

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 948/2018

Date of Institution ... 31.07.2018

Date of Decision ... 14.07.2021

Mst. Rubina Zahid widow of Zahid Gill, Ex. Sweeper, Civil Courts, Tehsil Havelian, District Abbottabad. ... (Appellant)

VERSUS

District & Session judge, Abbottabad and one other. ... (Respondents)

MR. TAIMUR ALI KHAN
Advocate ... For Appellant

MR. KABIRULLAH KHATTAK,
Additional Advocate General ... For Respondents

MR. SALAH-U-DIN ... **MEMBER (JUDICIAL)**
MR. ATIQ UR REHMAN WAZIR ... **MEMBER (EXECUTIVE)**

JUDGMENT

Mr. ATIQ UR REHMAN WAZIR MEMBER (E):- Brief facts of the case are that the appellant Mrs. Robina Zahid was serving as Sweeper in Tehsil Courts at Havelian, under the control of Senior Civil Judge, Abbotabad. During the course of service, the appellant was proceeded against on the complaint of one shopkeeper, to whom she did not pay the debt amount of Rs. 15000/ outstanding against her. The appellant was proceeded departmentally on this account and was ultimately awarded major penalty of compulsory retirement from service, against which the appellant filed departmental appeal, which too was rejected by the respondents, hence the instant service appeal with prayers that the impugned

orders dated 16-02-2018 and 28-06-2018 may be set aside and the appellant may be re-instated in service with all back benefits.

02. Written reply/comments were submitted by respondents.

03. Arguments heard and record perused.

04. Learned counsel for the appellant has referred to the charge sheet/statement of allegations served upon the appellant, wherein only one charge has been leveled against the appellant that she had made purchases worth Rs. 15000/ from a shop keeper on loan basis but did not pay the same, hence her action falls within the ambit of misconduct. Learned counsel for the appellant argued that as per Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011, such action of the appellant does not constitute misconduct by any definition, as it was a private transaction between her and the shop keeper, therefore such act cannot even create any criminal liability; that such action of the appellant is having no link whatsoever with her official capacity. Learned counsel for the appellant further argued that the proceedings conducted against the appellant on this account are illegal, unlawful, hence not tenable in the eye of law. Learned counsel for the appellant contended that provisions of disciplinary service law are not attracted to the case of the appellant nor she was adjudged/convicted offender for non-payment of disputed amount, hence the impugned order is arbitrary and passed without exercise of legal jurisdiction. Learned counsel for the appellant prayed that the impugned order dated 16-02-2018 and 28-06-2018 being illegal and unlawful may be set aside and the appellant may be re-instated in service with all back benefits.

05. The Learned Additional Advocate General appearing on behalf of official respondents has contended that the appellant was in the habit of taking various items from shopkeepers on debt and then never making payment of the same. He

further contended that the appellant has herself admitted during the inquiry that an amount of Rs. 15000/ remained outstanding as price of various items, which she has purchased from the complainant. He next contended that such act of the appellant amounts to misconduct on part of the appellant, therefore, disciplinary action was rightly taken against her and she was rightly awarded the penalty of compulsory retirement as the charges against her stood proved during the inquiry. Learned Additional Advocate General however argued that the appellant has already availed the benefits of pension and accepted the penalty, hence she cannot now challenge the penalty imposed upon her.

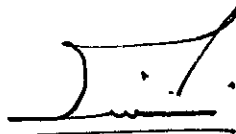
06. We have heard learned counsel for the parties and have perused the record. Record reveals that the appellant being serving as sweeper, was a low paid employee as well as a widow, having three schools going kids. Naturally, the appellant must be facing financial constraints and resorting to making purchases on credit was, but a compulsion, which she conceded repeatedly. Purchases on loan basis is otherwise not a cognizable offense, unless conviction in a particular circumstances. Record reveals that she never refused the loan and an agreement to this effect was also made with the complainant for payment of the outstanding amount in installments, but inspite of it, the appellant was subjected to disciplinary proceedings and ultimately awarded major punishment.

07. The outstanding amount of groceries has been considered by the departmental authority as an act of the appellant amounting to misconduct. We have gone through the definition of misconduct as enunciated in Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011. As the act of the appellant could not be considered as connected to her official business but was a private transaction with the shopkeeper in a routine way, therefore the same could not be considered to be covered by the definition of misconduct. Moreover, it is a common practice that the low paid category of people usually

resort to the practice of purchasing of groceries on credit and making its payment after they have money in their hand. Nothing is available on the record, which could show that the non-payment of the amount was deliberate; rather it appears that the poor financial condition of the appellant was the main reason for non-payment of the amount. We are of the considered opinion that the appellant was wrongly proceeded against for an act, which prima facie, was not amounting to misconduct, therefore the impugned penalty awarded to the appellant is liable to be set aside.

08. In view of the foregoing discussion, the instant appeal is accepted and the appellant is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
14.07.2021



(SALAH-U-DIN)
MEMBER (JUDICIAL)



(ATIQ UR REHMAN WAZIR)
MEMBER (EXECUTIVE)

ORDER

14.07.2021 Appellant alongwith his counsel Mr. Taimur Ali Khan, Advocate, present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant appeal is accepted and the appellant is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
14.07.2021



(SALAH-U-DIN)
MEMBER (JUDICIAL)



(ATIQ UR REHMAN WAZIR)
MEMBER (EXECUTIVE)

30.06.2021 Appellant alongwith clerk of her counsel present. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments before the D.B on 14.07.2021.



(ATIQ UR REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

948/18

03.11.2020

Junior to counsel for the appellant and Usman Ghani,
District Attorney for the respondents present.

The Bar is observing general strike, therefore, the
matter is adjourned to 12.1.2021 for hearing before the
D.B.


(Mian Muhammad)
Member

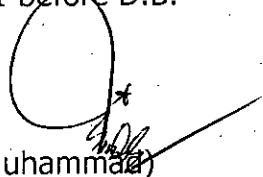

Chairman

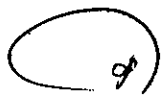
12.01.2021

Arif Jan Advocate present and submitted Wakalat Nama
in favor of appellant.

Kabir Ullah Khattak learned Additional Advocate General
for respondents present .

Former made a request for adjournment being freshly
engaged. Adjourned. To come up for arguments on
30.03.2021 before D.B.


(Mian Muhammad)
Member (E)


(Rozina Rehman)
Member (J)


30.03.2021


Due to non availability of the concerned D.B, the case is
adjourned to 30.06.2021 for the same.


Reader

17.02.2020

Learned counsel for the appellant present. Mr. Riaz
Paindakhel learned Assistant AG for the respondents present.
Learned counsel for the appellant requested for adjournment.
Adjourned. To come up for arguments on 02.04.2020 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

2. 4. 2020 ~~Due to public holiday on account of~~
(COVID-19) the case is adjourned. To come
up for same on 29.6.2020.

29.06.2020

Due to COVID-19, the case is adjourned to 24.08.2020
for the same.


Reader

24.08.2020

Due to summer vacation case to come up for the
same on 03.11.2020 before D.B.


Reader

04.10.2019

Appellant with counsel present. Mr. Usman Ghani learned Deputy District for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 16.10.2019 before D.B.


Member


Member

16.10.2019

Learned counsel for the appellant present. Mr. Riaz Khan Paindakhel learned Assistant Advocate General for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 13.12.2019 before D.B.



Member


Member

13.12.2019

Lawyers are on strike as per the decision of All Pakistan Joint Lawyers Action Committee. Adjourn. To come up for further proceedings/arguments on 17.02.2020 before D.B.


Member


Member

19.04.2019

Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned to 14.06.2019 for arguments before D.B.

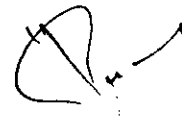

(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

14.06.2019

Due to general strike by the Pakistan Bar Council, the case is adjourned. To come up for arguments on 12.07.2019 before D.B.

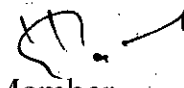

Member


Member

12.07.2019

Counsel for the appellant and Addl: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 10.09.2019 before D.B.


Member


Member

10-9-19

since 10-9-19 has been declared as public
holiday, therefore the case is adjourned
for the same on 10-9-2019 before D.B.


Member

948/2018

05.12.2018

Counsel for the appellant and Addl. AG along with Shabir Ahmad, Superintendent for the respondents present.

The latter seeks further time for submission of the requisite reply/comments as the same has not yet been vetted.

Adjourned to 27.12.2018 for submission of written reply/comments before S.B.


Chairman

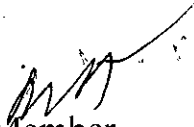
27.12.2018

Learned counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General along with Shabir Ahmad Assistant present. Representative of respondent department submitted written reply. Adjourn. To come up for rejoinder if any and arguments on 05.03.2019 before D.B. - 11


Member

05.03.2019


Learned counsel for the appellant Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Learned counsel for the appellant request for adjournment. Adjourn. To come up for arguments on 19.04.2019 before D.B.


Member


Member

17.09.2018

Clerk to counsel for the appellant present and made a request for adjournment due to general strike of the Bar. Case to come up for preliminary hearing on 18.09.2018 before S.B.


(Ahmad Hassan)
Member

18.09.2018

Counsel for the appellant present. Preliminary arguments heard and case file perused. Enquiry proceedings were initiated and upon culmination major penalty of compulsory retirement was imposed on her vide impugned order dated 16.2.2018. She filed departmental appeal on 20.02.2018 which was rejected on 28.06.2018, hence, the instant service appeal. The impugned order was passed without fulfillment of codal formalities and as such was not tenable in the eyes of law.

Appellant Deposited
Security Process Fee

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 09.11.2018 before S.B.


(AHMAD HASSAN)
MEMBER

09.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 05.12.2018. Written reply not received.


READER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 948/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	31/07/2018	<p>The appeal of Mst. Robina Zahid presented today by Naila Jan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 31/7/18</p>
2-	<p style="text-align: center;"><i>1-8-2018</i></p> <p style="text-align: center;">08.08.2018</p> <p style="text-align: center;"><i>20.08.2018</i></p>	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u><i>8/8/2018</i></u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p> <p>Counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 21.08.2018 before S.B.</p> <p style="text-align: right;"><i>MA</i> Muhammad Amin Khan Kundi Member</p> <p style="text-align: center;"><i>Due to Eidul Azha vacation the case is adjourned to 17-9-18</i></p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR.</p>

**BEFORE THE HON'BLE KHYBER PAKHTUNKHAWA, SERVICES
TRIBUNAL, PESHAWAR**

Service Appeal Number 948 of 2018

Mst. RubinaZahid widow of Zahid Gill, Ex. Sweeper, Civil Courts,
Tehsil Havelian, District Abbottabad.

.....Appellant

Versus

District & Sessions Judge, Abbottabad & another.

.....Respondents

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3	Copy of statement of appellant	14	D
4	Copy of enquiry report	15 to 18	E
5	Copy of Show cause notice and reply thereof	19 & 20	F & G
6	Copy of impugned order of respondent No.2 / SCJ	21	H
7	Copy of departmental appeal	22 to 28	I
8	Copy of order sheets of respondent No.1/ D&SJ	29 & 30	J
9	Copy of Comments of SCJ/ respondent No.2 in departmental appeal	31 to 34	K
10	Copy of impugned judgment of respondent No.1/ D& SJ/ Departmental authority.	35 to 38	L

Dated 31/7 /2018

Rubina
.....Appellant

In-Person

Robina Zahid
Mst. Robina Zahid
Ex. Sweeper, Civil Court,
Tehsil Havelian, District,
Abbottabad

**BEFORE THE HON'BLE KHYBER PAKHTUNKHAWA, SERVICES
TRIBUNAL, PESHAWAR**

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Tehsil Havelian, District Abbottabad.

Khyber Pakhtunkhwa...Appellant
Service Tribunal

Versus

Diary No. 1209

Dated 31-7-2018

1. District & Sessions Judge, Abbottabad.
2. Senior Civil Judge, Abbottabad.

.....Respondents

SERVICE APPEAL UNDER SECTION IV OF SERVICE TRIBUNAL ACT, 1974 TO THE EFFECT THAT THE IMPUGNED OFFICE ORDER NO. 246-51 DATED 16.02.2018 PASSED BY THE RESPONDENT NO.2 / LEARNED SENIOR CIVIL JUDGE, ABBOTTABAD BY WHICH APPELLANT WAS COMPULSORY RETIRED WITH IMMEDIATE EFFECT FROM SERVICE AS WELL AS THE IMPUGNED ORDER DATED 28.06.2018 OF RESPONDENT NO.2 / LEARNED DISTRICT & SESSIONS JUDGE, ABBOTTABAD (DEPARTMENTAL AUTHORITY) VIDE WHICH THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS DISMISSED IS ILLEGAL WITHOUT LAWFUL JUSTIFICATION, BASED ON MALAFIDE, ARBITRARY AGAINST THE RULES AND REGULATION AND PRINCIPLES OF NATURAL JUSTICE, HENCE IS LIABLE TO BE SET ASIDE.

PRAYER: ON ACCEPTANCE OF THE INSTANT THE IMPUGNED ORDER NO. 246-51 DATED 16.02.2018 PASSED BY THE RESPONDENT NO.2 / LEARNED SENIOR CIVIL JUDGE, ABBOTTABAD BY WHICH APPELLANT WAS COMPULSORY RETIRED WITH IMMEDIATE EFFECT FROM SERVICE AS WELL AS THE IMPUGNED ORDER DATED 28.06.2018 OF RESPONDENT NO.2 / LEARNED DISTRICT & SESSIONS JUDGE, ABBOTTABAD (DEPARTMENTAL AUTHORITY) MAY VERY KINDLY BE SET ASIDE AND IT MAY VERY HUMBLY PRAYED THAT RESPONDENT NO.2 MAY KINDLY BE DIRECTED REINSTATE THE APPELLANT IN SERVICE SINCE 16.02.2018 WITH ALL BACK SERVICE BENEFITS IN

Filed to-day
Registrar
31/7/18.

TERMS OF PAY ETC.OR ANY OTHER RELIEF WHICH THIS HON'BLE COURT MAY DEEMS PROPER IN THE CIRCUMSTANCES OF THE CASE.

Respectfully Sheweth,

1. That, appellant was performing her duties as sweeper in Civil Court, Tehsil Havelian, District Abbottabad under the Control of Senior Civil Judge, Abbottabad / respondent No.1 being her appointing and competent authority and she always performed her duties with honesty and devotion.
2. That, appellant as usual as commonly middle class low scales paid persons used to purchase household articles on credit and paid the same on receipt of salary from one Sardar Muhammad Khurshid son of Sardar Abdul Latif shop keeper at Lower Malikpura Abbottabad.
3. That, due to some financial constraints, the appellant could not pay him the amount of Rs. 15000/- upon which he filed an application before respondent No.2, upon which explanation was called and, thereafter, inquiry was conducted through enquiry office / Civil Judge-V, Abbottabad, vide which charge sheet along with statement of allegation was issued to the appellant. (Copies of application, Charge Sheet and Statement of allegation are annexed as ANX-A, B & C)
4. That, during the enquiry proceedings, statement of present appellant was recorded, through which appellant reiterated that the amount shall be cleared / paid till 01.03.2018 and complainant is also agreed on this settlement, but at the time of recording of statement of present appellant, statement of complainant was not recorded. (Copy of statement of present appellant is annexed as ANX-D).
5. That, during enquiry proceedings, after the recording of statement of appellant and settlement with the complainant, despite of that fact there was no existence of enquiry against the appellant learned

enquiry officer held that “ *allegation against appellant are true and correct*” are beyond the scope of recorded statement. (Copy of enquiry report is annexed as ANX-E)

6. That, despite of fact that the law on the subject, learned respondent No.2 / Senior Civil Judge, Abbottabad issued Final Show Cause Notice to the appellant, which was accordingly replied by her. (Copy of show cause notice and reply of appellant are annexed as ANX-F & G).
7. That, learned respondent No.2 with despite to applied law on the subject, in a cursory and slipshod manner, proceed to compulsorily retired the appellant vide impugned office order dated 16.02.2018 which is liable to be set aside being illegal and unlawful and beyond the scope of record. (Copy of impugned order dated 16.02.2018 is annexed as ANX-H).
8. That, feeling aggrieved from the said impugned order, appellant preferred departmental appeal before respondent No.1 / Learned District & Sessions Judge, Abbottabad being her departmental authority on 21.02.2018. (Copy of departmental appeal is annexed as ANX-I).
9. That, after receiving of departmental appeal learned respondent No.1 made an order of its registration of said appeal as Numbered 41/VI of 2018 started proceedings thereof from 21.02.2018 till 26.06.2018. (Copies of order sheets are annexed as ANX-J).
10. That, during the proceedings learned respondent NO.1 called comments from respondent No.2 on 12.04.2018 and thereafter representative of respondent No.2 sought adjournment for argument through Government pleader. (Copy of comments of respondent No. 2 are annexed as ANX-K).
11. That, on 28.06.2018 learned respondent No.1 without hearing of the appellant despite of appearance of appellant before itself, dismissed

the departmental appeal of the appellant through its impugned judgment dated 28.06.2018 without going through the record / enquiry mere on the basis of previous decided enquiries penalized the present appellant twice against the law and facts of the present case. (Copy of impugned judgment of learned respondent No.1 is annexed as ANX-L).

12. That, feeling aggrieved from both the impugned orders of respondent No. 1 & 2, petitioner left to no other option except to invoke the jurisdiction of this Hon'ble Tribunal inter alia on the following grounds.

GROUNDS

- a. That, the procedural requirements as per law were not fulfilled and the impugned compulsorily retirement orders, were passed in haste without affording the opportunity to hearing to the appellant, hence both the orders are illegal, unlawful, without lawful authority, against the law on the subject and liable to be set aside.
- b. That, that neither provision of disciplinary service law is attracted to the case of present appellant nor she was adjudged / convicted offender of nonpayment of disputed amount. Even otherwise it is admitted fact that the disputed amount was due, on account of purchase of household articles on credit so the act was not also engrossed through the penal action. Hence the impugned order is arbitrary in four corners of law and passed without legal exercise of jurisdiction.
- c. That, the appellant is a widow woman having school going kids. The impugned order amounts to snatching bread from the mouth of appellant and her family.

- d. That, even otherwise, the matter was solved between appellant and the complainant, who was agreed to receive payment in two installments till 01.03.2018, However, rather, waiting the date of payment, the respondent No.2 passed the impugned order vide which she was penalized through imposing the major penalty of compulsorily retirement from her service, hence the order is based on malafide and without reason.
- e. That, impugned judgment of respondent No.1 through which, learned respondent without going through the record of the present case, discussed the previous disposed of enquires against the appellant through which present appellant was already penalized, respondent No.1 dismissed the departmental appeal of the appellant amounts to vexation the appellant twice in the one act, hence said judgment of respondent No.1 is liable to be set aside as the judgment is against the provisions and basic rights guaranteed by the Constitution of Islamic Republic of Pakistan, 1973.
- f. That, the law referred by the learned respondent No. 2 does not have any provision for compulsorily retirement of a government official from service on the charge as in the case of appellant. Hence, both the impugned orders and judgment of respondent No.2 & 1 respectively without justification, are simply reflects highhandedness and abuse of powers and liable to be set aside.
- g. That, both the impugned order and judgment of both the respondents by no stretch of imagination are liable to be set aside and no value in the eyes of law.
- h. That, Hon'ble has got jurisdiction and appellant being Civil Servant invokes the jurisdiction of this Hon'ble

Tribunal under the provision of constitution of Islamic Republic of Pakistan, 1973.

PRAYER:

It is, therefore, humbly requested that on acceptance of the instant the impugned order No. 246-51 dated 16.02.2018 passed by the respondent no.2 / learned Senior Civil Judge, Abbottabad by which appellant was compulsory retired with immediate effect from service as well as the impugned order dated 28.06.2018 of respondent No.2 / Learned District & Sessions Judge, Abbottabad (Departmental Authority) may very kindly be set aside and it may very humbly prayed that respondent No.2 may kindly be directed reinstate the appellant in service since 16.02.2018 with all back service benefits in terms of pay etc. Or any other relief which this Hon'ble court may deemed proper in the circumstances of the case.

Dated _____/2018

Robina Appellant

In Person

Robina
Mst. Robina Zahid
Ex. Sweeper, Civil Court,
Tehsil Havelian, District,
Abbottabad

VERIFICATION

Verified that the contents of instant writ petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Dated 31/07 /2018

Robina Appellant

In Person

Robina
Mst. Robina Zahid
Ex. Sweeper, Civil Court,
Tehsil Havelian, District,
Abbottabad



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Versus

1. District & Sessions Judge, Abbottabad.
2. Senior Civil Judge, Abbottabad.

.....Respondents

SERVICE APPEAL

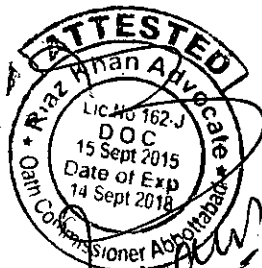
AFFIDAVIT

Mst. RubinaZahid widow of Zahid Gill, Ex. Sweeper, Civil Courts,
Tehsil Havelian, District Abbottabad do hereby solemnly affirmed that the contents of
above said appeal are correct on the best of my knowledge and belief and nothing has
been suppressed from this Hon'ble Tribunal.

Dated 31/07 /2018

Rubina Z
Deponent

[Handwritten Signature]



[Handwritten Signature]
31/07/2018

**BEFORE THE HON'BLE KHYBER PAKHTUNKHAWA, SERVICES
TRIBUNAL, PESHAWAR**

Service Appeal Number _____ of 2018

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Tehsil Havelian, District Abbottabad.

.....Appellant

Versus

District & Sessions Judge, Abbottabad & another.

.....Respondents

SERVICE APPEAL

ADDRESSES OF THE PARTIES

Respectfully sheweth,

It is humbly prayed that the addresses of the parties are correctly mentioned therein the heading of appeal and sufficient for the purpose of service of the parties.

Dated 31/07 2018

Rubina
.....Appellant

In Person

Rubina Zahid
Mst. Rubina Zahid
Ex. Sweeper, Civil Court,
Tehsil Havelian, District,
Abbottabad

11/12/17

مذہب غلطیوں سے بڑھ کر دولت خدا اور نیکو

کو عبادت مذکورہ سے رقم مبلغ 15000 روپے اور عبادت مذکورہ سے

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کا ادارہ کو کھلیں بنائیں۔ مذہب غلطیوں سے

2/12/2017

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حیدرآباد فورسٹ روڈ سکول، حیدرآباد، سندھ

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محمد رفیق

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ROBINA

Robina

Signature

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Rebima

Endorsement - Signature and Stamp

BACK

حرفه فرانس

0314-5003008

حرفه فرانس

OFFICE OF THE SENIOR CIVIL JUDGE, ABBOTTABAD.

No. 1906-7 S C J Abbottabad the 11-12-2017.

To,

Mst Robina Sweeper,
Havelian Courts.

Subject: EXPLANATION.

As Sardar Muhammad Khursheed S/o Sardar Abdul Latif Shop Keeper Lower Malk Pura Abbottabad has submitted a complaint against you alleging therein that you had bought Kiryana of Rs=15000/= from his shop but you had failed to pay him the said amount despite repeated demands from him. You had given a cheque No 08110080 National Bank Kehial branch Abbottabad. Your action falls within the ambit of misconduct.

Through this notice you are directed to furnish explanation within 07 days otherwise Disciplinary action will be initiated against you under Khyber Pakhtunkhwa Government Servants Efficiency Discipline rules, 2011. Failure on your part will Reflect that you have nothing in defence and will result in initiation of Ex-part action against you under the Ibid rules.

No. 11
11-12-2017
Senior Civil Judge,
Abbottabad.

No. _____ SCJ Abbottabad the _____ 2017.

Copy forwarded to:

1. Civil Judge-I Havelian for information.

Sd-
Senior Civil Judge,
Abbottabad.

Scen
DD
09-01-12

OFFICE OF THE SENIOR CIVIL JUDGE AUTHORIZED OFFICER,
ABBOTTABAD.

CHARGE SHEET.

Ammanur-B

5
I, Nisar Muhammad Khan, Senior Civil Judge, Abbottabad as competent authority, hereby charge you official, Mst Robina Zahid Sweeper Havelian Courts District Abbottabad.

Whereas, a complaint was received from Sardar Muhammad S/o Sardar Abdul Latif Shop keeper against you alleging therein that you had bought *Kiryana* of RS= 15000/= from his shop but you had failed to pay him the said amount despite repeated demands from him. You had given a cheque No 08110080 National Bank Kehail Branch Abbottabad. Your action falls within the ambit of misconduct.

Your action is violation of rules, mentioned in Government Servants Rules 2011 Explanation and your reply were not received.

You are directed to show cause within seven days as why you should not be exposed to penal provisions of Rules Ibid. Failure on your part to submit reply to notice of show cause, be presumed that you have nothing in your defence which shall result into expert action against you.

Mst Robina Zahid Sweeper,

20
Nisar Muhammad Khan,
Senior Civil Judge,
Abbottabad.

Nisar Muhammad Khan

IN THE COURT OF SENIOR CIVIL JUDGE AUTHORIZED OFFICER
ABBOTTABAD.

STATEMENT OF ALLEGATIONS.

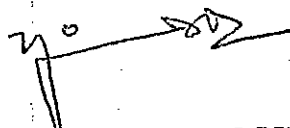
Amman "C"

You, Mst Robina Zahid Sweeper, accused/ official in this establishment are charged on the following allegations:-

As Sardar Muhammad Khursheed S/o Sardar Abdul latif Shop keeper lower Malik Pura Abbottabad has submitted a complaint against you alleging therein that you had bought Kiryana of RS= 15000/= from his shop but you had failed to pay him the said amount despite repeated demands from him. You have given cheque No 08110080 National Bank Kehail branch Abbottabad. Your action falls within the ambit of misconduct. Your action is violation of Government of Khyber Pakhtunkhwa Government Servants Efficiency and Disciplinary rules 2011, your reply to explanation were not received.

You are, therefore, communicated with this statement of allegations and charge, sheeted separately. You are directed to furnish your written defence within 7 days before inquiry officer. Failure shall reflect that you have nothing in your defence which would result in Ex-parte action against you under, the Government of Khyber Pakhtunkhwa, Servants Efficiency and Discipline Rules, 2011.

Dated: 10-01/2018.


Nisar Muhammad Khan,
Senior Civil Judge,
Abbottabad.

Received statement of allegations.

Mst Robina Zahid Sweeper.
(Accused/official).

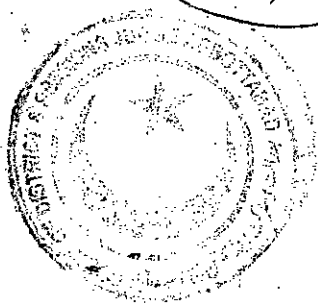
- Sel -
Nisar Muhammad Khan,
Senior Civil Judge,
Abbottabad.



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14



قلمبردی بیان

Amman-D

PW-

مقدمہ

1/4

بیان درسیہ بابا بیرون زائد گل سرسبز حال مکانہ مندا

11/01/18

نفاذ

6102118

بیان نیا کمر بین سردار لہ ^{خود نشینہ} دہر علیہ الکتب

کلمہ رکنہ تصدیقہ میرا حال سردار جنرل سردار

کے سودا سلفت سے مبلغ 15000 روپے میں

چونکہ لکھیا میں میں انفرادی طور سے

10000 روپے سلفت 2/18 اگوست 2018

لکھیا بارگم سے 5000 اگوست 2018

و سردار سردار کی انھوں میں (دستخط لکھیا)

میں سے کسی کو فخر نہ کی رہنا نہی ہے اور میں لکھ

لکھیا بارگم کے ہاں فخر نہی کی اگر کہ صورت عدم اور نہی

سہرے قلمبردی چھٹانہ کا دہلا کی جاری

دستخط

دوسری کی سرسبز حال

سن 2018

سردار لکھیا

سردار لکھیا

Attested to my Hand Copy

17 FEB 2018

EXAMINER District Sessions Judge Abbottabad

18 15
OFFICE OF THE SENIOR CIVIL JUDGE AUTHORIZED OFFICER,
ABBOTTABAD.

Or-----1.
10.01.2018.

Ammaune "E"

The reply of accused/official Robina Zahid Sweeper to explanation of this establishment was not received. Inquiry is initiated. Statement of allegations and charge sheet recorded today, copies handed over to the to the accused/official.

Muhammad Imtiaz learned Civil Judge-V Abbottabad is appointed as Inquiry officer with direction to submit his report within a month. Inquiry officer is instructed to obtain written reply from accused/ official as directed and proceed ^{her} him and may requisition record in respect of accused/official from this establishment and Clerk of Court (COC) for recording his statement in support of proceedings on behalf of the undersigned. Inquiry record is hereby sent to inquiry officer.

No 23
SENIOR CIVIL JUDGE,
Abbottabad.

NADIA/ATHE

(5) (12) - 17E of 2018. (16)
OFFICE OF THE SENIOR CIVIL JUDGE, ABBOTTABAD.

To,

(2)
Mr, Muhammad Imtiaz,
Learned Civil Judge-V,
Abbottabad.

Subject, INQUIRY.

Dear Sir,

Inquiry proceedings against Mst Robina Zahid Sweeper of this establishment are entrusted to you as you have been appointed as enquiry officer.

Inquiry file is enclosed for your assistance in proceedings on your part. Inquiry report be submitted within 30 days.

NO
Nisar Muhammad Khan,
Senior Civil Judge,
Abbottabad.

Handwritten signature

17

Or-----01
11-01-2018

Inquiry filed against Mst. Robina Zahid received from the office of Hon'ble Senior Civil Judge Abbottabad for report within 30 days. Accused official Mst. Robina Zahid be put a notice to appear before this court on 13.01.2018. Notice also be issued to complainant for the date fixed.

[Signature]
(Muhammad Imtiaz)
Civil Judge-V,
Abbottabad.

Order...02
13.01.2018

Accused official Robina Zahid present. Complainant absent. Notice be issued to complainant for 19.01.2018.

[Signature]
(M. Imtiaz)
Civil Judge-V,
Abbottabad

0-3
18.1.18

Complainant Sardar M. Khurshid present. Accused Robina Zahid absent. She even come late to the court on previous date. Accused Robina Zahid be put on notice for

24-01-2018

[Signature]
18.1.18.

[Signature]

0-4
24.1.18

Complainant Sardar M. Khurshid present. Accused Robina Zahid present. Accused recorded her statement while accounted Complainant statement as true and correct. Keeping in view Accused statement Case file to come up for 06.02.2018

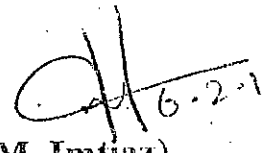
[Signature]
24.1.18

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Or-----05
06.02.2018

1. Complainant Sardar Muhammad Khursheed in person present. Accused Rubnia Zahid absent. It is worth mentioning that during inquiry accused Rubina Zahid remain absent on one date without any excuse or explanation and on the previous date she appeared before me at the very late hours. Being inquiry officer I observe her behavior "unprofessional, willful negligent and careless".
2. Even she admitted and submitted in writing that she had bought Kiryana of Rs. 15000/- from the complainant shop and she has failed to pay him. Even she had given a cheque No. 08110080 National Bank of Pakistan Abbottabad branch which complainant showed in the presence of accused and accused Rubina Zahid admitted the same as true.
3. Accused Rubina Zahid in her statement also agreed that she will pay Rs. 10000/- on 01.02.2018 and remaining Rs. 5000/- on 01.03.2018 and in case of non-adherence to her commitment she would have no objection if departmental proceeding be taken against her.
4. Complainant appeared today and stated that as per her commitment she has not paid him Rs. 10000/- which is due on 01.02.2018.
5. Being inquiry officer, after admission of accused Rubina Zahid the allegation level against her; I found allegation against her as true and correct.
6. This inquiry is hereby returned to competent authority (Worthy Senior Civil Judge Abbottabad) for further necessary action.


6.2.18

(M. Imtiaz)

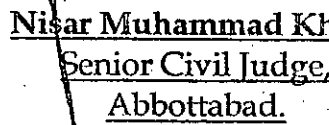
Civil Judge-V/Inquiry Officer
Abbottabad

Or
07.12.2018.

18

Inquiry report of Robina Zahid Sweepers received from Inquiry officer CJ-V Abbottabad, As per Inquiry report, Mst Robina Zahid Sweepers was found guilty of Misconduct as the said amount was due to her in connection of purchase of Kiryana, following record of Inquiry report final showcase notice is hereby served upon the deli quant accused/official.

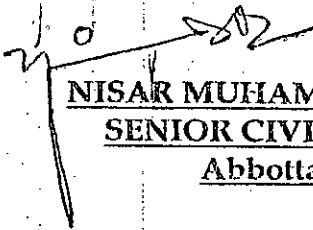
To come up on 14.02.2018.


Nisar Muhammad Khan,
Senior Civil Judge,
Abbottabad.

OR 07
16.02.2018.

Delinquent official namely Robina Zahid sweeperess present, written reply to the final showcase notice filed, wherein she admitted the non-payment to the complainant of outstanding amount, therefore, under the provision of Khyber Pakhtunkhwa Government Servants Efficiency and Discipline rules, 2011 the accused official is hereby compulsory retired with immediate effect.

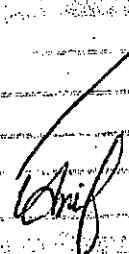
She is entitled to all the pensionary benefits according to rules.


NISAR MUHAMMAD KHAN,
SENIOR CIVIL JUDGE,
Abbottabad.

Naileh

2823

16/02/18


17/02/18
17.02.18

17 28 19
OFFICE OF THE SENIOR CIVIL JUDGE, ABBOTTABAD

No _____ / Dated Senior Civil Judge the: _____ / 2018.

Subject: -

FINAL SHOW CAUSE NOTICE.

Ammaun - "F"

I Mr, Nisar Muhammad Khan, Senior Civil Judge, Abbottabad as competent authority under the Khyber Pakhtunkhwa Government servant (Efficiency and Disciplinary) Rules 2011 do hereby serve this show cause notice upon you Sweeper Robina Zahid Havelian Courts District Abbottabad.

Consequent upon the report of Sardar Muhammad Khursheed S/o Sardar Abdul Latif shop keeper at Lower Malik Pura Abbottabad Inquiry was initiated against you. Report of Inquiry officer received wherein you were found guilty of non-payment of Rs=15000/= to the complaint you are hereby served with this showcase notice that why not penalty mentioned in Government Khyber Pakhtunkhwa rules 2011 be imposed upon you.

Minor penalty's.

- i. "Censure"
- ii. withholding of increment subject to maximum of three years.

Major Penalties.

- i. Reduction to a lower post.
- ii. Compulsory retirement.
- iii. Removal from service

If no reply to this notice is received within 7 days of its delivery it will be presumed that you have no defence to put up and that ex-parte action shall be taken against you

- Sed -

SENIOR CIVIL JUDGE.
Abbottabad.

No 2/16-21 / dated Senior Civil Judge the 08-9- / 2018.

Copy forwarded to:-

1. Hon,ble. District and Session Judge, Abbottabad for information, please.
2. Learned Civil Judge-I/JM Havelian.
3. District Account Officer Abbottabad.
4. Official concerned.
5. Office copy.

NO
SENIOR CIVIL JUDGE.
Abbottabad.

Nadifur
AHE

Handwritten notes and signatures at the bottom left of the page, including the name "Robina" and a date "26/9/18".

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31

ادوات جناب سپر سول جج صاحب اپنا

20

Show Cause Notice

Amman-G

17 FEB 2018

17 FEB 2018

Magistrate & Sessions Judge

جواب دیوں کو کرنا ہے۔

جواب دیوں کو کرنا ہے۔

یہ منسلک ایک پروٹوکول ہے اور جو ہے اس کے لئے میں لاریں

میں کوڑی دیوں سے اس پروٹوکول سے انہیں دیکھ رہی ہیں۔

کریٹیم کے خلاف سہارا خود فرستادہ جج کیپٹن ملکورو ایک ایس کے آئی نے

مذکورہ نامی ہے۔ اس کے ساتھ کوڑیوں کوڑی سے

FINAL SHOW CAUSE NOTICE جاری ہے۔

یہ منسلک کے منسلک سے اس کے لئے اس کے لئے

مذکورہ شخص کو مقیم: Good 15000 روپے اس میں اوٹا کر دینی

میں اس کے لئے اس کے لئے

یہ اس کے لئے اس کے لئے

و اس کے لئے اس کے لئے

یہ اس کے لئے

14/02/18

Handwritten signature

Rejected.

No 15/2/18
SES
ATD

سول سول کوڑی

روپے زام

Rubina

92
34 21
OFFICE OF THE SENIOR CIVIL JUDGE, ABBOTTABAD

No 246-51 / Dated Senior Civil Judge the 16-2- / 2018.

OFFICE ORDER.

Announcement "H"

In pursuance of the order dated 6.2.2018 in connection with the Inquiry No 1/E of 2018 against Sweeperess, the Inquiry officer submitted his report wherein Robina Zahid was found *guilty* of non-payment of Rs=15000/= to the complainant. Mst Robina Zahid has committed misconduct under the provisions of Khyber Pakhtunkhwa Government Servants Efficiency and Discipline rules, 2011.

In view of the above the accused/official is hereby *compulsory retired* with immediate effect.

She is entitled to all the pensionary benefits according to rules.

no
Nisar Muhammad Khan,
Senior Civil Judge,
Abbottabad.

No. / Dated Senior Civil Judge Abbottabad the / 2018.

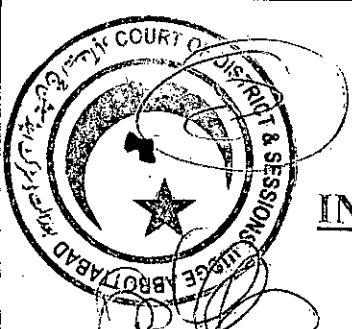
Copy forwarded to: -

1. The Worthy Registrar Peshawar High Court, Peshawar,
2. The Learned District & Session Judge, Abbottabad for information, please,
3. The learned Civil Judge-I Havelian,
4. District Account officer, Abbottabad,
5. Office concerned,
6. Office copy.

no
Nisar Muhammad Khan,
Senior Civil Judge,
Abbottabad.

16/2/18

Signature



قلم عدد 2257 بصرات جناب اے جی ڈی جی
**IN THE COURT OF DISTRICT & SESSIONS JUDGE,
 ABBOTTABAD**

22

Superintendent to
 District & Sessions Judge
 Abbottabad

Mst. Rubina Zahid widow of Zahid Gill, Ex Sweeper, Civil Courts, Havelian.

....APPELLANT

VERSUS

Ammanure-I

Senior Civil Judge, Abbottabad

.....RESPONDENTS

DEPARTMENTAL APPEAL / REPRESENTATION AGAINST
 THE OFFICE ORDER BEARING NO. 246-51 DATED
 16/02/2018 PASSED BY RESPONDENT/LEARNED SENIOR
 CIVIL JUDGE ABBOTTABAD, WHEREBY, THE APPELLANT
 HAS BEEN COMPULSORY RETIRED WITH IMMEDIATE
 EFFECT FROM SERVICE.

PRAYER:- ON ACCEPTANCE OF THE INSTANT APPEAL,
 THE IMPUGNED OFFICE ORDER MAY GRACIOUSLY BE
 SET ASIDE AND APPELLANT BE REINSTATED IN SERVICE.

Respectfully Sheweth:-

Facts giving rise to the instant appeal are:-

1. That the appellant was performing his duties as sweeper in Civil Courts Havelian. She always performed her duties with honesty and devotion.

Mandir
 ABC

مقدمہ نمبر

41/18

ر. ج. ج.

21/02/18

فیصلہ اپیشی

28/06/18

نمبر 1624
 867

Attested to be a True Copy

07 JUL 2018

EXAMINER
 District & Sessions Judge
 Abbottabad

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[Handwritten signature]
Superintendent
District & Sessions Judge
Abbottabad

2. That one Sardar Muhammad Khurshid son of Sardar Abdul Latif is a Shop Keeper at Lower Malikpura Abbottabad from whom, the appellant used to purchase household articles on credit and pay him on receipt of salary.
3. That due to some financial constraints, the appellant could not pay him the amount of Rs. 15,000/-, upon which he filed an application before Senior Civil Judge Abbottabad, whereupon explanation was called and thereafter inquiry was conducted through inquiry officer/Civil Judge-V. learned Inquiry Officer issued charge sheet alongwith statement of allegations to the appellant. Copy of application, charge sheet and statement of allegations are attached herewith.
4. That during the inquiry, statement of appellant was recorded, wherein the appellant stated that the amount shall be cleared / paid till 01/03/2018 and the complainant is also agreed on this settlement. However, statement of complainant was not recorded. Copy of statement of appellant is attached herewith.
5. That upon conclusion of almost one sided inquiry, the learned inquiry officer held that "allegation against appellant are true and correct". Copy of inquiry report is attached herewith.

Attested to be a True Copy
[Handwritten mark]
07 JUL 2018
EXAMINER
District & Sessions Judge
Abbottabad

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6. That notwithstanding the law on the subject, learned Senior Civil Judge Abbottabad issued Final Show Cause notice to the appellant, which was accordingly replied by her. Copy of show cause notice and reply of appellant are attached herewith.

7. That to the utter surprise of the appellant, the learned Senior without application of law on the subject, in a cursory and slipshod manner, proceeded to compulsorily retired the appellant vide impugned office order dated 16/02/2018. Copy of the impugned order is attached herewith.

Feeling aggrieved of the impugned order, the appellant has now come to this Honourable Court, assailing the same being unwarranted at law and facts, inter-alia, on the following grounds:-

GROUNDS

- a. That the impugned order is illegal, unlawful, without lawful authority, against the law on the subject, hence, liable to be set-aside.
- b. That the impugned order is result of illegal exercise of jurisdiction.
- c. That the appellant is a widow woman having school going kids. The impugned order amounts to

[Handwritten signature]

Attested to be a True Copy

07 JUL 2018

EXAMINER
District & Sessions Judge
Abbottabad

25

snatching bread from the mouth of appellant and his family.

d. That a cursory perusal of the whole proceedings would transpire that there was no complaint against the appellant with respect to performance of duties. It was a matter not falling within the ambit of performance of duties, rather, it was personal problem of appellant and the complainant could have resort to appropriate remedy available to him under the law.

e. That even otherwise, the matter was solved between appellant and the complainant, who was agreed to receive payment in two installments till 01/03/2018. However, instead of waiting till 01/03/2018, the learned Senior Civil Judge passed the impugned order. It looks, as if, the learned Senior Civil Judge was bent upon to remove the appellant from service at any cost for the reasons best known to him.

f. That the law referred by the learned Senior Civil Judge does not have any provision for removal of a government official from service on the charge as in the case of appellant.

g. That the appellant had compulsorily been retired from service without assigning any lawful and justifiable reason. The impugned order simply reflects highhandedness and abuse of powers, which is unwarranted at law.

Signature

Attested to be a True Copy

07 JUL 2018

EXAMINER
District & Sessions Judge
Abbottabad

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SIT

h. That the impugned order by no stretch of imagination is liable to hold field because

It is, therefore, humbly prayed that on acceptance of the instant appeal, the impugned order dated 16/02/2018 may graciously be set-aside and appellant be kindly reinstated in service. Any other relief as may be deemed fit and proper in the circumstances of the case.

Attested to be a True Copy

07 JUL 2018

EXAMINER
District & Sessions Judge
Abbottabad

Dated 20/02/2018

Rubina

Appellant

Through counsel

AFFIDAVIT

I, Mst. Rubina Zahid widow of Zahid Gill, Ex Sweeper, Civil Courts, Havelian do hereby declare on oath that the contents of foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honourable Court.

Rubina

DEPONENT



Signature of counsel

13

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IN THE COURT OF DISTRICT & SESSIONS JUDGE,
ABBOTTABAD

Mst. Rubina Zahid widow of Zahid Gill, Ex Sweeper, Civil Courts, Havelian.

....APPELLANT

VERSUS

Senior Civil Judge, Abbottabad

.....RESPONDENTS

Attested to be a True Copy

07 JUL 2018

EXAMINER
District & Sessions Judge
Abbottabad

DEPARTMENTAL APPEAL / REPRESENTATION

APPLICATION SEEKING SUSPENSION OF IMPUGNED ORDER
DATED 16/02/2018 PASSED BY LEARNED SENIOR CIVIL JUDGE
ABBOTTABAD TILL FINAL DISPOSAL OF THE MAIN APPEAL.

Respectfully Sheweth:-

1. That the appellant has filed the accompanying appeal before this Honourable Court, the contents of the same may graciously be treated as an integral part of this application.
2. That the appellant has brought a good prima facie case in her favour and is optimistic about her ultimate success before this Honourable Court.
3. That balance of convenience also leans in favour of appellant.

Signature

15

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SHAHID

4. That in case, the operation of impugned order is not suspended, the appellant would be subjected to irreparable loss, which may also give rise to multiplicity of proceedings.

It is, therefore humbly prayed that on acceptance of the instant application, the operation of impugned order dated 16/02/2018 may graciously be suspended and appellant be ordered to be re-instated in service till final disposal of the main appeal.

Attested to be a True Copy
07 JUL 2018
EXAMINER
District & Sessions Judge
Abbottabad

Rubina
Appellant

Through counsel

Dated 20/02/2018

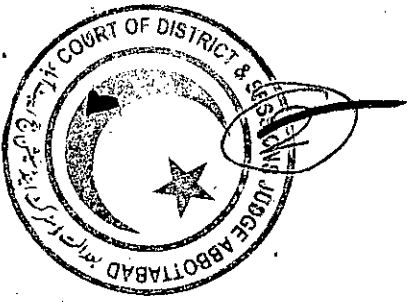
AFFIDAVIT

I, Mst. Rubina Zahid widow of Zahid Gill, Ex Sweeper, Civil Courts, Havelian do hereby declare on oath that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honourable Court.

SHAHBAZ KHAN
Commissioner
End to
20/2/2018

Rubina
DEPONENT

Nadifa



41/VI DJ, AAd.

قرارداد اجراء خدمات جناب ڈسٹریکٹ جج ایبٹ آباد

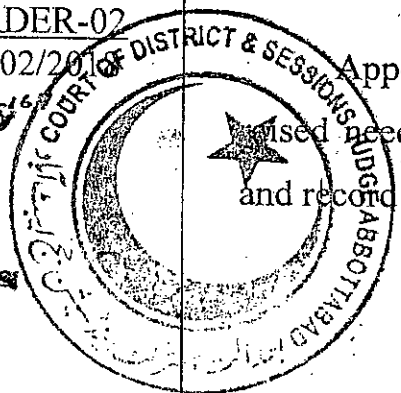
FORM "A"
FORM OF ORDER SHEET

29



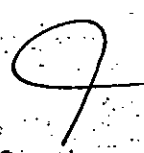

Court of ایبٹ آباد ڈسٹریکٹ جج ایبٹ آباد

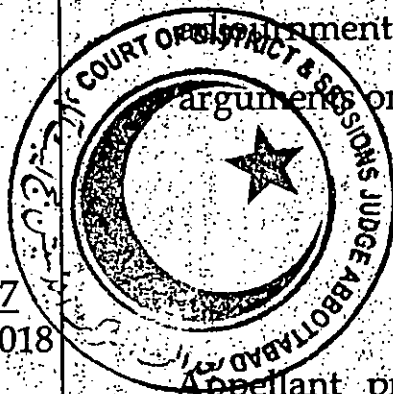
Case No 1945/ب

Serial No of Order or Proceedings	Date of Order or Proceedings	Order or other proceedings with Signatures of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
<p>مقدمہ نمبر 41/VI رجسٹر 21/02/18 فیصلہ اپیشی 29/06/18</p>	<p>21.02.2018 21.02.18 1624 867</p>	<p>Departmental Appeal presented by Appellant in person. Submitted for order please.</p> <p>Superintendent District & Sessions Judge Abbottabad</p> <p>Put up for preliminary hearing on 27.02.18</p> <p>DISTRICT & SESSIONS JUDGE ABBOTTABAD 21.02.18</p>
<p>ORDER-02 27/02/2018 Attested to be a True Copy 7 JUL 2018 EXAMINER District & Sessions Judge Abbottabad</p>	<p>ORDER-02 27/02/2018</p>	<p>Appellant present. Heard preliminarily. Points raised need consideration. Be registered. Admit. Notice and record for 13/03/2018.</p> <p>Sofia Waqar Khattak District Judge, Abbottabad 27.02.18</p>
<p>ORDER-03 13/03/2018 195</p>	<p>ORDER-03 13/03/2018 195</p>	<p>Appellant present. None present on behalf of respondent. Be re-summoned for 19/03/2018. Record received.</p> <p>Sofia Waqar Khattak District Judge, Abbottabad</p>



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Serial No. of Order or Proceedings	Date of Order or Proceedings	Order or other proceedings with Signature of Judge or Magistrate and that of parties or council where necessary
1	2	3
	<p>ORDER-04 19/03/2018</p>	<p>Appellant present. Clerk of Court of the Senior Civil Judge, Abbottabad present. Seeks time for submission of comments. Adjourned to 05/04/2018.</p> <p style="text-align: right;">  Sofia Waqar Khattak Sessions Judge, Abbottabad </p>
<p><i>N R</i> 5-4-2018.</p>		<p><i>Present as before. The PD is on leave To come up on 12-4-2018</i></p>
<p><i>Related to Us a True Copy</i> 7 07 JUL 2018 EXAMINED District & Sessions Judge Abbottabad</p>	<p>ORDER-05 12/04/2018</p>	<p>Appellant present in person before court. COC appeared on behalf of respondent and filed comments. He seeks time to produce Government Pleader. Allowed. To come up for arguments on 30/04/2018.</p> <p style="text-align: right;">  Sofia Waqar Khattak District Judge, Abbottabad </p>
	<p>Or. # 06 30.04.2018</p>	<p>Appellant present in person. COC appeared on behalf of respondent present, requested adjournment for arguments. Adjourned. To come up for arguments on 18.05.2018.</p>
	<p>Or. # 07 18.05.2018</p>	<p>Appellant present in person. COC appeared on behalf of respondent, requested adjournment for arguments. Adjournment. To come up for arguments on 25.05.2018.</p> <p style="text-align: right;">  (Sofia Waqar Khattak) D&S Judge, Abbottabad </p>
		<p>Appellant present in person. COC appeared on behalf of respondent, requested adjournment for arguments. Adjournment. To come up for arguments on 25.05.2018.</p> <p style="text-align: right;">  (Sofia Waqar Khattak) D&S Judge, Abbottabad </p>



30

Or: # 08
25.05.2018

Appellant in person present. Representative of respondent present, jointly requested for adjournment. Adjourned. To come up for arguments on 07.06.2018.

(Sofia Waqar Khattak)
D&S Judge, Abbottabad

0-9
7.6.2018.

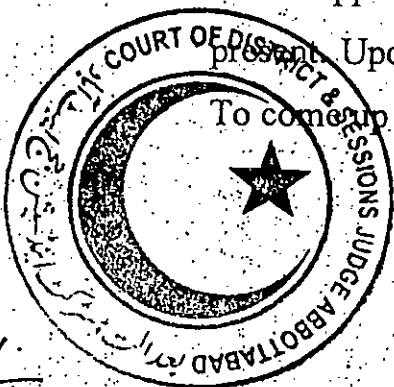
Appellant with counsel and COC for Senior Civil Judge, DTA present. Arguments heard. To come up for order on 14.6.2018.

Examined by a Trial Court
07 JUL 2018
EXAMINER
District & Sessions Judge
Abbottabad

DISTRICT & SESSIONS JUDGE
ABBOTTABAD

ORDER-10
14/06/2018

Appellant present. COC for SCJ Abbottabad present. Upon request of COC, further arguments heard.



To come up for order on 23/06/2018.

Sofia Waqar Khattak
District Judge, Abbottabad

004-11
23.6.2018.

Appellant present in person. order could not be pronounced due to some misc. work of Election, 2018. To come up for order on 28.06.2018.

Maidg...

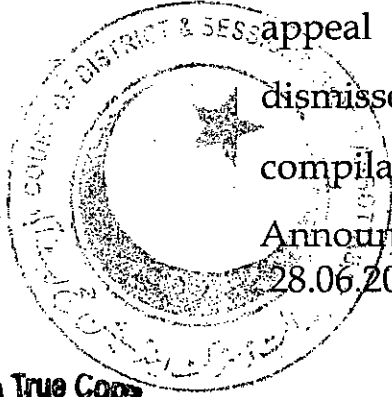
DJ AIB

3

Order
28.06.2018

Appellant present in person. Vide my detailed judgment of today separately placed on file, Instant appeal being devoid of substance is hereby dismissed. File be consigned to record room after its compilation and completion.

Announced
28.06.2018



A stylized handwritten signature in black ink.

(Sofia Waqar Khattak)
Sessions Judge, Abbottabad

Attested to be a True Copy

07 JUL 2018

EXAMINER
District & Sessions Judge
Abbottabad

1

(35)

(31)

OFFICE OF THE SENIOR CIVIL JUDGE, ABBOTTABAD

No. 477 S C J Abbottabad the 4/4/ 2018

To,

The learned District and Sessions Judge,
Abbottabad.

Subject: - COMMENTS.

Ammer - K

12/4

As per your good self's direction on the subject noted above, I have the honour to submit as follows: -

Robina Zahid Ex-sweepress has faced several inquiries, gist is given below: -

1. The first inquiry was conducted against the Ex-sweepress for her willful absence from duties. The inquiry officer had imposed minor penalty by withholding one annual increment vide order dated 22.01.2012/
2. The second inquiry was conducted against the ex-official on the charge of inefficiency. The inquiry officer vide his order dated 09.02.2013 had recommended imposition of major penalty on the ex-official. The ex-official was served with final show-cause notice, however, she tendered unconditional apology which was accepted and was exonerated on humanitarian ground.

Attested to be a True Copy

[Signature]
7 JUL 2018

EXAMINER
District & Sessions Judge
Abbottabad

[Signature]

35 1 32
OFFICE OF THE SENIOR CIVIL JUDGE, ABBOTTABAD

No. 477 S C J Abbottabad the 4/4/ 2018

To,

The learned District and Sessions Judge,
Abbottabad.

Subject: - COMMENTS.

As per your good self's direction on the subject noted above, I have the honour to submit as follows: -

Robina Zahid Ex-sweepress has faced several

inquiries, gist is given below: -

1. The first inquiry was conducted against the Ex-sweepress for her willful absence from duties. The inquiry officer had imposed minor penalty by withholding one annual increment vide order dated 22.01.2012/
2. The second inquiry was conducted against the ex-official on the charge of inefficiency. The inquiry officer vide his order dated 09.02.2013 had recommended imposition of major penalty on the ex-official. The ex-official was served with final show-cause notice, however, she tendered unconditional apology which was accepted and was exonerated on humanitarian ground.

12/4
[Signature]

Attested to be a True Copy

7B 07 JUL 2018

EXAMINER
District & Sessions Judge
Abbottabad

36

3. The third inquiry was conducted against ex-official for purchasing crockeries from a shopkeeper namely Touqeer S/o Faqira Khan by using the department name. The inquiry officer vide order dated 19.12.2017 had found the ex-official as guilty. In the light of findings of inquiry officer, the ex-official was awarded minor penalty of withholding annual increment vide order dated 11.01.2018.

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07 JUL 2018

EXAMINER
District & Sessions Judge
Abbottabad

4. The fourth inquiry was initiated on the application of one Sardar Muhammad Khursheed s/o Sardar Abdul Latif shopkeeper who had alleged in the application that ex-official had purchased groceries from the said shopkeeper but on several demands she did not pay the amount. It was further alleged in the said application that the ex-official had given a blank cheque to the said shopkeeper which was dishonored by Bank due to insufficient amount in the account of ex-official and an inquiry was initiated against the ex-official. The inquiry officer vide his order dated 6.02.2012 found the ex-official guilty of misconduct.

Keeping in view the past record of Ex-official she was retired compulsorily.

Touqeer
ASAC

Moreover, several persons had lodged verbal as well written complaints that Rubina Zahid had purchased various items from them posing herself to be the Reader, personal Assistant of Judicial Officer and did not make payment to them. Similarly, learned Civil Judge-I, Havelian had also made written complaint against the ex-official that she was not punctual on which the ex-official was warned to mend her disposition but in vain.

Comments are submitted, please.

SENIOR CIVIL JUDGE,
ABBOTTABAD.

37

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07 JUL 2018

EXAMINER
District & Sessions Judge
Abbottabad

35

IN THE COURT OF DISTRICT & SESSIONS JUDGE,
ABBOTTABAD

Departmental Appeal No. : 41/VI of 2018
Date of Institution 21/02/2018
Date of decision 28/06/2018

Ammonure - 2

Mst. Rubina Zahid widow of Zahid Gill, Ex Sweeper, Civil Courts, Havelian.

....APPELLANT

VERSUS

Senior Civil Judge, Abbottabad

....RESPONDENTS

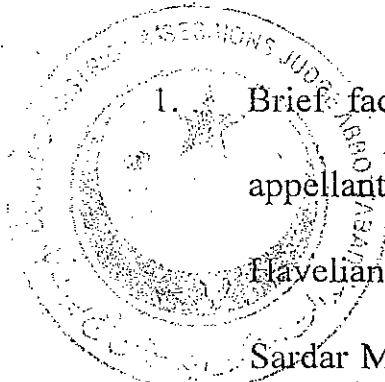
Attested to be a True Copy

07 JUL 2018

EXAMINER
District & Sessions Judge
Abbottabad

DEPARTMENTAL APPEAL

JUDGMENT



1. Brief facts forming background of present appeal are that appellant was performing her duties as sweeper in Civil Courts Havelian. She used to purchase household articles from one Sardar Muhammad Kurshid on credit. The appellant could not pay him the amount of Rs. 15,000/-, upon which he filed an application before Senior Civil Judge Abbottabad; whereupon explanation was called and thereafter inquiry was conducted through inquiry officer/Civil Judge-V. Learned Inquiry Officer issued charge sheet alongwith statement of allegations to the appellant.

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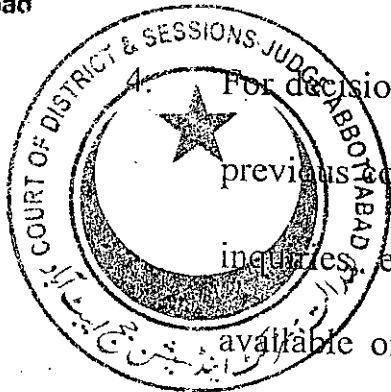
2. Upon conclusion of inquiry, the learned inquiry officer held that "allegation against appellant are true and correct". Resultantly, learned Senior Civil Judge Abbottabad issued Final Show Cause notice to the appellant, however, appellant could not satisfactorily reply to the show cause notice. Resultantly, learned senior civil judge vide order impugned dated 16/02/2018 ordered compulsory retirement of appellant. Hence, the present appeal.

Attested to be a True Copy

07 JUL 2018

EXAMINER
District & Sessions Judge
Abbottabad

3. I have heard the arguments of learned counsel for appellant, Clerk of Court of SCJ and sifted through the record.



4. For decision of departmental appeal in hand, I would touch the previous conduct and demeanor of accused/official. Plethora of inquiries, explanation, show cause notices and warnings are available on record against appellant. I deem it expedient to briefly mention below, the inquiries conducted against appellant.

a. First inquiry was conducted against appellant for her willful absence from duty whereby minor penalty of withholding one annual increment was imposed vide order dated 22/01/2012.

b. Second inquiry was conducted against appellant on charge of inefficiency, whereby, inquiry officer had recommended imposition of major penalty vide order dated 09/02/2013.

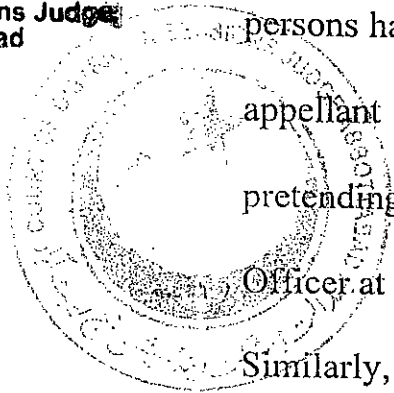
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- c. Third inquiry was conducted against appellant for purchasing assorted households from a shopkeeper, wherein, minor penalty of withholding annual increment was imposed vide order dated 11/01/2018.
- d. Present proceedings were also initiated upon an application by one Muhammad Khurshid, as a result of which, appellant was compulsorily retired from service.

Attested to be a True Copy

07 JUL 2018

EXAMINER
District & Sessions Judge
Abbottabad



- 5. Besides above, presiding officers have also complained many a time against appellant. It is also a matter of fact that several persons had lodged verbal as well as written complaints against appellant that she had purchased various items from them pretending to be the Reader, Personal Assistant of Judicial Officer at different occasions and did not make payment to them. Similarly, learned Civil Judge-I, Havelian, had also made written complaint against appellant that she was not punctual and often remains on French leave; upon which she was warned to mend her ways but in vain.

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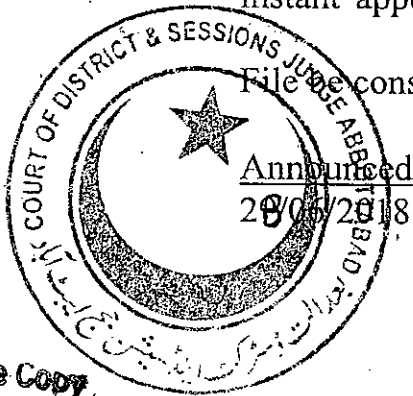
- 6. Upshot of above discussion is that accused/official has been proved to be habitual and chronic. She persistently deceived public through false representation by taking undue benefit as representative of judicial officers. In spite of repeated warnings, enquiries and minor penalties she turned deaf ears and

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consistently followed her heart and mind. As she has already been offered many opportunities to mend her ways and reform her attitude, but she always returned adamant, no further chance can be granted. I deem it appropriate to note here that vacancy occurred because of her removal from service has been filled through appointment in due course of procedure. Consequently, instant appeal being devoid of substance is hereby dismissed.

File consigned to Record Room.



[Signature]

Sofia Waqar Khattak
District Judge, Abbottabad

Attested to be a True Copy

07 JUL 2018

EXAMINER
District & Sessions Judge
Abbottabad

CERTIFICATE

Certified that this judgment consists of four (04) pages. Each page has been read, signed and corrected by me where it was necessary.

13690 Date 28/06/2018

Registration _____

Stamp _____

Fee _____

Fee _____

Copy Asil

Preparation of Copy 07/07/2018

Delivery of Copy 09/07/2018

[Signature]

Sofia Waqar Khattak
District Judge, Abbottabad

[Signature]

50



ایڈووکیٹ: Naila Jaw

بار کونسل ایسوسی ایشن نمبر:

رابطہ نمبر: 03129215971

43905

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سیسر گمنوڈا اے سروس سرگرمی نصاب

Appellant: <u>Robina Zaid</u>	مجاہب: <u>Robina Zaid</u>	دعوی: <u>Service appeal</u>
		علت نمبر: <u>Appeal No. 948/18</u>
		مورخہ:
		جرم:
		تھانہ:
باعت تحریر آگہ		

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ
 آن مقام Naila Jaw & Huda Khan کے لیے Pesh awar / abotabad کو وکیل مقرر
 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 و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 31/07/2018

العبد _____ واہ شد _____ العبد

مقام: سیسر گمنوڈا کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

Accepted by Naila Jaw

Robina Zaid Ex-Sweepa Hawalian

WAKALATNAMA

IN The KP Service Tribunal, Peshawar

Mst Rubina Zahid (Petitioner)
(Plaintiff)
(Applicant)
(Complainant)
(Decree Holder)

VERSUS

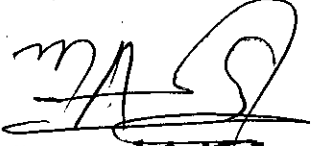
District & Sessions Judge Abdullah
(Respondent)
(Defendant)
(Accused)
(Judgment Debtor)

Case SVC Appeal No-948/2018

I/We, Mst Rubina Zahid do hereby appoint and constitute **Muhammad Arif Jan Advocate** High Court, Peshawar, to appear. Plead, act, compromise, withdraw or refer to arbitration to me/ us as my/ our Counsel in the above noted matter, without any liability for their default and with the authority to engage/ appoint any other Advocate/ Counsel at my/ our matter.

Attested & Accepted

CLIENT/S


Muhammad Arif Jan
Advocate, High Court, Peshawar.
Office No. 6, 1st Floor
Pabbi Medical Centre, G.T. Road
Peshawar.
Mobile: 0333-2212213

Rubina

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

Service Appeal No. 948 /2018

Mst. Rubina Zahid

...APPELLANT

VERSUS

District & Sessions Judge, Abbottabad & another.

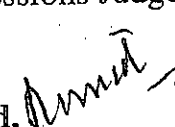
...RESPONDENTS

COMMENTS ON BEHALF OF RESPONDENTS

INDEX

S.#	Description	Page Nos.	Annexures
1	Comments	1 to 7	
2.	Copy of letter No. 288 alongwith record	8 to 11	"A"
3.	Copy of inquiry report dated 17/09/2012	12 to 15	"B"
4.	Coy of Show cause Notice dated 05/04/2013 alongwith inquiry report	16 to 20	"C"
5.	Copy of explanation letter dated 23/01/2013	21	"D"
6.	Copy of warning letter dated 05/05/2017 alongwith undertaking/agreement	22	"E"
7.	Copy of explanation letter dated 27/04/2017 alongwith copy of reply of explanation	23 to 24	"F"
8.	Copy of letter dated 18/01/2018 alongwith copy of inquiry report dated 19/12/2017	25 to 31	"G"
9	Copy of office order dated 16/02/2018 alongwith other relevant record	32 to 40	"H"
10.	Copy of pension documents alongwith record	41 to 59	"I"
11.	Copy of relevant portion of service book of appellant	60 to 66	"J"
12.	Copy of office order dated 16/02/2018 alongwith relevant documents	67 to 76	"K"
12	Copy of application dated 01/11/2018	77 to 80	"L"
13	Copy of complaint submitted by Muhammad Zahoor	81	"M"
14.	Copy of final payment letter alongwith documents	82 to 89	"N"

.....RESPONDENTS

1. **Sofia Waqar Khattak**
District & Sessions Judge,
Abbottabad
2. **Abdul Majid,** 
Senior Civil Judge (Admin)
Abbottabad

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

Service Appeal No. _____/2018

Mst. Rubina Zahid

...APPELLANT

VERSUS

District & Sessions Judge, Abbottabad & another.

...RESPONDENTS

SERVICE APPEAL

COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth;-

PRELIMINARY OBJECTIONS;-

1. That the appellant does not have any cause of action to file the instant appeal before this Honourable Tribunal.
2. That the appellant is estopped to bring the instant appeal by her own conduct.
3. That the appellant has not come to this Honourable Tribunal with clean hands.

4. That the present appeal is also not maintainable on the ground of mis-joinder and non-joinder of necessary party.
5. That the appellant intentionally, willfully and deliberately suppressed the material facts from this Honourable Tribunal, therefore, she is not entitled to any relief.
6. That the present appeal is also not maintainable on the ground of estoppel and waiver, therefore, is liable to be dismissed.
7. That the appeal in hand is time barred hence is liable to be dismissed.

ON FACTS:-

1. That it is correct that appellant was appointed as Sweeper. She however did not perform her duties as required. Plethora of complaints and reports of negligence are there against the appellant.
2. That Para No.2 pertains to the appellant.
3. That the appellant virtually has admitted and conferred her guilt. She has been proved guilty of misconduct on

proper inquiry. Prior to this inquiry and dismissal she has been proceeded against and penalized for misconduct. She has been awarded minor penalties and warnings as well. All the procedures were fulfilled and she has be retired compulsorily from service.. She also had received her benefits including gratuity and pensions. Now she cannot claim any relief. She is estopped by her conduct.

4. That conduct of the appellant is manifest on record. She never took the inquiry against her seriously. She remained ineligned during inquiry, uncooperative and remained absent and was not punctual on her duty. Even in the inquiry she did not remain punctual. The complaint against the appellant did not ask for withdrawal of complaint.
5. Record is very clear that she has been proved to be guilty of misconduct.
6. Para No.6 pertains to record.
7. That the order is neither illegal nor unlawful.
8. Para No.8 pertains to record.

9. Para No.9 pertains to record.
10. Para No.10 pertains to record.
11. That the departmental appeal was rightly dismissed as per law and rules.
12. Para No.12 related with the appellant.

ON GROUNDS:-

- a) Incorrect. All the procedural requirements in law were followed and proper inquiry was conducted against the appellant. The orders were passed after affording the opportunity of hearing and defence. The orders are quite lawful and by a competent authority.
- b) Incorrect. The appellant had admitted her guilt of misconduct. She brought bad name to the department. Prior to the inquiry in question she faced many warnings and penalties. The gist of inquiries is as under;-
 - i. The first inquiry was conducted for the willful absence from duties. She was

imposed minor penalty by the withholding annual increment on 22/01/2012.

ii. By second inquiry she had been charged and imposed a major penalty on 09/02/2013. On her apology she was given chance to mend her ways.

iii. The third inquiry was conducted against the appellant for using the name of department to purchase crockery from a shopkeeper Touqeer son of Faqir Khan. The inquiry officer concluded her guilty on 19/12/2017. She was given minor penalty of withholding annual increment vide order dated 11/01/2018.

The present proceedings/ inquiry was initiated on application by Muhammad Khursheed and as a result she was compulsorily retired.

Apart from above, there were piles of complaints verbal and written against the appellant. She is habitual to use the name of

department for purchases. Civil Judge Havelian also had made written complaints against appellant about her punctuality and being on French leave. She had been warned many times.


The appellant had been proved habitual and chronic. She persistently deceived public through false representation and got undue benefits. Despite repeated warnings, inquiries and minor penalties she turned deaf ear kept on repeating the malpractices. She had rightly been awarded the penalty:

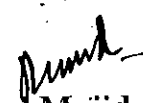
- c) Needs no reply.
- d) Incorrect. The matter was not of solution but the question of goodwill of the judiciary was the prime question. The punishment is an example for others.
- e) Incorrect. The order of the appeal was quite legal and authorized by the law and rules.
- f) Incorrect. The major penalty has been awarded which is quite legal and as per law.

- g) Incorrect. The orders are as per law and within given mandate.
- h) The respondents seek leave to raise additional grounds at the time of arguments.

It is, therefore, requested that the appeal may kindly be dismissed and the orders of respondents may please be upheld.

...RESPONDENTS

1. 
Sofia Waqar Khattak
District & Sessions Judge,
Abbottabad

2. 
Abdul Majid,
Senior Civil Judge (Admin)
Abbottabad

VERIFICATION:

Verified that the contents of foregoing comments are true and correct and nothing has been suppressed from this Honourable Tribunal.


...RESPONDENTS

OFFICE OF THE SENIOR CIVIL JUDGE, ABBOTTABAD.

8

No. 288 Dated Abbottabad, the _____ 2003.

To, Mrs. Rubina,
Sweeper.

Subject:- EXPLANATION.

Memo: Reference your reply dated 20.11.03

On the above subject, you are, therefore, warned to be careful in future otherwise strict disciplinary action would be taken against you.

AMW
(Aurangzeb Khalil)
Senior Civil Judge,
Abbottabad.

COC

*Place it
in file
p. file. Av
6/12/03*

*Annexure - A
Court of SCJ Ad
2003.*

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A - x r u A - x n A

گزارش ضمیمہ سولہ جولائی ۲۰۱۳ء

Issued
warming
23/1/13

۲۰۱۳ء

گزارش ضمیمہ سولہ جولائی ۲۰۱۳ء

پوسٹل نوٹس کے ذریعہ

سے چند دن ڈیوٹی سے فارغ رہنے کی وجہ سے

کو مستحق ٹرانزیشنل سروس ۲۴۱-۲۴۲ جاری کیا گیا ہے

جناب عالی سروس اینڈ پینشن کے سیکشن ڈیوٹی

کوئی کرایہ دے رہے ہیں سروس کے لیے

سے ضمیمہ سولہ جولائی ۲۰۱۳ء

سروس کو معاف کیا جائے۔ سروس کے لیے

الوادعی

سروس سولہ جولائی ۲۰۱۳ء

روبر

SENIOR CIVIL JUDGE
TTABAD.

23/1/13 Jan. 2013

if you were not
units to gross

four

OFFICE OF THE SENIOR CIVIL JUDGE, ABBOTTABAD.

No. 267 Dated Abbottabad, the 18-11-2003.

To:

Mrs. Rubina,
Sweeper in the court of
S.C.J. Abbottabad.

Subject: EXPLANATION.

Reference this office letter No241-242
dated 25/10/2003 on the above subject.

The required explanation has not been
furnished so far with in ^{to you} 3 days. If same was not given *within 3 days*
it would be presumed, have no defence.

Amh
18/11/3
Senior Civil Judge,
Abbottabad.

COC.

*Put up this
Copy after
four days*

je

OFFICE OF THE SENIOR CIVIL JUDGE, ABBOTTABAD.

No. 242-24 Dated Abbottabad, the 25/10 2003

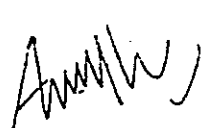
To,:

Mrs. Rubina,
Sweeper.

Subject:- EXPIANATION.


Memo: It is observed and reported that since your appointment you have never performed your duty in the court premises even for a single day. Your long absence shows that you are either not interested in your job/duty or incompetent/inefficient to perform duty.

You are therefore directed to explain as to why not you should be proceeded under Efficiency & Disciplinary Rules, 1973. Your reply would reach to the undersigned within 7 days.


(Aurangzeb Khalil)
Senior Civil Judge,
Abbottabad.

No. _____ Dated Abbottabad, the _____ 2003.


Copy forwarded for information to the
Honourable District & Sessions Judge, Abbottabad.


(Aurangzeb Khalil)
Senior Civil Judge,
Abbottabad.

IN THE COURT OF MANZOOR QADIR, SENIOR CIVIL JUDGE, ABBOTTABAD

CASE NO- 618 of 2012-

Inquiry Robina Bibi

Serial No of Order or proceedings	Date of Order or Proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties or counsel where necessary.
Or.....10	22.10.2012	<p>File received from Inquiry Officer. Minor penalty of withholding of one annual Increment of the accused/official namely Mst. Robina Bibi (sweeper) is hereby imposed.</p> <p>Entries be made in Service Book and order be dispatched to all concerned.</p> <p style="text-align: right;">  <u>MANZOOR QADIR, Sdr</u> SENIOR CIVIL JUDGE, ABBOTTABAD. 22-10-2012 </p>

Anxture - B
SCJ Atol
22-12-2012

202 A-101
Auktrus - B
25.15.2015

26
13

IN THE COURT OF ASSASDULLAH KHAN, CIVIL JUDGE-I,
HAVELIAN/INQUIRY OFFICER

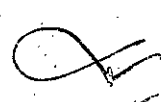
Case No. 33/6
State VS Rubina Zahid Gill

INQUIRY REPORT.

Brief facts of the present case are that accused / official Rubina Zahid Gill, Sweeper, working under the Establishment of Senior Civil Judge, Abbottabad was found absent on 16/06/2012 and COC reported the matter to the learned Senior Civil Judge, Abbottabad who vide order No. 1165 dated 20/06/2012 called explanation. The reply was submitted on 29/06/2012 before the learned Senior Civil Judge, Abbottabad who was not satisfied from the said reply and he ordered an inquiry vide order dated 29/06/2012 and have appointed the undersigned as Inquiry Officer.

Accused / official was noticed and she appeared before the court on 13/09/2012. Charge sheet was given on the same date. She submitted reply on 17/07/2012. Statement of Rubina Zahid Gill, COC Senior Civil Judge, Abbottabad, Muhammad Hameed Naib Qasid Senior Civil Judge, Abbottabad are recorded as PW-1 to PW-3 on 23/07/2012, whereas, statement of Muhammad Niaz, Naib Qasid Senior Civil Judge, Abbottabad was recorded on 04/09/2012.

Admittedly, accused / official was absent on 16/06/2012. It is evident that accused / official telephonically informed the office of Senior Civil Judge, Abbottabad on the said date and the call was received by the Naib Qasid of Senior Civil Judge, Abbottabad namely Muhammad Hameed and he immediately informed the Clerk of Court Senior Civil Judge, Abbottabad but the Clerk of Court informed the accused / official that casual leave could not be granted because the Honourable Chief Justice of Peshawar High Court, Peshawar is coming on the date of absence of the accused / official and the learned Senior Civil Judge, Abbottabad has ordered that the premises of the District Courts shall be neat and clean. The accused / official, in response, replied that she is out of station and at Rawalpindi and unable to reach on duty in time. Muhammad Hameed, Naib Qasid Senior Civil Judge, Abbottabad recorded his statement as PW-3, who informed the accused /


17/9/12

official regarding the situation. Similarly, Muhammad Niaz, Naib Qasid Senior Civil Judge, Abbottabad also verified that accused / official was informed regarding refusal of her casual leave. Furthermore, Clerk of Court stated on Oath as PW-2 and he narrated what has been deposed in the statement of PW-3 and PW-4. He produced relevant record regarding attendance register of staff Ex. PW-2/1. The same speaks that the accused / official Rubina Zahid Gill was not only absent on 16/06/2012 but also absent in the month of May twice. He further produced Ex.PW-2/3, Ex.PW-2/4, Ex. PW-2/6, Ex. PW-2/7, Ex. PW-2/8, Ex. PW-2/9 and Ex. PW-2/10 and perusal of which reveals that so many explanations, directions and attachment of salary has been called but the accused / official have deaf ears on the directions of the competent authority.

In rebuttal statement of accused / official recorded as PW-1 and she admitted that she has not submitted any application for the casual leave and so many admissions have been occurred in her statement. In defence, accused / official only produced the record of sister of her husband produced Ex.PA. to Ex. PF which is certain invoices, medical record of one Khalida Imran. She admitted that she left the station without prior information and approval.

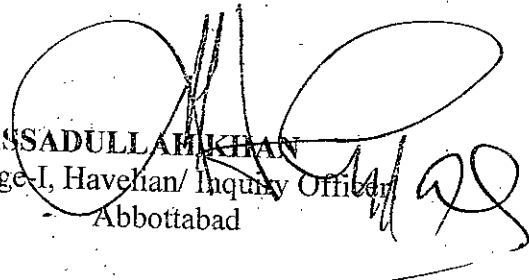
It is admitted fact that accused / official was absent on 16/06/2012 without any approval or permission and she has been telephonically informed that her casual leave would be regretted, as such, the Honourable Chief Justice of Peshawar High Court, Peshawar is scheduled to visit the premises of the District Courts and she shall join the duty without fail. The accused / official allegedly was out of station at Rawalpindi. No Govt. Official could leave the station without any prior information or approval or permission but she left the station without obtaining such cordial formalities. She failed to join duty even after refusal of casual leave. It is evident that the learned Senior Civil Judge, Abbottabad was on casual leave on the date of absence of accused / official, but the COC Senior Civil Judge, Abbottabad has not informed the acting Senior Civil Judge, Abbotabad regarding the absence of accused / official. The COC was duty bound to immediately informed the Acting Senior Civil Judge but he failed. So it is held that no competent authority has refused the casual leave of the accused / official. COC Senior Civil Judge, Abbottabad is not competent to refuse the

[Signature]
17/9/12

casual leave of accused / official. On one hand there is default on the part of accused / official and or the other hand, the matter has not been brought into the notice of the competent authority on the date of absence of the accused / official. Any default on the part of clerical staff is not supposed to raise any benefits to the accused / official but the chance of grant of permission of casual leave to the accused / official also could not be ignored, if the matter be brought before the competent authority on the date of absence of accused / official. The conduct of the accused / official in another factor which is to be considered by this office. Ex.PW-2/1 is self explanatory and the same reveals that she is habitual in respect of her absence on duty. The record produced by the accused / official is not so supportive to justify her absence on 16/06/2012. The accused / official herself admitted that she was informed regarding refusal of her casual leave and she was duty bound to join the duty even at the late stage but she did not bothered. So, in light of discussion, I hold that the accused / official Mst. Rubina Zahid Gill was absent on 16/06/2012 despite of notice of her refusal of her casual leave but she failed to join her duty and on the other hand, nothing has been brought into the record that who was the competent authority to refuse her casual leave. The guilt of accused / official has been proved to the extent of her absence only but refusal of her casual leave has not been established, therefore, I suggest minor penalty for the accused / official.

Announced
17/09/2012

ASSADULLAH KHAN
Civil Judge-I, Havelian/ Inquiry Officer
Abbottabad



(16)

OFFICE OF THE SENIOR CIVIL JUDGE, ABBOTTABAD.

No. 730 Dated Abbottabad the SCJ 05-04-2013.

To,

Robina Zahid Gill,
Sweeper Judicial Complex,
Abbottabad.

Subject:- SHOE CAUSE NOTICE.

Memo,

100000 0

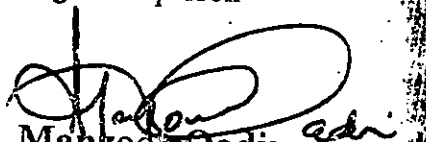
WHEREAS, on conclusion of Inquiry in pursuance of an application filed by Mr. Muhammad Ali, Record Keeper, Record Room Lower Court, Judicial Complex, Abbottabad dated 05.09.2012 regarding not performing your duties as well as misconduct and negligence. Mr. Faisal Anjum Civil Judge- IX, Abbottabad / Inquiry Officer has also recommended imposition of major penalty.

AND WHEREAS, in the light of report submitted by Civil Judge- IX, Abbottabad / Inquiry Officer, You are therefore, given Final show cause as to why *disciplinary action under E&D Rules 1973* entailing imposition of **major penalty** recommended by Inquiry Officer. Your reply must reach to this Office within **seven days** of issuance of this notice, failing which, it shall be presumed that you have no defence to offer and the instant notice shall be considered as final show cause notice.

However, you are allowed to appear before the undersigned in person

Robina

5.4.013


Manzoor Qadir
Senior Civil Judge,
Abbottabad.

5.4.013

Anx ture — C
SCJ Attd. 2013

2012. 4th. 2012
J. — erufxna

O----- 08
17/11/2012

Accused official is present. Clerk of Court of Senior Civil Judge Abbottabad and Muhammad Ali record keeper lower courts Abbottabad are absent. Be noticed for their statements on 28/11/2012.

(Faisal Anjum)
Civil Judge
Abbottabad
CJ-IX-ATD
Inquiry Officer

N.R
28-11-12

Presume as before PO is on casual leave. File to come up on 7-12-2012.

O----- 09
07/12/2012

Accused official is present. Clerk of Court of Senior Civil Judge Abbottabad and Muhammad Ali record keeper lower courts Abbottabad are absent. Be noticed for their statements on 15/01/2013.

N.S.V

(Faisal Anjum)
Civil Judge
Abbottabad
CJ-IX-ATD
Inquiry Officer

O----- 10
15/01/2013

Accused official is present. Clerk of Court of Senior Civil Judge Abbottabad and Muhammad Ali record keeper lower courts Abbottabad are absent. Be noticed for their statements on 26/01/2013.

N.S.V

(Faisal Anjum)
Civil Judge
Abbottabad
CJ-IX-ATD
Inquiry Officer

O----- 11
26/01/2013

Accused official is present. Clerk of Court of Senior Civil Judge Abbottabad and Muhammad Ali record keeper lower courts Abbottabad are present and their statements have been recorded. To come up for statement of accused official 29/01/2013.

(Faisal Anjum)
Civil Judge
Abbottabad
CJ-IX-ATD
Inquiry Officer

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0-----
29 2013 Accused official is present. Statement of the
accused official has been recorded. To come up for order on
02/02/2013.

(Faisal Anjum)
Civil Judge-IX
Abbottabad
(Faisal Anjum)
CJ-IX-ATD
Inquiry Officer

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02/02/2013 Complainant and accused/concerned official in person
present. To day the instant inquiry was fixed for order, but due to
rush of work, the order could be written. The date is adjourned for
09.02.2013.

(Faisal Anjum)
Civil Judge-IX,
Abbottabad
(Faisal Anjum)
Inquiry Officer/Civil Judge-IX
Abbottabad

0-----14
09/02/2013.

Complainant and accused/concerned official in person
present. The instant inquiry was marked to the undersigned by the
learned Senior Civil Judge, Abbottabad vide order dated
17.10.2012 against the accused, named Robina Zahid, attached
with the establishment of the learned Senior Civil Judge,
Abbottabad with the allegation for not performing her duties, as
well as misconduct and negligence. The said official was
summoned and charge-sheeted by the undersigned and statement
of allegation was also provided to her. She submitted her written
reply. The statements of accused/concerned official as well as the
complainants named Muhammad Ali and Shabbir Ahmad have
been recorded. According to the statement of Clerk of Court, Lower
Courts, Abbottabad, Shabbir Ahmad, the accused/concern official
was time and again directed to perform her duties and clean the
out side of the premises of the courts alongwith Moharrir rooms
and Record Rooms, but despite of these instructions, she did not
bother to comply the orders and most of the time she remained
absent without any prior permission and application. It is also


(Faisal Anjum)
Civil Judge-IX,
Abbottabad

stated by the complainant, Muhammad Ali that the accused/concerned official did not clean the record room and it was brought into the notice of high ups for her negligence and complaints were also filed against the accused/officials, but she always turned deaf ears. The statement of accused/concerned official was recorded in which she did not take any specific defense and admitted her absence from the duty.

In the light of the statements it is very much clear that official Robina Zahid Bibi was aware of the duty which was entrusted to her and she was duty bound to reach to clean the entire courts, out side the court premises, Moharrir Rooms and Record Room, but she did not perform her duties and time and again complaints were filed against her. In this regard an inquiry decision of the court of Learned Senior Civil Judge, Abbottabad is also placed on file as EXPB in which the Learned Senior Civil Judge, Abbottabad imposed minor penalty of withholding of one annual increment of the accused/official. After this minor penalty, even the accused/concerned official did not take her job seriously and not perform her duties up to the mark which caused the filing of instant complaint. The reasons given by her absence from her duties are a mere lame excused and would not be justify the dereliction of the duty and negligence on the part of accused/concerned official which make her liable for major penalties and disciplinary action. Report is hereby submitted to the authorized officer for further necessary action.

Announced
09/02/2013

(Faisal Anjum)
Civil Judge-IX,
Abbottabad


(Faisal Anjum)
Inquiry Officer/Civil Judge-IX
Abbottabad

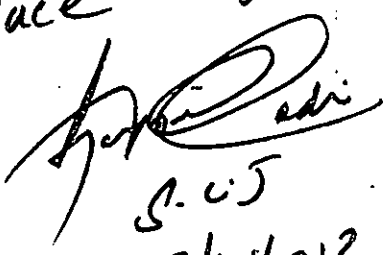
عدالت جناب سنٹر سول جج صاحب ایٹ آباد

جناب عالی!

تزارش ہے کہ روہینہ سوہیلہ کو کل مورخہ 4-4-013

کو پرانی پھری میں 13XIII کی عدالت اور محمدان کے گروں
کی صفائی کیلئے بھیجا گیا تو نہ تو وہاں صفائی کی ہے اور
نہ واپس آئی ہے روہینہ سوہیلہ کو جمع 10.00 بجے تقریباً
وہاں بھیجا گیا تھا لہذا استدعا ہے کہ مذکورہ سوہیلہ کے خلاف
قانونی کارروائی عمل میں لائی جائے۔

Place on file



کن جی
5/4/013

لپوٹ عرض ہے

محمد شہیر (COO) عدالت حذا

5/4/2013

المترجم 5-4-2013

Anxura - C
Scj Adl
4-4-2013

نوٹ: روہینہ سوہیلہ کو شہادتوں کے لئے عدالت / ایٹ آباد میں لائی گئی۔
وہاں جانے کے بعد وہاں سے بھیجا گیا تھا کہ وہاں صفائی کی جائے۔ جج صاحب نے
لکھا ہے کہ اس کو واپس نہ بھیجا گیا ہے تاکہ وہ عدالت میں نہ آسکے۔
محمد شہیر (COO) عدالت حذا

Handwritten text, possibly a signature or code, consisting of three lines: a large opening parenthesis followed by a horizontal line and a series of characters, a second line of characters, and a third line of characters.

21

OFFICE OF THE SENIOR CIVIL JUDGE,
ABBOTTABAD.

No 172 Dated Abbottabad the 23/1/ Jan, 2013.

1. Robina Bibi Sweeper,
Judicial Complex,
Abbottabad

2. Saeed Saweeper.

Subject: EXPLANATION.

On written complaint (COC) of this office that you were not performing your duties regularly, you're this act amounts to gross misconduct and negligence.

You are hereby directed to explain your position within Three days, failing which it would be presumed that you have nothing in your defense.


Senior Civil Judge

Abbottabad.

23.1.13

Anx - D

Scj Attd
2013

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ANK - D

2013
10/11/14

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Office of the Senior Civil Judge, Abbottabad.

No. 755 SCI/ATD

Dated. The 5/5/ /2017

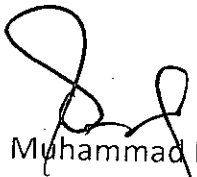
To,

Robina Gil,
Sweepress, Civil Courts,
Abbottabad at Havelian.

Subject:- WARRNING

After going through your written reply dated 03.05.2017 in response to this establishment explanation No. 720 dated 27.04.2017, your reply is not convincing enough to file notice of explanation.

You are hereby warned and directed to mend your disposition.


(Wali Muhammad Khan)
Senior Civil Judge,
Abbottabad.

Anx - E
SCJ A401
2017.

(11)

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3 - XMA
WMA (1)2
• F10C

1 میں سے روپے متعلق سوپر جوڈیشل ججس ایبٹ آباد
 2 میں سے سوپر جوڈیشل ججس ایبٹ آباد

1 ہم دونوں سوپر ججے دل سے وعدہ کرتے ہیں اور
 لکھ کر یہ کہ دیتے ہیں کہ ہم آئندہ وعدہ کرتے ہیں
 ہم وقت پر آئیں گے اور ہم جوڈیشل ججس کی حکم
 فدا کرے گے۔

2 ہم آئندہ بھی ہیں اپنی ڈیوٹی میں سبھی سے
 آئندہ ہم نے ایسی ڈیوٹی میں سبھی کی اور ڈیوٹی
 سے سرانجام نہیں دی تو ہماری تنخواہیں مکمل طور پر
 بند کر جائیں یہیں کرنا شکرہ ہیں کرے گے۔

3 آئندہ ہم ماہانہ میں ہم روزانہ ڈیوٹی پر آئیں گے
 اور جوڈیشل ججس کی صفائی کرتے گے۔

4 آئندہ بھی ہیں غیر حاضر نہیں کریں گے
 یہ کہ آئندہ بھی شرافت ا موقع نہیں دیں گے
 دفعہ صاف کر دیں۔

سوپر جوڈیشل ججس ایبٹ آباد
 روپے سوپر جوڈیشل ججس ایبٹ آباد
 لکھ کر
 6/8/2011

OFFICE OF THE SENIOR CIVIL JUDGE, ABBOTTABAD

No. 720 SCJ, Dated; Abbottabad, The 27/4 2017.


TO,

ROBEENA GIL,
SWEEPRESS AT CIVIL COURTS,
ABBOTTABAD AT HAVELIAN.

Subject: Explanation.

Learned Civil Judge-I, Abbottabad at Havelian submitted a written complaint against you to the effect that you are not punctual. He further submitted that public complain against you by grabbing money through illegal means. Despite, directions and admonitions you failed in your reformation. Your this attitude is contrary to discipline.

By issuing this notice, you are directed to explain your position within 10 days that why you should not be proceeded under Khyber-Pukhtunkhwa Government Servants' Efficiency and Discipline Rules, 2011. Failure will reflect that you have nothing in your defence and will result in ex-parte action against you under the ibid provision of law.


WALI MUHAMMAD KHAN
SENIOR CIVIL JUDGE
ABBOTTABAD,

ANX - F

SCJ Atd

2017.

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احدالت جناب سینیٹر مسیح صاحب خلیلیاں۔

(24)

جواب

موردبانہ گزارش کنندہ سائل عدالت خلیلیاں میں بھور

سو بیرونی ڈیوٹی سرانجام دے رہی ہے۔ سائل کی دفتر

نہا سے مورخہ 27.4.2017 کو جواب طلبی ہوئی کہ سائل دھوکے

دہی سے لوگوں سے رقم ہتھیائی ہے اور کام بھیج نہیں کرتی۔

لیکن سائل کو اپنی ڈیوٹی ٹھیک طریقے سے سرانجام دے رہی

ہے جہاں تک رقم لینے کی بات ہے وہ سائل نے دو ماہ قبل

دوسرے راجے کے مکان میں شیفت سوناٹا صبی وجہ سے

سائل کو مکان کی سیوری کے لئے رقم کی ضرورت تھی چونکہ سائل

بیوہ ہے اور سائل کے تین بچے ہیں جو کہ چھٹے حصے اور

سائل ہیں انکی پرورش کر رہی ہے۔ سائل کا ایذا دہی

گھر بھی نہ ہے اور نہ ہی مکان میں رہا تھا پیر ہے۔

اس لئے سائل نے اپنے ٹیڑھی سے مبلغ 11000 روپے

بطور قرض حسنہ ادھار لے لے اور سائل نے اسکو (۲) ماہ

کا وقت دیا تھا جو کہ سائل نے اسکو ادھار تم دیا ہے

اور آدھی بقایا ہے جبکہ وجہ سے وہ دفتر نیا میں شکایت

کے لئے آیا ہے۔ سائل اسکو بھی بقیہ رقم ایک ماہ کے

اندر دے دے گی۔ اگلے غلطی سائل نے کسی سے کوئی رقم

میں لی سائل پر اس کے سٹاف والے جو کہ خلیلیاں مسیح صاحب

کے ساتھ ہیں ذاتی عداوت کی وجہ سے سائل پر الزام تراشی

کرتے ہیں کہ سائل لوگوں سے رقم لیتی ہے۔ علاوہ ازیں سائل

اپنے کام / ڈیوٹی کی نسبت معافی کی طلبگار ہے کہ آئندہ سائل اپنی

ڈیوٹی پیر فیکٹ سرانجام دے گی۔ اسدعا صبیہ سائل کی درخواست

Sami be
warned

03.5.17

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OFFICE OF THE SENIOR CIVIL JUDGE, ABBOTTABAD.

No _____ / Dated Senior Civil Judge Abbottabad the _____ / January, 2018.

To.

The District Comptroller of Account,
Abbottabad.

Subject: - STOPPAGE OF TWO ANNUAL INCREMENTS FOR
COMING YEARS 2018-19.

With reference to the subject noted above, it is to say that two
annual increments of the official namely Mst Robina Zahaid Sweeper
having personal Number 00079946 DDO code AD 4020 of this office be
stopped under intimation to this office.

Sd -
NISAR MUHAMMAD KHAN,
Senior Civil Judge,
Abbottabad.

No 122-24 / dated Senior Civil Judge the, 18-1-2018.

Copy forwarded to: -

1. Learned District and Session Judge, Abbottabad for information, please.
2. Civil Nazer of this Court,
3. Office copy.

No
NISAR MUHAMMAD KHAN,
Senior Civil Judge,
Abbottabad.

*Anxfure-G
SCJ Adol
2018*

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