

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No: 178/2019

Date of Institution ... 06.02.2019

Date of Decision ... 11.01.2022

Nizakat Shah S/O Muhammad Shah R/O Urmar Payan Peshawar.

... (Appellant)

**VERSUS**

Director Elementary and Secondary Education Khyber Pakhtunkhwa at Directorate of Elementary and Secondary Education Civil Secretariat Peshawar and one another. ... (Respondents)

Javed Iqbal Gulbela  
Advocate

... For Appellant

Kabirullah Khattak,  
Additional Advocate General

... For respondents

**AHMAD SULTAN TAREEN**  
**ATIQU-UR-REHMAN WAZIR**

...  
...

**CHAIRMAN**  
**MEMBER (EXECUTIVE)**

**JUDGMENT**

**ATIQU-UR-REHMAN WAZIR MEMBER (E):-**

Brief facts of the

case are that the appellant was appointed as Chowkidar in Education Department vide order dated 07-11-1988. During the course of his service, the appellant was charged in FIR U/Ss 302/148/149 PPC Dated 02-02-2006, thus he absconded and was unable to perform his duty. The appellant was proceeded against departmentally and was ultimately dismissed from service vide order dated 09-09-2011. The appellant was exonerated of the charges vide judgment dated 11-01-2018. After earning acquittal, the appellant filed an application for his reinstatement, which was rejected vide order dated 31-10-2018. The appellant filed another appeal, which was also rejected vide order dated 31-10-2019, hence the

instant service appeal with prayers that the impugned orders dated 31-10-2018, 30-01-2019 and 09-09-2011 may be set aside and the appellant may be re-instated in service with all back benefits.

02. Learned counsel for the appellant has contended that the impugned orders are illegal, unlawful, void and ineffective upon the rights of the appellant and are liable to be set aside; that the appellant was honorably acquitted of the criminal charges and as per law, the appellant is entitled to be re-instated in service with all back benefits, as the appellant was dismissed from service on the charges of his involvement in criminal case; that similarly placed employee have been re-instated in service by the respondents, but the appellant was discriminated and was not re-instated; that the appellant was dismissed from service without adhering to method prescribed in law; that the appellant has not been treated in accordance with law, as no charge sheet/statement of allegation, nor any show cause notice was served upon the appellant, hence the appellant was condemned unheard; that no regular inquiry was conducted against the appellant nor any chance of personal hearing was afforded to the appellant before imposition of major penalty of dismissal from service.

03. Learned Additional Advocate General for the respondents has contended that the appellant was charged in an FIR, due to which the appellant went in hiding and willfully absented from his lawful duty; that the appellant did not report the matter to the competent authority and without permission absented himself from duty; that the appellant was proceeded against on the same charges by issuing show cause notice at his home address, but the appellant did not respond, hence such notice was also published in two leading dailies, still the appellant did not turn up, hence he was proceeded ex-parte and was awarded with major punishment of dismissal from service; that upon submission of departmental appeal, proper inquiry to this effect was conducted and upon recommendation of the inquiry officer, his appeal was rejected.

04. We have heard learned counsel for the parties and have perused the record.

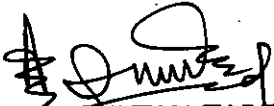
05. Record reveals the appellant was appointed as Chowkidar vide order dated 07-11-1988. During the course of his career, the appellant was charged in FIR, due to which the appellant went in hiding and remained fugitive from law until 2017, when he was arrested by police and was subjected to criminal proceedings. Though the appellant was acquitted of the criminal charges vide judgment dated 11-01-2018, but his long disappearance from law was not warranted. On the other hand, the respondents were required to suspend the appellant from service as per CSR-194, and to wait until completion of the criminal proceedings, but the respondents proceeded the appellant without observing the required legal procedure and the appellant was dismissed from service vide order dated 09-09-2011 without affording him opportunity of defense. It is a well settled legal proposition that dismissal of civil servant from service due to pendency of criminal case against him would be bad unless such official was found guilty by competent court of law. Contents of FIR would remain unsubstantiated allegations, and based on the same, maximum penalty could not be imposed upon a civil servant. Reliance is placed on PLJ 2015 Tr.C. (Services) 197, PLJ 2015 Tr.C. (Services) 208 and PLJ 2015 Tr.C. (Services) 152. As is evident from their comments, the respondents were well aware that FIR was lodged against the appellant and that his absence was not willful, still they proceeded the appellant on the charges of absence from duty.


06. The appellant filed departmental appeal after earning acquittal from the criminal case. The Supreme Court of Pakistan in its judgment reported as PLD 2010 SC 695 has held that it would have been a futile attempt on part of civil servant to challenge his removal from service before earning acquittal in the relevant criminal case. It was unjust and oppressive to penalize civil servant for not filing his departmental appeal before earning his acquittal in criminal case,

which had formed the foundation for his removal from service. In 2012 PLC (CS) 502, it has been held that if a person is acquitted of a charge, the presumption would be that he was innocent. Moreover, after acquittal of the appellant in the criminal case, there was no material available with the authorities to take action and impose major penalty. Reliance is placed on 2003 SCMR 207 and 2002 SCMR 57, 1993 PLC (CS) 460.

07. We are of the considered opinion that the appellant was required to surrendered before law after registration of FIR against him, but he remained fugitive from law for quite longer time, who later on was arrested by police and as a result of criminal proceedings, the appellant was acquitted of the criminal charges. In a situation, we are inclined to partially accept the instant appeal by converting the major penalty of dismissal from service into major punishment of compulsory retirement keeping in view his long service and his acquittal from criminal charges. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED  
11.01.2022

  
(AHMAD SULTAN TAREEN)  
CHAIRMAN

  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (E)

ORDER

11.01.2022


Learned counsel for the appellant present. Mr. Kabirullah Kahttak, learned Additional Advocate General for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, we are inclined to partially accept the instant appeal by converting the major penalty of dismissal from service into major punishment of compulsory retirement keeping in view his long service and his acquittal from criminal charges. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

11.01.2022

  
(AHMAD SULTAN TAREEN)  
CHAIRMAN

  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (E)

11/1/2022 AB - Pesh (T)

Mizakat Shah.

On paper order 9/9/2011  
Dismissed

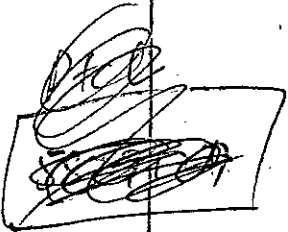
FIR - 2-2-2006

Acquitted 11/1/2018

D.A P/40. 14/9/2018

Rejected: 31/10/2018

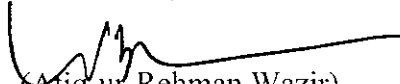
S.A 4/2/2019



02.03.2021

Appellant in person and Addl. AG for the respondents present.

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, the matter is adjourned to 3.06.2021 for hearing before the D.B.


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

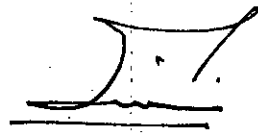
  
Chairman

03.06.2021

Mr. Tahir Khan, junior of learned counsel for the appellant present. Mr. Touseef-ur-Rehman, ADO alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Former sought adjournment on the ground that learned counsel for the appellant is busy before the august Peshawar High Court. Adjourned. To come up for arguments before the D.B on 08.09.2021.

  
(ATIQU-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

08.09.2021

Counsel for appellant present.

Javid Ullah learned Assistant Advocate General for respondents present.

Former made a request for adjournment; Request is acceded. To come up for arguments on 11.01.2021 before D.B

  
(Rozina Rehman)  
Member (J)

  
Chairman

\_\_\_\_\_ .2020 Due to COVID19, the case is adjourned to  
10/8 /2020 for the same as before.

  
Reader

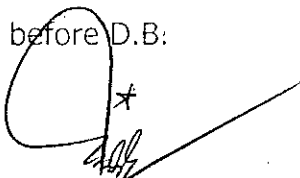
10.08.2020 Due to summer vacations case to come up for the same on  
12.10.2020 before D.B.


  
Reader

12.10.2020 Junior counsel present on behalf of appellant.


Mr. Riaz Khan Paindakheil learned Assistant Advocate  
General for respondents present.

Former made a request for adjournment as senior counsel is  
not available. Adjourned. To come up for arguments on  
04.12.2020 before D.B:

  
(Mian Muhammad).  
Member (E)

  
(Rozina Rehman)  
Member (J)

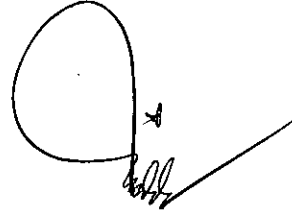
04.12.2020 Due to COVID-19 the case is adjourned for the same on  
02.03.2021 before D.B.

  
READER



16.03.2020

Clerk to counsel for the appellant present. Addl: AG for respondents present. Due to general strike on the call of Peshawar Bar Council, the instant case is adjourned. To come up for arguments on 18.05.2020 before D.B.

A handwritten signature in black ink, consisting of a large, rounded 'M' followed by a checkmark-like flourish.

(MAIN MUHAMMAD)  
MEMBER

A handwritten signature in black ink, consisting of the letters 'MA' followed by a long, sweeping flourish.

(M.AMIN KHAN KUNDI)  
MEMBER

30.10.2019

Counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 03.12.2019 for arguments before D.B.

  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

03.12.2019

Junior to counsel for the appellant and District Attorney for the respondents present.

Request for adjournment is made due to non-availability of learned senior counsel for the appellant due to engagement before the Honourable High Court today.


Adjourned to 24.01.2020 before the D.B.


  
Member

  
Chairman

24.01.2020


Due to general strike on the call of Khyber Pakhtunkhwa Bar Council learned counsel for the appellant is not available today. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Adjourned to 16.03.2020 for arguments/further proceedings before D.B.

  
(M. Amin Khan Kundi)  
Member

  
(Hussain Shah)  
Member

20.06.2019

Clerk of counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Written reply on behalf of respondents not submitted. Learned Additional AG requested for further adjournment. Adjourned to 02.08.2019 for written reply/comments before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

02.08.2019


Appellant in person and Mr. Usman Ghani, District Attorney alongwith Mr. Arshad Ali, Supdt for respondents present. Written reply/comments on behalf of the respondents no.1 and 2 submitted, which is placed on file. The appellant may file rejoinder to the comments submitted by the respondents, if so, advised.

Adjourned to 17.09.2019 for arguments before D.B.

  
(Ahmad Hassan)  
Member

17.09.2019

Junior to counsel for the appellant and Mr. Zia Ullah learned DDA present. Junior to counsel for the appellant submitted rejoinder which is placed on file and seeks adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 30.10.2019 before D.B.


  
Member

  
Member

14.03.2019

Counsel for the appellant Muhammad Nizakat Shah present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Education Department as Chowkidar. He was dismissed from service vide order dated 09.09.2011 on the allegation of absence due to involvement in criminal case. The appellant was acquitted by the competent court vide order dated 11.01.2018. The appellant filed departmental appeal on 14.09.2018 which was rejected on 31.10.2018. The appellant further filed an application for reinstatement but the same was also rejected on 31.01.2019 hence, the present service appeal. It was further contended that the appellant was involved in criminal case and was in custody of the Police therefore, the appellant could not attend the duty. It was further contended that neither proper inquiry was conducted nor any absence notice was sent at the home address of the appellant therefore, the impugned order is illegal and liable to be set-aside.


The contention raised by the learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notice be issued to the respondents for written reply/comments for 29.04.2019 before S.B.

  
Appellant Deposited  
Security & Process Fee

  
(Muhammad Amin Khan Kundi)  
Member

29.04.2019

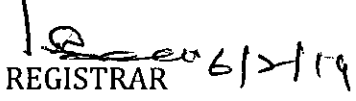

Clerk of counsel for the appellant present. Adll: AG for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. Case to come up written reply/comments on 20.06.2019 before S.B.

  
(Ahmad Hassan)  
Member

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

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

Case No. 178/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	06/2/2019	<p>The appeal of Mr. Nizakat Shah presented today by Mr. Saghir Iqbal Gulbella 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>14-3-19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

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

In Re S.A. 178 /2019

Nizakat Shah

**VERSUS**

Director Elementary and Secondary Education Khyber  
Pakhtunkhwa and others

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نیزاکت شاہ

Appellant

Through

  
Saghir Iqbal Gulbela

&

  
Javed Iqbal Gulbela,

Israr Ahmad

Advocates, High Court  
Peshawar.

Dated: 04/02/2019

Off Add: 9-10A Al-Nimrah Centre, Govt College Chowk Peshawar

①

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

**Khyber Pakhtunkhwa  
Service Tribunal**

In Re S.A 178 /2019

Diary No. 158

Dated 06-2-2019

Nizakat Shah S/O Muhammad Shah R/O Urmar  
Payan Peshawar.

-----*(Appellant)*

**VERSUS**

1. Director Elementary and Secondary Education Khyber Pakhtunkhwa at Directorate of Elementary and Secondary Education Civil Secretariat Peshawar.
2. The then Executive District Officer (E & SE) Education Peshawar Now District Education Officer (Male) Peshawar.

-----*(Respondent)*

**Filed to-day**

**Registrar**

6/2/19

**APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL ACT -1974 AGAINST THE  
IMPUGNED OFFICE ORDER NO. 8340/F.NO.A-20/C-  
IV/P-F DATED 30/01/2019 OF THE DIRECTOR E &  
SE KHYBER PAKHTUNKHWA, OFFICE ORDER  
NO.10653-55/F.NO.A-20/C-IV/PF OF DATED  
31/10/2018 DIRECTOR ELEMENTARY AND  
SECONDARY EDUCATION KHYBER  
PAKHTUNKHWA PESHAWAR WHEREBY  
DEPARTMENTAL APPEALS AGAINST THE  
IMPUGNED OFFICE ORDER NO. 5932-36, DATED  
09/09/2011 OF THE EXECUTIVE PESHAWAR,  
WHEREBY THE APPELLANT WAS DISMISSED  
FROM SERVICE, WAS TURNED DOWN IN A  
CLASSICAL CURSORY AND WHIMSICAL MANNER**

**Respectfully Sheweth;**

1. That after going through the mandatorily required procedure the appellant was inducted into service as Chowkidar the

2

education department on 07/11/1988. **(Copy of the apartment order is annexed as annexure "A")**

2. That the appellant since induction into service has always been remained as regular obedient, hardworking and sincere fellow and has never caused any displeasure of any of his superiors and there has never ever been any complaint move against the appellant. **(Copy of the service book is annexed as annexure "B")**
3. That unfortunately the appellant was nominated and implicated in a criminal case registered vide FIR No. 32 dated 02/02/2006 U/S 302/148/149 PPC, police station Urmar Peshawar which caused the appellant to abscond to save his life and thus was naturally unable to perform his duties. **(Copy of the FIR is annexed herewith as annexure "C")**
4. That in the meanwhile the appellant was dismissed from service vide the impugned office order No. 5932-36 dated 09/09/2011 by the Executive District Officer (E & SE) Education Peshawar without any show cause, charge sheet, statement of allegation, final



show cause notice and even without any inquiry. **(Copy of the dismissal office order is annexed as annexure "D")**

5. That as the appellant was innocent and had falsely been implicated in the instant case, so was rightly acquitted in the criminal case vide the judgment and order dated 11/01/2018 of the learned Additional Session Judge-VIII, Peshawar. **(Copy of the judgment dated 11/01/2018 is annexed as annexure "E")**
6. That after being Honorably acquitted the appellant moved an appeal to the Director (E & SE) Education Khyber Pakhtunkhwa Peshawar which was turned down on 31/10/2018. **(Copy of the departmental appeal and impugned order dated 31/10/2018 are annexed as annexure "F" & "G" respectively)**
7. That thereafter the appellant moved another appeal to the worthy director but this time again the deuce fate of the appellant prevailed and again the appeal was dismissed vide the impugned order date 30/10/2019. **(are annexed as annexure "H" & "I" respectively)**
8. That feeling aggrieved and having no other remedy elsewhere the appellant approaches this Hon'ble Tribunal for his reinstatement

(4)

into service with all back benefits upon the following grounds inter alia:-

### **Grounds:**

- A. That both the impugned orders dated 30/01/2019 and 31/10/2018 whereby the departmental appeals against the impugned order dated 09/09/2011 was dismissed which is illegal, unlawful, void and ineffective upon the rights of the appellant and are required to be set aside.
- B. That under the law where civil servant is implicated and nominated in a criminal case and thereafter the same civil servant is entitled to be re instated and the service with ad back benefits, if he had been dismissed from the service, inpersuance to criminal case.
- C. That same is the case of the appellant and the appellant shall have been reinstated to the service, even by operation of law, after being Honorably acquitted by competent Court of law and his appeals should have been accepted, but the same were dismissed which is illegal, wrong, void and the same are required to be set aside.

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D. That where so many other Civil servant who had been implicated in criminal cases reinstated in the same Respondent department, while the same time the appellant was discriminated and his genuine request for reinstated even turn down.

E. That even no show cause notice, statement of allegation, charge sheet, final show cause notice and above all, even no inquiry was conducted or intimidated to the appellant even and thus the appellant has been condemned unheard.

F. That even no opportunity of personal hearing was ever afforded to the appellant, prior to imposing the major penalty of dismissal from service and thereafter at appellate stage, by the appellate authority.

G. That from all prospective both the impugned orders dated 30/01/2019 and 31/01/2018 are wrong, illegal, void and are liable to be set aside alongwith dismissal order dated 09/09/2011 and the appellant is entitled to be reinstated with all back benefits.

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

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It is, therefore, most humbly prayed that on acceptance of the instant appeal, the impugned order No. 10653-55/F.No.A-20/C-IV/PF, dated 31/10/2018 and order No. 8340/F.No.A-20/C-W/P-F dated 30/01/2019 of (Director Elementary and Secondary Education) Khyber Pakhtunkhwa Peshawar whereby the departmental appeals against the impugned dismissal from service order NO.5932-36, dated 09/09/2011 of Executive District Officer, (E&SE) Education Peshawar were turned down may graciously be set aside and by doing so the appellant may very graciously be reinstated into service with all back benefits.

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

نیک شاہ

Appellant

Through

Saghir Iqbal Gulbela

&

Javed Iqbal Gulbela,

Israr Ahmad

Advocates, High Court

Peshawar.

Dated: 04/02/2019

**NOTE:-**

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

Advocate.

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

In Re S.A \_\_\_\_\_/2019

Nizakat Shah

**VERSUS**

Director Elementary and Secondary Education Khyber  
Pakhtunkhwa and others

**AFFIDAVIT**

I, **Nizakat Shah S/O Muhammad Shah R/O Urmar Payan Peshawar**, do hereby solemnly affirm and declare that all the contents of the accompanied **appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.

نیزکات شاہ

**DEPONENT**

Identified By:

**Javed Iqbal Gulbela**  
Advocate High Court  
Peshawar.



2

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

In Re S.A \_\_\_\_\_/2019

Nizakat Shah

**VERSUS**

Director Elementary and Secondary Education Khyber  
Pakhtunkhwa and others

**APPLICATION FOR CONDONATION OF DELAY**

**Respectfully Sheweth;**

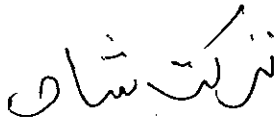
1. That the Petitioner is filing the accompanying appeal the contents of which may graciously be considered as integral part of the instant petition.
2. That Petitioner has got a good prima facie case and balance of convenience also lies in his favour.
3. That delays in filling the accompanying appeal, if any were not deliberate but due to the non communication of order, dated 31/10/2018 to the Petitioner.

(9)

4. That if the instant application is not allowed and delay is not condoned, the Petitioner shall suffer irreparable loss.

It is, therefore, most humbly prayed that on acceptance of the instant application, the delay, if any, in filing the accompanying appeal may graciously be condoned.

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



Appellant

Through

  
Saghir Iqbal Gulbela

  
&  
Javed Iqbal Gulbela,

Israr Ahmad

Advocates, High Court

Peshawar

Dated: 04/02/2019



(10)

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

In Re S.A. \_\_\_\_\_/2019

Nizakat Shah

**VERSUS**

Director Elementary and Secondary Education Khyber  
Pakhtunkhwa and others

**ADDRESSES OF PARTIES**

**APPELLANT**

Dilawar Ex-IHC, No4165. District Police  
Peshawar.

**ADDRESSES OF RESPONDENTS**

1. Director Elementary and Secondary  
Education Khyber Pakhtunkhwa at  
Directorate of Elementary and Secondary  
Education Civil Secretariat Peshawar.
2. The then Executive District Officer (E & SE)  
Education Peshawar Now District Education  
Officer (Male) Peshawar.



Appellant

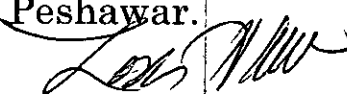
Through

  
Saghir Iqbal Gulbela  
&  
  
Javed Iqbal Gulbela,

Israr Ahmad

Advocates, High Court  
Peshawar.

Dated: 04/02/2019







12

Amir B

(For use in Police Department only).

Heirs.

- 1.
- 2.
- 3.

Verification Roll No.                      dated                      received back

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Left thumb-impresion.

Qualification	Date	Qualifications	Date
English		First Arts	
Pashtu		B. L. or B. A.	
Urdu		Pledership examination	
Pen-drawing		Training School Final examination	
Finger print		Other qualifications	
Drill instructing			
Court duties			
Reserve duties			

**JAVED IQBAL Gul Bela**  
 Daugzai Law Chamber  
 Advocate High Court Peshawar  
 Mob: 9345-9405501

N. B.—Line to be drawn under the qualification possessed.

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

1. Name *NIZAKAT SHAH*

2. Race *Afghan*

3. Residence *Usmar payan*

4. Father's name and residence *MR. Mohammad Shah*

5. Date of birth by Christian era as nearly as can be ascertained *10th November Nineteen Hundred Sixty four (10-11-1964)*

6. Exact height by measurement *5-6*

7. Personal marks for identification *Scar on right chin*

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.

*Handwritten signature*

JAVED IQBAL  
Daudzai Law Chambers  
Advocate High Court Peshawar  
Mob: 0345-9405507

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

*Handwritten signature*  
Sub-Division of Registration  
Office, Peshawar

1	2	3	4	5	6	7	8	9
Name of post	Whether substantive or officiating and whether permanent or temporary	if officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C S.R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of appointment	Signature of Government servant	Signature of officer of cc
Trabildar	Temp	B.P.S. No Rs 600-13-860				7-11-1988		
F.P.S. Malik	Temp		Rs 600/p.m.					
Hjran Chari	Temp		613/p.m.			1/12/1980		
do			526/			1/12/90		
do		920-26-1380	1050/			1/6/91		
do			678/			1/12/91		
do			1102/			1/12/92		
			1102/			1/12/93		
			1102/			1/12/94		
			1490/			1/95		
			1525/					

Member of the Accountant General  
 M.W.F.P. Peshawar.  
 Pay fixed in the Revised Pay Scales 1991  
 of Rs 920-26-1380  
 in Rs 1050/- M.F.P. 1-6-1991  
 with next increment on 1-12-1991

JAVED IQBAL Gul Bala  
 Daudzai Law Chamber  
 Advocate High Court Peshawar  
 Mob: 345-9405501

Accountant General  
 M.W.F.P. Peshawar

Signature of Government servant  
 M. O. (M.A)  
 Primary Editor  
 Peshawar

(D.O. No. 1245-35-17703)

Novice 1575 (1245-35-1770)



1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of appointment	Signature of Government servant

Malik Afroz Jilani	Tanf.		1560/-			12/96	
do	do		1595/-			12/97	
do	do		1630/-			12/98	
do	do		1665/-			12/99	
do	do		Rs 1700/- PM			12/2000	
do	do		Rs 1735/- PM			12/2001	

Revised pay scale 2001 in BPS NO I. Rs (1870-55-3520)

do	do		Rs 2640/- PM			12/2001	
do	do		Rs 2695/- PM			12/2002	
do	do		Rs 2750/- PM			12/2003	

JAVED IQBAL Gul Beha  
Daryazai Law Chamber  
Advocate High Court Peshawar  
Mob: 0345-9-65901

Retd  
Pay in Pakistan form  
has been made  
for consideration  
NO  
Nakli

1079/5  
12/97  
1075

9	10	11	12	13		14	15
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitale to another Government		
B.D.O. (M) Primary Edu. Peshawar	3-11-93	A/2	B.D.O. (M) Primary Edu. Peshawar	Period	Government to which debitale	<p>Sanction is hereby accorded for the grant of extra ordinary leave without pay 10-2 from 20-10-1993 to 19-10-1995 vide S.D.E. (M) Endt No 2329-34 dated 7-10-1993</p> <p>Leave extended</p> <p>Extra leave granted vide order SOEO (M) Peshawar Endt No 4445-50 dt. 6-11-1994 we 9 20-10-94 to 19-10-95</p> <p>Leave upto pay from 1-1-95 to 19-10-95 cancelled vide order of Adv. Endt class-1-1</p>	<p>Reference to any recorded punishment or censure, or reward or praise of the Government Servant.</p>
B.D.O. (M) Primary Edu. Peshawar	3-11-93	A/2	B.D.O. (M) Primary Edu. Peshawar				
B.D.O. (M) Primary Edu. Peshawar	3-11-93	A/2	B.D.O. (M) Primary Edu. Peshawar				
B.D.O. (M) Primary Edu. Peshawar	3-11-93	A/2	B.D.O. (M) P.P.				
B.D.O. (M) P.P.	30-11-93	A/mes.	B.D.O. (M) P.P.				
B.D.O. (M) P.P.	1-12-93	R/Pay Scale	B.D.O. (M) P.P.				
B.D.O. (M) P.P.	30-11-93	A/mes.	B.D.O. (M) P.P.				
B.D.O. (M) P.P.	30-11-93	A/mes.	B.D.O. (M) P.P.				
B.D.O. (M) P.P.	3-11-94	A/mes.	B.D.O. (M) P.P.				

JAVED IQBAL Gul Fata  
 Daudai Law Chambers  
 Advocate High Court Peshawar  
 Mob. 0345-9485501

District Officer  
 (e) Peshawar





10	11	12	13		14	15
			Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitabale to another Government		
30-6-2005	R/jay Scale	D.D.O. (M) P.P.		Leave Allocation of period of leave on average pay upto four months for which leave salary is debitabale to another Government Period: Government to which debitabale	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant.
30-11-2005	A/na	D.D.O. (M) P.P.		Service verified w.o.t. 1/12-30/11/2005 according to the Acquittance Roll and other Records of this Office	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant.
30-11-2005	A/na	D.D.O. (M) P.P.		Service verified w.o.t. 1/12-30/11/2005 according to the Acquittance Roll and other Records of this Office	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant.
				Service verified w.o.t. 1/12-30/11/2005 from The Acquittance Roll & Other Records Maintained in This Office	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant.
				Service verified w.o.t. 1/12-30/11/2005 from The Acquittance Roll & Other Records Maintained in This Office	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant.
				Service verified w.o.t. 1/12-30/11/2005 from The Acquittance Roll & Other Records Maintained in This Office	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant.

JAVEL KUMAR Gul Bela  
 District Member  
 Advocate  
 Member

Deputy District Officer  
 (Male) P.P. Pushawar

II

Nature and location of the office or attesting (nos. 1 to 8)	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc).	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 reward 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 debitible to another Government			
					Period			Government to which debitible
						<p>Services Verified W.R.F. <u>1/12/2002</u>                      to 30/11/03 From The                      Acquittance Roll &amp;                      Other Record Maintained                      in This Office</p> <p style="text-align: right;"><i>[Signature]</i>                      Deputy District Officer                      (Male) Prg. Peshawar</p>		
						<p>Services Verified W.R.F. <u>1/12/03</u>                      to 30/11/04 From The                      Acquittance Roll &amp;                      Other Record Maintained                      in This Office</p> <p style="text-align: right;"><i>[Signature]</i>                      Deputy District Officer                      (Male) Prg. Peshawar</p>		
						<p>Services Verified W.R.F. <u>1/12/2004</u>                      to 30/11/05 From The                      Acquittance Roll &amp;                      Other Record Maintained                      in This Office</p> <p style="text-align: right;"><i>[Signature]</i>                      Deputy District Officer                      (Male) Prg. Peshawar</p>		
						<p style="text-align: right;"><b>JAVED IQBAL Gul Bela</b>                      Dawazai Law Chamber                      Advocate High Court Peshawar                      No: 0345-940594</p>		

PAY FIXATION PROFORMA UNDER REVISED PAY SCALE RULES 1991



1.	Name and Designation	<u>Mr. Bait Akbar, School teacher</u>
2.	Existing Pay Scale	<u>6000-13-860</u>
3.	Modified Pay Scale	<u>6050-12-860</u>
4.	Revised Pay Scale	<u>9200-26-1310</u>
5.	Pay on 31.5.1991	<u>626/-</u>
6.	Pay Fixation Made under Formula "A"	<u>1050/-</u>
7.	Pay Fixed in the Modified Pay Scale	<u>639</u>
8.	No of Stages arrived at in the N.P.S	<u>2</u>
9.	Pay Fixed in R.P.S as on 1.6.91 on basis on corresponding stages in the scale	<u>1050/-</u>

FORMULA "B"

Basic Pay on 31.5.91.	<u>626/-</u>
Index Pay	<u>18/-</u>
5 % Adhoc increas.	<u>31/-</u>
10 % adhoc Increase.	<u>63/-</u>
Dearness Increase 200/-	<u>200/-</u>
TOTAL:-	<u>938/-</u>
Increase of Rs. 100/-	<u>114/-</u>
TOTAL :-	<u>1052/-</u>

10.	Pay fixed in BPS on 1.6.91	<u>1050/-</u>
11.	Pay Admissible as on 1.6.91	<u>1050/-</u>
12.	Advance Increment allowed on higher qualification (if any)	
13.	Date of Next Increment 12/91	<u>1076/-</u>

050/11

*[Handwritten Signature]*

SUB DIVISIONAL EDUCATION OFFICER  
(MALE) PESHAWAR.

Office of the Sub Divisional Officer  
N.P.S. Peshawar.  
Pay fixed in the Revised Pay Scales 1991  
No. 920-26-1310  
Date 10/5/91 E.P. 1-5-1991  
With N.P.S. on 1-13-1991

**JAVED IQBAL Gul Bela**  
District Law Chamber  
Advocate High Court Peshawar  
Mob: 0345-940881

Approved by  
Sub Divisional Officer  
Peshawar

PAYMENTS 01 B PAY 1,630.00 02 R A 276.00 03 W ALL 30.00 04 KFD ALL 30.00 05 DRESS U ALL 112.55 06 COMP ALL 1300.00 07 ADHOC ALL 311.00		AMOUNT 1,630.00 276.00 30.00 30.00 112.55 1300.00 311.00	DEBIT 1,630.00 276.00 30.00 30.00 112.55 1300.00 311.00	CREDIT 50.00 16.00 2.00	LOAN FUND ADVANCE EDU 087127	PRINCIPAL
TOTAL PAYMENTS		2,479.10	2,479.10	67.00	PAY PERIOD	01/12/98 TO 01/21/98
FEDERAL IDENTIFICATION NUMBER (if any) and Social Security Number (if any) for contractor(s) with this office:				PAYROLL PROCESSED IN DRG		0-350 01/21/98

P.S. 01 BALANCE 11,021.00
NET PAY 2,408.10

PAYMENTS 01 B PAY 1,645.00 02 R A 276.00 03 W ALL 30.00 04 KFD ALL 30.00 05 DRESS U ALL 112.55 06 COMP ALL 1300.00 07 ADHOC ALL 311.00 08 SPL ADD AL		AMOUNT 1,645.00 276.00 30.00 30.00 112.55 1300.00 311.00	DEDUCTIONS 385 G P FUND 50.00 381 B. FUND 16.00 337 I W F 2.00	AMOUNT 50.00 16.00 2.00	LOAN FUND ADVANCE EDU 087127	PRINCIPAL
TOTAL PAYMENTS		2,829.55	2,829.55	67.00	PAY PERIOD	01/12/1997 TO 01/21/98

P.S. 01 BALANCE 11,021.00
NET PAY 2,754.55

**JAY ADRIAN GUERRA**  
 District Law Chamber  
 Advocate in Court  
 Phone: 3345-9405501

N. H. - Line to be drawn under the qualification possessed.

22







25

13

Amir

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (F & S EDUCATION) PESHAWAR

OFFICE ORDER :-

Whereas you Mr. Nizakat Shah, Chowkidar GPS Ghari Malik Ajund Umar Payan Peshawar was proceeded against, under the Khyber Pakhtun Khwa Removal from Service (Special Power Ordinance, 2000) on account of her willful and unauthorized absence from duty and whereas the accused official was directed through notice at his home address vide notice No. 2333 dated 09/07/2011 to attend the duty and explain his willful absence from duty w.c. from 03/02/2006

And Whereas an absence Notice was served upon the accused official through Daily Newspaper "Aaj" Peshawar dated 24/08/2011 but she remained absent and did not report for duty in response of notice.

And Whereas in the absence of response from the accused official in connection with absence notice and evidence on record, the competent authority is of the view that charges of willful / unauthorized absence have become proved against the accused official.

Now therefore, in exercise of powers conferred under section 3 of the then N.W.F.P and now Khyber Pakhtun Khwa, Removal from Service (Special Power) Ordinance, 2000, the competent Authority (Executive District Officer F & Sec: Edu: Peshawar) is pleased to impose major penalty of Dismissal from Service upon Mr. Nizakat Shah, Chowkidar GPS Ghari Malik Ajund Umar Payan Peshawar from the date of her unauthorized / willful absence i.e. 03/02/2006

EXECUTIVE DISTRICT OFFICER,  
F & SEC: EDU: PESHAWAR

Ends: No. 937/35 Dated Peshawar 9/9 /2011

Copy for information and necessary action to the:-

- 1 District Accounts Officer Peshawar.
- 1 Deputy District Officer (Male) Peshawar
- 30 ADO Circle Chugha Pura Peshawar.
- 4 Supdt: Estab: local office.
- 1 Official concerned..

*[Signature]*

Executive District Officer,  
F & Sec: Edu: Peshawar.

No 937  
10/9/11

JAVED IQBAL Gul Bela  
Daudzai Law Chamber  
Advocate High Court Peshawar  
Mcb: 07499465501

*[Signature]*



(26)

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IN THE COURT OF AZIMULLAH MISHWANI  
ADDITIONAL SESSIONS JUDGE-VIII, PESHAWAR

Sessions Case # 17/SC

Date of Institution..... 03/02/2017  
Date of Hearing ..... 11/01/2018  
Date of Decision..... 11/01/2018

The State

VERSUS

Nizakat Shah S/O Muhammad Shah  
R/O Urmar Payan Peshawar  
.....(Accused facing trial)

FIR # 32 DATED 02/02/2006  
U/S 302/324/148/149 PPC OF POLICE STATION URMAR,  
DISTRICT PESHAWAR.

J U D G M E N T

1. The accused Nizakat Sahh faced trial in afore captioned case.
2. Facts of the case are such that complainant Muhammad Javed S/O Muhammad Afzal present in Trauma room causality LRH, Peshawar along with dead body of his daughter deceased Mst: Naila reported the matter to the effect that on the eventful day i-e dated 2/2/2006 at 16:30 hours he along with his daughter Mst: Naila was present at the place of occurrence. In the meanwhile the accused facing trial Nizakat along with other six co-accused acquitted duly armed with deadly weapons came there and started firing at them with intention to commit their Qatl-e-amd. All the accused made indiscriminate firing and as result thereof his daughter Mst: Naila was hit with the fire shot of the accused facing

JAVED IQBAL Gul Ebn  
Daudzai Law Chamber  
Advocate High Court Peshawar  
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trial while he/ the complainant escaped unhurt. The occurrence stated to has been witnessed by one Shabbir Ahmad and others. Motive for the offence is stated to be an altercation between the son of complainant and sons of Nazakat shah and Mukkaram shah some 4/5 days before the occurrence.

3. The case was investigated by the IO Muhammad Yousaf Khan SI and on completion of the investigation, complete challan was submitted/ the case was put in court on 03/02/2017. Charge was framed to which the accused Nizakat Shah claimed trial by pleading not guilty. Hence prosecution was accorded opportunity to adduce its evidence which it did as per detailed table given below;

PWs	Name	Role	Documents exhibited
PW-1	Muhammad Nawaz Khan SI	Conducted Partial investigation.	Car of arrest Ex.PW1/1, application for custody Ex.PW-1/2 and application for further custody Ex.PW-1/3
PW-2	Atta Khan constable No. 3110	Escorted the dead body along with relevant documents to the mortuary for the autopsy.	
PW-3	Siraj Constable No. 3937	Witness of recovery memo vide which the IO took into possession blood stained garments of	Ex.PW-3/1

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PW-4	Dr. Sabahat Assistant Professor KTH, Peshawar	deceased Mst: Naila. Conducted the autopsy on the body of deceased Mst: Naila	Ex.PM including pictorial consisting 06 sheets.
PW-5	Malik Ahmad SHO	Submitted supplementary challan	Ex.PW5/1
PW-6	Amir Nawaz S/O Afridi Khan Khan	Marginal witness to the recovery memo vide which the IO took into possession three empty shell of 303, five empty shell of 7.62 bore and one empty shell of 30 bore	EX.PW-6/1
PW-7	Dr. Mir Raza Shah	Examined the injured (by then deceased Mst: Naila)	OPD chit EX.PW-7/1 & medico legal report EX.Pw-7/2
Pw-8	Muhammad Javed	Complainant	
PW-9	Muhammad Shabir	Eye witness	
PW-10	Nisar Khan No. 2750	Conducted proceeding under section 204 and 87 Cr.PC	Ex.PW-10/1 to Ex.PW-10/28
PW-11	Muhammad Ullah SI	Registered FIR on basis of murasila	Ex.PA/1
PW-12	Muhammad Yousaf Khan SI	Conducted investigation	Recovery memos Ex.PW-12/1 and Ex.PW-12/3, Nakal Mad Ex.PW-12/4, application for search memo Ex.PW-12/5, FSL

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Daudzai Law Chambers  
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			report Ex.PZ, applications for warrant 204 & 87 Cr.P.C Ex.PW 12/6 and Ex.PW- 12/7.
PW-13	Muhammad Gul Khan SI	Recorded report of the complainant in shape of murasila	Ex.PW- 13/1 to Ex.PW- 13/3.

4. On completion of the prosecution evidence, statement of accused facing trial was recorded u/s 342 Cr.PC wherein he professed his innocence, however, he neither opted to be examined on oath nor to produce defense evidence.

5. Learned Sr.PP assisted by complainant counsel while opening the case contended that the accused is directly nominated for making effective firing at the deceased causing her murder. That the occurrence is fully supported by the ocular as well as documentary evidence brought on record. The accused despite of the fact that the rest of co-accused were tried and consequently acquitted, remained absconder for sufficient long period which by itself indicates his sinister and criminal intention. The role of the accused facing trial is different from the co-accused as role of effective firing has been attributed to the present accused. That as the prosecution witnesses have been remained consistent in their

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Dated 11/01/2018  
Advocate

depositions against the accused, therefore, it cannot be brushed aside only on the ground that the co-accused on the same evidence have been acquitted. That the witnesses being closely related to the complainant or deceased cannot be disbelieved on this sole ground. Learned counsel placed reliance on SMCR 2009 page 99 and PLD 2002 SC 643.

6. On the other hand, learned defense counsel contended that the report has been lodged with undue delay which is the base for consultation and deliberation for false implication of the accused. That the complainant has not given any specification of the respective weapons of each of the accused. The recovered empties shell have not been got examined through FSL to ascertain as to whether these have been fired from one weapon or otherwise. That there is material contradictions between the physical situation of the spot and the depositions of the star witnesses and the alleged eye witness also does not support the specific version of the complainant attributing effective role to the accused facing trial. Motive is not established by producing credible evidence. There are material discrepancies between the statement of the complainant as well as the witnesses. Learned counsel placed reliance on Pakistan criminal Law General 2017, page 1607, Pakistan Criminal Law General 2015 page 554 and YLR 2014 page 1180.

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7. I listened to the arguments of the learned Sr. PP assisted by learned counsel for the complainant as well as defense counsel and perused the record.

8. The Peculiar indictment against the accused facing trial is that he along with his co-acquitted accused came near the house of the complainant where he was present in the outer door while his deceased daughter Mst: Naila was inside the house when the accused facing trial along with co-acquitted accused allegedly started firing at them. With fire shot of the accused facing trial the deceased was hit and got injured while he/the complainant escaped unhurt. Case of the prosecution rests on the depositions of the perpetrator/complainant PW-8 and the alleged eye witness PW-9 and the proceedings of the investigation conducted by Yousaf Khan SI PW-12.

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9. Relevancy, consistency and texture of the evidence produced during trial would be assessed to determine as to whether oral deposition of the witnesses find corroboration by physical circumstances or otherwise.

10. Admittedly, unnatural death of the deceased Mst: Naila has been occurred but to evaluate the material produced by the prosecution reference is made firstly to the statement of the complainant Muhammad Javed as PW-8 who has reiterated the contents of his report who has also previously recorded his statement as PW-5 during trial of co-acquitted accused. During his cross examination when he was confronted with his previous statement he narrated

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Advocate High Court Peshawar  
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that he did not remember his earlier statement to the effect "that in the meanwhile I alongwith PW Shabbir Ahmad and my uncle Said Afzal (dead now) came out from my house, the accused named above started firing at us with the intention to commit our Qatl-e-amd". The complainant has shown the alleged motive behind the crime to be an altercation previously taken place between his son Rashid and sons of the accused facing trial. In order to establish this alleged motive the complainant has not produced his son Rashid either before the police during the investigation or in the court and as admitted by this PW-8 that no one from the locality has been produced regarding the fact of the alleged altercation. He further deposes that the firing continued for about 2/3 minutes and the accused party was at distance of about 28,29, 30 paces. He shows himself on the thoroughfare in front of his house at the time of firing while his deceased daughter was at the distance of 2/3 paces from him. He further narrates that at the time of firing his sons, daughters and wife were also present but admits that he has not produced any one from them before the police. In contrast to the peculiar stance of the complainant the alleged eye witness Muhammad Shabir PW-9 during his cross examination contradicts him while stating that at the time of firing the other children and wife of the complainant were not present at the spot. As per his contention he showed kinds of weapon respectively carried by all the accused.

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11. Muhammad Shabir PW-9 has narrated in the same line of the contents of the report of the complainant, however during his cross examination he expressed his ignorance as to whether he during his statement before the IO has named the present accused facing trial or not. Thus he also does not remember as to whether he had told about alleged motive of the offence in his previous statement or not. He as per his deposition can differentiate in different kinds of weapons but is not able to recount as to whether he had told the police about the kinds of weapons carried by all the accused or not. Site plan Ex.PB has also been prepared at the instance of this PW-9 Muhammad Shabbir. Perusal of the site plan Ex.PB transpires that in between the house of the complainant and the place whereupon the accused facing trial at point No.4 has been shown allegedly making firing, there situates a water tank of which the height of its side walls as per the statements of PW-8 and PW-9 is about 7 to 8 feet. Here the question arises that when the accused facing trial was making firing from behind the wall of water tank, then how the complainant or the eye witness became able to see the acts of all the accused with meticulous specification. Furthermore, the distance shown as per the site plan between the accused party and the complainant is about 30 to 43 paces while needless to repeat, that as per the testimony of the complainant he was present in the out door of his house while the deceased was present in the courtyard of the house. hence again it pricks prudent mind as to how the complainant without any shelter or hindrance

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(Examiner)  
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Advocate High Court Peshawar  
M.A. 1981



got escaped while the deceased present inside the house got hit. The logic as advanced by the complainant and the prosecution in the peculiar backdrop of the case in hand, in no way seems congruent with the rule of prudence. It is again worth taking notice of that as per the site plan PW-9 Muhammad Shabbir was inside the house then again question arises as to how he saw and identified the accused making firing from inside the house while as referred earlier, the complainant as PW-8 has taken a different stance regarding presence of the alleged eye witness PW-9.

12. PW-12 Muhammad Yousaf Khan SI has conducted investigation of the case. During the course of which he has prepared site plan Ex.PB regarding which he admits that during the inspection of the spot he could not notice any sign of bullets on the wall or on the gate of house of the complainant and in same breath states to has been got verified the site plan from the complainant Javed but the complainant in his statement does not utter regarding this fact. The IO as PW-12 further admits that the report regarding the occurrence was made at 18:50 hours whereas the case was got registered at 21:55 hours which fact is by itself vivid from the record of the case. Admittedly, the report has been lodged with a delay of about 02 hours and 20 minutes while the FIR has been got registered with total delay 03 hours and 05 minutes, hence element of deliberation and consultation for implication of the accused in circumstances cannot be ruled out.

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Daudpuri Law Chamber  
Advocate High Court Peshawar  
Mob: 9945 9405501

13. Amir Nawaz Khan as PW-6 is the marginal witness on the recovery memo Ex.PW-6/1 and Ex.PW-6/2. He during his cross examination has not been able to stand on his stance as described in his examination in chief when he was confronted with his previous statement recorded during the trial of the co-acquitted accused. He further narrates that at the time of inspection of the spot by the IO only he alongwith his brother said Afzal (by then dead) were present with the IO and in their presence the IO collected blood stained earth and empties. This PW-6 negates the stance of the alleged eye witness PW-9 and he is also not consistent in his previous as well as present depositions. This PW-6 has thereafter tried to fill the gap when voluntarily recounting about the presence of Muhammad Shabbir PW-9 on which the defense counsel has put objection and the court has also noticed gesture and demeanor of the witness.
14. PW-7 Dr. Mir Raza Shah has conducted initial examination on the person of deceased Mst: Naila who has observed only one wound on the posterior fontenela with no exit wound and the size of wound has been shown as 1/2 inch. During his cross examination he is still adamant upon his stance that he could not observe any exit wound however the deceased (by then injured) was referred to neurosurgical ward.
15. Dr, Sabahat Assistant Professor KTH, Peshawar has come forward as PW-4 and has produced the autopsy report conducted on the

JAVED IQBAL Gul Bala  
 Dattal Law Chamber  
 Advocate High Court Peshawar  
 Mobile: 35-9336501

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(Examiner)  
 Session Court Peshawar

body of deceased as Ex.PM. The observation of her PM report is as follows:

On 3/2/2016, at 08:30 hours, I conducted the autopsy of Mst: Naila daughter of Muhammad Javed and found the following.

**External Examination:-**

A well built female wearing maroon clothes, white banyan and off white chaddar. The chaddar is blood stained. Rigor Mortis & lividity fully developed.

**Injuries:-**

- 1- FA entry wound on vertex right side 2 X 0.5 cm, 1 cm from midline 14 cm above right ear.
- 2- FA exit wound in the midline vertex 1.5 X 0.5, 16 cm above left ear & 16 above right ear.

GA

**Internal examination:**

Scalp, Skull, membranes and brain were found injured while the contents of thorax and abdomen were healthy and stomach was empty. Uterus non-pregnant.

Two vaginal swabs were found negative for semen analysis# 28/06FM/KMC/06.(FSL)

**Opinion:**

In my opinion the deceased died due to injury to brain and skull because of firearm.

*Probable time between death and PM.....8 to 12 hours.*

During her cross examination this PW-4 narrates that she found two injuries on the body of deceased i-e the entry wound as

JAVED IDEAL, C.A. Bar  
Daryal Law Chambers  
Advocate High Court Peshawar  
Mob: 99-94-5504

ATTESTED

25 JAN 2018

(Examined)

Signature of Examiners

well as exit wound and as per her observation direction of missile from downwards to upwards. The medico legal report of the deceased, blood stained garments of the deceased and the FSL report Ex.PZ would aptly indicate the unnatural death caused with firearm of the deceased but keeping in view the contradictions between the initial medico legal report and the subsequent autopsy conducted on the body of the deceased, it seems not to have occurred in the mode and manner as described and contended by the complainant as well as prosecution.

16. The nutshell evaluation of the prosecution evidence on its appraisal can be summarized as,

- i. The star witnesses are not coherent in their depositions.
- ii. As per rule of prudence it is not repellent to the common sense that seven persons making direct firing from such a close distance of about 30 to 40 paces and the complainant standing in the outer door of his house would be escaped while the deceased present inside the house sustain bullet injury.
- iii. Again it does not stand to reason that the complainant would be able to identify with specification the accused facing trial making effective firing proved fatal to the deceased out of seven persons making indiscriminate simultaneous firing.
- iv. Statements of the star witnesses is replete with unqualified improvements as PW-8/complainant during

JAVED IOBAI Gujran  
 District Law Chambers  
 Address: High Court Peshawar  
 Lahore

ATTESTED

25 JAN 2018

(Examiner)  
 Session Court Peshawar

his previous statement has shown his uncle Said Afzal and PW-9 Muhammad Shabbir present in the thoroughfare at the time of occurrence but in his subsequent statement against the accused facing trial he could not stand on his earlier stance and thus PW-9 the alleged eye witness has also made noticeable improvements in his statement.

v. I by exhibiting my utmost reverence and regards to the precedents relied by the prosecution, am of the considered view that peculiar facts and circumstances of the case in hand are not identical to the ones of the referred precedents.

17. As aftermath of the appraisal of the prosecution evidence and material on record, the court is constrained to hold that the case of the prosecution against the accused facing trial suffers from material discrepancies creating bunch of doubts regarding guilt of present accused. As it has been the well embedded principle of criminal justice that prosecution has to prove its case beyond any shadow of doubt and any reasonable doubt arises is to be utilized and extended in favour of the accused. hence, the court is unhesitant to hold that the prosecution could not substantiate its indictment against the accused and the case is shrouded with mystery of uncertainty. Therefore, by extending benefit of doubts to the accused Nizakat Shah, he stands acquitted of the charges

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Daukhal Law Chambers  
Advocate High Court Faisalabad  
Mobile: 35-940511

ATTESTED

25 JAN 2018

(Examiner)  
Sessions Court Faisalabad

141  
State VS Nizakat Shah **39** dated 11/01/2018

levelled against him. He is in custody, therefore, he be released forthwith if not required in any other case.

18. Case property be dealt with accordance with law after period of appeal/revision. File be consigned to record room after necessary completion and compilation.

ANNOUNCED  
11/01/2018

*Azizullah*  
(Azizullah Mishwani)  
Addl: Sessions Judge-VIII,  
Peshawar.

CERTIFICATE

Certified that this Judgment consists of Fourteen (14) pages.  
Each page has been checked, signed, and corrected accordingly.

*Azizullah*  
(Azizullah Mishwani)  
Addl: Sessions Judge-VIII,  
Peshawar.

~~CERTIFIED TO BE TRUE COPY~~

25 JAN 2018

(Examiner)  
Copying Agency Session Court  
Peshawar

No:	1581
Dated of Application	25-1-18
Name of Applicant	Subsidiary
Word	6000 P. B
Fee	25/1/18
Signature of Copyist & Date	
Dated of Preparation	25-1-18
Date of Delivery	25-1-18

JAVED IQBAL Gul Bah  
Daudpur Law Chambers  
Advocate High Court  
Muzaffargarh

خدمت جناب

فائل

درخواست براد انکوائری فرمائے برخلاف  
سکول انچارج گورنمنٹ پرائمری سکول سٹ  
تھرو اچون آرمر بیان ہے۔

جناب عالی!

سائیکل حسب ذیل عرضت رسان ہے۔

یہ سائیکل آرمر بیان تکمیل وضع ہے۔ کا مستقل باشندہ ہے۔  
یہ سائیکل گورنمنٹ پرائمری سکول سٹ گورنمنٹ اچون آرمر بیان  
پیشہ ہے۔ جو تیار خدماتہ سرانجام دے ریافت۔

پیشہ ہے۔ سائیکل کو زینر پلٹ نمبر 32، صورتہ 2006-2007 (ج. 2. 2. 302/148/149)  
تھان آرمر ہے۔ نامزد ملزم قرار دیا ہے۔

یہ سائیکل کو زینر پلٹ نمبر 32، صورتہ 2006-2007 (ج. 2. 2. 302/148/149)  
تھان آرمر ہے۔ نامزد ملزم قرار دیا ہے۔

یہ سائیکل کو زینر پلٹ نمبر 32، صورتہ 2006-2007 (ج. 2. 2. 302/148/149)  
تھان آرمر ہے۔ نامزد ملزم قرار دیا ہے۔

یہ سائیکل کو زینر پلٹ نمبر 32، صورتہ 2006-2007 (ج. 2. 2. 302/148/149)  
تھان آرمر ہے۔ نامزد ملزم قرار دیا ہے۔

یہ سائیکل کو زینر پلٹ نمبر 32، صورتہ 2006-2007 (ج. 2. 2. 302/148/149)  
تھان آرمر ہے۔ نامزد ملزم قرار دیا ہے۔

یہ سائیکل کو زینر پلٹ نمبر 32، صورتہ 2006-2007 (ج. 2. 2. 302/148/149)  
تھان آرمر ہے۔ نامزد ملزم قرار دیا ہے۔

یہ سائیکل کو زینر پلٹ نمبر 32، صورتہ 2006-2007 (ج. 2. 2. 302/148/149)  
تھان آرمر ہے۔ نامزد ملزم قرار دیا ہے۔

یہ سائیکل کو زینر پلٹ نمبر 32، صورتہ 2006-2007 (ج. 2. 2. 302/148/149)  
تھان آرمر ہے۔ نامزد ملزم قرار دیا ہے۔

یہ سائیکل کو زینر پلٹ نمبر 32، صورتہ 2006-2007 (ج. 2. 2. 302/148/149)  
تھان آرمر ہے۔ نامزد ملزم قرار دیا ہے۔

یہ سائیکل کو زینر پلٹ نمبر 32، صورتہ 2006-2007 (ج. 2. 2. 302/148/149)  
تھان آرمر ہے۔ نامزد ملزم قرار دیا ہے۔

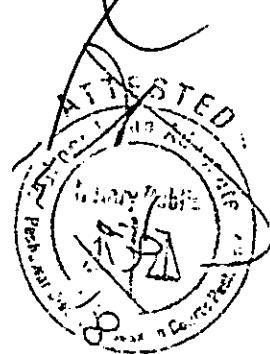
ن حلی

ماہیاتی پورے کوئی امر  
شعبہ نہ رکھتا اور نہ غلط بیان  
ہے۔ علم مراد ہے تا حد علم مکمل  
در در دست  
شذا غور فرمائے۔

حالیہ  
17301-1662097-7  
نزاہت شاہ

نزاہت شاہ

Attested  
Date: 17/06/2007  
Address: ...



نزاہت شاہ  
17301-1662097-7  
نزاہت شاہ ولد محمد شاہ  
0315-0080066

41

"G"  
Am  
/

Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar

NOTIFICATION

WHEREAS, disciplinary proceedings under the Khyber Pakhtunkhwa Government Servants (E&D) Rules-2011 were initiated against Mr. Nazakat Shah Ex-Chowkidar GPS Garhi Malik Ajoon Peshawar by the DEO (M) Peshawar, vide Endst No 5932-36 dated 09/09/2011.

AND WHEREAS, on finality of disciplinary proceedings, major penalty of "DISMISSAL FROM SERVICE" was imposed upon Mr. Nazakat Shah Ex-Chowkidar GPS Garhi Malik Ajoon Peshawar by the DEO (M) Peshawar/competent authority.

AND WHEREAS, the aggrieved Ex-Chowkidar submitted an appeal dated 02/02/2018 to the Director E&SE Khyber Pakhtunkhwa Peshawar (appellate authority) for redressal of his grievances.

AND WHEREAS, the appellate authority in pursuance of Section 17 read with rule (1) & (2) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules-2011, called for the record of the case and comments from the concerned DEO vide letter No. 563 dated 02/02/2018 for consideration of the appeal.

AND WHEREAS, the DEO concerned provided the requisite record/comments accordingly vide his letter No. 4527 dated 21/03/2018.

AND WHEREAS, to know the factual position the Director E&SE (appellate authority) ordered an inquiry in the matter by appointing Mr. Abdur Rashid Principal GHSS Bagnotar Abbottabad as Inquiry Officers vide Notification No. 1537-40 dated 07/08/2018.

AND WHEREAS, consequent upon perusal of the enquiry resubmit/relevant record, reason and circumstances by the appellate authority under which Mr. Nazakat Shah Ex-Chowkidar GPS Garhi Malik Ajoon Peshawar (appellant) was dismissed from service, the appeal submitted by the aforesaid Ex-Chowkidar for reinstatement was not found tenable.

NOW, THEREFORE, in exercise of the powers conferred under Section-17 rule (2) (a) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules-2011, the Director E&SE/appellate authority "uphold the order of penalty and reject appeal" lodged by Mr. Nazakat Shah Ex-Chowkidar GPS Garhi Malik Ajoon Peshawar (appellant)

DIRECTOR  
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar

10653-55

Endst: No. \_\_\_\_\_ /F.No.A-20/c-iv/PF Nazakat Shah Chow: Dated Peshawar the 31/10/2018.

Copy of the above is forwarded for information and n/action to the:-

- 1- District Education Officer (Male) Peshawar
- 2- Appellant concerned.
- 3- PA to the Director E&SE Khyber Pakhtunkhwa Peshawar.

Assistant Director (Admn)  
E&SE, Khyber Pakhtunkhwa, Peshawar

31/10/2018

JAVED IQBAL Gul Bela  
Dau/izzi Law Chamber  
Advocate High Court Peshawar  
Mob: 0345-330600



خزینہ صائب

(42) H. Akbar

صائب عالی

DD (Adm) For Injection

11/19

11/19

سائل صائب ذیل کے مفاد سے ان کے والد محمد شاہ صاحب  
یہ کہ سائل کا نام نرارت شاہ ولد محمد شاہ صاحب  
ادھر بیان کیے مصلح پتہ اور ہے یہ کہ سائل

رہا جس کا نام ہے (Cps Ghazi Malik Ajmal)  
کے فریقین کے درمیان کے درمیان کے درمیان  
ایک دفعہ FIR نمبر 32-2-148/149/150

جس کا نام ہے صائب شاہ۔ تین عدالتوں میں

11-1-18 کا بری کر دیا گیا ہے۔ عدالتوں میں  
اس کے عدالتوں میں عدالتوں میں کر دیا گیا۔

جب کہ میں نے آپ کو صائبان کو ایسا درخواست  
کی ہے 16653-55 دیا گیا تین عدالتوں میں عدالتوں میں

آپ صائبان نے میرا درخواست (Dismiss)

کر دیا۔ آپ صائبان سے گزارش کی جاتی

کہ میں اپنی عزت اور لاچار

آدمیوں اور میرے بچے ہیں۔

کی نجات میں فوراً ہر کام بنوں۔ اور عدالت  
94  
میں سے 18-1-11 کو باعزت ہر کر دیا۔

43

آپ صاحبان سے بذریعہ درخواست اپیل کی جاتی

ہے کہ میں عمر و ولدانہ والا حامد قریشی

اس کے لیے میری عمر و ہجر دوبارہ بحال کیا جائے

و مسائل آپ کے لیے ہمیشہ دماغاً وہ دلچے گا۔

نزاہت شاہ

نزاہت شاہ ولد محمد شاہ شاہ

ادھر پاپان کھیل و ضلع شادور

NIC No. - 17301-1662097-7

JAVED IQBAL Gul Bela  
Daudzai Law Chamber  
Advocate High Court Peshawar  
Mob: 9945-9405501

(44)  
Directorate of Elementary & Secondary Education,  
Khyber Pakhtunkhwa, Peshawar.  
No. 8340 /F.No. A-20/C-IV/P-F Nazakat Shah  
Dated Peshawar the 30 / 1 /2019.

To

Mr. Nazakat Shah  
Ex-Cowkidar GPS Garhi Malak Ajoon Peshawar

Subject: **DEPARTMENTAL APPEAL:-**

Memo:

I am directed to refer to your appeal dated 01-01-2019 for re-instatement in service and to state that the appellant authority rejected your departmental appeal.

*awm*  
*30/1/2019*  
Assistant Director (Admn)  
Directorate of E&SE K.P, Peshawar

Endst; No. \_\_\_\_\_ /

Copy forwarded to the: -

1. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

Assistant Director (Admn)  
Directorate of E&SE K.P, Peshawar

JAVED IQBAL Gul Beh  
Daudzi Law Chamber  
Advocate High Court Peshawar  
M: 034 222 2222



**Nazakat Shah**

**V/S**

**Education and others**

**REPLY ON BEHALF OF RESPONDENTS.**

Respectively Sheweth:

The Respondents submits as under:-

**PRELIMINARY OBJECTIONS:**

1. That the Appellant has no cause of action /locus standi.
2. That the Appellant has concealed material facts from this Hon,ble Tribunal.
3. That the Appellant has been estopped by his own conduct to file the instant appeal before this Hon'ble Tribunal.
4. That the instant Appeal is badly time barred.
5. That the instant Appeal is not maintainable in its present form.
6. That the instant Appeal is bad for mis-joinder and non-joinder for the necessary parties.
7. That the Appellant has not come with clean hands to this Hon'ble Tribunal.
8. That the instant Appeal is barred by law.
9. That the Appellant does not fall within the ambit of aggrieved person.

**ON FACTS.**

1. That Para No.1 pertains to record.
2. That Para No.2 is incorrect and denied on the grounds that the appellant has been found guilty of willful absence from his duty, and ASDEO (M) reported the appellant willful absent from his duty. Regarding his absentee the ASDEO Urmar Circle brought the matter in the knowledge of DEO (M) Peshawar vide letter No. 380-2 dated 02-05-2011 & letter No. 447-2 dated 28-06-2011.

**(Copy of letters are attached as Annex: A &B)**

3. That in reply to Para No.3, it is submitted that FIR No. 032 dated 02-02-2006 was lodged against the appellant at Police Station Urmar Payan District Peshawar and since, then he was absent from his duty.

Furthermore, the appellant was bound to brought the matter in the knowledge of the department but he did not acted accordingly.

Moreover, the department published absentee notice in daily news paper under the rules.

**(Copy attached as Annex: C)**

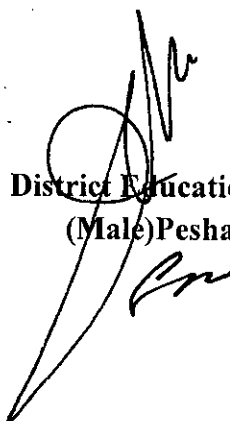
4. That Para No.4 is incorrect and misleading. The appellant was willful absent from his duty since long and violated rules, therefore, the appellant was dismissed under the rules.


- 5. That Para No.5 is incorrect, misleading and against the facts. Detail reply has been given in the above Para.
- 6. That in reply to Para No.6, it is submitted that the respondent department conducted inquiry and in light of inquiry report the respondent department decided the appellant appeal.  
(Copy of inquiry report is attached as Annex: D) <sup>Appell</sup> E)
- 7. That Para No.7 is incorrect, misleading and against the facts. The said Para has been already discussed in the above Para.
- 8. That Para No.8 is incorrect, misleading and against the facts. The Appellant has no cause of action to file the instant appeal in this Hon'ble Service Tribunal.

**GROUNDS**

- A. That Ground-A is incorrect, misleading and against the facts. The Appellant was willful absent from his duty and violated the rules and the competent authority dismissed him from his duty according to law & rules.
- B. That Ground-B is incorrect & misleading. The detail reply has been given in the above Para of facts. Moreover, the Appellant was willful absent and violated the law & rules.
- C. That Ground -C is incorrect, misleading and against the facts. Detail reply has been given in the above Para.
- D. That Ground-D is incorrect & misleading. The Appellant was willful absent from since long without any information and the department dismissed him under the rules.
- E. That Ground-E is incorrect & misleading and against the facts. The department conducted inquiry and the inquiry officer informed the Appellant regarding the inquiry but he did not appear before the inquiry officer.
- F. That Ground -F is incorrect, misleading and against the facts. Detail reply has been given in the above Para.
- G. That Ground -G is incorrect, misleading and against the facts. The dismissal order of the Appellant is according to law and rules because he was willful absent from his duty since long without any information & permission.
- H. That the respondents have also seeks the permission of this Hon'ble Tribunal for further / additional grounds at the time argument.

It is therefore, very humbly prayed that on acceptance of this reply, the instant appeal may very kindly be dismissed with cost.

  
 District Education Officer  
 (Male) Peshawar

  
 Director,  
 (E & SE) KPK Peshawar

Amces (A) P-3

اسٹنٹ ڈسٹرکٹ آفیسر سرکل چنلوپورہ  
نمبر 353 مورخہ 17/3/2011

جناب ڈپٹی ڈسٹرکٹ آفیسر (ایڈمنسٹری ایٹو سیکنڈری) ایجوکیشن  
ضلع پشاور

عنوان :- غیر حاضری رپورٹ نزاکت شاہ چوکیدار پی ایس لڑائی ملک اجون

جناب عالی!

آپ کی طرف سے بھیجا گیا سرسماہ نمبر 703 مورخہ 2/3/2011 ملا جس میں نزاکت شاہ چوکیدار کے بارے میں

رپورٹ مانگی گئی ہے۔

نزاکت شاہ چوکیدار اپنے سکول سے مورخہ 3/2/2006 سے تاحال غیر حاضر ہے۔ مذکورہ چوکیدار دفعہ 302 کے کیس میں ملوث ہے

لہذا رپورٹ ارسال کی جاتی ہے۔ (درجہ معلوم)۔ رپورٹ پیش کاپیاں آف ہیں) جبکہ غیر حاضری کانٹریکٹ دیا ہے (کاپی لف ہے) لیکن مذکورہ

چوکیدار ابھی تک حاضر نہ ہو سکا۔ لہذا مذکورہ چوکیدار کے خلاف تادیبی کارروائی کی جائے۔

AS/16/11

اسٹنٹ ڈسٹرکٹ آفیسر سرکل چنلوپورہ

Received  
on 17/3/2011

1

Annex (B)

P-4

۵۷

سندھ ایجوکیشنل ایفیسر کے دفتر

69-2015-5-5

پرائمری اسکول آنیسر (مردانہ) پرائمری

پتھان

جی پی ایس گورنمنٹ ملک اجونہ کے پتھانوں کی فراہمی

پہ عالی

اور نمٹ پرائمری اسکول برٹھی ملک اجونہ کا پتھانوں کا نمبر 302 تیس میں مشورہ ہے (رپورٹ ارسال کی گئی ہے) جس کی وجہ

ذکورہ سکول میں سکول کی حفاظت اور دیگر ٹیچر بھال کا مسئلہ پیدا ہوا۔

گورنمنٹ پرائمری اسکول نمبر 302 اور نمٹ میں دو پتھانوں کو کام کر رہے ہیں جن میں سے ایک چوکیدار شہریار کو سکول ہیڈ ٹیچر کی

ساتھ اور اس کی رہنمائی سے عارضی طور پر گورنمنٹ ملک اجونہ کے پتھانوں اور اس سکول کا مسئلہ حل کیا گیا۔ لیکن گورنمنٹ ملک اجونہ کو جو

پتھانوں کے پتھانوں کو اپنے سکول کے پتھانوں میں بھیج دیا گیا۔ جس سے اس بات کا خطرہ بڑھ گیا ہے کہ گورنمنٹ

اجونہ میں کوئی سرکاری اہلکار یا پتھانوں کو اتھارنٹیشن دیا جاسکتا ہے۔

کیونکہ جی پی ایس نمبر 302 اور نمٹ میں اس لیے اگر ایک چوکیدار کو جی پی ایس گورنمنٹ ملک اجونہ تعینات کیا

جائے تو اس سے مسئلہ کسی حد تک حل ہو سکتا ہے۔

رپورٹ مذکورہ کارروائی کے لیے ارسال خدمت ہے۔

نوٹ:- (ہیڈ ٹیچر جی پی ایس نمبر 302 اور نمٹ کے NOC اور شہریار چوکیدار کی درخواست لفت ہے)

اسسٹنٹ ڈسٹرکٹ آفیسر پرائمری

۵/۷



B2

P-5

OFFICE OF THE ASSISTANT DISTRICT OFFICER (M) RPY: CIRCLE  
CHUGHAL PURA

Dated 03/05/2011

No. 380-2

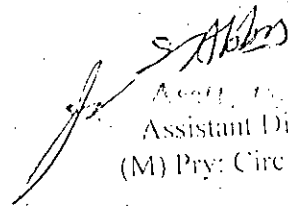
To,

The Deputy District Officer (Male) Pry:  
Peshawar.

Subject:- Report of Pay in R/O Mr. Nizaqat Shah (Chowkidar) GPS Garhi  
Malik Ajun (Urmar Payan) Peshawar.

For your kind information the pay of Mr. Nazaqat Shah (Chowkidar) GPS Garhi Malik Ajun who involved in 302 (murder case) is stopped in the month of October 2006 by the phonic information given by Pay Centre In charge Umar Payan.

So the report is submitted for further necessary action please.

  
Assistant District Officer  
(M) Pry: Circle Chughal Pura

Pay received w.e.f. 3/2006 To 10/2006

27 months - P

Deactivation Dec, 2006

**NOTIFICATION**

WHEREAS disciplinary proceedings under the Khyber Pakhtunkhwa Government Service (EAO) Rules-2011 were initiated against Mr. Nazakat Shah Ex-Chowkdar GPS Gahni Ajoon Peshawar by the CEO (M) Peshawar, vide dated No. 8832-35 dated 02/09/2018.

AND WHEREAS, on finding of disciplinary misconduct on the part of the appellant, a **SERVICE** was imposed upon Mr. Nazakat Shah Ex-Chowkdar GPS Gahni Ajoon Peshawar by the CEO (M) Peshawar, vide dated 02/09/2018.

AND WHEREAS, the aggrieved Ex-Chowkdar submitted an appeal dated 02/02/2018 to the Director, E&SSE, Peshawar (appellant) for a reversal of his grievance. AND WHEREAS, the appellate authority in pursuance of Section 17 read with rule (1) & (2) of the Khyber Pakhtunkhwa Government Service (Efficiency & Discipline) Rules-2011 called for the record of the case and comments from the concerned CEO vide letter No. 563 dated 02/02/2018 for consideration of the appeal.

AND WHEREAS, the CEO concerned provided the requisite records accordingly vide his letter No. 4237 dated 21/03/2018.

AND WHEREAS, to know the factual position the Director, E&SSE (appellate authority) ordered an inquiry in the matter by appointing Mr. Abdul Rashid Prudhul GHSB Bagrami Appointed as Inquiry Officer vide Notification No. 1537-40 dated 07/03/2018.

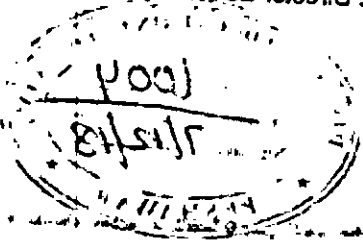
AND WHEREAS, consequent upon perusal of the enquiry report, relevant record, reason and circumstances by the appellate authority under which Mr. Nazakat Shah Ex-Chowkdar GPS Gahni Ajoon Peshawar (appellant) was dismissed from service, the appeal submitted by the appellant for reinstatement was not found feasible.

NOW, THEREFORE, in exercise of the powers conferred under Section-17 rule (2) (a) of the Khyber Pakhtunkhwa Government Service (Efficiency & Discipline) Rules-2011, the Director, E&SSE (appellate authority) uphold the order of enquiry and reject appeal lodged by Mr. Nazakat Shah Ex-Chowkdar GPS Gahni Ajoon Peshawar (appellant).

DIRECTOR  
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar  
Nazakat Shah Chowk, Peshawar the 21/02/2018

Copy of the above is forwarded for  
1. Director Education Officer (Jr) Peshawar  
2. Appellant concerned  
3. PA to the Director E&SSE Khyber Pakhtunkhwa Peshawar

Assistant Director (Admin)  
E&SSE Khyber Pakhtunkhwa, Peshawar



Handwritten signatures and initials, including 'Chaudhary' and 'Vijay P'.

30/10

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

In S.A# 178/2019

Nazakat Shah

**Versus**

Director E&SE KPK and Others

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نزاكت شاہ

Appellant

Through

  
JAVED IQBAL GULBELA

Advocates, High Court  
Peshawar

Dated: 17/09/2019

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

In S.A# 178/2019

Nazakat Shah

**Versus**

Director E&SE KPK and Others

**REJOINDER ON BEHALF OF THE  
APPELLANT TO THE COMMENTS  
FILED BY THE RESPONDENTS**

**Respectfully Sheweth,**

**Reply to Preliminary objections:-**

1. Incorrect and Denied. The appellant has got a good cause of action.
2. Incorrect and denied..
3. Incorrect and denied.
4. Incorrect and denied. Moreover the appeal of the appellant is in time.
5. Incorrect and denied.
6. Incorrect and denied.

7. Incorrect and denied.

8. Incorrect, misleading, hence denied.  
Moreover, appeal of the appellant is according to law.

9. Incorrect and denied.

**On Facts:-**

1. No comments.

2. Incorrect, misleading and hypocritical, hence denied.  
While that of the main appeal is true and correct.

3. Misleading & hypocritical, hence denied. While true, and detail picture is given in the corresponding para of the main appeal.

4. Incorrect, misleading and hypocritical, hence denied. While that of main appeal is true & correct.

5. Incorrect, wrong, misleading and hypocritical hence denied. While true and detailed picture is given in the corresponding paras of the main appeal.

6. Incorrect, hypocritical and misleading. While that of the main appeal is true and correct as well as a true and detailed picture is given in corresponding paras of the main appeal.

7. Incorrect, hypocritical and misleading. While that of the main appeal is true and correct as well as a true and detailed picture is given in corresponding paras of the main appeal.
8. Incorrect, misleading, malicious and hypocritical, hence denied. While that of the main appeal is true and correct.

**On Grounds:-**

- A. Hypocritical and malicious. True picture is given in the main appeal.
- B. Incorrect and malicious. While that of the main appeal is true and correct.
- C. Misleading and hypocritical. True and detailed picture is given above and as well as in appeal.
- D. Incorrect and denied, as well as hypocritical and malicious, while that of the main appeal is true and correct.
- E. Incorrect, misleading & malicious, hence denied. While that of the main appeal is true and correct.
- F. Incorrect and denied.
- G. Incorrect and denied. While that of the main appeal is true and correct.

H.Incorrect, hypocritical, hence denied. While that of the main appeal is true and correct.

*It is, therefore, most humbly prayed that on acceptance of instant rejoinder, the appeal of the appellant may graciously be allowed, as prayed for therein.*

Through <sup>نہایت متواضعانہ</sup>  
Appellant   
JAVED IQBAL GULBELA

ISRAR AHMAD  
&

SAGHIR IQBAL GULBELA,  
Advocates High Court  
Peshawar

Dated: 17/09/2019

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

In S.A# 178/2019

Nazakat Shah

**Versus**

Director E&SE KPK and Others

**AFFIDAVIT**

I, **Nazakat Shah (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.

نزاكت شاہ

Deponent

CNIC: 17301-1662097-7

Cell : 0313-8864866

Identified By:-

**Javed Iqbal Gulbela**  
Advocate High Court  
Peshawar



17-09-19