BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR AT CAMP COURT, D.I.KHAN

Service Appeal No.1222/2014

 Date of Institution
 ...
 16.09.2014

 Date of Decision
 ...
 23.02.2021

Muhammad Suleman S/O Allah Bakhsh R/O Haji Mora District D.I.Khan.

(Appellant)

(Respondents)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Health Peshawar and two others.

Muhammad Ismail Alizai, Advocate

Noor Zaman Khan Khattak, District Attorney

ROZINA REHMAN ATIQ-UR-REHMAN WAZIR

For appellant. For respondents.

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MEMBER (J) MEMBER (E)

JUDGMENT

<u>ROZINA REHMAN, MEMBER</u> : Appellant was working as Bahishti in the Health Department. He was terminated from service on 01.04.2010. It is the legality and validity of this order which has been challenged by him in the present service appeal filed U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 2. Brief facts of the case are that appellant was appointed as Bahishti. A criminal case was registered against him vide F.I.R No.200 dated 26.05.2008 at Police Station Gomal University U/S 302/109/34 PPC and Section-7 of ATA. After earning acquittal, he contacted respondent No.3 for his arrival but he refused to receive arrival report and issued his termination order instead. He then approached august Peshawar High Court Peshawar in a Writ Petition where the respondents submitted his termination order. He, therefore, filed departmental appeal which was not responded to, hence the present service appeal.

3. Learned counsel for appellant argued that the order dated 01.04.2010 is against law, facts and natural justice. He argued that no regular inquiry was initiated against the appellant and he was condemned unheard. The learned counsel for appellant has gone on to submit that no allegation had ever been leveled against appellant regarding commission of any illegality, irregularity or impropriety by him in his service and the blemish of murder stood washed away on the basis of his acquittal in that criminal case and that now there is no impediment in his reinstatement in service with all back benefits.

4. Conversely, learned District Attorney argued that appellant was charged in a criminal case and salary of the appellant was stopped in April, 2010, where-after, he was convicted in the murder case and was sentenced to death. The appellant was directly charged in F.I.R and after recording of evidence, prosecution proved its case against appellant where-after he was sentenced to death by the

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learned Anti-Terrorism Court D.I.Khan vide judgment dated 14.12.2009. He then effected compromise with the legal heirs of the victim and was later on acquitted on the strength of compromise. He submitted that appeal being time barred, may kindly be dismissed.

5. Perusal of record would reveal that appellant was appointed as Behishti vide appointment order dated 30.11.2006. During service, F.I.R No.200 was registered against him U/S 302/109/34 P.P.C/7ATA at Police Station Gomal University. He was tried in the competent court of law and vide order dated 14.12.2009, he was convicted and sentenced to death. He was also ordered to pay compensation to the legal heirs of deceased U/S 544-A Cr.P.C. He was also convicted U/S 7(a) of the Anti-Terrorism Act, 1997 and was sentenced to death with Fine of Rs.100000/-. Later on, legal heirs of the deceased pardoned the appellant and effected compromise in the august Peshawar High Court, therefore, accused was acquitted on the strength of compromise alone vide order dated 15.04.2010. The accused remained absent from service, therefore, he was terminated vide office order dated 01.04.2010. He filed departmental appeal on 17.06.2014 which is badly time barred. An application dated 15.12.2011 is available on file. Learned counsel referred to the said application and argued that respondents were contacted time and again to allow the appellant to submit his arrival report and that in this regard, the application mentioned above was submitted. As per record, the appellant was terminated on 01.04.2010. He was acquitted by the august High Court on 15.04.2010 but even then, he

submitted application regarding his arrival on 15.12.2011 i.e. after about One year and Eight months of his acquittal. Proper departmental appeal was filed on 17.06.2014 while service appeal was filed on 16.09.2014.

6. As per Rule-3 of Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986, a civil servant aggrieved by an order passed or penalty imposed by the competent authority relating to the terms & conditions of his service may, within 30 days from the date of communication of the order to him, prefer an appeal to the appellate authority. It is well-entrenched legal proposition that where appeal before departmental authority is time barred, the appeal before Service Tribunal would be incompetent. In this regard reference can be made to cases titled Anwarul Haq v. Federation of Pakistan 1995 SCMR 1505, Chairman, PIAC v. Nasim Malik PLD 1990 SC 951 and State Bank of Pakistan v. Khyber Zaman & others 2004 SCMR 1426.

7. In view of the foregoing reasons, the instant appeal is dismissed. No order as to costs. File be consigned to the record room,

ANNOUNCED. 23.02.2021

(Atiq ur Rehman Wazir)

Member (E) Camp Court, D.I.Khan

(Rozina Rehman) Member (J) Camp Court, D.I.Khan

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL

PESHAWAR

Restoration App. No

APPEAL NO.1222/2014 217/18

动物学家和中国 Diary No. 74 Health Deptt

Muhammad Suleman

/ V/S

APPLICATION FOR RESTORATION OF APPEAL NO. 1222/2014 WHICH WAS DISMISSED ON DEFAULT VIDE ORDER DATED 21.06.2018.

RESPECTFULLY SHEWETH:

- 1. That the instant appeal No. 1222/2014 was filed before this Honourable Tribunal against the order dated 01.04.2010 whereby the appellant was dismissed from service.
- 2. That the instant appeal was in Argument stage at camp court DI Khan on previous date the tribunal is non-functional and the appellant is not informed about the next date, i.e 21.06.2018 and on the date of hearing, the council for the appellant was not appeared and the petitioner, was also unaware, therefore the counsel for appellant and appellant in person could not appear before the Tribunal and the instant appeal was dismissed on default on 21.06.2018. (Copy of the order is attached)
- 3. That it is in the interest of justice that the appeal should be dealt on merit rather to dismiss on default.

It is therefore, most humbly prayed, that the instant appeal No. 1222/2014may be restore on the acceptance of this application.

Muhammad Suleman

mail Alizai ADVOCĂTE, HIGHCOURT

Oath/Commissioner Distr/Court Peshawar.

Javed Muhammad

Advocate High Court

<u>AFFIDAVIT</u>

It is affirmed and declared that the contents of application are true and correct to the best of my knowledge and belief.

Through:

DEPONT

BEFORE THE KPK SERVICE TRIBUNAL PESHAWA

Appeal no. 1. 2. 2. of 2014.

Restoration Appl. No. 217/18

Muhammad Suleman S/o Allah Baksh R/O Haj-Mosa District D.I.Khan.

CAMP COURT AT D. I. KHAN

VERSUS

1. Government of KPK through secretary Health Peshawar.

2. Director General Health Services Khyber Pukhtunkhwa, Peshawar.

3. District Officer Health D.I. khan.

APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT AGAINST ILLEGAL TERMINATION ORDER DATED 01.04.2010 ON THE BACK OF APPELLANT.

That the brief facts of the case are as under:

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1. That the petitioner is permanently resident of Tehsil and District D.I. Khan and was appointed as Bhahisiti on fixed charge basis after due process of law. Copy of appointment order is Annexure A.

 That the petitioner after taking charge of the post, do his duties to the utmost satisfaction of high ups and also received salary from the respondents. Copy of pay slip is Annexure B.

3. That the petitioner was **mainted** in criminal case by the prosecution with malafidly intension without any evidence. Copy of FIR is Annexure C.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR AT CAMP COURT, D.I.KHAN

Service Appeal No.1222/2014

Date of Institution16.09.2014Date of Decision23.02.2021

Muhammad Suleman S/O Allah Bakhsh R/O Haji Mora District D.I.Khan.

<u>VERSUS</u>

Government of Khyber Pakhtunkhwa through Secretary Health Peshawar and two others.

Muhammad Ismail Alizai, Advocate

Noor Zaman Khan Khattak, District Attorney

ROZINA REHMAN ATIQ-UR-REHMAN WAZIR ,

(Appellant)

(Respondents)

For respondents.

For appellant.

MEMBER (J) MEMBER (E)

<u>JUDGMENT</u>

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Hw?

ROZINA REHMAN, MEMBER : Appellant was working as Bahishti in the Health Department. He was terminated from service on 01.04.2010. It is the legality and validity of this order which has been challenged by him in the present service appeal filed U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 2. Brief facts of the case are that appellant was appointed as Bahishti. A criminal case was registered against him vide F.I.R No.200 dated 26.05.2008 at Police Station Gomal University U/S 302/109/34 PPC and Section-7 of ATA. After earning acquittal, he contacted respondent No.3 for his arrival but he refused to receive arrival report and issued his termination order instead. He then approached august Peshawar High Court Peshawar in a Writ Petition where the respondents submitted his termination order. He, therefore, filed departmental appeal which was not responded to, hence the present service appeal.

3. Learned counsel for appellant argued that the order dated 01.04.2010 is against law, facts and natural justice. He argued that no regular inquiry was initiated against the appellant and he was condemned unheard. The learned counsel for appellant has gone on to submit that no allegation had ever been leveled against appellant regarding commission of any illegality, irregularity or impropriety by him in his service and the blemish of murder stood washed away on the basis of his acquittal in that criminal case and that now there is no impediment in his reinstatement in service with all back benefits.

4. Conversely, learned District Attorney argued that appellant was charged in a criminal case and salary of the appellant was stopped in April, 2010, where-after, he was convicted in the murder case and was sentenced to death. The appellant was directly charged in F.I.R and after recording of evidence, prosecution proved its case against appellant where-after he was sentenced to death by the learned Anti-Terrorism Court D.I.Khan vide judgment dated 14.12.2009. He then effected compromise with the legal heirs of the victim and was later on acquitted on the strength of compromise. He submitted that appeal being time barred, may kindly be dismissed.

5. Perusal of record would reveal that appellant was appointed as Behishti vide appointment order dated 30.11.2006. During service, F.I.R No.200 was registered against him U/S 302/109/34 P.P.C/7ATA at Police Station Gomal University. He was tried in the competent court of law and vide order dated 14.12.2009, he was convicted and sentenced to death. He was also ordered to pay compensation to the legal heirs of deceased U/S 544-A Cr.P.C. He was also convicted U/S 7(a) of the Anti-Terrorism Act, 1997 and was sentenced to death with Fine of Rs.100000/-. Later on, legal heirs of the deceased pardoned the appellant and effected compromise in the august Peshawar High Court, therefore, accused was acquitted on the strength of compromise alone vide order dated 15.04.2010. The accused remained absent from service, therefore, he was terminated vide office order dated 01.04.2010. He filed departmental appeal on 17.06.2014 which is badly time barred. An application dated 15.12.2011 is available on file. Learned counsel referred to the said application and argued that respondents were contacted time and again to allow the appellant to submit his arrival report and that in this regard, the application mentioned above was submitted. As per record, the appellant was terminated on 01.04.2010. He was acquitted by the august High Court on 15.04.2010 but even then, he

submitted application regarding his arrival on 15.12.2011 i.e. after about One year and Eight months of his acquittal. Proper departmental appeal was filed on 17.06.2014 while service appeal was filed on 16.09.2014.

6. As per Rule-3 of Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986, a civil servant aggrieved by an order passed or penalty imposed by the competent authority relating to the terms & conditions of his service may, within 30 days from the date of communication of the order to him, prefer an appeal to the appellate authority. It is well-entrenched legal proposition that where appeal before departmental authority is time barred, the appeal before Service Tribunal would be incompetent. In this regard reference can be made to cases titled Anwarul Haq v. Federation of Pakistan 1995 SCMR 1505, Chairman, PIAC v. Nasim Malik PLD 1990 SC 951 and State Bank of Pakistan v. Khyber Zaman & others 2004 SCMR 1426.

7. In view of the foregoing reasons, the instant appeal is dismissed. No order as to costs. File be consigned to the record room.

ANNOUNCED. 23.02.2021

(Atiq ur Rehman Wazir)

Member (E) Camp Court, D.I.Khan

(Rozina Rehman) Member (J) Camp Court, D.I.Khan

Service Appeal No. 1222/2014

S.No	Date of	Order or other proceedings with signature of Judge or Magistrate		
	order/ proceedings	and that of parties where necessary.		
1	2	3		
	23.02.2021	Present.		
	- - -			
		Muhammad Ismail Alizai, For appellant Advocate		
		Riaz Khan Paindakhel, Assistant Advocate General For respondents		
		Vide our detailed judgment of today placed on file, th		
		instant appeal is dismissed. No order as to costs. File be consigned		
		to the record room.		
		ANNOUNCED.		
		23.02.2021 (Rozina Rehman)		
		Member (J) Camp Court, D.I.Khan		
		(Atiq ur Rehman Wazir)		
		Member (E) Camp Court, D.I.Khan		

28.10.2020

Assistant to counsel for the appellant is present. Mr. Usman Ghani, District Attorney alongwith Mr. Hazrat Shah, SO, Mr. Saleem, Senior Clerk and Mr. Javed Ali Shah, Litigation Assistant for respondents are present.

Since the Members of the High Court as well as of the District Bar Association D.I.Khan are observing strike today, therefore, the case is adjourned to 24.11.2020 for arguments before D.B at camp court D.I.Khan.

(Mian Muhammad) Member(E)

(Muhammad Jamal Khan) Member(J) Camp Court D.I Khan 4G

24.11.2020

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Appellant present through counsel.

Muhammad Jan learned Deputy District Attorney for respondents present.

Former made a request for adjournment. Adjourned. To come up for arguments on 22.12.2020 before D.B at Camp Court DI.Khan.

(Atiq-ur-Rehman Wazir) Member (E) Camp Court, D.I Khan

(Rozina Rehman)

Member (J) Camp Court, D.I Khan

Due to Coviels 19 case ad Journed to 23-02-2021

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2020/3/2020

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Due to COVID-19 the case is adjourned. To come up for the same $\geq \ell / \frac{q}{2020}$ at Camp Court, D.I. Khan

21/4/2020

Due to COVID-19 the case is adjourned. To come up for the same 2-3/9/2020 at Camp Court, D.I Khan

23.09.2020

Appellant in person present.

Mr. Muhammad Jan, learned Deputy District Attorney for respondents present.

Former requests for adjournment as his counsel is busy before the Hon'ble High Court. Adjourned. To come up for arguments on 28.10.2020 before D.B at Camp Court D.I Khan.

(Atiq-ur-Rehman Wazir) Member (E)

Camp Court, D.I Khan

(Rozina Rehman)

Member (J) Camp Court, D.I Khan 24.02.2020

Counsel for the appellant present. Mr. Usman Ghani, District Attorney for the respondents present. Arguments heard. To come up for order on 26.02.2020 before D.B at Camp Court D.I.Khan.

Member

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Member Camp Court D.I.Khan

26.02.2020

Counsel for the appellant present. Mr. Usman Ghani, District Attorney for the respondents present. Some points need: further clarification, therefore, the case is adjourned. To come up for order on 25.03.2020 before D.B at Camp Court D.I.Khan.

Member

Member Camp Court D.I.Khan

21/10/2019

Since tour to D.I.Khan has been cancelled .To come for the same on 25/11/2019.

25.11.2019

Appellant in person and Mr. Ziaullah, Deputy District Attorney alongwith M/S Hazrat Shah, Superintendent and Gul Noor, Senior Clerk for the respondents present. Appellant seeks adjournment on the ground that his counsel is not available today due to general strike of Khyber Pakhtunkhwa Bar Council. Adjourned to 27.01.2020 for arguments before D.B at Camp Court D.I.Khan.

(Hussain Shah)

Member Camp Court D.I.Khan

(M. Amin¹ han Kundi)

Member Camp Court D.I.Khan

27.01.2020

Due to strike of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Usman Ghani, District Attorney alongwith Dr. Zaryab, Medical Officer for the respondents present. Adjourned to 24.02.2020 for arguments before D.B at Camp Court D.I.Khan.

(Hussain Shah) Member Camp Court D.I.Khan

(M. Amin Khan Kundi)

Member Camp Court D.I.Khan 24.02.2020

Counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present. Arguments heard: To come up for order on 26.02.2020 before D.B at Camp Court D.I.Khan.

(Mian Mohammad) Member Camp Court D.I.Khan (M. Amin Khan Kundi) Member Camp Court D.I.Khan

26.02.2020

Counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present. Some points need further clarification. Adjourned to 25.03.2020 for order before D.B at Camp Court D.I.Khan.

(Mian Mohammad) Member Camp Court D.I.Khan (M. Amin Khan Kundi) Member Camp Court D.I.Khan Counsel for the appellant and Mr. Farhaj Sikandar, District Attorney alongwith Dr. Booryab for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 26.08.2019 for arguments before D.B at Camp Court D.I.Khan.

in Shah) (Hhk Member Camp Court D.I.Khan

06.2019

08.

09.2019

(Muhammad Amin Khan Kundi) Member Camp Court D.I.Khan

Appellant in person and Mr. Farhaj Sikandar, District Attorney alongwith Mr. Gul Noor, Senior Clerk for the respondents present. Due to general strike on the call of Pakistan Bar Council, learned counsel for the appellant is not in attendance today. Adjourned to 24.09.2019 for arguments before D.B at Camp Court D.I.Khan.

(Hussain Shah) Member Camp Court D.I.Khan

(Muhammad Amin Khan Kundi) Member Camp Court D.I.Khan

Counsel for the appellant present. Mr. Farhaj Sikandar, learned Deputy District Attorney for respondents present. Learned counsel for the appellant seeks adjournment as he has not prepared the brief. Adjourned on the payment of cost of Rs.3000/- to be paid by the appellant to the respondents. To come up arguments on 21.10.2019 before D.B at Camp Court, D.I.Khan.

Member

Member

Camp Court, D.I.Khan

1222/2014

25.03.2019

Mr. Muhammad Ismail Alizai Advocate for applicant and Mr. Farhaj Sikandar, District Attorney for the respondents present..

Instant application is with the prayer for restoration of Appeal No. 525/2013 which was dismissed for non-prosecution on 21.06.2018.

It is noted in the grounds of application that on the date previous to the date on which the appeal was dismissed in default, the Tribunal was non-functional due to the retirement of the then Chairman and there was some confusion regarding the next date of hearing.

The application is duly supported by an affidavit and has been submitted within the time prescribed for the purpose. The reasons noted therein also appear to be genuine. It is, therefore, allowed on payment of costs of Rs. 1000/- The Appeal No. 225/2013 shall be restored to its original number and shall come up for arguments before a D.B on 24.06.2019 at camp court, D.I.Khan.

nber

Chairman Camp Court, D.I.Khan 19.12.2018

As per direction of the worthy Chairman Khyber Pakhtunkhwa Service Tribunal, D.I.Khan tour dated 19.12.2018 has been rescheduled and the case is re-fixed for 28.12.2018.

Reader

28.12.2018

Clerk of counsel for the appellant present and requested for adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for arguments on restoration application on 23.01.2019 before S.B.

(Muhammad A min Khan Kundi) Member Camp Court D.I. Khan

23.01.2019

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Mr. Tanveer Abbas, Advocate for appellant present.

Notice of restoration application be given to respondents for 25.03.2019 before S.B at camp court, D.I.Khan. Original record of appeal shall also be made available on the next date.

Clairman

Camp Court, D.I.Khan

Form-A

FORM OF ORDER SHEET

Court of

Appeal's Restoration Application No. 217/2018

S.No. Date of order Order or other proceedings with signature of judge Proceedings 2 3 1 04.07.2018 The application for restoration of appeal no. 1222/2014 1 submitted by Mr. Muhammad Ismail Alizai may be entered in the relevant register and put up to the Court for proper order please. REGISTRAR 417/18 2 This restoration application is entrusted to Touring S. Bench at D.I.Khan to be put up there on <u>29-11-18</u> MAIRMAN 29.11.2018 Appellant in person present and requested for adjournment on the ground that his counsel is busy before the Hon'ble Peshawar High Court D.I.Khan Bench. Adjourned. To come up for arguments on restoration application on 19.12.2018 before S.B at Camp Court D.I.Khan. (Muhammad Amin Khan Kundi) Member Camp Court D.I.Khan

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR Khyber Dakhtukhwa

Restoration App. No

APPEAL NO.1222/2014 217/18

unal Diary No._746 Health Deptt:

Muhammad Suleman.

APPLICATION FOR RESTORATION OF APPEAL NO. 1222/2014 WHICH WAS DISMISSED ON DEFAULT VIDE ORDER DATED 21.06.2018.

RESPECTFULLY SHEWETH:

- 1. That the instant appeal No. 1222/2014 was filed before this Honourable Tribunal against the order dated 01.04.2010 whereby the appellant was dismissed from service.
- 2. That the instant appeal was in Argument stage at camp court DI Khan on previous date the tribunal is non-functional and the appellant is not informed about the next date, i.e 21.06.2018 and on the date of hearing, the council for the appellant was not appeared and the petitioner, was also unaware, therefore the counsel for appellant and appellant in person could not appear before the Tribunal and the instant appeal was dismissed on default on 21.06.2018. (Copy of the order is attached)
- 3. That it is in the interest of justice that the appeal should be dealt on merit rather to dismiss on default.

It is therefore, most humbly prayed, that the instant appeal No. 1222/2014may be restore on the acceptance of this application.

Muhammad Suleman

mail Alizai ADVOCĂTE, HIGHCOURT

AFFIDAVIT

It is affirmed and declared that the contents of application are true and correct to the best of my knowledge and belief.

DEPONENT

Javed Muhammad Advogate High Court Oath/Commissioner Dist Court Peshawar.

Through:

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Appeal no. 1. 2. 2. of 2014.

Restoration Appl. No. 217/

Muhammad Suleman S/o Allah Baksh RIO Haji Mosa District D.I.Khan.

VERSUS

1. Government of KPK through secretary Health Peshawar.

2. Director General Health Services Khyber Pukhtunkhwa, Peshawar.

3. District Officer Health D.I .khan.

ARPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT AGAINST ILLEGAL TERMINATION ORDER DATED 01.04.2010 ON THE BACK OF APPELLANT.

That the brief facts of the case are as under:

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ATTESTED . wa Trenal. Service Peshawar

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1. That the petitioner is permanently resident of Tehsil and District D.I. Khan and was appointed as Bhahisiti on fixed charge basis after due process of law. Copy of appointment order is Annexure A.

That the petitioner after taking charge of the post, do his duties to the utmost satisfaction of high ups and also received salary from the respondents. Copy of pay slip is Annexure B.

3. That the petitioner was **method** in criminal case by the prosecution with malafidly intension without any evidence. Copy of FIR is Annexure C. Addition 21.06.2018

Neither the appellant nor his equivel pro-Mr. Mr. Usman Ghani District Attorney for respondents present.

Appeal No. 1222/2014 Misuleman Kis Gmt

Case was called time and again dil 3.30 P.M but none appeared on behalf of the appellant. On previous date too, none was present on his behalf. This conduct of the appellant clearly manifests that he is not interested to pursue the case. As such, the Unibuilat is left with no option but to dismiss the appeal to hand in default. File be consigned to the record rodm.

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Camprone, O.I.Khun

ANNOUNCED 21.06.2018

Certifies to be trie copy Khybe: Service Tribunal, nkhturkhwa Peshawar

Date of Presentation of Applycation-Number of Were's Copying Fre 10:00 Urgen_ Total 12 Name of Copylest_ Date of Complection of Congress Date of Delivery of Copy.

Neither the appellant nor his counsel present. Mr. Usman Ghani, learned District Attorney for the respondents present. Being an old case of 2014, adjourned for tomorrow i.e. 21.06.2018 for arguments before the D.B. at camp court D.I.Khan.



20.06.2018

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Member

Camp Court, D.I.Khan

20:02.2018

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Dr. Samiullah, M.O for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 14.03.2018 before D.B.

(AHMAD HASSAN) MEMBER

(M. AMIN KHAN KUND) MEMBER Camp Court D.I.Khan

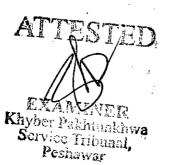
14.03.2018 Counsel for the appellant and Add. AG alongwith Dr.
 M. Farrey Geve, Medical Officer for the respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 23.4.2018 before the D.B at camp court. D.I. Khan.

Member

Campbourt, D.I.Khan

25.05.2018

Due to retirement of the worthy Chairman, the Tribunal is non-functional. To come up for the same on 20.06.2018. Notices be issued to the parties accordingly.



Membe

Appeal No. 1222/2014 M. Suleman VS Govt

21.06.2018

Neither the appellant nor his counsel present. Mr. Mr. Usman Ghani District Attorney for the respondents present.

Case was called time and again till 3.30 P.M but none appeared on behalf of the appellant. On previous date too, none was present on his behalf. This conduct of the appellant clearly manifests that he is not interested to pursue the case. As such, the Tribunal is left with no option but to dismiss the appeal in hand in default. File be consigned to the record room.

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<u>ANNOUNCED</u> 21.06.2018

21.6,20/8, lisinnan

Camp court, D.I.Khan

20.06.2018

ŧ,

Neither the appellant nor his counsel present. Mr. Usman Ghani, learned District Attorney for the respondents present. Being an old case of 2014, adjourned for tomorrow i.e. 21.06.2018 for arguments before the D.B. at camp court D.I.Khan.

Member

Chairman

Camp Court, D.I.Khan

<u>70:8</u>

Appellant In person present. Mr. Muhammad Hanif Head Master alongwith Mr. Usman Ghani learnd District Attorney for the respondents present Appellant made a request for adjournment that he wants to submit rejoinder. Granted. To come up for rejoinder and arguments on 28.08, 2018) before the D.B at Camp Court D.I.Khan

Membe

Chairman Camp Court, D.I. Khar

20.02.2018 Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Dr. Samiullah, M.O for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 14.03.2018 before D.B.

(AHMAD HASSAN) MEMBER

(M. AMIN KHAN KUNDI) **MEMBER** Camp Court D.I.Khan

14.03.2018 Counsel for the appellant and Addl. AG alongwith Dr. *M.Farceq Gevl*, Medical Officer for the respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 23.4.2018 before the D.B at camp court. D.I.Khan.

Member

Camp court, D.I.Khan

Member

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25.05.2018

Service Appeal No. 1222/2014

29.11:2017

.12.201

Appellant in person present. Mr. Farhaj Sikandar, District Attorney for the respondents also present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 27.12.2017 before D.B at Camp Court D.I.Khan.

(Gul Zeb Kh Member

(Muhammad Amin Khan Kundi) Member Camp Court D.I. Khan

Learned counsel for the appellant present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Allah Nawaz, Medical Technician for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 24.01.2018 before D.B at Camp Court D.I.Khan.

(Muhammad Amin Khan Kundi)

Member

Camp Court D.I. Khan

ad Hamid Mughal) (Muhami Member Camp Court D.I.Khan

24.01.2018

Appellant in person present. Mr. Farhaj Sikandar, District Attorney alongwith Dr. Samiullah, Medical Officer for the respondents also present. Appellant requested for adjournment on the ground that his counsel is busy in the Hon'ble Peshawar High Court Bench D.I.Khan. Adjourned. To come up for arguments on 20.02.2018 before D.B at Camp Court D.I.Khan.

(Ahmad Hassan) Member Camp Court D.I.Khan

(Muhammad Amin Khan Kundi) Member Camp Court D.I.Khan

23.01.2017

Counsel for appellant and Dr. Inayatullah, Coordinator alongwith Mr. Farhaj Sikandar, Government Pleader for respondents present. Due to non-availability of D.B the appeal is adjourned to 28.03.2017 for same as before.

28.03.2017

25.07.2017

Since tour is hereby cancelled, therefore, the case is adjourned for the same on 25.07.2017.

Clerk of the counsel for appellant present. Dr. Qazi Jamil, Coordinator alongwith Mr. Farhaj Sikandar, District Attorney for the respondents also present. Clerk of the counsel for appellant requested for adjournment. Adjourned. To come up for arguments on 23.10.2017 before D.B at Camp Court D.I.Khan.

(Gul Zeb/Khan) Mendber

(Muhammad Amin Khan Kundi) Member Camp Court D.I. Khan

25.10.2017

Counsel for the appellant (Mr. M. Anwar Awan, Advocate) and Mr. Farhaj Sikandar, District Attorney for respondents present. Counsel for the appellant submitted Wakalat Nama and seeks adjournment as he is freshly engaged. Adjourned. To come up for arguments on 29.11.2017 before D.B.

Member (Executive)

Member (Judicial) Camp Court D.I.Khan 26.01:2016

Appellant present in person and Mr. Farhaj Sikandar, GP present. None is available on behalf of the respondents. Fresh notices be issued to them through registered post. Case to come up for written reply by way of last chance on 24.5.16 at camp court, D.I.Khan.

> MEMBER Camp court, D.I.Khan

24.05.2016

Clerk to counsel for the appellant and Dr. Aziz ullah, DDHO alongwith Mr. Farkhaj Sikandar, GP for respondents present. Written reply submitted. To come up for rejoinder on 27.09.2016 at camp court D.I. Khan.

> Member Camp Court D.I.Khan

27.09.2016

Counsel for the appellant and Mr. Farhaj Sikander, Governme Pleader for the respondents present. Learned counsel for the appell stated that he does not want to file rejoinder and case may be fixer arguments. To come up for arguments on 23.01.2017 before **D**.B at Court D.I.Khan.

> Member Camp Court J

1222/14 30.3.2015

Appeltant Deposited Security & Process I

Counsel for the appellant present and submitted, that despite his acquitted in a criminal case, the appellant was terminated from service without any charge sheet, inquiry proceedings etc. That no response was given to his departmental appeal. Points raised at the Bar need consideration. This appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issue to the respondents. To come up for written reply on 29.9.15

Camp Court, D.I.Khan

1. . .

29.09.2015

Clerk of counsel for the appellant and Mr. Farhaj Sikandar, GP present. Fresh notices be issued to the respondents and case to come up for written reply on 24/1-19 at camp court, D.I.Khan

> MENDER Camp court, D.I.Khan

24.11.2015

Counsel for the appellant and Mr. Farhaj Sikandar, GP with Murid Abbas. Junior Clerk for the respondents present and requested for further time. The learned GP is also directed to contact the respondents. To come up for written reply positively on 26 - 1 - 16 at camp court, D.I.Khan.

MEMBER Camp Coult, D.I.Khan

Form- A

÷Q

FORM OF ORDER SHEET

Court of 1222 /2014 Case No Order or other proceedings with signature of judge or Magistrate S.No. Date of order Proceedings 3 1. 2 The appeal of Mr. Muhammad Suleman resubmitted 13/10/2014 1 today by Mr. Muhammad Anwar Awan Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing. This case is entrusted to Touring Bench D.I.Khan for 2 30-1-15 preliminary hearing to be put up there on 23 - 2 - 2015CHAIRMAN Counse for the appellant present and nequested for adjournment. Allowed. To come up for preliminary hearing on 30-3-2015 at Camp Court D.1. Klean, 32 23-2-2015 Mehrber Comp Court, D'I.K. The appeal of Mr. Muhammad Suleman son of Mulazim Hussain Khan r/o Kot Jai Paharpur Distt. D.I.Khan received to-day i.e on 16.9.2014 is incomplete on the following secore which is returned to the counsel for the appellant for completion and resubmission with in 15 days:-

1- Copy of FIR (Annexure-L) mentioned in para-3 of the memo of appeal is not attached with the appeal which may be placed on it.

2- Copy of acquittal order of the appellant mentioned in para-4 of the memo of appeal is not attached with the appeal which may be placed on it.

No. 1366 /S.T. _/2014. Dt.

Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.

Anward

Mr. M. Anwar Awan Adv. D.I.Khan

Respected Sir,

The copy of FIR is attached with appeal while acquittall order is already annexed on page (1)

關於

ELV.P. Barris - 844 13-10-14

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR. CAMP Dikhan.

Appeal no. J. A. J. of 2014.

M. Suleman

VERSUS

Govt; Of KPK and others

No.	Particulars	Annexure	Pages
1	Grounds of Service Appeal alongwith affidavit.		1-4
2	Copy of appointment order.	A	5
3 -	Copy of pay slip	В	6-8
• 4	Copy of FIR.	С	9-12
4 ·	Copy of application	D	13
5	Copy of order dated 05/06/14	E	14-18
6	Copies of departmental appeal and receipts	F	19-22

INDEX

YOUR HUMBLE APPELLANT

مر میں لقم M Suleman

M Suleman Through Counsel

inon by

Mohammad Anwar Awan Advocate Supreme Court

Dated; 09/09/2014

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR. CAMP COURT AT D. I. KHAN.

Appeal no. 1. 2. 2. of 2014.

Muhammad Suleman S/0 Allah Baksh 1 R/O District D.I.Khan.

VERSUS

Government of KPK through secretary Health Peshawar. 1.

Director General Health Services Khyber Pukhtunkhwa, Peshawar. 2.

District Officer Health D.I .khan. 3.

APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT AGAINST ILLEGAL TERMINATION ORDER DATED 01.04.2010 ON THE BACK OF APPELLANT.

NON.

1.

That the brief facts of the case are as under:

That the petitioner is permanently resident of Tehsil and District D.I.Khan and was appointed as Bhahisiti on fixed charge basis after due process of law. Copy

That the petitioner after taking charge of the post, do his duties to the utmost satisfaction of high ups and also received salary from the respondents. Copy of pay slip is Annexure B.

That the petitioner was in criminal case by the prosecution with 3. malafidly intension without any evidence. Copy of FIR is Annexure C. und filed.

- 4. That petitioner after acquitting from the charge, contacted several time to the respondent No-3 for his arrival/reinstatement on the post but they refused to receive the arrival and also refused to issue any order of termination. Copy of applications is Annexure D.
- 5. That feeling aggrieved from above said action petitioner is constrained to approaches honorable High court through writ petition against illegal action in which respondent submitted termination order of the petitioner. Copy of writ, order dated 05.06.2014 and termination order is Annexure E.
- 6. That after communication of order with immediate effect, feeling aggrieved of the above action in violation of law and principal of natural justice, the appellant filed departmental appeal dated 17-06-2014. After the lapse of requisite period, the appellant is constrained to file this appeal. Copies of departmental appeal and receipts are Annexure F.
- 7. That feeling aggrieved from above said action appellants are constrained to approaches this honorable court on the following amongst other:-

GROUNDS:

- 1. That the order dated .03.2014 is against law, facts, record and natural justice.
- 2. That the action of respondents is against facts and law, ultra virus and without any Jurisdiction.
- 3. That petitioner is still employee of the department because no regular inquiry was initiated against petitioner nor any termination order was issued. The department has not initiated any proceeding on the ground of involvement in criminal case or on the basis of conviction or acquittal of civil servant.

In wake of above submissions, it is respectfully prayed that on acceptance of instant appeal, the impugn termination orders dated 01-04-2010 may please be set aside and appellant is reinstated on the post with all back/ future benefits.

YOUR HUMBLE APPELLANT

م مرمي_{ان} لما

M.Suleman Through Counsel

Dated; 09-09-2014

May al

Mohammad Anwar Awan Advocate Supreme Court

<u>AFFIDAVIT</u>

Kashif Rehman do hereby solemnly affirm and declare on OATH that the contents of the same are true and correct to the best of my knowledge and belief and that nothing has been concealed from this honorable court.

Oath Commissione No.

Deponent.

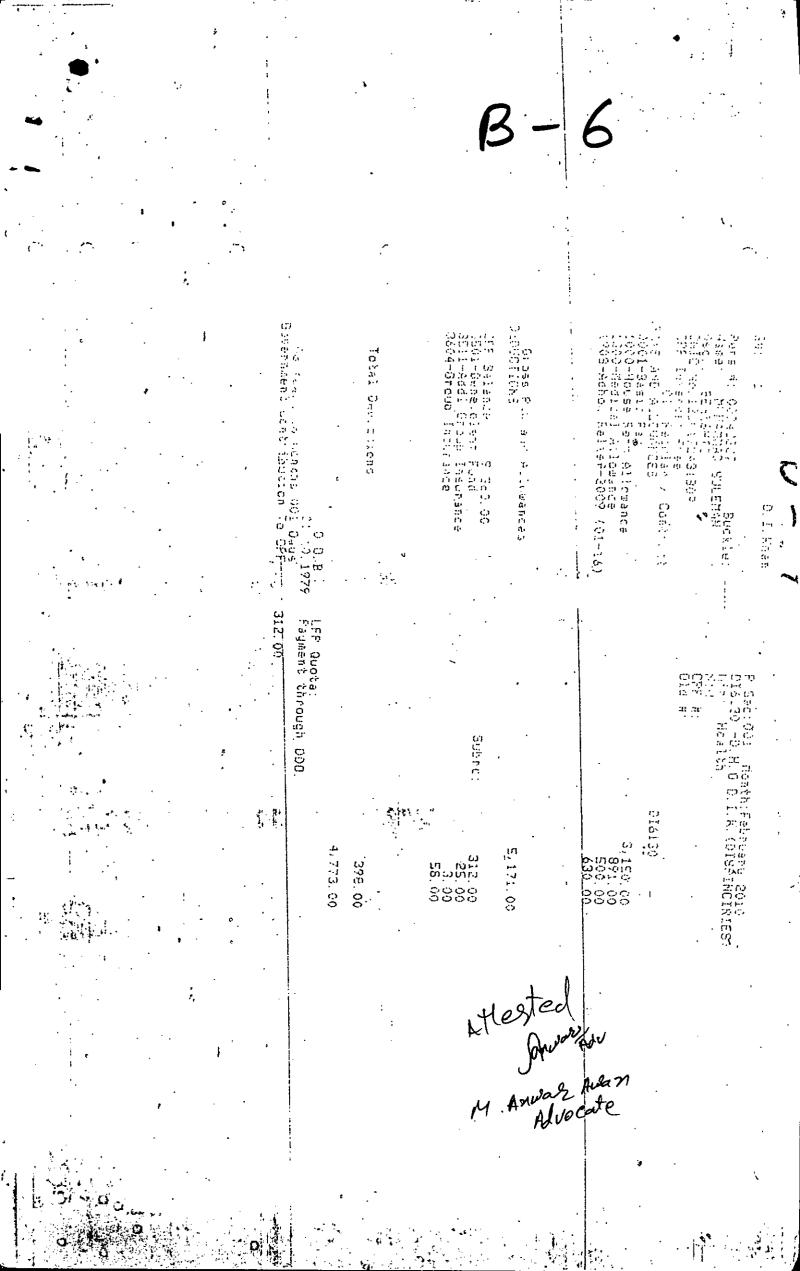
OFFICE OF THE EXECUTIVE DISTRICT OFFICER (HEALTH) DERA ISMAIL KRAN. ŇΟ. DATED Dikhan THE30 (11:2006. Mr. Muhammad Suleman S/O Allah Bakhsh Τo. K/U Village Haji Mora Distt: DIKhan. OFFER OF APPOINT MENT. SUBJECT: Memo: The Gove hereby off is you a post of Behlshill against the existing variable of CDD frienting Office DIKhan on Fixed Charges Basis @ Rs. 35001-PM on the following being out conditions: -• 1. Your appointment in Health Department is purely on Fixed Bosis and pour to the are liable to be terminated at any time without group notice or acameric content of the facts that you may belong to a post other than one to which you are trace tool You have to juin duty at your own expenses in case you wash to recipe it any time of 2 month notce will be essential or in ten thereof on month pay shall be followed You will be governed by such rules and orders relating to teave, the the dust of course 3 ps may be issued by the Govt from the confidential the calendary of a structure? which you may belong, 4. If you accept the offer; on the above noted conditions you should use of to EDC (Health) Office DIKhan for further duty within seven days of the recent of the recent of the falling which your services will be terminally a You will produce Medical Lineos Confidence to be Medical DHOr, Hospilal, D!Khan, EXECUTIVE DISTRICT OFFICER (HEALTH) DERA ISMAIL KHAN. Copy lorwerdud to the 11113 Distric! Accounts Officer, DIKhan. 2. Incharge Concerned Health Institutions 3. Estab: Clerk of this office. For information & n/action. EXECUTIVE DISTRICT OFFICER (HEALTH) DERA'ISMAIL KHAD. Atestec Awar Awar M. Anwar Awar

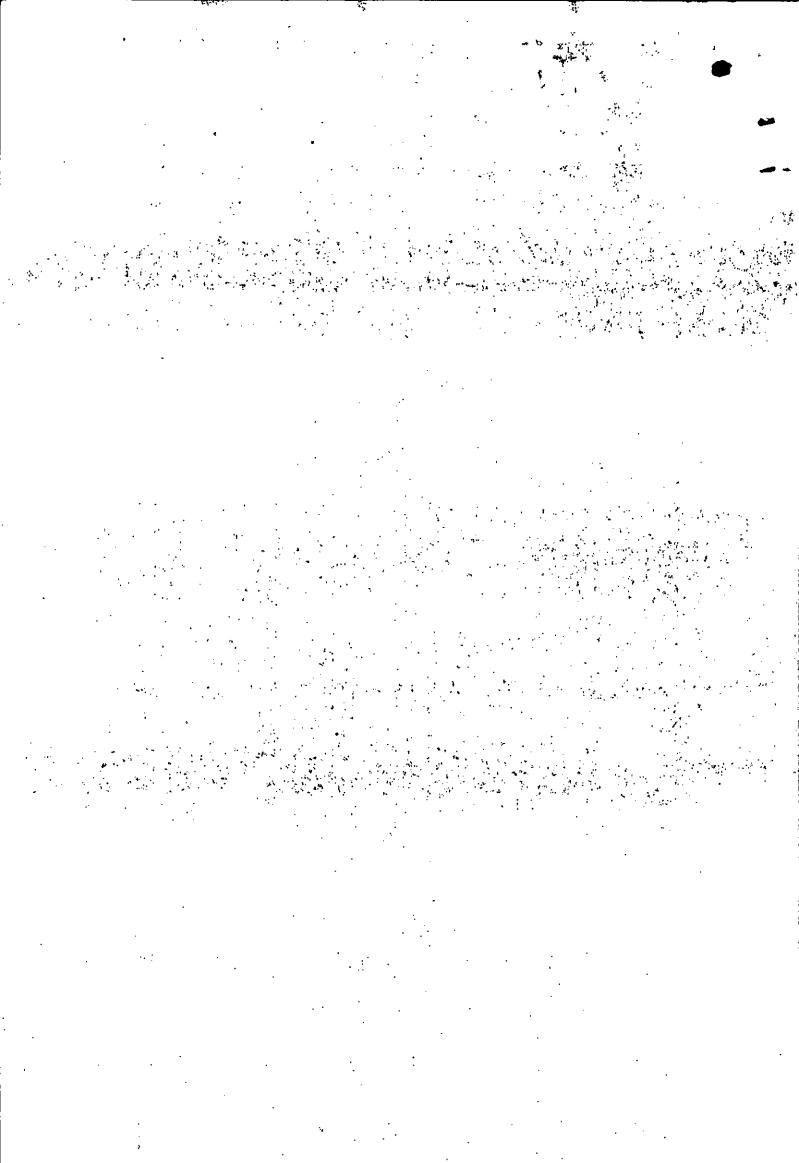




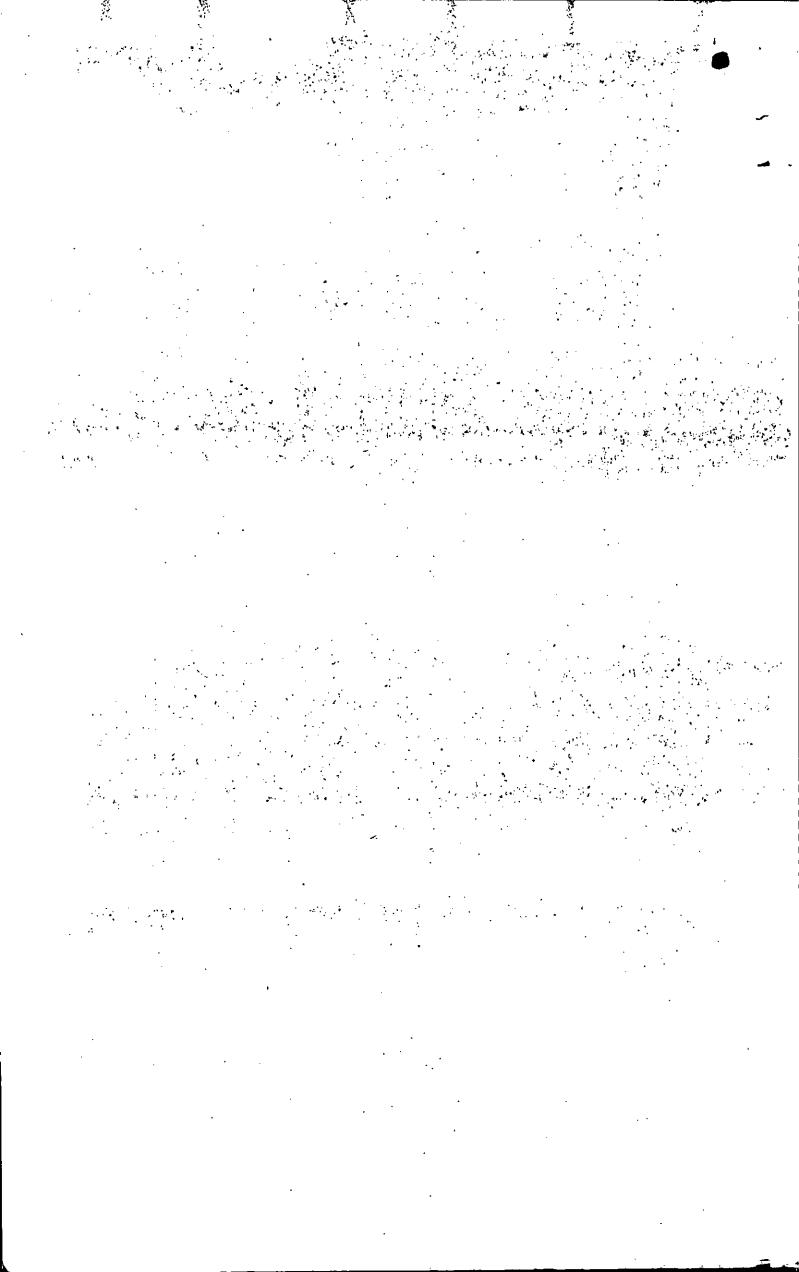
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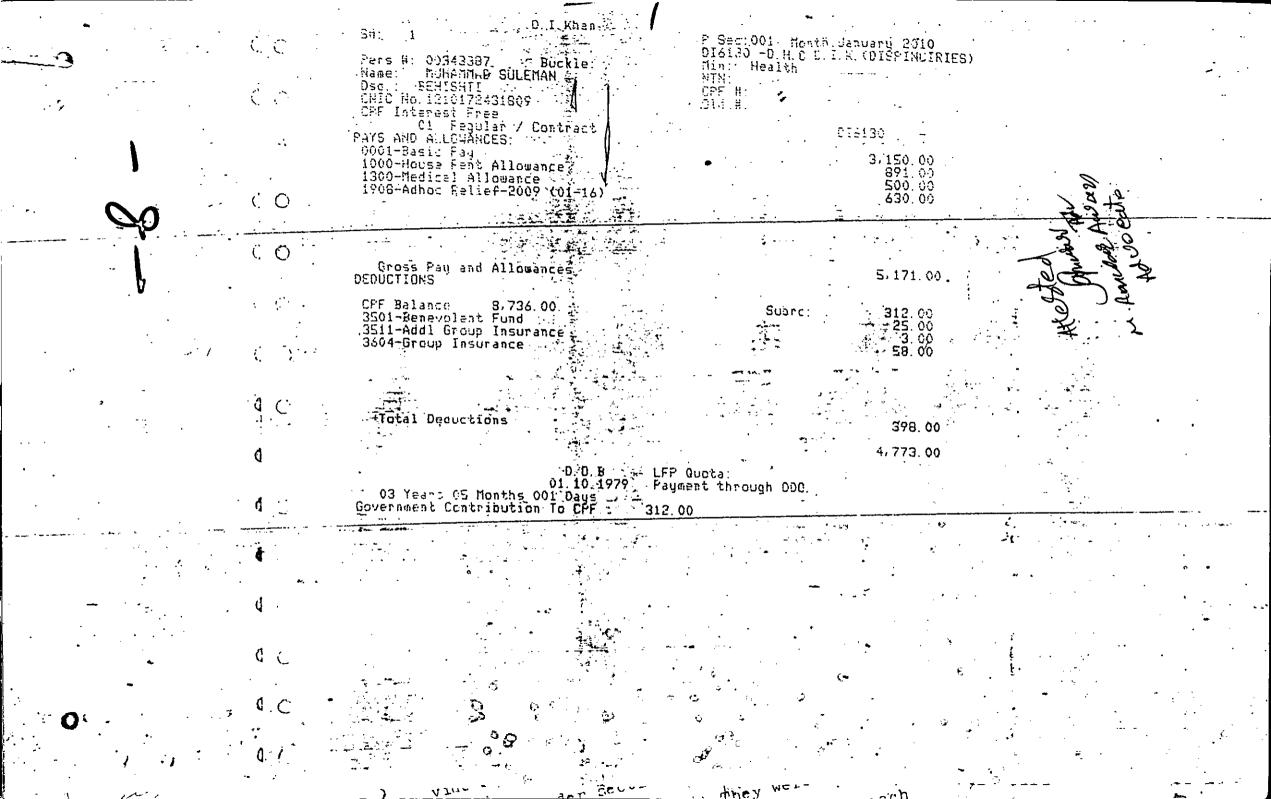
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Cř. Q. Q ()Ö \bigcirc C Svildigo secue Total Daduations 1000000 ÷ iser aane 9,054 00 : Fund : Thiurince 10110461000 N:1011-1-1-2 D L Noc X Le 01-16) н С 1979 ų, t sugented Pacing dan ee 2 0 through DDD. びにしつれ 16100 398.00 4,773.00 5.171.00 500,00 630,00 ы Ч កែទ . . 88 Atlestau Atlestau Atlestau Ancubar Auba Ancubar Auba Adupeate





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ب*ل موبہ سرحد فارم نمبر ۲۳* ص ابتدائي اطلاعي ريورف الماسية. المهتدائى اطلاع نسبت برم قابل دست اندازى بوليس ربورت شدهذ يردفعه ٢ ٢ مجموعه ضليله فوجدارى طلع تحس<u>وات دل</u> معمل كوسمرر 31 103.10-03.60- CU (200) **10 (200)** 2/6-30 Cin 26/08 0 W 0 215 25 02 26 /08 ووقت ريورك مكونت اطلاع د بنده ستغيث مصبحال الممر ولائ من المن حن ملودج سلسطان ومرد بعر <u>عزم المرحمان</u> ركيفيت برم (معدد نعه) حال اكر محمد ليا كما جو ركيفيت برم (معدد نعه) حال اكر محمد ليا كما جو لیغیت جرم (معہ دفعہ)حال اکر کچھ لیا کمیا ہو وقوعه فاصله تعدنه ت لورست مر را من مي مريح مراحظ ه ليوتيش محتفل كالاللامد برج مريش التف مداموتو جديان كد بفرام والمرك فحرس وب رقور في مس الحرب لي المرد الحراس ال <u>سے دوانگی کی تاریخ دوقت</u> ابتدائى اطلاع ينج درب كرو موف صدر نيزام ورشرك رمور معنى ف فى الموج من حا محمود في عد عمر مان حرار نعن مرادرات معتمل عمد الرفتار لو رودا فت حد مت حد كر ب مراه لل الرجر ما من مشك خر معرور الم المح المرف في مراد مع الرائد ودي المر الم الم الم الم الم مراج مراج مراج مراج الم في دوي ممان ممان مان ولا المتركي . صفر عن ما مدر فرز الور م ر محمد مناز ے ما ہوگل ترج وی - حق سرار ج ملک السبطان محرا - دروم مور ارامش موجود می فی مدر مام . محسط بسر فل فل ف ماج مرد مرد کای در مودان ۲ جم فعرف في المالي المالي الم مذین الد دجل کر مح ب تعلق رفت میں ، عجم أحفل منتد ب والخاعث - تعلق معقان توقير اورماي ما محالی فرو محرای) مر مرارم ما محالی فرو محرای) مر مرارم ر حرخ م j'uley - Othe مانى دا فرى مى مى فى فى مى وكارى دى بر فراس مراس د تفي ما كالرائغ وف ور ناجی رور و Jung and مر مر مر می می می مر مر مر مر ای مرکب مرض مرسی مر مر مر مس ر موراس ت ت المرك بي ورك ولاية 302-108 219-7ATA-21 معر*ن (مر رق* والمرافع الجرب في الم المع الم الم الم الم الم الم

مر فران فی مربع مربع مربع در دن کل یک میں مربع المربع کی المربع کامیر اس جریا طرف و بخط منداری عرف میں مربع مالا لالی فی مرو رو رو رو می مربع مربع مربع مربع مربع در کا المربع میں المربع میں المربع مربع مربع میں مربع مربع مربع مربع مربع مربع میں المربع میں المربع مربع مربع مربع مربع دی کا مسر فرو میں میں فرو میں مربع میں المربع مربع مربع مربع مربع دی کا مسر فرو میں مربع مربع میں المربع میں المربع 20/ 200 jan st whice all which ey. 26.5.8 **}**-• اطلاع کے پنچاطلاع دہندہ کاد شخط ہوگا۔ یاس کی مہریانشان لگایاجائے گا۔ ادر افسر تحریر کنندہ اہتدائی اطلاع کا دینخط بطور تصدیق ہوگا و سرخرد وشنائى ببالمقابل بام براكيك ملزم يامشتهر على الترتيب واسطح باشند كالن علاقه غيريا وسطانيتا يافغانستان جهال موذول وللم

IN THE RESHAWAR HIGH COURT, BENCH, DERA ISMAIL KHAN

Criminal Appeal No. 127 /of 2009.

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Voye T

1.Sufdar Abbas son of Rab Nawaz 2.Muhammad Suleman son of Allah Bakhsh, custe Baloch Residents of village Haji Mora Tehsil and Distt: Dera Ismuil Khun. (Convicts)

Versus

2.The State.

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TESTED

AMINOR

lashawar Migh Court

1.Magbool Ahmad run of Ghulam Yasin, Caste Paloch Resident of village Haji Mora, Tehsil and District Dera Ismail Khan. (Complainant). Respondents

Criminal appeal under section 25 of the Anti-Terrorium Act, 1997, "egainst the judgement dated 14/12/2009; passed bythe learned Judge, Anti-Terrorism Court, DIKhan vide which the accused/Appellants were convicted under section 302 (b) PPC as Taziv and were sentenced to death. They were also ordered to pay an amount of Rs. 2,00,000/- each on compensation under mection 540-A Cr.P.C, to the legal heirs of the deceased or in default to undergo six months S.J.The accused/Appellants were further convicted u/s 7 (a) of the Anti-Terrorium, Act, 1997, and were sentenced to death and were ordered to pay a sum of Rs. 1,00,000/each as fine or in default to undergo six months S. L. euch. Poth the sentences were ordered to

frun concurrently.



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JUDGMENT SHEET PESHAWAR HIGH COURT, D.I.KHAN BENCH "JUDICLAL DEPARTMENT

Cr. A. No. 12-7 of dra.g... Date of hearing _ 15 - 4 - 2-10 Appellant-petitioner (Safalar Abbas) a Ali than Advocela Respondent (Stala) by Mr. Sanaullal Klian DAS Gandapers ATTAULISAH KHAN J.- The parties have patched up the matter inter se through intervention of Elders of the locality and the legal heirs of the deceased have-pardoned the convict/appellant in the name of ALMIGHT ALLAH. In this respect, statements of legal heirs of the deceased have also been recorded by the learned Sessions Judge D.I.Khan who has confirmed the genuineness of the compromise arrived at between the parties and fulfilled the other requisite formalities. We, therefore, in the best interest of the parties, accepte the appeal of the convict/appellant on the ground of compromise alone, set aside the impugned conviction and sentences and acquit him of the present charge vide case FIR No. 200 dated 26/5/2008 of police station Gomal University registered under sections 302/109/34 PPC and section 7 of ATA. ite shall be set free forthwith if not wanted in any other case. The

Murder Reference No.12/2009 is thus answered in negative.

3. The original Defence Saving Certificates amounting to rupees 5,97,000/- produced by the convict/appellant in the names of the minor children of the deceased be returned to their mother/guardian and its Photostat be retained on filer. The mother shall be responsible for its safe custody till the minor children attain majority, whereafter they would be entitled for its use according to their own choices.

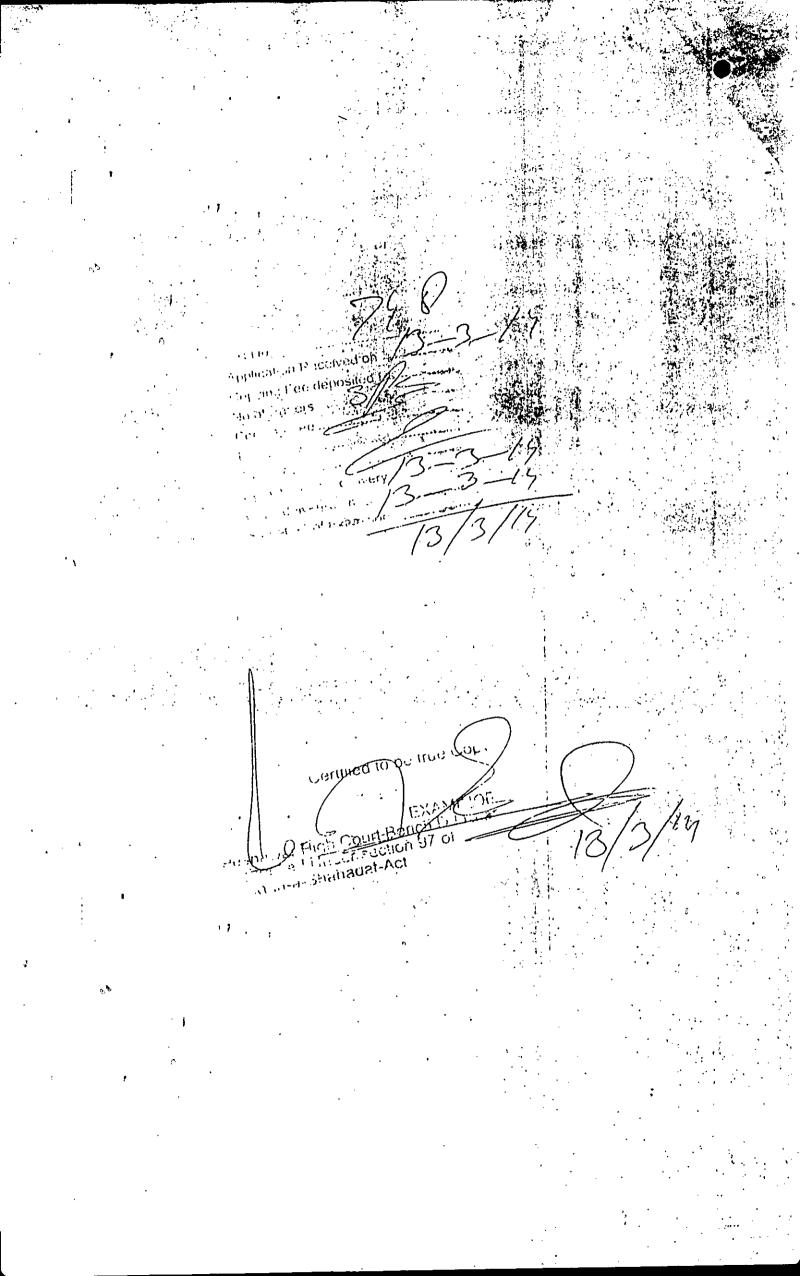
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ANNOUNCED 15/4/2010.

Juli AS

NOR



1 duilo مودبان الرابش سائل محامه محت میں جورانی 6006 - 9 - 1 کو تعدات موالی ا اورون دی اس فری سر ایا اور ار ای ساری س Je is doo not said le fin and all all a سور موالات حود سیم میں اور مور در مارو ب توحقدم فر مس مع مسالم في الم الم الم محمد من مح تر سے رائد کی اور آر ہے کا مور ایک در جراسے سی اس س عیران من مال و سل دان مریا من الم وسي بر ملا تر ديا و الم الله الله الله الله الله now M. Anwar Awan Advocate in out ofference offer ie. 15-12-2011 Beech com que lot lot 2 Subrand Com (1) (1) (1) محديما ل لعلم خود

BEFORE PESHAWAR HIGH COURT BENCH AT D.I.KHAN

Allah Bakahah

Muhammad Suleman S/o Kot Jai Pharpur

District D.I.Khau.

VERSUS

1. Government of KPK through secretary Health Peshawar.

2. Director General Health Services Khyber Pukhtunkhwa, Peshawar.

3. District Officer Health D.I.khan.

RETITION UNDER ARTICLE 199 OF CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN, 1973.

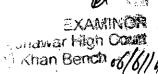
Respectfully Sheweth



The facts leading rise to present writ petition in brief are: -

- That the petitioner is permanently resident of Tehsil and District D.I.Khan and was appointed as Bhahisiti on fixed charge basis after due process of law. Copy of appointment order is Annexure A.
- 2. That the petitioner after taking charge of the post, do his duties to the utmost satisfaction of high ups and also received salary from the respondents. Copy of pay slip is Annexure B.

3. That the petitioner was involved in criminal case by the prosecution with malafidiy intension without any evidence. Copy of is Annexure C.



That petitioner after acquitting from the charge, contacted several time to the respondent No-3 for his arrival/reinstatement on the post but they refused to receive the arrival and also refused to issue any order of termination. Copy of applications is Annexure D.

5. That feeling aggrleved from above said action petitioner is constrained to approaches this honorable court on the following amongst other:

GROUNDS;

\$11ed

Add: 7

1. That the action of respondents is against facts and law, ultra virus and without any Jurisdiction.

That petitioner is still employee of the department because no regular inquiry was initiated against petitioner nor any termination order was issued. The department has not initiated any proceeding on the ground of involvement in criminal case or on the basis of conviction or acquittal of civil servant.

In wake of above submission it is respectfully prayed that on acceptance of this writ Petition the respondents may kindly be directed to take the arrival of the petitioner on said post. It is also be prayed that any other relief which this

> EXAMINOR Esnawar High Court E Likhan Bench 06/0//4

 honorable court deem fit in the circumstances of the case may kindly be granted.

Your Humble Petitioner.

, 7 pe ula 5

Muhammad Suleman

THROUGH COUNSEL

why why an

Muhammad Anwar Awan Advocate Supreme Court.

CERTIFICATE

Dated; 20-03-2014.

(a

Certified that petitioner in this honorable court has earlier filled no other write petition on the subject.

Med toda Addl: Regis 114

Petitioner

RFERANCE BOOK;

1- THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN

light shift

EXAMINOR Tesnawar High Court D Khan Bench 66/6//1

IN THE PESHAWAR HIGH COURT, D.I.KHAN BENCH

7

FORM OF ORDER	SHEET
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	FORM OF ORDER SHEET	
Date of	Order or other proceedings with signature of Judge (s)	
order or	er all of ourist proceedings with signature of subgets =	
proceeding	s l	
(1)	(2)	
05.06.201	4. W.P.No.158-D/2014.	
	Present:- Muhammad Anwar Awan, Advocate for the petitioner.	
	A.A.G for respondents.	

	ROOH-UL-AMIN KHAN J:- At the very outset the	
	learned A.A.G produced an order dated	
	01.04.2010, whereby the service of the petitioner	
	has been terminated with immediate effect. In view	
	of the above, the learned counsel for the petitioner	
	stated at the bar that he will not press this petition,	
	hence dismissed as such.	
	Announced. 05.06.2014.	
	ATTESTEL JÜBGE	
eth	EXAMINOR Pesnawar High Court O I Khan Bench 0/6//4	
12	68	
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Application Received on 26-6-14 Copying Fee deposited Rs Prime No al Priers 04 (10) 3 0000 - 115 - 115 tter at a strain 02 08-0-14 Copy and Tric ivery 06-6-14 Copy and ther - 6-6-14 and the star abor of the 6/6/14

Certilied to be true Copy

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EXAMINOF 6/6/6/14 Pesnawar High Court Beach D I Khar Authorised Under section 97 of Samoon-a-Shanadat-Act

OFFICE OF THE EXECUTIVE DISTRICT OFFICER HEALTH DERA ISMAIL KHAN.

No: 4197-95 104/2010

Dated: / /04/2010

18-

OFFICE ORDER.

Consequent upon the involvement in criminal case vide FIR # 200 dated 26-05-2008 of Police station Gomal University DIKhan under sections 302, 109, 34 PPC read with 7 ATA, and also absent from duty since long the services of Mr. Mohammad Suleman Behishti working under the control of this office is hereby terminated with immediate effect.

Executive District Officer (Health) Dera Ismail Khan.

- 1. District Accounts Officer DIKhan.
- 2. Official concerned.

Cc:

3. Accounts Clerk of this office.

Executive District Officer (Health) Dera Ismail Khan.

The Director General,

Health Khyber Pakhtun Khaw

Peshawar.

Q

n

Through: Proper Channel.

Subject: DEPAETMENTAL APPEAL AGAINST BACK DATED ILLEGAL

TERMINATION FROM SERVICE

Respected Sir,

. The appellant humbly submits as under:

- 1. That the appellant being eligible and having required qualification was appointed Bahishti by the Executive District Officer Health D.I.Khan after due course/ process of recruitment.
- 2. That, after furnishing Medical Fitness Certificate and taking over the charge of said post, the appellant started performing her official duties regularly. with due diligence, care devotion and to the satisfaction of superiors and leave no stone unturned in performance of his/her official duties.
- That during the period the services rendered by the appellant remained upto the mark and no deficiency, inefficiency, negligence or irregularity of the appellant was reported.
- 4. That, the appellant was wrongly roped into a criminal case26.05.2008 in which he is arrested. The appellant was acquitted from the charge on15.04.2010 and after his acquittal the petitioner contacted the department for his arrival but they are reluctant. The petitioner feeling aggrieved from the imminent action of the department filed writ petition in which they appeared and filed back dated termination order on 05.06.2014 without given any opportunity of hearing, thus the appellant was condemned un-heard.
- 5. That feeling aggrieved from the void, illegal termination orders of E.D.O. health D.I.Khan, the appellant filedthis appeal for redressal of his grievances.

Attested Anuser Awar M. Anuser Awar Aduseate

That department did not issue any charge sheet, nor issue any show cause notice and without conducting any inquiry terminated the appellant.

In wake of above submissions, it is respectfully prayed that on acceptance of instant appeal, the termination orders may please be set aside and appellant may graciously be re-instated with all back/ future benefits

Your Honorable Appellant

محدمين فالقلمخوم

' Muhammad Suleman S/O Allah Baksh R/O Haji Mora 'D.I.Khan

<u>Note:</u>That this appeal is being filed directly to the Director as the Office of Executive District Officer, Health, D.I.Khan, was reluctant to forward this appeal, being through proper channel.

Copy to the Secretary, Health Poshaulas

Date: 17/6/2014

6.

Allested America M. Anulor Aulor Advocate

VAKALATNAMA
* This I and
IN THE COURT OF KPK Schwee Tribunal camp DIKHAN
M. Suleman VERSUS Gout of KPK
SUIT/OFFICE. I/WE. Appealant
I/WE Appealant
The above namedhereby appoint
MUHAMMAD ANWAR AWAN ADVOCATE, HIGH COURT D.I.Khan, in the above mentioned case to all or any of the following acts, deeds and things.
1. To appear, act and plead for me/us in the above mentioned case in this court/tribunal in which the same may be tried or heard or any other proceedings out of our connected therewith.
2. To sign and verify and file or withdraw all proceedings, petitions, appeals, affidavits, and applications for compromise or withdrawal, or for the submission to arbitration of the said case or any other documents, may be deemed necessary or advisable by them by the conduct, prosecution or defense of the said case at all its stages.
3. To receive payments of and issue receipts for all moneys that may be or become due and payable to us during the course on conclusion of the precedings. To do all other acts and things, which may deemed necessary or advisable during the court of Proceedings.
AND hereby agree:
a) To ratify whatever advocates may do the proceedings.
b) Not to hold the advocates responsible if the said case be proceed ex-parte or dismissed in default in consequence of their absence form the court when it is called for hearing.
c) That the advocates shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remain UN-paid.
d) That advocates may be permitted to argue any other point at the time of arguments.
In witness whereof I/we have signed this vakalatnama here under the contents of which have been read / explained to me/us fully understood by me/us this.
Date. 0.9. / 0.9. / 14 Accepted by: Signature of executant (s)
MUHAMMAD ANWAR AWAN ADVOCATE HIGH COURT Distt: Courts, D.I.Khan. Ph # (off) 0966-730828

· . .

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL CAMP AT D.I.KHAN.

Service Appeal No. 1222/2014

Muhammad Suleman Govt: of KPK and others. Versus

<u>REPLY FROM RESPONDENT NO. 1 TO 3.</u>

Respectfully Shewith Respondent No. 1 to 3 humbly submit as under:-

PRIME PRELIMINARY OBJECTION.

That service of the appellant was terminated on 01-/04/2010 and appellant approaches to this Court for redresses of his grievance after almost six year, appeal of the appellant is hopelessly time barred and on this sole ground appeal of the appellant is liable to be dismissed with cost.

PRELIMINARY OBJECTION:-

- 1. That the appellant has no cause of action and locus standi to file the instant appeal.
- 2. That the appellant has not come to this Honourable Tribunal with clean hands and suppressed all relevant facts.
- 3. That the appeal of the appellant is not maintainable and incompetent in the eyes of Law in its present form.
- That the instant appeal of the appellant is badly time barred and appellant has concealed 4. facts from Honourable Tribunal.
- 5. That the appellant is estopped by his own conduct to file this appeal.
- That the appellant is bad on account of mis joinder and non joinder of necessary parties. 6.
- 7. That the Honourable High Court has no jurisdiction to entertain the instant petition in its . present form.

- **OBJECTION ON FACTS: OBJECTION ON FACTS: OBJECTION ON FACTS: OBJECTION ON FACTS: Interview of the second seco** F.I.R. No.200 dated 26/05/2008 at P.S.Gomal University DIKhan U/Ss 302, 109/34 PPC read with section 7 ATA.
 - 2. That Para No. 2 of the appeal is incorrect, appellant was charged in criminal case vide F.I.R No. 200 dated 26/05/2008 of police station Gomal University DIKhan under sections 302,109, 34 PP read with 7 ATA, and salary of the appellant was stopped in April, 2010 and after that appellant was convicted on 14/12/2009 in the above mentioned criminal case U/S 302 (B) PPCas Tazeer and were sentenced to death and also were ordered to pay an amount of Rs. 200000/- each as compensation U/S 544 A CrPC to the legal heirs of the deceased or in default to undergo six month SI. The appellant was further convicted U/S 7 A of the anti terrorism act, 1997 and was sentenced to death and ordered to pay a sum of Rs. 100000/- each as fine or in default to undergo six month SI each both.
 - 3. That Para No. 3of the appeal is also incorrect hence denied appellant was directly charged in FIR # 200 of P.S Gomal University DIKhan and after recording of evidence prosecution proved his case against the appellant in the result appellant was sentenced to death by the learned Anti Terrorism Court DIKhan vide judgment dated 14/12/2009.

Pleader

- 4. That Para No: 4 of the appeal is incorrect, hence not admitted, appellant has neither contacted to the respondents at any stage nor submitted any departmental appeal. The application attached in the appeal regarding approaching of appellant to the respondents is baseless and fabricated one.
- 5. That Para No: 5 of the appeal of the appellant is incorrect because appellant mala fidely instituted a Writ Petition which was dismissed by the learned Peshawar High Court Bench DIKhan without any directions.
- 6. Incorrect, the respondents have never received any departmental appeal of the appellant. The departmental appeal of the appellant attached with the service appeal is bogus and prepared for getting undue favour and department appeal alongwith service appeal of the appellant is hopelessly time barred and liable to be dismissed with cost.

<u>REPLY OF GROUNDS: -</u>

- 1. That ground No: 1 of the appeal is incorrect, hence denied. Appellant is a convicted person and has never approached the competent authorities in time regarding his reinstatement into service; hence appeal of the appellant is liable to be dismissed with cost. Moreover the order dated 03-2014 is alien to respondents and appellant himself is looking unaware about the order dated: 03-2014 from the perusal of ground No: 1.
- 2. That ground No: 2 of the appeal of the appellant is incorrect. Appellant is not any employee of the department because after arrest and conviction appellant has removed from service in accordance with the rules and regulations of the civil servants and now claiming of job/reinstatement by the appellant from this Honorable Tribunal is based on mollified hence, appeal of the appellant is liable to be dismissed.

Appellant has paid "Diayat" amount of Rs. 597000/- to the victims, minors hence claiming job/reinstatement after submitting "Diayat Amount" is not an acquittal from criminal case, hence reinstatement is legally barred.

3. That ground No: 3 of the appeal is incorrect, detailed reply is given in wake of submission made above, it is therefore, humbly requested that on acceptance of written reply of respondent No: 1 to 3, appeal of the appellant may please be dismissed being merit less with cost.

Dated /12/2015

Vetted Govt: Pleader KPK Services Tribunal Camp Court D.I.Khan

Yours Humble Respondents

1. Govt. of KPK through Secretary Health Peshawar.

2. Director General Health Services Khyber Pakhtunkhwa Peshawar.

3. District Health Officer DIKhan.

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL CAMP D.I.KHAN

Service Appeal No. 1222/2014

Muhammad Suleman

Versus

Govt. of KPK and others

AFFIDAVIT

I, **District Health Officer D.I.Khan**, do hereby solemnly affirm and declare on Oath that contents of the written reply are true and correct to the best of my knowledge and belief and nothing has been deliberately concealed from this Hon'ble Tribunal.

Dated: ____/11/2015

Deponent

District Heal Dera Iamail Khan

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (HEALTH) DERA 序MAIL K幅AN. ħΟ. DATED DIKhan THE30 14112006. Τo Mr. Muhammad Suleman S/O Allah Bakhsh K/U Village Huji Mora Dist: DIKhan. OFFER OF APPOINTMENT SUBJECT Memo: The Gove hereby offers you a post of Behishell against the evisting vacancy of EDO versatio). Office DIKhan on Fixed Charges Basis @ Rs. 35001-PM on the following farms and conditions; • 1. Your appointment in Health Department is purely on Fixed Dasis and your services are liable to be terminated at any time without giving notice or assigning another to the facts that you may belong to a post other than one to which you after required. 4. 4 2. You have to juin duly at your own expenses in case you wish to resign diany time one month notce will be essential or in lieu thereas on month pay shall be torteded You will be governed by such rules and orders relating to leave, TA, Modpall charges 3 ps may be issued by the GovI from the tip time for the category of GovI servard to which you may belong, If you accept the offer on the sabove noted conditions you, should report to EDG .1 (Hoalth) Office DIKtian for further duty within seven days of the receipt of the letter faling which your services will be terminate a 15. You will produce Medical Filmens Markhonia Iron. Medical Supervisione DHOLHospital Dikhan. EXECUTIVE DISTRICT OFFICER (HEALTH) DERA ISMAIL KHAN No Copy lorwardud to the District Accounts Officer, Dikhan 1 Incharge Concerned Health Institutions 2 Estab. Clerk of this offica 3 For information & n/action.) EVECUTIVE DISTRICT OFFICER. (HEALTH) DERA/ISMAIL KHAR.

DERA ISMAIL KUAN	TTTOT
DERAJENTAL	FFICER HEALTH
DERA ISMAIL KHAN.	

No: 4197-95 104/2010

Dated: / /04/2010

OFFICE ORDER.

Consequent upon the involvement in criminal case vide FIR # 200 dated 26-05-2008 of Police station Gomal University DIKhan under sections 302, 109, 34 PPC read with 7 ATA, and also absent from duty since long the services of Mr. Mohammad Suleman Behishti working under the control of this office is hereby terminated with immediate effect.

Executive District Officer (Health) Dera Ismail Khan.

Cc:

1. District Accounts Officer DIKhan.

2. Official concerned.

3. Accounts Clerk of this office.

Executive District Officer (Health) Dera Ismail Khan.

VAKALATNAMA

BEFORE THE PESHAWAR HIGH COURT BENCH D.I.KHAN.

D. A.E

NO-

M. Sulaimar

TITLE

I/WE

the above named

hereby appoint

MUHAMMAD ANWAR AWAN ADVOCATE SUPREME COURT, D.I.KHAN

Sulaiman

alant

in the above Captioned Case to all or any of the following Acts Deeds & Things.

- ✓ To Appear, Act & Plead for Me/Us in the above mentioned cases in this Court/Tribunal in which the same may be tried or heard or any other proceedings out of our connected therewith.
- ✓ To Sign, Verify, File OR Withdraw all Proceedings, Petitions, Appeals, Affidavits, Applications for Compromise OR Withdrawals OR for the Submission of Arbitration of the said case OR any other Documents may be Deemed Necessary OR Advisable by them by the Conduct, Prosecution OR Defense of the above case at all its stages.
- ✓ To Receive Payments, Issue Receipts for all moneys that may be OR Become Due & Payable to us during the course on Conclusion of the Proceedings.
- To do all other Acts & Things, Which may be Deemed Necessary OR Advisable during the course of Proceedings.

AND HEREBY AGREE:

- To Ratify Whatever Advocates may do the Proceedings.
- Not to Hold the Advantages Responsibilities if the said case be proceed Ex-parte OR Dismissed in Default in Consequence of their Absence from the Court when it is called for Hearing.
- That the Advocates shall be entitled to withdraw from the Prosecution of the said case if the Whole or any part of the Agreed Fee Remain Un-Paid.
- That Advocates may be Permitted to argue any other point at the time of Arguments.

In Witness Whereof I/We have signed this Vakalatnama here under the Contents of which have been Read/Explained to Me/Us which is fully understood by Me/Us.

Dated: 25//0//7

Accepted By:

MUHAMMAD ANWAR AWAN ADVOCATE SUPREME COURT

Phone Office: 0966-730828 Cell No: 03339962231 SIGNATURE OF EXECUTANT (S)

PAKISTAN BAR COUNCIL

MR. MOHAMMAD ANWAR Advocate Supreme Court of Pakistan (ASC)



Date of Issue 19-04-2013 Valid Uplo 31-12-2015

(Muhaminia Arshed) Secretary Pakistan Bar Coundi

(Buchan Moazzam Malik) Chairman Lixerativo Commillee

INon (Erins feriable) In the event of johning or carrying of envision find esclore buildings, service or vacation, the holder will not be callified to use this carrying of envisore of the Pakistan Bar Council. None MR: MOHAMMADIANWAR Fathor's Name MOHAMMADIANWAR Date of fath 09-11-1668/C CNIC (12) 10-2 21, 17 8 0 4 0 7 3 Date of Enroment No. 1990 Enroment No. 1990 Address MOHAELAH (HAYAT ULLAH) D. I. (KHAN)

Tel: Off 0092,866,730828 [H cs]: 0092,966,714828 Cell: 0333-[H cund please return to hP // hp sus 022 MP (H py) Re (3 co.)((R) / coll/k). Supremd Churt Building Consultation Avenue, Islamabad. Tel:No: 0992-51;9206806; J av:No: 0092-51;92069/2 0333-9962231