

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 3527/2021

Date of Institution ... 08.03.2021
Date of Decision ... 28.06.2022

Shahid Hussain S/O Muttahir Shah R/O Village Miangan Baghicha Dehri
Tehsil and District Mardan.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Director General Mines
and Mineral Peshawar and three others.

... (Respondents)

Hafeez Ul Asad Shangla,
Advocate,

... For appellant.

Kabir Ullah Khattak,
Additional Advocate General

... For respondents.

Salah-Ud-Din
Rozina Rehman

... Member (J)
... Member (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The appellant has invoked the
jurisdiction of this Tribunal through above titled appeal with the prayer
as copied below:

**"On acceptance of this Service Appeal, the impugned order
No.11652/3-520/DGMM/Admn dated 27.07.2020 and order No.SO
(E) MDD/2-45/2020 dated 08.02.2021/1569-62 communicated to
appellant on 24.02.2021, passed in appeal, may kindly be set aside
and consequently the respondents may kindly be directed to
reinstate the appellant in service from the date of his removal from
service and also to extend all the back benefits and to pay all the
arrears to the appellant".**



2. Brief facts of the case are that appellant was initially appointed as Mines Guard in (BS-01) vide office order dated 05.06.2013. The respondent No.1 alongwith respondent No.2 offered surprise visit to different areas of District Swabi including Jaghat on 10.07.2020 where the appellant alongwith other Mineral Guards namely Hilal Ahmad, Hussain Ahmad and Kashif were deputed the duty of checking of unauthorized mining. They were also directed to stop the unauthorized mining in the other areas consisting of Adeena, Ismaila, Shewa, Narangi, Adnan Talawo and other surrounding areas of district Swabi. On the relevant day, when surprise visit was offered, appellant alongwith other Mineral Guards were on duty in their deputed area and was on visit in Jaghat area where they found Asif and Shakeel busy in unauthorized mining, excavating, loading and transportation of sand through machines. Despite warning, they did not stop the illegal act, therefore, Mineral Guard Kashif drafted murasila against the culprit in presence of the appellant and other Guards. The said murasila was signed by the appellant and others being witnesses of the occurrence who were very much present on the relevant day and time when surprise visit was offered. That appellant and other Guards also found involved Nizar and Waseem in unauthorized mining excavating, therefore, Hussain Ahmad Guard drafted the murasila in presence of appellant and other Guards and the same was signed by the appellant and others being witnesses. Thereafter, they all rushed to Police Station Yar Hussain for the purpose of lodging of FIR on the strength of murasila against those who were involved in unauthorized mining where FIR No.549 and 550 were registered and appellant



alongwith other Guards recorded statement in PS to that effect. The matter was also reported to the high officer. The whole proceedings took a considerable time in the Police Station and when they returned to the duty area back at 2:00pm, they came to know about the visit of respondents. Show cause notices were issued to the appellant and other guards which were replied, where-after, they were directed to appear for personal hearing and vide order dated 27.07.2020, major penalty of removal from service was imposed upon appellant. He filed departmental appeal which was rejected, hence, the present service appeal.

3. We have heard Hafeez UI Asad Shangla, Advocate learned counsel for the appellant and Kabir Ullah Khattak, learned Additional Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Learned counsel for the appellant argued inter alia that appellant alongwith other Guards were busy in proceedings against those who were involved in illegal mining, loading and transportation of mineral (Sand) but this fact was totally ignored by the respondents and the murasila, FIR and other documents were not taken into consideration. It was further argued that the appellant performed his duty with full zeal and with a sense of responsibility throughout his service but this aspect was ignored by respondents; that material available on record and relevant documents showing the presence of appellant on duty on the relevant day and time was fully ignored, therefore, the impugned order is liable to be set aside. He contended that the area of duty of the appellant is a vast area and Police Station Yar Hussain is also far away from the relevant place of occurrence and it consumed hours to

complete the proceedings in Police Station to return back to the place of duty. Besides, Juma prayer was also offered on the way back to duty but the respondents did not take into consideration the relevant facts. He submitted that impugned orders dated 27.07.2020 and 08.02.2021 are against law and facts and that the imposition of major penalty is harsh which is liable to be declared as null & void, therefore, appellant is entitled to be reinstated in service from the date of his removal with all back benefits.

5. Conversely, learned AAG submitted that the present appellant Shahid Hussain was directed vide office order dated 01.07.2020 to perform duty round the clock at Jaganat, Adnan Talawo, Sher Dara, Mir Ali, Adeena, Ismaila and Kalu Khan of District Swabi with already deputed Mineral Guards to curb unauthorized mining but he was found absent from his duty during surprise visit paid by the respondents No.1 & 2 on 10.07.2020. He further submitted that show cause notice was issued to the appellant on account of failure to control illegal mining, absence from site and non-performing of duty which was replied and that after hearing the appellant, major punishment was imposed upon him after fulfillment of all codal formalities.

6. From the record, it is evident that appellant Shahid Hussain was appointed as Mineral Guard (BS-01) vide order dated 05.06.2013 in the Directorate General of Mines & Minerals Department. He was directed to check illegal mining and transportation in Adnan Talawo, Parmoli, Sher Dara, Mir Ali, Adeena, Ismaila, Kalu Khan and surrounding areas of District Swabi and to take action against the offenders. It was on 10.07.2020 when respondents No.1 & 2 paid surprise visit to different

areas of District Swabi and found the appellant absent from duty. It is astonishing that the drafting of murasila on 10.07.2020 and its registration in shape of FIR in Police Station Yar Hussain is not denied by the respondents in their comments. As per record, vide FIR No.549, one Kashif Mineral Guard reported the matter in respect of illegal mining by Shakeel and Asif on 10.07.2020 at about 1100 hours. The murasila was properly signed by Kashif Mineral Guard and it was also signed by Hilal Ahmad, Hussain Ahmad and Shahid Hussain Mineral Guards being witnesses of the occurrence. It is also not denied that the appellant alongwith his companions also informed Assistant Director in respect of drafting of murasila and illegal act of the culprits on spot. Similarly, on 10.07.2020, FIR No.550 was registered on the strength of Murasila drafted and signed by Hussain Ahmad Mineral Guard and signed by the present appellant and two others against Nizar and Waseem. From the entire proceedings it becomes crystal clear that the appellant alongwith his colleagues was very much present on the spot in connection with their duty. Besides, the departmental proceedings initiated against the appellant are also replete with anomalies as just a show cause notice was issued to the appellant that too, is not in accordance with law consisting of blanks. Proper reply was submitted to the show cause notice but even then, the record was not taken into consideration. Neither charge sheet alongwith statement of allegations was issued nor inquiry was conducted according to law.


7. The respondents have very candidly violated the set norms and rules and conducted the proceedings in an authoritarian manner. We have observed that the appellant was kept deprived of affording

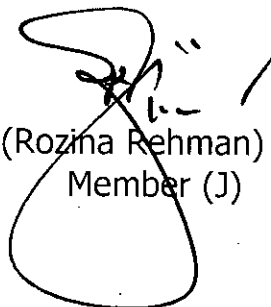


appropriate opportunity of defense. In the whole process, no inquiry was conducted. Appellant was not afforded an opportunity as is required under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. It is, however, a well-settled legal proposition duly supported by numerous judgments of Apex Court that for imposition of major penalty, regular inquiry is a must.

8. We are unison on acceptance of this appeal in the light of our observation in the preceding paras which immediately call for the reinstatement of the appellant into service from the date of his removal from service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
28.06.2022



(Salah-ud-Din)
Member (J)


(Rozina Rehman)
Member (J)

31.05.2022

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

Written reply/comments on behalf of respondents submitted which is placed on file. Copy of the same is handed over to learned counsel for the appellant. To come up for rejoinder if any, and arguments on 28.06.2022 before D.B.


(Mian Muhammad)
Member (E)


ORDER
28.06.2022

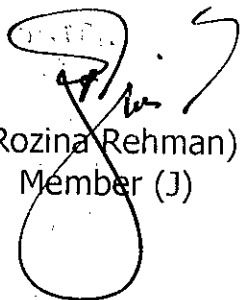
Appellant present through counsel.

Kabir Ullah Khattak, learned Additional Advocate General for respondents present. Arguments heard and record perused.

Vide our judgment of today of this Tribunal placed on file, instant service appeal is accepted. Consequently, the impugned order of removal from service is set aside and the appellant is reinstated in service from the date of his removal from service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
28.06.2022


(Salah Ud Din)
Member (J)


(Rozina Rehman)
Member (J)

Stipulated period passed reply not submitted.

15.09.2021

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


Chairman

13.12.2021

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Iqbal, AD (Admin) for respondents present.

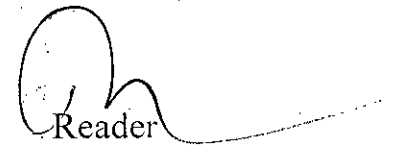
Written reply/comment on behalf of respondent not submitted. Representative of the respondents seeks time for submission of written reply/comments. Granted. To come up for written reply/comments on 17.02.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

17.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 11.03.2022 for the same as before.

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore case is adjourned to 31/05/2022 for the same as before.


Reader



15.07.2021

Counsel for the appellant present. Preliminary arguments heard.

Both the departmental appeal as well as service appeal ~~are~~ seem to be time-barred but in view of particular legal position to be discussed herein-after, the bar of limitation for the time-being is immaterial. In wake of COVID, 19, the Government of Khyber Pakhtunkhwa for the first time declared Public Health Emergency in March, 2020 for three months which was extended from time to time for further term and presently it has been extended by the Government vide Notification No: SOG/HD/1-102/Covid-19/2020/3062, dated 30.06.2021 for the period from 01.07.2021 to 30.09.2021. The case of the appellant falls within the period of emergency. In view of Section 30 of the Khyber Pakhtunkhwa Epidemic Control and Emergency Relief Act, 2020, the limitation period provided under any law shall remain frozen. This appeal having been filed after promulgation of the said Act, is not affected by bar of limitation. Excluding the case of appellant from rigors of limitation, his appeal is fit for full hearing. Keeping the question of limitation relating to filing of instant appeal intact for determination during full hearing, this appeal, subject to all just and legal objections including objection of limitation is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 13.12.2021 before the D.B.

Appellant Deposited
Security & Process Fee

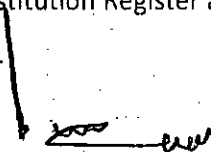

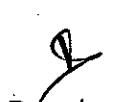

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 3527 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	15/03/2021	<p>The appeal of Mr. Shahid Hussain resubmitted today by Mr. Hafeez-ul-Asad Shangla 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 for preliminary hearing to be put up there on <u>24/05/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>
24.05.2021		<p>Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 07.09.2021 for the same as before.</p> <p style="text-align: right;"> Reader</p>

The appeal of Mr. Shahid Hussain son of Mukhtiar Shah received today i.e. on 08/03/2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Copy of show cause notice in respect of appellant is not attached with the appeal which may be placed on it.

No. 502 /S.T,

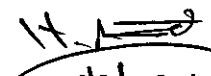
Dt. 08/03 /2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Hafeez-ul-Asad Shangla Adv. Pesh.

Sir, copy of show cause notice attached as page 25

Resubmitted please.


15/3/21

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PUKHTUNKHWA,
PESHAWAR

Service Appeal No _____/2021


Shahid Hussain.....Vs..Government of KP and others

I N D E X

S NO	DESCRIPTION OF DOCUMENTS	ANNEX	PAGE
1.	Grounds of Appeal	-	1-9
2.	Affidavit	-	10
3.	Addresses of the parties	-	11
4.	Copies of the CNIC, service card and appeal order	'A'	12-14
5.	Copy of the duty order	'B'	15-16
6.	Copy of the Murasila, FIR and report	'C'	17-23
7.	Copies of the show cause and replies	'D & E'	24-27
8.	Copy of the personal hearing	'F'	28-
9.	Copy of the impugned order dated 27-7-2029	'G'	29
10.	Copy of the appeal and order	'H'	30-38
11.	Copy of the FIR	'I'	39-40
12.	Wakalat Nama (In original)	-	41

Appellant

Through:


(HAFEEZ-UL-ASAD SHANGLA)
Advocate,
High Court, Peshawar
Cell # 0314-5951897

Dated: -04-03-2021

①

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PUKHTUNKHWA,
PESHAWAR

Service Appeal No 3527, 2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 3423

Dated 08/3/2021

Shahid Hussain S/O Muttahir Shah R/O village Miangan Baghicha
Dehri Tehsil and District Mardan.....(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Director
General Mines and Mineral at Peshawar
2. Government of Khyber Pakhtunkhwa through Secretary
Mines and Mineral at Civil Secretariat, Peshawar
3. Government of Khyber Pakhtunkhwa through Assistant
Director Mines and Mineral District Mardan
4. Government of Khyber Pakhtunkhwa through Assistant
Director Mines and Mineral District Swabi.....(Respondents)

Filed to-day
Registrar
08/03/2021

Re-submitted to-day
and filed.

Registrar
15/3/2021

Appeal under Section 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned order No 11652/3-520/DGMM/Admn dated 27th July, 2020; whereby a major penalty of "Removal from Service" was imposed upon the Appellant and against the impugned order No SO (E) MDD/2-45/2020 dated 08-02-2021/1559-62 communicated to Appellant on 24-02-2021, whereby departmental appeal filed by the Appellant against the impugned "Removal from Service" order was rejected

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PRAYER IN APPEAL:-

On acceptance of this Service Appeal, the impugned order No 11652/3-520/DGMM/Admn dated 27-07-2020 and order No SO (E) MDD/2-45/2020 DATED 08-02-2021/1559-62 communicated to Appellant on 24-02-2021, passed in appeal, may kindly be set aside and consequently the Respondents may kindly be directed to reinstate the Appellant in service from the date of his removal from service and also to extend all the back benefits and to pay all the arrears to the Appellant.

Respectfully Sheweth:-

Brief facts leading to this service appeal are as under:-

- 1) That the Appellant was initially appointed as a Mines Guard (BPS-1) through office order dated 05-06-2013 with effect from 31-05-2013 and was posted in office of Mineral Department Mardan. (Copies of the CNIC, service card and appointment order are attached as Annex 'A').
- 2) That throughout Appellant's service, Appellant worked efficiently with having no complaint whatsoever by any person so far.
- 3) That on 10-07-2020, the Respondent No 1 alongwith Respondent No 2 offered surprised visit to the different areas of District Swabi including Jaganat (non-leased area) of Yar Hussain, where the Appellant alongwith other Mineral Guards namely Hussain Ahmad, Hilal Ahmad and

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Kashif were deputed the duty of checking of unauthorized mining. It is worth mentioning to explain that Appellant alongwith above mentioned Mineral Guards were not only deputed to stop the unauthorized mining and its excavation and transportation in Jaganat area but also other areas consisting of Adeena, Ismaila, Shewa, Narangi, Adnan Talawo and other surrounding areas in District Swabi consisting of kilometers. (Copy of the duty order is attached as Annex 'B').

- 4) That on the relevant day, when surprised visit was offered by the Respondents No 1 and 2, Appellant alongwith other above mentioned Mineral Guards were on duty in their deputed area and was on visit in Jaganat area where about 11:00 AM in Asif area they found the persons namely Asif and Shakeel were busy in un-authorizing mining and were busy in excavating, loading and transportation of minor mineral (sand) through machines in their respective area.
- 5) That thereafter, after warning them to stop the illegal mining, mineral guard namely Kashif drafted murasila under the relevant law against those involved in illegal mining, their excavation and transportation in presence of Appellant and other mineral guards namely Hilal Ahmad, Hussain Ahmad. Moreover, the said murasila was signed by the Appellant and other mentioned mineral guards, being a witnesses of the occurrence, which shows presence of the

Appellant on duty on the relevant day and time, when surprised visit was offered by the Respondent No 1 and 2.

- 6) That on the same day in area of Jaganat (Nizar Drang), where Appellant alongwith above Mineral Guards was on duty, also found involved persons namely Nizar and Waseem busy in un-authorized mining and in excavation, loading and transportation of minor Mineral (Sand) through machine in their respective area.
- 7) That thereafter, after warning them to stop the illegal mining mineral guard namely Hussain Ahmad drafted murasila under the relevant law against those involved in illegal mining, their excavation and transportation in presence of Appellant and other mineral guards namely Hilal Ahmad and Kashif. Moreover, the said murasila was signed by the Appellant and other mentioned mineral guards, being a witnesses of the occurrence, which shows presence of the Appellant on duty on the relevant day and time, when surprised visit was offered by the Respondent No 1 and 2.
- 8) That thereafter, the Appellant and other mineral guards rushed to P.S Yar Hussain for the purpose of lodging FIR on the basis of murasila against those involved in unauthorized mining where FIR No 549 and 550 were lodged and Appellant and other mineral guard recorded their statement in P.S to this effect and also the matter was

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report to high officials. (Copy of the Murasila, FIR and report is attached as Annex 'C').

- 9) That the whole proceeding took a considerable time (From about 11:00 AM to about 01:00 PM) in police station and on the way back to duty place as it was Friday, hence Appellant and other mineral guards also offered Jumma prayer in Yar Hussain and when they returns to the duty area back at 02:00 PM they came to know about the visit of Respondents No 1 and 2 from the locals.
- 10) That due to non-availability of Appellant and other mineral guards namely Hussain Ahmad, Hilal Ahmad, Kashif at the time of visit of Respondents No 1 and 2, show cause notice was issued which was properly replied. (Copies of the show cause and replies are attached as Annex 'D & E').
- 11) That thereafter, the Appellant and other mineral guards were directed to appear for personal hearing on 27th July, 2020 which was followed accordingly and Appellant and other mineral guards appeared before Respondents for personal hearing. (Copy of the personal hearing is attached as Annex 'F').
- 12) That thereafter on 27-07-2020 through impugned order No 11652/3-520/DGMM/Admn a major penalty of "Removal from Service" was imposed upon Appellant. (Copy of the impugned order dated 27-07-2020 is attached as Annex 'G').

- 13) That thereafter the impugned removal order, was questioned/ challenged through departmental appeal/representation, which was rejected after reply through impugned order SO (E)/MDD/2-45/2020 dated 08th February, 2021/1559/62 communicated to Appellant on 24th February, 2021. (Copy of the appeal reply and impugned order is attached as Annex 'H').
- 14) That the Appellant having no other efficacious remedy, approaches this Honourable Tribunal on the following grounds inter-alia:-

GROUNDS:-

- A) That at the time of visit of Respondents No 1 and 2, Appellant alongwith other Mineral Guards namely Kasif, Hussain Ahmad and Hilal Ahmad were busy in proceeding against those involved in illegal mining and evacuation, loading and transportation of minor mineral (Sand) but this facts were totally ignored by the Respondents though all the relevant documents i.e. Murasila, FIR and official report were provided to them, hence the impugned order is liable to be set aside.
- B) That throughout his service, the Appellant performed his duty with full zeal, regularly, efficiently and with a sense of responsibility and always obeyed the directions of high officials, but this aspect was totally ignored by the Respondents

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- C) That material available on record and relevant documents, showing the presence of Appellant on their duty on relevant day and time, was fully ignored; hence the impugned order needs to be set aside and the Appellant is entitled to be reinstated in service.
- D) That area of duty of Appellant is consist of kilometers and police station Yar Hussain is also far away from the relevant place of occurrence and it consumed hours to complete the proceeding in police station and to return back to place of duty. Moreover, on the way back to duty a Jumma prayer was also offered, hence this facts needs to be considered, but was not entertained by Respondents, therefore, the Appellant deserve to be reinstated in service.
- E) That the impugned order dated 27-7-2020 and 08-2-2021 is against the law, facts and principle of natural justice, hence needs to be set aside.
- F) That the imposition of major penalty of removal from service is harsh and all the allegations leveled against the Appellant is false and baseless and without footing; hence needs to be set aside.
- G) That murasila was duly signed by the Appellant and other mineral guards namely Kashif, Hussain Ahmad and Hilal Ahmad being a witnesses of the occurrence on spot, which show presence of Appellant on duty on relevant day and

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time, but this aspect was totally ignored by the Respondents and a harsh order of removal from service was passed, which is liable to be declared as null and void and hence Appellant is entitled to be reinstated in service from the date of his removal with all back benefits and arrears.

- H) That during on duty, the Appellant suffered threats throughout his service but Appellant not make it hurdle for duty and performed his duty with diligently. (Copy of the FIR is attached as Annex 'I').
- I) That Respondents totally ignored the facts that duty places of the Appellant is located in different places of Swabi and spared over on kilometers and far away from concerned police stations but Respondents passed a harsh order of removal from service, which is liable to be set aside.
- J) That impugned order passed by Respondents is based on surmises and conjectures, hence liable to be set aside.
- K) That any other ground, not raised specifically may graciously be allowed to be raised at the time of arguments.

PRAYER:-

It is, therefore, most respectfully prayed that on acceptance of this Appeal, the impugned order No 11652/3-520/DGMM/Admn dated 27-07-2020 and order No SO (E) MDD/2-45/2020 DATED 08-02-2021/1559-62 communicated to Appellant on 24-02-2021, passed in appeal, may kindly be set aside and


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consequently the Respondents may kindly be directed to reinstate the Appellant in service from the date of his removal from service and also to extend all the back benefits and to pay all the arrears to the Appellant.

Any other relief, which this Honourable Tribunal deems proper in the circumstances of the appeal may also be granted in favour of Appellant.

Appellant

Through:

H. 
(HAFEEZ-UL-ASAD SHANGLA)
Advocate,
High Court Peshawar

Dated: -03-03-2021

NOTE:-

No such service appeal for the same Appellant has earlier been filed by me before this Honourable Tribunal prior to instant one.

Advocate 



(10)

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PUKHTUNKHWA,
PESHAWAR


Shahid Hussain.....(Appellant)

VERSUS


Government of KP and others.....(Respondents)

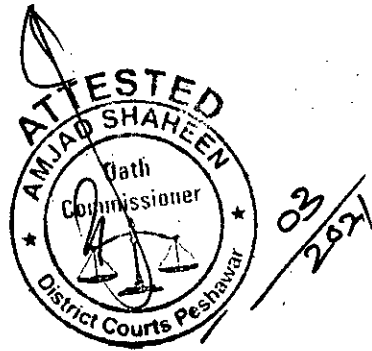
AFFIDAVIT

I, Shahid Hussain S/O Mukhtiar Shah R/O village Miangan Baghicha Dehri Tehsil and District Mardan, do hereby solemnly affirm and declare on oath that all the contents of accompanying application are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Honourable Court.

DEPONENT 
CNIC # 16101-9390765-3
Cell # 0305-9595590

Identified by:-


(HAFEEZ-UL-ASAD SHANGLA)
Advocate
High Court, Peshawar



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BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PUKHTUNKHWA,
PESHAWAR

Shahid Hussain

V E R S U S

Government of KP and others


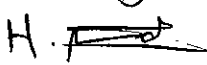
MEMO OF ADDRESSES

APPELLANT

Shahid Hussain S/O Mukhtiar Shah R/O village Miangan Baghicha
Dehri Tehsil and District Mardan

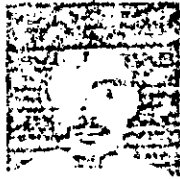
RESPONDENTS

1. Government of Khyber Pakhtunkhwa through Director
General Mines and Mineral at Peshawar
2. Government of Khyber Pakhtunkhwa through Secretary
Mines and Mineral at Civil Secretariat, Peshawar
3. Government of Khyber Pakhtunkhwa through Assistant
Director Mines and Mineral District Mardan
4. Government of Khyber Pakhtunkhwa through Assistant
Director Mines and Mineral District Swabi

Through: Appellant 
H. 
(HAFEEZ-UL-ASAD SHANGLA)
Advocate,
High Court, Peshawar

Dated: -04-03-2021

(12) Amnesia A



حکومت پاکستان

قومی شناختی کارڈ

16101-9390765-3



نام: شاہد حسین

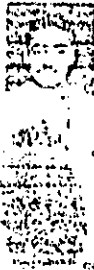
جنس: مرد

مدد کا نام: علیہ شاہ

شناختی علامت: کوئی نہیں

تعلیمی اور شغلی تفصیلات: ماسٹر آف ایجوکیشن، ایف اے، ایف ایس سی، ایف ایس سی (ایگزیٹو) 25/04/1991

دستخط: شاہد حسین



شناختی نمبر: 16101-9390765-3 نام: شاہد حسین V6753D

موجودہ پتہ: گلشن گل، ایف اے، ایف ایس سی، ایف ایس سی (ایگزیٹو) 25/04/1991

سہیل پتہ ایف اے

تاریخ اجراء: 30/06/2009 تاریخ منسوخ: 31/05/2021

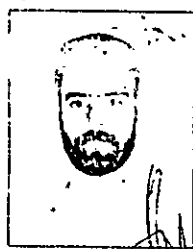
گمشدہ کارڈ ہے پر غریبی لیٹر میں میں ڈال دیں



ATTESTED

Yaqub

13 GOVT. OF KHYBER PAKHTUNKHWA
DEPARTMENT OF MINES & MINERAL DEVELOPMENT



SERVICE CARD

Name: SHAHID HUSSAIN
Father Name: MUTTAHIR SHAH
CNIC: 16101-9390765-3
Qualification: FS.c
Date Of Birth: 25-04-1991
Designation: Mineral Guard
BPS 03

Issuing authority:

Holder Sign

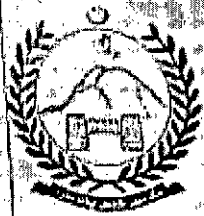
GOVT. OF KHYBER PAKHTUNKHWA
DEPARTMENT OF MINES & MINERAL DEVELOPMENT

Home Address: Village Miangan Baghicha Dheri
District Mardan

Issue Date: 28-07-2016
Phone No: 0937-9230506
Cell: 0305-9595590

ATTESTED

14



DIRECTORATE GENERAL OF MINES AND MINERALS
KHYBER PAKHTUNKHWA
ATTACHED DEPARTMENT COMPLEX KHYBER ROAD PESHAWAR

No. 3/520/DGMM/Admn:

Dated 1/06/2013

OFFICE ORDER

On the recommendations of Departmental Selection Committee, Mr. Shahid Hussain S/o Muttahir Shah, Village Miangan, Baghicha Dheri, Mardan, is hereby appointed as Mineral Guard (BPS-1) (4800-150-9300) plus usual allowances with effect from 31-05-2013 (AN) on the terms and conditions already conveyed to him vide this Directorate letter No.9207/1/17/DGMM/Admn: dated 22-5-2013.

He is posted in the office of the Assistant Director Mineral Dev: Mardan.

Sd/-

Director General Mines and Minerals
Khyber Pakhtunkhwa.

Endst. No. 10130-34

3/520/DGMM/Admn:

Dated 5/06/2013

A copy is forwarded to:

- 1- The District Accounts Officer, Mardan
- 2- The Assistant Director (Accounts), H/Q Office Peshawar.
- 3- The Assistant Director Mineral Development, Mardan.
- 4- Mr. Shahid Hussain, Mineral Guard, p/o Assistant Director Mineral Dev: Mardan.
- 5- File No. 1/17/DGMM/Admn:

Copy

T. YOUSAF KHAN

Assistant Director (Administration)
For /Director General

OFFICE OF THE

ASSISTANT DIRECTOR MINERAL DEVELOPMENT MARDAN

Address: Center Colony, Near Jamia Masjid Muqam Chowk District Mardan. Tel: No.0937-9230506



No. /MDW/MR/Establishment File

Dated: / /2020

OFFICE ORDER

In supersession of previous order of this office regarding field duty in order to stop un-authorize mining and transportation of minerals from different areas of District Swabi, the following officials are hereby deputed/reshuffled as per detail given below with immediate effect till further order.

S No.	Name of Mineral Guard	Contact No.	Place of duty
1	Mr. Shahid Hussain (MG) Mr. Hilal Ahmad Mr. Kashif (MG)	0305-9595590 0345-5175000 0314-9001301	Check illegal mining and transportation of Major/Minor Minerals near Adina, Ismailia, Shewa, Parmoli, Naranje, Jaganat/Adnan Talao and surrounding areas District Swabi round 'o' clock and take action against the offenders as per Section-42 & 56 of Khyber Pakhtunkhwa Mines & Mineral Act 2017. No one will leave station without permission of incharge/undersigned and submit weekly report to this office.
2.	Mr. Mamnon Khan (RI) Mr. Imran Ali (MG) Mr. Salman (MG)	0302-5921017 0331-8850451 0345-9395955	Check illegal mining and transportation of Major/Minor Minerals and also check transportation of minerals (Minor/Major) without verified transit challan and un-authorize crush plants near Topi Road, Pontia/Hemlit, Ghundao Tarako, Maneri, Kala Dara, Punj Pir, Janghidher Block B, Zaida, Gadoon, Bamkhel and surrounding areas District Swabi round 'o' clock and take action against the offenders as per Section-42 & 56 of Khyber Pakhtunkhwa Mines & Mineral Act 2017 as well as Perform duty at Mineral check post near village Shagai Maneri District Swabi No one will leave station without permission of Station incharge/undersigned and submit weekly report to this office.
3.	Mr. Mamnon Khan (RI) Mr. Janab Ali (MG) Mr. Fayaz Khan (MG)	0302-5921017 0346-9830069	Check illegal mining and transportation of Minor Minerals near Chontra Jabbar/Masam Dheri, Jalbia Dobian, and also check transportation of minerals (Minor/Major) without verified transit challan Ambar/Rest House, Dab Korona/Jalsai, Tor Dher, Shiekh Dheri, illegal mining of Gold near Kund Park, River Indus in the Jurisdiction of District Swabi and surrounding areas District Swabi round 'o' clock and take action against the offenders as per Section-42 & 56 of Khyber Pakhtunkhwa Mines & Mineral Act 2017. No one will leave station without permission of incharge/undersigned and submit weekly report to this office.

1. The field staff will submit complaint/Marasalla to concerned Police Station. Action against the offender will be taken as per Khyber Pakhtunkhwa Mineral Sector Governance Act-2017 and submit their progress reports in written to the undersigned on weekly basis along with Marasallas and FIRs for onward submission to the H/Q office. They are also directed to pursue the FIR cases in court of Law.
2. The special team deputed at S.No. 01 & 02 & 03 is strictly directed to keep vigilant watch over the susceptible areas to un-authorize mining/transportation in the un-auction areas of Jaganat/Adnan Talao, Kala Dara Punjpir, Pontia/hamlet, Jangidher Block B, Chuntra Jabbar/Masam Dheri, Jalbai Dobian respectively and report to the undersigned on daily basis. In case if any un-authorize mining/transportation observed action shall be taken against the official as per E&D Rules.

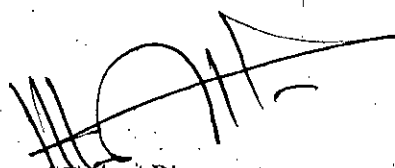
Assistant Director (Tech)
Mineral Development Mardan
Division Mardan

16

Endst: No. 753-57/MDW/MR/Establishment
Copy to:-

Dated 1/7/2020

1. The Director General Mines and Mineral Khyber Pakhtunkhwa Peshawar for information, please.
2. The Deputy Commissioner Swabi for information with the request to direct the local administration to assist the field staff in controlling and stoppage of un-authorize mining and transportation of minerals, please.
3. The District Police Officer Swabi for information with the request to direct all SHO's of their concerned Police Station to assist the field staff in controlling and stoppage of un-authorize mining and transportation of minerals, please.
4. The Assistant Director Monitoring Swabi for information and with the request to ask your field staff to coordinate with the staff of this office specially ask them to keep vigilant watch over the un-auctioned areas shown as bold words above and other cancelled/suspended and expired areas.
5. Official concerned for compliance.


Assistant Director (Tech)
Mineral Development Mardan
Division Mardan

ATTESTED



ذات اب اسٹریٹ ڈائریکٹریٹ کے دفتر میں (10-07-02)

ذات اب اسٹریٹ

کمزور ہے جس کے سبب اس کے ساتھ ساتھ

میں علم حاصل ہوا ہے کہ اس کے ساتھ ساتھ

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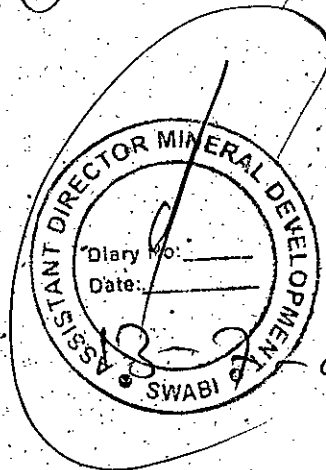
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10-07-02

کمزور ہے



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(24)

Annexure D



Directorate general Mines and Minerals
Khyber Pakhtunkhwa
Attached Departments Complex, Khyber Road Peshawar

No. DGMM/Admin/3/520/_____

Dated. _____/07/2020

To

1. Mr. Shahid Hussain, Mineral Guard
 2. Mr. Hussain Ahmad, Mineral Guard
 3. Mr. Hilal Ahmad, Mineral Guard
 4. Mr. Kashif, Mineral Guard
- c/o Assistant Director Mineral, Swabi

Subject: SHOW CAUSE NOTICE

I am directed to refer to your subject noted above and to enclose here with "Show Cause Notices". You are, therefore, directed to submit your written defense/reply within seven days of the receipt of this letter.

Encl As Above:

Assistant Director (Admin)
H/Q Office, Peshawar.
Dated: 13/07/2020

Endst: No. 3/520-DGMM/Admin/ 10307-11

Copy forwarded to :

1. PS to Secretary Minerals Development Department, Khyber Pakhtunkhwa, Peshawar.
2. PA to Director General Mines and Minerals Khyber Pakhtunkhwa.
3. Section Officer (Estt:) Minerals Dev: Dept., Khyber Pakhtunkhwa, Peshawar.
- ✓ 4. The Assistant Director Mineral, Swabi with the advice to handover the show cause notices to concerned officials.
5. P/F of concerned officials.
6. Master File.

ATTESTED

[Signature]

[Signature]

Assistant Director (Admin)
H/Q Office, Peshawar.

[Signature]

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PA
1232
BPA

SHOW CAUSE NOTICE

I, Hameed Ullah Shah Director General Mines & Mineral, as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Shahid Hussain, Mineral Guard, as follows:

- (i) Secretary Minerals and Director General Mines & Mineral paid surprise visit to the said area on 10.07.2020, and found that two excavators were unauthorizedly working in the said area and illegal transportation was found and witnessed on the site.
- (ii) You were found absent from the site despite the fact that considerable time was spent on the site.
- (iii) Your this act is an evidence non-performing of your official duties which is misconduct & inefficiency on your part.

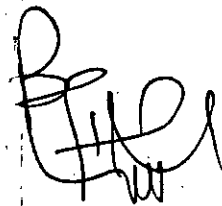
I am satisfied that you have committed the following acts/omissions specified in rule 3(b), 5(b)(ii) and 7 of E&D rules 2011.

- (a) _____
- (b) _____
- (c) _____

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of _____ under rule 4 E&D Rules 2011.

3. You are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within seven days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.



Hameed Ullah Shah
Director General Mines & Mineral
Khyber Pakhtunkhwa

Mr. Shahid Hussain Mineral Guard
c/o Assistant Director Mineral Swabi

(26)

Annexure E

BEFORE THE OFFICE OF DIRECTORATE GENERAL MINES AND MINERALS
KP ATTACHED DEPARTMENT COMPLEX KHYBER ROAD PESHAWAR

Subject : WRITTEN REPLY TO SHOW CAUSE NOTICE LETTER NO. DGMM
ADMIN 3/520/10307-11 DATED 13.07.2020 ON BEHALF OF 1. SHAHID
HUSSAIN 2. HUSSAIN AHMAD 3. HILAL AHMAD AND KASHIF MINERAL
GUARDS.

In pursuance of show cause notice letter No DGMM ADMIN
3/520/10307-11 DATED 13.07.2020 the above name mineral
guards submit as under to explain our position for the
charges level against them in para wise as mentioned in the
show cause notice .

Sir on the event full day dated 10.07.2020 we all Mineral
Guards were performing our duties and visit to Asif Area at
about 10:50 where we found an illegal mining there with the
help of excavation machinery .All at once we drafted mursaila
on the spot at about 11:00 AM against the area owner Asif and
Shakeel . After fulfilling the necessary proceedings of murasila
, we have been informed that another Durang owner namely
Nizar is also busy in illegal mining's, we rush to the adjacent
area , where we found that another excavation machinery is
busy in an illegal mining . At about 11:30 we drafted a
murasila against the illegal miners Nizar and waseem under
the law and rules .Then we all proceeded to police station and
reached at about 12:15 to police station for converting
Murasila to FIR. We all present there and spent about 30
minutes inside the police station while conducting legal action
against the accused named above. We also made a written and
oral request to the SHO concerned to impound both the

ATTENDED

[Handwritten Signature]

excavators standing within the areas which are indulged in the illegal mining in the said areas. After completion of legal proceeding we rush back to the area while on the way we prayed juma at market masjid in village Yar Hussain at 01:15 PM dated 10.07.2020. After Performing Juma prayers we once again proceeded to words the said areas we reached at about 02:00 PM to the areas , so then we were tolled that your's kind good self alongwith honourable Secretary mines have paid visit to the areas under discussion. (Copies of both the murasila are hereby attached with reply).

Moreover we all the above named Mineral Guards also feels necessary to bring to your kind notice and attention that on each and every day during our duties we are threaring by the illegal miners of the areas for dear consequences.

Sir,

With the humble submission all the attached murasila are self explanatory in have evidentiary proof of our duties on the area. Though we performs our duties regularly and honestly still we a sure your's kind good self to be very much care full in future.

Dated 20.07.2020

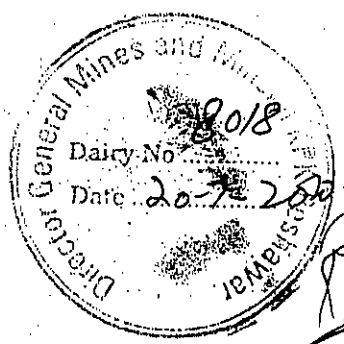
Your's Obediently

ATTESTED

Mineral Guards

- 1. SHAHID HUSSAIN
- 2. HUSSAIN AHMAD
- 3. HILAL AHMAD
- 4. KASHIF

[Handwritten signatures and initials corresponding to the list of Mineral Guards]



(28) Annexure F



**DIRECTORATE GENERAL OF MINES AND MINERALS
KHYBER PAKHTUNKHWA**

Attached Departments Complex Khyber Road Peshawar

Phone: & Fax # 091-9210236

No. _____ /DGMM/Admin/(Hazara Division)

Dated: ___/07/2020.

To

1. Mr. Shahid Hussain, Mineral Guard (BPS-03)
2. Mr. Hussain Ahmad, Mineral Guard (BPS-03)
3. Mr. Hilal Ahmad, Mineral Guard (BPS-03)
4. Mr. Kashif, Mineral Guard (BPS-03)

c/o Assistant Director Mineral, Swabi

Subject: **SHOW CAUSE NOTICE**

I am directed to refer to your reply of show cause notice, dated: 20-07-2020 and to state that the Competent Authority has considered your reply and decided to call you for personal hearing on 27-07-2020 Monday at 11.00 AM.

You are advised to attend the H/Q Office, in case of failure ex-parte decision shall be taken against you under E&D Rules 2011.

Assistant Director (Admn)
HQ Office Peshawar

Endst: No. 11436-41 /DGMM/Admin/ (Hazara Division)

Dated 23 /07/2020.

Copy forwarded to: -

1. PS to Secretary Minerals Development Department Khyber Pakhtunkhwa.
2. PA to Director General Mines and Minerals, Khyber Pakhtunkhwa, Peshawar.
3. Section Officer (Estt:) Minerals Development Department Khyber Pakhtunkhwa Peshawar.
4. The Assistant Director Mineral Swabi for information.
5. P/File of Officials concerned.
6. Master File/DGMM/Admin/2020.

Assistant Director (Admn)
HQ Office Peshawar

ATTEST

Yusuf

(29)

Annexure G

TO BE SUBSTITUTED EVEN NUMBER AND DATE



**DIRECTORATE GENERAL OF MINES AND MINERALS
KHYBER PAKHTUNKHWA**

Attached Departments Complex Khyber Road Peshawar

Phone: & Fax # 091-9210236

No. 11652 /3-520/DGMM/Admn

Dated: 27 / 07 /2020.

OFFICE ORDER.

1. WHEREAS Mr. Shahid Hussain, Mineral Guard (BPS-03), Office of Assistant Director Mineral, Mardan was proceeded against under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on the charges mentioned in the show cause notice.
2. AND WHEREAS the Competent Authority is satisfied that you have committed the acts/omissions specified in Rule 3(b), 5(b)(ii) and Rule-7 of E&D Rules 2011.
3. AND WHEREAS, the Competent Authority/Director General Mines & Minerals, Khyber Pakhtunkhwa also afforded the opportunity of personal hearing to the accused official.
4. NOW THEREFORE, the Competent Authority in exercise of powers conferred under Rule 4(1)(b)(iii) of Khyber Pakhtunkhwa Government Servant Efficiency & Discipline Rules-2011 imposed major penalty of "Removal From Service" upon the accused official with immediate effect.

Sd/-

Director General Mines & Mineral
Khyber Pakhtunkhwa, Peshawar.

Dated: 27 / 07 /2020

Endst: No. 11653-60 /3-520/DGMM/Admn

Copy is forwarded to:

1. PS to Secretary Minerals Dev: Department, Govt. of Khyber Pakhtunkhwa, Peshawar.
2. PA to Director General, Mines & Minerals, Khyber Pakhtunkhwa, Peshawar.
3. The Director Licensing (North), H/Q Office, Peshawar.
4. The District Accounts Officer, Mardan.
5. Assistant Director (Accts), H/Q Office, Peshawar.
6. Assistant Director Mineral, Mardan/Swabi.
- ✓ 7. Mr. Shahid Hussain, Mineral Guard, Office of Assistant Director Mineral, Mardan.
8. P/File of the official concerned.
9. Master File.

Assistant Director (Admin)
H/Q Office, Peshawar.

ATTESTED

(2) (31)

4. That my defence point is not taken into consideration.

5. That the material point is kept out of consideration that at the time of visit of the Secretary, I had gone to Police Station Yar Hussain Swabi for lodging report against the illegal excavation & transport on 10-07-2020, the illegal transporters of mineral (the sand) were charged by Hussain Ahmad and Kashif, the mineral guards, one after the other.

On demand of the Police for production of supporting witnesses, I alongwith Hilal Ahmad went to the police station Yar hussain Swabi for recording our statements in support of the murasilas, submitted by the aforementioned guards.

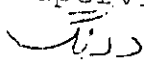
We remained busy in the police station till 01:00 PM. Thereafter I alongwith other colleagues offer juma prayer in village Yar Hussain Swabi and thereafter we proceeded back to the spot.


I also recorded my statement before The Police in-connection with the complaints/murasilas lodged by other mineral Guard, present in the Police Station Yar Hussain.

Thereafter, I along-with my other colleagues offered "Juma Prayer" in Yar Hussain Swabi & then I proceeded to my place of duty.

(Copies of relevant Murasilas are Attached).

On arriving back to the spot, I learnt that the Higher Authorities had visited the spot, when I was away to Pulice Station.

Sir, it is added that we the mineral Guards are not provided the Motorcycles alike the other departments and the provinces. Hence, it takes us long time to walk on foot and through public transport for travelling towards the performance of our duties to supervise the distantly situated excavation spots () and to Police Station, when needed.

ATTESTED


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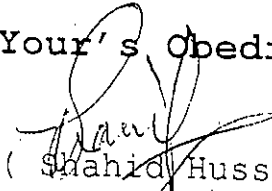
6. That the perusal of the Show Cause Notice would show that it is not drawn according to the relevant rules.

7. That the penalty is too harsh.

It is requested that on acceptance of this representation, the impugned order may be set-aside and I may kindly be re-instated into service with back service benefits.

Dated:- 10-08-2020.

Your's Obediently,



(Shahid Hussain)
Ex Mineral Guard
Under The Assistant
Director, Mineral
Development, Mardan.

ATTESTED



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**DIRECTORATE GENERAL OF MINES AND MINERALS
KHYBER PAKHTUNKHWA**

Attached Departments Complex Khyber Road Peshawar
Phone: & Fax # 091-9210236

No. 21498 /3-520/DGMM/Admn


Dated: 04 /11/2020

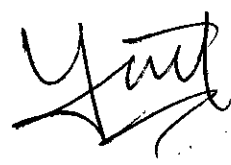
To
Section Officer (Establishment),
Minerals Development Department,
Khyber Pakhtunkhwa, Peshawar.

Subject: REPRESENTATION AGAINST THE ORDER OF THE DIRECTOR GENERAL OF
MINES AND MINERALS, DEVELOPMENT DEPARTMENT, PESHAWAR DATED:
27.07.2020, CONTAINING REMOVED FROM SERVICE.

I am directed refer to refer to your letter No. SO(E)/MDD/2-45/2020/8079 dated: 24-08-2020 on the subject noted above and to enclose herewith para-wise comments in respect of Mr. Shahid Hussain, Ex-Mineral Guard (BS-03) of this Directorate in the instant case for further necessary action, please.

Encl: As above


o/c Assistant Director (Admin)
H/Q Office, Peshawar.



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PARA WISE COMMENTS ON THE DEPARTMENTAL APPEAL LODGED BY MR. SHAHID HUSSAIN MINERAL GUARD (BPS-03) OFFICE OF ASSISTANT DIRECTOR MINERALS, MARDAN AGAINST THE ORDER DATED: 27-07-2020, CONTAINING REMOVED FROM SERVICE.

REPLIES:

Para No. 1. Reply to para-1 is incorrect. It is stated that the allegations leveled against the accused official are correct and true.

Para No. 2. Reply to para-2 is incorrect. It is stated that the accused official was found absent from the site during visit of Secretary Mines & Minerals Development Department & Director General Mines & Minerals on 10-07-2020 despite the fact that considerable time was spent by high authorities on the site, which shows negligence, willful absence and misconduct on the part of accused official.

Para No. 3. Reply to para-3 is incorrect. The accused official was given a proper opportunity of personal hearing on 27-07-2020 by Director General Mines & Minerals.


Para No. 4. Reply to para-4 is incorrect. The accused official did not prove himself innocent nor satisfied the Competent Authority with his reply.

Para No. 5. Reply to para-5 is incorrect. Details in para-2, above while rest of para is irrelevant.

Para No. 6. Reply to para-5 is incorrect. The Show Cause Notice served to the accused official under E&D Rules-2011.

Para No. 7. Reply to para-7 is incorrect. Due to negligence, willful absence from site, there was huge loss to the provincial exchequer, therefore penalty imposed upon accused official with in accordance to E&D Rules, 2011 and justified.

In view of the above narrated position, it is humbly prayed that the appeal of the appellant is having no legal footing therefore may be dismissed, please.


Assistant Director (Admin)
H/Q Office, Peshawar.





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Directorate general Mines and Minerals
KHYBER PAKHTUNKHWA
Attached Departments Complex, Khyber Road Peshawar

No. DGMM/Admin/3/520/_____

Dated. ____/02/2021

To

The Assistant Director
Minerals Development Department
Swabi.

Subject: **REPATRIATION AGAINST THE ORDER OF THE DGMM, PESHAWAR
DATED: 27.07.2020 CONTAINING REMOVAL FROM SERVICE.**

I am directed to refer to the subject noted above and to enclose here with letters (in original) received from Section Officer (Estt:) Minerals Development Department, Khyber Pakhtunkhwa in respect of the following accused officials with the advice to hand over the same and to furnish the receipt of acknowledgement.

1. Mr. Shahid Hussain, Ex-Mineral Guard.
2. Mr. Hussain Ahmad, Ex-Mineral Guard.
3. Mr. Hilal Ahmad, Ex-Mineral Guard.
4. Mr. Kashif, Ex-Mineral Guard.

Encl: As Above

Assistant Director (Admin)
H/Q Office, Peshawar.
Dated: 16/02/2021

Endst: No. 3/520-DGMM/Admin/ 3906-12

Copy forwarded to:

1. PA to Director General Mines and Minerals Khyber Pakhtunkhwa.
2. Section Officer (Estt:) Minerals Development Department, Khyber Pakhtunkhwa, for information please.
3. P/F of concerned officials. *Mr. Shahid Hussain Mineral Guard*
4. Master File DGMM/Admin/2021.

Assistant Director (Admin)
H/Q Office, Peshawar

ATTESTED

Yusuf

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Government of
Khyber Pakhtunkhwa
Minerals Development Department

No. SO (E)/MDD/2-45/2020
Dated Peshawar, 8th February, 2021

1559-62

To

Mr. Shahid Hussain, Ex-Mineral Guard,
Office of Assistant Director, Mardan,

C/O, Director General,
Mines & Minerals,
Khyber Pakhtunkhwa.

Subject:

REPRESENTATION AGAINST THE ORDER OF THE DGMM PESHAWAR
DATED 27.07.2020 CONTAINING REMOVAL FROM SERVICE

I am directed to refer to your departmental appeal dated 10-08-2020, on the subject noted above and to state that the Appellate Authority i.e. the Secretary, Minerals Development Department, Khyber Pakhtunkhwa has considered your appeal and rejected.

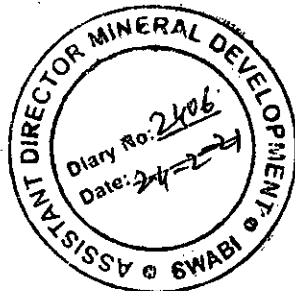
SECTION OFFICER (ESTT)

Endst: No & Date even:

Copy is forwarded for information to:

1. Assistant Director (Admn), Directorate General of Mines & Minerals, Khyber Pakhtunkhwa, w.r.t his letter No.21498/3-520/DGMM/Admn, dated 04-11-2020.
2. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Minerals Development Department.
3. PA to Additional Secretary-I, Minerals Development Department.

SECTION OFFICER (ESTT)



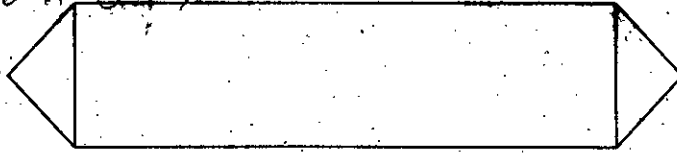
ریٹ و وقت رپورٹ	07/04/2020 سے 09/15/2020
موسکونٹ اطلاع دہندہ مستغیث	16101-9390765-3
فنی کارڈ نمبر / موبائل نمبر	0305-9595590
مزکیفٹ جرم (معدہ دفعہ) حال اگر کچھ لیا گیا ہو۔	
اے وقوعہ فاصلہ قحانہ سے اور سمت	عبر لندزہ رقبہ گڈانہ آصفیہ رشتہ
موسکونٹ ملزم	1) تشکیل ولد حسن المآب سکنہ یار سکنہ 2) منشی شہزاد ولد نانا معلوم سکنہ یعقوبی
فنی کارڈ نمبر / موبائل نمبر	مشکیل ولد حسن المآب
اردائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	نہ سیدگی سرور علی غیر درج و درج نہ کیا گیا ہے
مانہ سے رواگئی کی تاریخ و وقت	پاسیل ڈاک

ابتدائی اطلاع نیچے درج کرو۔ سر اسلام محمد علی صاحب مدعت عدلیہ صاحبہ نے
 یہ دعویٰ ذیل ہے۔ جناب 8850 صاحب مکانات یار سکنہ گڈانہ آصفیہ رشتہ
 نے اپنے کٹر حکم عدلیہ کے مطابق حکم زیر دستخط منسلک گاڈ و غیر لندزہ رقبہ گڈانہ
 بعض قبیلہ عدلیہ کے ذریعے انعام دے رہے تھے۔ کہ عدلیہ جہاں عدلیہ سے تشکیل ولد حسن المآب
 سکنہ یار سکنہ ضلع صوابی موبائل نمبر 0346-9435590 کی نڈان میں غیر قانونی فائڈ
 وئر سیل آؤٹی عدلیہ کے پورے حکم عدلیہ منشی شہزاد ولد نانا معلوم سکنہ یعقوبی
 روز و کل ضلع صوابی موبائل نمبر 0305-5724739 آؤٹی عدلیہ کے لوڈ شدہ فائڈ یوں
 سے رقم وصول کر رہا ہے جو کہ غیر قانونی اور قابل دستہ انداز میں پولیس سرور
 لکھنؤ اور اہلکار کی خدمت میں پہنچا گیا ہے۔ کہ تشکیل ولد حسن المآب
 اور منشی شہزاد ولد نانا معلوم کے خلاف حکم عدلیہ کے تحت FIR درج کر
 لیا گیا تھا اور وہی کریں اور عدلیہ جہاں عدلیہ میں غیر قانونی فائڈ اور وئر سیل کو
 بند کر دیا جائے نیز نقل FIR سے ہمیں نواز میں 16101-9390765-3-0305-9595590
 دستخط و نڈان میں مشاہیر سکنہ یار سکنہ گاڈ و غیر 07/04/2020 سے 09/15/2020
 درج ہلاکتوں کے نقل FIR مع سرور علی غیر درج و درج نہ کیا گیا ہے
 قان نہ لکھے جاتے ہیں۔

دیشان (پاسیل ڈاک)
 04-07-2020

Annexure - I

بعد ازاں سروس میگزین لیسٹ



2021 پنجاب ایسٹرن

مورخہ 8 مارچ 2021

شاہد حسین بنام حکومت لاہور

مقدمہ

دعویٰ سروس ایسٹرن

جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام سروس میگزین کیلئے خصیصہ الیگزینڈر شاہد مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق و زرائیں پر دستخط کرائے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے سبب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

للہ
accept
H. F.

2021

736

ماہ

8

المرقوم

العبد العبد العبد

کے لئے منظور ہے۔

مقام

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PUKHTUNKHWA,
PESHAWAR

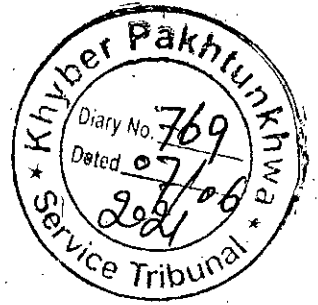
Put up to the Honble Chair-man
with relevant appeal.

C M No _____ of 2021

In Re:

Appeal No 3527/2021

7/6/2021



Shahid Hussain S/O Muttahir Shah R/O village Miangan Baghicha

Dehri Tehsil and District Mardan.....(Applicant/Appellant)

Second week of July 2021
VERSUS

08/06/2021

1. Government of Khyber Pakhtunkhwa through Director General Mines and Mineral at Peshawar
2. Government of Khyber Pakhtunkhwa through Secretary Mines and Mineral at Civil Secretariat, Peshawar
3. Government of Khyber Pakhtunkhwa through Assistant Director Mines and Mineral District Mardan
4. Government of Khyber Pakhtunkhwa through Assistant Director Mines and Mineral District Swabi.....(Respondents)

Application for fixation of early date

in the above titled service appeal

Respectfully Sheweth: -

- 1) That the above noted appeal is pending adjudication before this Honourable Court and date of hearing is fixed 07th September, 2021.
- 2) That in the above noted case, the Respondents have dismissed the Applicant/Appellant without any cause and

Applicant/Appellant is now facing severe financial crises, therefore, the urgency is required.

- 3) That it is the right of every citizen to be dealt with according to law and equal protection of law; and for quick disposal of the case as justice delayed justice denied, that's why judicial policy has been framed.
- 4) That there is no legal bar to allowing the application for early hearing in above noted case, as this Honourable Court has got ample inherent powers.

It is, therefore, respectfully prayed that on acceptance of this Application, an early date may graciously be fixed in above noted case for the best interest of justice.

Through:

Applicant/Appellant




(HAFEEZ UL ASAD SHANGLA)

Advocate

High Court, Peshawar

Dated:-03-06-2021

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PUKHTUNKHWA,
PESHAWAR

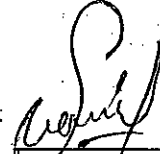
Shahid Hussain.....(Appellant)

VERSUS

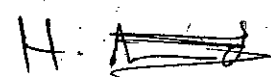
Government of KP and others.....(Respondents)


AFFIDAVIT

I, Shahid Hussain S/O Muttahir Shah R/O village Miangan Baghicha Dehri Tehsil and District Mardan, do hereby solemnly affirm and declare on oath that all the contents of accompanying Misc Application are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Honourable Court.

DEPONENT 
CNIC # 16101-9390765-3
Cell # 0305-9595590

Identified by:-


(HAFEEZ-UL-ASAD SHANGLA)
Advocate
High Court, Peshawar

ATTESTED

Mukhtar Ahmed Ghaznavi
Oath Commissioner
District Court, Peshawar
2.6.21

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

PROFORMA FOR EARLY HEARING

FORM 'B'

Inst#

Early Hearing 452 -p/2022

In case No. 3527 -p/2021

Shahid Hussain vs DG Mines & Minerals

Presented by Hafeez-ul-Asad Adv on behalf of Appellant Entered in the relevant register.

Put up along with main case ✓

REGISTRAR

Last date fixed	<u>17-03-2022</u>
Reason(S) for last adjournment, if any by the Branch Incharge.	<u>Defunct</u>
Date(s) fixed in the similar matter by the Branch Incharge	<u>NFA</u>
Available dates Readers/Assistant Registrar branch	<u>NFA</u>

A ML
18/4

Assistant Registrar

REGISTRAR

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PUKHTUNKHWA,
PESHAWAR

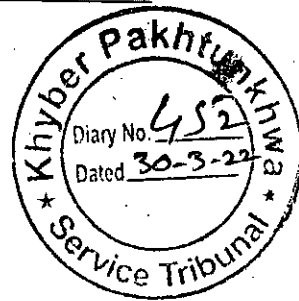
Put up to the worthy chair-man
with valiant appeal.

C M No _____ of 2022

In Re:

Appeal No 3527/2021

30/3/2022



Shahid Hussain S/O Muttahir Shah R/O village Miangan Baghicha
Dehri Tehsil and District Mardan.....(Applicant/Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Director
General Mines and Mineral at Peshawar
2. Government of Khyber Pakhtunkhwa through Secretary
Mines and Mineral at Civil Secretariat, Peshawar
3. Government of Khyber Pakhtunkhwa through Assistant
Director Mines and Mineral District Mardan
4. Government of Khyber Pakhtunkhwa through Assistant
Director Mines and Mineral District Swabi.....(Respondents)

Application for fixation of early date

in the above titled service appeal

Respectfully Sheweth: -

- 1) That the above noted appeal is pending adjudication before
this Honourable Court and date of hearing is fixed 31st May,
2022.
- 2) That in the above noted case, the Respondents have
dismissed the Applicant/Appellant without any cause and

Applicant/Appellant is now facing severe financial crises, therefore, the urgency is required.

- 3) That in mentioned service appeal, Respondents have already submitted their comments.
- 4) That it is the right of every citizen to be dealt with according to law and equal protection of law; and for quick disposal of the case as justice delayed justice denied, that's why judicial policy has been framed.
- 5) That there is no legal bar to allowing the application for early hearing in above noted case, as this Honourable Tribunal has got ample inherent powers.

It is, therefore, respectfully prayed that on acceptance of this Application, an early date may graciously be fixed in above noted case for the best interest of justice.

Through: Applicant/Appellant



(HAFEEZ UL ASAD SHANGLA)
Advocate
High Court, Peshawar

Dated:-25-03-2022

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PUKHTUNKHWA,
PESHAWAR

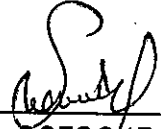
Shahid Hussain.....(Appellant)

VERSUS

Government of KP and others.....(Respondents)

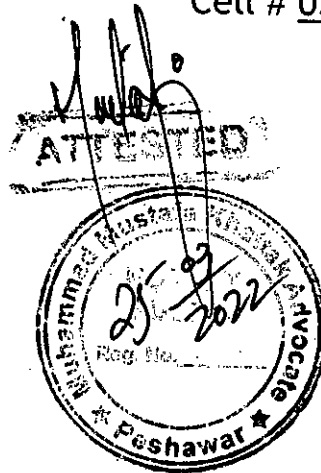
AFFIDAVIT

I, Shahid Hussain S/O Muttahir Shah R/O village Miangan Baghicha Dehri Tehsil and District Mardan, do hereby solemnly affirm and declare on oath that all the contents of accompanying Misc Application are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Honourable Court.

DEPONENT 
CNIC # 16101-3052045-1
Cell # 0345-2872300

Identified by:-

(HAFEEZ-UL-ASAD SHANGLA)
Advocate
High Court, Peshawar



17/02

(15)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

SERVICE APPEAL NO. 3527/ 2021

Shahid Hussain, Mineral Guard **Appellant**

Versus

Government of Khyber Pakhtunkhwa etc..... **Respondents**

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S.No	Description	Annexure	Pages
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2.	Comments	—	02 - 04
3.	Office Order	A	5
4	Marasallas / F.I.R	B & C	06 - 12

Assistant Director (Admin)

On behalf of

Respondent NO. 01 & 02

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL **NO. 3527/2021**

Shahid Hussain, Mineral Guard **Appellant**

Versus

Government of Khyber Pakhtunkhwa etc..... **Respondents**

AFFIDAVIT

I Muhammad Iqbal Superintendent (Admin), Directorate General Mines & Mineral do hereby solemnly affirm and declare that the contents of the accompanying para-wise comments are true and correct to the best of my knowledge and belief and that nothing has been concealed from Honorable Court.

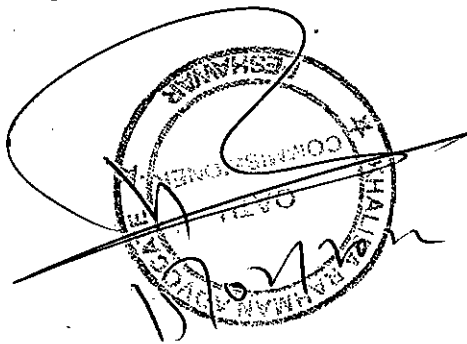
DEPONENT

(Signature)

Identified by

ATTESTED

1	7	3	0	1	-	1	5	7	1	3	9	0	-	3
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(2)

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Comments

In

SERVICE APPEAL NO. 3527/2021

Mr. Shahid Hussain **Appellant**

VERSUS

1. The Director General Mines & Minerals, Khyber Pakhtunkhwa Peshawar
2. The Secretary Mines and Minerals Dev: Department, Khyber Pakhtunkhwa, Peshawar.
3. The Assistant Director Mines and Mineral, District Mardan.
4. The Assistant Director, Mines and Mineral, District Swabi..... **Respondents**

Comments on behalf of Respondents

Respectfully Sheweth:-

Comments on behalf of Respondents are submitted as under: -

Preliminary Objections: -

1. That the appellant has not come to this Honorable Tribunal with clean hands nor the appeal is based upon legal footing. Hence, the appeal is liable to be dismissed.
2. That appellants have got no cause of action or locus standi to file the instant appeal.
3. That the appellants are not entitled to any relief and this appeal is filed just to waste the precious time of this Honorable Tribunal.
4. This Honorable Tribunal has got no jurisdiction to entertain this appeal.
5. That the Appellant cancel the facts from this honorable Tribunal

Facts: -

1. That appellant was recruited as Mineral Guard (BPS-01) on 28/10/2014 in this Department.
2. No Comments. As pertain to record
3. Mr. Shahid Hussain Mineral Guard was directed vide this office order No. 752/MDW/MR/Establishment file dated 01/07/2020 to perform duty round the clock at Jaganath, Adnan Talao, Sher Dara, Mir Ali, Ismaila, Adina, Kalo Khan District Swabi (copy of office order enclosed as Annex-A). It is correct that respondent No. 1&2 paid surprise visit to Jaganath District Swabi on 10/07/2020 and the appellant was found absent from his duty.
4. Correct to the extent that at the time of visiting of the respondent No. 1 & 2, illegal mining was continued in Jaganath, District Swabi. The rest of para is subject to proof.
5. Correct to the extent that on 10/07/2020, the day on which the respondent No. 01 & 02 visited Jaganath, Adnan Talao, District Swabi, the appellant lodged Marasallas in Police Station Yar Hussain, District Swabi (Copies of Murasallas are enclosed as Annex-B & C).

Cont'd on p/2

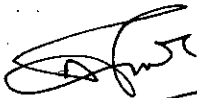

- 3
6. Incorrect. As stated in para-3 that on surprise visit of High ups, the appellant along with other Mineral Guards were absent from the site.
 7. As stated in para 05 above.
 8. Murasalla against Shakil and Asif (offenders) were registered by Kashif Mineral Guard while Mr. Hussain Ahmad, Mr. Shahid Hussain and Hilal Ahmad are witness. The other Murasllas was registered by Hussain Ahmad and Shahid Hussain, Hilal Ahmad other Kashif were witnessed.
 9. Correct to the extent that the day of occurrence was Friday 10/07/2020.
 10. Correct to the extent that Show Cause Notices were issued to Mineral Guards namely Mr. Shahid Hussain, Hussain Ahmad, Hilal Ahmad and Kashif on 13/07/2020 on account of failure to control illegal mining/transportation, absent from the site despite the fact that considerable time was spent on the site by high ups i.e the then Secretary Mineral Development and Director General Mines & Mineral and non performing of duties which is misconduct an inefficiency on the part of all these four Mineral Guards, they submitted their reply on 20/07/2020.
 11. The appellant was given an opportunity for personal hearing on 27/07/2020 however, he could not have satisfied the Competent Authority.
 12. Correct to the extent that the Competent Authority in exercise of power under 4(1) (b) (iii) of Khyber Pakhtunkhwa Civil Servant Efficiency & Discipline Rules-2011 imposed major penalty of "Removal from Service" Mineral Guards on 27/07/2020.
 13. Correct to the extent that all Mineral Guards preferred appeals before the Appellate Authority i.e. Secretary Minerals Development Department which were rejected on 08/02/2021.
 14. No comments.

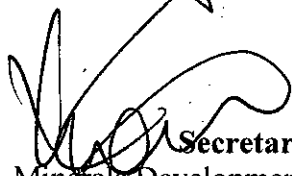
Grounds: -


- A. Incorrect, the Appellant was found absent from the area Jaganath District Swabi. However, Marasalla have been registered by the appellants in Police Station Yar Hussain.
- B. Subject to proof and pertained to record at the day and time of visit by respondent No. 1 & 2. The appellant/appellants were found absent from the site.
- C. Incorrect, hence denied.
- D. The distance between Jaganath and Police Station Yar Hussain is about 5 Kilometers but motor bike was used and therefore there is no excuse in respect of distance, however it is correct that the occurrence day was Friday.
- E. Incorrect, the order dated: 27/07/2020 and 08/02/2020 is in accordance with law and facts.
- F. The Appellants/Applicants were found absent at site visited by Respondent No. 01 and 02. Therefore, the order removal from service was issued in accordance with law.
- G. Correct to the extent that two Marasallas were registered in Police Station Yar Hussain by appellants. However, the removal order was issued due to absence from the site.
- H. Subject to proof.
- I. The respondents passed the removal from service order in accordance with law and rules.
- J. Incorrect, hence denied the removal from service is based on facts.
- K. No comments.


4

In view of the above it is requested that appeal/appeals of appellant/appellants may be dismissed with cost, please.


 **Director General Mines & Mineral**
Khyber Pakhtunkhwa, Peshawar,
(Respondent No. 1)


Secretary
Minerals Development Department,
Khyber Pakhtunkhwa, Peshawar,
(Respondent No. 2)



Assistant Director
Mineral Development, Mardan
(Respondent No. 3)


Assistant Director
Mineral Development, Swabi
(Respondent No. 4)

16

Ann -

27

	REGISTERED
	OFFICE OF THE ASSISTANT DIRECTOR MINERAL DEVELOPMENT MARDAN Address: Center Colony, Near Jamia Masjid Muqam Chowk District Mardan. Tel: No.0937-9230506
No. <u> </u> /MDW/MR/Establishment File	Dated: <u>7/7</u> /2020

OFFICE ORDER

In partial modification of this office order dated 01/07/2020 Mr. Hussain Ahmad Mineral Guard of this office is hereby directed to perform duty round 'o' clock at Jaganat/Adnan Talao & Sher Dara/Mir Ali, Ismila, Adina, Kalo Khan District Swabi with the already deputed Mineral Guards to curb un-authorize mining and take legal action as per Act.

Assistant Director (Tech)
 Mineral Development Mardan

Dated: 7/7 /2020

Endst: No. 845-48 /MDW/MR/Establishment
 Copy to:

1. The Director General Mines and Mineral Khyber Pakhtunkhwa Peshawar for information, please.
2. Mr. Mamnoon Khan Royalty Inspector for information.
3. Muhammad Atif Khan RSI for information.
4. Mr. Hussain Ahmad Mineral Guard of this office for compliance.


 Assistant Director (Tech)
 Mineral Development Mardan

26

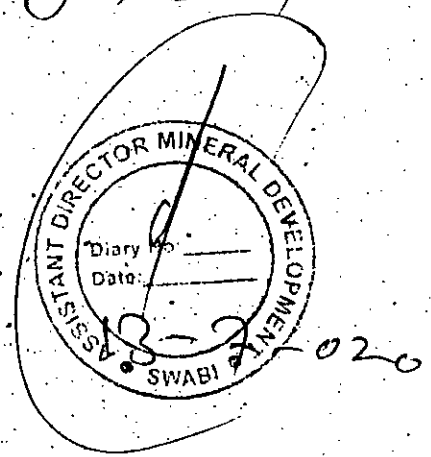
جناب اسسٹنٹ ڈائریکٹر، محکمہ معدنیات (کوئٹہ)

جناب عالی!

گزارشیں جی آر پی میں کی گئی ہیں
 رقم علی منزل کارڈز کی طرف سے
 رقم کی گنتی میں موجود ہے۔ آؤٹ پٹ
 میں قانونی مانتا ہے۔ اس میں
 پورے رقم۔ اس میں ایکسپنڈیچر
 کی گنتی میں کی گئی ہے۔ اس میں
 کی گنتی میں کی گئی ہے۔ اس میں
 کی گنتی میں کی گئی ہے۔ اس میں
 کی گنتی میں کی گئی ہے۔ اس میں

اکٹوبر

اسسٹنٹ ڈائریکٹر
 سیکرٹری
 ڈائری
 ڈائری



(91)

GOVERNMENT OF KHYBER PAKHTUNKHWA
DEPARTMENT OF MINES & MINERALS DEVELOPMENT

وقت دورہ 10-07-2020 11:30 am

وقت رپورٹ 10-07-2020
عنوان پیشکش شدہ زمین (رنگار رنگار)

مدرسہ محمدیہ کالج، کلاں، ضلع پشاور، پاکستان

مدرسہ محمدیہ کالج، کلاں، ضلع پشاور، پاکستان

یار ضلع

مدرسہ محمدیہ کالج، کلاں، ضلع پشاور، پاکستان
مدرسہ محمدیہ کالج، کلاں، ضلع پشاور، پاکستان

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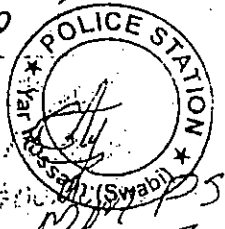
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