

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**  
**SALAH UD DIN ... MEMBER (JUDICIAL)**

*Service Appeal No.1185/2020*

**Mudassar Ahmed, Ex-Junior Clerk, District Judiciary, District  
Khyber.**

.....(*Appellant*)

Versus

1. **The Registrar Peshawar High Court, Peshawar.**
2. **The District & Session Judge, District Khyber.**

.....(*Respondents*)

Present:

Taimoor Ali Khan,  
Advocate.....For appellants.

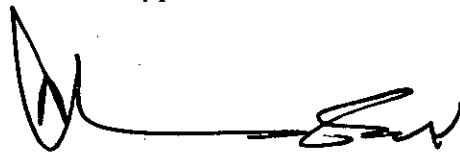
Mr. Muhammad Adeel Butt,  
Additional Advocate General.....For respondents

-----  
Date of Institution.....25.02.2020  
Dates of Hearing.....26.07.2022  
Date of Decision.....29.07.2022

**APPEAL UNDER SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST  
THE ORDER DATED 01.11.2019, WHEREBY THE PPELLANT  
HAS BEEN TERMINATED FROM SERVICE AND AGAINST  
NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL  
OF THE APPELLANT WITHIN THE STATUTORY PERIOD  
OF NINETY DAYS.**

**JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** The facts surrounding the  
appeal are that the appellant was appointed as Junior Clerk by respondent



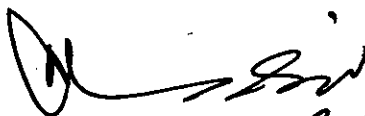
No.2 on 02.08.2019. In the offer of appointment letter it was mentioned at serial No.3 of the terms and conditions that the offer of appointment shall be deemed to have been cancelled, if, the appointee failed to furnish Medical Fitness Certificate and report for duty within a month from the date of issuance of the appointment order or non-verification of their antecedents and testimonials. According to the appellant he joined duties and performing the same to the satisfaction of his superiors when he was terminated from service vide order dated 01.11.2019; that the appellant filed departmental appeal on 07.11.2019 against his termination which was not responded within ninety days, and he filed this appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who, once put appearance through Mr. Kashif Khan, Superintendent Sessions Court, Khyber but thereafter did never turn up nor did they file reply/comments.



3. We have heard learned counsel for the appellants and learned Additional Advocate General for the respondents.

4. The learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeals while the learned Addl: AG controverted the same by supporting the impugned order.

5. The respondents were given various opportunities to file reply/comments but despite given a number of opportunities and a number of


  
29.07.22

last chances their right to submit written reply was struck of. It appears from the available record that respondent No.2 issued a notice to the appellant vide letter No. 490 dated 24.10.2019; that in response to the advertisement published in the local newspapers, daily Mashriq dated 23.06.2019 his application for the post of Junior Clerk was considered; that it was highlighted loud and clear in the terms and conditions, in the advertisement, that a candidates shall be bonafide resident and domicile holder of District, Khyber; that the appellant disclosed to be a bonafide resident of District Khyber and its domicile holder; that the appellant was selected during the process and appointed accordingly; that the CNIC of the appellant was verified from NADRA through its Regional Office vide endorsement No. NADRA/LEA/Misc-03/117 dated 11.10.2019 where-from the appellant was found to be resident of Terri Payyan, District Peshawar; that non-verification of the status of the appellant to be bonafide resident of District Khyber on verification of his CNIC was amounting to furnishing false information at the relevant stage, therefore, respondent No.2 would not only withdraw his selection and appointment but also proceed in accordance with law which might include registration of criminal case. The appellant submitted a reply to the notice on 31.10.2019 wherein it was contended that he was bonafide resident and domicile holder of District Khyber, which was evident from his domicile certificate duly issued by the authority concerned on 02.06.2004 and verified by the Deputy Commissioner, Khyber; that the permanent and bonafide residence of respondent was also evident from the IDPs registration form duly issued by the authorities concerned wherein he had been shown as bonafide resident of District Khyber; that in his CNIC the present as well as

   
29.07.22

permanent address was shown as Terai Bala, P/O Teraye Payyan for the reason that his forefathers purchased property at District Peshawar long ago and they shifted from District Khyber to District Peshawar for the better future of family members, therefore, the present and the permanent address was shown as Terai Bala P/O Teraye Payyan, Peshawar. He also alleged that NADRA had not clarified his permanent and bonafide resident at District Khyber i.e. Nala Kajoori, Tehsil Bara. The respondent No.2 vide impugned No. 505 dated 01.11.2019, basing on the contents of the notice, terminated the appellant from services.

06. During the pendency of appeal, the appellant was directed to produce copy of the advertisement which he has produced. The advertisement has been perused which categorically requires that the vacancies advertised in the advertisement were only for the permanent residents holding domicile of District Khyber and there was no requirement of CNIC mentioned in the advertisement, therefore, basing solely on the alleged verification of NADRA of the CNIC of the appellant without verifying the domicile, which was the basic requirement according to the advertisement, does not seem appropriate. Therefore, a proper enquiry was an appropriate step before passing the impugned order, at least for verification of the authenticity of the domicile certificate of the appellant, its present status, whether the appellant has domicile certificate of District Peshawar also, if so, when was that obtained, whether before or after obtaining the domicile certificate of District Khyber, in case he has prepared domicile certificate at Peshawar, to ascertain the fact whether both still exist or one or which one was cancelled which one still

  
29.7.22

exists and, if cancelled, in accordance with law verification from NADRA is also required to be made from District Khyber regarding existence of permanent abode of the appellant and his predecessors. All these factors required thorough and proper probe, before taking any departmental action. Therefore, we allow this appeal, remit the matter back to respondent No.2 to conduct proper enquiry in the light of above within sixty (60) days after receipt of copy of this order then pass appropriate order in the light of situation coming out from the result of the enquiry. The appellant is reinstated for the purpose of enquiry. Costs shall follow the event. Consign.

*07. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 29<sup>th</sup> day of July, 2022.*



**KALIM ARSHAD KHAN**  
Chairman



**SALAH UD DIN**  
Member (Judicial)

**ORDER**

29<sup>th</sup> July, 2022

1. Appellant alongwith his counsel present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

2. Vide our detailed judgement of today placed on file (containing 05 pages), we allow this appeal, remit the matter back to respondent No.2 to conduct proper enquiry in the light of above within sixty (60) days after receipt of copy of this order then pass appropriate order in the light of situation coming out from the result of the enquiry. The appellant is reinstated for the purpose of enquiry. Costs shall follow the event. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 29<sup>th</sup> day of July, 2022.*



(KALIM ARSHAD KHAN)  
CHAIRMAN.



(SALAH UD DIN)  
MEMBER(Judicial)

Service Appeal No.1185/2020 titled "Mudassar Ahmad, Ex-Junior Clerk-vs-The Registrar Peshawar High Court Peshawar and other" and Service Appeal No.1186/2020 titled "Baseer Ahmad -vs-The Registrar Peshawar High Court Peshawar and other" decided on 29.07.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Ud Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**  
**SALAH UD DIN ... MEMBER (JUDICIAL)**

*Service Appeal No.1185/2020*

**Mudassar Ahmed, Ex-Junior Clerk, District Judiciary, District Khyber.**

.....(*Appellant*)

Versus

1. **The Registrar Peshawar High Court, Peshawar.**
2. **The District & Session Judge, District Khyber.**

.....(*Respondents*)

Present:

Taimoor Ali Khan,  
Advocate.....For appellants.

Mr. Muhammad Riaz Khan Paidakhel,  
Assistant Advocate General.....For respondents

-----  
Date of Institution.....25.02.2020

Dates of Hearing.....26.07.2022

Date of Decision.....29.07.2022

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 01.11.2019, WHEREBY THE PPELLANT HAS BEEN TERMINATED FROM SERVICE AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.**

of the States (27), the preamble of which states that:

"WHILEAS the system of Sardari, prevalent in certain parts of Pakistan, is the worst means of the oppressive feudal and tribal system which, being derogatory to human dignity and freedom, is repugnant to the spirit of democracy and equality as enunciated by Islam and embodied in the Constitution of the Islamic Republic of Pakistan and opposed to the economic development of the people."

As may also be seen from the 'Principles of Policy' stipulated in Chapter 2 of the Constitution, it provides guidance to the kind of country which the makers of the Constitution wanted to exist to be. Amongst these Principles is the Principle that, "The State shall discourage feudal, tribal, sectarian and provincial prejudices among the citizens" (Article 33) in principle.

Section 2 of Article 25 of the Fundamental Rights, Article 33 of the Principles of

Policy and the Sardari System (Abolition) Act, 1976 are read together Article 199 cannot be crossed into service to claim oneself to be a 'sardar', and in such capacity claim any right and/or privilege to claim a right and/or privilege, purportedly arising from being a 'sardar', would offend the Constitution, which envisages equality of all citizens. Article 8(1) too rather than appointing the case of the petitioner destroys it, because it inter alia stipulates that any 'custom or usage' inconsistent with any 'fundamental right' shall be void. Therefore, if 'sardars' or the 'Sardari System' are deemed to constitute custom or usage the same would be treated as void on the touchstone of Article 25(1), Article 4(1) also does not support the petitioner since the petitioner is not being denied the protection of law, nor has he been able to show that he is not being treated in accordance with law. Consequently, we have no hesitation in holding that the petitioner is not an aggrieved party/person under Article 199 of the Constitution nor any of his fundamental rights have been violated. The mere fact that a representative of the Miankhal tribe is a member of the local Council does not mean that persons belonging to such tribe will be treated on a par with others. And, if any local is not issued with a local certificate, that is his or her due, he/she could have recourse to legal action.

Therefore, for the above mentioned reasons this petition is dismissed in limine.

Petition dismissed.



## CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: This judgment shall dispose of the instant service appeal as well as connected service appeal No.1186/2020 titled "Baseer Ahmad-vs-The Registrar Peshawar High Court, Peshawar and other" as similar questions are involved in both the appeals.

2. The facts surrounding the appeals are that the appellant ~~the~~ ~~appellant~~ was appointed as Junior Clerk by respondent No.2 on 02.08.2019. In the offer of appointment letter it was mentioned at serial No.3 of the terms and conditions that the offer of appointment shall be deemed to have been cancelled, if, the appointee failed to furnish Medical Fitness Certificate and report for duty within a month from the date of issuance of the appointment order or non-verification of their antecedents and testimonials. According to the appellant he joined ~~his~~ duties and performing the same to the satisfaction of his superiors when he was ~~removed~~ <sup>terminated</sup> from service vide order dated 01.11.2019; that the appellant filed departmental appeal on 07.11.2019 against his termination which was not responded within ninety days, and he filed this appeal.

3. On receipt of the appeals <sup>its</sup> and ~~their~~ admission to full hearing, the respondents were summoned, who, ~~on putting appearance~~ <sup>once but appearance</sup>

*through Mr. Kashif Khan Supt Sessions Court Peshawar but thereafter did never turn up nor did they file reply/comments.*

the... according that any act done or proceeding taken within the territorial jurisdiction of the... by a person performing functions in connection with the affairs of the Federation, a Province or a local authority has been done or taken without lawful authority and is of no legal effect or

(c) on the application of any aggrieved person, make an order giving such directions to any person or authority, including any Government exercising any power or performing any function or in relation to any territory within the jurisdiction of the Court as may be appropriate for the enforcement of any of the Fundamental Rights conferred by Chapter I of Part III.

5. The terms 'aggrieved party' and 'aggrieved person' have been considered in innumerable precedents of the superior courts of Pakistan. An aggrieved party/person has to show that he is not being dealt with in accordance with law or is being denied the benefit of any one or more of the Fundamental Rights. However, in respect of matters of public interest, where the public interest of a person thereof, would be adversely affected by an act of a government or a local authority or an organization can voice such grievance through a petition filed before a High Court under Article 199. Reference in this regard may be made to the following cases:

*Magazir Bhanu v. Federation of Pakistan* (P.L.D. 1988 Supreme Court 416).

*Shah Zia v. WAPDA*, P.L.D. 1994 Supreme Court 693 and

*Andasbir Qwasjee v. Karachi Building Control Authority*, 1999 SCMR 2883.

6. The learned counsel for the petitioner states that by not appointing him on the Local Committee Articles 4(1), 8(1) and 25(1) of the Constitution are violated. The said Articles are reproduced hereunder:

4. Right of individuals to be dealt with in accordance with law, etc---(1) To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan.

8. Law's inconsistent with or in derogation of Fundamental Rights to be void---(1) Any law or custom or usage having the force of law, in so far as it is inconsistent with the rights conferred by these Articles shall, to the extent of such inconsistency, be void.

25. Equality of citizens, (1) All citizens are equal before law and are entitled to equal protection of law.

The petitioner wants representation of the Miankhalil tribe on the Local Committee and being its leader claims such right and/or privilege for himself. The Constitution of Pakistan neither recognizes nor acknowledges that any person is higher in status than another. On the contrary Article 25 (1) mandates equality of all citizens, which would negate anyone from claiming superiority, including superiority on account of being a nawab, sardar, malik, mir, pir. Thirty six years ago Parliament had also enacted System of Sardari (Abolition) Act, 1976 (P.L.J. 1976

14.07.2022

Appellant alongwith his counsel present.

Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.

Learned AAG made a request for adjournment on the ground that he has not made preparation of the case. Adjourned: To come up for arguments on 26.07.2022 before D.B.



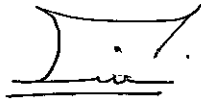
(Rozina Rehman)  
Member (J)



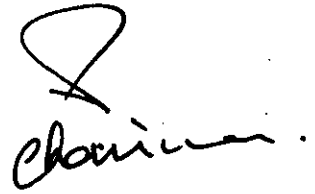
(Salah-Ud-Din)  
Member (J)

28/7/22

Arguments heard. For  
order on 29.07.2022



Salah-Ud-Din  
Member (J)




Chairman.

26.01.2022

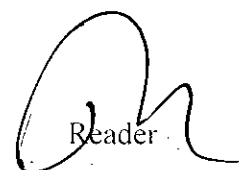
Appellant in person present. Mr. Kabirullah Khattak, Addl. AG for respondents present.

Written reply/comments on behalf of respondents are still awaited. On previous so many occasions opportunity were granted to respondents to furnish reply/comments but they failed to submit the written reply/comments, hence their right to submit written reply/comments is deemed as struck off. To come up for arguments before the D.B on 22.02.2022.

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

22.02.2022


Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 13.04.2022 for the same as before.

  
Reader

13.04.2022

Counsel for the appellant present. Mr. Kabirullah Khattak Addl. AG for respondents present.

Memo/grounds of appeal is not accompanied by duly sworn in affidavit. Therefore, the appellant is directed to file the same on or before date fixed. He is also directed to procure advertisement dated 23.06.2019 published in daily "Mashriq" may also be produced on the date fixed. To come up for arguments on 14.07.2022 before D.B.



(Rozina Rehman)  
Member (J)




Chairman

P.S

28.07.2021

Learned Addl. A.G be reminded about the omission and for submission of Reply/comments within extended time of 10 days.

  
Chairman

01.12.2021

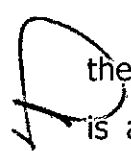
Appellant alongwith his counsel present. Mr. Kabirullah Khattak, Addl: AG for respondents present.

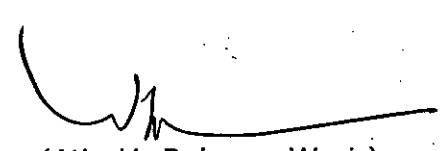
Written reply/comments not submitted. Learned AAG seeks time to contact the respondents for submission of written reply/comments. Request is acceded to but as a last. Adjourned. To come up for written reply/comments on 10.01.2022 before S.B.

  
(MIAN MUHAMMAD)  
MEMBER (E)

10.01.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.

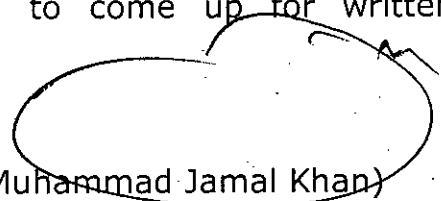
 Learned Additional Advocate General seeks time to contact the respondents for submission of written reply/comments. Request is allowed. Another last opportunity is granted. To come up for reply/comments on 26.01.2022 before S.B.

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

15.02.2021

Counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Muhammad Haroon, Junior Clerk, for the respondents are also present.

Written reply on behalf of respondents not submitted. Representative of the department is seeking further time for submission of written reply/comments. Last chance is given to the respondents for filing of written reply/comments. Adjourned to 06.04.2021 on which date file to come up for written reply/comments before S.B.

  
(Muhammad Jamal Khan)  
Member

06.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 13.07.2021 for the same as before.

  
READER

13.07.2021

Junior to counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Respondents have not submitted reply/comments. Learned AAG is required to contact the respondents for submission of written reply/comments in office within 10 days, positively. If written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 01.12.2021 before the D.B.

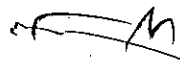
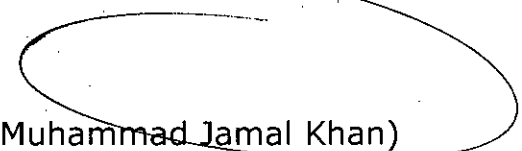
*Stipulated period has passed and reply has not been submitted*

  
Chairman

09.11.2020

Nemo for the appellant. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is present.

Written reply on behalf of respondents not submitted. Learned Additional AG requests for time to contact the respondents and furnish written reply/comments on the next date of hearing. Adjourned to 28.12.2020 on which date file to come up for written reply/comments before S.B.

  
  
(Muhammad Jamal Khan)  
Member (Judicial)

28.12.2020

Junior counsel for appellant is present. Mr. Asif Masood Ali Shah, Deputy District Attorney and Mr. Kashif Khan, Superintendent, for the respondents are also present.

Written reply on behalf of respondents not submitted. Representative of the department is seeking further time to furnish written reply/comments. Adjourned to 15.02.2021 on which date to come up for written reply/comments positively before S.B.

  
  
(MUHAMMAD JAMAL KHAN)  
MEMBER

08.09.2020

Counsel for the appellant present.

Learned counsel makes a request for correction of nomenclature of respondent No. 1 which has been erroneously mentioned as "The Registrar, Peshawar Court Peshawar". In fact, the said respondent is "Registrar Peshawar High Court, Peshawar".

The request appears to be genuine and a result of typographic error, therefore, the same is allowed. Office shall re-incorporate respondent No. 1 as "Registrar Peshawar High Court, Peshawar".

It is contended that service of appellant was dispensed with on 01.11.2019 purportedly on account of furnishing fake information/document pertaining to the domicile of appellant. The charge against the appellant was of the nature requiring thorough probe while the respondents did not care to conduct regular enquiry in the matter. Moreover, the correction/alteration in the C.N.I.C of the appellant was carried out much before the passing of impugned order.

Subject to all just exceptions, instant appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 09.11.2020 before S.B.

Appellant Deposited  
Security & Process Fee

08/9/20

  
Chairman



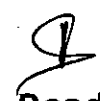



Form- A

FORM OF ORDER SHEET

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

Case No.- 1185 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	25/02/2020	<p>The appeal of Mr. Mudassar Ahmad presented today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p> REGISTRAR 25/2/2020</p>
2-	02/03/20	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>10/04/2020</u>.</p> <p> MEMBER</p>
10.04.2020		<p>Due to public holiday on account of COVID-19, the case is adjourned to 07.07.2020 for the same. To come up for the same as before S.B.</p> <p> Reader</p>
	07.07.2020	<p>Learned counsel for the appellant present and requested for adjournment. Adjourned. To come up for preliminary hearing on 08.09.2020 before S.B</p> <p> Member (J)</p>

6. That now the appellant come to this august tribunal on the following grounds amongst others.

**GROUND:**

- A) That not taking action on the departmental appeal of the appellant nad the impugned order dated 01.11.2019 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That no inquiry was conducted to confirm whether the appellant is the bonifide permanent resident of District Khyber or not and was terminated from service in slip shod manner by only issuing show cause notice to the appellant which is not permissible under the law and rules.
- C) That the appellant is bonifide permanent resident of District Khyber and have also domicile of District which is evident from the domicile and CNIC of the appellant's father, but he has only mentioned permanent resident in CNIC because that his forefather purchased property in District Peshawar long ago and they shifted from District Khyber to District Peshawar and has also mentioned that in his reply to show cause notice but despite that he was terminated from service.
- D) That the appellant also changed his permanent address in CNIC and the Deputy Commissioner Khyber Tribal District also gave verification to NADRA authority through letter dated 24.10.2019 that the father of the appellant is permanent resident of District Khyber and the appellant also attached the token of that CNIC in his reply to show cause notice but despite that he was terminated from service. **(Copy of letter dated 24.10.2019 is attached as Annexure-I)**
- E) That permanent residency of the appellant to District Khyber is also evident from the certificate of Competitive Examinations (CCS) 2019 and Return Facilitation Card. **(Copies of certificate of Competitive Examinations (CCS) 2019 and Return Facilitation Card are attached as Annexure-J&K)**
- F) That the appellant was terminated from service without observing the reply to show cause notice in which he gave the detail about his permanent residency of district Khyber with proofs which is against the norms of justice and fair play.

4

- G) That the appellant has been condemned unheard and has not been treated according to law and rules.
- H) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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



**APPELLANT**

Mudassar Ahmed

THROUGH:



**M. ASIF YOUSAFZAI**

**ADVOCATE SUPREME COURT**

&



**(TAIMUR ALI KHAN)**

**ADVOCATE HIGH COURT**

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

APPEAL NO. 1185 /2020

Mudassar Ahmed

V/S

District Judiciary

-----  
**INDEX**

S. No.	Documents	Annexure	P. No.
01	Memo of appeal	-----	01-04
02	Copies of Domicile Certificate, CNIC and CNIC of father	A,BC	05-08
03	Copy of appointment order dated 02.08.2019	D	09-10
04	Copies of notice and reply	E&F	11-12
05	Copies of termination order dated 01.11.2019 and departmental appeal	G&H	13-15
06	Copy of letter dated 24.10.2019	I	16
07	Copies of certificate of Competitive Examinations (CCS) 2019 and Return Facilitation Card	J&K	17-18
08	Vakatlama	-----	19

**APPELLANT**

THROUGH:

*M. Asif*

**M.ASIF YOUSAFZAI**

**ADVOCATE SUPREME COURT**

&

*Taimur Ali Khan*

**(TAIMUR ALI KHAN)**

**ADVOCATE HIGH COURT**

①

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

APPEAL NO. 1185/2020

Khyber Pakhtunkhwa  
Service Tribunal

Entry No. 1323

Dated 25/2/2020

Mudassar Ahmed, Ex-Junior Clerk,  
District Judiciary, District Khyber.

(APPELLANT)

VERSUS

1. The Registrar Peshawar Court Peshawar.
2. The District & session Judge, District Khyber.

(RESPONDENTS)

-----

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 01.11.2019, WHEREBY THE APPELLANT HAS BEEN TERMINATED FROM SERVICE AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

Filed to-day

  
Registrar

25/2/2020

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 01.11.2019 MAY KINDLY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

2

**RESPECTFULLY SHEWTH:  
FACTS:**

1. That the appellant is the bonafide citizen of Pakistan and was born in District Khyber (then Khyber Agency in FATA) and have permanent resident in Tehsil Bara, District Khyber, which is evident from the domicile certificate, CNIC of the appellant and CNIC of his father. **(Copies of Domicile Certificate, CNIC and CNIC of father are attached as Annexure-A,B&C)**
2. That District Judiciary of District Khyber has advertisement different posts in which the post of the juniors were also included. The appellant being qualified for the post of junior clerk applied for the said post.
3. That the appellant was appointed on the post of junior clerk through proper DSC after fulfilling all codal formalities vide notification dated 02.08.2019 and has performed with the entire satisfaction of his superiors and no complaint has been field against him regarding his performance. **(Copy of appointment order dated 02.08.2019 is attached as Annexure-D)**
4. That show cause notice was issued to the appellant in which it was mentioned that on verification from NADRA, you have been found to be bonafide permanent resident of Terri Payyan, District Peshawar. The appellant submitted reply to show cause notice in which he clearly mentioned that he is bonafide resident and domicile holder of District Khyber and permanent address and present address shown as Terai Payan Peshawar for the reason that his forefather purchased propey in District Peshawar long ago and they shifted from District Khyber to District Peshawar and after doubting on his permanent address he also applied for change of address and in this respect he also attached annexures with the reply as a proof. **(Copies of notice and reply are attached as Annexure-E&F)**
5. That without conducting inquiry on the permanent address of the appellant and without observing reply to show cause and annexures attached with the reply, the appellant was terminated from service vide order dated 01.11.2019. the appellant filed departmental appeal on 07.11.2019 against the termination which was not responded within the statutory period of ninety days. **(Copies of termination order dated 01.11.2019 and departmental appeal are attached as Annexure-G&H)**

# DOMICILE CERTIFICATE

A  
5

## Khyber Agency

Certificate that Mr./Miss MUDASIR AHMAD  
son/daughter of SAEED AHMAD  
belongs to a recognized tribe of M. D. R.


Section DARWAT KHEC Sub section MUSRAT KHEC  
residence/village MIRIA KAJOORI PARIAAL


and his/het father is a permanent bonafide resident of the tribal area  
of Khyber Agency. He/She is an eligible candidate to avail  
himself/herself of the seats reserved for the special areas of the  
Peshawar Division backward area of Khyber Agency.

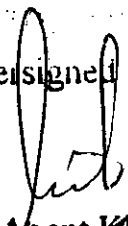
Verified

Attested

Countersigned

  
Political Tehsildar  
POLITICAL NAIB TEHSILDAR,  
BARA, KHYBER AGENCY.

  
Asstt. Political Agent  
Assistant Political Agent,  
Bara Khyber Agency.

  
Political Agent Khyber  
POLITICAL AGENT  
BARA

No. 1754/EC.  
02-06-04.

  
Attested

(6)

## بیان سفید ریشان

ہم مندرجہ ذیل سفید ریشان اس امر کی تصدیق کرتے ہیں کہ

سکی سید احمد ولد سید احمد  
قوم مندیہ خیل جو دولت خیل کنڈ لفت خیل  
ساکن مالو کھور تحصیل ڈاکخانہ  
خیبر ایجنسی کا اصل پیدائشی اور سکونتی باشندہ ہے۔

علاقہ خیبر ایجنسی میں جائیداد رکھتے ہیں۔ میں حکومت پاکستان کے وفادار ہیں قوم کے ساتھ نفع اور نقصان دونوں میں برابر کے شریک ہیں اور موجب خورد ہیں اور اس ضمن میں ہر قسم کی ذمہ داری قبول کرتے ہیں نیز اگر مندرجہ بالا تصدیق میں کسی قسم کی غلطی یا جھوٹ پائی گئی تو ہم مبلغ پچاس ہزار (50,000) روپیہ کدہا ضرب پاکستانی بطور فی نفر جرمانہ حکومت کو ادا کریں گے۔

سفید ریش محمد علی مندرجہ ذیل سفید ریش محمد علی  
سفید ریش محمد علی مندرجہ ذیل سفید ریش محمد علی  
سید احمد

سفید ریش محمد علی مندرجہ ذیل سفید ریش محمد علی  
سفید ریش محمد علی مندرجہ ذیل سفید ریش محمد علی  
سید احمد

ATTESTED.

Mrs

POLITICAL AND TEHSILDAR,  
BARA, KHIBER AGENCY



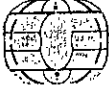
A B Annex



PAKISTAN National Identity Card

ISLAMIC REPUBLIC OF PAKISTAN

Name  
Mudassar Ahmed



Father Name  
Saeed Ahmed



Gender Country of Stay  
M Pakistan

Identity Number Date of Birth  
17301-8811226-5 01.04.1987

Date of issue Date of Expiry  
30.10.2019 30.10.2029

Holder's Signature

54518

سرحدیہ ڈاک خانہ، میری پانیاں، شہری آباد، تحصیل و ضلع 17301-8811226-5



مستقل چھوٹے بین خلیا دولت خیل کنڈے سرت خیل

تاشیان، ڈاک خانہ، نالہ خور، تحصیل بازہ، ضلع خیبر

101441120951

Registrar General of Pakistan

گمشدہ کارڈ ملنے پر قریبی لیو بکس میں ڈال دیں

Attested

Handwritten signature and circled numbers '8' and '8'.

**PAKISTAN** National Identity Card  
 ISLAMIC REPUBLIC OF PAKISTAN

Name: Saeed Ahmed

Father: Inayat Ullah Aridi

Gender: M Country of Stay: Pakistan

Identity Number 17301-1414055-9	Date of Birth 27/08/1959
Date of Issue 30.10.2019	Date of Expiry Lifetime

Holder's Signature

17301-1414055-9

QR Code

10244112096  
19759-17918

Registrar General of Pakistan

گمشدہ کارڈ ملنے پر قریبی لیڈ بکس میں ڈال دیں

Attested



**DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA**  
K H Y B E R

☎ 091-5615231  
✉ dsjkhyber@gmail.com

No. 290-295  
Dated Khyber: 09/08/2019

**ORDER**

On the recommendations of the Departmental Selection Committee, dated 31<sup>st</sup> July, 2019, the Competent Authority is pleased to order, appointment on temporary basis of the following candidates against vacant post of **Junior Clerk (BPS-11)**, with effect from the date of assumption of charge of the post, subject to medical fitness & antecedents/testimonials verification from the quarter concerned: -

S. No	Name	Father Name	CNIC
01	Muhammad Danish	Muhammad Jamil	21202-1663387-7
✓ 02	Mudassar Ahmad	Saeed Ahmad	17301-8811226-5
03	Muhammad Sahid Khan	Shan Gul	21202-6773003-1

2. Their appointments are temporary subject to the following terms & conditions:

- i. *The services shall be governed by the NWFP Civil Servants Act, 1973 and NWFP Government Servants (Appointment, Promotion & Transfer) Rules, 1989.*
- ii. *The appointees shall be allowed the minimum pay of BPS-11 with allied allowances admissible under the rules.*
- iii. *The appointments are on probation for a period of one year extendable up to two years and the delinquent officials, if, found as otherwise their service shall be dispensed with without any reason or notice during the period.*
- iv. *Confirmation of the appointees is subject to their services, conduct, demeanor & performance to the satisfaction of the competent authority/committee during the probation but subject to the availability of the permanent posts.*
- v. *In the event of termination from service, fourteen days notice or in lieu, thereof, fourteen days' pay will be paid by the Govt. In case of resignation, the appointee shall inform thirty (30) days prior, the competent authority through a notice otherwise in lieu, thereof, one month pay shall be forfeited to the Government, however, the resignation shall be subject to the acceptance by the Competent Authority.*

Attested

10

vi. *The appointees shall be governed by the Government of Khyber Pakhtunkhwa (Efficiency & Discipline) Rules, 2011 & the NWFP, Government Servants conduct Rules, 1987 and any other instructions which may issue by the Competent Authority from time to time.*

3. The appointments are subject to the aforesaid terms & conditions, if, acceptable to the appointees, shall report to the competent authority forthwith. The offer of appointment shall be deemed to have been cancelled, if, the appointee failed to furnish Medical Fitness Certificate and report for duty within a month from the date of issuance of the appointment order or non-verification of their antecedents & testimonials.

4. The appointees shall join their duties at their own expenses.

(Shahid Khan)

District & Sessions Judge, Khyber /  
Chairman DSC

Endst: No. 290-295/DSJ Dated Khyber the 2/08/2019.

*Copy forwarded for information and necessary action to: -*

1. The Registrar, Peshawar High Court, Peshawar along with copy of Minutes of the meeting of DSC dated 31/07/2019.
2. Mr. Asif Rashid, AD&SJ-I, Khyber. (Nominee of the Sessions Judge, Khyber).
3. Mr. Shabbir Muhammad Durrani, Senior Civil Judge (Admn), Peshawar (Nominee of the Peshawar High Court, Peshawar).
4. The District Comptroller of Accounts, Khyber.
5. The Clerk of Court of this office.
6. The appointee(s) by name.

(Shahid Khan)

District & Sessions Judge, Khyber /  
Chairman DSC

Attested



E (11)

**DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA**  
**K H Y B E R**

☎ 091-5615231

✉ dsjkhyber@gmail.com

No. 490

Dated Khyber 24-10-2019

## N O T I C E

*Mudassir Ahmad son of Saeed Ahmad (CNIC No: 17301-8811226-5), Junior Clerk, resident of Terri Payyan, District Peshawar.*

Whereas, in response to an advertisement published in local newspapers, Daily Mashriq dated, 23/06/2019, your application for the candidature of Junior Clerk was considered.

Whereas, it was highlighted loud & clear in the terms & conditions, in the advertisement, the candidate shall be a bonafide resident & domicile holder of District Khyber.

Whereas, you disclosed to be a bonafide resident of District Khyber and its domicile holder.

Whereas, you were selected during the due process and was appointed accordingly.

Whereas, the documents so furnished, as your CNIC has been verified from the quarter concern, NADRA, through its regional office vide Ehdst. No: NADRA/LEA/Misc-03/117 dated: 11/10/2019, whereof, you have been found to be bonafide permanent resident of Terri Payyan, District Peshawar.

Now, non-verification of your status as to be a bonafide resident of District Khyber on verification of your CNIC amounts to furnish false information at the relevant stage.

Now, therefore, the competent authority shall not only withdraw your selection & appointment but can also proceed in accordance with law may amounts to registration of criminal case accordingly.

You may furnish your reply *within 07 days*, failing which, it would be presumed that you have no defense.

  
[SHAHID KHAN]  
District & Sessions Judge,  
Khyber

  
Attested

F 12

**REPLY TO THE NOTICE NO: 490, DATED: 24.10.2019.**

In reply to your good-self notice dated: 24.10.2019, the undersigned humbly submits as under.

It is true that I, in response to an advertisement published in local newspaper, Daily Mashriq dated: 23.06.2019, applied for the post of "Junior Clerk" with required qualification and after due process, I was selected and appointed against the post of "Junior Clerk".

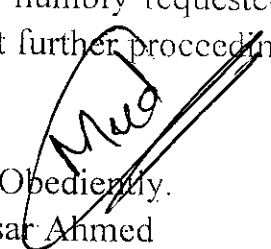
As far as my permanent resident is concerned, I am bonafide resident and Domicile holder of District Khyber which is evident from my domicile certificate dully issued by the authorities concerned on 02.06.2004. The domicile certificate is dully verified from Deputy Commissioner, Khyber. Furthermore, the permanent and bonafide residence of respondent is evident from IDPs Registration Form dully issued by the authorities concerned wherein the respondent has been shown as bonafide resident of District Khyber. **(Copies of Domicile certificate, verification report and IDPs Registration Form are attached as Annexure-A, B&C)**

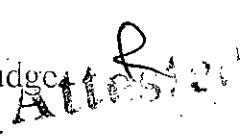
That in my CNIC, my present as well as permanent address is shown as Terai Bala, P/O Teraye Payyan, for the reason that my forefathers purchased property at District Peshawar long ago and they shifted from District Khyber to District Peshawar for the better future of our family members, therefore, the present and the permanent address was shown as Terai Bala, P/O Teraye Payyan, Peshawar.

The NADRA Authorities has not verified my permanent and bonafide resident at District Khyber i.e. Nala Kajoori, Tehsil Bara.

That, after doubting my permanent address at District Khyber by the NADRA authorities, I applied for change of my permanent address in my CNIC as Nala Kajoori, Tehsil Bara, resultantly the NADRA authorities issued Token accordingly. **(Copy of Token is attached as Annexure-D)**

Keeping in view above mentioned facts, it is humbly requested that the show cause notice may please be dropped without further proceeding.

  
Your's Obediently,  
Mudassar Ahmed  
Junior Clerk.

District & Session Judge  
District Khyber. 

Date: 31/10/2019.



9 13

**DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA**  
**K H Y B E R**

☎ 091-5615231

✉ dsjkhyber@gmail.com

No. 505

Dated Khyber 01-11-2019

**OFFICE ORDER**

You, **Mudassir Ahmad** son of **Saeed Ahmad** (CNIC No: 17301-8811226-5), **Junior Clerk**, in response public notice/advertisement published in daily Mashriq dated 23/06/2019, wherein, not only the aspirant/candidate shall be bonafide permanent resident of District Khyber but shall also be domicile holder of District Khyber. You furnished your respective candidatures through applications, wherein, specifically highlighted to be the domicile holders of District Khyber and permanent bonafide residents of District Khyber to avoid your disqualification being not permanent bonafide resident of District Khyber.

On verification from NADRA you are found to be the present & permanent resident of Terri Payyan, District Peshawar. The information's so furnished regarding your permanent place of resident is contradictory in your CNIC and the information so furnished to this Sessions Division.

On the strength of the disinformation you procured your candidature to be eligible followed by your selection as Junior Clerk, however, you might have been disqualified at the very initial stage; if, you furnished correct information as to not be the permanent resident of District Khyber rather of District Peshawar. The disinformation so furnished has misled the Competent Authority in your selection & appointment, however, element of mens-rea can no way be ruled out.

The subject disinformation has only been conceded but it has been specifically highlighted that NADRA has been approached to rectify your permanent address in CNIC as District Khyber.

You have procured your candidature & selection as a permanent resident & domicile holder of District Khyber, whereas, on verification from NADRA, the information so furnished by you have been found as incorrect.

The Competent Authority has been pleased to dispense with your services on the ground of furnishing incorrect information to procure your candidature & selection.

You are hereby terminated from the services of Junior Clerk, Establishment of Sessions Division, Khyber with immediate effect.

**Dated: 01/11/2019**

**Attest:**

  
**[SHAHID KHAN]**  
District & Sessions Judge,  
Khyber

To,

**The Registrar**  
Peshawar High Court Peshawar.

7-91-19  
H 14

Subject: APPEAL/REPRESENTATION AGAINST TERMINATION OF SERVICES BY DISTRICT AND SESSION JUDGE KHYBER VIDE ORDER DATED 01.11.2019

Respectfully,

The appellant submits this appeal for the following facts and reasons:

1. That appellant had applied for the post of Junior Clerk in response to an advertisement published in the press he had submitted all his documents which were found valid and accordingly appellant was selected as Junior Clerk vide order dated 02.08.2019. Copy of appointment letter is enclosed as mark "A".
2. That appellant assumed charge and worked on his post satisfactorily but in the meantime on 24.10.2019 a notice was issued to the appellant by District and Session Judge District Khyber wherein he was required to explain / show cause within seven days. Copy of the notice is enclosed as mark "B".
3. That the appellant honestly stated all the facts in his reply and denied that the appellant has not played foul as he is the bonafide resident of District Khyber. But his family has also property in District Peshawar and for that reason he has given his address both permanent and temporary as that of village Terai Bala District Peshawar. After the notice appellant applied to NADRA for change of his permanent address which has been accordingly done and new CNIC was issued in his favour which shows his present address as Terai Bala District Peshawar and permanent address as that of District Khyber. Copy of reply and CNIC is attached as mark "C" and "D".
4. That yet his service has been terminated by the Hon'ble District and Sessions judge, Khyber vide order dated 01.11.2019 which is not only harsh but unjust as well, hence, the appellant prefers this appeal for the following grounds.

Attest



Grounds

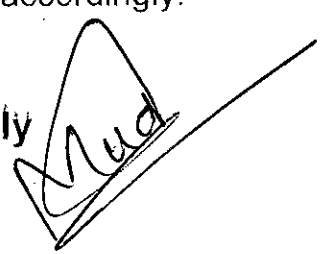
15

- A. That the appellant had not supplied any false information regarding his permanent domiciled address. His family owns property in village Terai Bala District Peshawar, but they are the original residents of District Khyber where they belong to Afridi Malik Din Khel Tribe and belongs to a known family of Qaziah.
- B. That the appellant's domicile certificate is real and true and the appellant's grand father who is alive and owns agricultural property in village Terai Bala of District Peshawar, hence, the appellant has neither concealed the true facts nor has provided forged evidence. But the action taken against him is indeed harsh and unwarranted, the appellant is liable to any action if his permanent and original residence/domicile is not of Khyber Agency his family being owners in Peshawar District the appellant as a young student carelessly described his permanent address of Peshawar though his father and forefathers are still permanent residents of District Khyber.

It is most humbly prayed that the case of the appellant be reconsidered and the termination order passed by the Hon'ble District Sessions Judge Khyber may please be reviewed/ set aside and the appellant be reinstated on his service accordingly.

Yours Sincerely

Appellant



Mudassar Ahmed S/o Saeed Ahmed R/o Malik Din Khel, Dolat Khel, kanday Nusrat Khel, Qaziah Post Office Bara, Nala Kor Tehsil Bara District Khyber.

Presently R/o Terai Bala P.O Terai Payyan Pajagai Road, Peshawar

CNIC No. 17301-8811226-5  
Cell No. 0333-9198009

Submitted on

7-11-2019.

Attested

I 16

No. 21064 /EC (Veri) dated Peshawar the 29/10/2019.

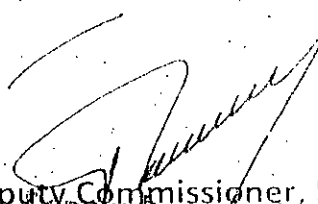
From: The Deputy Commissioner, Khyber

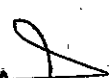
To:- The In-Charge,  
Assistant Director,  
NADRA Registration Centre Bara/RHO KP.

Subject: VERIFICATION OF DOMICILE(S).

Memo: Reference your letter No.NRC-BARA/Gen-Letter/Domicile/DOM-39 dated 28.10.2019.

It is verified that Mr.Siyal Badshah s/o Mir Badshah & Qazi Saeed Ahmad s/o Qazi Innayat Ullah are belongs to recognized tribe of Malik Din Khel section Daulat Khel sub section Nusrat Khel resident/village Nala Kajuri Qazyan Tehsil Bara District Khyber.

  
Deputy Commissioner, Khyber  
Deputy Commissioner,  
Khyber Tribal District  
29/10

  
Attest

J  
17

Annex 'B'

Certificate to be produced by the Candidate belonging to the Tribal Areas  
under Para 6(2) (b&d) of the Federal Public Service Commission  
Rules relating to the Competitive Examination (CSS), 2019.

This is to certify that Mr./Miss/Mrs. Mudassar Ahmed son/daughter/wife of  
Saeed Ahmed belongs to the  
recognized tribe (name of tribe) M.D.K. and is a permanent resident of village/ town  
Nala Kajoori Qazian of Khyber Tribal Area and his/her family have been  
living in that area.

It is further certified that Mr./Miss/Mrs. Mudassar Ahmed belongs to  
Provincially Administered Tribal Area/Federally Administered Tribal Area (as defined vide Article 246 of Constitution of the  
Islamic Republic of Pakistan)/Gilgit Baltistan. (Strike out which is not applicable).

Signature: [Signature]  
Name: Asmejehi 18/12  
Deputy Commissioner/District Magistrate

Assistant Commissioner  
Bara Khyber Tribal District  
(Official stamp must be affixed here)

No. 01931/EC

Date: 18/12/2018

DC NCO 1754/EC  
off 2-6-2009

[Signature]  
Attested

K. (18)



### Returnees Facilitation Card Khyber Agency



VRF Number	Return Date	Registration No.	RF Form No.	RFC Issuance Date
1031373	2015-09-10	0	KM-17161	2015-09-10

#### IDENTITY

Name of HoH	SAEED AHMAD	Age	66
CNIC No.	1730114140559	Gender	Male
NADRA Token	0	Occupation	None
ATM Card No.		SIM No.	

#### ORIGIN ADDRESS

#### AREA OF RETURN

Province	FATA	Province	FATA
District/Agency	Khyber Agency	District/Agency	Khyber Agency
SubDivision	Bara	SubDivision	Bara
Tehsil	Bara	Tehsil	Bara
Village/Town	NALA	Village/Town	NALA
Tribe	Malak Din Khel		

#### FAMILY DETAILS

Picture Not Available	Picture Not Available	Picture Not Available	Picture Not Available	Picture Not Available
Robina	Mudasir Ahamd	Hassan	Mohsin	Binash
Age 50	Age 23	Age 20	Age 21	Age 17
Spouse	Child	Child	Child	Child
CNIC#	CNIC# 1730188112265	CNIC#	CNIC# 1730189475365	CNIC#
RFC#	RFC#	RFC#	RFC#	RFC#
Picture Not Available	<i>Handwritten signature and notes</i>			
Tahseenullah				
Age 14				
Child				
CNIC#				
RFC#				

#### VEHICLE DETAILS

Vehicle Type	Make	Registration No.	Engine No.	Chassis No.

#### WEAPON DETAILS

Weapon Type	Bore	Make	Weapon No.

#### HOUSING DETAILS

Total Area	Construction Type	No. of Rooms	Structure Type
10	Permanent, Mud Mix	4	Single Storey

Attested By: ظریف ظریف  
NIC (Gala Khan) 9295-3



Sign and Stamp  
(Political Administration)

Attested

**VAKALAT NAMA**

NO. \_\_\_\_\_/2020

IN THE COURT OF PK Service Tribunal Peshawar

Mudassar Ahmed

(Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

District Judiciary

(Respondent)  
(Defendant)

I/We, Mudassar Ahmed

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/20

Mud  
(CLIENT)

ACCEPTED

M. Asif Yousafzai  
**M. ASIF YOUSAFZAI**  
*Advocate Supreme Court Peshawar.*

&

Taimur Ali Khan  
**TAIMUR ALI KHAN**  
*Advocate High Court, Peshawar*

**OFFICE:**

Room # FR-8, 4<sup>th</sup> Floor,  
Bilour Plaza, Peshawar,  
Cantt: Peshawar  
Cell: (0333-9103240)