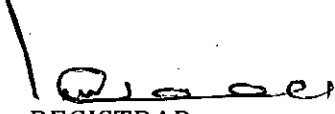



## Form- A

## FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 1086/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	25/10/2016	<p>The appeal of Muhammad Yahya Shah resubmitted today by Mr. Javaid Akhtar Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	25/10/2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>01-11-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>

01.11.2016

Earned counsel for the appellant argued that the appellant was serving as PST when dismissed from service on the allegations of willful absence vide impugned order 01.2.2016 communicated to the appellant lateron where-against he preferred departmental appeal on 08.6.2016 which was not received by the respondents constraining the appellant to re-submit the same by post on 23.6.2016. That the departmental appeal was not responded and hence the instant service appeal on 12.10.2016.

That the appellant was performing his duties and has never absented himself. That no show cause notice etc. were ever issued to the appellant. That no enquiry in the mode and manners was ever conducted. That a very harsh punishment as imposed as the appellant was at the verge of retirement.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 05.01.2017 before S.B at camp court, Swat as the same pertains to territorial limits of Malakand Division.

Appellant Deposited  
Security & Process Fee

Chairman

05.01.2017


Counsel for the appellant and Mr. Muhammad Zada, ADO alongwith Mian Amir Qadar, GP for the respondents present. Requested for adjournment. To come up for written reply/comments on 09.03.2017 before S.B at camp court, Swat.

Chairman  
Camp court Swat.

1086/2016


09.03.2017

Appellant in person and Mr. Muhammad Zada, ADO alongwith Mian Amir Qadar, GP for the respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 04.05.2017 before S.B at camp court, Swat.

  
Chairman  
Camp Court, Swat


04.05.2017

Appellant in person present. Mian Amir Qadar, Deputy Attorney for the respondents also present. Witten reply by respondents not submitted despite last opportunity. Requested for further adjournment. Last opportunity is further extended subject to payment of costs of Rs. 1000/- which shall be paid by the respondents form their own pockets. To come up for written reply/comments and costs of Rs. 1000/- on 06.07.2017 before S.B at Camp Court Swat.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER  
Camp Court Swat

06.07.2017

Counsel for the appellant and Mian Amir Qadar, Deputy District Attorney alongwith Muhammad Zada, ADO for the respondents present. Written reply submitted. Cost of Rs. 1000/- paid to counsel for the appellant and receipt whereof obtained. The appeal is assigned to D.B for rejoinder, if any, and arguments for 07.11.2017 at camp court, Swat.

  
Chairman  
Camp court, Swat

07.11.2017

Appellant in person and Mr. Kabeerullah Khattak, Addl. AG alongwith Muhammad Zada, ADO for the respondents present. Counsel for the appellant is not in attendance. Seeks adjournment. To come up for rejoinder, if any, and arguments on 29.01.2018 before D.B at camp court, Swat.

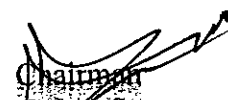
  
Member

  
Chairman  
Camp Court, Swat

29.01.2018

Clerk of the counsel for appellant present and Addl. AG alongwith Mr. Muhabat Shah, DEO for the respondents present. Clerk of the counsel for appellant seeks adjournment as his senior counsel is not attendance today. Granted. To come up for rejoinder, if any, and arguments on 02.04.2018 before D.B at Camp Court, Swat.


  
Member

  
Chairman  
Camp Court, Swat

02.04.2018

Appellant in person and Mr. Usman Ghani, District Attorney for the respondents present. Due to strike of bar, counsel for the appellant is not in attendance. Adjourned. To come up for rejoinder and arguments on 04.06.2018 before D.B at camp court, Swat.

  
Member

  
Chairman  
Camp court, Swat.

04.06.2018

Appellant Muhammad Yahya Shah alongwith Syed Adul Karim Advocate present. Mr. Usman Ghani, District Attorney for the respondents present. Learned counsel for the appellant made a request for short adjournment as he has not prepared rejoinder. Granted. To come up for rejoinder and arguments on 06.06.2018 before the D.B at camp court, Swat.

  
Member

  
Chairman  
Camp Court, Swat

06.06.2018

Appellant Muhammad Yahya Shah in person present. Mr. Sher Daraz Khan, ADO (Litigation) alongwith Mr. Usman Ghani, District Attorney for the respondents present. Rejoinder submitted by the appellant and requested for adjournment as his counsel is busy in the Hon'ble High Court. Granted. To come up for arguments on 07.08.2018 before the D.B at Camp Court Swat.

  
Member

  
Chairman  
Camp Court, Swat

07.08.2018

Appellant in person present. Mr. Sardaraz, ADEO for respondents present. Due to summer vacation the case is adjourned to 02.10.2018 for the same at camp court Swat.



Reader

02.10.2018

Appellant Muhammad Yahya Shah in person present. Mr. Muhammad Zada, ADO alongwith Mr. Usman Ghani, District Attorney for the respondents present. Counsel for the appellant is not in attendance and appellant made a request for adjournment. Granted. To come up for arguments on 04.12.2018 before the D.B at camp court, Swat.



Member



Chairman  
Camp Court Swat

04.12.2018

Appellant in person and Mr. Usman Ghani learned District Attorney alongwith Mr. Sardaraz Khan ADO for the respondents present. Appellant seeks adjournment on the ground that his counsel is not attendance. Adjourn. To come up for arguments on 06.02.2019 before D.B at Camp Court Swat.




Member




Member  
Camp Court, Swat

06.02.2019

Clerk to counsel for the appellant and Mian Amir Qadar learned Deputy District Attorney alongwith Sardaraz AD present. Due to general strike of the bar, the case is adjourned. To come up for arguments on 07.02.2019 before D.B at camp Court Swat.


 Member

  
Member  
Camp Court Swat.

07.02.2019

Appellant absent. Learned counsel for the appellant absent. Mr. Mian Amir Qadar learned District Attorney alongwith Mr. Sardaraz khan ADO (litigation) for the respondents presents. Adjourn. To come up for arguments on 07.03.2019 before D.B at Camp Court Swat.

  
Member

  
Member  
Camp Court Swat.

07.03.2019

Counsel for the appellant and Mian Amir Qadir, District Attorney alongwith Sardaraz Khan, ADO for the respondents present.

Learned counsel for the appellant states that due to some domestic/family engagement he could not prepare the brief, therefore, requests for adjournment.

Adjourned to 07.05.2019 before the D.B at camp court, Swat.

Member

Chairman  
Camp Court, Swat

07.05.2019

Appellant in person and Mr. Mian Amir Qadir learned District Attorney alongwith Sardaraz ADO present. Appellant seeks adjournment as his counsel is not in attendance. Adjourn. To come up for arguments on 01.07.2019 before D.B at Camp Court, Swat.

Member

Member  
Camp Court, Swat.

01.07.2019

Appellant in person present. Mian Amir Qadir, DDA alongwith Mr. Sardarza Khan, ADO for respondent present. Appellant seeks adjournment as his counsel is not available today. Adjourn. Case to come up for arguments on 03.09.2019 before D.B at camp court Swat.

Member

Member  
Camp Court Swat



بعدالت جناب سروس ٹریبونل کیمپ کورٹ بمقام گلکدہ سیدو شریف سوات


سید محمد یحییٰ شاہ  
بنام  
حکومت

درخواست بمرا تہدیلی تاریخ پیشی

جناب عالی! حسب ذیل عرض ہے۔

- ۱۔ یہ کہ مقدمہ عنوان بالا عدالت حضور میں زیر سماعت ہے۔ جس میں آج مورخہ 02/03/2020 تاریخ پیشی مقرر ہے۔
- ۲۔ یہ کہ سائل کا وکیل سید عبدالکریم ایڈووکیٹ بیمار ہے۔ بدیں وجہ عدالت حضور میں پیش ہونے سے قاصر ہے۔

لہذا استدعا ہے کہ بمنظوری درخواست ہذا سائیل کو تہدیلی تاریخ  
پیشی کا حکم صادر فرمایا جائے۔ المرقوم: 02/03/2020

  
عریضہ  
سید محمد یحییٰ شاہ (سائل)

03.09.2019


Counsel for the appellant present. Mian Amir Qadir, DDA alongwith Mr. Sardaraz Khan, ADO for respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 08.10.2019 before D.B at camp court Swat.


  
Member

  
Member

08.10.2019

Appellant in person and Mian Amir Qadir, Deputy District Attorney for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned to 02.12.2019 for arguments before D.B at Camp Court Swat.

  
(Hussain Shah)  
Member  
Camp Court Swat

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court Swat

02.12.2019


Appellant in person present. Mr. Riaz Paindakheil learned Assistant Advocate General alongwith Muhammad Zada ADO present. Appellant submitted application for adjournment. Application allowed. Adjourn. To come up for arguments on 08.01.2020 before D.B at Camp Court, Swat.


  
Member

  
Member  
Camp Court, Swat

08.01.2020

Appellant in person and Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Zada, ADO for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today due to general strike of Khyber Pakhtunkhwa Bar Council. Adjourned to 02.03.2020 for arguments before D.B at Camp Court Swat.

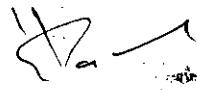
  
(Hussain Shah)  
Member  
Camp Court Swat

  
(M. Amin Khan Kundi)  
Member  
Camp Court Swat

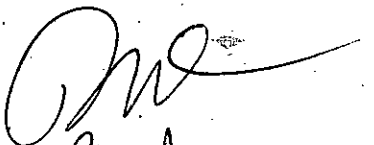
02.03.2020

Appellant in person present. Mr. Usman Ghani learned District Attorney alongwith Muhammad Zada ADO for the respondents present. Appellant submitted application for adjournment on the ground that his counsel is not available today. Application is placed on file. Adjourn. To come up for arguments on 06.04.2020 before D.B at Camp Court Swat.

  
Member

  
Member  
at Camp Court Swat

Due to corona virus  
law to camp court swat has  
been cancelled. To come up for  
the same on - 01-06-2020

  
Rashid

01.06.2020 Due to Covid-19, the case is adjourned. To come up for the same on 06.07.2020, at camp court Swat.

  
Reader

06.07.2020 Bench is incomplete. Therefore, the case is adjourned. To come up for the same on 07.09.2020, at camp court Swat.


  
Reader


07.09.2020

Nemo for the parties.

Mr. Riaz Painsdakhel learned Assistant Advocate General for the respondents present.

Notice be issued to both the parties for arguments on 08.10.2020 before D.B at Camp Court, Swat

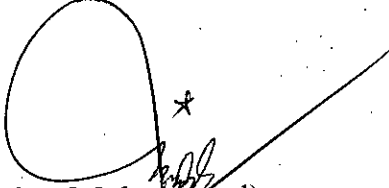
  
(Attiq-ur-Rehman)  
Member  
Camp Court, Swat

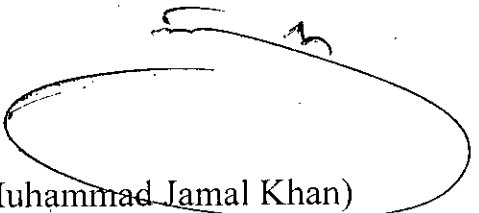
  
(Rozina Rehman)  
Member  
Camp Court, Swat

05.10.2020

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

Notices be repeated to both the parties for arguments on 03.11.2020 for arguments before D.B at camp court Swat.

  
(Mian Muhammad)  
Member(E)

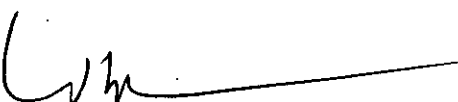
  
(Muhammad Jamal Khan)  
Member  
Camp Court Swat


03.11.2020

Nemo for appellant.

Muhammad Jan learned Deputy District Attorney for respondents present.

Lawyers are on general strike, therefore, case is adjourned to 09.12.2020 before DB at Camp Court, Swat.

  
(Atiq ur Rehman Wazir)  
Member (E)  
Camp Court, Swat

  
(Rozina Rehman)  
Member (J)  
Camp Court, Swat

Due to COVID, a case is  
adjourned to 03-02-2021



03.02.2021

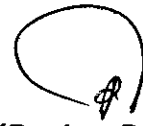
Nemo for parties.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Preceding date was adjourned on account of Covid-19, therefore, notice be issued to parties for 07.04.2021 for arguments before D.B at Camp Court Swat.



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



(Rozina Rehman)  
Member (J)  
Camp Court, Swat

07/04/2021

Due to COVID-19, the case is adjourned to  
03/05/2021 for the same.

  
READER

Due to COVID-19 therefore to  
come up for the same on 27/9/21.

  
Reader

27-09-2021 Due to cancellation of tour,  
Bench is not available. Adjourned.


To come up on 04-10-2021 for the  
same as before  
Reader

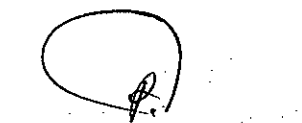
04.10.2021

Nemo for appellant.

Muhammad Riaz Khan Paindakheil, learned Assistant  
Advocate General for respondents present.

Preceding date was adjourned on a Reader's note,  
therefore, appellant/counsel be put on notice for  
07.12.2021 for arguments before D.B at Camp Court,  
Swat.

  
(Atiq ur Rehman Wazir)  
Member(E)  
Camp Court, Swat

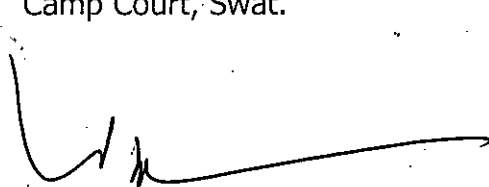
  
(Rozina Rehman)  
Member(J)  
Camp Court, Swat

07.12.2021

Nemo for Parties.

Mr. Riaz Khan Paindakheil, Assistant Advocate General for respondents present.

Despite directions vide preceding order sheet, notices were not issued to the parties. Explanation be called from the concerned Moharrar and be placed before the Worthy Chairman. Both the parties be put on notice for 08.02.2022 for arguments before D.B at Camp Court, Swat.



(Atiq-Ur-Rehman Wazir)  
Member (E)  
Camp Court, Swat



(Rozina Rehman)  
Member (J)  
Camp Court, Swat

08.02.2022

Tour is hereby canceled .Therefore, the case is adjourned to 05.04.2022 for the same as before at Camp Court Swat.



Reader



05.04.2022

Nemo for the appellant. Mr. Noor Zaman Khattak, District Attorney for the respondents present.

Previous date was changed on Reader Note, therefore, notice for prosecution of the appeal be issued to the appellant as well as his counsel through registered post and to come up for arguments on 11.05.2022 before the D.B at Camp Court Swat.



(Rozina Rehman)  
Member (J)  
Camp Court Swat

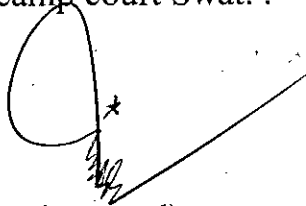


(Salah-ud-Din)  
Member (J)  
Camp Court Swat

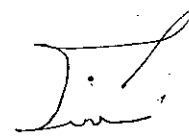
11.05.2022

Nemo for the appellant. Mr. Kabirullah Khattak, Addl: AG for respondents present.

Vide previous order sheet, it was ordered that notices be issued to the appellant as well as his counsel through registered post, however on perusal of the record, it transpired that the same have not been sent to the respondents, therefore, in this respect explanation be called from the Muharrar. Notices be issued to the appellant as well as his counsel through registered post and to come up for arguments on 09.06.2022 before the D.B at camp court Swat. .



(Mian Muhammad)  
Member(E)




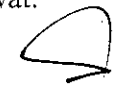
(Salah Ud Din)  
Member(J)  
Camp Court Swat.

09.06.2022

None for the appellant present. Mr. Kabirullah Khattak,  
learned Additional Advocate General for the respondents present.

Counsel are on strike. Adjourned. To come up for  
arguments on 04.07.2022 before D.B at camp court Swat.

  
(Mian Muhammad)  
Member (E)  
Camp Court Swat


  
(Kalim Arshad Khan)  
Chairman  
Camp Court Swat


04.07.2022

Nemo for appellant.

Noor Zaman Khattak, learned District Attorney alongwith Syed  
Alamzeb Shah Legal Advisor for respondents present.

Notice be issued to appellant/counsel for 01.08.2022 for  
arguments before D.B at Camp Court, Swat.

  
(Fareeha Paul)  
Member (E)  
Camp Court, Swat

  
(Rozina Rehman)  
Member (J)  
Camp Court, Swat

1-8-22

*Due to summer vacation the case  
is adjourned to 5-9-22 for the same.*



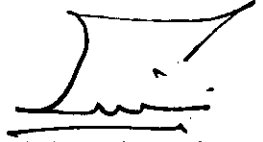
05.09.2022

Clerk of learned counsel for the appellant present: Syed Alamzeb Shah, Legal Advisor alongwith Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for arguments on 03.10.2022 before the D.B at Camp Court Swat.



(Mian Muhammad)  
Member (Executive)  
Camp Court Swat



(Salah-Ud-Din)  
Member (Judicial)  
Camp Court Swat

ORDER  
03.10.2022

Nemo for the appellant. Syed Alamzeb Shah, Law Officer alongwith Mr. Muhammad Jan, District Attorney for the respondents present.

The appeal in hand was called on for hearing after various intervals, however none appeared on behalf of the appellant till the closing time, therefore, the appeal in hand stands dismissed in default. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
03.10.2022



(Rozina Rehman)  
Member (Judicial)  
Camp Court Swat



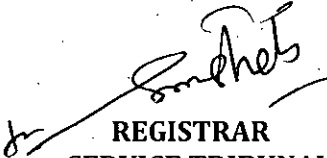
(Salah-Ud-Din)  
Member (Judicial)  
Camp Court Swat

The appeal of Mr. Muhammad Yahya Shah son of Man Ameer Zada Gandigar Upper Dir Ex-PST GPS Maranwaro received today i.e. on 17.10.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexure-C mentioned in para-C of the grounds of appeal is not attached with the appeal which may be placed on it.
- 2- Annexure-A of the appeal is illegible which may be replaced by legible/better one.
- 3- Annexures of the appeal may be flagged.

No. 1725 /S.T,


Dt. 19/10 /2016

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Javed Akhter Adv.Pesh.

Deficiencies (if any) removed. May kindly be put before the honorable Tribunal

Regards

  
25/10/2016  
Javed Akhter  
Advocate

BEFORE THE HONORABLE  
SERVICES TRIBUNAL KHYBER PAKHTUNKHWA  
PESHAWAR

Service Appeal No. 1086/2016


Muhammad Yahya Shah  
(Appellant)

Vs Govt: of K.P & Others  
(Respondents)

I N D E X

S#	Description of Documents	Annex	Pages
1	Memo of Appeal	-----	1-4
2	Impugned Order Dated 01.02.2016	A	5
3	Copy of Departmental appeal along with Postal receipt & Affidavit 23.06.2016	B	6-8
4	Copy of Order dated 18.05.2015 in Service Appeal No. 1556/2013	C	9-12
5	Wakalatnama	-----	13

Dated:- 17 / 10 / 2016

Appellant  
Through   
Javaid Akhtar  
Advocate High Court,  
Peshawar

**Office Address:-**

D-6, JK Shopping Mall,  
University Road,  
Peshawar  
03339995267

(1)

**BEFORE THE HONORABLE  
SERVICES TRIBUNAL KHYBER PAKHTUNKHWA  
PESHAWAR**

Service Appeal no. 1086 /2016

Muhammad Yahya Shah S/O Mian Ameer Zada R/O  
Gandigar Upper Dir, Ex PST/PTC GPS Marawaro District  
Upper Dir

.....Appellant

Khyber Pakhtunkhwa  
Service Tribunal

*Versus*

Diary No. 1092

Dated 17-10-2016

1. The Government of Khyber Pakhtunkhwa through Secretary Education
2. Director Education Khyber Pakhtunkhwa at Peshawar
3. Executive District Officer (Male) District Upper Dir

.....Respondents

Appeal U/S 4 of the Khyber Pakhtunkhwa Services Tribunal Act  
1974 read together with all other laws governing the subject  
matter

Prayer in Appeal

*On acceptance of instant appeal the impugned Order passed by Respondents No. 3 may be declared as void ab-initio, illegal, unlawful, without any legal effect and the appellant may be reinstated on his post with all back benefits.*

Filed to-day

Registrar

May it please this Honorable Tribunal:

*The appellant begs to submit as under;*

1. That the appellant belongs to a respectable and affluent family District Upper Dir. He was appointed as PTC/PST in 1989 and was posted at GPS *Marawaro* District Upper Dir near Pak-

Registrar

25/10/16.

Re-submitted to -day  
and filed.

Afghan Border. On 01.02.2016 his total length of service was more than 25 years.

2. **That** appellant was performing his duties honestly and diligently and to the utmost satisfaction of his superiors.
3. **That** appellant is maintaining an Account with National Bank of Pakistan (NBP) at NBP at District Upper Dir. To this account all his finances including but not limited to salary, rents and income from agricultural produce etc are credited whereas his expenses are also debited to this account. His family reside at Gandigar Dir Upper, whereas he due to his posting at GPS Marawaro he lives at Marawaro; therefore he use to leave signed cheque books/leaves with his family for day to day expenses.
4. **That** somewhere in May 2016 while reconciliation of appellant's above mentioned account he noted some discrepancies including short fall in the balance amount. He immediately contacted the Bank Manager and during the research it was found that in addition to other incongruities the short fall in balance amount is due to non-crediting of his monthly salary.
5. **That** the appellant approached the concerned office(s) and was shocked to know that he had been terminated from his services (without any fault).
6. **That** consequently he approached the office of Respondent No.3; but in vain as any sort of access to the record was denied to him. However through his own efforts he managed to get a copy of letter/order dated 01.02.2016. (*Annexure A*)



7. **That** in order to comply with R 4(1) of the Civil Servants (Appeal) Rules 1986; he tried to prefer a departmental appeal dated 08.06.2016 before Respondent No. 2 through Respondent No.3 but Respondent No. 3 refused to receive the said departmental appeal therefore on 23.06.2016 the said departmental appeal was sent through post to Respondent No. 2. (*Annexure B*)

8. **That** the statutory period of 90 days completed on 21.09.2016 and no response has been received so far. Hence the instant appeal, inter alia, on the following:

**GROUND**S

- A. **That** the appellant has neither been treated in accordance with law nor has equal protection of law been extended to him.
- B. *Without any prejudice to the above and in addition thereto*; the impugned order is void ab-initio.
- C. *Without any prejudice to the above and in addition thereto*; no show cause notice was served upon the petitioner that is a flagrant violation of the principles of natural justice. (*Annexure C*)
- D. *Without any prejudice to the above and in addition thereto*; the act/omission of the respondents is in contravention to the laws and rules on the subject matter. Moreover the appellant was posted in an area where news paper circulation is non-existent.
- E. *Without any prejudice to the above and in addition thereto*; non-deciding the departmental appeal of the

appellant is against the provisions of General Clauses Act and fundamental rights of the appellant and a clear manifestation of malafide on the part of the authorities.

F. *Without any prejudice to the above and in addition thereto*; the appellant has more than 25 years of service i.e. he was on the verge of retirement in the given circumstances if there was any absenteeism it could be covered by the earned leaves, unearned leaves etc. but the harshest punishment of removal from services has been imposed upon him; that is unjustified.

G. Any other ground during the course of arguments.

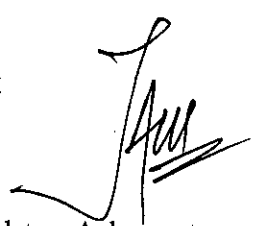
*Therefore it is humbly prayed that on acceptance of instant appeal the impugned Order passed by Respondents No. 3 may be declared as void ab-initio, illegal, unlawful, without any legal effect and the appellant may be reinstated on his post as PTC/PST with all back benefits. Any other relief not specifically asked for but if deems fit in the circumstances of the case may also be awarded.*

Dated:- 17/10/2016



Appellant

Through



Javaid Akhtar Advocate



Ameer A (5)

**OFFICE OF THE DISTRICT EDUCATION OFFICER  
MALE DIR UPPER**

PH No. 0944-881400-Fax-880411 E-mail emisdriupper@gmail.com

**OFFICE ORDER**

Whereas, I Mr. Moeenud Din, District Education Officer Male Dir Upper, as competent authority, am of the opinion that the following Government Officials have rendered *themselves liable* to be proceeded against as they committed the following acts / omissions with the meaning of rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011.

S.No.	Name & Designation	Name of School	BPS	Period of Absentecism
01	Muhammad Yahya Shah PSHT	GPS Marawaro	15	W.e.f 14-02-2015.
02	Khyal Muhammad Chowkidar	GPS Shinagar	01	w.e.f 06-06-2015.

**Statement of allegations.**

That he remained absent from the above mentioned dates without prior sanction of the authority reported by the SDEO Male Dir vide letter No. 509 dated 9-7-2015. Their act are against the office discipline and amounts to miss-conduct under rule 3 (b) & (d) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

Whereas, 1<sup>st</sup> show Cause notice was issued to the accused Vide this Office End. No: 5596-97 dated 16-09-2015, but they have not resumed their duties within stipulated period.

Whereas, 2<sup>nd</sup> show Cause notice was issued to the accused vide this office Endst: 5597-97 dated 17-10-2015, but they have not resumed their duties within stipulated period.

Whereas, the last show cause notice was issued to them through press, which has been published in Daily Mashriq dated 18-12-2015, but they have not resumed their duties within stipulated period.

Now therefore, I Mr. Moeenud Din, DEO Male Dir Upper in the capacity of competent authority am satisfied that the charges against the accused have been proved beyond doubt. I, as a competent authority under the power conferred upon me under rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 hereby impose Major penalties of Removal from service upon the following Government Officials w.e.f the dates of their absenteeism period, Sub-Division Dir.

S.No.	Name & Designation	Name of School	BPS	Period of Absentecism
01	Muhammad Yahya Shah PSHT	GPS Marawaro	15	W.e.f 14-02-2015.
02	Khyal Muhammad Chowkidar	GPS Shinagar		w.e.f 06-06-2015.

(Moeenud Din)  
DISTRICT EDUCATION OFFICER  
MALE DIR UPPER

No. 690-92 /F. No. /DEO(M)/ADO(P)Estab: Dated Dir Upper 01/08/2016.

Copy forwarded for information & necessary action to:-

- The District Accounts Officer Dir Upper.
- The Sub-Divisional Education Officer Male Dir with the directions to carry out necessary entries to this effect in the service books of the officials and ensure this office if pay of absent period if paid to them, may be recovered and be deposited in Governmental treasury
- Officials Concerned.

DISTRICT EDUCATION OFFICER  
MALE DIR UPPER

c/c  
**Javair Akhtar**  
MBA, LLB, AU, ICFA  
Advocate High Court  
Peshawar

**Better Copy**  
**OFFICE OF THE DISTRICT EDUCATION OFFICER**  
**MALE DIR UPPER**

PH No. 0944-881400 Fax 880411 E-mail: [mailemisdirupper@gmail.com](mailto:mailemisdirupper@gmail.com)

**OFFICE ORDER**

Whereas, I, Mr Moeenud Din, District Education Officer Male Dir Upper as Competent authority am of the opinion that the following Government Officials have been rendered themselves liable to be proceeded against as they committed the following acts/omissions within the meaning of rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011.

S.No	Name & Designation	Name of School	BPS	Period of Absenteeism
01	Muhammad Yahya Shah PSHT	GPS Marawaro	15	w.e.f 14-02-2015
02	Khyal Muhammad Chowkidar	GPS Shinagar	01	w.e.f 06-06-2015

**Statement of allegations**

That he remained absent from the above mentioned dates without prior sanction of-----, a reported by the SDEO Male Dir vide letter No. 509 dated 9-7-2015. Their acts are against the office discipline and amounts to misconduct under rule 3 (b) & (d) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011.

Whereas, 1<sup>st</sup> show cause notice was issued to the accused vide this Office End ; No; 5596-97 dated 16-09-2015, but they have not resumed their duties within stipulated period.

Whereas, 2<sup>nd</sup> show cause notice was issued to the accused vide this Office End ; -----dated 17-10-2015, but they have not resumed their duties within stipulated period.

Whereas, the last show cause notice was issued to them through press, which has been published in daily Mashriq dated 18-12-2015, but they have not resumed their duties within stipulated period.

Now, therefore, , I Mr Moeenud Din, DEO Male Dir Upper in the capacity of competent authority am satisfied that the charge against the accused have been proved beyond any doubt, I as a competent authority under the power conferred upon me under rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011 is hereby impose **Major Penalties of Removal from Service** upon the following Government Officials w.e.f. the date of their absenteeism period Sub-Division Dir.

S.No	Name & Designation	Name of School	BPS	Period of Absenteeism
01	Muhammad Yahya Shah PSHT	GPS Marawaro	15	w.e.f 14-02-2015
02	Khyal Muhammad Chowkidar	GPS Shinagar		w.e.f 06-06-2015

Moeenud Din  
District Education Officer  
Male Dir Upper

No.690-92/F.No. \_\_\_/DEO(M)/ADO(P)Estab:

Dated Dir Upper 01/08/2016

Copy forwarded for information & necessary action to:-

1. The District Accounts Officer Dir Upper
2. The Sub Divisional Education Officer Male Dir with the directions to carry out necessary entries to this effect in the service books of the officials and ensure this office if pay of absent period if paid to them, may be recovered and be deposited in Government Treasury
3. Official concerned.

District Education Officer  
Male Dir Upper

## محکمانہ اپیل بذریعہ ڈسٹرکٹ ایجوکیشن آفیسر (Male) دیر بالا

بنام

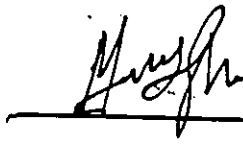
ڈائریکٹر ایجوکیشن خیبر پختونخواہ

جناب عالی! سائل حسب ذیل عرض رساں ہے۔

- ۱۔ یہ کہ سائل محکمہ ایجوکیشن میں بحیثیت PTC، GPS Marawaro تعینات تھا۔
- ۲۔ یہ کہ سائل کو مورخہ 01-02-2016 کو بذریعہ چھٹی نمبر 92-390 موصول ہوئی جس کی وضاحت میں بذریعہ محکمانہ اپیل یوں کرتا ہوں (نقل چھٹی لف ہے)۔
- ۳۔ یہ کہ سائل کو بذریعہ چھٹی بالا بلا وجہ غیر قانونی، غیر شرعی طرز پر ملازمت سے فارغ ہونے کے احکامات جاری کئے گئے ہیں۔
- ۴۔ یہ کہ اس نسبت سائل کو کسی منہم کا نوٹس یا اطلاع دیا گیا نہیں ہوئی ہے اور نہ ہی سائل کو سماعت کا موقع فراہم کیا گیا ہے۔
- ۵۔ حالانکہ قانون کا مسلہ اصول ہے کہ کسی کو سنے بغیر کسی کے خلاف کارروائی کرنا غیر قانونی، غیر شرعی اور غیر اخلاقی ہے۔ یہ کہ برطابق چھٹی مذکورہ بالا سائل کو کسی قسم کی اخباری اشتہار کا علم نہیں ہے۔

بحالت بالا استدعا ہے کہ سائل کی تقرری سال 1989 میں ہوئی ہے اور سائل کی 24 سال کی طویل ملازمت کو مد نظر رکھتے ہوئے چھٹی مذکورہ بالا کو Withdraw کریں اور سائل کو Bad Benefits کے ہمراہ اپنے ملازمت پر بحال رکھنے کا حکم صادر فرمایا جائے۔

المرقوم: 08-06-2016

 جو عرف

سائل: محمد نسیم شاہ ولد میاں امیر زادہ

ساکن گنڈی گاریمیر بالا

شناختی کارڈ نمبر: 1-1238311-15701

رابطہ نمبر: 0312-5368585

CTC  
**Javid Akhtar**  
 M.A., LL.B., F.C.I.C.F.A.  
 Advocate High Cour  
 Peshwar



بیانِ حلفی

حلفاً بیان ہے کہ میں مسیٰ محمد یحییٰ شاہ ولد امیرزادہ ساکن  
 گندھیار دیہ بالا رینیا ~~ہو~~ حکمانہ اپیل بذریعہ ڈسٹرکٹ ایجوکیشن  
 آفیسر (Male) دیہ جناب ڈائریکٹر ایجوکیشن خیر بخت خواہ دائر  
 کرنا چاہتا ہوں لیکن جناب ڈسٹرکٹ ایجوکیشن آفیسر (دراند) دیہ بالا  
 میرا حکمانہ اپیل وصول کرنے سے انکار ہے۔ بدینہ دم میں بہ امر قبوری  
 رینیا حکمانہ اپیل بذریعہ ریسرڈ ڈاں جناب ڈائریکٹر ایجوکیشن K.P.K  
 سول سیکرٹریٹ ارسال کر رہا ہوں۔

محمد یحییٰ شاہ

مذا حلف محمد یحییٰ شاہ ولد امیرزادہ  
 ساکن گندھیار دیہ اتر -





BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR



Service Appeal No 1556 /2013

Annex  
c 9  
D.W.S. Secretary  
Khyber Pakhtunkhwa  
Service Tribunal  
No. 1591  
Date 27-11-13

Muhammad Asif,  
Ex-Driver Constable, No 116,  
R/o Malogo (Jhagra), P.O Tarnab Farm,  
Tehsil and District, Peshawar

.....Appellant

Versus

1. Deputy Inspector General, Headquarters, Provincial Police Officer, KPK, Peshawar.
2. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
3. Additional Inspector General Police, Headquarters, Khyber Pakhtunkhwa, Peshawar.
4. Deputy Superintendent of Police (Admin), City Police Officer, Peshawar.

....Respondents

27/11/13  
Service Appeal Under Section 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the Order Dated 12-11-13 whereby the Departmental Appeal against order Date 03-10-13 is dismissed.

Respectfully Sheweth,

Brief but relevant facts of the case are as follows:

1. That the Appellant was appointed as Constable Driver on 16-06-2008 and ever since his appointment he has performed his duties to the entire satisfaction of his superiors.

2. That vide Office Order No 24952-55/E-II, Dated 03-10-2013 the appellant was dismissed from service.

2/12/14  
3. That it is important to mention here that the impugned order whereby the Petitioner is removed from service is passed without holding any inquiry, without issuing any show cause notice, without giving any chance of hearing, without giving any final show cause notice, without making any

2  
ATTESTED  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal

CTC  
Javaid Azhar  
MBA, LLB, AU, ICFA  
Advocate High Court  
Peshawar



NO	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
	2	3
	18.05.2015	<p style="text-align: center;"><b>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</b></p> <p style="text-align: center;">Service Appeal No.1556/2013,</p> <p>Muhammad Asif, Driver Constable No. 116, Versus Deputy Inspector General of Police Headquarter, CPO, Peshawar etc.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>ABDUL LATIF, MEMBER.-</u> Appellant with counsel (Mr. Sajid Amin, Advocate) and Mr. Ziaullah, GP with Suleman, H.C for the respondents present.</p> <p>2. The instant appeal has been filed by Mr. Muhammad Asif Driver Constable under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 12.11.2013 whereby his departmental appeal against the order dated 03.10.2013 was dismissed.</p> <p>3. The facts of the case are that the appellant was appointed as Constable Driver on 16.6.2008 and vide order dated 03.10.2013 he was dismissed from service. He filed departmental appeal against order of his dismissal which was rejected, hence the instant appeal in the Service Tribunal.</p> <p>4. The learned counsel for the appellant argued that the impugned order was against the law and void ab-initio because it was passed in disregard to the mandatory provision of the</p>

ATTENDED

EXAMINED  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

C.R.

**Javid Akhtar**  
MBA, LLB, ICFA  
Advocate High Court  
Peshawar

Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 and it was passed from retrospective effect. That the appellant was not treated according to law which is his inalienable right under Article 4 of the Constitution of Islamic Republic of Pakistan, 1973. That the appellant was removed from service without holding any enquiry, without issuing of any show cause notice without giving any opportunity of personal hearing and personal defence, hence not maintainable under the law. It was further submitted that impugned order was a non-speaking order and no reasons were given for passing the same order which is against Section 24-A of the General Clauses Act. He prayed that the appeal may be accepted and the appellant may be reinstated with all back benefits.

5. The learned Government Pleader argued that the appellant deliberately absented himself from duty for 91 days and also went abroad without permission of the competent authority. That proper charge sheet and statement of allegations were served upon the appellant to which he submitted replies. Proper enquiry was conducted into the case which proved the charge of absence. Final show cause notice was issued to the appellant who failed to respond to the same. The appellant admitted the allegations of absence and visit abroad without N.O.C, hence procedure laid down in Police Rules, 1975 was followed before awarding the punishment. He prayed that the appeal is devoid of any merits may be dismissed.

ATTESTED

Signature  
Name  
Designation

C7C  
Javaid Akhtar  
MBA, LLB, CFA  
Advocate High Court  
Peshawar

6. Arguments of the learned counsel for the parties heard and record perused with their assistance.

7. From perusal of the record it revealed that the appellant was found guilty of the charge of absence. He was however, awarded major penalty of dismissal from service which seems harsher compared to the guilt. Moreover, the impugned order was passed with retrospective effect which is not permissible under the law.



8. The Tribunal is therefore, of the considered view to set aside the impugned orders, reinstate the appellant for the purpose of denovo enquiry and remand the case to the respondent department for proceedings afresh against the appellant strictly in accordance with law and the rules. The issue of back benefits will be decided subject to outcome of the denovo enquiry. The appeal is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED  
18.5.2015.

*Sd/- Abdul Qadir,*  
*Member,*  
*Sd/- Pir Bakhtish Shah,*  
*Member*

Certified to be true copy  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 01-09-16  
Number of Words 1600  
Copying Fee 10/-  
Urgent 2/-  
Total 12/-  
Name of Copyholder Govt  
Date of Copy 01-09-16  
Date of Defile 01-09-16

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بعدالت جناب: SERVICES TRIBUNAL KHYBER PAKHTUNKHWA PESH

منجانب: میا محمد جمعی شاہ  محمد جمعی شاہ بنام حکومت خیبر پختونخواہ وغیرہ	دعویٰ: Service Appeal علت نمبر: - مورخہ: 17/10/2016 جرم: - تھانہ: -
--	---

### بابت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے داخلے پر دی و جواب دی کاروائی متعلقہ  
 آن مقام لیسٹڈ ۱۸ بجلیے جاوید اختر ایڈووکیٹ کو مکمل مقرر  
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو  
 راضی نامہ کرنے و تقریر حالت و فیصلہ برصن دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق  
 زریں مدد تخطا کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی، نیز  
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی  
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقریر کا اختیار ہو گا اور صاحب  
 مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساتھ مدد اختہ منظور قبول ہوگا دوران مقدمہ  
 میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرنے کا اختیار 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 مندر ہے۔

المرقوم: 17/10/2016

بد العواہ شد بد العواہ شد

کے لئے منظور ہے۔

مقام لیسٹڈ

17/10/2016

17/10/2016

Jawaid Akhtar  
Advocate

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA AT CAMP COURT SWAT.**

Service Appeal No.....1086/2016

Muhammad Yahya Shah                      versus                      Govt; of Khyber Pakhtunkhwa and others

(Appellant)

(Respondents)

**WRITTEN STATEMENT/REPLY ON BEHALF OF RESPONDANTS**

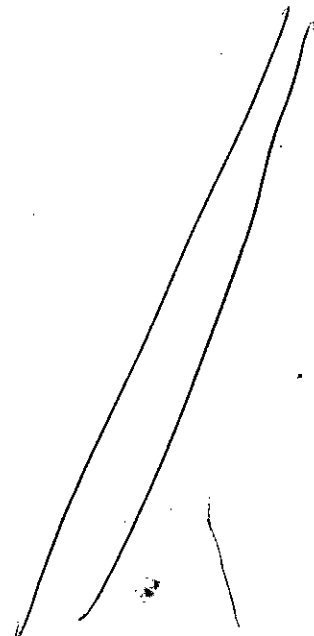
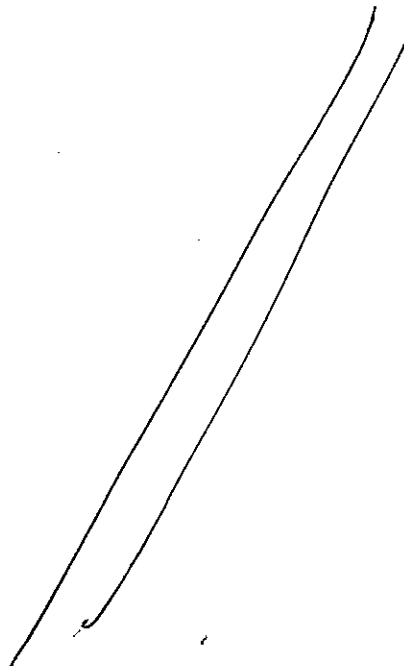
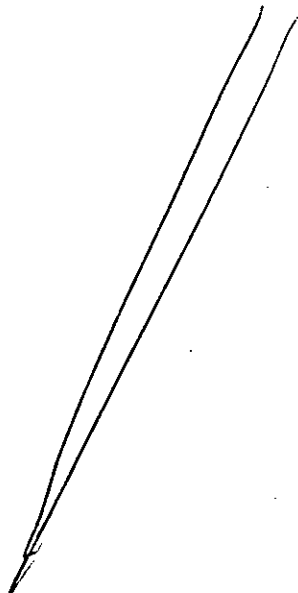
RESPECTFULLY SHEWETH;

**PRELIMINARY OBJECTIONS:**

01. That the appellant has got no cause of action.
02. That the appellant has not come to the court with clean hands.
03. That the appellant has been estopped by his own conduct to file the instant appeal.

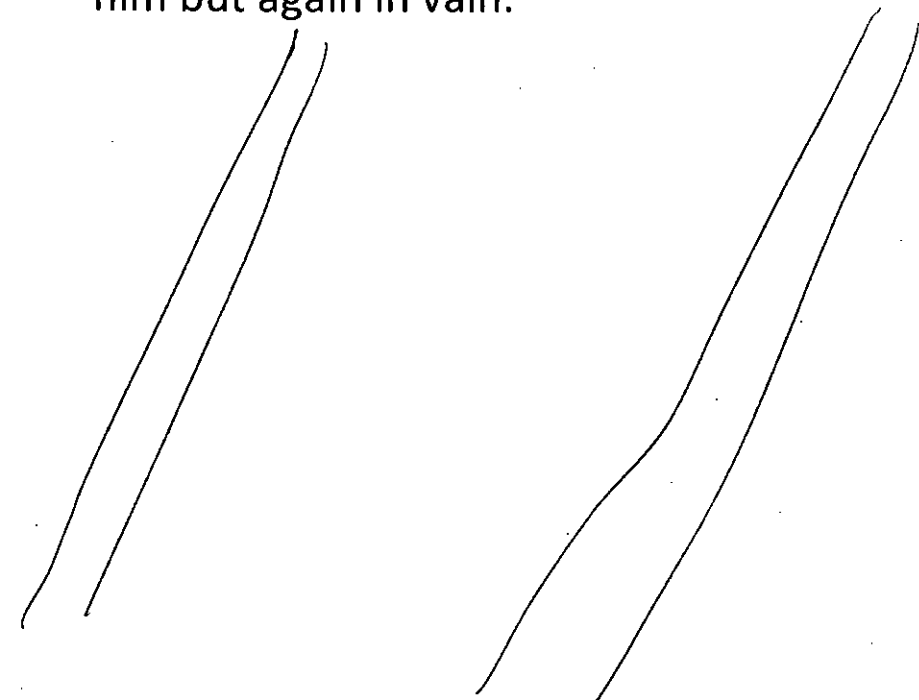
**FACTUAL OBJECTIONS:**

01. That para No. 1 is correct to the extent that the appellant belongs to village Gandigar Dir Upper and appointed as PST in 1989.
02. That para No. 2 is incorrect. The appellant was transferred to GPS Marawaro Near Pak Afghan Border on repeated public complaint by local community that the appellant does not perform his duty and runs a private business.



03. That para No. 3 pertains to record hence no comments.
04. That para No.4 is incorrect. The appellant was a habitual absconder and time and again his pay was stopped and then released on production of affidavit to the effect that he will perform his duty. (copy of affidavit attached).
05. That para No. 5 is incorrect, the appellant has been warned again and again, explanation called, show cause notice issued on home address and also through press.
06. That para No. 6 is incorrect all kind of record relating to his absence and termination was issued to him by respondents.
07. That para No. 7 is incorrect departmental appeal need not to be forwarded by respondent No. 3 to respondent No. 2.

**GROUND.**

- i) That Sub-para (i) is incorrect. The appellant has been treated in accordance with law.
  - ii) That Sub-para No. ii, is also incorrect. The impugned order is right ab-initio.
  - iii) That Sub-para No. iii, is incorrect. Show Cause notice was served upon him but the appellant did not respond and then a second Show cause notice was served upon him but again in vain.
- 

- iv) That Sub-para No. iv, is incorrect. The act of the respondent is according to law and on the way of discharge of their duty.
- v) That Sub- para No. v, is incorrect.
- vi) That Sub-para No. vi, is incorrect.

Therefore, by accepting the written statement/reply the appeal of the appellant may very kindly be dismissed with cost.

Respondents 1 to 3  
Through.  
District Attorney  
Swat.

Verification:

It is verified that the contents of the written reply/statement are correct to the best of my knowledge.

DEO (M) Dir Upper. \_\_\_\_\_

*Signature*

Director E&SE KPK Peshawar. \_\_\_\_\_

*Signature* 05/7/2007

Secretary E&SE KPK Peshawar. \_\_\_\_\_

*Signature*

*Handwritten mark*

رئیس و سولی پر جانے

میں نے مقدمہ غفور محمدی کی شاہ بنام ایجوکیشن و تعمیر  
میں صلح ایک تہہ اور اور وصول ہے۔

ال  
6.7.17

دکٹر ایبلانٹ سید عبد اللہ کریم ایجوکیشن

6-7-17



BEFORE THE SERVICE TRIBUNAL KPK AT CAMP  
COURT SWAT.

Service appeal No: \_\_\_\_\_ 1086/2016

Muhammad Yahya Shah

....Appellant

VERSUS

(1) Gov't KPK and others

....Respondent

Rejoinder on behalf of petitioners

Respectfully Sheweth:

Preliminary objection:

1. Para No (1) is incorrect petitioner has got cause of action to file the captioned petitioner.
2. Para No(2) is incorrect , the petitioner has come to this honorable tribunal with clean hand.
3. Para No (3) is incorrect to the appellant do not estopped by his own conduct.

On Facts:

- 1) Para No 1 is correct.
- 2) Para No 2 is incorrect there is no any public complaint by local community nothing has been on the whole record in this connection neither the petitioner remain absent from the duty.
- 3) Para No 3 pertains to record which is available on record.
- 4) Para No 4 is incorrect the petitioner never remain absent from duty.
- 5) Para No 5 is incorrect No explanation has been called and no show cause notice has been issued to petitioner there is no and proofs on the whole file.

*Place "Pl" 6.6.2018*

- 6) Para No 6 is incorrect there is nothing on record regarding absence of petitioner.
- 7) Para No 7 is incorrect departmental appeal was prefer to Respondent No 2 through Respondents No 3 but respondent No 2 refused to receive the said appeal.

GROUND:-

- i. Ground No I is incorrect the appellant has not been treated according to law.
- ii. Ground No ii is incorrect the impugned order is void ab-initio.
- iii. Ground No iii is incorrect No show cause notice has been issued to petitioner.
- iv. Ground no iv is incorrect the act of the respondents is not according law.
- v. Ground No v is correct.
- vi. Ground No vi is correct.

It is, therefore, humbly prayed that on acceptance of this rejoinder, the appeal of the petitioner may kindly be allowed was prayed for High Court.

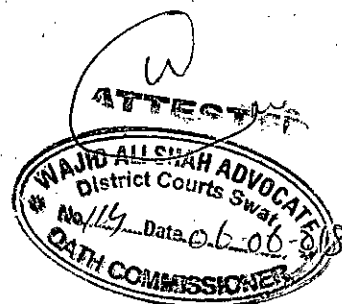
Appellant through

Sayed Abdul Karim  
Advocate High Court

Affidavit:

It is stated on oath that all the contents of this appeal are true and correct to the best of my knowledge and information.

Sayed Abdul Karim  
Advocate High Court



# بعدالت جناب سروس ٹرائیونل جج صاحب بمقام گلکدہ سوات

محکمہ تعلیم وغیرہ

بنام

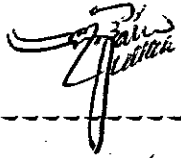
محمد جی شاہ

درخواست برائے تبدیلی تاریخ پیشی بعدم موجودگی وکیل سائل بوجہ مصروف ہونے ہسپتال سید و شریف

- جناب عالی! حسب ذیل گزارش ہے۔
- (۱) یہ کہ مقدمہ عنوان بالا عدالت حضور میں زیر سماعت ہے جس میں امروز تاریخ پیشی مقرر ہے۔
  - (۲) یہ کہ سائل کا وکیل صاحب بیماری کے سلسلے میں گیا ہے اسلئے عدالت حضور سے پیروی کرنے سے قاصر ہے۔

لہذا استدعا ہے کہ بمنظوری درخواست ہذا تاریخ پیشی تبدیل کرنے

کا حکم صادر فرمایا جائے۔ المرجوم 02-12-2019



عریضہ

سائل محمد جی شاہ بذریعہ کلرک اف (سید عبدالکریم) ایڈوکیٹ  
ذکر لکھنؤ