

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	08.04.2019	<p align="center"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> Service Appeal No. 293/2018</p> <p>Date of Institution 02.03.2018 Date of Decision 08.04.2019</p> <p>Muhammad Ibrar S/o Muhammad Riaz R/o Phandu Road Shaheen Muslim Town, Tehsil & District Peshawar.</p> <p align="right">Appellant</p> <p align="center">Versus</p> <ol style="list-style-type: none"> Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar. Secretary Agriculture, Livestock & Cooperative Department, Khyber Pakhtunkhwa Peshawar. Deputy Secretary "Administration" Agriculture, Livestock & Cooperative Department, Khyber Pakhtunkhwa Peshawar. Accountant/Cashier, Agriculture, Livestock & Cooperative Department, Khyber Pakhtunkhwa Peshawar. <p align="right">Respondents</p> <p>Mr. Muhammad Hamid Mughal-----Member(J) Mr. Hussain Shah-----Member(E)</p> <p align="center"><u>JUDGMENT</u> <u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Learned counsel for appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present.</p> <p>2. The appellant (Ex-Naib Qasid) has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against</p>

8.4.2019

the order dated 02.11.2017 whereby respondent No.3 removed the appellant from service under Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 on account of his willful absence from duty and the absence period of the appellant w.e.f 20.06.2017 was declared as unauthorized absence from duty without pay.

3. Learned counsel for the appellant argued that the appellant was appointed as Naib Qasid in the respondent department; that the respondent department without adopting the legal procedure, removed the appellant from service vide impugned order dated 02.11.2017; that the major punishment of removal from service cannot be awarded without conducting regular inquiry; that no opportunity of defense and personal hearing was afforded to the appellant nor any Show Cause Notice was issued prior to the issuance of the impugned order; that neither any charge sheet/statement of allegation was served upon the appellant nor inquiry officer or inquiry committee was appointed to conduct the inquiry against the appellant; that the impugned order is unlawful and against the norms of justice. In support of his arguments, learned counsel for the appellant referred to the judgments reported in PLD 2019 Supreme Court page 189, 2006 SCMR page 1641, 2004 PLC (C.S) page 957 [Supreme Court (AJ&K)], 1993 SCMR page 1440, 2019 PLC (C.S) Note 14 (Sindh High Court), 2019 PLC (C.S) page 224 [Peshawar High Court (Abbottabad Bench)], 2000 PLC (C.S) page 817 [Khyber Pakhtunkhwa Service Tribunal] and

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2005 PLC (C.S) page 263 [Sindh Service Tribunal].

4. As against that learned Additional Advocate General argued that the appellant was appointed as Naib Qassid against the retired son quota on 07.10.2016; that the appellant was habitual absentee even during the period of his probation; that due to absence of the appellant, proper procedure as provided under Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 was adopted and accordingly absentee notice was issued to the appellant on his home address and on the receipt of no response from the appellant, disciplinary action was further carried out by publishing absentee notices in the two (02) leading Newspapers i.e. Daily Mashirq Peshawar and Daily Aaj Peshawar; that in case of willful absence of a government servant from duty, a mechanism has been provided under Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and there is no need for regular inquiry; that the appellant submitted fake documents to HBL Peshawar for availing personal loan facilities and thereby availed personal loan facilities on fake documents.

5. Arguments heard. File perused.

6. With their joint written reply, the respondents have also annexed copy of absentee notice at the home/ mailing address of the appellant. Similarly absentee notices issued to the appellant through daily newspapers i.e. Daily Mashriq Peshawar and Daily Aaj Peshawar are also available on file. In the said notices the appellant

8.4.2019

was asked to join the duty within 15 days of the publication of absence notice, otherwise, he shall be removed from service under Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011. Hence the appellant was removed from service after adopting the procedure provided in Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

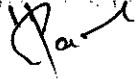
7. Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 provides a distinct mechanism in case of willful absence from duty by a government servant, that a notice shall be issued on the home address of the civil servant to resume the duty within 15 days of the issuance of the notice and if the same received back as undelivered or no response is received from the absentee within stipulated period, a notice shall be published in at least two (02) leading newspapers, directing him to resume duty within 15 days of the publication of that notice. On the expiry of stipulated period given in the notice, major penalty of removal from service may be imposed upon the government servant. Hence in case of willful absence from duty, a government servant may be removed from service in the manner prescribed under Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 without conducting regular inquiry.

8. Learned counsel for the appellant remained unable to demonstrate that the impugned order is perverse or based on any ulterior motive or malafide.

8.4.2019

9. In the light of above, the appellant has not been able to seek indulgence of this Tribunal. Consequently, the present service appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

ANNOUNCED
08.04.2019

24.01.2019 Learned counsel for the appellant present. Ajmal Khan SO litigation representative of the respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 20.02.2019 before S.B.



Member

20.02.2019 Clerk to counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Ajmal Khan SO present. Written reply on behalf of respondents submitted. Adjourn. To come up for rejoinder/arguments on 08.04.2019 before D.B.



Member

08.04.2019 Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Vide separate judgment of today of this Tribunal placed on file, the present service appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.



(Hassain Shah)
Member



(Muhammad Hamid Mughal)
Member

ANNOUNCED
08.04.2019

01.10.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Written reply not submitted. Learned Additional AG requested for adjournment. Adjourned. To come up for written reply/comments on 02.11.2018 before S.B.



(Muhammad Amin Khan Kundi)
Member

02.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 18.12.2018. Written reply not received.



READER

18.12.2018

Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned AAG present. Written reply not received. Notice be issued to the respondents with the direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 24.01.2019 before S.B.



Member

4.05.2018

The Tribunal is non-functional due to retirement of our Hon'ble Chairman. Therefore, the case is adjourned. To come up for same on 09.07.2018.


Reader

09.07.2018

Counsel for the appellant and Mr. Sardar Shoukat Hayat, Addl: AG for the respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on **29.08.2018** before S.B.


Member

29.08.2018



Appellant in person and Mr. Kabirullah Khattak AAG for the respondent present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 01.10.2018 before S.B


(Muhammad Amin Kundi)
Member

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 293/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	02/03/2018	<p>The appeal of Muhammad Ibrar presented today by Mr. Habib Ullah Mohmand Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 2/3/18</p>
2-	16/03/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>19/03/18.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
19.03.2018		<p>Learned counsel for the appellant present. Preliminary arguments heard.</p> <p>Appellant (Naib Qasid) was removed from service on account of his willful absence from duty vide order dated 02.11.2017. The departmental appeal of the appellant against the order of removal from service was not responded.</p> <p>Points raised need consideration. The appeal is admitted for 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 the respondents for written reply/comments. To come up for written reply/comments on 14.05.2018 before S.B</p>

Appellant Deposited
Security & Process Fee


Member

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. 293 /2018

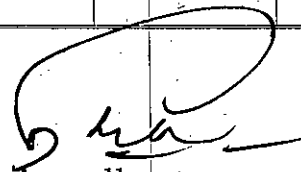
Muhammad Ibrar(Appellant)

V E R S U S

Government of Khyber Pakhtunkhwa through Chief Secretary
and others.....(Respondents)

I N D E X

S.No.	Description of Documents	Annex	Pages
1.	Service Appeal		1-5
2.	Affidavit		6
3.	Addresses of the parties		7
4.	Appointment order Annex A		8 Annex A
5.	DePT. representation / Appeal Annex B		9 Annex B
6.	Bank Statement		10
7.	Wakalatnama		11
8.			
9.			
10.			
11.			
12.			
13.			


Appellant

Through



Dated: 26/02/2018

Habib Ullah Mohmand
Advocate High Court,
Peshawar.
Cell: 0321-9087842

①

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 293 /2018

Diary No. 297

Date 02-3-2018

Muhammad Ibrar S/o Muhammad Riaz R/o Phandu Road,
Shaheen Muslim Town, Tehsil and District
Peshawar.....(Appellant)

V E R S U S

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary Agriculture Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
3. Deputy Secretary "Administration" Agriculture Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
4. Accountant General/ Cashier, Agriculture Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.....(Respondents)

**APPEAL UNDER SECTION 4 OF KHYBER
PUKHTUNKHWA SERVICE TRIBUNAL ACT
1974, AGAINST THE IMPUGNED ORDER,
ACTION/ DATED 02/11/2017 PASSED BY**

Filed to-day

Registrar

2/3/18

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THE DEPUTY SECTARY (ADMINISTRATION)
KPK, PESHAWAR AND MAJOR PENALTY
HAS BEEN AWARDED I.E. REMOVAL FROM
SERVICE AND APPELLANT ALSO
SUBMITTED THE DEPARTMENTAL
APPEAL/REPRESENTATION TO THE
RESPONDENTS DEPARTMENT, BUT AFTER
PASSING OF STATUTORY PERIOD I.E. 90
DAYS THERE IS NO RESPONSE FROM THE
RESPONDENTS DEPARTMENT.

PRAYER:

On accepting of this appeal the impugned order/ action dated 02/11/2017 passed by Deputy Secretary Administration Agriculture Department Khyber Pakhtunkhwa, Peshawar may kindly be set aside and the appellant may also be reinstated in service with all back benefits and wages etc.

Respectfully Sheweth:

1. That appellant is law abiding citizen of Pakistan of Pakistan. (Copy of CNIC is attached as annexure "A").
2. That appellant was appointed as Naib Qasid at respondents Department and rendered serves to the

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parent department without any objection/ complaint, but despite of that the respondents department awarded the major penalty, which is against the law and also against the norms of justice.

3. That appellant continuously give service to the parent department but respondents department, without adopting the legal procedure the appellant was removed from the service, which is against law and also against the norms of justice.

4. The respondents department neither issue Show Cause Notice nor give opportunity for personal hearing, nor conduct the proper inquiry, but respondent department awarded the major penalty, which is against law and also against the norms of justice.

5. That respondent department did not adopt the legal/proper procedure which require for legal inquiry i.e. allegation, charge sheet, personal hearing, show cause notice etc, but removed by the respondents department which is against the law and also against the legal procedure.

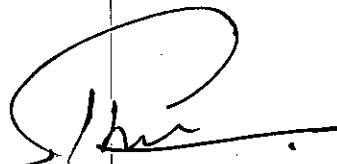
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6. That appellant also reliance on the judgment of the august Supreme Court of Pakistan i.e. 2001 SCMR 1977, 200 SMCR 1640, 2000 PLC CS 817 in which no proper inquiry has been conducted against the appellant, in which the august Supreme Court give direction to respondent department to reinstate the appellant with all back benefits etc.
7. That respondent department legally bound to appoint the Inquiry Officer/ Inquiry Committee for initiating the inquiry, but bypassed all this legal procedure, which is against the law also against the rights of the appellant.
8. That there is a judgment of august Supreme Court of Pakistan and this Hon'ble Tribunal that whenever authority award the major penalty to the appellant they shall followed the legal procedure, but the respondents department violated the legal procedure of inquiry, which is against the law, rules and inquiry procedure.

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9. That whenever the appellant was removed from service the appellant also submitted departmental appeal/ representation to competent authority for reinstatement on dated 24/11/2017, but after passing of the statutory period there is no response from respondents department, which is against law and also against the norms of justice.
10. That appellant will take other ground with permission of this Hon'ble Court.

It is, therefore, most humbly prayed that on acceptance of the instant Service Appeal, the impugned order/ action dated 02/11/2017 of Deputy Secretary Administration Agriculture Department KPK may graciously be set aside and appellant may also be reinstated in the service, with all back benefits/ wages with immediate effect.


Appellant

Through



Dated: 26/02/2018

Habib Ullah Mohmand
Advocate High Court,
Peshawar.

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**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2018

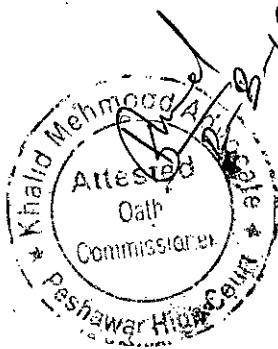
Muhammad Ibrar(Appellant)

V E R S U S

Government of Khyber Pakhtunkhwa through Chief Secretary
and others.....(Respondents)

AFFIDAVIT

I, Muhammad Ibrar S/o Muhammad Riaz R/o Phandu Road, Shaheen Muslim Town, Tehsil and District Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



DEPONENT

CNIC: ~~17202-9517588~~

17301-6236139-5

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**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2018

Muhammad Ibrar(Appellant)

V E R S U S

Government of Khyber Pakhtunkhwa through Chief Secretary
and others.....(Respondents)

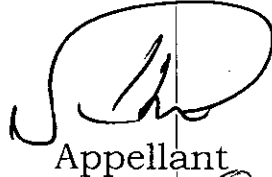
ADDRESSES OF THE PARTIES

APPELLANT:

Muhammad Ibrar S/o Muhammad Riaz R/o Phandu Road,
Shaheen Muslim Town, Tehsil and District Peshawar.

RESPONDENTS:

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary Agriculture Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
3. Deputy Secretary "Administration" Agriculture Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
4. Accountant General/ Cashier, Agriculture Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.


Appellant

Through



Dated: 26/02/2018

Habib Ullah Mohmand
Advocate High Court,
Peshawar.

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GOVERNMENT OF
KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

Dated Peshawar, the November 2, 2017

ORDER

No. SOG(AD)/PF/Ibrar/NO: In exercise of powers conferred on him under section-9 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, the Competent Authority is pleased to order the Removal from Government Service of Mr. Muhammad Ibrar Naib Qasid, Agriculture, Livestock and Cooperative Department, Khyber Pakhtunkhwa on account of his willful absence from duty, with immediate effect.

2. In addition to the above the Competent Authority is further pleased to declare his period of absence from duty i.e. 20-06-2017 till date is hereby treated as un-authorized absence from duty without pay.

Sd/XX
DEPUTY SECRETARY (ADMN:)
AGRICULTURE DEPARTMENT
KHYBER PAKHTUNKHWA

Endst. of even No. & Date.

Copy for information and necessary action to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar. He is requested to recover the emoluments drawn by the above named official concerned during his absence period with effect from 20-06-2017 to till date from his G.P.Fund and other accumulations etc.
2. The Section Officer (Admn.), Administration Department, Khyber Pakhtunkhwa, Peshawar.
3. P.S to Secretary Agriculture, Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
4. P.A to Deputy Secretary (Admn:), Agriculture, Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
5. The Accountant / Cashier, Agriculture, Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
6. Official concerned.
7. Personal file.

Accountant not
accepted
by
HS

(DIL NAWAZ KHAN)
SECTION OFFICER (ADMN:)

(9)

بہضور جناب سیکرٹری ایگریکلچر لائیو سٹاک ڈیپارٹمنٹ،
خیبر پختونخواہ، پشاور

درخواست برآمد بحالی ملازمت اسروس

جناب عالی!

مودبانہ گزارش کی جاتی ہے کہ سائل تقریباً ایک سال پہلے اسی ڈیپارٹمنٹ میں بطور نائب قاصد بھرتی ہوا تھا اور اپنی ڈیوٹی ایمانداری اور دیانت داری سے سرانجام دے رہا تھا، لیکن ڈیپارٹمنٹ نے بغیر کسی وجہ سے removed کیا گیا اور سائل کو اپنی صفائی پیش کرنے کا موقع بھی نہیں دیا گیا اور نہ ہی کوئی Proper Inquiry ہوئی ہے، جو کہ غیر قانونی عمل ہے۔

یہ کہ سائل تقریباً ماہ ستمبر تک اپنی تنخواہ وصول کرتا رہا ہے لیکن بالا افسران نے سائل کے ساتھ زیادتی کی اور آخر کار ماہ نومبر 2017 میں اسروس سے محروم کیا گئے جو کہ غیر قانونی اور غیر اخلاقی اقدام ہے۔

لہذا استدعا کی جاتی ہے کہ سائل کو بمائے تمام مراعات اسروس پر بحال کئے جانے کے صریح احکامات صادر فرمائے جائیں، سائل تمام عمر دعا گو رہیں گے۔

عین نوازش ہوگی

مورخہ 24/11/2017

آپکا تابعدار
محمد ابرار نائب قاصد
ایگریکلچر لائیو سٹاک ڈیپارٹمنٹ، پشاور

کاپی برائے اطلاع:

- 1- چیف سیکرٹری خیبر پختونخواہ۔
- 2- سیکرٹری اسٹبلشمنٹ، سول سیکرٹریٹ، پشاور۔
- 3- سیکرٹری فنانس، سول سیکرٹریٹ، پشاور۔
- 4- اکاؤنٹنٹ جنرل، خیبر پختونخواہ، پشاور۔

Serial No. 1553
Dated 5.12.17

Accepted
by
(IP)

10

YOUR ACCOUNT STATEMENT
FOR THE PERIOD ENDING: MAR01,2017 TO OCT13,2017

ACCOUNT NO : 0898-79275552-03 OF
POLICE ROAD, PESHAWAR BRANCH

MUHAMMAD IBRAR,
SHAHEEN MUSLIM TOWN,
PANDO ROAD, MOHALLA TOHEED
COLONY PESHAWAR.

ACCOUNT TYPE : BASIC BANKING ACCOUNT
CURRENCY : Pakistan Rupee
PRINTING DATE : 16-10-17
FREQUENCY : INTERIM / DUPLICATE
PAGE NO : 1
USER : NN3601

DATE	VALUE	PARTICULARS	DEBIT	CREDIT	BALANCE
		BROUGHT FORWARD			750.00
01MAR17		Salary Credit Feb 2017		47,422.00	48,172.00
01MAR17		ATM Cash Withdra 9110832132430301	15,000.00		33,172.00
		HBL 2242 213243 0103 5366190			
02MAR17		ATM Cash Withdra 9378652151180302	3,000.00		30,172.00
		HBL 1301 215118 0203 5366190			
03MAR17		ATM Cash Withdra 5310242303420302	10,000.00		20,172.00
		MEZ 8011 230342 0203 5366190			
03MAR17		ATM Cash Withdra 5311262304220302	5,000.00		15,172.00
		MEZ 8011 230422 0203 5366190			
03MAR17		ATM Cash Withdra 5509761616570303	5,000.00		10,172.00
		BOP 0241 161657 0303 5366190			
03MAR17		ATM Switch Fee 5310242303420302	14.95		10,157.05
		000000004895			
03MAR17		ATM Switch Fee 5311262304220302	14.95		10,142.10
		000000004897			
03MAR17		ATM Switch Fee 5509761616570303	14.95		10,127.15
		000000009933			
06MAR17		ATM Cash Withdra 8860591143240305	5,000.00		5,127.15
		BAH 0519 114324 0503 5366190			
06MAR17		ATM Switch Fee 8860591143240305	14.95		5,112.20
		030511436649			
07MAR17		ATM Cash Withdra 2769231611480307	1,500.00		3,612.20
		MBL 0602 161148 0703 5366190			
07MAR17		ATM Switch Fee 2769231611480307	14.95		3,597.25
		000000318499			
08MAR17		ATM Cash Withdra 8766802216080307	3,000.00		597.25
		AHB 0009 221608 0703 5366190			
08MAR17		ATM Switch Fee 8766802216080307	14.95		582.30
		000000006903			
15MAR17		ATM Cash Withdra 0200971547560315	500.00		82.30
		HBL 0898 154756 1503 5366190			
16MAR17		Online Credit ANWARUL HAQ		100,000.00	100,084.30
		1718			

Continue on next page

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H

HABIB BANK LIMITED
Police Road, Peshawar
Manager Operation

<p>ایڈووکیٹ/ڈپٹی ایڈووکیٹ بارنٹریل ابار ایسوسی ایشن رابطہ نمبر: 0319087842</p>	<p>63413</p>	<p>پشاور بار ایسوسی ایشن، خیبر پختونخوا</p>

بعدالت جناب: جسٹس سر اسٹروٹ کرسٹوفر کیننگھم

	<p>دعویٰ: علت: موردہ: جرم: تھان:</p>
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محمد اسحاق احمد
محمد اسحاق احمد

بابت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ ان مقام لیسٹا اور ایڈووکیٹ کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب کو راضی نامہ کرنے و تقریر نمائندگی و فیصلہ برطاعت دینے جوابات دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز یہ صورت عدم پیروی یا تاخیر کی صورت میں یا اہل کاروائی کے واسطے اور وکیل یا مختار ہوگا اور یہ صورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانون کو اپنے ہمراہ یا اپنے بجائے قرار کا اختیار ہو گا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا سامنے ہر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ سے ہوگا وہ وکیل موصوف وکیل کرنے کا اختیار ہوگا کوئی تاریخ پیشی مقام دورہ یا عدسے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ لاپرواہی ہوگا، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

Affidavit
and
acceptance
by
H.A.

المرقوم: _____
_____ و _____

مقام لیسٹا اور ایڈووکیٹ
Appellant: محمد اسحاق احمد
مسئلہ ہندو روڈ شہر ہسٹریس ٹاؤن
دستی

نوٹ اس حکایت میں کوئی ناقابل عمل نہیں

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.293/2018

Mr. Muhammad Ibrar, Ex-Naib Qasid.

APPELLANT.

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary,
Khyber Pakhtunkhwa & Others.

RESPONDENTS

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5.	Affidavit	-----	09

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

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RESPONDENTS

PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS

RESPECTFULLY SHEWETH:-

Preliminary Objection:

1. The appeal of the appellant is time barred.
2. The Khyber Pakhtunkhwa Service Tribunal has no jurisdiction to entertain the Order dated 02.11.2017 which is time barred.
3. During probation period, the appellant was remained absent from his duties which is not permissible under the rules.
4. That due to concealment of material fact and misstatement, the appeal of the appellant is liable to be dismissed.
5. All actions have been taken against the appellant by the respondent in accordance with law and rules.
6. The appellant is estopped to file the instant appeal.
7. The appellant has no locus standi to file the instant appeal.

FACTS:

1. No comment.
2. Incorrect. The appellant was appointed as Naib Qasid against the retired son quota on 07.10.2016 with terms & conditions wherein some are reproduced below:

(b) He shall be governed by the Khyber Pakhtunkhwa, Civil Servant Act, 1973 and all the law applicable to the Civil Servants and Rules made there-under.

(e) He shall be on probation for a period of one (01) year extendable for further period of one year in terms of Notification No.SOR-IV/E&AD/1-

2

3/2009/Vol:VIII; dated 16.12.2010 under Rule 5(1) of Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

(g) His service can be terminated at any time, in case his performance is found unsatisfactory during probationary period. In case of misconduct, he will be proceeded against under the Khyber Pakhtunkhwa Government (Efficiency and Disciplinary), Rules, 2011 and the Rules framed from time to time.

During probation period, the performance of the appellant was not satisfied up to the entire satisfaction of his superior. He was habitually absentee. Several explanations were called from him time and again. As required under section 9 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary Rules, 2011) an absentee notice was issued on his home address to join his duty within 15 days and explain the reason of his wilful absence from duty (**Annex-I**). On receipt of no response this department initiated disciplinary action by publishing absentee notices in two leading newspaper "Daily Mashriq Peshawar on 31/08/2017 and Daily Aaj Peshawar on 05/09/2017 copy attached as (**Annex. II & III**) directing him to report for duty within 15 days but no response has been received to this department.

During probation period, the appellant submitted fake documents for availing personal loan facilities to the Habib Bank Limited, Peshawar and the appellant received Person Loan facilities from Habib Bank Limited on the fake documents which are pending outstanding against him.

3. Incorrect. During probation period, the performance of the appellant was un satisfactory. He was always remained absent from his duties without any application, permission, due to which he was removed from his service after fulfilling all codal formalities required under the E&D Rules, 2011.

- 4. Section 9 procedure in case of willful absence of E& D Rules-2011 provides that "Notwithstanding anything to the contrary contained in these rules, in case of willful absence from duty by a Government servant for seven or more days, a notice shall be issued by the competent authority through registered acknowledgement on his home address directing him to resume duty within fifteen days of issuance of the notice. If the same is received back as undelivered or no response is received from the absentee within stipulated time, a notice shall be published in at least two leading newspapers directing him to resume duty within fifteen days of the publication of that notice, failing which an ex-parte decision shall be taken against the absentee. On expiry of the stipulated period given in the notice, major penalty of removal from service may be imposed upon such Government servant (Annex-IV).


As Per Rules quoted above, the appellant was issued notice on his home address to join his duty within 15 days and explain the reason of his willful absence from duty. On receipt of no response the absentee notices were issued in two leading news papers as quoted above to join his duty within 15 days but he failed to do so.

- 5. In correct as mentioned in Para-4 above.
- 6. As per Paera-4 above.
- 7. In correct as per Para-4 above.
- 8. In correct. He was removed from service by the respondent department on account of his willful absence from his duty after fulfilling all codal formalities as produced in Para-4 above.
- 9. In correct action against the appellant has been taken by the respondent department in accordance with law and rules. The Departmental Appeal of the appellant was processed and turned down by the competent authority having no solid grounds for his re-instatement into service.

10. The respondents seek leave to raise additional ground at the time of arguments.

It is, therefore, humbly prayed that the instant appeal of the appellant may very graciously be dismissed with costs.


Respondent No.1

 ~~Chief Secretary,
Government of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.~~

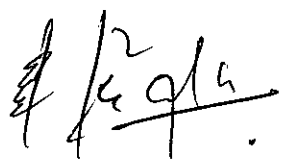
Respondents No.2

~~Secretary to
Government of Khyber Pakhtunkhwa,
Agriculture, Livestock & Coop; Department,
Peshawar.~~

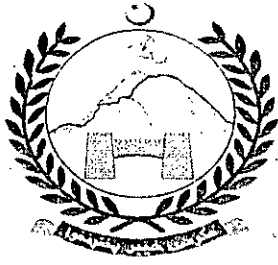
Respondent No.3


The Deputy Secretary (Administration),
Government of Khyber Pakhtunkhwa,
Agriculture, Livestock & Coop; Department,
Peshawar.

Respondent No. 4


The Accountant / Cashier,
Government of Khyber Pakhtunkhwa,
Agriculture, Livestock & Coop; Department,
Peshawar.

Annex-I



GOVERNMENT OF
KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

NO.SOG(AD)/1-12/Explanation/2017-18
Dated Peshawar, the July 18, 2017

THROUGH REGISTER DAK

REGISTERED

To

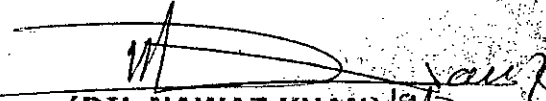
Mr. Muhammad Ibrar,
Naib Qasid,
Agriculture, Livestock and Cooperative Department,
Khyber Pakhtunkhwa, Peshawar.

Mailing Address: Shaheen Muslim Town, Pandu Road,
Mohallah Toheed Colony, Peshawar.

SUBJECT:- ABSENTEE NOTICE.

I am directed to refer to the subject noted above and to state that it has been noticed that you have found absent from your official duties since 20-06-2017 without permission of the Competent Authority.

You are therefore directed to report for duty within 15 days on receipt of this letter and explain the reasons of your willful absence from official duty, failing which disciplinary action would be processed against you under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.


(DIL NAWAZ KHAN) 19/7
SECTION OFFICER (ADMN:)

Endst. of even No. & Date.

Copy forwarded to:-

1. P.S to Secretary Agriculture, Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
2. P.A to Deputy Secretary (Admin), Agriculture, Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
3. Personal file.


SECTION OFFICER (ADMN:)

Dispatcher
Dated: 19/7/17
Agri. Livestock & Coop
Deptt. Peshawar

<http://www.dailymashriq.com.pk>

اللہ ہی کیلئے ہیں مشرق و مغرب القرآن

DAILY MASHRIQ PESHAWAR

روزنامہ
سید تاج میر شاہ
عہدہ نو کے بانی
پشاور

مشرق

سلسلہ اشاعت کے 51 سال

پشاور اور اسلام آباد سبیک وقت شائع ہونے والا کثیر الاشاعت قومی اخبار

ABC
CERTIFIED

جلد 51
جمعرات 08 ذی الحجہ 1438ھ 31 اگست 2017ء 15 بھادوں قیمت 13 روپے
شمارہ 13

روزنامہ مشرق پشاور اسلام آباد

حکومت خیبر پختونخوا حکمہ زراعت، امور حیوانات و امداد باہمی

ہر گاہ کہ آپ ٹی۔ ایم ارنائب قاسم (گریڈ 03) ننگہ پلا سے مورخہ 20 جون 2017 سے مسلسل ڈیوٹی سے غیر حاضر ہے۔ آپ کو بذریعہ اخباری نوٹس ہذا مطلع کیا جاتا ہے کہ اس نوٹس کی اشاعت کے 15 دن کے اندر اندر اپنی ڈیوٹی پر حاضر ہو جائیں اور اپنی غیر حاضری کی معقول وجوہات بیان کریں بصورت دیگر آپ کے خلاف E&D روٹر 2011 کے رول 9 کے تحت نوٹس کی تصدیق کی جائے گی۔

ایڈیشنل سیکشن آفیسر (ایڈمن)

حکومت خیبر پختونخوا امور حیوانات و امداد باہمی

INF(P)-5092 Also available on
www.khyberpakhtunkhwa.gov.pk

پاکستان کرکٹ ایسوسی ایشن کا نیا سٹیبلشمنٹ

پاکستان کرکٹ ایسوسی ایشن (پاک کرکٹ) نے نیا سٹیبلشمنٹ بنانے کا فیصلہ کیا ہے۔ نیا سٹیبلشمنٹ پاکستان کرکٹ ایسوسی ایشن کے زیر اہم اور پاکستان کرکٹ بورڈ کے ماتحت چلے گا۔ نیا سٹیبلشمنٹ پاکستان کرکٹ ایسوسی ایشن کے تمام شعبوں کو سرکاری طور پر تسلیم کرے گا۔

ڈیسنگی کے خاتمے کیلئے ہوائی جہاز سے پیرے کر نیکا مطالبہ

پیرے کر نیکا کے خاتمے کیلئے ہوائی جہاز سے ڈیسنگی کے خاتمے کیلئے مطالبہ کیا گیا ہے۔ ڈیسنگی کے خاتمے کیلئے ہوائی جہاز سے ڈیسنگی کے خاتمے کیلئے مطالبہ کیا گیا ہے۔ ڈیسنگی کے خاتمے کیلئے ہوائی جہاز سے ڈیسنگی کے خاتمے کیلئے مطالبہ کیا گیا ہے۔

قائمہ سرکاری ادارے عوام کی خدمت کے تابع ہیں

قائمہ سرکاری ادارے عوام کی خدمت کے تابع ہیں۔ عوام کی خدمت کے لیے قائمہ سرکاری ادارے اپنی تمام صلاحیتوں کو بروئے کار لائیں۔ عوام کی خدمت کے لیے قائمہ سرکاری ادارے اپنی تمام صلاحیتوں کو بروئے کار لائیں۔

کوئٹہ میں ایک نیا سڑک کا تعمیراتی کام اور چھوڑ دیا گیا

کوئٹہ میں ایک نیا سڑک کا تعمیراتی کام اور چھوڑ دیا گیا۔ سڑک کے تعمیراتی کام میں تاخیر ہوئی ہے۔ سڑک کے تعمیراتی کام میں تاخیر ہوئی ہے۔ سڑک کے تعمیراتی کام میں تاخیر ہوئی ہے۔

امریکی دھمکیوں کو جوتھے

امریکی دھمکیوں کو جوتھے۔ امریکی دھمکیوں کو جوتھے۔ امریکی دھمکیوں کو جوتھے۔ امریکی دھمکیوں کو جوتھے۔

پاکستان پر دہشت گردی کا عالم

پاکستان پر دہشت گردی کا عالم۔ پاکستان پر دہشت گردی کا عالم۔ پاکستان پر دہشت گردی کا عالم۔ پاکستان پر دہشت گردی کا عالم۔

NOTICE INVITING TENDERS

OFFICE OF THE UNION COUNCIL NEIGHBORHOOD COUNCIL

SHaidu (2) Tehsil Jehangira District Nowshera

Sealed tenders based on MRS-2017 for below mentioned works are hereby invited from Government Contractors enlisted with LGE&RDD/PEC in the relevant category and having registration valid up to the date of tender opening as per following schedule.

Work No	Work Name	Estimated Cost	2% Earnest Money (Rs.)	V.C.N.C. No	Last date for submission of bids	Tender Opening Date
1	General cleanliness at NC SHaidu (2) Tehsil Jehangira District Nowshera	1360000	27600	0313-9648310	13/07/2017 10:00 am	13/07/2017 12:00 pm
2	General cleanliness at VC KHAIr ABAD Tehsil Jehangira District Nowshera	600000	16000	0333-9139113	AS ABOVE	AS ABOVE
3	General cleanliness at NC AKORA KHATTAK (1) Tehsil Jehangira District Nowshera	640000	12800	0333-991544	AS ABOVE	AS ABOVE
4	General cleanliness at VC KAFI KHANA/PETAO Tehsil Jehangira District Nowshera	600000	12000	KAFI KHANA/PETAO 0333-9960482	AS ABOVE	AS ABOVE

TERMS & CONDITIONS:
(1) Opening of tender will be at the same day in the office of NC SHaidu (2) (0313-9648310) District Nowshera. The completion period will be as per work order. (2) All the tenders/bidding shall be done on "Percentage Below/Above". (3) The following shall be attached with the bids: (i) Enlistment and Renewal Copy in LGE&RDD Department for the Year 2017-18 (ii) Photocopy of CMC (iii) NTN copy attached (iv) Power of Attorney (if applicable) (v) Renewal Copy of PEC 2017-18

حکومت خیبر پختونخوا انجمن زراعت امور حیوانات وادارہ اوبائی

تعمیراتی کاموں کی منظوری

ہرگز کہ آپ کو ہمارا نام یاد ہے (03) اگر ہذا سے سووی 20 جون 2017 سے سلسلہ بندی سے تعمیراتی کاموں پر ہذا پر اجازت دینا چاہتے ہیں تو ہذا سے درخواست کی جائے گی کہ اس کی منظوری کے 15 دن کے اندر اندر اپنی درخواست پر حاضر ہو جائیں اور اپنی تعمیراتی کاموں کی منظوری کی مسئلہ وچراہت بیان کریں۔ آپ کے خلاف E&D ریز 2011 کے تحت نوکری سے برخواستگی کی پیکر کارروائی نہیں کی جائے گی۔

SAY NO TO CORRUPTION / DRUGS

پاکستان کے لیے تعمیراتی کاموں کی منظوری

INF(P)5092 | www.khyberpakhtunkhwa.gov.pk

GOVERNMENT OF KHYBER PAKHTUNKHWA PAKHTUNKHWA ENERGY DEVELOPMENT ORGANIZATION (PEDO)

CORRIGENDUM

Ref: Advertisement No. INF (P) 3776
These Terms & Conditions may also be read with the advertisement published in daily "AAJ" on 8/08/2017.

جہانگیرہ

پاکستان کے لیے تعمیراتی کاموں کی منظوری

5-9-2017

Amex. A

پاکستان کے لیے تعمیراتی کاموں کی منظوری

- (b) proceed against the Government servant under rule 5, where he has been convicted of charges other than corruption or moral turpitude.

~~9. Procedure in case of wilful absence:--~~ Notwithstanding anything to the contrary contained in these rules, in case of wilful absence from duty by a Government servant for seven or more days, a notice shall be issued by the competent authority through registered acknowledgement on his home address directing him to resume duty within fifteen days of issuance of the notice. If the same is received back as undelivered or no response is received from the absentee within stipulated time, a notice shall be published in at least two leading newspapers directing him to resume duty within fifteen days of the publication of that notice, failing which an ex-parte decision shall be taken against the absentee. On expiry of the stipulated period given in the notice, major penalty of removal from service may be imposed upon such Government servant.

10. Procedure to be followed by competent authority where inquiry is necessary.---(1) If the competent authority decides that it is necessary to hold an inquiry against the accused under rule 5, it shall pass an order of inquiry in writing, which shall include-

- (a) appointment of an inquiry officer or an inquiry committee, provided that the inquiry officer or the inquiry committee, as the case may be, shall be of a rank senior to the accused and where two or more accused are proceeded against jointly, the inquiry officer or the convener of the inquiry committee shall be of a rank senior to the senior most accused;
- (b) the grounds for proceeding, clearly specifying the charges along with apportionment of responsibility;
- (c) appointment of the departmental representative by designation; and
- (d) direction to the accused to submit written defense to the inquiry officer or the inquiry committee, as the case may be, within reasonable time which shall not be less than seven days and more than fifteen days of the date of receipt of orders.

(2) The record of the case and the list of witnesses, if any, shall be communicated to the inquiry officer or the inquiry committee, as the case may be, along with the orders of inquiry.

(3) In a case where preliminary or fact finding inquiry was conducted, and the competent authority decides to hold formal inquiry, the inquiry officer or the inquiry committee for the purpose of conducting formal inquiry shall be different from the inquiry officer or the inquiry committee which conducted the preliminary inquiry.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.293/2018

Mr. Muhammad Ibrar, Ex-Naib Qasid.

APPELLANT.

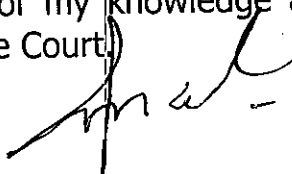
VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary,
Khyber Pakhtunkhwa & Others.

RESPONDENTS

AFFIDAVIT

I, Ajmal Khan, Section Officer (Litigation), Government of Khyber Pakhtunkhwa, Agriculture, Livestock & Cooperative Department, Peshawar, do hereby solemnly affirm and declare that the contents of Para-wise comments on behalf of Respondents are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.



AJMAL KHAN

N.I.C. No.17301-8652311-1

Cell No. 03149047509

IDENTIFIED BY:

Additional Advocate General,
Khyber Pakhtunkhwa, Service Tribunal Peshawar.