Miss Habiba, Advocate for the appellant present.

Let pre-admission notice be issued to the respondents for submission of reply/comments. Adjourned. To come up for reply/comments as well as preliminary hearing on 15.09.2022 before S.B.

(MIAN MUHAMMAD) MEMBER (E)

Form- A

FORM OF ORDER SHEET

Court of	
Case No	7873/2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	15/12/2021	The appeal of Mr. Adul Hussain resubmitted today by Mr. Javed labal Gulbela Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. REGISTRAR
2-		This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on $\frac{902022}{CHAIRMAN}$
	09.02.2022	Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to
		25.04.2022 for the same as before.
		Reader
	25.04.2022	Junior to counsel for the appellant present.
		Former requests for adjournment on the ground that learned enior counsel is indisposed today. Adjourned. To come up for reliminary hearing on 14.07.2022 before S.B.
		(MIAN MUHAMMAD) MEMBER(E)



The appeal of Mr.Adil Hussain Ex-Constable No. 1937 Mohalla Hassan Khel Sureai Bala Peshawar received today i.e. on 10.12.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1. Memorandum of the appeal may be got signed by the appellant.
- 2. Affidavit may be got attested by the Oath Commissioner.
- 3. Appeal has not been flagged/marked with annexures marks.
- 4. Annexures of the appeal may be attested.
- 5. Copies of charge sheet, statement of allegations, show cause notice, enquiry reply and replies thereto are not attached with the appeal which may be placed on it.
- 6. Annexures A, B and C of the appeal are illegible which may be replaced by legible/better one
- 7. Wakalat nama in favour of appellant be placed on file.

No. 2466 /S.T,
Dt. 10/12 /2021

REGISTRAR .
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Javed Igbal Gulbela Adv. Pesh.

Respected Sir,
Mecessery objection removed.

Thile charge Sheet, Statement

A allegation, show-cause had

Not Served by the Respondent

department to appellant

January Jahan (min

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES

TRIBUNALPESHAWAR

Appeal No.7873/2021 Adil Hussain

VERSUS

IGP Khyber Pakhtukhwa & Others

INDEX

		Annex	Pages
1.	Grounds of Appeal		1-6
2.	Affidavit		7
3.	Application for Condonation of Delay		8
4.	Addresses of the Parties		, 9
5.	Copies of FIR No. 47 dated 20-01-2021, U/S 302 PPC / 7 ATA of Police Station, Shah Qabool, Peshawar, recovery memo & Zimni	"A"	10-13
6.	Copy of FIR No. 638 dated: 05/07/2014, U/s 302 PPC, PS: Badhber	"B"	14
8.	Copy of Impugned Office Order No: 2429-34/PA/SP bearing OB No: 1785 dated 29/06/2021	"C"	15
9.	Copy of Departmental Appeal	"D"	16
11.	Wakalat Nama		17

Dated: 10-12-2021

Through

Appellant

Javed Iqbal Gulbela

Advocate Supreme Court of

Pakistan.

Add: Office No: B-1, Al Nimra Plaza, Government College Chowk Peshawar.

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES, TRIBUNALPESHAWAR

In	S.A	/2021
111	J., 1	/ 4041

Adil Hussain, Ex- Constable No: 1937, Capital City Police, Peshawar, resident of Mohallah Hassan Khel, Surezai Bala, Tehsil & District Peshawar.

.....Appellant

VERSUS

- 1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2. Capital City Police Officer at Police Line, Peshawar.
- 3. Superintendant of Police, Headquarters, Peshawar.

.....Respondents

Appeal Under Section 4 of Khyber Pakhtunkhwa
Services Tribunal Act 1974 Against The
Impugned Dismissal Order No: 2429-34/PA/SP
And Bearing OB No: 1785 Dated: 29/06/2021 Of
The Office Of Superintendant Of Police
Peshawar, Whereby The Appellant Was
Dismissed From The Rolls Of The Respondent
Department In A Classical, Cursory And
Whimsical Manner, And Departmental Appeal
Of the Appellant Has Not Been Decided Inspite Of
Lapse of Statutory Period By the Respondents.

Respectfully Sheweth,



- 1. That the Appellant is a naturally born bonafide citizen of Islamic Republic of Pakistan and hails from a respectable family of District Peshawar.
- 2. That after going through the mandatorily required criteria, the Appellant got inducted on to the rolls of the prestigious Police Force of the province years back in 2009/10.
- 3. That during the course of his employment, Appellant always remained a pragmatic and duty full fellow, who never left any stone unturned in performance of obligation, best of level upon the shoulders of the Appellant and hence the career of the Appellant remained soot-less or without any soot or sootage.
- 4. That it was in the back drop of January 2021, while the Appellant was performing his duty at Peshawar High Court Peshawar, whereby the Appellant came to know that his brother namely Akhtar Hussain was charged in a criminal case bearing FIR No: 47 dated 20-01-2021, U/S 302 PPC / 7 ATA of Police Station, Shah Qabool, Peshawar. (Copies of FIR No. 47 dated 20-01-2021, U/S 302 PPC / 7 ATA of Police Station, Shah Qabool, Peshawar, recovery memo & Zimni is annexed herewith as Annexure "A")
- 5. That as the brother of the Appellant was charged in a criminal case, hence the family of the Appellant was

having threats, therefore the Appellant went to hiding in order to save his own life and for the same reason was enable to join his duty.

- 6. That before parting with the facts of the instant case and to make out a case for the Appellant, it would be equally important to mention here that the brother of the Appellant namely Akhtar Hussain have previously killed another brother of the Appellant namely Fawad Hussain whereby a case was registered against the said Akhtar Hussain vide FIR No: 638 dated 05/07/2014 U/S 302 of Police Station Badhaber and in this regard, a Jirga was affected by the Elders of Locality and between Akhtar Hussain & his parents, brother & sisters; whereby the Jirga Members held that the said accused Akhtar Hussain will have no concern with any of his family members as well as kept no relation with them, it is also decided that Akhtar Hussain would not be allowed in the village or premises of his house and for the same reason said Akhtar Hussain was evicted from house and village therefore he was residing in a hotel. (Copy of FIR No. 638 dated: 05/07/2014, U/s 302 PPC, PS: Badhber is annexed herewith as Annexure "B").
- 7. That now coming on to the main epitome of the instant case, it would be equally importance to mention here that the Appellant while remaining absent from duty due to lodging of FIR No: 47, therefore the Appellant has been dismissed from the rolls of the Respondent Police Department vide Impugned Office Order No: 2429-34/PA/SP bearing OB No: 1785 dated 29/06/2021.

(Copy of Impugned Office Order No: 2429-34/PA/SP bearing OB No: 1785 dated 29/06/2021 is annexed herewith as Annexure "C")

- 8. That as the Appellant was busy in affective compromise with the complainant party in case FIR No: 47, and assuring them that the Appellant or his family members have got no concern with his accused brother namely Akhtar Hussain, therefore was not in a position to perform duties due to which the Appellant was dismissed from service, which is illegal, unlawful & void ab-initio, hence liable to be set aside.
- 9. That in this regard, the Appellant moved Departmental Appeal to the Chief City Police Officer / CCPO, but despite of lapse of statutory period, nothing came out of the same. (Copy of Departmental Appeal is annexed herewith as Annexure "D")
- 10. That feeling aggrieved, the Appellant approaches this Hon'ble Tribunal for his reinstatement into service upon the following ground inter-alia:-

Grounds:

- A. That impugned dismissal order is wrong, illegal, unlawful, hence liable to be set aside.
- B. That the impugned dismissal order was passed without fulfilling the codal formalities and without following due process of law, hence the Order impugned herein is not tenable in the eyes of law.

- C. That neither Charge Sheet has been framed nor served upon the Appellant, therefore the impugned Order is illegal, unlawful, void ab-initio and liable to be set aside.
- D. That no statement of allegation as well as no Show-Cause-Notice has been issued to the Appellant, hence the impugned order is wrong, illegal and against the law, hence not sustainable in the eye of law and liable to be turned down.
- E. That no inquiry ever got initiated in case of the Appellant nor was ever afforded any opportunity of personal hearing, thus was condemn unheard.
- F. That no final Show-Cause Notice was ever served upon the Appellant and the impugned Order was passed in hurry by the Respondent Department.
- G. That the absence of the Appellant is not intentional nor deliberated but due to the facts mentioned above, which is beyond the control of the Appellant. Therefore the impugned order is not warranted in the circumstances of the Appellant's case, hence liable to be set aside.
- H. That even the Appellate Authority simply shelved the Departmental Appeal of the Appellant without any rhyme or reason.
- I. That from all prospective the impugned Dismissal Order is illegal, unlawful, void ab-initio, corum-non-judice, hence liable to be set aside.
- J. That any other ground not raised here may graciously be allowed to be raised at the time of arguments.

6

It is, therefore, most humbly prayed that on acceptance of the instant Service Appeal, impugned Dismissal Order No: 2429-34/PA/SP bearing OB No: 1785 dated: 29/06/2021 of the office of Superintendant of Police Peshawar, may kindly be declared as illegal, unlawful and void ab-initio, and by doing so, the impugned above dismissal order may kindly be set aside. And the Appellant be reinstated into service with all back benefits.

Any other relief not specifically asked for may also graciously be extended in favor of the appellant in the circumstances of the case.

Dated: 10/12/2021.

Appellant

Through

Javed Iqbal Gulbela Advocate Supreme Court of

Pakistan

Saghir Iqbal Gulbela

Ahsan Sardar & Sajid Khan Advocate, High Court, Peshawar.

NOTE:

No such like appeal for the same appellant, upon the same subject matter has earlier been filed by me, prior to the instant one, before this Hon'ble Tribunal.

Advocate.



BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES TRIBUNALPESHAWAR

In	$S.A_{}$	/2021

Adil Hussain

VERSUS

IGP Khyber Pakhtukhwa & Others

AFFIDAVIT

I, Adil Hussain S/o Faqir Hussain R/o Mohallah Hassan Khel, Surezai Bala, Tehsil & District Peshawar, do hereby solemnly affirm & declare on oath that all content of the instant Service Appeal, are true & correct to the best of my knowledge & belief and nothing has been concealed or misstated from this Hon'ble Tribunal.

DEPONENT

CNIC: 17301-8730980-5

Cell No: 03120219292

Identified BY

Javed Iqbak Gulbela

Advocate, Supreme Court of



BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES, TRIBUNALPESHAWAR

In S.A____/2021

Adil Hussain <u>VERSUS</u>

IGP Khyber Pakhtukhwa & Others

APPLICATION FOR CONDONATION OF DELAY

RESPECTFULLY SHEWETH,

- 1. That the Appellant is filling the accompanying Appeal, the contents of which may graciously be considered as integral part of the instant petition.
- 2. That the petitioner has got a good prima facie case, besides having balance of convenience in his favor and in case of the dismissal of the instant application shall envisage irreparable loss.
- 3. That delay in filing of the instant case was not deliberate but due to reason beyond contest of the Appellant.
- 4. That the absence was not intentional but due to the constrained situtation of the Appellant as well as Appellant's family, due to which delay of 11 days occurred, which is beyond the control of Appellant.

It is, therefore most humbly prayed that on acceptance of the instant application the delay may kindly be condoned and the case be decided on merits.

Dated: 10/12/2021

Through

Appellant

Javed Iqbal Gulbela

Advocate Supreme Court of

8-4

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNALPESHAWAR

In S.A____/2021

Adil Hussain

VERSUS

IGP Khyber Pakhtukhwa & Others

AFFIDAVIT

I, Adil Hussain S/o Faqir Hussain R/o Mohallah Hassan Khel, Surezai Bala, Tehsil & District Peshawar, do hereby solemnly affirm & declare on oath that all content of the instant Service Appeal, are true & correct to the best of my knowledge & belief and nothing has been concealed or misstated from this Hon'ble Tribunal.

DEPONENT

CNIC: 17301-8730980-5

Cell No:

Identified BY

Javed Iqhal Gulbela

Advocate, Supreme Court of



BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNALPESHAWAR

In	S.A	/20	21
	J	/ 40	41

Adil Hussain

VERSUS

IGP Khyber Pakhtukhwa & Others

ADDRESSES OF PARTIES

APPELLANT

Adil Hussain S/o Faqir Hussain R/o Mohallah Hassan Khel, Surezai Bala, Tehsil & District Peshawar

ADDRESSES OF RESPONDENTS

- 1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2. Capital City Police Officer at Police Line, Peshawar.
- 3. Superintendant of Police, Headquarters, Peshawar.

Dated: 10/12/2021

Appellant

Through

Javed Iqual Gulbela

Advocate Supreme Court of

Amneriuse -A ابترالى اطلاقى ريورك قادم براميده (۱) الذال اطال المنسب برم قابل دست إندازي بيس بهر منظمه والدوهم ١٥ بيومما بغي جداري تنوأ لأرسمنت كَ أَن الراطال ورج كرف عن توبين عوالمرووج بعا Dawy Allen ا تدال الله ع يخورن الرود ع در الله تعاد الله المالية والمالية وا 心心,但我从心学心思 ٢٤ عنزك زب السكانين ويوم ربت مالانسان زوا 文明是"KMICWELL"为更多的是"是是"。 المسترابع فالماهال ماء المراجعة الم EL WIE PROPERTY OF THE PROPERT

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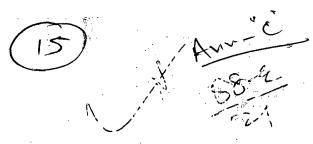
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JAVED LOBAL GOLLAND Advocate
Supreme Court of Pakistan
(ASC # 5317)

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ORDER

This is a formal departmental proceeding against Constable Adil Hussain No.1937 on the allegations/charges that be while posted at Police Lines, absented himself from lawful duty w.e.f. 10.02.2021 till date without taking permission or leave.

In this regard, he was used charge sheet & summary of allegation. SDPO Regi was appointed as E.O. He conducted the enquiry & submitted his report/finding that the alleged official was called on Mobile No.0314-9190458 wherein he disclosed that he bas enmitty in his village and unable to express for recording of his statement. Therefore, FC Adil Hasain No.1937 found guilty in the instant enquiry the E.O. further recommended him for suitable punishment vide Engrey Report No.07-E/ST daied 06.05.2020.

Upon the finding of E.O., he was issued final show cause notice but he failed to receive the notice or appear before this office in-spite of repeated reminders/summons as yet.

Note: Lastly, on 10.06.2021 the report of MM Police Lines in a peen obtained wherein he stated FC Adil Hussala No.1937 is still absent from 10.02.2021 till date

He is deliberately found absent even did not bother to appear for personal hearing. Hence, becar jednefficient, therefore, no is a smissed from service under Khyber Paki tunkhwa Police Rules-1975 from date of absence i.e 10.01 2021.

Encl (22)

SUPERINT INDENT OF POLICE HEADQUARTERS, PESHAWAR

OB. NO. 1785 / Dated 291 6. 12021
No. 2429-34/PA/SP/dated Peshawar the 27/6 /2021

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- ✓ Capital City Police Officer, Peanawar.
- ✓ DSP/HQrs, Peshawar.
- ✓ Pay Officer, OAS:,
- ✓ CRC & FMC along-with complete departmental file.

JAVED IOBAL GULBELA Advocate Supreme Court of Pakistan (ASC #5317)

Better copy-15

ORDER

This is a formal departmental proceeding against <u>Constable Adil Hussain</u> <u>No. 1937</u> on the allegations/charges that he while posted at Police Line, absented himself from lawful duty w.e.f **10.02.2021 till date** without taking permission of leave.

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Upon the finding of E.O he was issue final show cause notice he failed to received the said notice or appear before this office inspite of repeated reminders / summons has yet.

Note: Lastly, on 10.06.2021 the report of MM Police line has been obtained wherein he stated FC Adil Hussain No. 1937 is still absent from 10.02.2021 till date.

He is deliberately found absent even did not bother to appear for personal hearing hence become inefficient therefore, he is dismissed from service under Khyber Pakhtunkhwa Police Rules 1975 from date of absence i.e 10.02.2021.

SUPERINTENDANT OF POLICE HEADQUARTER, PESHAWAR

OB. No. 1786 / Dated 29/6/2021 No. 2429-34/PA/SP/dated Peshawar the 29.06.2021

Copy of above is forwarded for information to n/action.

- 1. Capital City Police Officer Peshawar.
- 2. DSP/HQRs Peshawar.
- 3. Pay officer, OASI,
- 4. CRC & FMC along with complete departmental file.

10 (CCPO) in John Annie معون: درواست اد وال اولوی عالي! بن سے الم حوظم اللہ وس مائی کورٹ میں اطور بلورٹی ڈرٹی پر وہودی تھے الل می کر آکیا ہوائی سنی افر مسین موجود ہی پولیس کا لیسیم ہوانے تھانہ جے اللائع می کر آکیا ہوائی سنی افر مسین افر مسین موجود ہی پولیس کا لیسیم ہوانے تھانہ شاه عنول مرود على مسرى زمت الله كو عائد كرا فنا كرا بي مقول رست الله ا بریات اصاراد - مردی میدر افریس مولیسال طافائی معام برريات اصباركو-1 in the distant mind Minded 3 in portion ان بلای این کرت ہوت اس بر سائل کے مال باب اور معانی مواد عسی کر لفرکسی کر فرسی کر لفرکسی کر فرسی کر کفرسی کر فرسی کر فرسی کر فرسی کر فرالان کو فقر سے بے دوار میں کر دیں و دریا مع اخر حسن بے رست اللہ کو قتام میں افتر حسن کی گذاہوں کی حام سے مسل کے میں کا وجہ سے احتیال کی میں کا میں افتر حسن کی گذاہوں کی حام سے احتیال کی میں افتر حسن کی گذاہوں کی حام سے احتیال میں اختر حسن کی گذاہوں کی حام سے احتیال میں اختر حسن کی گذاہوں کی حام سے احتیال میں اختر حسن کی گذاہوں کی حام سے احتیال میں اختر حسن کی گذاہوں کی حام سے احتیال میں اختر حسن کی گذاہوں کی حام سے احتیال میں اختر حسن کی گذاہوں کی حام سے احتیال میں اختر حسن کی گذاہوں کی حام سے احتیال میں احت مے کراہ سائل افتر سیس کی دیمی کی تصبیط فراہ طائے ۔ سائل افتر سیس اللہ کے وسرد روں افر خاندان والوں کے ساتھ گفت وسندی اور ان کولسالی دالاق کے مدر مرد الرحوات می وفرسی سام داری ای در دے سا حسای وفران ایسی الری و اور ایسی الری و اور ایسی الری و اور ایسی سام ایسی الری و در در نے ملاف می الری و در در نے ملاف می الری و در در نے ملاف میں الری و در در نے ملاف می الری و در در نے ملاف می الری و در در نے ملاف میں الری و در در نے در در نے ملاف میں الری و در در نے در نے در در نے 08. No. 1785 If che 137 This de de de 29-7-21

بعدالت:

ر سر المراح ا

موصوف صدر مقام کچری کی کی اور جگہ یا کچری کے مقررہ اوقات سے پہلے یا پیچھے یا پروز تعطیل پیروی کرنے کے ذمد دار نہ ہونے ۔ اگر مقدمه علاوہ صدر مقام کچری کے کی اور جگہ عاعت ہونے یا پروز تعطیل یا کچری کے اوقات کے آگر بیچھے پیش ہونے ۔ اگر مقدمه علاوہ صدر مقام کچری کے اور صاحب کو ہونے پر من مظہر کو کوئی نقصان پنچے تو اس کے ذمد داریا اس کے داسطے کی معاوضہ کے ادا کرنے یا مخارانہ دالیس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہونگے۔ جھے کوئل پر داختہ صاحب موصوف مثل کردہ ذات خود منظور و تجول ہوگا۔ اور صاحب کو عرضی دعوی وجواب دعوی اور درخواست جرائے ڈگری ونظر خانی اپیل وگرانی ہرتم کی درخواست پر دختے اور تھی اور ہرتم کے افتیار ہوگا اور رسید دینے اور داخل کرنے اور ہرتم کے بیان دینے اور سید دینے اور داخل کرنے اور ہرتم کے بیان دینے اور سید دینے اور داخل کرنے اور ہرتم کے مقدمہ یامنو فی ڈگری کی طرفہ درخواست تھم امتا تی یا ترتی یا گرتی تران ازاجراء ڈگری بھی موصوف کو بشر طادا کی علیحہ و مخارا نہیں مقدمہ یا مضوف کو بشر طادا کی علیحہ و مخارا نہیں موصوف کو بھی اختیار ہوگا یا خقدمہ نے کورہ یا ان اجراء ڈگری بھی موصوف کو بھی اختیار ہوگا یا خقدمہ نے کورہ یا ان اجراء ڈگری بھی موصوف کو بھی اور کی کا دوائی کے داسطے یا بسورت اپیل ، اپیل کے داسطے دوسرے و کیل یا ہر سر کو بھی اختیار ہوگا یا خقدمہ نے کورہ یا ان میں ہو کہ کے ہر جانہ دواست موصوف کو بیران خوری نیس تاریخ پیشی سے پہلے ادا نہ کروزگا تو التواء پڑے گا۔ اور صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور الیمی صورت میں میرا کوئی مطالبہ کی تشم کا صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور الیمی صورت میں میرا کوئی مطالبہ کی تشم کا صاحب موصوف کے برخلاف نے بیں ہوگا کہ مقدمہ کی پیروی نہ کریں اور الیمی صورت میں میرا کوئی مطالبہ کی تشم کا صاحب موصوف کو برکاف نہیں ہوگا کی مطالبہ کی تشم کا صاحب موصوف

مورخد ۔۔۔۔۔ کے ایک کے ایک کے است کے است کے است کے است کارنامہ ن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

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

No.	7673	
APPEAL N	NO	of 20
	di Hussain	Apellant/Petitioner
	Versus	
Inspector gene	rat of Solice, k	Pk Perhacuar.
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Police, kr	" Penadar.	
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For P	eply	
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The second	Knyber Paki	ntunkhwa Service Tribunal, Peshawar.

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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR.

No. APPEAL No	7873 of 20	S.E.
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	Versus	
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-		RESPONDENT(S)
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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR.

No.	()
APPEAL No	2.7-3 of 20 ₂
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Notice to Appellant/Petitioner	ital city Police
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