

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

Service Appeal No. 5790/2020

Muhammad Akram Khan.....Appellant

V E R S U S


Accountant General Khyber Pakhtunkhwa & others .....Respondents

**I N D E X**

S.No	Description of Documents	Annex	Pages
1.	Service Appeal with affidavit		1-6
2.	Copies of appointment letter and surplus pool letter No. 11878/DCO(P)EA	A & B	7-10
3.	Copy of application dated 24.01.2018 and Show Cause Notice dated 22.02.2018	C & D	11-14
4.	Copies of the reply of show cause notice and application for retirement	E & F	15-17
5.	Copies of the disciplinary proceedings and reply of same	G & H	18-21
6.	Copy of the application	I	22
7.	Copy of the retirement letter & pension slip	J & K	23-24
8.	Copy of the application dated 22.07.2019	L	25
9.	Copy of the Departmental Appeal dated 20.02.2020	M	26-29
10.	Wakalatnama		30

Through

Appellant

  
**Malik Sajid Manzoor**  
Advocate, High Court

①

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

Service Appeal No. 5740/2020

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 4785

Dated 02/06/2020

Muhammad Akram Khan S/o Muhammad Ayub Khan R/o Liaqat  
Colony, Street No. 6-B, Mohirra Bariyan, GPO Khas Tehsil/ District  
Rawalpindi (Permanent Address)

.....Appellant

V E R S U S

1. Accountant General Khyber Pakhtunkhwa.
2. Deputy Commissioner Peshawar.
3. Account Officer of Deputy Commissioner Peshawar Office.
4. Section Officer (E-III) Establishment Department, Khyber  
Pakhtunkhwa Peshawar.

.....Respondents

**APPEAL U/S 4 OF KPK SERVICE TRIBUNAL ACT  
1974 FOR AND ON BEHALF OF APPELLANT FOR  
RECOVERY OF LAST 1 YEAR OF RETIREMENT  
LUMP SUM SALARY AS ENCASHMENT FROM  
THE RESPONDENT'S DEPARTMENT.**

Filed to-day

*[Signature]*  
Registrar  
02/06/2020

**Prayer:**

On acceptance of this appeal the respondents may kindly  
be directed to passed an order for the recovery of last 01 year  
salaries of retirement as encashment.

Re-submitted to -day  
and filed.

*[Signature]*  
Registrar  
21/06/2020

*[Signature]*  
Litigator

②

**Respectfully Sheweth:**

1. **That** appellant was appointed in the Agriculture Department NWFP on 13.01.1985, wherein the appellant adjusted / posted as surplus employees in the respondent No. 02 department against Draftsman (BPS-11) post in surplus panel on dated 15.05.2012. Copies of appointment letter and surplus pool letter No. 11878/DCO(P)EA are annexed herewith marked "A" & "B".
2. **That** after adjustment as surplus employee the appellant was serving in the respondent No. 02 & 03 department more than 33 years, whereas during the above referred period the petitioner performed his duties with utmost care and caution under the satisfaction / supervision of his immediate officers without any aggression or misconduct.
3. **That** it may however be submitted that appellant being a surplus pool employee obeying the orders of his superiors regarding any task / duty assigned to him regularly. In addition thereto. Whenever the respondent No. 02 was awarded orally as verbally any field works pertaining to appellant job the appellant fulfill the same with due diligence.
4. That without prejudice to the above it is submitted that the appellant forwarded an application one (01) month leave through proper channel to respondent No. 02 on dated 24.01.2018 but uncertainly prior to expiry of said leave period the respondent No. 02 issued Show Cause Notice dated 22.02.2018 to the appellant which is against the law & justice. Copy of application dated 24.01.2018 and Show

Cause Notice dated 22.02.2018 are annexed herewith marked “C” & “D”.

5. That the appellant soon after submitted reply to show cause notice on dated 01.03.2013 and denied the allegations mention therein, similarly the appellant was also submitted an application for retirement in the office of respondent No. 02 on dated 01.03.2018 respectively. Copies of the reply of show cause notice and application for retirement are annexed herewith marked “E” & “F”.
6. That it is respectfully submitted that respondent No. 02 on the basis of manipulation initiated disciplinary proceedings against the present appellant along with charge sheet on dated 29.03.2018, whereas the same was forcefully / hotly contested by the appellant through para wise reply filed on dated 03.04.2018. Copies of the disciplinary proceedings and reply of same is annexed herewith marked “G” & “H”.
7. That it is pertinent to mention here that after contesting the aforementioned correspondence the respondent No. 02 remained silent and till now never handed or submit their findings / report in favor or against the appellants, therefore the appellant again file an application for retirement alongwith all pensionery benefits on dated 01.09.2018 to the respondent department. Copy of the application is annexed herewith marked “I”.
8. That on the applications of appellant due to reason mention therein and on completion of qualifying service the

respondent No. 02 has retired the appellant from his service as "Surplus Head Draftsman (BPS-12) w.e.f. 3.09.2018 vide office order No. 26231/DCLP/ EA dated 10.10.2018, alongwith all pensionary benefits however remedy in question are not granted. Copy of the retirement letter & pension slip are annexed herewith marked "J" & "K".

9. That after retirement from service and making pension and gratuity it came to the knowledge of appellant that respondents have willfully, illegally or misconceptionally not added last 01 year lump sum salary i.e. encashment in the pension roll date sheet / pension slip which act of the respondents is against the law, the appellant filed an application for the same to the respondent No. 02 on dated 22.07.2019 but in vain. Copy of the application dated 22.07.2019 is annexed herewith marked "L".

10. That feeling aggrieved from the illegal, act of the respondents the appellant filed a departmental appeal before the concern forum on dated 20/02/2020 Wherein the same was time barred without any correspondence by the respondents department hence the present appeal on the following grounds amongst the other.

*Copy of the Departmental Appeal dated 20.02.2020 is annexed as marked "M".*


**GROUND S:**

- A. That the Appellant has not been treated in accordance with law, and his rights secured and guaranteed under the Law and Constitution have been violated.
- B. That the treatment met to the appellant is against the fundamental rights enshrined and protected under the Constitution of Islamic Republic of Pakistan, 1973.

- C. That if all there were any irregularity or illegality committed in the process, the same can neither be attributed to appellant nor can he be punished for the faults or lapses committed by others.
  
- D. That the Appellant has never committed any act or omission which could be termed as misconduct so the appellant is entitled for the recovery of his last 01 year salary mentioned as above.
  
- E. That it is submitted that the appellant being a surplus pool employee obeying the order of his superior regarding any task / duty assigned to him with due diligence.
  
- F. That the treatment met to the appellant is not only against the settle principles of administration of justice but also the same is against the principles of natural justice, whereas if the remedy in question would not be awarded to the appellant, the appellant would suffer irreparable loss which is against the law and justice.
  
- G. That the appellant is suffering with multiple diseases wherein the appellant has already recorded the same fact in the knowledge of respondent's department, besides the fact the appellant has some family medical issues thus financial condition of the appellant is unsound therefore at this stage the recovery of aforementioned amount would be in the best interest of justice and good governance.

- H. That appellant has qualified enough length of required service period for the encashment of lump sum salary.
- I. That at the time of resignation, appellant was having more than 25 years of service.
- J. That pay perks and enablement are consider as continuous and securing cause of action which can be agitated before any forum at any time.
- K. That the appellant craves permission of this Honourable Tribunal to rely on other grounds at the time of arguments and produce any additional document if required in support of his petition.


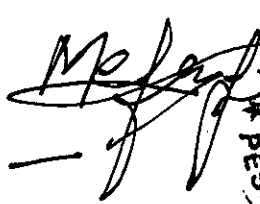

It is, therefore, most humbly prayed that the appeal may kindly be <sup>allowed</sup> ~~consider~~ as prayed for.

Appellant  
Through   
Malik Sajid Manzoor  
Advocate, High Court

Date: 02 . 06 . 2020

**AFFIDAVIT:**

It is solemnly affirm and declare that the contents of the **appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

  
DEPONENT  
  
  
2/6/2020

Annex 'A' (2 sheets) 7-17

OFFICE ORDER

Consequent upon recommendation of the Departmental Selection Committee in its meeting held on 29.12.1984, in this office Mr. Mohammad Akram s/o Mohammad Ayub, Superintendent Pakistan Forest Institute, Peshawar is hereby appointed on temporary basis as Head-Draftsman EPS-11 (Rs. 700-35-1400) in the office of the Agricultural Engineer, Peshawar Division, Tarnab, Peshawar (against an existing vacancy w.e. from the date of taking over the charge and subject to the following conditions:-

1. He shall be governed by the provisions of N.W.F.P Civil Servants Act, 1973 (N.W.F.P. Act No. XVIII of 1973) and, in matters not specifically mentioned in this office order, shall be governed by such rules and regulations relating to Leave, T.A, Medical Attendance Seniority etc, as has been or may be prescribed from time to time by Government for this category/status of Government servants to which he belongs.
2. His pay will be fixed in the Basic Pay Scale as above from the date of his taking over of the post.
3. He shall be governed by the Government servants conduct Rules, 1966 the NWFP Government Servants (Efficiency and Discipline) Rules, 1973 and any other instructions on the subject as may be issued by the Government of N.W.F.P. from time to time.
4. He will initially be on probation for a period of two years. His service will be liable to termination at any time without assigning any reasons before expiry of the period of probation/extended period of probation if his work and conduct during this period is not found satisfactory. In such an event he shall be given a month's pay in lieu of notice. If he wishes to resign at any time, a month's notice shall be necessary or in lieu thereof a month's pay shall be forfeited.
5. That he has not been previously dismissed or debarred from service of Government, Board, Local Body or Autonomous or Semi Autonomous Organization etc.
6. His employment will not in any case confer upon him any claim or right to permanent employment in the department. He will, however, be eligible for continuance and eventual confirmation on satisfactory completion of probation (including the extended period of probation if any, when a regular substantive vacancy in the post is available for him.
7. He shall not be entitled to any Travelling Allowance/Daily Allowance on his first appointment except in the case of permanent Government Servants.
8. He shall be liable to serve any-where within N.W.F.P.
9. He shall have to produce medical fitness certificates from Medical Superintendent Peshawar for which the Agril:Engineer, Peshawar shall issue, authority letter.
10. If the above terms and conditions of appointment are acceptable to him he should report for duty to the Agril:Engineer, Peshawar within 15 days from the date of issue of this order; failing which his appointment will be considered to have been cancelled.

**ATTESTED**

Sd/- (Sher Muhammad Khan),  
Director,  
Agril:Engineering,  
NWFP, Tarnab, Peshawar.

Next Page... 2...

*Original  
Noted to be  
True copy  
Malik Sajid Marwat Advocate*



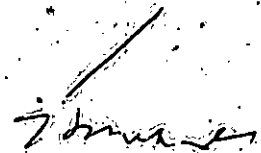
..... 2 .....

NO: U 36-38/DAE/3/8/Estt: dated Tarnab, the 13/85

Copy to the:-

- 1, Mr. Muhammad Akram Khan S/O Muhammad Ayub Khan House No.E-8  
Pakistan Forest Institute Colony Peshawar.
- 2. The Agricultural Engineer, Peshawar Division, Tarnab, Peshawar.
- 3. File 3/1/

for information and necessary action.



Director,  
Agricultural Engineering,  
N.W.F.P. Tarnab, Peshawar.

**ATTESTED**

Zahir Shah.

to be true copy

(9)

Annex "B"  
(2 sheets)

(6)

**OFFICE OF THE  
DISTRICT COORDINATION OFFICER  
CITY DISTRICT GOVERNMENT  
PESHAWAR.**

Dated Pesh:the 10/05/2012.

**OFFICE ORDER:**

No. 11878 /DCO(P)EA. In pursuance to Assistant Director-I, Finance Deptt. Khyber Pakhtunkhwa, Peshawar letter No.FMIU(FI)/4-1/2012/Surplus Pools dated 09/05/2012, the following surplus employees are hereby adjusted against the posts noted against each.

S.No.	Name	Designation	Adjusted against the post	Office/Department
1.	Mr. Muhammad Irfan	Motivation Officer (BPS-15)	Assistant (BPS-14)	Assistant Director LG&RDD Peshawar
2.	Mrs. Alice Qaiser	LHE(BPS-12)	Junior Clinical (Pathology) Technician (BPS-09)	Category-D, Hospital Mattani, Health Deptt: Peshawar
3.	Miss Ghazala Rohi	LHE(BPS-12)	Junior Clinical (Pathology) Technician (BPS-09)	Category-D, Hospital Mattani, Health Deptt: Peshawar
4.	Zafar Ali	Driller (BPS-1)	Driver(BPS-4)	Assistant Director LG&RDD, Peshawar.
5.	Muhammad Akram	Head Draftsman (BPS-11)	Draftsman(BPS-11)	Public Health Engineering Deptt., Torghar
6.	Muhammad Alam Zeb	Welder (BPS-7)	Naib Qasid(BPS-1)	Assistant Director LG&RDD, Peshawar
7.	Rahmat ullah	Asstt: Driller(BPS-7)	Naib Qasid(BPS-1)	GGPS Khapa, E&SE Deptt: Peshawar,
8.	Abid Hussain	Asstt: Driller(BPS-7)	Naib Qasid(BPS-1)	GPS, Garhi Mumtaz, E&SE Deptt: Peshawar.
9.	Q. Rafiq Ahmad	Welder(BPS-7)	Chowkidar(BPS-1)	EDO(E&SE) Peshawar
10.	Fazle Karim	Compositor(BPS-6)	Chowkidar(BPS-1)	EDO(E&SE) Peshawar.
11.	Muhammad Naeem	Grinderman(BPS-6)	Lab Attendant(BPS-1)	GMS Tehkal Payan No:2, E&SE Deptt: Peshawar.
12.	Hakim Khan	Comp:II(BPS-5)	Lab Attendant(BPS-1)	GHSS Garhi Sherdad, E&SE Deptt: Peshawar
13.	Bakhtiar Gul	Comp:II(BPS-5)	Lab Attendant(BPS-1)	GGMS Achimi Payan, E&SE Deptt: Peshawar
14.	Aftab Haider	Comp:II(BPS-5)	Lab Attendant(BPS-1)	GGHS Surizai Bala, E&SE Deptt: Peshawar.
15.	Noor-ul-Haq	Comp:II(BPS-5)	Lab Attendant(BPS-1)	GGHS Jogiwarā, E&SE Deptt: Peshawar.
16.	Mazhar Ali	Comp:II(BPS-5)	Naib Qasid(BPS-1)	GPS No.3, Aza Khel, E&SE Deptt: Peshawar.
17.	Shafqat Iqbal	M.C Attendant(BPS-5)	Naib Qasid(BPS-1)	GPS Jatti Bala, E&SE Deptt: Peshawar
18.	Muhammad Aslam	Distributor(BPS-4)	Chowkidar(BPS-1)	EDO(E&SE) Peshawar.

Note:

1. Pay, Allowances and Increment of the above officials will stand protected.
2. On the adjustment of the above surplus employees the task given to this office for adjustment of surplus employees has been completed.

**ATTESTED**

to be true copy  
Adv. 23/20

District Coordination Officer,  
Peshawar

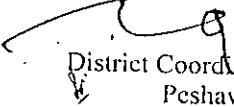
Attested to be true copy.  
Malik Sajid Manzoor Advocate

Endst: No. 11879-88 /DCO(P)/EA.

(10)

Copy of the above along with copy of the Finance Deptt: Khyber Pakhtunkhwa letter referred above is forwarded to the:-

1. Executive District Officer(F&P), Peshawar.
2. Executive District Officer(E&SE), Peshawar.
3. Executive District Officer(Health), Peshawar.
4. Chief Engineer, Public Health Engineering Department, Torghar.
5. District Comptroller of Accounts, Peshawar.
6. Assistant Director LG&RDD, Peshawar.
7. Assistant Director-I, Finance Deptt: Khyber Pakhtunkhwa w/r his letter referred above.
8. Section Officer (E-V), Govt. of Khyber Pakhtunkhwa, Establishment Department, Peshawar.
9. Accounts Officer of this office for preparation of LPC of above noted officials at the earliest.
10. Officials concerned by name for strict compliance.

  
District Coordination Officer  
Peshawar

**ATTESTED**

to be true copy  
Advocate

بخدمت جناب ڈی ڈی صاحب پشاور

درخواست برادر چھٹی دے جانا مارا۔ علاج حقیقی بھائی (کینسر)

جناب عالی: گزارش ہے کہ

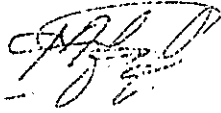
ف۔وی کا حقیقی بھائی مسی امتیاز کینسر کے موذی مرض میں مبتلا ہے جو کہ MH راولپنڈی میں شعبہ  
RADIOLOGY & IMAGING میں زیر علاج ہے۔ بس کا کچھ پتہ ہے کہ صحت ملے گی یا نہیں  
حالت خراب ہے۔ میرے علاوہ اس کی خاص دیکھ بھال کے لیے اور کوئی نہیں ہے۔

بحالات بالا استدعا ہے کہ مورخہ 24-01-2018 سے عرصہ ایک ماہ کے لیے earned leave یا  
Casual Leave گرانٹ کی جائے تاکہ میں ان ایام میں اپنے بھائی کی دیکھ بھال کر سکوں اور سرخوردہ ہوں  
(میڈیکل کے کاغذات لف ہذا ہیں)۔

سائل جناب کی بلندی مرتبت اور درازی عمر کے لیے تمام عمر دعا گو رہے گا۔

المقوم:

ارض



مقامی ایڈووکیٹ

پشاور

**ATTESTED**  
to be true copy  
Advocate

Attested to be true  
copy.

Malik Sajid Manzoor Advocate



**ARMED FORCES INSTITUTE OF RADIOLOGY & IMAGING**

ISO 9001:2008 CERTIFIED

Mal Road, Rawalpindi

Phone: 051-5582930/561-31864/Mob 0345-5122696

Reg.No. \_\_\_\_\_ Name CNE Imtiaz Age \_\_\_\_\_ Yrs Date 10-01-10

ULTRASOUND ABDOMEN

- **LIVER:** It is enlarged in size measuring 16.2 cm in midclavicular line. Parenchymal echogenicity is normal. Stent is seen in CBD extending into left hepatic duct. It shows echogenic content within the lumen alongside the drainage catheter, however, no vascularity detected in it. An echogenic intraductal lesion is seen at the region of confluence of right and left hepatic duct. It measures 2.8 x 1.1 cm and is causing moderate dilatation of intrahepatic biliary channels in right lobe. Left lobe ducts are not dilated. Portal vein caliber is normal.
- **GALL BLADDER:** Contracted (Post prandial).
- **SPLEEN:** It is enlarged measuring 14.4 cm in length. Multiple echogenic nodules are seen in the largest measuring 10.8 mm. These may represent hemangiomas/metastatic deposits.
- **PANCREAS:** Normal in size and texture. Pancreatic duct has a caliber of 3.1 mm.
- **RIGHT KIDNEY:** It is mildly enlarged measuring 13.0 cm with smooth contours. Parenchymal echogenicity is equal to that of liver. No calculus, mass, cyst or hydronephrosis is noted.
- **LEFT KIDNEY:** It is normal in size (12.5 cm) with smooth contours. Parenchymal echogenicity is equal to that of spleen. A simple anechoic cyst measuring 19.7 mm in size is noted at mid pole of left kidney. No septations/solid component/calcifications noted within it. No calculus, mass, cyst or hydronephrosis is noted.
- **URETERS:** Both ureters are not dilated.
- **URINARY BLADDER:** Normal wall thickness. No mass or calculus is noted.
- **GENERAL ABDOMEN:** Moderate abdominopelvic ascites is seen. No mass, lymphadenopathy noted.

Conclusion:

- Hilar cholangiocarcinoma with stenosis in CBD and moderate dilatation of right lobe duct.
- Moderate abdominopelvic ascites
- Splenomegaly with echogenic SOLS (may represent hemangiomas/mets)
- Left pleural effusion
- Right basal lung consolidation
- Mildly enlarged right kidney with grade I renal parenchymal echogenicity change bilateral
- Adv: S. RFTs
- Please see the comments in bold

**ATTESTED**  
to be true copy  
Advocate

Handwritten signature and notes in Urdu at the bottom of the page.

①  
THROUGH REGISTERED AD ⑬

Annex "D"  
(2 sheets)

IMMEDIATE



OFFICE OF THE  
DEPUTY COMMISSIONER  
PESHAWAR

No. 2532 /DC(P)/EA  
Dated Pesh. the 22/02/2018

To

Mr. Muhammad Akram,  
Surplus Head Draftsman,  
District Surplus Pool Peshawar,  
C/o Muhammad Ayub Khan, Office Supted Forest Colege,  
Quarter No.E/8, Forest Colony, Peshawar University Peshawar.

Subject: SHOW CAUSE NOTICE

Memo:

Enclosed please find herewith 2 copies of "SHOW CAUSE NOTICE" with the direction that one copy may be retained and the other copy be signed as a token of receipt and returned to this office for record immediately.

Encls: (As above)

  
Deputy Commissioner  
Peshawar

*Signed*  
Attested to be  
true copy.  
Malik Sajid Manzoor Advocate

**ATTESTED**

to be true copy  
Advocate

## SHOW CAUSE NOTICE

I, Islam Zaib, Deputy Commissioner Peshawar, as competent authority, under the Khyber Pakhtunkhwa Govt. Servants Efficiency and Discipline Rules 2011, do hereby serve you, **Muhammad Akram, Surplus Head Draftsman (BPS-12) of Surplus Pool District Peshawar**, as follows:

1. (i) That consequent upon report of your absence from duty w.e.f. **12-11-2015 (2 years and three months)** and
- (ii) On going through the facts and material on record,

I am satisfied that you have committed the following acts/omissions specified/falls under the purview of Section 3 of the said Ordinance:

- (a) That you are found absent from duty w.e.f. **12-11-2015 (2 years and three months)** without valid permission of the competent authority.
- (b) That you were called time & again to attend the office for duty but one way or other you are not following the instructions.
- (c) That lastly you were called for duty but instead of attending the office you sent an application through a courier service that your brother is seriously ill and suffering from cancer and therefore one month leave may be granted.
- (d) That your this act tentamounts towards ill-discipline, mis-conduct and dis-obedience and is liable to be proceeded under E&D Rules 2011.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you Major Penalty of Dismissal from service under section-4 of the said Rules.

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

4. If no reply to this notice is received within fifteen days of its delivery, in the normal course of circumstances, it shall be presumed that you have no defense to put in and in that case an exparte action shall be taken against you.

U.O.No. 2533 /DC (P)/EA.  
Dated 22/12/2018.

  
Deputy Commissioner  
Peshawar  
(Competent Authority)

**ATTESTED**  
to be true copy  
Advocate

15

Anwar E  
(2 sheets)

To

The Deputy Commissioner,  
Peshawar.

Subject: REPLY TO SHOW CAUSE NOTICE

Respected Sir,

Reference to your Show Cause Notice No. 2533/DC(P)EA dated 22.02.2018 in response of your show cause notice it is most respectfully submitted as under:

1. That I have always performed my duties without any fail or negligence and I have served my department by performing my job / duties smoothly, but even then I was always keen in my duties and for the reason I have never received any complaint / explanation from the department or highups etc. and I regularly received my monthly pay, it is pertinent to mention here that whenever I was asked verbally or in writing about any field work pertaining to my job I done it with great diligence.
2. Respected Sir, I as stated above whenever asked for my duties I abide the order of my highups / department.
3. Dear Sir, my younger brother is a chronic cancer patient and is still hospitalized in Rawalpindi and there is no one to look after him in the last days his physical condition was worse due to which I send an application for one month leave on 24.01.2018 which was going to expire on 24.02.2018 but prior to expiry of that period the show cause notice was issued to me, as I was with my younger brother at Rawalpindi Hospital.

*Forwards*  
Attested to be  
true copy.  
Mehrez Sajid Mansoor  
Advocate.

**ATTESTED**  
to be true copy  
Advocate

22/02/2018  
2018  
3  
2018



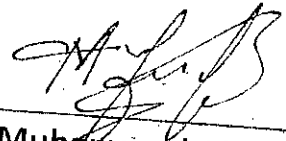
4. That I always abide the order of my superiors whenever any task / duty assigned to me by my high ups / department, I abide the order and the period / allegation which is mentioned in the show cause notice that for two years and three months I was absent from my job is totally against the reality and fact, as I was busy as surplus pool duty which is assigned to me by my highups and I performed my duties regularly, that's why I regularly received my monthly pay, so the allegation is totally baseless, against the reality and facts.

5. I always served the department with best satisfaction of my superior, furthermore I am at the verge of my retirement and going to move an application for retirement due to the reason that my younger brother required special care and expensive treatment.

It is, therefore, humbly requested before your goodself that keeping in view my lengthy service, my dedication towards the department, my brother illness, show cause notice may graciously be dropped.

I shall be very thankful to you for this act of kindness.

Yours Faithfully,



Muhammad Akram  
Surplus Head Draftsman (BPS-12)  
Surplus Pool, District Peshawar

**ATTESTED**

to be true copy  
Advocate

Dated: 01.03.2018

## بخدمت جناب ڈپٹی کمشنر صاحب ضلع پشاور

عنوان: درخواست بابت منظوری قبل از وقت ریٹائرمنٹ اور دیگر مراعات

جناب عالی!

مؤدبانہ گزارش ہے کہ فدوی آپ کے زیر سایہ بطور سرپلس ہیڈ ڈرافٹس مین (BPS-12) دفتر ہذا میں ملازمت سرانجام دے رہا ہے اور مورخہ 01/04/2018 کو 33 سال سے زائد سروس ہو جائیگی۔ فدوی اپنی بعض مشکلات کی وجہ سے مزید ملازمت جاری رکھنا نہیں چاہتا۔

لہذا آپ جناب سے التماس ہے کہ فدوی کو (F.N.) 01/04/2018 سے ریٹائرمنٹ کی منظوری عنایت فرما کر مشکور فرمادیں۔ اسکے علاوہ ایک سال کی یکمشت تنخواہ کے ساتھ دیگر مراعات کی منظوری بھی عنایت فرما کر مشکور فرمادیں۔

العارض

محمد اکرم ولد محمد ایوب

سرپلس ہیڈ ڈرافٹس مین (BPS-12)

ڈی سی آفس پشاور

*Sajid Mansoor*  
Attested to be true  
copy.  
Malik Sajid Mansoor  
Advocate

ATTESTED  
to be true copy  
Advocate

Office of the District  
Commissioner  
Peshawar

12295

01/03/18

(18) Annex 9  
(7 Sheets)

OFFICE OF THE  
**DEPUTY COMMISSIONER**  
PESHAWAR

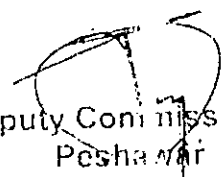
No. 3814 /DC(P)/EA  
Dated Pesh. the 29/3/2018

To  
Mr. Inayatullah Khan,  
Additional Assistant Commissioner-IX, Peshawar.

Subject: DISCIPLINARY PROCEEDINGS AGAINST MR. MUHAMMAD AKRAM SURPLUS HEAD DRAFTSMAN

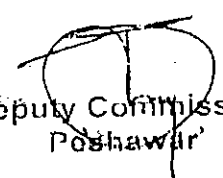
I, the undersigned, in the capacity as the Competent Authority under the Phyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, has approved initiation of disciplinary proceeding against Mr. Muhammad Akram, Surplus Head Draftsman, vide attached Statement of allegations. You are hereby appointed as Inquiry Officer to scrutinize the conduct of the aforesaid accused official vis-à-vis the statement of allegations and submit your findings, recommendations and report in accordance with the provisions of the said Rules.

Encls: As Above

  
Deputy Commissioner  
Peshawar

No. 3815 /DC(P)/EA.

Copy forwarded to Mr. Muhammad Akram Surplus Head Draftsman DC Office Peshawar alongwith copy of charge sheet & statement of allegations with the direction to appear before the Inquiry officer on the date, time and place fixed by him for the purposes of Inquiry proceedings.

  
Deputy Commissioner  
Peshawar

*Attested to be true copy.*  
*Malik Sajid Manzoor*  
*Advocate*

**ATTESTED**  
to be true copy  
Advocate

OFFICE OF THE  
DEPUTY COMMISSIONER  
PESHAWAR

No. 3814/DC(P)/EA  
Dated Pesh. The 29/03/2018

To

**Mr. Inayat Ullah Khan**  
**Additional Assistant Commissioner-IX, Peshawar**

**Subject: DISCIPLINARY PROCEEDINGS AGAINST MR. MUHAMMAD AKRAM SURPLUS HEAD DRAFTSMAN.**

I, the undersigned, in the capacity as the competent authority under the Khyber Pakhtunkhwa Government servants (efficiency & Discipline) Rules, 2011, has approved initiation of disciplinary proceeding against Mr. Muhammad Akram, Surplus Head Draftsman, vide attached statement of allegations. You are hereby appointed as inquiry officer to scrutinize the conduct of the aforesaid accused official vis-à-vis the statement of allegations and submit your findings, recommendations and report in accordance with the provision of the rules mentioned above within 5 days positively.

Encls: As above

Deputy Commissioner  
Peshawar.

No. 3815/DC(P)/EA.

Copy forwarded to Mr. Muhammad Akram Surplus head draftsman, DC office Peshawar alongwith copy of charge sheet & Statement of allegations with the direction to appear before the inquiry officer on the date, time and place fixed by him for the purposes of inquiry proceedings.

Deputy Commissioner  
Peshawar.

A A (19)

CHARGE SHEET

I, Islam Zeb, Deputy Commissioner, Peshawar as competent authority, hereby charge you, Muhammad Akram Surplus Head Draftsman, as follows:-

That you have committed the following irregularities:

- (a) That you are found absent from duty w.e.f. 12-11-2015 (2 years and three months) without valid permission of the competent authority.
- (b) That you were called time and again to attend the office for duty but you failed to follow the instructions.
- (c) That lastly you were called for duty but instead of attending the office you sent an application through a courier service that your brother was seriously ill and suffering from cancer, therefore, one month leave may be granted.
- (d) That your this act amounts towards ill-discipline, mis-conduct and dis-obedience and is liable to be proceeded under E&D Rules 2011.

2. By reasons of the above, you appear to be guilty of misconduct under rule 3 of the Khyber Pakhtunkhwa Govt. Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule 4 of the rules ibid.

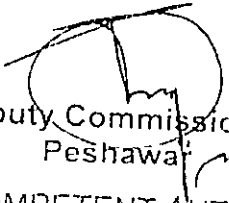
3. You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the Inquiry Committee.

4. Your written defense, if any, should reach the Inquiry Committee, within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.

5. Intimate whether you desire to be heard in person.

6. A Statement of allegations is enclosed.

**ATTESTED**  
to be true copy  
Advocate

  
Deputy Commissioner  
Peshawar  
(COMPETENT AUTHORITY)

**CHARGE SHEET**

I, Islam Zeb, Deputy Commissioner, Peshawar as competent authority hereby charge you, Muhammad Akram Surplus Head Draftsman, as follows:

That you have committed the following irregularities:

- (a) That you are found absent from duty w.e.f. 12-11-2015 (2 years and three months) without valid permission of the competently authority.
  - (b) That you were called time and again to attend the office for duty but you failed to follow the instructions.
  - (c) That lastly you were called for duty but instead of attending the office you sent an application through a courier service that your brother was seriously ill and suffering from cancer, therefore, one month leave may be granted.
  - (d) That your this act tantamount towards ill-discipline, misconduct and dis-obedience and is liable to be proceeded under E&D rules 2011.
2. By reasons of the above, you appear to be guilty of misconduct under rule-3 of the Khyber Pakhtunkhwa Govt. servants (efficiency and discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule 4 of the rules ibid.
  3. You are, therefore, required to submit your written defense within seven days of the receipt of this charge sheet to the inquiry committee.
  4. Your written defense, if any, should reach the inquiry committee, within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.
  5. Intimate whether you desire to be heard in person.
  6. A statement of allegations is enclosed.

Deputy Commissioner  
Peshawar.

To  
The Inquiry Committee,  
Office of the Deputy Commissioner,  
Peshawar.

Subject: Disciplinary Proceedings against Mr. Muhammad Akram surplus  
head draftsman Peshawar.

Dear Sir,

That the petitioner is serving the department since more than 33 years. During the above mentioned period the petitioner performed his duties, with utmost care and caution and no chance of any insubordination, misconduct, discipline has been given to his superiors rather performed his duties to the entire satisfaction of his superior officers.

Para-wise Reply

- a) That the petitioner performed his duties in accordance with the law and rules and had not been engaged in any willful absence rather he has more dutiful and obedient public servant. During the period mentioned in charge sheet he was present in the office in performance of his duties as per law, rules and procedure, the charge mentioned in head "A" is factually incorrect and cannot stand in the given circumstances. So, the petitioner request in that charge may kindly be withdrawn in the best interest of justice and good governance.
- b) In reply to charge "b" it is submitted that is also wrong and incorrect as there is a strong communication system in between employee and employer, no notice of absence has been served on the petitioner and no notice has been issued against the petitioner on any recognized courier service or through press or either through department dispatched rider, prior to 22.02.2018, rather the petitioner was present throughout the time period mentioned in charge head "A" on duty.
- c) In reply to charge head "c" is most humbly submitted as one of the younger brother of the petitioner namely Imtiaz is a chronic/ serious patient of cancer and he was advised to be seen by the medical staff Rawalpindi senior doctor specialist in the field of cancer so we arranged his appointment with them and for that purpose being his elder brother the

*Amir*  
Attested to be  
true copy.  
Malik Sajid Manzoor Advocate

petitioner deem it proper to apply a one month leave and forwarded an application for one month leave through proper channel, his application is available on record. So the petitioner have not made any absenty willfully, rather he had properly applied for leave.


- d) That in reply to charge "d" it is most humbly submitted as that head charge "a,b and c" are not sustainable, therefore, head charge "d" is not attracted in the given circumstances.

That the petitioner served this department for about more than 33 yeas and having good service history without any adverse entry in "ACR" and the performance of the petitioner throughout the service period was upto the mark, which was always appreciate by the superior officers, now the petitioner has already completed the targeted service and a patient of Sugar disease as well as other domestic responsibilities which needs his presence and service, that's why the petitioner filed an application for retirement, hence need for consideration admissible law, rules/ procedure in the best interest of justice and good governance.

It is, therefore, most humbly prayed that on acceptance of this reply, the show cause notice No.2532/DC (P)/EA dated 22.02.2018 and the enquiry No.3814/ DC(P)/ EA dated 29.03.2018 may kindly be withdrawn and the petitioner may kindly be exonerated from the charges in the best interest of justice and the application of the petitioner for retirement may be recommended and approved in the best interest of justice.

I shall be very thankful to you for this act of kindness.

Yours faithfully,

  
Muhammad Akram  
Surplus head draftsman (BPS-12)  
Surplus Pool District Peshawar

Dated: 03.04.2018



## بخدمت جناب ڈپٹی کمشنر صاحب ضلع پشاور

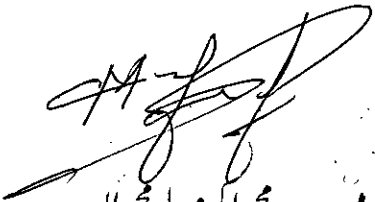
عنوان: درخواست بابت منظوری قبل از وقت ریٹائرمنٹ اور دیگر مراعات

جناب عالی!

مؤدبانہ گزارش ہے کہ فدوی آپ کے زیر سایہ بطور سرپلس ہیڈ ڈرافٹس میں (BPS-12) دفتر ہذا میں ملازمت سرانجام دے رہا ہے اور مورخہ 01/10/2018 کو 33 سال سے زائد سروس ہو جائیگی۔ فدوی اپنی بعض مشکلات کی وجہ سے مزید ملازمت جاری رکھنا نہیں چاہتا۔

لہذا آپ جناب سے التماس ہے کہ فدوی کو (F.N.) 01/10/2018 سے ریٹائرمنٹ کی منظوری عنایت فرما کر مشکور فرماویں۔ اسکے علاوہ ایک سال کی یکمشت تنخواہ کے ساتھ دیگر مراعات کی منظوری بھی عنایت فرما کر مشکور فرماویں۔

العارض



محمد اکرم ولد محمد ایوب 1-9-2018

سرپلس ہیڈ ڈرافٹس میں (BPS-12)

ڈی سی آفس پشاور

Attested to be true  
e.g.  
Mahik Sajid Manzoor  
Advocate



(23) Annex "J"  
OFFICE OF THE  
DEPUTY COMMISSIONER  
PESHAWAR

Dated Pesh. the 10 / 10 / 2018

**OFFICE ORDER:**

No. 26231 /DC(P)/EA.

On completion of qualifying service, Mr. Muhammad Akram Khan S/O Muhammad Ayub Khan, Surplus Head Draftsman (BPS-12) of District Surplus Pool Peshawar shall stand retired from service with effect from 30/09/2018(A.N) on his own request. His date of birth is 04/07/1963.

*M. A. Khan*  
Deputy Commissioner  
Peshawar

Endst. No. 26232-37 /DC(P)EA

Copy forwarded to the: -

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Addl. Deputy Commissioner, Peshawar.
3. Assistant Commissioner, Peshawar.
4. Accounts Officer of this office for further necessary action.
5. Section Officer (E-III), Establishment Deptt., Khyber Pakhtunkhwa, Peshawar.
6. Mr. Muhammad Akram Khan, Surplus Head Draftsman (BPS-12) for information.

*M. A. Khan*  
Deputy Commissioner  
Peshawar

*Signed*  
Attested to be  
true copy.  
Malik Sajid Manzoor  
Advocate.

**PENSION ROLL DATA SHEET & PENSION SLIP**

24  
Annex "K"

Date of issue : 15.02.2019  
 PO Type : FRESH  
 PPO Number : 00019980-01  
 Pensioner ID : 00019980  
 Pension Register No:  
 Pensioner's Name : **MOHAMMAD AKRAM**  
 Father / Husband name : **MUHAMMAD AYUB KHAN**  
 Designation: **HEAD DRAFTSMAN**  
 NIC No.: 1730115313501  
 Grade / Scale : 12  
 Department.Min: **DEPUTY COMMISSIONER (SURP)**  
 Pensioner's Type: **SELF**  
 Pension Type: **RETIRING PENSION**  
 Date of Birth : 04.07.1963  
 Date of appointment: 13.01.1985  
 Date of retirement: 01.10.2018  
 Date of Death:  
 Date of commence : 01.10.2018  
 Date of Restoration :  
 Accounts office ID : PW  
 Accounts office Name : AG KP Peshawar  
 Federal / Province : Khyber Pakhtunkhwa  
 Length of Qualifying Service : 33 years, 8 months, 18 days  
 Old PPO Number :  
 No. and Date of sanction of pension / Letter No. :  
 and the date of the other Audit and Accounts officer authorising  
 the Pension/Gratuity/Commutation  
 Permanent Address:

Note :  
 Age : 56 years  
 Last Drawn pay/Emoluments(Rs.): 43080.00  
 Gross Pension(Rs.) : 30156.00  
 1/4th Surrendered Portion (Rs.) :  
 Commuted Portion (Rs.) : 10554.60  
 Net Pension (Rs.) : 19601.40  
 Net Family Pension (Rs.) : 0.00  
 Amount of Commutation(Rs.) : 1844125.00  
 With Held Amount (Rs.) : 0.00  
 Life Time Arrears (Rs.) : 0.00  
 Arrears Of Pension (Rs.) : 0.00  
 Special Additional Pension (Rs.) : 0.00  
 Commutation Percentage : 35.00  
 Commutation Table value : 14.56  
 Recovery on A/C of :  
 Debitable to Govt : Khyber Pakhtunkhwa  
 Total Net Share  
 Federal : 0.00 Punjab : 0.00  
 Sindh : 0.00 NWFP : 0.00  
 Balochistan : 0.00 Military : 0.00  
 AJK : 0.00 Autonomous : 0.00

He/She is also entitled to the following increases

Sr. No.	Period	Increase % or amount	Increase Amount	W.E.F.
1	JUL.2011	15.00 %	2940.21	01.10.2018
2	JUL.2015	10.00 %	2254.16	01.10.2018
3	JUL.2016	10.00 %	2479.58	01.10.2018
4	JUL.2017	10.00 %	2727.54	01.10.2018
5	JUL.2018	10.00 %	3000.29	01.10.2018
6	0.	Rs. 0.00	0.00	
7				
8				
9				
10				
11				
12				
13				
14				
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16				
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22				
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25				
26				
27				

*Signature*  
 Approved to be true  
 Capt.  
 Malik Sajid Mansoor  
 Advocate

**PENSION SLIP**

Month: January  
 Year: 2019

**Pension roll details**

Wage Type	Wage Type Text	Amount
/559	Payment	156503.00
0100	Monthly Pension - Self	19601.00
0101	Pension-Increases - Self	13402.00
1599	Medical Allow - Pensioner	4900.00
1600	Med. All. 2015 Pensioner	1225.00
5901	Arrears of Pension	117375.00

**Bank Details**

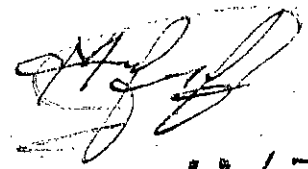
Bank Account Number : 0013000005681007  
 Bank Branch : SADDAR ROAD BRANCH PESHAWAR  
 SADDAR ROAD BRANCH PESHAWAR  
 Payment Mode : KHYBER BANK LIMITED

خدمت جناب DC صاحب پشاور KPK

جناب عالی!


گزارش ہے کہ فردی کے 10-10-2018 کو ریٹائرمنٹ کے آرڈر جاری ہوئے میں نے بوجہ بیماری Early ریٹائرمنٹ کے لیے مکمل سرکاری حقوق کے ساتھ درخواست دی تھی جبکہ میری تقریباً 6 سال کی سروس باقی تھی میں شوگر پتے میں پتھری اور گردے میں پتھری اور فالج کا مریض ہوں ریٹائرمنٹ کے بعد میری رہائش راولپنڈی میں ہے جس کی وجہ سے بار بار سفر نہیں کر سکتا اور دفتر کے چکر نہیں لگا سکتا۔ میری یکمشت سالانہ تنخواہ کا آرڈر ہونا باقی ہے۔ برائے کرم میری سال کی یکمشت تنخواہ کی رقم کی ادائیگی کے آرڈر جاری کیے جائیں تاکہ میری مالی مشکلات میں کچھ کمی ہو سکے۔ بیماری کے حوالے سے ڈاکٹری رپورٹس منسلک ہیں۔ امید ہے آپ دردمندی رکھتے ہوئے میری درخواست پر غور فرمائیں گے۔

آپ کی عین نوازش ہوگی

الحاض  


22/7/2018

محمد اکرم (ریٹائرڈ ڈرافٹس مین) سرپلس (BPS-12)

  
Attested to be true  
copy.  
Malik Sajid Manzoor  
Advocate

Deputy Commissioner  
Peshawar  
Diary No. 217/119  
Date 11/7/18

(26)

Annex "M"  
(4 sheets)

To

Deputy Commissioner,  
Khyber Pakhtunkhwa  
Peshawar.

Subject: **DEPARTMENTAL APPEAL FOR AND ON BEHALF  
OF APPELLANT FOR RECOVERY OF LAST 1  
YEAR OF RETIREMENT SALARY AS  
ENCASHMENT FROM THE RESPONDENT  
DEPARTMENT.**

Prayer:

On acceptance of this appeal the respondents may kindly  
be directed to passed an order for the recovery of last 01 year  
salaries of retirement as encashment.

Respected Sir,

I very humbly submits few lines for your kind and  
sympathetic consideration.

1. That appellant was appointed in the Agriculture Department  
NWFP on 13.01.1985, wherein the appellant adjusted / posted as  
surplus employees in the respondent No. 02 department against  
Draftsman (BPS-11) post in surplus panel on dated 15.05.2012.  
Copies of appointment letter and surplus pool letter No.  
11878/DCO(P)EA are annexed herewith marked "A" & "B".
2. That after performing my services for almost more than 33 years  
I retired from service w.e.f 30.09.2018, alongwith pensionary  
benefits however remedy in question was not granted to the  
appellant.

*Accepted to be true  
copy.  
Malik Sajid Manzoor  
Advocate*

3. That I approached so many times to the competent authority for the redressal of my grievance wherein the competent authority has remained silent and failed to do so. Hence the instant departmental appeal.
4. That I pray for the acceptance of departmental appeal inter alia on the following grounds.

**Grounds:**

- A. That I have not been treated in accordance with law hence my rights secured and guaranteed under the law which have been badly violated by the competent authority as well.
- B. That I am innocent, I performed my duties during my entire service career with zeal and honesty and there is not a single adverse remarks in my ACR which could show that I have not performed my duties according to the task given to me.
- C. That the treatment met to the appellant is against the fundamental rights enshrined and protected under the Constitution of Islamic Republic of Pakistan, 1973.
- D. That if all there were any irregularity or illegality committed in the process, the same can neither be attributed to appellant nor can he be punished for the faults or lapses committed by others.

E. That the Appellant has never committed any act or omission which could be termed as misconduct so the appellant is entitled for the recovery of his last 01 year salary mentioned as above.

F. That it is submitted that the appellant being a surplus pool employee obeying the order of his superior regarding any task / duty assigned to him with due diligence.

G. That the treatment met to the appellant is not only against the settle principles of administration of justice but also the same is against the principles of natural justice, whereas if the remedy in question would not be awarded to the appellant, the appellant would suffer irreparable loss which is against the law and justice.

H. That the appellant is suffering with multiple diseases wherein the appellant has already recorded the same fact in the knowledge of respondent's department, besides the fact the appellant has some family medical issues thus financial condition of the appellant is unsound therefore at this stage the recovery of aforementioned amount would be in the best interest of justice and good governance.

I. That appellant has qualified enough length of required service period for the encashment of lump sum salary.

J. That at the time of resignation, appellant was having more than 25 years of service.

K. That pay perks and emolument are consider as continuous and securing cause of action which can be agitated before any forum at any time.

It is, therefore, most humbly prayed that the appeal may kindly be allowed as prayed for.




*[Handwritten Signature]*  
APPELLANT

Muhammad Akram Khan S/o  
Muhammad Ayub Khan R10  
Larval Colony, Street  
NO: 6-B, Mohissa, Bariyan  
GPO Khas Tehsil / District  
Rawalpindi.  
Cell no: 0312 9346256.

Deputy Commissioner  
Peshawar  
Diary No. 3025  
Date 20-2-2020



30

قیمت 50 روپے	39618			
ایڈریس:		پشاور بار ایسوسی ایشن، خیبر پختونخوا		
بار کونسل ایسوسی ایشن نمبر:				
رابطہ نمبر: 0313-9394510				

بعدالت جناب: **خیبر پختونخوا سروسز راز سمرٹل لیشاور**

مخانب: <b>سائل</b>	دعوی:
<b>محمد اسلم</b>	علت نمبر:
<b>بنام</b>	مورخہ:
<b>افاؤٹ سنٹ جنرل KP وغیرہ</b>	جرم:
	تھانہ:

**باعث تحریر آنکہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ  
**آن مقام لیشاور کیلئے جسٹس ساجد منظور راہولہ کیلئے** کو وکیل 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 کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق  
 زبانی پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز  
 دائر کرنے اپیل گرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی  
 کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب  
 مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخست منظور و قبول ہوگا  
 دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے  
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے  
 المرقوم:



محمد اسلم خان ولد محمد انیس خان  
 17301-1531350-1

مقام لیشاور کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

*Accepted*

Case copy

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

Service Appeal No. \_\_\_\_\_/2020

Muhammad Akram Khan S/o Muhammad Ayub Khan R/o Liaqat Colony, Street No. 6-B, Mohirra Bariyan, GPO Khas Tehsil/ District Rawalpindi (Permanent Address)

.....Appellant

VERSUS

1. Accountant General Khyber Pakhtunkhwa.
2. Deputy Commissioner Peshawar.
3. Account Officer of Deputy Commissioner Peshawar Office.
4. Section Officer (E-III) Establishment Department, Khyber Pakhtunkhwa Peshawar.

.....Respondents

**APPEAL U/S 4 OF KPK SERVICE TRIBUNAL ACT  
1974 FOR AND ON BEHALF OF APPELLANT FOR  
RECOVERY OF LAST 1 YEAR OF RETIREMENT  
LUMP SUM SALARY AS ENCASHMENT FROM  
THE RESPONDENT'S DEPARTMENT.**

**Prayer:**

On acceptance of this appeal the respondents may kindly be directed to passed an order for the recovery of last 01 year salaries of retirement as encashment.

**Respectfully Sheweth:**

1. **That** appellant was appointed in the Agriculture Department NWFP on 13.01.1985, wherein the appellant adjusted / posted as surplus employees in the respondent No. 02 department against Draftsman (BPS-11) post in surplus panel on dated 15.05.2012. Copies of appointment letter and surplus pool letter No. 11878/DCO(P)EA are annexed herewith marked **"A"** & **"B"**.
2. **That** after adjustment as surplus employee the appellant was serving in the respondent No. 02 & 03 department more than 33 years, whereas during the above referred period the petitioner performed his duties with utmost care and caution under the satisfaction / supervision of his immediate officers without any aggression or misconduct.
3. **That** it may however be submitted that appellant being a surplus pool employee obeying the orders of his superiors regarding any task / duty assigned to him regularly. In addition thereto. Whenever the respondent No. 02 was awarded orally as verbally any field works pertaining to appellant job the appellant fulfill the same with due diligence.
4. That without prejudice to the above it is submitted that the appellant forwarded an application one (01) month leave through proper channel to respondent No. 02 on dated 24.01.2018 but uncertainly prior to expiry of said leave period the respondent No. 02 issued Show Cause Notice dated 22.02.2018 to the appellant which is against the law & justice. Copy of application dated 24.01.2018 and Show

Cause Notice dated 22.02.2018 are annexed herewith marked "C" & "D".

5. That the appellant soon after submitted reply to show cause notice on dated 01.03.2013 and denied the allegations mention therein, similarly the appellant was also submitted an application for retirement in the office of respondent No. 02 on dated 01.03.2018 respectively. Copies of the reply of show cause notice and application for retirement are annexed herewith marked "E" & "F".
6. That it is respectfully submitted that respondent No. 02 on the basis of manipulation initiated disciplinary proceedings against the present appellant along with charge sheet on dated 29.03.2018, whereas the same was forcefully / hotly contested by the appellant through para wise reply filed on dated 03.04.2018. Copies of the disciplinary proceedings and reply of same is annexed herewith marked "G" & "H".
7. That it is pertinent to mention here that after contesting the aforementioned correspondence the respondent No. 02 remained silent and till now never handed or submit their findings / report in favor or against the appellants, therefore the appellant again file an application for retirement alongwith all pensionery benefits on dated 01.09.2018 to the respondent department. Copy of the application is annexed herewith marked "I".
8. That on the applications of appellant due to reason mention therein and on completion of qualifying service the

respondent No. 02 has retired the appellant from his service as "Supplies Head Draftsman (BPS-12) w.e.f. 3.09.2018 vide office order No. 2633/DCPV EA dated 10.10.2018. Along with all pensionary benefits however remedy in pension are not granted. Copy of the retirement letter & pension slip are annexed herewith marked "J" & "K".

9. That after retirement from service and making pension and gratuity it came to the knowledge of appellant that respondents have willfully, illegally or misconceptually not added last 01 year lump sum salary i.e. encashment in the pension roll date sheet & pension slip which act of the respondents is against the law, the appellant filed an application for the same to the respondent No. 02 on dated 22.07.2019 but in vain. Copy of the application dated 22.07.2019 is annexed herewith marked "L".

10. That feeling aggrieved from the illegal act of the respondents the appellant filed a departmental appeal before the concerned forum on dated 20.09.2020 wherein the same was time barred without any correspondence by the respondents department hence the present appeal on the following

grounds amongst the other. *Copy of the Departmental Appeal dated 20.09.2020 is annexed as marked "M".*

GRUNDS:

A. That the Appellant has not been treated in accordance with law, and his rights secured and guaranteed under the Law and Constitution have been violated.

B. That the treatment met to the appellant is against the fundamental rights enshrined and protected under the Constitution of Islamic Republic of Pakistan, 1973.

C. That if all there were any irregularity or illegality committed in the process, the same can neither be attributed to appellant nor can he be punished for the faults or lapses committed by others.

D. That the Appellant has never committed any act or omission which could be termed as misconduct so the appellant is entitled for the recovery of his last 01 year salary mentioned as above.

E. That it is submitted that the appellant being a surplus pool employee obeying the order of his superior regarding any task / duty assigned to him with due diligence.

F. That the treatment met to the appellant is not only against the settle principles of administration of justice but also the same is against the principles of natural justice, whereas if the remedy in question would not be awarded to the appellant, the appellant would suffer irreparable loss which is against the law and justice.

G. That the appellant is suffering with multiple diseases wherein the appellant has already recorded the same fact in the knowledge of respondent's department, besides the fact the appellant has some family medical issues thus financial condition of the appellant is unsound therefore at this stage the recovery of aforementioned amount would be in the best interest of justice and good governance.

H. That appellant has qualified enough length of required service period for the encashment of lump sum salary.

I. That at the time of resignation, appellant was having more than 25 years of service.

J. That pay perks and enablement are consider as continuous and securing cause of action which can be agitated before any forum at any time.

K. That the appellant craves permission of this Honourable Tribunal to rely on other grounds at the time of arguments and produce any additional document if required in support of his petition.

It is, therefore, most humbly prayed that the appeal may kindly be ~~granted~~<sup>allowed</sup> as prayed for.

Appellant

Through

**Malik Sajid Manzoor**  
Advocate, High Court

Date: 02.06.2020

**AFFIDAVIT:**

It is solemnly affirm and declare that the contents of the **appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

DEPONENT

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**

**Appeal No.5700/2020**

Muhammad Akram Khan S/o Muhammad Ayub Khan R/o Liaqat Colony, Street No.6-B, Mohirra Bariyan, GPO Khas Tehsil & District Rawalpindi .....(Appellant)

**VERSUS**

1. Accountant General Khyber Pakhtunkhwa
2. Deputy Commissioner, Peshawar
3. Accounts Officer of Deputy Commissioner Peshawar office
4. Section Officer (E-III) Establishment Department, Khyber Pakhtunkhwa Peshawar  
.....(Respondents)

**INDEX**

<b>S.No</b>	<b>Description of Documents</b>	<b>Annexure /Pages</b>
1	Authority letter	1
2	Affidavit	2
3	Parawise comments	3&4
4	Khyber Pakhtunkhwa Revised Leave Rules 1981, section 20	A



(1)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**

**Appeal No.5700/2020**

Muhammad Akram Khan S/o Muhammad Ayub Khan R/o Liaqat Colony, Street No.6-B, Mohirra Bariyan, GPO Khas Tehsil & District Rawalpindi .....(Appellant)

VERSUS

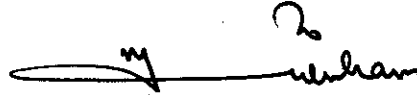
1. Accountant General Khyber Pakhtunkhwa
2. Deputy Commissioner, Peshawar
3. Accounts Officer of Deputy Commissioner Peshawar office.
4. Section Officer (E-III) Establishment Department, Khyber Pakhtunkhwa Peshawar  
.....(Respondents)

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**AUTHORITY LETTER**

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Mr. Muhammd Adnan Khattak, Additional Assistant Commissioner(HQ), Peshawar is hereby authorized to prepare Para-wise comments duly vetted by Additional Advocate General Khyber Pakhtunkhwa, within the stipulated period of time and submit the same in the Khyber Pakhtunkhwa Services Tribunal on behalf of undersigned and subsequently attend the honourable Services Tribunal on every date of hearing and progress be reported of the final decision made in the case.



Deputy Commissioner  
Peshawar

DEPUTY COMMISSIONER  
PESHAWAR

(1)(2)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**

**Appeal No.5700/2020**

Muhammad Akram Khan S/o Muhammad Ayub Khan R/o Liaqat Colony, Street No.6-B, Mohirra Baruan, GPO Khas Tehsil & District Rawalpindi .....(Appellant)

**VERSUS**

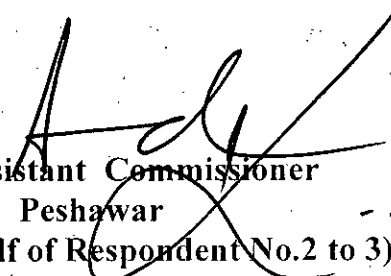
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.....(Respondents)

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**AFFIDAVIT**

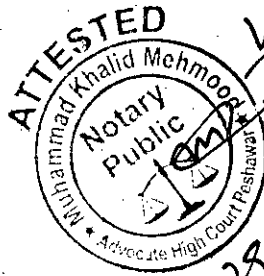
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I, on behalf of, Respondents No.2 to 3 do hereby solemnly affirm and declare on oath that the contents accompanying Para-wise comments submitted are true and correct to the best of my knowledge and belief and that nothing has been concealed from this honourable court and authorize Advocate General Khyber Pakhtunkhwa to defend the instant writ petition on behalf of Respondent No.2 to 3.

  
Addl. Assistant Commissioner  
Peshawar  
(One behalf of Respondent No.2 to 3)

Identified by:

Advocate General,  
Khyber Pakhtunkhwa,  
Peshawar



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**

**Appeal No.5700/2020**

Muhammad Akram Khan S/o Muhammad Ayub Khan R/o Liaqat Colony, Street No.6-B, Mohirra Bariyan, GPO Khas Tehsil & District Rawalpindi .....(Appellant)

**VERSUS**

- 1. Accountant General Khyber Pakhtunkhwa
- 2. Deputy Commissioner, Peshawar
- 3. Accounts Officer of Deputy Commissioner Peshawar office
- 4. Section Officer (E-III) Establishment Department, Khyber Pakhtunkhwa Peshawar .....(Respondents)

**JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.2 TO 3**

Respectfully Sheweth,

**Preliminary Objections.**

- 1. That the appellant in the instant case has no locus standi or cause of action to institute present appeal.
- 2. That the appellant has not come to this honourable Tribunal with clean hands.
- 3. That the appellant is estopped by his own conduct to file the instant appeal.
- 4. That the appeal is not maintainable in the present form.
- 5. That the instant appeal is barred by law and limitation.

**OBJECTION ON FACTS.**

- 1. Matter pertains to record, however, he was serving as surplus pool employee.
- 2. Incorrect. He was not obeying the orders of his superiors. He was a habitual absentee.
- 3. Incorrect, as Para-2 above. He usually made himself absent, kept his cell phone off.
- 4. Correct to the extent that he forwarded the application, but it was a lame excuse for not performing the duty and hence was issued Show Cause Notice due to his continuous absence.
- 5. Incorrect. He was charged correctly according to E&D Rules 2011.
- 6. Incorrect. As the Show Cause Notice Reply was not satisfactory, disciplinary action was initiated according to E&D Rules 2011.
- 7. The appellant was retired from service keeping in view his attitude towards duty.
- 8. As above Para-7.
- 9. The appellant was granted all the other pensionary benefits except leave encashment because it is allowed to those who perform duty and not avail LPR under Khyber Pakhtunkhwa Civil Servant Revised Leave Rules, 1981 section 20 (copy attached as Annex-A), while the appellant made himself deliberately absent from duty during that whole period. Hence, leave encashment was not sanctioned
- 10. He was not allowed the leave encashment under the Revised Leave Rules 1981 as mentioned in Para-6 above.

(7/14)

U  
GROUNDS

- A. Incorrect. The appellant has been dealt with according to the Law made for the purpose.
- B. Incorrect. No fundamental rights was infringed rather government rules were implemented accordingly.
- C. Incorrect. The appellant was rightly dealt with according to the rules/regulations.
- D. Incorrect. He was not interested in his job, made himself absent from duty, did not obey the orders of his superiors and hence was dealt with under the rules.
- E. Incorrect. As above Para-D.
- F. Incorrect. As above Para-D.
- G. Incorrect. He is a habitual lame excuser.
- H. Incorrect. He is not entitled for the leave encashment under the revised leave rules 1981.
- I. Incorrect. He has not resigned from service, but applied for early retirement which was granted.
- J. Incorrect. Those who failed to fulfill the criteria framed by the Government are not entitled for the perks.
- K. No comments.

It is, therefore, requested that the appeal may kindly be dismissed with cost.



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Accounts Officer,  
Deputy Commissioner Office  
Peshawar  
(Respondent No.3)



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Deputy Commissioner  
Peshawar  
(Respondent No.2)

## <sup>1</sup>[Khyber Pakhtunkhwa] Civil Servants Revised Leave Rules, 1981

**No. FD. SO (SR-IV) 5-54 / 80 (Vol:II) dated 17-12-1981.**---In exercise of the powers conferred by section 26 of the <sup>2</sup>[Khyber Pakhtunkhwa] Civil Servants Act, 1973 (<sup>3</sup>[Khyber Pakhtunkhwa] Act XVIII of 1973) and in supersession of this Department's Notification No. FD.SO(SR-IV) 1-17/78, dated the 20<sup>th</sup> November, 1979, the Governor of the <sup>4</sup>[Khyber Pakhtunkhwa] is pleased to make the following rules namely:--

**1. Short title, commencement and application.**---(1) These rules may be called the <sup>5</sup>[Khyber Pakhtunkhwa] Civil Servants Revised Leave Rules, 1981.

(2) They shall come into force at once.

(3) They shall apply to all Civil Servants under the rule making authority of the Governor except those who opted not to be governed by the <sup>6</sup>[Khyber Pakhtunkhwa] Civil Servants Leave Rules, 1979.

**2. Admissibility of Leave of Civil Servant.**---Leave shall be applied for, expressed and sanctioned in terms of days and shall be admissible to a civil servant at the following rate and scale:---

(i) A civil servant shall earn leave only on full pay. It shall be calculated at the rate of four days for every calendar months of the period of duty rendered and credited to the leave account as "leave on fully pay" duty period of 15 days or less in a calendar month being ignored and those of more than 15 days being treated as a full calendar month, for the purpose. If a civil servant proceeds on leave during a calendar month and returns from it during another calendar month and the period of duty in either month is more than 15 days, the leave to be credited for both the incomplete months will be restricted to that admissible for one full calendar month only.

(ii) The provisions of clause (i) will not apply to vacation departments. A civil servant of a vacation department may earn leave on full pay as under:--

- |  |   |
|--|---|
| (a) When he avails himself of vacation in a calendar year.                           | At the rate of one day of every calendar month of duty rendered;  |
| (b) When during any year he is prevented from availing himself of the full vacation. | As for a civil servant in non-vacation Department for that year; and  |
| (c) When he avails himself of only a part of the vacation.                           | As in (a) above plus such proportion of thirty days as the number of days of vacation not taken bears to the full vacation. |

<sup>1</sup> Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>2</sup> Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>3</sup> Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>4</sup> Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>5</sup> Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>6</sup> Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

- (iii) There shall be no maximum limit on the accumulation of such leave.

<sup>7</sup>[Note. Deleted]

**3. When leave earned.**---(a) All service rendered by a civil servant qualifies him to earn leave in accordance with these rules but shall not be earned during the period of leave.

(b) Any period spent by a civil servant in foreign service qualifies him to earn leave provided that a contribution towards leave salary is paid to the Government on account of such period.

**4. Grant of Leave on Full Pay.**---(1) The maximum period of leave on full pay that may be granted at one time by the competent authority shall be as follows:--

- |      |                             |     |          |
|------|-----------------------------|-----|----------|
| (i)  | Without medical certificate | ... | 120 days |
| (ii) | With medical certificate    | ... | 180 days |

**PLUS**

- |       |  |     |          |
|-------|--|-----|----------|
| (iii) | On medical certificate from leave account in entire service. | ... | 365 days |
|-------|--|-----|----------|

(2) The maxima prescribed at (i) and (ii) of sub-rule (1) are independent of each other. In other words a civil servant may be granted, at a time, total leave on full pay on medical certificate upto the permissible extent in continuation of leave upto 120 days without medical certificate, subject to given conditions.

**5. Grant of Leave on Half Pay.**---(1) Leave on full pay may be converted into leave on half pay, at the option of the civil servant.

(2) Debits to the leave account will be at the rate of one day of the former for every two days of the latter, fraction of one-half counting as one full day's leave on full pay.

(3) The request for such conversion shall be specified by the civil servant in his application for the grant of leave.

(4) There shall be no limit on the grant of leave on half pay so long as it is available by conversion in the leave account.

**6. Conversion of Leave Account.**---(1) All leave at credit in the account of a civil servant who was in service on the 1st day of July, 1978, shall be carried forward and expressed in terms of leave on full pay. The leave account in such cases shall, with effect from 1st July, 1978 or in case of civil servant who was on leave on that date with effect from the date of his return from leave, be recast as under, ignoring the fraction if any:--

- |      |                    |         |             |
|------|--------------------|---------|-------------|
| (i)  | Leave of full pay— |         |             |
|      | (a)                | 1 month | ... 30 days |
|      | (b)                | 1 day   | ... 1 day   |
| (ii) | Leave on half pay— |         |             |
|      | (a)                | 1 month | ... 15 days |
|      | (b)                | 2 day   | ... 1 day   |

(2) In carrying forward the leave, the leave at credit of a civil servant in columns 7 and 8 and half of the leave at credit in column 9 of the existing leave account shall be carried forward to the new leave account of the civil servant.

<sup>7</sup>. The "Note" at the end of rule 2 deleted by Notification No. FD. 50(SR-IV)5-54/80(Vol.II), dated 01-06-1982.

(3) The leave availed under the existing rules from column 13 (a) of the leave account shall be debited against the maximum limit of 365 days fixed under rule 4 (1) (iii).

**7. Leave not due.**---(1) Leave not due may be granted on full pay, to be offset against leave to be earned in future, for a maximum period of three hundred and sixty five days in the entire period of service, subject to the condition that during the first five years of service it shall not exceed ninety days in all.

(2) Such leave may be converted into leave on half pay.

(3) Such leave shall be granted only when there are reasonable Chances of the Civil Servant resuming duty on the expiry of the leave.

(4) Such leave shall be granted sparingly and to the satisfaction of the sanctioning authority but it shall not be admissible to the temporary civil servants.

**8. Leave Salary.**---(1) Leave pay admissible during leave on full pay shall be the greater of--

(a) the average monthly pay earned during the twelve complete months immediately preceding the month in which the leave begins; and

(b) the rate equal to the rate of pay drawn on the day immediately before the beginning of the leave.

(2) When leave on half pay is taken, the amount calculated under clause (a) and (b) of sub-rule (1) shall be halved to determine the greater of the two rates.

<sup>8</sup>[(3) A civil servant shall be entitled to the leave pay at the revised rate of pay if a general revision in pay of civil servants takes place or an annual increment occurs during the period of leave of the civil servant.]

**9. Special Leave to Female Civil Servants.**---As female civil servant may, on the death of her husband, be granted special leave on full pay not exceeding 130 days. This leave shall not be debited to her leave account and will commence from the date of death of her husband. For this purpose she will have to produce death certificate issued by competent authority either alongwith her application for special leave or, if that is not possible, the said certificate may be furnished to the leave sanctioning authority separately.

**10. Maternity Leave.**---(1) Maternity leave may be granted on full pay, outside the leave account, to a female civil servant to the extent of ninety days in all from the date of its commencement or forty five days from the date of her confinement, whichever ever be earlier.

(2) Such leave may not be granted for more than three times in the entire service of a female civil servant except in the case of a female civil servant employed in a vacation department who may be granted maternity leave without this restriction.

(3) For confinement beyond the third one, the female civil servant would have to take leave from her normal leave account.

(4) The spells of maternity leave availed of prior to the coming into force of these rules shall be deemed to have been taken under these rules.

(5) Maternity leave may be granted in continuation of, or in combination with, any other kind of leave including extraordinary leave as may be due and admissible to a female civil servant.

<sup>8</sup> Sub-rule (3) of rule 8 rule 8 added by Notif. No. FD.SO(SR-IV)5-54/80-Vol.III, dated 26.10.1994.

(6) Leave salary to be paid during maternity leave shall be regulated as for other leave, in accordance with the formula provided in rule 8.

(7) The leave salary to be paid during maternity leave will, therefore, remain unaffected even if any increment accrues during such leave and the effect of such an increment will be given after the expiry of maternity leave.

**11. Disability Leave.**---(1) Disability leave may be granted outside leave account on each occasion upto a maximum of seven hundred and twenty days on such medical advice as the head of office may consider necessary, to a civil servant, other than civil servant in part time service, disabled by injury, ailment or disease contracted in course or in a consequence of duty or official position.

(2) The leave salary during disability leave shall be equal to full pay for the first one hundred and eighty days and on half pay for the remaining period.

**12. Extraordinary Leave (Leave without Pay).**---(1) Extraordinary leave may be granted on any ground upto a maximum period of five years at a time; provided that the civil servant to whom such leave is granted has been in continuous service for a period of not less than ten years. In case a civil servant has not completed ten years of continuous service, extraordinary leave without pay for a maximum period of two years may be granted at the discretion of the leave sanctioning authority. This leave can be granted irrespective of the fact whether a civil servant is a permanent or temporary employee.

(2) The maximum period of extraordinary leave without pay combined with leave on full pay and leave on half pay shall be subject to the limit of 5 years prescribed in FR-18, i.e. the maximum period of extraordinary leave without pay that would be admissible to a civil servant who has rendered continuous service for a period of not less than 10 years shall be 5 years less the period of leave on full pay and leave on half pay so combined.

<sup>9</sup>[(3) Extraordinary leave may be granted retrospectively in lieu of absence without leave.]

**13. Leave on Medical Certificate.**---Leave applied for on medical certificate shall not be refused. The authority competent to sanction leave may, however, at its discretion, secure a second medical opinion by requesting the Civil Surgeon or the Medical Board to have the applicant medically examined. The existing provisions contained in Supplementary Rules 212, 213 and Rule 220 to 231 for the grant of leave on medical grounds will continue to apply.

**14. Leave Preparatory to Retirement.**---The maximum period upto which a Civil Servant may be granted leave preparatory to retirement shall be 365 days only. It may be taken subject to availability in the leave account, either on full pay or partly on full pay and partly on half pay, or entirely on half pay, at the discretion of the Civil Servant and it will not extend beyond the age of superannuation.

**15. Recreation Leave.**---Recreation leave may be granted for fifteen days once in a calendar year, the debit to the leave account may, however, be for ten days leave on full pay;

Provided that such leave shall not be admissible to a Civil servant in a vacation department.

**Note:** Casual Leave (as Recreation Leave) shall, however, continue to be granted for 10 days only subject to other conditions under Government instructions.

**16. Leave Ex-Pakistan.**---(1) Leave Ex-Pakistan may be granted on full pay to a civil servant who applied for such leave or who proceeds abroad during leave, or takes leave while posted abroad or is otherwise on duty abroad and makes a specific request to that effect.

(2) The leave pay to be drawn abroad shall be restricted to a maximum of three thousand rupees per month.

<sup>9</sup>. Sub-rule (3) of rule 12 added by Notification NO. FD.SO(SR-IV)5-54/80 (Vol.II), dated 01.06.1982.



(3) The leave pay shall be payable in sterling, if such leave is spent in Asia other than Pakistan and India.

(4) Such leave pay shall be payable for the actual period of leave spent abroad subject to maximum of one hundred and twenty days at a time.

(5) The civil servants appointed after 17th May, 1958, shall draw their leave salary in rupees in Pakistan irrespective of the country where they spent their leave.

(6) Leave Ex-Pakistan will be regulated and be subject to the same limits and conditions as prescribed in rule 4,5 and 12.

**17. Assigning reasons for leave.**---It shall not be necessary to specify the reasons for which leave has been applied, so long as that leave is due and admissible to a civil servant.

**18. Commencement and end of leave.**---Instead of indicating whether leave starts / ends in the forenoon or after-noon, leave shall commence from the day following that on which a civil servant hands over the charge of his post. It shall end on the day preceding that on which he resumes duty.

**19. Absence after the expiry of leave.**---Unless his leave is extended by the leave sanctioning authority, a civil servant who remains absent (except for circumstances beyond his control) after the end of his leave shall not be entitled to any remuneration for the period of such absence and double period of such absence shall be debited against his leave account. Such debit shall if there is insufficient credit in the leave account, be adjusted against future accumulations. Such double debit shall not preclude any disciplinary action that may be considered necessary under any rule for the time being in force after affording a reasonable opportunity to the civil servant concerned to indicate his position.

<sup>10</sup>**20. Encashment of Leave Preparatory to Retirement.**--- <sup>11</sup>[(1)] Where a civil servant opts not to avail the leave preparatory to retirement admissible to him under rule 14, he shall be allowed leave salary for the period for which leave preparatory to retirement is admissible, subject to a maximum of <sup>12</sup>[three hundred and sixty-five] days. For the purpose of lump sum payment in lieu of leave preparatory to retirement only the senior post allowance will be included in the leave pay so admissible. The payment of leave pay in lieu of leave preparatory to retirement may be made to the civil servant either in lump sum at the time of retirement or may at his option, be drawn by him monthwise, in arrears, for and during the period of leave preparatory to retirement. This amendment shall take effect from 01.07.1983.]

<sup>13</sup>[(2)] Encashment of leave preparatory to retirement (LPR) not exceeding three hundred and sixty five days shall be effective from the first day of July, 2012 and shall, for the entire period of leave refused or opted for encashment, be applicable to a civil servant retired or, as the case may be, retiring on or, after the first day of July 2012, provided such leave is available at his credit subject to a maximum of three hundred and sixty five days.

(3) If at any time during such period, leave is granted on account of ill health supposed by medical certificate or for performance of Hajj, the amount of cash compensation on account of leave pay shall be reduced by an amount equal to the leave pay for the period of leave so granted]

(4) Leave pay for the purpose of encashment of LPR shall be computed on the basis of pay and allowances reckonable towards pension as shown in the last pay certificate of a civil servant.]

<sup>14</sup>**21. In Service Death, etc.**---(1) In case a civil servant dies, or is declared permanently incapacitated for further service by a Medical Board, while in service, a lump sum payment equal to leave

<sup>10</sup> Rule 20 substituted by Notification No. FD.SO(SR-IV)5-54(Vol:II), dated 24th August, 1983.

<sup>11</sup> Renumbered as sub-rule (1) by Notification No. (FR)FD-5-92/2005/Vol-V, DATED 13-12-2012

<sup>12</sup> Substituted for the words "one hundred and eighty" by Notification No. (FR)FD-5-92/2005/Vol-V, DATED 13-12-2012.

<sup>13</sup> Substituted for the words "one hundred and eighty" by Notification No. (FR)FD-5-92/2005/Vol-V, DATED 13-12-2012.

<sup>14</sup> Rule 21 substituted by Notification No.FD.SO(SR-IV)5-54/80(Vol:III), dated 03.05.1988

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

Muhammad Akram

V E R S U S

A.G, Khyber Pakhtunkhwa and others

**APPLICATION FOR ADJOURNMENT**

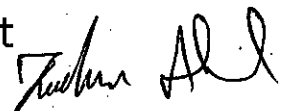
**Respectfully Sheweth:**

1. That the titled case is pending adjudication before this Honourable Tribunal and is fixed for today i.e. 26.09.2022.
2. That the counsel for Appellant is suffering from fever due to chest infection and could not appear before this Honourable Tribunal for today i.e. 26.09.2022.
3. That it is respectfully submitted that the instant Appeal may kindly be fixed for next date as soon as possible as per the convenient of this Hon'ble Tribunal.

It is, therefore, respectfully prayed that on acceptance of this application, the case may kindly be adjourned to some other date, convenient to this Honourable Court.

Applicant

**Malik Sajid Manzoor**  
Advocate, High Court  
through Clerk  
Cell # 0315-9190075



Dated: 26.09.2022