

04.06.2021

Counsel for the appellant present. Preliminary arguments heard.

COPN

Points raised need consideration. The appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 13.10.2021 before the D.B.

Appellant Deposited
Security & Process Fee

11/6/2021



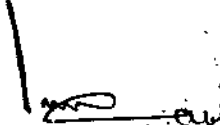

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 4807 /2021


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	06/04/2021	<p>The appeal of Mr. Majid Hussain presented today by Mr. Salman Farooq 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-	27/05/2021	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>04/06/2021</u></p> <p style="text-align: right;"> CHAIRMAN</p>


30.09.2022

Junior to counsel for appellant present.

Riaz Khan Painakhel, learned Assistant Advocate General
for respondents present.

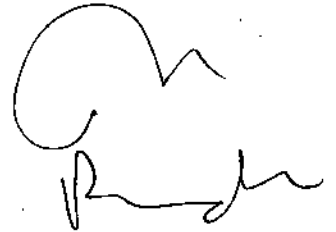
Former made a request for adjournment as senior counsel is
not available today. Adjourned. To come up for arguments on
24.11.2022 before D.B.


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

24/11/22

Due to deletion of the
case to come up for the same
on 31/1/23



29.04.2022

Appellant in person present. Mr. Kabirullah Khattak,
Additional Advocate General for respondents present.

Written reply/comments have already been submitted
through office which are placed on file. Copy of the same is handed
over to the appellant. Adjourned. To come up for rejoinder as well
as arguments before the D.B on 21.06.2022.



(Mian Muhammad)
Member(E)



(Salah Ud Din)
Member(J)

21.06.2022

Appellant alongwith his counsel present. Mr. Gohar
Rehman Durrani, Legal Advisor and Mr. Naseer-ud-Din Shah,
Assistant Advocate General for the respondents present.

Learned counsel for the appellant stated at the bar that he
does not want to submit any rejoinder.

Legal Advisor for respondents requested for adjournment
on the ground that he was under the impression that the appeal
in hand is fixed for only submission of rejoinder, therefore, he
has not made preparation for arguments. Adjourned. To come
up for arguments on 12.08.2022 before the D.B.




(Fareeha Paul)
Member (E)



(Salah-ud-Din)
Member (J)

12-8-2022

Proper DB not available the case is
adjourned to 30-9-2022



Reader

12.07.2021

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



Chairman

Stipulated period passed reply not submitted.

13.10.2021

Counsel for the appellant present.

Mr. Riaz Khan Paindakheil, Assistant Advocate General and Mr. Gohar Rehman Khattak, Advocate for respondents present and requested for time for submission reply/comments; granted with direction to submit reply/comments within 10 days positively in office. To come up for arguments on 11.01.2022 before D.B.



(Atiq-Ur-Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

10.01.2022

Appellant in person present. Mr. Kabirullah Khattak, Addl. AG alongwith Mr. Zeeshan Inspector for respondent No. 2 present and submitted reply/comments which is placed on file.

Reply/comments on behalf of respondent No. 1 is still awaited. Learned Additional Advocate General sought time for submission of reply/comments. Last opportunity is granted to respondent to furnish reply/comments on or before next date, failing which their right to submit reply/comments shall be deemed as struck off by virtue of this order. To come up for arguments before the D.B on 29.04.2022.


(Atiq-Ur-Rehman Wazir) -
Member (E)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

Service Appeal No 4807 /2021

Majid Hussain

Versus

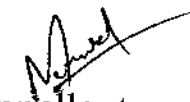
Secretary to Govt. and
Others

INDEX

S#	Description of the Documents	Annex	Pages
1.	<i>Memo of Appeal</i>	*	1-3
2.	<i>Appointment letter</i>	A	4
3.	<i>Copy of allegation & Charge sheet and reply</i>	B, B1 & B2	5-7
4.	<i>Copy of the impugned order of respondent No.2</i>	C	8-9
5.	<i>Copy of the impugned order dated 10.03.2021</i>	D	10-12
6.	<i>Wakalat Nama</i>	*	13

Dated:-06/04/2021

Through


Appellant
Majid Hussain


Salman Farooq
Advocate High Court

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

Service Appeal No _____/2021

Mr. Majid Hussain Assistant Sub-Inspector Excise
taxation and Narcotics Control Peshawar
..... Appellant

Versus

- 1. Secretary to Government of Khyber Pakhtunkhwa
Excise taxation and Narcotics Control Department
Peshawar
- 2. Director General Excise taxation and Narcotics Control
Khyber Pakhtunkhwa, Peshawar.
..... Respondents

**APPEAL AGAINST THE ORDER DATED 10.03.2021 OF THE
RESPONDENT NO. 2**

Prayer: -

That the impugned orders dated 10.03.2021 may be
set aside and declared as null and void.

Respectfully Sheweth:-

- 1. That appellant was appointed as Assistant Sub-inspector
vide appointment order dated 12.03.2012.

Copy of Appointment letter is attaches as Annexure-A

- 2. That appellant served the respondents for eight years to the
entire satisfaction of his superior officers and there is not
even a single complaint against the appellant. No
explanation has ever been called from appellant.
- 3. That the appellant has been served a charge sheet on
06.08.2020 by inquiry officer with the allegation that the

appellant was changed the tires of HINO Truck alone in front of provincial excise warehouse Peshawar which was duly replied by the appellant.

Copy of the charge sheet and reply are attached as Annexure-B & B1

4. That the appellant has been charged for the fake allegation leveled upon him and without considering facts and circumstances respondent No. 2 charged/awarded penalty of withholding of two increments.

Copy of the order dated 19.10.2020 is attached as Annexure-C

5. That the appellant submitted appeal for review of the orders to respondent No 1, who modified orders and awarded minor penalty of withholding of one increment.

Copy of the order dated 10.03.2021 is attached as Annexure-D

6. That the appellant now approaches this Honorable Tribunal for relief as requested above on the following grounds: -

Grounds: -

- A. That the respondent No. 1 without considering the facts and circumstances which was explained by the Appellant to the committee, awarded penalty to the appellant which is illegal, false and have no legal effect.
- B. That the respondent No 1 awarded the impugned penalty on the basis of illegally framed charge sheet, statement of allegation and enquiry committee.
- C. That moreover the respondent No 1 did not grant opportunity of personal hearing to the appellant.

- D. That no opportunity of cross-examination was granted by the enquiry committee to cross-examine the witness of the occurrence.
- E. That the appellant reserve his right to rely on additional grounds at the time of final hearing.

It is, therefore, requested that the order dated 10.03.2021 my please be set aside as prayed above.

Dated:-06/04/2021

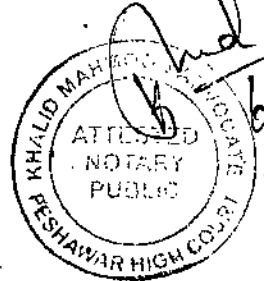
Through

Majid
Appellant
Majid Hussain

Salman Farooq
Salman Farooq
Advocate High Court

AFFIDAVIT:-

It is, stated on oath that the contents of the accompanying **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.



Majid
DEPONENT

Annex - A



DIRECTORATE OF EXCISE & TAXATION,
KHYBER PAKHTUNKHWA, PESHAWAR

Peshawar, dated the 12/03/2012

7263 (Estb/XXXV-D-70). Consequent upon the recommendation of Departmental Selection Committee, Mr. Majid Hussain S/o. Fkda Hussain R/o. Amin Colony Landi Arbab, Peshawar is hereby appointed as Assistant Sub-Inspector in DPs-7 viz: (Rs.5000-320-15400) on temporary basis, with special allowances as admissible under the rules, with immediate effect, on the terms and conditions mentioned below:-

- i) He will for all intents and purposes, be Civil Servant except for purpose of pension or gratuity. In lieu of gratuity and pension, he will be entitled to receive such amount contributed by him towards Contributory Provident Fund (C.P.F) along with the contributions made by Govt. to his account in the said fund, in the prescribed manner.
- ii) He will be governed by the Khyber Pakhtunkhwa, Civil Servants Act, 1973, all the laws applicable to the Civil Servants and Rules made there-under.
- iii) He will, initially, be on probation for a period of two years extendable for a further period upto one year.
- iv) His services will be liable to termination at any time without assigning any reason thereof before the expiry of the period of probation, if his work during this period is not found satisfactory. In such an event, he will be given a month's notice of termination from service or one month's pay in lieu thereof. In case he wishes to resign at any time, a month's notice shall be necessary or in lieu thereof a month's pay shall be forfeited.
- v) His services shall be liable to termination if his testimonials i.e. academic certificates etc are found fake, fabricated/bogus upon verification from issuing/concerned authorities at any stage and further necessary action shall be taken under the rules.
- vi) He will produce medical fitness certificate from the Medical Superintendent, Police & Services Hospital, Peshawar, as required under the rules.
- vii) He shall successfully undergo physical training for the period and academy specified by the department during his probation.

2. If the above terms and conditions of appointment are acceptable to him, he should report for duty to the Office of the Excise & Taxation Officer-IV, Peshawar within 14 days against the newly created post, otherwise his appointment will stand as withdrawn.

[Signature]
DEPUTY DIRECTOR (ADMN.),
EXCISE & TAXATION,
KHYBER PAKHTUNKHWA,
PESHAWAR.

No. 9264-70 (Estb/XXXV-D-70).
Copy forwarded to:

- 1- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- Director General, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar.
- 3- PS to Minister Excise & Taxation, Khyber Pakhtunkhwa, Peshawar.
- 4- PS to Secretary, Excise & Taxation Department, Khyber Pakhtunkhwa Peshawar
- 5- Excise & Taxation Officer-IV, Peshawar.
- 6- District Accounts Officer, Peshawar.
- 7- Mr. Majid Hussain S/o. Fkda Hussain R/o. Amin Colony Landi Arbab, Peshawar.


[Signature]
DEPUTY DIRECTOR (ADMN.),
EXCISE & TAXATION,
KHYBER PAKHTUNKHWA,
PESHAWAR.

No. 1305 / P.FileDated:- 06-08-2020**DISCIPLINARY ACTION**

I, Syed Fayyaz Ali Shah, Director General, Excise, Taxation & Narcotics Control, Khyber Pakhtunkhwa, Peshawar, as competent authority, am of the opinion that Mr. Majid Khan, Assistant Sub-Inspector, Excise Police Station, Peshawar has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- a. That he while posted in Excise Police Station Peshawar reportedly replaced the tyres of one Hino Truck parked near the main gate of the Excise Police Station at 11:30 PM on 01.08.2020 as reported by the Line Officer, Provincial Excise Warehouse, Peshawar in his report dated. 03.08.2020.
2. For the purpose of inquiry against the said accused with reference to the above allegation, Mr. Ishfaq / Ishaq Dir (Admin) is nominated as Inquiry Officer under rule 10(1)(a) of the ibid rules.
3. The Inquiry Officer shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record his findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer.


COMPETENT AUTHORITY

Amun - B 1

No. 1304 / Estab/P.File,

Dated. 06-08-2020

CHARGE SHEET

I, Syed Fayaz Ali Shah, Director General, Excise and Taxation, Khyber Pakhtunkhwa, Peshawar, as competent authority, hereby charge you, Mr. Majid Khan, Assistant Sub-Inspector as follows:-

- a. That you while posted in Excise Police Station Peshawar reportedly replaced the tyres of one Hino Truck parked near the main gate of the Excise Police Station at 11:30 PM on 01.08.2020 as reported by the Line Officer, Provincial Excise Warehouse, Peshawar in his report dated. 03.08.2020.
2. By reason of the above, you appear to be guilty of theft and misconduct under rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule 4 of the rules ibid..
3. You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the inquiry officer.
4. Your written defense, if any, should reach the inquiry officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.
5. Intimate whether you desire to be heard in person.
6. A statement of allegations is enclosed.

Law
6-8-2020
COMPETENT AUTHORITY

To
The Director (Admin)
Excise, Taxation & Narcotics Control.
Khyber Pakhtunkhwa.

Subject. REPLY TO INQUIRY OF INCIDENT HELD IN THE PROVINCIAL
EXCISE WAREHOUSE.

R/Sir,

It is submitted that I Mr. Majid Hussain, working in the department as Assistant Sub-Inspector since 2012. Sir, I have been posted and performed duties in different district offices. I belong to a very noble and respectable family. Sir, recently I have been posted as ASI in the newly established Excise Police Station, Peshawar, and made a good progress in seizure of Narcotics and other contrabands. my progress report is attached as ready reference please.

Sir, a report has been submitted by the Line Officer, Provincial Excise Warehouse, Peshawar, in which a baseless allegation of replacing tyres of Hine Truck has been leveled against me while I have been performing duties in the Excise Police Station on 01-08-2020 for round the clock (on the first day of Eid ul Azha). It is a very impossible process for a single man to take out ten tyres out of a truck in a short time and in the presence of vigilant staff of Excise Warehouse. Opening ten tyres from a truck then loading new tyres, this process requires at least a day, and this will also create huge noise on the part of replacing them. This is not possible without at least ten men to work on same time.

Here it is worth mentioning that while performing night duty in Excise Police Station, two of my relatives brought dinner around at 08:00 pm for me to the Police Station which may be evident from the CCTV footage of the Excise Warehouse. They spent some time with me and then left, at about 1200 Hrs, I also closed the duty of the Police Station and left the jurisdiction in my official vehicle. Which may also be inquired from the staff.

Sir, it is submitted that I have no concern with the said matter and this is a baseless allegation against me. It is a very laborious and tough job on the part of a single person. It is also a hard and heavy work and requires skillful persons for exchanging ten tyres. Being a baseless and false allegation against me without any proof that I am not involved in this.

Sir, the Line Officer has just submitted a report of the replacement to withdraw the attention of Higher Authorities regarding his inefficiency and irresponsible behavior.

g/h
12/08/2020
(MAJID HUSSAIN)
ASI

To

The Director General,
Excise, Taxation and Narcotics Control,
Khyber Pakhtunkhwa.


Subject:- **APPEAL FOR GRANT OF PARDON**

Sir,

With due regard, It is requested that the undersigned has been punished with withholding two annual increments for 2020 and 2021 and barring from performing duties in Excise Police Stations and field operation vide order No. 4426 dated 19-10-2020. (Photocopy attached)

In view of the above, the undersigned requests your good honour to reconsider his punishment and pardon him on humanitarian basis so that he may perform his duties wholeheartedly.

Thanking in anticipation.

 02/11/2022
Yours Obediently,
Majid Hussain
Assistant Sub-Inspector



**DIRECTORATE GENERAL
EXCISE, TAXATION & NARCOTICS CONTROL
KHYBER PAKHTUNKHWA, PESHAWAR.**

Auqaf Complex, Shami Road, Peshawar.
Phone: 091-9212266

ORDER

Dated Peshawar the 19/10/2020

No. 4426 / Estb/P.File. Whereas, Mr. Majid Hussain, Assistant Sub-Inspector, Excise Police Station, Peshawar was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for replacing tyres of a Hino Truck parked in front of the Excise Police Station Peshawar and whereas consequent upon the conclusion of the inquiry proceedings followed by personal hearing of the official, the undersigned as Competent Authority has decided as follows:-

- (a) His two (02) annual increment for the year 2020 and 2021 are withheld for a period of two years, and
- (b) He is barred from the Excise Police Stations and field operations for a period of one (01) year.

Furthermore, he is posted in Office of the Excise and Taxation Officer-I, Peshawar with immediate effect in the best Public Interest.

[Signature]
DIRECTOR GENERAL,
EXCISE, TAXATION & NARCOTICS CONTROL,
KHYBER PAKHTUNKHWA, PESHAWAR.

4427-35

No. / Estb/P.File.

Copy forwarded for information and further necessary action to:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Officer Incharge Provincial Excise Warehouse, Peshawar.
3. Deputy Director, Audit and Accounts, Directorate General, Excise, Taxation and Narcotics Control, Khyber Pakhtunkhwa, Peshawar.
4. Excise and Taxation Officer-II, Peshawar.
5. Superintendent-I, Excise, Taxation & Narcotics Control Khyber Pakhtunkhwa, Peshawar.
6. Station House Officer, Excise Police Station, Peshawar.
7. Line Officer, Provincial Excise Warehouse, Peshawar.
8. Mr. Majid Hussain, Assistant Sub-Inspector.
9. Office copy.

[Signature]
DIRECTOR GENERAL,
EXCISE, TAXATION & NARCOTICS CONTROL,
KHYBER PAKHTUNKHWA, PESHAWAR.

19.10.20

To,

The Secretary to Govt. of Khyber Pakhtunkhwa,
Excise, Taxation & Narcotics Control, Peshawar.

[Handwritten Signature]
04.11.2020

Subject: APPEAL FOR GRANT OF PARDON.

Dear Sir,

With due respect it is requested that the undersigned has been punished with holding two annual increments for the year 2020 and 2021 and barring from performing duties in the Excise Police Station and field operations vide order No. 4426 dated 19.10.2020 (copy enclosed).

It is further submitted that the undersigned was falsely implicated in the matter and not only I faced the shameful repercussions in family and the department, but also punishment is harsh.

In view of the above, the undersigned requests your good honor to be consider his punishment and pardon him on humanitarian basis so that he may perform his duties wholeheartedly.

Thanking you anticipation please.

Yours faithfully,

[Handwritten Signature]
(Majid Hussain)
Assistant Sub-Inspector

Dated: _____

**GOVERNMENT OF KHYBER PAKHTUNKHWA
EXCISE, TAXATION & NARCOTICS CONTROL DEPARTMENT**



Dated Peshawar the March 10, 2021

ORDER

NO. SO(Admn)E&T/1-20/2020:-/ Mr. Majid Hussain, Assistant Sub Inspector, O/o Excise Police Station, Peshawar submitted an appeal to Secretary (Appellate Authority), against the minor penalty of withholding of "his two (02) annual increments for the year 2020 and 2021 and that he was barred from the duty at the Excise Police Stations and field operations for a period of one (01) year" imposed upon him by the Director General, Excise, Taxation & Narcotics Control on account of replacement of the tyres of one Hino Truck parked at Warehouse near the main gate of the Excise Police Station, Peshawar through some private persons brought by him alongwith jack and old tyres in a pickup vehicle on 01-08-2020 at 11:30 PM. The appeal was sent to Director General, Excise, Taxation & Narcotics Control for a detailed report.

2. The Director General, Excise, Taxation & Narcotics Control submitted a report intimating that an inquiry was conducted by Mr. Ishtiaq Khan, Director (Admn) ET&NC, wherein the official was provided opportunity to rebut the charges levied against him but he failed to do so. The Inquiry Officer found him guilty of misconduct and disciplinary action was recommended against him

3. In the light of recommendation of Inquiry Officer, his two (02) annual increments for the year 2020 and 2021 were withheld for a period of two years and he was barred from the duty at the Excise Police Stations and field operations for a period of one (01) year.

4. In light of Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011, Sub Rule-17 Departmental appeal & review provides that: -

(1) An accused who has been awarded any penalty under these rules may, within thirty days from the date of communication of the order, prefer departmental appeal to the appellate authority:

Provided that where the order has been passed by the Chief Minister, the accused may, within the aforesaid period, submit a review petition directly to the Chief Minister.

(2) The authority empowered under sub-rule (1) shall call for the record of the case and comments on the points raised in the appeal from the concerned department or office, and on consideration of the appeal or the review petition, as the case may be, by an order in writing-

(a) Uphold the order of penalty and reject the appeal or review petition; or

(b) Set aside the orders and exonerate the accused; or

(c) Modify the orders or reduce the penalty.

(3) An appeal or review petition preferred under these rules shall be made in the form of a petition, in writing, and shall set forth concisely the grounds of objection in impugned order in a proper and temperate language.

P.T.O

5. In view of the above the appellate authority (**Secretary, ET&NC**) has given an opportunity of personal hearing to the above named official vide dated 24.01.2021 at 02:00 PM

6. Keeping the above facts & discussion in view, the undersigned under Heading "Action by the appellate authority" Rule I(c) of the Government of Khyber Pakhtunkhwa, Appeal Rules 1986, hereby, in the face of these mitigating factors, convert the minor penalty i.e. deduction of (02) annual increments for the year 2020 and 2021 into only one annual increment i.e 2020.

Yours faithfully,

Sd/-
**Secretary to Govt: of Khyber Pakhtunkhwa,
 Excise, Taxation & Narcotics Control Department
 (Appellate Authority)**

Endst: NO. SO(Admn)E&T/1-20/2020 / 1177-80




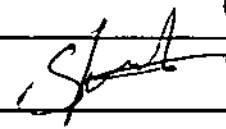
Dated 10.03.2021

Copy is forwarded for information and further necessary action to the: -

- 1) Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2) Director General, Excise, Taxation & Narcotics Control Department.
- 3) P.S to Secretary Excise, Taxation & Narcotics Control Department.
- 4) Official Concerned.



(BARKAT KHAN),
 Section Officer (Admn)
 Excise, Taxation & Narcotics Control Department

50 روپے	80952			
ایڈویکٹ: 		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل ایسوسی ایشن نمبر: 8c-17-7665		رابطہ نمبر: 0336-0740003		

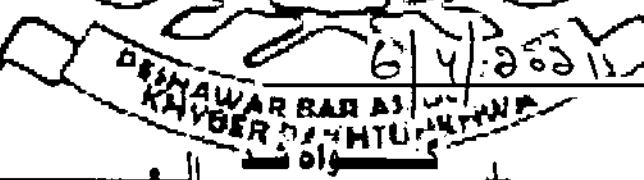
بعدالت جناب: خیبر پختونخواہ سروسز کمیشن

مخاطب: Appellant	دعویٰ: Service Appeal
ما جرنل حسین بنام سکریٹری سروسز کمیشن و ملزموں	علت نمبر:
	موزنہ: 6/4/2021
	جرم:
	تھانہ:

باعت تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ

آن مقام مشارکہ کیلئے مصلحان وارثین کو وکیل 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 کرانے و تقررات و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرانے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داخست منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المقام: 6/4/2021

 العبد العبد

مقام پشاور کے لیے منظور ہے۔

"B"

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

S.B

No.

Appeal No. 4807 of 20 21

Mr. Majid Hussain Appellant/Petitioner

Versus

Secy to Govt. Excise KPK Peshawar. Respondent

Respondent No. 1

Notice to:

Secretary to Govt. of KPK Excise
Taxation and Narcotics control Deptt.
Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 13/10/2021 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this~~

office Notice No. dated

Given under my hand and the seal of this Court, at Peshawar this 16th

Day of June 20 21

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1 The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2 Always quote Case No. While making any correspondence.

"B"

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

S.B

No.

Appeal No. 4807 of 20 21

Mr. Majid Hussain Appellant/Petitioner

Versus

Secy to Govt KPK Excise Peshawar Respondent

Respondent No. 2

Notice to:

Director General Excise Taxation and Narcotics Control Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 13/10/2021 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. dated

Given under my hand and the seal of this Court, at Peshawar this 14/10/21

Day of June 20 21

[Signature]
23/6/21

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note 1 The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2 Always quote Case No. While making any correspondence.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 4807/2021

Majid Hussain, Assistant Sub Inspector, Excise, Taxation & Narcotics Control
Department Peshawar

(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Excise, Taxation &
Narcotics Control & Others

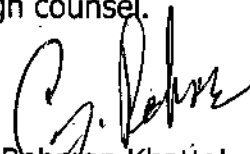
(Respondents)

INDEX

S.No	Description of documents	Annexure	Pages
01	Para wise Reply		
02	Affidavit		

The Respondents

Through counsel.



Gohar Rehman Khattak Advocate
Legal Advisor
Excise, Taxation & Narcotics Control
Department
Khyber Pakhtunkhwa

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

Service Appeal No. 4807/2021

Majid Hussain, Assistant Sub Inspector, Excise Taxation and Narcotics Control
Peshawar

.....Appellant.

Versus

1. Secretary to Government of Khyber Pakhtunkhwa Excise, Taxation & Narcotics Control Department Peshawar.
2. Director General Excise & Taxation Department Peshawar.

.....Respondents.

**COMMENTS ON BEHALF OF THE RESPONDENTS REGARDING APPEAL
AGAINST THE ORDER DATED 10.03.2021 OF THE RESPONDENT NO. 2.**

Most respectfully Para-wise comments on behalf of the respondent are submitted as follows:-

BREIF FACTS

1. Correct.
2. Incorrect. The service record of the official contain complaints from Excise and Taxation Officer-III, Peshawar regarding negligence, flouting office decorum/ discipline, unprofessional attitude, non-compliance of orders etc (**copy attached as Annex-I**). Besides a complaint from resident of KDA also exist complaining his corruption (**copy attached as Annex-II**).
3. Correct.
4. Incorrect. The allegations levelled against him were proved by the inquiry officer and penalty was awarded as per the Khyber Pakhtunkhwa, Efficiency & Discipline rule; 2011.
5. Correct.
6. Incorrect. The appeal to this service tribunal is liable to be dismissed on the following grounds; -


GROUND

- a) The Appellant has been treated in accordance with the Law rather the penalty was very lenient.
- b) The charge sheet and statement of allegation were duly framed and he deserved severe penalty.

- c) Incorrect. He was provided the opportunity of personal hearing but he could not clarify his position.
- d) He was cross examined on a number of occasions and all the witnesses directly testified against him.
- e) The appellant is invited to bring any additional ground and the same will be responded accordingly.

As all have been done in accordance with the E&D rules, 2011. Therefore, further litigation in this matter is not going to lead to any fruitful results as such the petition is infructuous and liable to be dismissed.

In view of the above facts, it is requested that the instant appeal being meritless may be dismissed.


**DIRECTOR GENERAL,
EXCISE, TAXATION & NARCOTICS CONTROL,
KHYBER PAKHTUNKHWA.**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 4807/2021

Majid Hussain, Assistant Sub Inspector, Excise, Taxation & Narcotics Control
Department Peshawar

(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Excise, Taxation &
Narcotics Control & Others

(Respondents)

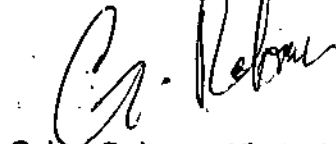
AFFIDAVIT

I, **Tariq Ahmad**, Superintendent Establishment O/o Director
General Excise, Taxation & Narcotics Control Department Khyber Pakhtunkhwa, do
hereby solemnly affirm and verify on oath that the contents of accompanying "**Para
wise Reply**" are true and correct to the best of my knowledge and belief, and nothing
has been kept concealed or misstated.


THE DEPONENT.

CNIC # 17301-1499925-3

Identified by:



Gohar Rehman Khattak Advocate
Legal Advisor
Excise, Taxation & Narcotics Control Department
Khyber Pakhtunkhwa



**DIRECTORATE GENERAL, EXCISE, TAXATION &
NARCOTICS CONTROL DEPARTMENT
KHYBER PAKHTUNKHWA**

*Auqaf Complex, Shami Road, Peshawar Cantt. Phone Nos. 091-9212260-9223158
Email Address. Arshadi1963.excise@gmail.com*

AUTHORITY LETTER

Mr. Tariq Ahmad, Superintendent Establishment Excise, Taxation & Narcotics Control Department Khyber Pakhtunkhwa is hereby authorized to submit the Para wise reply in Khyber Pakhtunkhwa Service Tribunal Peshawar in case titled (S.A No 4807/2021 Majid Hussain ASI E&T Department Peshawar VS Govt of Khyber Pakhtunkhwa Excise, Taxation & Narcotics Control Department & Others) on behalf of Respondent.


**Director General
Excise, Taxation & Narcotics
Control Khyber Pakhtunkhwa**

**GOVERNMENT OF KHYBER PAKHTUNKHWA
EXCISE, TAXATION & NARCOTICS CONTROL DEPARTMENT**



Dated Peshawar the March 10, 2021

ORDER

NO. SO(Admn)E&T/1-20/2020:-/117250 Mr. Majid Hussain, Assistant Sub Inspector, O/o Excise Police Station, Peshawar submitted an appeal to Secretary (Appellate Authority), against the minor penalty of withholding of his two (02) annual increments for the year 2020 and 2021 and that he was barred from the duty at the Excise Police Stations and field operations for a period of one (01) year imposed upon him by the Director General, Excise, Taxation & Narcotics Control on account of replacement of the tyres of one Hino Truck parked at Warehouse near the main gate of the Excise Police Station, Peshawar through some private persons brought by him alongwith jack and old tyres in a pickup vehicle on 01-08-2020 at 11:30 PM. The appeal was sent to Director General, Excise, Taxation & Narcotics Control for a detailed report.

2. The Director General, Excise, Taxation & Narcotics Control submitted a report intimating that an inquiry was conducted by Mr. Ishtiaq Khan, Director (Admn) ET&NC, wherein the official was provided opportunity to rebut the charges levied against him but he failed to do so. The Inquiry Officer found him guilty of misconduct and disciplinary action was recommended against him

3. In the light of recommendation of Inquiry Officer, his two (02) annual increments for the year 2020 and 2021 were withheld for a period of two years and he was barred from the duty at the Excise Police Stations and field operations for a period of one (01) year.

4. In light of Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011, Sub Rule-17. Departmental appeal & review provides that: -

(1) An accused who has been awarded any penalty under these rules may, within thirty days from the date of communication of the order, prefer departmental appeal to the appellate authority: Provided that where the order has been passed by the Chief Minister, the accused may, within the aforesaid period, submit a review petition directly to the Chief Minister.

(2) The authority empowered under sub-rule (1) shall call for the record of the case and comments on the points raised in the appeal from the concerned department or office, and on consideration of the appeal or the review petition, as the case may be, by an order in writing-

(a) Uphold the order of penalty and reject the appeal or review petition; or
(b) Set aside the orders and exonerate the accused; or
(c) Modify the orders or reduce the penalty.

An appeal or review petition preferred under these rules shall be made in writing, and shall set forth concisely the grounds of objection in impugned order in a proper and temperate language.

Director (Admn)
Director (Litigation)
Director (Narcotics)
ETO (E&N)
Asst. Dir. (ABA)
Programmer (IT)
Superintendent (P&D)
PA to DG, Excise

Director (Admn)
Director (Litigation)
Director (Narcotics)
Director (P&D)
Asst. Dir. (ABA)
Programmer (IT)
Superintendent (P&D)
PA to DG, Excise

5. In view of the above the appellate authority (Secretary, ET&NC) has given an opportunity of personal hearing to the above named official vide dated 24.01.2021 at 02:00 PM

6. Keeping the above facts & discussion in view, the undersigned under Heading "Action by the appellate authority" Rule I(c) of the Government of Khyber Pakhtunkhwa, Appeal Rules 1986, hereby, in the face of these mitigating factors, convert the minor penalty i.e. deduction of (02) annual increments for the year 2020 and 2021 into only one annual increment i.e. 2020.

Yours faithfully,


Sd/-
Secretary to Govt: of Khyber Pakhtunkhwa,
Excise, Taxation & Narcotics Control Department
(Appellate Authority)

Endst: NO. SO(Admn)E&T/1-20/2020 /1177-80

Dated 10.03.2021

Copy is forwarded for information and further necessary action to the: -

- 1) Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2) Director General, Excise, Taxation & Narcotics Control Department.
- 3) P.S to Secretary Excise, Taxation & Narcotics Control Department.
- 4) Official Concerned.


(BARKAT KHAN),
Section Officer (Admn)
Excise, Taxation & Narcotics Control Department



**GOVERNMENT OF KHYBER PAKHTUNKHWA
EXCISE, TAXATION & NARCOTICS CONTROL DEPARTMENT**

NO.SO(Admn)/ET&NC/2-15/2019/6555-56
Dated Peshawar, the September 02, 2019

To

The Director General,
Excise, Taxation & Narcotics Control,
Khyber Pakhtunkhwa, Peshawar.

SUBJECT: COMPLAINT.

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith a copy of Complaint against Majid, ASI, o/o ETO, Kohat, received from Mushtaq & others, Inhabitants of KDA, Kohat, which is self explanatory, for necessary action please.

Yours faithfully,

**(NASEEM KHAN)
SECTION OFFICER (ADMN)**

**ENCL: AS ABOVE
ENDST: NO. & DATE EVEN**

Copy forwarded to the P.S to Secretary, Excise & Taxation Department, Khyber Pakhtunkhwa, Peshawar.

SECTION OFFICER (ADMN)

DIARY NO. 1061
DATED 02/09/19
DIRECTOR GENERAL
EXCISE, TAXATION & NARCOTICS
CONTROL, KHYBER PAKHTUNKHWA

DIRECTOR (ADMN)	<p>DIRECTOR GENERAL EXCISE TAXATION & NARCOTICS CONTROL KHYBER PAKHTUNKHWA</p>	DIRECTOR (REV)
DY DIR (ADMN)		DY DIR (PESH)
DY DIR (LIT)		DY DIR (REGST.)
SYSTEM ANALYST		AD (ACCTS.)
SUPDT-I		SUPDT-II
LTO (E&N)		ASST. SECRETARY

Syde
Put up in file
Dir @
Slang

2019
02/09/19

جناب سیکرٹری ایکسائز ، ٹیکسیشن اینڈ نارکائٹیکس کنٹرول ڈیپارٹمنٹ پشاور۔

جناب عالی۔

گزارش ہے۔ اچھ ASI جو کہ پشاور سے کھلت پر آیا ہے۔ یہاں بھی اس نے دعوت کا بازار گرم کیا ہے۔
 ASI ہے۔ لیکن سب ایجنٹ کے سچ لگاتے ہیں۔ اور وہ چنگ کے لاپرواہی کرتا ہے۔ حالانکہ ASI روڈ ڈیویژن نہیں کر سکتا۔ نہ ہی اس کا روڈ
 چنگ اور بے۔ لیکن اور روڈ ڈیویژن چنگ کرتا ہے۔ گاڑیوں کے انجان کو چنگ کرتا ہے۔ سب سے Junior ہونے کے باوجود روڈ
 چنگ کے تمام گاڑیاں ان کے پاس ہیں۔

کواٹ KDA کے سٹور لوگ رہتے ہیں۔ لیکن پراپرٹی ٹیکس میں سٹور حضرات کو چنگ کرتا ہے۔ ان
 کے وقت جب تمام حضرات اپنے کاروبار اور سروس کیلئے جاتے ہیں تو کیا بندہ علیحدہ گھروں کے دروازے کھلتا ہے۔ اور
 روڈوں کے ساتھ بدتمیزی کرتے ہیں۔ پراپرٹی ایڈمنسٹریٹرز کو بھی چنگ کرتے ہیں۔ صرف ETO کو پیسے دیتے ہیں۔ یہ بڑا غلط
 کاروبار ہے۔ پشاور کے گاڑی بے قیامت ان کی ہے۔ KDA کے تمام پکٹوں میں رد بدل کی ہے۔ ہمارے کرشن ٹیکس کو ریویژن پیش کریں گے کہ سہولت میں
 تبدیلی کی ہیں۔ جس سے ٹیکس کو گروڈوں نقصان ہوا۔

استدعا کی جاتی ہے کہ اسکو کو حث سے ٹرانسفر کیا جاوے۔ KDA کے تمام ریکارڈ میل کر کے انکوٹری

کی جائے۔ بصورت دیگر ذمہ دار خود اور ٹیکس ہوگا۔

سورہانی ہوگی۔

جناب ایڈمن KDA کو حث۔

تمام رسل ایڈمنسٹریٹرز اور ایڈمنسٹریٹرز کے نام سے فرمائیں۔

یقیناً

سید اکبر

مختار

مختار

Handwritten notes and signatures on the left side of the document, including a large signature and the text 'A/S'.

Diary No. 490
 Dtd. 26-08-2019
 r/s to Secy. E&T Deptt.

- Director General Excise, Taxation Narcotics Control Peshawar
- Director Admn Excise, Taxation Narcotics Control Peshawar
- Director Anti Corruption Establishment, KPK, Peshawar.

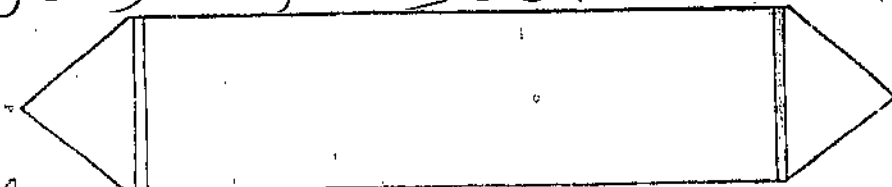
- 1- کاپی
- 2.
- 3

Handwritten signatures and initials at the bottom left, including 'DS' and 'M'.

24.11.22

**DIRECTORATE GENERAL EXCISE, TAXATION & NARCOTICS CONTROL
DEPARTMENT KHYBER PAKHTUNKHWA**

بعدالت خیر: کھونجی 61 / روس ٹرائیونل شیاور



Respondents: ماجر حسین بنام سیکری ایکسائز وغیرہ
SA = 4807/2021

موزخہ
مقدمہ
دعوی
م

باعث تحریر آئیکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی حلقہ
آج مقام لیٹاویں کیلئے آفتاب حسین ایڈووکیٹ
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو رضی نامہ کرنے و تقرر ثالثیت فیصلہ بر حلف دینے جواب دہی اور اقبال دعویٰ اور
بلاورٹ ڈگری کرنے اجراء در صولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یا بطرفہ یا اپیل کی برادگی اور منسوخی
نیز دائر کرنے اپیل عمرانی 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 لیا اپنے پچائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا سہارا
بدرائت منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا ادا کالت نامہ لکھ دیا کہ سند ہے۔

المرتوم 30
2022

Advocate High Court

Attested and accepted

Handwritten signature

DIRECTOR (LITIGATION)
Excise Taxation & Narcotics Control
Khyber Pakhtunkhwa