


16.11.2022

Junior to counsel for the appellant present.

Kabir Ullah Khattak, learned Additional Advocate General for respondents present.

Former made a request for adjournment as his senior counsel is indisposed today. Adjourned. To come up for arguments on 05.01.2023 before D.B

SCANNED  
KPST  
Peshawar

  
(Fareeha Paul)  
Member (E)


  
(Rozina Rehman)  
Member (J)

05.01.2023

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Last opportunity is granted to argue the case on the next date, failing which the case will be decided on available record without arguments. Adjourned. To come up for arguments on 03.04.2023 before D.B.

SCANNED  
KPST  
Peshawar

  
(Mian Muhammad)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

25<sup>th</sup> July 2022 Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Learned counsel for the appellant seeks adjournment in order to properly assist the court on the next date. Adjourned. To come up for arguments on 10.10.2022 before the D.B.


  
(Salah-Ud-Din)  
Member (J)


  
(Kalim Arshad Khan)  
Chairman


10.10.2022

Appellant alongwith his counsel present. Mr. Kabir Ullah Khattak, Additional Advocate General for respondents present.

Learned counsel for the appellant seeks adjournment. Last opportunity is granted. To come up for arguments on 14.12.2022 before D.B.


  
(Farecha Paul)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

  
Late Diary  
10<sup>th</sup> Oct, 2022

Despite direction for fixation of the cases for the shortest possible dates, the office has fixed this case for a longer date. The Reader of the court is warned to be careful in future. The date fixed in this case is accelerated to 16. 11 /2022. Notices be issued to the parties and their counsel for the date fixed.

  
(Farecha Paul)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

*Counsel was informed telephonically for the date on 11/10/22*

12.01.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.

Reply/comments on behalf of respondents are still awaited. Learned Additional Advocate General sought time for submission of reply/comments. Last opportunity is granted to respondents to furnish reply/comments on or before next date, failing which their right to submit reply/comments shall be deemed as struck off by virtue of this order. To come up for arguments before the D.B on 10.05.2022.



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

10.05.2022

Learned counsel for the appellant present. Mr. Muhammad Rasheed Khan, Deputy District Attorney for the respondents present.

Learned counsel for the appellant requested for adjournment as he has not gone through the record. Last opportunity is granted. To come up for arguments before the D.B on 25.07.2022.



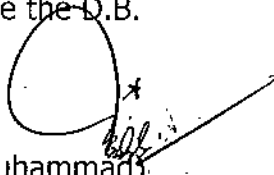
(Fareeha Paul)  
Member (E)




Chairman

15.12.2020 Appellant with counsel and Addl. AG for the respondents present.

Learned AAG requests for adjournment in order to further prepare the brief. Adjourned to 08.02.2021 for hearing before the D.B.

  
(Mian Muhammad)  
Member(E)

  
Chairman

08.02.2021 Counsel for the appellant and Addl. AG for the respondents present.

It is already past 4.00 PM and due to paucity of time, instant matter is adjourned to 24.05.2021 for hearing before the D.B.

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

  
Chairman

24.05.2021 Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 02.09.2021 for the same as before.

  
Reader

02.09.2021 Due to summer vacations, the case is adjourned to 12.01.2022 for the same as before.

  
READER

11.03.2020

Junior to counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment as senior learned counsel for the appellant is not available. Adjourn. To come up for arguments on 14.05.2020 before D.B.

  
Member

  
Member

17.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 17.08.2020 before D.B.

  
Reader

17.08.2020

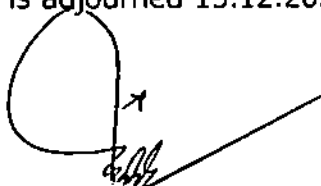
Due to summer vacations, the case is adjourned to 19.10.2020 for the same.

  
Reader

19.10.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

The Bar is observing general strike today, therefore, the matter is adjourned 15.12.2020 for hearing before the D.B.

  
(Mian Muhammad)  
Member

  
Chairman

22.11.2019

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 01.01.2020 for arguments before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

01.01.2020

Appellant in person present. Mr. Riaz Paindkhel learned Assistant Advocate General for the respondents present. Appellant requested for adjournment as his counsel is not available today. Adjourned. To come up for arguments on 07.02.2020 before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

07.02.2020

Appellant in person present. Mr. Riaz Khan Paindakheil learned Assistant Advocate General present. Appellant submitted application for adjournment. Adjourn. To come up for arguments on 11.03.2020 before D.B.

  
Member

  
Member

02.07.2019

Appellant in person present. Mr. Kabirullah Khattak learned Additional Advocate General present. None present on behalf of the respondents department nor written reply submitted therefore notice be issued to the respondent department with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned. To come up for written reply/comments on 02.09.2019 before S.B.



Member

02.09.2019

Counsel for the appellant and Addl. AG for the respondents present.

No representative of the respondents is in attendance. Learned AAG is required to ensure attendance of representatives of the respondents and submission of written reply/comments on the next date as a last chance.

Adjourned to 27.09.2019 before S.B.



Chairman

27.09.2019

Appellant in person. Nemo for the respondents.

Respondents have not submitted reply/comments despite last opportunity. The appeal is posted to D.B for arguments on 22.11.2019.



Chairman

01.04.2019

Counsel for the appellant present. Preliminary arguments heard and case file perused. Learned counsel for the appellant argued that he was appointed as Naib Qasid vide order dated 24.06.2015. While in service FIR no. 528 dated 27.10.2018 under section 419,420, 468,478 PPC Police Station, Sharqi was registered against him for alleged preparation of fake release warrants of an accused confined in judicial lockup. He was arrested and granted bail by the august Supreme Court of Pakistan vide order dated 15.01.2019. He was served with a show cause notice dated 27.10.2018, which was duly replied on 03.11.2018. Thereafter he was removed from service vide impugned order dated 05.12.2018. Feeling aggrieved, he preferred departmental appeal on 07.02.2019, which was dismissed on 04.12.2018, hence, the present service appeal. When disciplinary proceedings were conducted against the appellant when he was in judicial lockup. Major penalty was awarded without holding of regular enquiry and opportunity of defense. It was against the consistent view of the superior courts in numerous judgments that in case major penalty is to be awarded regular enquiry should be conducted.

Points urged need consideration. Admit, subject to deposit of security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for <sup>20.05.2019</sup> 03.02.2019 before S.B.


  
(AHMAD HASSAN)  
MEMBER

20.05.2019

Appellant in person present. Written reply not submitted. No one present on behalf of respondent department. Notice be issued to the respondents ~~department~~ to furnish written reply/comments. Adjourn. To come up for written reply/comments on 02.07.2019 before S.B.

  
Member

SCANNED  
KPST  
Peshawar

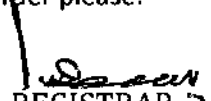
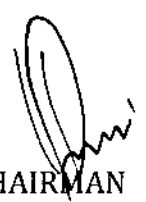
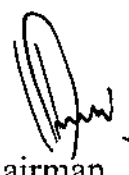
  
Appellant Deposited  
Security & Process Fee



**Form- A**  
**FORM OF ORDER SHEET**

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

Case No. 260/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/2/2019	<p>The appeal of Mr. Hilal Khan presented today by Mr. Muhammad Zafar Tahirkheli 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 20/2/19</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>27-2-19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Appellant in person.</p> <p>Requests for adjournment as his learned counsel is busy before the Honourable High Court today. Adjourned to 01.04.2019 before S.B.</p> <p style="text-align: right;"> Chairman</p>
2-	27.02.2019	

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA  
PESHAWAR

Service App. No: 260/2019

Hilal Khan

Versus

District Judge etc

=====

INDEX

S.No	Particulars	Annexure	Dates	Pages
1	Memo of Petition		-	1-2
2	Impugned order	"A"	15-02-2019	3-4
3	Order	"B"	5-12-2018	5-10
4	FIR	"C"	27-10-2018	11
5	SC Order	"D"	15-01-2019	12-13
6	Show Cause	"E"	27-10-2018	14-19
7	Departmental Appeal	"F"	07-02-2019	20-23
8	Vakalatnama			24

Dated: 19-02-2019

(Ansar Ullah Khan)

Advocate

1

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

Service App. No. 2460 /2019

Hilal Khan, Naib Qasid (BPS-03),  
District & Session Judge, Peshawar

**Versus**

1. District Judge, Peshawar
2. Senior Civil Judge, Peshawar

.....Appellant  
**Khyber Pakhtunkhwa  
Service Tribunal**  
Diary No. 246  
Dated 20/2/2019  
.....Respondents

=====

**SERVICE APPEAL U/S 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
ACT, 1974, AGAINST THE IMPUGNED ORDER DATED 15-02-2019, WHEREBY THE  
DEPARTMENTAL APPEAL / REPRESENTATION OF THE APPELLANT DATED  
07-02-2019 FOR SETTING ASIDE THE IMPUGNED ORDER OF THE LEARNED  
SENIOR CIVIL JUDGE (Admn), PESHAWAR DATED 05-12-2018, FOR RE-  
INSTANTMENT IN SERVICE WAS REFUSED**

=====

**PRAYER IN APPEAL:**

- (a) By accepting the present appeal and setting aside the impugned order dated 15-02-2019, wherein the appellant's departmental appeal against his removal order dated 05-12-2018 was refused. (Copies **Annexed "A" & "B"**),
- (b) By accepting this appeal and re-instating the appellant in service with retrospective effect from 05-12-2018, with all the consequential benefits.

=====

**Respectfully Sheweth,**

**Facts:**

1. That the appellant was appointed as Class-IV on 24-06-2015. The appellant since his appointment has been serving the department honestly and diligently to the utmost satisfaction of his superiors. Neither complaint of any sort was filed against him, nor was he served with any adverse remarks during entire period of his service.
2. That while serving as Naib Qasid attached to the court of Mr. Ijaz Ur Rahman Qazi, learned Judicial Magistrate-II Peshawar, an FIR No. 528, dated 27-10-2018 u/s 419, 420, 468, 478 PPC PS Sharqi was registered against the appellant for allegedly preparing fake release warrant for an accused confined in judicial lockup. (**Copies annexed "C"**)
3. The appellant was arrested and his bail plea was turned down by the JMIC-IV, ASJ-I and Peshawar High Court. Resultantly he was granted the concession of bail by august Supreme Court of Pakistan vide order dated 15-01-2019. (**Copies annexed "D"**)
4. That the appellant was served with a show cause notice dated 27-10-2018, which was duly replied by the appellant dated 03-11-2018. (**Copies annexed "E"**)
5. That the appellant's reply was not taken into consideration and the learned SCJ Peshawar vide order dated 04-12-2018 notified vide 05-12-2018, removed the appellant from service under section 4(b) (iii) KP E&D Rules 2001. (**Copies annexed "B"**)

**Filed to-day**  
**Registrar**

20/2/19

6. That the appellant preferred a departmental appeal before the learned District Judge, Peshawar on 07-02-2019, which was refused vide order dated 04-12-2018. (Copy annexed "F").

7. Feeling aggrieved and finding no other remedy the appellant has been constrained to approach this Hon'ble Service Tribunal for the redress of his grievance, inter-alia on the following:-

### GROUNDS

(a) The impugned orders are arbitrary and discriminatory on the part of the respondents. The impugned orders have been passed in complete disregard to the rules regulating the matter and material facts on record.

(b) That no proper charge sheet or show cause notice or statement of allegations was served upon the appellant and disciplinary proceedings were dispensed without showing any sufficient cause.

(c) That the appellant has never made any confession before the police or Magistrate regarding the false allegation of preparing a fake release order.

That the proceedings against the appellant were conducted in a summary manner, neither proper inquiry proceedings were initiated nor was the appellant afforded any opportunity to present his defense before such inquiry committee.

(d) That the appellant has been condemned unheard. It has been consistent opinion of the superior courts, that in case the harsh penalty of removal from service is imposed, proper inquiry to probe the matter shall be initiated.

(e) There is nothing against the appellant which could have deprived him of his legitimate right. The appellant's departmental appeal was in accordance with the law and merited acceptance.

(f) The impugned omission on the part of the Respondent department is in clear violation of the judgment of superior courts and is against the established principles of equity and justice, calling for interference by the Hon'ble Service Tribunal.

(g) The petitioners seek leave of the Hon'ble Court to rely on additional grounds at the time of arguments.

In view of the above;

a. By accepting the present appeal and setting aside the impugned order dated 15-02-2019, wherein the appellant's departmental appeal against his removal order dated 05-12-2018 was refused.

b. By accepting this appeal and re-instating the appellant in service with retrospective effect from 05-12-2018, with all the consequential benefits.

*Hilal Khan*

Appellant

Through

(MUHAMMAD ZAFAR TAHIRKHELI)

Advocate

(Ansar Ullah Khan)

Advocate

Peshawar, Dated  
06-04-2018

**ORDER**  
15/02/2019

The departmental appeal in hand is submitted by Mr. Hilal Khan, Ex-Naib Qasid against his removal vide order of learned Senior Civil Judge (Admn), Peshawar bearing endorsement No. 1040 dated 05/12/2018.

Perusal of record, reveals that the appellant/official while posted as Naib Qasid to the court of Mr. Ejaz-ur-Rehman Qazi, learned JMJC-II, Peshawar, prepared fake Release Warrant of accused Jamal Shah, who was involved in five different cases registered u/s 489-F PPC, which resulted in release of accused Jamal Shah from jail. Consequently, Baghi Sher and Tawab Sher, who are also complainants in criminal cases against accused Jamal Shah, submitted complaint against learned JMJC-II and others, which was entrusted to learned Senior Civil Judge (Admn), Peshawar for inquiry. During inquiry proceedings, the appellant/official Hilal Khan Naib Qasid admitted his guilt regarding preparation of fake Release Warrant, thus he was issued final show cause notice, and after hearing him personally, the learned Senior Civil Judge (Admn) Peshawar, being competent authority, removed the official from service through impugned order. One major point raised by the appellant/official in the instant

District & Sessions Judge  
Peshawar

15/02/2019

**ATTESTED**

16 FEB 2019

(Examiner)  
Session Court Peshawar

Contd...


Contd...  
**ORDER**  
15/02/2019

4

(3)

appeal is that no proper inquiry was conducted by the Senior Civil Judge (Admn), Peshawar before awarding him the major penalty but this stance of the appellant/official is of no value as the learned Senior Civil Judge (Admn), Peshawar being competent authority has the power to dispense with the inquiry under Rule-7 of the KP Govt Servants (Efficiency & Discipline) Rules 2011, if he deems it unnecessary. In the present case, the commission of offence by the appellant/official was crystal clear which was further strengthened by his pleading guilt.

In light of the above, the appellant/official is connected with the commission of offence and has failed to prove his innocence, thus, the appeal in hand having no substance is hereby dismissed.

  
[Muhammad Younas]  
District & Sessions Judge,  
Peshawar

15/02/2019

**ATTESTED**

16 FEB 2019

(Examiner)  
Session Court Peshawar

No:	3535
Dated of Application	16-2-18
Name of Applicant	P. B. Khan
Work	2400
Fee	P. B.
Signature of Applicant & Date	
Period of Expiration	16-2-18
Date of Delivery	16-2-18



5

**ANNEXURE B**

**DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA, PESHAWAR**

Phone: 091-9213534  
eMail: scjpesawar@gmail.com  
Web: www.SessionsCourtPeshawar.gov.pk

No. \_\_\_\_\_

Dated Peshawar \_\_\_\_\_

**OFFICE ORDER**

Consequent upon Inquiry against accused official Hilal Khan S/O Faramosh Khan, he is given major penalty of removal from service under section 04 (b) (III) of Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules 2011. He, is thus removed from service under the provision of ibid rules.

*sd*  
**ALAMGIR SHAH**  
Senior Civil Judge (Admn)  
Peshawar.

No. 1040 Peshawar Dated 5/12/2018.

Copy forwarded for Information/Compliance to:

1. The Hon'ble District & Sessions Judge, Peshawar
2. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. The Clerk of Court, Senior Civil Judge, Peshawar.
4. Civil Nazir, Senior Civil Judge, Peshawar
5. Official concerned by name.
- ✓ 6. Inquiry File.
7. Office File.

*[Signature]*  
Senior Civil Judge (Admn)  
Peshawar.

**ATTESTED**

12 DEC 2018

(Examiner)  
Civil Court Peshawar

Senior Civil Judge  
Peshawar

Or.....07.  
03.12.2018.

Accused official Hilal Khan was facilitated to appear by Superintendent Jail, Peshawar for personal hearing. He was personally heard at length. During the personal hearing he was also confronted with video recording which was taken at the time of recording his statement on 27.10.2018.

File to come up for order on 04.12.2018.

  
**ALAMGIR SHAH**  
Senior Civil Judge (Admn)  
Peshawar.

**IN THE COURT OF ALAMGIR SHAH, SENIOR CIVIL  
JUDGE (ADMN), PESHAWAR.**

Or.....08.  
04.12.2018.

The opportunity of personal hearing was duly given to the accused official Hilal Khan who was facilitated by the jail authorities on 03.12.2018. He was personally heard at length, during which he was also showed the video recording of his clean breast admission of his guilt which was recorded on 27.10.2018 during recording of his statement.

Brief facts leading to the present inquiry relates to a written complaint of one Baghi Sher and Tawab Sher against the misconduct/involvement in illegal

**ATTESTED**

12 DEC 2018

(Examiner)

Civil Court Peshawar



practice by the learned Judicial Magistrate-II, Peshawar and his subordinate staff. The inquiry was marked by the worthy District & Sessions Judge, Peshawar on 26.10.2018 to undersigned for report. During the said inquiry the accused official Hilal Khan S/O Faramosh Khan admitted his guilt by stating that he factitiously put fake signatures of Mr. Ijaz ur Rehman Qazi, learned Judicial Magistrate-II, Peshawar on bail bonds and release warrant of accused Jamal Shah who was involved in five different criminal cases U/S 489-F PPC/512 of P.S. Hayatabad, Peshawar.

Needless to mention here that the accused official Hilal Khan was posted as Naib Qasid in the court of said Judicial Magistrate. During the course of inquiry the statement of Mr. Ijaz ur Rehman Qazi, learned Judicial Magistrate-II, Peshawar was also recorded wherein he stated that the signatures on bail bonds and release warrants were fake and factitious. On the clean breast admission of guilt by the accused official Hilal Khan before the undersigned, Mr. Ijaz ur Rehman Qazi, learned Judicial Magistrate at once submitted two applications, one to SHO Police station East Cantt, Peshawar for appropriate legal action and other to learned Judicial Magistrate-IV, Peshawar for proceeding with the matter according to law and

*Ijaz ur Rehman Qazi*

**ATTESTED**  
12 DEC 2018  
(Examiner)  
Civil Court Peshawar

request to take strict action against accused Jamal Shah,  
the sureties and identifiers.

Thereafter, the accused official was suspended  
during the course of inquiry.

Proper FIR was registered against the accused  
official on 27.10.2018 and he was arrested there and  
then. His bail plea was turned down from the Court of  
learned Judicial Magistrate-IV, Peshawar to august  
Peshawar High Court, Peshawar. On the same date i.e.  
27.10.2018 (on which he admitted his guilt of putting  
fake signatures on bail bonds and release warrants of  
learned Judicial Magistrate-II, Peshawar, Mr Ijaz ur  
Rehman Qazi, benefiting the accused Jamal Shah  
involved in above criminal cases), the accused official  
Hilal Khan was given show cause notice wherein it was  
mentioned in para-II that by reason of his admission  
during inquiry, the undersigned is stratified that there  
is no need of inquiry into his guilt and the same was  
dispensed with U/S 07 of Khyber Pakhtunkhwa  
Government Servant (Efficiency & Discipline) Rules  
2011. The said show cause notice was properly served  
on the accused official, the copy of which bears his  
signature and thumb impression which is available on  
file.

*Stamp P. M. W.*

**ATTESTED**

12 DEC 2018

(Examiner)

Jail Court Peshawar

9

On 05.11.2018 reply in response of the show cause notice was submitted which was duly signed by the accused official. The reply in response of the show cause notice was thoroughly perused wherein mainly two pleas of defence were taken; firstly that the undersigned has dispensed with the inquiry proceedings without showing any sufficient cause and reasons, whereas Para-II of the show cause notice clearly states the reason of dispensing with the inquiry proceedings in unequivocal terms that by reason of his admission during inquiry the same is being dispensed with; while secondly, that he was compelled by the said learned Judicial Magistrate-II, Peshawar and his staff to admit his guilt and by doing so the statement before the undersigned is without free consent. Suffice it to say that the statement of admitting his guilt was taken in open court in presence of all staff members the video recording of which is also available wherein staff members and some lawyers/learned counsel in open court room can also be seen. Therefore, this plea i.e. statement without free consent, cannot be relied upon.

*Amir Khan*

**ATTESTED**

12 DEC 2018

(Examiner)

Civil Court Peshawar

From the above discussion, it is clear that the accused official committed gross misconduct by involving in illegal practice of putting fake and factitious signatures of Mr. Ijaz ur Rehman Qazi,

learned Judicial Magistrate-II, Peshawar on the bail bonds and release warrants, thereby extending unlawful benefits to the accused Jamal Shah involved in the above mentioned criminal cases. The charges levelled against accused official is proved, therefore, he is given major penalty of removal from service. The accused official Hilal Khan S/O Faramosh Khan is removed from service under section 04 (b) (III) of Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules 2011.

File of this office be consigned to record room while attested copies be placed on the service record of the accused official Hilal Khan S/O Faramosh Khan.

ANNOUNCED  
04.12.2018.

*Alamgir Shah*  
**ALAMGIR SHAH**  
Senior Civil Judge (Admn)  
Peshawar.

CERTIFIED TO BE TRUE COPY

*[Signature]*  
12/12/18  
Copying Agency Civil Court  
Peshawar

No.	33477
Dated of Application	11-12-18
Name of Applicant	Hilal Khan S/O Faramosh Khan
Word / Pages	35
Fee	Urgent Fee
Signature of Copyist & Date	<i>[Signature]</i>
Dated of Preparation	12-12-18
Date of Delivery	12-12-18



**IN THE SUPREME COURT OF PAKISTAN**

(Appellate Jurisdiction)

**PRESENT:****MR. JUSTICE MANZOOR AHMAD MALIK****MR. JUSTICE SARDAR TARIQ MASOOD****CRIMINAL PETITION NO.1260 OF 2018**(Against the order dated 03.12.2018 passed by  
Peshawar High Court, Peshawar in  
Crl.M/BA.No.2458-P of 2018)

Hilal Khan ... Petitioner(s)

**VERSUS**

The State thr. A.G., KPK &amp; another ... Respondent(s)

For the Petitioner(s) : Syed Abdul Fayaz, ASC

For the State : Mr. Tahir Iqbal Khattak, State counsel  
a/w Shah Alam, I.O.

For Respondent No.2 : Nemo

Date of Hearing : 15.01.2019

**ORDER**

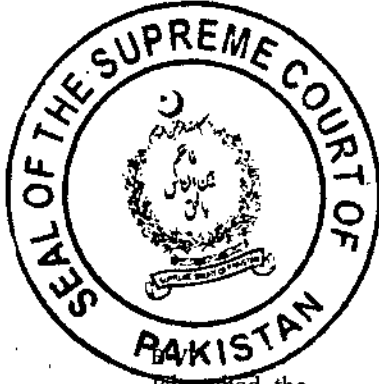
**MANZOOR AHMAD MALIK, J.** Through this petition, the petitioner has called in question the order dated 03.12.2018, whereby bail was refused to him by the Peshawar High Court, Peshawar in case FIR No.528 dated 27.10.2018, offence under Sections 419, 420, 468, 471 PPC, registered at Police Station East Cantt, Peshawar.

2. After hearing the learned counsel for the parties at length and perusal of available record, it has been observed by us that the offences alleged against the petitioner fall outside the prohibitory clause of Section 497, Code of Criminal Procedure. The petitioner is behind the bars since 02.11.2018 and nothing is to be recovered from him. Grant of bail in such like cases is a rule and refusal an exception. In these circumstances, the petitioner has made out a case for grant of bail.

**ATTESTED**

Court Associate  
Supreme Court of Pakistan

3. For the foregoing, this petition is converted into an appeal and the same is hereby allowed. The appellant-Hilal Khan is allowed bail (in the instant FIR) subject to his furnishing bail bond in the sum of Rs.100,000/- (one hundred thousand), with one surety in the like amount to the satisfaction of the learned trial Court.



Islamabad, the  
15<sup>th</sup> January, 2019

"Not approved for reporting."

Sarfraz Ahmad/-

*[Handwritten signature]*  
16/1/19

*[Handwritten signature]*  
*[Handwritten signature]*

**CERTIFIED TRUE COPY**

*[Handwritten signature]*  
Court Associate  
Supreme Court of Pakistan  
Islamabad

14

ANNEXURE

E

SHOW CAUSE NOTICE

I, Alamgir Shah, Senior Civil Judge<sup>(Admin)</sup>, Peshawar as competent authority, do hereby serve you, Mr. *Hilal Khan S/O Faramosh Khan, Naib Qasid* to the court of Mr. Ejaz ur Rehman, learned Judicial Magistrate-II, Peshawar, as follows.

1. That consequent upon an inquiry conducted against you by the undersigned in which you admitted the guilt of putting fake signatures of Mr. Ejaz ur Rehman Qazi, learned Judicial Magistrate-II, Peshawar on the bail bonds and release warrants on 23.10.2018. That thereafter you, according to your admission, stamped the said bail bonds and release warrant by releasing the accused from Jail.
2. That by reason of your admission during inquiry, copy of which is annexed herewith, I am satisfied that there is no need for inquiry into your guilt which you have already admitted, therefore, u/s 07 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the inquiry is dispensed with.
3. That as a result thereof, I, as competent authority have tentatively decided to impose upon you any of the penalties enumerated in Rule-4(1) of the said rules.

**ATTESTED**

12 DEC 2018

(Examiner)  
Civil Court Peshawar




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

5. If no reply to this notice is received within 07 days of its receipt, it shall be presumed that you have no defence to put in and in that case an Ex:Parte action shall be taken against you. (Copy of your statement recorded during inquiry of today is enclosed).

Given under my hand and seal of the Court, this day 27<sup>th</sup> October, 2018.

  
**ALAMGIR SHAH**  
Senior Civil Judge (Admn),  
Peshawar.

**ATTESTED**

12 DEC 2018

(Examiner)  
Civil Court Peshawar

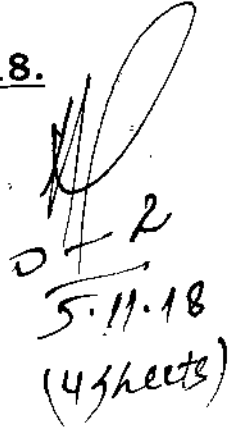
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**BEFORE THE HON'BLE SENIOR CIVIL JUDGE**  
**(ADMIN) PESHAWAR**

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**REPLY TO SHOW CAUSE NOTICE DATED 27.10.2018.**

**Respectfully Sheweth:**

  
0-2  
5.11.18  
(4 sheets)

Hilal Khan (Naib Qasid), the Petitioner, most respectfully submits the following reply to the Show Cause Notice bearing End No. 780-784 dated 27.10.2018 for your kind consideration and for favour of acceptance.

1. That since his induction the Petitioner has served the department honestly and diligently to the utmost satisfaction of his superiors during entire period of his service.
2. That while serving as Naib Qasid attached to the court of Mr. Ejaz ur Rehman Qazi learned Judicial Magistrate-II Peshawar, the Petitioner was shocked to receive the Show Cause Notice under reply on 29.10.2018.
3. That the Petitioner has been charged for allegedly putting fake signatures of the Learned Judicial

**ATTESTED**  
12 DEC 2018  
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Magistrate Mr. Ejaz ur Rehman Qazi, Peshawar on the bail bonds and release warrants on 23.10.2018. 85

4. That it is necessary to mention here that neither charge sheet, nor statement of allegation was served upon the Petitioner regarding the allegations mentioned in the impugned Show Cause Notice

More so, no proper inquiry in accordance with the law has been initiated against the Petitioner and no witnesses of any sort were either examined or produced in his presence.

5. That the impugned Show Cause Notice is subject to proof and the allegations made therein are required to be supported by some substantive evidence.

That the Worthy Authority has dispensed with the inquiry proceedings without showing any sufficient cause and recording reasons. The Petitioner has been condemned unheard, which is against the law and rules regulating his service.

6. That an FIR No 528 dated 27.10.2018 was also registered against the Petitioner under section 419/420/468/471 PPC at PS Sharki Peshawar and the Petitioner being accused is presently confined in Judicial Lockup Peshawar.

**ATTESTED**

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7. That the allegations made in the FIR are yet to be proved before the court of Competent Jurisdiction.

8. That the Petitioner has not been held guilty as yet. He has neither admitted nor has confessed to the commission of the offence.

9. That so far as my statement allegedly recorded before your good self, it is submitted with respect that I have not given any statement willingly rather after the incident took place, I was summoned by the learned J/M Ijaz ur Rehman Qazi alongwith all staff members attached to said court. They compelled me to give siad statement, so that they may be absolved of the responsibilities. The statement attributed to me is not proper and without free consent. It is pertinent to mention here that being Naib Qasid, I have nothing to do with the attestation of bail bonds or issuance of release warrant, rather it is mainly the Job of "Reader" and "Moharir" attached to the court.

Respectfully submitted that without probing into the matter and without conducting any inquiry, I have been held responsible.

Further submitted that without determining the fact that who signed the bail bonds and release warrant lodging of FIR against me and issuance of show cause notice without conducting any inquiry is against the spirit of E&D Rules 2011.

**ATTESTED**

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(Examiner)

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10. That the impugned action against the Petitioner is arbitrary, discriminatory against the principles of equity, law and Justice, hence calling for interference by the worthy authority. 27

In view of the above, it is most humbly requested that the impugned Show Cause Notice dated 27.10.2018, received on 29.10.2018 may kindly be withdrawn and the matter may kindly be probed through proper inquiry in accordance with the law, while exonerating the Petitioner of all the charges leveled against him.

The Petitioner also seeks permission to be heard in person.

Petitioner

Dated: 03.11.2018

*Hilal Khan*  
*5/11/18*

**HILAL KHAN (NAIB QASID)**  
Attached to the Court of  
Senior Civil Judge (Admin)  
Peshawar, presently in Judicial  
Lockup Peshawar.

**ATTESTED**

12 DEC 2018

(Examiner)  
Civil Court Peshawar

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**ANNEXURE F**

**DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA, PESHAWAR**

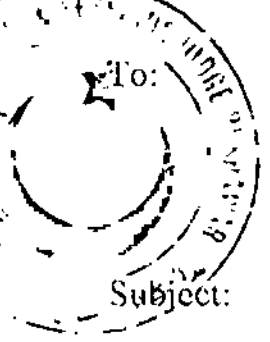
Phone: 091-9213534  
eMail: scjpeshtawar@gmail.com  
Web: www.SessionsCourtPeshawar.gov.pk

No. 190

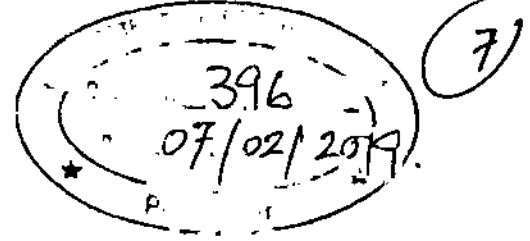
Dated Peshawar 07-02-2019



resubmit up to Qasid in 3 days  
15-02-19 new  
DA No. 091/2019



To: Hon'ble the,  
District & Sessions Judge,  
Peshawar.



Subject: DEPARTMENTAL APPEAL/REPRESENTATION OF EX.NAIB QASID HILAL KHAN

Respected Sir,

I have been honour to forward departmental appeal/ representation of Ex:Naib Qasid namely; Hilal Khan for further necessary action, please.

Enclosure:

1. Departmental Appeal/ Representation consisting of 03 pages
2. Order of Bail.

SCJ(A) Peshawar to resubmit with comments.

DESJ, Peshawar  
08/02/2019

Faithfully Yours

*Alamgir Shah*  
ALAMGIR SHAH  
Senior Civil Judge (Admin)  
Peshawar.

Senior Civil Judge  
Peshawar

ATTN: [Signature]  
16 FEB 2019  
(Examiner)  
Sessions Court Peshawar

To

The District and Sessions Judge,  
Peshawar.



Subject: **DEPARTMENTAL APPEAL / REPRESENTATION AGAINST THE ORDER DATED 04.12.2018, WHEREBY THE APPELLANT HAS BEEN AWARDED WITH THE MAJOR PUNISHMENT OF REMOVAL FROM SERVICE.**

Prayer in Review / Representation.

**ON ACCEPTANCE OF THIS DEPARTMENTAL APPEAL / REPRESENTATION THE ORDER DATED 04.12.2018, MAY PLEASE BE SET ASIDE AND THE APPELLANT MAY VERY KINDLY BE REINSTATED INTO SERVICE WITH ALL BACK BENEFITS.**

AD  
7/12/19  
Respectfully Submitted,

The appellant very humbly submit the following few lines for your kind and sympathetic consideration:

1. That the undersigned was appointed as Class IV. Ever since my appointment, I had performed my duties as assigned with zeal and devotion and there was no complaint whatsoever regarding my performance.
2. That while serving in the said capacity, and posted as Naib Qasid attached to the court of Mr. Ijaz Ur Rehamn Qazi Learned Judicial Magistrate II Peshawar, I was served with initial show cause notice dated 27.10.2018, regarding certain baseless and unfounded allegations, the detailed reply of which was submitted by the undersigned.
3. That thereafter without conducting any regular Inquiry, I was served with Final show cause notice containing the following baseless allegations.

**ATTEST**  
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*Putting fake signature of Mr. Ijaz ur Rehamn Qazi Learned Judicial Magistrate II, Peshawar on the bail bonds and release warrants on 23.10.2018, and stamped the said bail bonds and release warrants by releasing accused from the jail.*

4. That the undersigned duly replied the allegation leveled against me and the so called confession which was obtain under extreme pressure and undue influence refuting the baseless allegations. (9)
5. That without considering my defence reply, I was awarded the major penalty of "*Removal from Service*" vide order dated 04.12.2018.
6. That the undersign was granted bail by the Supreme Court of Pakistan vide order dated 15.01.2019, and I received the removal order dated 04.12.2018.
7. That the penalty imposed upon me is illegal unlawful against law and facts hence liable to be set aside inter alia on the following grounds :

**GROUND OF REVIEW / REPRESENTATION.**

- A. That I have not been treated in accordance with law hence my rights secured and guaranteed under the law are badly violated.
- B. That no proper procedure has been followed before awarding me the major penalty of "*Removal from service*" no regular inquiry has been conducted, , I have not been given fair opportunity to defend myself against the charges, the impugned order being based upon such defective proceedings, is thus not tenable in the eye of law.
- C. That I have not been given proper opportunity of personal hearing before awarding me penalty, hence I have been condemned unheard.
- D. That adopting shorter procedure in the instant case was uncalled for and illegal, the charges were never admitted by the undersigned hence the issuance of show cause notice has prejudiced my case and in-fact I was condemned unheard.
- E. That the matter in hand required a full fledge regular inquiry, for the proof or other wise of the charges, in the absence of regular inquiry major penalty cannot be imposed.
- F. That the charges leveled against me were neither admitted by the undersigned nor there was any direct evidence that could prove

ATTEST

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(Examiner)

Session Court Peshawar

MO  
7/2/19



the undersigned guilty of the alleged charges, hence adopting shorter procedure of show cause and dispensing with the regular inquiry is unwarranted.

- G. That I have already submitted my detailed Para wise reply to the charges leveled in the show cause notice, the facts and grounds mentioned in my replies to the Show Cause Notices may also be read as integral part of the instant departmental appeal.
- H. That the charges leveled against me have not been probed through any inquiry nor any sufficient material has been brought forward against the undersigned that can prove him guilty of the charges, thus awarding such a harsh penalty on the basis of no evidence is not tenable in the eye of law.
- I. That I have never committed any act or omission which could be termed as misconduct, albeit I have been awarded the penalty of "Removal from Service." The charges leveled against me are false and baseless and are the result of misconception.
- J. That I have at my credit a bright and spotless service career, during the entire service I have always performed my duties as assigned with zeal devotion and sincerity, my performance has always remained up to the mark, however my spotless service career has not been taken into consideration before the imposition of penalty upon me.
- K. That I am jobless since the illegal penalty imposed upon me.

*It is, therefore, humbly prayed that on acceptance of this Review/ Representation the order dated 04.12.2018, may please be set aside and the undersigned may be reinstated into service with all back benefits.*

Yours Obediently

Hilal Khan

Hilal Khan s/o  
Faramosh Khan  
Ex Class IV, Judicial  
Complex Peshawar

**ATTESTED**

16 FEB 2019

(Examiner)

Session Court Peshawar

AD  
7/2/19

7/2/19



لبدلت خباب حدود نذر بونٹ صاحب لیسارہ

بلال خان بنا سردکار

دروازت جراد بند پٹی تاریخ بیٹی

جناب عالی! میں حسب ذیل عرض کرتا ہوں۔

(1) یہ کہ اللہ تعالیٰ نے حضرت عبداللہ حقور سے زبردستی جس میں  
میں آج مورخہ 2020.02.07 تاریخ بیٹی مقرر ہے۔

(2) یہ کہ وہاں میں آج ایک دوست کے پاس میں  
عبداللہ خالد لیسارہ میں مقیم ہے جس کو  
سے عبداللہ حقور حاضری پورے سے مامور ہے۔

اللہ عبداللہ حقور سے عاقبتاً اللہ تعالیٰ سے  
کہ منظور کی دروازت اللہ تعالیٰ سے  
تبدیلی تاریخ بیٹی کا کلمہ ہمارے فرمائش

07/02/2020  
الروم

بلال خان