT DEPARTMENT
(COMPETENT AUTHORITY)
April 15, 2009

Endst. No. & date even

Copy of the above is forwarded to:-

1. Mr. Muhammad Javed Siddiqui
Department for initiating proceeding against the accused under the provisions of the NWFP Removal from Service (Special Powers) Ordinance, 2000 and to communicate the charge sheet & statement of allegations (enclosed herewith) to the accused officer.
2. Mr. Salamat Shah, Junior clerk, Food Department, presently working in Establishment Department now with the directions to appear before the Inquiry Officer, on the date, time and place fixed by the Committee, for the purposes of the inquiry proceedings.
3. The Secretary to Govt. of NWFP, Food Department with the request to detail a departmental representative well conversant with the facts of the case alongwith relevant record to assist the Inquiry Officer during the inquiry proceedings.

Aziz ul Haque
SECTION OFFICER (E.IV)

No.SOE.IV(E&AD)5(333)/2003

Dated Peshawar the 16.04.2009

X
9
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

245
22

CHARGE SHEET

I, Mian Sahib Jan, Secretary Establishment Department, Government of NWFP, as competent authority, hereby charge you, Mr. Salamat Shah, Junior Clerk, Food Department, presently working as Junior Clerk in Establishment Department, Civil Secretariat, NWFP as follows:-

- I. That you while posted in Health Department from Food Department vide Order NO. SOE.IV (E&AD) 1-14 (G)/2008, dated 15.12.2008, failed to report yourself for duty in the said department as is evident from Health Department letter No. SOG (Health) 2-5/2009, dated 15.01.2009 (Annex-I) → Pg 266/c
 - II. That you were called upon to explain your position viz-a-viz your reported absence (which in total comes to 53 days) vide our letter No. SOE.IV (E&AD) 5-333/2003, dated 09.02.2009 (Annex-II); → Pg 273/c
 - III. That in support thereof you submitted medical certificates/ prescriptions (Annex-III) suggesting rest(s) for various days. details whereof are listed below:-
 - (a) 07 days rest w.e. from 15.12.2008 onwards;
 - (b) 01 day gap i.e 22.12.2008;
 - (c) 07 days rest w.e. from 23.12.2008 onwards;
 - (d) 08 days rest w.e. from 30.12.2008 to 06.01.2009.
 - (e) 10 days gap between 07.01.2009 to 16.01.2009.
 - (f) 07 days rest from 17.01.2009 to 23.01.2009.
 - (g) 02 days gap i.e 24 & 25/01/2009.
 - (h) 07 days rest from 26.01.2009 to 01.02.2009; and
 - (i) 04 days absence w.e. from 02.02.2009 to 05.02.2009
 - IV. That the aforesaid medical certificates/prescriptions (in original) were sent to Medical Superintendent, Ayub Teaching Hospital, Abbottabad for verification vide our letter No. SOE.IV (E&AD) 5(333)/2003, dated 20.03.2009; and in response thereto, the said quarter found the prescriptions in question bogus; thus declined to verify them as per their letter No. 4164/PA/MS//ATH, dated 01.04.2009 (Annex-IV) → Pg 281/c
2. By reasons of the above, you appear to be guilty of misconduct under section-3 of the NWFP Removal from Service (Special Powers) Ordinance 2000, as amended from time to time, yourself liable to all or any of the penalties specified in Section-3 of the Ordinance, ibid.
3. You are, therefore, required to submit your written defence within seven (07) days of the receipt of this charge sheet to the Enquiry Officer/Committee.
- 9
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

296
23

4. Your written defence, if any, should reach the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall follow against you.

5. Intimate whether you desire to be heard in person.

6. The statement of allegations is enclosed.

[Signature]
SECRETARY ESTABLISHMENT DEPTT.
(COMPETENT AUTHORITY)

Dated April 18, 2009

21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

GOVERNMENT OF NWFP
ESTABLISHMENT DEPARTMENT
(ESTABLISHMENT WING)

239
332
240

SHOW CAUSE NOTICE

I, Mian Sahib Jan, as Competent Authority, under the North-West Frontier Province Removal from Service (Special Powers) Ordinance 2000, do hereby serve you, Mr. Salamat Shah, Junior Clerk, presently posted in Information Department, as follows:

- i. That you have been provided personal hearing and enquiry conducted through enquiry officer for the charges mentioned in charge sheet/statement of allegation dated 10.06.2008.
- ii. That the enquiry officer after perusal of your written reply, record and other relevant evidence conclude that you have committed the following acts/omissions specified in Section 3 of the said ordinance.

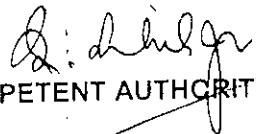
(a) Guilty of misconduct

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of "Censure" under section 3 of the said ordinance.

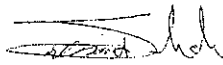
3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person

4. If no reply to this notice is received within seven (07) days of its delivery, in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case an ex parte action shall be taken against you. You should indicate as to whether you intend to be heard in person or otherwise.

5. The copy of the findings of the Inquiry Committee/Officer is enclosed.


(COMPETENT AUTHORITY)

Mr. Salamat Shah,
Junior Clerk,
Information Department.


29-05-09.

219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240

Annex IV

GOVERNMENT OF NWFP
ESTABLISHMENT DEPARTMENT
(ESTABLISHMENT WING)

Dated Peshawar, the 20th August, 2007

25

ORDER

No. SOE.IV(E&AD) 2(349)/93.- WHEREAS, Mr. Salamat Shah, Junior Clerk^s (BPS-05), Higher Education Department, (now working in Information Department) NWFP, is habitual in availing leave at his own will.

AND WHEREAS he has not replied to the explanation calls served upon him vide Education Department's letters dated 14.01.2005, 28.01.2005, 22.03.2005 and 05.05.2005;

AND WHEREAS He remained absent from official duty with effect from 02.4.2005 to 02.05.2005 without permission of the concerned authorities;

AND WHEREAS He has produced fake documents such as Blood Transfusion Card issued from Armed Forces Institute of Transfusion Rawalpindi dated 02.04.2005 alongwith other doctor prescriptions in support of his plea that he was ill w.e. from 02.4.2005 to 02.5.2005;

AND WHEREAS an enquiry under Removal from Service (Special Powers) Ordinance 2000 was conducted in this regard. According to the recommendations whereof the charges leveled against the aforesaid official were proved;

NOW, THEREFORE, I, (Mian Sahib Jan) as Competent Authority, in exercise of powers conferred upon me by Section-3 read with Section 8 of the NWFP Removal from Service (Special Powers) Ordinance, 2000, as amended from time to time do hereby impose the minor penalty of withholding of two annual increments for a period of two years (2007 & 2008) on the accused Mr. Salamat Shah, Junior Clerk, Higher Education Department (now working in Information Department).

SECRETARY TO GOVT. OF NWFP
ESTABLISHMENT DEPARTMENT

Endst. No. & Date even

Copy forwarded to:-

1. Accountant General, NWFP, Peshawar.
2. The Section Officer (General) Higher Education Department.
3. The Section Officer (General) Information Department.
4. The Section Officer (Secret) Establishment Department.
5. Official concerned. (Mr. Salamat Shah, Junior Clerk) Information Department.


SECTION OFFICER (E.IV)

22/8/07

230
26

GOVERNMENT OF NWFP
ESTABLISHMENT DEPARTMENT
(ESTABLISHMENT WING)

Dated Peshawar, the 4th August, 2008

ORDER

No. SOE.IV(E&AD) 5(333)/2003.- WHEREAS, ~~Mr. Salamat Shah, Junior Clerk~~
(BPS-07), Information Department, NWFP, Peshawar is habitual in availing leave at his own will..

AND WHEREAS that he has submitted medical certificates from 13th November, 2007 to 11th December, 2007 without break.

AND WHEREAS that he ~~failed to attend the office on expiry of medical leave,~~ the Administrative Department arranged a medical board through Director General Health Services on 09.01.2008, and informed him through registered letter, but he failed to appear before the Medical Board.

AND WHEREAS that his explanation was called, but in response he has submitted medical certificates upto 17.03.2008. Through Enquiry Officer (Superintendent of Information Department), the medical certificates were checked from Ayub Medical Hospital, Abbottabad which were found fake/bogus.

AND WHEREAS an enquiry under Removal from Service (Special Powers) Ordinance 2000 was conducted in this regard. According to the recommendations whereof the charges leveled against the aforesaid official were proved;

NOW, THEREFORE, the Competent Authority, in exercise of powers conferred upon him by Section-3 read with Section 8 of the NWFP Removal from Service (Special Powers) Ordinance, 2000, as amended from time to time imposed the minor penalty ~~of withholding of three (03)-annual increments for a period of three years (2009, 2010 & 2011)~~ on the accused Mr. Salamat Shah, Junior Clerk, Information Department.

SECRETARY TO GOVT. OF NWFP
ESTABLISHMENT DEPARTMENT

Endst. No. & Date even

Copy forwarded to:-

1. The Accountant General, NWFP, Peshawar.
2. The Section Officer (General) Information Department w/r to his letter No. SOG (INF)/1-60/2007-08, dated 18th May, 2008. → PG 181/C
3. The Section Officer (Secret) Establishment Department.
4. Official concerned. (Mr. Salamat Shah, Junior Clerk) Information Department.


SECTION OFFICER (E.IV)

h. b. w. g.

338

(27)

**GOVERNMENT OF NWFP
ESTABLISHMENT DEPARTMENT
(ESTABLISHMENT WING)**

Dated Peshawar, the 29th June, 2009

ORDER

NO.SOE.IV (E&AD) 5(333)/2003.-

WHEREAS, Mr. Salamat

Shah, Junior Clerk, Food Department, Civil Secretariat, NWFP, Peshawar was proceeded against under the North-West Frontier Province Removal From Service (Special Powers) (Amendment) Ordinance, 2001 on the charges of absence from duty as well as producing bogus medical certificates in this behalf, as mentioned in the Show Cause Notice dated 29th May, 2009.

2. NOW, THEREFORE, the Competent Authority, after having considered the charges, evidence on record, the explanation of the accused official, providing him with an opportunity of personal hearing and exercising his powers under Section 3 of the North-West Frontier Province Removal From Service (Special Powers) (Amendment) Ordinance, 2001 has been pleased to impose the minor penalty of "Censure" on the above named official.

SECRETARY ESTABLISHMENT

Endst: No. and dated even.

Copy forwarded to: -

1. The Accountant General, NWFP, Peshawar.
2. The Section Officer (Secret), Establishment Department.
3. The Section Officer (Food) Food Department.
4. Official concerned.

[Signature]
SECTION OFFICER (E.IV)

K

219
220
221
222
223
224
225
226
227
228
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250

(3)
2-07-09

Annex = V

5(333)
Section Officer (S-IV)
Diary No. 567
Dated. 26/11/05

28
42

Government of NWFP,
Higher Education Department.

No.SOG/HE/1-47/2001.
Dated Peshawar the 16-11-2005.

To

The Secretary to Govt: of NWFP,
Establishment Department,
Government of NWFP.

Pw/Secy Estab: N.W.F.P.
Diary No. 9805 W/E
Date 22-11-05

SUBJECT:- WILLFUL ABSENCE FROM DUTY OF MR.SALAMAT SHAH,
JUNIOR CLERK, HIGHER EDUCATION DEPARTMENT.

Dear Sir,

I am directed to invite your kind attention to this Department letter of even number dated 2nd May, 2005 (copy enclosed for ready reference) wherein Establishment Department was informed that Mr.Salamat Shah Junior Clerk of this Department has been warned four times on various dates to refrain from his habit to remain absent from official duties without any intimation to the Higher Education Department while three more explanation calls have been served upon the said official. Once with the approval of Dy: Secretary Administration Department his absentee period w.e.f. 3-2-2005 to 9-2-2005 was treated as leave without pay but the official thereafter also remained irregular in the performance of his official duties. Therefore in the aforesaid letter Establishment Department was informed vide Para-3/N that the official is absent from official duty w.e.f. 2-4-2005, he may be proceeded under Removal from Service (Special Power amended Ordinance 2001) and his substitute may be provided to Higher Education Department. In reply to our request the Establishment Department vide their letter No.SOE.IV/E&AD/5(333)2003 dated 19th May, 2005 informed that the subject case may be processed as per procedure enunciated in Rule-8-A of NWFP Government of NWFP Efficiency & Disciplinary Rules, 1973 and then submit a case for the approval of the competent authority.

On 15-6-2005 through a Registered letter he was directed to report for his duty and explain the reasons of his willful absence w.e.f. 2-4-2005. On 16-6-2005 the official received the explanation call and furnished his reply (copy enclosed) wherein he informed that he fell ill on 2-4-2005 and he could not inform the office in time. He further produced a doctor's prescription for the perusal of high ups of the Higher Education Department.

It is submitted that a blood transfusion card of the Armed Services Institute of Transfusion dated 2-4-2005 duly filled and signed by some one was annexed with the medical prescription which he furnished in support of his willful absence (copy enclosed for perusal) the same was sent to the Commandant Armed Force Institute of Transfusion, Rawalpindi for verification, where upon the Commandant authorized I.C. Lt: Col Ch: Altaf Hussain who has reported as under:-

i. The individual has picked up this loose card and filled at his own.
Following information are furnished for your information:-

- a. This green card which incl has shown to your office is meant for our record and is never given to the donor.
- b. The donors are given a separate door card and a letter of thanks clearly mentioning the particulars of donor and few days rest. Both these items are properly stamped by this institute.

ii. In the light of foregoing facts, it is confirmed that Mr.Syed Salamat Shah had not donated blood on 02 April, 2005 in this institute.

In the light of the report of the Commandant A.F.Institute of Transfusion Rawalpindi and with the approval of Secy: Higher Education Department Mr.Nawab

Process
SoE 26
5-333
22-11-05
03

29



GOVERNMENT OF
KHYBER PAKHTUNKHWA
AGRICULTURE, LIVESTOCK & COOPERATIVES
DEPARTMENT

No. SOG (AD)PF/1-752/2009

Deputy Secretary (Estab.) Dated Peshavar the 31st October, 2010
Estab. & Admn. Department

Diary No. 2509

Dated. 05-11-10

Ps / Secy (E & AD)

Diary No. 91709

Dated. 04-11-10

The Secretary to Govt. of Khyber Pakhtunkhwa,
Establishment Department,
Khyber Pakhtunkhwa, Peshavar.

Addl. Secretary (Estab.)
Establishment & Admn. Dept
Diary No. 1379 use
Dated. 5-11-10

Subject: WILLFUL ABSENCE FROM DUTY.

Dear Sir,

I am directed to refer to the above noted subject and to state that Mr. Salamat Shah, Junior Clerk of this department remained absent from duty since 03/09/2010 without leave, he was called explanations and on receiving no response an absentee notice (Annex-I) was sent on his home address through registered mail. After lapse of 21 days absentee notices were published in two national dailies (Annex-II). In the mean time he sent medical prescription of a Physician (Annex-III) diagnosing Enteric Fever and advising rest, the same was sent to the Director General, Health Services for arranging Medical Board for medical check up which was arranged on 22/09/2010 (Annex-IV) and was communicated to him via registered mail but he failed to turn for the medical examination.

Now the official appeared for a single day on 13/10/2010 and submitted reply to the absentee notice attaching the medical prescriptions and lab tests requesting for converting his absence to medical leave (Annex-V) and is absent till date leaving application with advice for rest from the Medical Officer, Police Services Hospital (Annex-VI).

In view of the above position it is recommended that as the official is habitual of willful absence and inspite of warnings and advices has not mended his ways, therefore he may be considered as surrendered and strict disciplinary action may be taken against him under the E&D Rules and his suitable substitute may be provided to this department at the earliest. His service book along with LPC is enclosed for further necessary action please.

Yours faithfully,

(Dr. MIR AHMAD KHAN)
SECTION OFFICER (ADMN)

SECTION OFFICER (ADMN)

Diary No. 599

Dated. 10-11-10

Encl: No. & date even:

Copy to:

- i. Accountant General, Khyber Pakhtunkhwa, Peshawar
- ii. PS to Secretary Agriculture, Livestock & Cooperatives Department.
- iii. Accountant Agriculture, Livestock & Cooperatives Department.

04/11/2010 S.P.E. IV

SECTION OFFICER (ADMN)

219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235

**MOST IMMEDIATE
THROUGH REGISTRY**



GOVERNMENT OF
KHYBER PAKHTUNKHWA
AGRICULTURE, LIVESTOCK & COOPERATIVES
DEPARTMENT

NO.SOG (AD)PF/1-752/2009
Dated Peshawar, the September 8, 2010

To

Syed Salamat Shah, S/o Sarwar Shah,
J/Clerk of the General Branch,
Agriculture, Livestock & Cooperation
Department.

**Mailing Address: Salamat Shah S/o Sarwar Shah, Mohallah, Sarwar
Abad, Gunda Road, Chakrialy Tehsil & District,
Mansehra.**

Subject: ABSENTEE NOTICE.

You Syed Salamat Shah, J/Clerk is continuously absent from
your duties since September 3, 2010 till to date (**6-days**) without any written /
verbal intimation which is against the Rules / Regulation / Office procedure.

2. In view of the above, you are therefore, directed to resume
your duties forthwith and explain with cogent reasons for your willful absence,
otherwise ex-parte action will be taken against you under the RSO-2000/E&A
Rules.

(DR. MIR AHMAD KHAN)
SECTION OFFICER (ADMN)

Endst: No.& Date as above.

Copy to:-

1. PS to Secretary, Agriculture, Livestock & Coop Department,
Peshawar.
2. P.A to Dy. Secretary (Admn) Agri., Livestock & Coop: Department.

SECTION OFFICER (ADMN)

(30)

219
220
221
222
223
224
225
226
227
228
230
231
232
233
238
244
248
250

[Handwritten signature and notes]

347 (31)



GOVERNMENT OF
KHYBER PAKHTUNKHWA
AGRICULTURE, LIVESTOCK & COOPERATIVES
DEPARTMENT

No. SOG (AD) PF/1-752/2009
Dated Peshawar the 4th Oct, 2010

To

The Director,
Information Department,
Khyber Pakhtunkhwa, Peshawar.

Subject: ABSENTEE NOTICES

I am directed to refer to the above noted subject and to enclose seven copies of Absentee Notice (in Urdu and English versions) duly signed by the Competent Authority, Secretary Agriculture, Livestock & Cooperatives Department for publication in two leading national dailies.

c/c

(Dr. MIR AHMAD KHAN)
SECTION OFFICER (ADMN)

Endst: No. & date even:

Copy to:

PS to Secretary Agriculture, Livestock & Cooperatives Department

c/c

SECTION OFFICER (ADMN)

- 219
- 220
- 221
- 222
- 223
- 224
- 225
- 226
- 227
- 228
- 230
- 231
- 232
- 233
- 238
- 244
- 248
- 250

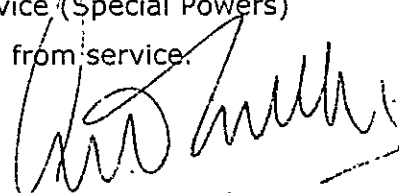
Dispatched
Dated: *04/10/10*
Agr. Livestock & Coop
Dept. Peshawar

ABSENTEE NOTICE

348
32

You, Syed Salamat Shah, Junor Clerk, Agriculture, Livestock and Cooperatives Department, Khyber Pakhtunkhwa have been absent from duty since 03-09-2010 without any information/permission of the Competent Authority.

With the approval of Competent Authority, you are hereby directed to resume your duty within 15-days of the publication of this notice and explain cogent reasons for your willful absence failing which ex-part action will be taken against you under Rule-8(A) of Khyber Pakhtunkhwa E&D Rules, 1973/Removal from Service (Special Powers) Ordinance, 2000) which can lead to your dismissal from service.



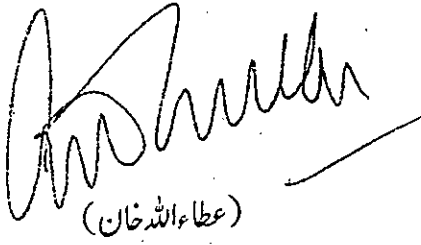
(ATTAULLAH KHAN)
Secretary, Agriculture, Livestock & Cooperatives Department

X

- 219
- 220
- 221
- 222
- 223
- 224
- 225
- 226
- 227
- 228
- 230
- 231
- 232
- 61
- 238
- 244
- 248
- 250

نوٹس غیر حاضری

ہرگاہ کہ تم سید سلامت شاہ، جو نیر کلرک، محکمہ زراعت، پشاور مورخہ ۱۲ ستمبر ۲۰۱۰ء سے مسلسل غیر حاضر ہو۔
لہذا مجاز حاکم کی منظوری سے تم کو بذریعہ اخباری نوٹس ہذا مطلع کیا جاتا ہے کہ اس نوٹس کی اشاعت کے پندرہ
(۱۵) دن کے اندر اندر اپنی ڈیوٹی پر حاضر ہو جاؤ اور اپنی غیر حاضری کی وجوہ بیان کریں۔ بصورت دیگر تمہارے خلاف قاعدہ
8(A) خیبر پختونخواہ ای اینڈ ڈی قاعدہ ۱۹۷۳ء کے مطابق اپ کی نوکری سے برخاستگی کے خصوصی اختیارات آرڈیننس
بحریہ ۲۰۰۰ء کے تحت یکطرفہ کارروائی عمل میں لائی جائے گی۔ جس کے نتیجے میں تمہیں سرکاری ملازمت سے برخاست بھی
کیا جاسکتا ہے۔



(عطاء اللہ خان)

معمد زراعت، امور حیوانات و امداد باہمی

21
22
2
2

16

359

34

ٹییلی آج مورخہ 10/09/2010

نوٹس غیر حاضری

ہر گاہ کہ تم سید سلامت شاہ بونیٹر کلرک حکم ذراست پشاور مورخہ 14 ستمبر 2010ء سے سلسل غیر حاضری ہو۔

لہذا مجاز حاکم کی منظوری سے تم کو بذریعہ اخبار نوٹس بند اطلاع کیا جاتا ہے کہ اس نوٹس کی اشاعت کے پندرہ (15) دن کے اندر اندر ڈیوٹی پر حاضر ہو جاؤ اور اپنی غیر حاضری کی وجہ بیان کریں۔ بصورت دیگر تمہارے خلاف قاعدہ 8(A) غیرہ محتو انخوا ای اینڈ ڈی قاعدہ 1973ء کے مطابق آپ کی نوکری سے برخاستگی کے خصوصی اختیارات آرڈیننس مجریہ 2000ء کے تحت یکطرفہ کارروائی عمل میں لائی جائے گی۔ جس کے نتیجے میں تمہیں سرکاری ملازمت سے برخاست بھی کیا جاسکتا ہے۔

عظمیٰ اللہ تعالیٰ تعالیٰ عنہم

INF(P) 3129 www.khyberpakhtunkhwa.gov.pk

219
226
221
222
22
221
221
221
222
22
2

961

پشاور

بالی ہیلیم رضوی
چیف ایڈیٹر سید قطیف رضوی

روزنامہ

چراغ

گروپ ایڈیٹر: ارشاد احمد خان

جلد نمبر 26

ہفتہ 19 اکتوبر 2010ء 29 شوال 1431ھ قیمت 7 روپے

|| شمارہ نمبر 39

نوٹس غیر حاضری

ہر گاہ کہ تم سید سلامت شاہ، جو نیک کرک، منگہ زراعت، پشاور صوبہ 14 ستمبر 2010 سے مسلسل غیر حاضر ہو۔ لہذا مجاز حاکم کی منظوری سے تم کو بذریعہ اخباری نوٹس ہذا مطلع جاتا ہے کہ اس نوٹس کی اشاعت کے پندرہ (15) دن کے اندر اندر اپنی ڈیوٹی پر حاضر ہو جاؤ اور اپنی غیر حاضری کی وجوہ بیان کریں۔ بصورت دیگر تمہارے خلاف تاحق (A) نمبر پختونخوا ای ایڈیٹری ٹیٹل 1973ء کے مطابق آپ کی نوکری سے برخواستہ کے خصوصی اختیارات آرڈیننس مجریہ 2000ء کے تحت یکطرفہ کارروائی عمل میں لایا جائے گی۔ جس کے نتیجے میں تمہیں سرکاری ملازمت سے برخواستہ بھی کیا جاسکتا ہے۔

(عطاء اللہ خان)

مستند زراعت امور حیوانات وامداد باہمی

INF(P)3129 Also available on www.khyberPakhtunkhwa.gov.pk

9/10/2010

تاریخ

35

21
22
23
24
25
26
27
28
29
30

961

س



GOVERNMENT OF
KHYBER PAKHTUNKHWA
AGRICULTURE, LIVESTOCK & COOPERATIVES
DEPARTMENT

271
36

No. SOG (AD) PF 1-752/2009
Dated Peshawar the 23rd May, 2011

To Addl. Secretary (Estab) Deputy Secretary (Estab):
Establishment & Admn. Dept. Estab. & Admn. Department Ps / Secy (E) E & AD
Diary No. 822 we ✓ Diary No. 1954 ✓ Diary No. 4176 ✓
Dated 23-5-11 ✓ Dated 23-5-11 ✓ Dated 23-5-11 ✓

The Secretary to Govt. of Khyber Pakhtunkhwa,
Establishment Department,
Peshawar.

Subject: SURRENDER OF SERVICES OF Mr. SALAMAT SHAH, SENIOR CLERK.

Dear Sir,

I am directed to refer to this department previous letter of even number dated 23/05/2011 and your letter No. SOE-IV (E&AD)5 (333)/2003 dated 24/12/2010 on the proceeding against Mr. Salamat Shah, Junior Clerk and to state that the official has not mended his ways and is sticking to his old habitual absenteeism & late coming. So his services are no more required in this department and hereby surrendered (his original Service Book is attached herewith the letter), his suitable substitute may be provided to this department as already there is a shortage of staff and the official work is suffering badly.

It is therefore, requested that his suitable substitute may be provided early please.

Yours faithfully,



(Dr. MIR AHMAD KHAN)
SECTION OFFICER (Admn)

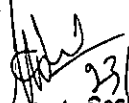
Endst: No. & date even:

Copy to:


PS to Secretary Agriculture, Livestock & Cooperatives Deptt.


SECTION OFFICER (E-IV)
Diary No. 332
Dated: 25/5/11


SECTION OFFICER (Admn)


Private Secretary to
Secretary Establishment




23/5/11


25/5/11

5-333

B.A

21
22
22
22
2
2
2
22
22
2

961

Annex = vi



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(Establishment Wing)

37

No. SOE.IV (E&AD) 2(691)2014
Dated Peshawar, the 02.04.2018

To

① *[Signature]*
3-4-2018

— Syed Salamat Shah,
Assistant,
Auqaf Department

Subject: PERSONAL HEARING

I am directed to refer to this department of even number dated 27.03.2018 on the subject noted above and to state that the date of personal hearing is rescheduled and will now be held on **10.04.2018** at **02:30 PM**.

(HAZRAT JAMAL)
SECTION OFFICER (E-IV)

Endst. of Even No. & Date

Copy forwarded to the:-

1. P.S to Secretary Establishment Department.
2. SO (Admn) and SO(Dev), Auqaf Department with the request to attend the personal hearing on the above mentioned date and time alongwith relevant record.
3. P.A to Special Secretary (Estt) Establishment Department.
4. P.A. to Deputy Secretary (Estt.), Establishment Department.

[Signature]
SECTION OFFICER (E.IV)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(Establishment Wing)

39

No. SOE.IV (E&AD) 2(691)2014
Dated Peshawar, the 27.03.2018

To

Syed Salamat Shah,
Assistant,
Auqaf Department

Subject: **PERSONAL HEARING**

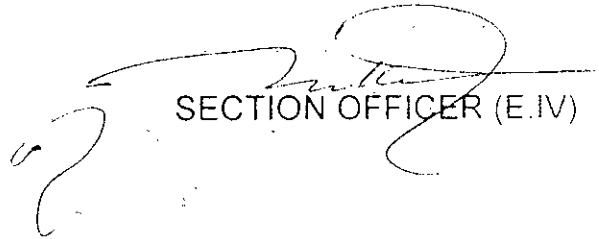
I am directed to refer to the subject noted above and to state that the competent authority has agreed to provide you with a chance of personal hearing. You are hereby directed to appear before the Secretary Establishment, Establishment Department, in his Office, on **02.04.2018** at **02:30 PM** for **personal hearing**.


(HAZRAT JAMAL)
SECTION OFFICER (E-IV)

Endst. of Even No. & Date

Copy forwarded to the:-

1. P.S to Secretary Establishment Department.
2. SO (Admn) and SO(Dev), Auqaf Department with the request to attend the personal hearing on the above mentioned date and time alongwith relevant record.
3. P.A to Special Secretary (Estt) Establishment Department.
4. P.A. to Deputy Secretary (Estt.), Establishment Department.


SECTION OFFICER (E.IV)

Annex = vii

-R.ADIZ-21 03.04.2018

(39)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(Establishment Wing)

No.SOE-IV (E&AD) 2 (727)/2015.
Dated Peshawar the 31.08.2018.

Syed Salamat Shah,
Ex-Assistant, Auqaf Department,
R/o Village & P.O Jinkiari,
Tehsil & District, Mansehra.

Subject: APPEAL FOR RE-INSTATEMENT IN GOVERNMENT SERVICE.

I am directed to refer to the subject noted above and to inform that your appeal dated 07.05.2018 has been processed and rejected by the appellate authority.

(HAZRAT JAMAL)
SECTION OFFICER (E.IV)

- (f) entered into plea bargaining under any law for the time being in force and has returned the assets or gains acquired through corruption or corrupt practices voluntarily.

4. **Penalties.**---(1) The following are the minor and the major penalties, namely:

(a) Minor penalties:

- (i) censure;
- (ii) withholding, for a specific period, promotion or increment subject to a maximum of three years, otherwise than for unfitness for promotion or financial advancement, in accordance with the rules or orders pertaining to the service or post:

Provided that the penalty of withholding increments shall not be imposed on a Government servant who has reached the maximum of his pay scale:

- (iii) recovery of the whole or any part of any pecuniary loss caused to Government by negligence or breach of order;

(b) Major penalties:

- (i) reduction to a lower post or pay scale or to a lower stage in a time scale.
- (ii) compulsory retirement;
- (iii) removal from service; and
- (iv) dismissal from service.

(2) Dismissal from service under these rules shall disqualify a Government servant from future employment under Government.

(3) Any penalty under these rules shall not absolve a Government servant from liability to any other punishment to which he may be liable for an offence, under any other law, committed by him while in service.

5. **Initiation of proceedings.**---(1) If on the basis of its own knowledge or information placed before it, the competent authority is of the opinion that there are sufficient grounds for initiating proceedings against a Government servant under these rules it shall either:-

- (a) proceed itself against the accused by issuing a show cause notice under rule 7 and, for reasons to be recorded in writing, dispense with inquiry:

Provided that no opportunity of showing cause or personal hearing shall be given where-

- (i) the competent authority is satisfied that in the interest of security of Pakistan or any part thereof, it is not expedient to give such an opportunity; or
- (ii) a Government servant has entered into plea bargain under any law for the time being in force or has been convicted on the charges of corruption which have led to a sentence of fine or imprisonment; or
- (iii) a Government servant is involved in subversive activities; or
- (iv) it is not reasonably practicable to give such an opportunity to the accused; or

(B) get an inquiry conducted into the charge or charges against the accused, by appointing an inquiry officer or an inquiry committee, as the case may be, under rule 11:

Provided that the competent authority shall dispense with the inquiry where-

- (i) a Government servant has been convicted of any offence other than corruption by a court of law under any law for the time being in force; or

(ii) a Government servant is or has been absent from duty without prior approval of leave:

Provided that the competent authority may dispense with the inquiry where it is in possession of sufficient documentary evidence against the accused or, for reasons to be recorded in writing, it is satisfied that there is no need to hold an inquiry.

(2) The charge sheet or statement of allegations or the show cause notice, as the case may be, shall be signed by the competent authority.

6. **Suspension.**---A Government servant against whom action is proposed to be initiated under rule 5 may be placed under suspension for a period of ninety days, if in the opinion of the competent authority, suspension is necessary or expedient, and if the period of suspension is not extended for a further period of ninety days within thirty days of the expiry of initial period of suspension, the Government servant shall be deemed to be reinstated:

Provided that the competent authority may, in appropriate case, for reasons to be recorded in writing, instead of placing such person under suspension, require him to proceed on such leave as may be admissible to him, from such date as may be specified by the competent authority.

7. **Procedure where inquiry is dispensed with.**---If the competent authority decides that it is not necessary to hold an inquiry against the accused under rule 5, it shall-

- (a) inform the accused by an order in writing, of the grounds for proceeding against him, clearly specifying the charges therein, alongwith apportionment of responsibility and penalty or penalties proposed to be imposed upon him;

Annex=IX

421



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(Establishment Wing)

No. SOE.IV (E&AD) 2(691)2014
Dated Peshawar, the 02.04.2018

To

3-4-2018

Syed Salamat Shah,
Assistant,
Auqaf Department

Subject: PERSONAL HEARING

I am directed to refer to this department of even number dated 27.03.2018 on the subject noted above and to state that the date of personal hearing is rescheduled and will now be held on 10.04.2018 at 02:30 PM.

(HAZRAT JAMAL)
SECTION OFFICER (E-IV)

Endst. of Even No. & Date

Copy forwarded to the:-

1. P.S to Secretary Establishment Department.
2. SO (Admn) and SO(Dev), Auqaf Department with the request to attend the personal hearing on the above mentioned date and time along with relevant record.
3. P.A to Special Secretary (Estt) Establishment Department.
4. P.A. to Deputy Secretary (Estt.), Establishment Department.

SECTION OFFICER (E-IV)



(43)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(Establishment Wing)**

No. SOE.IV (E&AD) 2(691)2014
Dated Peshawar, the 27.03.2018

To

28-3-18
Syed Salamat Shah,
Assistant,
Auqaf Department

Subject: **PERSONAL HEARING**

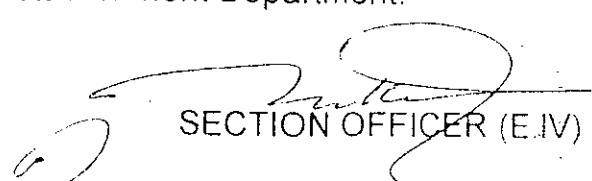
I am directed to refer to the subject noted above and to state that the competent authority has agreed to provide you with a chance of personal hearing. You are hereby directed to appear before the Secretary Establishment, Establishment Department, in his Office, on **02.04.2018** at **02:30 PM** for personal hearing.


(HAZRAT JAMAL)
SECTION OFFICER (E-IV)

Endst. of Even No. & Date

Copy forwarded to the:-

1. P.S to Secretary Establishment Department.
2. SO (Admn) and SO(Dev), Auqaf Department with the request to attend the personal hearing on the above mentioned date and time alongwith relevant record.
3. P.A to Special Secretary (Estt) Establishment Department.
4. P.A. to Deputy Secretary (Estt:), Establishment Department.


SECTION OFFICER (E.IV)

- (f) entered into plea bargaining under any law for the time being in force and has returned the assets or gains acquired through corruption or corrupt practices voluntarily.

4. **Penalties.**---(1) The following are the minor and the major penalties, namely:

(a) Minor penalties:

- (i) censure;
- (ii) withholding, for a specific period, promotion or increment subject to a maximum of three years, otherwise than for unfitness for promotion or financial advancement, in accordance with the rules or orders pertaining to the service or post:

Provided that the penalty of withholding increments shall not be imposed on a Government servant who has reached the maximum of his pay scale:

- (iii) recovery of the whole or any part of any pecuniary loss caused to Government by negligence or breach of order;

(b) Major penalties:

- (i) reduction to a lower post or pay scale or to a lower stage in a time scale.
- (ii) compulsory retirement;
- (iii) removal from service; and
- (iv) dismissal from service.

(2) Dismissal from service under these rules shall disqualify a Government servant from future employment under Government.

(3) Any penalty under these rules shall not absolve a Government servant from liability to any other punishment to which he may be liable for an offence, under any other law, committed by him while in service.

5. Initiation of proceedings.---(1) If on the basis of its own knowledge or information placed before it, the competent authority is of the opinion that there are sufficient grounds for initiating proceedings against a Government servant under these rules it shall either:-

- (a) proceed itself against the accused by issuing a show cause notice under rule 7 and, for reasons to be recorded in writing, dispense with inquiry:

Provided that no opportunity of showing cause or personal hearing shall be given where-

45

7

45-55

- (i) the competent authority is satisfied that in the interest of security of Pakistan or any part thereof, it is not expedient to give such an opportunity; or
- (ii) a Government servant has entered into plea bargain under any law for the time being in force or has been convicted on the charges of corruption which have led to a sentence of fine or imprisonment; or
- (iii) a Government servant is involved in subversive activities; or
- (iv) it is not reasonably practicable to give such an opportunity to the accused; or

(b) get an inquiry conducted into the charge or charges against the accused, by appointing an inquiry officer or an inquiry committee, as the case may be, under rule 11:

Provided that the competent authority shall dispense with the inquiry where-

- (i) a Government servant has been convicted of any offence other than corruption by a court of law under any law for the time being in force; or

(ii) a Government servant is or has been absent from duty without prior approval of leave:

Provided that the competent authority may dispense with the inquiry where it is in possession of sufficient documentary evidence against the accused or, for reasons to be recorded in writing, it is satisfied that there is no need to hold an inquiry.

(2) The charge sheet or statement of allegations or the show cause notice, as the case may be, shall be signed by the competent authority.

6. **Suspension.**---A Government servant against whom action is proposed to be initiated under rule 5 may be placed under suspension for a period of ninety days, if in the opinion of the competent authority, suspension is necessary or expedient, and if the period of suspension is not extended for a further period of ninety days within thirty days of the expiry of initial period of suspension, the Government servant shall be deemed to be reinstated:

Provided that the competent authority may, in appropriate case, for reasons to be recorded in writing, instead of placing such person under suspension, require him to proceed on such leave as may be admissible to him, from such date as may be specified by the competent authority.

7. **Procedure where inquiry is dispensed with.**---If the competent authority decides that it is not necessary to hold an inquiry against the accused under rule 5, it shall-

- (a) inform the accused by an order in writing, of the grounds for proceeding against him, clearly specifying the charges therein, alongwith apportionment of responsibility and penalty or penalties proposed to be imposed upon him;

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 1888 /ST

Dated 29 /10 / 2019

To


The Secretary Establishment Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 1094/2018. MR. SYED SALAMAT SHAH.

I am directed to forward herewith a certified copy of Judgement dated 23.10.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.