

133/2013


19th Oct., 2022 01. None present on behalf of the appellant. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

02. Called several times, till last hours of the court but nobody turned up on behalf of the appellant. The appeal is, therefore, dismissed in default. Consign.

03. **Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 19th day of October, 2022.**



(Fajeeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman

03.06.2022

Syed Noman Ali Bukhari, Advocate on behalf of the impleaded LRs of the deceased appellant namely Mst. Asiya Shahid (widow) and Mst. Mahnoor (daughter) present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Upon the death of the appellant during the pendency of the instant appeal, LRs of the deceased appellant namely Mst. Asiya Shahid (widow), Mst. Mahnoor (Daughter), Daryab Khan Khattak (Father) and Mst. Nargus (Mother) had submitted an application on 02.12.2013, which was allowed vide order dated 05.12.2013 and it was directed that legal heirs mentioned in the application be substituted for the deceased appellant as his LRs, however office has not done the needful, therefore, office is directed to do the needful accordingly.

Syed Noman Ali Bukhari, Advocate submitted an application, seeking deletion of the names of Daryab Khan Khattak and Mst. Nargus from the panel of appellants. Notice of the same given to learned Additional Advocate General. Notice of the application also be issued to the appellants Daryab Khan Khattak and Mst. Nargus through registered post and to come up for their reply as well as reply of the respondents and arguments on the application on 13.07.2022 before the D.B.

 (Mian Muhammad)
Member (E)




(Salah-ud-Din)
Member (J)

13.7.22

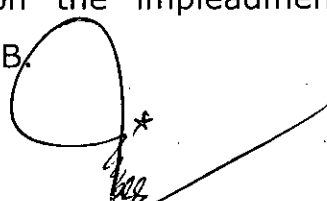
Proper PB not available the case is
adjourned to 19-10-22

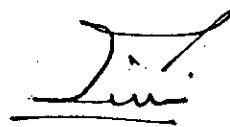

Reader

12.04.2022

Syed Noman Ali Bukhari, Advocate, for legal heirs of the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for legal heirs of the appellant requested that as the appeal was not noted on his diary, therefore, an adjournment may be granted. Adjourned. To come up for arguments on the impleadment application on 10.05.2022 before the D.B.



(Mian Muhammad)
Member (E)


(Salah-ud-Din)
Member (J)

10.05.2022

Syed Noman Ali Bukhari, Advocate for legal heirs of the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Learned counsel for legal heirs of the appellant requested for adjournment on the ground that he has not gone through the record. Last opportunity is granted. To come up for arguments before the D.B on 03.06.2022.


(Fareeha Paul)
Member (E)


Chairman

6-12-21

DB is on Tour case to come
up for the same on dated. 12-4-22

Randall

28-12-2020

Due to summer vacation, case is adjourned to 15-3-2021 for the same as before.

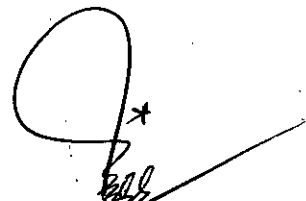

Reader

15.03.2021

Counsel for the appellant and Addl: AG the respondents present.

Former requests for adjournment as senior learning counsel is engaged before the Hon'able Peshawar High Court, Peshawar today.

Adjourned to 27.04.2021 before D.B.


(Mian Muhammad)
Member(E)


Chairman

27-4-21

Due to COVID-19, the case is adjourned to 17-8-2021 for the same.



17.08.2021

Since 17.08.2021 has been declared as Public holiday on account of Moharram, therefore, case is adjourned to 16.12.2021 for the same as before.


Reader

17.08.2020 . Due to summer vacations, the case is adjourned to
27.10.2020 for the same.


Reader

27.10.2020 Proper D.B is on Tour, therefore, the case is
adjourned for the same on 28.12.2020 before D.B.


Reader

15.01.2020

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, instant appeal is adjourned to 13.02.2020 for further proceedings/arguments before D.B.


Member


Member

13.02.2020

None present on behalf of the appellant. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Notice be issued to appellant and his counsel for attendance and arguments for 30.03.2020 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

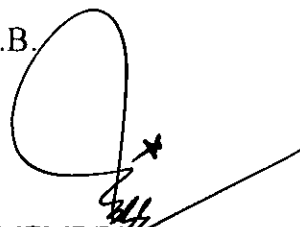
30.03.2020

Due to public holiday on account of COVID-19, the case is adjourned to 08.06.2020 for the same as before.


Reader

08.06.2020

Clerk to counsel for the appellant present. Addl: AG for respondents present. Due to general strike of the Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for arguments on 17.08.2020 before D.B.


MEMBER


MEMBER

14.11.2019

Counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present.

Learned District Attorney at the outset pointed out that although instant appeal has been fixed for hearing before the Larger/Full Bench but there is no formulation of legal/factual proposition to be considered by the Bench.

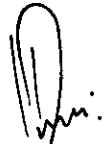
During the discussion it revealed that this Tribunal has already handed down atleast two judgments regarding the abatement of appeal of a civil servant upon his demise. Apart from that some judgments by the August Supreme Court as well as learned Federal Service Tribunal have also been referred to which essentially touch the proposition.

We, therefore, consider it appropriate to remove instant appeal from the list of Larger/Full Bench and assign it to a Division Bench for decision in accordance with law after hearing learned counsel for the parties.

Adjourned to 15.01.2020 before a Division Bench.



(M. Hamid Mughal)
Member



Chairman



(Ahmad Hassan)
Member



(M. Amin Khan Kundi)
Member



(Hussain Shah)
Member

29.08.2019 Learned counsel for the appellant and Mr. Zia Ullah
learned Deputy District Attorney for the respondents present.
Mr. Muhammad Amin Khan Kundi Member of this Tribunal
is on tour to Camp Court D.I Khan, therefore, the instant
matter is adjourned to 14.11.2019 for arguments before
Larger Bench.



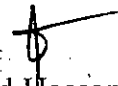
(Muhammad Hamid Mughal)
Member



Chairman



(Hussain Shah)
Member



(Ahmed Hassan)
Member

02.05.2019

Counsel for the appellant and Addl: AG for respondents present.

Due to leave of one of learned Member (Mr. Ahmad Hassan), the instant matter is adjourned to 11.07.2019 for arguments before Larger Bench.



(Mr. Hamid Mughal)
Member



Chairman



(Hussain Shah)
Member



(M. Amin Khan Kundi)
Member

11.07.2019

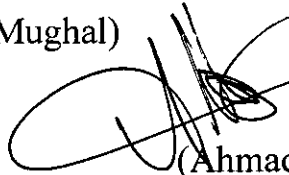
Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Due to engagement of Member of this Tribunal (Mr. Muhammad Amin Khan Kundi and Mr. Hussain Shah) at Camp Court Abbottabad, the instant matter is adjourned to 29.08.2019 before Larger Bench.



(Muhammad Hamid Mughal)
Member



Chairman



(Ahmad Hassan)
Member

29.1.2019

Mr. Mohammad Jaleel son of decease alongwith Mr. Noman Advocate and Mr. Ziaullah, DDA for the respondents present.

In view of institution of larger bench in the instant matter five sets of brief have not yet been provided. The needful be done within a fortnight. Adjourned to 14.03.2019 for arguments before the Larger Bench.



(M. Hamid Mughal)
Member



Chairman



(M. Amin Khan Kundi)
Member



(Ahmad Hassan)
Member



(Hussain Shah)
Member

14.03.2019

Mr. Muhammad Amin, Advocate for learned counsel for the appelland and Mr. Muhammad Jan, DDA for the respondents present.

14/3/19

Learned Member of Tribunal (Mr. Hussain Shah) is still indisposed, therefore, this appeal is adjourned to 02.05.2019 for arguments before the Larger Bench.



(M. Hamid Mughal)
Member



Chairman



(M. Amin Khan Kundi)
Member



(Ahmad Hassan)
Member

133/13

30.11.2018

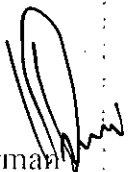
Counsel for the appellant and Mr. Ziaullah, DDA for the respondents present.

Learned counsel for the appellant states that the appellant had died during pendency of instant appeal and his legal heirs were attempted to be impleaded as party to the proceedings, which application is yet to be decided by the Tribunal.

The record suggests that on 05.05.2016 the factum of demise of the appellant was brought into the notice of the Tribunal and, on 19.05.2017, an application for impleadment of legal heirs of the deceased/appellant was submitted. Learned counsel for the respondents did not concede the application and objected to it contending that with the death of appellant the appeal in hand stood abated.


We consider that the proposition regarding devolution of rights of a civil servant, upon his death, during his service or thereafter is an important one requiring decision from a Larger Bench. This appeal, therefore, is adjourned to 29.01.2019 for arguments before the Larger Bench.


Member


Chairman

06.07.2018

Junior to counsel for the appellant present. Mr. Sardar Shoukat Hayat, Addl: AG for respondents present. Arguments could not be heard due to incomplete bench. To come up for arguments on 29.08.2018 before D.B.


(Muhammad Amin Kundi)
Member

29.08.2018

Clerk of the counsel for appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Clerk of the counsel for appellant seeks adjournment on the ground that learned counsel for the appellant is busy before the Hon'ble Peshawar High Court. Adjourned. To come up for arguments on 18.10.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

18.10.2018

Counsel for the appellant present. Mr. Zia Ullah learned DDA for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 30.11.2018 before D.B.

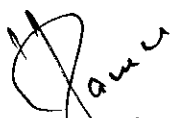

(Hussain Shah)
Member


(Ahmad Hassan)
Member

16.02.2018

Learned counsel for the appellant and Mr. Muhammad Jan, Learned Deputy District Attorney for the respondents present. Learned counsel for the appellant stated that similar nature appeal has been fixed on 12.03.2018 before this Tribunal, so the same may clubbed with that appeal. Request accepted. To come up for arguments alongwith connected appeal on that fixed i.e 12.03.2018 before D.B



(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

12.03.2018


Junior counsel for the petitioner and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Junior counsel for the petitioner seeks adjournment on the ground that learned senior counsel for the petitioner is not available today. Adjourned. To come up for arguments on 23.04.2018 before D.B.



(Muhammad Amin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member

23.04.2018


Learned counsel for the appellant and Mr. Zia Ullah, learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 06.07.2018 before D.B

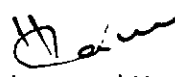

(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

10.08.2017


Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for reply and arguments on 29.11.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member (J)


(Muhammad Hamid Mughal)
Member (J)

29.11.2017


Counsel for the appellant and Addl: AG for respondents present. Partly arguments heard on the issue that whether the right to sue survives in the present appeal to the surviving legal heirs of the appellant. To come up for further arguments on 10.01.2018 before D.B.



Member


Chairman

10.01.2018

Junior to counsel for the appellant present. Learned Asst: AG for respondents present. Junior to counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 16.02.2018 before D.B.


(Ahmad Hassan)
Member(E)


(M. Hamid Mughal)
Member (J)

05.09.2016

Agent to counsel for the appellant and Mr. Ziaullah, GP for respondents present. Due to strike of the Bar learned counsel for the appellant is not available today before the Court, therefore, case is adjourned for further proceedings to 6-1-17 before D.B.

Member

Member

06.01.2017

Clerk counsel for the appellant and Mr. Ziaullah, GP for the respondents present. Clerk counsel for the appellant seeks adjournment due to non-availability of counsel. Request accepted. To come up for arguments on 19.05.2017 before D.B.

(ASHFAQUE TAJ)
MEMBER

(MUHAMMAD AAMIR NAZIR)
MEMBER

19.05.2017


Counsel for the appellant present and submitted application for impleadment of legal heirs of the deceased appellant. The same is placed on record. Mr. Kabirullah Khattak, Assistant AG for the respondents also present and state at the bar that he ^{has} objection on impleadment of legal heirs of the deceased appellant, therefore, to come up for reply and arguments on 10.08.2017 before D.B.

(GULZEB KHAN)
MEMBER

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

27.04.2015

Mr. Daryab Khan Khattak, father and legal heir of the deceased appellant on his own behalf and behalf of other legal heirs of the deceased appellant and Mr. Khurshid Khan, SO for respondent No.1 and 2 alongwith Mr. Ziaullah, GP for the respondents present. Arguments could not be heard due to incomplete bench. To come up for arguments on 02.11.2015.


Member

02.11.2015


Clerk to counsel for legal heir of deceased appellant and Mr. Khurshid Khan, SO alongwith Addl. A.G. for respondents present. Learned counsel for legal heir of deceased appellant is not in attendance today therefore, case is adjourned to 5-5-16 for arguments.


MEMBER


MEMBER

05.05.2016

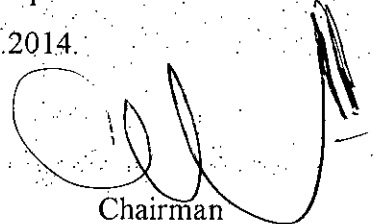
Counsel for the appellant and Mr. Hameed-Ur-Rehman, AD(Lit) alongwith Mr. Ziaullah, GP for respondents present. It was brought into the notice of the Tribunal that unfortunately the appellant has died. Contention of learned GP is that with the death of the appellant the instant appeal stands abated. Learned counsel for the appellant has a different view. Hence to come up for arguments as to whether in the circumstances the appeal shall become abated or otherwise on 05.09.2016.


Member


Member

27.2.2014

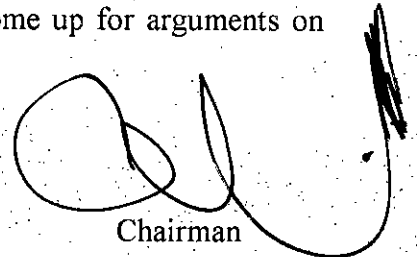
Mr. Daryab Khan Khattak, father and legal heir of the deceased appellant on his own behalf and on behalf of other legal heirs of the deceased appellant, M/S Khurshid Khan, S.O for respondents No.1 & 2 and Mosam Khan, A.D for respondent No.3 with AAG for the respondents present. Written reply has not been received, and request for further time made on behalf of the respondents. A last chance is given for written reply/comments on 29.5.2014.



Chairman

29.5.2014

Mr. Daryab Khan Khattak, father and legal heir of the deceased appellant, on his own behalf and on behalf of other legal heirs of the deceased appellant and Mr. Khurshid Khan, SO for respondents No. 1 and 2 with AAG for the respondents present. Written reply has not been received despite last chance given for the purpose on the previous date. Therefore, right of the respondents to file written reply is forfeited, and the case will now be decided on the basis of available record after arguments by the learned counsel for the appellant and learned AAG. To come up for arguments on 14.11.2014.



Chairman

14.11.2014

Mr. Daryab Khan Khattak, father and legal heir of the deceased appellant, on his own behalf and on behalf of other legal heirs of the deceased appellant and Mr. Khurshid Khan, S.O for respondents No. 1 and 2 with Mr. Kabirullah Khattak, AAG for the respondents present. The Tribunal is incomplete. To come up for arguments on 27.04.2015.



Reader

09.5.2013

Clerk of counsel for the appellant and Mr. Khurshid Khan, SO with Mr. Muhammad Jan, GP present on behalf of the respondents. To come up for written reply/comments on 26.7.2013.

Chairman

26.7.2013

Counsel for the appellant, M/S Khurshid Khan, SO for respondent No. 1 and 2 and Mashal Khan, LO for respondent No. 3 with Mr. Usman, Ghani, Sr. GP present. Written reply has not been received. Another chance is given for written reply/comments on 5.12.2013.

Chairman

05.12.2013

Mr. Daryab Khan Khattak, father of deceased appellant on his own behalf and on behalf of legal heirs of the deceased appellant present. Father of the deceased appellant has already moved application for replacing the deceased appellant with his legal heirs. As such, the legal heirs mentioned in the application moved through the learned counsel for the deceased appellant be substituted for deceased appellant as his legal heirs. Mr. Mosam Khan, A.D for respondent No.3 with AAG for the respondents present. Written reply has not been received. On the request of representative of the respondent as well as learned AAG, yet another chance is given for written reply/comments on 27.2.2014.

Chairman

Appeal No. 133/2013.

Mr. Muhammad Shahid

3. 27.2.2013

Counsel for the appellant present and heard. Contended that the appellant has not been treated in accordance with law. The appellant has been awarded the major punishment of removal from service vide the impugned order dated 10.10.2012 on the ground of absence from service while the absence period has been treated as leave without pay which is illegal. No show cause notice has been given to the appellant nor has he been afforded an opportunity of personal hearing. An irregular inquiry was conducted without associating the appellant in the inquiry proceedings. The appellant filed a departmental appeal on 6.11.2012 but with no response. Points raised need consideration. The appeal is admitted to regular hearing, subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notices be issued to the respondents. Case adjourned to 09.5.2013 for submission of written reply of the Respondents. Copy of receipt of departmental appeal placed on file.

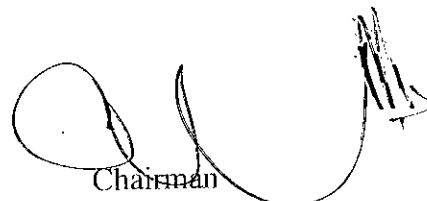
Appellant deposited
Security & Process fee
Rs 180/- Bank
receipt is attached
with file



Member

4. 27.2.2013

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





Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 133/2013

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	16/01/2013	<p>The appeal of Mr. Muhammad Shahid Khan resubmitted today by Mr. Khaled Rahman Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	23-1-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>27-2-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>


This is an appeal filed by Mr. Muhammad Shahid Khan today on 04/01/2013 against the order dated 10.10.2012 against which he preferred a departmental appeal on 08.10.2012 which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellants/counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action.

No. 67/ST,

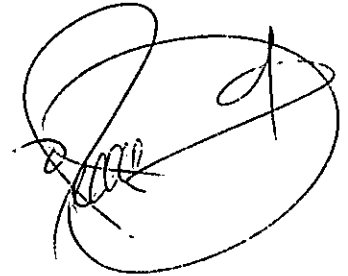
Dt. 04/01/2013

MR. KHALED REHMAN ADV. PESH.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

15.1.2013

Resubmitted with request to get the case before the worthy Bench as after 6.1.2013 the appeal is within mature stage of limitation.



1

Service Appeal No. 133/2013

957
02/12/13

Mohammad Shahid Khan.....Appellant.

Versus

The Govt. and others.....Respondents

Application for replacement of the applicants in place of the Appellant/Mohammad Shahid Khan (now dead) being his legal heirs in order to pursue the appeal.

Respectfully Sheweth,

1. That the above titled service appeal is pending before the Honourable Tribunal which is fixed for today.
2. That the Appellant in the titled appeal has passed away on 6.8.2013. Copy of the Death Certificate is **(Annex:-A)**.
3. That the Appellant has served the department for more than 13 years and then was removed from service illegally which order is challenged in the instant appeal.
4. That since the Appellant is dead and the applicants are his legal heirs and entitled to pursue the appeal under the law, therefore, they are required to be replaced in place of the Appellant in the interest of justice.

2

It is, therefore, humbly prayed that on acceptance of this application, the applicants may graciously be allowed to replace the Appellant in order to pursue the appeal.

Applicants

1. Mst. Asiya Shahid
(widow).
2. Mst. Mahnoor
(daughter).
3. Daryab Khan Khattak
(father)
4. Mst. Nargus (mother)

Through

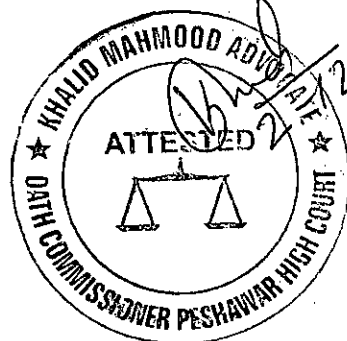
**Khaled Rahman,
Advocate, Peshawar.**

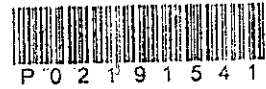
Dated: 2 / 12 / 2013

Affidavit

I, Daryab Khan Khattak, R/O Badrashi, District Nowshera, do hereby affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

[Signature]
Deponent





3

حکومت خیبر پختونخوا پاکستان

THE GOVT OF KHYBER PAKHTUNKHWA PAKISTAN

وفات سرٹیفکیٹ

DEATH CERTIFICATE

CRMS No: D172020-13-0052
NATURE OF DEATH : NORMAL

FORM No: P02191541

کا: ع 1501-553/00

رخواست دہندہ کا نام: آسیہ شاہد

رخواست دہندہ کا شناختی کارڈ نمبر: 1720192802672 متوفی کا رشتہ: خاوند

بدرشی، محلہ نزد مسجد محلہ ریگی، شہر نوشہرہ، تحصیل: نوشہرہ، ضلع: نوشہرہ

مدت عیالیت	وجہ موت	تاریخ دفن	جائے وفات / تاریخ	مذہب	جنس	تاریخ پیدائش	والد کا نام / شناختی کارڈ نمبر	متوفی کا نام / شناختی کارڈ نمبر
	طبعی	7-8-2013	بدرشی 6-8-2013	اسلام	مرد	2-1-1978	دریاب خان خٹک 1720120836965	آسیہ شاہد 172012083687

APPLICANT NAME: ASIA SHAHID

APPLICANT CNIC: 1720192802672 RELATION WITH DECEASED: Husband

ADDRESS: BADRASHI, NEAR MASJID REGAY,

CITY: NOWSHERA, TEHSIL: NOWSHERA, DISTRICT: NOWSHERA

DECEASED NAME/ CNIC	FATHER NAME/ CNIC	DATE OF BIRTH	SEX	RELIGION	PLACE/DATE OF DEATH	DATE OF BURIAL	REASON OF DEATH	SICKNESS PERIOD
MUHAMMAD SHAHID KHAN 1720120836875	DARYAB KHAN KHATTAK 1720120836965	2-1-1978	MALE	ISLAM	BADRASHI 6-8-2013	7-8-2013	NATURAL	

BLOOD RELATION PERSON CAUSING DISPOSAL OF BODY

تدفین کنندہ ختمی رہنما

NAME: DARYAB KHAN KHATTAK

دریاب خان خٹک

CNIC: 1720120836965

1720120836965

GRAVEYARD NAME: BADRASHI

بدرشی

ENTRY DATE: 16-8-2013

16-8-2013

ISSUE DATE: 16-8-2013

16-8-2013

ADDITIONAL INFORMATION:

[Signature]

Attested

سیکیٹری یونین کونسل

[Signature]

بدرشی (20) ضلع: نوشہرہ

Secretary
Union Administration
Union Council Badrahi

PRINCIPAL
Office Badrahi
Nowshera

Atc

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 133 /2012

Muhammad Shahid Khan

.....Appellant

Versus

The Govt. of KPK etc.

.....Respondents

INDEX

Sl.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			1-6
2.	Initial Appointment order	05.04.1999	A	0-7
3.	Notification of appointment as S.S (Economics).	31.01.2007	B	8-10
4.	First Application for leave	15.08.2009	C	0-11
5.	Leave Proforma		D	0-12
6.	Statement of Leave Account		E	0-13
7.	Notification sanctioning the leave	04.09.2009	F	0-14
8.	Second Application for Extra Ordinary Leave	25.01.2010	G	0-15
9.	Leave Proforma/Certificate of entitlement of the leave		H	0-16
10.	Forwarding letter	12.02.2010	I	0-17
11.	Memo of Personal appearance	01.03.2010	J	0-18
12.	Letter of Principal	06.04.2010	K	0-19
13.	Arrival Report	07.02.2011	L	0-20
14.	Forwarding letter	09.03.2011	M	0-21
15.	Letter for physical appearance before the Enquiry Committee	03.02.2012	N	0-22
16.	Reply	10.02.2012	O	0-23
17.	Absence Notice	17.05.2012	P	0-24
18.	Report for duty	30.05.2012	Q	0-25-25-A
19.	Public Notice	25.07.2012	R	0-26
20.	Reply/Application	13.09.2012	S	0-27
21.	Impugned Notification	10.10.2012	T	0-28
22.	Departmental appeal	06.11.2012	U	29-31
23.	Wakalat Nama			

Five spare copies.

Through

Appellant

Khaled Rahman
Advocate, Peshawar

9-B, Haroon Mansion,
Khyber Bazar, Peshawar.
Cell # 0345-9337312

Dated: 4 / 01 / 2013

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 133 /2013

Muhammad Shahid Khan S/o Daryab Khan
Ex-SS (Economics), GHSS Ziarat Kaka Sahib,
Nowshehra.....Appellant

A.W.F. Peshawar
No. 57
04-01-2013

Versus

1. The Govt. of Khyber Pakhtunkhwa
through Chief Secretary,
Civil Secretariat, Peshawar.
2. The Govt. of Khyber Pakhtunkhwa
through Secretary
Elementary & Secondary Education,
Civil Secretariat, Peshawar.
3. The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.....Respondents

SERVICE APPEAL UNDER RULE-19 OF THE
KHYBER PAKHTUNKHWA GOVERNMENT
SERVANTS (EFFICIENCY & DISCIPLINE) RULES,
2011 READ WITH SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974
AGAINST THE IMPUGNED ORDER DATED
10.10.2012 ISSUED BY RESPONDENT NO.2
WHEREBY APPELLANT WAS IMPOSED UPON THE
MAJOR PENALTY OF REMOVAL FROM SERVICE
AGAINST APPELLANT FILED DEPARTMENTAL
APPEAL BEFORE RESPONDENT NO.1 BUT THE
SAME WAS NOT DECIDED WITHIN THE
STATUTORY PERIOD OF 60 DAYS.

Filed to day
4/1/13

re-submitted to
and filed

16/1/2013
Registered

PRAYER:

On acceptance of the instant appeal, the Impugned order dated 10.10.2012 issued by Respondent No.2 may graciously be set aside and appellant be reinstated into service with all back benefits.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That the appellant was initially appointed as Lab: Assistant in the Elementary & Secondary Education Department vide order dated 05.04.1999 (*Annex:-A*) and later on was selected and appointed as S.S (Economics) (BPS-17) on the recommendations of the Khyber Pakhtunkhwa Public Service Commission vide Notification dated 31.01.2007 (*Annex:-B*).
2. That appellant applied (*Annex:-C*) for earned leave w.e.f. 01.09.2009 to 28.02.2010 (Proforma *Annex:-D* and Statement of Leave Account *Annex:-E*) which was sanctioned vide order Notification dated 04.09.2009 (*Annex:-F*).
3. That on expiry of the leave, appellant yet filed another application on 25.01.2010 (*Annex:-G*) for Extra Ordinary leave w.e.f. 01.03.2010 to 28.02.2011 (365 days) having obtained a Certificate of entitlement of the leave (*Annex:-H*) from the District Accounts Officer, Nowshehra. The application was forwarded for necessary action to the Director E&SE vide letter dated 12.02.2010 (*Annex:-I*) by the Executive District

Officer (E&SE), Nowshehra.

4. That after the processing of application, since the appellant was in dire need of the leave, therefore, he started availing the leave on the assurance of the competent authority for sanctioning the leave. During the period, appellant personally appeared before the Principal, GHSS Ziarat Kaka Sahib Nowshehra on 01.03.2010 vide Memo of Appearance (*Annex:-J*) giving him assurance of appearance as and when would he order till the leave is granted, which fact has been admitted by him vide letter dated 06.04.2010 (*Annex:-K*).
5. That on 07.02.2011, appellant submitted his arrival report (*Annex:-L*) to the Principal, GHSS Ziarat Kaka Sahib, Nowshehra, which was referred to the Executive District Officer (E&SE), Nowshehra for necessary action, who further forwarded the same to the Directress (E&SE), Khyber Pakhtunkhwa vide letter dated 09.03.2011 (*Annex:-M*) as in the meanwhile the vacancy of the appellant was filled in. During this period, the appellant traversed the offices of the concerned quarters for necessary adjustment but no adjustment order was issued.
6. That finally a letter dated 03.02.2012 (*Annex:-N*) was received by the appellant from the Enquiry Committee directing the appellant to physically appear before the Committee and thus appellant appeared and explained his position before the Enquiry Committee vide his reply dated

10.02.2012 (*Annex:-O*).

7. That thereafter, a letter dated 17.05.2012 (*Annex:-P*) was issued to the appellant directing him to report for duty within 15 days to the Directorate (E&SE) and explain the reasons of the absence. Accordingly appellant reported the Directorate on 30.05.2012 vide Diary No.1690 (*Annex:-Q*) and explained his position but inspite of the same a Notice of Attendance was published in the Press on 25.07.2012 (*Annex:-R*), which was received by the appellant on 11.09.2012 and in pursuance of the which the appellant appeared and even submitted application on 13.09.2012 (*Annex:-S*) to the competent authority requesting for adjustment but no positive result ensued.
8. That finally the impugned order dated 10.10.2012 (*Annex:-T*) was issued, which was communicated to the appellant on 01.11.2012 through Principal, GHSS Ziarat Kaka Sahib, Nowshehra, whereby appellant was imposed upon the major penalty of removal from service.
9. That being aggrieved by the order *ibid*, appellant preferred a departmental appeal against the same before Respondent No.1 on 06.11.2012 (*Annex:-U*) but the same was not disposed of within the statutory period of 60 days, hence this appeal *inter-alia* on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned order, which is unjust, unfair and hence not sustainable in the eye of law.
- B. That appellant has sufficient leave in his account as is reflectable from the Certificates of the District Accounts Officer, Newshehra, therefore, he was entitled to the leave applied for.
- C. That once the application was processed, then it was the responsibility of the concerned quarter to finalize the matter as soon as possible and to inform the appellant accordingly but the matter was inordinately delayed and strange enough that even after the expiry of the leave the application was not decided.
- D. That appellant due to circumstances beyond his control could not attend the duties but had applied for leave at proper time in accordance with the rules, therefore, his absence was neither willful nor intentional and accordingly the same could not be counted a ground for disciplinary action.
- E. That the appellant has at his credit about 13 years service and in keeping in view the facts and circumstances of the case, the extreme penalty of

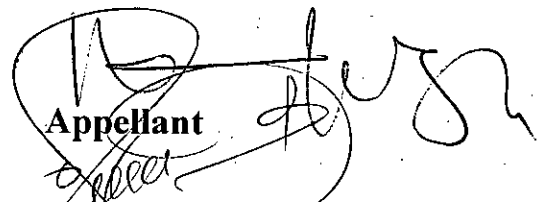
removal from service is quite excessive and does not commensurate with the guilt of the appellant.

- F. That an irregular enquiry was conducted at the back of the appellant without associating the appellant with the enquiry proceedings and it is a settled law that no major penalty can be imposed without holding a regular enquiry thus the Impugned order void abinitio, arbitrary and hence not sustainable.
- G. That no Show Cause Notice which is the mandatory requirement of law has been given to the appellant nor appellant has been afforded an opportunity of personal hearing, which is against the principle of natural justice.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through


Appellant
Khaled Rahman,
Advocate, Peshawar.

Dated: _____ / 01/ 2013

Work over
on 7/2/99 (FN-7)

ANNEX B

7

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) SECC NOWSHERA.

APPOINTMENT.

Consequent upon the recommendation of Deptl: Selection Committee the following candidates are hereby appointed against Laboratory Assistant Posts in the Schools noted against their names in B-07 @ Rs. 1480-81-2695 plus usual allowances as admissible under the rules with effect from the date of their taking over charge in the interest of public service subject the following existing terms and conditions.

S.No.	Name & Address	D/o Birth	Mark M/List Marks.	School	Remarks
1.	Mohammad Shahid Khan S/o Daryab Khan V/PO. Khaisari Teh&Distt: NSR.	02-01-1978	1/61.25	GHSS Manki Sharif	A.V.P.
2.	Mohammad Shafi S/o Faqir Mohammad Vill: Khudrizai PO Pabbi NSR.	06.06.1975	2/58.72	GHSS Jallozai	A.V.P.
3.	Rahat Ali S/o Gul Shanzada Vill: Nandarak PO Jehangira Nowshera.	02.11.1976	3/58.68	GHSS Khair Abad	A.V.P.
4.	Abdur Rasheed S/o Abdur Rahim vill: PO D.I. Khel Nowshera.	02-04-1975	4/57.29	GHSS Jallozai	A.V.P.
5.	Ajmal Khan S/o Gul Ghaffar v/pe Pabbi T&Distt: Nowshera.	04-01-1976	5/57.14	GHSS Khesghi Pagan.	A.V.P.
6.	Mohammad Faisal S/o Abdul Hameed Vill: Chowki Drab PO Pabbi T&Distt: Nowshera.	07-06-1979	6/56.99	GHSS Manki Sharif.	A.V.P.
7.	Aqeel Hassan S/o Ahmad Hussain Vill: Mohib Banda PO Pabbi Nowshera.	16.03.1979	7/56.18	GHSS Manki Sharif NSR.	A.V.P.

[Handwritten signature]

TERMS AND CONDITIONS.

1. Their appointment are made purely on temporary basis and will be liable to termination at any time ~~PRINCIPAL~~ ^{G.H.S.S. Pir Pabbi Nowshera} but assigning any reason or notice.
2. In case of resignation he will submit one month prior notice to the Department or forfeit one month pay in lieu thereof to the Govt.
3. They are required to produce health and age certificate from the concerned Medical Superintendent before taking over charge provided they are not in Govt. Service.
4. They should not be allowed to take over charge if their age are less than eighteen (18) years and more than twenty five (25) years.
5. They must be domiciled of District Nowshera which should be checked before handing over charge.
6. Their antecedents forms shall be obtained to be verified by the local police authorities and submit to this office together with application provided they are not in Govt Service.

(Continued on next page II.2)

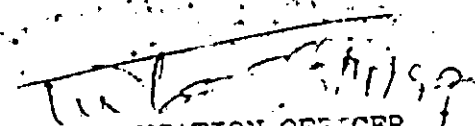
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7. All original Certificates/Declarations and record may be positively checked and where ever slight doubt exists, these should be verified from the Institutions/Organizations/Department and if any discrepancy their actually occurred the case may be processed under the law and rules.
8. If an one fails to take over charge within forthnight. The offer of appointment will be considered as cancelled. The heads of institutions will inform about this facts.
9. Charge reports in duplicate should be sent to all concerned.
10. No TADA etc is allowed to anyone.
11. An undertaking duly witnesses and attested by the heads of Institutions may be obtained about the correctness of his certificates and other documents and with the clear cut words that he will be responsible for any drastic consequences and will liable to be proceeded under the law and rules and regulations for production of bogus/in correct certificates/testimonials etc. if any stage of his service.
12. They will be governed by the Service rules frame by the Govt. from time to time.

(MOHAMMAD SALEEM)
DISTRICT EDUCATION OFFICER,
(MALE) SECONDARY NOWSHERA.

Endst: No. 3577-3615 /Apptt/Lab:Asstt(M)/Dated. Nowshera. the 5/9 1999.

1. Copy forwarded for information & n/a to the:-
1. P.S to Minister of Education NWFP.
1. Director Secondary Education (S), NWFP.
2. P.S to Secretary Education Govt. of NWFP.
3. P.A to Director Secondary Education (S), NWFP.
4. District Accounts Officer, Nowshera.
5. Principal/concerned.
- 9-10. Candidates concerned.
16. A.D.E.O. (A), Local Office.


DISTRICT EDUCATION OFFICER,
(MALE) SECONDARY NOWSHERA.

M. Idrees Hashmi
M.A., B.Ed.

GOVERNMENT OF NWFP
SCHOOLS & LITERACY DEPTT.

DATED PESHAWAR THE 31-01-2007.

8

ANNEX B

NOTIFICATION.

NO. SO(S)3-2/2006/SS(Male). Consequent upon the recommendations of the NWFP Public Service Commission, the Competent Authority has been pleased to appoint the following Subject Specialists (Male) in Islamiyat, Urdu & Economics in BPS-17 (Rs. 7140-535-17840) plus usual allowances as admissible under the rules on Regular basis but without pension and gratuity in terms of Section-19 of the Civil Servant Act, 1973 as amended vide NWFP Civil Servants (Amendment) Act, 2005 with immediate effect under the provision of Establishment & Administration Department Circular bearing No. OR-6 (E&AD) 13-1/2005 dated 10-8-2005.

S. No	Name with Father's Name and Address.
1-	Qari Wahid Bakhsh S/O Haji Ghulam Svarwar, Masjid-Al-Wahid, Zafar Abad colony, D.I.Khan.
2-	Shaukat Mehmood S/O Muhammad Ayub, House No. 483-C, Mohalla Jhang, Bannu City.
3-	Tahir Gul S/O Ghulam Nabi Mohd, Abd. Ilyah Khan, Village & P.O. Sarai Saleh, Tehsil & District Haripur.
4-	Niaz Khan S/O Abbas Khan, House No. 1, Street No. 1, Adil Colony, Bannu Cantt.
5-	Pervaiz Iqbal S/O Mukarram Khan, Village & P.O. Gulzai, Tehsil and District Peshawar.
6-	Muhammad Khalid S/O Fathul Islam, C/O Mr. Zahirullah Rd Headmaster, Khattak Colony Nowshera Cantt.
7-	Muhammad Kaleem S/O Gul Sahib Khar, Village Odin Killa, P.O. Azim Killa, Tehsil & District Bannu.
8-	Muhammad Ismail S/O Fazal-ur-Rehman, Village Sarai Abad P.O. Loisan, Tehsil Khar Bajaur Agency.
9-	Muhammad Ali Shah S/O Hassan Wali Shah, Village Shadi Khal, P.O. & Tehsil Takht-e-Nasrati, District Karak.
10-	Muhammad Nasir S/O Ghulam Hyder, House No. 21-176 (P.O. Fs) Wah Cantt.
11-	Muhammad Hafeez-ur-Rehman S/O Abdur Rehman, Malik Abad Colony C/O Kabir Keryana Store, Tehsil Road Haripur, Tehsil & District Haripur.
12-	Akmal Khan S/O Zubir Khan, Akmal Khan, C/O Amir Muhammad Assistant Finance & Planning Office District Battagram Hazara.
13-	Taj Muhammad S/O Muhammad Noor, District Lakki Marwat P.O. Tajori, Village Shahgai Ahmadzai.
14-	Inamullah S/O Abdul Hameed, H.No. 783 Main Road Afghan Colony Peshawar City.
15-	Shahid Hayat S/O Hayat Gul, Azam General Store, Qafilah Road Tehsil Payan, Peshawar Cantt.
16-	Sayed Ali S/O Saeed Mafqok, Village Bakhela, P.O. Durushkhela, Tehsil Matta District Swat.
17-	Shafiq-ur-Rehman S/O Habib-ur-Rehman, District Karak Tehsil Takht-e-Nasrati, P.O. & Village Chokara, Karak.
18-	Saran Zeb Mian S/O Jehan Zeb Mian, Village Shagai Shahgram, P.O. Madyan, Tehsil & District Swat.
19-	Farshid Ullah S/O Mushtaq Khan, Village & P.O. Mohib Banda Tehsil & District Nowshera.
20-	Fida Ullah Khan S/O Muhammad Younis Khan, C/O Abid Ullah Khan, Production Lucky Cement Dara Pezi.
21-	Muhammad Shahid Khan S/O Darvab Khan, C/O Darvab Khan Govt. High School Badrashi, Nowshera.
22-	Walayaz Khan S/O Ghani Gul, Village Mulla Khel, P.O. Sikander, Khel Bala, Tehsil & District Bannu.

31/1/07

23- Adalat Khan S/O Amir Nawab, Village & P.O. Qazi Abad Tehsil & District Mardan.

2- On their appointment they are posted in Government Higher Secondary Schools as noted against and are subject to the conditions given below:

S.No	Name.	To be posted in:	Remarks
1-	Qari Wahid Bakhsh S/O Haji Ghulam Sarwar	SS(Islamiat), HISS, Ramat, D.E.Khan	Against Vacant Post
2-	Shaukat Mehmood S/O Muhammad Ayub.	SS(Urdu), GHS, Dornai, Banna	-do-
3-	Tahir Gul S/O Ghulam Nabi.	SS(Urdu), GHS, Behali, Mardan	-do-
4-	Niaz Khan S/O Abbas Khan	SS(Urdu), GHS, Zillitang, Kohat.	-do-
5-	Pervaiz Iqbal S/O Mukarram Khan	SS(Economics), GISS, Musarat, Peshawar.	-do-
6-	Muhammad Khalid S/O Fathul Ishtiaq	SS(Economics), GISS, Manki Sharif, Nowshera.	-do-
7-	Muhammad Kaleem S/O Gul Sahib Khan.	SS(Economics), Services placed at the disposal of Directorate of Education (F.A.T.A) NWFP, Peshawar for further posting.	
8-	Muhammad Ismail S/O Fazal-ur-Rehman.	SS(Economics), Services placed at the disposal of Directorate of Education (F.A.T.A) NWFP, Peshawar for further posting.	
9-	Muhammad Ali Shah S/O Hassan Wali Shah.	SS(Economics), HISS, Dailan, Hangu	Against Vacant Post.
10-	Muhammad Nasir S/O Ghulam Hyder.	SS(Economics), GISS, Doda, Hangu	-do-
11-	Muhammad Hafeez-ur-Rehman S/O Abdur Rehman.	SS(Economics), HISS, Kot Najibullah, Haripur.	-do-
12-	Akmal Khan S/O Zubir Khan.	SS(Economics), HISS, Kuzabanda, Battagram.	-do-
13-	Taj Muhammad S/O Muhammad Noor.	SS(Economics), GISS, Kot Kashmir, F.A.T.A Marwat.	-do-
14-	Inamullah S/O Abdul Hameed	SS(Economics), GISS, Urmar Payan, Peshawar.	-do-
15-	Shahid Hayat S/O Hayat Gul.	SS(Economics), GISS, Tarnab, Charsadda.	-do-
16-	Sayed Ali S/O Saeed Malook.	SS(Economics), HISS, Mankyal, Swat.	-do-
17-	Shafiq-ur-Rehman S/O Habib-ur-Rehman.	SS(Economics), HISS, Chorlaki, Kohat	-do-
18-	Saran Zeb Mian S/O Jehan Zeb Mian	SS(Economics), HISS, Madayan, Swat.	-do-
19-	Farshid Ullah S/O Musharaf Khan.	SS(Economics), HISS, Sufaid Sang, Peshawar.	-do-
20-	Uda Ullah Khan S/O Muhammad Younis	SS(Economics), HISS, Dhakki, Charsadda.	-do-
21-	Muhammad Shahid Khan S/O Sarwab Khan	SS(Economics), HISS, Palodheri, Mardan.	-do-
22-	Wajid Khan S/O Ghani Gul.	SS(Economics), HISS, Doshra, Charsadda.	-do-
23-	Adalat Khan S/O Amir Nawab	SS(Economics), Services placed at the disposal of Directorate of Education (F.A.T.A) NWFP, Peshawar for further posting.	

21/1/07

9

TERMS & CONDITIONS

1. Their services will be considered regular but without pension or Gratuity in term of Section-19 of the NWFP Civil Servant Act, 1973 as amended vide NWFP Civil Servants (Amendment) Act, 2005. They will however be entitled to Contributory Provident Fund in such a manner and at such rates as prescribed by the Government.
2. Their services will be liable to termination on one month's notice from either side. In case of resignation without notice their two month's pay/allowances, shall be forfeited to Government.
3. The appointee should join his post within 30 days of the issue of this notification. The Director, Schools & Literacy, NWFP, Peshawar would furnish a certificate to the effect that the candidates have joined the post or otherwise, after one month of the issue of this Notification, failing which his candidature will expire automatically and no subsequent appeal etc shall be entertained.
4. They would be on probation for a period of one year extendable for another one year.
5. They will be governed by such rules and regulations as may be issued from time to time by the Government.
6. Their services can be terminated at any time, in case their performance is found unsatisfactory during probationary period. In case of misconduct, they will be proceeded against under the NWFP Removal from Service (Special Power Ordinance, 2000 and the Rules framed from time to time.
7. Charge report should be submitted to all concerned.
8. No TA/DA will be allowed to the appointees on joining their duty.

SECRETARY

BY DET. NO. & DATE EVEN

- Copy forwarded for information & necessary action to:
- 1- Accountant General, NWFP, Peshawar.
 - 2- Director, Schools & Literacy, NWFP, Peshawar.
 - 3- Director of Education (FATA), NWFP, Peshawar.
 - 4- District / Agency Accounts Officers Concerned.
 - 5- EDOs, S&L Concerned.
 - 6- PS to Minister for Education, NWFP, Peshawar.
 - 7- PS to Chief Secretary, NWFP, Peshawar.
 - 8- PS to Secretary, Schools & Literacy Deptt. NWFP, Peshawar.
 - 9- Candidates Concerned.
 - 10- Director Recruitment, NWFP Public Service Commission, Peshawar.
 - 11- Principal Concerned.
 - 12- Deputy Database Administrator, EMIS, S&L Deptt. NWFP.
 - 13- PA to Additional Secretary, S&L Deptt. NWFP.
 - 14- PA to Deputy Secretary (Admin) S&L Deptt. Peshawar.
 - 15- Office order file.

3/1/07
(NEK NAWAZ KHAN)
SECTION OFFICER (SCHOOLS)

MSL *attch*
T/LA *thawmed*

GOVERNMENT OF NWFP
SCHOOLS & LITERACY DEPTT.

DATED PESHAWAR THE 17-02-2007.

10

CORRIGENDUM.

NO.SO(S)3-2/2006/SS(Male). In continuation of this department notification of even No. dated 31-1-2007, the place of posting of Mr. Muhammad Shahid Khan S/O Daryab Khan at S.No.21 may be read as SS (Economics), GHSS, Ziarat Kaka Sahib, Nowshera instead of GHSS, Palodheri, Mardan.

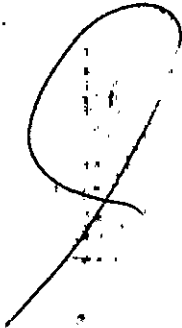
SECRETARY.

ENDST. NO. & DATE EEVEN.

Copy forwarded for information & necessary action to:

- 1- Director, Schools & Literacy, NWFP, Peshawar.
- 2- District Accounts Officers, Nowshera/ Mardan.
- 3- I/DOs, S&L, Nowshera/Mardan.
- 4- PS to Secretary, Schools & Literacy Deptt. NWFP, Peshawar.
- 5- Candidate Concerned.
- 6- Principals Concerned.
- 7- Deputy Database Administrator, EMIS, S&L Deptt., NWFP,
- 8- Office order file.


(NEK NAWAZ KHAN)
SECTION OFFICER(SCHOOLS).



To

The Director,
Elementary & Secondary Education,
Govt of NWFP, Peshawar.

(11)
ANNEX C

Subject: Six Months Earned Leave For Home Construction

Dear Sir,


With due respect I beg to say that I am working as S.S. Economics (BPS-17) at G.H.S.S. Ziarat Kaka Sahib Nowshera. I was first appointed as Lab. Asstt (BPS-7) on 07-04-1999 at G.H.S.S. Manki Sharif and I was promoted to S.S. post on 01-02-2007 through Public Service Commission.

I need six months (181 days) earned leave for Home Construction, 120 days with full pay and 61 days with half pay. I have more than 181 days on my credit. Leave proforma is attached.

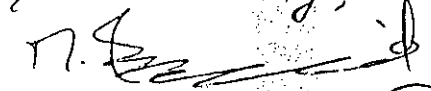
I therefore request you to kindly grant me six months earned leave w.e.f. 01-07-2009 to 28-02-2010.

Encl: No 110 Dated 15/8/2009 Thanks.

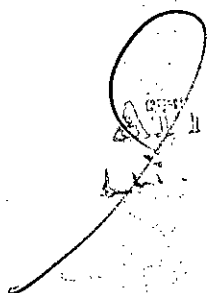
Recommended & forwarded to the
EDO (E&S) NSR
for n/a plz:


Principal
Govt. Higher Secondary School
Ziarat Kaka Sahib (Nowshera)

Yours obediently,


MOHAMMAD SHAHID KHAN
S.S. Economics
G.H.S.S. Ziarat Kaka Sahib
Nowshera, NWFP.

Dated: 15/08/2009



APPLICATION FOR LEAVE

ANNEX D (12)

Notes:- Item 1 to 9 must be filled in by all applicants. Item 12 applies only in the case of Government servants or D.P.S. 16 and above.

1. Name of applicant. *Muhammad Shahid Khan*

2. Leave Rules applicable. *Revised Leave Rules, 1981*

3. Post held. *S.S. (Economics)*

4. Department or office. *GHSR R.K.K.S. NSR EVSE DEPT*

5. Pay. *Rs. 11333/- P.M. (1)*

6. House Rent Allowance/Conveyance Allowance or other compensatory allowances drawn in the present post.

7. (a) Nature of leave applied for. *Extended Leave*
 (b) Period of leave in days. *07-07-2009 to 28-2-2010 (181 days)*
 (c) Date of commencement. *01-07-2009* *120 days on F. Pay*
61 days on H. Pay

8. Particular Rule/Rules under which leave is admissible. *Revised L.R. 1981.*

9. (a) Date of return from last leave. *NIL*
 (b) Nature of leave. *NA*
 (c) Period of leave in days. *NA*
 Date *NA*

10. Remarks and recommendation of the Controller. *Muhammad Shahid Khan
S.S. (Economics)
G.H.S.S. Ziarat Kaka Sahib
Nowshera*

11. Certified that leave applied for is admissible under Rule 16 of R.L. Rules, 1981 and necessary conditions are fulfilled.
 Date
 Signature
 Designation *E*

12. Report of Audit Officer.
 Date
 Signature
 Designation

13. Orders of the sanctioning authority certifying that on the expiry of leave the applicant is liable to the same post carrying the compensatory allowance being drawn by him/her.
 Date
 Signature
 Designation *Executive District Officer (E&S) Edu. Deptt. NSR*

It is certified that 406 days leave balance available at his credit and he is entitled to draw 181 days out of which 120 days on full pay and 61 days on half pay.

Accounts Officer
Nowshera

Certified D/O

ANNEX E


13

FORM OF LEAVE ACCOUNT UNDER THE REVISED LEAVE RULES, 1981

Account of Mr. M. K. S. Prasad, Shiksha Nigam, Patna, Assn. II.
 Date of commencement of service 07-04-1977
 Date of attaining the age of superannuation 01-01-2038

LEAVE TABLE (From Column 8 to 20)

PERIOD OF DUTY		Leave earned at full pay 4 days for each calendar month	Leave at credit (Columns 21 & 22)	PERIOD											LEAVE NOT TAKEN	ADJUDICATED	Total leave (Columns 10 + 11 + 12 + 13 + 14 + 15 + 16 + 17 + 18 + 19 + 20)	Remarks				
From	To			Y.M.D.	Full Calendar months	Days	Days	From	To	Days	Days	Days	Days	Days					Days	Days	Days	Days
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	
7-4-77	31-1-07	7-9-77	594	376	376																376	
01-02-77	01-07-77	M.Y. 6-2	30	30																		
																						30 406


 Principal
 Govt. Higher Secondary School
 Ghorat Kaka Sahih, Naxos
 30 406

EXPLANATORY INSTRUCTIONS FOR FILLING UP THE LEAVE ACCOUNT FORM.

406
 120
 150
 30
 256

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

For account
E

ANNEX F" (14)

GOVERNMENT OF NWFP
ELEMENTARY & SECONDARY
EDUCATION DEPARTMENT

Dated Peshawar the September 4, 2009

NOTIFICATION

No.AO/7-20/Leave/Nowshera/05. Sanction is hereby accorded to the grant of (181 days) earned leave as per the following break up in favour of Mr. Muhammad Shahid Khan, Subject Specialist, Govt. Higher Secondary School, Ziarat Kaka Sahib District Nowshera.

From 01-09-2009 to 29-12-2009 = 120 days on full pay.

From 30-12-2009 to 28-02-2010 = 61 days on half pay.

Total = 181 days

2. The District Account Officer, Nowshera has certified that leave applied for is admissible to the Officer concerned under the Revised Leave Rules, 1981.

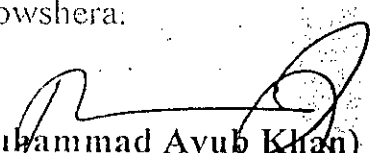
3. He is likely to return to the same post and station after expiry of leave.


Secretary to Govt. of NWFP,
Elementary & Secondary
Education Department

Endst: Even No. & Date.

Copy forwarded to:-

1. The Director Elementary & Secondary Education, NWFP Peshawar w/r to his letter No.5198/6 leave cases dated 28-08-2009.
2. The District Accounts Officer, Nowshera.
3. Mr. Muhammad Shahid Khan, Subject Specialist, Govt. Higher Secondary School, Ziarat Kaka Sahib District Nowshera.


(Muhammad Ayub Khan)
Section Officer (Accounts)



To

ANNEX 9

(15)

The Director,
Elementary & Secondary Education
Govt. of NWFP Peshawar.

Subject: Extraordinary leave 10.07.2010 to 28.07.2010

Dear Sir

Respectfully it is stated that I have been performing my duty in E.S.E Deptt. Since 1999. I am an earned leave for the period is 07.12.2009 to 28.12.2010 vide Govt. of NWFP E.S.E Deptt. Notification No. AC/7-26/10000 Nowshera J.S dated Peshawar the 11.11.2009 for my home construction. Now I require extraordinary leave 10.07.2010 to 28.07.2010 (36 days) with out pay for completion of the remaining construction of the same. Leave admissibility report of D.A. Nowshera is enclosed. It is therefore requested that sanction for extraordinary leave for the period mentioned above may kindly be accorded.

With thanks,

Yours obediently,

No. 209 dated 25.1.2010

Muhammad Shahid Khan,
S.S. (C) Government G.I.S.S. School,
Ziarat Kaka Sahib (N.W.F.P.)

Recommended & forwarded
to EDO (E.S.) NSR for
w/c case

Muhammad Shahid Khan
S.S. (C) (E.S.)
G.I.S.S. Ziarat Kaka Sahib
Nowshera

PRINCIPAL
GHSS Ziarat Kaka Sahib
Nowshera.

Answer H (16)

APPLICATION FOR LEAVE

Notes:- Item 1 to 9 must be filled in by all applicants. Item 12 applies only in the case of Government servants of B.P.S. 16 and above.

- 1. Name of applicant. Muhammad Shahid Khan
- 2. Leave Rules applicable. Revised Leave Rules 1981
- 3. Post held. Head Mistr S.S. Economics
- 4. Department or office. GHSS Z.K-K S (NSR) (Ziarat Kaka Sahib) NSR
- 5. Pay. Rs. P.N. ()
- 6. House Rent Allowance/Conveyance Allowance or other non-compensatory allowances drawn in the present post.
- 7. (a) Nature of leave applied for. Extraordinary leave
(b) Period of leave in days. 365 days
(c) Date of commencement. 01-03-2010 to 28/2/2011
leave will not pay
- 8. Particular Rule/Rules under which leave is admissible. Revised L.R. 1981
- 9. (a) Date of return from last leave. 28.2.2010
(b) Nature of leave. Earned leave
(c) Period of leave in days. 181 days

Muhammad Shahid Khan
S.S. Economics
G.H.S.S/Ziarat Kaka Sahib
Nowshera

E.D.O. of
El. & So. Edu
Nowshera

10. Remarks and recommendation of the Controller
11. Certified that leave applied for is admissible under Rule 12 of R.L. Rules, 1981 and necessary conditions are fulfilled.

Date
Signature
Designation E

PRINCIPAL
GHSS Ziarat Kaka Sahib
Nowshera

12. Report of Audit Officer.
Date
Signature
Designation

13. Orders of the sanctioning authority certifying that on the expiry of leave the applicant is likely to the same post carrying the compensatory allowance being drawn by him.

Date
Signature
Designation E.D.O.

Elementary & Secondary Edu
Nowshera

It is Certified that the applicant is entitled for leave applied Extra ordinary leave without pay under revised leave rule 1981

[Signature]
[Signature]

ANNEX 1 (17)

OFFICE OF THE EXECUTIVE DISTRICT OFFICER ELE: & SECY: EDU: NOWSHERA
No _____ / Dated _____ 2010.

To,

The Director,
Elementary: & Secondary: Edu: NWFP, Peshawar.


Subject: - EXTRA ORDINARY LEAVE.
Memo:-

Enclosed please find herewith original application along with leave admissibility report for the grant of Extra ordinary leave in respect of Mr, Muhammad Shahid Khan S.S (Eco) GHSS, Ziarat Ka Ka Sahib Nowshera w.c. from: 1/3/2010 to 28/2/2011 (365 days) for further necessary action.

EXECUTIVE DISTRICT OFFICER
ELE: & SECY: EDU: NOWSHERA

Endst: No: 1150 dated: 12-2-2010

1:- Copy forwarded for information to the:-
Principal GHSS, Z.K.K. Sahib Nowshera


EXECUTIVE DISTRICT OFFICER
ELE: & SECY: EDU: NOWSHERA

The Principal,
GHSS Ziarat Kaka Sahib,
Nowshera

ANNEX "J"

18

Subject: Personal Appearance on Leave Ending

Dear Sir,

With due respect I beg to say that I was on a six month leave from my duty w.e.f. 1-9-2009 to 28-2-2010 as per letter no. AO/7-20/Leave/Nowshera/05 dated Peshawar the September 4, 2009.

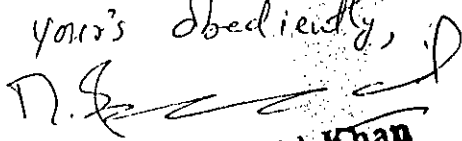
My leave has ended now and today 1-03-2010 I have appeared personally before you at your office to inform you that my leave has ended but I have to extend my leave for further one year because my construction work has not yet completed and for that I already have signed my application from your office vide no. 209 dated 25-01-2010. A copy of that application, leave availability proforma prepared and signed by D.A.O Nowshera and the covering letter from E.D.O. office for necessary action to Directorate of Elementary and Secondary Education, NWFP is hereby enclosed with my this application.

As I am entitled for leave and because my construction work has not yet completed and my application for leave is in process, therefore, please keep this application of my personal appearance at the station as your office record. I will furnish the leave sanction as and when granted.

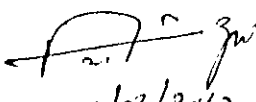
I assure you that I will appear before you personally when you will you order and when needed till the leave is granted. please contact me on my home number 0300-9048370.

Thanks.

Yours Obediently,


Muhammad Shahid Khan
S.S (Economics)
G.H.S.S Ziarat Kaka Sahib
Nowshera

Noted & filed.


01/03/2010

PRINCIPAL
GHSS Ziarat Kaka Sahib
Nowshera.

Dated: 01/03/2010



J

19

ANNEX K

OFFICE OF THE PRINCIPAL
GOVT. HIGHER SECONDARY
SCHOOL

ZIARAT KAKA SAHIB
NOWSHERA.

No 239

DATED 06/04/2010

To

THE EXECUTIVE DISTRICT OFFICER,
E & SE. (NOWSHERA).

SUBJECT: EXTRA ORDINARY LEAVE

MEMO: WITH REFERENCE TO ENDORSEMENT No 5290-92
FROM DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
PESHAWAR DATED 6-3-2010.

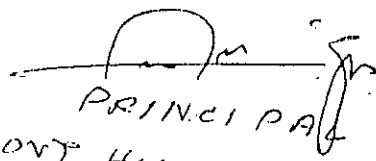
MR MUHAMMAD SHAHID KHAN S.S. OF THIS
SCHOOL HAD BEEN GRANTED 181 DAYS EARNED LEAVE
w.e.f. 1-9-2009 to 28-2-2010.

ON EXPIRY OF THIS EARNED LEAVE HE ATTENDED
THE SCHOOL ON 1-3-2010. HE REQUESTED FOR ONE YEAR
EXTRA-ORDINARY LEAVE, ON THE PLEA THAT HIS CONSTRUCTION
WORK OF HOUSE AT RAWALPINDI HAS NOT BEEN COMPLETED.
HIS APPLICATION FOR EXTRA ORDINARY LEAVE HAS BEEN
FORWARDED THROUGH YOUR OFFICE, TO THE QUARTER CONCERNED.

IT IS CERTIFIED THAT THE S.S. CONCERNED IS
ACTUALLY SUPERVISING THE CONSTRUCTION WORK OF
HIS HOUSE AT RAWALPINDI, HIS WIFE BELONGS
TO RAWALPINDI.

IT IS FURTHER CERTIFIED THAT HE HAS
ASSURED HIS PRESENCE AND AVAILABILITY BY
A WRITTEN STATEMENT TILL THE SANCTION OF
HIS EXTRA ORDINARY LEAVE OR IF OTHERWISE.

AD


PRINCIPAL

GOVT HIGHER SEC. SCHOOL

ZIARAT KAKA SAHIB
G.H.S.S.
NOWSHERA



To

The Principal,
G. H. S. S. Ziarat Kaka Sahib,
Nowshera.

20

"ANNEX L"

Subject: Arrival

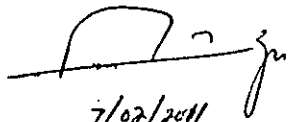
Dear sir,

with due respect it is stated that I had applied for one year leave w.e.f. 1-3-2010 to 28-2-2011. Now because I have finished my construction work I, therefore, am giving my arrival 1 month before the end of my leave.

Kindly accept my arrival.

Thanks

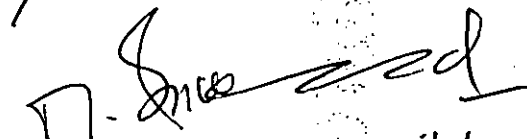
Notes & forwarded to the EDO for
o/a place.


7/02/2011

Principal
G. H. S. S.
Ziarat Kaka
Nowshera

Dated: 07-Feb-2011

Yours obediently,



Mohammed Shahid Khan
S.S. (Economics)

GHSS Ziarat Kaka Sahib
Nowshera



ANNEX M

(21)

OFFICE OF THE EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY EDUCATION
NOWSHERA
NO 975 DATED 9-3-2011

To:

The Directress
(E & S) Education
Khyber Pakhtoon Khwa
Peshawar

Subject: INFORMATION REGARDING LEAVE/ABSENCE.

Memo:-

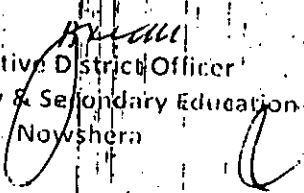
It is submitted for your kind information that one Mr. Muhammad Shahid SS (Eco) GHSS Ziarat Kaka Sahib has obtained six months leave w.e.f 01-09-2009 to 28-02-2010 vide notification No. AO/7-20/Leave/NSR/05 Dated May 13, 2010.

On expiry of his leave he would have joined duty on 03-03-2010, rather he made a request for extension in his leave w.e.f 01-03-2010 to 28-02-2011 (365 Days) Vide this office Indst No. 1150 dated 12-02-2010 but his leave is not yet sanctioned.

In the mean while Mr. Abdul Munsif SS (Eco) received charge of the SS (Eco) post at GHS Ziarat kaka Sahib vide govt of Khyber Pakhtoon Khwa (E & S) Education department No. SO(S/M)/4-16/2011 Dated 29-01-2011 on 01-02-2011.

This office received information from the principal GHSS Ziarat kaka Sahib vide No. 257 dated 24-02-2011 about his arrival report at the school on 07-02-2011, where the vacancy was filled by Abdul Munsif.

Submitted for further order please.


Executive District Officer
Elementary & Secondary Education
Nowshera

RM

OFFICE OF THE PRINCIPAL
REGIONAL INSTITUTE FOR TEACHER EDUCATION (MALE)
Gul Bahar No. 2 PESHAWAR.
PHONE 091-2263473 & FAX #- 091-2261156.

No. 2090 /

Dated Peshawar 3/02 /2012

(22)

To

Mr. Shahid Khan,
Subject Specialist Economics (BS 17)
Mohallah Regi Village Badrashi Teh: & District,
Nowshera.

ANNEX = N^o

Subject: - Physical appearance before the inquiry officer
Memo,

Refer to the Secretary to Govt. of Khyber Pakhtunkhwa Notification No.SO(S/M) E&SED/4-64/2010/M.Shahid dated 9.01.2012, appointed under signed as an inquiry officer to conduct an inquiry against Mr. Shahid Khan SS Economics (BS-17) Govt: Higher Secondary School Kaka Sahib Nowshera.

Your wilful absent from duty with effect from 01.02.2010 on expiry of yours 6 months leave w.e.f.01.01.2009 to 28.02.2010. As I received the letter, I contacted the Principal of Govt: Higher Secondary School Kaka Sahib to inquiry about you. I got your contact cell No. 0300-9048370, you left over there and complete home address as mentioned above. When you were contacted on the same mentioned cell No, it was found that actually it is not your cell No, but it is of Mr. Sajid, then your father Mr. Daryab Khan was contacted, personally interviewed by the undersigned at GHS Badrshi and also a questionnaire served upon him. According to your father statement you are at Rawalpindi and when asked about your contact cell #, he provided us cell # 03315060149. You were contacted on this cell #, but there was no access to this number, although I tried a lot. Your father was requested to contact you as early as possible for physical appear once before the undersigned so as to complete the inquiry within the prescribed time.

Therefore you are again directed to physically report to the undersigned at Regional Institute for Teacher Education (Male) Gul Bahar No.2 Peshawar on 10.02.2012.

JAMIL-UR-REHMAN

Principal

Regional Institute for Teacher Education
(Male) Gul Bahar No. 2 Peshawar.

Endst: No. _____
Copy for information to the:-

1. Secretary Elementary & Secondary Education Deptt: Khyber Pakhtunkhwa Peshawar.
2. Director Elementary & Secondary Education Deptt: Khyber Pakhtunkhwa Peshawar.

39
Principal

Regional Institute for Teacher Education
(Male) Gul Bahar No. 2 Peshawar.

RECEIVED

23

To

Annex O

The inquiry officer
R.I.T.E, Gulbaker #2
Peshawar

Subject: Appearance before The Inquiry officer

Dear Sir,

I am hereby giving my personal appearance before you as per your letter dated 08-02-2012 regarding my service.

Sir, I had applied for one year leave extension on 29-2-2011. After that I gave my arrival in the station at GHSS Fard Kaka Sakhi but there was S.S. (Economus) adjusted against my position. I submitted arrival application from principal and forwarded it to the E.D.O. The EDO Nowshera duly forwarded it to the Directorate for adjustment. A long time I got disappointed because adjustment upto January 2012. Because of necessity I was afraid of service termination so I applied emergency petition upto 2013.

Furthermore, I request you to kindly accept my clemency petition because I am mentally disturbed because of this mental torture.

Thanks
AT

Yours faithfully
[Signature]
7. Shakir Khan
G.S. [unclear]
GHSS Fard Kaka Sakhi

Dated: 10/02/2012

IMMEDIATE/REGISTERED



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

No. SO (S/M) E&SED/4-64/2010/Muhammad Shahid
Dated Peshawar the May 17, 2012


To

Mr. Muhammad Shahid Khan S/O Daryab Khan,
Mohallah Regi Near Al-Kuait Mosque Badrashi,
District Nowshera.

Subject: - **ABSENCE NOTICE**

I am directed to state that you were allowed 181 days earned leave w.e.f. 01-09-2009 to 28-02-2010 by the Competent Authority but on expiry of earned leave you remained absent from duty w.e.f. 01-03-2010 till date. An enquiry was also conducted against you with regard to your willful absence from duty w.e.f. 01-03-2010. The recommendations of the enquiry officer reveals that you were absent from duty w.e.f. 01-03-2011 and also you were not interested in the resumption of your duty. Since your request for extension in extra ordinary leave w.e.f. 01-03-2010 to 28-02-2011 (365 days leave without pay) has not been sanctioned by the Competent Authority, therefore you are absent from duty w.e.f. 01-03-2010 and have rendered yourself liable to disciplinary action under the prevalent rules.

You are therefore, directed to report for duty within 15 days to the Directorate E&SE Khyber Pakhtunkhwa, Peshawar under intimation to all concerned and also explain reasons of your willful absence from duty w.e.f. 01-03-2010 otherwise ex-parte action shall be taken against you under the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011.


(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

Endst: Even No. & Date

Copy forwarded to the Director E&SE, Khyber Pakhtunkhwa, Peshawar w/r to his letter No. 1526 dated 19-10-2010.


SECTION OFFICER (SCHOOLS/MALE)

To

The Director
Elementary and Secondary Education
Peshawar, Pukhtoon Khawa

ANNEX Q

25

Subject: REPORT FOR DUTY

Dear sir,

With due respect, it is stated that I received an absent notice from the office of the Section Officer (Schools/Male) whose copy is also sent to you, bearing dispatch No. SO (S/M) E&SED/4-64/2010/Muhammad Shahid dated Peshawar the May 17, 2012 ordering me to give report for duty at your esteemed office. I am hereby giving my report for duty at you office dated 30/05/2012.

Reasons for absence

1. I had sever domestic problems (enmity) therefore I shifted my family from Nowshera to Rawalpindi. Till the problem could be resolved, I applied for the extension of leave but the matter of my leave sanction was put into cold storage.
2. The second major reason is Management itself
 - a. While my leave application was under process, another person was adjusted against my position. I did not receive any transfer letter or adjustment letter or absence letter or leave sanction letter and my place was filled which was injustice with me. I really got disappointed by that.
 - b. It is another injustice that after one year when our family problem (enmity) is resolved somehow, I gave my arrival but till now I am not

Directorate E&S (KPK)

D-No- 1690
30/5/2012

ATTN

ANNEX

25
A

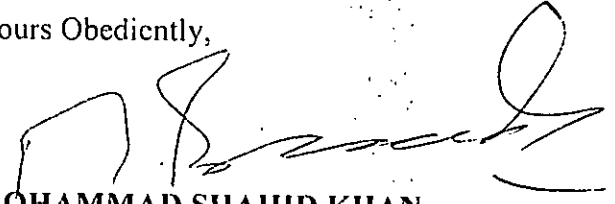
adjusted anywhere rather I am blamed for willful absence. Sir, ~~now~~ I am not adjusted till now.

In view of the above facts, I request you to kindly adjust me as soon as possible in the same station where I was working before i.e. GHSS Ziarat Kaka Sahab, Nowshera which is lying vacant, the adjusted S.S. (Economics) is on leave. I have school going children and have to protect my family, the said station is near to my house. Adjusting me in GHSS Ziarat Kaka Sahab will help me in performing my duty well.

I assure you sir I will perform my duty upto the entire satisfaction of my superiors and will not repeat this action in future again.

Thanks.

Yours Obediently,



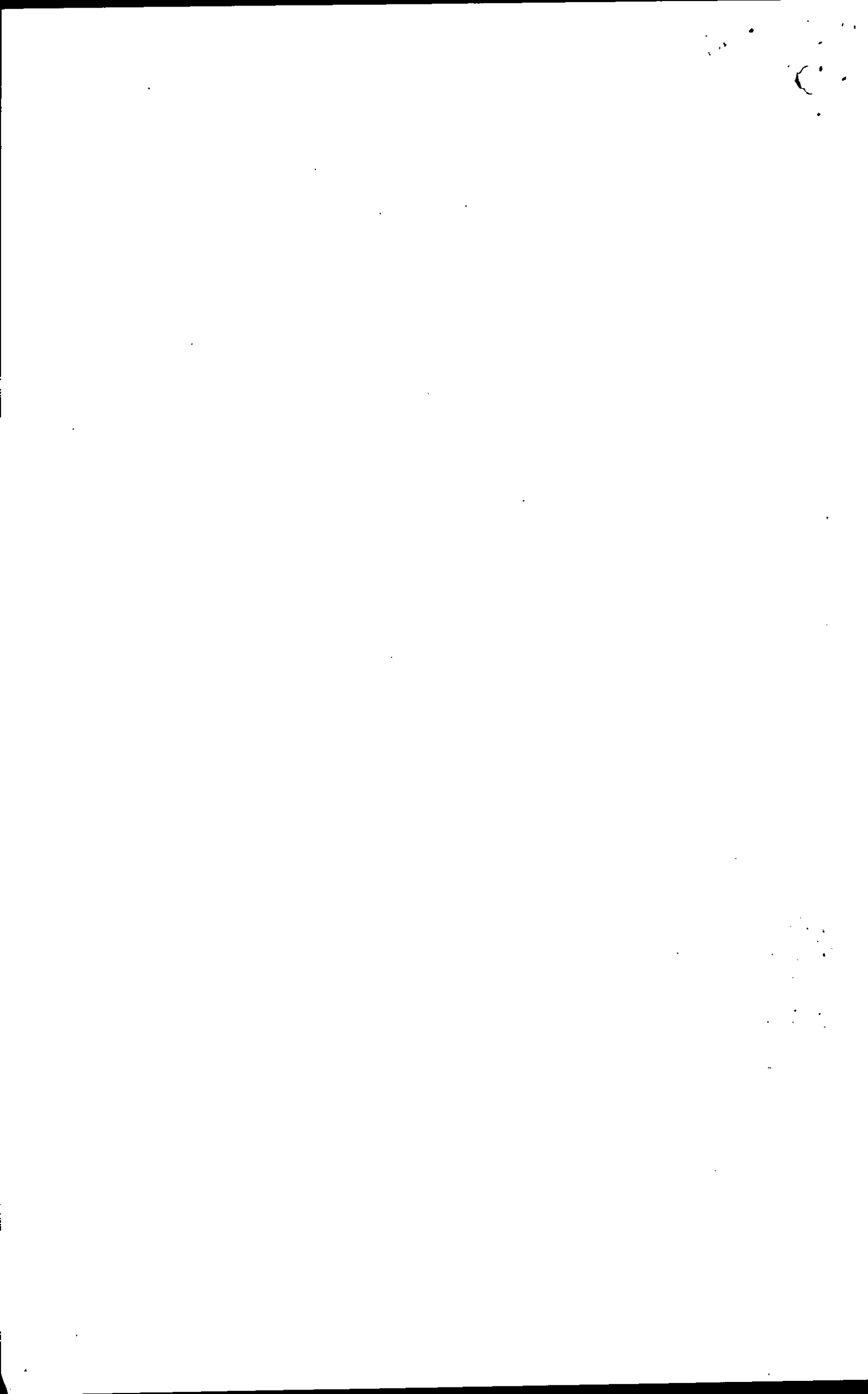
MOHAMMAD SHAHID KHAN
S. S. (Economics)

92

C.C.

- Section Officer (Schools/Male)
- EDEO, Nowshera
(E-13)

ATT



ٹینڈر نوٹس (نیسری بار)

سرحد نیشنل ایڈوائزری سروسز کے لیے ٹینڈر طلب کرکے میں تک کی ٹائی کے لیے ٹینڈر طلبات ہیں۔

تعمیل ٹرانسپورٹ ٹارگٹ میں درج ہے جو کہ جنوری 2010-500 روپے کی ادائیگی کے مندرجہ ذیل دن کار سے آخری اوقات کار میں حاصل کیے جاسکتے ہیں۔

1- یک روزی سرحد نیشنل ایڈوائزری سروسز 164-سٹریٹ سٹیٹ جی ڈی ڈی ٹورنٹو

2- پرائیکٹ نیچر ایس ایم ایل سٹاٹ پرائیکٹ نیچر ایس ایم ایل سٹاٹ (مطلع کرک)

خیابان سٹینڈ پارٹیاں ایسے ریت ٹی ٹی کے صلح سے دی۔ ٹینڈر کے ہر ماہ سرحد نیشنل ایڈوائزری سروسز کے نام سے مبلغ 50,000/- روپے کا ڈیمانڈ ڈرافٹ کا ہونا ضروری ہے۔ جو کہ مورخہ 07-08-2012 کو بر وقت گزارہ

ہے۔ دن تک ایم ڈی آئی سروسز ایس ڈی اے ہیڈ آفس آئی آئی اے بلڈنگ ارباب روڈ ٹورنٹو اور صدر کرک پینچا دیں جہاں دن باہر بجے ٹینڈر رٹنگ گاہ کی موجودگی میں کھولے جائیں گے۔ ٹیکس ڈاکو بلا ہوجائے کوئی ایک

پتہ نہیں دیا ستر کر کے کا اختیار ہوگا۔

صارفین ٹیکس ٹریڈنگ سرحد نیشنل ایڈوائزری سروسز 164-سٹریٹ سٹیٹ

جی ڈی ڈی ٹورنٹو 091-9217221, 091-9211601

Also available on www.khyberpaktunkhwa.gov.pk INF(P)2470

سیسر اینڈ فیڈبک ٹورنٹو ہنوں

نوٹس غیر حاضری

آپ کی موجودہ شاہد خان نامہ مضمون کا ٹیکس (BS-17) کورسٹ اینڈ سیکرٹری سکول زیارت کا صاحب مطلع ہوئے ہو کہ چھٹی جنوری 2009-09-01 تا 2012-02-28 تک کی سبھی

کے اہتمام پر آپ کو سکول ذمہ داریوں کے لئے حاضر ہونے۔ اس سلسلے میں پرنسپل اینڈ ایڈیٹر آف نیچر ایڈوائزری (سرورٹ) سٹاٹو نے آپ کی غیر حاضری کے خلاف باقاعدہ انکوائری کی اور اپنی

رپورٹ میں آپ کے خلاف تادیبی کارروائی کی سفارش کی۔ اس کے باوجود آپ 2010-03-01 سے غیر حاضر ہیں آپ کو کرک کے پتہ پر مورخہ 2012-05-17 کو غیر حاضری کا نوٹس جاری کر دیا گیا

لیکن آپ نے ترقیاتی کے لئے رپورٹ کی اور نہ ہی ٹیکس ڈاکو کی تحریری جواب دیا۔

لہذا پرنسپل نے آپ کو آخری بار مطلع کیا جاتا ہے کہ آپ اس نوٹس کی اشاعت کے پندرہ دن (15) کے اندر اندر اپنی ذمہ داری پر حاضر ہو جائیں اور اپنی غیر حاضری کی مستحول وجوہات بھی بتائیں

۔ بصورت دیگر آپ کے خلاف حکومت خیبر پختونخوا (کارکرڈ کی وائسٹاٹ) آؤنڈ نمبر 2011 کے تحت ایکٹریٹنگ کارروائی میں لائی جائے گی۔ جو آپ کی نوکری سے برخاستگی پر منتج ہو سکتی ہے۔

سیکرٹری، ٹیکس اینڈ فیڈبک ٹورنٹو تعلیم حکومت خیبر پختونخوا ٹورنٹو

Also available on www.khyberpaktunkhwa.gov.pk INF(P)2480

سیسر اینڈ فیڈبک ٹورنٹو ہنوں

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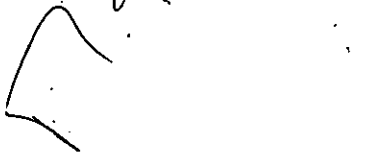
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25/7/12

11/9/12

وہیل



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حضرت صاحب سیکرٹری محکمہ ابتدائی و ثانوی تعلیم حکومت ضلع خٹوار خواد ل اور
معاون: نوٹس غازی

ANNAEPS (27) ضابطہ 1

گذشتہ کمر میں نے 1/9 تا 28/2/2010 تک کا مہینہ Earned leave لیا تھا۔ حقیقی طے شدہ پونہ سول جا کر مزید حقیقی لیا گیا درج ذیل
بازو Forward کیا اور DAO کو نوٹس دیا۔ leave availability سے سرٹیفکیٹ منسلک کر کے بھیج دیا۔ جو کہ
EDO کو بھیج دیا۔ ڈائریکٹر صاحب (EES) ایجوکیشن لاء کو بیلز 1150 تاریخ 12/2/10 کو بھیج دیا۔ لیکن اس کا کوئی
جواب نہیں لگا۔ کمر میں نے اس حقیقی کے ضمن ہونے کے ایک ماہ بعد سول سکول خڈاس اینی آمد کی رپورٹ لی۔ لیکن بد قسمتی سے
اس پر منصف نامی SS تعینات کیا گیا تھا۔ برائیل صاحب نے Arrival Report ای ڈی او صاحب کو بھیج دیا۔
EDO صاحب (EES) نوٹس نے بیلز 975 تاریخ 9.3.2011 کو مزید کارروائی کے لئے ڈائریکٹر صاحب (EES) ایجوکیشن ضلع
خٹوار کو بھیج دیا۔ کہ محمد صاحب SS ایجنٹ Adjunct ہیں۔ نہ حقیقی منظور کیا گیا
اس دوران رٹائرمنٹ ہوئی۔ انکو آفیسر صاحب کے سامنے پیشی ہو کر سارا مقدمہ سنا دیا۔ اس نے بھی کہہ دیا۔ کہ واقعی آپ نے
ڈائریکٹر صاحب (EES) کو بیلز 3457/12 کو ڈائریکٹر صاحب (EES) کے دفتر میں 15 دنوں کے اندر اندر رپورٹ کریں۔
کو اپنا تحریری جواب بھی داخل کیا۔ ایک کافی متعلقہ کلرک کو بھیج دیا۔

1690 تاریخ 1690 اور ڈائریکٹر صاحب (EES) کو بیلز 1690 تاریخ 1690
میں نے باقاعدہ رپورٹ کی۔ اور تحریری جواب ڈائریکٹر صاحب (EES) کو بیلز 1690 تاریخ 1690
میں نے حقیقی منظور کیا ہے۔ نہ Adjusted کیا جاتا ہے۔
اس سے رد و مستردانہ التجا کرتا ہوں۔ کہ مجھے کسی پر Adjusted کرنے کے لئے مامور بھیج دیا۔
میں نے کو یقین دلانا ہوں۔ کہ میں اپنی جان بچانے کیلئے ایمان داری سے ادا کروا رہا ہوں۔

آپ کا تابع و مخلص
(مقام) نوٹس سٹیٹ در فرورست خڈاس تاکو منڈک ہیں
13/9/12

محمد شاہد خان ولد دریا بیجان
SS انٹیکس HSS زیارت بابا
ضلع نوشہرہ - Al

ATTENDED

REGISTERED



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

28

Dated Peshawar the October 10, 2012

ANNEX 1

NOTIFICATION

~~NO: 001/MI/0000/000/2012/MULIND. 000-00000-0000~~ Mr. Muhammad Shahid Khan, Subject Specialist Economics (BS-17) GHSS Ziarat Kaka Sahib District Nowshera proceeded against under Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011 on account of his willful and unauthorized absence from duty w.e.f. 01-03-2010.

2. AND WHEREAS an enquiry was conducted against the accused officer with regard to his willful absence from duty and the enquiry officer recommended that disciplinary action may be initiated against the said officer. He has been issued proper notice at his home/ postal address to report for duty within fifteen (15) days on 17-05-2012 but he neither reported for duty nor reply/ Informed in writing about his whereabouts and reasons of willful unauthorized absence within the stipulated period. A show cause notice was served upon the accused officer through daily "AAJ" Peshawar dated 25-07-2012 and daily "Express" Peshawar dated 24-07-2012 but he remained absent and did not report for duty in response to the above Show Cause Notice.

3. AND WHEREAS the Competent Authority (Chief Secretary, Khyber Pakhtunkhwa) after having considered the charges and evidence on record, recommendation of the enquiry officer, is of the view that the charges against the accused officer have been proved.

4. NOW, THEREFORE, in exercise of the powers conferred under the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Secretary, Khyber Pakhtunkhwa) is pleased to impose major penalty of "Removal from Service" upon Mr. Muhammad Shahid Khan, Subject Specialist Economics (BS-17) GHSS Ziarat Kaka Sahib District Nowshera from the date of his unauthorized/ willful absence from duty i.e. 01-03-2010. The intervening period of unauthorized absence from duty w.e.f. 01-03-2010 to 09-10-2012 shall be treated as without pay.

SECRETARY

Ends: of Even No. & Date:

Copy forwarded to the: -

- 1- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 3- Executive District Officer E&SE Nowshera.
- 4- District Accounts Officer Nowshera.
- 5- PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 6- PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 7- Mr. Muhammad Shahid Khan, Subject Specialist Economics GHSS Ziarat Kaka Sahib Nowshera.
- 8- Office order file.

(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE).

Handwritten signatures and initials at the bottom left of the page.

To

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

ANNEX "U"
(29)

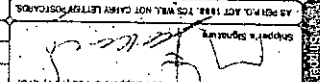
Subject: Departmental appeal against the order dated 10.10.2012 issued by the Secretary Elementary & Secondary Education Khyber Pakhtunkhwa whereby appellant was imposed upon the major penalty of removal from service

Respected Sir,

With due respect I have the honour to submit this departmental appeal for your kind consideration and favourable action on the following facts and grounds:

1. That the appellant was initially appointed as lab: Assistant in the Elementary & Secondary Education Department on 05.04.1999 and later on was selected and appointed as S.S (Economics) (BPS-17) on the recommendations of the Khyber Pakhtunkhwa Public Service Commission.
2. That appellant applied for earned leave w.e.f. 01.09.2009 to 28.02.2010 which was sanctioned vide order Notification dated 04.09.2009.
3. That on expiry of the leave, appellant yet filed another application on 25.01.2010 for Extra Ordinary leave w.e.f. 01.03.2010 to 28.02.2011 (365 days) having obtained a Certificate of entitlement of the leave from the District Accounts Officer Nowshehra. The application was forwarded for necessary action to the Director E&SE vide letter dated 12.02.2010 by the Executive District Officer (E&SE) Nowshehra.
4. That after the processing of application, since the appellant was in dire need of the leave, therefore, he started availing the leave on the assurance of the competent authority for sanctioning the leave.
5. That on 07.02.2011, appellant submitted his arrival report to the Principal, GHSS Ziarat Kaka Sahib, Nowshehra, which was referred to the Executive District Officer (E&SE), Nowshehra for necessary action, who further forwarded the same to the Director (E&SE), Khyber Pakhtunkhwa vide letter dated 07.02.2011.

ATTESTED

<small>AS PER ACT 1988, TCS WILL NOT CHARGE LETTER POSTAGE.</small> <small>Any suggestion or complaint about service may be mailed to PO Box # 2042, Karachi 75400.</small>		<small>Signature Required</small> 
<small>Insurance Premium</small> 100	<small>Contract Date</small> 11/11/11	<small>Conclusion of contract between sender & TCS (PVT) LTD.</small> <small>of this company/ not a part of the business of the</small> <small>of this company/ not a part of the business of the</small>
<small>GST</small> /	<small>PICKUP INFORMATION</small> /	<small>I warrant that I have read the terms and conditions on the</small> <small>terms of the company/ not a part of the business of the</small> <small>of this company/ not a part of the business of the</small>
<small>Other</small> /	<small>E-mail</small> /	<small>Phone</small> /
<small>Handling</small> /	<small>Weight</small> /	<small>Phone</small> /
<small>Service Charges</small> <input checked="" type="checkbox"/> Second Day <input type="checkbox"/> Same Day	<small>Service Charges</small> /	<small>Phone</small> /
<small>Overnight</small> <input type="checkbox"/> Monday	<small>Service Charges</small> /	<small>Phone</small> /

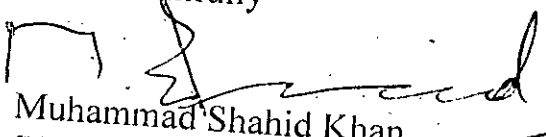
31

that even after the expiry of the leave the application was not decided.

- D. That appellant due to circumstances beyond his control could not attend the duties but had applied for leave at proper time in accordance with the rules, therefore, his absence was neither willful nor intentional and accordingly the same could not be counted a ground for disciplinary action.
- E. That the appellant has at his credit about 13 years service and in keeping in view the facts and circumstances of the case, the extreme penalty of removal from service is quite excessive and does not commensurate with the guilt of the appellant.

It is, therefore, humbly requested that on acceptance of this departmental appeal, the impugned Notification dated 10.10.2012 issued by the Secretary E&SE, Khyber Pakhtunkhwa may graciously be set aside and appellant be reinstated into service with all back benefits.

Yours faithfully


 Muhammad Shahid Khan
 S/o Daryab Khan
 Ex-SS (Economics)
 R/o Mohallah Regi,
 Village Badrashi,
 Near Al-Kuwait Masjid,
 Badrashi, District Nowshehra.

Dated: 06/11/2012

ATTESTED

Service Appeal No. 133/2013

Mohammad Shahid Khan.....Appellant.

Versus

The Govt. and others.....Respondents

Application for replacement of the applicants in place of the Appellant/Mohammad Shahid Khan (now dead) being his legal heirs in order to pursue the appeal.

Respectfully Sheweth,

1. That the above titled service appeal is pending before the Honourable Tribunal which is fixed for today.
2. That the Appellant in the titled appeal has passed away on 6.8.2013. Copy of the Death Certificate is **(Annex:-A)**.
3. That the Appellant has served the department for more than 13 years and then was removed from service illegally which order is challenged in the instant appeal.
4. That since the Appellant is dead and the applicants are his legal heirs and entitled to pursue the appeal under the law, therefore, they are required to be replaced in place of the Appellant in the interest of justice.

87) (2)

It is, therefore, humbly prayed that on acceptance of this application, the applicants may graciously be allowed to replace the Appellant in order to pursue the appeal.

Applicants

1. Mst. Asiya Shahid
(widow).
2. Mst. Mahnoor
(daughter)
3. Daryab Khan Khattak
(father)
4. Mst. Nargus (mother)

Through

**Khaled Rahman,
Advocate, Peshawar.**

Dated: 2 / 12 / 2013

Affidavit

I, Daryab Khan Khattak, R/O Badrashi, District Nowshera, do hereby affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


Deponent



حکومت خیبر پختونخوا پاکستان

THE GOVT OF KHYBER PAKHTUNKHWA PAKISTAN

وفات سرٹیفکیٹ

DEATH CERTIFICATE

CRMS No: D172020-13-0052
NATURE OF DEATH : NORMAL

FORM No: P02191541

کا. ع. ۱۷۵۱ - ۵۵۳/۵۶

درخواست دہندہ کا نام: آسیہ شاہد

درخواست دہندہ کا شناختی کارڈ نمبر: 1720192802672

مستوفی کا رشتہ: خاوند

محلہ نذر مسجد محلہ ریگی، شہر نوشہرہ، تحصیل: نوشہرہ، ضلع: نوشہرہ

مدت علالت	وجہ موت	تاریخ دفن	جائے وفات / تاریخ	مذہب	جنس	تاریخ پیدائش	والد کا نام / شناختی کارڈ نمبر	مستوفی کا نام / شناختی کارڈ نمبر
	طبعی	7-8-2013	بدرشی	اسلام	مرد	2-1-1978	دریاب خان خٹک 1720120836965	شاہد خان 1720120836875

APPLICANT NAME: ASIA SHAHID

APPLICANT CNIC: 1720192802672 RELATION WITH DECEASED: Husband

ADDRESS : BADRASHI, NEAR MASJID REGAY,

CITY: NOWSHERA, TEHSIL: NOWSHERA, DISTRICT: NOWSHERA

DECEASED NAME/ CNIC	FATHER NAME/ CNIC	DATE OF BIRTH	SEX	RELIGION	PLACE/DATE OF DEATH	DATE OF BURIAL	REASON OF DEATH	SICKNESS PERIOD
MUHAMMAD SHAHID KHAN 1720120836875	DARYAB KHAN KHATTAK 1720120836965	2-1-1978	MALE	ISLAM	BADRASHI 6-8-2013	7-8-2013	NATURAL	

BLOOD RELATION PERSON CAUSING DISPOSAL OF BODY

NAME : DARYAB KHAN KHATTAK

CNIC : 1720120836965

GRAVEYARD NAME : BADRASHI

ENTRY DATE : 16-8-2013

ISSUE DATE : 16-8-2013

ADDITIONAL INFORMATION :

[Signature]

سیکرٹری یونین کونسل

بدرشی (20) ضلع: نوشہرہ
Secretary
Union Administration
Union Council Badrashi

[Signature]
Attested
Principal
G.H.S Badrashi
Nowshera

ترمیمی رشتہ دار تدفین کنندہ

دریاب خان خٹک

1720120836965

شناختی کارڈ نمبر:

بدرشی

16-8-2013

16-8-2013

خارج اجراء:

فنی معلومات:

Service Appeal No. 133/2013

Mohammad Shahid Khan.....Appellant.

Versus

The Govt. and others.....Respondents

Application for replacement of the applicants in place of the Appellant/Mohammad Shahid Khan (now dead) being his legal heirs in order to pursue the appeal.

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It is, therefore, humbly prayed that on acceptance of this application, the applicants may graciously be allowed to replace the Appellant in order to pursue the appeal.

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2. Mst. Mahnoor
(daughter).
3. Daryab Khan Khattak
(father)
4. Mst. Nargus (mother)

Through

**Khaled Rahman,
Advocate, Peshawar.**

Dated: 2 / 10 / 2013

Affidavit

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Deponent



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3



حکومت خیبر پختونخوا پاکستان

THE GOVT OF KHYBER PAKHTUNKHWA PAKISTAN

وفات سرٹیفکیٹ

DEATH CERTIFICATE

CRMS No: D172020-13-0052

NATURE OF DEATH : NORMAL

FORM No: P02191541

ک.ع.ن. 1701-553/06

رخواست دہندہ کا نام: آسیہ شاہد

رخواست دہندہ کا شناختی کارڈ نمبر: 1720192802672

پتہ: بدرشی، محلہ نڈ مسجد محلہ ریگ، شہر نوشہرہ، تحصیل: نوشہرہ، ضلع: نوشہرہ

مدت طالت	وجہ موت	تاریخ دفن	جائے وفات/تاریخ	مذہب	جنس	تاریخ پیدائش	والد کا نام / شناختی کارڈ نمبر	مستوفی کا نام / شناختی کارڈ نمبر
	طبعی	7-8-2013	بدرشی 6-8-2013	اسلام	مرد	2-1-1978	دریاب خان خٹک 1720120836965	مستوفی خان 1720120836875

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CITY: NOWSHERA, TEHSIL: NOWSHERA, DISTRICT: NOWSHERA

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 BLOOD RELATION PERSON CAUSING DISPOSAL OF BODY قریبی رشتہ دار تدفین کنندہ

NAME: DARYAB KHAN KHATTAK

CNIC: 1720120836965

1720120836965

GRAVEYARD NAME: BADRASHI

ENTRY DATE: 16-8-2013

16-8-2013

ISSUE DATE: 16-8-2013

16-8-2013

ADDITIONAL INFORMATION:

سیکرٹری یونین کونسل

بدرشی (20) ضلع: نوشہرہ

Secretary
Union Administration
Union Council BadrashiAttested
Principal
C.H.S. Badrashi
Nowshera

Service Appeal No. 133/2013

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Through

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Dated: 2 / 12 / 2013

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Deponent



P 0 2 1 9 1 5 4 1

3



حکومت خیبر پختونخوا پاکستان

THE GOVT OF KHYBER PAKHTUNKHWA PAKISTAN

وفات سرٹیفکیٹ

DEATH CERTIFICATE

CRMS No: D172020-13-0052
NATURE OF DEATH : NORMAL

FORM No: P02191541

ک. س. ۱۵۵۱-۵۵۳/۵۵

رخواست دہندہ کا نام: آسیہ شاہد

رخواست دہندہ کا شناختی کارڈ نمبر: 1720192802672

مستوفی کا رشتہ: خاوند
محلہ نذر مسجد محلہ ریگہ، شہر نوشہرہ، تحصیل: نوشہرہ، ضلع: نوشہرہ

مدت علالت	وجہ موت	تاریخ دفن	جائے وفات/تاریخ	مذہب	جنس	تاریخ پیدائش	والد کا نام / شناختی کارڈ نمبر	مستوفی کا نام / شناختی کارڈ نمبر
	طبعی	7-8-2013	بدرشی 6-8-2013	اسلام	مرد	2-1-1978	دریاب خان خشک 1720120836965	شاہد خان 172012083687

APPLICANT NAME: ASIA SHAHID

APPLICANT CNIC: 1720192802672 RELATION WITH DECEASED: Husband

ADDRESS : BADRASHI, NEAR MASJID REGAY,

CITY: NOWSHERA, TEHSIL: NOWSHERA, DISTRICT: NOWSHERA

DECEASED NAME/ CNIC	FATHER NAME/ CNIC	DATE OF BIRTH	SEX	RELIGION	PLACE/DATE OF DEATH	DATE OF BURIAL	REASON OF DEATH	SICKNESS PERIOD
MUHAMMAD SHAHID KHAN 1720120836875	DARYAB KHAN KHATTAK 1720120836965	2-1-1978	MALE	ISLAM	BADRASHI 6-8-2013	7-8-2013	NATURAL	

 BLOOD RELATION PERSON CAUSING DISPOSAL OF BODYتدفین کنندہ قریبی رشتہ دار

NAME : DARYAB KHAN KHATTAK

دریاب خان خشک

CNIC : 1720120836965

1720120836965

GRAVEYARD NAME : BADRASHI

شناختی کارڈ نمبر:

ENTRY DATE : 16-8-2013

16-8-2013

ISSUE DATE : 16-8-2013

16-8-2013

ADDITIONAL INFORMATION :

سیکرٹری یونین کونسل

بدرشی (20) ضلع: نوشہرہ

Secretary
Union Administration
Union Council BadrashiAttested
Principal
G.H.S Badrashi
Nowshera

Before The Registrar, K.P. Service Tribunal,

Muhammad Shabid
V/S

Secretary EESE, & Others

Application For placing on file
setting aside application in the above
titled case.

Resp: Sheweth:

1. That, the above titled case is pending adjudication and is fixed for hearing on 02-11-2015.
2. That, the above titled case was exparteed against department on 29-05-2014.
3. That, there is no bar to place on file the ex-parte setting aside application. It is therefore most humbly prayed that on acceptance of this application the ex-parte application may kindly be place on file.

13-05-2015

Representative

Put up to the court with
relevant appnd.

Reader
concerned.

13/5/15

SO. (Lit-II)-
EESE Department.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

S.A. No. 133/2013

Muhammad Shahid District Nowshera.....Appellant

VERSUS

Secretary E&SE Department, Khyber Pakhtunkhwa & Others..... Respondent

APPLICATION FOR SETTING ASIDE EX-PARTE ORDER DATED 29-05-2014 PASSED BY THE CHAIRMAN SERVICE TRIBUNAL PESHAWAR AGAINST THE RESPONDENTS.

Respectfully Sheweth,

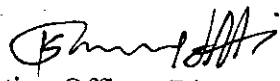
The applicants submit as under:-

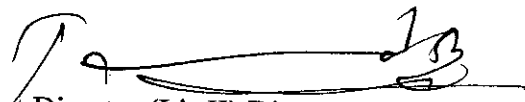
1. That the above titled service appeal is pending for adjudication before this Hon'able Tribunal & is fixed for hearing today.
2. That on last date of hearing dated 29-05-2014, an ex-parte order has been passed by this Hon'able Tribunal against the respondents due to non submission of record in the instant case/appeal.
3. That the act of the respondents regarding non submission of record on the date fixed was not intentional rather due to the rush of work in the office of the applicants.
4. That this Hon'able Tribunal has got jurisdiction to honour the instant appeal by setting aside the ex-parte preceding dated 29-05-2014.
5. That valuable legal & financial rights of the respondents are attached with the instant appeal & if the order dated 29-05-2014 is not set aside, then the respondents shall suffer irreparable loss.
6. That the instant application is within time.

It is therefore, most humbly prayed that on acceptance of this application, the ex-parte order dated 29-05-2014 may very kindly be set-aside and the applicants be allowed to submit para wise comments on 02-11-2015 in the interest of justice.

Dated 13-05-2014

Applicants/Respondents No. 1-3


Section Officer (Lit-II)E&SE Deptt:


Assistant Director (Lit-II) Directorate of
E&SE, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

S.A. No. 133/2013

Muhammad Shahid District Nowshera.....Appellant

VERSUS

Secretary E&SE Department, Khyber Pakhtunkhwa & Others..... Respondent

APPLICATION FOR SETTING ASIDE EX-PARTE ORDER DATED 29-05-2014 PASSED BY THE CHAIRMAN SERVICE TRIBUNAL PESHAWAR AGAINST THE RESPONDENTS.

Respectfully Sheweth,

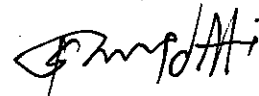
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Dated 13-05-2014

Applicants/Respondents No. 1-3



Section Officer (Lit-II)E&SE Deptt:



Assistant Director (Lit-II) Directorate of
E&SE, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

S.A. No. 133/2013

Muhammad Shahid District Nowshera.....Appellant

VERSUS

Secretary E&SE Department, Khyber Pakhtunkhwa & Others..... Respondent

APPLICATION FOR SETTING ASIDE EX-PARTE ORDER DATED 29-05-2014 PASSED BY THE CHAIRMAN SERVICE TRIBUNAL PESHAWAR AGAINST THE RESPONDENTS.

Respectfully Sheweth,

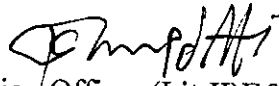
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2. That on last date of hearing dated 29-05-2014, an ex-parte order has been passed by this Hon'able Tribunal against the respondents due to non submission of record in the instant case/appeal.
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5. That valuable legal & financial rights of the respondents are attached with the instant appeal & if the order dated 29-05-2014 is not set aside, then the respondents shall suffer irreparable loss.
6. That the instant application is within time.

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Dated 13-05-2014

Applicants/Respondents No. 1-3


Section Officer (Lit-II)E&SE Deptt:


Assistant Director (Lit-II) Directorate of
E&SE, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal # 133/2013.

Muhammad Shahid Khan Ex-S.S (Economics:) GHSS,
Ziarat Kaka Sahib Nowshera.....**Appellant**

VERSUS

Chief Secretary Govt. of Khyber Pakhtunkhwa & Others,..... **Respondents**

Para wise comments for & on behalf of Respondents.

**Respectfully Sheweth,
Preliminary Objections:-**

1. The appellant has no cause of action/ locus standi.
2. The instant appeal is badly time barred.
3. The appellant has concealed the material facts from this Hon 'able Tribunal, hence liable to be dismissed.
4. The appellant has not come to this Hon 'able Tribunal with clean hands.
5. The appellant has filed the instant appeal just to pressurize the Respondents.
6. The present appeal is liable to be dismissed for non joinder / misjoinder of necessary parties.
7. The appellant has filed the instant appeal on malafide motives.
8. The instant appeal is against the prevailing law and rules.
9. The appellant is estopped by his own conduct to file the instant appeal.

FACTS.

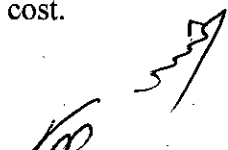
1. Para pertains to record, hence no comments.
2. Correct. Leave was sanctioned. hence no comments.
3. No comments. It pertains to record.
4. Incorrect. After expiry of six (06) months leave the appellant was bound to resume the charge of his post on 01-03-2010 but he failed to take over charge and submitted application for extension of leave and without sanction of leave he had left station so, the appellant was declared willful absent, therefore departmental action was initiated against him. Moreover no assurance of appearance was given to the appellant. The appellant submitted application and left station without sanction of leave.
5. Incorrect. During the absence of appellant the vacancy was filled through transfer order of Mr. Abdul Munsif. Since the appellant was willful absent for one year and was proceeded against him therefore his arrival was not accepted.
6. Correct to the extent of letter dated 03-02-2012 and reply of the appellant, however the appellant could not satisfy his willful absence before the Enquiry Committee.

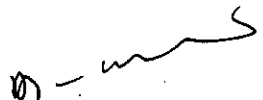
7. This Para is correct to the extent of Notice issued to the appellant. The remaining paras is incorrect neither the appellant justified his willful absence before Inquiry Committee nor he made any request for adjustment. The application dated 13-09-2012 (Annex-S) of the appeal has no diary No. from which it has been proved that the appellant was submitted application.
8. ~~(Correct)~~ In the light of recommendations of Inquiry Committee and after fulfilling all codal formalities the appellant was removed form service.
9. His appeal has no weight as he was willfully absent.

ON GROUNDS.

- A. Incorrect. the appellant has been treated according to law, rules and policy, and no violation has been made.
- B. Incorrect. There is difference in "Availability of leave and sanction of leave". No sanction was granted to him.
- C. Incorrect. The appellant was bound to perform duty but he left the station without sanction of leave.
- D. Incorrect. The appellant never applied on proper time for leave on 28-02-2010 when his first leave was expired. He applied for extension on 01-03-2010 and on the same day he left the station.
- E. Incorrect. The major penalty of removal from service was imposed upon appellant according to Law, Rules and Policy.
- F. Incorrect. The appellant was provided full opportunity for his defence but he could not justify his willful absence. The major penalty was imposed after a proper inquiry and after fulfilling all codal formalities.
- G. Incorrect. Show Cause Notices were issued in daily Ajj dated 25-07-2012 and daily Express dated 24-07-2012.
- H. That the respondents seek permission to adduce more grounds at the time of hearing.

In view of the above facts and grounds, it is humbly requested that this Honourable Tribunal may very graciously be pleased to dismiss the present appeal with cost.


Director
E&SE, Peshawar


Secretary,
Elementary & Secondary Education,
Department.

(For & on behalf of Respondents No. 1 & 2)

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.
Appeal No. 133/2013

Muhammad Shahid Khan

VS

Govt of KP etc

**APPLICATION FOR IMPLEADMENT
OF LEGAL HIER**

RESPECTFULLY SHEWETH:

1. That the above mentioned appeal is pending before this august Tribunal.
2. That the instant appeal is in argument stage and fixed for today.
3. That the appellant has been died during the pendency of appeal on 7.8.2013. (Copy of the death certificate is attached as Annexure-R).
4. That the appellant left behind his wife and his daughter as legal heirs (copy of the CNIC and birth certificate is attached as Annexure-R1 & R2)
5. That the valuable rights of pensionary benefits involved in the appeal, therefore, it would be just to implead the wife of appellant also on the behalf of her minor daughter :

1. Asia Shahid w/o Muhammad Shahid Khan R/o Moh Regay Near Masjid Alkuwait, Village, Badrashi tehsil & district Nowshera.
2. Mahnoor Shahid D/o Muhammad Shahid Khan.

It is, therefore, humbly prayed that the applicant may be impleaded as appellant being legal heir of appellant in the instant appeal.

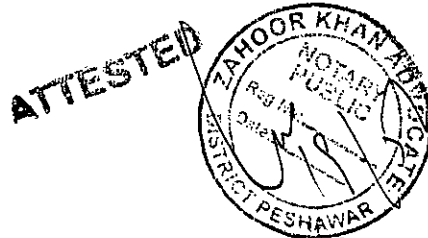

Applicant
Asia Shahid

Through:


(SYED NOMAN ALI BUKHARI)
ADVOCATE, PESHAWAR.

AFFIDAVIT:

It is affirmed on oath that the contents of application are true and correct and nothing has been concealed from the Hon'able Tribunal.




Deponent



حکومت خیبر پختونخوا پاکستان

THE GOVT OF KHYBER PAKHTUNKHWA PAKISTAN

وفا سرٹیفکیٹ

DEATH CERTIFICATE

CRMS No: D172020-17-0001
NATURE OF DEATH: NORMAL

FORM No: P05240827

درخواست دہندہ کا نام: آسیہ شاہد

درخواست دہندہ کا شناختی کارڈ نمبر: 1720192802672

پتہ: محلہ ریگے نزد مسجد الکوویت، گاؤں بدراشی، تحصیل نوشہرہ، ضلع نوشہرہ

متوفی کا نام	والد کا نام	تاریخ پیدائش	جنس	مذہب	جائے وفات	تاریخ دفن	وجہ موت	مدت عمارت
محمد شاہد خان	درباب خان شاہد	2-1-1978	مرد	اسلام	بدراشی	7-8-2013	طبعی	
شناختی کارڈ نمبر	شناختی کارڈ نمبر							
1720120836875								

APPLICANT NAME: ASIA SHAHID

APPLICANT CNIC: 1720192802672. RELATION WITH DECEASED: Husband

ADDRESS: MOH REGAY NEAR MASJID ALKUWAIT, VILLAGE: BADRASHI,

TEHSIL: NOWSHERA, DISTRICT: NOWSHERA

DECEASED NAME/ CNIC	FATHER NAME/ CNIC	DATE OF BIRTH	SEX	RELIGION	PLACE/DATE OF DEATH	DATE OF BURIAL	REASON OF DEATH	SICKNESS PERIOD
MUHAMMAD SHAHID KHAN 1720120836875	DARYAB KHAN KHATTAK	2-1-1978	MALE	ISLAM	BADRASHI	7-8-2013	NATURAL	

BLOOD RELATION PERSON CAUSING DISPOSAL OF BODY

NAME: MEHMOOD HUSSAIN

CNIC: 1720121383373

GRAVEYARD NAME: BADRASHI

ENTRY DATE: 4-1-2017

ISSUE DATE: 4-1-2017

ADDITIONAL INFORMATION:

[Signature]

سیکرٹری یونین کونسل

بدراشی (20) ضلع نوشہرہ

تدفین کنندہ

نام: محمود حسین

شناختی کارڈ نمبر: 1720121383373

قبرستان کا نام: بدراشی

تاریخ اندراج: 4-1-2017

تاریخ اجراء: 4-1-2017

اضافی معلومات:

No. 41

Date: 24-1-2017

بدراشی 4

Secretary
VIC Badrashi 4
Teh & Distt. Nowshera



P.01317129



حکومت خیبر پختونخوا پاکستان

THE GOVT OF KHYBER PAKHTUNKHWA PAKISTAN

پیدائش سرٹیفکیٹ

BIRTH CERTIFICATE

CRMS No: B172017-12-0074

FORM No: P01317129

درخواست دہندہ کا نام: محمد شاہد خان

رشتہ: بیٹی

درخواست دہندہ کا شناختی کارڈ نمبر: 1720120836875

پیدائش کا صلیح / تاریخ	مذہب	جنس	والدہ کا نام / شناختی کارڈ نمبر	والد کا نام / شناختی کارڈ نمبر	بچے کا نام
نوشہرہ	اسلام	عورت	آسیہ شاہد	محمد شاہد خان	ماہ نور شاہد
30-1-2006			1720192802672	1720120836875	

APPLICANT's NAME: MUHAMMAD SHAHID KHAN

APPLICANT's CNIC NO: 1720120836875

RELATION: Daughter

CHILD's NAME	FATHER's NAME / NIC NO	MOTHER's NAME / NIC NO	GENDER	RELIGION	DISTRICT AND DATE OF BIRTH
MAH NOOR SHAHID	MUHAMMAD SHAHID KHAN 1720120836875	ASIA SHAHID 1720192802672	FEMALE	ISLAM	NOWSHERA 30-1-2006

GRAND FATHER's NAME: DARYAB KHAN KHATTAK

GRAND FATHER's CNIC NO: 1720120836965

دادا کا نام: دریاب خان خٹک

دادا کا شناختی کارڈ نمبر: 1720120836965

 لیٹ اندراج: نارمل اندراج: 16-3-2012

تاریخ اندراج:

پتہ: محلہ مسجد الکویت، گاؤں بدرشی، ڈاکخانہ نوشہرہ کینٹ، تحصیل: نوشہرہ، ضلع: نوشہرہ

ADDRESS: MOH MASJID ALKUWAIT, VILLAGE: BADRASHI, POST OFFICE: NOWSHERA CANTT, TEHSIL: NOWSHERA, DISTRICT: NOWSHERA

16-3-2012

سیکرٹری یونین کونسل
بدرشی (020) ضلع: نوشہرہ

(Signature)

Muhammad Nawaz Aalam
Deputy Secretary
Government of Pakistan
Ministry of Defence
(Defence Division)

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.
Appeal No. 133/2013

Muhammad Shahid Khan

VS

Govt of KP etc

**APPLICATION FOR IMPLEADMENT
OF LEGAL HIER**

RESPECTFULLY SHEWETH:

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5. That the valuable rights of pensionary benefits involved in the appeal, therefore, it would be just to implead the wife of appellant also on the behalf of her minor daughter :

1. Asia Shahid w/o Muhammad Shahid Khan R/o Moh Regay Near Masjid Alkuwait, Village, Badrashi tehsil & district Nowshera.
2. Mahnoor Shahid D/o Muhammad Shahid Khan.

It is, therefore, humbly prayed that the applicant may be impleaded as appellant being legal heir of appellant in the instant appeal.

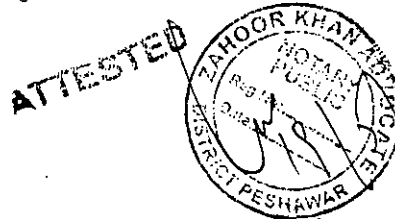

Applicant
Asia Shahid

Through:


(SYED NOMAN ALI BUKHARI)
ADVOCATE, PESHAWAR.

AFFIDAVIT:

It is affirmed on oath that the contents of application are true and correct and nothing has been concealed from the Hon'able Tribunal.




Deponent



Annexure-R
P05240827

حکومت خیبر پختونخوا پاکستان

THE GOVT OF KHYBER PAKHTUNKHWA PAKISTAN

دفتر رجسٹریشن

DEATH CERTIFICATE

CRMS No: D172020-17-0001
NATURE OF DEATH: NORMAL

FORM No: P05240827

درخواست دہندہ کا نام: آسیہ شاہد
درخواست دہندہ کا شناختی کارڈ نمبر: 1720192802672
پتہ: محلہ ریگے نزد مسجد الکوویت، گاؤں بدراشی، تحصیل نوشہرہ، ضلع نوشہرہ

متوفی کا نام	والد کا نام	تاریخ پیدائش	جنس	مذہب	جائے وفات	تاریخ دفن	وجہ موت	مدت علالت
محمد شاہد خان	دریاب خان خانک	2-1-1978	مرد	اسلام	بدراشی	6-8-2013	سبب	7-8-2013
شناختی کارڈ نمبر	شناختی کارڈ نمبر							
1720120836875								

APPLICANT NAME: ASIA SHAHID

APPLICANT CNIC: 1720192802672 RELATION WITH DECEASED: Husband

ADDRESS: MOH REGAY NEAR MASJID ALKUWAIT, VILLAGE: BADRASHI,

TEHSIL: NOWSHERA, DISTRICT: NOWSHERA

DECEASED NAME/ CNIC	FATHER NAME/ CNIC	DATE OF BIRTH	SEX	RELIGION	PLACE/DATE OF DEATH	DATE OF BURIAL	REASON OF DEATH	SICKNESS PERIOD
MUHAMMAD SHAHID KHAN 1720120836875	DARYAB KHAN KHATTAK	2-1-1978	MALE	ISLAM	BADRASHI 6-8-2013	7-8-2013	NATURAL	

BLOOD RELATION PERSON CAUSING DISPOSAL OF BODY

NAME: MEHMOOD HUSSAIN

CNIC: 1720121383373

GRAVEYARD NAME: BADRASHI

ENTRY DATE: 4-1-2017

ISSUE DATE: 4-1-2017

ADDITIONAL INFORMATION:

(Signature)
سیکرٹری یونین کونسل

بدراشی (20) ضلع نوشہرہ

سرکاری رشتہ دار
نام: محمود حسین
شناختی کارڈ نمبر: 1720121383373
قبرستان کا نام: بدراشی
تاریخ اندراج: 4-1-2017
تاریخ اجراء: 4-1-2017
اضافی معلومات:

No. 41
Date 4-1-2017
بدراشی

Secretary
VIC Badrashi 4
Teh & Distt. Nowshera



108787807

R2

CRC No: 11139998

حکومت پاکستان
نیشنل ڈیٹا بیس اینڈ رجسٹریشن اتھارٹی (وزارت داخلہ)
اٹھارہ سال سے کم عمر بچوں کا سرٹیفکیٹ *

17201-9280267-2

درخواست دہندہ کا شناختی کارڈ نمبر:

آسیہ شاہد

درخواست دہندہ کا نام:

نمبر شمار	بچے کا نام اور رجسٹریشن نمبر	والد کا نام اور شناختی کارڈ نمبر	والدہ کا نام اور شناختی کارڈ نمبر	جنس / رشتہ	پیدائش کا ضلع یا ملکہ تاریخ پیدائش	معدوری
1	ماہ نور شاہد 17201-8286427-6	محمد شاہد خان 17201-2083687-5	آسیہ شاہد 17201-9280267-2	لاڑکی	نوشہرہ، نوشہرہ 2006-01-30	کوئی نہیں

- 1- اس فیملی کے مندرجہ بالا اٹھارہ سال سے کم عمر 1 بچے / بچوں کا اندراج ہمارے ریکارڈ میں موجود ہے۔
- 2- درج شدہ بچے کی عمر اٹھارہ سال ہونے ہی شناختی کارڈ کے حصول کیلئے درخواست جمع کروائیں۔
- 3- اس سرٹیفکیٹ کو سنبھال کر رکھیں کیونکہ بچوں کے اٹھارہ سال کی عمر کو پہنچنے پر انہی نمبروں کے حوالے سے شناختی کارڈ جاری کئے جائیں گے۔
- 4- نوزائیدہ بچے کا فوری طور پر اندراج کروائیں اور نیار رجسٹریشن سرٹیفکیٹ حاصل کریں۔
- 5- کوائف کی تبدیلی کی صورت میں نیار رجسٹریشن سرٹیفکیٹ حاصل کریں۔

عثمان یوسف مبین

دستخط رجسٹرار جنرل

2017-04-26

مکان نمبر 73، محلہ شیخ بھائی محبوب سٹریٹ، راولپنڈی کینٹ، تحصیل و ضلع راولپنڈی



1720192802672

* یہ سرٹیفکیٹ درج بالا بچے / بچوں کی شناخت اور مندرجہ بالا کوائف و معلومات ثابت کرنے کیلئے قانوناً برائے دفعہ (6) 9 نادر آرڈی نینس مجریہ سنہ 2000ء بطور ثبوت قابل قبول ہے



حکومت خیبر پختونخوا پاکستان

THE GOVT OF KHYBER PAKHTUNKHWA PAKISTAN

پیدائش سرٹیفکیٹ

BIRTH CERTIFICATE

CRMS No: B172017-12-0074

FORM No: P01317129

درخواست دہندہ کا نام: محمد شاہد خان

رشتہ: بیٹی

درخواست دہندہ کا شناختی کارڈ نمبر: 1720120836875

بچے کا نام	والد کا نام	والدہ کا نام	جنس	مذہب	پیدائش کا ضلع / تاریخ
ماہ نور شاہد	محمد شاہد خان	آسیہ شاہد	عورت	اسلام	نوشہرہ 30-1-2006

APPLICANT's NAME: MUHAMMAD SHAHID KHAN

APPLICANT's CNIC NO: 1720120836875

RELATION: Daughter

CHILD's NAME	FATHER's NAME / NIC NO	MOTHER's NAME / NIC NO	GENDER	RELIGION	DISTRICT AND DATE OF BIRTH
MAH NOOR SHAHID	MUHAMMAD SHAHID KHAN 1720120836875	ASIA SHAHID 1720192802672	FEMALE	ISLAM	NOWSHERA 30-1-2006

GRAND FATHER's NAME: DARYAB KHAN KHATTAK

GRAND FATHER's CNIC NO: 1720120836965

دادا کا نام: دریاب خان خٹک

دادا کا شناختی کارڈ نمبر: 1720120836965

لیٹ اندراج:

نارمل اندراج: 16-3-2012

تاریخ اندراج:

پتہ: محلہ مسجد اکوڑت، گاؤں بدرشی، ڈاکخانہ نوشہرہ کینٹ، تحصیل: نوشہرہ، ضلع: نوشہرہ
ADDRESS: MOH MASJID ALKUWAIT, VILLAGE: BADRASHI, POST OFFICE: NOWSHERA CANTT,
TEHSIL: NOWSHERA, DISTRICT: NOWSHERA

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16-3-2012

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تاریخ اندراج:

02017201

سیکرٹری یونین کونسل
بدرشی (020) ضلع: نوشہرہ

(Handwritten signature)

Muhammad Nawaz Alam
Deputy Secretary
Government of Pakistan
Ministry of Defence
(Defence Division)

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.
Appeal No. 133/2013

Muhammad Shahid Khan

VS

Govt of KP etc

APPLICATION FOR IMPLEADMENT
OF LEGAL HIER

RESPECTFULLY SHEWETH:

1. That the above mentioned appeal is pending before this august Tribunal.
2. That the instant appeal is in argument stage and fixed for today.
3. That the appellant has been died during the pendency of appeal on 7.8.2013. (Copy of the death certificate is attached as Annexure-R).
4. That the appellant left behind his wife and his daughter as legal heirs (copy of the CNIC and birth certificate is attached as Annexure-R1 & R2)
5. That the valuable rights of pensionary benefits involved in the appeal, therefore, it would be just to implead the wife of appellant also on the behalf of her minor daughter :

1. Asia Shahid w/o Muhammad Shahid Khan R/o Moh Regay Near Masjid Alkuwait, Village, Badrashi tchsil & district Nowshera.
2. Mahnoor Shahid D/o Muhammad Shahid Khan.

It is, therefore, humbly prayed that the applicant may be impleaded as appellant being legal heir of appellant in the instant appeal.


Applicant
Asia Shahid

Through:


(SYED NOMAN ALI BUKHARI)
ADVOCATE, PESHAWAR.

AFFIDAVIT:

It is affirmed on oath that the contents of application are true and correct and nothing has been concealed from the Hon'able Tribunal.




Deponent



Annexure-R
P05240827

حکومت پنجاب، حکومت پاکستان

THE GOVT OF KHYBER PAKHTUNKHWA PAKISTAN

دفتر سرٹیفکیٹ

DEATH CERTIFICATE

CRMS No: D172020-17-0001
NATURE OF DEATH: NORMAL

FORM No: P05240827

درخواست دہندہ کا نام: آسیہ شاہد
درخواست دہندہ کا شناختی کارڈ نمبر: 1720192802672
پتہ: محلہ ریگے نزد مسجد الکویت، گاؤں بدراشی، تحصیل نوشہرہ، ضلع نوشہرہ

متوفی کا نام	والد کا نام	تاریخ پیدائش	جنس	مذہب	جائے وفات	تاریخ وفات	تاریخ دفن	وجہ موت	مدت عیالیت
محمد شاہد خان	داریاب خان خانگ	2-1-1978	مرد	اسلام	بدراشی	6-8-2013	7-8-2013	طبعی	

1720120836875

APPLICANT NAME: ASIA SHAHID

APPLICANT CNIC: 1720192802672 RELATION WITH DECEASED: Husband

ADDRESS: MOH REGAY NEAR MASJID ALKUWAIT, VILLAGE: BADRASHI,

TEHSIL: NOWSHERA, DISTRICT: NOWSHERA

DECEASED NAME/ CNIC	FATHER NAME/ CNIC	DATE OF BIRTH	SEX	RELIGION	PLACE/DATE OF DEATH	DATE OF BURIAL	REASON OF DEATH	SICKNESS PERIOD
MUHAMMAD SHAHID KHAN 1720120836875	DARYAB KHAN KHATTAK	2-1-1978	MALE	ISLAM	BADRASHI 6-8-2013	7-8-2013	NATURAL	

BLOOD RELATION PERSON CAUSING DISPOSAL OF BODY

NAME: MEHMOOD HUSSAIN

CNIC: 1720121383373

GRAVEYARD NAME: BADRASHI

ENTRY DATE: 4-1-2017

ISSUE DATE: 4-1-2017

ADDITIONAL INFORMATION:

(Signature)
سیکرٹری یونین کونسل

بدراشی (20) ضلع نوشہرہ

سر قریبی رشتہ دار
نام: محمود حسین
شناختی کارڈ نمبر: 1720121383373
قبرستان کا نام: بدراشی
تاریخ اندراج: 4-1-2017
تاریخ اجراء: 4-1-2017
مقامی معلومات:

No. 41
Date 4-1-2017
بدراشی

Secretary
VIC Badrashi &
Teh & Distt. Nowshera



108787807

R2.

CRP No: 11139998

حکومت پاکستان
نیشنل ڈیٹا بیس اینڈ رجسٹریشن اتھارٹی (وزارت داخلہ)
اٹھارہ سال سے کم عمر بچوں کا سرٹیفکیٹ *

درخواست دہندہ کا شناختی کارڈ نمبر: 17201-9280267-2

آسیہ شاہد

درخواست دہندہ کا نام:

نمبر شمار	بچے کا نام اور رجسٹریشن نمبر	والد کا نام اور شناختی کارڈ نمبر	والدہ کا نام اور شناختی کارڈ نمبر	جنس / رشتہ	پیدائش کا خلیفہ یا ملک تاریخ پیدائش	معدوری
1	مادہ نور شاہد 17201-8286427-6	عمر شاہد خان 17201-2083687-5	آسیہ شاہد 17201-9280267-2	لاڑکی	نوشترہ، نوشترہ 2006-01-30	کوئی نہیں

- 1- اس فیملی کے مندرجہ بالا اٹھارہ سال سے کم عمر 1 بچے / بچوں کا اندراج ہمارے ریکارڈ میں موجود ہے۔
- 2- درج شدہ بچے کی عمر اٹھارہ سال ہوتے ہی شناختی کارڈ کے حصول کیلئے درخواست جمع کروائیں۔
- 3- اس سرٹیفکیٹ کو سنبھال کر رکھیں کیونکہ بچوں کے اٹھارہ سال کی عمر کو پہنچنے پر انہی نمبروں کے حوالے سے شناختی کارڈ جاری کئے جائیں گے۔
- 4- نوذائیدہ بچے کا فوری طور پر اندراج کروائیں اور نیار رجسٹریشن سرٹیفکیٹ حاصل کریں۔
- 5- کوائف کی تبدیلی کی صورت میں نیار رجسٹریشن سرٹیفکیٹ حاصل کریں۔

عثمان یوسف مبین

دستخط رجسٹرار جنرل

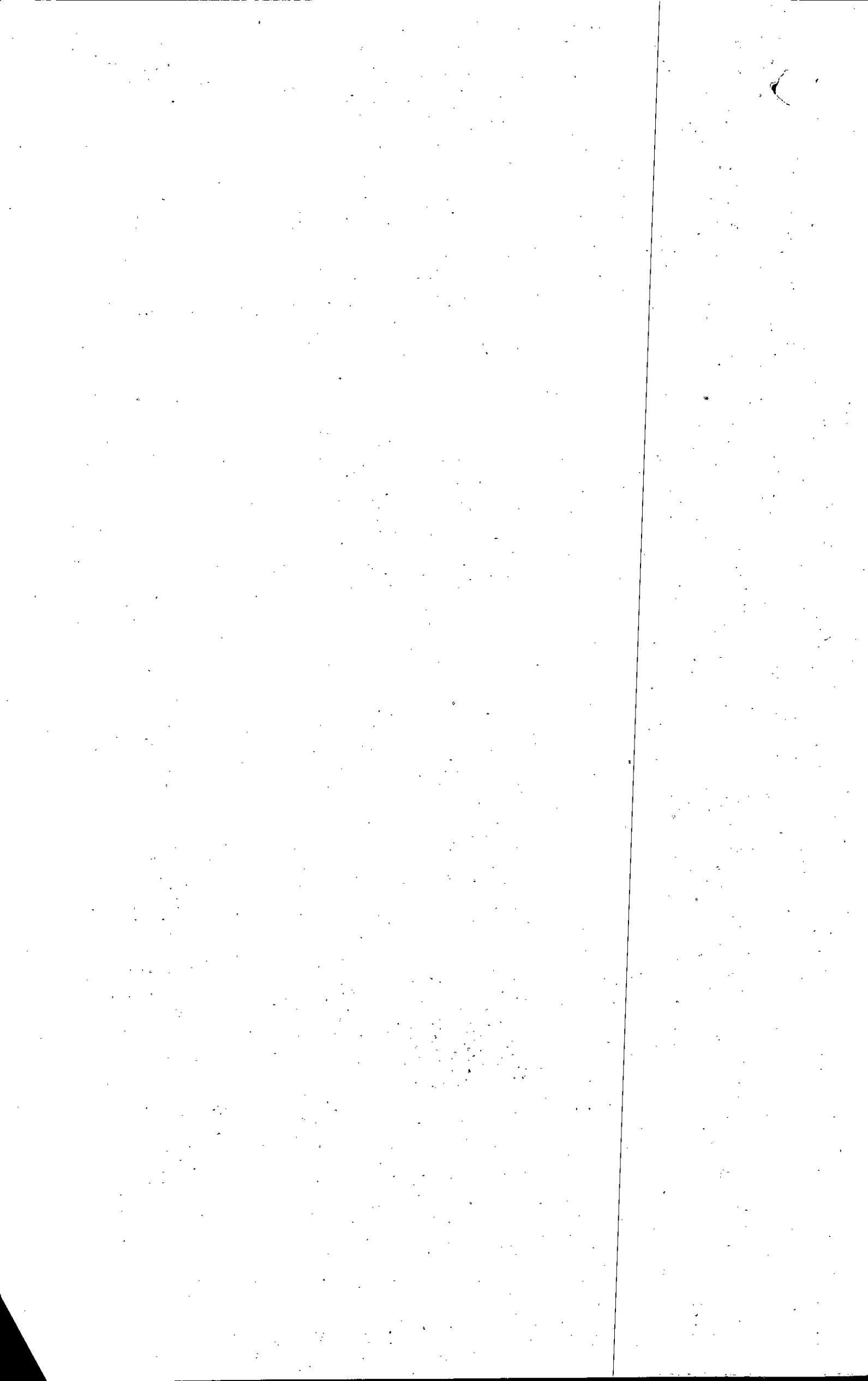
2017-04-26

مکان نمبر 73، محلہ منیج بھاؤ محبوب سڑیت، راولپنڈی کینٹ، تحصیل و ضلع راولپنڈی



1720192802672

* یہ سرٹیفکیٹ درج بالا بچے / بچوں کی شناخت اور مندرجہ بالا کوائف و معلومات ثابت کرنے کیلئے قانوناً روئے دفعہ (6) 9، ناردر آڈیٹس مجریہ سنہ 2000ء بطور ثبوت قابل قبول ہے





حکومت خیبر پختونخوا پاکستان

THE GOVT OF KHYBER PAKHTUNKHWA PAKISTAN

پیدائش سرٹیفکیٹ

BIRTH CERTIFICATE

CRMS No: B172017-12-0074

FORM No: P01317129

درخواست دہندہ کا نام: محمد شاہد خان

رشتہ: بیٹی

درخواست دہندہ کا شناختی کارڈ نمبر: 1720120836875

بچے کا نام	والد کا نام / شناختی کارڈ نمبر	والدہ کا نام / شناختی کارڈ نمبر	جنس	مذہب	پیدائش کا صلیح / تاریخ
ماہ نور شاہد	محمد شاہد خان 1720120836875	آسیہ شاہد 1720192802672	عورت	اسلام	نوشہرہ 30-1-2006

APPLICANT's NAME: MUHAMMAD SHAHID KHAN

APPLICANT's CNIC NO: 1720120836875

RELATION: Daughter

CHILD's NAME	FATHER's NAME / NIC NO	MOTHER's NAME / NIC NO	GENDER	RELIGION	DISTRICT AND DATE OF BIRTH
MAH NOOR SHAHID	MUHAMMAD SHAHID KHAN 1720120836875	ASIA SHAHID 1720192802672	FEMALE	ISLAM	NOWSHERA 30-1-2006

GRAND FATHER's NAME: DARYAB KHAN KHATTAK

GRAND FATHER's CNIC NO: 1720120836965

دادا کا نام: دریاب خان خٹک

دادا کا شناختی کارڈ نمبر: 1720120836965

لیٹ اندراج:

نارمل اندراج: 16-3-2012

تاریخ اندراج:

پتہ: محلہ مسجد الکوہیت، گاؤں بدرشی، ڈاکخانہ نوشہرہ کینٹ، تحصیل: نوشہرہ، صلیح: نوشہرہ

ADDRESS: MOH MASJID ALKUWAIT, VILLAGE: BADRASHI, POST OFFICE: NOWSHERA CANTT, TEHSIL: NOWSHERA, DISTRICT: NOWSHERA

تاریخ: 16-3-2012

سیکرٹری یو این کونسل
بدرشی (020) صلیح: نوشہرہ

Muhammad Nawaz Aalam

Muhammad Nawaz Aalam
Deputy Secretary
Government of Pakistan
Ministry of Defence
(Defence Division)



BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.
Appeal No. 133/2013

Muhammad Shahid Khan

VS

Govt of KP etc

**APPLICATION FOR IMPLEADMENT
OF LEGAL HIER**

RESPECTFULLY SHEWETH:

1. That the above mentioned appeal is pending before this august Tribunal.
2. That the instant appeal is in argument stage and fixed for today.
3. That the appellant has been died during the pendency of appeal on 7.8.2013. (Copy of the death certificate is attached as Annexure-R).
4. That the appellant left behind his wife and his daughter as legal heirs (copy of the CNIC and birth certificate is attached as Annexure-R1 & R2)
5. That the valuable rights of pensionary benefits involved in the appeal, therefore, it would be just to implead the wife of appellant also on the behalf of her minor daughter :

1. Asia Shahid w/o Muhammad Shahid Khan R/o Moh Regay Near Masjid Alkuwait, Village, Badrashi tehsil & district Nowshera.
2. Mahnoor Shahid D/o Muhammad Shahid Khan.

It is, therefore, humbly prayed that the applicant may be impleaded as appellant being legal heir of appellant in the instant appeal.


Applicant
Asia Shahid

Through:



(SYED NOMAN ALI BUKHARI)
ADVOCATE, PESHAWAR.

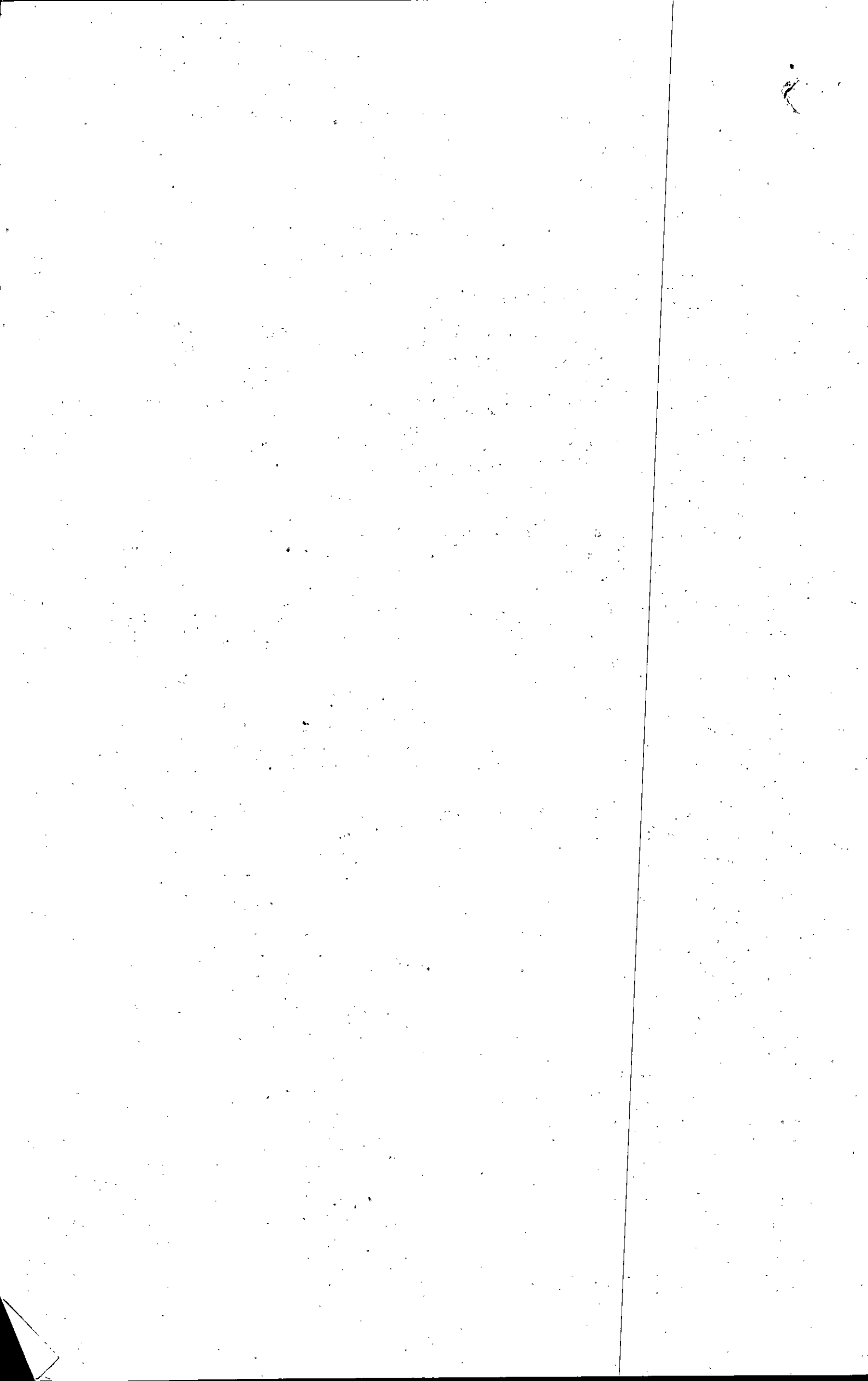
AFFIDAVIT:

It is affirmed on oath that the contents of application are true and correct and nothing has been concealed from the Hon'able Tribunal.

ATTESTED




Deponent





Annexure-R
P05240827

حکومت خیبر پختونخوا پاکستان

THE GOVT OF KHYBER PAKHTUNKHWA PAKISTAN

دفتر رجسٹریشن

DEATH CERTIFICATE

CRMS No: D172020-17-0001
NATURE OF DEATH: NORMAL

FORM No: P05240827

درخواست دہندہ کا نام: آسیہ شاہد

درخواست دہندہ کا شناختی کارڈ نمبر: 1720192802672

پتہ: محمد ریگے نزد مسجد الکویت، گاؤں بدراشی، تحصیل نوشہرہ، ضلع نوشہرہ

متوفی کا نام	والد کا نام	تاریخ پیدائش	جنس	مذہب	جائے وفات	تاریخ دفن	وجہ موت	مدت علالت
محمد شاہد خان	داریاب خان شاہد	2-1-1978	مرد	اسلام	بدراشی	6-8-2013	طبعی	7-8-2013

1720120836875

APPLICANT NAME: ASIA SHAHID

APPLICANT CNIC: 1720192802672 RELATION WITH DECEASED: Husband

ADDRESS: MOH REGAY NEAR MASJID ALKUWAIT, VILLAGE, BADRASHI,

TEHSIL: NOWSHERA, DISTRICT: NOWSHERA

DECEASED NAME/ CNIC	FATHER NAME/ CNIC	DATE OF BIRTH	SEX	RELIGION	PLACE/DATE OF DEATH	DATE OF BURIAL	REASON OF DEATH	SICKNESS PERIOD
MUHAMMAD SHAHID KHAN 1720120836875	DARYAB KHAN KHATTAK	2-1-1978	MALE	ISLAM	BADRASHI 6-8-2013	7-8-2013	NATURAL	

BLOOD RELATION PERSON CAUSING DISPOSAL OF BODY

NAME: MEHMOOD HUSSAIN

CNIC: 1720121383373

GRAVEYARD NAME: BADRASHI

ENTRY DATE: 4-1-2017

ISSUE DATE: 4-1-2017

ADDITIONAL INFORMATION:

(Signature)

سیکرٹری یونین کونسل

بدراشی (20) ضلع نوشہرہ

سر قریبی رشتہ دار

نام: محمود حسین

1720121383373

شناختی کارڈ نمبر

قبرستان کا نام: بدراشی

4-1-2017

تاریخ اندراج

4-1-2017

تاریخ اجراء

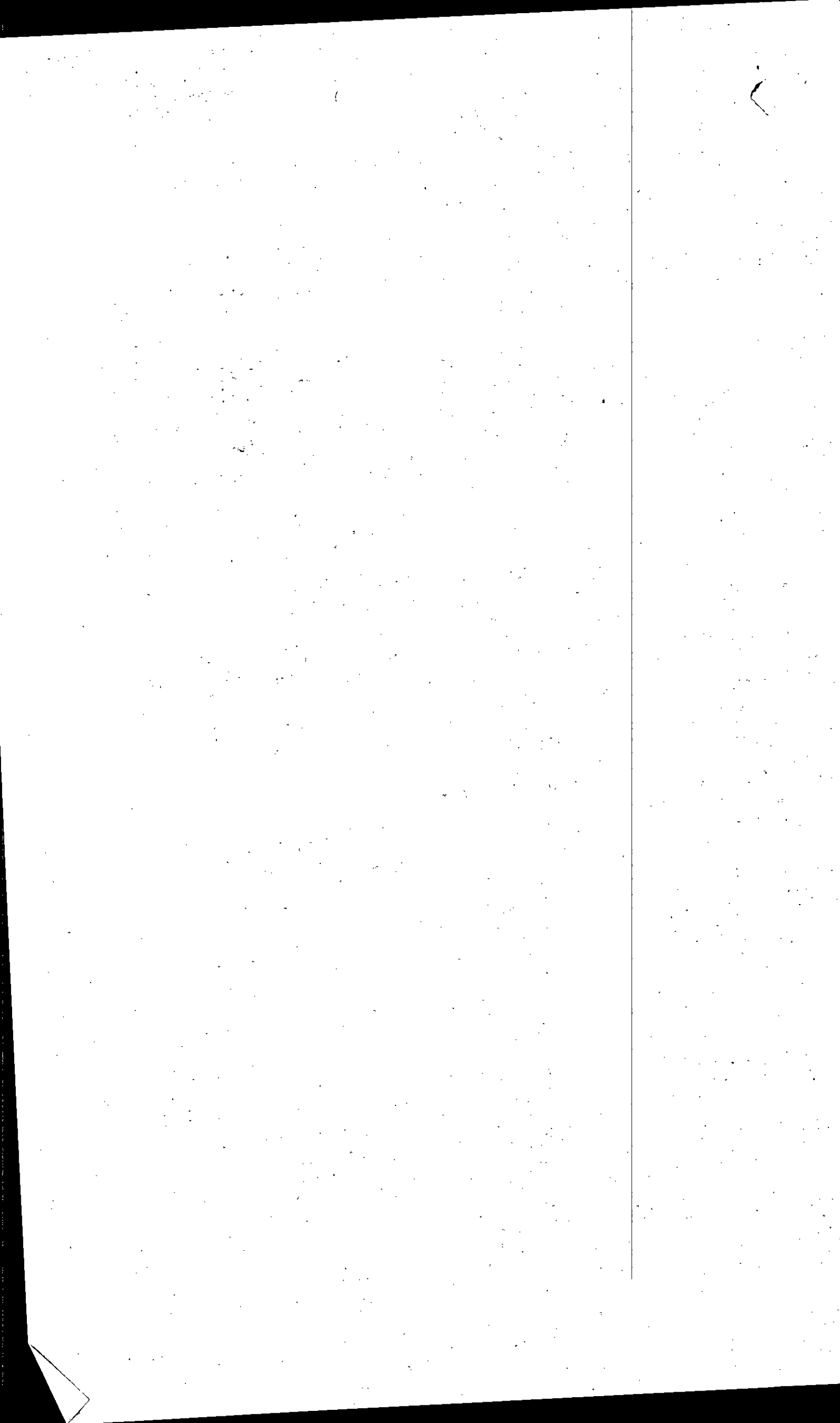
مناسی معاملات

No. 4/1

Date 4-1-2017

بدراشی 4

Secretary
VIC Badrashi 4
Teh & Distt. Nowshera





R2.

CRU No: 11139998

حکومت پاکستان
نیشنل ڈیٹا بیس اینڈ رجسٹریشن اتھارٹی (وزارت داخلہ)
اٹھارہ سال سے کم عمر بچوں کا سرٹیفکیٹ *

درخواست دہندہ کا نام: آسیہ شاہد
درخواست دہندہ کا شناختی کارڈ نمبر: 17201-9280267-2

نمبر شمار	بچے کا نام اور رجسٹریشن نمبر	والد کا نام اور شناختی کارڈ نمبر	والدہ کا نام اور شناختی کارڈ نمبر	جنس / رشتہ	پیدائش کا ضلع یا ضلع تعلقہ	معدوری
1	ماہ نور شاہد 17201-8286427-6	محمد شاہد خان 17201-2083687-5	آسیہ شاہد 17201-9280267-2	لڑکی بیٹی	نوشہرہ نوشہرہ 2006-01-30	کوئی نہیں

- 1- اس فیملی کے مندرجہ بالا اٹھارہ سال سے کم عمر 1 بچے / بچوں کا اندراج ہمارے ریکارڈ میں موجود ہے۔
- 2- درج شدہ بچے کی عمر اٹھارہ سال ہوتے ہی شناختی کارڈ کے حصول کیلئے درخواست جمع کروائیں۔
- 3- اس سرٹیفکیٹ کو سنبھال کر رکھیں کیونکہ بچوں کے اٹھارہ سال کی عمر کو پہنچنے پر انہی نمبروں کے حوالے سے شناختی کارڈ جاری کئے جائیں گے۔
- 4- نوڈائیڈ بچے کا فوری طور پر اندراج کروائیں اور نیار رجسٹریشن سرٹیفکیٹ حاصل کریں۔
- 5- کوائف کی تبدیلی کی صورت میں نیار رجسٹریشن سرٹیفکیٹ حاصل کریں۔

عثمان یوسف مبین

دستخط رجسٹرار جنرل

2017-04-26

مکان نمبر 73، محلہ ٹینچ بھاد محبوب سڑیٹ، راولپنڈی کینٹ، تحصیل و ضلع راولپنڈی



1720192802672

یہ سرٹیفکیٹ درج بالا بچے / بچوں کی شناخت اور مندرجہ بالا کوائف و معلومات ثابت کرنے کیلئے قانوناً روکے دفعہ (6) 9 نادرا آرڈی نینس مجریہ سنہ 2000ء بطور ثبوت قابل قبول ہے۔



حکومت خیبر پختونخوا پاکستان

THE GOVT OF KHYBER PAKHTUNKHWA PAKISTAN

پیدائش سرٹیفکیٹ

BIRTH CERTIFICATE

CRMS No: B172017-12-0074

FORM No: P01317129

درخواست دہندہ کا نام: محمد شاہد خان

رشتہ: بیٹی

1720120836875 درخواست دہندہ کا شناختی کارڈ نمبر:

بچے کا نام	والد کا نام / شناختی کارڈ نمبر	والدہ کا نام / شناختی کارڈ نمبر	جنس	مذہب	پیدائش کا صلیح / تاریخ
ماہ نور شاہد	محمد شاہد خان 1720120836875	آسیہ شاہد 1720192802672	عورت	اسلام	نوشہرہ 30-1-2006

APPLICANT's NAME: MUHAMMAD SHAHID KHAN

APPLICANT's CNIC NO: 1720120836875

RELATION: Daughter

CHILD's NAME	FATHER's NAME / NIC NO	MOTHER's NAME / NIC NO	GENDER	RELIGION	DISTRICT AND DATE OF BIRTH
MAH NOOR SHAHID	MUHAMMAD SHAHID KHAN 1720120836875	ASIA SHAHID 1720192802672	FEMALE	ISLAM	NOWSHERA 30-1-2006

GRAND FATHER's NAME: DARYAB KHAN KHATTAK

GRAND FATHER's CNIC NO: 1720120836965

دادا کا نام: دریاب خان خٹک

1720120836965 دادا کا شناختی کارڈ نمبر:

لیٹ اندراج:

نارمل اندراج: 16-3-2012

تاریخ اندراج:

پتہ: محلہ مسجد الکویت، گاؤں بدرشی، ڈاکخانہ نوشہرہ کینٹ، تحصیل: نوشہرہ، صلیح: نوشہرہ

ADDRESS: MOH MASJID ALKUWAIT, VILLAGE: BADRASHI, POST OFFICE: NOWSHERA CANTT, TEHSIL: NOWSHERA, DISTRICT: NOWSHERA

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16-3-2012

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تاریخ پیدائش:

02727401

سیکرٹری یونین کونسل
بدرشی (020) صلیح: نوشہرہ

(Handwritten Signature)

Muhammad Nawaz Aalam
Deputy Secretary
Government of Pakistan
Ministry of Defence
(Defence Division)



75066

ایڈوکیٹ/دستخط: _____
بار کونسل ابار ایسوسی ایشن نمبر: _____
رابطہ نمبر: _____

پشاور بار ایسوسی ایشن، خیبر پختونخوا

بعدالت جناب: K.P.K Service Tribunal Peshawar

منجانب: Mr. Shahid Khan	دعویٰ: اپیل
	علت نمبر: 133/2013
	مورثہ: _____
	جرم: _____
	تھانہ: _____
بنام	
Education Deptt	

بابت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی کارروائی متعلقہ

آن مقام پشاور کیلئے مسٹر نصیر احمد علی (مبارک) کو وکیل 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 تقرر ثالث و فیصلہ برصفت دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندرجہ

المرقوم:

مقام _____

کے لئے منظور ہے۔

Accepted & Attested
Syed Noman Ali Bukhari
Advocate
Attested

نوٹ: اس وکالت نامہ کی کوئی کاپی قابل قبول نہیں۔

17201-9280267-2
آسیب شاہد
سیّد شہد شاہد



19037

File B the ...

09.03.2011 as in the meanwhile the vacancy of the ap
was filled in. During this period of time, the appellant tra
the offices of the concerned quarters for necessary adjust
but no adjustment order was issued.

6. That finally a letter dated 03.02.2012 was recd by the
appellant from the Enquiry Committee directing
report to the same upon which appeared and ex
position before the Enquiry Committee vide his
10.02.2012.
7. That thereafter, a letter dated 17.05.2012 was issu
appellant directing him to report for duty within 15 days
Directorate (E&SE) and explain the reasons of the absence
Accordingly appellant reported the Directorate on 30.05.2012
vide Diary No.1690 and explained his position. In spite of the
compliance with the direction, a Notice of Attendance wa
published in the Press, which was received by the appellant on
11.09.2012 and in pursuance of the which the appellant
appeared and even submitted application on 13.09.2012 to the
competent authority requesting for adjustment but no positive
result ensued.
8. That finally the impugned order dated 10.10.2012 was issued,
which was communicated to the appellant on 01.11.2012
through Principal, GHSS Ziarat Kaka Sahib, Nowshehra,
whereby appellant was imposed upon the major penalty of
removal from service.
9. That being aggrieved of the Impugned order, appellant now
prefers this departmental appeal before your good-self inter-alia
on the following grounds:-

Grounds:

- A. That the impugned order is illegal, against the facts and
therefore, not maintainable under the law.
- B. That appellant has sufficient leave in his account as is
reflectable from the Certificate of the District Accounts
Officer, Nowshehra, therefore, he was entitled to the leave
applied for.
- C. That once the application was processed, then it was the
responsibility of the concerned quarter to finalize the matter
as soon as possible and to inform the appellant accordingly
but the matter was inordinately delayed and strange enough

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Appeal No: 133 /2013

Shahid Khan

V/S

Education Department

.....

APPLICATION FOR DELETING THE NAME OF
FATHER (DARYAB KHAN) AND MOTHER OF
(MST. Nargis) OF DECEASED APPELLANT
FROM THE PENAL OF THE IMPLEADED LEGAL
HEIRS BEING NOT NECESSARY PARTY IN THE
ABOVE MENTIONED APPEAL.

.....

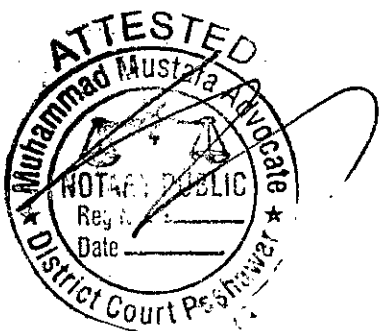
RESPECTFULLY SHEWETH:

1. That the legal heirs of the deceased the appellant filed application in the above mentioned appeal for impleadment which is accepted and the legal heirs mentioned in the application has been impleaded as legal heir.
2. That the father and mother been not necessary for the above mentioned appeal therefore, need to be deleted from the penal of the impleaded legal heir.

It is therefore most humbly requested that on acceptance of this application the name of Daryab Khan and Mst. Nargis may be deleted from the penal of legal heir.

Dated 03/06/2022

Applicant



Through:


(SYED NOMAN ALI BUKHARI)
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.


DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Appeal No: 133 /2013

Shahid Khan

V/S

Education Department.

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APPLICATION FOR DELETING THE NAME OF
FATHER (DARYAB KHAN) AND MOTHER OF
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.....

RESPECTFULLY SHEWETH:

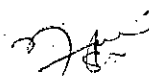
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Dated 03/06/2022

Applicant

Through:


(SYED NOMAN ALI BUKHARI)
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.


DEPONENT

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

Present:

Mr. Justice Manzoor Ahmad Malik
Mr. Justice Syed Mansoor Ali Shah
Mr. Justice Amin-ud-Din Khan

C.P.2717-L of 2015

(Against the order of Federal Service Tribunal
dated 14.09.2015, passed in MP No. 23/2015
in Appeal No. 99(L)CE/2004)

Regional Operation Chief, National Bank of Pakistan, Human
Resource Department, Regional Office, Sargodha, etc.

.....Petitioner(s)

Versus

Mst. Nusrat Perveen, etc.

.....Respondent(s)

For the petitioner(s): Mr. M. Qamar-uz-Zaman, ASC.

For the respondent(s): N.R.

Research Assistance: Mr. Hasan Riaz, Civil Judge cum
Research Officer at SCRC.¹

Date of hearing: 23.12.2020

ORDER

Syed Mansoor Ali Shah, J.- We consider in this petition whether the appeal filed by a civil servant in the Federal Service Tribunal ("Tribunal") would abate on his death or his legal heirs could pursue the same.

2. Brief facts of the case are that decedent predecessor of the respondents, Rana Ejaz Ahmad, while working as Officer Grade-III was departmentally proceeded against by the petitioners and was awarded major penalty of reduction to a lower stage of pay by three steps. The decedent challenged the imposition of penalty but died during the pendency of his appeal before the Tribunal. Rejecting the objection of the petitioners that the claim of the decedent did not survive after his death, the Tribunal allowed legal heirs of the decedent to be impleaded as party in the appeal

¹ Supreme Court Research Centre, SCP, Islamabad.

pending before it. The petitioners have sought leave of this Court under Article 212(3) of the Constitution to appeal against the order of the Tribunal.

3. It has been contended by the learned counsel for the petitioners that an employment grievance does not survive the civil servant's death. No remedy, he argues, has been provided to the legal heirs of a civil servant under the Service Tribunals Act, 1973 ("Act") and, therefore, the respondents could not be permitted to pursue the claim initiated by the decedent. The learned counsel has resorted to two judgments of this Court i.e. *Muhammad Nawaz v Ministry of Finance* (1991 SCMR 1192) and *Muhammad Ashfaq v Member (Revenue) Board of Revenue* (PLD 2008 SC 703) to support his argument. Additionally, he submits that in view of the judgment delivered in *Muhammad Tariq Badr v National Bank of Pakistan* (2013 SCMR 314), the Tribunal had limited jurisdiction as regards the terms and conditions of the employees of the petitioner bank which extinguished with the demise of the decedent.

4. We have heard the learned counsel for the petitioners at length and perused the judgments relied upon by him minutely. The matter in issue relates to the survival of the right to sue following the death of a civil servant. The appeal of the decedent on a matter relating to some terms and conditions of service at the time of his death was undoubtedly pending before the Tribunal in accordance with the decision² of this Court. The only question begging determination is the survivability of the claim of the decedent. It is seen that the Act or the rules³ framed thereunder do not contain any reference to the question of devolution of the right to sue in case a civil servant dies during the pendency of service appeal nor do they provide for abatement of appellate proceedings initiated by an aggrieved civil servant on his death. Adverting to the case law developed on this subject, it is apparently correct that the appeals filed by civil servants were held by this Court to have abated with their death in the cases of *Muhammad Nawaz* and *Muhammad Ashfaq*. However, these two judgments were distinguished subsequently by a three Member

² *Muhammad Tariq Badr v National Bank of Pakistan* 2013 SCMR 314.

³ The Service Tribunals (Procedure) Rules 1974.

Bench of this Court in *Chief Secretary Punjab v Ch. Iftikhar Ahmad*⁴. It was held therein that peculiar benefits to which the legal heirs would become entitled would not allow the lis to abate on the death of a civil servant. The writ petition of the husband of the deceased ad hoc civil servant was entertained and the right of late civil servant regarding the benefits of terms and conditions of service was considered to have devolved on her husband.

5. It is significant to observe that service disputes are not always attached merely with the person of a civil servant as an individual but more often than not with some benefits which could potentially be enjoyed by the successors of the civil servant in accordance with law which are contingent on the adjudication of the controversy. This consideration attracted the attention of this Court in *Federation of Pakistan v Syed Afzal Muhammad Farooq*⁵ where the civil servant whose grievance related to the issue of promotion had passed away during the pendency of appeal. It was observed that his legal heirs had no cause of action to the extent of promotion yet in the event of success of his claim, they would be entitled to enhanced pensionary benefits. The Court did not consider it appropriate to dilate upon the merits of the case in the absence of legal heirs. The Federation of Pakistan was directed to re-consider the case and if late civil servant was found to be entitled to promotion, enhanced pensionary benefits be extended to his legal heirs. Relying on the case of *Syed Afzal Muhammad Farooq*, this Court in the case of *Mehar Muhammad Nawaz v Managing Director, Small Business Finance Corporation*⁶ did not entertain the objection that the right to sue did not survive following the death of a civil servant. Legal representatives of the deceased civil servant were held entitled to the pensionary benefits admissible under the law.

6. In the case in hand also, the decedent in addition to assailing penalty imposed on him was seeking payment of wages which would have been due had he not been punished in departmental proceedings. And, if the departmental decision is

⁴ 2013 SCMR 392.

⁵ 2005 PLC (CS) 1424.

⁶ 2009 SCMR 187.

overturned in appeal, the heirs of the decedent would at least inherit back benefits which their predecessor would have got, had he succeeded in appeal in his lifetime. It is noteworthy that the heirs' entitlement to service benefits may sometimes transcend usual gains like pension, gratuity etc. For instance, in the province of Punjab, the family of a civil servant who dies in service is entitled to salary which the deceased civil servant was drawing, along with annual increases, till the date of superannuation of the deceased civil servant after which family pension is allowed as per rules.⁷ Imagining a hypothetical situation in this backdrop, if the claim of wrongful dismissal from service of a civil servant in Punjab is allowed to abate without adjudication on his death, legitimate expectancy of his family about substantial monetary benefits would be prejudiced without any adjudication.

7. Although the Court in this case is seized of a matter particularly governed by service law, the issue pertains to the larger question of the survival of a claim emanating from an employment dispute. This Court in *Itrat Zahida v President ABL*⁸ has held that the writ petition of an employee who has assailed the decision of Labour Appellate Tribunal does not abate on his death and his legal heirs have a right to continue the proceedings for a decision on merit. Employment claims have been held to have survived the death of the employee in different foreign jurisdictions. It has been held that the cause of action in a claim for overtime pay survives the death of the employees when statutory law does not specifically refer to the question of survival of actions⁹; a county employee's claim for back pay survives his death¹⁰; a claim for pecuniary compensation for discrimination brought before the employment tribunal could survive the death of the employee and it is immaterial that the discrimination Acts do not expressly confer rights on a personal representative to pursue a deceased's claim for compensation for discrimination, rather, the critical question is whether the discrimination Acts contain

⁷ Notification No. FD-SR-I/3-10/2004, Dated 15th August 2017, Finance Department, Government of the Punjab, Serial No. 2.

⁸ 2006 SCMR 1287.

⁹ *Acebal v United States* 60 Fed. Cl. 551.

¹⁰ *Rendek v Sheriff of Bristol County* 440 Mass. 1017.

anything which takes away such rights¹¹; a labour complaint will not extinguish as the causes of action i.e. violations of law survive the plaintiff's death¹²; a claim that an employee was wrongfully dismissed in violation of law survives the employee's death¹³; "[t]he death of the workman during pendency of the proceedings cannot deprive the heirs or the legal representatives of their right to continue the proceedings and claim the benefits as successors to the deceased workman. . . ."¹⁴; and the right to get the benefits, which would have been due to the deceased civil servant, would devolve on his legal representative.¹⁵

8. The question whether after the death of the plaintiff or the petitioner proceedings would abate would primarily depend on the nature of cause of action¹⁶ and the relief claimed in the peculiar facts of each case¹⁷. Service benefits may be enjoyed by the successors of the deceased civil servant. Some of those are inheritable which form part of the estate of the deceased while others are grants to be distributed among his family members according to law.¹⁸ The respondents in the instant petition would receive some benefits in case they are able to vindicate their stand before the Tribunal. Such a claim does not extinguish with the death of civil servant. Letting the claim lapse on the basis of an ultra textualist interpretation of the Act would be denying the heirs the right to seek adjudication on merits. The Tribunal is deemed to be a civil court for the purpose of deciding an appeal and has the same powers as are vested in such court under the Code of Civil Procedure, 1908 ("CPC").¹⁹ Rule 33 of Order XLI of CPC empowers a Court of Appeal to pass any decree and make any order which ought to have been passed or made and this power may be

¹¹ *Harris (suing as personal representative of Andrews (deceased) v Lewisham & Guy's Mental Health NHS Trust* [2000] 3 All ER 769.

¹² *McFeeley v Jackson Street Entm't, LLC* 2014 U.S. Dist. LEXIS 114767, 2014 WL 4182231.

¹³ *Gasior v Mass. Gen. Hosp.* 446 Mass. 645.

¹⁴ *Rameshwar Manjhi v Management of Sangramgarh Colliery* AIR 1994 SC 1176.

¹⁵ *Sudha Shrivastava v Comptroller and Auditor General of India* AIR 1996 SC 571.

¹⁶ *Itrat* (n 8).

¹⁷ *Rameshwar* (n 14).

¹⁸ *The Government of Pakistan v General Public* PLD 1991 SC 731; *Zaheer Abbas v Pir Asif* 2011 CLC 1528; *Dawa Khan v The Government of Pakistan* 2015 PLC (CS) 1255; *Amtul Habib v Musarrat Parveen* PLD 1974 SC 185.

¹⁹ The Service Tribunals Act 1973, s 5(2).

exercised in favour of all or any of the respondents or parties, although such respondents or parties may not have filed any appeal. In addition, Rule 1 of Order XXII CPC provides that the death of a plaintiff or defendant shall not cause the suit to abate if the right to sue survives. And, by virtue of Rule 11, provisions of Rule 1 of Order XXII CPC have been made applicable to appeals.

9. The object of establishing Service Tribunals was to take out the adjudication of disputes relating to the terms and conditions of service of civil servants from the hands of tradition bound civil courts and place it before specialized tribunals exclusively dealing with the issue without being hamstrung by intricate procedural rules of pleadings, trial, admissibility of the evidence and proof of facts.²⁰ In addition to reducing the burden of regular civil courts, a very important purpose was to provide to the civil servants expeditious adjudication in respect of their grievances.²¹ Notwithstanding that CPC is not as a whole strictly applicable to the proceedings before the Tribunal, the Tribunal is bound to follow the basic norms of justice.²² It has been observed by this Court that the provisions of CPC may not *stricto sensu* apply in proceedings under a special law yet its equitable principles will always be applicable in order to do complete justice between the parties and meet the ends of justice.²³

10. Not all legal rights terminate on death.²⁴ A claim by a civil servant for his promotion or better terms and conditions or for reinstatement in service, is survivable claim and passes on in the shape of pecuniary and pensionary benefits to his legal heirs. Such a claim may arise under the service laws but also enjoys constitutional underpinning. "The right to employment and to earn a living free from undue molestation is a property right affecting

²⁰ *Vatchirikuru Village Panchayat v Deekshi Thulu Nori Venkatarama* 1991 (2) SCR 531; *Government of Bangladesh v Sontosh Kumar Shaha* 13 ADC (2016) 853.

²¹ *A.K. Behra v Union of India* (2011) 1 SCC (LS) 101; *Asadullah Khan Tareen v Government of Balochistan* 2016 PLC (CS) 195.

²² *Ali Khan Subanpoto v Federation of Pakistan* 1997 SCMR 1590.

²³ *Sheikh Saleem v Shamim Atta Ullah Khan* 2104 SCMR 1694 (The case arose out of a rent matter).

²⁴ Fred O. Smith, Jr., 'The Constitution After Death' (2020) 120 Colum. L. Rev. 1471, 1531; Kirsten Rabe Smolensky, 'Rights of the Dead' (2009) 37 Hofstra L. Rev. 763, 764.

the estate of plaintiff. Such right does not abate upon his death."²⁵ Abatement of appeal on the death of the decedent would impinge upon the property rights of the respondents. Also, shutting eyes to their potential property rights would hurt their right to dignity. "Human dignity is harmed when individuals and groups are marginalized, ignored, or devalued. . . "²⁶

11. Under our constitutional scheme, abatement of proceedings on the death of a civil servant, in a case, where the cause of action carries a survivable interest will unduly deprive the decedent civil servant, as well as, his legal heirs of their constitutional rights to livelihood, property, dignity and fair trial. Fundamental right to life including right to livelihood ensures the security of the terms and conditions of service;²⁷ fundamental right to property ensures security of the pecuniary and pensionary benefits attached to the service;²⁸ fundamental right to dignity ensures that the reputation of the civil servant is not sullied or discredited through wrongful dismissal, termination or reversion etc;²⁹ and fundamental right to fair trial and due process, *inter alia*, safeguards and protects the survivable interest and ensures continuity of the legal proceedings even after the death of the civil servant, equipping the legal heirs to pursue the claim³⁰. Fundamental rights under the Constitution do not only protect and safeguard a citizen but extend beyond his life and protect and safeguard his survivable interests by being equally available to his legal heirs. It is reiterated that other than pecuniary and pensionary benefits that inure to the benefit of the legal heirs, the right to restore one's reputation is also a survivable right and flows down to the legal heirs to pursue and take to its logical conclusion. Any slur on the reputation of a civil servant impinges on his human dignity and weighs equally on the dignity and honour of his family.

12. For the foregoing reasons, we take no exception to the impugned order and are of the view that it does not warrant any

²⁵ *Bilanow v United States* 159 Ct. Cl. 93.

²⁶ *Law v Canada (Minister of Employment and Immigration)* [1999] 1 SCR 497.

²⁷ The Constitution of the Islamic Republic of Pakistan 1973, art 9.

²⁸ *ibid* arts 23 and 24.

²⁹ *ibid* art 14.

³⁰ *ibid* art 10 read with art 4.

interference. Leave is, therefore, declined and this petition is dismissed.

Lahore,
23rd December, 2020.
Approved for reporting
Iqbal

Judge

Judge

Judge