

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 875/2015

Date of Institution ... 03.08.2015

Date of Decision ... 13.01.2022

Shafi Ullah Khan S/o Sahib Jan, R/o Vill Abdul Khel, Lakki Marwat, Ex-Private Secretary to Deputy Commissioner Lakki Marwat. ... (Appellant)

VERSUS

Provincial Govt. through Chief Minister, Govt. of Khyber Pakhtunkhwa Peshawar and three others. ... (Respondents)

Taimur Ali Khan,
Advocate

... For Appellant

Kabirullah Khattak,
Additional Advocate General

... For respondents

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

CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

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

This judgment shall dispose of the instant service appeal as well as connected service appeal No. 753/2014 of the appellant, as common question of law and facts are involved therein.

02. The appellant vide his service appeal No. 753/2014 had challenged the impugned order dated 29-01-2014 of his reduction to lower post, but at the outset, the learned counsel informed that the appellant retired from service in BPS-17, are no more interested to pursue this case, hence, the appeal No. 753/2014 is disposed of accordingly.

03. The appellant in his service appeal No. 875/2015 had challenged his compulsory retirement from service and brief facts of the case are that the

appellant while serving as Private Secretary to Deputy Commissioner Lakki Marwat, was proceeded against on the charges of misconduct and was ultimately awarded with major punishment of compulsory retirement from service vide order dated 20-02-2015. Feeling aggrieved, the appellant filed departmental appeal dated 06-03-2015, which was rejected vide order dated 14-07-2015, hence the instant service appeal with prayers that the impugned orders dated 20-02-2015 and 14-07-2015 may be set aside and the appellant may be re-instated in service with all back benefits.

04. Learned counsel for the appellant has contended that till date no charge of inefficiency or misconduct was ever conveyed to the appellant nor he knows about the allegations; that it was mandatory upon the respondents to serve the appellant with charge sheet/statement of allegations, which however, was not done in case of the appellant, thus skipped a mandatory step; that appointments were made by Ex-EDO of Education Department and the appellant had no authority to look into the matter as to whether such appointments were legal or otherwise; that inquiry was not conducted as per mandate of law, neither any statement of witness was recorded in presence of the appellant nor he was afforded opportunity to cross-examine such witnesses; that no written order is available to prove that appellant was part of recruitment process of Junior Clerks; that personal hearing being mandatory was not afforded to the appellant by the concerned authority but my personal hearing was referred to Secretary Establishment, who was even not aware of the subject matter; that show cause notice did not bear complete proceedings which was mandatory for response to such notice, but neither any inquiry report nor other related material were handed over to the appellant to respond in a befitted manner; that the appellant was awarded with major punishment in total disregard of law; that the appellate order dated 14-07-2015 does not bear any reason, which is against the verdict of the Apex Court, so both the impugned orders are based on malafide, therefore, liable

to be set aside; that the appellant's date of superannuation was 21-03-2016, whereas he was compulsory retired on 20-02-2015 for no fault of him. The learned counsel prayed that grave injustice has been done to the appellant and in order to meet the ends of justice, the impugned order dated 20-02-2015 may be set aside appellant may be considered as re-instated in service and he may be held entitled for normal retirement on the date of his superannuation i.e. 21-03-2016 with all consequential benefits.

05. Learned Additional Advocate General for the respondents has contended that the appellant being representative of Deputy Commissioner has signed merit list of illegal/irregular appointments made in Education Department, hence is equally responsible for the misconduct; that the appellant being representative of DC Lakki, was responsible to check/scrutinize the merit list of the candidates; that the appellant was properly proceeded against and was afforded opportunity of defense but he failed to prove his innocence; that major penalty of compulsory retirement was awarded on the recommendations of the inquiry officer.

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

07. Available record would suggest that the appellant attended meeting of a Selection Committee mandated for selection of Junior Clerks in Education Department. The appellant is shown as representative of the Deputy Commissioner, who signed papers alongwith other members of the committee and such committee had recruited Junior Clerks, which later on were found as illegal/irregular and to this effect, an inquiry is stated to be conducted, which had held all the Members as well as Chairman of the committee guilty for misconduct. Since no charge sheet/statement of allegation is available on record to show as to what were the specific allegations and which also strengthen the contention of the appellant that no charge sheet was served upon the appellant. The august Supreme Court of Pakistan in its judgment reported as 2000 SCMR 1743 has held

that framing of charge and its communication to civil servant alongwith statement of allegations was not mere a formality but was a mandatory requisite which was to be followed, but in case of the appellant no charge sheet was served upon the appellant, thus skipped a mandatory pre-requisite and on this score alone, the impugned order is liable to be set aside. The respondents were directed repeatedly by this Tribunal to produce inquiry report conducted to this effect, but they failed to provide such report, as no such report was available with them. It otherwise is a well settled legal proposition that regular inquiry is must before imposition of major penalty of removal from service, which however was not done in case of the appellant and the appellant was condemned unheard. Reliance is placed on 2009 PLC (CS) 650. The august Supreme Court of Pakistan in another judgment reported as 2008 SCMR 1369 has held that in case of imposing major penalty, the principles of natural justice required that a regular inquiry was to be conducted in the matter and opportunity of defense and personal hearing was to be provided to the civil servant proceeded against, otherwise civil servant would be condemned unheard and major penalty of dismissal from service would be imposed upon him without adopting the required mandatory procedure, resulting in manifest injustice. Placed on record is a show cause notice dated 25-05-2014, which was served upon the appellant and the appellant, responded to the show cause notice denying the allegations leveled against him. Very little information was offered by the respondents regarding disciplinary proceedings, which shows that the appellant has not been treated in accordance with law. What we have gathered from another case titled as Mir Azam Vs Education and others in Service Appeal No. 1312/2014, which was decided by this Tribunal, vide judgment dated 14-10-2021. Mir Azam was the one, who being District Education Officer was Chairperson of the Recruitment Committee and who also was proceeded against alongwith the appellant and was awarded with major punishment of removal from service, but his case was accepted by this Tribunal vide judgment dated 14-10-2021 on the same very grounds that he was not treated in accordance with law.

08. In the instant case too, we are of the considered opinion that disciplinary proceedings against the appellant were conducted in a haphazard manner, which are replete with deficiencies. The appellant was not treated in accordance with law and the action taken against the appellant was discriminatory, unlawful and based on malafide, which is not tenable in the eye of law, hence is liable to be set at naught.

09. In view of the foregoing discussion, the instant appeal is accepted. The impugned order dated 20-02-2015 and 14-07-2015 are set aside and the appellant is held entitled as re-instated into service. Since the appellant reached his age of superannuation on 21-03-2016, hence he stands entitled as normally retired from service on the date of his superannuation i.e. 21-03-2016 with all consequential benefits, if any arising out of his normal retirement. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
13.01.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN




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


ORDER
13.01.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak,
learned Additional Advocate General for the respondents present.
Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the
instant appeal is accepted. The impugned order dated 20-02-2015 and 14-
07-2015 are set aside and the appellant is held entitled as re-instated into
service. Since the appellant reached his age of superannuation on 21-03-
2016, hence he stands entitled as normally retired from service on the
date of his superannuation i.e. 21-03-2016 with all consequential benefits,
if any arising out of his normal retirement. Parties are left to bear their
own costs. File be consigned to record room.

ANNOUNCED
13.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


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

29.07.2021

Junior to counsel for appellant present.

Mr. Usman Ghani learned District Attorney for respondents present.

Former made a request for adjournment as senior counsel is busy before Hon'ble Peshawar High Court; granted. To come up for arguments on 15.11.2021 before D.B.



(Rozina Rehman)
Member (J)

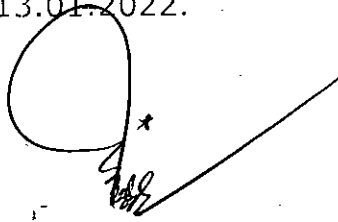


Chairman

15.11.2021

Appellant alongwith his counsel Mr. Arbab Saif-ul-Kamal, Advocate, present. Mr. Asif Masood Ali Shah, Deputy District Attorney 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 before the D.B on 13.01.2022.



(Mian Muhammad)
Member (E)

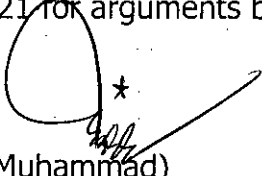


(Salah-Ud-Din)
Member (J)

24.11.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

Former requests for adjournment as learned senior counsel for the appellant is busy before the Honourable Peshawar High Court in various cases today. Adjourned to 08.01.2021 for arguments before the D.B.



(Mian Muhammad)
Member(E)


Chairman

08.01.2021

Counsel for the appellant and Addl. AG for the respondents present.

Former requests for adjournment as the case, if opened, may not be concluded today in the remaining time. Adjourned to 14.4.2021 for hearing before the D.B.


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


Chairman

14.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 29.07.2021 for the same as before.


Reader

18.06.2020

Learned counsel for the appellant for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present.

Former requests for adjournment as he is not in ~~position~~ ^{possession} of the brief today.

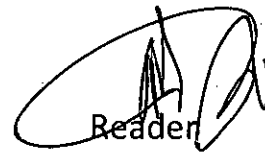
Adjourned to 28.08.2020 before D.B


Member


Chairman

28.08.2020

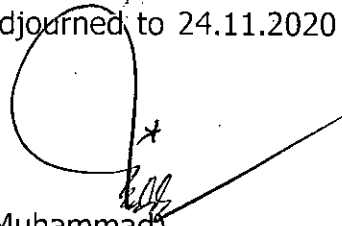
Due to summer vacation, the case is adjourned to 23.10.2020 for the same as before.


Reader

23.10.2020

Junior to counsel for the appellant and Mr. Muhammad Jan, DDA for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 24.11.2020 for hearing before the D.B.


(Mian Muhammad)
Member


Chairman

875/2015

23.05.2019

Nemo for the appellant. Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG alongwith M/S Muhammad Arif and Farmanullah, Superintendents for the respondents present.

The record shows that on at least five previous occasions the appeal was adjourned upon the request of appellant/his learned counsel. Today the case has been called many times, however, the appellant remained unrepresented. It is about 12.00 P.M and due to absence of appellant/his learned counsel the appeal is dismissed for non-prosecution. File be consigned to the record room.


Member


Chairman

Announced
23.05.2019

27.02.2020

Vide order of today i.e. on 27.02.2020, passed in restoration application No.229/2019, the present service appeal has been restored. To come up for arguments on 30.03.2020 before D.B.

Member


Member

30.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 18.06.2020 before D.B.


Reader

18.01.2019


Counsel for the appellant present. Mr. Ziaullah, DDA for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 13.03.2019 before D.B.



(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

13.03.2019

Junior to counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 08.04.2019 before D.B.



Member


Member

08.04.2019

Counsel for the appellant present. Mr. Ziaullah, DDA alongwith Mr. Farmanullah, Supdt for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 23.05.2019 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

31.10.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 23.11.2018.


READER

~~Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. To come for arguments on 23.11.2018 before D.B.~~

23.11.2018

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney alongwith Mr. Javed Assistant and Mr. Farman Ullah Superintendent for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 14.01.2019 before D.B.


Member


Member

14.01.2019


Junior to counsel for the appellant present. Mr. Farmanullah, Supdt alongwith Mr. Muhammad Jan, DDA for respondents present. Junior to counsel for the appellant seeks adjournment on the ground that senior counsel for the appellant is not available today. To come up for arguments on 18.01.2019 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

12.04.2018


Counsel for the appellant and Mr. Ziaullah, DDA alongwith Farmanullah, Supdt. for the respondents present. Counsel for the appellant seeks adjournment. Granted. To come up for arguments on 28.06.2018 before the D.B.


Member


Chairman

28.06.2018

Appellant in person and Mr. Muhammad Jan, Deputy District Attorney for the respondents present: Appellant seeks adjournment as his counsel is not in attendance. Adjourned. To come up for arguments on 21.08.2018 before D.B.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

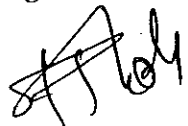
21.08.2018


*Due to Eidul Azha vacation,
the case is adjourned to 17-10-18.*


Reader

17.10.2018

Junior to counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General alongwith Mr. Farman ullah Superintendent for the respondents present. Junior to counsel for the appellant seeks adjournment that ~~his~~ senior counsel is not in attendance. Adjourned. To come up for arguments on 31.10.2018 before D.B.


Member


Member

875/15

25.10.2017

Counsel for the appellant and Mr. Ziaullah, DDA alongwith Farmanullah, Supdt. for the respondents present. The learned counsel for the appellant seeks adjournment. Granted. To come up for arguments on 09.01.2018 before the D.B.


Member


Chairman

09.1.2018

Counsel for the appellant and Mr. Muhammad Jan, DDA alongwith Farmanullah, Supdt. for the respondents present. Counsel for the appellant seeks adjournment. To come up for arguments on 08.03.2018 before the D.B.



Member


Chairman

08.03.2018

Junior to counsel for the appellant and Mr. Zia Ullah, learned Deputy District Attorney alongwith Farman Ullah Superintendent for respondents present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not available Adjourned. To come up for arguments on 12.04.2018 before D.B


(M.Amin Khan Kundi)
Member



(Muhammad Hamid Mughal)
Member

08.03.2017

Counsel for the appellant and Addl: AG for respondents present. Counsel for the appellant requested for adjournment. To come up for ~~reconsideration~~ arguments on 10.05.2017.

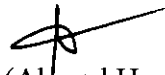


(ASHFAQUE TAJ)
MEMBER



(MUHAMMAD AAMIR NAZIR)
MEMBER

10.05.2017

Counsel for the appellant and Asst: AG for respondents present. Respondents are directed to produce all relevant record on the next date. Adjourned. To come up for such record and arguments on 10.08.2017 before D.B.



(Ahmad Hassan)
Member

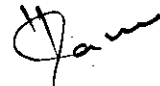

(M.Amin Khan Kundi)
Member

10.08.2017

Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 25.10.2017 before D.B.



(Muhammad Amin Khan Kundi)
Member (J)



(Muhammad Hamid Mughal)
Member (J)

23.02.2016

Counsel for the appellant and Mr. Farmanullah, Supdt. alongwith Addl: A.G for respondents present. Written reply by respondents No. 3 and 4 submitted. The appeal is assigned to D.B for rejoinder and final hearing for 6.6.2016.


Chairman

06.06.2016

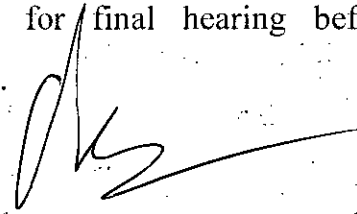
Counsel for the appellant and Mr. Farmanullah, Supdt. alongwith Addl: AG for respondents present. Rejoinder submitted, copy whereof handed over to learned Addl: AG. To come up for arguments on 4.11.16 before D.B.


MEMBER


MEMBER

4.11.2016

Counsel for the appellant and Assistant AG present. Asstt. AG requested for adjournment. To come up for final hearing before the D.B on 08.3.2017.


Member


Chairman

11.08.2015

Appellant Deposited
Security & Process Fee

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Private Secretary in the office of Deputy Commissioner, Lakki Marwat when subjected to inquiry on the allegations of inefficiency and professional misconduct and compulsorily retired from service vide impugned order dated 20.2.2015 regarding which he preferred departmental representation on 6.3.2015 which was rejected on 14.7.2015 and hence the instant service appeal on 3.8.2015.

That the appellant was given no charge sheet or any opportunity of hearing nor the inquiry was conducted in the prescribed manners and that he was not involved in any conduct detrimental to service laws.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 13.10.2015 before S.B.


Chairman

13.10.2015

Counsel for the appellant, M/S Khurshid Khan; SO for respondent No. 3 and Amanullah, Supdt. for respondent No. 4 alongwith Addl. AG for all respondents present. Requested for adjournment. To come up for written reply/comments on 23.12.2015 before S.B.


Chairman

23.12.2015

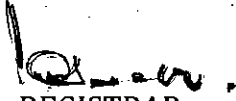

Counsel for the appellant Mr. Mukhtiar, Supdt. for respondents No. 1 and 2 alongwith Addl. AG for respondents present. Written reply on behalf of respondent No. 2 submitted and copy handed over to the learned Addl. AG. None is available on behalf of respondents No. 3 and 4. Notice be issued to them. To come up for written reply of respondents No. 3 and 4 before S.B. on 23.2.2016


Member

Form- A
FORM OF ORDER SHEET

Court of _____


Case No. 875 /2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	05.08.2015	<p>The appeal of Mr. Shafiullah resubmitted today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	10-8-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>11-08-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Shafiullah Khan Ex- Private Secretary to D.C Lakki Marwat ^{received} today i.e. on 03.08.2015 is returned to the counsel for the appellant with the direction to submit one spare copy of the memorandum of appeal along with annexures i.e. complete in all respect within 10 days.

No. 1153 /S.T,

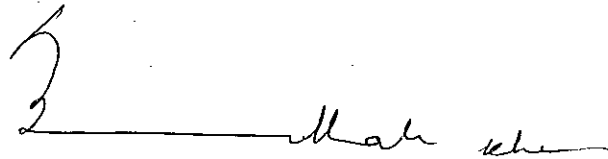
Dt. 03/8 /2015.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Saadullah Khan Marwat Adv. Pesh.

34

Re-submitted after completion



5/8/15

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S.A No. 875 /2015

Shafiullah Khan

Versus

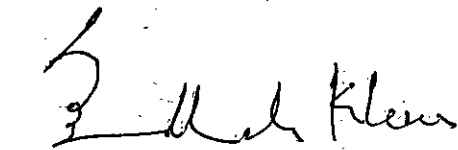
Chief Minister & others

I N D E X

S.#	Description of Documents	Annex	Page
1.	Memo of Appeal		1-4
2.	Show Cause Notice, 25.05.2014	"A"	5-6
3.	Reply to Notice, 02.07.2014	"B"	7-8
4.	Personal Hearing Notice, 4.9.14	"C"	9
5.	Impugned order, 20.02.2015	"D"	10
6.	Representation, 06.03.2015	"E"	11
7.	Rejection Order, 14.07.2015	"F"	12

Appellant

Through



(Saadullah Khan Marwat)
Advocate

21-A Nasir Mension,
Shoba Bazar, Peshawar.

Ph: 0300-5872676

Dated: 3 .08.2015

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWARS.A No. 875 /2015

Shafiullah Khan S/o Sahib Jan, R/o Vill Abdul
 Khel, Lakki Marwat, Ex - Private Secretary to
 Deputy Commissioner Lakki Marwat Appellant

Versus

G.W.F. Province
Service TribunalDiary No. 991Dated 03-8-2015

1. Provincial Govt. through Chief Minister,
Govt. of KP, Peshawar.
2. Secretary, Government of KP, Board of
Revenue & Estate Department, Peshawar.
3. Secretary, Government of KP, Elementary
& Secondary Education Department,
Peshawar.
4. Deputy Commissioner, Lakki Marwat. Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT,
 1974 AGAINST NOTIFICATION NO. ESTT-
 II/PS/3861 DATED 20.02.2015 OF R. NO. 1
 WHEREBY MAJOR PENALTY OF COMPULSORY
 RETIREMENT FROM SERVICE WAS IMPOSED UPON
 APPELLANT OR OFFICE ORDER NO. ESTT-
 II/PS/16745 DATED 14.07.2015 WHEREBY
 DEPARTMENTAL REPRESENTATION DATED
 06.03.2015 WAS REJECTED FOR NO LEGAL
 REASON.**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth:

Short facts giving rise to the present appeal are as under:-

Filed to-day
 3/8/15

cc-submitted to-day
 and filed:

3/8/15

1. That in various disciplines, appellant served the department for the last 32 years without any complaint.
2. That on 25.05.2014, appellant was straightaway served with final Show Cause Notice, without serving him with charge sheet, statement of allegation or conduct of any enquiry what to speak of associating him with the enquiry procedure to the effect:-

"I. That consequent upon the completion of enquiry conducted against you by the Inquiry Committee for which you were given opportunity of hearing; and

II. On going through the findings and recommendations of the Inquiry Committee, the material on record and other connected papers including your defence before the Inquiry Committee, committed acts and omission of the rules:-

(1) inefficient

(2) misconduct". (Copy as annex "A")

3. That on 02.07.2014, appellant submitted reply to the notice by denying the allegations in toto. (Copy as annex "B")
4. That on 04.09.2014, appellant was directed to appear before Secretary, Establishment Department, KP, Peshawar for personal hearing. (Copy as annex "C").
5. That on 20.02.2015, major penalty of compulsory retirement from service was imposed upon appellant by R. No. 1 which order was issued by R. No. 2. (Copy as annex "D")
6. That on 06.03.2015, appellant submitted review petition before R. No. 1 against the penalty to set aside the same and to reinstate him in service with all back benefits which was rejected on 14.07.2015 in two words "examined and rejected". (Copies as annex "E" & "F")

Hence this appeal, inter alia, on the following grounds:-

GROUNDS:

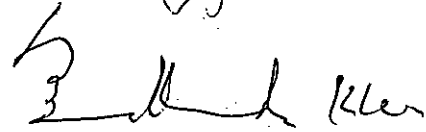
- a. That till date, no charge of inefficiency or misconduct was ever conveyed to appellant nor he knows about the allegations.
- b. That it was mandatory for the respondents to serve appellant with charge sheet and 1st show cause notice but such mandatory aspect of the case was ignored for the reasons best known to the respondents.
- c. That appellant has no concern, whatsoever, with the subject matter as he was Private Secretary (Ex-HRDO) to Deputy Commissioner, Lakki Marwat at the same time.
- d. That appointments were made by the Ex-EDO, E&SE who was competent to do so. Appellant was no authority to look into the matter as to whether the orders of appointment were legal or otherwise.
- e. That inquiry was not conducted as per the mandate of law. Neither any statement of any witness(s) was recorded in presence of appellant nor he was afforded opportunity of cross examination.
- f. That no written order was issued by the then Deputy Commissioner, Lakki Marwat to join appointment proceedings of the junior clerks.
- g. That personal hearing, being mandatory, was not afforded to appellant by the concerned authority but Secretary, Establishment KP, Peshawar who was even not aware with the subject matter.
- h. That the Show Cause Notice did not bear complete inquiry proceeding which was mandatory to reply the Notice as per the mandate of law.
- i. That appellant was awarded with major penalty of compulsory retirement from service in total disregard of law.

- j. That appellate order dated 14.07.2015 does not bear any reason which is against the verdicts of the apex court, so both the orders are based on malafide.

It is, therefore, most humbly prayed that on acceptance of the appeal, order dated 20.02.2015 or 14.07.2015 of R. No. 1 be set aside and appellant be reinstated in service with all back benefits, with such other relief as may be deemed proper and just in circumstances of the case.


Appellant

Through

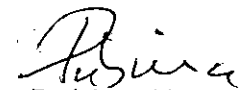


Saadullah Khan Marwat



Arbab Saif-ul-Kamal

&


Miss Robina Naz,
Advocates,

Dated: 3.08.2015

A

5

SHOW CAUSE NOTICE

I, Pervez Khattak, Chief Minister Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Shafiullah Khan, Private Secretary BS-17 to Deputy Commissioner Lakki Marwat as follows:

- i. That consequent upon the completion of inquiry conducted against you by the inquiry committee for which you were given opportunity of hearing; and
- ii. On going through the findings and recommendations of the inquiry committee, the material on record and other connected papers including your defence before the inquiry committee.

I am satisfied that you have committed the following acts/omissions specified in rule-3 of the said rules:

- (i) Inefficiency
- (ii) Mis-conduct

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Removal from Service under rule 4 of the said rules.

3. You are, thereof, 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.

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

5. A copy of the findings of the inquiry officer/ inquiry committee is enclosed.

Pervez Khattak
(PERVEZ KHATTAK)
CHIEF MINISTER KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY
25.05.2014

Mr. Shafiullah Khan, F
Deputy Commissioner

Private Secretary BS-17 to
Deputy Commissioner Lakki Marwat

Shafiullah Khan

REGISTERED

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT



No.SO (S/M) E&SED/4-17/2013/Mir Azam Ex-DEO Lakki & others
Dated Peshawar the June 18, 2014

To

Mr. Shafi Ullah Khan,
Privat Secretary BS-17 to Deputy Commissioner,
Lakki Marwat.

Subject: - SHOW CAUSE NOTICE

I am directed to refer to the subject noted above and to enclose herewith a copy of the Show Cause Notice wherein the Competent Authority (Chief Minister Khyber Pakhtunkhwa) has tentatively decided to impose upon you the Major Penalty of "Removal from Service" under Rule-4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 in connection with the charges leveled against you.

2. You are therefore directed to furnish your reply to the Show Cause Notice as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
3. Your reply should reach to this Department within Seven (07) days of the delivery of this letter otherwise ex-parte action shall be taken against you.
4. Copy of findings of the inquiry report is enclosed herewith.

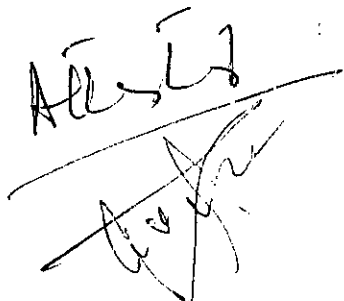
Encl: As Above:


(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

Endst: Even No. & Date:

Copy of the above is forwarded to the:-

- i. Director, E&SE Department Khyber Pakhtunkhwa.
- ii. PS to Secretary E&SE Department Khyber Pakhtunkhwa.



SECTION OFFICER (SCHOOLS/MALE)

B

Z

2-7-14

To:

The Secretary
Govt: of Khyber Pakhtunkhwa
Elementary & Secondary Education Department
Peshawar

Subject: REPLY TO SHOW CAUSE NOTICE.

R/Sir,

Kindly refer to show cause notice served upon me vide your letter No.SO(S/M)E&SED/4-17/2013/Mir Azam Ex DEO Lakki & Others dated 18.6.2014 received on 27-06-2014.

It is submitted that:

The allegations leveled against me in the above notice are not correct and have no solid footings. As is evidence from the minutes of the meeting held on 1.10.2012, I as a member/representative of DCO attended the meeting which was chaired by the then EDO Education i.e. Mir Azam Khan, Chairman of the committee. Perusal of the minutes of meeting (which is worth consideration) also shows that whole process for selection of candidate i.e. **advertisement, test, interview, preparation of merit list was completed before meeting** & only approval was sought. As the appointing authority was the chairman i.e; Ex-EDO Mr. Mir Azam Khan, therefore all these appointments were made by him in advance.

Regarding the illegality in the appointments is concerned, I as a member was kept in darkness and actual facts were concealed from me. However, advertisement regarding **appointment of junior clerks (Copy enclosed) does not mention of class-IV quota or any other special criteria except Matriculation with typing speed of 40 words per minute.**

So far the fake signatures on the answer sheets are concerned, it does not bear my signatures. Therefore, if any such act has been committed, I am not concerned with that.

That at the time of interview original documents of the candidates were not scrutinize, it is submitted that all the relevant documents which were require for appointment as junior clerk were properly checked but verification of these documents from the concerned forum was the job of concerned department.

Contd; on N/Page

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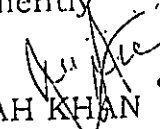
The observation at S.No.8 is not related to me as a member of the committee.

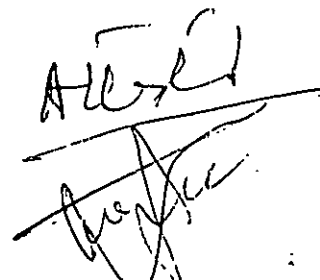
I neither belong to Elementary & Secondary Education Department Lakki Marwat nor **there was any relative among selected/appointed candidates**. During the last 32 years of my government service, I have always performed my duty honestly. I have signed the merit list/minutes of the meeting in the interest of public and not for any financial/other benefits.

Sir, I have more than 32 years continuous Government Service and will be retired on 21-03-2016 as per rule. Therefore it is humbly requested that I may kindly be exonerated from the charge level against me, as I am innocent.

In view of the position explained above it is requested **that I may be given a chance of personal hearing.**

Yours Obediently


SHAFIULLAH KHAN
Private Secretary to
Deputy Commissioner Lakki Marwat.



Annexure - C

9

REGISTERED/ BY FAX

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT



No.SO(S/M) E&SED/4-17/2013/Mir Azam and others.
Dated Peshawar the September 04, 2014

To

- i. Mr. Muhammad Ayub,
Headmaster BS-17 GHS Muhammad Amir Wali
District Lakki Marwat.
- ii. Mr. Shafiullah Khan,
Private Secretary BS-17 to Deputy Commissioner
Lakki Marwat.

Subject: - **PERSONAL HEARING IN REVIEW PETITION/ REPLY TO SHOW CAUSE NOTICE IN DISCIPLINARY ACTION AGAINST MR. MIR AZAM EX-DISTRICT EDUCATION OFFICER (BS-19) MALE LAKKI MARWAT ON ACCOUNT OF ILLEGAL APPOINTMENT OF JUNIOR CLERKS BS-07 IN E&SE LAKKI MARWAT AND OTHERS.**

I am directed to refer to the subject noted above and to state that it has been intimated by the Establishment Department, Khyber Pakhtunkhwa Peshawar vide letter No. SOR-I (E&AD)8-44/2013 dated 22-08-2014 that the personal hearing scheduled for 01-09-2014 at 1100 hours with the Secretary Establishment Department Khyber Pakhtunkhwa Peshawar in his office on behalf of Chief Minister Khyber Pakhtunkhwa has been postponed which will now be held on **08-09-2014 at 1100 hours** with Secretary Establishment in his office.

2. You are hereby directed to ensure your presence during the personal hearing with the Secretary Establishment Department Khyber Pakhtunkhwa Peshawar on the above mentioned date, time and venue.

(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

Endst: Even No. & Date:

Copy of the above is forwarded to the:-

- i. Director, E&SE Khyber Pakhtunkhwa Peshawar.
- ii. Section Officer (R-I) Establishment Department Khyber Pakhtunkhwa w/r to his letter referred to above.

SECTION OFFICER (SCHOOLS/MALE)

D

10

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT
Peshawar dated the 20/02/2015

NOTIFICATION

No. Estt:II/Shafiqullah Khan/PS/ 3861. Wherein Mr. Shafiqullah Khan Ex-HRDO now Private Secretary to Deputy Commissioner Lakki Marwat was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the charge sheet and statement of allegations.

2. AND WHEREAS an enquiry committee comprising of Mr. Abdul Raqib, Principal G.H.S.S. No.1 Peshawar Cantt and Mr. Abdul Wali Khan, Deputy Director (P&D) Directorate of E&SE Khyber Pakhtunkhwa was constituted to conduct formal inquiry against the accused officer, for the charges leveled against him in accordance with the rules.

3. AND WHEREAS the Inquiry Committee after having examined the charges, evidence on record and explanation of the accused officer has submitted the report.

4. AND WHEREAS the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges and evidence on record, inquiry report, personal hearing before the Competent Authority is of the view that the charges against the accused officer have been proved.

5. NOW THEREFORE, in exercise of the powers conferred under section 14 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) is pleased to impose major penalty of "Compulsory retirement from service" upon Mr. Shafiqullah Khan, Ex-HRDO now Private Secretary to Deputy Commissioner Lakki Marwat.

Sd/-
Secretary

End: No. Estt:II/104/ 3862-71
Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. PSO to Chief Minister Khyber Pakhtunkhwa Peshawar.
3. Commissioner, Bannu Division, Bannu.
4. Deputy Commissioner, Lakki Marwat.
5. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
6. Section Officer (Schools/ Male) Elementary & Secondary Education Department.
7. District Education Officer (Male), Lakki Marwat.
8. District Accounts Officer, Lakki Marwat.
9. Mr. Shafiqullah Khan, Ex-HRDO now Private Secretary to Deputy Commissioner Lakki Marwat.
10. PS to Chief Secretary, Khyber Pakhtunkhwa Peshawar.
11. PS to Secretary Establishment Department Khyber Pakhtunkhwa Peshawar.
12. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
13. PA to Additional Secretary, E&SE Department, Khyber Pakhtunkhwa.

Handwritten signature

Deputy Secretary to Government of Khyber Pakhtunkhwa
Revenue & Estate Department.

E

11

6-3-15

To

The Honorable Chief Minister
Of Khyber Pakhtunkhwa, Peshawar.

Subject:- REVIEW PETITION TO ABSOLVE THE PENALTY OF
COMPLUSORY RETIREMENT FROM GOVERNMENT SERVICE.

Respected Sir,

Kindly refer to the Government of Khyber Pakhtunkhwa Board of Revenue, R& E Deptt; notification No.Estt;11/Shhafiullah Khan/PS/3861 dated 20-02-2015 (received to me on 26-02-2015), wherein the penalty of "Compulsory Retirement" from service has been imposed upon me by the Government (copy attached).

It stated that:

1. The vacant posts of Junior Clerks in the office of EDO Education Lakki Marwat were advertised by the concerned EDO in Sep; 2011. Typing test/interview were conducted by him but appointment orders in this respect could not be issued by him due to his transfer to other station. The undersigned was neither invited nor participated as a member in the aforesaid test and interview.
2. The newly posted EDO Education Lakki Marwat arranged DSC (District Selection Committee) meeting on 01-10-2012. I attended the meeting on behalf of the DCO/Deputy Commissioner Lakki Marwat. The merit list already prepared by the EDO Elementary & Secondary Education Deptt; Lakki Marwat was checked and signed by all the members including the undersigned in the light of criteria mentioned in their advertisement and explained by the EDO E & SED Lakki Marwat in the meeting i.e; Metric from any recognized Board and knowing type with speed 40 words per minutes.
3. An enquiry was later on conducted by the Director Education (E&SED) of Khyber Pakhtunkhwa but the undersigned was neither called for investigation nor I, was summoned for any statement.
4. After report of the inquiry committee, a formal inquiry was arranged but no charge sheet was issued to the under signed in this respect. Sudden show cause notice received to me. After submission of reply to the show cause notice and personal hearing, the penalty of "Compulsory Retirement" from Service has been imposed on the undersigned and conveyed to me vide above referred notification.
5. Respected Sir, the DSC meeting was attended by a Section Officer, Elementary & Secondary Education Deptt; of Khyber Pakhtunkhwa and signed the minutes of the meeting (copy enclosed). Similarly, Mr. Mir Ajab Office Assistant of DEO Office Lakki Marwat has also been signed the merit list (copies enclosed) but no penalty has been imposed on the said officer/official, so far.
6. As the merit list was prepared by EDO E& SE Lakki Marwat who was the appointing authority/chairman of the Committee. I signed the minutes as member/representative of the DCO/Deputy Commissioner Lakki Marwat in the good faith/interest of public and not for any financial or other benefit.
7. I am an employee of the DCO/Deputy Commissioner Office and not Education Department and have served honestly for more than 32 years in Government Departments. I will retire from service on 14-04-2016 on attaining the age of 60 years, as my date of birth being 15-04-1956.
8. Keeping in view the above facts, it is humbly requested in your honor that I may **kindly exonerated from the penalty of Compulsory Retirement and the order of my Compulsory Retirement from Service may kindly be set aside.** I shall pray for ever for this act of kindness.

Dated:- 06-03-2015

Shhafiullah Khan
Shhafiullah Khan

Yours Obediently

SHHAFIULLAH

Private Secretary to Deputy Commissioner
Lakki Marwat.

Shhafiullah Khan
6/3/2015

F

12

ON PARITAN STATE SERVICE

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT
No. Estt:II/Shafiullah/PS 16745
Peshawar dated the 14/7/2015

Despatched
Revenue & Estt
Khyber Pakhtunkhwa

To

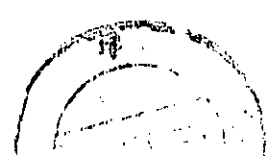
Mr. Shafiullah Ex-Private Secretary to
Deputy Commissioner Lakki Marwat.

SUBJECT: REVIEW PETITION AGAINST ORDER OF COMPULSORY OF
RETIREMENT.

Your review petition has been examined and rejected by the
competent authority.

M
Secretary-I

Handwritten signature



محکم دلائل سے مزین و متنوع ومنفرد موضوعات پر مشتمل مفت آن لائن مکتبہ

منجانب ایڈوائس

شیخ الحدیثان بنام گورنمنٹ وغیرہ

دعویٰ اپیل

باعث تحریر یہ اینکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام پشاور کیلئے سعد اہلسا خان صورت سے ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتے ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے راضی نامہ و تقریر ثالث و فیصلہ بر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست بر قسم کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقریر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا و دوران مقدمہ میں جو خرچہ و ہرجانہ التواء مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔

لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

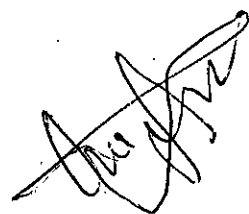
المزوم ۱۵/۸/۰۱

العبد

العبد

العبد

سید ابراہیم خان
 سید الحدیث خان مروت
 ایڈووکیٹ
 مس روہینہ تاز
 راولپنڈی



⑤

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 875/2015.

Shafiullah Khan Ex-Private Secretary DC, Office Lakki Marwat.....Appellant

VERSUS

Secretary to Government of Khyber Pakhtunkhwa,
Revenue and Estate Department and others.....Respondent

COMMENTS ON BEHALF OF RESPONDENT NO.2.

Preliminary objection.

1. Chief Minister is not a Government; therefore, Chief Minister cannot be made necessary party.
2. The appeal is not competent in its present form.
3. That the appellant has got no cause of action.
4. That the appeal is bad due to mis-joinder and non-joinder of necessary parties.
5. That the appellant has not come to the "Honorable" Tribunal with clean hands.
6. That the instant appeal is barred by law.

ON FACTS.

1. Pertains to record, hence needs no comments.
2. Correct to the extent that show cause notice was served upon the appellant according to law on the ground.
3. Pertains to record.
4. Correct
5. Correct to the extent that major penalty of "compulsory retirement" was imposed upon the appellant on the basis of recommendation of the Enquiry Officer.
6. Pertains to respondent No.3.

GROUND.

- a. Incorrect. The appellant being Representative of DCO Lakki Marwat has signed merit list of illegal/irregular appointments made in Education Department of Lakki Marwat District.
- b. Pertains to Elementary and Secondary Education Department.
- c. The appellant being Representative of DCO Lakki Marwat was responsible to check/scrutinize merit list of candidates.
- d. Pertains to respondent No.3.
- e. Incorrect. Enquiry was properly conducted by the Competent Authority under Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011.

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- f. Pertains to respondent No. 4.
- g. Incorrect. Opportunity of personal hearing was given to the appellant.
- h. Incorrect. Copy of finding of the enquiry was given to the appellant.
- i. Incorrect. Major penalty of compulsory retirement was imposed upon the appellant on the basis of recommendation of the Enquiry Officer and with the approval of Competent Authority.
- J. Incorrect. All the proceedings carried out according to law.

The appeal having no legal footings may be dismissed with costs.


Respondent No. 2

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 875/ 2015

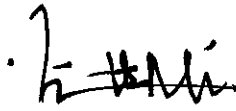
Shafiullah Khan Ex-Private Secretary DC, office Lakki Marwat..... Appellant

VERSUS

Secretary to Government of Khyber Pakhtunkhwa, Revenue & Estate Department &
Others Respondents

AFFIDAVIT

I Mukhtiar Ali, Superintendent (Lit-II), Board of Revenue Khyber Pakhtunkhwa do hereby solemnly affirm that the contents of the written reply are true and correct to the best of my knowledge and belief information provided to me and nothing has been deliberately concealed from this Hon'able Tribunal.


Superintendent (Lit-II)
Board of Revenue

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.875/2015

Shafiullah PS to Deputy Commissioner Lakki Marwat Petitioner

Versus

Chief Minister Khyber Pakhtunkhwa etc..... Respondents

JOINT COMMENTS ON BEHALF OF RESPONDENT NO.2, 3 & 4

Respectfully sheweth:

Preliminary objections:

1. That appeal is not competent in its present forum.
2. That the appellant has got no cause of action.
3. That the appeal is bad due to mis-joinder & non joinder of necessary parties.
4. That the appellant has not come to the honorable tribunal with clean hand.
5. That the instant appeal is barred by law.

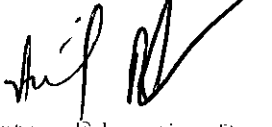
ON FACTS


1. Pertains to record, hence needs no comments.
2. Correct to the extent that show cause notice was served upon the appellant according to law on the grounds that the appellant signed merit list of illegal/irregular appointment in Education Department Lakki Marwat.
3. Pertains to record.
4. Correct.
5. Correct to the extent, major penalty of compulsory retirement from service was imposed upon appellant on the basis of recommendation of inquiry officer.
6. Incorrect. Before submission of review petition by the appellant, proper enquiry was conducted and on the basis of said enquiry report, review petition of the appellant was rejected.

GROUND

- a. Incorrect: Enquiry was conducted and allegation was leveled over the appellant.
- b. Incorrect: Enquiry was properly conducted by the competent authority under Khyber Pakhtunkhwa Govt: Servant (Efficiency & Disciplinary Rules 2011)
- c. Incorrect: That if the appellant has no concern with the subject matter then why appellant signed working papers of illegal appointments.
- d. Incorrect: written order was issued by the then DCO to join appointment proceedings.
- e. Incorrect: Enquiry was properly conducted by the competent authority under Khyber Pakhtunkhwa Govt: Servant (Efficiency & Disciplinary) Rules 2011.
- f. Incorrect: as para "d" above
- g. Incorrect: opportunity of personal hearing was given to the appellant.
- h. Copy of finding of the enquiry was given to the appellant.
- i. Incorrect: Major Penalty of compulsory retirement was imposed upon the appellant on the basis of recommendation of the enquiry officer with the approval of competent authority.
- j. Incorrect: all the proceedings carried out according to law.

The appeal having no legal footings may be dismissed with cost.


Secretary Education Department
KPK Peshawar


Deputy Commissioner
Lakki Marwat

1

BEFORE THE COURT OF SERVICE TRIBUNAL

PESHAWAR

Appeal No. 875/15

Shafiullah Khan

VERSUS

Provincial Govt etc

REPLICATION

Answer to preliminary objections:-

All the 5 preliminary objection of the respondents are illegal and incorrect. No reason in support of the same is ever given as to why this appeal is incompetent, appellant has no cause of action, the same is bad for Mis & non Joinder of necessary parties, unclean hands & the same is barred by law.

ON FACTS:-

1. Needs no comments

2. Admitted correct to the extent of service of Appellant with final show cause notice, without

serving him with charge sheet & statement of allegations, conduct of enquiry without his association/participation with the same. Appellant never signed the merit list nor he was competent but was done at the instance of R. No. 4, Deputy Commissioner who was the member of the Committee.

- 3-5. Admitted correct by the respondents regarding submission of reply to the final show cause notice, appearance for personal hearing before Secretary Establishment Department and not the authority and award of major penalty of compulsory retirement.
6. Not correct. The para of the comments is not replied to the contents of the para of the appeal, regarding submission of Review Petition and its rejection in two words "Examined and Rejected".

GROUNDS:-

- A. Not correct. Self made enquiry perhaps would have been conducted without associating Appellant with same and not per the mandate of law.

- B. Not correct. Rules 2011 was not in existence at that time when the incident took place.
- C. Not correct. Such position has been explained in the para No 2 of the facts, above.
- D. Not correct. DCO was competent to participate the proceedings of selection. Moreso, power delegated to someone cannot be further delegated.
- E. Not correct, perhaps self made report was prepared which cannot be termed as enquiry because legal enquiry has its own characteristics.
- F. Not correct. The para of this reply is without proof regarding written order of participation of enquiry proceedings of Appellant.
- G. Not correct. Personal hearing was not given by competent/proper authority.
- H. Not correct. Supply of full enquiry proceedings was mandatory.
- I. Not correct. One sided proceedings have carried out without associating Appellant with the same.

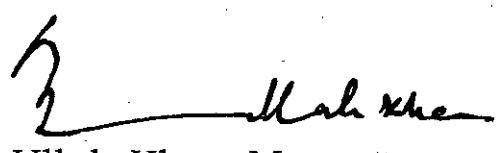
J. Not correct. The ground is not replied to the contents of the appeal regarding reason for rejection.

It is therefore, most humbly requested that the appeal be accepted as prayed for.

Appellant

Through

Dated: 06.06.2016

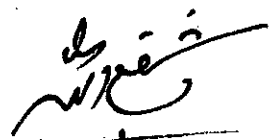


Saad Ullah Khan Marwat
Advocate.

AFFIDAVIT:-

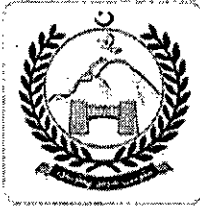
I Saifullah Khan S/o Sahib Khan Appellant, do hereby solemnly affirm and declare that the contents of the appeal and replication are true and correct as per my knowledge and belief while that of the reply are illegal and incorrect.

I re-affirm the same once again on oath to be true and correct as per the available record.



DEPONENT.





KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 465 /ST

Dated: 17-2- /2022

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

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

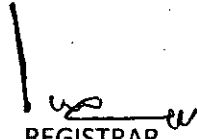
To

The Secretary Board of Revenue & Estate Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 875/2015, MR. SHAFI ULLAH & 1 OTHER.

I am directed to forward herewith a certified copy of Judgement dated 13.01.2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR,
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

28.02.2020 Petitioner with counsel present. Mr. Riaz Paindakheil learned Assistant Advocate General present.

Arguments heard. File perused.

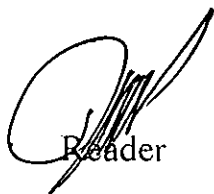
Learned counsel for the petitioner raised the plea that the instant application for restoration of service appeal No. 875/2018 was filed within time and in the interest of justice, the same may be allowed, to which learned AAG showed his no objection.

In view of above the present application for restoration of Service Appeal No. is allowed and the main service appeal is restored. To come up for arguments on main service appeal on 30.03.2020 before D.B. No order as to costs. File of the instant application be consigned to the record room.


Member


Member

30.03.2020 Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 18th.06.2020 before D.B.


Reader

26.11.2019

Learned counsel for the petitioner present. Reply on behalf of respondents not submitted. Fazal Subhan S.O representative of the respondent No.3 present and seeks time to furnish reply/comments. Granted. To come up for reply and arguments on 29.01.2020 before D.B.


Member


Member

29.01.2020

Junior to counsel for the petitioner and Mr. Ziaullah, DDA alongwith Farmanullah, Superintendent and Fazle Subhan, S.O for the respondents present.

Representatives of the respondents seek time to furnish reply. Adjournd to 27.02..2020 for reply and arguments before the D.B.






Member


Member

Form-A
FORM OF ORDER SHEET

Court of _____

Appeal's Restoration Application No. 229/2019

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	29.05.2019	<p>The application for restoration of appeal No. 875/2015 submitted by Mr. Saadullah Khan Marwat Advocate, may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR 29/5/19</p>
2	12.09.2019	<p>This restoration application is entrusted to D. Bench to be put up there on <u>12-09-2019</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Junior to counsel for the appellant present. Notice be issued to the respondents for reply on 26.11.2019 before D.B. Original record also be requisitioned for the date fixed.</p> <p> (Hussain Shah) Member</p> <p style="text-align: right;"> (M Hamid Mughal) Member</p>

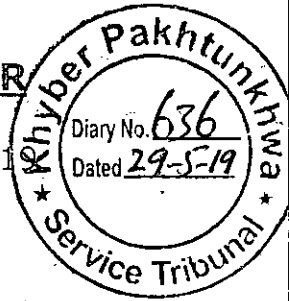
BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

Restoration Application No. 229/19

M. P. No. _____ / 2019

IN

S.A No. 875/2015



Shafi Ullah Khan versus DC & Others

**APPLICATION FOR RESTORATION OF THE SUBJECT
APPEAL DISMISSED IN DEFAULT BY THIS HONORABLE
TRIBUNAL VIDE ORDER DATED 23-05-2019:**

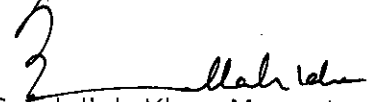
Respectfully Sheweth,

1. That the subject Appeal was pending disposal before this hon'ble Tribunal and was fixed for hearing on 23-05-2019.
2. That the said appeal was not entered in the dairy so appellant / counsel could not appear on the said date before the hon'ble Tribunal and was then dismissed in default. Page of the dairy dated 23-05-2019 is attached. (copies attached)
3. That the absence was not willful but was due to non scribing of the date in the dairy.

It is, therefore, most humbly prayed that the subject application be accepted as prayed for after restoring the same and to decide it on merit.


Applicant

Through


Saadullah Khan Marwat

Advocate

Dated 28-05-2019

AFFIDAVIT

I, Shafi Ullah, Applicant do hereby solemnly affirm and declare that contents of **Application** are true and correct to the best of my knowledge and belief


DEPONENT

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 875 /2015

Shafiullah Khan S/o Sahib Jan, R/o Vill Abdul
Khel, Lakki Marwat, Ex - Private Secretary to
Deputy Commissioner Lakki Marwat

Appellant



**A.W.F. Province
Service Tribunal
Diary No. 991
Dated 03-8-2015**

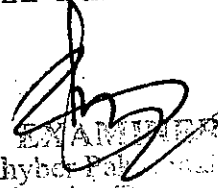
Versus


1. Provincial Govt. through Chief Minister,
Govt. of KP, Peshawar.
2. Secretary, Government of KP, Board of
Revenue & Estate Department, Peshawar.
3. Secretary, Government of KP, Elementary
& Secondary Education Department,
Peshawar.
4. Deputy Commissioner, Lakki Marwat. Respondents

⊕<=>⊕<=>⊕<=>⊕<=>⊕

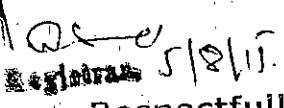
**APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT,
1974 AGAINST NOTIFICATION NO. ESTT-
II/PS/3861 DATED 20.02.2015 OF R. NO. 1
WHEREBY MAJOR PENALTY OF COMPULSORY
RETIREMENT FROM SERVICE WAS IMPOSED UPON
APPELLANT OR OFFICE ORDER NO. ESTT-
II/PS/16745 DATED 14.07.2015 WHEREBY
DEPARTMENTAL REPRESENTATION DATED
06.03.2015 WAS REJECTED FOR NO LEGAL
REASON.**

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Filed to-day

3/8/15

c-submitted to-day
ad. filed:

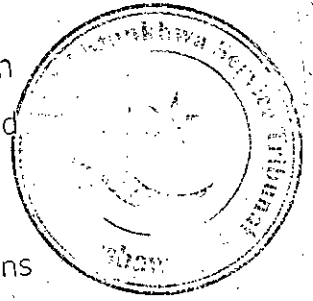

Respectfully Sheweth:

Short facts giving rise to the present appeal are as under:-

875/2015

23.05.2019

Nemo for the appellant. Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG alongwith M/S Muhammad Arif and Farmanullah, Superintendents for the respondents present.



The record shows that on at least five previous occasions the appeal was adjourned upon the request of appellant/his learned counsel. Today the case has been called many times, however, the appellant remained unrepresented. It is about 12.00 P.M and due to absence of appellant/his learned counsel the appeal is dismissed for non-prosecution. File be consigned to the record room.

[Signature]
Member

[Signature]
Chairman

Announced
23.05.2019

[Signature]
Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application	27-5-19
Number of Copies	800
Copying Fee	6-
Urgent	-
Total	6-
Name of Copyist	<i>[Signature]</i>
Date of Completion of Copy	28-5-19
Date of Delivery of Copy	28-5-19

M	T	W	T	F	S	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

23
Thursday
جمرات

1 رمضان 1440
0 جیٹھ 2075 بکری

درم کے کولہر ٹیکہ کے مطابق 17 سال ختمی جگہ میں نکل ہوا کے مطابق 18/19 سال پہنچنے کے بعد اس کی ضمانت منظور فرمائی گئی (2013-YLR-110)

نمبر تاریخ	عنوان مقدمہ	کاروائی	عدالت	آئندہ تاریخ
22	خاندان علی خانی	کوئٹہ	HC	
22	مرحمت علی	TE		
15/4	ڈاکٹر ضیاء	صحت	جواب دہ	3/7

Attorneys
