Form- A

FORM OF ORDER SHEET

Court of		
	•	
Execution Petition No.		285 /2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	. 3
1	16.05.2022	The execution petition of Mr. Waqar Ahmad submitted today by Mr. Imdadullah Advocate may be entered in the relevant register and put up to the Court for proper order please.
	,	REGISTRAR
2-	25-5-22	This execution petition be put up before touring Single Bench at Swat on
,		09 - 6 - 22 Original file be requisitioned. Notices to the parties be
		also issued for the date fixed.
		CHAIRMAN
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09.06.2022

Petitioner in person present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Sarzamin Khan Lecturer for respondents present.

On the call of Khyber Pakhtunkhwa Bar Council, District Bar Association is observing strike today, therefore, learned counsel for the appellant did not appear before the court. Adjourned. To come up for implementation report on 01.08.2022 before the S.B at camp court Swat.

> (Mian Muhammad) Member (E)

Camp Court Swat

1-8,27 Que to Semmas. Casa is adjausned to Undation h

05.09.2022

Nemo for the petitioner. Mr. Muhammad Riaz Khan Paindakhel Assistant Advocate General alongwith Mr. Sarzamin Khan, Lecturer for the respondents present.

Execution Petition pertains to the judgement dated 08.10.2021. The department is obligated to either implement the judgement of Service Tribunal or to get it suspended from the Court of Pakistan. The Supreme representative could not produce any documentary evidence to show as to what has been done by the respondent department so far. As a result thereof, last chance is granted to the respondents to submit final and conclusive implementation report on the next date. Adjourned. To come up for final and conclusive implementation report on 03.10.2022 before S.B at Camp Court, Swat.

> (Mian Muhammad) Member (E) Camp Court, Swat

03.10.2022

Petitioner present through counsel. Reportedly, he is serving in US.

Riaz khan Paindakhel, learned Assistant Advocate General alongwith Taj Muhammad Accounts Officer and Sarzamin Khan Assistant for respondents present.

Proper implementation report was submitted which clearly shows that in the light of decision of this Tribunal, his penalty i.e. removal from service was converted into compulsory retirement vide order dated 29.08.2022. As the grievances of the petitioner have been redressed, therefore, execution petition stand consigned being fully satisfied.

Announced. 03.10.2022

(Rozina Rehman) Member (J) Camp Court Swat

P

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. 285 of 2022

Waqar Ahmad Ex-Computer Operator Saidu Medical College, Saidu Sharif, Swat.

. Petitioner

VERSUS

The Government of Khyber Pakhtunkhwa through Secretary Health Services, Peshawar and Others.

.Respondents

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Petitioner Through

Windad Ullah

Advocate Swat

Office: Khan Plaza, Gulshone Chowk, Mingora Swat, Cell 0333 929 7746



BEFORE THE KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. 285 of 2022

Khyber Pakhtukhwa Service Tribund

Diary No. 785

Outcol 16/5/2022

Waqar Ahmad Ex-Computer Operator Saidu Medical College, Saidu Sharif, Swat.

...Petitioner

VERSUS

- 1. The Government of Khyber Pakhtunkhwa through Secretary Health Services, Peshawar.
- 2. The Director General Health Services Government of Khyber Pakhtunkhwa, Peshawar.
- 3. The Chief Executive Saidu Medical College, Saidu Sharif, Swat.

...Respondents

APPLICATION FOR IMPLEMENTATION
OF THE JUDGMENT DATED 08-10-2021
PASSED BY THIS HONOURABLE
TRIBUNAL.

Filedto-day

Registrat

Respectfully Sheweth:

- i. That the petitioner field a departmental appeal for his reinstatement, which culminated finally in the Service Appeal No. 700 of 2017 before this Honourable Tribunal.
- ii. That this Honourable Tribunal was pleased to decide the same vide judgment dated 08-10-2021, whereby the Petitioner was the

major penalty of removal from service was converted into that of compulsory retirement, copy of the judgment dated 08-10-2021 is enclosed as Annexure "A".

- the process to the utter detriment of the petitioner on one hand while clearly disobeying the clear directions of this Honourable Tribunal, despite the fact that the Petitioner has submitted an application for the implementation of the judgment of this Honourable Tribunal, copy of the Application is enclosed as Annexure "B".
- iv. That the Respondents have failed to comply with the direction of this Honourable Tribunal bald of any reasons and in very contemptuous manner.
- v. That the Respondents may very kindly be directed to comply the judgment of this Honourable Tribunal.

It is, therefore, very respectfully prayed that on acceptance of this petition the Respondents may very kindly be directed to implement the judgment of this Honourable Tribunal in letter and spirit without any further delay.



Any other relief deemed appropriate in the circumstances and not specifically prayed for may also very kindly be granted.

Petitioner

Through Attorney Aziz Ahmad Through Counsel,

> Imdad Ullah Advocate Swat

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. _____ of 2022

Waqar Ahmad Ex-Computer Operator Saidu Medical College, Saidu Sharif, Swat.

...<u>Petitioner</u>

VERSUS

The Government of Khyber Pakhtunkhwa through Secretary Health Services, Peshawar and Others.

...Respondents

AFFIDAVIT

It is solemnly stated on Oath that all the contents of this implementation petition are true and correct to the best of my knowledge and belief and nothing has either been misstated or kept concealed before this Honourable Tribunal.



A33 Deponent

Aziz Ahmad



SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. ______ of 2022

Waqar Ahmad Ex-Computer Operator Saidu Medical College, Saidu Sharif, Swat.

...Petitioner

VERSUS

The Government of Khyber Pakhtunkhwa through Secretary Health Services, Peshawar and Others.

...Respondents

ADDRESSES OF THE PARTIES

Petitioner:

Waqar Ahmad Ex-Computer Operator Saidu Medical College, Saidu Sharif, Swat.

Respondents:

- 1. The Government of Khyber Pakhtunkhwa through Secretary Health Services, Peshawar.
- 2. The Director General Health Services Government of Khyber Pakhtunkhwa, Peshawar.
- 3. The Chief Executive Saidu Medical College, Saidu Sharif, Swat.

Petitioner Through Counsel,

> Imaaa Uiian Advocate Swat



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 700 of 2017

Waqar Ahmad Ex-Computer Operator Saidu Medicathyber Pakhtukhwa Service Tribunal College, Saidu Sharif, Swat.

...Appellan Pared 05-07-201

VERSUS

- 1. The Government of Khyber Pakhtunkhwa through Secretary Health Services, Peshawar.
- 2. The Director General Health Services Government of Khyber Pakhtunkhwa, Peshawar.
- 3. The Chief Executive Saidu Medical College, Saidu Sharif, Swat.

...<u>Respondents</u>

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER NO. 8088-93/PERSONAL/C.O/104 DATED 20-02-2017 (RECEIVED ON 09-03-2017) WHEREBY THE MAJOR PENALTY OF REMOVAL FROM **SERVICE** IMPOSED UPON THE APPELLANT AGAINST THE LAW, RULES AND FACTS. FEELING AGGRIEVED OF THE SAME THE APPELLANT PREFERRED A DEPARTMENTAL APPEAL WHICH WAS ALSO REJECTED IN A SUMMARY MANNER VIDE SOH-III/8-89/2017 (WAQAR AHMAD) DATEDPESHAWAR 04TH MAY, 2017 (RECEIVED ON 12-06-2017), HENCE BOTH THE

Klyber akhtukhwa Reshawas

Registrary 17/2012



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR AT CAMP COURT SWAT.

Service Appeal No. 700/2017

Date of Institution ...

05.07.2017

Date of Decision

08.10.2021

Wagar Ahmad Ex-Computer Operator Saidu Medical College, Saidu Sharif, Swat. (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa through Secretary Health Services, Peshawar and two others. (Respondents)

MR. IMDAD ULLAH

Advocate

For Appellant

MR. ASIF MASOOD ALI SHAH, **Deputy District Attorney**

For Respondents

ROŹINA REHMAN ATIQ-UR-REHMAN WAZIR **MEMBER (JUDICIAL) MEMBER (EXECUTIVE)**

JUDGMENT

TESTED

Pesbawas

ATIO-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the case are that the appellant was appointed as computer operator on 26-02-1999. The appellant applied for earned leave for 730 days on half pay, which was accepted vide order dated 09-09-2014. After expiry of the leave on 29-09-2016, the appellant applied for extension in his leave for another period of two years w.e.f 30-09-2016 to 29-09-2018 vide application dated 14-10-2016, which was rejected vide order dated 18-11-2016, but such order was not communicated to the appellant and the appellant was under impression that his request for grant of leave has been acceded. In the meanwhile the appellant was communicated order of removal

from service vide order dated 20-02-2017. Feeling aggrieved, the appellant filed



departmental appeal dated 14-03-2017, which was rejected vide order dated 04-05-2017, hence the instant service appeal with prayers that the impugned orders dated 20-02-2017 and 04-05-2017 may be set aside and the appellant may be reinstated in service with all back benefits.

- 02. Learned counsel for the appellant has contended that the appellant has not been treated in accordance with law, as major penalty has been imposed upon the appellant and that too without affording him opportunity of defense; that the appellant has been discriminated, as no regular inquiry was conducted and the appellant was condemned unheard; that the appellant was not communicated any action of commission or omission which may constitute any offense under any law
- O3. Learned Deputy District Attorney for the respondents has contended that the appellant was granted 730 days leave on half pay vide order dated 09-09-2014 and the appellant proceeded on leave with effect from 01-10-2014 and on expiry of leave, he again applied for extension in leave for another period of two years, which however was rejected by the competent authority vide order dated 18-11-2016, but the appellant did not resume his duty after expiry of leave, therefore a notice was issued to him on his home address vide letter dated 10-10-2016. Another notice was issued vide letter dated 09-11-2016 but the appellant did not turn up, hence notice was published in two leading newspapers on 27-11-2016; that before imposition of major penalty of removal from service, all the codal formalities have been fulfilled and the appellant was treated in accordance with law and rule; that absence of the appellant was willful, hence he was proceeded against under Rule-9 of E&D Rules, 2011.
- 04. We have heard learned counsel for the parties and have perused the record.

Record reveals that the appellant properly applied for leave on half pay,

which was granted by the competent authority. The appellant again requested for



extension in his leave, which was rejected but nothing is available on record to ascertain as to such rejection order was communicated to the appellant and the appellant was under impression that leave has been granted. On the other hand, respondents were well aware of the fact that the appellant has again requested for grant of extension in his leave, but he was proceeded against ex-parte without affording him opportunity of defense. It otherwise is a well settled legal proposition that regular inquiry is must before imposition of major penalty of removal from service. In the instant case, the penalty so awarded appears to be harsh, particularly looking into his more than 20 years service.

06. In view of the foregoing discussion, the penalty of removal from service is converted into compulsory retirement. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED 08.10,2021

(ROZINA REHMAN) MEMBER (J) CAMP COURT SWAT (ATIQ-UR-REHMAN WAZIR) MEMBER (E) CAMP COURT SWAT

Certified to be ture copy

Khybe Fakhtunkhwa Service Tribunal. Peshawar

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The Director General Health Services Govt of Khyber Pakhtunkhwa Peshawar.

Through:

Proper channel/ Chief executive Saidu Medical College,

Saidu Sharif, Swat.

SUBJECT: -

IMPLENTATUION OF JUDGMENT OF THE

HONOURABLE KHYBER PAKHTUNKHWA SERVICE TIBUNAL PESHWAR IN SERVICE APPEAL NO.700 OF

2017 WAQAR AHMAD VS GOVT ETC.

Respected Sir,

It is stated that the applicant was appointed as computer operator on 26.02.1999. Then proceeded on leave vide order dated 09.09.2014. After expiry of the leave on 29.09.2016, the applicant applied for extension in his leave for another period of two years w.e.f 30.9.2016 to 29.9.2018 which was rejected but the order was not communicated to the applicant. In the meanwhile the applicant was communicated order of . removal from service vide order dated 20.2.2017. Feeling aggrieved from the said order, the applicant filed service appeal in KP service Tribunal which was decided vide order dated 08.10.2021 and converted the penalty of removal from service into compulsory retirement .(Copy of judgment attached)

It is, therefore, very humbly requested that the applicant's retirement order may be issued as per the Honourable Service Tribunal Judgment dated 08.10.2021 please.

> Yours obediently, Wagar Ahmad Ex-Computer operator Saidu Medical College Swat.

Through representative/ brother.

Attested Mayocate

ONLY SIGNATURE

In the matter of:-

Wag av Ahmad VERSUS

lealth & others Respondent





I, Mr. Waqar Ahmad S/o Sher Muhammad Khan (late) Resident of Saidu Sharif Swat Khyber Pakhtunkhwa, Pakistan, presently I am living in 6513 Terry Dr Springfield Virginia USA, do solemnly declare that an intending to file an implementation/ execution petition before the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar. As I am abroad and, cannot Expersonally file and attend the Hon'ble Tribunal Court, and defend my rights, so I hereby authorize - ₩ ₹Mr. Aziz Ahmad S/o Sher Muhammad Khan R/o Saidu Sharif , tehsil Babozai , District Swat, Khyber Pakhtunkhwa, Pakistan to file the said execution petition on my behalf, engage counsel. And to attend the said Tribunal and Supreme Court on my behalf in the said case, to file application, replication, engage counsel, file affidavits/ objection petition. If any suit/petition is filed against me, he is authorized to defend my right and if needed he can file appeal, revision write petition. He can defend my rights /interest from the original Court / Tribunal up to the Apex Court i.e Supreme Court of Pakistan. He is authorized to file an appeal on my behalf and to defend my interest. Whatever is needed for the defense and welfare of my interest and rights the said attorney can act on my behalf.

City/County of State of Maryland Subscribed and sworn to before me day of A

My commission expires

Notary Public

EXECUTANT

MR. WAQAR AHMAD S/O SHER MUHAMMAD KHAN

15602 -CNIC No.1502 1422827-9

WITNESSES

TRAVIS I JOHNSON Prince George's County y Commission Expires eptember 15, 2025

Name Ameer Hamz S/o Muhammad

Harodn Khurshid Constilar Attaché **Embassy of Pakistan** Washington, D.C.

CD-1321 /2022





DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR

All communications should be addressed to the Director General Health Services Peshawar and not to any official by name Office # 091-9210269 Fax # 091-9210230

MOST IMPORTANT

COURT MATTER

Chief Executive Officer / Principal, Saidu Medical College,

Saidu Shareef, Swat.

Attention:

Mr. Sarzamin Litigation Officer

Subject:

EXECUTION PETITION NO. 285/2022 IN SERVICE

VERSUS GOVT AHMAD WAQAR

PAKHTUNKHWA AND OTHERS

Please refer to the subject case & enclosed herewith please find copy of Office

Order No. 10343-48/Personnel-dated-29/08/2022.

You are requested to please produce the same in Honorable Khyber Pakhtunkhwa Service Tribunal, at Camp Court-Swat & share progress with this Directorate.

Encl: $(\underline{\theta I})$

Directorate General Health Service Khyber Pakhtunkhwa, Peshawan

1. Addl: Registrar Honorable Khyber Pakhtunkhwa Service Tribunal at Camp Court Swat

2. Addl: Director General (HR) DGHS office Peshawar

3. PA to Director General Health Services Khyber Pakhtunkhwa Peshawar



DIRECTORATE GENERAL REALTH SERVICES NEVER PARETIN MAWA PESHAWA

E-Mail Address: <u>nortroleite@valmo.com</u> office Ph# 091-9210269 % Exchangell 091-9210187, 9210196 Fax il 091-9210230

OFFICE ORDER

- 1. WHEREAS: Mr. Waqar Ahmad Computer Operator attached to SGTH Swat; had absented himself from duty with effect from 01.10.2016.
- 2. WHEREAS, he was directed vide Chief Executive & Principal Saidu Group of Teaching Hospital Saidu, Medical College Swat letter No. 4839/SMC/FF dated 10.10.2016 at his home address to resume duty (through Registered/AD).
- 3. WHEREAS, he was once again directed by Chief Executive & Principal Saidu Group of Teaching Hospital Saidu Medical College Swat letter No. 5629/SMC/PF dated 09.11.2016 at his home address to resume duty (through Registered/AD).
- 4: As per rules-9 of Khyber Pakhtunkhwa under E&D Rules 2011, an absence notice was published in Daily "MASHRIQ" Peshawar on 27.11.2016 and Daily "AZADI" Swat dated 27.11.2016 directing him to resume duty within 15-days failing which ex-parte action will be taken against him under E&D Rules 2011, but he did not respond to the said notice.
- 5. Therefore, I Dr. Shabina Raza Khalil Director General Health Service Khyber Pakhtunkhwa Peshawar being competent authority in exercise of powers conferred under Khyber Pakhtunkhwa E&D Rules 2011, am pleased to impose major penalty of "Removal from Service" upon Mr. Waqar Ahmad Computer Operator attached to Saidu Group of Teaching Hospital/SMC Swat on account of his willful absence from duty with immediate effect vide this Directorate effice order No. 8088-93/Personnel/C.O/104 dated 20.02.2017.
- 5. WHEREAS, the official concerned challenged the above decision in Service Tribunal KP vide Service Appeal No. 700/2017 and in the light of the decision of Service Tribunal KP the penalty "Removal from Service" is hereby converted in to "Compulsory Retirement" subject to final decision of CPLA by the Hon'able Supreme Court of Pakistan.

Sd/xxxxxxx

DIRECTOR GENERAL HEALTH SERVICES, K.P.K.PESHAWAR

Dated 99 / 0 / /2022

No. 10343-46 /Personnel

Copy forwarded to the:-

1. Chief Executive & Principal SMC Swat.

2. Accountant General Knyher Pakhtunkhwa Peshawar.

3. District Accounts Officer Swat.

 Director Litigation DGHS Office w/r to his letter No. 2402-07(Lit) dated 01.08 2022.

5. Deputy Secretary (Litigation) Health Deptt: Peshawar.

6. Official concerned.

For information and necessary action.

Age.

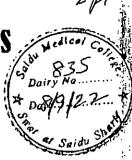
DIRECTOR GENERAL HEALTH // SUNVICES, K.F PESHAWAR

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RATE GENERAL HEALTH SERVICES KHYBER PAKHTUN KHWA PES

E-Mail Address: nwfodghsfovahoo.com office Ph# 091-9210269 & Exchange# 091-9210187, 9210196 Fax #



OFFICE ORDER

1. WHEREAS: Mr. Waqar Ahmad Computer Operator attached to SGTH Swat, had absented himself from duty with effect from 01.10.2016.

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No.10343-48/Personnel

Sd/xxxxxxx DIRECTOR GENERAL HEALTH SERVICES, K.P.K PESHAWAR. Dated 29 / 0 8/2022

Copy forwarded to the:-

1. Chief Executive & Principal SMC Swat.

- Accountant General Khyber Pakhtunkhwa Peshawar.
- 3. District Accounts Officer Swat.
- 4. Director Litigation DGHS Office w/r to his letter No. 2402-07(Lit) dated
- 5. Deputy Secretary (Litigation) Health Deptt: Peshawar.

Official concerned.

For information and necessary action.

DIRECTOR GENERAL HEALTH

SERYHEES, K.P PESHAWAR

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KHYBER PAKHTUNKHWA S	SERVICE TRIBUNAL, PESHAWAR.
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replication, affidavit/counter affidavit	/record/arguments/order before this Tribunal
on 9-6-22 at 8,0	-AM
	e the Tribunal on the said date and at the said advocate for presentation of your case, failing
which your appeal shall be liable to be d	ismissed in default.
at our Court	
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	Registrar, Khyber Pakhtunkhwa Service Tribunal,
	. Peshawar.

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Notice to Appellant/Petitioner Wagas Asmad Ex Computer
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Take notice that your appeal has been fixed for Preliminary hearing,
replication, affidavit/counter affidavit/record/arguments/order before this Tribunal
on 9-6-22 at 820 AM
You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.
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at comploint Smut Registrar,
Registrar,
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Peshawar.

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KHYBER PAKHTUNKHWA SERVICE TRIBUNAE, PESHAWAR.
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Appeal No. EP 285 of 20 22
Wagay Almind Appellant/Petitioner
Secy: Health Serves Respondent
Respondent No
Notice to: _ Chief Executive Saidu Medical edlege Suidu Sharif Swat
edlege Suidy Sharif Swat
WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on
Copy of appeal is attached. Copy of appeal has already been sent to you vide this
office Notice Nodated
Given under my hand and the scal of this Court, at Peshawar this
Day of Sour Court
Day of Swat Registrar, 1
Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays. Always quote Case No. While making any correspondence.

Note:

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the above ca hereby infor- ion	se by the petitioner med that the said that	er in this Court and d appeal/petition in appeal/petition in the liberty to do so on ither in person or our power of Attories before the date on the date fixed a nd decided in your in the date fixed fixed and the date fixed fixed and decided in your and the date fixed f	notice has be a fixed for he you wish to the date fixed by authorised ney. You are, to feel hearing 4 coursely. Pleas absence. For hearing of the mand in the mand in the Regist ddress contained to be your contained to be your contained.	stered for consideration, in en ordered to issue. You are earing before the Tribunal urge anything against the d, or any other day to which d representative or by any herefore, required to file in opies of written statement also take notice that in unner aforementioned, the this appeal/petition will be trar of any change in your ned in this notice which the orrect address, and further sufficient for the purpose of
Сору	of appeal is attacl	ned. Copy of appea	d has already	been sent to you vide this
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The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays. Always quote Case No. While making any correspondence.

Note:

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address ₅ notice posted w this appeal/petition.

Copy of appeal is attached. Copy or appea

office Notice No.....dated......dated......

Given under my hand and the seal of this Court, at Peshawar this......

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tours from

Registrar,

Khyber Pakhtunkhwa Service Tribunal,

Peshawar.

The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays. Vote

Always quote Case No. While making any correspondence.