

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR,

C.M NO. 534 /2023.

IN SERVICE APPEAL NO. 1239/2022

Hidayat Ullah, Senior Clerk BPS-14, Directorate of Archives & Libraries,
Khyber Pakhtunkhwa, Peshawar.

.....Appellant/Respondent

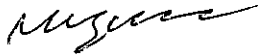
VERSUS

Secretary Higher Education, Archives & Libraries, Khyber Pakhtunkhwa
and another

.....Applicants

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Muqarrab Khan
Deputy Director,
Directorate of Archives & Libraries,
Khyber Pakhtunkhwa
CNIC# 16101-4117211-5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR,

C.M NO. 534 /2023.
IN SERVICE APPEAL NO. 1239/2022

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 6695
Dated 25/07/23

Hidayat Ullah Senior Clerk BPS-14, Directorate of Archives & Libraries,
Khyber Pakhtunkhwa, Peshawar.

.....Appellant/Respondent

VERSUS

Secretary Higher Education, Archives & Libraries, Khyber Pakhtunkhwa
and another

.....Applicants

APPLICATION U/S-7 OF KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL ACT,1974 R/W. RULE 27 KP SERVICE TRIBUNAL
RULES OF 1974, FOR RECALLING ORDER DATED: 05/06/2023
WHEREBY THE OFFICIAL APPLICANTS/RESPONDENTS WERE
PLACED EX-PARTE AND THEIR RIGHT TO REPLY WAS STRUCK
OFF.

RESPECTFULLY SHEWETH,

That the Respondent No. 01 and 02 humbly submit as under:

- 1- That the Respondent /Appellant has filled besides other the subject service appeal, in which the date of hearing has been fixed on 27/07/2023.
- 2- That the Applicant came to know later on that this honorable tribunal has passed an order under Rule-12 of the KP Service Tribunal, 1974 and placed the Applicants ex-parte and their right to file the reply was struck off. (Copy of the order dated: 05/06/2023 is Annexure-A)
- 3- That the Applicants are aggrieved with this order and if they are not provided the right of reply and defense, great miscarriage of justice is likely to be caused to them. Moreover, it is very respectfully submitted that the right of defense has been struck off purportedly under the

provision of Civil Procedure Code, 1908 which is not stricto sensu applicable on the proceedings of this honorable tribunal.

- 4- That the law stresses upon the principle that applications and appeals may be decided on merit and they may not be dismissed on technical grounds. The principle of natural justice also requires that before passing an order, parties to the case may be given opportunity of proper hearing and defense.
- 5- That this honorable tribunal is vested with enormous powers to make such orders as may be necessary for the ends of justice and prevent the abuse of the process of the tribunal.
- 6- That the Applicants further seek permissions to assist this honorable tribunal with further arguments if required.

Prayer:

In view of the above submissions, this honorable tribunal may recall the order dated: 05/06/2023 and provide the right to reply and defense in the subject service appeal for the ends of justice and fair play.

Respondents

Through


Additional Advocate General,

Khyber Pakhtunkhwa, Peshawar.

Affidavit

I, Mr. Muqarrab Khan Deputy Director Directorate of Archives & Libraries Khyber Pakhtunkhwa as per instructions of the respondents, hereby solemnly affirm and declare on oath that the contents of the instant application are true and correct and nothing has been concealed from this honorable service tribunal.

ATTESTED



Deponent
Muqarrab Khan
Deputy Director
CNIC# 16101-4117211-5

HYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

Service Appeal No/ 1239 /2022

Hidayat Ullah

VERSUS

Government of Khyber Pakhtunkhwa & Others


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Dated: 16.08.2022


Appellant

Through


(Mansoor Salam)
Advocate
High Court Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR



Service Appeal No. 1238 /2021

Hidayat Ullah Senior Clerk (BPS-14) Department of Archives & Libraries KPK.

(APPELLANT)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Higher Education Department at Civil Secretariat, Peshawar.
2. Director, Archives & Libraries Khyber Pakhtunkhwa at Directorate of Archives & Libraries, Peshawar.

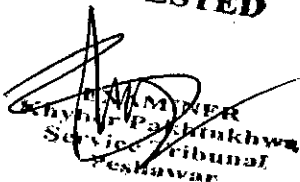
(RESPONDENTS)

APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED OFFICE ORDER NO. 602/3/10/DA DATED 14.04.2022 PASSED BY THE RESPONDENT NO.2 WHEREBY MINOR PENALTY OF WITHHOLDING PROMOTION FOR A PERIOD OF THREE YEARS HAS BEEN IMPOSED UPON THE APPELLANT & AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITH IN THE STATUTORY PERIOD OF NINETY DAYS.

RESPECTFULLY SUBMITTED;

1. That the appellant is law abiding & bona-fide citizen, belongs from a respectable family of Lakki Marwat and inducted onto the rolls of the respondent department, appellant has remained the most pragmatic, devoted and dutiful fellow, never left any stone unturned in performance of his duties and importing any responsibility that has been entrusted to.
2. That being highly professional and pragmatic towards the responsibilities bestowed upon the shoulders of the appellant and because of his whetted professional skills, there have never been any sort of soot upon his long career, which in fact is reflected from appellant's service record, which sans any complaint or adverse or even advisory remarks mentioned or ever communicated to the Appellant.
3. That as per the background and checkered history, the appellant was serving his duties as Senior Clerk (BPS-14) was reverted to Junior Clerk (BPS-11) for a period of 01 year and was serving at Public Library Lakki Marwat and as the above said period of 01 year got expired on 29.07.2021, the appellant has been transferred vide the impugned Office Order No.1033/3/10/DA dated 30.07.2021, from

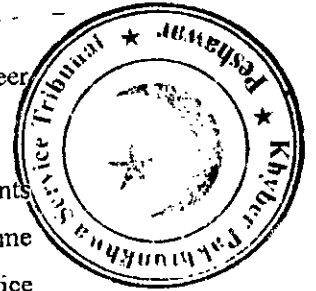
ATTESTED


ATTORNEY GENERAL
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Appeal No. 1239/2022
Hidayatullah vs Govt.

5th Jan, 2023

Learned counsel for the appellant present. Syed Naseer
Ud Din Shah, Asst: AG for respondents present.



SCANNED
KPST
Peshawar

There is nobody present on behalf of the respondents
nor did they submit written reply/comments. The time
provided in Rule-12 of the Khyber Pakhtunkhwa Service
Tribunal Rules, 1974 for filing reply is seven days before
the date fixed but despite providing opportunity the
respondents have not filed the comments. They are thus
placed ex-parte and their right to file reply stands struck
off. To come up for arguments on 13.04.2023 before D.B.

(Kalim Arshad Khan)
Chairman

13th April, 2022

Clerk of counsel for the appellant present. Mr.
Asif Masood Ali Shah, Deputy District Attorney for the
respondents present.

Due to strike of the Bar today, the case is
adjourned to 20.06.2023 for arguments before the D.B.
Parcha Peshi given to the parties.

(Farecha Paul)
Member (E)

(Rozina Rehman)
Member (J)

Fazal

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 18/7/23
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Date of Completion 18/7/23
Date of Delivery of Copy 18/7/23

Authority Letter

Mr. Muqarab Khan Dy. Director, Directorate of Archives & Libraries, Khyber Pakhtunkhwa, is hereby authorized to represent the Respondents No. 01 & 02 in accompanying CMA in Service Appeal # 1239/2022, and file application in the instant service appeal.



Director,
Directorate of Archives & Libraries,
Khyber Pakhtunkhwa, Applicant

DIRECTOR
Directorate of Archives & Libraries
Khyber Pakhtunkhwa Peshawar