

13.05.2022

Learned counsel for the appellant present and heard.

Learned counsel for the appellant contended that the appellant was the employee of respondent department and was removed from service vide impugned order dated 17.01.2022. Feeling aggrieved, the appellant filed departmental appeal on 21.01.2022, which was not responded within the statutory period of 90 days, hence the instant appeal on 11.05.2022 which is within time.

The appeal is admitted to regular hearing subject to all legal and just objections by the other side. The appellant is directed to deposit security and process fee within 10 days, thereafter notices be issued to the respondents for submission of reply/comments. To come up for reply/comments before the S.B on 20.07.2022.

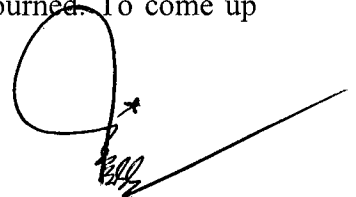


(Kalim Arshad Khan)
Chairman


20.07.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Reply/comments on behalf of respondents not submitted. Learned Additional Advocate General seeks time to contact the respondents for submission of reply/comments. Adjourned. To come up for reply/comments on 09.08.2022 before S.B.



(Mian Muhammad)
Member (E)

8.8.22 Due to public holidays, the case is adjourned to 25-8-22. 
Reader

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST**

CASE TITLE: *Kajil Ahmad v/s Govt of K.P*

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: <i>Noor Mohd RTB</i>	✓	
2	Whether Counsel/Appellant/Respondent/Deponents have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	x	✓
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	x	✓
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On _____		
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____		
26	Whether copies of comments/reply/rejoinder submitted? On _____		
27	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: *Noor Mohammad RTB*
 Signature: _____
 Dated: _____

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 776 /2022

MR. KAFIL AHMAD

V/S

GOVT: OF K.P DEPTT:

I N D E X

S.N	DOCUMENTS	ANNEXURE	PAGE
0			
1	Memo of appeal	1-4
2	Affidavit	5
3	Advertisement	A	6
4	Education testimonials	B	7-12
5	Appointment order	C	13
6	Medical certificate	D	14
7	Arrival report	E	15
8	Notification dt: 17.06.2021	F	16-17
9	Pay slip	G	18
10	Letter dt: 25.10.2021 along with show cause notice	H	19-20
11	Reply to show cause	I	21-24
12	Impugned order dt: 17.01.2022	J	25
13	Departmental appeal	K	26-27
14	Wakalat Nama	28

Dated: ___/.05./2022

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK
ADVOCATE
0345-9383141

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. _____/2022

Mr. Kafil Ahmad, Ex-Assistant (BPS-16),
Ex-FATA Tribunal, Home & Tribal Affairs Department, Peshawar.

.....**APPELLANT**

VERSUS

- 1- The Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 2- The Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDERS DATED 17-01-2022 WHEREBY MAJOR PENALTY OF REMOVAL FROM SERVICE HAS BEEN IMPOSED ON THE APPELLANT AND AGAINST THE IMPUGNED INACTION OF THE RESPONDENTS BY NOT DECIDING THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUARY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this service appeal the impugned order dated 17-01-2022 may very kindly be set aside and the appellant may be re-instated into service with all back benefits. Any other remedy which this august Tribunal deems fit that may also be granted in favor of the appellant.

R/SHEWETH:

ON FACTTS:

1- That appellant is the law abiding citizen and is a highly qualified person. That the before the promulgation of the 25th constitutional amendment Act the Registrar Ex-FATA tribunal advertised certain posts in the daily news papers. That the appellant being eligible and qualified applied to the post of Key Punch Operator. Copies of the advertisement and educational testimonials are attached as annexure

.....**A&B.**

2- That after appearing in the selection process the appellant was selected for the subject post and was appointed in the Ex-FATA

tribunal as Assistant (BPS-14) vide order dated 08-03-2019, where after the appellant was medically examined by the competent medical officer and in response to the appointment order the appellant submitted his arrival report on 14-03-2019. Copies of the appointment order, medical certificate and arrival report are attached as annexure**C, D & E.**

3- That it is pertinent to mention here that after the promulgation of the 25th Constitutional Amendment Act, the Ex-FATA tribunal was abolished as the then FATA was merged to the province of Khyber Pakhtunkhwa and the status of FATA was changed to settled area therefore the function and status of FATA tribunal comes to an end. That the employees of the Ex-FATA tribunal was transferred/ posted in the Home and Tribal Affairs Department i.e. respondent No. 2 and vide notification dated 17-06-2021 the appellant was transferred and posted in Security-1 Section. Copy of the notification dated 17-06-2021 is attached as annexure**F.**

4- That it is pertinent to mentioned here that the appellant has regularly received his monthly salary from the respondent department till November, 2021. Copy of the salary slip is attached as annexure**G.**

5- That while performing his duties with zeal and zest and up to the entire satisfaction astonishingly vide letter dated 25-10-2021 a show cause notice was issued to the appellant leveling an allegation that recruitment process so conducted by the Ex-FATA tribunal for the selection of the appellant along with others was unlawful and the appointment so made were without lawful authority and liable to be set aside in that eventuality you are liable to be proceeded under the Khyber Pakhtunkhwa (E&D) Rules, 2011. Copy of the letter dated 25-10-2021 along with show cause notice is attached as annexure.....**H.**

6- That in response to the show cause supra the appellant submitted his detail reply wherein he explains each and every aspect of the case. Copy of reply to show cause is attached as annexure**I.**

7- That respondent without conducting the regular inquiry in to the matter straight away issued the impugned order dated 17-01-2022 whereby major penalty of removal from service has been imposed upon the appellant with retrospective effect. Copy of the impugned order dated 17-01-2022 is attached as annexure**J.**

8- That appellant feeling aggrieved from the impugned order dated 17-01-2022 preferred departmental appeal before the appellate authority but no response have been given within the stipulated period of ninety days. Copy of the departmental appeal is attached as annexure**K.**

- 9- That by not deciding the departmental appeal of the appellant within the statutory period of ninety days, the appellant feeling aggrieved from the inaction of the respondents and having no other remedy but to file the instant service appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned order dated 17-01-2022 and the inaction of the respondents by not deciding the departmental appeal are against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.
- B- That appellant has not been treated by the respondent department in accordance with law and rules on the subjected noted above and as such respondents violated the Article 4 and 25 of the Constitution of Islamic Republic of Pakistan.
- C- That the appellant has not committed any misconduct but despite of that the respondents issued the impugned order dated 17.1.2022 whereby major penalty of removal from service has been imposed on the appellant.
- D- That no regular inquiry has been conducted before the issuance of the impugned order dated 17-01-2022 which is the violation of the plethora of judgments of the apex courts of Pakistan as well as the law on the subject.
- E- That the impugned order dated 22-12-2017 contain a retrospective punishment, therefore, the same is void ab initio and in nullity in the eye of law, hence liable to be set aside.
- F- That the appellant was appointed by the then competent authority after fulfilling the codal formalities and thereafter the appellant had served for more than 3 long years, so how could the respondent proceed against the appellant for no fault of him, the action of the respondents are in violation of the doctrine of locus Poenitentiae.
- G- That it is the principle of natural justice as well as consistent view of the higher courts and apex court of Pakistan that no one should be punished for the fault of others, so even if the irregularities so happened in the recruitment process the appellant is not responsible at this belated stage as he has performed for about 3 years in the department.
- H- That no regular inquiry has been conducted and neither a chance of personal hearing and personal defense has been provided to the appellant before imposing the impugned penalties which is violation

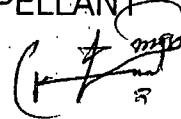
4

of Article 10-A of the constitution of the Islamic republic of Pakistan, 1973.

- I- That apex court of Pakistan has held in a number of judgments that harsh punishment/ major penalty should not be imposed before conducting a full flag and regular inquiry.
- J- That the appellant seeks permission to advance any other ground and proofs at the time of hearing.

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

APPELLANT



KAFIL AHMAD

THROUGH:

NOOR MUHAMMAD KHATTAK

&

KAMRAN KHAN



**UMAR FAROOQ
ADVOCATES**

(5)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2022

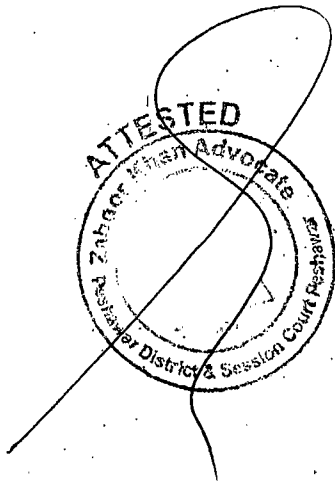
KAFIL AHMAD

V/S

GOVT: OF K.P DEPTT:

AFFIDAVIT

Stated on oath that the contents of the accompanying service appeal are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.



DEPONENT

CERTIFICATE:

Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.

CERTIFICATION

50773

(8)

BOARD OF INTERMEDIATE & SECONDARY EDUCATION



PESHAWAR

DETAILED MARKS CERTIFICATE Secondary School Certificate Examination Session 2004 (Annual)

Name: Kafil AhmadFather's Name: Lal BadshahRoll No 50593

Subject	Marks	MARKS OBTAINED			
		The/P-A	Prac/P-B	Total	In Words
1. English	150	-	-	79	Seventy-Nine
2. Urdu	150	-	-	96	Ninety-Six
3. Islamiyat (Comp)	75	44	-	44	Forty-Four
4. Pakistan Studies	75	29	-	29	Twenty-Nine
5. New Rizal	100	77	-	77	Seventy-Seven
6. Physics	100	55	17	72	Seventy-Two
7. Chemistry	100	30	19	49	Forty-Nine
8. Biology	100	48	20	68	Sixty-Eight

Total 850

614-8

Five Hundred Fourteen Only

Remarks

Prepared by: _____

Checked By: _____

Date: 19-08-2004

Note: Error / Omission accepted

Computer Cell BISE, Peshawar

Controller of Examinations

Fazal Subhan

Asstt. Audit Officer (B-17)

The Director General Audit

KPK Peshawar

S.No. 209844

Roll No. 62341

Group. Pre-Engineering




Board of Intermediate and Secondary Education
Peshawar N.W.F.P. Pakistan
INTERMEDIATE EXAMINATION

SESSION 2007- ANNUAL

This is to Certify that Kafil Ahmad Son of _____
and a resident of Peshawar District Register
has passed the Intermediate Examination of the Board of Intermediate & Secondary Education
held in May, 2007 as a Private candidate. He obtained 66%
has been placed in grade B Representing Very Good. The examination

Asstt Secretary


Fazali Subhan
Asstt: Audit Officer (B-17)
Office Of The Director General Audit
KPK Peshawar

This certificate is issued without alteration or erasure.

10

BOARD OF INTERMEDIATE & SECONDARY EDUCATION



Roll No: 62341

PESHAWAR

PROVISIONAL AND DETAILED MARKS CERTIFICATE INTERMEDIATE (ANNUAL) EXAMINATION, 2007 PRE-ENGINEERING (Part-II)

Kafil Ahmad Son / Daughter of Lal Badshah

of Peshawar

has secured the marks shown against each subject in the H S S C Examination held in the month of

May 2007 as a Private Student

Subjects	Marks	Marks Obtained				Total	Marks In Words
		Part-I		Part-II			
		Theory	Pract	Theory	Pract		
English	200	48	--	67	--	115	One Hundred Fifteen
Urdu	200	77	--	79	--	156	One Hundred Fifty-Six
Islamic Education	50	42	--	--	--	42	Forty-Two
Pakistan Studies	50	--	--	30	--	30	Thirty Only
Mathematics	200	47	--	42	--	89	Eighty-Nine
Physics	200	55	20	35	15	125	One Hundred Twenty-Five
Chemistry	200	37	12	48	15	112	One Hundred Twelve
Total : 1100						669-B	Six Hundred Sixty-Nine Only
Remarks :							

Checked By : _____

Date of issue: 10 August, 2007

[Signature]
Controller of Examinations

Note: Errors/Omission accepted. Any mistake in above particulars must be intimated within 30 days of the issuance of this certificate

(Computer Cell BISE Peshawar)

[Signature]
Faraz Sultan
Asstt: Audit Officer (B-17)
Office of The Director General Audit
KPK Peshawar



University of Peshawar

PAKISTAN

Detailed Marks Certificate

(11)

Bachelor of Arts
Part-II
Annual Examination 2011
District Peshawar



Private

Name: KAFIL AHMAD
Father's Name: LAL BADSHAH

Gender: Male Roll No: 83403
Registration No: 2008-PE-3704

Division: 2nd

Papers	Max Marks	Marks Obtained	
		In Figures	In Words
English (Comp)	75	29	Twenty Nine
Economics	75	30	Thirty Only
Islamic Studies	75	57	Fifty Seven
Pakistan Studies	40	24	Twenty Four
Part-I 15827:Supply-2009	285	163	One Hundred and Sixty Three
Part-II	550	303	Three Hundred and Three

Errors & omissions are subject to subsequent rectification

Chances Availed: 4

The Examination was taken In Parts

Examination held From 31-May-2011 to 02-Jul-2011
Result Declared on Thursday, September 22, 2011
Issue Date: 22-Sep-2011
12:42 pm

Fazali Subhan
Asstt. Audit Officer (B-17)
Office Of The Director General Audit
KPK Peshawar

(Iftekhar Hussain Khan)
CONTROLLER OF EXAMINATIONS
UNIVERSITY OF PESHAWAR

12

The Oxford School System (T.O.S.S)



Exploring New Horizons, Discovering Ourselves

Ref No: XX /

Date: 22/11/2018

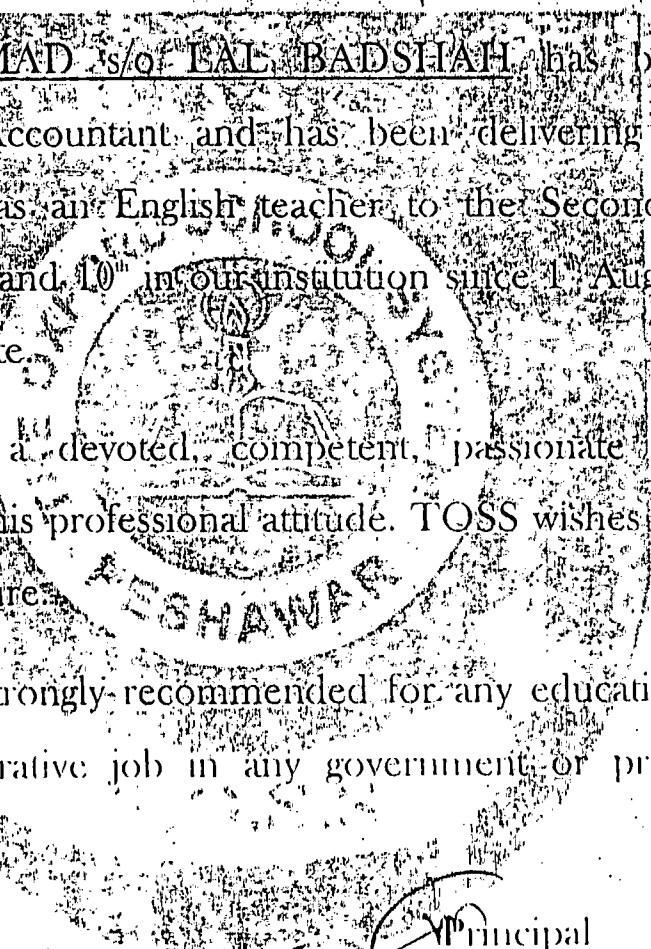
EXPERIENCE CERTIFICATE

It is certified that

KAFIL AHMAD s/o. TAL. BASTIAH has been working as Accountant and has been delivering his potentialities as an English teacher to the Secondary classes i.e. 9th and 10th in our institution since 1st August, 2012 up to date.

He is a devoted, competent, passionate and consistent in his professional attitude. TOSS wishes him success in future.

He is strongly recommended for any educational and administrative job in any government or private organization.



[Signature]
Principal
**PRINCIPAL
THE OXFORD SCHOOL SYSTEM
PESHAWAR.**

Address: *Eid Gah Colony, Charsadda Road, Peshawar Cell:0300-3163737*
E-mail: *toss46@yahoo.com E-mail:jan.alam46@yahoo.com*

[Handwritten signature]

ANNEX C

13



OFFICE OF THE
REGISTRAR FATA TRIBUNAL,
PESHAWAR

ORDER

No. R/11/2018-19/1122 dated: 08.03.2019 On Recommendation of the Departmental Selection Committee, the Competent Authority is pleased to appoint Mr. Kafil Ahmad S/o Lal Badshah against the vacant post of Assistant/Moharar BPS-14 (15180-1170-50280) in FATA Tribunal at Peshawar under rule 10 sub rule 2 of Civil Servant (Appointment, Promotion and Transfer) Rules 1989 on the following terms and conditions:

Terms & conditions;

1. He will get pay at the minimum of BPS-14 including usual allowances as admissible under the rules. He will be entitled to annual increment as per existing policy.
2. He shall be governed by Civil Servant Act 1973 for purpose of pension or gratuity. In lieu of pension and gratuity, he shall be entitled to receive such amount as would be contributed by him towards General Provident Fund (GPF) along with the contributions made by Govt. to his account in the said fund, in prescribed manner.
3. In case, he wishes to resign at any time, 14 days notice will be necessary and he had thereof, 14 days pay will be forfeited.
4. He shall produce medical fitness certificate from Medical Superintendent/ Civil Surgeon before joining duties as required under the rule.
5. He has to join duties at his own expenses.
6. If he accepts the post on these conditions, he should report for duties within 14 days of the receipt of this order.

REGISTRAR
FATA TRIBUNAL

Copy to;

01. The Accountant General Pakistan Revenues Sub Office, Peshawar.
02. Ps to ACS FATA, Peshawar.
03. PS to Secretary Law & Order FATA, Peshawar.
04. PS to Secretary Finance FATA, Peshawar.
05. Personal File.
06. Official Concerned.

REGISTRAR
FATA TRIBUNAL

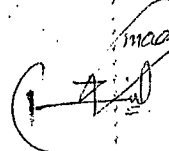
~~REGISTRAR
FATA TRIBUNAL~~

ANNEX "E"

15

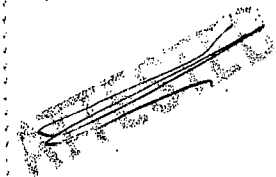
ARRIVAL REPORT

In pursuance of Office Order No. R/11/2018-19/1122 dated 08/03/2019, I hereby submit my arrival report as Assistant/Moharar (BPS-14) in FATA Tribunal at Peshawar today on 14/03/2019.



Kafil Ahmad

Assistant/Moharar (BPS-14)





ANNEX "F"

GOVERNMENT OF
KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

Dated Peshawar the 17/6/2021

NOTIFICATION

No. E & A (HD) 2 - 5 / 2021. The following posting/transfer of staff of Ex-Fata Tribunal is hereby ordered with immediate effect till further order:

S/No	Name & Designation	Posted In
1	Muhammad Adnan Assistant	Court Section
2	Tahir Khan Assistant	L&K Section NMAs
3	Kafil Ahmad Assistant	SO(L&O)NMAs
4	Muhsin Nawaz Stenographer	Litigation Section NMAs
5	Sami Ullah KPO	Security-I Section
6	Adnan Khan KPO	SO (Defence Planning Cell)
7	Muhammad Shoaib KPO	SO L&O NMAs
8	Asad Iqbal Junior Clerk	Litigation Section NMAs
9	Ikram Junior Clerk	O/O DS (Admn)
10	Khair Ul Bashir Junior Clerk	Security-II Section
11	Sadiq ullah Driver	O/O DS (Dev)
12	Ziafat ullah Driver	General Branch
13	Yaseen Driver	O/O DS (Judicial)
14	Owais Driver	General Branch
15	Amjid Driver	O/O DS(L&O) NMAs
16	Farman Driver	Pool Duty (PCMC)
17	Aleem Shah Driver	O/O DS Security
18	Farman Afridi Driver	O/O AS (L&O)NMAs
19	Gohar Ali Naib Qasid	O/O Planning Officer
20	Sher Khan Naib Qasid	O/O DS L&O NMAs
21	Farooq Azam Naib Qasid	SO L&O NMAs
22	Ishafaq Naib Qasid	SO litigation NMAs
23	Muhammad Shoaib Naib Qasid	Distribution of Mail NMAs
24	Fahim Shehzad Naib Qasid	O/O DS Dev Home
25	Nasir Gul Niab Qasid	IT Cell
26	Ikramullah Naib Qasid	O/O DS Admn
27	Naveed Ahmad Naib Qasid	O/O DS Judicial
28	Asif Khan Niab Qasid	Budget section
29	Falak Niaz Naib Qasid	Police-II
30	Habib Ali Chowkidar	General Branch
31	Sadam Hussain Chowkidar	O/O Special Secretary-II
32	Hassan Ali Chowkidar	General Branch
33	Ishafaq Chowkidar	General Branch
34	Ziur Rehman Chowkidar	Judicial Section
35	Bahar Ali Chowkidar	General Branch
36	Reedad Khan Chowkidar	General Branch

Deputy secretary (Admn)

Copy is forwarded to:

1. Section Officer(Courts) Home Department
2. Section Officer Security-I&II Home Department
3. Section Officer Budget Home Department
4. Section Officer Judicial Home Department
5. Section Officer L&K NMAs Home Department
6. Section Officer L&O NMAs Home Department
7. Section Officer litigation NMAs Home Department
8. Section Officer DPC Home Department
9. Planning officer Home Department
10. PS to Secretary Home Department
11. PS to Special Secretary I&II Home Department

P.T.O



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17

GOVERNMENT OF
KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

Dated Peshawar the 17/6/2021

12. PA to Additional Secretary L&O Home Department
13. PA to Deputy secretary Admn Home Department
14. PA to deputy secretary dev Home Department
15. PA to deputy secretary L&O Home Department
16. PA to deputy secretary security Home Department
17. Officials concerned

Section Officer (General) 17/6/21

REGISTERED

R. Kafil Ahmad Assistant

ANNEX - 4

Personnel Number: 50497655 CNIC: 1730192537883
Date of Birth: 14.04.1988 Entry into Govt. Service: 08.03.2019

NTN: Length of Service: 02 Years 06 Months 024 Days

Employment Category: Active Temporary

Designation: ASSISTANT

80877270-GOVERNMENT OF KHYBER PAKH

18

DDO Code: PR8073-PCR Tribunal Merged Areas

Payroll Section: 005

GPF Section: 002

Cash Center:

GPF A/C No:

Interest Applied: Yes

GPF Balance:

102,765.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 16

Pay Stage: 1

Wage type		Amount	Wage type		Amount
1001	Basic Pay	20,430.00	1004	House Rent Allow 45% KP21	9,024.00
1210	Convey Allowance 2005	5,000.00	1974	Medical Allowance 2011	1,500.00
2211	Adhoc Relief All 2016 10%	1,588.00	2224	Adhoc Relief All 2017 10%	2,043.00
2247	Adhoc Relief All 2018 10%	2,043.00	2264	Adhoc Relief All 2019 10%	2,043.00
2309	Adhoc Relief All 2021 10%	2,043.00	2315	Special Allowance 2021	3,500.00

Deductions - General

Wage type		Amount	Wage type		Amount
3016	GPF Subscription	-3,340.00	3501	Benevolent Fund	-1,500.00
3534	R. Ben & Death Comp Fresh	-650.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 0.00 Recovered till SEP-2021: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 49,214.00 Deductions: (Rs.): -5,490.00 Net Pay: (Rs.): 43,724.00

Payee Name: KAFIL AHMAD

Account Number: 0010059346600013

Bank Details: ALLIED BANK LIMITED, 250600 Charsadda Road Eid Gah Peshawar Charsadda Road Eid Gah Peshawa, Peshawar

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: peshawar

Domicile: -

Housing Status: No Official

Temp. Address:

City:

Email: k03458585557@gmail.com

System generated document in accordance with APPM 4.6 12,9(96989/24.09.2021/43.0)

* All amounts are in Pak Rupees

* Errors & omissions excepted (SERVICESAI/10.2021/05.16.12)





ANNEX H
GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT
KHYBER ROAD PESHAWAR

19

HD/B&A/FATA Tribunal/55/2021/394-99
Dated: 25-10-2021

To:

Mr. Kafil Ahmad,
Assistant/Muharrar (BPS-16)
Ex-FATA Tribunal.

Subject: **SHOW CAUSE NOTICE.**

I am directed to refer to the subject noted above and to enclose herewith Show Cause Notice (in original) duly signed by the Competent Authority for your compliance within stipulated time period and further necessary action.

Section Officer (B & A)

Encl: As above

Copy to:

1. PS to Secretary Home & TAs Department Khyber Pakhtunkhwa.
2. PS to Special Secretary Home & TAs Department Khyber Pakhtunkhwa.
3. PS to Additional Secretary (L & O) Home & TAs Department NMAs.
4. PA to Deputy Secretary (L & O) Home & TAs Department NMAs.
5. Section Officer (E-II) Government of Khyber Pakhtunkhwa Establishment Department with reference to his letter No. SOE-II(ED)2(9)2010 dated: 13.09.2021.

Section Officer (B & A)

SHOW CAUSE NOTICE

I Mr. Ikram Ullah Khan Secretary Home & Tribal Affairs Department as Competent Authority, under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve upon you, Mr. Kafil Khan, Assistant/Moharrar employees of Ex-FATA Tribunal as follows:-

"That Consequent upon the findings & recommendations of the Inquiry Committee it has been proved that the recruitment process for selection of 24 employees in Ex-FATA Tribunal was unlawful and all 24 appointment orders were issued without lawful Authority and liable to be cancelled".

I am, therefore, satisfied that you have been found guilty of "Misconduct" as specified in rule-3 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 read with Rule-2, Sub-Rule (I) (vi) "appointed in violation of law and rules".

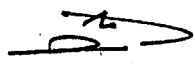
2. To, dispense with the Inquiry and serve you with a show cause notice under Rule-7 of the ibid Rules.

3. As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you the following penalty under the Rule-4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rule, 2011:-

i. Removal from service

4. 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.

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


**(IKRAM ULLAH KHAN)
HOME SECRETARY
(Competent Authority)**

**Mr. Kafil Ahmad,
Assistant/Muharrar
Ex-FATA Tribunal**



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To,

Home Secretary,
Khyber Pakhtunkhwa,
Peshawar,

ANNEX I

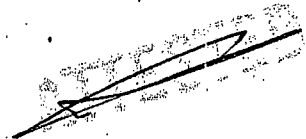
Subject: Reply to the show cause notice dated 25.10.2021.

Respected Sir,

I very humbly submit the following few lines for your kind and sympathetic consideration:

1. That 23 posts including the post of the undersigned i.e. Assistant/Muharrar, were advertised in daily AJJ and Aeen newspaper dated 09.02.2019 for open competition, being fit and eligible in all respect the undersigned applied for the post of Assistant/Muharrar.
2. That after gone all the rigors and selection process i.e test and interview, the undersigned was duly recommended for the post of Assistant/Muharrar and was appointed on the said post vide office order dated 08.03.2019.
3. That since my appointment I performed my duties with great zeal and devotion to the entire satisfaction of my superiors without any complaint whatsoever regarding my performance.
4. That while serving in the said capacity, the undersigned received a show Cause Notice dated 25.10.2021 by leveling false and baseless allegation which was never committed by the undersigned by any malafide intention nor any connection or relation with authority issued my appointment order and even have no relation with the recruitment process, the allegations are the following

“That consequent upon the findings & recommendations of the inquiry committee it has been proved that the recruitment process for selection of 24 employees in Ex-FATA Tribunal was unlawful and all 24 appointment orders were issued without lawful authority and liable to be cancelled’

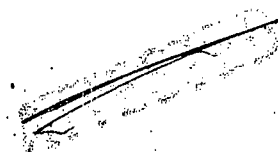


I am therefore satisfied that you have been found guilty of "Misconduct" as specified in rule-3 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011.

5. That proper procedure was adopted in the process of recruitment i.e. advertisement, test and interview and the undersigned was appointed on the post after gone all the rigors and selection process provided under the law.
6. That the allegation so leveled against me regarding the misconduct is false and baseless in have never committed any act or omission which could be term as misconduct and the allegations leveled against me does not come in the orbit of misconduct.
7. That there is nothing on the part of undersigned which term as misconduct as undersigned applied for the advertised post while having all the request eligibility criteria and also compete along with all other candidates who applied for the post and when found fit and eligible for the post declare recommended for the post of Assistant/Muharar.
8. That the members of Tribunal attended the test and interview on the said date and all the committee members were agreed principally on the selection and recommendation of the selection committee and on such principle on the same date issued the appointment orders and the copy of the recommendation of selection committee was handed over to section officer and further process, and on the same issued when the inquiry officer called upon the selected candidates they given on Oath the statement that they duly appeared before the selection committee.
9. That the so-called inquiry committee called upon all the selected candidate and given Oath regarding the favoritism an nepotism if so made in favor of any of the candidate which they duly replied on oath that no such act of favoritism and nepotism were exist in the present selection process, furthermore none of the member of the selection committee were duly inquired in the matter as all the process was taken place in their presence nor any sort of evidence was taken on record which can proof any of the allegation.

~~RECEIVED~~

10. That the inquiry committee did not associate me with the inquiry proceedings. Not a single witness has been examined during the enquiry in my presence nor I have been given opportunity to cross examine any of the evidence which show my involvement in any malafide action or my eligibility for the post in question.
11. That the undersigned was not even served with a charge sheet and statement of allegation, neither any fact finding nor regular inquiry was conducting which can show any sort of involvement of the undersigned in the requirement process, which is mandatory provision under the law.
12. That the undersigned is a responsible, cautious citizen and cannot even think of the display of the charges leveled against me.
13. That the inquiry committee did not associate me properly with the inquiry proceedings. Not a single witness has been examined during the enquiry in my presence nor I have been given opportunity to cross examine those who may have deposed anything against me during the inquiry.
14. That the undersigned has never committed any act or omission which could be termed as misconduct, I duly performed my duties as assigned with full devotion, zeal and loyalty albeit I have been roped in the instant false and baseless charges.
15. That the charges leveled against me were neither proved during the inquiry proceedings, nor any independent and convincing proof/ evidence has been brought against me in the inquiry that could even remotely associate me with the charges, as such the charges remained unproved during the inquiry and the inquiry officer has thus rendered his findings on mere surmises and conjunctures regarding charges, further to add that the so called inquiry was conducted in sajjad ur Rehman registrar case.
16. That the undersigned has at his credit an unblemished and spotless service career, during entire service career, I have never given any chance of complaint whatsoever regarding my performance. I always preferred the interests of the department over and above my personal interests. The proposed penalty if imposed upon me, it would be too





GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT
KHYBER ROAD PESHAWAR

Dated Peshawar 17th January, 2022

ORDER

HD/FATA Tribunal/B&A/55/2022/123-32 WHEREAS, Mr. Kafil Ahmad, Assistant/Moharrar (BPS-16) of Ex-FATA Tribunal was proceeded against under the Rule-4 of Khyber Pakhtunkhwa Government Servant (Efficiency & Disciplinary) Rules, 2011, for the charges mentioned in the statement of show cause notice served upon him.

2. AND WHEREAS, the Department gave opportunity of personal hearing to Mr. Kafil Ahmad, Assistant/Moharrar (BPS-16), Ex-FATA Tribunal as required under the rules 7(d) of Government Servant (Efficiency & Disciplinary) Rules, 2011 AND WHEREAS, Mr. Kafil Ahmad, Assistant/Moharrar (BPS-16), Ex-FATA Tribunal was not able to produce any favorable record.

3. NOW, THEREFORE, the Competent Authority has been pleased to impose major penalty of "Removal from Service" on Mr. Kafil Ahmad, Assistant/Moharrar (BPS-16), Ex-FATA Tribunal under Khyber Pakhtunkhwa (Efficiency & Disciplinary) Rules, 2011, with effect from 11-01-2022.

-Sd-

Secretary to Govt. Khyber Pakhtunkhwa
Home & Tribal Affairs Department

Endst No & Date even

Copy for information forwarded to:

1. The Accountant General Govt. of Khyber Pakhtunkhwa.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Home & Tribal Affairs Department.
3. Secretary to Govt. of Khyber Pakhtunkhwa Finance Department.
4. Secretary to Govt. of Khyber Pakhtunkhwa Establishment Department.
5. Special Secretary-II Home & Tribal Affairs Department Khyber Pakhtunkhwa.
6. Additional Secretary (Judicial) Home & TA's Deptt: Khyber Pakhtunkhwa.
7. PSO to Chief Secretary Khyber Pakhtunkhwa.
8. PS to Chief Minister Khyber Pakhtunkhwa.
9. Account Section Home & TAs Department (NMAs).
- ✓10. Official concerned.

Section Officer (B & A)

CS No. 512

24-1-2022

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To

The Honourable Chief Secretary,
Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.

ANNEX X

Subject: DEPARTMENTAL APPEAL AGAINST THE REMOVAL ORDER
DATED 17-01-2022

R/Sir,

Most respectfully, it is stated that I am a resident of District Peshawar and was initially appointed as Assistant/Moharrar (BPS-10) now BPS-16 in FATA Tribunal at Peshawar after fulfilling all the legal and codal formalities required for the post vide order dated 08-03-2019.

I started performing my duty quite efficiently whole heartedly and up to the entire satisfaction of my high ups after receiving the appointment order dated 08-03-2019 and submitting arrival report.

The FATA Tribunal was abolished after the 25th Constitutional Amendment the FATA was merged in the Khyber Pakhtunkhwa Province. After the abolition of the FATA Tribunal all the staff working in FATA Tribunal was deputed to Secretary Home & Tribal Affairs as such the staff of FATA Tribunal started performing duty in the office of Secretary Home & Tribal Affairs Khyber Pakhtunkhwa.

Astonishingly, I received Show Cause notice dated 25-10-2021 with the allegation that "appointment/recruitment process so made for my as well as other 24 staff is without Lawful Authority". Which was properly replied by denying the entire allegation leveled against me in the ibid show cause notice.

In this connection it is stated in your honour that my appointment was made after fulfilling all the codal formalities which includes Advertisement, other relevant selection process, appearance before the Departmental Selection Committee and interview.

It is well settled principle of law that one should not be punished for the fault of others and accordingly I am punished for the fault on my part.

The impugned removal order dated 17-01-2022 is not in accordance with Law as no charge sheet and statement of allegations have been served upon me; no proper regular inquiry was conducted nor the inquiry report was handed over to me.



Only I am been prosecuted in the matter which is
impugned order date 17-01-2022 in such a way that the
inquiry is conducted against me and not against those authorities
issued appointment order dated 08-03-2019. Hence, the authority
not look into the matter in accordance with Law & Rules which is
the impugned order dated 17-01-2022.

Therefore, it is, most kindly requested that the impugned order
dated 17-01-2022 whereby major penalty of Removal from Service has
been impose upon me may very kindly be cancelled and I may
reinstated into service with all back benefit.

I shall be very thankful to you for this kindness.

Dated: 21/01/2022

Obediently Yours,



(KAFIL AHMAD s/o Lal Badshah)
Assistant/Moharrar (Ex-FATA Tribunal)
0345-8585557

~~ATTESTED~~

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: _____ OF 2022

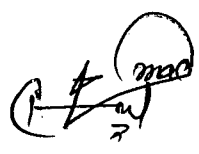
Kafil Ahmad (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Govt of K.P & Other (RESPONDENT)
(DEFENDANT)

I/We Kafil Ahmad
Do hereby appoint and constitute **NOOR MUHAMMAD KHATTAK Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2022



CLIENTS

ACCEPTED

NOOR MUHAMMAD KHATTAK

UMER FAROOQ MOHMAND

KAMRAN KHAN

HAIDER ALI

&
KHANZAD GUL
ADVOCATES