Sucurity & Process

Learned counsel for the appellant submits inadvertently the Hon'ble Chief Justice has been arrayed as respondent No.1 in this appeal. He requests that the words "Chief Justice" may be deleted from the name and description of respondent No.1. Order accordingly. He further submits that against the impugned order dated 07.04.2021, whereby the appellant was removed from service, he filed departmental appeal on 17.04.2021 which was not responded within a period of ninety days and he filed this appeal within next thirty days which is well within time. This appeal is admitted to full hearing subject to all just and legal objections by the other side. Appellant is directed to deposit security fee. Respondents be summoned through TCS, the expenses of which be deposited by the appellant within three days. To come up for written reply/comments on 16.12.2022 before S.B at camp court Abbottabad.

(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

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Learned counsel for the appellant submits that against the impugned order dated 07.04.2021, whereby the appellant was removed from service, he filed departmental appeal on 17.04.2021 which was not responded within a period of ninety days and he filed this appeal within next thirty days which is well within time. This appeal is admitted to full hearing subject to all just and legal objections by the other side. Appellant is directed to deposit security fee. Out district respondents be summoned through TCS, the expenses of which be deposited by the appellant within three days, while the local respondents be summoned through process serving agency of the learned Senior Civil Judge, Peshawar. To come up for written reply/comments on 16.12.2022 before S.B at camp court Abbottabad.

(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

23.11.2021

None for the appellant present.

Notices be issued to the appellant and his counsel. Adjourned. To come up for preliminary hearing on 20.01.2022 before S.B.

(MIAN MUHAMMAD) MEMBER (E)

20.01.2022

Clerk of learned counsel for the appellant present.

Due to general strike of the bar, the case is adjourned. To come up for preliminary hearing on 17.03.2022 before S.B.

(Mian Muhammad) Member(E)

17.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 20.06.2022 for the same as before.

Reader

20<sup>th</sup> June, 2022

None for the appellant present.

The instant appeal pertains to Abbottabad, therefore let it be fixed at camp court Abbottabad. To come up for preliminary hearing on 16.08.2022 before S.B at camp court Abbottabad.

(Kalim Arshad Khan) Chairman Form- A

# FORM OF ORDER SHEET

Court of		
Case No	7271 /2021	

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# BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No.	/2021
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Saeed Akhtar son of Yousaf Saeed, resident of Village Banda Dilazak, Tehsil & District Abbottabad.

...APPELLANT

#### **VERSUS**

Chief Justice Peshawar High Court through its Registrar, Peshawar High Court Peshawar. & others.

...RESPONDENTS

#### **SERVICE APPEAL**

#### **INDEX**

<b>S.</b> #	Description	Page No.	Annexure
1.	Service appeal along with affidavit	1 to 7	
2.	Copy of impugned order dated 07/04/2021	8	"A"
3.	Copy of Departmental appeal	9-10	"B"
4.	Wakalatnama	1/	

APPELLANT

Through red: /2021

(Muhammad Arshad Khan Tanoli)

Advocate High Court, Abbottabad

Distr Bar Abhottabad

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

Service Appeal No. 227/

Saeed Akhtar son of Yousaf Saeed, resident of Village Banda Dilazak, Tehsil & District Abbottabad.

...APPELLANT

مريع توره موندمدال المه الريادة المهاري

**VERSUS** 

Chief Justice Peshawar High Court through its Registrar, Peshawar High Court Peshawar.

District & Sessions Judge, Abbottabad.

Sessions Judge Havelian District Additional District & Abbottabad.

...RESPONDENTS

RESPONDENT NO.2

**KHYBER PAKHTUNKHWA SERVICE** TRIBUNAL ACT 1974 FOR DECLARATION TO THE EFFECT THAT THE IMPUGNED ORDER DATED 07/04/2021 WHERE BY THE **REMOVED** THE APPELLANT FROM SERVICE IS ILLEGAL AGAINST THE LAW, **FACTS** INEFFECTIVE UPON THE RIGHTS OF THE

PRESENT APPELLANT.

SERVICE APPEAL UNDER SECTION 4 OF

ON ACCEPTANT **PRAYER:** OF THE INSTANT **SERVICE APPEAL OF** THE APPELLANT, THE IMPUGNED ENDST. NO.1269-1272-2152 DATED 07/04/2021 PASSED BY**RESPONDENT** NO.2 **MAY** GRACIOUSLY BE SET-ASIDE AND APPELLANT MAY KINDLY BE REINSTATED IN sSERVICE WITH ALL BACK BENEFITS. ANY **OTHER RELIEF** WHICH THIS **HONOURABLE** TRIBUNAL **DEEM** APPROPRIATE IN THE CIRCUMSTANCES OF THE CASE MAY ALSO BE ALLOWED TO THE APPELLANT.

Respectfully Sheweth;-

That Facts forming the background of instant service appeal are arrayed as under;-

- 1. That the appellant was serving as Sweeper in Havelian Courts District Abbottabad. The appellant has rendered more than 17 years of service with zeal and zest.
- 2. That on 06/03/2021, spouse of the appellant telephonically told that his son Adil studying

in class 2<sup>nd</sup> is seriously ill. Therefore, the appellant rushed to his house from Havelian to Abbottabad to take him to hospital. The appellant took the passengers from Havelian to Abbottabad in his Carry Dabba just to manage small amount for the bread & butter of his poor family.

- 3. That on the said day, Senior Civil Judge (Admin) chased the vehicle of appellant and stopped him at general bus stop Abbottabad and thereafter initiated the disciplinary proceedings against the appellant and served with show cause notice reply of which has been submitted by the appellant.
- 4. That respondent No.2 vide impugned order dated 07/04/2021 removed the appellant from service. Copy of impugned order dated 07/04/2021 is annexed as Annexure "A".
- 5. That, thereafter the appellant filed Departmental appeal against the impugned order dated 07/04/2021. Reply of the same is

still awaited. Copy of Departmental appeal is annexed as Annexure "B".

order, the appellant seeks indulgence of this Honourable tribunal for setting aside impugned order dated 07/04/2021 by way of filing of instant appeal before the Honourable tribunal, inter-alia on the following grounds.

#### **GROUNDS:**

- a) That the impugned order is passed by respondent No.2 is illegal, unlawful, against the norms of justice, equity and fair play hence the same is liable to be set aside.
- b) That the impugned act the order of respondent No.2 is harsh in nature and against the fundamental rights of the appellant guaranteed by the constitution of Islamic republic of

Pakistan 1973, thus, is not maintainable and liable to be setaside.

- c) That the appellant has rendered more than 17 years of service with devotion and dedication for the satisfaction of his authorities. superiors allegations leveled against the appellant did not warrant hash punishment of removal from service.
- d) That the appellant has not been provided opportunity of personal hearing and cross-examining the complainant. Besides, prescribed Codel formalities have not been followed.
- than 17 years regular service as sweeper. Now at this junctural of life, his dependants are facing starvation and the appellant can not cope with

the unavoidable house hold expenses being a poor person.

f) That there is no other prompt, efficacious remedy, available to the appellant except the instant service appeal. Besides, service appeal is within period of limitation.

It is, therefore, humbly prayed that on acceptant of the instant service appeal of the appellant, the impugned order Endst. No.1269-1272-2152 dated 07/04/2021 passed by respondent no.2 may graciously be setaside and the appellant may kindly be reinstated in service with all back benefits. Any other relief which this Honourable Tribunal deem appropriate in the circumstances of the case may also be allowed to the appellant.

لببعد ...APPELLANT

Through

Dated: /2021

(Muhammad Arshad Khan Lanoli) Advocate High Courts Abbottabad

#### **VERIFICATION:-**

Verified on oath that the contents of foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

ببعكر ...APPEĽLAŅT

# BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No/2021	
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Saeed Akhtar son of Yousaf Saeed, resident of Village Banda Dilazak, Tehsil & District Abbottabad.

...APPELLANT

#### **VERSUS**

Chief Justice Peshawar High Court through its Registrar, Peshawar High Court Peshawar. & others.

...RESPONDENTS

#### **SERVICE APPEAL**

#### **AFFIDAVIT**

I, Saeed Akhtar son of Yousaf Saeed, resident of Village Banda Dilazak,

Tehsil & District Abbottabad, do hereby solemnly affirm and declare that
the contents of foregoing appeal are true and correct to the best of my
knowledge and belief and nothing has been concealed therein from this
Honourable Court.



Annex- A

# OFFICE OF THE DISTRICT AND SESSIONS JUDGE ABBOTTABAD

P-8

#### ORDER

Dated Abbottabad the 07th April, 2021

WHEREAS on 6.3.2021, the Senior Civil Judge (Admn) Abbottabad reported that, in the wake of complaints received against Mr. Saeed Akhtar, Sweeper, posted at Tehsil Courts, Havelian, he remained absent and often drive a Suzuki carry van for carrying passengers during duty hours and that on the relevant day he was spotted driving Suzuki carry van with passengers. He was followed up till Abbottabad and after alighting passengers, he along with Suzuki was brought to the Districts Courts, Abbottabad.

WHEREAS, the accused official was caught red handed, which was sufficient to dispense with the inquiry proceedings under Rule 5 (a) of the Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules, 2011, hence he was proceeded under Rule 7 of the said Rules and a show cause notice was served upon him. After submission of reply, he was personally heard however in his reply to the show cause notice and during personal hearing, the Saccused/official did not deny the charges of carrying passengers in his vehicle during dury hours, and therefore charges of misconduct within the meaning of Rule 3(b) (d) of the ibid Rules are proved against him.

NOW, THEREFORE, I being competent authority while finding the accused/official Mr. Saced Akhtar, Sweeper, guilty of misconduct, hereby impose major penalty of removal from service under Rule 4(1)(b)(iii) of the said Rules.

2 APR 2021

1944-1945-91

Ensdst: No.

District & Sessions Judge, Abbottabad

Dated Abbottabad the 07-04-2021

Copy forwarded to :-

- 1. Additional District & Sessions Judge, Havelian.
- 2. District Account Officer, Abbottabad.
- 3. The official concerned by name.
- 4. Office record.

(Fazal Subhan)

District & Sessions Judge, Abbottabad

Muhamet Luca (han Tanoh Advocate High Court

P-9

The Honourable Chief Justice Peshawar High Court Peshawar

Subject:

<u>DEPARTMENTAL APPEAL AGAINST IMPUGNED</u> <u>REMOVAL FROM SERVICE ORDER ENDST NO. 1269-</u> 1272-2152 DATED 07/04/2021

Respectfully Sheweth;-

- 1. Reference is made to impugned removal from service order dated 07/04/2021. Copy of removal from service is attached.
- 2. That the appellant is a sweeper & low paid employee was serving in the courts at Havelian and always served cleaning work with zeal & zest.
- 3. That on 06/03/2021, spouse of the appellant telephonically told that his son, Adil studying in two class in seriously ill. Therefore, the appellant rushed to his house from Havelian to Abbottabad to take him to hospital. The appellant took the passengers from Havelian to Abbottabad in his Carry Daba just to manage small amount for the bread & butter of his poor family.
- 4. That, the appellant has rendered more than 18 years of regular service as sweeper. Now at this junctural of life, his dependants are facing starvation and the appellant can not cope with the unavoidable house hold expenses by a poor person.

Muhamita Alshad Khan Tanoli Alvodala High Court Office No. 33 Adjacent to Dist. 32r Abbottabad In view of the above, it is prayed that impugned removal from service order dated 07/04/2021 may be ordered to be set aside and the appellant may be ordered to be reinstated in service with all service back benefits and obliged.

Yours sincerely

Dated: 17/4/2021

Town

(SAEED AKHTAR)

S/o Yousaf
Ex. Sweeper
Resident of Banda Dilazak
Post Office Abbottabad,
District Abbottabad

Allested

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#### KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR.

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which your appeal shall be liable to be dismissed in default.

at fremamen

Registrar,

Khyber Pakhtunkhwa Service Tribunal, Peshawar.

# KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR.

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Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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

PESHAWAR. No. Apellant/Petitioner type peshaway tigh court oshowas RESPONDENT(S) Notice to Appellant/Petitioner\_\_\_\_\_ ed Archad Khan Tanoli Advocate High court A bhottabad Take notice that your appeal has been fixed for Preliminary hearing, replication, affida/vit/counter affidavit/record/arguments/order before this Tribunal 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.

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

No.  APPEAL No. 7.2.7	of 20
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which your appeal shall be liable to be dismissed in default.

Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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

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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 Poshowar.

Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

## KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD, OR PESHAWAR. No. 7271 of 20 21 APPEAL No.... Apellant/Petitioner registrar Poshawas High court RESPONDENT(S) Notice to Appellant/Petitioner Advocate Take notice that your appeal has been fixed for Preliminary hearing, replication, affida/it/counter affidavit/record/arguments/order before this Tribunal

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 Joshawar.)

7Khyber Pakhtunkhwa Service Tribunal, Peshawar.