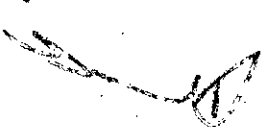
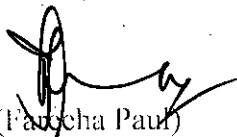


12th Oct, 2022

1. None present for the appellant. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.

2. Called several times till last hours of the court but neither appellant nor his counsel is present. In view of the above, the instant appeal is dismissed in default.

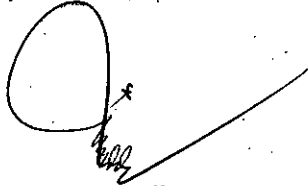
3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 12th day of October, 2022.*



(Farooq Paul)
Member(I)
(Kalim Arshad Khan)
Chairman

Restoration Application No. 18/2021

19th April, 2022 Counsel for the appellant present. Mr. Nasirud
Din Shah, Asstt. AG for the respondents present.

The application is within time and is accepted.
Appeal stands restored on its original number. Original
file be requisitioned. To come up for arguments on the
main appeal on 10.06.2022 before the D.B.



(Mian Muhammad)
Member(E)



Chairman

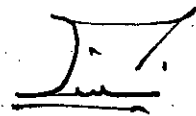
10.06.2022

Clerk of learned counsel for the appellant present. Mr.
Muhammad Adeel Butt, Additional Advocate General for the
respondents present.

Clerk of learned counsel for the appellant requested for
adjournment on the ground that learned counsel for the
appellant is not available today due to strike of lawyers.
Adjourned. To come up for arguments on 01.09.2022 before the
D.B.



(Fareeha Paul)
Member (E)



(Salah-ud-Din)
Member (J)

01.09.2022

Bench is incomplete, therefore, case is adjourned to
12.10.2022 for the same as before.



Reader

11.10.2021

Clerk to counsel for the appellant present. Mr. Kabirullah Khattak
Additional Advocate General for respondents Present

Learned Members of the DBA are observing Sogh over the demise of Dr. Abdul Qadeer Khan (Scientist) and in this regard request for adjournment was made; allowed. To come up for arguments on 07.01.2022 before D.B.



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



(Rozina Rehman)
Member (J)

07.01.2022

Junior to counsel for the appellant present. Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present.

Former made a request for adjournment as senior counsel for the appellant is not available today. Adjourned. To come up for arguments before the D.B on 19.04.2022.



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

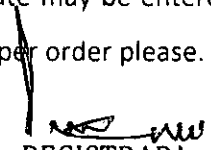





Chairman

FORM OF ORDER SHEET

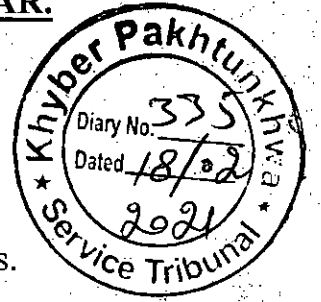
Court of _____

Restoration Application No. 18 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	18.02.2021	<p>The Restoration Application submitted by Mr. Khalid Hussain through Mr. Muhammad Asif Yousafzai Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	04.06.2021	<p>This Restoration Application be put up before D. Bench-1 on <u>04-06-2021</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Junior to counsel for petitioner present.</p> <p>Notice of the instant application be served upon respondents for reply. To come up for reply/arguments on 11.10.2021 before D.B.</p> <p style="text-align: center;"> (Rozina Rehman) Member (J)</p> <p style="text-align: right;"> Chairman</p>

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1217/2015



Khalid Hussain

V/S

Govt: of KPK Others.

**APPLICATION FOR RESTORATION OF INSTANT
APPEAL WHICH HAS BEEN DISMISSED IN DEFAULT
VIDE ORDER DATED 10.02.2021.**

RESPECTFULLY SHEWETH:

1. That the appellant filed instant appeal against the order dated 11.06.2012 wherein he has been removed from Service w.e.f 01.01.2003 and against not taking action on the departmental appeal of the appellant within the statutory period of 90-days.
2. That the instant appeal has fixed on 10.02.2021 for arguments before this Honorable Tribunal however the counsel for appellant was busy in the Honorable Peshawar High Court, Peshawar due to which he could not attend the case on date fixed and the instant case was dismissed for non prosecution. **Copy of order sheet dated 10.02.2021 is attached as Annexure-A.**
3. That the appellant has good prima facia case and it will be interest of the justice to decide the case rather than dismissed for non prosecution.

It is therefore, most humbly prayed, that on acceptance of this application the above instant appeal may be restored to meet the ends of justice

APPELLANT

Khalid Hussain.

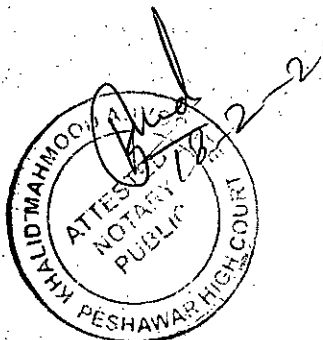
Through:-

(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT
OF PAKISTAN

AFFIDAVIT

It is solemnly affirm that the contents of this application are true and correct and nothing has been concealed from this Honorable Tribunal.

[Handwritten Signature]
DEPONENT



1217/2015

10.02.2021

Nemo for the appellant. Asstt. A.G for the respondents present.

It is already past 03.00 P.M and despite repeated calls no one is in attendance to represent the appellant. Dismissed for non-prosecution. File be consigned to the record.



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



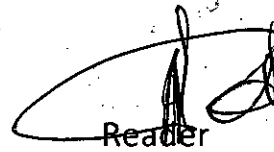
Chairman

ANNOUNCED

10.02.2021

28.08.2020

Due to summer vacation, the case is adjourned to
23.10.2020 for the same as before.


Reader

23.10.2020

Junior to counsel for the appellant and Mr.
Muhammad Jan, DDA for the respondents present.

The Bar is observing general strike, therefore, the
matter is adjourned to 23.11.2020 for hearing before the
D.B.


(Mian Muhammad)
Member


Chairman

23.11.2020

Counsel for appellant and Assistant A.G for the
respondents present.

Learned counsel states that the appellant has taken
the brief from him which is yet to be returned. Seeks
adjournment. Adjourned to 10.02.2021 for arguments
before the D.B.


(Mian Muhammad)
Member


Chairman

10.12.2019

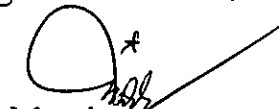
Lawyers are on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for further proceedings/arguments on 13.02.2020 before D.B.


Member


Member

13.02.2020

Shahkar Advocate junior to counsel for the appellant present. Mr. Riaz Khan Paindakhail learned Assistant Advocate General present. Junior to counsel for the appellant seeks adjournment as senior learned counsel for the appellant is not available. Adjourned To come up for arguments on 16.04.2020 before D.B.


Member


Member

16.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 28.08.2020 before D.B.

P


Reader

26.03.2019

Learned counsel for the appellant and Mr. Riaz Painsdakhel learned Assistant Advocate General for the respondents present. Learned counsel for the appellant requests for adjournment. Adjourned. To come up for arguments on 27.05.2019 before D.B.


(Hussain Shah)
Member


(Muhammad Amin Khan khudi)
Member

27.05.2019

Due to general strike of the bar, the case is adjourned. To come up for arguments on 25.07.2019 before D.B.


Member


Member

25.07.2019

Mr. Taimur Ali Khan, Advocate for appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 11.10.2019 for arguments before D.B.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

11.10.2019

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. Last opportunity is granted. To come up for arguments on 10.12.2019 before D.B.


Member


Member

06.11.2018

Due to retirement of Hon'able Chairman, the Tribunal is defunct. Therefore, the case is adjourned for the same on 26.12.2018 before D.B.



Reader

26.12.2018

Mr. Muhammad Asif Yousafzai, Advocate for appellant and Mr. Muhammad Jan, DDA for the respondents present.

Learned counsel for the appellant requests for adjournment in order to lay hand on some recent ~~recent~~ judgments by the Apex Court on the proposition involved in the instant matter.

Adjourned to 31.01.2019 for arguments before the D.B.


Member


Chairman

31.1.2019

Mr. Muhammad Asif Yousafzai, Advocate for appellant and Mr. Ziaullah, DDA for the respondents present.

Better rejoinder on behalf of appellant has been submitted which is placed on record. To come up for arguments on 26.03.2019 before the D.B.


Member


Chairman

08.02.2018

Junior to counsel for the appellant and Mr. Zia Ullah, learned DDA for the respondents present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not available. Adjourned. To come up for arguments on 07.05.2018 before D.B


(M.Amin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member

07.05.2018

The Tribunal is defunct due to retirement of Hon'ble Chairman. Therefore, the case is adjourned. To come on 20.07.2018


READER

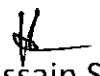
20.07.2018

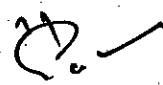
Due to engagement of the undersigned in judicial proceeding before S.B further proceeding in the case in hand could not be conducted. To come on 13.09.2018 ^{before} D.B


Member (J)

13.09.2018

Learned counsel for the appellant and Mr. Muhammad Jan Learned Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 06.11.2018 before D.B


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

04.09.2017

Since 4th September, 2017 has been declared as Public Holiday on account of Eid-UI-Azha. Therefore the case is adjourned for the same on 11-10-17 before D.B. Parties be informed accordingly.

Note for
Mr. Jan


(Reader)

11.10.2017

Counsel for the appellant and Mr. Muhammad Jan, DDA for the respondents present. Counsel for the appellant seeks adjournment. Granted. To come up for arguments on 08.1.2018 before the D.B.


Member


Chairman

08.01.2018


Clerk of the counsel for appellant present and Mr. Usman Ghani, District Attorney for the respondents present. Clerk of the counsel for appellant was stated to be busy before august the Supreme Court of Pakistan today. Adjourned. To come up for arguments on 08.03.2018 before D.B.


Member


Chairman

31.10.2016

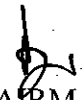
Counsel for the appellant and Mr. Khurshid Khan, Supdt. alongwith Addl. AG for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing on 11.01.2017.


Member

11.01.2017


Counsel for the appellant and Additional AG for the respondents present. Learned counsel for the appellant submitted rejoinder and requested for adjournment. To come up for final hearing on 18.05.2017 before D.B.



MEMBER


CHAIRMAN

18.05.2017

Clerk of the counsel for appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Clerk of the counsel for appellant requested for adjournment. Adjourned. To come up for arguments on 04.09.2017 before D.B.



(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

1217/15

25.4.2016.

Counsel for the appellant and Addl. AG for the respondents present. Counsel for the appellant submitted an application for impleadment of Secretary Planning and Development Department, Learned Addl. A.G has no objection as such Secretary, Planning & Development Department, Government of Khyber Pakhtunkhwa is impleaded as respondent. Entries be made accordingly in the memo: of appeal as well as relevant register. Counsel for the appellant is directed to provide a copy of appeal. Notice be issued to the newly impleaded respondent No.4. To come up for written reply/comments of all the respondents on 21.07.2016 before S.B.


Chairman

21.07.2016

Counsel for the appellant and Mr. Sultan Shah, Assistant alongwith Additional AG for the respondents present. Copy of the appeal has not been provided. Counsel for the appellant is directed to provide the same, where-after notice be issued to newly impleaded respondent No. 4 for written reply/comments for 29.08.2016 before S.B.


MEMBER

29.08.2016

Counsel for the appellant M/S Khurshid, Supdt. and Sultan Shah, Assistant alongwith Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 31.10.2016 before S.B.


Chairman

12.11.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Research Officer in P & D Department when subjected to inquiry on the allegations of wilful absence and removed from service vide impugned order dated 11.6.2015 where against he preferred departmental appeal on 24.6.2015 which was not answered and hence the instant service appeal on 21.10.2015.

That the appellant was not absent as he proceeded abroad after obtaining proper leave and as such the impugned order is without any lawful justification and, moreover, nor codal formalities were observed.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 10.2.2016 before S.B.


Chairman

10.02.2016

Counsel for the appellant and Addl: A.G for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 25.4.2016 before S.B.


Chairman

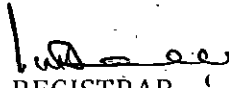
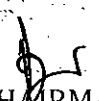
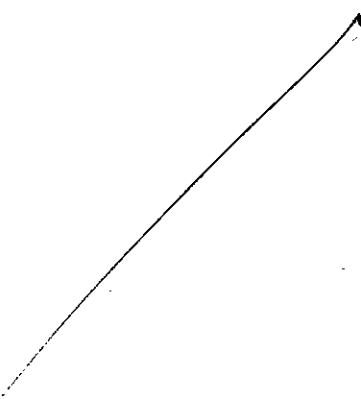
Appellant Deposited
Security & Process Fee



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1217/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	02.11.2015	<p>The appeal of Mr. Khaled Hussain resubmitted today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2		<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon. <u>12-11-15</u></p> <p style="text-align: right;"> CHAIRMAN</p> 

The appeal of Mr. Khaled Hussain Ex-Research Officer P&D department received to-day i.e. on 21.10.2015 is incomplete on the following score which is returned to the counsel for the appellat for completion and resubmission within 15 days.

- 1- Index of the appeal may be prepared according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Copy of challan mentioned in para-5 of the memo of appeal is not attached with the appeal which may be placed n it.
- 3- In the memo of appeal many places have been left blank which may be filled in.
- 4- Copy of rejection order of departmental appeal mentioned in para-8 of the memo of appeal is not attached with the appeal which may be placed on it.
- 5- Annexures of the appeal may be annexed serial wise as mentioned in the memo of appeal.

No. 1632 /S.T,

Dt. 22/10 /2015.

to English
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Asif Yousafzai Adv. Pesh.

Sir,

1. removed.
2. removed.
3. removed.
4. removed.
5. removed.

Re-submitted.

Ali

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

Appeal No. 1217 /2015

Mr. Khalid Hussain


V/S Government of KPK etc.

INDEX

S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	01-04
2.	Copy of Nomination	A	05
3.	Copy of Approval of Leave	B	06
4.	Copy of letter (12.01.2004)	C	07
5.	Copy of letter	D	08-09
6.	Copy of Letter (13.01.2015)	E	10
7.	Copy of FIR	F	11
8.	Letter 20.5.2014 with challan	F-1	12
9.	Order 11.6.2015	G	13
10.	Appeal.	H	14-16
11.	Vakalat nama	---	17

APPELLANT

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

1

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 1217 /2015

Khalid Hussain, Ex- Research Officer,
P&D Department, KPK, Peshawar.

K.P. Provincial
Service Tribunal
Diary No. 1277
Dated 21-10-2015

(Appellant)

VERSUS

1. The Govt: of KPK through Chief Secretary, KPK, Peshawar.
2. The Chief Secretary, KPK, Peshawar.
3. The Secretary Establishment, KPK, Peshawar.
4. *Secretary planning and Development Department.* (Respondents)

*impleaded
vide order
sheet dated
25-4-2016*

APPEAL UNDER SEC- 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 11.06.2015, WHERE THE APPELLANT WAS REMOVED FROM SERVICE WITH EFFECT FROM 01.01.2003 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

*Filed to-day
21/10/15*

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE RESPONDENTS MAY BE DIRECTED TO SET ASIDE THE ORDER DATED 11.06.2015 AND REINSTATED THE APPELLANT WITH ALL BACKS AND CONSEQUENTIAL BENEFITS. OR TO CONVERT THE PENALTY INTO COMPULSORY RETIREMENT FOR HIS TEN YEARS SERVICE. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND PROPER THAT MAY ALSO BE GRANTED IN FAVOUR OF THE APPELLANT.

*re-submitted to-day
and filed.
21/11/15*

R.SHEWETH:

FACTS:

1. That the appellant was appointed as Research Officer in P&D Department and performed his for duty for 10 years in the planning department.
2. That the appellant was nominated for fellowship programme in the field of Master in Water and Environment Resources Management (WERM-3) in Netherlands and all the expenses will be borne by the Donor agency and there will be no financial liability on the provincial Government/ Government of Pakistan. The appellant after completing his course his return to country and joined his duty again. (Copy of nomination is attached as Annexure-A)
3. That the appellant after serving for more than 6 months in his Department, applied for leave to visit foreign which was allowed. The appellant again applied for extension of his leave which was also allowed and after the expiration of that period he again requested for extension of leave which was refused. Copy of approval of leave is attached as Annexure-B)
4. That the appellant sent resignation to his department, but the department issued a letter to the appellant to deposit the amount of 1,60,780/- which was the expenses of the training of the appellant and the appellant refunded the amount. The amount so refunded by the appellant was accepted by the department. Copy of letter and challan are attached as Annexure-C&D
5. That after that the department issued another letter on dated 13.1.2005 to the appellant to deposit the sum of Rs 397,355,36/- against him on account of salaries drawn by him while the appellant was in broad, which were paid to the department but the department was not satisfied of the demand of payment and lodged FIR against the appellant. (copy of ~~Letter~~ and FIR is attached as Annexure-E&F)
6. That the appellant got pre-arrest bail and during the trail of the case the department wrote a letter to Director Anti-Corruption to withdrawal of FIR lodged against the appellant as the appellant has already deposited the requisite amount in the government exchequer. Thus on the basis of facts

and withdrawal request by the government, the appellant was acquitted from the charges. (F-1) is attached.

7. That one-sided action has taken by the department and removed the appellant from service vide order dated 11.06.2015 with effect from 01.01.2003 without having been suspension anywhere from the last 12 years and without serving charge sheet, inquiry and show cause notice to the appellant. (copy of order dated 11.6.2015 is attached as annexure-G)
8. That the appellant filed departmental appeal on 24.06.2015 against the order dated 11.06.2015 which was not responded within the statutory period of ninety days. (Copy of departmental appeal ~~and its copy is attached as~~ Annexure-H)
9. That now the appellant comes to this august Tribunal on the following grounds amongst the others.

GROUND:



- A) That impugned orders dated 24.06.2015 and 11.06.2015 are against the law, facts, and norms of justice and material on record, therefore not tenable.
- B) That no charge sheet and statment of allegation was served to the appellant which is violation of law and rules. was
- C) That no inquiry was conducted against the appellant which the violation of E&D Rules 2011 and superior courts judgment. Therefore the impugned order is liable to be set aside.
- D) That even show cause notice was nit served to the appellant which is violation of law and rules.
- E) That the appellant clears his dues against him but despite that the department lodged FIR against the appellant. Which shows the malafide of the department.
- F) That the appellant was not suspended during his stay in abroad and remove him from service without fulfilling codal formalities which is against the rules ~~of 194 of ICS (B)~~

- G) That the appellant has not been treated according to law and rules and has been kept deprive from her legal right in arbitrary manner.
- H) That the removal order dated 26.1.2015 is against the law as the respondent Deptt; did not fulfill codal formalities before passing the removal order dated 26.1.2015.
- I) That the appellant has requested for his resignation but the department turndown his request and demand deposit of money.
- J) That the appellant was supported by the donor agency for education in Netherlands, but the department demand that amount on request of his resignation. Which is violation of Article 4 and 25 of the Constitution of Pakistan.
- K) That the appellant seeks permission to advance other grounds and proofs at the time hearing.

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

APPELLANT
 خالد حسين
 Khalid Hussain

THROUGH:


 (M. ASIF YOUSAFZAI)
 & 
 (TAIMUR ALI KHAN)

ADVOCATES, PESHAWAR

A

5

AS
NS

GOVERNMENT OF N.W.F.P.,
PLANNING, ENVIRONMENT & DEV: DEPARTMENT
NO. SOII/PE&D/092/N.LAND-01/98
Dated Peshawar, the 10-3-1999

Mr. Zafar Hasnain,
Section Officer,
Government of Pakistan,
Ministry of Water & Power,
Islamabad.

SUBJECT:- NETHERLANDS FELLOWSHIPS PROGRAMME FOR 1999-2000.

Sir,
I am directed to refer to Economic Affairs Division, Government of Pakistan, Islamabad letter No. 1(2)CM.VI/98, dated 26-12-1998 on the subject noted above and to state that the competent authority has approved the nomination of Mr. Khalid Hussain, Research Officer (Tech), Government of NWFP, Power Department, Peshawar for participation in the above fellowship programme in the field of Master in Water and Environmental Resources Management (WERM-3) for 12-months duration commencing from September 1999 and September 2000 subject to the condition that all expenses will be borne by the Donor Agency and there will be no financial liability on Provincial Government/ Government of Pakistan. Documents follow shortly.

It is requested that the above nomination may kindly be analyzed and furnished to the EAD at the earliest under intimation to this Department.

Your obedient servant,

[Signature]
SECTION OFFICER-II
PHONE NO. 9210497/601203

Copy to:-
1. The Secretary to Government of NWFP, Finance Department, Peshawar.

- The Secretary to Government of NWFP, Power Department, Peshawar, with reference to their letter No. KC/2-22/ROT/0-21, dated 8-3-1999 for information and necessary action.

It is requested that nomination documents of the above may kindly be sent direct to the Federal Government immediately under intimation to this Department.

3. Mr. Saad Abdullah Paracha,
Section Officer,
Government of Pakistan,
Economic Affairs Division,
Islamabad,

with reference to his letter referred to above for information and necessary action.

[Signature]
ATTESTED

B = (A) 52 d/15

GOVERNMENT OF NWFP
PLANNING, ENVIR. & DEV. DEPARTMENT

Dated Pesh: the April 20th. 2001.

NOTIFICATION

NO.SO(ESTT.I)PE&D/067/1-76/97. Sanction is hereby accorded to the grant of 120-days leave ex-Pakistan on half pay with effect from 1.5.2001 to 28.8.2001 (both days inclusive) in favour of Mr. Khalid Hussain, Research Officer (BPS-17) Planning Environment and Development Department.

2. Certified that on expiry of his leave, the officer is likely to return to the same post and station.

3. There is also no objection to the proceeding abroad of the officer to Canada and U.S.A.

ADDITIONAL CHIEF SECRETARY
PLANNING, ENVIR. & DEV. DEPTT

Endst.No.SO(ESTT.I)PE&D/067/1-76/97/628-35 Dated Pesh: the 20.4.2001.

Copy forwarded to the:-

1. Accountant General, NWFP Peshawar.
2. P.S. to Addl: Chief Secretary, PE&D Department.
3. Chief Planning Officer, Environment Wing, PE&D Deptt:
4. ✓ Officer concerned. He is informed that on expiry of above leave, no request for extension will be entertained.
5. Section Officer (B&A), PE&D Department.
6. Section Officer (General), PE&D Deptt:
7. P.A. to Deputy Secretary (Estt.) PE&D Department.
8. Bill Assistant, PE&D Department.


SECTION OFFICER (ESTT.I)


ATTESTED

Registered Cover

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GOVERNMENT OF N.W.F.P.
PLANNING & DEVELOPMENT DEPARTMENT.
NO.SO(ESTT)P&D/1-76/97/2004.
Dated Peshawar the January 12, 2004

H

To

Mr. Khalid Hussain
Son of Tasleem Hussain,
House No.14, Street No.13
Gulbahar No.2,
Peshawar City.

Subject:- GRANT OF LEAVE.

I am directed to refer to your application dated 1/8/2003 on the subject noted above and to state that your nomination ^{was} approved by the Provincial Government for 12 months course in the field of Master in Water and Environmental Resources Management under the Netherlands Fellowships Programme for the year 1999-2000, commenced from September 1999 to September 2000. Nomination documents including surety bond duly signed by you were forwarded to the Federal Government by the Power Department wherein you were working. According to Serial No.1 of the Surety Bond, it is stated that the nominee after completion of the training will serve the Government of Pakistan/organization being served at present for at least 3 years, read with para-30 of the Overseas Training and Visits Policy Guidelines, thus you are bound either to serve the organization or to deposit the amount received during the period of your training abroad. In addition some amount has been overpaid to you, which you could pay back to the Govt. Also you are willful absent from duty since 1-1-2003, the date your extra ordinary leave has expired

In light of above, the following amount is outstanding against you and required to be deposited in the Government treasury:

1. Salary drawn during the period of training abroad.
15/9/1999 to 14/9/2000 Rs. 95,675.00
2. Total Overpayment made with effect from 29/8/2001 to 31/07/2002 in accordance with Accountant General, NWFP letter dated 22/5/2003 (copy enclosed)
29/8/2001 to 31/07/2002 Rs. 65,105/02
Total :- Rs. 160780/02

You are therefore directed to deposit a sum of Rs. 160780/02 (Rupees One lac. sixty thousand seven hundred & eighty & two paisas) in the Government Treasury to clear the outstanding dues within 15 days on receipt of this letter enabling this department to consider your resignation, otherwise disciplinary action will be taken against you under NWFP. Removal from Service (Special Powers) Ordinance, 2000 (amendment) and the quarter concerned will be asked to recover the outstanding dues

Ends (As Above)

Prodelul
Section Officer (Estt.)

Regd

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GOVERNMENT OF N.W.F.P.
PLANNING & DEVELOPMENT DEPARTMENT

NO. SO (ESTT.) / P&D / 087/1-76/97
DATED PESHAWAR, THE 13/01/2005

To

Mr. Khalid Hussain
S/O Tasleem Hussain,
Chowk Dera Road,
Shahi Masjid, Shahcen,
Muslim Town, Peshawar.

SUBJECT: GRANT OF LEAVE

I am directed to refer to this department letter of even number dated 21/09/2004, followed by reminder dated 27/10/2004 (copies enclosed) on the subject noted above and to inform you that your resignation from service has been processed and the competent authority i.e. Chief Secretary, NWFP has been pleased to direct that he may be once again given the following options:

- Serve for a period of three years as per terms and conditions of surety bond.
- To deposit three years pay in lieu of three years service i.e. Rs 397, 355, 36 (details enclosed).
- Refund cost of expenditure incurred one year training in Netherland.

You are therefore requested to intimate your choice to this department within 15 days but not later than 30/01/2005 for further processing in the matter, if nothing is heard from your side this department will have no option except to register case with the Anti-Corruption Establishment for recovery of the government dues mentioned above

Encl: As above.

Redeemil
Section Officer (Estt.)

ENDST: NO. & DATED EVEN ABOVE

Copy forwarded to the:

1. Secretary to Govt. of NWFP, Establishment. Department, Peshawar.
2. Section Officer (B&A), Planning & Development Department, Peshawar.
3. P.S. to Additional Chief Secretary, Planning & Development Department, Peshawar.
4. P.A. to Secretary Planning & Development Department, Peshawar.

Pa

Redeemil
Section Officer (Estt.)

ATTESTED

سرکاری نوٹیفکیشن نمبر 15-10/19، 23-10-2008ء (نام شرمین) کی طرف (ایم)

نام شرمین (1) **ایئر لائیڈ اٹلانٹک**

ایئر لائیڈ اٹلانٹک سے برآمد ہونے والی ایئر ٹکٹوں کی قیمتوں کی تجدید کے بارے میں

مطلع

2008

27 اگست 2008ء

27 اگست 2008ء

PR 409-420 / SEC2 PACT

مولانا سید عزیز محمد سعید

خالد حسین سابقہ ایئر لائیڈ اٹلانٹک

5578

مقررہ رقم

ایئر لائیڈ اٹلانٹک

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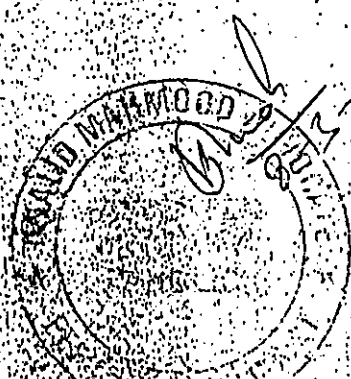
ایئر لائیڈ اٹلانٹک

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ایئر لائیڈ اٹلانٹک



Handwritten signatures and official stamps.

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
PLANNING & DEVELOPMENT DEPARTMENT

No. SO(E)P&DWP-807/2007.
Dated Peshawar, May 20, 2014

F-1

(8)

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21/05

To
The Director,
Anti-Corruption Establishment,
Khyber Pakhtunkhwa.

Subject: **WITHDRAWAL OF FIR LODGED AGAINST MR. KHALID HUSSAIN, RESEARCH OFFICER, P&D DEPARTMENT.**

I am directed to refer to this department letter of even number dated 05-10-2007 on the subject cited above and to state that the Competent Authority (i.e. Chief Secretary, Khyber Pakhtunkhwa) has been pleased to approve withdrawal of the FIR lodged against the officer concerned, as the officer has already deposited the requisite amount in the government exchequer.

You are, therefore, requested to withdraw FIR registered vide Case No.1, dated 1.1. 2008 u/s 409/20 PPC 5(2) Pc Act P.S. ACE, Peshawar and send a copy to this department for further proceeding in the case.

(FAHID ULLAH KHAN)
Section Officer (Estt.)

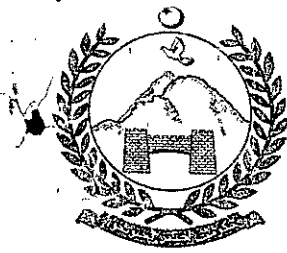
Endst. of even Number & Date.

Copy of the above is forwarded to :-

1. PS to Chief Secretary, Khyber Pakhtunkhwa.
2. PS to Additional Chief Secretary, Khyber Pakhtunkhwa
3. PS to Secretary, Establishment Department.
4. PS to Secretary, P&D Department.

Section Officer (Estt.)

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
PLANNING & DEVELOPMENT DEPARTMENT

Dated Peshawar, June 11, 2015

13

NOTIFICATION.

NO.SO(E)P&D/087/1-76/2015: WHEREAS, Mr. Khalid Hussain, Research Officer (BPS-17), Planning & Development Department was granted 120 days Ex-Pakistan Leave on half pay w.e.f 01-05-2001 to 28-08-2001 which was subsequently extended upto 31-12-2002. On expiry of the same, he again applied for further extension of 01 year which was rejected. But he absented himself from duty w.e.f 01-01-2003.

AND WHEREAS, a notice was issued to him on his home address vide letter dated 26-03-2015 with the directions to resume duty within 15 days of receipt of the Notice failing which ex-parte decision will be initiated against him under the E&D Rules 2011.

AND WHEREAS, since the officer did not report for duty within the stipulated period, the notice was published in daily "Aaj", Peshawar, dated 23-04-2015 and daily "Mashriq" Peshawar, dated 28-04-2015 directing him to resume duty within 15 days of publication of the Notice failing which ex-parte decision would be taken against him under the relevant law/ rules.

AND WHEREAS, the stipulated period expired on 12-05-2015 and the officer did not resume his duty.

NOW, THEREFORE, the competent authority under Rule-9 of Khyber Pakhtunkhwa (Efficiency & Disciplinary) Rules, 2011, has been pleased to impose major penalty of "Removal from Service" on Mr. Khalid Hussain, Research Officer (BPS-17), Planning and Development Department, Khyber Pakhtunkhwa with effect from 01-01-2003.

Chief Secretary
Khyber Pakhtunkhwa.

Endst: No. SO(E)P&D/087/1-76/2015.

Dated Peshawar, June 11, 2015.

Copy forwarded to the:-

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. Accountant General, Khyber Pakhtunkhwa.
3. PS to Chief Secretary, Khyber Pakhtunkhwa.
4. PS to Additional Chief Secretary, P&D Department.
5. PS to Secretary, P&D Department.
6. Assistant Chief (B&A), P&D Department for necessary action.
7. PA to Deputy Secretary (Admn.), P&D Department.
8. Mr. Khalid Hussain, House No. 14, Street No. 13, Gulbahar No.1, Peshawar.
9. PF of the officer concerned.

(FAHID ULLAH KHAN)
Section Officer (Estt.)

To

The Chief Minister,
Khyber Pakhtunkhwa,
Peshawar (Appellate Authority)

Subject: **DEPARTMENTAL APPEAL AGAINST THE NOTIFICATION
NO.SO(E)P&D/087/1-76/2015, DATED 11.06.2015, ISSUED
BY CHIEF SECRETARY, KHYBER PAKHTUNKHWA, PESHAWAR.**

Respected Sir,

That the appellant was appointed as Research Officer in the Planning & Development Department and has successfully served by attending the duties for about 10 long years. The appellant applied for the Ex-Pakistan Leave, which was allowed and he proceeded abroad, duly permitted by the Department. The appellant requested for the extension of the leave, as he could not return back for joining the duties, but the request was kept pending, however it was allowed later on, after consuming much time for another four months. The appellant, during this period, sent resignation that due to the unavoidable circumstances he felt unable to join the job.

It may be noted that the appellant was also selected for the training of the course at Holland by the donor, the expenses of the training were borne by the donor itself.

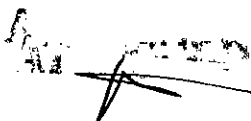
That later on the Department issued a letter dated 12.01.2004 that since you could not join the duty abroad you are required to pay back to the Government the amount of salary you had drawn the amount of Rs.160780/02 were deposited into the State Bank of Pakistan, vide Challan No.B-3, dated 13.02.2004, still not satisfied about the previous stand of the Department, the Department issued another letter dated 13.01.2005 that the

ATTESTED

appellant was required to serve three years the Department or pay back the sum of Rs.397355.36, which were paid to the Department, but the department was not satisfied of the demand of payment and they directed through one Section Officer Establishment P&D, to register the case against the appellant, which was registered, vide FIR No.1 dated 01.01.2008 u/s 409, 420 r/w section 5(2) PC Act. The appellant got the pre-arrest bail from the court personally and in the meantime on the said facts the trial was commenced in which trial the Department feeling that the case of the Department was false issued a letter to the Director Anti-Corruption for the withdrawal of the case, which was withdrawn and on the basis of the facts and withdrawal request by the Government the appellant was acquitted from the charge.

Since nothing was outstanding against the appellant and no heed was paid to the facts of the case which were being accumulated in the personal file of the appellant, neither the request of the appellant for acceptance of the resignation, nor the demand of the appellant that the amount, which initially demanded was paid and the amount as per thinking of the Department refund of amount drawn by the appellant during training was excessively paid and received by the Department to the force of Anti-Corruption Department though this demand was of a civil nature and the findings of the Special Judge Anti-Corruption in this matter is also evident from the judgment of the Special Judge Anti-Corruption, Peshawar.

It would be appropriate to stress here that the treatment of the Department to a Government servant in this connection was not on untoward, illegal, baseless, malafide and not bound by the rules and regulations of the Department to torture a servant of the



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good repute in the manner, played by the Section Officer of the P&D Department namely Redi Gul till now the effects of the vital illegality and revenge of the said Section Officer is being faced by the appellant.

Now the someone officer of the Department without looking examining and going through the facts of the case and the attitude of the Department has put a note to the Hon'ble Chief Secretary of Peshawar for issuing the impugned notification of 11.06.2015, which is not only void, illegal, contrary to rules and facts of the case in file, the appellant having 10 years or more services were liable to be heard in person or at least his reckoned submission was to be called for to justify the principles of natural justice and then such a drastic and detrimental order could have been passed after hearing of the appellant.

The appellant most humbly submits and supplicates that the order being void, illegal be set aside and the appellant be, if at all, he was not required by the Department to serve to be sent on premature pension under the rules, while he has rendered more than 10 years services for the Department.

Appellant

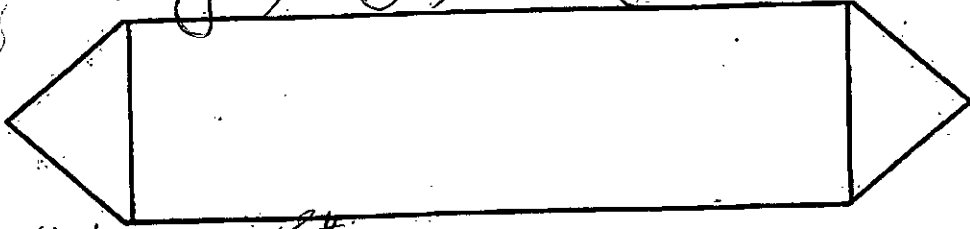

Khalid Hussain

Research Officer (BPS-17) P&D
R/o House No.14, Street No.13,
Gulbahar, Peshawar

Dated: 24.06.2015

ATTACHED


بعدالت صاحب کبرئیس لکھنؤ



عالمگیری 2 مخانب اسلانت
خاتون بنام بی انڈی
ڈیپارٹمنٹ

کال کلس

مورخہ
مقدمہ
دعویٰ پیدل
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے بیرونی و جواب دہی و کل کارروائی متعلقہ
آن مقام لکھنؤ کے لیے محمد آصف پوسٹل اور محمد خان ابراہیم
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقررات و فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم بیرونی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخ
نیز دائر کرنے اپیل نگرانی و نظر ثانی و بیرونی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساختہ
پرواخذہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ بیرونی
مذکور کریں۔ لہذا وکالت نامہ لکھنؤ یا کہ مندر ہے۔

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ماہ

المرقوم

Attested
&
Accepted

[Handwritten signature]
Tasleem
Hussain

وہ الع کے لئے منظور ہے۔

بمقام

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL NO. 1217 OF 2015.

Khalid Hussain Ex-Research Officer, P&D Department.....Appellant.

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary.
2. The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
3. Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar
4. Secretary Planning & Dev: Dept: Khyber Pakhtunkhwa, Peshawar.....Respondents.

JOINT PARA-WISE COMMENTS ON BEHALF OF 1,2,3&4.

PRELIMINARY OBJECTIONS:

1. That the Service Appeal is not maintainable in its present form.
2. That the Appellant has got no locus standi to file the instant appeal.
3. That the Appellant did not come to the Court with clean hands.
4. That the appeal is not maintainable due to Mis-Joinder and Non-Joinder of necessary parties.
5. That the Appellant concealed the material fact from the Honorable Court.
6. That the appeal is **badly time barred**.

RESPECTFULLY SHEWETH:

1. Pertains to record of the appellant hence needs no comments.
2. Correct but it is highlighted that after completion of the training the appellant has reported for duty on 15-09-2000 and proceeded on Ex-Pakistan leave on half pay w.e.f 01-05-2001 to 28-08-2001 which was subsequently extended up to 31-12-2002 on expiry of the leave the appellant applied for further extension of his leave up to 31-08-2003 which was rejected by the Competent Authority and he was directed to report for duty. Instead of joining his duty the appellant submitted his resignation from service.
3. Correct.
4. Correct.
5. Correct.
6. Correct to the extent that after depositing the requisite amount by the appellant, the competent authority approved withdrawal of FIR and initiation of disciplinary action against him instead of acceptance of resignation. Accordingly, Director Anti-Corruption Establishment was requested for withdrawal of FIR, who informed that after recovery of 100% of the amount from the accused and confirmation of BBA, Special Judge, Anti-Corruption, Khyber Pakhtunkhwa acquitted the accused vide Order of Court dated 16-10-2014 (**Annex-I&II**).

K.P.K.
Secretary
Planning & Dev: Dept:
K.P.K.

7. Incorrect. The appellant was served with a Notice dated 26-03-2015 on his home address through registered mail with the direction to resume duty within 15 days of issuance of the Notice failing which ex-parte action will be taken against him under E&D Rules, 2011 (**Annex-III**). However, no response was received within the stipulated period. After that, as per provision of E&D Rules, Notices were published in the two leading newspapers (Mashirq & Aaj, Peshawar) with the direction to resume duties within 15 days but again he failed to respond (**Annex-IV & V**). After fulfilling all codal formalities under the rules, the Competent Authority was pleased to impose major penalty of removal from service upon the absentee officer with effect from 01-01-2003 i.e. the date of absence.
8. Incorrect. No departmental appeal was received in this department, hence, no question of response arises.
9. The appellant was afforded all legal chances of defense but he failed to respond/ avail, therefore, he is not entitled for any remedy.

GROUND S:

- A. Incorrect. On 24-06-2015, no impugned order was issued while order/ notification dated 11-06-2015 is in accordance with law/ norms, justice and material on record.
- B. Incorrect. Under Rule-9 of E&D Rules, 2011, no Charge Sheet/ Statement of Allegation is required to serve but a notice is required to be issued on the home address of the absentee officer/ official (**Annex-VI**).
- C. Incorrect as explained vide para-B above. There is no provision in the E&D Rules to conduct an inquiry against any absent employee. Rather procedure laid down in Rule-9 of the E&D Rules, 2011 was adopted in letter and spirit.
- D. Incorrect as explained in Para-7 of Facts and B & C of Grounds.
- E. Incorrect. When the appellant deposited the requisite amount, then with the approval of Competent Authority, Director Anti-Corruption was requested to withdraw the FIR, which shows the fair treatment on the part of respondents.
- F. Incorrect. After fulfilling all codal formalities as laid down in E&D Rules, 2011, major penalty of removal from service was imposed upon the appellant.
- G. Incorrect. The appellant was provided all legal chances for his defense but he failed and was treated according to law/ Rules.
- H. Incorrect. As explained in preceding paras.
- I. Incorrect. The appellant filed a writ petition for acceptance of his resignation in the Peshawar High Court which was dismissed vide judgment dated 26-03-2007 being devoid of merit (**Annex-VII**). After that, the appellant filed CPLA in the august Supreme Court of Pakistan which was also dismissed (**Annex-VIII**).

[Handwritten Signature]
Section Officer
Planning & Development
K.P.K.

- J. Incorrect. Under the Overseas training and visits policy guidelines of Khyber Pakhtunkhwa, the appellant was required to serve for three years but he failed to do so. Therefore, the demand of the department was genuine and in accordance with rules/policies (**Annex-IX**).
- K. Respondents also seek permission to advance other grounds and proofs during the course of hearing.

PRAYED:

Keeping in view of the above, it is very humbly prayed that the Service Appeal may graciously be dismissed with cost.



SECRETARY
Govt: of Khyber Pakhtunkhwa
Planning & Development Department
(Respondent No.1,2 & 4)

SECRETARY,
Planning & Development Department,
Government of Khyber Pakhtunkhwa.



SECRETARY
Govt: of Khyber Pakhtunkhwa
Establishment Department
(Respondent No.3)



Annex-I

DIRECTORATE OF
ANTI-CORRUPTION ESTABLISHMENT,
KHYBER PAKHTUNKHWA,
PESHAWAR.

No. ³⁰²⁴ /ACE, Dated 27 /3/2015.

To

The Section Officer (Estt.),
Government of Khyber Pakhtunkhwa,
Planning and Development Department,
Peshawar.

Subject: **WITHDRAWAL OF FIR LODGED AGAINST MR. KHALID
HUSSAIN, RESEARCH OFFICER, P&D DEPARTMENT
INVOLVED IN CASE FIR NO.1, DATED 1.1.2008, U/Ss.409/420
PPC/5(2) PC, ACT, PS, ACE, PESHAWAR.**

I am directed to refer to your office letter No.SO(E)P&D/WP-807/2007, dated 12.3.2015, on the subject cited above and to state that the above mentioned FIR was lodged against the subject accused and he was declared as proclaimed offender in the case. Later on the said accused managed Bail Before Arrest from the competent court. After recovering 100% of the amount from the accused and confirmation of BBA by Special Judge, Anti-Corruption, Khyber Pakhtunkhwa, Peshawar acquitted the accused vide order of court dated 16.10.10.2014 (copy enclosed for ready reference).

Encls: (02).

Assistant Director Admn:
Anti-Corruption Establishment,
Khyber Pakhtunkhwa,
Peshawar.

put up M
27/3/2015
ASML

61 16.10.2014

[Handwritten signature]

For
[Handwritten signature]

16.10.2014

Special Judge
Anti Corruption
Khyber Pakhtunkhwa

16/10/14
For inspection

[Handwritten signature]
2.3.15

ATTESTED

EXAMINER
COURT, Special Judge
Anti Corruption KPK Peshawar

23/11/15

ORDER.

Counsel for accused/petitioner and PP for state present. Arguments on application for equattel of accused u/s 249-A crpc heard and record perused.

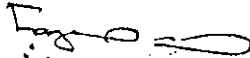
Record reveals that accused petitioner was selected for 1 year training offered by Netherland Government with the condition that after completion of training, he wesll serve for 3 years with the Government of Pakistan, howvere after completion of course, he tendered his resignation, but it was turndown. He filed with petition before Honourabl High Court, which was also dismissed, but he did not joined the service and left the countr and in this way caused loss of Rs.472408/- and case in hand was registered against him. Some time later he returned and after applying for pre-arrest bail he approached the competent authority, and he was directed to deposit the salaries drawn by him.

Record shows that he deposited Rs.160,780/- through challian No.B-3 dt:13.2.2004 and Rs.3,12228/- vide challian No.3792 dt:25.2.2014 which were duly verified by the District Comptroller Accounts Peshawar and in response, after approval from the competent authority, i.e Chief Secretary, Khyberpuktokhwa, the Government of Khyberpuktokhwa Plaining and Development Department vide letter No.SO(E)P&D/WP-807?2007 dt: 20.5.2014 has requested Director ACE.. KPK for withdral of FIR against the accused/petitioner Khalid Hussain, Resech officer P&D Department.

After hearing arguments and considering all the above mentined record, it is ckear that the case in had was lodged for illegal withdrawal of salaries by the

6. Continued

accused/petitioner which have now, been refunded and the competent authority has concurred to the withdrawal of case against him, as the loss caused to the exchequer has been redeemed. In the wake of these developments, coupled with the facts that cheilan is already before this court and the Director ACE, lacks powers to withdraw from prosecution, this court is of the view that the matter of receipt of salaries, in the presence of an agreement that accused/petitioner would serve the government for 3 years after completion of training, was a matter purely of Civil nature, being the outcome of agreement and registration of FIR was un-called for as no case u/s. 409/420/PPc or 5(2)Pc. Act was apparently made out. In this respect, reliance can safely be made on case law published in PLD 2002 Lahore P.164, wherein it was held that:


16.10.2014.

Special
Addl. S.D.O.
Khyber Pakhtunkhwa

"Ss.420/468/471...constitution of Pakistan (1973), Art:199...quashing of FIR...cheque dishonoured...civil liability already existed before the issuance of the chequed and the accused in lieu of the issuance of the same did not receive any thing...situation, therefore, had not changed even due to the dishonor of the cheque and the circumstances continued to exist as far as two the payment of money to the complainant was concerned.....diversion of civil liability to criminal offence in present case seemed to be with malafide intention and for ulterior motive.....ingredients of "cheating" were not made out...pendency of criminal case on the same subject against the accused was abuse of the process of law in circumstances and the same was quashed accordingly.

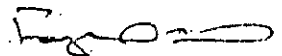
Thus in light of, the facts of the case and subsequent deposit of withdrawn salaries, shows that the

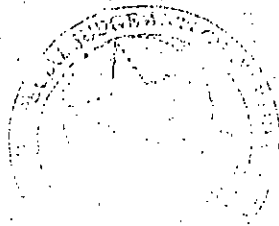
Continued

case was baseless and there is no probability of conviction of accused in the case, hence by accepting this petition, accused facing trial is acquitted of the charges leveled against him. He is on bail and is relieved and his sureties are discharged.

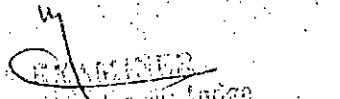
Order announced and the case file be consigned to the record room after its necessary completion.

Announced,
Peshawar
16.10.2014.


16.10.2014
Special Judge,
Anti-Corruption KPK,
Peshawar.



ATTESTED


EXAMINER
Special Judge
Peshawar
30/11/15

Annex-III



THROUGH REGISTERED AD

GOVERNMENT OF KHYBER PAKHTUNKHWA
PLANNING & DEVELOPMENT DEPARTMENT

No. SO(E)P&D/087/1-76/ 2015 (Khalid Hussain).
Dated Peshawar, March 26, 2015.

To

Mr. Khalid Hussain,
Research Officer (BS-17),
House No.14 Street No.13,
Gulbahar No.1, Peshawar.

AD
27/03/15

Subject: **NOTICE/WILLFUL ABSENCE FROM DUTY W.E.F 01.01.2003**

I am directed to refer to the subject cited above and to state that you proceeded on 120 days Ex-Pakistan leave on half pay w.e.f 01.05.2001 to 28.08.2001, which was subsequently extended upto 31.12.2002. On expiry of the said leave, your request dated 29.04.2003 for extension of leave as well as resignation from service was rejected.

2. You were accordingly directed to intimate your choice regarding serving in P&D Department vide this Department letter dated 21.09.2004 followed by reminders dated 27.10.2004 and 13.01.2005 but you failed to resume the duty.

3. You are therefore, directed to resume duty within fifteen days of issuance of the notice failing which ex-parte decision will be taken against you under E&D Rules, 2011.

9c
(FAHID ULLAH KHAN)
SECTION OFFICER (ESTT.)

نوٹس غیر حاضری

Annex-IV

آپ مسکی خالد حسین، ریسرچ آفیسر، پی اینڈ ڈی ڈی پارٹمنٹ حکومت خیبر پختونخوا یکم جنوری 2001 سے Ex-Pakistan چھٹی پر گئے تھے جسے بعد میں 31/12/2002 تک بڑھا دیا گیا جس کے ختم ہونے پر آپ نے 29/4/2003 کو چھٹی میں توسیع اور استعفیٰ کیلئے درخواست دی جسے مسترد کر دیا گیا اور آپ کو ڈیوٹی پر حاضر ہونے کیلئے کہا گیا مگر آپ ناکام رہے۔ اس کے بعد 27/10/2004 کو اور پھر 13/1/2005 کو یاد دہانی چھٹیاں ارسال کی گئی مگر آپ کی طرف سے کوئی جواب موصول نہ ہوا۔ اس طرح آپ مورخہ 1/1/2003 سے بغیر کسی وجہ غیر حاضر ہیں۔ اس کے بعد مورخہ 26/3/2015 کو بذریعہ رجسٹرڈ ڈاک آپ کو آپ کے گھر کے پتہ مکان نمبر 14 گلی نمبر 13 گلہار نمبر 1 پشاور پر نوٹس بھیجا گیا اور آپ کو نوٹس جاری ہونے کے پندرہ دنوں کے اندر اندر ڈیوٹی پر حاضر ہونے کیلئے کہا گیا مگر پھر بھی کوئی جواب موصول نہ ہوا۔ اب آخری بار آپ کو اس نوٹس کے ذریعے مطلع کیا جاتا ہے کہ اس نوٹس کے جاری ہونے کے بعد دس پندرہ دنوں کے اندر اندر اپنی ڈیوٹی پر حاضر ہو جائیں ورنہ ناکامی کی صورت میں آپ کے خلاف یکطرفہ کارروائی مروجہ قانون کے تحت کی جائے گی۔ جو کہ نوکری سے برخاستگی کی صورت بھی ہو سکتی ہے۔

(بہید اللہ خان) سیٹھ آفیسر (عملہ) محکمہ منصوبہ بندی و ترقیات، حکومت خیبر پختونخوا

INF(P)2242 Also Available on www.KhyberPakhtunkhwa.gov.pk

نوٹس غیر حاضری

آپ سہی خالد حسین ریسرچ آفیسر ٹی ایف ڈی ڈی پارٹمنٹ، حکومت خیبر پختونخوا یکم جنوری 2001 سے Ex-Pakistan چھٹی پر گئے تھے جسے بعد میں 31-12-2002 تک بڑھا دیا گیا جس کے ختم ہونے پر آپ سے 29-4-2003 کو چھٹی میں توسیع اور استعفیٰ کیلئے درخواست دی جسے مسترد کر دیا گیا اور آپ کو ڈیوٹی پر حاضر ہونے کیلئے کہا گیا مگر آپ ناکام رہے اس کے بعد 27-10-2004 کو اور پھر 13-1-2005 کو یاد ہانی چھٹیاں ارسال کی گئیں مگر آپ کی طرف سے کوئی جواب موصول نہ ہوا۔ اس طرح مورخہ 01-01-2003 سے بغیر کسی وجہ غیر حاضر ہیں۔ اس کے بعد مورخہ 26-3-2015 کو بذریعہ رجسٹرڈ ڈاک آپ کو آپ کے گھر کے پتہ مکان نمبر 14 گلی نمبر 13 گلہار نمبر 1 پشاور پر نوٹس بھیجا گیا اور آپ کو نوٹس جاری ہونے کے پندرہ دنوں کے اندر اندر ڈیوٹی پر حاضر ہونے کیلئے کہا گیا مگر پھر بھی کوئی جواب موصول نہ ہوا اب آخری بار آپ کو اس نوٹس کے ذریعے مطلع کیا جاتا ہے کہ اس نوٹس کے جاری ہونے کے بعد پندرہ دنوں کے اندر اندر اپنی ڈیوٹی پر حاضر ہو جائیں ورنہ ناکامی کی صورت میں آپ کی خلاف کاروائی مردہ قانون کے تحت کی جائے گی جو کہ نوکری سے برخاستگی کی صورت بھی ہو سکتی ہے۔

(فہید اللہ خان) صیفہ آفیسر (عملہ) محکمہ منصوبہ
بندی و ترقیات حکومت صوبہ خیبر پختونخوا

INF(P) 2242 also available on www.khyberpakhtunkhwa.gov.pk

23-04-2015

مہزبانہ آج پشاور

9. Procedure in case of wilful absence.---Notwithstanding anything to the contrary contained in these rules, in case of wilful absence from duty by a Government servant for seven or more days, a notice shall be issued by the competent authority through registered acknowledgement on his home address directing him to resume duty within fifteen days of issuance of the notice. If the same is received back as undelivered or no response is received from the absentee within stipulated time, a notice shall be published in at least two leading newspapers directing him to resume duty within fifteen days of the publication of that notice, failing which an *ex-parte* decision shall be taken against the absentee. On expiry of the stipulated period given in the notice, major penalty of removal from service may be imposed upon such Government servant.

10. Procedure to be followed by competent authority where inquiry is necessary.--- (1) If the competent authority decides that it is necessary to hold an inquiry against the accused under rule 5, it shall pass an order of inquiry in writing, which shall include-

- (a) appointment of an inquiry officer or an inquiry committee, provided that the inquiry officer or the inquiry committee, as the case may be, shall be of a rank senior to the accused and where two or more accused are proceeded against jointly, the inquiry officer or the convener of the inquiry committee shall be of a rank senior to the senior most accused;
- (b) the grounds for proceeding, clearly specifying the charges along with apportionment of responsibility;
- (c) appointment of the departmental representative by designation; and
- (d) direction to the accused to submit written defense to the inquiry officer or the inquiry committee, as the case may be, within reasonable time which shall not be less than seven days and more than fifteen days of the date of receipt of orders.

(2) The record of the case and the list of witnesses, if any, shall be communicated to the inquiry officer or the inquiry committee, as the case may be, along with the orders of inquiry.

(3) In a case where preliminary or fact finding inquiry was conducted, and the competent authority decides to hold formal inquiry, the inquiry officer or the inquiry committee for the purpose of conducting formal inquiry shall be different from the inquiry officer or the inquiry committee which conducted the preliminary inquiry.

11. Procedure to be followed by inquiry officer or inquiry committee.---(1) On receipt of reply of the accused or on expiry of the stipulated period, if no reply is received from the accused, the inquiry officer or the inquiry committee, as the case may be, shall inquire into the charges and may examine such oral or documentary evidence in support of the charges or in defense of the accused as may be considered necessary and where any witness is produced by one party, the other party shall be entitled to cross-examine such witness.

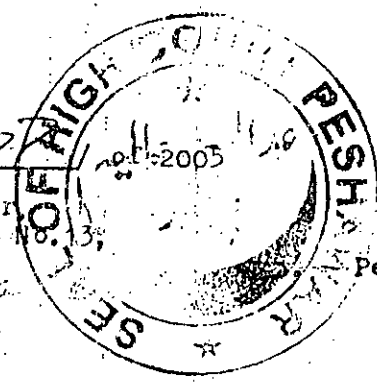
(2) If the accused fails to furnish his reply within the stipulated period, the inquiry officer or the inquiry committee, as the case may be, shall proceed with the inquiry *ex-parte*.

(1)

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WRIT PETITION No.

80



Khalid Hussain, Research Officer,
resident of House No.14, Street No.13,
Guilbahar No.2, Peshawar City...

Petitioner

VERSUS

1. Province of NWFP through
Additional Chief Secretary
Planning and Development Department,
Peshawar.
2. Secretary to Government of NWFP,
P&D Department, Peshawar.
3. Secretary to Government of NWFP,
Establishment Department, Peshawar... Respondents

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

Respectfully Sheweth:

FACTS OF THE CASE,

1. That the precise facts of the case are that the petitioner started his career as Research Officer in the Planning and Development Department of NWFP with effect from 14.1.94.
2. That the Power Department of Government of NWFP, selected and nominated for Netherland Fellowship Programme for 1999-2000 course in the field of Master in Water and Environmental Resources Management (WER M-3) for 12 months duration commencing from September 1999 to September 2000. The expenses of the training were borne by the Donor Agency with no financial liability on the Provincial Government/ Government of Pakistan. (Annex:A)

FILED TODAY,

Assit: Registrar

03 JUN 2005

APPROVED
EXAMINER
Peshawar High Court

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT



W.P. No. 807

JUDGMENT

Date of hearing: Arguments heard on 13-2-07 & Announced on 16-3-2007

Appellant: Petitioner Khalid Hussain by (M/s. Shehzada Shehpar Jan & Taseer Khan)

Respondents: Govt. of NWFP etc. by (Mr. Muhammad Saeed Khan AAG).

SALIM KHAN J. - Khalid Hussain petitioner, through this writ petition, mentioned that he was selected and nominated for Netherland Fellowship Programme for 1999-2000 course in the field of Mater in Water and Environmental Resources Management for twelve months duration commencing from September 1999 to September 2000, and the expenses of the training were borne by the Donor Agency with no financial liability on the Government of N.-W.F.P. or the Government of Pakistan. He further contended that no agreement or surety bond containing compulsory service was executed between the petitioner and his department, or the Donor Agency, that the petitioner applied for 120 days Ex.Pakistan leave with effect from 1/5/2001 which was accordingly sanctioned and he proceeded abroad. On expiry of leave, he desired for extension of further leave with effect from 29/8/2001, but that application was not dealt with for a long time and was rejected after two years without any cogent reason.

2. The petitioner submitted that he tendered his resignation as alternative to the leave applied for, but the respondents directed the petitioner to deposit the amounts mentioned therein, and later-on demanded further amounts. The petitioner prayed that the respondents be directed to

ATTESTED

EXAMINER
Peshawar High Court

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accept the resignation of the petitioner and release him from service, by issuing No Demand and No Objection Certificates, declaring the order dated 13/1/2005 (by which extra amount of Rs. 3,97,355/- was demanded from the petitioner), as illegal and void.

3. This petition was contested by the respondents. Parwise comments were submitted by the Secretary to Government of N.-F.P.P, P & D Department, and a rejoinder was submitted by the petitioner.

4. We heard the arguments of the learned counsel for the parties and perused the record.

5. The learned counsel for the petitioner contended that no undertaking or surety bond was executed by the petitioner with the department or the Donor Agency, that no expenses were borne either by the Provincial Government, or by the Federal Government, and the Donor Agency had never demanded any amount from the present petitioner. He was of the view that the petitioner was not bound to serve his department for a period of three years after the training and, therefore, he was not bound to repay the salary already received by him and salary for the period of three years when he did not serve the department for the mentioned period.

6. During the arguments, the learned counsel for the petitioner admitted that the petitioner was serving abroad. It means that he was not available for serving the department.

7. The learned counsel for the respondents referred to the guidelines regarding Overseas training and visits abroad. Para-30 of the said policy/guidelines reads as under:-

"OBLIGATORY REQUIREMENTS FOR NOMINEES

30. Government servants, whether permanent or temporary, are required to serve the Government for the prescribed minimum period after completion of the training abroad. Those who have been under training for a period of less than one year will be required to serve for a minimum period of three years, while those whose period of training exceeds one

ATTESTED

EXAMINER
Peshawar High Court

[7]
19

year will have to serve the Government for a period of five years in the same field or similar field in which they were trained. For this purpose all candidates must furnish a bond before proceeding on training abroad".

8. The petitioner was an educated person, in the service of the Government of the N.-W.F.P., and was expected to know the guidelines before proceeding for the training. During the arguments, it was made clear by the parties that an undertaking or surety bond executed by the petitioner, if any, was not available with the respondents. It was contended by the learned counsel for the respondents that the said undertaking might have either not been placed on record, or might have been displaced, but the petitioner was bound by the guidelines mentioned above.

9. We considered the cases of the parties in the light of record. It is the general policy of the Government of Pakistan and of the Provincial Governments that a Civil Servant is sent for training after he is found qualified for the training and he fills all the relevant documents. The petitioner was expected to know the above mentioned para-30 and to execute an undertaking/surety bond. The non-availability of such an undertaking or surety bond on record for the time being does not absolve the present petitioner of his responsibilities under the General Policy. He was expected to know before departing for the training course that he was required to serve the department for a period of three years. It is in between the Donor Agency and the Government of Pakistan, as well as the Government of the N.-W.F.P., to see that who had to bear the expenses of the training course. The Provincial Government had extended a facility to its servants, and such facility could not and would not have been availed by the petitioner if he was not a civil servant at the relevant time. It was because of his service only under the Provincial Government that the facility was given to him and there was no question for him to argue

ATTESTED

EXAMINER
High Court

whether the expenses were borne by the Donor Agency or by the Government of Pakistan, or the Government of the N.-W.F.P. It appears that the petitioner has got a more paying job and has avoided serving his parent government who had provided facility of training to him.

10. In the above circumstances, we do not find any merit in the present writ petition and we dismiss the same.

M. Ijaz ul Hassan

Amended
26/3/07

[Signature]
CERTIFIED TO BE TRUE COPY
E. per
Peshawar High Court Peshawar
Authenticated Under Section 75 Act 1973

26/3/07

9185
Date of Presentation of Application *26/3/07*
No of Pages *1*
Copying Fee *250*
Urgent Fee *250*
Total *500*
Date of Preparation Copy *26/3/07*
Date of Delivery of Copy *26/3/07*
Received by *[Signature]*
AL

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

Present:
MR. JUSTICE MUHAMMAD NAWAZ ABBASI
MR. JUSTICE MUHAMMAD QAIM JAN KHAN
MR. JUSTICE MIAN HAMID FAROOQ

CIVIL PETITION NO. 375-P/2007
(Against the judgment dated 16.3.2007 passed
by the Peshawar High Court, Peshawar in
W.P. No. 807/05)

Khalid Hussain

...Petitioner

Versus

Province of N.W.F.P. through Additional Chief Secretary Planning and
Development Department, Peshawar and others

... Respondents

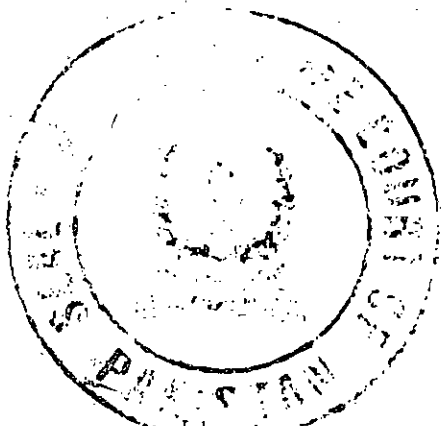
For the Petitioner	Mr. Tasleem Hussain, AOR
For the Respondents	N.R.
Date of hearing	22.1.2008

ORDER

MUHAMMAD NAWAZ ABBASI, J:- We having heard the learned counsel for the petitioner, have not been able to find out any substantial question of law for our consideration. The action taken by the department appearing to be in accordance with Rules and Instructions on the subject would not call for any interference and the High Court has committed no wrong in dismissing the constitution petition. This petition is accordingly dismissed. Leave refused.

Sd/- Muhammad Nawaz Abbasi, J.
Sd/- Muhammad Qaim Jan Khan, J.
Sd/- Mian Hamid Farooq, J.

Certified to be true Copy
15.4.08
Superintendent
Supreme Court of Pakistan
ISLAMABAD



Islamabad
22.1.2008
(Ejaz Goraya)

28/1/08

Annex - IX

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OVERSEAS TRAINING
AND VISITS
POLICY GUIDELINES

PLANNING, ENVIRONMENT & DEVELOPMENT DEPARTMENT
DECEMBER 1996

1X 29
Relaxation of the condition at para 28 (d) above shall only be allowed by the Chief Secretary on case to case basis. The department concerned should obtain relaxation from the Chief Secretary at their level, a copy of which may be sent to the PE&D Department along with nominations.

OBLIGATORY REQUIREMENTS FOR NOMINEES

30. Government servants, whether permanent or temporary, are required to serve the Government for the prescribed minimum period after completion of the training abroad. Those who have been under training for a period of less than one year will be required to serve for a minimum period of three years while those whose period of training exceeds one year will have to serve the Government for a period of five years in the same field or similar field in which they were trained. For this purpose all candidates must furnish a bond before proceeding on training abroad.

OBLIGATORY REQUIREMENTS FOR CONTRACT EMPLOYEES

- 31.
- a) The Department must send along with nomination letter, in addition to the Surety Bond, a Bond to the effect that the contract employee will remain in service of the nominating department till the completion of the project, unless the nominating department wants to rescind his/her services for disciplinary reasons;
 - b) The Bond should be executed on a Stamp Paper;
 - c) It would be the responsibility of the head of the nominating Department to secure the Surety Bond as well as the mandatory Service Bond from the nominee in duplicate before he/she is nominated. One copy of the Bond shall be kept in his/her CR dossiers and one copy shall be submitted to the PE&D Department, NAVEP for record.

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

Service Appeal No. 1217/2015

Khalid Hussain

VS

Govt of KPK etc

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-6) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 NO comments endorsed by the respondents which mean that they have admitted para-1 of the appeal is correct as record is already in the custody of the department.
- 2 Respondent's department admitted para-2 of the appeal as correct.
- 3 Admitted correct by the respondents department as mentioned in the main appeal of the appellant.
- 4 Admitted correct by the respondents department as mentioned in the main appeal of the appellant.
- 5 Admitted correct by the respondents department as mentioned in the main appeal of the appellant.
- 6 Admitted correct by the respondents department as mentioned in the main appeal of the appellant.

- 7 Incorrect. While para-7 of the appeal is correct as mentioned in the main appeal of the appellant as correct.
- 8 Incorrect. While para-8 of the appeal is correct as mentioned in the main appeal of the appellant as correct.
- 9 Incorrect. the appellant has good cause of action and appeal liable to b accepted.

GROUND:

- A) Incorrect. While para-A of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, the impugned order dated 24.06.2015 and 11.6.2015 is against the law, facts, norms of justice and material on record and principle of fair play.
- B) Incorrect. While para-B of the appeal is correct as mentioned in the main appeal of the appellant.
- C) Incorrect. While para-C of the appeal is correct as mentioned in the main appeal of the appellant.
- D) Incorrect. While para-D of the appeal is correct as mentioned in the main appeal of the appellant..
- E) Incorrect. While para-E of the appeal is correct as mentioned in the main appeal of the appellant.
- F) Incorrect. While para-F of the appeal is correct as mentioned in the main appeal of the appellant.
- G) Incorrect. While para-G of the appeal is correct as mentioned in the main appeal of the appellant.

- H) Incorrect. While para-H of the appeal is correct as mentioned in the main appeal of the appellant.
- I) Incorrect. While para-I of the appeal is correct as mentioned in the main appeal of the appellant.
- J) Incorrect. While para-I of the appeal is correct as mentioned in the main appeal of the appellant.
- K) Legal.

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

APPELLANT
Khalid Hussain

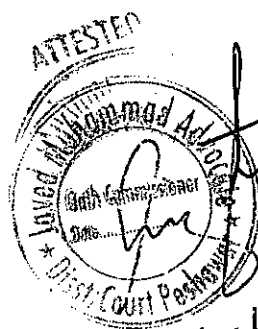
Through:



(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

AFFIDAVIT

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




DEPONENT

11-1-17

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

Appeal No.1217 /2015

Khalid Hussain

V/S

Govt: of KPK.

.....

**APPLICATION FOR ARRAYING THE SECRETARY PLANNING &
DEVELOPMENT DEPTT: AS RESPONDENT IN THE INSTANT
APPEAL.**

.....

RESPECTFULLY SHEWETH:

1. That the appellant has filed the instant appeal against the order dated 11.6.2015 whereby the appellant was removed from service.
2. That the appeal in reply stage and is fixed for reply on dated 25.4.2016.
3. That secretary planning and development Deptt: is main respondent in the instant case but it was inadvertently left.
4. That as the appeal is in initial stage and there is no legal hurdle if the secretary planning and development is arrayed as respondent.
5. That it is in the interest of justice to array the Secretary planning and development as respondent in the instant appeal.

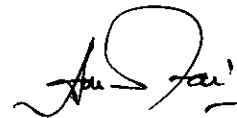
It is, therefore, most humbly prayed that on acceptance of this application, the Secretary planning and development may be arrayed as respondent in the instant appeal. Any other

remedy which this Honourable deem fit and proper may also be awarded in the favour of the appellant.

Appellant

Khalid Hussain

Through:



(M. ASIF YOUSAFZAI)

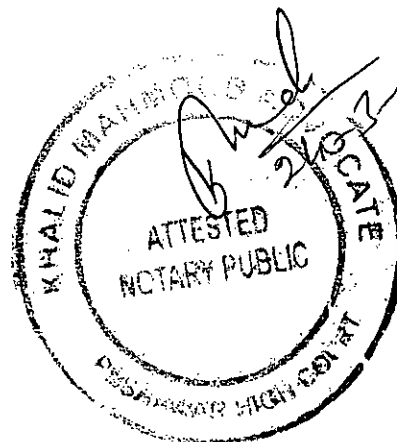
&

(TAIMUR ALI KHAN)
ADVOCATES HIGH COURT

AFFIDAVIT:

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


Deponents



(4)

IN THE SERVICE TRIBUNAL, KPK, PESHAWAR

CM No. _____/2019

IN

Service Appeal No. _____/2015

Khalid Hussain.....Vs.....Govt. of NWFP etc

Application for production and placing
before the surety bond before the
service tribunal for perusal and
enforcing the term of bond if any.

Respectfully Sheweth:

It is placed by the respondent that a bond was placed on record and submitted to the respondent. The same was directed by the august High Court to produce and place on record for perusal and enforcement of terms, but inspite of time and chance it was not submitted and august Court and later on it was observe that it was not there, after that enforcement if any

It is prayed that the same may be directed to respondent to provide and place on record now.


Appellant

Through


Muhammad Asif
Advocate Supreme Court

(5)

PESHAWAR HIGH COURT PESHAWAR.
FORM "A"
FORM OF ORDER SHEET

Court of.....
Case Noof.....

Serial No of order or proceeding	Date of Order or Proceeding	Order or other proceedings with Signature of judge or Magistrate and That of parties or counsel where necessary
1	2	3
	6.12.2006.	<p><u>W.P. NO.807-05.</u></p> <p>Present: M/S Shahzada Shapur Jan and Alhaj Taslim Hussain, Advocate for the petitioner. Arbab Muhammad Usman, Addl. A.G. for the respondents alongwith Mr.Muhammad Ayub Khan, Section Officer P&D Department.</p> <p>After hearing the case at some length, the learned Addl. A.G. stated at the bar that the Department be given little more time to produce the surety bond executed by the petitioner. Although vide order dated 27.9.2006 a similar request was made and time had been granted, but despite lapse of about three months, the Department has failed to produce the alleged surety bond. However, in the interest of justice we provide the respondents final opportunity to produce the surety bond, if any, executed by the petitioner within a period of one month, failing which the writ petition shall be decided on the basis of available record. Case to come up for hearing on 11.1.2007.</p> <p style="text-align: right;"><i>Alaat. G. ...</i> JUDGE.</p> <p style="text-align: right;"><i>...</i> JUDGE.</p> <p style="text-align: right;"><i>M. Talat Qayyum Qayyum</i></p> <p style="text-align: right;"><i>M. Ejaz Afzal</i></p>

CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court, Peshawar
Authorised Under Article 8.7 of
The Qanun-e-Shahadat Order 1984

10 JAN 2019

FORM "A"

FORM OF ORDER SHEET

Court of.....

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

(Handwritten signature and circled number 6)

Serial No. of Order or Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3

2.11.2005

WP. No. 807/2005

Present: Shahzada Shahpur Jan,
Advocate, for the petitioner.

Mr. Obaidullah Anwar, AAG,
along with Khurshid Ali, Asstt:
in the office of PND, Peshawar.



The petitioner was burden to pay Rs. 1,60,780.02 through letter dated 12.1.2004 and the said amount was paid by the petitioner. In addition to the said amount, the respondents are also claimed an amount of Rs. 1,57,654.00 for non-performing the job in the department for three years as required by the prevailing policy. The petitioner has already deposited the amount received by him and his resignation was accepted by the department whether the demand through impugned letter is in accordance with law or otherwise requires consideration. We admit this Writ Petition to regular hearing. Notice.

CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court, Peshawar
Authorised Under Article 8.7 of
The Qanun-e-Shahadat Order 1984

10 JAN 2019

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(Handwritten signatures)

 JUDGE

 JUDGE

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Khalid Hussain.....Vs.....Govt. of NWFP Peshawar

BETTER REJOINDER ON BEHALF OF APPELLANT TO
THE PARA-WISE COMMENTS IN DETAIL

Respectfully Sheweth:

Reply Preliminary Objections

1. Written reply is baseless, reply is correct. presence for of filing is not necessary appeal filed was properly.
2. Not correct, no reason is shown about the competency nor any ground is taken in reply.
3. Filing of appeal is legal right and appeal is according to services laws and rules and procedure.

REPLY ON FACTS TO PARA-WISE COMMENTS

1. Para-1 is correct. After completion of training abroad of one year the appellant returned contrary from the department duty and performed his duties for 6 months. It is correctly stated that nothing was spent on appellant by respondent department so the question of refund of expenses was extra burdened on servant for gain like a trade from servant to get gain for exchequer. No contract was entered into with appellant to pay money to treasury.

- ②
3. Para-2 is already stand admitted due leave was allowed for 120 days and was extended upto 31.12.2000, but inspite of that credited of leave it was refuse to extend.
 4. Para-4 of comments is correct. The department have no trained servant and needed a qualified person recommended the appellant and directed to proceed abroad leave the country on direction of which was obeyed by appeal, the direction of refund of expenses was also obeyed through harsh.
 5. Para-5 also needs no comments.
 7. Para-6 also needs no comments. As per record of High Court, respondent was directed to produce the bond for inspection and interpret the terms and conditions of bond but inspite of plenty of time sought no bond was available, it does not exist there no contractual liability on appellant condition. However the appellant inspite of desire of respondent appellant is ready to serve any period with department.

The registration of FIR against a Govt. Servant u/s 419/420 r/w 5 PC Act was with malafide reason no such offence of bribery/ embezzlement was committed.

As far as the resignation is concerned, it is only a useless paper and after year it is not accepted worthless. The respondent cannot take benefit of it.

It is, therefore, prayed that the respondents be directed to produce bond, allow the appellant to serve as they desire to any period by setting aside the impugned order by executing the order.

That as per para-8 of comments filed dated 23.07.2005 by hon'ble Chief Secretary by allowing the appellant for 3 years or more

- i. He may serve for a period of 3 years as per terms and conditions of bond
- ii. He may deposit three years' salary in lieu of 3 years' service.
- iii. He may refund the cost of expenditure during the Training in Netherlands.

Appellant

Through

Amir Asif

Muhammad Asif
Advocate

AFFIDAVIT

I, do hereby affirm and declare as per information furnished by my client that the contents of the instant Better rejoinder are true and correct and nothing has been concealed from this Hon'ble Court.

Khairul Hussain

Deponent