

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

Service Appeal No. 1641/2023

**Gul Raheem (Naib Qasid), s/o Gul Muhammad r/o Talash
Chena, District Dir Lower..... (Appellant)**

Versus

- 1. Registrar Peshawar High Court, Peshawar**
- 2. District & Sessions Judge, Dir Lower at Timergara**
- 3. Senior Civil Judge (Admin), Dir Lower at
Timergara.....(Respondents)**

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one copy submitted to AC Staff

~~Respondent No. 02.
District & Sessions Judge,
Dir Lower at Timergara.~~

[Signature]
Respondent No. 03.
Senior Civil Judge (Admin),
Dir Lower at Timergara.

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 8853

Dated 3-10-2023

Service Appeal No. 1641/2023.

Gul Raheem (Naib Qasid), s/o Gul Muhammad r/o Talash
China, District Dir lower.....(Appellant)

VERSUS

1. Registrar Peshawar High Court, Peshawar
2. District & Sessions Judge, Dir Lower at Timergara
3. Senior Civil Judge (Admin), Dir Lower at
Timergara..... (Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENT No. 02 & 03
(District & Sessions Judge Dir Lower) and (Senior Civil Judge, Admin)
as under:-

Respectfully Sheweth!

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action against the answering respondents.
2. That the appellant has concealed material facts from this august tribunal.
3. That the appellant is estopped by his own conduct.
4. That the instant appeal is badly time barred.
5. That the instant appeal is not maintainable in its present form.
6. That the instant appeal is barred by law.
7. That the appellant has not come to this tribunal with cleans hands.

FACTS:-

1. Para No. 01 is correct to the extent that the Petitioner was inducted in the District Judiciary, Dir Lower as Naib Qasid on 31.03.2005 (**Annex-A**) while rest of the para is incorrect. The said official was dismissed from service due to inefficiency, misconduct and habitual absence from duty without prior approval of the competent authority vide Order No. 10 dated 14-03-2023. (**Annex-B**)

2. Para No. 02 is incorrect. The official remained absent from duty for two days i.e. 18.01.2023 and 19.01.2023 without any prior permission of the competent authority. Moreover, the said official was in the habit of arriving late and leaving the Court/duty before closing hours without permission of the concerned presiding officer and was several times orally warned to mend his ways but the said official always neglected the directions. Moreso, his behaviour towards his officer is below the mark.

3. Para No. 03 is incorrect. The concerned Presiding Officer called an explanation from the said official on 20-01-2023 (**Annex-C**) to which the said official replied on 21-01-2023 along with medical prescription stating that he was not feeling well (**Annex-D & E**), however, the said official failed to explain his position with respect to the prior leave application as well as arriving late and leaving the Court early without prior permission from the concerned Presiding Officer. The reply was found unsatisfactory and the complaint was forwarded to the respondent No. 02 which was entrusted to respondent No. 03 for necessary action in accordance with law on 23-01-2023 (**Annex-F**). On 31.01.2023, the Respondent No. 03 has suspended the delinquent official from service for ninety days under section 6 of Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules, 2011 vide Office Order No. 236-40 dated 31-01-2023 (**Annex-G**). Thereafter, departmental inquiry was initiated, a Charge Sheet was framed and the statement of allegations was served upon the accused/official on 02-02-2023 (**Annex-H & I**).

4. Para No. 04 is correct. The delinquent official submitted his reply to the Charge Sheet and statement of allegations on 06-02-2023. Thereafter, the concerned Presiding Officer i.e Civil Judge, Lal Qilla was summoned, and he appeared and recorded his statement on 10.02.2023 as IW-I. The delinquent official was given the opportunity to cross examine the complainant, but he opted not to cross examine him. On 14.03.2023, the delinquent official was personally heard, and in this regard, his statement was recorded. He was also given an

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opportunity to produce evidence in defense but he chose not to do so. (The statement of the Judicial Officer is **Annexure-K** while statement of the delinquent official is **Annexure-L**).

5. Para No. 05 is incorrect. As mentioned earlier, the statement of the learned Civil Judge, Lal Qilla and that of the delinquent official was recorded on 10-02-2023 and 14.03.2023 respectively. The inquiry report was submitted by the Inquiry Officer/Respondent No. 03 on 07.03.2023 (**Annex-M**) and Final Show Cause notice bearing No. 433/SCJ (Admin) was also issued to the delinquent official on same date (**Annex-N**). The said official submitted his reply to the Show Cause notice within seven days on 11-03-2023 (**Annex-O**) which was found insufficient and unsatisfactory. After observing formal legal formalities, the said official was awarded major penalty of dismissal from service under rule 4(1)(b)(IV) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 (**Annex-P**) vide Order dated 14-03-2023. It is important to note that the delinquent official was provided with ample opportunities to defend and explain his position throughout all the proceedings.

6. Para No. 06 is correct.

7. Para No. 07 needs no reply.

GROUND:-

- A. Para No. 'A' is incorrect. The delinquent official was dismissed from service after fulfilment of all mandatory and essential codal formalities.
- B. Para No. 'B' is incorrect. A proper and thorough inquiry was conducted against the delinquent official. The said official was given every possible opportunity and a chance to record evidence and defense, but he chose not to produce any evidence in defense (**Annex-Q**). That Respondent No. 03 was appointed as Inquiry

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Officer by the Respondent No. 02 and Respondent No. 03 impartially conducted the inquiry proceedings and submitted his report after observing codal formalities.

- C. Para No. 'C' is incorrect. The delinquent official was personally heard and was also given sufficient opportunities to defend himself.
- D. Para No. 'D' is incorrect. No illegality was committed by the Respondent No. 03 and a Show Cause notice was issued to the appellant on 07-03-2023 and consequently appellant was dismissed from service vide Order dated 14-03-2023 which is well within specified period as mentioned in the Show Cause notice.
- E. Para No. 'E' is incorrect. Proper and fair inquiry was conducted against the delinquent official.
- F. Para No. 'F' is incorrect. The dismissal order is legal and all legal formalities were fulfilled during inquiry.
- G. Para No. 'G' is incorrect. The attitude and conduct of the said official was not serious toward his official duties, and he submitted a fake and bogus medical prescription after the concerned Presiding Officer called for his explanation due to his unauthorized absence from duty. Moreso, such like officials should be removed from judiciary. The actions taken by the appellant caused disastrous consequences for the department. The foresight of deterrent punishment given to the appellant is not only to maintain balance with the seriousness of the wrongdoing but also to set an example for others as a preventive measure for reformation of the society's trust upon judiciary. The appellant was found guilty; hence he could not be set free or exonerated.
- H. Para No. 'H' is incorrect. The delinquent official was habitually, found absent from his duties. The available record clearly shows that the said official remained absent for two days (18-01-2023 to 19-01-2023) from duty prior to the date of explanation 20-01-2023.
- I. Para No. 'I' is incorrect. The dismissal order is legal and specific dates of absence were mentioned in the Show Cause notice dated 07-03-2023. That the appellant has been proceeded against as per law.

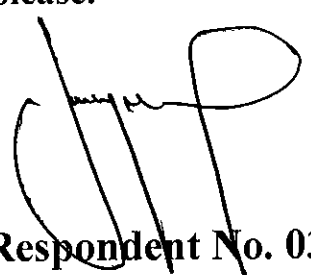
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- J. Para No. 'J' is incorrect. Imposition of penalty of dismissal from service is correct as the delinquent official was found to be guilty of "Misconduct" due to his willful absence from duty.
- K. Para 'K' is incorrect. The service record of the delinquent official was not satisfactory while dozens of oral complaints have been received against him.
- L. Para 'L' is incorrect. The attested copies of the documents were delivered to him within time.

In view of above it is humbly prayed that the entire proceeding against the appellant have been conducted as per procedure and law by adopting the legal procedure and he has rightly been dismissed from service, hence the appeal in hand is liable to be dismissed.

Para wise comments submitted as desired, please.


Respondent No. 02.
District & Sessions Judge,
Dir Lower at Timergara.


Respondent No. 03.
Senior Civil Judge (Admin),
Dir Lower at Timergara.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 1641/2023.

**Gul Raheem (Naib Qasid), s/o Gul Muhammad r/o Talash
China, District Dir lower.....(Appellant)**

VERSUS

- 1. Registrar Peshawar High Court, Peshawar**
- 2. District & Sessions Judge, Dir Lower at Timergara**
- 3. Senior Civil Judge (Admin), Dir Lower at
Timergara..... (Respondents)**

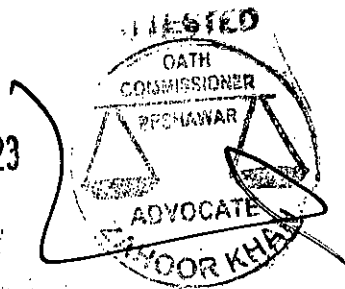
AFFIDAVIT

It is solely affirm on oath that contents of the comments above are true to the best of our knowledge and belief and nothing has been concealed. *It is further stated on oath that in this appeal the answering respondents have neither been plead ex-parte nor their defence has been struck off cost.*

~~Respondent No. 02.
District & Sessions Judge,
Dir Lower at Timergara.~~

~~Respondent No. 03.
Senior Civil Judge (Admin),
Dir Lower at Timergara.~~

03 NOV 2023



Annex-A

In the interest of public service and as per recommendations of the Departmental Selection Committee, the following candidates are hereby appointed Process Servers BPS-01 and Naib Qasid BPS-01 plus usual allowances as admissible under rules subject to the following terms & conditions with immediate effect.

S. No	Name of candidate with father's Name	Appointed as
1	Mr. Anbar Said S/o Faqir Said, R/o Tangai Banda Tehsil Timergara, Dir Lower.	Appointed as Process Server (BPS-01)
2	Mr. Amjad Khan S/o Mohammad Akbar Khan, R/o Diaroon Tehsil Munda, Dir (L)	Appointed as Process Server (BPS-01)
3	Mr. Ashraf Zaman S/o Ali Hajder, R/o Kamangara Talash Tehsil Timergara, Dir (L)	Appointed as Process Server (BPS-01)
4	Mr. Mohammad Zahid S/o Abdul Hamid, R/o Tangai Khwar Tehsil Timergara, Dir (L)	Appointed as Process Server (BPS-01)
5	Mr. Ziaul Qamar S/o Laiq Mohammad, R/o Balambat Tehsil Balambat, Dir Lower.	Appointed as Process Server (BPS-01)
6	Mr. Mohammad Ikram S/o Wazir Khan, R/o Nasafa Talash Tehsil Timergara, Dir Lower.	Appointed as Process Server (BPS-01)
7	Mr. Gul Rahim S/o Gul Mohammad, R/o Chino Talash Tehsil Timergara, Dir Lower.	Appointed as Naib Qasid (BPS-01)

Terms & Conditions

1. The appointments are subject to medical fitness.
2. In case of resign one month's prior notice will be necessary or in lieu thereof, a month's pay may be forfeited.
3. The appointments are purely temporary and service may be terminated at any time without assigning any reason.
4. In case the candidate fails to report for duty within seven days then his appointment shall be terminated as cancelled.

Senior Civil Judge/AIQ,
Dir Lower at Timergara.

No. 155-167 /Dated SCJ/AIQ, Timergara the 31 /03/2005.

Copy forwarded for information & necessary action to: -

1. The Hon'ble Registrar, Peshawar High Court Peshawar.
2. The Member Inspection Team, Peshawar High Court. Peshawar.
3. The District & Sessions Judge/ZQ, Dir at Timergara.
4. Mr. Jehangir Khan, Senior Civil Judge/AIQ, Dir Upper.
5. The District Accounts Officer, Dir Lower at Timergara.
6. The Civil Nazir, of this court.
7. The Candidates concerned.

(Syed Obaidullah Shah),
Senior Civil Judge/AIQ,
Dir Lower at Timergara.

For
[Signature]
02/11/2005


Order #10
14.03.2023

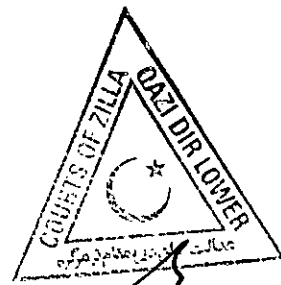
Accused official in person present. Written reply to show cause notice already submitted. The accused official was personally heard and a summary of his personal hearing was also prepared today and placed on file.

In view of complaint, written replies of accused official, inquiry report and personal hearing of the accused official the undersigned is satisfied that the accused official is guilty of inefficiency, misconduct and habitually absenting himself from duty without prior approval of leave within the meaning of rule 3(a)(b)(d) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011. Therefore, major penalty of dismissal from service is awarded to the accused official under rule 4(1)(b)(iv) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011. In this regard formal order issued. Copy of office order be placed on this file while original be handed over to the COC for necessary proceeding on his behalf.

This file be consigned to record room after necessary completion, compilation and scanning.

Announced
14-03-2023


(Ash Kamal) KAMAL
Senior Civil Judge (Admin) Dir Lower
Dir Lower



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DATE

02-11-23

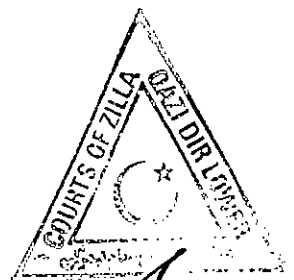
OFFICE OF SENIOR CIVIL JUDGE(ADMIN) DIR LOWER AT TIMERGARA**OFFICE ORDER**

The learned Civil Judge Lal Qilla submitted written complaint/letter No.96 on 23-01-2023 to the Hon'ble District & Sessions Judge Dir Lower. The allegations in the complaint were that the Naib Qasid namely Gul Raheem attached to the Court of Civil Judge Lal Qilla was found absent for two days without any application of leave or any permissions of concerned officer/Civil Judge/JM Lal Qilla. It was also noticed that he always arrives late and leave the Court early before closing hours without permission of the said officer. In this regard the said officer several times orally warned him, but he consistently neglected the orders/directions of said officer. Moreover, on the visit of Hon'ble D&SJ to the Lal Qilla dated 19.01.2023, lawyers' community and honorable judges reported that as routine he is late comer and often remain absent from his duties without taking leave.

The Hon'ble District & Session Judge Dir Lower marked the said letter/complaint to the undersigned for immediate action. Since the track record of the official was not good. The undersigned was communicated many times by learned Civil Judge Lal Qilla that he remains absent from duties. He was even transferred to Lal Qilla on complaints of being not dutiful and punctual. Whereupon the accused official was immediately suspended vide order No.236-40/SCJ/Admin Dir Lower dated 31.01.2023. Thereafter, on 02.02.2023 charge sheet and statement of allegations framed and copy handed over to the accused official. Therefore, the said official submitted his written reply dated 06.02.2023. Whereupon the undersigned concluded that reply of said official is not satisfactory. Hence, notice for date 10-02-2023 was issued to the learned Civil Judge Lal Qilla for recording his statement.

Statement of Ijaz-Ul-Haq learned Civil Judge Lal Qilla (complainant) was recorded as IW-1. Which fully support the complaint/allegations filed by him. After statement full fledge,

Dir Lower (Admin)
Dir Lower Timergara



02-11-23

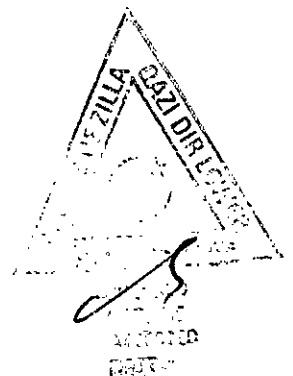
opportunity was provided to the said accused official for cross-examination. However, the accused official did not want to cross-examine the witness. To this effect his statement recorded, and his signature was obtained. Which shows that the accused official has admitted all the charges levelled against him and he has nothing to defend himself with. The undersigned/inquiry officer conducted inquiry in the matter and prepared report on 07.03.2023.

The inquiry officer/undersigned recommended that the accused official has been found guilty of inefficiency, misconduct and habitually absenting himself from duty without prior approval of leave under sections 3(a)(b)(d) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules. 2011. Therefore, major penalty of dismissal from service be awarded to the accused official under rule 4(1)(b)(iv) of the ibid rules.

In view of inquiry report and recommendations, the accused official was issued show cause notice on 07.03.2023. The accused official submitted reply of show cause notice on 11.03.2023. He was personally heard and a summary of his personal hearing was also prepared on 14.03.2022.

After perusal of the complaint, written replies of accused official and inquiry report, undersigned is of the view that the allegations contained in the complaint of learned Civil Judge Lal Qilla and formally laid before the accused official in the form of Show Cause notice constitute the pointes for determination for this proceeding against the accused official. The undersigned is satisfied that the accused official is guilty of inefficiency, misconduct and habitually absenting himself from duty without prior approval of leave.

The above discussion establishes the allegations contained in the Show Cause notice against the accused official. The undersigned is satisfied that the accused official is guilty of inefficiency, misconduct and habitually absenting himself from duty without prior approval of leave within the meaning of rule 3(a)(b)(d) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline)



02-11-22

Rules, 2011. Therefore, major penalty of dismissal from service is awarded to the accused official under rule 4(1)(b)(iv) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011. Hence, the accused official namely Gul Raheem is dismissed from service with immediate effect.

Announced

14.03.2022

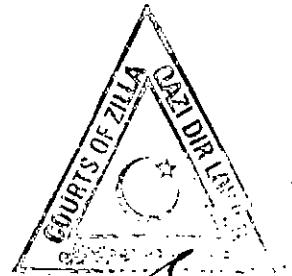
(Asif Kamal)

SCJ (Admin)/Competent Authority
Dir LowerSenior Civil Judge (Admin:)
Dir Lower at TimergaraNo: 462-67/SCJ/Admin, Dir Lower

Dated 14/03/2023

Copy for information to the:

1. Hon'ble District & Sessions Judge Dir Lower.
2. Learned Civil Judge/JM Lal Qilla, Dir Lower.
3. District Account Officer, Dir Lower.
4. Clerk of Court (COC), establishment of Senior Civil Judge (Admin).
5. Official concerned.
6. Office copy.

SCJ (Admin)/Competent Authority
Dir LowerSenior Civil Judge (Admin:)
Dir Lower at Timergara

02.11.23

No. 92 CJ/JM LalQilla

9

Dated: 20/01/2023

From:

The Civil Judge/JM,
Dir Lower at LalQilla.

Annex-C

To

Gul Raheem
Naib Qasid , in the court of CJ/JM Lal Qilla

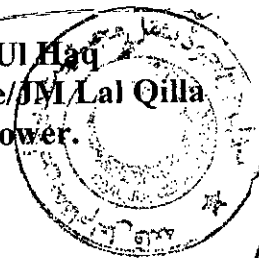
Subject: EXPLANATION.

Memo;

You the above Naib Qasid of this court is absent since two days without any application for leave or any permission of this court. It is also noticed that you always arrive late and leave the court early before closing hours without permission of undersigned and you were several times orally warned in that respect by the undersigned but you consistently neglected the court directions,

Your this attitude and conduct reflects in competency and breach of duty on your part. By issuing this notice you are required to submit your written report within three days. Failure will reflect that you have nothing in your defense resulting upon ex-parte disciplinary action E&D rules 2011.

Ajaz Ul Haq
Civil Judge/JM Lal Qilla
Dir Lower.

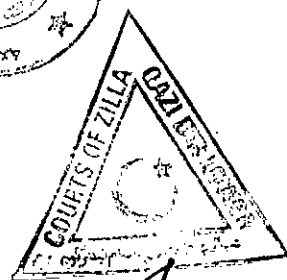


No. 93-95 CJ/JM LalQilla

Dated: 20/01/2023

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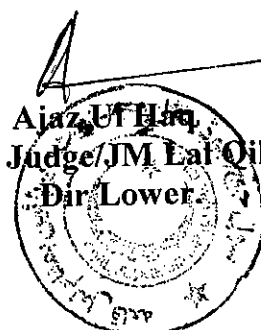
1. The Hon'ble District & Sessions judge Dir lower at Timergarar.
2. The Learned Senior Civil (admin) Dir Lower at Timergara.
3. Office Copy,



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DATE

02-11-23

Ajaz Ul Haq
Civil Judge/JM Lal Qilla
Dir Lower.



بحضور جناب سول جج / علاقہ قاضی صاحب نعل قلعه دیر لوئر

جواب دہی بوجہ جواب طلبی بحوالہ جواب طلبی نمبر 92 مورخہ 20-01-2023

جناب عالی!

1. یہ کہ سائیل / نائب قاصد عدالت ہذا بوجہ شدید بیماری عدالت حضور سے مورخہ 01-2023-

18 تا 19-01-2023 تک غیر حاضر رہا۔

2. یہ کہ سائیل چیک اپ کیلئے ہسپتال چلا گیا تھا، اور ڈاکٹر نے دو دن آرام کرنے کا مشورہ دیا تھا۔

(ہسپتالی چیٹ لف ہے۔)

3. یہ کہ سائیل کے غیر حاضری دیدہ و دانستہ طور پر نہیں تھا۔ بلکہ بوجہ مجبوری سائیل عدالتی ڈیوٹی

سے غیر حاضر رہا۔

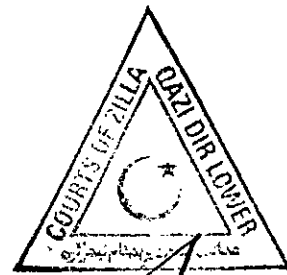
لہذا! سائیل کو معاف کرنے کے احکامات صادر فرمایا جائے اور سائیل ائندہ کیلئے محتاط رہے

گا اور سائیل تاحیات دعا گو رہے گا۔

مورخہ: 21-01-2023

سائیل: نائب قاصد عدالت سول جج نعل قلعه،

گل رحیم



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Medical No .2

68

Rs. 10/-

OUT-PATIENTS DEPARTMENT

Amn-E

NAME.....

YEARLY NO.....

DATE..... 18/1/23

OUT-PATIENTS DEPARTMENT

NAME.....

YEARLY NO.....

DATE..... CPD NO 2244

DISEASE.....

FACE VALUE RUPEES 10/-

G.E vomiting

fever 100°

Rangalaet D Sool

Lilazyl Inf

Novidale Inf

Tab Entamizale DS
1.2.1

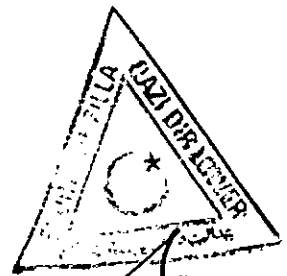
Tab Novidale Suog
1.2.1

Tab Metanium
1.2.1
inf

Bed Rest for two days

18 To 20/1/23

~~Handwritten signature~~
18/1/23



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02-11-23

(12)

No: 96 /CJ/JM

Dated Lal Qilla the 23-01-2023.

Annex-F

To,

The Hon'ble District & Sessions Judge,
Dir Lower at Timergara.

From,

Ajaz Ul Haq,
Civil Judge,
Dir Lower at Lal Qilla.

Subject: Explanation.

Respected Madam:-

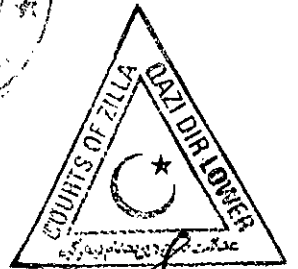
With utmost respect, it is brought to your knowledge that Naib Qasid namely Gul Rahim attached to this court remained absent from duty for two days without any application/prior permission of the court. Similarly, he also arrives late and leaves the court early without prior permission of the undersigned. In this respect, explanation was called from the said Naib Qasid who submitted his reply along with Medical report stating therein, that he was ill; however, he failed to explain his position with respect to prior leave application as well as arriving late and leave early the court without permission of the undersigned. Hence, the explanation was found unsatisfactory.

The said correspondence (explanation, reply to the explanation and M.R attached herewith) is hereby submitted to your good self for further necessary action, please.

Encl: as Above

SCJ (Admin) for
M/A in accordance with law
DSJ Dirdun
26/01/23

AJAZ UL HAQ
Civil Judge/JM,
Dir Lower at Lal Qilla.



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DATE

23-1-23

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Annex-9

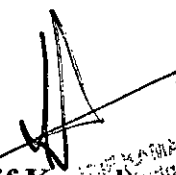
**IN THE COURT OF ASIF KAMAL, SENIOR CIVIL JUDGE
(ADMIN)/MTMC DIR LOWER AT TIMERGARA**

Order #.01
31.01.2023

The instant complaint received from the court of Hon'ble District & Sessions Judge, Dir Lower. It be registered in the relevant register. The allegations mentioned in explanation are serious. Therefore, he be suspended immediately. In this regard separate order of suspension be issued. Notice to the accused-official namely Gul Raheem, Naib Qasid of the Court of learned Civil Judge/JM Lal Qilla be issued for date fixed.

File to come up for attendance of accused-official on

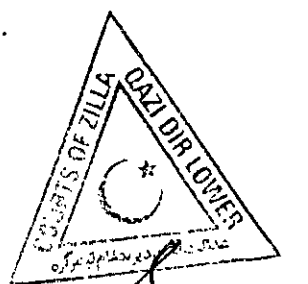
02 / 02 /2023.

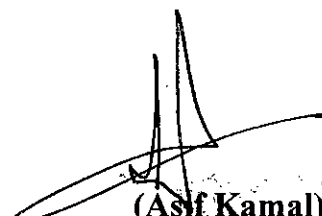

(Asif Kamal) Judge (Admin)
Senior Civil Judge (Admin)/JM
Dir Lower at Timergara

Order #.02
02.02.2023

Accused-official namely Gul Raheem in person present. Charge Sheet and statement of allegations framed. Copy be issued to the official. Written reply/defense, if any, should be submitted within seven days.

File to come up for reply/written defense of official on 09/02/2023.




(Asif Kamal)
Senior Civil Judge (Admin)/JM
Dir Lower at Timergara

02-11-23

Order #.03

09.02.2023

Accused-official in person present. Reply/written defense submitted. Summon for recording statement of learned Civil Judge/Judicial Magistrate Dir Lower at Lal Qilla be issued for date fixed.

File to come up for recording statement of learned Civil Judge/JM Lal Qilla on 10 / 02 /2023.


(Asif Kamal)

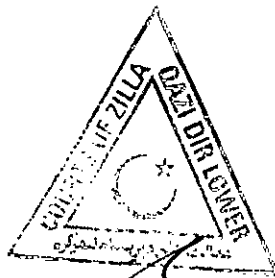
Senior Civil Judge (Admin)/JM
Dir Lower at Timergara

Order #.04

10.02.2023

Accused-official in person present. Learned Civil Judge/JM Lal Qilla Dir Lower present and his statement recorded as IW-1. The accused-official does not want to ^(W) be cross-examined. His statement was recorded and his signature was taken.

File to come up for arguments/order on 11/02/2023.



02-11-23


(Asif Kamal)

Senior Civil Judge (Admin)/JM
Dir Lower at Timergara

14

9

Annex-H

CHARGE SHEET

I, **Asif Kamal**, Senior Civil Judge (Admin)/Judicial Magistrate, as competent authority, hereby charge you Mr. Gul Raheem, Naib Qasid of the court of Learned Civil Judge/Judicial Magistrate, Lal Qilla as follows.

That you while posted as Naib Qasid in the establishment of undersigned committed following irregularity.

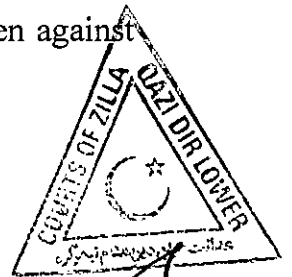
You were found absent for two days without any application of leave or any permissions of concerned officer/Civil Judge/JM Lal Qilla. It was also noticed that you always arrive late and leave the Court early before closing hours without permission of the said officer. In this regard the said officer several times orally warned you, but you consistently neglected the orders/directions of said officer. Moreover, on the visit of Hon'ble D&SJ to the Lal Qilla dated 19.01.2023, lawyers' community and honorable judges reported that as routine you are late comer and often remain absent form duty without taking leave.

1. By reason of the above, you appear to be guilty of performing your duty inefficiently under rule 3(a)(b)(d) 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/reply within seven days of the receipt of this charge sheet to the undersigned.
3. Your written defense, if any, should reach the undersigned 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 allegation is enclosed.

Dated: 02.02.2023.

(Asif Kamal)

Senior Civil Judge(Admin)/Competent Authority
Dir Lower



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Annex-I

DISCIPLINARY ACTION

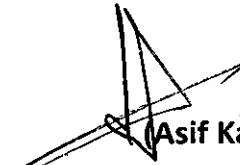
1. I, **Asif Kamal**, Senior Civil Judge (Admin) Dir Lower, as competent authority, am of the opinion that Mr. Gul Raheem, Naib Qasid of the Court of Learned Civil Judge/JM Lal Qilla has rendered yourself liable to be proceeded against, as you committed the following act/omission, within the meaning of rule 3(a)(b)(d) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

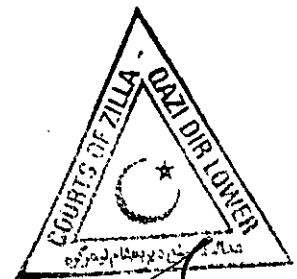
STATEMENT OF ALLEGATIONS

You were found absent for two days without any application of leave or any permissions of concerned officer/Civil Judge/JM Lal Qilla. It was also noticed that you always arrive late and leave the Court early before closing hours without permission of the said officer. In this regard the said officer several times orally warned you, but you consistently neglected the orders/directions of said officer. Moreover, on the visit of Hon'ble D&SJ to the Lal Qilla dated 19.01.2023, lawyers' community and honorable judges reported that as routine you are late comer and often remain absent form duty without taking leave.

2. By reason of the above, you appear to be guilty of performing your duty inefficiently under rule 3(a)(b)(d) 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.

Dated: 02.02.2023.


(Asif Kamal)
Senior Civil Judge(Admin)/Competent Authority
Dir Lower



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Annex-KIW-1
10-02-2023بیان اعجاز الحق سول جج / علاقہ قاضی لعل قلعہ، ضلع دیرپائین۔

بیان کیا کہ میں بطور سول جج / علاقہ قاضی لعل قلعہ، ضلع دیرپائین میں تعینات ہوں۔ مسٹی گل رحیم بطور نائب قاصد میرے ساتھ عدالت میں تعینات ہے۔ جس نے بغیر میرے اجازت و بغیر درخواست کی دودن چھٹی کی تھی۔ نیز مذکورہ اہلکار اپنی ڈیوٹی میں دلچسپی نہیں لے رہا تھا اور ہمیشہ اپنے ڈیوٹی پر صبح دیر سے آتا تھا، جبکہ چھٹی کے اختتام کے وقت سے پہلے بغیر اجازت میرے واپس جاتا تھا۔ مذکورہ اہلکار کو میں نے متعدد بار زبانی کہا اور تنبیہ دی کہ وہ اپنے ڈیوٹی میں دلچسپی لے کر اپنے طور طریقے درست کرے۔ تاہم مذکورہ اہلکار مسلسل میرے احکامات کو نظر انداز کر رہا تھا۔ بدیں وجہ میں نے مذکورہ اہلکار سے جواب طلبی نمبر 92 مورخہ 20-01-2023 کی ہے۔ تاہم متذکرہ اہلکار کا جواب تسلی بخش نہیں تھا۔ لہذا میں نے متذکرہ جواب طلبی جناب ڈسٹرکٹ اینڈ سیشن جج صاحبہ تیمرگرہ کو ارسال کیا ہے۔ بس یہی میرا بیان ہے۔

(آصف کمال)

سینئر سول جج ایڈمن / مجاز اتھارٹی ضلع دیرپائین

بیان گل رحیم نائب قاصد عدالت جناب سول جج لعل قلعہ ضلع دیرپائین:

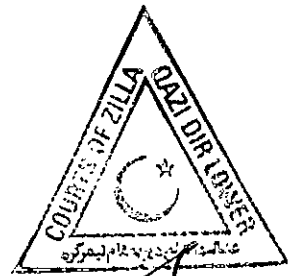
میں بیان متذکرہ جناب سول جج صاحب لعل قلعہ کے بیان پر جرح کرنے کا خواہاں نہ ہوں۔

گل رحیم

گل رحیم نائب قاصد عدالت سول جج لعل قلعہ

(آصف کمال)

سینئر سول جج ایڈمن / مجاز اتھارٹی ضلع دیرپائین

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ATTESTED
DATE

02-11-23

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Annex-L

ذاتی شنوائی کا خلاصہ ازاں گل رحیم نائب قاصد

بیان کیا کہ میں نے اپنی ڈیوٹی ایمانداری سے سرانجام دی ہے۔ میں نے کوئی دیدہ دانستہ طور کوئی غفلت نہیں کی ہے۔ اگر آپ آفسران صاحبان سمجھتے ہیں کہ میں نے کوئی غفلت کی ہے تو میں معافی کا طلب گار ہوں۔ نیز آئندہ کیلئے محتاط رہوں گا۔

مورخہ: 14.03.2023

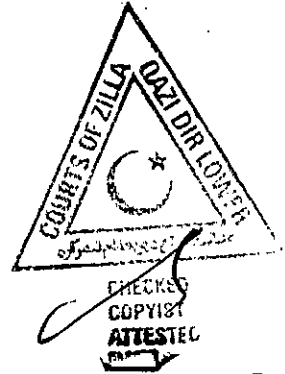
(آصف کمال)
ASIF KAMAL
Senior Civil Judge (Adm) at Timergara
میں / مجاز اتھارٹی ضلع دیر پائین

بیان گل رحیم نائب قاصد:

میں متذکرہ بیان پر اکتفا کرتا ہوں اور مزید اپنے دفاع میں کچھ نہیں کہنا چاہتا ہوں،

گل رحیم نائب قاصد

(آصف کمال)
ASIF KAMAL
Senior Civil Judge (Adm) at Timergara
سینئر سول جج / مجاز اتھارٹی ضلع دیر پائین



02-11-23

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Annex-M Page 1 of 2

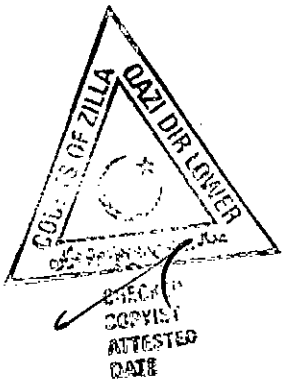
**IN THE OFFICE OF ASIF KAMAL, SENIOR CIVIL JUDGE
(ADMIN)/JM/COMPETENT AUTHORITY DIR LOWER AT
TIMERGARA**

TITLE: "STATE VS GUL RAHIM NAIB QASID"

INQUIRY REPORT:

In view of allegation made in complaint letter bearing No.96/CJ/JM Lal Qilla dated 23-01-2023 of the learned Civil Judge/Judicial Magistrate Lal Qilla Dir Lower, against the accused-official Mr. Gul Raheem, Naib Qasid in the establishment of undersigned/SCJ (Admin) Dir Lower, a regular inquiry was lodged.

Brief facts are that, on 23.01.2023 the learned Civil Judge/Judicial Magistrate Lal Qilla, Dir Lower moved a complaint to the Hon'ble District and Sessions Judge Dir Lower in which it was complained that the Naib Qasid namely Gul Raheem attached to the Court of Civil Judge Lal Qilla was found absent for two days without any application of leave or any permissions of concerned officer/Civil Judge/JM Lal Qilla. It was also noticed that he always arrives late and leave the Court early before closing hours without permission of the said officer. In this regard the said officer several times orally warned him, but he consistently neglected the orders/directions of said officer. Moreover, on the visit of Hon'ble D&SJ to the Lal Qilla dated 19.01.2023, lawyers' community and honorable judges reported that as routine he is late comer and often remain absent from his duties without taking leave. The Hon'ble District & Session Judge Dir Lower marked the said letter/complaint to the undersigned for immediate action. Whereupon vide office order No.236-40/SCJ/Admin dated 31/01/2023 of the undersigned the said official was suspended. Thereafter, on 02.02.2023 charge sheet and statement of allegations framed and copy handed over to the accused official. Whereon the said official submitted his written reply. Whereupon the undersigned concluded that reply of said official is not satisfactory. Hence, notice for date 10-02-2023 was issued to the learned Civil Judge Lal Qilla for recording his statement.



02-11-23

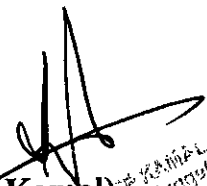
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Statement of Ijaz-Ul-Haq learned Civil Judge Lal Qilla (complainant) was recorded as IW-1. Which fully support the complaint/allegations filed by him. After statement full fledged, opportunity was provided to the said accused official for cross-examination. However, the accused official did not want to cross-examine the witness. To this effect his statement recorded, and his signature was obtained. Which shows that the accused official has accepted all the charges levelled against him and he has nothing to defend himself with.

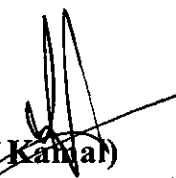
Keeping in view the above, I the inquiry officer/authorized officer recommend that the accused official has been found guilty of inefficiency, misconduct and habitually absenting himself from duty without prior approval of leave under sections 3(a)(b)(d) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules. 2011. Therefore, major penalty of dismissal from service be awarded to the accused official under rule 4(1)(b)(iv) of the ibid rules.

Announced
07-03-2023

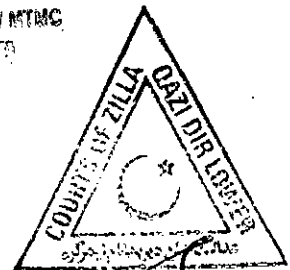

(Asif Kamal)
SCJ (Admin)/IO/ Competent Authority
Dir Lower

CERTIFICATE:

It is certified that this inquiry report consisting upon 02 pages each page duly signed by me after necessary correction.


(Asif Kamal)
SCJ (Admin)/IO/ Competent Authority
Dir Lower

Respected Civil Judge (Admin) / MTMC
Dir Lower of District



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Annex-N

**IN THE OFFICE OF ASIF KAMAL, SENIOR CIVIL JUDGE (ADMIN)/JM/
COMPETENT AUTHORITY DIR LOWER AT TIMERGARA**

No: 433 /SCJ (Admin)/JM

Dated 07/03/2023

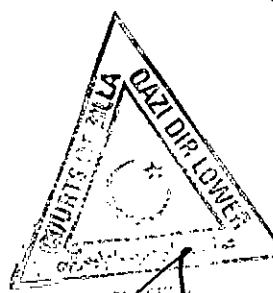
To,

Mr. Gul Raheem,
Naib Qasid/Accused official,
Court of Civil Judge Lal Qilla/JM,
Dir Lower

Subject: **SHOW CAUSE NOTICE UNDER RULE 7 OF THE KHYBER
PAKHTUNKHWA GOVERNMENT SERVANTS (EFFICIENCY
AND DISCIPLINE) RULES, 2011**

Whereas the learned Civil Judge/Judicial Magistrate Lal Qilla Dir Lower vide written complaint No.96/CJ/JM Lal Qilla dated 23-01-2023 (attached), reported that you Mr. Gul Raheem (here in after referred to as accused official) were found absent for two days without any application of leave or any permissions of concerned officer/Civil Judge/JM Lal Qilla. It was also noticed that you always arrive late and leave the Court early before closing hours without permission of the said officer. In this regard the said officer several times orally warned you, but you consistently neglected the orders/directions of said officer. Moreover, on the visit of Hon'ble D&SJ to the Lal Qilla dated 19.01.2023, lawyers' community and honorable judges reported that as routine you are late comer and often remain absent from your duties without taking leave. You thereby appear to be guilty of inefficiency, misconduct and habitually absenting yourself from duty without prior approval of leave under sections under Section 3(a)(b)(d) of 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.

Handwritten signature and initials



Handwritten text: CHECKED COPY ATTESTED DATE 02-11-23

21 (20)

Whereas on receipt of said complaint, the Hon'ble District & Session Judge Dir Lower marked the said letter/complaint to the undersigned for immediate action. Whereupon vide this office order No.236-40/SCJ/Admin dated 31/01/2023 you were suspended, and a regular inquiry was initiated against you.

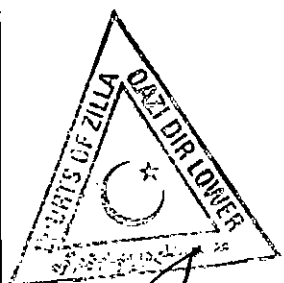
Whereas through this office order/report dated 24-02-2022, the Inquiry Officer/Undersigned recommended disciplinary proceeding under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 against you.

Whereas order/inquiry report reveals that you were found absent for two days without any application of leave or any permissions of concerned officer. It was also noticed that you always arrive late and leave the Court early before closing hours without permission of the said officer. In this regard the said officer several times orally warned you, but you consistently neglected the orders of said officer. Moreover, on the visit of Hon'ble D&SJ to the Lal Qilla dated 19.01.2023, lawyers' community and honorable judges reported that as routine you are late comer and often remain absent from your duties without taking leave.

Your above conduct is prejudicial to good order and service discipline, contrary to the Khyber Pakhtunkhwa Government Servants (Conduct) Rules, 12011 and your conduct is unbecoming of Government Servant and gentleman, thus, you are guilty of inefficiency, misconduct and habitually absenting yourself from duty without prior approval of leave.

The complaint and statement of learned Civil Judge Lal Qilla is sufficient to establish the allegations of inefficiency, misconduct and habitually absenting yourself from duty without prior approval of leave against you.

07/03/23



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You are directed to show cause as to why major penalty of **dismissal from service** should not be imposed against you in terms of section 4(1)(b)(iv) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, should not be imposed against you. Your reply should reach this office within seven (07) days of the receipt of this notice failing which, it shall be presumed that you have no defense to make and the charges shall be presumed to be proved against you. You are also required to attend in person for personal hearing while submitting your written reply on 14.03.2023.



(Asif Kamal)
Senior Civil Judge (Admin)
Dir Lower at Timergara

No: 434-35/SCJ (Admin)/JM

Dated 07/03/2023

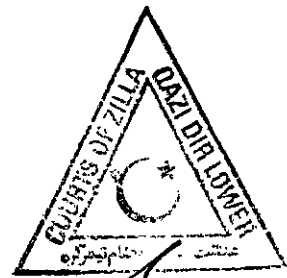
Copy for information to the:

1. Hon'ble District and Sessions Judge, Dir Lower.
2. Civil Judge/Judicial Magistrate Lal Qilla, Dir Lower.



Senior Civil Judge (Admin)
Dir Lower at Timergara

Senior Civil Judge (Admin)
Dir Lower at Timergara



CHIEF
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02-11-23

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(22)

Annex-0

IN THE OFFICE OF THE ASIF KAMAL, SENIOR CIVIL JUDGE
(ADMIN)/JM/COMPETENT AUTHORITY DIR LOWER AT TIMERGARA.

SUBJECT: REPLY TO THE SHOW CAUSE NOTICE BEARING
NO. 433/SCJ(Admin)/JM dated 07/03/2023.

Respected Sir,

The incumbent Gul Raheem, Naib Qasid respectfully submit the following reply to the show cause Notice as under :-

- 1) That I am serving in Judiciary since 2007 as Naib Qasid and served the District judiciary with zeal and honesty, I always obey the orders of the superior without any objection what so ever from any corner.
- 2) That on 20/01/2023 the undersigned was called an explanation vide latter No. 92-CJ/JM Lal Qilla of even date, that you remain absent from duty since two days and always arrives on duty and leave the court before the closing hours without prior permission from the competent authority.
- 3) That reply to the explanation was submitted before the Civil Judge/I.Q Lal Qilla and the facts were brought in the kind notice of the presiding officer, that on the said date, the undersigned was seriously ill and was unable to attend the office and perform the duties, the outpatient department slip of the DHQ Hospital was attached with the reply.
- 4) That the learned presiding officer the Civil Court Lal Qilla without waiting to the reply of the incumbent, forwarded copies of the said explanation to the Hon'ble District & Session Judge and also to the learned Senior Civil judge (Admin) Timergara and no order was passed on the reply, which is itself contrary to the law and rules.
- 5) That without prejudice to the above the learned Senior Civil Judge (Admin) also without appreciating the facts of the passed suspension order for Ninety (90) days and no opportunity was


ASIF KAMAL
Senior Civil Judge (Admin)
Dir Lower at Timergara

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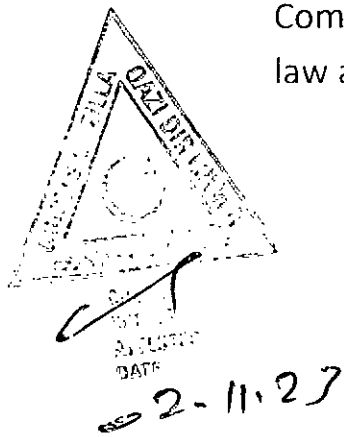
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given to the undersigned to clarify the facts and situation of his absence for two days, the incumbent also annexed the medical prescription along with reply to the explanation, the allegation of late arrival and early leaving the courts are based on misconception, the incumbent is devoted to his duties irrespective of the fact, that he attend the court from for flung remote area.

6) That the same allegation were incorporated in the charge sheet dated 02/02/2023, however the reply of the incumbent was not called for from the office of the Civil Judge Lal Qilla which cause grave miscarriage of justice to the undersigned, it is worthwhile to mention here that, that the undersigned submitted his detail reply before your good self, even no appropriate was passed on the same and on 07/03/2023 an enquiry was conducted and an order was passed and imposed major penalty of dismissal from service was awarded. The Hon'ble Senior Civil judge (Admin) on the same day issued **Show Cause Notice bearing No. 433/SCJ(Admin)/JM/** competent authority Dir Lower at Timergara and 14/03/2023 was fixed for reply to the show cause notice, this fact is unknown to the law and jurisprudence.


7) That under the law one person cannot be as Enquiry Officer, Competent authority as such the entire action is contrary to the law and liable to be declared as such.



DATE
2-11-23

It is accordingly respectfully prayed that letter No. 433/SCJ (Admin)/Jm dated 07/03/2023 and Enquiry Report dated 07/03/2023 whereby major penalty of dismissal from services was imposed , may kindly be ordered to be set aside in the interest of justice.

Dated 11/03/2023


Gul Rahim Naib Qasid
District Courts Dir Lower
Timergara.

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(6) Annex-P

Order #10
14.03.2023

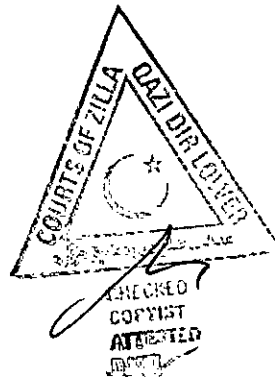
Accused official in person present. Written reply to show cause notice already submitted. The accused official was personally heard and a summary of his personal hearing was also prepared today and placed on file.

In view of complaint, written replies of accused official, inquiry report and personal hearing of the accused official the undersigned is satisfied that the accused official is guilty of inefficiency, misconduct and habitually absenting himself from duty without prior approval of leave within the meaning of rule 3(a)(b)(d) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011. Therefore, major penalty of dismissal from service is awarded to the accused official under rule 4(1)(b)(iv) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011. In this regard formal order issued. Copy of office order be placed on this file while original be handed over to the COC for necessary proceeding on his behalf.

This file be consigned to record room after necessary completion, compilation and scanning.

Announced
14-03-2023

~~(Ash Kamal)~~ KAMAL
Senior Civil Judge (Admin)
Dir Lower
Dir Lower



2-11-23

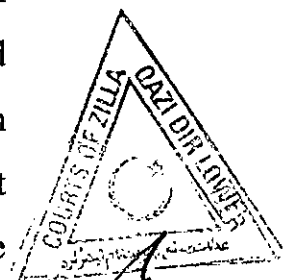
OFFICE OF SENIOR CIVIL JUDGE(ADMIN) DIR LOWER AT TIMERGARA**OFFICE ORDER**

The learned Civil Judge Lal Qilla submitted written complaint/letter No.96 on 23-01-2023 to the Hon'ble District & Sessions Judge Dir Lower. The allegations in the complaint were that the Naib Qasid namely Gul Raheem attached to the Court of Civil Judge Lal Qilla was found absent for two days without any application of leave or any permissions of concerned officer/Civil Judge/JM Lal Qilla. It was also noticed that he always arrives late and leave the Court early before closing hours without permission of the said officer. In this regard the said officer several times orally warned him, but he consistently neglected the orders/directions of said officer. Moreover, on the visit of Hon'ble D&SJ to the Lal Qilla dated 19.01.2023, lawyers' community and honorable judges reported that as routine he is late comer and often remain absent from his duties without taking leave.

The Hon'ble District & Session Judge Dir Lower marked the said letter/complaint to the undersigned for immediate action. Since the track record of the official was not good. The undersigned was communicated many times by learned Civil Judge Lal Qilla that he remains absent from duties. He was even transferred to Lal Qilla on complaints of being not dutiful and punctual. Whereupon the accused official was immediately suspended vide order No.236-40/SCJ/Admin Dir Lower dated 31.01.2023. Thereafter, on 02.02.2023 charge sheet and statement of allegations framed and copy handed over to the accused official. Therefore, the said official submitted his written reply dated 06.02.2023. Whereupon the undersigned concluded that reply of said official is not satisfactory. Hence, notice for date 10-02-2023 was issued to the learned Civil Judge Lal Qilla for recording his statement.

Statement of Ijaz-Ul-Haq learned Civil Judge Lal Qilla (complainant) was recorded as IW-1. Which fully support the complaint/allegations filed by him. After statement full fledge,

25(1)
 (Admin)
 Dir Lower
 Timergara



02.11.23

23(2)

opportunity was provided to the said accused official for cross-examination. However, the accused official did not want to cross-examine the witness. To this effect his statement recorded, and his signature was obtained. Which shows that the accused official has admitted all the charges levelled against him and he has nothing to defend himself with. The undersigned/inquiry officer conducted inquiry in the matter and prepared report on 07.03.2023.

The inquiry officer/undersigned recommended that the accused official has been found guilty of inefficiency, misconduct and habitually absenting himself from duty without prior approval of leave under sections 3(a)(b)(d) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules. 2011. Therefore, major penalty of dismissal from service be awarded to the accused official under rule 4(1)(b)(iv) of the ibid rules.

In view of inquiry report and recommendations, the accused official was issued show cause notice on 07.03.2023. The accused official submitted reply of show cause notice on 11.03.2023. He was personally heard and a summary of his personal hearing was also prepared on 14.03.2022.

After perusal of the complaint, written replies of accused official and inquiry report, undersigned is of the view that the allegations contained in the complaint of learned Civil Judge Lal Qilla and formally laid before the accused official in the form of Show Cause notice constitute the pointes for determination for this proceeding against the accused official. The undersigned is satisfied that the accused official is guilty of inefficiency, misconduct and habitually absenting himself from duty without prior approval of leave.

The above discussion establishes the allegations contained in the Show Cause notice against the accused official. The undersigned is satisfied that the accused official is guilty of inefficiency, misconduct and habitually absenting himself from duty without prior approval of leave within the meaning of rule 3(a)(b)(d) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline)

(Admin)
Inquiry Officer

COURTS OF ZILLA QAZI DIR LOWER
02-11-23

Rules, 2011. Therefore, major penalty of dismissal from service is awarded to the accused official under rule 4(1)(b)(iv) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011. Hence, the accused official namely Gul Raheem is dismissed from service with immediate effect.

Announced
14.03.2022

(Asif Kamal)
SCJ (Admin)/Competent Authority
Dir Lower

Senior Civil Judge (Admin.)
Dir Lower at Timergara

No: 462-67/SCJ/Admin, Dir Lower

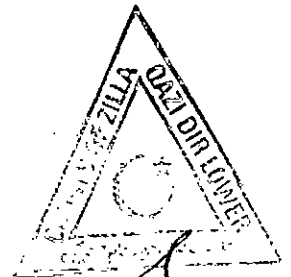
Dated 14/03/2023

Copy for information to the:

1. Hon'ble District & Sessions Judge Dir Lower.
2. Learned Civil Judge/JM Lal Qilla, Dir Lower.
3. District Account Officer, Dir Lower.
4. Clerk of Court (COC), establishment of Senior Civil Judge (Admin).
5. Official concerned.
6. Office copy.

SCJ (Admin)/Competent Authority
Dir Lower

Senior Civil Judge (Admin.)
Dir Lower at Timergara



02-11-23

26

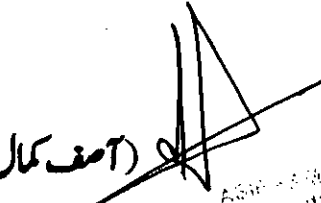
11

Annex-Q

ذاتی شنوائی کا خلاصہ ازاں گل رحیم نائب قاصد

بیان کیا کہ میں نے اپنی ڈیوٹی ایمانداری سے سرانجام دی ہے۔ میں نے کوئی دیدہ دانستہ طور کوئی غفلت نہیں کی ہے۔ اگر آپ آفسران صاحبان سمجھتے ہے کہ میں نے کوئی غفلت کی ہے تو میں معافی کا طلب گار ہوں۔ نیز آئندہ کیلئے محتاط رہوں گا۔

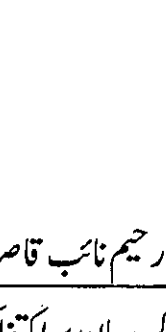
مورخہ: 14.03.2023

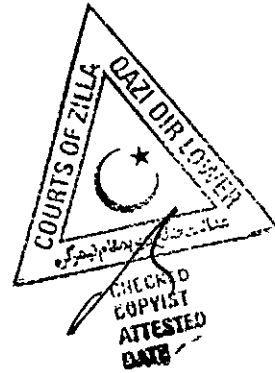

(آصف کمال)
ASIF KAMAL
Senior Civil Judge (a.d.m.)
Senior Magistrate
Timergara

بیان گل رحیم نائب قاصد:

میں متذکرہ بیان پر اکتفا کرتا ہوں اور مزید اپنے دفاع میں کچھ نہیں کہنا چاہتا ہوں،

گل رحیم نائب قاصد


(آصف کمال)
ASIF KAMAL
Senior Civil Judge (a.d.m.)
Senior Magistrate
Timergara



2023-11-27