

BEFPRE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.579/2022

Mr. Amir Ali S/O Zard Ali (late) Junior Clerk BPS-11 office of the Deputy Commissioner
Lakki Marwat Bannu Division KPK [Appellant]

VERSUS

1. The Commissioner Bannu Division
2. The Deputy Commissioner Lakki Marwat

[Respondents]

INDEX

S.N	Description	Pages
1.	Joint Para-wise Comments	1-2
2.	Annexures with Para-wise Comments	3-7
3.	Deponent	8
4.	Authority letter	9-10


Litigation Officer
Deputy Commissioner's Office
Lakki Marwat

BEPRE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
Service Appeal No.579/2022

Mr. Amir Ali S/O Zard Ali (late) Junior Clerk BPS-11 office of the Deputy Commissioner
Lakki Marwat Bannu Division KPK [Appellant]

VERSUS

1. The Commissioner Bannu Division
2. The Deputy Commissioner Lakki Marwat

[Respondents]

PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS NO.1 AND 2 ARE UNDER

PRELIMINARY OBJECTIONS

1. That the appeal in hand is badly time barred.
2. That appeal is not maintainable in the present forum.
3. That the appellant has got no cause of action or locus standi.
4. That the appeal is bad for mis- joinder and non- joinder of necessary parties.
5. That appellant is estopped by his own conduct to institute the instant appeal.
6. That the appellant has not come to this Hon'ble Tribunal with clean hands.
7. That the Hon'ble Tribunal has no jurisdiction to adjudicate the matter.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 9601

Dated 29-11-2023

Respectfully Sheweth:

FACTS:

1. Pertains to record.
2. Pertains to petitioner's personal record.
3. Pertains to record.
4. Correct to the extent that Inquiry Officer/AC (HQrs) Lakki Marwat recommendations are "*stern action under Efficiency & Disciplinary Rules may be taken against the petitioner's*" and then the appointment authority in exercise of the powers conferred under Rule-14 of the Khyber Pakhtunkhwa Government Servant (E&D) Rules-2011, major penalty to the extent of "Dismissal from Service" is hereby inflicted on petitioner's.
5. Pertains to record.
6. Correct to the extent that Appellate Authority/Worthy Commissioner Bannu Division upon the Order dated 17-02-2022 set aside the office order No.1877/Estab: dated 02-07-2021 and re-instated the appellant into government service enabling his penalty was converted into stoppage of three annual increments for the coming consecutive three years (2022, 2023 & 2024) with accumulative effect.
7. As stated in Para-6 above.

8. In correct to the extent that upon the receiving of order issued by Appellate Authority/Worthy Commissioner Bannu Division through covering letter No.464/Reader/F.105 dated 22-03-2022, the appellant was immediately re-instated into government service by appointment authority vide Order No.1242/Estab: dated 31-03-2022 and no lethargic attitude was adopted by the respondents during finalization of re-instatement.
9. Incorrect.

GROUNDS:

1. Incorrect to the extent that all the procedure adopted by the respondents as per Efficiency & Disciplinary Rules-2011 of the Khyber Pakhtunkhwa.
2. Pertains to record.
3. Pertains to record.
4. Pertains to record.
5. No comments.
6. Pertains to record.
7. Incorrect and misleading one, true facts are that all the orders issued/made by the respondents are based on facts/law after fulfillment of all codal formalities. Furthermore, appellant has been treated according to law and all citizens are equal protection of law as per Article-25 of the constitution of Islamic Republic of Pakistan 1973.
8. Incorrect.

It is therefore, most humbly prayed that the instant service appeal may kindly be dismissed with cost.

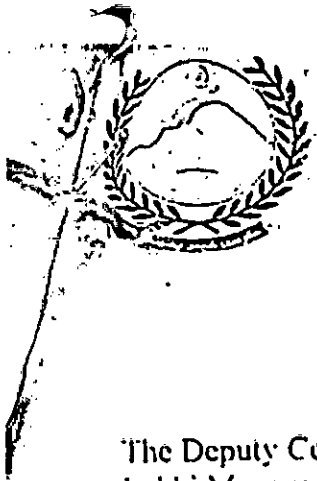
[Deputy Commissioner]
Lakki Marwat/Respondent No.2

Parvez Sabat Khel

[Commissioner Bannu Division]
Respondent No.1

**Commissioner
Bannu Division**

Rehmat Ali



**COMMISSIONER
BANNU DIVISION**

P.O. Box. 12, Postal Code 28100, Bannu.
Phono: 0928-9270044 & 621144
Fax: 0928-9270041
E-mail: pcr.bannu@yahoo.com

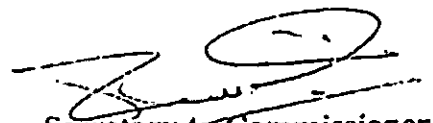
No. 464 / Reader / F-105

Date. 22-03-2022

The Deputy Commissioner. ✓
Lakki Marwat.


Subject: **SERVICE APPEALS**

I am directed to enclose herewith attested copy of order dated 17-02-2022 passed by the learned Commissioner Bannu Division in the services appeal titled Mr. Amir Ali (Junior Clerk) Versus Deputy Commissioner Lakki Marwat for implementation please.

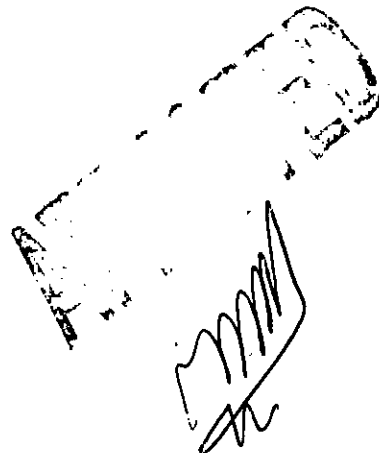

Secretary to Commissioner
Bannu Division

Even no. & date:
Copy forwarded to the

PS to Commissioner Bannu Division.


Secretary to Commissioner
Bannu Division

RECEIVED	
No.	<u>1676</u>
Date	<u>28-03-2022</u>
Return Date	<u>EA</u>
Action	<u>1</u>
<u>all</u>	



①

IN THE COURT OF COMMISSIONER BANNU DIVISION
BANNU

Mr. Amir Ali (Ex-Junior Clerk)..... (Appellant)

Versus

Deputy Commissioner, Lakki Marwat..... (Respondent)

ORDER:

Mr. Amir Ali, Ex-Junior Clerk, District Lakki Marwat has preferred an appeal against the impugned order No.1877/Estab: dated 02-07-2021 issued by the Deputy Commissioner Lakki Marwat, in respect of Amir Ali Ex-Junior Clerk for setting aside the said order and that the Deputy Commissioner Lakki Marwat be directed to re-instate the appellant into the service along with all back benefits.

Brief history of the case is that the appellant namely Amir Ali (Ex-Junior Clerk) often remained absent from duty or he usually left the office before the closing official hours. The Deputy Commissioner Lakki Marwat conducted proper departmental inquiry against the appellant in connection with his absence. In this regard explanations were called bearing No.3721/EA/Estab/F.14 dated 07-11-2019 and No.234/PA dated 18-02-2020 with aim to get his assurances that appellant will be punctual in office and will perform his duties efficiently but appellant failed to do so. After which appellant habitually continued his act, the Respondent issued show cause notice to appellant Bering No.846/DC/LM/Estab:/2020/F.12 dated 25-12-2020. For initiating a discreet inquiry into the matter, vide office order No.985/AG-Estab: dated 18-06-220 along with Statement of Allegation & charge sheet No.985-86/AG-Estab. The Deputy Commissioner Lakki Marwat assigned the subject inquiry to Assistant Commissioner Lakki Marwat with the directions to recommend that whether the appellant can be retained in the government service or otherwise. In response, the Assistant Commissioner Lakki Marwat/Enquiry Officer submitted his recommendation that appellant was posted as Diary Clerk on 29-05-2020 vide order No.893 dated 29-05-2020 and that no official order available that he was posted as Diary Clerk before his absence period i-e 16-03-2020 (14-03-2020) to 29-05-2020 (31-05-2020) during which he was on the post of Establishment Clerk. Against the given charge sheet and Statement of

Allegation the appellant could not prove to justify otherwise. In last the Enquiry officer recommended that the appellant was deliberately absent from duty and that, strict disciplinary action was to be initiated against him under Efficiency and Disciplinary Rules. Therefore, in exercise of the powers under Rule-14 of the Khyber Pakhtunkhwa Government Servant (Efficiency and Disciplinary) Rules-2011, major penalty was imposed on him vide No.1877/Estab: dated 02-07-2021.

Parties present and heard in detail.

Comments furnished by the Deputy Commissioner Lakki Marwat and case file perused. Perusal of the record shows that an inquiry was conducted against the appellant whereas it has been observed that the penalty of removal from service awarded to Junior Clerk seems to be very harsh which is converted into stoppage of three annual increments for the coming consecutive three years with accumulative effect and with warning that if the appellant is reported as absent again he shall not be retained into Government service further. The same may be entered in his service dossier and he is reinstated in service. The appeal is disposed of accordingly.

Announced
17/02/2022

COMMISSIONER,
BANNU DIVISION

Reader to Commissioner
Bannu Division



OFFICE OF THE
DEPUTY COMMISSIONER

LAKKI MARWAT (KHYBER PAKHTUNKHWA) Ph: # 0969-538330-31 Fax: # 0969-538333
email: dclakki@marwat@hotmail.com facebook: www.facebook.com/dclakki@marwat website: www.lakki@marwat.gp.pk

No. 1877 ESTB:

Dated: 02, 07, 2021

OFFICE ORDER

WHEREAS, disciplinary proceedings were initiated against Amir Ali Junior Clerk (BPS-11) of this office bearing No.985/AG-Estab: dated 18-06-2020, under the provisions of Khyber Pakhtunkhwa Government Servant (Efficiency & Disciplinary) Rules-2011, on account of charges contained in the charge sheet/statement of allegations served upon him vide this office order No.985-86/AG-Estab: dated 18-06-2020.

WHEREAS, the Assistant Commissioner Lakki Marwat was appointed as Inquiry Officer, who conducted inquiry and submitted report.

AND WHEREAS, the Inquiry Officer vide letter No.20/Complaint/Inquiry dated 15-01-2020 has proved guilty and recommended infliction of major penalty of the Khyber Pakhtunkhwa (E&D) Rules-2011 upon the accused official.

AND WHEREAS, he was served with show cause notice along with Inquiry Report to which he did not respond or submit reply. He was also called for personal hearing on 22-06-2021 bearing this office No.1662/DC/LM/Estab: dated 16-06-2021 but he failed to do so.

NOW THEREFORE, in exercise of the powers conferred upon me under Rule-14 of the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011, major penalty to the extent of "Dismissal from Service" is hereby inflicted on Amir Ali Junior Clerk with immediate effect.

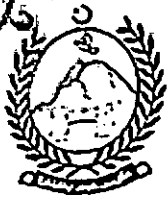
Deputy Commissioner
Lakki Marwat

Even No. & Date:

Copy forwarded to:

1. The Senior Member Board of Revenue, Govt. of Khyber Pakhtunkhwa Revenue & Estate Department Peshawar
2. The Commissioner Bannu Division *Lakki Marwat*
3. The Additional Deputy Commissioner Bannu
4. The Assistant Commissioner HQ Lakki Marwat
5. The District Accounts Officer, Lakki Marwat
6. Amir Ali Ex-Junior Clerk
7. *Accountant OCS Office*

Deputy Commissioner
Lakki Marwat



OFFICE OF THE
DEPUTY COMMISSIONER

LAKKI MARWAT (KHYBER PAKHTUNKHWA) Ph: # 0969-538330-31 Fax: # 0969-538333
email: dclakki@marwat@hotmail.com facebook: www.facebook.com/dclakki@marwat website: www.lakki@marwat.gov.pk

No. 1242 / Estab:

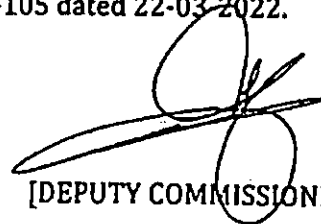
Dated: 31 / 1-03 / 2022

OFFICE ORDER

WHEREAS, an order regarding "Dismissal from Service" was issued against one Amir Ali Junior Clerk of this office bearing No.1877/Estab: dated 02-07-2021.

AND WHEREAS, Worthy Commissioner Bannu Division decided/accepted the Departmental Appeal vide order dated 17-02-2020 in favour of Appellant/Amir Ali (Junior Clerk BPS-11) that "an inquiry was conducted against the appellant whereas it has been observed that the penalty of removal from service awarded to Junior Clerk seems to be very harsh which is converted into stoppage of three annual increments for the coming consecutive three years with accumulative effect and with warning that if the appellant is reported as absent again he shall not be retained into Government Service further. The same be entered in his service dossier and he is re-instated in service."

NOW THEREFORE, in pursuance to the decision dated 17-02-2022 of Worthy Commissioner Bannu Division, Mr. Amir Ali Junior Clerk BPS-11 is hereby re-instated into service w.e.f 02-07-2021 along with stoppage of incoming three years annual consecutive increments bearing letter No.464/Reader/F-105 dated 22-03-2022.

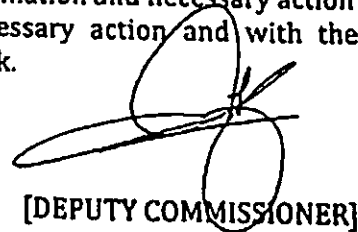


[DEPUTY COMMISSIONER]

Even No. & Date:

Copy forwarded to:

1. The Commissioner Bannu Division
2. The Additional Deputy Commissioner Lakki Marwat
3. The District Accounts Officer, Lakki Marwat for information and necessary action
4. Accounts Clerk DC Office, Lakki Marwat for necessary action and with the direction to made necessary entry in his service book.



[DEPUTY COMMISSIONER]

BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

In S.A No. 579/2022

Mr. Amir Ali S/o Zard Ali (late) Junior Clerk BPS-11 office of the Deputy
Commissioner Lakki Marwat Bannu Division KPK [Appellant]

VERSUS

1. The Commissioner Bannu Division
2. The Deputy Commissioner Lakki Marwat

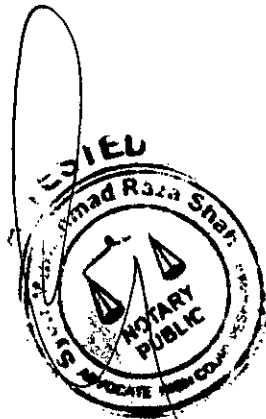
[Respondents]

AFFIDAVIT

I, Rahmat Ali Deputy Commissioner Lakki Marwat, do hereby solemnly affirm and declare that all the contents of Joint Parawise Comments submitted by the respondents are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

It is further stated on oath that in this appeal the answering respondents have neither been placed in default nor their defense struck off.

Rahmat Ali
Deputy Commissioner Lakki Marwat
Deponent



29 NOV 2023

BEFPRE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
Service Appeal No.579/2022

Mr. Amir Ali S/O Zard Ali (late) Junior Clerk BPS-11 office of the Deputy Commissioner
Lakki Marwat Bannu Division KPK [Appellant]

VERSUS

1. The Commissioner Bannu Division
2. The Deputy Commissioner Lakki Marwat

[Respondents]

AUTHORITY

Muhammad Idrees Litigation Officer office of the Deputy Commissioner Lakki Marwat is hereby authorized to submit the subject joint para-wise comments in the aforementioned titled Service Appeal before the Hon'ble Khyber Pakhtunkhwa Service Tribunal Peshawar on behalf of Respondent No.1& 2.

Rehmat Ali
[DEPUTY COMMISSIONER]
Lakki Marwat/Respondent No. 2

Even No. & Date:

Copy forwarded to the Commissioner Bannu Division for information please

[DEPUTY COMMISSIONER]

RGL/106089505



**COMMISSIONER
BANNU DIVISION**

P.O.Box 12 Postal Code
28100.Bannu
Phone: 0928-9270092/224
Fax: 0928-9270041/223

No. 5538/Reader/F.105
Date: 08-11-2023

To,

The Deputy Commissioner,
Lakki Marwat.

Subject: SERVICE APPEAL NO.579/2022 AMIR ALI VERSUS COMMISSIONER
BANNU.

Dear Sir,

I am directed to refer to your office letter No.7785/Reader/LA/KPST cases dated 23/10/2023 on the subject cited above and to enclose herewith para-wise comments in Service Appeal titled Mr. Amir Ali s/o Zard Ali vs Commissioner Bannu Division and others duly signed by Worthy Commissioner Bannu further necessary action, please.

L. I. amir

Assistant to Commissioner (Pol/Dev)
Bannu Division

Even No. & Date:

Copy forwarded to the: -

1. PS to Commissioner, Bannu Division.

L. I. amir

Assistant to Commissioner (Pol/Dev)
Bannu Division

RECEIVED	
No. <u>2850</u>	
Date <u>24-11-2023</u>	
Return Date _____	
Action _____	
D.C Lakki Marwat	