

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

**SERVICE APPEAL NO. 976/2018**

Date of institution ... 07.08.2018

Date of judgment ... 30.08.2019

Hidayat Shah, Ex-Junior Clerk  
Commissioner Office, Mardan.

... (Appellant)

**VERSUS**

1. Senior Member Board of Revenue Khyber Pakhtunkhwa, Peshawar.
2. Commissioner, Mardan.
3. Government of Khyber Pakhtunkhwa through Secretary Revenue Khyber Pakhtunkhwa Civil Secretariat, Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF SERVICE TRIBUNAL ACT, 1974  
AGAINST THE ORDER OF RESPONDENT NO. 2 DATED  
14.03.2008, WHEREBY APPELLANT IS REMOVED FROM  
SERVICE, ARE ILLEGAL, AGAINST LAW AND FACTS.

Mr. Rizwanullah, Advocate.

.. For appellant.

Mr. Riaz Ahmad Paindakheil, Assistant Advocate General

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. HUSSAIN SHAH

.. MEMBER (EXECUTIVE)

**JUDGMENT**

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Appellant

alongwith his counsel present. Mr. Riaz Ahmad Paindakheil, Assistant Advocate General alongwith Mr. Muhammad Arif, Superintendent for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was appointed as Junior Clerk vide order dated 08.06.2009 in the office of Commissioner Mardan. The appellant was imposed major penalty of removal from service vide order dated 14.03.2018 on the allegation of four days absence

*M Amin*  
*30.8.2019*

i.e 09, 12, 15, 18 January 2018 and also due to his previous record wherein explanations and warning were issued to him. The appellant filed departmental appeal on 10.04.2018 but the same was not responded hence, the present service appeal on 07.08.2018.

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

4. Learned counsel for the appellant contended that the appellant was serving as Junior Clerk in the office of Commissioner Mardan. It was further contended that the appellant was having eight years service. It was further contended that the appellant was imposed major penalty of removal from service on the allegation of four days absence and that too on different occasions i.e 09, 12, 15, 18 January 2018 as well as on the previous record of warning issued to him vide order dated 18.06.2014, 25.09.2017 and 02.11.2017.

It was further contended that the competent authority could not impose major penalty of removal from service on the basis of previous warning etc as the same were post and close transaction and the competent authority was ~~debarred~~ <sup>debarred</sup> from imposing major penalty to the appellant on the basis of previous record under Article 13 of the Constitution of Islamic Republic of Pakistan, section 403 of Criminal Procedure code and section 26 of the General Clauses Act and it was also contended that the major penalty of removal from service on the basis of four days absence and that too on different occasions is very harsh in the presence of eight years service. It was also contended that neither any charge sheet, statement of allegation was framed or served upon the appellant nor proper inquiry was conducted nor any absence notices was issued to the appellant at his home address nor any notices were published in two newspapers as required under rule 9 of Government Servants (Efficiency & Disciplinary)

*M. Amin*  
30.8.2019

Rules, 2011. It was also contended that under rule 9 of Government Servants (Efficiency & Disciplinary) Rules, 2011 departmental proceeding will be only initiated after continuous seven days absence but in the present case the appellant has never alleged seven days absence from duty. It was further contended that though the competent authority has issued a show-cause notice to the appellant but has neither dispensed with regular inquiry in the show-cause notice nor has mentioned any reason for dispensing the regular inquiry in the show-cause notice. It was further contended that at most the respondent-department should have considered the alleged four days absence as extraordinary leave (leave without pay) under rule 9 of Revised Leave Rules, 1980 in the presence of his eight year service. It was further contended that the impugned major penalty of removal has been imposed mainly on the previous record i.e warning etc which amount to double jeopardy. It was also contended by learned counsel for the appellant that the appellant has also submitted application for leave for the aforesaid period of absence but the same was not considered by the respondent-department therefore, the impugned order is illegal and liable to be set-aside. In support of his arguments he also relied on 1989 SCMR 1224, 2004 PLC (C.S) 959, 2005 PLC (C.S) 1544, 2007 SCMR 192, 2008 SCMR 1369, 2009 SCMR 339, 2009 SCMR 412, 2013 SCMR 817, 2015 PLC (C.S) 381 and 2018 PLC (C.S) Note 99.

5. On the other hand, learned Assistant Advocate General for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant remained four days absent from duty without permission of the lawful authority. It was further contended that show-cause notice was issued to the appellant for the absence of aforesaid period which was duly replied by the appellant but the reply of the appellant was found

*M. Amin*  
30.8.2019

unsatisfactory by the competent authority. It was further contended that regular inquiry was dispensed by the competent authority and the said facts has been mentioned by the competent authority in the impugned order dated 18.03.2018. It was further contended that all the codal formalities were fulfilled before imposing major penalty of removal from service upon the appellant. It was further contended that the appellant was habitually absentee therefore, the competent authority has rightly imposed major penalty of removal from service and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was serving as Junior Clerk in the office of Commissioner Mardan. He was having eight years service in his credit. The record further reveals that the appellant was imposed major penalty of removal from service on the allegation of four days absence and that too on different occasions i.e 09, 12, 15, 16 January 2018 as well as due to his previous record and warning etc. The record further reveals that neither charge sheet, statement of allegation was framed or served nor proper inquiry was conducted against the appellant nor the appellant was associated in any inquiry nor any absence notice was issued to the appellant at his home address nor any absence notice was published in two newspapers as required under rule 9 of Government Servants (Efficiency & Disciplinary) Rules, 2011 meaning thereby that the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside. Though the competent authority has mentioned in the impugned order the dispensation of regular inquiry but this facts was required to be mentioned in the show-cause notice instead of impugned order. Moreover, the competent authority was also required to mention any reason for dispensation of regular inquiry. The record also reveals that the major penalty of dismissal from service was imposed by the competent

*M. Hanif*  
30.8.2019

authority on the allegation of four days absence mainly on the ground of his previous record i.e explanation and warning dated 18.05.2014, 25.09.2017 and 07.11.2017. Although such previous record i.e explanation warning was closed and post transaction therefore, major penalty of removal from service mainly on the basis of previous record amount to double jeopardy and is illegal and liable to be set-aside. Therefore, we partially accept the appeal, set-aside the impugned order and reinstate the appellant into service. However, the intervening period and four days absence period shall be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
30.08.2019

  
(HUSSAIN SHAH)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

30.08.2019

Appellant alongwith his counsel present. Mr. Riaz Ahmad Paindakheil, Assistant Advocate General alongwith Mr. Muhammad Arif, Superintendent for the respondents present. Arguments heard and record perused.

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

ANNOUNCED

30.08.2019

  
(HUSSAIN SHAH)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

15.05.2019


Appellant alongwith his counsel Mr. Rizwanullah, Advocate present and submitted fresh Vakalat Nama. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Arif, Superintendent for the respondents present. Newly engaged learned counsel for the appellant requested for adjournment. Adjourned to 14.06.2019 for arguments before D.B.


  
(AHMAD HASSAN)  
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 10.07.2019 before D.B.

  
Member

  
Member

10.07.2019

Junior to counsel for the appellant and Mr. Usman Ghani learned District Attorney present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 30.08.2019 before D.B.

  
Member

  
Member

Service Appeal No. 976/2018

30.01.2019

Appellant in person present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Arif, Superintendent and Mr. Sharif Khan, Assistant for the respondents present and submitted written reply. The appeal is assigned to D.B-II for rejoinder and arguments for 09.04.2019.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

09.04.2019

Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Muhammad Arif, Superintendent for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for rejoinder and arguments on 23.04.2019 before D.B.

  
(AHMAD HASSAN)  
MEMBER

  
(M. AMIN KHAN KUNDI)  
MEMBER

23.04.2019

Appellant in person and Addl. AG alongwith Muhammad Arif, Superintendent Addl. AG for the respondents present.

Due to general strike on the call of <sup>Provincial</sup>~~District~~ Bar Council, case is adjourned to 15.05.2019 for arguments before the D.B.

  
Member

  
Chairman



18.09.2018

Counsel for the appellant present. Preliminary arguments heard and case file perused. Learned counsel for the appellant argued that on the charges of absence from duty enquiry proceedings were conducted and after finalization, major penalty of removal from service was imposed on him vide impugned order dated 14.03.2018. That he filed departmental appeal on 10.04.2018 which was not responded within the stipulated period, hence, the instant service appeal. Action taken against the appellant has no backing of law and rules and falls in the ambit of glaring illegality.

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 08.11.2018 before S.B.

  
(AHMAD HASSAN)  
MEMBER

08.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 26.12.2018. Written reply not received.

  
READER

26.12.2018

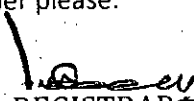

No one present on behalf of appellant. Mr. Javid Assistant representative of respondent department present and seeks time to furnish written reply. Granted. To come up for written reply/comments on 30.01.2019 before S.B.

  
Member

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 976/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/08/2018  9-8-2018	<p>The appeal of Mr. Hidayat Shah presented today by Mr. Amjid Ali Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR - 18/8/18</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>18-9-2018</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

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

Service Appeal No. 976 /2018

Hidayat Shah.....Appellant

**VERSUS**

Senior Member Board of Revenue Khyber  
Pakhtunkhwa, Peshawar & others .....Respondents

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5.	Copy of reply	C	7
6.	Copy of show cause notice dated 30.01.2018	D	8
7.	Copy of reply dated 31.01.2018	E	9
8.	Copy of notice/ summon dated 20.02.2018.	F	10
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Appellant

Through

*Hidayat Shah*  
**Amjad Ali (Mardan)**

Advocate

Supreme Court of Pakistan

Cell: 0321-9882434

①

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

Service Appeal No. 976 /2018

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1245

Dated 07-8-2018

Hidayat Shah, Ex-Junior Clerk  
Commissioner Office, Mardan .....Appellant

**VERSUS**

1. Senior Member Board of Revenue Khyber Pakhtunkhwa, Peshawar.
2. Commissioner, Mardan.
3. Govt. of Khyber Pakhtunkhwa through Secretary Revenue KP Civil Secretariat, Peshawar.

....Respondents

**SERVICE APPEAL U/S 4 OF SERVICE  
TRIBUNAL ACT, 1974 AGAINST THE  
ORDER OF RESPONDENT NO.2 DATED  
14.03.2018, WHEREBY APPELLANT IS  
REMOVED FROM SERVICE, ARE  
ILLEGAL, AGAINST LAW AND FACTS.**

**PRAYER**

On acceptance of this appeal, order dated 14.03.2018 passed by respondent No.2 may please be set-aside and appellant may please be reinstated in service with all back benefits.

Filed to-day

Registrar

2/8/18

Respectfully Sheweth:-

(2)

- 1) That appellant was appointed as Junior Clerk in the office of Commissioner Mardan vide order dated 08.06.2009. (Copy of appointment order dated 08.06.2009 is Annexure "A").
- 2) That appellant has performed 8 years' service to the entire satisfaction of his superiors.
- 3) That an explanation No.199/ACR/EA/2-10 dated 22.01.2018 issued by Secretary to Commissioner was served upon appellant wherein it is alleged that appellant remained absent on 09, 12, 15 & 18 January, 2018. (Copy of explanation dated 22.01.2018 is Annexure "B").
- 4) That appellant filed reply on 24.01.2018 to the same. (Copy of reply is Annexure "C").
- 5) That show cause notice dated 30.01.2018 is issued. (Copy of show cause notice dated 30.01.2018 is Annexure "D").
- 6) That appellant submitted reply dated 31.01.2018 that due to domestic problem, appellant could not attend office on 9, 12, 15 & 18 and submitted applications for leave. (Copy of reply dated 31.01.2018 is Annexure "E").
- 7) That notice/ summon dated 20.02.2018 (Copy Annexure "F") and notice dated 05.03.2018 (copy Annexure "G") both issued by Secretary to Commissioner has not been served upon appellant.

- 3
- 8) That appellant has been removed from service vide order dated 14.02.2018 (copy Annexure "H").
  - 9) That appellant filed Departmental Appeal dated 10.04.2018, which was not responded till date. (Copy of departmental appeal dated 10.04.2018 IS Annex "I")
  - 10) That impugned orders are illegal, against law and facts on the following grounds:-

**GROUND.**

- A. Because the four days absence is due to domestic problem as his father was seriously sick and appellant submitted application as well as telephonically informed his colleagues in the office.
- B. Because for four days absence such a drastic punishment is uncalled for and not warranted in the facts and circumstances of the case.
- C. Because leave is available at the credit of appellant and the four days can be treated as casual leave as per law.
- D. Because the past record of appellant is clear and transparent.
- E. Because on the basis of past warning although not admitted, appellant cannot be removed from service, legally.
- F. Because past minor penalty cannot be the basis for major penalty as per law.
- G. Because past minor penalty is not even a hurdle for promotion, what to say of ground for removal from service.
- H. Because there is no order for dispensation of regular inquiry.
- I. Because there is no charge sheet, statement of allegations for habitual absence, which is a glaring illegality.

- (4)
- J. Because appellant putting on 8 years service cannot be removed with one stroke of pen.
- K. Because major penalty cannot be inflicted without regular inquiry as per consistent judgments of Hon'ble Supreme Court of Pakistan and Service Tribunal.
- L. Because appellant remained jobless since date of removal from service and has not held any office of profit again, therefore, is entitled to back benefits.

It is therefore, humbly prayed that on acceptance of this appeal, order dated 14.03.2018 passed by respondent No.2 may please be set-aside and appellant may please be reinstated in service with all back benefits.

Any other relief which this hon'ble court deems appropriate in the circumstances of the case though not specifically asked for may kindly also be granted.

Dated:

Appellant

Through

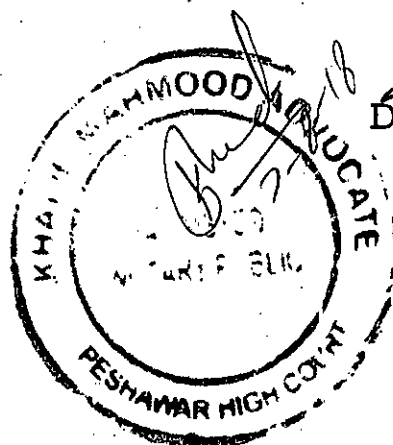
Amjad Ali (Madan)

Advocate

Supreme Court of Pakistan

AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing material has been concealed from this hon'ble Tribunal.



Deponent

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

4A  


Service Appeal No. \_\_\_\_\_/2018

Hidayat Shah.....Appellant

**VERSUS**

Senior Member Board of Revenue Khyber  
Pakhtunkhwa, Peshawar & others .....Respondents

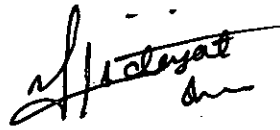
**ADDRESSES OF PARTIES**

**APPELLANT**

Hidayat Shah, Ex-Junior Clerk  
Commissioner Office, Mardan

**RESPONDENTS**

1. Senior Member Board of Revenue Khyber  
Pakhtunkhwa, Peshawar.
2. Commissioner, Mardan.
3. Govt. of Khyber Pakhtunkhwa through Secretary  
Revenue KP Civil Secretariat, Peshawar.



Appellant

Through

  
Amjad Ali (Mardan)  
Advocate

Supreme Court of Pakistan



Aux-A (5)

OFFICE OF THE COMMISSIONER MARDAN DIVISION, MARDAN.

ORDER

Consequent upon the recommendation of the Selection Committee Mr. Hidayat Shah s/o Zahir Shah r/o H.No.4 Daman-i-Koh PO Takht Bhai Mardan is offered employment against the temporary post of Junior Clerk (BPS-07) in Commissioner's office on the following terms and conditions: -

1. His/ services will be governed by Section-19 of the NWFP, Civil Servants Act, 1973 as amended vice NWFP Civil Servants (Amendment Act, 2005). He will be entitled to contributory Provident Fund in such manners and at such rates as prescribed by the government.
2. His services will be liable to termination on one-month notice from either side. In case of resignation without notice, his/her two months pay allowances shall be forfeited to the government.
3. He will be governed by such rules and regulations as may be issued from time to time by the government.
4. He will remain on probation for a period of one year extendable to another year in terms of Section -6 of the NWFP, Civil Servants Act, 1973 read with Section-15 (1) of the NWFP, Civil Servants (Appointment, Promotion and Transfer) Rules 1989. His services can be terminated any time in case his/her performance is found unsatisfactory during probation period. In case of misconduct, he shall be proceeded against under the NWFP Removal from Service (Special Powers) Ordinance, 2000 and the rules framed by the government from time to time.
5. The appointment offer is subject to verification of his/her academic documents from the concerned Board/University.
6. He shall be bound to accept his adjustment/absorption on any of the department/offices in Mardan Division as ordered by the Competent Authority.

Before joining the post he will have to provide (a) Medical Fitness Certificate from the Medical Superintendent, DHQ Hospital of his/her respective District of Domicile (b) Character Certificate from local Police Station (c) Attested photo copies of academic documents.

In case the above terms and conditions of appointment are acceptable, he is required to report his/her arrival in the office of the undersigned within seven (07) days of receipt of this letter, otherwise, the appointment would be considered cancelled.

-sd-  
Commissioner Mardan Division,  
Mardan.

No.02/01/EA/ACR/ 2452-54 Dated Mardan the 08/06/2009.

Copy forwarded to:-

- 1- District Accounts Officer Mardan.
- 2- PS to Commissioner Mardan Division Mardan.
- 3- Mr. Hidayat Shah s/o Zahir Shah r/o H.No.4 Daman-i-Koh PO Takht Bhai Mardan

*Amjad Ali*  
ADVOCATE  
SUPREME COURT

Assistant to Commissioner (Rev:),  
for Commissioner Mardan Division,  
Mardan.

401610



**OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN**

*Ann - B 374*  
*(6)*

Website: <http://sites.google.com/site/commissionerMardandivision>

Address: Opposite Town Hall,  
Near College Chowk Mardan

Phone: 0937-9230572-73

Fax: 0937-9230578

Email: [commissionermrd@yahoo.com](mailto:commissionermrd@yahoo.com)

No 199 /ACR/EA/2-10

Dated Mardan the 22/01/2018

To

Mr. Hidayat Shah (Junior Clerk)  
Commissioner Office Mardan.

Subject: Explanation

It has been noticed by the undersigned that you remained absent from your official duty on 09/12/15/18 January 2018 and on 19/01/2018 and marked your attendance in the Attendance Register of this office and then leave office without approval of the undersigned.

It has also been noticed that you are habitual absentee and not performing your official duty regularly.

You are hereby directed to explain the reasons of your absences.

Your reply should reach to the undersigned within 07 days failing which it should be inferred that you have nothing to say in your defense.

*[Signature]*  
Secretary to Commissioner  
Mardan Division Mardan

Copy forwarded to:

1- PS to Commissioner Mardan Division.

*Becky*  
*I dism...*  
*[Signature]*  
*27/1*

*[Signature]*  
ADVOCATE  
SUPREME COURT

*E-A*  
*Discussed*  
*Allen*  
**TESTED**

*[Signature]*

Ann-C

Secretary + Commissioner Mardan Division Mardan  
Subject: EXPLANATION LETTER NO 199/ACR/EA/2-10.  
Respected Madam,

(7)

It is stated with respect that I have some domestic problems at my home that's why I can't able to attend the office regularly. Next time I didn't disappoint you and regularly attend the office.

Yours Obediently

*[Signature]*

Hidayat Shah

J/C Commissioner office  
Mardan.

DATED: 24/01/2015.

**Amjad Ali**  
ADVOCATE  
SUPREME COURT

*[Signature]*  
**ATTESTED**  
*[Signature]*



**OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN**

Website: <http://sites.google.com/site/commissionerMardandivision>  
Address: Opposite Town Hall,  
Near College Chowk Mardan

Phone: 0937-9230572-73  
Fax: 0937-9230578  
Email: commissionermrd@yahoo.com

*Ann-D*  
*378*  
*(8)*

**Show Cause Notice**

I Mr. Zakir Hussain Afridi, Commissioner Mardan Division Mardan, as competent authority under the Khyber Pakhtunkhwa Govt Servants (Efficiency & Discipline) Rules 2011, do hereby serve you. Mr. Hidayat Shah Junior Clerk of this office, Mardan as follow:

- 1- Whereas, you remain absent from official duty without intimation on 09/12/15/18 January 2018 and on 19/01/2018 and marked your attendance in the Attendance Register of this office and left office without approval.
- 2- You are habitual absentee and not performing your official duty regularly as a number of explanations and show cause notices were issued to you by this office to improve your official duty but in vain. Therefore I am satisfied that your aforesaid acts fall with the preview of "Misconduct".
- 3- As a result thereof, I as competent authority have tentatively decided to impose upon you Major Penalty under Rule-IV of the said rules.
- 4- You are thereof, required to immediately attend the office and to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
- 5- If no reply to this notice is received within 07 days, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

*Amjad Ali*  
ADVOCATE  
SUPREME COURT

*Zakir Hussain Afridi*  
(Zakir Hussain Afridi)  
Commissioner

Mardan Division Mardan

Dated Mardan the 30/01/2018

No. 285 /ACR/EA/2-10/V-10

Copy forwarded to:-

- 1- PS to Commissioner Mardan Division.

*etc*  
*Amjad Ali*  
*(Signature)*

*Iram Naz*  
Iram Naz

Secretary to Commissioner  
Mardan Division Mardan.

Am-E

(9)

To  
The Commissioner,  
Mardan Division Mardan.

Subject : REPLY OF SHOW CAUSE NOTICE.

R/Sir

Please refer to your Show Cause Notice No. 285/ACR/EA/2-10/V-10 dated 30-01-2018 and my reply according to S.No is follow:

- 1- Due to some serious domestic problems at my home I was unable to come to the office on the dates mentioned at serial No.1.
- 2- Sir after that show causes and notices issued to me earlier, I come to the office regularly now and perform my official duty regularly. Except the dates mentioned in the show cause, you can also check the attendance register.
- 3- Sir I have only this job and have no other work to do or any source of income to fulfill my family requirements. Kindly give me a last chance and I will never disappoint you in the future and will perform my official duty regularly.

Yours obediently,

*Hidayat Shah*  
Hidayat Shah

J/Clerk,

Commissioner, Office Mardan.

Dated:31-01-2018

*Amjad Ali*  
ADVOCATE  
SUPREME COURT

*Amjad Ali*  
ATTENDED



*gistered*

*Aux-F*

*380*

**OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN**

Website: <http://sites.google.com/site/commissionerMardandivision>

Address: Opposite Town Hall,  
Near College Chowk Mardan

Phone: 0937-9230572-73

Fax: 0937-9230578

Email: [commissionermrd@yahoo.com](mailto:commissionermrd@yahoo.com)

*(10)*

No. 415 /ACR/EA/2-10

Dated Mardan the 20 /02 /2018.

To

Mr. Hidayat Shah, Junior Clerk,  
Commissioner Office Mardan.

Subject: Notice/Summon

You Mr. Hidayat Shah, Junior Clerk of this office is hereby directed to attend the office of Commissioner Mardan Division Mardan on 21-02-2018 at 10:00 AM for Personal Hearing about your absentees from official duty without prior permission.

*Ahmed*  
Secretary, to Commissioner  
Mardan Division, Mardan.

Copy forwarded to PS to Commissioner Mardan Division Mardan.

*dc*

**ATTESTED**  
*Ahmed Ali*  
ADVOCATE  
SUPREME COURT



OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

Website: <http://sites.google.com/site/commissionerMardandivision>  
Address: Opposite Town Hall,  
Near College Chowk Mardan

Phone: 0937-9230572-73  
Fax: 0937-9230578  
Email: commissionermrd@yahoo.com

No 507 /Sec/EA/2-10

Dated Mardan the 05 /03/2018.

To

Mr. Hidayat Shah (Junior Clerk)  
Commissioner Office Mardan.

Subject: **Notice/Summons.**

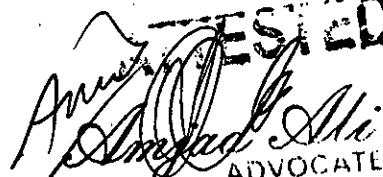
Memo:

I am directed to refer to this office letters no. 199/ACR/EA/2-10 dated 22/01/2018 (Explanation), vide letter no. 285/ACR/EA/2-10 dated 30/01/2018 (Show Cause) vide letter no. 415/ACR/EA/2-10 dated 20/02/2018 (Summon for personal hearing) on the subject noted above and to state that this office is hereby once again directed to attend the office of Commissioner Mardan Division on 09/03/2018 at 11:00 am for Personal Hearing about your absentees from official duty without prior permission.

  
Secretary to Commissioner  
Mardan Division Mardan.

Copy forwarded to:-

1- PS to Commissioner Mardan Division Mardan

  
ADVOCATE  
SUPREME COURT



Registered  
An H  
380  
12

**OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN**

Website: <http://sites.google.com/site/commissionerMardandivision>

Address: Opposite Town Hall,  
Near College Chowk Mardan

Phone: 0937-9230572-73

Fax: 0937-9230578

Email: commissionermrd@yahoo.com

**Office Order:**

Whereas, per report of this office Hidayt shah Junior Clerk BPS 11, was absent from official duty on 09, 12, 15 and 18 January 2018 without permission/prior approval.

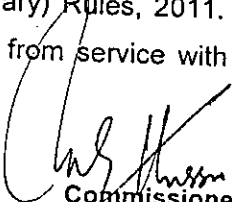
Whereas, upon the said report an explanation of the above mentioned official was called vide this office letter no. 199/ACR/EA/2-10 dated 22/01/2018. But the reply of said explanation was unsatisfactory.

Whereas, the competent authority under Rule, 5(b)(ii) dispensed with the inquiry as the said official has been absent from duty without prior approval of leave. A show cause notice vide letter, no. 285/ACR/EA/2-10 dated 30/01/2018 explaining grounds of proceedings against him was issued under Rule 7(b) of Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules, 2011. However no reply received.

Whereas, a notice/summon for personal hearing vide letter no. 415/ACR/EA/2-10 dated 20/02/2018 to show reason/cause for absence was sent at his home address, but the same was not served, hence another notice vide letter no. 507/Sec/EA/2-10 dated 05/03/2018 was sent which was received by the said official himself, but the accused official neither appeared before the undersigned, nor submitted any reply.

Hence, in the above circumstances and due to his previous record wherein number of explanations and warnings, vide office letter no. 1709/ACR/EA dated 18/06/2014, 1223/ACR/EA/2-10 dated 25/09/2017 and 1518/ACR/EA/2-10 dated 02/11/2017, were issued to him, but have no effect and in exercise of the power conferred upon me under rules 4 (b)(iii) read with rules-7 (f) of the Government of Khyber Pakhtunkhwa Civil Servant (Efficiency & Disciplinary) Rules, 2011. Official i.e. Hidayat Shah, Junior Clerk (BPS-11) is hereby removed from service with immediate effect.

olc

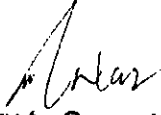
  
Commissioner  
Mardan Division Mardan

No 585 /Sec/EA/2-10

Copy forwarded to:-

- 1- The Senior Member Board of Revenue & Estate Department Khyber Pakhtunkhwa Peshawar.
- 2- Deputy Commissioner Mardan and Swabi.
- 3- District Comptroller of Accounts Mardan.
- 4- PS to Commissioner Mardan Division Mardan.
- 5- Official Concerned.

Dated Mardan the 14 /03/2018.

  
Secretary to Commissioner  
Mardan Division Mardan.

ADVOCATE  
SUPREME COURT



(13)

128 / SMM  
① Aux - I  
D/N 02637  
11/4/18

BEFORE SENIOR MEMBER BOARD OF REVENUE, KP, PESHAWAR

Hidayat Shah, Ex-Junior Clerk  
Commissioner Office, Mardan..... Appellant

Versus

Commissioner Mardan..... Respondent

Subject: Departmental Appeal against order dated 14.03.2018 received on 01.04.2014k through his own efforts wherein appellant has been removed from service which is illegal, against law and facts.

Prayer:

On acceptance of this appeal, <sup>renewal</sup> ~~renewal~~ order dated 14.03.2018 may please be set aside and appellant may please be reinstated in service with all back benefits. Any other relief which deems fit may also graciously be granted.

Sir,

Appellant humbly submits as under:

- 1) That appellant was appointed as Junior Clerk in the office of Commissioner Mardan vide order dated 08.06.2009. (Copy of appointment order dated 8.6.2009 is Annexure "A").
- 2) That appellant has performed 8 years service to the entire satisfaction of his superiors.
- 3) That an explanation No.199/ACR/EA/2-10 dated 22.01.2018 issued by Secretary to Commissioner was served upon appellant wherein it is alleged that appellant remained absent on 09.12.2018, <sup>15 and</sup> 18. January, 2018. (Copy of explanation dated 22.01.2018 is Annexure "B").

- 6  
(14)
- 4) That appellant filed reply on 24.01.208 to the same. (Copy of reply is Annexure "C").
  - 5) That show cause notice dated 30.01.2018 is issued. (Copy of show cause notice dated 30.01.2018 is Annexure "D").
  - 6) That appellant submitted reply dated 31.01.2018 that due to domestic problem, appellant could not attend office on 9.12.2015, <sup>and</sup> 18.01.2018 and submitted applications for leave. (Copy of reply dated 31.01.2018 is Annexure "E").
  - 7) That notice/ summon dated 20.02.2018 (Copy Annexure "F") and notice dated 05.03.2018 (copy Annexure "G") both issued by Secretary to Commissioner has not been served upon appellant.
  - 8) That appellant has been removed from service vide order dated 14.02.2018 (copy Annexure "H") which is illegal, against law and facts on the following grounds:

GROUND:

- A. Because the four days absence is due to domestic problem as his father was seriously sick and appellant submitted application as well as telephonically informed his colleagues in the office.
- B. Because for four days absense such a drastic punishment is uncalled for and not warranted in the facts and circumstances of the case.
- C. Because leave is available at the credit of appellant and the four days can be treated as casual leave as per law.
- D. Because the past record of appellant is clear and transparent.
- E. Because on the basis of past warning although not admitted, appellant cannot be removed from service, legally.
- F. Because past minor penalty cannot be the basis for major penalty as per law.

  
**ATTESTED**

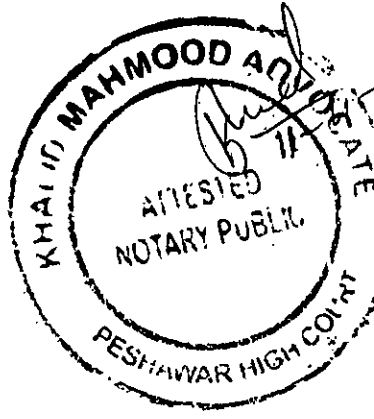
(9)  
(15)

- G. Because past minor penalty is not even a hurdle for promotion, what to say of ground for removal from service.
- H. Because there is no order for dispensation of regular inquiry.
- I. Because there is no charge sheet, statement of allegations for habitual absence, which is a glaring illegality.
- J. Because appellant putting on 8 years service cannot be removed with one stroke of pen.
- K. Because major penalty cannot be inflicted without regular inquiry as per consistent judgments of Hon'ble Supreme Court of Pakistan and Service Tribunal.
- L. Because neither the procedure in Rule 9-A nor 8-A nor habitual absence allegation is adopted.
- M. Because the habitual absence is a charge and not proved.
- N. Because appellant has been condemned unheard.

It is therefore, humbly requested that <sup>removal</sup> ~~renewal~~ order dated 14.03.2018 may please be set aside and appellant may please be reinstated in service with all back benefits. Any other relief which deems fit may also graciously be granted.

*Attested*

Appellant *Hidayat*  
 Through *[Signature]*  
 Amjad Ali (Mardan)  
 Advocate Supreme Court



Dated 10.04.2018

**AFFIDAVIT**

I, Hidayat Shah (appellant) do hereby affirm and declare on oath that the contents of appeal are true and correct to the best of my knowledge and belief.

*certificates*

*Hidayat* Deponent

*certified that no such appeal has been filed earlier and parties are alive.*

*Amjad Ali*

2018ء منجانب ایساف

7/8/2018

مورخہ:

مقدمہ:

دعویٰ:

جرم:

بنام:

ہیرا پتہ شاہ

حکومت

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

ان مقام کیلئے امجد علی ایڈووکیٹ سپریم کورٹ آف پاکستان امرٹ مردان

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ

بر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء وصولی چیک دروپہ عارضی دعویٰ اور درخواست ہر قسم کی تصدیق زاریں پر

دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگران، نظر ثانی و پیروی کرنے کا

اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختیار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ و جانہ

التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔

لہذا وکالت نامہ لکھ دیا کہ سنڈرھے۔

المرقوم:

7

2018ء

العبد

گواہ

العبد

بمقام کے لیے منظور ہے۔

Amjad Ali

Amjad Ali

ATTESTED

Hidayat

Amjad Ali

## Before Khyber Pakhtunkhwa Service Tribunal Peshawar

Mr. Hidayat Shah, Ex-Junior Clerk  
Commissioner Office Mardan.  
(Appellant)

Versus

- 1- Senior Member Board of Revenue Department Khyber Pakhtunkhwa Peshawar.
- 2- Commissioner Mardan Division.
- 3- Government of Khyber Pakhtunkhwa through Revenue KPK, Civil Secretariat Peshawar.

(Respondents)

Reply/Para Wise Comments Are as Under:

Preliminary Objects:

- 1- That the Appellant has got not cause of action.
- 2- The appeal is not maintainable in its present form.
- 3- The appellant has not come with clean hand to this honorable court.
- 4- That the appellant has no locus standi to file the appeal.
- 5- This honorable tribunal has no justification to entertain the instant appeal.
- 6- The appeal is badly time barred.

Reply of Facts:

- 1- Para-1 Correct.
- 2- Para-2 Incorrect. The appellant has performed 08 Years Service but not up to the satisfaction of his superiors.
- 3- Para-3 Incorrect. The appellant was found absent from duty on 09,12,15,18 January 2018 without any information and on 19 January 2018, the appellant marked his attendance in the Attendance/Register and left the office without any information or approval.
- 4- Para-4 Correct. The appellant submitted reply however, his reply was not found satisfactory as he is habitual absentee and various explanations, show cause Notices and Warning have been issued to him. (Copies Enclose as "A")
- 5- Para-5 Correct.
- 6- Para-6 Incorrect. The appellant submitted his written reply of the Show Cause Notice on 31/01/2018 and stated that he did not attended the office on mentioned dates due to some domestic problems. The appellant did not submit any written application for leave on the mentioned dates i.e. 09, 12, 15, 18 and on 19 January 2018.
- 7- Para-7 Incorrect. Notice/Summon dated 20/02/2018 was sent to his home address on registry no. 415/ACR dated 20/02/2018 (Copy Enclosed) by this office and


Notice/Summon dated 05/03/2018 was handed over to appellant by Mr. Shahid (Naib Qasid) of this office and was acknowledged by the appellant himself. The statement of Mr. Shahid (Naib Qasid) and Photocopy of receiving Notice/Summon are enclosed.

- 8- **Para-8 Incorrect.** As the appellant has been removed from Service vide order dated 14/03/2018. (Copy Attached).
- 9- **Para-9 Incorrect.** As the appellant has been submitted appeal before Senior Member Board of Revenue, Revenue & Estate Department Khyber Pakhtunkhwa on 10/04/2018, which was rejected. (Copy Attached).
- 10- **Para-10 Incorrect.** The Impugned order was issued after observing all codal formalities under E&D Rules.

**Grounds:**


- A- The appellant did not submit his written application nor his colleagues informed about his leave on mentioned dates and especially on 19/01/2018 he marked his attendance in Attendance Register of this Office and then left the office without any permission.
- B- The absentees of the appellant was not only 04 days but 35 days i.e 09/02/2018 to 14/03/2018 after submission of reply of Show Cause Notice, without any information which clearly shows that he is habitual, irresponsible and have lack of interest in his duty. Hence punishment given to the appellant due to his this irresponsible behavior.
- C- Although leave may be available at his credit but after issuance of Show Cause Notice dated 30/01/2018 and submission of reply dated 31/01/2018, the appellant was again absent w.e.f 09/02/2018 to 14/03/2018 i.e 35 Days without any information or leave. Hence the punishment was awarded to him due to his 04 days leave, 35 days leave plus due to non appearance before the competent authority for personal hearing although acknowledged the summon by self.
- D- Previous record of 08 Years Service of the appellant is available wherein, Explanations, Warnings and Minor Penalty have been imposed upon him.


**E&F** The Major Penalty of Removal from Service was imposed upon the appellant on the bases of absence from 09-12-15-18-19 January 2018 and continuous absence w.e.f 09/02/2018 to 13/03/2018 i.e. 35 Days without any approval, and non appearance before the competent authority for personal hearing.



- G- His previous record and current status lead to the punishment of Major Penalty as Minor Penalty has already imposed upon him vide letter no. 2443-49/DC(M)/PS dated 23/04/2013, but he have shown no improvement and have no effect.
- H- The competent authority dispensed the inquiry according to Rule-5 (B), (ii) of E&D Rules 2011, "where a Government Servant is or has been absent from duty without prior approval of leave" and the competent authority was satisfied that there is no need to hold inquiry as sufficient documentary evidence against the accused were available.
- I- The procedure to be adopted where inquiry is dispensed with is given under Rule-7 of E&D Rules 2011, which was followed in letter and spirit, and the appellant/accused was informed through Show Cause Notice vide letter no. 285/ACR/EA/2-10/V-10 dated 30/01/2018 and also an opportunity of personal hearing through Notice/Summon letter no. 415/ACR/EA/2-10 dated 20/02/2018 and Notice/Summon 507/Sec/EA/2-10 dated 05/03/2018 was provided to him, before passing order of Major Penalty.
- J- The appellant have 08 Years of Service but not up to the Satisfaction of the Superiors. The grounds for proceedings for imposing Major Penalty was followed as per Rule-3 (D) E&D Rules 2011 "Guilty of habitually absenting himself from duty without prior approval of Leave".
- K- Proper procedure was followed as per Rule-07 of E&D Rules 2011 and Penalty was imposed as per Rule-04 of E&D Rules 2011.
- L- No Comments.

  
Commissioner  
Mardan Division Mardan

  
Secretary-I  
BOR, KPK

  
SMBR  
Board of Revenue  
KPK, Peshawar



OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

Service appeal No.916/2018.

Mr. Hidayat Shah Ex Junior Clerk Commissioner Office  
Mardan. Appellant.

Versus

Senior Member Board of KPK Peshawar etc.  
Respondents.

INDEX

S.No.	Annexure	Description of documents.	Pages.
1-	Para-3	Attendance Register in which the appellant was absent.	9
2-	Para-6	Reply of Show Cause notice	12
3-	Para-7	Notice/Summon dated 20-02-2018.	13
4-	Para-8	Office order of the Removal from Service of Mr Hidayat Shah.	17
5-	J	Rule-3 (D) E&D Rules 2011.	21
6-	H	Rule-5(B),(ii) E&D Rules 2011.	22
7-	I	Rule-7 of E&D Rules 2011.	24
8-	G	Previous record of the appellant.	73-75





OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

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Near College Chowk Mardan

Phone: 0937-9230572-73

Fax: 0937-9230578

Email: [commissionermrd@yahoo.com](mailto:commissionermrd@yahoo.com)

No 199 /ACR/EA/2-10

Dated Mardan the 22 /01/2018

To

Mr. Hidayat Shah (Junior Clerk)  
Commissioner Office Mardan.

Subject: Explanation

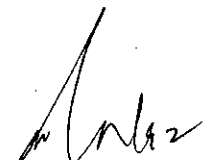
It has been noticed by the undersigned that you remained absent from your official duty on 09/12/15/18 January 2018 and on 19/01/2018 and marked your attendance in the Attendance Register of this office and then leave office without approval of the undersigned.

It has also been noticed that you are habitual absentee and not performing your official duty regularly.

You are hereby directed to explain the reasons of your absences.

Your reply should reach to the undersigned within 07 days failing which it should be inferred that you have nothing to say in your defense.

OLC

  
Secretary to Commissioner  
Mardan Division Mardan

Copy forwarded to:

1- PS to Commissioner Mardan Division.



# OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

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Phone: 0937-9230572-73

Fax: 0937-9230578

Email: [commissionermrd@yahoo.com](mailto:commissionermrd@yahoo.com)

No 199 /ACR/EA/2-10

Dated Mardan the 22/01/2018

To

Mr. Hidayat Shah (Junior Clerk)  
Commissioner Office Mardan.

Subject: Explanation

It has been noticed by the undersigned that you remained absent from your official duty on 09/12/15/18 January 2018 and on 19/01/2018 you marked your attendance in the Attendance Register of this office and then leave office without approval of the undersigned.

It has also been noticed that you are habitual absentee and not performing your official duty regularly.

You are hereby directed to explain the reasons of your absences.

Your reply should reach to the undersigned within 07 days failing which it should be inferred that you have nothing to say in your defense.

  
Secretary to Commissioner  
Mardan Division Mardan

Copy forwarded to:

1- PS to Commissioner Mardan Division.



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Fax: 0937-9230578

Email: [commissionermrd@yahoo.com](mailto:commissionermrd@yahoo.com)

No. 199 /ACR/EA/2-10

Dated Mardan the 22/01/2018

To

Mr. Hidayat Shah (Junior Clerk)  
Commissioner Office Mardan.


Subject: Explanation

It has been noticed by the undersigned that you remained absent from your official duty on **09/12/15/18 January 2018 and on 19/01/2018** and marked your attendance in the Attendance Register of this office and then leave office without approval of the undersigned.

It has also been noticed that you are habitual absentee and not performing your official duty regularly.

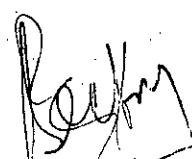
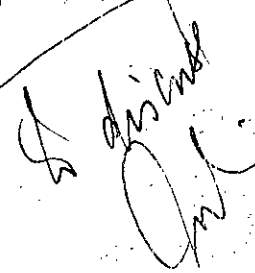
You are hereby directed to explain the reasons of your absences.

Your reply should reach to the undersigned within 07 days failing which it should be inferred that you have nothing to say in your defense.

  
Secretary to Commissioner  
Mardan Division Mardan

Copy forwarded to:

1- PS to Commissioner Mardan Division.

  
  
21/1

E-A  
Discussed

Secretary to Commissioner Maidan Division Maidan (4)  
Subj: EXPLANATION LETTER NO 199/ACR/EA/2-10.

Respected Madam,

It is stated with respect that I have some domestic problems at my home that's why I can't able to attend the office regularly. Next time I didn't disappoint you and regularly attend the office.

Yours Obediently  
~~Hidayat~~  
Hidayat Shah.  
J/C Commissioner offi  
Maidan.

DATED: 24/01/2018

E-A process as per  
~~with~~ rates.

24/01/18



No	Name	Address	Phone	Religion	Marital Status	Education	Occupation	Income	Assets	Liabilities	Notes
101	Umar Khan	...	...	...	...	...	...	...	...	...	...
102	Asghar Ali	...	...	...	...	...	...	...	...	...	...
103	Umar Khan	...	...	...	...	...	...	...	...	...	...
104	Umar Khan	...	...	...	...	...	...	...	...	...	...
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150	Umar Khan	...	...	...	...	...	...	...	...	...	...

December-2017











# OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

(10)  
277

Website: <http://sites.google.com/site/commissionerMardandivision>

Address: Opposite Town Hall,  
Near College Chowk Mardan

Phone: 0937-9230572-73

Fax: 0937-9230578

Email: [commissionermrd@yahoo.com](mailto:commissionermrd@yahoo.com)

## Show Cause Notice

I, Mr. Zakir Hussain Afridi, Commissioner Mardan Division Mardan, as competent authority under the Khyber Pakhtunkhwa Govt Servants (Efficiency & Discipline) Rules 2011, do hereby serve you. Mr. Hidayat Shah Junior Clerk of this office, Mardan as follow:

- 1- Whereas, you remain absent from official duty without intimation on **09/12/15/18 January 2018** and on **19/01/2018** and marked your attendance in the Attendance Register of this office and leave office without approval.
- 2- You are habitual absentee and not performing your official duty regularly as a number of explanations and show cause notices were issued to you by this office to improve your official duty but in vain. Therefore I am satisfied that your aforesaid acts fall with the preview of "Misconduct".
- 3- As a result thereof, I as competent authority have tentatively decided to impose upon you Major Penalty under Rule-IV of the said rules.
- 4- You are thereof, required to immediately attend the office and to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
- 5- If no reply to this notice is received within 07 days, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

*Hidayat Shah*

(Zakir Hussain Afridi)

Commissioner

Mardan Division Mardan

Dated Mardan the 30/01/2018

No. 285 /ACR/EA/2-10/IV-10

Copy forwarded to:-

- 1- PS to Commissioner Mardan Division.

Iram Naz

Secretary to Commissioner

Mardan Division Mardan.

97/1  
As a  
Notice for  
A. S. 61



# OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

Website: <http://sites.google.com/site/commissionerMardandivision>

Address: Opposite Town Hall,  
Near College Chowk Mardan

Phone: 0937-9230572-73

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- 5- If no reply to this notice is received within 07 days, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

(Zakir Hussain Afridi)

Commissioner

Mardan Division Mardan

Dated Mardan the 30/01/2018

No. 285 /ACR/EA/2-10/V-10

Copy forwarded to:-

- 1- PS to Commissioner Mardan Division.

576

Iram Naz

Secretary to Commissioner

Mardan Division Mardan.

91/1

As a notice for the  
A. 21/01

12

To

The Commissioner,  
Mardan Division Mardan.

Subject : REPLY OF SHOW CAUSE NOTICE.

R/Sir

Please refer to your Show Cause Notice No. 285/ACR/EA/2-10/V-10 dated 30-01-2018 and my reply according to S.No is follow:

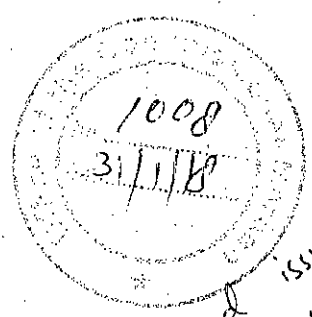
- 1- Due to some serious domestic problems at my home I was unable to come to the office on the dates mentioned at serial No:1.
- 2- Sir after that show causes and notices issued to me earlier, I come to the office regularly now and perform my official duty regularly. Except the dates mentioned in the show cause, you can also check the attendance register.
- 3- Sir I have only this job and have no other work to do or any source of income to fulfill my family requirements. Kindly give me a last chance and I will never disappoint you in the future and will perform my official duty regularly.

Yours obediently,  
*Hidayat Shah*  
Hidayat Shah

J/Clerk,  
Commissioner, Office Mardan.

Dated:31-01-2018

*Secy*  
*Business*  
*Chl*  
*31/1*



*E.A*  
*As discussed issue*  
*notice for personal hearing.*  
*Asst. Clk*





Registered

13A  
380

**OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN**

**Website:** <http://sites.google.com/site/commissionerMardandivision>

**Address:** Opposite Town Hall,  
Near College Chowk Mardan

**Phone:** 0937-9230572-73

**Fax:** 0937-9230578

**Email:** commissionermrd@yahoo.com

No. 415 /ACR/EA/2-10

Dated Mardan the 20 /02 /2018.

To

Mr. Hidayat Shah, Junior Clerk,  
Commissioner Office Mardan.

Subject: **Notice/Summon**

You Mr. Hidayat Shah, Junior Clerk of this office is hereby directed to attend the office of Commissioner Mardan Division Mardan on 21-02-2018 at 10:00 AM for Personal Hearing about your absentees from official duty without prior permission.

  
Secretary, to Commissioner  
Mardan Division, Mardan.

Copy forwarded to PS to Commissioner Mardan Division Mardan.

dc



OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

Website: <http://sites.google.com/site/commissionerMardandivision>

Address: Opposite Town Hall,  
Near College Chowk Mardan

Phone: 0937-9230572-73

Fax: 0937-9230578

Email: commissionermrd@yahoo.com

No. 507 /Sec/EA/2-10

Dated Mardan the 05 /03/2018.

To:

Mr. Hidayat Shah (Junior Clerk)  
Commissioner Office Mardan.

Subject: **Notice/Summon.**

Memo:

I am directed to refer to this office letters no. 199/ACR/EA/2-10 dated 22/01/2018 (Explanation), vide letter no. 285/ACR/EA/2-10 dated 30/01/2018 (Show Cause) vide letter no. 415/ACR/EA/2-10 dated 20/02/2018 (Summon for personal hearing) on the subject noted above and to state that this office is hereby once again directed to attend the office of Commissioner Mardan Division on 09/03/2018 at 11:00 am for Personal Hearing about your absences from official duty without prior permission.

  
Secretary to Commissioner  
Mardan Division Mardan.

Copy forwarded to:-

1- PS to Commissioner Mardan Division Mardan

*o/c*



OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

15  
287

Website: <http://sites.google.com/site/commissionerMardandivision>

Address: Opposite Town Hall,  
Near College Chowk Mardan

Phone: 0937-9230572-73

Fax: 0937-9230578

Email: [commissionermrd@yahoo.com](mailto:commissionermrd@yahoo.com)

No 507 /Sec/EA/2-10

Dated Mardan the 05 /03/2018.

To

Mr. Hidayat Shah (Junior Clerk)  
Commissioner Office Mardan.

Subject: **Notice/Summon.**

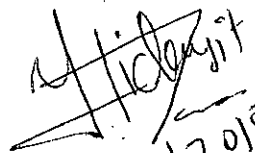
Memo:

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Secretary to Commissioner  
Mardan Division Mardan.

Copy forwarded to:-

1- PS to Commissioner Mardan Division Mardan

  
5/03/2018



میں شاہد خاتون N/Q کمشنر آفس حیدرآباد نے

بدریغ شاہ 1/3 کمشنر آفس کو خود اپنے

پاتھ سے Notice/Summan No. 507/Sec/EA/2-10 dt: 5/3/18

بتاریخ 05/3/18 کو آفس کے گھر پر دیا ہے

اور آفس نے خود اسے دستخط کر کے وہ

لے لیا۔

Shahid Khan  
5/3/18

شاہد خان N/Q

E.A

06/03/18



Registered  
OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

Website: <http://sites.google.com/site/commissionerMardandivision>  
Address: Opposite Town Hall, Near College Chowk Mardan  
Phone: 0937-9230572-73  
Fax: 0937-9230578  
Email: commissionermd@yahoo.com

**Office Order:**

Whereas, per report of this office Hidayt shah Junior Clerk BPS 11, was absent from official duty on 09, 12, 15 and 18 January 2018 without permission/prior approval.

Whereas, upon the said report an explanation of the above mentioned official was called vide this office letter no. 199/ACR/EA/2-10 dated 22/01/2018. But the reply of said explanation was unsatisfactory.

Whereas, the competent authority under Rule, 5(b)(ii) dispensed with the inquiry as the said official has been absent from duty without prior approval of leave. A show cause notice vide letter no. 285/ACR/EA/2-10 dated 30/01/2018 explaining grounds of proceedings against him was issued under Rule 7(b) of Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules, 2011. However no-reply received.

Whereas, a notice/summon for personal hearing vide letter no. 415/ACR/EA/2-10 dated 20/02/2018 to show reason/cause for absence was sent at his home address, but the same was not served, hence another notice vide letter no. 507/Sec/EA/2-10 dated 05/03/2018 was sent which was received by the said official himself, but the accused official neither appeared before the undersigned, nor submitted any reply.

Hence, in the above circumstances and due to his previous record wherein number of explanations and warnings, vide office letter no. 1709/ACR/EA dated 18/06/2014, 1223/ACR/EA/2-10 dated 25/09/2017 and 1518/ACR/EA/2-10 dated 02/11/2017, were issued to him, but have no effect and in exercise of the power conferred upon me under rules 4 (b)(iii) read with rules-7 (f) of the Government of Khyber Pakhtunkhwa Civil Servant (Efficiency & Disciplinary) Rules, 2011. Official i.e. Hidayat Shah, Junior Clerk (BPS-11) is hereby removed from service with immediate effect.

o/c


  
Commissioner  
Mardan Division Mardan

No 585 /Sec/EA/2-10

Dated Mardan the 14 /03/2018.

Copy forwarded to:-

- 1- The Senior Member Board of Revenue & Estate Department Khyber Pakhtunkhwa Peshawar.
- 2- Deputy Commissioner Mardan and Swabi.
- 3- District Comptroller of Accounts Mardan.
- 4- PS to Commissioner Mardan Division Mardan.
- 5- Official Concerned.

  
Secretary to Commissioner  
Mardan Division Mardan.

(18) ~~35~~

**GOVERNMENT OF THE KHYBER PAKHTUNKHWA**  
**ESTABLISHMENT AND ADMINISTRATION DEPARTMENT.**

**NOTIFICATION**

*Peshawar dated the 16<sup>th</sup> September, 2011.*

No.SO(REG-VI)E&AD/2-6/2010.-In exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Chief Minister of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:

1. **Short title, application and commencement.**---(1) These rules may be called the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

(2) These shall apply to every person who is a member of the civil service of the Province or is the holder of a civil post in connection with the affairs of the Province and shall also apply to or in relation to a person in temporary employment in the civil service or post in connection with affairs of the Province.

(3) These shall come into force at once.

2. **Definitions.**---(1) In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

- (a) "accused" means a person in Government service against whom action is initiated under these rules;
- (b) "appellate authority" means the authority next above the competent authority to which an appeal lies against the orders of the competent authority;
- (c) "appointing authority" means an authority declared or notified as such by an order of Government under the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) and the rules made thereunder or an authority as notified under the specific laws/rules of Government;
- (d) "charges" means allegations framed against the accused pertaining to acts of omission or commission cognizable under these rules;

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(e) "Chief Minister" means the Chief Minister of the Khyber Pakhtunkhwa;


(f) "competent authority" means-

- (i) the respective appointing authority;
- (ii) in relation to a Government servant of a tribunal or court functioning under Government, the appointing authority or the Chairman or presiding officer of such tribunal or court, as the case may be, authorized by the appointing authority to exercise the powers of the competent authority under these rules:

Provided that where two or more Government servants are to be proceeded against jointly, the competent authority in relation to the accused Government servant senior most shall be the competent authority in respect of all the accused.

(g) "corruption" means-

- (i) accepting or obtaining or offering any gratification or valuable thing, directly or indirectly, other than legal remuneration, as a reward for doing or for bearing to do any official act; or
- (ii) dishonestly or fraudulently misappropriating, or indulging in embezzlement or misusing Government property or resources; or
- (iii) entering into plea bargain under any law for the time being in force and returning the assets or gains acquired through corruption or corrupt practices voluntarily; or
- (iv) possession of pecuniary sources or property by a Government servant or any of his dependents or any other person, through his or on his behalf, which cannot be accounted for and which are disproportionate to his known sources of income; or
- (v) maintaining a standard of living beyond known sources of income; or
- (vi) having a reputation of being corrupt;

(20) 

- (h) "Governor" means the Governor of the Khyber Pakhtunkhwa;
- (i) "inefficiency" means failure to efficiently perform functions assigned to a Government servant in the discharge of his duties;
- (j) "inquiry committee" means a committee of two or more officers, headed by a convener, as may be appointed by the competent authority under these rules;
- (k) "inquiry officer" means an officer appointed by the competent authority under these rules;
- (l) "*misconduct*" includes-
  - (i) conduct prejudicial to good order or service discipline; or
  - (ii) conduct contrary to the Khyber Pakhtunkhwa Province Government Servants (Conduct) Rules, 1987, for the time being in force; or
  - (iii) conduct unbecoming of Government servant and a gentleman; or
  - (iv) involvement or participation for gains, directly or indirectly, in industry, trade, or speculative transactions by abuse or misuse of official position to gain undue advantage or assumption of such financial or other obligations in relation to private institutions or persons as may compromise the performance of official duties or functions; or
  - (v) any act to bring or attempt to bring outside influence, directly or indirectly, to bear on the Governor, the Chief Minister, a Minister or any other Government officer in respect of any matter relating to the appointment, promotion, transfer or other conditions of service; or
  - (vi) making appointment or promotion or having been appointed or promoted on extraneous grounds in violation of any law or rules; or
  - (vii) conviction for a moral offence by a court of law.

(2) Words and expressions used but not defined in these rules shall have the same meanings as are assigned to them in the Khyber Pakhtunkhwa Province Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) or any other statutory order or rules of Government for the time being in force.

3. Grounds for proceedings.---A Government servant shall be liable to be proceeded against under these rules, if he is-

- (a) inefficient or has ceased to be efficient for any reason; or
- (b) guilty of misconduct; or
- (c) guilty of corruption; or
- (d) guilty of habitually absenting himself from duty without prior approval of leave; or
- (e) engaged or is reasonably believed to be engaged in subversive activities, or is reasonably believed to be associated with others engaged in subversive activities, or is guilty of disclosure of official secrets to any un-authorized person, and his retention in service is prejudicial to national security; or
- (f) entered into plea bargaining under any law for the time being in force and has returned the assets or gains acquired through corruption or corrupt practices voluntarily.

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

(a) Minor penalties:

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

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

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

(b) Major penalties:

- (i) reduction to a lower post or pay scale or to a lower stage in a time scale.

- (ii) compulsory retirement;
- (iii) removal from service; and ✓
- (iv) dismissal from service.

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

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

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

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

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

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

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

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

Office of  
Director  
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in the  
of

- (i) a Government servant has been convicted of any offence other than corruption by a court of law under any law for the time being in force; or
- (ii) a Government servant is or has been absent from duty without prior approval of leave:

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

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

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

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

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

- (a) inform the accused by an order in writing, of the grounds for proceeding against him, clearly specifying the charges therein, alongwith apportionment of responsibility and penalty or penalties proposed to be imposed upon him;
- (b) give him a reasonable opportunity of showing cause against the proposed action, within seven days of receipt of the order or within such extended period, as the competent authority may determine;
- (c) on receipt of reply of the accused within the stipulated period or after the expiry thereof, if no reply is received, determine whether



the charge or charges have been proved against the accused or not:

Provided that after receipt of reply to the show cause notice from the accused, the competent authority, except where the Chief Minister himself is the competent authority, shall decide the case within a period of ninety days, excluding the time during which the post held by the competent authority remained vacant due to certain reasons:

Provided further that if the case is not decided by the competent authority within the prescribed period of ninety days, the accused may file an application before the appellate authority for early decision of his case, which may direct the competent authority to decide the case within a specified period;

(d) afford an opportunity of personal hearing before passing any order of penalty under clause (f), if it is determined that the charge or charges have been proved against him;

(e) exonerate the accused, by an order in writing, if it is determined that the charge or charges have not been proved against him; and

(f) impose any one or more penalties mentioned in rule 4, by an order in writing, if the charge or charges are proved against the accused:

Provided that where charge or charges of grave corruption are proved against an accused, the penalty of dismissal from service shall be imposed, in addition to the penalty of recovery, if any.

8. Action in case of conviction or plea bargain under any law.---Where a Government servant is convicted by a court of law on charges of corruption or moral turpitude or has entered into plea bargain and has returned the assets or gains acquired through corruption or corrupt practices, or has been acquitted by a court of law as a result of compounding of an offence involving moral turpitude under any law for the time being in force, the competent authority, after examining facts of the case, shall-

(a) dismiss the Government servant where he has been convicted on charges of corruption or moral turpitude or has entered into plea bargain and has returned the assets or gains acquired through corruption or corrupt practices voluntarily:

Provided that dismissal in these cases shall be with immediate effect from the date of conviction by a court of law; and

- (25) 584
- (b) proceed against the Government servant under rule 5, where he has been convicted of charges other than corruption or moral turpitude.

9. Procedure in case of wilful absence.---Notwithstanding anything to the contrary contained in these rules, in case of wilful absence from duty by a Government servant for seven or more days, a notice shall be issued by the competent authority through registered acknowledgement on his home address directing him to resume duty within fifteen days of issuance of the notice. If the same is received back as undelivered or no response is received from the absentee within stipulated time, a notice shall be published in at least two leading newspapers directing him to resume duty within fifteen days of the publication of that notice, failing which an ex-parte decision shall be taken against the absentee. On expiry of the stipulated period given in the notice, major penalty of removal from service may be imposed upon such Government servant.

10. Procedure to be followed by competent authority where inquiry is necessary.---(1) If the competent authority decides that it is necessary to hold an inquiry against the accused under rule 5, it shall pass an order of inquiry in writing, which shall include-

- (a) appointment of an inquiry officer or an inquiry committee, provided that the inquiry officer or the inquiry committee, as the case may be, shall be of a rank senior to the accused and where two or more accused are proceeded against jointly, the inquiry officer or the convener of the inquiry committee shall be of a rank senior to the senior most accused;
- (b) the grounds for proceeding, clearly specifying the charges along with apportionment of responsibility;
- (c) appointment of the departmental representative by designation; and
- (d) direction to the accused to submit written defense to the inquiry officer or the inquiry committee, as the case may be, within reasonable time which shall not be less than seven days and more than fifteen days of the date of receipt of orders.

(2) The record of the case and the list of witnesses, if any, shall be communicated to the inquiry officer or the inquiry committee, as the case may be, along with the orders of inquiry.

(3) In a case where preliminary or fact finding inquiry was conducted, and the competent authority decides to hold formal inquiry, the inquiry officer or the inquiry committee for the purpose of conducting formal inquiry shall be different from the inquiry officer or the inquiry committee which conducted the preliminary inquiry.

11. Procedure to be followed by inquiry officer or inquiry committee.---(1) On receipt of reply of the accused or on expiry of the stipulated period, if no reply is received from the accused, the inquiry officer or the inquiry committee, as the case may be, shall inquire into the charges and may examine such oral or documentary evidence in support of the charges or in defense of the accused as may be considered necessary and where any witness is produced by one party, the other party shall be entitled to cross-examine such witness.

(2) If the accused fails to furnish his reply within the stipulated period, the inquiry officer or the inquiry committee, as the case may be, shall proceed with the inquiry ex-parte.

(3) The inquiry officer or the inquiry committee, as the case may be, shall hear the case on day to day and no adjournment shall be given except for reasons to be recorded in writing, in which case it shall not be of more than seven days.

(4) Statements of witnesses and departmental representative(s), if possible, will be recorded in the presence of accused and vice versa.

(5) Where the inquiry officer or the inquiry committee, as the case may be, is satisfied that the accused is hampering or attempting to hamper the progress of the inquiry, he or it shall administer a warning and if, thereafter, he or it is satisfied that the accused is acting in disregard to the warning, he or it shall record a finding to that effect and proceed to complete the inquiry in such manner as may be deemed expedient in the interest of justice.

(6) If the accused absents himself from the inquiry on medical grounds, he shall be deemed to have hampered or attempted to hamper the progress of the inquiry, unless medical leave, applied for by him, is sanctioned on the recommendations of a Medical Board; provided that the competent authority may, in its discretion, sanction medical leave up to seven days without such recommendations.

(7) The inquiry officer or the inquiry committee, as the case may be; shall submit his or its report, to the competent authority within thirty days of the initiation of inquiry:

Provided that the inquiry shall not be vitiated merely on the grounds of non-observance of the time schedule for completion of the inquiry.

12. Powers of the inquiry officer or inquiry committee.---(1) For the purpose of an inquiry under these rules, the inquiry officer or the inquiry committee, as the case may be, shall have the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908 (Act No. V of 1908), in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of any person and examining him on oath;

(27) 28/10 25/10

- (b) requiring the discovery and production of documents, and receiving evidence on affidavits; and
- (c) issuing commissions for the examination of witnesses or documents.

(2) The proceedings under these rules shall be deemed to be the judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

**13. Duties of the departmental representative.**---The departmental representative shall perform the following duties, namely:

- (a) render full assistance to the inquiry officer or the inquiry committee, as the case may be, during the proceedings where he shall be personally present and fully prepared with all the relevant record relating to the case, on each date of hearing;
- (b) cross-examine the witnesses produced by the accused, and with the permission of the inquiry officer or inquiry committee, as the case may be, may also cross-examine the prosecution witnesses; and
- (c) rebut the grounds of defense offered by the accused before the inquiry officer or the inquiry committee, as the case may be.

**14. Order to be passed on receipt of report from the inquiry officer or inquiry committee.**---(1) On receipt of report from the inquiry officer or inquiry committee, as the case may be, the competent authority, shall examine the report and the relevant case material and determine whether the inquiry has been conducted in accordance with the provisions of these rules.

(2) If the competent authority is satisfied that the inquiry has been conducted in accordance with the provisions of these rules, it shall further determine whether the charge or charges have been proved against the accused or not.

(3) Where the charge or charges have not been proved, the competent authority shall exonerate the accused by an order in writing, or it shall follow the procedure as given in sub-rule (6) of this rule.

(4) Where the charge or charges have been proved against the accused, the competent authority shall issue a show cause notice to the accused by which it shall-

- (a) Inform him of the charges proved against him and the penalty or penalties proposed to be imposed upon him;

- (b) give him reasonable opportunity of showing cause against the penalty or penalties proposed to be imposed upon him and to submit as to why one or more of the penalties as provided in rule 4 may not be imposed upon him and to submit additional defense in writing, if any, within a period which shall not be less than seven days and more than fifteen days from the day the charge or charges have been communicated to him: provided that the accused shall, in his reply to show cause notice, indicate as to whether he wants to be heard in person or not;
- (c) Provide a copy of the inquiry report to the accused; and
- (d) Direct the departmental representative to appear, with all the relevant record, on the date of hearing.

(5) After affording personal hearing to the accused the competent authority shall, keeping in view the findings and recommendations of the inquiry officer or inquiry committee, as the case may be, facts of the case and defense offered by the accused during personal hearing, by an order in writing-


- (i) Exonerate the accused if charges had not been proved; or
- (ii) Impose any one or more of the penalties specified in rule 4 if charges have been proved.

(6) Where the competent authority is satisfied that the inquiry proceedings have not been conducted in accordance with the provisions of these rules or the facts and merits of the case have been ignored or there are other sufficient grounds, it may, after recording reasons in writing, either remand the inquiry to the inquiry officer or the inquiry committee, as the case may be, with such directions as the competent authority may like to give, or may order a de novo inquiry through different inquiry officer or inquiry committee.

(7) After receipt of reply to the show cause notice and affording opportunity of personal hearing, the competent authority shall decide the case within a period of fifteen days, excluding the time during which the post held by the competent authority remained vacant due to certain reasons.

(8) If the case is not decided by the competent authority within the prescribed period of fifteen days, the accused may submit an application before the appellate authority for early decision of his case, which may direct the competent authority to decide the case within a specified period.

15. Personal hearing.---The competent authority may, by an order in writing, call the accused and the departmental representative, alongwith relevant record of the case, to appear before him, for personal hearing on the fixed date and time.

(29) 

16. Procedure of inquiry against Government servant lent to other governments or organizations etc.---(1) Where the services of Government servant to whom these rules apply are transferred or lent to any other government department, corporation, corporate body, autonomous body, authority, statutory body or any other organization or institution, hereinafter referred to as the borrowing organization, the competent authority for the post against which such Government servant is posted in the borrowing organization may-

- (a) Suspend him under rule 6; and
- (b) Initiate proceedings against him/her under these rules:

Provided that the borrowing organization shall forthwith inform the authority which has lent his services, (hereinafter referred to as the lending organization) of the circumstances leading to the order of his suspension or the initiation of the proceedings, as the case may be:

Provided further that the borrowing organization shall obtain prior approval of the competent authority in the lending organization before taking any action under these rules against a Government servant holding a post in basic pay scale 17 of above.

(2) If, in the light of findings of the proceedings taken against the accused in terms of sub rule (1), the borrowing organization is of the opinion that a penalty may have to be imposed on him, it shall transmit the record of the proceedings to the lending organization, and the competent authority in the lending organization shall thereupon take action against the accused under rule 14.

(3) Notwithstanding anything to the contrary contained in sub-rules (1) and (2), the Chief Minister may, in respect of certain Government servant or class of Government servants to whom these rules apply, authorize any officer or authority in the borrowing organization to exercise all the powers of the competent authority under these rules.

17. Departmental appeal and review.---(1) An accused who has been awarded any penalty under these rules may, within thirty days from the date of communication of the order, prefer departmental appeal to the appellate authority:

Provided that where the order has been passed by the Chief Minister, the accused may, within the aforesaid period, submit a review petition directly to the Chief Minister.

(2) The authority empowered under sub-rule (1) shall call for the record of the case and comments on the points raised in the appeal from the concerned

(30) ~~388~~

department or office, and on consideration of the appeal or the review petition, as the case may be, by an order in writing-

- (a) Uphold the order of penalty and reject the appeal or review petition; or
- (b) Set aside the orders and exonerate the accused; or
- (c) Modify the orders or reduce the penalty.

(3) An appeal or review petition preferred under these rules shall be made in the form of a petition, in writing, and shall set forth concisely the grounds of objection in impugned order in a proper and temperate language.

18. **Appearance of counsel.**---No party to any proceedings under these rules at any stage of the proceedings, except proceedings under rule 19, shall be represented by an advocate.

19. **Appeal before Khyber Pakhtunkhwa Province Service Tribunal.**---(1) Notwithstanding anything contained in any other law or rules for the time being in force, any Government servant aggrieved by any final order passed under rule 17 may, within thirty days from the date of communication of the order, prefer an appeal to the Khyber Pakhtunkhwa Province Service Tribunal established under the Khyber Pakhtunkhwa Province Service Tribunals Act, 1974 (Khyber Pakhtunkhwa Act No. 1 of 1974).

(2) If a decision on a departmental appeal or review petition, as the case may be, filed under rule 17 is not communicated within a period of sixty days of filing thereof, the affected Government servant may file an appeal in the Khyber Pakhtunkhwa Province Service Tribunal within a period of thirty days of the expiry of the aforesaid period, whereafter, the authority with whom the departmental appeal or review petition is pending, shall not take any further action.

20. **Exception.**---Notwithstanding anything to the contrary contained in these rules, in cases where Government servants collectively strike work, wilfully absent themselves from duty or abandon their official work, the competent authority in respect of the senior most accused may serve upon them, through newspapers or any other mean, such notice as may be deemed appropriate to resume duty and in the event of failure or refusal to comply with the directive contained in the notice, impose upon the defaulting Government servants any of the major penalties prescribed in these rules.

21. **Indemnity.**---No suit, prosecution or other legal proceedings shall lie against the competent authority or any other authority for anything done or intended to be done in good faith under these rules or the instructions or directions made or issued there-under.

(3)

22. **Jurisdiction barred.**---Save as provided under these rules, no order made or proceedings taken under these rules shall be called in question in any court and no injunction shall be granted by any court in respect of any decision so made or proceedings taken in pursuance of any power conferred by, or under these rules.

23. **Repeal.**---(1) The Khyber Pakhtunkhwa government servants (Efficiency & Discipline) Rules, 1973 are hereby repealed.

(2) Notwithstanding the repeal of the aforesaid rules, all proceedings pending immediately before the commencement of these rules against any Government servant under repealed rules shall continue under these rules.

(3) Notwithstanding the repeal of the aforesaid rules, all proceedings pending immediately before the commencement of these rules against any employee under the said repealed rules or under the Khyber Pakhtunkhwa Civil Servants Act, 1973 and rules made thereunder, or any other law and rules shall continue under that law and rules, in the manner provided thereunder.

**SECRETARY TO  
GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT.**



(32)

*[Handwritten Signature]*

**GOVERNMENT OF THE KHYBER PAKHTUNKHWA**  
**ESTABLISHMENT AND ADMINISTRATION DEPARTMENT.**

**NOTIFICATION**

*Peshawar dated the 18<sup>th</sup> July, 2012.*

No.SO(REG-VI)E&AD/2-6/2010.-In exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Chief Minister of the Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa (Efficiency & Discipline) Rules,2011, the following amendments shall be made, namely:

**AMENDMENTS**

1. In rule 4,in sub rule (1), in clause (b), for sub-clause (i), the following shall be substituted, namely:

“(i) reduction to a lower post of pay scale or to a lower stage in a time scale for a maximum period of five years:

Provided that on restoration to original pay scale or post, the penalized Government servant will be placed below his erstwhile juniors promoted to higher posts during subsistence of the period of penalty;”.

2. In rule 8, in clause (a), in the proviso, the word “immediate Committee”, occurring second time, the words “subject to sub-rule (7) of rule 11” shall be added.

3. In rule 14, in sub-rule (6), after the words “Inquiry Committee”, occurring second time, the words “subject to sub-rule (7) of rule 11” shall be added.

4. In rule 19, in sub-rule (2), for the word “thirty”, the word “ninety” shall be substituted.

5. Rule 22 shall be deleted.

**CHIEF SECRETARY**  
**GOVERNMENT OF KHYBER PAKHTUNKHWA**

CHARGE SHEET.

Whereas you, Mr. Hidayat Shah, Junior Clerk/accused official of this office, while discharging your official duties have been reported for gross negligence as under:-

1. That you were detailed with Chairman, District Dev: Advisory Committee Mardan (DDAC) for official duties for a specific period and likely to report back after completion of tenure.
2. And whereas it has been observed with concern that soon after abolition of the post of Chairman (DDAC), you were obviously required to immediately report for duty to your parent office i.e Commissioner Office Mardan.
3. And whereas it has been learnt through reliable sources and available material on record that you have actively participated in political activities in election campaign in favour of a candidate contesting Provincial Election 2013.
4. And whereas, the above acts on your part being a government servant, is strictly against the norms and rules as defined in the Civil Servants (Efficiency & Disciplinary) Rules 2011 and amounts to misconduct.

Now therefore I, Commissioner Mardan Division, Mardan (Authority) in exercise of the power under rule-3 (b) as contained in Government of Khyber Pakhtunkhwa, Civil Servant (Efficiency & disciplinary) Rules 2011 direct you Mr. Hidayat Shah Junior Clerk (accused official) to reply within 07 days, as to why you should not be proceeded against under the E&D Rules 2011 on account of your inefficiency/misconduct, which entails major penalty.

You may state as to whether you wish to be heard in person.

2-26  
Commissioner,  
Mardan Division, Mardan  
(Authority)

Dated Mardan, the 06/07/2013.

No. 2141 /PF/Hidayat Shah

Copy along with statement of allegations in duplicate forwarded to Mr. Khalid Iqbal, Assistant to Commissioner (Dev), Mardan Division, Mardan, to conduct inquiry within the stipulated period. One copy of charge sheet along with statement of allegation shall be handed over to the accused official against proper receipt as token. Findings of the inquiry along with comments of the inquiry officer should reach this office within 14 days positively.

Assistant to Commissioner (Rev)  
Mardan Division, Mardan.

(34) 11/6/11  
[Signature]

STATEMENT OF ALLEGATIONS

Mr. Hidayat Shah Junior Clerk of Commissioner Office Mardan has been reported for indulging in political activities and election campaign in favour of a provincial candidate.

The accused official instead of joining his duties in Commissioner Office Mardan soon after the abolition of the office and post of Chairman DDAC Mardan failed to resume his routine duties.

That the above acts on the part of Mr. Hidayat Shah Junior Clerk of this office is against the good order of service discipline and therefore liable to be proceeded under the E&D Rules 2011

[Signature]  
Commissioner,  
Mardan Division, Mardan.



OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

428/166  
35

Website: <http://sites.google.com/site/commissionermardandivision>  
Address: Opposite Town Hall,  
Near College Chowk Mardan

Phone: 0937-9230572-73  
Fax: 0937-9230578  
Email: [commissionermrd@yahoo.com](mailto:commissionermrd@yahoo.com)

Dated Mardan the 07/08/2013.

NO. 2167 /EA/ACR

To,

Mr. Hidayat Shah  
Junior Clerk,  
Ward No. 4 Near Dar-ul-uloom Madrassa,  
Takht Bhai

Subject:- EXPLANATION

Consequent upon expiry of your earned leave, the undersigned found you absent on 6<sup>th</sup> and 7<sup>th</sup> August 2013 without any intimation/approval.

You are therefore hereby directed to explain as to why you should not be proceeded against E&D Rules, 2011.

Your reply should be reached to the undersigned within 07 days failing which it would be inferred that you have nothing to say in your defence.

*Qasim Wani*  
Assistant to Commissioner (Rev.),  
Mardan Division, Mardan.

Cc

PS to Commissioner, Mardan Division, Mardan.

2-10

38  
167  
10/5

OFFICE OF THE  
DEPUTY COMMISSIONER MARDAN.  
No. 1948 /DC(M)/EA-10  
Dated Mardan the 23/7/2015

To

The Assistant to Commissioner (Rev)  
Mardan Division Mardan.

Subject: Disciplinary Proceeding Against Hidayat Shah Junior Clerk.

Memo:-

Please refer to the subject noted above and to state that the above official is absent from duty w.e.f. 13.5.2015 with out permission of the Competent Authority which tantamount to gross negligence and misconduct under (E&D) rules 2011.

In this regard explanation was called from the above official and the official concerned sent his reply through FAX. As the official is permanent employee of your office, therefore explanation along with his reply in original are sent herewith for further proceeding against him under (E&D) Rules 2011 at your end please.

Encls: (Five)

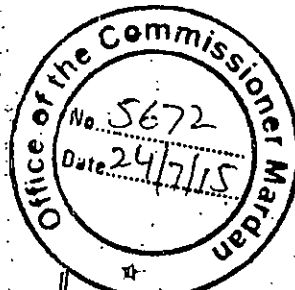
  
Deputy Commissioner  
Mardan.

EA

see

Give him a show  
Cause Notice on the above allegations.

see  
24/7.



prescribed by the Insurance Act, 1973. The special conditions and restrictions as prescribed in the case of insured persons, unless they are also insured, are also insured. The special conditions and restrictions as prescribed in the case of insured persons, unless they are also insured, are also insured.

37

OFFICE OF THE  
DEPUTY COMMISSIONER  
MARDAN.  
No 1383 /DC(M)/EA-10.  
Dated 8/1/15 /2015.

To,

Mr, Hidayat Ullah Shah  
Junior Clerk Dairy & Dispatch Branch.  
Deputy Commissioner Office  
Mardan.

Subject: EXPLANATION

Memo:

As per report of In charge Dairy & Dispatch branch DC Office Mardan, you are absent from duty w.e.f.13-05-2015 with out permission of the competent authority which tantamount to gross negligence and misconduct and liable you to major/minor punishment under (E&D) Rules 2011.

You are therefore, directed to explain your position within a week time positively, otherwise strict disciplinary action will be taken against you under the above mentioned rules.

Deputy Commissioner  
Mardan

5/2/15



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OFFICE

COMMISSIONER MARDAN DIVISION MARDAN

40

40

Website: <http://sites.google.com/site/commissionerMardandivision>

Address: Opposite Town Hall,  
Near College Chowk Mardan

Phone: 0937-9230572-73

Fax: 0937-9230578

Email: commissionermrd@yahoo.com

NO. 2046 /EA/ACR

Dated Mardan the 29/07/2013.

To,


Mr. Hidayat Shah  
Junior Clerk,  
Ward No.4 Near Dar-ul-uloom Madrassa,  
Takht Bhai

Subject:- EXPLANATION.

During surprise checking of attendance register, the undersigned found you absent from 22/07/2013 to 29/07/2013 without any earned casual leave.

You are therefore hereby directed to explain as to why you should not be proceeded against E&D Rules.

Your reply should reach the undersigned within 03 days failing which it would be inferred that you have nothing to say in your defence.

  
Assistant to Commissioner (Rev),  
Mardan Division, Mardan.

Cc

PS to Commissioner, Mardan Division, Mardan.

کوالہ ایک سیلشن نمبر ACR/2046EA/ACR مجاریہ جناب ACR  
محروم خدمت ہوں کہ جس جناب کوشنر صاحب آفیس دوران میں  
محنت ڈیپٹی کلرک ڈیوٹی سرخام کے رہا ہوں۔

حوزه 22/7 کو حسب ضرورت 3 یوم رخصت حاصل کی  
2013

حوزه 24/13 کو رات کے وقت حیر کے دس جناب سنیہ علیا دود  
لاحق ہو کر دود کار حجان اتنا شدید تھا کہ بے سوچی کے عالم میں  
سرور ان ازم نے بعض انداز حوالہ کئی روپوں سہلہ سنیہ علیا گیا  
جہاں پر ڈاکٹر اور نازیب صاحبہ سید مکمل سہلہ علیا کے بعد تسخیر

ادویات جو لڑ کر کے پتھل کرنے کی بدلیت کی اور ساتھ ہی حوزہ  
24/13 سے (15) یوم مکمل سڈر لٹ آرام کرنے کی تلقین دی

چونکہ میں سرکاری ملازم نوکے کے ناٹے ڈاکٹری لٹریچر عموماً سید مکمل لیت  
کاغذات بدلتے چھایا ام استفیہ یا جان جناب PA صاحب کو بھجوا یا  
جناب وائس مان نے یہی دستاویزات چھایا ام سے وصول کیا ہے

جناب عالی

اندریں بارہ دن قصور ہوں۔ تاہم زمانہ کی بابرکت ہمنہ ہے  
جس آیت بھی مجاز ہوں۔ سید مکمل سڈر لٹ حوزه 24/13 سے  
منظور فرما کر کے ایسی سیشن بلبر کاروائی داخل دفتر فرماوئی جاوے

FA  
ce  
31.7

الغایہ  
حوزہ 24/13 جوئے کلرک (ڈیپٹی کلرک) آفس جناب

(92)

~~10/10~~

#



Medical No. 2

Rs. 5/-

OUT-PATIENTS DEPT.

NAME: *Hyderat Shah*  
YEARLY NO. 2097  
DATE:

FACE VALUE RUPEES 5/-

No.

Rs. 5/-

OUT-PATIENTS DEPT.

NAME: *Hyderat Shah*  
YEARLY NO. 2097  
DATE: 24/07/2013  
DISEASE: R.R.C

FACE VALUE RUPEES 5/-

*It is to certify that  
Mr. Hyderat Shah is suffering  
from R. Acute Colic. He is  
advised complete bed rest and  
to take leave for 15 days from 24/7/2013*

DR. AMRAN ZEB  
MBBS, MPH  
Public Health Specialist  
SMD RHC Tarni Sharif

43

To,

The Commissioner  
Mardan division  
Mardan,

Subject: Application for Leave

Respected Sir

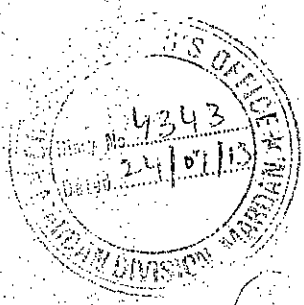
With due respect, it is stated that I have got severe pain in my right kidney, for which Doctor advise me to take complete bed rest. So it is requested to kindly allow me to take complete bed rest for 15 days. Doctor prescription letter is attached with the application.

I shall be very thankful to you for this act of kindness.

Yours Obediently  
Hidayat Shah

Commissioner Office Mardan

Dated: 22/07/2013



EA — Medical Board is required  
Hence Rejected  
The Concerned Assistant has been Rejected.  
Ask him to join the duty immediately

44



OFFICE OF THE DEPUTY COMMISSIONER  
MARDAN  
No. 2443-49 DC(M)/PS / EA  
Dated Mardan the 23/04/2013

**OFFICE ORDER:**

Whereas it has been reported that Hidayat Shah Junior Clerk/ accused official previously attached to Commissioner Office Mardan and detailed to Chairman District Development Advisory Committee (DDAC) was required to report to the office of the Deputy Commissioner Mardan after the abolition of Chairman DDAC but he absented himself from his duties without any intimation or information.

Now it has been reported that Hidayat Shah Junior Clerk / accused official is involved in political activities which is clear from the stickers affixed at various places some of the copies of which are attached.

Whereas the above said acts of the accused official Hidayat Shah Junior Clerk comes within the meaning of misconduct and against the Khyber Pakhtunkhwa Government Servants (E&R) Rules and therefore he is liable to be proceeded upon under the rules therein.

Now therefore I, Ghulam Habib Deputy Commissioner Mardan in exercise of conferred powers upon me under the E&D Rules hereby suspend him from his services with immediate effect and appoint Assistant Commissioner Swabi to probe into the allegation leveled against Hidayat Shah Junior Clerk / accused official and submit his report to the undersigned within 10 days.

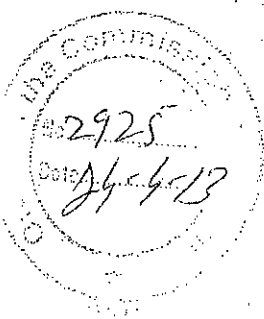
*Handwritten signature/initials*

*Handwritten initials: EA, cc, 25/4*

*Handwritten signature*  
Deputy Commissioner  
Mardan

No. & date even.  
Copy to the:

1. Commissioner Mardan Division, Mardan for information please.
2. District Election Commissioner Mardan.
3. Assistant Commissioner Swabi for necessary action with two copies of charge sheet and statement of allegations with the direction to hand over one copy each to the accused and place the other copies on file for record.
4. District Comptroller of Accounts Mardan.
5. PS to Chief Secretary Govt. of Khyber Pakhtunkhwa.
6. PS to Home Secretary Govt. of Khyber Pakhtunkhwa.
7. Accused official.





OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

Website: <http://sites.google.com/site/CommissionerMardandivision>  
Address: Opposite Town Hall,  
Near College Chowk Mardan

Phone: 0937-9230572-73  
Fax: 0937-9230578  
Email: commissionermrd@yahoo.com

No. 1709 /ACR/EA

Dated Mardan the 18 /06/2014

To,

Mr. Hidayat Shah,  
Junior Clerk, Commissioner Office,  
Mardan.

Subject: - WARNING.

Reference your reply to this office Explanation No. 1606/EA/ACR/2-10 dated 02/06/2014 and to state that you are hereby warn to be careful in future otherwise disciplinary action will be taken against you under E&D Rules, 2011.

Assistant to Commissioner (Rev),  
Mardan Division, Mardan.

Cc:

Ps to Commissioner Mardan Division, Mardan.



OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

Website: <http://sites.google.com/site/CommissionerMardandivision>

Address: Opposite Town Hall,  
Near College Chowk Mardan

Phone: 0937-9230572-73

Fax: 0937-9230578

Email: commissionermrd@yahoo.com

No 1606 /EA/ACR/2-10

Dated Mardan the 02/06/2014

To,

Mr. Hidayat Shah,  
Junior Clerk, Commissioner Office, Mardan.

Subject:

EXPLANATION

Memo:

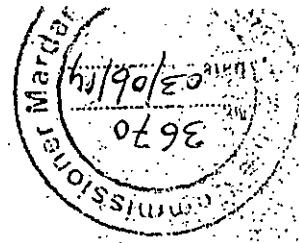
During surprise visit and checking of attendance register, you were found absent from your duty from 29-05-2014 till to day. It is also noticed by the undersigned that you frequently come late to Office which shows your negligence in your official duty.

You are hereby directed to explain as to why you should not be proceeded against E&D Rules.

Your reply should reach the undersigned within 07 days failing which it would be inferred that you have nothing to say in your defence.

*[Signature]*  
Assistant to Commissioner (Rev),  
Mardan Division Mardan.

0/C  
Copy forwarded to PS to Commissioner, Mardan Division Mardan.



3 1/2

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OFFICE OF THE COMMISSIONER MARDAN

48  
MARDAN

No 3164 /EA/ACR/2-10

Dated Mardan the 07/11/2014

To,

Mr. Hidayat Shah  
Junior Clerk, Commissioner Office Mardan.

Subject: EXPLANATION

Memo:

It has been noticed by the undersigned that you left the office without permission today on 07-11-2014 at 2:20 pm .

You are hereby directed to explain as to why you should not be proceeded against E & D Rules.

Your reply should reach the undersigned within 03 days failing which should be inferred that you have nothing to say in your defence.

Assistant to Commissioner (Re  
Mardan Division Mardan

CC

PS to Commissioner Mardan Division Mardan



## OFFICE OF THE COMMISSIONER MARDAN DIVISION

Website: <http://sites.google.com/site/commissionerMardan>  
Address: Opposite Town Hall,  
Near College Chowk Mardan Phone: 0937-9230572-73  
Fax: 0937-9230578  
Email: commissionermrd@yahoo.com

### OFFICE ORDER

1. Whereas you **Mr. Hidayat Shah**, Junior Clerk of this office has submitted an application for twenty day leave, which was allowed to the extent of 3 day leave i.e w.e.f 31-12-2014 to 02-01-2015.
2. Whereas you willfully remained absent from your official duties w.e.f 03-01-2015 to 06-02-2015 without any leave/permission.
3. Whereas I, as competent authority have issued a show cause notice to you vide this office letter No.239/ACR/EA dated 03-02-2015 to which you replied.
4. Whereas your reply to the Show Cause notice is not based on cogent reasons.
5. Whereas as, minor penalty, of withholding of two annual increments, with cumulative effect, has already been imposed upon you vide this office Notification No 3340-43/EA/ACR dated 25-11-2014.
6. Therefore keeping in view of the above I, as competent authority do hereby impose upon you Mr. Hidayat Shah, Junior Clerk of this Office, a **Minor Penalty of withholding of One Annual increment with cumulative effect**, under Efficiency & Discipline Rules, 2011.

  
Commissioner,  
Mardan Division Mardan.

No. 354 /ACR/EA/Hidayat Shah

Dated Mardan the 17/02/2015.

Copy forwarded to the:

1. District Comptroller of Accounts Mardan.



# OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

Website: <http://sites.google.com/site/commissionerMardandivision>  
Address: Opposite Town Hall, Near College Chowk Mardan  
Phone: 0937-9230572-73  
Fax: 0937-9230578  
Email: commissionermrd@yahoo.com

## OFFICE ORDER

The following Officials of this Office are hereby transferred immediate effect in the best interest of public:

S. No	Name of Official	From	To
1-	Mr. Karim Gul (Assistant)	Deputy Commissioner Mardan	Commissioner Office Mardan Division Mardan
2-	Mr. Hidayat Shah (Junior Clerk)	Commissioner Office Mardan Division Mardan	Deputy Commissioner Office Mardan

57C

  
Assistant to Commissioner (F  
Mardan Division Mardan

No 338 /EA/ACR/2-1/V-5

Dated Mardan the 16 /02/20

Copy forwarded to:

- 1- Deputy Commissioner, Mardan.
- 2- PS to Commissioner Mardan Division Mardan.
- 3- Officials concerned.

  
Assistant to Commissioner (F  
Mardan Division Mardan



SHOW CAUSE NOTICE.

I, Khalid Hussain, Commissioner Mardan Division Mardan as competent authority under the Khyber Pakhtunkhwa Govt Servants (Efficiency & Discipline Rules, 2011), do hereby serve you, Mr. Hidayat Shah, Junior Clerk of this office as follow:

1. Whereas, you sent an application for twenty days leave, which was allowed to the extent of 3 days leave i.e w.e.f 31-12-2014 to 02-01-2015.
2. Whereas you willfully remained absent from your official duties w.e.f 03-01-2015 till date without any leave/permission.

Therefore, I am satisfied that you are habitual absentee from official duty which falls within the preview of "Misconduct".

3. As a result thereof, I as competent authority, have tentatively decided to impose upon your Major penalty under rule-IV of the said rules.
4. You are thereof, required to immediately attend the office and to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
5. If no reply to this notice is received within 07 days, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

3  
R

*Khalid Hussain*

(Khalid Hussain)  
Commissioner,

No 239 /EA/ACR Dated 03/01/2015 Mardan Division Mardan

Copy Forwarded to the:-

- 1- PS to Commissioner Mardan Division.
- 2- Mr. Hidayat Shah J/C Commissioner Office Mardan.

2/16



OFFICE ORDER

- 1- Whereas you Mr. Hidayat Shah, Junior clerk of this Office were placed at the disposal of DC, Mardan vide this Office letter No 338/ACR/EA/2-1/V-5 dated 16-02-2015.
- 2- Whereas DC, Mardan vide his letter No 1948/DC(M)/EA-10 dated 23-07-2015 informed this Office that you have remained absent from your Official duties w.e.f 13-05-2015 to 23-07-2015.
- 3- Whereas DC, Mardan sought explanation from you vide his letter No 1883/DC (M)/EA-10 dated 08-07-2015 to which you replied on 13-07-2015.
- 4- Whereas a show cause notice was issued to you by this Office vide No 1298/ACR/EA/2-10 dated 03-08-2015 on the allegations of willful absence to which you replied on 11-08-2015.
- 5- That the perusal of both the replies submitted before DC, Mardan and this Office, revealed that you took quite different stances on the same allegations
- 6- That your reply to show cause notice issued by this Office is not cogent and convincing.
- 7- That minor penalty has already been imposed upon you vide this Office order No 3340-43/ACR/EA dated 25-11-2014.
- 8- That you have also been heard in person on 19-08-2015.

Keeping in view of the above I, as competent authority do hereby impose upon you Mr. Hidayat Shah a minor penalty of Censure under Khyber Pakhtunkhwa Government servants Efficiency & Discipline Rules, 2011.

O/C

  
(KHALID HUSSAIN)  
Commissioner  
Mardan Division Mardan

No 1400 /ACR/EA/2-1

Dated Mardan the 20/08/2015

Copy forwarded to:

- 1- Deputy Commissioner Mardan Division Mardan w/r to his letter No 1948/DC(M)/EA-10 dated 23-07-2015.
- 2- PS to Commissioner Mardan Division Mardan.

بخدمت جناب کمشنر صاحب مردان ڈویژن مردان

جناب عالی

جواب شوکاژ نوٹس حسب ذیل عرض ہے

(1) یہ کہ نوٹس مندرجہ ذیل نوٹس گریڈ کو بمورد 10/8/2015 کو ڈی سی آفس مردان سے موصول ہوا جناب عالی بمورد 15/7/2015 سے مردان 7/8/2015 تک شدید بیماری میں مبتلا تھا اور ڈاکٹر صاحب نے ہیڈرسٹ کی اپیل کی تھی OPD سلیپ منسلک ہے اور قصداً غیر حاضری کیس کی تھی اور آج افسران بالا سے رحم کی توقع ہے

(2) فقرہ نمبر 2 کے جواب میں معذرت کے ساتھ عرض ہے کہ جو پینٹا میٹھی پر لگائی گئی تھی وہ SMBR صاحب نے منسوخ کی ہے

(3) فقرہ نمبر 3 کے جواب میں عرض ہے کہ چونکہ من نوٹس گریڈ انشاء اللہ اب تقریباً مکمل طور پر صحت یاب ہو چکا ہے تو آئندہ کیلئے غیر حاضری کیس نہیں بنیں اور آپ صاحبان سے رحم کی اپیل کی جاتی ہے من نوٹس گریڈ کی بیماری کو مد نظر رکھتے ہوئے آپ صاحبان سے اپیل ہے کہ میرے خلاف کوئی کارروائی نہ کی جائے۔ آپ لوگوں کا مشکور رہوں گا۔

(4) فقرہ نمبر 4 کے متعلق سے کہ من نوٹس گریڈ بروڈ حاضری بمورد 10 اگست 2015ء کو بروقت اپنے فرائض منصبی کو پورا کرنے کی خاطر حاضری کی ہے

(5) استدعا ہے کہ جواب اور التجا نوٹس گریڈ منظور فرمایا جائے اور نوٹس واپس لینے کا احکامات صادر فرمائیں۔ آپ صاحبان سے رحم کی اپیل کی جاتی ہے۔

آپ کا مشکور  
مدت شاہ (کلرک)  
11/8/2015

بمورد 11 اگست 2015ء

EA  
Put up today  
11/8

Gaun/waun

59

Medical No. 2

Rs. 5

No.

OUT PATIENTS DEPARTMENT

NAME

YEARLY NO

DATE

FACE VALUE RUPEES 5

No.

Rs. 5

OUT PATIENTS DEPARTMENT

NAME *Olw 3/6*

YEARLY NO *1770*

DATE *15-7-2015*

SEASE *15-7-2015*

FACE VALUE RUPEES 5

*- CPA; Vertigo; Nausea*

*It is to certify that Mr. Hidayat Shah 870 Hapur Zahir Shah is suffering from CPA & Vertigo. He is advised complete bed rest & sick leave for 25 days w/e 15/07/2015 to 07/08/2015.*

*[Signature]*  
Dr. Aurangzeb  
Medical Superintendent  
THQ, Hosp. Takht Bhai  
Cell No. 0345-9341428



OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

No. 1298 /ACR/EA/2-10

Dated Mardan the 3/8/2015

SHOW CAUSE NOTICE.

I Mr. Khalid Hussain, Commissioner Mardan Division Mardan as competent authority under the Khyber Pakhtunkhwa Govt Servants (Efficiency & Discipline Rules, 2011), do hereby serve you, Mr. Hidayat Shah, Junior Clerk of this office, presently working in DC Office Mardan as follow:

1. Whereas, as informed by DC Mardan vide his office letter No.1946/DC(M)/EA-10 dated 23-7-2015, you willfully remained absent from your official duties w.e.f 15-07-2015 till date without any leave/permission.  
Therefore, I am satisfied that you are habitual absentee from official duty which falls within the preview of "Misconduct".
2. Whereas, a minor penalty has already been imposed upon you vide this office order No:3340-43/ACR/EA dated 25-11-2014.
3. As a result thereof, I as competent authority, have tentatively decided to impose upon your Major penalty under rule-IV of the said rules.
4. You are thereof, required to immediately attend the office and to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
5. If no reply to this notice is received within 07 days, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

Handwritten signature/initials

(Khalid Hussain)  
Commissioner,  
Mardan Division Mardan

Copy Forwarded to the:-

1- Deputv.Commissioner Mardan.



OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

Website: <http://sites.google.com/site/commissionerMardandivision>  
Address: Opposite Town Hall,  
Near College Chowk Mardan.

Phone: 0937-9230572-73  
Fax: 0937-9230578  
Email: commissionermrd@yahoo.com

No 832 /ACR/EA/2-10

Dated Mardan the 08 /06/2011

To

1. Mr. Hidayat Shah, Junior Clerk.
2. Mr. Nasir Khan, Junior Clerk.

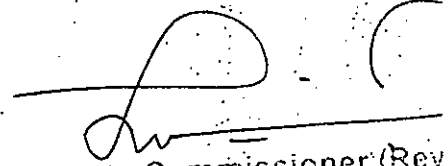
Subject: Explanation

During surprise checking It has been noticed that today on 08-06-2011 you were found absent from your duties without any prior permission/leave.

You are hereby directed to explain as to why you should not be proceeded against E & D Rules.

Your reply should reach the undersigned within 07 days failing which should be inferred that you have nothing to say in your defence.

o/c

  
Assistant Commissioner (Rev)  
Mardan Division Mardan

Copy forwarded to PS to Commissioner Mardan Division.

امیر خان جوینگر

صرف حساب کمیشنر صاحب پوزیشن ڈویژن مردان

حساب علی!

عنوان وصاف Explanation

خود بہتر اس کی طاقی ہے کہ مسائل سے Explanation  
کال کیا گیا ہے جو کہ جمعرات کے دن فوراً 08/06/2017 کو  
مسائل دفتر نہیں آتا تھا۔ مسائل کے اس دن 08/06/2017 کو  
احسان P.S کو صبح 38 بجے فون پر اطلاع دی گئی  
کہ میں نہیں آؤنگا کچھ گھر لو مسائل کے نام کی وجہ سے۔

اس لئے آپ صاحبان سے تراس کی طاقی ہے کہ  
کہ مسائل کو معاف کیا جائے اور اس کے لئے  
شکر ہے

10/06/2017  
BA  
File

فقط اتنا تعداد  
بلائیٹ شاہ جو پوزیشن 23/6  
مسئلہ اس میں مردان

ڈاکٹر شاہ جہان

جنرل مشین

ایم بی بی ایس، ایم پی ایچ

Mob: 0346-9343294



Not Valid for Court

HRA/100/F/

MR/CP/4/

58

اکثر ضیاء الرحمان خٹک

Green. امراض جلد و مخصوصہ

بی بی ایس، ایس آئی سی (پاکستان)

بی آئی سی اے ٹی (ڈنمارک)، ایم آئی ایچ ایم ایس (یو ایس اے)

یکٹیو میمبر ڈیپوٹی ایچ آر

لنٹنٹ جھوپر ڈیپارٹمنٹ (یو ایس اے)

Name of Patient

جدا شہ

Age/Sex

F-22

Address

Date 010-6-017

Clinical Record

Rx

Penphigoid Patch  
+ Curial in face  
By Hand  
CPT. CVA  
PSS. CP. 112  
Adm.

فوسون

Bismarck

Belemet

علی سرید باوز بالقابل پولیس اسٹیشن، تخت بھائی۔



0346-1548388, 0301-5221726, 0300-2900353

# SHAMS MEDICAL LABORATORY

مڈیکل اینالائزس  
ارشاد خان  
0342-8095850



شہ شمس میڈیکل لیبارٹری

## Final Report

Patient's Name: WAHIDAYAT SHAH Age/Sex: ?Y/F  
Consultant: DR. ZAFER RAHMAN Sb Date: 10/06/2017  
Investigation Req: TB Lab #:

## TEST REPORT

ANALYTE	RESULT	REFERENCE RANGE
HB	12.1 g/dl	M.12-16 g/dl F.11-15 g/dl
TLC	7.500/Cmm	4000-11000 / Cmm
DLC		
Neutrophils	61%	
Lymphocytes	32%	
Monocytes	0.1%	
Eosinophils	0.3%	

Lab Technician

پتہ: بالمقابل پولیس سٹیشن نزد حبیب بینک ملاکنڈ روڈ تخت جہانی ضلع مردان

# SHAMS MEDICAL LABORATORY

0342-8095850



شمس میڈیکل لیبارٹری

## Final Report

Patient's Name: W. OTHMAN YAT SHAH Age/Sex: 2Y/F  
Consultant: Dr. IYER RAHMAN SI Date: 10/06/2017  
Investigation Req: UPPA/FU Lab #:

### Urine Examination

PHYSICAL EXAMINATION		CHEMICAL EXAMINATION	
Colour	Pale Yellow	Albumin	Nil
Volume	nil	Sugar	Nil
PH	6.0		

### MICROSCOPIC EXAMINATION

WBCs	10----12	/HPF
RBCs	01----02	/HPF
Epith Cells	++	/HPF
CCs	NIL	/HPF
HCs	NIL	/HPF
Calc Oxalate Crystals	NIL	/HPF
Amorph urates	+	
Mucous Thread	NIL	

Lab Technician

پتہ: بالمقابل پولیس سٹیشن نزد حبیب بینک ملاکنڈ روڈ تحت چائی مسجد مردان

# SHAMS MEDICAL LABORATORY

میدیکل اینالیزس  
ارشاد خان  
0342-8095850



شامس میڈیکل لیبارٹری

## Final Report

Patient's Name: W. H. H. DAYAT SHAH  
Age/Sex: ? Y F  
Consultant: Dr. ZIA UR RAHMAN Sb  
Date: 10/06/2017  
Investigation Req: RBS, SGPT  
Lab #:

## TEST REPORT

ANALYTE	RESULT	REFERENCE RANGE
Blood Sugar (R)	82 mg/dl	80 - 160 mg/dl
ALT (SGPT)	49 J/L	Up to 45 U/L

Lab Technician

پتہ: بالمقابل پولیس سٹیشن نزد عیب بینک، کنڈر روڈ تخت اٹھائی ضلع مردان



OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

Website: <http://sites.google.com/site/commissionerMardandivision>  
Address: Opposite Town Hall,  
Near College Chowk Mardan.

Phone: 0937-9230572-73  
Fax: 0937-9230578  
Email: commissionermr@gmail.com

No 1223 /ACR/EA/2-10

Dated Mardan the 25 /09/2017.

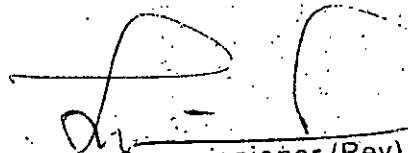
To Mr. Hidayat Shah (Junior Clerk)  
Commissioner Office Mardan.

Subject: **Warning.**

Memo: With reference to this office Explanation Vide No. 1078/ACR/EA/2-1  
Dated 28-08-2017 and Show Cause Notice Vide No. 1177/ACR/EA/2-10/V-10 Date  
18/09/2017 and personal hearing before the Worthy Commissioner Mardan Division.

You are hereby warned to be careful in future and avoid unauthorized  
absence and negligence from official duty.

Furthermore this is your first and last warning and strict disciplinary action  
will be taken against you under E & D Rules, in case of next complaint.

  
Assistant to Commissioner (Rev)  
Mardan Division Mardan.

Copy forwarded to:-  
1- PS to Commissioner Mardan Division Mardan.

o/c

o/c

(63) 14/11



GOVERNMENT OF PUNJAB, PAKISTAN  
SECRETARY, GOVERNMENT OF PUNJAB, PAKISTAN

Website: <http://sifar.gov.pk> E-mail: [comsec@punjab.gov.pk](mailto:comsec@punjab.gov.pk)  
Address: Opposite Town Hall, Near College Chowk, Lahore. Phone: 0997-6000111  
Fax: 0997-6000111 Email: [comsec@punjab.gov.pk](mailto:comsec@punjab.gov.pk)

**SHOW CAUSE NOTICE**

Mr. Zakir Hussain Afridi, Commissioner Mardan Division Mardan is currently under the Khyber Pakhtunkhwa G.P. Servants' Efficiency Commission. I do hereby serve you, Mr. Hidayat Shah, Junior Clerk of this office Mardan as follows:

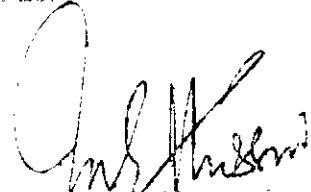
Whereas you remain absent from office without intimation and not performing your duties regularly and you are habitually absent;

Therefore I am satisfied that your aforesaid facts fall within the purview of **Misconduct**

As a result thereof I as competent authority have tentatively decided to impose upon you **Major Penalty** under rule 14 of the said rules.

You are therefore required to immediately after the date of the receipt of this notice to appear before me in person to explain the facts and to show cause as to why you should not be liable to be punished with any other penalty than that which is proposed to be imposed on you.

If you fail to do so, you will be deemed to have accepted the proposed penalty and you will be liable to be punished with any other penalty than that which is proposed to be imposed on you.

  
(Zakir Hussain Afridi)


COMMISSIONER  
MARDAN DIVISION MARDAN

No. 1177 /ACR/EA/2-10V/10

Dated Mardan, 14/11/2010

**Copy forwarded to:**

- PS to Commissioner Mardan, D/O of Mardan
- Officia Concerned

  
Zakir Hussain Afridi

Assistant Commissioner  
Mardan Division Mardan



گدستا حساب گدستا حساب سہ ماہی  
 شوکارا نوٹس مندرجہ 18/9

64

حساب عالی

گزارش حسب ذیل ہے۔

یہ کہ آپ اعلیٰ عدالت نے عدوی سے برابری شوکارا نوٹس جو ان طلبی فرمایا ہے۔  
 یہ کہ عدوی 7 جن ڈیوٹی سے غیر حاضر تھا۔ جسکی وجہ یہ تھی کہ عدوی کے  
 گھر خالی تھے۔ تقسیم کے بارے میں بات حثیت حل یہی تھی، بسیں وجہ چونکہ  
 عدوی بنایت پر بنیائی کہ مالی مشکلات میں گرا ہوا تھا اس وجہ سے عدوی  
 نے نہ تو صحیحی کی گدستا ہی فون پر اطلاع دے سکا۔

عدوی آج کل بنایت کے سہ ماہی کے تحت حالات سے گدستا رہا ہے۔ کیونکہ  
 سہ ماہی کے حال کا دیکھنا میں کافی نقصانات اٹھائے ہیں گدستا ایسی نقصانات  
 کی وجہ سے سہ ماہی آج کل کرانے کے کوادر میں رہ رہا ہے، نیز سہ ماہی  
 نے بچوں کو بھی نہیں دے سکا ہے۔ وہ بھی وجہ سے ڈیپوٹ سکولوں سے نکال لیا ہے۔  
 کہ آج کل سہ ماہی کے بچے بھی گھوڑا رہ رہے ہیں۔ گدستا اکثر اوقات سہ ماہی  
 سخت ڈرستی کی وجہ سے خود گدستا کے بارے میں سوچتا ہے۔

آج آجی التجا کے لئے آپ سے گزارش کرتا ہوں۔ کہ براہ کرم سہ ماہی  
 سے دفعہ خدا کے کوادر پر مذکور فرما کر میرا مالی ڈرستی کو گدستا کروائیں۔  
 میں وعدہ کرتا ہوں۔ کہ دفعہ میں 40 گدستا جان رہو گدستا ایسی ڈیوٹی  
 امانت داری سے کر لے گا۔ نیز یہ بھی درخواست کرتا ہوں۔ کہ گدستا  
 موقع دین کہ میرے بچوں کی خاطر میری جواب طلبی / شوکارا نوٹس قابل  
 کروانے کے اعطیات صادر فرمائیں۔ کیونکہ آج کل مالی ڈرستی کے  
 مشکلات کی وجہ سے عدوی سے تمام تعلق ختم ہے کہ دوستوں سے بھی قطع تعلق  
 کر دیا ہے۔ گدستا صرف و صرف عدوی کا گزارہ ایسی سہ ماہی کے خواہ سے حل  
 رہا ہے۔

اعتد کرتا ہوں۔ کہ آپ سہ ماہی کے حالات پر اگلے سہ ماہی کے ساتھ  
 التماس کا معاملہ فرمائیں گے۔

19/9

فقط دعاگو

عدالت شاہ جوینر گدستا  
 گدستا اسٹریٹ سردار



GA

Handwritten signature and date: 19/9

65

OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

Website: <http://sites.google.com/site/commissionerMardandivision>  
Address: Opposite Town Hall,  
Near College Chowk Mardan Phone: 0937-9230572-73  
Fax: 0937-9230572  
Email: commissionermr@gmail.com

No. 1078 /ACR/EA/2-10

Dated Mardan the 29/08/2017

Mr Hidayat Shah (Junior Clerk)

Subject: EXPLANATION

Memo:

Whereas it has been noticed that, oftenly you remain on causal and medical leave and not performing your duty regularly which shows your negligence and unwilling to you official duty

You are therefore directed to explain as to why action under E&D rules initiated against you. Reply of explanation should reach to this office within 02 days

Assistant to Commissioner (Academy)  
Mardan Division Mardan

Copy forwarded to the:-

- 1- PS to Commissioner Mardan Division Mardan.

No. /ACR/EA/2-2

Dated Mardan the 10/8/2017



66 *[Handwritten initials]*

OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

Website: <http://sites.google.com/site/commissionerMardandivision>

Address: Opposite Town Hall,  
Near College Chowk Mardan

Phone: 0937-9230572-73

Fax: 0937-9230578

Email: commissionermrd@yahoo.com

No. 1078 /ACR/EA/2-10

Dated Mardan the 29 /08/2017

To,

Mr. Hidayat Shah (Junior Clerk)

Subject: EXPLANATION

Memo:

*absent without intimation*

Whereas it has been noticed that, oftenly you remain on causal and medical leave and not performing your duty regularly which shows your negligence and unwilling to your official duty.

You are therefore directed to explain as to why action under E&D rules be initiated against you. Reply of explanation should reach to this office within 02 days.

Assistant to Commissioner (Rev)/GA  
Mardan Division Mardan

Copy forwarded to the:

- 1- PS to Commissioner Mardan Division Mardan

*PS*

*ACR*  
*Your explanation in*  
*encl. in line both*  
*your encl. 7.*  
*[Signature]*  
*29/8*

No. \_\_\_\_\_ /ACR/EA/2-2

Dated Mardan the \_\_\_\_\_ /03/2017

To,

OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

Website: <http://sites.google.com/site/commissionerMardandivision>

Address: Opposite Town Hall,  
Near College Chowk Mardan

Phone: 0937-9230572-73

Fax: 0937-9230578

Email: commissionermrd@yahoo.com

67

No. 1078 /ACR/EA/2-10

Dated Mardan the 29 /08/2017

To:

Mr. Hidayat Shah (Junior Clerk)

Subject: EXPLANATION

Memo:

Whereas it has been noticed that, oftenly you remain absent from office without intimation and not performing your duty regularly which shows your negligence to your official duty.

You are therefore directed to explain as to why action under E&D rules be initiated against you. Reply of explanation should reach to this office within 02 days.

Assistant to Commissioner (Rev)/GA  
Mardan Division Mardan

Copy forwarded to the:-

1- PS to Commissioner Mardan Division Mardan.

OP

No. \_\_\_\_\_ /ACR/EA/2-2

Dated Mardan the \_\_\_\_\_ /03/2017

To:

The Secretary to Govt of Khuzar Pakhtunkhwa

10. 12  
EA  
11

17/11

270  
68

To

The Assistant to Commissioner (Pw)  
Mardan Division Mardan.

Subject: Explanation Reply.

R/sir,

Please refer to your explanation No. 1078/ADP dated 29/8/2017, it is submitted that due to some emergencies, I leave the office by taking permission & remain on casual leave on permission. Submitting application to my Superior.

R/sir, I will be careful in future and will perform my duty - well and will never repeat this mistake again.

It is therefore requested to kindly give me last chance and file this explanation. I shall be thankful to you.

Yours obedient  
Hidayat Shie  
(A/c)

31/08/017

EA  
7/9



45  
69

Report Against Hidayat Shah Junior Clerk

Please refer to the subject noted above and to state that Mr. Hidayat Shah, Junior Clerk of this office presently working in Control Room of this office is not performing his duty well and oftenly remain on casual leave.

Keeping in view the importance of divisional control room, It is therefore requested to kindly transfer him from control room and substitute may be placed please.

Ihsan Ullah  
PS to Commissioner  
Mardan Division Mardan

W. Commissioner

ACK

Dismissed

Put up for  
calling explanation under  
E 240 rules for present  
of writing Commissioner

EA

28/8/17

Office of  
No. 6013  
Date 8/8/17  
Mardan

*Handwritten initials and a circled number 70.*

To,

The Assistant to Commissioner (Rev),  
Mardan Division, Mardan.

Subject: APPLICATION FOR ONE DAY CASUAL LEAVE.

Dear Sir,

With due respect it is stated that I have some domestic affairs and  
unable to attend the office today.

It is therefore requested to kindly allow me one day casual leave on  
24<sup>th</sup> August, 2017.

Yours Obediently,

Dated: 24-08-2017.

Hidayat Shah  
J/C  
Commissioner office  
Mardan

*Submitted for Approval please.*

*ACK. He has availed too many leave. Balance is not correct. Check with PS branch and rectify.*

*EA-248/17,*

*Handwritten signature and date 26/8.*

*EA*

*Office of the Commissioner Mardan  
6013  
3/8*



OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

Website: <http://sites.google.com/site/commissionerMardandivision>

Address: Opposite Town Hall,  
Near College Chowk Mardan.

Phone: 0937-9230572-73

Fax: 0937-9230578

Email: [commissionermrd@yahoo.com](mailto:commissionermrd@yahoo.com)

No 1518 /ACR/EA/2-10

Dated Mardan the 02/11/2017.

To

Mr. Hidayat Shah (Junior Clerk)  
Commissioner Office Mardan.

Subject: **Warning.**

Memo:

As per report of Private Secretary to Commissioner Mardan Division you were absent from Special Duty in Control Room on 29/10/2017.

You are hereby warned once again to be careful in future and avoid unauthorized absence and negligence from official duty.

Furthermore this is your last warning and strict disciplinary action will be taken against you under E & D Rules, in case of next complaint.

  
Assistant to Commissioner (Rev.)  
Mardan Division Mardan.

Copy forwarded to:-

1- PS to Commissioner Mardan Division Mardan.

0/2

2-10



72

Subject: REQUEST FOR TRANSFER

R/Sir,

It is stated that on 29.10.2017 Mr. Hidayat Shah Junior clerk who assigned to perform his duty at control room was found absent. He was contacted through his father to direct him to attend his duty as mobile was switch off. Later on about 1030 hours Hidayat Shah called and informed that he is coming but did not come and control room was operated by waiter Sheraz Ahmed as well as supervised by the undersigned time to time.

It is also bring in your kind notice that Hidayat shah only assigned to perform Saturday, Sunday and Special public Holiday while the rest of the other days will be his holidays. He is not taking keen interest in his official work. Several time he was warned and a bundle of explanations was called but he remained same.

It is therefore requested that he may be transferred from PS Branch to else where as he disturb the environment of punctuality which create bad norm and impact on the other officials of this branch.

Submitted please.

*[Signature]*  
30/10/17  
PS to Commissioner  
Mardan Division Mardan

W. Commissioner

*[Signature]*  
& discuss

*[Signature]* Security

This Discans with ps  
chronic like. This individual is another  
and already warned by  
worry Commissioner but no safe  
for further relaxation  
discuss with Commissioner also  
is well

30/10/17

69  
73



OFFICE OF \_\_\_\_\_ COMMISSIONER  
MARDAN  
No. 2443-49 DC(M)/PS  
Dated Mardan the 23 /04/2013

**OFFICE ORDER:**

Whereas it has been reported that Hidayat Shah Junior Clerk/ accused official previously attached to Commissioner Office Mardan and detailed to Chairman District Development Advisory Committee (DDAC) was required to report to the office of the Deputy Commissioner Mardan after the abolition of Chairman DDAC but he absented himself from his duties without any intimation or information.

Now it has been reported that Hidayat Shah Junior Clerk / accused official is involved in political activities which is clear from the stickers affixed at various places some of the copies of which are attached.

Whereas the above said acts of the accused official Hidayat Shah Junior Clerk comes within the meaning of misconduct and against the Khyber Pakhtunkhwa Government Servants (E&R) Rules and therefore he is liable to be proceed upon under the rules ibid.

Now therefore I, Ghulam Habib Deputy Commissioner Mardan in exercise of conferred upon me under the E&D Rules hereby suspend from his services with immediate effect and appoint Assistant Commissioner Swabi to probe into the allegation leveled against Hidayat Shah Junior Clerk / accused official and submit his report to the undersigned within 10 days.

ACK  
MM

*[Signature]*  
Deputy Commissioner  
Mardan

EA 2-1  
Cee  
24.4

No. & date even.  
Copy to the:

1. Commissioner Mardan Division, Mardan for information please.
  2. District Election Commissioner Mardan.
  3. Assistant Commissioner Swabi for necessary action with two copies of charge sheet and statement of allegations with the direction to hand over one copy each to the accused and place the other copies on file for record.
  4. District Comptroller of Accounts Mardan.
  5. PS to Chief Secretary Govt. of Khyber Pakhtunkhwa.
  6. PS to Home Secretary Govt. of Khyber Pakhtunkhwa.
- Accused official.

2991  
Diary No. 2991  
Dated 23/04/13

2911  
24-4-13

*[Signature]*  
Deputy Commissioner  
Mardan

8. PS to Dull & ...

*[Signature]*  
Deputy Commissioner  
Mardan

3018  
24.4

74

Charge Sheet

Whereas it has been reported that Hidayat Shah Junior Clerk / accused official previously attached with the Commissioner Office Mardan was detailed with the Chairman District Development Advisory Committee (DDAC) Mardan.

Whereas after abolition of DDAC Chairman Mardan Hidayat Shah instead of reporting for his duties to the office of Deputy Commissioner Mardan disappeared and thus absented himself from his duties without any intimation or information.

Whereas it has been alleged that he is involved in political activities and participating in the election campaign of a candidate which is evident from the stickers attached.

Whereas the above acts of Hidayat Shah Junior Clerk of Deputy Commissioner Office Mardan are against the E&D Rules and thus he is liable to be proceeded under the rules ibid.

Now therefore I, Ghulam Habib, Deputy Commissioner Mardan hereby charge sheet you Hidayat Shah Junior Clerk / accused official as mentioned above that your said acts are against the E&D Rules and tantamount to misconduct for which you are liable to be proceeded upon under the said rules which may entail upon you major / minor penalty as required under the rules ibid and directed you Hidayat Shah Junior Clerk / accused official to immediately appear before the Enquiry Officer (Assistant Commissioner Swabi) and put in your written reply within 07 days before him as to why disciplinary action may not be taken against you, failing which it shall be presumed that you have nothing to offer in your defence and ex parte action will be taken against you.

*Ghulam Habib*  
Deputy Commissioner  
Mardan.

8. Ps to Distt & Session Judge

*Ghulam Habib*  
Deputy Commissioner  
Mardan

3018  
24-4

(75)

Statement of Allegations

It has been reported that Hidayat Shah Junior Clerk previously attached with the Commissioner Office Mardan was detailed with the Chairman District Development Advisory Committee (DDAC) Mardan.

That after abolition of DDAC Chairman Mardan Hidayat Shah instead of reporting for his duties to the office of Deputy Commissioner Mardan disappeared and thus absented himself from his duties without any intimation or information.

Now it has been alleged that he is involved in political activities and participating in the election campaign of a candidate which is evident from the stickers attached.

That the above act of Hidayat Shah Junior Clerk of Deputy Commissioner Office Mardan is against the E&D Rules and thus he is liable to be proceeded under the rules ibid.

*J. Khan*  
Deputy Commissioner  
Mardan

8. P.S. to D.M. & M.A. J. D. v. P. S. to D.M. & M.A. J. D.

3018  
24.4.

Deput

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

In re:

S.A.No.916/2018

Mr. Hidayat Shah.....Appellant

V/S

Senior Member Board of Revenue KP & others

.....Respondents

---

**REJOINDER ON BEHALF OF THE APPELLANT**

**Sir,**

**PRELIMINARY OBJECTION**

All the preliminary objections are incorrect,  
misconceived, denied.

**ON FACTS**

1. That Para-1 has been admitted as correct.
2. That Para-2 of the appeal is correct and that of reply is incorrect, hence denied.
3. That Para-3 of the appeal is correct and that of reply is incorrect, hence denied.
4. That Para-4 of the appeal is correct and that of reply is incorrect, hence denied.
5. That Para-5 of the appeal is correct, while that of reply is incorrect, hence denied.
6. That Para-6 of the appeal is correct and that of reply is incorrect, hence denied.
7. That Para-7 of the appeal is correct and that of reply is incorrect, hence denied.

8. That Para-8 of the appeal is correct and that of reply is incorrect, hence denied.
9. That Para-9 of the appeal is correct and that of reply is incorrect, hence denied.
10. That Para-10 of the appeal is correct and that of reply is incorrect, hence denied.

### **GROUNDS**

- A. That Ground "A" of the appeal is correct, while that of the reply is incorrect, hence denied.
- B. That Ground "B" of the appeal is correct, while that of the reply is incorrect, hence denied.
- C. That Grounds "C" of the appeal is correct, while that of reply is incorrect, hence denied. Never absent and no proceedings for same.
- D. That Ground "D" of the appeal is correct, while that of reply is incorrect, hence denied. Moreover, previous record, no charge has been decided and is a past and closed transaction.
- E. That Ground "E" of the appeal is correct, while that of reply is incorrect, hence denied.
- F. That Ground "F" of the appeal is correct, while that of the reply is incorrect, hence denied.
- G. That Ground "G" of the appeal is correct, while that of the reply is incorrect, hence denied.
- H. That Ground "H" of the appeal is correct, while that of the reply is incorrect, misconceived, hence denied.
- I. That Ground "I" of the appeal is correct, while that of the reply is incorrect, hence denied.
- J. That Ground "J" of the appeal is correct, while that of the reply is incorrect, hence denied.
- K. No comments means admission, appellants is jobless since removal.

PRAYER

It is, therefore, humbly prayed that order of removal dated 14-3-2018 and appellate order dated 11-4-2018 may please be set-aside as passed during pendency of appeal and appellant may please be reinstated in service with all back benefits and KP E&D Rules, 2011 may please be declared as ultravires, as not framed by Provincial Govt. within the meaning of Article 129 of the Constitution of Pakistan, 1973 and after 18<sup>th</sup> amendment r/w 2016 SCMR 808.

*Victoryal*  
*shd.*

Appellant  
Through

**Amjid Ali (Mardan)**  
Advocate  
Supreme Court of Pakistan

**AFFIDAVIT**

I, do hereby affirm and declare as per information furnished by my client that the contents of the accompanying **Rejoinder** are true and correct and nothing has been concealed from this Hon'ble Court.

*Victoryal*  
Deponent  
9/4/2019

Before the Honible Chairman, بعدالت

Service Tribunal  
Peshawar

(Appellant) 2ء مخانب  
بنام

Service Appeal No. 976/2018 مورخہ

Hidayat Shah مقدمہ  
دعویٰ

VS  
SMBR and others جرم

باعث خیر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کاروائی متعلقہ  
آن مقام ~~Regwanulla Adv~~ کے لئے ~~Peshawar~~

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

~~Handwritten signature~~

ACCEPTED

المرقوم 22 ماہ اپریل 2019

بمقام  
البنار  
وہ العب  
کے لئے منظور ہے۔



KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1587 /ST

Dated 18 / 9 / 2019

To

The Commissioner,  
Government of Khyber Pakhtunkhwa,  
Mardan.

Subject: -

JUDGMENT IN APPEAL NO. 976/2018, MR. HIDAYAT SHAH.

I am directed to forward herewith a certified copy of Judgement dated 30.08.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above



REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.