BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL NO. 1030/2015

Date of institution ... 18.09.2015
Date of judgment ... 03.06.2016

MALANG JAN,
Ex: Senior Scale Stenographer,
Anti-Terrorism Court-II, Peshawar.
R/o Village & P.O Kheshgi Payan, Mohallah Shamsabad,
Tehsil & District, Nowshera.

... (Appellant)

VERSUS

1. **THE HONORABLE ADMINISTRATIVE JUDGE,**
   Peshawar High Court, Peshawar (Appellate Authority),
   Through Registrar, Peshawar High Court, Peshawar.
2. **THE ADMINISTRATIVE JUDGE,**
   Anti-Terrorism Courts, Judicial Complex, Peshawar.
3. **JUDGE/PRESIDING OFFICER,**
   Anti-Terrorism Court-II, Judicial Complex, Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 READ WITH KHYBER PAKHTUNKHWA GOVERNMENT SERVANTS (EFFICIENCY & DISCIPLINE) RULES, 2011 AGAINST OFFICE ORDER NO. 187-191/ATC, (P) DATED 20.05.2015, ISSUED BY RESPONDENT NO. 3, WHEREBY APPELLANT HAS BEEN REMOVED FROM SERVICE, WITH IMMEDIATE EFFECT & DEPARTMENTAL APPEAL/REPRESENTATION HAS NOT YET BEEN DECIDED DESPITE THE LAPSE OF MANDATORY PERIOD.

Mr. Bilal Ahmad Kakaizai, Advocate. .. For appellant.
Mr. Usman Ghani, Senior Government Pleader .. For respondents

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MR. ABDUL LATIF .. MEMBER (EXECUTIVE)
MR. PIR BAKHSH SHAH .. MEMBER (JUDICIAL)

JUDGMENT

ABDUL LATIF, MEMBER:- Facts giving rise to the instant appeals are that the appellant was appointed by the competent authority as Senior Scale Stenographer vide order dated 20.03.2010. That on 08.06.2013 an explanation was called from the appellant

and appellant submitted his reply. That on 15.07.2013 & 16.07.2013 appellant was called for the competency & efficiency test by the committee headed by the Judge of ATC-III. That again on 18.07.2013, yet another explanation was called from the appellant in respect of inefficacy and incompetency charges and appellant again submitted his written reply of the said explanation. It is important to mention here that in response to both the explanations, the appellant submitted its reply wherein he mentioned his illness/ear disease but the committee did not give any importance to his reply or his ear disease neither referred the matter to Standing Medical Board. That, after lapse of about 22 months, on 04.05.2015 appellant served with a final show-cause notice. That, since the final show-cause notice was neither in accordance with law nor the same was according to the actual and factual position of the case, hence the appellant submitted his detailed reply, wherein he clarified his position. That, without considering the reply of the appellant, vide order dated 20.05.2015, the appellant was removed from service. That against the impugned order dated 20.05.2015 appellant submitted departmental appeal/representation to the competent authority on 01.06.2015 which was not responded within the statutory period and hence the instant service appeal with a prayer that on acceptance of this service appeal the impugned order of removal from service be set-aside being against the law and rules and appellant be reinstated in service with full back benefits and wage, with such other relief as may be deem fit in the circumstances of the case may also be granted.

2. The learned counsel for the appellant argued that allegations of inefficiency and incompetency were illegal, unlawful, void and ineffective. He further argued that proper procedure as provided in the Efficiency and Discipline Rules was not adopted, full-fledged inquiry was not conducted to prove the allegations of inefficiency against the appellant, the impugned order was therefore liable to be set-aside. He further argued that fact regarding the illness of the appellant on account of ear infection was never considered or discussed by the competent authority in his finding/removal order in-spite of the fact that documentary evidence in support of illness of the appellant was submitted in reply to the explanation and show-cause notices, the order of removal of the appellant was therefore not a speaking order in terms of Section-24-A of General Clauses Act and was against the principles of natural justice. He further argued that as per Constitution of Islamic Republic of Pakistan.

1973 State was bound to provide facility for work, medical relief etc to the citizens who were temporarily unable to earn their livelihood on account of sickness or infirmity but in the instant case the competent authority instead of seeking opinion of Standing Medical Board subjected the appellant to unfair and unjust proceeding and deprived him of the only source of livelihood. He prayed that the appeal may be accepted and the appellant may be reinstated in service with all back benefits.

3. The learned Senior Government Pleader resisted the appeal and argued that the appellant was proceeded against for the charges of inefficiency and was removed after fulfillment of all codal formalities. He further argued that opportunity was given to the appellant to improve his performance but he failed to make any improvement in his performance/output and on holding the competency test he failed to show his competency and the committee constituted for the purpose recommended that he was not suitable for retention for any government service. He further argued that proper show-cause notice was served on the appellant and he was also provided opportunity of personal hearing before the competent authority imposed on him major penalty of removal from service. He prayed that the appeal being devoid of any merits may be dismissed.

4. Arguments of learned counsels for the parties heard and record perused.

5. From perusal of the record it transpired that the appellant was proceeded against for the charges of inefficiency and poor performance as a stenographer. He was put to a competency test through a two Members Committee who did not find his performance in the Type/Shorthand test and as such recommended that the stenographer was not suitable for retention any more in government service and recommended his removal from service to the competent authority. Based on the recommendation of the said committee the appellant was removed from service vide impugned order dated 20.05.2015. From perusal of the record it transpired that in response to explanation letters of the competent authority, the appellant defended himself on the basis of various medical prescription wherein he was reported ill on account of infection in his right ear. A perusal of the proceedings reveal that the competent authority did not bother to investigate thoroughly into ailment of the appellant through relevant Standing Medical Board nor was he provided full opportunity to prove his innocence on account of being physically impaired. It is also worth mention that

proper mechanism is provided in the Civil Servant Act 1973 wherein retention or otherwise in service on account of inefficiency/redundancy is clearly spelt out. The second option was however also not exercised wherein a civil servant can be prematurely retired from service on account of inefficiency. In the circumstances, the Tribunal is of the considered view that removal of the appellant from service was not in accordance with law/rules and as a consequence the impugned order dated 20.05.2015 is set-aside, the appellant is reinstated in service and the intervening period he remained out of service since his removal is treated as leave of the kind due. The competent authority is however at liberty to refer the case of the appellant, if required, to Standing Medical Board for opinion on his health and physical fitness and take further decision under the rules in vogue. Parties are, however, left to bear their own costs. File be consigned to the record room.

ANNOUNCED
03.06.2016

(PIR BAKHSH SHAH)
Member

(ABDUL LATIF)
Member

02.06.2016 Appellant with counsel (Mr. Bilal Ahmad Kakaizai, Advocate) and Mr. Muhammad Yasin, Assistant alongwith Mr. Usman Ghani, Senior Government Pleader for respondents present. Arguments heard. Learned Counsel for the appellant submitted that he will produce the rules that Learned Judge Presiding of ATC was not a competent authority who removed the appellant from service. Hence to come up for order on tomorrow i.e 03.06.2016.

MEMBER MEMBER

03.06.2016 Appellant with counsel and Mr. Muhammad Yasin, Assistant alongwith Mr. Usman Ghani, Senior Government Pleader for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today placed on file. In the circumstances, the Tribunal is of the considered view that removal of the appellant from service was not in accordance with law/rules and as a consequence the impugned order dated 20.05.2015 is set-aside, the appellant is reinstated in service and the intervening period he remained out of service since his removal is treated as leave of the kind due. The competent authority is however at liberty to refer the case of the appellant, if required, to Standing Medical Board for opinion on his health and physical fitness and take further decision under the rules in vogue. Parties are, however, left to bear their own costs. File be consigned to the record room.

ANNOUNCED
03.06.2016

MEMBER MEMBER

06.01.2016 Appellant with counsel and Mr. Samiullah, Judicial Assistant alongwith Assistant AG for respondents present. Written statement by respondent No. 1 submitted. The appeal is assigned to D.B for rejoinder and final hearing for 5.4.2016.

Chairman

05.042016 Appellant with counsel and Mr. Muhammad Jan, GP for respondents present. Rejoinder on behalf of the appellant submitted which is placed on file. To come up for arguments on 19.07.2016.

Member

13.05.2016 Appellant in person present and submitted an application for early hearing. Case file requisitioned. Application is allowed. To come up for arguments on 21.06.2016 instead of 19.07.2016.

Member

28.9.2015

Appellant with counsel present. Learned counsel for the appellant argued that the appellant was serving as a Senior Scale Stenographer in the Court of Learned Judge Anti Terrorism Peshawar when subjected to inquiry on the allegations of incompetency and removed from service vide impugned order dated 20.5.2015 against which he preferred departmental on 1.6. 2015 which was not responded and hence the instant service appeal on 18.9.2015.

Appellant Deposited Security & Process Fee

That due to ear infection the appellant was hard of hearing at the relevant time and that the impugned order of removal from service without constitution of medical board and findings thereon was not warranted.

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 24.11.2015 before S.B.

Chairman

24.11.2015

Appellant in person, M/S Samiullah, Judicial Assistant for respondent No. 1 and Syed Mohsin Shehzad, Supdt. for respondents No. 2 and 3 alongwith Addl: A.G for respondents present. Written statement on behalf of respondents No. 2 and 3 submitted while request for adjournment was made on behalf of respondent No. 1. To come up for written reply/comments on behalf of respondent No. 1 on 6.1.2016 before S.B.

Chairman

FORM-A

FORM OF ORDER SHEET

Court _____

Case No. 1030/2015

	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	18.09.2015	The appeal of Mr. Malang Jan, presented to-day by Mr. Bilal Ahmad Kakaizai, Advocate may be entered in the institution register and put up to the Worthy Chairman for preliminary hearing. REGISTRAR
2	21-9-15	This case be put up before the S.Bench for preliminary hearing on 28-9-15 CHAIRMAN

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No: 1030 / 2015

MALANG JAN *Versus* Government of KPK etc.

INDEX

Malang Jan

Appellant

Through:

BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)
Office 213, Sunehri Masjid
Road, Peshawar Cantt.
Cell No.0300-9020098

(1)

BEFORE NWFP SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No: 1030 / 2015

MALANG JAN,
Ex: Senior Scale Stenographer,
Anti Terrorism Court-II, Peshawar,
R/o Village & P.O Kheshgi Payan, Mohallah Shamsabad,
Tehsil & District, Nowshera
... ... APPELLANT

Versus

1. THE HONOURABLE ADMINISTRATIVE JUDGE,
   Peshawar High Court, Peshawar (Appellate Authority),
   Through Registrar, Peshawar High Court, Peshawar.

2. THE ADMINISTRATIVE JUDGE,
   Anti Terrorism Courts, Judicial Complex, Peshawar.

3. JUDGE / PRESIDING OFFICER,
   Anti Terrorism Court-II, Judicial Complex, Peshawar.

... ... RESPONDENTS

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 READ WITH KHYBER PAKHTUNKHWA GOVERNMENT SERVANTS (EFFICIENCY & DISCIPLINE) RULES, 2011 AGAINST OFFICE ORDER NO. 187-191/ATC, (P) DATED 20.05.2015, ISSUED BY RESPONDENT NO. 3, WHEREBY APPELLANT HAS BEEN REMOVED FROM SERVICE, WITH IMMEDIATE EFFECT & DEPARTMENTAL APPEAL / REPRESENTATION HAS NOT YET BEEN DECIDED DESPITE THE LAPSE OF MANDATORY PERIOD.

(2)

Prayer: *That on acceptance of this Service Appeal the Impugned order of removal from service be set aside being against the law and rules and Appellant be reinstated in service with full back benefits and wages, with such other relief as may be deem fit in the circumstances of the case may also be granted.*

Respectfully Sheweth,

Short facts, giving rise to present Service Appeal, are as under:

1) That, Appellant was appointed by the Competent Authority as Senior Scale Stenographer vide Order dated 20.03.2010, after fulfilling all the codal formalities, in the Court of Respondent No. 3, copy of the Appointment Order is attached as ***Annexure A***. It is important to mention here that the process of Appointment of Appellant was initiated with competitive judicial examination, which was monitored by Competent Selection & Recruitment Team consisting of many senior judges as well as Registrar of the Respondent No. 2.

2) That, Appellant performed his duties honestly and efficiently in the court of Respondent No. 3 when on 08.06.2013, an Explanation was called from the Appellant, copies of the Explanation & its reply is attached as ***Annexure B & C***.

3) That, on 15.07.2013 & 16.07.2013, Appellant was called for the competency & efficiency test by the Committee headed by the Judge of ATC-III, copy of the minutes of the meeting dated 17.07.2013 are attached as ***Annexure D***.

4) That, again on 18.07.2013, yet another Explanation was called from the Appellant in respect of almost the same charges, however the Appellant again submitted his defence reply wherein he clarified his position, copies of the Explanation & its Reply are attached as ***Annexure E & F***. It is important to mention here that in response to both the Explanations, the Appellant submitted its reply wherein he mentioned his illness / ear disease but the

Committee did not give any importance to his reply or his ear disease neither referred the matter to Standing Medical Board.

5) That, after lapse of about 22 months, on 04.05.2015, Appellant was served with a Final Show Cause Notice, copy of the Final Show Cause Notice is attached as ***Annexure G***.

6) That, since the Final Show Cause Notice was neither in accordance with law nor the same was according to the actual and factual position of the case, hence the Appellant submitted his detailed reply, wherein he clarified his position, copies of the Show Cause Notice& its Reply are attached as ***Annexure H***.

7) That, without considering the reply of the Appellant, vide Order dated 20.05.2015, the Appellant was removed from the services of the Respondents, copy of the Impugned Order is attached as ***Annexure J***.

8) That, as per law applicable, while feeling aggrieved from the Impugned Order, the Appellant submitted his Departmental Appeal / Representation to the Competent Authority, copy of the Departmental Appeal / Representation dated 01.06.2015 is attached as ***Annexure K***.

9) That, the Respondents failed to decide the fate of the Departmental Appeal of the Appellant within requisite period hence this Service Appeal on the following amongst other grounds: -

GROUNDS:

1. That, the allegations of inefficiency and incompetency, as leveled in the Explanation and Show Cause Notice is illegal, unlawful, void and ineffective.

2. That, the same is against the principles of Natural Justice, also.

3. That, the procedure as provided in the Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011 has not been followed in strict

sense nor the rules of justice or good governance was respected by the Competent Authority, in any manner.

4. That, the Appellant was appointed by the Competent Authority after fulfilling all the requisite codal formalities, being competent, fit and eligible candidate, it is important to mention here that at the time of Appointment, a comprehensive competency test was taken by the Competent Authority.

5. That, at the time of Appointment Appellant was physically and medically fit for the post of Senior Scale Stenographer moreover he performed unblemished and meritorious services with many Honourable Judges of Anti Terrorism Court.

6. That, since Appointment Appellant is performing his functions in the Court without any sort of complaint from any quarter. It is important to mention here that duties / functions of the Appellant included judgment writing, recording of evidence and other tasks given to him by the Honourable Judge, from time to time.

7. That, during the course of employment Appellant's hearing sense was badly damaged due to infection in his right ear for which he is still under treatment, copy of the Medical Certificates, in this respect, are attached as ***Annexure L***.

8. That, due to damage of hearing sense of right ear, Appellant was unable to hear low frequency voice however he is still under treatment and as per doctor's view Appellant will overcome the disease, in near future.

9. That, if at all, the Competent Authority was not satisfied with the job performed by the Appellant due to his illness, than he would have changed the designation of the Appellant in order to run day-to-day affairs of the Court / routine tasks, smoothly. It is important to mention here that the post of Assistants and Readers are in the same grade i.e. BPS-16 and are lying vacant in the Anti-Terrorism Court.

10. That, it does not amount to a judicious act whereby Appellant has been removed from the picture by the Competent Authority without mentioning any cogent reasons or justifications which otherwise violates section 24-A of the General Clauses Act.

11. That, no regular inquiry was conducted by the Competent Authority before passing the removal order nor Appellant was provided the opportunity of personal hearing.

12. That, the Explanations and minutes of the meeting of August 2013 has been used against the Appellant after about two years which speaks volumes of malafide on part of the Department.

13. That, it is well settled principle of law guarded by the precedents and judgments of the Supreme Court of Pakistan that the regular and detailed inquiry is mandatory pre-condition in cases where a civil servant is awarded major punishment of removal or dismissal.

14. That, probably, the Appellant has been removed from the picture in order to accommodate any one else blue eyed.

15. That, the fact regarding the ear infection was not considered or discussed by the Competent Authority in his findings / Removal Order despite the fact that the same was brought into the knowledge of the Competent Authority by the Appellant in his replies to the Show Cause Notice and Explanation etc. it is important to mention here that the ailment / illness of the Appellant was in the knowledge of the Respondents because on many occasions the Honourable Judge / Respondent No. 3 discussed the disease of the Appellant. Needless to mention here that the court staff was aware of ear infection of the Appellant.

16. That, no such complaint of inefficiency / incompetency was pending or reported against the Appellant before getting the ear infection.

17. That, as per law and the rules on the subject the Competent Authority should have referred the matter to the Standing

Medical Board and before issuance of the removal order, the opinion of Professional Medical Board was mandatory.

18. That, as per the Constitution of Islamic Republic of Pakistan, 1973 the state is bound to provide the facilities for work, medical relief etc to citizens who are temporarily unable to earn their livelihood on account of sickness or infirmity but in the instant case the Competent Authority, being part of one of the State organ, has grabbed the only way of earnings of the Appellant.

19. That, the act of the Competent Authority is against the principles enunciated in the Constitution of Islamic Republic of Pakistan, 1973 especially Article 4, 25 and 27 has been violated by the Competent Authority.

20. That, it is well established principle of law that regular enquiry including the opportunity of personal hearing is must where the Competent Authority is willing to impose the major punishment.

21. That, even otherwise no allegation of moral turpitude or financial embezzlement is in field hence the removal order is not sustainable in the eyes of law.

22. That, the punishment as imposed upon the Appellant is too harsh.

It is, therefore, requested that subject Appeal be accepted as prayed for.

Appellant

Through:

BILAL AHMAD KAKAIZAI

(Advocate, Peshawar)

(7)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No: _____ / 2015

MALANG JAN *Versus* Government of KPK etc.

AFFIDAVIT

I, MALANG JAN, S/O DAD KHAN, Ex-Senior Scale Stenographer, Anti Terrorism Court-II, Peshawar, R/o Village & P.O Kheshgi Payan, Mohallah Shamsabad, Tehsil & District, Nowshera, Appellant, do hereby on oath affirm and declare that the contents of the Service Appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.

Malang Jan

Deponent

Identified by:

KHALID MAHMOOD ADVOCATE ATTESTED NOTARY PUBLIC

BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

(8)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No: _____ / 2015

MALANG JAN *Versus* Government of KPK etc.

ADDRESSES OF PARTIES.

APPELLANT:

MALANG JAN, Ex: Senior Scale Stenographer, Anti Terrorism Court-II, Peshawar, R/o Village & P.O Kheshgi Payan, Mohallah Shamsabad, Tehsil & District, Nowshera.

RESPONDENTS

1. The Honourable Administrative Judge, Peshawar High Court, Peshawar (Appellate Authority), Through Registrar, Peshawar High Court, Peshawar.

2. The Administrative Judge, Anti Terrorism Courts, Judicial Complex, Peshawar.

3. Judge / Presiding Officer, Anti Terrorism Court-II, Judicial Complex, Peshawar.

Malang Jan

Appellant,

Through,

BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

(9) A

IN THE COURT OF MR. ABDUR RAHMAN KHAN,
ADMINISTRATIVE JUDGE, ANTI-TERRORISM COURT-II, PESHAWAR.

ANNEXURE

O R D E R

20th MARCH 2010.

Consequent upon the recommendations of the Departmental Selection Committee in its meeting held on 25th February 2010 *Mr. Malang Jan s/o Dad Khan r/o village & P.O. Kheshgi Payan, Mohalla Shams Abad, District & Tehsil Nowshera* is hereby appointed as Senior Scale Stenographer in Basic Pay Scale No. 15 viz (5220-420-17820) in the Court of Administrative Judge, Anti-Terrorism II, Peshawar with immediate effect.

His appointment is purely on temporary basis and shall be liable for termination at any time without assigning any reason or giving prior notice.

TERMS AND CONDITIONS

1. His service shall be governed by the NWFP Civil Servants Act, 1973 as amended up to date.
2. The service shall be governed by the NWFP Govt: Servant (E&D) Rules, 1973
3. His service shall be subject to Medical Fitness Certificate from M.S. Service and Police Hospital Peshawar..
4. in case he desires to resign from service, either he will submit notice one month before leaving the office or will surrender one month pay.
5. His service shall be on probation for a period of one year extendable upto two years.
6. His appointment is also subject to verification of his Academic Certificates / Degrees from concerned Board or University.
7. His service shall be subject to eventual confirmation in case of availability of permanent post.
8. He shall be paid the minimum Basic Pay of Grade 14 and ordinary allowances admissible under the rules.

In case the above terms and conditions are accepted he should report to the undersigned for assuming his duty with in seven days from today, failing which offer shall stand withdrawn.

-sd/-
(ABDUR RAHMAN KHAN)
ADM: JUDGE
ANTI-TERRORISM COURT-II /
CHAIRMAN SELECTION COMMITTEE

Endst. No. 297-301 ATC (P-II) Dated Peshawar the 20th March 2010.

Copy forwarded for information and necessary action to :-

1) The Registrar, Peshawar High Court, Peshawar.
2) The Sectary to Government of NWFP, Home and Tribal Affairs Department, Peshawar.
3) The Accountant General, NWFP, Peshawar.
4) The Accountant of this Court.
5) Mr. Malang Jan S/O Dad Khan R/O Village and P.O. Keshgi Payan Mohallah Shams Abad, Tehsil and District Nowshera.

(ABDUR RAHMAN KHAN)
ADM: JUDGE
ANTI-TERRORISM COURT-II /
CHAIRMAN SELECTION COMMITTEE

Certified to be
True

(10) B

ANNEXURE

Explanation

Whereas you were appointed as senior scale stenographer in this court vide order No. 297-301 ATC (P) Dated 20th March 2010 ; and

Whereas you are constantly found incapable of discharging your duties due to your failing competency ; and

Whereas you were provided opportunities by my predecessor to improve your skill and ability, and on assumption of charge of the office on 1st February 2013 by the undersigned, you were orally directed to improve your skill and ability after having observed your performance on record ; and

Whereas you were kept under observation for the last three months with off and on advices and directions to improve your ability; and

Whereas you are found apparently incapable of improvement and unfit for retention in service due to highly poor performance, perception, knowledge and failure to discharge your duties.

Hence I, Mr. Anwar Hussain , as authority, do hereby direct that your suitability for retention in service will be examined as you are found incapable to discharge your duties, now therefore you are called upon to explain as to why you should not be proceeded against under section 5 (1) (a) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 read with rule 3(a) of the rules, ibid.

Judge
O/C **Anti Terrorism Court-II,**
Peshawar.
Dated 08-06-2013

No. 594-595/-ATC-II (P)

- Copy to Worthy Registrar Peshawar High Court Peshawar for information.

Judge
O/C **Anti Terrorism Court-II,**
Peshawar.

Certified to be
True Copy

(11) C

ANNEXURE

To,

The Hon'ble Judge,
Anti Terrorism Court-II,
Peshawar.

Subject: **REPLY TO EXPLANATION.**

Respected Sir,

I have the honour to refer to your good self letter No.594-595/ATC-II (P) Dated 08.06.2013 and to submit that I was appointed as Senior Scale Stenographer vide order No.297-301 ATC (P) Dated 20th March, 2010 in office of the Judge, Anti Terrorism Court-II, Peshawar under the competitive Judicial examination conducted by competent Selection and Recruitment Team consisting of Mr. Shamsher Ali Khan Hon'ble Member Inspection Team, Peshawar High Court, Peshawar, Mr Abdur Rahman Khan Administrative Judge, Anti Terrorism Court, Peshawar, Hidayat Ullah Registrar Accountability Court, Peshawar, Mr. Hayat Ali Shah, Judge, Anti Terrorism Court-I, Peshawar and Mr. Anwar Ali Khan Judge, Anti Terrorism Court-III, Peshawar.

That I was selected after conducting the typing and shorthand test on 18th March, 2010 since my appointment, I have approved my skill and capability and had performed duties as Senior Scale Stenographer with different Hon'ble Judges of Anti Terrorism Court, Peshawar and have rendered unblemished services.

That during tenure of my four years I have gained vast experience in the filed of typing and stenography but because of the right ear infection for which I am still under treatment of the senior doctors and using medicines. (Copies enclosed)

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The Hon'ble Court has issued me notice and it is promised that I will approve my skill and ability but due to said illness if the august court has some reservations, the same will be removed as soon as my treatment is completed.

(12)

It is humbly requested that since I am able and have much approved my skill during four years tenure.

Hon'ble Sir, I am honest and professional. I have always conducted and preformed my duties to the best of my knowledge and professional abilities.

Sir, if there is any fault on my part so I place myself at the mercy of this august court and seek unconditional apology.

Submitted please Sir.

Dated: 20th June, 2013

Your's obediently,

(Malang Jan)
S.S.Stenographer,
ATC-II, Peshawar.

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True Copy

(13)

D

ANNEXURE

OFFICE OF THE
JUDGE, ANTI-TERRORISM COURT-III,
PESHAWAR.

Court # 18, Judicial Complex, Khyber Road, Peshawar.
Phone / Fax # 091 / 9214258

No. 267 ATC (P)/2013 Dated: Peshawar the 17/07/2013

From: - The Judge,
Anti-Terrorism Court-III,
Peshawar.

To: - The Judge,
Anti-Terrorism Court-II,
Peshawar.

SUBJECT: - **Minutes of the meeting of committee constituted for conducting competency/efficiency test of the Senior Scale Stenographer Mr. Malang Jan posted in the court of Anti-Terrorism Court-II Peshawar.**

The undersigned , being members of the committee , constituted for conducting competency/efficiency test of the Senior Scale Stenographer Mr. Malang Jan posted in the court of Anti-Terrorism Court-II Peshawar vide order dated 12/07/2013 by the Judge Anti-Terrorism Court-II Peshawar held its meeting on 15/07/2013 from 01:00 Pm to 02:30 PM and 16/07/2013 from 12:30 to 01:30 PM. Standard criteria for the recruitment of Senior Scale Stenographer as under:-

1) He must be graduate;
2) Must have speed in shorthand of 100 words per minute;
3) Typing speed of 40 words per minute.

The committee initially decided to conduct competency/efficiency test of the Senior Scale Stenographer Mr. Malang Jan on the same text which was initially taken by him at the time of his recruitment. However when dictation from the concerned page (annexure-A) was started, the Senior Scale Stenographer requested that he should not be examined from the extract of Daily News rather he should be examined in the extracts taken from judicial pronouncements. Accordingly his desire was taken into consideration and the committee decided to dictate him two paragraphs (annexure-B) from 2010 SCMR pages 2 & 3. Total words dictated in a very slow pace i.e. 54 words per minute in 6.5 minutes from reference text were 351. The shorthand dictation taken by him is annexure-C and produced in English translation is annexure–D. Annexure-D is a mutilated reprocuction of the original text with missing of 30 words and mistakes of

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True Copy

14

reproduced in terms of words. The English text of the taken shorthand was produced within 30 minutes which again shows his incompetency of converting shorthand to English words i.e. by 11.7 words per minutes.

He was given direct dictation for reproduction on computer again from a criminal case judgment in 2009 SCMR page 584 consisting of 324 words (annexure-E) as he remained working in criminal court for about three years. Reproduced version of the dictated text is annexure-F that disclose that reproduced words are 276 with mistaken words of 58 and total time consumed in typing of the words was 04:19 minutes. In order to further ensure the proper assessment of competency of the official, the text of direct dictation was reproduced in enlarged shape and was handed over to the official to be reproduced on his own through computer. The text is annexure-G while reproduced text through computer is annexure-H which disclosed that he has reproduced 289 words out of the total 326 with 36 mistakes in 06 minutes and 22 seconds i.e. about 39 words per minute short of the required 40 words per minute at the time of recruitment.

Thus assessing and analyzing competency/efficiency of the official from any angle, the committee did not find him of the required competency/efficiency demanded of a Senior Scale Stenographer even at the time of initial recruitment while the official has served for about three years but still lacks the necessary competency/efficiency. The committee deeply considered the matter and is of the unanimous opinion without any hesitation that the official has ceased to be efficient for retention in service.

The minutes in above terms of conducted competency/efficiency test along with annexures are forwarded for necessary actions, please.

(Syed Asghar Ali Shah)
Judge, ATC-III, Peshawar

Certified to be
True Copy

Arif Bilal
Public Prosecutor,
ATC-III, Peshawar.

Fazal Durani
Public Prosecutor,
ATC-I, Peshawar.

(15) E

ANNEXURE

OFFICE OF THE
JUDGE ANTI-TERRORISM COURT,
PESHAWAR

Old Judicial Complex, Khyber Road, Peshawar. Phone No 091-9211047

NOTICE.

In connection with your competency/efficiency test held on 16-07-2013, as you disqualified the said test. According to the minutes of meeting, the committee deeply considered the matter and is of the unanimous opinion without any hesitation that the official has ceased to be efficient for retention in service. So explain your position that why you do not leave the post of Senior Scale Stenographer as per rule. Submit your reply with in one day.

Judge
Anti-Terrorism Court,
Peshawar.

No. 651 **/ATC-II (P) Dated: Peshawar the 18th July 2013.**

Copy forwarded to:

- Mr: Malang Jan Senior Scale Stenographer Anti Terrorism Court-II Peshawar (official concerned)

Judge
Anti-Terrorism Court,
Peshawar.

Certified to be
True Copy

(16) F

ANNEXURE

Explanation / Request

It is respectfully submitted that I have received the notice issued on 18 July 2013 from the office of the judge Anti Terrorism Court-II Peshawar. The contents of the notice are true. But I humbly requested that kindly gives me chance to improve myself. As I have medical fitness problem regarding my ear, the same I have described in my early explanations.

I will improve my medical fitness and efficiency up to demanding level for the said post. Presently, on humanitarian grounds do not take any harsh step against me. I will be very grateful to you for this act of kindness.

Malang Jan.
Senior Scale Stenographer
Anti Terrorism Court-II Peshawar
Date; 19 July 2013.

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True Copy

(17)

ANNEXURE G

OFFICE OF THE
JUDGE ANTI-TERRORISM COURT-II,
PESHAWAR

Old Judicial Complex, Khyber Road, Peshawar. Phone No 091-9211047

No. 184 /ATC (P) Dated: Peshawar the 04th May 2015.

To: - Malang Jan,
Senior Scale Stenographer,
ATC-II, Peshawar.

Subject: ***FINAL SHOW CAUSE NOTICE.***

Whereas an inquiry committee was constituted by this office for analyzing and assessing a charge of incompetency/ inefficiency against you official/accused Malang Jan s/o Dad Khan Senior Scale Stenographer of this court and after subjecting you accused by the said committee for a test of competency/efficiency the said committee vide its finding dated 17-07-2013 has opined as under.

"Thus assessing and analyzing competency/efficiency of the official from any angle, the committee did not find him of the required competency/efficiency demanded of a Senior Scale Stenographer even at the time of initial recruitment while the official has served for about three years but still lacks the necessary competency/efficiency. The committee deeply considers the matter and is of the unanimous opinion without any hesitation that the official has ceased to be efficient for retention in service."

And

Whereas for the reasons stated above you have ceased to be efficient for the post of Senior Scale Stenographer and as you could not improve your performance in spite of serving for more then 04 years, therefore, final show cause notice is hereby given to you to explain reasons in written form for a charge of incompetency/ inefficiency against you with in three days from the receipt of this show cause notice, failing which proceeding under Khyber Pakhtunkhwa (Efficiency and Discipline) Rules, 2011 would be finalized against you.

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True Copy

Judge
Anti-Terrorism Court-II,

(18) H

ANNEXURE

To,

The Hon'ble Judge,
Anti-Terrorism Court-II,
Peshawar.

Subject:- **REPLY TO FINAL SHOW CAUSE NOTICE DATED. 04 MAY, 2015.**

Respected Sir,

I have the honour to refer to your good self letter No.154/ ATC, (P) Dated: Peshawar the 04th May, 2015 and to submit that I was appointed as Senior Scale Stenographer vide order No.297-301 ATC, (P) Dated 20th March, 2010 in Office of the Judge, Anti-Terrorism Court-II, Peshawar under the competitive Judicial examination conducted by competent Selection and Recruitment Team consisting of Mr. Shamsher Ali Khan Hon'ble Member Inspection Team, Peshawar High Court, Peshawar, Mr. Abdur Rahman Khan Administrative Judge, Anti-Terrorism Courts, Peshawar, Hidayat Ullah Registrar Accountability Court, Peshawar, Mr. Hayat Ali Shah Judge, Anti-Terrorism Court-I, Peshawar and Mr. Anwar Ali Khan Judge, Anti-Terrorism Court-III, Peshawar.

That I was selected after conducting the Shorthand and Typing test on February 2010, since my appointment, I have improved my skill and capability and had performed duties as Senior Scale Stenographer with different Hon'ble Judges of Anti-Terrorism Courts, Peshawar and have rendered unblemished services.

That during tenure of my five (05) years I have gained vast experience in the field of Typing and Stenography.

I performed my duty such as recording the statement of PWs, order sheet, weekly report, preparation of monthly report, preparation of warrant of release, warrant of commitment, judgment to the some extent and all letter of request etc with all respect to the report submitted by the Inquiry Committee. In case, it is considered that my present performance is not up to all standards it was because of my weak hearing problem of right ear which ailment started during my service. Besides, it is humbly requested that in view of the sensitive nature of post of Senior Scale Stenographer, I may be given any similar post, so, that I may perform my duty and

Certified to be

(19)

improve my efficiency however. I may not be deprived of my livelihood and further to prove myself efficient.

The Hon'ble Court has issued me final show cause notice and it is promised that I will improve my skill and ability.

It is humbly requested that since, I am able and have much improved my skill during five (05) years tenure.

Hon'ble Sir, I am honest and professional. I have always conducted and performed my duties to the best of my knowledge and professional abilities.

Sir, if there is any fault on my part so, I place myself at the mercy of this august Court and seek unconditional apology.

Submitted, please Sir.

Dated: 11.05.2015.

Your's obediently,

Malang Jan

(Malang Jan)
S.S.Stenographer
Anti-Terrorism Court-II,
Peshawar.

O/C

Certified to be
True Copy

(20)

ANNEXURE J

OFFICE OF THE
JUDGE ANTI-TERRORISM COURT,
PESHAWAR
Old Judicial Complex, Khyber Road, Peshawar. Phone No 091-9211047

ORDER

Consequent upon the findings of the inquiry committee dated 17-07-2013, as constituted for probing a charge of incompetency/inefficiency against Malang Jan, Senior Scale Stenographer of this court wherein he has been found incompetent for his post and in view of his unsatisfactory reply of show cause notice served upon him on 04-05-2015,it has been proved that the above named official has been ceased to be efficient for retention in this office on the above mentioned post, therefore, I Mr. Abdur Rauf Khan, Judge Anti Terrorism Court-II, Peshawar in my capacity as competent authority, by finding myself in agreement with the report of the above mentioned inquiry committee, and feeling myself not satisfied with the performance of above official, I under Government of Khyber Pakhtunkhwa (Efficiency & Discipline) Rules, 2011, hereby impose major penalty of removal from service upon him with immediate effect.

Sd/-
Judge
Anti-Terrorism Court-II,
Peshawar.

No. 187-191 /ATC (F) **Dated: Peshawar the 20th May 2015.**

Copy forwarded to;

- The Registrar, Peshawar High Court Peshawar.
- The Accountant General K.P.K, Peshawar.
- The Sectary to Government of KPK, Home and Tribal Affairs Department, Peshawar.
- The Superintendent ATC, Peshawar.
- Malang Jan s/o Dad Khan r/o Shams abad, Khesgi Payan District Nowshera.

Certified to be
True Copy

Judge
Anti-Terrorism Court-II,
Peshawar.

(21) K

BEFORE THE HONOURABLE ADMINISTRATIVE JUDGE, PESHAWAR HIGH COURT, PESHAWAR (APPELLATE AUTHORITY)

ANNEXURE

Through Registrar, Peshawar High Court, Peshawar

INDEX

Description of Documents		Page #
Memo of Departmental Appeal		1-5
Annexure A	Appointment Order	6
Annexure B	Medical Certificates	7-12
Annexure C	Show Cause Notice. Explanations and replies etc	13-19

Yours faithfully,

Malang Jan

(MALANG JAN)
Ex: Senior Scale Stenographer
Anti Terrorism Court-II,
Peshawar

1/6/17

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22

To,

The Hon'ble Administrative Judge,
Peshawar High Court,
Peshawar.

SUBJECT: DEPARTMENTAL APPEAL AGAINST OFFICE ORDER NO. 187-191/ATC, (P) DATED 20.05.2015, PASSED BY JUDGE, ANTI-TERRORISM COURT-II, PESHAWAR WHEREBY THE UNDERSIGNED HAS BEEN REMOVED FROM SERVICE, WITH IMMEDIATE EFFECT.

Respected Sir,

Reference subject mentioned Office Order I, Malang Jan, Ex-Senior Scale Stenographer, submit my Departmental Appeal for your Honor's sympathetic & benevolent considerations as under:-

1. That, the allegations of inefficiency and incompetency, as leveled in the Explanation and Show Cause Notice is illegal, unlawful, void and ineffective.

2. That, the same is against the principles of Natural Justice, also.

3. That, the procedure as provided in the Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011 has not been followed in strict sense nor the rules of justice or good governance was respected by the Competent Authority, in any manner.

4. That, I was appointed by the Competent Authority after fulfilling all the requisite codal formalities, being competent, fit and eligible candidate, it is important to mention here that at the time of Appointment my competency test was

Certified to be

(23)

also taken by the Competent Authority, copy of the Appointment Order is attached as *Annexure A*.

5. That, at the time of Appointment I was physically and medically fit for the post of Senior Scale Stenographer moreover I performed unblemished and meritorious services with many Honourable Judges of Anti Terrorism Court.

6. That, since Appointment I am performing my functions in the Court without any sort of complaint from any quarter. It is important to mention here that my functions include judgment writing, recording of evidence and other tasks given to me by the Honourable Judge, from time to time.

7. That, during the course of employment my hearing sense was badly damaged due to infection in my right ear for which I am still under treatment, copy of the Medical Certificates, in this respect, are attached as *Annexure B*.

8. That, due to damage of hearing sense of right ear, I am unable to hear low frequency voice however I am still under treatment, and INSHA ALLAH in near future I will overcome the disease.

9. That, if at all, the Competent Authority was not satisfied with the job performed by me, than he would have changed my designation in order to smooth the functioning of routine tasks. It is important to mention here that the post of Assistants and Readers are in the same grade i.e. BPS-16 and are lying vacant in the Anti-Terrorism Court.

10. That, it is not a judicious act whereby I have been removed from the picture by the Competent Authority without mentioning any cogent reasons or justifications which otherwise violates section 24-A of the General Clauses Act.

(24)

11. That, no regular inquiry was conducted by the Competent Authority before passing the removal order nor I was provided the opportunity of personal hearing.

12. That, the fact regarding the ear infection was not considered or discussed by the Competent Authority in his findings / Removal Order despite the fact that the same was brought into the knowledge of the Competent Authority by me in my replies to the Show Cause Notice and Explanation etc. it is important to mention here that on many occasions the Honourable Judge has discussed my ear infection with me. Needless to mention here that the Competent Authority as well as all the court staff was aware of my ear infection, copies of the Show Cause Notice, Explanations and their Replies are attached as *Annexure C*.

13. That, no such complaint of inefficiency / incompetency was reported against me before ear infection.

14. That, as per law and the rules on the subject the Competent Authority should have referred the matter to the Medical Board and before issuance of the removal order, the opinion of Professional Medical Board was mandatory.

15. That, as per the Constitution of Islamic Republic of Pakistan, 1973 the state is bound to provide the facilities for work, medical relief etc to citizens who are temporarily unable to earn their livelihood on account of sickness or infirmity but in the instant case the Competent Authority has grabbed the only way of my earning.

16. That, the act of the Competent Authority is against the principles enunciated in the Constitution of Islamic Republic of Pakistan, 1973 especially Article 4, 25 and 27 has been violated by the Competent Authority.

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25

17. That, it is well established principle of law that regular enquiry including the opportunity of personal hearing is must where the Competent Authority is willing to impose the major punishment.

18. That, even otherwise no allegation of moral turpitude or financial embezzlement is in field hence the removal order is not sustainable before the eyes of law.

19. That, I was not provided with the documents / fact finding enquiry report conducted against me.

20. That, the punishment as imposed it too harsh.

In view of the above, It is requested that the Removal Order may please be set aside, I may please be reinstated in the service with all back wages and benefits moreover the allegations of inefficiency and incompetency, as leveled against me, be dropped and if found suitable, I may be re-designated to some other post in same scale, temporarily or permanently in the interest of justice and fairness with such other relief as may deem fit in the circumstances of the case may also be granted.

Thanking you.

Dated. 01.06.2015.

Yours faithfully,

Malang Jan

(MALANG JAN)
Ex: Senior Scale Stenographer
Anti Terrorism Court-II,
Peshawar.

Certified to be
True Copy

Associate Professor
Dr. Zakirullah
MBBS, MCPS, DLO, FCPS
ENT & Head / Neck Surgeon
Khyber Teaching Hospital &
Khyber Medical College Peshawar.

هوالشافی

61

چھٹی بروز ہفتہ، اتوار

ایسوسی ایٹ پروفیسر
ڈاکٹر ذاکر اللہ
ایم بی بی ایس، ایم سی پی ایس، ڈی ایل او، ایف سی پی ایس
ماہر امراض : کان، ناک، گلہ
خیبر ٹیچنگ ہسپتال / خیبر میڈیکل کالج پشاور

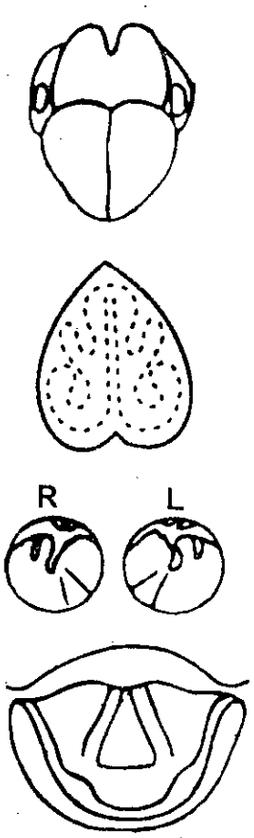
Name Malang Jan Age / Sex Date 22 AUG 2014

Clinical Record

H/O

Tab. Serc 24 mg

BD 2 ——— 1/11



DTA - (R) Severe wind
(L) Mild to moderate

Advise HA (R) Ear

Certified to be True Copy

Ph: Clinic: 2568707
Mob: 0302-5947038

HEARING & SPEECH CLINIC

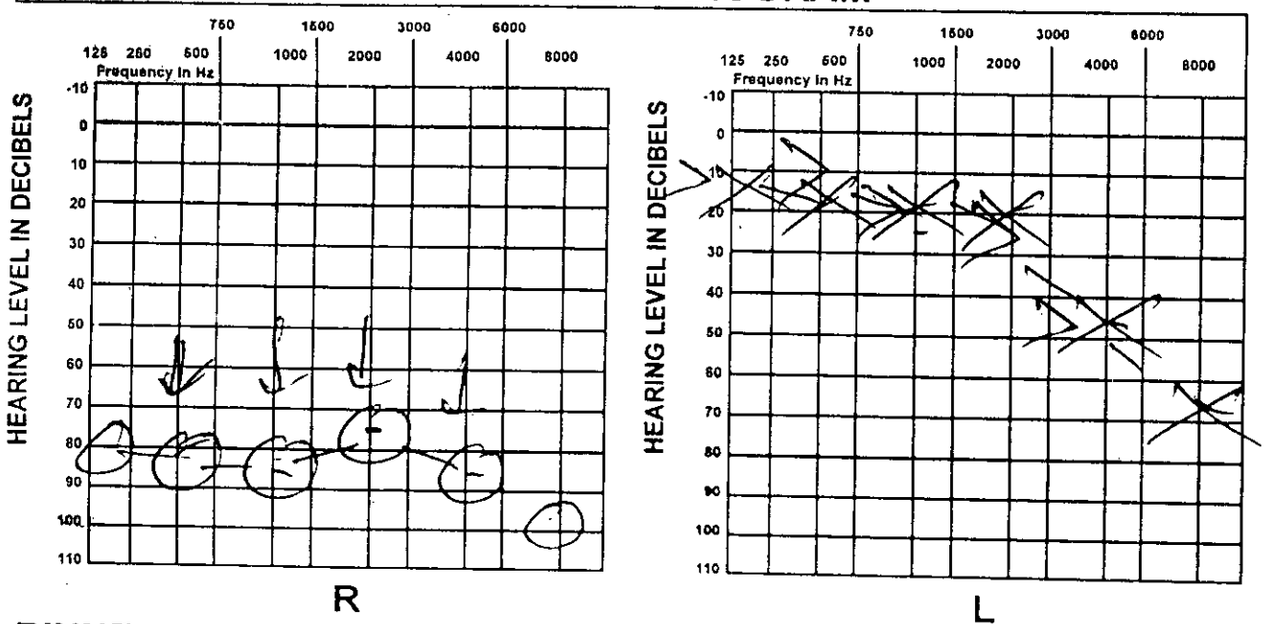
KHATTAK MEDICAL CENTRE (C-23) DUBGARI GARDEN PESHAWAR

NAME.....AGE.....DATE 22/8/14

M. AHSAN SAEED

Audiologist
B.Sc. MPA SC (Audiology)
M.S.E, M.Phil(Sp.Edu,
Hearing Impaired Children)

PURE TONE AUDIOGRAM



RINNE:

OTHER RESULTS:

Audiologist's Remarks (R) Severe loss

(L) High freq S.N. loss

Services Available:

ERA (B.E.R.A) PTA, Tympanometry, tone decay test, Ear Moulds, Hearing aids etc.

Certified to be
True Copy

28

Lady Reading Hospital
Peshawar
Out-Patients Department

Ticket No:
Name:
Date:
OPD:

Vd hearing
Advised.

Refer to room No (76)

Advise
P.T.A

MRI Brain

Certified to be
True Copy

(29)

(a) TS Sec 16 — 1-11-4

(b) TS Ginbox — 1-11

(c) TS AC 05 — 1-11

XX

Dr.M.Abdul Majid Qureshi
Senior Medical Officer

FAHAR CLINIC

ڈاکٹر محمد عبدالماجد قریشی
سینئر میڈیکل آفیسر

Lady Reading Hospital Peshawar
Clinic: O/S Gunj Gate Peshawar
Ph: 091-2563358

لیڈی ریڈنگ ہسپتال پشاور
کلینک: بیرون گنج دروازہ پشاور
فون: 091-2563358

30

Name: ملنگ جان Age Sex Date 18-06-2013

Clinical Recard

△ OM Ch Rt. c mild Phar.

نمک کے ضرارے صبح شام کان میں پانی جانے نہ دیں۔ دواؤں کے دوران مرچ، مصالحے، ترشی، چکنائی اور برف کی اشیاء سے پرہیز شوربے حتی الامکان پئیں۔

R_x

① Tab Levoxin 500 1+1
② Tab Neuxam 0.25 1+1
③ Tab Nootropil 800 1+1
④ Tab Neurobedoxine 1+1
⑤ Otosporin ear dps تین تین قطرے دن میں تین مرتبہ

دس دن

1 M.

Certified to be True Copy

Omeyz

Stick

XX

Dr.M.Abdul Majid Qureshi
Senior Medical Officer

FAHAR CLINIC

ڈاکٹر محمد عبدالماجد قریشی
سینئر میڈیکل آفیسر

Lady Reading Hospital Peshawar
Clinic: O/S Gunj Gate Peshawar
Ph: 091-2563358

لیڈی ریڈنگ ہسپتال پشاور
کلینک: بیرون گنج دروازہ پشاور
فون: 091-2563358

(31)

Name: ملنگ خان Age ____ Sex ____ Date 01.07.2013

Clinical Recard

△ Tinn Ch.
ٹمک کے غرارے
صبح شام
شور سے بچیں۔
زیادہ مرچ مصالحے
نہ کھائیں۔
کان میں پانی جانے
نہ دیں۔

℞

① Tab Hydergin 4.5 mg
ایک روزانہ

② Tab Neurobion
1+1

③ Tab Alp 0.5 mg
ایک رات کو

④ Tab Betnesol-N
تین تین قطرے صبح شام

دس
دن

1 M.

Certified to be
True Copy

Omeyz

Stick

39

SPEECH AND HEARING CLINIC

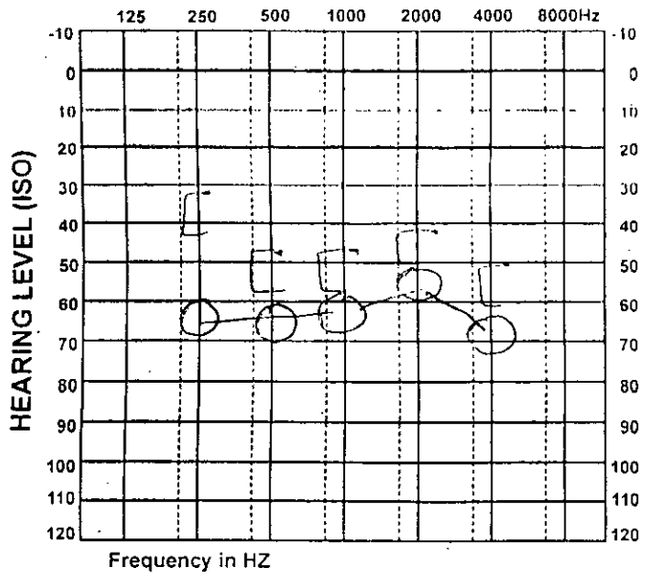
پیر محمد خان
M. S.E
T.D.
0333-9129643

شیراز خان
M. S.E
D.S.L.T
0333-9141304

PURE TONE AUDIOGRAM

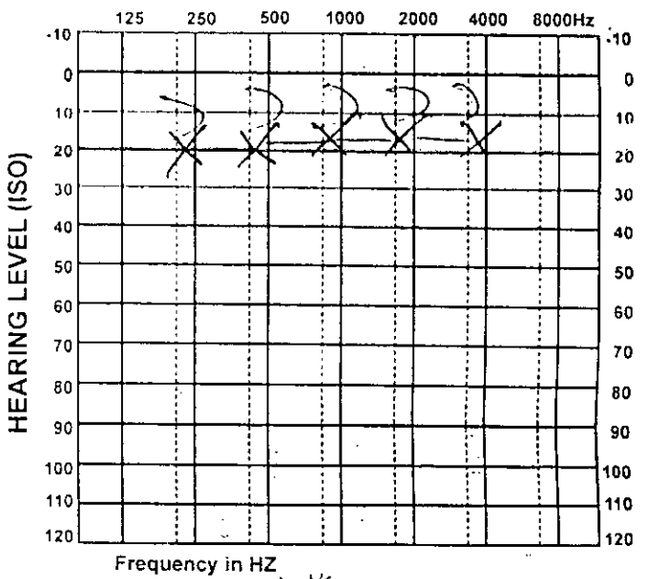
NAME ملک جان AGE SEX M. DATE 12/4/013

Right Ear



R +VE

Left Ear



L +VE

Masking Details

W → L

EM → L

KEY

AC	Rt	Lt
Unmasked	O	X
Masked	△	□

BC

Unmasked	<	>
Masked	[	]

Certified True

REMARKS _____

_____

Audiologist

GS&PD.NWFP.797---1,00,000 Forms---25.05.2006---(

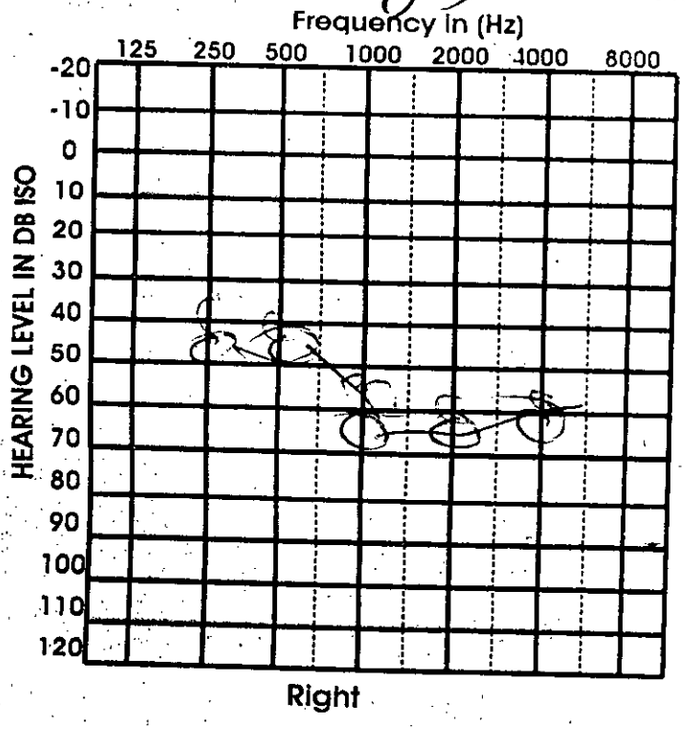
E.N.T. Department

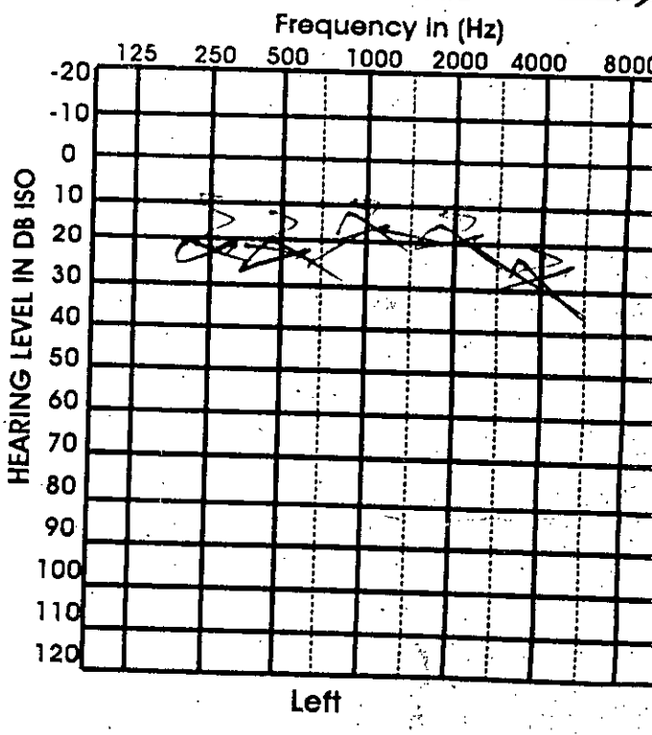
(33)

Lady Reading Hospital Peshawar

PURE TONE AUDIOGRAM

NAME Mahang Jan AGE _____ SEX M DATE 14/6/1





Masking Details

KEY

A C	Rt	Lt.
Unmasked	O	X
Masked	△	□
B C		
Unmasked	<	>
Masked	[	]

Certified True

REMARKS: _____

Audiologist

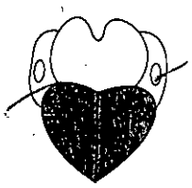
Northwest General
Hospital & Research Centre

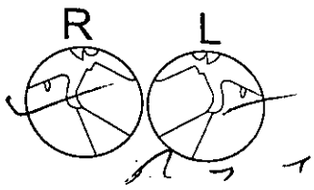
(34) Professor Dr. Mohibullah
M.B.B.S., (Pesh) F.R.C.S. (Ed) D.L.O. (London), F.C.P.S (Pak)
Consultant ENT & Head Neck Surgeon
Sector A-3, Phase-V, Hayatabad, Peshawar.
Ph: 091-5822612-19, Fax: 091-5822620
Email: mohib.khan@nwgh.pk, Web: www.nwgh.pk

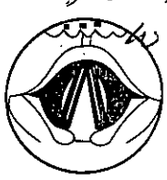
Date: 12 APR 2013

Patient Name: _____ Age: _____

Clinical Record







Postnasal Space

Neck Glands

Thyroid

Certified to be True Copy

ماہ بعد معائنے کیلئے تشریف لائیں۔----------

چھٹی بروز ہفتہ اتوار

Northwest General
Hospital & Research Centre

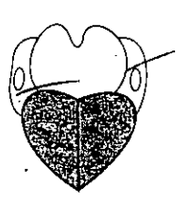
35

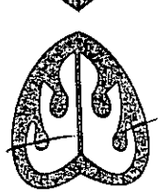
Professor Dr. Mohibullah
M.B.B.S., (Pesh) F.R.C.S. (Ed) D.L.O. (London), F.C.P.S (Pak)
Consultant ENT & Head Neck Surgeon
Sector A-3, Phase-V, Hayatabad, Peshawar.
Ph: 091-5822612-19, Fax: 091-5822620
Email: mohib.khan@nwgh.pk, Web: www.nwgh.pk

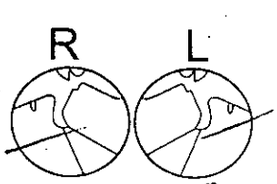
Date: 01 OCT 2012

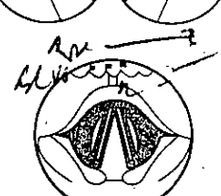
Patient Name: _____ **Age:** _____

Clinical Record









Postnasal Space

Neck Glands

Thyroid

Certified to be
True Copy

ماہ بعد معائنے کیلئے تشریف لائیں۔ _____

تعطیل بروز ہفتہ اتوار

Northwest General
Hospital & Research Centre

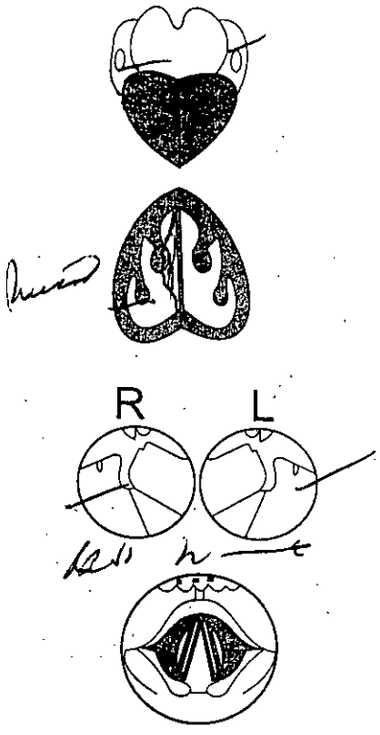
36

Professor Dr. Mohibullah
M.B.B.S., (Pesh) F.R.C.S. (Ed) D.L.O. (London), F.C.P.S (Pak)
Consultant ENT & Head Neck Surgeon
Sector A-3, Phase-V, Hayatabad, Peshawar.
Ph: 091-5822612-19, Fax: 091-5822620
Email: mohib.khan@nwgh.pk, Web: www.nwgh.pk

Date: 07 DEC 2012

Patient Name: _____ Age: _____

Clinical Record



Postnasal Space

Neck Glands

Thyroid

Before KPK Service Tribunal,

بعدالت

Peshawar

Appellant

Govt. of KPK etc بنام Malang Jan سنہ 2 جناب

مورخہ ----------

مقدمہ ----------

دعویٰ ----------

جرم ----------

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام Peshawar کیلئے Bilal A. Kakaizai Adv

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے وتقرر ثالث و فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور صولی چیک وروپیہ ارعرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی ونظرثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہرجانہ التوائے مقدمہ کے سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند رہے۔

المرقوم 18 ماہ ستمبر 2015

العبد ---------- گواہ العبد ----------

بمقام ---------- کے لئے منظور ہے۔

Attested & Accepted

Bilal [signature]

Malang Jan [signature]

JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

Departmental Appeal No. 03-P/2015

JUDGMENT

Date of hearing...07.12.2015 .....

Appellant(s) (Malang Jan) in person.....

Respondent (s). Syed Mohsin Shiraz (Supdt) on behalf of AIG. peshawar
Sami Ullah, Judicial Assistant for the Registrar
PHC. *****

YAHYA AFRIDI :-J: Through the instant Departmental Appeal, Malang Jan, appellant, seeks the following prayer:

> ***"In view of the above, it is requested that the Removal Order may please be set aside, I may please be reinstated in the service with all back wages and benefits moreover the allegations of inefficiency and incompetency, as leveled against me, be dropped and if found suitable, I may be re-designated to some other post in same scale, temporarily or permanently in the interest of justice and fairness with such other relief as may deem fit in the circumstances of the case may also be granted."***

2. Today, at the very outset of the proceedings, the worthy representative of the respondents brought to the attention of the Court that the appellant has

already moved a service appeal before the worthy Khyber Pakhtunkhwa Services Tribunal, for the redressal of his grievance.

3. In view of the filing of a Service Appeal before the worthy Khyber Pakhtunkhwa Services Tribunal, this departmental appeal has become infructuous and is disposed of, accordingly.

Announced:
07.12.2015

JUDGE

*K.Ali *

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No: 1030 / 2015

MALANG JAN *Versus* Government of KPK etc.

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth,

Rejoinder on behalf of Appellant is as under: -

REJOINDER:

1. Para-1 & 2 of the Comments are neither true nor proper. The actual position is that the Appellant was having the experience of shorthand, typing and using of MS-Office etc which is evident from the Test conducted by this Honourable Tribunal for the post of Senior Scale Stenographer after the removal from service by the Respondents, copies of the same are attached as *Annexure R/1*.

2. In response to Para 3 of the Comments, it is stated that not a single ACR was communicated to the Appellant which is reported to be adverse. It is important to mention here that Advisory Remarks are not considered as Adverse Remarks as per law on the subject.

3. In response to Para 4 of the Comments as offered, it is submitted that the disease / ailment of the Appellant was never considered by the Competent Authority nor anyone else. It merits mentioning here that the ear infection caused to the Appellant was temporary in nature and now the Appellant has recovered the alleged deficiency. The test etc conducted by this Honourable Tribunal, after fulfilling all the codal formalities, is proof of the same which is already available on file.

4. Para 5 & 6 of the Comments is again illegal, unlawful and against the actual / factual position of the case. No proceedings as

mentioned in the E & D Rules, 2011 has been conducted by the Respondents nor he was referred to any Standing Medical Board in order to verify the genuineness of his claim regarding the ear infection hence the Impugned Order is not sustainable in the eyes of law.

5. Para 7 of the Comments needs no reply.

6. Para 8 as per Para 4 above.

7. In response to Para 9 to 11, it is submitted that the Competency Test taken but again the ailment of the Appellant in respect of Ear Infection was melafidely and purposely not considered.

8. Para 12 & 13 to the extent of notice dated 18.07.2013 is correct. It is added that the said Notice was properly replied by the Appellant.

9. Para 14 to 17 of the Comments in respect of issuance of Notices etc are correct however the Competent Authority paid no heed to the explanation of the Appellant in respect of his ailment.

10. Para 18 is correct to the extent of direction in respect of initiation of proceedings under the E & D Rules, 2011 but no such proceedings were ever initiated against the Appellant. It is important to mention here that where the Competent Authority proposes to impose major punishment, the regular inquiry to that effect is necessary.

11. Para 19 As-Above.

12. Para 20 needs no comments.

13. Para 21 is not correct. No chance of Personal hearing was ever afforded to the Appellant.

14. In response to Para 22, it is submitted that the Impugned Order is not based on actual and factual position of the case. Injustice has been done to the Appellant. His ailment has not been considered in whole the proceedings. He was never referred to the Standing Medical Board. Article 38 of the Constitution of Islamic Republic of Pakistan, 1973 has been violated by the Respondents.

15. Para 23 of the of the Comments is again misleading statement of the Respondents. Appellant is not physically handicapped nor his is disabled however he was ill due to ear infection which fact was never considered by the Competent Authority. It was incumbent

upon the Respondents to refer the case of the Appellant to the Standing Medical Board in order to separate chaff from the grain. It is also noteworthy to mention here that during the period of his infection the Competent Authority should have changed his designation i.e. from Stenographer to any other post like Assistant etc.

It is, therefore, requested that Appeal of the Appellant be accepted as prayed for.

Appellant

Through:

BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No: 1030 / 2015

MALANG JAN *Versus* Government of KPK etc.

COUNTERAFFIDAVIT

I, MALANG JAN, S/o Dad Khan, Ex-Senior Scale Stenographer, Anti Terrorism Court-II, Peshawar, R/o Village & P.O Kheshgi Payan, Mohallah Shamsabad, Tehsil & District, Nowshera, Appellant, do hereby on oath affirm and declare that the contents of the Rejoinder are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.

Malang Jan

Deponent

Identified by:

BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

ATTESTED

Afrasiab Khan Advocate
Oath Commissioner
High Court Peshawar

05/04/16

21/6/16

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Fixed for: 19.07.2016.

Service-Appeal No: 1030 / 2015.

MALANG JAN *Versus* *Government of KPK etc.*

APPLICATION FOR EARLY HEARING.

Respectfully Sheweth,

1. That titled Appeal is pending subjudice before this Honourable Tribunal in which almost all the formalities i.e. Comments / Reply & Rejoinder has been completed and the same is fixed for final arguments on 19.07.2016.
2. That, the undersigned / Appellant belongs to poor family and has been removed from the services of the Respondents Department illegally and unlawfully.
3. That, the case of the undersigned / Appellant pertains to reinstatement in the service along with all back wages and benefits.
4. That, justice delayed is justice denied.

It is therefore, humbly requested that on acceptance of this Application, an opportunity of early hearing of the titled Appeal may please be given.

Malang Jan

Dated: 20.04.2016.

Applicant / Appellant,

AFFIDAVIT

I, Malang Jan, Ex-Senior Scale Stenographer, Applicant / Appellant, do hereby on Oath affirm and declare that the contents of the Application are true and correct to the best of my knowledge and belief and nothing has been kept secret from his Honourable Tribunal.

Malang Jan

Deponent

Identified by:

Gohar Ali Kheshgi

(Advocate, Peshawar)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No: 1030 / 2015

MALANG JAN VERSUS GOVERNEMNT OF KPK Etc.

WRITTEN REPLY ON BEHALF OF RESPONDENT NO: 02, ADMINISTRATIVE JUDGE ANTI TERRORISM COURTS, PESHAWAR.

Respectfully Sheweth,

I fully support the written reply by Respondent No. 02, Judge Anti Terrorism Court-II, Peshawar.

Respondent No. 02

Dated:

21 November, 2015.

(Saleem Jan)

Administrative Judge

Anti Terrorism Courts, Peshawar.

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No: 1030 / 2015

MALANG JAN VERSUS GOVERNEMNT OF KPK Etc.

WRITTEN REPLY ON BEHALF OF RESPONDENT NO: 03, JUDGE ANTI TERRORISM COURT-II, PESHAWAR.

Respectfully Sheweth,

1. That the appellant/Ex-Senior Scale Stenographer was appointed in the year 2010, vide appointment letter No. 297-301 ATC-II (P) dated 20th March, 2010. (Copy of the said order is Annexure-A). It is pertinent to mention here that as per the documents, appended by the appellant with his application for the above post, the appellant had neither gained any knowledge of required shorthand and typing from any qualified institution nor he was having any knowledge of MS office and had also not gained experience in private or public sector.

2. Since his appointment he has been found having no knowledge and Experience and he could not deliver as required from him and kept all the judges posted in the court in trouble by his inefficiency and incompetency.

3. That the appellant/Ex-Senior Scale Stenographer failed to earn a single satisfactory ACR and as a proof, the relevant copies of his ACR from 2010 to 2014 are hereby annexed as Annexure (B).

4. That compelled by receiving no satisfactory explanations, asking repeated explanations from the appellant and his non improvement in any way, the then learned judge ATC-II, Peshawar brought the matter into the notice of Hon'ble Registrar Peshawar High Court, Peshawar. Vide letter No. 556/ATC (P) dated 16.5.13 (Copy of the relevant letter is Annexure-C).

5. That in response to the above letter, the then learned Judge, ATC-II was directed vide letter No. 603/Admn dated 27.5.13 by the august Peshawar High Court, Peshawar to initiate proceedings against the appellant/Ex-Senior Scale Stenographer under the Khyber Pukhtaunkhwa (Efficiency & Disciplinary) Rules 2011. (Copy of the said letter is Annexure-D)

6. That in pursuance of the directives of the august Peshawar High Court Peshawar, explanation of the appellant/Ex-Senior Scale Stenographer was called vide notice No. 594-595/ ATC-II (P) Dated 08th June 2013 under intimation to the Registrar Peshawar High Court Peshawar

whereafter, his reply was received dated 20th June 2013.(copy of which is Annexure-E)

7. That on the receipt of aforesaid reply, the then learned judge ATC-II once again addressed a letter No. 628-631/ATC-II (P) dated 26-06-2013 to the Registrar Peshawar High Court Peshawar for soliciting the approval of the august High Court pertaining to holding a competency test for the appellant on 06 July, 2013 and also requested for deputing a representative of Peshawar High Court Peshawar for the committee to be constituted for holding the subject competency test. (Copy of which is Annexure-F)

8. That the then Registrar of the august High court in response to the above letter, vide letter No. 8009/ Admn dated 10-07-2013 (Copy of which letter is Annexure-G) directed the then learned Judge ATC-II to proceed against the official as per Khyber Pukhtaunkhwa (Efficiency & Disciplinary) Rules 2011being competent authority.

9. That in pursuance of the directives of the august Peshawar High Court, Peshawar, a committee was constituted for conducting a competency test of the appellant/Ex-Senior Scale Stenographer vide office order No. 638-641 dated 12 July,2013. (Copy of which is Annexure-H).

10. That in pursuance of the aforesaid office order, the appellant/Ex-Senior Scale Stenographer was directed to appear before the committee for competency test to be hold on 06th July 2013 vide letter No. 627/ ATC-II (P) dated 25 June 2013. (Copy of the said letter is Annexure-I).

11. That the requisite efficiency test as per rule 5 (A) of Khyber Pukhtaunkhwa (Efficiency & Disciplinary) Rules 2011 was conducted as a result of which, the committee unanimously recommended that the appellant/Ex-Senior Scale Stenographer was not suitable for retention any more in government service. (copy of relevant findings / minutes of the committee is annexed - J)

12. That despite the unanimous recommendations, a notice No. 651/ ATC-II (P) dated 18th July 2013 was served upon the appellant/Ex-Senior Scale Stenographer calling for his explanation in light of the above recommendations / findings of the committee. (Copy of which is Annexure-K)

13. That in reply to the aforementioned notice, the appellant/Ex-Senior Scale Stenographer admitted his failure in the competency test and did not dispute the recommendation/ Findings of the committee rather requested for grant of another chance for improvement vide his explanation / request dated 19th July 2013. (Copy of which reply is Annexure-L)

14. That accordingly, the appellant/Ex-Senior Scale Stenographer was provided further chance on humanitarian grounds till September 2013

for improvement vide notice No. 652/ATC-II (P) Dated 22nd July 2013. (Copy of which is Annexure-M)

15. That failing to improve himself, even a little bit, an office order No. 708/ATC-II (P) dated 10th October 2013 was issued providing opportunity to the appellant to leave the service voluntarily.(Copy of which is Annexure-N)

16. That in pursuance of aforesaid office order, the appellant/Ex-Senior Scale Stenographer vide explanation dated 22nd October, 2013 requested for further time to improve his performance.

17. That failing to improve his performance ,the august High court was once again approached vide letter No. 184/ATC (P) dated 20th April 2015 in respect of the poor performance of appellant/Ex-Senior Scale Stenographer (Copy of which is Annexure-O)

18. That in response to the above letter of this court, the august High court vide letter No. 5489/ Admn dated 27-04-2015 (Copy of which is Annexure-P) directed the undersigned for initiating proceedings against the appellant/Ex-Senior Scale Stenographer under (Efficiency & Disciplinary) Rules 2011.

19. That the appellant/Ex-Senior Scale Stenographer, though despite availing sufficient time and opportunities failed to improve himself, was issued final show cause notice No. 154/ATC (P) dated 04th May 2015 where he was asked to explain reasons as to why he should not be proceeded against his failure to improve , under Khyber Pukhtaunkhwa (Efficiency & Disciplinary) Rules 2011.(Copy of which notice is Annexure-Q)

20. That the appellant/Ex-Senior Scale Stenographer submitted his reply to the final show cause notice dated 11th May 2015, where he admitted his incompetency on the excuse of ailment in his right ear and requested for his adjustment against another suitable Post. (Copy of which is Annexure-R)

21. That the appellant/Ex-Senior Scale Stenographer was provided opportunity of personal hearing on 16th May 2015 vide order dated 12-05-2015. (Copy of which is Annexure-S)

22. That after hearing the appellant/Ex-Senior Scale Stenographer in person and not finding myself satisfactory from his hearing, I in my capacity as Competent Authority, imposed the major penalty of his removal from service upon him vide office order No. 187-191 dated 20.05.2015 (copy of the said office order is Annexure-T)

23. That aforesaid narration of the facts of the service of the appellant/Ex-Senior Scale Stenographer is sufficient for his dismissal of appeal as no

government service can be kept in service just as blunt tool without delivering of any function by him to the Government. His incompetency is an admitted fact as the appellant has failed to improve despite availing several opportunities as provided to him for about two years. The appellant/Ex-Senior Scale Stenographer is also suffering from physical inability not curable at any cost. Moreover, a court cannot function without efficient and competent stenographer. An Inefficient and incompetent Stenographer not only creates hurdles in smooth functioning of a court but also damage the peace of mind of the Presiding officer.

Respondent No. 03

Dated:

21 November, 2015.

Judge Anti Terrorism Court-II,

Peshawar.

A

IN THE COURT OF MR. ABDUR RAHMAN KHAN,
ADMINISTRATIVE JUDGE, ANTI-TERRORISM COURT-II , PESHAWAR.

O R D E R

20th MARCH 2010.

Consequent upon the recommendations of the Departmental Selection Committee in its meeting held on 25TH February 2010 *Mr. Malang Jan s/o Dad Khan r/o village & P.O. Kheshgi Payan, Mohalla Shams Abad, District & Tehsil Nowshera* is hereby appointed as Senior Scale Stenographer in Basic Pay Scale No. 15 viz (5220-420-17820) in the Court of Administrative Judge, Anti-Terrorism II, Peshawar with immediate effect.

His appointment is purely on temporary basis and shall be liable for termination at any time without assigning any reason or giving prior notice.

TERMS AND CONDITIONS

1. His service shall be governed by the NWFP Civil Servants Act, 1973 as amended up to date.
2. The service shall be governed by the NWFP Govt: Servant (E&D) Rules, 1973
3. His service shall be subject to Medical Fitness Certificate from M.S. Service and Police Hospital Peshawar..
4. In case he desires to resign from service, either he will submit notice one month before leaving the office or will surrender one month pay.
5. His service shall be on probation for a period of one year extendable upto two years.
6. His appointment is also subject to verification of his Academic Certificates / Degrees from concerned Board or University.
7. His service shall be subject to eventual confirmation in case of availability of permanent post.
8. He shall be paid the minimum Basic Pay of Grade 14 and ordinary allowances admissible under the rules.

In case the above terms and conditions are accepted he should report to the undersigned for assuming his duty with in seven days from today, failing which offer shall stand withdrawn.

(ABDUR RAHMAN KHAN)
ADM: JUDGE
ANTI-TERRORISM COURT-II /
CHAIRMAN SELECTION COMMITTEE

Endst. No. 297-301 **ATC (P-II)** **Dated Peshawar the 20th March 2010.**

Copy forwarded for information and necessary action to :-

1) The Registrar, Peshawar High Court, Peshawar.
2) The Sectary to Government of NWFP, Home and Tribal Affairs Department, Peshawar.
3) The Accountant General, NWFP, Peshawar.
4) The Accountant of this Court.
5) Mr. Malang Jan S/O Dad Khan R/OVillage and P.O. Keshgi Payan Mohallah

8

APPENDIX 'D'

GOVERNMENT OF N.-W.F.P.

CONFIDENTIAL REPORT FORM FOR STENOGRAPHERS/STENOTYPISTS

NAME OF DEPARTMENT/OFFICE Judge Anti Terrorism Court, Peshawar

ANNUAL / SPECIAL REPORT FOR THE PERIOD Jan 2014 To Dec 2014

PART-I

Name MALANG JAN Date of Birth 18/04/1984

Designation Senior Scale Stenographer Grade 15 Pay

Date of entry into Government service 20-03-2010 Date of appointment to the present Grade 20-03-2010

Training courses if any.

PART-II

A.	A1	A	B	C	D	Remarks
Standard of Shorthand/Typing: (a) Speed (b) Accuracy					✓	
2. Maintenance of Officers engagement, diary and conducting of visitors.					✓	
3. Movement of files and record of suspense cases.					✓	
4. Dress and cleanliness.				✓		
5. Regularity and punctuality in attendance.		✓				
PERSONAL TRAITS						
6. Intelligence.					✓	
7. Preservance and devotion to duty.				✓		
8. Cooperation and tact.				✓		
9. Amenability to discipline.				✓		
10. Any disciplinary action taken during the period of report.						

(b) Other considerations.....

12. Trust worthiness in Confidential and Secret matter. Yes No ✓

Note:— The rating should be recorded by initialing the appropriate column of box.
'A1' Very Good; 'A' Good; 'B' Average; 'C' Below Average' 'D' Poor

PART-III

GENERAL ASSESSMENT OF ANY PARTICULAR QUALITIES

(Appraise in the present grade by initialing the appropriate column below)

Very Good	Good	Average	Below Average	Poor	Special aptitude, if any
			✓		

PART-IV

SUITABILITY FOR PROMOTION

(Initial the apprpriate box below)

(a) Recommended for accelerated promotion.

(b) Fit for promotion.

(c) Recently promoted/appointed, consideration for promotion premature.

(d) Not yet fit for promotion.

(e) Unfit for further promotion. ✓

(f) Fitness for retention after 25 years service.

Fit	Unit
	✓

PEN-PICTURE

He is an officiad, as a blunt tool and one astonishes that under what criteria, he has been selected on the present post. He can not delieven as a Stano Typist

APPENDIX 'D'

B

GOVERNMENT OF N.-W.F P.

CONFIDENTIAL REPORT FORM FOR STENOGRAPHERS STENOTYPISTS

NAME OF DEPARTMENT/OFFICE Judge Anti Terrorism Court-II Peshawar

ANNUAL / SPECIAL REPORT FOR THE PERIOD 01-01-2012 To 31-12-2012

PART-I

Name Malang Jan Date of Birth 18/04/1984

Designation Senior Scale Stenographer Grade 15 Pay

Date of entry into Government service 20-03-2010 Date of appointment to the present Grade 20-03-2010

Training courses if any.

PART-II

A.	A1	A	B	C	D	Remarks
1. Standard of Shorthand/Typing: (a) Speed (b) Accuracy					✓ ✓	He does not apply his mi Always Confu
2. Maintenance of Officers engagement, diary and conducting of visitors.				✓		Least Concer with assigning Such Duty
3. Movement of files and record of suspense cases.			✓			Satisfactor
4. Dress and cleanliness.			✓			Wears poor but Stimes prayful.
5. Regularity and punctuality in attendance.		✓				Always mai tain regula
PERSONAL TRAITS						
6. Intelligence.					✓	Dull, slow-wit and thick hea
7. Preservance and devotion to duty.					✓	Does not Car for revisit t Dictation
8. Cooperation and tact.		✓				Is obedien and other wi Co-operati
9. Amenability to discipline.		✓				Is disciplin
10. Any disciplinary action taken during the period of report.				✓		He has also been tutu but in vain.

11. Integrity:— Satisfactory

(b) Other considerations ..... /

12. Trust worthiness in Confidential and Secret matter. Yes ✓ No Satisfactory.

Note:— The rating should be recorded by initialing the appropriate column of box.
'A1' Very Good; 'A' Good; 'B' Average; 'C' Below Average' 'D' Poor

PART-III

GENERAL ASSESSMENT OF ANY PARTICULAR QUALITIES

(Appraise in the present grade by initialing the appropriate column below)

Very Good	Good	Average	Below Average	Poor	Special aptitude, if any
			✓		

PART-IV

SUITABILITY FOR PROMOTION

(Initial the apprpriate box below)

		Fit	Unit
(a)	Recommended for accelerated promotion.		/
(b)	Fit for promotion.		/
(c)	Recently promoted/appointed, consideration for promotion premature.		/
(d)	Not yet fit for promotion.		/
(e)	Unfit for further promotion.		✓
(f)	Fitness for retention after 25 years service.		✓

PEN-PICTURE

Malang Jan like his name is Malang by nature. He is absolutely unfit for the job of Stenographer. His overall proficiency toward his skill in the art of standard of shorthand typing is meagre appreciated throughout by remaining as Steno grapher. He may otherwise be adjusted as Naib Qasid anywhere in Anti-terrorism Courts.

Dated: 4th July 2013.

Official Stamp

Signature, Name and Designation of Reporting Officer

MOHAMMAD IDRIS KHAN

B

APPENDIX 'D'

GOVERNMENT OF N.-W.F P.

CONFIDENTIAL REPORT FORM FOR STENOGRAPHERS STENOTYPISTS

NAME OF DEPARTMENT/OFFICE Judge Anti Terrorism Court-II, Peshawar

ANNUAL / SPECIAL REPORT FOR THE PERIOD 01-01-2011 To 31-12-2011

PART-I

Name Malang Jan Date of Birth 18/04/1984

Designation Senior Scale Stenographer Grade 15 Pay

Date of entry into Government service 20-03-2010 Date of appointment to the present Grade 20-03-2016

Training courses if any. Nil

PART-II

A.	A1	A	B	C	D	Remarks
1. Standard of Shorthand/Typing: (a) Speed (b) Accuracy					✓ ✓	He does not apply himself Always confused
2. Maintenance of Officers engagement, diary and conducting of visitors.				✓		Least Concern with assigning such duty.
3. Movement of files and record of suspense cases.			✓			Satisfactory
4. Dress and cleanliness.			✓			Wears Provocative but Smoking Painful.
5. Regularity and punctuality in attendance.		✓				Always maintain regularity.
PERSONAL TRAITS						
6. Intelligence.					✓	Dull, slow-witted and thick headed
7. Preservance and devotion to duty.					✓	Does not care for reviral to Dictation.
8. Cooperation and tact.		✓				Is obedient and otherwise Co-operative.
9. Amenability to discipline.		✓				Is disciplined
10. Any disciplinary action taken during the period of report.				✓		He has always been warned but in vain.

11. Integrity:— Satisfactory

(i) Incorruptible ..... ✓

(ii) Reported to be corrupt ..... /

(iii) Believed to be corrupt, because of—

(a) Monetary considerations ..... /

(b) Other consciderations... [/]

12. Trust worthiness in Confidential and Secret matter. Yes No Satisfactory

Note:— The rating should be recorded by initialing the appropriate column of box.
'A1' Very Good; 'A' Good; 'B' Average; 'C' Below Average' 'D' Poor

PART-III

GENERAL ASSESSMENT OF ANY PARTICULAR QUALITIES

(Appraise in the present grade by initialing the appropriate column below)

Very Good	Good	Average	Below Average	Poor	Special aptitude, if any
			(initialled)		

PART-IV

SUITABILITY FOR PROMOTION

(Initial the apprpriate box below)

(a) Recommended for accelerated promotion. [/]

(b) Fit for promotion. [/]

(c) Recently promoted/appointed, consideration for promotion premature. [/]

(d) Not yet fit for promotion. [/]

(e) Unfit for further promotion. [initialled]

(f) Fitness for retention after 25 years service. Fit [ ] Unfit [initialled]

PEN-PICTURE

Malang Jan like his name is Malang by nature. He is absolutely unfit for the job of stenographer. His overall proficiency toward his skill in the art of standard of short hand/typing is very less appreciated through out by remaining as steno grapher. He may other wise be adjusted as Moharrar any where in Anti-Terrorism Courts.

Dated: 4th July 2013.

Official Stamp

Signature, Name and Designation of Reporting Officer

MOHAMMAD IBRAHIM KHAN ... DISMC

GS&PD.NWFP.672/16-Form Store-500 Pads of 100L-24.11.08/P4(2)/Form Store Jobs/Appendix 'D' (ACR)

B

Appendix "D"

GOVERNMENT OF N.W.F.P.

CONFIDENTIAL REPORT FORM FOR STENOGRAPHERS/STENOTYPISTS

NAME OF DEPARTMENT/OFFICE... Judge Anti Terrorism Court Peshawar.

ANNUAL / SPECIAL REPORT FOR THE PERIOD 20-03-2010 TO 31-12-2010.

PART-I

Name MALANG JAN Date of Birth 16/4/1984

Designation Senior Scale Stenographer Grade 15 Pay 5220/-

Date of entry into Government service 20-03-2010 Date of appointment to the present Grade 20-03-2010

Training courses if any. NIL

PART-II

A.	A1	A	B	C	D	Remarks
1. Standard of Shorthand/Typing: (a) Speed (b) Accuracy.			✓			
2. Maintenance of Officers engagement, diary and conduting of visitors.			✓			
3. Movement of files and record of suspense cases.			✓			
4. Dress and cleanliness.			✓			
5. Regularity and puntuality in attendance.			✓			
PERSONAL TRAITS						
6. Intelligence.			✓			
7. Preservance and devotion to duty.			✓			
8. Cooperation and tact.			✓			
9. Amenability to discipline.			✓			
10. Any disciplinary action taken during the period of report.			✓			

11. Integrity:—

(i) Incorruptible..... ✓

(ii) Reported to be corrupt..... ✗

(iii) Believed to be corrupt, because of—

(a) Monetary considerations..... ✗

(b) Other considerations..... [X]

12. Trust worthiness in Confidential and secret matter. Yes [✓] No [X]

Note:— The rating should be recorded by initialling the appropriate column of box.

'A1' Very Good; 'A' Good; 'B' Average; 'C' Below Average; 'D' Poor. [✓ C B]

PART-III

GENERAL ASSESSMENT OF ANY PARTICULAR QUALITIES

(Appraise in the present grade by initialling the appropriate column below)

Very Good	Good	Average	Below Average	Poor	Special aptitude, if any
—	—	✓	—	—	—

PART-IV

SUITABILITY FOR PROMOTION

(Initial the appropriate box below)

(a) Recommended for accelerated promotion [—]

(b) Fit for promotion [—]

(c) Recently promoted/appointed, consideration for promotion premature. [—]

(d) Not yet fit for promotion. [✓]

(e) Unfit for further promotion [—]

(f) Fitness for retention after 25 years service. Fit [✓] Unfit [—]

PEN-PICTURE

He is advised to work hard and improve his Work hand and get well English writing

Dated 19/1/2010

Official Stamp

Signature, Name and Designation of Reporting Officer.

NABEER-UR-RAHMAN

GS&PD.NWFP.—1687 F.S.—1,000 Pads of 100.—21.3.95(37)Disk-10

Appendix "D"

B

GOVERNMENT OF N.W.F.P.

CONFIDENTIAL REPORT FORM FOR STENOGRAPHERS/STENOTYPISTS

NAME OF DEPARTMENT/OFFICE Judge Anti Terrorism Court Peshawar

ANNUAL / SPECIAL REPORT FOR THE PERIOD Jan 2013 TO Dec 2013

PART-I

Name Malang Jan Date of Birth 18-04-1964

Designation Senior Scale Stenographer Grade 15 Pay

Date of entry into Government service 20-3-2010 Date of appointment to the present Grade 20-03-2016

Training courses

if any.

PART-II

A.	A1	A	B	C	D	Remarks
1. Standard of Shorthand/Typing: (a) Speed (b) Accuracy.					✓	
2. Maintenance of Officers engagement, diary and conduting of visitors.				✓		
3. Movement of files and record of suspense cases.			✓		✓	
4. Dress and cleanliness.		✓				
5. Regularity and puntuality in attendance.						
PERSONAL TRAITS						
6. Intelligence.					✓	
7. Preservance and devotion to duty.					✓	
8. Cooperation and tact.			✓			
9. Amenability to discipline.			✓			
10. Any disciplinary action taken during the period of report.						Yes He was given Notice Above his Accomplishment

11. Integrity:—

(i) Incorruptible..... ✓

(ii) Reported to be corrupt.....

(iii) Believed to be corrupt, because of—

(a) Monetary considerations.....

(b) Other considerations.....

12. Trust worthiness in Confidential and secret matter. Yes ✓ No

Note:— The rating should be recorded by initialling the appropriate column of box.

'A1' Very Good; 'A' Good; 'B' Average; 'C' Below Average; 'D' Poor.

PART-III

GENERAL ASSESSMENT OF ANY PARTICULAR QUALITIES

(Appraise in the present grade by initialling the appropriate column below)

Very Good	Good	Average	Below Average	Poor	Special aptitude, if any
				✓	Nil

PART-IV

SUITABILITY FOR PROMOTION

(Initial the appropriate box below)

(a) Recommended for accelerated promotion

(b) Fit for promotion

(c) Recently promoted/appointed, consideration for promotion premature.

(d) Not yet fit for promotion.

(e) Unfit for further promotion ✓

(f) Fitness for retention after 25 years service.

Fit	Unfit
	✓

[redacted]

PEN-PICTURE

No official under Report has no intelligence. His performance is Even below average. He was given advice to improve his performance but in vain

Dated 31-1-2014

Official Stamp

Signature, Name and Designation of Reporting Officer.

GS&PD,NWFP.—1687 F.S.—1,000 Pads of 100.—21.3.95(37)/Disk-10

C

OFFICE OF THE
JUDGE ANTI-TERRORISM COURT,
PESHAWAR
Old Judicial Complex, Khyber Road, Peshawar. Phone No 091-9211047

No. 556 **/ATC (P)** **Dated: Peshawar the 16th May 2013**

From: **The Judge,**
Anti-Terrorism Court-II,
Peshawar.

To: - **The Registrar,**
Peshawar High Court,
Peshawar.

SUBJECT: - Eligibility and performance of Stenographer.

Dear Sir,

On the subject noted above it is humbly submitted that since the undersigned has assumed the office the stenographer of the court namely "Malang Jan" has poor performance rather zero. He cannot write order, Judgment even if dictated with accurate spelling. The experience was also processed way of writing order, Judgment with hands, but he was also unable to copy the same. Therefore, it is requested that other substitute stenographer who is eligible and has experience in writing of order, Judgment and in dictation of presiding officer may kindly be provided.

An early response is highly appreciated.

Judge
c/c **Anti-Terrorism Court,**
Peshawar.

The
PESHAWAR HIGH COURT
Peshawar

All communications should be addressed to the Registrar Peshawar High Court, Peshawar and not to any official by name.

Exch: 9210149-58
Off: 9210135
Fax: 9210170

www.peshawarhighcourt.gov.pk
info@peshawarhighcourt.gov.pk
phcpsh@gmail.com

No. 603/ /Admn. Dated Pesh the 27/05/2013

From:

The Registrar,
Peshawar High Court,
Peshawar.

To:

The Judge,
Anti-Terrorism Court-II,
Peshawar.

Subject: **ELIGIBILITY AND PERFORMANCE OF STENOGRAPHER.**

Dear Sir,

I am directed to refer to your letter No.556/ATC(P) dated 16.05.2013, on the subject and to ask you to initiate proceedings under the Khyber Pakhtunkhwa Efficiency & Discipline Ruled, 2011 against the concerned stenographer is he is inefficient or has ceased to be efficient.

Faithfully yours,

REGISTRAR

D:\Fazal Qayum\General Branch\Admn letters\ATC\Peshawar\ATC P-II.doc

Explanation

E

Whereas you were appointed as senior scale stenographer in this court vide order No. 297-301 ATC (P) Dated 20th March 2010 ; and

Whereas you are constantly found incapable of discharging your duties due to your failing competency ; and

Whereas you were provided opportunities by my predecessor to improve your skill and ability, and on assumption of charge of the office on 1st February 2013 by the undersigned, you were orally directed to improve your skill and ability after having observed your performance on record ; and

Whereas you were kept under observation for the last three months with off and on advices and directions to improve your ability; and

Whereas you are found apparently incapable of improvement and unfit for retention in service due to highly poor performance, perception, knowledge and failure to discharge your duties.

Hence I, Mr. Anwar Hussain , as authority, do hereby direct that your suitability for retention in service will be examined as you are found incapable to discharge your duties, now therefore you are called upon to explain as to why you should not be proceeded against under section 5 (1) (a) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 read with rule 3(a) of the rules, ibid.

Judge
O/C Anti Terrorism Court-II,
Peshawar.

No. 594-595/-ATC-II (P) Dated 08-06-2013

- Copy to Worthy Registrar Peshawar High Court Peshawar for information.

Judge
O/C Anti Terrorism Court-II,
Peshawar.

F

OFFICE OF THE
JUDGE ANTI-TERRORISM COURT,
PESHAWAR
Old Judicial Complex, Khyber Road, Peshawar. Phone No 091-9211047

No. 628-631 **/ATC (P)** **Dated: Peshawar the 26th June 2013**

From: **The Judge,**
Anti-Terrorism Court-II,
Peshawar.

To: - **The Registrar,**
Peshawar High Court,
Peshawar.

SUBJECT: - Explanation.

Dear Sir,

Reference this court Notice no.594-595 / ATC-II (P) Dated 08-06-2013, the reply was submitted by the official, which was found unsatisfactory. So it is decided to hold a test for analysis of competency of the official on date 06 July 2013 at 12:00 am. It is therefore a requested to depute representative of Peshawar High Court for the said date, for the competency test of the official. The committee is constituted as follows

- Representative of the Peshawar High Court Peshawar.
- Representative of the Undersigned.
- Representative of District & Sessions Judge Peshawar.

(Anwar Husssain)
Judge
Anti-Terrorism Court,
Peshawar.

No. 628-631 **/ATC (P)** **Dated: Peshawar the 26th June 2013**

Copy Forwarded:

- The District & Sessions Judge Peshawar, to depute the representative for competency test.
- Mr. Syed Asghar Ali Shah, Judge Anti Terrorism Court-III, Peshawar. nominee of the undersigned.
- Mr Malang Jan the official concered.

(Anwar Hussain)
Judge
Anti-Terrorism Court,
Peshawar.

No. 2009 /Admn:

Dated Pesh the 15/7/2013

From:

The Registrar,
Peshawar High Court,
Peshawar.

To:

The Judge,
Anti-Terrorism Court-II,
Peshawar.

Subject: **EXPLANATION.**

Dear Sir,

I am directed to refer to your letter No.628-631/ATC(P) dated 26.06.2013, on the subject and to say that under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, if you, being the Competent Authority, are not satisfied from the reply of the official concerned, proceed in the matter as per the ibid rules.

Faithfully yours,

(MUHAMMAD ARSHAD)
REGISTRAR

Seen
10-7-2013

OFFICE OF THE
JUDGE ANTI-TERRORISM COURT,
PESHAWAR
Old Judicial Complex, Khyber Road, Peshawar. Phone No 091-9211047

41

OFFICE ORDER

In connection with the competency test of Senior Scale Stenographer of this court, the competent authority is hereby to constitute a committee for the said test, the committee members are as follows:

1. Mr. Syed Asghar Ali Shah, Judge Anti Terrorism Court-III, Peshawar. **Nominee of Judge Anti Terrorism Court-II.**
2. Mr. Arif Bilal Public Prosecutor Anti Terrorism Court-III, Peshawar. **Committee member.**
3. Mr. Fazal Norani Public Prosecutor Anti Terrorism Court-I, Peshawar. **committee member.**

O/C

Judge
Anti-Terrorism Court-II,
Peshawar.

No.638-641 **/ATC-II (P) Dated: Peshawar the 12th July 2013.**

Copy forwarded to:

- Mr. Syed Asghar Ali Shah, Judge Anti Terrorism Court-III,Peshawar.
- Mr. Arif Bilal Public Prosecutor Anti Terrorism Court-III, Peshawar.
- Mr. Fazal Norani Public Prosecutor Anti Terrorism Court-I, Peshawar.
- The Director General Prosecution KPK, Peshawar.

Court-II,
war.

O/C

Judge
Anti-Terrorism Court-II,
Peshawar.

I

OFFICE OF THE
JUDGE ANTI-TERRORISM COURT,
PESHA...R
Old Judicial Complex, Khyber Road, Peshawar. Phone No 091-9211047

OFFICE ORDER

In connection with your reply submitted on dated 21-06-2013, which was found unsatisfactory. Hence, to analyze your competency a test will be conducted on 06th July 2013, under the KPK Government servant (Efficiency and Discipline) rules 2011.

Judge
Anti-Terrorism Court,
Peshawar.

o/c

No. 627 **/ATC-II (P) Dated: Peshawar the 25th June 2013.**

Copy forwarded to:

- Mr. Malang Jan Senior Scale Stenographer Anti Terrorism Court-II Peshawar (official concerned) to attend the competency test on 06-07-2013 in this court.

Judge
Anti-Terrorism Court,
Peshawar.

o/c

J

OFFICE OF THE
JUDGE, ANTI-TERRORISM COURT-III, PESHAWAR.

Court # 18, Judicial Complex, Khyber Road, Peshawar.
Phone / Fax # 091 / 9214258

No. 267 ATC (P)/2013 **Dated: Peshawar the** 17/07/ **2013**

From: - **The Judge,**
Anti-Terrorism Court-III,
Peshawar.

To: - **The Judge,**
Anti-Terrorism Court-II,
Peshawar.

SUBJECT: - **Minutes of the meeting of committee constituted for conducting competency/efficiency test of the Senior Scale Stenographer Mr. Malang Jan posted in the court of Anti-Terrorism Court-II Peshawar.**

The undersigned , being members of the committee , constituted for conducting competency/efficiency test of the Senior Scale Stenographer Mr. Malang Jan posted in the court of Anti-Terrorism Court-II Peshawar vide order dated 12/07/2013 by the Judge Anti-Terrorism Court-II Peshawar held its meeting on 15/07/2013 from 01:00 Pm to 02:30 PM and 16/07/2013 from 12:30 to 01:30 PM. Standard criteria for the recruitment of Senior Scale Stenographer as under:-

1) He must be graduate;
2) Must have speed in shorthand of 100 words per minute;
3) Typing speed of 40 words per minute.

The committee initially decided to conduct competency/efficiency test of the Senior Scale Stenographer Mr. Malang Jan on the same text which was initially taken by him at the time of his recruitment. However when dictation from the concerned page (annexure-A) was started, the Senior Scale Stenographer requested that he should not be examined from the extract of Daily News rather he should be examined in the extracts taken from judicial pronouncements. Accordingly his desire was taken into consideration and the committee decided to dictate him two paragraphs (annexure-B) from 2010 SCMR pages 2 & 3. Total words dictated in a very slow pace i.e. 54 words per minute in 6.5 minutes from reference text were 351. The shorthand dictation taken by him is annexure-C and produced in English translation is annexure-D. Annexure-D is a mutilated reproduction of the original text with missing of 30 words and mistakes of 81 words. Thus neither the English text of taken shorthand is correct nor correctly

reproduced in terms of words. The English text of the taken shorthand was produced within 30 minutes which again shows his incompetency of converting shorthand to English words i.e. by 11.7 words per minutes.

He was given direct dictation for reproduction on computer again from a criminal case judgment in 2009 SCMR page 584 consisting of 324 words (annexure-E) as he remained working in criminal court for about three years. Reproduced version of the dictated text is annexure-F that disclose that reproduced words are 276 with mistaken words of 58 and total time consumed in typing of the words was 04:19 minutes. In order to further ensure the proper assessment of competency of the official, the text of direct dictation was reproduced in enlarged shape and was handed over to the official to be reproduced on his own through computer. The text is annexure-G while reproduced text through computer is annexure-H which disclosed that he has reproduced 289 words out of the total 326 with 36 mistakes in 06 minutes and 22 seconds i.e. about 39 words per minute short of the required 40 words per minute at the time of recruitment.

Thus assessing and analyzing competency/efficiency of the official from any angle, the committee did not find him of the required competency/efficiency demanded of a Senior Scale Stenographer even at the time of initial recruitment while the official has served for about three years but still lacks the necessary competency/efficiency. The committee deeply considered the matter and is of the unanimous opinion without any hesitation that the official has ceased to be efficient for retention in service.

The minutes in above terms of conducted competency/efficiency test along with annexures are forwarded for necessary actions, please.

(Syed Asgilar Ali Shah)
Judge, ATC-III, Peshawar

Arif Bilal
Public Prosecutor,
ATC-III, Peshawar.

Fazal Durani
Public Prosecutor,
ATC-I, Peshawar.

K

OFFICE OF THE
JUDGE ANTI-TERRORISM COURT,
PESHAWAR
Old Judicial Complex, Khyber Road, Peshawar. Phone No 091-9211047

NOTICE.

In connection with your competency/efficiency test held on 16-07-2013, as you disqualified the said test. According to the minutes of meeting, the committee deeply considered the matter and is of the unanimous opinion without any hesitation that the official has ceased to be efficient for retention in service. So explain your position that why you do not leave the post of Senior Scale Stenographer as per rule. Submit your reply with in one day.

Judge
O/C Anti-Terrorism Court,
Peshawar.

No. 651 **/ATC-II (P) Dated: Peshawar the 18th July 2013.**

Copy forwarded to:

- Mr. Malang Jan Senior Scale Stenographer Anti Terrorism Court-II Peshawar (official concerned)

Judge
O/C Anti-Terrorism Court,
Peshawar.

is complete

Explanation / Request

It is respectfully submitted that I have received the notice issued on 18 July 2013 from the office of the judge Anti Terrorism Court-II Peshawar. The contents of the notice are true. But I humbly requested that kindly gives me chance to improve myself. As I have medical fitness problem regarding my ear, the same I have described in my early explanations.

I will improve my medical fitness and efficiency up to demanding level for the said post. Presently, on humanitarian grounds do not take any harsh step against me. I will be very grateful to you for this act of kindness.

Malang Jan.
Senior Scale Stenographer
Anti Terrorism Court-II Peshawar
Date: 19 July 2013.

M

OFFICE OF THE
JUDGE ANTI-TERRORISM COURT,
PESHAWAR
Old Judicial Complex, Khyber Road, Peshawar. Phone No 091-9211047

NOTICE.

It is directed that your reply in response to notice No. 651/ATC-II (P) dated 18-07-213, has been received where in you have admitted your inefficiency. But you have prayed for further opportunity. Keeping in view your service, social status and current situation of unemployment, on humanitarian grounds one further chance till September 2013 is given for improving your efficiency about which another test will be held in September 2013.

Judge
Anti-Terrorism Court,
Peshawar.

c/c

No. 652 **/ATC-II (P) Dated: Peshawar the 22nd July 2013.**

Copy forwarded to:

- Mr. Malang Jan Senior Scale Stenographer Anti Terrorism Court-II Peshawar (official concerned)

Judge
Anti-Terrorism Court,
Peshawar.

c/c

OFFICE OF THE
JUDGE ANTI-TERRORISM COURT,
PESHAWAR
Judicial Complex, Khyber Road, Peshawar. Phone No 091-9211047

OFFICE ORDER

In the light of this court notice No. 652/ATC-II (P) dated 22nd July 2013, an opportunity was granted on humanitarian basis that to improve your efficiency up to September 2013. Whereas you were kept under observation with off and on advices. But again you are found below the standards of senior scale stenographer. Now the competent authority directed you to decide your position according to following conditions.

- To reappear for the test to check your ability.
- To leave your service voluntarily.

Your reply should reach to the office of the undersigned with in seven days.

Judge
Anti-Terrorism Court,
Peshawar.

No. 706 **/ATC-II (P)** **Dated: Peshawar the 10th Oct2013.**

Copy forwarded to:

- Mr. Malang Jan, Senior Scale Stenographer Anti Terrorism Court-II, Peshawar (official concerned).

Judge
Anti-Terrorism Court,
Peshawar.

OFFICE OF THE
JUDGE ANTI-TERRORISM COURT,
PESHAWAR
Old Judicial Complex, Khyber Road, Peshawar. Phone No 091-9214259

No. 184 **/ATC (P)** **Dated: Peshawar the 20th April 2015**

From: **The Judge,**
Anti-Terrorism Court-II,
Peshawar.

To: - **The Registrar,**
Peshawar High Court,
Peshawar.

SUBJECT: - Eligibility and performance of Stenographer.

Dear Sir,

I have the honor to refer to this office letter No. 556/ ATC dated Peshawar 16/05/2013 on the subject cited above and to submit that since the very assumption of my charge as judge of ATC-II Peshawar, the stenographer of this court Mr. Malang Jan has performed his duty with utmost negligence and at all times his performance has been found zero. His job is almost performed by computer operator of this court and he has never tried to improve his practice. He is unable to either take dictation of judgment and orders or to write the same through computer. His posting as Stenographer in this court is purposeless and just a load on public Exchequer.

In view of the above it is requested that this court be provided a skill handed stenographer and obliged.

Judge
Anti-Terrorism Court-II,
Peshawar.

The
PESHAWAR HIGH COURT
Peshawar

All communications should be addressed to the Registrar Peshawar High Court, Peshawar and not to any official by name.

Exch: 9210149-58
Off: 9210135
Fax: 9210170

www.peshawarhighcourt.gov.pk
info@peshawarhighcourt.gov.pk
phcpsh@gmail.com

No. 5489 /Admn: Dated Pesh the 27/4/2015

To:

The Judge,
Anti-Terrorism Court-II,
Peshawar.

Subject: **ELIGIBILITY AND PERFORMANCE OF STENOGRAPHER.**

Dear Sir,

I am directed to refer to your letter No.184/ATC(P) dated 20.04.2015 and to ask to initiate proceedings under the Khyber Pakhtunkhwa (Efficiency and Discipline) Rules, 2011 against the concerned stenographer, please.

Sincerely yours,

ADDITIONAL REGISTRAR (ADMN)
FOR REGISTRAR

Put up alongwith the Ex D Rules, 2011

28/4/2015

D:\Fazal Qayum\GB\Admn letters\ATC\Peshawar\ATC I-II.doc

OFFICE OF THE
JUDGE ANTI-TERRORISM COURT-II,
PESHAWAR
Judicial Complex, Khyber Road, Peshawar. Phone No 091-9211047

154 /ATC (P) **Dated: Peshawar the 04th May 2015.**

To: - **Malang Jan,**
Senior Scale Stenographer,
ATC-II, Peshawar.

Subject: ***FINAL SHOW CAUSE NOTICE.***

Whereas an inquiry committee was constituted by this office for analyzing and assessing a charge of incompetency/ inefficiency against you official/accused Malang Jan s/o Dad Khan Senior Scale Stenographer of this court and after subjecting you accused by the said committee for a test of competency/efficiency the said committee vide its finding dated 17-07-2013 has opined as under.

"Thus assessing and analyzing competency/efficiency of the official from any angle, the committee did not find him of the required competency/efficiency demanded of a Senior Scale Stenographer even at the time of initial recruitment while the official has served for about three years but still lacks the necessary competency/efficiency. The committee deeply considers the matter and is of the unanimous opinion without any hesitation that the official has ceased to be efficient for retention in service."

And

Whereas for the reasons stated above you have ceased to be efficient for the post of Senior Scale Stenographer and as you could not improve your performance in spite of serving for more then 04 years, therefore, final show cause notice is hereby given to you to explain reasons in written form for a charge of incompetency/ inefficiency against you with in three days from the receipt of this show cause notice, failing which proceeding under Khyber Pakhtunkhwa (Efficiency and Discipline) Rules, 2011 would be finalized against you.

Malang Jan
04-05-015

Judge
Anti-Terrorism Court-II,
Peshawar.

[Annexure-B]

R

To,

The Hon'ble Judge,
Anti-Terrorism Court-II,
Peshawar.

Subject:- **REPLY TO FINAL SHOW CAUSE NOTICE DATED. 04 MAY, 2015.**

Respected Sir,

I have the honour to refer to your good self letter No.154/ ATC. (P) Dated: Peshawar the 04th May, 2015 and to submit that I was appointed as Senior Scale Stenographer vide order No.297-301 ATC. (P) Dated 20th March, 2010 in Office of the Judge, Anti-Terrorism Court-II, Peshawar under the competitive Judicial examination conducted by competent Selection and Recruitment Team consisting of Mr. Shamsher Ali Khan Hon'ble Member Inspection Team, Peshawar High Court, Peshawar, Mr. Abdur Rahman Khan Administrative Judge, Anti-Terrorism Courts, Peshawar, Hidayat Ullah Registrar Accountability Court, Peshawar, Mr. Hayat Ali Shah Judge, Anti-Terrorism Court-I, Peshawar and Mr. Anwar Ali Khan Judge, Anti-Terrorism Court-III, Peshawar.

That I was selected after conducting the Shorthand and Typing test on February 2010, since my appointment, I have improved my skill and capability and had performed duties as Senior Scale Stenographer with different Hon'ble Judges of Anti-Terrorism Courts, Peshawar and have rendered unblemished services.

That during tenure of my five (05) years I have gained vast experience in the field of Typing and Stenography.

I performed my duty such as recording the statement of PWs, order sheet, weekly report, preparation of monthly report, preparation of warrant of release, warrant of commitment, judgment to the some extent and all letter of request etc with all respect to the report submitted by the Inquiry Committee. In case, it is considered that my present performance is not up to all standards it was because of my weak hearing problem of right ear which ailment started during my service. Besides, it is humbly requested that in view of the sensitive nature of post of Senior Scale Stenographer, I may be given any similar post, so, that I may perform my duty and

improve my efficiency however, I may not be deprived of my livelihood and further to prove myself efficient.

The Hon'ble Court has issued me final show cause notice and it is promised that I will improve my skill and ability.

It is humbly requested that since, I am able and have much improved my skill during five (05) years tenure.

Hon'ble Sir. I am honest and professional. I have always conducted and performed my duties to the best of my knowledge and professional abilities.

Sir. if there is any fault on my part so, I place myself at the mercy of this august Court and seek unconditional apology.

Submitted, please Sir.

Dated: 11.05.2015.

Your's obediently.

(Malang Jan)
S.S.Stenographer
Anti-Terrorism Court-II.
Peshawar.

12/05/15 R/Sir,

Annexture-C is issued to the official Concerned for intimation of Personal hearing on 16/05/15.

S/
Superintendent
ATC, Peshawar

Official Malang Jan present who was personally heard. During the Course of personal hearing, the requested for adjustment on a lower post and conceded not fit for the present post. To come up for order on 20/5/015

16/5/015

Accused/official Malang Jan, proceeded against under Govt of KPK Efficiency & Discipline Rules, 2011.

20/5/015

[Annexture-C]

OFFICE OF THE
JUDGE ANTI-TERRORISM COURT,
PESHAWAR
Old Judicial Complex, Khyber Road, Peshawar. Phone No 091-9211047

ORDER

Consequent upon the findings of the inquiry committee dated 17-07-2013, as constituted for probing a charge of incompetency/inefficiency against Malang Jan, Senior Scale Stenographer of this court wherein he has been found incompetent for his post and in view of his unsatisfactory reply of show cause notice served upon him on 04-05-2015,it has been proved that the above named official has been ceased to be efficient for retention in this office on the above mentioned post, therefore, I Mr. Abdur Rauf Khan, Judge Anti Terrorism Court-II, Peshawar in my capacity as competent authority, by finding myself in agreement with the report of the above mentioned inquiry committee, and feeling myself not satisfied with the performance of above official, I under Government of Khyber Pakhtunkhwa (Efficiency & Discipline) Rules, 2011, hereby impose major penalty of removal from service upon him with immediate effect.

Judge
Anti-Terrorism Court-II,
Peshawar.

No. 187-191 **/ATC (P)** **Dated: Peshawar the 20th May 2015.**

Copy forwarded to;

- The Registrar, Peshawar High Court Peshawar.
- The Accountant General K.P.K, Peshawar.
- The Sectary to Government of KPK, Home and Tribal Affairs Department, Peshawar.
- The Superintendent ATC, Peshawar.
- Malang Jan s/o Dad Khan r/o Shams abad, Khesgi Payan District Nowshera.

Judge
Anti-Terrorism Court-II,
Peshawar.

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 1030/ 2015

Malang Jan, Ex: Senior Scale Stenographer, Anti-Terrorism Court-II, Peshawar.

(Appellant)

.....Vs.....

The Hon'b'e Administrative Judge, Peshawar High Court, Peshawar through Registrar, Peshawar High Court, Peshawar, and two others.

(Respondents)

COMMENTS ON BEHALF OF RESPONDENT NO.1

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

a. The appeal is incompetent in its present form.
b. The appellant hasn't come to the Tribunal with clean hands hence his appeal deserves dismissal on this score alone.
c. The appellant has got no cause of action/locus standi to file the present appeal.
d. The appeal is time barred.
e. The appeal is bad for mis-joinder of necessary parties.

ON FACTS:

1. Needs no comment being unrelated to the answering respondent.
2. Needs no comment being unrelated to the answering respondent.
3. Needs no comment.
4. Needs no comment from the answering respondent.
5. Not related to the answering respondent, hence needs no comment.

6. Being a matter of record, and unrelated to the answering respondent, the Para needs no comment.
7. Needs no comments from this side.
8. Correct to the extent that, representation/departmental appeal was filed but that was disposed of as infructuous by the worthy forum, for the appellant had moved a service appeal before this Hon'ble Tribunal.
9. Needs no comment.

GROUNDS:

1. Incorrect.
2. Incorrect.
3. Not related to the answering respondent, hence needs no comment.
4. Needs no comment.
5. Not related to the answering respondent, hence needs no comment.
6. Though the Para under reply is not related to the answering respondent, still, the record suggests the appellant otherwise.
7. Needs no comment.
8. Needs no comment.
9. Not related to the answering respondent, hence needs no comment.
10. Not related to the answering respondent, hence needs no comment.
11. Needs no comment.
12. Not related to this side, hence needs no comment.
13. Needs no comment from the answering respondent.
14. The Para under reply doesn't call for comment from this side.
15. Not related with this respondent, hence needs no comment.
16. Being a matter of record and no relevancy with this respondent, hence need no comment.
17. Needs no comment.
18. The Para doesn't call for reply from this end.
19. Incorrect.
20. Not related to the answering respondent.

21. Incorrect.

22. Not relevant to the answering respondent, hence needs no comment.

It is, therefore, requested that, while accepting the reply/comments, the appeal, being devoid of force, may please be dismissed with costs.

Respondent No. 1

REGISTRAR,
Peshawar High Court,
Peshawar.

AFFIDAVIT

I, **Muhammad Ayub Khan, Registrar, Peshawar High Court, Peshawar**, respondent, solemnly affirm and declare that the contents of the comments are true to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

REGISTRAR,
Peshawar High Court,
Peshawar.

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No: 1030 / 2015

MALANG JAN *Versus* Government of KPK etc.

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth,

Rejoinder on behalf of Appellant is as under: -

REJOINDER:

1. Para-1 & 2 of the Comments are neither true nor proper. The actual position is that the Appellant was having the experience of shorthand, typing and using of MS-Office etc which is evident from the Test conducted by this Honourable Tribunal for the post of Senior Scale Stenographer after the removal from service by the Respondents, copies of the same are attached as *Annexure R/1*.

2. In response to Para 3 of the Comments, it is stated that not a single ACR was communicated to the Appellant which is reported to be adverse. It is important to mention here that Advisory Remarks are not considered as Adverse Remarks as per law on the subject.

3. In response to Para 4 of the Comments as offered, it is submitted that the disease / ailment of the Appellant was never considered by the Competent Authority nor anyone else. It merits mentioning here that the ear infection caused to the Appellant was temporary in nature and now the Appellant has recovered the alleged deficiency. The test etc conducted by this Honourable Tribunal, after fulfilling all the codal formalities, is proof of the same which is already available on file.

4. Para 5 & 6 of the Comments is again illegal, unlawful and against the actual / factual position of the case. No proceedings as

mentioned in the E & D Rules, 2011 has been conducted by the Respondents nor he was referred to any Standing Medical Board in order to verify the genuineness of his claim regarding the ear infection hence the Impugned Order is not sustainable in the eyes of law.

5. Para 7 of the Comments needs no reply.

6. Para 8 as per Para 4 above.

7. In response to Para 9 to 11, it is submitted that the Competency Test taken but again the ailment of the Appellant in respect of Ear Infection was melafidely and purposely not considered.

8. Para 12 & 13 to the extent of notice dated 18.07.2013 is correct. It is added that the said Notice was properly replied by the Appellant.

9. Para 14 to 17 of the Comments in respect of issuance of Notices etc are correct however the Competent Authority paid no heed to the explanation of the Appellant in respect of his ailment.

10. Para 18 is correct to the extent of direction in respect of initiation of proceedings under the E & D Rules, 2011 but no such proceedings were ever initiated against the Appellant. It is important to mention here that where the Competent Authority proposes to impose major punishment, the regular inquiry to that effect is necessary.

11. Para 19 As-Above.

12. Para 20 needs no comments.

13. Para 21 is not correct. No chance of Personal hearing was ever afforded to the Appellant.

14. In response to Para 22, it is submitted that the Impugned Order is not based on actual and factual position of the case. Injustice has been done to the Appellant. His ailment has not been considered in whole the proceedings. He was never referred to the Standing Medical Board. Article 38 of the Constitution of Islamic Republic of Pakistan, 1973 has been violated by the Respondents.

15. Para 23 of the of the Comments is again misleading statement of the Respondents. Appellant is not physically handicapped nor his is disabled however he was ill due to ear infection which fact was never considered by the Competent Authority. It was incumbent

upon the Respondents to refer the case of the Appellant to the Standing Medical Board in order to separate chaff from the grain. It is also noteworthy to mention here that during the period of his infection the Competent Authority should have changed his designation i.e. from Stenographer to any other post like Assistant etc.

It is, therefore, requested that Appeal of the Appellant be accepted as prayed for.

Appellant

Through:

BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No: 1030 / 2015

MALANG JAN *Versus* Government of KPK etc.

COUNTERAFFIDAVIT

I, MALANG JAN, S/o Dad Khan, Ex-Senior Scale Stenographer, Anti Terrorism Court-II, Peshawar, R/o Village & P.O Kheshgi Payan, Mohallah Shamsabad, Tehsil & District, Nowshera, Appellant, do hereby on oath affirm and declare that the contents of the Rejoinder are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.

Malang Jan

Deponent

Identified by:

BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

ATTESTED
Afrasiab Khan A...
Oath Commissi...
High Curt Pesh...
05/4/16

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No: 1030 / 2015

MALANG JAN *Versus* Government of KPK etc.

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth,

Rejoinder on behalf of Appellant is as under: -

REJOINDER:

1. Para-1 & 2 of the Comments are neither true nor proper. The actual position is that the Appellant was having the experience of shorthand, typing and using of MS-Office etc which is evident from the Test conducted by this Honourable Tribunal for the post of Senior Scale Stenographer after the removal from service by the Respondents, copies of the same are attached as *Annexure R/1*.

2. In response to Para 3 of the Comments, it is stated that not a single ACR was communicated to the Appellant which is reported to be adverse. It is important to mention here that Advisory Remarks are not considered as Adverse Remarks as per law on the subject.

3. In response to Para 4 of the Comments as offered, it is submitted that the disease / ailment of the Appellant was never considered by the Competent Authority nor anyone else. It merits mentioning here that the ear infection caused to the Appellant was temporary in nature and now the Appellant has recovered the alleged deficiency. The test etc conducted by this Honourable Tribunal, after fulfilling all the codal formalities, is proof of the same which is already available on file.

4. Para 5 & 6 of the Comments is again illegal, unlawful and against the actual / factual position of the case. No proceedings as

mentioned in the E & D Rules, 2011 has been conducted by the Respondents nor he was referred to any Standing Medical Board in order to verify the genuineness of his claim regarding the ear infection hence the Impugned Order is not sustainable in the eyes of law.

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11. Para 19 As-Above.

12. Para 20 needs no comments.

13. Para 21 is not correct. No chance of Personal hearing was ever afforded to the Appellant.

14. In response to Para 22, it is submitted that the Impugned Order is not based on actual and factual position of the case. Injustice has been done to the Appellant. His ailment has not been considered in whole the proceedings. He was never referred to the Standing Medical Board. Article 38 of the Constitution of Islamic Republic of Pakistan, 1973 has been violated by the Respondents.

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upon the Respondents to refer the case of the Appellant to the Standing Medical Board in order to separate chaff from the grain. It is also noteworthy to mention here that during the period of his infection the Competent Authority should have changed his designation i.e. from Stenographer to any other post like Assistant etc.

It is, therefore, requested that Appeal of the Appellant be accepted as prayed for.

Appellant

Through:

BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No: 1030 / 2015

MALANG JAN *Versus* Government of KPK etc.

COUNTERAFFIDAVIT

I, MALANG JAN, S/o Dad Khan, Ex-Senior Scale Stenographer, Anti Terrorism Court-II, Peshawar, R/o Village & P.O Kheshgi Payan, Mohallah Shamsabad, Tehsil & District, Nowshera, Appellant, do hereby on oath affirm and declare that the contents of the Rejoinder are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.

Malang Jan

Deponent

Identified by:

BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

ATTESTED

Arasiab Khan Advocate Oath Commissioner High Court Peshawar

05/04/16

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 1030/ 2015

Malang Jan, Ex: Senior Scale Stenographer, Anti-Terrorism Court-II, Peshawar.

(Appellant)

.....Vs.....

The Hon'b'e Administrative Judge, Peshawar High Court, Peshawar through Registrar, Peshawar High Court, Peshawar, and two others.

(Respondents)

COMMENTS ON BEHALF OF RESPONDENT NO.1

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

a. The appeal is incompetent in its present form.

b. The appellant hasn't come to the Tribunal with clean hands hence his appeal deserves dismissal on this score alone.

c. The appellant has got no cause of action/locus standi to file the present appeal.

d. The appeal is time barred.

e. The appeal is bad for mis-joinder of necessary parties.

ON FACTS:

1. Needs no comment being unrelated to the answering respondent.
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GROUNDS:

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19. Incorrect.
20. Not related to the answering respondent.

21. Incorrect.

22. Not relevant to the answering respondent, hence needs no comment.

It is, therefore, requested that, while accepting the reply/comments, the appeal, being devoid of force, may please be dismissed with costs.

Respondent No. 1

REGISTRAR,
Peshawar High Court,
Peshawar.

AFFIDAVIT

I, **Muhammad Ayub Khan, Registrar, Peshawar High Court, Peshawar**, respondent, solemnly affirm and declare that the contents of the comments are true to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

REGISTRAR,
Peshawar High Court,
Peshawar.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 1059 /ST Dated 21 / 6 / 2016

To

The Judge/Presiding Officer ,
Peshawar.

Subject: - **JUDGMENT**

I am directed to forward herewit1h a certified copy of Judgement dated 3.6 .2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Fixed for: 21.06.2016.

Service Appeal No: 1030 / 2015.

MALANG JAN *Versus* *Government of KPK etc.*

APPLICATION FOR EARLY HEARING.

Respectfully Sheweth,

1. That titled Appeal is pending subjudice before this Honourable Tribunal in which almost all the formalities i.e. Comments / Reply & Rejoinder has been completed and the same is fixed for final arguments on 21.06.2016.
2. That, the undersigned / Appellant belongs to poor family and has been removed from the services of the Respondents Department illegally and unlawfully.
3. That, the case of the undersigned / Appellant pertains to reinstatement in the service along with all back wages and benefits.
4. That, even otherwise in the month of June (Ramazan), Applicant will proceed on Tableegh, hence the shortest possible date is requested before Ramazan.
5. That, justice delayed is justice denied.

It is therefore, humbly requested that on acceptance of this Application, an opportunity of early hearing of the titled Appeal may please be given.

Dated: 16-05-2016.

Applicant / Appellant,

AFFIDAVIT

I, Malang Jan, Ex-Senior Scale Stenographer, Applicant / Appellant, do hereby on Oath affirm and declare that the contents of the Application are true and correct to the best of my knowledge and belief and nothing has been kept secret from his Honourable Tribunal.

Deponent

Identified by:

Gohar Ali Kheshgi
(Advocate, Peshawar)