


22.09.2022

Appellant present through counsel.

Preliminary arguments heard. Record perused.

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. Appellant is directed to deposit security and process fee within 10 days. Where-after, notice be issued to respondents for submission of reply/comments. To come up for reply/comments on 16.11.2022 before S.B at Camp Court, Abbottabad.

RS 100
Appellant Deposited
Security & Process Fee
22/9

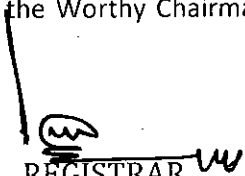



(Rozina Rehman)
Member (J)
Camp Court, A/Abad

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 897/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/06/2022	<p>The appeal of Mr. Muhammad Waseem resubmitted today by registered post through Mr. Zaheer Ahmad Qureshi 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-	14-7-22	<p>This case is entrusted to touring Single Bench at A.Abad for preliminary hearing to be put there on <u>21-7-22</u>. Notices be issued to appellant and his counsel for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>
	21.07.2022	<p>Nemo for the appellant. Vide previous order, directions were issued that notices be issued to the appellant as well as his counsel for today, however on perusal of the case file, it transpired that Muharrar has not issued notices, therefore, explanation be called from him. Notices be issued to appellant as well as his counsel and to come up for preliminary arguments on 22.09.2022 before the S.B at Camp Court Abbottabad.</p> <p style="text-align: right;"> (Salah-Ud-Din) Member (J) Camp Court Abbottabad</p>

The appeal of Mr. Muhammad Waseem son of Azeem Khan r/o Pattan Kalan Tehsil & District A. Abad received today i.e. on 25.04.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ① Check list is not attached with the appeal.
- 2- Appeal has not been flagged/marked with annexures marks.
- 3- Annexures of the appeal may be attested.
- 4- Memorandum of appeal may be got signed by the appellant.
- 5- Annexures-A & B of the appeal are illegible which may be replaced by legible/better one.
- ⑥ Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 950 /S.T,

Dt. 26-4- /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Zaheer Ahmad Qureshi Adv.
High Court Abbottabad.

*Needful done -
file submitted
6/6/2022*

*- Objection No. 1 not removed
objection no. 6 Five copies was
demanded/required but four copies
one submitted without file copy
12/7
until
11/5/22*

①

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

Appeal No - 897/2022
Mohammad Waseem

VERSUS

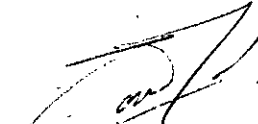
Govt of Khyber Pakhtunkhwa & Others

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S.No.	Description of Document	Annexur	Page
1.	Copy of appeal alongwith affidavit	--	1-7
2.	Copy of the appointment letter joining report	"A"&"B	8-9
3.	Copy of the termination letter dated 6/09/2021	"C"	10
4.	Copy of the departmental appeal /representation dated 15/12/2021	"D"	11
5.	Copy of the application/reminder dated 5/04/2022	"E"	12
6.	Copy of rejection of departmental appeal	"F"	13
7.	vakalatnama		14

Dated:- 23/4/2022

Through:

...APPELLANT
(ZAHEER AHMAD QURESHI)
Advocate High Court, Abbottabad.

0345-9088895

(2)

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

Mohammad Waseem S/o Azeem Khan R/o Pattan kalan Tehsil & District Abbottabad.

...APPELLANT
Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Diary No. 6/2

Dated 25/4/2022

1. Government of Khyber Pakhtunkhwa through Secretary Irrigation Peshawar.
2. Senior Superintendent Engineer Irrigation Department Circle Swabi.
3. Executive Engineer Hazara Irrigation Division Abbottabad.

...RESPONDENTS

APPEAL:- UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE OFFICE ORDER NO 27/10-F DATED 06/09/2021 WHEREBY THE RESPONDENT NO.3 TERMINATED THE APPELLANT FROM SERVICES, IS ILLEGAL, MALAFIDE, UNLAWFUL, WITHOUT, LAWFUL AUTHORITY, WITHOUT JURISDICTION, ARBITRARY, PERVERSE, HARSH, VOID-ABNITIO AND AGAINST THE PRINCIPLE OF NATURAL JUSTICE INEFFECTIVE UPON RIGHTS OF THE APPELLANT.

Filed to-day

Registrar

25/4/2022

PRAYER:- ON ACCEPTANCE OF INSTANT APPEAL THE OFFICE ORDER NO 27/10-F DATED 06/09/2021 MAY KINDLY BE SET ASIDE - APPELLANT MAY GRACIOUSLY BE REINSTATED IN SERVICE WITH ALL BACK BENEFITS.

Respectfully Sheweth

FACTS:-

1. That the Appellant is a resident of District Abbottabad and was appointed as "Beldar" BS-1 in the respondents department and joined services on 16/11/2011. *(Copy of the appointment letter and joining certificate are attached and marked as annexure "A"&"B" respectively).*
2. That respondents suddenly stopped the salary of the appellant, as the appellant was on duty.
3. That appellant visited the office of the respondents on 15/12/2021 to inquire about his salary which was stopped by the department without mentioning any reasons.
4. That the respondents, on the inquiry of the appellant disclosed the fact that he is terminated from the services on 06/09/2021. *(Copy of the termination order is attached and marked as Annexure "C")*.
5. That the respondent No 3 Without hearing appellant terminated the appellant from the service.
6. That the appellant soon after getting the knowledge of the same , feeling aggrieved filed departmental representation/ appeal on 15/12/2021 before the respondent No.2. *(Copy of the departmental appeal is attached and marked as annexure "D")*
7. That the appellant filed another application on 05/04/2022 to remind the respondent No.2 to make appropriate order

on the departmental representation dated 15/12/2021, who returned the same and told the appellant verbally that departmental representation had already been rejected on 24/02/2022. (*Copy of the application is attached and marked as Annexure "E"*)

8. That after getting the knowledge rejection of departmental representation, the appellant requested the respondents to provide the rejection order but copy of the order was not provided and appellant was told to approach the respondent No.3 at Abbottabad, after much efforts the appellant obtained copy of the rejection order on 18/04/2022. (*Copy of the rejection of departmental appeal is attached and marked as Annexure "E"*)
9. That feeling aggrieved from the Order Dated 06/09/2021 the appellant approaches this Honorable Tribunal for redressal of his grievances on the following amongst other grounds.

GROUNDS

- a. That impugned order against the law and facts hence liable to be set-aside.
- b. That the Impugned order dated 06/09/2021 is illegal, void ab-initio having no legal effects is liable to be set aside.
- c. That charge against the appellant is baseless having no footings and appellant is terminated from services without

conducting the regular inquiry hence impugned order is liable to be set aside.

- d. That there no evidence against the appellant which amounts to the major penalty.
- e. That the Respondent No.3 has not advanced any reasons while issuing the impugned order.
- f. That no opportunity of hearing has been given to the appellant by the respondent No.3, which is against the law and justice.
- g. That under the law, no major penalty can be imposed upon the appellant or any other employee without adopting the proper procedure under the law.
- h. That the impugned order suffers from the principle of natural justice as the same was passed at the back of the appellant without providing any opportunity of being heard to appellant.
- i. That the respondent suddenly stopped the salary of the without any reasons.
- j. That the appellant served in the respondents department for about 10 years with unblemished service record and the same has not taken into consideration while awarding major penalty.
- k. That impugned order is absolutely wrong illegal, void ab-initio hence not maintainable and liable to be struck down.

(6)

- l. That this honorable tribunal has the jurisdiction to entertain instant appeal.
- m. That other grounds will be agitated with the permission of this Honorable Tribunal at the time of arguments.


ON ACCEPTANCE OF INSTANT APPEAL THE OFFICE ORDER NO 27/10-F DATED 06/09/2021 OF THE RESPONDENT NO.3 BE SET ASIDE AND APPELLANT MAY BE REINSTATED IN THE SERVICE WITH ALL BACK BENEFITS.



...APPELLANT

Dated: 23/4 /2022

Through:



(ZAHEER AHMAD QURESHI)
Advocate High Court, Abbottabad.

VERIFICATION:-

Verified that the contents of the instant APPEAL are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.

DATED: 23/4 /2022



...APPELLANT

7

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

Mohammad Waseem

...APPELLANT

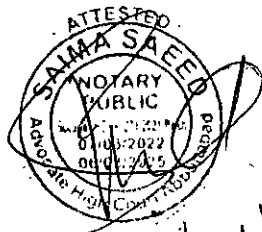
VERSUS

Govt of Khyber Pakhtunkhwa & Others

...RESPONDENTS

AFFIDAVIT

I, Mohammad Waseem S/o Azeem Khan R/o Pattan kalan Tehsil & District Abbottabad, hereby solemnly affirm and declare on oath that contents of the above appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.



23/04/22

...DEPONENT

OFFICE OF THE EXECUTIVE ENGINEER

Amman "C"

(8)

OFFICE OF THE EXECUTIVE ENGINEER,
HAZARA IRRIGATION DIVN: ABBOTTABAD.

NO: 2196 /10-E,
Dated Atd: the 16/11/2011

To,

Mr. Muhammad Waseem,
S/o Azeem Khan,
R/o Pattan Kalan Distt: Abbottabad.

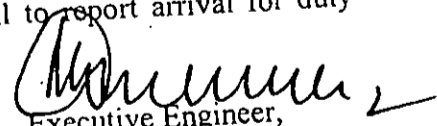
Subject: APPOINTMENT AS BELDAR.

You are hereby offered a post of Beldar BS-1 w.e.f the date of arrival. Your appointment in this Department will be governed according to the Govt: Policy with additional term and conditions as noted below: -

- 1) You will have to produce Health and Age Certificate from the Medical Superintendent D.H.Q Hospital concerned to the effect that you are medically fit for Government Service.
- 2) You will have to produce a good character certificate.
- 3) You will have to produce domicile certificate/ computerized NIC.
- 4) You will have to produce original academic certificate.
- 5) You will have to produce a certificate that you are not dismissed from any Govt: Service.
- 6) The offer is valid up to 30/11/2011.
- 7) No TA, DA will be given to you for joining the post.
- 8) If you want to leave your service you will have to give 30 days notice to the Deptt: or alternatively you will have to deposit one month pay with the Government.

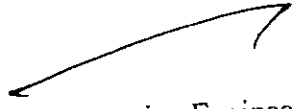
If you accept the post on the above mentioned conditions you should report arrival for duty to the SDO Irrigation Sub Division Abbottabad before the target date and produce all the required certificate on original.

The offer will be considered as cancelled if you fail to report arrival for duty before the target date.


Executive Engineer,
Ph# 0992-9310246.

Copy to the:

1. Section Officer (Establishment) O/O Secretary Irrigation KPK Peshawar for information please.
2. The District Account Officer, Abbottabad for favour of information.
3. The SDO Irrigation Sub Division Abbottabad for information and n/action. The service book of the candidate may be submitted along with other connected documents etc and photostate of NIC. 1st page of Service Book duly completed. The date of arrival for resuming the duty should also be intimated.
4. The DAO/HC (local) for information and n/action.

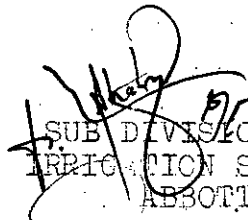

Executive Engineer.

9

SERVICE CERTIFICATE.

.....

It is certified that Mr. Muhammad Waseem S/o Azeem Khan R/O Village Pattan Kalan Tehsil & District Abbottabad is working in Hazara Irrigation Division Abbottabad as "Beldar" from 16/11/2011 to date.



SUB-DIVISIONAL OFFICER
IRRIGATION SUB-DIVISION
ABBOTTABAD.

24/11

Sub-Divisional Officer
Irrigation Sub-Division
Abbottabad

(10)

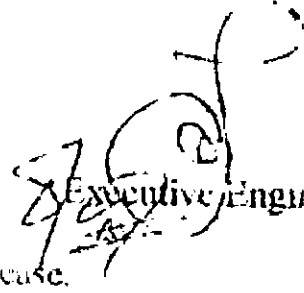
Amount "C"

OFFICE OF THE EXECUTIVE ENGINEER
HAZAR VIRRIGATION DIVISION ABBOTTABAD
Phone & Fax 0992-9310246.

Dated Abbottabad the 6/7/2021.

ORDER,

In pursuance of this office letter No.82/10-L, dated 29/7/2021 and advertisement No.1/2021 dated 29/7/2021, the undersigned being the competent authority is hereby appointing the services of Mr. Waseem Beldar s/o Azeem Khan R/o Patran street, Abbottabad from the date of effect.


Executive Engineer.

For information please.
For information and necessary action please.

Executive Engineer.

کے طور پر صحت کی برکات اور بہترین کیفیت کی بیماریوں سے محفوظ رہنے کے لیے
درج ذیل باتوں پر عمل کرنا ضروری ہے۔

صحت مند رہنا۔
گر اگر ہم صحت مند رہیں تو ہمیں ہر چیز میں برکات ملے گی۔

من سائل 2018ء سے طبیعت بدلا کر صحت مند بننا۔
مراعات سے کام لیں۔ دماغ کو تھکوانے سے بچیں۔
مستقل اور صحیح غذا کھائیں۔ صحت مند رہنے کے لیے
اگر صحت مند نہ رہیں تو ہر چیز میں برکات نہیں ملے گی۔
تین ماہ سے متوجہ رہیں۔ اگر صحت مند رہیں تو ہر چیز میں
متوجہ رہیں۔ صحت مند رہنے کے لیے ہر چیز میں
تعمیر کرنا ہے۔

صحت مند رہنا۔
صحت مند رہنے کے لیے ہر چیز میں
تعمیر کرنا ہے۔
صحت مند رہنے کے لیے ہر چیز میں
تعمیر کرنا ہے۔
صحت مند رہنے کے لیے ہر چیز میں
تعمیر کرنا ہے۔

صحت مند رہنے کے لیے ہر چیز میں

15/19
2021

CNIC No - 13101-2331760-7

Handwritten signature

Handwritten signature

۱۲

کریٹ (12) جناب سپرینٹنڈنٹ انجینئر آری کے آفس دیپارٹمنٹ سرکل حوالی

جناب عالی

Amang

گزارش سیکرٹری نے مورخہ 15/12/2021 کو آجناب کو ایک درخواست برائے بحالی ملازمت و تنخواہ گزارا ہے۔

جن پر تا حال کوئی عمل درآمد نہ ہوا ہے۔ اس لیے درخواست گزار نے اپنے عزیزوں کا وسیع دائرہ کار پر روزگار کے سلسلے میں درخواست کی ہے اور اسے فائدہ دیا جائے گا اور کفیل ہے اور تا حال کے روزگار کے سلسلے میں کوئی ذریعہ معاش

نہ ہے۔ لہذا آپ سے التماس ہے سائل کی درخواست مورخہ 15/12/2021 پر فیصلہ فرماتے ہوئے سائل کی تنخواہ جاری کرتے

ہو کر ملازمت پر بحال کیا جائے۔ (تعمیر درخواست مورخہ 15/12/2021) سائل نامہ صاف کے لئے دیکھ کر ہے

سائل محمد رفیق ولد عظیم خان مکین ہیں گلان ایسے آباد

5/4/2022

محمد رفیق

(13)

Ammer "F"

OFFICE OF THE SUPERINTENDING ENGINEER
SWABI IRRIGATION CIRCLE SWABI
PHONE & FAX No. 0938-224204

No. 403-04 /2-E

Dated Swabi the 24/02/2022

To
Mr. Waseem s/o Azeem Khan
R/O Puttan Kalan
Tehsil & District Abbottabad
Subject: - APPEAL/APPLICATION

I am directed to refer to the subject noted above and to state that your appeal application received in this office on dated: 21/01/2022, which was forwarded to Executive Engineer Hazara Irrigation Division Abbottabad for detail report.

Hence after detail scrutiny of the record as received from the Executive Engineer Hazara Irrigation Division Abbottabad vide letter No.1450/10-E Dated: 27-01-2022, it is concluded that no injustice is done with you.

Keeping in view of the above your appeal /application is hereby rejected.

Superintendent
Swabi Irrigation Circle
Swabi

Copy to the Executive Engineer Hazara Irrigation Division Abbottabad, w/r to the above for information please.

Superintendent
Swabi Irrigation Circle
Swabi

کورٹ فیس

وکالت نامہ

بعدالت محمد ضیاء الرحمن صاحب سرویسز انڈسٹریل سول سٹیٹ صاحب مختصاً لیاور

عنوان: محکمہ سیم بنام گورنمنٹ آف اے پی ایف

منجانب: ایڈووکیٹ

نوعیت مقدمہ:

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آن مقام ایڈیٹ آباد کیلئے طسہ (مدرجہ لستے) ایڈووکیٹ ہاشمی کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پرداختہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہویا حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جز و بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد استجارت نالش بصیغہ مفلسی کے دائر کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کیا تاکہ سند رہے۔

المقوم: 23-4-2022

ZAEER AHMIA
Advocate High Court
Abbottabad

بمقام: ایڈووکیٹ بار