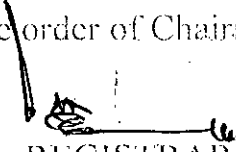


FORM OF ORDER SHEET

Court of _____

Case No. - _____

805/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/04/2023	<p>The appeal of Mr. Zahid Muhammad received today by registered post through Muhammad Abdullah Baloch Advocate. It is fixed for preliminary hearing before touring Single Bench at D.I.Khan on _____. Notices be issued to appellant and his counsel for the date fixed.</p> <p style="text-align: right;">By the order of Chairman  REGISTRAR</p>

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR AT CAMP CO
DERA ISMAIL KHAN.**

Appeal no... 805... of 2023.

Zahid Muhammad

VERSUS

Govt; of KPK and others


SERVICE APPEAL

INDEX

S.No.	Description of documents	Annexure	Pages
1.	Memorandum of Appeal along with Affidavit <i>C.M</i>	<i>F</i>	1-7
2.	Copy of Impugned order	A	8
3.	Copy of Departmental appeal	B	9-12
4.	Copy of Original courier receipt	B/1	13
5.	Miscellaneous	--	
6.	Vakalatnama	--	14

Date; 08/04/2023

Your humble appellent



Zahid Muhammad

Through counsel



MUHAMMAD ABDULLAH BALOCH

Advocate High Court

①

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR, AT CAMP COUR
DERA ISMAIL KHAN

Appeal no. 805 of 2023.

Zahid Muhammad S/O Muhammad Rehman Caste Mehsood
R/O Arra Umar Town Dera Ismail Khan, Ex- Senior Clerk
Govt Degree College Ladha (South Waziristan).

VERSUS

1. Government of KPK through Secretary Higher Education Khyber Pakhtun Khwa Peshawar.
2. Director Higher Education Khyber Pakhtun Khwa Rano Garri near cham kani Morr , Peshawar.
3. Deputy Director (Estab) High Education Khyber Pakhtun Khwa Rano Garri near cham kani Morr , Peshawar.

APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL
ACT AGAINST THE IMPUGNED OFFICE ORDER
ENDORSEMENT NO. 22095 -97/CA-VII/Estt, Branch/GDC
Ladha M 197 Vol-01 DATED; 16/11/2022 AND APPEAL
AGAINST THE INDECISION/OMISSION OF APPELLATE
AUTHORITY. WHEREIN THE COMPETENT AUTHORITY
IMPOSED THE PENALTY OF "COMPULSORY
RETIREMENT AND RECOVERY RS. 28,00000/".

Note: Addresses given above are sufficient for the object of service.

That the brief facts of the case are as under:

The Appellant had been serving the department since 16/08/1998 and later on was promoted and posted as senior clerk Govt; Degree college, Ladha (South Waziristan).

That appellant has unblemished service record. That the said Govt; Degree college, Ladha (South Waziristan) became dis-functional in 2009 due the army operation. Most of the building was also

demolished due to the operation. However, in 2017 arrangements were made for restoring of the college but unfortunately due to the non-availability of the building the appellant along with other staff including principle had to manage the building of Govt; Girls Degree college, Ladha (South Waziristan). But again in 2020, the said Govt; Girls Degree college, Ladha (South Waziristan) was also be vacated due to the law and order situation. Hence in the above mentioned eventualities, there had been no proper correspondence/arrangements of Govt; Degree college, Ladha (South Waziristan).

3. That appellant came to know from the District Account Office SWT at Tank, that some adverse orders have been passed against the appellant from directorate. The appellant rushed towards the decorate and received a copy of impugned office Order No. 2209-97 dated 16/11/2022, wherein, appellant was awarded the penalty of compulsory retirement and recovery of Rs. 28,00000/-. Copy of impugned order is annexed as **"Annexure A"**.

4. That astonishing to see the impugned office Order and feeling aggrieved, filed departmental appeal via courier service on 14/12/2022 because seat of principle Govt; Degree college, Ladha (South Waziristan), had been vacant since 2021. Copies of departmental appeal and original courier receipt are annexed as **"Annexure B & B/1"**.

5. That the appellant being aggrieved has a right and cause of action to file instant appeal before this Honorable Service Tribunal inter alia on the following grounds.

GROUND:

- i. That the impugned office Order No. 22095 -97/CA-VII/Estt, Branch/GDC Ladha M 197 Vol-01 dated 16/11/2022 and indecision of the appellate authority are gainst law, against service rules, void and are in sheer violation of KP Government Servant (E&D) rules 2011.
- ii. That no proper/formal inquiry was conducted and awarded the major penalty of retirement.
- iii. That appellant has not been given any opportunity of being heard.
- iv. That Govt: Degree college, Ladha (South Waziristan) has been dis-functional even till date and due to the demolishing of building no record is available. Furthermore, there is no proper office of the said college. The appellant is still surprised for what allegations he has been awarded major penalty. Moreover, the impugned order is also silent about the allegations or about the grounds of punishments.
- v. That the impugned order is patently illegal, void ab-initio, unwarranted and legally not sustainable in the eyes of law and that too has been prepared at the back of Appellant, infringing his valuable vested rights, thus liable to be set aside on this score alone.
- vi. That appellant was not served with any show cause notice and even no charge sheet or statement of allegations were issued or served upon the appellant. Similarly ^{Proceedings} of KP Government Servant (E&D) rules 2011 has been violated. The impugned order itself showing that this rule has not been followed by the competent authority.

- vii. That before awarding major punishment, no final show cause notice was issued and even no opportunity of personal hearing was given to the appellant.
- viii. That impugned order reflecting the name of appellant as Zahid Ullah. However, the correct name of the appellant is Zahid Muhammad, even in official documents. The fact showing that the competent authority even did not bother to peruse the service record and has been very careless towards their subordinate employees.
- ix. That besides major punishment of compulsory retirement the impugned order also reflecting the punishment of recovery Rupees 28,00,000/- in the absence of allegation or any enquiry or even impugned order is silent as for what reason this particular penalty has been awarded against the appellant.
- x. That no procedure as envisaged in rule 5 of KP Government Servant (E&D) rules 2011 was followed.
- xi. That counsel for the appellant may graciously be allowed to raise additional grounds at the time of arguments.

It is, therefore, respectfully prayed that on acceptance of this appeal, the impugned Office Order endst; No. 22095-97/CA-VII/estt, Branch/GDC Ladha M 197 vol-01 dated; 16/11/2022 may kindly be set aside. Consequently the appellant may kindly be reinstated into service with all back benefits.

Dated: 04/04/2023

Your Humble appellant

Zahid Muhammad

Through Counsel

MUHAMMAD ABDULLAH BALOCH
Advocate High Court

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR AT CAMP CO
DERA ISMAIL KHAN.

Appeal no..... of 2023.

Zahid Muhammad

VERSUS

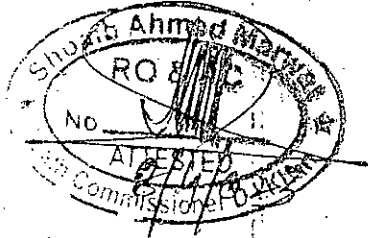
Govt; of KPK and others

SERVICE APPEAL

AFFIDAVIT

I, **Zahid Muhammad**, Appellant, do hereby solemnly affirm and declare on OATH that the contents of the same are true and correct to the best of my knowledge and belief and that nothing has been concealed from this honorable court.


Deponent.



6

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT DERA ISMAIL KHAN.

C.M no..... of 2023.

Zahid Muhammad

VERSUS

Govt; of KPK and others

SERVICE APPEAL

APPLICATION FOR SUSPENSION OF IMPUGNED ORDER NO. endst;
No. 22095-97/CA-VII/estt, Branch/GDC Ladha M 197 vol-01 DATED
16/11/2022 TO THE EXTENT OF RECOVERY OF AMOUNT 2800000/-.

Respected Sir,

Appellant humbly submits as under:

1. That the above titled service appeal is being filed today and contents of the main appeal may kindly be considered as integral part of the instant application.
2. That appellant has a prima facie case and as there is still ambiguity under what charges and allegations the recovery is being made. Furthermore, the impugned order is patently illegal and has been issued violating all the service rules.
3. That during pendency of the instant service appeal, if the recovery is made, the appellant will suffer irreparable loss as the appellant is a very poor fellow.
4. That Hon'able court has ample power to accept the application.

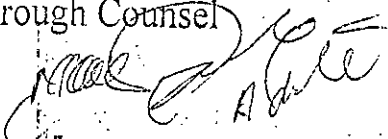
It is, therefore, humbly requested that the Impugned order dated 16/11/2022 may graciously be suspended till the disposal of the main service appeal.

Dated 08/04/2023


Your Humble applicant/Appellant

Zahid Muhammad

Through Counsel


MUHAMMAD ABDULLAH BALOCH
Advocate High Court

7

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT DERA ISMAIL KHAN.

C.M no..... of 2023.

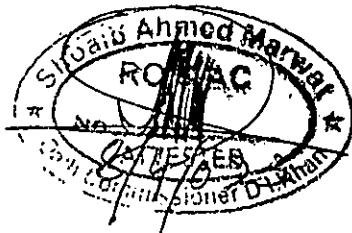
Zahid Muhammad VERSUS Govt; of KPK and others

SERVICE APPEAL

APPLICATION FOR SUSPENSION OF IMPUGNED ORDER NO. endst;
No. 22095-97/CA-VII/estt, Branch/GDC Ladha M 197 vol-01 DATED
16/11/2022 TO THE EXTENT OF RECOVERY OF AMOUNT 280000/-.

AFFIDAVIT

I, Zahid Muhammad, Applicant, do hereby solemnly affirm and declare on OATH that the contents of the same are true and correct to the best of my knowledge and belief and that nothing has been concealed from this honorable court.



Deponent.



**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA
RANO GHARI NEAR CHAMKANI MOR, PESHAWAR**

E-mail:- dhekpsh@gmail.com Facebook.com/dhekpshawar Twitter.com/dhekpshawar

No. _____ / CA-VII/Estt. Branch/A-167/ GDC Ladha (SWT) M 197 (V-1) Dated Peshawar the 16 / 11 / 2022

OFFICE ORDER

1. **WHEREAS** Mr. Zahid Ullah, Senior Clerk, Government Degree College, Ladha (South Waziristan) was proceeded under the Khyber Pakhtunkhwa Efficiency and Discipline Rules, 2011 for guilty of inefficiency and misconduct.
2. **AND WHEREAS** show cause was served upon the accused.
3. **AND WHEREAS** the respondent did not submit his reply within the stipulated time.
4. **NOW THEREFORE**, the Competent Authority (Director, Higher Education, Khyber Pakhtunkhwa) after having considered the charges, evidence on record, in exercise of powers of the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline Rules, 2011), has been pleased to impose the penalty of "**Compulsory Retirement and Recovery of Rs. 2800000**" upon Mr. Zahid ullah, Senior Clerk, Government Degree College, Ladha (South Waziristan) with immediate effect.


DIRECTOR, HIGHER EDUCATION

Endst. No 22095-97/1 CA-VII/Estt. Branch/GDC Ladha M 197 Vol-01

Copy of the above is forwarded to the: -

1. Principal Government Degree College, Ladha (South Waziristan) with the remarks to recover the embezzled amount from the official concerned.
2. District Accounts Officer, South Waziristan.
3. Mr. Zahid Ullah, Senior Clerk, Government Degree College, Ladha (South Waziristan).

Attest to be true
copy
08/04


15/11/2022
(Gohar Khan)

DY: DIRECTOR (ESTABLISHMENT)

9

Annex "B"

To,

The Secretary Higher Education,
KPK Peshawar.

Through Proper Channel:

DEPARTMENTAL APPEAL/REPRESENTATION AGAINST THE
IMPUGNED ORDER Endst; No. 22095-97/CA-VII/Estt,
Branch/GDC Ladha M 197 Vol-01 Dated 16/11/2022.

PRAYER

It is, therefore, requested that on acceptance of
this representation/departmental appeal, the
impugned order Endst; No. 22095 -97/CA-VII/Estt,
Branch/GDC Ladha M 197 Vol-01, dated 16/11/2022,
may kindly be set-aside and the appellant may kindly
be reinstated into service with back benefits.

Respected Sir;

Appellant humbly submitted as under:-

1. The Appellant had been serving the department since 16/08/1998 and later on was promoted and posted as senior clerk Govt; Degree college, Ladha (South Waziristan).
2. That appellant has unblemished service record. That the said Govt; Degree college, Ladha (South Waziristan) became dis-functional in 2009 due the army operation. Most of the building was also demolished due to the operation, however, in 2017

Noted to be true
28/11/2022

arrangements were made for restoring of the college but unfortunately due to the non-availability of the building, the appellant along with other staff including principle had to manage the building of Govt; Girls Degree college, Ladha (South Waziristan). But again in 2020, the said Govt; Girls Degree college, Ladha (South Waziristan) was also be vacated due to the law and order situation. Hence in the above mentioned eventualities, there had been no proper correspondence/arrangements of Govt; Degree college, Ladha (South Waziristan).

- 3. That appellant came to know from the District Account Office SWT at Tank, that some adverse orders has been passed against the appellant from directorate. The appellant rushed towards the decorate and received a copy of impugned office Order No. 2209-97 dated 16/11/2022, wherein, appellant was awarded the penalty of compulsory retirement and recovery of Rs. 28,00000/-.
- 4. That the impugned office Order No.-97 dated 16/11/2022 is against law, against service rules, void and are in sheer violation of KP Government Servant (E&D) rules 2011.
- 5. That no proper/formal inquiry was conducted and awarded the major penalty of retirement.

Attended to be
True copy.
SAP
05/04

6. That appellant has not been given any opportunity of being heard by the competent authority as not only, it was basic fundamental right recognized by Apex Courts of the country but on the other, the appellant had enough justification in his defense. The appellant was not proceeded as per law and rules and no show cause, except mentioned above, was issued or served upon the appellant. No formal or fact findings inquiry was conducted to unearth the real facts.
7. That before awarding major punishment, no final show cause notice was issued and even no opportunity of personal hearing was given to the appellant.
8. That besides major punishment of compulsory retirement the impugned order also reflecting the punishment of recovery Rupees 28,00,000/- in the absence of allegation or any inquiry or even impugned order is silent as for what reason this particular penalty has been awarded against the appellant.
9. That no procedure as envisaged in rule 5 of KP Government Servant (E&D) rules 2011 was followed.

Attested to be
true copy
of original
08/04

It is, therefore, requested that on acceptance of this representation/departmental appeal, the impugned order dated 16/11/2022, may kindly be set-aside and the appellant may kindly be reinstated into service with benefits.

Dated: 14 /12/2022

Your humble appellant,

[Handwritten Signature]
14/12/2022

Zahid Muhammad

S/O Muhammad Rehman
Caste Mehsood R/O Arra Umar Town Dera
Ismail Khan, Ex- Senior Clerk Govt Degree
College Ladha (South Waziristan).
Mob No. 0345-4513133.

Attested to
true copy
[Signature]
[Signature]

13

Annex 4B/1^D

GST No. 12-009808-002-73



CN: 4765123731

CASH 2022-12-14 17:42

PLW PLW IPes - .5
Staff: 118239 Route: X33105
Name : ZAHID MOHAMMAD
Phone : 03454513133
Address : PESHAWER

Name : HONKABLE SECETARY EDUCATI
Phone : 03999999999
Address : CIVIL SECETRAITE PESHAWER

Rs. 0
Service CHG 130.0
Fuel Surcharge 9.0
Other Amount 0.0
VAS 0
Insurance CHG 0
GST 21
Premium 0

TOTAL 160.0

For Terms & Conditions Visit
www.tcsapress.com/tnc
TCS Headquarters, 101 104, Civil Aviation
Club Road Karachi - 75202, Pakistan
UAN : +92 21 111 123 456 Web : tcs.com.pk
(Shipper Copy) V 1.80



KHYBER PAKHTUNKHWA BAR COUNCIL

ADVOCATE HIGH COURT

MUHAMMAD ABDULLAH

Advocate
bc-09-0944
Date of issue: June 2021
Valid upto: June 2024



Secretary
KP Bar Council

(14)

وکالت نامہ

کورٹ
فیس

Before the Court of Honourable Service Tribunal Peshawar, Camp Court, Dikhan

Appellant

Govt of KPK etc

Zahid Muhammad

Service Appeal

باعث تحریر آنکے

Dikhan

Muhammad Abdullah Baloch (AHC)

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے بیرونی وجوہات پر پیش یا تفسیر مقدمہ بنام
 کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں پیشی پر خود یا ہذا بذریعہ دو برو عدالت حاضر ہونا رہوں گا اور ہر رات پکارے جانے مقدمہ وکیل صاحب
 موصوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے خلاف ہو گیا تو صاحب
 موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام پشوری کے علاوہ یا پشوری کے اوقات سے پہلے یا پینچے یا بروز تعطیل
 بیرونی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ صدر پشوری کے علاوہ اور جگہ سماعت ہونے یا بروز تعطیل یا پشوری کے اوقات کے آگے یا پینچے پیش ہونے
 پر مظہر کوئی نقصان پہنچے تو اس کے ذمہ دار یا اسکے واسطے کسی معاوضہ کے ادا کرنے یا محنت نہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے جو
 کوکل ساختہ پر داخستہ صاحب موصوف مشل کردہ ذات خود منظور قبول ہو گا اور صاحب موصوف کو عرض دکوی یا جواب دکوی یا درخواست اجراء اسانے دکری
 نظر ثانی اپیل گمرانی و ہر قسم درخواست ہر قسم کے بیان دینے اور پر پٹائی یا راضی نامہ و فیصلہ برحالیہ کرنے اقبال دکوی کا بھی اختیار ہو گا اور بصورت مقرر ہونے
 تاریخ پیشی مقدمہ مزکور بیرون از پشوری صدر بیرونی مقدمہ مزکور نظر ثانی اپیل و گمرانی و ہر قسم مقدمہ یا مستوفی دکری یک طرفہ یا درخواست حکم انتظامی یا ترقی
 یا گرفتاری قبل از فیصلہ اجراءے دکری بھی صاحب موصوف کو بشرط ادا جنگی عہدہ مختص بیرونی کا اختیار ہو گا اور تمام ساختہ پرواخذتہ صاحب موصوف مشل کردہ
 از خود منظور و قبول ہو گا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہو کہ مقدمہ مزکور یا اس کے کسی جزو کی کاروائی یا بصورت درخواست نظر ثانی
 اپیل گمرانی یا دیگر معاملہ و مقدمہ مذکورہ کسی دوسرے وکیل یا بیرسٹر کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کو بھی ہر امر میں دہی اور دیتے
 اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانہ التواہ پڑے گا وہ صاحب موصوف کا حق ہو گا مگر
 صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہو گا کہ مقدمہ کی پروی نہ کریں اور ایسی صورت
 میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف ہوگا

لہذا وکالت نامہ لکھ دیا ہے تاکہ سند رہے

2023 مہ 08 مورخہ

مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے

Handwritten signature of Muhammad Abdullah Baloch

Zahid Muhammad --- appellant

Handwritten signature of Zahid Muhammad

0314 693 2557

D. I. Ichan