

16th June, 2022

Counsel for the appellant present.

Counsel for the appellant submits that against impugned order dated 09.03.2022 whereby the suspension period from 03.05.2020 to 10.08.2021 is treated as spent on duty while the willful absence/absconder period from 11.08.2020 to 09.03.2022 is treated as leave without pay against which the appellant filed departmental appeal on 05.04.2022 which was rejected on 21.04.2021, he then filed the instant service appeal on 19.05.2022 which is well within time. This appeal appears to be within time and admitted to full hearing subject to all just and legal objections by the other side. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 08.08.2022 before S.B.

Rs-400/-
Appellant Deposited
Security & Process Fee

Handwritten signature
21/6/22

Handwritten mark

Handwritten mark

(Kalim Arshad Khan)
Chairman

8.8.2022 Due to the Public Holiday the case
is adjourned to 20-9-2022



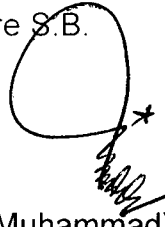
Handwritten signature
Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 809/2022 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	19/05/2022	<p>The appeal of Mr. Muhammad Sajid Ali presented today by Mr. Bilal Ahmad Kakaizai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-	23/5/22	<p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on <u>30-5-22</u>. Notices be issued to appellant and his counsel for the date fixed.</p> <p> CHAIRMAN</p>
	30.05.2022	<p>Learned counsel for the appellant present and requested for adjournment on the ground that he has not gone through the record. Adjourned. To come up for preliminary hearing on 16.06.2022 before S.B.</p> <p> (Mian Muhammad) Member (E)</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL, PESHAWAR

Service Appeal No 809 /2022

Muhammad Sajid Ali

VERSUS


Government of KP.

INDEX

S.No	Description of Documents	Annex	Page #
1.	Application		1-2
2.	Advertisement dated 24-10-2020	AAP-1	3
3.	Reply of advertisement on dated 06-11-2020	AAP-2-3	4-5
4.	Transfer order 29-04-2020	AAP-4	6
5.	Application for cancellation of transfer order dated 29-04-2020	APP-5	7
6.	History of the issue supported by the documentary proofs provided by the Mines and Mineral department	APP-6-7	8-9
7.	Suspension order dated 29-07-2020	APP-8	10
8.	Various office orders etc	AAP-9-15	11-17

Applicant 

Through:


Hasnain Abbas Mohammadzai
Advocate,

Dated. 15-06-2022

High Court Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL, PESHAWAR

Service Appeal No 809 /2022

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 292

Dated 15/6/2022

Muhammad Sajid Ali S/o Umar Gul R/o
Wadpagga, Tehsil & District Peshawar.

...Appellant

VERSUS

1. Govt. of KP through Secretary Mines and Minerals, Civil Secretariat, Peshawar.
2. Director General Mines and Minerals Department, Directorate of Mines and Mineral HQ, Khyber Road, Peshawar.

...Respondents

**APPLICATION FOR PLACING ON FILE
CERTAIN DOCUMENTS.**

Respectfully Sheweth;

1. That titled service appeal is pending subjudice before this Honorable Tribunal and is fixed for 16-06-2022, for preliminary arguments.
2. That, following documents were necessary to be filed for just and proper disposal of instant appeal.
 - i. Advertisement dated 24-10-2020.
 - ii. Reply of advertisement on dated 06-11-2020.


- iii. Transfer order 29-04-2020.
- iv. Application for cancellation of transfer order dated 29-04-2020.
- v. History of the issue supported by the documentary proofs provided by the Mines and Mineral department.
- vi. Suspension order dated 29-07-2020.
- vii. Various office orders etc.

Copies attached as Annexure-App-1.

It is therefore requested that the application be allowed and documents may pleased be treated as part and parcel of service appeal.


Applicant

Through:


Hasnain Abbas Mohammadzai
Advocate,

Dated. 15-06-2022

High Court Peshawar.

بخدمت جناب ڈائریکٹر جنرل ہائینز اینڈ منرل خیبر پختون خوا پشاور

نوٹس اظہار وجہ

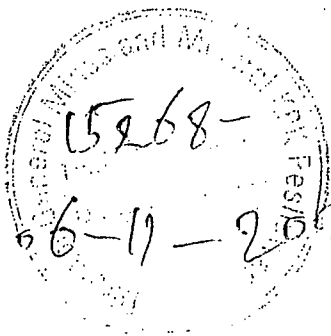
جناب عالی! سائل حسب ذیل عرض رساں ہے۔

بحوالہ آپ کے اشتہار روزنامہ مشرق مورخہ 24/10/2020

(۱) یہ کہ سائل/درخواست گزار آپ کے زیر سایہ منرل گارڈ پوسٹ پر اپنے فرائض منصبی احسن طریقے سرانجام دے رہا تھا۔

(۲) یہ کہ مورخہ 29/04/2020 کو سائل/درخواست گزار جب اپنی ڈیوٹی پر جانے کیلئے تیار ہوا۔ تو اچانک سائل کی طبیعت خراب ہوئی جو کہ ڈاکٹر نے چیک اپ کرنے بعد من سائل/درخواست گزار کو مورخہ 29/04/2020 سے 13/05/2020 (۱۵) پندرہ یوم کیلئے مکمل آرام کا مشورہ دیا۔ جس کی بابت سائل درخواست گزار باقاعدہ درخواست بمعہ میڈیکل پہلے ہی محکمہ میں جمع کروائی ہوئی ہے۔ (نقولاً درخواست و میڈیکل نسخہ جات لف درخواست ہذا ہے)۔

(۳) یہ کہ من سائل نے مورخہ 11/05/2020 کو اپنی ٹرانسفر کو اپنی ذاتی مسائل اور بیماری کی وجہ سے منسوخ کرانے کیلئے ایک درخواست ڈائریکٹر جنرل آفس میں جمع کرائی تھی اور جن مسائل کا ذکرہ سائل نے درخواست میں کیا تھا انہی مسائل کی بنیاد پر سائل کی والدہ بھی فوت ہو گئی ہے۔ (نقل درخواست لف ہذا ہے)۔



نوٹیفکیشن کے تحت جاری کیے گئے ہیں۔

تاریخ: 29/4/2020

نوٹیفکیشن کے تحت جاری کیے گئے ہیں۔

نوٹیفکیشن کے تحت جاری کیے گئے ہیں۔

نوٹیفکیشن کے تحت جاری کیے گئے ہیں۔

نوٹیفکیشن کے تحت جاری کیے گئے ہیں۔

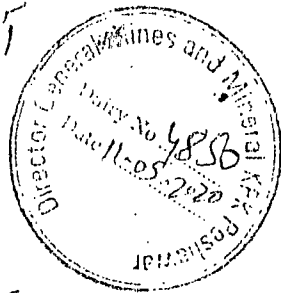
نوٹیفکیشن کے تحت جاری کیے گئے ہیں۔

نوٹیفکیشن کے تحت جاری کیے گئے ہیں۔

نوٹیفکیشن کے تحت جاری کیے گئے ہیں۔

نوٹیفکیشن کے تحت جاری کیے گئے ہیں۔

آئی ایس اے ڈی اے ڈی اے



DA-II
29/4/2020

DIRECTORATE GENERAL OF MINES AND MINERALS

KHYBER PAKHTUNKHWA

Attached Departments Complex Khyber Road Peshawar

Phone: & Fax # 091-0210230



No. 29124 /3/515/DX/M/Admn

Dated 23.08.2021

The Section Officer (Establishment),
Minerals Development Department,
Khyber Pakhtunkhwa, Peshawar.

Subject: **ARRIVAL/JOINING REPORT**

I am directed to refer to the subject noted above and to enclose herewith application along with enclosures which is self-explanatory received from Muhammad Sajid / Mr Mineral Guard (BPS-03) of this Directorate

In this regard, it is requested that Law Department may be approached for advice in the instant case, please

Encl: As Above.

Assistant Director (Admin)
H/O Office, Peshawar

3/515/DX/M/Admn

Dated

08/2021

(Copy forwarded to:-

1. PA to Director (General Mines & Mineral, Khyber Pakhtunkhwa, Peshawar for information, please
2. Master file DX/M/Admn 2021

Assistant Director (Admin)
H/O Office, Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS &
HUMAN RIGHTS DEPARTMENT

No. SO(OP-I)/LD/15-4/2021
DATED: PESH: 14TH SEPTEMBER, 2021

1473-75

To

The Secretary,
~~Govt. of Khyber Pakhtunkhwa,~~
Minerals Development Department.

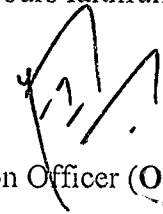
Attention: Section Officer (Estt)Subject: ARRIVAL/JOINING REPORT.

Dear Sir,

I am directed to refer to your Department's letter No.SO(E)MDD/2-45/2020/3275-76 dated 08-09-2021 on subject noted above and to state that the Administrative Department may provide the following clarification/documents for further process of the case:-


- 1) whether, accused official, informed the Administrative Department regarding lodging of FIR against him under Rule 20 of Khyber Pakhtunkhwa Government Servants (conduct) Rules, 1987.
- 2) whether any order in the proceedings for willful absence under Rule 9 of Khyber Pakhtunkhwa Government Servant (Efficiency & Disciplinary) Rules, 2011 was passed against him.
- 3) copy of removal from service order, if any.

Yours faithfully,

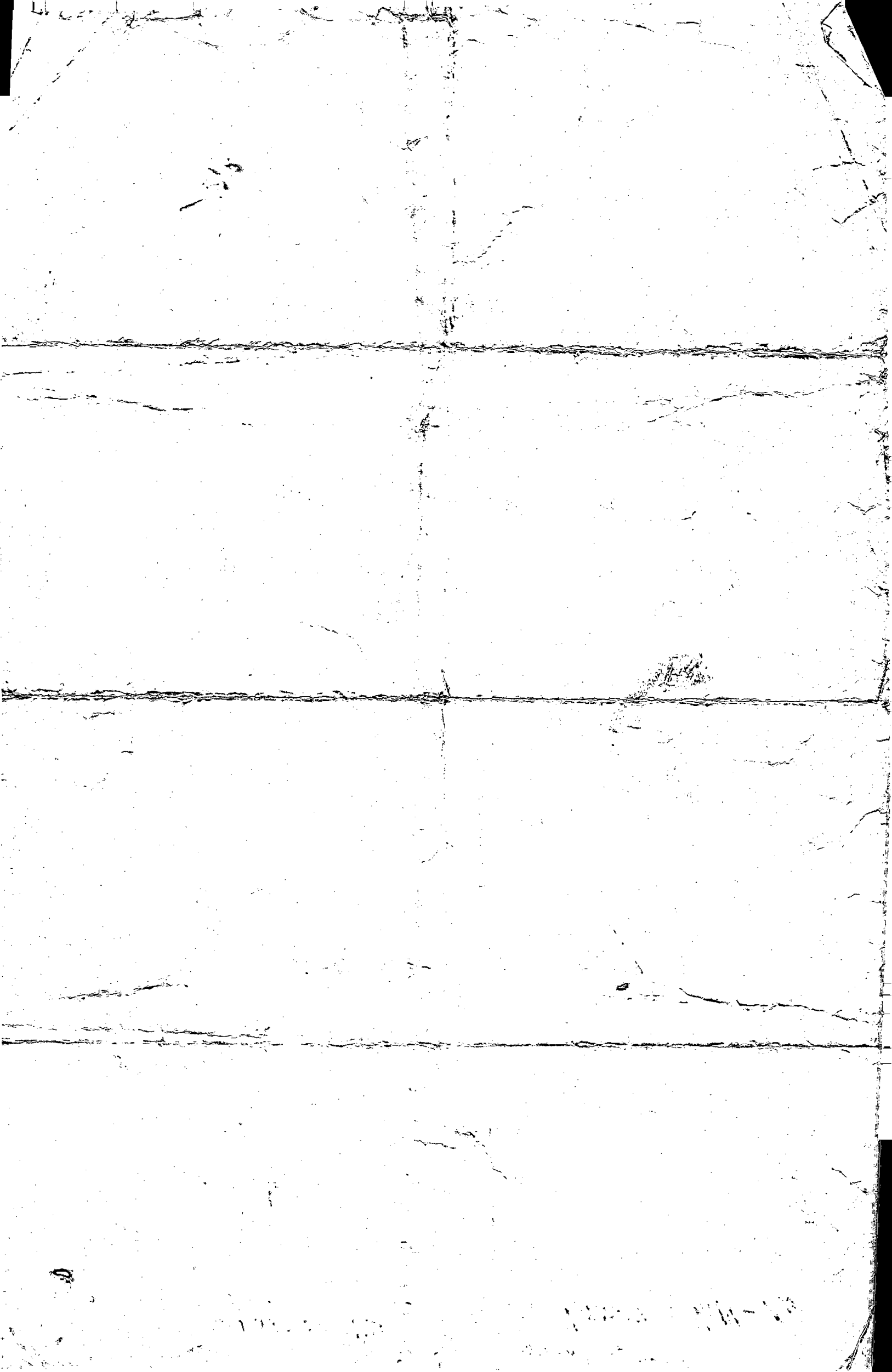

Section Officer (Opinion-I)
Endst: of even No. & date.

Copy forwarded for information to the:-

1. PS to Secretary, Law Department.
2. PA to Law Officer, Law Department.


Section Officer (Opinion-I)

o/c





Directorate General of Mines and Minerals
KHYBER PAKHTUNKHWA
Attached Departments Complex Khyber Road Peshawar

No. 3/515/DGMM/Admin

Dated /09/2021

To

The Section Officer (Establishment),
Minerals Development Department,
Khyber Pakhtunkhwa, Peshawar.

Subject: **ARRIVAL/JOINING REPORT**

I am directed to refer to your letter No. SO(E)/MDD/2-45/2020/3933-35 dated: 21/09/2021 on the subject noted above and to furnish the following replies of observations/points raised by the Law Department in the instant case for further course of action, please.

S.No.	Observations/Points	Replies
1.	Whether, accused official, informed the Administrative Department regarding lodging of FIR against him under Rule 20 of Khyber Pakhtunkhwa Government Servants (Conduct) Rules, 1987.	No, the accused official didn't inform the Administrative Department regarding lodging of FIR against him under Rule 20 of Khyber Pakhtunkhwa Government Servants (Conduct) Rules, 1987. However, FIR No. 821 dated: 13/05/2021 received from Capital City Police Officer, Peshawar vide letter No. 8236/SRC dated: 18/06/2020 (Annex-A).
2.	Whether any order in the proceedings for willful absence under Rule 9 of Khyber Pakhtunkhwa Government Servant (Efficiency & Disciplinary) Rules, 2011 was passed against him.	Yes, the accused official was suspended from Government service vide office order dated: 25/07/2020 (Annex-B) and a notice of willful absence published in daily newspaper "Mashriq" dated: 24/10/2020 (Annex-C). The reply of show cause notice is (Annex-D).
3.	Copy of removal from service order, if any.	Removal order not issued.

Encl: As Above.

Assistant Director (Admin)
H/Q Office, Peshawar

Enst. No. /3/515/DGMM/Admin

Dated: /09/2021

Copy forwarded to:-

1. PA to Director General Mines & Mineral, Khyber Pakhtunkhwa, Peshawar for information, please.
2. Master file/DGMM/Admin/2021

Assistant Director (Admin)
H/Q Office, Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS &
HUMAN RIGHTS DEPARTMENT

NO. SO(OP-I)/LD/15-4/2021
DATED: PESH: 05TH NOVEMBER, 2021

554-56

To

The Secretary,
Government of Khyber Pakhtunkhwa,
Minerals Development, Department.

Attention: Section Officer (Estt)

Subject: ARRIVAL/JOINING REPORT.

Dear Sir,

I am directed to refer to your Department's letter No.SO(E)MDD/2-45/2020/5468-69 dated 15-10-2021 on the subject noted above and to state that the competent authority has initiated disciplinary proceeding against accused official on the basis of his willful absence from official duty prior to lodging of FIR against him which has not been completed. The Administrative Department is required to complete the proceedings against the accused official.

2. Moreover, he did not inform Administrative Department regarding lodging of FIR against him under Rule 20 of Khyber Pakhtunkhwa Government Servant Conduct Rules, 1987. Hence, Administrative Department may initiate the departmental proceedings for violation of ibid rules against him and may conclude proceedings for willful absence, initiated under Rule 9 of Khyber Pakhtunkhwa (E&D) Rules, 2011.

3. Mere enlargement of the accused official on bail do not make him entitled to any service relief and there is no need for his reinstatement in service as he has never been dismissed or removed from service.

4. The Department may also consult the Establishment Department in this regard, being a service matter also.

Yours faithfully,

Section Officer (Opinion-I)

Endst: of even No. & date.

Copy forwarded for information to the.

1. PS to Secretary, Law Department.
2. PA to Law Officer, Law Department.

Section Officer (Opinion-I)

o/c



Government of Khyber Pakhtunkhwa
Minerals Development Department

Annex-APP-13

No. SO (F)/MDD/2-45 /2021 / 7101-42
Dated Peshawar, 17 November, 2021

To
The Secretary to,
Establishment Department,
Government of Khyber Pakhtunkhwa.

Attention: The Section Officer (O&M).

Subject: ADVICE/OPINION.

Dear Sir,

I am directed to refer to the subject noted above and to state that one Muhammad Sajid Ali, Mineral Guard was on willful absence from duty w.e.f 29.04.2020. In the meanwhile an FIR No.821 dated 13.05.2020 under section 324/34/427 PPC lodged against the accused official in Police Station, Chamkani Peshawar. As per report of concerned Police Station, the accused official was declared proclaimed offender under rule-204/87. The said official was suspended for a period of 90-days on 13.05.2021 which was not extended further.

2. Now the Directorate General of Mines & Minerals initiated proceedings against him under Rule-9 of the (Efficiency & Discipline) Rules, 2011 which was not yet concluded. After a period willful absence of 01-year, 03-months and 10-days w.e.f 29.04.2020 to 09.09.2021, the said official submitted for his arrival report for duty on the compromise of the both the parties and confirming the bail by Additional Session Judge-XII Peshawar.

3. Now the Directorate General of Mines & Minerals forwarded history of the case of Muhammad Sajid Ali, Mineral Guard alongwith questions/points on which legal opinion of the Law Department (Annex-I&II), which was referred to the Law Department for further necessary action and legal opinion vide this Department letter dated 08.09.2021 (Annex-III). The Law Department intimated for clarification of some points and documents in the subject case vide letter No.SO(OP-I)/LD/15-4/2021/1973-75 dated, 14.09.2021 (Annex-IV). On receiving feed back from the Directorate General of Mines & Minerals the said clarification were again sent to the Law Department vide this Department letter dated 15.10.2021 (Annex-V&VI).

4. Now the Law Department furnished his legal opinion on the subject issue which is self-explanatory with the advise that the Establishment Department may also consult in this regard being a service matter copy of the Law Department letter No.SO(OP-I)/LD/15-4/2021/554-56 dated 05.11.2021 (Annex-VII).

5. It is therefore, requested that expert views/advise in the subject matter as well as willful absence period from service may kindly be tendered to enable this Department for taking further course of action, please.

Yours Faithfully,

(Hafiz Abdul Jalil)
Section Officer (Estt.)

Encls: as Above:

Endst: No & Date even:

Copy is forwarded for information to the PS to Secretary Minerals Development Department.

Section Officer (Estt.)

SECTION OFFICER (O&M)

[Handwritten signature]

- 1. PS to Secretary, Establishment Department
- 2. PS to Special Secretary (Regulation), Establishment Department
- 3. PA to Additional Secretary (R-II), Establishment Department
- 4. PA to Deputy Secretary (Policy), Establishment Department

Copy to the

SECTION OFFICER (O&M)

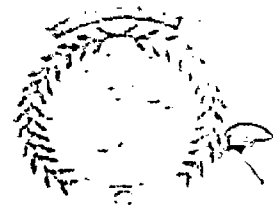
[Handwritten signature]

1. The Director is referred to your letter regarding the proposed appointment of Mr. A. B. C. as Deputy Secretary (Policy) to the Government of India. The proposed appointment is approved. The proposed appointment is approved. The proposed appointment is approved.

ADVICE OPINION

The Secretary, Government of India, New Delhi

GOVT. OF INDIA
 ESTABLISHMENT & ADMIN. DEPARTMENT
 (SECRETARY'S OFFICE)



Amex - App - (14)

SO (Exam) 17/10/05

The bid rules further state that Annex-11B
If from a Government servant is honorably acquitted in a department
enquiry or trial in Court, the period of absence from duty on account of
the suspension, dismissal or removal from service has to be treated as
period spent on duty. If the acquittal is otherwise than by a court, the
period of absence on account of suspension, dismissal or removal from
not be treated as period spent on duty unless the ruling of appellate
authority so directs.
In view of the above, it is proposed that since the article was
suspended under the procedure explained under the bid CSR in terms
of the Administrative Department and
be advised to follow the procedure explained under the bid CSR in terms
of the Administrative Department and
submitted please.

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,

PESHAWAR.

Service Appeal No. 809 /2022

Muhammad Sajid AliAppellant

Versus

Govt. of K.P through Secretary Mines and Minerals and another

..... Respondents

I N D E X

S.No.	Description of documents.	Annex:	Pages.
1)	Memo of appeal with affidavit.		1-4
2)	Addresses of the parties.		5
3)	Copy of order dated 29.05.2013	A	6
4)	Copy of FIR	B	7
5)	Copy of statement, arrival report and order of trial court	C,D,E	8-16
6)	Copy of reinstatement order	F	17
7)	Copy of appeal	G	18-21
8)	Wakalatnama.		22

Appellant

Through

Bilal Ahmad Kakezai
Advocate Supreme Court

Syed Mukhtiar Ali Shah

&

Hasnain Abbas Muhammadzai
Advocates High Court

Dated: 16.05.2022

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR.

Service Appeal No. _____/2022

Muhammad Sajid Ali s/o Umar Gul
R/o Wadpaga, Tehsil and District PeshawarAppellant
Versus

- 1) Government of Khyber Pakhtunkhwa through Secretary Mines and Minerals, Civil Secretariat, Peshawar.
- 2) Director General Mines and Minerals Department, Directorate of Mines and Mineral HQ, Khyber Road, Peshawar Respondents

APPEAL U/S 4 OF THE SERVICES
TRIBUNAL ACT, 1974 AGAINST THE
IMPUGNED ORDER NO.3/515/ DGMM/Admn
DATED 09.03.2022 AND ORDER DATED
21.04.2022 OF THE APPELLATE
AUTHORITY ON DEPARTMENTAL
APPEAL OF APPELLANT.

Prayer:

On acceptance this appeal, the impugned order dated 09.03.2022 of the respondent No.2 and appellate order dated 22.04.2022 be set aside and intervening period of absence of appellant from 01.08.2020 to 09.03.2022 be treated as on duty or at least leave of kind due with all back wages and benefits.

Respectfully Sheweth:

- 1) That the appellant was appointed as Mineral Guard vide order dated 29.05.2013. (Copy of order dated 29.05.2013 is Annexure "A").

- (2)
- 2) That appellant performed duties efficiently and competently to the entire satisfaction of his senior officials.
 - 3) That during the course of employment appellant was implicated in a false FIR No.821 u/s 324/34 PPC and due to threats to his life and property the appellant was unable to perform duties. (Copy of FIR is Annexure "B").
 - 4) That on 07.08.2021 the complainant gave statement before the competent court of law that he had implicated the appellant mistakenly in the said FIR on consequence whereof appellant was been acquitted of the charges on merit by the competent court of law and on 09.08.2021 appellant appeared and filed arrival/ joining report in the department. (Copy of statement, arrival report and order of trial court are Annexure C, D and E").
 - 5) That hon'ble court of learned District and Sessions Judge acquitted the appellant and the department reinstated the appellant on service however, the suspension period from 03.05.2020 to 10.08.2020 is treated as spent on duty while the alleged period willful absence/ abscondence period from 11.08.2020 to 07.03.2022 is treated as leave without pay. (Copy of reinstatement order is Annexure "F").
 - 6) That appellant filed the departmental appeal against the order of Director General. (Copy of appeal is Annexure "G").
 - 7) That Secretary Mines and Mineral Department rejected the departmental appeal of the appellant on 21.04.2022, hence this appeal on the following grounds:

GROUND:

- a) That the act of respondents to stop the salary of the appellant is against the law, facts and material available on record.
- b) That the act of respondents is violative of **Article 4, 9, 11, 25** and various other Articles of the Constitution of Pakistan as well as judgments rendered by the august Supreme Court of Pakistan that departmental authorities under law having no power to stop the

salaries of their employees and that too without adhering/ adopting **due process of law**, which amounts to force labour, hence **violative of Article 11** of the Constitution of Pakistan.

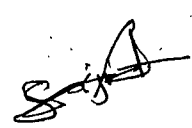
3

- c) That it is settled law that salary of an employee is no more a State bounty.
- d) That as per rule 54 of the Fundamental Rules the competent authority can treat the period of alleged absence on duty.
- e) That it is also fundamental right of the appellant to be treated in accordance with law.
- f) That absence from the department was not willful rather the same was due to compelling circumstances faced by the appellant.
- g) That both the impugned orders are also against the constitution and law.


It view of above facts, it is, therefore, humbly prayed that on acceptance of this appeal, the impugned order dated 09.03.2022 of the respondent No.2 and appellate order dated 22.04.2022 be set aside and intervening period of absence of appellant from 01.08.2020 to 09.03.2022 be treated as leave of kind due with all back wages and benefits.

Any other remedy if available may also be extended in favour of appellant to meet the ends of justice.

Appellant
Through


Bilal Ahmad Kakezai
Advocate Supreme Court


Syed Mukhtiar Ali Shah

&

Hasnain Abbas Muhammadzai
Advocates High Court

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL.
PESHAWAR.

Service Appeal No. _____/2022

Muhammad Sajid AliAppellant

Versus

Govt. of K.P through Secretary Mines and Minerals and another

..... Respondents

AFFIDAVIT

I, Muhammad Sajid Ali s/o Umar Gul R/o Wadpaga, Tehsil and District Peshawar do hereby affirm and declare on oath that the contents of the **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



Deponent
CNIC No.17301-4174448-7

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

5

Service Appeal No. _____/2022

Muhammad Sajid AliAppellant
Versus

Govt. of K.P through Secretary Mines and Minerals and another
..... Respondents

ADDRESSES OF THE PARTIES

APPELLANT:

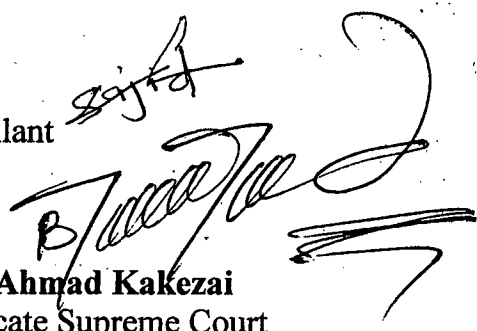
Muhammad Sajid Ali s/o Umar Gul
R/o Wadpaga, Tehsil and District Peshawar

RESPONDENTS:

- 1) Government of Khyber Pakhtunkhwa through Secretary Mines and Minerals, Civil Secretariat, Peshawar.
- 2) Director General Mines and Minerals Department, Directorate of Mines and Mineral HQ, Khyber Road, Peshawar

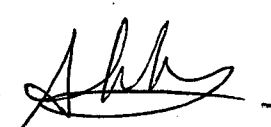
Appellant

Through


Bilal Ahmad Kakezai
Advocate Supreme Court


Syed Mukhtiar Ali Shah

&


Hasnain Abbas Muhammadzai
Advocates High Court



Annex A

DIRECTORATE GENERAL OF MINES AND MINERALS
KHYBER PAKHTUNKHWA
ATTACHED DEPARTMENT COMPLEX KHYBER ROAD PESHAWAR

ADMINISTRATIVE OFFICER
Director General Mines & Minerals
Khyber Pakhtunkhwa Peshawar

No. _____/3/515/DGMM/Admn:

Dated _____ / 06 / 2013

⑥

OFFICE ORDER

On the recommendations of Departmental Selection Committee, Mr. Muhammad Sajid Ali S/o Umar Gul, Village and Post Office Wadpagga Tehsil and District Peshawar, is hereby appointed as Mineral Guard (BPS-1) (4800-150-9300) plus usual allowances with effect from 29-05-2013 (FN) on the terms and conditions already conveyed to him vide this Directorate letter No.9218/1/17/DGMM/Admn: dated 22-5-2013.

He is posted in the Headquarter Office, Peshawar.

Sd/-
Director General Mines and Minerals
Khyber Pakhtunkhwa.

Endst. No. 10019-22 /3/515/DGMM/Admn:

Dated 4 /06/2013

A copy is forwarded to:

- 1- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- The Assistant Director (Accounts), H/Q Office Peshawar.
- 3- Mr. Muhammad Sajid Ali, Mineral Guard, Headquarter Office, Peshawar.
- 4- File No. 1/17/DGMM/Admn:.

T. Yousaf Khian
(TAJ YOUSAF KHIAN)
Assistant Director (Administration)
For /Director General

Attested
ATTESTED

15
 NSI RACHA
 13-05-020

[Handwritten notes in Arabic script, partially obscured by a large scribble]

...	...
...	...
...	...
...	...
...	...
...	...
...	...
...	...
...	...
...	...
...	...

...

...

...

...

7
 Annex B

SAJID .. VS.. THE STATE

Annex C
8


Statement of Asif Khan S/o Farid Ullah (complainant/injured) aged about 29/30 Years R/o Wadpaga Peshawar, on oath.

Stated that I am complainant/injured of the case FIR No.821 dated 13.05.2020 U/S 324/427/34 PPC registered at Police Station Chamkani, Peshawar, in which the present accused/petitioner alongwith co-accused Rabnawaz were charged for the commission of offence.

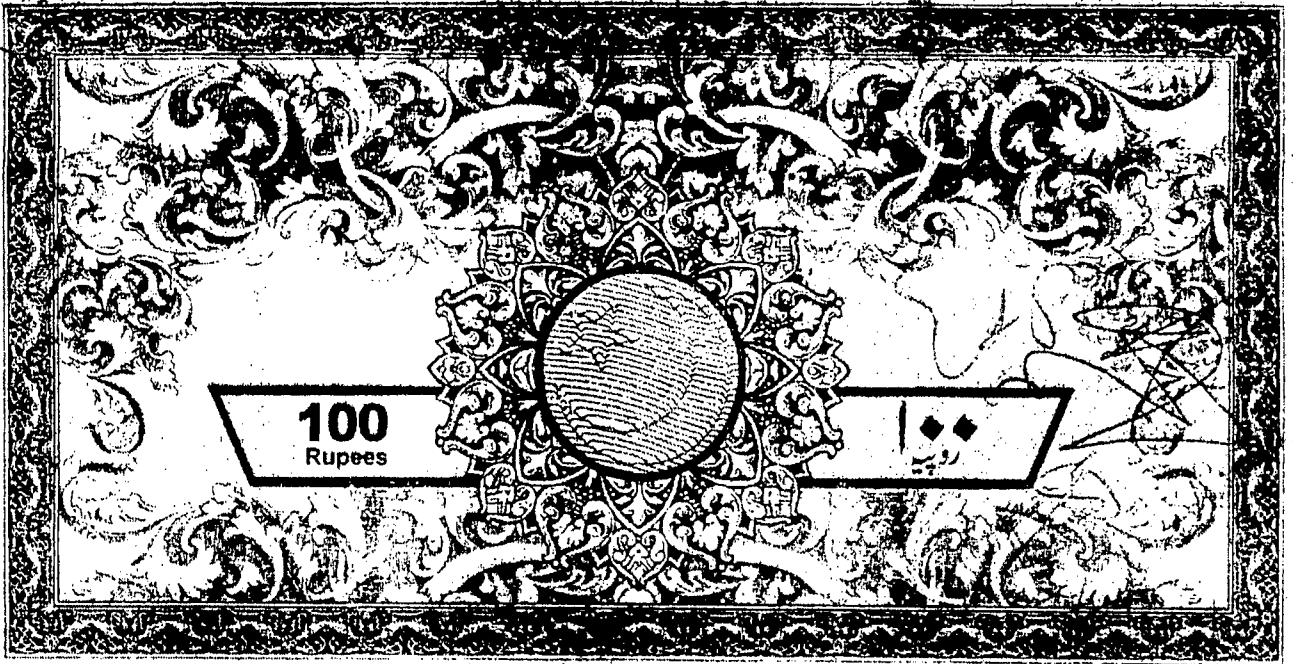
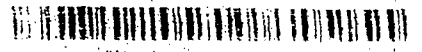
As I was unconscious and in critical condition due to sustaining of injury and I nominated the present petitioner alongwith co-accused Rabnawaz on strength of hearsay statement and now I am fully satisfied that both the nominated accused are innocent, hence, I do not want to press my charge against them being innocent and have got no objection of confirmation of their BBA or subsequent acquittal. Compromise deed is Ex:PA whereas copy of CNICs of the complainant/injured is Ex:PB.

RO & AC:
07.08.2021

(SHEHZAD AKHUNZADA)
ADDL: SESSIONS JUDGE-XII,
PESHAWAR


Asif Khan S/o Farid Ullah (complainant/injured)
CNIC No.17301-4641756-5

(SHEHZAD AKHUNZADA)
ADDL: SESSIONS JUDGE-XII,
PESHAWAR



BEFORE THE COURT OF ADDL: SESSIONS JUDGE, PESHAWAR

9

Sajid **VERSUS** The State and others

AFFIDAVIT

I, Asif S/o Farid Ullah R/o Wadpagga Tehsil & District Peshawar (Complainant/Injured) do hereby solemnly affirm and declare on oath the Case FIR No.821 dated 13/05/2020 U/S 324/34/427 PPC of PS Chamkani, wherein, the petitioners namely Rabnawaz Khan and Sajid were nominated in the instant case.

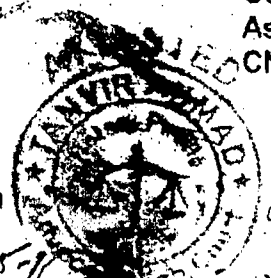
As I was unconscious and in critical condition due to sustaining of injury and I nominated the petitioners on strength of hearsay statements and now I am fully satisfied that both the nominated petitioners are innocent, hence I do not want to press my charge against them being innocent and have got no objection of confirmation of their BBA or subsequent acquittal.

[Signature]

Complainant / Injured
Asif S/o Farid Ullah
CNIC # 17301-4641756-5

S. Adeel B
Witness No.1
Syed Adeel Bacha
S/o Syed Mir Badshah
CNIC #

17301-2544585-1



Witness No.2
Iqbal Khan
S/o Banaras Khan
CNIC #

[Signature]

13/05/2020
821
ADJ
Dist

To

Annex D

- 1) Director General, Directorate of Mines & Minerals
Khyber Road, Peshawar.
- 2) Assistant Director
Mines and Minerals Directorate,
Nowshera.

10

Subject: ARRIVAL/ JOINING REPORT.

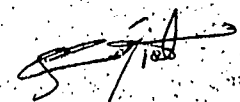
Respected Sir,


I, Muhammad Sajid, Mineral Guard, Mines & Minerals Department submits instant arrival/ joining report for your honour sympathetic and benevolent considerations, as under:

- 1) That I was appointed as Mineral Guard vide order dated 29.05.2013.
- 2) That I performed my duties to the entire satisfaction of my superiors.
- 3) That during the course of employment a fabricated FIR was lodged against me.
- 4) That due to FIR rivalry between me, my family and complainant party reached to its peak.
- 5) That I was posted in Peshawar and before lodging the FIR I was transferred to Nowshera office, however, due to rivalry/ enmity I could not manage to report arrival in Nowshera office and been suspended on 13.05.2020.
- 6) That now compromise has been effected between the parties, therefore, I appeared in court and got bail before arrest, which was granted and later on confirmed vide order dated 07.08.2021. (Copy of the same is enclosed.)

It is, therefore, requested that I may please be allowed to join duty and my fresh posting order may kindly be issued.

Yours faithfully,

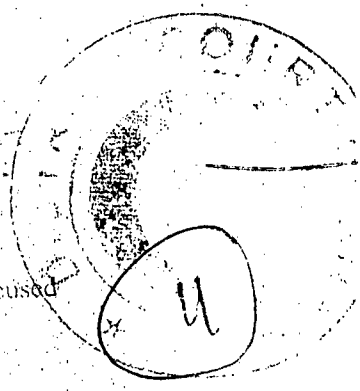

Muhammad Sajid Ali
Mines Guard

11/09/21
09-08-21


CHARGE

Annex E

FIR No. 21 dated 13/05/2020 under sections 324/34 PPC
P.S. Umar, Peshawar



I, Ashfaqe Raj, Sessions Judge, Peshawar do hereby charge you accused
namely:

1. **Rab Nawaz** s/o Muhammad Nawaz aged about 30 years,
 2. **Sajid** s/o Umar Gul aged about 32 years,
- Both resident of Wadpaga, District Peshawar as follows;

Firstly

That on 13/05/2020 at about 19:30 hours, at Wadpaga near Gul Bacha Mosque, falling within the criminal jurisdiction of P.S. Chamkani, you both accused duly armed in furtherance of your common intention attempted at the life of complainant Asif by firing at him, as a result of firing of you accused Sajid, he was hit and got injured. Thus you both accused thereby committed offence punishable under sections 324/34 PPC within my cognizance.

Secondly

That on the same date, time and place of occurrence due to firing of you accused a show case in the shop of Rab Nawaz was hit and damaged. Thus you accused thereby committed offence punishable under section 427 PPC within my cognizance.

Thirdly

That on the same date, time and place of occurrence due to firing of you accused Sajid, the complainant Asif sustained firearm injury on right side of abdomen. Thus you accused thereby committed offence punishable under section 337(F)(ii) PPC within my cognizance.

And I hereby direct that you be tried by me on the said charge.

R.O.&A.C.
14/09/2021

Ashfaqe Raj
(Ashfaqe Raj)
Sessions Judge, Peshawar
14/09/2021

The charge is read over and explained to the accused.

Q: Have you heard and understood the charge.

A: Yes.

Q: Do you plead guilty or claim trial?

A: No. We do not plead guilty, and claim trial to the charge.

R.O.&A.C.
14/09/2021

Rab Nawaz
Rab Nawaz

Sajid
Sajid

Certified u/s 364(2) Cr.P.C.

Ashfaqe Raj
Sessions Judge, Peshawar
14/09/2021

25
(Examined)
District Court

State...Vs....Rabnawaz etc
438/SC of 2021

PW-1: Statement of Asif Khan s/o Farid Ullah Khan, resident of Wadpaga, District Peshawar on oath:-

Stated that on 13/05/2020 at 19:30 hours I was present in the spot along with my first cousin Saleem Raza when in the meanwhile accused facing trial Sajid and Rabnawaz came there and started firing upon us with their respective weapons with their intention to kill us. With the fire shot of Sajid I got hit on abdomen. After the occurrence accused decamped from the spot. I was shifted to LRH by PW Saleem Raza where in reported the matter to police officer which was reduced in shape of Murasila Ex:PA/1 which was duly thumb impressed by me as well as by PW Saleem Raza as verifier. Today I have seen the report which is correct and correctly bear my thumb impressions. Motive behind the occurrence was money dispute. I charge the accused for the commission of offence.

XX _____ I am educated upto FA. In routine life I always affix my signature on the documents. Even the W>Nama submitted by my learned counsel bears my signature in English. It is correct that Murasila does not bear my signature. As per Murasila time of occurrence is 19:30 hours which is dark time.

ATTESTED

25

(Examiner)
District Court Peshawar

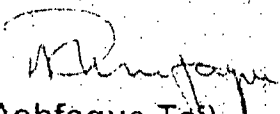
13

Contd:
PW-01

Page-2

Neither in the Murasila nor subsequently we have advanced any source of light for identification of the assailant. I do not remember that from which side the assailant came to the spot and same is the position of decamping. After hitting severe blood oozed from my injury. Being unconscious I do not know the time of arrival at LRH. When I gain senses I was in the surgical ward and it was morning of 14/05/2020. I do not know that who recorded Ex:PA/1. As I was unconscious so I do not know that who shifted me to the hospital and in which vehicle I was shifted. At the time of firing other villagers were present on the spot; however I had not noticed PWs Saleem Raza and Rabnawaz. During investigation neither the site plan was verified from me nor the I.O. confronted me with the site plan. As I am satisfied about innocence and non involvement of accused facing trial, therefore, I have no objection on their acquittal. It is correct that PWs Saleem Raza and Rabnawaz are not ready to depose in favour of Murasila/FIR.

R.O. & A.C.
20/10/2021


(Ashfaque Taj)
District & Sessions Judge,
Peshawar

ATTF
Distri

14

State ...Vs...Rab Nawaz & another
Case No. 438/SC of 2021.

Order...08.
 13/11/2021

Accused Rab Nawaz and Sajid on bail present.
 Counsel for accused and Sr. PP for the State also
 present. PWs are not in attendance.

Arguments on the application filed u/s 265-K
 Cr.P.C for acquittal of the accused heard. With the able
 assistance of both the learned counsel, the record
 perused.

Facts, in brief, are that on 13/05/2020 at 20:15
 hours, Asif s/o Farid Ullah (complainant/injured)
 accompanied with cousin Saleem Raza both r/o
 Wadpaga Chamkani in Casulaty LRII, Peshawar
 reported the matter to the effect that on the day of
 occurrence at 19:30 hours, he present at Wadpaga near
 Masjid Gul Bacha. In the meanwhile, Sajid s/o Umar
 Gul and Rab Nawaz s/o Munammad Nawaz came and
 started firing with Asliha Atisheen at him. With the
 firing of accused Sajid the complainant was hit and got
 injured. The occurrence was witnessed by the people
 present on the spot. The report was also thumb
 impressed by Saleem Raza as verifier. Hence, the
 present case vide FIR No. 821 dated 13/05/2020 u/s
 324/427/34 PPC PS Chamkani, Peshawar.

13-11-2021

ATTE

24

District Co

5

Challan was submitted against the accused Rab Nawaz and Sajid. Provisions of section 265-C Cr.PC. were observed on both the accused and charge framed on 14/09/2021; to which they pleaded not guilty and claimed trial. Fixed the case for the prosecution of evidence. The prosecution produced and examined PW-1/Asif Khan (complainant/injured). PW Saleem Raza was abandoned by the prosecution as he was not supporting the prosecution case on the ground of compromise outside the court.

During cross-examination, PW-1, Asif Khan (complainant/injured) stated that he was satisfied about innocence and non-involvement of accused, therefore, he has no objection on the acquittal of the accused. He also stated that as per murasila, time of occurrence is 19:30 hours which was dark time. He further stated that PWs Saleem Raza and Rab Nawaz were not ready to depose in favour of murasila/FIR. The complainant/injured who was the star witness in this case, stated during cross-examination regarding the innocence of the accused and also got no objection on their acquittal. PW Saleem Raza, eye witness of the occurrence, was also abandoned by the prosecution on the ground that he was not supporting the prosecution

13-11-2021

ATTACHED

25/11/21

(Examined)
District Court

16

case had effected compromise with the accused outside the court. For the purpose of argument, if the case continues and the prosecution examines the remaining witnesses, the eventual conclusion will be an acquittal because the accused facing trial cannot be convicted keeping in view the statement of injured/complainant.

Proceeding with the trial and recording further evidence in these circumstances will be a useless exercise and a waste of the court's valuable time. As a result, the application is accepted, and the accused Rab Nawaz s/o Muhammad Nawaz and Sajid s/o Umer Gul both r/o Wadpaga, Peshawar are hereby acquitted of the charge levelled against them by exercising the provision under section 265-K of the Criminal Procedure Code. Accused are on bail; their bail bonds stand cancelled and the sureties are absolved from the corresponding liabilities. The case property be kept intact till the lapse of the appeal/revision period.

File be consigned to record room after completion.

Announced.
13/11/2021.

(Ashfaq Taj)
Sessions Judge, Peshawar
13/11/2021.

No.	11238
Date	13/11/2021
Name	Sajid
Signature	[Signature]
Stamp	[Stamp]

COPIES TO BE RETAINED COPY
[Signature]
Copy of [Signature] Peshawar

Annex 6

18

To

Mineral Dev. Deptt: (KPK)

Secy: Diary No. 929

Date: 06-04-2021

The Secretary Mines & Minerals

Khyber Pakhtunkhwa

Peshawar

Subject: DEPARTMENTAL APPEAL.

1- That appellant / petitioner was appointed as Minerals
Guard vide order dated 29/05/2013.

2- That appellant / petitioner performed duties efficiently and
competently.

3- That during the course of employment appellant / petitioner
was implicated in false FIR and due to threats to his life and
property the appellant was unable to perform duties.

4- That on 09/08/2021 the complainant compromised / patched
up the matter with the appellant, moreover, he also give

19

statement. That complainant had implicated appellant mistakenly in the said FIR.

5- That thereafter appellant has been acquitted of charges on merit by the competent Court of law.

6- That the Hon'ble Court acquitted the appellant and the department has also reinstated the appellant on service however, the suspension period from 03/05/2020 to 10/08/2020 is treated as spent on duty while the alleged willful absence / absconder period from 11/08/2020 to 07/03/2022 is treated as leave without pay.

7- That as per the fundamental Rule 54 the competent authority can treat the period of alleged absence on duty.

8- That it is a so fundamental right of the appellant to be treated in accordance with law.

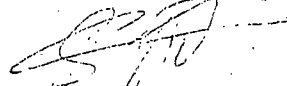
9- That absence from the department was not willful rather the same was due to compelling circumstances faced by the appellant.

20

It is, therefore, respectfully that intervening period of absence of appellant from 11/08/2020 to 09/03/2022 be treated as leave of kind due with all back wages and benefits.

Dated 05/04/2022

Yours faithfully



Muhammad Sajid Ali

Mineral Guard

Mines and Mineral

Department Peshawar



Government of
Khyber Pakhtunkhwa
Minerals Development Department

No.SO (E)/MDD/2-45/2020
Dated Peshawar. 21.04.2022

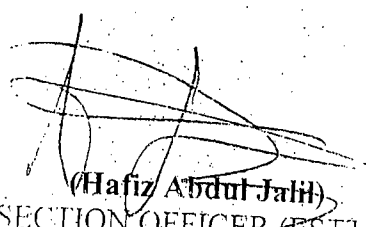
21

To

Mr. Sajid Ali, Mineral Guard,
Directorate General of Mines & Minerals,
Khyber Pakhtunkhwa.

Subject: **DEPARTMENTAL APPEAL.**

I am directed to refer to your departmental appeal dated 05.04.2022, on the subject noted above and to state that the Appellate Authority i.e. the Secretary, Minerals Development Department, Khyber Pakhtunkhwa, has considered your appeal and rejected being not covered under the Rules.

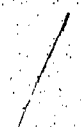

(Hafiz Abdul Jalil)
SECTION OFFICER (ESTT)
Ph#091-9223559

Encl: as above

Endst: No & Date even:

Copy alongwith copy of appeal of the above official is forwarded for information to the:

1. Directorate General of Mines & Minerals, Khyber Pakhtunkhwa.
2. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Minerals Development Department.


SECTION OFFICER (ESTT)