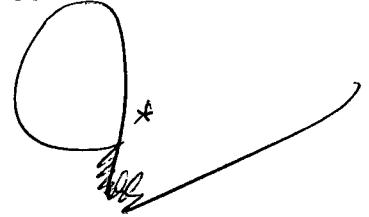


19.04.2022

Clerk of learned counsel for the appellant present.

Former seeks adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for preliminary hearing on 05.07.2022 before S.B.

A handwritten signature in black ink, consisting of a large, stylized 'M' followed by a long horizontal stroke that curves upwards at the end. A small asterisk is placed to the right of the signature.

(MIAN MUHAMMAD)
MEMBER(E)

5th July, 2022

Learned counsel for the appellant present.

Learned counsel for the appellant seeks adjournment on the ground that he has not prepared the brief. To come up for preliminary hearing on 07.09.2022 before S.B.

A handwritten signature in black ink, consisting of a large, stylized 'K' followed by a horizontal stroke that curves downwards at the end.




(Kalim Arshad Khan)
Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 175/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/02/2022	<p>The appeal of Mr. Umar Hayat presented today by Mr. Bashir Khan Wazir Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>01-04-2022</u></p> <p> CHAIRMAN</p>
	01.04.2022	<p>None present for the appellant. Notice be given to the appellant and his counsel for the date fixed. To come up for preliminary hearing on 19.04.2022 before the S.B.</p> <p> Chairman</p>

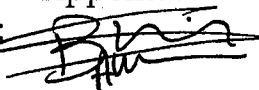
**BEFORE THE HONORABLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA PESHAWAR**

Service Appeal No 173/2022

**Umar Hayat.....Appellant
VERSUS
Govt of KPK & others Respondents**

I N D E X

S NO	DESCRIPTION OF DOCUMENTS	ANNEX	PAGES
1.	Service Appeal	-	1-4
2.	Affidavit	-	5
3.	Application for suspension		6
4.	Affidavit		7
5.	Copy of the Notification	A	8-9
6.	Copy of Notification	B	10
7.	Copy of the representation	"C"	11-15
8.	Copy of the Appeal	"D"	16-18
9.	Wakalat Nama		19

Appellant
Through: 
(BASHIR KHAN WAZIR)
Advocate,
High Court, Peshawar

Dated:- 04.02.2022

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

Service Appeal No _____/2022

Umar Hayat S/o Ghulam Nabi Khan, Sub Engineer (BPS-16) Resident
of House No 13, near Govt Girls College CLulb Road Nowshera

.....Appellant

V E R S U S

1. Govt of KPK through Chief Secretary, Civil Secretariat, Khyber Pakhtunkhwa Peshawar
2. Public Health Engineering Department through Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
3. Chief Engineer (Center) Public Health Department, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

**SERVICE APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974
AGAINST THE IMPUGNED ORDER DATED 21.10.2021
VIDE WHICH THE APPELLANT WAS DOWNGRADED /
DEMOTED FROM BPS-17 TO BPS-16 AND AGAINST
WHICH THE DEPARTMENTAL APPEAL HAS BEEN
PREFERRED, HOWEVER INSPITE OF THE
COMPLETION OF MANDATORY PERIOD NO ORDER IN
RESPECT OF THE DEPARTMENTAL APPEAL HAS BEEN
PASSED.**

Prayer in Appeal:

On acceptance of this Appeal, impugned Order Dated 21.10.2021 And Subsequent Order Dated 03.12.2021 vide which initially the appellant was Downgraded / Demoted from BPS-17 to BPS-16 and subsequently dismissed from service by the Respondent No 3 may kindly be set aside and the Appellant may please be reinstated / restored into his service with all back benefits.

Respectfully Sheweth:-

The Appellant humbly submits as under:-

1. That the Appellant is the Law abiding citizen of Pakistan and is entitled for all the rights guaranteed by the Constitution of Islamic Republic of Pakistan, 1973.
2. That briefly stated the fact relevant for the purpose of this petition are that, the Appellant was appointed as Sub Engineer (BPS-) in the Public Health Engineering Department, Khyber Pakhtunkhwa, Peshawar on

24.11.1984 and since then, the Appellant is performing his duty with due diligence.

3. That the Appellant was promoted to the post of Assistant Engineer /SDO (BPS-17) on regular basis on the recommendation of the Departmental Promotion Committee by the competent authority vide notification No. SO(Estt)/PHED/4-53-B/2020 dated 15.12.2020. **(Copy of the Notification is attached as annexure A)**
4. That this Notification of Promotion was withdrawn by Respondent No 1 vide notification No. SO(Estt)/PHED/4-53-B/2020 dated 21.10.2021 on account of plea-bargain with the NAB authorities by the Appellant in respect of illegal / unauthorized purchase of transformers in District Nowshera. **(Copy of Notification is attached as annexure B)**
5. That after issuance of the above mentioned notification / impugned order dated 21.10.2021, the Appellant filed Appeal / representation against the notification to the competent authority vide diary No. 1748 dated 03.11.2021, which is still pending and has not yet been decided. **(Copy of the representation is attached as annexure C)**
6. That it is pertinent to mention here that the impugned order issued by the Respondent No 3 in the light of the past enclosed transaction in respect of the National Accountability Bureau (NAB), whereby the Appellant was forced for plea bargain as the Appellant was in the custody of NAB, therefore while pressurized by the NAB Authority and recorded his statement for plea Bargain and thereafter the two co-accused in the said reference were acquitted by the NAB Court after recording of pro and contra evidence. The benefits of the acquittal was also extended in favour of the Appellant by the Respondents, therefore he has been allowed to continue his service.
7. That the Appellant while aggrieved from the impugned order dated 21.10.2021 forwarded departmental Appeal according to the prescribed rules and the same representation is pending before the competent authority but in vain. **(Copy of the Appeal as attached as annexure D)**
8. That feeling aggrieved from the act of Respondents, having no other adequate and efficacious remedy, approaches this Honourable Tribunal on the following grounds inter-alia:-

GROUND:-

- A) That the Appellant is peaceful and law abiding citizen of Islamic Republic of Pakistan and is fully entitled to all the basic and fundamental rights as enshrined in the

fundamental law of the state, interpreted and guaranteed by the law of the land.

- B) That the Appellant is well qualified person and having the experience of this post, the respondents with the connivance of each other issued the above mentioned impugned order which is void ab initio.
- C) That the Appellant after his arrest by the NAB authority produced before the competent court and the custody was granted to the NAB authority and during interrogation in the NAB Office, the Appellant was badly tortured and pressurized for making of plea bargain before the Hon'ble Court, however the Appellant due to his mental torture was unable to file appeal before the competent court of law against the said order and the Respondents considered the request of the Appellant and allowed to continue his service.
- D) That the Appellant was promoted by the competent authority on dated 15.12.2020 to BPS-17 and the said position was duly actualized by the Appellant, however after sufficient time the said promotion order was withdrawn by the Respondent No 3 and the punishment in respect of the plea bargain has been awarded to the Appellant, the Appellant preferred departmental appeal against the said order and after the expiration of mandatory period the competent authority until unless did not pass any order.
- E) That the competent authority while issued the order demotion in the light of past and close transaction and subsequently the impugned dismissal order has been issued which is the violation of Article 13 of the Constitution of Islamic Republic of Pakistan 1973, as per Article 13 protection against double punishment and self-incrimination has been restricted, the Hon'ble Apex Courts rendered reported judgment of 2004 PLC SC 959 and it is held that no employee could be punished twice and in the said case employee was punished for his past punishment awarded to him, therefore the competent authority violated the said article and awarded two punishment to the Appellant, which is illegal, unlawful and without lawful authority and is liable to be declare so.
- F) That it is well established principal of the Apex Court that an employee should not be vexed twice for the same offence, similarly once the competent authority demoted the Appellant from BPS-17 to BPS-16, thereafter the subsequent dismissal order is against the law, rules, policy and constitution mandate.
- G) That as per the policy guide lines it is obligatory upon the competent authority to issue the dismissal order in such manners provided under the rules and policy according to

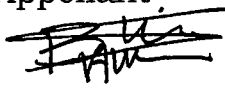
which the Appellant has been dismissed in the light of plea bargain order which is the past and close transaction due to personnel grudges, which is illegal unlawful without lawful authority.

- H) That the fundamental right of the Appellant has blatantly violated by the Respondents and the Appellant have been discriminated and has been denied his due rights under the Constitution of Islamic Republic of Pakistan, 1973.
- I) That any other ground not raised here specifically may graciously be allowed to be raised at the time of arguments.

PRAYER:-

It is, therefore, most humbly prayed that, **On acceptance of this Appeal, impugned Order Dated 21.10.2021 vide which the appellant was Downgraded / Demoted from BPS-17 to BPS-16 may kindly be set aside and the Appellant may please be reinstated / restored into his service with all back benefits.**

Any other relief, not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.

Through: Appellant

(BASHIR KHAN WAZIR)
Advocate,
High Court, Peshawar

Dated:- 04.02.2022

CERTIFICATE:

It is certified that no such like Service Appeal has earlier been filed before this Hon'ble Tribunal.


DEPONENT

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

Service Appeal No _____/2022

Umar Hayat.....Appellant

V E R S U S

Govt of KPK & others Respondents

AFFIDAVIT

I, Umar Hayat S/o Ghulam Nabi Khan, Sub Engineer (BPS-16) Resident of House No 13, near Govt Girls College CLulb Road Nowshera, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

D E P O N E N T

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

Service Appeal No _____/2022

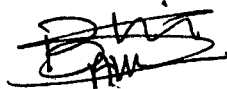
Umar Hayat.....Appellant
V E R S U S
Govt of KPK & others Respondents

**APPLICATION FOR SUSPENSION OF THE
IMPUGNED ORDER DATED 21.10.2021 VIDE
WHICH THE APPELLANT WAS DOWNGRADED /
DEMOTED FROM BPS-17 TO BPS-16, TILL THE
FINAL DECISION OF THE SERVICE APPEAL.**

Respectfully Sheweth:

1. That the above noted Service Appeal is being filed before this hon'ble court, in which no date of hearing has yet been fixed.
2. That the Appellant has got a good prima facie case in their favour, and is sanguine about its success.
3. That the balance of convenience also lies in favour of the Appellant.
4. That if the Impugned Order dated 21.10.2021 is not suspended, the Appellant would suffer extreme irreparable loss.
5. That the facts and grounds of the Appeal may kindly be read as an integral part of this application.

It is, therefore, respectfully prayed that on acceptance of this application, the relief as prayed for in the heading of the Application may kindly be allowed in favour of the Appellant, till the final decision of the case.

Appellant
Through: 
(BASHIR KHAN WAZIR)
Advocate,
High Court, Peshawar

Dated:- 04.02.2022

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

Service Appeal No _____/2022

Umar Hayat.....Appellant

V E R S U S

Govt of KPK & others Respondents

AFFIDAVIT

I, Umar Hayat S/o Ghulam Nabi Khan, Sub Engineer (BPS-16) Resident of House No 13, near Govt Girls College CLulb Road Nowshera, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

D E P O N E N T



GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT

Dated Peshawar, the December 15, 2020

Annexe

(A)

NOTIFICATION

No. SO(Extt)/PHED/4-3-B/2020: The competent authority, on recommendations of the Departmental Promotion Committee, is pleased to promote the following acting charge SDOs/Diploma Holder/B.Tech (Hons) Degree holder Sub Engineers (BPS-16) of the Public Health Engineering Department to the posts of Assistant Engineers/Assistant Design Engineers/Sub Divisional Officers (BPS-17) on regular basis, with immediate effect:-

Acting Charge SDOs/Diploma Holder Sub Engineers

- i. Mr. Umar Hayat
- ii. Mr. Muhammad Ali
- iii. Mr. Muhammad Riaz
- iv. Mr. Shahid Saeed
- v. Mr. Alla-ud-Din
- vi. Mr. Anwar Khan

B.Tech (Hons) Degree Holder Sub Engineer

- i. Mr. Hazrat Muhammad

2. The officers, on promotion, will remain on probation for a period of one year in terms of Rule-15 of Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

3. In order to actualize their promotion, the following postings/transfers/adjustments are made henceforth:-

S.No	Name	From	To	Remarks
1.	Mr. Umar Hayat, BPS-16	SDO (OPS) PHE Sub Division FR Bannu/Lakki Marwat	SDO (BPS-17) PHE Sub Division FR Bannu/Lakki Marwat on regular basis	Against the existing vacancy
2.	Mr. Muhammad Ali, BPS-17 (acting charge)	SDO (BPS-17 acting charge) PHE Sub Division Swat	SDO (BPS-17) PHE Sub Division Swat on regular basis	Against the existing vacancy
3.	Mr. Muhammad Riaz, BPS-17 (acting charge)	SDO (acting charge) PHE Sub Division Dargal Malakand	SDO (BPS-17) PHE Sub Division Dargal Malakand on regular basis	Against the existing vacancy
4.	Mr. Shahid Saeed, BPS-17 (acting charge)	SDO (acting charge) PHE Sub Division Balakot Mansehra	SDO (BPS-17) PHE Sub Division Mansehra on regular basis	Against the vacant post
5.	Mr. Alla-ud-Din, BPS-17 (acting charge)	SDO (acting charge) PHE Sub Division No.2 Abbottabad	SDO (BPS-17) PHE Sub Division No.2 Abbottabad on regular basis	Against the existing vacancy
6.	Mr. Anwar Khan, BPS-16	Sub Engineer PHE Division Mansehra	SDO (BPS-17) PHE Sub Division Balakot Mansehra on regular basis	Vice S # 4
7.	Mr. Hazrat Muhammad, BPS-16	SDO (OPS) PHE Sub Division Sheringal Dir Upper	SDO (BPS-17) PHE Sub Division Sheringal Dir Upper on regular basis	Against the existing vacancy

SECRETARY
PHE DEPARTMENT

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Order No. EO(ESTT)/PHED/4-53-B/2020 Dated Peshawar, the December 15, 2020

Copy forwarded for Information and necessary action to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Chief Engineer (South) PHE Khyber Pakhtunkhwa Peshawar.
3. Chief Engineer (North) PHE Khyber Pakhtunkhwa Peshawar.
4. Superintending Engineers PHE concerned.
5. Executive Engineer PHE concerned.
6. District Accounts Officer concerned.
7. PS to Chief Secretary Khyber Pakhtunkhwa Peshawar.
8. PS to Secretary PHE Department Khyber Pakhtunkhwa.
9. Officers concerned.
10. Office Order / Personal Files.


SECTION OFFICER (ESTT)
15.12.2020

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GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT

Dated Peshawar, the October 21, 2021

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Annexe

B

NOTIFICATION

No.SO(Estt)/PHED/4-53-B/2020: Consequent upon his Plea Bargain with NAB Peshawar on account of illegal/unauthorized purchase of Transformers in District Nowshera, the competent authority is pleased to withdraw the promotion of Mr. Umar Hayat, Diploma holder Sub Engineer (BPS-16) to the post of Assistant Engineer/SDO (BPS-17) on regular basis already notified vide this Department notification of even number dated 15-12-2020.

SECRETARY
PHE DEPARTMENT

Encls: No.SO(Estt)/PHED/4-53-B/2020 **Dated Peshawar, the October 21, 2021**

Copy forwarded for information and necessary action to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Chief Engineer (Center) PHE Khyber Pakhtunkhwa Peshawar. He (being competent authority) is requested to take further necessary action against the official concerned under Rule-8(a) of the Khyber Pakhtunkhwa (Efficiency & Discipline) Rules, 2011, which provides that 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 effect from the date of conviction by a court of law. He is also requested to recover all the emoluments from the officer concerned during the period from the date of conviction till-date.
3. Chief Engineer (South) PHE Khyber Pakhtunkhwa Peshawar.
4. Chief Engineer (North) PHE Khyber Pakhtunkhwa Peshawar.
5. Superintending Engineers PHE Bannu.
6. Executive Engineer PHE Bannu.
7. District Accounts Officer Bannu.
8. PS to Chief Secretary Khyber Pakhtunkhwa Peshawar.
9. PS to Secretary PHE Department Khyber Pakhtunkhwa.
9. Officer concerned.
10. Office Order / Personal File.

SECTION OFFICER (ESTT)

A-10/10/21
for order

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To

The Honourable Chief Minister,
Khyber Pakhtunkhwa, Peshawar

(11)

Annexe

(C)

Subject: REPRESENTATION AGAINST THE ORDER OF THE SECRETARY PHE DEPARTMENT VIDE NOTIFICATION NO.SO(ESTT)/PHED/4-53-B/2021 DATED 21-10-2021 WITHDRAWING THE PROMOTION OF THE APPLICANT FROM BPS-17 TO BPS-16.

Respected Sir,

1. That the applicant was appointed as Sub Engineer (BPS-11) in Public Health Engineering Department NWFP (Now Khyber Pakhtunkhwa) on 24-11-1984.
2. That where-after the competent authority on recommendation of Departmental Promotion Committee promoted the applicant to the post of Assistant Engineer/SDO (BPS-17) on regular basis vide Notification No.SO(Estt)/PHED/4-53-B/2020 dated 15-12-2020.
3. That the NAB Khyber Pakhtunkhwa initiated an inquiry against the accused person on the allegation of sub-standard procurement of transformers the applicant was arrested on 25-03-2015 and remained in the custody till 30-03-2015.
4. That due to certain physical constrained and serious family problems, the applicant was persuaded and pressurized by

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the NAB Authorities to enter into plea bargain of the amount to the tune of Rs. 9,93,747/-.

5. *That the applicant was asked to write application for plea bargain and requested for his release, which he accordingly did and was also told him to enter into an agreement with the NAB Authorities.*
6. *That on the same date i.e. 30.03.2015, his statement was recorded before the Accountability Court and was released by the Accountability Court vide order dated 30.03.2015.*
7. *That it is pertinent to mention here that the entire proceedings were conducted on 30.03.2015 without recording the confessional statement of the applicant or without informing him of the consequences of plea bargain and without adopting the legal procedure, he was convicted by the Accountability Court.*
8. *That on the similar inquiry for which the applicant was charged, the NAB Authorities simultaneously filed Reference against three officials of Public Health & Engineering Department, Nowshera and ultimately that Reference which was filed in similar inquiry, all the officials and officers of PHED Nowshera on the same set of allegations were acquitted by the Accountability Court-IV, vide order dated*

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31.07.2019 and the Reference No. 6/2015 was answered in negative by the Accountability Court-IV.

9. That it is further important to mention here that the case of the applicant is still pending before the august Supreme Court of Pakistan.


10. That the secretary PHE KP issued a notification dated 21/10/2021 withdraw the promotion of the applicant from (BPS-16) to (BPS-17) the applicant is again constrained to file the instant representation, inter alia, on the following grounds:-

Grounds:-

- A. That the impugned order of secretary PHE department is illegal, unlawful and without any authority.
- B. That the applicant never committed the offence, as alleged against the applicant, the applicant is innocent in this respect.
- C. That the applicant's thirty years long standing service record is clean and unblemished throughout.
- D. That the applicant was illegally coerced into the plea bargain for a nominal amount and that too without informing him the consequences.

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- E. *That acquittal of all the other accused by the Accountability Court-IV on similar charges clearly depicts that the investigation and inquiry conducted by the NAB Authorities was defective and could not establish the guilt against any of the accused facing trial.*
- F. *That the applicant served the department for almost 30 years in the service and was condemned unheard and illegally and the impugned order was passed in hasty manner without following the procedure under the E&D rules.*
- G. *That the order of the promotion was in accordance with law by the competent authority on recommendations of the departmental promotion committee, hence the same cannot be withdrawn.*
- H. *That had he been informed by the Accountability Court that if he entered into an agreement with the NAB Authorities, he will be deemed to have been convicted the consequences of conviction he could have joined and faced the trial instead just like other officials and officers of PHED.*
- I. *That in the judgment of Accountability Court-IV dated 31.07.2019, it was held in categorical manner that the prosecution badly and miserably failed to prove the charge*

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against the accused facing trial and acquitted all the other accused facing trial, but due to misleading by the respondents, the applicant is deemed to be convicted.

It is, therefore, requested that on acceptance of this representation, the impugned order/notification dated 21/10/2021 may please be set aside, and the order of promotion dated 15/12/2020 may please be upheld.

Dated:- 03/11/2021

Applicant

Umar Hayat
Sub Engineer (BPS-16)
S/o Ghulam Nabi Khan
R/o House No 13, near
Government Girls College, Club
Road, Nowshera Cantt

Atc

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To,

**CHIEF SECRETARY,
Civil Secretariat,
Khyber Pakhtunkhwa Peshawar**

Subject:- DEPARTMENTAL APPEAL / REPRESENTATION AGAINST THE IMPUGNED ORDER DATED 21.10.2021 AND SUBSEQUENT ORDER DATED 03.12.2021 VIDE WHICH INITIALLY THE APPELLANT WAS DOWNGRADED / DEMOTED FROM BPS-17 TO BPS-16 AND SUBSEQUENTLY DISMISSED FROM SERVICE BY THE RESPONDENT NO 3.

Respected Sir,

1. That the Appellant is the Law abiding citizen of Pakistan and is entitled for all the rights guaranteed by the Constitution of Islamic Republic of Pakistan, 1973.
2. That briefly stated the fact relevant for the purpose of this petition are that, the Appellant was appointed as Sub Engineer (BPS-) in the Public Health Engineering Department, Khyber Pakhtunkhwa, Peshawar on 24.11.1984 and since then, the Appellant is performing his duty with dye diligence.
3. That the Appellant was promoted to the post of Assistant Engineer /SDO (BPS-17) on regular basis on the recommendation of the Departmental Promotion Committee by the competent authority vide notification No. SO(Estt)/PHED/4-53-B/2020 dated 15.12.2020.
4. That this Notification of Promotion was withdrawn by Respondent No 1 vide notification No. SO(Estt)/PHED/4-53-B/2020 dated 21.10.2021 on account of plea-bargain with the NAB authorities by the Appellant in respect of illegal / unauthorized purchase of transformers in District Nowshera.
5. That after issuance of the above mentioned notification / impugned order dated 21.10.2021, the Appellant filed Appeal / representation against the notification to the competent authority vide diary No. 1748 dated 09.11.2021, which is still pending and has not yet been decided.
6. That it is pertinent to mention here that the impugned order issued by the Respondent No 3 in the light of the past enclosed transaction in respect of the National Accountability Bureau (NAB), whereby the Appellant was forced for plea bargain as the Appellant was in the custody of NAB, therefore while pressurized by the NAB Authority and recorded his statement for plea Bargain and thereafter the two co-accused in the said reference were acquitted by the NAB Court after recording of pro and contra evidence. The benefits of the acquittal was also extended in favour

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of the Appellant by the Respondents, therefore he has been allowed to continue his service.

7. That the Appellant while aggrieved from the impugned order dated 21.10.2021 forwarded departmental Appeal according to the prescribed rules and the same representation was pending before the competent authority since filing and the meanwhile the Respondents while issued another order vide No. 02/LE-11/PHE dated 03.12.2021 whereby the Appellant was dismissed from service w.e.f 11.12.2015.
8. That the Appellant after his arrest by the NAB authority produced before the competent court and the custody was granted to the NAB authority and during interrogation in the NAB Office, the Appellant was badly tortured and pressurized for making of plea bargain before the Hon'ble Court, however the Appellant due to his mental torture was unable to file appeal before the competent court of law against the said order and the Respondents considered the request of the Appellant and allowed to continue his service.
9. That the Appellant was promoted by the competent authority on dated 15.12.2020 to BPS-17 and the said position was duly actualized by the Appellant, however after sufficient time the said promotion order was withdrawn by the Respondent No 3 and the punishment in respect of the plea bargain has been awarded to the Appellant, the Appellant preferred departmental appeal against the said order and after the expiration of mandatory period the competent authority did not pass any order, rather in the meanwhile another order dated 03.12.2021 was issued and the Appellant was awarded major punishment i.e Dismissal from service.
10. That the competent authority while issued the order demotion in the light of past and close transaction and subsequently the impugned dismissal order has been issued which is the violation of Article 13 of the Constitution of Islamic Republic of Pakistan 1973, as per Article 13 protection against double punishment and self-incrimination has been restricted, the Hon'ble Apex Courts rendered reported judgment of 2004 PLC SC 959 and it is held that no employee could be punished twice and in the said case employee was punished for his past punishment awarded to him, therefore the competent authority violated the said article and awarded two punishment to the Appellant, which is illegal, unlawful and without lawful authority and is liable to be declare so.
11. That it is well established principal of the Apex Court that an employee should not be vexed twice for the same offence, similarly once the competent authority demoted the Appellant from BPS-17 to BPS-16, thereafter the subsequent dismissal order is against the law, rules, policy and constitution mandate.

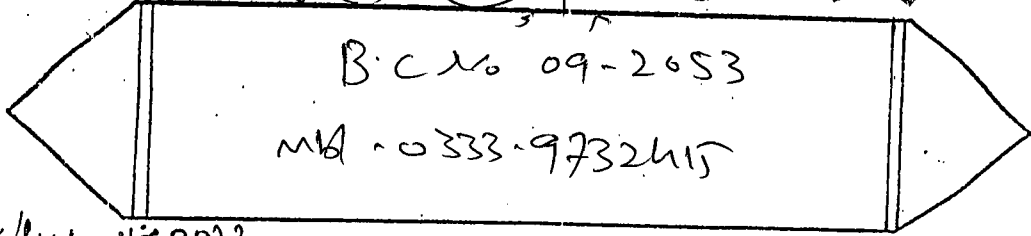
(18)

12. That as per the policy guide lines it is obligatory upon the competent authority to issue the dismissal order in such manners provided under the rules and policy according to which the Appellant has been dismissed in the light of plea bargain order which is the past and close transaction due to personnel grudges, which is illegal unlawful without lawful authority.
13. That the fundamental right of the Appellant has blatantly violated by the Respondents and the Appellant have been discriminated and has been denied his due rights under the Constitution of Islamic Republic of Pakistan, 1973.

It is, therefore, most humbly requested that, On acceptance of this Appeal, impugned Order Dated 21.10.2021 And Subsequent Order Dated 03.12.2021 vide which initially the appellant was Downgraded / Demoted from BPS-17 to BPS-16 and subsequently dismissed from service by the Respondent No 3 may kindly be set aside and the Appellant may please be reinstated / restored into his service with all back benefits.

UMAR HAYAT
S/o Ghulam Nabi Khan,
Sub Engineer (BPS-16)
Resident of House No 13,
Near Govt Girls College Club
Road Nowshera
Cell # 0333-8885911

بعدالتعالیٰ اور مائٹروسٹریٹ



2022ء منجانب ریپبلک

عمومیات بنام حکومت

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ کے
آن مقام سیٹے سید محمد خان کیلئے
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک دروپس اور عرضی 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 کسی وہی جملہ مذکورہ یا اختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جہانہ 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
مذکورہ کریں۔ لہذا وکالت نامہ لکھدیا کہ سندر ہے۔

Accepted by

2022

المرقوم 04

واہ العباد

بمقام سید اور کے لئے منظور ہے۔

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

Recd

APPEAL No.....175..... of 20

St

22

Umar Hayat

Appellant/Petitioner

Versus

Govt of KPK through Chief Secy, Civil Secretariat, Peshawar

RESPONDENT(S)

Notice to Appellant/Petitioner

Umar Hayat s/o Ghulam Nabi Khan

Sub Engineer (BPS-16) Resident of House No. 13, near
Govt Girls College, Club Road, Peshawar.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on.....19/04/2022..... at.....7.00.....

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

[Signature]

Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

APPEAL No.....175..... of 20^{SE}₂₂

Umar Hayat

Appellant/Petitioner

Versus

Govt of KPK through Chief Secy, Civil Secretariat, Peshawar
RESPONDENT(S)

Counsel
Notice to Appellant/Petitioner Bashir Khan Wazir Advocate, High
Court, Peshawar

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 19/04/2022 at 9:00

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

Registrar, etc

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.