

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
CAMP COURT SWAT.

Service Appeal No.10533/2020

Date of Institution ... 11.09.2020

Date of Decision ... 07.01.2022

Muhammad Ismail, Ex-Naib Qasid at Public Prosecutor Office Swat.

... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa through Secretary Home, Peshawar and two others. ... (Respondents)

Mr. Imdad Ullah,  
Advocate

---

For appellant.

Mr. Muhammad Riaz Khan Paindakhel  
Assistant Advocate General

---

For respondents

MIAN MUHAMMAD  
SALAH-UD-DIN

---

MEMBER(Executive)

---

MEMBER(Judicial)

JUDGEMENT

MIAN MUHAMMAD, MEMBER:- The Service appeal has been instituted invoking jurisdiction of the Service Tribunal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 and seeking direction therein to the release of compensatory pension alongwith GP fund to the appellant.

02. Brief facts of the case as per memorandum of appeal are that the appellant was performing duty as Naib Qasid in the District Public Prosecutor Swat since 23.12.2003 and during his service he was falsely implicated in a criminal case through FIR No. 587 dated 05.10.2013 under Section 419, 420, 468/471 PPC Police Station Saidu Sharif Swat. In departmental inquiry, the appellant was removed from service vide order dated 29.04.2014 which was assailed in service

appeal No. 1019/2020 and the Service Tribunal while accepting his appeal ordered de-novo enquiry vide its judgement dated 03.06.2015. The respondent-department conducted de-novo enquiry and as a result of that he was again awarded major penalty of removal from service vide order dated 29.04.2016 against which his service appeal No. 804/2016 was dismissed by the Service Tribunal. Thereafter the appellant submitted departmental appeal to respondent No.2 requesting for the release of his compensatory pension alongwith General Provident fund which according to the assertion of service appeal, was not responded within the statutory period and hence the instant service appeal filed on 11.09.2020.

03. Official-respondents were issued notice to submit reply/parawise comments alongwith connected documents. Their stance in the form of reply/parawise comments was submitted and the case was contested through learned Assistant Advocate General. We have heard the arguments of both the parties and gone through the case file minutely with their assistance.

04. Learned counsel for the appellant contended that the appellant has rendered more than 10 years service before imposition of the major penalty of removal from service. He was the only bread earner of the family which is dependent on him. Being the case of hardship, the appellant approached the appellate authority through registered departmental appeal on 02.06.2020 requesting for the release of his compensatory pension alongwith GPF but no response thereon by the appellate authority. He further contended that request of the appellant is covered under Section-19(3) of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with rule 1.9 and 1.10 of the Pension Rules where-under compensatory pension and GPF can

be sanctioned by the Government/competent authority in case of civil servants dismissed or removed from service. He therefore concluded that being his fundamental right under Article 10-A he cannot be deprived of his due rights on the mere surmises and personal whims.

05. Learned AAG on the other hand, contended that the appellant is no longer a government servant since he has been removed from service on 29.04.2016 by the competent authority. As he has been removed from service through proper departmental proceedings therefore he is not entitled for any pension. Moreover, his departmental appeal claimed by the appellant to have been submitted to the appellate authority on 02.06.2020, is not received by the respondent-department and its copy annexed as "E" with the appeal does not bear any seal of the respondents.

06. The record of the case reveals that the appellant was proceeded against departmentally under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and awarded the major penalty of removal from service vide order dated 29.04.2014. De-novo enquiry was conducted against the appellant on the direction of Service Tribunal passed on his service appeal in judgement dated 03.06.2015 and was again awarded the major penalty of removal from service vide order dated 29.04.2016 but this time his service appeal was dismissed by the Service Tribunal. So far the question of release of compensatory pension and GPF is concerned Section 19(3) of the Khyber Pakhtunkhwa Civil Servants Act, 1973 is quite clear which stipulates that "no pension shall be admissible to a civil servant who is dismissed or removed from service for reason of discipline, but government may sanction compassionate allowance to such civil servant, not exceeding two-

third of the pension or gratuity which would have been admissible to him had he been invalid from service on the date of such dismissal or removal". Similarly, Rule 1.9 of the West Pakistan Civil Services Pension Rules 1963, does not allow sanctioning of pension in respect of a government servant dismissed or removed from service on account of misconduct, corruption, subversive activities or inefficiency but if he deserves special consideration, he may be granted compassionate allowance not exceeding  $2/3^{\text{rd}}$  of the pension which would have been admissible to him had he retired on invalid pension. However, the competent authority may relax the rules for the reason to be recorded in writing, in individual cases of hardship. These rules have now been replaced on the introduction and enforcement of the Khyber Pakhtunkhwa Civil Servants Pension Rules, 2021 and Rule-8 thereof authorizes Finance department to sanction compassionate allowance to such civil servants (dismissed or removed from service) not exceeding two-third of the pension which shall have been admissible to him had he been invalid from service on the date of such dismissal or removal.

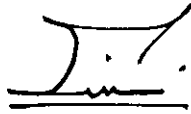
07. Aside from the rules position as slightly explained in the preceding para, good conduct is an implied condition of every kind of pension. The appellant was removed from service on 29.04.2016 and he submitted his departmental appeal to respondent No.2 for the "release of pension and Provident Fund" through registered mail dated 02.06.2020 i.e after four years. The legal maxim "law is on the side of vigilant and not indolent" is an explicit example in the instant service appeal let alone that it is prerogative/discretion of the government or competent authority (now Finance department) to sanction such compassionate allowance to the extent

of 2/3 and it is not the vested right of a government servant who has been dismissed or removed from service.

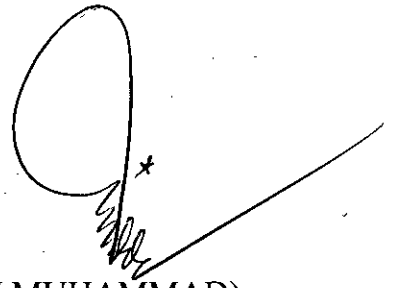
08. As a sequel to the above, the instant service appeal being devoid of merit and substance, is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

07.01.2022



(SALAH-UD-DIN)  
Member(J)



(MIAN MUHAMMAD)  
Member(E)  
Camp Court Swat

**ORDER**

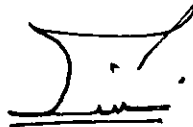
07.01.2022

Appellant alongwith his counsel present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Saeed Naeem, director (Legal) for respondents present.

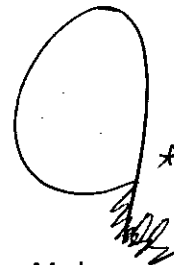
Vide our detailed judgement of today placed on file (containing 05 page), the instant service appeal being devoid of merit and substance, is dismissed. Parties are left to bear their own cost. File be consigned to the record room.

Announced:

07.01.2022



(Salah-Ud-Din)  
Member(J)

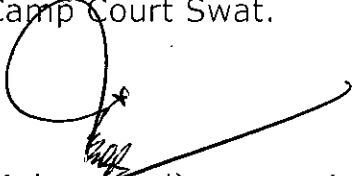



(Mian Muhammad)  
Member(E)  
Camp Court Swat

05.01.2022

Appellant alongwith clerk of his counsel present. Mr. Riaz Ahmed Painsdakhel, Assistant Advocate General for the respondents present.

Further legal assistant <sup>and</sup> on certain points is needed, therefore, to come up for re-arguments on 07.01.2022 before the D.B at Camp Court Swat.

  
(Mian Muhammad)  
Member (E)  
Camp Court Swat

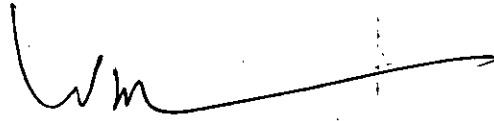
  
(Salah-ud-Din)  
Member (J)  
Camp Court Swat

10.12.2021

Learned counsel for the appellant present.

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

Former made a request for adjournment as he has not prepared the brief. Adjourned. To come up for arguments on 04.01.2022 before D.B at Camp Court, Swat.



(Atiq-Ur-Rehman Wazir)  
Member (E)  
Camp Court, Swat



(Rozina Rehman)  
Member (J)  
Camp Court, Swat

04.01.2022

Mr. Imdad Ullah, Advocate, for the appellant present. Mr. Saeed Naeem, Director (Legal) alongwith Mr. Riaz Ahmed Paindakheil, Assistant Advocate General for the respondents present.

Arguments heard. To come up for order on 05.01.2022 before the D.B at Camp Court Swat.



(Mian Muhammad)  
Member (E)  
Camp Court Swat



(Salah-ud-Din)  
Member (J)  
Camp Court Swat



07.10.2021

Appellant in person present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Syed Naeem Deputy Director for respondents present

Learned Members of the DBA are observing Sogh over the demise of Qazi Imdadullah Advocate and in this regard request for adjournment was made; allowed. To come up for arguments before the D.B on 01.11.2021 at Camp Court, Swat.



(Atiq-Ur-Rehman Wazir)  
Member (E)  
Camp Court, Swat



(Rozina Rehman)  
Member (J)  
Camp Court, Swat

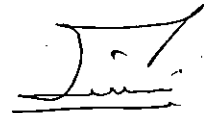
01.11.2021

Clerk of learned counsel for the appellant present. Syed Naeem, Deputy Director alongwith Mr. Riaz Ahmad Paindakhel, Assistant Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the august Dar-ul-Qaza. Adjourned. To come up for arguments before the D.B on 10.12.2021 at Camp Court Swat.



(Atiq-Ur-Rehman Wazir)  
Member (E)  
Camp Court Swat



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

05/04/2021


Due to COVID-19, the case is adjourned to

07/06/2021 for the same.

  
READER

26.07.2021

To come up for reply/comments on 24.08.2021 before S.B at Camp Court, Swat. Notices be issued to appellant/counsel as well as respondents for the date fixed.

  
Chairman

24.08.2021

Junior to counsel for the appellant and Mr. Muhammad Riaz Khan Painsdakhel, Asstt. AG alongwith Saeed Naeem Director (Legal) for respondents present.

Written reply/comments submitted. The appeal is entrusted to D.B for arguments on 07.10.2021 at camp court Swat.

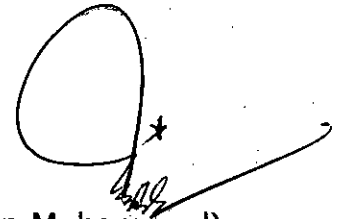
  
Chairman  
Camp Court Swat.

03.03.2021

Appellant with counsel present. Mr. M. Riaz Khan Painsdakhel, Assistant Advocate General alongwith Mr. Syed Naeem, DPP for respondents present.

Written reply on behalf of respondents not submitted. Representative of respondents requests for time to submit written reply/comments on the next date of hearing.


Adjourned to 05.04.2021 before S.B at camp court Swat.

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line and a small star-like mark.

(Mian Muhammad)  
Member(E)  
Camp Court Swat

10.12.2020

Due to COVID-19, case is adjourned to 03.02.2021 for the same as before.


  
Reader

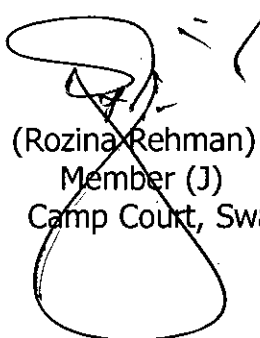
03.02.2021

Appellant present through counsel.

Points raised need consideration. Admitted to 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 respondents for written reply/comments. To come up for written reply/comments on 03.03.2021 before S.B at Camp Court, Swat.

Appellant Deposited  
Security & Process Fee

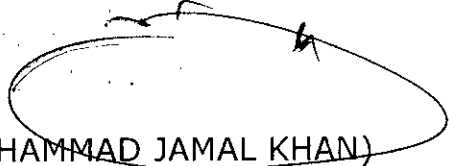
  
11/2/21

  
(Rozina Rehman)  
Member (J)  
Camp Court, Swat

08.10.2020

Clerk of counsel for appellant is present.


Shed Jehanzeb, Advocate, General Secretary District Bar Association, Swat, by virtue of a reference no. nil dated 07.10.2020 communicated a day before that the Members of District Bar Association, Swat, have been invited to participate in the Oath taking ceremony of the President Peshawar High Court Mingora Bench (Bar Association) PHCMBBA to take place on 08.10.2020 therefore, it was requested for extension of cooperation and adjournment of cases after 10:00 A.M while at the moment prescribed time of 10:00 A.M has already passed. The case is adjourned to 05.11.2020 on which to come up for preliminary hearing before S.B at Camp Court, Swat.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER  
CAMP COURT SWAT

05.11.2020

Appellant in person present.

Lawyers are on general strike, therefore, case is adjourned to 10.12.2020 for preliminary hearing, before S.B at Camp Court, Swat.


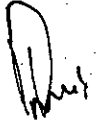
  
(Rozina Rehman)  
Member (J)  
Camp Court, Swat

Form- A

FORM OF ORDER SHEET

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

Case No.- 10533 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/09/2020	<p>The appeal of Mr. Muhammad Ismail presented today by Mr. Aziz-ur-Rehman 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 11/9/2020</p>
2-		<p>This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put up there on <u>08-10-2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

Service Appeal No. \_\_\_\_\_ of 2020

Muhammad Ismail, Ex-Naib Qasid at Public Prosecutor Office Swat.

...Appellant

VERSUS

The Government of Khyber Pakhtunkhwa through Secretary Home, Peshawar and  
Others.

...Respondents

INDEX

S. No.	Description of documents	Annexure	Pages
1.	Memo of Petition	....	1-5
2.	Affidavit	....	6
3.	Addresses of the parties	....	7
4.	Copy of the Order dated 23-12-2003	A	8-9
5.	Copy of the FIR with Better copy	B	10-13
6.	Copy of the Order 30-10-2013	C	14-18
7.	Copy of the Order dated 29-04-2014	D	19
8.	Copy of the Departmental Appeal	E	20-21
9.	Vakalat Nama	....	22

Appellant Through

Aziz-ur-Rahman

Advocate Swat

Office: Khan Plaza, Gulshone Chowk,  
Mingora Swat, Cell 0333 929 7746

1

BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 10533 of 2020

Muhammad Ismail, Ex-Naib Qasid at Public Prosecutor  
Office Swat.

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 10082

...Appellant

Dated 11/9/2020

VERSUS

1. The Government of Khyber Pakhtunkhwa through Secretary Home, Peshawar.
2. The Director General Prosecution Khyber Pakhtunkhwa, Peshawar.
3. The District Public Prosecutor, District Swat.

...Respondents

SERVICE APPEAL UNDER SECTION 4  
OF THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL ACT, 1974 FOR  
THE RELEASE OF THE  
COMPENSATORY PENSION UNDER  
THE LAW AND RULES.

Filed to-day

Registrar

11/9/2020

Prayer:

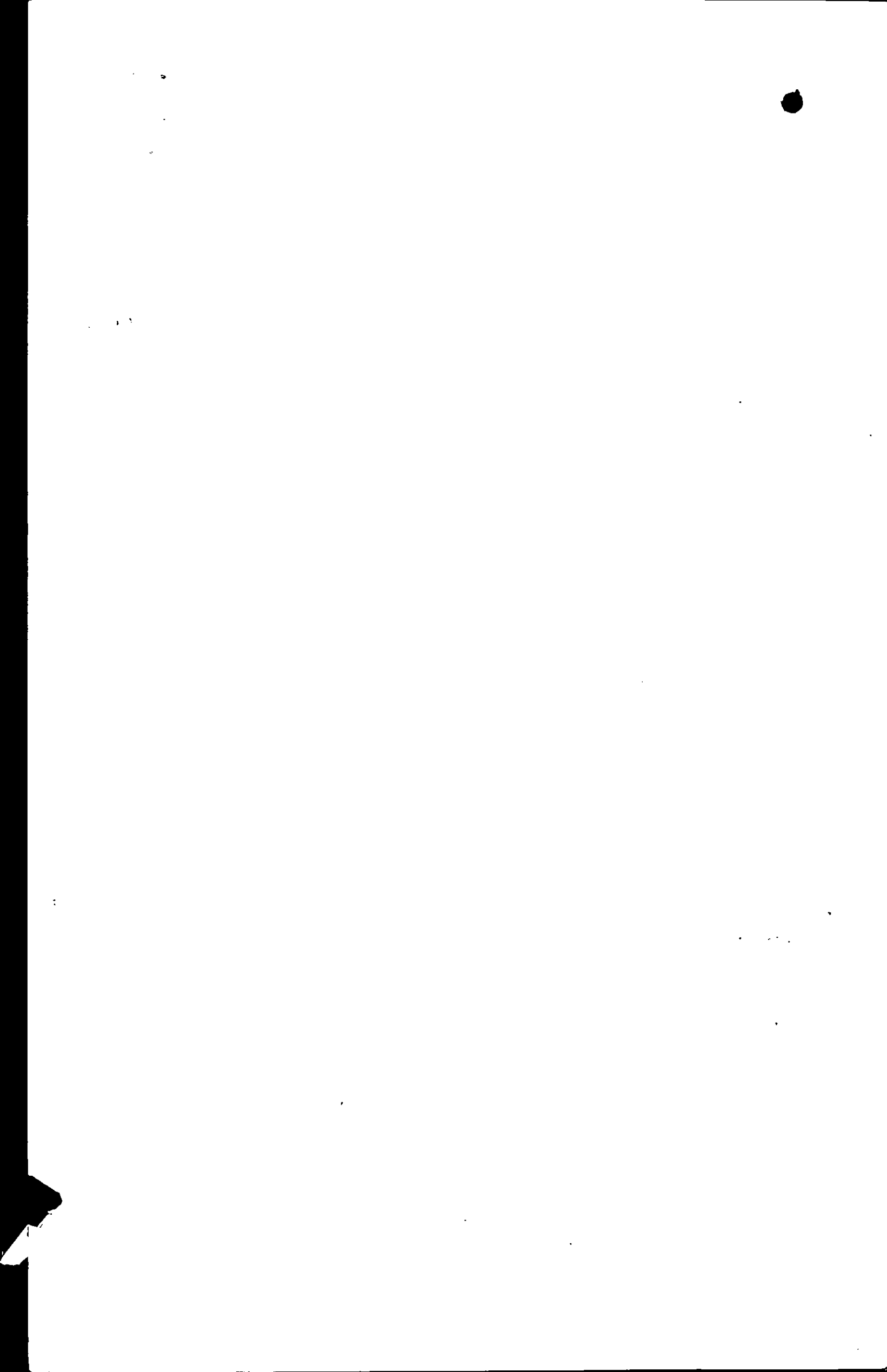
It is, therefore, very respectfully prayed that on acceptance of this service appeal the respondents may very kindly be ordered to release the compensatory pension along with GP fund to the appellant.

Respectfully Sheweth:

Facts:

- i. That the appellant got appointed as Naib Qasid at the office of the Public Prosecutor District Swat vide





order Endst: No. SLT.15(I)96/4837-95 dated 23-12-2003, after observing all the codal formalities. Copy of the order is enclosed as Annexure "A".

- ii. That the appellant was falsely involved in a criminal case FIR No. 587 dated 05-10-2013 u/s 419, 420, 468/471 PPC Police Station Saidu Sharif. The brief facts whereof that are the Learned ASJ1/IZQ granted bail to an accused. On furnishing bail bonds. The sureties placed the surety bonds along with revenue record in support of their being financially sound, before the said Learned Court. Copy of the FIR along with its better copy is enclosed as Annexure "B".
- iii. That the reader of the court reported to the Police that the Revenue record showing the financial position of the sureties is fake. Those sureties were arrested, who during the course of investigation named the appellant to be involved with them and consequently the appellant was also arrested. That at the bail stage the Learned Sessions Judge / Zilla Qazi not only rejected the bail application, but also awarded punishment before the trial of the case. It is yet to be determined as to whether the case against the appellant is true or false, but the Learned Session Judge was pleased to punish administratively the appellant by ordering the concerned officer of the appellant to transfer the appellant outside of the District Swat. Copy of the order is enclosed as Annexure "C".
- iv. That the August Peshawar High Court, Mingora Bench was pleased to grant the concession of bail to the appellant.

- v. That departmental inquiry was initiated against the appellant. It was conducted in cursory manner. Stamen of senior public prosecutor (very important), of Beram Khan Reader of the Court ASI 1 Swat and that of the appellant were recorded. On the completion of the said inquiry final show cause notice was issued to which the appellant submitted a detailed reply, but in a mechanical manner and without affording the appellant an opportunity of hearing he was removed from service vide the impugned order. Copy of the Order is enclosed as Annexure "D"
- vi. That the said order was challenged through Service Appeal No. 1019 of 2014 on the ground of audi alteram partem among others, which appeal was accepted vide judgment dated 03-06-2015 and de novo inquiry was ordered.
- vii. That the de novo inquiry was conducted in a very mechanical manner without giving the appellant fair chance of defence. The inquiry officer based his whole findings on the previous inquiry against the law and rules and without considering the judgment of this Honourable Tribunal on the previous inquiry and the inquiry officer gave his findings based on mere surmises and personal whims and beliefs, which makes the inquiry an eye wash and nullity in the eyes of law, moreover the provision of Article 10 A of the Constitution have blatantly been flouted.
- viii. That upon the recommendations of the inquiry officer major penalty of removal from service was imposed by the authority vide order No. DP/E&A/PF/5491-95 dated 29-04-2016, against

which the appellant filed a service appeal No. 804/2016 before this Honourable Tribunal, but the same was also dismissed.

- ix. That the appellant has served the Respondent Department for more than 10 years and thus is qualified for the grant of compensatory pension under the law and rules on the subject.
- x. That feeling aggrieved the appellant submitted a departmental appeal for the redressal of his grievance, but the same was not responded to despite the lapse of statutory period of time. Copy of the departmental appeal is enclosed as Annexure "E".
- xi. That having no other option this service appeal is filed for the redressal of the grievances on the following grounds.

Grounds:

- a. That under the law and rules on the subject the appellant is entitled for the compensatory pension to be paid to the appellant, but the same is not being done, hence the appellant is not being treated in accordance with the law.
- b. That the appellant has been discriminated and singled out for no valid reasons.
- c. That the Respondents are resorting to colourful exercise of powers in an arbitrary manner to the detriment of the appellant and that too in utter negation of the law and rules on the subject.

It is, therefore, very respectfully prayed that on acceptance of this service appeal the respondents may very kindly be ordered to release the compensatory pension along with GP fund to the appellant.

Any other relief deemed appropriate in the circumstances and not specifically prayed for may also very kindly be granted.

Appellant

Ph 16.

Muhammad Ismail  
Through Counsel,

Imdad  
Imdad Ullah  
Advocate Swat

6

BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. \_\_\_\_\_ of 2020

Muhammad Ismail, Ex-Naib Qasid at Public Prosecutor  
Office Swat.

...Appellant

VERSUS

The Government of Khyber Pakhtunkhwa through  
Secretary Home, Peshawar and Others.

...Respondents

AFFIDAVIT

It is solemnly stated on Oath that all the contents of this  
service appeal are true and correct to the best of my knowledge  
and belief and nothing has either been misstated or kept  
concealed before this Honourable Tribunal.

Deponent

M. Ismail

Muhammad Ismail

**ATTESTED**

Umar Sadiq  
UMAR SADIQ Advocate,  
OATH COMMISSIONER  
Distt: Courts Swat.

No. 102 Date 05/09/2020

BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. \_\_\_\_\_ of 2020

Muhammad Ismail, Ex-Naib Qasid at Public Prosecutor  
Office Swat.

...Appellant

VERSUS

The Government of Khyber Pakhtunkhwa through  
Secretary Home, Peshawar and Others.

...Respondents

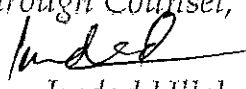
ADDRESSES OF THE PARTIES

Appellant:

Muhammad Ismail S/o Amir Zarin, Ex-Naib Qasid at  
Public Prosecutor Office Swat R/o Mohalla Miangano  
Cham, Amankot, Tehsil Babozai, District Swat.

Respondents:

1. The Government of Khyber Pakhtunkhwa through  
Secretary Home, Peshawar.
2. The Director General Prosecution Khyber  
Pakhtunkhwa, Peshawar.
3. The District Public Prosecutor, District Swat.

Appellant  
Through Counsel,  
  
Imdad Ullah  
Advocate Swat

GOVERNMENT OF THE N.-W.F.P.,  
LAW, PARLIAMENTARY AFFAIRS AND  
HUMAN RIGHTS DEPARTMENT.

Peshawar, dated 23.12.2003

8

ORDER.-

No.SLT.15(1)96.-On the recommendation of Departmental Selection Committee (DSC) of the Law Department the following candidates are hereby appointed as Class-IV. (BPS-1) in the Law Department and in Muffasil Establishment of the Law Department (on contract basis as per Government policy) and posted in various offices noted against each with immediate effect:-

S.NO.	NAME AND ADDRESS	DESIGNATION	PLACE/DISTRICT OF POSTING.
1.	2.	3.	4.
1.	Mr. Latif Khan s/o Habibullah r/o District Bannu.	Naib Qasid	PP Office, Bannu.
2.	Mr. Ghulam Yahya s/o Ghulam Murtaza r/o Sohel Ayun Tehsil District Chitral.	-do-	PP Office, Chitral.
3.	Mr. Jamsheed Ahmed s/o Kosh Ahmad r/o Dawashish Joghur Tehsil & District Chitral.	-do-	PP Office, Chitral.
4.	Mr. Shuja-ud-Din s/o Muhammad Nizam-ud-Din r/o Village & Post office Brom Oweer, Tehsil Mulxhow, District Chitral.	-do-	PP Office, Chitral. at BONNI
5.	Mr. Alam Khan s/o Saidan, Tore Warsak Tehsil Daggar District Buner.	-do-	PP Office, Buner.
6.	Mr. Said Nawaz s/o Yaqoob r/o Raikai Tehsil Daggar District Buner.	-do-	PP Office, Buner.
7.	Mr. Bakht Parwaish s/o Darwaish r/o Kalpani Tehsil Daggar District Buner.	-do-	PP Office, Buner.
8.	Mr. Ikramullah s/o Fozal Wahid r/o Saidu Sharif Swat.	-do-	PP Office, Swat.
9.	Mr. Ismail s/o Amir Zareen r/o College Colony, Saidu Sharif, Swat.	-do-	PP Office, Swat.
10.	Mr. Haider Ali s/o Gili Sadber vill: Bihra Tehsil Matta Distt Swat.	-do-	PP Office, Swat.
11.	Mr. Nasir Khan s/o Hadi Khan r/o Mingora Swat.	-do-	PP Office, Swat.
12.	Mr. Umer Ayaz s/o Gul Dad Khan Moh: Zaffar Khel Vill: Takht Nasrati Distt: Karak.	-do-	PP Office, Karak.

Attested

Advocate



1.	2.	3.	4.
13.	Mr. Faisal s/o Akbar Deen Vill: Supply Bazar r/o Iqbal Road, Abbt:	Naib Qasid	PP Office Abbottabad
14.	Mr. Wali-ur-Rehman s/o Mir Kalam Moh: Bahader Dist: Mansehra.	-do-	PP Office Mansehra
15.	Mr. Zar Shahid s/o Mir Wais Vill: Kota Telsil and Dist: Swabi.	-do-	PP Office Swabi
16.	Mr. Habib Gul s/o Hazrat Gul Dehri Juligram Mkd: Agency	-do-	Malakand at Batkhehla.
17.	Imran Khan s/o Ishaq Muhammad r/o Moh: Gari Hazrat Khel village Thana Malakand Agency.	-do-	Malakand at Batkhehla.
18.	Mr. Subhanullah s/o Musa Khan r/o Sndo Telsil, Timergara.	-do-	PP Office Dir at Timergara.

2. All the Public Prosecutors/Additional Public Prosecutors concerned are directed to procure the requisite agreement duly signed by the respective Naib Qasids and forward the same to this Department with a fortnight of the issuance of this Order.

(AMIR GULAB KHAN)  
Secretary to Government of the N.-W.F.P.,  
Law, Parliamentary Affairs and  
Human Rights Department.

Dated: 23/12/2003.

Encls: No. SLT 15(1)96/4837-95

- Copy forwarded to:
1. The Accountant General, N.-W.F.P. Peshawar
  2. The Solicitor, N.-W.F.P. Law Department.
  3. The Director Prosecution, N.-W.F.P. Law Department.
  4. The P.S to Secretary Law.
  5. The District Accounts Officers concerned.
  6. The Public Prosecutors/Additional Public Prosecutors concerned.
  7. The concerned officials
  8. The Accountant, Litigation Cell, Law Department.

(MUHAMMAD ASIM IMAM)  
DIRECTOR PROSECUTION  
LAW DEPARTMENT.

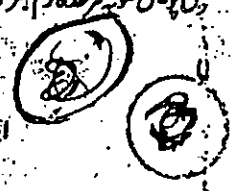
**Attested**

*[Signature]*  
**Advocate**

زلزلہ پریس ممبر ہونے کے لیے درخواست نمبر 42

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ دروز 15/3/1954 مجموعہ ضابطہ نوعدادی



PM 11:30  
 تاریخ 15/3/54  
 نمبر 587  
 01

نام و کنوینٹ اور مندرجہ ذیل	تاریخ و وقت	محل وقوع
شیخ عیاض خان ولد عیاض خان مندرجہ ذیل	14:00	جاہلیہ گلی جوہر چوک بریلی
تعمیر کیفیت جرم (معدومہ) مال اگر ہو گیا کہاں		۱۶۸-۱۶۹-۱۷۰-۱۷۱-۱۷۲-۱۷۳-۱۷۴-۱۷۵
جانے وقوعہ قاطعہ قناعت اور دست برداری		ہندوستان کے مختلف حصوں میں
نام و کنوینٹ اور مندرجہ ذیل		نام و کنوینٹ اور مندرجہ ذیل
کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرتے وقت تک		
قناعت سے روٹ گئی کی تاریخ و وقت		

ابتدائی اطلاع نیچے درج کروا گیا ہے۔ یہ اطلاع تیار ہونے سے پہلے  
 کہ شاہ خان شاہ دوصل سید کر جی کا حق ذیل میں۔ آئر ایوارڈ  
 ہونے کے بعد شاہی عدالت اور کیش سن جن سہ ماہی جنس اکثر مستفرد  
 بزرگ عدالت ریپ ریپورٹ ہے۔ کہ میں عدالت کے ایک میں بحبت ریپورٹ  
 کے ساتھ ریپورٹ اور ریپورٹ میں عدالت کے ایک میں ۶ مساز ول راج  
 مذکورہ چھ ماہ کے لئے دفعہ عدالت سے 39/3/54 کی 26/3/54 کے  
 کیش سن جن سہ ماہی نے ایک لاکھ روپے کی ضمانت منظور کرتے آئی  
 میمان ضیاتی وارڈ ولد خان گل ذلیفان علی ولد علی خور زاد  
 امیر آوار شکوہ اہل خان ولد حسن خان ساکن رنگ جملہ دستاویزوں  
 مادہ ضمانت کے بابت ضمانت نامہ مع جی امداد خیر پیش کرتے ہوئے  
 سر جاسنڈر پیرسٹک گزار اور خیر متعلقہ عدالت میں ڈکری  
 ایوار خان کے لئے جعلی قرار دیا کیونکہ اسے جیل اور پٹوار کا  
 باوجود کے دماغ میں بیوی میں ایک ایرسہ کسان کو مشورے سے  
 کسے پر بیانیہ ہے۔ خیر جاسنڈر اسے اے ایل ولد امیر زور میں  
 نے بنا کر دیا ہے۔ کہ عدالت میں پیش کریں۔ اور اس میں عدالت کو  
 کسے کے عدالت سے بھی ماغذات پیش کرتے ہیں ہر جار کسان با  
 رپورٹ کرتے ہوئے غور سے اسے بیوی کے بچہ امیر خان رسید [AS] کا  
 نسب کفایت ہے۔ باقی رپورٹ درج صفحہ نمبر ۲ پر ہے۔ اور  
 گینا ڈریسنگ کے بارے میں کئی میں تصدیق کرتے ہیں۔ T.O.

Attested  
  
 Advocate

۲



## ابتدائی اطلاعی رپورٹ


ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۴ مجموعہ ضابطہ جو جداری

تھانہ سیدو شریف ضلع سوات مقدمہ علت نمبر 587 تاریخ 13-10-5 وقت 13:30 بجے

تاریخ و وقت رپورٹ	05-10-13 وقت 14:00 بجے چاکیڈگی پرچہ 05-10-13 وقت 15:00 بجے
نام و سکونت اطلاع دہندہ مستغیث	بیرام خان ولد امیر خان سکندری محلہ چھٹی خیل، بیگورہ حال محرہ ADJI سوات
مختصر کیفیت جرم (موجودہ) حال اگر کچھ لیا گیا ہو۔	PPC 419-420-468/471
جائے وقوعہ قاصد تھانہ سے اور سمت	عدالت ایڈیشنل سیشن جج صاحبہ بمقام گل کدوفاصلہ KM1 چاب شل از تھانہ
نام و سکونت ملزم	(۱) فاروق ولد خان گل (۲) ذیشان علی ولد علی محمد ساکنان طاہر آباد بیگورہ (۳) اجمل خان حسن خان سکندری محلہ بیگورہ
سوات (۳) محمد اسماعیل ولد امیر زرین سکندری کالج کالونی سیدو شریف حال اماکوٹ ضلع سوات	
کارروائی جو پیش کی گئی اگر اطلاع صحت کرنے میں توقف ملاحظہ ہو بیان کرو	بیسویں تحریری مراسلہ پر چلایا گیا۔
تھانہ سے روانگی کی تاریخ و وقت	پہیل ڈاک

ابتدائی اطلاع نیچے درج کرو۔

ایک تحریری مراسلہ منجانب احمد شاہ خان S.H.O موصول ہو کر جسکا متن ذیل میں ہے۔ افسر انچارج تھانہ سیدو شریف امروز حسب اطلاع طلبی عدالت ایڈیشنل سیشن جج صاحبہ فسٹ آکر مستغیث بہرام خان ریڈر عدالت یوں رپورٹ کرتا ہے کہ میں عدالت خڈا میں بحیثیت ریڈر اپنا ڈیوٹی سرانجام دے رہا ہوں امروز عدالت خڈا سے ملزم معاذ ولد امجد علی سکندری بنزہ کے ضمانت بحوالہ مقدمہ علت نمبر 392 مورخہ 26-09-13 جرم P.O 3/4 میں جناب ایڈیشنل سیشن جج صاحبہ نے ایک لاکھ دو ہزاری ضمانت منظور کر کے ایک بوقت مسیماں ضامنی فاروق ولد خان گل ذیشان علی ولد علی محمد ساکنان طاہر آباد بیگورہ و اجمل خان ولد حسن خان ساکن رنگ نخلہ بیگورہ سوات میں ملزم معاذ کے ضمانت کے باہت ضمانت نامہ معہ جائیداد فرد پیش کر کے جو ملاحظہ کر کے فرد جائیداد پر شک گزارا اور فرد کے متعلق عدالت میں D.K سے کرا کر جو ابرار خان D.K نے جعلی قرار دیا کیونکہ آج چھٹی ہے اور پڑاوی تحصیلدار سوات پڑاوی کے دفاتر بند ہوتی ہیں لہذا ہر سہہ کسان کو سرسری انٹرویو کرنے پر بیانی ہیکہ یہ فرد جائیداد اسماعیل ولد امیر زرین سکندری اماکوٹ نے بنا کر دیا ہے۔ کہ عدالت میں پیش کریں۔ لہذا میں عدالت کو دھوکہ کرنے کے غرض سے جعلی کاغذات پیش کرنے پر ہر چار کسان بالا کے خلاف رپورٹ کرتا ہوں۔ غور ہوئے۔ sd۔ بہرام خان ریڈر ASJ i کارروائی پولیس حسب گفتہ مستغیث بالا کی رپورٹ درج صدر ہو کر پڑھ کر

Attested  
  
 Advocate

ایا سمجھایا گیا۔ ڈرنگی پر دستخط ثبت کی۔ جس کی میں تصدیق کرتا ہوں۔  
 مضمون رپورٹ ہے صورت جرم بالا پائی جا کر مراسلہ  
 بغرض قانگی مقدمہ بدست کنشیل ڈاکر اللہ 12004 ارسال  
 تھانہ ہے۔ مراسلہ گزارش ہے۔ Sd. احمد شاہ خان SHO مورخہ 05-10-13  
 کارروائی پولیس پس آمدہ مراسلہ حرف بحرف درج صدر ہو کر پرچہ جرم بالا فوق چاک کیا جا کر  
 نقل پرچہ بمعہ فرد جملہ کاغذات بمراد تفتیش متعلقہ تفتیش کو حوالہ کیا جاتا ہے۔ افسران بالا کو اطلاع  
 دی جا رہی ہے۔ پرچہ گزارش ہے۔

دستخط انگریزی

PSSS

4-10-2013

Attested

*[Signature]*

Advocate

لہجہ کا - سن 2013 / 2014

Annexure

2013

فوری طور پر

90/4

افتر نین ایڈووکیٹ صاحب  
ایڈووکیٹ صاحب، ایڈووکیٹ صاحب  
ایڈووکیٹ صاحب، ایڈووکیٹ صاحب  
ایڈووکیٹ صاحب، ایڈووکیٹ صاحب  
ایڈووکیٹ صاحب، ایڈووکیٹ صاحب

0-3  
29-10-13

154



ORDER—4  
Dt:30.10.2013

Vide my detailed order in Bail application No. 83/4 of 2013,  
the instant bail application stands dismissed.

File be consigned to the record room after necessary  
completion.

(SHARIF AHMAD)  
Sessions Judge/Zilla Qazi Swat

SESSIONS JUDGE/  
Zilla Qazi, Swat.

5568  
Date of presentation of Application 21-3-14  
Date on which copy completed 21-3-14  
Urgent Fee  
Name of copyist  
Signature  
Copying Fee  
Date of Delivery 21-3-14

Date of Application 21-3-14  
Date of preparation 21-3-14  
Date of 1st intimation 21-3-14 Through  
Date of 2nd intimation Through  
Date of delivery 21-3-14

ATTESTED TO BE TRUE COPY  
EXAMINER,  
District & Sessions Judge  
Zilla Qazi, Swat.  
21-3-2014

Attested  
Advocate

BA # 83/4 - 8/2/2013

15

ORDER—06  
Dt:30.10.2013

1. My this order is directed to dispose of application No. 83/4 jointly filed on behalf of Farooq Khan, Zeeshan Ali, Ajmal Khan, bail application No. 90/4 filed by Muhammad Ismail and bail application No.91/4 filed on behalf of Yousaf Ali for their post arrest bail. They, all the five, have been charged for the commission of offence U/S 419/420/468/471 PPC case FIR No. 587 of PS Saidu Sharif Swat.

Notices issued and record was requisitioned.

Muhammad Qayum Khan advocate on behalf of petitioners of application No. 83/4, Akhtar Munir Khan advocate assisted by Asif Rehman advocate on behalf of petitioner of application No. 91/4, Qazi Farid Ahmad advocate on behalf of petitioner of application No. 90/4 and DPP for state heard & record perused.

The present FIR originates from an ugly episode that was noticed as taken place within the Kachehry premises. One Maaz accused was granted bail in 3/4 PHO case FIR No. 392 against surety bonds in sum of Rs.200,000/- with two sureties. On the eventful day i.e. 05/10/2013 the accused Farooq and Ajmal Khan appeared before the court as sureties and accused Zeeshan Ali as their identifier along with bail bonds and attested copies of the Revenue Record to support their sound status. The attested copies were found to be fake. Police was called to whom Behram Khan Reader of the court of ASJ-I Swat made report, the police arrested the then present three persons and registered the case.

4. It was initially disclosed and further found in course of investigation that it was Ismail accused/petitioner who managed the Revenue Record attested copies against Rs.6,000/-, Rs.1,000/- paid and Rs.5,000/- promised to be paid on completion of the job. In the course of investigation it further revealed that accused/petitioner Yousaf Ali running Computer and Photostat business in the Kchehri in the name of "Shahab Photostat" got prepared the fake Revenue Record copies through computer composer Ubaid working in the same cabin and provided it to the sureties accused/petitioners through Ismail accused/petitioner. It was this background in which the other two accused i.e. Ismail and Yousaf Ali along with Ubaid were also implicated, Ubaid is at large.



ATTESTED TO BE TRUE COPY

EXAMINER  
District & Sessions Judge  
Zilla Qazi, Swat.

SESSIONS JUDGE  
Zilla Qazi, Swat.

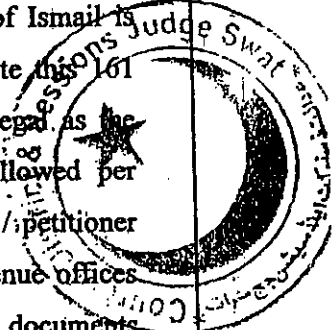
Attested

Advocate

OR

ORDER—06  
Dt:30.10.2013  
Continued

5. It was argued on behalf of the accused Farooq, Ajmal and Zeeshan that there is no evidence to connect the sureties and identifier accused/petitioners Farooq etc with the crime as they have neither prepared the fake documents nor they knew about it. On behalf of the accused/petitioner Yousaf Ali it was argued that he was not named in the FIR and the site plan, the sole 161 CrPC statement of Ismail is inadmissible against him as there is nothing to corroborate this 161 statement and further that registration of the FIR was illegal as the procedure laid down for such eventualities was not followed per relevant section 195 (c) Cr.PC. On behalf of the accused /petitioner Ismail it was argued that on the eventful day all the revenue offices were closed availability of Ibrar Khan DK confirming the documents to be fake indicates that actually he was involved but was not charged and there is no confession or recovery on the part of accused/petitioner Ismail who may be a good prosecution witness but not an accused.



6. Contrary to the above, it was convincingly argued by the DPP that three accused/petitioners Farooq, Zeeshan and Ajmal Khan along with Muhammad Ismail were directly charged in the FIR. Farooq and Ajmal have given inculpatory magisterial confessional statements which are consistent interse and depict the same sequence and fashion of the events making out the whole episode. Further, that Ismail is posted as a peon with Senior Public Prosecutor working in the same premises, he was available in the Kachehri and is known for brokering such jobs in the courts premises, that the amount of Rs.1,000/- handed over to Yousaf Ali was recovered in the course of investigation and the documents produced in the course of the attestation of bail bonds are available to which there can be no second opinion rather than to be fake and that no one of the accused petitioners including the absconding Ubaid is innocent. All the accused petitioners played their respective roles towards the completion of a hateful crime, there is no ill will behind their implication rather their role unveiled gradually as the investigation proceeded forward and no one of the accused petitioners is entitled to the concession of bail, the DPP concluded.

*Yousaf Ali*  
 Yousaf Ali  
 District & Sessions Judge  
 Zilla Gali, Swat.

ATTESTED TO BE TRUE COPY

*[Signature]*  
 EXAMINER,  
 District & Sessions Judge  
 Zilla Gali, Swat.

**Attested**  
*[Signature]*  
 Advocate



ORDER—06  
Dt:30.10.2013  
Continued



7. The points raised and argued by the DPP find support from the record and apparently there is ample incriminatory evidentiary material available against the accused petitioners. The offence for which the accused are charged may not be heinous in terms of the quantum of punishment, however, its gravity is enormous when seen in its related social perspective and consequences.

8. Record indicates that the business of preparing fake documents has become a few minutes job and the facility is known and openly available all the times to all. The filthy job was being carried out within the courts premises. Yousaf Ali Photostat operator, Ubaid Computer Composer supposed to be fair bread earners were openly involved while Ismail a Govt. servant supposed to be faithful to the state and guard the public trust played as broker. The foul play seems to be a daily routine business and not a single incident. Such like acts are counted against the justice system wherever public faith and the role of judiciary is gauged.

9. It appears that the accused Farooq and Ajmal Khan produced fake documents, managed through Ismail prepared by Yousaf Ali and Ubaid against unusual huge payment, in thousands, no one of them is entitled to the concession of bail and their bail applications stand dismissed.

10. The role of the accused petitioner Zeshan is, however differentiable from others. He is only identifier to the bail bonds, he has no apparent nexus with the preparation or production of the fake documents and even his knowledge as to that requires further enquiry. The accused petitioner Zeshan is therefore admitted to bail by allowing the bail application No. 82/4 up-to his extent. He shall furnish surety bonds in sum of Rs.80,000/- with two sureties in the equal amount to the satisfaction of Illaqa Duty/Judicial Magistrate.

11. Touts activities within the Kachehry premises have been a topic of discussion in the Bench Bar Liaison Committee meetings. The present appears to be an appropriate case for action. In the circumstance and relevant facts of the episode as stated above which needs no repetition, it seems appropriate that the accused working in the courts premises be proceeded for inclusion into the list of "touts".

ATTESTED TO BE TRUE COPY

EXAMINER,  
District & Sessions Judge  
Zilla Qazi, Swat.

SECTIONS JUDGE/  
Zilla Qazi, Swat.

Attested  
*[Signature]*  
Advocate

ORDER—06  
Dt:30.10.2013  
Continued

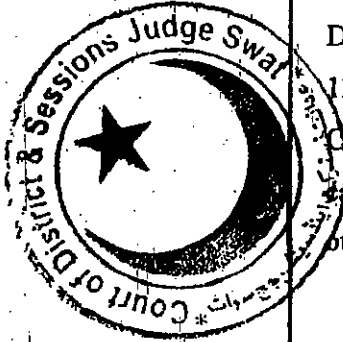
which proceedings are being initiated. A copy of this order alongwith copies of the relevant documents from the record be brought on the file that be opened in this regard.

12. Further, it is directed that, in addition to any disciplinary action if taken, the employer department shall immediately and permanently exclude and post out the accused peon Ismail of the Prosecution Department from any duty within the courts premises of District Swat.

13. Furthermore, a copy of this order be forwarded to the Judicial Complex Cabin Management Committee for early vacation of the cabin of "Shahab Photostat" from the allottee and rent it out to some other suitable contender.

Ordered accordingly. Requisitioned record be returned.

Copy be placed on each case file which be consigned to the record room after doing the needful as above.



*(Signature)*  
(SHARIF AHMAD) 30/10/13  
Sessions Judge/Zilla Qazi Swat

SESSIONS JUDGE  
Zilla Qazi, Swat

ATTESTED TO BE TRUE COPY  
*(Signature)*  
EXAMINER,  
District & Sessions Judge  
Zilla Qazi, Swat.  
21-03-2014

Attested  
*(Signature)*  
Advocate



**DIRECTORATE OF PROSECUTION  
KHYBER PAKHTUNKHWA**

**Dated Peshawar 29 April, 2016**

Office Phone # 091-9212559 / 091-9212542

Fax # 091-9212559

Email: kprosecution@yahoo.com

19

Annexure <sup>2</sup>  
D

**ORDER:**

No. DP/E&A/

PF/549-15

Dated 29-04-2014.

Whereas, Mr. Muhammad Ismail, Naib Qasid during his tenure at DPP Office Swat was charged for preparation of forged documents for the release of accused namely Maaz with the intention to cheat the staff of Additional Session Judge, Swat and a criminal case to this effect was registered against him vide FIR No. 587 dated 05-08-2013 u/s419/420/468/471 PPC in the Police Station Saidu Sharif, Swat.

Whereas, he was charge sheeted vide order No. DP/E & A/1(60)/7883-85 dated 03.09.2015 and Muhammad Ibrahim Khan, District Public Prosecutor Dir Lower was appointed as inquiry officer to conduct De-novo Inquiry against him under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules 2011 as per compliance of order dated 03.06.2015 passed by Khyber Pakhtunkhwa Service Tribunal, Camp Tribunal at Swat, and the charge was proved against him.

Whereas, a Final Show Cause Notice was served upon the accused official and also called upon for personal hearing, however, he could not move a convincing reply.

And whereas, the accused official hereinabove has been found guilty of misconduct under the E & D Rules, 2011.

Therefore, I Muhammad Arif Khattak, Director General Prosecution Khyber Pakhtunkhwa being Competent Authority, under Rule-4(1)(b)(iii) of the Rules ibid, do hereby impose major penalty of "removal from service" upon Muhammad Ismail, accused official, who was posted as Naib Qasid at District Public Prosecutor Office, Torghar, with immediate effect.

(Muhammad Arif Khattak)  
Director General Prosecution  
Khyber Pakhtunkhwa

Attested

Advocate

To

The Director General  
Prosecution,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

Subject: Release of pension and general provident fund.

Respected Sir,

The appellant submits as under:

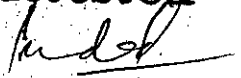
That the appellant was appointed as Naib Qasid on 23-12-2003 vide order Endst:No. SLT.15(I)96/4837-95.

That the appellant thereafter regularly performed his duties regularly.

That the in the year 2014 an FIR No. 587 dated 05-10-2013 was registered against the appellant as result of which the appellant was removed from service vide order No. DDP/E&A/1(I) P/F/4294-99 dated 15-04-2014 in a very summary manner.

That the appellant has render more than the qualified service for the purpose of grant of compensatory pension along with the general provident fund, personal to the appellant, under the law and rules, to which the appellant is entitled.

That like many other civil servants the appellant also deserves to be treated in similar manner where the compensatory pension along with the general provident fund is released to them even their services are terminated.

**Attested**  
  
**Advocate**

That under the law there is no bar on the release of the compensatory pension along with the general provident fund, which is granted to other similar employees under the relevant law and rules.

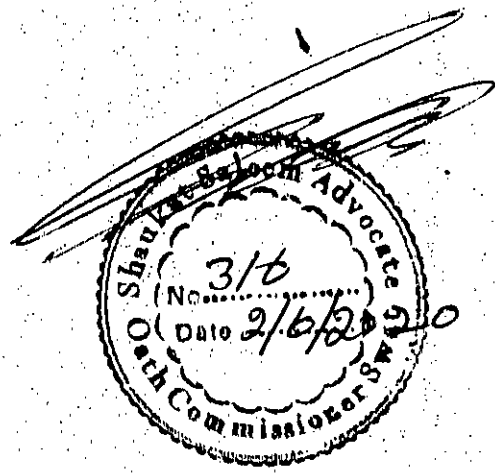
It is thus very humbly requested that on acceptance of this appeal the compensatory pension along with the general provident fund may very kindly be ordered to be released to the appellant.

Appellant  
M. Ismail  
Muhammad Ismail

Affidavit:

It is solemnly stated on Oath that all the contents of this departmental appeal are true and correct to the best of my knowledge and belief.

Deponent  
M. Ismail  
Muhammad Ismail



Attested  
[Signature]  
Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

22

In the matter of:-

Muhammad Iqbal Appellant

VERSUS

The Govt. K.P. through  
Secretary Home and others Respondent s

KNOWN ALL to whom these present shall come that I/we, the undersigned appoint

AZIZ-UR-RAHMAN and IMDAD ULLAH

Advocates High Court

To be the advocate for the Appellant in the above mentioned case to do all the following acts, deeds and things or any one of them, that is to say:-

- ❖ To acts, appear and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or revision or execution or at any other stage of its progress until its final decision.
- ❖ To present pleadings, appeals, cross objections or petitions for execution review, revision, withdrawal, compromise or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of the said case in all its stages.
- ❖ To withdraw or compromise the said or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
- ❖ To receive money and grant receipts therefore, and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
- ❖ To employ any other Legal Practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate wherever he may think fit to do so.
- ❖ I understand that the services of aforesaid lawyer are hired irrespective of the outcome of the case.

And I/We hereby agreed to ratify whatever the advocate or his substitute shall to do in the said premises.

And I/We hereby agree not to hold the Advocate or his substitute responsible for the result of the said case in consequences of his absence from the Court when the said case is called up for hearing.

And I/We hereby agree that in the event of the whole or any part of the fee agreed by me/us to be paid to the Advocate remaining unpaid, the Advocate shall be entitled to withdraw from the prosecution of the case until the same is paid.

IN THE WITNESS WHEREOF I/WE hereunto set my/our hand(s) to these present the contents of which have been explained to and understood by me/us, this 04 day of 09 2020.

(Signature or thumb impression)

(Signature or thumb impression)

(Signature or thumb impression)

Accepted subject to terms regarding fees

(AZIZ-UR-RAHMAN)

Advocate High Court

Office: Khan Plaza, Gulshone Chowk

G.T. Road Mingora, District Swat.

Cell No. 0300 907 0671

(IMDAD ULLAH)

Advocate High Court

Office: Khan Plaza, Gulshone Chowk,

G.T. Road, Mingora, District Swat

Cell No. 0333 929 7746

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

**Service Appeal No. 10533/2020**

**Muhammad Ismail, Ex- Naib Qasid, at District Public Prosecutor, office Swat.**  
**Petitioners.....**


**VERSUS**

Government of Khyber Pakhtunkhwa, Peshawar, through Secretary home,  
Peshawar and others.

**Respondents.....**

**INDEX**

<b>S.No</b>	<b>DESCRIPTION</b>	<b>Annexure</b>	<b>PAGE</b>
1.	Para wise comments	-	1-3
2.	Order Dated 29-04-2016	A	4
3.	Affidavit		5
4.	Authority Letter		6

  
(Saeed Naem)  
Director Legal  
Directorate of Prosecution  
Khyber Pakhtunkhwa

47

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

**Service Appeal No. 10533/2020**

**Muhammad Ismail, Ex-Naib Qasid, at District Public Prosecutor office, Swat.**

**Appellant...**

**Versus**

**Government of Khyber Pakhtunkhwa, Peshawar, through Secretary Home,  
Peshawar & others.**

**Respondents...**

**JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO 1,2 & 3.**

**PRELIMINARY OBJECTIONS:**

1. That this Hon'ble Tribunal has got no jurisdiction to entertain the instant service appeal.
2. That appellant has got no cause of action to file the instant service appeal.
3. That the instant service appeal is not maintainable in the present form.
4. That the appellant has got no locus stand to move the instant appeal in hand.
5. That the appellant has not come to this Honorable Tribunal with clean hands.
6. That the appellant has concealed material facts from this Honorable Tribunal.
7. That the instant service appeal is bad for mis-joinder and non-joinder of necessary parties.
8. That the appellant is estopped by his own conduct to file the instant appeal.
9. That the instant appeal is embodiment of falsehood and misrepresentation, hence, bad in law and facts both.

**Reply on Facts:**

- i. Para-i pertains to record, however, the appellant is no more a Government Servant, as he was removed from service vide Order dated 29-04-2016 (Annexure-A) by the competent authority.



- 2.
- ii. Para-ii is correct to the extent that the appellant was charged in case FIR No. 587, dated 05-10-2013 u/s 419/ 420/ 468/ 471-PPC, P.S Saidu Sharif, District Swat, however rest of the para is misrepresentation as the appellant was charged for preparing forged attested copies of revenue record for releasing an accused of case FIR No. 392, dated 26-09-2013 u/s 3/4-PO, P.S Banr with the intention to cheat the staff of Additional Sessions Judge, Swat Court.
  - iii. Para-iii is misconceived; moreover, the Judicial and police departments are in better position to respond for the same as the para pertains to the investigation and Judicial proceedings.
  - iv. Para-iv needs no comments.
  - v. Para-v is misleading and misrepresentation, hence denied. As the appellant was associated with the inquiry proceedings as admitted by the appellant himself to the effect of submitting a detailed reply to the inquiry officer. Moreover, the inquiry was conducted in accordance with Khyber Pakhtunkhwa Government Service (Efficiency and Disciplinary) Rules, 2011 and after observing all the legal and codal formality, the appellant was rewarded the punishment of removal from service.
  - vi. Para-vi pertains to record, hence needs no comments.
  - vii. Para-vii is incorrect, hence denied. The inquiry officer conducted the inquiry in accordance with the KP (E & D) Rules, 2011 and in line with the directions of the Hon'ble Tribunal vide judgment dated 03-06-2015. The appellant was associated with the inquiry proceedings, his statement was recorded and the entire proceedings were conducted in his presence. The inquiry officer after fulfilling all the legal and codal formalities submitted his recommendation to the competent authority.
  - viii. Para-viii as already explained in para No. v mentioned above.
  - ix. Para-ix is incorrect, hence denied. The appellant has been removed from service by imposing major penalty by the competent authority vide order dated 29-04-2016. Therefore, the appellant is not entitled of any pension. Moreover, the appellant has not appended any document in support of his contention.
  - x. Para-x is based on falsehood and gross mis-statement, as no departmental appeal whatsoever has been received by the respondents. Moreover, the **Annexure-E**

enclosed by the appellant in his appeal does not bear seal of receiving respondents.

xi. That the appellant has got no case at all; let alone, the grounds.

**GROUND:**

- a. Para-a is incorrect, hence denied. As replied vide paras-ix and x of the facts.
- b. Para-b is incorrect, hence, denied. The appellant was always treated in accordance with law.
- c. Para-c is incorrect, hence, denied. No any law / rules has been violated by the replying respondents.

**PRAYER:**

In light of the above facts and circumstances of the case, the Service Appeal is devoid of any legal substance; therefore, the same may kindly be dismissed with special cost, please.

Sp Home Secretary,  
Home & Tribal Affairs Department  
Khyber Pakhtunkhwa.  
**(Respondent No.1)**  
Home Secretary,  
Khyber Pakhtunkhwa

Director General Prosecution,  
Directorate of Prosecution,  
Khyber Pakhtunkhwa.  
**(Respondent No.2)**  
DIRECTOR GENERAL  
Directorate of Prosecution  
Home & Tribal Affairs Department  
Khyber Pakhtunkhwa

District Public Prosecutor,  
Swat  
**(Respondent No.3)**

Annex-A

4



DIRECTORATE OF PROSECUTION  
KHYBER PAKHTUNKHWA  
Dated Peshawar 29 April, 2014  
Office Phone # 091-9214259 / 091-9214262  
Fax # 091-9214289  
Email: [pprosecution@yahoo.com](mailto:pprosecution@yahoo.com)

17

Annexure D

**ORDER:**

No. DP/E&A/

PF/549-15

Dated 29-04-2014.

Whereas, Mr. Muhammad Ismail, Naib Qasid during his tenure at DPP Office Swat was charged for preparation of forged documents for the release of accused namely Musz with the intention to cheat the staff of Additional Session Judge, Swat and a criminal case to this effect was registered against him vide FIR No, 587 dated 05-08-2013 u/s 419/420/468/471 PPC in the Police Station Saibu Sharif, Swat.


7/1/22

Whereas, he was charge sheeted vide order No. DP/E & A/1(60)/7883-85 dated 03.09.2015 and Muhammad Ibrahim Khan, District Public Prosecutor Dir Lower was appointed as inquiry officer to conduct De-novo Inquiry against him under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules 2011 as per compliance of order dated 03.06.2015 passed by Khyber Pakhtunkhwa Service Tribunal, Camp Tribunal at Swat, and the charge was proved against him.

Whereas, a Final Show Cause Notice was served upon the accused official and also called upon for personal hearing, however, he could not move a convincing reply.

And whereas, the accused official hereinabove has been found guilty of misconduct under the E & D Rules, 2011.

Therefore, I Muhammad Asif Khattak, Director General Prosecution Khyber Pakhtunkhwa being Competent Authority, under Rule-4(1)(b)(iii) of the Rules ibid, do hereby impose major penalty of "removal from service" upon Muhammad Ismail, accused official, who was posted as Naib Qasid at District Public Prosecutor Office, Torghar, with immediate effect.

  
(Muhammad Arif Khattak)  
Director General Prosecution  
Khyber Pakhtunkhwa

Attested  
  
Advocate

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

**Service Appeal No. 10533/2020**

**Muhammad Ismail, Ex- Naib Qasid, at District Public Prosecutor, office Swat.**  
**Petitioners.....**

**VERSUS**

**Government of Khyber Pakhtunkhwa, Peshawar, through Secretary home,**  
**Peshawar and others.**

**Respondents.....**

**AFFIDAVIT**

I, Saeed Naeem, Director Legal, Directorate of Prosecution do hereby solemnly affirm and declare on oath that the contents of the Para wise reply in the above cited Service Appeal No. 10533/2020, are true and correct to the extent of office record and belief and nothing has been concealed from this Hon'able court.

Deponent

CNIC No. 15362-0903670-5  
Cell No. 03005749006

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**

**PESHAWAR**

**Service Appeal No. 10533/2020**

**Muhammad Ismail, Ex- Naib Qasid, at District Public Prosecutor, office Swat.  
Petitioners.....**

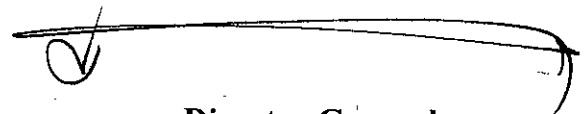
**VERSUS**

**Government of Khyber Pakhtunkhwa, Peshawar, through Secretary home,  
Peshawar and others.**

**Respondents.....**

**AUTHORITY LETTER**

**It is certified that Mr. Saeed Naeem, Director Legal, Directorate of  
Prosecution is authorized for submission of para wise comments alongwith its enclosures  
and to appear before the Khyber Pakhtunkhwa Service Tribunal, Swat Camp Court on  
behalf of Respondents in Service Appeal No. 10533/ 2020.**



**Director General  
Directorate of Prosecution  
Home & Tribal Affairs Department  
Khyber Pakhtunkhwa  
Peshawar.**