

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	10.09.2015	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO.676/2013</p> <p style="text-align: center;">(Muhammad Akhtar-vs- District and Sessions Judge, Bannu and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>ABDUL LATIF, MEMBER:</u></p> <p>Appellant with counsel and Mr. Ziaullah.GP for respondents present.</p> <p>2. The instant appeal has been filed by the appellant under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act-1974 against the impugned order dated 18.12.2012, whereby the learned Senior Civil Judge, being the competent authority imposed the major penalty of dismissal from service under-4(1)(B)(iv) of Khyber Pakhtunkhwa Government. Servant (E&D) Rules, 2011, on charges of willful absence from duty against which departmental appeal dated 21.12.2012 has not been responded, hence the instant appeal on 17.04.2013.</p> <p>3. Brief facts giving rise to the instant appeal are that the appellant was appointed as Process Server in BPS-3 in the year 2004. That the appellant had more or less 8 years service at his credit at the time of imposition of major penalty of dismissal from service. That the appellant alongwith 14 others were reported by Civil Nazir/Naib Nazir of Senior Civil Judge, Bannu to the effect that all of them were absent from their</p>

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duties on different dates and this report was submitted to the court of Senior Civil Judge, Bannu for further necessary action in the matter. That the Civil Judge/Judicial Magistrate-I, Bannu being the inquiry Officer conducted a separate inquiry with regard to the same allegation on which another inquiry with regard to 14 others similarly placed subordinate staff was sent to the court of Civil Judge-VI, Bannu. That the Civil Judge/Judicial Magistrate-I, Bannue being the inquiry Officer conducted an inquiry into the charges/allegations of willful absence from duty and found the appellant liable to the major penalty of dismissal from service. That it is pertinent to mention here that Senior Civil Judge, Bannu being the Competent Authority in both cases agreed to the findings of the respective Inquiry Officers as in one case the Competent Authority agreed to impose minor penalty of censure on 13 subordinate staff while on the basis of the same/identical allegations, a major penalty of dismissal was imposed on the appellant. That the appellant preferred departmental appeal dated 21.12.2012 which was not responded .

4. Learned counsel for the appellant argued that impugned orders were violative of the Articles 2-A,4 and 25 of the constitution of Pakistan 1973 which shun/avoid discrimination in its all forms. It was clear from the proceedings against the appellant that inspite of same nature allegation of absence, appellant 's case was enquired from a separate Enquiry Officer who recommended different penalty in case of the appellant (Major Penalty) as against the penalties recommended by the other Enquiry Officer in respect of the other 13 Officials (minor penalty) of censure which was not sustainable in the eyes of law. He further contended that referring the enquiry of subordinate staff proceeded for the same allegation to different Inquiry Officers and then imposition of two different penalties on the same charge was clear malafide on the part of Competent Authority.

and Enquiry Officer and was not maintainable under the law. That the impugned order was violation of Section 24-A of the General Clauses Act as the Competent Authority failed to pass a speaking order. He further argued that punishment awarded to the appellant was not commensurate to the offense but penalty was excessive and harsh. That no opportunity of personal hearing was given to the appellant before imposition of major penalty of dismissal which was violative of the principle of natural justice. He prayed that the impugned orders may be set aside and the appellant may be reinstated in service with all back benefits. He relied upon 2000 PLC (C.) 817, 2001 SCMR 256, 2000 SCMR 669, 2008 SCMR 871, 2008 SCMR 214 and 2008 SCMR 1369.

5. The learned Government Pleader argued that no discrimination was done against the appellant for the reason that facts of the case of the appellant were different from other officials. That appellant never challenged the enquiry and he accepted his willful absence during the proceedings and that full opportunity of defense was provided to the appellant throughout the proceedings. He prayed that the appeal being devoid of merits may be dismissed.

6. Arguments of the learned counsels for the parties heard at length and record perused with their assistance.

7. From perusal of the record it transpired that the appellant was proceeded against for the charge of absence of 7 days amongst other 13 similarly placed Subordinate Officials. Inquiry against the appellant was however conducted through a separate Enquiry Officer as against the rest of 13 Officials whose case was enquired by a different Inquiry Officer. Imposition of major penalty of dismissal against the appellant vis-a-vis minor penalty of censure on the rest of the similarly placed officials was

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attributed to penal actions taken against the appellant for his lapses in the past, which do not seem fair and tantamount to discriminatory treatment. The Impugned orders of punishment are therefore not maintainable on this score alone. The Tribunal therefore is of the considered view that penalty being harsh and discriminatory as well, the case warrants interference of this Tribunal. The impugned orders are therefore modified, the major penalty of the appellant is converted into minor penalty of withholding of one annual increment for two years. The appellant is reinstated in service and the intervening period shall be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record.



(PIR BAKHSH SHAH)
MEMBER

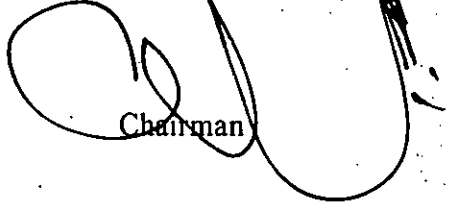


(ABDUL LATIF)
MEMBER

ANNOUNCED
10.09.2015


6.6.2014

Appellant with counsel and Mr. Muhammad Shafiullah, Junior Clerk on behalf of respondent No. 2 with AAG for the respondents present. Rejoinder received on behalf of the appellant, copy whereof is handed over to the learned AAG for arguments on 27.11.2014.


Chairman

27.11.2014

Appellant in person and Mr. Muhammad Adeel Butt, AAG for the respondents present. The Tribunal is incomplete. To come up for arguments on 20.02.2015.


Reader

29.2.2015

Counsel for the appellant and Mr. Muhammad Jan, GP for the respondents present. Counsel for the appellant requested for adjournment. Case is therefore, adjourned to 21.7.2015 for arguments.

Member


Member

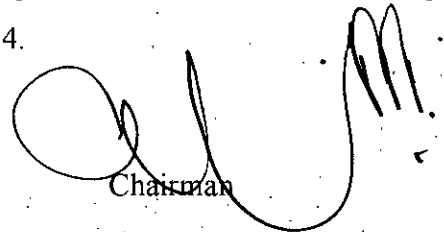
22.07.2015

Since 21.7.2015 has been declared as public holiday on account of Eidul Fitre, therefore, case to come up for the same on 10-09-2015.


READER

20.12.2013

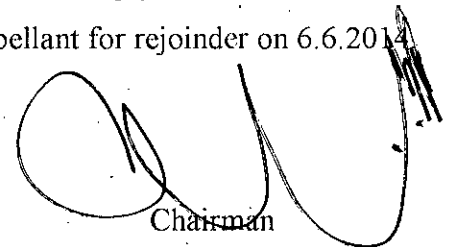
Appellant with counsel and Mr. Muhammad Shafiullah Khan, Junior Clerk/Naib Nazir of the court of Senior Civil Judge Bannu on behalf of respondent No. 2 present, and submitted written reply/written statement on behalf of respondent No. 2, copy whereof is handed over to the learned counsel for the appellant for rejoinder. Respondent No. 1 i.e. District and Sessions Judge, Bannu has also addressed a letter to the Registrar of the Tribunal wherein he has raised objections to the maintainability of the appeal and jurisdiction and has also prayed for dismissal of the appeal, but neither the letter is in proper form of written reply nor the same can be treated as application for dismissal of the appeal. AAG is present, who would be contacting respondents for authorization to defend the case on their behalf as well as written reply in proper form on behalf of remaining respondents No. 1 and 3 on 11.3.2014.



Chairman

11.3.2014

Appellant with counsel, M/S Abdullah Jan, Supdt. on behalf of respondent No. 1 and Muhammad Shafiullah Khan, Junior Clerk/Naib Nazir on behalf of respondent No. 2 with AAG for the respondents present. Written reply/comments received on behalf of respondent No. 1; while learned counsel for the appellant stated that respondent No. 3 i.e. Judicial Magistrate-I/inquiry officer Bannu, being unnecessary party, be deleted from the panel of respondents. Respondent No. 3 is accordingly deleted. A copy of the written reply/comments is handed over to the learned counsel for the appellant for rejoinder on 6.6.2014.



Chairman

Appeal No. 676/2012
Mr. Muhammad Akhtar

22.07.2013

Appellant with counsel present and heard on preliminary.

Contends that the appellant has not been treated in accordance with the law/rules. He was dismissed from service under rule 4(1)(B)(iv) of Khyber Pakhtunkhwa Government Servant (E&D) rules, 2011 w.e.f 11.12.2012. He filed departmental appeal on 21.12.2012 after a laps of statutory period of 90 days by not responding, he filed the instant appeal on 17.04.2013 which is within time. Points raised need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issued to the respondents. Case adjourned to 20.11.2013 for submission of written reply.

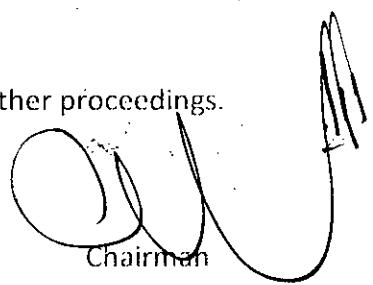
The appellant deposited
security & process fee
Rs 180/- Bank receipt
is attached on file


Member.

6.

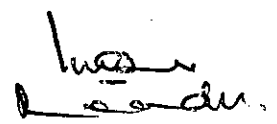
22.7.2013

This case be put before the Final Bench 2 for further proceedings.


Chairman

20-11-13.


Appellant present in person. No one present for respondents. The worthy chairman is on tour to A/shad. To come up for written reply/ comment on 20/12/2013.


Chairman

4,

28.06.2013

Counsel for the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunals (Amendment) Ordinance 2013, (Khyber Pakhtunkhwa Ord. II of 2013), the case is adjourned on note Reader for proceedings as before on 22.07.2013.



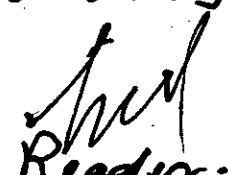

Reader

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Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 676/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	17/04/2013	<p>The appeal of Mr. Muhammad Akhtar presented today by Mr. Inayat Ullah Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p>
2	22-4-2013	<p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>28-5-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3.	28-5-13	<p>No one is present for the appellant. In pursuance of the KPK Service Tribunal (Amendment) Ordinance, 2013, (KPK Order No. II of 2013), the case is adjourned on note Reader for proceeding as before on 28.6.2013.</p> <p style="text-align: right;"> Reader.</p>

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

S.A.No. 676 /2013

Muhammad Akhtar..... Appellant

Versus

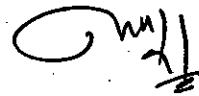
District and Sessions Judge, Bannu & others..... Respondents

I N D E X

S.No.	Description of documents.	Annexure	Pages.
1	Grounds of appeal.		1-8
2	Affidavit.		9
3	Addresses of the parties.		10
4	Copy of report dated 01.09.2012 of Civil Nazir/ Naib Nazir of the court of Senior Civil Judge, Bannu	A	11-12
5	Copy of charge sheet	B	13
6	Copy of statement of allegations	C	14
7	Copy of show cause notice	D	15
8	Copy of order dated 10.10.2012 of the learned Civil Judge-V/ Authorized Officer	E	16
9	Copy of order sheet dated 15.10.2012	F	17
10	Copy of inquiry report dated 15.11.2012	G	18-22
11	Copies of impugned orders dated 18.12.2012 endorsement No.968-71 and 05.11.2012 reference No.826-38	H-I	23-24
12	Copies of statements of subordinate staff	J -J/21	25-51
13	Copy of departmental appeal.	K	52-58
14	Wakalatnama.		


Appellant

through



Inayat Ullah Khan
Advocate High Court
LL.M (U.K)
Cell: 0333-9227736

Dated: 17.04.2012

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

Service Appeal No. 676 /2013

N.W.F.P. Service Tribunal
 No. 768
 Dated 17-4-13

Muhammad Akhtar son of Muhammad Khel
 Ex-Process Service
 Senior Civil Judge, Bannu
 R/O Kot Beli, Tehsil and District Bannu..... Appellant

Versus

- 1) District and Sessions Judge, Bannu.
 - 2) Senior Civil Judge, Bannu.
 - 3) Judicial Magistrate-I/ Inquiry Officer, Bannu.
- Respondents

Appeal u/s 4 of the N.W.F.P Service Tribunal Act, 1974 against the impugned order dated 18.12.2012, whereby the learned Senior Civil Judge, Faryal Mufti, being the competent authority imposed the major penalty of dismissal from service under-4(1)(B)(iv) of Khyber Pakhtunkhwa Government Servant (E&D) Rules, 2011, on charges of willful absence from duty against which departmental appeal dated 21.12.2012 has not been responded.

Prayer:

On acceptance of this appeal, the impugned order dated 18.12.2012 may kindly be set aside and the appellant may please be reinstated in service with all arrears and consequential back benefits.

Copy of order No. 1
 is deleted with
 order dt. 11.2.14
 [Signature]

[Signature]
 17/4/2013

Respectfully Sheweth;

Brief facts giving rise to the instant appeal are as under:-

- 1) That the appellant was appointed as Process Server in BPS-3 in the year 2004 by order of the court of Senior Civil Judge, Bannu.
- 2) That the appellant has more or less eight (8) years service at his credit at the time of imposition of major penalty of dismissal from service.
- 3) That the appellant along with 14 others were reported by Civil Nazir/ Naib Nazir of Senior Civil Judge, Bannu to the effect that all of them were absent from their duties on different dates and this report was submitted to the court of Senior Civil Judge, Bannu for further necessary action in the matter. The names of the subordinate staff are as under:-
 - i) Inayat Ullah (Bailiff) absent for two days i.e. 25.08.2012 and 30.08.2012.
 - ii) Zahoor-ul-Islam (Bailiff) absent for three days i.e. 18.08.2012, 25.08.2012 and 30.08.2012.
 - iii) Bazid (Bailiff) absent for one day i.e. 03.08.2012.
 - iv) Zia Ullah (Process Server) absent for one days i.e. 29.08.2012.
 - v) Rashid Ali (Process server) absent for four days i.e. 01.08.2012, 08.08.2012, 24.08.2012 and 31.08.2012.
 - vi) Rahim Ullah (Process server) absent for one day i.e. 11.08.2012.
 - vii) **Muhammad Akhtar, the present appellant (Process server) absent for five days i.e. 01.08.2012, 06.08.2012, 15.08.2012, 24.08.2012 and 31.08.2012.**
 - viii) Muhammad Yousaf (Process server) absent for one day i.e. 29.08.2012.
 - ix) Mumtaz (Process server) absent for two days i.e. 03.08.2012 and 27.08.2012.

- x) Rashid Khan (Process server) absent for two days i.e. 07.08.2012 and 23.08.2012.
- xi) Shujat Ali (Process server) absent for one day i.e. 17.08.2012.
- xii) Shah Muhammad (Process server) absent for one day i.e. 02.08.2012.
- xiii) Shah Tamas (Process server) absent for three days i.e. 02.08.2012, 08.08.2012 and 18.08.2012.
- xiv) Shahab (Process server) absent for one day i.e. 01.08.2012.
- xv) Saood (Process server) absent for one day i.e. 03.08.2012.

(Copy of report dated 01.09.2012 of Civil Nazir/ Naib Nazir of the court of Senior Civil Judge, Bannu is annex: "A").

- 4) That the Senior Civil Judge being the competent authority issued notices for willful absence to the above named and thereafter, referred inquiry with regard to fourteen (14) subordinate staff to the court of Civil Judge-VI, Bannu, Mr.Hamid Kamal and inquiry with regard to the present appellant for the same allegations was referred to the court of Civil Judge-V, Bannu, Mr.Aurangzeb Khan.
- 5) That Faryal Zia Mufti, Senior Civil Judge, Bannu, served the appellant with a charge sheet, statement of allegations and show cause notice. (Copy of charge sheet, statement of allegations and show cause notice are attached as Annex: "B, C and D" respectively).
- 6) That Civil Judge-V, Bannu, Mr.Aurangzeb Khan, sent the departmental inquiry No.48 of 2012 back to the court of Senior Civil Judge, Bannu with regard to the present appellant for the reason stated therein. (Copy of order dated 10.10.2012 of the learned Civil Judge-V/ Authorized Officer is attached as annex: "E").

- 7) That the learned Senior Civil Judge/ competent authority referred once again a separate inquiry to the court of Civil Judge-cum-Judicial Magistrate-I, Bannu/ Inquiry Officer, Syed Hamid Qasim. (Copy of order sheet dated 15.10.2012 is attached as annex: "F", which indicates the receipt of inquiry from the court of Senior Civil Judge).
- 8) That the Civil Judge/ Judicial Magistrate-I, Bannu being the Inquiry Officer conducted a separate inquiry with regard to the same allegations in which another inquiry with regard to fourteen (14) others similarly placed subordinate staff was sent to the court of Civil Judge-VI, Bannu, Mr.Hamid Kamal.
- 9) That the Civil Judge/ Judicial Magistrate-I, Bannu being the Inquiry Officer conducted an inquiry into the charges/ allegations of willful absence from duty and found the appellant liable to the major penalty of dismissal from service for the reasons stated therein. (Copy of inquiry report dated 15.11.2012 is attached as annex: "G").
- 10) That surprisingly on the basis of the same nature allegations a separate/ distinct inquiry was conducted by the court of Civil Judge-VI, Bannu being the Inquiry Officer and recommended only a minor penalty of censure with regard to fourteen (14) similarly placed subordinate staff of the District Courts, Bannu vide departmental inquiry No.49 decided on 03.11.2012. (Copy of inquiry report dated 03.11.2012 is attached as annex: "H").
- 11) That it is pertinent to mention here that Senior Civil Judge, Bannu being the competent authority in both cases agreed to the findings of the respective Inquiry Officers as in one case the competent authority agreed to impose minor penalty of censure on 13 subordinate staff as referred above, while on the basis of the same/ identical allegations, a major penalty of

dismissal was imposed on the present appellant. (Copies of impugned orders dated 18.12.2012 endorsement No.968-71 and 05.11.2012 reference No.826-38 are attached as annex: "I & J").

- 12) That both the inquiry officers obtained statement from the above referred subordinate staff with regard to willful absence of duties and their statements are placed on file with the instant appeal for kind perusal of this Hon'ble Tribunal. (Copies of statements of subordinate staff are attached as Annex: "K to K/_____").
- 13) That the appellant preferred his departmental appeal dated 21.12.2012 to the Hon'ble District and Sessions Judge, Bannu but the same has not been till date now. (Copy of departmental appeal is attached as Annex: "L").

GROUNDS FOR APPEAL:

That the appellant being aggrieved from the impugned order dated 18.12.2012 referred above, prefers the instant appeal on the following amongst other grounds for reinstatement in service with all consequential back benefits.

- a) That the impugned orders of the Inquiry Officer and competent authority in case of the present appellant are violative of Article 2-A, 4 and 25 of the Constitution of Islamic Republic of Pakistan, which shun/ avoid discrimination in its all forms, it becomes crystal clear from the above facts and circumstances of the instant case that discriminatory treatment has been meted out to the present appellant by specifically referring his inquiry to a separate Inquiry Officer on the basis of the same nature allegations i.e. willful absence from duty. Both the Inquiry Officers recommended different penalties on the basis of same allegations as in the case of thirteen (13) other similarly placed subordinate staff were awarded a minor

penalty of censure, while the present appellant alone has been awarded the major penalty of dismissal from service, which cannot be sustainable in the eyes of law. It is important to reproduce a ruling of the august Supreme Court of Pakistan in a similar situation reported in 2001 SCMR 256 and the same is reproduced for ready reference:-

Allah Yarv/s.... General Manager Railways Headquarters Lahore citation (d) --- Constitution of Pakistan (1973) "Articles 2-A, 4 and 25 ----- Equality of citizens, principle of --- Exercise of discretion by authority --- Scope ---- Discretion becomes an act of discrimination only when it is improper or capricious exercise or abuse of discretionary authority, and the person against whom that discretion is exercised faces certain appreciable disadvantages, which he could not have faced otherwise ---- Where the discrimination is not based on any rational ground bearing upon the same subject dealt with, the law offends against the principle of equality and is void". (p.264). Reference has been made to 1992 CLC 219; AIR 1965 All, 275 and AIR 1952 SC 75". Some of other rulings of the superior court in a Similar situation are as under:-

Similarly placed – reinstated 2000 SCMR 669

Principle of consistency – 2006 SCMR 1155, 2005 SCMR 890

Naked discrimination – PLC 1993 (CS) 354, 2000 SCMR 669, 2001 SCMR 701, 2003 SCMR 1798, 1998 SCMR 2472.


- b) That the impugned order is also violative of section 24-A of General Clauses Act as the competent authority failed to pass a speaking order with reasons and to clarify further that why two separate inquiries were ordered on the basis of similar facts and circumstances.
- c) That by referring the inquiry with regard to the same allegations of subordinate staff of the District Courts, Bannu to two different Inquiry Officers and imposition of two different penalties i.e major and minor clearly reflects malafide of the Inquiry Officer and competent authority is not only floating on the face of record but leaping therefrom. Reliance has been placed on **2008 SCMR 871 and (2005 PLC (CS) 974** "action based on malafide required to be struck down").
- d) That the punishment awarded to the appellant does not commensurate with the charges, hence the penalty imposed is excessive and harsh. Reliance has been placed on **2008 SCMR 214 and 2002 SCMR 584**, which lays down the following principle.
- "punishment should always commensurate to the guilt proved"**
- e) That no opportunity of personal hearing was afforded to the appellant before imposition of major penalty of dismissal from service, which fact is violative of the principles of natural justice and the same are part and parcel of all judicial and quasi judicial proceedings. Reliance has been placed on **2008 SCMR 1369**.
- f) That principle of propriety demands that same nature cases must be inquired and decided by the same Inquiry Officer/ competent authority as in the instant case to avoid conflict of judgments on the basis of same allegations of two differing courts.

- g) That according to the statements recorded by the Inquiry Officers also lend support to the case of the present appellant as some of the subordinate staff admitted and confessed their willful absence from their duties but irrespective of this fact minor penalty was imposed on them (similarly placed subordinate staff), while major penalty was inflicted on the appellant who denied his willful absence and there is no evidence whatsoever on the record.
- h) That it is strange enough that one Mr. Shahab, process server, was initially charged for willful absence from his duty but he was altogether dropped from the inquiry proceedings without assigning any reason or cause, for reasons best known to the Inquiry Officer and competent authority.


Keeping in view, what has been stated above, it is, therefore, humbly requested the impugned order dated 18.12.2012 may kindly be set aside and the appellant may please be reinstated in service with all arrears and consequential back benefits.

Any other relief, which has not been specifically asked for and to whom the appellant found entitled may also be granted.

Dated: 17.04.2013


Appellant
Muhammad Akhtar
Ex-Process Server

through


Inayat Ullah Khan
Advocate High Court
LL. M (U.K)

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

S.A.No. ____/2013

Muhammad Akhtar..... Appellant

Versus

District and Sessions Judge, Bannu & others..... Respondents

AFFIDAVIT

I, Muhammad Akhtar son of Muhammad Khel Ex-Process Service Senior Civil Judge, Bannu R/O Kot Beli, Tehsil and District Bannu do hereby affirm and declare on oath that the contents of the application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



M. Akhtar
Deponent

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

S.A.No.____/2013

Muhammad Akhtar..... Appellant

Versus

District and Sessions Judge, Bannu & others..... Respondents

ADDRESSES OF THE PARTIES

APPELLANT:


Muhammad Akhtar son of Muhammad Khel
Ex-Process Service
Senior Civil Judge, Bannu
R/O Kot Beli, Tehsil and District Bannu

RESPONDENTS:

- 1) District and Sessions Judge, Bannu.
- 2) Senior Civil Judge, Bannu.
- 3) Judicial Magistrate-I/ Inquiry Officer, Bannu.

Appellant

through



Inayat Ullah Khan
Advocate High Court
LL.M (U.K)

Dated: 17.04.2013

رہنما بابت غیر حاضری اور دیگر امور
کے خلاف جو انصافی کارروائیاں ہوئی ہیں
رہنما میں ہیں

ضابطہ

گذشتہ ہفتہ بہ دوران کوآپریٹو انجیلشن ہفتہ 9/1 کو تکمیل ہو کر جو

بیادہ کان ریلیف غیر حاضر ہیں۔ ان کے غیر حاضری کے بارے میں رہنما میں
کریں۔ اور خاص طور پر غیر بیادہ کے خلاف جو انصافی کارروائیاں ہوئی ہیں
ان کے بارے میں رہنما میں ہیں۔

حساب انکم ٹیکس سائن / ٹیکس سائن کے ریسٹریکٹڈ ہونے کی وجہ سے

میں غیر موجود ہیں ان کے غیر حاضری کے بارے میں رہنما میں ہیں۔

- 1. عنایت اللہ بیگ 2 دن $\frac{2}{12}$ $\frac{25}{2012}$ $\frac{8}{307}$
- 2. منظور اسلام 2 دن $\frac{2}{12}$ $\frac{187}{12}$ $\frac{8}{257}$ $\frac{8}{307}$
- 3. مازید " " دن $\frac{3}{12}$ $\frac{8}{31}$
- 4. منار اللہ بیادہ " " دن $\frac{29}{12}$ $\frac{8}{29}$
- 5. راشد علی " " دن $\frac{4}{12}$ $\frac{8}{1}$ $\frac{8}{87}$ $\frac{8}{24}$ $\frac{8}{31}$
- 6. راشد اللہ " " دن $\frac{11}{12}$ $\frac{8}{11}$
- 7. راشد احمد بیادہ 5 دن $\frac{5}{12}$ $\frac{8}{1}$ $\frac{8}{17}$ $\frac{8}{4}$ $\frac{8}{24}$ $\frac{8}{31}$
- 8. محمد رفیق بیادہ 3 دن $\frac{3}{12}$ $\frac{8}{29}$
- 9. ممتاز بیادہ 2 دن $\frac{2}{12}$ $\frac{8}{31}$ $\frac{8}{27}$
- 10. راشد رفیق 2 دن $\frac{2}{12}$ $\frac{8}{7}$ $\frac{8}{23}$
- 11. ممتاز علی 1 دن $\frac{1}{12}$ $\frac{8}{17}$

Attest
[Signature]

وزیرہ راجہ دین $\frac{2}{12}$

شاہ طامن " تین دین $\frac{2}{12}$ ، $\frac{8}{12}$ ، $\frac{8}{12}$ ۱۱

مشوہ " ایک دین $\frac{1}{12}$ ۱۲

مسعود " ایک دین $\frac{3}{12}$ ۱۸

یہ سندیں باہر آمدی کاروان غنیمت غنیمت سے لکھنؤ اور بہار کے غنیمت
دفعہ ۱۱۱ کے تحت آمدی کاروان غنیمت غنیمت سے لکھنؤ اور بہار کے غنیمت
کاغذی رسیدوں کے تحت غنیمت غنیمت سے لکھنؤ اور بہار کے غنیمت سے لکھنؤ اور بہار کے غنیمت

یہ رقم زیادہ قمر القدر کے خلاف جو انکوٹری سے لکھی گئی ہے جسکی تفصیل ذیل ہے

۱. انکوٹری غنیمت ۳۶ سال ۲۵۱۱ء

جو رقم حکم نمبر ۴ ص ۱۱۲ کے تحت لکھی گئی ہے

منبر لکھی گئی ہے

جو رقم حکم نمبر ۴ ص ۱۱۲ کے تحت لکھی گئی ہے

منبر لکھی گئی ہے

۲. انکوٹری غنیمت ۴۵ سال ۲۵۱۲ء

۳. انکوٹری غنیمت ۴۵ سال ۲۵۱۱ء

۴. انکوٹری غنیمت ۴۶ سال ۲۵۱۲ء

یہ رقم انکوٹری غنیمت سے لکھی گئی ہے اور اسکی تفصیل ذیل ہے
نہایت اچھی کیفیت میں لکھی گئی ہے اور اسکی تفصیل ذیل ہے
تینوں جہوں میں لکھی گئی ہے اور اسکی تفصیل ذیل ہے
اس سے شائبہ نہیں ہے کہ اسکی تفصیل ذیل ہے

انکوٹری غنیمت سے لکھی گئی ہے اور اسکی تفصیل ذیل ہے
نہایت اچھی کیفیت میں لکھی گئی ہے اور اسکی تفصیل ذیل ہے
تینوں جہوں میں لکھی گئی ہے اور اسکی تفصیل ذیل ہے
اس سے شائبہ نہیں ہے کہ اسکی تفصیل ذیل ہے

لکھی گئی ہے اور اسکی تفصیل ذیل ہے

۱-۹-۱۲

۱۱

سولہ ماہ کی مدت میں لکھی گئی ہے اور اسکی تفصیل ذیل ہے

CHARGE SHEET

I, FARYAL ZIA MUFTI, Senior Civil Judge, Bannu, as Competent Authority, hereby charge you,

Mr. Muhammad Akhtar, Process Server of this court as follows:

That you, while posted as Process Server, committed the following irregularities:

You remained absent from your duty without any application or prior information on 20.07.2012, 31.07.2012, 01.08.2012, 06.08.2012, 15.08.2012, 24.08.2012 and 31.08.2012


2. By reason of the above, you appear to be guilty of willful absent/misconduct under rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule 4 of the rules ibid.

3. You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Inquiry Officer, Mr. Hamid Qasim CJ/JM-I Bannu as the case may be.

4. Your written defence, if any, should reach the inquiry officer within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

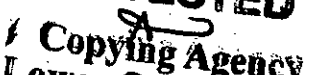
5. Intimate whether you desire to be heard in person.

6. A statement of allegations is enclosed.


FARYAL ZIA MUFTI
Senior Civil Judge, Bannu

Received

- 1. Registration No. 5775 P.A.R.M.
- 2. Date of Presentation of Application 20/7/2012
- 3. Date of Receipt of the file 20/7/2012
- 4. Date of Presentation of Copy 20/7/2012
- 5. Date of Delivery of Copy 20/7/2012
- 6. No. of Copies / words 100
- 7. Ordinary Fee 1
- 8. Urgent Fee -
- 9. Total Fee 1
- 10. Signature of Copyist AS

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Lower Court Bannu
20/7/12

DISCIPLINARY ACTION

I, (FARYAL ZIA MUFTI, as competent authority, am of the opinion that, Mr. Muhammad Akhtar, Process Server has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

You remained absent from your duty without any application or prior information on 20.07.2012, 31.07.2012, 01.08.2012, 06.08.2012, 15.08.2012, 24.08.2012 and 31.08.2012

2. For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer/inquiry committee, consisting of the following, is constituted under rule 10(1)(a) of the ibid rules:

- i. Mr. Hamid Qasim Civil Judge/JM-I, Bannu

3. The inquiry officer/inquiry committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/inquiry committee.

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Lower Court Bannu
20/7/12

sq
FARYAL ZIA MUFTI
Senior Civil Judge, Bannu

1. Registration No. 5775

2. Date of Presentation of Application 20/7/12

3. Date of Receipt of the file 20/7/12

4. Date of Presentation of Copy 20/7/12

5. Date of Delivery of Copy 20/7/12

6. No. of Copies / words 100

7. Ordinary Fee 1

8. Urgent Fee _____

9. Total Fee 1

Signature of Copyist _____

15 "D" لبرائتہ چنب ڈی / 5133 م س ب نیوں
انوائس نمبر 48 (جولائی 9-29) فیبر 18-12-12
سرکار بنام محمد افضل
NO: 914
Dt: 19-11-2012

SHOW CAUSE NOTICE

I, FARYAL ZIA MUFTI, Senior Civil Judge, Bannu, as Competent Authority, under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Muhammad Akhtar Process Server, as follows:

1. (i) that consequent upon the completion of inquiry No.48 of the year 2012 conducted against you by the Inquiry Officer for which you have got responsible for willful absence without prior approval of leave and there by misconduct stood against you
- (ii) on going through the findings and recommendations of the Inquiry Officer, the material on record and other connected papers including your defence before the Inquiry Officer;

I am satisfied that you have committed the following acts/omissions specified in rule 3 of the said rules:

- (a) Guilty of misconduct because of willful absence from duty.

2. As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you the penalty of dismissal from service under rule 4(1)(b)(iv) of the said rules.

3. You are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

5. A copy of the findings of the inquiry officer is enclosed.

6. Given under my hand and seal of the court today on 17th November, 2012

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Lower Court Bannu
2012/12

1. Registration No. 5775
2. Date of Presentation of Application 2012/12
3. Date of Receipt of the file 2012/12
(Faryal Zia Mufti)
Senior Civil Judge, Bannu
4. Registration of Copy 2012/12
5. Date of Delivery of Copy 2012/12
6. No. of Copies / words 100
7. Ordinary Fee 1
8. Urgent Fee -
9. Total Fee 1
10. Signature of Copyist [Signature]

**IN THE COURT OF AURANG ZEB KHAN, CIVIL JUDGE-V/
AUTHORISED OFFICER, BANNU.**

Departmental Inquiry No. 48 of 2012.

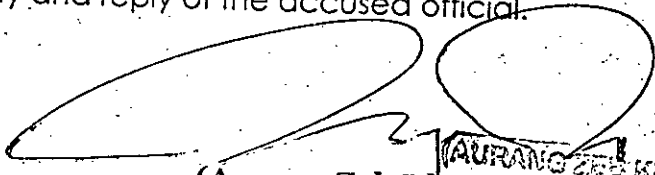
Inquiry against: Muhammad Akhtar Process Server.

Order---04

09-10-2012.

The accused official is present in person. The Khyber Pukhtoon-Khwa Government Servants (Efficiency & Discipline) Rules, 2011 has done away with the authorized officer, therefore in this situation, as the undersigned had been appointed as authorized officer, the inquiry file is submitted today before the learned authority / Senior Civil Judge Bannu, for further proceedings in accordance with law. The accused official is directed to appear before the learned authority on 10/10/2012.

The inquiry file is consisted of report of civil Nazir, explanation of the authority and reply of the accused official.


(Aurang Zeb Khan) Civil Judge-V/Authorized Officer,
BANNU

9/10/12

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Lower Court Bannu
207272

Order No-05.


19.10.2012

None present on behalf of delinquent official as he was on leave today till 12.10.2012.

Inquiry file received from the Court of learned Civil Judge-V, Bannu who was appointed as authorized officer of the instant inquiry vide order dated 24.09.2012. As the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) rules 2011 has removed the authorized officer from the procedure of inquiry, hence, for delivery of charge sheet and statement of allegations delinquent official be summoned for 13.10.2012.

ANNOUNCED

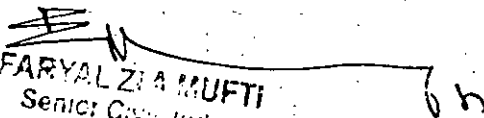
10.10.2012.


Faryal Zia Mufti,
Senior Civil Judge, Bannu.

0-6
13.10.12 :: Delinquent official not present.

As per statement of civil Nazir he is absent today with out any information or application. Nazir is directed to submit his report in this regard. Fresh notice be issued to civil Nazir delinquent official for 15.10.12.

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Lower Court Bannu
207212


FARYAL ZIA MUFTI
Senior Civil Judge
Bannu

0-7
13.10.12 :: Delinquent official present. State-ment of allegations and charge sheet handed over to him.

Mr Hamid Qasim CJ / J.M.-I
Bannu is hereby appointed as

THE COURT OF SYED SYED HAMID QASIM INQUIRY OFFICER/CIVIL
JUDGE/JUDICIAL MAGISTRATE-1, BANNU

INQUIRY NO.01 OF 2012
AGAINST MOHAMMAD AKHTAR PROCESS SERVER

Order No.01
15-10-2012

The instant enquiry proceedings received from the learned Senior Civil Judge, Bannu/authority. Same be registered. The undersigned has been appointed as enquiry officer to conduct further proceedings against the accused/official Mohammad Akhtar. The accused/official present in person. Statement of allegations and charge sheet has already been delivered to the accused/official today by the learned Senior Civil Judge, Bannu. He is directed to submit his written defense on 29-10-2012

(SYED HAMID QASIM)
Inquiry Officer/JM-1, Bannu

Order No.02
25-10-2012

As 29-10-2012 is declared as public holiday on the occasions of Eid Ul Azha, therefore, the instant enquiry file requisitioned and is fixed for 30-10-2012, for previous proceedings the respondent be noticed for that fixed.

(SYED HAMID QASIM)
Inquiry Officer/JM-1, Bannu

Order No.03
30-10-2012

Accused/official was present in morning who sought an adjournment for the submission of written defense but his request was turned down and he was directed to submit his written defense till closing hours positively. Later on, repeated calls were made but the accused/official never turned up. Therefore, the accused/official is proceeded ex-parte in accordance with rule 11(2) of Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011. Clerk of court, Nazir and Naib Nazir along with the record be summoned for 31-10-2012.

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20/10/12

(SYED HAMID QASIM)
Inquiry Officer/JM-1, Bannu

Order No.04
31-10-2012

Accused/official absent. Statement of Shah Daraz Khan, clerk of court, Senior Civil Judge, Bannu, Mohammad Hayat Khan Civil Nazir in the court of Senior Civil Judge, Bannu and Shafi Ullah Naib Nazir of Senior Civil Judge recorded as CW-1, CW-2 & CW-3 respectively. File to come up for further proceedings on 01-11-2012

(SYED HAMID QASIM)
Inquiry Officer/JM-1, Bannu

Order No.05
01-11-2012

Accused/official present and submitted an application for setting aside ex-parte proceedings against him; along with his written defense. The application is duly marked to the undersigned by the Honorable District & Sessions Judge, Bannu for its disposal in accordance with the law.

Though, the Khyber Pakhtunkhwa Government Servants (Efficiency & Disincline) rules 2011 have not provided for any provision for the setting aside of ex-parte proceedings against the accused/official, yet, the principle of natural justice that no one should be condemned unheard provide for the fair chance of being heard to every individual. Therefore, keeping in view the principle of natural justice the application is allowed and ex-parte proceedings initiated against the accused/official is hereby set aside. His written defense is placed on file. The clerk of court, Nazir & Naib Nazir be summoned for 02-11-2012 for their cross by the accused/official.

(SYED HAMID QASIM)
Inquiry Officer/JM-1, Bannu

Order No.06
02-11-2012

Accused/official present. Clerk of court and Nazir of the learned Senior Civil Judge present and cross examined by the accused/official. Naib Nazir is on leave due to his examination. He be summoned for 03-11-2012 for his cross examination of accused.

(SYED HAMID QASIM)
Inquiry Officer/JM-1, Bannu

Order No.07
03-11-2012

Accused/official present. Shafi Ullah Naib Nazir present and cross examined by the accused/official. To come up for statement of the accused/official on 05-11-2012.

(SYED HAMID QASIM)
Inquiry Officer/JM-1, Bannu

Order No.08
05-11-2012

Accused/official present. Statement of the accused/official recorded. To come up for enquiry report on 07-11-2012.

(SYED HAMID QASIM)
Inquiry Officer/JM-1, Bannu

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Lower Court Bannu
207212

انکوائری نمبر 48 راجہ سید محمد سعید 15-11-2012

BEFORE SYED HAMID QASIM CIVIL JUDGE/ JUDICIAL
MAGISTRATE-I, BANNU (INQUIRY OFFICER)

*INQUIRY REPORT AGAINST MOHAMMAD AKHTAR, PROCESS SERVER
OF THE LEARNED SENIOR CIVIL JUDGE, BANNU.*

Dated: 15-11-2012

This inquiry of Mr Mohammad Akhtar, process server of the court of learned Senior Civil Judge, Bannu (herein after referred to as respondent) was entrusted to the undersigned by the learned Senior Civil Judge, Bannu, being authority, vide order No.7 dated 15-10-2012.

The said respondent, after being delivered with the statement of allegations and charge sheet, on 15-10-2012, by the learned Senior Civil judge, Bannu, the case was sent to the undersigned, which record was received on 15-10-2012 and, on the same date, the respondent appeared and was directed to submit his written defense for 29-10-2012. On the eve of Eid Ul Azha, 29-10-2012 was declared as public holiday, therefore, on the last working day i.e. 25-10-2012 the inquiry was fixed for 30-10-2012 and the respondent was noticed. On 30-10-2012, the respondent appeared in morning and when strictly directed to file his reply/defense, he failed to appear and was proceeded against ex-parte as provided by Rule 11 (2) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) rules 2011. The clerk of court, Nazir and Naib Nazir of the court of learned Senior Civil Judge, Bannu were summoned and examined as CW-1, CW-2 & CW-3 respectively. On 01-11-2012, the ex-parte proceeding against the respondent were set aside and the witnesses ibid were re-summoned and cross examined by the respondent.

The clerk of court produced record pertaining to previous enquiries conducted against the respondent. The Nazir produced the extracts from the register of attendance, maintained at the office whereas, the Naib Nazir exhibited the absence report against the respondent.

Before putting any light on the available record, the relevant portions of statement of allegations and charge sheet are hereby reproduced for convenience and to see whether the charge, as leveled against the respondent, is proved or otherwise?

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2012/12

STATEMENT OF ALLEGATIONS:

You remained absent from your duty without any application or prior information on 20-07-2012, 31-07-2012, 01-08-2012, 06-08-2012, 15-08-2012, 24-08-2012 and 31-08-2012.

CHARGE:

You remained absent from your duty without any application or prior information on 20-07-2012, 31-07-2012, 01-08-2012, 06-08-2012, 15-08-2012, 24-08-2012 and 31-08-2012.

By reason of the above, you appeared to be guilty of willful absent/misconduct under rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule 4 of the rules ibid.

DEFENSE TAKEN BY THE RESPONDENT:

The plea in written defense, as taken by the respondent is, 1stly that the respondent was present on duty on 28th and 31st July 2012 but due to his inadvertence, he could not sign the register of the attendance and on 1st, 5th, 6th, 15th, 24th and 31st August 2012, too, he attended his duty but again he failed to sign the said register;

Secondly that, on his arrival to the office, he would collect his summons from the office and would proceed to the area assigned to him for the execution of service;

Thirdly that, the Nazir of Senior Civil Judge, Bannu had never submitted any absent report against him, meaning thereby, that he never got himself absent from his duties and;

Lastly that due to inadvertence on his part he failed to sign the register of attendance maintained for that purpose in the office.

MATERIAL BROUGHT ON RECORD:

In order to arrive at just conclusion of the inquiry, the clerk of court, Nazir and Naib Nazir attached to the court of learned Senior Civil Judge, Bannu were summoned who appeared that CW-1, CW-2 & CW-3 respectively along with the record pertaining to the service matter of the respondent.

Mr Shah Daraz Khan, the clerk of court, as CW-1, produced departmental inquiry No.39 of 2011, against the respondent, decided in

15/4/2012

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25/7/12

23-01-2012, whereby a minor penalty of withholding next annual increment was imposed on the respondent. Order of the competent authority is EX CW 1/1. CW-1 also produced inquiry No.40 for year 2011, against the respondent, decided on 23-01-2012, whereby a minor penalty of withholding next increment was imposed vide order EX CW 1/2 against the respondent. Departmental inquiry No.43 of 2011 was produced as EX CW 1/3, whereby a major penalty of reduction to lower stage in a time scale was imposed on the respondent. Similarly vide EX CW 1/4 the respondent was exonerated, yet, a warning was issued to him.

Hayat Khan, Civil Nazir of Senior Civil Judge, Bannu produced the extract from the register of attendance for the month of July and August 2012 which is CW 2/1.

Shafi Ullah Naib Nazir, attached to the court of learned Senior Civil Judge, Bannu appeared as CW-3 who exhibited the absent report EX CW 3/1 and admitted the same as correct.

FINDING IN THE LIGHT OF INQUIRY:

My findings in the subject inquiry would be restricted to the following questions.

- A. Whether the respondent habitually absented himself from duty without prior approval of leave and;
- B. Whether his such conduct amounted to misconduct

These two questions would be seen in the light of written defense filed by the respondent and material brought on record.

In regard to 1st question, as to willful absence of the respondent, from the duty, without prior approval of leave, the respondent took the plea in his written defense that he appeared on his duty during the month of August 2012 but due to his inadvertence, he failed to sign the register of attendance maintained at the office, for the purpose. In this regard extracts of the attendance register are EX CW 2/1. According to EX CW 2/1, the respondent had signed the register of attendance for 2nd, 3rd, 4th, 5th, 6th and 7th of the July 2012. On 8th July 2012 it was a Sunday. On 9th, 10th, 11th, 13th & 14th of July 2012, the respondent had again signed the said register. No signature of the respondent is available in the attendance register for 12th July 2012. 15th July 2012 was a Sunday. On 16th, 17th & 19th July 2012, the signature of the respondent are available in the register of attendance. From 20th till 31st July 2012, the respondent was late to attend the office and therefore, was marked with (O) sign. In similar way,

5/11/2012

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during the month of August 2012, the register of attendance was never signed by him and he was marked absent on 1st, 3rd, 6th, 15th, 23rd and 31st of August 2012. The extract of register of attendance EX CW 2/1 show that the respondent had signed the register of the attendance whenever he attended the office of the Senior Civil Judge, Bannu, therefore, the plea of the respondent; not signing the register of the attendance due to his inadvertence, or what ever other reasons may be, is not supported by the material brought on record and also such a plea is neither plausible nor appealable to an ordinary man of common prudence. From these facts, the only thing, which can be concluded is that the accused/official never appeared for his duties on 01-08-2012, 06-08-2012, 15-08-2012, 24-08-2012 & 31-08-2012. The fact that the respondent had signed the register of the attendance during the month of July 2012 by itself suggest that the respondent had not attended his duty during the month of August 2012 and therefore, the register of the attendance do not bear his signature and he was rightly marked as absent. No application for leave could be produced by the respondent for the aforesaid dates, rather the respondent had himself, by implication, admitted his absence on the aforesaid dates in his written statement in Urdu submitted on 05-11-2012 as the respondent had not specifically denied his absence from duty during the month of August 2012. So far as the absence of the accused on 20-07-2012 and 31-07-2012 is concerned, the respondent, as per EX CW 2/1 was marked as late. No application for short leave could be submitted by the respondent to show that his coming late to the office could be excused. As per EX CW 2/1 the respondent came late to the office continuously from 20-07-2012 to 31-07-2012, meaning thereby that, the respondent was habitually absenting himself from the duty without prior approval of leave and coming late to attend his duty.

It is yet an other plea of the respondent that, he used to attend his duty regularly and in the process of gathering information regarding the process marked to him and collection of the summons issues in his name, he inadvertently, failed to sign the register of the attendance. Let it be the case, the extract of the register of the attendance, EX CW 2/1, show that the accused was on his field duty only on 12-07-2012 and 18-07-2012. Apart form these two dates the respondent had regularly signed the register of attendance, negating the plea of the respondent, as taken by him in his written defense. From the written defense of the respondent it appear that, according to the respondent, the whole Nazarat Branch of the

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207272

Senior Civil Judge, Bannu rested upon the shoulders of the respondent. The respondent, in his written defense had failed to mention the cases wherein service was addressed to him during the month of either July or August 2012 to show that he was so busy in the execution of such service which prevented him from signing the register of attendance. In similar fashion he failed to bring on record any thing such as the summons or warrants, either by his own or through CW-1, CW-2 or CW-3, regarding the execution of service by the respondent. The above facts show that the respondent had willfully absented himself from his duty on 01-08-2012, 06-08-2012, 15-08-2012, 24-08-2012 & 31-08-2012 while he was late to attend the office from 20-07-2012 to 31-07-2012 without any permission or excuse. Thus, the first question is replied in affirmative.

So far as the 2nd question is concerned, EX CW 1/1 to EX CW 1/4 shows that during the 1st six months of 2012 one warning, two minor penalties and one major penalty was imposed on the respondent yet, he has miserably failed to mend his ways. The respondent after the warning and penalties imposed upon him during various inquiries was supposed to be very vigilant in his duty but his own plea of his inadvertence shows that the respondent is negligent official and therefore, in my humble opinion, in the light of record available before me, the respondent had committed gross misconduct by his such willful absence. The 2nd question is also replied in affirmative.

PENALTY PROPOSED:

In the light of above discussion willful absence without prior approval of leave and thereby misconduct stood proved against the respondent and the respondent is found guilty of offences as mentioned Under rules 3 (b) & (d) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) rules 2011 and had made himself liable for a penalty under rule 4 (1) (b) (IV) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) rules 2011 and the same is according proposed against the respondent.

- 1. Registration No. 5725
- 2. Date of Presentation of Application 20/7/12
- 3. Date of Receipt of the file 20/7/12
- 4. Date of Presentation of Copy 20/7/12
- 5. Date of Delivery of Copy 20/7/12
- 6. No. of Copies / words 500
- 7. Ordinary Fee 5
- 8. Urgent Fee -
- 9. Total Fee 5
- 10. Signature of Copyist [Signature]

(SYED HAMID QASIM)
JM-I/Inquiry Officer, Bannu

15/11/2012

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Lower Court Bannu

20/7/12

آئیو اے آر ایف جی 48 ر. 305 29 12 2012

OFFICE OF THE SENIOR CIVIL JUDGE, BANNU.

سید فاریال زیا

No: _____

Dated /___/2012

OFFICE ORDER:

Consequent upon the show cause notice issued to Mr. Muhammad Akhtar, Process Server of this court (P.N.00174819) bearing No.914 dated 19.11.2012, I hereby impose upon him a penalty of dismissal from the service under rule 4(1)(b)(iv) of Khyber Pakhtunkhwa Government Servant (E & D) rules 2011 and he is dismissed from the service w.e.f 18.12.2012 (A.N)

Sd/-
(Faryal Zia Mufti)
Senior Civil Judge Bannu

Endst: No 968-71 /SCJ Bannu, dated the 18.12 2012

Copy Forwarded to the

1. Honourable District & Sessions judge Bannu for favour of information please.
2. The D.A.O Bannu.
3. The Civil Nazir, SCJ, Bannu.
4. The official concerned.

18/12/2012

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207274

Sd/-
(Faryal Zia Mufti)
Senior Civil Judge Bannu

DA - 21-12-2012

On time 21/12/12
21/12/12
21/12/12
21/12/12

U. Zia

Annex - "H" 24

No. 826-38 /SCJ Dated Bannu the 5/11 2012

From

The Senior Civil Judge,
Bannu


To

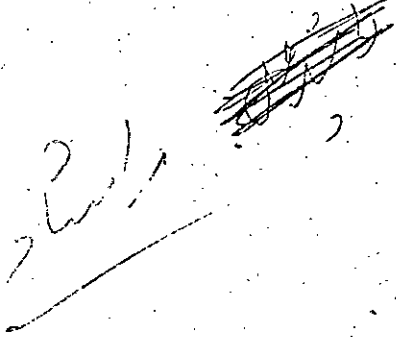
1. Inayatullah Bailiff
2. Zahor Islam Bailiff
3. Bazid Khan Bailiff
4. Ziaullah Process Server
5. Rashid Ali Process Server
6. Rahimullah Process Server
7. Muhammad Yousaf Process Server
8. Mumtaz Process Server
9. Rashad Khan Process Server
10. Shujaat Ali Process Server
11. Shah Muhammad Process Server
12. Shah Tamas Process Server
13. Saud Khan Process Server

Subject: DEPARTMENTAL INQUIRY NO.49 OF THE YEAR 2012
DECIDED ON 03.11.2012

Memo,

As per the recommendation of the Inquiry Officer you are convicted and minor penalty of censure is imposed upon you. Copies of Censure letter are placed in your service book and entry in this regard is made in your service record.


(FARYAL ZIA MUFTI)
Senior Civil Judge, Bannu



(13)

جواب غرضیات پر

مذکورہ بالا رقم سائنس ڈیپارٹمنٹ کے پاس ہے۔

1) سائنس ڈیپارٹمنٹ کے پاس 2012ء میں 7 $\frac{8}{12}$ - 16 $\frac{8}{12}$ - 23 $\frac{8}{12}$ روپے

20 $\frac{8}{12}$ روپے کے دفتر میں حافز موجود ہیں۔

2) سائنس ڈیپارٹمنٹ کے پاس 29 $\frac{8}{12}$ روپے کے دفتر میں حافز موجود ہیں۔

سائنس ڈیپارٹمنٹ کے پاس 29 $\frac{8}{12}$ روپے کے دفتر میں حافز موجود ہیں۔

3) سائنس ڈیپارٹمنٹ کے پاس 29 $\frac{8}{12}$ روپے کے دفتر میں حافز موجود ہیں۔

سائنس ڈیپارٹمنٹ کے پاس 29 $\frac{8}{12}$ روپے کے دفتر میں حافز موجود ہیں۔

سائنس ڈیپارٹمنٹ کے پاس 29 $\frac{8}{12}$ روپے کے دفتر میں حافز موجود ہیں۔

سائنس ڈیپارٹمنٹ کے پاس 29 $\frac{8}{12}$ روپے کے دفتر میں حافز موجود ہیں۔

سائنس ڈیپارٹمنٹ کے پاس 29 $\frac{8}{12}$ روپے کے دفتر میں حافز موجود ہیں۔

سائنس ڈیپارٹمنٹ کے پاس 29 $\frac{8}{12}$ روپے کے دفتر میں حافز موجود ہیں۔

سائنس ڈیپارٹمنٹ کے پاس 29 $\frac{8}{12}$ روپے کے دفتر میں حافز موجود ہیں۔

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2012/12

P.S.

26
2-1
دولت جناب سولہ ج صاحب کمر کا بیوی
جواب طلبی بابت مادہ اگست 8 2012
11/8/2012
عزیزہ خاتون

5-02
13
11/8/12
KAMAL
Judicial Magistrate-VI
Sannu

ضابطہ عالی
گزشتہ دنوں 9 کہ میں PS ماہ اگست میں باقاعدگی سے
اپنی ڈیوٹی سر انجام دے رہا تھا۔
یہ کہ میں PS مریضہ 8/2/12 پر عزیزہ خاتون سے
جو کہ میں PS کا بیٹھ سمیت بیمار تھی، میں PS
اپنی بیٹی ڈاکٹر کا پاس لے گیا تھا اور میں PS کے ساتھ
اور کوئی آدمی نہ تھا۔ کہ درخواست اپنے
دقت کو پیش کر رہا ہوں
یہ کہ میں کمر کا عزیز خاتون کا صدر نہ تھی،
کیلکہ میں کمر کا مجبوری تھی۔

لہذا آجناب سے عافیتانہ التماس کی جاتی ہے
کہ میں کمر کو معاف کریں، اور آئندہ کئی مہینوں
ریہ رہتا

بندہ دعا گو رہتا
عزیز نواریش ہوگا
10/8/12
11/8/12

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محمد الہٰی کمر اور دولت اللہ

27 J-2
لہذا درج ذیل صورتوں کا جواب

(11)

جواب عرض بابت غیر حاضر

G-02

MM

صاحب عالی۔ سائل ذیل اندیشہ پیش کرتا ہے

HAMID KAMAL
Judicial Magistrate-VI
Bannu

1) یہ کہ سائل نے ماہ اگست 2012 میں
محرمہ 1 - 8/12 - 8/12 - 24/12 - 31/12

دفتہ حاضر میں بیٹا غیر حاضر کیا ہے
(2) یہ کہ سائل محرمہ 8/12 کو دھماکا

پولیس پادری نے چھاپہ خانہ اور فائرنگ کی تھی
اس دوران سائل زخمی ہوا۔ اور ہسپتال میں
زیر علاج تھا۔ اور جلتے ہوئے اس کا نقل کیا

تھیں۔ یہ کہ سائل نے اس واقعہ کے بعد

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لکھو صحافت اس ایسا ڈیپارٹمنٹ کے

2/12

سائل نے اپنے افسانہ پیادہ 1500 فرسٹ فرم میں
[Signature]

کتابت شد در روز ۱۳۰۲/۰۵/۰۵

(۱۰)

۰-۰۲

MM

۱۱۰/۱۱۲

HAMID KAMAL
Judicial Magistrate-VI
Bannu

جواب عرض است که در روز ۱۳۰۲/۰۵/۰۵

مناجاتی است در حق تعالی است

۱- در روز ۱۳۰۲/۰۵/۰۵ در وقت صبح ۸/۱۲ - ۱۶/۱۲ - ۱۸/۱۲

۲۹/۱۲ و دفتر حاضر اینها مقرر است -

۲- در روز ۱۳۰۲/۰۵/۰۵ در وقت صبح ۸/۱۲ - ۱۶/۱۲ - ۱۸/۱۲

حاضر است -

۳- در روز ۱۳۰۲/۰۵/۰۵ در وقت صبح ۸/۱۲ و بیاید تا - در وقت در وقت

۴- در وقت صبح ۸/۱۲ و دفتر حاضر اینها مقرر است -

کتابت شد در روز ۱۳۰۲/۰۵/۰۵ در وقت صبح ۸/۱۲

کتابت شد در روز ۱۳۰۲/۰۵/۰۵

۱۱۰/۱۱۲

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کتابت شد در روز ۱۳۰۲/۰۵/۰۵ در وقت صبح ۸/۱۲

کتابت شد در روز ۱۳۰۲/۰۵/۰۵

درت خراب سولہ ماہ کا بچہ

02

(9)

۱۷۱

02/10/12

عزوب

HARIS KAMAL
Judicial Magistrate-VI
Banaru

مددگاری: سائل عبد ذیل عمر لقمہ سرور سے

(1) یہ کہ من بلیغ مادہ التست سے جو غیر عامری
سزا دی ہوئی تھی تو میں تاریخ وار دیوٹی
پر دفتر آیا ہے کہلین اسر غامری سے
دستی نہیں آیا ہے

(2) یہ کہ من بلیغ کہیں بھی غیر عامری نہیں آیا ہے
اور نہ کرتا ہوئی -

(3) یہ کہ میں بلیغ کے خلاف دستاویز کہیں بھی
پہنچا ہوا نہیں اور نہ آفیسر عدالت کو شکایت کا
موقع دیا ہو۔

(4) یہ کہ سائل / من بلیغ کوئی غامری ہوئی ہو
تو میں بار صاف فرمایا جاو بندہ بلیغ دستاویز
پہنچا گیا۔
د سائل دعا اور ہونگا

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29/12

بازید خان سلف و بھائی

سائل

(6)

جواب عرضیہ بہ غیر حاضر

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M
2/10/12
HAMID KARRAL
Judicial Magistrate-VI
Banu

مخبر عالیہ۔۔۔ سائنس ڈیویژن

(1) سائنس ڈیویژن کے سائنس دانوں نے 3/8، 9/8، 14/8، 18/8، 25/8 اور 30/8 کو دستخط میں حاضر ہونا مقرر کیا۔

(2) سائنس ڈیویژن کے سائنس دانوں نے 3/8، 9/8، 14/8، 18/8، 25/8 اور 30/8 کو حاضر کیا۔

(3) سائنس ڈیویژن کے سائنس دانوں نے 30/8 اور 25/8 کو دستخط میں حاضر کیا۔

سائنس ڈیویژن کے سائنس دانوں نے 30/8 اور 25/8 کو دستخط میں حاضر کیا۔

مقررہ تاریخ پر سائنس ڈیویژن کے سائنس دانوں نے 30/8 اور 25/8 کو دستخط میں حاضر کیا۔

دعا کی سماعت

29/8

سائنس ڈیویژن کے سائنس دانوں نے 30/8 اور 25/8 کو دستخط میں حاضر کیا۔

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لکھنؤ صاحب میں جو کما میں

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02/11/12

عوارض عرقیات میں عوارض

HANID KAMAL
Judicial Magistrate-VI
Bannu

صاحب عالی - ماسٹر ذیل لکھنؤ میں

18 ⁸/₁₂ ، 14 ⁸/₁₂ ، 6 ⁸/₁₂ سے لے کر

25 ⁸/₁₂ اور 30 ⁸/₁₂ کو دفتر میں حاضر ہونے سے منع کرتا ہے۔

22 یہ سب ان مقررات دونوں میں لکھنؤ

25 ⁸/₁₂ کو دفتر میں حاضر ہونے سے منع کرتا ہے۔

حاضر ہونا واجب ہے۔

3) یہ سب کا عرصہ 30 دنوں میں ہونا چاہئے۔

مقررہ وقت کے اندر اس وقت سے لے کر 30 ⁸/₁₂ کو

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20/11/12
صاحب عالی کے نام پر عوارض

مقررہ عوارض میں - آئندہ ایسے عوارض نہ ہوں گے۔

دعا کی ہوئی

29 ⁸/₁₂

صاحب عالی - عوارض لکھنؤ میں
عوارض لکھنؤ میں

خدمت جناب سٹریسول: حج صلحہ بیوں (کمپنٹ اتھارٹی) بیوں

عنوان: جواب طلبی بابت سٹریسول خیرہ 7 8/12 0 7 8/12 23 8/12

17

جناب عالی!

سائل درج ذیل عرضہ کروا رہا ہے

۱) یہ کہ تین سائل کو حکم معزز سٹریسول حج صلحہ بیوں (سائلہ) نے مجھے

دیکھا ڈروم آف سٹیشن کورٹ بیوں میں ازماہ مارچ تا حال اور ماہ اگست 2012

دیکھا ڈروم سے ڈیوٹی سے راجام دے یہ کہ ایچ آر جی دیکھا ڈروم نے مجھے ہدایت

کے کہ اپ دیکھا ڈروم میں کامی ہو رہا ہے کیا کریں

۲) یہ کہ جناب والد ڈیوٹیوں 7 8/12 23 8/12 کہیں سائل نے نوٹ کیا کیا تھا

یہ کہ حسب معمول جن سائل دوسرے کبری ڈیوٹیوں بالہ میں حاضر آیا

تو ایچ آر جی دیکھا ڈروم نے مجھے 8:30 پر فونکے اطلاع دے کہ اپ

کے لوگ کورٹ کے conveyance کریں چونکہ میں نے خود حکم معزز

بالہ (جناب معزز سٹریسول حج صلحہ بیوں) اور ایچ آر جی دیکھا ڈروم

سے ہدایت پر تمام ماہ اگست تک کرتا رہا۔

۳) یہ کہ جناب والد حکم معزز سٹریسول بیوں نے مجھے

دیا یہ کہ جناب والد حکم معزز سٹریسول بیوں نے فقیر امین کی ہے۔ لہذا

حضانہ کیا جائے اسلئے محتاط رہو

06-09-2012

صحت

ایک بالہ

Rashad Khan PS

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Lower Court Bannu

2012

لکھنؤ میں مقیم حضرت مولانا محمد شفیع صاحب مدظلہ العالی

جواب عرضیہ بابت غیر حافریہ

خبر نامہ - سلسلہ ذیل قضاوتیں

1) عدالت سلسلہ قضاوتیں 3، 8، 10، 17، 22 (حافریہ قضاوتیں)

2) عدالت سلسلہ قضاوتیں 3، 8، 10، 17، 22 (حافریہ قضاوتیں)

3) عدالت سلسلہ قضاوتیں 3، 8، 10، 17، 22 (حافریہ قضاوتیں)

قوت ہو گیا تھا - حافریہ قضاوتیں

تاریخ حافریہ قضاوتیں 3، 8، 10، 17، 22 (حافریہ قضاوتیں)

4) عدالت سلسلہ قضاوتیں 3، 8، 10، 17، 22 (حافریہ قضاوتیں)

عقودہ قضاوتیں 3، 8، 10، 17، 22 (حافریہ قضاوتیں)

میں رہتے ہیں کہ آپ صاحبان میری سہولتوں کے لئے

بار معاف فرمائیے اور میری سہولتوں کے لئے

جواب عرضیہ میں حضور اکرم صلی اللہ علیہ وسلم

سلسلہ قضاوتیں 3، 8، 10، 17، 22 (حافریہ قضاوتیں)

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جناب سید رسول حج صاحب میں

جواب طلبی بابت عیدِ خاصہ

جناب عالی۔

گندہ شہ ہے کہ میں کہہ چکا ہوں کہ زنگنہ زار نشات کرتا ہے۔

یہ کہ میں کہہ چکا ہوں کہ ماہِ آگست میں ڈیوٹی سہرا انجام

دے رہا تھا۔ لیکن اچانک مورخہ ۸/۸/۱۲ پر میں کہہ

کا والد محترم بیمار ہو گیا، میں کہہ چکا ہوں کہ والد کو

پیشاور ڈاکٹر کو سنا گیا تھا۔ پھر اسی روز یعنی

۸/۱۲/۱۲ پر میں کہہ چکا ہوں کہ خاصہ تھا، میں کہہ چکا ہوں

کہ آج ہی درود است سے جاہلانہ کوئی ملے۔

یہ کہ میں کہہ چکا ہوں کہ خاصہ تھا،

لیکن میں کہہ چکا ہوں کہ لیکن اچانک سے

عاصمہ زار لٹا سکی جائے۔ کہ لٹا کو معاف کریں

آگندہ کیلئے محتاط رہو گا۔

لہذا اچانک سے لٹا کو ڈیوٹی سہرا

عصمہ زار لٹا ہوگی۔ ۸/۱۲/۱۲

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شاہ محمد خان کہہ چکا ہوں کہ عموالک ہذا

حکومت صوبہ سندھ سول جج صاحب ہوں 35

عنوان: جواری طلبی بابت غیر جانبداری

صوبہ عالی

20

من مبارکہ درج ذیل عرض کرتا ہے

میرا کہ من مبارکہ کی ڈیوٹی ناہ اسٹو کے تواریخ 4/8 ، 11/8 ، 18/8 اور
 28/8 کو سول ناظر نے بانٹو ڈیوٹی لکائی تھی جس میں من مبارکہ نے 4/8
 کو اپنی ڈیوٹی سر انجام دی ہے اور تیار تواریخ کو کہ من مبارکہ نے اپنی ڈیوٹی
 سر انجام دی ہے لیکن من مبارکہ سے اسٹو جانوری سے دستخط نہ کرنے سے
 ناکام رہا لہذا اسٹو کے دروازے سے من مبارکہ کو اس کو جانوری اور
 غلطی کو اس سے بھلا کر ہے۔ من مبارکہ اسٹو کے من مبارکہ سے ہر تون کی
 من مبارکہ سے دستخط نہ کرنا ہے۔

الکھار

شاہ گل خان
دورہ 4/9/12

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2012

لعدالت جناب سپر سول جج صاحب مہنوں

ضابطہ عالی :

انجمن طالب طلبہ بابت نمبر حاضرہ

پر نہ من مسائل حسب ذیل عرض کرنا چھو

1) پر نہ من مسائل کو جس دن یعنی جمعہ 28-08-2012 ایہ ایورٹ

اور حاضرہ رحیمہ عسٹ نمبر 1 حاضرہ طالبہ بابت
اس روز محکمہ ڈیوٹی رولز سے عہدہ سول ناظمہ ناظمہ
من مسائل کی نسبت عرض کرنا من مسائل کے احسن طریقے
سے آجی ڈیوٹی سکریم دے
نوں ڈیوٹی رولز کی کارڈ لف دے
لیکن مسائل کے صورت میں اور مسائل کو عفا فرمایا جاوے

صفحہ 6/9/2012

الغالبی

مستد / ضیاء م. س. سول کورٹ

Shahab Khan

ATTESTED
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Lower Court Baran
2012

جذب زمین سول ناظر اور ان کے

عنوان: جو اراضی طلبی عینہ صاعری

جذب عالی

(۷۶)

گذریش حکیم سول ناظر نے جن کے نام کی ڈیوٹی درجہ ۱/۸، ۸/۸
 ۱۵/۸، ۲۴/۸ اور ۳۱/۸ کو لکائی گئی ہیں، جن کے نام نے اس
 درجہ کو باقاعدہ درخواست کے تحت وضاحت کی تھی۔ علاوہ اس
 درجہ ۱/۸، ۸/۸ اور ۱۴/۸ کو اس ڈیوٹی سے انجام دے چکے ہیں اور
 ۳۱/۸ کو بھی جن کے نام ڈیوٹی آج تک لکھی گئی ہے سول ناظر کے نام کو منسوخ کیا گیا اور
 یہی درجہ اسٹیٹ کیا اور تقریباً ۱۱:۰۰ بجے گھر چلے گیا اور بعد میں یہ درجہ
 سول ناظر نے ۱۱:۰۰ بجے لکھ کر غیر جانہ لکایا، جس میں جن کے نام کی ڈیوٹی لکھی گئی ہے اس کے
 نام کے ساتھ اس کے نام لکھی گئی ہے کہ اس بار جن کے نام کو صرف درجہ چھ

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جن اہل حیات و معلوم ہوا

الشارح

مسعود خان

درجہ ۶/۹
 ۱۱/۱۲

بیان صافی سے چھٹا جان کر چھوٹی زمین کے درجہ باندھ کر اس کے نام لکھی گئی ہے۔ اس میں یہ لکھی گئی ہے
 اور یہ ہے اس میں بھی شہمی درجہ کوئی سے کام نہیں لیا۔
 مسعود خان

درجہ ۶/۹
 ۱۱/۱۲

(38)

لواء وقتان شہر سولہ جی جی ہا ہا ہا
رقم 149 رجبہ 2012ء
آئیو آئیو جی جی جی

16

سرکار نام محمد احمد

8/27/2012

تذاریت کی تمہیں کو وصول 3/8/12ء

سولہ نامہ سے عمر حاضر کی ہو گیا تھا۔

لیکن بد قسمتی سے میں مسائل کی کوئی سرکاری سرکاری
رہے حاضر نہیں لگائی تھی

اسلئے میں مسائل کی غلطی قرار دیتا ہوں

لہذا، مسئلہ یہ کہ مسائل کو دوسری بار حوالہ

میں بارہ مسائل عمر بعد دماغ اور سفا

عبد اللہ اللہ

محمد احمد
Microton
محمد احمد

6/9/2012

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اعدالت سے۔ سیکرٹری سول جج صاحب سول

(4)

جواب

صاحب عالی اجلاس یہ کہ سائل کا جواب صاحب الفاضل ہیں

1۔ یہ کہ ماہ اگست میں جو حاضریناں دفتر میں ڈیوٹی مقرر ہوئے تھے۔

کیونکہ ان سائل مقررہ ڈیوٹی کی تاریخوں پر آ رہے تھے۔

کہ صدر محکمہ میں حاضریناں نہیں تھی تھی۔

2۔ اور اس سے پہلے لکھنے ڈیوٹی کی تاریخوں کے لیے دفتر لکھنے میں حاضر ہونے تھے۔

3۔ یہ کہ سائل اپنی ڈیوٹی میں کہیں بھی کوٹھالی نہیں آئی ہے۔ اگر

سائل سے کوئی غلطی سرزد ہوئی ہو۔ تو ان سائل معافی کا طلب کار

اور سائل جواب صاحب محول ہونے معافی کیلئے اس مضمون پر

صفحہ 3/12

مکمل شدہ

صدر دفتر مکمل شدہ

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15/10/2012
11/11/12

تو یہ جب جواب حسب ذیل صحت عرض کرتا ہوں۔

صاحب عالی انگزٹس ہے۔ کہ سائل مورخہ 31، 20، جولائی کو سن 20

لفظاً کسی صاحب نے تھا۔ ملز بد قسمتی سے رجسٹرڈ حاضری میں دستخط نہیں کیا تھا
لیکن آیا ضرور تھا۔

چونکہ جب بھی من 20 آتا ہے۔ تو فوراً اپنے کمنٹ کے بارے میں آگاہی کی

بکس میں بیڑے کمنٹ پیر ہوتا ہے۔ اور کمنٹ ملتے ہی من 20 اپنے علاقے پیر

روانہ ہو جاتا ہوں۔ اسے جو سمجھتا ہوں من 20 سے صرف رجسٹرڈ حاضری میں

حاضری لگانا ہوں گیا۔ اور ختم ج صاحب انسان کمزور ہے اور انسان

بے بھی بھول ہوتی ہے۔ اور مجھ سے بھی بھول ہوئی۔

2 یہ کہ اس طرح 1، 6، 5، 4، 3 اگست 2012 کو بھی من 20 کا نکل جائے

تھا۔ دراصل سخاں کا سینہ تھا۔ اور اس طرح من 20 سے ان دنوں میں

من 20 نے حاضری رجسٹر میں دستخط نہیں کیا۔ جو کہ صرف اور صرف

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سینو ایجنگ تصدیق نہیں

3 اگر میں صحت حاضر نہ ہوتا اور ذاتی سینر حاضر ہوتا۔ تو تا کر صاحب

جو کہ رجسٹرڈ حاضری کا اچار ہے۔ انہوں نے میرے خلاف فوراً ج صاحب

کو اطلاع دیا۔ اور جو فوراً لوٹس جاری ہوتا۔ حالانکہ اس نے ایسا نہیں کیا تھا اور نہ کیا

لہذا اس بات سے بھی ظاہر ہوتا ہے کہ میں حاضر تھا۔ اور نہ ہی کسی اور نے اور نہ ہی کسی اور نے

نے جو ماہ جولائی میں لوٹس جاری ہے۔ تاہم صاحب نے نہ کیمپنگ میرے خلاف سینر سول ج صاحب

کو دی ہے اور اس طرح ماہ اگست میں بھی حاضر تھا۔ اور اس کی کیمپنگ بھی نہیں دی۔

لہذا اس بات سے بھی ظاہر ہوتا ہے کہ میں حاضر تھا۔

4۔ 25۔ 31 جولائی کو نہ ہی ناظر صواب نے میری طرف سے معاہدہ کیا گیا۔
 اور نہ ہی اس نے لوٹس دیا۔ بلکہ لوٹس $6 \frac{9}{2012}$ کو دیا گیا۔
 11/11/2012

5۔ یہ کہ من PS بھی یہی اپنی دوران ملازمت غیر حاضر نہیں رہا۔
 من PS اپنی ڈیوٹی کو عبادت سمجھ کر کرتا ہے۔ اور اپنی ڈیوٹی میں
 کوتاہی اور لاپرواہی کا قصور بھی نہیں کر سکتا۔

6۔ یہ کہ من PS سرسبک خرد اور 3 ٹھوٹے چھوٹے بچوں کا باپ ہوں

7۔ اگر من PS سے غلطی ہوئی ہو۔ تو وہ قطعاً نہیں بلکہ گفنا سے
 ہوئی ہوگی۔

لہذا استدعا ہے کہ من PS سے کوئی غلطی سہرا نہ ہوئی ہو۔

تو من PS پر رحم فرما کر جج صاحب فرمایا جائے۔

سائل آریو اور ریٹیلرین کا لڈان کو دعوتیں دے گا۔

اور رٹیزن کے بھی بھی ختم اسرار بالا کو شکست کا نتیجہ نہیں دے گا۔

اور محتاط رہوں گا۔

محمد رفیق من PS تہذیب و تمدن عوامی 31/10/12

بھان صاحبی


میں سہی محمد رفیق بیا وہ خد اور کریم کو حاضر ناظر جان کر
 حلقہ بیان کرنا ہوا کہ جہ برتب دقت میں ہر حقیقت ہے کوئی اور پوچھیں نہیں ہے
 السن 31/10/12

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STATEMENT OF ACCUSED OFFICIAL NAMELY MR. MOHAMMAD AKHTAR, PROCESS SERVER OF THE COURT OF LEARNED SENIOR CIVIL JUDGE, BANNU.

Stated that I never remained absent from my duty, however, unluckily, due to inadvertence, I could not sign the register of attendance maintained at the office despite of the fact that I was present on my duty on the date mentioned in the charge sheet. The Naib Nazir has explained in his statement that by zero sign in the register of attendance process server are not marked as absent. Though, I am stated absent from my duty on 20-07-2012 & 31-07-2012, yet, no notice was given to me regarding such absence either by the clerk of court or by the learned Senior Civil Judge, Bannu. During my entire service, I never remained absent from my duty and attended my duty regularly. During the entire month of August 2012 it was Ramdan and judicial vacations. I attended my duty during the month of August but could not sign the register of attendance. Moreover, during the month of August 2012 the Naib Nazir was on leave. My statement in Urdu as submitted today be considered as part of my statement. I do not want to produce any evidence. An opportunity of personal hearing may kindly be provided to me.

RO & AC
05-11-2012


(SYED HAMID QASIM)
Inquiry Officer/JM-I, Bannu.

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2012/12

زنگوارہ کی آئینہ

05/11/2012
05/11/2012

صاحب عالی: مسائل صوبہ خیبر پختونخواہ میں

یہ کہ جنسی زنگوارہ نماں ہوئی ہے۔ وہ جیلہ ہو چکی ہے۔ جو کہ وہ آئے بیان

سے ثابت ہے

2 یہ کہ عنید صاحبہ کے بارے میں جو رپورٹ میں نے تحریر کیا ہے

اس کے خلاف مولانا محمد نے صحابہ بیان لیا ہے کہ میں نے عنید صاحبہ

کے بارے میں مسائل محمد احمد کے خلاف رپورٹ نہیں دیا ہے

3 یہ کہ ماہ جولائی میں جو عنید صاحبہ کی تحریر شدہ ہے۔ اس کے بارے میں

مولانا محمد نے صحابہ کو رپورٹ واضح کیا ہے کہ یہ لوگ 5 عنید صاحبہ نہیں

4 یہ کہ نائب ناظر ماہ جولائی 2012ء تا 2012ء تک عنید صاحبہ کی رپورٹ

کا لکھی ہے۔ حالانکہ جو عنید صاحبہ کا توں دیا ہے اس میں 2

اور 3 صرف 2 دن کی ہے

5 ماہ اگست میں نائب ناظر کی ڈیوٹی نہیں تھی۔ وہ پورا مہینہ چھٹی پر تھا

6 نائب ناظر نے بیان میں خود کہا ہے کہ عنید صاحبہ کو کبھی تک نہ دیکھا گیا ہے

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7 کہ میرے مسائل عنید صاحبہ کے بارے میں کوئی غلطی کس نے کی ہے

P. 1-0

جواب جو ذرا نوٹس

گذشتہ عدالت میں جو نوٹس پیش کیے گئے تھے، نتیجہ یہ ہے کہ عدالت نے نوٹس منظور نہیں کیا۔

1. جناب عالیہ، میں نے اپنے باپ کی طرف سے 31 جولائی 2012 کو ایک نوٹس پیش کیا تھا۔

جس کا جواب 15 ستمبر 2015 کو دیا گیا اور اس سے پہلے عدالت نے میرے نوٹس کو منظور نہیں کیا۔

میں نے 31 جولائی 2012 کو ایک نوٹس پیش کیا تھا جس کا جواب (0) دیا گیا۔

میں نے نوٹس پیش کیا تھا کہ آپ کو نوٹس دینا چاہیے اور آپ کو نوٹس دینا چاہیے کہ

آپ نے نوٹس پیش کیا ہے اور آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ

آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ

آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ

آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ

آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ

آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ

آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ

آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ

آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ

آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ

آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ

آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ

آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ

آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ آپ کو نوٹس دینا چاہیے کہ

3.12.21

- تو اس نے کہا کہ نہ تو میں نے آپ کو غیر حاضر کیا تھا اور نہ ہی اس کے خلاف میں نے کوئی افسران بالا کو بروقت اطلاع دی تھی۔ اور آپ کو نوٹس دو مہینے بعد دی گئی۔
7. جب نائب ناظر پر میں نے جرح کیا کہ اگر سول ناظر صاحب کسی وجہ سے نہیں ہوتے اور کوئی اہلکار غیر حاضر ہو جائے تو آپ اس کے خانے میں کیا لکھتے ہیں؟
جواب دیا کہ (غین) یعنی غیر حاضر لکھتا ہوں۔
8. جب میں نے اس سے سوال کیا کہ اگر کسی کے حاضری کے خانے میں صفر (0) لکھا جائے تو اس کا کیا مطلب ہے؟
جواب دیا کہ اس کا مجھے علم نہیں۔
9. محترم جناب والا! اس طرح کی غفلت / کوتاہی تقریباً اکثر اہلکاروں سے ماہ اگست میں ہوئی ہیں۔
10. ان کی انکوائری آفیسر جناب سول جج صاحب نمبر 6 کو مقرر کیا گیا جب کہ میری انکوائری پہلے سول جج نمبر 5 کو بھیج دی گئی جب میں جج صاحب کے پاس اپنا جواب داخل کرنے کے لیے حاضر ہوا تو اس نے کہا کہ میں نے انکوائری واپس سینئر سول جج صاحب کو بھیج دی ہیں، آپ وہاں پتہ کر لیں۔ چند دن بعد دوبارہ مجھے نوٹس ملا کہ آپ کی انکوائری سول جج نمبر 1 کو بھیج دی گئی ہے۔
11. جناب والا! میری اسی طرح جیسا کہ باقی لیٹ آنے والے اہلکاروں کا ہے، بلکل Same Nature کیس ہے لیکن میری انکوائری ان اہلکاروں سے علیحدہ کر کے سول جج نمبر 1 کو بھیجنا میرے ساتھ کیا امتیازی سلوک نہیں ہے؟
12. جناب والا! ان اہلکاروں نے اپنے دفاع کے لیے ایک وکیل جناب محترم شاہنواز سکندری صاحب کو مقرر کیا اور ان اہلکاروں کا کیس انہی نے لڑا، لیکن میں نے اپنے لیے وکیل کو رکھنا چاہا تو جج صاحب نے مجھے منع کر دیا۔

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13. جناب والا جب باقی اہلکاروں کی انکوائری مکمل ہوئی تو جج صاحب نے ان کی انکوائری

میں ان کی اس غفلت اور کوتاہی کو Minor Penalty کہہ کر ان کو وارننگ دی اور

معاف کر دیا گیا۔ اور انکوائری جج صاحبہ کے پاس پیش کی اور آپ صاحبان نے بھی ان

کو معاف کر دیا۔

14. جبکہ Same nature کیس میں مجھے قصور وار ٹھہرایا گیا اور انکوائری رپورٹ

میں لکھا کہ اختر کو Major Penalty دی جائے۔ اور نوکری سے برخاست کرنا

تجویز کی۔

15. مجھ کو دی گئی شوکار نوٹس میں سرف نیر حاضری کی جواب دہی کا کہا گیا اور باقی کسی

دوسرے انکوائری وغیرہ کا کوئی ذکر موجود نہیں۔

16. جناب والا میرے ساتھ بھی دوسرے لیٹ آنے والے اہلکاروں کی طرح احسان اور

برتاؤ کی جائے۔

17. جناب والا میں اپنی گذشتہ ۸ سالوں سے ملازمت کے دوران کبھی غیر حاضر نہیں رہا

ہوں۔ اس کا اعتراف خود سول ناظر صاحب نے اپنی بیان میں کی ہے اور نہ ہی کوئی

دستاویزی ثبوت، اور نہ ہی کوئی نوٹس، کمپلیٹ وغیرہ میرے خلاف نہ کسی محترم جج

صاحب نے اور نہ ہی جناب سول ناظر صاحب نے دی ہے۔

18. جناب والا، اس سے پہلے مجھ ایک دو انکوائری بابت سمن کے نہ ہونے پر بنی تھی لیکن

وہ فائل ہو چکی ہیں۔ اور باوجود فائل ہونے کے ان انکوائریوں کو اس انکوائری میں پھر

سے شامل کی ہے۔ جو کہ امتیازی سلوک ہے۔ اور سادے انکوائریوں کو تقریباً سمن ہونے کا نام سے زیادہ کا

19. یہ پہلی دفعہ ہے کہ مجھے لیٹ آنے پر غیر حاضر تصور کیا گیا حالانکہ میرے خلاف

کوئی ایسی شکایت موجود نہیں کہ میں Late Comer بھی ہوں، کیونکہ میں

بروقت اپنی ڈیوٹی کو اتار رہا ہوں۔

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2021/11/3

20. یہ کہ میری غیر حاضری کو جولائی اور اگست 2012 میں ہوئی جبکہ نوٹس مجھے 15 اکتوبر 2012 کو دی جاتی ہے۔ اس کا اعتراف خود ناظر نے بھی کی ہے۔ اور یہ بھی واضح ہو کہ میں ماہ اگست اگر غیر حاضر تصور کیا گیا تو میری وہ غیر حاضری متواتر نہیں جبکہ ماہ اگست میں عدالت کی چھٹیاں بھی تھی اور دوسری یہ کہ مختلف تاریخوں پر یعنی 01/08/2012 ، 06/08/12 ، 15/8/12 ، 24/08/12 اور 31/08/12 کو غیر حاضر شمار کیا گیا۔

21. ماہ اگست چونکہ رمضان شریف کا مہینہ تھا اور سخت گرمی تھی شاید اسی وجہ کو تباہی / غفلت ہوئی ہوگی کہ میں نے اپنی حاضری کے خانے میں حاضری نہیں لگائی جیسا کہ دوسرے اہلکاروں سے بھی ہوئی تھی۔

22. اگر بقایا اہلکاروں کو وارننگ دی گئی اور انہیں معاف کیا گیا تو میری بھی معزز عدالت سے التجاء ہے کہ مجھے بھی ماہ رمضان کے بابرکت مہینے کی خاطر معاف کیا جائے۔ کیونکہ یہ اللہ تعالیٰ کی طرف سے بھی بخشش کا مہینہ ہے۔

23. اللہ تعالیٰ دوسری جگہ ارشاد فرماتا ہے کہ تم اہل زمین والوں پر رحم کروں میں تم پر رحم کروں گا۔ اللہ تعالیٰ معاف کرنے والا ذات ہے۔ اور معاف کرنے والوں کو پسند فرماتا ہے۔

24. جناب والا مجھ پر پہلے جرم اور گناہ جو مجھ پر ڈالا جا رہا ہے۔ پہلی کوتاہی اور غفلت سمجھ کر معاف کیا جائے۔

25. پانچ دن کی غیر متواتر غیر حاضری ماہ اگست میں تصور کرنے پر مجھے اتنی بڑی سزا دینے سے میرے اور میرے چھوٹے بچے سڑک پر آجائیں گے اور نوبت فاقے تک پہنچ جائے گی۔ کیونکہ اگر مجھے نوکری سے نکال دیا گیا تو میرے کسی دوسرے مزدوری کے قابل نہیں ہے کیونکہ میری ریڑھ کی ہڈی گرنے کی وجہ سے ٹھوٹ چکی ہے اور کوئی بھاری چیز

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اٹھا نہیں سکتا۔

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207272

26. یہ کہ سائل کی غیر حاضری عمد آنہ تھی ماہ اگست کی تعطیلات تھی اور فاضل عدالت گرمیوں کے چھٹیوں کی وجہ سے بند تھی رمضان شریف کا مہینہ تھا اور اہلکاران حاضر ہونے میں کوتاہی برت رہے تھے۔ سائل سے بھی کوتاہی سرزد ہوئی ہوگی۔ اور یہ کہ آپ میری اس غیر حاضریوں کو Earned Leave میں، Casual leave میں، یا ان ہی دنوں کو اگر غیر حاضریوں میں شمار کر کے تنخواہ کی کٹوتی کی جائے، یا Leave without Pay میں تبدیل کی جاسکتی ہے۔ اور یہ آپ صاحبان کے دائرہ اختیار میں ہے۔

27. یہ کہ سائل نہایت غریب اور بال بچے دار ہے اور اگر سائل کو ملازمت سے برخاست کیا گیا تو سائل کے بال بچے اور بیوی بھوک و افلاس سے مر جانے کا خطرہ لاحق ہے۔

28. یہ کہ سائل 8 سال سے ملازمت خوش اسلوبی سے کر رہا ہے۔ اور آئندہ بھی افسران بالا اس قسم کی شکایات کا موقع فراہم نہیں کرونگا۔ اور مزید یہ کہ من سائل آئندہ محتادگی کے لیے خلیفہ بیان دینے کے لیے بھی تیار ہوں۔

لہذا استدعا ہے کہ سائل کے غربت اور بال بچوں پر رحم فرما کر سائل کو معاف فرمایا جاوے انشاء اللہ آئندہ کے لیے محتاط رہوں گا اور افسران بالا کو شکایت کا موقع نہیں دوں گا اور اپنے فرائض دل جمعی سے ادا کرتا رہوں گا۔

سائل

مورخہ: 22/11/2012

Registered No.	5775
2. Date of Presentation of Application	20/12/12
3. Date of Receipt of the fee	20/12/12
4. Date of Presentation of Copy	20/12/12
5. Date of Delivery of Copy	20/12/12
6. No. of Copies of words	500
7. Ordinary Fee	5
8. Urgent Fee	-
9. Total Fee	5
10. Signature of Applicant	

M. A. Khan
محمد اختر PS

عدالت سینئر سول جج صاحبہ جنوں

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Lower Court Bahawalpur
20/12/12

CW-3
01-10-2012

Statement of Shafi Ullah Khan Naib Nazir Senior Civil Judge, Bannu

Stated that on 01-09-2012 during quarterly inspection of the court, some bailiff and process servers including the accused official were found absent from their duty by the learned Senior Civil Judge, Bannu. On the instruction of the learned Senior Civil Judge, Bannu I scrutinized the attendance register pertaining to the month of July and August 2012 and submitted the report is EX CW 3/1 which is in my hand writing and correctly bear my signature.

XXX (Nil accused/official already proceeded ex-parte)

RO & AC


(SYED HAMID QASIM)


Inquiry Officer/Civil Judge/JM-I, Bannu

Contd.

XXX
03-11-2012

The report EX CW 3/1 was prepared by me on the direction of clerk of court. I do not know about the statement of civil nazir nor I am cornered with his statement regarding the presence or absence of the accused official from his duty. I have prepared my report as per the register maintained for the attendance for the month of June, July and August 2012 at office. According to the attendance register the accused official was found absent for 17 days. If an official is absent he is marked as (E) in the register of attendance. Sign Zero mean that the official is late to attend his duty without permission. The other inquiries mentioned in the report EX CW 3/1 are decided one.

RO & AC
03-11-2012


(SYED HAMID QASIM)
Inquiry Officer/JM-I, Bannu

ATTESTED
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Lower Court Bannu
20727L

- 1. Registration No. 5775
- 2. Date of Presentation of Application 20727L
- 3. Date of Receipt of the file 20727L
- 4. Date of Presentation of Copy 20727L
- 5. Date of Delivery of Copy 20727L
- 6. No. of Copies / words 300
- 7. Ordinary Fee 3
- 8. Urgent Fee -
- 9. Total Fee 3
- 10. Signature of Copyist [Signature]

CW-2
31-10-2012

Statement of Mohammad Hayat Khan Civil Nazir of Senior Civil Judge, Bannu

Stated that I am custodian of the attendance register of the court of Senior Civil Judge, Bannu and produced the same in court extract whereof EX CW 2/1 pertaining to the month of July and August 2012.

XXX (Nil accused/official already proceeded ex-parte)
RO & AC

(SYED HAMID QASIM)

Inquiry Officer/Civil Judge/JM-I, Bannu

Contd.

XXX
02/11/2012

I am incharge/custodian of the register of attendance. On 20-07-2012 and 31-07-2012 the accused official was not absent, he came late on his duty. I have not submitted any absent report/complaint against the accused official. On 06-08-2012, 24-08-2012 & 31-08-2012 the accused official was absent. It is correct that the month of August was one of judicial vacations. It is also correct that it was the Holly Month of Ramdan of August. The accused official has attended his duty except of the above referred dates volunteer that he use to appear on the next date of his duty. It is correct that a judicial officer used to be present in the month of August as MOD. No absent report against the accused official was submitted before the MOD volunteer that after the long vacations when the learned Senior Civil Judge, Bannu assumed his duty on 01-07-2012 I produced the attendance register before him which culminated into instant inquiry. I have no proof of the absence of the accused official regarding his absent from duty but the attendance register.

RO & AC
02-11-2012

(SYED HAMID QASIM)
Inquiry Officer/JM-I, Bannu

ATTESTED
Copying Agency
Lower Court Bannu
2012/12

51

**Statement of Shah Daraz Khan Clerk of Court Senior Civil Judge,
Bannu.**

Stated that I produced the departmental inquiry No.39 of the year 2011 against Mohammad Akhtar process server in the court of Senior Civil Judge, Bannu decided on 23-01-2012. He was convicted and imposed upon him penalty of withholding the next annual increment for one year falling due on 01-12-2012 under Khyber Pakhtunkhwa Govt. Servant (E & D rules 2012) vide office order number 102 dated 24-01-2012. Copy of which is EX CW 1/1. Similarly inquiry No.40 of the year 2011 against Mohammad Akhtar process server in the court of Senior Civil Judge, Bannu decided on 23-01-2012. He was convicted and imposed upon him penalty of withholding the next annual increment for one year falling due on 01-12-2012 under Khyber Pakhtunkhwa Govt. Servant (E & D rules 2012) vide office order number 97 dated 24-01-2012, copy of which is EX CW 1/2. Departmental inquiry No.43 of the year 2011 decided on 15-03-2012 against Mohammad Akhtar processes server in the court of Senior Civil Judge where upon He was convicted and imposed upon him a penalty of reduction to lower stage in a time scale under rule 4 of Khyber Pakhtunkhwa Govt servant (E & D rules 2012) vide office order number 215 dated 15-03-2012, copy of which is EX CW 1/3. I also produced departmental inquiry No.46 of the year 2012 decided on 19-06-2012 against the above said official where upon he was exonerated from the charge against him. However, he was warned to mend his means and be careful in future vide office order No.534 dated 20-06-2012, copy of which is EX CW 1/4.

XXX (Nil accused/official already proceeded ex-parte)

RO & AC

Confidential

(SYED HAMID QASIM)

Inquiry Officer/Civil Judge/JM-I,Bannu

XXX

The inquiries so produced are decided one.

02/11/2012

RO & AC
02-11-2012

(SYED HAMID QASIM)
Inquiry Officer/JM-I, Bannu

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**Copying Agency
Lower Court Bannu**

2012 12

To

The District and Sessions Judge,
Bannu.

Subject: Departmental Appeal/ Representation against impugned order Dated 18.12.2012, whereby the Learned Senior Civil Judge, Faryal Mufti, being the Competent Authority imposed the major penalty of dismissal from service Under Rule-4 (1)(B)(iv) of Khyber Pakhtunkhwa Government Servant (E&D) Rules, 2011, on the charges of willful absence from duty.

Respectfully Sheweth;

Brief facts of the instant departmental appeal/ representation are as under:-

- 1) That the appellant was appointed as Process Server in BPS-3 in the year 2004 by order of the court of Senior Civil Judge, Bannu.
- 2) That the appellant has more or less eight (8) years service at his credit at the time of imposition of major penalty of dismissal from service.
- 3) That the appellant along with 14 others were reported by Civil Nazir/ Naib Nazir of Senior Civil Judge, Bannu to the effect that all of them were absent from their duties on different dates and this report was submitted to the court of Senior Civil Judge, Bannu for further necessary action in the matter. The names of the subordinate staff are as under:-
 - i) Inayat Ullah (Bailiff) absent for two days i.e. 25.08.2012 and 30.08.2012.
 - ii) Zahoor-ul-Islam (Bailiff) absent for three days i.e. 18.08.2012, 25.08.2012 and 30.08.2012.
 - iii) Bazid (Bailiff) absent for one day i.e. 03.08.2012.

- iv) Zia Ullah (Process Server) absent for one days i.e. 29.08.2012.
- v) Rashid Ali (Process server) absent for four days i.e. 01.08.2012, 08.08.2012, 24.08.2012 and 31.08.2012.
- vi) Rahim Ullah (Process server) absent for one day i.e. 11.08.2012.
- vii) **Muhammad Akhtar, the present appellant (Process server) absent for five days i.e. 01.08.2012, 06.08.2012, 15.08.2012, 24.08.2012 and 31.08.2012.**
- viii) Muhammad Yousaf (Process server) absent for one day i.e. 29.08.2012.
- ix) Mumtaz (Process server) absent for two days i.e. 03.08.2012 and 27.08.2012.
- x) Rashid Khan (Process server) absent for two days i.e. 07.08.2012 and 23.08.2012.
- xi) Shujat Ali (Process server) absent for one day i.e. 17.08.2012.
- xii) Shah Muhammad (Process server) absent for one day i.e. 02.08.2012.
- xiii) Shah Tamas (Process server) absent for three days i.e. 02.08.2012, 08.08.2012 and 18.08.2012.
- xiv) Shahab (Process server) absent for one day i.e. 01.08.2012.
- xv) Saood (Process server) absent for one day i.e. 03.08.2012.

(Copy of report dated 01.09.2012 of Civil Nazir/ Naib Nazir of the court of Senior Civil Judge, Bannu is annex: "A").

- 4) That the Senior Civil Judge being the competent authority issued notices for willful absence to the above named and thereafter, referred inquiry with regard to fourteen (14) subordinate staff to the court of Civil Judge-VI, Bannu, Mr.Hamid, Kamal and inquiry with regard to the present appellant for the same allegations was referred to the court of Civil Judge-V, Bannu, Mr.Aurangzeb Khan.

- 5) That Civil Judge-V, Bannu, Mr.Aurangzeb Khan, sent the departmental inquiry No.48 of 2012 back to the court of Senior Civil Judge, Bannu with regard to the present appellant for the reason stated therein. (Copy of order dated 10.10.2012 of the learned Civil Judge-V/ Authorized Officer is attached as annex: "B").
- 6) That the learned Senior Civil Judge/ competent authority referred once again a separate inquiry to the court of Civil Judge-cum-Judicial Magistrate-I, Bannu/ Inquiry Officer, Syed Hamid Qasim. (Copy of order sheet dated 15.10.2012 is attached as annex: "C", which indicates the receipt of inquiry from the court of Senior Civil Judge).
- 7) That the Civil Judge/ Judicial Magistrate-I, Bannu being the Inquiry Officer conducted a separate inquiry with regard to the same allegations in which another inquiry with regard to fourteen (14) others similarly placed subordinate staff was sent to the court of Civil Judge-VI, Bannu, Mr.Hamid Kamal.
- 8) That the Civil Judge/ Judicial Magistrate-I, Bannu being the Inquiry Officer conducted an inquiry into the charges/ allegations of willful absence from duty and found the appellant liable to the major penalty of dismissal from service for the reasons stated therein. (Copy of inquiry report dated 15.11.2012 is attached as annex: "D").
- 9) That surprisingly on the basis of the same nature allegations a separate/ distinct inquiry was conducted by the court of Civil Judge-VI, Bannu being the Inquiry Officer and recommended only a minor penalty of censure with regard to fourteen (14) similarly placed subordinate staff of the District Courts, Bannu vide departmental inquiry No.49 decided on 03.11.2012. (Copy of inquiry report dated 03.11.2012 is attached as annex: "E").

- 10) That it is pertinent to mention here that Senior Civil Judge, Bannu being the competent authority in both cases agreed to the findings of the respective Inquiry Officers as in one case the competent authority agreed to impose minor penalty of censure on 13 subordinate staff as referred above, while on the basis of the same/ identical allegations, a major penalty of dismissal was imposed on the present appellant. (Copies of impugned orders dated 18.12.2012 endorsement No.968-71 and 05.11.2012 reference No.826-38 are attached as annex: "F & G").
- 11) That both the inquiry officers obtained statement from the above referred subordinate staff with regard to willful absence of duties and their statements are placed on file with the instant appeal for kind perusal of the appellate authority.

GROUND FOR APPEAL/ REPRESENTATION:

That the appellant being aggrieved from the impugned order dated 18.12.2012 referred above, prefers the instant appeal on the following amongst other grounds for reinstatement in service with all consequential back benefits.

- a) That the impugned orders of the Inquiry Officer and competent authority in case of the present appellant are violative of Article 2-A, 4 and 25 of the Constitution of Islamic Republic of Pakistan, which shun/ avoid discrimination in its all forms, it becomes crystal clear from the above facts and circumstances of the instant case that discriminatory treatment has been meted out to the present appellant by specifically referring his inquiry to a separate Inquiry Officer on the basis of the same nature allegations i.e. willful absence from duty. Both the Inquiry Officers recommended different penalties on the basis of same allegations as in the case of thirteen (13) other similarly placed subordinate staff were awarded a minor

penalty of censure, while the present appellant alone has been awarded the major penalty of dismissal from service, which cannot be sustainable in the eyes of law. It is important to reproduce a ruling of the august Supreme Court of Pakistan in a similar situation reported in 2001 SCMR 256 and the same is reproduced for ready reference:-

*Allah Yarv/s.... General Manager
Railways Headquarters Lahore citation
(d) --- Constitution of Pakistan (1973)
"Articles 2-A, 4 and 25 ----- Equality of
citizens, principle of --- Exercise of
discretion by authority --- Scope -----
Discretion becomes an act of
discrimination only when it is improper
or capricious exercise or abuse of
discretionary authority, and the person
against whom that discretion is
exercised faces certain appreciable
disadvantages, which he could not have
faced otherwise ---- Where the
discrimination is not based on any
rational ground bearing upon the same
subject dealt with, the law offends
against the principle of equality and is
void". (p.264). Reference has been made
to 1992 CLC 219; AIR 1965 All, 275 and
AIR 1952 SC 75". Some of other rulings
of the superior court in a Similar
situation are as under:-*

Similarly placed – reinstated 2000 SCMR 669

Principle of consistency – 2006 SCMR 1155, 2005 SCMR 890

Naked discrimination – ¹⁹⁹³PLC (CS) 354, 2000 SCMR 669, 2001
SCMR 701, 2003 SCMR 1798, 1998 SCMR 2472.

- b) That by referring the inquiry with regard to the same allegations of subordinate staff of the District Courts, Bannu to two different Inquiry Officers and imposition of two different penalties i.e major and minor clearly reflects malafide of the Inquiry Officer and competent authority is not only floating on the face of record but leaping therefrom. Reliance has been placed on **2008 SCMR 871** and **(2005 PLC (CS) 974** "action based on malafide required to be struck down").
- c) That the punishment awarded to the appellant does not commensurate with the charges, hence the penalty imposed is excessive and harsh. Reliance has been placed on **2008 SCMR 214** and **2002 SCMR 584**, which lays down the following principle.
- "punishment should always commensurate to the guilt proved"**
- d) That no opportunity of personal hearing was afforded to the appellant before imposition of major penalty of dismissal from service, which fact is violative of the principles of natural justice and the same are part and parcel of all judicial and quasi judicial proceedings. Reliance has been placed on **2008 SCMR 1369**.
- e) That principle of propriety demands that same nature cases must be inquired and decided by the same Inquiry Officer/ competent authority as in the instant case to avoid conflict of judgments on the basis of same allegations of two differing courts.
- f) That according to the statements recorded by the Inquiry Officers also lend support to the case of the present appellant as some of the subordinate staff admitted and confessed their willful absence from their duties but irrespective of this fact minor penalty was imposed on them (similarly placed

subordinate staff), while major penalty was inflicted on the appellant who denied his willful absence and there is no evidence whatsoever on the record.

- g) That it is strange enough that one Mr. Shahab, process server, was initially charged for willful absence from his duty but he was altogether dropped from the inquiry proceedings without assigning any reason or cause, for reasons best known to the Inquiry Officer and competent authority.

Keeping in view, what has been stated above, it is, therefore, humbly requested that the impugned order dated 15.11.2012 and order dated 18.12.2012 may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all consequential back benefits w.e.f. 18.12.2012.

Any other relief, which has not been specifically asked for and to whom the appellant has been found entitled may also be granted.

Appellant

M. Akhtar
Muhammad Akhtar
Process Server
Senior Civil Judge, Bannu

Dated: 21.12.2012

WAKALATNAMA

(Power of Attorney)

IN THE COURT OF Provincial Service Tribunal,
KPK, Peshawar.

Mohammad Akhtar

(Petitioner)
(Plaintiff)
(Applicant)
(Appellant) ✓
(Complainant)
(Decree Holder)

VERSUS

District & Sessions Judge Bannu
and others -

(Respondent) ✓
(Defendant)
(Accused)
(Judgment Debtor)

I/We, Mohammad Akhtar

_____ in the above
noted Service Appeal, do hereby appoint and constitute **Inayat Ullah
Khan** Advocate Peshawar to appear, plead, act, compromise, withdraw or refer
to arbitration for me/ us as my/ our Counsel in the above noted matter, without
any liability for that default and wit the authority to engage/ appoint any other
Advocate/ Counsel at my/ our matter.

Attested & Accepted

Inayat Ullah Khan

Inayat Ullah Khan
Advocate High Court, Peshawar.
LL.M (UK)
House No.46 Street No.2,
K/4, Phase-III, Hayatabad Peshawar.
Cell: 0333-9227736

M. Akhtar
CLIENT

Mohammad Akhtar

Provincial Service Tribunal

KPK, Pakistan

Mohammad Akhtar

✓

District & Sessions Judge Bannu

and others

Mohammad Akhtar

✓

Service Appeal

~~M. Akhtar~~

Mohammad Akhtar

Only

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

Appeal No. 676 of 2013

Muhammad Akhtar

Appellant/Petitioner

Versus

Respondents

- 1. District and Sessions Judge, Bannu.
- 2. Senior Civil Judge, Bannu.
- 3. Judicial Magistrate-I/ Inquiry Officer, Bannu.

Service Appeal/Petition under the provision of the North West Frontier
Province Service Tribunal Act, 1974

Written statement from respondents No. 2

Preliminary Objection:

1. That the appeal in hand is time barred and as such is not tenable under the law.

2. That the Respondent's No. 2, Senior Civil Judge, Bannu has called explanation on the report of Civil Nazir /Nab Nazir of this court dated 01/09/2012 about the willful absence of appellant. The Senior Civil Judge, Bannu being the competent authority had dismissed the appellant from service after conducting proper inquiry in the matter.

3. That the statement of allegations and charge sheet were served upon the appellant to which his reply was received.

4. That full opportunity of cross examination was given to the appellant, which is evident from the statements of CW-I, CW-II and CW-III.

5. That final show cause notice was served upon the appellant on 19/11/2012 to which his reply dated 22/11/2012 was found unsatisfactory.

6. That the appellant was found guilty of misconduct because of willful absence from duty and was dismissed under Efficiency and Disciplinary Rules, 2011 after observing all codal formalities.

The written statement on facts is as under:

(i). Para No. 1 of appeal is correct.

(ii). Para No.2 is correct.

(iii). Para No. 3 is not correct, as the Civil Nazir/Nab Nazir submitted report of absent 14 Process Servers and Bailiffs separately on 01/09/2012 whereas on the same date report in respect of absence of appellant Muhammad Akhtar

(Ex: Process Server) was also submitted but independently. The report was not made jointly. The reports are Annexed as Annexure "A" and "B".

- (iv). Para No. 4 is correct.
- (v). Para No. 5 is correct.
- (vi). Para No. 6 is correct.
- (vii). Para No. 7 is correct.
- (viii). Para No. 8 is correct.
- (ix). Para No. 9 is correct.
- (x). The allegations of appellant were totally different from the allegations imposed upon the other Process Servers and Bailiffs.
- (xi). Para No.11 is correct to the extent that being the competent authority, the undersigned agreed upon the findings of both inquiry officers and imposed minor penalty of censure upon 13 Process Servers and Bailiffs, because they were absent from duties not more than four days, whereas imposed major penalty of dismissal from service upon the appellant on the basis of inquiry officer as he remained absent from his duty for the period of 17 days as well as keeping past record of his misconduct. The office orders are annexed as Annexure "C", "D", "E" and "F".
- (xii). Para No. 12 is correct.
- (xiii). That the appellant has filed an appeal in the Hon'ble District and Sessions Judge, Bannu which was dismissed on 01/04/2013. Copy is annexed as annexure "G".

Grounds of Appeal:

- (A). The explanation, Charge Sheet and final show cause notice have properly been served upon the appellant which is evident from the record. He was also heard in person.
- (B). The respondent No. 2 being the competent authority, has dismissed the appellant from service, found him guilty of misconduct.
- (C). The appellant has been dealt with in accordance with service rules/regulations i.e. Khyber Pakhtunkhwa Government Servant (E&D) Rules 2011 and after conducting inquiry, has been dismissed from service.

In view of the above, it is humbly prayed that there is no substance in the appeal, which maybe dismissed with cost.


Senior Civil Judge, Bannu
Respondents No. 2

"A"

To Call a Planation
of the delinquency / Official

دست بائیت غیر حاضر اور دیگر افسران
موجودہ دوران میں لاہور کے قریب
موجود ہیں۔

Ex 11

40

موجودہ دوران میں لاہور کے قریب
موجود ہیں۔

موجودہ دوران میں لاہور کے قریب
موجود ہیں۔

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موجود ہیں۔

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موجود ہیں۔

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موجود ہیں۔

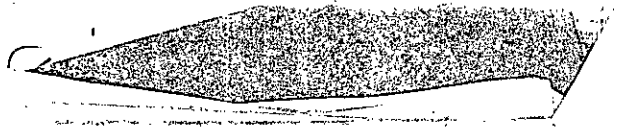
موجودہ دوران میں لاہور کے قریب
موجود ہیں۔

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موجود ہیں۔

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موجود ہیں۔

موجودہ دوران میں لاہور کے قریب
موجود ہیں۔



دنگوانہ کی فراہمیت رقم لے کر لاہور
 گیا۔ لیکن وہ قلمبند نہیں ہو سکا اور
 سب سے پہلے سے معاف کیا اور
 سب سے پہلے سے معاف کیا اور

دنگوانہ کی فراہمیت رقم لے کر لاہور
 گیا۔ لیکن وہ قلمبند نہیں ہو سکا اور
 سب سے پہلے سے معاف کیا اور
 سب سے پہلے سے معاف کیا اور

(۱۶۱)
 کہتا ہے کہ وہ سب سے پہلے سے معاف کیا اور
 سب سے پہلے سے معاف کیا اور
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سب سے پہلے سے معاف کیا اور
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 سب سے پہلے سے معاف کیا اور
 سب سے پہلے سے معاف کیا اور

To call explanations
of the delinquent officials
Authentic
1-9-12

بابت غیر حاضری کی اطلاع
" B "

گزارش جسٹس بیرون کو ایئر کی انکسٹن سے 7/12 کو
میرا اثر جو زیادہ مان بیلگان غیر حاضری میں ان کے غیر حاضری (15)
کتاب سے بعض غیر تیار ہے
صباح الکلج میں سائیکل ٹیچنگ کے وسیعہ حاضر کی طرف
جس میں ماہ آگست سے فوری ذیل بیلگان غیر حاضری کے ہیں

37 ⁸ / ₁₂ ، 25 ⁸ / ₁₂	عقاید اللہ بیگ	1	Chal
37 ⁸ / ₁₂ ، 25 ⁸ / ₁₂ ، 18 ⁸ / ₁₂	تین دن	2	Chal
31 ⁸ / ₁₂	ایک دن	3	Chal
29 ⁸ / ₁₂	"	4	Chal
31 ⁸ / ₁₂ ، 24 ⁸ / ₁₂ ، 8 ⁸ / ₁₂ ، 1 ⁸ / ₁₂	چار دن	5	Chal
11 ⁸ / ₁₂	ایک دن	6	Chal
29 ⁸ / ₁₂	ایک دن	7	Chal
27 ⁸ / ₁₂ ، 31 ⁸ / ₁₂	دو دن	8	Chal
23 ⁸ / ₁₂ ، 7 ⁸ / ₁₂	"	9	Chal
17 ⁸ / ₁₂	ایک دن	10	Chal
21 ⁸ / ₁₂	ایک دن	11	Chal
18 ⁸ / ₁₂ ، 8 ⁸ / ₁₂ ، 21 ⁸ / ₁₂	تین دن	12	Chal
1 ⁸ / ₁₂	ایک دن	13	Chal
31 ⁸ / ₁₂	ایک دن	14	Chal

مجلس تحریک اسلامی
مجلس تحریک اسلامی
مجلس تحریک اسلامی
مجلس تحریک اسلامی

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۶
۵

یہ فتویٰ جامعہ اسلامیہ میں لکھنا اور درخواست غیر عارضی ہے
۱۲/۹/۱۲ اور اس وقت تک میں سون مانگو نے غیر عارضی
اس فتویٰ میں سترے میں سے لکھنا ہے

گنہگاروں کی خدمت ۹ ۱-۹-۱۲

سیدنا مولانا صاحب کو عرض ہے کہ میں نے یہ فتویٰ
۱۲/۹/۱۲


OFFICE OF THE SENIOR CIVIL JUDGE, BANNU.

No: 102

Dated: 24/1/2012

OFFICE ORDER:- Civil Judge 1st Bannu 31.10.12


Consequent upon the show cause notice issued to Mr. Muhammad Akhtar, Process Server of this court (P.N.00174819) bearing No.1128 dated 16.12.2011, I, hereby impose upon him a penalty of with holding the next annual increment for one year falling due on 01.12.2012 under Khyber Pakhtunkhwa Government Servant(E&D) rules,2011.


(Shah Wali Ullah Hamid Hashmi)
Senior Civil Judge,
Bannu.

No 103-06/SCJ Bannu dated the 24-1 2012

Copy forwarded to:

1. The District & Sessions Judge, Bannu for favour of information, please.
2. The DAO Bannu.
3. The Civil Nazir, SCJ Bannu
4. The official concerned for information and necessary action.


(Shah Wali Ullah Hamid Hashmi)
Senior Civil Judge,
Bannu.

"D"

OFFICE OF THE SENIOR CIVIL JUDGE, BANNU.

EX CW 1/2

No: 97

Dated: 24/1/2012

32

OFFICE ORDER:-

CJ/JM-L, Bannu
21.10.2012

17

Consequent upon the show cause notice issued to Mr. Muhammad Akhtar, Process Server of this court (P.N.00174819) bearing No.1129 dated 16.12.2011, I, hereby impose upon him a penalty of withholding the next annual increment for one year falling due on 01.12.2012 under Khyber Pakhtunkhwa Government Servant(E&D) rules,2011.

(Shah Wali Ullah Hamid Hashmi)
Senior Civil Judge,
Bannu

9c

No 98-101 /SCJ Bannu dated the 24.1. 2012

Copy forwarded to:

1. The District & Sessions Judge, Bannu for favour of information, please.
2. The DAO Bannu.
3. The Civil Nazir, SCJ Bannu
4. The official concerned for information and necessary action.

(Shah Wali Ullah Hamid Hashmi)
Senior Civil Judge,
Bannu.

9c

"E"

OFFICE OF THE SENIOR CIVIL JUDGE, BANNU.

33

EX CW / 3

No: 245

Dated: 15/3/2012

OFFICE ORDER:- CJ/TM-L, Bannu
21-10-12

30

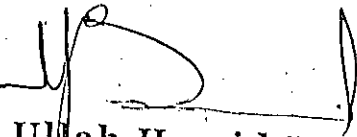
In the light of inquiry report submitted by the Inquiry Officer, 1, being the competent Authority hereby impose upon Mr. Muhammad Akhtar Process Server of the court of undersigned, a penalty of reduction to a lower stage in a time scale under rule 4 of Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) rules 2011 with immediate effect.


(Shah Wali Ullah Hashmi)
Senior Civil Judge,
Bannu

246-48
No 246-48 /SCJ Bannu dated the 15-3- 2012

Copy forwarded to:

1. The Hon'ble District & Sessions Judge, Bannu for information with reference to his direction contained in complaint bearing No.7075 dated 12.12.2011.
2. The Civil Nazir, Senior Civil Judge, Bannu.
3. Mr. Muhammad Akhtar Process Server, SCJ Bannu


(Shah Wali Ullah Hashmi)
Senior Civil Judge,
Bannu

"F"

OFFICE OF THE SENIOR CIVIL JUDGE, BANNU.

35

2

EX. CW / 4

No: 534

Dated: 20 / 6 / 2012

37

OFFICE ORDER:-

CJ/TM-1, Bannu
31.10.12

Consequent upon the inquiry report the accused official namely Muhammad Akhtar Process Server, Senior Civil Judge, Bannu is exonerated from the charge against him. Therefore he is reinstated in service already suspended vide this office order No.260 dated 17.03.2012. He is however warned to mend his means and be careful in future.

(Shah Wali Ullah Hamid Hashmi)
Senior Civil Judge, Bannu

S 35-37

Endst: _____ Dated Bannu the 20 / 6 2012

Copy forwarded to

- 1 The Hon'ble District & Sessions Judge, Bannu for information, with reference to his kind directions in departmental inquiry titled Gulzar Begum Versus Muhammad Akhtar Process Server, please.
- 2 The Civil Nazir and
- 3 Mr. Muhammad Akhtar Process Server, Senior Civil Judge, Bannu for information and necessary action.

(Shah Wali Ullah Hamid Hashmi)
Senior Civil Judge, Bannu

ORDER SHEET

3 "G"

Court of _____ Page _____

Case Title _____ of _____

No. and date	Order of the Proceedings with signature of Judge or Magistrate and that of parties or counsel where necessary.
--------------	--

ORDER
01.04.2013

کوالیٹیاں ڈسٹریکٹ جج صاحبان کی طرف سے
15-1-13
جج صاحبان کی طرف سے
1/1

Pursuant to the report dated 01.09.2012 in respect of absence of the petitioner by the Civil Nazir of the Court of learned Senior Civil Judge Bannu, the competent authority i.e. Senior Civil Judge, Bannu appointed learned Civil Judge-I Bannu as "Inquiry Officer". He after conducting inquiry, found the petitioner guilty of mis-conduct and willful absence, forwarded his report to the learned Senior Civil Judge Bannu with recommendation for penalty under rule 4 (1) (b) (iv) of KPK Govt. Servants (Efficiency and Disciplinary) Rules, 2011.

The learned Senior Civil Judge Bannu, while concurring with the report of "Inquiry Officer", imposed upon the petitioner the penalty of dismissal from service under rule 4 (1) (b) (iv) of KPK Govt. Servants (Efficiency and Disciplinary) Rules, 2011 and dismissed the petitioner from service on 18.12.2012 afternoon; hence the instant departmental appeal by the petitioner.

Perusal of record reveals that the appellant, in his departmental appeal has alleged discrimination, malafide, harsh treatment and unheard condemn action but the record reveals that the appellant has been found guilty of mis-conduct previously and was warned on various occasions. He

2013
3/5/13
J. C. S. Bannu

01.4.2013

ORDER SHEET

Court of _____ Page _____

Case Title _____ of _____

No. and date	Order of the Proceedings with signature of Judge or Magistrate and that of parties or counsel where necessary.
--------------	--

has not committed his default/mis-conduct for the 1st time. He has been dealt with previously, as officials dealt with recently by awarding minor penalty to them. No discriminatory treatment has been given to the appellant and the decision of the authority is based on rational grounds.

The appellant did not allege any malafide, enmity or grudge against Clerk of Court or Civil Nazir or authority nor he alleged that he had been marked absent wrongly in the attendance register, *during inquiry* rather it is admitted on record that he was a habitual late comer also. He has also previously been awarded punishment of withholding annual increment for one year vide order # 97-102 dated 23.01.2012 and the penalty of reduction of lower stage in time scale was also imposed upon him vide order # 245 dated 15.03.2012. He has also been granted full opportunity of hearing and no prejudice has been caused to him for conducting inquiry through separate Inquiry Officer.

The record also reveals that he is careless and unwilling worker, having bad reputation for monetary consideration. He was granted full opportunity even by this Court by making entry of the appeal and hearing him but he did not appear on a single "Peshi" which shows his conduct.

JH
01.4.2013

ORDER SHEET

4

Page _____

No. of _____

Title _____

Order of the Proceedings with signature of Judge or Magistrate and that of parties or counsel where necessary.

No. and date

So, in the circumstances, the departmental appeal, being meritless, is dismissed.

File be consigned to the record room after its completion.

Announced
01.04.2013


M.A. Khan
01.4.2013
(MUHAMMAD ADIL KHAN)
DISTRICT & SESSIONS JUDGE,
BANNU

Seen

SCT, Bannu
3/5/13

AUTHORITY LETTER

Mr. Muhammad Shafiullah Khan, Junior Clerk/Naib Nazir of the court of undersigned is authorize to attend the Hon'ble court of Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal **No. 676 of 2013**, Muhammad Akhtar **Vs** District and Sessions Judge, Bannu etc fixed on 20.12.2013.



**SENIOR CIVIL JUDGE
BANNU
Respondent No. 2
Senior Civil Judge
Bannu**

BEFORE THE HONOURABLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 676/2013

Muhammad Akhtar

Versus

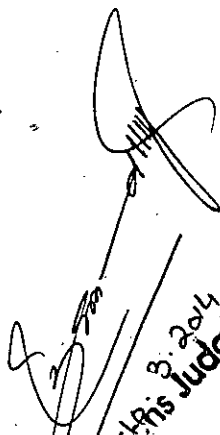
DSJ, Bannu etc

Respected Sir,

Written reply/comments on behalf of respondent No.1 in the service appeal of the appellant are submitted as under:-

Facts:-

- 1) Para No. 1 is correct.
- 2) Para No. 2 is correct.
- 3) Para No. 3 is not correct, as the Civil Nazir/Naib Nazir submitted report of absent 14 Process Servers and Bailiffs separately on 01/09/2012, whereas on the same date report in respect of absence of appellant Muhammad Akhtar (Ex-Process Server) was also submitted but independently. The report was not made jointly.
- 4) Para No. 4 is correct.
- 5) _____ Do _____
- 6) _____ Do _____
- 7) _____ Do _____
- 8) _____ Do _____
- 9) _____ Do _____
- 10) The allegation of appellant were totally different from the allegations imposed upon the other Process Servers and Bailiffs.
- 11) Para No. 11 is correct to the extent that being the Competent Authority (Senior Civil Judge) agreed upon the finding of both Inquiry Officers and imposed minor penalty of ensure upon 13 Process Servers and Bailiffs, because they were absent from duties not more than four days, whereas imposed major penalty of dismissal from service upon the appellant on the basis of Inquiry Officer as he remained absent from his duty for the period of 17 days as well as keeping past record of his mis-conduct.
- 12) Para No. 12 is correct.


District & Sessions Judge
Bannu.
31/08/2014

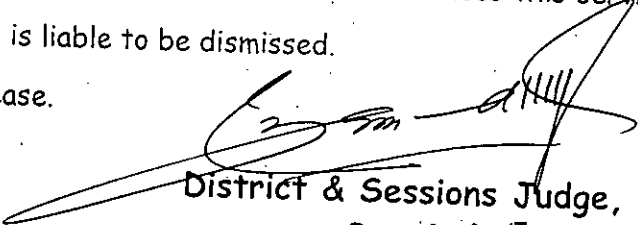
13) Para No. 13 is incorrect. The departmental appeal was presented on 15/01/2013 before the DSJ, Bannu (my learned predecessor) and was decided/dismissed on 01/04/2013.

Grounds: -

- a) The pursuant to the report dated 01.09.2012 in respect of absence of the appellant by the Civil Nazir of the Court of learned Senior Civil Judge, Bannu, the competent authority i.e Senior Civil Judge, Bannu appointed learned Civil Judge-cum-Judicial Magistrate-I, Bannu as Inquiry Officer. He after conducting inquiry found the appellant guilty of mis-conduct and willfull absence and forwarded report to the learned Senior Civil Judge, Bannu with recommendation for penalty under rule 4(1) (B) (iv) of Khyber Pakhtunkhwa Govt. Servants (Efficiency and Disciplinary) Rules, 2011. The then learned Senior Civil Judge, Bannu while concurring with the report of "Inquiry Officer" imposed upon the penalty of dismissal from service under the above mentioned rules and dismissed the appellant from service. It is further added that the appellant has been found guilty of mis-conduct previously and was warned on various occasions. The appellant has not committed his default/mis-conduct for the 1st time. No discriminatory treatment has been given to the appellant and the decision of the authority is based on rational grounds. He was also awarded punishment of withholding annual increment for one year and penalty of reduction of lower stage in time scale by the learned Senior Civil Judge, Bannu. The appellant was careless and unwilling worker, having bad reputation for monetary consideration. The appellant was granted full opportunity by this Court during his departmental appeal but he did not appear on a single "Peshi" which shows his conduct.
- b) The Senior Civil Judge (respondent No.2) being the Competent Authority has dismissed the appellant from service, found him guilty of mis-conduct.
- c) The appellant has been dealt with in accordance with service rules/regulations i.e Khyber Pakhtunkhwa Govt. Servant (E & D) Rules, 2011 and after conducting inquiry, has been dismissed from service.
- d) Para No. D, is incorrect.
- e) As stated above. Para No. E is incorrect.
- f) Para No. F, not concerned with this Office.
- g) Para No. G, not concerned with this Office.
- h) Para No. H, not concerned with this Office.

Keeping in view the above facts and circumstances this service appeal is baseless, which is liable to be dismissed.

Submitted please.


District & Sessions Judge,
Bannu. 10.3.2014

No. 398 / Dated: 10 / 03 / 2014.

From

The District & Sessions Judge,
Bannu.

To

The Secretary,
Govt. of Khyber Pakhtunkhwa,
Law Department,
Peshawar.

Through

Registrar, Honourable Peshawar High Court,
Peshawar.

Subject:-

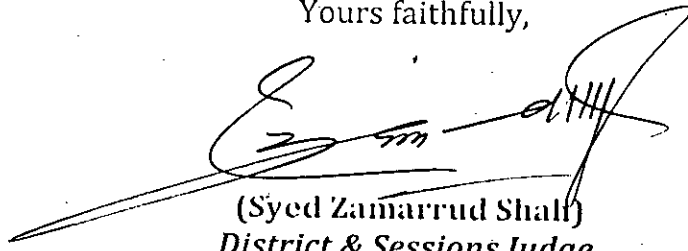
SERVICE APPEAL NO. 676/2013 TITLED
MUHAMMAD AKHTAR...VS...DISTRICT & SESSIONS
JUDGE, BANNU.

Dear Sir,

I have the honour to submit that the service appeal Muhammad Akhtar versus DSJ, Bannu is pending before the Service Tribunal, Khyber Pakhtunkhwa Peshawar. The Additional Advocate General, Service Tribunal, Khyber Pakhtunkhwa could not appear for want of sanction/authorization for the subject appeal.

It is, therefore, requested to accord the necessary sanction in favour of Additional Advocate General, Service Tribunal, Khyber Pakhtunkhwa to defend the subject appeal.

Yours faithfully,



(Syed Zamarrud Shall)
District & Sessions Judge,

Bannu.
District & Sessions Judge
Bannu.

AUTHORITY LETTER


Mr. Muhammad Shafiullah Khan, Junior Clerk/Naib Nazir of the court of undersigned is authorized to attend the Hon'ble court of Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal **No. 676 of 2013**, Muhammad Akhtar **Vs** District and Sessions Judge, Bannu etc fixed on 11.03.2014.


SENIOR CIVIL JUDGE
BANNU

Respondent No. 2

AUTHORITY LETTER

Mr. Abdullah Jan, Superintendent of this Court is hereby authorized to carry the reply/comments prepared by respondent No. 1 in service appeal No. 676/2013 on the date fixed i.e 11/03/2014 before the Honourable Service Tribunal, Khyber Pakhtunkhwa Peshawar.



District & Sessions Judge,
Bannu.
District & Sessions Judge
Bannu.

BEFORE THE HONOURABLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 76/2013

Muhammad Akhtar

Versus

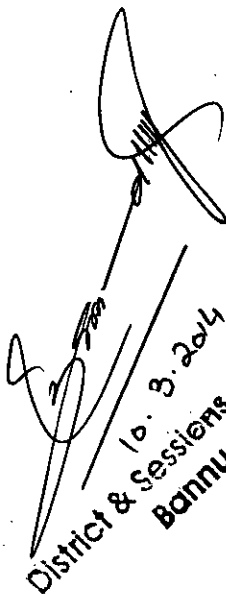
DSJ, Bannu etc

Respected Sir,

Written reply/comments on behalf of respondent No.1 in the service appeal of the appellant are submitted as under:-

Facts:-

- 1) Para No. 1 is correct.
- 2) Para No. 2 is correct.
- 3) Para No. 3 is not correct, as the Civil Nazir/Naib Nazir submitted report of absent 14 Process Servers and Bailiffs separately on 01/09/2012, whereas on the same date report in respect of absence of appellant Muhammad Akhtar (Ex-Process Server) was also submitted but independently. The report was not made jointly.
- 4) Para No. 4 is correct.
- 5) _____ Do _____
- 6) _____ Do _____
- 7) _____ Do _____
- 8) _____ Do _____
- 9) _____ Do _____
- 10) The allegation of appellant were totally different from the allegations imposed upon the other Process Servers and Bailiffs.
- 11) Para No. 11 is correct to the extent that being the Competent Authority (Senior Civil Judge) agreed upon the finding of both Inquiry Officers and imposed minor penalty of ensure upon 13 Process Servers and Bailiffs, because they were absent from duties not more than four days, whereas imposed major penalty of dismissal from service upon the appellant on the basis of Inquiry Officer as he remained absent from his duty for the period of 17 days as well as keeping past record of his mis-conduct.
- 12) Para No. 12 is correct.


10. 8. 2014
District & Sessions Judge
Bannu.

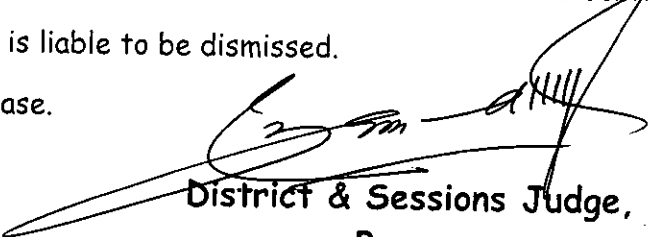
13) Para No. 13 is incorrect. The departmental appeal was presented on 15/01/2013 before the DSJ, Bannu (my learned predecessor) and was decided/dismitted on 01/04/2013.

Grounds:-

- a) The pursuant to the report dated 01.09.2012 in respect of absence of the appellant by the Civil Nazir of the Court of learned Senior Civil Judge, Bannu, the competent authority i.e Senior Civil Judge, Bannu appointed learned Civil Judge-cum-Judicial Magistrate-I, Bannu as Inquiry Officer. He after conducting inquiry found the appellant guilty of mis-conduct and willfull absence and forwarded report to the learned Senior Civil Judge, Bannu with recommendation for penalty under rule 4(1) (B) (iv) of Khyber Pakhtunkhwa Govt. Servants (Efficiency and Disciplinary) Rules, 2011. The then learned Senior Civil Judge, Bannu while concurring with the report of "Inquiry Officer" imposed upon the penalty of dismissal from service under the above mentioned rules and dismissed the appellant from service. It is further added that the appellant has been found guilty of mis-conduct previously and was warned on various occasions. The appellant has not committed his default/mis-conduct for the 1st time. No discriminatory treatment has been given to the appellant and the decision of the authority is based on rational grounds. He was also awarded punishment of withholding annual increment for one year and penalty of reduction of lower stage in time scale by the learned Senior Civil Judge, Bannu. The appellant was careless and unwilling worker, having bad reputation for monetary consideration. The appellant was granted full opportunity by this Court during his departmental appeal but he did not appear on a single "Peshi" which shows his conduct.
- b) The Senior Civil Judge (respondent No.2) being the Competent Authority has dismissed the appellant from service, found him guilty of mis-conduct.
- c) The appellant has been dealt with in accordance with service rules/regulations i.e Khyber Pakhtunkhwa Govt. Servant (E & D) Rules, 2011 and after conducting inquiry, has been dismissed from service.
- d) Para No. D, is incorrect.
- e) As stated above. Para No. E is incorrect.
- f) Para No. F, not concerned with this Office.
- g) Para No. G, not concerned with this Office.
- h) Para No. H, not concerned with this Office.

Keeping in view the above facts and circumstances this service appeal is baseless, which is liable to be dismissed.

Submitted please.


District & Sessions Judge,
Bannu
District & Sessions Judge
Bannu. 10.3.2014

BEFORE THE HONOURABLE SERVICE TRIBUNAL**KPK PESHAWAR**

Service Appeal No.676/2013

Muhammad AkhtarAppellant

V E R S U S

District and Sessions Judge Bannu and another

.....Respondents

**Rejoinder to the parawise
comments submitted on
behalf of respondent No.2
in the service appeal of the
appellant.**

Respectfully Sheweth:**Rejoinder to Preliminary Objections:**

1. Paras No.1 of preliminary objection is incorrect, hence denied.
2. Para No.2 of preliminary objection is correct to the extent that respondent No.2 Senior Civil Judge being a competent authority in the case of appellant and the Civil Nazir reported the appellant alongwith other similarly placed

Subordinate Staff while the rest of para is denied. Nor proper inquiry was conducted.

3. Para No.3 of the preliminary objection is correct to the extent that statement of allegations, charge sheet, and show cause notice were served upon the appellant but there is a clear contradiction in the report of Civil Naib Nazir, charge sheet, statement of allegations and show cause notice. The report of Civil Naib Nazim clearly indicates that the appellant was reported absent from his duty for a period of five days while the show cause notice, statement of allegations and charge sheet indicate a period of seven days absence from his duty.
4. Para No.4 of the preliminary objection is incorrect and discriminatory how the Respondent No.2 on the basis of same nature allegations can be agreed to two different penalties i.e minor and major, censure and dismissal.
5. Para No.5 of the preliminary objection is incorrect, hence denied. It is the duty of all Judicial, Executive Authorities to perform their

ii. Para No.3 is contradictory in its nature as the report of Civil Nazir clearly states the name of appellant as Serial No.7 alongwith others and reported accordingly for absence from duty.

iii. Paras No.4,5,6,7,8 and 9 need no further replication.

iv. Para No.10 is totally incorrect hence denied. The appeal fully explains the facts and circumstances, the nature of allegations and the discriminatory treatment meted out to the present appellant leaves no doubt that the case of present appellant was different than the case of other similarly placed Subordinate Staff.

v. Para No.11 of the reply is totally incorrect, hence denied. As stated above there are contradictions in the report of Civil Nazir, statement of allegations and charge sheet regarding absence of duty of the appellant.

vi. Para No.12 needs no further replication.

vii. Para No.13 relates to record.

Rejoinder as to Grounds of Reply

- A. Ground A of reply is incorrect.
- B. Ground B of reply is correct to the extent that respondent No.2 being the competent authority in case of the appellant while it was the bounded duty of the competent authority to act in accordance with law.
- C. Ground C of the reply is incorrect, hence denied.

Keeping in view what has been stated above, it is, therefore, most humbly prayed that the objections and grounds raised in the parawise comments/reply may kindly be dismissed as being devoid of merit and substance and with further prayer to reinstate the appellant with all consequential back benefits by setting aside the impugned orders.

Appellant
Through

Inayat Ullah Khan
Inayat Ullah Khan

Date:06.06.2014

Inayat Ullah Khan
Advocate High Court
Peshawar
LLM (UK).

BEFORE THE HONOURABLE SERVICE TRIBUNAL
KPK PESHAWAR

Service Appeal No.676/2013

Muhammad Akhtar**Appellant**

V E R S U S

District and Sessions Judge Bannu and another

.....**Respondents**

**Rejoinder to the parawise
comments submitted on
behalf of respondent No.1
in the service appeal of the
appellant.**

Respectfully Sheweth:

1. Paras No.1 & 2 need no further replications/clarifications.
2. Para No.3 is incorrect hence denied. According to Para No.3 of the appeal, the Civil Nazir/ Naib Nazir to the court of Senior Civil Judge Bannu reported 14 Subordinates Staff including the appellant. The report of Civil Nazir/ Naib Nazir clearly mentioned the name of the appellant at Serial No.7, therefore the contention raised in

the parawise comments has no substance at all and could not be substantiated from the record/report. Particularly the report has been prepared with malafide intention whereby the appellant was made target as it indicates from the first three paras of the report. Or, otherwise if there is any separate report available on record that is contradictory the report annexed with the appeal.

3. Paras No.4, 5, 6, 7, 8 and 9 need no further clarifications/ replication.
4. Para No.10 of the parawise comments is totally incorrect as the present appellant alongwith others were reported to the effect that all of them were absent from their duties on different dates and the report annexed with the appeal indicates that the appellant was reported absent for five days i.e 01.08.2012, 06.08.2012, 15.08.2012, 24.08.2012 and 31.08.2012, therefore it becomes crystal clear that all of the Subordinates Staff were reported for absence from their duties. So the allegations are same in nature whereby two different yardsticks were applied which

amounts to discrimination and consequently offends the various Articles of the Constitution Islamic Republic of Pakistan 1973.

5. Para No.11 is incorrect being a misleading one, hence denied. As already mentioned in the grounds of the instant appeal that the impugned order dated 18.12.2012 and the inquiry conducted by two different Inquiry Officers is violative of Article 2-A, 4 and 25 of the Constitution of Islamic Republic of Pakistan as stated earlier, which prohibits/ shun discrimination in its all forms as discriminatory treatment has been meted out to the present appellant by specifically preferred his inquiry to a separate Inquiry Officer on the basis of the same nature allegations i.e absence from duty. Both the Inquiry Officer recommended different penalties that is major and minor as in the case of 13 similarly placed subordinates staff were awarded a minor penalty of censure, while the present appellant alone has been targeted and consequently on the basis of malafide, ill-will, imposed the major penalty of dismissal from service on him which cannot be sustainable in the eyes of law.

6. Paras No.12 & 13 need no replication.

GROUND S:

- A. Ground A of parawise comments is totally incorrect, hence denied. The case of the appellant in no way is different then the case of other Subordinate Officers. It was claimed in para No.11 of the parawise comments that the appellant remained absent from his duty for a period of 17 days which is totally incorrect. As explained above according to the report of Civil Nazir, the appellant was only reported for a period of five days duly mentioned therein so ground A is contradictory to Para No.11, the report of Civil Nazir and further more even to the statement of allegations and charge sheet, wherein it was reported to the effect that the appellant was absent for a period of seven days. The above contradictions clearly suggest one thing that malafide of the respondents is not only floating on the face of record but leaping therefrom.
- B. Ground B of the parawise comments is incorrect, hence denied. No doubt that

respondent No.2 being the competent authority did not apply her independent mind to the nature of allegations levelled against the appellant and 14 other Subordinates similarly placed Staff. Rather, the competent authority, as clearly transpires from the record was determined to target the appellant alone and that's why the inquiry was conducted through a separate Inquiry Officer to impose the desired punishment of dismissal against the establish norms of justice which also amounts to violation of the fundamental rights of the appellant as enshrined in the Constitution of Islamic Republic of Pakistan 1973. Which refers to that all citizens of Pakistan are entitled to equal protection and treatment in accordance with law and no body should be discriminated in any form whatsoever. The competent authority was required to apply her mind independently to the facts and circumstances of the appellant's case and was legally bound to convert the penalty of dismissal into censure as it was awarded to other similarly placed Subordinate Staff on the basis of the same nature allegations. As far as the question raised that the appellant was also

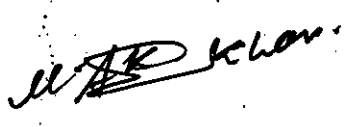
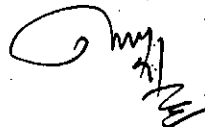
previously warned to be careful in future this plea has no substance and force at all on the grounds, **firstly**, that no such allegations were levelled against the appellant in the statement of allegations or in the show cause notice or charge sheet, **secondly**, no one can be vexed twice for the same allegations as it was violative of the mandatory provisions of the Constitution of Islamic Republic of Pakistan 1973, and, **thirdly**, the quantum of punishment that is dismissal imposed on the present appellant does not commensurate with the allegations levelled particularly when the present appellant specifically denied absence from his duty while some of the reported staff categorically made confession to their respective absence from duty. **Forthly**, the Civil Naib Nazir was required by law to report the absence of the appellant from his duty immediately to the Magistrate on duty who was having the powers of Senior Civil Judge in the month of August where the courts were closed on account of summer vacations. The absence from duty of the appellant was reported by Civil Nazir after lapse of three or more months, while the Civil Naib Nazir legally speaking, was duty

bound to report any such absence immediately to the Judicial Officer Incharge.

- C. Ground C of the parawise comments is incorrect, hence denied. Discriminatory treatment has been meted out to the appellant.
- D. Paras No.D & E of the parawise comments are incorrect, hence denied.
- E. Para F, G and H of the ground need no further replication.

Keeping in view what has been stated above, it is, therefore, most humbly prayed that the objections and grounds raised in the parawise comments may kindly be dismissed as being devoid of merit and substance and with further prayer to reinstate the appellant with all consequential back benefits by setting aside the impugned order.

Appellant
Through



Inayat Ullah Khan
Advocate High Court
Peshawar
LLM (UK).

Date:06.06.2014

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 1433 /ST

Dated 17 / 9 / 2015

To


The Senior Civil Judge,
Barra.

Subject: - Judgement

I am directed to forward herewith a certified copy of Judgement dated 10.9.2015 passed by this Tribunal on subject for strict compliance.

Encl: As above

O/C


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

Before the Service Tribunal Khyber Pakhtunkhwa, Peshawar

Mohammad Akhtar — Appellant

Early Hearing
Application in
Service Appeal
10. 676/2013.

versus.

District & Sessions Judge —
Bannu.

~~_____~~
491
9-6-14

Application for short date in the
above titled case being case of dismissal

Respectfully Sheweth!

- (1) That the above titled Service Appeal was fixed before this Honorable Tribunal on 06-06-2014 for reconsideration.
- (2) That this Honorable Tribunal fixed next date of hearing in the month of November i.e 27/11/2014
- (3) That the appellant has been dismissed from service since 18-12-2012 and being the case of dismissal, it is therefore, humbly requested to fix a short date to meet the ends of justice.

Note: It is requested that the date may kindly be accelerated from Nov to September and obliged.

M. Akhtar
Appellant

Mohammad Akhtar

Date: 06-06-2014

Place on
file, and
keep pending
till situation
improves.
20/6/14

Before the Service Tribunal Khyber Pakhtunkhwa, Peshawar

Mohammad Akhtar — Appellant

versus.

District & Sessions Judge —
Bannu.

Application for short date in the
above titled case being case of dismissal

Respectfully Sheweth!

- (1) That the above titled Service Appeal was fixed before this Honible Tribunal on 06-06-2014 for rejoinder.
- (2) That this Honible Tribunal fixed next date of hearing in the month of November i.e 27/11/2014
- (3) That the appellant has been dismissed from Service since 18-12-2012 and being the case of dismissal, it is therefore, humbly requested to fix a short to meet the ends of justice.

Note: It is requested that the date may kindly be accelerated from Nov to September and obliged.

M. Akhtar
Appellant

Mohammad Akhtar

Date: 06-06-2014