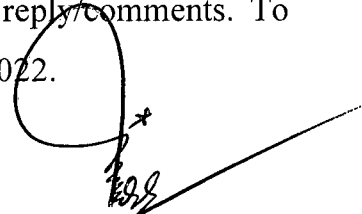


13.07.2022

Mr. Fazal Shah Mohmand, Advocate for the appellant present..
Preliminary arguments heard.

Learned counsel for the appellant contended that the appellant was appointed as Naib Qasid (BPS-03) in the office of respondent No. 1 under the quota reserved for the sons of deceased Civil Servants, vide order dated 07.09.2017. The appellant is aggrieved of the impugned order dated 22.12.2021 whereby he was removed from service. He challenged the impugned order through departmental appeal on 19.01.2022 which was however not responded within the statutory period hence the instant service appeal filed on 17.06.2022 for redressal of his grievances. It was further argued that the appellant was receiving threats calls from the proscribed organization against which brother of the appellant reported to local police. The respondents conducted enquiry and in the findings of enquiry committee para (b) revealed that the appellant remained absent from duty for 72 days and recommended major penalty of removal from service. Moreover, respondent No. 2 in Para 3 of the impugned order dated 22.12.2021 has shown absence from duty for 56 days which is reflected as 72 days in the findings of enquiry report. The absence period mentioned is therefore contradictory. It was further contended that no proper charge sheet/statement of allegations was issued to the appellant. No Show Cause Notice was issued and no chance of personal hearing provided to the appellant. He has therefore been condemned unheard which is against the principles of natural justice, he concluded.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments. To come up for reply/comments before the S.B on 14.09.2022.


(Mian Muhammad)
Member (E)

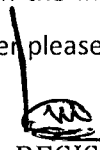
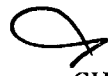
Rs-400/-
Amount Deposited
Security & Process Fee
A. J. 20/7/22

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1086/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	01/07/2022	<p>The appeal of Mr. Luqman Khan Yousafzai resubmitted today by Mr. Fazal Shah Mohmand Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	4/7/22	<p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on <u>13-7-22</u>. Notices be issued to appellant and his counsel for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>

HYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

CHECK LIST

Luzman Khan

Versus

Asmit

..... Appellant

..... Respondents

	<u>CONTENTS</u>	YES	NO
0	This petition has been presented by: <u>Advocate</u> <u>Court</u>	√	
	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	√	
	Whether appeal is within time?	√	
	Whether the enactment under which the appeal is filed mentioned?	√	
	Whether the enactment under which the appeal is filed is correct?	√	
	Whether affidavit is appended?	√	
	Whether affidavit is duly attested by competent Oath Commissioner?	√	
	Whether appeal/annexures are properly paged?	√	
	Whether certificate regarding filing any earlier appeal on the subject, furnished?	√	
0.	Whether annexures are legible?		
1.	Whether annexures are attested?	√	
2.	Whether copies of annexures are readable/clear?	√	
3.	Whether copy of appeal is delivered to AG/DAG?	√	
4.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	√	
5.	Whether numbers of referred cases given are correct?	*	
6.	Whether appeal contains cutting/overwriting?	√	
7.	Whether list of books has been provided at the end of the appeal?	√	
8.	Whether case relate to this court?	√	
9.	Whether requisite number of spare copies attached?	√	
0.	Whether complete spare copy is filed in separate file cover?	√	
1.	Whether addresses of parties given are complete?	√	
2.	Whether index filed?	√	
3.	Whether index is correct?		
4.	Whether Security and Process Fee deposited? On _____	√	
5.	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 _____		
6.	Whether copies of comments/reply/rejoinder submitted? On _____		
7.	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

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

Name:- Fazal Shah Mohmand ASC

Signature:- [Signature]

Dated:- _____


PRC Pvt Compiling Centre, Peshawar High Court, Peshawar
 Provider of legal drafting & computing
 Cell No:- +923028838600/+923119143544/+92315973715
 Email:- ptc.pvtcompiling@gmail.com

The appeal of Mr. Luqman Khan Yousafzai Ex-Naib Qasid Advocate General Office received today i.e. on 17.06.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Check list is not attached with the appeal.
- 2- Appeal has not been flagged/marked with annexures marks.
- 3- Affidavit may be got attested by the Oath Commissioner.
- 4- Annexures of the appeal may be attested.
- 5- Index of the appeal is incomplete which may be completed.
- 6- Annexure-A of the appeal is illegible which may be replaced by legible/better one.
- 7- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- 8- Four more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 2069 /S.T,


Dt. 20/6 /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Fazal Shah Mohmand Adv.
High Court Peshawar.

R/six,

Resubmitted after necessary
completion.


07/7/22

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No 1086 /2022

Luqman Khan Yousafzai.....Appellant

V E R S U S

Govt. and others.....Respondents


I N D E X

S.No	Description of Documents	Annexure	Pages
1.	Service Appeal with affidavit		1-3
2.	Application for condonation of delay with Affidavit		4
3.	Copy of Office Order dated 07-09-2017	A	5-6
4.	Copy of Naqalmaid No 14 & advisory	B & C	7-8
5.	Copy of inquiry report	D	9-11
6.	Copy of Office Order dated 22-12-2021	E	12
7.	Copy of Departmental appeal dated 19-01-2021	F	13-15
11.	Vakalat Nama		16

Dated:-17-06-2022

Through


Appellant


Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan

OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301 8804841
Email:- fazalshahmohmand@gmail.com

-1-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No _____/2022

Luqman Khan Yousafzai, Ex Naib Qasid, Advocate General Office Khyber
Pakhtunkhwa, Peshawar.Appellant

Dir. No. 333

Dated 17-6-2022

V E R S U S

1. Govt. of Khyber Pakhtunkhwa through Secretary, Law, Parliamentary Affairs and human Rights Department, Civil Secretariat Peshawar.
2. Advocate General, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 22-12-2021 WHEREBY THE APPELLANT HAS BEEN REMOVED FROM SERVICE AND AGAINST WHICH DEPARTMENTAL APPEAL OF THE APPELLANT HAS NOT BEEN RESPONDED SO FAR DESPITE THE LAPSE OF MORE THAN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:-

On acceptance of this appeal the impugned Order dated 22-12-2021 may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits.

Respectfully Submitted:-

1. That the appellant was appointed as Naib Qasid in the office of respondent No 1 under deceased sons quota vide Office Order dated 07-09-2017 and since appointment the appellant performed his duties with honesty and full devotion and to the entire satisfaction of his high ups. **(Copy of Office Order dated 07-09-2017 is enclosed as Annexure A).**
2. That during the year 2020/2021 the family of the appellant were receiving various threats calls from the proscribed organization and finally on 27-07-2021, the brother of the appellant reported the matter to the local Police which was entered into daily diary No 14 of even date and subsequently advisory was also issued by the DSP concerned. **(Copy of Naqalmad No 14 & advisory is enclosed as Annexure B & C).**
3. That due to mentioned threats to the lives of the family of the appellant, the brother of the appellant duly informed and produced the said documents before the authority/respondent No 2 however the same were not received from him and in the meanwhile, an illegal inquiry was conducted at the back of the appellant. **(Copy of inquiry report is enclosed as Annexure D).**

17/6/2022

4. That strangely the appellant was removed from service by respondent No 2 vide Office Order dated 22-12-2021 **(Copy of Office Order dated 22-12-2021 is enclosed as Annexure E).**
5. That the appellant filed departmental appeal before respondent No 2 on 19-01-2022 which has not been responded so far despite the lapse of more than the statutory period of ninety days. **(Copy of Departmental appeal dated 19-01-2021 is enclosed as Annexure F).**
6. That the impugned Order dated 22-12-2021 is against the law, facts and principles of justice on grounds inter-alia as follows:-

GROUNDS:-

- A. That the impugned Order is illegal, unlawful, without lawful authority and void ab-initio.
- B. That mandatory provisions of law and rules have been badly violated by the respondents and the appellant has not been treated according to law and rules in violation of Article 4 and 25 of the Constitution being his fundamental right.
- C. That the impugned order is void as Ex-parte action has been taken against the appellant and he has been condemned unheard in violation of Article 10/A of the constitution and law of the land.
- D. That no Charge Sheet and Show Cause Notice was communicated to the appellant and on this score alone the impugned order is liable to be set at naught.
- E. That the brother of the appellant namely Kamran duly conveyed the about the circumstances with documents to respondent No 2 which were not received from him and thus Ex-parte action was taken against the appellant.
- F. That even otherwise no proceedings as required under Rules, mandatory in case of absence were taken against the appellant.
- G. That the punishment is harsh which does not commensurate with the gravity of the allegations even.
- H. That strongly the period of alleged absence is not known nor specified, thus too the impugned order is not tenable in the eyes of law.
- I. That even otherwise the circumstances were beyond the control of the appellant, thus the appellant did nothing that amounts to misconduct

- J. That so far the unsigned reply to the Show Cause Notice is concerned, as mentioned in the impugned order the same is false and incorrect, as Show Cause Notice was never communicated to the appellant, so how the appellant could reply the same.
- K. That no notice was sent on the home address of the appellant nor were the requirements of Rule 9-A of E & D Rules 2011 were complied with, hence the impugned order is liable to be set at naught on this score alone.
- L. That the appellant was not afforded the opportunity of personal hearing.
- M. That the appellant has about four years' service with unblemished service record and is jobless since his illegal removal from service.
- N. That the appellant seeks the permission of this honorable tribunal for further/additional grounds at the time of arguments.

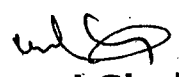
It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Any other relief deemed appropriate and not specifically asked for, may also be granted in favor of the appellant.

Dated:-17-06-2022

Through


Appellant


Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan

LIST OF BOOKS

- 1. Constitution 1973.
- 2. other books as per need

CERTIFICATE:

Certified that as per instructions of my client, no other Service Appeal on the same subject and between the same parties has been filed previously or concurrently before this honorable Tribunal.


ADVOCATE

AFFIDAVIT

I, Luqman Khan Yousafzai, Ex Naib Qasid, Advocate General Office Khyber Pakhtunkhwa, Peshawar, do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.


DEPONENT

-4-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No _____/2022

Luqman Khan Yousafzai.....**Appellant**

V E R S U S

Govt. and others.....**Respondents**

Application for condonation of delay if any


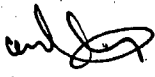
Respectfully Submitted:-

1. That the accompanying appeal is being filed today in which no date of hearing has been fixed so far.
2. That the grounds of appeal may be considered as integral Part of this application.
3. That since the impugned order is void ab-initio and even otherwise the departmental appeal of the appellant is still pending before respondent No 1 hence instant appeal is well within time furthermore lis are to be decided on merit instead of technicalities.
4. That Ex-parte action has been taken against the appellant and he has been condemned unheard.

It is therefore prayed that on acceptance of this application, the delay if any in filing of appeal may kindly be condoned.

Dated:-17-06-2022

Through


Appellant

Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan

AFFIDAVIT

I, Luqman Khan Yousafzai, Ex Naib Qasid, Advocate General Office Khyber Pakhtunkhwa, Peshawar, do hereby solemnly affirm and declare on oath that the contents of this **Application**, are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.


DEPONENT

"A"

-5-

OFFICE ORDER

As recommended unanimously by the Departmental Selection Committee, the Competent Authority is pleased to appoint Mr. Luqman Khan Yousafzai S/O Imran (late) as Naib Qasid (BPS-03) as per policy of Deceased Son's quota against the existing vacancy in the office of Addl. Advocate General, Khyber Pakhtunkhwa, at Islamabad with immediate effect on the following terms and conditions:-

1. He will get pay at the minimum of BPS-03, including usual allowances as admissible under the rules. He will be entitled to annual increment as per existing policy.
2. The appointment is subject to the antecedent's verification of the appointee.
3. He shall be governed by the Khyber Pakhtunkhwa, Civil Servants Act, 1973 and all the laws applicable to the Civil Servants and rules made there under.
4. He shall also be entitled to all the benefits, as described in the Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2013.
5. He shall be on probation for a period of one (01) year, extendable for another period of one (01) year.
6. He shall produce Medical Certificate of fitness before assumption of charge.
7. In case, he wishes to resign at any time, fourteen (14) days notice will be necessary or in lieu thereof 14-days pay will be forfeited.
8. He has to join duties at his own expenses.
9. If he accepts the post on the above terms and conditions, He may report for duty in this office within thirty (30) days of receipt of this offer. In case of failure, this office order shall stand withdrawn.

ADVOCATE-GENERAL,
KHYBER PAKHTUNKHWA,
PESHAWAR.

dated Peshawar, the 07/09/2017.

No. 12583-85 /AG

Copy is forwarded for information and necessary action to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Accountant/Cashier of this office.
3. Mr. Luqman Khan Yousafzai S/O Imran R/O Jaibai, Lahore, District Swabi.
4. Relevant file.

ADVOCATE-GENERAL
KHYBER PAKHTUNKHWA
PESHAWAR.

BETTER COPY OF THE PAGE NO. 6
OFFICE OF THE ADVOCATE-GENERAL, KHYBER PAKUTUNKHWA,
PESHAWAR

OFFICE ORDER

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2. The appointment is subject to the antecedent's verification of the appointee
3. He shall be governed by the Khyber Pakhtunkhwa, Civil Servants Act, 1973 and all the laws applicable to the Civil Servants and rules made there under.
4. He shall also be entitled to all the benefits, as described in the Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2013.
5. He shall be on probation for a period of one (01) year, extendable for another period of one (01) year.
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8. He has to join duties at his own expenses.
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ADVOCATE GENERAL
KHYBER PAKHTUNKHWA
PESHAWAR.

No. 12583-85/AG dated Peshawar, the 07/09/2017.

A copy is forwarded for information and necessary action to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar
2. Accountant/Cashier of this office.
3. Mr. Luqman Khan Yousafzai S/O Imran R/O Jalbai Lahore, District Swabi
4. Relevant file

ADVOCATE GENERAL
KHYBER PAKHTUNKHWA
PESHAWAR.

6



OFFICE OF THE ADVOCATE-GENERAL, KHYBER PAKHTUNKHWA, PESHAWAR

No 9075 /AG

Dated Peshawar, the 14/05/2016

Address: High Court Building, Peshawar.
Tel. No. 091-9210119

Exchange No 9213833
Fax No. 091-9210270

To

Mr. Luqman Khan Yousafzai s/o Imran,
Mohallah Awan, Jalbai, Lahor, District Swabi.

Subject: **APPLICATION FOR APPOINTMENT UNDER "DECEASED SON QUOTA" ON ANY SUITABLE POST.**

I am directed to refer to your application, dated Nil, on the subject noted above to state that your application has been received on 09/05/2016 in this office. Your request/case would be considered as and when a vacancy occurs.


(MUHAMMAD ARSHAD KHAN)
ADMINISTRATIVE OFFICER

19 اکتوبر 1957ء کو (پندرہ سالہ) ولد عزیز محمد صاحب کو 25/10/57ء کو سال بھرتی کیا گیا۔

اس وقت اس کی عمر 14 سال 4 ماہ 27 دن تھی۔ اس کی پیدائش کا نام اور تاریخ پیدائش

میں درج ہے۔ اس کا پتلا اور دیگر تفصیلات درج ذیل ہیں۔

1. نام: عزیز محمد صاحب

2. پتلا: 93, 76, 49, 60, 57

3. رنگ: کھمبے اور آنکھیں گہرے کالاں، بال سیاہ، پیشانی اور کانوں کے بال سیاہ، بالوں کا رنگ سیاہ

4. جسم: جسم میں ہلکا سا زردی ہے۔ جسم مضبوط ہے۔

5. ذہن: ذہنی طور پر تیز ہے۔

6. طبی حالت: طبی طور پر صحت مند ہے۔

7. تعلیم: ابتدائی تعلیم حاصل کی ہے۔

8. دیگر تفصیلات: اس کے بارے میں مزید تفصیلات درج ذیل ہیں۔

9. تعلق: تعلق ہے۔

10. دیگر تفصیلات: اس کے بارے میں مزید تفصیلات درج ذیل ہیں۔

11. دیگر تفصیلات: اس کے بارے میں مزید تفصیلات درج ذیل ہیں۔

محمد عزیز محمد صاحب

27-7-21

ضلع صوابی

تقلمد 14 روز نامچہ 27/07/2021

تھانہ تورڈھیر

مد 14 رپورٹ مسمی احسان خالق ولد عمران قوم افغان بمر 25/26 سال بشمول کامران ساکنان
 جلیبی محلہ اعوان بوقت 14:00 بجے مورخہ 27/07/2021 کو بحاضری تھانہ آکر احسان
 خالق یوں رپورٹ کرتا ہے کہ میرا تورڈھیری سٹاپ میں میڈیکل عمران میڈیکوز موجود ہے جس
 میں بروز کامران بھی موجود تھا کہ اس دوران میرے موبائل نمبر 0310-9025300 پرواٹس
 ایپ مسج نمبر +73764469057 سے مختلف قسم کے کالز موصول ہو کر مذکورہ اپنا نام سلمان اور
 اپنے آپ کو تحریک طالبان پاکستان پشاور ڈویژن کا کمانڈر ظاہر کر رہا تھا اور واٹس ایپ میسجز کے
 ذریعے کہہ رہا تھا کہ ہم جہاد کر رہے ہیں، ہمیں چندہ دے دو، ہمیں آپ کی تمام معلومات حاصل کی
 ہے اور اگر میرے واٹس ایپ کو بلا کیا تو نقصان اٹھاؤ گے، بہتر ہوگا کہ آپ ہمیں جہاد کیلئے چندہ
 دے دو، اس کے بعد ایک تصویر بھی میرے واٹس ایپ پر وائرل کر دی، میرا کسی بھی کالعدم تنظیم سے
 کوئی تعلق یا واسطہ نہیں ہے، برائے رپورٹ آیا ہوں، رپورٹ لکھی جائے تاکہ مذکورہ شخص کے خلاف
 قانونی کارروائی کی جائے العبد SD، کامران ولد عمران سکنہ جلیبی العبد SD کارروائی پولیس
 حسب گفتہ سائل رپورٹ درج بالا ہو کر پڑھ کر سنایا سمجھایا جا کر درست تسلیم کر کے زیر رپورٹ خود
 جبکہ تائید کنندہ نے تائیدی دستخط ثبت کئے جس کی میں تصدیق کرتا ہوں، جملہ حالات واقعات
 جناب SHO صاحب کے نوٹس میں لائے گئے، رپورٹ ہذا کا تقلمد بغرض مزید کارروائی محکمہ
 ICTD ارسال کی جائے گی۔

جناب عالی!

نقل بمطابق اصل ہے

27/07/2021



R C

-8- "C"

OFFICE OF THE SUB-DIVISIONAL POLICE OFFICER, LAHOR
Phone No. 0938-300042
E-Mail: sdpo_lahor@yahoo.com

ADVISORY NOTICE

To: **MR. IHSAN KHAN S/O IMRAN RO JALBAL**

Keeping in view the sensitivity of your personal security in the present situation it is suggested to kindly follow the under given advises to avoid any untoward happening.

1. Enhance personal security.
2. Keep a proper licensed weapon for your personal security.
3. Avoid going outside at night.
4. Change the way of your daily routine.
5. All the boundary walls of the residing place/ house must be raised up to 10/12 feet's.
6. Concertina wire must be installed on these boundary walls.
7. Proper fighting system must be adopted at night time.
8. Ensure presence of watch man/Chaukidars/Gunmen at your residency/medical store round the clock.
9. Installed security cameras at residing place. (House/Medical store).
10. Barrier must be installed in front of main gate.
11. Keep your movements secret.
12. Be careful in gathering and safety precaution must be adopted. Avoid yourself from unnecessary movements especially at night.

The contact number has already provided to you in case of emergency please contact the concerned authorities:

Control Room Swabi. 0938-920064.
PS Tordher. 0938-528123.

**Sub-Divisional Police Officer,
Lahor.**

BETTER COPY OF THE PAGE NO 8
OFFICE OF THE SUB-DIVISIONAL POLICE OFFICER, LAHOR
Phone No. 0938-300042
E-Mail: sdpo labor@yahoo.com

ADVISORY NOTICE.

To, **MR. IHSAN KHAN S/O IMRAN R/O JALBAL**

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6. Concertina wire must be installed on these boundary walls.
7. Proper lighting system must be adopted at night time.
8. Ensure presence of watch man/Chawkidars/Gunmen at your residency/medial store round the clock.
9. Installed security cameras at residing place. (House/Medical store).
10. Barrier must be installed in front of main gate,
11. Keep your movements secret.
12. Be careful in gathering and safety precaution must be adopted. Avoid yourself from unnecessary movements especially at night.

The contact number has already provided to you in case of emergency please contact the concerned authorities.

- Control Room Swabi. 0938-920064.
- PS Tordher 0938-528123.

Sub-Divisional Police Officer,
Labor.

-9- "D"

**REPORT/FINDINGS OF THE INQUIRY COMMITTEE CONSTITUTED UNDER OFFICE
ORDER NO. 8927-30/AG DATED 06.07.2021 BY THE LEARNED ADVOCATE
GENERAL KHYBER PAKHTUNKHWA**

Introduction

The Learned Advocate General as the competent authority under rule 10(1)(a) of the Government Servants Efficiency and Discipline Rules 2011 (E&D Rules 2011), was pleased to constitute an inquiry committee under rule 5(1)(b) of the E&D Rules 2011, comprising of Mr. Mian Shafaqat Jan Additional Advocate General K.P and Mr. Shumayl Aziz Additional Advocate General K.P to conduct enquiry against Mr. Luqman Khan Naib Qasid (BPS-03) (the accused) working at the Additional Advocate General Office Islamabad for willful absence as detailed in the charge sheet/statement of allegations. Mr. Muhammad Arif (Computer Operator) was appointed as departmental representative to assist the inquiry committee.

(Copy of the office order dated 06.07.2021 is attached as Annex-A)

Charge Sheet

The charge sheet was served upon the accused on 06.07.2021. As per the charge sheet the accused remained absent from office for 56 days. The period in question starts from January 2020 to November 2020. The said willful absences were committed sporadically within the period in question without any application or taking proper permission from the competent authority. The accused was directed to submit his written defence within seven (07) days and also to inform the inquiry committee if he would like to be heard in person.

(Copy of the charge sheet dated 06.07.2021 is attached as Annex-B)

Reply to the charge sheet dated 06.07.2021

The accused did not submit his written reply to the inquiry committee within the time frame as stipulated in the charge sheet. Hence, the defence of the accused was struck off and he was proceeded *ex-parte* in line with rule 11(2) of the E&D Rules 2011.

Proceedings of the inquiry committee under rule 11 of the E&D Rules 2011

- i. Despite the contumacious and apathetic attitude of the accused, the inquiry committee informed the accused through letter dated 02.08.2021 to present himself on 03.08.2021 at 11:00 am before the inquiry committee for a personal hearing. However, the accused remained absent on that day too and did not even bother to inform the office to explain his absence.

(Copy of the letter dated 02.08.2021 is attached as Annex-C)

-10-

- ii. The departmental representative ie Mr. Muhammad Arif produced before the inquiry committee the attendance register which was examined by the inquiry committee.
(Copy of the relevant pages of the attendance register are attached is attached as Annex-D numbering 11 pages)
- iii. The statements of Mr. Muhammad Arif (computer operator) and Mr. Siraj were also recorded by the inquiry committee.
(Copy of the statements of Muhammad Arif and Siraj are attached as Annex-E&F respectively)

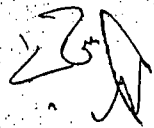
Findings of the inquiry committee

- a) Mr. Luqman Khan Yousufzai s/o Imran was appointed in the office of the Additional Advocate General K.P at Islamabad as Naib Qasid (BPS-03) on 07.09.2017 under the deceased's son quota.
- b) The attendance register maintained at the Additional Advocate General Office Islamabad clearly reveals that the accused remained willfully absent for 72 days during the relevant period without seeking prior permission from the competent authority. The 72 days of absence are over and above the casual leave to which the accused is entitled to under the law. This clearly shows that the accused is inefficient and his conduct is prejudicial to service discipline.
- c) The statements of Mr. Muhammad Arif and Mr. Siraj also indicate that the accused is a habitual truant and does not take his job seriously and responsibly. The accused was admonished in the past for his truancy on a number of occasions but did not mend his ways.
- d) The inquiry committee also regrettably observed that the accused does not feel any contrition for his negligent behavior as he neither submitted his written reply to the charge sheet nor appeared before the inquiry committee to justify his willful absence despite having knowledge of the disciplinary proceedings pending against him. Hence, the charge against the accused stands irrefutably proved.

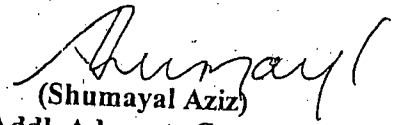
-11-

Recommendation of the inquiry committee

The willful absences by the accused without prior permission amounts to misconduct as defined in Rules 2 (1) (L) of E & D Rules, 2011 and since government service is a trust and the accused is clearly and patently guilty of betraying that trust, the inquiry committee recommends imposition of major penalty of removal from service on Mr. Luqman Khan Yousufzai.



(Mian Shafaqat Jan)
Addl. Advocate General K.P
Supreme Court of Pakistan



(Shumayal Aziz)
Addl. Advocate General
Supreme Court of Pakistan

-12- "E" F

OFFICE OF ADVOCATE-GENERAL, KHYBER PAKHTUNKHWA, PESHAWAR

OFFICE ORDER

1. Whereas, Mr. Luqman Khan s/o Imran r/o Jalbai, District Swabi was appointed as Naib Qasid vide office order No.12583-85/AG, dated 07/09/2017 in office of Additional Advocate General, Khyber Pakhtunkhwa, Supreme Court of Pakistan Islamabad;
2. And whereas, even previously he remained absent, off and on, from official duties without taking proper permission and each time, he was pardoned on verbal requests which fact reflects that he is habitual work shirker;
3. And whereas an Enquiry Committee was constituted vide No. 8927-30/AG, dated 06/07/2021 to conduct enquiry against him on account of his willful absence for 56 days as detailed in the statement of allegations, which recommended him to be removed from service;
4. And apart from that, he has also been absent from his official duties since 27/07/2021 without any intimation or taking proper approval of the Competent Authority;
5. And whereas, two (02) Notices having No.12619/AG, dated 11/10/2021 and No. 13726/AG, dated 30/10/2021 were issued on his home as well as office addresses to resume his duties and explain reasons of willful absence. However he badly failed to comply with legal orders of the Competent Authority.
6. And whereas, at the expiry of the fifteen (15) days, a Notice in regard to his willful absence was also got published in the Newspapers on 03/12/2021 for similar necessary compliance, as stated in para-5 above but in vain.
7. And whereas, without joining duties and without seeking any leave of absence, he made an attempt to hoodwink legal process by sending an unjustified/unsigned reply to the Show Cause Notice received on 25/10/2021 stating therein that all the allegations are baseless and requested for filing the Show Cause Notice to drop the departmental proceedings. The reply was not supported by any rules/regulations which was considered at appropriate level but did not find favours of the Competent Authority. Furthermore, inspite of his reply, he neither joined his duties nor bothered to seek any leave of absence as per rules justifying his continuous prolonged uncalled for absence from duty.
8. Such conduct on his part attracts section-9 of the Khyber Pakhtunkhwa (Efficiency & Discipline) Rules, 2011 which renders him liable to be awarded major penalty of "Removal from Service".

Now, therefore, I, being the Competent Authority is left with no option while exercising the powers under Rule-04(b)(iii) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 but to impose major penalty of "Removal from Service" upon him with immediate effect.

Sd/-
ADVOCATE GENERAL,
KHYBER PAKHTUNKHWA, PESHAWAR.
(COMPETENT AUTHORITY)

Endst: 16642-46 /AG

dated: Peshawar, the 22/12/2021

Copy to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Additional Advocate General, Khyber Pakhtunkhwa, Islamabad.
3. Budget and Accounts Officer of this office.
4. PS to Learned Advocate General, Khyber Pakhtunkhwa, Peshawar.
5. Mr. Luqman Khan s/o Imran r/o Jalbai, Chota Lahore District Swabi.


(AYAZ KHAN)
ADMINISTRATIVE OFFICER

H.A.
19-1. -13- "F"
601
19-1
2022

BEFORE THE SECRETARY LAW DEPARTMENT KHYBER PAKHTUNKHWA, PESHAWAR

Subject:- Appeal against the order dated 22-12-2021 passed by the honorable Advocate General, Khyber Pakhtunkhwa, Peshawar whereby the appellant has been removed from service.

Respectfully Submitted:-

1. That the appellant was appointed as Naib Qasid in the office of Additional Advocate General office, Khyber Pakhtunkhwa, Supreme Court of Pakistan Islamabad under deceased son, quota on 07-09-2017. and since appointment he performed his duties with honesty and full devotion and to the entire satisfaction of his high ups. **(Copy of Order dated 07-09-2017 is enclosed as Annexure A).**
2. That during the year 2020/2021 the family of the appellant were receiving various threats calls on behalf of the proscribed organization and finally on 27-07-2021, the brother of the appellant reported the matter to the local Police which report was entered in daily diary No 14 of even date and subsequently advisory was also issued by the DSP concerned. **(Copy of Daily Diary No 14 dated 27-07-2021 & Advisory is enclosed as Annexure B & C).**
3. That thus the appellant and his family were facing serious threats to their lives regarding which the brother of the appellant duly informed and produced the said documents before the authority which were not received from him and in the meanwhile an illegal inquiry was also conducted at the back of the appellant. **(Copy of Inquiry report is enclosed as Annexure D).**
4. That finally the appellant was awarded the penalty of Removal from service by the honorable Advocate General Khyber Pakhtunkhwa, Peshawar vide Order dated 22-12-2021. **(Copy of Order dated 22-12-2021 is enclosed as Annexure E).**
5. That the impugned Order dated 22-12-2021 of the honorable Advocate General Khyber Pakhtunkhwa, Peshawar is illegal, unlawful, without lawful authority, on grounds inter-alia as follows:

GRUNDS:-

-14-

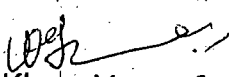
- A. That the impugned Office Order dated 22-12-2021 is illegal and void ab-initio.
- B. That mandatory provisions of law and rules have badly been violated and the appellant has not been treated according to law and rules as required under Article 4 and 25 of the Constitution and the appellant did nothing that amounts to misconduct.
- C. That no proper inquiry was conducted in the matter to have found out the true facts and circumstances, as the same was an ex-parte one having no legal sanctity.
- D. That no charge sheet and show cause was communicated to the appellant.
- E. That the appellant was not provided opportunity of personal hearing, thus he was not provided reasonable opportunity of being heard and defense as well.
- F. That even the brother of the appellant namely Kamran duly conveyed the circumstances to the authority concerned which were not received from him and thus Ex-parte action was taken against the appellant.
- G. That no proceedings required under the rules were taken against the appellant.
- H. That the punishment is harsh which does not commensurate with the gravity of allegations even.
- I. That the period of alleged absence is also not known nor specified thus too the impugned order is not tenable in the eyes of law.
- J. That even otherwise the circumstances were beyond the control of the appellant.
- K. That so far the unsigned Reply to the Show Cause Notice is concerned, in this connection it is submitted that as the same was not communicated to the appellant, so how the appellant could submit reply to the same.

-15-

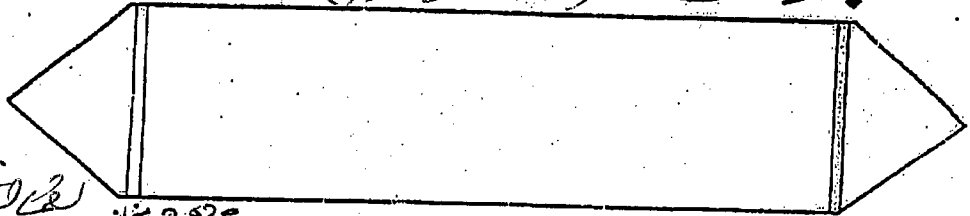
L. That the appellant has more than 4 years of service with unblemished service record and with no previous allegations of the sort and is jobless since his illegal removal from service.

It is therefore prayed that on acceptance of this appeal, the impugned Order dated 22-12-2021 may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits.

Dated:-19-01-2022


Luqman Khan Yousafzai Ex Naib
Qasid, Advocate General Office,
Khyber Pakhtunkhwa Peshawar.
Cell# 03449082329

بعدالت سرسند ٹریسٹول ریسور



صفحہ 2 منجانب لکھنؤ خان

لکھنؤ خان بنام لورینٹس وینر
لو سگری

موزخ
مقدمہ
دعویٰ
پریم

باعث تحریر آنگہ

دکٹر
صافر اللہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی اور جواب دہی وکل کاروائی متعلقہ
آج کے مقام پر کیے گئے فیصلے مندرجہ آنگہ + ABC

مقررہ کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے والے وکلاء رٹالت ہ فیصلہ برحلف دیے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے کے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زر میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل گرانے و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
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 کسی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا سامان
پر داخلہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ گھدی یا کہ سند ہے۔

لکھنؤ خان

الرقوم 5
ماہ جون 2022

واہ العبر

کے لئے منظور ہے۔

بیتنام

Attested & Accepted
دکٹر

Accepted

دکٹر