



26.09.2022

Appellant present through counsel.
Riaz Khan Paindakhel, learned Assistant Advocate
General for respondents present.

Former made a request for adjournment in order to
prepare the brief. Adjourned. To come up for arguments on
02/12/2022 before D.B.


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

2-12-22


*Deleted from the list to
come up on the next date
27-02-23*

07.02.2023

Clerk of counsel for the appellant present. Muhammad
Adeel But, Learned Additional Advocate General for the
respondents present.

Former made a request for adjournment on the ground
that learned counsel for the appellant is busy before Hon'ble
Peshawar High Court, Bannu Bench. Adjourned. To come up
for arguments on 15.05.2023 before D.B.


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

SCANNED
KPST
Peshawar

SA 4965/2021

16th June 2022

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG alongwith Jehangir Khan Alam, Superintendent for the respondents present.

Representative of the respondents seeks further time to submit reply/comments. Last chance is given to the respondents, otherwise, their right to submit reply shall be struck off. To come up for reply/preliminary hearing on 28.07.2022 before S.B.

SCANNED
KPST
Peshawar



(Kalim Arshad Khan)
Chairman

29.07.2022

Appellant present through counsel.

Muhammad Riaz Khan Paindakheil, learned Assistant Advocate General alongwith Jehangir Khan Superintendent (representative of respondents No.1 to 3) present.

Comments submitted on behalf of respondents No.1 to 3 Nemo for respondent No.4 who has already been served through proper notice but absent, hence, placed ex-parte. To come up for rejoinder, if any and arguments on 26.09.2022 before D.B.

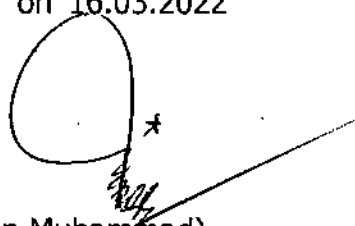


(Rozina Rehman)
Member (J)

19.01.2022

Counsel for the appellant present.

This is 2nd round of litigation. In the first round of litigation the Service Tribunal delivered its judgement on 17.01.2018 in service appeal No. 210/2017 of the present appellant and de-novo proceedings were ordered by the Service Tribunal and the issue of back benefits was submitted to the outcome of de-novo enquiry in accordance with the relevant rules. The respondent-department conducted de-novo enquiry. In the light of enquiry report dated 11.03.2020 minor penalty was recommended due to casual attitude of the appellant. The appellant was therefore, awarded the minor penalty of "censure" vide order dated 18.02.2021. The appellant however, did not agitate against the minor penalty of censure rather submitted departmental appeal on 24.12.2020 for back benefits from 22.10.2016 when he was initially removed from service. On this score the instant service appeal has been submitted in the Service Tribunal on 09.11.2021 which seems to have been hit by limitation. Let pre-admission notice be issued to the respondents for submission of written reply. To come up for reply/preliminary hearing on 16.03.2022 before S.B.


(Mian Muhammad)
Member(E)

16.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 16.06.2022 for the same as before.


Reader

22.09.2021

Learned counsel for the appellant present.

Learned counsel for the appellant requested for adjournment on the ground that he has not prepared the brief. Adjourned. To come up for preliminary hearing before the S.B on 11.11.2021.


(MIAN MUHAMMAD)
MEMBER (E)

11.11.2021

Junior to counsel for the appellant present. Seeks adjournment due to non-availability of learned senior counsel for the appellant. Request is accorded. To come up for preliminary hearing on 19.01.2022 before S.B.


Chairman

18.06.2021

Counsel for the appellant is not in attendance due to death of his mother.

According to factual position given in the memorandum of appeal, the appellant was removed from service, and after his availing the forum of this Tribunal, was ordered to be reinstated by judgment dated 17.01.2018. The said order as impugned in the present appeal was passed in compliance with the judgment mentioned before. It is there in the impugned order that direction was given for denovo enquiry proceedings in terms of Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011. Accordingly, the appellant was supposed to be reinstated and then to be served with show cause notice on the ground on which he was terminated from service. It was also mentioned in the impugned order that the issue of back benefits would be decided after the conclusion of enquiry proceedings. Nowhere in the memorandum of appeal, it was mentioned whether the appellant was subjected to the said proceedings mentioned in the impugned order or not and what was the outcome of those proceedings, if conducted. Let the appellant amend the memorandum of appeal to clarify the issue of denovo enquiry proceedings if conducted subsequent to his reinstatement in compliance with the judgment of this Tribunal, or were not conducted, as the case may be.

Adjourned to 22.09.2021 before S.B for submission of amended appeal.



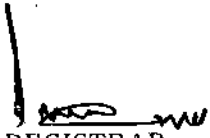

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

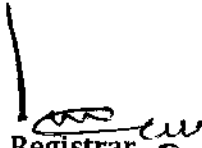
Case No.- 4965 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/04/2021	<p>The appeal of Irfanullah resubmitted today by Mr. Noor Muhammad Khattak, 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-	27/05/21	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>18/06/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Irfanullah received to-day i.e. on 12.04.2021 which is returned to the counsel for the appellant with the direction to submit one more copy/set of the appeal along with annexures i.e. complete in all respect within 15 days.

No. 720 /S.T,

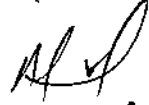
Dt. 15/04/2021


Registrar
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Mr. Noor Muhammad Khattak Adv.

Note

objection removed and submitted one additional copy/set of appeal. Hence re-submitted today dated.


23-24

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

AMENDED APPEAL NO: _____/2021
IN
APPEAL NO. 4965/2021

SCANNED
KPS
Peshawar

IRFAN ULLAH V/S JUDICIARY DEPTT:

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Dated: 08.11.2021

APPELLANT

Through:

**NOOR MOHAMMAD KHATTAK
ADVOCATE**

FLATE NO. 04, 2ND FLOOR,
JUMA KHAN PLAZA, NEAR FATA SECRETARIAT,
WARSAK ROAD, PESHAWAR

0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

AMENDED APPEAL

IN

APPEAL NO. 4965/2021

Mr. Irfan Ullah, Senior Clerk (BPS-14)

In The Court Of District & Session Judge, Oghi District Torghar.

.....**APPELLANT**

VERSUS

1- The Administrative Judge of Peshawar High Court through Registrar,

Peshawar High Court, Peshawar.

2- The Registrar Peshawar High Court, Peshawar.

3- The District & Session Judge, Torghar at Oghi, Khyber Pakhtunkhwa.

4- The District Account Officer, Torghar at Oghi, Khyber Pakhtunkhwa.

.....**RESPONDENTS**

AMENDED APPEAL UNDER SECTION-4 OF THE KHYBER

PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 READ

WITH RELEVANT RULES AND ORDER DATED 18-06-

2021 AGAINST THE IMPUGNED INACTION OF THE

RESPONDENTS BY NOT GRANTING ALL THE BACK

BENEFITS AND AGAINST NOT TAKING ACTION ON THE

DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN

THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the inaction of the respondents by not granting all the back benefits to the appellant may please be declared as illegal, unlawful and ineffective upon the rights of the appellant. That the respondents may please be directed to grant all the back benefits to the appellant. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

- 1- That appellant while serving the respondent Departments as Senior Clerk was removed from service w-e-f 22-10-2016 without following the codal formalities.
- 2- That feeling aggrieved from the his removal/ termination order the appellant preferred departmental appeal followed by service appeal No. 210/2017 and the August Service Tribunal vide judgment dated 17-01-2018 accepted the appeal of the appellant and reinstated him in to service and the department was left at liberty to conduct de-novo if deem appropriate, however the issue of back benefits was subjected to final outcome of the de-novo proceedings. Copy of the judgment dated 17-01-2018 is attached as annexure **A.**
- 3- That the appellant was re-instated in pursuance of the judgment of this august Service Tribunal vide order dated 10-02-2018 and the back benefits of the appellant was left till the outcome of the proceedings of the de-novo proceedings. Copy of the order dated 10-02-2018 is attached as annexure **B.**
- 4- That the respondents conducted a de-novo inquiry and the inquiry officer submitted its report before the competent authority vide order dated 11-03-2020. Copy of the inquiry report is attached as annexure **C.**
- 5- That in light of the mentioned inquiry and recommendations of the inquiry officer the competent authority imposed minor penalty of censure vide order dated 18-02-2021. That vide order mentioned the appellant was also deprived illegally of the back benefits and arrears. Copy of the order dated 18-02-2021 is attached as annexure **D.**
- 6- That appellant feeling aggrieved from the impugned inaction the respondents by not granting the back benefits preferred departmental appeal on 24-12-2020 but no response has been given by the department till date. Copy of departmental appeal is attached as annexure **E.**
- 7- That as the inquiry report and order dated 18-02-2021 was not provided before the filling of the instant appeal, so vide order dated 18-06-2021 the appellant was directed to amend the service appeal for the reason that whether any inquiry has been conducted or not. Copy of order sheet dated 18-06-2021 is attached as annexure **F.**
- 8- That the appellant having no other remedy filed the instant service amended appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned inaction of the respondents by not granting all the back benefits to the appellant is against the law, facts, norms of natural justice and material on the record hence not tenable and liable to be set aside.
- B- That appellant has not been treated by the respondent department in accordance with law and rules on the subject noted above and as such the respondent violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondent acted in arbitrary and mala fide manner by not awarding the back benefits to the appellant as the appellant was removed by the respondents due to their own fault and not of the appellant defect.
- D- That the act and action of the respondents is discriminatory in nature as other colleagues were re-instated without all back benefits, therefore not tenable and liable to be modified.
- E- That no show cause notice has been served on the appellant before issuing the impugned order dated 17.11.2008.
- F- That appellant has been discriminated which is clearly violation of Article 38(e) of the Constitution Of Pakistan 1973.
- G- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

APPELLANT

[Signature]
IRFAN ULLAH

THROUGH:

[Signature]
NOOR MOHAMMAD KHATTAK

[Signature]
KAMRAN KHAN

[Signature]
SAID KHAN

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 210 /2017

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 214

Mr. Irfan Ullah, Ex-Senior Clerk (BPS-14),
In the Court of District & Session Judge, Oghi Torghar.

Dated 28-2-2017

..... APPELLANT

VERSUS

- 1- The Administrative Judge of Peshawar High Court through Registrar Peshawar High Court Peshawar.
- 2- The Registrar, Peshawar High Court Peshawar.
- 3- The District & Session Judge, Torghar at Oghi.

..... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 22-10-2016 WHEREBY THE APPELLANT WAS TERMINATED FROM SERVICE AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned order dated 22-10-2016 may very kindly be set aside and the appellant may kindly be re-instated into service with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

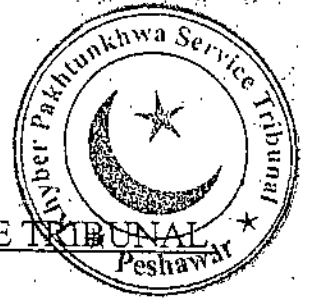
1. That appellant was appointed as Senior Clerk (BPS-14) in the respondent Department after fulfilling all the codal formalities and after proper recommendation of Departmental selection committee. That in response the appellant submitted his arrival report and started performing his duty quite efficiently and up to the entire satisfaction of his superiors. Copy of Appointment Order is attached as **Annexure A.**

Filed to Day
Smsheh
Registrar
28/2/17

2. That it is pertinent to mention that appellant had successfully completed his probationary period and the respondent No.3 transferred/ posted the appellant from one place of posting to another during the said period. Copies of the transfer orders are attached as annexure B.

ARTICLE 10

(5)



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT ABBOTTABAD

Service Appeal No. 210/2017

Date of Institution... 28.02.2017

Date of decision... 17.01.2018

Mr. Irfanullah Ex-Senior Clerk (BPS-14) in the court of District & Sessions Judge,
Oghi, Torghar. ... (Appellant)

Versus

1. The Administrative Judge of Peshawar High Court through Registrar
Peshawar High Court Peshawar and others. (Respondents)

Mr. Noor Muhammad Khattak,
Advocate

... For appellant.

Mr. Usman Ghani,
District Attorney

... For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. AHMAD HASSAN,

... CHAIRMAN
... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: Arguments of the learned
counsel for the parties heard and record perused,

FACTS

2. The appellant was terminated from service on 22.10.2016 during extended period of probation against which he filed a departmental appeal on 04.11.2016 which was not responded to and thereafter he filed the present service appeal on 28.2.2017. During pendency of the present service appeal, the departmental appeal was decided on 11.3.2017 by dismissing the same.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

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ARGUMENTS

3. The learned counsel for the appellant argued that the period of probation of the appellant was for one year and when the same was not extended specifically then his period of probation was terminated. Secondly he argued that no regular enquiry was conducted. That no show cause notice or charge sheet etc. were given to the appellant. That in view of many judgments of the Superior Courts that when a probationer was terminated on a ground which involved a stigma then service of notice was must. The learned counsel for the appellant argued that the very impugned order involved stigma.

4. On the other hand, the learned District Attorney argued that the appellant was under probation. That when after expiry of initial period of probation no specific order was issued for termination of probation then the probation was extended. He further argued that the very impugned order showed the bad performance of the appellant. That the appellant was rightly terminated.

CONCLUSION.

5. At the time when this service appeal was submitted, the appellate authority had not decided the appeal. Though the departmental appellate authority becomes *functus officio* and no order can be passed on the departmental appeal after filing of service appeal. However, the departmental appellate authority has confirmed the order of termination therefore, no prejudice has been caused to the appellant by passing the order by the departmental authority. Has the order of departmental authority been more harsh or different from order of the authority then, of course, the same would not have any effect on the appellant being passed by a *functus officio* authority.

6. This Tribunal is now to see whether the period of probation was extended or was terminated on the expiry of initial period of probation. In accordance with section 7 of the

Civil Servants Act, 1973 read with Rule 15 of the Khyber Pakhtunkhwa Civil Servants

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

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(Appointment, Promotion and Transfer) Rules, 1989, when no specific order is issued on the expiry of initial period of probation, then the same shall be deemed to have been extended. In the present case no specific order was issued regarding termination of probation, therefore, the period of probation shall be taken to have been extended for more one year and the appellant was under probation at the relevant time.

7. Now this Tribunal is to see whether the impugned order of termination carries any stigma against the appellant then, of course, issuance of notice is must in the light of judgment reported as 2014-SCMR-1263., 2012-PLC(C.S)1241 and 1997-SCMR-1552. Under Section 11 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 a probationer can be terminated without any notice but this Tribunal on the basis of the above mentioned judgments and settled jurisprudence while deciding serving appeal No. 235/2016 decided on 01.1.2018 elaborately distinguished between 'performance' and 'efficiency' and also discussed the issue of stigma. In that very judgment it has been held that if the probationer is terminated on the basis of performance only then, of course, no notice is required to be served on probationer but if inefficiency or any other ground is added for termination then, of course, the probationer is entitled to be served with a notice and right of hearing. In the present impugned order, the authority has added the words "earning bad name for judiciary". These words clearly carries stigma on the appellant and the notice was therefore, must. This point was not raised before the departmental appellate authority therefore, it was not taken into consideration by the departmental appellate authority.

8. In view of the above discussion, this appeal is accepted and the appellant is reinstated in service, however, he would be considered on probation till the completion of remaining period of probation. The department is however, at liberty to proceed against the appellant/probationer in accordance with the rules and law and observations mentioned above. The issue of back benefits shall be subject to the final outcome of de novo proceedings, if any, and in case no further proceedings are initiated then, the


ATTESTED

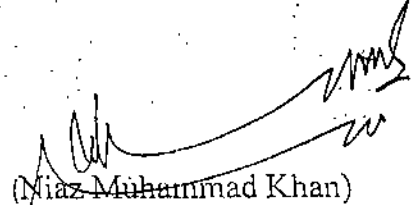
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

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issue of back benefits shall be decided by the department in accordance with the relevant rules on the subject. Parties are left to bear their own costs. File be consigned to the record room.

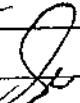

(AHMAD HASSAN)
Member


(Niaz Muhammad Khan)
Chairman
Camp Court, A/Abad

ANNOUNCED
17.01.2018

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

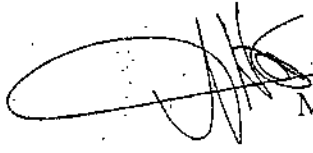
Date of Presentation of Application	2-3-2021
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Copying Fee	38
Urgent	4
Total	42
Name of Copyist	
Date of Completion of Copy	2-3-2021
Date of Delivery of Copy	2-3-2021

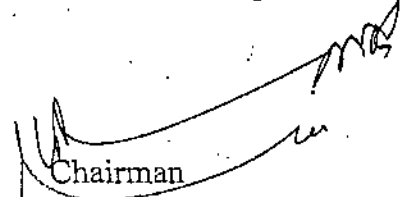
~~ATTESTED~~

17.01.2018

Counsel for the appellant and Mr. ~~Usman Ghani~~
District Attorney alongwith Mr. Jehangir Khan, Supdt
for the respondents present. Arguments heard. Record perused.

This appeal is accepted as per our detailed judgment of
today. Parties are left to bear their own costs. File be consigned
to the record room.


Member


Chairman
Camp court, A/Abad,

ANNOUNCED
17.01.2018

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

OFFICE OF THE DISTRICT & SESSION JUDGE, TOGHAR AT OGH

NO: 177 D&SJ TORGHAR (at Oghi)

Dated: 10.02.2018

ORDER

Mr, Irfan Ullah filed on application appended with attested copy of the judgment dated: 17.01.2018 of Khyber Pakhtunkhwa Service Tribunal Camp Court, Abbottabad passed in Service Appeal No: 210/2017 in case title Mr, Irfan Ullah Ex-Senior Clerk (BPS-14) in the court of District & Session Judge, Torghar. At Oghi Vs The Administrative Judge of Peshawar High Court through Registrar Peshawar High Court, Peshawar and others.

The relevant Para No. 8 of said judgment reproduced .

In view of the above discussion this appeal is accepted and the appellant is re-instated in service, howere he would be considered on probation till the completion of remaining period of probation The department is however at liberty to proceed against the appellant/probationer in accordance with the rules and law and observation mentioned above The issue of back benefits shall be decided by the department in accordance with the relevant rules on the subject:.

A denovo inquiry proceeding in terms of efficiency and discipline rules 2011 be initiated against him First he be reinstated simultaneously show-cause notice be issued to him on the ground on which he was terminated from service. The issue of the back benefits would be decided after the conclusion of inquiry proceeding. The official shall remain under probation, till the remaining period of probation or till further specifie order of extension of probation period if required, subject to his performance and inquiry result.

ORDER

In view of the above discussion, the appeal is accepted and the appellant is reinstated in service; however, he would be considered on probation till the completion of remaining period of probation. The department is, however, at liberty to proceed against the appellant/probationer in accordance with the rules and law and observations mentioned above. The issue of back benefits shall be subject to the final outcome of de novo proceedings, if any; and in case no further proceedings are initiated then, the issue of back benefits shall be decided by the department in accordance with the relevant rules on the subject.

A de novo inquiry proceeding in terms of efficiency and discipline rules 2011 be initiated against him. First he be reinstated, simultaneously showcause notice be issued to him on the grounds on which he was terminated from service. The issue of the back benefits would be decided after the conclusion of inquiry proceedings. The official communication regarding the reinstatement of the appellant/probationer shall be issued to him. The issue of back benefits shall be decided by the department in accordance with the relevant rules on the subject.

~~TESTED~~

In compliance of the order of worthy Service Tribunal dated: 17.01.2018. Mr, Irfan Ullah is hereby reinstated in service from date of judgment dated: 17.01.2018 Ibid at the post of Senior Clerk in the establishment of District & Session Judge Torghar at Oghi with Immediate effect.

(ASHFAQUE TAJ)
District & Session Judge Torghar at Oghi

No. 178-19 D & SJ Torghar (at Oghi)

Dated 10.02.2018

Copy for information to:

1. The worthy Registrar Peshawar High Court, Peshawar alongwith copy of Judgment dated: 17.01.2018 KPK Service Tribunal Camp Court Abbottabad.
2. The District Account Officer Torghar.
3. Official concerned.
4. Office copy.

(ASHFAQUE TAJ)
District & Session Judge Torghar at Oghi

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dated: 17.01.2018
of judgment dated: 17.01.2018
establishment of District
immediate effect.

(ASHFAQUETAJ)
District & Sessions Judge
Torghar, (at Oghl)

No. 178-19-D&SJ Torghar (at Oghl)

Dated: 18/2/2018

Copy for information to:

1. The worthy Registrar Peshawar High Court, Peshawar along with copy of judgment dated: 17.01.2018 KPK Service Tribunal Camp Court Abbottabad.
2. The District Accounts Officer Torghar.
3. Official concerned.
4. Office copy.

ATTESTED

Signature *[Signature]*

Date 26-2-2018

[Signature]
(ASHFAQUETAJ)
District & Sessions Judge
Torghar, (at Oghl).



ATTESTED

IN THE COURT OF SENIOR CIVIL JUDGE (JUDL)
TORGHAR AT OGH

Inquiry Report

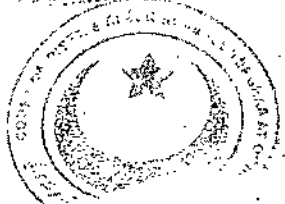
Dated: 11.3.2020

Accused official present.

1. The following show cause notice No. 186 D&SJ (TC) dated 12.02.2018 was issued to Mr. Irfanullah Senior Clerk/Muharrir Court of D&SJ Torghar at Oghi by the then learned District & Sessions Judge Torghar at Oghi:

"In compliance with order/judgment of worthy Service Tribunal dated 17.01.2018, you Mr. Irfanullah, Senior Clerk/Muharrir have been reinstated today vide separate order of this office. A denovo proceedings has also been recommended by the worthy Service Tribunal against you with directions to issue proper explanation/show-cause to you for your inefficiency on the basis of which you were terminated from service.

You Mr. Irfanullah, Senior Clerk/Muharrir of this court on probation are, hereby, directed to explain that you despite verbal as well as written directions have not mend your ways in performance of your

Fazal Nasir Shah
Senior Civil Judge
Torghar at Oghi.
11.3.20
ATTESTED
SIGNATURE: [Signature]
25.3.21


ATTESTED [Signature]

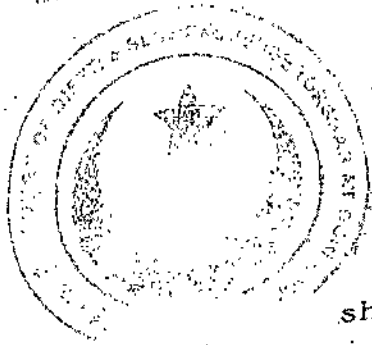
official duties and you have been found time and again inefficient in issuing of process. That earlier you have been served with following explanations bearing No. 184 dated 19.05.2015, 435 dated 20.11.2015, 407 dated 31.10.2015, 413 dated 06.11.2015, 422 dated 11.11.2015, 348 dated 20.07.2016 and warning notices bearing No. 465 dated 26.11.2015, 185-186 dated 01.04.2016, 355 dated 27.07.2016 and 384 dated 09.08.2016 but you have not paid any heed to any of the above mentioned explanations.

You are, therefore, directed to submit explanation about your negligence and inefficiency committed by you during probation period within seven (07) days of the receipt of this notice failing which it shall be presumed that you have nothing to say in defense and an ex parte action shall be taken against you."

2. The background of the above mentioned show cause notice is that Irfanullah s/o Fazeen Ullah was appointed as Senior Clerk BPS-14 vide order 81 dated Oghi the 14.4.2015. He was posted as

Fazal Nasir Shah
Senior Civil Judge
Torghar at Oghi.

11. 3. 20
ATTESTED
Signature: *[Signature]*
Date: 26-3-21



ATTESTED *[Signature]*

English Clerk in the court of the learned District & Sessions Judge Torghar at Oghi on his first appointment vide office order No. 145 D&SJ Torghar dated 06.5.2015. Notice No. 184 D&SJ (TG) dated 19.5.2015 was issued to Irfanullah S/C alongwith three others namely Fazal Raziq J/C, Umar Farooq J/C and Jihad Ullah J/C. The contents of the notice are as under:

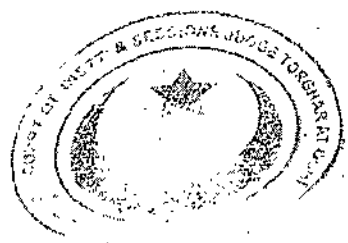
"It has been noted with deep concern that you have lack of interest in your official work. You are directed to take interest in your job and also improve your computer skills within one month time failing which strict action under the law shall be taken against you which may lead to the termination of your services."

*Fazal Nasir Shah
Senior Civil Judge
Torghar at Oghi
11.3.20*

3. First explanation was called from the official/accused vide order No. 435/D&SJ Torghar at Oghi dated 20.11.2015. The contents of the explanation are:

"It has come to the notice of undersigned that you have not entered the bail application titled 'Abdul Salam Vs State P.I.R No. 15"

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[Signature]
Signature: _____
Date: 26-3-21



ATTESTED

under section 302 PPC in the relevant register till its disposal. Your this conduct reveals that you are not interested in your official duty.

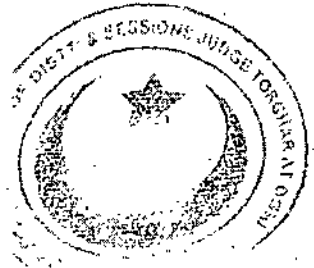
You are therefore asked to explain your position within (7) days of the receipt of this letter, as to why you should not be proceeded against under the E&D Rules, 2011. In case your reply is not received it should be presumed that you have nothing to say in defense and an exparte action shall be taken against you."

4. Thereafter too many warnings and explanations were issued to the official/accused. These are orders Nos. 407 dated 31.10.2015, 413 dated 06.11.2015, 422 dated 11.11.2015, 465 dated 26.11.2015, 185-186 dated 01.4.2016, 348 dated 20.7.2016, 355 dated 27.7.2016 and 384 dated 09.8.2016. When the accused/official allegedly did not mend his ways despite the above mentioned warnings/explanations, the then learned District & Sessions Judge Torghar at Oghi terminated his services vide order No. 470 D&SJ Torghar at Oghi dated 22.10.2016. The office order is as follows:

Fazal Nasir Shah
Senior Civil Judge,
Torghar at Oghi

11. 3. 20

26.3.21



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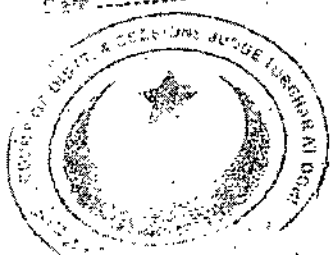
"1. Whereas Muharrir Irfanullah (BPS-14) of this court has been directed verbally as well as in writing for various times to take proper interest in performance of his duties as court work do not bear a little bit negligence in discharge of duties of the concerned official.

2. Whereas sometimes he was found non issuing process where it was directed presumably under influence of the concerned interested party to safeguard them from penal action in the court. That he was repeatedly found involved in intentional negligence in discharge of his duties creating an impression of doing so for ulterior motives.

3. Whereas despite various oral directions in presence of a number of learned counsels and staff of this court and also in writing issuing him explanations Nos. 184 dated 19.5.2015, 435 dated 20.11.2015, 407 dated 31.10.2015, 413 dated 06.11.2015, 422 dated 11.11.2015, 348 dated 20.7.2016 and warnings Nos. 465 dated 26.11.2015, 185-86 dated

Fazal Nasir Sha
Senior Civil Judge,
Torghar at Oghi
11.3.20

ATTEST
Signature: *[Signature]*
Date: 26.3.21



ATTESTED *[Signature]*

01.4.2016, 355 dated 20.7.2016 and 384 dated 09.8.2016, he did not mend his negative attitude which not only result in hurdles in smooth judicial proceedings but also earning bad name for judiciary.

4. Whereas being in probation period his work is not found satisfactory and his further retention in service is not considers suitable for the interest of state and public, therefore, now I, Syed Asghar Ali Shah, District & Sessions Judge-being competent authority- terminate his services in terms of para VI of his appointment order No. 81 dated 14.4.2015 in the public interest."

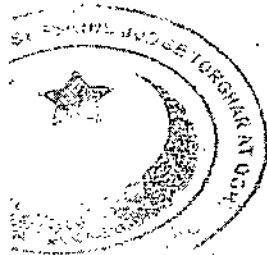
Syed Nasir Shah
Senior Civil Judge,
Torghar at Oghi

1. 20

5. Accused/official filed departmental appeal on,04.11.2016 and after getting no response he filed service appeal on 28.02.2017. The honourable Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad passed the following order on 17.01.2018 in Service Appeal No. 210/2017 instituted on 28.02.2017.

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26.3.21



"In view of the above discussion, this appeal is accepted and the appellent is reinstated in service, however he would be consider on probation till

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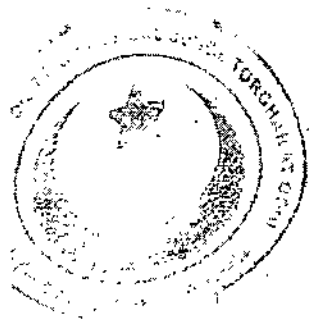
18

the completion of remaining period of probation. The department is however, at liberty to proceed against the appellant/probationer in accordance with the rules and law and observations mentioned above. The issue of back benefits shall be subject to the final outcome of de novo proceedings, if any, and in case no further proceedings are initiated then, the issue of back benefits shall be decided by the department in accordance with the relevant rules on the subject."

Fazal Navaz Shah
Senior Civil Judge
Torghar at Oghi

11. 3. 20

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Signature: *[Signature]*
Date: 26.3.2018



6. It is after the decision of the honourable Service Tribunal that the show cause notice mentioned in para I of this report was issued to the accused/official. The present inquiry was entered as case No. 16/2 of 2018 by the then learned Senior Civil Judge Torghar at Oghi on 22.3.2018 and notice was issued to accused/official. Statement of Jehangir Khan Superintendent Sessions Court was recorded by my learned predecessor-in-office on 24.11.2018. The accused/official did not opt to cross examine him. Statement of accused/official was

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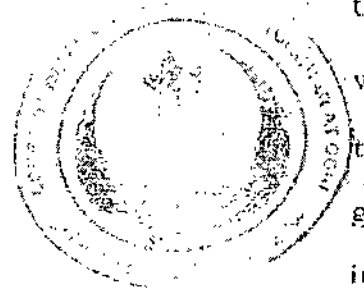
recorded by my learned predecessor-in-office on 26.11.2019. He was also not cross examined by the other side. Similarly statements of Mubashir Hussain Incharge Record Room Lower Courts and Jehadullah Criminal Muharrir Sessions Court Torghar were also recorded as CWs by my learned predecessor-in-office on 16.02.2019. Nobody opted to cross examine these witnesses as well.

7. From the record it is clear that the performance of the accused/official was not satisfactory in the estimation of the then learned District & Sessions Judges, with whom he was performing his duties. The number of warnings/explanations also shows that accused/official was not ready to mend his ways. In his evidence Jehanger Khan Superintendent has produced all the warnings/explanations but the accused/official has not cross examined him. It means that he has no defense to rebut/challenge these warnings/explanations. The only defense which the accused/official has forwarded is the fact that he was newly appointed and did not have the grip over the official work because no training was imparted to him after appointment. In his statement accused/official has narrated the whole account as

Fazal Nadeem Shah
Senior Civil Judge
Torghar at Qurb

11.3.20

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Signature
11.3.21



ATTESTED

to how he was appointed and was assigned too technical tasks without any training. He was trying his level best to cope with the situation but in vain.

8. Whether an official is taking interest in his duty or not is the personal observation of any officer. In this view of the matter the then learned District & Sessions Judges were in a better position to judge the accused/official during the performance of his duties. The observations of the worthy District Judges cannot be taken lightly. It seems that on the one hand the accused/official was not experienced being newly inducted and on the other he was not taking interest in his duties.

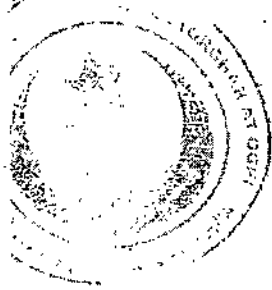
9. It is also an admitted fact that no training was imparted to the accused/official after appointment. The other fact remains that the accused/official was appointed as Reader and after that Criminal Muharrir in the court of the then learned District & Sessions Judges for which duty he was not fully prepared and trained. Furthermore the accused/official was appointed in District Torghar which is a newly created district and the education ratio is also very small there. Most of area is hilly and the houses are always far away from the schools. Due to these reasons I will not recommend

2
Azal Nishi Shah
Senior Civil Judge
Torghar at Ogl.

3.20

11/11/20

26-3-21



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the major penalty of dismissal/removal from service of the accused/official. However he deserves to be given minor penalty due to his casual attitude.

The report is hereby submitted to the worthy District & Sessions Judge Torghar at Oghi for further necessary action.

N
Fazal Nasir Shah
Senior Civil Judge (Judl.)
Torghar at Oghi

11.3.20
2

WITNESSETH
Signature *MC*
Date 26.3.21



ATTACHED *[Signature]*

OFFICE OF DISTRICT AND SESSIONS JUDGE
TORGHAR (AT Oghi)

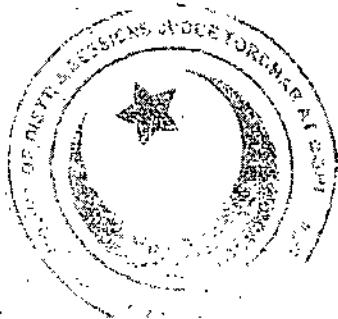
No 74 D&SJ Torghar (at Oghi)

Dated: 18/02, 2021

ORDER

- 1.. This order is to dispose of inquiry initiated against the accused/official namely Irfan Ullah Senior Clerk/Moharrar.
2. Vide letter No. 320 D & SJ Torghar/ Oghi dated 15.03.2018, the learned Senior Civil Judge Torghar was appointed as an inquiry officer who submitted his report on 11.03.2020.
3. The background of the inquiry proceedings are such that the accused/official was terminated from service by the competent authority vide order dated: 22.10.2016. His departmental appeal was also turned down; however, he was reinstated into service by the Worthy Khyber Pakhtunkhwa Service Tribunal Camp court Abbottabad vide order dated: 17.01.2018. Apropos Para No. 8 of the above said judgment, a show cause notice was issued to the accused official on 12.02.2018 whereto he submitted his reply; however, being unsatisfactory, formal inquiry commenced against him and learned Senior Civil Judge Torghar was appointed as an inquiry Officer who commenced proceedings on 22.03.2018 and submitted his report on 11.03.2020.

[Signature]
18.02.21



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Signature: *[Signature]*
Date: 26-3-21

ATTESTED

4. During the course of inquiry, the learned Senior Civil Judge/ Inquiry Officer recorded the statements of Jehangir Alam Khan Superintendent Sessions Court Torghar, Mubashir, Incharge Record Room and Jihad Ullah Criminal Muharrar. The statement of accused official is also recorded on 24.01.2019.

5. Inexperience coupled with lack of training resulted in the instant proceedings against the accused/official opined the Inquiry Officer in his concluding remarks. I am in agreement with the above findings and hold that the accused official is entitled for lenient treatment. It is Worthy to note here that the accused official earned good ACRs from various Reporting Officers and agreed upon by the Countersigning Officers which speaks volumes that the accused official has displayed improvement since then, which factor calls for lenient approach towards him.

Jamir
18.02.21

6. Keeping in view the above discourse, I agree with the report as submitted by the inquiry officer and impose minor penalty of Censure upon the accused/official under Section 4(1)(a)(i) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and he is warned to be extra careful in future.



ATTORNEY
Signature: *[Signature]*
Date: 26.3.21

[Signature]
ATTORNEY

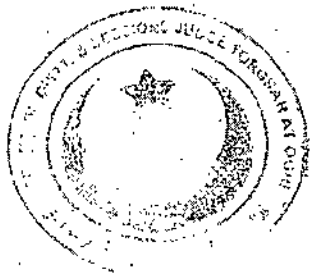
7. As for the issue of back benefits and arrears of pay for the period between termination and reinstatement into service from 22.10.2016 to 17.01.2018 is concerned, it is stated that as the accused official has not been exonerated and similarly he has not worked during the period of termination, therefore, he is not entitled for back benefits and arrears of pay. Order accordingly.

Jamal Ud Din Khan
JAMAL UD DIN KHAN
District & Sessions Judge, Torghar
(at Oghi)
District And Sessions Judge,
Torghar

D
ATTESTED

Signature - *M/e*

Date - 26-3-21



Handwritten notes in Urdu script, including 'میں نے' and '26/3/21'.

Order No. 50
Date 26-3-21
Name of the
District
Name of the
Date of the 26-3-21
Name of the
Date 26-3-21

[Signature]
ATTESTED

ANNEX

E

To,

The District and Session Judge
Torghar at Oghi, Khyber Pakhtunkhwa.

25

**SUBJECT:-DEPARTMENTAL APPEAL AGAINST THE JUDGMENT
17.01.2018 WHEREBY I WAS REINSTATED BACK INTO
SERVICE BUT NO BACKBENEFITS WERE GIVEN TO ME
WHEREAS I SHALL BE GIVEN ALL THE BACKBENIFITS FROM
22.10.2016.**

Respected sir,

With due regard it is stated that I am the employee of your good-self department and is serving as senior clerk BPS-14 in this department. I was removed from service on 22.10.2016 whereas I filed case in Services Tribunal and on 10-02-2018 judgment was issued and it was stated in the judgment that I shall be reinstated back into service from the date 17-01-2018. I have joined the department back from the said date and I shall be given all the Back-benefits from the date of my removal of service.

It's is therefore most humbly requested that I am filling an appeal before you and I shall be given all the back-benefits as I have come clean and this is my right to which I am entitled to. Any other remedy which your good-self deems fit that may also be awarded in my favor.

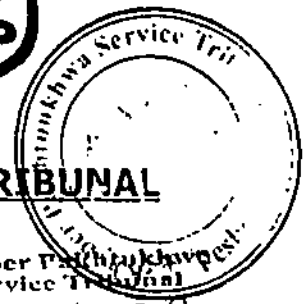
Dated:-24-12-2020

IRFANULLAH
SENIOR CLERK (BPS-14)
DISTRICT JUDICIARY TORGHAR
AT Oghi KHYBER PAKHTUNKHWA

ATTESTED

ANNEX F

26



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 4465 /2021

Khyber Pakhtunkhwa Service Tribunal

Diary No. 4838

Dated 12/4/2021

Mr. Irfan Ullah, Senior Clerk (BPS-14)
In The Court of District & Session Judge, Oghi Torghar

.....APPELLANT

VERSUS

- 1- The Administrative Judge of Peshawar High Court through Registrar, Peshawar High Court, Peshawar.
- 2- The Registrar, Peshawar High Court, Peshawar.
- 3- The District & Session Judge, Torghar at Oghi, Khyber Pakhtunkhwa.
- 4- The District Account Officer, Torghar at Oghi, Khyber Pakhtunkhwa.

.....RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDERS DATED 10-2-2018 WHEREBY THE APPELLANT WAS RE-INSTATED IN TO SERVICE BUT WITHOUT BACK BENEFITS AND AGAINST THE INACTION OF THE RESPONDENTS BY NOT DECIDING THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTERY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the impugned order dated 10-2-2018 may very kindly be rectified/ modified to the extent that the back benefits w-e-f 17-01-2018 be awarded to the appellant with other consequential benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

**R/SHEWETH:
ON FACTS:**

ATTESTED

EXAMINED
Khyber Pakhtunkhwa Service Tribunal
Peshawar

Filed to-day 12/4/2021 **Brief facts giving rise to the present appeal are as under:**

12/4/2021
Registrar

1- That the appellant while is serving the respondent Departments as Senior Clerk and was removed from service w-e-f 22-10-2016 without any good reasons.

2- That feeling aggrieved from the said removal/termination order the appellant challenged the same before this August Service Tribunal and this August Service Tribunal vide judgment dated 17-01-2018, accepted the appeal of the appellant and re-instated the appellant into service. (Copy of the judgment dated 17-01-2018 is attached as annexure.....A).

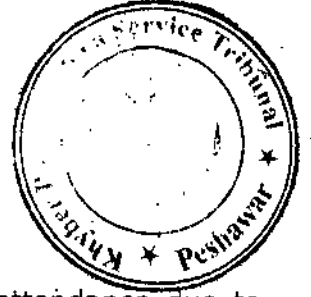
3- That after receiving the attested copy of the judgment, the appellant submitted it with an application to the respondent department for his re-instatement with back benefits. But the respondents department in utter disregard of the judgment of this August Service Tribunal re-instated the appellant vide order dated 10-02-2018 without back benefits. Copy of the order dated 10-02-2018 is attached as annexure.....B)

That feeling aggrieved from the impugned order dated 10-02-2018, the appellant preferred departmental appeal on 24-12-2020 but no response has been given by the department till date. Copy of departmental appeal is attached as annexure.....C).

Re-submitted to-day
and filed.

Registrar
12/4/2021

27



18.06.2021

Counsel for the appellant is not in attendance due to death of his mother.

According to factual position given in the memorandum of appeal, the appellant was removed from service, and after his availing the forum of this Tribunal, was ordered to be reinstated by judgment dated 17.01.2018. The said order as impugned in the present appeal was passed in compliance with the judgment mentioned before. It is there in the impugned order that direction was given for denovo enquiry proceedings in terms of Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011. Accordingly, the appellant was supposed to be reinstated and then to be served with show cause notice on the ground on which he was terminated from service. It was also mentioned in the impugned order that the issue of back benefits would be decided after the conclusion of enquiry proceedings. Nowhere in the memorandum of appeal, it was mentioned whether the appellant was subjected to the said proceedings mentioned in the impugned order or not and what was the outcome of those proceedings, if conducted. Let the appellant amend the memorandum of appeal to clarify the issue of denovo enquiry proceedings if conducted subsequent to his reinstatement in compliance with the judgment of this Tribunal, or were not conducted, as the case may be.

Adjourned to 22.09.2021 before S.B for submission of amended appeal.

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Chairman

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2021

Mr. Irfan Ullah, Senior Clerk (BPS-14)
In The Court of District & Session Judge, Oghi Torghar

.....APPELLANT

VERSUS

- 1- The Administrative Judge of Peshawar High Court through Registrar, Peshawar High Court, Peshawar.
- 2- The Registrar, Peshawar High Court, Peshawar.
- 3- The District & Session Judge, Torghar at Oghi, Khyber Pakhtunkhwa.
- 4- The District Account Officer, Torghar at Oghi, Khyber Pakhtunkhwa.

.....RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDERS DATED 10-2-2018 WHEREBY THE APPELLANT WAS RE-INSTATED IN TO SERVICE BUT WITHOUT BACK BENEFITS AND AGAINST THE INACTION OF THE RESPONDENTS BY NOT DECIDING THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTERY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the impugned order dated 10-2-2018 may very kindly be rectified/ modified to the extent that the back benefits w-e-f 17-01-2018 be awarded to the appellant with other consequential benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:

- 1- That the appellant while is serving the respondent Departments as Senior Clerk and was removed from service w-e-f 22-10-2016 without any good reasons.
- 2- That feeling aggrieved from the said removal/termination order the appellant challenged the same before this August Service Tribunal and this August Service Tribunal vide judgment dated 17-01-2018, accepted the appeal of the appellant and re-instated the appellant into service. (Copy of the judgment dated 17-01-2018 is attached as annexure.....A).
- 3- That after receiving the attested copy of the judgment, the appellant submitted it with an application to the respondent department for his reinstatement with back benefits. But the respondents department in utter disregard of the judgment of this August Service Tribunal re-instated the appellant vide order dated 10-02-2018 without back benefits. Copy of the order dated 10-02-2018 is attached as annexure.....B)
- 4- That feeling aggrieved from the impugned order dated 10-02-2018, the appellant preferred departmental appeal on 24-12-2020 but no response has been given by the department till date. Copy of departmental appeal is attached as annexure.....C).

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: _____ OF 2021

Irfanullah (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Judiciary Deptt.: (RESPONDENT)
(DEFENDANT)

I/We Irfanullah
Do hereby appoint and constitute **NOOR MUHAMMAD KHATTAK Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2021

[Signature]
CLIENTS

[Signature]
ACCEPTED
NOOR MUHAMMAD KHATTAK
KAMRAN KHAN
SAID KHAN
HAIDER ALI
&
KHANZAD GUL
ADVOCATES

Infon ellor

Infon ellor

Infon ellor

Infon ellor

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 4965 /2021

SCANNED
KPST
Peshawar

Mr. IRFAN ULLAH

V/S

JUDICIARY DEPARTMENT

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3	Order dt; 10-02-2018	B	9-10
4	Departmental appeal	C	11
5	Wakaiat Nama	12

Dated: 12-04-2021

APPELLANT

Through:


NOOR MOHAMMAD KHATTAK
ADVOCATE

FLATE NO. 04, 2ND FLOOR,
JUMA KHAN PLAZA, NEAR FATA SECRETARIAT,
WARSAK ROAD, PESHAWAR

0345-9383141

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 210 /2017

Khyber Pakhtunkhwa
Service Tribunal

Mr. Irfan Ullah, Ex-Senior Clerk (BPS-14),
In the Court of District & Session Judge, Oghi Torghar.

Diary No. 214

Dated 28-2-2017

..... APPELLANT

VERSUS

- 1- The Administrative Judge of Peshawar High Court through Registrar Peshawar High Court Peshawar.
- 2- The Registrar, Peshawar High Court Peshawar.
- 3- The District & Session Judge, Torghar at Oghi.

..... RESPONDENTS

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974
AGAINST THE IMPUGNED ORDER DATED 22-10-2016
WHEREBY THE APPELLANT WAS TERMINATED FROM
SERVICE AND AGAINST NOT TAKING ACTION ON THE
DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN
THE STATUTORY PERIOD OF NINETY DAYS**

PRAYER:

That on acceptance of this appeal the impugned order dated 22-10-2016 may very kindly be set aside and the appellant may kindly be re-instated into service with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1. That appellant was appointed as Senior Clerk (BPS-14) in the respondent Department after fulfilling all the codal formalities and after proper recommendation of Departmental selection committee. That in response the appellant submitted his arrival report and started performing his duty quite efficiently and up to the entire satisfaction of his superiors. Copy of Appointment Order is attached as **Annexure A.**
- 2. That it is pertinent to mention that appellant had successfully completed his probationary period and the respondent No.3 transferred/ posted the appellant from one place of posting to another during the said period. Copies of the transfer orders are attached as annexure B.

Singh
28/2/17

ATTACHED

- 5- That appellant, having no other remedy, prefer the instant appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned orders dated 10-02-2018 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be rectified/ modified.
- B- That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents acted in arbitrary and mala fide manner by not awarding the back benefits to the appellant as the appellant was removed by the respondents due to their own fault and not of the appellant defect.
- D- That the act and action of the respondents is discriminatory in nature as other colleagues were re-instated with all back benefits but the appellant without back benefits, therefore not tenable and liable to be modified.
- E- That under Article 38(e) of the Constitution of Pakistan 1973 state is bound to reduce disparity in the income and earning of the individuals including persons in the various service of Pakistan.
- F- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

APPELLANT


IRFAN ULLAH

THROUGH:


NOOR MOHAMMAD KHATTAK


AFRASIAB KHAN WAZIR

&


**HAIDER ALI
ADVOCATES**

4



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT ABBOTTABAD

Service Appeal No. 210/2017

Date of Institution... 28.02.2017

Date of decision... 17.01.2018

Mr. Irfanullah Ex-Senior Clerk (BPS-14) in the court of District & Sessions Judge,
Oghi, Torghar, ... (Appellant)

Versus

1. The Administrative Judge of Peshawar High Court through Registrar
Peshawar High Court Peshawar and others, ... (Respondents)

Mr. Noor Muhammad Khattak,
Advocate ... For appellant.

Mr. Usman Ghani,
District Attorney ... For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. AHMAD HASSAN, ... CHAIRMAN
... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: Arguments of the learned
counsel for the parties heard and record perused.

FACTS

2. The appellant was terminated from service on 22.10.2016 during extended period
of probation against which he filed a departmental appeal on 04.11.2016 which was not
responded to and thereafter he filed the present service appeal on 28.2.2017. During
pendency of the present service appeal, the departmental appeal was decided on
11.3.2017 by dismissing the same.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(5)

ARGUMENTS

3. The learned counsel for the appellant argued that the period of probation of the appellant was for one year and when the same was not extended specifically then his period of probation was terminated. Secondly he argued that no regular enquiry was conducted. That no show cause notice or charge sheet etc. were given to the appellant. That in view of many judgments of the Superior Courts that when a probationer was terminated on a ground which involved a stigma then service of notice was must. The learned counsel for the appellant argued that the very impugned order involved stigma.

4. On the other hand, the learned District Attorney argued that the appellant was under probation. That when after expiry of initial period of probation no specific order was issued for termination of probation then the probation was extended. He further argued that the very impugned order showed the bad performance of the appellant. That the appellant was rightly terminated.

CONCLUSION.

5. At the time when this service appeal was submitted, the appellate authority had not decided the appeal. Though the departmental appellate authority becomes *functus officio* and no order can be passed on the departmental appeal after filing of service appeal. However, the departmental appellate authority has confirmed the order of termination therefore, no prejudice has been caused to the appellant by passing the order by the departmental authority. Has the order of departmental authority been more harsh or different from order of the authority then, of course, the same would not have any effect on the appellant being passed by a *functus officio* authority.

6. This Tribunal is now to see whether the period of probation was extended or was terminated on the expiry of initial period of probation. In accordance with section 7 of the Civil Servants Act, 1973 read with Rule 15 of the Khyber Pakhtunkhwa Civil Servants

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

⑥

(Appointment, Promotion and Transfer) Rules, 1989, when no specific order is issued on the expiry of initial period of probation, then the same shall be deemed to have been extended. In the present case no specific order was issued regarding termination of probation, therefore, the period of probation shall be taken to have been extended for more one year and the appellant was under probation at the relevant time.

7. Now this Tribunal is to see whether the impugned order of termination carries any stigma against the appellant then, of course, issuance of notice is must in the light of judgment reported as 2014-SCMR-1263., 2012-PLC(C.S)1241 and 1997-SCMR-1552. Under Section 11 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 a probationer can be terminated without any notice but this Tribunal on the basis of the above mentioned judgments and settled jurisprudence while deciding serving appeal No. 235/2016 decided on 01.1.2018 elaborately distinguished between 'performance' and 'efficiency' and also discussed the issue of stigma. In that very judgment it has been held that if the probationer is terminated on the basis of performance only then, of course, no notice is required to be served on probationer but if inefficiency or any other ground is added for termination then, of course, the probationer is entitled to be served with a notice and right of hearing. In the present impugned order, the authority has added the words "earning bad name for judiciary". These words clearly carries stigma on the appellant and the notice was therefore, must. This point was not raised before the departmental appellate authority therefore, it was not taken into consideration by the departmental appellate authority.

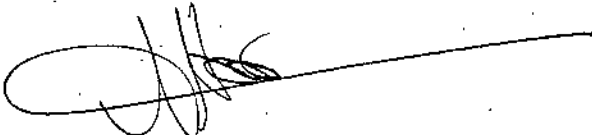
8. In view of the above discussion, this appeal is accepted and the appellant is reinstated in service, however, he would be considered on probation till the completion of remaining period of probation. The department is however, at liberty to proceed against the appellant/probationer in accordance with the rules and law and observations mentioned above. The issue of back benefits shall be subject to the final outcome of denovo proceedings, if any, and in case no further proceedings are initiated then, the

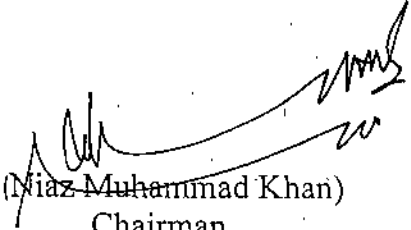
ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

7

issue of back benefits shall be decided by the department in accordance with the relevant rules on the subject. Parties are left to bear their own costs. File be consigned to the record room.


(AHMAD HASSAN)
Member


(Niaz Muhammad Khan)
Chairman
Camp Court, A/Abad

ANNOUNCED

17.01.2018

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

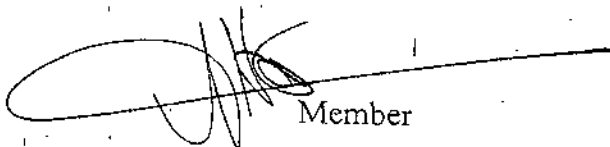
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Date of Completion of Copy 2-3-2021
Date of Delivery of Copy 2-3-2021

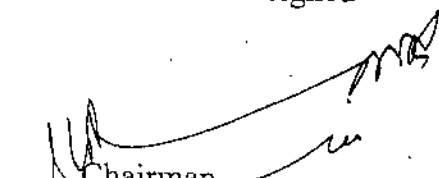
8

17.01.2018

Counsel for the appellant and Mr. ~~Usman Ghani~~
District Attorney alongwith Mr. Jehangir Khan, Supdt
for the respondents present. Arguments heard. Record perused.

This appeal is accepted as per our detailed judgment of
today. Parties are left to bear their own costs. File be consigned
to the record room.


Member


Chairman
Camp court, A/Abad,

ANNOUNCED
17.01.2018

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Annexure "B"

OFFICE OF THE DISTRICT JUDGE, PUNJAB, CHANAYALOGU
No. 177, D.A. 11-11-18

ORDER:

Mr. [Name] filed an application for reinstatement in service copy of the judgment dated 17.01.2018 of Military Petition Service Tribunal Camp Court, Allahabad passed in service appeal No. 210/2017 in case title Mr. [Name] vs. Senior Clerk (BPS-14) & or others of District & Sessions Judge, Allahabad Vs. The Administration of Allahabad High Court through Registrar, Allahabad High Court, Allahabad and others.

The relevant Para No. 8 of said judgment is reproduced.

"In view of the above discussion, this appeal is accepted and the appellant is reinstated in service, however, he would be considered on probation till the completion of remaining period of probation. The department is however, at liberty to proceed against the appellant/probationer in accordance with the rules and law and observations mentioned above. The issue of back benefits shall be subject to the final outcome of de novo proceedings, if any; and in case no further proceedings are initiated then, the issue of back benefits shall be decided by the department in accordance with the relevant rules on the subject".

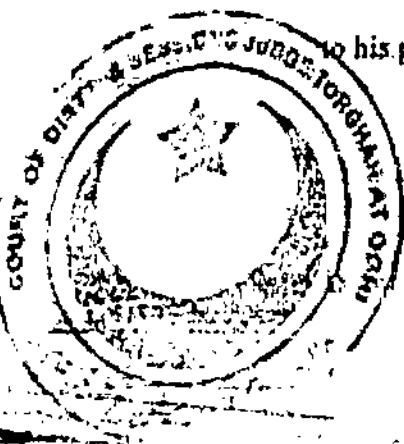
A de novo inquiry proceeding in terms of efficiency and discipline rules 2011 be initiated against him. First he be reinstated, simultaneously show-cause notice be issued to him on the grounds on which he was terminated from service. The issue of the back benefits would be decided after the conclusion of inquiry proceedings. The official shall remain under probation till the remaining period of probation or till further specific order of extension of probation period if required, subject to his performance and inquiry result.

1/10/18

ATTESTED

Signature: [Signature]

Date: 11.11.18



Continue

In compliance of the order of worthy Services Tribunal dated: 17.01.2018, Mr. Irfanullah is hereby nominated in service from date of Judgment dated: 17.01.2018 to the post of Senior Clerk in the establishment of District & Sessions Judge Torghar at Oghi with immediate effect.

(Signature)
(ASHFAQUE TAJ)
District & Sessions Judge
Torghar, (at Oghi).

No. 178-29 D&SJ Torghar (at Oghi)

Dated 1st 2/2018

Copy for information to:

1. The worthy Registrar Peshawar High Court, Peshawar along with copy of Judgment dated: 17.01.2018 KPK Service Tribunal Camp Court Abbottabad.
2. The District Accounts Officer Torghar.
3. Official concerned.
4. Office copy.

ATTESTED

Signature ADL

Date 26-2-2018

(Signature)
(ASHFAQUE TAJ)
District & Sessions Judge
Torghar, (at Oghi).



(Handwritten mark)

To

Annexure "C"

11

The District and Session Judge
Torghar at Oghi, Khyber Pakhtunkhwa.

**SUBJECT:-DEPARTMENTAL APPEAL AGAINST THE JUDGMENT
17.01.2018 WHEREBY I WAS REINSTATED BACK INTO
SERVICE BUT NO BACKBENEFITS WERE GIVEN TO ME
WHEREAS I SHALL BE GIVEN ALL THE BACKBENIFITS FROM
22.10.2016.**

Respected sir,

With due regard it is stated that I am the employee of your good-self department and is serving as senior clerk BPS-14 in this department. I was removed from service on 22.10.2016 whereas I filed case in Services Tribunal and on 10-02-2018 judgment was issued and it was stated in the judgment that I shall be reinstated back into service from the date 17-01-2018. I have joined the department back from the said date and I shall be given all the Back-benefits from the date of my removal of service.

It's is therefore most humbly requested that I am filling an appeal before you and I shall be given all the back-benefits as I have come clean and this is my right to which I am entitled to. Any other remedy which your good-self deems fit that may also be awarded in my favor.

Dated:-24-12-2020

IRFANULLAH
SENIOR CLERK (BPS-14)
DISTRICT JUDICIARY TORGHAR
AT OGI KHYBER PAKHTUNKHWA

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

_____ OF 2021

Irfanullah (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Judiciary Deptt (RESPONDENT)
(DEFENDANT)

I/We Irfanullah

Do hereby appoint and constitute **Noor Muhammad Khattak, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2021

[Signature]
CLIENT(S)

ACCEPTED
NOOR MUHAMMAD KHATTAK

AFRASIAB KHAN WAZIR

KAMRAN KHAN

&
SHAHZULLAH YOUSAFZAI
ADVOCATES

OFFICE:
OFFICE: Flat No.4, 2nd Floor,
Juma Khan Plaza,
Near FATA Secretariat,
Warsak Road, Peshawar.
Mobile No: 0345-9383141



**OFFICE OF THE DISTRICT & SESSIONS
JUDGE, TORGHAR AT OGIH**

District Judiciary Torghar

Off: # 0997-321003

Fax: # 0997-321005

Email: dsjtorgharoghi@gmail.com

No: 643/DSJ-TG Dated: 27/7/2022

SUBJECT: SERVICE APPEAL NO. 4965 OF 2021.


Irfan Ullah

...VS...

The Administrative Judge of PHC through Registrar, etc

OFFICE ORDER:

In Compliance to letter bearing No. 11445/Admn, dated: 15.07.2022 of the Hon'ble Peshawar High Court, Peshawar, Mr. Jahangir Khan Alam, Superintendent Sessions Court Torghar at Oghi as a representative of Respondent No. 1 to 3; is handed over duly vetted reply signed by Respondents No. 1 & 2 and Respondent No. 3, in the subject service appeal for submission before the worthy Service Tribunal on next date of hearing.

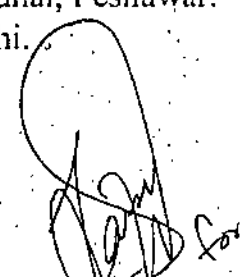

District & Session Judge,
Torghar (at Oghi).

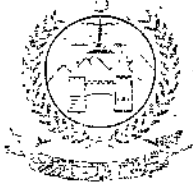
No. 644-47 / DSJ/Torghar (at Oghi)

Dated: 27/7 /2022.

Copy for information to:-

1. The Worthy Registrar, Peshawar High Court, Peshawar.
2. The Chairman Khyber Pakhtunkhwa Service Tribunal, Peshawar.
3. The Superintendent District Courts Torghar at Oghi.
4. Office Copy.


District & Session Judge,
Torghar (at Oghi).



OFFICE OF THE DISTRICT & SESSIONS
JUDGE, TORGHAR AT OGI

SUBJECT: SERVICE APPEAL NO. 4965 OF 2021
(IRFAN ULLAH... VS... REGISTRAR, PHC & OTHERS)

INDEX

S.NO	DOCUMENTS	PAGE
1	Para Wise Comments on Behalf of Respondents No. 1 to 3.	1-3
2	Copy of Order No. 74, dated: 18.02.2021, received by appellant on 19.02.2021	4-6
3	Copy of Appointment Order No. 81, dated: 14.04.2015	7
4	Copies of the Notice no. 184, Explanations No. 407, 413, 422, 435, Warning No. 465, 185-86, Explanations No. 348, Warning No. 355 & 384,	8-25

Total (25)

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 4965/2021

Irfan Ullah

VS

The Administrative Judge of Peshawar High Court through Registrar etc.

BETTER PARA WISE COMMENTS ON BEHALF OF RESPONDENTS
NO. 1 to 3.

Preliminary Objections:-

- I. That the Appellant estopped to file instant appeal due to his conduct.
- II. That the present Appeal is liable to be dismissed in its present form, as no departmental appeal is filed by the appellant.
- III. That the appeal is hopelessly barred by time and the appellant has got no locus standi to file instant appeal.
- IV. That appellant has not come to the Court with clean hands and concealed material facts from this Hon'ble Tribunal, hence he is not entitled for any relief.

On Facts:

1. That Para No. 1 of Appeal pertains to record. The appellant is serving as Senior Clerk in the establishment of the Respondent No.3.
2. That the Appellant was reinstated into service in the light of judgment dated 17/01/2018 after conducting de-novo inquiry.
3. Correct.
4. Correct.

5. Para No.5 of Appeal is not drafted properly. The De-novo inquiry was conducted in accordance with Law, facts on record and by following natural norms of Justice. Despite the fact that enough material was available on file against the respondent, Enquiry Officer while taking lenient view, recommended for minor penalty. The Competent Authority too was kind enough to award penalty of censure, moreover since the appellant was not exonerated rather he is found guilty, hence he is not entitled for any pay for the terminated period as no work no pay.

6. This Para of the appeal is totally incorrect and misleading. According to record of the office of undersigned, copy of impugned order dated 18/02/2021 was provided to the appellant and his signatures were obtained as a token of receipt. The appellant has not preferred any Departmental Appeal against order dated 18/02/2021; the copy of so-called Departmental Appeal Annexed with Service Appeal dated 24/12/2020 is a fictitious, fabricated document. The Hon'ble Court should take notice of this fact and proceed against the appellant. The appellant has attempted to deceive this Worthy Tribunal and for this reason alone he is not entitled for any relief.

7. This Para is incorrect and misleading. Copy of order dated 18/02/2021 was handed over to the appellant on 19/02/2021 and his signatures were obtained on the original order of this office, is token of receipt; the same is available on page No.24 of Service Appeal file.(Copy of record this office is annexed herewith).

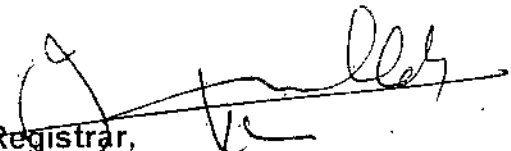
8. That the appellant have no cause of action or reason to file this appeal.

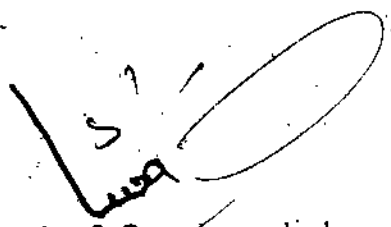
GROUND: -

A. That not allowing the back benefits to the appellant is not against the law, facts, norms of natural justice and material on record rather the impugned order is a legal order and it was passed after conducting a proper inquiry into the matter and providing opportunity of hearing and cross-examination to the appellant. It is necessary to mention here that the appellant did not opt to cross-examine the representative of the answering respondent despite the opportunity during inquiry is proved that the appellant did not take interest in his duties, and time and again explanations were issued to him. (Copies of explanations issued to the appellant from time to time are annexed herewith).

- B. **Incorrect.** The appellant was dealt with in accordance with law and he was provided opportunity of hearing during the course of inquiry.
- C. **Incorrect.** The Order of non-awarding of back benefits to appellant is not arbitrary and malafide rather it was rightly passed after proper inquiry, and the predecessor in office of the undersigned rightly came to the conclusion that appellant is not entitled for grant of back benefits and arrears.
- D. **Incorrect.** That no other colleague of the appellant was neither dismissed from service nor re-instated with back benefits. The appellant has misstated this fact in the appeal.
- E. **Incorrect.** That this ground of memo of appeal is confusing and misconceived because on 17/11/2008 the appellant was not employed in service rather even the District Judiciary Torghar had not been established.
- F. That Article 38 (e) of the Constitution of Islamic Republic of Pakistan, 1973 is not applicable to this case.
- G. That the appellant does not have any ground to favor him nor does he has any proof, therefore, the permission requested cannot be given to him.

In the light of above, it is, therefore, requested that the appeal may kindly be dismissed.


 Registrar,
 Peshawar High Court,
 Peshawar.
 (Respondent No. 1 & 2)


 District & Sessions Judge,
 Torghar at Oghi.
 (Respondent No. 3)

(4)

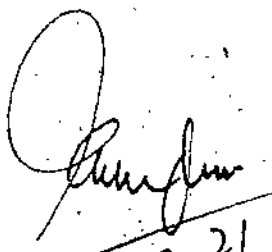
**OFFICE OF DISTRICT AND SESSIONS JUDGE
TORGHAR (AT OGH)**

No. 74 D&SJ Torghar (at Oghi)

Dated: 18/02, 2021

ORDER

1. This order is to dispose of inquiry initiated against the accused/official namely Irfan Ullah Senior Clerk/Moharrar.
2. Vide letter No. 320 D & SJ Torghar/ Oghi dated 15.03.2018, the learned Senior Civil Judge Torghar was appointed as an inquiry officer who submitted his report on 11.03.2020.
3. The background of the inquiry proceedings are such that the accused/official was terminated from service by the competent authority vide order dated: 22.10.2016. His departmental appeal was also turned down; however, he was reinstated into service by the Worthy Khyber Pakhtunkhwa Service Tribunal Camp court Abbottabad vide order dated: 17.01.2018. Apropos Para No. 8 of the above said judgment, a show cause notice was issued to the accused official on 12.02.2018 where to he submitted his reply; however, being unsatisfactory, formal inquiry commenced against him and learned Senior Civil Judge Torghar was appointed as an inquiry Officer who commenced proceedings on 22.03.2018 and submitted his report on 11.03.2020.


18.02.21

4. During the course of inquiry, the learned Senior Civil Judge/ Inquiry Officer recorded the statements of Jehangir Alam Khan Superintendent Sessions Court Torghar, Mubashir, Incharge Record Room and Jihad Ullah Criminal Muharrar. The statement of accused official is also recorded on 24.01.2019.

5. Inexperience coupled with lack of training resulted in the instant proceedings against the accused/official opined the Inquiry Officer in his concluding remarks. I am in agreement with the above findings and hold that the accused official is entitled for lenient treatment. It is Worthy to note here that the accused official earned good ACRs from various Reporting Officers and agreed upon by the Countersigning Officers which speaks volumes that the accused official has displayed improvement since then, which factor calls for lenient approach towards him.

J. Khan
18.02.21

6. Keeping in view the above discourse, I agree with the report as submitted by the inquiry officer and impose minor penalty of Censure upon the accused/official under Section 4(1)(a)(i) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and he is warned to be extra careful in future.

9/10/21
19-2-021

6

7. As for the issue of back benefits and arrears of pay for the period between termination and reinstatement into service from 22.10.2016 to 17.01.2018 is concerned, it is stated that as the accused official has not been exonerated and similarly he has not worked during the period of termination, therefore, he is not entitled for back benefits and arrears of pay. Order accordingly.

JAMAL UD DIN KHAN
District & Sessions Judge, Torghar
(at Oghi)
District And Sessions Judge
Tor Ghar At Oghi

کاپی ملاحظہ

19-02-21
کاپی و عمل شد
عمران اللہ

OFFICE OF THE DISTRICT & SESSIONS JUDGE, TORGHAR AT OGH

ORDER

No. 81 -2/4

Dated Oghi the 14-4-2015

The Competent Authority is pleased to order the appointment of following candidates as Senior Clerks BPS-14 on temporary basis with effect from the date of assumption of charge of the post, subject to medical fitness and antecedents verification:-

S. No.	Name/CNIC	Father's name	Address
1	Muhammad Ismail 13504-1977309-1	Khushal Zaib	Bartoni Bassi Khel, Tehsil Judba, District Torghar.
2	Irfanullah 35201-0702768-9	Fazeen Ullah	Bassi Khel, Tehsil Judba, District Torghar.

2. Their appointments to the service shall be subject to the following terms and conditions:-

- i. They will be governed by the NWFP Civil Servants Act, 1973 and NWFP Government Servant (Appointment, Promotion & Transfer) Rules, 1989.
- ii. They will be allowed the minimum pay of BPS-14 plus other allowances as admissible under the rules. However, if they are already in Government Service and their pay is more than the minimum of BPS-14, they will be allowed to draw pay which they were drawing before their appointment, subject to permission by the Competent Authority, their pay shall be fixed at proper stage in BPS-14.
- iii. They shall be governed by such rules and instructions relating to leave, T.A., and Medical Attendance as may be proscribed from time to time.
- iv. They shall be on probation initially for a period of one year extendable upto two years.
- v. They will be eligible for continuance and eventual confirmation in the post on satisfactory completion of their probationary period, subject to availability of permanent post and the completion of prescribed training, if any.
- vi. Their services shall be liable to be dispensed with at any time without notice and assigning any reason before the expiry of the period of their probation/ extended period of probation, if, their work or conduct during this period is not found satisfactory. In the event of termination from service, fourteen days notice or in lieu thereof fourteen days pay will be paid by the Government. In case of resignation, they will give one month notice to the Competent Authority or in lieu thereof one month pay shall be forfeited to the Government. The resignation shall, however, be subjected to the acceptance by the Competent Authority.
- vii. They will be governed by the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and the NWFP, Government Servants Conduct Rules, 1987 and any other instructions which may issued by the Competent Authority from time to time.

3. If the above terms and conditions of appointment are acceptable to them, they should report for duty to the undersigned immediately. The offer of appointment shall be deemed to have been cancelled if they fail to report for duty to the undersigned within one month from the date of issue of this order.

4. They shall join duty at their own expenses.

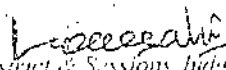
(MOHAMMAD SABIR KHAN)
District & Sessions Judge,
Torghar at Oghi

No. 52-56

Dated Oghi, the 14th April, 2015

Copy forwarded to the:-

1. Registrar, Peshawar High Court, Peshawar
2. District & Sessions Judge Abbottabad/Nominee of the Peshawar High Court, Peshawar.
3. Senior Civil Judge Torghar at Oghi/Nominee of District & Sessions Judge Torghar at Oghi
4. District Accounts Officer, Torghar at Manshra.
5. Official concerned.


District & Sessions Judge,
Torghar at Oghi

OFFICE OF THE DISTRICT & SESSIONS JUDGE TORGHAR AT OGHRI

No: 184 D&SJ(TG)


Dated: 19/5 2015

From: **Mohammad Sabir Khan**
District & Sessions Judge, Torgahr
At Oghri.

To:
✓ 1. Mr. Arfan ul Allah (S/C)
2. Mr. Fazal Raziq (J/C)
3. Mr. Umar Farooq (J/C)
4. Mr. Jihad ul Allah (J/C)

Subject: **NOTICE**

It has been noted with deep concern that you have lack of interest in your official work. You are directed to take interest in your job and also improve your computer skills within one month time. failing which strict action under the law shall be taken against you which may lead to the termination of your services.


Mohammad Sabir Khan
District & Sessions Judge, Torgahr
At Oghri

31/10/015
9

No. 407 D&SJ Torghar (at Oghi) Dated: 31.10.2015


From: Mohammad Sabir Khan,
District & Sessions Judge Torghar,
At Oghi

To: Mr. Irfanullah,
Senior Clerk.

Subject Explanation

It has come into the notice of the undersigned that one Mohammad Yousaf has submitted an application for the return of original Registration Book lying in the Police Station of PS Darband Tehsil Oghi which was taken into possession by the local Police at the time of impounding of his vehicle bearing registration No. RPT-3774. In the said petition comments of the SHO of Police Station concerned were sought with the direction to also produce the original Registration Book in the Court and the case is fixed for today. It is astonishing to note that instead of sending copy of the petition to the SHO concerned for his comments, you Mr. Irfanullah Senior Clerk of this Court instead of sending copy of the petition has sent the Original application to the SHO concerned and this act on your part bespeaks of your inefficiency and is totally unbecoming of responsible Government Official and thus you have committed gross misconduct.

You are, therefore, directed to explain as to why not disciplinary action under the E & D Rules, 2011 shall be taken against you. Your reply must reach the undersigned within three days positively failing which it shall be presumed that you have nothing to say in defense and ex-parte action shall be taken against you under the law.


[Mohammad Sabir Khan]
District & Sessions Judge Torghar,
At Oghi.

بعد ازاں جناب ڈسٹرکٹ اینڈ سیشن جج ٹورنر نے تمام ادلی

جناب عالی!
 ~~349~~ ⁴⁰⁷ Explanation غیر ^{لشکر}
 ~~349~~ ⁴⁰⁷

صفحہ 15/31 مجاریہ بعد ازاں جناب ڈسٹرکٹ اینڈ سیشن

جج ٹورنر نے تمام ادلی معروضہ فرسٹ ہوں کہ سائل

نے درخواست جو کہ محمد یوسف کے رجسٹریشن ٹک ٹکابہ درجہ ^{RPT-3774}
 سے منگوانے کے لیے دی تھی وہ میں متعلقہ نوٹس کے ساتھ درخواست

کی فریڈ کاپی لگا کر تھی اصل درخواست سائل نے جو کہ

محمد یوسف بنام حامد اشفاق کی فائل سے متعلق تھی وہ میں نے

دوسری فائل میں ^{محمد یوسف}
 گار میں غلطی کی وجہ سے اسٹیج (2) تھی

سائل کو اس فعل جز کر غلطی کی وجہ سے سہ زرد ہو گیا ہے لہذا

سائل کو معاف کیا جائے اور آئندہ سائل محتاط رہے گا۔

2/10/15
 نان اللہ سید کلرک / سائل

عدالت ہذا ¹⁵
 15

No: 413 /D&SJ Torghar at Oghi

Dated: 05 / 11 /2015.

From

Mohammad Sabir Khan
District & Sessions Judge, Torghar
At Oghi.

To

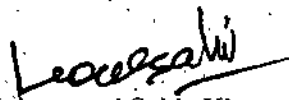
Mr Irfan Ullah Senior Clerk/ C.Muharrir.
Of the Court of the District & Sessions Judge Torghar.

Subject:

Explanation.

It has come to the notice of undersigned that you have not prepared the murder reference in case No 68/07 of 201, Fir No 241 dated 1-07-2012 U/S 302PPC Police Station, Oghi decided on 08-10-2015 despite direction by the undersigned. your this conduct reveals that you are not interested in your official duty.

You are therefore asked to explain your position within (7) days of the receipt of this letter, as to why you should not be proceeded against under the E&D Rules, 2011. In case your reply is not received it should be presumed that you have nothing to say in defense and an exparte action shall be taken against you.


Mohammad Sabir Khan
District & Sessions Judge, Torghar
At Oghi

محرمیت جناب ڈسٹرکٹ اینڈ سیشن جج نواز غلام ادنیٰ
لشکرانہ Explanation میری 413 تاریخ 15-11-2015

جناب عالی:

صوربانہ گزارش ہے کہ سائل جو کہ میری طرف
کی ڈیوٹی سر انجام دے رہا ہے سائل ابھی اس کام
پر مکمل عبور حاصل نہیں کیا جس کی وجہ سے سائل کو
مشکلات درپیش ہیں سائل ان مشکلات کی وجہ
سے اپنا کام مقررہ وقت پر نہیں کر سکا جس کا میں شرمندہ ہوں
اور سائل نے وہ کام مکمل کرنے متعلقہ بہت دریاں ٹورٹ مائل
بھیجا دی ہے سائل کو معاف کیا جائے سائل آئندہ محتاط
رہے گا۔

العارض

عمران اللہ سیکرٹری
عدالت ہذا

7-11-15

No: 422 /D&SJ Torghar at Oghi

Dated: 11 / 11 / 2015.


From
Mohammad Sabir Khan
District & Sessions Judge, Torghar
At Oghi.

To
Mr Irfan Ullah Senior Clerk/ C.Muharrir.
Court of the District & Sessions Judge
Torghar at Oghi.

Subject: Explanation.

It has come to the notice of undersigned that you have not prepared DPEP statement till date i.e. 11th of November, 2015 although the same has to be prepared and sent to august Peshawar High Court by 4th of each month.

You are therefore asked to explain your position within (7) days of the receipt of this letter, as to why you should not be proceeded against under the E&D Rules, 2011. In case your reply is not received it should be presumed that you have nothing to say in defense and an exparte action shall be taken against you.


Mohammad Sabir Khan
District & Sessions Judge, Torghar
At Oghi

مخدمت جناب ڈیسٹرکٹ اینڈ سیشن جج ٹھوڑی ننگر ننگرام ادلی

جناب عالی

بشمول Explanation نمبر 422

سورہ 11-11-2015

جناب والا سائل ایسا کام اچھے طریقے سے

کرنے کی کوشش کر رہا ہے مگر سائل پر قہوراً کام زیادہ

یہ ممکن ورنہ سائل سے کچھ کام محمودی سکتا رہ

جاتے ہیں جس پر سائل جناب والا سے معذرت خواہ ہے

میں باقی فرمائیں سائل کو صاف اپنا جائے اور سائل آئندہ محتاط

رہے گا

الدار علی

عین نواز شی ہوئی

عرفان اللہ کریمیل عمر

عدالت خدا

المترجم 11/15

No: 435 /D&SJ Torghar at Oghi

Dated: 20 / 11 2015.

From

Mohammad Sabir Khan
District & Sessions Judge, Torghar
At Oghi.

To

Mr Irfan Ullah Senior Clerk/ C.Muharrir.
Of the Court of the District & Sessions Judge Torghar.

Subject:

Explanation.

It has come to the notice of undersigned that you have not entered the bail application title " Abdul Salam vs State FIR No 15 under section 302 PPC in the relevant register till its disposal. Your this conduct reveals that you are not interested in your official duty.

You are therefore asked to explain your position within (7) days of the receipt of this letter, as to why you should not be proceeded against under the E&D Rules, 2011. In case your reply is not received it should be presumed that you have nothing to say in defense and an exparte action shall be taken against you.

Mohammad Sabir Khan
Mohammad Sabir Khan
District & Sessions Judge, Torghar
At Oghi

خدمت جناب محترم نیک اینڈ سبینس جی ٹی او آر / مقام اداری

جناب عالی!

بشمول Explanation غری 435 Dated 20-11-15

صودہ بائہ گزارش سے کہ سائل نے فائل متعلقہ رجسٹر میں درج

ہیں کی تھی سائل ایسی اس غلطی کی وجہ سے جناب والا

سے شرمندہ ہے سائل کو صحاف کیا جائے۔ سائل

آئندہ محتاط رہے گا۔

عسین لوازش میوٹی

الغازلی

عرفان اللہ / سبیل عیوب / سبیل کلکتہ

عبدالکھڈا

المرفوع 26-11-15

29/11/2015
D.S.J. TE

P/E

No. 465 D&SJ Torghar/Oghi Dated 26 / 11 / 2015.

From:

Mohammad Sabir Khan,
District & Sessions Judge Torghar,
At Oghi.

To:


Irfan Ullah Senior Clerk,
Criminal Muharrir In the Court
Of District & Sessions Judge Torghar

Subject

Warning

Reference Notice No:184 dated 19-05-2015, explanation No 407 dated 31-10-2015, 413 dated 06-11-2015 and 422 dated 11-11-2015.

The undersigned gone through your reply, which was found unsatisfactory, therefore, you are warned to be careful in future.


[Mohammad Sabir Khan],
District & Sessions Judge Torghar,
(At Oghi)

OFFICE OF THE DISTRICT & SESSIONS JUDGE TORGHAR (AT OGH)
No. 146 D&SJ(TG) Dated: 2-1-3 / 2016

To,

Mr. Jilad [illegible] Junior Clerk
Court of [illegible] Torghar [illegible]

**AVAIL OF FREQUENT CASUAL LEAVE ON FRIVOLOUS
GROUND**

Reference to this office instruction No 476/D&SJ Torghar dated 03.12.2015 on
the above mentioned subject.

You submit casual leave application of Mr. Jilad Criminal Muharrir in the
court of undersigned w.e from 17.3.2016 to 19.03.2016. Your this act is totally against the
official ^{instruction} rules issued by the undersigned.

You are therefore asked to explain your position within (7) days of the receipt of
this letter, as to why you should not be proceeded against under the E&D Rules, 2011. In case
your reply is not received it should be presumed that you have nothing to say in defense and an
exparte action shall be taken against you in accordance in law.

Mohammad Sabir Khan
Mohammad Sabir Khan
District & Sessions Judge, Torghar
At Ogh

خدمت مناب ڈسٹرکٹ اینڈ سیشن جج صاحب نور محمد بھٹا

جناب عالی

موردانہ گذارش ہے کہ سائل نے بذریعہ فون

اطلاع دی ہے کہ سائل کے گھر پر بیماری ہے

اور بوجہ بیماری سائل مورخہ 17-03 تا 19-03

تک اپنی ڈیوٹی سر انجام دینے سے قاصر ہے

برائے میر بانی فرما کر سائل کو تین (3) یوم

مورخہ 17-03 تا 19-03 تک کی رخصت عنایت

فرمائیں

Not allowed.
Call for the
explanation of

Jehadullah
17/3/2016

عین نوادرش ہوگی

الحکمہ قوم 17-03

عسرفان اللہ سینئر کلرک عدالت

بذریعہ جماد اللہ جو نیر کلرک

REPORT

R/Sis,

oneday
allc ofal
(17-3-016)

Total cl/ 25
availed 4
Application 31

Balance - 18 days

17/3/016 20 days

محکمیت منجاب ڈسٹرکٹ ایڈیشن صحیح مناصب ڈورڈر منجاب

عنوان: جواب طلبی نمبر 140 حزرہ 03/24 2016

جناب عالی

گزارش ہے کہ سائل کو عرفان کربینل حزر

سے بذریعہ موبائل فون اطلاع دی تھی کہ

صبرے گھر پر بیماری ہے اور صبرے لیے چھٹی کی درخواست

صورت 03/17 تا 03/19 تک دینا اطلاع اور ال

سے درخواست دی تھی۔ سائل کا جواب ال

یونی

جناب سے گزارش ہے کہ سائل کا جواب طلبی منجاب

فرمایا جائے۔ سائل آئندہ متاثر ہے گا

عین گزارش ہوگی

الحاصل

محمد
جماد اللہ ایچ سول حزر
عدالت پنا 29-3-016

Issue warning to both the officials

File
30/3/2016

No. 185-86 D&SJ Torghar/Ughi Dated 1/14 /2016.

To:

- ✓ 1. Jihadullah Junior Clerk (Attached Muharrir)
- 2. Irfan Ullah Senior Clerk (Criminal Muharrir)

Subject Warning

Reference Explanation No: 140 dated 24.03.2016.

The undersigned gone through your reply, dated 29.03.2016 which was found un-satisfactory, therefore, you are warned to be careful in future.

Mohammad Sabir Khan
 District & Sessions Judge Torghar,
 (A.C. 311)

1/14

OFFICE OF THE DISTRICT & SESSIONS JUDGE TORGHAR (AT Oghi)

No: 348-D&SJ(TG)

Dated: 20/7/ 2016

To,

✓
Mr. Irfanullah, (Criminal Muharrir)
Court of D&SJ Torghar at Oghi

Subject: **Explanation**

1. Whereas you Irfanullah, Criminal Muharrir of this Court was orally directed various times to take care of the record, keep it in proper condition and ensure that progress made in the case is made part and parcel of the record properly.

2. Whereas the oral directives did not prove fruitful and today record of case titled "State Vs Waheed Khan S.H.O" is received having opened reply of the accused received on previous date not binded with the record as required.

3. Whereas the aforesaid omissions on your part amount to negligence in discharge of your duties probably may cause missing of important documents from judicial record in future resulting in damage to parties, judicial work and also cause disgrace to dignity of Court and judicial proceedings.

You are, therefore, called upon to submit reply as to why you should not be proceeded against for negligence as per law within three days of receipt of this explanation.


[SYED ASGHAR ALI SHAH]

District & Sessions Judge Torghar,
At Oghi.

محرم صحت جناب ڈیپٹی ایڈیٹر اخبار صفا تو دفتر مظاہر ادبی

جناب عالی

لشمل Explanation نمبر 348 مورخہ 20-07-16

موردانہ گزارش سے کہ سائل نے کارنامہ وصید خان 540

میں ملزم کی طرف سے دیا گیا جواب فائل میں ٹیک کرنا عملیاً

نہا۔ چونکہ سائل سے غلطی سرزد ہوئی ہے۔ سائل اپنی اس

غلطی کی وجہ سے شرمندہ ہے جناب والا سے گزارش ہے کہ

سائل کو معاف فرمایا جائے۔ سائل آئندہ محتاط رہے گا۔

عین گزارش ہوئی مورخہ 22-07-16

القاضی
ذیشان اللہ صاحب قریب عدالت

Sum. No.
Time
Investigation
Completed
24/7/16

27/7/016

24


No. 355 D&SJ Torghar (at Oghi) dated 27/7/2016

To:

Mr. Irfanullah,
Criminal Muharrir,
Court of District & Sessions Judge,
Torghar at Oghi.

Subject: WARNING.

Reference explanation No. 348 dated 20.07.2016; the undersigned went through your reply, which though is not proper but keeping in view your commitment to be careful in future, the notice is dropped and you are warned to be careful in future.


(Syed Asghar Ali Shah)
District & Sessions Judge,
Torghar at Oghi.

9/8/06

25

No. 384- D&S.J Torghar (at Oghi)

dated 9/1/2016


To:

Mr. Irfanullah,
Criminal Muharrir,
Court of District & Sessions Judge,
Torghar, at Oghi.

Subject: WARNING.

It has been noted with deep concern that you have lack of interest in your official duty despite various verbal directions given to you from time to time and warning. (The undersigned noticed that the case file title "State vs. Habib Ur Rehman" is not maintained properly which result in creation of embarrassing situation for the court and these acts on your part are totally unbecoming of a responsible official.

You are once again warned to be careful in future and maintain your record properly and keep interest in your official duty otherwise strict action will be taken against you.


(Syed Asghar Ali Shah)
District & Sessions Judge,
Torghar, at Oghi.