

**ORDER**

3<sup>rd</sup> Mar, 2023

1. Appellant alongwith his counsel present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for respondents present.

2. Vide our detailed order of today placed in service appeal No. 774/2022 titled "Reedad Khan-vs-The Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others" (copy placed in this file), this appeal is also accepted. Costs shall follow the events. Consign.

3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 3<sup>rd</sup> day of March, 2023.*

SCANNED  
KIPST  
PESHAWAR



**(Kalim Arshad Khan)**  
Chairman




**(Rozina Rehman)**  
Member (Judicial)

16<sup>th</sup> Feb, 2023

Learned counsel for the appellant present. Mr. Umair Azam Khan, Additional Advocate General for the respondents present.

Although similar matters are fixed for tomorrow, therefore, this appeal is also adjourned for tomorrow i.e 17.02.2023 before the D.B.



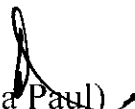
(Salah-ud-Din)  
Member (J)

(Kalim Arshad Khan)  
Chairman


17.02.2023

Learned counsel for the appellant present. Mr. Muhammad Yousaf, Section Officer alongwith Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested that similar nature Service Appeal bearing No. 2567/2021 titled Naveed-ur-Rehman Afridi Versus Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar and 02 others", has been adjourned to 03.03.2023 for arguments, therefore, the appeal in hand may also be fixed on the said date. Adjourned. To come up for arguments on 03.03.2023 before the D.B.



(Fareeha Paul)  
Member (E)



(Salah-ud-Din)  
Member (J)


SCANNED  
K-PT  
Peshawar


21<sup>st</sup> Nov, 2022

Lawyers on general strike today.

To come up for arguments on 05.01.2023 before D.B. Office is directed to notify the next date on the notice board as well as the website of the Tribunal.

SCANNED  
KPST  
Peshawar

  
(Fareeha Paul)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

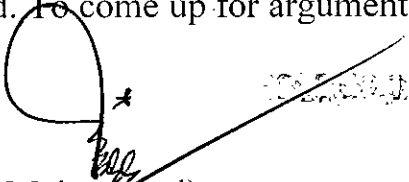
05.01.2023


Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments.

Adjourned. To come up for arguments on 16.02.2023 before D.B.

SCANNED  
KPST  
Peshawar

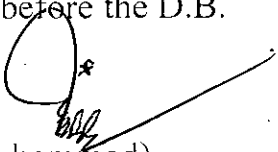
  
(Mian Muhammad)  
Member (E)


  
(Kalim Arshad Khan)  
Chairman

28.10.2022

Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Learned counsel for the appellant stated that similar nature service Appeal bearing No. 2567/2021 titled "Naveed-ur-Rehman Versus Government of Khyber Pakhtunkhwa etc," are fixed for arguments on 08.11.2022, therefore, the appeal in hand may also be fixed on the said date. Adjourned. To come up for arguments on 08.11.2022 before the D.B.

  
(Mian Muhammad)  
Member (E)


  
(Salah-Ud-Din)  
Member (J)


08.11.2022

Counsel for the appellant present.

Asif Masood Ali Shah learned Deputy District Attorney for the respondents present.

Learned counsel requested for adjournment in order to further prepare the brief. Adjourned. To come up for arguments on 21.11.2022 before D.B.

  
(Fareeha Paul)  
Member (E)

  
(Rozina Rehman)  
Member (J)

SCANNED  
KPST  
Peshawar

SCANNED  
KPST  
Peshawar

26<sup>th</sup> July, 2022 Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

Written reply not submitted. Learned AAG seeks time to contact the respondents for submission of written reply/comments on the next date. To come up for written reply/comments on 27.09.2022 before S.B.

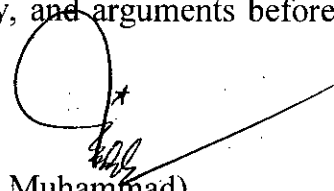


(Kalim Arshad Khan)  
Chairman

27.09.2022

Clerk of learned counsel for the appellant present. Mr. Naseer-Ud-Din Shah, Assistant Advocate General for the respondents present.

Reply/comments on behalf of respondents have already been submitted through office which are placed on file. Copy of the same is handed over to clerk of learned counsel for the appellant. Adjourned. To come up for rejoinder, if any, and arguments before the D.B on 28.10.2022.



(Mian Muhammad)  
Member (E)

31.05.2022

Mr. Zartaj Anwar Advocate for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant contended that the appellant is aggrieved of the impugned order dated 17.01.2022 whereby he was removed from service against which, the appellant preferred departmental appeal on 24.01.2022. His departmental appeal was not responded within the statutory period hence the instant service appeal was filed in the Service Tribunal on 20.05.2022. Learned counsel for the appellant further contended that before issuance of the impugned order, no regular enquiry has been conducted. The impugned order dated 17.01.2022 issued without having fulfilled the codal formalities as per requirement and provisions of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 is not only illegal but also violative of plethora of judgements of august Supreme Court of Pakistan as well as Article 10-A of the Constitution.

Rs-500/-  
Appellant Deposit  
Security & Process Fee

Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments. To come up for reply/comments before the S.B on 26.07.2022.

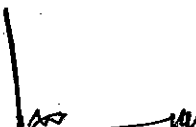

(Mian Muhammad)  
Member (E)

Form- A

# FORM OF ORDER SHEET

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

Case No.- \_\_\_\_\_ **815/2022**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/05/2022	<p>The appeal of Mr. Ikram Ullah presented today by Mr. Zartaj Anwar 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>
2-	23/5/22	<p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on <u>31.5.22</u>. Notices be issued to appellant and his counsel for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>

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

**CHECK LIST**

**Case Title: Faheem Shahzad vs Govt of KPK & others**

<u>S.#</u>	<u>Contents</u>	<u>Yes</u>	<u>No</u>
01	This petition has been presented by: <b>ZARAJ ANWAR ADVOCATE</b>	✓	
02	Whether Counsel / Petitioner / Respondent / Deponent have signed the requisite documents?	✓	
03	Whether the enactment under which the case/petition is filed mentioned?	✓	
04	Whether the enactment under which the case/petition is filed is correct?	✓	
05	Whether affidavit is appended?	✓	
06	Whether affidavit is duly attested by competent oath commissioner?		✓
07	Whether petition/annexure are properly paged?	✓	
08	Whether annexures are certified?	✓	
09	Whether certificate regarding filing any earlier appeal/petition on the subject, furnished?	✓	
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether Special Power of Attorney filed?	✓	
13	Whether Special Power of Attorney attested?	✓	
14	Whether copy of application is delivered to A.G/D.A.G?	✓	
15	Whether Appeal, Revision application is within time?	✓	
16	Whether value for the purpose of Court fee and jurisdiction given in the relevant column of the opening sheet is correct?	✓	
17	Whether Power of Attorney of the Counsel engaged is attested and signed by all petitioners/appellants/respondents?	✓	
18	Whether complete spare copy is filed in separate file cover?	✓	
19	Whether numbers of referred cases given/ are correct?	✓	
20	Whether petition being sent by post?	✓	
21	Whether appeal/petition contains cuttings/overwriting?		✓
22	Whether appeal/revision/ writ petition is competent?	✓	
23	Whether list of books has been provided at the end of the petition?	✓	
24	Whether case relate to this Court?	✓	
25	Whether case relate to this Bench?	✓	



26	Whether petition drafted by a competent person?	✓	
27	Whether name of Jail in which appellant/petitioner/respondent is confined given?		✓
28	Whether copies of annexures are readable/clear?	✓	
29	Whether Court Fee stamps affixed?	✓	
30	Whether Court Fee stamps annexed are sufficient?	✓	
31	Whether certified copies of impugned order/decrees sheets before District Judge have been filed?		✓
32	Whether in view of Order 43 Rule 3 CPC/Rule 2(3) Chapter 4-J, Vol: V of High Court Rules & Orders, notice along with copy of appeal/petition and annexures has been sent to respondents?		✓
33	Whether Judicial Officer whose orders are challenged mentioned at the bottom of the panel of respondents?		✓
34	Whether index filed?	✓	
35	Whether index is correct?	✓	
36	Whether copies of comments/reply/rejoinder provided to opposite party?		✓
37	Whether addresses of parties given are complete?	✓	
38	Whether addresses of parties are complete?	✓	
39	Whether list of L.Rs of petitioner filed?		✓
40	Whether copy of list of L.Rs of respondents as filed before Courts below or, if not, a certificate to this effect attached?		✓
41	Whether opening sheet filed?	✓	
42	Whether opening sheet is correct / complete?	✓	
43	Whether approved file cover used?	✓	
44	Whether separate application filed for each prayer?		✓
45	Whether separate request has been made for interim relief in writ petition?	✓	
46	Whether security of Rs. 10,000/- deposited with review petition?		✓
47	Whether review petition filed and certified by the Advocate who had argued the case resulting into order review of which is sought?		✓
48	Whether purpose of the document filed explained?	✓	
49	Whether respondents sued by name in the CoC?		✓

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:

  
ZARTAJ ANWAR

Signature: \_\_\_\_\_

Dated:

19.05.2022

**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR**

Appeal No. 813 /2022

Faheem Shahzad S/O Hidayat Ullah R/O Kotla Mohsin Khan  
Landi Arbad Mohallah Kasaban Peshawar  
.....(Appellant)

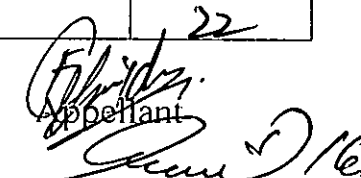
**VERSUS**

Govt. of Khyber Pakhtunkhwa through Chief Secretary Civil  
Secretariat Peshawar & Others.  
(Respondents)

**INDEX**

S. NO.	Description of documents	Annexure	Page No.
1	Memo of Appeal along with affidavit		1- 6
2	Copy of the advertisement	A	7
3	Copy of the appointment order	B	8
4	Copy of the show cause	C	9- 10
5	Copy of the reply	D	11
6	Copy of the impugned order dated 17.01.2022	E	12
7	Copy of the departmental appeal	F	13- 14
8	Copy of the appeal and judgment	G	15- 20
9	Other documents		21
10	Vakalatnama		22

Through

  
ZARTAJ ANWAR  
Advocate High Court  
Office FR , 3 Forth  
Floor Bilour Plaza  
Peshawar Cantt.  
Cell: 0331-9399185

1

**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

Appeal No. 813/2022

Disary No. 810

Dated 20/5/2022

Faheem Shahzad S/O Hidayat Ullah R/O Kotla Mohsin Khan Landi  
Arbad Mohallah Kasaban Peshawar.

(Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar.
2. Govt. of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs department Civil Secretariat Peshawar.
3. Govt. of Khyber Pakhtunkhwa through Secretary Establishment Civil Secretariat Peshawar

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the impugned Order dated 17.01.2022 whereby the appellant has been awarded the major penalty of removal from service, and against which the departmental appeal dated 24.01.2022 was filed before the competent authority which is not yet responded even after the laps of statutory period of 90 days.

Filed to-day

Registrar

20/5/22

Prayer in Appeal: -

ON ACCEPTANCE OF THIS APPEAL THE  
ORDER DATED 17.01.2022, MAY PLEASE  
BE SET ASIDE AND THE APPELLANT  
MAY KINDLY BE REINSTATED INTO  
SERVICE WITH ALL BACK BENEFITS.

Respectfully Submitted:

1. That the appellant was initially appointed and serving the department in a capacity of Daily Wages, in the meanwhile various posts were

advertised including the post of the appellant i.e. Naib Qasid. *(Copy of the advertisement is attached as annexure A).*

2. That the appellant having the requites qualification and fulfilling the eligibility criteria duly applied for the post of Naib Qasid by fulfilling all the legal and codal formalities in the prescribed manner.
3. That the competent authority/Departmental Selection Committee duly constituted for the purpose of recruitment considered the appellant for the post of Naib Qasid and when found eligible for the post recommended for appointment along with other 23 candidates.
4. That the competent authority on the recommendation of selection committee issued the appointment orders of 23 candidates for the post of Naib Qasid in which the appellant was also appointed. *(Copy of the appointment order is attached as annexure B).*
5. That the appellant takeover the charge of the post by submitting his arrival report along with medical fitness certificate and start performing his duties to the entire satisfactions of his superiors without any complaint whatsoever regarding his performance.
6. That while serving in the said capacity the appellant was served with a Show Cause Notice dated 25.10.2021, containing certain false and baseless allegations.

*“That consequent upon the findings & recommendations of the inquiry committee it has been proved that the recruitment process for selection of 24 employees in Ex-FATA Tribunal was unlawful and all the 24 appointment orders were issued without authority and liable to be cancelled”*

*(Copy of the show cause is attached as annexure C)*

7. That the appellant has submitted the reply to show cause within time and denied all the allegation leveled against the appellant. *(Copy of the reply is attached as annexure D)*
8. That astonishingly the appellant was awarded major penalty of “Removal from Service” vide office order dated 17.01.2022, without taking into consideration the reply of the show cause in which the appellant denied all the allegations leveled against the appellant. *(Copy of the impugned order dated 17.01.2022 is attached as annexure E).*

9. That the feeling aggrieved from the order dated 17.01.2022, the appellant filed a departmental appeal before the competent authority on 24.01.2022, which has not yet been responded by the respondents even after the laps of 90 days of statutory period. *(Copy of the departmental appeal is attached as annexure F).*
10. That the appointment of the appellant in pursuance of the advertisement made by the respondent department also in question the authority i.e. Registrar of the Ex-FATA Tribunal that he cannot make appointment or not competent for such appointments conducted in inquiry and issued the removal order of the Registrar namely Sajjad ur Rehman, being aggrieved from the allegation or in questioning the authority under which he appointed the present appellant along with others and also alleged irregularities while appointing them, approached to the this Honourable Tribunal in Appeal which was allowed and declared the Registrar namely sajjad ur Rehman is competent to made such appointments and ordered his reinstatement into service but with minor penalty for the irregularities if so committed *(Copy of the appeal and judgment is attached as annexure G).*
11. That being aggrieved from the illegal order dated 17.01.2022 the appellant has filed this appeal on the inter alia on following grounds

#### GROUND OF SERVICE APPEAL


- A. That the appellant has not been treated in accordance with law hence the rights secured and guaranteed under the law and constitution is badly violated.
- B. That no proper procedure has been followed before awarding the major penalty of Removal from service, the whole proceedings are thus nullity in the eyes of law.
- C. That the appointment of the appellant in pursuance of the advertisement made by the respondent department also in question the authority i.e. Registrar of the Ex-FATA Tribunal that he cannot make appointment or not competent for such appointments conducted in inquiry and issued the removal order of the Registrar namely Sajjad ur Rehman, being aggrieved from the allegation or in questioning the authority

under which he appointed the present appellant along with others and also alleged irregularities while appointing them, approached to the this Honourable Tribunal in Appeal which was allowed and declared the Registrar namely sajjad ur Rehman is competent to made such appointments and ordered his reinstatement into service but with minor penalty for the irregularities if so committed

- D. That the appellant has not done any act or omission which can be termed as mis-conduct, thus the appellant cannot be punished for the irregularities if so occurred in the recruitment process.
- E. That no proper procedure has been followed before awarding the major penalty of Removal from service to the appellant. No charge sheet, no statement of allegation and without any proper inquiry, the appellant was awarded major penalty, thus the whole proceedings are defective in the eyes of law.
- F. That the appellant has not been given proper opportunity of personal hearing before awarding the penalty, hence the appellant have been condemned unheard.
- G. That the appellant was candidate along with other candidates who applied for the post in question but astonishingly with ulterior motive the appellant was in the alleged show cause made as member of the scrutiny committee.
- H. That the appellant was neither involved in corruption, nor embezzlement nor immoral turpitude. Therefore, such harsh and extreme penalty of Removal from service of appellant was not commensurate with the nature of his co-called misconduct to deprive his family from livelihood.
- I. That the competent authority has passed the impugned order against the law and proper procedure provided under the law was not followed by the respondents before awarding the major penalty of Removal from service.
- J. That the charges were denied by the appellant had never admitted, nor there sufficient evidence available to held the appellant guilty of the charges.

- K. That the superior courts have a number of reported judgments held that in case of awarding major penalty of Removal from service regular procedure of holding inquiry cannot be dispensed with that too when the charges are denied by the employee.
- L. That the appellant has never committed any act or omission which could be termed as misconduct the charges leveled against the appellant are false and baseless besides the same are neither probed nor proved albeit the appellant has illegally been removed from service.
- M. That the appellant at his credit a long unblemished and spotless service career, the penalty imposed upon the appellant is too harsh and is liable to be set aside.
- N. That the appellant is jobless since his Removal from service.
- O. That the appellant also seeks permission of this honorable Tribunal to rely on additional grounds at the time of hearing of the appeal.

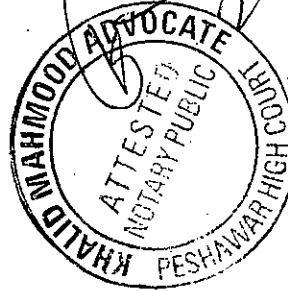
*It is, therefore, humbly prayed that on acceptance of this appeal the order dated 17.01.2022, may please be set aside and the appellant may kindly be reinstated into service with all back benefits.*

Through   
 ZARTAJ ANWAR  
 Advocate Peshawar

&  
  
 IMRAN KHAN  
 Advocate Peshawar

AFFIDAVIT

I, Faheem Shahzad S/O Hidayat Ullah R/O Kotla Mohsin Khan Landi Arbad Mohallah Kasaban Peshawar, do hereby solemnly affirm and declare on oath that the contents of the above noted appeal are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.



22  
Faheem Shahzad  
Deponent



# "JOB OPPORTUNITIES"

Applications are invited from highly motivated candidates having domicile of Khyber Pakhtunkhwa and newly merged areas against the following vacant posts on regular basis.

No	Name of Post	BPS	No's of Post	Age	Qualification
1	Assistant Moharar/	14	04	18-32	BA/BSc/B.Com & Equivalent with 06 years experience.
2	Key Punch Operator	12	03	18-32	BA/BSc/B.Com & Equivalent
3	Stenographer	12	01	18-32	FA/FSc with Shorthand & typing, Speed up to 40 WPM
4	Junior Clerk	07	04	18-32	FA/FSc or Equivalent with Typing Speed up to 40 WPM
5	Driver	04	04	18-40	Middle pass having "LTV" Driving License
6	Naib Qasid	01	04	18-40	Middle Pass
7	Chowkidar	01	03	18-40	-

### Term & Conditions:-

1. Age relaxation in deserving cases can be considered as per Government rules. 2. Only shortlisted candidates will be called for test/interview. 3. No TA/DA will be admissible for test/interview. 4. Application form alongwith attested copies of Testimonials, Experience Certificates, CNIC, Domicile Certificate and a recent photograph should reach on PO Box No. 131 within 15 days of advertisement. 5. Incomplete or applications received after closing date will not be entertained. 6. Government employee should apply through proper channel. 7. The competent authority reserves the right to change the terms & condition, not to fill, increase/decrease vacancies or cancel recruitment process without any reason. 8. Errors/omissions are subject to rectification.

Registrar  
FATA Tribunal

**ATTESTED**

9



8  
Amir B

OFFICE OF THE  
REGISTRAR FATA TRIBUNAL,  
PESHAWAR

ORDER

No. R/11/2018-19/ 1114 dated: 08.03.2019. On Recommendation of the Departmental Selection Committee, the Competent Authority is pleased to appoint **Mr. Faheem Shehzad S/o Hidayat Ullah** against the vacant post of Naib Qasid BPS-01 (9130-290-17830) in FATA Tribunal at Peshawar under rule 10 sub rule 2 of Civil Servant (Appointment, Promotion and Transfer) Rules 1989 on the following terms and conditions:

Terms & conditions;

1. He will get pay at the minimum of BPS-01 including usual allowances as admissible under the rules. He will be entitled to annual increment as per existing policy.
2. He shall be governed by Civil Servant Act 1973 for purpose of pension or gratuity. In lieu of pension and gratuity, he shall be entitled to receive such amount as would be contributed by him towards General Provident Fund (GPF) along with the contributions made by Govt: to his account in the said fund, in prescribed manner.
3. In case, he wishes to resign at any time, 14 days notice will be necessary and he had thereof, 14 days pay will be forfeited.
4. He shall produce medical fitness certificate from Medical Superintendent/ Civil Surgeon before joining duties as required under the rule.
5. He has to join duties at his own expenses.
6. If he accepts the post on these conditions, he should report for duties within 14 days of the receipt of this order.

REGISTRAR  
FATA TRIBUNAL

Copy to;

01. The Accountant General Pakistan Revenues Sub Office, Peshawar.
02. Ps to ACS FATA, Peshawar.
03. PS to Secretary Law & Order FATA, Peshawar.
04. PS to Secretary Finance FATA, Peshawar.
05. Personal File.
06. Official Concerned.

REGISTRAR  
FATA TRIBUNAL

**ATTESTED**



9  
Amir C  
GOVERNMENT OF KHYBER PAKHTUNKHWA  
HOME & TRIBAL AFFAIRS DEPARTMENT  
KHYBER ROAD PESHAWAR

HD/B&A/FATA Tribunal/55/2021/1490-95

Dated: 25-10-2021

To:

✓  
Mr. Faheem Shehzad  
Naib Qasid (BPS-03),  
Ex-FATA Tribunal.

Subject: **SHOW CAUSE NOTICE.**

I am directed to refer to the subject noted above and to enclose herewith Show Cause Notice (in original) duly signed by the Competent Authority for your compliance within stipulated time period and further necessary action.

  
Section Officer (B & A)

**Encl: As above**

Copy to:

1. PS to Secretary Home & TAs Department Khyber Pakhtunkhwa.
2. PS to Special Secretary Home & TAs Department Khyber Pakhtunkhwa.
3. PS to Additional Secretary (L & O) Home & TAs Department NMAs.
4. PA to Deputy Secretary (L & O) Home & TAs Department NMAs.
5. Section Officer (E-II) Government of Khyber Pakhtunkhwa Establishment Department with reference to his letter No. SOE-II(ED)2(9)2010 dated: 13.09.2021.

  
Section Officer (B & A)

**ATTESTED**  


**SHOW CAUSE NOTICE**

I Mr. Ikram Ullah Khan Secretary Home & Tribal Affairs Department as Competent Authority, under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve upon you, Mr. Faheem Shehzad, Naib Qasid employees of Ex-FATA Tribunal as follows:-

**"That Consequent upon the findings & recommendations of the Inquiry Committee it has been proved that the recruitment process for selection of 24 employees in Ex-FATA Tribunal was unlawful and all 24 appointment orders were issued without lawful Authority and liable to be cancelled".**

I am, therefore, satisfied that you have been found guilty of **"Misconduct"** as specified in rule-3 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 read with Rule-2, Sub-Rule (I) (vi) "appointed in violation of law and rules".

2. To, dispense with the Inquiry and serve you with a show cause notice under Rule-7 of the ibid Rules.

3. As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you the following penalty under the Rule-4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rule, 2011:-

i. Removal from service

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

5. If no reply to this notice is received within seven days or not more than of fifteen days of this delivery, it shall be presumed that you have no defense to put in, and in that case ex-parte action shall be taken against you.

  
**(IKRAM ULLAH KHAN)  
HOME SECRETARY  
(Competent Authority)**

**ATTESTED**

**Mr. Faheem Shehzad,  
Naib Qasid  
Ex-FATA Tribunal**

To,

The Section Officer (B&A),  
Home & Tribunal Affairs Department,  
Khyber Pakhtunkhwa, Peshawar.

Subject: **SHOW CAUSE NOTICE**

Dear Sir,

Respectfully, in reference of your office letter No. HD/B&A/FATA/Tribunal/55/2021/1490-95 dated: 25-10-2021, on the subject regarding "show cause notice" against the under signed, directing for to be heard in person, it is humbly submitted that:

- i. On completion the initial proceedings about selection of Naib Qasid in the project "Levy Directorate, Law & Order Department FATA Secretariat, the selection committee recommended me for appointment as Naib Qasid.
- ii In pursuance of the selection committee recommendation, I was offered the post of Naib Qasid vide "Law & Order Department, FATA Secretariat, Warsak Road Peshawar" letter No. FS/L&O/B&A/50 dated: 14/11/2011, to join the duty within 15 days of the receipt of the offer (F/A).
- iii. In compliance with the aforesaid offer order of Law & Order Department, I reported for duty on 14-11-2011 (F/B).
- iv. Since, joining the duty, my Service Book was properly maintained in the said project of Law & Order Department regularly. Copy attached for record and reference (F/C).

Over the period of my service, I was used to perform my duties at different offices including the Ex-FATA Tribunal as and when directed/ordered by the higher-ups. In the wake of merging of FATA in KP, presently, I am working in the office of Deputy Secretary (Admin) Home & Tribunal Affairs Department.

Being class-IV employee and having no knowhow of service matters, I was never told during the merging process of the staff of FATA Secretariat/ Directorates and projects that my name has been included in the list of "FATA Tribunal" staff, instead of the Law & Order Department FATA Secretariat staff of the project "Levy Directorate Law & Order Department, FATA Secretariat". Even the inquiry committee constitution for the future fate of Ex-FATA. Tribunal did not bother to verify my initial/actual appointment, by asking and checking my appointment orders.

For the very reasons as highlighted above the undersigned humbly requested in your honor, sir, to re-view my case for adjustment in the Provincial Government Departments/ Directorates, on the policy/analogy adopted for the adjustment of other staff of the Ex-FATA Secretariat Law & Order Department project "Levy Directorate Law & Order Department, FATA Secretariat", being a single member of earning of the poor family, living from hand to mouth.

I beg to remain Sir,

Yours Obediently,

  
(FAHIM SHEHZAD)

Naib Qasid,  
Levy Directorate, Law &  
Order Department Ex-FATA,  
Secretariat.

**ATTESTED**

Postal Address: Kohat Mohsin Khan,  
Landi Arbab, Mohalla Qasaban, Peshawar.

Cell# 0333 9371566



12  
Attested - E

GOVERNMENT OF KHYBER PAKHTUNKHWA  
HOME & TRIBAL AFFAIRS DEPARTMENT  
KHYBER ROAD PESHAWAR

Dated Peshawar 17<sup>th</sup> January, 2022

**ORDER**

**HD/FATA Tribunal/B&A/55/2022/308-17** WHEREAS, Mr. Faheem Shehzad, Naib Qasid (BPS-03) of Ex-FATA Tribunal was proceeded against under the Rule-4 of Khyber Pakhtunkhwa Government Servant (Efficiency & Disciplinary) Rules, 2011, for the charges mentioned in the statement of show cause notice served upon him.

2. **AND WHEREAS**, the Department gave opportunity of personal hearing to Mr. Faheem Shehzad, Naib Qasid (BPS-03), Ex-FATA Tribunal as required under the rules 7(d) of Government Servant (Efficiency & Disciplinary) Rules, 2011, **AND WHEREAS**, Mr. Faheem Shehzad, Naib Qasid (BPS-03), Ex-FATA Tribunal was not able to produce any favorable record.

3. **NOW, THEREFORE**, the Competent Authority has been pleased to impose major penalty of "**Removal from Service**" on Mr. Faheem Shehzad, Naib Qasid (BPS-03), Ex-FATA Tribunal under Khyber Pakhtunkhwa (Efficiency & Disciplinary) Rules, 2011, with effect from 11-01-2022.

-Sd-

Secretary to Govt. Khyber Pakhtunkhwa  
Home & Tribal Affairs Department

Endst No & Date even

Copy for information forwarded to:

1. The Accountant General Govt. of Khyber Pakhtunkhwa.
2. Secretary to Govt. of Khyber Pakhtunkhwa Home & Tribal Affairs Department.
3. Secretary to Govt. of Khyber Pakhtunkhwa Establishment Department.
4. Secretary to Govt. of Khyber Pakhtunkhwa Finance Department.
5. Special Secretary-II Home & Tribal Affairs Department Khyber Pakhtunkhwa.
6. Additional Secretary (Judicial) Home & TAs Deptt: Khyber Pakhtunkhwa.
7. PSO to Chief Secretary Khyber Pakhtunkhwa.
8. PS to Chief Minister Khyber Pakhtunkhwa.
9. Account Section Home & TAs Department (NMAs).
10. Official concerned.

**ATTESTED**

Section Officer (B & A)

To

The Honourable Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.

Subject: **DEPARTMENTAL APPEAL AGAINST THE REMOVAL ORDER DATED 17-01-2022**

R/Sir.

Most respectfully, it is stated that I am a resident of District Peshawar and was initially appointed as Naib Qasid (BPS-01) now BPS 03 in FATA Tribunal at Peshawar after fulfilling all the legal & codal formalities required for the post vide order dated 08-03-2019.

I started performing my duty quite efficiently whole heartedly and up to the entire satisfaction of my high ups after receiving the appointment order dated 08-03-2019 and submitting arrival report.

The FATA Tribunal was abolished after the 25th Constitutional Amendment the FATA was merged in the Khyber Pakhtunkhwa Province. After the abolition of the FATA Tribunal all the staff working in FATA Tribunal was deputed to Secretary Home & Tribal Affairs and as such the staff of FATA Tribunal started performing duty in the office of Secretary Home & Tribal Affairs Khyber Pakhtunkhwa.

Astonishingly, I received Show Cause notice dated 25-10-2021 with the allegation that "appointment/recruitment process so made in my as well as other 24 staff is without Lawful Authority". Which was properly replied by denying the entire allegation leveled against me in the ibid show cause notice.

In this connection it is stated in your honour that my appointment was made after fulfilling all the codal formalities i.e. which includes Advertisement, other relevant selection process and appearance before the Departmental Selection Committee for interview.

It is well settled principle of law that one should not be punished for the fault of others and accordingly I am punished for no fault on my part.

The impugned removal order dated 17-01-2022 is not issued in accordance with Law as no charge sheet and statement of allegation have been served upon me; no proper regular inquiry was conducted nor the inquiry report was handed over to me.

**ATTESTED**

13 Award F

CS-NO. 520

20-1-22

HS

14


Only I am been prosecuted in the matter while issuing the impugned order date 17-01-2022 in such a way that the only the inquiry is conducted against me and not against those authority that issued appointment order dated 08-03-2019. Hence, the authority did not look into the matter in accordance with Law & Rules while issuing the impugned order dated 17-01-2022.

Therefore, it is, most kindly requested that the impugned order dated 17-01-2022 whereby major penalty of Removal from Service has been impose upon me may very kindly be cancelled and I may be reinstated into service with all back benefit.

I shall be very thankful to you for this kindness.

Dated: 21/01/2022

Obediently Yours.

  
(Faheen Shehzad s/o Hidayat Ullah)  
Naib Qasid (Ex-FATA Tribunal),  
0333-9371566

**ATTESTED**





15 AINED 9



BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR

2770  
Appeal No. \_\_\_\_\_/2021

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1606

Date 22/11/2021

Sajjad ur Rehman S/O Haji Yaqoob Jan R/O House No 973, Street  
No 28, Sector E-5, Phase 7 Hayatabad Peshawar.

(Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar.
2. Govt. of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs department Civil Secretariat Peshawar.
3. Govt. of Khyber Pakhtunkhwa through Secretary Establishment Civil Secretariat Peshawar

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the impugned Order dated 10.09.2020 whereby the appellant has been awarded the major penalty of removal from service. and against which the departmental appeal dated 25.09.2020 was filed before the competent authority which is still not responded after laps of statutory period on 90 days.

Filed to-day

Registrar

22/11/2021

Re-submitted to-day  
and filed.

Registrar


12/2/2021

Prayer in Appeal: -

ON ACCEPTANCE OF THIS APPEAL THE ORDER DATED 10.09.2020, MAY PLEASE BE SET ASIDE AND THE APPELLANT MAY KINDLY BE REINSTATED INTO SERVICE WITH ALL BACK BENEFITS.

ATTESTED

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

16



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 2770/2021

Date of Institution ... 22.11.2021

Date of Decision ... 01.02.2022



Sajjad ur Rehman S/O Haji Yaqoob Jan R/O House No. 973, Street No. 28, Sector E-5, Phase 7 Hayatabad Peshawar.

... (Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar and others.

... (Respondents)

Zartaj Anwar,  
Advocate

... For Appellant

Noor Zaman Khattak,  
District Attorney

... 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, while serving as Registrar in Ex-FATA Tribunal, was proceeded against on the charges of misconduct and was ultimately dismissed from service vide order dated 10-09-2020. Feeling aggrieved, the appellant filed departmental appeal dated 25-09-2020, which was not responded within the statutory period, hence the instant service appeal with prayers that the impugned order dated 10-09-2020 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 appellant has not been treated in accordance with law, hence his rights secured under the

**ATTESTED**

**ATTESTED**

EX-MINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 2770/2021

Date of Institution ... 22.11.2021

Date of Decision ... 01.02.2022



Sajjad ur Rehman S/O Haji Yaqoob Jan R/O House No. 973, Street No. 28, Sector E-5, Phase 7 Hayatabad Peshawar.

(Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar and others.

(Respondents)

Zartaj Anwar,  
Advocate

For Appellant

Noor Zaman Khattak,  
District Attorney

For respondents

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

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

**JUDGMENT**

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

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02. Learned counsel for the appellant has contended that the appellant has not been treated in accordance with law, hence his rights secured under the


**ATTESTED**

**ATTESTED**  
  
**EX-MEMBER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

17


Constitution has badly been violated; that no proper procedure has been followed before awarding the major penalty of dismissal from service, the whole proceedings are thus nullity in the eye of law; that the appellant has not done any act or omission which can be termed as misconduct, thus the appellant cannot be punished for the irregularities, if so occurred in the recruitment process; that the allegation so leveled against the appellant regarding the non-production of recruitment record is baseless; that no proper inquiry has been conducted against the appellant, hence the appellant was deprived of the opportunity to defend his cause; that neither statement of any witnesses were recorded in presence of the appellant nor the appellant was afforded opportunity to cross-examine such witnesses; that the appellant has not been served with any showcause notice, thus the whole proceedings are defective in the eye of law; that the inquiry committee was under statutory obligation to highlight such evidence in the inquiry report on the basis of which the appellant was found guilty of allegations, moreover, there was not a single evidence to connect the appellant with the commission of allegation of misconduct; that mere verbal assertion without any cogent and reliable evidence is not sufficient to justify the stance of the department in respect of the so called allegations leveled against the appellant in the charge sheet/statement of allegation, hence the impugned order passed by the competent authority on the basis of such inquiry is against the spirit of law; that the competent authority was bound under the law to examine the record of inquiry in its true perspective and in accordance with law and then to apply his independent mind to the merit of the case, but he failed to do so and awarded major punishment of dismissal from service upon the appellant despite the fact that the allegations as contained in the charge sheet/statement of allegation has not been proved in the so called inquiry; that the appellant is neither involved in corruption nor embezzlement nor moral turpitude, therefore such harsh and extreme penalty of dismissal from service of the appellant does not commensurate with the nature of the guilt to deprive his family from livelihood;

ATTESTED

  
 Attesting Officer  
 Services Branch  
 [illegible]

ATTESTED



18 

that the competent authority has passed the impugned order in mechanical manner and the same is perfunctory as well as non-speaking and also against the basic principle of administration of justice, therefore the impugned order is not tenable under the law; that the appellant has not been afforded proper opportunity of personal hearing and was condemned unheard.


03. Learned District Attorney for the respondents has contended that the appellant while serving as registrar in Ex-FATA Tribunal, has been proceeded against on account of advertizing 23 posts without approval of the competent authority and appointed 24 candidates against these posts without recommendation of the departmental selection committee; that a proper inquiry was conducted and during the course of inquiry, all the allegations leveled against the appellant stood proved, consequently, after fulfillment of all the codal formalities and affording chance of personal hearing to the appellant, the penalty of removal from service was imposed upon the appellant vide order dated 10-09-2020; that proper charge sheet/statement of allegation was served upon the appellant as well as proper showcause notice was also served upon the appellant, but inspite of availing all such chances, the appellant failed to prove his innocence.

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

05. Record reveals that the appellant while serving as Registrar Ex-FATA Tribunal was proceeded against on the charges of advertisement of 23 number posts without approval of the competent authority and subsequent selection of candidates in an unlawful manner. Record would suggest that the Ex-FATA Tribunal had its own rules specifically made for Ex-FATA Tribunal, i.e. FATA TRIBUNAL ADMINISTRATIVE, SERVICES, FINANCIAL, ACCOUTS AND AUDIT RULES, 2015, where appointing authority for making appointments in Ex-FATA

**ATTESTED**

ATTESTED


  
 CLERK  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

Tribunal from BPS-1 to 14 is registrar, whereas for the posts from BPS-15 to 17 is Chairman of the Tribunal.

06. On the other hand, the inquiry report placed on record would suggest that before merger of Ex-FATA with the provincial government, Additional Chief Secretary FATA was the appointing authority in respect of Ex-FATA Tribunal and after merger, Home Secretary was the appointing authority for Ex-FATA Tribunal, but such stance of the inquiry officer is neither supported by any documentary proof nor anything is available on record to substantiate the stance of the inquiry officer. The inquiry officer only supported his stance with the contention that earlier process of recruitment was started in April 2015 by the ACS FATA, which could not be completed due to reckless approach of the FATA Secretariat towards the issue. In view of the situation and in presence of the Tribunal Rules, 2015, the Chairman and Registrar were the competent authority for filling in the vacant posts in Ex-FATA Tribunal, hence the first and main allegation regarding appointments made without approval of the competent authority has vanished away and it can be safely inferred that neither ACS FATA nor Home Secretary were competent authority for filling in vacant posts in Ex-FATA Tribunal. We have repeatedly asked the respondents to produce any such order/notification, which could show that appointing authority in respect of filling in post in Ex-FATA Tribunal was either ACS FATA or Home Secretary, but they were unable to produce such documentary proof. The inquiry officer mainly focused on the recruitment process and did not bother to prove that who was appointing authority for Ex-FATA Tribunal, rather the inquiry officer relied upon the practice in vogue in Ex-FATA Secretariat. Subsequent allegations leveled against the appellant are offshoot of the first allegation and once the first allegation was not proved, the subsequent allegations does not hold ground.

07. We have observed certain irregularities in the recruitment process, which were not so grave to propose major penalty of dismissal from service. Careless portrayed

**ATTESTED**

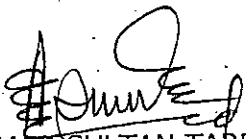
**ATTESTED**  
  
 CHIEF CLERK  
 Service Tribunal

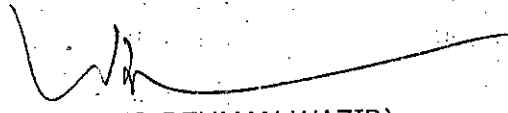
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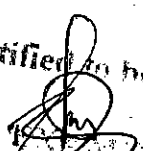
by the appellant was not intentional, hence cannot be considered as an act of negligence which might not strictly fall within the ambit of misconduct but it was only a ground based on which the appellant was awarded major punishment. Element of bad faith and willfulness might bring an act of negligence within the purview of misconduct but lack of proper care and vigilance might not always be willful to make the same as a case of grave negligence inviting severe punishment. Philosophy of punishment was based on the concept of retribution, which might be either through the method of deterrence or reformation. Reliance is placed on 2006 SCMR 60.

08. We have observed that charge against the appellant was not so grave as to propose penalty of removal from service, such penalty appears to be harsh, which does not commensurate with nature of the charge. As a sequel to the above, the instant appeal is partially accepted. The appellant is re-instated into service and the impugned order is set aside to the extent that major penalty of dismissal from service is converted into minor penalty of stoppage of increment for one year. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED  
01.02.2022

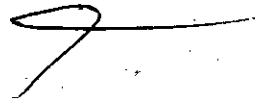
  
(AHMAD SULTAN TAREEN)  
CHAIRMAN

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

  
Certified to be true copy  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 22/3/22  
 Number of Words 2400  
 Copying Fee 26/-  
 Urgent 9/-  
 Total 35/-  
 Name of Copyist \_\_\_\_\_  
 Date of Completion of Copy 22/3/22  
 Date of Delivery of Copy 22/3/22

**ATTESTED**



**Government of Khyber Pakhtunkhwa**  
**Accountant General Khyber Pakhtunkhwa, Peshawar**  
**Monthly Salary Statement (September-2021)**

21



**Personal Information of Mr FAHIM SHEHZAD d/w/s of**

Personnel Number: 00650360      CNIC: 1730191098191      NTN:  
 Date of Birth: 20.03.1985      Entry into Govt. Service: 14.11.2011      Length of Service: 09 Years 10 Months 018 Days

**Employment Category: Active Temporary**

Designation: NAIB QASID      80877270-GOVERNMENT OF KHYBER PAKH  
 DDO Code: PR8073-FCR Tribunal Merged Areas  
 Payroll Section: 005      GPF Section: 002      Cash Center: 009  
 GPF A/C No:      Interest Applied: Yes      **GPF Balance:**      23,135.00  
 Vendor Number: -  
**Pay and Allowances:**      Pay scale: BPS For - 2017      Pay Scale Type: Civil      BPS: 03      Pay Stage: 2

Wage type		Amount	Wage type		Amount
0001	Basic Pay	10,390.00	1004	House Rent Allow 45% KP21	3,542.00
1210	Convey Allowance 2005	1,785.00	1300	Medical Allowance	1,500.00
2211	Adhoc Relief All 2016 10%	961.00	2224	Adhoc Relief All 2017 10%	1,039.00
2247	Adhoc Relief All 2018 10%	1,039.00	2264	Adhoc Relief All 2019 10%	1,039.00
2309	Adhoc Relief All 2021 10%	1,039.00	2311	Dress Allowance - 2021	1,000.00
2312	Washing Allowance 2021	1,000.00	2313	Integrated Allowance 2021	600.00

**Deductions - General**

Wage type		Amount	Wage type		Amount
3003	GPF Subscription	-770.00	3501	Benevolent Fund	-600.00
3534	R. Ben & Death Comp Fresh	-300.00			0.00

**Deductions - Loans and Advances**

Loan	Description	Principal amount	Deduction	Balance

**Deductions - Income Tax**

Payable: 0.00      Recovered till SEP-2021: 0.00      Exempted: 0.00      Recoverable: 0.00

**Gross Pay (Rs.): 24,934.00      Deductions: (Rs.): -1,670.00      Net Pay: (Rs.): 23,264.00**

Payee Name: FAHIM SHEHZAD  
 Account Number: 0010022974550010  
 Bank Details: ALLIED BANK LIMITED, 250310 Warsak Road Peshawar Warsak Road Peshawar, PESHAWAR

**Leaves:**      Opening Balance:      Availed:      Earned:      Balance:

Permanent Address:  
 City: PESHAWAR      Domicile: -      Housing Status: No Official  
 Temp. Address:  
 City:      Email: faheemshahzad14366@gmail.com

**ATTESTED**



POWER OF ATTORNEY

In the Court of

*Khayya Pakhtun (deceased) Saima Farid*  
*Paheem Shahzad*

} For  
} Plaintiff  
} Appellant  
} Petitioner  
} Complainant

VERSUS

*Govt of KPK and others*

} Defendant  
} Respondent  
} Accused  
}

Appeal/Revision/Suit/Application/Petition/Case No. \_\_\_\_\_ of \_\_\_\_\_  
Fixed for \_\_\_\_\_

I/we, the undersigned, do hereby nominate and appoint

**ZARAJ ANWAR & IMRAN KHAN ADVOCATES**, my true and lawful attorney, for me in my same and on my behalf to appear at *Peshawar* to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or subpoena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration. and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so. any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at \_\_\_\_\_  
the \_\_\_\_\_ day to \_\_\_\_\_ the year *E. Shuh*  
Executant/Executants \_\_\_\_\_  
Accepted subject to the terms regarding fee \_\_\_\_\_

*Im. Khan*  
**IMRAN KHAN**  
Advocate High Court  
Mob. 0345-9090648

*Zaraj Anwar*  
**ZARAJ ANWAR**  
Advocate High Courts  
ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT  
FR-3, Fourth Floor, Bilqar Plaza, Saddar Road, Peshawar Cantt  
Mobile-0331-9399185  
BC-10-9851  
CNIC: 17301-1610451-5

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

SERVICE APPEAL NO.813/2022

11. Faheem Shahzad

(APPELLANT)

VERSUS

12. Govt: of Khyber Pakhtunkhwa etc.

(RESPONDENTS)

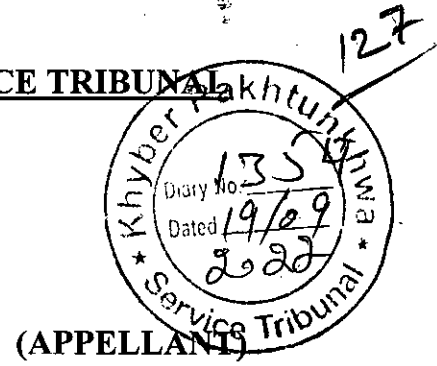
INDEX

s.#	Particulars	Annexure	Pages
1.	Parawise comments	-	1-4
2.	Authority letter	A	5
3.	Affidavit	B	6

  
Section Officer (Litigation-III)

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

Service Appeal No.813 /2022



1. Faheem Shahzad

**VERSUS**

1. Govt. of Khyber Pakhtunkhwa etc.

**(RESPONDENTS)**

**JOINT PARA-WISE COMMENTS ON BEHALF OF RESPONDENT NO. 1 (CHIEF SECRETARY, KHYBER PAKHTUNKHWA), RESPONDENT NO.2 (SECRETARY HOME & TRIBAL AFFAIRS DEPARTMENT, KHYBER PAKHTUNKHWA) AND RESPONDENT NO. 3 (SECRETARY ESTABLISHMENT DEPARTMENT, KHYBER PAKHTUNKHWA)**

**RESPECTFULLY SHEWETH:-**

**PRELIMINARY OBJECTIONS:-**

1. That this Hon'ble Tribunal with profound respect has got no jurisdiction to entertain and adjudicate the instant appeal.
2. That the appellant is estopped by his own words and conduct to file the instant service appeal before this Hon'ble Tribunal.
3. That the appellant has got no locus standi to invoke the jurisdiction of this Hon'ble Tribunal.
4. That the appellant has concealed the entire material facts from this Hon'ble Tribunal.
5. That the appellant has not come with clean hands. Therefore, he is not entitled for any relief by this Hon'ble Tribunal.
6. That the appellant has got on cause of action to file the instant service appeal before this Hon'ble Tribunal.
7. That the service appeal is not maintainable in its present form.
8. That the service appeal is based on surmises and conjectures.
9. That the appellant is not an aggrieved person within the meaning of Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. Hence, the instant service appeal is liable to be dismissed on this score alone.

ON FACTS:

1. That Para 1 pertains to the appellant.
2. The Para 2 also pertains to the appellant.
3. Reference to Para 3, a full fledged inquiry was conducted in the matter to check the credibility and authenticity of the process of advertisement and selection and it was held that the entire process of selection from top to bottom was "*Coram Non Judice*". Furthermore, inquiry was conducted against Mr. Sajjad ur Rehman ex-Registrar, FATA Tribunal under rule 10 of Khyber Pakhtunkhwa Govt. Servant (E&D), Rules, 2011 wherein the inquiry report held that the same selection Committee was constituted without any lawful authority. The said Committee comprised of temporary/contract/daily wages employees of FATA Tribunal who themselves were candidates against these posts. The inquiry proceedings further revealed that there were exists no attendance sheet, minutes of the meeting and even the appointment orders were found ambiguous. The said Departmental Committee unlawfully increased the number of posts from 23 to 24 illegally and issued 24 orders without any recommendations of legitimate Departmental Selection Committee. Else then, the Inquiry Committee has termed all the said 24 appointments illegal and without lawful authority and recommended to be cancelled/withdrawn.
4. Detail reply furnished in Para 3 above.
5. That Para 5 pertains to the appellant.
6. That Para 6 is totally incorrect, misconceived and hence denied as there was sufficient material exists in shape of documentary proof and after issuance of show cause notice and fulfilling all legal and codal formalities, major penalty of removal from service was imposed upon the appellant under the relevant rules/law.
7. Reply to the show cause notice was considered and found unsatisfactory.
8. Same reply as offered in Para 6 above.
9. That Para 9 needs no comments.
10. That Para 10 needs consideration of this Hon'ble Tribunal that the Provincial Government has submitted reply in the *Execution Petition No. 300/2022* titled "*Sajjad ur Rehman VS Chief Secretary etc*" requesting therein that the Hon'ble Service Tribunal in exercise of power invested in it under the Supreme Court Rules, 1980 can withhold/stay the execution of the judgment under appeal. Thus, the compelling

reasons recorded about make it imperative that the Hon'ble Service Tribunal consider them and regret the petition under execution or withhold the proceedings till the final outcome of the CPLA.

129

11. That Para 11 needs no comments.

**GROUNDS:-**

- A. That Para A is incorrect and hence denied as the respondents have treated the appellant in accordance with the mandate of **Article 4 of the Constitution of Islamic Republic of Pakistan, 1973.**
- B. That Para B is also incorrect as all the legal and codal formalities were observed.
- C. Detail reply furnished in Para 3 and 6 of the facts above.
- D. That Para D needs no comments.
- E. That Para E is totally incorrect and hence denied. Detail reply is already furnished in Para 6 of the facts.
- F. Same reply as offered in Para 3 and 6 of the facts.
- G. Same reply as furnished in Para C.
- H. That Para H needs no comments.
- I. That Para I is totally denied in toto. Detail reply offered in Para 3 of the facts.
- J. Same reply as furnished in Para C above.
- K. That Para K is incorrect as no law, rules and judgments of the apex court has been violated. The appellant was treated in accordance with law, rules and constitution. Furthermore, detail reply already offered in Para 3 and 6 of the facts.
- L. Same reply as furnished in Para C above.
- M. That Para M needs no comments.
- N. That Para N also needs no comments.
- O. That the respondents may also seek kind permission of this Hon'ble Tribunal to take some other additional grounds at the time of hearing/arguments of the appeal where necessary.

**PRAYER:-**

In view of the above narrated facts and grounds, it is, therefore, most humbly prayed that the instant service appeal may graciously be dismissed with special cost been devoid of merits and substances.

*JJ*  
*5/8/2022*

**Secretary, Home & TA's Department  
Govt. of Khyber Pakhtunkhwa  
(Respondent No.2)**

*JJ*  
*5/8/2022*

**Secretary, Establishment Department  
Govt. of Khyber Pakhtunkhwa  
(Respondent No.3)**

*JJ*  
*5/8/2022*

**Chief Secretary,  
Govt. of Khyber Pakhtunkhwa  
(Respondent No.1)**

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

SERVICE APPEAL NO.813/2022

3. Faheem Shahzad

(APPELLANT)

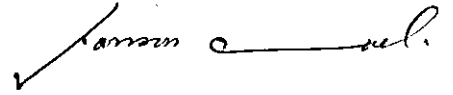
VERSUS

4. Govt: of Khyber Pakhtunkhwa etc.

(RESPONDENTS)

**AUTHORITY**

Mr. Shah Wali Khan Section Officer (Litigation) Home & T.As Department Peshawar do hereby authorized to submit reply in Service appeal No. 813/2022 titled Faheem Shahzad Versus Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa on behalf of respondent No. 2 in the Service Tribunal Peshawar.

  
Deputy Secretary (Litigation)

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

SERVICE APPEAL NO.813/2022

1. Faheem Shahzad

(APPELLANT)

VERSUS

2. Govt: of Khyber Pakhtunkhwa etc.

(RESPONDENTS)

**Affidavit**

Mr. Shah Wali Khan Section Officer (Litigation-III) Home & T.As Department Peshawar do hereby solemnly affirm and declares on oath that the contents of reply Service appeal No. 813/2022 titled Faheem Shahzad Versus Government of Khyber Pakhtunkhwa and others on behalf of respondent No. 2 in the Service Tribunal Peshawar are true and correct as per record and nothing has been concealed from the Honorable Court .



  
Section Officer (Litigation)