

17.05 2022

Appellant in person present. Mr. Muhammad Asif Masood, Deputy District Attorney for respondents present.

Written reply/comments not submitted. Learned DDA seeks further time for submission of written reply/comments. Last opportunity is granted for submission of written reply/comments. To come up for written reply/comments on 15.06.2022 before S.B at camp court Abbottabad.



(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

15.06.2022

Appellant in person present. Mr. Adeel Butt, Additional Advocate General.

Despite last chance reply was not submitted. Learned Additional Advocate General seeks time for submission of written reply/comments. Requested accepted subject to cost of Rs. 3000/- to be paid on behalf of respondents. Adjourned. To come up for written reply/comments on 16.08.2022 before S.B at Camp Court Abbottabad.




(Fareeha Paul)
Member (E)
Camp Court A/Abad

21.04.2022

Appellant in person present. Mr. Sajid Ali, Accountant alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present and requested for further time for submission of written reply/comments.

Respondents are directed to submit their written reply/comments on the next date positively, failing which their right for submission of written reply/comments shall be deemed as struck off. To come up^t for submission of written reply/comments on 16.05.2022 before the S.B at Camp Court Abbottabad.



(Salah-Ud-Din)
Member (J)

16.05.2022
Camp Court Abbottabad
Written reply/comments shall be deemed as struck off
if they do not come up for submission of written
reply/comments on 16.05.2022 before S.B at
Camp Court Abbottabad.

Salim Farooq Khan
Chairman
Camp Court Abbottabad

923/20
16.11.2021

Appellant in person present and submitted an application for extension of time to deposited security and process fee. Application placed on file. The appellant is permitted to deposit security and process fee within 03 days. Notices be issued to the respondents for submission of reply/comments on 20.01.2022 before S.B at camp court, Abbottabad.


Appellant
Security & Process Fee


Chairman
Camp Court, A/Abad

20.01.2022

Appellant in person present.

Vide order dated 16.11.2021 it was directed that notices be issued to the respondents for submission of written reply/comments, however the same have not been issued, therefore, office is again directed to issue fresh notices to the respondents through registered post and to come up for submission of written reply/comments on 21.04.2022 before the S.B at Camp Court Abbottabad.


(Salah-ud-Din)
Member (J)
Camp Court A/Abad

18.01.2021


Due to COVID-19, the case is adjourned for the same on 17.02.2021 before D.B.


READER

17.02.2021

Nemo for appellant.

Security and process fee has not been deposited. Notice be issued to appellant/counsel 14.06.2021 for further proceedings, before S.B at Camp Court, Abbottabad.


Member (E)
Camp Court, A/Abad


14.06.2021

Due to cancellation of tour, Bench is not available. Therefore, case to come up for the same as before on 29.09.2021.


Reader

29.09.2021

None is present on behalf of the appellant. Notice be issued to him to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on next date, positively. Case to come up on 16.11.2021 before the S.B at Camp Court, Abbottabad.


Chairman
Camp Court, A/Abad

16.11.2021

Appellant present through counsel. Preliminary arguments heard. Record perused.

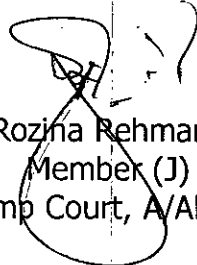
Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of reply/comments. To come up for written reply/comments on 15.03.2022 before S.B at Camp Court, Abbottabad.

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

23.10.2020

Counsel for appellant present. Preliminary arguments heard. File perused.

Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to respondents for written reply/comments. To come up for written reply/comments on 18.01.2021 before S.B at Camp Court, Abbottabad.





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

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 923 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/02/2020	<p>The appeal of Mr. Saqib Zia Asghar received today by post through Mr. Muhammad Waqas Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. decrease</p> <p style="text-align: right;"> REGISTRAR 11/2/2020</p> <p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>17-04-2020</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Due to covid ,19 case to come up for the same on _____ at camp court abbottabad.</p> <p style="text-align: right;">Reader</p> <p>Due to summer vacation case to come up for the same on <u>23/10/20</u> at camp court abbottabad.</p> <p style="text-align: right;"> Reader</p>

**BEFORE THE KHBER PUKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

(CAMP AT ABBOTTABAD)

SERVICE APPEAL # 923 /2020

Saqib Zia Asghar. (MSB # 0334 8997285)

...Appellant

Versus

The Learned District & Sessions Judge, Abbottabad and Others.

..Respondents

SERVICE APPEAL

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APPELLANT

Through;

Dated: _____/2020



(MUHAMMAD WAQAS)

Advocate High Court.
Office No.1 New TMA Plaza,
Near Fawara Chowk Abbottabad
(Mob # 03135871510)

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**BEFORE THE KHBER PUKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.
(CAMP AT ABBOTTABAD)**

SERVICE APPEAL # 923/2020

Saqib Zia Asghar Junior Clerk, District Judiciary, Abbottabad.

Versus

...Appellant
Khyber Pakhtunkhwa
Service Tribunal

1. The Learned District & Sessions Judge, Abbottabad.
2. The Learned Civil Judge-IV, Abbottabad.
3. The Superintendent to District & Sessions Judge, Abbottabad.

Case No. 1103

Dated 11-02-2020

..Respondents

SERVICE APPEAL U/S 4 OF THE KP SERVICE TRIBUNAL ACT,
1974 AGAINST THE CONSOLIDATED ORDER-IN-
DEPARTMENTAL APPEAL AND REPRESENTATION/MERCY
PETITION DATED 09-01-2020; WHEREBY THE LEARNED
DISTRICT AND SESSIONS JUDGE, ABBOTTABAD/RESPONDENT
NO. 1 DISMISSED THE REPRESENTATION DATED 23.11.2019 AND
DEPARTMENTAL APPEAL DATED 22-05-2019 HAVE BEEN
DISMISSED.

Respectfully Sheweth!

The brief facts necessitated the instant service appeal are:-

1. That the Appellant being civil servant is performing his duties up-to-mark with full devotion and honestly in District judiciary, Abbottabad under the kind control of learned Respondents; and currently holding the charge of Incharge Record Room (Criminal) (senior Civil Judge, Abbottabad).
2. That the Respondent No.2 assumed the charge as Civil Judge-IV, Abbottabad on 08-01-2018; while appellant performed his duties as Reader with her for period of 76 days.
3. That, the appellant moved an application dated 16-03-2019 for his transfer from the court of Respondent No.2 against any other charge/post. Whereby, the comments were called from Respondent No.2 and raised certain baseless allegations against the appellant in comments, which are against the facts and based upon mal-fide and ulterior motive. However, on acceptance of said transfer application, the Respondent No.1 transferred the appellant against the current post. (Copies of application and Comments are attached as annexure "A" & "B").

Filed to-day
Registrar
11/2/2020

4. That, in consequence, of said transfer application, the Respondents No.2 got annoyed and recorded adverse remarks in ACR of 2018 (76 days); which are based upon mala-fide and ulterior motive. The Said adverse remarks has been communicated to the appellant vide office letter No. 861-5/13 Dated 15-05-2019. (Copy of office letter No. 861-5/13 Dated 15-05-2019 is attached as annexure "C").
5. That, the appellant feeling aggrieved moved departmental appeal before Respondent No.1 on 22-05-2019. (Copy of departmental appeal is attached as annexure "D").
6. That, during the pendency of said departmental appeal, the department/Respondent No.1 with mala-fide intent sought premature ACR of the appellant w.e.f. 01-01-2019 to 19-07-2019 from Respondent No.2. The reporting officer/respondent No.2 in continuance of previous adverse remarks in ACR-2018 (76 Days), once again, recorded adverse remarks. Which was communicated to the appellant vide Letter No. 2200-5/13 Dated 11-11-2019. (Copy of Letter No. 2200-5/13 dated 11-11-2019 is attached as annexure "E").
7. That, the appellant being aggrieved moved Representation/Mercy petition before Respondent No.1. (Copy of Representation is attached as annexure "F").
8. That, the Respondent No.1 vide impugned order dismissed both the departmental appeal dated 22-05-2019 and Representation dated 23-11-2019. (Copy of impugned order dated 09-01-2020 is attached as annexure "G").
9. That the appellant being aggrieved filing instant service appeal inter-alia on the following grounds:

Grounds:

- i. That, the impugned order dated 09-01-2020 is not merely illegal but in essence void, unlawful, without jurisdiction, without lawful authority, based upon malafide, ulterior-motive, excess/beyond of jurisdiction, against the principles of natural justice and Constitution of Paksitan, 1973.
- ii. That, the impugned order dated 09-01-2020 in the light of maxim, "Nemo Judex in sua causa" and "nemo jus sibi dicere potest" is not legally maintainable and liable to be set-aside.
- iii. That, the Respondent No.1 while rendering impugned order dated 09-01-2020 acted as a "Party", which is against

the administration of justice and due process/fair trial. Hence, the impugned order is based upon mala-fide and liable to be reversed.

- iv. That, no effective right of hearing and audience has been provided to the appellant and impugned order has been passed in arbitrary manner.
- v. That the applicant/appellant during his entire service period with the said Learned Respondent No.2 has performed his duties up to the mark and entire satisfaction. There is neither any prior complaint by private person nor by the Learned Presiding Officer/Respondent No.2 against the applicant to respondent No.1.
- vi. That adverse remarks in parallel ACRs based upon Mala-fide, ulterior-motive; which have also adverse prospective effects and shall adversely affect the career of the applicant/appellant and fringe benefits. Hence, not tenable and liable to expunged.
- vii. That the previous ACRs of the applicant of 2017 depict good performance of work on behalf of the applicant.
- viii. That the Learned Reporting officer/Respondent No.2 attempted to disgrace, humiliate and spoil the career of the applicant for no fault on his part. Further, no one should be favoured or condemned for personal likeness or unlikeness.
- ix. That the learned Respondent No.2 has recorded such remarks due to personal reasons and not due to the inefficiency/misconduct or lack of interest in official duties. Hence, derogatory remarks are liable to be expunged. The applicant always obliged the directions and orders of his superiors in letter and spirit.
- x. That, the concept of "due process and fair trial" enshrined in Art. 10-A of the Constitution of Pakistan, 1973, envisages that Respondent No.2 cannot record second ACR of 2019 of the appellant when first ACR of 2018 has already been impugned and matter was pending adjudication before Respondent No.1. Further, deliberate efforts has been made to obtain adverse remarks in subsequent ACR of 2019 of Appellant by the same Officer (Respondent No.2), which unveils the malafide of Respondents. Moreover, premature ACR-2019 has been obtained w.e.f 01-01-2019 to 13-07-2019) before completion of year.
- xi. That the applicant is performing his duties regularly, punctually and honestly since reinstatement from

23.12.2016. It is quite strange that the concerned authority seems to be quite interested and showing remarkable efficiency/diligence for recording ACR of applicant before accomplishment of year 2019 only from Reporting Officer i.e. Civil Judge-IV and not from others officers i.e. learned Judge Farman Ali khan. Hence, it reflects malice & mala-fide on the part of authorities.

- xii. That derogatory/adverse remarks narrated by reporting officer/Respondents No.2 in ACRs of applicant are baseless with no rhyme & reason and based upon mala fide.
- xiii. That no prior explanation or show cause was served upon the applicant in respect of misconduct or inefficiency. Hence, the adverse remarks are not tenable.
- xiv. That, the invaluable rights of the applicant are involved.
- xv. That, the appellant never took credit of other team members rather always try to provide/facilitate them according to his abilities and skills.
- xvi. That, the impugned order was announced on 09-01-2020; while appellant applied for attested copies on 11-01-2020, the same was provided on 22-01-2020. Hence, instant service appeal is within time.

PRAYER:

It is therefore most humbly prayed that on acceptance of instant service appeal, the Impugned order dated 09-01-2020 may kindly be set-aside and Respondents may kindly be directed to expunge the adverse remarks in the impugned ACRs of 2018 and 2019 and appellant may kindly be exonerated; and any other writ, order or relief deems proper and fit in the light of circumstances of the case may kindly be passed in favour of appellant.

Dated: _____/2020



(APPELLANT)

Through



(MUHAMMAD WAQAS)

Advocate High Court.
Office No.1 New TMA Plaza,
Near Fawara Chowk Abbottabad
(Mob # 03135871510)

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**BEFORE THE KHBER PUKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

(CAMP AT ABBOTTABAD)

SERVICE APPEAL # ____/2020

Saqib Zia Asghar.

...Appellant

Versus

The Learned District & Sessions Judge, Abbottabad and Others.

..Respondents

SERVICE APPEAL

AFFIDAVIT/VERIFICATION: Saqib Zia Asghar Junior Clerk,
District Judiciary,
Abbottabad.(Appellant)

I, Saqib Zia Asghar Junior Clerk, District Judiciary, Abbottabad.(Appellant),
do hereby solemnly affirm, declared and verified on oath:

1. That, the titled appeal may kindly be treated and considered as integral part of affidavit.
2. That the contents of titled service appeal are true and correct & nothing has been concealed from this Hon'ble Court.

(DEPONENT)

ATTESTED
SHAZIA JOSES
 NOTARY PUBLIC
 Lic # SO (Jud) 014/16/L/2019/100/Vol.1
 Advocate High Court DC Abbottabad

6/2/2020

**BEFORE THE KHBER PUKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

(CAMP AT ABBOTTABAD)

SERVICE APPEAL # _____/2020

Saqib Zia Asghar.

...Appellant

Versus

The Learned District & Sessions Judge, Abbottabad and Others.

..Respondents

SERVICE APPEAL

“Civil Miscellaneous soliciting suspension of impugned order and restraining Respondents from taking adverse action against the appellant till final adjudication of titled appeal”.

Respectfully sheweth!


1. That the foregoing application may kindly be treated as integral part of the titled appeal.
2. That, the appellant has good prima facie case with balance of convenience in his favour.
3. That, invaluable rights of appellant are involved and shall suffer irreparable loss may render irreparable loss to appellant.
4. That, in case of any adverse action against appellant/applicant in consequence of impugned order may lead into multifarious litigation.
5. That, this Hon'ble tribunal has power to suspend the operation of impugned order.

It is therefore most humbly prayed that the instant application may kindly be accepted/allowed as prayed for.

Dated: _____/2020


(APPELLANT)

Through


(MUHAMMAD WAQAS)

Advocate High Court.
Office No.1 New TMA Plaza,
Near Fawara Chowk Abbottabad
(Mob # 03135871510)

AFFIDAVIT:

I, Saqib Zia Asghar Junior Clerk, District Judiciary, Abbottabad.(Appellant), do hereby solemnly affirm, declared and verified on oath:

1. That, the fore-going application may kindly be treated and considered as integral part of affidavit.
2. That the contents of instant application are true and correct & nothing has been concealed from this Hon'ble Court.


(DEPONENT)

ATTESTED
SHAZIA JOSES
NOTARY PUBLIC
Lic # 50 /Jud/IND/4-16-2019 Vol-1:
Advocate High Court DC Abbottabad

6/2/2020

Forwarded to
JST for necessary
actions.

16.3.2019

گورنمنٹ خرابہ ڈسٹرکٹ ایجنسی

درج ذیل درخواستیں

7

A

خواب علامہ درخواست ذیل عرض خدمت ہے۔

1. کہہ سکتے ہیں کہ سول جج آج ایسا آباد میں بطور ایڈووکیٹ ہے۔
2. کہہ سکتے ہیں کہ جج کے عہدے پر 12 سال ہے۔ چونکہ حافظہ کو آگے بڑھانے کے لیے سول جج کے عہدے پر طلبہ ہیں۔
3. کہہ سکتے ہیں کہ خیر خدمت گزار کے ساتھ ساتھ شروع ہوئے۔ اجنبی اس پر خرابی کے بارے میں۔ اور وہ "دکھ" کے ساتھ ساتھ ہو جاتی ہے۔ جس کے علاوہ سول جج کے ساتھ ساتھ خیر خدمت گزار کے ساتھ ساتھ ہو جاتی ہے۔
4. کہہ سکتے ہیں کہ ان کے ساتھ ساتھ خیر خدمت گزار ہے۔ جو کہ ان کے ساتھ ساتھ ہو جاتی ہے۔
5. کہہ سکتے ہیں کہ خیر خدمت گزار کے ساتھ ساتھ خیر خدمت گزار ہے۔ جس کے ساتھ ساتھ خیر خدمت گزار ہے۔ اور خیر خدمت گزار کے ساتھ ساتھ خیر خدمت گزار ہے۔
6. کہہ سکتے ہیں کہ خیر خدمت گزار کے ساتھ ساتھ خیر خدمت گزار ہے۔

Attended

اس کے ساتھ ساتھ خیر خدمت گزار کے ساتھ ساتھ خیر خدمت گزار ہے۔

16/3

Handwritten signature

Handwritten signature

13 No.

531

CJ-IV, Abbottabad

Dated 21/03/2019

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B

From: Hamna Rehman Qureshi,
Civil Judge-IV,
Abbottabad.

To: The Worthy,
District & Sessions Judge,
Abbottabad.

Through: Proper Channel

Subject: **REPORT/COMMENTS ON APPLICATION FOR TRANSFER**

Respected Madam,

In response to your letter No. 446 dated 18.03.2019. It is submitted as under:

That Mr. Saqib Zia who is rendering his services as Reader of Court No. IV. I feel sorrow to inform you that he is being accused of unprofessional and demeaning behavior towards the Court of law for being a habitual late comer and seeking short leaves on multiple occasions providing lame excuses like, attending lunch with guests, construction at house, daughter illness.

An explanation was called on 05.01.2019 for being absent from his duty without any prior leave sanction.

Apart from this letter, a minor penalty was imposed on him.

Again on 16.03.2019 Reader had asked for short leave which was not sanctioned. In response to that he filed an application for transfer to record room. The issues mentioned in his application needs no comments.

However, the undersigned has no objection if the Reader be transferred to any other duty.

My comments are hereby submitted for further guidance.

(Hamna Rehman Qureshi)
Civil Judge IV,
Abbottabad.

OFFICE OF THE SENIOR CIVIL JUDGE ABBOTTABAD.

No. _____

Dated: _____

Forwarded to the worthy, District & Sessions Judge, Abbottabad for information and necessary action, please.

(Senior Civil Judge)
Abbottabad.

Handwritten signature/initials



OFFICE OF THE
DISTRICT AND SESSIONS JUDGE
ABBOTTABAD

Phone: 0992-9310052
Fax: 0992-330149
E-mail: dsj@abbottabad.gov.pk

No: 861 -5/13

Dated Abbottabad the, 15/5/2019

To,

Saqib Zia Asghar,
Junior Clerk/ Reader.

9
C

Subject: -

REMARKS RECORDED BY REPORTING OFFICER

Memo:

I am directed by the Hon'ble District & Sessions Judge to communicate y
remarks recorded in your ACR of year 2018 the authority has recorded the following remarks against
you.

*"Takes credit for other team members accomplishments. Usually tries to escape
from load of work. Sometimes rude with litigants and clerks."*

Any disciplinary action taken during the period under report:

Yes

Not yet fit for promotion:

Yes

General Assessment:

Average

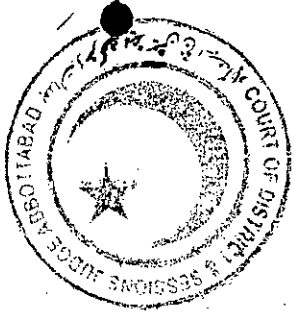
The above remarks are hereby communicated to you through the instant letter.

[Handwritten signatures]

[Handwritten signature]

SUPERINTENDENT TO,
District & Sessions Judge,
Abbottabad

BEFORE DISTRICT & SESSION JUDGE ABBOTTABAD



D

DEPARTMENTAL APPEAL AGAINST ARBITRARY, PREJUDICIAL, MALAFIDE, TOTALLY BASED ON PRECONCEIVED NOTION BIAS AND AGAINST FACTS, AND PARTIAL REMARKS RECORDED BY REPORTING OFFICER IN ACR OF APPELLANT.

مقدمہ نمبر
209/17

رہنمائی
22/05/19

PRAYER:- ON ACCEPTANCE OF APPEAL ABOVE MENTIONED REMARKS RECORDED BY REPORTING AUTHORITY BE SET-ASIDE AND APPELLANT MY KINDLY BE EXHONERATED FROM THE EFFECTS AND OPERATION OF IMPUGNED REMARKS.

فیصلہ پیش
02/01/2020

May it please your lordship;-

Attested to be a True Copy

07
District & Sessions Judge
Abbottabad
22-5-19

22 JAN 2020

EXAMINER
District & Sessions Judge
Abbottabad

The facts framing the background of instant appeal are as follows.

1. That appellant is performing his duty as a reader with the court of reporting officer.
2. That reporting officer has taken charge as CJ-IV, on 08/10/2018, in consequence of which working period of appellant with reporting officer is only 76 days.
3. That appellant moved an application for his transfer from the court of reporting officer in March 2018, in which the reporting officer also leveled certain allegations against

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appellant and ACR/ impugned remarks were forwarded actually after these events on 24/04/2018.

4. That in year 2018 most working period of appellant was passed under the supervisions of honorable Mr Farman Ali Khan, presently CJ-I, Abbottabad.
5. That appellant has preferred an appeal before august High Court against disciplinary action, hence, same is a pending matter.

GROUND:-

1. That remarks recorded by reporting officer are the continuance of previous comments of reporting officer against transfer application moved by appellant which make it apparent that judicial officer have not recorded the correct remarks against appellant.
2. That as I have not passed much time with the reporting officer, therefore, remarks recorded by her in appellants ACR are a result of misconception and malafide.
3. That appellant neither took credit for other team members accomplishments nor ever tried to escape from load of work, nor become rude with litigants and clerks, as there is no such complaint against the appellant either from the litigants, public or from the lawyer community as the remarks against the appellant are unfounded, therefore, those be expunged.

Attested


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It is therefore, humbly prayed that on acceptance of instant appeal remarks of reporting officer in appellants ACR of 2018 may kindly be set-aside and declared to be ineffective on the rights and competency of appellant, and appellant may kindly be exonerated.

Dated: 22/5/2019



(SAQIB ZIA ASGHAR)
Junior Clerk/ Reader to
CJ-IV, Abbottabad

Attested




(E) (13)

**OFFICE OF THE
DISTRICT AND SESSIONS JUDGE
ABBOTTABAD**

Phone: 0992-9310051
 Fax: 0992-930140
 Email: dsj@dsj.gov.pk

No: 2200 -5/13

Dated Abbottabad the, 11/11/2019

To, Saqib Zia Asghar,
Junior Clerk/ Record Keeper.

Subject: - **REMARKS RECORDED BY REPORTING OFFICER**

Memo:

In the ACR of year 2019 (Period: 01.01.2019 to 13.07.2019) the authority has recorded the following remarks against you.

"Rude / arrogant with litigants and clerks. Consider, himself as a lawyer not reader. Usually, tries to escape from load of work. Never been a helpful for staff members takes credit for other team member's accomplishment."

Any disciplinary action taken during the period under report: Yes

Not yet fit for promotion: Yes

Average: Yes

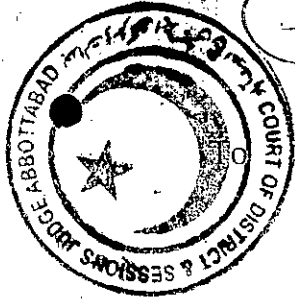
Attested to be a True Copy

The above remarks are hereby communicated to you through the instant letter.

[Signature]
 22 JAN 2020
 EXAMINER
 District & Sessions Judge
 Abbottabad

[Signature]

SUPERINTENDENT TO,
 District & Sessions Judge,
 Abbottabad



تصدیق درجہ اولیٰ بعد از کتاب ۵۰۵ ایس ایس اے

14

F

The Worthy District & Sessions Judge,
Abbottabad.

Subject: MERCY PETITION/REPRESENTATION SEEKING
EXPUNCTION OF ADVERSE REMARKS RECORDED BY THE
CIVIL JUDGE-IV, ABBOTTABAD ON THE ACR OF THE
APPLICANT FOR THE YEAR 2019 (1.1.2019 TO 19.7.2019).

5
Superintendent to
District & Sessions Judge
Abbottabad
83-11-019

Respected Sir,

With reference to your kind letter No.2200-5/2013, Dated 11.11.2019, vide which the adverse remarks recorded by the Learned Presiding Officer have been communicated/conveyed to the applicant/appellant. I have the honour to state that I have performed my duties as Reader with Learned Civil Judge-IV, Abbottabad, who recorded adverse remarks on my ACR which are against the facts, based upon mala-fide, ineffective upon the rights of applicant/appellant and liable to be expunged inter-alia upon following grounds.

تقدیر
01/02

23/11/19

1. That the applicant/appellant during his entire service period with the said Learned Judge has performed his duties up to the mark and entire satisfaction of his superiors. There is neither any complaint by private person nor by the Learned Presiding Officer against the applicant.
2. That these remarks are the continuance of previous ACR of 76 days of 2018, communicated vide letter No.861-5/13, against which departmental appeal is pending adjudication before Your Lordship and fixed for 06-12.2019 for record. Attested copies are attached.
3. That the previous ACRs of the applicant of 2017 depict good performance of work on behalf of the applicant.
4. That the Learned Reporting officer attempted to disgrace, humiliate and spoil the career of the applicant for no fault on his part. Further, no one should be favoured or condemned for personal likeness or unlikeness.
5. That the learned judge has recorded such remarks due to personal reasons and not due to the inefficiency/misconduct or lack of interest in official duties. Hence, derogatory remarks are liable to be expunged. The applicant always obliged the directions and orders of Learned Presiding Officer in letter and spirit.
6. That these adverse remarks are also the result of facts narrated by applicant in previous appeal.

فیصلہ پیشی
09/01/2020

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22 JAN 2020
EXAMINER
District & Sessions Judge
Abbottabad

(CA)

(15)

7. That the applicant is performing his duties regularly, punctually and honestly since reinstatement from 23.12.2016. It is quite strange that the concerned authority seems to be quite interested and showing remarkable efficiency/diligence for recording ACR of applicant before accomplishment of year 2019 only from Reporting Officer i.e. Civil Judge-IV and not from others officers i.e. learned Judge Farman Ali Khan. Hence, it reflects malice & mala-fide on the part of authorities.

That derogatory/adverse remarks narrated by reporting officer in ACR of applicant are baseless with no rhyme & reason and based upon mala fide.

9. That no prior explanation or show cause was served upon the applicant in respect of misconduct or inefficiency. Hence, the adverse remarks are tenable.

10. That the adverse derogatory remarks shall have adverse prospective effect and shall adversely affect the career of the applicant/appellant and fringe benefits. Hence, liable to be expunged.

11. That invaluable rights of the applicant are involved, therefore, it would be more appropriate in the best interest of justice that applicant may be given a chance of personal audience.

It is therefore, very humbly and respectfully prayed that the adverse derogatory remarks recorded by the reporting Officer/Learned Civil Judge-IV being based upon malafide, personal unlikeness or grudges for reasons best known to her, may kindly be expunged keeping in view the future career of the poor employee/applicant and oblige.

May Allah be merciful and blessed upon you and your family.

Dated: 23.11.2019

Yours Obedient Servant,

(SAQIB ZIA ASHGAR)

Junior Clerk,
District judiciary, Abbottabad

Superintendent to
District & Sessions Judge
Abbottabad 23-11-2019

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22 JAN 2020

EXAMINER
District & Sessions Judge
Abbottabad

(16)

16

Or # 11
09.01.2020

This order is directed to dispose of departmental appeal as well as separate mercy petition of appellant Saqib Zia Asghar, Junior Clerk against the remarks by the reporting Officer in the Annual Confidential Report for the period 01.01.2018 to 31.12.2018 and remarks from 01.01.2019 to 13.07.2019 of appellant, for its expunction.

In the ACRs for the period 01.01.2018 to 31.12.2018 and 01.01.2019 to 13.7.2019, the reporting officer recorded the following remarks in the columns of pen picture;

"Takes credit for other team member's accomplishment. Usually tries to escape from load of work. Sometimes rude with litigants and clerks"

"Pride/Arrogant with litigants and clerks. Consider himself as a lawyer not reader. Usually, tries to escape from load of work. Never been a helpful for staff members. Takes credit for other team member's accomplishment."

The appellant has challenged the remarks on the grounds of being Arbitrary, prejudicial malafide, based on preconceived notion, bias and against facts and partial. In the appeal he has denied the remarks recorded therein and has prayed for setting aside these remarks and his exoneration.

I have heard the appellant/applicant in person and have also gone through the record available on the file as well as personal file of the official.

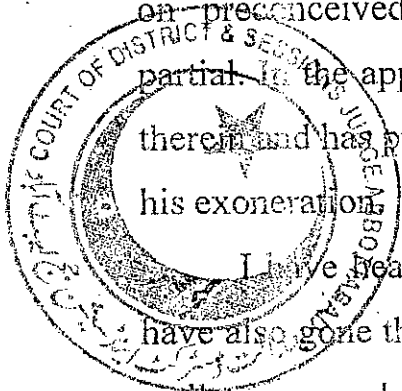
Record reveals that on 16.3.2019, the appellant submitted an application before the then learned District & Sessions Judge, Abbottabad wherein he disclosed that his daughter aged about 12 years and student of 6th class

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22 JAN 2020

EXAMINER
District & Sessions Judge
Abbottabad

09.1.2020



4


VR
10-19

Presence as before po is on leave. To
Come up on 29.10.2019

U.S.

Or # 07
29.10.2019

Appellant present. Record yet not received.
Superintendent is directed to produce the record on
18.11.2019.


(Fazal Subhan)
D & SJ, Abbottabad

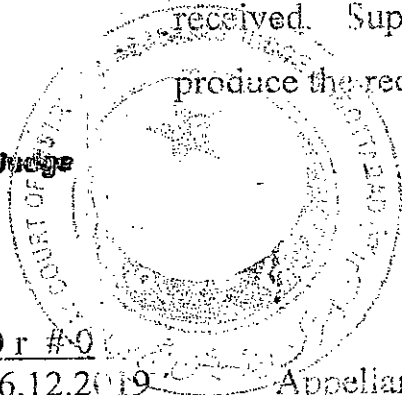
Or # 08
18.11.2019

Appellant present in person. Record not yet
received. Superintendent is once again directed to
produce the record on 06.12.2019.

Attested to be a True Copy

22 JAN 2020


EXAMINER
District & Sessions Judge
Abbottabad




(Fazal Subhan)
D & SJ, Abbottabad


Or # 09
06.12.2019

Appellant present in person. Record already
received. Office Superintendent also present. Arguments
heard. To come up for consideration/order on 19.12.2019


(Fazal Subhan)
D & SJ, Abbottabad

Or # 09
19.12.2019

Appellant present in person. Order could not be
announced due to writing of judgments in civil cases.
Adjourned. To come up for order on 09.01.2019


(Fazal Subhan)
D & SJ, Abbottabad

4

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has some problem, more specifically, under the control of "Jin" and as a result she gets unconscious and whenever this happened to her he usually visit her school for which he has to leave his duties, resulting into disruption of court functioning and therefore through his application, he prayed for his transfer to some other post in record room etc.

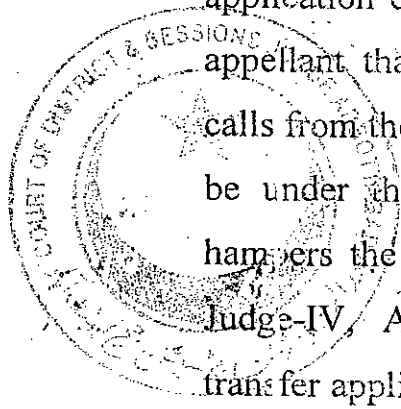
The above application was forwarded to the learned Civil Judge-IV, Abbottabad for comments wherein the judicial officer concerned has described the appellant to be unprofessional, ill-mannered and in the habit of seeking frequent short leaves with lame excuses, mentioned therein and that when on 16.3.2019, the appellant submitted application for short leave which was refused to him he moved the application for his transfer, from her court.

Assured to be a True Copy

7 JAN 2020
EXAMINER
District & Sessions Judge
Abbottabad

99.1.2020

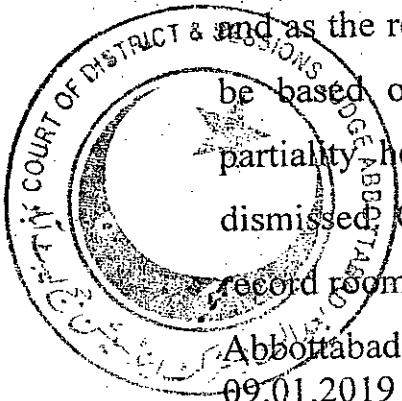
From the above record it is clear that the appellant, due to his previous misconduct/inefficiency, was removed from service vide order dated 13.5.2009 and was reinstated through judgment recorded in departmental appeal # 01/2017. His two consecutive ACRs shows that he still has not mend his manners. His application dated 16.3.2019 is admission on the part of appellant that he has to leave the office when receive calls from the school of his daughter, who he described to be under the influence of "Jin" and admitted that it hampers the court proceedings. Comments of the Civil Judge-IV, Abbottabad submitted in response to the transfer application shows that he still has unprofessional and demeaning behaviour, and on 16.3.2019 when he was refused short leave, he filed application for transfer from the court of Civil Judge-IV, Abbottabad. It is also added that to see the punctuality of the appellant, the



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undersigned paid a surprise visit to his office at record room on 18.12.2019 but he was absent from his office and later-on was found sitting in the office of Civil Nazir which further established that he does not take his duties seriously. Para 2 and 3 of the appeal are also derogatory and contemptuous as the report of judicial officer concerned was termed as misconception and malafide, which further proves that he has no respect for his superiors. He is not apologetic or humble, nor has any remorse or regret on his personal behaviour and therefore, as his appeal is not found to be based on facts and as the remarks recorded in his ACR are not found to be based on malafide, arbitrary, biased or the result of partiality hence the appeal and mercy petition stands dismissed. Order announced. Case file be consigned to record room after necessary completion.



Abbottabad
09.01.2019

(Signature)
09.01.2019
(Fazal Sultana)
D & SJ, Abbottabad

Attested to be a True Copy

22 JAN 2020

EXAMINER
District & Sessions Judge
Abbottabad

No. 587	Date 11/01/2020
D of Presentation Application	
No of Hears	
Copying Fee	
Urgent Fee	
Total	
Name of Copy	
Date of Preparation of Copy	22/01/2020
Date of Delivery of Copy	22-01-2020

POWER OF ATTORNEY/WAKALATNAMA

IN THE COURT OF KPK SERVICE TRIBUNAL, PESHAWAR
(CAMP AT ABBOTTABAD).

19

In the matter:

Service Appeal No. _____ of 2020

vs.

(Saqib Zia Asghar Vs District & Sessions Judge Abbottabad & others).

For: **Appellant**

I/ We, the undersigned, do hereby nominate and appoint

Al-Wakeel Law Associates

Attorneys-at-Law

**Office/Flat No.1 New TMA Plaza/Tayyab Erdogan Plaza near Fawara Chowk behind Bar Club
Abbottabad.**

As my/our true and Lawful attorney/ attorneys for me/us in my/our behalf to appear at
THE COURT OF KPK SERVICE TRIBUNAL, PESHAWAR
(CAMP AT ABBOTTABAD).

To appeal, plead, act and answer in the court or any appeals revision statements, accounts, exhibits comprises or other documents whatsoever in connection with the said matter and any matter arising there from, and also to appeal for and to receive all documents and or copies of documents and depositions etc and issue summons and writs of subpoena and to apply for and to get issued any arrest, attachment or any other execution, warrants or order and to conduct any proceeding that may arise there out; and to apply for and to receive payment of any or all sums or submit to exercise the power and authorities hereby conferred to the advocate whenever he thinks it fit to do so.

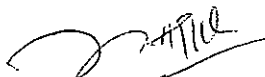
And to do all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

And I/We hereby agree to ratify and confirm all lawful acts done in my/our behalf under or by virtue of these presents or of the usual practice in such matter.

Provided always, that I/We undertake at the time of calling of the case by the court I/my authorized agent will inform the Advocate and make him appear in the court, if the case may be dismissed in default, if it be proceeded ex-parte, the said counsel shall not be held responsible for the same. All Costs awarded in favour shall be the right of the counsel of his nominee, and if awarded shall be payable by me/us. In witness whereof, I/we have here to sign at *Abbottabad* on this 06th Day of February, 2020.

Signed and delivered.

Accepted, subject to the terms regarding fee.



MUHAMMAD WAQAS

Advocate, High Court, Abbottabad.

Mob. No. 0313-5871510

EXECUTANT'S SIGNATURES

Signature(s) or thumb impression(s)



"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

APPEAL No. 723 of 20 20

TB

Saqib Zia Asghar

Appellant/Petitioner

Versus

The Dist. & Sessions Judge A. Akbar
RESPONDENT(S)

Notice to Counsel Appellant/Petitioner

Muhammad Waqas
Advocate High Court
at Abbottabad
03135871510

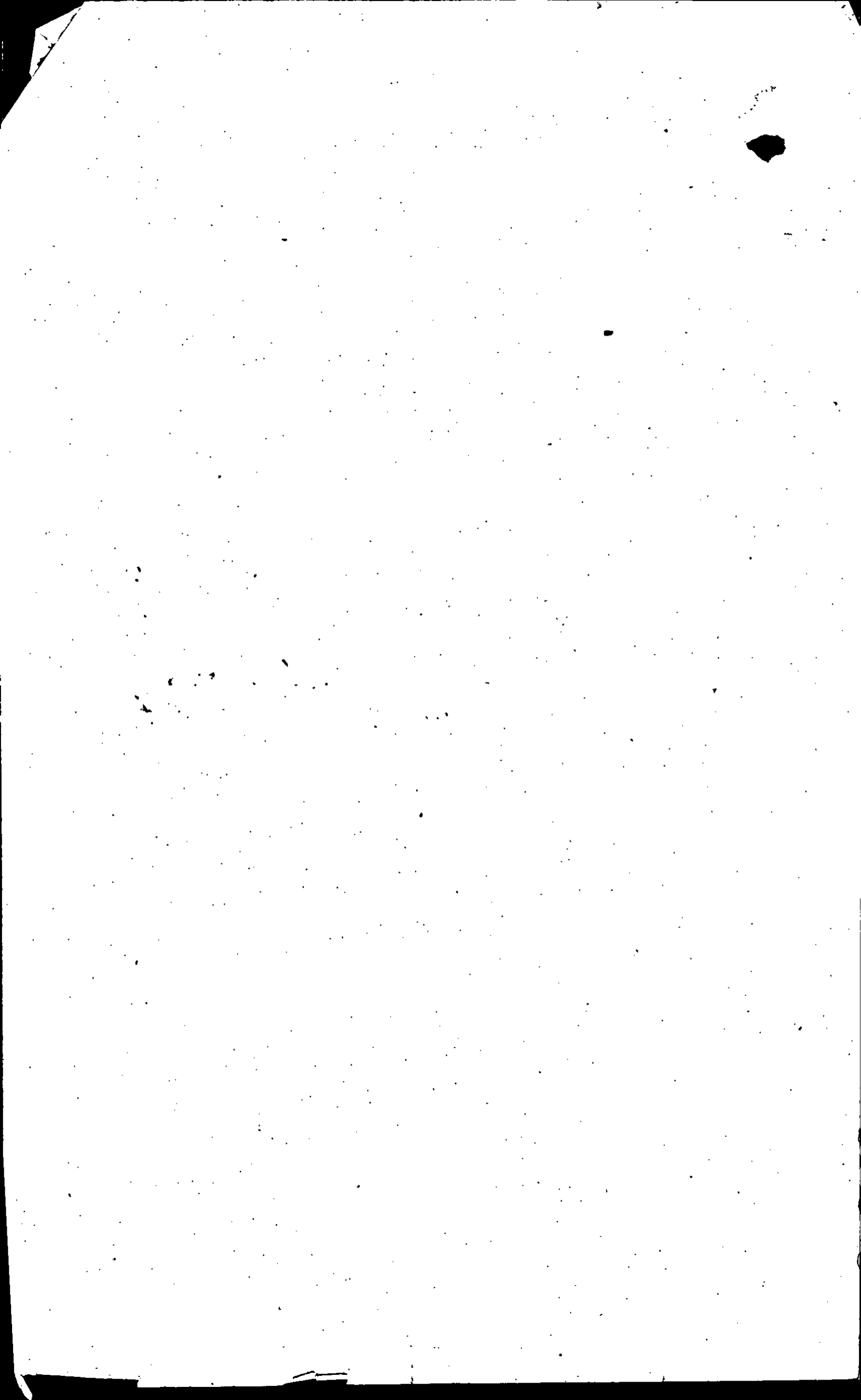
Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal

on 14-6-2021 at 9:00 AM

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

at Camp Court, A. Akbar

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.



"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

APPEAL No. 923 of 20 20

TB. A/A

Sagib Zia Asghar

Appellant/Petitioner

Versus

Distt & Sessions Judge A/Abud

RESPONDENT(S)

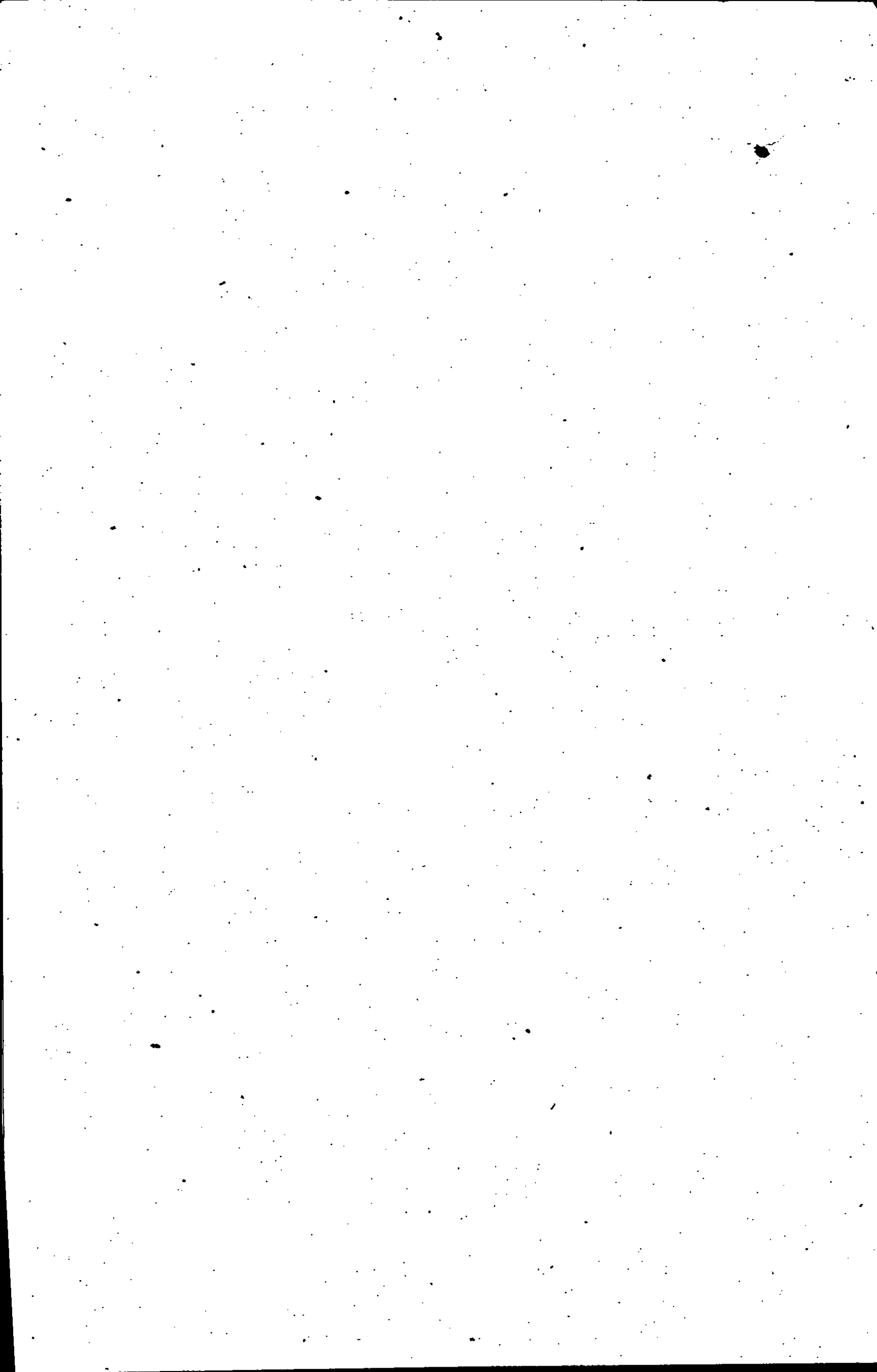
Notice to Appellant/Petitioner Sagib Zia Asghar J/clerk
Distt & Judiciary A/Abud

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 16-11-2021 at 8:00 AM

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

To Deposited Security
& Process fee

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.



کوارٹ خباب سرورس کمر بیونکل سیکرٹری انکم ٹیکس

بناقت ضیاء الحق تمام لوگوں کو اطلاع
شعبہ 16/11/21

درخواست گزار کو صحیح وقت پر اپنی ادائیگی کرنی

فائدہ بخالی :- درخواست گزار کو مطلع ہے -

1. سیکرٹری اعلیٰ بعنوان ایڈمنسٹریٹر آف ٹیکسز سے اپنی درخواستیں جس میں ان کی تاریخیں
مقرر ہیں۔

2. سیکرٹری اعلیٰ کو روٹا ٹیکس سے اپنی درخواستیں جس میں ان کی تاریخیں
مقرر ہیں۔

3. سیکرٹری اعلیٰ کو اپنی درخواستیں جس میں ان کی تاریخیں
مقرر ہیں۔

4. سیکرٹری اعلیٰ کو اپنی درخواستیں جس میں ان کی تاریخیں
مقرر ہیں۔

اس لئے کہ تمام درخواستیں سیکرٹری اعلیٰ کو صحیح وقت پر آنی چاہئے اور ان کی تاریخیں
مقرر ہیں۔

16/11/21

بناقت ضیاء الحق
ایڈمنسٹریٹر آف ٹیکسز

"B"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.**

No.

Appeal No. of 20 ^{TB}

923

20

..... Appellant/Petitioner

Sajid Zia Asghar

Respondent

Distt. Session Judge A. Asad

Respondent No.

Notice to:

The Learned Distt. 2 Sessions Judge

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal ^{at 8.00 A.M.} at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. dated

Given under my hand and the seal of this Court, at Peshawar this.....

Day of 20

Feb: 22

at Camp Court A Asad

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

- Note:
1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

713

Appeal No. 923 of 2020

Sajid Zia Asghar Appellant/Petitioner
Versus

The Distt. & Session Judge Pesh. Respondent

Respondent No. 2

Notice to: The Learned Civil Judge-IV, Abbottabad

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 21/02/2020 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 2nd

Day of Feb: 22 2020

at Camp Court A. Road

[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

7B

Appeal No. 923 of 20 20

Sajid Zia Appellant/Petitioner

Versus

The Distt. & Sessions Judge A. Abad Respondent

Respondent No. 3

Notice to: —

The Superintendent to Distt. & Sessions Judge
Abbottabad

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 21-11-2022 at 8.00 A.M. If you wish to urge anything against the appellants/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar this 2nd

Day of Feb 20 22

at Camp Court A. Abad

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.