

13th April, 2023 This file was placed before me today by the Incharge of the pending files Branch wherein it was found that the appeal was fixed for 23.08.2021 for preliminary hearing but there is no order sheet of 23.08.2023 on the file, which apparently shows that this matter was never fixed before the Tribunal on 23.08.2021 and onwards. The learned counsel for the appellant was contacted on his mobile number, given on the file cover of the appeal file, who confirmed that since the institution of appeal till date the matter was never fixed. Therefore, while fixing the matter for 02.05.2023 at camp court Swat, explanation of the official, who was incharge of the branch, is called for as to why such acts of negligence, carelessness, inefficiency, irresponsible conduct were done by him and for the above acts why he should not be proceeded against under the relevant rules. His reply should reach the undersigned by 17.04.2023. The learned counsel for the appellant has been informed about the date (02.05.2023) fixed for preliminary hearing.



(Kalim Arshad Khan)
Chairman

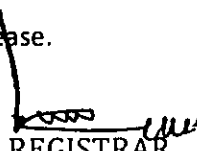

Adnan Shah, PA

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 6708 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	02/07/2021	<p>The appeal of Mr. Umar Daraz resubmitted today by Mr. Muhammad Nabi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench Peshawar. Notices be issued to appellant/counsel for preliminary hearing to be put up there on <u>23/08/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

The appeal of Mr. Umar Daraz son of Khan Sardar resident of Kata Bala Post Office Gamm Sair District Dir Upper received today i.e. on 21.06.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Copy of order passed by High Court in Writ Petition no. 398/2018 mentioned in para-5 of the memo of appeal is not attached with the appeal which may be placed on it.

No. 1052 /S.T,


Dt. 22/06 /2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Nabi Adv. Pesh.

Sir,

Puī before along with
objection no - 5 is concerned
during Arguments before the
Court.


01-7-2021

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

6708

SERVICE APPEAL No M of 2021

Umar Daraz.....Appellant

VERSUS

Federation of Pakistan and others.....Respondents

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Appellant

Through Counsel



MUHAMMAD NABI
Advocate, High Court

Office: Nisar Plaza Near
District courts Swat
Cell No: 0312-9992347

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

SERVICE APPEAL No _____ M of 2021

Umar Daraz son of Khan Sardar resident of Kata Bala, P.O
Gaam Sair, District Dir Upper.

.....Appellant

VERSUS

1. Federation of Pakistan through Ministry of SAFRON, Pak Secretariat, Islamabad.
2. Govt. of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs, FATA Secretariat, Worsak Road, Peshawar.
3. Secretary Law & Order, FATA Secretariat Worsak Road, Peshawar.
4. Deputy Commissioner / Commandant Dir Levies District Dir Upper.

.....Respondents

**SERVICE APPEAL UNDER SECTION 4,
OF THE KPK SERVICE TRIBUNAL
ACT, 1974**

Respectfully Sheweth,

- 1). That the appellant was appointed as Sepoy in Dir Levies vide appointment order. (Copies of appointment orders are attached as annexure "A")

- 2) That the appellant is performing his duty with great zeal, zest, devotion and dedication at his best level to the entire satisfaction of his senior officials. There is no complaint against the appellant.
- 3) That the appellant has been discriminated and dismissal unlawfully & without giving opportunity which is against the fundamental rights. (Copy of the dismissal order of appellant is attached as annexure "B")
- 4) That the appellant filed many department appeals as well as applications before respondents, but the respondents have ignored the appellant appeals / applications. (Copies of applications / appeals are attached as annexure "C")
- 5) That the appellant being aggrieved of the acts & action of respondents having no other adequate & efficacious remedy, thereafter the appellant filed writ petition No. 398-M of 2018, and during the proceedings the Peshawar High Court Peshawar directed the appellant to approached this service tribunal. (Copy of writ petition is attached as annexure "D")
- 6) That the appellant filed this service appeal inter alia, on the following grounds.

GROUNDS:-

- A) That the action & inaction of the respondents are illegal, against the law, void ab-initio, without lawful authority.
- B) That the appellant has not been given opportunity of hearing as per law and rules.
- C) That the inaction of respondent No. 4 is against the law, rules, because the appellant is in duty, but the respondent No. 4 is against the law & rules dismissed the appellant.
- D) That the appellant is employees of the Dir Upper Levies and performing their duty with great zeal & zest.
- E) That the apprehended forceful premature termination of the appellant is unjustified illegal. The said act of the respondents is be clear & sheer violation of the Fundamental Rights of the appellant which are envisaged and guaranteed by the constitution of the Islamic Republic of Pakistan, 1973.

- F) That the appellant is qualified and if the appellant was not appointed according to law, it would cause irreparable loss, and amounts to have snatched the constitutional right of the appellant to be treated in accordance with law and also to choose a professional as according to his qualifications & Experience.
- G) That the appellant has not been afforded opportunity to appear inquiry and to cross examine the witnesses.
- H) That everyone is equal before the law and no one can be discriminated, the Respondents department was duty bound to consider the appellant in the matter of appointment as per law so, this Honorable Court have ample powers to issue appropriate order just to resolve the agony which caused to appellant by the hands of Respondents.
- I) That further grounds, with leave of this Honorable Court, would be raised at the time of arguments before this Honorable Court.

PRAYER

It is therefore, humbly prayed that, on acceptance of the instant service appeal, this Honorable court may kindly issued an appropriate writ and directed to the Respondent No. 4 to appoint the appellant as Sepoy with all back benefits.

Any other relief which this Honorable Court deems fit and proper in the circumstances may also be very kindly granted.



Appellant

Through Counsel

MUHAMMAD NABI
Advocate

CERTIFICATE:

(As per directions of my client) No such like Service appeal has earlier been filed by the appellant on the subject matter before this Honorable Court.



Counsel

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

Umar Daraz.....Appellant

VERSUS

Federation of Pakistan and others.....Respondents

ADDRESSES OF THE PARTIES

APPELLANT

Umar Daraz son of Khan Sardar resident of Kata Bala, P.O

Gaam Sair, District Dir Upper.

CNIC No: 157029409139³ Cell No: 03159703018

RESPONDENTS

1. Federation of Pakistan through Ministry of SAFRON, Pak Secretariat, Islamabad.
2. Govt. of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs, FATA Secretariat, Worsak Road, Peshawar.
3. Secretary Law & Order, FATA Secretariat Worsak Road, Peshawar.
4. Deputy Commissioner / Commandant Dir Levies District Dir Upper.

Through Counsel


MUHAMMAD NABI
Advocate

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

SERVICE APPEAL No: M of 2021

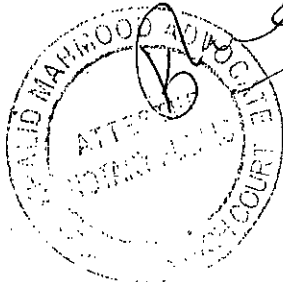
Umar Daraz.....Appellant

VERSUS

Federation of Pakistan and others.....Respondents

AFFIDAVIT

I, Umar Daraz (appellant), do hereby solemnly affirm and declare that the contents of the above titled Service appeal are true and correct to the best of my knowledge and belief.



Umar Daraz

DEPONENT

(8)

(9)

OFFICE OF THE DISTRICT COORDINATION OFFICER/COMMANDANT

DIR LEVIES DISTRICT DIR UPPER.

No: 11160-65/DCO/LHC/Dated 27/05/2010.

OFFICE ORDER.

Consequent upon the recommendations of Departmental Promotion and Selection Committee, the following candidates of Union Council Jabbar are hereby recruited as sepoy in Federal Levy Dir Upper in BPS-1 (Rs. 2970-90-5670) plus usual allowances on temporary basis on the given terms and conditions.

S.No	Name of Official	F.Name	Resident of
1	Bakht Zahir	Gul Zahir	Kottan Bala
2	Tahir Rehman	Sultan Yousaf	Engaro Cham Jabbar
3	Ayaz	Sahib Rehman	Jabbar
4	Hayat Zada	Shafi Muhammad	Jabbar
5	Said Badhsah	Amir Baz Khan	Kottan Bala
6	Raza Khan	Shehzad Khan	Neshan Banda
7	Inam Ullah	Badshah Khan	Neshan Banda
8	Imran Khan	Muhammad Sher	Jabbar
9	Bakht Nawab	Fazal Wahab	Kass Cham
10	Umar Ali	Fateh Muhammad	Kulal Banda
11	Ahmad Ghani	Umar Zada	Jabbar
12	Attair Rehman	Abdur Rehman	Tangi
13	Noor Rehman	Gul Muhammad	Kulal Bandai
14	Muhammad Ilyas	Kher Muhammad	Kulal Bandai
15	Wahid Ullah	Rehman Gul	Jabbar
16	Muhammad Rawan	Umar Muhammad	Gamser
17	Umar Daraz	Khan Sardar	Jabbar

Attested
to be true copy

C.T.C

محمد نبی ایڈوکیٹ ہائی کورٹ

C.T.C

محمد نبی ایڈوکیٹ ہائی کورٹ

OFFICE OF THE DISTRICT COORDINATION OFFICER DISTRICT DIR UPPER

No: 8354-62
/DCO/LHC/

Dated Upper Dir the 14/7/2011

(9)
"B"
Annex

To,

1. Mr. Sahibzada Levy Sepoy Federal
2. Mr. Abdul Hamid Levy Sepoy Federal
3. Mr. Umar Daraz Levy Sepoy Federal
4. Mr. Ihsan Ullah Levy Sepoy R.No. 542 Federal.
5. Mr. Ashraf Ali Levy Sepoy Federal.
6. Mr. Ali Akbar Levy Sepoy Federal.

Subject: - REMOVAL FROM SERVICE.

Memo:

As reported by Incharge Subidar Levy Post Panakot Dir, you remained absent from duty since long, which is mis-conduct on your part and attracts disciplinary action against you.

You were directed to explain your positions vide this office notice no. 6988 dated 28-06-2011 and final notice/charge sheet issued to you vide this office no. 6995-7000 dated 30-06-2011 but you failed to approach this office with your defense.

Therefore, keeping in view the above facts you are hereby dismissed from service w.e.f. 13-07-2011 with immediate effect.

(Commandant Dir Levies)
DISTRICT COORDINATION OFFICER
DIR UPPER.

Even No. & Dated:-

Copy forwarded to the:-

- The Subidar Major Dir Levies.
- The District Accounts Officer Dir Upper for information and necessary action.
- File.

(Commandant Dir Levies)
DISTRICT COORDINATION OFFICER
DIR UPPER.

Attested
8354-62

C.T.C

محمد نبی ایڈوکیٹ ہائی کورٹ

(10)

لعللٹ جنا - سووم سکیرٹری خیریتو الخواہ بلقاع سٹار

(9)

جنا - عالی

1- یہ تم سائل دیر سوینز میں بحیثیت کنٹینٹیل بطور سوائی صوم

صوم 13/07/2011 کو نوکری سے برضا ست کیا گیا

2- یہ تم سائل ایک سٹریٹ خانراں سے نقل و کتبہ اور سائل

کا ریکارڈ بالکل صاف نظر آ رہا ہے جس سے سائل کے نوکری

پر برا اثر پڑ کر سائل کو بغیر کسی لاپس سے نوکری

سے برضا ست کیا گیا

کنرا رشتہ کار کے سائل کو دراز ست
کو منظور کر کے سائل کے نوکری
کا لاپس

Accepted
to be true of 29

17/8/2013

محمد علی احمد
C.T.C
محمد نبی ایڈوکیٹ ہائی کورٹ جہلم

بعد ازیں جناب ڈپٹی کمشنر دیر یونیورسٹی علاقہ دیر ایئر۔

(8)

جناب۔ عالی

یہ کہ مسائل عمر داز و لو خان سردار ساکن جبرائیل و قلعہ دیر ایئر کا اصل پاسپورٹ ہے۔

2۔ یہ کہ مسائل 2011ء میں دیر یونیورسٹی بھرتی ہوا تھا۔

3۔ یہ کہ مسائل اپنے ڈیوٹی اصین طم لہجے سے ادا کرنا چاہتا ہے۔

4۔ یہ کہ مسائل کو یونیورسٹی ڈیپارٹمنٹ نے بغیر دستوں کا نوٹس دیا تھا 13/7/2011ء کو نوٹس سے مرخص کیا گیا۔

5۔ یہ کہ مسائل ایک تعلیم یافتہ شخص ہے جس کا کوئی اور ذریعہ معاش نہیں ہے۔

لینڈ ایئر کا یہ کہ مسائل کا درخواست
کیا جائے۔


Muhammad Nadeem
C.T.C
محمد نبی ایڈووکیٹ ہائی کورٹ

عمر لکھنہ

مسائل عمر داز و لو خان سردار
سکنہ قلعہ دیر ایئر

المہرقوع 5/11/2011

**BEFORE THE PESHAWAR HIGH COURT/
MINGORA BENCH (DARUL QAZA) AT SWAT**

W.P No _____ M of 2018

- 1) Abdul Hamid son of Ghafoor resident of Balkor, P.O Akhgram, Tehsil Wari, District Dir Upper.
- 2) Umar Daraz son of Khan Sardar resident of Kata Bala, P.O Gaam Sair, District Dir Upper.

.....Petitioners

VERSUS

1. Federation of Pakistan through Ministry of SAFRON, Pak Secretariat, Islamabad.
2. Govt. of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs, FATA Secretariat, Worsak Road, Peshawar.
3. Secretary Law & Order, FATA Secretariat Worsak Road, Peshawar.
4. Deputy Commissioner / Commandant Dir Levies District Dir Upper.

.....Respondents

**WRIT PETITION UNDER ARTICLE 199 OF
THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973.**

C.T.C

محمد نبی ایڈوکیٹ ہائی کورٹ

Respectfully Sheweth,

- 1) That the petitioners were appointed as Sepoy in Dir Levies vide appointment order. (Copies of appointment orders are attached as annexure "A")
- 2) That the petitioners are performing their duties with great zeal, zest, devotion and dedication at their best level to the entire satisfaction of their senior officials. There is no complaint against the petitioners.
- 3) That the petitioners have been discriminated and dismissal unlawfully & without giving opportunity which is against the fundamental rights and article 25 of Constitution Islamic Republic of Pakistan, 1973. (Copies of the dismissal order of petitioners are attached as annexure "B")
- 4) That the petitioners filed many department appeals as well as applications before respondents, but the respondents have ignored the petitioners appeals / applications. (Copies of applications / appeals are attached as annexure "C")
- 5) That the petitioners being aggrieved of the acts & action of respondents having no other adequate & efficacious remedy, except to file this writ petition inter alia, on the following grounds.

C.T.C

محمد نبی ایڈوکیٹ ہائی کورٹ

GROUNDS:-

- A) That the action & inaction of the respondents are illegal, against the law, void ab-initio, without lawful authority.
- B) That the petitioners have not been given opportunity of hearing as per law and rules.
- C) That the inaction of respondent No. 4 is against the law, rules, because the petitioners are in duty, but the respondent No. 4 is against the law & rules dismissed the petitioners.
- D) That the petitioners are employees of the Dir Upper Levies and performing their duty with great zeal & zest.
- E) That the apprehended forceful premature termination of the petitioners are unjustified illegal. The said act of the respondents is be clear & sheer violation of the Fundamental Rights of the petitioners which are envisaged and guaranteed by the Constitution of the Islamic Republic of Pakistan, 1973.

C.T.C

محمد نبی ایڈوکیٹ ہائی کورٹ

- F) That the petitioners are qualified and if the petitioners were not appointed according to law, it would cause irreparable loss, and amounts to have snatched the constitutional right of the petitioners to be treated in accordance with law and also to choose a professional as according to his qualifications & Experience.
- G) That the petitioners have not been afforded opportunity to appear inquiry and to cross examine the witnesses.
- H) That everyone is equal before the law and no one can be discriminated, the Respondents department was duty bound to consider the petitioners in the matter of appointment as per law so, this Honorable Court have ample powers under article 199 of the Constitution Islamic Republic of Pakistan, 1973, to issue appropriate writ just to resolve the agony which caused to petitioners by the hands of Respondents.
- I) That further grounds, with leave of this Honorable Court, would be raised at the time of arguments before this Honorable Court.

C.T.C

محمد نبی ایڈوکیٹ ہائی کورٹ

(10)


PRAYER

It is therefore, humbly prayed that, on acceptance of the instant writ petition, this Honorable Court may kindly issued an appropriate writ and directed to the Respondent No. 4 to appoint the petitioners as Sepoy with all back benefits.

Any other relief which this Honorable Court deems fit and proper in the circumstances may also be very kindly granted.

Petitioner

Through Counsel


MUHAMMAD NABI
Advocate

CERTIFICATE:

(As per directions of my client) No such like Writ petition has earlier been filed by the petitioner on the subject matter before this Honorable Court.


Counsel

LIST OF BOOKS

1. Constitution Islamic Republic of Pakistan, 1973.
2. Any other law book according to need.


Counsel

C.T.C

محمد نبی ایڈوکیٹ ہائی کورٹ

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

WAKALAT NAMA

C.T.C
محمد بنی اللہ
Umar Daraz

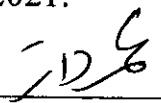
V/S

Federation of Pakistan etc

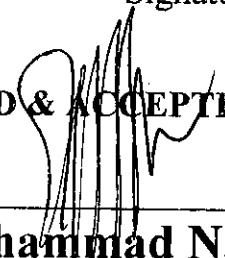
I/We, Umar Daraz (appellant), do hereby appoint **Muhammad Nabi Advocate**, High Court, in the above mentioned case, to do all or any of the following acts, deeds and things:-

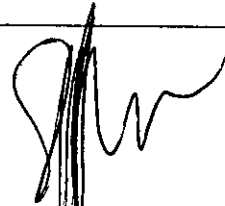
- 1) To appear, act and plead for me in the above mentioned case in this Court/Tribunal in which the same may be tried or heard, and any other proceedings arising out of or connected therewith.
- 2) To sign and verify and file, petitions, appeals, affidavits and applications as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at all its stages.
- 3) That entire fee so fixed will be payable in two equal installments: i.e., half fee at this time of signing Wakalat Nama and remaining on the first date of hearing.
- 4) To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of the proceedings.
5. To do any act necessary or ancillary to the above acts, deed and things.
6. To appoint any other counsel to do any /all of the acts, deeds and things.
7. I/We, shall appear in the court/tribunal on every date of hearing for assistance and if due to my non-appearance, any adverse judgment / order / decree is passed, they will not be held responsible.

IN WITNESS whereof I / We have signed this Wakalat Nama hereunder, the contents of which have been read / explained to me and fully understood by me this 16th May, 2021.


Signature of Executant

ATTESTED & ACCEPTED BY:


Muhammad Nabi
Advocate, High Court


Attested & Accepted by
Muhammad Nabi
Advocate, High Court