

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
CAMP COURT DERA ISMAIL KHAN

Service Appeal No. 7496 of 2021

Muhammad Adil .....(Appellant)

V E R S U S

Govt. of Khyber Pakhtunkhwa through Secretary  
Excise & Taxation & Others. ....(Respondents)

APPLICATION FOR SETTING ASIDE THE  
ORDER DATED 17/01/2023 WHEREIN  
THE RESPONDENTS # 1, 2, 3 & 6 WERE  
PROCEEDED EX-PARTE AND THEIR  
RIGHT TO FILE REPLY/ COMMENTS WAS  
STRUCK OF.

Respectfully submitted that;

1. That the above titled civil suit is pending adjudication before this Hon'ble Court and now fixed for 22/03/2023.

2. That on previous date of hearing i.e. on 17/01/2023, the petitioners/respondents # 1, 2, 3 & 6 were placed ex-parte and their rights to file reply stands struck off.
3. That absence of the petitioners/respondents was not intentionally but due to unavoidable circumstances.
4. That on date fixed i.e. 17/01/2023, due to Nimaz-e-Janaza of respectable Senior Advocate (Abdul Latif Lala), there was complete strike, therefore, the counsel for the petitioners/respondents could not attend the Court for submission of reply/comments.
5. That valuable rights of the petitioners/respondents are involved, if they were not allowed to defend them proper, they would received irreparable loss.
6. That petitioners/respondents would not only submit written reply/comments as per direction of the court but will also vigilantly to the proceedings and directions of this Hon'able Court.

Therefore, it is humbly requested that ex-parte proceedings initiated against the petitioners/respondents may graciously be allowed and the petitioners/respondents may also be allowed to submit written reply/comments.

Petitioners/respondents

Through

Dated 21/03/2023

Aftab Hussain  
Advocate High Court  
Cell 03339222269



**AFFIDAVIT**


I, Aftab Hussain, Advocate (counsel for petitioners) do hereby affirm and declare as per information furnished by my client that the contents of the Application are true and correct to the best of my Knowledge and belief and nothing has been concealed from this Hon'ble Court.



Deponent

Aftab Hussain  
Advocate

21201-9017753-5



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL CAMP**

**COURT D I KHAN**

In Service Appeal # 7496/2021

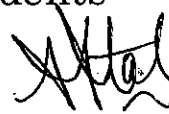
MUHAMMAD ALI

**VERSUS**

GOVT OF KPK & OTHERS

**INDEX**

<b>S#</b>	<b>Description of Documents</b>	<b>Annexure</b>	<b>Pages</b>
1.	COMMENTS		1-3
2.	AFFIDAVIT		4
3.	COPY OF ORDER DATED 5/11/2002	A	5
4.			

Through Respondents  
  
Aftab Hussain  
Legal Advisor  
ET & NC Deptt  
Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL CAMP**  
**COURT D I KHAN**

In Service Appeal # 7496/2021

Muhammad Ali s/o Payao Khan presently posted as Computer Operator Excise & Taxation Office, D.I. Khan.

(Appellant)

VERSUS

The Govt. of Khyber Pakhtunkhwa through Secretary Excise, Taxation & Narcotics Control Department, Khyber Pakhtunkhwa & Others.

(Respondents)

**PARA WISE REPLY/COMMENTS ON BEHALF OF RESPONDENTS**

**NO.1 to 3 & 6**

**Respectfully Sheweth,**

**Preliminary Objections:**

- i. That the Appellant has got no cause of action and locus standi to file the instant appeal.
- ii. The appellant has concealed material facts from this Hon'ble Tribunal.
- iii. That the appeal is not maintainable and is incompetent in the eyes of law in the present form.
- iv. That the appellant is estopped by his own conduct to file this appeal.
- v. That the appellant has not come to the tribunal with clean hands and has suppressed all relevant and material facts.8

- vi. That the appeal has been mis-oriented, mis-constructed and mistakenly drawn and is incompetent in its present form and context, and is therefore, liable for rejection.
- vii. That the appeal in hand is badly barred by law and limitation.
- viii. That the appeal is bad for mis-joinder and non-joinder of necessary parties.

ON FACTS:-

1. Pertains to record.
2. Needs no comments.
3. Needs no comments, have no concerned with the reply of respondents.
4. Needs no comments, have no concerned with the reply of respondents.
5. Pertains to record, furthermore appellant had accept the Key Punch Operator that time being i.e. 23rd July 2001, and office order dated August 13th 2001, and already got perks and privileges of BPS-16 and no rules exists to change the post/ designation after 20 years service now. (Copy of Order dated 5/11/2002 is Annexure "A")
6. Needs no comments.
7. Incorrect, hence denied.
8. Needs no comments, have no concern with the replying respondents.

9. Incorrect, detail reply had already been given in above paras.

10. Incorrect, hence denied,

11. Incorrect, hence denied.

12. Incorrect, detail reply had already given in above paras.

13. Incorrect, the appellant changed from Steno to post of KPO and also changed his department on his will and already explained in Para 5.

14. Para No. 14 of the appeal is Incorrect, against the facts, hence denied.

15. The replying respondents may kindly be allowed to raise additional grounds and facts during the arguments.

*It is, therefore, humbly prayed on acceptance of these parawise comments, the appeal being devoid of any legal merits, may very graciously be dismissed.*

*Any other relief which this Hon'ble Tribunal deems fit may also graciously be extend in favor of respondents.*

Secretary

Excise, Taxation &  
Narcotics Control  
Department KPK  
Respondent No.1

The Director General Excise,  
Taxation & Narcotics Control  
Department KPK Respondent  
No.2

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL CAMP**  
**COURT D I KHAN**

In Service Appeal # 7496/2021

MUHAMMAD ALI

**VERSUS**

GOVT OF KPK & OTHERS

**AFFIDAVIT**

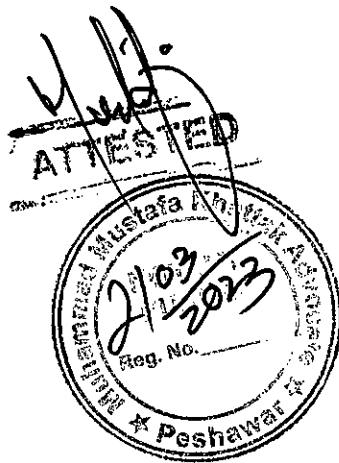
I, Tariq Ahmad (Superintendent), do hereby solemnly affirm and declare on oath that the contents of the Instant Comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Court.

DEPONENT

  
Tariq Ahmad

CNIC No-17301-1499925-3

PH/ Cell No. 0314-9135741





Annex A

5

Annex B 17

OFFICE OF THE  
DISTRICT COORDINATION OFFICER  
BANNU

No. 11357-68 DCO/Estab:1-5

Dated Bannu the 05/11/2002

OFFICE ORDER

Consequent upon the abolition of 4 posts of Computer Operators, one post of Stenographer and creation of 2 posts of Computer Assistants in DCO's office, one post of Steno/Computer Operator & one post of Computer Assistant in Public Safety Commission, the following officials are hereby re-designated/adjusted on the posts as mentioned against each:-

Sl. No.	Name of official	Cadre	Posting/office before this order	Posting/office after this order
1.	Shakib Khan	Steno (BPS-12)	Computer Operator (B-11) DCO's Office (presently working as Steno to ACO)	As Steno (B-12) DCO office vice Mr Ghulam Manzoor Shah
2.	Ghulam Manzoor Shah	-do-	Steno (B-12) DCO office (presently working with Distt: Nazim)	As Steno/Computer Operator (B-12) in Public Safety Commission against the vacant post
3.	Mohd: Ali	-do-	Steno (B-12) DCO Office	As KPO (B-11) in Excise & Taxation Office Bannu in his own pay & scale vice Mr. Ihsanullah, J/Clk.
4.	Ihsanullah	Jr. Clerk (BPS-5)	KPO (B-11), Excise & Taxation office Bannu	As Jr: Scale Steno/Computer Operator (B-12) in his own pay and scale in Agriculture Department, Bannu against the vacant post.
5.	H.Asmat Ullah	-do-	Computer Operator (B-11) DCO office	As Computer Assistant (B-11) DCO Office Bannu in his own pay and Scale against the newly created post
6.	Hafiz Riaz Khan	-do-	-do-	-do-
7.	Hazrat Ali	-do-	-do-	As Computer Assistant (B-11) Public safety Commission, Bannu in his own pay and Scale against the newly created post

Sd/-  
District Coordination Officer,  
Bannu

Even No. & Date

Copy for information and action to:-

1. The Secretary to Govt. of NWFP, LGE&RDD, Peshawar.
2. The Secretary to Govt. of NWFP, Finance Deptt: Peshawar.
3. The EDO (Finance & Planning), Bannu.
4. The Secretary Public Safety Commission, Bannu.
5. The EDO (Agriculture), Bannu.
6. The Excise and Taxation Officer, Bannu.
7. The District Accounts Officer, Bannu.
8. The Budget Assistant of DCO's Office Bannu.
9. The PS to District Nazim, Bannu.
10. The PS to DCO, Bannu.
11. The District Nazir, DCO's Office Bannu.
12. The Officials concerned.

Mr. Muhammad Ali  
Steno

Ames: Taz  
Assistant Coordination Officer,  
Bannu.