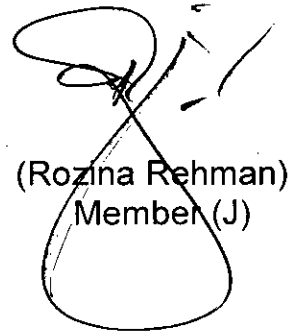


11.05.2022

Nemo for appellant.

Case was called time and again but none appeared on behalf of appellant till rising of the Bench. As such the instant service appeal stands dismissed in default for non-prosecution. No order as to costs. File be consigned to the record room.

Announced
11.05.2022

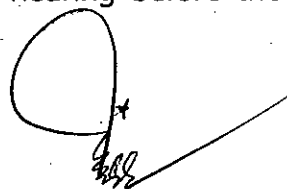


(Rozina Rehman)
Member (J)

18.10.2021

Clerk of learned counsel for the appellant present.

Former requests for adjournment due to general strike of the Bar. Adjourned. To come up for preliminary hearing before the S.B on 21.12.2021.



(MIAN MUHAMMAD)
MEMBER (E)

21.12.2021

Appellant present through representative.

Lawyers are on general strike, therefore, case is adjourned to 16.02.2022 for preliminary hearing before S.B.



(Rozina Rehman)
Member (J)

16.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 11.05.2022 for the same as before.



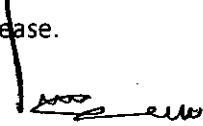

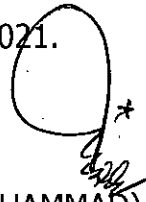
Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7073 /2021


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	19/07/2021	<p>The appeal of Mr. Muhammad Qasim resubmitted today by Syed Mudassir Pirzada 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>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>03/09/2021</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	03.09.2021	<p>Clerk of counsel for the appellant present.</p> <p>Clerk of counsel for the appellant submitted an application for adjournment which is placed on file. Adjourned. To come up for preliminary hearing before the S.B on 18.10.2021.</p> <p style="text-align: right;"> (MIAN MUHAMMAD) MEMBER (E)</p>

The appeal of Mr. Muhammad Qasim Police Constable No. 5716 FRP Range Kohat received today i.e. on 21.06.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of seniority list mentioned in para-1 of the memo of appeal is not attached with the appeal which may be placed on it.
- 2- Copy of departmental appeal against the impugned order is not attached with the appeal which may be placed on it.
- 3- Copies of Lists-E mentioned in the memo of appeal are not attached with the appeal which may be placed on it.
- 4- Copy of notification dated 23.01.2017 mentioned in the memo of appeal (Annexure-C) is not attached with the appeal which may be placed on it.
- 5- Copy of order dated 21.05.2021 is illegible which may be replaced by legible/better one.
- 6- Annexures-E, F & G of the appeal are missing.
- 7- Its reveal from the heading of the appeal that appellant filed this appeal against the order of stoppage of one increment but in the facts of the appeal counsel for the appellant seek seniority lists which is contradiction between the prayers and the facts of the appeal the same may be rectified.
- 8- Annexures of the appeal may be attested.
- 9- Appeal has not been flagged/marked with annexures' marks.
- 10- Two more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

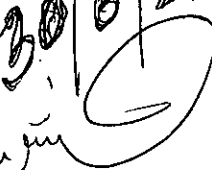
No. 1053 /S.T,

Dt. 22/06 /2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Syed Mudassir Pirzada Adv. Kohat.

PTO

Received on 30/6/21
~~30/6/21~~ 

Re-submitted after
removal of office
objection 17/7/21

200
1/10

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal _____ 2021

Muhammad Qasim FRP Constable No 5716 FRP Range Kohat

(Appellant)

VERSUS

1. INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT.

(Respondent)

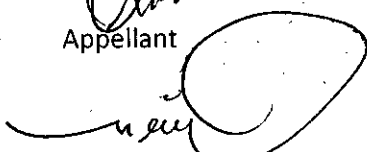
INDEX

Sr No	Description of Documents	Annexure	Page
1	Memo of Appealed		1-4
2	Affidavit		5
3	Address of the Parties		6
4	Copy of impugned Order dated 13-02-2021	A	7
	Copy of statement of allegation & Reply	B	8-9
	Copy of dept representation & Rejection order	C	10-11
	Wakalatnama	D	

Date 21/6/21

Through


Appellant


Syed Mudasir Pirzada

Advocate HC

0345-9645854

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal 2073 2021

Muhammad Qasim FRP Constable No 5716 FRP Range Kohat

(Appellant)

Khyber Pakhtukhwa
Service Tribunal

Diary No. 6689

Dated 21/6/2021

VERSUS

1. INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT. (Respondent)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 25- 4-2018-VIDE OB-NO 420 IN WHICH THE RESPONDENT NO:-3 WITHOUT ANY LAWFUL AND COGENT REASON BLESSED WITH IMPUGNED PUNISHMENT OF STOPPAGE OF INCREMENT FOR ONE YEAR WITHOUT CUMULATIVE EFFECT AND THE INTERVENING PERIOD IS TREATED AS LEAVE WITHOUT PAY AS WELL AS THE APPELEANT TENDER GOOD SERVICE AND THE RESPONDENTS NOT CONSIDERING THE SERVICE PERIOD FEELING AGRIVIED PREFERRED DEPARTMENTAL REPRESENTATION DATED 03-02- 2021 BUT THE SAME WERE REJECTED ON 21-05-2021

Respectfully Sheweth,

With great veneration the instant appeal is preferred by the appellant on the following grounds:-

Facts:

Filed to-day

Registrar

Briefly facts are as per impugned order that the appellant while posted at Police lines Kohat had absented himself from official duty vide DD No. 31 dated 06-08-2008 till date without any leave or permission from the competent authority.

That the appellant preferred service appeal before the honourable tribunal re-instated the appellant and the Respondent conducted Denova proceeding against the appellant and appellant were re-instated into service but the appellant were not afforded ample opportunity to advanced plausible justification and award minor punishment without following the proper enquiry rules as well as specific rules pertaining to punishment were not observed. (Copy of Impugned order is annexed as annexure A)

That the appellant were not properly associated with Denove Enquiry proceedings and served statement of allegations which were duly replied by appellant but the same were not considered as the appellant were ready to record statement on oath but this fact was

Re-submitted to -day
and filed.

Registrar 21/7/21

not considered by respondent deptt: (**copy of statement of allegations along with reply is as annexed as annexure B**)

That the appellant stance were not enquired by respondent and without proper probing held guilty of the charges and award minor punishment with any lawful justification keeping in view the innocence of the appellant the honourable tribunal re-instated the appellant but respondent deptt: have not considered the innocence of the appellant copy of judgment would be produce at the time of the arguments.

That it is clearly mentioned in the different guidelines of the superior courts that when the circumstance are beyond the control of human / appellant any order in this respect would be void if any worst order issued.

That an unjust has been done with the appellant by not properly associating appellant by not providing enquiry finding report which is against the enquiry rules and the appellant tender all the relevant record in original which were placed on file but this aspect has not been discussed in impugned order which suggest that the enquiry officer has not properly submit enquiry findings with true sprit.

That the appellant feeling aggrieved from all the so called proceedings of denovo preferred deptt; representation which were not considered and too rejected without any cogent speaking order as in the light of superior courts guidelines in which it was held that every representation must be decided with the speaking order with the independent mind but in the rejection order this fact has not been discussed only on the basis of technicalities the deptt: representation were rejected as in different judgments it has been held that decisions should be made on merit basis without indulging in technicalities including limitations (**Copy of representation along with rejection order is annexed as annexure C**)

That the appellant were vexed twisly for undone offence and it is already enshrined in the constitution of the country in the relevant article that the essence i.e no one should be vexed twisly but this aspect has not been considered while blessing with the already annexed impugned order

That the appellant had tender good long service record and there are numerous good entries which could be verify form the service record as the allegations mentioned in the impugned order never practice nor proved through any solid ground.

That the appellant is a poor person having a large family and the appellant was the only person for spoon feeding and to earn the lively hood for the entire family.

That again an unjust has been done with the appellant by not giving ample opportunity of cross examination as well as not heard in person nor properly enquired the allegation. Just on the basis so called enquiry the appellant were blessed with impugned order which is not good in eye of law and without probing the actual juncture held guilty the appellant without following the prescribed rules relating to enquiry proceedings as per **Police Rules 1975 (amended 2014) & Police Act of 2017.**

That all the proceedings conducted against the appellant are against Police Rules

That no proper enquiry has been conducted against the appellant when the appellant is not aware about any proceedings then the whole enquiry proceedings are defective one

even though the enquiry report is also not provided to the appellant which speaks that no proper so called enquiry has been initiated against the appellant.

That the appellant is still unable to realize that what element appealed to the mind of respondent No 3 for issuing of impugned order.

That there is nothing on record which connects the appellant with the allegation.

That the appellant was neither provided an opportunity to cross examine nor to produce defense evidence and the enquiry proceedings accordingly defective.

That the appellant dragged unnecessarily into litigation which is clearly mentioned in superior courts guidelines

Grounds:

- a. That during enquiry none from the general public was examined in support of the charges leveled against the appellant. No allegation mentioned above are practiced by the appellant nor proved against any cogent reason against the appellant.
- b. That the appellant was neither intimated nor informed by any source of medium regarding enquiry proceedings for any disciplinary action which shows **bias** on the part of concerns.
- c. That the respondent No 3 has acted whimsically and arbitrary, which is apparent from the impugned order.
- d. That the impugned order is not based on sound reasons and same is not sustainable in the eyes of law. The same is based on wrong assumption of facts.
- e. That the departmental enquiry was not conducted according to the rules.
- f. That the impugned order is outcome of surmises and conjecture.


Pray:

In the view of above circumstances it is humbly prayed that the impugned order of punishment awarded by respondent No 3 may graciously please be set aside for the end of justice and the appellant's be blessed with all back benefits including service period restored the increment and release all consequential benefits in the larger interest of justice or blessed with any suitable remedy as honourable tribunal deem fit.

Date 21/6/21

Through


Appellant


Syed Mudasir Pirzada

Advocate HC

0345-9645854

Certificate:-

Certified that no such like appeal has earlier been filed in this Hon able Service tribunal as per instruction of my client.

List of Books

1:- Constitution of Pakistan 1973

2:- Police Rules

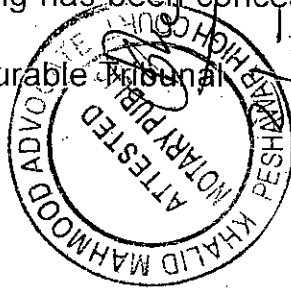
3:- Case Law according to need.

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal _____ 2021

AFFIDAVIT

I, Syed Mudasir Pirzada Advocate, as
per instruction of my client do here by
solemnly affirm and declare that all the
contents of accompanying service
appeal are true and correct to the best
of my knowledge and belief and
nothing has been concealed from this
honourable Tribunal.



Advocate

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Muhammad Qasim FRP Constable No 5716 FRP Range Kohat

(Appellant)

VERSUS

1. INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT. (Respondent)

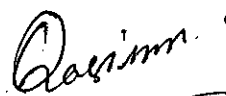
ADDRESS OF THE PARTIES

APPELLANT :-

Muhammad Qasim FRP Constable No 5716 FRP Range Kohat

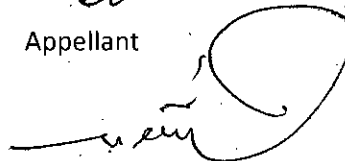
RESPONDENTS

1. INSPECTOR GENERAL OF POLICE KPK PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT.



Appellant

Through



Syed Mudasir Pirzada

Advocate PHC

0345-9645854

Date 21 / 6 / 21



Annexure A
P-7

**OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT**
Tel: 0922-9260116 Fax 9260125

No _____ /PA dated Kohat the ____ / ____ /2018

ORDER

This order will dispose of de-novo departmental proceedings initiated against Constable Muhammad Qasim No. 52/702 of this District Police under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

The essential facts arising of the case are that he while posted at Police Lines Kohat had absented himself from official duty vide DD No. 31-A dated 06.08.2008 till date without any leave or permission from the competent authority.

In compliance with the judgement of Service Tribunal dated 22.01.2018, denovo departmental proceedings initiated after approval. The SP FRP Kohat, Range was appointed as enquiry officer by the competent authorities. Charge Sheet alongwith statement of allegations issued to the accused official. The accused official was associated, with the proceedings and afforded ample opportunity of defense by E.O. The accused official was held guilty of the charges vide finding of the enquiry officer.

Final Show Cause Notice alongwith copy of enquiry finding was served upon the accused official. Reply received unsatisfactory, without any plausible explanation.

Therefore, the accused official was called in Orderly Room, held on 19.04.2018 and heard in person, but he failed to submit any explanation to his gross professional misconduct.

Record gone through, which indicates that the accused official had committed himself for willfully absented w.e. from 06.08.2008. The service record of the accused official also found indifferent.

In view of the above and available record, I agreed with the finding of enquiry officer, therefore, in exercise of powers conferred upon me under the rules ibid I, Abbas Majeed Khan Marwat, District Police Officer, Kohat impose a minor punishment of stoppage of increment for one year without cumulative effect on accused constable Muhammad Qasim No. 52/702. He is reinstated in service, the intervening period is treated as leave without pay and pay is hereby released.

Announced
19.04.2018

OB No. 420
Date 23-4-2018
No. 4135-37

PA dated Kohat the 23-4-2018.

Copy of above is forwarded for information and necessary action to the Reader, Pay Office and OHC.

Attest
(Signature)
**DISTRICT POLICE OFFICER,
KOHAT**



No 2095-96/PA

Office of the
District Police Officer,
Kohat

Dated 01-3-2018

DISCIPLINARY ACTION

I, **ABBAS MAJEED KHAN MARWAT, DISTRICT POLICE OFFICER, KOHAT**, as competent authority, am of the opinion that you **Constable Muhammad Qasim No. 52** have rendered yourself liable to be proceeded against departmentally under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) as you have committed the following acts/omissions.

STATEMENT OF ALLEGATIONS

- i. ***You while posted at Police Lines Kohat had absented yourself from official duty vide DD No. 31-A dated 06.08.2008 till date without any leave or permission from the competent authority.***
- ii. ***On acceptance of appeal, a de-nove enquiry was ordered to be initiated by DIG Enquiry & Inspections vide his letter No. 349/E&I dated 27.02.2018.***

2. For the purpose of scrutinizing the conduct of said accused with reference to the above allegations **Mian Imtiaz Gul SP FRP Range Kohat** is appointed as enquiry officer. The enquiry officer shall in accordance with provision of the Police Rule-1975, provide reasonable opportunity of hearing to the accused official, record his findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.

The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.

Attest
new
**DISTRICT POLICE OFFICER,
KOHAT 96/1/3**

No. 2095-96/PA, dated 01-3-2018.

Copy of above to:-

1. **Mian Imtiaz Gul SP FRP Range Kohat**:- The Enquiry Officer for initiating **denovo enquiry proceedings** against the accused in pursuance of Judgment of Khyber Pakhtunkhwa Service Tribunal dated 22.01.2018 followed by DIG E&I letter No. 349/E&I dated 27.02.2018 and submit the findings report before **15.03.2018**.
2. The **Accused Official**:- with the directions to appear before the Enquiry Officer, on the date, time and place fixed by him, for the purpose of enquiry proceedings.

9

1

To,

The Inquiry Officer,
Kohat.

Subject: CHARGE SHEET / REPLY TO CHARGE SHEET AND ALLEGATIONS:

Respected Sir,

Reference Charge Sheet dated 01-03-2018 on the subject noted above. Reply is as under:-

1. Not correct. Appellant never absented from duty willfully but as stated earlier, his mother was seriously ill and for her treatment, she was examined from various hospitals during the alleged absence period of duty. Finally she was died of the said illness on.
- (ii). Correct.
2. By keeping in view, the aforesaid real fact, I have not committed any misconduct under the Police Rules. Apart from, absence does not constitute misconduct when the same is not willful.
3. As directed, Written Statement to the Charge Sheet is hereby submitted.

I, therefore, most humbly requested, that I be exonerated from the charges and dropped the inquiry proceedings.

Note. On similar charge of absence numerous Police Constables/Officials have been reinstated into their services and are still serving the department, therefore, the applicant be also given similar treatment.

Attest
— — — — —

Thanking you in anticipation, sir.

M- Qasim
Yours obediently,

Muhammad Qasim S2
S/O Farid Khan
R/O Thanda Dam, Kohat
Cell# 0336-0906536

Dated 03-03-2018

پولیس کوٹھار کے ریجن کوٹھار

ذمہ دار
Anwar C
P-10

درخواست نمبر 1000 اور 1000 کے درمیان

میں دو بار درخواستیں کی گئی ہیں۔

میں دو بار درخواستیں کی گئی ہیں۔

میں دو بار درخواستیں کی گئی ہیں۔

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میں دو بار درخواستیں کی گئی ہیں۔

03/02/02

M. Qasbi

5716 کوٹھار کے ریجن میں

0336-0906536

Attest
Forwarded P/S

Handwritten signature

04/02/21

INCHARGE
Police Post Gishar, Adad
F.R.P Koha Range
Kohat

Superintendent of Police
FRP Kohat Range
Kohat

POLICE DEPTT:

KOHAT REGION


ORDER.

This order will dispose of an appeal preferred by Constable Muhammad Qasim No. 5716/FRP Range Kohat against the punishment order, passed by DPO Kohat vide OB No. 420, dated 25.04.2018 whereby he was awarded minor punishment of **stoppage of one increment without cumulative effect and leave without pay for the intervening period** on the allegations of long absence.

Comments as well as relevant record were requisitioned from DPO Kohat and perused. After perusing the relevant record and allegations leveled against the appellant, it is ascertained that the regular enquiry has been conducted into the matter. The appellant was also heard in person in O.R held in this office on 20.05.2021. During hearing the appellant did not advance any plausible explanation in his defense to prove his innocence.

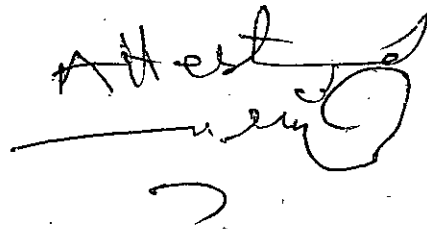
Above in view, the undersigned reached to the conclusion that the allegations leveled against the appellant are fully proved. A lenient view has already been taken by the authority while passing the order. Hence, the impugned order passed by DPO Kohat is justified, upheld and the appeal being devoid of merits and badly time-barred is hereby dismissed.


Order Announced
20.05.2021


(MOHAMMAD ZAFAR ALI) PSP
Region Police Officer,
Kohat Region.

No. 6463- /EC, dated Kohat the 21/05 /2021.

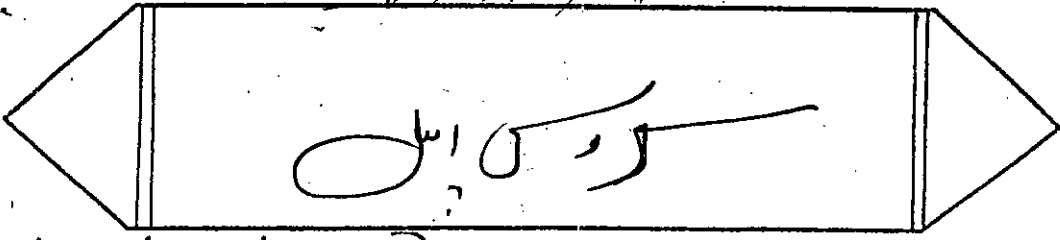
Copy to District Police Officer, Kohat for information and necessary action w/r to his office Memo: No. 4692/LB, dated 30.03.2021. His Service Record + Fauji Missal is returned herewith.




(MOHAMMAD ZAFAR ALI) PSP
Region Police Officer,
Kohat Region.

*R.H.
Rle
24/5/2021*

بعدالت سرور ٹیڑھ سہولت شاہ



اس 2020ء منجانب ایبلہ سٹی
بنام

مہارخہ
مقدمہ
دعویٰ
جرم

محمد طاہم

16P دفعہ

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام ~~پہلے~~ کیلئے ~~سید عدت~~ سے زیادہ ~~ادہ~~ ~~ادہ~~
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 ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برابری اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار 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
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائد التوائے مقدمہ کے سبب سے وہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا اوکالت نامہ لکھدیا کہ سند ہے۔

المرقوم 21 جون ماہ 20

العبد گواہ العبد

کے لئے منظور ہے۔

بمقام

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 7073/2021

Muhammad Qasim. **Appellant**

VERSUS

I.G.P & others. **Respondents**


APPLICATION FOR ADJOURNMENT

Respectfully Sheweth:

1. That the above titled appeal is pending adjudication before this Hon'ble Tribunal and is fixed for today i.e. 03.09.2021.
2. That the counsel for appellant injured due to road accident and due to injuries, he is unable to appear before this Hon'ble Tribunal.

It is, therefore, respectfully prayed that on acceptance of this application, the titled case may kindly be adjourned.

Through Appellant


Syed Mutahir Shah
Clerk of
Syed Mudassir Pirzada
Advocate High Court
Cell: 0313-9921335

Dated: 03.09.2021