

17.05.2016

No one is present on behalf of the appellant. Mr. Ziaullah. GP for respondents present. Notices be issued to the appellant and his counsel. To come up for arguments on 10.10.2016.


Member


Member

10.10.2016

None present on behalf of the appellant. Mr. Muhammad Jan, GP for respondents present. Notice be issued to appellant and his counsel for arguments for 09-02-2017 before D.B.

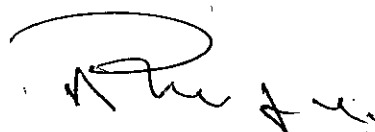

(ABDUL LATIF)
MEMBER

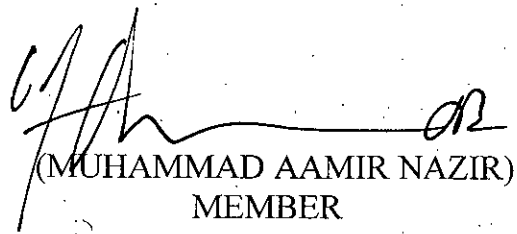

(PIR BAKHSH SHAH)
MEMBER

09.02.2017

None present for appellant. Asst: AG for respondents present. The court time is about to over but non-appeared on behalf of the appellant nor the appellant was present in person despite issuance of the notice to appellant and his counsel, therefore, the instant appeal is hereby dismissed in default. File be consigned to the record room.

ANNOUNCED:
09.02.2017


(ASHFAQUE TAJ)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

27.11.2014

Appellant in person and Mr. Muhammad Jan, GP for the respondents present. The Tribunal is incomplete. To come up for the same on 11.02.2015.


READER

11.02.2015

None present for appellant. Addl: A.G for respondents present. Rejoinder not submitted. The case is assigned to D.B for rejoinder and final hearing for 13.08.2015.


Chairman

13.08.2015

Counsel for the appellant and Muhammad Jan, GP for the respondents present. Counsel for the appellant requested for adjournment. Request accepted. To come up for rejoinder and arguments on 19-01-2016.

Member


Member

19.01.2016

None present for appellant. Mr. Mukhtiar Ali, Supdt. alongwith Addl: A.G for respondents present. Due to non-availability of learned counsel for the appellant as well as incomplete Bench therefore, case is adjourned to 17.5.16 for arguments


MEMBER

1172/13

26.2.2014

Clerk to counsel for the appellant and Mr. Muhammad Jan, GP with Khursheed Khan, SO for respondent No. 3 present and requested for time. Notices be issued to respondents No. 1 and 2. To come up for written reply on 11.4.2014.



MEMBER

11.4.2014

Appellant in person and GP Muhammad Jan with Sultan Shah, Assistant and Khursheed Khan, SO for respondents present and reply filed. Copy handed over to appellant for rejoinder on 24.6.2014.



MEMBER



MEMBER

24.6.2014.

Appellant in person and AAG with Sultan Shah, Assistant for the respondents present. Appellant requested for time to file rejoinder. To come up for rejoinder on 16.09.2014.



MEMBER

16.09.2014

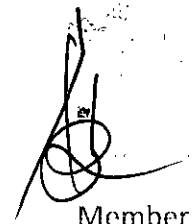
Counsel for the appellant and Mr. Muhammad Adeel Butt, AAG with Sultan Shah, Assistant for respondents present. The learned Member (Judicial) is not working due to a recent order affecting his status as District & Sessions Judge. To come up as before on 26.11.2014.



READER

Appellant deposited
Process fee & Security
Rs. 1800/- Bank Receipt
attached with file

the security amount and process fee within 10 days. Thereafter, notice be issued to the respondents. Case adjourned to 09.10.2013 for submission of written reply. Appellant has also submitted an application for the suspension of the impugned appellate order dated 15.07.2013 passed on departmental appeal dated 11.06.2013 till the final decision of the appeal. Notice of application should also be issued to the respondents for reply/arguments on the date fixed.


Member

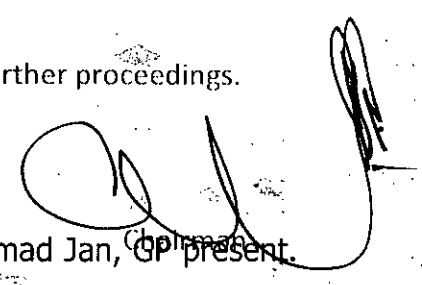
4.


23.08.2013

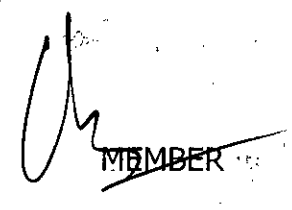
This case be put before the Final Bench TS for further proceedings.

9.10.2013.

Appellant in person and Mr. Muhammad Jan, GP present. Fresh notices be issued positively to the respondents. To come up for written reply on 26.12.2013.

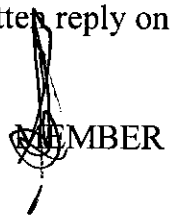

Chairman

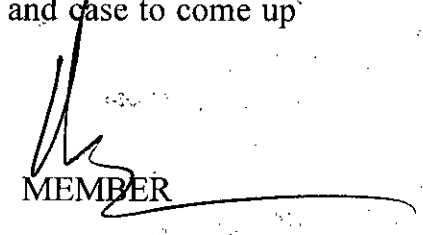
MEMBER



MEMBER

26.12.2013.

Appellant in person and Mr. Ziaullah, GP present. Notices have not been issued to the respondents despite clear direction. Notices be issued to the respondents and case to come up for written reply on 26.2.2014.

MEMBER



MEMBER

Appeal No. 1172/2013
Mr. Noor Hussain.

23.08.2013

Appellant with counsel present and filed application for fixing of appeal of the appellant for early hearing for the reason that the appellant is jobless and the respondents are to recover the amount as payment made to him on account of subsistence allowance drawn by him. Application is allowed and to come up for preliminary hearing on today.

Preliminary arguments heard. Counsel for the appellant contended that appellant has not been treated in accordance with law/rules. The impugned appellate order date 15.07.2013 as received by the appellant on 22.07.2013 is illegal and not sustainable in the eye of law on the ground that:-



- (i) No reason has been given as required under the law;
- (ii) No charge sheet, statement of allegation issued nor any show cause notice has been issued to the appellant as required under rule-5 (1)(a) of the Khyber Pakhtunkhwa Government servant (E&D) rule 2011;
- (iii) No proper inquiry has been conducted before the issuing of original order dated 21.05.2013 by the Establishment Department;
- (iv) The appellant has been condemned unheard;
- (v) That a criminal appeal of the appellant against the judgment of the Accountability Court No.1 Peshawar is lying pending before the Peshawar High Court Peshawar.
- (vi) That vide order dated 08.11.2012, the appellant was directed to reported for duty in the Elementary and Secondary Education during his suspension since 19.11.2012 and ;
- (vii) That the original order dated 21.05.2013 has been with retrospective effect.

Points raised need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1172/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	29/07/2013	<p>The appeal of Mr. Noor Hussain presented today by Mr. Muhammad Asif Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	31-7-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>29-8-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

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

Appeal No. 1172/13

Noor HussainPetitioner

Versus

Govt. of KPK through Secretary, Establishment Department,
Civil Secretariat, Peshawar. & othersRespondents

I N D E X

S.No.	Description of documents.	Annexure	Pages.
1.	Grounds of appeal		1-5
2.	Affidavit		5/A
3.	Application for suspension		6-7
4.	Affidavit		8
5.	Addresses of parties		9
6.	Copy of appointment order dated 15.06.1985 and 17.10.1985	A	10-11
7.	Copy of appointed order dated 18.02.2007 and 31.05.2004	B	12-13
8.	Copy of Application dated 25.08.2007	C	14
9.	Copy of Advice of Law Department dated 31.04.2008	D	15
10.	Copy of Criminal Appeal before High Court alongwith order of High Court dated 25.03.2010	E	16-20
11.	Copy of Notification/Dismissal Order dated 21.05.2013	F	21
12.	Copy of Departmental Appeal	G	22-24
13.	Copy of letter to Noor Husain dated 14.07.2013	H	25
14.	Copy of Letter to Noor Hussain dated 08.11.2012	I	26
15.	Copy of Arrival report dated 19.11.2012	J	27
16.	Wakalatnama		28

Noor Hussain
Appellant

Through

Muhammad Asif
Muhammad Asif

Advocate, High court

Off: Sayed Ahmad Ali Buildings

Near Taj Autos, Sonehri

Muasjid Road Peshawar Cantt.

Cell: 0302-8885187

Dated: 29.07.2013

①

BEFORE THE CHAIRMAN KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Appeal No. 1172/13

~~1193~~
~~29/7/13~~

Noor Hussain S/o Juma Khan

R/o House No.113/3 Kassi Mohallah, Saddar Bazar, Nowshera Cantt.

.....Petitioner

Versus

1. Govt. of KPK through Secretary, Establishment Department, Civil Secretariat, Peshawar.
2. Govt. of KPK through Chief Secretary, Civil Secretariat, Peshawar.
3. Govt. of KPK through Secretary, Elementary and Secondary Education Department, Civil Secretariat, Peshawar.

..... Respondent

Appeal u/s 4 of the NWFP Service Tribunal Act, whereby Departmental Appeal filed on 11.06.2013 by the appellant against the dismissal, has been regretted on 15.07.2013 received by appellant on 22.07.2013 through which vide order dated 21.05.2013 issued by respondent No.1 the appellant has been dismissed from service by imposing major penalty of dismissal from service with effect from the date of his conviction by National Accountability Court-I, Peshawar on 29.01.2010.

~~1193~~
~~29/7/13~~

Prayer:

On accepting this appeal, the order dated 21.05.2013 and 15.07.2013 may kindly be cancelled and the appellant be reinstated in service with all back benefits.

Respectfully Submitted:

The appellant humbly submits as under:-

1. That appellant joined the service in the year 1984 as steno-typist on adhoc basis in Information Department, Civil Secretariat, Peshawar.
2. That in the year 1985 the services of the appellant was regularized on passing of departmental examination and was posted in Home Department as Steno-typist (BPS-12). (Copy of Regularization is Annexure "A")
3. That in the year 1996 the appellant was transferred to the department of Auqaf, Hajj, Religious and Minority, Civil Secretary, Peshawar.
4. That in the year 2004 on the basis of Departmental Promotion, Appellant was promoted from BPS-12 to BPS-15 and was posted/ transferred in Elementary and Secondary Education, Civil Secretariat, Peshawar as Stenographer. (Copy of order is Annexure "B")
5. That on 31.08.2006 the appellant was arrested by NAB authorities in a concocted case. However, prior to arrest appellant use to attend the office of NAB on their orders.
6. That appellant remained in jail till 01.08.2007 when the appellant was released on bail by the Hon'ble Peshawar High Court, Peshawar.

7. That after release of bail appellant moved an application to the department on 25.08.2007, which was referred to Law Department through Establishment Department (Photocopy of the letter is Annexure "C")
8. That on the advice of law department, appellant was not reinstated in service till the court proceedings are terminated against him. (Photocopy of the Advice is Annexure "D")
9. That on the other hand after conclusion of the trial, appellant was convicted and sentenced to 4 months R.I. and fine of Rs.5000/-.
10. That appellant filed an appeal in the hon'ble Peshawar High Court, Peshawar, which was admitted for full hearing and is still pending and the next date of hearing is fixed as 11.09.2013. (Annex "E")
11. That till 21.05.2013 appellant remained suspended when all of a sudden the appellant received the termination/dismissal order on 24.05.2013. (Copy of order is attached as Annex "F")
12. That appellant filed the Departmental Appeal on 11.06.2013 and the appellant was informed through letter dated 15.07.2013 received by appellant on 22.07.2013 with the following reply

"and to inform you that your appeal has been regretted by the competent authority"


(Copy of the departmental appeal is Annex "G" while the reply is Annex "H")

13. That aggrieved with, appellant has come before this Tribunal for setting aside the orders of respondents on the following grounds.

GROUNDS

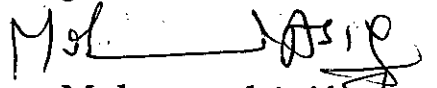
- A. That order dated 21.05.2013 issued by Secretary Establishment is against law and facts. Hence, untenable in the eyes of law.

It is therefore, requested that on acceptance of this appeal, the impugned order dated 15.07.2013 passed on Departmental Appeal issued may kindly be modified to the extent that the appellant may kindly be reinstated in service with all back benefits.



Appellants

Through



Muhammad Asif

Advocate, Peshawar

SA

BEFORE THE CHAIRMAN KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

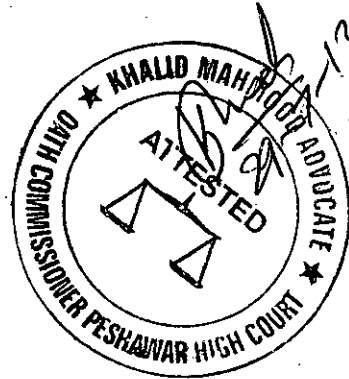
Noor HussainPetitioner

Versus

Govt. of KPK through Secretary, Establishment Department,
Civil Secretariat, Peshawar. & others Respondents

AFFIDAVIT

I, Noor Hussain S/o Juma Khan R/o House No.113/3 Kassi Mohallah, Saddar Bazar, Nowshera Cantt (Appellant), do hereby affirm and declare on oath that the contents of the accompanying Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



Deponent

(6)

BEFORE THE CHAIRMAN KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Noor HussainPetitioner

Versus

Govt. of KPK through Secretary, Establishment Department,

Civil Secretariat, Peshawar. & othersRespondents

**APPLICATION FOR THE SUSPENSION OF ORDER
OF DISMISSAL DATED 21.05.2013 AND ORDER ON
DEPARTMENTAL APPEAL DATED 15.07.2013 TILL
THE FINAL DECISION OF THE APPEAL.**

Respectfully Submitted:

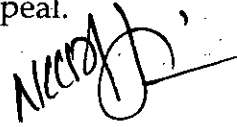
Petitioner submits as under:-

1. That the above noted appeal has been instituted in this Hon'ble Tribunal in which date of hearing has not been fixed so far.
2. That Prima-facie petitioner has a good case in his favour.
3. That against the conviction and sentence the appeal of the petitioner is pending in the Hon'ble Peshawar High Court, Peshawar, which has not been decided so far, but on the other hand petitioner has been dismissed from service from the date when petitioner was convicted by the court.
4. That the order of dismissal is totally illegal for the reasons mentioned in the appeal.
5. That in case the dismissal order dated 21.05.2013 and order on Departmental Appeal dated 15.07.2013 are not suspended till the

final disposal of the appeal, petitioner would suffer an irreparable loss. Affidavit is given to this effect.

6. That balance of convenience is also in favour of the petitioner.

It is, therefore, requested that on acceptance of this application the orders dated 21.05.2013 and 15.07.2013 may kindly be suspended till the final decision of the appeal.



Petitioner

Through



Muhammad Asif
Advocate, Peshawar

(8)

BEFORE THE CHAIRMAN KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Noor HussainPetitioner

Versus

Govt. of KPK through Secretary, Establishment Department,
Civil Secretariat, Peshawar. & othersRespondents

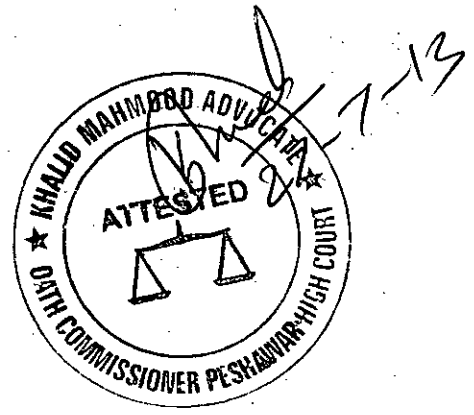
AFFIDAVIT

I, Noor Hussain S/o Juma Khan R/o House No.113/3 Kassi Mohallah, Saddar Bazar, Nowshera Cantt (Appellant/ Petitioner), do hereby affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Noor Hussain

Deponent

NIC No 17201-2307235-9



BEFORE THE CHAIRMAN KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

(9)

Noor HussainPetitioner

Versus

Govt. of KPK through Secretary, Establishment Department,
Civil Secretariat, Peshawar. & othersRespondents

ADDRESSES OF THE PARTIES

APPELLANT:

Noor Hussain S/o Juma Khan

R/o House No.113/3 Kassi Mohallah, Saddar Bazar, Nowshera Cantt.

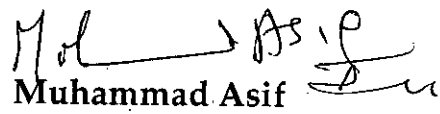
RESPONDENTS

1. Govt. of KPK through Secretary, Establishment Department,
Civil Secretariat, Peshawar.
2. Govt. of KPK through Chief Secretary, Civil Secretariat,
Peshawar.
3. Govt. of KPK through Secretary, Elementary and Secondary
Education Department, Civil Secretariat, Peshawar.



Appellant

Through



Muhammad Asif
Advocate, Peshawar

REGISTERED IMMEDIATE

GOVERNMENT OF N. W. F. P.
SERVICES AND GENERAL ADMINISTRATION
DEPARTMENT
(SERVICES WING)

NO. SCS-IV(S&GAD)3(358)/85.

ORDER.

Mr. Noor Hussain is offered a post of Stenographer in the Basic Pay Scale of Rs. 750-40-1550 (B-12) with usual allowance as admissible under the rules.

2- His employment in the Secretariat is purely temporary and his services are liable to be terminated without assigning any reason at 14 days' notice or on the payment of 14 days' salary in lieu of the notice period.

3- He has to join duty at his own expense.

4- In case he wishes to resign at any time, 14 days' notice will be necessary or in lieu thereof 14 days' pay may be forfeited.

5- He shall produce a medical certificate of fitness from Medical Superintendent, Civil Hospital, Peshawar before reporting himself for duty in the Secretariat, as required under the rules. In case he is already in Government Service and had produced the required certificate at the time of his first appointment, he is not required to produce it, provided he has applied for the job in the Secretariat through proper channel.

6- He will be governed by such rules and orders relating to leave, travelling allowance, medical attendance Pay etc., as may be issued by Government for the category of Government Servants to which he will belong.

7- If he accepts the post on these conditions, he should report for duty to the Section Officer(Services-IV), S&GAD on or after 15-6-1985 and produce original certificates in connection with his qualifications, domicile and age.

8- The offer will be cancelled if no reply is received by 30-6-1985 or if he fails to report for duty upto that date.

(FAIZULLAH KHAN),
SECTION OFFICER(SERVICES-IV).

Mr. Noor Hussain S/O Juma Khan

G/O New Pak General Store

Sadar Bazar Nowshera Cantt.

P.T.O.

Endst: No. SOS-IV(S&GAD)3(358)/85, dated Peshawar, the

Copy forwarded for information and necessary

action to the _____
with reference to his No. _____

It is requested that the official may please be relieved to
enable him to report for duty in the NWFP Secretariat on or
after 15-6-1985.

(FAIZULLAH KHAN)
SECTION OFFICER (SERVICES-IV)

(11)

GOVERNMENT OF N.W.F.P.
SERVICES AND GENERAL ADMINISTRATION
DEPARTMENT
(SERVICES WING)

NO. SOS-IV(S&GAD)3(358)/85.

ORDER.

On the recommendations of Departmental Selection Committee the following candidates are hereby selected and appointed in order of merit as Stenographers in the Basic Pay Scale of Rs. 750-40-1550 (B-12) in the NWFP Secretariat on the terms and conditions as laid down in their offers of appointment and posted in the Departments from the dates noted against each :-

S.No.	Name	Department	Date of appointment.
1-	Mr. Khalid Pervez.	Finance Deptt:	30-6-1985 (A.N.)
2-	Mr. Raees Ahmad.	P&D Department.	24-6-1985 (F.N.)
3-	Mr. Noor Hussain.	Home Department.	15-6-1985 (F.N.)
4-	Mr. Muhammad Hayat.	P&D Department.	15-6-1985 (F.N.)
5-	Mr. Habib Ahmad Shakir.	Finance Deptt:	18-6-1985 (F.N.)
6-	Mr. Rehmatullah.	Irrigation Deptt:	15-6-1985 (F.N.)
7-	Mr. Muhammad Javed.	Education Deptt:	15-6-1985 (F.N.)
8-	Mr. Shafi Muhammad.	Finance Department.	15-6-1985 (F.N.)
9-	Mr. Nesar Khan.	Finance Department.	15-6-1985 (F.N.)
10-	Syed Wali Shah.	P&D Department.	15-6-1985 (F.N.)
11-	Mr. Sajjad Ahmad Jan.	Population Welfare	15-6-1985 (F.N.)
12-	Mr. Sohail Durrani	Home Department.	30-6-1985 (F.N.)
13-	Mr. Lal Saeed.	Irrigation Deptt:	24-6-1985 (F.N.)
14-	Haji Muhammad.	Local Govt: Deptt:	15-6-1985 (F.N.)
15-	Mr. Naqeebullah Khan.	Local Govt: Deptt:	26-6-1985 (F.N.)
16-	Mir Shah Jehan.	Home Department.	15-6-1985 (F.N.)
17-	Mr. Sardar Bahadur.	Finance Department.	29-6-1985 (A.N.)
18-	Mr. Muhammad Iqbal.	Governor Sectt:	15-6-1985 (F.N.)
	S/O Abdul Qayyum.		29-6-1985 (F.N.)
19-	Mr. Sufaid Gul.	Law Department.	
20-	Mr. Ismail Shah.	Industries Deptt:	23-6-1985 (F.N.)
21-	Mr. Tasleem Khan.	Industries Deptt:	15-6-1985 (F.N.)
22-	Mr. Rookh Ayaz.	Local Govt: Deptt:	15-6-1985 (F.N.)
23-	Mr. Muhammad Anwar Khan.	Population Welfare	30-6-1985 (F.N.)
24-	Mr. Naik Dar Ali.	Local Govt: Deptt:	24-6-1985 (F.N.)
25-	Mr. Gul Mareen.	Irrigation Deptt:	15-6-1985 (F.N.)
26-	Mr. Muhammad Iqbal.	Agriculture Deptt:	15-6-1985 (F.N.)
27-	Mr. Hazrat Dayan.	P&D Department.	15-6-1985 (F.N.)
28-	Mr. Fazli Haq.	Agriculture Deptt:	26-6-1985 (F.N.)
29-	Mr. Muhammad Sanni Khan.	Education Deptt:	15-6-1985 (F.N.)

DATED PESHAWAR
THE 17TH OCT:85:

SECRETARY TO GOVERNMENT OF N.W.F.P.
SERVICES AND GENERAL ADMINISTRATION DEPTT:

Endst; NO. SOS-IV(S&GAD)3(358)/85 dated Peshawar, the 17th October, 1985.

Copy forwarded for information and n/a to:-

- 1- The Accountant General, NWFP, Peshawar.
- 2- The Section Officer (General) Home Department.
- 3- The Section Officer (General) Local Govt: Department.
- 4- The Section Officer (General) Education Department.
- 5- The Section Officer (General) Law Department.
- 6- The Section Officer (Estt:) Irrigation Department.
- 7- The Section Officer (Admn) Finance Department.
- 8- The Section Officer (Admn) Agriculture Department.
- 9- The Section Officer (PP&W) Population Welfare Department.
- 10- The Section Officer (General) P&D Department.
- 11- The Section Officer (Admn) Industries Department.
- 12- The Section Officer (Admn) Governor's Secretariat.
- 13- Officials concerned.
- 14- Personal files.

(FAIZULLAH KHAN)
SECTION OFFICER (SERVICES-IV).

ATTN TO BE
TRUE COPY
Ma P. A. J.



GOVERNMENT OF NWFP
ESTABLISHMENT DEPARTMENT
(ESTABLISHMENT WING)

Dated Peshawar, the 18th February, 2004

Amended B (12)

ORDER

No. SOE.IV (E&AD) 1-7/2003. - On the recommendations of the Departmental Promotion Committee, the following Stenographers (BS-12) of the Civil Secretariat, NWFP, are hereby appointed as Senior Scale Stenographers (BS-15) on Acting charge basis, with immediate effect. -

S. No	Name
1.	Mr. Raees Ahmad
2.	Mr. Noor Hussain
3.	Mr. Mohammad Hayat
4.	Mr. Habib Ahmad Shakir
5.	Mr. Rehmat Ullah
6.	Mr. Mohammad Javed
7.	Mr. Shafi Mohammad
8.	Mr. Nasir Khan
9.	Mr. Sajjad Ahmad Jan
10.	Mr. Lal Saeed
11.	Mr. Haji Mohammad
12.	Mr. Naqeebullah Khan
13.	Mr. Mir Shah Jehan
14.	Mr. Sardar Bahadur
15.	Mr. Muhammad Iqbal
16.	Mr. Sufaid Gul
17.	Mr. Ismail Shah
18.	Mr. Taseem Khan
19.	Mr. Rooh Ayaz Khan
20.	Mr. Muhammad Anwar Khan
21.	Mr. Naik Dar Ali Khan
22.	Mr. Gul Mareen

2. Consequent upon their appointment as Senior Scale Stenographers, on Acting charge basis, the following transfers/postings are hereby ordered, with immediate effect: -

S.No	Name	From	To
1.	Mr. Raees Ahmad	E&A Department	E&A Department
2.	Mr. Noor Hussain	Auqaf Department	Schools & Literacy Department
3.	Mr. Mohammad Hayat	Home & TAs Department	Works & Services Department
4.	Mr. Habib Ahmad Shakir	Local Govt. & RD Department	Industries Department
5.	Mr. Rehmat Ullah	Finance Department	Auqaf Department
6.	Mr. Mohammad Javed	Law Department	Information Department
7.	Mr. Shafi Mohammad	Higher Education Department	Science & Technology Department
8.	Mr. Nasir Khan	Schools & Lit. Department	Schools & Lit. Department
9.	Mr. Sajjad Ahmad Jan	Home & TAs Deptt.	Home & TAs Deptt.



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

(Regulation Wing)

Dated Peshawar the, 19th June 2012

NOTIFICATION

No.FD/SO(FR)10-22/2012.

The competent authority has been pleased to accord sanction to the enhancement of pay scales of the following posts, in the Provincial Secretariat, of the Khyber Pakhtunkhwa, with effect from 23.12.2011:

S#	Nomenclature of the Post	Existing Pay Scale	Enhanced Pay Scale.
1.	Stenographers	BPS-12	BPS-14
2.	Senior Scale Stenographer	BPS-15	BPS-16
3	Personal Assistants	BPS-15	BPS-16
4/	Private Secretaries	BPS-16	BPS-17

- i). The pay of the existing incumbents of the posts shall be fixed in the higher pay scale at a stage next above the pay in the lower pay scale.
- ii). With effect from 23.12.2011, the academic qualification for initial recruitment against the posts of Stenographers (BPS-14) will be Intermediate or equivalent and against the posts of Senior Scale Stenographers / PAs (BPS-16) will be Graduation or equivalent.
- iii). The Establishment & Administration Department, will amend the service rules, accordingly.
- iv). For the posts of Stenographers, Senior Scale Stenographers, Personal Assistants and Private Secretaries, in the Secretariat, a separate "Private Secretaries" cadre will be constituted and notified by the Establishment & Administration Department.
- v). The existing Private Secretaries of the Secretariat, shall have an option to exercise for "Private Secretaries cadre" or for "PMS cadre", within 60-days, from the date of issuance of notification for the constitution of separate "Private Secretaries cadre". The option once exercised shall be final, and shall not be modified or withdrawn.
- vi). Only those Private Secretaries of the Secretariat, will be entitled for the enhanced Pay Scale (BS-17) who opt for "Private Secretaries cadre". Those who opt for the PMS cadre, will continue to be in BS-16.
- vii). The Personal Assistants (BPS-16) of the Secretariat, shall have an option to exercise for "Private Secretaries cadre" or for "PMS cadre", within 60-days from the date of issuance of notification, for the separate "Private Secretaries cadre". The option once exercised shall be final and shall not be modified or withdrawn.
- viii). If a Private Secretary or a Personal Assistant of the Secretariat fails to exercise his option for any one of the cadre, within the prescribed limit of 60-days, it will be deemed that he has opted for the "Private Secretaries cadre" and as such he will not be allowed to change the cadre later on.

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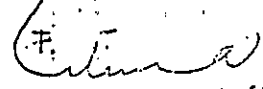
Mol [Signature]

SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Endst: No. & Date Even.

Copy is forwarded to:

1. All Administrative Secretaries, Khyber Pakhtunkhwa.
2. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. Accountant General, Khyber Pakhtunkhwa.
4. Secretary to Governor, Khyber Pakhtunkhwa Peshawar.
5. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. Secretary Provincial Assembly, Khyber Pakhtunkhwa.
7. Registrar, Peshawar High Court, Peshawar.
8. Registrar Khyber Pakhtunkhwa Public Service Commission Peshawar.
9. Registrar Service Tribunal, Khyber Pakhtunkhwa.
10. Secretary to Government of Punjab, Sindh and Balochistan, Finance Department, Lahore, Karachi and Quetta.
11. PS to Minister for Finance Khyber Pakhtunkhwa.
12. PS to Chief Secretary, Khyber Pakhtunkhwa.
13. PS to Additional Chief Secretary, Khyber Pakhtunkhwa.
14. Director FMIU, Finance Department for placing the same on the Website of Finance Department.
15. PS to Secretary Finance Department, Khyber Pakhtunkhwa.
16. PAs to all Additional Secretaries/Deputy Secretaries in Finance Department, Khyber Pakhtunkhwa.
17. All Section Officers/Budget Officers in Finance Department, Khyber Pakhtunkhwa.


SECTION OFFICER (FR)

To

Ammer
C

(14)

The Secretary, to Govt: of NWFP
Schools & Literacy Department.

Sir,

Respectfully it is stated that I was arrested by NAB on 31-08-2006 and my bail accepted on 24-07-2007 while I was released from jail on 01-08-2007. Now I am on bail. I have been suspended from service by the Establishment Department Govt: of NWFP in Feb: 2007(with effect from 31-08-2006).

The Bail Writ Petition along-with orders of Peshawar High Court, Peshawar is hereby submitted for kind perusal and for onward transmission to the Establishment Department, Govt: of NWFP Peshawar for information and further necessary action at their end.

Encl: as above

Yours Obediently,

(Signature) 25/8/2007

(Noor Hussain)

Senior Scale Stenographer (BPS-15)
Schools & Literacy Department NWFP Peshawar.

(Signature)

(Signature)

864

25/8/07

(Signature)

GOVERNMENT OF NWFP
ESTABLISHMENT DEPARTMENT
(ESTABLISHMENT WING)

No. SOE.IV (E&AD) 9(102)/04
Dated Peshawar the 3rd April, 2008.

Amman ①
①5

The Secretary to Govt. of NWFP,
Schools & Literacy Department

Subject:

APPLICATION

AS
8/4/08
AS
8/4/08

I am directed to refer to your letter No. SOG/S&L/4-82/2004 (Noor Hussain), dated 3rd September, 2007 on the above cited subject and to state that the case of Mr. Noor Hussain, Senior Scale Stenographer was sent to Law Department for their advice regarding re-instatement of the said official into service or otherwise.

2. Now the Law Department have intimated that as per Paragraph 194 of CSR read with rule 53 of Fundamental Rule, the Government official is entitled to re-instatement only after the proceedings against him are terminated (~~copy enclosed~~).

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MA
DASIP

Yours faithfully,

Abdul Waheed
(ABDUL WAHEED)
Section Officer (E.IV)

IN THE PESHAWAR HIGH COURT, PESHAWAR

Amman E
(16)

Cr.A No. _____/2010

Noor Hussain S/o Juma Khan

R/o House No.1365, Damudar Street, Nowshera Cantt.....Appellant

VERSUS

The State and others.....Respondents

Appeal u/s 32 of the NAB
Ordinance, 1999 r/w Section 410
Cr.P.C against the judgment dated
29.01.2010 passed by the learned
Accountability Court No.1,
Peshawar.

Prayer in Appeal:

On acceptance of this criminal appeal to set aside the impugned judgment dated 29.01.2010 and the appellant be acquitted from the charges leveled against him to meet the ends of justice.

IN THE PESHAWAR HIGH COURT, PESHAWAR.

Criminal Appeal No. _____/2010

Noor Hussain son of Juma Khan, (serving as Steno Typist in Education Department, Peshawar) r/o House NO. 1365, Damudar Street, Nowshera Cantt.

...Appellant

Versus

The State.

.....Respondent.

INDEX

S.#	DESCRIPTION OF DOCUMENTS	DATED	PAGES
1.	Criminal Appeal	4.2.2010	1 - 9
2.	Judgment of the trial Court	4.6.05	10-54
3.	Vakalatnama		55

Advocate for the Appellant.

TARIQ MEHMOOD ABBASI,
ADVOCATE HIGH COURT RAWALPINDI
CC.NO. 18801

SYED IRFAN ALI,
ADVOCATE HIGH COURT RAWALPINDI
C.C.NO. 18802

IN THE PESHAWAR HIGH COURT, PESHAWAR.

Criminal Appeal No. -----/2010

District	Date of filing of appeal	Whether received from appellants in person or through Agent or Counsel	Stamp
Nowshera	.2.2010	Tariq Mehmood Abbasi, Advocate High Court Rawalpindi CC.NO. 18801 Syed Irfan Ali, Advocate High Court C.C.NO. 18802	NIL

Noor Hussain son of Juma Khan, (serving as Steno Typist in Education Department, Peshawar) r/o House NO. 1365, Damudar Street, Nowshera Cantt.

...Appellant

Versus

The State.

....Respondent.

Appeal Under Section 32 of the National Accountability Ordinance 1999 read with section 410 Cr.P.C.

From Judgment of Mrs. Irshad Qaisar, Judge Accountability Court No. 1, Peshawar.

Judgment Dated 29.1.2010

Sentence: 1. Sentence to suffer RI for 04 Months and also to pay fine of Rs. 5000/- U/S 10 ibid. of N.A. Ordinance 1999 and in case of default in payment of fine, the same shall be recoverable as arrears of land revenue.

The appellant was also extended benefit of Section 332-B Cr.P.C.

Claim in appeal:

To set aside the impugned judgment and to acquit the appellant from the charge.

19

Advocate for the Appellant

TARIQ MEHMOOD ABBASI,
ADVOCATE HIGH COURT RAWALPINDI
CC.NO. 18801

SYED IRFAN ALI,
ADVOCATE HIGH COURT RAWALPINDI
C.C.NO. 18802

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Attested

MA / *Asif*

PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

(20)

Court of.....
 Case No.....of.....


Date of Order of Proceedings: 1
 Order of other Proceedings with Signature of Judge: 2

25.03.2010. Elhtesab Cr. Appeal No. 10/2010.

Present: Syed Irfan Ali, Advocate, for the appellant.

Being an appeal against conviction and sentence of four (04) months recorded by the learned Special Judge Accountability Court No. I Peshawar through the impugned judgment dated 29.01.2010, admit. Notice and record.

s/d Dast Mub *alif*
s/d Jabba Akridi *J*

CERTIFIED TO BE TRUE COPY

 Peshawar
 The
 27-03-13

27/3/13

13452
 25 / 03 / 13

27 -
 27-3-13
 27-03-13
 27-03-13

Sai / *Sai*



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(ESTABLISHMENT WING)

Dated Peshawar, the 21.05.2013

Ammer F
(21)

NOTIFICATION.

No. SOE.IV(E&AD) 9(102)/2004: WHEREAS, Mr. Noor Hussain, Senior Scale Stenographer (BS-16), Establishment Department was involved in corruption and corrupt practices under NAO 1999.

WHEREAS, Mr. Noor Hussain, Senior Scale Stenographer (BS-16), Establishment Department was convicted by National Accountability Court No.1, Peshawar on 29.01.2010 of offence punishable under Section 10 of the National Accountability Ordinance 1999 and sentenced to undergo rigorous imprisonment for four months and also to pay fine of Rs. 5000/- (Rupees Five Thousand only).

NOW, THEREFORE, I, Shahrukh Arbab as Competent Authority, in exercise of the powers conferred upon me under Rule 8 (a) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 do hereby impose the major penalty of "Dismissal from Service" on Mr. Noor Hussain, Senior Scale Stenographer (BPS-16), Establishment Department, Khyber Pakhtunkhwa with effect from the date of his conviction by National Accountability Court No.1, Peshawar on 29.01.2010.

ESTABLISHMENT DEPARTMENT

Endst. No. & Date Even

Copy forwarded for information to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Section Officer (General), Elementary & Secondary Edu: Department.
3. Section Officer (Secret), Establishment Department.
4. P.A to Addl: Secretary (E), Establishment Department.
5. P.A to Addl: Secretary (HRD Wing), Establishment Department.
6. P.A to Deputy Secretary (E), Establishment Department.
7. Mr. Noor Hussain S/o Juma Khan, Senior Scale Stenographer, H.No.113/3, Kassi Mohallah, Saddar Bazar, Nowshera Cantt.
8. Personal file of the official concerned.

Original
(Order)

Mr. Noor Hussain

Received
on 24/5/13
B

(ZAHID USMAN KAKA KHEL)
SECTION OFFICER (E.IV)

Chief Secretary,
Govt. of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.

Annexure
cc CG 27.
(22)

Subject: *Departmental appeal against the order dated 21.05.2013 issued by Secretary Establishment Department, Civil Secretariat, Peshawar as competent authority through which appellant has been dismissed from service by imposing the major penalty of dismissal from service with effect from the date of his conviction by National Accountability Court-I, Peshawar on 29.01.2010. (Copy of order is Annexure "A").*

Prayer:

On accepting of this appeal, the decision/ order dated 21.05.2013 may kindly be set aside and the appellant may kindly be reinstated in service with all back benefits.

Respectfully Sheweth;

Appellant submits as under:-

- 1) That appellant joined the service in the year 1984 as steno-typist on adhoc basis in Information Department, Civil Secretariat, Peshawar.
- 2) That in the year 1985 the services of the appellant was regularized on passing of departmental examination and was posted in Home Department as Steno-typist (BPS-12).
- 3) That in the year 1996 the appellant was transferred to the department of Auqaf, Hajj, Religious and Minority, Civil Secretary, Peshawar.
- 4) That in the year 2004 on the basis of Departmental Promotion, Appellant was promoted from BPS-12 to BPS-15 and was posted/ transferred in Elementary and Secondary Education, Civil Secretariat, Peshawar as Steno-typist.

- 5) That on 31.08.2006 the appellant was arrested by NAB authorities in a concocted case. However, prior to arrest appellant use to attend the office of NAB on their orders.
- 6) That appellant remained in jail till 01.08.2007 when the appellant was released on bail by the Hon'ble Peshawar High Court, Peshawar.
- 7) That after release on bail appellant moved an application to the department on 25.08.2007 which was referred to Law Department through Establishment Department. (ANNEX: B)
- 8) That on the advice of law department, appellant was not reinstated in service till the court proceedings are terminated against him. (ANNEX: C)
- 9) That on the other hand after conclusion of the trial, appellant was convicted and sentenced to 4 months R.I. and fine of Rs.5000/-.
- 10) That appellant filed an appeal in the hon'ble Peshawar High Court, Peshawar which was admitted for full hearing and is still pending and the next date of hearing is fixed as 18.06.2013. (ANNEX: D)
- 11) That till 21.05.2013 appellant remained suspended when all of a sudden the appellant received the termination/ dismissal order on 24.05.2013. (Copy of order is attached). (A)
- 12) That aggrieved with the said order of dismissal dated 21.05.2013 received on 24.05.2013, appellant is filing the departmental appeal for setting aside the said order on the following amongst the others.

GRUNDS:

- a. That order dated 21.05.2013 issued by Secretary Establishment is against law and facts. Hence untenable in the eyes of law.
- b. That the Secretary Establishment failed to appreciate the real point involved in the case in its true perspective. Hence has arrived at an incorrect conclusion.

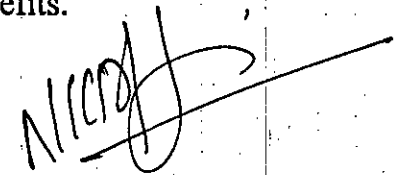
- c. That Secretary Establishment by issuing the dismissal order has violated the terms and conditions of service as well as service laws and rules.
- d. That as the criminal appeal of the appellant has not yet been decided by the Hon'ble Peshawar High Court, Peshawar therefore, during the pendency of the appeal, the dismissal order is totally illegal and cannot be relied on.
- e. That prior to the issuance of dismissal order appellant has neither been served/ informed nor was personally heard and thus has acted illegally.
- f. That the appellant has served the department approximately 27/28 years without any complaint to superiors.
- g. That appellant is a poor man and has to support the family in these hard days.
- h. That the decision/ order of dismissal dated 21.05.2013 is perversant and against the settled principle of law and justice and as such is liable to be set aside.

It is, therefore, requested that on acceptance of this appeal, the dismissal order dated 21.05.2013 issued by Secretary Establishment may kindly be set aside and the appellant may kindly be reinstated in service with all back benefits.

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PS/C.S Khyber Pakhtunkhwa
Diary No. 6364
Date 11-6-13

Dated: 11/6/2013



Noor Hussain
s/o Jumma Khan
Sr. Scale Stenographer
(BPS-16)
R/o House No.1365
Doma Dar Street,
Nowshera, Cantt.
Mob No. 0321-9743071

Tes

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(Establishment Wing)

No. SOE.IV (E&AD) 9(102)/2004.
Dated Peshawar, the 14.07.2013.


To

Mr. Noor Hussain S/o Juma Khan,
R/o House No. 1365, Doma Dar Street,
Nowshera Cantt.

Subject:

DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 21.05.2013 ISSUED BY SECRETARY ESTABLISHMENT DEPARTMENT, CIVIL SECRETARIAT, PESHAWAR AS COMPETENT AUTHORITY THROUGH WHICH APPELLANT HAS BEEN DISMISSED FROM SERVICE BY IMPOSING MAJOR PENALTY OF DISMISSAL FROM SERVICE WITH EFFECT FROM THE DATE OF HIS CONVICTION BY NATIONAL ACCOUNTABILITY COURT-I, PESHAWAR ON 29.01.2010.

I am directed to refer to your appeal dated 11.06.2013 on the subject noted above and to inform you that your appeal has been regretted by the competent authority.


(ZAHID USMAN KAKA KHEL)
SECTION OFFICER (E.IV)

Received on
22/7/13
NCC/13

(Appellate order)

REGISTERED.



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(Establishment Wing)

No. SOE.IV (E&AD)9(102)2004.
Dated Peshawar, the 08.11.2012.

To

Mr. Noor Hussain S/o Juma Khan,
Senior Scale Stenographer (BS-16),
Elementary & Secondary Education Department,
House No. 113/3, Kassi Mohallah, Saddar Bazar,
Nowshera Cantt:

Subject: ABSENCE FROM DUTY.

1. I am directed to refer to the subject noted above and to state that Elementary & Secondary Education Department has informed that you are continuously absent from official duty since long without any intimation / information.

2. You are, therefore, directed to report to Elementary & Secondary Education Department for duty forthwith, failing which strict disciplinary action shall be initiated against you under rule 9 of (Efficiency & Discipline) Rule, 2011 for willful absence which may terminate on your removal from service.

(NASIR AMAN)
SECTION OFFICER (E.IV)

Endst: of even No. & date.

Copy forwarded to Section Officer (General), Elementary & Secondary Education Department, w.r to his letter No. SOG/E&SE/4-82/2004 dated 01.10.2012.

SECTION OFFICER (E.IV)

ATTACHED
TO BE
TRUE COPY

Received
on 14/11/12

R
14/11/12

M

To

The Section Officer (G), ^{Amman} J (27)
Govt of KPK,
Elementary & Secondary Education Deptt.
Absence from Duty.

In compliance with Estab. Deptt;
letter No. SOE. IV (E&AD) 9 (102) 2004, dated
08.11.2012, I hereby submit my arrival
report for duty. (copy attached)

Yours obediently,
N (copy) 19/11/12
(Noor-Hussain)
S.S.S (BS-16)

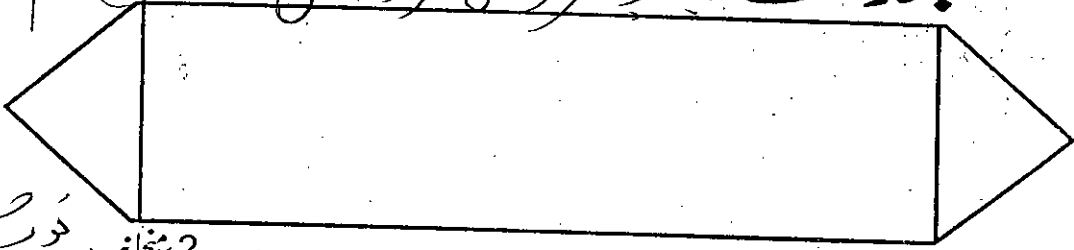
Encl: as above

Copy forwarded to Mr. Naqir Aman,
Section Officer (E. IV), Govt of KPK,
Establishment Deptt w/r to his letter
No. referred above.

N (copy) 19/11/12
S.S.S (BS-16)

M. A. S.

بعدالت وروس کرپوشل لکھنا



2، پنجاب فورس

دریں بنام طرف ۱۸۸۱

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکھ

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

آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار و گاسٹیز

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار و گاسٹیز اور

وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی

نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جہاں مذکورہ با اختیارات حاصل ہوں گے اور اس کا ہاختہ

پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائنا التوائے مقدمہ کے سبب سے ہوگا۔

کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی

مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم

ہا

واہ

بمقام

کے لئے منظور ہے۔

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BEFORE CHAIRMAN SERVICE TRIBUNAL, PESHAWAR.

Appeal No.1172/2013

Appeal No.1225/2013

Noor Hussain Appellant

Versus

Govt. of KPK and others Respondents

APPLICATION FOR FIXING AN EARLY
DATE OF HEARING IN THE ABOVE
NOTED APPEALS.

Respectfully Sheweth;

- 1) That in the above noted two appeals the date of hearing has been fixed as 29.08.2013 for preliminary hearing.
- 2) That on the one hand petitioner has been dismissed illegally while on the hand recovery of pay order has been issued by the respondents.
- 3) That along with appeal, application for the suspension of the said illegal orders have also been moved.
- 4) That the respondents are bent upon to recover the amount. *again a notice has been issued. (photo copy attached)*
- 5) That in case an early date of hearing is not fixed in the above noted two appeals, petitioner would suffer an irreparable loss. (Affidavit is given to this effect).

It is, therefore, requested that an early date of hearing may kindly be fixed in the above noted two appeals.

NCCP

Petitioner

Through

Mohammad Asif
Muhammad Asif

Advocate Supreme Court

Off: 214 Syed Ahmad Ali Building
Near Taj Autos, Sunehri Masjid
Road, Peshawar Cantt.
Cell: 0302-8885187

*Allowed
For PA to-day
23/8/2013*

BEFORE CHAIRMAN SERVICE TRIBUNAL, PESHAWAR.

Appeal No.1172/2013

Appeal No.1225/2013

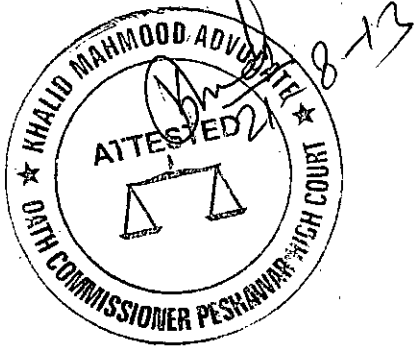
Noor Hussain Appellant

Versus

Govt. of KPK and others Respondents

AFFIDAVIT

I, Noor Hussain son of Juma Khan R/O House No.1365, Damodar Street, Nowshera Cantt, do hereby affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



A handwritten signature in black ink, appearing to read "Noor Hussain".

Deponent

REGISTERED.



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(Establishment Wing)

No. SOE.IV (E&AD) 9(102)/2004.
Dated Peshawar, the 16.08.2013.

To

Mr. Noor Hussain S/o Juma Khan,
R/o House No. 1365, Doma Dar Street,
Nowshera Cantt.

Subject:

DEPARTMENTAL APPEAL AGAINST THE ORDER NO.SOE-IV(E&AD)/9(102)/04 DATED 11.06.2013 REGARDING THE DEPOSIT OF PAID SALARIES FOR THE PERIOD 29.01.2010 TO 30.11.2012 IMMEDIATELY.

I am directed to refer to this department letter of even number dated 11.06.2013 and 22.07.2013 on the subject noted above and to state that you have not yet deposited the outstanding amount of Rs. 14,62,971/- to the Government Treasury. You are, therefore, directed in your own interest to deposit the said amount immediately without further delay, failing which an FIR will be registered with Anti-Corruption Establishment, Khyber Pakhtunkhwa against you for the recovery of said amount.



(ZAHID USMAN KAKA KHEL)
SECTION OFFICER (E.IV)

Endst: No & Date even.

Copy forwarded to:

1. PS to Secretary Establishment.
2. PS to Special Secretary (Estt.), Establishment Department.
3. PA Addl: Secretary (E) Establishment Department.


SECTION OFFICER (E.IV)

Received
on 21/8/2013 ✓


BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1172/2013

**Noor Hussain S/O Juma Khan
R/o House No.113/3 Kassi Mohallah,
Saddar Bazar, Nowshera.....**

Appellant

VERSUS

**1. Secretary Establishment Department, Khyber
Pakhtunkhwa.**

2. Chief Secretary, Khyber Pakhtunkhwa

Respondents

Parawise comments / reply on behalf respondent No. 1 & 2.

PRELIMINARY OBJECTIONS.

- i. That the appellant has got no cause of action/ locus standi to file the present appeal.
- ii. That the instant appeal is badly time barred.
- iii. That the present appeal is bad for misjoinder/ non joinder of necessary parties.
- iv. That the Honourable Service Tribunal has got no jurisdiction to entertain the present appeal.
- v. That the present appeal is barred by law.
- vi. That the appellant is estopped by his own conduct, by law and by deed to file the present appeal.
- vii. That the appellant concealed material facts from the Honourable Service Tribunal.
- viii. That the appeal in hand is bad in its present form hence not maintainable with cost.

ON FACTS

1. Pertains to record
2. Pertains to record
3. Pertains to record
4. Pertains to record

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Asif Saeed Khan Khosa, ACJ
Mr. Justice Sardar Tariq Masood
Mr. Justice Syed Mansoor Ali Shah

Criminal Appeal No. 457 of 2017

(Against the judgment dated 18.05.2016 passed by the Peshawar High Court, Peshawar in Eh. Criminal Appeal No. 03 of 2010)

Noor Hussain

...Appellant

versus

The State

...Respondent

For the appellant:

Mr. Muhammad Asif, ASC

For the State:

Mr. Imran-ul-Haq, Special
Prosecutor-General, Accountability

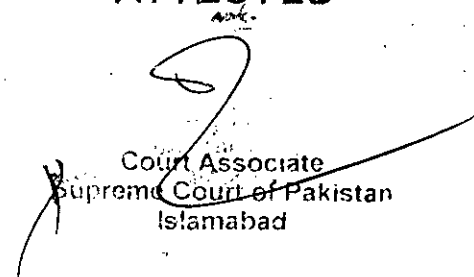
Date of hearing:

30.05.2018

JUDGMENT

Asif Saeed Khan Khosa, ACJ.: Noor Hussain appellant was tried by an Accountability Court in connection with Reference No. 2 of 2006 filed by the Chairman, National Accountability Bureau and after a regular trial he was convicted by the learned Judge, Accountability Court-I, Peshawar for an offence under section 9 read with section 10 of the National Accountability Ordinance, 1999 and was sentenced to rigorous imprisonment for four months and a fine of Rs. 5,000/- which conviction and sentence were subsequently upheld by the High Court and an appeal filed by the appellant in that regard was dismissed. Hence, the present appeal by leave of this Court granted on 28.09.2017.

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Court Associate
Supreme Court of Pakistan
Islamabad

2. Leave to appeal had been granted in this case in order to reappraise the evidence and with the assistance of the learned counsel for the parties we have undertaken that exercise.

3. According to the prosecution some co-accused of the appellant used to prepare forged arms licenses of prohibited and non-prohibited pores and in that connection fake entries were recorded in the arms licenses registers maintained for the purpose and in the entire exercise the role played by the appellant was that he being employed in a government department used to provide his services to the co-accused for recording some bogus entries in the relevant registers and for providing such services he was paid between Rs. 200/- and Rs. 400/- per day. After going through the entire record of the case with the assistance of the learned counsel for the parties we have found that the prosecution had produced only two pieces of evidence against the appellant and they were an affidavit executed by the appellant before the investigating agency admitting his guilt and a report of a handwriting expert confirming that the handwriting in the relevant registers was that of the present appellant.

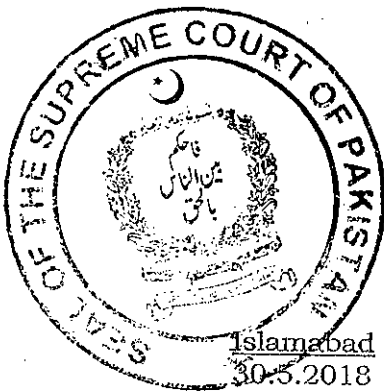
4. As far as the affidavit allegedly executed by the appellant before the police was concerned the same amounted to a confession of guilt before the police which confession was inadmissible in evidence. As regards the report of the handwriting expert we have gone through the said report as well as the statement made by Zahir Gul, DSP Incharge (Documents), Forensic Science Laboratory (PW24). As regards the report of the handwriting expert we have observed that the said report only contained an opinion but it was completely silent as to how that opinion was formed. The said report also did not mention any protocol or any other exercise undertaken so as to form an opinion that the handwriting contained in the relevant registers was that of the present appellant. As regards the statement of the handwriting expert made before the trial court once again that statement was completely deficient of the necessary details as to how and on

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which basis the expert had concluded that the handwriting contained in the relevant registers was that of the present appellant. The said statement showed that there were many methods employed by an expert to arrive at a conclusion and to form an opinion but the expert appearing in this case had failed even to state as to which method was actually employed in the present case for the purpose. The report as well as the statement of the expert did not even mention the similarities in the handwriting of the appellant and in the handwriting contained in the relevant registers and the points of similarities were never specified at any stage of this case. In view of such deficiencies in the relevant report and the statement of the expert the said piece of evidence could not whole-heartedly be relied upon against the appellant, particularly when that was the only admissible piece of evidence available on the record against the appellant worthy of any consideration at all. It could not, thus, be said with any degree of certainty that the prosecution had succeeded in establishing its case against the appellant beyond reasonable doubt.

5. For what has been discussed above this appeal is allowed, the conviction and sentence of the appellant recorded and upheld by the courts below are set aside and he is acquitted of the charge by extending the benefit of doubt to him.



Islamabad
30.5.2018

Not approved for reporting.

Arif *[Signature]* 2/6/18

Sd/-ACJ

Sd/-J

Sd/-J

Certified to be True Copy

[Signature]
Court Associate

Supreme Court of Pakistan
Islamabad

14349/18

GR No: _____ Civil/Criminal
Date of Presentation: 30.5.18
No of Words: _____
No of Folios: 9
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Court Fee Stamps: _____
Date of Completion of Copy: 27/6/18
Date of delivery of Copy: 6-6-18
Compared by/Prepared by: *[Signature]*
Received by: *[Signature]*

BEFORE CHAIRMAN SERVICE TRIBUNAL, PESHAWAR.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 695

S.A.No.1225/2013

Dated 20/06/2018

Noor Hussain Appellant

Versus

Govt. of KPK and others Respondents

*Put up to the court
with relevant appeal.*

APPLICATION FOR FIXING AN EARLY
DATE OF HEARING IN THE ABOVE
NOTED APPEAL:

20/6/18

Respectfully

Respectfully Sheweth;

- 1) That in the above noted appeal the date of hearing has been fixed as 23.07.2018 for arguments.
- 2) That That recovery of pay etc was ordered by the respondents on the ground that applicant was convicted by Accountability Court.
- 3) That on appeal before august Supreme Court of Pakistan, appeal has been accepted and the applicant has been acquitted from the charges. (Photocopy of decision is attached).
- 4) That applicant wants the decision of appeal with an early date of hearing

It is, therefore, requested that an early date of hearing may kindly be fixed in the above noted appeal. *More over my counsel
Mol & ASIF Advocate is going to perform Haj*

*Request came to be granted
hence allowed - can be
filed in 17-7-2018 before
the DB at Peshawar*

Applicant

Noor Hussain
R/o Nowshera

*9-7-2018
Mol & ASIF
Advocate*

BEFORE CHAIRMAN SERVICE TRIBUNAL, PESHAWAR.

S.A.No.1225/2013

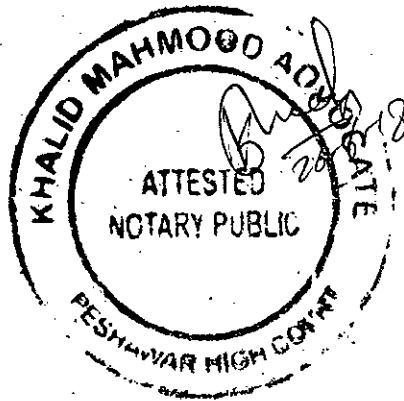
Noor Hussain Appellant

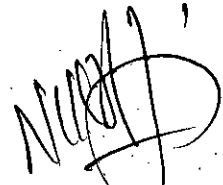
Versus

Govt. of KPK and others Respondents

AFFIDAVIT

I, Noor Hussain son of Juma Khan R/O House No.1365, Damodar Street, Nowshera Cantt, do hereby affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.




Deponent

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESIDENT:

Mr. Justice Asif Saeed Khan Khosa, ACJ
Mr. Justice Sardar Tariq Masood
Mr. Justice Syed Mansoor Ali Shah

Criminal Appeal No. 457 of 2017

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versus

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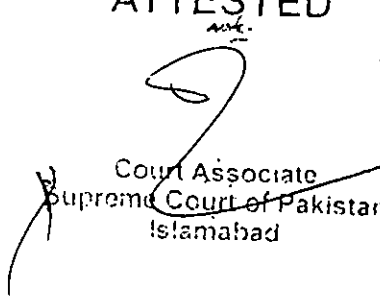
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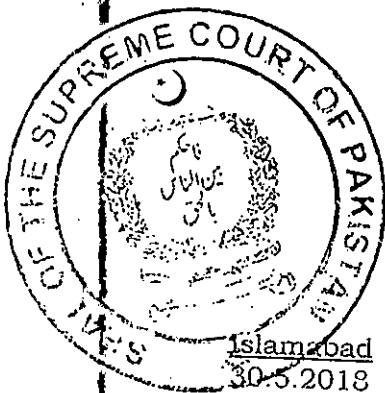
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Arif 1/6/18

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