


28.04.2023

Appellant in person present.

Fazal Shah Mohmand, learned Additional Advocate General
for respondents present.

SCANNED
KPST
Peshawar

Learned Member Executive (Mr. Muhammad Akbar Khan) is
on leave, therefore, case is adjourned. To come up for arguments
on 15.06.2023 before D.B. Parcha Peshi given to the parties.



(Rozina Rehman)
Member (J)


Mutazem Shah


29.09.2022

Appellant present through counsel.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.


Former submitted rejoinder which is placed on file and made a request for adjournment. Adjourned. To come up for arguments on 01.12.2022 before D.B.


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

01/12/22

*Deleted from the list to
come up on the next date
27/12/23*



Rozina


27.02.2023

Learned counsel for appellant and Mr. Muhammad Jan, learned District Attorney for respondents present.

Learned counsel for appellant requested for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 28.04.2023 before D.B. P.P given to the parties.

SCANNED
K-123T
Peshawar


(Rozina Rehman)
Member (J)


(Kalim Arshad Khan)
Chairman

22.11.2021

Proper D.B is not available, therefore, case is adjourned to 8.2.2022 for the same.


READER

8-2-2022

Due to retirement of the Hon'ble Chairman the case is adjourned to come up for the same as before on 31-05-2022



Reader.

31.05.2022

Appellant present through counsel.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General alongwith Suleman Instructor for respondents present.

Representative of respondents submitted reply/comments. Copy of the same was handed over to the learned counsel for appellant who requested for adjournment. Adjourned. To come up for rejoinder, if any, and arguments on 12/08/2022 before D.B.


(Fareeha Paul)
Member(E)


(Rozina Rehman)
Member (J)

12-8-2022

Proper DB not available the case is adjourned to 29-9-2022


Reader

12.07.2021

Learned Addl, A.G be reminded about the omission
and for submission of reply/comments within extended
time of 10 days.



Chairman

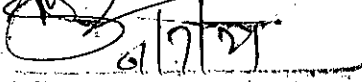
Stipulated period passed reply not submitted.

01.07.2021

Appellant with counsel present. Mr. Nasar Kamal Warder for respondent No. 4 and Waheed Khan, Asstt. Accountant for respondent No. 5 alongwith Mr. Muhammad Adeel Butt, Addl. AG on pre-admission notice for respondents present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. Learned AAG is required to contact the respondents for submission of written reply/comments in office within 10 days, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 22.11.2021 before the D.B.

Appellant Deposited
Security & Process Fee ▶




Chairman

18.03.2021

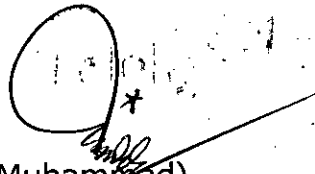
Counsel for the appellant present.

Arguments of learned counsel for the appellant heard and case file available till date perused.

Learned counsel for the appellant argued that the basic question involved and mentioned in the impugned order dated 14.01.2020 is that the appellant purportedly resigned from service on 29.08.2019 but disowned by the appellant, is not available with him. He, therefore, requested that the same may be made available before next date of hearing.

As the application in question to have been submitted by the appellant tendering therein resignation from service on 29.08.2019, is a prime and sole document required in the instant case, it seems appropriate to issue pre-admission notice to the respondents.

Adjourned to 01.07.2021 for further proceedings before S.B.


(Mian Muhammad)
Member (E)

23.04.2020

Due to public holiday on account of COVID-19, the case to come up for the same on 29.07.2020 before S.B.


Reader

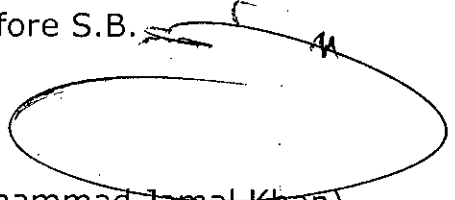
29.07.2020

Appellant Qabil Jan is present in person. He submitted that better half of his learned counsel is suffering from disease to which he could not attend the court. Formal request for adjournment. Adjourned to 21.10.2020. File to come up for preliminary hearing before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER

21.10.2020

Since the Members of the High Court as well as of the District Bar Association Peshawar are observing strike today therefore, the case is adjourned to 24.12.2020 on which date to come up for preliminary hearing before S.B.


(Muhammad Jamal Khan)
Member (Judicial)

24.12.2020

Appellant with counsel present.

Arbab Saiful Kamal, Advocate has submitted Wakalatnama on behalf of the appellant and requests for time to prepare the brief.

Adjourned to 18.03.2021 for hearing before S.B.

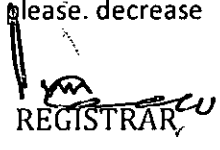



Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 938 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	13/02/2020	<p>The appeal of Mr. Qabil Jan presented today by Mr. Muhammad Tariq Qureshi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. decrease</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>20/02/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-	20.03.2020	<p>Appellant in person present and seeks adjournment as lawyers community is on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for preliminary hearing on 23.04.2020 before S.B.</p> <p style="text-align: right;"> Member</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

(Service Appeal No. /2020).

Qabil Jan.....vs..... Govt: of KPK & others

INDEX

S. No	Particular Of Documents	Annexure	Page
1	Memo Appeal1-4
2	Copy of appointment order of the appellant	A	5
3	Copy of showcase Notice dated 26.08.2019	B	6
4	Copy of source proforma dated 07.10.2019	C	7
5	Copy of letter dated 04.08.2011	D	3-8A
6	Copy of CNIC of the appellant	E	9
7	Copy of order dated 03.12.2019 of Honorable Peshawar High Court Bench Bannu alongwith ground of writ petition No.1159/ 2019	F	10-14
8	Copy of impugned order dated 14.01.2020	G	15
9	Copy of letter No. 4465 dated 03.02.2020	H	16
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Dated: 11.02.2020.

Appellant

Qabil Jan

Through Counsel


Muhammad Tariq Qureshi

Advocate, Supreme Court of Pakistan.

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

(Service Appeal No. /2020.

Mr. Qabil Jan (Class-IV) in District Jail Lakki Marwat, Tehsil & District Lakki Marwat.

(Appellant)

VERSUS

1. Government of Khyber Paktunkhwa through Secretary Home & Tribal Affairs Department, Peshawar.
2. Inspector General of Prison, Khyber Pakhtunkhwa, Peshawar.
3. Superintendent Circle Headquarter Prisons Bannu.
4. Superintendent District Jail Lakki Marwat.
5. District Account Officer, Lakki Marwat.
6. Deputy Commissioner, District Lakki Marwat.

(Respondents)

SERVICE APPEAL U/S 4 KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER NO. ESTB/WARD/ORDERS/1907 DATED 14.01.2020 OF THE (INSPECTOR GENERAL OF PRISON) RESPONDENT NO.2 VIDE WHICH THE DEPARTMENTAL APPEAL OF APPELLANT WAS REJECTED.

PRAYER:-

ON THE ACCEPTANCE OF INSTANT SERVICE APPEAL, IMPUGNED ORDER NO. ESTB/WARD/ORDERS/1907 DATED 14.01.2020 OF THE (INSPECTOR GENERAL OF PRISON) RESPONDENT NO.2 MAY KINDLY BE SET ASIDE AND APPELLANT MAY VERY GRACIOUSLY BE REINSTATED ON HIS OLD POSITION ALONG WITH BACK BENEFITS INCLUDING SALARY / SENIORITY WITH ANY OTHER APPROPRIATE REMEDY WHICH THIS COURT DEEM FIT FOR THE SACK OF JUSTICE.

Respectfully Sheweth.

Brief facts in the back drop of instant Service Appeal are as such:-

1. That, the appellant was appointed as Cook / Class-IV in District Jail, Lakki Marwat on dated 31.12.2017.
2. That, after appointment, for all most two years, the appellant served jail authorities at District Lakki Marwat.
3. That, without any intimation or warning, the appellant was restrained from performing his duties and as such his salary was stopped.
4. That, the appellant, in order to continue his job, ran hither and tither and finally approached the Honorable Peshawar High Court Bench Bannu in Writ Petition No. 1159 / 2019.
5. That, Honorable Court vide its order dated 03.12.2019, converted the Writ Petition into representation and directed the Jail Authorities to redress the grievances of appellant within 30 days positively.
6. That, during the course of proceedings in representation / departmental appeal, it came to the knowledge of appellant that the appellant has been removed from his service on the pretext of a fake so-called resign later allegedly tendered by the appellant.
7. That, taking the said ground of resignation, the respondents did not pay any heed to the contention of the appellant and dismissed the departmental appeal against the prime rules, laws. Hence instant appeal inter alia on the following grounds.
8. That, in order to get the directions issued, appellant places following documents on record:

Copy of appointment order of the appellant, showcase Notice dated 26.08.2019, source proforma dated 07.10.2019, letter dated 04.08.2011, CNIC of the appellant, order dated 03.12.2019 of Honorable Peshawar High Court Bench Bannu alongwith ground of writ petition No.1159/ 2019, impugned order dated 14.01.2020, letter No. 4465 dated 03.02.2020 are annexed herewith as Annexure "A,B,C,D,E,F,G,H".

GROUNDS:-

- A. That, the so called resign was not tendered by appellant rather the same was fabricated, falsely by the respondents. There is no reason as to why the appellant would resigning from his service within two years. The appellant is leading a meager life with hand to mouth earning situation. In such situation, the question of resignation cannot be raised.
- B. That, the only motive behind the fake resign of the appellant is that the respondents wanted to remove the appellant from his post and replaced him with a blue eyed man. This reason / motive was also taken by the appellant in his writ petition some 4 months ago when the appellant was not even known of his resignation, even the appellant was not removed from his service.
- C. That, the 2nd ground / reason behind the fake resign is that the appellant stopped to give monthly graft / wonga to the concerned authority, he used to give. And in reaction, adverse action in shape of fake resignation.
- D. That, even today, the respondents / jail authorities are not in position to give any plausible reason behind the appellant's resignation.
- E. That, impugned order dated 14.01.2020 passed by Department/Authority is against law, contrary to the facts and available record.
- F. That, since the date of appointment, appellant served the department and in a consequence of his service, he was paid subsistence grant/salaries, etc.

(4)

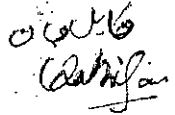
G. That, the said malfeasance and non feasance on the part of respondents is at the nod of melafide and thus the petitioner is suffering from melafide of the respondent No. 04 and victimization further.

H. That, counsel for appellant seeks leave of this Hon'ble Court to argue further points, having legal bearing, at the time of arguments.

For the reasons stated above, the appellant submits that he may very graciously be re-instated on his post with back benefits / past salaries including seniority.

Dated: 11.02.2020.

Appellant



Qabil Jan

Through Counsel


Muhammad Tariq Qureshi
Advocate, Supreme Court of Pakistan.

(5)

Am A

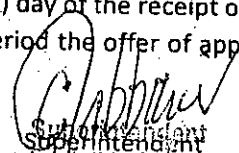
OFFICE OF THE SUPERITENDENT
DISTRICT JAIL LAKKI MARWAT.

No 423 DATED 31-12-2017

OFFICE ORDER

Undersigned is pleased to offer Mr Qabeel Jan S/O Bakhtiar Jan R/O Wanda Shahab Khel Lakki Marwat residing in Mohallah Shero Khel Lakki city a temporary post of ^{Cook} Man In Jail on Basic Pay Scale No.1 on pay Rs. 9130-290-17830. His appointment will take effect from the date he joins the duty at the Office of his posting.

- 1- His appointment will take effect from the date he joins the duty at the office of his posting ,
- 2- His appointment is purely temporary and his services are liable to be terminated at any time on 15 days notice without assigning any reasons.
- 3- NO TA/DA will be admissible to him for joining his first appointment.
- 4- In case he wishes to resign at any time he will give two months notice or in lieu thereof two months pay will be forfeited from him subject to the discretion of the competent authority in public interest.
- 5- His appointment is subject to his Medical Fitness for Government service,
- 6- He will be eligible for continuance on the post if his work and conduct remain satisfactory during the period of his temporary appointment.
- 7- His services will be terminated if his work and conduct is not found satisfactory or the vacancy ceases to exist.
- 8- The terms and condition of his service will be those as laid down in the West Pakistan Government Servant (Conduct) Rules 1987.
- 9- For all other purposes such as Pay, TA and Medical Attendance etc, his will be governed by such rules as may be issued by the government for the category of Government servant of the Prison Department to which he will belong.
- 10- He will be governed by the West Pakistan Government servant conduct rules 1987, the NWFP Civil servant act 1973, the civil servant (appointment, promotion and transfer) rules 1989, KPK Government servant (E&D) Rules 2011 and all other rules/regulations framed by the Government from time to time.
- 11- He shall for all intents and purposes be civil servants except for the purpose of pension and gratuity in lieu of the same; he shall be entitled to receive contributory provident fund along with contribution made by Provincial Government to his account in the said fund in the prescribed manner. Provide further that in the events of death of civil servant before or after retirement his family shall be entitled to receive the said amount if it has already not been received by concerned deceased civil servant. If he accepts the appointment on the above cited terms and conditions he should report to this Jail with 10 (ten) day of the receipt of this letter at his own expenses, In case he fails to join duty within same period the offer of appointment will be treated as cancelled /withdrawn.


Superintendent
District Jail, Lakki Marwat.


Endst No 421-27

Copy of the above is forwarded to the:-

- 1- Office Clerk/Accountant of District Lakki Marwat for information.
On arrival of the above named official an agreement deed should be taken on stamp paper to effect that he has accepted all the terms and condition contained in the above offer letter of his appointment and be submitted to this office for record.
Necessary entry of Para-II of terms and condition may also be made in his service book.
- 2- Mr Qabeel Jan son of Bakhtiar Jan R/o Wanda Shahab Khel at Mohallah Shero Khel Lakki city
- 3- The District Accounts Officer, Lakki Marwat for information and necessary action.
- 4- Office copy for record.

Attested




Superintendent
District Jail Lakki Marwat.



6

B

OFFICE OF THE

SUPERINTENDENT
DISTRICT JAIL LAKKI MARWAT
NO: 811

Dated: 26-8-2019

To

Mr.Qabil Jaan (Class 4),
Attached to District Jail Lakki Marwat.

Subject: - SHOW CAUSE NOTICE.

Memo:

It is to inform you that you Mr.Qabil Jaan, Class-4 attached to this jail), are absent from your duties to this jail since last 18 days, strict disciplinary action has been taken against you.

You are hereby directed, that you have made negligence in performance of your duties, so give your explanation report/hearing to the Superintendent upon/after receipt of this show cause notice/letter.


SUPERINTENDENT
DISTRICT JAIL LAKKI MARWAT

Endst No: _____ dated: /02/2019.

Copy of the above is forwarded to:-

1. The Worthy Inspector General of Prisons, Khyber Pakhtunkhwa, and Peshawar for information please.
2. The Superintendent, Circle Headquarter Prisons, Bannu for information with reference to above please.

SUPERINTENDENT
DISTRICT JAIL LAKKI MARWAT

7

BC

EMPLOYMENT FORM

SINGLE EMPLOYEE SUPERINTENDENT DISTRICT JAIL LAKKI MARWAT
OFFICE OF THE

FOR THE MONTH OF 04/10/2019

Date

Page No 02

LK-4004 Provincial

DDO CODE

L K 4004

DISTRICT JAIL LAKKI MARWAT

Personal Number

0 0 8 7 4 7 2 9

Employee Name

Gibayab

National ID

Card Number

Grade (Pay Scale Group)

0 3

APS-03 code

Salary Status: Start Stop

Stop

Start

42
07.10.2019

Arrear Code		Rs.	Rs.	Total Amount	Remarks
5801	Basic Pay				
5002	House Rent Allowance				
5011	Conveyance Allowance				change the
5012	Medical Allowance				The code
5054	Ration Allowance				LK 4004 to
5070	Washing Allowance				LK 5127
5011	Constabulary Allowance				
5228	Prison Allowance				Please stop
5909	Adhoc Allow 2013 (15%)				the pay the
5964	Adhoc Allow 2015 (10%)				Said official
5975	Adhoc Allow 2016 (10%)				
	Adhoc Relief All 2017 (10%)				
	Adhoc Relief All 2018 (10%)				
2461	Adhoc Relief All 2018 (10%)				
	Adhoc Relief All 2019 (10%)				
	Total Rs.				
6146	G.P.Fund				
6001	Benevolent Fund				
6217	Death and Benefit comp:				
	Total deduction :-				

stop of pay

1-10-19

Stop
M. N. Khan
DA

Prepared By

Attested

Audit / Certified By

Entered / Verified By

Superintendent
District Jail Lakki Marwat

(8)

Accountant General

Khyber Pakhtunkhwa, Post Road Peshawar
Ph: 091 9211250

Date: 09/08/2011

Annex - D

COMPLIANCE OF COURT DECISION REGARDING STOPPAGE OF SALARY
PASSED BY THE COURT IN U.P. NO. 116/2003

Reference is made to the letter bearing No Legal Cell W P-116 dated Sagheer Dar 7/12/07 and
copy is attached above.

It is mentioned in the letter under reference that salaries of the Govt
employees without any official or legal orders. In this regard, we have come to notice that
some employees are ignoring and violating the orders issued by Peshawar High Court
in case of violation in future, to
be dealt.

Jawad Akhtar
ACCOUNTS OFFICER (ADMIN)

10/7/11
11/5/11

P 630
12-8-11

Attested
me

Accountant General

COMPLIANCE OF GOVT DECISION REGARDING STOPPAGE OF SALARY,
PASSED BY THE COURT IN W.P. NO 116/2003

Reference is made to the order of the Hon'ble High Court of Madhya Pradesh, dated 12.8.11, in W.P. No. 116/2003, which has directed the Government to pay the salaries of the employees of the Government of Madhya Pradesh, who have been placed on suspension, with effect from the date of the order of the Court.

It is requested that you may be pleased to issue orders to the concerned departments to pay the salaries of the employees of the Government of Madhya Pradesh, who have been placed on suspension, with effect from the date of the order of the Court, without any official or legal orders. Instances have come to notice that some departments are making arrears of salaries of the employees of the Government of Madhya Pradesh, who have been placed on suspension, with effect from the date of the order of the Court, by the Hon'ble High Court of Madhya Pradesh, in W.P. No. 116/2003.

J. Prasad
ACCOUNTS OFFICER (ADMIN)

P 630
12-8-11

[Handwritten notes and signatures]

Better copy

(8A)

Account General

Khyber pakhtun khwa Fort Road peshawer

Ph#091_9211250_3

Dated 04/08/2011

To

1 the all DAO/AOs

2 All DAG

3 All pay Roll Section

Subject **COMPLIANCE OF COURT DECISION REGARDIND STOPPAGE OF SALARY PASSED BY THE COURT IN W.P.NO.116/2003,**

Please refer letter bearing No.Legal cell/W.P-116/Tahira Sagheer Dar/7097 Dated 26/01/2011 on the subject citid above.

It was mentioned in the letter under reference that salaries of the Govt officials, mat may be stopped without any official or legal orders instances have come to notice that some of the field offices are ignoring and orders issued by Peshawar High Court Peshawar as well as Accountant General Khyber pakhtunkhwa in case of violation in future the officer will be held personally responsible.

ACCOUNTS OFFICER (ADMN)

Attested

[Signature]

4/8/11

(10) (9) F (E)

PESHAWAR HIGH COURT,
BANNU BENCH.

FORM 'A'

FORM OF ORDER SHEET

Date of order or proceedings	Order or other proceedings with signature of Judge (s).
(1)	(2)
03.12.2019	<p><u>W.P No.1159-B/2019.</u> Present:</p> <p style="text-align: center;">Mr. Muhammad Tariq Qureshi Advocate for petitioner.</p> <p style="text-align: center;">***</p> <p><u>IKRAMULLAH KHAN, J.---</u> Through instant writ petition, petitioner has prayed for the following relief:-</p> <p style="text-align: center;"><i>"It is, therefore, humbly prayed that on acceptance of instant petition, the respondents may very graciously be directed to let the petitioner perform his duties freely. They may be directed for release of regular salary of the petitioner and restrained permanently from removing/dismissing the petitioner."</i></p> <p>2. At the face, petitioner is a civil servant and he has the right to file appeal against</p>

Attested

Adv:

10

the impugned order, therefore, this writ petition is converted into representation and be sent to respondent No.2 with direction to decide the same within 30 days positively. In case the respondents did not resolve the grievance of petitioner then he shall be communicated with reasons in order to file an appeal before the Worthy Service Tribunal. Office shall keep copy of this petition and the original be returned to the petitioner

Announced.
03.12.2019.

Sd Justice Ikramullah Khan, J
Sd Justice Sahibzada Asadullah, J

CERTIFIED TO BE TRUE COPY

Examined
Peshawar High Court Bench
Authorised Under Article 87 of
The Qanun-e-Shahadat Ordinance 1984

Attested
Adv:

[Handwritten signature]

[Handwritten signature]
10/12/19

12

12

- B. That, the act of the respondents is beyond their jurisdiction and authority.
- C. That, the action of the respondents is against the provision of constitution of Pakistan and tantamounts to the infringement of fundamental rights of petitioner.
- D. That, the said malfeasance and non feasance on the part of respondents is at the nod of melafide and thus the petitioner is suffering from melafide of the respondent No. 04 and victimization further.
- E. That, counsel for petitioner seeks leave of this Hon'ble Court to argue further points, having legal bearing, at the time of arguments.

It is, therefore, humbly prayed that on acceptance of instant petition, the respondents may very graciously be directed to let the petitioner perform his duties freely. They may be directed for release of regular salary of the petitioner and restrained permanently from removing/ dismissing the petitioner.

INTERIM RELIEF:

Interim relief to the effect that the respondents may be directed for release of the petitioner's salary and be restrained from suspending or removing the petitioner from service and allowed the petitioner for his duty till disposal of instant petition.

Dated: 20.10.2019

Petitioner

Qabil Jan
Through Counsel

Muhammad Tariq Qureshi
Advocate Supreme Court of Pakistan

ATTESTED

Attested

Adv

till disposal of instant petition

Filed Today
18 NOV 2019
Additional Registrar

(14)
(15)

CERTIFICATE.

Certified, that no such Writ Petition has previously been submitted by Petitioner, before this Honorable Court.

Muhammad Tariq Qureshi
Muhammad Tariq Qureshi
Advocate Lakki Marwat.

LIST OF BOOKS.

1. Constitution of Islamic Republic of Pakistan 1973.
2. Any other book as per need.

Muhammad Tariq Qureshi
Muhammad Tariq Qureshi
Advocate Lakki Marwat.

Attested

Adv
Advo

ATTESTED
(Signature)

Filed Today
18 NOV 2010
(Signature)
Additional Registrar



15

OFFICE OF THE
INSPECTOR GENERAL OF PRISON
KHYBER PAKHTUNKHWA PESHAWAR

A nyse

G

091-9210334, 9210406 091-9213445

No.Estb/Ward-/Orders/ 1907-1-

Dated 14/01/2020-1-

ORDER

WHEREAS, Qabil Jan S/o Bakhtiar Jan Ex-Cook attached to District Jail Lakki Marw resigned from service on 29-08-2019 which was accordingly accepted by Superintendent District J Lakki Marwat.

AND WHEREAS, the said Cook filed a writ Petition No.1159-B/2019 before t Peshawar High Court Bannu Bench with the prayer that he may not be removed from service. T Honorable Court vide orders dated 13-12-2019 converted his Writ Petition into representation respondent No.2 (I.G. Prisons) Khyber Pakhtunkhwa with the direction to decide the same within 30 da positively. The said order sheet was received in this office on 16-12-2019 through the petitioner.

AND WHEREAS, he was afforded an opportunity of personal hearing c 10-01-2020. In addition, Superintendent District jail Lakki Marwat was also called fr producing relevant record of the case which he produced. During the course of person: hearing Superintendent District Jail Lakki Marwat stated in presence of the appellant, that h had tendered resignation from service on 29-08-2019 which was duly accepted. The appellar now denies submission of resignation but failed to justify his denial statement; thus he ha got no locus standi.

NOW THEREFORE, keeping in view the facts on record, the provision of rules is vogue and in exercise of powers conferred under Rule-5 of Khyber Pakhtunkhwa Civil Servant Appeal Rules 1986, the decision of the competent authority is upheld and appeal of th appellant is hereby rejected being without any substance.

INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA, PESHAWAR.

ENDST:NO. 1908-09/1

Copy of the above is forwarded to :-

1. The Superintendent, District Jail Lakki Marwat for information and necessary action with reference to his letter No.1403-WE dated 17-12-2019. Necessary entry to this effect may please be made in his service book under proper attestation.
2. Mr.Qabil Jan Ex-Cook S/O Bakhtiar Jan village Wanda Shahab Khel, Tehsil & Distt; Lakki Marwat for information with reference to his application dated 15-12-2019.

Attested

Advoc

7/01
ASSISTANT DIRECTOR
INSPECTORATE GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

Photo copy of the s/c to be hand over to the concerned person as directed by DD (Admin) Peshawar



(15)

H

**INSPECTORATE GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR**

☎ 091-9210334, 9210406 📠 091-9213445

No. _____ /-

Dated 03-02-2020 /-

To

The Superintendent,
District Jail Lakki Marwat.

Subject:- **APPLICATION IN RESPECT OF QABIL KHAN EX-COOK**

Memo:

I am directed to refer to the subject and to forward herewith a copy of an application in respect of Mr. Qabil Khan Ex-Cook, on the captioned subject (self explanatory) for information with the direction to provide him attested copies of the relevant record of the case.

Self-

**ASSISTANT DIRECTOR
INSPECTORATE GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.**

ENDST; NO. 4465 /-

Copy of the above is forwarded to Mr. Qabil Jan Ex-Cook S/O Bakhtiar Jan village Wanda Shahab Khel, Tehsil & Distt; Lakki Marwat for information with reference to his application dated 27-01-2020.

[Signature]

**ASSISTANT DIRECTOR
INSPECTORATE GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.**

*Attested
M.L.
Advo*

یعدالت جناب سرسٹریٹ ٹریبیونل صوبہ سندھ ایسٹ اور

مجناب ایڈووکیٹ

قابل جان بنام محمد جملو نہ جان

دعویٰ اپیل نمبر 238/20

باعث شکر سیمین اسٹیک

مقررہ مندرجہ عمر خان ابالا میں ایسی رفرنس کے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام اپنا اور
کیس نمبر 2006/2007 اور جملو نہ جان کی وکیل ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب
مذکورہ کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے راہی نامہ و تقریر ثالث و فیصلہ برتلاف
یہ ہے جواب دہی اور قابل دعویٰ اور لیکچر ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور رضی دعویٰ اور درخواست
ہر قسم کی تقدیر اور اس پر ضبط کرانے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی
اور تیسری نیز دائر کرنے اپیل ٹران و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ منکولہ
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا نثار قانونی کو اپنے ہمراہ یا اپنی بجائے لکھنؤ کا اختیار ہوگا
اور صاحب مقرر شدہ کو بھی وہی جملہ مندرجہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخستہ منٹلاور
تہوں ہوگا و دوران مقدمہ میں جو خرچہ و ہر جائز التوا مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب
مذکورہ ہوں گے نیز بقایا و فرجہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام درجہ
پر ہو یا عدالت باہر ہو تو وکیل صاحب یا بندہ ہوں گے کہ پیروی مذکور کریں۔
لہذا رکالت نامہ رکھ دیا کہ سند ہے۔

الرقوم 24-12-20

11
ارباب نیفا کمال
ایڈووکیٹ

التشہید
محمد اللہ خان
ایڈووکیٹ

التشہید
Daryai

محمد نواز
ایڈووکیٹ

**BEFORE THE HON'RABLE KHYBER-PAKHTUNKHWA,
SERVICE TRIBUNAL, PESHAWAR**

Appeal No. 938/2020.


Qabil Jan -----Petitioner

Versus

Govt. of KPK, through Secretary Home, Peshawar----- (Respondents No. 05
DAO- Lakki Marwat)

INDEX

S. No.	Description of Documents	Annexure	Pages
1	Para wise Comments on behalf of Respondent No. 04	-----	01 & 02
2	Affidavit	-----	03
3	Authority letter	-----	04


District Accounts Officer
Lakki Marwat

**BEFORE THE HON'RABLE KHYBER-PAKHTUNKHWA,
SERVICE TRIBUNAL, PESHAWAR**

Appeal No. 938/2020.

Qabil Jan -----Petitioner

Versus

Govt. of KPK, through Secretary Home, Peshawar----- Respondents No. 05

The joint para wise comments on behalf of Respondents No. 05.

Respectfully Shewith:

1. The 1ST Para of the petition relates to the respondent no. 4. Hence, No Comments.
2. That 2ND Para of the petition relates to petitioner's personal record. Hence, No Comments.
3. The Respondent No. 5 stopped the salary of the petitioner on the Source-II submitted by the Respondent No. 4.
4. The 4TH Para of the petition relates to the official record. Hence, No Comments.
5. The 5TH Para of the petition relates to the respondent no. 1 to 4. Hence, No Comments.
6. The 6TH Para is relevant to the official record as well as to the decision of the department authority. Hence, No Comments.
7. The 7TH & 8TH Paras are relevant to the official record of the home department. Hence, No Comments.
8. The 18TH Paras of the petition relates to the respondent no. 2. Hence, No Comments.
9. The 19TH Para of the petition pertained to the personal right of the petitioner. Hence, No Comments.

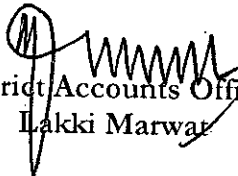
Grounds:

- A. Pertained to the personal record of the petitioner, Hence, No Comments.
- B. Pertained to the personal record of the petitioner, Hence, No Comments.
- C. Not relevant, No Comments.

- D. Pertained to the petitioner's personal record, Hence, No Comments.
- E. No Comments.
- F. As per SAP system record, the petitioner entered in to government service on 01/01/2018 and finally leaved on 01/10/2019.
- G. Pertained to the petitioner's personal record, Hence, No Comments.
- H. No Comments

In view of the above it is most humbly prayed that the subject matter is of an administrative nature and does not pertains to this office at this stage, therefore, it is requested the Respondent No. 5 may please be exhibit from the instant case.

However, the decisions of the Honorable court will be followed in latter and spirit.


District Accounts Officer
Lakki Marwar

**BEFORE THE HON'RABLE KHYBER-PAKHTUNKHWA,
SERVICE TRIBUNAL, PESHAWAR**

Appeal No. 938/2020.

Qabil Jan -----Petitioner

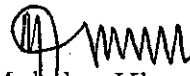
Versus

Govt. of KPK, through Secretary Home, Peshawar----- Respondents No. 05
DAO-Lakki Marwat.

AFFIDAVIT

I, Mohabat Khan District Accounts Officer BPS-18 do hereby solemnly affirm and declare that the contents of the Para wise statements submitted on behalf of Respondent No.05 is true and correct to the best of my knowledge and belief and that nothing has been concealed from this honorable court.

Identified By
Advocate General


Mohabat Khan
District Accounts Officer
Lakki Marwat

S. No. 2195

وکالت نامہ

بعدالت ~~محمد حسین خیر محنتی انوار اہل سنت~~ شہر سوات - لشاور

مورخہ 11 فروری 2020ء منجانب ایڈوکیٹ

مقدمہ ~~محمد حسین خیر محنتی انوار اہل سنت~~ بنام حکومت KPK وغیرہ۔ دعوی

جرم سہ ماہی اپریل 2020ء

تھانہ

باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن
 مقام لکھنوت پشاور کے لئے کہ طریق قریبی ایڈوکیٹ
 مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا نیز
 وکیل صاحب کو راضی نامہ و تقرر ثالث فیصلہ پر خلف دینے جواب دہی اور اقبال دعویٰ اور بصورت
 ڈگری کرانے اجراء اور وصولی چک روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زر
 اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یا یکطرفہ یا اپیل کی برآمدگی اور منسوخی
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ مذکور کے کل
 یا جزوی کارروائی کے واسطے اور وکیل یا مختیار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور
 صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہونگے۔ اور اس کا ساختہ برداشت منظور
 و قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہرجانہ اتوائے مقدمہ کے سبب سے ہوگا۔ اس کے مستحق
 وکیل صاحب موصوف ہونگے۔ نیز بقایا خرچہ کی وصولی کرینکا بھی اختیار ہوگا۔ اگر کوئی تارخ پیشی مقام
 دورہ پر ہو یا جگہ سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کہ پیروی مقدمہ مذکور کریں۔

نیز اگر بھی وجہ بیماری، معذوری، علالت وغیرہ کی وجہ سے عارضی یا مستقل پیروی مقدمہ نہ کر سکیں تو بھی
 وکیل صاحب یا اسکے لواحقین کو بقایا فیس (اگر کوئی ہے) ادا کرنے کا پابند ہوگا ہونگے اور ادا شدہ فیس کی
 واپسی کا تقاضا کرنے کا حق نہیں ہوگا۔ مضمون وکالت نامہ سن اور سمجھ کروکالت نامہ لکھدیا کہ سندر ہے۔

المرقوم 11 ماہ فروری 2020ء

العبد گواہ شد العبد

Accepted کے لئے منظور ہے۔

بمقام
کاہل جان
Wakil

03005768804

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR.

In the matter of

Service appeal No. 938/ 2020

Qabil Jan Ex-Cook(Bps-01) attached to District Jail Lakki Marwat ----- (**Appellant**)

VERSUS

The Government of Khyber Pakhtunkhwa and others----- (**Respondents**)

INDEX

S.NO.	DESCRIPTION OF DOCUMENTS	Annex	Page No.
1	Joint Para-wise comments	-	1-2
2	Affidavit	-	3
3	Appointment letter	A	4
4	Resignation tendered by the appellatant dated 29-08-2019	B	5
5	Acceptance of Resignation dated 30-08-2019	C	6
6	Show cause Notice dated 17-02-2019	D	7
7	Show cause Notice dated 12-03-2019	E	8
8	Show cause Notice dated 26-08-2019	F	9
9	Departmental representation and personal hearing dated 01-01-2020	G	10
10	Inspector General of Prisons office order dated 14-01-2020	H	11


Deponent

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Appeal No. 938/2020

Qabil Jan Ex-Cook BPS (01), R/o Village Wanda Shahab Khel Lakki Marwat, residing in Mohallah Shero Khel Lakki City P.O & Tehsil Lakki Marwat.

..... (Appellant)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department Peshawar.
2. Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
3. The Superintendent Circle Head Quarter Prisons Bannu.
4. The Superintendent, District Jail Lakki Marwat.
5. District Accounts Officer Lakki Marwat.
6. Deputy Commissioner Lakki Marwat.

..... (Respondents)

Subject: - JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS No 1 To 6 ARE AS UNDER

Preliminary Objection.

1. That the present appeal is incompetent and not maintainable in its present form.
2. That the appellant has got no cause of action to file the present appeal.
3. That the appellant has grant no locus standi.
4. That the appeal is bad for misjoinder and non-joinder of necessary parties.
5. That the appeal is badly time barred.
6. That the appellant estopped by his own conduct.

Respectfully Sheweth;

Brief facts in the back drop of instant service appeal are as under:

1. Admitted Correct
2. Incorrect, the official concerned did not served the jail authorities and remained absent from service since his date of appointment.
3. Incorrect, all legal formalities fulfilled.
4. No comments
- 5: Correct, to the extent that write petition was converted into representation and sent to Jail authorities for decision.
6. Incorrect, the official concerned willingly tendered resignation in original before the Superintendent District Jail Lakki Marwat on 29-08-2019 which was accepted accordingly vide No.838 dated 30.08.2019 enclosed as **Annex "A"**.
7. Incorrect, The appellant was not taking interest in his duties and the jail authorities time and again directed him to join his duties but he failed/refused to join his duties, several notices were issued to him at his Home address vide No.84 dated 17-02-2019, No.200 dated 12-03-2019, No.811 dated 26-08-2019 and No.7 dated 01-01-2020.

Copies attached as **Annex B, C, and D.**

8. Correct, pertains to record.

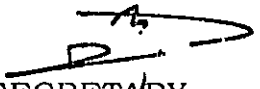
GROUND

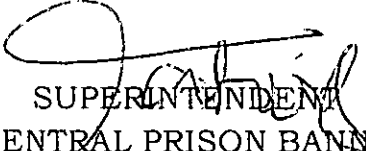
- a. Incorrect: the official concerned willingly tendered resignation before the superintendent District Jail Lakki Marwat on 29.08.2019 which was accepted accordingly vide No.838 dated 30.08.2019 enclosed as **Annex "A"**.

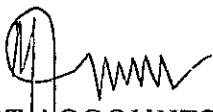
- b. Incorrect. Same remarks as above at S # 01.


- c. Incorrect. The official concerned draw his monthly pay on his Bank Account regularly (01.2018 to 09.2019).
- d. The official concerned was not taking interest in his duties and the jail authorities time and again directed him to Join his duties but he failed/refused to join his duties, several notices issued to him at his Home address vide No. 84 dated 17.02.2019, No. 200 dated 12.03.2019, No.811 dated 26.08.2019 and No.7 dated 01.01.2020. Copies attached as **Annex B, C, and D.**
- e. Incorrect. The said Ex-Cook filled an appeal at Peshawar High Court Bannu Bench for re-instatement into service and release for his monthly salary, however, the Hon'ble Peshawar High Court Bannu Bench referred his case to the Worthy Inspector General of Prisons to decide the case in 30 days and after fulfilling the legal and codel formalities the Inspector General of Prisons upheld the decision of the competent authority (Superintendent Jail) and rejected his appeal being without any substance. Copy attached as **Annex "E"**
- f. Incorrect. Same remarks at S # d.
- g. No Comments.
- h. No Comments.

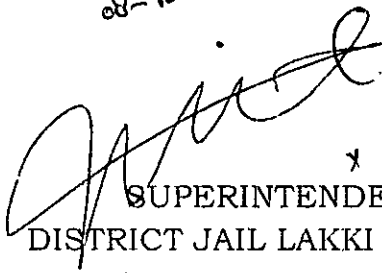
In view of the above reply it is humbly requested that the said appeal may kindly be dismissed with cost.


 SECRETARY
 HOME & TRIBAL AFFAIRS
 DEPARTMENT, KHYBER
 PAKHTUNKHWA PESHAWAR
 (RESPONDENT No. 01)
 Home Secretary,
 Khyber Pakhtunkhwa


 SUPERINTENDENT
 CENTRAL PRISON BANNU
 (RESPONDENT No. 03)


 DISTRICT ACCOUNTS OFFICER
 LAKKI MARWAT
 (RESPONDENT No. 05)


 INSPECTOR GENERAL OF PRISONS
 KHYBER PAKHTUNKHWA PESHAWAR
 (RESPONDENT No. 02)


 SUPERINTENDENT
 DISTRICT JAIL LAKKI MARWAT
 (RESPONDENT No. 04)


 DEPUTY COMMISSIONER
 LAKKI MARWAT
 (RESPONDENT No. 06)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Appeal No. 938/2020

Qabil Jan Ex-Cook BPS (01), R/o Village Wanda Shahab Khel Lakki Marwat, residing in Mohallah Shero Khel Lakki City P.O & Tehsil Lakki Marwat.

..... (Appellant)

VERSUS

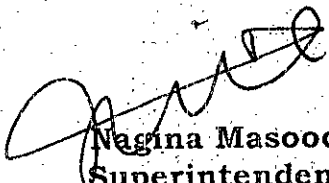
1. The Government of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department Peshawar.
2. Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
3. The Superintendent Circle Head Quarter Prisons Bannu.
4. The Superintendent, District Jail Lakki Marwat.
5. District Accounts Officer Lakki Marwat.
6. Deputy Commissioner Lakki Marwat.

..... (Respondents)

AFFIDAVIT

I, Nagina Masood, Superintendent District Jail Lakki Marwat do hereby solemnly affirm and declare on oath that the contents of Para wise Comments in above appeal are correct and true the best of my knowledge and belief that nothing has been concealed from this Honorable Court.

DEPONENT


Nagina Masood
Superintendent
District Jail Lakki Marwat
Respondent No.04

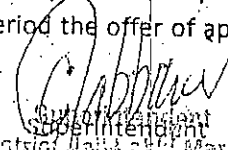
OFFICE OF THE SUPERITENDENT
DISTRICT JAIL LAKKI MARWAT.

No. 423 DATED 31-12-2017

OFFICE ORDER

Undersigned is pleased to offer Mr Qabeel Jan S/O Bakhtiar Jan R/O Wanda Shahab Khel Lakki Marwat residing in Mohallah Shero Khel Lakki city a temporary post of ^{Cook} Man in Jail on Basic Pay Scale No.1 on pay Rs. 9130-290-17830. His appointment will take effect from the date he joins the duty at the Office of his posting.

- 1- His appointment will take effect from the date he joins the duty at the office of his posting ,
- 2- His appointment is purely temporary and his services are liable to be terminated at any time on 15 days notice without assigning any reasons.
- 3- NO TA/DA will be admissible to him for joining his first appointment.
- 4- In case he wishes to resign at any time he will give two months notice or in lieu thereof two months pay will be forfeited from him subject to the discretion of the competent authority in public interest.
- 5- His appointment is subject to his Medical Fitness for Government service,
- 6- He will be eligible for continuance on the post if his work and conduct remain satisfactory during the period of his temporary appointment.
- 7- His services will be terminated if his work and conduct is not found satisfactory or the vacancy ceases to exist.
- 8- The terms and condition of his service will be those as laid down in the West Pakistan Government Servant (Conduct) Rules 1987.
- 9- For all other purposes such as Pay, TA and Medical Attendance etc, his will be governed by such rules as may be issued by the government for the category of Government servant of the Prison Department to which he will belong.
- 10- He will be governed by the West Pakistan Government servant conduct rules 1987, the NWFP Civil servant act 1973, the civil servant (appointment, promotion and transfer) rules 1989, KPK Government servant (E&D) Rules 2011 and all other rules/regulations framed by the Government from time to time.
- 11- He shall for all intents and purposes be civil servants except for the purpose of pension and gratuity in lieu of the same; he shall be entitled to receive contributory provident fund along with contribution made by Provincial Government to his account in the said fund in the prescribed manner. Provide further that in the events of death of civil servant before or after retirement his family shall be entitled to receive the said amount if it has already not been received by concerned deceased civil servant. If he accepts the appointment on the above cited terms and conditions he should report to this Jail with 10 (ten) day of the receipt of this letter at his own expenses, In case he fails to join duty within same period the offer of appointment will be treated as cancelled /withdrawn.

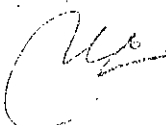

Superintendent
District Jail Lakki Marwat.

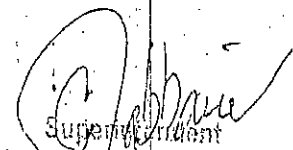
Endst No 421-27

Copy of the above is forwarded to the:-

- 1- Office Clerk/Accountant of District Lakki Marwat for information.
On arrival of the above named official an agreement deed should be taken on stamp paper to effect that he has accepted all the terms and condition contained in the above offer letter of his appointment and be submitted to this office for record.
Necessary entry of Para-II of terms and condition may also be made in his service book.
- 2- Mr Qabeel Jan son of Bakhtiar Jan R/o Wanda Shahab Khel at Mohallah Shero Khel Lakki city
- 3- The District Accounts Officer, Lakki Marwat for information and necessary action.
- 4- Office copy for record.

Attested




Superintendent
District Jail Lakki Marwat

خدمت کتاب گیسٹ ہسٹریٹ ڈسٹریٹ جیل لکی مروت "B"

عنوان : Resign from the post of cook

مقامی : عورتانہ گذریش کھانی ہے۔ ہمیں جیل ڈسٹریٹ جیل لکی مروت سے ریٹائر ہوئے ہیں۔ لیکن نرید اپنی ادنیٰ کاری رکھنے سے قاعدوں کی سہولتوں کی گھریلو تنازعات اور مہجوریاں بڑھ چکی ہیں۔

لہذا میں اپنی موجودہ پوزیشن چھوڑنا اور اس پر قرار دینا کے باوجود اپنی ڈیوٹی سے استعفیٰ کرتا ہوں۔

میں ہونڈیش جی

29/8
2019
حقاً جی

D/S/2.0/H/C

القاریہ
شیخ محمد علی
جیل لکی مروت

Resignation accepted as per rule and on entry may be made in his book please.
29/8

(Signature)
Jail Laki Mawat

Office Of the
Superintendent
District Jail Lakki Marwat
No. 858
Dated: 30-8-2019

ORDER.

Resignation tendered by Mr. Qabil Jan Cook (BPS-03) dated 29-08-2019 is hereby accepted with immediate effect as requested by him.

APD 30/8/19
SUPERINTENDENT
DISTRICT JAIL LAKKI MARWAT

(3)

ENDST: No. 839-40
Copy forwarded to:-

1. District Accounts Officer for information and necessary action.
2. Mr Qabil Jan S/o Bakhtiar Jan village Wanda Shahab Khel, Teh & District Lakki Marwat for information with reference to his resignation dated 29-08-2019.

APD 30/8/19
SUPERINTENDENT
DISTRICT JAIL LAKKI MARWAT

APD
APD
SUPERINTENDENT
DISTRICT JAIL LAKKI MARWAT



"D"

SUPERINTENDENT
DISTRICT JAIL LAKKI MARWAT
NO: 84

Dated: 17-02-2019


To

Mr. Qabil Jaan (Class 4),
Attached to District Jail Lakki Marwat.

Subject: - SHOW CAUSE NOTICE.

Memo: It is to inform you that you Mr. Qabil Jaan, Class-4 attached to this jail, are absent from your duties to this jail since last 18 days, strict disciplinary action has been taken against you.


You are hereby directed, that you have made negligence in performance of your duties, so give your explanation report/hearing to the Superintendent upon/after receipt of this show cause notice/letter:

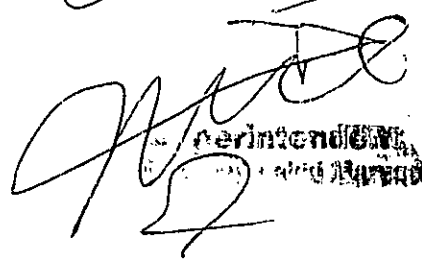
o/c  17/2/19
SUPERINTENDENT
DISTRICT JAIL LAKKI MARWAT

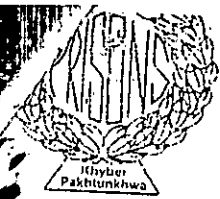
Endst No: 85-87 dated: 17/02/2019.

Copy of the above is forwarded to:-

1. The Worthy Inspector General of Prisons, Khyber Pakhtunkhwa, and Peshawar for information please.
2. The Superintendent, Circle Headquarter Prisons, Bannu for information with reference to above please.

o/c  17/2/19
SUPERINTENDENT
DISTRICT JAIL LAKKI MARWAT

Approved

Superintendent
District Jail Lakki Marwat



E

OFFICE OF THE
SUPERINTENDENT
DISTRICT JAIL LAKKI MARWAT
NO: 200
Dated: 12-3-2014

To

Mr. Qabeel Jan S/o Bakhtiar Jan,
Village Wanda Shahab Khel,
Tehsil & District Jail Lakki Marwat.

Subject: - **SHOW CAUSE NOTICE.**

Memo:

It is submitted that you Mr. Qabeel Jan (Cook, BPS-03), attached to District Jail Lakki Marwat, is hereby informed you that you are absent from your duty since long w.e.f 01/03/2018, without any prior permission of the competent authority.

You are hereby directed, that you have made negligence in performance of duty, and give report to the undersigned of your long absence from duty with in 3 days after receipt of this letter.

O/c

12/3/18
SUPERINTENDENT
DISTRICT JAIL LAKKI MARWAT

Asst. Sd. Magistrate
[Signature]
Superintendent
District Jail Lakki Marwat



SUPERINTENDENT
DISTRICT JAIL LAKKI MARWAT

NO: 876

Dated: 26-9-19

F

To

Mr. Qabil Jaan (Class 4),
Attached to District Jail Lakki Marwat.

Subject: - SHOW CAUSE NOTICE.

Memo:

It is to inform you that you Mr. Qabil Jaan, Class-4 attached to this jail, are absent from your duties to this jail since last 18 days; strict disciplinary action has been taken against you.

You are hereby directed, that you have made negligence in performance of your duties, so give your explanation report/hearing to the Superintendent upon/after receipt of this show cause notice/letter.

[Signature]
SUPERINTENDENT
DISTRICT JAIL LAKKI MARWAT

Endst No: _____ dated: 02/2019.

Copy of the above is forwarded to:-

1. The Worthy Inspector General of Prisons, Khyber Pakhtunkhwa, and Peshawar for information please.
2. The Superintendent, Circle Headquarter Prisons, Bannu for information with reference to above please.

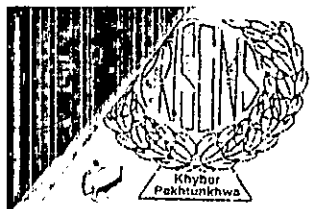
[Signature]
SUPERINTENDENT
DISTRICT JAIL LAKKI MARWAT

[Handwritten Urdu notes]

[Handwritten Urdu notes: Dear Sir, Upon the show cause notice he is via telephone the said Qabil Jaan unwilling...]

[Handwritten signature]

[Handwritten signature]
SUPERINTENDENT
DISTRICT JAIL LAKKI MARWAT



9

OFFICE OF THE
SUPERINTENDENT
DISTRICT JAIL LAKKI MARWAT
NO: 7

Date 1-1-21

To,

Qabil Jan
Ex-Cook, District Jail Lakki Marwat

Subject: - DEPARTMENTAL REPRESENTATION IN RESPECT OF MR. QABIL JAN
EX-COOK.

Memo,

With reference to the worthy Inspector General of Prisons, Khyber Pakhtunkhwa Peshawar letter No. 42307 dated: 31/12/2019, It is to inform you that appear before the worthy Inspector General of Prisons, Khyber Pakhtunkhwa Peshawar for hearing on due date & time, i.e 07/01/2019 at 10:00 AM.

[Handwritten signature]

[Handwritten signature]
SUPERINTENDENT
DISTRICT JAIL LAKKI MARWAT

Endst: No. 8 Dated: 1/1/2021

Copy of the above is forwarded to the worthy inspector General of Prisons, Khyber Pakhtunkhwa Peshawar with referred to above please.

[Handwritten signature]

[Handwritten signature]
SUPERINTENDENT
DISTRICT JAIL LAKKI MARWAT

عظیم حضور، نوٹس لیا اور ایسی باہمی

دھوکا ہے

[Handwritten signature]

قایل جان

[Handwritten signature]

[Handwritten signature]
SUPERINTENDENT
DISTRICT JAIL LAKKI MARWAT



INSPECTORATE GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR

091-9210334, 9210406

091-921

No.Estb/Ward-/Orders/

1907

Dated

14/01/2020

ORDER

WHEREAS, Qabil Jan S/o Bakhtiar Jan Ex-Cook attached to District Jail Lakki Marwat resigned from service on 29-08-2019 which was accordingly accepted by Superintendent District Jail Lakki Marwat.

AND WHEREAS, the said Cook filed a writ Petition No. 1159-B/2019 before the Peshawar High Court Bannu Bench with the prayer that he may not be removed from service. The Honourable Court vide orders dated 13-12-2019 converted his Writ Petition into representation respondent No.2 (I.G. Prisons) Khyber Pakhtunkhwa with the direction to decide the same within 30 days positively. The said order sheet was received in this office on 16-12-2019 through the petitioner.

AND WHEREAS, he was afforded an opportunity of personal hearing on 10-01-2020. In addition, Superintendent District jail Lakki Marwat was also called for producing relevant record of the case which he produced. During the course of personal hearing Superintendent District Jail Lakki Marwat stated in presence of the appellant, that he had tendered resignation from service on 29-08-2019 which was duly accepted. The appellant now denies submission of resignation but failed to justify his denial statement, thus he got no locus standi.

NOW THEREFORE, keeping in view the facts on record, the provision of rule 11 of the Rules 1986 and in exercise of powers conferred under Rule-5 of Khyber Pakhtunkhwa Civil Service Appeal Rules 1986, the decision of the competent authority is upheld and appeal of appellant is hereby rejected being without any substance.

INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA, PESHAWAR.

ENDST; NO. 1908-09

Copy of the above is forwarded to :-

1. The Superintendent, District Jail Lakki Marwat for information and necessary action with reference to his letter No. 1403-WE dated 17-12-2019. Necessary entry to this effect may please be made in his service book under proper attestation.
2. Mr. Qabil Jan Ex-Cook S/O Bakhtiar Jan village Wanda Shahab Khel, Tehsil & Distt; Lakki Marwat for information with reference to his application dated 15-12-2019.

ASSISTANT DIRECTOR

INSPECTORATE GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR

Assisted
[Signature]
Superintendent,
District Jail Lakki Marwat

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 938/2020

Qabil Jan

versus

SP & Others

REJOINDER**Respectfully Sheweth,****PRELIMINARY OBJECTION**

All the 07 Preliminary Objections are illegal and incorrect. No reason in support of the same is ever given as to why the appeal incompetent, not maintainable, without cause of action, locus standi, is bad for mis and none joinder of parties, time barred and estoppel.

ON FACTS

1. Admitted correct by the respondents regarding appointment of appellant as cook/class-IV at District Jail Lakki Marwat on 31-12-2017.
2. Not correct. The para of the appeal is correct regarding service for two years. As for as absence from the date of appointment is concerned, the same is totally false and absolutely incorrect. Appellant should have been proceeded under the law provided he was absence from duty.
3. Not correct. The para of the appeal is not replied to its contents. His salaries were stopped for no legal reason and for the purpose he invoked the jurisdiction of the hon'ble High Court Bench Bannu in Writ Petition.
4. Not commented upon by the respondents, so the para of the appeal is admitted correct regarding submission of Writ Petition No. 1159/2019

5. Admitted correct by the respondents by converting Writ Petition into representation with further direction to redressed grievances of appellant within 30 days positively but no action was taken by the respondents.
6. Not correct. The para of the appeal is correct regarding removal of appellant from service on the pretext of so called resignation from service. To further explain the position, application dated 29-08-2019 is to be glance upon. Appellant is FA and he never submitted the said application to respondents through his own hand writing, it is not known that who scribed the same.

Appellant makes sign in English and more so the sign in Urdu at the application is Qabeel jan and not Qabil jan. Before acceptance of resignation, the authority was legally bound to confront appellant with the same as to whether the so called resignation was with freewill, voluntarily or with free consent but no such lacuna was fulfilled by the respondents.

7. Not correct. Show Cause Notices attached with the written statement were never served upon appellant. On one hand respondents take plea of absence from duty while on the other hand, resignation plea. Both at one in the same time, cannot co-exists. Some of the notices were written after acceptance of the resignation from service. No order of rejection is attached with the comments of the respondents.

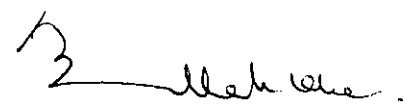
GROUND S:

All the grounds of the appeal are legal and correct while that of the reply are illegal and incorrect. The same are re-affirmed once again by also taking to consideration the facts of the replication.

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


Appellant

Through


Saadullah Khan Marwat
Advocate,

Dated: 28-09-2022

AFFIDAVIT

I, Qabil Jan, appellant do hereby solemnly affirm and declare that contents of the **Appeal & Rejoinder** are true and correct to the best of my knowledge and belief while that of reply of respondents are illegal and incorrect.


DEPONENT