

24.02.2022

Due to retirement of the Hon'able Chairman, the case is adjourned to 19.05.2022 for the same before D.B.


Reader

19.05.2022

Petitioner with counsel present. Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

The department, in pursuance of Service Tribunal judgement dated 31.07.2018 in service appeal No. 603/2016, reinstated the petitioner in service w.e.f. 29.12.2020. Copy of the notification is placed on file as well as provided to the learned counsel for the petitioner. Learned counsel for the petitioner however requested for adjournment on the ground that she would contact the petitioner for updates from her. To come up for further proceedings on 28.06.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

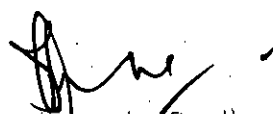
28.06.2022

Learned counsel for the petitioner present. Mr. Kabir Ullah Khattak, Additional Advocate General for respondents present.

Representative of the respondent department submitted implementation report vide notification No. 12166-74/Edu dated 19.11.2021 which is placed on file. Judgment of Service Tribunal has been implemented.

In view of the above, instant petition is disposed off. File be consigned to record room.

Announced.
28.06.2022


(Fareeha Paul)
Member (E)

20.10.2021.

Counsel for the appellant and Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Learned Addl. AG seeks adjournment in order to contact the respondents and facilitate the implementation report on next date. Request is according. To come up on 18.11.2021 before S.B.


Chairman

18.11.2021


Nemo for the petitioner. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present and sought time for submission of implementation report. Adjourned. To come up for submission of implementation report before the S.B on 07.01.2022. Notice also be issued to the petitioner for the date fixed.


(Salah-Ud-Din)
Member (J)

07.01.2022

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

Notices be issued to the respondents. Case to come up for implementation report on 23.02.2022 before S.B.


(Rozina Rehman)
Member (J)



District District Education Officer Kurram

No 12166-74 /Edu:

Dated 19 / 11 /2021

Ph 0926-520674 Mail: educationsadda@gmail.com

NOTIFICATION.

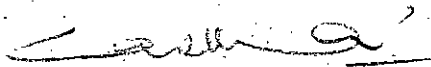
In compliance to judgement of Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar Dated 31.07.2018 in service appeal No 603/2016 and execution petition No 205/2020, Mst Abida Nawaz Ex-AT is hereby reinstated with effect from 29-12-2020 against the vacant AT post at Govt: Girls High School Tindo Central Kurram.


District Education Officer
Kurram at Parachinar

No 12166-74 /Edu: Dated 19 / 11 /2021

Copy for information to the: -

1. Director of Elementary & Secondary Education KPK Peshawar.
2. Director of Education Merged Distracts area Peshawar.
3. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
4. Deputy District Education Officer Female Lower Kurram.
5. District Monitoring Office (EMA) Kurram.
6. Deputy Commissioner Tribal District Kurram.
7. Headmistress GGHS Tindo
8. Teacher concerned.
9. Official Concerned.


District Education Officer
Kurram at Parachinar.

Date: _____

Day: _____

"CHARGE REPORT"

"ABIDA MAWAZ KHAN"

I, Madam Abida Do Mawaz Khan
have taken over charge of my
Post as "AT" (Arabic Teacher) at
Govt ^{Girls} High School Tindo central
Kurram before noon on
under No 1216674

Thanks.

Your's obedient servant,

Signature of the
Incharge of Institution

Abida Mawaz

Govt Girls High
School Tindo
G.K

2022
Jan

2022
Feb

Date: _____

Day: _____

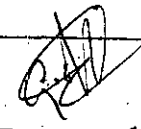
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October

Vacation

October

Vacation


Govt Girls High
School Indore
C.K


Govt Girls High
School Indore
C.K

2021
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2021
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2021
Nov

2021
Dec

Date: _____

Day: _____

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11	A	11 A	11 A	11 A
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29	A	29 A	29 A	29
30	A	30 A	30 A	30
31		31 Sunday	31	31

District District Education Officer Kurram

No 12276 /Edu

Dated 19/11 /2021

Ph 0926 570674 Mail. education@kpk.gov.pk

NOTIFICATION.

In compliance to judgement of Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar Dated 31.07.2018 in service appeal No 603/2016 and execution petition No 215/2020. Mst Abida Nawaz Ex-AT is hereby reinstated with effect from 29.12.2020 against vacant AT post at Govt. Girls High School Tinda District Kurram.

District Education Officer
Kurram at Parachinar

No 12276 /Edu. Dated 19/11 /2021

Copy for information to the -

1. Director of Elementary & Secondary Education KPK Peshawar
2. Director of Education Merged Distracts area Peshawar
3. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
4. Deputy District Education Officer Female Lower Kurram
5. District Monitoring Office (FMA) Kurram.
6. Deputy Commissioner Tribal District Kurram
7. Headmistress GCHS Tinda
8. Teacher concerned
9. Official Concerned

District Education Officer
Kurram at Parachinar

روزهای ماضی و آینده

بابت ماه ... سال ...

روزهای هفته
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بابت ماہ جون سال 2028

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31	1352/10/31								

تاریخ: 1352/10/30
 شماره: 21302-41232
 نام: ...

SUNDAY

Sunday

نوروز

16.03.2021

Due to tour of Camp Court Abbottabad and shortage of Members at Principal Bench Peshawar, the case is adjourned to 24.05.2021 before S.B.


Reader

24.05.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 03.08.2021 for the same as before.


Reader

03.08.2021

Nemo for the petitioner. Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Learned AAG seeks time to contact the respondents for implementation of the judgment. To come up for implementation report on 14.09.2021 before S.B. Notice be issued to the petitioner/her counsel for the date fixed.

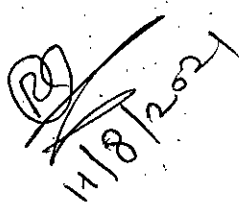

Chairman

14.09.2021

Counsel for the petitioner in person and Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Learned AAG seeks time to contact the respondents and facilitate implementation report on next date. Request is accorded. Case to come up on 20.10.2021 before S.B.

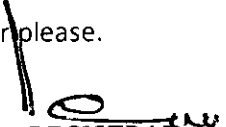
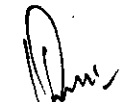


Chairman


11/8/2021

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 205 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	28.12.2020	<p>The Execution Petition submitted by Mst. Abida Nawaz through Miss. Roeda Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p> <p>This Execution Petition be put up before S. Bench on...<u>29/01/2021</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>29.01.2021</p> <p>Miss. Roeda Khan, Advocate, is present for petitioner. Notices be issued to the respondents for implementation report for 16.03.2021 before S.B.</p> <p style="text-align: right;"> (MUHAMMAD JAMAL KHAN) MEMBER (JUDICIAL)</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Executive Petition No. _____/2020

In Service Appeal No. 604/2016

Mst Abida Nawaz

VERSUS

Additional Agency Education Officer and others

INDEX

<i>S#</i>	<i>Description of Documents</i>	<i>Annex</i>	<i>Pages</i>
1.	Execution Petition.		1-2
2.	Affidavit		3
3.	Copy of judgment	"A"	4 To 8
4.	Wakalat Nama.		

Dated: 29/12/2020

(A)
Applicant

Through

(R)
Roeeda khan
Advocate, High Court
Peshawar

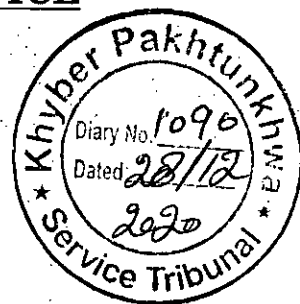
(V)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Executive Petition No. 205 /2020

In Service Appeal No. 604/2016



Mst. Abida Nawaz AT GGMS Tindo District Lower & Central Kurram Sadda.

.....*Petitioner*

VERSUS

1. Additional Agency Education Officer, Lower and Central Kurram, Sadda, District Kurram.
2. Director of Education FATA, FATA Secretariat Peshawar.
3. Agency Account Officer District Kurram.
4. Government of Khyber Pakhtunkhwa, through Secretary Education, Civil Secretariat Peshawar.

.....*Respondents*

EXECUTION PETITION FOR DIRECTING THE RESPONDENTS TO IMPLEMENT THE JUDGMENT OF THIS HON'BLE TRIBUNAL IN LETTER AND SPIRIT

Respectfully Sheweth,

1. That the applicant/appellant filed Service Appeal No.604/2016 in this August Tribunal which has been accepted on 31.07.2018. (Copy of judgment is annexed as annexure "A")
2. That this Hon'ble tribunal was pleased to accept the appeal of the appellant the impugned order is set aside and the appellant has been reinstated in service.

(2)

3. That the appellant submitted the judgment/order dated 31/07/2018 but no action has been taken by the department so far.
4. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the respondents are legally bound to implement the judgment of this August Tribunal in its true sense. Beside that in the light of the judgment on dated 31.07.2018 passed by this Hon'ble Tribunal all the employee has been reinstated by the respondent department as per direction of this Hon'ble Court except the applicant.
5. That the petitioner has no remedy except to file this execution petition.

It is, therefore, most humbly prayed that the respondents may be directed to implement the judgment of this August Tribunal in letter and spirit.

Dated: 29/12/2020



Applicant

Through


ROEEDA KHAN

Advocate, High Court
Peshawar

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Executive Petition No. _____/2020.

In Service Appeal No. 604/2016

Mst Abida Nawaz

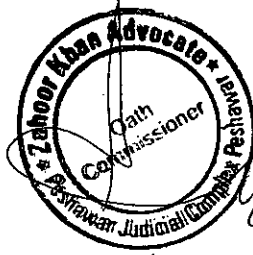
VERSUS

Additional Agency Education Officer and others

Affidavit

I, Mst. Abida Nawaz AT GGMS Tindo District Lower & Central Kurram Sadda, do hereby solemnly affirm and declare on oath that all the contents of the instant Execution Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


Deponent



28/12/2020

(W) 2

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 603 of 2016

MST. ~~SHAMIA~~ BIBI D/O ISAM KHAN, EX-PST TEACHER,
GOVERNMENT GIRLS MIDDLE SCHOOL, BADDAMA, CENTRAL
KURRAM, KURRAM AGENCY. APPELLANT

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 587

Dated 7-6-2016

VERSUS

- 1) ADDITIONAL AGENCY EDUCATION OFFICER, LOWER & CENTRAL
KURRAM, SADDA, KURRAM AGENCY.
- 2) DIRECTOR OF EDUCATION FATA, FATA SECRETARIAT,
PESHAWAR.
- ✓ 3) AGENCY ACCOUNT OFFICER KURRAM AGENCY.
- 4) GOVERNMENT OF KHYBER PUKHTOON KHWA, THROUGH
SECRETARY EDUCATION, CIVIL SECRETARIAT, PESHAWAR.

..... RESPONDENTS.

APPEAL AGAINST THE office ORDER No 3374-78
DATED 18-02-2016 PASSED BY RESPONDENT NO.1
WHEREBY THE APPELLANT HAS BEEN REMOVED
FROM SERVICE DUE TO LONG ABSENCE FROM DUTY.

PRAYER

ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED
OFFICE ORDER NO 3374-78 DATED 18-02-2016 OF
RESPONDENT NO.1 MAY KINDLY BE SET ASIDE AND THE
APPELLANT MAY KINDLY BE ORDERED TO BE REINSTATE IN
SERVICE WITH ALL BACK BENEFITS ACCORDING TO HER
SENIORITY.

Filed to-day
Registrar
21/6/16

Respectfully Sheweth:

- 1) That initially appointed on contract bases as PTC
Teacher, Government Girls Primary School, Mir Bagh
vide order dated 15-05-20104, Central Kurram,
Kurram Agency and regularized her on 22-05-2013,
Government Girls Middle School Baddama, and since
then performed her duties with honesty and full



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 603/2016

Date of Institution ... 07.06.2016

Date of Decision ... 31.07.2018

Mst. Shamia Bibi D/O Isam Khan, Ex-PST Teacher,
Government Girls Middle School, Baddama, Central Kurram, Kurram Agency.
... (Appellant)

VERSUS

1. Additional Agency Education Officer, Lower & Central Kurram, Sadda,
Kurram Agency and three others.
... (Respondents)

MR. MIAN ASIF AMAN,
Advocate

For appellant.

MR. KABIRULLAH KHATTAK,
Additional Advocate General

For respondents


MR. AHMAD HASSAN,
MR. MUHAMMAD HAMID MUGHAL

MEMBER (Executive)
MEMBER (Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER:- Our this judgment shall also dispose of instant service appeal as well as Service Appeal No. 604/2016 titled "Mst. Abida Nawaz Versus Additional Agency Education Officer, Lower & Central Kurram, Sadda, Kurram Agency and three others", Service Appeal No. 605/2016 titled "Sher Muhammad Versus Additional Agency Education Officer, Lower & Central Kurram, Sadda, Kurram Agency and three others", Service Appeal No. 606/2016 titled "Fazal Ur Rehman Versus Additional Agency Education Officer, Lower & Central Kurram, Sadda, Kurram Agency and three others", Service Appeal No. 607/2016 titled "Mst. Maryaam Farooq Versus Additional Agency Education Officer, Lower & Central Kurram, Sadda, Kurram Agency and three others", Service Appeal No. 608/2016 titled "Muzaffar Daud Versus Additional Agency Education Officer, Lower & Central Kurram, Sadda, Kurram Agency and three others".

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(6)

others", Service Appeal No. 609/2016 titled "Awal Shah Versus Additional Agency Education Officer, Lower & Central Kurram, Satta, Kurram Agency and three others" and Service Appeal No. 604/2016 titled "Samad Hussain Versus Additional Agency Education Officer, Lower & Central Kurram, Satta, Kurram Agency and three others" as common question of law and facts are involved in all the appeals.

2. Arguments of the learned counsel for the parties heard and record perused.

FACTS

3. The brief facts of the cases are that the appellant and others while serving in Education Department were proceeded departmentally and major penalty of removal from service was imposed on them vide impugned order dated 18.02.2016. Feeling aggrieved an undated joint departmental appeal was filed by them, which was not responded within the stipulated period, hence, the instant service appeal.

ARGUMENTS

4. Learned counsel for the appellant argued that on the allegations of absence from duty a notice was published in daily "Mashriq" on 02.02.2016 directing the appellant and others to assume the duty. Its merits to mention here that the notice was published during the winter vacations in Kurram Agency. He further clarified that all the educational institutions were closed for winter vacations from 25th December 2015 to 29th February 2016, in Kurram Agency, as it evident from the attendance register available on record. He further contended that in the aforementioned notice name of 53 employees were mentioned but in the impugned order major penalty of removal from service was imposed on only 17 employees, hence, the impugned order was discriminatory and against the spirit of Article-25 of the Constitution of Islamic Republic of Pakistan. The respondents have failed to correctly mention the exact date from which the appellant and others were

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

absent. Various requirements prescribed in the rules were not observed, so the impugned order was void ab-initio.

5. Learned Additional Advocate General argued that all the affected civil servants were required to file separate departmental appeal but in the instant case joint departmental appeal was filed in violation of rules. Major penalty of removal from service was imposed on the appellant and others after observance all codal formalities.

CONCLUSION.

6. On the allegations of willful absence from duty, the appellant and others were proceeded departmentally and upon conclusion, major penalty of removal from service was imposed on them vide impugned order dated 18.02.2016. It is strange that the respondents failed to mention the exact date from which the appellant was absent from duty. Learned Additional AG when confronted on this point, candidly conceded that the record was silent on this score. He was further confronted on the point that the impugned order was issued and the period of absence showed in the impugned order related to winter vacations but he was unable to give an convincing reply. Despite opportunities on the previous date of hearing the respondents failed to produce record about service of notices at the home address of the appellant and others employees. It has also not been clarified that why action were taken against only 17 employees whereas names of 53 employees were mentioned in the notice published in daily "Mashriq" on 02.02.2016. Action taken by the respondents appeared discriminatory and violative of Article-25 of the Constitution of Islamic Republic of Pakistan. It can be stated safely inferred that the procedure laid down in the rules was not followed by the respondents before issuing the impugned order and as such the appellant and others were condemned unheard.

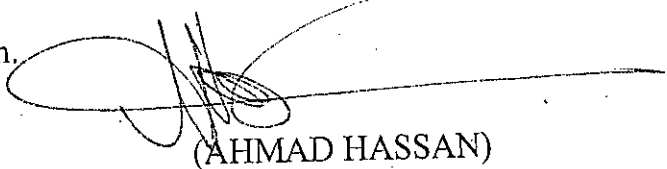
ATTESTED



EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

8

7. As a sequel to above, the appeals are accepted, the impugned order is set aside and the appellant is reinstated in service. However, the respondents are at liberty to conduct de-novo inquiry within a period of three months from the date of receipt of this judgment. The intervening period may be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.



(AHMAD HASSAN)
MEMBER

CPa

(MUHAMMAD HAMID MUGHAL)
MEMBER

ANNOUNCED
31.07.2018

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 28-12-20

Number of Words 2000

Copying Fee 22-

Urgent U-

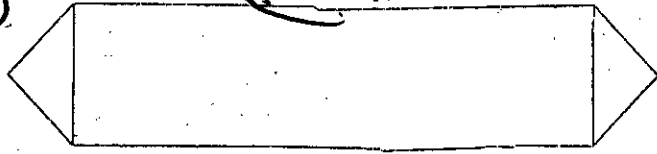
Total 26-

Name of the Applicant [Signature]

Date of Receipt of Copy 28-12-20

Date of Delivery of Copy 28-12-20

بعدالت جناب



مورخہ
مقدمہ
دعویٰ
جرم

2020ء منجانب
عالیہ قدر بنام

سائل
المنجلی

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی دعویٰ جواب دہی وکل کاروائی متعلقہ

آن مقام کیلئے روئے کار ایڈووکیٹ

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 ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے 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 اختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا نکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم 28 ماہ دھس 20

عبدالغفور صاحب

العبد گواہ العبد کے لئے منظور ہے۔

Accepted
BY

"B"

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

No.

Execution Petition 205 of 2020
Appeal No.

Mst. Abida Nawaz Appellant/Petitioner

Versus

Additional Agency Edu Officer, Kurram
Respondent

Respondent No. 1

Notice to:

Additional Agency Education Officer,
Lower and Central Kurram Sadka
Distt. Kurram.

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 16/3/2021 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.

EP ✓

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 15

Day of Feb 20 21

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.