

06th July, 2022

Appellant present in person. Mr. Kabir Ullah Khattak, Additional AG alongwith Tariq Shah Senior Auditor for respondent No.4 present.

Appellant seeks time to deposit cost of Rs.5000/- and copies of memorandum of appeal. Last chance is given. Appellant is directed to submit copies of memorandum of appeal and cost of Rs.5000/- on 08.09.2022 before S.B.



(Kalim Arshad Khan)
Chairman

08.04.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, learned Addl. AG for the respondents present.

Written reply/comments on behalf of respondents have not been submitted. Learned Addl. AG requested for time to submit written reply/comments. Last chance is given. To come up for written reply/comments before the S.B on 26.05.2022.

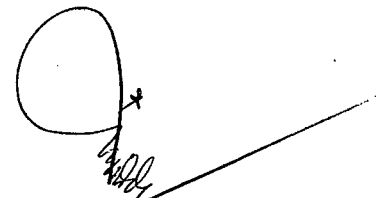


Chairman

26.05.2022

Learned counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney for the respondents present.

Learned counsel for the appellant submitted an application for necessary rectification in the panel of respondents to the effect that necessary respondents in the instant service appeal were previously omitted and irrelevant respondents inadvertently included. Application in question is allowed subject to imposition of Rs 5000/- as costs to be deposited and receipt thereof placed on file whereafter the office would make necessary entry in the panel of respondents so rectified. Learned counsel for the appellant is also directed to submit copies of the memorandum of appeal. Thereafter, notices be issued to the respondents for submission of written reply/comments. To come up for written reply/comments on 06.07.2022



(Mian Muhammad)
Member (E)

03.12.2021

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

Learned counsel for the appellant argued that the appellant is aggrieved of the impugned order dated 10.11.2020 whereby he was awarded major penalty of compulsory retirement from service. His departmental appeal was also rejected by appellate authority and communicated vide letter dated 30.12.2020. The appellant also approached the Peshawar High Court, Peshawar in a writ petition. However, the writ petition was withdrawn on 15.09.2021 where-after the service appeal was filed in Service Tribunal on 04.10.2021. It was further contended that the appellant has been condemned unheard and the enquiry referred to had been conducted against one Saleem Khan, Junior Clerk and not the appellant. Moreover, the statement dated 20.12.2019 attributed to the appellant is not his statement to have been recorded and authenticated by the appellant. The order is illegal, unlawful is liable to be set aside.

The appeal is admitted to regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to respondents for submission of reply/comments. To come up for reply/comments on 07.02.2022 before S.B.

Appellant Deposited
Security & Process Fee

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(Mian Muhammad)
Member(E)

07.02.2022

Due to retirement of the Hon'able Chairman, the case is adjourned to 08.04.2022 before S.B for the same.

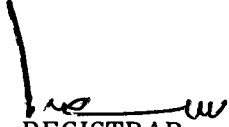

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Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7499 /2021


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	05/10/2021	<p>The appeal of Mr. Arshid resubmitted today by Mr. S. Shakil Khan Gillani 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> <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put up there on <u>03/12/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

The appeal of Mr. Arshid son of Umar Din R/o Mohallah No 13, Bar Kanday Mughal baz road, Bughdada P.O Mardan received today i.e. on 04.10.2021 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days:

- 1- Copy of departmental appeal annexed as D is not attached with the appeal.

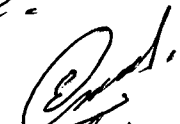
No. 1963 /S.T,

Dt. 05/10 /2021


REGISTRAR,
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. S. Shakil Khan Gillani AHC Pesh.

Note :- copy of grounds of departmental appeal was not provided to the appellatant, however order of same is "Annexure - D" with appeal.


S. Shakil Khan Gillani

5-10-21

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Arshid VS Govt of K.P.K @ others

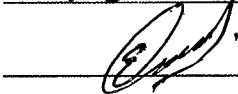
S#	CONTENTS	YES	NO
1	This Appeal has been presented by:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3	Whether appeal is within time?	<input type="checkbox"/>	<input type="checkbox"/>
4	Whether the enactment under which the appeal is filed mentioned?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5	Whether the enactment under which the appeal is filed is correct?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6	Whether affidavit is appended?	<input type="checkbox"/>	<input type="checkbox"/>
7	Whether affidavit is duly attested by competent Oath Commissioner?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8	Whether appeal/annexures are properly paged?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	<input type="checkbox"/>	<input type="checkbox"/>
10	Whether annexures are legible?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11	Whether annexures are attested?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
12	Whether copies of annexures are readable/clear?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
13	Whether copy of appeal is delivered to AG/DAG?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
15	Whether numbers of referred cases given are correct?	<input type="checkbox"/>	<input type="checkbox"/>
16	Whether appeal contains cutting/overwriting?	<input type="checkbox"/>	<input type="checkbox"/>
17	Whether list of books has been provided at the end of the appeal?	<input type="checkbox"/>	<input type="checkbox"/>
18	Whether case relate to this court?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19	Whether requisite number of spare copies attached?	<input type="checkbox"/>	<input type="checkbox"/>
20	Whether complete spare copy is filed in separate file cover?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
21	Whether addresses of parties given are complete?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
22	Whether index filed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
23	Whether index is correct?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
24	Whether Security and Process Fee deposited? On	<input type="checkbox"/>	<input type="checkbox"/>
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On	<input type="checkbox"/>	<input type="checkbox"/>
26	Whether copies of comments/reply/rejoinder submitted? On	<input type="checkbox"/>	<input type="checkbox"/>
27	Whether copies of comments/reply/rejoinder provided to opposite party? On	<input type="checkbox"/>	<input type="checkbox"/>

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

Name:

S. Shakeri Khan Gilani

Signature:



Dated:

2-10-021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No. 7499/2021

Arshid..... Appellant

VERSUS

The Government 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	-	6-7
4.	Affidavit		8
5.	Application for Condonation of Delay		9-10
6.	Affidavit		11
7.	Copy of Order, Inquiry report and Statement of the Appellant during inquiry	A to C	12-17
8.	Copy of Departmental Appeal and Order dated 30.12.2020	D	18-
9.	Copy of the Writ Petition and order	E	19-25
10.	Wakalat Nama		26

Appellant

Through

Dated: 02.10.2021


S. SHAKIL KHAN GILLANI
Advocate, High Court
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No. _____/2021

Arshid S/o Umar Din R/o Street Mohallah No 13, Bar Kanday
Mughal Baz Road, Bughdada P.O Mardan

..... **Appellant**

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. The Secretary (E&SE), Department Khyber Pakhtunkhwa Peshawar.
3. The Secretary Finance Department Khyber Pakhtunkhwa, Peshawar.
4. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
5. The Director (E&SE), Department Khyber Pakhtunkhwa, Peshawar.

..... **Respondents**

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT
1974 AGAINST THE IMPUGNED ACTION OF
THE RESPONDENTS BY ILLEGAL AND
UNLAWFUL DEDUCTING THE CONVEYANCE

**ALLOWANCE OF THE APPELLANT DURING
WINTER & SUMMER VACATION AND
AGAINST NO ACTION TAKEN ON THE
DEPARTMENTAL APPEAL OF APPELLANT
WITHIN THE STATUTORY PERIOD OF
NINETY DAYS.**

It is, therefore, most humbly prayed that on acceptance of this Appeal;

- a) The Impugned Order may be declared as illegal and unlawful.
- b) The impugned order may graciously be set aside and Appellant may be reinstated in service with all back benefits.
- c) Any other remedy deems fit and appropriate in the circumstances of the case may also be granted in favour of the Appellant.

Respectfully Sheweth:

F A C T S:

1. Tat the Appellant was appointed as Bidder on 06.06.1988 in Irrigation Department.
2. That there was an inquiry against one Saleem Khan, Junior Clerk of the Department and in culmination of

inquiry, the Appellant was compulsorily retired from the Government Service vide order dated 10.11.2020. **(Copy of Order, Inquiry report and Statement of the Appellant during inquiry are attached as annexure A to C respectively)**

3. That thereafter Appellant filed Departmental representation which was dismissed vide order dated 30.12.2020. **(Copy of Departmental Appeal and Order dated 30.12.2020 is attached as annexure D)**
4. That thereafter Appellant under misconception filed a Writ Petition against the Order in Appeal which was withdrawn vide Order dated 15.09.2021. **(Copy of the Writ Petition and order is attached as annexure E)**

Now Feeling aggrieved of the above order dated 30.12.2020, this Appeal on following grounds inter alia:-

G R O U N D S:

- A. That the order is illegal, unlawful and hence needs interference.
- B. That the order in question is a result of haste and mal approach, thus needs to be interfered.
- C. That there was no inquiry pending against the Appellant, thus imposition of major penalty is not maintainable.

D. That the findings of inquiry are based on contradictory statements, without any supporting evidence, hence needs to be set aside.

E. That the mode and manner in which the impugned Order was passed amounts to infringement of fundamental rights of the Appellant.


F. That any other grounds will be raised at the time of arguments with prior permission of this Hon'ble Tribunal.

It is, therefore, most humbly prayed that on acceptance of this Appeal;

- a) The Impugned Order may be declared as illegal and unlawful.
- b) The impugned order may graciously be set aside and Appellant may be reinstated in service with all back benefits.
- c) Any other remedy deemed fit and appropriate in the circumstances of the case may also be granted in favour of the Appellant.

Through
Dated: 02.10.2021

Appellant


S. SHAKIL KHAN GILLANI
Advocate, High Court
Peshawar

Note:

Another Appeal arising out of same inquiry titled "Saleem Khan VS Govt" is fixed for 05.10.2021.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. _____/2021

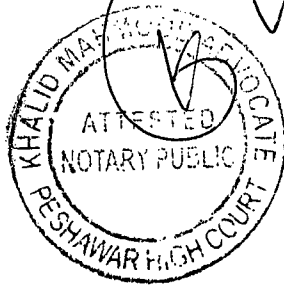
Arshid..... Appellant

VERSUS

The Government of KPK & others Respondents

AFFIDAVIT

I, Arshid S/o Umar Din R/o Street Mohallah No 13, Bar Kandy Mughal Baz Road, Bughdada P.O Mardan, 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.



2-10-21

Arshid

DEPONENT

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. _____/2021

Arshid..... Appellant

VERSUS

The Government of KPK & others Respondents

**APPLICATION FOR SUSPENSION OF THE
IMPUGNED ORDER, TILL THE FINAL
DISPOSAL OF THE MAIN SERVICE APPEAL.**

Respectfully Sheweth:

1. That the titled Service Appeal is being filed before this Hon'ble Tribunal in which no date of hearing is fixed.
2. That the grounds of main appeal may be considered as integral part of this application.
3. That the balance of convenience also lies in favour of the appellant.
4. That the appellant has a good prima facie case and all the three ingredients are in favour of the appellant.

5. That if the operation of the impugned Order is not suspended then the appellant would suffer irreparable loss.
6. That any other ground will any will be raised at the time of arguments with the prior permission of this Hon'ble Court.

It is, therefore, most humbly prayed that by accepting this application, the interim relief as prayed for in the instant application may kindly be passed in favour of the appellant against the respondents

Through
Dated: 02.10.2021

Appellant



S. SHAKIL KHAN GILLANI
Advocate, High Court
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No. _____/2021

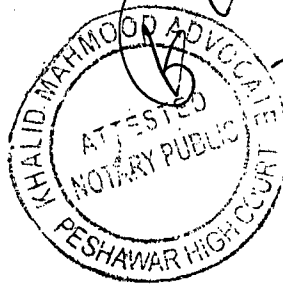
Arshid..... Appellant

VERSUS

The Government of KPK & others Respondents

AFFIDAVIT

I, Arshid S/o Umar Din R/o Street Mohallah No 13, Bar Kandy Mughal Baz Road, Bughdada P.O Mardan, 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.



Arshid
DEPONENT

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. _____/2021

Arshid..... Appellant

VERSUS

The Government of KPK & others Respondents

**APPLICATION FOR CONDONATION OF
DELAY IN FILING THE INSTANT SERVICE
APPEAL**

Respectfully Sheweth:

1. That the captioned appeal is filed before this Honourable Court, in which no date of hearing has yet to be fixed.
2. That the Appellant failed to file the Appeal in time as under misconception he approached a wrong forum i.e Hon'ble Peshawar High Court, which case was withdrawn on 15.09.2021 & copies of the same were acquired on 22.09.2021, that too due to extreme poor financial condition of Appellant as he was unable even to arrange for fee of attested copies.
3. That the Applicant has served for more than 30 years & his very valuable rights are attached with the matter

even otherwise cases ought to be decided on merits rather on technicalities.


4. That Appeal of one Saleem Khan the main Accused is also pending before this Hon'ble Tribunal.
5. That the grounds of the accompanying appeal may be read as integral part of this appeal.
6. That any other grounds will be raised at time of arguments with permission of this Hon'ble Tribunal.

It is, therefore, most humbly prayed that on acceptance of this application, the delay, if any, in filing the above titled appeal may kindly be condoned in the interest of justice.

Dated: 02.10.2021

Through

Appellant


S. SHAKIL KHAN GILLANI
Advocate, High Court
Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. _____/2021


Arshid..... Appellant


VERSUS

The Government of KPK & others Respondents

AFFIDAVIT

I, Arshid S/o Umar Din R/o Street Mohallah No 13, Bar Kandy Mughal Baz Road, Bughdada P.O Mardan, 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.


2-10-2021
DEPONENT





Amf A
⑫

**OFFICE OF THE EXECUTIVE ENGINEER
MARDAN IRRIGATION DIVISION, MARDAN.
Phone & Fax No. 0937-9230195**

No. 2362 /2-EG,
Dated Mardan the 10 /11/2020

OFFICE ORDER

WHERE As a complaint against Mr. Saleem Khan, Junior Clerk, Mardan Irrigation Division Mardan was lodged by one Mr. Hassan Gul S/O Sahib Gul Resident of Kas Koroona Mardan with allegations of receiving money / gratification from him on account of appointments of his sons etc in Irrigation Department.

WHERE As a fact finding Inquiry Committee was constituted vide Superintending Engineer Mardan Irrigation Circle Mardan Office Order No. 1711/10/2-E, dated 05/08/2019 to examine the factual position of the complaint and according to inquiry report Mr. Arshid Beldar (Now Mate) was also found involved in the deal of illegal payment and his role in the mentioned deal was found as middle man. A formal inquiry in the matter was ordered vide Superintending Engineer Mardan Irrigation Circle Mardan Office Order No. 2361/10/2-E, dated 11/11/2019.

WHERE As the inquiry officer after conducting detail enquiry found Mr. Arshad, Beldar (Now Mate) equally involved in the mail practices and corruption. Accordingly the enquiry officer recommended Major Penalty under rule 4(b)(ii) of E&D Rules 2011 against Mr. Arshad Beldar (Now Mate), Mardan Irrigation Sub Division Mardan.

WHERE As the Superintending Engineer, Mardan Irrigation Circle Mardan with letter No. 2107/75-E, dated: 05-10-2020 forwarded the Enquiry Report for issuance of Show Cause Notice to Mr. Arshad, Beldar(Now Mate). Accordingly Show Cause Notice was issued to Mr. Arshad, Beldar (Now Mate) vide this office No. 2066/2-EG, dated: 7-10-2020.

WHERE As Mr. Arshad, Beldar(Now Mate), Mardan Irrigation Sub Division Mardan, furnished his reply to the Show Cause Notice on 16/10/2020 which was perused.

WHERE As Mr. Arshad, Beldar(Now Mate) was given the opportunity of Personal hearing on 27/10/2020 vide this office No. 2186/2-EG, dated: 20-10-2020 he was accordingly heard in person.

AND WHERE As I, being Competent Authority, am not satisfied with his performance and conduct.

1/2

ATTESTED

13

NOW, THEREFORE, in exercise of the Powers Conferred on me under E & D Rules 2011, the undersigned being Competent Authority hereby Compulsory Retire Mr. Arshad, Beldar(Now Mate) from Government Service with immediate effect.

EXECUTIVE ENGINEER

Copy forwarded for information and necessary action to the:-

- 1) Chief Engineer (North) Irrigation Department Peshawar.
- 2) Chief Engineer (South) Irrigation Department Peshawar.
- 3) Superintending Engineer, Mardan Irrigation Circle, Mardan.
- 4) Executive Engineer Malakand Irrigation Division Malakand
- 5) Sub Divisional Officer, Mardan Irrigation Sub Division, Mardan
- 6) Deputy Collector Mardan Irrigation Division Mardan.
- 7) District Accounts Officer Mardan.
- 8) Ex- official Concerned.

EXECUTIVE ENGINEER

ATTESTED

14

AWT - B

**ENQUIRY REPORT REGARDING CHARGE SHEET / STATEMENT OF ALLEGATION
SERVED TO MR. SALEEM KHAN JUNIOR CLERK ATTACHED TO MARDAN IRRIGATION
DIVISION MARDAN**

I Engr. Ali-ur-Rehman Executive Engineer, Malakand Irrigation Division Malakand has been appointed as enquiry officer to conduct formal enquiry regarding charges levelled against Mr. Saleem Khan Junior Clerk attached to Mardan Irrigation Division Mardan (Copy of order dated 11-11-2019 is enclosed as Annex-A).

The following charges with statement of allegation have been levelled against the accused official.

A. - CHARGE SHEET

- i. That you made illegal transaction by taking money one Mr. Hassan Gul S/O Sahib Gul R/O Kass Koroona District Mardan for appointment of his son and other relatives. The deal was testified by one Mr. Arshad Ali Beldar of Irrigation Department. That you misused of your official position and Irrigation office premises for deceiving innocent people for malafide intentions.
- ii. By reason of the above your appear to be guilty of corrupt practices and misconduct under the Khyber Pakhtunkhwa Govt: servant (E&D Rules 2011) and have rendered your self liable to all or any of the penalties specified in Rule-04 of the rules IBID.

B. STATEMENT OF ALLEGATION

- i. That you made illegal transaction by taking money one Mr. Hassan Gul S/O Sahib Gul R/O Kass Koroona District Mardan for appointment of his son and other relatives. The deal was testified by one Mr. Arshad Ali Beldar of Irrigation Department.
- ii. That you misused your official position and irrigation office premises for deceiving innocent people for malafide intentions.

ENQUIRY PROCEEDING

- i. Mr. Saleem Khan Junior Clerk Mardan Irrigation Division Mardan and the Complainants were directed to attend the office of the undersigned on 19-12-2019 and 20-12-2019 respectively vide this office No.2922/3-E. dated 16-12-2019 (Copy of letter dated 16/12/2019 is enclosed as Annex-B).
- ii. A questioner were properly served upon the accused official for his clarification and submission of detail report of the matter to the enquiry officer (Copy of questioner is enclosed as Annex-C)
- iii. The accused official visited this office on 19-12-2019 at 02:00 PM and recorded a comprehensive statement as per questioner served upon him, wherein the accused official stated that he is serving in the department of irrigation since 1996 and working in Mardan Irrigation Division Mardan w.e.f 01-04-2009. The accused official also stated in his statement that, he never known to Mr. Hassan Gul, but he was closed friend of

23/09/2020

ATTACHED

(15)

Mr. Arshad Ali Beldar of Mardan Irrigation Division Mardan and they both were jointly visiting my office in routine, due to their frequent visits to my office, hello hi was created with Mr. Hassan Gul. During this time, my father was seriously ill and cash flow problem was arisen, for which, I request to Mr. Arshad Ali Beldar for grant of Qarz i Hassana, who managed Rs.284000/- from his close friend Mr. Hassan Gul, wherein I returned the amount of Rs.250000/- time to time to the Complainant, however Rs.34000/- is still balance till this time against me. The accused official also stated that Mr. Arshad Ali Beldar is trying to black mail him and there by he levelled corruption charges against me (Copy of detail statement of the accused official is enclosed as Annex-D)

iv. The statement of Mr. Hassan Gul S/O Sahib Gul were also recorded with his signature and thumb impression, who stated that he was close friend of Mr. Arshad Ali Beldar and stated that his Sons were jobless, for which Mr. Arshad Ali Beldar arrange to meet me with Mr. Saleem Khan Junior Clerk, during the discussion Mr. Saleem Khan demanded the following;

- a. For appointment of the Post of Junior Clerk, Rs.350000/- was agreed to be paid to the accused official, wherein advance of Rs.100000/- was paid to the accused official.
- b. For appointment of the Post of Beldar, Rs.160000/- was agreed wherein advance of Rs.60000/- was paid to the accused official.
- c. For the Auction of vehicles Rs.14000/- was agreed, (Photocopy of the written transaction of the accused official provided by the complainant, is also enclosed as Annex-E).

As per the net shall statement of Mr. Hassan Gul (Complainant). A sum of Rs.270000/- is balance against Mr. Saleem Khan Junior Clerk which is to be return, wherein Rs.14000/- is also balance to be return in the auction of vehicle (Statement of the Complainant is enclosed as Annex-F).

v. The statement of Mr. Arshad Ali Beldar was also recorded, who sated that he has paid Rs.100000/- to Mr. Saleem Khan Junior Clerk taken from Mr. Hassan Gul for appointment of his son, but after lapse of 5-6 months period, the appointment was not matured and the accused official return Rs.100000/- to Mr. Hassan Gul, Mr. Inam Beldar is the eye witness of returned amount of Rs.100000/- to the complainant. Mr. Arshad Ali Beldar denied the other transactions carried out between the accused official and Mr. Hassan Gul (Complainant) (Statement of Mr. Arshad Ali Beldar is enclosed as Annex-G).

FINDINGS.

1. There is contradiction in the statements of accused official, Complainant and Mr. Arshad Ali Beldar. All the statements are not matching with each other. But seems malified intentions from all sides.

ATTESTED

- (16)
2. The accused official is neither appointing authority nor member of the Departmental Promotion / Selection Committee for such like appointments / promotions.
 3. The accused official could not produce any evidence or medical record of the illness of his father.
 4. The financial transaction between the parties is seems to be based on ulterior motives.
 5. Mr. Arshad Ali Beldar is also seems to be the beneficiary of the mentioned transactions after maturity of the Class-IV appointments.
 6. Both the officials are involved in the definition and creating bad name for the Irrigation Department.
 7. The charges leveled against the officials has been established based on the statements of the parties.

CONCLUSION

As the accused official and Mr. Arshad Ali Beldar are seems to be involved in mail practices and corruption, The charges leveled against the accused officials has been proven. Mr. Arshad Ali Beldar is also equally involved with the accused official.

It is therefore suggested that Major Penalty under Rule 4(b)(ii) of E&D Rules 2011 may be imposed upon both the official, i.e Mr. Saleem Khan Junior Clerk and Mr. Arshad Ali S/O Umar Din Beldar for creating bad name for the Department.

23/09/2020
ENGR: ALI-UR-REHMAN
Executive Engineer,
Malakand Irrigation Division,
Malakand

ATTESTED

Annex 6

دیاں کیا۔ کہ حساں اور گلزار ملک نے ایک لاکھ روپے
ارشاد کے ذمہ داری پر سلیم بابو کو برائے حسرتی ملازمت
درست ارشد ہوا کہنے۔ کتر بیٹا یا بیچ چوہے گورنر کے بارہ
عام نہیں ہوا۔ کہ سلیم بابو نے درست ارشد مذکورہ ایک لاکھ
روپے حساں گل کو واپس کیا اور اس معاوضہ واپسی کا

الٹا بیابوار گواہ ہے۔
باقی اگر سلیم بابو اور حساں گل نے کوئی اسباب لین دین
کیا ہے تو مجھے اس بارے کوئی معلوم نہیں ہے۔
میں نے اس بارے میں درست لکھ کر دیا ہے۔

الموافق 26/12/89

CNIC # 16101-8362055-9

العبد
ارشاد ولد عمر دین
کنہ محلہ خوارہ برکنڈی
میل باز روڈ مردان

CNIC # 16102-8814208-5

گواہ
محمد عزیز
العبد
کنہ گوجر گروہی

ATTESTED

Mr. Saleem Khan in his statement dated 26/12/89 stated that he never knew Mr. Hassan Gul, but he was described in his statement



OFFICE OF THE EXECUTIVE ENGINEER
MARDAN IRRIGATION DIVISION MARDAN
www.irrmdn95@gmail.com

0937-9230195

18

AM D

No. 2710 /2-EG,

Dated Mardan the 30/12/2020

To

Mr. Arshad Ali Ex-Beldar (Mate)
S/O Umar Din, R/O Mahalla Bar Kandi
Mughal Baz Road Baghdada, Mardan

Subject: - APPEAL

Reference: - Your appeal, dated 12/11/2020 addressed to Superintending Engineer, Mardan Irrigation Circle, Mardan (Appellate Authority)

This is to inform you, that your appeal quoted as reference above against the imposition of major penalty of "Compulsory Retirement" imposed upon you vide this office order No.2362/2-EG, dated 10.11.2020 has been rejected by the Superintending Engineer, Mardan Irrigation Circle, Mardan vide his office letter No.2976/155-M, dated 29.12.2020.

EXECUTIVE ENGINEER
Phone No. 9230195

Copy forwarded to the:-

- 1- Superintending Engineer, Mardan Irrigation Circle, Mardan with reference to the above for favour of information, please.
- 2- Sub Divisional Officer, Mardan Irrigation Sub Division Mardan with reference to this office order No.2362/2-EG, dated 10.11.2020 for information and necessary action accordingly.

EXECUTIVE ENGINEER
Phone No. 9230195

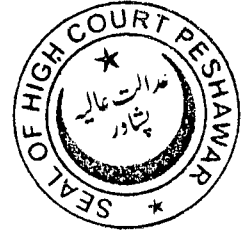
ATTESTED

19

AMA E

IN THE PESHAWAR HIGH COURT, PESHAWAR

W.P No. _____/2021



Arshad, Ex-Bidder,
Mardan Irrigation Division Mardan.....**Petitioner**

VERSUS

1. Government of Khyber Pakhtunkhwa Secretary
Irrigation Department, Peshawar
2. Engineer Ali ur Rehman, Executive Engineer,
Malakand irrigation Division Malakand.
3. Executive Engineer, Mardan Irrigation Division,
Mardan

.....**Respondents**

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

Respectfully Sheweth:

1. That petitioner was appointed as Bidder on
06.06.1988 in irrigation Department.
2. That there was an inquiry against one Saleem
Khan, Junior Clerk of the Department and in

ATTESTED
EXAMINER
Peshawar High Court

culmination of inquiry the petitioner was compulsorily retired from the Government Service vide order dated 10.11.2020. (Copy of Order is attached as Annexure "A", inquiry report as Annexure "B" and Statement of petitioner during inquiry as Annexure "C").

3. That feeling aggrieved of the above order, the petitioner having no other adequate alternate remedy available, approaches this Hon'ble Court on the following grounds inter alia:

GROUND:-

- A. That the order is illegal, unlawful and hence needs interference.
- B. That the order in question is a result of haste and mal approach thus needs to be interfered.
- C. That there was no inquiry pending against the petitioner, thus imposition of major penalty is not maintainable.
- D. That the findings of inquiry are based on contradictory statements, whiteout any supporting evidence, hence needs to be set aside.

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- E. That the mode and manner in which the impugned order was passed amounts to infringement of fundamental rights of petitioners.
- F. That any other grounds will be raise at the time of arguments with the prior permission of this Hon'ble Court.

It is, therefore most humbly prayed that on acceptance of this Writ Petition,

- a) The impugned order may be declared as illegal and unlawful
- b) That impugned order may graciously be set aside and petitioner may be reinstated in service.
- c) Any other remedy deems fit and appropriate in the circumstance of the case may also be granted in favour of the petitioner.

Petitioner

Through


S. Shakil Khan Gillani
Advocate, High Court

Dated 07.01.2021

22

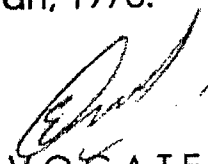
CERTIFICATE:-

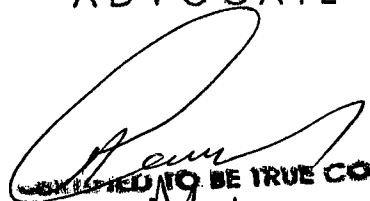
Certified on instructions of my client that no such like Writ Petition has earlier been filed before this Hon'ble Court regarding the present subject matter, thus the tilted Writ Petition may kindly be fixed before the Worthy D.B of this Hon'ble Court.


ADVOCATE

LIST OF BOOKS

1. Constitution of Islamic Republic of Pakistan, 1973.
2. Any other law book as per need.


ADVOCATE


DECLARED TO BE TRUE COPY
Examiner
Peshawar High Court, Peshawar
Authorized Under Article 87 of
the Qanun-e-shahadat Order 1988
22 SEP 2021

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BEFORE THE HON'BLE PESHAWAR HIGH COURT PESHAWAR

W.P No. _____/2021

Arshad, Ex-Bidder, Mardan Irrigation Division Mardan
..... **Petitioner**

V E R S U S

Govt of Khyber Pakhtunkhwa through Secretary
Irrigation Department & others.....**Respondents**

AFFIDAVIT

I, Arshad Son of Umer Din Resident of Street/Mohallah
13, Barkanday, Mughal Baz Road, Baghdada, Tehsil &
District Mardan, do hereby solemnly affirm and declare
on oath that the contents of the **Writ Petition** are true
and correct to the best of my knowledge and belief and
nothing has been concealed from this Hon'ble Court.

الله

Identified by

D E P O N E N T

CNIC # 16101-8362055-9 ✓

Cell # 0313-9488321

S. SHAKIL KHAN GILLANI
Advocate, Peshawar

ATTESTED
EXAMINER
Peshawar High Court

No. 16507
Certified that the above deponent on solemnly affirmation has stated the truth on this 06 day of June 21 2021 Arshad son of Umer Din Mardan who was identified by S. Shakil Khan
Who is present in my presence
Signature of Examiner Peshawar High Court 06/06/2021

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IN THE PESHAWAR HIGH COURT, PESHAWAR

W.P No. _____/2021

Arshad, Ex-Bidder.....Petitioner

VERSUS

Government of Khyber Pakhtunkhwa Secretary Irrigation
Department, Peshawar & others.....Respondents

ADDRESSES OF PARTIES

PETITIONER:-

Arshad, Ex-Bidder,
Mardan Irrigation Division Mardan

RESPONDENTS

1. Government of Khyber Pakhtunkhwa Secretary Irrigation Department, Peshawar
2. Engineer Ali ur Rehman, Executive Engineer, Malakand irrigation Division Malakand
3. Executive Engineer, Mardan Irrigation Division, Mardan

Petitioner

Through

S. Shakil Khan Gillani
Advocate, High Court

Dated 07.01.2021



DECLARED TO BE TRUE COPY
Examiner
Peshawar High Court, Peshawar
Authorised Under Article 87 of
the Constitution of Pakistan Order 108

22 SEP 2021

PESHAWAR HIGH COURT, PESHAWAR

ORDER SHEET




Date of order or proceedings 2.	Order or other proceedings with signature of Judge or Magistrate and that of parties or counsel where necessary. 3.
15.09.2021	<p><u>WP No.114-P/2021.</u></p> <p><u>Present:</u> Syed Shakil Khan Gillani, Advocate for the petitioner.</p> <p>Syed Sikandar Hayat Shah, AAG for the respondents.</p> <p align="center">*****</p> <p><u>OAISER RASHID KHAN, CJ.-</u> Through the petition in hand, the petitioner has expressed his grievance against the office order dated 10.11.2020, whereby he has been compulsorily retired from service.</p> <p>2. After having argued the petition at a certain length, lastly the learned counsel for the petitioner seeks the withdrawal of the instant petition, so as to approach the proper forum for the redressal of the grievance of the petitioner.</p> <p align="right">Order accordingly.</p> <p><u>Announced.</u> Dated: 15.09.2021.</p> <p align="right">  CHIEF JUSTICE  JUDGE </p>

No. 7549
 Date of Presentation of Ad. 22/9/21
 No of Pages 70
 Copying fee 28
 Total 22/9/21
 Date of Preparation 22/9/21
 Date of Delivery of Cop. 22/9/21
 Received By [Signature]

(DB) Chief Justice Oaisar Rashid Khan
 Justice Syed Arshad Ali

DECLINED TO BE TRUE COPY


 Examiner
 Peshawar High Court, Peshawar
 Authorized Under Article 175
 of the Constitution of Pakistan 1973
22 SEP 2021

قیمت
50 روپے

101943



ایڈوکیٹ:
بار کونسل/ایسوسی ایشن نمبر:

رابطہ نمبر: 0333-9178630

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سر مسیح بخش بٹونیل پشاور

مخاطب:	دعویٰ:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

بامث تحریر آگے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ

آن مقام کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرائے و تقریر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل اگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ مانگنے کے لئے اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور ان کا پورا پورا منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ اتوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سندر ہے

المرقوم: 3059/2024
PUNJAB BAR ASSOCIATION
PUNJAB

الع بد الع بد
کے لیے منظور ہے۔

ATTESTED

Acceptance
[Signature]

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

“B”

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

No.

Appeal No. 7499 of 20

Airshid Appellant/Petitioner

Versus

Through chief Secy Pesh Respondent

Respondent No. 1

Notice to: The Govt, of KPK Through chief Secretary
KPK Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 7/2/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

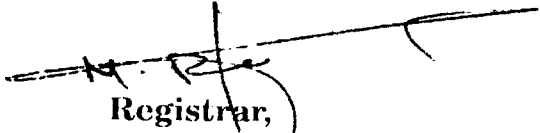
Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar this 13th

Day of Dec 2021

(For Reply)


 Registrar,
 Khyber Pakhtunkhwa Service Tribunal,
 Peshawar.

- Note:
1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

“B”

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

No.

Appeal No. 7499 of 2022.

Arshid Appellant/Petitioner

Through chief ^{Versus} Secy Posh. Respondent

Respondent No. 3

Notice to: the Secretary Finance Deptt, KPK
Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 7/2/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 13th

Day of Dec 2021

(For Reply)

Secy. Finance KPK
Date 17.12.22

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

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

No.

Appeal No. 7499 of 20 21

Arshid Appellant/Petitioner

through Chief Secy Pesh Respondent

Respondent No.

Notice to: —

The Director (E&SE) Dept. KPK
Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 7/2/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 13th

Day of Dec 20 21

(For Reply)

[Signature]
16-12-21

[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
 JUDICIAL COMPLEX (OLD), KHYBER ROAD, 8.B
 PESHAWAR.

No.

Appeal No. 7499 of 2021.

Arshid Appellant/Petitioner

Versus

Through chief Sery Pash. Respondent

Respondent No. 2

Notice to: The Secretary (ESK) Deptt. GPK
 Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 7/2/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

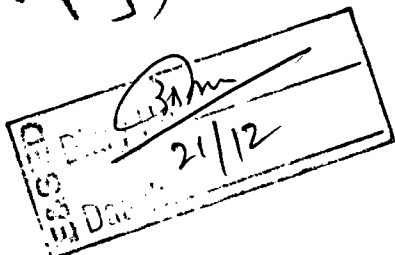
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Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. dated

Given under my hand and the seal of this Court, at Peshawar this 13th

Day of Dec 2021.

(For Reply)



Registrar,
 Khyber Pakhtunkhwa Service Tribunal,
 Peshawar.

- Note:
1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
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"B"

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

No.

Appeal No. 7499 of 20 21

Arshid Appellant/Petitioner

through chief ^{Versus} Secy Pesh. Respondent

Respondent No. 4

Notice to:

The Accountant General KPE
Peshawar.

Asstt. Accounts Officer
Ch. A.G. Khyber Pakhtunkhwa

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 7/2/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Given under my hand and the seal of this Court, at Peshawar this 13th

Day of Dec 20 21

(For Reply)

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

Before The service Tribunal, K.P., Peshawar.

Arshid

vs.

Govt of K.P

Application for Rectification of Panel of respondents.

respectfully sheweth:

- 1- That instant appeal is pending for today before Hon'ble Tribunal.
 - 2- That inadvertently at the time of filing of appeal respondent No. 2 to 5 have been erroneously mentioned.
 - 3- That in fact the actual respondents are:
 - 1:- Secretary Irrigation K.P., Peshawar.
 - 2:- Executive Engineer, Irrigation Mardan Division, Mardan
 - 3:- Executive Engineer, Irrigation Malakand Division, MalakandTo be arrayed as respondent No. 2 to 5.
 - 4- That above mistake is typographical & inadvertent.
- It is therefore prayed that appellant may be allowed to rectify the panel of respondents accordingly.
- 26.05.2022.
Through Appellant Counsel

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO .7499/2021

Mr. Arshid.....Appellant.

V/S

Chief Secretary Khyber Pakhtunkhwa Peshawar & others.....Respondents.

(Reply on behalf of respondent No. 4)

AFFIDAVIT

I, Syed Tariq Shah, Senior Auditor, Office of the Accountant General Khyber Pakhtunkhwa Peshawar do hereby solemnly affirms & declare that the contents of reply submitted on behalf of Respondent No.4 is true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Court.

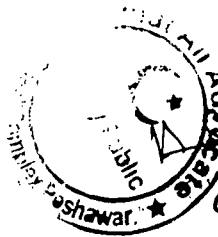
Tariq Shah

DEPONENT

NIC - 17307-1327637-9

Cell. 0346-9191985

ATTESTED



06-07-2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO .7499/2021

M. Arshid.....Appellant.

V/S

Chief Secretary Khyber Pakhtunkhwa Peshawar & others.....Respondents.

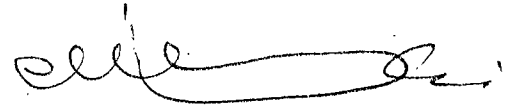
(Reply on behalf of respondent No. 4)

Respectfully Sheweth:-

Para :- 01 to 04:-

Being an Administrative matter, the issue relates to Administrative department of the appellant. The Administrative Department is in better position to redress the grievances of the Appellant. Moreover, the Appellant has raised no grievances against Respondent No.4.

Keeping in view the above mentioned facts, it is humbly prayed that the name of the Respondent No.4 may be deleted from the list of Respondents.



ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA