

10.01.2023

Junior to counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Muhammad Haseeb Superintendent for the respondents present.

Learned Member Executive (Miss Fareeha Paul) left the court at 11.00 A.M in order to attend a meeting in the Law Department, Government of Khyber Pakhtunkhwa, therefore, this case is adjourned to 06.04.2023 for arguments before the D.B.



(Rozina-Rehman)
Member(J)

SCANNED
KPST
Peshawar

26th May, 2022

Learned counsel for the appellant present. Mr. Asif Masood, DDA alongwith Mr. Muhammad Habib, Supdt for respondents present.

Learned counsel submitted rejoinder which is placed on file. A copy of the same is also handed over to the learned DDA. Learned counsel for the appellant seeks time to argue the case on the next date. Last chance is given. To come up for arguments on 08.08.2022 before D.B.



(Fareeha Paul)
Member(E)



(Kalim Arshad Khan)
Chairman

8.8.2022

Due to the Public Holiday the case is adjourned to 22-11-22

*Mr
Reader*

22.11.2022

Clerk of learned counsel for the appellant present. Mr. Muhammad Haseeb, Superintendent alongwith Mr. Muhammad Jan, District Attorney for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 10.01.2023 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

SCANNED
KPST
Peshawar

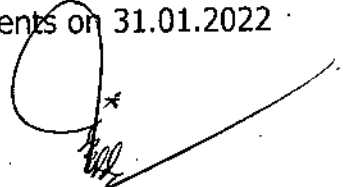
S.A No. 11018/2020

09.12.2021

Appellant in person and Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Asad-ud-Din, Superintendent for the respondents present.

Written reply/comments on behalf of respondents not submitted. Representative of the department requested for further time for submission of the same. Last chance is given. To come up for submission of written reply/comments on 31.01.2022 before S.B.

P



(MIAN MUHAMMAD)
MEMBER (E)

31.01.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Mr. Asad-ud-Din Superintendent for respondents present and submitted reply/comments which are placed on file. To come up for rejoinder if any, and arguments before the D.B on 26.05.2022.



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

A.No. 11018/2020
Sher Wali vs Govt

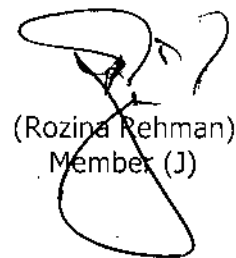
20.01.2021

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

Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for written reply/comments. To come up for written reply/comments on 14.04.2021 before S.B.

Appellant Deposited
Security & Process Fee

03/2/21


(Rozina Rehman)
Member (J)

14.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 02.08.2021 for the same as before.


Reader

02.08.2021

Counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Asadud Din Asif Jah, Superintendent for the respondents present.

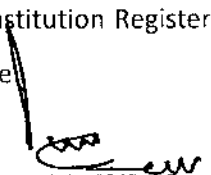

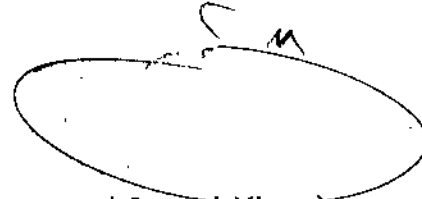
Reply/comments has not been submitted. Respondents are required to furnish reply/comments in office within 10 days, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 09.12.2021 before the D.B.


Chairman

FORM OF ORDER SHEET

Court of _____

Case No.- 11018 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/09/2020	<p>The appeal of Mr. Sher Wali Khan resubmitted today by Mr. Javed Iqbal Guibella 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 for preliminary hearing to be put up there on <u>04/11/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>
04.11.2020		<p>Appellant is present in person.</p> <p>Since the Members of the High Court as well as of the District Bar Association, Peshawar, are observing strike today, therefore, learned counsel for appellant is not available today. Adjourned to 20.01.2021 on which date to come up for preliminary hearing before S.B.</p> <p style="text-align: right;"> (Muhammad Jamal Khan) Member (Judicial)</p>

This is an appeal filed by Mr. Sher Wali Khan today on 31/08/2020 against the order dated 05/06/2020 against which he preferred/made departmental appeal/ representation on 07.2020 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action and also removing the following deficiency.

Address of respondent no. 1 is incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.

No. 2544 /ST,

Dt. 01-09 /2017


REGISTRAR -
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Javed Iqbal Gulbella Adv.

Respected Sir,
Resubmitted after necessary
completion. Moreover the
Appellant had moved his
departmental Appeal on 15-06-
2020 & his Service Appeal got
matured on 15-09-2020 &
kindly place it before
Honorable Bench for
Disposal.

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

In Re S.A. 11018 /2020

Sher Wali Khan

VERSUS

Director General ^{Agriculture} Extension Merged Area Peshawar &
Others

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4.	Copy of appointment order No. No.4005-8/DA (Merged Area)	"A"	9
5.	Copies of Medical certificate, arrival report and service books	"B, C & D"	10-14
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Dated : 28/08/2020

Appellant

Through

JAVED IQBAL GULBELA
Advocate, High Court,
Peshawar.

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

In Re S.A _____/2020

Sher Wali Khan Ex-Driver (BPS-06),
Directorate of Agriculture Extension Merged
Areas.

-----(*Appellant*)

VERSUS

- Agriculture K.P.W.*
1. Director General Extension Merged Area Peshawar.
 2. Director Agriculture Extension Merged Area Peshawar.

-----(*Respondents*).

**Appeal U/S 4 of The Khyber
Pakhtunkhwa Services Tribunal Act -1974
Against The Impugned Order No: 4094-
98/DA(Merged Area) Dated 05/06/2020 Of
The Office of The Director Agriculture
Extension (Merged Areas) Peshawar,
Whereby The Appellant has been
Terminated From Service, in an Illegal,
Whimsical and Cursory Manner.**

Respectfully Sheweth;

1. That after going through the mandatorily required criteria laid down the Appellant got inducted into service as Driver (BPS-06) in the respondent department vide order No.4005-8/DA (Merged Area) dated 05-06-2020. (Copy of appointment order No. No.4005-8/DA

(Merged Area) is attached as annexure "A").

2. That thereafter the petitioner got Medical Fitness Certificate from the Medical Superintendent Police Services Hospital Peshawar on 06.06.2020 and also submitted his arrival report for duty as driver (BPS-06) in respondents department on 08.06.2020 and devotedly join his regular service. (Copies of Medical certificate, arrival report and service books are attached as Annexure "B, C & D").

3. That thereafter strangely the appointment order of the appellant has been withdrawn and thus the services of the appellant has been illegally, unlawfully terminated vide impugned office order No.4094-98/ DA (Merged Area) Peshawar dated 05.06.2020; It is pertinent to mentioned here that as the appellant got medical fitness certificate on 06.06.2020 and submitted his arrival on 08.06.2020 then how he was terminated on 05.06.2020. Therefore the impugned termination order is not only illegal and unlawful but it is also highly malicious on the part of respondent.

(Copy of impugned termination order No.4094-98/DA (Merged Area) Peshawar is attached as Annexure "E").

4. That feeling aggrieved the Appellant preferred departmental appeal for setting aside the impugned removal from service order and for his re-instatement with all back benefits on 15/06/2020, but nothing came out, rather the appellant became a shuttle cock in between offices of Director and Director General of Agriculture (Extension) Khyber Pakhtunkhwa Peshawar. (Copies of Departmental Appeal and other documents are attached as annexure "F, G & H")

5. That feeling aggrieved the Appellant prefers the instant Appeal for setting aside the impugned termination order & for reinstatement into service with all back benefits upon the following grounds inter-alia:-

GROUND:

A. That no enquiry has been conducted and the Appellant was removed from service, therefore, the impugned removal from service order is unlawful, illegal void ab

initio and not sustainable in the eye of law.

B. That even there is no inquiry dispensation order, and on this score alone the impugned order is illegal and void ab-initio.

C. That no charge sheet of allegation was issued or served upon the Appellant, and thus the impugned orders are not sustainable at all.

D. That even no statement of allegation was either issued or served upon the Appellant, hence, the impugned orders are illegal, unlawful, void ab-initio and are liable to be set aside.

E. That even no show-cause notice or final show-cause notice was given to the Appellant which is mandatory obligation on the part of competent authority, therefore, the impugned orders are wrong, illegal, whimsical, unlawful, void ab-initio and not sustainable in the eye of law and on this score alone the Appellant is entitle to be reinstated into service with all back benefits.

- F. That the Appellant was never called upon by the enquiry officer or any enquiry committee to explain his position or to extend a fair chance of defense to the Appellant, and abruptly removed the Appellant from service which is illegal, unlawful and against the rights of the Appellant.
- G. That from every angle the impugned removal from service order is wrong, void and illegal and is liable to be set aside and the Appellant is liable to be reinstated into service with all back benefits.
- H. That the appeal of the appellant was simply shelved without any reason.
- I. That the appellant was appointed on 05.06.2020 thereafter he submitted his arrival report after completion of all codal formalities on 08.06.2020 and join devotedly his duty on 08.06.2020 then how he was terminated on the same date of the appointment i.e 05.06.2020; which by itself proves the malafide of the respondent as well as proves the illegality on the part of respondent and on this score appellant is in entitle to be

reinstated into service by setting aside the impugned termination order.

J. That any other ground not raised here may graciously be allowed to be raised at the time arguments.

It is therefore most humbly prayed that on acceptance of this Service Appeal, the impugned Termination order No: 4094-98/DA (Merged Area) Peshawar, dated 05/06/2020 of the office of Director General (Extension) Merged Area Peshawar may kindly be set aside and by doing so, the Appellant may kindly be reinstated into service with all back benefits.

Any other relief not specifically asked for may graciously be extended in favor of the appellant, in the circumstances of the case.

Dated: 28/08/2020

Petitioner

Through

Javed Iqbal Gulbela

Israr Ahmad

Saghir Iqbal Gulbela

Ahsan Sardar

&

Tahir Khan

Advocates, High Court

Peshawar

NOTE:-

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

Advocate.

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

In Re S.A _____/2020

Sher Wali Khan

VERSUS

Director General Extension Merged Area Peshawar &
Others

AFFIDAVIT

I, **Sher Wali Khan Ex-Driver (BPS-06),
Directorate of Agriculture Extension Merged
Areas.**, do hereby solemnly affirm and declare
that all the contents of the accompanied **appeal**
is true and correct to the best of my knowledge
and belief and nothing has been concealed or
withheld from this Hon'ble Tribunal.

DEPONENT

CNIC:17301-8650910-1

CELL NO: 0317-8330855

Identified By:

Javed Iqbal Gulbela
Advocate High Court
Peshawar.

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

In Re S.A _____/2020

Sher Wali Khan

VERSUS

Director General Extension Merged Area Peshawar &
Others

ADDRESSES OF PARTIES

APPELLANT.

Sher Wali Khan Ex-Driver (BPS-06),
Directorate of Agriculture Extension Merged
Areas.

RESPONDENTS:

1. Director General Extension Merged Area
Peshawar.
2. Director Agriculture Extension Merged Area
Peshawar.

Dated : 28/08/2020

Appellant

Through

**JAVED IQBAL GULBELA
Advocate, High Court,
Peshawar.**



(9) Annexure - A

DIRECTORATE OF AGRICULTURE EXTENSION MERGED AREAS

Phase-5, Sector B-1, Adjacent NADRA Office, Hayatabad, Peshawar.

Ph: 091-9217721 & 9217717, Fax: 091-9217868 Email: agricfata@yahoo.com, agri.dir@fata.gov.pk

OFFICE ORDER.

Mr. Sher Wali Khan S/O Idrees Khan village Ghari Atta Mohammad Tehsil & District Peshawar is here by appointed as Driver in (BPS-6) (Rs- 10620-560-27420) with usual allowances as admissible under the rules against the vacant post of Driver under the head Agriculture Extension Services in the office of the Director Agriculture (Ext;) Merged Areas Peshawar with immediate effect on the following terms and conditions; -

- 1) He will get pay at the minimum of BPS-06 including usual allowances as admissible under the rules. He will also be entitled to annual increment as per existing rules.
- 2) His services will be liable to termination with or without any reason on one month notice from either side. In case of termination without notice by the employer or one month notice from the employee for resignation one month pay and allowances shall be paid by the Government or refunded by the employee as the case may be.
- 3) His service is liable for pension/gratuity and commutation.
- 4) He will contribute G.P.Fund as per Government rules.
- 5) He will be allowed conveyance, Medical, House Rent Allowances, Leave and TADA as per Government rules.
- 6) He will be entitled for facility of Benevolent Fund/Group insurance as per Govt; rules.
- 7) He has to join duty at his own expenses.
- 8) He shall produce a medical certificate of fitness from concerned DHO/Civil Surgeon before reporting himself for duty in this office as required under the rules.
- 9) He will be on probation for a period of one year with effect from the date of joining his duty.
- 10) His service can be terminated at any time in case his performance is not found satisfactory during his probation period of one year.
- 11) If he accepts the post on the above conditions, he should report for duty to this office within 14 days of the receipt of this order and also produce original documents to this office.

-Sd-

**DIRECTOR AGRICULTURE
EXTENSION (MERGED AREAS)
PESHAWAR**

No 4005-8 /DA (Merged Areas)

dated Peshawar 5/6 /2020

Copy forwarded for information and necessary action to:-

1. The Accountant General Khyber Pakhtunkhwa.
2. The Deputy Director Agriculture (Ext;) Merged Areas Peshawar
3. The Official concerned.
4. The Pay bill Clerk H/Q.
5. Office order file.


**DIRECTOR AGRICULTURE
EXTENSION (MERGED AREAS)
PESHAWAR**

10

Annexure B

MEDICAL CERTIFICATE

Name of official Shux Waidi Khan
 Caste or race Khudai
 Father's name Idrees Khan
 Residence Village Ghadi Atta Muhammadd Tubaid 2
Dist Peshawar
 Date of birth 02-10-1996
 Exact height by measurement 5-8"
 Personal mark of identification Nil
 Signature of the official [Signature]
 Signature of head of office _____

Seal of office _____

I do hereby certify that I have examined Mr. Shux Waidi Khan a candidate for employment in the Office of the Agriculture and cannot discover that he had any disease communicable or other constitutional affection or bodily infirmity except Nil

I do not consider this as disqualification for employment in the office of the Asst Commr
 His age according to his own statement 24 year and by appearance about year Twenty Four.

[Signature]
 MEDICAL SUPERINTENDENT,
 Medical Superintendent
 CIVIL HOSPITAL Police Services Hospital
 Peshawar
 06/06/2020

LEFT HAND THUMB AND FINGER IMPRESSIONS



(11)

Annexure - "C"

To,

The Director, Agriculture Extension,
Merged Areas, Peshawar.


Subject: - ARRIVAL REPORT.

R/Sir,

Kindly refer to your office order No. 4005-08 dated 05.06.2020

I beg to submit my arrival report for duty as Driver (BPS-06) in
your good office today on 08/06/2020.

YOURS OBEDIENTLY


SHER WALI KHAN
DRIVER H.Q. OFFICE
PESHAWAR

8/06/2020

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Annexure - 0

Note:- The entries in this page should be renewed or re-attested at least every five years and the signature to lines 9 and 10 should be dated.

1. Name: Shiv Nani Khosla

2. Race: Mudhar (Jadhav)

3. Residence: Village Ahirgaon, P.S. Mahanagar, Tehsil D. & District Dehshwar

4. Father's name and residence: Idhar Khosla

5. Date of birth by Christian era as nearly as can be ascertained: 02-01-1996

6. Exact height by measurement: 5-8

7. Personal marks for identification: NIL

8. Left hand thumb and finger impression of (Non-Gazetted) officer:

Little Finger

Ring Finger

Middle Finger

Fore-Finger

Thumb

9. Signature of Government Servant: (Signature)

10. Signature and designation of the Head of the Office, or other Attesting Officer: (Signature)

Asst. District Officer, P.O. and District Office, Dehshwar

14

5

9 Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	10 Date of termination or appointment.	11 Reason of termination such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting officer.	13 Leave			14 Signature of the head of the office or other attesting officer	15 Reference to any recorded punishment or censure or praise of the Government Servant.
				Nature and duration of leave taken.	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government			
					Period	Government to which debitable		
			Appointed as junior (DP-Sub) vide Decision Agreement Extension - Merit Area Advt Disbursement of the order No 1405-8/DACMA dated: 5/6/2024					
							<i>(Signature)</i>	
							Asst. Agriculture Officer DDO for District of Agriculture (Extension) Merit Area Personnel	

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Annexure - "E"



DIRECTORATE OF AGRICULTURE EXTENSION MERGED AREAS

Phase-5, Sector B-I, Adjacent NADRA Office, Hayatabad, Peshawar.

Ph: 091-9217721 & 9217717, Fax: 091-9217868, Email: agricfata@yahoo.com, agri.dir@fata.gov.pk

OFFICE ORDER

The appointment order of Mr. Sher Wali Khan, as Driver (BPS-06) in this Office issued vide office order No 4005-8/DA (M-A) dated 5/6/2020 is hereby withdrawn due to technical mistake non formation of Departmental selection committee from the date of its issue in the best interest of public service.

Sd/-

(AHMAD KHAN)

DIRECTOR AGRICULTURE
EXTENSION (MERGED AREAS)

PESHAWAR

No 4097-98 /DA (Merged Areas) dated Peshawar 5/6 /2020

Copy forwarded for information and necessary action to:

1. The Accountant General, Khyber Pakhtunkhwa
2. The Director General, Agriculture (Ext :) Khyber Pakhtunkhwa Peshawar.
3. The official concerned
4. The Pay bill Clerk H/O
5. Office order file.

DIRECTOR AGRICULTURE
EXTENSION (MERGED AREAS)
PESHAWAR

کمزور بنیاد ڈاکٹر بلنگر حکمہ ذراعت (توسیع) ضلع کٹواڑ خواہ پشاور

صغون!

جناب عالی!

صوبانہ تزارش ہے کہ بنڈہ بچوالہ ضلعی نمبر 4055-8 ڈاکٹر بلنگر ذراعت

ادریا بنیاد (بلغ 2020ء) کی گڈ اسٹور برقی سوا (نقشاتی کما حکم نامہ منسلک ہے)

بنڈہ نے حکم نامہ کی مطابق پولیس سٹول ہسپتال سے نقاشی کے حکم نامے پر تزارش کا
پیشگی کرنا۔ (فونڈ کاپ منسلک ہے)

بعد ازاں بنڈہ نے بنڈہ نقاشی سے ڈی سی ڈاکٹر بلنگر ذراعت بنڈہ ادریا
پشاور کے دفتر میں تاریخ 8 جون 2020ء پر تزارش کی رپورٹ

پیش کی۔ (فونڈ کاپی منسلک ہے)

جناب عالی! بنیاد انیسویں سالہ ایجا کر نامہ موجود ہے کہ نامہ

دو نمونے کے بنڈہ پر ایک حکم نامہ نمبر 4094-98 مورخہ 2020ء

موصول ہوا۔ جس میں بنڈہ کو درخواست کیا گیا۔ (کاپی منسلک ہے)

لہذا آپ کے حضور اندر میں عرض ہے کہ بنڈہ کو بر فکشن

کی وجہ سے تزارش کو فرماویں۔ اور بنڈہ کو واپس اپنی جگہ

پر نقاشی فرما کر تزارش فرماویں۔ عین تزارش ہوگی

عرض کی بنڈہ

آپ کے تاج فریانا شہری خان ڈاکٹر اسٹور ڈی سی بنڈہ

لکھی

17

Annexure - "G"

**DIRECTORATE GENERAL AGRICULTURE (EXTENSION) KHYBER
PAKHTUNKHWA, PESHAWAR**

Ph.No.091-9224226

Fax.No.091-9224225

No:18/171/Estt:/_____/DGA(E) Dated Peshawar: the ____/____/2020


To:

The Director Agriculture (Extension),
Merged Areas, Peshawar.

Subject: **APPLICATION / APPEAL FOR RE-INSTATEMENT IN RESPECT
OF MR. SHER WALI KHAN DRIVER**

Memo:

Enclosed herewith photocopy of application alongwith relevant documents which is self-explicit in respect of Mr. Sher Wali Khan ^{EX:} Driver office of the Director Agriculture Extension, Merged Areas, Peshawar for comments/ views and considered sympathetically as per Government Rule/ Policy.


DIRECTOR GENERAL

No,18/171/Estt:/14077/DGA(E)

Dated Peshawar: the 10/7/2020

Copy forwarded for information to Mr. Sher Wali Khan, ^{EX:} Driver, office of the Director Agriculture, Merged Areas, Peshawar with reference to his application dated Nil.


DIRECTOR GENERAL

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Amends - H



DIRECTORATE OF AGRICULTURE EXTENSION MERGED AREAS

Phase-5, Sector B-I, Adjacent NADRA Office, Hayatabad, Peshawar.

Phone: 011-2217717, 011-2217868 Fax: 011-2217868 Email: agrc@iaa.gov.pk, agrc@iaa.gov.pk

No. 4235 /DA (Merged Areas) Peshawar Dated 20 / 7 /2020.

To,

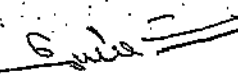
The Directorate General
Agriculture (Extension)
Khyber Pakhtunkhwa Peshawar.

Subject: APPLICATION/APEAL FOR REINSTATEMENT IN RESPECT OF MR. SHER WALI KHAN DRIVER.

Reference your office letter No.18/171/Estt/14076/DGA (E) dated 10/07/2020 on the subject noted above.

It is submitted that Mr. Sher wali Khan was appointed as Driver in BPS-06 vide this office order No.4005-8/DA (M-A) dated 05/06/2020. Later on, instructions were received to withdraw all such orders which were issued in that time without formation of selection committee and shortage of required documents. The withdrawn orders were issued along with others in compliance of directives. His pay was not started nor proper responsibilities was handed to him.

However, this office has no objection to reinstate or appoints the person on any post in the Department.


DIRECTOR AGRICULTURE
EXTENSION MERGED AREAS,
PESHAWAR.

وکالت نامہ

بعدالت: سروس ٹریڈنگ کمپنی

مشیر وکیل کا نام پلم کا صورت

منجانب سائنم دعویٰ 2022 - S.A

تاریخ 28/8/2022 BC-11-1742

باعث تحریر آنکہ مقدمہ مندرجہ بالا عنوان اپنی طرف سے واسطے پیروی و جواب دہی بمقام پلم کا صورت کے لئے جاوید اقبال گل بیلہ ایڈووکیٹ ہائی کورٹ کو بدین شرط پیش

مقرر کیا ہے۔ کہ میں ہر پیشی کا خود یا بزرگیہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے مقدمہ وکیل

صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا، اگر پیشی پر من مظہر 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 پچہری کی کسی اور جگہ یا پچہری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہونگے۔ اگر

مقدمہ علاوہ صدر مقام پچہری کے کسی اور جگہ ساعت ہونے یا بروز تعطیل یا پچہری کے اوقات کے آگے پیچھے پیش ہونے پر

من مظہر 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 ساختہ پر داختہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور

صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل و گمرانی 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 برخلاف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور

بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم اتناعی یا ترقی 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 جزوی کاروائی 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 دہی 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 کروں گا 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۔

مورخہ 28/8/2022 - مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Accepted

13/8/2022

13/8/2022

جاوید اقبال گل بیلہ

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 11018/2020

Mr. Sher Wali Khan

VERSUS

Director General, Agriculture
Extension Khyber Pakhtunkhwa,
Peshawar & Others

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DEPONENT

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 11018/2020
Mr. Sher Wali Khan

APPELLANT

VERSUS

1- The Director General, Agriculture Extension Khyber Pakhtunkhwa, Peshawar.

2- The Director Agriculture Extension Merged Area Peshawar.

RESPONDENTS

PRELIMINARY OBJECTIONS

- 1- That the appellant has got no locus standi and no cause of action to file the instant appeal.
- 2- That the appeal is not maintainable in its present form and is liable to be dismissed.
- 3- That the appointment order was withdrawn prior to arrival report or joining duty.
- 4- That the appellant has deliberately concealed the facts from this Honorable Tribunal.
- 5- That the appellant has not come to this Honorable Tribunal with clean hands.
- 6- That the Honorable Tribunal has no jurisdiction to entertain this appeal.
- 7- That the appellant is neither Govt. Servant nor aggrieved person.

PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS NO 1 & 2.


- Para-1 Correct to the extent that the appellant was appointed as Driver BS-06 vide office order No. 4005-8/DA dated 05.06.2020 in the office of Respondent No.2 without completing codal formalities prescribe for appointment by the Government of Khyber Pakhtunkhwa i.e. Advertisement, without formation of Departmental Selection Committee etc. and on the same day the appointment order of the appellant was withdrawn vide office order No.4094-98/DA dated 05.06.2020 (Annexure-A & B).
- Para-2 Correct to the extent that before preparing Medical fitness certificate on dated 06.06.2020 and submission of his arrival report on dated 08.06.2020 as mention in Para No.2 by the appellant, the appointment order is withdrawn vide Order No. 4094-98/DA dated 05.06.2020.
- Para-3 Incorrect. That the appointment order as Driver of the appellant was withdrawn on 05.06.2020 (copy already annexed as Annexure-B) and no termination order of the appellant was issued by the respondents.
- Para-4 Incorrect. The appeal is not acceptable due to withdrawn of the appointment order of the appellant on the grounds that codal formalities were not observed prescribed by the Government of Khyber Pakhtunkhwa.
- Para-5 Incorrect. Detail comments given in para-3 above and also not entitled for reinstatement into service with all back benefits.

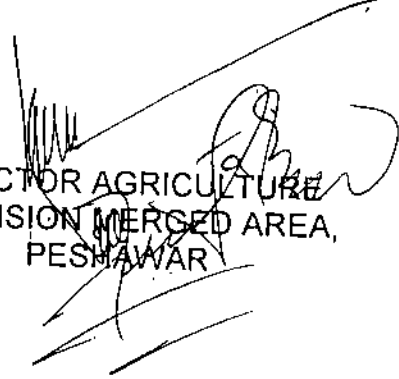
(23)

GROUNDS

- Para-A Incorrect. Detail comments given in para-1 above.
- Para-B Incorrect. Detail comments given in above paras.
- Para-C Incorrect. That there is no need of charge sheet or statement of allegation as the appointment order was withdrawn prior to joining service.
- Para-D Incorrect. That there is also no need to issue statement of allegation to the appellant, hence the impugned order is legal and lawful.
- Para-E Incorrect. Detail comments given in para-1 above.
- Para-F Incorrect. As already explained in above paras of the facts.
- Para-G Incorrect. As explained in para-1 above,
- Para-H Incorrect. As explained in above paras of the facts.
- Para-I Incorrect. As explained in para-1 and Para-C above.
- Para-J The respondent may kindly be allowed to raise additional grounds at the time of arguments.

It is therefore humbly prayed that on acceptance of the above Para wise reply / comments, the appeal of the appellant may kindly be dismissed with cost.


DIRECTOR GENERAL,
AGRICULTURE EXTENSION KHYBER
PAKHTUNKHWA, PESHAWAR


DIRECTOR AGRICULTURE
EXTENSION MERGED AREA,
PESHAWAR

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 11018/2020
Mr. Sher Wali Khan

APPELLANT

VERSUS

- 1- The Director General, Agriculture Extension Khyber Pakhtunkhwa, Peshawar.
- 2- The Director Agriculture Extension Merged Area Peshawar.

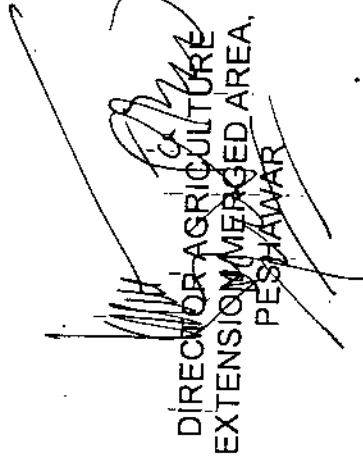
RESPONDENTS

COUNTER AFFIDAVIT

We the undersigned hereby solemnly declare / affirm that the contents of the Para-wise reply / comments are true and correct to the best of our knowledge and belief and nothing has been kept secret from this Honorable Tribunal.



DIRECTOR GENERAL,
AGRICULTURE EXTENSION KHYBER
PAKHTUNKHWA, PESHAWAR.



DIRECTOR AGRICULTURE
EXTENSION MERGED AREA,
PESHAWAR



9

Annexure - A

4

DIRECTORATE OF AGRICULTURE EXTENSION MERGED AREAS

Phase-5, Sector B-I, Adjacent NADRA Office, Hayatabad, Peshawar.

OFFICE ORDER.

Mr. Sher Wali Khan S/O Idrees Khan village Ghari Atta Mohammad Tehsil & District Peshawar is here by appointed as Driver in (BPS-6) (Rs- 10620-560-27420) with usual allowances as admissible under the rules against the vacant post of Driver under the head Agriculture Extension Services in the office of the Director Agriculture (Ext;) Merged Areas Peshawar with immediate effect on the following terms and conditions: -

- 1) He will get pay at the minimum of BPS-06 including usual allowances as admissible under the rules. He will also be entitled to annual increment as per existing rules.
- 2) His services will be liable to termination with or without any reason on one month notice from either side. In case of termination without notice by the employer or one month notice from the employee for resignation one month pay and allowances shall be paid by the Government or refunded by the employee as the case may be.
- 3) His service is liable for pension/gratuity and commutation.
- 4) He will contribute G.P.Fund as per Government rules.
- 5) He will be allowed conveyance, Medical, House Rent Allowances, Leave and TADA as per Government rules.
- 6) He will be entitled for facility of Benevolent Fund/Group insurance as per Govt; rules.
- 7) He has to join duty at his own expenses.
- 8) He shall produce a medical certificate of fitness from concerned DHO/Civil Surgeon before reporting himself for duty in this office as required under the rules.
- 9) He will be on probation for a period of one year with effect from the date of joining his duty.
- 10) His service can be terminated at any time in case his performance is not found satisfactory during his probation period of one year.
- 11) If he accepts the post on the above conditions, he should report for duty to this office within 14 days of the receipt of this order and also produce original documents to this office.

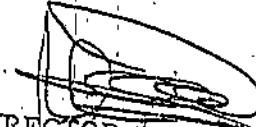
-Sd-
DIRECTOR AGRICULTURE
EXTENSION (MERGED AREAS)
PESHAWAR

dated Peshawar 5/6 /2020

No 4005-8 /DA (Merged Areas)

Copy forwarded for information and necessary action to:-

1. The Accountant General Khyber Pakhtunkhwa.
2. The Deputy Director Agriculture (Ext;) Merged Areas Peshawar
3. The Official concerned.
4. The Pay bill Clerk H/Q.
5. Office order file.


DIRECTOR AGRICULTURE
EXTENSION (MERGED AREAS)
PESHAWAR



DIRECTORATE OF AGRICULTURE EXTENSION MERGED AREAS

Phase-5, Sector B-I, Adjacent NADRA Office, Hayatabad, Peshawar

Phone: 091-2772001-2772002 Fax: 091-2772003 Email: agrisatn@pko.com, dir@pko.gov.pk

OFFICE ORDER

The appointment order of Mr. Sher Wali Khan, as Driver (BPS-06) in this Office issued vide office order No 2005-87DA (M-A) dated 5/6/2020 is hereby withdrawn due to technical mistake non formation of Departmental selection committee from the date of its issue in the best interest of public service.

Sd/-

(AHMAD KHAN)

DIRECTOR AGRICULTURE
EXTENSION (MERGED AREAS)
PESHAWAR

No 4244-287DA (Merged Areas) dated Peshawar 5/11/2020

Copy forwarded for information and necessary action to:

1. The Accountant General, Khyber Pakhtunkhwa
2. The Director General, Agriculture, Khyber Pakhtunkhwa
3. The official concerned
4. The Pay bill Clerk/H/O
5. Office order file



DIRECTOR AGRICULTURE
EXTENSION (MERGED AREAS)
PESHAWAR

BEFORE THE HON'BLE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

In Re. S.A 11018/2020

Sher Wali

Versus

Director General Extension Merged Area Peshawar & Others

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Through

Appellant

JAVED IQBAL GULBELA

Advocate

Supreme Court of Pakistan

Dated: 22/05/2022

BEFORE THE HON'BLE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

In Re. S.A 11018/2020

Sher Wali

Versus

Director General Extension Merged Area Peshawar & Others

Rejoinder on Behalf of the Appellant to the
comments filed by the Respondents 1 & 2.

Respectfully Sheweth,

Reply to Preliminary objections: -

Para 1 to 7:

All the Preliminary Objections raised & agitated by the Respondents are false, concocted, misleading & hypocritical; hence all are denied sternly. Not only the Appellant has got a good prima facie case having locus standi, to file the instant Appeal, but the instant Appeal is strictly as per law & has rightly been moved against the impugned Office Order No. 4094-98/DA(Merged Area) Dated 05-06-2020 of the office of Director Agriculture Extension (Merged Area) Peshawar, which impugned order is not only illegal and unlawful, but are rather due to the colorful exercise of discretionary powers, vested in the respondents. The instant Appeal is well maintainable and has duly been moved upon all fours of law. The present Appeal is well in time and no material facts have ever been concealed by the Appellant, but a true and detailed picture has been portrayed. Moreover, this Hon'ble Tribunal has got the jurisdiction to entertain the instant service Appeal.

On Facts: -

1. Para "1" of the comments is correct only to the extent of Appointment order no. 4005-8 dated: 05-06-2020, while the remaining Para is totally misleading, misconceiving, hypocritical, and

incorrect, therefore sternly denied. Moreover the corresponding Para of the main appeal is true and correct.

2. Para "2" of the comments is correct only to the extent of Medical Fitness Certificate on dated:06-06-2020 and submission of arrival report on 08-06-2020, while the remaining Para is totally misleading, Incorrect, false, fabricated, vexatious, hypocritical, illegal, and unlawful, therefore sternly denied. Moreover the corresponding Para of the main appeal is true and correct.
3. Para "3" of the comments is Incorrect, false, fabricated, vexatious, hypocritical, illegal, and unlawful hence denied. While true and correct picture is given in the corresponding Para of the main appeal.
4. Para "4" of the comments is Incorrect, misleading, misconceiving, vexatious, hypocritical, illegal, and unlawful hence denied. While that of the main appeal is true and correct.
5. Para "5" of the comments is Incorrect, misleading, concocted and unlawful, therefore sternly denied. While that of the main appeal is true and correct.

GROUND:

- A. Para "A" of the comments is Incorrect and denied. True and detailed picture has been portrayed above as well as in the corresponding Para of the main appeal.

- B. Para "B" of the comments is Incorrect, false and misleading hence denied sternly. True and detailed picture has been portrayed above as well as in the corresponding Para of the main appeal.
- C. Para "C" of the comments is Incorrect, misleading, misconceiving, illegal and unlawful, Hence denied. Moreover True picture has been given in the main appeal.
- D. Para "D" of the comments is Incorrect, misleading, misconceiving, illegal and unlawful, Hence denied. Moreover True picture has been given in the main appeal.
- E. Para "E" of the comments is Incorrect, false and misleading hence denied sternly. True and detailed picture has been portrayed above as well as in the corresponding Para of the main appeal.
- F. To J. Para "F to J" of the comments are Incorrect, false, illegal, unlawful, void ab-initio and misleading; Hence denied sternly. True and detailed picture has been portrayed above as well as in the corresponding Para of the main appeal.

It is therefore, most humbly prayed that on acceptance of the instant rejoinder, the Service Appeal of the Appellant may very graciously be allowed as prayed for therein.

Through


Appellant

JAVED IQBAL GULBELA
Advocate,
Supreme Court of Pakistan

Dated: 22/05/2022

BEFORE THE HON'BLE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

In Re. S.A 11018/2020

Sher Wali

Versus

Director General Extension Merged Area Peshawar & Others

AFFIDAVIT

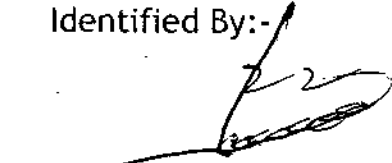
I, the **Appellant** do hereby solemnly affirm and declare on oath that contents of the Rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.


Deponent

CNIC 17301-8650910-1

Mobile No. 0317.8330855

Identified By:-


Javed Iqbal Gulbela
Advocate High Court
Peshawar

