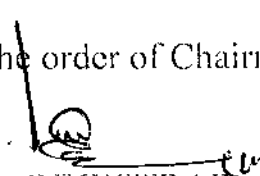


## FORM OF ORDER SHEET

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

Case No.- 935/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	27/1/2023	<p>The appeal of Mr. Ahsan Shahzad presented today by Mr. Javed Iqbal Gulbela Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Parcha Peshi is given to appellant/counsel.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Service Appeal No. 235/2023

Ahsan Shahzad

**VERSUS**

Administrative Judge, Peshawar High Court Peshawar.

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Dated: 10-01-2022

Appellant <sup>2</sup>  
Through  
Javed Iqbal Gulbati <sup>2</sup>  
Advocate Supreme Court,  
Pakistan.

(1)

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Service Appeal No. 235/2023

***Ahsan Shahzad***, Junior Clerk, District & Sessions Court, Peshawar.

..... ***Appellant***

**VERSUS**

1. Administrative Judge, Peshawar High Court Peshawar.
2. The Registrar, Peshawar High Court Peshawar.
3. District & Sessions Judge, Peshawar.

..... ***Respondents***

**APPEAL UNDER SECTION 4 OF THE KHYBER**  
**PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST**  
**THE IMPUGNED REFERENCE LETTER NO. 879 DATED: 07-**  
**02-2022 UPTO THE EXTENT OF EXPUNCTION OF ADVERSE**  
**REMARKS RECORDED IN THE ANNUAL CONFIDENTIAL**  
**REPORT (ACR) OF THE APPELLANT FOR THE YEAR 2020-**  
**2021.**

***Respectfully Sheweth,***

1. That after getting onto the rolls of this prestigious department in the year 2003, the Appellant have had pulled day & night to render his best in the service of the department with utmost zest and professional gusto, which is crystal evident from the long-stretched service period of the Appellant spread over two successful decades, that too without receiving any taint or blemish on the Appellant's service record. (Copy of the Appointment Order is annexed here as Annexure "A")
2. That the Appellant has have always upheld the professional confidence, the sanctity of the department with practically unanimous determination towards his personal professional work ethic and

personal (moral) aptitude, just not only to receive admiration from his high ups about his professionalism but the Appellant's believe in work has been steering him in every way (in & off duty) to bring home and won the reverence from the people of interaction and general public for the home department of the Appellant.

3. That the Appellant's faith in his work and the commitment to the social cause aligned with the vision of the department does not liberate the Appellant to go off-track in anyway, which is why the Appellant had been successful to put excellent stats and marvelous track on his every evaluation, assessment, and record, till the instant stimulus, whereby the Appellant was taken aback on communication of his Annual Confidential Report (ACR) vide Reference Letter No. 879 Dated: 07-02-2022 in respect of which the Appellant was made subject to adverse remarks upon his work aptitude and professional behavior. **(Copy of the impugned Adverse Remarks in ACR is Annexed here as Annexure "B")**
4. That not even in the wildest dreams and stormiest days, the Appellant could have ever saw it coming that the what the Appellant have had been practicing and preaching religiously for the two professional decades would render him questionable and liable to explanation i.e., professional behavior & commitment to his duty, but what strangest woe!
5. That what caused the much adversity was that the neither the Appellant's appearance was sought for the explanation, nor any findings or material evidence were recorded even in the ACR from which the Appellant could have drawn his analogies of what went wrong on his part. But, simply with the lift of the pen, the presumptions were named as conclusions in the ACR of the Appellant.
6. That pursuant to consequences, from the above-mentioned saga, the Appellant have had been punished in the shape of non-consideration for promotion whereas the entire career of the Appellant portrayed zeal & zest when finally, it was the time to benefit from the same,

every effort and struggle on part of the Appellant have gone down the hill.

7. That in the given circumstances whereby the Appellant had been punished for no sake of his own and all his fatigue over the past years have only met the dust, the Appellant solicited a revised ACR by preferring a departmental appeal to his high-up's on 03-10-2022, whereby the Respondents still have maintained a tight lip despite the lapse of the statutory time. **(Copy of the Departmental Appeal is annexed here as Annexure "C")**
8. That feeling aggrieved from the acts of the Respondent having no other efficacious remedy available elsewhere & forum to be addressed at, the Appellant approaches this Hon'ble Tribunals inter alia upon the following grounds:-

**GROUNDS:**

- A. That it is settled principle and rule of law that whilst any "adverse remarks" are being added or holds the chance of being added to the one's ACR, the person shall be intimated mandatorily with a Warning Letter or Counselling as per settled dictum by the several judgments of the Superior Courts on the subject, but in the case of the Appellant, unbothered from the situation, the department did not communicate the same to the Appellant even after his ACR was recorded and consigned to the record room.
- B. That the it is pertinent mention the unadorned fact that the Appellant holds a flawless record , and even for the said year of 2020-2021, the Appellant was in the apprehension of the same sanguinity as the Reporting Office for the subject ACR had penned down a great performance & record of excellence for the Appellant, the scenario got *volta-facie* when the same was forwarded to the Countersigning Officer who not only transverse the record of the Appellant but also revised the remarks from "very good" to "adverse" that too without any rhyme and reasons.
- C. That clear violation of Section 24 A of the General Clauses Act, 1897 has been made by not responding to the application of the Appellants which is not sustainable in the eye of law. It is in settled law that authorities having statutory powers must exercise the same in fair, just and reasonable manner. The impugned order of the Respondents is unfair, unjust and therefore not maintainable.

(4)

- D. That under the mandate of Article 4 of the Constitution, no one should be treated otherwise than in accordance with law, but here the case is *volta-facie* and a totally different yardstick has been used to treat the Appellant.
- E. That the long-continued service of the Appellant, which depends on length of his service and equity, justifiably desires and requires that having rendered his prime youth and life in the services of the Respondents, the Appellant should not be exploited or hung in dark.
- F. That the law and law courts of the land have always preferred and appreciated that rules are to be followed, and have always discouraged, depreciated, and deplored any variation from rules or its violation.
- G. Any other grounds will be raised at the time of arguments with kind permission of this Hon'ble tribunal.

*It is therefore, most humbly prayed that on acceptance of the instant Service Appeal, the impugned "Adverse Remarks" in the ACR of the Appellant for the year 2021, may graciously be expunged in the best interest of justice.*

*Any other relief not specifically asked for, may also be extended in favor of the Appellant.*

**Dated: 10-01-2022**

Appellant  
Through  
Javed Iqbal Gulbela  
Advocate, Supreme Court,  
Pakistan,  
&  
Saghir Iqbal Gulbela,  
Advocate, High Court,  
Peshawar

**NOTE: -**

No such like appeal for the same appellant, upon the same subject matter has earlier been filed by me, prior to the instant one, before this Hon'ble Tribunal.

Advocate

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR**

S. Appeal No- \_\_\_\_\_/2023

Ahsan Shehzad

Versus

Govt of KPK & Others

**AFFIDAVIT**

I, Ahsan Shehzad S/o Sher Ahmad R/o Civil Quarters Kohat Road Peshawar, do hereby solemnly affirm & declare on oath that all contents of the instant Service Appeal are true & correct to the best of my knowledge and belief & nothing has been concealed from this Hon'ble Tribunal.

DEPONENT

CNIC# 17301-0817950-9  
Cell# 0345-9026273

Identified By:

Javed Iqbal Gulbela  
Advocate, Supreme Court,  
of Pakistan.

ATTESTED  
\* SAFIQ-UR-REHMAN SHAKAR \*  
Oath  
Commissioner  
High Court Peshawar

09-01-23

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Service Appeal No. \_\_\_\_\_/2023.

Ahsan Shahzad

**VERSUS**

Administrative Judge, Peshawar High Court Peshawar.

**ADDRESSES OF PARTIES**

**APPELLANT**

*Ahsan Shahzad*, Junior Clerk, District & Sessions Court, Peshawar.

**ADDRESSES OF RESPONDENTS**

1. Administrative Judge, Peshawar High Court Peshawar.
2. The Registrar, Peshawar High Court Peshawar.
3. District & Sessions Judge, Peshawar.

Dated: 10-01-2022

Through

Appellant 2

Javed Iqbal Gulbela 2  
Advocate, Supreme Court,  
Pakistan.



OFFICE OF THE DISTRICT & SESSIONS JUDGE PESHAWAR

OFFICE ORDER

In pursuance of the Peshawar High Court, Peshawar notification bearing Gndst: No. dated Peshawar 1594-1669 dated 25.3.2003 read with Peshawar High Court, Peshawar letter No.4313-4/Admn: dated Peshawar the 15.4.2003 on the recommendation of the Departmental Selection Committee. The following candidates are appointed as Junior Clerks (BPS-5) against the newly created posts with immediate effect in the interest of public service.

<u>S.No</u>	<u>Name</u>	<u>Father's Name</u>
1.	Syed Asif Shah	Syed Maslan Shah
2.	Noor ul Haq	Noor Muhammad
3.	Rahmat Shah	Abdur Rahim
4.	Mansah Ali	Rehman Gul
5.	Sami Ullah	Shakir Ullah
6.	Shaukat Ali	Plr Balduah
7.	Ashfaq Ahmad	Abdul Qadeem
8.	Shakeel Arshad	Abdur Rashid
9.	Zahoor Ahmad	Rashid Muhammad
10.	Ahsan Shauzad	Sher Ahmad
11.	Masood Khan	Fida Muhammad
12.	Inam Ullah	Redi Gul
13.	Anwar Ullah	Munir Muhammad
14.	Shafiq ur Rehman	Meher Rehman
15.	Maded Khan	Abdul Mudassar
16.	Hidayat Ullah	Mehmood Khan
17.	Munzoor Ali	Haji Zahur Khan
18.	Shamim Ullah	Shakir Ullah
19.	Muhammad Ishaq	Rehman Khan
20.	Yousaf Khan	Haji Nawab Khan
21.	Naseem Ullah Jan	Muslan Khan
22.	Asghar Ab	Badsnah Gul
23.	Muhammad Allah Yar Khan	Muhammad Ismail
24.	Abid ur Rehman	Akhtar Munir
25.	Anwar Ali	Abdul Ghafar

TERMS AND CONDITIONS

- (1) The appointment shall be purely on temporary basis.
- (2) The service will be liable to termination at any time without notice and showing any reason.
- (3) They shall have to complete period of probation to the satisfaction of their superiors.
- (4) They shall produce medical fitness certificate before taking the charge.
- (5) They shall produce original identity card for determination of their age.

In case the above terms and conditions are acceptable to them, they should report to the undersigned officer assuming their duty within seven days from today, failing which the offer shall stand withdrawn.

(HAKIY ALI SHAH)  
District & Sessions Judge, Peshawar

No. 4156-84 Dated 17/10/2003

Copy forwarded to the:-

1. Registrar, Peshawar High Court, Peshawar.
2. The Accountant General NWFP, Peshawar.
3. Mr. Tariq Sahal, Addl. District & Sessions Judge/Member, DPC, Peshawar High Court, Peshawar.
4. Mr. Shahid Khan, Addl. District & Sessions Judge/Member, DPC, Dist. & Sessions Judge, Peshawar.
5. Senior Civil Judge, Peshawar.
6. All the concerned.

W. BELA  
Peshawar

(8)

"B"

(23)



**DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA, PESHAWAR**

Ph#091-9210099 Fax#091-9212419  
eMail: scPeshawar@yahoo.com  
web: SessionsCourtPeshawar.gov.pk

No. 1279  
Dated Peshawar 07/12/22

**CONFIDENTIAL**

To

Mr. Ahsan Shehzad, Junior Clerk  
Sessions Court, Peshawar.

Subject:

**COMMUNICATION OF ADVERSE REMARKS**

Memo:

The following adverse remarks; recorded in your ACR for the year 2021, are communicated to you for information.

"I do not agree with the Reporting Officer. The official misbehaves with the co-workers. He is arrogant and inefficient. Adverse."

District & Sessions Judge,  
Peshawar.

**JAVED IQBAL GULBELA**  
Advocate  
Supreme Court of Pakistan  
(ASC # 5317)

To,

The Hon'ble Chief Justice  
Peshawar High Court, Peshawar.  
Through Registrar, Peshawar High Court, Peshawar.

1556  
03/10/22/1

Subject: **DEPARTMENTAL APPEAL AGAINST THE REFERENCE LETTER NO. 879 DATED: 07-02-2022 UPTO THE EXTENT OF EXPUNCTION OF ADVERSE REMARKS RECORDED IN THE ANNUAL CONFIDENTIAL REPORT (ACR) OF THE APPELLANT FOR THE YEAR 2020-2021.**

Respectfully Sheweth,

With high reverence, due deference and utmost obeisance, the Appellant very humbly solicits the instant Representation to your good-self office, to the following effect:

1. That the Appellant is a naturally born *bona-fide* citizen of Islamic Republic of Pakistan and hails from a respectable family.
2. That after getting onto the rolls of this prestigious department in the year 2003, the Appellant have had pulled day & night to render his best in the service of the department with utmost zest and professional gusto, which is crystal evident from the long-stretched service period of the Appellant spread over two successful decades, that too without receiving any taint or blemish on the Appellant's service record.
3. That the Appellant has have always upheld the professional confidence, the sanctity of the department with practically unanimous determination towards his personal professional work ethic and personal (moral) aptitude, just not only to receive admiration from his high ups about his professionalism but the Appellant's believe in work has been steering him in every way (in & off duty) to bring home and won the reverence from the people of interaction and general public for the home department of the Appellant.
4. That the Appellant's faith in his work and the commitment to the social cause aligned with the vision of the department does not liberate the Appellant to go off-track in anyway, which is why the Appellant had



been successful to put excellent stats and marvelous track on his every evaluation, assessment, and record, till the instant stimulus, whereby the Appellant was taken aback on communication of his Annual Confidential Report (ACR) vide Reference Letter No. 879 Dated: 07-02-2022 in respect of which the Appellant was made subject to adverse remarks upon his work aptitude and professional behavior. **(Copy of the ACR is enclosed herewith)**

5. That not even in the wildest dreams and stormiest days, the Appellant could have ever saw it coming that the what the Appellant have had been practicing and preaching religiously for the two professional decades would render him questionable and liable to explanation i.e., professional behavior & commitment to his duty, but what strangest woe!
6. That the it is pertinent to derive your attention towards the unadorned fact that the Appellant holds a flawless record , and even for the said year of 2020-2021, the Appellant was in the apprehension of the same sanguinity as the Reporting Office for the subject ACR had penned down a great performance & record of excellence for the Appellant, the scenario got *volta-facie* when the same was forwarded to the Countersigning Officer who not only transverse the record of the Appellant but also revised the remarks from "very good" to "adverse" that too without any rhyme and reasons.
7. That it is settled principle and rule of law that whilst any "adverse remarks" are being added or holds the chance of being added to the one's ACR, the person shall be intimated mandatorily with a Warning Letter or Counselling as per settled dictum by the several judgments of the Superior Courts on the subject, but in the case of the Appellant, unbothered from the situation, the department did not communicate the same to the Appellant even after his ACR was recorded and consigned to the record room.
8. That what caused the much adversity was that the neither the Appellant's appearance was sought for the explanation, nor any findings or material evidence were recorded even in the ACR from

which the Appellant could have drawn his analogies of what went wrong on his part. But, simply with the lift of the pen, the presumptions were named as conclusions in the ACR of the Appellant.

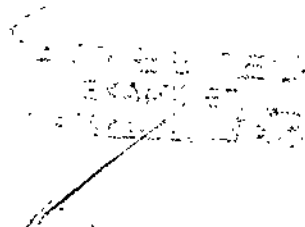
9. That pursuant to consequences, from the above-mentioned saga, the Appellant have had been punished in the shape of non-consideration for promotion whereas the entire career of the Appellant portrayed zeal & zest when finally, it was the time to benefit from the same, every effort and struggle on part of the Appellant have gone down the hill.
10. That in the given circumstances whereby the Appellant has been punished for no sake of his own and all his fatigue over the past years have only met the dust, the Appellant solicits a revised ACR whereby the "adverse remarks" be expunged, and the long-standing performance of Appellant be kept in view for the revised ACR.

*It is therefore, most humbly requested that on acceptance of the instant representation the ACR of the Appellant for the year 2020-2021, graciously be modified up-to the extent of expunction of the "adverse remarks" to the "very good".*

**Dated: 23 October 2022**



**Ahsan Shahzad**  
Junior Clerk  
District & Sessions Court,  
Peshawar.



To,

The Worthy Administrative Judge  
Peshawar High Court, Peshawar.


Subject: **APPLICATION FOR CONDONATION OF DELAY**

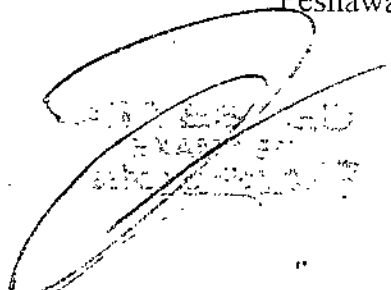
*Respected Sir,*

1. That the Applicant is serving as a Junior Clerk in Subordinate Judiciary and has working out his performance in the service of the department with utmost zeal & zest.
2. That in the earlier 2022, the Applicant was intimated his ACR for the year 2020-2021, but up-to the chagrin of the Applicant his ACR comprised of "adverse remarks" instead of "very good".
3. That the Applicant has have moved the Appeal/Representation against the ACR to the Competent Authority whereby the instant Application for condonation of the delay be also considered as part and parcel of the main Representation.
4. That the delay in filing the instant Representation is neither deliberate nor intentional but rather the Applicant was buried under the workload of the home department.
5. That a per the dictum of the Superior Court and settled principle of provision of section 30 of the Khyber Pakhtunkhwa Epidemic Control & Emergency relief, the delay in the filing of the Representation on behalf of the Applicant holds enough water to be condoned and entertained.
6. That there is no legal hedge in allowing the instant application.

*It is therefore most humbly prayed that on acceptance of the instant application the delay in filing the Representation against the ACR and the representation be perused for consideration.*

Dated: 3<sup>rd</sup> October 2022

  
Ahsan Shahzad  
Junior Clerk  
District & Sessions Court,  
Peshawar.





**DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA, PESHAWAR**

Ph#091-9210099 Fax#091-9212419  
eMail: scPeshawar@yahoo.com  
web: SessionsCourtPeshawar.gov.pk

No. 5927  
Dated Peshawar 04-10-2022

To  
The worthy Registrar,  
Peshawar High Court,  
Peshawar.

Peshawar High Court, Peshawar.	
Receipt No.	<u>13353</u>
Date	<u>5-10-2022</u>
For and at	<u>ARS</u>
Signature	<u>[Signature]</u>

Subject: **DEPARTMENTAL APPEAL ALONG WITH  
APPLICATION FOR CONDONATION OF DELAY**

Dear Sir,

The subject Departmental Appeal, along with application for condonation of delay, filed by Mr. Ahsan Shehzad, Junior Clerk of this Office, is forwarded herewith, please.

Encl: AS ABOVE

**[ASHFAQUE TAJ]**  
District & Sessions Judge,  
Peshawar.

# وکالت نامہ

عدالت: مسروس ڈائمنٹ خلیفہ، خٹوخواہ، پشاور

اجس شہنشاہ نام حکومت

منجانب Appellant دعویٰ مسروس اپیل

تاریخ 09-01-2023

ایڈووکیٹ

باعث تحریر آنکہ مقدمہ مندرجہ بالا عنوان اپنی طرف سے واسطے پیروی و جوابدہی

بمقام پشاور۔۔۔ کیلے جاویدا اقبال گل بیلہ ایڈووکیٹ سپریم کورٹ آف پاکستان

کو بدیں شرط وکیل مقرر کیا ہے۔ کہ میں ہر پیشی کا کوڈ یا بزرگیہ مختار خاص رد بروعدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر دالت کرونگا، اگر پیشی پر من مظهر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہونگے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کی کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہونگے۔ اگر مقدمہ علاوہ صدر مقام پکھری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے پیچھے پیش ہونے پر من مظهر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہونگے۔ مجھے کوکل پر داخستہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور صاحب کو عرضی دعویٰ و جواب دعویٰ اور درخواست جرائے ڈگری و نظر ثانی اپیل و نگرانی ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کے روپیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپروٹاشی و راضی نامہ فیصلہ پر خلاف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوفی ڈگری یکطرفہ درخواست حکم انتہائی یا قرتی یا گرفتاری قبل از اجراء ڈگری بھی موصوف کو بشرط ادائیگی علیحدہ مختار نہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزو کی کارروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے دوسرے وکیل یا بیرسٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کے ہر امر وہی اور ویسے ہی اختیارات حاصل ہونگے جیسے کے صاحب موصوف کو حاصل ہیں۔ اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا۔ اور صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کرونگا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا کہ سندر ہے۔

موزنہ 09-01-2023 مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Arsham Shah

Accepted by

(B.C 10 - 7924)

AT 301 - 4996065 - 7

Javed Lebal Gulshah

0345 - 9405501 -

0302 - 5890617