

22.07.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present and sought time for submission of reply/comments. Last opportunity given. In case the last chance as given is not availed, the next adjournment shall be subject to prior payment of cost of Rs. 5000/-, failing which the right of respondents for submission of reply/comments shall be deemed as struck off. Adjourned. To come up for submission of reply/comments on 23.09.2022 before the S.B at Camp Court Abbottabad.



(Salah-Ud-Din)

Member (J)

Camp Court Abbottabad

24.01.2022

Counsel for the appellant present. Preliminary arguments have been heard.

This appeal has been preferred to impugn the order dated 21.12.2021, whereby the appellant has been transferred from Irrigation Sub Division, Haripur to Irrigation Sub Division (Shinkiyari Section), purporting the transfer being in the best public interest. The remarks column in the impugned order is blank and thus it is not clear that the post against which the transfer has been made is vacant or otherwise. According to the designation of the appellant given in the impugned order, he is Gauge Reader and as per contention of the learned counsel this is a post in BPS-02. Whether the transfer of holder of such post from one Sub Division to the other Sub Division has any expediency, need arguments from both sides. The appeal is admitted for regular hearing subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 18.02.2022 before S.B at Camp Court Abbottabad.

The appeal is accompanied by an application for suspension of the operation of impugned order dated 21.12.2021. Notice of the said application be also given to the respondents. The operation of the impugned order shall remain suspended till next date.

Appellant Deposited
Security Process Fee

[Signature]
24/01/22

[Signature]
Chairman

18-2-22:

Due to retirement of majority chair-man case is adjourned. To come up for the same on 22/7/2022.



[Signature]
Recorder

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 78/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/01/2022	<p>The appeal of Mr. Rehmat Khan presented today by Fiza Ahmad Nizami Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put up there on <u>24/01/2022</u></p> <p style="text-align: right;"> CHAIRMAN</p>

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Rehmat Khan vs Govt of KPK etc

S#	CONTENTS	Yes	No
1.	This Appeal has been presented by <u>FIZA AHMED NIZAMI ADV</u>	✓	
2.	Whether counsel / appellant / respondent / deponent have signed the requisite document?	✓	
3.	Whether appeal is within time?		
4.	Whether appeal enactment under which the appeal is filed is mentioned?	✓	
5.	Whether enactment under which the appeal is filed is correct?	✓	
6.	Whether affidavit is appended?		
7.	Whether affidavit is duly attested by competent oath commissioner?		
8.	Whether appeal / annexure are properly paged?		
9.	Whether certificate regarding filing any earlier appeal in the subject, furnished?		
10.	Whether annexures are legible?		
11.	Whether annexures are attested?		
12.	Whether copies of annexures are readable/ clear?		
13.	Whether copies of appeal is delivered to AG/ DAG?		
14.	Whether Power of Attorney of the counsel engaged is attested and signed by Petitioner/ Appellant/ Respondents?		
15.	Whether number of referred cases given are correct?		
16.	Whether appeal contains cutting / overwriting?	✓	
17.	Whether list of books has been provided at the end of the appeal?		✓
18.	Whether case relate to this Court?	✓	
19.	Whether requisite number of spare copies are attached?	✓	
20.	Whether complete spare copy is filed in separate file cover?	✓	
21.	Whether addresses of parties given are completed?	✓	
22.	Whether index filed?	✓	
23.	Whether index is correct?	✓	
24.	Whether security and process fee deposited? On _____		
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rule 1974 rule 11, Notice along with copy of appeal and annexure has been sent to respondents? On _____		
26.	Whether copies of comments / replay/ rejoinder submitted? On _____		
27.	Whether copies of comments / replay/ rejoinder provided to opposite party? On _____		

It is certified that formalities /documentations as required in the above table, have been fulfilled.

Name:- FIZA AHMED NIZAMI ADV

Signature:- [Signature]

Dated:- 24/01/2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL CAMP COURT, ABBOTTABAD

Service Appeal No. 78 /2022

Rehmat Khan, Gauge Reader, Irrigation Sub-Division
Haripur.

APPELLANT

Government of KPK through Secretary Irrigation,
Secretariat Peshawar & others.

RESPONDENTS

SERVICE APPEAL

INDEX

S.No.	Description of Document	Annexure	Page No.
1	Service Appeal Along-with Affidavit, Application for status-quo		1-6
2	Copy of office order.	"A"	7
3	Copies of memo of appeal and TCS	"B & C"	8-9
3	Vakalat Nama	-	10


APPELLANT

Through:

Dated:- 23/01/2022


(Faiza Ahmed Nizami)
Advocate High Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL CAMP COURT, ABBOTTABAD

Service Appeal No. /2022

Rehmat Khan, Gauge Reader, Irrigation Sub-Division
Haripur.

APPELLANT

VERSUS

1. Government of KPK through Secretary Irrigation,
Secretariat Peshawar.
2. Chief Engineer, Irrigation Khyber Pakhtunkhwa, ^{North, Peshawar} Swabi
3. Executive Engineer, Hazara Irrigation Division, supply
Abbottabad.
4. *Supervising Engineer, Irrigation Hazara Canal
Office at Swabi.*

RESPONDENTS

APPEAL U/S-4 OF KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT- 1974, AGAINST THE OFFICE ORDER
NO. 1093/10-E DATED 21/12/2021 VIDE WHICH
APPELLANT HAS BEEN TRANSFERRED TO
IRRIGATION SUB-DIVISION ABBOTTABAD (SHINKARI
SECTION) FROM IRRIGATION SUB-DIVISION HARIPUR.

PRAYER:

ON THE ACCEPTANCE OF INSTANT APPEAL, THE
IMPUGNED OFFICE ORDER NO.1093/10-E DATED
21/12/2021 MAY GRACIOUSLY BE SET ASIDE AND THE
APPELLANT MAY KINDLY BE ORDERED TO CONTINUE
HIS SERVICES AS A GAUGE READER AT IRRIGATION
SUB-DIVISION HARIPUR, AND ANY OTHER RELIEF
WHICH WOULD BE DEEMED FIT AND PROPER IN THE
CIRCUMSTANCES OF THE CASE MAY ALSO BE
GRANTED TO APPELLANT

RESPECTFULLY SHEWETH:

1. That, the appellant is serving as a gauge reader at sub-division haripur to the entire satisfaction of high ups of the department without any stigma of any sort through out as service.
2. That, without any rhyme and reasons the appellant has been transferred to irrigation sub-division abbottabad (Shinkari Section) from irrigation sub-division haripur, vide office order No. 1093/10-E dated 21/12/2021. **(Copy of office order is attached herewith as annexure "A")**
3. That, being not satisfied of impugned office order, the appellant immediately filed an appeal before the Respondent No. ⁴2, but in vain. **(Copies of memo of appeal & TCS receipt are attached as annexure "B & C")**

Feeling aggrieved from the impugned office order the appellant has come to this Honourable tribunal on the following inter-alia amongst many other:-

GROUND:-

- a. That, the impugned order is illegal, unlawful, perverse, unilateral & against the norms of natural justice and fair play, hence, liable to be set aside.
- b. That, the appellant has been serving with the complete satisfaction of his high ups without any even a single complaint of any sort against him in

this respect the service record of appellant could be perused.

- c. That, the appellant is a permanent resident of District haripur and it would be not only difficult but impossible to come to district abbotabad on daily basis with in limited amount of salary, especially when appellant have no residence what so ever at abbotabad.
- d. That, most of the time of appellant would be consumed during travelling between two districts.
- e. That, the impugned office order would be nothing but to corner the appellant.
- f. That, there is no allegation of any discipline against the appellant.
- g. That, other points would be raised at the time of arguments.

it is, therefore, humbly prayed that on the acceptance of instant appeal, the impugned office order no.1093/10-e dated 21/12/2021 may graciously be set aside and the appellant may kindly be ordered to continue his services as a gauge reader at irrigation sub-division haripur, and any other relief which would be deemed fit and proper in the circumstances of the case may also be granted to appellant.


Appellant

Through


(Faiza Ahmed Nizami)
Advocate High Court

Date: 23/01 /2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL CAMP COURT, ABBOTTABAD

Service Appeal No. /2022

Rehmat Khan, Gauge Reader, Irrigation Sub-Division
Haripur.

APPELLANT

Versus

Government of KPK through Secretary Irrigation,
Secretariat Peshawar & others

RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, Rehmat Khan, Gauge Reader, Irrigation Sub-division
Haripur. **Appellant**, do hereby solemnly affirm and declare
on Oath that the contents of instant **Appeal** are true and
correct to the best of my knowledge and belief and that
nothing has been concealed from this Hon'ble Court.

Dated:- 23/01/2022


DEPONENT

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL CAMP COURT, ABBOTTABAD

Service Appeal No. /2022

**Rehmat Khan, Gauge Readr, of Irrigation Sub-Division
Haripur.**

APPELLANT/APPLICANT

VERSUS

- 1. Government of KPK through Secretary Irrigation,
Secretariat Peshawar.**
- 2. Chief Engineer, Irrigation Khyber Pakhtunkhwa, Swabi**
- 3. Executive Engineer, Hazara Irrigation Division, supply
Abbottabad.**

RESPONDENTS

SERVICE APPEAL

**APPLICATION FOR SUSPENSION OF OPERATION OF
IMPUGNED OFFICE ORDER NO.1093/10-E DATED
21/12/2021 AND MAINTENANCE OF STATUS-QUO
TILL THE FINAL DISPOSAL OF MAIN APPEAL.**

Respect fully Sheweth:-

- 1. That, the main appeal is being submitted in
this Honourable tribunal which may graciously
be treated as a integral part of the same.**
- 2. That, the appellant has brought good Prima-
Facia case in this honourable trubinal in which
the appellant is hopeful of his success.**

6
3. That, balance of convenience also tiltes in favour of appellant.

it is therefore most humbly prayed that on acceptance of instant application operation of impugned office order no.1093/10-e dated 21/12/2021 and maintenance of status-quo till the final disposal of main appeal, be ordered.


APPELLANT/APPLICANT

Through

Dated: 24/01/2022


(Faiza Ahmed Nizami)
Advocate High Court

AFFIDAVIT

I, Rehmat Khan, Gauge Reader, Irrigation Sub-Division Haripur. **Appellant**, do hereby solemnly affirm and declare on Oath that the contents of instant **Application** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.

Dated:- 23/01 /2022


DEPONENT



OFFICE OF THE EXECUTIVE ENGINEER
HAZARA IRRIGATION DIVISION ABBOTTABAD
Phone & Fax 0992-9310246.

Ann A's
(7)

No. 1093 / 10-E

Dated Abbottabad the 21 / 12 / 2021.

OFFICE ORDER.

The following postings/ transfers of the following staff of this Division is hereby ordered with immediate effect in the best public interest.

S/No	Name of official	Designation	From	To	Remark
1	Rehmat Khan	Guage Reader	Irr: S/ Divn: Haripur.	Irr: S/ Divn: Abbottabad (Shinkhari Section).	
2	Baber Khan	Beldar	Irr: S/ Divn: Haripur.	Irr: S/ Divn: Abbottabad (Mansehra Section).	

Executive Engineer.

1. Sub Divisional Officer Irrigation Sub Division Haripur for information and necessary action.
2. Sub Divisional Officer Irrigation Sub Division Abbottabad for information and necessary action. He is directed to report the attendance of officials on daily basis.

Executive Engineer.

کتاب جناب سرپرستہ خیر الخیر اور شہینہ امجدی (کتاب)

مخبر: امیل بہار لکھنؤ برہم پتر السنہ ۱۹۱۳ - E - ۱۵/۱۰
جورڈ ۱۲/۱۹۱۳

جناب عالی: جو جات امیل ذیل ہیں۔

۱۔ یہ کہ سائنس ایسٹریٹ لکچر گیم ریڈر اور شہینہ امجدی کی طرف سے
سب لکچر آفس جناب سرپرستہ خیر الخیر اور شہینہ امجدی
کو پیش کیا گیا ہے جو حق نہیں دیا۔

۲۔ یہ کہ سائنس کے چھوٹے چھوٹے زمرے قائم ہیں اور گھر سے
دیکھ کر کوئی عمل نہیں ہوتا ہے۔

۳۔ یہ کہ سائنس کو دروازے کو بند سے کافی گھر سے
مشکلات کا سامنا کرنا پڑے گا۔

۴۔ یہ کہ سائنس کے تمام معاملات زندگی سے متاثر ہونے
کے امکانات ہیں۔

۵۔ یہ کہ سائنس کی زندگی کا علم سے بہار ہے اور گھر سے
اس کا جو سب سے زیادہ بڑا اثر ہے۔

اس لئے کہ اسے امیل نے اس وقت سائنس کی
اور شہینہ امجدی اور شہینہ امجدی کی سائنس میں
کہ انہیں ریڈر منسوخ کر کے جانے کے امکانات ہمارے ہاں ہیں

میں نے اس کے بارے میں سب سے پہلے ہی
سب سے پہلے ہی سب سے پہلے ہی

رحمت خاتون گیم ریڈر اور شہینہ امجدی
سب سے پہلے ہی سب سے پہلے ہی

۱۲/۱۲
۱۹۱۳



Ans 'c'
(9)



CN: 5067952721

G 0

CASH 2021-12-23 16:10

HRI-SWA 1Pcs - .5
Staff: 50438 Route: X26114

Name : MALIK REHMAT KHAN
Phone : 03005800149
Address : VILL TOFKIAN TEH KHANPUR

Name : IRO SUPREDANT ENG SB
Phone : 365335353565
Address : ARIGATION KPK NEAR POLICE STATION
SWABI

DDX
Rs. 0

Service CHG	198.0
Other Amount	0.0
VAS	0
Insurance CHG	0
GST	32
Premium	0
TOTAL	230.0

Tax
TCS
CUSTOMER SERVICE

For Terms & Conditions Visit
www.tcscouriers.com/tnc
TCS Headquarters, 101-104, Civil Aviation
Club Road Karachi - 75202, Pakistan
UAN : 111 123456 Web : tcs.com.pk
(Shipper Copy) V-1.71

HCBA Reg No.	2	4	0	-	A		
BC No.	1	10	-	3	2	3	9
Place of Practice	اسد آباد						
Name of Advocate	فضیلہ انجم رضوی						

S. No. 23507



وکالت نامہ

بعدالت: صاحب رجسٹریشن سید ساجد علی شاہ
 عنوان: مسٹر رجسٹرڈ وکیل
 منجانب: ایڈووکیٹ صاحبہ: سر سید ساجد علی شاہ
 باعث تحریر آئیکہ: سید ساجد علی شاہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جوابدہی برائے پیشی یا تصفیہ مقدمہ بمقام سید ساجد علی شاہ کے لیے

فصلہ اعداد کٹاوس ایڈووکیٹ بائی کوڈٹ

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص روبرو عدالت حاضر ہوتا رہوں گا اور بروقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر منظر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہونگے نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ کسی جگہ یا کچہری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہونگے اور مقدمہ کچہری کے علاوہ کسی اور جگہ سماعت ہونے یا بروز تعطیل یا کچہری کے اوقات کے آگے پیچھے پیش ہونے پر منظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا جحانہ کے واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہونگے۔ مجھ کو کل ساختہ پر داختہ صاحب موصوف مثل کردہ ذات منظور و مقبول ہوگا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی و ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کرانے اور ہر قسم کارروپیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور اس پر ثالثی و راضی نامہ و فیصلہ برحلف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت جانے میر و نجات از کچہری صدر اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم اتناعی یا قرتی یا گرفتاری قبل از گرفتاری و اجراءے ڈگری بھی صاحب موصوف کو بشرط ادا ہنگی علیحدہ مختانہ پیروی کا اختیار ہوگا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار حاصل ہوگا کہ مقدمہ مذکور یا اس کے کسی جزوی کارروائی کے یا بصورت اپیل کسی دوسرے وکیل کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے وکیل کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہونگے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ جو کچھ ہر جانہ التوا پڑے گا وہ صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

موزعہ ۱۰۰۰/۱۰۰۰/۱۰۰۰

دن مہینہ سال

لہذا وکالت نامہ لکھ دیا ہے کہ سندر ہے۔

نوٹ: اس وکالت نامہ کی نوٹوکانی ناقابل قبول ہوگی۔

مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Accepted
Punjab