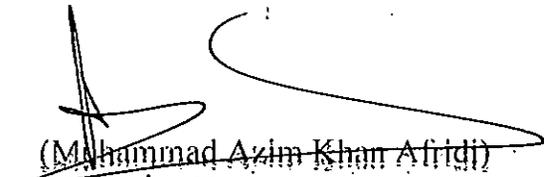


Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	28.04.2017	3
		<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR</u></p> <p style="text-align: center;">Appeal No. 239/2015</p> <p style="text-align: center;">Mohsin Abbas Versus Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar and 2 others.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-</u></p> <p>Counsel for the appellant and Mr. Ziaullah, Government Pleader alongwith M/S Muhammad Ibrar Assistant Secretary &amp; Muhammad Pervez, Assistant for respondents present.</p> <p>2. Mr. Mohsin Abbas hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against impugned order dated 04.06.2014 vide which he was removed from service on the allegations of willful absence where-against his departmental appeal dated 16.06.2014 was also rejected on 12.02.2015 constraining him to prefer the instant service appeal on 18.03.2015.</p> <p>3. We have heard arguments of learned counsel for the appellant and learned Government Pleader for respondents and perused the record.</p> <p>4. The stance of the appellant is that he was constrained from attending the duty as he was ill. In support of his stance he has</p>

*Handwritten signature and date:*  
28.04.17

placed on record certain medical prescriptions alongwith advice of bed rest. Reliance was also placed on Rule-13-A of Khyber Pakhtunkhwa Civil Servants Revised Leave Rules 1981 according to which leave on medical ground may not be refused unless the claimant is medically examined and found fit by the medical board.

5. In view of the above we are of the considered view that the competent authority shall examine the stance of the appellant regarding ailment of the appellant and, therefore, we accept the present appeal and set aside the impugned orders referred to above and reinstate the appellant in service by placing the respondents at liberty to conduct denovo enquiry wherein opportunity of participation and hearing shall be extended to the appellant and it shall be concluded and decided within 2 months from the date of receipt of this judgment. In case the respondents fail to conclude and decide the fate of the enquiry within the specified period then it shall be deemed that the appellant has been reinstated and in such eventuality the period out of service shall then be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

  
(Muhammad Azim Khan Afridi)  
Chairman

  
(Muhammad Amin Khan)  
Member

28.04.17.

ANNOUNCED  
28.04.2017

11.07.2016

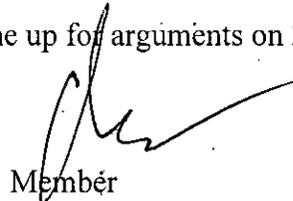
Since 12<sup>th</sup> October 2016 has been declared as public holiday on account of Muharram, therefore, the case is re-fixed for arguments on 9.9.2016. Parties be informed accordingly.

  
Member

09.09.2016

No one present on behalf of the appellant. Mr. Zahidullah, Assistant and Muhammad Pervez, Assistant alongwith Ziaullah, GP for respondents present. Notice be issued to the appellant and his counsel. To come up for arguments on 28.12.2016.

*Noteed*  
*Mahid*

  
Member

  
Member

28.12.2016

Appellant in person, Mr. Mukhtiar Ali, Supdt. and Mr. Aamir Khan, Assistant alongwith Mr. Ziaullah, GP for respondents present. Arguments could not be heard due to incomplete bench. Case adjourned to 28.04.2017 for arguments before D.B.

  
Chairman

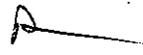
03.09.2015

Counsel for the appellant, M/S Mukhtiar Ali, Supdt. Muhammad Pervaiz, Assistant and Abdur Raziq, Assistant alongwith Addl. A.G for respondents present. Para-wise comments submitted. The appeal is assigned to D.B. for rejoinder and final hearing for 21.12.2015.

  
Chairman

21.12.2015

Counsel for the appellant and Mr. Ziaullah GP for respondents present. Rejoinder submitted. To come up for arguments on 19.5.2016

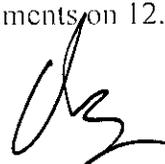
  
Member

  
Member

19.5.2016

Agent to counsel for the appellant and Ziaullah, GP for respondents present. Arguments could not be heard due to strike of the bar. To come up for arguments on 12.10.2016.

Member



  
Member



17.04.2015

Counsel for the appellant present. Learned counsel for the appellant argued that appellant was appointed as Data Control Assistant BPS-12 on 28.04.2007 and after putting in 7 years service he was subjected to enquiry on the ground of wilful absence and removed from service vide impugned order dated 04.06.2014 regarding which he preferred departmental appeal on 16.06.2014 which was rejected on 12.02.2015 but communicated to the appellant on 09.03.2015 where-after the present service appeal was preferred on 18.03.2015.

Appellant Deposited  
Security & Process Fee



That the appellant was sick and that his medical evidence was not considered and, moreover, no opportunity of hearing was extended to the appellant in the prescribed manners. Places reliance on case-law reported as PLD 2010 FSC 1.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 13.07.2015 before S.B.



Chairman

13.07.2015

None present for appellant. M/S Abdur Razzaq, Assistant and Dil Rehman, Supdt. alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 3.9.2015 before S.B.



Chairman

Form- A  
FORM OF ORDER SHEET

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

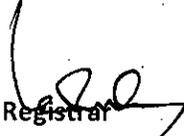
Case No. \_\_\_\_\_ 239/2015 \_\_\_\_\_

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	20.03.2015	<p>The appeal of Mr. Mohsin Abbas resubmitted today by Mr. Naqibullah Khan Khattak Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	26-3-15	<p>This case is entrusted to Bench <u>I</u> for preliminary hearing to be put up thereon <u>31-3-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	31.03.2015	<p>None present for appellant. The appeal be relisted for preliminary hearing for 17.4.2015 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Mohsin Abbas received to-day i.e. on 18.03.2015 is returned to the appellant/counsel with the direction to submit one copy/set of the appeal along with annexures i.e. complete in all respect and resubmit the same within 15 days.

No. 355 /S.T,

DT. 19/3 /2015

  
Registrar  
Service Tribunal  
Khyber Pakhtunkhwa  
Peshawar.

Mr. Naqibullah Khattak Adv. Pesh.

*Needful done according to directions.  
Resubmitted please  
Hon'ble Registrar Sb. 20/3/2015  
Naqibullah  
Advocate Peshawar  
2015*

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**SERVICE APPEAL NO. 239 /2015**

**With Condonation of delay application No.      /2015**

Mohsin Abbas,  
(Appellant)

**Versus**

SMBR Peshawar & two others  
(Respondents)

**INDEX**

S/No.	Description of documents	Annexure	Page No.
1.	Service Appeal with affidavit	-	1 to 4
2.	Application for condonation of delay with affidavit. <i>and affidavit of unemployment</i>	-	5-6 - 7
3.	Addresses of Parties.	-	8
4.	Copy of academic qualification of B.Sc, in IT) from Kohat University in 2006	A	9-10
5.	Photocopy of appointment letter dated <del>28-04-2007</del> <i>ham 28-4-2007</i>	B	11
6.	Copy of transfer order dated 26-02-2014	C	12-13
7.	Copy of AC Kohat dated 25-03-2014 regarding notice of absence	D	14
8.	Copy of Respondent 3 letter dated 31-3-2014 directing the appellant to report for duty, alongwith reply and medical certificate	E F to F-1 & F-2	15- 16-17
9.	Copy of Respondent No.3 office order dated 4-06-2014 regarding removal from service from 3-3-2014 ( <i>Impugned order</i> )	G	18
10.	Copy of Departmental appeal dated 16-06-2014 <i>ham 16-6-2014</i>	H	19-20
11.	Copy of parawise comments to departmental appeal	J	21
12.	Copy of letter regarding dismissal of departmental appeal dated 12-2-2015 received on 09-3-2015	K	22
13.	Wakalatnama		23

*Mohsin Abbas*  
Appellant

Through :

(Naqibullah Khan Khattak)

Advocate High Court Peshawar

Office No.303-D Janbaz Hotel,

Khyber Bazar Peshawar City

Mobile No.0300-5861466

Dated 18/03/2015



**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

SERVICE APPEAL NO. 239 /2015

Mohsin Abbas, Ex-Computer Operator BPS-12  
Office of the Deputy Commissioner, Kohat  
Presently: Usterzai Bala, Tehsil & District Kohat.....Appellant

Versus

1. Senior Member Board of Revenue,  
KPK, Peshawar
2. Commissioner Kohat Division,  
Kohat
3. Deputy Commissioner, Kohat.....Respondents

**K.P. Province**  
**Service Tribunal**  
Diary No. 239  
Dated 18-3-2015

**SERVICE APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER OF RESPONDENT NO.3 (DEPUTY COMMISSIONER KOHAT) BEARING NO.1362 DATED 04-06-2014 WHEREBY THE APPELLANT WAS REMOVED FROM SERVICE AS COMPUTER OPERATOR AND THE DEPARTMENTAL APPEAL TO RESPONDENT NO.2 (COMMISSIONER KOHAT DIVISION KOHAT) WAS DISMISSED ON 12-02-2015 RECEIVED TO THE APPELLANT ON 09-03-2015.**

**PRAYER IN SERVICE APPEAL**

ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL, BOTH THE ORDERS OF RESPONDENT NO.3 DATED 04-6-2014 AND RESPONDENT NO.2 DATED 12-02-2015 BEING ILLEGAL, CORUM NON JUDICE AND WITHOUT ANY LAWFUL JURISDICTION MAY GRACIOUSLY BE SET ASIDE AND THE APPELLANT REINSTATED IN SERVICE AS COMPUTER OPERATOR BPS-12 WITH ALL BACK BENEFITS OF PAY AND SERVICE WITH COSTS.

Respectfully Sheweth

1. That the Appellant is domicile of District Kohat, possessing academic qualification of B.Sc (Information Technology) from Kohat University in 2006, the photocopy of which is enclosed as Annexure "A".

That the post of Data Control Assistant (BPS-12) were advertised by the Respondents and the Appellant being suitable for the post was recommended by District Selection Committee for appointment, was accordingly appointed by Respondent No.3 vide his appointment order bearing endorsement No. 167-1170 dated 08-04-2007, photo copy of which appointment order is enclosed herewith as Annexure "B".

re-submitted to the  
and filed.

*Signature*  
Registers

20/3/15

3. That the learned Respondent No.3 vide his office order No.488-96 dated 26-02-2014 transferred the services of the Appellant from F and P Section to Computer Operator with DK, HCR, DRA, the photocopy is enclosed herewith as Annexure "C".
4. That the Assistant Commissioner Kohat vide his letter No.760 dated 25-03-2014 served the Appellant with a notice of absence from duty which is Annexure "D" which was duly replied.
5. That Respondent No.3 vide his letter No.794 dated 31-3-2014 served the Appellant with notice directing him to report for assuming duty within 15 days which was replied on 21-5-2015 enclosing therewith medical certificate as Annexure "E" and "F", F-1 & F-2 respectively.
6. That without paying a least consideration to the illness of Appellant supported by medical certificate, the Respondent No.3 vide his Office Order No.1362 dated 04-06-2014 removed the Appellant from the service effective from 03-03-2014, photocopy of which office order is enclosed herewith as Annexure "G".
7. That the Appellant preferred Departmental appeal dated 16-6-2014 before the worthy Respondent No.2 (Commissioner Kohat Division Kohat) raising therein factual and legal grounds, copy of which is Annexure "H".
8. That Respondent No.2 asked <sup>for</sup> Respondent No.3 for Parawise comments of the departmental appeal of appellant referred to above, copy of which comments is Annexure "J".
9. That Respondent No.3 basing the comments of Respondent No.3 dismissed the departmental Appeal of appellant on 12-2-2015 received on 09-03-2015, the photocopy of which is enclosed as Annexure "K".
10. That being aggrieved from the orders of the Respondents, the same orders are assailed on the following grounds inter alia;

#### GROUNDS

- (A) That the orders of both the Respondents in removal of Appellant from service is against law and facts, hence not sustainable in the eye of law.
- (B) That orders of both the Respondents are illegal, coram non-judice and without any lawful jurisdiction, hence ineffective on the right of the Appellant, hence liable to be set aside.
- (C) That before imposing major penalty of removal from service of the appellant, it was obligatory on the Respondents to conduct proper/regular inquiry which was not conducted malafidely.

- (D) That there is no denial to the admitted facts that the Appellant is regular and confirmed civil servant having about seven years spotless service and is now postgraduate young man.
- (E) That no opportunity for defence was afforded to the Appellant which act of the respondents is violative of the service law of the land, nor any opportunity of personal hearing was afforded, thus the appellant was subjected to gross miscarriage of *justice*.
- (F) That as the Appellant was ill and the alleged publication in the newspaper was neither read nor read out to the appellant. The best way of sending notice on appellant was his permanent home address through Registered post or Courier service.
- (G) That orders of Respondents are based on surmises and conjectures and no enquiry was conducted in respect of illness of the appellant and the medical opinion of the Doctor was lightly taken and totally discarded for assigning any cause and reasons in violation of section 24-A of General Clauses Act 1897 and precedents of the Senior Courts.
- (H) That the legal points raised by the appellant in his departmental appeal dated 16-06-2014 may graciously be treated as an integral part of the instant service appeal.
- (I) That the Appellant seeks permission of this Hon'able Tribunal to adduce any other legal points at the time of full hearing of the instant service appeal.
- (J) That an affidavit is enclosed herewith contending that the Appellant was no-where engaged in any other gainful business/service during the period of his absence from duty on medical grounds.

### PRAYER

It is, therefore, humbly prayed that on acceptance of the instant Service Appeal, the orders of the Respondents being illegal may graciously be set aside and the Appellant reinstated in service with all back benefits of Pay and Service with costs.

Dated <sup>18</sup> 7/3/2015

Appellant  
(Mohsin Abbas)  
*Naqibullah*

1. Naqibullah Khattak

*(Mohsin)*  
2. Mohammad Nishan Khattak  
Advocates High Court  
Peshawar

**Note:** No such like service appeal has previously been filed before this Honourable Service Tribunal except the instant one.

4

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

SERVICE APPEAL NO. \_\_\_\_\_/2015

Mohsin Abbas,  
(Appellant)

Versus

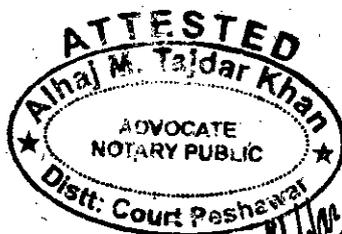
SMBR Peshawar & two others  
(Respondents)

**AFFIDAVIT**

I, Mohsin Abbas, Ex-Computer Operator BPS-12, Office of the Deputy Commissioner, Kohat do hereby solemnly affirm and declare on oath that the contents of the accompanying Service Appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'able Tribunal.

*Mohsin*

Deponent



*18/3/2015*

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

SERVICE APPEAL NO. \_\_\_\_\_/2015

Mohsin Abbas,  
(Appellant)

Versus

SMBR Peshawar & two others  
(Respondents)

**Application on behalf of Appellant/Petitioner under Section 5  
of the Limitation Act 1908 for condonation of delay (If any) in  
filing of the enclosed Service Appeal**

Respectfully Sheweth;

1. That the Appellant has filed today his Service Appeal before this Hon'able Tribunal.
2. That the Appellant/Petitioner was removed from service by Respondent No.3 (Deputy Commissioner Kohat) on 4-6-2014 against which order, the appellant/petitioner preferred departmental appeal before Respondent No.2 (Commissioner Kohat Division Kohat) on 16-6-2014 which was dismissed on 12-2-2015 conveyed to the appellant/Petitioner on 9-3-2015.
3. That the Appellant/Petitioner was regularly pursuing his departmental appeal before Respondent No.2 but on each and every visit he was assured that his appeal is being considered and respondent No.2 has asked for comments from Respondent No.3.
4. That lastly on 01-02-2015 I was firmly assured by respondent No.2 that his appeal would be favourably considered and the Appellant had to wait.
5. That when the Appellant/Petitioner approached the Respondent No.2 on 09-2-2015, he was surprised to know that the departmental appeal has since been dismissed on 12-2-2015 and an attested copy was handed over to me on 09-3-2015 as evident from the seal and date over the same.

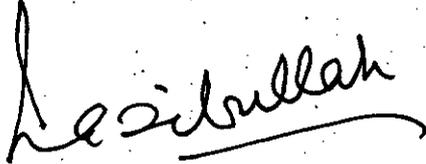
6. That there is no delay in filing the instant service appeal but delay, if any, the same is due to the conduct of the respondents which delay may not be assigned to the appellant under the facts and circumstances of the case referred to above.

It is, therefore, humbly stated that the delay= (if any), may graciously be condoned in the interest of justice in filing the accompanying Service Appeal.

  
Petitioner/Appellant  
(Mohsin Abbas)

Dated 18/3/2015

Through

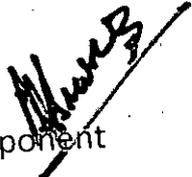
  
(Naqibullah Khan Khattak)

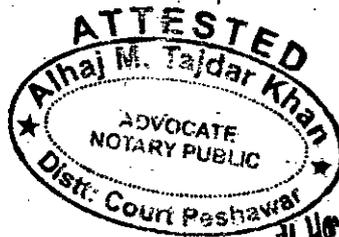
Dated 18/03/2015

Advocate High Court Peshawar.

AFFIDAVIT

I, Mohsin Abbas, Ex-Computer Operator BPS-12, Office of the Deputy Commissioner, Kohat do hereby solemnly affirmed and declared on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'able Tribunal.

  
Deponent



  
18/3/2015

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

SERVICE APPEAL NO. \_\_\_\_\_ /2015

Mohsin Abbas,  
(Appellant)

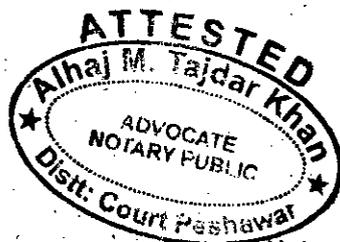
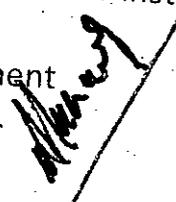
Versus

SMBR Peshawar & two others  
(Respondents)

**AFFIDAVIT**

I, Mohsin Abbas, Ex-Computer Operator BPS-12, Office of the Deputy Commissioner, Kohat do hereby solemnly affirm and declare on oath that during my termination as well as absence from service on medical ground from 3-3-2014, I have never joined any gainful business or service but instead remained jobless till date.

Deponent



*Alhaj M. Tajdar Khan*  
18/3/2015

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

SERVICE APPEAL NO. \_\_\_\_\_/2015

Mohsin Abbas, (Appellant)                      Versus                      SMBR Peshawar & two others (Respondents)

**Addresses of Parties**

Respectfully Sheweth;

Addresses of parties are as under:-

**APPELLANT**

Mohsin Abbas, Ex-Computer Operator BPS-12  
Office of the Deputy Commissioner,  
Kohat. *Presently Ustazai Bela Kohat Naqibullah*

**RESPONDENTS**

1. Senior Member Board of Revenue, KPK, Peshawar
2. Commissioner Kohat Division, Kohat
3. Deputy Commissioner, Kohat

Appellant *Naqibullah*

Through: *Naqibullah*  
(Naqibullah Khan Khattak)

Dated 18/03/2015

Advocate High Court Peshawar.



Serial No. 004402

Roll No. 1378

*Annexure A1*

9

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Registration No. 2002-KUIT-388

# Kohat University of Science & Technology, Kohat (Pakistan)

DUPLICATE

Certified that MOHSIN ABBAS

Son / Daughter of BARKAT ALI and a student  
of INSTITUTE OF INFORMATION TECHNOLOGY, KUST having met all the

requirements under the Term / Semester System during the

Session(s) 2002-2006 is this day admitted by the

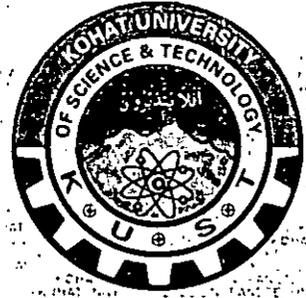
Kohat University of Science & Technology, Kohat to the Degree of

## Bachelor of Science (Hons)

in the FIRST Division

The subject of examination being INFORMATION TECHNOLOGY

The Examination was taken as a whole / in parts



*Attested  
Parizbullah  
Associate  
Registrar*

Controller of Examinations

Countersigned

Vice Chancellor

Result declared on DECEMBER 13, 2006

FEDERAL BOARD OF INTERMEDIATE AND SECONDARY EDUCATION  
ISLAMABAD

10

Serial No. 449343

Certificate No. 455019/455019

Roll No. 109676

Registration No. 9942010195

Group SCIENCE

Attempt (s) FIRST



**DUPLICATE**

SECONDARY SCHOOL CERTIFICATE EXAMINATION  
ANNUAL 1999



Certified that MOHSIN ABBAS

Son / Daughter of BARKAT ALI

Whose date of birth is 09-01-1983 (Ninth January, Nineteen Hundred and Eighty Three)

has qualified for award of Secondary School Certificate

at the examination held in the month(s) of March / April as a Regular Candidate from  
FAZAIA INTER COLLEGE, KOHAT CANTT.

as per statement of marks given below and has obtained grade B

His/Her mark of identification : MOLE BETWEEN EYES

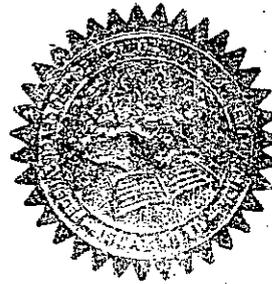
**SUBJECT-WISE STATEMENT OF MARKS**

S.No.	Subject(s)	MARKS	
		Maximum	Obtained
1	ENGLISH (COMP.)	150	091
2	URDU (COMP.)	150	101
3	ISLAMIYAT	075	053
4	PAKISTAN STUDIES	075	042
5	MATHEMATICS	100	070
6	PHYSICS	100	072
7	CHEMISTRY	100	063
8	COMPUTER SCIENCE	100	060
TOTAL		850	552

(Marks in words) Five Hundred Fifty Two



Attested  
A. Zibullal



Mansoor Ahmad  
SECRETARY

Islamabad Dated October 26, 2011

Advocate  
P. H. Khan

Note: This certificate is issued without alteration or erasure. (Grades over leaf)

BETTER COPY Annexure "B"(11)

OFFICE OF THE EXECUTIVE DISTRICT OFFICER FINANCE & PLANNING  
KOHAT

No. \_\_\_\_\_/EDO/F&P/KT/Acctt.  
Dated Kohat, the \_\_\_\_\_/2007.

**APPOINTMENT ORDER**

In pursuance of appointment/Promotion rules, contained in Board of Revenue NWFP Notification No.5870-5950/Admn-II/296/Acctt dated 03-06-2006 and the recommendation of District Selection Committee, Mr. Mohsin Abas S/O Barkat Ali resident of Usterzai Payan, Tehsil & District Kohat is hereby appointed as Data Control Assistant (BPS-12) in District Finance Department Kohat with immediate effect. Terms/conditions will be as under:

- a) His services will be on probation for one year. In case of unsatisfactory performance and conduct, his services will be terminated.
- b) He will be a regular Govt: and will not be entitled to pension benefit as per Govt: policy. In lieu of pension, he will be entitled to the Contributory Provident Fund.
- c) In case of resignation he will apply one month before the actual date.
- d) He is directed to produce the medical illness certificate from Medical Superintendent DHQ Hospital KDA Kohat.

DEPUTY COORDINATION OFFICER  
KOHAT

No.1167-70/EDO/FP/KT/Acctt  
Copy to:

*sd-*  
Dated 28-04-2007

1. The Executive District Officer Finance & Planning Kohat
2. The District Accounts Officer Kohat
3. The Assistant Programmer Finance Department Kohat
4. Mr.Mohsin Abas s/o Barkat Ali R/O Usterzai Payan Kohat. If above conditions are acceptable, you may report within a week.

*Asadullah*  
*Advocate*

*sd-*  
DEPUTY COORDINATION OFFICER  
KOHAT

OFFICE OF THE EXECUTIVE DISTRICT OFFICER FINANCE & PLANNING KOHAT.

No. \_\_\_\_\_/EDO/F&amp;P/KT/Acctt.

Dated Kohat the. \_\_\_\_\_/2007.

APPOINTMENT ORDER.

In pursuance of appointment/Promotion rules, contained in Board of Revenue NWFP Notification No.5870-5950/Admn-II/I/296/Acctt, dated,03.06.2006 and the recommendation of District Selection Committee, Mr.Mohsin Abas S/O Barkat Ali resident of Usterzai Payan, Tehsil & District Kohat is hereby appointed as Data Control Assistant (B/S-12) in District Finance Department, Kohat with immediate effect. Terms/conditions will be as under:-

- His services will be on probation for one year. In case of un-satisfactory performance and conduct, his services will be terminated.
- He will be a regular Govt. Servant he will not be entitled to pension benefit as per Govt. policy. In lieu of pension, he will be entitled to the Contributory Provident Fund.
- In case of resignation he will apply one month before the actual date.
- He is directed to produce the medical fitness certificate from Medical Superintendent DHQ Hospital KDA Kohat.

*Shahab Ali*  
DISTRICT COORDINATION OFFICER,  
KOHAT.

No. 1167-70/EDO/FP/KT/Acctt.Dated Kohat the. 28/4/2007.

Copy to:-

- The Executive District Officer Finance & Planning Kohat.
- The District Accounts Officer, Kohat.
- The Assistant Programmer Finance Department Kohat.
- Mr.Mohsin Abas S/O Barkat Ali R/O Usterzai Payan Kohat. If above conditions are acceptable, you may report with in a week.

*Shahab Ali*  
DISTRICT COORDINATION OFFICER,  
KOHAT.

*Attested*  
*Muhammad*  
*Advocate P&R*

(12)

Annexure 'C'



**OFFICE OF THE  
DEPUTY COMMISSIONER,  
KOHAT.**

No. 488-96/DC-KV,  
Dated: 26/12 /2014.

**OFFICE ORDER**

The following posting / transfer amongst the ministerial staff of this office are hereby ordered with immediate effect in the best interest of public:-

S.No.	Name of Official	From	To	Remarks
1.	Umer Farooq Assistant	F&P Section	Acctt: / Cashier	
2.	Hifza Sharif Assistant	Accounts Section.	-	Remained in Accounts Section.
3.	Maghfirat Rani C/O	F&P Section	Accounts Section.	
4.	Azam Khan J/C	Accounts Section.	-	Remained in Accounts Section.
5.	Nosheen Bibi Asstt: Programmer	F&P Section	-	Remained in F&P Section.
6.	Munir Khokar Assistant	Accounts Section.	F&P Section	
7.	Zakir Hussain Assistant	LAC	F&P Section	
8.	Samiullah Assistant	Levy Clerk	F&P Section	
9.	Mohammad Raza C/O	F&P Section	-	Remained in F&P Section.
10.	Haroon Shah J/C	Dev: Assistant F&P Section	-	Remained in F&P Section.
11.	Zahidullah C/O	F&P Section	-	Remained in F&P Section.
12.	Mohammad Ilyas S/C	ADC Office	Assist Establishment	
13.	Amjad Khan J/C	F&P Section	ADC Office	
14.	Abdul Waheed C/O	FATA Section	Establishment Section	
15.	Malak Ghazanfar C/O	Levy Section	Levy / DO FATA Section	
16.	Zafar Khan Assistant	F&P	RK (English)	

17.	Dil Rehman Assistant	F&P	LAC	
18.	Mohammad Shoaib Assistant	F&P	Levy Clerk	
19.	Rehman Akbar Assistant	Account Section	Examiner Copying Section	
20.	Mohsin Abbas C/O	F&P Section	Computer Operator with DK, HCR, DRA	
21.	Sajjad Khan J/C	Accounts Section	Dispatcher (ADC Office, F&P, AO, DDMU, Levy License Section)	All correspondence that is required to be dispatch from offices of the ADC, F&P, AO, and DDMU files at KDA Complex will be done through Dispatch branch under supervision of ADC.
22.	Noor Muhammad J/C	Examiner Copying Section	Moharrir Addl: AC-III	
23.	Matiullah J/C	Moharrir Addl: AC-III	Moharrir DK	

Note:- The Account Officer is directed to hand over all Development work to F&P Section.

Deputy Commissioner,  
Kohat.

CC:

1. The Additional Deputy Commissioner, Kohat.
2. The District Officer (F&P), Kohat.
3. The Additional Assistant Commissioner-III, Kohat.
4. The District Officer (FATA), Kohat.
5. The Account Officer Kohat.
6. The Establishment Assistant, DC office, Kohat.
7. The District Kanungo, Kohat.
8. The District Revenue Accountant, DC Office Kohat.
9. The Head Clerk Revenue, DC Office Kohat.
10. Official concerned for compliance.

Deputy Commissioner,  
Kohat.

PA  
h

27/2/14

Attested  
Jagjivan Lal  
Amzate Peshawar



14

Amesur D.

**OFFICE OF THE  
DEPUTY COMMISSIONER,  
KOHAT.**

No. 760 /DC/  
Dated; 25/3 /2014.

To

Mr. Mohsin Abbas,  
Computer Operator,  
R/O House No. 198, Street No. 1,  
Sector No. I, KDA, Kohat.

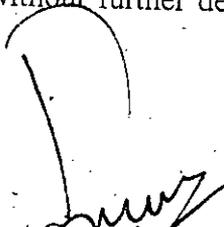
Subject: NOTICE.

Memo:

It has been observed that after your arrival report i.e 03-3-2014 as Computer Operator to main Deputy Commissioner, office (District Courts), you failed to report for duty upto 10-3-2014.

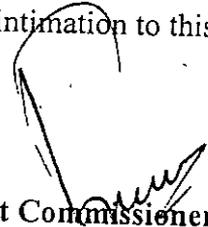
You were summoned on 12-3-2014 and directed to perform your duty, but on the same day, you submitted an application for 03 months leave without pay and again absented yourself from duty without seeking prior approval of leave. Till date you are absent from duty which is against the norms of office discipline.

You are, therefore, directed to report for duty immediately without further delay. Failing which you may be preceded under the E&D Rules.

  
Assistant Commissioner,  
25/3 Kohat.

Cc.

1. The Tehsildar, Kohat with the direction to serve the above notice under intimation to this office.
2. PS to Deputy Commissioner, Kohat.

  
Assistant Commissioner,  
25/3 Kohat.

Attested  
Inq. Zilun Khan  
Advocate Peshawar



Annexure 'E'

(15)

**OFFICE OF THE  
DEPUTY COMMISSIONER,  
KOHAT.**

No. 794 /DC/  
Dated: 31/3 /2014.

To

Mr. Mohsin Abbas,  
Computer Operator,  
R/O H#198 Street#1  
Sector#1 KDA Kohat.

Subject: **NOTICE**  
Referring this office letter# 760/DC/KT Dated: 25-03-2014

Memo:

It has observed that after your arrival report on 03-03-2014 as Computer Operator to main Deputy Commissioner Office, you failed to report <sup>for</sup> duty till 10-03-2014

You were summoned on 12-03-2014 and directed to perform your duty but on the same day you submitted leave application for 03 months without pay. Then onwards without seeking the approval after leave you absented yourself. Till date you are absent from duty which is against norms of rules.

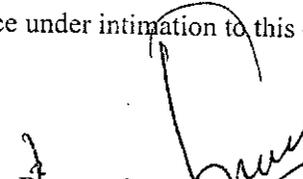
You are directed to report for duty within 15 days of issuance of this notice. On the expiry of the stipulated period i.e. 15 days given in this notice you will be preceded under the E & D Rules.

  
Deputy Commissioner,  
Kohat.

Cc.

1. The Tehsildar Kohat with the direction to serve the above notice under intimation to this office.
2. PS to Deputy Commissioner, Kohat.

Attested  
Masidullah  
Advocate Perhawas

  
Deputy Commissioner,  
Kohat.



American FE

16

Symples

The Assistant Commissioner,  
Karab.

21/5/14  
DCC

Obj:- Explanation Reply (Letter No. 76/DC/RT & 25/3/14  
794/DC/RT - 31/3/14)

Sir,

Please refer your letter NO. 76/DC/RT & 794/DC/RT  
dated 25/3/14 & 31/3/14 respectively.

With due respects it is stated that I was facing  
some medical & personal issues at same time & could not  
attend office. I also visited doctors at Khab  
Peshawar & I was advised to take bed rest  
for ~~two~~ months. Concern medical record is attached  
with this application/omit reports.

In this regard it is requested to please  
consider my application along with concern  
medical record. (Reference OPD slip & DHP, Khab  
& KPK Social Security hospital Peshawar).

Thanks.

Attested  
Nazimullah  
Advocate Peshawar

Yours Sincerely

Mahmud Abbas

Comp. Officer  
DC, Office Karab

21/05/2014

Ainameru  
F-2

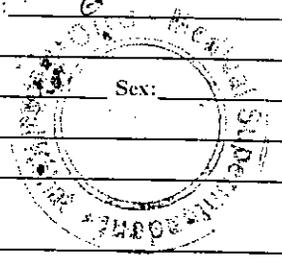
17

Sent To: \_\_\_\_\_

OUT DOOR PATIENT TICKET

DHIS - 02 (F)

District \_\_\_\_\_ CRP No: 6620  
Facility Name \_\_\_\_\_  
Name [Signature] Age: \_\_\_\_\_ Sex: \_\_\_\_\_  
Father's/Husband's Name \_\_\_\_\_



Monthly OPD Serial No. \_\_\_\_\_  
Provisional Diagnosis: \_\_\_\_\_

Date	Clinical Findings / Investigations / Treatment / Referred / Test Findings
26 15	<p>inj. Brocabol 500 mg 1/m</p> <p>Tab. Caldrel</p> <p>Tab. Bilex 20mg</p> <p>Tab. Vitale</p> <p>Tab. Vitale</p> <p>Tab. Vitale</p>

lumbago  
& multiple  
aches

Bed rest for 2 wks

Orthopaedic Surgeon  
D/VI HQ, [unclear], [unclear]

Attested  
[Signature]  
[Signature]

Orthopaedic Surgeon  
D/VI HQ, [unclear], [unclear]



*Amercuse "G"*

18

**OFFICE OF THE  
DEPUTY COMMISSIONER,  
KOHAT.**

No. 1362 /DC/  
Dated; 4/6 /2014.

**OFFICE ORDER:-**

In pursuance of Rule 9 and Rule 4 (b) (iii) of E&D Rules, 2011, Mr. Mohsin Abbas, Computer Operator of this office is hereby removed from service w.e.f 03-3-2014.

*[Signature]*  
Deputy Commissioner,  
Kohat.

Cc.

1. The District Comptroller of Accounts, Kohat.
2. The Account Officer, DC office, Kohat.
3. Mr. Mohsin Abbas, R/O House No. 198, Street No. 1, Sector No. I, KDA, Kohat.

*[Signature]*  
Deputy Commissioner,  
Kohat.

*Attested  
Fazilullah  
Advocate Peshawar*

To

Annexure "H"

19

The Commissioner,  
Kohat Division,  
Kohat.

Subject: APPEAL AGAINST SERVICE REMOVAL ORDER ISSUED BY DEPUTY COMMISSIONER KOHAT.

Sir,

1. With due respect it is stated that I was serving as computer operator in the Finance and Planning section DC Office Kohat. But I was transferred to Kacheri Offices: In compliance I submitted arrival report on 03/03/2014, however on the next day I felt some trouble in skin & backbone therefore, I visited private doctor and after examining, doctor advised me to take rest for some days.

2. Meanwhile Assistant Commissioner, Kohat telephonically directed me to see him on 12/3/2014. In compliance I attended the Office of Assistant Commissioner, Kohat, on 12/3/2014 and discussed my case with AC and also submitted application for leave on Medical/Personnel ground without pay for 03 months.

3. Later on I was shocked to see absentee notice in local newspaper on 15/05/2014. As I visited office on 21/5/2014 after bed rest and also submitted application (attached vide Flag A) along with relevant medical record. I also attended office from 21/05/2014 to 26/05/2014. On 26 May 2014 my back pain got worse and I had to visit orthopedic surgeon at DHQ, hospital Kohat & doctor advised me to take bed rest for two weeks. I submitted another application (attached vide flag B) on 26/05/2014 for two week medical leave on medical ground as advised by the doctor.

4. But surprisingly on 04/06/2014 removal from service order (attached vide flag C) was issued without considering my applications and also fired, rule 9 and rule 4(b) iii of E & D 2011 as mentioned in the removal from service order.

Grounds → As my case was genuine and in case my superiors were not agreed with my application then they had to conduct an inquiry into the matter which is essential under the rules but neither notice was issued after 26/05/2014 nor conduct any inquiry and direct issue removal from service order, which is against under E & D Para 9 which is mentioned in the removal from order is reproduced below:

"Notwithstanding anything to the contrary contained in these rules, in case of willful absence from duty by a Government Servant, a notice shall be issued by the authorized officer through "registered acknowledgement" due cover on his home address directing him to resume duty forthwith. If the same is received back as undelivered or no response is received from the absentee within the 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 will be taken against him. On expiry of the stipulated period given in the notice, the authorized officer shall recommend his case to the authority for imposition of major penalty of removal from service."

In this case I submitted reply on 21 may 2014 in response to 15 May newspaper notice which was not entertained.

Further More I also submitted application for medical leave as advised by the doctor on 26 May 2014. According to KPK government servant rules Para 7 which is reproduced here:

Answer 11

20

"Leave on M.C. cannot be refused. The sanctioning authority can, however, secure second medical opinion of civil surgeon/Medical Board."

This rule has also been ignored.

And in case if the enquiry was dispensed then under E & D rules, Para 7 sub Para a, b, d: personal hearing & opportunity of showing cause against the proposed action, which is must has also been ignored.

Other than these above Paras, E & D rules, rule 14 Para 2 & Para 4 sub Para a,b,c: has also been ignored and issued removal from service order which is against the E & D rules as well as social justice.

In view of above I request that my removal from service order issued by the DC Kohat may be set aside and exonerate me from the charges which are baseless and oblige.

Thanks Sir.

Regards,

*Mohsin*

Mohsin Abbas  
Comp Operator  
DC Office Kohat

Address: C/O Tehseen Abbas  
House # 198, Street # 1 Sector 1  
KDA KOHAT  
Contact # 03349106075

Dated: 16/06/2014

*Annexure  
J*

21

BEFORE THE COURT OF COMMISSIONER, KOHAT DIVISION, KOHAT.

Mohsin Abbas, Ex-Computer Operator, DC office, Kohat.....(Appellant)

Versus

Deputy Commissioner, Kohat.....(Respondent).

Subject:- APPEAL AGAINST REMOVAL FROM SERVICE ORDER, ISSUED BY DEPUTY COMMISSIONER, KOHAT VIDE NO. 1362/DC, DATED 04-6-2014.

Memo:-

Reference Reader to Commissioner, Kohat Division, Kohat letter No. 178/Reader, dated 20-6-2014.

Parawise comments are as under:-

- Para-1 Incorrect, appellant was transferred vide No. 488-96/DC/KT, dated 26-2-2014 but after his arrival report on 03-3-2014 he did not turn back till 12-3-2014.
- Para-2 In correct, appellant left a leave application and again absented himself without prior approval and turned deaf ear to the office.
- Para-3 Incorrect, a notice was served on 25-3-2014 and then 31-3-2014 respectively, giving him 15 days time period regarding frequent absenteeism to join the duty at his home address but appellant failed to resume the duty and also turned deaf ear to the office.
- Para-4 Incorrect, a notice was published on 15-5-2014 in local newspaper "Daily Aaj, dated 15-5-2014 and according to E&D Rules 2011, the appellant had to resume duty within 15 days of publication of notice but he failed to do so.
- Para-5 In correct, after completion of all codal formalities as required under the E&D Rules 2011, appellant has been awarded penalty of Removal from service.
- Para-6 Incorrect, appellant submitted reply after a lapse of almost two months.
- Para-7 Incorrect, he straight away refused to join the duty on 13-3-2014, in the office of AC, Kohat and then submitted medical certificate on 26-5-2014.
- Para-8 In correct. No inquiry is needed. An ex-parte decision has been taken against appellant under Rule 9, E&D Rules 2011 after stipulated time period of 15 days after publication of Notice through press.
- Para-9 In correct.
- Para-10 Incorrect.

In view of the above, appeal may be dismissed with the case.

*[Signature]*  
Deputy Commissioner,  
Kohat.

*Attested  
Rashidullah  
Advocate  
Peshawar*

COURT OF THE COMMISSIONER, KOHAT DIVISION KOHAT

Appeal No.31/2014

Date of institution 16-06-2014

Date of decision 12-02-2015

Mohsin Abbas, Ex- Computer, Operator, DC Office, Kohat ..... Appellant

Versus

1. Deputy Commissioner, Kohat.....Respondent

APPEAL AGAINST THE ORDER OF THE DEPUTY COMMISSIONER,  
KOHAT BEARING NO.1362/DC DATED 04-06-2014

ORDER

This appeal has been filed by the appellant against the Deputy Commissioner, Kohat order bearing No.1362/DC dated 04-06-2014 whereby the appellant Mohsin Abbas, Computer Operator has been removed from service with effect from 03-03-2014 in pursuance of rule 9 and rule 4 (b) (iii) of E&D Rule, 2011. Feeling aggrieved, the appellant filed the instant appeal.

Mohsin Abbas appellant present. Hafeez Ullah Shah Superintendent Office of the Deputy Commissioner Kohat alongwith Pervez Khan Office Assistant present and produced the relevant record. Arguments were heard. Written arguments submitted by counsel for the appellant, written reply submitted by the Superintendent Deputy Commissioner, Kohat and available record together with parawise comments furnished by the Deputy Commissioner, Kohat thoroughly perused.

From the perusal of entire record this court is of the opinion that the impugned order of learned Deputy Commissioner, Kohat is based upon true appreciation of rules. No illegality/irregularity is found in the impugned order, and as such there is no justification and ground to interfere in the said order. Hence, this appeal being devoid of force is dismissed.

Attested

*[Signature]*

Announced  
12-02-2015

09/3/2015  
Reader To Commissioner  
Kohat Division, Kohat

*[Signature]*

COMMISSIONER  
KOHAT DIVISION, KOHAT

Attested  
Nadeemullah  
Advocate  
Peshawar

مورخہ 10 مارچ 2015ء پنجاب  
 مقدمہ محمد عباس  
 دعویٰ اسروس ایلزم دفعہ 4 آف ذمہ خیر کنونی  
 جرم اسروس ٹریڈنگ لمیٹڈ 1979ء  
 عینہ عباس ذہ  
 بنام سید عمر بورڈ آف ڈائریکٹرز  
 مکتبہ کیٹ ڈوونز کراچی  
 اور ڈیپٹی مکتبہ کوہٹ

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
 آن مقام لٹاور کیلئے لکھی اللہ خد الفخر شاہ محمد نثار احمد اور ناہیدہ بی بی  
 مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
 وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
 بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی  
 اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت  
 مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے  
 تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے  
 اور اس کا ساختہ پر داختم منظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے  
 سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں  
 گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

Attested + accepted

- 1) Nazilullah 2015
  - 2) Anwar Shah
  - 3 - Mohammed Ishaq
  - 4 - Nabeeda Bibi Advocate
- المرقوم 10 مارچ  
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Mohsin Abbas  
 Adv



Registari

(58)

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE,  
REVENUE & ESTATE DEPARTMENT

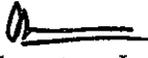
No. Estt:II/S.A.239/2015/ 19361  
Peshawar dated the 26/08/2015

To

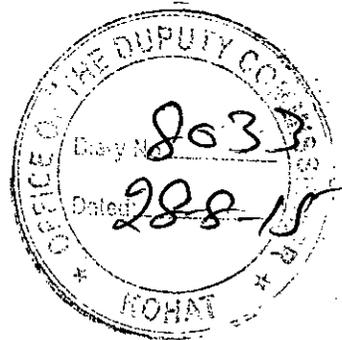
The Deputy Commissioner,  
Kohat.

SUBJECT: SERVICE APPEAL NO.239/2015 TITLED MOHSIN ABBAS EX-COMPUTER OPERATOR DC OFFICE KOHAT VS SENIOR MEMBER, BOARD OF REVENUE AND OTHERS.

I am directed to refer to your letter No. 3205/DC-Kt/EA, dated 13/08/2015 on the subject and to enclose parawise comments (in Original) in the subject Appeal titled Mohsin Abbas Ex-Computer Operator, duly signed by, Senior Member, Board of Revenue Khyber Pakhtunkhwa for further necessary action at your end please.

  
Secretary-I

E.A  
*Shal*  
*DC Kohat*



5

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

**Appeal No 239 of 2015**

Mohsin Abbas Ex-Computer Operator (BPS-12) Deputy Commissioner, Office Kohat  
**Petitioner**

**Versus**

1. Senior Member Board of Revenue, KPK Peshawar
2. Commissioner Kohat, Division, Kohat
3. Deputy Commissioner Kohat

**Respondents**

**JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS**

**Respectfully Shewith:**

**PRELIMINARY OBJECTION:**

1. That the Petition is not maintainable in its present form
2. The Petitioner have no locus standi to file this petition.
3. That the petitioner has not come to the court with the clean hands.

**FACTS:**

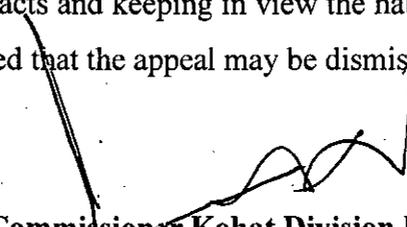
1. Pertains to Record.
2. Correct.
3. Correct.
4. Incorrect. No response of the notices was received from him which is tantamount to misconduct, however after laps of three months, he submitted medical certificate on 21-5-2015 in response to both notices.
5. As at Para No. 4.
6. In Correct. He himself refused to join the duty before Assistant Commissioner, Kohat on 13-3-2014 and then submitted medical leave and absented himself without any sanction of leave.
7. No Comments.
8. No Comments.
9. The appeal was dismissed after perusal of entire record by the respondent No 2 and order of the Competent Authority (DC kohat) bearing No 1362/DC dated 4-6-2014 was found according to law/rules.

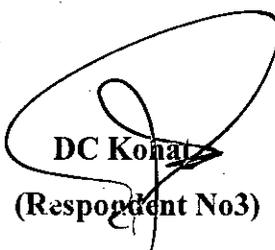
**GROUND**

- A. Incorrect. The orders of removal from service with regard to appellant has been passed strictly in accordance with E & D Rules 2011 and after completion of all legal formalities.
- B. Law Point and will be decided by Honorable Court.
- C. According to rule-5 (b) (ii) of Efficiency and Discipline Rules, 2011 the competent authority can dispense the enquiry proceedings, if he satisfied that there are sufficient grounds for initiating action against the accused. In light of Seciton-9 of E&D Rules. Two notices were issued to him to resume duty within 15 days and he was also informed through publication of newspaper, but he did not join the duty, hence, Ex-Parte decision was taken and major penalty was imposed.
- D. He was required to follow up the rules/regulation of service, as applied for the time being, but he himself violated the law and rendered himself for punishment.
- E. He was summoned on 13-3-2014 for personal hearing, but he straight away refused to join the duty before Assistant Commissioner, Kohat and submitted medical leave.
- F. Both notices dated 25-3-2014 and 31-3-2014 were issued to him at home address but he intentionally not joined the duty and submitted medical leave.
- G. After his posting to new post on 26-2-2014, he submitted his arrival report on 3-3-2014, and then did not return back till 12-3-2014. He was summoned on 13-3-2014, but he refused to join the duty and sent medical certificate just to cover his absence period.
- H. Law Point.
- I. No Comments.
- J. No Comments.
- K. That the respondents seek permission to raise Additional grounds at the time of arguments

In view of the above facts and keeping in view the habitual/willful absence of the appellatant, it is requested that the appeal may be dismissed.

  
**SMBR KPK**  
 (Respondent No1)

  
**Commissioner Kohat Division kohat**  
 (Respondent No2)

  
**DC Kohat**  
 (Respondent No3)