

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR**  
**AT CAMP COURT SWAT.**

Service Appeal No. 9598/2020

Date of Institution ... 19.08.2020

Date of Decision ... 01.11.2021

Muhammad Nawab (Senior Clerk BPS-14 Office of the District Police Officer, Swat) R/O Mohallah Aqba, Saidu Sharif, Swat.

... (Appellant)

**VERSUS**

Provincial Police Officer/Inspector General of Police Government of Khyber Pakhtunkhwa at Central Police Office (CPO) Peshawar and three others.

... (Respondents)

-----  
MR. MUHAMMAD JAVED KHAN,  
Advocate

--- For appellant.

MR. ASIF MASOOD ALI SHAH,  
Deputy District Attorney

--- For respondents.

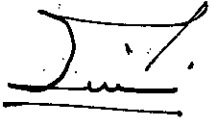
MR. ATIQ-UR-REHMAN WAZIR  
MR. SALAH-UD-DIN

--- MEMBER (EXECUTIVE)  
--- MEMBER (JUDICIAL)

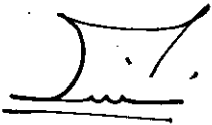
**JUDGMENT:**

**SALAH-UD-DIN, MEMBER:-**

Precise facts forming the background of the instant service appeal are that the appellant while serving in License Branch of Traffic Police was proceeded against departmentally on the charges of issuance of bogus Driving Licenses and was compulsorily retired from service vide order dated 21.04.2015. The Service Appeal of the appellant was, however allowed vide judgment dated 03.05.2016 by reinstating the appellant in service with directions to the competent Authority to conduct de-novo proceedings against the appellant within a period of 02



months and that the back benefits shall be subject to the outcome of de-novo inquiry. On conclusion of the de-novo inquiry, the appellant was dismissed from service vide O.B No. 55 dated 29.03.2017, which was challenged by the appellant through filing of departmental appeal. The same was partially accepted vide order dated 04.05.2017 passed by the appellate Authority and the penalty awarded to the appellant was modified and he was awarded punishment of stoppage of one annual increment with cumulative effect, while the period which was spent out of service was ordered to be treated as leave without pay. The appellant preferred review petition against the order dated 04.05.2017, which was partially accepted vide order dated 27.07.2020 and the penalty of stoppage of one annual increment with cumulative effect was set aside, however the order to the extent of treating the out of service period as leave without pay was kept intact and the same has been challenged by the appellant through filing of the instant service appeal.

 2. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions made by the appellant in the appeal.

3. Learned counsel for the appellant has contended that as the revisional Authority has himself opined in the impugned order that the appellant was found innocent during the de-novo inquiry, therefore, the period during which the appellant remained out of service cannot be legally treated as leave without pay; that it was not on account of any fault of the appellant that he remained out of service, rather he remained out of service on account of illegal orders passed by the respondents regarding his compulsory retirement in the inquiry proceedings as well as dismissal from service in the de-novo inquiry; that the appellant did not remain gainfully employed during the period which he spent out of service, therefore he is entitled to salaries for the period which was spent by him out of service.

4. On the other hand, learned Deputy District Attorney for the respondents has contended that the de-novo inquiry proceedings were conducted in accordance with law and the appellant has

already been dealt with leniently; that the appellant has not performed any duty during the period, which he has spent out of service, therefore, he is not entitled to any salary for the said period on the principle of no work no pay

5. Arguments heard and record perused.

6. A perusal of the record would show that vide order dated 21.04.2015, the appellant was compulsorily retired from service. The Service Appeal of the appellant was, however allowed vide judgment dated 03.05.2016 by reinstating the appellant in service with directions to the competent Authority to conduct de-novo proceedings against the appellant within a period of 02 months. It was also held that the back benefits shall be subject to the outcome of de-novo inquiry. On conclusion of the de-novo inquiry, the appellant was dismissed from service vide O.B No. 55 dated 29.03.2017, which was challenged by the appellant through filing of departmental appeal. The same was partially accepted vide order dated 04.05.2017 passed by the appellate Authority and the penalty awarded to the appellant was modified and he was awarded punishment of stoppage of one annual increment with cumulative effect, while the period which was spent out of service was ordered to be treated as leave without pay. The appellant preferred review petition against the order dated 04.05.2017, which was partially accepted vide order dated 27.07.2020 and the penalty of stoppage of one annual increment with cumulative effect was set aside, however the order to the extent of treating the out of service period as leave without pay was kept intact.

7. The appellant remained out of service either due to the illegal order of his compulsory retirement or due to wrongful order of his dismissal from service, which both were set-aside. Moreover, the review petition filed by the appellant to the Provincial Police Officer Khyber Pakhtunkhwa Peshawar was disposed of vide order bearing No. 2280-87/E-V dated 27.07.2020, wherein it has been categorically mentioned that the appellant was found innocent during the de-novo inquiry proceedings. In these circumstances, it was not due to any fault

of the appellant, rather it was due to the illegal orders of the respondents that the appellant remained out of service. The appellant is thus legally entitled to all back benefits for the period during which he remained out of service, particularly when nothing is available on the record that the appellant remained gainfully employed during the said period.

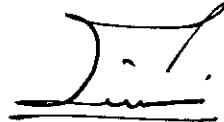
8. In light of the above discussion, the appeal in hand is allowed by modifying the impugned order dated 27.07.2020 and it is held that the period during which the appellant remained out of service shall be treated as period on duty with all consequential benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

01.11.2021



(ATIQ-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)  
CAMP COURT SWAT



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)  
CAMP COURT SWAT

01.11.2021

Appellant alongwith his counsel Mr. Muhammad Javed Khan, Advocate, present. Mr. Ali Rehman, S.I (Legal) alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is allowed by modifying the impugned order dated 27.07.2020 and it is held that the period during which the appellant remained out of service shall be treated as period on duty with all consequential benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

01.11.2021



(Atiq-Ur-Rehman Wazir)  
Member (E)  
Camp Court Swat



(Salah-Ud-Din)  
Member (J)  
Camp Court Swat

23.08.2021

Nemo for the appellant. Mr. Muhammad Riaz Khan Paindakhel, Asstt.A.G alongwith Khawas Khan, S.I (Legal) for the respondents present.

Respondents have furnished reply/comments. Placed on file. The appeal is entrusted to D.B for arguments on 01.11.2021 at Camp Court, Swat.

  
Chairman  
Camp Court Swat.

06.01.2021

Due to COVID 19, the case is adjourned to  
03.03.2021 for the same as before.

  
Reader

03.03.2021

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

Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for reply/comments. To come up for written reply/comments on 3/5/2021 before S.B at Camp Court, Swat.

Appellant Deposited  
Security & Process Fee

  
08/3/21

  
(Rozina Rehman)  
Member (J)  
Camp Court, Swat

26.07.2021

To come up for written reply/comments on 23.08.2021 before S.B at Camp Court, Swat. Notices be issued to appellant/counsel as well as respondents for the date fixed.

  
Chairman

11.12.2020

Appellant in person present and requested for adjournment as his counsel is busy in District Courts at Swat. He further requested for fixation of the instant service appeal at Camp Court, Swat as he hails from Swat. As such, case is adjourned to 06.01.2021 for preliminary hearing before S.B at Camp Court, Swat.



(Rozina Rehman)  
Member (J)






Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 9598 /2020

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge  |
|-------|---------------------------|---|
| 1.    | 2                         | 3   |
| 1-    | 19/08/2020                | <p>The appeal of Mr. Muhammad Nawab presented today by Mr. Muhammad Javed Khan 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;"><br/>REGISTRAR</p> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>05/10/20</u></p> <p style="text-align: right;"><br/>CHAIRMAN</p> <p>05.10.2020</p> <p>Nemo for appellant.</p> <p>Issue notice to appellant/counsel for preliminary hearing on 10.12.2020 before S.B.</p> <p style="text-align: right;"><br/>Chairman</p> |

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

Service Appeal No. \_\_\_\_\_/2020

Muhammad Nawab

.....Appellant

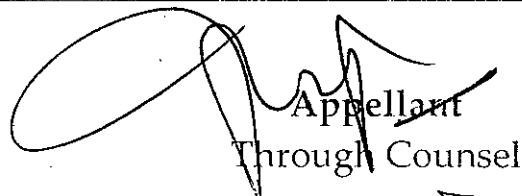
**VERSUS**

Provincial Police Officer and others

..... Respondents

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Appellant  
Through Counsel

**Muhammad Javaid Khan**

Advocate Supreme Court  
of Pakistan

Office: Allah-o-Akbar Masjid,  
College Colony, Saidi Sharif, swat  
Cell: 0343-9607492

①

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

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 8958

Dated 19-8-2020

Service Appeal No. 9598 /2020

Muhammad Nawab (Senior Clerk BPS-14 Office of the  
District Police Officer, Swat) R/o Mohallah Aqba, Saidu  
Sharif, Swat .....Appellant

**VERSUS**

- 1) Provincial Police Officer / Inspector General of Police  
Government of Khyber Pakhtunkhwa at Central Police  
Office (CPO) Peshawar
- 2) Additional Inspector General of Police (Head Quarter)  
Khyber Pakhtunkhwa at CPO Peshawar
- 3) The Regional Police Officer Malakand Region, Swat
- 4) District Police Officer Swat at Gulkada Saidu Sharif Swat  
.....Respondents

**SERVICE APPEAL UNDER SECTION 4 OF**  
**SERVICE TRIBUNAL ACT READ WITH OTHER**  
**RELEVANT PROVISIONS AGAINST THE**  
**IMPUGNED ORDER DATED: 27/07/2020 PASSED BY**  
**RESPONDENT NO.1 (APPELLATE AUTHORITY),**  
**WHEREBY THE REVIEW PETITION OF THE**  
**APPELLANT WAS PARTIALLY ALLOWED.**

Filed to-day

Registrar  
19/8/2020

**PRAYER:**

On acceptance of this service appeal the impugned order passed by Respondent No.1 Dated: 27/07/2020 may kindly be modified, and the review petition filed by the Appellant may be accepted in toto by allowing / awarding the salaries and other service benefits of the intervening period (while the Appellant remained out of service)

Any other relief, deemed fit in the circumstances may also be awarded in favor of the Appellant against Respondents.

**Respectfully Sheweth:**

The appellant submits as under;

1. That the Appellant was compulsorily retired from service vide CPO Peshawar Order No. 2569-74/E-V Dated: 21/04/2015.
2. That Appellant approached this Honorable Court and the said appeal was allowed by this Honorable Tribunal vide order and judgment Dated: 03/05/2016. The contents of the order and judgment Dated: 03/05/2016 may be

considered as an integral part of this Service Appeal.

(Copy of the order and judgment dated 03/05/2016 is attached herewith as annexure "A")

3. That the Appellant was re-instated into service and the de-novo enquiry was started.
4. That after the de-novo enquiry, the Appellant was once again dismissed from service vide order OB No. 55 Dated: 29/03/2017. (Copy of the order OB No. 55 Dated: 29/03/2017 is attached as annexure "B").
5. That the Appellant then filed a departmental appeal against the said dismissal order which was partially accepted and the Appellant was reinstated in service along with the punishment of stoppage of one annual increment with cumulative effect. Similarly the period spent out of service i.e. 21/04/2015 to 03/04/2016 and 29/03/2017 to 04/05/2017 was considered as leave without pay.
6. That the Appellant being still aggrieved from the said order, filed a review petition before the Respondent No.1 which was partially accepted vide the impugned order Dated: 27/07/2020, whereby stoppage of one annual

increment with cumulative increment was set aside, while the period in which the Appellant remained out of service was still treated as leave without pay. (Copy of the review petition along with the impugned order Dated: 27/07/2020 is attached as annexure "C".

7. That the Appellant being still aggrieved from the punishment to the extent of treating the out of service period as leave without pay is filing this service appeal inter alia on the following grounds:

**GROUND:-**

- i) That the impugned order to the extent of declaring the period out of service as leave without pay is illegal, unlawful, unconstitutional, and based on mala-fide which is very much clear from the record on file.
- ii) That the appellant has not been dealt with in accordance with law and rules regulating service of the appellant.

- iii) That the entire proceeding has been conducted in derogation of law and rules.
- iv) That the appellant being the only bread earner of his family, the entire family has been curbed vide impugned orders.
- v) That the impugned order to the extent of declaring the period out of service as leave without pay is whimsical, capricious and founded on surmises and conjectures.
- vi) That the Appellant has not joined any profitable job during the intervening period, hence according to the judgments of the superior courts, the Appellant is entitled for the salaries of the intervening period.
- vii) That in the judgment of this Honorable Tribunal Dated: 03/05/2016 it was decided that the back benefits shall be subject to the outcome of the de-novo enquiry proceedings. It is pertinent to mention that the after de-novo enquiry the Appellant Hussain Ali in Service Appeal No. 508 of 2017 was allowed / given salaries and other service benefits of

the intervening period by the Respondents. (Copy of the relevant record is attached as annexure "D").

viii) That other grounds not specifically raised will be argued with the permission of this Honorable Court at the time of arguments.

8. That this appeal is being filed against the order of the departmental appellate authority Dated: 27/07/2020, hence this Honorable Tribunal has got the jurisdiction, and this appeal is in time.

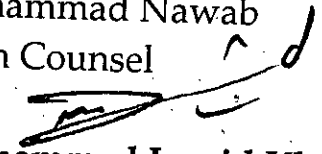
It is therefore humbly prayed that on acceptance of this service appeal the impugned order passed by Respondent No.1 Dated: 27/07/2020 may kindly be modified, and the review petition filed by the Appellant may be accepted in toto by allowing / awarding the salaries and other service benefits of the intervening period (while the Appellant remained out of service).



Any other remedy which is just, appropriate and efficacious may also be awarded in favor of the appellant please.



Appellant  
Muhammad Nawab  
Through Counsel



Muhammad Javaid Khan  
Advocate Supreme Court  
of Pakistan

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

Service Appeal No. \_\_\_\_\_/2020

Muhammad Nawab .....Appellant

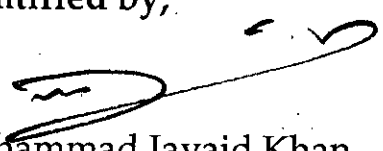
**VERSUS**

Provincial Police Officer and others ..... Respondents

**AFFIDAVIT**


I, Muhammad Nawab (Senior Clerk BPS-14 Office of the District Police Officer, Swat) R/o Mohallah Aqba, Saidu Sharif, Swat, do hereby solemnly affirm and declare on oath that all the contents of this Service Appeal are true and correct to the best of my knowledge and belief, and nothing has been concealed from this Honorable Court.

Identified by,

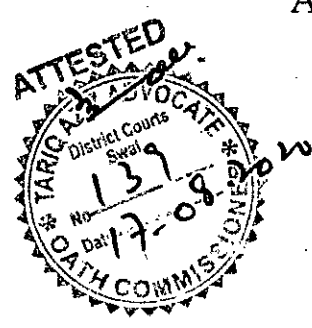


Muhammad Javaid Khan  
Advocate Supreme Court  
of Pakistan

DEPONENT



Muhammad Nawab  
Appellant in person



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

Service Appeal No. \_\_\_\_\_/2020

Muhammad Nawab .....Appellant

**VERSUS**

Provincial Police Officer and others ..... Respondents

**ADDRESSES OF THE PARTIES**

**ADDRESS OF THE APPELLANT**

Muhammad Nawab (Senior Clerk BPS-14 Office of the District Police Officer, Swat) R/o Mohallah Aqba, Saidu Sharif, Swat

CNIC: 15602-0262950-1

Cell: 0300-9073599-0313-4391001

**ADDRESSES OF THE RESPONDENTS**

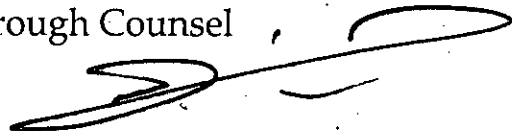
1) Provincial Police Officer / Inspector General of Police Government of Khyber Pakhtunkhwa at Central Police Office (CPO) Peshawar

2) Additional Inspector General of Police (Head Quarter) Khyber Pakhtunkhwa at CPO Peshawar

3) The Regional Police Officer Malakand Region, Swat

4) The Dist. Police officer, Swat.

Appellant  
Through Counsel



Muhammad Javaid Khan  
Advocate Supreme Court  
of Pakistan

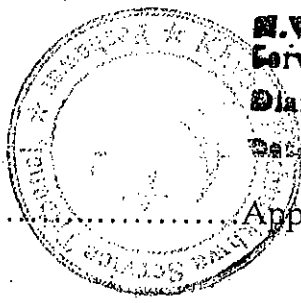
(10)

Annex A

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 887/2015

Muhammad Nawab,  
Ex-Senior Clerk,  
Office of the Regional Police Officer  
Malakand, Swat.  
R/o Mohallah Aqba, Saidu Sharif, Swat.....



N.W.F. Province  
Service Tribunal  
Diary No. 988  
Date 04-8-2015

Appellant

Versus

1. The Provincial Police Officer/  
Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.
2. The Additional Inspector General of Police,  
Headquarters, Khyber Pakhtunkhwa,  
Peshawar.
3. The Regional Police Officer,  
Malakand Region, Swat..... Respondents

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SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 21.04.2015 (ANNEX:-E) THEREBY APPELLANT WAS AWARDED MAJOR PUNISHMENT OF COMPULSORY RETIREMENT FROM SERVICE WITH IMMEDIATE EFFECT AGAINST WHICH HE FILED A REVIEW PETITION DATED 28.04.2015 (ANNEX:-F) BEFORE THE RESPONDENT NO.1 WHICH WAS NOT DISPOSED OFF WITHIN THE STATUTORY PERIOD OF 90 DAYS.

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ATTESTED

*[Signature]*

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That appellant initially appointed as Junior Clerk on 20.11.1994, then he was promoted to the post of Senior Clerk on 11.12.2012 on the basis of seniority-cum-fitness and as such the appellant served the Department for more

*[Handwritten signature]*

re-submitted to  
and filed

*[Signature]*

4/8/15

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Appeal No. 887/2015  
Muhammad Nawab vs Govt



03.05.2016

Counsel for the appellant and Mr. Imranullah, Inspector (Legal) alongwith Mr. Muhammad Zubair, Senior Government Pleader for the respondents present. Arguments heard. Record perused. Vide our detailed judgment of today in connected appeal No. 874/2015, titled "Hussain Ali Versus the Provincial Police Officer, KPK Peshavar etc." this appeal is also accepted as per detailed judgment. Parties are left to bear their own cost. File be consigned to the record room.

Announced s.d/-  
03.05.2016 Number

s.d/-  
Chairman  
Court  
Swat

Certified true copy  
Signature  
Khyber Pakhtunkhwa  
Swat  
Peshawar

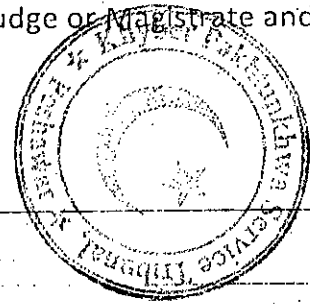
Date of Presentation of Appeal 10-05-2016  
Number of Words 800  
Copying Fee 6  
Urgent 2  
Total 8  
Name of Supplier MMD  
Date of Completion 10-05-2016  
Date of Delivery of Copy 10-05-2016

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J

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Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

CAMP COURT SWAT

- 1. Appeal No. 874/2015, Hussain Ali,
  - 2. Appeal No. 887/2015, Muhammad Nawab,
  - 2. Appeal No. 889/2015, Khursheed Ahmad,
- Vs. The Provincial Police Officer/IGP, KPK, Peshawar and 2 others.

JUDGMENT

03.05.2016

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN: Counsel for the appellant and Mr. Imranullah, Inspector (Legal) alongwith Mr. Muhammad Zubair, Senior Government Pleader for respondents present.

This judgment shall also dispose of instant appeal No. 874/2015 as well as identical appeals No. 887/2015 and 889/2015.

Brief facts giving rise to the afore-stated service appeals are that the appellants were serving in License Branch of Traffic Police when subjected to enquiry on the charges of issuance of bogus driving licenses and vide impugned order dated 21.04.2015 appellants compulsorily retired from service where-against review petitions were preferred on 28.4.2015 by the appellants which were not disposed of within the statutory period and hence the instant service appeals on 04.08.2016.

Learned counsel for the appellant has argued that the said driving licenses were not proved to have been issued during the tenures of

**ATTESTED**

*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

*[Signature]*

ATTESTED  
C. J. C.

conducted in the prescribed manners and concluded within a period of two  
conduct denovo proceedings against the appellants which shall be  
the appellants in service with the direction to the competent authority to  
impugned orders dated 21.04.2015 to the extent of appellants and reinstate  
circumstances highlighted above, accept the instant appeals, set aside the  
hearing afforded to them by the competent authority. We, in the  
manner was ever served on the appellants and no opportunity of personal  
appellants and, moreover, no final show cause notice in the prescribed  
prescribed manners nor opportunity of cross-examination extended to the  
recorded any evidence during the enquiry proceedings and in the  
conducted in the prescribed manners as neither the enquiry officer has  
in view of the above we hold that the enquiry proceedings were not

where-after no final show cause notice was served on the appellants.  
was not suggested and the minor punishment suggested was ignored and  
considering the findings of the enquiry officer wherein major punishment  
show cause notice was issued by the authority without consulting and  
minor punishment vide letter dated 20.12.2013 meaning thereby that final  
suggested. In response to the said letter the DPO Swat has recommended  
be personally heard and the punishment against them may also be  
report of the enquiry officer and wherein it was directed that the appellants  
dated 05.12.2013 wherein he has pointed out short-comings in the enquiry  
the said authority has written a letter to the District Police Officer Swat  
penalties including dismissal from service was suggested while there-after  
suggest that the appellants were given final show cause notice wherein

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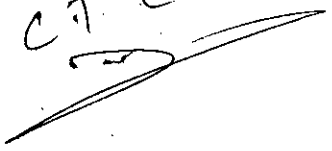
months of the receipt of this judgment. The back benefits shall be subject to the outcome of denovo proceedings. Parties are left to bear their own costs. File be consigned to the record room.

Sd/- Muhammad Azim Khan Afridi,  
Chairman  
Sd/- Abdul Latif,  
Member

ANNOUNCE  
03.05.2016

Certified to be true copy  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 10-05-2016  
Number of words 1600  
Copying Fee 10-00  
Urgent 2-00  
Total 12-00  
Name of Applicant NMD  
Date of Completion of Work 10-05-2016  
Date of Delivery of Copy 10-05-2016

C.T.C  


III  
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(16)

**OFFICE OF THE  
DISTRICT POLICE OFFICER,  
DIR LOWER**

PH# 09459250005 Fax# 09459250049

Email: [dpolowerdir@gmail.com](mailto:dpolowerdir@gmail.com)

No. 33926 /SB, Dated Timergara the 26-7- /2016.


To: The Inspector General of Police  
Khyber Pakhtunkhwa Peshawar

Subject: DEPARTMENTAL ENQUIRY

Memo.

Kindly refer to your Office Letter No.4700/E-V dated 14-07-2016, Diary No. 3889, dated 06-06-2016 and Letter Endst. No. 6050/EC, dated 20-07-2016, Diary No. 4740, dated 20-07-2016.

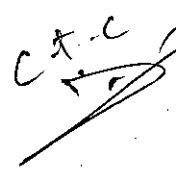
It is submitted that the denovo Proceedings report submitted that DSP HQrs, Dir Lower regarding Senior Clerk Khurshid Ahmad (R), Hussain Ali and Muhammad Nawab along with connected papers is sent herewith as directed please.

  
District Police Officer,  
Dir Lower at Timergara

NO. 33927 /EC.

Dated 25-07-2016.

Copy of above is submitted to the the Regional Police Officer, Malakand at Saidu Sharif with reference to his Office Order No. 4903-05/E, dated 02-06-2016 and Endst. No. 6050/EC, dated 20-07-2016, for favor of information as directed, please.

  
District Police Officer,  
Dir Lower at Timergara

POLICE DEPARTMENT

DIR LOWER

No \_\_\_\_\_/R.

Dated \_\_\_\_/\_\_\_\_/2016

DENOVO ENQUIRY REPORT

REFERENCE

Order No. 4903-05/E, dated 02-06-2016 issued by the worthy Regional Police Officer Malakand, which has been received to the undersigned Vide Diary No. 3889, dated 06-06-2016.

ACCUSED

- 1- S/Clerk Khurshid Ahmad (Already attained the age of superannuation on 13-05-2016)
- 2- S/Clerk Hussain Ali
- 3- S/Clerk Muhammad Nawab

HISTORY

1- The above named Senior Clerks were retired compulsory from service with immediate effect by the Inspector General of Police Khyber Pakhtunkhwa Peshawar, Vide Order No. 2570-74/E-V, dated 21-04-2015 under Khyber Pakhtunkhwa E & D rules-1973 (Amended in 2011), copy of such Order has been placed herewith Vide page-91.

C.T.C  
[Signature]

2- Consequent upon their reinstatement into service with immediate effect Vide CPO Peshawar Order No. 3238/E-V, dated 30-05-2016 in the light of the service Tribunal, Khyber Pakhtunkhwa, Peshawar's judgment dated 03-05-2016. After their posting to DPO Office Swat and RPO Office Malakand respectively, the denovo proceedings was ordered Vide Order No. 4903-05/E, dated 02-06-2016 by the worthy RPO Malakand Region.

ALLEGATIONS

That he while posted to Traffic/License Branch, Swat were held responsible for issuance of bogus Driving License under the fake signature of DSP/Jehangir Khan, the then MLA Swat.

STATEMENT


Statements of the following persons recorded;

- 1- S/Clerk Khurshid Ahmad (Already attained the age of superannuation on 13-05-2016).
- 2- S/Clerk Hussain Ali
- 3- S/Clerk Muhammad Nawab
- 4- Iqbal Rawan Traffic License Clerk
- 5- DSP (R) Jehangir Khan of Swat
- 6- Constable Sadiq Akbar-97 of Swat
- 7- Computer Operator Arshad Ali-2010 of Swat
- 8- Computer Operator Abdullah-2739 of Swat

QUESTIONS/ANSWERS

- a) S/Clerk Khurshid Ahmad stated that;  
He does not remember the exact number of renewal of learners/driving license on which he had signed for. However the MLA/DSP Jehangir Khan had told him to provide assistance to the people and do the signature
- b) No FSL opinion has been received by which he has been traced as accused and nor he did signature of the DSP Jehangir Khan.
- c) S/Clerk Hussain Ali replied that ;  
The DSP/MLA Swat had given him the permission for signing renewal forms.  
Question document 280 carries the signature of DSP Jehangir Khan.
- d) His no writing has been traced on learners/licenses by the FSL
- e) S/Clerk Muhammad Nawab Region Office Swat stated that;

C.T.C



He had not done the signature of Retired DSP Jehangir Khan on any learners/driving license, which was pointed out by the ex-enquiry Officer.


f) Iqbal Rawan J/Clerk of driving license Swat stated that he has been posted in the license branch on 18-01-2016 and he is not aware that where record has been lying, however it has been computerized since 2010.

g) He cannot produce learners/ licenses allegedly prepared by Khurshid Ahmad Retired, Hussain Ali and Muhammad Nawab S/Clerks.

h) DSP (R) Jehangir Khan r/o Swat stated that; He has no information about issuing learners and driving licenses making his signature on it and all were issued on his signature.

They were not corrupt and no complaint was received to him about any Clerk.

There is no bogus signature on the documents already examined by FSL and it were correct and genuine.

C.T.C  


i) Constable Sadiq Akabr – 97 of Swat replied that; No bogus signature of Retired DSP Jehangir Khan had been done by S/Clerk Khurshid Ahmad, Hussain Ali and Muhammad Nawab on learners/ licenses.

No fake signature of the DSP Jehangir Khan has been done and it was false.

j) Computer Operator Constable Arshad Ali -2010 of Swat stated that;

All the learners/ licenses holders were come and did the signatures and these were issued by the DSP Jehangir Khan with his own signature.

None of the Clerks, Khurshid Ahmad, Hussain Ali and Muhammad Nawab had did the signatures of DSP (R) Jehangir Khan on learners/ licenses.

k) Computer Operator Abdullah -2739 of Swat stated that;

He has not seen the Clerks Khurshid Ahmad, Hussain Ali and Muhammad Nawab, who had done signatures or the signatures of Retired DSP Jehangir Khan.

The aforementioned Clerks have not done any kind of corruption.

OBSERVATION

POSTING CHART

| S# | Name               | Rank         | Place of Posting     | Date of Posting           |
|----|--------------------|--------------|----------------------|---------------------------|
| 1  | Mr. Muhammad Nawab | Junior Clerk | Asstt. Traffic Clerk | 08-03-2010 to 29-08-2012. |
| 2  | Mr. Hussain Ali    | Senior Clerk | Traffic Clerk        | 01-10-2011 to 29-12-2011  |
| 3  | Mr. Khurshid Ahmad | Senior Clerk | Traffic Clerk        | 10-02-2012 to 18-04-2012  |

*C.T.C*

1- Initial preliminary enquiry was conducted Vide DD No. 41, dated 24-09-2012 u/s 157 (1) Cr.P.c in PS Saidu Sharif District Swat against the above name accused senior Clerks by SI Muhammad Hayat of PS Toor Gul Shaheed, who was summoned Vide the DPO Office Letter No. 32999/GB, dated 21-07-2016, but he did not attend the office of the under signed. However he had not being the IO proved that by whom the signatures of Retired DSP Jehangir Khan had been done.

2- Previous enquiry finding report etc copies are annexed herewith. Even enquiry final report submitted by the then DSP HQrs Mian Nasib Jan had not fixed responsibility of any bogus document on any single and specified Clerk Vide his report dated 14-02-2012 and not got tallied the writing of any Clerk working on the signatures of DSP (R) Jehangir Khan before the court and subsequent from FSL Peshawar.

6- Senior Clerk Muhammad Nawab remained posted as Assistant Motor License Clerk in DPO Office Swat w.e.f 10-03-2010 upto 29-08-2012.

7- On the Office of the MLA Swat, there were computer Operators and license Clerks in different periods and one cannot be blamed for bogus activity and always the benefit of doubt is given to be accused by the courts.

8- Proper enquiry u/s 157(1) Cr.P.c was completed by the I.O SI Muhammad Hayat of PS Saidu Sharif and the suspicious driving licenses were sent by him to FSL Peshawar along with the signatures of Mr. Jehangir Khan the then DSP City/MLA Swat after obtaining proper order from Judicial magistrate Vide Court Order dated 07-11-2012 (Page-53)

C.T.C  
15

9- The FSL Peshawar examination report Form (D) is reproduced below.

" HW. 606-894 dated 20.12.2012, Laboratory No. DD, No. 41, dated 24-09-12

Subject.. Open Enquiry 157 (I) PS Saidu, Sharif Swat.

The following documents were received for examination..

1- Disputed learner permits (Swat), driving test slips bearing the questioned English signatures "Jehangir Khan" DSP (Rtd) now marked as Q1 to Q288.

2- Specimen English signatures of "Jehangir Khan " DSP ( Rtd) on four sheets along with his routine English signatures on the learner permits, driving test slips ( six sheets).

**OPINION**

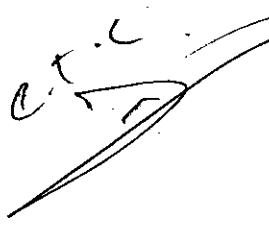
The examination of the documents revealed as follows:  
The questioned English signatures Jehangir Khan DSP (Rtd) on the disputed learner driving permits ( Swat), and driving test slips have been examined and compared with the present set of his specimen//routine English signatures mentioned at Serial No. 2 above and has observed that:

- 1- The questioned English signatures Jehangir Khan DSP (Rtd) on the disputed learners driving permits ( Swat), driving test slip now marked as Q1 to Q31, Q35 to Q206, Q210 to Q223, Q225 to Q228, Q230 to Q288, **do not tally in individual** characteristics with present set of his specimen/routine English signatures supplied and appears to have been forged.

-Sd-

(Jehanzeb Khan)

Inspector Q. Document Expert, FSL, Peshawar



No. 02 /FSL dated Peshawar the 01/01/2013.

The expert opinion is forwarded to DSP (HQ) Swat. The receipt may be acknowledged.

DIRECTOR,  
FORENSIC SCIENCE LABORATORY,  
CRIMES BRANCH, N.W.F.P, PESHAWAR.

**CONCLUSION**

As per the above discussion, available record and statements, no proof or evidence met to the under signed to connect the Senior Clerks under the denovo enquiry with the allegations which have already been framed against them, therefore they are declared innocent, please.



25.7.16

(Enquiry Officer)

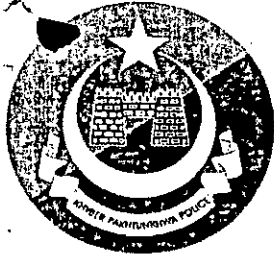
Deputy Superintendent of Police, HQrs,  
District Dir Lower at Timergara.

33926/59

25-7-016

Div Lower





(24) Annex B

**OFFICE OF THE  
DISTRICT POLICE OFFICER, SWAT**  
Ph: 0946-9240393 & Fax No. 0946-9240402,  
Email: dposwat@gmail.com

**ORDER**

This order will dispose of Denovo Departmental Enquiry against Muhammad Nawab Senior Clerk presently posted at DPO Office, Shangla.

The delinquent Official named above was charge sheeted on account of issuing bogus Driving Licenses under the fake signature of Mr. Jehangir Khan, the then DSP, MLA, Swat. The allegations leveled against him had been confirmed in the preliminary enquiry conducted by the then DSP/Headquarters, Swat, therefore, he was proceeded against departmentally and the then DSP/Legal, Swat was appointed as Enquiry Officer to properly probe into the allegations. The Enquiry Officer submitted his finding report wherein he found that the delinquent official was responsible for committing fraud and other irregularities in the License Branch during his posting.

Henceforth, the delinquent official was issued with Final Show Cause Notice, he submitted his reply and was heard in person by the competent authority. The delinquent official named above failed to rebut allegations proved against him nor was he able to produce any cogent evidence in his defense, therefore, he was compulsorily retired from service vide Order No.2569/E-V, dated 21-04-2015.

After rejection of his departmental appeal, the delinquent official approached the August Khyber Pakhtunkhwa Service Tribunal and on 03-05-2016, the Service Tribunal re-instated him with the directions to conduct Denovo Departmental proceedings against the appelland Muhammad Nawab Senior Clerk.

Consequent upon the Judgment of Service Tribunal dated 03-05-2016, the appelland Muhammad Nawab was re-instated in service and Denovo proceedings were initiated against him vide order No.3238/E-V, dated 03-05-2016.

Superintendent of Police, Investigation, Swat was appointed to conduct Denovo Departmental proceedings against the delinquent official Senior Clerk Muhammad Nawab on charges/allegations leveled against him in the charge sheet. The Enquiry Officer after conducting proper Departmental Enquiry submitted his finding report, wherein it was found that allegations leveled against the delinquent official Muhammad Nawab have been proved and held him alongwith others responsible for issuing bogus Driving Licenses under the fake signatures.

In light of the findings of Enquiry Officer, Final Show Cause coupled with the finding report was served on the delinquent official, in response whereof he submitted his reply.

He was also heard in person on 28-03-2017 but failed to present any cogent reason or substance in his defense. The delinquent official has committed gross misconduct in sheer violation of his duty and earned a bad name for the entire Police Department.

As the allegations leveled against the delinquent official Senior Clerk Muhammad Nawab have been proved during Denovo proceedings, therefore, I, Mr. Muhammad Ijaz PSP, District Police Officer, Swat as competent authority under Khyber Pakhtunkhwa Efficiency and Discipline Rules-1973 (Amended in 2011) read with Notification No. 8511/E-V, dated 28-12-2015, hereby award him major punishment of Dismissal from service with immediate effect.

His Period spent out of service is treated as leave without pay.

District Police Officer, Swat.

OB No. 55  
Dated 24-03 /2017.

\*\*\*\*\*

No. 4010-13 /E, dated Saidu Sharif the, 30-03 /2017.

Copies of above is submitted to the:-

- 1) ✓ Inspector General of Police, Khyber Pakhtunkhwa, Peshawar for f/o information w/r to CPO, Khyber Pakhtunkhwa, Peshawar Memo: No.286/E&I, dated 09-02-2017 please.
- 2) ✓ Regional Police Officer, Malakand Region at Saidu Sharif, Swat w/r to the Region Office, Swat Memo: No.361/E, dated 11-01-2017 please.
- 3) ✓ Deputy Inspector General of Police, Enquiry and Inspection, Khyber Pakhtunkhwa, Peshawar w/r to CPO/KPK, Endst: No.14/E&I, dated 04-01-2017 please.
- 4) ✓ District Police Officer, Shangla for information and necessary action please.

To: The Regional Police Officer,  
Malakand at Saidu Sharif Swat.

Subject: **DEPARTMENTAL APPEAL**

Respected Sir,

With due respect and humble submission appellant submits representation against the order of District Police Officer, Swat bearing OB No. 55 dated 29/03/2017 vide which penalty of dismissal from service was imposed on appellant.

FACTS:-

1. That in the year 2010 appellant remained posted as Assistant Traffic Clerk of District Police Officer, Swat for about 2 years 5 months and 9 days i.e with effect from 20/3/2010 to 29/08/2012.
2. That on 24/09/2012 a facts finding enquiry was initiated on the basis of complaint about issuance of bogus driving license and charging if exorbitant rates from the applicants of the driving license. The enquiry was conducted by Mian Naseeb Jan the then DSP HQrs Swat assistance of Muhammad Hayat SI and Shahab-ud-Din ASI. The enquiry was conducted under section 157 (1) CrPc Police Station, Saidu Sharif Swat.
3. That the enquiry officers took the relevant record of the driving license into their custody, conducted enquiry at back of the appellant and eventually held the traffic clerks responsible for the alleged charges.
4. That the appellant was also recommended for departmental action on charges of putting signatures on behalf of Jehangir Khan DSP (retired) the then MLA Swat.
5. That charge sheet and statements of allegations based on the allegations of issuance of bogus driving license was issued to appellant. Detail reply was submitted in response to the charge sheet and DSP legal Swat was appointed as Enquiry Officer for scrutinizing the conduct of appellant with reference to the charges mentioned therein.
6. That the enquiry officer without adhering to the rules governing the disciplinary actions based his finding report on the report of enquiry conducted under section 157 CrPc mentioned above.
7. That penalty of compulsory retirement from service was imposed on appellant on basis of above charges vide CPO, Order dated 21/04/2015 and after exhausting departmental remedy the appellant filed service appeal No. 88//2015 and the Tribunal accepted the service appeal vide order

dated 03/05/2016, however, allowed the department for conducting de-novo enquiry proceeding, which shall be completed **within two months**.

8. That the appellant was re-instated in service vide CPO order dated 30/05/2016 and DSP Hqrs Lower Dir was appointed as Enquiry Officer who recommendations for exoneration of appellant from the charges.

9. That the competent authority did not agree with finding report of Enquiry Officer and entrusted the second de-novo enquiry proceedings to SP Investigation Swat. The Enquiry Officer once again recommended that the charges were not proved in any manner, but he was again directed to conduct fresh repeated de-novo enquiry. Accordingly fresh enquiry was conducted recommendations for penalty were made and the District Police Officer, Swat passed the impugned order. Hence the present appeal on the following grounds.

**GROUND:-**

a. That the impugned orders have been passed against the facts and evidence available on record as the appellant was found innocent during successive two de-novo enquiries proceedings. No evidence was procured during course of all three de-novo enquiries proceedings in support of the charges of commission of embezzlement. No evidence was brought on record that the driving licenses were renewed with ulterior motive or in lieu of illegal gratification.

b. That the authority did not evaluate the facts and evidence on record as according to the finding of enquiry officers no embezzlement, misconduct, irregularity or illegality was committed by appellant and was wrongly put to trial of departmental charges for several years and was compulsorily ousted from service.

c. That the enquiry officer in the third round under influence of the authorities made recommendations for award of penalty to appellant.

d. That the Enquiry Officer was pleased to summon and examine the star witness namely Jehangir Khan in appellant's presence. The said witness categorically admitted in his statement that he had allowed the Traffic Clerks for renewal of the driving licenses. Therefore, the impugned order was wrongly passed.

e. That the main star witness namely Mr. Jehangir Khan DSP (retired) the then MLA has admitted in plain language in his statement that he had allowed, directed and ordered the Traffic Clerks for routine signing of forms of renewal of driving licenses as is done all over routinely in the

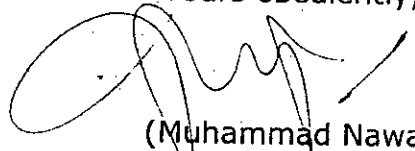
ct.c

Province and the renewal fee has duly been deposited in the government treasury. Therefore there was no justification for imposing penalty on appellant.

- f. That the enquiry officer summoned the holders of the driving license and all of them stated before the enquiry officer that no one had received illegal gratification from them in lieu of driving licenses renewal/issuance. That one of the witnesses namely Tariq Ahmad stated that he had paid Rs: 3200/- to an unknown person but he did not identify appellant during identification parade conducted by enquiry officer/ therefore the impugned order has been based on no evidence.

It is therefore, that the impugned order may be set aside and the appellant may be reinstated in service with all back benefits.

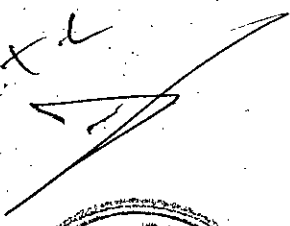
Yours obediently,



(Muhammad Nawab)  
Ex-senior Clerk  
DPO Office Shangla at Alpuri.

Permanent address

Resident of Mohallah Aqba  
Saidu Sharif Swat.  
C # 03009073599

C.T.A.  




(27)

**OFFICE OF THE REGIONAL POLICE OFFICER, MALAKAND REGION,**  
**AT SAIDU SHARIF SWAT**


**ORDER:**

This order will dispose off appeal of Senior Clerk Muhammad Nawab of Swat District for reinstatement in service.

Brief facts of the case are that Senior Clerk Muhammad Nawab while posted to license branch Swat as Assistant Traffic Clerk with effect from 20/03/2010 to 09/08/2012 was charge sheeted on account of issuing bogus Driving Licenses under the fake signature of Mr. Jehangir Khan, the then DSP / MLA Swat. The allegation levelled against him had been confirmed in the preliminary enquiry conducted by the then DSP / Headquarters, Swat. Therefore, he was proceeded against departmentally and the then DSP/Legal Swat was appointed as Enquiry Officer to properly probe into the allegations. The Enquiry Officer submitted his finding report wherein he found that the delinquent official was responsible for committing fraud and other irregularities in the License Branch during his posting. Henceforth, the delinquent official was issued with Final Show Cause Notice, he submitted his reply and was heard in person by the District Police Officer, Swat. The delinquent official failed to rebut allegations proved against him nor was he able to produce any cogent evidence in his defence. Therefore, he was compulsorily retired from service vide Order No. 2569/E-V, dated 21/04/2015. After rejection of his departmental appeal, the delinquent official approached the August Service Tribunal, Khyber Pakhtunkhwa and on 03/05/2016 the Service Tribunal reinstated him with the direction to conduct denovo Departmental Enquiry against the appellant Muhammad Nawab Senior Clerk. Consequent upon the judgment of Service Tribunal dated 03/05/2016 the appellant was reinstated in service and denovo proceedings were initiated against him vide order No. 3238/E-V, dated 03/05/2016. Superintendent of Police Investigation Swat was appointed to conduct Denovo Departmental proceedings against the delinquent official on charges / allegations levelled against him in the Charge Sheet. The Enquiry Officer after conducting proper departmental enquiry submitted his finding report, wherein it was found that allegations levelled against the delinquent official have been proved and held him alongwith others responsible for issuing bogus Driving Licenses under the fake signatures. In light of the finding of Enquiry Officer, Final Show Cause coupled with the finding report was served on the delinquent official. In response he submitted his reply. He was also heard in person on 28/03/2017 but failed to present any cogent reason or substance in his defence. The delinquent official has committed gross misconduct in sheer violation of his duty and earned a bad name for the entire Police Department. Being found guilty of the Charges he was dismissed from service under Khyber Pakhtunkhwa Efficiency and Discipline Rule-1973 (Amended in 2011) read with notification No. 8511/E-V, dated 28/12/2015 vide OB No. 55 dated 29/03/2017.

C.T.  
He was called in Orderly Room on 02/05/2017 and heard him in person. The punishment awarded by the District Police Officer, Swat is too harsh, hence set aside. However, he is awarded punishment of stoppage of one annual increment with cumulative effect. He will not be posted to Traffic, License and Establishment Branch. The period of absence and he spent out of service is counted as leave without pay. On reinstatement in service he is hereby posted to District Lower Dir Ind

Order announced

  
(AKHTAR HAYAT KHAN)  
Regional Police Officer,  
Malakand, at Saidu Sharif Swat  
\*\*Naqi\*\*

No. 4293-94 /E,

Dated 04-05- /2017.

Copy to District Police Officer, Swat for information with reference to his office Memo: No. 4493/E, dated 10/04/2017.

\*\*\* Head of Investigation Div (Jawa) \*\*\*



OFFICE OF THE  
REGIONAL POLICE OFFICER, MALAKAND  
AT SAIDU SHARIF SWAT.

Ph: 0946-9240388 & Fax No. 0946-9240390

Email: [ebmalakandregion@gmail.com](mailto:ebmalakandregion@gmail.com)

No. 2328 /E, dated Saidu Sharif the 25 / 02 /2020

To: The Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar

Subject: REVIEW PETITION

Memorandum:

Self explanatory Review Petition submitted by Senior Clerk Muhammad Nawab of this office is submitted herewith for consideration please.

Encls:- ①

Regional Police Officer,  
Malakand Region Swat

*[Handwritten signature]*  
"Salim"

*CIT-c*  
*[Handwritten signature]*

*c*

29  
Annex-C

(30)

BEFORE THE WORTHY PROVINCIAL POLICE OFFICER,  
KHYBER PAKHTUNKHWA, PESHAWAR

Through PROPER CHANNEL

Subject REVIEW PETITION.

Respected Sir,

It is submitted that:-

1. The applicant was compulsorily retired from service vide CPO Peshawar No.2569-74/E-V, dated 21/04/2015.
2. After departmental remedy the applicant approached August Khyber Pakhtunkhwa Service Tribunal and filed service appeal No.887/2015.
3. The August Khyber Pakhtunkhwa Service Tribunal as well as CPO Peshawar re-instated the applicant for the purpose of de-novo enquiry vides CPO Peshawar No.3239-46/E-V, dated 30/05/2016.
4. The appellate authority / the then Regional Police Officer, Malakand Region, Saidu Sharif, Swat vide Endst: No.4295-96/E, dated 04/05/2017 while deciding the de-novo departmental enquiry counted period (21/04/2015 to 03/06/2016 and 29/03/2017 to 04/05/2017) spent out of service as leave without pay and also stopped one annual increments with cumulative effect.
5. The applicant submitted application dated 18/07/2019 through Region Office, Swat Memo: No.7923/E, dated 24/07/2019 for the grant of back benefits, the result of which has not yet been conveyed to the applicant.

Sir,

In the entire periods (21/04/2015 to 03/06/2016 and 29/03/2017 to 04/05/2017) the applicant has neither performed nor worked any private job or service.

*C.P.C*  
*[Signature]*  
Sir,

The applicant is living a rented house, belongs to a very poor family of the area and has no other source of income except the present job. The applicant was no cash money to bear the expenses and approach the competent court to file Service Appeal in time.

It is, therefore, humbly and, graciously requested that the periods from 21/04/2015 to 03/06/2016 and from 29/03/2017 to 04/05/2017) may very kindly be counted as duty and one annual increment stopped vide Region Office, Swat Endst: No.4293-94/E, dated 04/05/2017 may kindly be released on humanitarian grounds for which the applicant alongwith whole family members shall ever pray for long life and obliged.

Yours Obediently,

*[Signature]*  
(Muhammad Nawab)  
SC/Record Keeper  
Region Office, Swat  
Dated 20/02/2020

*cc*  
*Forwarded to*  
*9c 20/2*  
*for reflection*  
*[Signature]*

D

31

①



OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
CENTRAL POLICE OFFICE  
PESHAWAR  
Ph: 091-9210545 Fax: 091-9210927  
Email: OSEstabV@gmail.com

No. 2421-22 /E-V dated Peshawar the, 27/4 /2017

- To: -
1. Mr. Hussain Ali Ex- Senior Clerk,  
resident of Mohallah Masjid Umar Bin Khitab ,  
Gumbat Mera, near Govt: graveyard, Mingora, Swat.
  2. Mr. Muhamad Nawab, Ex-Senior Clerk,  
resident of Mohallah Aqba, Saidu Sharif,  
Swat

Subject: - DEPARTMENTAL APPEAL

Memo: -

Reference your Departmental Appeal dated 04.04.2017 on the subject noted above and as you are telephonically informed on dated 25.04.2017.

In this connection the Competent Authority has directed to inform you to prefer an appeal with Regional Police Officer, Malakand as he is Competent Authority to entertained the 1st appeal. Therefore, the 2nd appeal can be entertained in CPO.

*C.T.C*  
*[Signature]*

*[Signature]*  
(PERVEZ ELAHI)  
Registrar

For Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar

*Recd*  
*10-5-17*





(32)

**OFFICE OF THE INSPECTOR GENERAL OF POLICE,  
KHYBER PAKHTUNKHWA, CPO PESHAWAR**  
Ph: 091-9210545, Fax No: 091-9210927, Email: [OSEstablishment@gmail.com](mailto:OSEstablishment@gmail.com)

No. 2280-87/E-V, dated Peshawar the, 27 10 2020

**ORDER**

This order is hereby passed to dispose of the Review Petition dated 20.02.2020, preferred by Muhammad Nawab Senior Clerk (BPS-14) of RPO Malakand regarding counting of periods from 21.04.2015 to 03.06.2016 & from 29.03.2017 to 04.05.2017 as duty & set aside minor punishment of "**stoppage of one annual increment**" awarded by Regional Police Officer, Malakand vide order No. 4293-94/E, dated 04.05.2017.


Brief facts of the case are that Senior Clerk Muhammad Nawab while posted to License Branch, Swat as Assistant Traffic Clerk with effect from 20.03.2010 to 09.08.2012 was charge sheeted on account of issuing bogus Driving Licenses under the fake signature of Mr. Jehangir Khan, the then DSP/MLA Swat. Therefore, he was compulsorily retired from service vide Order No. 2569/E-V, dated 21.04.2015.

Later-on he approached Service Tribunal KP & the Court accepted his appeal & re-instated him with the direction to conduct fresh Denovo proceeding against the delinquent official.

In compliance of the Judgement of Honorable Court he was re-instated in service. During the course of Denovo proceedings, he was found innocent. He was awarded minor punishment of stoppage of one annual increment and period he remained out of service was treated as leave without pay.

Being found innocent in the Denovo proceedings, his mercy petition is partially accepted & his minor punishment i.e stoppage of one annual increment with cumulative effect is set aside while period in which he remained out of service treated as leave without pay is remained intact.

**Order announced**

  
(DR. ISHTIAQ AHMAD) PSP/PPM  
Additional Inspector General of Police,  
Headquarters, Khyber Pakhtunkhwa,  
Peshawar

**Endst: No. & date even.**

Copy forwarded to the:-

1. COS to Worthy IGP/Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector of Police, HQrs, Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officer, Malakand Region, Swat.
4. AIG/Establishment, KP Peshawar.
5. PA to Additional IGP/HQrs, KP Peshawar.
6. Registrar, CPO Peshawar.
7. Office Supdt: Secret & Incharge Central Registry Cell.
8. All concerned.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**CAMP COURT SWAT**

Service Appeal No. 508/2017

Date of Institution... 23.05.2017  
Date of decision... 29.01.2018

Hussain Ali son of Farzand Ali R/O Gunmbat Maira Mingora Tehsil Babozai,  
District Swat (Ex-Senor Clerk Police Department). (Appellant)

Versus

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and four others.  
... (Respondents)

MR. MUHAMAD JAVAID KHAN,  
Advocate ... For appellant.

MR. MUHAMMAD JAN,  
Deputy District Attorney ... For respondents.

MR. NIAZ MUHAMMAD KHAN,  
MR. GUL ZEB KHAN, ... CHAIRMAN  
... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned  
counsel for the parties heard and record perused.

FACTS

2. The appellant was compulsorily retired on 21.4.2015 by the Inspector  
General of Police, Khyber Pakhtunkhwa, Peshawar. The appellant then filed  
service appeal bearing No. 874/2014 before this Tribunal which was decided on  
03.05.2016. In the said judgment, this Tribunal issued the direction for denovo

proceedings within a period of two months of the receipt of that judgment. The department however, initiated denovo proceedings and then dismissed the appellant on 29.03.2017. Against this order, the appellant filed departmental appeal on 3.4.2017 which was partially accepted on 4.5.2017 and thereafter, he filed the present service appeal on 23.05.2017.

**ARGUMENTS**

3. The learned counsel for the appellant argued that the department failed to conclude the departmental proceedings within given time hence the order of dismissal was illegal. That the department failed to issue fresh charge sheet after denovo proceedings. That in the denovo proceedings, the enquiry officer was appointed who exonerated the appellant on 25.7.2016. Thereafter another enquiry officer was appointed who also not recommended any penalty as per her report of 24.10.2016. That on 28.11.2016, the authority again directed the enquiry officer to conduct the enquiry afresh. That after that final show cause notice was issued to the appellant by the District Police Officer on 06.03.2017 and then the order of dismissal was passed on 29.3.2017. The learned counsel for the appellant further argued that proper procedure was not followed as no charge sheet was issued after the denovo proceedings nor the time given by the Tribunal was honored. That the majority of the proceedings were ordered by the incompetent authority. The learned counsel for the appellant also relied upon the judgment of the Worthy Peshawar High Court in Writ Petition No. 1541-P/2015 decided on 22.09.2016. He also relied upon a judgment reported as 2007-PLC(C.S)959.



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4. On the other hand, the learned Deputy District Attorney argued that in the order of this Tribunal ordering denovo proceedings, the Tribunal did not make it conditional whereas the judgment of the august Supreme Court of Pakistan relied upon by the learned counsel for the appellant was a conditional order. He further argued that there was no need of any fresh charge sheet as the charge sheet was already issued to the appellant in the earlier proceedings. That all the formalities were fulfilled. That the appellate authority had already taken a lenient view.

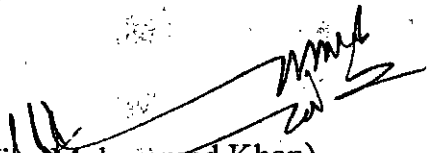
### CONCLUSION

5. This Tribunal is first to decide whether the proceedings were initiated and concluded by a competent authority or not. There is an order of delegation of powers issued by the Inspector General of Police in exercise of the powers under Article 31 of the Police Order, 2002 on 28.12.2015 wherein the powers of competent authority for disciplinary proceedings have been delegated to DPO. But except the final show cause notice and the order of dismissal, the whole proceedings were initiated by the I.G.P despite the above mentioned delegation of powers. This Tribunal is therefore, of the view that the proceedings before the final show cause notice were *coram non judice* and had no legal value. There is also no charge sheet issued to the appellant by any authority whether by the I.G.P or by the DPO. The departmental representative pressed into service a charge sheet issued to the other civil servants who <sup>even</sup> was also involved in the present disciplinary proceedings but the said charge sheet was issued by the AIG. That charge sheet had not been issued by the AIG on behalf of IGP but by AIG himself. It is not understandable that how AIG could issue charge sheet as he was neither

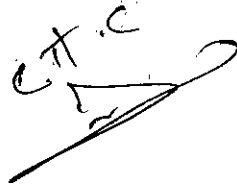
the original appointing authority nor he was delegated any disciplinary powers by the IGP.

6. As a sequel to the above discussion, this Tribunal is of the view that the whole proceedings are illegal. The appellate order to the extent of back benefits etc. is set aside. Back benefits are allowed to the appellant subject to fulfillment of codal formalities regarding gainful employment etc. during the period he remained out of service. The appellant is also allowed seniority for the said period. Parties are left to bear their own costs. File be consigned to the record room.

  
(Gul Zeb Khan)  
Member

  
(Niaz Muhammad Khan)  
Chairman  
Camp Court, Swat

ANNOUNCED  
29.1.2018



بعدالت جناب سرورس ٹریبنول جیٹریٹو خواہ تمام لہشاوری لڑے کیپ کورٹ سوات

منجانب ایپلٹ

2020

مورخہ 7 اگست

محمد لواب بنام حکمہ لوئیس وغیرہ

مقدمہ

Service Appeal

دعویٰ

جرم

## باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنے طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام کیپ کورٹ سوات کے لئے محمد لواب اور دیگر ایڈووکیٹس نے پیٹریٹ کو مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر حالت و فیصلہ برحلف دینے جواب دہیا و اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زر اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف اپیل کی برآمدگی اور منسوخ مذکور کے مکمل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برواختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہوتو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سند رہے

2020

ماہ اگست

المرقوم 17

العبد

گواہ شد

العبد

العبد

گواہ شد

العبد

Attested & Accepted  
لاہیلے منظور ہے

مقام سرورس ٹریبنول جیٹریٹو خواہ تمام لہشاوری لڑے کیپ کورٹ سوات  
Muhammad Tawid Khan  
Advocate Supreme court  
mob 0343 960 7492

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No. 9598/2020**

Muhammad Nawab

..... Appellant

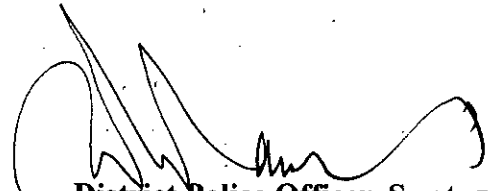
**VERSUS**

Provincial Police Officer, Khyber Pukhtunkhwa, Peshawar & others

..... Respondents

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**District Police Officer, Swat**  
**(Respondent No. 4)**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No. 9598/2020**

Muhammad Nawab

..... Appellant

**VERSUS**

Provincial Police Officer, Khyber Pukhtunkhwa, Peshawar & others

..... Respondents

**PARAWISE REPLY BY RESPONDENTS**

**Respectfully Sheweth,  
Preliminary Objections.**

1. That the appeal is badly barred by Law & limitation.
2. That the appellant has got no Cause of action and locus standi to file the present appeal.
3. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
4. That the appellant has not come to the Tribunal with clean hands.
5. That the instant appeal is not maintainable in its present form.
6. That the appellant has concealed the material facts from this Hon'ble Tribunal.

**FACTS:**

1. Correct to the extent that the appellant was compulsory retired from service for issuing bogus driving licenses under the fake signature of DSP, the then Motor Lice Licensing Authority, Swat and was found responsible for other irregularities in the license branch, Swat.
2. Pertain to record, hence needs no comments.
3. Correct to the extent that in light of Judgment of this honorable Tribunal, the appellant was re-instated into service for the purpose of denovo Enquiry.
4. Correct to the extent that the appellant denovo departmental enquiry was conducted in compliance of this honorable Tribunal against the appellant, however after conducting denovo departmental enquiry, the allegations leveled against the appellant were proved beyond any shadow of doubt, hence he was dismissed from service on the recommendation of Enquiry Officer finding report vide OB No.55 dated 29/03/2017.
5. Departmental appeal of the appellant was thoroughly examined by the competent authority wherein his punishment of dismissal from service was modified and converted into stoppage of one annual increment with cumulative effect and the period spent out of service was treated as leave without pay.
6. Correct to the extent that the review petition of the appellant was partially accepted, wherein his one annual increment was restored, while the period spent out of service treated as leave without pay was remained intact.
7. The appellant has wrongly invoked the jurisdiction of this honorable tribunal through unsound grounds.



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**

**Service Appeal No. 9598/2020**

Muhammad Nawab

..... Appellant


**VERSUS**

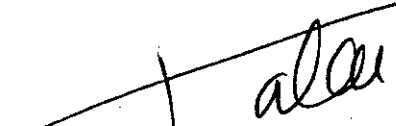
Provincial Police Officer, Khyber Pukhtunkhwa, Peshawar & others


..... Respondents

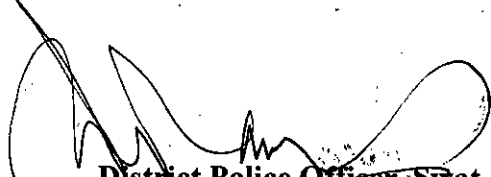
**AFFIDAVIT**

We, the above respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/true to the best of our knowledge/ belief and nothing has been kept secret from the honorable Tribunal.

  
Provincial Police Officer  
Khyber Pakhtunkhwa Peshawar  
(Respondents No.1)

  
Addl. Inspector General of Police HQrs:  
Khyber Pukhtunkhwa Peshawar:  
(Respondents No.2)

  
Regional Police Officer  
Malakand Region  
Regional Police Officer,  
(Respondents No.3),  
Malakand Region,  
Saidu Sharif, Swat.

  
District Police Officer, Swat  
(Respondents No.4)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**

**Service Appeal No. 9598/2020**

Muhammad Nawab

..... Appellant

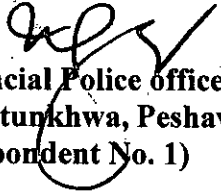
**VERSUS**

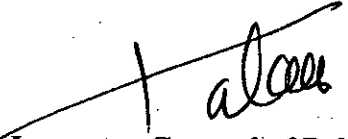
Provincial Police Officer, Khyber Pukhtunkhwa, Peshawar & others


..... Respondents.

**AUTHORITY LETTER**

We, the above respondents do hereby authorize Mr. Naeem Hussain DSP/Legal Swat to appear before the Tribunal on our behalf and submit reply etc in connection with titled Service Appeal.

  
Provincial Police officer,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 1)

  
Addl: Inspector General of Police HQrs:  
Khyber Pukhtunkhwa Peshawar  
(Respondent No. 2)

  
Regional Police Officer  
Malakand Region  
Regional Police Officer,  
Malakand Region,  
Saidu Sharif.

  
District Police Officer Swat  
(Respondent No. 4)



**SERVICE TRIBUNAL, PESHAWAR**

No. 2254 /ST

Dated: 15/11 /2021

addressed to the Registrar Khyber Pakhtunkhwa  
Tribunal and not any official by name.

Ph:- 091-9212281  
Fax:- 091-9213262

To

The District Police Officer,  
Government of Khyber Pakhtunkhwa,  
Swat.

Subject: JUDGMENT IN APPEAL NO. 9598/2020, MR. MUHAMMAD NAWAB.

I am directed to forward herewith a certified copy of Judgement dated 01.11.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR

KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR

1

**JUDGMENT SHEET**

**PESHAWAR HIGH COURT, MINGORA  
BENCH (DAR-UL-QAZA), SWAT  
(Judicial Department)**

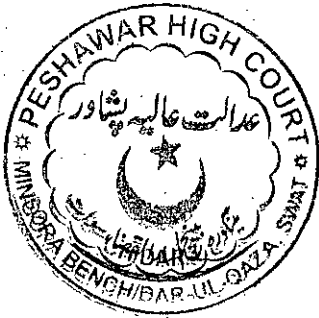
**W.P. No.374-M/2020**

**JUDGMENT**

Date of hearing: **09.12.2020**

**Petitioner:- (Shafi Ullah Khan) by Muhammad  
Javaid Khan, Advocate.**

**Respondents: - (Provincial Police Officer  
Peshawar & others) by Mr.Raza-ud-Din Khan,  
A.A.G.**



**WIOAR AHMAD, J.-** This order is directed to dispose of the petition filed by petitioner under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973.

2. Petitioner has contended in his writ petition that he had been appointed as constable in Police Department Government of Khyber Pakhtunkhwa on 16.04.2004. Later on, petitioner was absorbed as Constable cum computer operator vide OBN No. 32 dated 11.01.2011. He had further contended in his petition that an FIR No. 41 dated 12.01.2018 was registered against petitioner under sections 419,420,468,471, 167 PPC at Police Station Dir and Mr. Sakhi Bakht Khan, SDPO Kohistan was appointed as Inquiry Officer, who had conducted the inquiry and submitted his report

**ATTESTED**

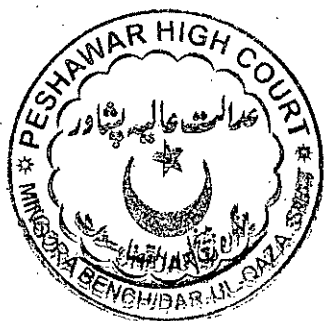
**Examiner**

**Peshawar High Court Bench  
Mingora Dar-ul-Qaza, Swat.**

on 14.03.2018. Thereafter, respondent No. 3 had passed dismissal order of the petitioner vide OB No. 671 dated 14.11.2018. Petitioner had also filed a service appeal No. 1510 of 2018 before the Khyber Pakhtunkhwa Service Tribunal Peshawar. Petitioner was later on acquitted by learned Judicial Magistrate-II Dir Upper vide his order dated 20.09.2019. It was further contended in the petition that services of the petitioner were later on reinstated by Khyber Pakhtunkhwa Service Tribunal vide judgment dated 04.11.2019 with the direction to respondents to conduct a fresh inquiry in the matter in light of the Police Rules, 1975 within a period of 90 days, but respondents failed to conclude the inquiry within the stipulated period of 90 days. Respondents were approached time and again by the petitioner for redressal of his grievance but to no avail. Feeling aggrieved from said act of respondents, petitioner has approached this Court by filing the instant constitutional petition with the following prayer;

*“ It is therefore humbly prayed that on acceptance of this writ petition a writ may be issued to the Respondents to refrain from further enquiry against the petitioner in light of the law laid down by this Honorable Court in different judgments.*

*Any other remedy coupled with costs, which is efficacious and appropriate, in peculiar*



**ATTESTED**

Examiner  
Peshawar High Court Bench  
Mingora Dar-ul-Qaza, Swat.

circumstances, of the case, may please be graciously granted, though not specifically prayed for."

3. We have heard arguments of learned counsel for petitioner and perused the record.

4. Perusal of record reveals that no advance order has yet been passed against the petitioner. The instant writ petition is premature, and has mainly been arising out of apprehensions of the petitioner, same is therefore not maintainable. As and when fresh inquiry is taken against the petitioner and any penalty is imposed, petitioner would be at liberty to challenge the same before the appropriate forum, wherein all the objections raised in the instant writ petition, shall be available to the petitioner and he may raise all these objections before the appropriate forum. Dismissal of the instant writ petition shall not prejudice the petitioner, in any manner. The petition in hand is disposed of accordingly.

**ANNOUNCED**

Dt: 09.12.2020

No. 14  
 Name of Applicant Muhammad Ishaq  
 Date of Presentation of Applicant 03-11-2021  
 Date of Completion of Copies 03-11-2021  
 No of Copies 03  
 Urgent Fee 12/-  
 Fee Charged 12/-  
 Date of Delivery of Copies 03-11-2021

Certified to be true copy

Muhammad Ishaq  
03-11-2021  
 EXAMINER  
 Peshawar High Court, Mingora/Dar-ul-Qaza, Swat  
 Authorized Under Article 87 of Qanoon-e-Shahadat Order 1984

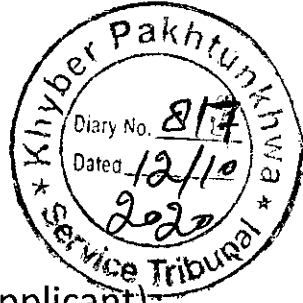
JUDGE

JUDGE

Nawab (D.B.) Hon'ble Mr. Justice Ishtiaq Ibrahim  
 Hon'ble Mr. Justice Wiqar Ahmad

Office  
 22/01/2024

**BEFORE THE HONORABLE CHAIRMAN, SERVICE TRIBUNAL,**  
**KHYBER PAKHTOON KHWA, PESHAWAR**



*Put up to the court  
without appeal*

**SA NO.9598/2020**

Muhammad Nawab  
Senior Clerk, DPO office, Swat.....(Applicant)

*12/10/2020*

**VERSUS**

Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar  
and others.....(Respondents)

Subject **APPLICATION FOR FIXING OF SERVICE APPEAL AT CAMP COURT,**  
**SWAT FOR HEARING**

Respectfully sheweth:-

It is submitted: -

1. That the applicant filed the above mentioned Appeal before this honorable Tribunal for Hearing at Camp Court, Swat.
2. That due to clerical mistake and erroneously the mentioned appeal was fixed before this honorable Tribunal on 05/11/2020 and next date 06/12/2020 has been fixed for hearing in this regard.
3. That due to situating on a par flung distance the applicant due to poverty is unable to bear expenses in the meager pay.

It is, therefore, requested that on acceptance of this application an order prayed for may very kindly be passed for fixing the above mentioned Service Appeal at Camp Court, Swat for next date please.

*Required notices  
have been served for  
10/12/2020, therefore let  
the matter remain let  
the date already fixed.  
The stance of appellant may be  
considered by the bench hearing  
appell.*

*5/11/20*

Appellant  
  
(Muhammad Nawab)  
Senior Clerk,  
DPO Office, Swat  
C # 0300-9073599 Dated  
12/10/2020