

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

Service Appeal No. 7844/2021

Date of Institution ... 03.12.2021

Date of Decision ... 30.06.2022

Mehtab Alam Ex-Junior Clerk, Environmental Protection Tribunal,  
Khyber Pakhtunkhwa, Peshawar.

... (Appellant)

VERSUS

The Honorable Chairperson Environmental Protection Tribunal  
Khyber Pakhtunkhwa, Peshawar and one other.

... (Respondents)

-----  
SYED NOMAN ALI BUKHARI,  
Advocate

--- For appellant.

MR. ASIF MASOOD ALI SHAH,  
Deputy District Attorney

--- For respondents.

MR. SALAH-UD-DIN  
MS. ROZINA REHMAN

--- MEMBER (JUDICIAL)  
--- MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Through the instant service appeal, the appellant has invoked jurisdiction of this Tribunal with the prayer copied as below:-


*"that on acceptance of this appeal, the order dated 29.07.2021 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 may also be awarded in favour of the appellant".*



2. As per the averments in the appeal, the appellant was serving as Junior Clerk in Environmental Protection Tribunal Khyber Pakhtunkhwa Peshawar. Files of Case No. 515-P/2021 and Appeal No. 05/2021 went missing, therefore, Member Technical Khyber Pakhtunkhwa Environmental Protection Tribunal

Peshawar was appointed as inquiry officer to sort out the delinquent official and to submit his report to the Authority. The appellant was not Incharge Record Room but it is astonishing that the inquiry officer held him responsible for missing of the concerned files. On the basis of fact finding inquiry, show-cause notice was issued to the appellant, holding him guilty of misplacement of the concerned files as well as embezzlement of huge amount. The appellant submitted reply to the show-cause notice, however he was awarded major penalty of removal from service, vide the impugned order dated 29.07.2021 passed by competent Authority. The same was challenged by the appellant through filing of departmental appeal/review, which was not responded within the statutory period of 90 days, hence the instant service appeal.

3. Respondents contested the appeal by way of submitting para-wise comments, wherein they refuted the stance taken by the appellant in his appeal.

  
4. Learned counsel for the appellant has contended that no charge sheet or statement of allegations was issued to the appellant and he has been wrongly and illegally awarded major penalty of removal from service on the basis of fact finding inquiry. He next contended that the appellant was issued final show-cause notice on the basis of fact finding inquiry, which is against the provisions of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. He further argued that the appellant was serving as Junior Clerk and as there was designated Incharge of record room, therefore, the appellant could not be held responsible for missing of the concerned files. He also argued that the fact finding inquiry was conducted only in respect of the missing files but the competent Authority has mentioned in its order dated 29.07.2021 that the appellant was also found guilty of the charge of embezzlement. In the last he requested that as the impugned order is wrong and illegal, therefore, the same may be set-aside and the appellant may be reinstated in service with all back benefits.

5. On the other hand, learned Deputy District Attorney for the respondents has contended that proper inquiry was conducted in

the matter by complying all legal and codal formalities. He next argued that after a thorough inquiry in the matter, the appellant was found responsible for missing of the concerned files. He further argued that final show-cause notice was issued to the appellant and he was also provided opportunity of personal hearing, however he was unable to put forward any plausible reason in his defense. He next argued that the appellant was found guilty of misconduct as well as embezzlement of huge amount of costs, therefore, he has rightly been removed from service.

6. Arguments heard and record perused.

7. A perusal of the record would show that matter of missing of the record of Case No. 515-P/2021 and Appeal No. 05/2021 was reported by Registrar of Khyber Pakhtunkhwa Environmental Protection Tribunal (hereinafter referred as Tribunal) to Chairperson of the Tribunal. Upon directions of Chairperson of the Tribunal, Registrar of the Tribunal appointed Dr. Muhammad Saleem Member Technical, Tribunal as inquiry officer with the directions to sort out the delinquent official and to submit his report to the Authority within 07 days. It is crystal clear that no charge sheet or statement of allegations was issued to the appellant and thus the inquiry so conducted by the inquiry officer could at best be considered as a fact finding inquiry.

8. According to the contents of show-cause notice, the same was issued to the appellant in light of report of fact finding inquiry but on the other hand the competent Authority has mentioned in the same that he was dispensing with further inquiry. Similarly, the impugned order dated 29.07.2021 passed by the competent Authority would also show that the appellant was awarded major penalty of removal from service on the basis of the fact finding inquiry. If the competent Authority was of the view that it was not necessary to hold an inquiry against the appellant under Rule-5 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, then procedure as prescribed in Rule-7 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 was to be adopted. The procedure so adopted by the competent Authority is

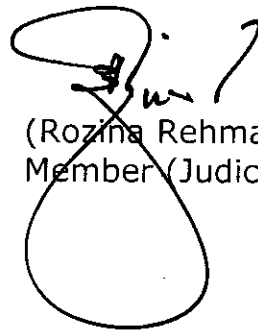
Service Appeal No. 7844/2021

ORDER  
30.06.2022

Appellant alongwith his counsel present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is allowed by setting-aside the impugned order and the appellant is reinstated in service with all back benefits. The departmental Authority shall, however would be at liberty to conduct de-novo inquiry in the matter if it so desires but strictly in accordance with relevant rules. In case of de-novo inquiry, the issue of back benefits shall be subject to outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
30.06.2022

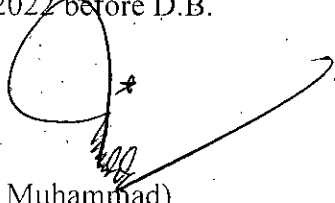
  
(Rozina Rehman)  
Member (Judicial)

  
(Salah-Ud-Din)  
Member (Judicial)

26.05.2022

Learned counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney alongwith Mr. Arsala Khan Registrar for the respondents present.

Written reply/comments on behalf of respondent submitted which is placed on file. Copy of the same is handed over to the learned counsel for the appellant. To come up for rejoinder if any, and arguments on 30.06.2022 before D.B.

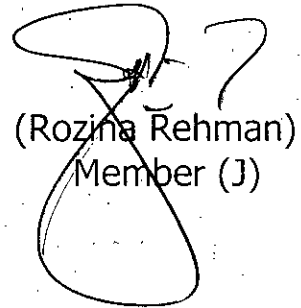
  
(Mian Muhammad)  
Member (E)

23.12.2021

Appellant present through counsel. Preliminary arguments heard and record perused.

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices of the be issued to the respondents for submission of reply/comments. To come up for reply/comments on 09.03.2022 before S.B.

Appellant Deposited  
Security & Process Fee

  
(Rozina Rehman)  
Member (J)

09.03.2022

Due to retirement of the Hon'able Chairman, the case is adjourned to 20.04.2022 for the same as before.

  
Reader

20.04.2022

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

Written reply/comments not submitted. Previous date was changed through Reader note, therefore, notices be issued to the respondents for submission of written reply/comments. Adjourned. To come up for written reply/comments on 26.05.2022 before S.B.

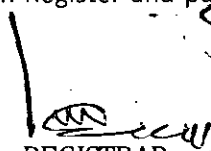

  
(MIAN MUHAMMAD)  
MEMBER(E)

Form- A

# FORM OF ORDER SHEET

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

Case No.- 7844/2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	06/12/2021	<p>The appeal of Mr. Mehtab Alam presented today by Syed Noman Ali Bukhari 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> <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>23/12/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR  
CHECK LIST**

Case Title: Mehrab Alians. vs Environmental Protection.

S.#	Contents	Yes	No
1.	This appeal has been presented by: <u>Syed Abrar Ali Bukhar</u>	✓	
2.	Whether Counsel / Appellant / Respondent / Deponent have signed the requisite documents?	✓	
3.	Whether Appeal is within time?	✓	
4.	Whether the enactment under which the appeal is filed mentioned?	✓	
5.	Whether the enactment under which the appeal is filed is correct?	✓	
6.	Whether affidavit is appended?	✓	
7.	Whether affidavit is duly attested by competent oath commissioner?	✓	
8.	Whether appeal/annexures are properly paged?	✓	
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	✓	
10.	Whether annexures are legible?	✓	
11.	Whether annexures are attested?	✓	
12.	Whether copies of annexures are readable/clear?	✓	
13.	Whether copy of appeal is delivered to A.G/D.A.G?		
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15.	Whether numbers of referred cases given are correct?	✓	
16.	Whether appeal contains cuttings/overwriting?	α	✓
17.	Whether list of books has been provided at the end of the appeal?	✓	
18.	Whether case relate to this Court?	✓	
19.	Whether requisite number of spare copies attached?	✓	
20.	Whether complete spare copy is filed in separate file cover?	✓	
21.	Whether addresses of parties given are complete?	✓	
22.	Whether index filed?	✓	
23.	Whether index is correct?		
24.	Whether Security and Process Fee deposited? on		
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? on		
26.	Whether copies of comments/reply/rejoinder submitted? on		
27.	Whether copies of comments/reply/rejoinder provided to opposite party? on		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:

Syed Abrar Ali Bukhar

Signature:

[Signature]

Dated:

\_\_\_\_\_



**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 7844/2021

MEHTAB ALAM

V/S

Environmental Tribunal KP :

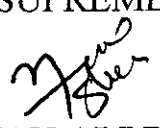
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S.NO.	DOCUMENTS	ANNEXURE	PAGE
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4.	Copy of show cause	C	09-10
5.	Copy of reply	D	11-12
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APPELLANT  
MEHTAB ALAM

THROUGH:

  
M.ASIF YOUSAFZAI),  
ADVOCATE SUPREME COURT

  
(SYED NOMAN ALI BUKHARI)  
ADVOCATE, HIGH COURT

  
SHAHKAR KHAN YOUSAFZAI  
ADVOCATE PESHAWAR

DATE: 03/11/2021

(1)

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 7844 /2021

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 7961

Dated 03/12/2021

MEHTAB ALAM Ex-Junior Clerk,  
Environmental Protection Tribunal, Khyber Pakhtunkhwa, Peshawar.

.....(Appellant)

VERSUS

1. The Honorable chairperson Environmental Protection Tribunal Khyber Pakhtunkhwa, Peshawar.
2. The Registrar, Environmental Protection Tribunal Khyber Pakhtunkhwa, Peshawar.

.....(Respondents)

**APPEAL UNDER SECTION 4 OF THE KP SERVICES TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 29.07.2021 WHEREBY THE APPELLANT WAS REMOVED FROM SERVICE ILLEGALLY WITHOUT LAWFUL AUTHORITY AND AGAINST NOT DECIDING DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD OF 90 DAYS..**

PRAYER:

**THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 29.07.2021 MAY KINDLY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED IN TO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOR OF APPELLANT.**

Filed to-day

Registrar

3/12/2021

**RESPECTFULLY SHEWETH:**

**FACTS:**

1. That the appellant was Initially appointed as Chowkidar after fulfilling all the codel and legal formalities having qualification of BS in Economics (Honors) from kohat University of Science & Technology Kohat. **Copy of Ist appointment order is attached as annexure-A.**
2. That Some posts of Junior Clerk were advertised in the daily newspaper; hence, the appellant applied for the post of Junior Clerk through proper channel and after passing successfully through the selection process appellant was appointed as a Junior Clerk vide order dated 05-03-2020. **Copy of the appointment order is attached as annexure-B.**
3. That Afterward, a so called inquiry (fact finding) was conducted by Member Technical who astonishingly held the undersigned responsible for missing files beside the fact that the undersigned is not record in-charge room without affording any opportunity of defense. There is designated in-charge record, who is the sole custodian of the record. The allegations regarding misappropriation have never been proven the copy of inquiry report was also not provided to the appellant.
4. That thereafter, show cause notice dated 14-07-2021 was served to the undersigned for misplacing case file no 515-P/2021 and appeal No 5/2021 with the false allegations of misappropriation and by dispensing with the inquiry which was denied by submitting reply to the show cause notice dated 19-07-2021. **Copy of the show cause notice and reply is attached as annexure-C & D.**
5. That Abruptly, appellant received the impugned order dated 29-07-2021 whereby major penalty of Removal from service has been imposed upon me without fulfilling all the codel formalities required for imposition of major penalty. **Copy of termination order is attached as annexure-E**
6. That the appellant feeling aggrieved filed departmental appeal against the impugned order which was not responded within statutory period of 90days. Hence the present appeal on the following grounds amongst others **Copy of departmental appeal is attached as annexure-F.**

**GROUNDS:**


- A. That the appellant the impugned order dated 29.07.2021 is against the law, norms of justices and without lawful authority. Hence liable to be set-aside.
- B. That no proper inquiry was conducted and charge sheet and statement of allegation was also never served upon the appellant because at the time of inquiry and charge sheet the appellant was behind the bar and so the appellant was deprived of self-defense which is violation of law and superior court judgment.
- C. That according to superior court judgments in case of embezzlement the regular inquiry is must and cannot be dispensed with, so the order of removal is illegal and against the law and rules.
- D. That there is no order in black and white form to show reasons for dispense with the inquiry which is violation of law and rules and without charge sheet, statement of allegation and proper inquiry the 29.07.2021 without given personal hearing which is necessary and mandatory in law and rules before imposing major penalty. So the whole procedure conducted has nullity in the eye of law. So the impugned order is liable to be set aside
- E. That the inquiry report along with the show cause was also not provided to the appellant, which is clear violation of Superior Court judgment. That principal is also held in the appeal of the **Waleed Mehmood vs Police Deptt.**
- F. That the impugned order is clear violation of supreme court judgment that charge sheet and statement of allegation not only be issued but shall be communicated to the person by before imposing major punishment to the accused.
- G. That the so called inquiry is one sided as no personal hearing and personal defense has been provided to the undersigned in respect of embezzled amount. Which is illegal and against the law and rules.s
- H. That no proper and regular inquiry was conducted. Neither the appellant was associated with the enquiry proceedings nor any statement of witnesses recorded in the presence of appellant. Even a chance of cross examination was also not provided to the appellant which is violation of norms of justice.

- I. That the attitude and conduct of the Department shows that they were bent upon to remove the appellant at any cost.
- J. That there is no chance of self-defense was provide to the appellant and according to Supreme Court judgment mere on the basis of allegation no one should be punished.
- K. That it is the maxim of the law (audi alteram peltrum) that no one should be unheard, and the impugned order is also passed in violation of article of 10-A OF the constitution of Pakistan which told us about the fair trial which was the fundamental right of the appellant but denied to the appellant. So the impugned order is not tenable in the eye of law.
- L. That the impugned order is against the articles 2A , 4,and 25 , of the constitution of Pakistan 1973.
- M. That no chance of personal hearing was provided to the appellant and as such the appellant has been condemned unheard throughout.
- N. 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**  
 MEHTAB ALAM

**THROUGH:**

  
**M.ASIF YOUSAFZAI),**  
 ADVOCATE SUPREME COURT

  
**(SYED NOMAN ALI BUKHARD)**  
 ADVOCATE, HIGH COURT

  
**SHAHKAR KHAN YOUSAFZAI**  
 ADVOCATE PESHAWAR

**DATE: 03/11/2021**

**BEFORE THE KP SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. \_\_\_\_\_/2021

MEHTAB ALAM

V/S

Environmental Tribunal KP:


**CERTIFICATE:**

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.

  
DEPONENT

**LIT OF BOOKS:**

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE.
3. Any other case law as per need.

  
(SYED NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT

**BEFORE THE KP SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. \_\_\_\_\_/2021

MEHTAB ALAM

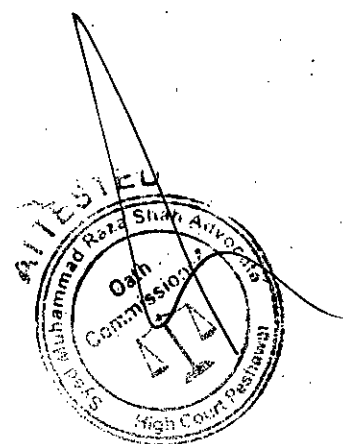
V/S

Environmental Tribunal KP :

**AFFIDAVIT**

I, MEHTAB ALAM, (Appellant) do hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this honorable Tribunal.

  
DEPONENT



**KHYBER PAKHTUNKHWA ENVIRONMENTAL PROTECTION  
TRIBUNAL PESHAWAR**

**ORDER**

Dated Peshawar The, 30<sup>th</sup> April, 2019

In pursuance of the recommendations of Departmental selection Committee vide its meeting dated 28.10.2018, the Competent Authority has been pleased to appoint the following candidates against the vacant posts, mentioned against each in Khyber Pakhtunkhwa Environmental protection Tribunal, Peshawar; With immediate effects:-

S.NO.	Name and Father Name	Appointed as
1	Malsam Raza S/O Musawer Ali	Reader (BPS-12)
2	Muhammad Haris Khan S/O Ri'az Khan	Junior Clerk (BPS-11)
3	Naeem Ullah S/O Arsala Khan	Driver (BPS-06)
4	Nasir Ali S/O Liaqat Ali	Driver (BPS-06)
5	Ahsan Farooq S/O Muhammad Hanif Khan	Driver (BPS-06)
6	Hameed Ullah S/O Muhammad Ishaq	Naib Qasid (BPS-03)
7	Ahsan Hassan Khan S/O Santaraz	Naib Qasid (BPS-03)
8	Shahzad Hussain S/O Ashiq Hussain	Naib Qasid (BPS-03)
9	Basharat Qayyum S/O Abdul Qayyum	Bailiff (BPS-03)
10	Sheraz Khan S/O Abdur Rasheed	Bailiff (BPS-03)
11	Mehtab Khan S/O Humayun Khan	Chowkidar (BPS-03)
12	Muhammad Rizwan S/O Waris Khan	Chowkidar (BPS-03)
13	Marjan Ali S/O Firdos Khan	Chowkidar (BPS-03)
14	Shams ul Tabraiz S/O Shams ur Rehman	Mali (BPS-03)
15	Muhammad Adil S/O Muhammad Rafiq	Farash (BPS-03)

The appointment shall be subject to the following terms & Condition:-

- I. The appointment is subject to antecedent verification of the appointee.
- II. The Appointees shall produce Medical Fitness certificates before their charge assumption.
- III. Their services shall be governed by the KP-EPT Service rules, 2018 and Khyber Pakhtunkhwa (Appointment, Promotion and Transfer, rules, 1989).
- IV. The Appointees shall report for duty within 15 days failing which the appointment shall stand withdrawn.

  
**Chairman**

DSC KP-Environmental Protection Tribunal  
Peshawar

Endst: NO & Date Even.

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Members of DSC, Khyber Pakhtunkhwa Environmental Protection Tribunal, Peshawar.
3. The Officials concerned by names.
4. Master file.

  
**Chairman**

DSC KP-Environmental Protection Tribunal  
Peshawar



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**KHYBER PAKHTUNKHWA ENVIRONMENTAL PROTECTION TRIBUNAL**  
**PESHAWAR**

**ORDER**

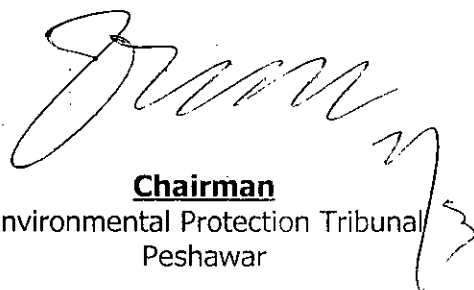
Dated Peshawar the, 02<sup>nd</sup> March, 2020

In pursuance of the recommendations of Departmental selection Committee vide its meeting dated 24.02.2020, the Competent Authority has been pleased to appoint the following candidates against the vacant posts, mentioned against their names in Khyber Pakhtunkhwa Environmental Protection Tribunal Peshawar, with immediate effect.

S. No.	Name	Father Name	Post
1.	Naeem Ullah	Arsala Khan	Sr. Scale Stenographer (BPS-16)
2.	Syed Sohail Shah	Syed Ahmad Shah	Sr. Scale Stenographer (BPS-16)
3.	Waseem Ullah	Rahim Gul	Sr. Scale Stenographer (BPS-16)
4.	Muhammad Paras	Fateh Ullah	Jr. Scale Stenographer (BPS-14)
5.	Mehtab Alam	Hamayun Khan	Junior clerk (BPS-11)


The appointment shall be subject to the following terms & Condition:-

- I. The appointment is subject to antecedent verification of the appointee.
- II. The Appointee shall produce Medical Fitness certificates before their charge assumption.
- III. His service shall be governed by the KP-EPT Service rules, 2018 and Khyber Pakhtunkhwa (Appointment, Promotion and Transfer, rules, 1989).
- IV. The Appointee shall report for duty within 15 days failing which the appointment shall stand withdrawn.

  
**Chairman**  
DSC KP-Environmental Protection Tribunal  
Peshawar

Endst: NO & Date Even.

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Members of DSC, Khyber Pakhtunkhwa Environmental Protection Tribunal, Peshawar.
3. The Official concerned by name.
4. Master file.

**ATTACHED**   
**Chairman**  
DSC KP-Environmental Protection Tribunal  
Peshawar

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09

**Show Cause Notice.**

1) I, **Syed Afsar Shah** chairperson Environmental Tribunal KP as Competent Authority under the KPK government servants, (Efficiency and Discipline) Rules 2011, do hereby serve you, **Mr. Mehtab Alam, Junior Clerk (BPS-11)** attached to Environmental Protection Tribunal, Peshawar as follows:

2) WHEREAS, it was reported to me by the registrar that the record of files No. 515-P/2021 & Appeal 05/2021 are missing and hence in the back drop Mr. Dr. Muhammad Saleem Khan (Member Technical) was appointed as Enquiry Officer vide order dated 29-06-2021

3) AND WHEREAS, the learned Enquiry Officer, conducted the inquiry and submitted his report to the Competent Authority.

4) AND WHEREAS, as per report of Enquiry Officer prima-facie you have been found on guilty.

5) Again, when you were asked to submit the cost register dully maintained by you, you stated that you have submitted it to the Ex Hon'ble Chairman and as such has been taken by him.

6) AND WHEREAS, your above statement is totally inconsistent with the ground reality.

7) AND WHEREAS, you had embezzled huge amount of cost

8) Your acts and omission enumerated herein above make it evident that you are guilty of misconduct which is a valid ground for

~~APPROVED~~

disciplinary action as prescribed under the Khyber Pakhtunkhwa Government Servants (Efficient and Disciplinary) Rules, 2011. As a result thereof, I as Competent Authority, have tentatively decided to impose upon you one or more penalties as provided under Rules 4 of the said Rules by dispensing with further inquiry, as sufficient evidence is available against you.

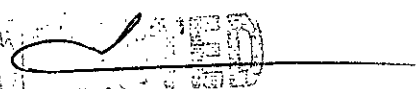
9) You are, therefore, required to show cause, as to why the aforesaid penalties should not be imposed upon you, and also intimate whether you desire to be heard in person.

10) If no reply to this notice is received within Seven (07) days of its delivery, it shall be presumed that, you have no defence to put in, and in that case, an ex-parte action shall be taken against you.

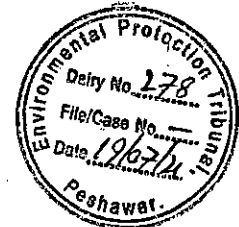
  
Competent Authority

(Mr. Syed Afsar Shah)  
Chairperson  
Environmental Protection Tribunal

14.7.2021

  
ACCEPTED

P 11



### Show Cause Notice Reply

In response to show cause notice dated 15-07-2021, the applicant very humbly submits as follows,

1. That, the applicant is attached to this august Tribunal as a **Junior Clerk (BPS-11)**. I have been assigned the duties of issuance of fresh notices, dairy and dispatch, attendance register, non-judicial record (administrative), keeping and issuance of judgment copies.
2. That, after missing of two files from judicial record room, The inquiry officer (Member Technical) **Dr. Muhammad Saleem Khan** irrelevantly dray me into the matter and held me responsible for those missing files irrespective of the fact that I am not Incharge of Judicial record room. There is a designated Incharge of judicial record room namely Mr. Paras Khan, junior scale stenographer the very custodian of judicial record.
3. That, prior to this, the applicant was assigned the duty of maintaining the cost register during the last five months tenure of the then honorable chairperson. I maintained proper record of each and every transaction. The applicant performed that duty with the sense of responsibility. After his lordships retirement/ expiry of tenure, the said cost register was taken from the applicant.
4. That, as per practice, Accounts clerk Mr. Navèed Ahmed Khan usually made purchases from cost amount e.g. payment to NTC (National Telecom Corporation), and repair of transport, medical bills etc. its complete record is written in the register.
5. That, as per direction of honorable Chairperson, I acquired the same register which is appended with this reply.
6. That, regarding cost register, I have never made any false statement which a reality.

7. That, the applicant has never misused a single paisa from cost amount, the cost register and its record is an evidence. I have never misappropriate any government money and neither I have facilitate other for doing so. Hence, I have never acted or omitted that liable me for misconduct.

Keeping in view the above mentioned facts, I, very humbly requested that the show cause notice served to me may be withdrawn. I will remain obedient throughout my service and life.

Yours faithfully,  
Mehtab Alam,  
Junior Clerk (BPS-11),  
EPT, Peshawar.

Date: 19-07-2021

*M. Alam*  
19/07/2021

*[Signature]*

**KPK Environmental Protection Tribunal Peshawar**

**Order**

Dated Peshawar the 29-July -2021

WHEREAS on missing of the record of file Nos. 515-P/2021 & Appeal 05-2021 disciplinary proceedings were initiated against the accused/official **Mr. Mehtab Alam Junior Clerk (BPS-11)** under the Khyber Pakhtunkhwa Govt. servants (Efficiency & Discipline) Rules, 2011. And Mr. Dr. Muhammad Saleem Khan (Member Technical) was appointed an enquiry officer with the direction to conduct a proper enquiry in the matter and sort out delinquent official.


AND WHEREAS the enquiry officer after conducting the inquiry submitted his report whereas the accused/official (You Mehtab Alam) was held responsible.

AND WHEREAS there were charges of embezzlement against the accused/official and when the accused/official was asked to explain, he straight away denied the same.

AND WHEREAS the accused/official (Mehtab Alam) was served with show cause notice wherein charges against him were initiated with the directions to submit his reply within seven days time. On receipt of the show cause notice the accused/official submitted reply where he denied all the charges/allegations in Toto. During the personal hearing the accused/official stated that the charges against him are false with added request of exoneration.

That in view of the inquiry report, and embezzlement he is found guilty of mis-conduct.


NOW, THEREFORE, the undersigned in the capacity of Competent Authority imposes major penalty of removal from service under rule-4(1)(b)(iii) of the ibid Rules and hence the accused/official is removed from service with immediate effect.

  
**Mr. Justice @ Syed Afsar Shah**  
Chairperson EPT KP Peshawar

Endst: No. 520 /Admin/21

Copy forwarded to.

1. The Accountant General KPK Peshawar
2. The Member Technical
3. The Registrar EPT Peshawar
4. The Accountant Clerk EPT Peshawar
5. The Official concerned by name

  
**Mr. Justice @ Syed Afsar Shah**  
Chairperson EPT KP Peshawar

29.7.2021

F  
W



To,

The Honorable chairperson,  
Environmental Protection Tribunal,  
Khyber Pakhtunkhwa, Peshawar.

Subject: REVIEW PETITION AGAINST THE ORDER DATED 29-07-2021

Respected sir,

Reference to the order dated 29-07-2021 whereby major penalty of Removal from Service has been imposed upon the undersigned, in this respect it is stated that:

1. Initially, I was appointed as Chowkidar after fulfilling all the codel and legal formalities.
2. I am a qualified person having BS in Economics (Honors) from kohat University of Science & Technology Kohat.
3. Some post of Junior Clerk were advertised in the daily newspaper; hence, I applied for the post of Junior Clerk and after passing successfully through the selection process I was appointed as a Junior Clerk vide order dated 05-03-2020.
4. A show cause notice dated 14-07-2021 was served to the undersigned for misplacing case file no 515-P/2021 and appeal No 5/2021 with the false allegations of misappropriation which was denied by submitting reply to the show cause notice dated 19-07-2021. Afterward, a so called inquiry was conducted by Member Technical who astonishingly held the undersigned responsible for missing files beside the fact that the undersigned is not record in-charge room. There is designated in-charge record, who is the sole custodian of the record. The allegations regarding misappropriation have never been proven.
5. Abruptly, I received the impugned order dated 29-07-2021 whereby major penalty of Removal from service has been imposed upon me without fulfilling all the codel formalities required for imposition of major penalty.
6. That the so called inquiry is one sided as no personal hearing and personal

~~ATTACHED~~

defense has been provided to the undersigned in respect of embezzled amount.

- 7. That it is also worth to mention here that no charge sheet and statement of allegations has been provided to the undersigned and the charges so leveled are baseless as an iota of evidence is neither provided nor proved against the undersigned.

It is therefore, most humbly requested that by accepting this review petition the impugned order may very kindly be set aside and the undersigned be reinstated i to the service with all back benefits.

Yours faithfully,

MEHTAB ALAM

*M Alam*  
03/08/2021

Ex-Junior Clerk,

Environmental Protection Tribunal,

Khyber Pakhtunkhwa, Peshawar.

Dated: 03-08-2021

*[Signature]*



**VAKALAT NAMA**

NO. \_\_\_\_\_/20

IN THE COURT OF KP Service Tribunal, Peshawar

Mehrab Alam

(Appellant)  
(Petitioner)  
(Plaintiff)

**VERSUS**

KP Environmental Protection Tribunal

(Respondent)  
(Defendant)

I/We, Mehrab Alam

Do hereby appoint and constitute **SYED NOMAN ALI BUKHARI Advocate High 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



(CLIENT)

**ACCEPTED**

Asif  
M. Asif Yousafzai  
Advocate Supreme Court

Noman  
**SYED NOMAN ALI BUKHARI**  
Advocate High Court Peshawar.

Cell: (0306-5109438)

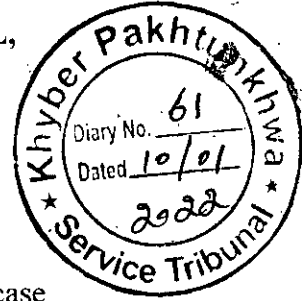
S. Khan  
Shahkar Khan Yousafzai  
Advocate, Peshawar

5B

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Put up to the worthy Chairman  
with relevant appeal.

APPEAL NO. 7844/2021



10/1/22  
Deodis  
Subject: Application for Early Hearing possibly by 20 January, 2022 in case titled **Mehtab Alam Vs, Environmental Protection Tribunal, Peshawar.**

Respectfully Sheweth,

- NFA  
17/01/2022
1. That, the appellant has filled the instant appeal against the removal order dated 29.07.2021, whereby the appellant was awarded major penalty removal of service.
  2. That, the previous date in the instant appeal for written reply was 23.12.2021 and the next date for arguments has been fixed for 09.03.2022 before the Hon'ble KP Service Tribunal, Peshawar.
  3. That, the appellant has removed from service and my financial position is not very good to bear the charges of prolong case and in dire need of basic household necessities. If the instant case linger on, the applicant will suffer a lot both financial and mentally.
  4. That, it will be in the interest of Justice to fix the instant case at any other nearby possible date.

**PRAYER.**

It is, therefore most humbly prayed that on the acceptance of this application, any other nearby possible date of hearing may kindly be fixed in the above mentioned service appeal instead of 09.03.2022, please.

*[Signature]*  
Appellant  
Mehtab Alam  
10/01/2022

Through  
**Syed Noman Ali Bukhari**  
Advocate High Court.

Chairman copy

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

**Appeal No. 7844 / 2021**

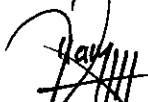
**Mehtab Alam**


**Vs.**

**The Hon'ble Chairperson Environmental Protection Tribunal, Khyber Pakhtunkhwa and  
Other**

**INDEX**

S. No.	Description of Documents	Annexure	Pages
1.	Para-wise comments along with Affidavit		1-4
2.	Copy of the letter No. EPT/Admn/21/494 dated 29.06.2021 addressed to Member (Technical), Environmental Protection Tribunal, Peshawar and letter dated 30.6.2021 addressed to Respondent No. 1 by Appellant	"A" – "A1"	5-6
3.	Copy of the enquiry conducted by the enquiry officer (Ex-Member Technical, Environmental Protection Tribunal, Peshawar)	"B"	7-8
4.	Wakalatnama		

*Submitted for velling please:*  


  
Respondent No. 1 19/5/22  
Through

**REGISTRAR (Respondent No. 2)  
Environmental Protection Tribunal,  
Peshawar**

Dated: 19/05/2022

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

**Appeal No. 7844 / 2021**

Mehtab Alam  
Ex-Junior Clerk  
Environmental Protection Tribunal, Khyber Pakhtunkhwa, Peshawar

..... Appellant

Vs.

1. The Hon'ble Chairperson, Environmental Protection Tribunal, Khyber Pakhtunkhwa, Peshawar.
  2. The Registrar, Environmental Protection Tribunal, Khyber Pakhtunkhwa, Peshawar.
- ..... Respondents

**PARA-WISE COMMENTS FOR AND ON BEHALF OF RESPONDENTS**

**RESPECTFULLY SHEWETH:**

**PRELIMINARY OBJECTIONS:**

1. That the Appellant has got no cause of action and locus standi to file the instant Appeal.
2. That the Appeal is bad due to misjoinder and nonjoinder of necessary and proper parties.
3. That the Appeal is time barred.
4. That the Appellant has not come to this Hon'ble Tribunal with clean hands.
5. That this Hon'ble Tribunal has got no jurisdiction to entertain the present Appeal.
6. That the instant Appeal is not maintainable in its present form.
7. That the Appellant has concealed material facts from this Hon'ble Tribunal.
8. That the Appellant is estopped by his own conduct from filing the instant Appeal as he had admitted of his own free-will of his professional shortcomings, hence the instant Appeal is based on illegal grounds.
9. That the instant Appeal is bad in the eye of law.
10. That the Appeal is based on distortion of facts and is therefore liable to be dismissed.

**ON FACTS:**

1. Para-1 pertains to record.
2. Para-2 pertains to record.
3. Para-3 pertains to record, however, the said para is vehemently opposed as the facts contained in the same have been distorted, hence denied as laid. The correct facts are that Respondent No. 2 had reported to Respondent No. 1 that the record of files Nos. 515-P/2021 and Appeal No. were missing and so the Member (Technical), Environmental Protection Tribunal was intimated / directed through letter No. EPT/Admn/21/494 dated 29.06.2021 to hold an enquiry as an enquiry officer and submit report as to the whereabouts of the missing files. The enquiry officer submitted the enquiry report. It is pertinent to

mention that when the Appellant was asked to submit the cost register whose maintenance and custody is the sole responsibility of the Appellant, the Appellant stated through letter dated 30.6.2021 that the same has been submitted to the Ex-Hon'ble Chairman, Environmental Protection Tribunal, Peshawar, who has taken the same with him. In fact, the cost register contains information about the cost imposed on parties during litigation and other related details and for which the Appellant is responsible and cannot shy away from his responsibility. It is pertinent to note that all codal requirements were complied with and a personal hearing was afforded to the Appellant who attended the personal hearing and denied charges against him and rather requested exoneration. The Appellant has never alleged before or requested for copy of the inquiry report, etc. and raising allegations as such at this belated stage is an afterthought.

**(Copy of the letter No. EPT/Admn/21/494 dated 29.06.2021 addressed to Member (Technical), Environmental Protection Tribunal, Peshawar and letter dated 30.6.2021 addressed to Respondent No. 1 by Appellant are attached herewith as Annexure "A" – "A1")**

4. Para-4 pertains to record, however the said para is vehemently opposed as the facts contained in the same have been distorted, hence denied as laid. It is pertinent to note that the enquiry officer has observed and found through legally and properly conducted enquiry that the Appellant held one key to the record room and hence he was in the position of being a custodian of record including judicial and other files and cannot shy away from his responsibility and the process of accountability. It merits a mention here that the Appellant has admitted that he had submitted the cost register to the Ex-Chairperson, Environmental Protection Tribunal, Peshawar however the question arises as to what would a Chairperson/Ex-Chairperson do with a cost register? This reflects upon the malafides of the Appellant who is striving hard to avoid his responsibility of record keeping and put it on others.

**(Copy of the enquiry conducted by the enquiry officer (Ex-Member Technical, Environmental Protection Tribunal, Peshawar) is attached herewith as Annexure "B")**

5. Para—5 is admitted to the extent that order of removal of service dated 29.07.2021 was issued to the Appellant while the rest of the para is denied as laid. It is pertinent to note that all the codal requirements were complied with while issuing the order dated 29.07.2021 and the Appellant participated in the same and provided his concocted version.
6. That the subject service appeal is barred by law & not maintainable on the following grounds.


#### **ON GROUNDS:**

- A. Para-A is incorrect, hence denied. The Order passed by the Respondent complies with the applicable law and rules. In addition, it is pertinent to note that opportunity of personal hearing has already been provided to the Appellant and he has made oral and written submissions.
- B. Para-B pertains to record, however the Appellant was given opportunity of personal hearing and he submitted his show cause reply and review petition, thereby benefitting from codal requirements and attending personal hearing.
- C. Para-C pertains to record, however the law and rules do not protect the Appellant from misplacing record and blaming it on others. In fact, a cost register was missing which has been attributed to an Ex-Chairman, EPT which speaks volume about the Appellant's conduct.
- D. Para-D pertains to record, however the major penalty was rightly imposed upon the Appellant due to missing record for which no satisfactory and legally acceptable response has been given to Respondent No. 1.

- E. Para-E is denied. The Appellant was given Show Cause Notice to which he has already replied. Detail reply already given above.
- F. Para-F pertains to record, however all codal formalities have been complied with.
- G. Para-G is denied. It is pertinent to note that the Appellant had appeared before the Respondent No. 1 for personal hearing and defence. The Appellant in fact had put the blame on others including Ex-Chairperson on which he had alleged that he has given the cost register.
- H. Para-H is denied. The Appellant was given opportunity of personal hearing as well as his written submissions in form of Reply and Appeal/Review to Show Cause Notice and Removal Order were considered.
- I. Para-I is vehemently denied. The Appellant's lame accuses are an effort to misguide this Hon'ble Tribunal and are without any aorta of doubt unprofessional to say the least as he is blaming others for his own short comings.
- J. Para-J is vehemently denied. The Appellant was afforded the due process of law including personal hearing/defence and he submitted reply and review petition in terms of complaint/allegations against him.
- K. Para-K is vehemently denied. The Appellant has participated in all proceedings including personal hearing/defence as well as submissions of various replies/petitions.
- L. Para-L is vehemently denied. The Appellant cannot hide behind constitutional provisions while being incompetent and irresponsible with other short comings which can only be treated with major penalty and that also in light of the enquiry report and his oral and written submissions.
- M. Para-M is vehemently denied. The Appellant has been benefitted from various hearings/defence and submissions while his replies, clarifications, petitions are all on record.
- N. Para-N needs no comments.

**PRAYER:**

It is, therefore, humbly prayed that the Appeal being baseless, without any legal substance and devoid of merits may kindly be dismissed with cost.

  
Respondent No. 1  
Through Registrar (Respondent No. 2)  
Environmental Protection Tribunal,  
Peshawar.

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

**Appeal No. 7844 / 2021**

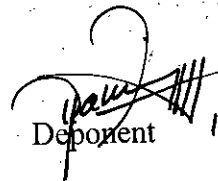
**Mehtab Alam**

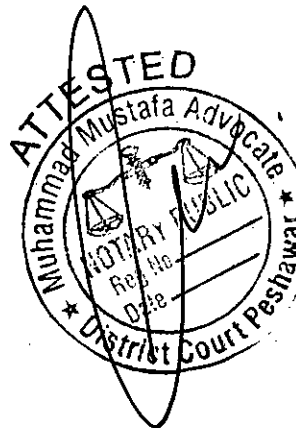
**Vs.**

**The Hon'ble Chairperson Environmental Protection Tribunal, Khyber Pakhtunkhwa and Other**

**AFFIDAVIT**

I, Mr. Naeem Ullah S/O Arsala Khan, Acting Registrar Environmental Protection Tribunal, state on oath that the contents of the enclosed para-wise comments are true and correct to the best of my knowledge and nothing has been concealed from this Hon'ble Tribunal.

  
Deponent 19/5/22



5



KHYBER PAKHTUNKHWA  
ENVIRONMENTAL PROTECTION TRIBUNAL  
PESHAWAR

PH: 091-9219003

No.EPT/Admn /21/ 494

Dated 29/06/2021

To


The Dr. Muhammad Saleem,  
Member Technical,  
Environmental Protection Tribunal, Peshawar.

Subject: ENQUIRY REGARDING MISSING OF RECORD OF FILES No's:515-P/2021  
& APPEAL 05/2021.

Sir:

As directed by the Chairperson Environmental Protection Tribunal, Peshawar you are appointed as enquiry officer with the direction to sort out delinquent official and as such submit report to the authority within 07 days.

Note: Mr. Waseem Ullah Sr. Seal: Stenographer (BPS-16) shall act as registrar with the enquiry officer.

  
REGISTRAR  
Environmental Protection Tribunal  
Peshawar  
28/6/21

Copy Forwarded for information:

- ✓ P.S to Chairman.
- Mr. Waseem Ullah.
- File concerned.



6/RE

To

The honorable Chairperson  
Environmental Protection Tribunal  
Peshawar.

Subject: Cost register

Respected sir,

As per the verbal direction of honorable chairperson regarding cost register, I Mehtab Alam junior clerk (BPS-11) submitted the report of cost register, and stated that I have received cost register from Maisam Raza reader (BPS-12) on dated 19-02-2020. I maintained the cost register till the expiry tenure of EX-Chairperson EPT, Peshawar. I submitted cost register to EX-Chairperson of EPT Peshawar on dated 17-07-2020.

Thanks & regards,  
Mehtab Alam  
Junior clerk, (BPS-11)

Date: 30-06-2021

*Dear. For the Chairperson  
be placed on record  
20/06/2021*

*[Signature]*

*[Signature]*  
20/06/2021

①

7

Enquiry Report about Missing Files of case  
No. S15-P/2021 and Appeal case No: 05/2021

Two files as given above were found missing on Monday June 21, 2021 when the court was to start proceeding. The appeal file was fixed for hearing on this date but was not found in record room along with file of case # S15-P/2021.

The enquiry report for this is as follow:

The record room incharge is Mr. Paras whose duty is to receive the files of the cases from court room and keep them under his custody. When asked about these missing files, he said that on Thursday 17th June, 2021 when these files were returned from court room, he was on official duty, was not present in record room and did not receive it. The files were received by Mr. Raheem (Mali) at about 1:30 PM, which he placed on his table for completion w.r.t signatures. The same files were present on his table the next day also i.e. on Friday 18th June, 2021 also until 12:00 noon. After this time, he ~~went~~ left the record room (for going to his hometown) leaving the files on the table and handing over the keys of the record room to Mr. Rohaib (Chowkidar) while Mr. Paras was not there (He has Friday off). Mr. Raheem told that when he came for duty on Monday June 21, 2021, the appeal 05/2021

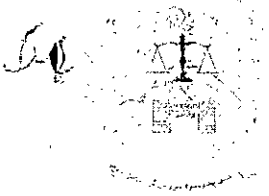
file was missing along with file of case # 515-P/2021. Mr. Paras was still not there in the record room. (22)

Mr. Basharat (Previous/Ex incharge of record room) told that during his time, there were three keys of the record room's lock, among which he gave One key to Mehtab while rest of the two were with him. Later on when he was relieved from the Incharge ship, he handed over the two keys to Mr. Paras while one key was still with Mehtab. He also told that in his absence, the record room was being opened by the ~~key~~ key of Mr. Mehtab.

Mr. Mehtab when confronted with this, said that files was not handed over to him, and also told that Registrar has verbally asked him to help Mr. Paras in office matter and in his absence be the incharge being the seniormost over there. Further he said nothing about the third key handed over to him by Mr. Basharat.

Keeping all these facts in mind, it is concluded that it is fact that Mr. Paras was not there on the said date (of missing files), Mr. Fabeem gave key to Rohaib who handed it over to Mr. Marjan. Mr. Marjan firstly admitted that Mr. Mehtab gave him one key and the other was given by Mr. Rohaib. Later on he changed his statement about Mehtab's key. On the said date (Fri, Monday 21st June, 2021) in the morning Ahsan, Rohaib & Mehtab were there and Mr. Paras came in the end for duty. During this time files disappeared or it may be on Sunday (20/6/2021) or Saturday (19th June, 2021). In the view of these Mr. Mehtab be asked to explain about the missing files.

M/1



**KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

No: 2264 /ST Dated: 28/7 /2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281  
Fax:- 091-9213262


To

The Registrar,  
Environmental Protection Tribunal,  
Khyber Pakhtunkhwa,  
Peshawar.

**SUBJECT: JUDGMENT IN SERVICE APPEAL NO.7844/2021 TITLED**  
**MR. MEHTAB ALAM-VS-THE HONORABLE**  
**CHAIRPERSON ENVIRONMENTAL PROTECTION**  
**TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.**

I am directed to forward herewith a certified copy of judgment dated 30.06.2022 passed by this tribunal on the above subject for compliance please.

Incl: As Above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL,  
PESHAWAR

*Received by Registrar  
EPT, Nale Kh*

*Yain*

*28/7/22*