

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

SERVICE APPEAL NO. 352/2013

Date of institution ... 08.02.2013

Date of judgment ... 03.06.2016

Umar Hayat S/o Syed Shah Room Mian,  
Ex-Stenographer (BPS-14) Establishment Department Peshawar.

... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary,  
Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Establishment  
Department Khyber Pakhtunkhwa, Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL ACT, 1974 READ WITH RULE (19) OF THE KHYBER  
PAKHTUNKHWA GOVERNMENT SERVANTS (EFFICIENCY AND  
DISCIPLINARY) RULES, 2011, AGAINST THE ORDER DATED 02.11.2012,  
WHEREBY THE APPELLANT HAS BEEN AWARDED THE MAJOR  
PUNISHMENT OF REMOVAL FROM SERVICE AGAINST WHICH HIS  
DEPARTMENTAL APPEAL DATED 14.11.2012 HAS NOT BEEN RESPONDED  
DESPITE THE LAPSE OF 60 DAYS STATUTORY PERIOD.

Mr. Ijaz Anwar, Advocate.  
Mr. Ziaullah, Government Pleader

.. For appellant.  
.. For respondents.

MR. ABDUL LATIF  
MR. PIR BAKHSH SHAH

.. MEMBER (EXECUTIVE)  
.. MEMBER (JUDICIAL)

JUDGMENT

ABDUL LATIF, MEMBER:-

Facts giving rise to the instant appeals are that the appellant was initially appointed as Junior Clerk (BPS-5) in the Inspectorate of Mines Labour Welfare, Department, vide order dated 07.03.1995. The appellant while serving in the said capacity applied for the post of Junior Scale Stenographer, in the Civil Secretariat, Peshawar, through proper channel, after obtaining departmental permission, accordingly

At 1.

the appellant was offered appointment to the post of Junior Scale Stenographer vide letter dated -8.02.2000, which the appellant accepted accordingly he was appointed, as Junior Scale Stenographer (BPS-12) vide order dated 29.04.2000. That while serving in the said capacity the appellant applied for ex-Pakistan leave, accordingly he was granted 1095 days leave w.e.f 01.02.2007 to 31.01.2010 (365 days on half pay 730 days without pay), vide order dated 11.01.2007, the appellant after availing leave submitted his arrival report dated 01.02.2010, accordingly he was adjusted vide order dated 10.02.2010. That the appellant again applied for ex-Pakistan leave for 730 days which was granted to him vide order dated 06.04.2010 w.e.f 01.05.2010 to 30.04.2012 (365 days on half pay 365 days EOL. without pay) That before the expiry of the said leave the appellant applied for extension vide application dated 23.04.2012 which was favourably forwarded vide letters dated 23.04.2012 and 28.05.2012. Though the appellant was entitled for leave as per Finance Departmental letter dated 31.07.1999, however, his leave extension application was regretted vide letter dated 27.06.2012, however the same was never communicated to him. That there-after certain absence notices were issued, but never communicated to the appellant and vide order dated 02.11.2012 the appellant was awarded the major punishment of removal from service, however his absence period was treated as leave without pay. That aggrieved from the removal order the appellant submitted his departmental appeal/representation, however it was not responded despite the lapse of 60 days statutory period and hence the instant service appeal with a prayer that on acceptance of this appeal the impugned order dated 02.11.2012 may please be set-aside and the appellant may please be reinstated in service with all back benefits.

2. The learned counsel for the appellant argued that appellant had not been treated in accordance with law, that his rights secured and the law were badly violated. He further argued that no proper inquiry was conducted, the appellant had not been served with any notice of absence before imposition of the major penalty of removal from service and the whole proceeding were thus nullity in the eyes of law. He further contended that the appellant had at his credit a long spell of 15 years of service and under the Revised Leave

Q.F.1.

Rules was entitled to earned leave without pay and decision of his removal was against the principles of natural justice, was also very harsh. He further argued that while removing the appellant, the absence period was regularized and treated as extra ordinary leave without pay and thus the very ground on which he was removed from service vanished, the penalty of removal was thus unjustified in terms of judgment of Supreme Court of Pakistan reported in 2006 SCMR 434. He prayed that the impugned order dated 02.11.2012 may be set-aside and the appellant may be reinstated in service with all back benefits.

3. The learned Government Pleader resisted the appeal and argued that the appellant absented himself from duties illegally and remained abroad without proper extension of leave. He was proceeded against under the rules and proper absence notices were served on his home address and in the newspaper also but he failed to resume his duty. The major penalty of removal was thus lawful and according to the laid down procedure. He prayed that the appeal being devoid of any merits may be dismissed.

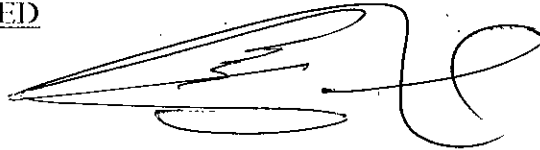
4. Arguments heard and record perused.

5. From perusal of the record it transpired that the appellant was allowed ex-Pakistan leave who proceeded abroad with the permission of the Provincial Government, the request of the appellant for extension of ex-Pakistan leave was not acceded to and on his failure to resume duty he was proceeded against in absence and removed from service vide impugned order dated 02.11.2012. A perusal of the order reveal that while removing him from service the period of his absence was treated as extra-ordinary leave and such regularization of the absence period remain a question mark over his order of removal which was rendered as without foundation. The record reveals that before imposition of the major penalty, the laid down procedure in the E & D Rules 2011 was duly followed but the appellant failed to respond to the notices and instead denied to have received any notice except the order of removal which he responded by preferring appeal to the appellate authority there is thus no force in the arguments of his being removal without notice. The Tribunal however feels that keeping in view the pensionable service of more than 15 years at the credit of the appellant, the major penalty of removal from service is too harsh and the departmental

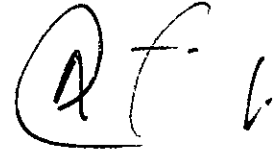
Q.F.1.

authority could ~~have~~ considered other appropriate penalty such as major penalty of compulsory retirement from service. In the circumstances, the Tribunal deems it appropriate to interfere in the case and convert the major penalty of removal from service into major penalty of compulsory retirement from service. The appeal is decided in the above terms. Parties are, however, left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
03.06.2016



(PIR BAKHSH SHAH)  
Member



(ABDUL LATIF)  
Member

03.06.2016

Appellant with counsel and Sultan Shah, Assistant  
alongwith Mr. Ziaullah, GP for respondents present.

Vide our detailed judgment of today consist of four pages  
placed on file, in the circumstances, the Tribunal deems it appropriate  
to interfere in the case and convert the major penalty of removal  
from service into major penalty of compulsory retirement from  
service. The appeal is decided in the above terms. Parties are,  
however, left to bear their own costs. File be consigned to the record  
room.

ANNOUNCED  
03.06.2016



(PIR BAKHSH SHAH)  
MEMBER



(ABDUL LATIF)  
MEMBER

12.01.2016

Counsel for the appellant and Mr. Sultan Shah, Assistant  
alongwith Addl: A.G for respondents present. The learned Member  
(Executive) is on official tour to Swat therefore, Bench is incomplete.

To come up for arguments on 6-5-16.

  
MEMBER

06.05.2016

Counsel for the appellant and Mr. Ziaullah, GP for  
respondents present. Arguments heard and record perused.

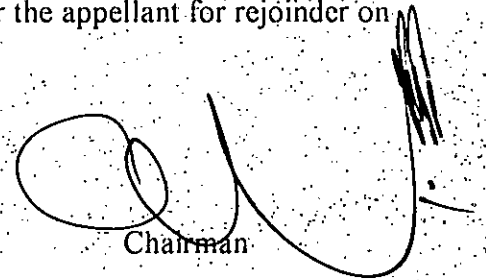
Appellant himself is not present. According to record extra  
ordinary leave was refused to him and he was directed to report  
for duty where-after he was removed from service on the basis of  
non-compliance<sup>o</sup> in the said circumstances, We deem it necessary  
to personally summon~~ed~~ the appellant, hence to come up for  
appearance of the appellant and order on 03.06.2016.

  
Member

  
Member

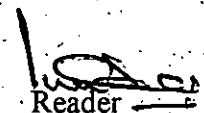
03.7.2014

Clerk of counsel for the appellant and Mr. Sultan Shah, Assistant for respondents with Mr. Usman Ghani, Sr. GP present. Written reply received on behalf of the respondents, copy whereof is handed over to the clerk of counsel for the appellant for rejoinder on 10.11.2014.

  
Chairman

10.11.2014

No one is present on behalf of the appellant. Mr. Muhammad Adeel Butt, AAG for the respondents present. The Tribunal is incomplete. To come up for rejoinder on 11.02.2015.

  
Reader

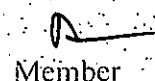
11.02.2015

Counsel for the appellant and Mr. Sultan Shah, Assistant for respondents alongwith Assistant A.G. present. Rejoinder submitted. The case is assigned to D.B for final hearing for 12.08.2015.

  
Chairman

12.08.2015

Counsel for the appellant and Mr. Sultan Shah, Assistant alongwith Mr. Ziaullah, GP for the respondents present. Arguments could not be heard due to Learned Member (Judicial) is on leave. To come up for arguments on 12.01.2016

  
Member

11.9.2013

Counsel for the appellant (Mr. Sajid Amin, Advocate) and Mr. Usman Ghani, Sr. GP for the respondents present. To come up for written reply/comments on 3.1.2014.

  
Chairman

03.01.2014

Clerk of counsel for the appellant and Mr. Sultan Shah, Assistant for respondents with AAG present. Written reply has not been received, and request for further time made on behalf of the respondents. Another chance is given for written reply/comments on 2.4.2014.

  
Chairman

2.4.2014

Clerk of counsel for the appellant and AAG for the respondents present. Written reply has not been received despite another chance given for the purpose on the previous date. On the request of learned AAG, a last chance is given for written reply/comments on behalf of the respondents on 3.7.2014.

  
Member

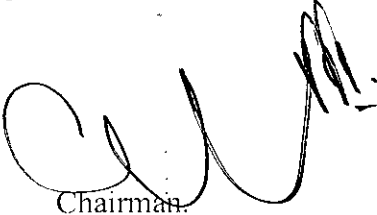


Appeal No. 352/2013  
Mr. Umar Haqat

3. 26.3.2013

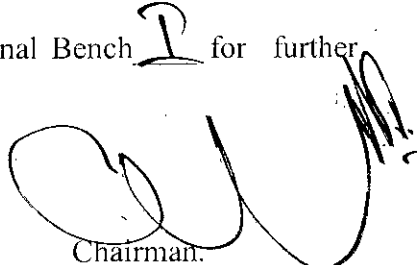
Counsel for the appellant (Mr. Sajid Amin) present and heard. The learned counsel for the appellant argued that the appellant, a stenographer (BPS-14) in the Establishment Department, was granted Extra Ordinary Leave which was also extended, but he was proceeded against for willful absence and the authority imposed the major penalty of removal from service vide his order dated 2.11.2012, while at the same time treating the absence period as Extra Ordinary Leave without pay and allowances. The learned counsel further contended that the appellant preferred a departmental appeal/representation against the impugned order on 14.11.2012 and when received no response within the statutory period, he lodged this appeal within time on 8.2.2013. The learned counsel maintained that the procedure prescribed by the law has not been adopted during proceedings against the appellant and that the appellant has not been treated in accordance with law. Points raised at the Bar need consideration. The appeal is admitted to regular hearing, but 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 4.6.2013 for submission of written reply.

Appellant deposited  
Security & process fee  
Rs 180/- Bank receipt  
is attached with  
file  
Jub

  
Chairman

4. 26.3.2013

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

  
Chairman

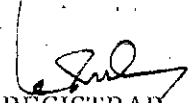

4.6.13

The Home, Bt Bench is on Roll,  
Referer name is off and PB 11-9-13

  
Reader

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_  
Case No. 352 /2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	08/02/2013	<p>The appeal of Mr. Umar Hayat presented today by Mr. Ijaz Anwar 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	13-2-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>26-3-2013</u></p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR**

Appeal No. 352/2013

Umar Hayat S/O Syed Shah Room Mian Ex-Stenographer  
(BPS-14) Establishment Department, Peshawar. **(Appellant)**

**VERSUS**

Govt. Khyber Pakhtunkhwa through Chief Secretary, Khyber  
Pakhtunkhwa, Peshawar and others.....**(Respondents)**

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2	Order dated 07.03.1995, department permission dated 22.03.1999, offer of appointment dated 08.04.2000, Relieving Order, Arrival report and Appointment Order dated 29.04.2000	A, B, C, D, E & F).	5-12
	Order dated 26.10.2000	G	13-14
3	Order dated 11.01.2007, arrival report dated 01.02.2010, Orders dated 10.02.2010 & 11.02.2010	H, I, J & K	15-19
4	Order dated 06.04.2010	L	20
5	Application dated 23.04.2012 letters dated 23.04.2012 & 28.05.2012 and regretted letter dated 27.06.2012	M, N & O	21-24
6	Notices dated 19.07.2012, 08.08.2012 and <u>Removal order</u> dated 02.11.2012	P & Q	25-27
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9	Vakalatnama.		

  
Appellant

Through

  
**IJAZ ANWAR**  
Advocate Peshawar

&

  
**SAJID AMIN**  
Advocate Peshawar

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

Appeal No. 352 /2013

~~W. J. Peshawar~~  
~~393~~  
~~08-2-13~~

Umar Hayat S/O Syed Shah Room Mian Ex-Stenographer  
(BPS-14) Establishment Department, Peshawar.

(Appellant)

**VERSUS**

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department Khyber Pakhtunkhwa, Peshawar.

(Respondents)

**Appeal under Section (4) of Service Tribunal Act, 1974, read with Rule (19) of the Khyber Pakhtunkhwa, Govt Servants (Efficiency & Disciplinary) Rules, 2011, against the Order dated 02.11.2012, whereby the appellant has been awarded the major punishment of "Removal from Service" against which his Departmental Appeal dated 14.11.2012 has not been responded despite the lapse of 60 days statutory period.**

Prayer in Appeal: -

On acceptance of this appeal the impugned order dated 02.11.2012 may please be set-aside and the appellant may please be reinstated in service with all back benefits.

Respectfully Submitted:

1. That the appellant was initially appointed as Junior Clerk (BPS-5) in the Inspectorate of Mines Labour Welfare, Department, vide Order dated 07.03.1995. The appellant while serving in the said capacity applied for the post of Junior Scale Stenographer, in the Civil Secretariat, Peshawar, through proper channel, after obtaining departmental permission, accordingly the appellant was offered appointment to the post of Junior Scale Stenographer vide letter dated 08.04.2000, which the appellant accepted accordingly he was appointed, as Junior Scale Stenographer (BPS-12) vide order dated 29.04.2000. (Copies of the Order dated 07.03.1995, department

permission dated 22.03.1999, offer of appointment dated 08.04.2000, Relieving Order, Arrival report and Appointment Order dated 29.04.2000 are attached as Annexure A, B, C, D, E & F).

2. That since the appellant applied through proper channel and there was no break in service, therefore sanction was also accorded vide order dated 26.10.2000 for the protection of pay of his previous service. (Copy of the order dated 26.10.2000 is attached as Annexure G).
3. That ever since his appointment the appellant performed his duties with full zeal and authorize and there was no complaint whatsoever regarding his performance.
4. That while serving in the said capacity the appellant applied for ex-Pakistan leave, accordingly he was granted 1095 days leave w.e.f 01.02.2007 to 31.01.2010 (365 days on half pay 730 days without pay), vide order dated 11.01.2007, the appellant after availing leave submitted his arrival report dated 01.02.2010, accordingly he was adjusted vide order dated 10.02.2010. (Copies of the order dated 11.01.2007, arrival report dated 01.02.2010, Orders dated 10.02.2010 & 11.02.2010 are attached as Annexure H, I, J & K).
5. That the appellant again applied for ex-Pakistan leave for 730 days which was granted to him vide order dated 06.04.2010 w.e.f 01.05.2010 to 30.04.2012 (365 days on half pay 365 days EOL without pay). (Copy of the Order dated 06.04.2010 is attached as Annexure L).
6. That before the expiry of the said leave the appellant applied for extension vide application dated 23.04.2012 which was favourably forwarded vide letters dated 23.04.2012 and 28.05.2012. Though the appellant was entitled for leave as per finance department letter dated 31.07.1999, however, his leave extension application was regretted vide letter dated 27.06.2012, however the same was never communicated to him. (Copies of the application dated 23.04.2012 letters dated 23.04.2012 & 28.05.2012 and regretted letter dated 27.06.2012 are attached as Annexure M, N & O).
7. That thereafter certain absence notices were issued, but never communicated to the appellant and vide order dated 02.11.2012 the appellant was awarded the major punishment of Removal from Service, however his absence period was treated as leave with out pay. (Copies of the notices dated 19.07.2012, 08.08.2012 and removal order dated 02.11.2012 are attached as Annexure P & Q).

8. That aggrieved from the removal order, the appellant submitted his applied Department Appeal / Representation, however it was not responded despite the lapse of 60 days statutory period. (Copy of the departmental appeal is attached as Annexure R).
9. That the impugned order is illegal unlawful against law and facts, hence liable to be set aside inter alia on the following grounds: -

### Grounds of Appeal:


- A. That the appellant has not been treated in accordance with law, his rights secured and guaranteed and the law are badly violated.
- B. That no proper procedure has been followed, neither any charge sheet / statement of allegations or show cause has been served upon the appellant nor any inquiry has been conducted, the appellant has never been served with any absence notice before awarding the major penalty of removal from service to the appellant. Thus the whole proceedings are nullity in the eye of law.
- C. That the appellant has not been provided any opportunity of personal hearing, thus he is condemned unheard.
- D. That appellant was having more then 15 years service and as per the Finance Department letter dated 31.07.1991, the appellant was entitled for leave, moreover he was making continues request for extension of leave, however despite his entitlement for leave and his repeated request the respondent firstly illegally denied him extension in leave and then illegally removed him from service. (Copy of the Finance Department letter dated 31.07.1991 is attached as Annexure S).
- E. That vide the impugned order the respondents while removing the appellant from service, had also regularized his absence period by treating it as extra Orderly Leave without pay, thus the very ground on which the appellant was proceeded against has vanished and no penalty could lawfully be imposed upon him thereafter, as per the Judgment of the August Supreme Court reported in **2006 SCMR 434**.
- F. That all notices issued were never served upon the appellant.

- G. That the appellant has never committed any act or omission which could be termed as misconduct albeit he has been illegally awarded the major penalty of removal from service.
- H. That the appellant has more than 15 years of spotless service at his credit. The penalty imposed is harsh and liable to be set aside.
- I. That the appellant is young and energetic and wants to serve the department, however, his illegal removal from service has restrained him.
- J. That the appellant is jobless since his illegal, removal from service.
- K. That the appellant seeks the permission of this Honourable Tribunal to rely on additional grounds at the hearing of this appeal.

It is, therefore, prayed that on acceptance of this appeal the impugned order dated 02.11.2012 may please be set-aside and the appellant may please be reinstated in service with all back benefits

  
Appellant

Through

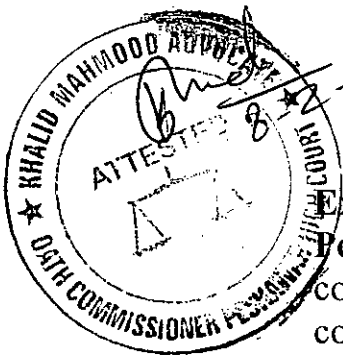
  
IJAZ ANWAR  
Advocate Peshawar  
&

  
(SAJID AMIN)  
Advocate Peshawar

**AFFIDAVIT**

I, Umar Hayat S/O Syed Shah Room Mian Ex-Stenographer (BPS-14) Establishment Department, Peshawar, do hereby solemnly affirm and declare that the contents of the above appeal as well as the application are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.

  
Deponent



(5) *Approved: A*  
INSPECTORATE OF MINES LABOUR WELFARE,  
NWFP, PESHAWAR.

O R D E R

Mr. Umar Hayat s/o Syed Shah Room Mian, Resident of Shehgal Shahgram, Tehsil Behrain, P.O. Police Station Madyan, Swat is appointed as Junior Clerk (BPS-5) in the pay scale of Rs. 1400-56-2390 plus usual allowances in the Inspectorate of Mines Labour Welfare, NWFP; w.e.f. 7.3.1995 (Forenoon) on the terms and conditions communicated to him vide this office Letter No. COM/CIM/ESTT/3/11/6473-6474 dated 1.3.1995.

*SLC*  
(MUMTAZ KHAN KHALIL)  
MINES SAFETY ENGINEER-CUM-CHIEF INSPECTOR OF  
MINES-CUM-COMMISSIONER MINES NWFP, PESHAWAR.

Endst: No. COM/CIM/PF/1/74/523-28 Dated 7/3 /1995.

A copy is forwarded for information and necessary action to:-

1. The Accountant General NWFP, Peshawar.
2. The Inspector of Mines Hqrs<sup>e</sup> Office, Peshawar.
3. The Secretary Mines, Peshawar.
4. The Budget and Accounts Section Hqrs<sup>e</sup> Office, Peshawar.
5. The Office Cashier Hqrs<sup>e</sup> Office, Peshawar.
6. The Official concerned.

*M.K.K.*  
(MUMTAZ KHAN KHALIL)  
CHIEF INSPECTOR OF MINES, N.W.F.P.,  
PESHAWAR.

*YK*



6 Approved: B

INSPECTORATE OF MINES LABOUR WELFARE, N.-W.F.P.



MINES SAFETY ENGINEER-CUM-CHIEF INSPECTOR OF MINES-CUM-COMMISSIONER, MINES:

No...COM/CIM/PF/1/74/.....

Dated Peshawar, the.....

RM'D

To

The Secretary,  
NWFP Public Service Commission,  
Peshawar.

Subject:- DEPARTMENTAL PERMISSION.

N.W.F.P.

-12-

Enclosed please find herewith the Departmental Permission Certificate in respect of Mr. Umar Hayat, Junior Clerk of this office for consideration against the post of Stenographer (B-12) advertised by your office vide Advertisement No.02/99.

at

*SK*

(MUMTAZ KHAN KHALIL)  
CHIEF INSPECTOR OF MINES, N.W.F.P.

Endst: No. COM/CIM/PF/1/74/1008 Dated 22/3/1999.

A copy is forwarded to Mr. Umar Hayat, Junior Clerk for information.

✓

*WPK*

(MUMTAZ KHAN KHALIL)  
CHIEF INSPECTOR OF MINES, N.W.F.P.

CRPS-57

Serial

To

Secretary,  
N.W.F.P. Public Service Commission,  
Peshawar.

*gvd*

7

FORM 'D'

CERTIFICATE OF DEPARTMENTAL PERMISSION  
TO BE COMPLETED BY THE CANDIDATE

1. Name Umas Hayat.  
 2. Father's Name Syed Shah Rome Mian  
 3. Post held Junior Clerk  
 4. Office/Department Inspectorate of Mine Labour Welfare N.W.F.P.  
 5. Post applied for Junior scale stenographers BPS-12  
 6. Commission's advertisement number 02/99

Umas Hayat  
Signature of Candidate

Place Peshawar  
Date 22/3/1999

TO BE COMPLETED BY DEPARTMENT/OFFICE

7. The candidate is permitted to apply for the said post.
- (a) He/She is employed in this Department/Office as Junior Clerk (BPS-5) since 7-3-1995
  - (b) He/She holds this post in  permanent /  temporary /  adhoc capacity.
  - (c) His/Her accepted domicile as per official record is Zone 3 (Sialkot)

Wahid  
Signature  
Name and Designation of the Officer  
Chief Inspector of Mines  
NWFP, Peshawar

Place PESHAWAR  
Date 22.3.1999

To  
Secretary,  
N.W.F.P. Public Service Commission,  
Peshawar.

Yusuf

REGISTERED  
IMMEDIATE

(8)

Amended C

GOVERNMENT OF N.W.F.P.  
SERVICES & GENERAL ADMN. DEPTT.  
(SERVICES WING)

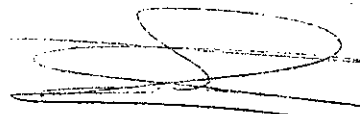
NO.SOS.IV(S&GAD)3-1/99

Dated 08.4.2000

OFFER OF APPOINTMENT

Mr. Umar Hayat s/o Syed Shahrome Mian is offered a post of Junior Scale Stenographer in the Basic Scale Rs.(1830-130-3780) (BPS-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 day's notice or on the payment of 14 days salary in lieu of the notice.
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 will be forefeited.
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.
6. He will be governed by such rules and orders relating to leave, travelling allowance, medical attendance pay etc; as may be allowed by Government for the category of Government Servants to which he belongs.
7. If he accepts the post on these conditions, he should report for duty to the undersigned within 14 days of the receipt of this letter and produce original certificates in connection with his qualifications, domicile and age.

  
( SHARAFAT KHAN )  
SECTION OFFICER ( S-IV ).

To

Mr. Umar Hayat

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*Yuo*

9

ANNEX: D

INSPECTORATE OF MINES LABOUR WELFARE,  
N.W.F.P.

ORDER

On his appointment as Junior Scale Stenographer (B-12) in Civil Secretariat NWFP; Peshawar vide Government of NWFP; S&GAD letter No. SOS-IV(S&GAD)3-1/99, dated 8.4.2000, Mr. Umar Hayat is hereby relieved of his post of Junior Clerk (B-5) as well as additional duties of junior scale stenographer in this Inspectorate of Mines NWFP (Hqrs) Peshawar, w.e.f. 10.4.2000 (Afternoon).

*[Signature]*

(MUMTAZ KHAN KHALIL)  
CHIEF INSPECTOR OF MINES, NWFP.

-----

Endst: No. COM/CIM/PF/1/74/1167-7 Dated 10-4/2000.

A copy is forwarded for information and necessary action to:-

- 1. The Accountant General, NWFP; Peshawar.
- 2. The Secretary Mines, Peshawar.
- 3. The Budget Supdt: (Hqrs) Peshawar.
- 4. Mr. Umar Hayat, J/Clerk.
- 5. Office Cashier, Peshawar.

*[Signature]*

(MUMTAZ KHAN KHALIL)  
CHIEF INSPECTOR OF MINES, NWFP.

-----

*[Handwritten mark]*

10

Approved: E

To

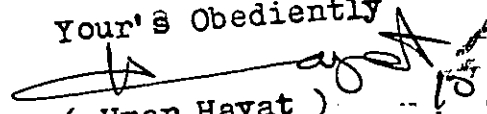
The Section Officer (S)-IV,  
S&GAD, Government of NWFP;  
Peshawar.

Subject:- ARRIVAL REPORT.

Sir,

In pursuance to your offer for appointment for the post of Junior Scale Stenographer (BPS-12) vide office order No. SOS-IV(S&GAD)3-1/99 dated 8-4-2000, I Umar Hayat submit my arrival report for duty to-day i.e 10-04/2000 (After Noon).

Your's Obediently

  
( Umar Hayat )  
s/o Syed Shah Rome Mian,  
vill: Shagai Shahgramme,  
PO: Madyah, Teh: Behrain,  
Distt: Swat.

Dated. 10-04-2000.

12  
46

1-31  
Datsq° JO-04-5000°

Draft: 2487°  
BO: Msdglen° Dep: Beplesu°  
AIII: Spasat Spasglamne°  
s\O SAsq Spas Rome MIsu°  
( Umsr HsAsf )

Youn, s Opediently

JO-045000 (Vlfer Moon)°  
Umsr HsAsf surmit mY sllvst report los dntY fo-dsY r°e  
officer olger no°202-IV(28GVD)2-1\dd datsq 8-4-5000° I  
for the post of Junior scale stpnoelapnet (BPS-IS) vlge  
in accordance to your offer for appointment

SIR°

Subject: - ABBIAVI BEBOBI°

Beepmsr°  
28GVD° GOVERNMENT OF MAEB°  
The Section Officer (2)-IV°

Jo

Approved F

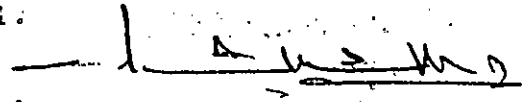
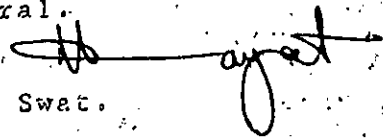
ORDER

NO. SOS. IV(S&GAD)3(1)/99. On the recommendations of the NWFP Public Service Commission, the competent authority is pleased to order the appointment of the following candidates as Junior Scale Stenographers in BPS 12 (Rs. 1030-130 3780) in the Civil Secretariat, NWFP as per their order of merit, against existing vacancies with effect from the date of taking over charge:

NAME, PARENTAGE & DOMICILE

1. Mr. Ziaul Haq,  
s/o Qazi Abdul Malik, Mansehra UDA.
2. Mr. Tariq Rahman  
s/o Shah Nawaz Khan, Karak.
3. Mohammad Shakeel s/o  
Mohammad Nadir Khan, Mohmand Agency.
4. Mr. Javed Khan s/o  
Mohammad Yousaf, Dir.
5. Mr. Shamsul Haq s/o  
Qazi Abdul Malik, Mansehra, UDA.
6. Mr. Sadaqat s/o  
Qamaruz Zaman, Haripur.
7. Mohammad Naeem s/o  
Saifullah, Khyber Agency.
8. Mohammad Tariq s/o  
Habibur Rehman, Mansehra, UDA.
9. Mr. Saifur Rehman s/o  
Khaliq Dad, D.I. Khan.
10. Mohammad Shetab s/o  
Umer Khitab, Malakand Agency.
11. Mr. Yunas Shah s/o  
Yusaf Shah, Kohat.
12. Mr. Javed Anwar s/o  
Gul Khan Din, Karak.
13. Mr. Shad Mohammad s/o  
Ali Khan, Mohmand Agency.
14. Mr. Raziq Mohammad s/o  
Hazrat Mohammad, Malakand Agency.
15. Mohammad Irshadullah s/o  
Fazal Wahid, Dir.
16. Mr. Firasat Hussain s/o  
Khadim Hussain, Kohat.
17. Mr. Nasir Ali s/o  
Nisar Ali, Kurram Agency.

gled  
C

18. Mr. Shakeel Khan s/o  
Musa Khan, FR, PWR.
19. Mr. Yar Mohammad s/o  
Dost Mohammad, Malakand Agency.
20. Mr. Ahmad Hussain s/o  
Haji Ibrahim, Chitral.
21. Mr. Ashrafuddin s/o   
Musharafuddin, Chitral.
22. Mr. Umar Hayat s/o   
Syed Shahrome Mian, Swat.
23. Mr. Ikramullah s/o  
Karim Gul, Khyber Agency.
24. Mohammad Nisar s/o  
Ghani Khan, Mohmand Agency.
25. Mr. Amir Sultan Ahmad Shah s/o  
Amir Hussain Ahmad Shah, Bannu.
26. Mr. Redi Khan s/o  
Gula Khan, Khyber Agency.

2. Their appointment to the service shall be subject to the following terms & conditions:

(1) They shall be governed by the NWFP Civil Secretariat (Ministerial Staff) Appointment Rules, 1982 read with the NWFP Civil Servants Act, 1973, NWFP Government Servants (Conduct) Rules, 1987 and any other instructions which may be issued by the Government from time to time.

2. They will be allowed the minimum of BPS 12 (Rs. 1830 130 3780) plus other allowances as admissible under the rules. Those who are already in Government service and whose pay is more than the minimum of B 12, their pay shall be fixed in accordance with the rules;

3. They shall be governed by such rules and orders relating to leave, TA and Medical Attendance as may be prescribed by Government for the category of Government Servants of their status from time to time;

4. They shall be on probation initially for a period of two years extendable upto 3 years;

5. They will be eligible for continuance and eventual confirmation as Junior Scale Stenographers (B 12) on satisfactory completion of probation including the extended period



12

of probation, subject to the availability of permanent post;

6. Their services will be liable to termination at any time without assigning any reason therefor before the expiry of the period of probation/extended period of probation, if their work during this period is not found satisfactory. In such an event, they will be given a 14 days notice of termination from service or 14 days pay in lieu thereof. In case they wish to resign at any time, 14 days notice shall be necessary or in lieu thereof 14 days pay shall be forfeited;

7. They shall produce medical fitness certificate from Medical Superintendent, Civil Hospital, Peshawar as required under the rules;

8. They shall not be entitled to any TA/DA on their joining first appointment.

SECRETARY TO GOVT. OF NWFP.  
SERVICES & GENERAL ADMN. DEPT.

ENDST. OF EVEN NO. & DATE

Copy forwarded to the:

1. Accountant General, NWFP.
2. Deputy Secretary (Admn) S&GAD, NWFP.
3. Section Officer (Secret), S&GAD, NWFP.
4. Section Officer (G), S&GAD, NWFP.
5. Estate Officer, S&GAD, NWFP.
6. Computer Programmer, S&GAD, NWFP.
7. PS to Chief Secretary, NWFP.
8. PS to Secretary, S&GAD, NWFP.
9. Director, STI, S&GAD, NWFP.
10. All concerned SOGs in the Civil Secretariat, NWFP
11. All officials concerned. They are directed to report to the STI, S&GAD NWFP on 01.5.2000 for undergoing one month's computer training course.

(SHARAFAT KHAN)  
SECTION OFFICER (S.IV)

*o/c*  
*[Handwritten initials]*

(13)

ANNEX - G

GOVERNMENT OF NWFP  
PLANNING ENVIRONMENT & DEV. DEPARTMENT

NO. SO(B&A)PE&D/087/2-1999-2000  
Dated Peshawar the 26-10-2000.

ORDER

In exercise of Power vested to me vide Govt. of West Pakistan letter NO.2176/SR-VI/68 Lahore dated 4th, March 1969, Sanction is hereby accorded to relaxation of FR-22 (b) in favour of Mr. Umar Hayat Junior Scale stenographer of this department to fix his pay on a/c of his appointment in the basic pay scale 12 @ Rs.2350/-PM (Including next stage plus premature increment) allowed vide para 3 of Finance deptt. letter NO.FD(PRC)1-1/97 dated 16-3-1999 w.e.f. 11-4-2000 (FN) for protection of his pay of Rs.2126/-PM of his former service in Ch. Inspectorate of Minus Peshawar.

SECRETARY TO GOVT. OF NWFP  
PE&D DEPARTMENT.

ENDST: NO. & DATE EVEN.

Copy forwarded to:-

- 1- The Accountant General, NWFP, Peshawar.
- 2- Bill Assistant PE&D department.
- 3- Mr. Umar Hayat stenographer.

  
SECTION OFFICER (B&A)



14

FORM OF LEAVE ACCOUNT UNDER THE REVISED LEAVE RULES, 1981.

Leave Account of Mr./Miss/Ms. Harpreet Singh J. Chak

Date of Commencement of service: 7.7.1995

Date of attaining the age of superannuation: 1/2/2028

(N.B.—Instructions for filling in the form are printed on reverse).

Government/Department served under	PERIOD OF DUTY		Y.H.D.	Full Calendar month	Days	Days	LEAVE TAKEN (From Column 8 to 20)														Remarks	ATTESTATION	
							PERIOD		Leave on full pay without medical certificate subject to a maximum of 120 days & 365 days in case of L.P.P.	Leave on full pay on medical certificate subject to a maximum of 120 days	Leave on full pay on medical certificate subject to a maximum of 365 days in entire service.	LEAVE ON HALF PAY		Recreation leave of 15 days in a year but 10 days to be debited.	LEAVE NOT DUE		ABSENCE		Total leave (Columns 10+11+12+14+15+17+19)	Balance on 1-7-1978/return from leave (Column 7-20)			
							From	To				Days	Days		Days	Days	Days	Days					Actual No. of days
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	
Inspectorate of Mines, Labour Welfare, N.W.F.P.	7-3-95	31-12-95	K-M-3	9-28	10	40	40														40		
	1-1-96	31-12-96	J	1-4	12	48	58														88		
	1-1-97	31-12-97	J	1-4	4	16	104	24	20	5	30										74		
	1-1-97	31-12-97	J-M	1-11	7	28	102														102		
	1-1-98	31-12-98	J	1-4	12	48	150														158		
	1-1-98	31-12-98	J-M	1-11	12	48	198	24	12	1	35										15	183	
1-1-98	31-12-98	J	1-4	3	12	195															195		
1-1-98	31-12-98	J	1-4	80	14	195															515		

Section Officer (General)  
Govt. of N.W.F.P.  
Higher Education, S.A. & L. Deptt.

EXPLANATORY INSTRUCTIONS FOR FILLING UP THE LEAVE ACCOUNT FORM.

- This leave account will be maintained for all civil servants of the Provincial Government who were in service on the 1st July, 1978 including those who were on leave on that date and have not opted to retain the existing leave rules and all others who entered service on or after 1st July, 1978.
- All leave at credit in the account of a civil servant who was in service on the 1st July, 1978 shall be converted in terms of leave on full pay at the following rates:
  - (a) Leave on full pay:
    - (i) 1 month: 30 days.
    - (ii) Leave on half pay:
      - (a) 1 month (Fraction, if any to be ignored): 15 days.
      - (b) 2 days: 1 day.
- The leave account shall commence with an opening entry "Due on 1st July, 1978" or in the case of a civil servant who was on leave on 1st July, 1978 with effect from the date of his return from leave. For the purpose of computing the leave at credit, the service upto 30th June, 1978 will be taken into account. The leave due in terms of leave on full pay in days will be noted in Column No. 21.
- (i) In calculating the leave on full pay at the rate of 4 days for every calendar month the duty period of 15 days or less in a calendar month shall be ignored and those of more than 15 days shall be treated as a full calendar month for the purpose. If a civil servant proceeds on leave during a calendar month and returns from it during another calendar month and the period of duty in either month is more than 15 days, the leave to be credited both the incomplete months will be restricted to that admissible for one full calendar month only. There shall be no maximum limit on accumulation of leave.

Inspectorate of Mines, Labour Welfare, N.W.F.P.

Handwritten signatures and stamps, including "SUPERINTENDENT Inspectorate of Mines, Labour Welfare N.W.F.P. 1".

Handwritten signature at the bottom of the page.

(15)

ANNEX-11



GOVERNMENT OF NWFP  
ESTABLISHMENT DEPARTMENT  
(ESTABLISHMENT WING)

Dated Peshawar the 11<sup>th</sup> January, 2007

ORDER

No. SOE.IV (E&AD) 2(282)/95.- Sanction is hereby accorded to the grant of 1095 days Ex-Pakistan leave in favour of Mr. Umar Hayat, Stenographer (BS-12) Higher Education Department, NWFP with the following break-up.

1.	365 days leave on half pay	From 01.02.2007 to 31.01.2008
2.	730 days leave without pay	From 01.02.2008 to 31.01.2010

2. Certified that after expiry of the said leave, the official concerned will resume his duty at the same post and station.

SECRETARY ESTABLISHMENT

Endst. No. & date even

Copy forwarded:

1. The Accountant General, NWFP, Peshawar.
2. The Section Officer (General) Higher Education Department w/r to his letter NO. SO (G) HE/1-33/02/PF, dated 19.12.2006.
3. The Section Officer (Secret) Establishment Department
4. The Estate Officer, Administration Department.
5. Official concerned.

SECTION OFFICER (E.IV)

(16)

ANNEX-I

To

The Section Officer (E-IV)  
E&AD.

Subject: - ARRIVAL REPORT

*1/12*

Dear Sir,

Consequent upon expiry 1095 days Ex-Pakistan leave w.e.f 01.02.2007 to 31.01.2010, vide order No. SOE.IV(E&AD)/2(282)/95 dated 11.01.2007 (copy enclosed), I Umar Hayat, Stenographer hereby submit my arrival report today on 01.02.2010 forenoon.

*1/12/2010*  
(Umar Hayat)  
(Stenographer)

Copy forwarded for information to: -

*1/2/10*

- 1. Section Officer (Admn) Administration Department.
- 2. Section Officer (Secret), Establishment Department.
- 3. Section Officer (G) Higher Education Dept.

*(1/2/2010)*

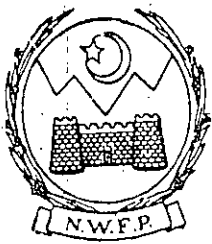
*1/2/2010*  
(Umar Hayat)  
(Stenographer)

*Put*  
*1/2/10*

*[Signature]*

(17)

ANNEX:- J



GOVERNMENT OF NWFP  
ESTABLISHMENT DEPARTMENT  
(ESTABLISHMENT WING)

Dated Peshawar the 10<sup>th</sup> February, 2010

ORDER

NO. SOE-IV (E&AD) 3(223)/2000:- On return from leave, Mr. Umar Hayat, Stenographer (BS-12), awaiting posting in Establishment Department is hereby transferred and posted in Higher Education Department against an existing vacancy with effect from 01.02.2010.

SECRETARY ESTABLISHMENT

Endst of even No & Date:

Copy forwarded for information to the:

1. The Accountant General, NWFP
2. The Section Officer (General) Higher Education Department.
3. The Estate Officer, Administration Department.
4. The Section Officer (Secret) Establishment Department.
5. Official Concerned.

*[Signature]*  
SECTION OFFICER (E.IV)

*[Handwritten mark]*

(18)

To

The Section Officer (General)  
Govt. of NWFP,  
Higher Education Department.

Subject:- ARRIVAL REPORT.

Sir,

In compliance with Govt. of NWFP, Establishment Department  
(Establishment Wing) Order No.SOE-IV(E&AD)3(223)/2000, dated 10/02/2010,  
I Umar Hayat, Stenographer (B-12) hereby submit my arrival for duty in Higher  
Education Department. *on dated*

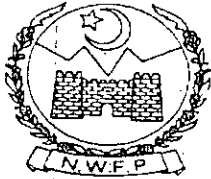
Thanking you.

Yours faithfully,

  
UMAR HAYAT  
Stenographer

*11/2/2009*

*[Handwritten signature]*



(19) APPROVED:- 12

GOVERNMENT OF NWFP  
HIGHER EDUCATION, ARCHIVES &  
LIBRARIES DEPARTMENT

DATED 11/02/2010

ORDER:-

NO. SOG(HE)/PF/1-33/02. In partial modification of this Department's order No. SOG(HE)/PF/Niqab Khan/09 dated 04-02-2010, the posting/transfer order of the following officials may be read as under:-

S#	NAME & DESIGNATION	FROM	TO
1.	Mr. Niqab Khan, J. Scale Stenographer	MIS of Planning Cell	Section Officer (HERA)
2.	Mr. Umar Hayat, J. Scale Stenographer	On arrival from Estt: Department	MIS of Planning Cell

DEPUTY SECRETARY (ADMN)  
HIGHER EDUCATION DEPARTMENT.

Copy forwarded to:-

- 1- Chief Planning Officer, Higher Education Deptt.
- 2- Deputy Director (IT), Higher Education Deptt.
- 3- PS to Secretary, Higher Education Deptt.
- 4- PA to D.S (Admn), Higher Education Deptt.
- 5- Section Officer (HERA), Higher Education Deptt.
- 6- Accountant, Higher Education Deptt.
- 7- Officials concerned.
- 8- Office files.

  
SECTION OFFICER (Estt: & Admn.)

*Yob*



20

ANNEX-1



GOVERNMENT OF NWFP  
ESTABLISHMENT DEPARTMENT  
(ESTABLISHMENT WING)

Dated Peshawar the 6<sup>th</sup> April, 2010

ORDER

No. SOE.IV (E&AD) 3(223)/2000. - Sanction is hereby accorded to the grant of 730 days Ex-Pakistan leave in favour of Mr. Umar Hayat, Stenographer (BS-12) Higher Education Department, NWFP with the following break-up.

1.	365 days leave on half pay	From 01.05.2010 to 30.04.2011
2.	365 days EOL (without pay)	From 01.05.2011 to 30.04.2012

2. Certified that after expiry of the said leave, the official concerned will resume his duty at the same post and station.

SECRETARY ESTABLISHMENT

Endst. No. & date even

Copy forwarded:

1. The Accountant General, NWFP, Peshawar.
2. The Section Officer (Estt. & Admn.) Higher Education Department w/r to his letter No. SOG/HE/PF/1-33/2002, dated 24.03.2010. Substitute of the official would be provided soon after availability.
3. The Section Officer (Secret) Establishment Department.
4. Official concerned.

SECTION OFFICER (EIV)

(21)

ANNEX - M

To

The Honourable secretary  
Govt: of Khyber Pakthunkhwa  
Establishment Department,  
Peshawar.

Attention: Section officer (E-IV).

Subject: APPLICATION FOR EXTENSION IN EXTRA-ORDINARY  
LEAVE (EX-PAKISTAN) TWO YEARS LEAVE WITHOUT  
PAY.

Dear Sir,

I have the honour to state that I was granted two years (Ex-Pakistan) Extra-Ordinary Leave with effect from 01-05-2010, which would likely to be expired on 30-04-2012. It is humbly stated here that the said leave was not enough for overcoming of my domestics and private affairs; therefore, presently I am unable to join the duty on the expiry of my Leave. Because it is very cumbersome for me to simultaneously perform my duty punctually and attend my domestic affairs. Moreover, in the presence of my serious domestic problem, it is very hard and difficult for me to attend my official duty to the best satisfaction of my conscience, real spirit of the duty rule and all concerned.

It is therefore requested that my (Ex-Pakistan) Leave Without Pay may kindly be extended for a further period of two years with effect from 01-05-2012 to 30-04-2014 (two years Ex-Pakistan leave without pay), enabling me to cope with my domestic affairs of serious nature.

Yours faithfully

  
(Umar Hayat)

Jr. Scale Stenographer (B-12)  
Civil Secretariat, Peshawar  
(Presently On ex-Pakistan Leave)

Dated 23/04/2012





CHIEF MINISTER'S SECRETARIAT  
KHYBER PAKHTUNKHWA

SO (Admin.) E & AD

433249

23/04

No. SO (Admin.)CMS/KPK /2012  
Peshawar the, 23<sup>rd</sup> April, 2012.

15964

To

The Secretary to Govt. of Khyber Pakhtunkhwa,  
Establishment Department.

Subject.

APPLICATION FOR EXTENSION IN EXTRA-ORDINARY LEAVE  
(EX-PAKISTAN) TWO YEARS LEAVE WITHOUT PAY.

Dear Sir,

I am directed to refer to the subject noted and to say that Mr. Umar Hayat Stenographer (BPS-12) Higher Education Department was granted 730 days Ex-Pakistan leave from 08/05/2010 to 30/04/2012 vide No. SOE.IV (E&AD) 3(223)/2000 dated 6<sup>th</sup> April, 2010. The leave in question is likely to be expired on 30<sup>th</sup> April, 2012.

Now the applicant has applied for extension in his extra ordinary leave (Ex-Pakistan) for further period of two years leave without pay with effect from 01/05/2012 to 30/04/2014.

In view of the above I am directed to forward herewith the application dully recommended by the Hon'able Chief Minister, Khyber Pakhtunkhwa for further extension please.

Yours faithfully,

Section Officer (Admn.)

Copy to:-

1. PS to Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. Official concerned.

Section Officer (Admn.)

*[Handwritten signature]*

227

To

The Hon'ble Secretary,  
Govt: of Khyber Pakhthunkhwa,  
Establishment Department,  
Peshawar.

Attention: Section Officer (E-IV) (E&AD)

Subject: **-APPLICATION FOR EXTENSION IN EXTRA -ORDINARY  
LEAVE (EX-PAKISTAN) TWO YEARS LEAVE WITHOUT  
PAY.**

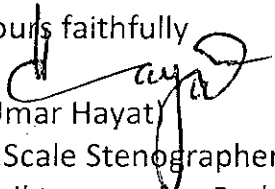
Dear Sir,

I have the honour to state that I was granted two years (Ex-Pakistan) Extra-Ordinary Leave without pay with effect from 01/5/2010 to 30/4/2012 which has already been expired. But due to my personal, serious domestic problems, I am unable to join the duty on the expiry of the said leave. Because it would be very hard and difficult for me to attend my duty in the presence of my domestic affairs and problems.

It is therefore, most humbly prayed that on acceptance of this application, my (Ex-Pakistan) Leave without Pay may kindly extended for a further period of two years with effect from 01-05-2012 to 30-04-2014 on the basis of natural justice and equity, enabling me to cope with my domestic affairs of serious nature.

Thanks

Yours faithfully

  
(Umar Hayat)  
Jr. Scale Stenographer,  
Civil Secretariat, Peshawar

05/07/2012

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9

22B

To

The Hon'ble Secretary,  
Govt: of Khyber Pakhthunkhwa,  
Establishment Department,  
Peshawar.

Attention: Section Officer (E-IV) (E&AD).

Subject: -APPLICATION FOR EXTENSION IN EXTRA -ORDINARY  
LEAVE (EX-PAKISTAN) TWO YEARS LEAVE WITHOUT  
PAY wef 1/5/2012 to 30/4/2014.

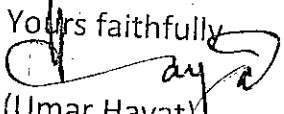
Dear Sir,

I have the honour to state that I was granted two years (Ex-Pakistan) Extra-Ordinary Leave without pay with effect from 01/5/2010 to 30/4/2012 which has already been expired. But due to my some serious financial and domestic problems, I was unable to join the duty on the expiry of the said leave. As it is very difficult for me to attend my duty in the presence of my domestic serious affairs and issues.

It is therefore, most humbly prayed that on acceptance of this application, my (Ex-Pakistan) **Leave without Pay** may kindly extended for a further period of two years with effect from 01-05-2012 on the basis of natural justice and equity, enabling me overcome my personal serious issues.

With regards

Yours faithfully

  
(Umar Hayat)  
Jr. Scale Stenographer,  
Civil Secretariat, Peshawar

17/09/2012



23

Approved: 0

GOVT: OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT


(REGULATION WING)

No. SO(FR)/FD/5-1/2010/Vol-II

Dated Peshawar, the 28-05-2012

To

The Secretary to Govt: of Khyber Pakhtunkhwa,  
Establishment & Administration Department.



Subject: - APPLICATION FOR EXTENSION IN EXTRA ORDINARY  
LEAVE (EX-PAKISTAN) TWO YEARS LEAVE WITHOUT PAY.

Dear Sir,

I am directed to refer to your letter No. SOE~~IV~~(E&AD)/3(223)/2000 dated 21-05-2012 on the subject noted above and to state that the Administrative Department is requested to examine/decide the instant case in light of this department circular No. FD/SO(SR-VI)5-54/80/Vol-III(copy enclosed.)

Yours faithfully,



(BIBI FATIMA)  
SECTION OFFICER (FR)



24

REGISTERED.



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(ESTABLISHMENT WING)

No: SOE.IV (E&AD)3(223)/2000.  
Dated Peshawar the 27.06.2012.

To

✓ Mr. Umar Hayat S/o Syed Shah Room Mian,  
Stenographer (BS-12),  
Village Shagai Shahgram, P.O. Madyan,  
Tehsil Behrain, District Swat.

Subject: - APPLICATION FOR EXTENSION IN EXTRA ORDINARY  
LEAVE (EX-PAKISTAN) TWO YEARS LEAVE WITHOUT PAY.

1. I am directed to refer to the subject noted above and to state that the case for grant of extension in extra ordinary leave without pay has been processed in the Establishment Department and regretted.

2. You are therefore directed to report for duty immediately, as the leave granted to you has already been expired on 30.04.2012, failing which strict disciplinary will be initiated against you.

(MAQBOOL HUSSAIN)  
SECTION OFFICER (E.IV)

Endst: No & date even.

Copy forwarded to The Section Officer (Admn), Chief Minister's Secretariat, Khyber Pakhtunkhwa letter No:SO(Admn:)CMS/KPK/2012/5964 dated 23.04.2012

/  
SECTION OFFICER (E.IV)

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ANNEX-P

REGISTERED.



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(ESTABLISHMENT WING)

No. SOE.IV (E&AD)3(223)/2000.  
Dated Peshawar the 19.07.2012.

To

Mr. Umar Hayat S/o Syed Shah Room Mian,  
Stenographer (BS-12),  
Village Shagai Shahgram, P.O. Madyari,  
Tehsil Behrain, District Swat.

Subject: - APPLICATION FOR EXTENSION IN EXTRA ORDINARY  
LEAVE (EX-PAKISTAN) TWO YEARS LEAVE WITHOUT  
PAY.

I am directed to refer to this Department's Registered letter of even number dated 27.06.2012 and your fresh application dated 05.07.2012 on the subject noted above and to state that you were informed on your home address through registered letter to assume duty immediately, but you have failed to report for duty after lapse of 22 days.

2. You are once again directed to report for duty immediately, failing which disciplinary action shall be initiated against you under the rules.

(NASIR AMAN)  
SECTION OFFICER (E.IV)

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**REGISTERED  
FINAL NOTICE**

**GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(Establishment Wing)**

No. SOE.IV(E&AD)3(223)2000  
Dated Peshawar the 08.08.2012

To

Mr. Umar Hayat S/o Syed Shah Room Mian,  
Stenographer (BPS-12),  
Village Shagai Shahgram, P.O. Madyan,  
Tehsil Behrain, District Swat

Subject: **ABSENT FROM DUTY**

I am directed to refer to subject noted above and to state that your applications dated 27.06.2012 and 05.07.2012 for the extension in the Ex-Pakistan leave having been regretted by the competent authority you were informed vide this Departmental orders of even No. dated 27.06.2012 & 19.07.2012 but you failed to resume your duties as yet.

2. You are hereby directed to report for duty within 15 (fifteen) days of the issuance of this final notice, failing which disciplinary action will be initiated against you under the Section 9 of the Efficiency & Discipline Rules 2011.

*(Signature)*  
**(NASIR AMAN)**  
SECTION OFFICER (E.IV)

*(Signature)* *(Signature)*

*(Signature)* Umar Hayat  
*(Signature)*

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ANNEX: Q



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(Establishment Wing)

Dated Peshawar, the 02.11.2012.

ORDER.

NO. SOE-IV(E&AD)(I)/2011:- WHEREAS, Mr. Umar Hayat, Stenographer (BS-14), Establishment Department, Civil Secretariat, Khyber Pakhtunkhwa absented himself from duty with effect from 01.05.2012.

AND WHEREAS, notice, were served upon him in accordance with the procedure given under rule 9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rule, 2011 requiring him to resume his duty forthwith, but he failed to comply

NOW, THEREFORE, I, Shah Rukh Arbab as Competent Authority, in exercise of the powers conferred upon me under Rule 9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rule, 2011 do hereby impose the major penalty of "Removal from Service" on Mr. Umar Hayat, Stenographer (BS-14), Establishment Department, Khyber Pakhtunkhwa for willful absence from duty, with immediate effect. The unauthorized absence from duty from 01.05.2012 is treated as extra ordinary leave (EOL) without pay and allowances.

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT.

Endst. No. & date even.

Copy forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Section Officer (Admn), Administration Department.
2. The Section Officer (General), Higher Education Department.
3. The Section Officer (Secret), Establishment Department.
4. The P.A to Addl. Secretary (E), Establishment Department.
5. The P.A to Addl. Secretary (HRD Wing), Establishment Department.
6. The P.A to Deputy Secretary (E), Establishment Department.
7. Mr. Umar Hayat S/O Syed Shah Room Mian, Stenographer (BS-14), Village Shagai Shahgram, P.O. Madyan, Tehsil Behrain, District Swat.
8. Personal file of the official concerned.

(NASIR AMAN)  
SECTION OFFICER (E.IV)

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ANNEX: R

PS/O.S. Khyber Pakhtunkhwa

Diary No. 11635

Date. 14-11-12

To

The Chief Secretary:  
Govt: of Khyber Pakhtunkhwa,  
Peshawar.

Subject: - REPRESENTATION / APPEAL AGAINST THE ORDER OF REMOVAL FROM SERVICE BEARING NO. SOE-IV (E&D) () 2011 DATED 02/11/2012 AND REQUEST FOR RESTORATION / REINSTATEMENT IN SERVICE WITH ALL BACK BENEFITS.

Respected Sir,

Most respectfully, it is submitted:-

1. That I joined the Government Service on <sup>7<sup>th</sup></sup> 3<sup>rd</sup> March, 1995.
2. That I was granted Extra Ordinary Leave (Ex-Pakistan) for a period of two years vide No. SOE.IV (E&AD) 3(223)/2000 dated 6/4/2010. (Copy attached).
3. That due to some unavoidable circumstances, personal engagements, financial crisis and domestic problems, I was not in a position to join my duty on the expiry of the above Leave, therefore, I submitted application for extension of Ex-Pakistan (E.O.L) without pay for a further period of two years. (Copy of the application is attached).
4. That I have enough leave at my credit and I believed that the said leave would be granted in my favour as per provision contained in Finance Department's Circular letter No. FD/SO (SR-IV) 5-54/80/V: III dated 31<sup>st</sup> July 1991 (Copy attached).
5. That now on my arrival from abroad, I have come to know that my request for extension in E.O.L (Ex-Pakistan) has been regretted by the Hon'ble Secretary Establishment and removal from Service order has been issued against me.
6. That due to absence from Pakistan, I was not aware of the decision of the Establishment Department. In this regard neither I received any notice <sup>nor</sup> has a show cause notice served upon me.

Therefore, I presumed that my application for Extension in the E.O.L (Ex-Pakistan) would be acceded to and thus I could not come to resume my duty.

- 7. That I belong to far flung area of Swat, which has badly been suffered due to Taliban insurgency and I am facing a great deal of hardship in looking after of my large family/ dependent with my meager income.
- 8. That the flood of 2010 has also destroyed all our property and houses and nothing has been left for us to bank on.
- 9. That the Removal from Service Order of the Establishment Department is another disaster for me to snatch the loaf with the mouth of my dependents and children.
- 10. That I have more than 14 years service and the removal from service will deprive from all service benefits etc.

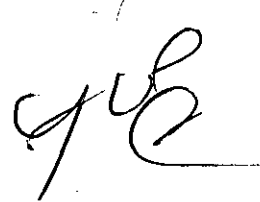
It is therefore, humbly requested that on acceptance of this Appeal / Representation, my removal from service order of the Secretary Establishment Department bearing No.SOE-IV(E&D)( )2011 dated 02/11/2012 may be set aside and I may kindly be re-instated in service with immediate effect.

Your's Faithfully



Umar Hayat  
Stenographer (BS-14)  
Establishment Department,  
Peshawar  
Cell: 03459424717

DATED 14<sup>TH</sup> NOVEMBER 2012



page 2/2

EXTRA-ORDINARY (30)

LEAVE

No. FD/30(SR-IV)5-54/80/V:III  
Government of N.W.F.P.  
Finance Department.

ANNEX S

Dated Peshawar the 31st July, 1981.

From:- The Secretary to Govt. of NWFP,  
Finance Department,  
Peshawar.

1. The Additional Chief Secretary,  
Government of NWFP, Peshawar.
2. The Senior Member, Board of Revenue,  
NWFP, Peshawar.
3. All Administrative Secretaries  
to Government of NWFP, Peshawar.
4. The Secretary to Governor,  
NWFP, Peshawar.
5. The Secretary to Chief Minister,  
NWFP, Peshawar.
6. The Secretary, Provincial Assembly  
Secretariat, NWFP, Peshawar.
7. All Heads of Attached Departments  
in NWFP, Peshawar.
8. All Commissioners of Divisions in NWFP.
9. The Registrar, Peshawar High Court,  
Peshawar.
10. All Deputy Commissioners/Political Agents/  
District & Sessions Judges in NWFP.
11. The Secretary Public Service Commission,  
NWFP, Peshawar.
12. The Registrar, Services Tribunal,  
NWFP, Peshawar.

SUBJECT:- GRANT OF EXTRA ORDINARY LEAVE (LEAVE WITHOUT PAY)  
UNDER RULE-12 OF THE NWFP CIVIL SERVANTS REVISED  
LEAVE RULES, 1981.

Sir, I am directed to say that in connection with the application of rule-12 of the N.W.F.P. Civil Servants Revised Leave Rules, 1981 a question has been raised as to whether a Government servant can be allowed Extra Ordinary Leave (leave without pay) at every occasion/time or only once in the whole period of service.

2. It is clarified that:-
- i) Extra Ordinary Leave (leave without pay) of 5 years is admissible to a Government servant for each spell of 10 years of continuous service. If, however, a civil servant has not completed 10 years of continuous service on each occasion/time, Extra Ordinary Leave (leave without pay) for maximum period of two years may be granted at the discretion of the Competent Authority.

contd... 2-

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- ii) Maximum leave availed during one continuous period of 10 years should also not exceed 5 years.

The cases already decided need not to be re-opened.

Your obedient servant,

(GHULAM DASTGIR)

Deputy Secretary (Regulation)

Endst: of even number & date.

Copy forwarded for information to:-

- 1) All Autonomous & Semi-Autonomous Bodies in NWFP.
- 2) The Secretary, Finance Department, Government of Punjab, Sindh and Balochistan.

(GHULAM DASTGIR)

Deputy Secretary (Regulation)

Endst: of even number & date.

Copy forwarded for information to:-

1. The Accountant General, NWFP, Peshawar.
2. The Director Audit, NWFP, Peshawar.
3. The Treasury Officer, Peshawar.
4. All District/Agency Accounts Officers in NWFP.
5. The Private Secretary to Finance Minister, NWFP, Peshawar.
6. P.S to Secretary, P.As to Additional Secretaries/Deputy Secretaries in Finance Department, Peshawar.
7. All Section Officers/Budget Officers in Finance Deptt:
8. The Director, Local Fund Audit, NWFP, Peshawar.
9. The Librarian, Services & General Admn: Deptt: Peshawar.
10. The Manager, Government Printing & Stationary Deptt: for publication in the next issue of the official gazette.

SECTION OFFICER (SR-IV)  
FINANCE DEPARTMENT.

POWER OF ATTORNEY

In The COURT of 12 PIR Service Tribunal Peshawar  
Umar Hayat

For:  
Plaintiff  
Appellant  
Petitioner  
Complainant

VERSUS

Govt PIR PIR and others

Defendant  
Respondent  
Accused

Appeal/Revision/Suit/Application/Petition/Case No: \_\_\_\_\_ of \_\_\_\_\_  
Fixed for \_\_\_\_\_

I/WE, the undersigned, do hereby nominate and appoint

MR. IJAZ ANWAR ADVOCATE, HIGH COURT, PESHAWAR

Sajid Amin Advocate my true and lawful attorney, for me in my name and on my behalf to appear at Pesh to appear, plead, act and answer in the above Court or any appellate Court or any Court to which the business is transferred in the above matter and is agreed to sign and file PETITIONS. An appeal, statements, accounts; exhibits, compromises or other documents whatsoever, in connection with the said matter or any matter arising there-from and also to apply for and receive all documents or copies of documents, depositions etc and to apply for and issue summons and other writs or sub-poena and to apply for and get issued and arrest, attachment or other execution, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate whenever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to do all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may per proper and expedient.

AND I/We hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/We undertake at time of calling of the case by the court/ my authorized agent shall inform the Advocate and make him appear in court, if the case may dismissed in default, if it be proceeded ex-parte the said counsel shall not held responsible for the same. All cost awarded in favour shall the right of Counsel or his nominee, and if awarded against shall payable by me/us.

IN WITNESS whereof I/We have hereto signed at Pesh the \_\_\_\_\_ day to \_\_\_\_\_ in the year \_\_\_\_\_  
Executant/Executants \_\_\_\_\_  
Accepted subject to the terms regarding fee \_\_\_\_\_

Sajid Amin  
**SAJID AMIN**  
Advocate, Peshawar

Ijaz Anwar  
**Ijaz Anwar**  
Advocate High Courts & Supreme Court of Pakistan

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT  
FR-3, 4<sup>th</sup> Floor, Bilour Plaza, Saddar Road, Peshawar Cantt.  
Ph: 091-52772054 Mobile: 0333-9107225

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

Appeal No. 352/2013

Umar Hayat s/o Syed Shah Room Mian  
Ex-Stenographer (BS-14) Establishment  
Department.

(Appellant)

VERSUS

1. Govt of Khyber Pakhtunkhwa through  
Chief Secretary Khyber Pakhtunkhwa
2. Secretary to Govt of Khybr Pakhtunkhwa,  
Establishment Department.

Respondents

Joint parawise comments / reply on behalf respondent No. 1 & 2.

**PRELIMINARY OBJECTIONS.**

1. That the appellant has got no cause of action against the respondents.
2. The appellant is estopped by his own conduct to file the present appeal in this Honorable Tribunal.
3. That the appeal of the appellant is time barred.
4. The appellant has not come to this Honorable Court with clean hands and has concealed material facts from this Honourable Court.

**On Facts**

1. **Correct** to the extent that the appellant was initially appointed as Junior Clerk in Inspectorate of Mines Labour Welfare and later on was appointed as Stenographer (B-12) in Civil Secretariat.
2. **Correct** to the extent that on his appointment as Stenographer, the pay



of his previous service as junior Clerk rendered in Inspectorate of Mines Labour Welfare was protected.

3. Subject to proof:
4. Correct to the extent that after availing 1095 days Ex-Pakistan leave, the appellant had submitted arrival report for duty and had been posted in Higher Education Department.
5. Correct to the extent that the appellant again applied for 730 days ex-Pakistan leave and was granted w.e.f 01.05.2010.
6. Incorrect. Leave is not to be claimed as of right, it is always on the discretion of the sanctioning authority and the appellant had already availed 05 years long Ex-Pakistan leave. It is also worth to note that the appellant had applied for extension in his ex-Pakistan leave whereas the reason he showed in his application was domestic affairs. So, the appellant was getting Ex-Pakistan leave for the settlement of his domestic affairs. It is also worth consideration that the appellant could not settle his domestic problem in his 05 years leave.
7. Incorrect. Notices were sent to the appellant on his home address and through press, to which, he failed to respond and rendered himself liable for ex-parte action, thus removed from service in pursuance of the provisions of Rule 9 of the Khyber Pakhtunkhwa Govt. Servants (E&D) Rules, 2011.
8. Incorrect. The appellant had been responded through a letter dated 01.02.2013 and had informed him about the fate of his appeal.
9. Incorrect. The appellant was removed from service on his willful absence, after fulfillment of all the requirements of Rule 9 of the aforementioned Khyber Pakhtunkhwa Govt. Servant (E&D) Rules, 2011.

**GROUND:**

- A **Incorrect.** No law has been violated and the appellant was treated in accordance with the true spirit of Rule 9 of Khyber Pakhtunkhwa Govt. Servants (E&D) Rules, 2011, as the appellant had made himself unauthorizedly absent from duty without the prior approval of the


competent authority, after availing 5 years long ex-Pakistan leave.


- B** **Incorrect:** The appellant had made himself absent from duty, therefore action was initiated against him under the Rule 9 of the above mentioned Khyber Pakhtunkhwa Govt. Servant (E&D) Rules, 2011 and notices were served upon him on his home address and also through press and an ex-parte decision was taken against the appellant strictly in accordance with the Rules *ibid*.
- C** Incorrect. The appellant was required to mention the desire of personal hearing in his appeal, which was, however, silent in this regard.
- D** Incorrect. Under section 18 of Khyber Pakhtunkhwa Civil Servants Act, 1973, granting of leave is the discretion of the competent authority. On expiry of the Ex-Pakistan leave, the appellant was required to submit his arrival report for duty and wait for the outcome of his application. The appellant did not return back to resume his duty, despite serving of several notices and thus after completion of the procedural formalities as per rules was removed from service. The appellant had also attempted to use political influence in getting Ex-Pakistan leave which was/ is against the rules in terms of Rule 34 of the Khyber Pakhtunkhwa Government Servants (Conduct) Rules, 1987.
- E.** Incorrect. Orders are always notified with immediate effect, therefore in order to bridge the gap of intervening period, the unauthorized absence from duty was treated as leave without pay in term of Rule 12 (3) of the Revised Leave Rules, 1981.
- F.** In correct. All the notices were sent to the appellant including his removal from service order too, on his home address. Astonishingly, he received his removal order in time, to which he had preferred appeal while denied having received the notices/ other letters.
- G.** Incorrect. The appellant was time and again informed to resume his duty and due to his non-response, the competent authority was obliged to take ex-parte decision by removing him from service after fulfillment of codal formalities as prescribed in the relevant rules.
- H.** Incorrect. The appellant was treated as per rule and in true spirit of Rule 9 of the Khyber Pakhtunkhwa Govt. Servants (E&D), Rules, 2011.

- I. Incorrect. The appellant was seemingly not interested to continue his service otherwise would have responded to the notices, which had been sent to him through post on his home address and published in the press as well. The appellant was removed from service in accordance with the provision of Rule 9 of Khyber Pakhtunkhwa Govt. Servants (E&D) Rules, 2011.
- j. Incorrect: the removal order is issued after adopting all the codal formalities.
- K. The respondents seek the permission of this Honorable Tribunal to reply on additional grounds at the time of hearing.

**Prayer**

In view of the above stated factual position it is prayed that the appeal being devoid of merits may be dismissed with costs.

  
Chief Secretary  
Govt. of Khyber Pakhtunkhwa  
(Respondent No.1)

  
Secretary  
Govt. of Khyber Pakhtunkhwa  
Establishment Deptt  
(Respondent No.2)



*Registered*

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(Establishment Wing)

No. SOE.IV (E&AD) 3(223)/2000  
Dated Peshawar, the 01.02.2013

To

Mr. Umar Hayat S/O Syed Shah Room Mian,  
Stenographer  
Village Shaqai Shahgram, P.O Madyan,  
Tehsil Behrain, District Swat

Subject:- REPRESENTATION/ APPEAL AGAINST THE ORDER OF REMOVAL  
FROM SERVICE BEARING NO. SOE-IV (E&D) ( ) 2011 DATED 02.11.2012  
AND REQUEST FOR RESTORATION/ REINSTATEMENT IN SERVICE  
WITH ALL BACK BENEFITS

I am directed to refer to the subject note above and to state that your Appeal dated 14.11.2012 has not been accepted by the appellate authority.

(NASIR AMAN)  
SECTION OFFICER (E.IV)

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

Appeal No. 352/2013

Umar Hayat s/o Syed Shah Room Mian  
Ex-Stenographer (BS-14) Establishment  
Department.

(Appellant)

VERSUS

1. Govt of Khyber Pakhtunkhwa through  
Chief Secretary Khyber Pakhtunkhwa
2. Secretary to Govt of Khybr Pakhtunkhwa,  
Establishment Department.

Respondents

Joint parawise comments / reply on behalf respondent No. 1 & 2.

**PRELIMINARY OBJECTIONS.**

1. That the appellant has got no cause of action against the respondents.
2. The appellant is estopped by his own conduct to file the present appeal in this Honorable Tribunal.
3. That the appeal of the appellant is time barred.
4. The appellant has not come to this Honorable Court with clean hands and has concealed material facts from this Honourable Court.

**On Facts**

1. **Correct** to the extent that the appellant was initially appointed as Junior Clerk in Inspectorate of Mines Labour Welfare and later on was appointed as Stenographer (B-12) in Civil Secretariat.
2. **Correct** to the extent that on his appointment as Stenographer, the pay

of his previous service as junior Clerk rendered in Inspectorate of Mines Labour Welfare was protected.

3. Subject to proof:

4. Correct to the extent that after availing 1095 days Ex-Pakistan leave, the appellant had submitted arrival report for duty and had been posted in Higher Education Department.

5. Correct to the extent that the appellant again applied for 730 days ex-Pakistan leave and was granted w.e.f 01.05.2010.

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7. Incorrect. Notices were sent to the appellant on his home address and through press, to which, he failed to respond and rendered himself liable for ex-parte action, thus removed from service in pursuance of the provisions of Rule 9 of the Khyber Pakhtunkhwa Govt. Servants (E&D) Rules, 2011.

8. Incorrect. The appellant had been responded through a letter dated 01.02.2013 and had informed him about the fate of his appeal.

9. Incorrect. The appellant was removed from service on his willful absence, after fulfillment of all the requirements of Rule 9 of the aforementioned Khyber Pakhtunkhwa Govt. Servants (E&D) Rules, 2011.

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competent authority, after availing 5 years long ex-Pakistan leave.

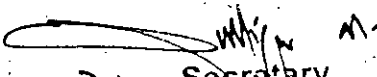
- B** **Incorrect:** The appellant had made himself absent from duty, therefore action was initiated against him under the Rule 9 of the above mentioned Khyber Pakhtunkhwa Govt. Servant (E&D) Rules, 2011 and notices were served upon him on his home address and also through press and an ex-parte decision was taken against the appellant strictly in accordance with the Rules *ibid*.
- C** **Incorrect.** The appellant was required to mention the desire of *personal* hearing in his appeal, which was, however, silent in this regard.
- D** **Incorrect.** Under section 18 of Khyber Pakhtunkhwa Civil Servants Act, 1973, granting of leave is the discretion of the competent authority. On expiry of the Ex-Pakistan leave, the appellant was required to submit his arrival report for duty and wait for the outcome of his application. ~~The appellant did not return back to resume his duty as per the notice of~~ several notices and thus after completion of the procedural formalities as per rules was removed from service. The appellant had also attempted to use political influence in getting Ex-Pakistan leave which was/ is against the rules in terms of Rule 31 of the ~~1973~~ Pakhtunkhwa Government Servants (Conduct) Rules, 1987.
- E.** **Incorrect.** Orders are always notified with immediate effect, therefore in order to bridge the gap of intervening period, the unauthorized absence from duty was treated as leave without pay in term of Rule 12 (3) of the Revised Leave Rules, 1981.
- F.** **In correct.** All the notices were sent to the appellant including his removal from service order too, on his home address. Astonishingly, he received his removal order in time, to which he had preferred appeal while denied having received the notices/ other letters.
- G.** **Incorrect.** The appellant was time and again informed to resume his duty and due to his non-response, the competent authority was obliged to take ex-parte decision by removing him from service after fulfillment of codal formalities as prescribed in the relevant rules.
- H.** **Incorrect.** The appellant was treated as per rule and in true spirit of Rule 9 of the Khyber Pakhtunkhwa Govt. Servants (E&D), Rules, 2011.

- i. Incorrect. The appellant was seemingly not interested to continue his service otherwise would have responded to the notices, which had been sent to him through post on his home address and published in the press as well. The appellant was removed from service in accordance with the provision of Rule 9 of Khyber Pakhtunkhwa Govt. Servants (E&D) Rules, 2011.
- j. Incorrect: the removal order is issued after adopting all the codal formalities.
- k. The respondents seek the permission of this Honorable Tribunal to reply on additional grounds at the time of hearing.

**Prayer**

In view of the above stated factual position it is prayed that the appeal being devoid of merits may be dismissed with costs.

  
Chief Secretary  
Govt. of Khyber Pakhtunkhwa  
(Respondent No.1)

  
Secretary  
Govt. of Khyber Pakhtunkhwa  
Establishment Deptt  
(Respondent No.2)



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

In the matter of:  
Appeal No.352/2013

Umar Hayat. .... Appellant

Versus

Govt. of Khyber Pakhtunkhwa & others. .... Respondents

**REJOINDER ON BEHALF OF THE APPELLANT**

**Respectfully Sheweth:**

Rejoinder on behalf of the appellant is as under:

**Preliminary Objections:**

1. Contents incorrect and misleading, the appellant has been illegally awarded the penalty of removal from service, hence he has got the necessary cause of action to file the instant appeal.
2. Contents incorrect and misleading, no rule of estoppel is applicable in the instant case.
3. Contents incorrect and misleading, the appeal is filed well within the prescribed period of limitation.
4. Contents incorrect and misleading, the appellant has come to the court with clean hand. Moreover, all necessary facts are brought before this Honourable Tribunal and nothing has been concealed.

**ON FACTS:**

1. Contents need no reply, however, contents of para No.1 of the appeal are true and correct.
2. Contents need no reply, however, contents of para No.2 of the appeal are true and correct.
3. Contents need no reply, however, contents of para No.3 of the appeal are true and correct.
4. Contents need no reply, however, contents of para No.4 of the appeal are true and correct.
5. Contents need no reply, however, contents of para No.5 of the appeal are true and correct.
6. Contents of para No.6 of the appeal are correct, the reply submitted to the para is incorrect and misleading.
7. Contents of para No.7 of the appeal are correct, the reply submitted to the para is incorrect and misleading.
8. Contents of para No.8 of the appeal are correct, the reply submitted to the para is incorrect and misleading, the appellant has not been informed about the outcome of his departmental appeal during the statutory period, nor the same is attached with the instant reply.
9. Contents of para No.9 of the appeal are correct, the reply submitted to the para is incorrect and misleading.

**GROUNDS:**

All the grounds "A" to "K" of the appeal are legal and will be substantiated at the time of hearing of appeal.

It is, therefore, humbly prayed that the appeal of the appellant may kindly be accepted as prayed.

Appellant  
Through

**IJAZ ANWAR**

&

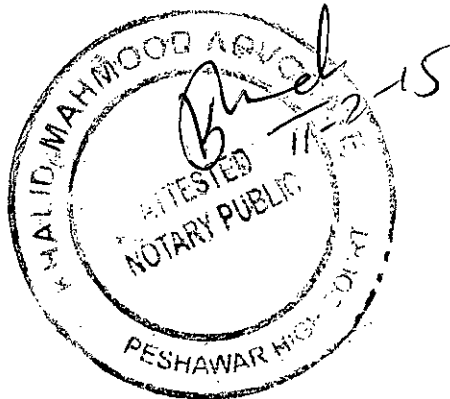
*Sajid Amin*  
**SAJID AMIN**

Advocates, Peshawar

Dated: 11.02.2015

**AFFIDAVIT**

It is stated on oath that the contents of this **Rejoinder as well as the titled Appeal** are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Tribunal.



*Sajid Amin*  
DEPONENT

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No. 1104 /ST

Dated 29/6/2016

To


The Secretary Establishment,  
Peshawar.

Subject: -

**JUDGMENT**

I am directed to forward herewith a certified copy of Judgement dated 3.6.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.