

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 6882 of 2020

Naseer Badshah s/o Aziz Khan, Ex-Naib Qasid Revenue Academy Hayatabad, Peshawar, Khyber Pakhtunkhwa
Markez Karoona, Domail Tehsil & District Karak **Appellant** *4549*
Diary No. *28/3/2023*
Dated *28/3/2023*

V E R S U S

1. Govt: of Khyber Pakhtunkhwa through Secretary/Senior Member, Board of Revenue, Civil Secretariat, Peshawar.
2. Principal Revenue School/Academy Phase-III Chowk Hayatabad, Peshawar.
3. Director Land Records, Khyber Pakhtunkhwa, Peshawar.
4. Deputy Commissioner, Karak.
5. Assistant Commissioner, Karak **Respondents**


AFFIDAVIT

I, Abdur Rehman, Superintendent Land Records, Khyber Pakhtunkhwa, Peshawar, do hereby solemnly affirm on Oath that the contents of the attached reply to the Service Appeal No. 6882 of 2020 are true and correct to the best of knowledge and believe and that nothing therein has been concealed or withheld from this Honourable Court.


Deponent

1 7 1 6 2 1 1 7 6 3 1 2 5

Identified by


Advocate General,
Khyber Pakhtunkhwa.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 6882 of 2020

Naseer Badshah s/o Aziz Khan, Ex-Naib Qasid Revenue Academy Hayatabad, Peshawar R/O
Markez Karoona, Domail Tehsil & District Karak **Appellant**

V E R S U S

1. Govt: of Khyber Pakhtunkhwa through Secretary/Senior Member, Board of Revenue, Civil Secretariat, Peshawar.
2. Principal Revenue School/Academy Phase-III Chowk Hayatabad, Peshawar.
3. Director Land Records, Khyber Pakhtunkhwa, Peshawar.
4. Deputy Commissioner, Karak.
5. Assistant Commissioner, Karak **Respondents**

INDEX

S. No.	Description of Documents	Annexure	Page
1.	Affidavit		01
2.	Para-wise comments		02-03
3.	Termination order	A	04
4.	Appeal regretted by Senior Member, Board of Revenue	B	05
5.	Appeal No. 1203/2019	C	06
6.	Notice through Assistant Commissioner Karak	D	07
7.	Explanation	E	08


Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 6882 of 2020

Naseer Badshah s/o Aziz Khan, Ex-Naib Qasid Revenue Academy Hayatabad, Peshawar R/O
Markez Karoona, Domail Tehsild & District Karak **Appellant**

V E R S U S

1. Govt: of Khyber Pakhtunkhwa through Secretary/Senior Member, Board of Revenue, Civil Secretariat, Peshawar.
2. Principal Revenue School/Academy Phase-III Chowk Hayatabad, Peshawar.
3. Director Land Records, Khyber Pakhtunkhwa, Peshawar.
4. Deputy Commissioner, Karak.
5. Assistant Commissioner, Karak **Respondents**

Comments on behalf of Respondents No. 1 to 3 are as under:-

PRELIMINARY OBJECTIONS

- a. That the appellant was a contractual employees and was not a regular Civil Servant, therefore, has no right for filing appeal before this Honorable Tribunal.
- b. That the Appellant was earlier removed from service on the ground of his misconduct, misbehavior, lethargic attitude and his willful absence.
- c. That the Appellant has got no cause of action.
- d. That the Appellant has not come with clean hands to this Honorable Tribunal.
- e. That the Appellant has no locus standi to bring the present appeal.
- f. That the Appellant has no legal grounds in support of the appeal.
- g. That the Appeal is bad for non-joinder and mis-joinder of necessary parties.
- h. That the Appeal of the Appellant is barred by law and limitation.
- i. That the Appeal of the Appellant comes under res-judicata.
- j. That this Honorable Tribunal has got no jurisdiction to entertain the present appeal.

FACTS

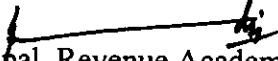
- A. Para A is incorrect. The appellant was removed from service vide Notification dated 19.06.2019 (**Annex-A**) on account of prolonged absence by Director Land Records after fulfilling all codal formalities. The appellant preferred Departmental Appeal to Senior Member, Board of Revenue against the order of Director Land Records, Khyber Pakhtunkhwa. The same was rejected by Senior Member, Board of Revenue vide order dated 02/09/2019 (**Annex-B**). The Appellant approached Honorable Service Tribunal through Service Appeal No. 1203/19 dated 04/11/2018, which was dismissed being time barred (**Annex-C**). Now the Appellant filed another service appeal for reinstatement on 17/06/2020.
- B. Para B is Incorrect. The appeal is time barred as Senior Member, Board of Revenue rejected the Departmental appeal on 02/09/2019 and the appellant could not file appeal in stipulated time, hence the appeal is time barred and is liable to be dismissed.
- C. Para C is incorrect.


GROUND:


- a. Incorrect. The impugned order has been passed according to law and rules.
- b. Incorrect. All the codal formalities are fulfilled.
- c. Incorrect. The appellant was served with notice on 16.04.2019 in which he was informed that he has not submitted reply to prior explanations and was directed to submit the same and observe duty, which was received by the appellant on 25/04/2019 through Assistant Commissioner Karak (**Annex-D**).

- d. Incorrect. The appellant was given full chance to submit his reply / stance first by issuing explanation and then the notice (Annex-E) mentioned time and again and the order was made following prescribed rules.
- e. Incorrect.
- f. That the respondent also seek provision to raise further ground at the time of arguments.

It is therefore prayed and requested to kindly keeping in view the above circumstances, the appeal of the appellant being contractual employee and having no force of law may very kindly be dismissed with cost.


Principal, Revenue Academy Peshawar
(Respondent No. 2)


Director Land Records,
Khyber Pakhtunkhwa
(Respondent No. 3)


Senior Member,
Board of Revenue, Khyber Pakhtunkhwa
(Respondent No. 1)



04

GOVERNMENT OF KHYBER PAKHTUNKHWA
(DIRECTOR LAND RECORDS & CHIEF SETTLEMENT OFFICER)
REVENUE AND ESTATE DEPARTMENT
PHONE # 091-9210057 FAX# 091-9213989

Dated Peshawar the 19/06/2019

NOTIFICATION.

No. 7247 /LR-I/128L. Whereas; Mr. Naseer Badshah while posted as Naib Qasid (BS-03) in Revenue School/Academy Peshawar was proceeded against under the prevailing Policy/Rules for non-compliance of the orders of the competent authority as he was directed to report for official duty at the said School/Academy vide communication letters dated, 27.02.2018 and dated 16.04.2018 respectively, but he failed to comply with till 17.06.2019 without any information or prior permission as per report of the Principal/Instructor of the School/Academy ibid.

AND WHEREAS; he was issued show cause/notice, but he did not bother to comply with and remained absent from duty till 17.06.2019.

AND WHEREAS; being contract/temporary employee, he was given final notice and given opportunity to mend his way but yet to report as such was show caused/Noticed.

AND WHEREAS; I, Muhammad Khalid Zaman, Director Land Records, Board of Revenue, Khyber Pakhtunkhwa, after having examined the charges, evidence produced & recommendation of Principal Revenue School/Academy.

AND THEREFORE; I, as competent authority in exercise of the power under Rule/Policy, the services as Chowkidar Revenue School/Academy of Mr. Naseer Badshah Naib Qasid (Revenue School/Academy Peshawar) are hereby terminated with immediate effect.

Director Land Records,
Khyber Pakhtunkhwa


Endst: No. 7248-255 /LR-I/128L

Copy forwarded to the:-

- 1) Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2) Deputy Commissioner, Karak.
- 3) Principal Revenue School/Academy, Peshawar.
- 4) Assistant Commissioner (Revenue), Karak.
- 5) District Accounts Officer, Karak.
- 6) Private Secretary to Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
- 7) Official concerned.
- 8) Office order file.

Director Land Records,
Khyber Pakhtunkhwa

05

	<p style="text-align: center;">GOVERNMENT OF KHYBER PAKHTUNKHWA BOARD OF REVENUE REVENUE AND ESTATE DEPARTMENT PHONE # 091-9210057 FAX # 091-9213989 E-MAIL: LANDRECORD:KPK@GMAIL.COM</p>
---	---

Facebook ID: www.facebook.com/landrecord.kpk Twitter ID: @Landrecord.kpk

No. 5787 /LR-I/Appeal/Naseer Badshah
Dated Peshawar the 2 /09/2019


To,

Mr. Nasser Badshah,
Naib Qasid, Revenue Academy, Peshawar

SUBJECT: REPRESENTATION/APEAL AGAINST THE IMPUGENED
NOTIFICATION NO.7247/LR-I/128 DATED 19/06/2019.

Memo:


I am directed to refer to your departmental appeal dated, 03/07/2019 on the subject noted above and to state that your appeal has been examined and filed by the competent authority.


Assistant Secretary (Estab:),
Khyber Pakhtunkhwa

No. 5288-81 /LR-I/Appeal/Naseer Badshah

Copy forwarded to the the:-

- 1) Principal, Revenue Academy, Peshawar.
- 2) Assistant Commissioner, Karak
- 3) PS to Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
- 4) District Accounts Officer, Karak


Assistant Secretary (Estab:),
Khyber Pakhtunkhwa

H
ATTESTED

+ (26)

BEFORE THE WORTHY CHAIRMAN KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1203/2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1320

Dated 30/9/2019

Naseer Badshah Son of Aziz Khan
R/o Markez Karoona, Domail
Tehsil & District Karak.....

Appellant

V E R S U S

- 1) Govt. of Khyber Pakhtunkhwa through Secretary/Senior member Board of Revenue Civil Secretariat, Peshawar
- 2) Principal Revenue School/Academy Phase-III Chowk Hayatabad, Peshawar
- 3) Director Land Record Khyber Pakhtunkhwa
- 4) Deputy Commissioner Karak
- 5) Assistant Commissioner Karak

..... Respondents

Filed to-day
Registrar
30/9/19


APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974 AGAINST THE ORDER NO.5787/LR-1
DATED 02.09.2019. WHEREBY THE
DEPARTMENT APPEAL OF THE APPELLANT
AGAINST THE IMPUGNED ORDER

RECEIVED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

08

D. No: 418/ACC
19-4-019.

0333-9711068

	OFFICE OF THE PRINCIPAL REVENUE ACADEMY PHASE -III CHOWAK HAYATABAD,PESHAWAR
---	---

No. 403-6 /RA(Shif: RA To Pesh)
Dated Peshawar the 16/04/2019

To,

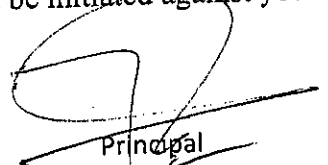
✓
Naseer Badshah, Naib Qasid
Revenue Academy, Phase -III Chawak Hayatabad, Peshawar.

THROUGH: ASSISTANT COMMISSIONER, KARAK

SUBJECT: NOTICE FOR JOINING DUTY

Memo:

Reference explanation No. RA/Budget/5056-64, dated, 27.02.2019 on the subject noted above and to inform you that you that despite of expiry of stipulated period your reply to the said explanation is not received as yet, You are therefore once again directed through this notice to submit your reply within a week and observed your duty in Revenue Academy situated at Phase-III Chowk Hayatabad, Peshawar, otherwise strict disciplinary action as required under the prevailing rules should be initiated against you.


Principal
Revenue Academy, Peshawar

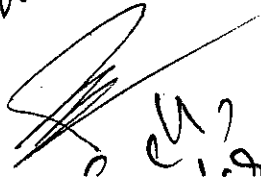
Endst: No. & date even.

Copy forwarded to the:-

- 1) Director Land Records, Khyber Pakhtunkhwa, Peshawar.
- 2) PS to Senior Member, Board of Revenue, Khyber Pakhtunkhwa.

Principal
Revenue Academy, Peshawar

*He
Serve the notice
upon the official*


2/4/19