

27.04.2023

Appellant in person present.

Muhammad Jan, learned District Attorney for respondents present.

Learned Member Executive (Mr. Muhammad Akbar Khan) is on leave, therefore, case is adjourned. To come up for arguments on 27.06.2023 before D.B. Parcha Peshi given to the parties.

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(Rozina Rehman)
Member (J)


Mutazem Shah

27.06.2023


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1. Counsel for the appellant present. Mr. Asad Ali Khan, learned Assistant Advocate General for the respondents present.

2. Former requested for adjournment on the ground that he has not prepared the brief. Adjourned. To come up for arguments on 24.10.2023 before D.B. Parcha Peshi given to the parties.



(Fareeha Paul)
Member (E)



(Rashida Bano)
Member (J)

Kaleemullah

03.03.2023

Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, District Attorney for the respondents present.

Learned counsel for the appellant stated that connected appeals are fixed for arguments before D.B-I, therefore, the appeal in hand may also be sent to the said D.B.

In view of the above, the appeal in hand is sent to Worthy Chairman for further appropriate order. Learned counsel for the parties shall appear before Worthy Chairman today.



(Fareeha Paul)
Member (E)



(Salah-ud-Din)
Member (J)

3rd Mar, 2023

1. Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Asst: AG for respondents present.

2. Arguments in nineteen other service appeals were heard wherein the learned counsel for the appellant had said that this appeal is also similar but when the file was being perused it transpired that this appeal is a bit on different footing and regarding a bit different proceedings, therefore, it is adjourned to 27.04.2023 for arguments before D.B.



(Rozina Rehman)
Member (Judicial)



(Kalim Arshad Khan)
Chairman

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16th Feb, 2023

Learned counsel for the present. Mr. Muhammiad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Muhammad Yousaf, Section Officer for the respondents present.

After arguing the matter, the need of assistance was felt for which Mr. Yousaf Khan Section Officer Home & Tribal Affairs Department put appearance and sought some time to produce the relevant rules to ascertain as to who is/was authority of the appellant. To come up tomorrow i.e 17.02.2023 for further proceedings before the D.B.




(Salah-ud-Din)
Member (J)

(Kalim Arshad Khan)
Chairman


17.02.2023

Learned counsel for the appellant present. Mr. Muhammad Yousaf, Section Officer alongwith Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Learned counsel for the appellant submitted copy of Chapter-2, which is regarding terms and conditions of service of an employee. The appeal in hand was partially heard by a bench comprising of worthy Chairman and one of us (Salah-ud-Din) Member Judicial, therefore, the same may be placed for arguments before the concerned bench on 03.03.2023.



(Fareeha Paul)
Member (E)



(Salah-ud-Din)
Member (J)

(TERMS AND CONDITIONS OF SERVICE)

3. The terms and conditions of service of an employee of the Tribunal shall be as provided under these Rules or any such orders or instructions to be issued by the Governor, Khyber Pakhtunkhwa or the Chairman of the Tribunal from time to time.

4. **METHOD OF APPOINTMENT:-** (1) Appointment to a post shall be made:-

(a) By promotion or transfer in accordance with the provisions contained in the relevant recruitment rules;

(b) By initial recruitment in accordance with the provisions contained in the said rules.

Provided that all persons serving in connection with the affairs of Tribunal to whom these Rules apply shall continue to hold their respective posts and serve the Tribunal till they are absorbed in the service of Tribunal or attain the age of superannuation.

Provided further that as and when a vacancy occurs in the Tribunal as a result of retirement, death or otherwise, the competent authority may, in the prescribed manner, fill such vacancy.

5. **APPOINTING AUTHORITY.**

The following shall be the authorities competent to make appointment by initial recruitment, promotion or appointment by transfer to the posts specified against each on the recommendations of appropriate Selection Committees or Management Council as the case may be:-

S.No	Post/Pay Scale	Competent Authority
1.	For post 1 to 14	Registrar
2.	For post in B-15 to 17	Chairman
3.	For posts in B-18 and above.	Governor

6. **MANAGEMENT COUNCIL/SELECTION COMMITTEE:-**

There shall be a Management Council for initial recruitment, promotion and appointment by transfer to posts in B-17 and above and a Selection Committee for initial recruitment, promotion and appointment by transfer to posts in B-16 and below. The composition of the Management Council and Selection Committees shall be as under:-

7. **Management Council:-**

- | | | |
|------|--|-----------|
| i. | Chairman:- | Convener. |
| ii. | Secretary Admin. & Coordination,
FATA Secretariat or his rep; | Member. |
| iii. | Secretary Finance of FATA Secretariat or his rep; | Member |

- iv. A member of the Tribunal to be nominated
by the Chairman;
- v. Registrar of the Tribunal;

Member
Member/Secretary

8. **Selection Committee;**

- i. Chairman of the Tribunal;
- ii. A member of the Tribunal to be
nominated by the Chairman;
- iii. Secretary Admin & Co-ordination
FATA Secretariat or his rep;
- iv. Registrar of the Tribunal;

Incharge
Member
Member
Member/Secretary

9. **Selection Committee;**

- i. Registrar
- ii. Deputy Secretary Law & Order
- iii. Deputy Secretary Admin
- iv. Section Officer Finance

10. **APPOINTMENT TO POSTS;**

(a) **BY Initial recruitment**

- (1) On the vacation, creation or re-designation of a post in the Tribunal, the office of Registrar with the approval of the chairman shall advertise it for information of all concerned if the same falls within the quota of initial recruitment;
- (2) The advertisement shall be made in at least two leading news papers (one Urdu and one-English) as well as hoisting on the web-site of the Tribunal.
- (3) At least two weeks time shall be given to the candidates to apply for the Posts on the prescribed form (if applicable).
- (4) The applications submitted by the candidates should be supported with Bio-Data/C.V of the applicants and all relevant testimonials relating to the qualifications and experience of the applicants duly certified by a gazetted officer.
- (5) The office of the Registrar shall prepare a list of the short listed candidates in order of merit and place it before the Management Council or the Selection Committees as the case

may be, for scrutiny and recommendations of the suitable candidate(s) for selection;

- (6) The Management Council/Selection Committee will interview, scrutinize and assess the suitability of the candidates on the basis of merit by evaluating their comparative eligibility, efficiency, their capabilities and the relevancy of their qualifications and experience to the post(s) in question and length of service/experience required for the post under these Rules.
- (7) The method of appointment, qualification and other conditions applicable to a post shall be such as laid down in the recruitment Rules (**Appendix-A**). selection for direct recruitment shall be made on merit in accordance with the criteria evolved by the Govt. from time to time for recruitment of civil servants in B-17 and above (**Appendix-B**) and for posts in B-16 and below (**Appendix-C**).
- (8) Recommendations of the Management Council/Selection Committee to this effect shall be placed before the Governor or Chairman of the Tribunal, as the case may be, for approval;

Provided that the posts fall within the purview of the Public Service Commission shall be made on contract basis for a period of one year or availability of regular selectee of the commission whichever is earlier. In case of non availability of selectee of the commission in one year the tenure of such contract appointment can be extended for a further period of one year or availability of the selectee of the commission whichever is earlier.

Provided further that the before making contractual appointment against the post, a requisition is required to be placed on the commission. If no such requisition has already been placed, the same may be placed within two months after making contractual appointment on those posts.

Provided further that the appointment by initial recruitment against the post not fall within the purview of the commission shall be made on regular basis.

b. **By Promotion or by transfer;**


For the purpose of recommendations regarding promotion, the secretary of the Management Council or the Selection committee, as the case may be, shall prepare a working paper according to the prescribed rules which will be duly authenticated by the Registrar of the Tribunal. The Management Council or

08.11.2022

Counsel for the appellant present.

Asif Masood Ali Shah learned Deputy District Attorney for the respondents present.

Learned counsel requested for adjournment in order to further prepare the brief. Adjourned. To come up for arguments on 21.11.2022 before D.B.



(Fareeha Paul)
Member (E)



(Rozina Rehman)
Member (J)

21st Nov, 2022

Lawyers on general strike today.

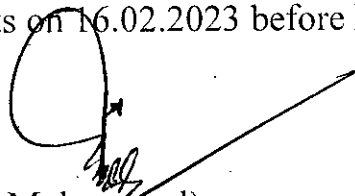
To come up for arguments on 5.1.2023 before D.B. Office is directed to notify the next date on the notice board as well as the website of the Tribunal.



(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

05.01.2023 Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Last opportunity is granted to argue the case on the next date, failing which the case will be decided on available record without arguments. Adjourned. To come up for arguments on 16.02.2023 before D.B.


(Mian Muhammad)
Member (E)


(Kalim Arshad Khan)
Chairman

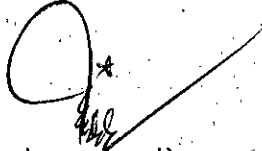
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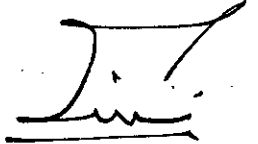
09.05.2022

Appellant in person present. Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present.

Appellant requested for adjournment on the ground that his counsel is out of station today. Adjourned. To come up for arguments on 14.06.2022 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)


14.06.2022

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned. To come up for arguments before the D.B on 17.08.2022.



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

17-8-22


Due to summer vacation the case is adjourned to 8-11-22 for the bench.



02.02.2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Add: AG for respondents present.

Written reply on behalf of respondents not submitted. Learned AAG seeks time for submission of written reply/comments. Adjourned. To come up for written reply of respondents on 07.04.2022 before S.B.



(Attiq Ur Rehman Wazir)
Member(E)

07.04.2022

Counsel for the appellant. Mr. Kabirullah Khattak Adl. AG for respondents present. Written reply on behalf of respondents No. 2 have already been submitted. No one is present on behalf of respondent No. 3 for submission of written reply, therefore right of submission of written reply of respondent No. 3 is struck of. To come up for arguments before D.B on 09.05.2022.



Chairman

Stipulated period passed reply not submitted.

15.09.2021

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


Chairman

22.10.2021

Clerk of learned counsel for the appellant present. Mr. Shah Waliullah Khan, Section Officer (Litigation) alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present and sought time for submission of reply/comments. Last opportunity given. To come up for reply/comments of respondents as well as arguments on 17.12.2021 before the D.B.

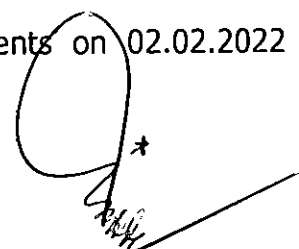

(MIAN MUHAMMAD)
MEMBER (E)


(SALAH-UD-DIN)
MEMBER (J)

17.12.2021

Appellant in person present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. M. Riaz, Supdt for respondents present.

Written reply/comments not submitted. Learned AAG requested for a short adjournment to contact the respondent-department for submission of written reply/comments on the next date. To come up for written reply/comments on 02.02.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

05.08.2021

Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted for hearing subject to all legal objections including that of limitation to be determined during full hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 22.10.2021 before the D.B.

Appellant Deposited
Security & Process Fee
12/8





Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 2568 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/02/2021	<p>The appeal of Mr. Arif Jan presented today by Mr. Zartaj Anwar Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>19/04/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>
19.04.2021		<p>Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 05.08.2021 for the same as before.</p> <p style="text-align: right;"> Reader</p>

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Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

2668
Appeal No. _____/2021

Arif Jan S/O Afsar Jan R/O Sheikh Abad Rajjar Tehsil &
District Charsadda

.....(Appellant)

VERSUS

Govt. of Khyber Pakhtunkhwa through Chief Secretary Civil
Secretariat Peshawar & Others.

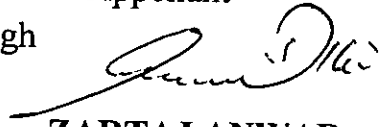
(Respondents)

INDEX

S. NO	Description of documents	Annexure	Page No.
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3	Copy of the appointment order	B	7
4	Copy of the show cause	C	8-10
5	Copy of the reply	D	11
7	Copy of the impugned order dated 11.11.2020	F	12
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Appellant

Through


ZARTAJ ANWAR
Advocate High Court
Office FR , 3 Forth
Floor Bilour Plaza
Peshawar Cantt.
Cell: 0331-9399185

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Appeal No. _____/2021

Arif Jan S/O Afsar Jan R/O Sheikh Abad Rajjar Tehsil & District
Charsadda.....

(Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar.
2. Govt. of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs department Civil Secretariat Peshawar.
3. Govt. of Khyber Pakhtunkhwa through Secretary Establishment Civil Secretariat Peshawar

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the impugned Order dated 11.11.2020 whereby the appellant has been awarded the major penalty of removal from service. and against which the departmental appeal dated 23.11.2020 was filed before the competent authority which was rejected on 20.01.2021

Prayer in Appeal: -

ON ACCEPTANCE OF THIS APPEAL THE ORDER DATED 11.11.2020 & ORDER DATED 20.01.2021, MAY PLEASE BE SET ASIDE AND THE APPELLANT MAY KINDLY BE REINSTATED INTO SERVICE WITH ALL BACK BENEFITS.

Respectfully Submitted:

1. That the appellant was initially appointed and serving the department in a capacity of Daily Wage employee, in the meanwhile various posts were advertised including the post of the appellant i.e. Junior Clerk, *(Copy of the advertisement is attached as annexure A).*

2. That the appellant having the requisite qualification and fulfilling the eligibility criteria duly applied for the post of junior clerk by fulfilling all the legal and codal formalities in the prescribed manner.
3. That the competent authority/Departmental Selection Committee duly constituted for the purpose of recruitment considered the appellant for the post of junior clerk and when found eligible for the post recommended for appointment along with other 23 candidates.
4. That the competent authority on the recommendation of selection committee issued the appointment orders of 23 candidates for the post junior clerk in which the appellant was also appointed. *(Copy of the appointment order is attached as annexure B).*
5. That the appellant takeover the charge of the post by submitting his arrival report along with medical fitness certificate and start performing his duties to the entire satisfactions of his superiors without any complaint whatsoever regarding his performance.
6. That the appellant prior to the appointment to the post of junior clerk in the respondent department serving in erstwhile FATA secretariat in Law & Order Department as junior clerk on daily wage basis.
7. That while serving in the said capacity the appellant was served with a Show Cause Notice dated 02.09.2020, containing certain false and baseless allegations.

“That you were in league with accused officer and committed criminal negligence during shortlisting process.”

(Copy of the show cause is attached as annexure C)

8. That the appellant has submitted the reply to show cause within time and denied all the allegation leveled against the appellant. *(Copy of the reply is attached as annexure D)*
9. That astonishingly the appellant was awarded major penalty of “Removal from Service” vide office order dated 11.11.2020, without taking into consideration the reply of the show cause in which the appellant denied all the allegations leveled against the appellant. *(Copy of the impugned order dated 11.11.2020 is attached as annexure F).*
10. That the feeling aggrieved from the order dated 11.11.2020, the appellant filed a departmental appeal before the competent authority

on 23.11.2020, which was rejected on 20.01.2020. *(Copy of the departmental appeal & rejection are attached as annexure G & H).*

11. That being aggrieved from the illegal order dated 10.09.2020 the appellant has filed this appeal on the inter alia on following grounds

GROUND OF SERVICE APPEAL

- A. That the appellant has not been treated in accordance with law hence the rights secured and guaranteed under the law and constitution is badly violated.
- B. That no proper procedure has been followed before awarding the major penalty of Removal from service, the whole proceedings are thus nullity in the eyes of law.
- C. That the appellant has not done any act or omission which can be termed as mis-conduct, thus the appellant cannot be punished for the irregularities if so occurred in the recruitment process.
- D. That no proper procedure has been followed before awarding the major penalty of Removal from service to the appellant. No charge sheet, no statement of allegation and without proper inquiry, the appellant was awarded major penalty, thus the whole proceedings are defective in the eyes of law.
- E. That the appellant was candidate along with other candidates who applied for the post in question but astonishingly with ulterior motive the appellant was in the alleged show cause made as member of the scrutiny committee.
- F. That the appellant has not been given proper opportunity of personal hearing before awarding the penalty, hence the appellant have been condemned unheard.
- G. That the appellant was neither involved in corruption, nor embezzlement nor immoral turpitude. Therefore, such harsh and extreme penalty of Removal from service of appellant was not commensurate with the nature of his co-called misconduct to deprive his family from livelihood.
- H. That the competent authority has passed the impugned order against the law and proper procedure provided under the law

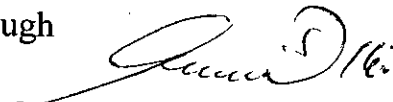
was not followed by the respondents before awarding the major penalty of Removal from service.

- I. That the charges were denied by the appellant had never admitted, nor there sufficient evidence available to held the appellant guilty of the charges.
- J. That the superior courts have a number of reported judgments held that in case of awarding major penalty of Removal from service regular procedure of holding inquiry cannot be dispensed with that too when the charges are denied by the employee.
- K. That the appellant has never committed any act or omission which could be termed as misconduct the charges leveled against the appellant are false and baseless besides the same are neither probed nor proved albeit the appellant has illegally been removed from service.
- L. That the appellant at his credit a long unblemished and spotless service career, the penalty imposed upon the appellant is too harsh and is liable to be set aside.
- M. That the appellant is jobless since his Removal from service.
- N. That the appellant also seeks permission of this honorable Tribunal to rely on additional grounds at the time of hearing of the appeal.

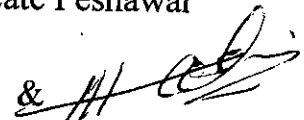
It is, therefore, humbly prayed that on acceptance of this appeal the order dated 11.11.2020 & 20.01.2021 may please be set aside and the appellant may kindly be reinstated into service with all back benefits.

Appellant

Through



ZARTAJ ANWAR
Advocate Peshawar



IMRAN KHAN
Advocate Peshawar

AFFIDAVIT

I, Arif Jan S/O Afsar Jan R/O Sheikh Abad Rajjar Tehsil & District Charsadda, do hereby solemnly affirm and declare on oath that the contents of the above noted appeal are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.

Deponent

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پشاور ایکسپریس آپوزٹ سے یک وقت شائع ہونے والا کثیر الاشاعت قومی روزنامہ

روزنامہ آج

پشاور پاکستان

ایڈیٹر عبدالواحد ریوینی

جلد 30 ہفتہ 9 فروری 2019-3 مئی 2019۔ 1440ھ۔ 29۔ 30۔ 31۔ 32۔ 33

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آئین اور قانون کی بالادستی کا علمبردار

Daily Aeen Peshawar

روزنامہ آئین پشاور

Chief Editor Rahatullah Khan

پبلسر رائٹرز راحت اللہ خان

ABC CERTIFIED

جلد 29 ہفتہ 09 فروری 2019-03 مئی 2019۔ 1440ھ۔ 28۔ 29۔ 30۔ 31۔ 32۔ 33

"JOB OPPORTUNITIES"

Applications are invited from highly motivated candidates having domicile of Khyber Pakhtunkhwa and newly merged areas against the following vacant posts on regular basis.

S.No	Name of Post	BPS	No's of Post	Age	Qualification
1	Assistant Mohatar	14	04	18-32	BA/BSc/B Com & Equivalent with 06 years experience
2	Key Punch Operator	12	03	18-32	BA/BSc/B Com & Equivalent
3	Stenographer	12	01	18-32	FA/FS with Shorthand & typing Speed up to 40 WPM
4	Junior Clerk	07	04	18-32	FA/FS or Equivalent with typing Speed up to 40 WPM
5	Driver	04	04	18-40	Middle pass having "LTV" Driving License
6	Najib Qasid	01	04	18-40	Middle Pass
7	Chowkidar	01	03	18-40	

Term & Conditions -

1. Age relaxation in deserving cases can be considered as per Government rules.
2. Only shortlisted candidates will be called for test/interview
3. No TA/DA will be admissible for test/interview.
4. Application form alongwith attested copies of Testimonials, Experience Certificates, CNIC, Domicile Certificate and a recent photograph should reach on PO Box No. 131 within 15 days of advertisement.
5. Incomplete or applications received after closing date will not be entertained.
6. Government employee should apply through proper channel.
7. The competent authority reserves the right to change the terms & condition, not to fill, increase/decrease vacancies or cancel recruitment process without any reason.
8. Errors/omissions are subject to rectification.

"JOB OPPORTUNITIES"

Applications are invited from highly motivated candidates having domicile of Khyber Pakhtunkhwa and newly merged areas against the following vacant posts on regular basis.

S.No	Name of Post	BPS	No's of Post	Age	Qualification
1	Mohatar/ Assistant	14	04	18-32	BA/BSc/B Com & Equivalent with 06 years experience
2	Key Punch Operator	12	03	18-32	BA/BSc/B Com & Equivalent
3	Stenographer	12	01	18-32	FA/FS with Shorthand & typing Speed up to 40 WPM
5	Junior Clerk	07	04	18-32	FA/FS or Equivalent with Typing Speed up to 40 WPM
6	Driver	04	04	18-40	Middle pass having "LTV" Driving License
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8	Chowkidar	01	03	18-40	

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8. Errors/omissions are subject to rectification.



7
Approved - B

OFFICE OF THE
REGISTRAR FATA TRIBUNAL,
PESHAWAR

ORDER

No. R/11/2018-19/1112 dated: 08.03.2019 On Recommendation of the Departmental Selection Committee, the Competent Authority is pleased to appoint Mr, Arif Jan S/o Afsar Jan against the vacant post of Junior Clerk BPS-07 (10990-610-29290) in FATA Tribunal at Peshawar under rule 10 sub rule 2 of Civil Servant (Appointment, Promotion and Transfer) Rules 1989 on the following terms and conditions:

Terms & conditions;

1. He will get pay at the minimum of BPS-07 including usual allowances as admissible under the rules. He will be entitled to annual increment as per existing policy.
2. He shall be governed by Civil Servant Act 1973 for purpose of pension or gratuity. In lieu of pension and gratuity, he shall be entitled to receive such amount as would be contributed by him towards General Provident Fund (GPF) along with the contributions made by Govt: to his account in the said fund, in prescribed manner.
3. In case, he wishes to resign at any time, 14 days notice will be necessary and he had thereof, 14 days pay will be forfeited.
4. He shall produce medical fitness certificate from Medical Superintendent/ Civil Surgeon before joining duties as required under the rule.
5. He has to join duties at his own expenses.
6. If he accepts the post on these conditions, he should report for duties within 14 days of the receipt of this order.

REGISTRAR
FATA TRIBUNAL

Copy to;

01. The Accountant General Pakistan Revenues Sub Office, Peshawar.
02. Ps to ACS FATA, Peshawar.
03. PS to Secretary Law & Order FATA, Peshawar.
04. PS to Secretary Finance FATA, Peshawar.
05. Personal File.
06. Official Concerned.

REGISTRAR
FATA TRIBUNAL



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT
OLD D.G HEALTH BUILDING KHYBER ROAD PESHAWAR.

NO.SO(B&A)HD/MAS/F.TRIBUNAL/2019-2020
DATED PESHAWAR THE 02ND SEPTEMBER, 2020

Amir C

1467-69

OTW

To

✓ **Mr. Arif Jan,**
Junior Clerk (B-07),
Ex-FATA Tribunal.

SUBJECT:- SHOW CAUSE NOTICE.

I am directed to refer to the subject noted above and to enclose herewith Show Cause Notice (in original) duly signed by the Competent Authority for your compliance within stipulated time period and further necessary action.

Encl: As above.

SECTION OFFICER (B&A)

Copy to :-

1. PS to Secretary Home & Tribal Affairs Department.
2. Section Officer (E-II) Government of Khyber Pakhtunkhwa Establishment Department with reference to his letter No.SOE-II(ED)2(9)2010, dated 13.07.2020.

SECTION OFFICER (B&A)

9

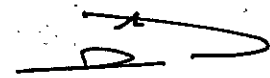
SHOW CAUSE NOTICE

I, Mr. Ikram Ullah Khan as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, do hereby serve upon you, Mr. Arif Jan, Junior Clerk (BPS-07) employee of Ex-FATA Tribunal as follows.

That you were in league with accused officer and committed criminal negligence during shortlisting process.

2. As a result therefore, I, as competent authority, have decided to impose upon you the penalty of removal from service under rule 4 of the said rules.
3. You are, thereof, 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 the delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

Mr. Arif Jan,
Junior Clerk (BPS-07)
Ex-FATA Tribunal.


(IKRAMULLAH KHAN)
HOME SECRETARY
(Competent Authority)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT
PESHAWAR**

No. HD/L&O/B&A/55/619-23
Dated: 06-10-2020



To:

Mr. Naveed-Ur-Rehman (Assistant/Muharrar),

Mr. Nadir Shah (Junior Clerk)

✓ Mr. Arif Jan (Junior Clerk)

SUBJECT: SHOW CAUSE NOTICE.

I am directed to refer to the subject noted above and to state that Competent Authority has been agreed to grant you opportunity of personal hearing before order to be passed against you.

In view of the above, you are hereby directed to appear for personal hearing on **08-10-2020 at 12:30 pm** in the office of the Worthy Secretary Home & Tribal Affairs.

Section Officer (B & A)

Copy to:

1. PS to Secretary Home & TAs Department Khyber Pakhtunkhwa.
2. PS to Special Secretary-II Home & TAs Department Khyber Pakhtunkhwa.

Section Officer (B & A)

To

17.-

The Section Officer (B&A),
Home & Tribal Affairs Department,
Old DG Health Building Khyber Road.

Amir D

Subject:- SHOW CAUSE NOTICE

Kindly refer to your letter No.SO(B&A)/HD/MAS/Tribunal/2019-20/467-69 dated 07.09.2020 on the subject noted above wherein this humble servant has been asked to show cause within 15 days as to why don't I remove you from service for committing "Criminal negligence in leagues with the accused officer during short listing process"

Dear Sir, I humbly submit that I served as daily wages employee in ex-FATA Tribunal. After some time the Tribunal advertised the different categories posts and I was also applied for one post of Junior Clerk. After the advertisement, was published in the newspaper the applications in the ex-FATA Tribunal were received through Registrar Office and being a Junior Clerk the duty were entrusted to me to keep all the applications in order and for placement in their respective folders/files of each category.

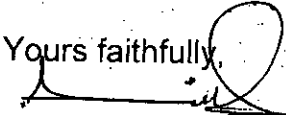
Dear Sir, the shortlisting process of recruitment of officials is responsible task which are passed from the formal procedure, which duly monitored and supervised by the responsible officers. Being a daily Wage employee I was neither remained member of the any shortlisting committee nor I know the procedure of the shortlisting. Furthermore, I was also a candidate then how can I commit irregularity in shortlisting myself.

Dear Sir, I humbly submit that the offence that I allegedly committed in the opinion of your good self for criminal negligence in league with the accused officer in vague and baseless, as my role in the short listing process is not defined and the charge level against me are not clear to show my association with the short listing process.

Foregoing in view it is requested that the charge sheet may kindly be withdrawn in the interest of justice.

I may also be given the opportunity of personal hearing so that I may defend myself properly to the satisfaction of the competent authority, please.

Received on
17/09/2020
#2019/2520

Yours faithfully,


Arif Jan, Junior Clerk

17SEP.2

12 Annex F
GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT
Near DC Office old DG Health Building Khyber Road Peshawar

Dated Peshawar 11th November, 2020

ORDER

82330
HD/FATA Tribunal/B&A/55/2020/ WHEREAS, Mr. Arif Jan, Junior Clerk (BPS-11) Ex-FATA Tribunal was proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency & Disciplinary) Rules, 2011, for the charges mentioned in the statement of show cause notice served upon him.

2. **AND WHEREAS**, the Department was given opportunity of personal hearing to Mr. Arif Jan, Junior Clerk, Ex-FATA Tribunal.

3. **NOW, THEREFORE**, the Competent Authority has been pleased to impose major penalty of "Removal from Service" on Mr. Arif Jan, Junior Clerk (BPS-11), FATA Tribunal under Khyber Pakhtunkhwa (Efficiency & Disciplinary) Rules, 2011, with effect from 11-11-2020.


-Sd-

Secretary to Govt. Khyber Pakhtunkhwa
Home & Tribal Affairs Department

Endst No & Date even

Copy for information forwarded to:

1. The Accountant General, Government of Khyber Pakhtunkhwa.
2. Secretary Home & Tribal Affairs Department Khyber Pakhtunkhwa.
3. Secretary Finance, Finance Department, Khyber Pakhtunkhwa.
4. Secretary, Establishment Department, Khyber Pakhtunkhwa.
5. Special Secretary-II Home & Tribal Affairs Department Khyber Pakhtunkhwa.
6. PSO to Chief Secretary Khyber Pakhtunkhwa.
7. PS to Chief Minister Khyber Pakhtunkhwa.
8. Official Concerned.


Section Officer (B & A)

13

AWAZ G

091-9210124 -

205

[Signature]
23-11-2020

To,

The Honorable Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: DEPARTMENT APPEAL AGAINST THE ORDER HD/FATA TRIBUNAL/B&A/55/2020/831-38 DATED 11-11-2020 WHEREBY THE UNDERSIGNED HAS BEEN AWARDED ME THE MAJOR PENALTY OF REMOVAL FORM SERVICE.

Request in department appeal,

ON ACCEPTENCE OF THIS APPEAL THE ORDER HD/FATA TRIBUNAL/B&A/55/2020/831-38 DATED 11-11-2020 MAY PLEASE BE SET ASIDE THE UNDERSIGNED MAY KINDLY BE REINSTATED INTO SERVICE WITH ALL BACK BENEFITS.

Respected Sir,

I humbly submit the following few words for your kind consideration:-

That I have served the Ex-FATA Tribunal from March 2017 to February, 2019 as a "Daily wages Employee on Junior Clerk Post" and ever since my appointment on Daily wages bases, I am performing my duties with great devotion and never have given any chance of compliant, what so ever regarding my duty.

In the year 2019, published advertisement in "Daily AAj News Paper" dated 09th February 2019 by the Registrar of Ex- FATA Tribunal for various posts, for which I also applied for the post of junior clerk being legible/suitable for the same post.

Being serving in the Ex-FATA Tribunal as Junior Clerk, I was served with a show cause notice dated 2nd September, 2020, without prior serving any "Charge Sheet", containing false allegations against me; that Criminal negligence in leagues with the accused officer during the shortlisting process".

I submit my detailed reply to the "Show Cause Notice" to the Section Officer, (Budget & Accounts), Home & Tribal Affairs Department dated 17th September 2020 and on the basis of reply the Special Secretary Home Department gave time for personal hearing in his office on 8th October, 2020 and I was explained fact and factual position; subsequently, on 11th November, 2020, the Secretary Home Department has awarded me a major penalty i.e. "Removal form Service", and has issued my termination order.

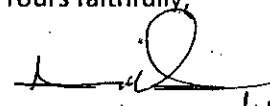
14

Dear Sir, I once again pray very humbly that being Junior Clerk on daily wage I am not competent to become part of the Shortlisting Committee, or Selection Committee. Because I was also candidate for the post of junior clerk. However, it is important to bring into your kind notice that being working as "Junior Clerk" on Daily wages bases, neither I was taken part in shortlisting process nor in Selection process, and my position/post did not allow me to do so. As always seen that in the such like cases the subordinate staff has always been made a scapegoat, same was occurred with me.

Respected Sir, I belong to a very poor family and I am only source of livelihood for the entire family, I am quite innocence having no connection with the allegations leveled against me.

So, keeping in view the above mentioned circumstances, I very humbly request and pray that the above subject order may kindly be withdraw and opportunity for serving/doing my job.

Yours faithfully,


ARIF JAN 23/11/2020
JUNIOR CLERK
EX- FATA TRIBUNAL



15
Annex- H

GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT
Old DG Health Building near DC Office Peshawar

No. HD/L&O/B&A/FATA Tribunal/55/26-28
Dated: 20-01-2021

To:

Mr. Naveed Ur Rehman (Assistant)

Mr. Nadir Shah (Junior Clerk)

✓ Mr. Arif Jan (Junior Clerk)

SUBJECT: DEPARTMENTAL APPEAL SUBMITTED BY MR. NAVEED UR REHMAN ASSISTANT, MR. NADIR SHAH JUNIOR CLERK AND MR. ARIF JAN JUNIOR CLERK REGARDING RE-INSTATEMENT INTO SERVICE.

I am directed to refer to your department appeal regarding re-instatement into service has been processed but the same has been regretted by the Competent Authority (Chief Secretary Khyber Pakhtunkhwa).

Section Officer (B & A)

Copy to:

1. PSO to Chief Secretary Khyber Pakhtunkhwa.
2. PS to Secretary Establishment Khyber Pakhtunkhwa.
3. PS to Secretary Home & TAs Department Khyber Pakhtunkhwa.
4. PS to Special Secretary-II Home & TAs Department Khyber Pakhtunkhwa.

Section Officer (B & A)

GOVERNMENT OF ¹[Khyber Pakhtunkhwa] ESTABLISHMENT & ADMINISTRATION
DEPARTMENT (Establishment Wing)

NOTIFICATION
Dated 1ST MARCH, 2008

NO.SOE-III(E&AD)2-1/2007, Dated 01-03-2008.---In pursuance of the powers granted under Section 26 of the ²[Khyber Pakhtunkhwa] Civil Servants Act, 1973 (³[Khyber Pakhtunkhwa] Act XVIII of 1973), the competent authority is pleased to make the following rules, namely:

THE ⁴[Khyber Pakhtunkhwa] INITIAL APPOINTMENT TO CIVIL POSTS
(RELAXATION OF UPPER AGE LIMIT RULES, 2008)

PART — I
GENERAL

1. (1) These rules may be called the Initial Appointment to Civil Posts (Relaxation of Upper Age Limit) Rules, 2008.

(2) These shall come into force with immediate effect.

⁵[2. (1) Nothing in these rules shall apply to the appointment in BS-17 and the posts of Civil Judge-Cum-Judicial Magistrate / Illaqa Qazi, BS-18 to be filled through the competitive examination of the Public Service Commission, in which case two years optimum relaxation shall be allowed to:

- (a) Government servants with a minimum of 2 years continuous service;
- (b) Disabled persons; and
- (c) Candidates from backward areas.

(2) For appointment to the post of Civil Judge-cum-Judicial Magistrate/Illaqa Qazi, the period which a Barrister or an Advocate of the High Court and /or the Courts subordinate thereto or a Pleader has practiced in the Bar, shall be excluded for the purpose of upper age limit subject to a maximum period of two years from his/her age.]

PART — II
GENERAL RELAXATION

¹ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011

² Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011

³ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011

⁴ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011

⁵ Rule 2 substituted by Notification No. SO-III(E&A)2-1/2007 dated 03-09-2008.

⁶[3. (i) Maximum age limit as prescribed in the recruitment rules shall be relaxed in respect of the candidates mentioned in column 2 to the extent mentioned against each in column 3 of the table below:-

S.No.	Category of candidates	Age relaxation admissible
1	2	3
i.	Government Servants who have completed 2 years continuous service.	Upto ten years Automatic Relaxation.
ii.	Candidates belonging to backward areas as specified in the Appendix attached herewith.	Three years Automatic Relaxation.
iii.	General candidates.	Upto two years by the appointing authority and exceeding two years upto five years by the Establishment Department ⁷ [and beyond five years upto ten years by the Chief Minister of the Khyber Pakhtunkhwa].
iv.	Widow or son or daughter of a deceased civil Servant who died during service and son/brother in case of a shaheed of Police Department; and	Discretion of the appointing authority.
v.	Disabled persons /divorced woman/widow	10 years Automatic Relaxation.
⁸ {vi.	(a) Employees or ex-employees of the development projects of the Government of ⁹ [Khyber Pakhtunkhwa] ; (b) Employees of ex-	Equal to the period served in the projects, subject to the maximum limit of the ten years.]

⁶. Rule 3 substituted by Notification No. SOE-III(E&AD)2-1/2007 dated 09-12-2010

⁷. Added by Notification No. SOE-III(E&AD)2-1/2007 dated 26-10-2011

⁸. Added by Notification No. SOE-III(E&AD)2-1/2007 dated 29-01-2011

⁹ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011

	employees of the development projects of the Federal Government under the administrative control of the Government of ¹⁰ [Khyber Pakhtunkhwa]	
--	--	--

(ii) in case of divorced woman or widow, the following certificates shall be produced by the applicant at the time of applying for age relaxation

- (a) in case of widow, death certificate of husband;
- (b) in case of divorced woman, divorce certificate from the District Coordination Officer of the District concerned;
- (c) certificate form the District Coordination Officer of the District concerned to the fact that the applicant whether divorced or widow has not remarried at the time of submitting application.]

¹¹[Provided that the age relaxation at serial No. vi above shall not be availed in conjunction with any other provisions of these rules.]

4. A candidate shall only be allowed, relaxation in age in one of the categories specified in rule 3;

Provided that the candidates from backward areas, in addition to automatic relaxation of three years under category (ii) specified in rule 3, shall be entitled to one of the relaxations available to Government servants, general or disabled candidates, whichever is relevant and applicable to them.

¹²[5. The age relaxation specified in column No. 3, against serial No. (iii) of the TABLE of rule 3, shall be subject to cogent reasons and sound justification of the case.]

6. Age relaxation in respect of overage candidates shall be sought prior to their appointment.

7. For the purposes of these rules, age of a candidate shall be calculated from the closing date of submission of application for a particular post.

8. The cases of age relaxation, beyond the competence of Administrative Departments, shall be sent to the Establishment Department through the Administrative Department concerned.

¹⁰ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011

¹¹ Added by Notification No. SOE-III(E&AD)2-1/2007 dated 29-11-2011

¹² Added by Notification No. SOE-III(E&AD)2-1/2007 dated 26-10-2011

9. All existing instructions, relating to age relaxation, issued from time to time shall stand superseded.

APPENDIX

[See Rule 3(ii)]

- (i) Khyber Agency
- (ii) Kurram Agency.
- (iii) Mohmand Agency.
- (iv) North Waziristan Agency.
- (v) South Waziristan Agency.
- (vi) Malakand Agency including protected areas (Swat, Ranizai and Sam-Ranizai) and Bajaur
- (vii) Tribal Areas attached to Peshawar, Kohat and Hazara Division.
- (viii) Shirani Area.
- (ix) Merged Areas of Hazara and Mardan Division and Upper Tanawal.
- (x) Swat District.
- (xi) Upper Dir District.
- (xii) Lower Dir District.
- (xiii) Chitral District.
- (xiv) Buner District.
- (xv) Kala Dhaka Area.
- (xvi) Kohistan District.
- (xvii) Shangla District.
- (xviii) Gadoon Area in Swabi District.
- (xix) Backward areas of Mansehra and District Batagram.
- (xx) Backward areas of Haripur District, i.e. Kalanjar Filed Kanungo Circle of Tehsil Haripur and Amazai Field Kanungo circle of Tehsil Ghazi.

20

GOVERNMENT OF PAKISTAN
ACCOUNTS DEPARTMENT FEDERAL BUREAU OF REVENUE

AGPR (SO) PESH
PAYROLL SYSTEM

PAYMENT ADVISE
P Sec: 002 Month: April 2019
PROB67 - FCR TRIBUNAL FATA PERSHAWA
No: 08-K-A-3-N-A-3-S-F-R

SH: 3
Pers # 50497483 Buckle
Name: ARIF JAN
JUNIOR CLERK
CNID No: 1710189785493
GPF Interest Free
EPS 07 Active Permanent

NTN:
GPF #:
Old #:

DEPTT CODE PROB67

PAYS AND ALLOWANCES	
0001-Basic Pay	10,990.00
1000-House Rent Allowance	1,589.00
1210-Convey Allowance 2005	1,932.00
1300-Medical Allowance	1,500.00
2211-Adhoc Relief All 2016 10%	922.00
2224-Adhoc Relief All 2017 10%	1,099.00
2247-Adhoc Relief All 2018 10%	1,099.00
Gross Pay and Allowances	19,131.00
DEDUCTIONS:	
GPF Balance 0.00	
35501-Benevolent Fund	1,010.00
3604-Group Insurance	500.00
	67.0
Total Deductions	1,677.00
NET AMOUNT PAYABLE 17,454.00	

QUALIFYING SERVICE D. O. B
00 Years 01 Months 024 Days 14/02/1990

LFF Quota: 4
NATIONAL BANK OF PAKTEHSIL BAAZAR CHARASAD
0000112923

POWER OF ATTORNEY

In the Court of LRK Sedition Tribunal Peshawar

Axif Jan

} For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

Govt of LRK and others

} Defendant
} Respondent
} Accused
}

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____
Fixed for _____

I/W, the undersigned, do hereby nominate and appoint

ZARTAJ ANWAR & IMRAN KHAN ADVOCATES, my true and lawful attorney, for me in my same and on my behalf to appear at _____ to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or sub-pocna and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

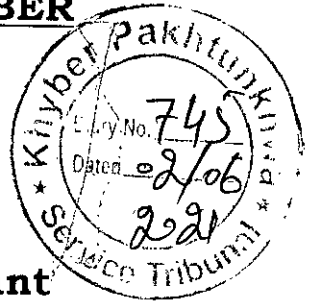
PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at _____
the _____ day to _____ the year 2016
Executant/Executants [Signature]
Accepted subject to the terms regarding fee _____

[Signature]
IMRAN KHAN
Advocate High Court
Mob: 0345-9090648

[Signature]
ZARTAJ ANWAR
Advocate High Courts
ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-3, Fourth Floor, Bilqur Plaza, Saddar Road, Peshawar Cantt
Mobile-0331-9399185
BC-10-9851
CNIC: 17301-1610454-5

BEFORE THE LEARNED SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR



Put up to the Hon'ble Court
along with relevant file.

Arif Jan 21.6.2021 Appellant

VERSUS

Govt of KPK & others..... Respondents

APPLICATION FOR EARLY
HEARING OF THE CAPTIONED
APPEAL

Respectfully Sheweth:

1. That the above titled Appeal is pending adjudication before this Honourable Court which is fixed for 05.08.2021.
2. That the Appellant was illegally terminated from Service which is subjudice before this Hon'ble Tribunal, Furthermore the appellant are jobless since long and are the only earning hand, being issue pertain to termination and reinstatement, hence the case is of urgent nature and if the above titled Writ Petition is not fixed for an early date the petitioners would suffer extreme irreparable loss, hence the case may kindly be fixed for an early date.
3. That being sanguine about the success of Appeal it is requested the case may be posted for early date.


4. That there is no legal bar on acceptance of this application.

It is, therefore, most humbly prayed that on acceptance of this application, the above titled Service Appeal may kindly be fixed an early date of hearing within Week with the larger interest of Justice.


Appellant

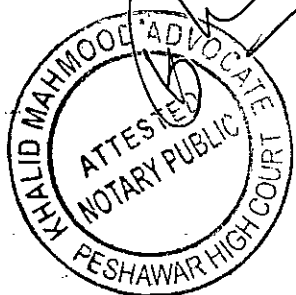
Through

Dated: 02.06.2021


ZARTAJ AWNAR
Advocate, High Court
Peshawar

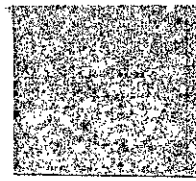
AFFIDAVIT

I, do hereby solemnly affirm and declare on oath that the contents of the Instant **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.




DEPONENT

07/04



BEFORE HE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO.2568/2021


Arif Jan and two others..... Petitioners

VERSUS

The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa and
others Respondents

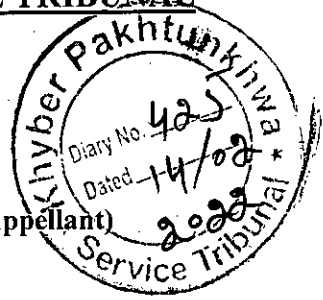
INDEX

S.#	Particulars	Annexure	Pages
1.	Parawise comments	-	1-3
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3.	Affidavit	B	5


Section Officer (litigation)
Home & TA,s Department

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal NO.2568/2021



Arif Jan S/o Afsar Jan

..... (Appellant)

Versus

- 1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar & others
- (Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.2

Respectfully sheweth,

PRELIMINARY OBJECTION:

- 1. That the appellant has not no cause of action/locus standi to file the instant appeal against the respondents.
- 2. That the appeal is not maintainable.
- 3. That the appellant has presented the facts in manipulated form which disentitle him for any relief whatsoever.
- 4. That the appeal is barred by law and limitation.
- 5. That the appellant has suppressed material facts from the Tribunal.
- 6. That the appellant has not come to the court with clean hands.
- 7. That the appellant is estopped to file an instant appeal due to his own conduct.
- 8. That the appeal is bad for non-joinder of necessary parties and mis-joinder of unnecessary parties.

Facts:

- 1. Incorrect, the appellant was appointed as junior Clerk (BS-11) on daily wages from March 2017 to February 2019. However vide PO Box 131 various posts including 04 No Junior Clerk were advertised dated 09.01.2019.
- 2. Correct to the extent that the appellant applied for the said post but he was not eligible as he himself was a member of the Selection Committee.
- 3. Incorrect, it is worth to mention here that an inquiry was conducted against Mr. Sajjad - Ur-Rahman Ex- Registrar FATA Tribunal under Rule- 10 of Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules-2021, wherein the inquiry report held that the said selection committee was constituted without any lawful authority. The said committee comprised of temporary/contract/ daily wages employees of FATA Tribunal who themselves were candidates against these posts. The inquiry proceedings further revealed that there were no attendance sheet, minutes of the meeting and even the appointment orders were found ambiguous. The said departmental committee unlawfully increased the number of posts from 23 to 24 illegally issued 24 appointment orders without any recommendation of the legitimate departmental selection committee. That the inquiry committee has termed all the 24 appointments illegal without lawful authority and recommended to be cancelled/withdrawn.

4. Incorrect. The inquiry committee held the selection process of all 24 appointments including the posts of appellant as illegal, without lawful authority and recommended to be cancelled/withdraw. Furthermore, that there was only 23 advertised posts instead of 24.
5. Pertains to record need no comments.
6. Correct to extent that appellant was appointed on "Daily Wages" since from March 2017 to February 2019.
7. That after receipt of recommendation of the inquiry report the Competent Authority has issued Show-Cause notice to the appellant dated 02/09/2020 vide which appellant was asked to submit his reply.
8. Correct, pertains to record.
9. Correct to the extent that the appellant was appointed on "Daily Wages" However, the appellant was appointed as Junior Clerk (BPS-11) in FATA Tribunal without through an illegal process, without approval of Competent Authority including the process/provision of Age relaxation or any NOC granted to him in this regard.
10. As explained above, there is no orders of the Competent Authority regarding age relaxation certificate in respect of appellant.
11. Incorrect. The appellant's reply to Show Cause provided no proof and evidence in support hence, the Competent Authority has imposed major penalty of "Removal from Service" on the appellant under the rules/law.
12. Correct to the extent the appellant's Departmental Appeal dated 23/11/2020 received which was processed found unsatisfactory and rejected vide order dated 20/01/2020.
13. Incorrect, the appellant has got no cause of action to file appeal against the respondents.

GROUNDS:

- A. Incorrect. The appellant has been treated in accordance with law & rules hence, no violation to the constitution.
- B. Incorrect. In pursuance of recommendation of inquiry the appellant has properly been served with Show-Cause Notice and opportunity of personal hearing was also granted and all codal formalities fulfilled by the respondent.
- C. Incorrect. The appellant was equally held responsible by the Inquiry Committee in the omission/commission of misconduct as evident that he remained member of the so-called Departmental Selection Committed and also a candidate for the post of Junior Clerk (BPS-11) in the same appointment process which tantamount to conflict of interest.
- D. Incorrect. Proper procedure has been followed detail has already been given in preceding para.
- E. Incorrect. As per record the appellant was made a member of the Scrutiny Committee as well as candidate for the post of Junior Clerk (BPS-11).
- F. Incorrect. Opportunity of personal hearing was given to the appellant vide Home Department letter No. HD/L&O/B&A/55/619-23 dated 06/10/2020.
- G. Incorrect. Detail reply given in the preceding paras.
- H. Incorrect. No order regarding relaxation of age limit in respect of appellant issued by Competent Authority.

- I. Incorrect. The penalty has been imposed upon the accused after proving allegation against him.
- J. Incorrect. The appellant has been awarded punishment after fulfilment of all codal formalities in accordance with law/rules.
- K. Incorrect. The appellant has not provided any no evidence in support both in the written statements as well as personal hearing, hence found guilty of the charge.
- L. In correct. Each and every case has his own circumstances.
- M. Incorrect. As explained above.
- N. Incorrect, detail reply as above.

The respondent requested for permission of the Hon'ble Tribunal for further arguments/points at the time of arguments. It is therefore, most humbly prayed that on acceptance of the above para-wise comments the instant appeal may graciously be dismissed with cost.

Handwritten signature and date: 8/2/2002

Secretary
Home & Tribal Affairs
Government of Khyber Pakhtunkhwa
Home Secretary,
Khyber Pakhtunkhwa

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SERVICE APPEAL NO.2568/2021

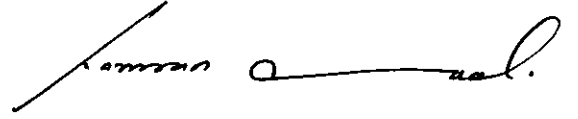
Arif Jan and others.....Petitioners.

VERSUS

The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa and others.....Respondents.

AUTHORITY

Mr. Shah Wali Khan Section Officer (Litigation) Home & TAs Department Peshawar do hereby authorized to submit reply in Service appeal No. 2568/2021 title Arif Jan Versus Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa and others on behalf of respondent No.2 in the Service Tribunal Peshawar.



Deputy Secretary (Litigation)
Deputy Secretary (Litigation)
Home & TA's Deptt:
Khyber Pakhtunkhwa



SERVICE APPEAL NO.2568/2021

Arif Jan and others.....Petitioners.

VERSUS

The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa and others.....Respondents.

AFFIDAVIT

Mr. Shah Wali Khan Section Officer (Litigation) Home & TAs Department Peshawar do here by solemnly affirm and declares on oath that the contents of reply Service Appeal No. 2568/2021 titled Arif Jan and others Versus Government of Khyber Pakhtunkhwa and others on behalf of (Respondent No. 2 are true and correct as per record provided to me and to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

DEPONENT

Section Officer (Litigation)

CNIC NO. 15360-6304697-9

Identified by

Advocate General

Khyber Pakhtunkhwa