

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR.

Service Appeal No. 7562/2021

Date of Institution ... 27.08.2021

Date of Decision ... 15.07.2022

Syed Sohail Shah S/O Syed Ahmad Shah, Ex-Senior Scale
Stenographer, G.T Road Sardar Garhe Peshawar.

... (Appellant)

VERSUS

Chairperson Khyber Pakhtunkhwa Environmental Protection
Tribunal Peshawar through its Registrar, Federal Judicial Complex
Phase-7 Hayatabad.

... (Respondent)

MR. KAMRAN KHAN,
Advocate

--- For appellant.

MR. NASEER-UD-DIN SHAH,
Assistant Advocate General

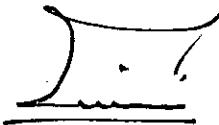
--- For respondents.

MR. SALAH-UD-DIN
MS. ROZINA REHMAN

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

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Briefly stated the facts giving rise to filing of the instant service appeal are that the appellant while serving as Senior Scale Stenographer (BPS-16) in Khyber Pakhtunkhwa Environmental Protection Tribunal Peshawar, was proceeded against departmentally on the ground of incompetency and was removed from service vide the impugned order dated 27.04.2021. The same was challenged by the appellant through filing of departmental appeal, however the same was not responded within the



statutory period of 90 days, hence the instant service appeal.

2. Respondent contested the appeal by way of submitting para-wise comments, wherein he refuted the assertions raised by the appellant in his appeal.

3. Learned counsel for the appellant has contended that in view of Rule-5 (a) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the competent Authority was required to have mentioned plausible reasons for dispensing with regular inquiry, however no such reason has been mentioned in the show-cause notice issued to the appellant; that disciplinary action was taken against the appellant on trivial matter of mentioning of wrong date in the order, which was an inadvertent clerical mistake, however the appellant was treated harshly and was removed from service through the impugned order; that after assuming the charge of his post, the appellant had performed his duty efficiently and he could not be considered as in-efficient; that no regular inquiry was conducted in the matter and the appellant was thus deprived of fair opportunity to defend himself properly; that there are so many rulings of worthy apex court that for awarding major penalty, conducting of regular inquiry is necessary; that no incriminating material regarding in-efficiency of the appellant was put to him during the inquiry proceedings, therefore, the impugned order is liable to be set-aside. Reliance was placed on 2008 SCMR 1369, 2007 SCMR 1860, 2003 PLC (C.S) 365, 2011 SCMR 1618, 2000 SCMR 1743, 2003 SCMR 207 and 2004 SCMR 316.



4. On the other hand, learned Assistant Advocate General for the respondent has contended that the appellant was in-efficient and could not improve his performance despite several warnings being given to him; that as the appellant was in-efficient in the discharge of official duties, therefore, disciplinary action was taken against him and he has rightly been removed from service after observing of all legal and codal formalities; that the appellant was provided

ample opportunity of personal hearing but he could not produce any cogent material in rebuttal of the allegation leveled against him; that the appellant has rightly been removed from service, therefore, the impugned order may be kept intact and the appeal in hand may be dismissed with cost.

5. We have heard arguments of learned counsel for the parties and have perused the record.

6. According to the show-cause notice issued to the appellant, disciplinary action was taken against him on the ground of incompetency. The burden to prove that the appellant was in-efficient was upon the shoulder of the Authority. In order to discharge this burden, the Authority was required to have put forward such documentary evidence, which could show that the appellant remained in-efficient in the discharge of his official duties. The Authority had though dispensed with inquiry on the ground that sufficient evidence of incompetency of the appellant was available before him, however nothing is available on the record, which could show that any evidence regarding in-efficiency of the appellant was put to him during personal hearing. Similarly, no documentary proof regarding in-efficiency of the appellant has been annexed by the respondent alongwith his comments. If the appellant was in-efficient, adverse entry to this effect was required to have been recorded in his Performance Evaluation Report but no copy of the same has been annexed with the comments, so as to show that any entry regarding inefficiency of the appellant was recorded in his PER.




7. Admittedly, the appellant was awarded major punishment of removal from service without conducting of inquiry in the matter. August Supreme Court of Pakistan in its judgement reported as 2004 SCMR 316 has held as below:-

"7. Even otherwise, it is by now well settled principle of law that in case of awarding major penalty, a proper inquiry is to be conducted in accordance with law wherein a full opportunity of defence is to be provided. In this context, reference can be made to the case of Inspector

General of Police, Police Headquarters Office Karachi and 02 others Versus Shafqat Mehmood 2003 SCMR 207, in which it has been held by this Court that in the case of imposing a major penalty, the principle of natural justice requires that a regular inquiry is to be conducted in accordance with Rule-6 of the Government Servants (Efficiency & Discipline) Rules, 1973, and an opportunity of defence and personal hearing is to be provided to a civil servant proceeded against."

8. In view of the above discussion, the appeal in hand is allowed by setting-aside the impugned order and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
15.07.2022


(ROZINA REHMAN)
MEMBER (JUDICIAL)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

O R D E R
15.07.2022

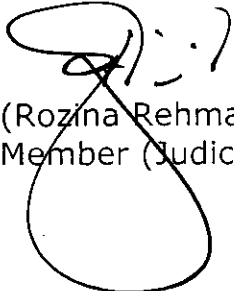
Appellant alongwith his counsel present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondent present.

Learned counsel for the appellant has submitted an application, requesting therein that the appellant has been removed from service, however in the heading of Service Appeal, the word dismissal has been inadvertently mentioned, therefore, the same may be rectified. Request is genuine, therefore, application for correction is allowed and Muharrar is directed to do the needful.

Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is allowed by setting-aside the impugned order and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
15.07.2022


(Rozina Rehman)
Member (Judicial)


(Salah-Ud-Din)
Member (Judicial)

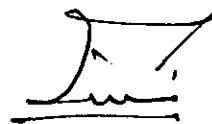
13.06.2022

Appellant in person present. Mr. Naseer-ud-Din Shah,
Assistant Advocate General for the respondents present.

Appellant sought adjournment on the ground that his
counsel is not available today due to strike of Lawyers.
Adjourned. To come up for arguments before the D.B on
15.07.2022.

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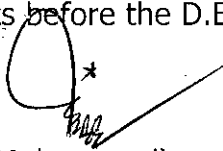
(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

A handwritten signature in black ink, consisting of a stylized 'S' followed by a horizontal line.

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

18.04.2022

Mr. Noor Muhammad Khattak, learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present. Learned counsel for the appellant stated at the bar that the appellant has changed his counsel and now he would contest/argue the case. He therefore, submitted Wakalatnama which is placed on file. Moreover, it is observed that in the heading of instant service appeal, the major penalty has been reflected as "dismissal" instead of "removal from service" which conveys altogether different connotations. This fact is brought to the notice of learned counsel who admits to have been inadvertently reflected and requests that an application for rectification for the same will also be submitted. To come up for arguments before the D.B on 01.06.2022.


(Mian Muhammad)
Member (E)

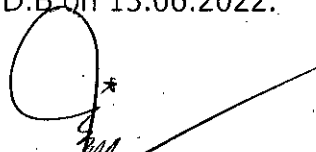

Chairman


*Added for
Noor Noor
Khattak
18/04/22*

01.06.2022

Junior of learned counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy before the D.B. Adjourned. To come up for submission of rectification application as mentioned in order sheet dated 18.08.2022 as well as arguments before the D.B on 13.06.2022.


(Mian Muhammad)
Member (E)


(Salah-ud-Din)
Member (J)

15.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 30.03.2022 for the same as before.



Reader

30.03.2022

Appellant in person present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Naeemullah, Acting Registrar for respondent present.

Written reply/comments on behalf of respondent submitted which is placed on file. A copy of the same is also handed over to the appellant. Adjourned. To come up for rejoinder and arguments on 18.04.2022 before D.B.



(MIAN MUHAMMAD)
MEMBER(E)

13.12.2021

Counsel for the appellant present. Preliminary arguments heard and case file perused.

Learned counsel for the appellant is contended that the appellant is aggrieved of the office order dated 27.04.2021 whereby major penalty of "removal from service" was imposed. The appellant submitted departmental appeal on 04.05.2021 which was not decided upon by the appellate authority where-after the instant service appeal was instituted in the Service Tribunal on 27.08.2021. It was further contended that no regular and proper enquiry has been conducted against the appellant and only show cause notice was issued to the appellant on the basis of "incompetency". There is no incompetency in the list of grounds for departmental proceedings against a government servant under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011. When there is such ground for departmental proceedings, therefore, the impugned order is a void and illegal order which may graciously be set aside and the appellant be reinstated in service with all back benefits.

The appeal is admitted to regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to respondents for submission of reply/comments. To come up for reply/comments on 25.01.2022 before S.B.

Appellant Deposited
Security & Process Fee

Bhutan

(Mian Muhammad)
Member(E)

25.01.2022

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

Reply/comments on behalf of respondents are still awaited. Learned Addl. AG sought time for submission of reply/comments. Granted. To come up for reply/comments before the S.B on 15.02.2022.

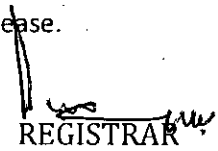
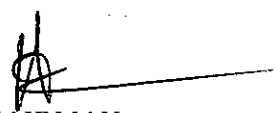
(Atiq-Ur-Rehman Wazir)
Member (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 7562/2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/10/2021	<p>The appeal of Syed Sohail Shah resubmitted today by Mr. Muhammad Arif Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put up there on <u>13/12/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Syed Sohail Sheh vs Chairperson KpK

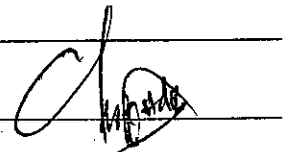
S#	CONTENTS	YES	NO
1	This Appeal has been presented by:		
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?		
3	Whether appeal is within time?		
4	Whether the enactment under which the appeal is filed mentioned?		
5	Whether the enactment under which the appeal is filed is correct?		
6	Whether affidavit is appended?		
7	Whether affidavit is duly attested by competent Oath Commissioner?		
8	Whether appeal/annexures are properly paged?		
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?		
10	Whether annexures are legible?		
11	Whether annexures are attested?		
12	Whether copies of annexures are readable/clear?		
13	Whether copy of appeal is delivered to AG/DAG?		
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?		
15	Whether numbers of referred cases given are correct?		
16	Whether appeal contains cutting/overwriting?		
17	Whether list of books has been provided at the end of the appeal?		
18	Whether case relate to this court?		
19	Whether requisite number of spare copies attached?		
20	Whether complete spare copy is filed in separate file cover?		
21	Whether addresses of parties given are complete?		
22	Whether index filed?		
23	Whether index is correct?		
24	Whether Security and Process Fee deposited? On		
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On		
26	Whether copies of comments/reply/rejoinder submitted? On		
27	Whether copies of comments/reply/rejoinder provided to opposite party? On		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: _____

Signature: _____

Dated: _____

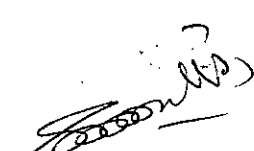


The appeal of Mr. Syed Sohail Shah presented today i.e. on 27.08.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Index of the appeal is not attached with the appeal which may be placed on it.
- 3- Appeal has not been flagged/marked with annexures marks.
- 4- Certificate be given to the effect that the appellant has not been filed any service appeal earlier on the subject matter before this Tribunal.
- 5- Affidavit may be got attested by the Oath Commissioner.
- 6- Check list is not attached with the appeal.
- 7- Address of Appellant is not complete.
- 8- Memorandum of Appeal is not signed by appellant, which may get signed.
- 9- Copy of appointment order mentioned in para 1 is not attached with the appeal which may be placed on it.
- 10- Copy of Departmental appeal in respect of appellant mentioned in para 5 is not attached with the appeal which may be placed on it.
- 11- Three more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1699 /S.T,

Dt. 01/09 /2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Muhammad Arif (Firdous)ASC.

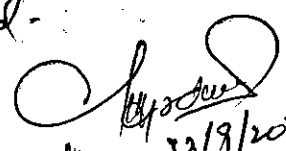
please give me for the time to
Remove the objection. Arif 14-9-2021

⑩ days time further extended.

Sir,

Seeing Justice's order for to remove objection
as some documents are misplaced.

⑮ days time further extended.


23/9/2021

23/9/21

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Appeal No 7562/2021

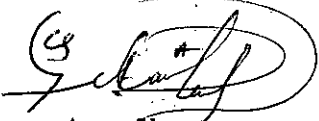
Syed Sohail Shah S/o Syed Ahmad Shah Ex Sr Scale Stenographer

Versus

Chairperson Khyber Pakhtunkhwa Environmental Protection Tribunal Person
through its Registrar

INDEX

S No	Description of Documents	Annexure	Pages
1	Grounds of appeal		1-3
2	Appointment order dated 02-03-2020	A	4
3	Showcause Notice and reply	B	5-6
5	Order dated 27-04-2021	C	7
6	Departmental appeal	D	8
7	Wakalt Nama		9


Appellant

Dated:

Through



MUHAMMAD ARIF (FIRDOUS)

Advocate, High
Court.0334-9215356

Office: 1.A Nasir Mansion
Shoba Bazar, Railway Road II,
Peshawar, Cantt

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Appeal No. 7562/2021

Diary No. 7584

Dated 27-8-2021

Syed Sohail Shah S/o Syed Ahmad Shah Ex Sr Scale Stenographer, G.T Road
Sardar Garhe Peshawar

Versus

1. Chairperson Khyber Pakhtunkhwa Environmental Protection Tribunal Person
through its Registrar, Federal Judicial Complex Phase 7, Hayat Abad.

Filed to-day
Registrar
27/8/21

APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST ORDER DATED 27-04-2021 WHEREBY
APPELLANT HAS BEEN **DISMISSED** FROM
SERVICE. **REMOVAL**

وہ. ۱۵-۷-۲۲ء کے روزے سے (مستحق) کے لئے

RESPECTFULLY SHEWETH:

Re-submitted to-day
and filed.

Registrar
7/10/2021

1. That the applicant was initially recommended by the departmental selection committee and appointed as Sr Scale Stenographer BS-16 vide order dated 02-03-2020. (Copy of appointment order is attached as annexure A)
2. That the appellant took charge and has been serving the KP Environmental Protection Tribunal wholeheartedly with dedication and loyalty.
3. That the appellant was suddenly served with a showcause Notice dated 07-04-2021 which was replied by the appellant by filing reply to the showcause notice on 14-04-2021 but the same was not entertained by the competent authority. (Copy of the Showcause notice and reply are attached as annexure B)
4. That the respondent issued an order dated 27-04-2021 and imposed major penalty of removal from service and appellant was removed from service with reason of inefficiency and

(2)

incompetency without considering reply of the appellant. (Copy of the order dated 27-04-2021 is attached as annexure C)

5. That the appellant aggrieved from the order filed departmental appeal before competent authority but so far no order has been passed and still pending before the competent authority, hence this appeal for redressal of grievance on the following grounds:
(Copy of the appeal is attached as annexure D)

GROUND:

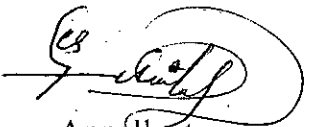
- A. That the order passed by the respondent is illegal, unlawful and against the natural justice.
- B. That the appellant being qualified and experienced after passing test and interview was appointed as Sr Scale Stenographer and was doing his duty with high performance.
- C. That the appellant performed his duty with honesty and no illegal activity, inefficiency and incompetency has been proved against him and alleged clerical mistake was not intentionally but inadvertently.
- D. That the respondents imposed major penalty on the appellant on the basis of allegation leveled against him as inefficiency and incompetency.
- E. That the impugned orders are totally unfair, biased and not according to circumstances of the case in hand as the appellant was remained under extreme stress due to personal family issues and suffered from intense mental occupancy caused by the sudden illness of his aged father, probably, could not be attentive for a while during performing his duty on the said day.
- F. That during course of departmental inquiry neither any evidence was brought against the appellant nor did any person was examined to sustain the allegation.

3


- G. That the allegation against appellant is baseless and without any proof but awarding major punishment which is against the basic principles of service rules.
- H. That the appellant had not been dealt with in accordance with law, rather has been deprived from legal right bestowed on him by the law and rules of the subject.
- I. That the appellant has the right to agitate any other additional grounds/fact at the time of arguments after the stance of the respondents with permission of this Honourable court.

It is, therefore humbly requested that on acceptance of this appeal the order dated 27-04-021 may please be set-aside and applicant may very graciously be reinstated as Sr Scale Stenographer with all back benefits.

AND Any other remedy which the court deems fit & proper may also be granted in favour of the appellant.

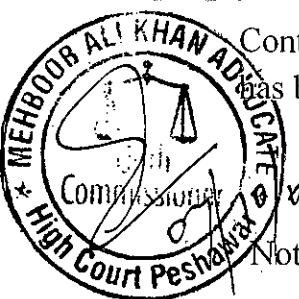

Appellant

Through


MUHAMMAD ARIF (FIRDOUS)
Advocate, High Court
0334-9215356

Office: I.A Nasir
Mansion Shoba Bazar, Railway
Road II, Peshawar, Cantt

ATTESTED



Contents of the appeal are true and correct to the best of my knowledge and nothing has been concealed from this Honorable Tribunal.

Note:

No such like appeal has been filed earlier before this Honorable Tribunal.

Deponent 



(4) A

**KHYBER PAKHTUNKHWA ENVIRONMENTAL PROTECTION TRIBUNAL
PESHAWAR**

ORDER

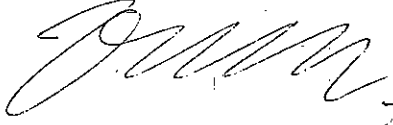
Dated Peshawar the, 02nd March, 2020

In pursuance of the recommendations of Departmental selection Committee vide its meeting dated 24.02.2020, the Competent Authority has been pleased to appoint the following candidates against the vacant posts, mentioned against their names in Khyber Pakhtunkhwa Environmental Protection Tribunal Peshawar, with immediate effect.

S. No.	Name	Father Name	Post
1.	Naeem Ullah	Arsala Khan	Sr. Scale Stenographer (BPS-16)
2.	Syed Sohail Shah	Syed Ahmad Shah	Sr. Scale Stenographer (BPS-16)
3.	Waseem Ullah	Rahim Gul	Sr. Scale Stenographer (BPS-16)
4.	Muhammad Paras	Fateh Ullah	Jr. Scale Stenographer (BPS-14)
5.	Mehtab Alam	Hamayun Khan	Junior clerk (BPS-11)


The appointment shall be subject to the following terms & Condition:-

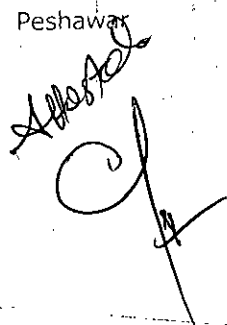
- I. The appointment is subject to antecedent verification of the appointee.
- II. The Appointee shall produce Medical Fitness certificates before their charge assumption.
- III. His service shall be governed by the KP-EPT Service rules, 2018 and Khyber Pakhtunkhwa (Appointment, Promotion and Transfer, rules, 1989).
- IV. The Appointee shall report for duty within 15 days failing which the appointment shall stand withdrawn.


Chairman
DSC KP-Environmental Protection Tribunal
Peshawar

Endst: NO & Date Even.

1. The Accountant-General, Khyber Pakhtunkhwa, Peshawar.
2. Members of DSC, Khyber Pakhtunkhwa Environmental Protection Tribunal, Peshawar.
3. The Official concerned by name.
4. Master file.


Chairman
DSC KP-Environmental Protection Tribunal
Peshawar





KHYBER PAKHTUNKHWA
ENVIRONMENTAL PROTECTION TRIBUNAL
PESHAWAR

PH: 091-9219003
kpkept@gmail.com

No. EPT/Sohail/P.F-2 463

Dated: 07/04/2021

SHOW CAUSE NOTICE

I Justice (R) Afsar Shah Chairperson Environmental Protection Tribunal, Peshawar, as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, do hereby serve you, Syed Sohail Shah Sr. Scale Stenographer (BPS-16) attached to this Tribunal as follows:

WHEREAS, you are working as Sr. Scale Stenographer in this Tribunal and right from the day one, you were asked to improve your efficiency but in vain. Again you were warned on 03/02/2021 to improve your efficiency but you could not improve your work. And whereas on the face of it, it appear that you know nothing about your job for which you have been appointed.

1. Your acts and omission enumerated herein above make it evident that you are incompetent with is a valid ground for disciplinary action as prescribed under the Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules, 2011. As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you one or more penalties as provided under Rule 4 of the said Rules by dispensing the inquiry as sufficient evident of your incompetency is before the authority.

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

- 5) If no reply to this notice is received within seven (07) days of its delivery, it shall be presumed that, you have no defence to put in, and in that case, an ex-parte action shall be taken against you.

Competent Authority

(Mr. Justice (R) Syed Afsar Shah)
Chairperson
Environmental Protection Tribunal

Copy forwarded to:

- PS To Chairperson EPT.
- ✓ Syed Sohail Shah Sr. Scale Stenographer (BPS-16)
- Personal file official concerned.

[Handwritten signature]
a.u. 2021

6

To

Dated 14/04/2021

The Competent Authority,
Environmental Protection Tribunal,
Peshawar.

SUBJECT: REPLY OF SHOW CAUSE NOTICE

Respected Sir,

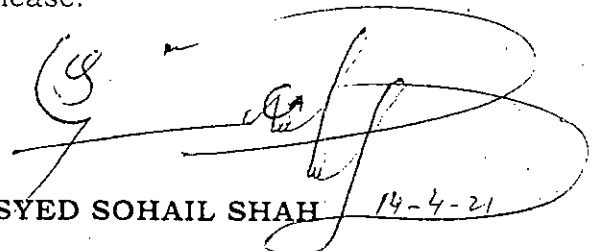
Reference to the show cause notice No.EPT/Sohail/P.F-2/463 dated 07.04.2021 on the subject cited above.

Humbly submitted that it is a matter of honor for me being part of this esteemed "Tribunal". Allow me to explain that I am a law abiding person and believe in the supremacy of merit. Therefore, I always tried to abide the official rules and regulations whole-heartedly and contributed my efforts to the assign tasks up to the satisfaction of my superiors. Furthermore, I always cooperated with other colleagues while sharing their workload in their absence and even presence in the larger interest of the 'Tribunal'.

On that particular date, when the unfortunate incident happened that compelled your good self to issue the Show Cause Notice, I was under intense sentimental pressure, mental occupation, body fatigue and insomnia due to family issues that resulted in high hypertension blow to my aged father followed by his senselessness.

In view of above, the honorable Competent Authority is requested to take the lenient view into the matter on humanitarian grounds. I shall be careful in the future.

Submitted for sympathetic consideration, please.


SYED SOHAIL SHAH

Sr. Scale Stenographer (BFS-16)
Environmental Protection Tribunal
Peshawar

Sohail


⑦

C

KPK Environmental Protection Tribunal Peshawar


Order

Dated Peshawar the 27-April-2021

WHEREAS on observing competency/efficiency of Mr. Syed Sohail Shah Sr. Scale Stenographer (BPS-16) attached to this tribunal disciplinary proceedings were initiated against the accused/official under the Khyber Pakhtunkhwa Govt. servants (Efficiency & Discipline) Rules, 2011.

AND WHEREAS the accused/official was served with show cause notice wherein charges against him were initiated with the directions to submit his reply within seven days time. On receipt of the show cause notice the accused/official submitted reply in which he requested for withdrawal of the show cause notice. He was also heard personally in detail. During the personal hearing the accused/official stated that the mistakes were clerical but infact the ground reality is totally negates his version and therefore the accused/official is found guilty of inefficiency, and incompetency.

NOW, THEREFORE, the undersigned in the capacity of Competent Authority imposes major penalty of removal from service under rule-4(1)(b)(iii) of the ibid Rules and hence the accused/official is removed from service with immediate effect.


Mr. Justice[®] Syed Afsar Shah
Chairperson EPT KP Peshawar

Endst: No. 469 /Admin

Copy forwarded to.

1. The Member Technical
2. The Accountant General KPK Peshawar
3. The Registrar EPT Peshawar
4. The Accountant Clerk EPT Peshawar
5. The Official concerned by name


Mr. Justice[®] Syed Afsar Shah
Chairperson EPT KP Peshawar

27.4.2021

04th May, 2021

To

The Chairman,
Environmental Protection Tribunal,
Khyber Pakhtunkhwa, Peshawar.

SUBJECT: DEPARTMENTAL APPEAL WITH REFERENCE TO THE
REMOVAL FROM SERVICE ORDER DATED 27.04.2021

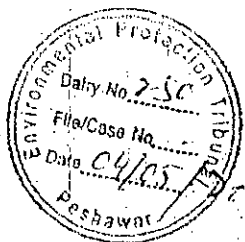
Honorable Sir,

It is submitted that I was appointed as senior scale stenographer (BPS-16) on 03/05/2020 and since then I have been serving Environmental Protection Tribunal wholeheartedly with dedication and loyalty. Despite less period in service I always tried to shoulder official responsibilities up to the satisfaction of my seniors irrespective of my job description.

2. On official issue i.e mistake of date of order sheet, the department issued a 'Show Cause' notice (**copy enclosed**) to me and asked to explain the matter in written as well as in personal. Therefore, as directed, I submitted a self-explanatory reply in response to the above mentioned show cause notice (**copy enclosed**) and personally appeared before the worthy Chairman EPT, Peshawar. However, the competent authority later on issued an order removing me applicant from service. (**copy of Removal Order is enclosed**).

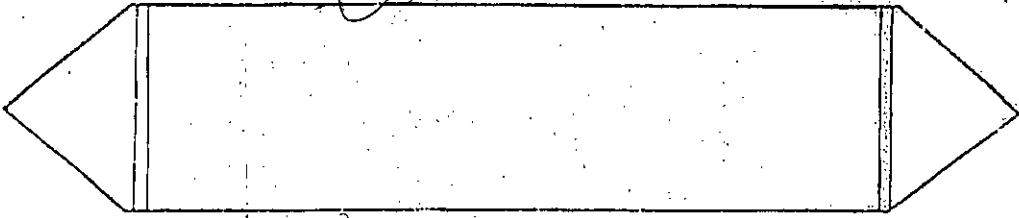
3. I may kindly be allowed to further submit and as I have humbly explained in my reply to the show cause that I remained under extreme stress due to personal/family issues and suffered from intense mental occupancy caused by the sudden illness of my aged father, probably, could not remained attentive for a while during performing official duties on the said day. Furthermore, it is widely accepted and generally believed that "To cry is human", therefore, worthy Chairman in his capacity of Competent Authority is humbly requested to review/withdraw the subject Removal Order so that the applicant, being vital source of income, could support his family financially in such a Corona pandemic situation.

4. It assured that I will remain careful in future. Submitted for sympathetic consideration, please.



(Syed Shahid Shabbir)
Sr. Scale Stenographer

بعدالت سرویس شریف شہر



سید سہیل شاہ
2 منجانب
صبر سیرس انوائس سہیل شاہ

موزخہ
مقدمہ
دعویٰ
برہم

باعث تحریر آنگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی اور جواب دہی اور کاروائی متعلقہ آنگہ کے لئے محمد عرفان (پیرس) احمد سعید اہل کلبہ کی طرف سے

مقررہ کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا مکمل اختیار ہوگا۔ نیز وکیل صاحب کو رضی نامہ کر کے دفتر ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور پاسداری کرنے کے اجراء اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق و فراہم پر دستخط کرنے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے سے 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 یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو کسی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساتھ ساتھ داخلہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائزہ 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 وکالت نامہ لکھ دیا کہ سند ہے۔

Accepted

المرقوم _____ ماہ _____ 20

Accepted

محمد سعید اہل کلبہ

برقلم لکھنا

محمد سعید اہل کلبہ
SHEHAR SHARIF
SHEHAR SHARIF
SHEHAR SHARIF

Chairman Copy

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Appeal No. 7562 / 2021

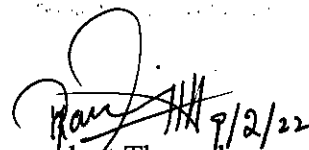
Syed Sohail Shah

Vs.

Chairperson Khyber Pakhtunkhwa Environmental Protection Tribunal through its Registrar

INDEX

S. No.	Description of Documents	Annexure	Pages
1.	Para-wise comments	A	1-3
2.	Affidavit	B	4


Respondent Through
Registrar

Environmental Protection Tribunal
Peshawar

Dated: 09/02 / 2022

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Appeal No. 7562 / 2021

Syed Sohail Shah,
S/o Syed Ahmad Shah,
Ex-Sr. Scale Stenographer,
G.T. Road, Sardar Garhi,
Peshawar.

..... Appellant

VS.

Chairperson,
Khyber Pakhtunkhwa Environmental Protection Tribunal
Through its Registrar,
Federal Judicial Complex, Phase-7, Hayatabad,
Peshawar.

..... Respondent

PARA-WISE COMMENTS FOR AND ON BEHALF OF RESPONDENT

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS:

1. **That** the Appellant has got no cause of action and locus standi to file the instant Appeal.
2. **That** the Appeal is bad due to misjoinder and nonjoinder of necessary parties.
3. **That** the Appeal is time barred.
4. **That** the Appellant has not come to this Hon'ble Tribunal with clean hands.
5. **That** this Hon'ble Tribunal has got no jurisdiction to entertain the present Appeal.
6. **That** the instant Appeal is not maintainable in its present form.
7. **That** the Appellant has concealed the material facts from this Hon'ble Tribunal.
8. **That** the Appellant is estopped by his own conduct from filing the instant Appeal as he had admitted of his own free-will of his professional shortcomings hence the instant Appeal is based on illegal grounds.

9. That the instant Appeal is bad in the eye of law.

10. That the Appeal is based on distortion of facts and is therefore liable to be dismissed.

ON FACTS:

1. Para-1 pertains to record ~~hence need no comments.~~
2. Para-2 pertains to record ~~hence need no comments.~~
3. Para-3 pertains to record however the said para is partially correct. It is correct that a Show Cause Notice dated 7.4.2021 was issued by the Respondent to the Appellate due to his professional shortcomings despite repeated attempts to concentrate on his tasks and improve his efficiency however to no avail. It is submitted with respect that no defence exists for not producing quality work which is expected of a BPS-16 Sr. Stenographer.
4. Para-4 pertains to record however the said para is partially correct. The Appellant was removed after giving opportunity of reply and personal hearing and the Respondent had no other option but to issue the Removal Order dated 27.4.2021 due to professional neglect of the Appellant in his official work.
5. Para—5 pertains to record ~~hence need no comments~~ however it is stated that the grounds taken in department appeal were already considered in Reply of the Appellant to the Show Cause Notice.

ON GROUNDS:

- A. Para-A is incorrect hence denied. The Removal Order passed by the Respondent complies with the applicable law and rules. In addition, it is pertinent to note that opportunity of personal hearing has already been provided to the Appellant.
- B. Para-B pertains to record however the Appellant did not improve his efficiency and lacked professional focus, hence the removal from service order.
- C. Para-C pertains to record however the law and rules do not protect the Appellant from committing clerical mistakes in workplace.
- D. Para-D pertains to record. The major penalty was rightly imposed due to professional shortcomings.

E. Para-E is denied. The Respondent and/or the Registrar office is not aware of any personal issues of the Appellant.

F. Para-F pertains to record however all codal formalities have been complied with.

G. Para-G is denied. It is pertinent to note that the Appellant lacked the practical efficiency which is expected of a Sr. Scale Stenographer (BPS-16).

H. Para-H is denied. The Appellant was given opportunity of personal hearing as well as his written submissions in form of Reply and Appeal to Show Cause Notice and Removal Order were considered.

I. Para-I need no comments: *That the respondents also seek permission of this Honourable Tribunal to agitate further points at*
PRAYER: *the time of Argument.*

It is, therefore, humbly prayed that the Appeal being baseless, without any legal substance and devoid of merits may kindly be dismissed with cost.

Submitted for setting aside
[Signature]
11/2/22

[Signature]
Respondent Through
Registrar
Environmental Protection Tribunal,
Peshawar

Vetted
Subject to correction
annexed all relevant
documents along with index.

[Signature]
Deputy District Attorney
Khyber Pakhtunkhwa
Service Tribunal Peshawar, *11/2/22*

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Appeal no 7562/2021

Syed Sohail Shah Senior Scale Stenographer

VS

Chairperson Khyber Pakhtunkhwa Environmental Protection Tribunal Peshawar

AFFIDAVIT

I, Mr. Naeem Ullah S/O Arsala Khan, Acting Registrar Environmental Protection Tribunal, state on oath that the contents of the enclosed para-wise comments are true and correct to the best of my knowledge and nothing has been concealed from this Hon'ble Tribunal.


Deponent

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



*Put up to the court with
relevant appeal.*

CM No. _____/2022
In
Appeal No. 7562/2021

11/5/22
SYED SOHAIL SHAH

VS. ENVIRONMENT PROTECTION
TRIBUNAL

**APPLICATION FOR RECTIFICATION/CORRECTION
IN THE HEADING OF APPEAL TO THE EXTENT OF
DISMISSAL FROM SERVICE TO THAT OF REMOVAL
FROM SERVICE.**

R/SHEWETH:

- 1- That the above titled service appeal is pending adjudication before this August Tribunal in which 01-06-2022 is fixed for hearing.
- 2- That the applicant filed the above mentioned appeal for his re-instatement into service with all back benefits.
- 3- That inadvertently and due to clerical mistake in the heading of appeal the word "dismissal" from service has been mentioned which needs rectification as the correct wording is "removal" from service.

Therefore, it is humbly prayed that on acceptance of the instant application rectification/correction may kindly be made to the extent of removal from service instead of dismissal from service.

APPLICANT

SYED SOHAIL SHAH

Through:

NOOR MOHAMMAD KHATTAK
Advocate Supreme Court

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

CM No. _____/2022

In

Appeal No. 7562/2021

SYED SOHAIL SHAH

VS

ENVIRONMENT PROTECTION
TRIBUNAL

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Through:

NOOR MOHAMMAD KHATTAK
Advocate Supreme Court

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: 7562 OF 2022

Syed Sohail Shah

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

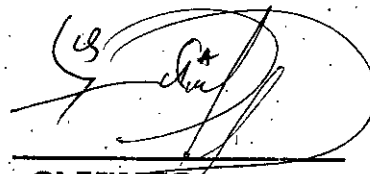
EPT

(RESPONDENT)
(DEFENDANT)

I/We Syed Sohail Shah

Do hereby appoint and constitute **NOOR MUHAMMAD KHATTAK Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 18 / 4 / 2022


CLIENTS 18/4/22

ACCEPTED

NOOR MUHAMMAD KHATTAK

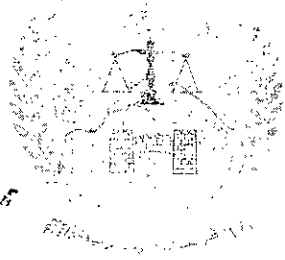
UMER FAROOQ MOHMAND

KAMRAN KHAN

HAIDER ALI

&

**KHANZAD GUL
ADVOCATES**



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

No. 3061 /ST Dated 27/10 /2022

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

To:

The Chairperson EPT,
KP Peshawar.

SUBJECT:- JUDGMENT IN SERVICE APPEAL NO.7562/2021, TITLED SYED SOHAIL SHAH VERSUS THE CHAIRPERSON EPT KP PESHAWAR.

I am directed to forward herewith a certified copy of judgment dated 15.07.2022, passed by this Tribunal in the above mentioned appeal for compliance.

Encl. As above.

(WASEEM AKHTAR)
REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL,
PESHAWAR.

ORDER SHEET
ENVIRONMENTAL PROTECTION TRIBUNAL
PESHAWAR
Case No.625-SB/2020

Director South EPA DI Khan VS

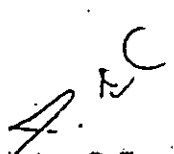
1. Sui Northern Gas Pipeline Company Limited through General Manager Khyber Pakhtunkhwa.
2. Taj Ali Khan General Manager, SNGPI Khyber Pakhtunkhwa Plot 33, Sector D-II, Hayatabad Peshawar.
3. Kashif Naveed, Deputy Chief, SNGPI, District Bannu.

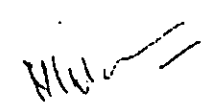
Order No 10
09/02/2021

AD on behalf of the complainant present.

Ex-parte evidence of PW Sadiq Ullah Monitoring Inspector EPA DI-Khan is recorded. In view of the evidence available on file coupled with the other attending circumstances of the case, ex-parte order is passed in favor of complainant, resultantly, administration block of respondent no. 3 be proceeded in accordance with law.

File is consigned to record room.


Mr. Justice © Syed Afsar Shah
Chairman
Environmental Protection Tribunal
Peshawar


Dr. Muhammad Saleem Khan
Member Technical
Environmental Protection Tribunal
Peshawar