

02.07.2019

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned to 22.08.2019 for preliminary hearing before S.B.

MA

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

22.08.2019

Counsel for the appellant present and requested for adjournment. Adjourned to 07.10.2019 for preliminary hearing before S.B.

MA

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

07.10.2019

Nemo for appellant.

It is already past 2.00 PM and the appellant is unrepresented despite repeated calls.

Dismissed for non-prosecution. File be consigned to the record room.

Chairman *[Signature]*

Announced:
07.10.2019

P-18/36

06.03.2019

Learned counsel for the appellant present and requested for adjournment. Adjourn. To come up for preliminary hearing on 11.04.2019 before S.B.


Member

11.04.2019


Appellant in person present.

Due to general strike on the call of Bar Association instant matter is adjourned to ¹⁵16.05.2019 for preliminary hearing before S.B.


Chairman

15.05.2019

Appellant absent. Learned counsel for the appellant absent. Adjourn. To come up for preliminary hearing on 02.07.2019 before S.B.


Member

Service Appeal No. 390/2018

05.10.2018

Counsel for the appellant present and requested for adjournment. Adjourned. To come up for preliminary hearing on 21.11.2018 before S.B.

MA
(Muhammad Amin Khan Kundi)
Member

21-11-2018

Since 21 November has been declared as Public holiday on account of 12th Rabi ul awwal therefore the case is adjourned to come up for the same on 10-1-2019

Reader

10.1.2019

Nemo for appellant.

On the last date of hearing the matter was adjourned on the strength of Reader note. Notice be issued to appellant/counsel for 06.03.2019 for preliminary hearing before S.B.

Chairman
Chairman

P-2

27.04.2018

Appellant with counsel present. The Tribunal is non-functional due to retirement of our Hon'ble Chairman. Therefore, the case is adjourned. To come up for same on 26.06.2018.



Reader

26.06.2018

Counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 20.07.2018 before S.B.



(Muhammad Amin Khan Kundi)

Member

20.07.2018

Counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 09.08.2018 before S.B.



(Ahmad Hassan)

Member

09.08.2018

Neither the appellant nor his counsel present. Case to come up for further proceedings on 05.10.2018 before S.B.



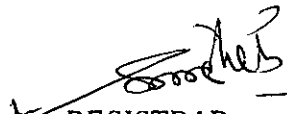


Chairman

Form-A

FORM OF ORDERSHEET

Court of _____

Case No. 390/2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	19/03/2018	<p>The appeal of Mr. Inayat Khan resubmitted today by Mr. Fazal Shah Mohmand 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;"> REGISTRAR</p>
2	20/03/18	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>02/04/18</u>.</p> <p style="text-align: right;"> MEMBER</p>
	02.04.2018	<p>Due to general strike of the bar, the case is adjourned. To come up for preliminary hearing on 27.04.2018 before S.B</p> <p style="text-align: right;"> Member</p>
	2	

The appeal of Mr. Inayat Khan Ex-Constable Excise and Taxation Department received today i.e. on 09.03.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures referred to in the memo of appeal are not attached with the appeal which may be placed on it.
- 2- Six more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 533 /S.T,

Dt. 14/03 /2018


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Fazal Shah Mohmand Adv. Pesh.

Sir, Resubmitted after necessary completion.



(Adv)

19-3-18

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 390 /2018

Inayat KhanAppellant

V E R S U S

Excise and Taxation, Others.....Respondents.

I N D E X

S.No	Description of Documents	Annexure	Pages
1.	Service appeal with affidavit		1-4
2.	Copies of document	A	5-15
3.	Copy of Judgment dated 05-01-1995	B	16-18
4.	Copy of Order dated 09-08-1995 ;	C	19-20
5.	Copies of Appeals & titled page of WP with Judgment dated 07-02-2018	D & E	21-36
6.	Wakalat Nama		37

Inayat Khan
Appellant

Dated:-08-03-2018

Through

Fazal Shah Mohmand
Fazal Shah Mohmand

Advocate, Peshawar

OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301 8804841

Email:- fazalshahmohmand@gmail.com

①

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 390 /2018

Inayat Khan Ex Constable Excise and Taxation department Govt. of KPK
S/O Gulab Khan R/O Garhi Atta Muhammad Kohat Road Peshawar.

.....Appellant

Khyber Pakhtunkhwa
Service Tribunal

V E R S U S

Diary No. 347

Date 9/3/2018

1. Excise and Taxation, Officer Mardan.
2. Director General Excise and Taxation Department Govt. of KPK Peshawar.
3. Director, Excise and Taxation Department Govt. of KPK Peshawar.
4. Secretary, Excise and Taxation Department Govt. of KPK Peshawar.

.....Respondents

**APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974
AGAINST THE ORDER 09-08-1995 PASSED BY RESPONDENT NO
1 WHERE BY THE APPELLANT HAS BEEN DISCHARGED 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 .**

PRAYER:-

On acceptance of this appeal the impugned order dated 09-08-1995 of respondent No 1 may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits.

Filed to-day

Registrar

9/3/18. Respectfully Submitted:-

1. That the appellant was appointed as Chowkidar on temporary basis in the respondent department on 02-06-1982 and was appointed as Constable on regular basis on 17-01-1984 and since appointment he performed his duties with honesty and full devotion and to the entire satisfaction of his superior officers. **(Copies of documents are enclosed as Annexure A).**
2. That the appellant was terminated from service against which he filed Service Appeal No 335/1994 which was accepted vide order and Judgment dated 05-01-1995 by reinstating the appellant in service. **(Copy of Judgment is enclosed as Annexure B).**

Re-submitted to-day
and filed.
Registrar
8/13/18

2

3. That after reinstatement the appellant fell ill and was unable to have performed his duties and the appellant duly informed respondent No 1 but even then he was discharged from service by respondent No 1 vide order dated 09-08-1995. **(Copy of Order dated 09-08-1995 is enclosed as Annexure C).**
4. That the appellant filed departmental appeal on 10-07-2000, which was not responded so the appellant filed another appeal on 21-05-2015, and even served legal notice on respondents but of no fruit so he preferred Writ Petition No 3616-P/2015 which was dismissed due to the Constitutional bar contained in Article 212, however he was granted permission to approach proper forum vide Order and Judgment dated 07-02-2018. **(Copies of appeals and titled page of Writ Petition and Order and Judgment dated 07-02-2018 is enclosed as Annexure D & E).**
5. That the impugned Order dated 09-08-1995 of respondent No 1 is against the law, facts and principles of justice on grounds inter-alia as follows:-

GROUND:-

- A. That the impugned order is illegal and void ab initio.
- B. That the appellant has not been treated according to law and rules and respondents have badly violated the procedure set forth by the law and rules.
- C. That no charge sheet and Show Cause notice were communicated to the appellant.
- D. That no inquiry was conducted in the matter to has found out the true facts and circumstances.
- E. That even the penalty awarded is not known to law and as such too the impugned order is liable to be struck down.

REGISTRAR

FILED TO-DAY

3

- F. That the absence from duty was not willful and deliberate, rather the same was because of circumstances compelling in nature and were beyond the control of the appellant as well.
- G. That the appellant has been terminated with retrospective effect which is void order and even no limitation runs against such order, as also held by this honorable Tribunal time and again.
- H. That even the procedure set forth in law and rules was never followed and the appellant was condemned unheard.
- I. That the appellant did nothing that would amount to misconduct and he has been awarded major penalty in violation of law, rules and dictums of the superior Courts.
- J. That the impugned order is defective and as such not maintainable in the eyes of law.
- K. That the appellant was not afforded the opportunity of personal hearing.
- L. That even keeping in view the 13 years long service the appellant is entitled to pensioner benefits.
- M. That the appellant has more than 13 years of service with unblemished service record.

REGISTERED
FIDELITY-DEPT

9

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

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

U. P. Khan
Appellant

Dated:-08-03-2018

Through

Fazal Shah Mohmand

Fazal Shah Mohmand

Advocate, Peshawar.

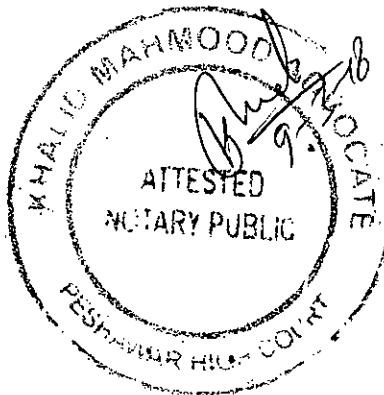
AFFIDAVIT

I, Inayat Khan Ex Constable Excise and Taxation department Govt. of KPK S/O Gulab Khan R/O Garhi Atta Muhammad Kohat Road 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. *U. P. Khan*

Identified by

DEPONENT

Fazal Shah Mohmand
Fazal Shah Mohmand
Advocate Peshawar.



Filed to-day

Registrar

OFFICE OF THE DIRECTOR, EXCISE AND TAXATION N.W.F.P. PESHAWAR.

11/11
5

ORDER

No. 3764 /Estb./K.C./Cl:, dated Peshawar the 2/6 /1982.

~~Khan~~ M. Noor Jada, a Temporary Chowkidar in N.P. Scale No. I viz N. 250-5-280/6-340-7-375, is reported absent from duty since 22.5.1982 to date. His father Sh: Jalal was contacted who reported in writing that much efforts were made but failed to find out his whereabouts and he is yet untraceable.

In the circumstances explained above his services is hereby terminated from the date of his absence viz: 22.5.1982. (F.A.)

M. Inayat Khan S/O Gulab Khan Excise and Taxation Constable is appointed as a whole time Chowkidar in National Pay Scale No. 1 N. 250-5-280/6-340-7-375/-, purely on Temporary bases with effect from 02/6/1982.

S/
Director, Excise and Taxation,
N.W.F.P., Peshawar.

No. 3765-67 /Estb./K.C./Cl:

Copy ~~of~~ of the above is forwarded to :-

1. The Office Nagir, of this Directorate.
2. The Estb: Assts: of this Directorate, to place on relevent file XXIV-D.82,
3. Mr. Inayat Khan S/O Gulab Khan
C/O
Gulab Khan Excise and Taxation Constable of this Directorate, Peshawar.

[Signature]
Director, Excise and Taxation,
N.W.F.P., Peshawar.

ur
[Signature]

13-19
(6)

Name of Government Servant.
Post held on 30.6.1983.
Department.

Mr. M. Ayaz Khan
Accountant
EXCISE & TAXATION, PESHAWAR.

Existing Revised National Pay Scale No. 1 Scale.

4250-5-280/6-340-7-370

Corresponding Basic pay Scale 1983 Scale No. I Scale.

440-10-640

(a) Pay fixation under the NO of stages formula.

- i) Basic pay in the Revised National pay scales on 30.6.1983. X
- ii) No. of stages availed in the No. Revised National pay scale upto 30/6/1983. X
- iii) Minimum of the corresponding Basic Scale, 1983. X
- iv) No. of stages to be given in the Basic pay scale 1983 on 1.7.1983-----Number X-----Amount (X)= Rs. X
- v) Pay fixed in the Basic pay in 1983 on 1.7.1983 (Col:iii+iv). Rs. X

(b) Pay fixation under the 10% increase formula.

- i) Basic pay on 30.6.1983. Rs. 250/-
- ii) Dearness Allowance & Addl: D.A. Rs. 150/-
- iii) 10% Increase. Total:- Rs. 400/-
- Total:- Rs. 440/-
- L.C.A. Rs. 13/-
- G/Total:- Rs. 453/-
- Pay fixed in the Basic pay scale 1983 on 1.7.1983. Rs. 460/-

(c) Date of next increment. 1.12.1983.

Office of the Accountant General
N.W.F.P. Peshawar.
M. Ayaz, Pay fixed in Basic Pay Scales 1983
5/9/83 by R. 440-10-640 B.C.No /
Rs. 460/- P.M. w.e.f. 1.7.83
with next increment on 1.12.83

M. Ayaz
Director, Excise & Taxation,
N.W.F.P., PESHAWAR.

M. Ayaz
Asstt. Accounts Officer
Asstt. Accountant General
N.W.F.P.
16/2

UC
24/2

7 A

4

1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of appointment	Signature of Government servant
Muzat Khan (Kidar) 25-5-280/6-340-7-375	Teneh		Rs 250/-			2.6.82	عائیت خان
40-10-640	11		460/-			1.7.82	عائیت خان
40 -	11		470/-			1.12.82	عائیت خان
40-10-640 40-10-640 40-10-640	11 11 11	 	470/- 470/- 470/-	 	 	 	
						17.1.84 (F.N.)	عائیت خان

Signature of Government servant

Director

Director

Director

See page 6

~~1~~
7

The entries in this page should be reviewed or re-attested at least every five years and the signature in lines 9 and 10 should be dated.

Name .. M. Inayat Khan.

Race .. Pathan.

Residence .. Khajusi (Tehsil - Bara) Tribal Territory.



Father's name and residence .. M. Gulab Khan, Khajusi - Bara Tehsil.



Date of birth by Christian era as nearly as can be ascertained 1963

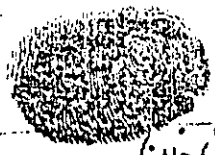
Exact height by measurement .. 5 - 7

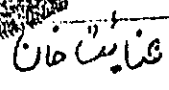
Personal marks for identification... A wound mark on the right leg.

Left hand thumb and Finger impression of (non-gazetted) officer ..

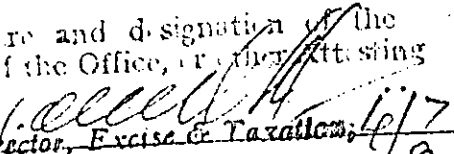
Little Finger.  Ring Finger 

Index Finger.  Middle Finger. 

Thumb. 

Signature of Government servant .. 

Signature and designation of the Head of the Office, or other attesting Officer.


Director, Excise & Taxation, 16/7
N.W.F.P., PESHAWAR. 83.

CTC
4/5

8 9

10	11	12	13		14	15	
Signature and designation of the officer attesting to this certificate in columns 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc).	Signature of the head of the office or other attesting officer.	Leave		Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
				Period	Government to which debitable		
<i>W. S. J.</i>	4/7/83		<i>W. S. J.</i>				
Director, Excise & Taxation, N.W.F.P., PESHAWAR	30/8/83		Director, Excise & Taxation, N.W.F.P., PESHAWAR				Service verified from 2.6.82 to 16.8.1984 from office files of my bills
Director, Excise & Taxation, N.W.F.P., PESHAWAR	31/8/83		Director, Excise & Taxation, N.W.F.P., PESHAWAR				
Director, Excise & Taxation, N.W.F.P., PESHAWAR	31/8/83		Director, Excise & Taxation, N.W.F.P., PESHAWAR				
			Transferred to GE TO (T) Peshawar as E & T Established on 16.1.1984 <i>W. S. J.</i> Director, Excise & Taxation, N.W.F.P., PESHAWAR.				Director, Excise & Taxation, N.W.F.P., PESHAWAR.
			Transferred to District, N.W.F.P. on 1.8.84 F. No. 1000				Service verified from 1-8-84 to 31-12-84 (31-12-86) from the office copies of my pay Bills & A/Roll.

Officer in Charge, General
 Pay fixed on Basis Pay Scales 1983
 of Rs. 442-12-642 B.C.No
 @ Rs. 460/- m.e.f. 17.88
 with next increment on 1.12.83

W. S. J.
 Asstt. Accounts Officer
 Asstt. Accountant General
 N.W.F.P.

Service verified from 1-8-84 to 31-12-84
 from the office copies of pay bills & A/Roll

Director, Excise & Taxation,
 Peshawar

W. S. J.

QC
1/8

1	2	3	4	5	6	7	
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating state (A) substantive appointment, or (B) whether service counts for pension under Art. 371 C S. R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of appointment	Signature of Government servant
440-10-640 S.T. Constabale Directorate Pesh.	716 Permanent		480/-			1-12-84	عبدالله
11	11		490/-			1-12-85	عبدالله
50-13-860 S.T. Constabale Directorate. Pesh.			500/-			1-12-86	عبدالله
11	11		678/-			1-7-87 1-12-87	عبدالله
11	11		691/-			1-12-87 30-4-88	
11	11		691/-			1-5-88	
<p>Office of the Accountant General M.S. P. Peshawar Pay Band in the Scale Pay Scale 1997 of Rs. 690-13-2600 of Rs. 678/- P.M. w.e. 1-7-1987 With Next Increment 1-12-1987</p>	<p>2</p>	<p>691/-</p>	<p>691/-</p>	<p>691/-</p>	<p>691/-</p>	<p>1-12-88</p>	<p>عبدالله</p>
11	11		717/-			28-12-88	

9 10

OFFICE OF THE DIRECTOR, EXCISE AND TAXATION, N.W.F.P., PESHAWAR

PROFORMA FOR FIXATION OF PAY IN THE REVISED PAY SCALE FOR THE YEAR, 19

- 1- Name of Government Servant. Imtiaz Khan
- 2- Designation. Constable
- 3- Existing B.P.S.No. 440-10-640
- 4- Corresponding Revised B.P.S. 600-13-860
- 5- Basic Pay in the existing BPS on 30-6-1987. Rs. 500/-
- 6- No. of stages above the minimum of the existing B.P.S. 6
- 7- Basic Pay to be fixed in the Revised B.P.S. on 1-7-1987 Rs. 678/-
- 8- No. of advance increments admissible on possessing educational qualification at least in 2nd Division over and above qualification prescribed in the relevant recruitment rules. -
- (9) Revised B.Pay after advance increment. -
- 10- Date of Annual Increment. 1-12-87

678/1

ATTESTED.

Imtiaz Khan
 DIRECTOR, EXCISE AND TAXATION,
 N.W.F.P., PESHAWAR.
 N.W.F.P. PESHAWAR.

Office of the Accountant General
 N.W.F.P. Peshawar.
 Pay Fixation Order No. 164
 of Rs. 600-13-860, (1)
 of Rs. 678/- P. No. 17-1987
 With Next Increment 1-12-1987

M. Ali.

Accountant Officer

etc
48

10

12	13	14	15
Signature of the head of the office or other attesting officer	Allocation of period of leave on average pay upto four months for which leave is not available to another Government	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or reward or praise of the Government Servant.
Date of termination of appointment	Reason of termination (such as promotion transfer, etc)	Period	Government to which referred
30-11-85	Increment - Dir: Exc & Tax: Peshawar.		granted leave for 30 days u.e. 2/5/87 to 21/5/87 vide D.O. No. 2245/211(CN) XXXV-A-81 9 415/87.
30-11-86	Increment - Dir: Exc & Tax: Peshawar.		Najam Hussain Director Excise & Taxation, @ N.W.F.P. PESHAWAR.
30-6-87	Revision of pay scale.		Service Verified from 1-1-87 to 30-4-88 form Office of the Director Excise & Taxation, @ N.W.F.P. Peshawar.
30-11-87	Increment - Dir: Exc & Tax: Peshawar.		Service Verified from the Office of the Director of the Pay Bills from 1-1-88 to 28-2-89 (28-2-89) Excise & Taxation Officer Peshawar
30-11-88	Increment - Dir: Exc & Tax: Peshawar.		
30-11-89	Increment - Dir: Exc & Tax: Peshawar.		

CTC
UP

10A

1 Name of post	2 Whether substantive or officiating and whether permanent or temporary	3 If officiating state (i) substantive appointment, or (ii) whether service counts for pension under Act XVI C. S. R.	4 Pay in substantive post	5 Additional Pay for officiating	6 Other emoluments falling under the term "Pay"	7 Date of appointment	Signature of Government Servant
13-830 Constable	officiating Perm.	-	704/-	-	-	1-3-84	
v	v	-	717/-	-	-	1-12-89	
N	N	-	730/-	-	-	1-12-90	
M. M. M. M.			739			1-8-91	
-26-1310			1180/-			12-9-91	
Constable M. M. M. M.							
-26-1310 Constable M. M. M. M.	offic/Temp		1180/-	12-9-91		12-9-91	
			1200/-			1-12-91	

Conditions of the 28/7/91

In Witness Whereof
82

1	20	30	40	50	60	70
Signature and designation of the officer in charge of the office of the Government	Date of appointment	Nature of service (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attending officer	Period of leave taken	Signature of the head of the office or other attending officer	Date of completion of the period of leave

[Handwritten signature]
 Director Excise & Taxation
 @ N.W.F.P., Peshawar.

Service Verified
 from 1-3-27 to 30-11-27 form
 Office Copies of Pay Bills
 Director Excise & Taxation
 @ N.W.F.P., Peshawar.

[Handwritten signature]
 Director Excise & Taxation
 @ N.W.F.P., Peshawar.

Service Verified
 from 1-12-29 to 28-7-30 forms
 Office Copies of Pay Bills
 Director Excise & Taxation
 @ N.W.F.P., Peshawar.

[Handwritten signature]
 Director Excise & Taxation
 @ N.W.F.P., PESHAWAR.

[Handwritten signature]
 Director Excise & Taxation
 @ MARDAN.

[Handwritten signature]
 II

Drain Rs. 1049/99 as arrears of 100
 + allowed w.e.f. (13⁹/₉₁ to 30⁹/₉₁) vide P.D.N. 14-426
 dt. 10/10/91 30⁹/₉₁ receipt

[Handwritten signature]
 Asst. Accountant General,
 North West Frontier Province,
 PESHAWAR

[Handwritten signature]
 II

T. To Directr Est. Office
 Peshawar (Est. Office)
 Maulvi

from 12/9/91 to 31.12.91

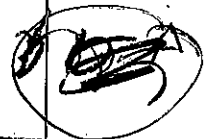
[Handwritten signature]
 Section Taxation Officer II
 PESHAWAR.

CC
 2/2

11A

1	2	3	4	5	6	7	8
Date of birth	Whether appointed by or appointed by the President of the United States	By what title (1) whether appointed by the President, or (2) whether service received under Act 577 U. S. A.	Date in which received	Additional pay for official	Salary received under the term of pay	Date of appointment	Whether in the service
920-26-1310 Eakin of Franklin Constable P. S. M. Ward	H. Camp	-	-	612061		5-8-92	

12



16	17	18	19	20	21
Name of the person to whom the award is made	Place of birth	Place of residence	Allocation of period of leave or average pay for leave	Signature of the head of the office or other authority	Reference to any records, orders or files of the Government
<p><i>Lucas...</i></p> <p>SECRET & CONFIDENTIAL</p>				<p>granted 120 days E leave</p> <p>W. # 7-1492 to 29.7.92 vide</p> <p>ETOS order no. 156/ET/9302</p> <p><i>[Signature]</i></p> <p>2/11/92</p>	
				<p>Service rendered from</p> <p>the 1st of July of the Pay Bill</p> <p>from 1.1.92 to 31.7.92</p> <p><i>[Signature]</i></p> <p>1/92</p>	
				<p>Granted 120 days Earned leave</p> <p>N. # 8.4.93/55-9.93 vide</p> <p>ETOS order N. 6982/587</p> <p>Dt. 8.4.93.</p> <p><i>Lucas...</i></p> <p>SECRET & CONFIDENTIAL</p>	

CIC
4/92

NAME:- INAYAT KHAN

MAN NO. 0753582

DESIGNATION:- EXT CONSTABLE

HEAD-OF-A/C. 02300131/0751

FUND-TYPE:- 05-GENERAL PROV FUND (LES)

ID-CARD:-

FUND-A/C NO. 4 LES 10190

D. D. O:- DIR: EXISE & TEX PESH

PAYROLL MONTH	MONTHLY SUBS.	REFUND GP-ADV.	INTERSET GP-ADV.	TOTAL DRAWS	PROVISIONAL BALANCE
OPENING BALANCE					5068.00
JULY	25.00				5093.00
AUGUST	25.00				5118.00
SEPTEMBER	25.00				5143.00
OCTOBER	25.00			2000.00	3168.00
NOVEMBER	25.00				3193.00
DECEMBER	25.00				3218.00
JANUARY	25.00				3243.00
FEBRUARY	25.00				3268.00
MARCH	25.00	100.00			3393.00
APRIL	25.00	100.00			3518.00
MAY	25.00	100.00			3643.00
JUNE	25.00	100.00			3768.00
TOTAL	300.00	400.00		2000.00	45766.00

OPENING BALANCE	5068.00
TOTAL DEPOSITS	700.00
INTEREST 15.93%	608.00
30% BONUS ON INTEREST	182.00
TOTAL	6558.00
WIDHRWALS	2000.00
CLOSING BALANCE	4558.00

ہدایات

- 1 براہ کرم اس کو نہایت احتیاط سے سنبھال کر رکھیے۔
- 2 اگر اس سٹیٹمنٹ کے مندرجات سے آپ متفق نہ ہوں تو متعلقہ اکاؤنٹس آفیسر/اکسٹنٹ اکاؤنٹنٹ جنرل فنڈز سے رابطہ قائم کریں۔
- 3 شکایت دور نہ ہونے کی صورت میں ڈپٹی اکاؤنٹنٹ جنرل فنڈز سے رابطہ قائم کریں۔
- 4 اعتراضات اس سٹیٹمنٹ کی تاریخ اجراء سے تین ماہ تک وصول کیے جاتے ہیں۔
- 5 اگر اس دوران کوئی اعتراض وصول نہ ہوا تو اس کے مندرجات کو درست سمجھا جائے گا۔
- 6 خط و کتابت کرتے وقت اپنا پرسنل نمبر اور پرنٹڈ نام لکھ کر منڈی اکاؤنٹ نمبر کا حوالہ جو کہ اس سٹیٹمنٹ میں درج ہے

09/10/90

تاریخ

اکاؤنٹس آفیسر

CC
1/10/90

NAME INAYAT KHAN

MAN NO C753582

DESIGNATION: EXT CONSTABLE

HEAD-OF-A/C 02300131/0751

FUND-TYPE: 06-GENERAL PROV FUND (LES)

ID-CARD:-

FUND-A/C NO 4 LES10190

D D O: DIR: EXISE & TEX PESH

(14)

PAYROLL MONTH	MONTHLY SUBS	REFUND GP-ADV.	INTERSET GP-ADV.	TOTAL DRAWS	PROGRESSIVE BALANCE
OPENING BALANCE					2670.00
JULY	25.00	70.00			
AUGUST	25.00	70.00			2765.00
SEPTEMBER	25.00	70.00			2860.00
OCTOBER	25.00				2955.00
NOVEMBER	25.00				2980.00
DECEMBER	25.00				3005.00
JANUARY	25.00				3030.00
FEBRUARY	25.00				3055.00
MARCH	25.00				3080.00
APRIL	25.00				3105.00
MAY	25.00				3130.00
JUNE	25.00				3155.00
					3180.00
TOTAL	300.00	210.00			36300.00

OPENING BALANCE	2670.00
TOTAL DEPOSITS	510.00
INTEREST 14.84%	449.00
30% BOUNUS ON INTEREST	135.00
TOTAL	3764.00
WIDHRWALS	
CLOSING BALANCE	3764.00

ہدایات

- براہ کرم اس کو نہایت احتیاط سے سنبھال کر رکھتے۔
- اگر اس سٹیٹمنٹ کے مندرجات سے آپ متفق نہ ہوں تو متعلقہ اکاؤنٹس آفیسر/اسسٹنٹ اکاؤنٹنٹ جنرل فنڈز سے رابطہ قائم کریں۔
- شکایت دور نہ ہونے کی صورت میں ڈپٹی اکاؤنٹنٹ جنرل فنڈز سے رابطہ قائم کریں۔
- اعتراضات اس اسٹیٹمنٹ کی تاریخ اجراء سے تین ماہ تک وصول کیے جاتے ہیں۔
- اگر اس دوران کوئی اعتراض وصول نہ ہوا تو اس کے مندرجات کو درست سمجھا جائے گا۔
- خط و کتابت کرتے وقت اپنا پرسنل نمبر اور پرنٹ نام لپی فنڈ اکاؤنٹ نمبر کا حوالہ جو کہ اس سلب میں درج ہے

08/10/89

تاریخ

اکاؤنٹس آفیسر
حکومت صوبہ سرحد

CTC
14/10/89

NAME:- INAYAT KHAN MAN NO 0753582
 DESIGNATION:- EXT CONSTABLE HEAD-OF-A/C 02300131/0751
 FUND-TYPE:- 06-GENERAL PROV FUND (LES) ID-CARD:-
 FUND-A/C NO. 4 LES 10190
 D. D. O:- DIR:EXISE & TEX PESH

(15)

PAYROLL MONTH	MONTHLY SUBS.	REFUND GP-ADV.	INTERSET GP-ADV	TOTAL DRAWLS	PROGRESSIVE BALANCE
OPENING BALANCE					5068.00
JULY	25.00				5093.00
AUGUST	25.00				5118.00
SEPTEMBER	25.00				5143.00
OCTOBER	25.00				5168.00
NOVEMBER	25.00				5193.00
DECEMBER	25.00				5218.00
JANUARY	25.00				5243.00
FEBRUARY	25.00				5268.00
MARCH	25.00	100.00		2000.00	3393.00
APRIL	25.00	100.00			3518.00
MAY	25.00	100.00			3643.00
JUNE	25.00				3668.00
TOTAL	300.00	300.00		2000.00	55666.00

OPENING BALANCE	5068.00
TOTAL DEPOSITS	600.00
INTEREST 15.93%	739.00
30% BOUNUS ON INTEREST	222.00
TOTAL	6629.00
WIDHRWALS	2000.00
CLOSING BALANCE	4629.00

ہدایات

- 1 براہ کرم اس کو نہایت احتیاط سے سنبھال کر رکھیں۔
- 2 اگر اس سٹیٹمنٹ کے مندرجات سے آپ متفق نہ ہوں تو متعلقہ اکاؤنٹس آفیسر/اسسٹنٹ اکاؤنٹنٹ جنرل فنڈز سے رابطہ قائم کریں۔
- 3 شکایت دور نہ ہونے کی صورت میں ڈپٹی اکاؤنٹنٹ جنرل فنڈز سے رابطہ قائم کریں۔
- 4 اعتراضات اس اسٹیٹمنٹ کی تاریخ اجراء سے تین ماہ تک وصول کیے جاتے ہیں۔
- 5 اگر اس دوران کوئی اعتراض وصول نہ ہوا تو اس کے مندرجات کو درست سمجھا جائے گا۔
- 6 خط و کتابت کرتے وقت اپنا پرسنل نمبر اور پرنٹنگ پی فنڈ اکاؤنٹ نمبر کا حوالہ جو کہ اس سلیپ میں درج ہے

02/12/90

تاریخ

اکاؤنٹس آفیسر

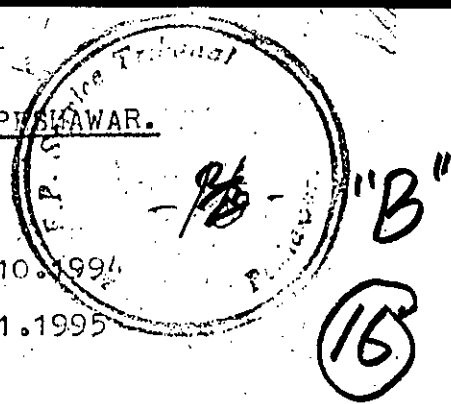
CTC
 14

BEFORE THE NWFP SERVICE TRIBUNAL, NWFP, PESHAWAR.

APPEAL NO. 335/1994,

Date of institution.... 10.10.1994

Date of decision..... 5.1.1995



Ex-Constable Inayat Khan
S/O Gulab Khan resident of
Khyber Agency....

... APPELLANT

VERSUS

1. Director Excise and Taxation NWFP,
Peshawar.
2. Excise and Taxation Officer, Mardan... RESPONDENTS.

MR. GHULAM JAN NIAZI
Advocate,

.... For appellant

MR. MUHAMMAD SHAFI,
Government Pleader,

.... For respondents.

MR. JUSTICE QAZI HAMID-UD-DIN, CHAIRMAN
MR. HIDAYATULLAH KHAN, MEMBER.

JUDGMENT

QAZI HAMID-UD-DIN-J, CHAIRMAN:- This appeal has been filed by Inayat Khan, against the order dated 30.5.94, whereby the services of the appellant were terminated. It has been prayed that the impugned order may be set aside and the appellant be reinstated in service with all back benefits.

Brief facts as averred in the appeal are that the appellant while serving as constable in the Excise and Taxation Department Mardan, fell ill on 8.1.1994 and remained as such till 1.6.1994. The department was kept informed about his illness and copies of all the medical certificates were sent to the department, but to his surprise, the appellant's services were terminated and he was removed from service vide order dated 30.5.1994 (Annexure-B). The appellant submitted departmental appeal

ANNEXURE B

etc
r/ld

against his removal from service to respondent No.1 on 16.6.1994, but with no positive response, hence this appeal on the grounds that the order of respondent No.2 is against law, facts and equity hence liable to be set aside. No enquiry has been conducted in the case of the appellant, so that his wilful absence could be proved. The respondent No.2 being not the appointing authority has exceeded his power, by issuing the impugned order.

Respondents have filed their reply in which the claim of the appellant has been denied.

Arguments heard and record perused.

The appellant has been dismissed from service under rule 5 sub rule (3) of the (E&D) rules without holding any inquiry against him, but it is doubtful whether the provision of sub rule (3) of Rule 5 have been complied with, as on the departmental appeal the procedure adopted is contrary to the requirement of natural justice. The departmental appeal of the appellant was submitted on 16.6.1994 and the same was dismissed on 11.10.1994 without asking the appellant to explain his absence from duty and without giving him a chance of personal hearing. In this case the appellant's removal was occasioned from the date of his absence from duty, but the appellant's plea is that he was sick and was unable to attend to his duties and in support of his sickness the appellant has placed on record photostat copies of cut-door patient slips for the period he remained absent. May be the appellant did not submit these Medical Certificates to the department with proper application for leave but this omission on the part of the appellant did not justify resort to rule 5 sub rule (3) to remove the appellant from service without holding an inquiry. When different pleas of sickness have been taken by the appellant in his departmental appeal it was incumbent upon the respondent department to have looked into the defence of the appellant and had the appellant

RECORDED
INDEXED
17/10/94
MAY 1995
S. S. S. S. S.

CTC
4/10

failed to substantiate his plea then the respondent department was legally bound to pass the impugned order. In these circumstances when no inquiry has been held which was essential to clarify the claim of the appellant, the Tribunal while accepting the appeal, orders the re-instatement of the appellant in service with all back benefits and allows the respondent department to proceed afresh against the appellant on the ground of absence, giving him full opportunity to participate in the inquiry. With these observations the appeal is disposed of. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED
5.1.1995.

(Signature)
(Hidayatullah Khan)
MEMBER

(Signature)
(JUSTICE CAZI HAMID-UD-DIN)
CHAIRMAN

Certified to be true Copy.

(Signature)
M.W.F.P. SERVICE TRIBUNAL
PESHAWAR.

Date of presentation of application	8-1-95
Number of copies	1200
Copy fee	5-00
Ut	5-00
Total	5-00
Name of applicant	APRIL KHAN
Date of receipt of copy	10-1-95
Date of delivery of copy	10-1-95

CTE
(Signature)

ORDER.

19

Inayat Khan Excise Constable P.S.M. Mardan is reported to ~~be~~ be absent from his duties w.e. from 20.2.1995, and his whereabouts is also not known.

Being the resident of a tribal area, he was issued an explanation Notice through APA Khyber vide this Office No. 837/E&C dated 29.3.1995 but the same was returned unserved. Subsequently his explanation was asked through a registered letter vide Rd No. 399, dated 3.5.1995 but the same was also returned ~~unserved~~ unserved.

He was suspended from Service being absent from duty, the compliance with the Director Excise & Taxation NWFP order No. 1994/ Estab/P.F. dated 21.5.1995 and the suspension orders was conveyed to him at his home address vide this Office No. 1200/E&T dated 5.6.95 through a Registered deed receipt No. 12510/6.6.1995 but he neither attended the Office nor tendered reasons regarding his prolonged absence from duty.

Mr. Shad Muhammad Khan Asstt. Excise & Taxation Officer PSM and Distillery Ltd Mardan was appointed as Enquiry Officer U/R 5(3) of the Govt. E&D Rules 1973 who submitted his report that Inayat Khan Excise Constable is not available in his Village rather his whereabouts is also not known. He has taken a written Statement of his Uncle Juma Khan to this effect.

In order to give him an opportunity to be heard in person. Umar Gul Distillery Excise Guard Jamadar PSM Mardan was deputed to serve upon him a Show Cause Notice personally in his Village who handed over the Notice to his father Gulab Khan on 25.7.1995 because he was not present in his Village. Gulab Khan Father of the absentee attended the Office of the undersigned on 30.7.95 with a written request that he will ascertain the whereabouts of his son Inayat Khan and will apprise the undersigned within a week, but he failed to do it so far.

As the Constable Inayat Khan is an irresponsible person and is not interested in his service. He is habitual absentee, his services was previously terminated by the undersigned on the same grounds vide orders No. 9147, Est dated 30.5.1995 but later on he was re-instated by the NWFP Services Tribunal Court Peshawar.

Now again the Department has availed every opportunity to be provided to the absentee official but it seems that he is not interested in his service and thus he is liable to the major punishment under the Efficiency and Discipline Rules 1973 and hence

P...2...

20

being an appointing authority discharge him from service forthwith
He will not be entitle to any monetry benefits from the date of
his absence from duty.

[Signature]
EXCISE AND TAXATION OFFICER,
MARDAN...

No. 1595-98 /E&T Dated the Mardan 9-8 /1995.

Copy of the above is forwarded to the:-

1. Director Excise and Taxation NWFP Peshawar for information please.
2. District ~~Off~~ Accounts Officer, Mardan.
3. Asstt: Excise & Taxation Officer Incharge PSM and Distillery Ltd Mardan.
4. Mr: Inayat Khan S/O Gulab Khan Residents Of Village Nal Kandi Bala Kola Khail (Malak Din Mhd) Kajori Tehsil Bara.

Sd.
EXCISE AND TAXATION OFFICER,
MARDAN...

CR
48

The Director, Excise & Taxation,
KP, Peshawar.

"D"

(21)

**SUBJECT:- APPEAL AGAINST OFFICE ORDER NO. 1594/E&T,
DATED 09.08.1995 OF THE EXCISE & TAXATION
OFFICER MARDAN WHEREBY APPELLANT WAS
DISCHARGE FROM SERVICE ON THE SCORE OF
ABSENCE FROM SERVICE.**

Respected Sir,

1. That appellant was appointed on 02.06.1982 as Chowkidar in NPS No. 1 by Director, Excise & Taxation, KP, Peshawar.
2. That on meritorious services, appellant was promoted to the post of Constable on 19.02.1984
3. That on 30.05.1994, appellant was terminated from service on account of absence but he was not absent will fully but was ill, however against order 30.05.1994 appeal No. 335/1994 was filed on 10.10.1994 before the Hon'ble Tribunal which was after thorough probe accepted on 05.01.1995 with all back benefits. However department was given opportunity to proceed him a fresh after providing him full opportunity to participate in the enquiry.
4. That thereafter without conducting enquiry into the matter as per the mandate of law appellant was discharged from service vide order dated 09.08.1995 as by this time he was unable to perform duty in his house of the then D.E.T, Mardan namely Attaullah Khan.

Hence this departmental appeal, inter alia, on the following grounds:-

GROUND S:

- a. That appellant never refused any lawful order of the authority.

UP
UP

22

- b. That order date 09.08.1995 is in total disregard of law and rules, so is of no legal effect.
- c. That absence was not published in two leading News Papers for assumption of duty.
- d. That in the Service Law no word of "discharge" ever exists, so order dated 09.08.1995 is not only illegal but is ab-initio-void too.
- e. That appellant has in his credit more than 13 years service but no benefit in shape of pension was awarded to him but absence does not constitute misconduct and as stated earlier the impugned order is based on personal grudge and malafide.

It is, therefore, most humbly requested that order dated 09.08.1995 be set aside and appellant be reinstated in service with all back benefits;

OR

In the alternate he be allowed pensionary benefits of the rendered 13 years service, with such other relief as may be deemed proper and just in circumstances of the case.

عنایت خان

Applicant 21-5-2015

Dated:- 21.05.2015

Inayat Khan S/o Gulab Khan,
R/o Nala Kajori, Bara, Khyber Agency.
Ex-Constable, Excise & Taxation, Mardan.

CTC
21/5

23



Shipper's A/c. No.
Reference / Job

History ID 0515PEWX331071031115

4760661871

GST No. 4200000000-002-73

COURIER	
Origin	Destination
PEW	PEW

From (Shipper)

MR INAYAT KHAN

BARA KHYBER AGENCY

Phone#
SMS 03349079389

Email
PESHAWAR

Shipment Detail	Coupons	Discount
Declared Value		
0.00		

Pieces	Weight
1	0.50
Dimension of Shipment	
0 0 0	
Service Type	
OVER NIGHT	
Mode of Payment	
CASH	

To (Consignee)

THE DIRECTOR

EXCISE AND TAXATION OFFICE
PESHAWAR

Phone#
PESHAWAR

Receiver's Signature

Date 22/05/2015
Time 8:49:37

Charges	Pak. Rupees
Service	87.00
	0.00
Out of Serv	0.00
Handling	0.00
Others	0.00
GST	13.00
Ins. Prem.	0.00
DD Alerts	0
Total	100

Sender's Authorization

I warrant that I have read the terms and conditions on the reverse of this consignment note and that all details given herein are true and correct. I further declare that the contents of this consignment do not contain any letter. The execution of this consignment note is prima facie evidence of the conclusions of contract between shipper and TCS (PVT) LTD.

Shipper's Signature

Booking Details

Staff 101311 AZIZ ULLAH JAN

Route X331071031115 Date 22/05/2015 Time 8:49:37

Receiver's Signature Receiving Time

Shipper Copy

CIC
24/5

خدمت جناب ڈاکٹر محمد عبدالصمد صاحب کھم ایسا سہزادہ نند پرنسپل

(24)

اپیل برطرف صم بڑی 1594 مورخہ 8/9

جبی رو سے من اپیلٹ و ملازمت سے نکال دیا
اور وی مالی کواد حاصل کرنے پتے غیر حافی کی تاریخ
سے نہ دے کا فیصلہ کیا گیا

صبا بیانی سائل اپیلٹ صم بڑی عرض بیان سے

۱۔ پیمہ سائل و مورخہ 2/1982 و جیسٹ چوہدری کھم میں بھری گیا تھا۔ اور سائل اپنا دیوبی

فوس اصولی سے سر انجام دیا تھا۔ مورخہ 1/84 و جیسٹ کانسیل میں گیا تھا۔

۲۔ پیمہ سائل نے سال 1994 تک اپنا دیوبی اپنا ندری سے سر انجام دی۔ اس دوران سائل

شدید علیل ہوا۔ علیہ علاقہ برناریہ۔ اور صم مستند ڈاکٹر سے بیماری سے سر پرنسپل

بھیجا تاہم صم نے سائل کو مورخہ 5/94 و ملازمت سے غیر حاضر ہونے پر برطرف

کیا اس صم کے طرف سائل نے سر دس کر دیوبی میں اپیل ندری جو مورخہ 1/95 و تمام
سابقہ خدمات ادا کرنے کے ساتھ منظور ہوئی۔

۳۔ پیمہ لکھ وڈاں سائل اسی طریقے سے اپنا دیوبی دیا گیا اور دن سائل ماڈوں سے ملازمت

پتے آ رہا تھا کہ وہ پرنسپل اور سائل کوٹ دی۔ ڈاکٹر میں سوار 5/ انوار نے

سائل کو کچھ سنگھما با اور جب سوس آیا تو خود کو پہاڑ کے آب غار میں منہ پونے افراد

کے نرے میں پانچ لکھ لکھ میں یہ باتیں کرتے رہے۔ اب صم کو پتہ چل گیا تھا۔ ان سوار

سنگھروں کے ساتھ لگنے لگے میں راستہ وان گروں نے سائل کو سفر

پہیل اور لکھی ندری گاری۔ میں سائل کو یہ پتہ نہیں چلتا کہ یہ علاقہ
کے بعد معلوم ہوا کہ علاقہ مذکورہ تیرا اور ندری ایسی تھا۔

۲۵
۲۶

پہلے سے پہلے ان لوگوں کے نرنے میں سمیٹا رہا آفرکار سائل کو ہاروں میں
کلیے ہوئے ایک قلعہ غاصبہ میں رہا جہاں چند دوسرے افراد بھی تھے سترہ سہ ماہی
بھی ایک دوسرے سے بات کرنے میں دیتے تھے حوزہ نمبر 7 کا و اعلیٰ الصباح سائل
نے موقع پانہ قلعہ سے فرار ہونے میں کامیاب ہو گیا

جناب دادہ سائل جو نہیں تھا اس نے قسم سے براہ دہائی جعفری دی سین اسے

کھم بانہ دیا گیا۔
سائل نے جعفری نہ قصداً تھی اور نہ عمدہ بہ مجموعت باہمی بنا تھی۔ سائل
نے قسم و 14 سال تک خدمات دیں سین سائل و سینس باہمی دیکر عالی فائدہ
سینا دیا گیا ہے

اس سائل کو نوکری پر بحال رہتے ہوئے صم حوزہ 8/9 و مالک
دستی قدر دیا جاوے سین سائل و سینس بیجاہت دیکر دے گا بھی
صم صادر کیا جاوے سین بیجاہت دعا و رہنما

حوزہ نمبر 7
2000

غائب جان نہ صلہ خان سائن کعبوری بارہ
سائل کا سائل قسم ایسا کر دیکر تہ سائل

عناید خان کعبوری

۱۱۱
۱۱۱

26

REGD.

~~28~~

To

Director General,
Excise & Taxation,
Shani Road, Peshawar.
Peshawar

7/9/2007

& &
From:-

Inayat Khan S/O Gulab Khan,
R/O Khajori, Bara. C/O
21-A, Nasir Mansion, Shoba Bazar,
Peshawar.



CR
28

To,

1. The Director Excise & Taxation,
Khyber Pakhtunkhwa, Peshawar.

~~27~~
27

2. District Accounts Officer, Mardan

Subject: LEGAL NOTICE

Sir,

1. I have been engaged and directed by my client Inayat Khan S/o Gulab Khan, resident of Khyber Agency.
2. That he was appointed as Chowkidar in your department on 02.06.1982 and by dint of hard work he was appointed as Constable. (Copy attached)
3. That the Constable Inayat Khan got ill and was removed from service on 30.05.1994 but was re-instated by Provincial Service Tribunal on 05.01.1995. (Copy of the judgment attached). That once again the petitioner was discharged from services on 09.08.1995.
4. That the petitioner has almost completed 13 years and two months service. (Copy of the discharge letter is also attached)
5. That the petitioner has been contributing to G.P Fund LES 1090 and till 1988 and 1989 his total deposit was Rs.55666/- and after that too he had been contributing till his discharge from service.
6. It is, therefore, requested to please arrange to pay his G.P Fund and also arrange for payment of his pension and dues, as he has put in more than 10 years service.

7.9.2015

Ghulam Jan Niazi
Ghulam Jan Niazi

Advocate

Advocate

Cell:0333-912859

Note: I am keeping one copy of this notice in my office for further necessary action.

*L1 B Apartment
Defence Colony
Peshawar Cantt.*

*GC
2/8*

To,

1. The Director Excise & Taxation,
Khyber Pakhtunkhwa, Peshawar.

2. District Accounts Officer, Mardan

Subject: LEGAL NOTICE

Sir,

1. I have been engaged and directed by my client Inayat Khan S/o Gulab Khan, resident of Khyber Agency.
2. That he was appointed as Chowkidar in your department on 02.06.1982 and by dint of hard work he was appointed as Constable. (Copy attached)
3. That the Constable Inayat Khan got ill and was removed from service on 30.05.1994 but was re-instated by Provincial Service Tribunal on 05.01.1995. (Copy of the judgment attached). That once again the petitioner was discharged from services on 09.08.1995.
4. That the petitioner has almost completed 13 years and two months service. (Copy of the discharge letter is also attached)
5. That the petitioner has been contributing to G.P Fund LES 1090 and till 1988 and 1989 his total deposit was Rs.55666/- and after that too he had been contributing till his discharge from service.
6. It is, therefore, requested to please arrange to pay his G.P Fund and also arrange for payment of his pension and dues, as he has put in more than 10 years service.

Ghulam Jan Niazi
Ghulam Jan Niazi

Advocate

Cell:0333-912859

Note: I am keeping one copy of this notice in my office for further necessary action.

*L/B Apart ment
Defence Colony
Peshawar Cantt.*

*GC
2/17*

28

"E" 11

(29)

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

W.P.No. 3616-P/2015



Ex-Constable Inayat Khan S/o Gulab Khan,
R/o Khyber Agency, now living, Kohat Road, Garhi Atta
Muhammad, Peshawar

.....Petitioner

Versus

1. Secretary Excise and Taxation Govt of KPK, Peshawar
2. Accountant General of KPK, Peshawar
3. Director Administration Excise and Taxation Govt of KPK,
Peshawar
4. District Account Officer, Mardan

.....Respondents

WRIT PETITION UNDER ARTICLE 199
OF THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973

PRAYER:-

9.8.95
a!

THAT PETITIONER SERVED FOR 13 YEARS IN THE DEPARTMENT OF EXCISE AND TAXATION OF KPK AND WAS REMOVED FROM SERVICE ON 02.06.1995, BUT HAS BEEN DEPRIVED OF PENSION, G.P FUND, IT IS REQUESTED THAT RESPONDENT MAY BE DIRECTED TO PAY PENSION AS PER RULES AND ALSO PAY DUE G.P. FUND.

Respectfully Sheweth;

- 1) That petitioner was employed as Chowkidar in Excise Taxation Department Govt of KPK on 02.06.1983 and later on

FILED TODAY
Deputy Registrar
17 OCT 2015

a!

ATTESTED
EXAMINER
Peshawar High Court
28 FEB 2018



ATTESTED
EXAMINER

appointed on regular basis as constable on 17.01.1984.
(Copy of sheet role attached as Annexure "A")

- 2) That on 08.01.1994 the petitioner fell ill and had informed the department at that time.
- 3) That the petitioner services were terminated and was removed from service on 30.05.1995.
- 4) That the petitioner submitted an appeal in service tribunal and was reinstated vide service Tribunal Order dated 05.01.1995. (Copy or order is attached as Annexure "B")
- 5) That later on the petitioner was posted to Mardan however, the petitioner due to his domestic reason could not continue service in Mardan and he was discharged from service. (Copy of the order is attached as Annexure "E")
- 6) That petitioner had deposited/towards G.P. fund, Rs.45766/- upto 1989 and after that the petitioner had been contributing regularly towards G.P. fund.
- 7) That petitioner had put in more than 10 years of service which entitle him to pension as per rules and regulation.
- 8) The petitioner has been contacting the department for release of pension and G.P. fund. (Copies of various application and legal notice are attached as Annexure "D").

But the department failed to respond positively.

FILED TODAY

Deputy Registrar

17 OCT 2015

ATTESTED

EXAMINER
Peshawar High Court


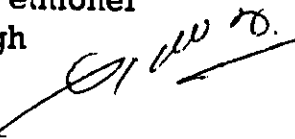
28 FEB 2018

31

GROUND:-

- A. That the petitioner having put in more than 10 years service, is entitled as per Supreme Court judgment and service law for pension.
- B. That the petitioner is also entitled for G.P. fund as per rules.
- C. That this entitlement/petitioner legal/and fundamental law of limitation is not applicable.

It is very humbly submitted that pensions and G.P. fund is petitioner fundamental right as per rules. The department may please be directed to make payment of pension and also release due G.P. Fund to the petitioner.


Petitioner
Through 
Ghulam Jan Niazi
Advocate, Peshawar

CERTIFICATE:

Certified that as per information and instructions furnished by my client no such like writ petition has earlier been filed by the petitioner on the subject in this hon'ble Court.

LIST OF BOOKS:

- 1) Constitution of Islamic Republic of Pakistan, 1973.
2) Case law.


Advocate

FILED TODAY
Deputy Registrar
17 OCT 2015

ATTESTED
EXAMINER
Peshawar High Court
28 FEB 2018

32

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

W.P.No. 3616-P/2015

Ex-Constable Inayat KhanPetitioner

Versus

Secretary Excise and Taxation Govt of KPK, Peshawar and others
.....Respondents

AFFIDAVIT

I, Ex-Constable Inayat Khan S/o Gulab Khan, R/o Khyber Agency, now living, Kohat Road, Garhi Atta Muhammad, Peshawar, (Petitioner) do hereby affirm and declare on Oath that the contents of the accompanying writ *Petition* are true and correct to the best of my knowledge and belief and nothing has been concealed from this hon'ble court.

Inayat Khan
Deponent

CNIC 21201-1338569-1

Identified By:

Ghulam Jan Niazi
Advocate, Peshawar

No: <u>S-192-</u> Certified that the above was verified on solemnly affirmation before me in office, this <u>13th</u> day of <u>Oct</u> 200 <u>15</u> by <u>Inayat Khan</u> s/o <u>Gulab Khan</u> who was identified by <u>Ghulam Jan Niazi</u> who is personally known to me: <p style="text-align: right;"><i>Ghulam Jan Niazi</i> 13/10/2015 Oath Commissioner Peshawar High Court, Peshawar.</p>
--

FILED TODAY
Deputy Registrar
17 OCT 2015

ATTESTED
EXAMINER
Peshawar High Court
28 FEB 2018

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

W.P.No. 3616-P/2015

Ex-Constable Inayat KhanPetitioner

Versus

Secretary Excise and Taxation Govt of KPK, Peshawar and others
.....Respondents

ADDRESSES OF THE PARTIES

PETITIONER:

Ex-Constable Inayat Khan S/o Gulab Khan,
R/o Khyber Agency, now living, Kohat Road, Garhi Atta
Muhammad, Peshawar

RESPONDENTS:

1. Secretary Excise and Taxation Govt of KPK, Peshawar
2. Accountant General of KPK, Peshawar
3. Director Administration Excise and Taxation Govt of KPK,
Peshawar
4. District Account Officer, Mardan

[Signature]
Petitioner

Through

[Signature]
Ghulam Jan Niazi
Advocate, Peshawar

FILED TODAY
Deputy Registrar
17 OCT 2015

CERTIFIED TO BE TRUE COPY
Examiner
Peshawar High Court, Peshawar
Authorized Under Article 87 of
The Constitution of the Islamic Republic of Pakistan Order 1984
28 FEB 2018

PRINTED TO BE THE COPY

Copyright © 2018
All rights reserved.
Printed in the United States of America

2018 FEB 28

...

Judgment Sheet

34

IN THE PESHAWAR HIGH COURT,
PESHAWAR
(Judicial Department)

W.P No. 3616-P/2015

Inayat Khan

Vs

Secretary Excise & Taxation Government of KPK, Peshawar
& others



JUDGMENT

Date of hearing. 07.02.2018

Petitioner by: M/S Fazl Shah Mohmand & Noor Muhammad Khilil
Advocates

Respondents by: Mr. Rab Nawaz Khan, AAG.

MUHAMMAD YOUNIS THAHEEM, J-

Petitioner has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, seeking following relief:-

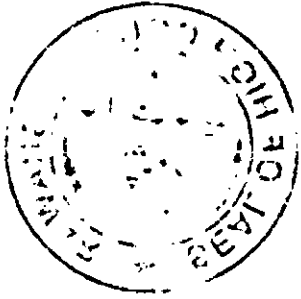
"That petitioner served for 13 years in the department of Excise & Taxation of KPK and was removed from service on 09.08.1995, but has been deprived of pension, G.P Fund, It is requested that respondent may be directed to pay pension as per Rules and also pay due G.P Fund."

2. Brief facts of the case are that petitioner was initially appointed as Chowkidar in Excise & Taxation Department KPK vide appointment order

ATTESTED

EXAMINER
Peshawar High Court

28 FEB 2018



ATTESTED

EXAMINER
State Bar of California

18 FEB 1968

dated 02.06.1982 and later on was appointed on regular basis as Constable on 17.01.1984. Afterward as per assertion of petitioner he became ill on 08.01.1994 and then was removed from service vide order dated 30.05.1995. Petitioner filed departmental appeal in the Service Tribunal which was allowed and was reinstated vide order dated 05.01.1995. Later on petitioner was posted at Mardan, however as per his assertion he could not continue his services at Mardan due to some domestic reasons, so was discharged from service and petitioner had deposited G.P Fund Rs.45766/- up to 1989 which continued till discharge. Petitioner served the department in regular service for 10 years, so is entitled for pension and pensionary benefits.

3. Pawa-wise comments were called from respondent No.3, who in comments asserted that petitioner was discharged from service on 09.08.1994 and his total length of service comes around 12 years, so in terms of section 13 of the Civil Servants act, 1973, he has not qualifying service for pension or other pensionary benefits, so is not entitled due to legal bar.

4. Arguments heard and record perused.

Ijaz

ATTESTED
 EXAMINER
 PAFKOT HIGH COURT
 28 FEB 2018

35

Signature

36

5. Before going deep into the merit of the case, this Court is of the view that pension or pensionary benefits comes within the terms and conditions of service, therefore instant writ petition is not maintainable in view of law laid down in the constitution under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, so his petition is not maintainable and as such is dismissed, however, he may approach the proper forum for his redressal available under the law.

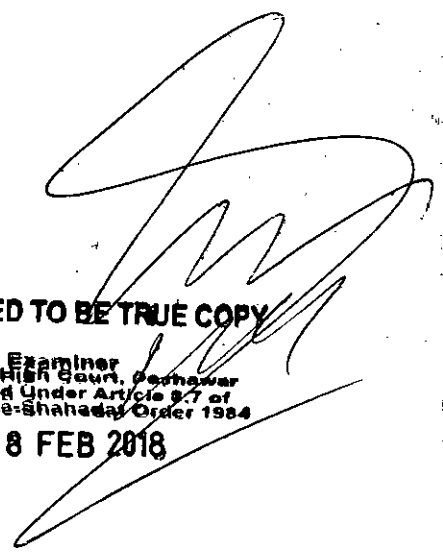
Announced:
07.02.2018.


JUDGE


JUDGE

(DB) Hon'ble Mr. Justice Waqar Ahmad Seth & Hon'ble Mr. Justice Muhammad Younis Thaheem.

No. 9779
Date of Presentation of Application 08/2/18
No of Pages 2
Copying Fee 30
Urgent Fee 30
Total 60
Date of Preparation of Copy 28/2/18
Date of Delivery of Copy 28/2/18
Received By [Signature]


CERTIFIED TO BE TRUE COPY
Examiner
Peshawar High Court, Peshawar
Authorized Under Article 97 of
The Sanun-e-Shahada Order 1984
28 FEB 2018

Ijaz

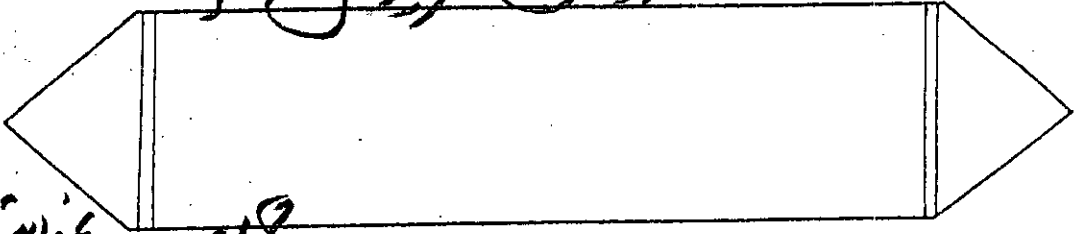
ATTACHED TO BE TRUE COPY

RECEIVED

3 FEB 2018

Received in _____
Date of Preparation of Copy _____
Date of Preparation of Copy _____
Total _____
Present Fee _____
Copying Fee _____
No of Pages _____
Date of Preparation of Application _____
No _____

بعدالت سردس ٹریبونل کے



2018ء پنجاب عدالت عالیہ
بنام امکیانٹرز و لنڈرہ

عدالت عالیہ

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

سردس ٹریبونل

مقدمہ مندرجہ عنینان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکل کاروائی متعلقہ
آن مقام کیلئے صنف شان ہند کیلئے

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
دیکل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور دیکل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے وہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو دیکل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

الرقوم ۰۹ ماہ ۰۸ ۲۰۱۸

Handwritten signature and name: Alsharif

وہ العب گ
کے لئے منظور ہے

کے لئے

بمقام

میرا لکھنؤ - میرا سرور - میرا عزیز - میرا دوست

عنايت خان

درد و غم سے تندرستی حاصل کرنے کے لیے

بایں اہل اہل کمال کے رفقاء ہوں

میں نے جو کچھ لکھا ہے وہ سب میرا درد ہے - حضور میرا نور ہے

جیسے آج دفعہ $20 \frac{7}{15}$ تاریخ پہنچ کر ہے

میں نے جو کچھ لکھا ہے وہ سب میرا درد ہے - اور وہ سب کمال ہے
صفا ہے سب سے

سنا لیتا ہے - تندرست ہوں

یہ جو خط ہے - وہ تاریخ تہذیب اور علم کا ہے

114 / 7 / 20

عنايت خان درمید خان کا پتہ لکھنؤ

عنايت خان لکھنؤ