

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

**SERVICE APPEAL NO. 398/2016**

Date of institution ... 14.04.2016

Date of judgment ... 04.03.2020

Fahim Akbar Ex-Sweeper, of Senior Civil Judge Swabi  
Establishment District and Sessions Court Swabi

... (Appellant)

**VERSUS**

1. District and Session Judge Swabi.
2. Senior Civil Judge, Swabi.

... (Respondents)

\_\_\_\_\_  
APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE ORDER DATED 08.01.2016, WHEREBY THE REMOVAL OF THE APPELLANT FROM SERVICE HAS BEEN UPHeld, AGAINST WHICH THE DEPARTMENTAL APPEAL OF THE APPELLANT DATED 01.02.2016 HAS ALSO BEEN REJECTED VIDE ORDER DATED 15.03.2016.

Mr. Shaibar Khan, Advocate .. For appellant.

Mr. Muhammad Jan, Deputy District Attorney .. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI .. MEMBER (JUDICIAL)

MR. MIAN MOHAMMAD .. MEMBER (EXECUTIVE)

**JUDGMENT**

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Appellant

alongwith his counsel and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was serving as Sweeper in the Court of Senior Civil Judge Swabi. He submitted application for ninety

days leave to the competent authority for taking his mother to Karachi for treatment. The said application was allowed by the competent authority and he was allowed to avail 90 days earned leave with effect from 07.11.2011 to 04.02.2012 (both days inclusive). The copy of sanctioned order of competent authority is available on record. After expiry of the said leave, the appellant submitted application for extra-ordinary leave for 365 days with effect from 01.04.2012 to 31.03.2013 but the same was rejected vide order dated 26.03.2012 and thereafter major penalty of removal from service was imposed on appellant vide order dated 31.03.2012 on the allegation of absence from duty with effect from 05.02.2012 till the impugned order dated 31.03.2012 for a total absence period of one month and twenty four days. The appellant filed departmental appeal which was partially accepted and remanded by the departmental authority to the competent authority for fresh inquiry after issuing charge sheet etc with the direction to find out ground reality of his excuse i.e mother illness, which is basic requirement and may analyze whether truly he was engaged in his mother ailment vide order dated 18.05.2015, thereafter, the competent authority issued charge sheet, statement of allegation to the appellant to which the appellant submitted reply but the reply of the appellant was found unsatisfactory, therefore, inquiry officer conducted inquiry and during inquiry statements of Sher Zaman, Syed Aqil Shah as well as statement of appellant were recorded and

*M. Amin*  
4.3.2020

the inquiry officer found the appellant exonerated in the light of aforesaid statements as well as documentary evidence i.e medical record vide inquiry report dated 16.09.2015 but the competent authority i.e Senior Civil Judge Swabi did not agree with the inquiry report dated 16.09.2015 mainly on the ground that the representative of respondent-department was not given opportunity of cross examination and directed for fresh inquiry proceeding vide order dated 13.10.2015. Thereafter charge sheet, statement of allegation to the appellant was issued by the competent authority, the appellant submitted reply to the same but the same was also found unsatisfactory by the inquiry officer, the inquiry officer submitted inquiry report dated 20.11.2015 wherein the appellant was held not entitled to be retained/reinstated in service. On receipt of inquiry report, the competent authority agreed with the finding of said inquiry report dated 20.11.2015 and issued show-cause notice to the appellant, to which the appellant replied but the same was found unsatisfactory and his earlier order of removal from service was maintained vide order dated 08.01.2016. Feeling aggrieved from the order of competent authority, the appellant filed departmental appeal on 01.02.2016 but the same was rejected vide order dated 15.03.2016 hence, the present service appeal on 14.04.2016.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

*M. Amin*  
*4.3.2016*

4. Learned counsel for the appellant contended that the appellant was serving as Sweeper in the Court of Senior Civil Judge Swabi. It was further contended that the mother of appellant was ill, therefore, he submitted application for 90 days earned leave which was allowed with effect from 07.11.2011 to 04.02.2012 (both days inclusive). It was further contended that after expiry of the said leave, the appellant submitted application on 22.03.2012 for 365 days extraordinary leave with effect from 01.04.2012 to 31.03.2013 but the same was turned down vide order dated 26.03.2012. It was further contended that the appellant was removed from service vide order dated 31.03.2012 on the allegation of absence from duty with effect from 05.02.2012 to 31.03.2012 for a total absence period of one month and twenty four days. It was further contended that the appellant filed departmental appeal which was partially accepted and the matter was remanded to the competent authority to issue charge sheet, statement of allegation, show-cause notice to find out the ground reality of his excuse i.e mother illness and analyze whether he was truly engaged in his mother treatment vide order dated 18.05.2015. It was further contended that the competent authority issued charge sheet, statement of allegation and appointed inquiry officer. It was further contended that the inquiry officer during inquiry proceeding recorded statements of Sher Zaman Khan and Syed Aqil Shah as well as the statement of appellant and in the light of oral

*M. Amin*  
*4.3.2020*

statement of the above mentioned witness as well as medical record, found the appellant exonerated from the charge vide inquiry report dated 16.09.2015. It was further contended that the competent authority did not agree with the inquiry report on the ground that opportunity of cross examination was not provided to the representative of the department therefore, directed for fresh inquiry proceeding vide order dated 13.10.2015 and after issuing charge sheet, statement of allegation the inquiry officer conducted fresh inquiry proceeding but neither opportunity of producing witnesses already produced by the appellant in earlier inquiry was provided to the appellant nor statement of the appellant was recorded nor direction of appellate authority dated 18.05.2015 was complied nor the appellant was associated in inquiry proceeding and in slipshod manner submitted <sup>M</sup>~~vide~~ inquiry report dated 20.11.2015 and found the appellant not entitled for reinstatement, therefore, the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside and the appeal is liable to be accepted on this score alone. It was also contended that the inquiry officer also submitted inquiry report against the appellant that the departmental appeal of the appellant before the appellate authority was time barred. It was further contended that if there was any delay in departmental appeal than the same would be deemed to have been condoned by the department authority otherwise, he would not have remanded the matter

*M. Amin*  
4/3/2020

to the competent authority rather dismissed the departmental appeal on the ground of limitation. It was further contended that if the department was aggrieved from the order dated 18.05.2015 passed by departmental authority by remanding the appeal for fresh inquiry and not treating the departmental appeal time barred, the departmental was required to challenge the same before next forum i.e Service Tribunal but the order of departmental authority was not challenged before next forum, therefore, the same attained finality and become past and closed transaction. It was further contended that the competent authority also agreed with the findings of the said inquiry report and removed the appellant from service on the recommendation of fresh inquiry report, therefore, the impugned order is illegal and liable to be set-aside and prayed for acceptance of appeal.

5. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that after remand of departmental appeal, the appellant was found exonerated by the first inquiry officer but the competent authority was not agreed with the findings of inquiry officer, therefore, the competent authority appointed fresh inquiry to probe into the matter though fresh inquiry. It was further contended that the inquiry officer has submitted detailed inquiry report dated 20.11.2015 wherein he observed that the departmental appeal was time barred and the appellant remained absent from duty without the

*M. Anwar*  
4.3.2020

permission of lawful authority, therefore, the appellant was held not entitled for reinstatement. It was further contended that the competent authority also agreed with the findings of fresh inquiry report and after fulfilling all the codal formalities the appellant was rightly removed from service and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was granted earned leave with effect from 07.11.2011 to 04.02.2012 (both days inclusive) for taking his mother to Karachi for treatment. After expiry of the said leave, the appellant submitted application on 22.03.2012 for extraordinary leave for 365 days with effect from 01.04.2012 to 31.03.2013 but the same was rejected by the competent authority vide order dated 26.03.2012. The record further reveals that major penalty of removal from service was imposed on the appellant by the competent authority vide order dated 31.03.2012 on the allegation of his absence from duty with effect from 05.02.2012 to 31.03.2012 for absence period of one month and twenty four days. The record further reveals that the appellant file departmental appeal which was disposed of and remanded the matter to competent authority to find the ground reality of his excuse i.e mother illness vide order dated 18.05.2015. Operative part of the order dated 18.05.2015 is re-produced as under

Truly present petitioner Fahim Akhbar  
Sweeper got removed from service due to  
his continuous absence rather in initial  
stage he was granted 90 days earned

*M. Akhbar*  
*4.3.2020*

leave, on its expiry, he applied for further earned leave but the competent authority did not grant him further desired earned leave. Despite of all no charge sheet/show-cause notice was issued to the official to find out the ground reality of his excuse i.e mother's illness, which is a basic requirement. In order to meet the purpose matter is remanded to the learned Senior Civil Judge, Swabi with the directions that she may analyze whether truly he was engaged in his mother treatment and nursing at Karachi and whether there was no other body to look after his mother.

7. The record further reveals that on receipt of remand order dated 18.05.2015, inquiry was conducted and the inquiry officer recorded statement of Sher Zaman and Syed Aqil Shah followed by delinquent official as defence evidence and In the light of aforesaid oral statement coupled with the medical record, the appellant was found exonerated from the charge leveled against him vide inquiry report dated 16.09.2015 but the competent authority did not agree with the inquiry report dated 16.09.2015 on the ground that opportunity of cross examination was not provided to representative of department and directed for fresh inquiry vide order dated 13.10.2015. The record further reveals that again inquiry was conducted by another inquiry officer but neither the appellant was provided opportunity of producing any witness nor statement of the appellant was recorded nor statements of those witness were recorded on behalf of the appellant whose statements were recorded in the earlier inquiry proceeding and in slipshod manners without recording any evidence on behalf of either parties, the inquiry report dated 20.11.2015 was submitted

*M. Amin*  
*4.3.2020*



against the appellant mainly on the ground that the departmental appeal of the appellant was time barred and the appellant remained absent from duty meaning thereby that the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside and the appeal is liable to be accepted on this score alone. The inquiry report dated 20.11.2015 is reproduced as under

*"The instant inquiry file received from the learned Senior Civil Judge, Swabi against the accused/official Fahim Akbar (Ex-Sweeper) of establishment of Senior Civil Judge, Swabi to conduct an inquiry against him under E&D Rules, 2011.*

*Accused official was summoned who submitted his reply/defense to the charge sheet/statement of allegations.*

*Brief facts necessary for disposal of present inquiry are that the accused official was working as Sweeper. He <sup>was</sup> appointed vide order dated 02.02.2008 (Flag A). Thereafter he availed earned leave from 07.11.2011 to 04.02.2012. He was required to join his duty on 05.02.2012, but he willfully absented himself and as such has committed misconduct. On the report of COC dated 20.02.2012 notice was issued to accused/official for 23.02.2012 (Flag B) by the then learned Senior Civil Judge, Swabi. Despite notices, accused/official failed to appear to join his duty, hence vide order dated 31.03.2012, he was removed from his service (Flag C).*

*The accuse/official preferred appeal before the Hon'ble District & Session Judge, Swabi and vide order of the Hon'ble District & Sessions Judge, Swabi the inquiry was remanded to the learned Senior Civil Judge, Swabi to conduct thorough inquiry (Flag D). After receiving the inquiry on remand the then learned Senior Civil Judge, Swabi vide order dated 03.06.2015 appointed the then learned Judicial Magistrate-I, Swabi as inquiry officer. Presently Qaisar Khan Afridi the learned Judicial Magistrate-I, Swabi after conducting inquiry submitted its report; the*

*W. J. Khan  
4.3.2012*

relevant para is hereby reproduced verbatim for convenience as under:

"Perusal of the oral statement of the above mentioned witnesses coupled with the medical record, I, find the excuse of delinquent official namely Fahim Akbar as a genuine one. I hereby suggest that the official under inquiry be exonerated from the charges leveled against him."

As per section 5 of the subordinate judiciary Service Tribunal Act, 1991 which is reproduced verbatim for convenience;

"Appeal to Tribunal: Any member of subordinate judiciary aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him or within six months of the establishment of the Tribunal, whichever is later, prefer an appeal to the tribunal,"

The accused official has submitted his *ibid* appeal which is totally absolutely time barred.

As discussed above the accused official had willfully absented himself from duty after expiry of his 90 days earned leaves and his act tantamount to misconduct and is totally unbecoming of a responsible government official in a department where confidence is being posed and reposed.

In the given circumstances in my humble opinion, the appeal submitted by petitioner was time barred, therefore with utmost respect from the order of Hon'ble District & Sessions Judge, Swabi dated 18.05.2015, not only a second inquiry can be conducted but keeping in view also the indifferent attitude of the petitioner, he is not entitled to be retained/reinstated <sup>in</sup> service. Submitted, please." *W*

8. The aforesaid inquiry report also reveals that the inquiry officer has also submitted inquiry report against the appellant on the ground that the departmental appeal was time barred although the departmental appeal was partially accepted by remanding the same for fresh inquiry. Therefore, the same was

*Fahim Akbar*  
*4.3.2020*

treated as within time. The same attained finality and became past and closed transaction, therefore, the issue of limitation of departmental appeal should not have been re-agitated. The record also reveals that the competent authority also agreed with the finding of inquiry report dated 20.11.2015 and maintained the major penalty of removal from service on the recommendation of inquiry report dated 20.11.2015 vide order dated 08.01.2016. The operative part of the order dated 08.01.2016 passed by the competent authority is as under:

*"In this scenario of the matter the learned inquiry officer has rightly concluded that the appeal by the accused official is time barred and in my humble opinion the delay by the accused official has never been condoned by the appellate authority.*

*These facts clearly manifest that the accused official after being found guilty of willful absence was rightly removed and his conduct shows that the same was not a good and disciplined official, thus, he is in no way, entitled for his reinstatement into his service.*

*While concurring with the finding of the learned inquiry officer, the instant proceedings be filed after necessary completion and compilation.*

*Copy of this order be forwarded to the Hon'ble District & Sessions Judge, Swabi for his kind information."*

9. From the available record it is manifest that the inquiry officer has submitted inquiry report dated 20.11.2015 in slipshod manner neither provided opportunity of producing evidence oral or documentary to the appellant nor complied the direction of departmental authority order dated 18.05.2015 nor fully associated the appellant in inquiry proceeding, therefore, the appellant was condemned unheard. Moreover, the inquiry

*M. Amin*  
*4.3.2020*

officer has also illegally re-agitated the issue of limitation of departmental appeal and decided against the appellant already decided by departmental authority therefore, the impugned order on the basis of recommendation of such inquiry report is illegal and liable to be set-aside. As such, we partially accept the appeal, set-aside the impugned order, reinstate the appellant into service with the direction to respondent to conduct de-novo inquiry including charge sheet, statement of allegation, providing opportunity of evidence oral or documentary to the appellant, opportunity of cross examination, issuance of show-cause notice alongwith copy of inquiry report etc in the mode and manner prescribed under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 within period of ninety days from the date of receipt of copy of this judgment. The issue of back benefits will be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
04.03.2020



(MIAN MOHAMMAD)  
MEMBER

*Muhammad Amin*  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

04.03.2020

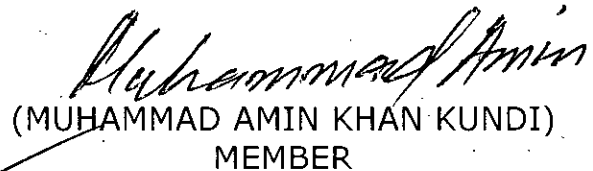
Appellant alongwith his counsel and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of twelve pages placed on file, we partially accept the appeal, set-aside the impugned order, reinstate the appellant into service with the direction to respondent to conduct de-novo inquiry including charge sheet, statement of allegation, providing opportunity of evidence oral or documentary to the appellant, opportunity of cross examination, issuance of show-cause notice alongwith copy of inquiry report etc in the mode and manner prescribed under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 within period of ninety days from the date of receipt of copy of this judgment. The issue of back benefits will be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
04.03.2020



(MIAN MOHAMMAD)  
MEMBER



(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

06.02.2020

Counsel for the appellant present. Mr. Ziaullah, DDA for respondents present. The case was argued at some length by the learned counsel for the appellant. He pleaded that de-novo enquiry against a government servant could only be conducted upon his reinstatement in service. In support of his contention, he pressed into service E&D Rules 2011, wherein time and again the term "government servant" was specifically highlighted. In the case in hand, the appellant was not reinstated in service and two enquires were conducted against him. This act of the respondents was illegal and unlawful. On a query <sup>by</sup> ~~from~~ this Tribunal to present any case law or rules in support of his contention, the leaned counsel for the appellant sought time for proper assistance o this Tribunal. To come up for further arguments on 04.03.2020 before D.B.

  
Member

  
Member

04.12.2019

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 13.12.2019 before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

13.12.2019

None for the appellant present. Addl: AG for respondents present. Due to general strike of the bar, the case is adjourned. Adjourned. Case to come up for arguments on 06.02.2020 before D.B.

  
Member

  
Member

11.11.2019

Appellant alongwith his counsel Mr. Shaibar Khan, Advocate present and submitted Vakalatnama. Mr. Ziaullah, Deputy District Attorney for the respondents present.

2011 This Tribunal vide order sheet dated 17.09.2019 inquired about the forum of appellate authority viz-a-viz establishment/staff of Senior Civil Judge and learned Additional Advocate General sought time to assist the Tribunal on the issue as noted above. Learned counsel for the appellant invited attention to Sub-rule -(a) of Rule-2 of Appeal Rules, 1986, whereunder the appellate authority has been defined. It means an officer or authority next above the competent authority. Reference was also made to Sub-rule-~~b~~ (i) of Rule-2 and Rule-17 of Government Servants (Efficiency & Discipline) Rules during the course of arguments, as they relate to determination of competent authority. He also brought to our notice relevant clause of Khyber Pakhtunkhwa Court Regulation No. 1 of 1931 and further apprised that a number of cases of similar nature have already been decided by this Tribunal, keeping inview the existing practice/procedure. There was not at all any confusion that appeal against any adverse order passed against an employee of subordinate judiciary <sup>by the Senior Civil Judge</sup> the appellate forum was District & Sessions Judge. Learned Deputy District Attorney also endorsed the views of learned counsel for the appellant. We are in an agreement with the views expressed by both the parities about the appellate forum. Learned counsel for the appellant sought adjournment to argue the main appeal. Allowed. Case to come up for arguments on main appeal on 05.12.2019 before D.B.

  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member



09.10.2019

Learned counsel for the appellant Mr. Zia Ullah learned Deputy District Attorney present. Learned DDA seeks adjournment to furnish relevant rules as to the forum of appellate authority vis a vis establishment/staff of Senior Civil Judge. Adjourn. To come up for arguments on 07.11.2019 before D.B.



Member



Member

07.11.2019

Counsel for the appellant present. Mr. Usman Ghani, District Attorney for respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 11.11.2019 before D.B.



Member




Member

30.08.2019

Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 12.09.2019 before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

12.09.2019

Counsel for the appellant Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 17.09.2019 for arguments before D.B.

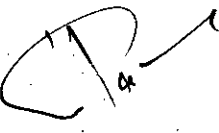
  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

17.09.2019

Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. During the course of arguments, upon query by this Tribunal as to the forum of the appellate authority vis a vis establishment/staff of Senior Civil Judge, learned AAG seeks time to furnish the relevant rules. Adjourn. To come up for further arguments on 09.10.2019 before D.B.

  
Member

  
Member

02.05.2019

Clerk to counsel for the appellant and Addl: AG for respondents present. Arguments could not be heard due to Learned Member (Executive) is on leave. Adjourned to 29.05.2019 before D.B.

  
(M. Amin Khan Kundi)  
Member

29.05.2019


Clerk to counsel for the appellant and Mr. Usman Ghani learned District Attorney for the respondents present. Clerk to counsel for the appellant seeks adjournment as counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 19.07.2019 before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

19.07.2019

Appellant in person and Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned to 30.08.2019 for arguments before D.B.

  
(HUSSAIN SHAH)  
MEMBER

  
(M. AMIN KHAN KUNDI)  
MEMBER

12.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 31.12.2018.

  
READER

31.12.2018

Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney present. Adjournment requested. Adjourn .To come up for arguments on 25.01.2019 before D.B.

  
Member

  
Member

25.01.2019

Appellant in person present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Riaz Ahmad, Assistant and Mr. Siraj Hussain, Superintendent for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned to 11.03.2019 for arguments before D.B.

  
(AHMAD HASSAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

11.03.2019


Clerk to counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Clerk to counsel for the appellant request for adjournment as counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 02.05.2019 before D.B.

  
Member

  
Member

05.07.2018


Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 16.08.2018 before D.B.


  
(Ahmad Hassan)  
Member

  
(Muhammad Amin Kundi)  
Member

16.08.2018


Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Adjournment requested. Adjourned. To come up for arguments on 19.09.2018 before D.B.


  
(Muhammad Amin Kundi)  
Member

  
(Muhammad Hamid Mughal)  
Member

19.09.2018


Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 05.10.2018 before D.B.


  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

05.10.2018


Learned counsel for appellant and Mr. Kabirullah Khattak learned Additional Advocate General present. Learned AAG stated that record of inquiry is not available and requested for adjournment. Adjourned. To come up for further arguments on 12.11.2018. Record of inquiry be also requisitioned for the date fixed before D.B.

  
(Hussain Shah)  
Member

  
(Muhammad Hamid Mughal)  
Member


26.12.2017

Appellant in person present and Addl: AG for the respondents present. Written reply on behalf of respondents No. 1 & 2 submitted. To come up for rejoinder and arguments on 26.02.2018 before D.B.

  
(Gul Zeb Khan)  
Member (E)

26.02.2018

Counsel for the appellant and Additional AG for the respondents present. Counsel for the appellant submitted rejoinder which is placed on file. To come up for arguments on 20.04.2018 before D.B.

  
(Gul Zeb Khan)  
Member

  
(M. Hamid Mughal)  
Member

20.04.2018

Counsel for the appellant and Addl:AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 05.07.2018 before D.B.

  
(Ahmad Hassan)  
Member

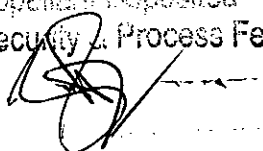
  
(M. Amir Khan Kundi)  
Member


18/10/2017

Counsel for the appellant present and argued that the appellant was appointed as Sweeper in the year 2007. It was further contended that the appellant was dismissed from service on the basis of absentia by Senior Judge Swabi without serving any charge sheet, statement of allegation, regular inquiry and show cause notice which is mandatory under the law.

Points urged at bar need consideration. The appeal is admitted for regular hearing subject to all legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for written reply/comments on 27/11/2017 before SB.

Appellant Deposited  
Security & Process Fee



  
(GUL ZEB KHAN)  
MEMBER

27.11.2017

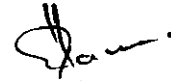
Appellant in person present. Mr. Kabir Ullah Khattak, learned Additional AG for the respondents present. No one appeared on behalf of the respondent department. Reply not submitted. Notice be issued to the respondents for attendance. To come up for written reply/comments on 26.12.2017 before S.B.

  
(MUHAMMAD HAMID MUGHAL)  
MEMBER

Service Appeal No. 398/2016

12.09.2017

None present on behalf of the appellant. Mr. Kabirullah Khattak, Assistant AG for the respondents present. Notice be issued to appellant and his counsel for attendance for 03.10.2017 before S.B.



(Muhammad Hamid Mughal)

03.10.2017

Clerk of the counsel for appellant Member Kabirullah Khattak, Assistant AG for the respondents also present. Clerk of the counsel for appellant requested for adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for preliminary hearing on 18.10.2017 before S.B.



(Muhammad Amin Khan Kundi)  
Member




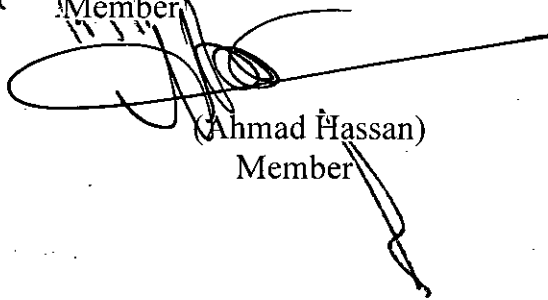
16.08.2017

Counsel for the appellant and Mr. Kabeerullah Khattak, Asstt. A.G for the respondents present. Arguments on the point of jurisdiction heard. To come up for order tomorrow on 17.08.2017 before the Larger Bench.

  
Chairman

(M. Amin Kundi)  
Member

  
(M. Hamid Mughal)  
Member

  
(Ahmad Hassan)  
Member


17.08.2017

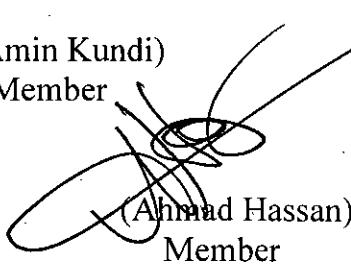
Counsel for the appellant and Mr. Kabeerullah Khattak, Asstt. A.G for the respondents present. Arguments on the point of jurisdiction heard and record perused.

Vide our detailed judgment of today, in connected service appeal No. 41/2016, entitled "Zubair Ahmad Vs. the Appellate Judge through Registrar, Peshawar High Court, Peshawar etc." this Tribunal has the jurisdiction to entertain the appeal. To come up for preliminary hearing before S.B on 12.09.2017.

  
Chairman

(M. Amin Kundi)  
Member

  
(M. Hamid Mughal)  
Member

  
(Ahmad Hassan)  
Member

11.05.2017

Agent to counsel for the appellant and Mr. Muhammad Adeel Butt, Additional AG for the respondents present. Due to incomplete larger bench the case is adjourned. To come up for arguments on 16.08.2017 before Larger Bench.

*MA*

(M.Amin Khan Kundi)  
Member

*[Signature]*  
(Gul Zeb Khan)  
Member

*[Signature]*  
(Ahmad Hassan)  
Member

14.12.2016

Appellant in person and Addl. AG for respondents present. Arguments could not be heard due to non-availability of learned Member Executive. Adjourned for final hearing before the larger bench on 10.01.2017.

  
(MUHAMMAD AZIM KHAN AFRIDI)  
CHAIRMAN

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

  
(ASHFAQUE TAJ)  
MEMBER

10.01.2017

Appellant in person and Additional AG for the respondents present. Due to non-availability of learned counsel for the appellant arguments could not be heard. To come up for final hearing on 11.05.2017 before the Larger Bench.

  
(MUHAMMAD AZIM KHAN AFRIDI)  
CHAIRMAN

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

  
(ASHFAQUE TAJ)  
MEMBER

  
(AHMAD HASSAN)  
MEMBER

02.08.2016

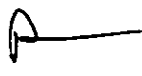
Counsel for the appellant present. While advancing preliminary arguments, one of the point which came to the notice of the Tribunal in this appeal on which point some other appeals are pending before the Hon'ble Chairman Bench therefore, the instant case may also be clubbed with the connected appeals on 29-09-2016.


  
Member


29.09.2016


Appellant in person and Addl. AG for the respondents present. Seeks adjournment. Adjourned for final hearing before the larger bench on 14.12.2016.

  
(Pir Barkhsh Shah)  
Member

  
(Abdul Latif)  
Member

  
(Muhammad Azim Khan Afridi)  
Chairman

  
(Muhammad Aamir Nazir)  
Member

  
Member

Appeal No 398/2016  
Fahim Akbar VS Govt of KPK

6.05.2016

Appellant with counsel present. Preliminary arguments heard and case file perused. Through the instant appeal the appellant has challenged order dated 31.03.2012 whereby major penalty was imposed on the appellant and he was removed from service. Later on after the lapse of about 14 months the appellant submitted an application/mercy petition on 29.5.2013 for his reinstatement which was processed and finally dismissed on 15.3.2016 after due consideration. Learned counsel for the appellant argued that since the departmental authority has finally decided the appellants departmental appeal on 15.3.2016 therefore instant appeal is within time. However, the matter requires further assistance and clarification. Therefore, pre admission notice be issued to the learned Addl. A.G to assist the Tribunal on the point of limitation. To come up for preliminary hearing on 19.5.2016 before S.B.

  
Member

19.05.2016

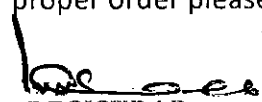


Clerk of counsel for the appellant and Assistant AG for respondents present. Due to strike of the Bar learned counsel for the appellant is not available today before the Court, therefore, case is adjourned for preliminary hearing to 2.8.2016 before S.B.

  
Member

Form- A  
FORM OF ORDER SHEET

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

Case No. 398/2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	14.04.2016	<p>The appeal of Mr. Fahim Akbar presented today by Mr. Sajid Amin 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	15.4.16	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>27.4.16</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	27.4.2016	<p>Agent of counsel for the appellant present. Seeks adjournment due to strike of the bar. Adjourned for preliminary hearing to 6.5.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>

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

Appeal No. 398/2016

*Fahim Akbar* Ex-Sweeper, of Senior Civil Judge Swabi  
Establishment District and Sessions Courts Swabi.

(Appellant)

**VERSUS**

District and Sessions Judge Swabi and others

(Respondents)

**I N D E X**

S.No	DESCRIPTION OF DOCUMENTS	ANNEX	PAGES
1.	Memo of Appeal		1 - 5
2.	Affidavit		6
3.	Copies of medical prescriptions, application for leave and leave sanctioning order dated 28.11.2011	A, B & C	7- 22
4.	Copy of order dated 26.03.2012	D	23
5.	Copy of the Removal order dated 31.03.2012	E	24-25
6.	Copies of mercy petition/ departmental appeal and order dated 18.05.2015	F & G	26-28
7.	Copies of the show cause notice dated 27.05.2015 and reply to the show cause notice dated 29.05.2015	H & I	29-30
8.	Copies of order dated 03.06.2015 Charge Sheet & Statement of Allegations and reply dated 08.06.2015	J, K, L & M	31-34
9.	Copy of the inquiry report dated 16.09.2015	N	35
10.	Copies of Order dated 13.10.2015, charge sheet & statement of allegations and reply dated 19.10.2015	O, P, & R Q	36-41
11.	Copy of inquiry report 20.11.2015	S	42-44
12.	Copies of show cause notice and reply dated 08.12.2015	T & U	45-48
13.	Copy of Order dated 08.01.2016	V	50-53
14.	Copies of the departmental appeal and rejection order dated 15.03.2016	W & X	54-61
15.	Wakalatnama		62

Through

Appellant

  
**IJAZ ANWAR**  
Advocate Peshawar

  
**SAJID AMIN**  
Advocate Peshawar

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

Appeal No. 398 /2016

**N.W.F Province**  
**Service Tribunal**

Diary No. 376

Dated 14-4-2016

*Fahim Akbar* Ex-Sweeper, of Senior Civil Judge Swabi  
Establishment District and Sessions Courts Swabi

*(Appellant)*

**VERSUS**

1. District and Sessions Judge Swabi.
2. Senior Civil Judge, Swabi

*(Respondents)*

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the Order dated 08.01.2016, whereby the removal of the appellant from service has been upheld, against which the Departmental appeal of the appellant dated 01.02.2016 has also been rejected vide order dated 15.03.2016.

Prayer in Appeal:

On acceptance of this appeal both impugned orders dated 08.01.2016 and 15.03.2016, may please be set-aside and the appellant may please be re-instated in service with full back wages and benefits of service

Respectfully Submitted:

1. That the appellant was appointed as sweeper in the year 2007 in the in the District Courts Swabi. It is pertinent to mention here that ever since his appointment the appellant has performed his duties as assigned to him with zeal and devotion and there was no complaint whatsoever regarding his performance.



2. That while performing his duties in the said capacity, mother of the appellant got seriously ill as she was suffering from severe kidney problem, therefore she was hospitalized at Dr. Ziauddin Hospital Karachi for proper treatment. Since there was no other member from the family who could look after the mother of the appellant, therefore, he applied for Earned Leave initially for a period of ninety days which was granted by the Learned Senior Judge Swabi w.e.f. 07.11.2011 to 04.02.20 12. *(Copies of medical prescriptions, application for leave and leave sanctioning order dated 28.11.2011 are attached as Annexure A, B & C)*
3. That due to unavoidable circumstances and the physical condition of his mother, the appellant could not be able to join his duties even after the expiry of his leave, as such he was left with no other option except to apply for the grant of extra ordinary leave of 365 days, however, the said application was turn down by the Learned Senior Civil Judge Swab i.e Respondent No.2. *(Copy of order dated 26.03.2012 is attached as Annexure D).*
4. That the appellant was constrained to stay with his ailing mother at Dr. Ziauddin Hospital Karachi, as their was no male member of his family was available to take care of her therefore, he could not join his duties. In this regard the appellant duly informed the respondents.
5. That later on the appellant was proceeded for absence from duty and ex-parte departmental proceedings were conducted against him, without serving any charge sheet or show cause notice, the appellant was awarded the major penalty of *removal from service* w.e.f 31.03.2012 vide order dated 31.03.2012. Copy of the order was however never communicated to the appellant. *(Copy of the Removal order dated 31.03.2012, is attached as Annexure E)*
6. That thereafter the mother of the appellant was discharged from the hospital on 17.05.2013 and after the arrival to home town, the appellant filed mercy petition on 29.05.2013 against his illegal removal from service which was later on converted to departmental appeal. The Appellate Authority i.e Respondent No.1 partially allowed the appeal of the appellant and case of the appellant was remanded back to the Respondent No. 2 vide order dated 18.05.2015, with certain directions which were self explanatory. *(Copies of mercy petition/ departmental appeal and order dated 18.05.2015 are attached as Annexure F & G).*
7. That after the remand, without issuing his reinstatement order, the respondent No. 2 served the appellant with show cause notice dated 27.05.2015, containing the allegations of long absence. The appellant duly replied the show cause and refuted the allegations and explained the matter in detail. *(Copies of the show cause notice dated*

***27.05.2015 and reply to the show cause notice dated 29.05.2015 is attached as Annexure H & I).***

8. That thereafter the appellant was served with charge sheet and statement of allegations and inquiry officer was nominated to probe into the matter vide order dated 03.06.2015, the appellant duly replied the charge sheet and refuted allegations vide reply dated 08.06.2015. ***(Copies of Order dated 03.06.2015, charge sheet & statement of allegations and reply dated 08.06.2015 are attached as Annexure J, K, L & M).***
9. That the appellant duly appeared before the inquiry officer, the Inquiry Officer after hearing the appellant and examining other relevant record on file, submitted his findings, wherein he suggested that the appellant may be exonerated from the charges levelled against the appellant vide inquiry report dated 16.09.2015. ***(Copy of the inquiry report dated 16.09.2015 is attached as Annexure N)***
10. That the Respondent No. 2 while disagreeing with the findings of the inquiry officer, ordered re-inquiry vide order dated 13.10.2015 and the appellant again served with charge sheet and statement of allegations dated 13.10.2015 which he duly replied vide his reply dated 19.10.2015. ***(Copies of Order dated 13.10.2015, charge sheet & statement of allegations and reply dated 19.10.2015 are attached as Annexure O, P, Q & R)***
11. That a partial inquiry was conducted and the inquiry officer without properly conducting the inquiry to the great surprise considered / discussed the issues of limitation of departmental appeal of the appellant which was never the scope of the denovo proceedings as per the remand order, the inquiry officer submitted his findings wherein he recommended that the appellant is not entitled for reinstatement. ***(Copy of inquiry report 20.11.2015 is attached as Annexure S)***
12. That thereafter, the appellant was served with show cause notice which he also replied vide his reply dated 08.12.2015. ***(Copies of show cause notice and reply dated 08.12.2015 are attached as Annexure T & U).***
13. That without considering the defence reply it was held that the appellant was rightly removed from service and the removal of was thus upheld vide order dated 08.01.2016. ***(Copy of Order dated 08.01.2016 is attached as Annexure V).***
14. That aggrieved from the order dated 08.01.2016, the appellant filed hid departmental appeal on 01.02.2016, however, his departmental appeal has also been rejected vide order dated 15.03.2016. ***(Copies***

*of the departmental appeal and rejection order dated 15.03.2016 are attached as Annexure V & W).*

15. That the impugned orders are illegal, unlawful, without lawful authority, against the law and facts, hence liable to be set aside on the following grounds;


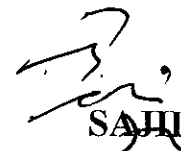
**GROUND OF SERVICE APPEAL:**

- A. That the appellant has not been treated in accordance with law, and his right secured and guaranteed under the law have been violated.
- B. That the charges levelled against the appellant were never proved and this was reason that the inquiry officer in first inquiry recommended the appellant to be exonerated from the charges, however quite wrongly another inquiry was ordered.
- C. That no proper procedure has been followed before awarding the major punishment to the appellant, no proper reinstatement order of the appellant has been issued before initiating denovo proceedings against him, the inquiry officer recommending the appellant for punishment has never conducted inquiry in accordance with law, statements of witnesses if any, were never recorded in presence of the appellant, moreover the inquiry never probed into the charges rather gone into the technicalities i.e limitation which was never his scope. Thus the whole proceedings and the resultant impugned order is nullity in the eye of law.
- D. That the appellant has not been allowed proper opportunity of personal hearing before awarding him the major punishment of removal from service, thus he has been condemned unheard.
- E. That during the inquiry the statement of witnesses were never taken in presence of the appellant, nor the appellant was allowed opportunity to cross examine those, who may have deposed against him.
- F. That vide order dated 18.05.2015, the Appellate Authority i.e Respondent No. 1 remanded the case of the appellant to Respondent No. 2, for proper inquiry about the fact if the appellant was really engaged in his mother's treatment, however during the denovo proceedings the said order of the appellate authority was completely ignored.
- G. That once the appellate authority i.e Respondent No. 1 decided the appeal of the appellant on merit and remanded it to the Respondent No. 2, the respondent No.1 thereafter was having no authority to discuss the question of limitation of the departmental appeal of the appellant, however the Respondent No. 2 by exceeded his authority

upheld the removal of the appellant on the sole ground that his departmental appeal of the appellant was time barred without probing into the charges.

- H. That the question of limitation of departmental appeal of the appellant was only open to the Appellate authority, once the appeal of the appellant was decided by the Respondent No.1 on merit and remanded the case for re-inquiry, the Competent Authority i.e Respondent No. 2 was no authority to re-open the question of limitation.
- I. That no proper order of re-instatement of the appellant was issued by the competent authority before initiating proceedings against him, in the absence of re-instatement order the respondents could not proceed against the appellant under the law.
- J. That the appellant never committed any act or omission which could be termed as misconduct, the absence of the appellant was never willful but was due to his mother illness, the appellant was busy in her treatment at Karachi, moreover he also requested for extending his leave, however it was refused.
- K. That the appellant has at his credit bright and spotless service career the penalty imposed upon him is too harsh and liable to be set aside.
- L. That the appellant is jobless since his illegal removal from service.
- M. That the appellant seeks the permission of this Honourable Tribunal to rely on additional grounds at the hearing of this appeal.

It is therefore prayed that on acceptance of this appeal both impugned orders dated 08.01.2016 and 15.03.2016, may please be set-aside and the appellant may please be re-instated in service with full back wages and benefits of service

Through Appellant  
  
**IJAZ ANWAR**  
 Advocate, Peshawar  
 &  
  
**SAJID AMIN**  
 Advocates Peshawar.

6

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

Appeal No. \_\_\_\_/2016

*Fahim Akbar* Ex-Sweeper, of Senior Civil Judge Swabi  
Establishment District and Sessions Courts Swabi.

*(Appellant)*

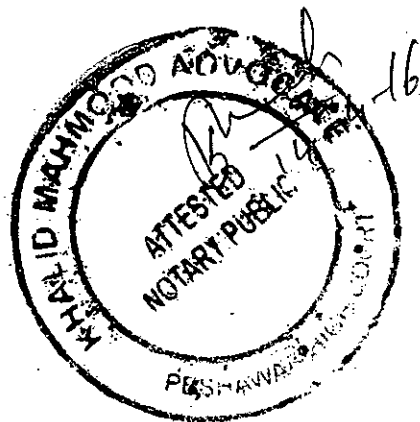
**VERSUS**

District and Sessions Judge Swabi and another.

*(Respondents)*

**AFFIDAVIT**

I, *Fahim Akbar* Ex-Sweeper, of Senior Civil Judge Swabi  
Establishment District and Sessions Courts Swabi. do hereby  
solemnly affirm and declare that the contents of the above  
Appeal are true and correct to the best of my knowledge and  
belief and that nothing has been kept back or concealed from  
this Honourable Court.



*[Signature]*  
Deponent

7

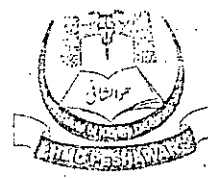
7

ANNEX

Nephrologist & Transplant Physician  
Assistant Professor

**Dr. Syed Munib**

MBBS (Pesh), FCPS, (Medicine),  
Fellowship in Nephrology & Transplantation (Singapore)  
Assistant Professor Institute of Kidney Diseases (IKD),  
Hayatabad Medical Complex (HMC), Peshawar  
Member of Pakistan Society of Nephrology (PSN)  
Member of International Society of Nephrology (ISN)  
Member of International Society of Peritoneal Dialysis (ISPD)  
Member of Transplant Evaluation Committee (IKD, KPK)  
Hospital Phone: 091-9217461-9217262  
Appointment Clinic: 091-2220383/2573853



ڈاکٹر سید منیب

نیشنل انسٹیٹیوٹ آف کڈنی ڈیزیز (انڈیا)  
ڈائریکٹر انسٹیٹیوٹ آف کڈنی ڈیزیز (انڈیا)  
ممبر انٹرنیشنل سوسائٹی آف نپھالوجی (انڈیا)  
ممبر انٹرنیشنل سوسائٹی آف پیریٹونیل ڈیالیسی (انڈیا)  
ICAPD

Name M/12 Fatah Age 75 Sex F Date 3/10/11

Clinical Record

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Ker  
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180/110  
3/11/11

Vadecore 2if  
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for Throat (of  
m.w. 75)

INDEPENDENT  
Sessions Judge

to  
SAUT (Karnal)  
to prepare for trial

for Jephres  
do 1st  
as  
for Alleged  
for Prial 2if  
to m.w.

Appointment Clinic 091-2220383/2573853

for Strawell

7/11/11

ATTA  
Signature

30/11/11



# DR. ZIAUDDIN HOSPITAL

Name: Hadia	Ref. Phy: SOHAIL ASHRAF DR.	Lab No: 082434
S/D/O :	Sample Recvd: 03/10/2011	Dept No:
Age: 78 Year Sex: Female	Pri./Comp: IPD/	ADM NO: K 00044752009
Test Req:	Source:	Bed #: MICU6

## Clinical Chemistry

Test Name	Test Result	Range
Glucose (Fasting)-(FBS)	310	(70-110) mg/dl
<b>LIPID PROFILE</b>		
Total Lipids	1200	(500 - 1000) mg/dl
S. Cholesterol	235	Without known CAD <= 200 mg/dl (Desirable) With known CAD <= 160 mg/dl (Optimal)
S. Triglycerides	196	(70 - 150) mg/dl
HDL Cholesterol	55	>= 35 mg/dl
LDL Cholesterol (Measured)	163	Without known CAD <= 200 mg/dl (Desirable) With known CAD <= 160 mg/dl (Optimal)

Remarks:  
Test has been repeated and rechecked.

Technologist  
Prepared By: Syed Mahboob Ali Ver. 2.0

Pathologist

Date of Print: 05/10/2011  
Sample Drawn Time: 8:05:50PM

31/10/11  
SUPERINTENDENT  
District & Sessions Judge  
Swabi

30/10/11

Plot No. 33, Behind KPT Hospital, Keamari, Karachi. Tel: 2651881-5, Fax: (9221) 2851631

ATTESTED  
31/10/11  
Superintendent  
District & Sessions Judge  
Swabi

9

25

9



# DR. ZIAUDDIN HOSPITAL

Name: Hadia	Ref. Phy: SOHAILASHRAF DR.	Lab No: 268497
S/D/O :	Sample Recvd: 17/11/2011	Dept No:
Age: 78 Year Sex: Female	Pri./Comp: IPD/	ADM NO: K 00044752009
Test Req:	Source:	Bed #: MICU6

## Clinical Chemistry

Test Name	Test Result	Range
Glucose (Fasting)-(FBS)	270	(70-110) mg/dl
<b>LIPID PROFILE</b>		
Total Lipids	1100	(600 - 1000) mg/dl
S. Cholesterol	210	Without known CAD <= 200 mg/dl (Desirable) With known CAD <= 160 mg/dl (Optimal)
S. Triglycerides	160	(70 - 150) mg/dl
HDL Cholesterol	55	>= 35 mg/dl
LDL Cholesterol (Measured)	163	Without known CAD <=200 mg/dl (Desirable) With known CAD <= 160 mg/dl (Optimal)

**Remarks:**

Tests have been repeated and rechecked.

Technologist

Prepared By: Syed Mahboob Ali Ver. 2.0

Pathologist

Date of Print 17/11/2011  
Sample Drawn Time : 1:35:00PM

15/11/16  
SUPERINTENDENT  
Medical & Sessions Judge  
Rawalpindi

30/11/16  
Examiner: C. J. J. J.  
Sessions Judge Rawalpindi

Plot No. 33, Behind KPT Hospital, Keamari, Karachi. Tel: 2851881-5, Fax : (9221) 2851631

*[Handwritten signature]*

APPROVED  
*[Handwritten signature]*



11

27

11



# DR. ZIAUDDIN HOSPITAL

Name: Hadia	Ref. Phy: SOHAIL ASHRAF DR.	Lab No: 094681
S/D/O:	Sample Recvd: 25/01/2012	Dept No:
Age: 78 Year    Sex: Female	Pri./Comp: IPD/	ADM NO: K 06044752009
Test Key:	Source:	Bed #: MICU6

## Clinical Chemistry

Test Name	Test Result	Range
Glucose (Fasting)-(FBS)	240	(70-110) mg/dl
<b>LIPID PROFILE</b>		
Total Lipids	950	(600 - 1600) mg/dl
S. Cholesterol	200	Without known CAD <= 200 mg/dl (Desirable) With known CAD <= 160 mg/dl (Optimal)
S. Triglycerides	160	(70 - 150) mg/dl
HDL Cholesterol	55	>= 35 mg/dl
LDL Cholesterol (Measured)	163	Without known CAD <= 200 mg/dl (Desirable) With known CAD <= 160 mg/dl (Optimal)

**Remarks:**  
Test has been repeated and rechecked.

Technologist  
Prepared By: Syed Mahboob Ali Ver. 2.0

Pathologist   
Date of Print: 25/01/2012  
Sample Drawn Time: 1:50:00PM

**Comments**  
These values represent glycaemic control over a retrospective three months period.  
It is advised to repeat test after three month.

21/2/16  
SUPERINTENDENT  
Karachi, Pakistan

30/1/16

7/6

(12) (38) (12)

# DR. ZIAUDDIN HOSPITAL

Name: Hadia	Ref. Phy: SOHAIL ASHRAF DR.	Lab No: 000857
S/D/O :	Sample Recvd: 21/07/2012	Dept No:
Age: 78 Year Sex: Female	Pri./Comp: IPD/	ADM NO: K 06044752009
Test Req:	Source:	Bed #: MICU6

## Special Chemistry

Test Name	Test Result	Range	
Glycosylated Haemoglobin	9.0 %	4.8 % - 5.9 % Upto 6.5 % - 7.0 % > 8.0 %	Non Diabetic Individuals Adequate Diabetic Control Therapeutic Adjustments Recommended

### Comments

These values represent glycaemic control over a retrospective three months period.  
It is advised to repeat test after three month.

Technologist  
Prepared By: Syed Mahboob Ali Ver. 2.0

Pathologist  
Date of Print: 21/07/2012  
Sample Drawn Time: 1:50:00PM

ATTESTED

*[Signature]*

20/7/12

Examiner: Dr. Syed Mahboob Ali  
Secretary: Dr. Syed Mahboob Ali

21/7/12

*[Handwritten Signature]*

A

*[Signature]*

Examiner  
Secretary

13 29

13



# DR. ZIAUDDIN HOSPITAL

Name: Hadia	Ref. Phy: SOHAIL ASHRAF DR.	Lab No: 096235
S/D/O :	Sample Recvd: 19/01/2013	Dept No:
Age: 78 Year Sex: Female	Pri./Comp: IPD/	ADM NO: K 00044752009
Test Req:	Source:	Bed #: MICU6

## Clinical Chemistry

Test Name	Test Result	Range
Glucose (Fasting)-(FBS)	90	(70-110) mg/dl
<b>LIPID PROFILE</b>		
Total Lipids	935	(500 - 1000) mg/dl
S. Cholesterol	200	Without known CAD <= 200 mg/dl (Desirable) With known CAD <= 160 mg/dl (Optimal)
S. Triglycerides	145	(70 - 150) mg/dl
HDL Cholesterol	32	>= 35 mg/dl
LDL Cholesterol (Measured)	170	Without known CAD <= 200 mg/dl (Desirable) With known CAD <= 160 mg/dl (Optimal)

Remarks:  
Test has been repeated and rechecked.

Technologist  
Prepared By: Syed Mahboob Ali Ver. 2.0

Pathologist

Date of Print 09/01/2013  
Sample Drawn Time : 8:05:50PM

31/2/16  
SUPERINTENDENT  
District & Sessions Judge  
Swabi

ATTESTED  
30/1/16  
Examiner  
Sessions Judge Swabi

Plot No. 33, L

fax : (9221) 2851631

*[Handwritten signature]*

*[Handwritten signature]*

14

30

14



# DR. ZIAUDDIN HOSPITAL

Name: Hadia	Ref. Phy: SOHAIL ASHRAF DR.	Lab No: 097234
S/O/O :	Sample Recvd: 20/03/2013	Dept No:
Age: 78 Year    Sex: Female	Pri./Comp: IPD/	ADM NO: K 00044752009
Test Req:	Source:	Bed #: MICU6

## Clinical Chemistry

Test Name	Test Result	Range
Glucose (Fasting)-(FBS)	85	(70 - 110) mg/dl
<b>LIPID PROFILE</b>		
Total Lipids	985	(600 - 1000) mg/dl
S. Cholesterol	180	Without known CAD <= 200 mg/dl (Desirable) With known CAD <= 160 mg/dl (Optimal)
S. Triglycerides	133	(70 - 150) mg/dl
HDL Cholesterol	30	>= 35 mg/dl
LDL Cholesterol (Measured)	160	Without known CAD <= 200 mg/dl (Desirable) With known CAD <= 160 mg/dl (Optimal)

**Remarks:**  
Test has been repeated and rechecked.

Technologist  
Prepared By: Syed Mahboob Ali Ver. 2.0

Pathologist

Date of Print 20/03/2013  
Sample Drawn Time : 8:05:50PM

**Comments**  
As per the above test result the patient admission No.097234 namely Mst. Hadia is sent back to the Dr. Sohail Ashraf. No deficiency found. Over all situation is satisfactory.

ATTENDED  
30/11/16

21/11/16  
SUPERINTENDENT  
District & Sessions Judge  
Swabi

Plot No. 33, Behind KPT Hospital, Keamari, Karachi. Tel: 2851881-5, Fax : (9221) 2851631

15

45



# DR. ZIAUDDIN HOSPITAL

Name: India	Ref. Phy: SOHAIL ASHRAF DR.	Lab No: 082434
SPT/O:	Sample Recvd: 03/10/2011	Dept No:
Age: 78 Year Sex: Female	Pri/Comp: IPB/	ADM NO: K 00044752009
Test No:	Source:	Bed #: MICU6

## Clinical Chemistry

Test Name	Test Result	Range
Glucose (Fasting)-(FBS)	310	(70-110) mg/dl

### LIPID PROFILE

Total Lipids	1200	(600 - 1000) mg/dl
S. Cholesterol	235	Without known CAD <= 200 mg/dl (Desirable) With known CAD <= 160 mg/dl (Optimal)
S. Triglycerides	196	(70 - 150) mg/dl
HDL Cholesterol	55	>= 35 mg/dl
LDL Cholesterol (Measured)	163	Without known CAD <= 200 mg/dl (Desirable) With known CAD <= 160 mg/dl (Optimal)

#### Remarks:

Test has been repeated and rechecked.

Technologist

Prepared By: Syed Mahboob Ali Ver. 2.0

Pathologist

Date of Print: 03/10/2011

Sample Drawn Time: 8:05:50PM

21/2/2016  
SUPERINTENDENT  
Solemnus Judge

Plot No. 33, Behind KPT Hospital, Keamari, Karachi. Tel: 2851881-5, Fax: (9221) 2851631

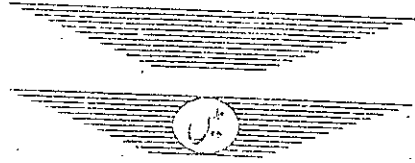
30/1/16

EXAMINER  
SIGNATURE

ARRESTED  
EXAMINER SIGNATURE  
SIGNATURE

Handwritten signature

ڈاکٹر ضیاء الدین ہسپتال



حادثاتی اور اتفاقی حوادث کا فوری علاج

سہولیات، آپریشن، داخلہ، ایکسرے۔

اخراجات نہایت کم۔

311416

سیما ڈی کراچی کمپنس

DR. ZIAUDDIN HOSPITAL

Plot No. 33, Behind KPT Hospital, Keamari, Karachi.  
Tel: 2651631-5, Fax: (9221) 2651631



DISCHARGE CARD

NOT VALID FOR COURT USE

DOCTOR IN CHARGE OF THIS CASE

Name: Habiba Age: 78 Sex: F-Male

Address: Village & Post of Gate 10

Ad. No: KWS 4452609 Room/Bed Number: MIDUS

Ad. Date: 21/11 Is Op. Date: du Dis. Date: 17/12/2013

Disease: EMC HIV +ve Per +ve

Operation: Discharge

Condition on Discharge: aged Signature: [Signature]

ATTACHED  
30/11/13  
EXHIBIT  
Sd/-

ATTACHED  
30/11/13  
EXHIBIT  
Sd/-

30/11/13  
SUPERINTENDENT  
District & Sessions Judge  
Sd/-

[Signature]

(17)

**Patient's History & Clinical Examination**

PP-2  
 The patient received all classes of  
 medicine. The patient is a day worker  
 and is a member of the  
 Sanitation Committee.  
 He is a member of the  
 Sanitation Committee.  
 He is a member of the  
 Sanitation Committee.

**Pre-Operation Investigation**

Blood Group..... Rh Factor.....  
 Blood Sugar F..... mg/dl  
 Blood Sugar R..... mg/dl  
 Blood Urea..... mg/dl  
 HBS Ag.....  
 HCV.....

21/12/2016

ATTESTED  
 30/11/16  
 Examiner, Corriging Deptt.  
 Sessions Court Swaha

ATTESTED  
 Examiner Corriging Deptt.  
 Sessions Court Swaha

Handwritten signature

ہدایات

1. بچے کو ماں کا دودھ زیادہ سے زیادہ پلائیں۔
2. بچے کو نرم غذا کھلائیں۔
3. آگے اور دست کی صورت میں نگوں پلائیں۔ اور پانی اہل کر پلائیں۔
- 4.
- 5.
- 6.
- 7.

نوٹ: تمام دوائیں بچوں کی تنخواہ سے اور نہیں۔

Treatment at Hospital

1. - Defzenu 1-1-1
- 2.
3. - Throo the days
4. Tab. Inj. social
- 5.
6. Sup. baclophen
- 7.
8. sup. Venofur
- 9.
10. Tab. Voltren
11. Tab. Aldrae
- 12.
- 13.
- 14.
- 15.

ATTESTED  
30/11/16  
Examiner Government  
Sessions Court

ATTESTED  
11/11/2016  
District & Sessions Judge  
Swabi

11/11/2016  
SUPERINTENDENT  
District & Sessions Judge  
Swabi

*[Handwritten signature]*

18

18

11 11 2016



(18)

Treatment at Home

گھر کے لئے علاج

1. Inje. Voren ۱۰۰
2. Tab. Adolmic ۵۰
3. Cap. Defogene ۲۰
5. Cap. Viconam ۵۰
7. Tab. Voren ۵۰
8. Tab. Fosfoc ۱۰
- 9.
10. Tab. Statid ۱۰

ضروری ہدایات:

۱۔ اپنے بچوں کو ناشتی پینے لگوائیں۔

۲۔

۳۔

۴۔

۵۔

۶۔

*[Handwritten signature]*

دوبارہ معالجے کے دن بعد تشریف لائیں۔

ATTESTED

23/10/2016

Examiner, Civil Hospital Swabi

SUPERINTENDENT

District & Sessions Judge

Swabi

20/10/2016

District & Sessions Judge

Swabi

*[Handwritten signature]*

*[Handwritten signature]*

91

90 Annex B

58 49 2011 30/06/2011

15/11/11

15/11/11

مجلس التعليم العالي في ليبيا  
المقر الرئيسي في طرابلس

مجلس التعليم العالي في ليبيا  
المقر الرئيسي في طرابلس

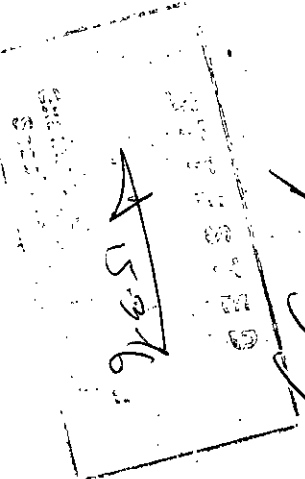
مجلس التعليم العالي في ليبيا  
المقر الرئيسي في طرابلس

مجلس التعليم العالي في ليبيا  
المقر الرئيسي في طرابلس

15/11/11

مجلس التعليم العالي في ليبيا  
المقر الرئيسي في طرابلس

15/11/11



Office to report

with the name of substitute + his leave account.

Handwritten signature

Allowed

Handwritten signature

7.11.11

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Report => P.T.O

Respected Madam,

(90)

The applicant applied for 90 days Earned Leave w.e.f. 7-11-2011 to 7-2-12 on full pay.

2 => According to the Service Book Record of the official as appointed on 20-2-2011 His Leave Balance 144 days on 144 days on full pay.

3 => MR. JAZ Ali Sweher attends for the Establishment of Sessions District is willing to perform his duty as Substote.

Report is submitted. Please

Signature

65/131  
JAZ Ali Sweher

*[Signature]*  
C.O.C. of the  
Sessions, Civil, P.C.  
Swabi

7-11-2011  
7-12-2011  
7-01-2012  
7-02-2012

ATTESTED  
*[Signature]*  
Examining Deptt:  
Sessions Court Swabi

*[Signature]*

(10)

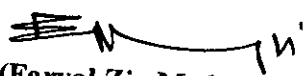
(22)

ANNEX C

**OFFICE ORDER**

Sanction is hereby granted in favour of Fahim Akber, Sweeper of this establishment, to avail *90 days earned leave* with pay w.e.f 07-11-2011 to 04-02-2012 (Both days inclusive).

Ijaz Ali, Sweeper shall perform as his substitute for the above-mentioned leave period.

  
(Faryal Zia Mufti)  
Senior Civil Judge, Swabi

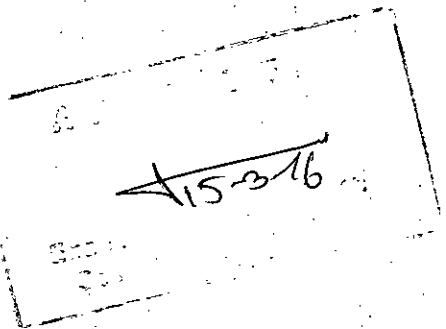
**OFFICE OF THE SENIOR JUDGE, SWABI**

No. 749-12/SCJ


Dated Swabi the 20/11/2011

*Copy forwarded for information & compliance to:-*

1. Civil Judge-I, Swabi
2. Civil Judge-II, Swabi
3. Civil Judge-IV, Swabi
4. Official concern
5. Service record of the official
6. Office.



  
Senior Civil Judge, Swabi



(23)

ANNEX 13

**OFFICE ORDER**

The application for extraordinary leave for 365 days w.e.f 1.4.2012 to 31.3.2013 submitted by Faheem Akbar Sweeper court of SCJ, Swabi dated 22.3.2012. As per report of Clerk of court the maximum period of his services is four years as he was appointed on 2.2.2008. According to Judicial Esta Code 2011 and Revised Leave Rules 1981, extraordinary leave (Leave without pay)-(1) Extraordinary leave may be granted outside leave account on each occasion upto a maximum period of five years at a time; provided that the civil servant to whom such leave is granted has been in continuous service for a period of not less than ten years. In case a civil servant has not completed ten years of continuous service, extraordinary leave without pay for a maximum period of two years may be granted at the discretion of the leave sanctioning authority, this leave can be granted irrespective of the fact whether a civil servant is a permanent or temporary employee.

Being the leave sanctioning authority the discretion is not exercise as the establishment of the undersigned has shortage of sweepers. The application is hereby rejected.

s d —

(FARYAL ZIA MUFTI)  
Senior Civil Judge, Swabi

**OFFICE OF THE SENIOR CIVIL JUDGE, SWABI**

No. 206 /SCJ Dated Swabi, the 26/03 2012  
Copy forwarded for information to:

1. The District & Sessions Judge, Swabi
2. Official concerned
3. Office copy

  
Senior Civil Judge, Swabi

EXM  
15.3.16  
Sessions Court Swabi

Keep  
info  
27/3/12

(24)

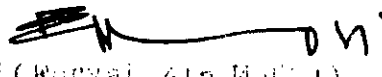
ANNEXURE

Or.....  
31.3.2012.

Today again delinquent official not present. The reply submitted by delinquent official was not satisfactory as he again adopted the plea of illness of his mother who is allegedly residing in Karachi for her treatment. No medical record is annexed with the application to support. Delinquent official failed to attend the office of the undersigned to face the inquiry and his application for extra ordinary leave for 365 days w.e.f 1.4.2012 to 31.3.2013 was also turned down on 26.3.2012. Copy of office order in this regard is also placed on file. Even the delinquent official failed to resume his duties from 4.3.2012 till today.

In the light of Rule 8-A of NWFP Government Servants (Efficiency & Discipline) Rules 1973 the absence of delinquent official is willful absence from his duty. The notice was issued to him through registered acknowledgment due cover on his home address directing him to resume his duties forthwith but no response was received from him and notice was also issued in two newspaper directing him to resume duty within 15 days of the publication of that notice. He failed to resume his duty even till today hence on expiry of stipulated period given in the notice i.e. 26.3.2012 he is removed from his services. Copy of this order be delivered to the official through registered post and to G.O.C to stop his salary from onward. File be consigned to RR after its necessary completion & Compilation.

Announced.  
31.3.2012.

  
(Faryal Zia Malik)  
Senior Civil Judge, Swabi

ATTENDED  
15-3-12  
Examiners  
Sessions Ct



of Tinal for 11<sup>th</sup> March hence 11

③ days time period is started from that period of publication. File to come up for attendance of delinquent official on 26.3.12.

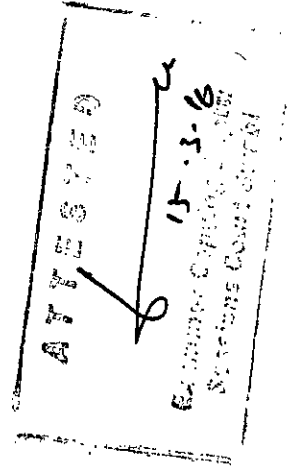
~~Signature~~ in

0-4  
26.3.12

None present on behalf of delinquent official. Reply of delinquent official received on 22.3.12 and was placed on file. File to come up for order on

31.3.12.

~~Signature~~ ph  
SCA



بعدالت جناب سنیرسول جج صاحب صوابی۔

(25)

Place on file

SCS/awals  
22-3-12

جواب بسلسلہ غیر حاضری

جناب عالی

وجوہات حسب ذیل غرض ہے۔

- 1 یہ کہ سائل نے تقریباً 06 ماہ کی چھٹی گزاری ہے۔
- 2 یہ کہ سائل گھریلو مسائل اور ذاتی وجوہات کی بنا پر کراچی میں رہائش پذیر تھا
- 3 چونکہ سائل کی ماں گردے کی بیماری میں مبتلا ہے اور علاج کی عرض سے کراچی میں زیر علاج ہے
- 4 چونکہ سائل کو اپنی ماں کی بیماری اور دوسرے گھریلو مسائل کی وجہ سے اپنی چھٹی کے ختم ہونے کے بارے کوئی علم نہیں تھا۔
- 5 سائل اپنی غیر حاضری کے بارے میں اپنا تحریری جواب مورخہ 21.03.2012 کو داخل کرنا چاہتا ہے۔

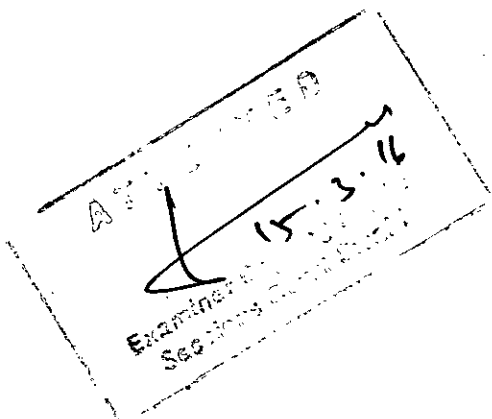
6۔ سائل نے اپنی مدت ملازمت میں کسی قسم کی کوتاہی نہیں کی ہے۔

7۔ سائل کی غیر حاضری مورخہ 04.02.2011 سے لیکر 20.03.2012 درجہ بالا وجوہات کی بنا پر چھٹی میں تبدیل کرنے کے احکامات صادر فرمایا جائے۔ اور تنخواہ کی ادائیگی کا حکم صادر فرمایا جائے۔

سائل آپ کے خاندان والوں کیلئے ہمیشہ دغا گور ہے گا۔

آپ صاحبان کا تابع فرمان

فہیم اکبر۔ (خاکروب) سنیرسول جج صاحبہ صوابی۔





1

ANNEX F

To,

The Honourable Senior Civil Judge,  
Swabi

Subject: MERCY PETITION FOR REINSTATEMENT INSERVICE

*Respected Sir,*

With great reverence I beg to state that:

1. The applicant was appointed as Sweeper by the Departmental Selection Committee on 2007.
2. The applicant since the date of his appointment performed his duties efficiently and never remained absent from his duty or reluctant to perform his job.
3. In the month of November, 2011 applied for extra Ordinary Leave for the period of 06-months which most graciously was granted by the learned Senior Civil Judge Swabi from 07/11/2011 to 04/02/2012.
4. During the period of his leave the applicant remained in attendance with his mother, who due to her server illness (Kidney Failure) was admitted at Dr. Ziauddin Hospital at Karachi (Copies of the Treatment documents attached). Even on the expiry of his leave period he was unable to leave the side of his ailing mother as there was no other responsible male member in his family to attend to his mother, therefore, again applied for an extra ordinary leave for the period of 365-days (copy of the application attached) but unfortunately the same was turned down by the sanctioning authority on the ground of shortage of staff.

15-3-16

Signature

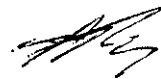
Secret

27

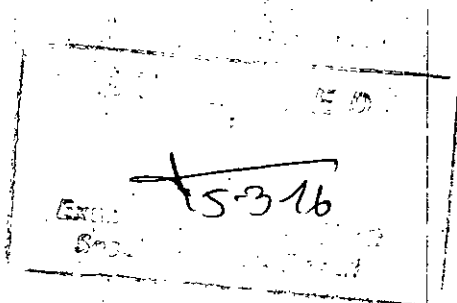
5. The applicant being without options absented from duty for a genuine reason i.e. illness of his mother, resultantly an inquiry was initiated against him and was served with the notice through publication for which a reply was submitted before the learned Senior Civil Judge Swabi (attested copy attached) but to the ill fate of the applicant same was not considered.
6. On 31/03/2012, the applicant was removed from services holding him delinquent and wilfully absent.
7. The applicant is neither delinquent nor was wilfully absent from his duties, rather his absence was due to the genuine and inevitable reasons i.e. the ailing health of his mother and her admission at Dr. Ziauddin Hospital Karachi.
8. Now the applicant is back home as his mother is relieved from the said Hospital and sent home, therefore, having already suffered the agonies of hospitals, miseries of unemployment, the applicant is still without job and means to support his family and bring them bread.

It is therefore, prayed that the case of the petitioner may sympathetically reviewed and may very graciously be granted another chance to serve under your kind supervision, please.

Yours obediently,



Fahim Akbar Sweeper  
s/o Karim Dad  
R/O Kalu Khan



47

28

ANNEX G

Order  
18.05.2015

Petitioner Fahim Akbar with his counsel Mr. Adam Khan advocate present. Arguments heard and record perused.

Mr. Fahim Akbar former Sweeper attached to the establishment of the learned Senior Civil Judge, Swabi was removed from service on 31.03.2012 vide impugned order rendered by the learned Senior Civil Judge, Swabi in her administrative capacity.

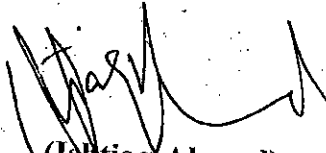
Feeling himself aggrieved from the said order, petitioner filed instant appeal.

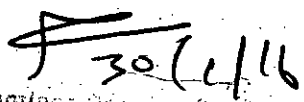
Truly present petitioner Fahim Akbar Sweeper got removed from service due to his continuous absence rather in initial stage he was granted 90 days earned leave, on its expiry, he applied for further earned leave but the competent authority did not grant him further desired earned leave. Despite of all no charge sheet/show cause was issued to the official to find out the ground reality of his excuse i.e. mother's illness, which is a basic requirement. In order to meet the purpose matter is remanded to the learned Senior Civil Judge, Swabi with the directions that she may analyze whether truly he was engaged in his mother treatment and nursing at Karachi and whether there was no other body to look after his mother.

File be consigned to the record room after necessary completion.

Announced  
18.05.2015

21/2/2016  
SUPERINTENDENT  
District & Sessions Judge  
Swabi

  
(Ishtiaq Ahmad)  
District & Sessions Judge,  
Swabi  
ISHTIAQ AHMAD  
District & Sessions Judge,  
SWABI

ATTESTED  
  
Examiner Deputy District  
Sessions Court Swabi

28

28

(29)

ANNEX H

## SHOWCAUSE NOTICE

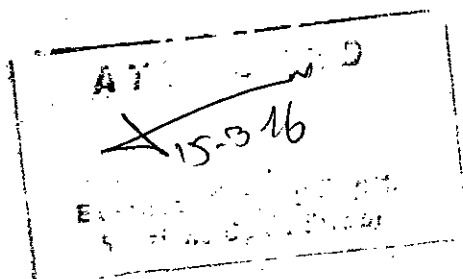
U/S 5 (iii) (b) of the Government Servant Efficiency and Discipline Rules: 2011,

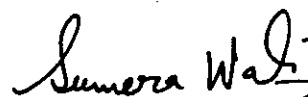
That you Mr. Fahim Akbar ex-sweeper previously attached to the establishment of the court of the than Senior Civil Judge Swabi, while posted against the post mentioned above committed the following activities which are grounds for proceedings against you;

1. That you Mr. Faheem Akbar Ex-sweeper while posted as sweeper under the establishment of the court of the than Senior Civil Judge, Swabi an inquiry was conducted against you on 20.02.2012 due to your absence from duty, wherein notices were issued to you even through publication in news papers, but you failed to attend the court. Resultantly on 31.03.2012 vide order No. 05 of the said inquiry in the light of Rule 08-A of NWFP Government Servants (E&D) Rules 1973 you was found willfully absent from your duty and consequently you was removed from service while a copy of the said order was sent to you through registered post. Thereafter you filed a mercy petition No. 64/6 on 29.05.2013 after a lapse of more than 01 year, but due to your absence the same was dismissed in default on 22.10.2013.
2. By reason of the above, you appear to be guilty of mis-conduct/negligence as defined under rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule 4 of the rules ibid.
3. You are, therefore, required to submit your written defense within three days to this court of the receipt of this show cause notice.
4. Your written defense, if any, should reach to this court within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.
5. Intimate whether you desire to be heard in person.

Faheem Akbar 

Dated: 27.05.2015





(Sumera Wali)  
Senior Civil Judge/Inquiry Officer,  
Swabi

محفوظہ خزانہ سیکرٹری، حکومت گلگت بلتستان

جواب شوکارز نوٹس نمبر 27-05-2015

جناب عالی

جواب شوکارز نوٹس نمبر 27-05-2015 کے بارے میں عرض ہے۔ کہ ایسے متعلق کے دوران  
 میری عدم حاضری قعداً و محلاً نہ تھی۔ بلکہ ہم احقر جمہوری میں ڈیوٹی  
 پر حاضر ہو سکتا تھا۔ میں ایسے ایسے علاوہ سالہ دوران بلڈز میں غیر قانونی طور پر  
 عیناً غیر نہیں رہا۔  
 جو میری والدہ بیمار تھی۔ اور اس کا علاج معالجہ کراچی میں کرنا تھا۔  
 اس وقت کے لئے میں نے چھٹی کے لئے درخواست تدارکی۔ جو 29-05-2015  
 رخصت منظور ہوئی۔

جو میری والدہ امیں کراچی میں زیر علاج تھی۔ اور اس کے دلچسپ  
 علاج کے لئے کوئی دوسرا نزد دستاب نہ تھا۔ میں ڈیوٹی پر حاضر ہو سکتا  
 تھا۔ میں نے فورم 3-21 کو واپس کر کے درخواست تدارکی۔ کہ جسے موجودت بلر  
 2-4 سے 3-20 تک رخصت منظور فرمائی جائے۔  
 2012 2012

جناب عالی! میں فورم 02-02 کو بلور خان کو بکری بوائے تھا۔ اور میں  
 اس دوران میں کوئی leave نہ لیا تھا۔ جو کہ میری دلچسپی  
 144 دن بنتی تھی۔ تاہم نوے یوم چھٹی تدارکی کے بعد میری چھٹی یوم  
 بتا دیا ہے۔

میری عدم حاضری قعداً و محلاً نہ تھی۔ بلکہ میں والدہ خود کے  
 علاج اور بیمار تدارکی کے لئے اس کے ساتھ کراچی میں مقیم رہتا تھا۔ اس ضمن میں ڈائری  
 ایسے دستاویز نہیں ہے۔ تاہم اس کے متعلقہ نقول شامل کیا ہے۔ اور میں  
 مزید ثبوت بھی پیش کر سکتا ہوں۔

جناب عالی! جو غریب آدمی ہوگا۔ بلڈز کے علاوہ ہر کوئی دیکر ذریعہ معاش نہیں ہے۔  
 اس لئے ہے۔ کہ میرے ایک غیر حاضری leave سے اس میں سے محسوب فرمایا جائے  
 جسے معاف فرمایا جائے۔ میں آئندہ مزید احتیاط کر لوں گا  
 جن صاحب دماغ ہو سکتا ہے۔ فقط فورم 29-05-2015

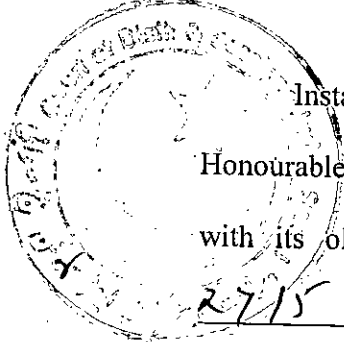
15-3-16

آجے نامہ دار بلڈز منیم اکبر (فائل نمبر)

Handwritten notes in Urdu at the top of the page, including the word "ANNEXED" written vertically.

**Order. No. 01.**  
20.05.2015

Handwritten calculations:  $\frac{74}{2016}$ ,  $8 \frac{1}{16}$ ,  $\frac{20 \frac{5}{15}}{6}$ , and a circled number "31".



Instant petition/inquiry file received on remand from the court of Honourable District & Sessions Judge Swabi. Be entered in the relevant register with its old number at neem. Petitioner Fahim Akbar be summoned for 27/5 /2015.

Handwritten signature of Sumera Wali.

(Sumera Wali)  
Senior Civil Judge, Swabi

**Order. No. 2.**  
27.05.2015.

Petitioner/ex-official present. He was served with show cause notice, which has been received by him, while its copy is placed on file. Petitioner/ex-official is directed to submit his reply within 03 days. File to come up for further proceedings on 03.06.2015.

Handwritten signature of Sumera Wali.

(Sumera Wali)  
Senior Civil Judge/Inquiry officer, Swabi

**Order. No. 03.**  
03.06.2015.

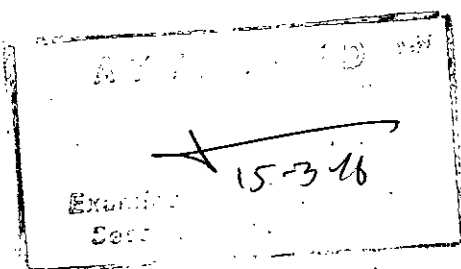
Ex-official/Sweeper present. He submitted his reply, which is not found satisfactory. Hence, he was charge sheeted today and statement of allegation has also been leveled against him.

In the light of Rule 10(1) 9a) of Government Servant Efficiency and Discipline Rules 2011, Mr. Ajmal Tahir learned Judicial Magistrate-I, Swabi is appointed as inquiry officer to look into the matter and conclude the inquiry under the Government servant (E & D) Rules, 2011 within a fortnight. Moharrir of this court is directed to send instant inquiry to the court of learned JM-I, Swabi forthwith. Ex-official/sweeper is directed to appear before the said court today and to submit his reply before the inquiry officer.

Handwritten notes in a vertical box on the right side: "INCP" and "OFF".

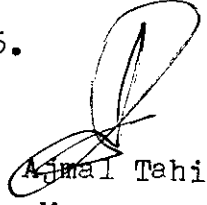
Handwritten signature of Sumera Wali.

(Sumera Wali)  
Senior Civil Judge, Swabi



Or \_\_\_\_\_ 4.  
08.06.2015.

Inquiry file received from the learned Senior Civil Judge, Swabi. Be entered. The official under inquiry present. Submitted written reply, which is placed on file. The official is directed to produce his evidence on 09.07.2015.

  
Ajmal Tahir,  
Judl; Magistrate-I, Swabi.

نوٹ ریڈر  
09.07.15  
1 - طاہری صاحب کو آفیسر صاحب سے  
پتہ لکھ کر 13/7/15 کو  
پیش ہوگا

$\frac{0-5}{13.07.15}$  - The official under inquiry Faleem Akhbar present along with his witnesses. Statement of Sher Zaman, Syed Agil Shahi recorded to come up for further proceedings on 25.07.2015

  
AJMAL TAHIR  
Judicial Magistrate-I  
Swabi

15-3-16  
Deptt:  
Swabi

CHARGE SHEET

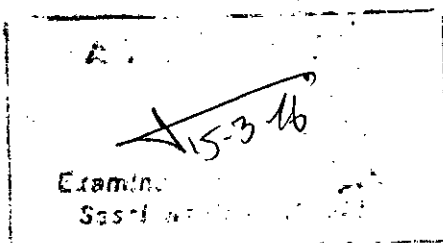
I, Sumera Wali Senior Civil Judge, Swabi as Inquiry Officer, hereby charge you Mr. Faheem Akbar ex-official/sweeper as follows:

That you, while posted against the posts mentioned above committed the following irregularities:

- a) That you Mr. Faheem Akbar Ex-sweeper while posted as sweeper under the establishment of the court of the than Senior Civil Judge, Swabi an inquiry was conducted against you on 20.02.2012 due to his absence from duty, wherein notices were issued to you even through publication in news paper, but you failed to attend the court. Resultantly on 31.03.2012 vide order No. 05 of the said inquiry in the light of Rule 08-A of NWFP Government Servants (E&D) Rules 1973 you were found willfully absent from your duty and consequently was removed from service while a copy of the said order was sent to you through registered post. Thereafter you filed a mercy petition No. 64/6 on 29.05.2013 after a lapse of more than 01 year, but due to your absence the same was dismissed in default on 22.10.2013.
1. By reason of the above, you appear to be guilty of mis-conduct/negligence as defined under rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule 4 of the rules ibid.
2. You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to this court.
3. Your written defence, if any, should reach the inquiry officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.
4. Intimate whether you desire to be heard in person.
5. A statement of allegations is enclosed.



(Sumera Wali)  
Senior Civil Judge/Authorized Officer,  
Swabi



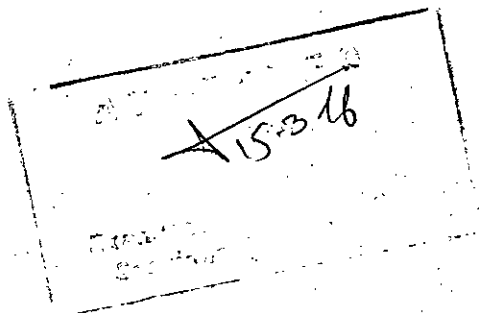


STATEMENT OF ALLEGATIONS

- I. That you Mr. Faheem Akbar Ex-sweeper while posted as sweeper under the establishment of the court of the than Senior Civil Judge, Swabi an inquiry was conducted against you on 20.02.2012 due to his absence from duty, wherein notices were issued to you even through publication in news paper, but you failed to attend the court. Resultantly on 31.03.2012 vide order No. 05 of the said inquiry in the light of Rule 08-A of NWFP Government Servants (E&D) Rules 1973 you were found willfully absent from your duty and consequently was removed from service while a copy of the said order was sent to you through registered post. Thereafter you filed a mercy petition No. 64/6 on 29.05.2013 after a lapse of more than 01 year, but due to your absence the same was dismissed in default on 22.10.2013.
- II. That in pursuance of the inquiry, you were asked to explain, but your reply is not found satisfactory.
- III. For the purpose of inquiry against the said accused with reference to the above allegations, the undersigned is constituted under rule 10 (1) (a) of the ibid rules:
- IV. The accused and a well conversant representative of the department/ (COC) shall join the proceedings on the date, time and place fixed by the inquiry officer.



(Sumera Wali)  
Senior Civil Judge/Authorized Officer,  
Swabi



15-3-16

۴۵

جناب محترم جج صاحب ہوائی

جناب عالی! سائل کو مورخہ 03/06/2015 کو خارج تہمت دیا گیا تھا جس میں

سائل کے وراثت بھی Reply کو غیر مطمئن قرار دیا گیا۔

یہ کہ سائل کو Charge Sheet / Stated of Allegation کے بناء پر

اپنا قریبی 19- عدالت کے طور میں جمع کرانا مقصود ہے۔

یہ کہ سائل کے 90 دن کی پھٹی ختم ہونے پر سائل نے والدہ کے علاج

کیلئے اخذ ہونے والی درخواست عدالت کے طور میں جمع کرانی اور سائل

P.O-4 کی والدہ کو نوٹس سے کراچی میں زیر علاج تھی واپس کراچی چلا

گیا۔ اور اسی روز سائل کی درخواست بمبارا خیز ہونے پر خارج کی

تھی۔ سائل کا مطلع ہوائی میں موجود نہ ہونا اور کراچی میں

والدہ کے ساتھ رہیں بعض علاج درخواست خارج ہونے کا علم نہ

AJMAL TAHIR  
Magistral  
Swabi  
08.08

مگر سائل اپنے بنروزہ طرہی 19- (written defense) میں اپنے

عدم موجودگی اور کراچی میں موجودگی کا ثبوت بعضی طریقے مطابق

اپنے والدہ صاحبہ کا ثبوت بشوہ آڈیو طرہی کراچی میں سائل نے اپنے

مطلب دینا چاہتا ہے۔ سائل نے اسی میں سائل سے تعلق بطور ثبوت

نہایت زور دیا کراچی میں ہے۔ جسکی عدالت کے طور اگر اصرار کرنا

چاہئے تو کر سکتے ہیں۔

یہ کہ سائل نے جو لکھنے سے اپنے اپنی والدہ کے علاج کے لئے نیشنل بینک

آف پاکستان مانیٹری پرانے سے قرضہ لے لی انٹرنیشنل بینک میں

50000 روپے لگائے۔ جس کے لغو عدالت نے لے لیا ہے۔

سائل نے مذکورہ بار زخم والدہ صاحبہ کے علاج و معالجہ میں

لگائے اور لغو میں سائل کو توڑی سے لگا دیا گیا۔ جس کے

میں سائل نے وقت پر بینک اقساط جمع نہ کیے۔ لوگ مہرم کو ۱۰  
اور اس حالت میں سائل کو بینک مذکورہ سے نوٹس پر طرف سائل  
موصول ہونے پر اس کے نفوذات لف ہے۔

۳۔ مہرم کو میں سائل والد صاحب کی وفات ہونے کے بعد دوا مہرم  
رہے۔ اور سائل کو پانچ ہٹری نہیں اور ایک چھوٹا بھائی اور ایک  
بہن رہے۔

۴۔ مہرم سائل ایک ہٹری بہن والد صاحب کی وفات ہونے سے پہلے  
شادی شدہ تھی۔ اور والد صاحب کی وفات کے بعد سائل نے اپنے چھوٹے  
بہنوں کی شادیاں کرائی اور اپنا استطاعت کے مطابق چیزیں کرائی  
سبکی دیم سے سائل مہرم بہت خوش ہے۔

۵۔ مہرم سائل مہرم والا حقائق کے مطابق یہ ہے / گاؤں کے لوگوں  
کو بھی تیش کر سکتا ہے۔

۶۔ اسلئے مہرم والا دو بچات کی نام پر سائل نے مہرم  
( ) تک بہت نقصان اٹھایا۔ سائل نے غیر جائیداد مہرم  
میں ایک اسلئے عزالت ضرورت سے استدعا ہے۔ مہرم سائل کو  
بھارت کی حالت اور سائل کی غیر جائیداد کو جس میں تبدیلی کی حالت

۱۵۳۱۶  
مہرم بچات و گاؤں ریگا۔

CP

آج کل سیدار نوکری میں آ رہے ہیں

تاریخ: ۱۵/۱۵/۱۵

ANNEX-1-N

35

Note Reader

25.07.2015

Presence as before. The presiding Officer is on casual leave. To come up for 09.09.2015.

*[Signature]*  
Reader,

Order No 06

09.09.2015

The Official under inquiry present before the court. Statement of the official recorded. To come up for order on 16.09.2015.

*[Signature]*  
Qaisar Khan Afridi  
Civil Judge-I/Inquiry Officer, Swabi

Order No 07

16.09.2015

The official under inquiry namely Fahim Akbar in person present. Record perused.

Brief facts of the inquiry are that:

As per record the petitioner Fahim Akber Sweeper applied for 90 days earned leave w.e.f. from 07-11-2011 to 04-02-2012. On expiry of the above period the delinquent official was found absent from his duties till 20-02-2012, upon which the clerk of court has submitted complaint against the delinquent official on 20-02-2012, proceedings against the delinquent official were initiated by the then Senior Civil Judge, Swabi on 20-02-2012 and notice was issued on his home address to resume his duties within 03 days, but as per report of the concerned Process Server, he was not present at his residence. After that another notice was issued to the delinquent official namely Fahim Akber Sweeper for publication in the daily newspapers with the direction to resume his duties within 15 days. On 26-03-2012 reply of the delinquent official received by the court of Senior Civil Judge, Swabi, wherein, he requested for further earned leave with the prayer that his mother is admitted in hospital at Karachi and is in need of earned leave. On 31-03-2012 the then Senior Civil Judge, Swabi turned down the application of the delinquent official and removed him from service.

The official named above submitted a mercy petition along with the medical documents i.e. medical prescriptions, tests results, discharge slip etc. on 29-05-2012 to the court of learned Senior Civil Judge, Swabi with the request that his mother was admitted in Karachi, while the petitioner through his counsel

Report

*[Signature]*  
15-3-16

**CONTINUED ORDER NO 07**

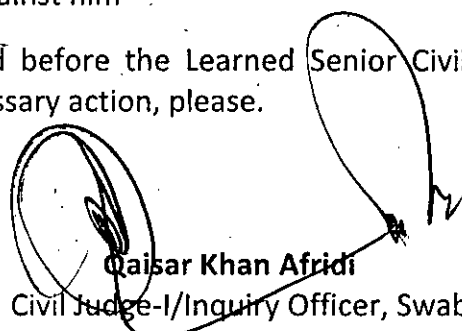
16.09.2015

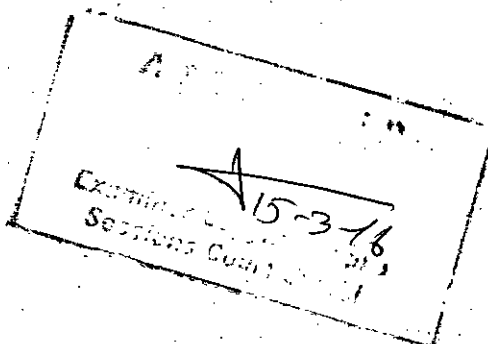
aggrieved from the order of the learned Senior Civil Judge, Swabi filed an appeal to the Hon'ble District & Sessions Judge, Swabi. On 18-05-2015 the Hon'ble District & Sessions Judge, Swabi remanded the same to the learned Senior Civil Judge, Swabi with the direction that it may analyze whether truly he was engaged in his mother treatment and nursing at Karachi and whether there was no other body to look after his mother?.

So the instant inquiry against Fahim Akber Sweeper attached to the establishment of the learned Senior Civil Judge, Swabi was entrusted to this Court, vide order sheet No.03 dated 08-06-2015 by the learned Senior Civil Judge, Swabi to find out the ground reality of his excuse i.e. mother illness. Perusal of the record transpired that the delinquent official had applied for 90 days earned leave w.e.f. from 07-11-2011 to 04-02-2012 on account of his mother illness and on expiry of earned leave he again applied for earned leave on 22-03-2012, but the same was turned down and removal order from service was issued by the competent authority. On 08-06-2015 the official was directed to produce his evidence. On 13-07-2015, he submit his mother discharge slip from hospital at Karachi along with medical documents and produce the copy of the letter of the National Bank of Pakistan Maneri Branch from where he has taken loan for his mother treatment. It is also positive evidence that after discharge of his mother from hospital at Karachi on 17-05-2013 and after arrival of the delinquent official from Karachi to his home town he submitted mercy petition on 29-05-2013 with a gap of 14 days after arrival from Karachi to his home. The statements of Mr. Sher Zaman and Syed Aqil Shah followed by the delinquent official on 09-09-2015 as defense evidence were recorded.

Perusal of the oral statements of the above mentioned witnesses coupled with the medical record, I, find the excuse of the delinquent official namely Fahim Akber as a genuine one. I hereby suggest that the official under inquiry be exonerated from the charges leveled against him

The inquiry is hereby submitted before the Learned Senior Civil Judge, Swabi for kind perusal and further necessary action, please.

  
Qaisar Khan Afridi  
Civil Judge-I/Inquiry Officer, Swabi



19

36

ANNEX-10

OFFICE OF THE SENIOR CIVIL JUDGE, SWABI

Order. No. 1.  
05.10.2015

Inquiry report received from the court of learned Judicial magistrate-I, Swabi. Be entered. The Ex-official Faheem Akbar be summoned for 13.10.2015.

(Syed Hamid Qasim)  
Senior Civil Judge, Swabi.  
(Syed Hamid Qasim)  
Senior Civil Judge/Judicial Magistrate,  
Swabi

Order. No. 2.  
13.10.2015

Mr. Faheem Akbar, Ex-Sweeper (to be referred as Ex-official hereinafter) of this office, present.

Brief and relevant facts are that the Ex-official applied for ninety (90) days leave and same was granted vide office order dated:28.11.2011 from 07.11.2011 to 04.02.2012 (both days inclusive); the said official thereafter, failed to resume his duty and on the report of office dated:20.02.2012 departmental proceeding under the K.P.K Government Servant (E&D) Rules, 2011 were initiated against him for his willful absence; after issuance of notice on his residential/postal address and publication in press, the Ex-official did not appear, however, he sent his reply on 22.03.2012 but did not appear before the authority and; on 31.03.2012 was dismissed from service.

On 29.05.2013 a mercy petition was submitted on behalf of the Ex-official which stood dismissed in default on 22.10.2013. It is to be noted that the Ex-official never appeared before the authority on any date either in the departmental proceeding or during mercy petition.

In the meanwhile, the Ex-official filed an appeal before the Hon'ble District & Sessions Judge, Swabi and the Hon'ble District & Sessions Judge, Swabi was pleased to remand the inquiry to analyze whether he was engaged with his mother treatment and nursing at Karachi and whether there was no other body to look after his mother.

On the receipt of inquiry, charge was framed and charge alongwith the statement of allegations was handed over to the Ex-official and learned Judicial Magistrate-I, Swabi was appointed as inquiry officer. The Ex-official was directed to join the inquiry

15-316

37

proceeding and to file his written defense. The clerk of court was nominated as representative of the department to join the inquiry proceedings.

The learned Inquiry Officer after the examination of the Ex-official and his witnesses suggested the exoneration of the Ex-official vide order dated:16.09.2015.

I have gone through the record and arrived at the following conclusion.

Without touching the merits of the inquiry, lest it may not prejudice the case of Ex-official, the record of case shows that no notice was issued to the representative of the department and thus, the department was not provided with an opportunity to cross examine the Ex-official and his witnesses.

Though, the Hon'ble District & Sessions Judge, Swabi was pleased to remand the inquiry to determine the fact that if the Ex-official was engaged with his mother nursing her and analyze if there was no other body to look after his mother, however, after framing of charge and preparing the statement of allegations it was a full fledged inquiry where the department should have been provided with an opportunity not only to cross examine the Ex-official and his witnesses but to produce and exhibit the relevant record against the Ex-official.

In this scenario of the matter there is no other option but to hold that the inquiry is one side and against the principle of natural justice: that no one should be condemned unheard.

Now that, while not concurring with the findings of the learned Inquiry Officer, a fresh inquiry is directed in light of Rule 14(VI) of the Government Servant (E&D) Rules, 2011. Syed Zahid Shah learned Civil Judge/Judicial Magistrate-II, Swabi is appointed as Inquiry Officer. Fresh charge sheet and statement of allegation handed over to the Ex-official. He is directed to file his written defence before the inquiry officer within 07 days and to appear before the inquiry officer as and when directed. File be sent to the inquiry officer/J.M-II, Swabi for further proceedings as per law.

(Syed Hamid Qasim)  
Senior Civil Judge, Swabi.

(Syed Hamid Qasim)  
Senior Civil Judge/Judicial Magistrate,  
Swabi

15-3-16

38

ANNEX-1

CHARGE SHEET

I, Syed Syed Hamid Qasim, Senior Civil Judge, Swabi, as competent authority, hereby charge you Mr. Fahim Akbar, Sweeper, as follows.

That you, while posted as Sweeper committed the following irregularities:

- a. That you after availing ninety (90) days earned leave from 07.11.2011 to 04.02.2012 (both days inclusive) failed to resume your duty.
  - b. That on the report of the office a notice for resumption of duty was sent to you through registered post acknowledgment due at your residential address but you failed thus, a publication in press was issued and you were directed to resume your duty within fifty (15) days but you failed.
  - c. That on your behalf an explanation was submitted but owing to your absence and your failure to appear before the authority and to resume your duty you were dismissed from your service on 31.03.2013 being found guilty of willful absence, misconduct and negligence.
  - d. That you filed a mercy petitioner No.64/6 on 29.05.2013 after a lapse of more than one year but due to your absence the same was dismissed as default on 22.10.2013.
2. By the reason of the above, you appear to be guilty of misconducted and negligence as define under Rule (3) of Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rule, 2011 and have rendered yourself liable to all or nay of the penalties specified in Rule 4 of the rules ibid.
  3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the inquiry officer.
  4. Your written defence, if any, shall reach the inquiry officer within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.
  5. You must clearly intimate that whether you desire to be heard in person.
  6. A Statement of allegations is enclosed.

(Syed Hamid Qasim)  
Senior Civil Judge, Swabi

(Syed Hamid Qasim)  
Senior Civil Judge/Judicial Magistrate,  
Swabi

Received Fahim Akbar  
(Ex-Sweeper at the office of Senior Civil Judge, Swabi)

15-3-16



39

ANNEXURE 2

STATEMENT OF ALLEGATIONS

I, Syed Syed Hamid Qasim, Senior Civil Judge, Swabi, as competent authority, am of the opinion that Mr. Fahim Akbar, Sweeper, has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of Rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- i. That the accused official after availing ninety (90) days earned leave from 07.11.2011 to 04.02.2012 (both days inclusive) failed to resume his duty.
- ii. That on the report of the office regarding his absence a notice was sent to him though registered post acknowledgement due at his residential address but the accused official failed to appear thus a publication in press was issued and he was directed to resume his duty within fifty (15) days but in vain.
- iii. That the accused official did not appeared however, on his behalf an explanation was submitted and owing to his absence and his failure to resume his duty, on 31.03.2012, the accused official was dismissed from his service as he was found guilty of willful absence from his duty, misconduct and negligence.
- iv. That the accused official filed a mercy petitioner No.64/6 on 29.05.2013 after a lapse of more than one year but due to his absence the same was dismissed as default on 22.10.2013.
2. By the reason of the above the accused official appears to be guilty of misconducted and negligence as define under Rule (3) of Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rule, 2011.
3. For the purpose of inquiry against the accused official with reference to above allegations Syed Zahid Shah, learned Civil Judge/Judicial Magistrate-II, Swabi is appointed as inquiry officer under Rule (10) (1)(a) of the ibid rules.

15-3-16

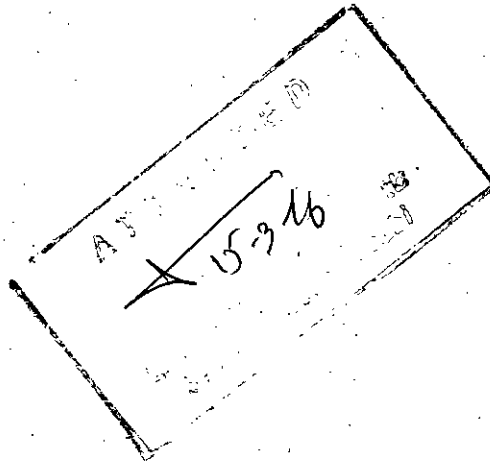
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- (40)
4. The inquiry Officer shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record his findings and make , recommendations as to punishment or other appropriate actions against the accused.
  4. The accused official and Clerk of Court being representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer.

(Syed Hamid Qasim)  
Senior Civil Judge, Swabi

(Syed Hamid Qasim)  
Senior Civil Judge/Judicial Magistrate,  
Swabi

13/1/2015

Received Fahim Akbar  
(Ex-Sweeper at the office of Senior Civil Judge, Swabi)



(41)

ATINIA ER

0-4  
19.10.15

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21

بھنور جناب سید زاہد شاہ جوڈیشل مجسٹریٹ / انکوائری آفیسر

تحریری جواب بابت چارج شیٹ 13-10-2015

جناب عالی!

بحوالہ چارج شیٹ مورخہ 13-10-2015 متذکرہ بالا گزارش ہے۔ کہ سائل مورخہ 02-02-2008 کو بطور خاکروب بھرتی ہوا۔ اور سائل نے اسی دوران کوئی Earned Leave نہیں گزاری تھی۔ چونکہ سائل کی Earned Leave کل 144 دن بنتی تھی تو سائل نے 90 دن کیلئے درخواست بغرض علاج معالجہ والد صاحبہ ام گزاری۔ جسکے نتیجے میں سائل کو بحوالہ آفس آرڈر نمبر 52-749-52 مورخہ 28-11-2011 کو 90 دن کی چھٹی (07-11-2011 تا 04-02-2012) منظور ہوئی تھی جسکے بعد سائل اپنی والدہ صاحبہ کے ساتھ بعرض علاج کراچی روانہ ہوا۔ چونکہ سائل کا والد صاحب انہی دنوں فوت ہوا تھا اور سائل کا چھوٹا بھائی بوجہ کم عمری کراچی جانے کے قابل نہ تھا لہذا سائل کو خود اپنی والدہ صاحبہ کو کراچی لے جانا پڑا۔

کراچی میں والدہ صاحبہ کے علاج معالجہ کے دوران جب سائل نیشنل بینک آف پاکستان سے تنخواہ نکالنے کیلئے گیا تو معلوم ہوا کہ سائل کی تنخواہ بند ہو گئی ہے۔ سائل نے تنخواہ قرق / بندش کے بابت مورخہ 21-03-2012 کو محترمہ فریال ضیاء مفتی اس وقت کی سنئیر سول جج صاحبہ کو درخواست برائے جاری کرنے تنخواہ 46 دن (04-02-2012 تا 20-03-2012) گزاری۔

یہ کہ بروئے Order Sheet # 05 مورخہ 31-03-2012 عدالت سنئیر سول جج صاحبہ صوابی سائل کو بوجہ غیر حاضری نوکری سے برخاست کیا گیا حالانکہ سائل نے باقاعدہ طور پر مورخہ 21-03-2012 کو مذکورہ بالا درخواست برائے غیر حاضری کو چھٹی میں تبدیل کرنے و جاری کرنے تنخواہ گزاری تھی۔ (جو کہ ریکارڈ پر موجود ہے)

جناب عالی! سائل کی عدم حاضری قصداً عمداً اور بلا جواز نہ تھی، بلکہ سائل کی والدہ خود کے علاج اور تیمارداری کے لئے اس کے ساتھ کراچی میں مقیم تھا۔ اس بابت مکمل ڈاکٹری ریکارڈ پہلے سے شامل مشل ہے اور سائل نے اس بابت جناب قیصر خان آفریدی سول جج / انکوائری آفیسر صاحب کو مزید ثبوت پیش کئے ہیں جو کہ اگر عدالت حضور کو درکار ہو تو پیش کر سکتا ہوں۔

سائل گھر کا واحد کفیل ہے اور واحد یہی نوکری ذریعہ معاش ہے جسکے ذریعے سائل اپنے بچوں اور گھر والوں کی کفالت کرتا ہے اسلیئے مندرجہ بالا حقائق کو مد نظر رکھتے ہوئے سائل کے ایام غیر حاضری کو Earned Leave میں تبدیل کیا جائے۔ سائل آئندہ کیلئے محتاط رہے گا۔

سائل تاحیات دعا گو رہے گا۔

5-3-16  
Enam  
Fazlur

مورخہ 19/10/2015

آپکا تابعدار ملازم فہیم اکبر (خاکروب)

42

Annex S

No 752 JM-II, Swabi

Dated 20.11.2015

From: Syed Zahid Shah  
Enquiry office/ JM-II,  
Swabi

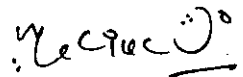
To, The Learned,  
Senior Civil Judge,  
Swabi

Subject: ENQUIRY REPORT AGAINST ACCUSED  
OFFICIAL FAHIM AKBAR (EX-SWEEPER)

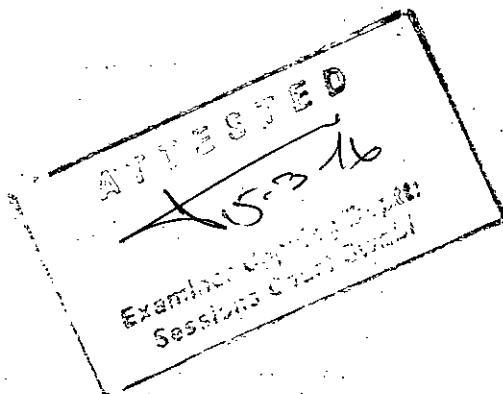
Dear Sir,

I have the honour to refer to the above cited subject and to state that Enquiry in the subject case is hereby submitted for your record and necessary proceedings, please.

Yours faithfully



(Syed Zahid Shah)  
Enquiry officer/JM-II, Swabi



43

ENQUIRY REPORT

The instant Enquiry file received from the learned Senior Civil Judge, Swabi against the accused/official Fahim Akbar (Ex Sweeper) of the establishment of Senior Civil Judge, Swabi to conduct an enquiry against him under E & D Rules, 2011.

Accused official was summoned who submitted his reply/defense to the charge sheet/statement of allegations.

Brief facts necessary for disposal of present Enquiry are that the accused official was working as sweeper. He was appointed vide order dated 2.2.2008 (Flag A). Thereafter he availed earned leave from 7.11.2011 to 4.02.2012. He was required to join his duty on 05.02.2012, but he willfully absented himself and as such has committed misconduct. On the report of COC dated 20.02.2012 notice was issued to accused/official for 23.02.2012 (Flag B) by the then learned Senior Civil Judge, Swabi. Despite notices, accused/official failed to appear to join his duty, hence vide order dated 31.03.2012, he was removed from his service (Flag C).

The accused/official preferred appeal before the Hon'ble District & Sessions Judge, Swabi and vide order of the Hon'ble District & Sessions Judge, Swabi the enquiry was remanded to the learned Senior Civil Judge, Swabi to conduct thorough enquiry (Flag D). After receiving the enquiry on remand the then learned Senior Civil Judge, Swabi vide order dated 3.6.2015 appointed the then learned Judicial Magistrate-I, Swabi as enquiry officer. Presently Qaisar Khan Afridi the learned Judicial Magistrate-I, Swabi after conducting enquiry submitted its report; the relevant para is hereby reproduced verbatim for convenience as under:

*"Perusal of the oral statements of the above mentioned witnesses coupled with the medical record, I find the excuse of the delinquent official namely Fahim Akbar as a genuine one. I hereby suggest that the official under enquiry be exonerated from the charges leveled against him."*

As per section 5 of the subordinate judiciary service Tribunal Act, 1991 which is reproduced verbatim for convenience:

*"Appeal to Tribunal: Any member of subordinate judiciary aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him or within six months of the establishment of the tribunal, whichever is later, prefer an appeal to the tribunal."*

The accused official has submitted his ibid appeal which is totally absolutely time barred.

As discussed above the accused official had willfully absented himself from duty after expiry of his 90 days earned leaves and his act tantamount to misconduct and is

Recd. 20.11.15  
Enquiry Officer  
SYED ZAHID SHAH  
Judicial Magistrate-II  
Swabi

15-3-16

44

totally unbecoming of a responsible government official in a department where confidence is being posed and reposed.

In the given circumstances in my humble opinion, the appeal submitted by petitioner was time barred, therefore with utmost respect from the order of Hon'ble District & Sessions Judge, Swabi dated 18.05.2015, not only a second enquiry can be conducted but keeping in view also the indifferent attitude of the petitioner, he is not entitled to be retained/reinstated in service. Submitted, please

*M. C. P. S.*

(Syed Zahid Shah)

Enquiry officer/JM-II, Swabi

**SYED ZAHID SHAH**  
Judicial Magistrate-II  
Swabi

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Sessions Court Swabi

45

ANNEX ST

SHOWCAUSE NOTICE

I, Syed Hamid Qasim, Senior Civil Judge, Swabi, as competent authority, under Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, **Mr. Fahim Akbar Ex-Official/Sweeper**, as follow:

1. (i) that consequent upon the completion of inquiry conducted against you by the inquiry officer vide communication No.752/JM-II, Swabi dated:20.11.2015 and

(ii) on going through the findings and recommendations of the inquiry officer, the material on record and other connected papers including your defence before the inquiry officer,

I am satisfied that you have committed the following acts/omission specified in rule of the said rules.

- a) Habitually absenting himself from duty without prior approval of leave,
- b) misconduct.

2. As a result thereof, I as competent authority, arrived at the conclusion that you were rightly removed from the service vide order No.05 dated:31.03.2012 and your appeal before the Hon'ble District & Sessions Judge, Swabi was badly time barred thus, you are not entitled to reinstatement and I have tentatively decided to impose upon you the penalty of removal from service under rule 4(iii) of the said rules.

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

4. If no reply to this notice is received within seven (07) days or not more than fifteen (15) days of its delivery, it shall be presumed that you have no defence to put in and in that case an Ex-parte action shall be taken against you.

A copy of the findings of the inquiry officer is enclosed.

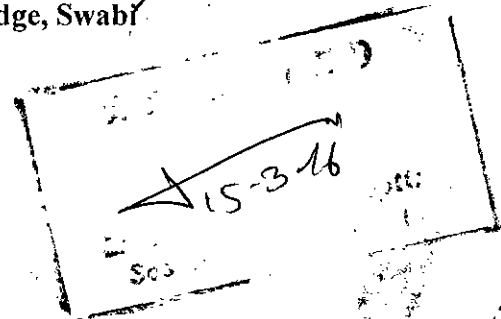
(SYED HAMID QASIM)  
Senior Civil Judge, Swabi

Enclosed:

Inquiry report..

Received  
02/12/2015

2/12/2015



To,

The Hon'ble Senior Civil Judge,  
Swabi

Subject: REPLY TO SHOW CAUSE NOTICE.

*Respected Sir,*

1. That I filed appeal before the learned District & Sessions Judge Swabi and the learned District & the learned District & Sessions Judge, Swabi was please to pass following order on 18.05.2015 truly present petitioner Fahim Akbar Sweeper got removed from service due to his continuous absence rather in intial stage he was granted 90 days earned leave but the competent authority did not grant him further desired earned leave. Despite of all no charge sheet/show cause was issued to the official to find out the ground reality of his excuse i.e. mother's illness, which is a basic requirement. In order to meet the purpose matter is remained to the learned Senior Civil Judge, Swabi with the directions that she may analyze whether truly he was engaged in his mother treatment and nursing at Karachi and whether there was no other body to look after his mother.
2. That the consents of learned Senior Civil Judge, Swabi dated 09.02.2015 were read by the Appellate Authority and after reading. The same passed order dated 18.05.2015 comments of Senior Civil Judge, Swabi read as under:-
  - I. The petitioner has been removed from service after conducting due inquiry and adopting proper procedure.
  - II. The petitioner filed an appeal/mercy petitioner against the order of competent authority dated 31.03.2012 within the prescribed period. Even he did not bother to appear before the competent authority during inquiry.
  - III. The petitioner filed mercy petition on 29.05.2013 after a lapse of more than one year of the order of removal passed by the competent authority on 31.03.2012 which was also dismissed in default on 22.10.2013 due to absence of petition.
  - IV. The petitioner filed instant petition on 09.02.2015 for restoration of mercy petitioner No.64/6 which was dismissed on 22.10.2013, hence, the petition hopelessly time barred.

15-3-16



47

In light of above referred rule as undersigned is not appellate authority, therefore, this petition be sent to the Hon'ble District & Sessions Judge, Swabi for further orders by adding comments of undersigned.

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- 07-3  
11/12/2015
3. That pursuance of said order of appellate authority, the learned Senior Civil Judge, Swabi vide order dated 08.06.2015 appellate inquiry office namely Qaisar Khan Afridi Civil Judge, Swabi as inquiry office order dated 08.06.2015 of learned Senior Civil Judge, Swabi reads as under. Enquiry file received from the learned Senior Civil Judge, Swabi be entered. The official under inquiry present submitted written reply, which is placed on file. The official is directed to produced his evidence on 09.07.2015
  4. That the learned inquiry officer Qaisar Khan Afridi Civil Judge, Swabi exuviated me vide order dated 16.09.2015 as per remand order of worthy District and Sessions Judge, Swabi from the charge absence being not intentional but the reason for the reason for absence was judicial operative part of order dated 16.09.2015 as reproduced as under. Perusal of the oral statement of the above mentioned witness coupled with the medical record I find the excuse of the delinquent official Fahim Akbar as a genuine one. I hereby suggest that the official under inquiry be exonerated from the charge leveled against him.
  5. That the learned Senior Civil Judge, Swabi without giving any reason appointed an another inquiry officer namely Syed Zahid Shah Civil Judge, Swabi vide order dated 13.10.2015 which is against Rule-6 (d) of E&D Rules-2011 order dated 13.10.2015 of Senior Civil Judge, Swabi for second inquiry is reproduced.
  6. That Syed Zahid Shah the learned Civil Judge/inquiry officer vides his report held me guilty recommended not to be retained and services relevant portion of inquiry report is as under submitted. Brief facts necessary for disposal of present inquiry are that the accused official was working as sweeper. He was appointed vide order dated 02.02.2008 (Flag-A), thereafter he availed craned leave from 07.11.2011 to 04.02.2012 he was required top join his duty on 05.02.2012, but the willfully absented himself and as such has committed misconduct. On the report of COC dated 20.02.2012 notice was issued to accused/official for 23.02.2012 (Flag-B) by the then learned Senior Civil Judge, Swabi despite notices accused/official failed to appear to join his duty, hence vide order dated 31.03.2012 he was removed from his service (Flag-C).

The accused/official preferred appeal before the Hon'ble District & Sessions Judge, Swabi and vide order of the Hon'ble District & Sessions Judge, Swabi the

15/3/16

Swabi

48

inquiry was remained to the learned Senior Civil Judge, Swabi to conduct through inquiry on remained the then learned Judicial Magistrate-I Swabi as inquiry officer. Presently Qaisar Khan Afridi the learned Judicial Magistrate-I, Swabi after conduction inquiry submitted its report; para is hereby reproduced verbatim for convenience as under:

Perusal of the oral statement of the above mentioned witnesses coupled with the medical record I find the excuse of the delinquent official namely Fahim Akbar as a genuine one, I hereby suggest that the official under inquiry be exonerated from the charges leveled against him.

As per section-5 of the subordinate judiciary service Tribunal Act-1991 which is reproduced verbatim for convenience: Appeal to tribunal any member of subordinate judiciary aggrieved by any final order. Whether original or appellate, made by a departmental authority in respect of any of the terms and condition of his service any within thirty days of the communication of such order to him or within six months of the tribunal whichever is later prefer an appeal to the tribunal. The accused official has submitted his ibid which is totally absolutely time barred.

As accused above the accused official had willfully absented himself from duty after expiry of his 90 days earned leave and his act tantamount to misconduct and is totally unbecoming of a responsible government official in a department where confidence is being posed and reposed. In the given circumstances in my humble opinion the appeal submitted by petitioner was time barred, therefore, with utmost respect from the order of Hon'ble District & Sessions Judge, Swabi dated 18.05.2015 not only second inquiry can be conducted but in view also the indifferent attitude of the petitioner, he is not initial to be retrained/reinstated in service submitted, please.

7. That the learned inquiry officer has totally misquoted section-5 of subordinate Judicially Tribunal Act-1991 for declaring appeal of mine as time barred for following reason.

- 1stly: Act ibid is for Judicial Officer like, Civil Judge, Senior Civil Judge, Additional District & Sessions Judge, District & Sessions Judge and not lower staff.
- 2ndly: Section-5 referred above is per services appeal before tribunal whereas appeal of mine is before appellate authority within department.
- 3rdly: It is discretion of appellate authority to accept a time barred appeal on merit or not and it is vary stronger that a lower authority as finding faults is the administrative order of his superior officer.

15-3-16  
Examination  
Sessions

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49

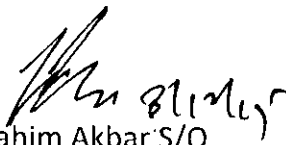
- 4thly: No reason much less plausible has been given that the mother illness was fake or bogus.
- 5thly: The last report is without reason whereas 1<sup>st</sup> report is well reasoned.
- 6thly: I am innocent.
- 7thly: 1<sup>st</sup> inquiry report is in line of remained order of the appellate authority.
- 8thly: When appellate authority passed order of remained, means delay was conducted.

10

It is therefore humbly requested that I may please be exonerated of the charge and proceeding may please be filed.

Dated:08.12.2015

Your Obediently

  
Fahim Akbar S/O  
Kareem Dad R/O  
Kalu Khan,  
Tehsil Razar, District Swabi

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11/12/2015

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15-3-16  
SESSIONS COURT SWABI

SO ANNEX V

IN THE COURT OF SENIOR CIVIL JUDGE, SWABI.

Order No.1  
Dated:26.11.2015

Inquiry Report received from the court of learned Judicial Magistrate-II/Inquiry Officer. Be registered. Mr. Faheem Akbar Ex-official/sweeper be summoned for 02/12/2015

(Syed Hamid Qasim)  
Senior Civil Judge, Swabi

Order No.2  
Dated:02.12.2015

Mr. Faheem Akbar present. The learned Inquiry Officer having proposed that the Ex-official is not entitled for his reinstatement in service and has thereby opinioned for his removal from service in accordance with the order No.05 dated:31.03.2012. Tentatively, while concurring with the opinion of inquiry officer, final show cause notice be issued to the Ex-Official/Sweeper in the light of Rules 14(IV) of KPK Govt: Servant (Efficiency & Discipline) Rule, 2011. He is directed to file his reply within seven (07) days but not later than fifteen (15) days, positively. On the submission of his reply file be put up before the undersigned.

(Syed Hamid Qasim)  
Senior Civil Judge, Swabi

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12/2015

No one present. Reply submitted. Proceed on file. The accused/official be summoned for 02/12/2015 for personal hearing.

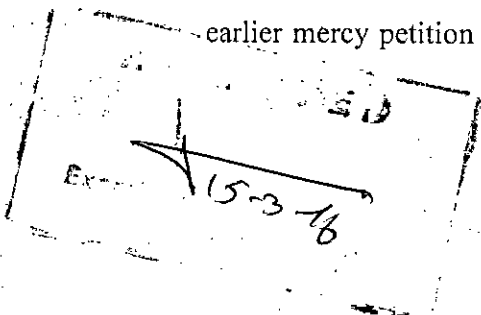
(Signature)

Or-4  
2/08/2015

Accused official present. The LOC present with relevant record. I heard the accused official. To come up for inquiry report  
on 2/01/2016.

Order. No. 5.  
08.01.2016

Mr. Faheem Akbar, Ex-Sweeper of the establishment of Senior Civil Judge, Swabi, hereinafter accused official, after availing earned leaves of ninety (90) days, with effect from 07.11.2011 to 04.02.2011, failed to resume his duty thus, on the report of the Clerk of Court of the Senior Civil Judge, Swabi dated:20.02.2012, proceedings under Efficiency & Discipline Rules were initiated against him. The accused official was noticed through registered post, acknowledgment due, dated:21.02.2012, to resume his duty within three days, and when the same could not be served, a publication, dated:11.03.2012, for his resumption of duty, within fifteen (15) days, was published in daily Jihad and Pakistan. The order sheet No.04 dated: 20.03.2012 shows that the accused official never attended the office nor he resumed his duty; however, an application was submitted on his behalf which was placed on file. As the accused official failed to resume his duty, vide order No.05, dated: 31.03.2012, he was removed from service. Thereafter, after a lapse of 15 months, on 29.05.2013, the accused official submitted a mercy petition, requesting therein for his reinstatement into service but, did not appear in person as result whereof the said petition was dismissed in default vide order dated: 22.10.2013. On 09.02.2015, the accused official submitted another petition for the restoration of his earlier mercy petition along with an application for treating the said mercy petition as a



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Continued Order. No. 5.

08.01.2016

departmental appeal. While treating the said petition as appeal, the same was forwarded to the Hon'ble District & Sessions Judge, Swabi, in his capacity as appellate authority, along with the comments of the then Senior Civil Judge, Swabi in terms of Rule 4(2) of Government Servant Appeal Rules.

The Hon'ble District & Sessions Judge, Swabi was pleased to remand the inquiry with the following directions:

*"Truly present petitioner Fahim Akbar Sweeper got removed from service due to his continuous absence rather in initial stage he was granted 90 days earned leave, on its expiry, he applied for further earned leave but the competent authority did not grant him further desired earned leave. Despite of all no charge sheet/show cause was issued to the official to find out the ground reality of his excuse i.e. mother's illness, which is a basic requirement. In order to meet the purpose matter is remanded to the learned Senior Civil Judge, Swabi with the directions that he may analyze whether truly he was engaged in his mother treatment and nursing at Karachi and whether there was no other body to look after his mother."*

In compliance of the said directions, on the receipt of the inquiry file, show cause notice was given to the accused official. His reply to the said notice was not found to be satisfactory thus, the accused official was charged sheeted and statement of allegations handed over to him whilst, Judicial Magistrate-I, Swabi was appointed as inquiry officer.

On 16.09.2015, the learned Judicial Magistrate-I, Swabi, after recording the statements of accused official and his witnesses recommended exoneration of the accused official. Being not satisfied with the findings of the learned Inquiry Officer, Syed Zahid Shah, Judicial Magistrate-II, Swabi was appointed as inquiry officer and a fresh inquiry was directed against the accused official.

The learned inquiry officer, without recording evidence of either side, concluded that the mercy petition/appeal filed by the accused official is badly time barred and this fact coupled with the conduct of the accused official does not entitle him for his reinstatement in service.

In the light of the inquiry report show cause notice in terms of Rule 14(4) Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 given to the accused official to which he filed his reply which is placed on file. The accused official was heard in person.

The plea of the accused official is that he was busy nursing his ailing mother at Karachi and there was no one else to take care of his mother which precluded him to resume his duty.

The accused official has never pleaded that he was not aware of the departmental proceedings initiated against him. Despite of the fact that he never appeared in person before the authority, during the said proceedings, he after publication of notice in press directing him to resume his duty with in fifteen (15) days, submitted an application dated: 21.03.2012, requesting that his absence from duty from 04.02.2011 to 20.03.2012 be converted into leave but never bothered to resume his duty, as directed by the authority, showing that he knowingly and deliberately absented himself from duty from 21.03.2012 till 29.05.2013, when, after his removal from service, a mercy petition on behalf of the accused official was submitted at the office of the Senior Civil Judge, Swabi. Even on 29.05.2013, when the 1<sup>st</sup> mercy petition was submitted, the accused official was not before the authority. After the submission of said mercy petition, on 18.06.2013, the accused official appeared before the authority while on 25-06-2013 and 25.07.2013 his brother Naeem Akbar appeared on his behalf but, thereafter no one appeared, thus, the said petition was dismissed in default on 22.10.2013. After sixteen (16) months of the dismissal of the said petition the accused official submitted yet another petition for the restoration of his earlier mercy petition and requested for treating the said petition as departmental appeal.

15-3-18  
Executive Secretary



Continued Order. No. 5.

08.01.2016

All the these facts shows that the accused official was well aware of the fact that leaves granted to him has expired and on his failure to resume his duty not only departmental proceedings have been initiated against him but he has also been removed from service. In the publication dated 11.03.2013 the accused official was specifically directed to resume his duty and not to submit a reply or petition. As per the said directions of the authority the accused official failed to resume his duty therefore, the accused official was rightly removed from the service as provided for in the Rule 9 of the KPK Government Servants (Efficiency & Discipline) Rules, 2011. The said rule is reproduced in verbatim for easy reference.

“Procedure in case of willful absence---notwithstanding anything to the contrary contained in these rules, in case of willful absence from duty by a Government servant for seven or more days, a notice shall be issued by the competent authority through registered acknowledgment on his home address directing him to resume duty within fifteen days of issuance of the notice. If the same is received back as undelivered or no response is received from the absentee within stipulated time, a notice shall be published in at least two leading newspapers directing him to resume duty within fifteen days of the publication of that notice, failing which an ex-parte decision shall be taken against the absentee. On expiry of the stipulated period given in the notice, major penalty of removal from service may be imposed upon such Government servant.”

Indeed, as stated in preceding lines, after the publication of notice in press, asking the accused official to resume his duty within 15 days, he submitted an application for converting his absence into leaves and granting him further leaves but, he never appeared in person or he resume his duty, thus, owing to his absence, not only the said application

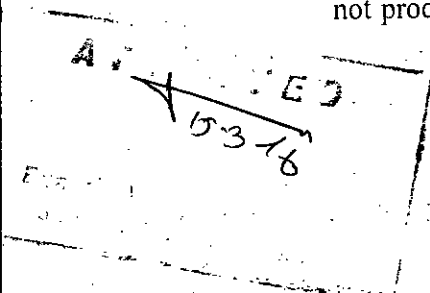
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 EXP. 11.03.2013  
 SE. & DIS. COURT S.H.



was turned down but also order was passed by this office in the light of rule 9 of ibid removing him from service.

So far as the plea of the accused official that he was busy at Karachi for the treatment of his mother and nursing her is concerned, the accused has submitted application referred above, after the publication, issued in two leading newspapers directing him to resume his duty. The said application was prepared and signed by the accused official at Swabi as the said application was not received at the office of the Senior Civil Judge, Swabi through post from Karachi showing that at the relevant time he was at Swabi and not at Karachi as alleged by the accused official. After the removal from service, the accused official submitted a mercy petition, which too was prepared and signed by him at Swabi, and on 18.06.2013 he attended the office of the Senior Civil Judge, Swabi showing that the accused official was at Swabi negating his entire story that he was busy in his mother's treatment and nursing her at Karachi. Moreover, on 25.06.2013 and 25.07.2013, the accused official attended the office of the Senior Civil Judge, Swabi through his brother, Naeem Akbar, who is in police service, as admitted by the accused official during his personal hearing, negating his plea that there was no one else to look after his mother.

For his case, the accused official, during the 1<sup>st</sup> inquiry produced copy of discharge slip and certain medical record, allegedly issued by Zia-ud-Din Hospital, Karachi. The said documents were never exhibited by him thus, cannot be taken into consideration. Moreover, when asked for the final bill issued by the Dr. Zia-ud-Din Hospital, he could not produce the same. The hospitals in private sector, while discharging their patient, always issue a computerized final bill, through which the record of the said patient can be verified. As the accused official could not produce the said bill, the documents so produced by him cannot be relied upon. Furthermore, the mother of the accused official was allegedly referred to Karachi on a private prescription which do not bears the signature and seal of the medical officer issuing it. The said medical officer was not produced by the accused official to prove the ailment of his mother and to prove the



53

Continued Order. No. 5.  
08.01.2016

fact that the treatment of the mother of the accused officer was not available at Peshawar or Islamabad. The other witnesses produced by the accused official are his relatives and naturally, they would depose in his favour. Thus, they are interested witnesses.

All the above facts show that the accused official was having knowledge regarding the fact that the leaves granted to him have expired, on his failure to join his duty disciplinary proceedings have been initiated and during the said proceeding he was specifically directed through notices at his residential address and publication in press to resume his duty but he deliberately and willfully avoided to resume his duty. Thus, was found guilty of willful absence.

So far as the period of limitation provided for appeal against the order dated: 31.03.2012 is concerned Rules 17(1) Khyber PakhtunKhwa Government Servants (Efficiency and Discipline) Rule, 2011 provides that an accused official has to prefer a departmental appeal within 30 days from the date of communication of the order of penalty. In the present case the order was announced on 31.03.2012, and as discussed in the preceding lines the accused official was in knowledge of the disciplinary proceedings against him however, the accused official, after the lapse of 13 months, on 29.05.2013 submitted a mercy petition, a petition very novel to the disciplinary rules. The said petition after being dismissed as default, on 22.10.2013, the accused official, on 09.02.2015, submitted an application for the restoration of said mercy petition after a lapse of some 16 months. All these facts very clearly shows that the mercy petition, or for that purpose the appeal, by the accused official was badly time barred. The accused official was not only under obligation to ask for the condonation of the delay through an application but was also bound to explain the delay of each day. The record manifest that the accused official has never requested any forum for the condonation of the delay and it was therefore that, the Hon'ble District & Sessions Judge, Swabi while, remanding the disciplinary proceedings, has not passed any specific order in this respect. In this scenario

53

of the matter the learned Inquiry Officer has rightly concluded that the appeal by the accused official is time barred and in my humble opinion the delay by the accused official has never been condoned by the appellate authority.

These facts clearly manifest that the accused official after being found guilty of willful absence was rightly removed and his conduct shows that the same was not of a good and disciplined official, thus, he is in no way, entitled for his reinstatement into his service.

While concurring with the findings of the learned inquiry officer, the instant proceedings be filed after necessary completion and compilation.

*Copy of this order be forwarded to the Hon'ble District & Sessions Judge, Swabi for his kind information.*

(Syed Hamid Qasim)  
Senior Civil Judge, Swabi Authority.

15-3-16  
Sessions Judge Swabi



مذکورہ بالا کیس کے بارے میں درخواست گزار نے درخواست کی ہے کہ اسے اپنی جگہ پر بحال کیا جائے اور اس کے لئے مناسب اقدامات کیے جائیں۔

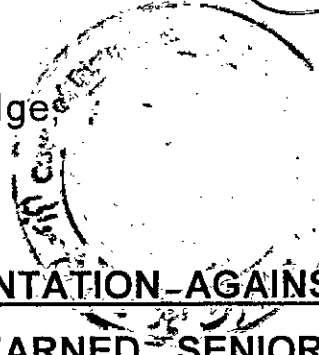
ANNEX W

To:

15<sup>3</sup>/<sub>16</sub> نمبر 1<sup>2</sup>/<sub>16</sub> اور 6/16/16 (54)

11/2/2016  
SUPERINTENDENT  
District & Sessions Judge  
Swabi

The Hon'ble District & Sessions Judge,  
Swabi



**DEPARTMENTAL APPEAL / REPRESENTATION AGAINST THE  
DISMISSAL ORDER PASSED BY LEARNED SENIOR CIVIL  
JUDGE-SWABI/ATHORISED OFFICER THROUGH ORDER NO.5  
DATED 08-01-2016**

**Respectfully Sheweth;**

1. That the appellant was appointed as Sweeper by the departmental selection committee in the year 2007 and was working at the disposal of respectable Senior Civil Judge Swabi to the entire satisfaction of the authority.
2. That the appellant applied for extra ordinary leave for a period of six (6) months which was granted by the learned Senior Civil Judge Swabi with effect from 07/11/2011 up to 04/02/2012. Copy attached as annexure "A".
3. That the mother of the appellant was seriously ill and was suffering from kidney problem for which purpose he remained associated with her as she was hospitalized at Dr. Ziauddin Hospital, Karachi vide medical treatment reports of the hospital concerned. Copy attached as annexure "B".
4. That due to unavoidable circumstances the appellant could not be able to attend his duties on the expiry of his leave period, as such left with no option except to apply for another period of extraordinary leave of 365 days vide copy of application of the appellant which

EA 15-3-16

3 application was turned down for the reasons best known to the sanctioning authority.

SS

5. That the appellant was left with no option except to serve stay with his ailing mother at Dr. Ziauddin Hospital at Karachi as he was the only piece of his family to serve his seriously sick mother which fact could be substantiated from the medical treatment but even then an inquiry was initiated against him and he was served with show cause notice which notice duly replied, but the to the utter surprise of the appellant the same was not considered vide copy of reply.
6. That in view of the above sorry state of affairs, the authority removed the appellant from service on 31/03/2012 on the ground of delinquent and willful absent. Copy attached as annexure "C".
7. That the appellant then moved a mercy petition which was converted into departmental appeal vide which the learned District & Sessions Judge, Swabi allowed the same and the case was remanded back to the learned Senior Civil Judge/Authority with certain directions which are self-explanatory. Copies of mercy petition/departmental appeal and order of learned D&SJ Swabi is attached for ready reference as annexure "D & E".
8. That after remand, the learned Senior Civil Judge/Authority in compliance with directions of the remand and order of learned D&SJ, Swabi, Show Cause Notice was served upon the appellant which was duly replied but the learned SCJ, Swabi was not convinced with the reply as such the appellant was charge sheeted and statement of allegations was handed over to the appellant and Judicial Magistrate-I, Swabi as appointed as inquiry officer. Copies are attached as annexure "F".
9. That vide a comprehensive inquiry report of the learned JM-I, Swabi, dated 16-09-2015 the learned Inquiry Officer recommended the exoneration of the appellant from the charges leveled against him in

SUPERINTENDENT  
District & Sessions Judge  
Swabi  
11/2/2016

15-3-16

4 view of peculiar facts and circumstances of the case. Copy of Report is attached as annexure "G".

56

10. That astonishingly, without any rhyme or reason the learned Senior Civil Judge, Swabi while disagreeing with the above mentioned comprehensive report based on real facts; another inquiry officer (Syed Zahid Shah, JM-II, Swabi) was entrusted with the inquiry of the appellant and the case was again reopened and rather a trial denovo was initiated vide order date 13.10.2015 of SCJ, Swabi as annexure "H".

11. That the vide inquiry report of learned JM-II, Swabi a very ambiguous report was given which was based shocking findings which findings were concurred by the learned SCJ, Swabi/Authority as such the appellant was removed from his services, hence this appeal with following grounds; Copies of JM-II, report and impugned order are attached as annexure "I".

3 1/2/16  
SUPERINTENDENT  
District & Sessions Judge  
Swabi

**GROUND:**

- a. That the impugned order is against law and facts, hence liable to be set aside.
- b. That the learned SCJ/Authority has exceeded his powers by giving findings of those issues which were out of his domain.
- c. That no reasons have been advanced by the learned SJC/Authority by disagreeing with the earlier inquiry report of the learned JM-I, Swabi as such committed illegality.
- d. That impugned order is based on self-assessment of the learned the SJC/Authority which is not sustainable.
- e. That the impugned order is result of misreading and non reading of the material available on record, hence the appellant has wrongly been removed from service while ignoring the heart touching fact of

15-3-16  
Swabi

57

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the ailing mother of the appellant who lastly left for eternal abode which fact has totally been over looked as such deprived the appellant of his only source of livelihood.

- f. That the appellant has never been delinquent or willful abasentee, rather his absence was based on cogent reasons which fact could be substantiated from medical reports followed by learned JM-I, Swabi inquiry report but to the utter surprise of the appellant, these materials evidences have been ignored and a complicated and heavily worded order was passed by the learned authority impugned herein this appeal.
- g. That the appellant is the only bread earned of his family and removal from services has further enhanced his sufferings and agonies which has made the appellant victim of circumstances as such he may kindly be dealt compassionately and be reinstated in service even on humanitarian grounds.

31/2/16  
SUPERINTENDENT  
District & Sessions Judge  
Swabi

- h. That the appellant urges other grounds at the time of hearing of this appeal with the kind permission of your good self, hence this appeal with the following prayer;


It is, therefore, prayed that on acceptance of this appeal/representation, the impugned order of learned Senior Civil Judge, Swabi may kindly be set aside and the appellant may kindly be exonerated from the charges leveled against him and his services may kindly be restored i.e. the appellant may be reinstated and obliged.

Dated: 01/02/2016

yours obediently

  
Fahim Akbar Appellant  
(Sweeper)

Through Counsel

  
Mukhtar Ahmad  
Advocate, High Court

15-3-16

REGISTERED  
15-3-16  
No. \_\_\_\_\_  
Date: \_\_\_\_\_  
51

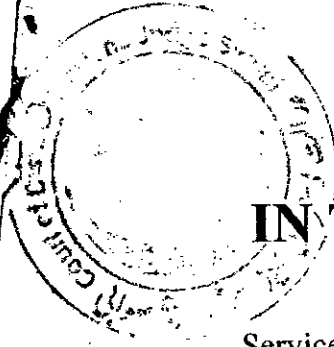
Corrected True Copy  
15-3-16  
No. \_\_\_\_\_  
Date: \_\_\_\_\_

5083  
Name of Applicant: \_\_\_\_\_  
Date of Presentation of Application: 15-3-16  
Date of Filing: \_\_\_\_\_  
Date on which \_\_\_\_\_  
Fee on words: 160.00  
Court Fee: \_\_\_\_\_  
Urgent Court Fee: \_\_\_\_\_  
Signature of Copyist: \_\_\_\_\_  
15-3-16



38

ANNEXIX



# IN THE COURT OF ISHTIAQ AHMAD

DISTRICT & SESSIONS JUDGE, SWABI

Service Appeal No.06/6 of 2016

Date of Institution.....01.02.2016  
Date of Decision..... 15.03.2016

Faheem Akbar, Ex-Sweeper of Senior Civil Judge, Swabi  
Establishment.....Appellant/petitioner

JUDGMENT  
15.03.2016

Appellant namely Faheem Akbar Ex-Sweeper (BPS-) of learned Senior Civil Judge, Swabi establishment present in person, who previously through order dated 02.02.2008 was employed as Sweeper, the said ex-official vide order of the learned Senior Civil Judge, Swabi, office bearing No.749-52/SCJ dated 28.11.2011 on his request was granted earned leave with effect from 07.11.2011 to 04.02.2012 (90 days) on full payment of monthly salary, but on the expiry of earned leave tenure, official absented himself, hence, in the light of office report dated 20.02.2012 about his un-intimated absence from service, disciplinary proceedings were initiated and was severally directed to assume his duty but in vain, qua publication for resumption of duty was made in newspapers i.e. Jihad and Pakistan but despite of all, the appellant/official discarded to join the duty, eventually by order dated 31.03.2012 issued by the learned Senior Civil Judge, Swabi (Authority) he was removed from the service.

Subsequently on 29.05.2013 after elapse of 13 months and 28 days, appellant namely Faheem Akbar submitted a miscellaneous nature application No.64/6 titled as Mercy Petition before the learned Senior Civil Judge, Swabi (Authority) for reinstatement in service, wherein he mainly urged that, his mother was admitted in Dr. Zia-ud-Din Hospital Karachi, such severe ailment of his mother caused serious interception in his way to join the duty because none else male member of the family was available to take care of her, rather he previously also moved a distinct application seeking approval for grant of 365 days extra-ordinary leave but said application was turned down by the Authority.

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15-3-2016



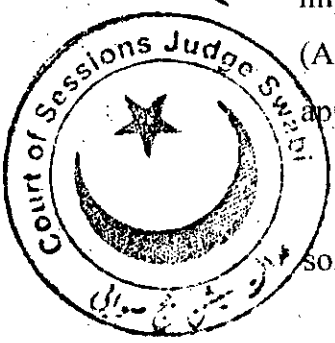
ATTESTED  
15.3.16  
Examination Copying Deptt.  
Sessions Court Swabi

59

This application vide earlier order of Senior Civil Judge, Swabi (Authority) dated 22.10.2013 was dismissed in default, against which order appellant/petitioner namely Faheem Akbar filed departmental Appeal/Mercy Petition in this Court, rather by virtue of order of this Court dated 18.05.2015, matter was remanded back to the learned Senior Civil Judge (Authority), Swabi for reappraisal of the request of the appellant/petitioner, with the direction to issue Show Cause notice and find out the ground reality of advanced excuse i.e. mother's illness coupled with the fact that truly appellant/petitioner was engaged in his mother's nursing at Karachi and there was no other body to look after her.

On its turn, the required directions were complied with, after issuance of Show Cause notice and receipt of its reply Mr. Qaiser Khan Afridi Civil Judge/Judicial Magistrate-I, Swabi was appointed as enquiry officer, who furnished the desired report but learned Senior Civil Judge, Swabi (Authority) not concurred with this report and on the event, appointed Syed Zahid Shah, Civil Judge/Judicial Magistrate-II, Swabi as fresh enquiry officer, who submitted the needed report which perse is vice-versa to the appellant/petitioner's agitated stance. Ultimately on the dint of impugned order dated 08.01.2016 learned Senior Civil Judge, Swabi (Authority) in coincide to the latter officer enquiry report held the appellant/petitioner ineligible to be reinstated in his previous service.

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Against said order appellant/petitioner by way of instant application solicited for the desired relief of reinstatement in service.

I have gone through the record and heard the arguments of learned counsel for appellant/petitioner.

Entire background of the matter has been elucidated and highlighted in the preceding paragraphs, viz-a-viz order of the learned Senior Civil Judge, Swabi (Authority) dated 08.01.2016 when focused, furnishes complete elaborative detail with legal provisions.

Notwithstanding above, upon the issuance of removal from service order dated 31.03.2012, by the appellant/petitioner after elapse of 13

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months and 28 days, on account of Mercy Petition No.64/6 the learned Senior Civil Judge, Swabi (Authority) was approached with the request of restoration in service and since its inception invariably reason was urged that, appellant/petitioner's mother ailment intercepted him to assume his duty and in such connectivity he remained engaged with his mother in Doctor Zia-ud-Din Hospital Karachi.

In support of his claim appellant/petitioner produced discharge slip of Dr. Zia-ud-Din Hospital Karachi, which purports that, Mst. Hadia was admitted on 31.10.2011 and discharged on 17.05.2013. No original document related to ibid discharge slip was produced, simultaneously, it is alien to the general principle of prudence that, a patient for too much long period can remain admitted in a private medical institute rather in support of this document no payment receipt of final medication bill or other charges is available. Apart to it, in the process of enquiry no independent and reliable proof to vindicate the appellant/petitioner's grievances was furnished, merely in cursory manner irrespective to the appellant/petitioner, two other witnesses were adduced, who furnished meaningless oral testification before the learned enquiry officer.

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Nevertheless pursuant to clause 17 of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 accused/official who has been awarded any penalty, within thirty days from the date of communication of the order is competent to prefer departmental appeal to the appellate authority.

Since after passage of 13 months and 28 days appellant/petitioner brought Mercy Petition No.64/6 on 29.05.2013 before the learned Senior Civil Judge, Swabi (Authority) wherein for single date i.e 18.06.2013 he is marked as personally present and for rest of dates either none or his brother attended the proceedings, ultimately on 22.10.2013 said petition was dismissed in default and after 15 months and 18 days thereto, petition No.8/6 was brought on 09.02.2015 before the learned Senior Civil Judge, Swabi (Authority), which in its continuation was forwarded to this Court, being appellate authority.

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(91)

Above explained conduct of the appellant/petitioner is unappreciable, which is in sheer disregard to rules framed for the purpose and further affirms that, appellant/petitioner in the matter with candid aptitude remained negligent from which conduct can safely be elicited that, he remained unsuccessful in the event of conduct of enquiry to fortify that, really his mother ailment foreclosed him to approach the office for assumption of his official assignment, but has designed a parallel story, wherefrom it can be conceived that, he appears to have remained engaged in some unveiled affairs and has irrationally designed transaction in sham of his mother's ailment. He has not actively carried out the intimations/directions of the learned Senior Civil Judge, Swabi (Authority) and deliberately discarded to furnish substantial and actual reason of his absence viz-a-viz subsequent to removal from service with regard to the request of reinstatement in service his attitude toward appearance and to defend his cause was too negative, hence, he is disentitled to be treated liberally in lenient manner.

NOTED  
A15-316

Resultantly instant appeal/petition being devoid of merits is hereby dismissed.

File be consigned to the record room after necessary completion.

Announced  
15-03-2016  
Certified to the Judge COP  
A15-316  
C. J. Swabi

(Ishfaq Ahmad)  
District & Sessions Judge,  
Swabi

Certificate

Certified that the judgment above consists of 04 pages, each page whereof has been signed by me after making necessary corrections therein.

(Ishfaq Ahmad)  
District & Sessions Judge,  
Swabi



of Application ..... S083  
Date of ..... 15-3-16  
Date of ..... 15-3-16  
Date of ..... 15-3-16  
Fee on words ..... 1600  
Court .....  
Urgent .....  
Signature of Convist ..... 15-3-16

**POWER OF ATTORNEY**

In the Court of Khyber Pakhtunkhwa Chief Justice Tahir  
Fahim Akbar.

} For Peshawar  
} Plaintiff  
} Appellant  
} Petitioner  
} Complainant

**VERSUS**

District and Sessions Judge and } Defendant  
others. } Respondent  
} Accused

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

I/We, the undersigned, do hereby nominate and appoint:

**IJAZ ANWAR ADVOCATE, SUPREME COURT OF PAKISTAN**

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

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

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

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

IN WITNESS whereof I/we have hereto signed at \_\_\_\_\_  
the \_\_\_\_\_ day to \_\_\_\_\_ the year 2012  
Executant/Executants \_\_\_\_\_  
Accepted subject to the terms regarding fee \_\_\_\_\_

*[Handwritten signatures]*

*[Signature of Ijaz Anwar]*

**Ijaz Anwar**

Advocate High Courts & Supreme Court of Pakistan

**BEFORE THE KHYBER PAKHTUNKHWA**  
**SERVICES TRIBUNAL, PESHAWAR**  
**DEPARTMENTAL APPEAL.....398/2016**

Fahim Akbar ... Vs.... D&SJ, Swabi

**PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.1 & 2**

**FACTS/PRAAYER IN APPEAL**

Para 1 to 15 need no comments.

**GROUND OF SERVICE APPEAL**

- A. Incorrect, the process of inquiry was carried under the law.
- B. Incorrect, the inquiry was marked to Inquiry Officer as per E&D rules 2011, upon which the inquiry officer conducted proceedings of inquiry in accordance with law.
- C. Incorrect, all proceedings including the inquiry were conducted under the law.
- D. Incorrect, hence denied. The appellant was given every reasonable opportunity for personal hearing.
- E. Incorrect.
- F. Incorrect.
- G. Incorrect.
- H. Incorrect.
- I. The Competent Authority could decide the question as per law.
- J. Incorrect.

*Handwritten signature*  
23.12.2017  
District & Sessions Judge  
Swabi

- K. Correct to extent that prior to dismissal, no penalty has been imposed upon the appellant in his service carrier. The instant dismissal, however, is in accordance with law.
- L. No comments.
- M. No Comments. The worthy Tribunal is competent to decide.

It is humbly prayed that the appeal may be dismissed.

*W. S. Khan*  
*23.12.2017*  
Muhammad Adil Khan  
District & Sessions Judge,  
Swabi  
District & Sessions Judge  
Swabi

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA, PESHAWAR

In Re: Service Appeal No 398/2016

Fahim akbar

VERSUS

D & S.J. SWABI

REJOINDER ON BEHALF OF THE APPELLANT TO THE COMMENTS  
FILED BY THE RESPONDENTS:-

Respectfully Sheweth:-

ON FACTS

No comments.

ON GROUNDS

- A. Contents incorrect. No proper inquiry as is required under the law has been conducted in the matter. Contents of para A of the appeal are true & correct.
- B. Contents incorrect, contents of para B of the appeal are true & correct.
- C. Contents incorrect, contents of para C of the appeal are true & correct.
- D. Contents incorrect, contents of para D of the appeal are true & correct.
- E. Contents incorrect, contents of para E of the appeal are true & correct.
- F. Contents incorrect, contents of para F of the appeal are true & correct.
- G. Contents incorrect, contents of Para G of the appeal are true & correct.



H. Contents incorrect, contents of Para H of the appeal are true & correct.

I. In reply to Para I, it is submitted that the competent authority has not acted in accordance with law.

J. Contents incorrect, no proper inquiry was as is required under the law has been conducted in the matter. Contents of para J of the appraisal are true and correct.

K. No comments to the extent of admission, rest of the Para is false and incorrect. Contents of the Para K of the appeal are true and correct.

L. No comments.

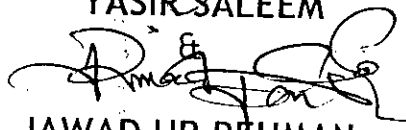
M. No comments.

*It is, therefore, humbly prayed that appeal of the Appellant may very graciously be allowed as prayed for therein, with costs.*

Appellant

Through:

  
YASIR SALEEM

  
JAWAD UR REHMAN  
Advocates, Peshawar

Dated: 26-2-2018

AFFIDAVIT:-

I, fahim akbar, do hereby solemnly affirm and declare on oath that all the contents of rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Honourable Court.

DEPONENT

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA, PESHAWAR

In Re: Service Appeal No: 399/2016

Fahim akbar

V E R S U S

D & S.J. SWABI

REJOINDER ON BEHALF OF THE APPELLANT TO THE COMMENTS  
FILED BY THE RESPONDENTS:-

Respectfully Sheweth:-

ON FACTS

No comments.

ON GROUNDS

- A. Contents incorrect. No proper inquiry as is required under the law has been conducted in the matter. Contents of para A of the appeal are true & correct.
- B. Contents incorrect, contents of para B of the appeal are true & correct.
- C. Contents incorrect, contents of para C of the appeal are true & correct.
- D. Contents incorrect, contents of para D of the appeal are true & correct.
- E. Contents incorrect, contents of para E of the appeal are true & correct.
- F. Contents incorrect, contents of para F of the appeal are true & correct.
- G. Contents incorrect, contents of Para G of the appeal are true & correct.

H. Contents incorrect, contents of Para H of the appeal are true

B correct.

I. In reply to Para I, it is submitted that the competent authority

has not acted in accordance with law.

J. Contents incorrect, no proper inquiry was as is required under

the law has been conducted in the matter. Contents of para J

of the appeal are true and correct.

K. No comments to the extent of admission, rest of the Para is

false and incorrect. Contents of the Para K of the appeal are

true and correct.

L. No comments.

M. No comments.

It is, therefore, humbly prayed that appeal

of the Appellant may very graciously be allowed as prayed

for therein, with costs.

Appellant

Through:

YASIR SALEEM

JAWAD UR REHMAN

Advocates, Peshawar

Dated: 04-04-2018

AFFIDAVIT:-

I, Fahim Akbar, do hereby solemnly affirm and declare on oath that all the contents of rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Honourable Court.

DEPONENT

قیمت  
50 روپے

27814



ایڈوکیٹ: شمس خان ایسوسی ایشن

بار کونسل/ایسوسی ایشن نمبر: bc 10-0122

رابطہ نمبر: 0300-5870500

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سردار شمس خان ایسوسی ایشن

منجانب: رسیدانت	دعویٰ: S.A.
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

بنام ڈسٹرکٹ جج مہوال

**باعث تحریر آنکہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ  
آن مقام لسٹ اور کیلے شمس خان محمد خان ایسوسی ایشن کو وکیل مقرر  
کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو  
راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق  
زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز  
دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی  
کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب  
مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا  
دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے  
باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المقوم:

الع بد گواہ شد الع بد

مقام کے لیے منظور ہے۔

Handwritten signature

Accepted  
11/11/2019

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

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1148 /ST Dated 15-05 2020


To

The Senior Civil Judge,  
Government of Khyber Pakhtunkhwa,  
Swabi.

Subject: - JUDGMENT IN APPEAL NO. 398/2016, MR. FAHEEM AKBAR.

I am directed to forward herewith a certified copy of Judgement dated 04.03.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.