

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	29.08.2016	<p style="text-align: center;">3</p> <p style="text-align: center;"><u>BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR</u></p> <p style="text-align: center;">Appeal No. 1453/2013</p> <p style="text-align: center;">Atifullah Versus Province of Khyber Pakhtunkhwa through Secretary, Public Health Engineering Department, Peshawar etc.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-</u></p> <p style="text-align: center;">Counsel for the appellant and Mr. Muhammad Jan, Government Pleader for respondents present.</p> <p>2. Atifullah son of Rahim Khan hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against order dated 04.06.2013 whereby he was removed from service and where-against his departmental appeal dated 24.06.2013 was not responded and hence the instant service appeal on 22.10.2013.</p> <p>3. Brief facts giving rise to the present appeal are that the appellant was appointed as Operator-cum-Chowkidar on WSS Khan Malook Bogaran in BPS-1 vide order dated 08.11.2010. That while serving so he was proceeded against departmentally on the allegations of willful absence and his services terminated with immediate effect vide impugned order dated 04.6.2013.</p> <p>4. Learned counsel for the appellant has argued that neither</p>

*Handwritten signature and date:*  
29.08.16

any enquiry was conducted under Government Servants (E&D) Rules, 2011 nor procedure prescribed for removal from service was adopted as the appellant was available for duty and was obstructed by one Khan Malook owner of the property provided for the installation of Tube-Well. That, otherwise, publication was made only in one newspaper and as such the impugned order is liable to be set aside.

5. Learned Government Pleader has argued that the appellant failed to perform duty despite issuance of notice including show case notice dated 13.05.2013.

6. According to material placed on record the appellant was appointed as Tube-well Operator-cum-Chowkidar vide appointment order dated 08.11.2010. There are various applications of the appellant wherein he has informed the SDO Sub-Division concerned as well as XEN, PHE District Karak, complaining therein, that Khan Malook alleged owner of the property provided for installation of Tube-Well is not allowing him to perform his duty. In such a situation it would not be safe to infer that the appellant intentionally absented himself from performing his duty. Even otherwise requirements of Rule-9 of the Government Servants (E&D) Rules, 2011 were not complied with as the advertisement was made in one newspaper instead of two and defence of appellant not conducted despite availability of the appellant.


7. In the afore-stated circumstances we are constrained to accept the present appeal, set aside the impugned order dated

29.08.16

04.6.2013 and reinstate the appellant in service with the directions to respondents to conduct enquiry in order to ascertain as to whether the appellant intentionally absented himself from duty or obstructed by the said Khan Malook alleged owner of the property. Appellant be given opportunity of participation in the enquiry proceedings which shall be conducted and concluded within a period of 2 months from the date of receipt of this judgment. In case the respondents fail to conduct and conclude the enquiry within the specified period then it shall be deemed that the appellant has been reinstated in service and his period of absence from duty, in such circumstances, shall be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

  
(Muhammad Azim Khan Afridi)  
Chairman

29.08.16

  
(Pir Bakhsh Shah)  
Member

ANNOUNCED  
29.08.2016

09.05.2016

Appellant in person and Mr. Noor Muhammad, SOG

alongwith Mr. Usman Ghani, Sr,GP for respondent present.

Appellant requested for adjournment due to General Strike of the Bar. To come up for arguments on 29.08.2016..



Member

10.10.2014

Clerk to counsel for the appellant and Mr. Muhammad Jan,

GP with Muhammad Farooq, SO for the respondents present.

Due to incomplete Bench, case is adjourned to 04.3.2015 for arguments.

  
MEMBER

10.10.2014

Clerk to counsel for the appellant and Mr. Muhammad Jan,

4.3.2015

GP with Appellant in person and Mr. Muhammad Jan,

GP for the respondents present. Counsel for the appellant is not available. To come up for arguments on 8.07.2015.

  
MEMBER

  
MEMBER

10.10.2014

Clerk to counsel for the appellant and Mr. Muhammad Jan,

GP with respondents present.

08.07.2015

Counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Learned counsel for the appellant requested for adjournment. To come up for arguments on 01-01-16.

  
Member

  
Member

10.10.2014

01.01.2016

Clerk to counsel for the appellant and Assistant AG for respondents present. Arguments could not be heard due to incomplete Bench. To come up for arguments on 9.5.2016 before D.B.

  
Member

3.3.2014

Appellant in person and Mr. Muhammad Jan, GP present. Fresh notices be issued to the respondents. To come up for written reply on 26.3.2014.

MEMBER

MEMBER

26.3.2014

Counsel for the appellant and AAG with Azizur Rahman, SDO for the respondents present and reply filed.. Copy handed over to counsel for the appellant. To come up for rejoinder on 12.5.2015.

MEMBER

12.5.2014.

Counsel for the appellant and Mr. Muhammad Jan, GP with Muhammad Farooq, Assistant Social Organizer for the respondents present. Rejoinder received. Copy handed over to the learned GP. To come up for arguments on 12.6.2014.

MEMBER

12.6.2014

Junior to counsel for the appellant and Mr. Muhammad Jan, GP with Muhammad Farooq, Assistant Social Organizer for the respondents present. Counsel for the appellant needs time. To come up for arguments on 10.10.2014.



MEMBER

MEMBER

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 1453/2013


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	29/10/2013	<p>The appeal of Mr. Atifullah resubmitted today by Mr. M. Qasim Khattak Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	1-11-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>30-12-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Atifullah Operator Cum Valve Man WSS Laghari Bogaran Khan Malook Koroona received today i.e. on 22.10.2013 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Law under which appeal is filed is not mentioned.

No. 1507 /S.T.

Dt. 23/10 /2013.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. M. Qasim Khan Khattak Adv. Karak.

Re-submission  
26/11/2013

Received to-day by post. (only original copy) understandably it is an appeal under section-4 of the Services Tribunal Act 1974 of K.P.K as the termination order was passed on 4-6-2013 while departmental appeal filed/sent by post on 24/6/2013 at PP. 14, 15 & 19 respectively. Memorandum of appeal is aptly in accordance with <sup>mandatory provisions of</sup> rule-6 of the Services Tribunal rules, 1974 made under the Services Tribunal Act, 1974 regulating the procedure and ~~power~~ bestowing jurisdiction of this Hon'ble Tribunal, while the objection is against rule-7 of the aforesaid rules. Re-submitted as the needed clarification has been hereby made please.

  
Advocate

Registrar



**IN THE SERVICE TRIBUNAL K.P.K, PESHAWAR**

Service Appeal No. 1453 /2013

Atifullah. . . . . Appellant

Versus

Province of K.P.K & others. . . . . Respondents

**I N D E X**

<b>S.#</b>	<b>Description of Documents</b>	<b>Annex</b>	<b>Page</b>
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3.	Addresses of the Parties		9
4.	Copy of appointment order	"A"	10
5.	Copy of application dated 17-10-2011	"B"	11
6.	Copy of application dated 15-4-2-2013	"C"	12
7.	Copy of application dated 18-4-2013	"D"	13
8.	Copy of termination order	"E"	14
9.	Copy of departmental appeal/registry receipt	"F" "G"	15-19
10.	Wakalatnama		20

Appellant  
Through



**M.QASIM KHAN KHATTAK**  
Advocate, Takht-e-Nasrati,  
Karak

Dated: \_\_\_\_\_

**IN THE SERVICE TRIBUNAL K.P.K, PESHAWAR**

Service Appeal No. 1453/2013

1496  
22/10/13

Atifullah Operator-cum-valve-Man son of Rahim Khan,  
WSS Laghari Bogaran Khan Malook Koroona,  
Laghar Banda Tehsil Takht-e-Nasrati,  
District Karak..... Appellant

Versus

1. Province of Khyber Pakhtunkhwa through Secretary Public Health Engineering department, K.P.K, Peshawar.
2. Chief Engineer, Public Health Engineering K.P.K, Peshawar.
3. Superintendent Engineer, Public Health Engineering Circle, Kohat.
4. X.E.N Public Health Engineering Division,  
Karak..... Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL AGAINST THE IMPUGNED ORDER**

**NO. 03/SE/PHE/6 DATED 04.6.2013**

**WHEREBY THE RESPONDENT NO.3  
TERMINATED/REMOVED THE SERVICES OF  
APPELLANT.**

re-submitted to  
and filed.  
22/10/13  
29/10/13

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**Respectfully Sheweth:**

The appellant most humbly submits as bellow:-

1. That the appellant was appointed as Operator cum Chowkidar on WSS Khan Malook Bogaran Tehsil Takht-e-Nasrti by SE public Health Engineering circle Kohat vide letter No. 35/SE/PHE/6 dated 08-11-2010 on permanent basis BPS-1(2970-90-5670) per month plus usual allowances as admissible under the rule from time to time. (copy of appointment order is enclosed as annexure "A")
2. That the appellant submitted arrival report on 10.11.2010 (F.N) in the office of Executive Engineer PHE Karak on which date the appointment of the appellant with so many other employees was cancelled malafidely which order was challenged by the appellant & others in W.P No 4134 of 2010 and the Peshawar High Court, Peshawar allowed the same with connected Write Petition No.4078 of 2010 on 02-03-2011 and cancellation order was set aside. (Attested copy of the decision of Peshawar High Court will be produced if required)
3. That the appellant resumed the duty on tube well Bogaran Tehsil Takht-e-Nasrti District Karak in

**BEFORE THE SERVICE TRIBUNAL K.P.K. PESHAWAR**

Service Appeal No. \_\_\_\_\_/2013

Appellant .....

Versus

Province of K.P.K. & others .....

**ADDRESSES OF THE PARTIES**

**APPELLANT:**

Appellant Operator-cum-vaive-Man son of Rahim Khan,  
W22 Laghari Bogaran Khan Malook Korona,  
Laghar Banda Tehsil Takht-e-Nasrati,

District Karak.

**RESPONDENTS:**

1. Province of Khyber Pakhtunkhwa through Secretary  
Public Health Engineering department, K.P.K.,  
Peshawar.
2. Chief Engineer, Public Health Engineering K.P.K.,  
Peshawar.
3. Superintendent Engineer, Public Health Engineering  
Circle, Kohat.
4. X.E.N Public Health Engineering Division,  
Karak.

Appellant  
Through

**M. QASIM KHAN KHATTAK**  
Advocate, Takht-e-Nasrati,  
Karak

Dated: \_\_\_\_\_

consequence of judgment dated 02-03-2011 of the Peshawar High Court as ordered by Executive Engineer Public Health Division Karak but one Mr. Khan Malook in whose property the tube well was installed, restrained the appellant from discharging duty and did not allow the appellant to run the tube well and perform the duty which was reported to the XEN PHE Karak orally directed the appellant to go to the tube well but the above mentioned person Khan Malook continuously restrained the appellant from running the tube well.

4. That ultimately the appellant reported the illegal acts of the Khan Malook to EXN PHE Karak through written application dated 17-10-2011 to which the XEN PHE did not pay any attention but orally directed the appellant to stay in his office and stopped the monthly salary of the appellant. (Copy of application is attached as annexure "B").
5. That the XEN PHE Karak again sent the appellant to above mentioned tube well in the year 2013 but the appellant found the same ill treatment of the above mentioned Khan Malook who did not allow the appellant to run the tube well which matter was again and again reported through written application dated

15-04-2013 to the XEN PHE Karak and 18-04-2013 to SDO PHE Karak (copies of the application are attached as annexure "C" & "D" respectively).

6. That the XEN PHE Karak has not paid any salary to the appellant till 04-06-2013 on which date services of the appellant were terminated by superintendent Engineer Public Health Engineering Circle Kohat. (copy of termination order is annexure "E")
7. That cadre of the appellant was changed <sup>to</sup> operator-cum-Valve Man and the appellant had requested in the above mentioned application to the XEN PHE Karak and SDO PHE Karak to transfer the duty of the appellant to any other tube well but suddenly the appellant received termination order No. 03/SE/PHE/6 dated 04-06-2013 from Superintendent Engineer PHE Circle Kohat whereby services of the appellant were terminated malafidely and without giving any chance of hearing to the appellant.
8. That the above impugned termination order was based on recommendation of Executive Engineer PHE Division Karak who was in knowledge of the compulsion of the appellant had already submitted the illegal acts of the owner of the property where the

tube well was installed but Superintendent Engineer PHE Circle Kohat was kept in dark malafidely by the XEN PHE Karak.

9. That the appellant was not negligent in performing his duties but has performed the duties continuously without absence.
10. That on receipt of termination order from respondent No.3, the appellant filed a departmental appeal before the respondent No.1 through registered AD, which was kept in cold storage. (copy of the appeal is enclosed as annexure "F" and postal registry receipt is annexure "G")
11. That feeling aggrieved, now the appellant approaches this Honourable Tribunal, on the following grounds, inter alia;

**GROUND S:**

- A. That the impugned order of termination/removal are against law and facts.
- B. That the impugned termination order passed by respondent No.03 and omission on the part of respondent No.2 for not disposing of the departmental appeal of the appellant are failure on their part to

exercise jurisdiction vested on them by law and the impugned discourses of both the authorities are without lawful authority and based on malafide.

- C. That the impugned termination order dated 04.6.2013 has been passed without giving opportunity of hearing to the appellant; therefore, the same is against the principles of natural justice.
- D. That no codal formalities nor any enquiry has been conducted by the concerned officers against the appellant for passing the impugned termination order.

It is, therefore, prayed that on acceptance of this appeal, the impugned order dated 04.06.2013 of respondent No.3 with regard to termination of appellant which is illegal, without lawful authority, malafide, abuse of power, self-contradictory, void-ab-initio, ineffective upon the rights of the appellant may please be set aside and the appellant be reinstated against the post of Tube well Operator-cum-Valve Man with salary at the rate of (2970-90-5670) per month plus usual allowances and other fringe benefits from 10-11-2010 to-date.



Any other relief which deems appropriate under the circumstances of the case and not asked specifically may also be granted.

*Wakil*  
Appellant  
Through



**M. QASIM KHAN KHATTAK**  
Advocate, Takht-e-Nasrati,  
Karak.

Dated: \_\_\_\_\_

**BEFORE THE SERVICE TRIBUNAL K.P.K, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2013

Atifullah. . . . . Appellant

Versus

Province of K.P.K & others. . . . . Respondents

**AFFIDAVIT**

I, Atifullah, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and that nothing has been kept concealed from this Honourable Tribunal.

*Attested*  
*John*  
5/10/2012  
Advocate  
Commissioner  
DEPONENT

**BEFORE THE SERVICE TRIBUNAL K.P.K, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2013

Atifullah. . . . . Appellant

Versus

Province of K.P.K & others. . . . . Respondents

**ADDRESSES OF THE PARTIES**

**APPELLANT:**

Atifullah Operator-cum-valve-Man son of Rahim Khan,  
WSS Laghari Bogaran Khan Malook Koroona,

Laghar Banda Tehsil Takht-e-Nasrati,

District Karak.

**RESPONDENTS:**

1. Province of Khyber Pakhtunkhwa through Secretary  
Public Health Engineering department, K.P.K,  
Peshawar.
2. Chief Engineer, Public Health Engineering K.P.K,  
Peshawar.
3. Superintendent Engineer, Public Health Engineering  
Circle, Kohat.
4. X.E.N Public Health Engineering Division,  
Karak.

Appellant  
Through

  
**M.QASIM KHAN KHATTAK**  
Advocate, Takht-e-Nasrati,  
Karak

Dated: \_\_\_\_\_

Annex A

10

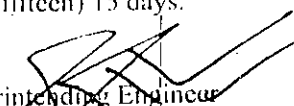
OFFICE OF THE SUPERINTENDING ENGINEER  
PUBLIC HEALTH ENGINEERING CIRCLE KOHAT.

OFFICE ORDER

As recommended by the Departmental Selection Committee Mr. Atif Ullah s/o Muhammad Raheem r/o Laghari Banda is hereby appointed as Operator-cum-Chowkidar on Water Supply Scheme Khan Malook Bogaran in BPS-1 (2970-90-5670) @ 2970/-P.M per month plus usual allowances as admissible under the rules from time to time with the following terms and conditions:-

1. All the terms and conditions of provincial Govt. Services rules/policies in vogue will be applicable.
2. His services will be transferable in the jurisdiction of this office.
3. He will have to produce valid computerized NIC and health and age certificate from the Medical Superintendent of District Headquarter Hospital Karak.
4. He shall for all intents and purposes, be civil servant except for purpose of pension or gratuity. In lieu of pension and gratuity he shall be entitled to receive such amount contributed by him towards Contributory Provident Funds(C.P.F) along with the contribution made by the Government to his account in the said fund in the prescribed manners.
5. The offer of appointment is valid for (15) fifteen days from the date of issuance.

If the offer of appointment is acceptable to the applicant, he shall report arrival for duty to the office of Executive Engineer, PHE Division Karak with in (fifteen) 15 days.


  
Superintending Engineer  
Public Health Engg. Circle  
Kohat

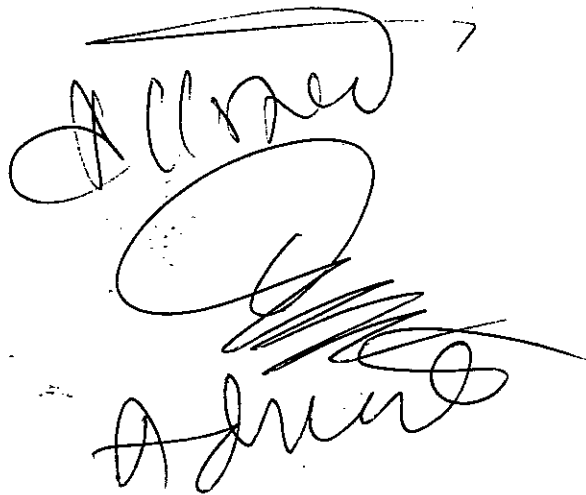
No. 35 /SE/PHE/6

dated Kohat the 8 / 11 / 2010.

Copy to the:

1. Executive Engineer, PHE, Division Karak.
2. The District Accounts Officer, Karak.
3. The applicant.

  
Superintending Engineer  
Public Health Engg. Circle  
Kohat



مذمت ضابطہ انٹرنیشنل سٹوڈنٹس ایسوسی ایشن، غلطیوں سے

ضابطہ عالی -

گذشتہ ہے کہ عاطف اللہ ولد رحیم خان محبوب وکیل جو گادان، پھر حدیث

معلق ہے جو لڑائی پر آمادہ ہے۔ مسیحی خاں ملکوں سے مسائل کو ڈھکی چھپی پر آمادہ کرتے ہیں باغی اذیت اور

دعاوت کی لٹا ہے۔ سابق روزانہ محبوب اللہ صاحب فریڈ ہونکر خان ملکوں کے مطالبہ کے مطابق واپسی

کو دیتا ہے۔ وہ کہتا ہے کہ مذکورہ محبوب وکیل بیچارے نکلا جائے اور میں

لٹتے ہیں۔ جس سے مسائل کو منجورہ حاصل بند ہے۔

عاقبتیہ اسٹوڈنٹس

ہ۔ کہ مسائل کو دوسری جگہ محبوب لڑائی لیتے ہیں، لوہے سے زنا کر کے عاقبتیہ عاقبتیہ

لے۔ اور اس عمل کو منجورہ جاری زنا کر کے عاقبتیہ عاقبتیہ عاقبتیہ

میں ایک ایک اور ایسا ایسا ہے جو شہر کی لڑائی لڑتے ہیں وہاں

اللہ کی طرف سے 10/2011 17

میں - عاطف اللہ ولد رحیم خان - سکینہ لغزنی باندہ

تحصیل ترقی اللہ کی - منجورہ

500  
1/1  
Paraphed

Atif usaf

جناب عالی!

گزارش ہے کہ محافل اللہ ولد رحیم خان محبوب وکیل پورٹوگال  
پر عدالت چلتی ہے ڈیوٹی پر آمادہ ہے۔  
مسیحی خان ملک سائنل کو ڈیوٹی پر آمادہ کرے کیلئے  
یادیت اوزن اور رکاوٹ ڈاڈا ہے۔

سائنل روزانہ ٹیوں وین کیلئے حاضر ہو کر خان محبوب کے  
مسلانہ کے مطابق واپس لوٹتا ہے وہ آتا ہے کہ مذکورہ  
ٹیوں وین کے بارے ذاتی جائیداد میں نصب ہے۔ جسکی  
وجہ سے سائنل کو نا حال ڈیوٹی سے روکا جا رہا ہے۔  
عاجز انداز استدعا ہے۔

کہ سائنل کو دوسری جگہ ڈیوٹی کیلئے پوسٹ فرما کر  
اگلا وقت چادر فرمادیں۔  
سائنل آپ کے ارسال میں خیال کے خوشامی کیلئے  
بہمیشہ دعا گو رہے گا

15-04-2013

عمر احمد

سائنل عارف اللہ ولد رحیم خان محبوب سیکرٹری سٹیٹ قلعہ کراچی  
عزت قریب قلعہ کراچی

*Mr. Meh Nawaz  
for Engr  
Nawaz*

*Attested  
as per documents.  
A. Inayat*

کرامت صاحب اکبر اور اس ٹری. او سنک بیلہ دگر کی

صاحب عالی

گزارش ہے کہ عاطف اللہ ولد رحیم خان کو ٹیوب ویل کو کارڈ

پر صرف خلق سے ڈیوٹی پر آخارہ ہے۔

جس سے جان ملک نہ اٹل کو ڈیوٹی سر انجام دینے سے

روٹا ہے چونکہ انکا کہنا کہ ٹیوب ویل ان کے ذمے جائیداد

میں بنا ہوا ہے۔

اس لیے آپ صاحبان کی خدمت میں درخواست کیجاتی

ہے کہ سائل کو ڈیوٹی پر آخارہ کر کے سب سے کسی دوسری ٹیوب

ویل میں ڈیوٹی کا تبادلہ کریں۔ یہ سائل پور تقعر سے سائل

کو صوبائی نوضان کا حقہ ہے۔

فورم = 2013-04-18

ٹری میراں ہوگی

الغرض

سائل عاطف اللہ آپ کا ہمیشہ دینا گو رہے گا۔

Report

*The operator requesting the transfer to another vehicle is highly objectionable because the operator is not directed to perform any work in the area of the ...*

Attested

As per ...

Signature

Amma

OFFICE ORDER:-

As recommended by Executive Engineer Public Health Engg; Division Karak vide his No.1-2/E-10 dated 04/06/2013, due to prolong absence and not performing duty despite of repeated notices and publishing advertisement in newspapers, the service of Mr. Atif Ullah S/O Rahim Khan Operator Cum Valve Man on Water Supply Scheme Laghari Bogaran Khan Malook Koroonah is hereby terminated with immediate effect in the interest of public and Government work.

Superintending Engineer  
Public Health Engg; Circle  
Kohat.

No. 03 /S:E/PHE/6 Dated Kohat the 04 /06/2013.

Copy to the:-

1. The Deputy Commissioner, Karak for information, please.
2. The Executive Engineer Public Health Engg; Division Karak w/r to above for information and further necessary action.
3. The District Accounts Officer, Karak.
4. The official concerned.

Superintending Engineer  
Public Health Engg. Circle  
Kohat

*[Handwritten signature]*  
*[Handwritten signature]*  
*[Handwritten signature]*



Answer F (15)

The Chief Engineer  
Public Health Engineering  
KPK Peshawar.

Subject DEPARTMENTAL APPEAL AGAINST ORDER NO. 03/SE/PHE/6 DATED KOHAT THE 04-06-2013 OF SUPERINTENDING ENGINEER PUBLIC HEALTH ENGINEERING CIRCLE KOHAT.

Respected Sir,

The appellant most humbly submits as below:-

1. That the appellant was appointed as Operator cum Chowkidar on WSS Khan Malook Bogaran Tehsil Takht-e-Nasrati by SE Public Health Engineering Circle Kohat vide letter No. 35/SE/PHE /6 dated 08-11-2010 on permanent basis in BPS-1 (2970-90-5670) per month plus usual allowances as admissible under the rule from time to time.

2. That the appellant submitted arrival report on 10-11-2010 (F.N) in the office of Executive Engineer PHE Division Karak on which date the appointment of the appellant with so many others employees was cancelled malafidely which order was challenged by the appellant & others in W. P No. 4134 of 2010 in the Peshawar High Court Peshawar allowed the same with connected writ petition No. 4078 of 2010 on 02-03-2011 and cancellation order was set aside.

3. That the appellant resumed the duty on Tube well Bogaran Tehsil Takht-e-Nasrati District

AH & JWC  
Answer

Karak in consequence of judgment dated 02-03-2011 of the Peshawar High Court as ordered by Executive Engineer Public Health Division Karak but one Mr. Khan Malook in whose property the tube well was installed restrained the appellant from discharging duty and did not allow the appellant to run the tube well and perform the duty which was reported to the ~~EXN~~<sup>XEN</sup> PHE Karak orally directed the appellant to go to the tube well continuously but the above mentioned person Khan Malook continuously restrained the appellant from running the tube well.

4. That ultimately the appellant reported the illegal acts of the Khan Malook to ~~EXN~~<sup>XEN</sup> PHE Karak by written application dated 17-10-2011 to which the ~~EXN~~<sup>XEN</sup> PHE did not pay any attention but orally directed the appellant to stay in his office and stopped the monthly salary of the appellant. Copy of application is attached.

5. That the ~~EXN~~<sup>XEN</sup> PHE Karak again sent the appellant to above mentioned tub well in the year 2013 but the appellant found the same ill treatment of the above mentioned Khan Malook did not allow the appellant to run the tube well which matter was again and again reported through written applications dated 15-04-2013 to the ~~EXN~~<sup>XEN</sup> PHE Karak & 18-04-2013 to SDO PHE Karak. (Copies of the applications are attached.

*Handwritten signature and initials*

6. That the ~~EXN~~<sup>XEN</sup> PHE Karak has not paid any salary to the appellant till 04-06-2013 on which date services of the appellant were terminated by Superintendent Engineer Public Health Engineering Circle Kohat

6. That the appellant had requested in the above mentioned applications to the ~~EXN~~<sup>XEN</sup> PHE Karak and SDO PHE Karak to transfer the duty of the appellant to any <sup>other</sup> tube well but suddenly the appellant received termination order No. 03/SE/PHE/6 dated 04-06-2013 from Superintendent Engineer PHE Circle Kohat whereby services of the appellant were terminated malafidely and without giving any chance of hearing to the appellant.

7. That the above impugned termination order was based on recommendation of Executive Engineer PHE Division Karak who was in knowledge of the compulsion of the appellant had already submitted the illegal acts of the owner of the property where the tube well was installed but Superintendent Engineer PHE Circle Kohat was kept in dark malafidely by the ~~EXN~~<sup>XEN</sup> PHE Karak.

8. That services of the appellant have been terminated without fulfilling codal formalities and conducting inquiry by the concerned officers and the appellant was not in negligence but has performed the duty continuously without absence. Therefore the

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impugned termination order is against law and rules.

It is, therefore, requested to allow the appeal, pay salaries with allowances till the date of termination to the appellant and set aside the termination order mentioned above, and re-instate services of the appellant with all back benefits.

Dated:- 24-06-2013

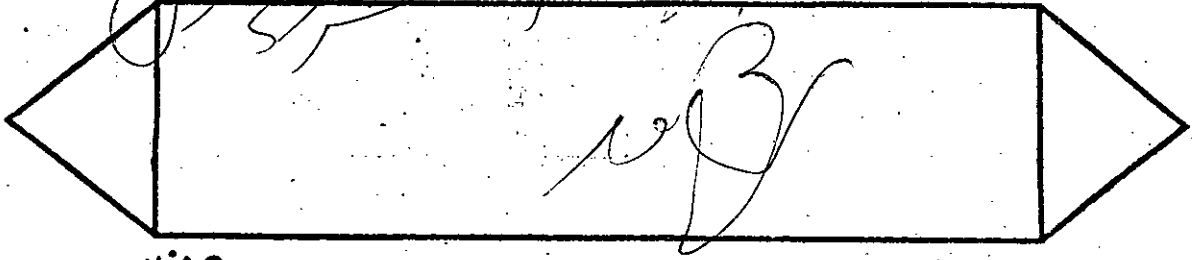
Appellant

*W. K. B. L.*

Atif Ullah Operator cum Valve-Man  
S/O Rahim Khan R/O WSS Laghari Bogaran  
Khan Malook Koroona, Laghari Banda Tehsil  
Takht-e-Nasrati District Karak.

*Atif Ullah*  
*[Signature]*  
*[Signature]*

# بعد التفتت صورتی



۲۲ منجانب  
بنام  
صاحب  
مقام

عالم  
صاحب

مورخہ  
مقدمہ  
دعویٰ  
جرم

## باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ  
آن مقام 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 ثالثت و فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
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 بھی وہی حلقہ نمبر کورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ  
پروا حق منظور قبول ہوگا دوران مقدمہ میں جو خرچہ و ہر جائزہ التوائے مقدمہ کے سبب سے وہ ہوگا۔  
کوئی تاریخ پیشی مقام دورہ ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ مندر ہے۔

2013

ماہ

المرقوم

واہ

عالم اللہ

کے لئے منظور ہے۔

بمقام

# بعدالت سروس ٹریڈ سٹیبل

ایپیل نمبر 1453/2013

2، پنجاب ایپل سروس  
عالمی ٹریڈ بینام حکومتی سٹیبل سروس

موزخہ  
مقدمہ  
دعویٰ  
جہد

## باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ  
آن مقام کے لئے تحریر آگے پیش کی گئی ہے۔  
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 ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا ایپل کی برآمدگی اور منسوخ  
نیز دائر کرنے ایپل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
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 بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ  
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائے التوائے مقدمہ کے سبب سے ہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکور کریں۔ لہذا اوکالت نامہ لکھد یا کہ سندز ہے۔

المرقوم 4 نومبر 2013ء ماہ 20

Accepted by  
Jai Adv  
کے لئے منظور ہے۔

عاطف اللہ گ  
بمقام  
سٹیبل سروس  
عاطف اللہ

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

Appeal No.1453/2013

Mr. Atifullah

V/S

Province of KPK & Others.

.....

**APPLICATION FOR FIXING OF AN EARLY DATE OF  
HEARING IN THE ABOVE TITLED APPEAL INSTEAD OF 30.12.2013.**

.....

**RESPECTFULLY SHEWETH:**

1. That the appellant has filed the instant appeal against the impugned order dated 04.06.2013 whereby the appellant was terminated/removed from service without any cogent reasons.
2. That the next date of hearing is fixed for 30.12.2013 before this Honouable Service Tribunal.
3. That the termination order of the appellant has been passed without any legal procedures.
4. That due to un-employment, the financial position of the appellant is very hard and will not be bearable.
5. That the financial crises for the whole family of the appellant will be increased due to having no job.
6. That it will be in the interest of justice to fix the case at an early date.

It is, therefore, most humbly prayed that on acceptance of this application, an early date of hearing may kindly be fixed in the above Service Appeal instead of 30.12.2013. Any other

remedy which this august Tribunal deems fit and appropriate that may also be awarded in favour of the appellant.

Appellant

عیاض اللہ  
ATIFULLAH

THROUGH:

*Asif Yousafzai*

( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

**AFFIDAVIT:**

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.

*Deponent*

Deponent