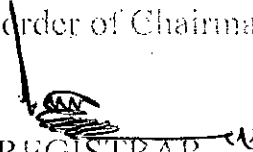


FORM OF ORDER SHEET

Court of _____

Case No.- _____

817/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/04/2023	<p>The appeal of Mr. Akhtar Sher Bacha resubmitted today by Mr. Umar Khitabl Advocate. It is fixed for preliminary hearing before touring Single Bench at Swat on _____</p> <p>By the order of Chairman</p>  <p>REGISTRAR</p>


This is an appeal filed by Mr. Akhtar Sher Bacha today on 22/02/2023 against the order dated 12.12.2022 against which he made/preferred departmental appeal/representation on 06.01.2023 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority report as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action and also removing the following deficiencies.

- 1- Check list is blank which be filled up.
- 2- Annexures of the appeal be attested
- 3- Three more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 659 /ST,

DC. 22/2 /2023.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Umar Khitab Adv.
High Court Swat.

Sir
Re Submitted all The objections are removed by directions of Hon' S.T. IC P.

*Umar Khitab
Advocate*

BEFORE THE SERVICE TRIBUNAL KHYBER PUKHOON KHWA PESHAWAR.

Akhtar Sher Bacha class Iv Government Primary School Ochar Matta Swat. Petitioner.

VERSUES.

Appeal no. 817/23

2. Secretary Elementary and secondary Education K.P Peshawar and others.....Respondents.

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اکھتر شیر بچا

Akhtar Sher Bacha.....Petitioner

Through

Umar Khitab Advocate High Court/
Darulqaza Mingora Bench.

Cell No. 0345- 9524854

(1)

BEFORE THE SERVICE TRIBUNAL KHYBER PUKTOONKHWA
PESHAWAR.

Service appeal No 817 /2023.

**Akhar Sher Bacha class Iv Government Primary
School Ochar Matta Swat.....Appellant.**

Versues.

- 1.The Secretary Elementary and Secondary Education
Khyber Pukhtoonkhawa Peshawar.**
- 2.The Director Elementary and Secondary Education
Khyber Pukhtonkhawa Peshawar.**
- 3.The District Education Officer Male Elementary and
Secondary Education Swat.....Respondents.**

**APPEAL UNDER SECTION 4 OF SERVICE
TRIBUNAL Act,1974 AGAINST THE IMPUGNED PARA
"THAT THE INTERVENING PERIOD IS TREATED WITH
OUT PAY" VIDE REINSTATMENT ORDER NO,3865-68
DATED 12/12/2022 ISSUED BY RESPONDENT NO.3.
THE DEPARTMENTAL APPEAL SUBMITTED TO
RESPONDENT NO.2 DATED 6/01/2023 WHICH IS NOT
YET BEEN DECIDED.**

PRAY IN APPEAL.

**On the acceptance of instant appeal the
Respondent No.3 order No,3865-68 dated
1/12/2022 in respect of reinstatement Para "
that the intervening period is treated with out
Pay may kindly be declare/consider null and
void and the Respondent No.3 may kindly be
directed to declare the mentioned Para is
consider/declare " is on full pay/ on duty" and
issue the corrigendum in the re instatement
order of the appellant with all back benefits.**

Respectfully Sheweth,

1. That the applicant was initially appointed as class IV at GMS Taran Kabal vide appointment order No.3501-02 dated 26/11/2003.(and now adjusted as sweeper at GPS Ochar Matta Swat)

2. That the Pakistan Army arrested the appellant On 16/09/2009 on the suspicion and baseless allegations of his involvement in the illegal activities after the long period of detention by Pak Army later on dated 16/10/2018 released the appellant.

3. That on 29/10/2007 FIR No.454 under Sections 342,353, 120b, 124 A,436, 427 PPC and 3/4 ESA 7ATA was lodged police station Kabal Swat against the appellant. The ATC I Gulkada Saidu Sharif Swat later on 21/01/2019 discharge the appellant from the charges.(Anti Terrorism court order sheet No.2 dated 21/2/2009 as Annex: A.)

4. That the appellant after his release from Judicial lock up submitted an application dated 6/5/2019 to Respondent No.3 for adjustment and Release of pay and paid the arrears of the appellant but in vain.(Application as Annex: B)

5. That show cause notice issued from Respondent No.3 to the appellant vide No. 1842-44 dated 3/10/2019 and the appellant submitted the reply of show cause to Respondent No.3.(Show cause notice/ Reply are Annex: C/D)

6. That Respondent No. 3 are appointed Principal GHSS Kabal Swat and Headmaster GHS kotlai Kabal Swat against the appellant as enquiry officers/Committee. The Enquiry officer/ committee completed their detail enquiry and submitted his enquiry report to Respondent No. 3 office vide No. 960 dated 19/07/2019. According the enquiry committee report after their conclusion they enquiry committee found the appellant as innocent and no charges were proved against the appellant.(Enquiry Report as Annex: E)

7. The District Police Swat issued the police clearance certificate to the appellant after his discharge from the competent court of law in the light of police clearance Certificate, the Honorable Anti Terrorism Court I Gulkada Saidu Sharif Swat on the request of Prosecution to discharge the accused /appellant from the charges and the appellant acquitted from judicial lockup.(Police clearance certificate as Annex: F)

8. That the appellant instituted a service appeal No,5790/2021 in Honourable Service Tribunal K.P. Peshawar for adjustment of the appellant and release of pay and paid of arrears of the appellant.
(Service appeal as Annex: G)

9. That on 08/11/2022 the Honourable Service Tribunal K.P. Peshawar summon the Respondent No.3 personally and direct him to redressed the grievances of the appellant on fresh application of the appellant with the in fifteen day.(Order sheet dated 8/11/2022 as Annex: H)

10.. That the appellant submitted an application to Respondent No.3 vide Dairy No. 4084 dated 6/12/2022 for adjustment, release of pay and paid the arrears but in vain. (Application as Annex: I)

11. It is pertained to be noted the Respondents Departments are not issue the termination or removal from service order of the appellant to date and the services of the appellant intact in the department.

12. That the appellant instituted an application for the restoration of appeal No.5790/2021 vide application No.731/2022 which is fixed for 5/1/2023.(Restoration application as Annex: J)

13. That the Respondent No. 3 issued the reinstatement order of the appellant at Government Primary school Ochar Matta Swat against the vacant post of sweeper by the direction of the Honourable Service Tribunal K P Peshawar in camp Court at swat on 05/01/2023 and delivered the reinstatement order copy to appellant in

4

open court on 05/01/2023. But the Respondent No. 3 denied the arrears of the appellant and intervening period tread with out pay which is against the law, rules and fundamental rights. (Re instatement order / Order sheet dated 5/1/2023 are Annex: K/L)

14. That the appellant submitted an application to Honourable Service Tribunal for with drawl of his restoration application on the same day i.e. 05/01/2023 with the request that the appellant challenge the intervening period with out pay in any legal form. (With drawl application as Annex: M)

15. That the appellant submitted Departmental appeal to Respondent No. 2 dated 6/1/2023 for consider the intervening period on-full/ on duty but the Departmental appeal not yet decided in the Stipulated period. (Departmental appeal as Annex : N)

Grounds of appeal.

1. That un provided / impugned Para of Respondent No.3 " intervening period is Consider is without pay" is against the laws of Lands, rules and fundamental rights.
2. That the Respondents Department have Violated the rule of consistency. The appellant has not treated of the same principal.
3. That the Respondent No.2 has not decided the Departmental appeal in stipulated period.
4. That the appellant is entitled for the arrears " Intervening period of full pay/ on duty" because the appellant is discharge from all charges and acquitted from judicial lockup.
5. That the appellant has not treated accordance the law and rules.
6. That the impugned Para of Respondent No.3 " the intervening period is with out pay" is whimsical, capricious, and founded on surmises and conjectures.
7. That the other ground not specifically reside

5

Will be argued with prior permission of this Honourable Tribunal at time of arguments.

On the acceptance of instant appeal the Respondent No.3 order No,3865-68 dated 1/12/2022 in respect of reinstatement Para " that the intervening period is treated with out Pay may kindly be declare/consider null and void and the Respondent No.3 may kindly be directed to declare the mentioned Para is consider/declare " is on full pay/ on duty" and issue the corrigendum in the re instatement order of the appellant with all back benefits.

اکتار شیر بایا

Akhtar Sher Bacha.....appellant

Through

Umar Khitab advocate High Court/ Darul Qaza Swat.

Cell No. 0345-9524854

BEFORE THE SERVICE TRIBUNAL KHYBER
PUKTHOONKHAWA PESHAWAR.

6

SERVICE APPEAL. NO. _____/2023.

Akhar Sher Bacha Class IV Govt: Primary School Ochar Matta
Swat. _____ Appellant.

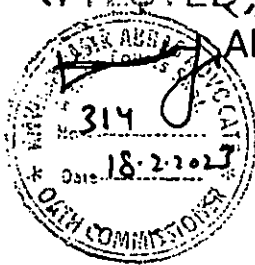
VERSUES.

1. The Secretary Elementary and Secondary Education
Khyber Pukthoonkhawa Peshawar & others..... Respondents.

AFFADAVIT.

It is stated on oath that the contents of this appeal
are true and correct to the best knowledge and belief.
Moreover, no such like appeal is pending before this
Honourable Tribunal.

ATTESTED *اکhtar شیر باچا*
Akhtar Sher Bachaappellant.



BEFORE THE SERVICE TRIBUNAL KHYBER PUKHTOONKHW
PESHAWAR.

7

Appeal No. _____/2022.

Akhtar Sher Bacha Appellant.

VERSUS

1. The Chief Secretary Govt: KhyberPukhtoonkhw Peshawar
and others.....Respondents.

MEMO OF ADRESSES OF THE PARTIES.

1. Akhtar Sher Bacha Class IV Government Primary school
Ochar Matta Swat.....Appellant

Cell No.0346- 5738774

Addresses of Respondents.

1. The Secretary Elementary and Secondary Education Khyber
Pukhtoonkhw Peshawar.

4. Director of Elementary and Secondary Education Khyber
Pukhtoonkhw Peshawar.

3. The District Education Officer Male Gulkada Saidu Sharif
Swat.

اکھتار شیر بابا

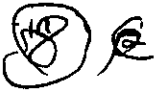
Akhtar Sher BachaAppellant.

Through

Umar Khitab Advocate

High Cour/Darul Qaza Swat.

Cell No, 0345-9524854



IN THE COURT OF SYED OBaidULLAH SIAMI SPECIAL JUDGE, ANTI-TERRORISM COURT-I MALAKAND DIVISION AT SWAT

Case No: 13/8 OF 2019

The State

Versus

Akhtar Sher Bacha



Case FIR No: 547 Dated: 29.10.2007

U/Ss 324, 353, 120-b, 124-A, 436, 427 PPC,

3/4 E.S.A, 7-ATA P.S. Kabal Distt: Swat

06.02.2019

The supplementary challan in the subject case received from prosecution against the accused, namely, Akhtar Sher Bacha S/O Amir Baz Khan R/O Taran Deulai Distt: Swat. Be entered in the relevant register. Original record be requisitioned and accused be summoned for 21.02.2019.

JUDGE ATC-I MALAKAND
DIVISION AT SWAT

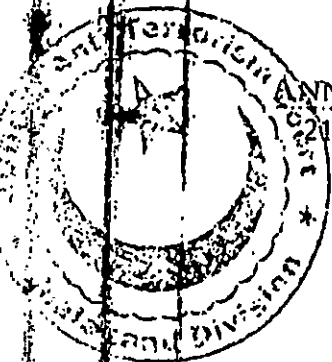
06.02.2019

Accused Akhtar Sher present. PP for the state present who requested for the discharge of the accused having no solid evidence against him.

In the light of record, the request of the prosecution seems genuine; therefore, accepted and accused, namely, Akhtar Sher is hereby discharged for the charges leveled against him. Sureties of the accused if any, be relieved from the liabilities of bail bonds.

File be consigned to record room after necessary completion and compilation.

ANNOUNCED
21.02.2019



JUDGE ATC-I MALAKAND
DIVISION
Anti-Terrorism Court
Malakand Division of Swat

Anx B

بخدمت جناب ڈسٹرکٹ ایجوکیشن آفیسر

9

عنوان: رحم درخواست بابت بحال کرنے کلاس فور مسمیٰ اختر شیر باجا ولد
باز خان سکنہ گاؤں تارن تحصیل کبل ضلع سوات مڈل سکول تارن

جناب عالی!

یہ کہ سائل کو پاک آرمی نے بمورخہ 16/09/2009 کو شک کے بنیاد پر اپنے
تحویل میں لے لیا تھا۔ جس کی وجہ سے سائل اپنی ڈیوٹی کرنے سے دور رہا ہے

یہ کہ اب سائل کی کلٹرنس وغیرہ مکمل طور پر ہو چکے ہیں اور سائل اب
پاک آرمی کی طرف سے مکمل طور پر بری ہو چکا ہے۔
یہ کہ اب سائل اپنی بحالی چاہتا ہے۔ جس کے لئے آپ صاحبان کو اپنی
درخواست پیش کر رہا ہے۔

لہذا آپ صاحبان کے خدمت میں رحم درخواست پیش خدمت ہے۔ مہربانی فرماتا
کہ سائل کو دوبارہ تارن مڈل سکول جس میں ابھی ہائی سکول کو بھی شامل
کر دیا گیا ہے میں بحال کرنے کا حکم صادر فرما دے تو سائل تا حیات دعا
گوں رہے گا۔

احتر شہیر باجا

عریضہ
سکی اختر شیر باجا ولد باز خان سکنہ گاؤں تارن تحصیل کبل ضلع سوات

مورخہ: 06/05/2019

استغاثہ

Umar Khitab
Advocate High Court

Put up
filed

Amr C

10



**OFFICE OF THE
DISTRICT EDUCATION OFFICER
(MALE) SWAT**

Abdul *Chaudhary*

SHOW CAUSE NOTICE

I Muhammad Amin District Education officer (M) ~~Swat~~ under the Khyber pukhtun Khawa Government Servant (Efficiency & Disciplinary) Rules 2011, do hereby serve upon you, Mr. Akhtar Sher Bacha (Sweeper) Government High School Taran District Swat this show cause notice as follows:-

- 1 As you were appointed on 13/12/2003 & performed your duty as Sweeper at Government High School Taran till 15/09/2009.
- 2 As you have remained absent from your duty w.e.f. 16/09/2009 to 16/10/2018 without any information.
- 3 You have been Involved in antistate activities and you were in the custody of Pak army for Nine Years and one Month.
- 4 You have given an application for re-instate on 06/05/2019.

As a result thereof, I as the competent authority have tentatively decided to proceed against you under the above mentioned rules.

You are, therefore, required to show cause as to why minor/major penalty provided in the aforesaid Rule should not be imposed upon you and also intimate whether you desire to be heard in person.

If no reply to this office is received within 15 days of its delivery, it shall be presumed that you have no defense to put in and in that case ex-parte action will be taken against you.

(Muhammad Amin)
DISTRICT EDUCATION OFFICER (M)
SWAT

Endst: No. 1842/44 /G/File/C-IV/IMU Dated 3/10/2019

- Copy forwarded to:-
- 1- The Director of Elementary and Secondary Education Khyber Pakhtun Khwa, Peshawar.
 - 2- The Head Master GHS Taran; District Swat.
 - 3- P.A to District Education Officer (M) Swat local Office.
 - 4- The Official Concerned.

Abdul
DY: DISTRICT EDUCATION OFFICER (M)
SWAT

Umar Akhtar
Government High School

Ann D

(11)

(11)

THE DISTRICT EDUCATION OFFICER (M)
DISTRICT SWAT.

SUBJECT: REPLY TO SHOW CAUSE NOTICE DATED 03-10-2019

Respected Sir,

It is stated that

1. The Applicant was performing duties at GHS Taran Swat as Sweeper from 24-11-2003 till 15-09-2009.
2. That on 16-09-2009 the applicant was arrested by Pak Army on false allegations against the applicant.
3. That the applicant remain in custody with Pak Army till 16-10-2018
4. That the local police has issued Clearance Certificate to the applicant (copy attached)
5. That no evidences of any state activities were proved against applicant. Moreover during the custody the Pak Army arranged a technical training of three months for the applicant (card photocopy attached).
6. That the Pak Army released the applicant on 16-10-2018
7. That the inquiry has been conducted DEO(M) by officers Ahmad Sultan Principal GHSS Kabal and Rahmat A.i Headmaster GHS Kotlai Swat and found Akhtar Sher case genuine.
8. That the mentioned absentee of the applicant is neither willful nor on any malafide reasons
9. That no departmental proceeding have been launched against the applicant except the present show cause notice which is retrospective in nature.

Your good self is therefore requested to kindly reinstate the applicant from the date of arrest by the Pak Army and with draw the show cause issued on 3-10-2019.

Thanks.

Regards

AKHTAR SHER
SWEEPER
GOVT. HIGH SCHOOL
TARAN SWAT.

اکھتار شہر
سویپر
گورنمنٹ ہائی اسکول
تاران سوات

attested



Umar Khitab
Advocate High Court

No 960 / Dated 19/7/2019.

INQUIRY REPORT IN RESPECT OF MR. AKHTAR SHER BACHA, SWEEPER GHS: TARAN SWAT.

Submitted to: District Education Officer (M)
Saidu Sharif District Swat.
Submitted By: 1. Anmad Sultan, Principal, GHSS:Kabal Swat.
2. Rahmat Ali, Hedmster GHS:Kotlai Swat.
Complaint: ENQUIRY AGAINST MR. Akhtar Sher Bacha Sweeper.

Introduction:

GHS:Taran Swat is situated on the east of Deolai, Fazal Abad Swat at distance of about (19-Km) from Kabal Swat. It has been up graded to High status on March 2015: Total teaching staff is 11 (Eleven) at Present & Total Sanctioned Posts 17. Headmaster Post is vacant since the date of Up Gradation of the school. Mr. Sultanul Haq, SST-Sc-1 is In charge Headmaster. Non Teaching staff is 05 (Five). Chawkidar Post is Vacant Presently. Mr. Akhtar Sher Bacha, resident of Village Taran Swat was a regular Government servant up to 05-09-2009 and was appointed against sweeper post on 24-11-2003.

Pakt Army arrested him on 16.09.2009 & remained with army till 16.10.2018. Sweeper post remained vacant till the appointment of Mr. Dawood Sweeper, who has been appointed on sweeper post by the DEO(M)Swat on 01-04 2015.

Presently Mr. Fazal Subhan, Chowkidar, working on this post after his mutual transfer with Mr. Dawood on 02-04-2018. Anti terrorism Court - I Malakand Division Judge in his statement in his decision says that (In light of record, the request of the prosecution seems genuine therefore, accepted and accused namely Mr. Akhtar Sher Bacha is hereby discharged for the charges leveled against him).

Mr. Akhtar Sher Bacha, received no Salary since September 2019 till date. Pak Army released Mr. Akhtar Bacha on 16-10-2018.

Police department swat gave him a conditional clearance Certificate of six months validity on 28.03.2019. Mr. Akhtar Sher Bacha then wrote an application to DEO(M)Swat for his re Adjustment/Re-Instatement on his post of Sweeper at GHS:Taran.

DEO(M)Swat nominated a two(2) members committee to inquire all facts about the case.

PROCEDURE FOLLOWED.

A formal letter was sent to in charge Headmaster GHS:Taran, having Endst: No.943/Dated 20.6.2019 to inform Mr. Akhtar Sher Bacha, keep all the school record ready for consultation & be present himself, in order to collect all the relevant information's on the enquiry day 28.06.2019 on 10-AM. On the 28-06-2019, Both the enquiry officers reached the GHS:Taran Swat on 10-AM, where Headmaster, his staff & Mr. Akhtar Sher Bacha was present on the occasion. School record was checked, questioners were distributed, written statements were obtained & fruitful discussions were made with all concerned & the following facts were collected.

Next Page-1-2

PRINCIPAL
GHSS, Mirusir Khan Shaheed
Kabal, Swat.

attested

Rahmat Ali
Head Master
Govt. High School Kotlai Swat.
Umar Khilab
Advocate High Court

Handwritten notes and signatures in the top right corner, including a circled number '12' and other illegible scribbles.

FACTS COLLECTED.

Mr. Akhtar Sher Bacha is a permanent resident of Village Taran Tehsil Kabal Swat. Seen annexure-1
He was appointed in this school on 24.04.2003. Seen annexure-2
He was a regular servant as Sweeper in this school up to 16.09.2009. Seen annexure-3 to 5
He was arrested by Pak Army on 16-09-2009, by saying that he has links with Taliban. He remained with army in prison till 16.10.2018. During this period he remained absent from school duty. Seen annexure-6 to 7

After Judgement of Anti terrorism Coutr -I- Malakand Division Swat that is (accused Mr. Akhtar Sher Bacha is present, P.P. for state present, who request ed for the discharge of accused having no solid evidence against him. In light of the record, the request of the P.P. seems jeniune therefore, accepted and accused namely Mr. Akhtar Sher is hereby discharged for the charges leveled against him dated 21.01.2019. Seen annexure-No. 7-B

Pak Army released Mr. Akhtar Sher Bacha sweeper, and awarded him a Technical & Vocational Certificate on 16.10.2018. After which he was released. Seen Annexure-8

The Police Department swat gave him a conditional clearance certificate with validity of six(6) months & is going to be expired on 27.09.2019. Seen annexure-9

From the school record no termination order found of Mr. Akhtar Sher Bacha.
No any advice/adverse found in order book of school against Mr. Akhtar Sher Bacha.
Mr. Suitanul Haq, SST In charge Headmaster GHS:Taran in his statement said that he has provided all the available record to the inquiry committee and that Mr. Akhtar Sher Bacha has not attended the school in his presence since 02-08-2016 till now. Seen annexure-10

Mr. Akhtar Sher Bacha in his statement to various questions says that he was serving in this school since 13.12.2003.

Pak Army arrested him on 16.09.2018 by saying that I had links with Taliban.
During my prison with Pak Army I had received no salary which is also supported by Bank statement and DEO(M)Swat (Accounts Branch) office Certificate. Seen annexure-11

In a question in his answer he says that PAK Army arrested him on suspicion ground on my links with Taliban but he has not been proved as accused, to be a talib/Terrist.
After release from Pak Army he was busy in getting solid clearance from Pak Army, Court & police, thus was un able to report quickly to the department. How ever after that I applied for my re-adjustment/instatement to DEO(M)swat on 06-05-2019. Seen annexure-12

In the answer to a question he says that the two numbers of technical training Certificates & Police department clearance certificate shows that he is clear from the charges of my links with Taliban. Seen annexure-13+14

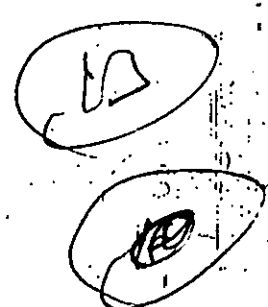
No Salary is obtained by Mr. Akhtar Sher Bacha since September 2009 as shown by account branch pay slip office of the DEO(M) Swat. Seen annexure-11

PRINCIPAL
GHSS, Madani Khani Shabazi
Kabal, Swat.

attached

Prashant Ali
Head teacher
Govt. High School Kabal Swat.
EMIS Code: 31320

Umar Khitab
Advocate High Court



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Page-2-3

Page-3

CONCLUSION.

On the basis of the above facts the following conclusions can be withdrawn.

Mr. Akhtar Sher Bacha, Sweeper was a regular servant in GHS:Taran Swat since 13.12.2003 up to 16.09.2009. He remained in prison with Pak Army from 16-09-2009 to 16-10-2018 (9 Years & 1 Month) on his suspicious links with Taliban.

No documentary proofs against Mr. Akhtar Sher Bacha with solid charges from Pak Army and police department proved. No solid clearance is given by Pak Army to Mr. Akhtar Sher Bacha.

Anti Terrorism Court-I Malakand Division Swat Judge in his judgment says that due to absence of solid evidences against Mr. Akhtar Sher Bacha, the request of the PP is genuine and accused namely Mr. Akhtar Sher is hereby discharged for the charges leveled against him. A conditional clearance certificate is given by police swat to the concerned with a validity of (6) six months which is going to be expired on 27-09-2019.

No Salary has been drawn/paid to Mr. Akhtar Sher Bacha during this period.

RECOMMENDATIONS

On the basis of the above facts and conclusions it is recommended that the case needs to be proceeded further on merit per rules following E&D rules 2011.

AHMAD SULTAN
Principal GHSS:Kabal Swat.
Inquiry officer for Mr. Akhtar sher
GHS:Taran Swat.

Rahmat Ali
(RAHMAT ALI)
HEADMASTER, GHS:Kotli Swat.
Inquiry officer for the Mr. Akhtar sher
GHS:Taran, Swat.

Rahmat Ali
Head Master
Govt. High School Kotli Swat,
EMIS Code: 33750

absent

Umar Khitab
Umar Khitab
Advocate High Court.



Annex F. 15
(12) (103)

**THE DISTRICT POLICE
SWAT**

No. 2355 /NRC

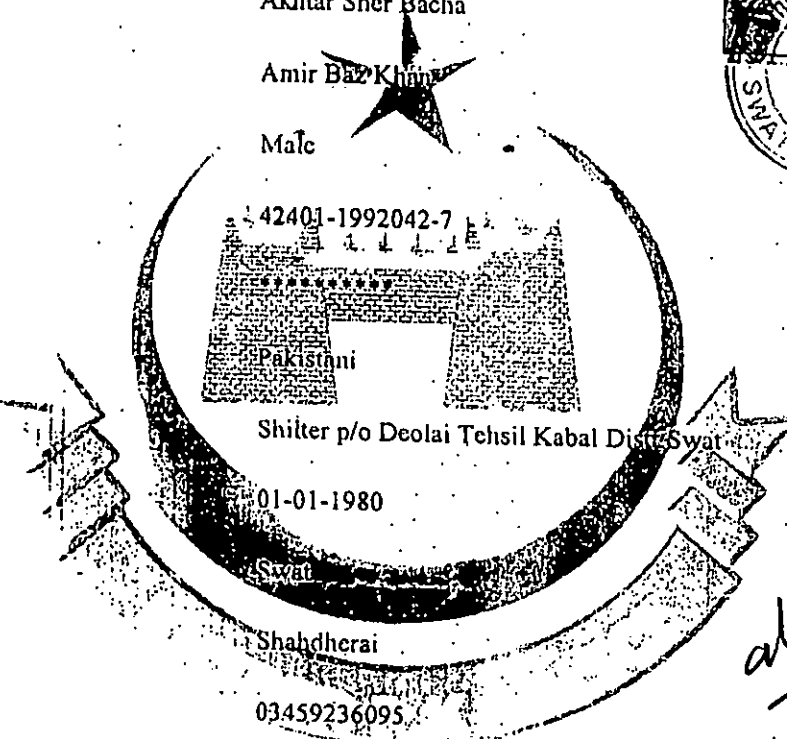
Date of Issuance 28 /03/2019

Date of Expiry 27 /09/2019



POLICE CLEARANCE CERTIFICATE

Full Name	Akhtar Sher Bacha
Father Name	Amir Baz Khan
Gender	Male
CNIC No.	42401-1992042-7
Passport No.	
Nationality	Pakistani
Address	Shilter p/o Deolai Tehsil Kabal Dist Swat
Date of Birth	01-01-1980
Place of Birth	Swat
Police Station	Shabdherai
Cell No.	03459236095



attested
Umar Khitab
Advocate High Court

The above mentioned individual was charged in case FIR No: 547/2007 u/s 324-353-3/4EXP:PS Kabal and was hereby discharged for the charges leveled against him by the court of ATC-I, Mulakand.

Note:-

- > Any ensure or amendment in this certificate makes it invalid.
- > Residential address to based on computerized national identity card (CNIC).
- > This verification is based on the information provided by the applicant.
- > This certificate is valid for six months only.

[Signature]
District Police Officer
Swat, Khyber Pakhtunkhwa
District Police Officer,
Swat.

Office of District Police Officer Swat.
Tel: +92-946-9240402 Fax: 9240402
E-mail: dposwat@gmail.com

Anx 16/21

BEFORE THE SERVICE TRIBUNAL KHYBER PUKHTOON KHAWA PESHAWAR.

5790/2021

16
5832

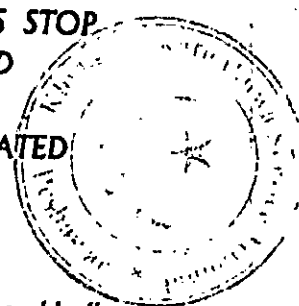
Akhtar Sher Bacha/o Amlr Baz Khan Class IV Government Middle school Taran Kabal Swat
..... Appellant.

Versus

- 1.The Secretary Elementary and Secondary Education Khyber Pukhoon Khaw Peshawar.
2. Director Elementary and Secondary Education Khyber Pukhtoonkhaw Peshawar Khyber Pakhtunkhwa Service Tribunal
- 3.District Education Officer Male Elementary and secondary Education Swat Diary No. 5832

Dated 02/6/2021

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL Act, 1974
AGAINST THE VERBAL ORDER OF RESPONDENT No.3 WHO HAS STOP
THE MONTHLY SALARY AND NOT ADJUSTED IN SERVICE AND
AGAINST THE VERBAL ORDER OF RESPONDENT NO.3 THE
DEPARTMENTAL APPEAL SUBMITTED TO RESPONDENT No.2 DATED
23/02/2021 WHICH HAS NOT YET BEEN DECIDED.



PRAYER IN APPEAL

On the acceptance of instant appeal the verbally order of Respondent No.3 may kindly
be declare null and void and be directed to release the monthly salary and arrears with
effect from 1/10/2009 up to date and issue the adjustment order of the appellant.

RESPECTFULLY SHWETH.

1. That the appellant was initially appointed as class IV In Government Elementary and secondary Education Swat vide appointment order No,3501-02/DCO/Etab: dated 26/11/2003.
2. That on 29/10/2007 FIR No,457 under section 342,353,120b, 124A 436.427PPC and 3/4 F.S.A 7ATA was lodged /Registered at police station Kabal Swat against the appellant. The concerned court latter on 21/01/2019 discharge the appellant. (Court judgment as Annex:A)
3. That Pakistan Army arrested the appellant on 16/02/2009 on the suspicion and baseless allegation of his involvement in the illegal activities after the long period of detention by Pak Army later on dated 16/10/2018 released the appellant.
4. That the appellant after his release submitted application to Respondent No.3 for his dues (arrears) release of pay but in vain. (application copy as Annex:B)
- 5/ That Respondent No.3 issued show cause notice to the appellant vide No. 1842-44 dated 3/10/2019 and the appellant submitted his written reply of the show cause notice to Respondent No.3.(Show cause notice and Reply are Annex: C and D)
- 6/ That the Respondent No. 3 appointed Principal Government Higher school Kabal Swat and Headmaster Government High school Kotlal Kabal Swat against the appellant as enquiry officers The enquiry officers completed their detail enquiry and submitted his enquiry report to Respondent No,3 vide No, 960 dated 19/07/2019.(Enquiry report as Annex:E)

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16/2/21

Handwritten signature and initials.

7/ That according the detailed enquiry report. The enquiry officers after their conclusion they found the appellant as Innocent and no charges were proved against the appellant.

8/ That in spite of all codel formalities, The Respondent No.3 verbally denied from the legal right of the appellant to adjust and pay the salaries arrears.

9/ That the appellant being aggrieved from the verbal order of the Respondent No. 3 submitted the Departmental appeal to Respondent No.2 on 23/02/2021 which yet not been decided with in stipulated period. Hence the instant appeal is here by filed on the following ground. (Departmental appeal as Annex: F)

Ground of Appeal.

1.The District police officer Swat issued the police clearance certificate to appellant after his discharge from the competent court.

2./That the appellant has been deprived illegally of his just and legal right to receive the monthly salary as well as arrears and further adjustment.

3/ The Respondent No,3 has not terminated/Dismissed the appellant from service, and with out any legal order stopped the monthly salary of appellant.

4/That the appellant has not been treated according to law and rule and has been illegally deprived from the salary which is not permissible under the service rules/law.

5./That stoppage of pay is discriminatory and violation of the fundamental right and settled principal and policy of the Government.

6/ That the some other grounds may be argued at time of arguments of the instant appeal with the prior permission of this Hon: Tribunal.

6/ Any other remedy which is just and appropriate may also be awarded though not specially prayed.

7/ That the Tribunal has got jurisdiction to entertain this Instant appeal hence the appeal which is with in time.

It therefore most humbly prayed that the appeal of the appellant may be accepted as prayed with all back benefits.

Akhtra Shah Bacha.....Appellant.

Through

Umar.Khitab Advocate District Courts Gulkada Swat.
Advocate High Court

Cell No. 0345-9377656.

CERTIFICATE.

It is certified that no such like appeal has earlier been filed by the appellant nor is pending or decided by this Honorable Tribunal.

Akhtar Shah Bacha.....Appellant.

A. No. 5790/2021

AKhtar Sher vs Govt

Nov, 2022

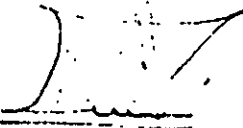
Learned counsel for the appellant present. Mr.

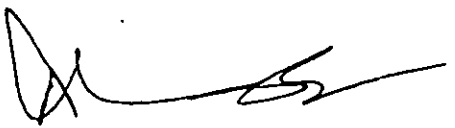
Muhammad Riaz Khan Pindakhel, Assistant Advocate General alongwith Mr. Muhammad Riaz, District Education Officer (Male) Swat for the respondents present.

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2. During the course of arguments, a consensus was developed that the appellant might make a fresh application to the District Education Officer (Male) Swat for redressal of his grievances, which if moved would be sympathetically considered and decided within next fifteen days in accordance with law. The appeal is disposed of in the above terms. The appellant is, however, at liberty to approach the court again if after considering his matter by the department, he still feels aggrieved of the same but in accordance with law. Consign:

3. Pronounced in open court in Swat and given under our hands and seal of the Tribunal on this 08th day of November, 2022


(Salah Ud Din)
Member (Judicial)
Camp Court Swat


(Kalim Arshad Khan)
Chairman
Camp Court Swat

Page 1-P
5/-
5/-
10/-

11-01-2023

11-01-23
11-01-23

Certified to be true copy
Fazal Ahmad
Shylat
Service Tribunal
Peshawar

جناب ڈسٹرکٹ ایجوکیشن آفسر (سرحد نامہ) ایسٹرن ڈیپارٹمنٹ سکندری
ایجوکیشن ضلع سوات

عنوان۔ درخواست بھردرا ایڈجسٹمنٹ آنیغرواہ جاری اور آنیغرواہ
کے بقایا جات کی ادائیگی

جناب عالی! درخواست حسب ذیل ہے

1۔ ہم کہ درخواست گزار نے صفحہ سرورس ٹریبونل کے پی ایچ او میں ایک سروک اپیل نمبر 5790/24 دائر کیا تھا۔

2۔ ہم کہ صفحہ سرورس ٹریبونل کے پی ایچ او نے 8 نومبر 2022 کو درخواست گزار کو حکم دیا ہے کہ ڈی۔ای۔ او سرحد نامہ سوات کو درخواست دیکر اس میں اپنے ضلعات / صفحہ سرورس کرے۔

3۔ ہم کہ صفحہ سرورس ٹریبونل کے پی ایچ او نے آپ یہاں کو بھی 8 نومبر 2022 کو اپنے عدالت میں طلب کیا کہ ہم یہ اپیل جاری کیا۔ کہ درخواست گزار کے درخواست گزار کی فون کے اندر اندر کارروائی کرے۔

4۔ ہم کہ صفحہ سرورس ٹریبونل نے درخواست گزار کو حکم دے دیا۔ کہ اگر متعلقہ دفتر نے اپیلانٹ درخواست گزار کے درخواست گزار سے اپیلانٹ کے اندر کارروائی نہ کی گئی۔ تو اپیلانٹ دوبارہ صفحہ سرورس ٹریبونل سے رجوع کر سکتا ہے۔

5۔ ہم کہ اپیلانٹ درخواست گزار نے دفتر میں صفحہ سرورس ٹریبونل کے پی ایچ او کے حکم پر 22 جولائی 2020 کو ڈائری نمبر 3442 نمبر 12 نومبر 2020 پر گزری۔ جس کے ساتھ درخواست گزار نے اپیلانٹ لکھا

6۔ ہم کہ صفحہ سرورس ٹریبونل کے پی ایچ او کے حکم کے مطابق ابھی تک اپیلانٹ درخواست گزار

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6/12/22

۵۔ درخواست پر کوئی قانون کاروائی نہیں کی گئی
ہے۔ حالانکہ معذرت سروس ٹریبونل کے ریگولیشنز اور
کے معزز جج صاحبان نے ڈاؤن کا سیٹ دے چکا تھا۔

۶۔ ہم کہہ آپیلانٹ درخواست گزار آپ کے لازم ہے۔ اور
نہیں جانتا۔ مگر ان کے آفسرز اور دیگر عدالت حاضر ہیں۔

۸۔ ہم درخواست گزار آپیلانٹ کے لیے دائر درخواست
پورے تفصیل سے گزارشات تحریر کئے ہیں۔

لیڈا جا جرنل دستر مایہ۔ کہہ درخواست
گزارر آپیلانٹ کے ایڈجسٹمنٹ کا حکم نامہ،
تعمیر جاری کرنے اور ایکم اکتوبر 2009 سے تا حال
بقایا جات ادا کرنے کا حکم نامہ جاری کرے۔ تاکہ
آپیلانٹ درخواست گزار پر دوبارہ معذرت سروس ٹریبونل
کے سامنے پیشی اور فرسٹ دینے سے منع سکے۔

۹۔ میرے سر آپ صاحبان درخواست پر
میدر رٹن اور قانون کے اندر غور فرمائیے

العبد
احقر شہیر باچا
احقر شہیر باچا ایڈوکیٹ
گورنمنٹ ہائی سکول نارون کبیل
سوات
حیرہ 15 ستمبر 2022

AT

Umar Khitab
Advocate High Court/
Carul Qaza M. Jgora Bench Swat.

21

BEFORE THE SERVICE TRIBUNAL KHYBER
PUKHTOONKHAWA PESHAWAR.
Restoration Appli. No. 731/2022
Miscellaneous application No...../2022

*Akhar Sher Bacha Class IV Government Middle school
Taran Tehsil Kabal Swat.....Petitioner/Appellant.*

Khyber Pakhtunkhwa
Service Tribunal

VERSUES.

Diary No. 2341

Dated 5/12/2022

1. The Secretary Elementary and Secondary Education
Khyber Pukhtoon Khawa and others.....Respondents.

APPLICATION FOR THE RESTORATION OF SERVICE APPEAL
NO 5790/21 DUE TO THE ORDER OF DATED 08/11/2022
OF THIS HONOURABLE SERVICE TRIBUNAL CAMP COURT
SAIDU SHARIF SWAT.

Respectfully Sheweth,

1. That the applicant/appellant has filed the above service
Appeal No.5790/2021 before this Honourable Tribunal.

2. That after fulfilling legal formalities and after submission
of reply by the Respondents the instant Honourable
service Tribunal issue the order on 08/11/2022.

3. That the above mention appeal was disposed of with
the direction to appellant to approach the District
Education Officer Male Swat/Respondent No.3 for
redressed of his grievances the direction were also given
to Respondent No, 3 in open court to disposed of within
the 15 days under the law.(Copy of order sheet dated
08/11/2022 as Annex: A)

4. That the petitioner/appellant has submitted his
application /grievances petition vide diary No. 3442 dated
12/11/2022 which has not yet been decided in the
prescribed period. The direction as mention in order
dated 08/11/2022. The only course for petitioner/
Appellant to approach this Honourable service
Tribunal.(Application as Annex: B)

AT
[Signature]

Umar Khitab
Advocate High Court
Darul Qaza Peshawar Bench Swat

On acceptance of instant application due to the above mention reason/ request the above mention appeal No, 5790/2021 may be restore.

اکھار شیر باچا

Akhar Sher Bacha.....Petitioner/Appellant.

Certificate.

Certified that the application is correct and all words of the application are true and this kind application not pending before this Honourable Service Tribunal.

اکھار شیر باچا

Akhar Sher Bacha.

ATC

A Umar Khitab
Advocate High Court
Darul Qaza Mingora Bench 1WAT.



OFFICE OF THE
DISTRICT EDUCATION OFFICER
(MALE) SWAT

And 12K

23

OFFICE ORDER.

1. Whereas Mr. Akhtar Sher S/O Amir Baz Khan was appointed as Sweeper vide order dated 21-11-2003 in GMS Taran Kabal, Swat.
2. And whereas an FIR No. 547 dated 29-10-2007 U/Ss 324, 353, 120-b, 124-A, 436, 427 PPC, 3 / 4 E.S.A, 7-ATA P.S Kabal Distt: Swat was lodged against him.
3. And whereas the Anti-Terrorism Court-I Malakand Division at Swat discharged him from charges leveled against him dated 21-01-2019.
4. And whereas he produced certificate of Govt; Technical & Vocational Centre completing three months course of welding at Paithom Swat w.e.f 16-07-2018 to 16-10-2018
5. And whereas he produced Police Clearance Certificate w.e.f 28-03-2019 to 27-09-2019.
6. And whereas he filed departmental appeal for resuming of duty dated 06-05-2019 which was put up on file.
7. And whereas an enquiry was conducted dated 19-07-2019 in which enquiry committee recommended that the case needs to be proceeded further on merit per rules following E&D rules 2011.
8. And whereas as a Show Cause Notice was served upon him dated 30-10-2019 to show cause of absence from duty w.e.f 16-09-2009 to 16-10-2018.
9. And whereas he filed Service Appeal No.5790/2020 case title Akhtar Sher Baca Vs Govt in the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar.
10. And whereas the Honorable Khyber Pakhtunkhwa Service Tribunal vide Judgment dated 08-11-2022 disposed of the Service Appeal and consensus was developed that the Appellant might take a fresh application to the District education Officer (Male) Swat for redressal of his grievances, which if moved would be sympathetically considered and decided within next fifteen days in accordance with law.
11. And whereas he submitted fresh application dated 12-11-2022 for adjustment and release of salary.

Now keeping in view the above factual position, the undersigned being the competent authority is pleased to reinstate Mr. Akhtar Sher as sweeper at GPS Ochar District Swat with immediate effect and the intervening period is treated as leave without pay on the analogy of Honorable Supreme Court "No work no pay".

3865-68

Endst:NO. _____/P.F/891/M/DEO/Swat.

Copy forwarded to:-

1. The Director E&SE Khyber Pakhtunkhwa Peshawar.
2. The District Accounts Officer Swat at Saidu Sharif.
3. Mr. Akhtar Sher GPS Ochar, District Swat.
4. PA to DEO Local Office.

(MUHAMMAD RIAZ)
DISTRICT EDUCATION OFFICER (M)
SWAT.
Dated 12/12/2022

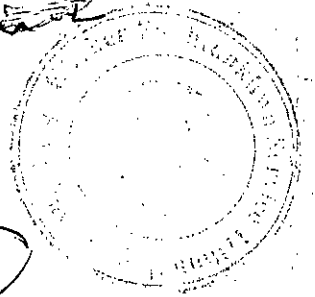
DISTRICT EDUCATION OFFICER (M)
SWAT.

ATC

Akhtar Khirah
Advocate High Court
Swat

Restoration application No. 731/2022

~~Read~~ :



05.01.2023

Counsel for the appellant present.

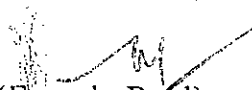
Riaz Khan Paidakhel learned Assistant Advocate General
for respondents present.


Learned counsel for the appellant submitted an application
seeking withdrawal of the restoration application as the appellant
has already been in service vide office order dated 12.12.2022.

In view of the above, instant restoration application is
hereby dismissed as withdrawn. Parties are left to bear their own
costs. File be consigned to record room.

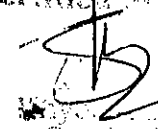
ANNOUNCED

05.01.2023


(Fareeha Paul)
Member (E)
(Camp Court Swat).


(Rozina Rehman)
Member (J)
(Camp Court Swat)

Page 1-9
5/-
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10/-

Certified to be true copy

Service Tribunal,
Peshawar

18/01/23
18/01/23

Before The Hon: Service Tribunal Khyber
Pakhtunkhwa Peshawar.

25

Akhtar Sher Bacha class iv Govt: Middle
School T-son Kotwal Swat — Applicant/Petitioner
versus

- 1) The Secretary Elementary/Secondary Education
K P Peshawar and others — Respondent.

Application for withdrawal miscellaneous
application No. 731/2022.

Respectfully Sheweth.

- 1) That the above mentioned application
pending before this Hon: Tribunal
which is fixed for today.
- 2) The Respondent (DEO Male Swat) Swat
issue the re-instate order of the petitioner
with immediate effect LIC 12/12/2022)
- 3) The Applicant/Petitioner ~~is~~ wants ^{to} ~~the~~
challenge the "intervening period with
out pay under the law in ^{and} legal form.

It is humbly prayed to accept
the application and allow the applicant/
petitioner for withdrawal the misc
application No. 731/2022.

اکhtar شير بابا

Akhtar Sher Bacha — petitioner

5/01/2022

TO

Amr M

26

The Director of Elementary and Secondary
Education Khyber Pukhtoonkhw Peshawar.

Subject;-

DEPARTMENTAL APPEAL FOR THE PURPOSE
OF INTERVENING PERIOD LEAVE WITH OUT
OF PAY TREATED /CONSIDER AS LEAVE ON
FULL PAY/ON DUTY ALONG WITH ALL OTHER
ALLOWANCES OF THE APPELLANT.

R/ Sir,

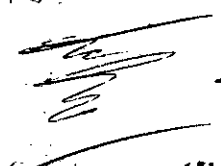
1. That the appellant was appointed as Class IV at Government High school Taran Kabal Swat.
2. That on 29/10/2007 FIR No, 457 under Section 342,353,120b,124,A,436,427 PPC and ESA 7ATA was lodged / Registered at Police station Kabal Swat, against the appellant.
3. That Pakistan Army arrested the appellant on 16/09/2009 on the suspicion and baseless allegation of his involvement with illegal activities after the long period of detention by Pak Army latter on 16/10/2018 released the appellant.
4. That the appellant after his release submitted application to D.E.O.(Male) Swat for his dues (arrears) release of pay ,adjustment but in vain.
5. That the DEO Male Swat issued the show cause notice to the appellant vide No, 1842-44 dated 03/10/2019 and the appellant submitted his written reply of the show cause notice to DEO Male Swat.
6. That DEO Male Swat appointed Principal Government Higher Secondary school Kabal and Headmaster GHS Kotlai Swat against the appellant as enquiry officers. The enquiry officers completed their enquiry and submitted his enquiry report to DEO Male Swat vide No.960 dated 19/07/2019.
7. That according to the enquiry report the enquiry committee after their consolation they found the appellant as innocent and no charge/ charges were proved against the appellant.

A T C

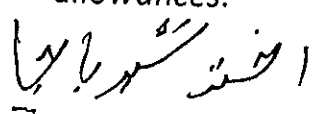
JINAR KHALID
Advocate High Court
D-10, Qu. No. 2, 6th St. Swat

- 8. That in spite of all codel formalities the DEO Male Swat verbally denied from the legal rights of the appellant adjustment, release of pay and arrears.
- 9. That the appellant aggrieved from the verbal order the DEO Male Swat the appellant instituted a service appeal No, 5790/2021 in Honourable Service Tribunal K.P Peshawar..
- 10. That after codel formalities of Honourable Service Tribunal K P Peshawar on 08/11/2022 summon the DEO Male Swat personally and issue the direction to DEO Male Swat to redressal the appellant grievances on the ground of fresh application of the appellant under the existing law and rules.
- 11. That after the direction of Honourable Service Tribunal KP Peshawar the DEO Male Swat issued the reinstatement order of the appellant vide No,3865-68 dated 12/12/202, but the DEO Male Swat the intervening period treated with out pay, which is against the law, un lawful and against fundamental rights.
- 12. It is pertained to be noted that the DEO Male Swat not issue the termination/Removal from service order of the appellant to date now. The services of the appellant intact in the Education Department. The DEO Male Swat issue the reinstatement order instead of adjustment order which is against the law and rules.

It is humbly pray to accept the Departmental appeal and the intervening period of the appellant converted in full pay along with other allowances.

ATC


Umar Khitab
 Advocate High Court/
 Darul Qaza Mingora Bench Swat



AKhar Sher Bacha.....Appellant.
 Dated 06/01/2023

Rs: 20/-

نوٹ: اس کالت ہاسک ڈو کالی قابل قبول ہے۔

<p>بار کونسل نمبر: bc = 18-1058</p> <p>بار ایسوسی ایشن نمبر: 363-1</p> <p>رابطہ نمبر: 0345-9594854</p> <p>ای میل ایڈریس:</p>	<p>سٹرکٹ بار ایسوسی ایشن سوات</p> <p>115032</p> 
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بعدالت جناب جسٹس صاحب سروس ٹریبیونل خیبر پختون خودہ لیسٹور

<p>منجانب: آپیلنٹ / پیٹنر</p> <p>آختر شہزاد خان</p> <p>جناب صاحب سروس ٹریبیونل خیبر پختون خودہ لیسٹور</p>	<p>دعویٰ اور خواست: سروس آپیل</p> <p>علت نمبر:</p> <p>موردہ:</p> <p>جرم:</p> <p>تھانہ:</p>
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باعت تحریر آئیکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے برائے پیروی مقدمہ

آن مقام ملکہ سیدوشرف کیلئے محترفات ایڈووکیٹ کو مقرر کر کے اقرار کیا جاتا ہے، کہ صاحب موصوف کو مقدمہ کی کل کارروائی کو کمال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث کرنے، دعویٰ، جواب دعویٰ، اقبال دعویٰ اور درخواست برائے سرسبزی مقدمہ، منسوخی ڈگری یکطرفہ، اجراء و پیروی کرنے کا مختار ہوگا۔ نیز دائر کرنے اپیل نگرانی، نظر ثانی و پیروی کرنے کا مختار ہوگا۔ اور مقدمہ مذکورہ کیلئے کل وقتی یا جزوی کارروائی کیلئے کسی دیگر وکیل یا مختار قانون کو اپنے ہزارہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی جملہ مذکورہ اختیارات حاصل ہوں گے، اور اس کا ساختہ ذراختہ منظور قبول ہوگا، بدوران مقدمہ جو خرچہ و ہرجانہ کسی بھی وجہ سے حاصل ہوگا، وہ وکیل موصوف وصول کرنے کا حقدار ہوگا، کوئی تاریخ پیشی مقام مذکورہ بالا سے باہر ہو، تو وکیل صاحب پیروی مقدمہ کرنے سے پابند نہ ہوں گے، مقدمہ کسی عدالت میں بعدم پیروی خارج ہونے یا ڈگری یکطرفہ ہونے کے صورت میں وکیل صاحب ذمہ دار نہیں ہوں گے، لہذا وکالت نامہ لکھ دیا کہ سندر ہے

مقام ملکہ سیدوشرف سوات کے لئے منظور ہے۔

اعطی

محترفات ایڈووکیٹ

Advocate High Court/
Darul Qaza Mingora Bench Swat.

ایڈووکیٹ دستخط:

المقوم:

آختر شہزاد خان
دران نیل سوات