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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 994/2019

Date of Institution ... 31/07/2019

Date of Decision ... 26/01/2022

Shakeel Akhtar Bailiff (BPS-04) R/O Village Badadi Post office Undra
Doga Tehsil and District Haripur.

... (Appellant)

VERSUS

The Secretary Industries, Labour Government of Khyber
Pakhtunkhwa Peshawar and others. ... (Respondents)

Present.

Mr. Muhammad Arshad Tanoli,
Advocate

... For appellant.

Mr. Muhammad Adeel Butt,
Addl. Advocate General,

... For respondents.

MR AHMAD SULTAN TAREEN
MR. ATIQ-UR-REHMAN WAZIR,

... CHAIRMAN
... MEMBER(E)

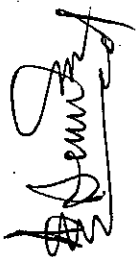
JUDGMENT

AHMAD SULTAN TAREEN, CHAIRMAN:- The appellant named
above has invoked the jurisdiction of this Tribunal through above
titled appeal with the prayer as copied below:-

**"On acceptance of the instant Service Appeal,
impugned removal from service order dated**

16.04.2019 may graciously be declared void and the same be set aside and respondent department may be directed to reinstate the appellant with all service back benefits. Any other relief which this Tribunal deems appropriate in the circumstances of the case may also be granted to the appellant."

2. Brief facts of the case as enumerated in the Memorandum of appeal are that respondent No. 3 advertised the post of Bailiff in daily "Mashriq" dated 20.12.2018. The appellant having the qualification of F.Sc. applied for appointment against the said post and was placed at the top of merit list. Consequently, on the recommendation of the Departmental Selection Committee, respondent No. 3 vide order dated 31.01.2019, issued appointment order of the appellant as Bailiff (BPS-04) in Labour Court, Haripur. The appellant served the department to the entire satisfaction of his superiors but all of a sudden he received show cause notice dated 04.04.2019 issued by respondent No. 3 which was duly replied by the appellant with clarification of his position. The appellant was removed from service vide order dated 16.04.2019. Feeling aggrieved, he filed departmental appeal which was rejected on



05.07.2021. Hence the present appeal on 31.07.2019 which is well within time.

3. The appeal was admitted for regular hearing on 20.12.2019. Respondents have submitted written reply/comments, refuting the claim of the appellant with several factual and legal objections and asserted for dismissal of appeal with cost.

4. We have heard the arguments and perused the record.

5. Learned counsel for the appellant argued that the appellant being fully qualified was appointed as Bailiff (BPS-04) by the competent authority on 31.01.2019 on the recommendations of Departmental Selection Committee (DSC). After appointment, the appellant had assumed the charge and was performing his duty regularly without any complaint against him and valuable rights have been accrued in his favour. He further argued that Labour Court comes under the administrative control of Government of Khyber Pakhtunkhwa Labour Department and the Hon'ble Chief Justice, Peshawar High Court is neither the competent authority nor appellate authority, therefore, the appellant could not be removed from service on the directives of Peshawar High Court. Even no departmental enquiry has been conducted which was mandatory



under the law. He further argued that it was the fundamental right of appellant to apply for appointment against the post being eligible and qualified for the same. He prayed that on acceptance of the appeal, the appellant may be reinstated into service with all back benefits.

6. Learned Addl. Advocate General while rebutting the arguments of learned counsel for the appellant contended that on a complaint discreet enquiry was conducted and it was found that newly appointed Bailiff (appellant) happened to be nephew of the appointing authority, therefore, the latter was rightly directed that after serving show cause notice to the appellant, he may be removed from service. He further argued that according to the direction of Hon'ble Peshawar High Court, the post was re-advertised and filled after adopting codal formalities by appointment of one Muhammad Afraz Khan as Bailiff (BPS-04). He requested that the appeal may be dismissed with costs.

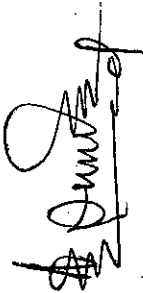
7. It is an undisputed fact that the appellant was removed from service simply for the reason that he was related to the appointing authority. According to show cause notice annexed with memorandum of appeal, it is there in it that on completion of due

process appellant was appointed as Bailiff in the Labour Court Haripur vide order No. 46-49/LC dated 31.01.2019; and that the competent authority of Hon'ble Peshawar High Court had directed the signatory of the show cause notice (Presiding Officer Labour Court, Haripur) to remove the appellant from service on account of his being related to the signatory, after show cause notice. The reply of the show cause notice is available on record. The appellant among the causes shown in his reply mentioned that he was short listed after a written test and typing test among four candidates with his position on the top and was called for interview. He stated that the interview panel included two other officers besides the appointing authority and they all interviewed him. He replied to their questions according to his ability. Consequently, his appointment order was issued after his having stood at the top of the merit and test and interview. He claimed that his selection was on merit. He explained his relationship with the Appointing Authority with submission that such relationship makes no ground for his removal from service and if an officer happened to be there in an Institution whether he should not apply for service in such Institution or even if he is selected on merit whether his relative officer should not make his appointment. He questioned that



whether this thing is there in law and if any, the same may be pointed out. He concluded that his appointment was on merit and it is not a justice anywhere to make him scapegoat on account of relationship with the appointing authority. He also questioned the authority of Hon'ble High Court in relation to order of his removal with submission that he was not an employee of the High Court but was of Labour Court. The impugned order on its face discloses that the appellant's appointment was regarded on merit after due course but direction of competent authority of Honourable High Court vide letter dated 27.03.2019 was complied by respondent No. 3 to remove the appellant from service.

8. Article 4 of the Constitution of Islamic Republic of Pakistan enshrines that to enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen. It particularly provides that no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law. It is also particularly provided in Article 4 *ibid* that no person shall be prevented from or be hindered in doing that which is not prohibited by law. Needless to mention that there are number of pronouncements of the august Supreme Court of Pakistan in the subject that the protection of the employment or



service is covered for the purpose of fundamental right enshrined by Article 9 of the Constitution of Pakistan relating to security of person. Article- 10-A of the Constitution of Pakistan provides right to fair trial and due process. In view of the aforementioned scheme of fundamental rights enshrined by Constitution of Pakistan, the impugned order does not stand to the test of scheme of fundamental rights. The advertisement made for the post on which the appellant was appointed does not contain any reason with reference to any law which could have prevented the appellant for becoming candidate of the post of Bailiff. The copy of working paper for appointment of Bailiff as annexed with the appeal is also available before us. The said working paper includes two other signatories besides the appointing authority who are Muhammad Faisal Khan, Senior Civil Judge Haripur as Member of DSC being nominee of the Appointing Authority and Mr. Muinud Din Section Officer (General) Labour Department Peshawar as Member being nominee of the Labour Department. According to the breakup of the marks given in the working paper, the appellant secured 16 marks in written test while in interview he got $12+11+18 = 41$ marks. The next candidate namely Syed Usman Ali secured 14 marks in written test while in interview he was given $9+8+10+27$



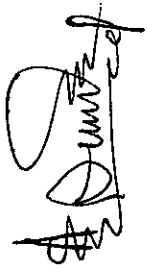
marks. Although the appellant was given higher marks in interview than the next candidate but if his marks in interview are presumed equal to next candidate, he even then would have stood first because of his two more marks in written test. The appointment order of the appellant also discloses that his appointment was made on recommendations of DSC. With the said factual position as to candidacy of the appellant and his selection, there appears no legal justification to throw him out of the selection process simply for the reason that he was nephew of the appointing authority, unless it was proved that his appointment was made on some extraneous consideration. We have not been convinced through parawise comments of respondent No. 3 that appointment of the appellant was made otherwise than due course. It is an admitted fact in reply of respondent No. 3 that the appellant had passed the written and typing test.

9. It is there in reply of respondent No. 3 that according to the direction of Hon'ble Peshawar High Court Peshawar vide letter dated 14.05.2019, the posts were re-advertised and filled after adopting codal formalities and Mr. Afraz Khan was appointed as Bailiff (BPS-04) vide order dated 29.10.2019. We are not able to understand the logic of advertisement for the reason that the

matter in dispute was the appointment of the appellant due to his relationship with appointing authority and the process of the appointment was not disputed. Even after removal of the appellant from service, right of appointment had accrued to the next candidate in waiting namely Usman Ali Shah; if the discreet enquiry was conducted in the High Court on complaint of afore-named Usman Ali Shah. If no complaint was filed by him or any other candidate included in working paper, the process having taken place through DSC was not supposed to be reversed for advertisement of the post afresh. Anyhow, the respondent No. 3 reversed the process and advertised the post and appointment of Muhammad Afraz Khan has taken place on the post which had fallen vacant due to removal of the appellant. The reinstatement of the appellant is likely to cause anomaly, however, this anomaly shall be dealt with subsequently herein after.

10. As far as removal of the appellant from service in particular manner is concerned, the same is not justifiable by any law. The appointment of the appellant is an admitted fact which was implemented because the appellant stated in his appeal that he served the department with zeal and zest to the entire satisfaction of his superiors but all of a sudden, he received the show cause

notice. After his appointment as Bailiff in the respondent department he had got the status of civil servant and he could not be treated in the matter of his terms and conditions of his service otherwise than the Service Laws on the subject i.e. Khyber Pakhtunkhwa Civil Servants Act, 1973 and the rules namely Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011. Section 15 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 provides that a civil servant shall be liable to disciplinary action and penalty in accordance with the prescribed procedure. The "penalty" and "the prescribed procedure" in this respect have been provided in Government Servants (E&D) Rules, 2011. The grounds for the disciplinary action has been provided by Rule 3 of the ibid rules while the penalties have been provided in Rule 4 of the same rules including the penalty of removal from service. Rule 5 deals with initiation of the proceedings by the competent authority after making the opinion that there are sufficient grounds for initiating proceedings against a government servant under said rules. It is an undeniable fact that the show cause notice issued to the appellant or the impugned order of his removal from service have been issued without reference to any provision of the law as discussed before. The appellant after having got the status of a government



servant was not liable to disciplinary action otherwise than the law discussed before which has been ignored in case of the appellant. Therefore, we have no hesitation to hold that removal of the appellant from service is otherwise than due course of law and in turn, it was made without having regard to the constitutional rights of the appellant as provided under Article 4, 9 and 10-A of the Constitution of Islamic Republic of Pakistan.

11. Before parting with the judgment, it is deemed appropriate to deal with the anomaly having been created due to appointment of Muhammad Afraz Khan on the post which stood vacated due to removal of the appellant from service. Needless to say that reinstatement of the appellant in service gives him the right to hold the same post from which he was removed and also the back benefits of the same post. However, the salary and other benefits of the post after removal of the appellant were given to the newly appointed person on the said post who having served on the said post is not liable to refund the salary and other benefits. Therefore, back benefits of the appellant are payable to him on notional basis by creation of supernumerary post till his reinstatement on actual post. If there is no post available for reinstatement of the appellant, the post occupied by the newly appointed person is to be vacated




by an appropriate order. We find it appropriate to direct that the respondent department should adjust the newly appointed person namely Muhammad Afraz Khan on any other vacant post of equal grade or may move a case for creation of a post to accommodate him for removal of the anomaly as discussed herein above.

8. For what has gone above, this appeal is accepted. Consequently, the impugned order is set aside and the appellant is reinstated into service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

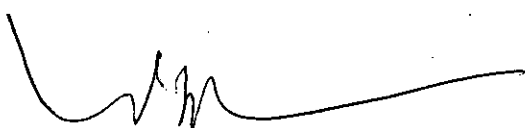
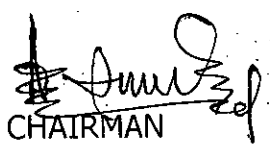


(ATIQ-UR-REHMAN WAZIR)
Member(E)



(AHMAD SULTAN TAREEN)
Chairman

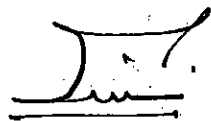
ANNOUNCED
26.01.2022

S.No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	26.01.2022	<p><u>Present.</u></p> <p>Mr. Muhammad Arshad Tanoli, ... For appellant Advocate</p> <p>Mr. Muhammad Adeel Butt, ... For respondents. Addl. Advocate General</p> <p>Vide our detailed judgment, this appeal is accepted. Consequently, the impugned order is set aside and the appellant is reinstated into service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.</p> <p> (ATIQ-UR-REHMAN WAZIR) Member(E)</p> <p> CHAIRMAN</p> <p><u>ANNOUNCED</u> 26.01.2022</p>

22.12.2021

Learned counsel for the appellant present. Mr. Malik Mazhar, Superintendent on behalf of respondent No. 3 alongwith Mr. Riaz Ahmed Pindakhel, Assistant Advocate General present.

Para-wise comments on behalf of respondent No. 3 submitted, which is placed on file and copy of the same is handed over to learned counsel for the appellant. Respondents No. 1 & 2 have failed to submit their written reply/comments even today, therefore, in light of order dated 30.11.2021 their right for submission of written reply/comments stands struck off. Adjourned. To come up for rejoinder of reply of respondent No. 3, if any, as well as arguments on 17.03.2022 before the D.B at Camp Court Abbottabad.

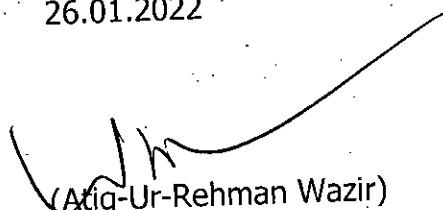


(Salah-Ud-Din)
Member (J)
Camp Court Abbottabad

25.01.2022

Clerk to counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Malik Mazhar Jalal Superintendent for the respondents present.

Clerk to counsel for the appellant requested for adjournment on the ground that counsel for the appellant is not available today, due to general strike of the Bar. Adjourned. To come up for arguments before the D.B on 26.01.2022



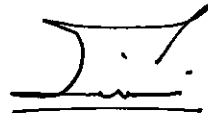
(Atiq-Ur-Rehman Wazir)
Member (E)



Chairman

20.09.2021

Clerk of learned counsel for the appellant present, while learned counsel for the appellant is absent due to strike of lawyers. Mr. Usman Ghani, District Attorney for the respondents present and requested for adjournment for submission of reply/comments. Request is accorded with the directions to respondents to furnish reply/comments within 10 days. In case the respondents failed to submit reply/comments within stipulated time from today, they shall have to seek extension of time through written application citing sufficient reasons. Otherwise, their right for submission of reply/comments shall stand ceased. To come up for arguments before the D.B on 20.12.2021 at Camp Court Abbottabad.



(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD

30.11.2021

Counsel for the appellant present:—Malak Mazhar, Superintendent for respondent No. 3 alongwith Mr. Muhammad Riaz Khan Paindakhel, AAG for the respondents present.

The reply submitted today by representative of respondent No. 3 under the covering letter is not proper because signatory of the reply is not party in this appeal. The has been returned to representative. Let the respondent No. 3 submit reply under due course, if so advised. The reply of other respondents is also awaited. Learned AAG is apprised about omission of respondents No. 1 & 2 so as to take them on board for reply on or before the next date, failing which their right to reply shall be deemed as struck off. Case to come up on 22.12.2021 before S.B at camp court, Abbottabad.



Chairman
Camp Court, A/Abad

16.11.2020

Nemo for the appellant. Mr. Usman Ghani, District Attorney and Mr. Malik Madad, Superintendent, for the respondents are present.

Written reply on behalf of respondents not submitted. Representative of the department seeks further time for submission of written reply/comments. Time given. File to come up for written reply/comments on 20.01.2020 before S.B at Camp Court, Abbottabad.

(MUHAMMAD JAMAL KHAN)
MEMBER
CAMP COURT ABBOTTABAD

20.1.2021 Due to covid-19, The case is
adjourned to 20-9-2021 for the same.


Reader

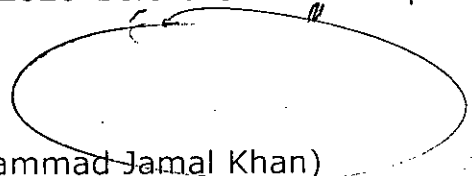
Due to covid ,19 case to come up for the same on / /
at camp court abbottabad.

Reader

Due to summer vacation case to come up for the same on 11/4
9 / 20 at camp court abbottabad.


Reader

14.09.2020 . Mr. Muhammad Arshad Khan Tanoli, Advocate for appellant is present. Mr. Usman Ghani, District Attorney is also present. Neither written reply on behalf of respondents submitted nor anyone on their behalf is present, therefore, notices be issued to them for submission of written reply/comments. File to come up for written reply/comments on 16.11.2020 before S.B at Camp Court, Abbottabad.



(Muhammad Jamal Khan)
Member
Camp Court Abbottabad

20.12.2019

Counsel for the appellant Shakeel Akhtar present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was appointed as Baillif in Labour Department Labour Court on the recommendation of Departmental Selection Committee by the competent authority vide order dated 31.01.2019. It was further contended that the appellant was removed from service by the competent authority i.e District & Sessions Judge presiding officer Labour Court Haripur vide order dated 16.04.2019 on the direction of high-ups. It was further contended that after the appointment, the appellant had assumed the charge and was performing his duty regularly. It was further contended that neither any proper inquiry was conducted against the appellant nor he was associated in any regular inquiry. The appellant also filed departmental appeal but the same was also not responded. It was further contended that the impugned order is illegal and liable to be set-aside.

The contention raised by 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, notices be issued to the respondents for written reply/comments for 17.02.2020 before S.B at Camp Court Abbottabad.

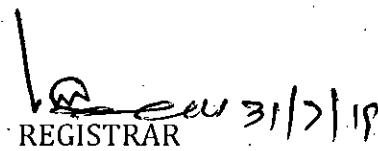



Appellant Deposited
Security & Process Fee


(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

Form- A
FORM OF ORDER SHEET

Court of _____

Case No.- 994/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	31/07/2019	<p>The appeal of Mr. Shakeel Akhtar received today by post through Muhammad Arshad Khan Tanoli 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 31/7/19</p>
2-	20.09.2019	<p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>20-9-19</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Clerk of counsel for the appellant present and requested for adjournment on the ground that learned counsel for the appellant is not available today. Adjourned to <u>20.12.2019</u> for preliminary hearing before S.B at Camp Court Abbottabad.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member Camp Court Abbottabad</p>

BEFORE THE CHAIRMAN SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 994 /2019

Shakeel Akhtar Bailiff (BPS-04), resident of Village Badadi P.O Undra Doga, Tehsil & District, Haripur.

...APPELLANT

VERSUS

Secretary Labour Department, Peshawar & Others.

...RESPONDENTS

SERVICE APPEAL

INDEX

S.#	Description	Page No.	Annexure
1.	Service appeal along with affidavit	1 to 9	
2.	Suspension application alongwith affidavit	10 to 11	
3.	Copy of advertisement dated 20/12/2018	12	"A"
4.	Copy of merit list	13	"B"
5.	Copy of appointment order of the appellant	14-15	"C"
6.	Copy of show cause notice	16-17	"D"
7.	V Copy of impugned removal from service order dated 16/04/2019	18	"E"
8.	Copies of departmental appeal and rejection letter dated 05/07/2019	19-22	"F"
9.	Wakalatnama	23	

Dated: _____ /2019

Through


 (Muhammad Arshad Khan Tanoli)
 Advocate High Court, Abbottabad

...APPELLANT

BEFORE THE CHAIRMAN SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 994/2019

Shakeel Akhtar Bailiff (BPS-04), resident of Village Badadi P.O Undra Doga, Tehsil & District, Haripur.

...APPELLANT

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1113

Dated 31/7/2019

VERSUS

Defence of reply
Strike off

1. Secretary Industry Labour KPK, Peshawar.
2. Section Officer, Labour Department, KP Peshawar.
3. Presiding Officer/ Session Judge Labour Court, Hazara Region, Haripur.

...RESPONDENTS

Filed to-day

Registrar

31/7/19

SERVICE APPEAL UNDER SECTION 4 OF
KPK SERVICE TRIBUNAL ACT, 1974, FOR
DECLARATION TO THE EFFECT THAT
APPELLANT APPLIED FOR THE POST OF
BAILIFF IN PURSUANCE OF
ADVERTISEMENT APPEARED IN DAILY
THE MASHRIQ DATED 20/12/2018 ISSUED
BY RESPONDENT NO. 3. THEREFORE, THE
APPELLANT WAS APPOINTED AS BAILIFF
IN BPS-04 IN LABOUR COURT, HARIPUR ON

31/01/2019 BUT RESPONDENT NO. 3 WITHOUT CONDUCTING ANY INQUIRY REMOVED THE APPELLANT FROM SERVICE ON 16/04/2019 WHICH IS PERVERSE, DISCRIMINATORY, AGAINST THE LAW AND WITHOUT LAWFUL JUSTIFICATION, HENCE IMPUGNED REMOVAL FROM SERVICE ORDER NO. 199-2013/LC DATED 16/04/2019 IS LIABLE TO BE SET-ASIDE.

PRAYER: ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL, IMPUGNED REMOVAL FROM SERVICE ORDER DATED 16/04/2019 MAY GRACIOUSLY BE DECLARED VOID AND THE SAME BE SET-ASIDE AND RESPONDENTS' DEPARTMENT MAY BE DIRECTED TO RE-INSTATE THE APPELLANT WITH ALL SERVICE BACK BENEFITS. ANY OTHER RELIEF WHICH IS HONOURABLE SERVICE TRIBUNAL DEEM APPROPRIATE IN THE CIRCUMSTANCES OF THE CASE MAY ALSO BE GRANTED TO THE APPELLANT.

Respectfully Sheweth: -

That the facts forming the background of the instant service appeal are as follows:-

1. That respondent No. 3 announced the post of bailiff vide advertisement appeared in daily News Paper "The Mashriq" dated 20/12/2018. Copy of advertisement dated 20/12/2018 is annexed as Annexure "A".
2. That the petitioner is FSc. and applied for the post of bailiff and was placed at the top of merit list. Copy of merit list is annexed as Annexure "B".
3. That consequent upon the merit position and on the recommendation of the departmental committee, respondent No. 3 issued department selection order of the appellant as bailiff BPS-04 in Labour Court, Haripur, vide order No. 46-49/LC dated 31/01/2019. Copy of appointment order of the appellant is annexed as Annexure "C".

4. That the appellant served this department with Zeal and Zest to the entire satisfaction of his superiors but all of a sudden the appellant received show cause notice on 04/04/2019 issued by respondent No. 3 stating therein "The competent authority of Honourable Peshawar High Court, Haripur vide order letter No. 6587/admin, dated 27/03/2019, has directed the undersigned to remove you from service on account of your being related to me after show cause notice. Copy of show cause notice is annexed as Annexure "D".
5. That, Therefore, the appellant replied show cause notice on 10/04/2019 which is self explanatory. The appellant is FSc. and passed written as well as typing test with distinction and got appointment order on merit and there is no law which debar the appellant from getting appointment on merit in the department, where the competent authority was relative of the appellant

6. That without proper inquiry, respondent No. 3 removed the appellant from service vide impugned removal from order No. 199-203-LC dated 16/04/2019. Copy of impugned removal from service order dated 16/04/2019 is annexed as Annexure "E".

7. That the appellant feeling aggrieved filed departmental appeal regarding setting aside of removal from service order dated 16/04/2019 vide departmental appeal dated 02/05/2019 and rejection letter dated 05/07/2019. Copies of departmental appeal and rejection letter dated 05/07/2019 are annexed as Annexure "F". Hence, the instant appeal is filed inter-alia on the following grounds;-

GROUND S;-

- (a) That impugned removal from service order dated 16/04/2019 is illegal, against the law, perverse, without any lawful justification. The appellant is FSc. and qualified written as well as

typing test and was placed at the top of merit list. Therefore, respondent No. 3 appointed the appellant on the recommendation of Departmental Selection Committee.

- (b) That this fact may not be let to fade in oblivion that the prior to remove from service, proper inquiry under E&D Rules 2011 is mandatory and sine quo non for taking any adverse action against the appellant. Hence, no inquiry as per law has been conducted as to whether the appointment of the appellant was on merit or otherwise. Hence, without observing the codal formalities the impugned remove from service order is liable to be set-aside.
- (c) That respondents' department used sledge/ hammer to crack the nut which destroyed savory of the nut when a nut cracker was available to crake the nut. The appellant is duly

qualified and a fit candidate who got appointment on merit.

(d) That no stretch of the imagination disentitled the petitioner for appointment on merit due to relations with respondent No. 3. Besides, if the petitioner got appointment purely on merit then his relation with the competent authority makes no difference.

(e) That service appeal of the appellant is well within the period of limitation and the matter relates to terms and conditions of service, therefore this Honourable Tribunal has jurisdiction to entertain the appeal under Article 212 of the constitution of Islamic Republic of Pakistan 1973.

(f) That other grounds shall be urged at the time of arguments.

It is, therefore, humbly prayed that, on acceptance of the instant service appeal, impugned removal from service order dated 16/04/2019 may graciously be declared void and the same be set-aside and respondents' department may be directed to re-instate the appellant with all service back benefits. Any other relief which this Honourable Service Tribunal deem appropriate in the circumstances of the case may also be granted to the appellant.

Dated: _____/2019

Through


 (Muhammad Arshad Khan Tanoli)
 Advocate High Court, Abbottabad


 ...APPELLANT

VERIFICATION:-

Verified on oath that the contents of foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.


 ...APPELLANT

BEFORE THE CHAIRMAN SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2019

Shakeel Akhtar Bailiff (BPS-04), resident of Village Badadi P.O Undra
Doga, Tehsil & District, Haripur.

...APPELLANT

VERSUS

Secretary Labour Department, Peshawar & Others.

...RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, Shakeel Akhtar Bailiff (BPS-04), resident of Village Baddadi Dakhan
Donga Gali, Tehsil & District, Haripur, Mansehra, do hereby solemnly
affirm and declare that the contents of foregoing appeal are true and correct
to the best of my knowledge and belief and nothing has been concealed
therein from this Honourable Tribunal.


DEPONENT

BEFORE THE CHAIRMAN SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2019

Shakeel Akhtar Bailiff (BPS-04), resident of Village Badadi P.O Undra
Doga, Tehsil & District, Haripur.

...APPELLANT

VERSUS

Secretary Labour Department, Peshawar & Others.

...RESPONDENTS

SERVICE APPEAL

**APPLICATION FOR SUSPENSION OF OPERATION
OF IMPUGNED REMOVAL FROM SERVICE ORDER
DATED 16/0/2019 PASSED BY RESPONDENT NO. 3,
AND RESPONDENT MAY BE DIRECTED NOT TO
APPOINT FRESH CANDIDATE TILL FINAL
DECISION OF MAIN APPEAL.**

Respectfully Sheweth;-

1. That service being filed before this Honourable Service Tribunal and the contents of instant application may be considered part and parcel of the main appeal.
2. That the appellant has brought good prima facie case and balance of convenience also lies in the favour of the appellant.

3. That appellant has illegally been removed from the service on 16/04/2019 and the respondents' department is going to appoint fresh candidate through advertisement.
4. That valuable rights of the appellant are involved. In case appointment of fresh candidate against the post of the appellant is completed the appellant shall forebear irreparable loss.

In view of the above, it is prayed that respondents may be directed not to appoint fresh candidates against the post of the appellant, and status quo may graciously be ordered to be maintained till final disposal of the main appeal.


...APPELLANT

Through

Dated: _____/2019


(Muhammad Arshad Khan Tanoli)
Advocate High Court, Abbottabad

AFFIDAVIT

I, Shakeel Akhtar Bailiff (BPS-04), resident of Village Baddadi Dakhan Donga Gali, Tehsil & District, Haripur, Mansehra, do hereby solemnly affirm and declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Tribunal.


DEPONENT

02-07-2019

Annex-A

مشرق

Thursday 20-December / 2018

بعدالت سب سے سیشن جج / پریزائڈنگ آفیسر

لیبر کورٹ ہری پور

درخواستیں منظور ہونے پر

ہزارہ ڈویژن کے کوئی امیدواروں سے لیبر کورٹ ہری پور میں درج ذیل آسامیوں پر اہلیت کی بنیاد پر تیناتی کیلئے درخواستیں مطلوب ہیں۔ درخواست دہندگان کی درخواستیں ہمراہ صدقہ نقول قطعی اسٹاڈ ڈویسائل شیڈی کارڈ اور ایک عدد پاسپورٹ سائز تازہ ترین تصویر اشتہار ہذا کی اشاعت کے 15 دن تک زیر دیکھنی کے دفتر میں پہنچ جانی چاہئیں۔ مکمل اور تازہ سے موصول ہونے والی درخواستوں پر غور نہیں کیا جائیگا۔ اہل امیدواروں کی عمر کی بالائی حد میں رعایت و مطلق قانون راج الوقت دی جائے گی۔ پہلے سے سرکاری ملازمین اپنی درخواستیں محکمہ سطح سے ہی۔ صرف شاد لسط امیدواروں کو ٹیسٹ دائرہ کیلئے بلایا جائیگا جس کیلئے کوئی TA/DA نہیں دیا جائیگا۔ شاد لسط امیدواروں کی فہرست نوٹس بورڈ پر مورخہ 15 جنوری 2018ء کو پوزاں کر دی جائے گی اور ٹیسٹ دائرہ کی تاریخ بعد میں مقرر کی جائے گی۔ درخواست گزار اپنا رابطہ نمبر درخواست میں نمایاں طور پر درج کریں تاکہ بوقت ضرورت انہیں طلب کیا جاسکے۔

نمبر شمار	آسامی کی تفصیل	تعداد آسامی	قابلیت	عمر
1	ہیڈ اینڈنٹ BPS-04	01	مڈل پاس ہوا اور اچھی صحت	40±18 سال
2	ایگزیکٹو BPS-03	01	مڈل پاس ہوا اور اچھی صحت	40±18 سال

(شیخ احمد نقوی)

سیشن جج / پریزائڈنگ آفیسر

لیبر کورٹ ہری پور

INE(PM)835

Noted

Muhammad Farhad Khan Talib
Advocate High Court
Office No 33 Adjacent to
Distt Bar Abbottabad

Annex - B

P-13

The
LABOUR COURT
Hazara Region at Haripur

WORKING PAPER FOR APPOINTMENT OF BAILIFF ATTENDENT IN BPS-04

Sl. No.	D. No	Name	Father's Name	Test Marks	Interview			Marks Obtained in	
					Member Marks (15)	Member Marks (15)	Chairman Marks (20)	Total Marks Obtained	Remarks of the Departmental Selection Committee
	304	Shakeel Akhtar	Akhtar Zaman	16	12	11	18	57	Selected
	360	Syed Usman Ali Shah	Syed Arif Hussain Shah	14	9	8	10	47	Waiting
	332	Nadeem Akhtar	Muhammad Zarin	14	6	6	7	33	Rejected
	159	Yasir Ali	Ahmed Din						ABSENT

The committee unanimously recommends appointment of candidates having D. No. 304 who Secured highest marks. If any of them would not join the Service the ext candidate secured highest marks may be appointed.

Shakeel Akhtar

Muhammad Arshad Khan Tanoli
Advocate High Court
Office No. 33 Adjacent to
Distt. Bar Abbottabad

Muhammad Faisal Khan

(Muhammad Faisal Khan)
Senior Civil Judge, Haripur
Member

(Nominee of Appointing Authority)

Shafique Ahmed Tanoli

(Shafique Ahmed Tanoli)
District & Sessions Judge / Presiding Officer,
Labour Court, Haripur
Chairman
(Appointing Authority)

Muhammad Din

(Muhammad Din)
Section Officer (General),
Labour Department, Peshawar
Member
(Nominee of Labour Department)

Annex - C

OFFICE OF THE PRESIDING OFFICER LABOUR COURT, HARIPUR

No. 46-49/LC

Date. 31/07/2019

ORDER

On the recommendation of the Departmental Selection Committee, the competent authority is pleased to order the appointment of the following candidate as Bailiff in BPS-04 in Labour Court Haripur w.e.f the date of assumption of charge of the post, subject to medical fitness and antecedents verification;

P-14

S.#	Name of Candidate	Father's Name	CNIC No.
1	Mr. Shakeel Akhtar	Akhtar Zaman	42000-6001742-3

2. His Appointment to the service will be subject to the following terms and conditions;
- He will be governed by the KPK Civil Servants Act, 1973 and KPK Civil Servant (Appointment, Promotion & Transfer) Rules, 1989.
 - He will be allowed the minimum pay of BPS-04 plus other allowances as admissible under the rules.
 - He will be governed by such rules and instructions relating to leave, T.A and medical attendance as may be prescribed from time to time.
 - He will be on probation initially for a period of one year extendable up-to two years.
 - He will be eligible for continuance and eventual confirmation in the post on satisfactory completion of his probationary period.
 - His service will be liable to be dispensed with at any time without notice and assigning any reason before the expiry of the period of his probation/extended period of probation, if, his work or conduct during that period is not found satisfactory. In the event of termination from service, fourteen days notice or in lieu thereof fourteen days pay will be paid by the Government. In case of resignation, he will give one month notice to the competent authority or in lieu thereof one month

Attested

Muhammad Asghar Khan Tando,
Attorney at Law,
District High Court
Office No. 33 Adjacent to
District Jail, Tando Allahyar

P-15

- pay will be forfeited to the Government. The resignation shall, however, be subject to the acceptance by the competent authority.
- He will be governed by the KPK Government Servants (Efficiency and Discipline) Rules, 2011 and the KPK Government Servants Conduct Rules, 1987 and any other instruction which may be issued by the competent authority from time to time.
 3. If the above terms and conditions of appointment are acceptable to him, he should report for duty to the undersigned immediately. The offer of appointment shall be deemed to have been cancelled if he fails to report for duty to the undersigned within one week from the date of issuance of this order.
 4. He will join duty at his own expenses.


(Shafique Ahmed Tanoli)

District & Sessions Judge/Presiding Officer
Labour Court, Haripur

No. 46-49/LC

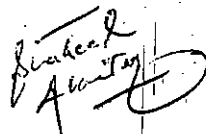
Date. 31/01/2019

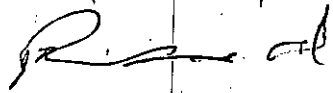
Copy forwarded to:-

1. The District Accounts Officer, Haripur.
2. Official concerned.
3. Office record.


(Shafique Ahmed Tanoli)

District & Sessions Judge/Presiding Officer
Labour Court, Haripur





31/01/2019



Muhsin Arshad Khan Tanoli
Advocate High Court
Office No 33 Adjacent to
Dist. Jail Haripur



The
LABOUR COURT
Hazara Region at Haripur

0995-319697
E-mail:hrp4007@gmail.com

No. 168 /LC

Dated Haripur the 04 / 04 /2019

To,

Mr. Shakeel Akhter,
Bailiff Attendant,
Labour Court, Haripur.

Annex - D

P-16

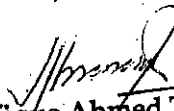
SUBJECT: SHOW CAUSE NOTICE.

That on completion of due process you were appointed as Bailiff in the Labour Court Haripur vide order No 46-49/LC dated 31-01-2019.

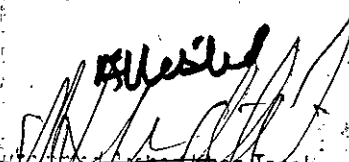
That the competent authority of Honorable Peshawar High Court Peshawar vide Order letter No 6587 /admin dated 27-03-2019, has directed the under signed to remove you from service on account of your being related to me, after showcause notice.

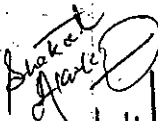
Therefore you are here by directed to show cause as why you should not be removed from service.

Your reply should reach to this court within 07 days failing which it will be presumed that you have no reply to this show cause notice.


(Shafique Ahmed Tanoli)
Presiding Officer Labour Court
Haripur.

O/C


Advocate High Court
Office No 33 Adjacent to
Distt Bar Abbottabad


04/04/2019

P.O / حج مہذب
سپر کورٹ پری بورڈ

P-17

جواب شوکار نوٹس غیر 168/2019 مورخہ 4/4/2019

10-4-2019
15-4-2019
10-4-2019

جناب عالی :-

موردبانہ گزارش میں کہ سائل DIT / P.S.C پاس ہے روزگار نوجوان تھا لہذا اخبار میں خالی آسامیوں کا اشتہار دیکھ کر سائل نے بیلف کی نوٹس پر تقرری کے لیے درخواست دی مورخہ 21-01-2019 کو مذکورہ آسامی کے لیے تقرری امتحان اور ٹائٹنگ ٹیسٹ ہوا جو سائل نے امتحان میں شرکت کیا۔ بعد ازاں پیمس 28-01-2019 کو ٹیسٹ دوبارہ بلا یا گیا اور دوبارہ تقرری امتحان اور ٹائٹنگ ٹیسٹ لیا گیا۔ اس میں سائل اول پوزیشن پر پاس ہوا۔ اس ٹیسٹ میں چار امیدواروں کو سٹارٹ لیسٹ کیا گیا۔ ان میں سے دو انسٹران بھی موجود تھے۔ سب سے میرا انٹرویو کیا۔ انٹرویو میں سب سے پہلے کے علاوہ دوسرے دو انسٹران بھی موجود تھے۔ سب سے میرا انٹرویو کیا۔ اور میں نے وکوری قابلیت کے ساتھ ان کے سوالوں کے جواب دیے۔

المختصر یہ کہ سائل اول غیر ٹیسٹ اور انٹرویو پاس کر کے تقرری کے لیے منتخب ہوا۔ اور میرا سیلکشن 100% فیصد میرٹ پر ہوا۔

جہاں تک تعلق آپ سے رشتہ داری کا ہے تو آپ ٹیسٹ کے عمل نہ تو آئے اور میرا طرف داری کی اور نہ ہی میری تقرری میں میرٹ کی کسی طرح نظر انداز کیا گیا۔ ٹیسٹ اور انٹرویو میں اول پوزیشن حاصل کرتے ہوئے میرٹ پر آپ ٹیسٹ ہوا ہوں۔

چنانچہ آپ سے رشتہ داری میری تقرری سے ہر طرفی کیا تو نہ وہ نہیں بنتی اور میرٹ پر سلیکٹ ہونا ہوں تو رشتہ داری کی وجہ سے وہ آپس میں آپ سے غلطی ہوں کہ میں نے اس میں 100 فیصد میرٹ پر آپ ٹیسٹ ہوا ہوں۔ بھارت دیگر میں آپ سے غلطی اور رشتہ داری کی بھینٹ پر ہا دیا جائے۔

اور شوکار میں وہ وجہ بیان کی گئی ہے کہ بائی کورٹ نے میرے Removal کے آرڈر جاری کیے ہیں۔ نہ تو میں بائی کورٹ کا ملازم ہوں۔ میں کو ایسروٹ کا ملازم ہوں۔ جن کو میری تعینا تھا پر کوئی اعتراض نہیں ہے۔ اور بائی کورٹ کا آرڈر غیر مصیبانہ اور قبول انصاف کے فطری نفاذ ہوں کے سراسر خلاف ہے۔ اور انہیں پاکستان کی سرینغ خلاف درزی ہے۔ انصاف فرمائیے میں آپ سے قانون کا پاسداری ہو۔

بیلف سپر کورٹ پری بورڈ
شکیل اختر

الصارفنی
10-04-2019

انصاف کا طالب ہوں
Attest
Advocate High Court
Office No 33 Adjacent to
Abbotabad

Annex E

P-18

OFFICE OF THE PRESIDING OFFICER LABOUR COURT, HARIPUR

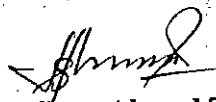
No. 199-203/LC

Date. 16-04-2019

ORDER

Mr. Shakeel Akhtar Bailiff (BPS-04) present in person. He has already submitted his reply to show cause notice dated 04-04-2019 & has also been heard in person. He is stuck to his reply to show cause notice and stated that he has committed no fault in selection nor during the service and resisted the notice on the grounds mentioned in the reply.

Though the official was appointed/selected by the DSC on merits after due course but the Competent Authority of the Peshawar High Court, Peshawar vide letter. no.6587/Admin dated 27-03-2019 has directed the under sign to remove him from service on the ground mentioned therein, therefore, in compliance of the said order he is removed from service with immediate effect.



(Shafique Ahmed Tanoli)
District & Sessions Judge/Presiding Officer
Labour Court, Haripur

No. 199-203/LC

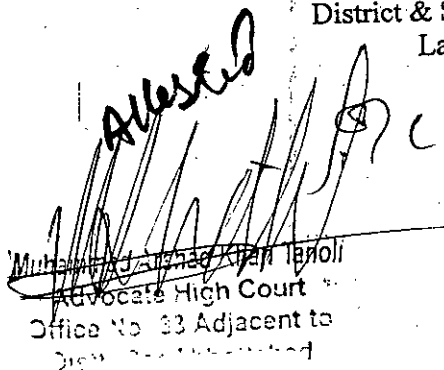
Date. 16-04-2019

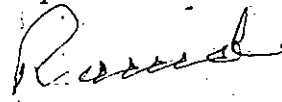
Copy forwarded to:-

1. The Registrar Peshawar High Court, Peshawar
2. The Secretary Labour Department, Peshawar
3. The District Accounts Officer, Haripur.
4. Official concerned.
5. Office record.



(Shafique Ahmed Tanoli)
District & Sessions Judge/Presiding Officer
Labour Court, Haripur

AKHTER

Mr. Shakeel Akhtar
Advocate High Court
Office No. 33 Adjacent to
Dist. Court Haripur



Shakeel Akhtar
16-04-2019

Mr. Shakeel Akhtar

Annex - F

To

Secretary Labour Department
Peshawar

P-19

Subject: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED
REMOVAL FROM SERVICE ORDER 199-203/LC DATED
16/04/2019.

Sir,

1. Reference is made to impugned removal from service order 199-203/LC dated 16/04/2019. Copy of impugned removal from service order No. 199-203/LC dated 16/04/2019 is attached.
2. That the appellant applied for the post of bailiff BPS-4 in the Labour Court, Haripur, vide advertisement dated 20/12/2018. The appellant applied for the said post and qualified written as well as typing test. Thereafter, Departmental Selection Committee took interview of the appellant as a result the appellant was placed at the top of the merit list. Therefore, on the recommendation of Selection Committee, the appellant was appointed bailiff at Labour Court Haripur, vide appointment order No. 46/49/LC, dated 31/01/2019. Copy of appointment order is attached.
3. That it is sorrow state of affair that the appellant has been removed from service vide order referred in Para No. 1 above without any lawful justification which is perverse, discriminatory, against the law. Hence, the departmental appeal is filed on the following grounds:-

GROUNDS:-

- a) That only one show cause notice dated 04/04/2019 has been issued by the competent authority which was duly

Attested
M. Yousaf Khan Tanoli
Advocate High Court
Office No. 33 Adjacent to

NOTICE (1) - The Post Office is not responsible for loss or damage in the case of inland registered articles, unless they are also insured.

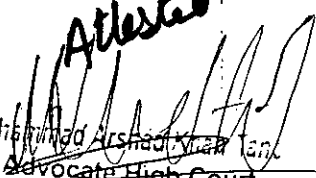
(2) - The special conditions and restrictions as to insurance which will be found in the current edition of the Post Office Guide are binding upon every sender of an insured postal article by virtue of rules prescribed under the Pakistan Post Office Act, 1898.

replied by the appellant on 10/04/2019. The appellant has not been provided opportunity of personal hearing and no inquiry as per Section 14 of E&D Rules 2011, has been carried out prior to the removal of the appellant from service, Hence, removal from service order dated 16/04/2019 is not maintainable in the eyes of law.

b) That reason of removal from service has been shown by the competent authority that the appellant was related to him. The act of the competent authority i.e Presiding Officer is arbitrary and against the law. Show cause notice dated 04/04/2019 is malafide because the appellant was appointed as bailiff purely on merit and on the recommendation of Departmental Selection Committee, therefore, the competent authority is going to appoint some other blue eyed in place of the appellant.

c) That there is no law which debar the appellant for applying in the departments where his relative is serving in any capacity. As submitted in the preceding paras, the appellant got appointment on merit through Selection Committee. The appellant took over the charge of the post. Valuable rights have been accrued to the appellant which cannot be recended.

d) That the appellant has been removed from service without adopting codal formalities which are sine qua none for taking any adverse action against the employee. The appellant was a class-IV employee and no criteria exists for appointment of class-IV employee but even then, the

Attested

Muhammad Arshad Yousaf
Advocate High Court
Office No 33 Adjacent
Distt. The Advocate



P-21

appellant qualified written and typing test and thereafter, on the recommendation of Selection Committee, the appellant was appointed as bailiff (BPS-4).

- e) That the impugned removal from the service order of appellant reveals "that the official was appointed/ selected by the Departmental Selection Committee on merits after due course but the competent authority of the Peshawar High Court vide letter No. 6587/ Admin dated 27/03/2019 has directed the undersign to remove him from service". It is not out of place to mention here that the appellant is the employee of labour department and not the employee of High Court, therefore, the High Court is not the competent authority in any manner to issue one sided direction for the removal of the appellant. Therefore, the removal from service of the appellant without inquiry and is against Article 3, 4, 25 & 27 of the Constitution of Islamic republic of Pakistan, 1973. Hence, the impugned removal from service order dated 16/04/2019 is liable to be set-aside.

In view of the above, it is, prayed that the impugned removal from service order dated 16/04/2019, against the appellant may be set-aside and the appellant may be reinstated in service with all service back benefits.

Dated: 2/5 /2019

Attested
Shakeel Akhtar
Mukhammad Arshad Khan Tanoli
Advocate High Court
Office No 33 Adjacent to
SHAKEEL AKHTAR



GOVERNMENT OF
KHYBER-PAKHTUNKHWA
LABOUR DEPARTMENT

P-22

No.SOL(LD)5-51/2018/Vol-I
Dated Peshawar, the 5th July, 2019

3755-26

To

The Presiding Officer,
Labour Court, Haripur.

Annex - F

- Subject:-
1. DEPARTMENTAL APPEAL AGAINST THE IMPUGNED REMOVAL FROM SERVICE ORDER 199-2013/ LABOUR COURT DATED 16-04-2019 IN RESPECT OF HAMZA MAQSOO
 2. DEPARTMENTAL APPEAL AGAINST THE IMPUGNED REMOVAL FROM SERVICE ORDER 199-2013/ LABOUR COURT DATED 16-04-2019 IN RESPECT OF SHAKEEL AKHTAR

I am directed to refer to your letters No. 292/L.C dated 18-06-2019 and 291 / L.C dated 17-06-2019 on the subject noted above and to state that the departmental appeals in the subject matter are useless as removal has been made in light of the Peshawar High Court direction and not via a department inquiry. Therefore, the said posts may be re-advertised as directed by the Peshawar High Court and ensure recruitment on merit basis accordingly.

Saeed
P.O.L.C
16-07-2019
Section Officer (Labour)

Encl. No. & date even

1. PS to Secretary Labour, Government of Khyber Pakhtunkhwa.

Atty
Muhammad Asghar Khan (ano.)
Advocate High Court
Office No 33 Adjacent to

Section Officer (Labour)

کورٹ فیس

وکالت نامہ

Chairman Service Tribunal Peshawar بعدالت

Shakeel Akhtar Secretary Labour etc عنوان:

Appellant منجانب:

Service Appeal نوعیت مقدمہ:

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آل مقام

Attd M. Arshad Muhammad Arshad Khan Tanoli Advocate High Court Adu Mc ATB

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوفہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل

صاحب موصوفہ کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری

کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت

ضرورت مقدمہ مذکور کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی

بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا

ساختہ پرداختہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے

مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا

حد سے باہر ہو تو وکیل صاحب موصوفہ پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں

کوئی جز و بقایا ہو تو وکیل صاحب موصوفہ مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد

استجارت ناش بیضہ مفلسی کے دائر کرنے اور اس کی پیروی کا بھی صاحب موصوفہ کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المترقوم:

Accepted

Muhammad Arshad Khan Tanoli

Office No 33 Adjacent to
Distt Bar Abbottabad

17/3
BEFORE THE CHAIRMAN SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 994/2019

Shakeel Akhtar Bailiff (BPS-04), Resident of Village Badadi P.O Undra Doga, Tehsil & District
Haripur

APPELLANT

VERSUS

1. Secretary Industries & Labour KPK, Peshawar
2. Sanction Officer Labour Department KPK Peshawar
3. Presiding officer/ Sessions Judge Labour Court, Hazara Region Haripur

RESPONDENTS

PARA -WISE COMMENTS ON BEHALF OF RESPONDENT NO.3

Para 1 is correct.

Para 2 is correct.

Para 3 is correct.

Para 4 is correct to the effect that the Then Presiding Officer after receiving letter No. 6587/Admn dated 27-03-2019 from Peshawar High Court, Peshawar containing directions that:-

“On a complaint discreet inquiry was conducted and it was found that newly appointed Bailiff Mr. Shakeel Akhtar and newly appointed Naib Qasid Mr. Hamza Maqsood are your nephews. The Competent Authority directed that after serving Show Cause Notice to the selectees be removed from service.” (Copy of the same is annexed), the Then Presiding Officer complied said direction.

Para 5 is correct to the extent that the appellant replied show cause notice and passed the written and typing test.

Para 6 Detail reply already mentioned vide Para 4. Moreover, according to the direction of PHC Peshawar vide letter No. 9746/Admn dated 14-05-2019 (copy annexed) the posts were re advertised and filled after adopting Codal formalities and M. Afraz Khan was appointed as Bailiff (BPS-04) vide order No. 688-70/L.C Hrp dated 29-10-2019. (Copy of the same annexed).

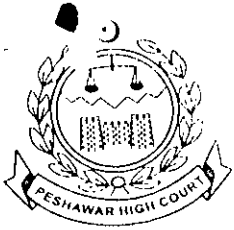
Para 7 is related to respondent No. 1 & 2.

Replies to ground “a” to “f” to the extent of facts have already be reply vide Para 4. Moreover vide letter No. 6587/ Admn date 27-03-2019 it was mentioned that “discreet inquiry was conducted.”

Reply is submitted as per available record, please.

Sumera Wali

PRESIDING OFFICER/SESSIONS JUDGE
Labour Court Hazara Region Haripur
(Respondent No. 3)



The
PESHAWAR HIGH COURT
Peshawar

All communications should be addressed to the Registrar Peshawar High Court, Peshawar and not to any official by name.

Exch: 9210119-58
OFF: 9210135
Fax: 9210170

www.peshawarhighcourt.gov.pk
info@peshawarhighcourt.gov.pk
phcpsz@gmail.com

No. 6587 /Admn

Dated. 27-03-2019

To,

Mr. Shafiq Ahmad Tanoli,
Presiding Officer, Labour Court,
Haripur.

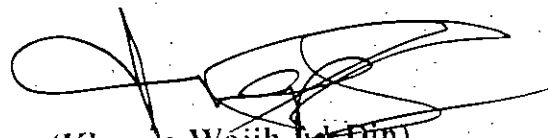
Annex - 1

Subject:

RECRUITMENT OF CLASS-IV EMPLOYEES IN LABOUR COURT, HARIPUR.

On a compliant discreet inquiry was conducted and it was found that newly appointed Bailiff Mr. Shakeel Ahmad and newly appointed Naib Qasid Mr. Hamza Maqsood are your nephews.

The Competent Authority directed that after serving show cause notice to the selectees be removed from the service.


(Khwaja Wajih-ud-Din)
REGISTRAR

Ahmad Tanoli



The
PESHAWAR HIGH COURT
Peshawar

All communications should be addressed to the Registrar Peshawar High Court, Peshawar and not to any official by name.

Exch: 9210149-58
Off: 9210135
Fax: 9210170

www.peshawarhighcourt.gov.pk
info@peshawarhighcourt.gov.pk
phcpsh@gmail.com

No. 9746 /Admn:

Dated Pesh the 14/05/2019

To:

The Presiding Officer,
Labour Court, Haripur.

Annex - II

Subject: **ORDER.**

Dear Sir,

I am directed to refer to your office order No.194-98/LC and No.199-203/LC both dated 16.04.2019 and to say that Hon'ble the Chief Justice has been pleased to direct to re-advertise the said posts immediately.

Sincerely yours,

M. Sidiq

ADDITIONAL REGISTRAR (ADMN)
FOR REGISTRAR

5/13/19

OFFICE OF THE PRESIDING OFFICER LABOUR COURT, HARIPURNo. 688-90/LCDate. 29/10/2019**ORDER**

On the recommendation of the Departmental Selection Committee, the competent authority is pleased to order the appointment of the following candidate as Bailiff in BPS-04 in Labour Court Haripur w.e.f the date of assumption of charge of the post, subject to medical fitness and antecedents verification;

S.#	Name of Candidate	Father's Name	CNIC No
1	<i>Mr. Muhammad Afraz Khan</i>	<i>Muhammad Munsif Khan</i>	13302-3770672-7

2. His Appointment to the service will be subject to the following terms and conditions;
- He will be governed by the KPK Civil Servants Act, 1973 and KPK Civil Servant (Appointment, Promotion & Transfer) Rules, 1989.
 - He will be allowed the minimum pay of BPS-04 plus other allowances as admissible under the rules.
 - He will be governed by such rules and instructions relating to leave, T.A and medical attendance as may be prescribed from time to time.
 - He will be on probation initially for a period of one year extendable up-to two years.
 - He will be eligible for continuance and eventual confirmation in the post on satisfactory completion of his probationary period.
 - His service will be liable to be dispensed with at any time without notice and assigning any reason before the expiry of the period of his probation/extended period of probation, if, his work or conduct during that period is not found satisfactory. In the event of termination from service, fourteen days notice or in lieu thereof fourteen days pay will be paid by the Government. In case of resignation, he will give one month notice to the competent authority or in lieu thereof one month

P. T. O

- pay will be forfeited to the Government. The resignation shall, however, be subject to the acceptance by the competent authority.
- He will be governed by the KPK Government Servants (Efficiency and Discipline) Rules, 2011 and the KPK Government Servants Conduct Rules, 1987 and any other instruction which may be issued by the competent authority from time to time.
 3. If the above terms and conditions of appointment are acceptable to him, he should report for duty to the undersigned immediately. The offer of appointment shall be deemed to have been cancelled if he fails to report for duty to the undersigned within one week from the date of issuance of this order.
 4. He will join duty at his own expenses.



(Muhammad Hussain)

District & Sessions Judge/Presiding Officer
Labour Court, Haripur

No. 688-70/LC

Date. 29/10/2019

Copy forwarded to:-

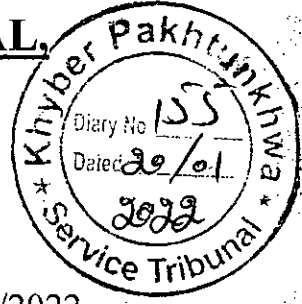
- ✓ 1. The District Accounts Officer, Haripur.
2. Official concerned.
3. Office record.



(Muhammad Hussain)

District & Sessions Judge/Presiding Officer
Labour Court, Haripur

BEFORE THE CHAIRMAN SERVICE TRIBUNAL,
PESHAWAR



put up to the worthy chair-man
with relevant appeal

Reads

20/1/2022

C.M No. _____ -A/2022

IN

Service Appeal No. 994/2019

Shakeel Akhtar Bailiff (BPS-04), resident of Badadi P.O Undra Doga, Tehsil
& District Haripur.

...APPELLANT

Fix on 25/1/2022
20/1/2022

VERSUS

Secretary Industry Labour KPK, Peshawar & others.

....RESPONDENTS

SERVICE APPEAL

APPLICATION; FOR EARLY HEARING OF TITLED
SERVICE APPEAL.

Respectfully Sheweth;-

1. That the captioned service appeal is pending adjudication before this Honourable Tribunal and next date of hearing is fixed for 19/03/2022.

2. That the matter in issues relates to the services of the appellant. Hence the issue needs urgency.

3. That the valuable rights of the appellant are involved.

In view of the above, it is prayed that the captioned service appeal may graciously be ordered to be fixed/ heard on an early date.


...APPELLANT

Through

Dated: 20/01/2022


(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 1019 1ST

Dated: 13-5-2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262


To

The Presiding Officer/ Session Judge Labor Court ,
Government of Khyber Pakhtunkhwa,
Hazara Division Haripur.

Subject: JUDGMENT IN APPEAL NO. 994/2019 MR. SHAKEEL AKHTAR.

I am directed to forward herewith a certified copy of Judgement dated
26.01.2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

BEFORE THE CHAIRMAN SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2019

Shakeel Akhtar Bailiff (BPS-04), resident of Village Badadi P.O Undra Doga, Tehsil & District, Haripur.

...APPELLANT

VERSUS

1. Secretary Industry Labour KPK, Peshawar.
2. Section Officer, Labour Department, KP Peshawar.
3. Presiding Officer/ Session Judge Labour Court, Hazara Region, Haripur.

...RESPONDENTS

**SERVICE APPEAL UNDER SECTION 4 OF
KPK SERVICE TRIBUNAL ACT, 1974, FOR
DECLARATION TO THE EFFECT THAT
APPELLANT APPLIED FOR THE POST OF
BAILIFF IN PURSUANCE OF
ADVERTISEMENT APPEARED IN DAILY
THE MASHRIQ DATED 20/12/2018 ISSUED
BY RESPONDENT NO. 3. THEREFORE, THE
APPELLANT WAS APPOINTED AS BAILIFF
IN BPS-04 IN LABOUR COURT, HARIPUR ON**