

08.09.2016

Counsel for the appellant and Additional AG for respondents present. Learned counsel for the appellant stated that he does not want to file rejoinder and case may be fixed for arguments. To come up for arguments on 13-1-17 before D.B.

Member



Member

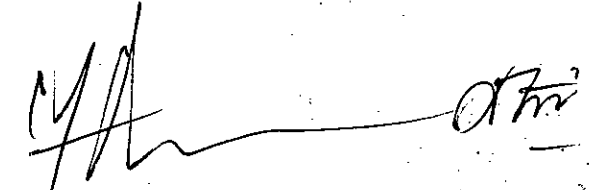


14.12.2016

Appellant with counsel present and moved an application for withdrawal of the instant appeal. Case file requisitioned for today. His signature also obtained in the margin of the order sheet. Application is allowed and the instant appeal in hand is hereby dismissed as withdrawn. File be consigned to the record room.

Announced:  
14.12.2016

  
(ASHFAQUL TARIQ)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

*Job catch*  
*14/12/16*  
*17301-9473566-3*

07.01.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving Constable when subjected to inquiry on the allegations of wilful absence and removed from service vide impugned order dated 28.7.2015 where-against he preferred departmental appeal on 18.8.2015 which was not responded and hence the instant service appeal on 7.12.2015.

That the appellant was neither absent nor associated with the inquiry despite his presence and that the penalty was imposed due to personal grudges of the appellant with one of his high-ups.

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 24.3.2016 before S.B.

01.01.11  
Chairman

24.03.2016

Counsel for the appellant present. Security and process fee not deposited. Requested for further time. Last opportunity granted. The same be deposited within a week, where-after notices be issued to the respondents for written reply/comments for 24.5.2016 before S.B.

Chairman

24.05.2016

Agent of counsel for the appellant and Arshad Aziz Inspector alongwith Addl. AG for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 08.09.2016.





Chairman

Appellant Deposited  
Security & Process Fee

Form- A  
FORM OF ORDER SHEET

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

Case No. 1369/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	07.12.2015	<p>The appeal of Mr. Fahimullah presented today by Mr. Ijaz Anwar 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	11-12-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>11-12-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	11.12.2015	<p>Counsel for the appellant present. Learned counsel for the appellant requested for adjournment. Adjourned to 21.12.2015 for preliminary hearing before S.B.</p> <p style="text-align: right;"> Chairman</p>
	21.12.2015	<p>Agent of counsel for the appellant present. Seeks adjournment. Adjourned to 07.1.2016 for preliminary hearing before S.B.</p> <p style="text-align: right;"> Chairman</p>

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

Appeal No. 1369 /2015

**Fahim Ullah**, Ex- Constable, Directorate General Excise & Taxation, Khyber Pakhtunkhwa, Peshawar.

(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Excise and Taxation, Department, Khyber Pakhtunkhwa Peshawar and others.

(Respondents)

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4	Copy of the letter dated 09.10.2014	B	7
5	Copies of the absence notice dated 22.04.2015 and publication dated 15.05.2015	C & D	8 - 9
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Through

*Fahim Ullah*  
Appellant

*Ijaz Anwar*  
**IJAZ ANWAR**  
Advocate Peshawar.

*Sajid Amin*  
**SAJID AMIN**  
Advocate Peshawar.

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

S.W.P. Province  
Service Tribunal

Diary No. 1427

Date 07-12-2015

Appeal No. 1369 /2015

**Fahim Ullah**, Ex- Constable, Directorate General Excise & Taxation Khyber Pakhtunkhwa, Peshawar.

**(Appellant)**

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Excise and Taxation Department, Khyber Pakhtunkhwa, Peshawar.
2. Director General Excise, Directorate of Excise Taxation and Narcotics Control Department, Khyber Pakhtunkhwa Peshawar.
3. Director (Admin) Excise and Taxation, Excise, Taxation and Narcotics Control Department, Khyber Pakhtunkhwa Peshawar.

**(Respondents)**

**Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 28.07.2015, whereby the appellant has been awarded the major Punishment of Removal from Service, against which his departmental appeal has not been responded despite the lapse of 90 days statutory period.**

Prayer in Appeal: -

**On acceptance of this appeal the impugned orders dated 28.07.2015 kindly be set aside and the appellant may be re-instated into service with all back benefits and wages of service.**

Respectfully Submitted:

1. That the appellant was initially appointed as Excise & Taxation Constable vide order 17.12.2007. *(Copy of the appointment order is attached as Annexure A)*
2. That ever since his appointment the appellant have performed his duties as assigned to him with zeal and devotion and have never

*Filed to-day*  
*7/12/15*

given any chance of complaint to his superiors regarding his performance.

3. That while serving in the said capacity, the appellant was transfer to ETO Tank in 2014, however due to his domestic problems and enmity at his Village the appellant at the relevant time could not join his duties at Tank Office, therefore, the appellant requested for permission to allow him to continue his duties at Peshawar, accordingly transfer order was cancelled and the appellant was allowed to perform security duty at Directorate of Excise and Taxation, Peshawar, vide order dated 25.11.2014.
4. That thereafter the appellant was again transferred to Tank on 07.01.2015, the appellant duly obeyed the order and reported for duties at Tank and started performing his duties but due to some personal grudges of some of the officials, the appellant was not allowed to mark his attendance and was verbally directed to report to Peshawar Office. Thereafter the appellant came back to Peshawar and also made complaint against the harsh attitude of those officials. However instead of redressal of his grievances, the appellant was made a rolling stone, and was neither allowed to perform his duties at Peshawar nor at Tank, the appellant continuously visited at Tank Office but every time he was refused to allow him to perform his duties and directed him to report to Peshawar. It is pertinent to mention here that at the one hand the appellant was not allowed to join at the office of Excise and Taxation, Tank while on the other a letter dated 09.10.2014, was conveyed to the Respondent No. 2 containing the baseless and false report of long absence against the appellant. *(Copy of the letter dated 09.10.2014 is attached as Annexure B)*
5. That to the great surprise to the appellant that departmental proceedings were initiated against him on the baseless allegations of absence from duty, an absence notice were though issued but never communicated to the appellant. *(Copies of the absence notice dated 22.04.2015 and publication dated 15.05.2015 is attached as Annexure C & D)*
6. That thereafter it was learnt by the appellant that a partial inquiry has also been conducted and the inquiry officer recommended the appellant for major punishment, though neither any charge sheet/statement of allegations or any notice of inquiry was served upon the appellant, nor the appellant was associated with the inquiry proceedings.
7. That though a show cause notice dated 25.06.2015 was also issued but never communicated to the appellant, thereafter the appellant has been awarded the major penalty of Removal from service vide order dated 28.07.2015. *(Copies of the Show Cause Notice dated*

*25.06.2015 & order dated 28.07.2015, are attached as Annexure E & F)*

8. That feeling aggrieved from the order dated 28.07.2015, the appellant duly submitted his departmental appeal on 12.08.2015, however the departmental appeal has not been responded despite the lapse of 90 days statutory period hence the instant appeal. *(Copy of the departmental appeal is attached as Annexure G)*
9. That the order of removal from service is illegal unlawful against the law and facts hence liable to be set aside inter alia on the following grounds.

#### GROUND OF SERVICE APPEAL.

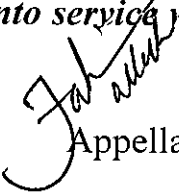
- A. That the appellant has not been treated in accordance with law hence his rights secured and guaranteed under the law are badly violated.
- B. That no procedure has been followed before the removal from services of the appellant have not been served with any charge sheet or statement of allegations or any absence notice, nor has he been associated with the inquiry proceedings, thus the whole proceedings are defective in the eye of law.
- C. That the appellant not been provided opportunity of personal hearing before awarding him the penalty of Removal from service hence condemned unheard.
- D. That no charge sheet or statement of allegations as prescribed under the law and rules has been served upon the appellant hence the appellant has not been provided fair opportunity to defend him self against the charges leveled.
- E. That no period of absence has been shown in the impugned order or show cause notice, the impugned order is thus not a speaking order and is violative of the section 24-A of the General Clauses Act.
- F. That the charge of Misconduct is also false and baseless besides the same charge is general in nature no specific instance /charge of misconduct has been shown/stated thus on this score alone it becomes crystal clear that the charges leveled against the appellant are baseless and are based on malafide intensions.
- G. That the appellant have never committed any act or omission which could be termed as misconduct albeit he has been removed from service. The appellant have never absented himself

willfully. Moreover the allegation of continuous long absence is also baseless and unfounded, the appellant duly reported for duty at Tank, however he was not allowed to perform his duties and was directed to report to Peshawar which he did. Thereafter the appellant was made a rolling stone solely due to personal grudges of some of the high officials.

- H. That the appellant have not been proper associated with the inquiry proceedings, statement of witnesses if any have never been recorded in his presence nor he have been allowed to cross examine those who may have deposed against the appellant.
- I. That the order of removal from service of the appellant is made with retrospective effect since no penalty can be imposed with retrospective effect as such the order impugned is liable to be set aside on this score alone. ***Reliance is placed on PLC 1993 C.S 308.***
- J. That the appellant have a long and spotless service career at his credit, the penalty imposed upon him is harsh and liable to be set aside.
- K. That the appellant belong to a poor family, and have a long family dependent upon him, due to the illegal removal from service his whole family is also suffering.
- L. That the appellant is young and energetic and wants to serve for his department albeit his removal from service.
- M. That the appellant is jobless since his illegal removal from service.

***It is, therefore, humbly prayed that on acceptance of this Departmental Appeal the order dated 28.07.2015, may kindly be set aside and the appellant may be reinstated into service with all back benefits.***

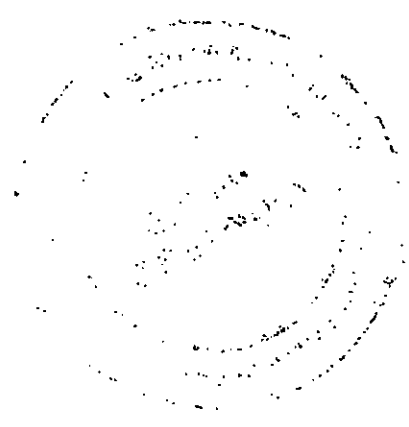
Through

  
Appellant 

**IJAZ ANWAR**  
Advocate Peshawar  
&

  
**SAJID AMIN**  
Advocate Peshawar





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

Appeal No. \_\_\_\_\_/2015

**Fahim Ullah**, Ex- Constable, Directorate General Excise & Taxation Khyber Pakhtunkhwa.

**(Appellant)**

VERSUS

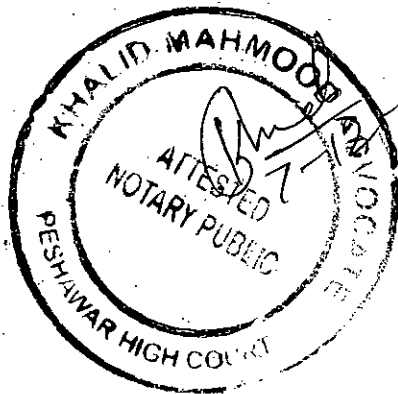
Government of Khyber Pakhtunkhwa through Secretary Excise and Taxation Department, Khyber Pakhtunkhwa Peshawar and others.

**(Respondents)**

**AFFIDAVIT**

I, **Fahim Ullah**, Ex- Constable, Directorate General Excise & Taxation, Khyber Pakhtunkhwa, Peshawar do hereby solemnly affirm and declare on oath that the contents of the above noted appeal are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.

*Fahim Ullah*  
**Deponent**



⑥

ANNEXURE "A"

ORDERPeshawar, dated the 17<sup>th</sup> December, 2007.

No. 5757 /Estb/XXXV-D-82. Mr. Fahim Ullah S/o. Niaz Muhammad Khan (Late) R/o. Mohallah Balukhel, Village & P.O. Badaber, Tehsil & District, Peshawar is hereby appointed as Excise & Taxation Constable on temporary basis in BPS-5 (Rs.2415-115-5865) with usual allowances as admissible under the rules, with immediate effect, against the quota reserved for deceased employee's son.

1- His appointment to the service shall be subject to the following terms and conditions:

- i) He will for all intents and purposes, be Civil Servant except for purpose of pension or gratuity. In lieu of pension and gratuity, he will be entitled to receive such amount contributed by them towards Contributory Provident Fund (C.P.F) along-with the contributions made by Govt to their accounts in the said fund, in the prescribed manner.
- ii) He will be governed by the N.W.F.P., Civil Servants Act, 1973, all the laws applicable to the Civil Servants and Rules made there-under.
- iii) He will, initially, be on probation for a period of two years extendable for a further period upto one year.
- iv) His services will be liable to termination at any time without assigning any reason thereof before the expiry of the period of probation, if his work during this period is not found satisfactory. In such an event, he will be given a month's notice of termination from service or one month's pay in lieu thereof. In case he wishes to resign at any time, a month's notice shall be necessary or in lieu thereof a month's pay shall be forfeited.
- v) He will produce medical fitness certificate from the Medical Superintendent, District Headquarter Hospital, Peshawar, as required under the rules.

3- If the above terms and conditions of appointment are acceptable to him, he should report for duty to the Excise & Taxation Office-II, Peshawar within 14 days for posting against the existing vacancy.

*M. Hussain*  
DIRECTOR GENERAL,  
EXCISE & TAXATION N-WFP,  
PESHAWAR.

No. 5758-61 /Estb./XXXV-D-82. Peshawar dated the 17<sup>th</sup> December, 2007.

Copy forwarded to :

- 1- Secretary to Govt. of NWFP, Excise & Taxation Department, Peshawar for information with reference to his office letter No.SO(Estb)E&T/1-39/2000/Vol:II/1189, dated 06-12-2007
  - 2- Excise & Taxation Officer-II, Peshawar.
  - 3- District Accounts Officer, Peshawar.
- ✓ Mr. Fahim Ullah S/o. Niaz Muhammad Khan (Late) R/o. Mohallah Balukhel, Village & P.O. Badaber, Tehsil & District, Peshawar.

*M. Hussain*  
DIRECTOR GENERAL,  
EXCISE & TAXATION N-WFP,  
PESHAWAR.

*Fahim Ullah*

7

ANNEXO "B"

B

**OFFICE OF THE EXCISE & TAXATION DISTRICT TANK**

NO. 87 /E & T

Dated: 9/10/2014

To,

Director General,  
Excise & Taxation

Khyber Pakhtunkhwa Peshawar.

**Subject: - LONG ABSENCE OF Mr.FAHEEM ULLAH CONSTABLE.**

**Memo:**

It is submitted that Mr.Faheem Ullah constable of this office is absent from duty since 21/01/2014 i.e. (Arrival date). He has been contacted on his cell no.0345-4808072 many time by the concern Inspector Akhtar Zaman to perform his duty. But to no avail.

He was contacted by the under signed many time but he refused to join the duty on the plea, that he belongs to Badabera District Peshawar and can not perform duty in District Tank.

You are therefore requested that disciplinary action may kindly be

initiated please against him for

*sd*

(ENGINEER ASGHAR WAZIR)

Excise & Taxation Officer,  
Motor Registering Authority  
Distt: Tank

Dated: 9/10/2014

Copy forwarded to:-

- 1) PS to Secretary for Excise & Taxation Khyberpakhtunkhwa for information please.
- 2) Deputy Director Excise & Taxation D I Khan for Information please and similar request mentioned above.

(ENGINEER ASGHAR WAZIR)

Excise & Taxation Officer,  
Motor Registering Authority  
Distt: Tank

*5/E*

*23/10/2014*  
*Stop this pay*

*NOF he has received pay for*  
*86 88 absent period please*  
*made in this*  
*signal*

*AETB*

*Steno.*  
*Put up DRA*

*28/10/2014*

*4*



GOVERNMENT OF KHYBER PAKHTUNKHWA  
OFFICE OF THE DEPUTY DIRECTOR, EXCISE & TAXATION,  
DI KHAN REGION, DI KHAN.

PH: 0966-9280269, Email: dddkhan@gmail.com

ANNEX "C"  
SE POI

No. <sup>328</sup> /DD(DI Khan Region)  
To

Dated 22/04/2015

NOTICE

Faheem Ullah S/O Niaz Muhammad,  
R/O Balu Khel Bala, Badabher,  
Peshawar

Subject: ABSENCE FROM OFFICIAL DUTY.

Memo:

Refer to the Director General, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar order No.8558/Estb/P.File dated 07-01-2015, wherein your detailment order No.121125-27/Esib/P.File dated 23-01-2014 had been withdrawn with immediate effect and you were directed to assume the charge of your duties in the office of ETO Tank.

You failed to take charge of your duties in the office as mentioned in ETO Tank letter No.200 dated 29-01-2015 and letter No 232/E&T dated 12-03-2015 addressed to the Director General, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar.

In this regard, The Director General, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar has appointed the undersigned as inquiry officer vide order No.11065/E&T dated 15-04-2015

You are hereby, directed to appear before the undersigned on 04-05-2015 at 10.00AM and explain your position that why disciplinary action under Khyber Pakhtunkhwa Civil Servants (Efficiency & Disciplinary) Rules, 2011 may not be initiated against you.

Furthermore, in case of non compliance, Ex-parte decision will be taken against you.

*[Signature]*  
(ENGR; EID BADSHAH)  
DEPUTY DIRECTOR EXCISE & TAXATION  
DI KHAN REGION, DI KHAN.  
dated: 22/04/2015

329-30  
No. /DD(DI Khan Region)  
Copy for information to:

- 1) Director General Excise & Taxation Khyber Pakhtunkhwa Peshawar.
- 2) Excise & Taxation Officer, Tank.

*[Signature]*  
(ENGR; EID BADSHAH)  
DEPUTY DIRECTOR EXCISE & TAXATION  
DI KHAN REGION, DI KHAN.

*[Handwritten mark]*

Deputy Assistant Director, 15/5/2015

ڈپٹی ڈائریکٹر ایگزیکٹو، کنٹرول ڈیپارٹمنٹ، نارکائیٹکس، ڈیپارٹمنٹ

## نوٹس اظہار وجوہ

سرکار بنام فہیم اللہ ایکسٹریکٹڈ ٹیکسیشن کا ٹیکسٹائل ٹانک

بعض

- 1۔ یہ کہ ڈائریکٹر جنرل ایکسٹریکٹڈ ٹیکسیشن اینڈ نارکائیٹکس کنٹرول ڈیپارٹمنٹ پشاور نے بذریعہ آرڈر نمبر 8558/Estb./p.File مورخہ 23/01/2014 آپ کا Detailment order واپس لیتے ہوئے آپ کو ایکسٹریکٹڈ ٹیکسیشن آفس ٹانک میں ڈیوٹی سرانجام دینے کی ہدایت کر دی تھی۔
- 2۔ یہ کہ ایکسٹریکٹڈ ٹیکسیشن آفس ٹانک کی چھٹی نمبرات 200 مورخہ 29/01/2015 اور نمبر 232/E&T مورخہ 12/03/2015 کے مطابق آپ اپنی ڈیوٹی پر حاضر ہونے سے قاصر رہے ہیں۔
- 3۔ یہ کہ اس ضمن میں ڈائریکٹر جنرل ایکسٹریکٹڈ ٹیکسیشن اینڈ نارکائیٹکس کنٹرول ڈیپارٹمنٹ پشاور نے اپنے حکم نامہ نمبر 11065/E&T مورخہ 15/04/2015 کے تحت زبردستی کو انکوائری آفیسر مقرر کر دیا۔
- 4۔ یہ کہ زبردستی آپ کو دفتر ہڈا کی چھٹی نمبر (DIKHAN Region) 328/DD مورخہ 22/04/2015 کے ذریعے مورخہ 04/05/2015 بوقت 10:00 بجے صبح دفتری اوقات میں پیش ہو کر اپنی صفائی کا موقع فراہم کر چکا ہے جس کے باوجود آپ دفتر آنے میں ناکام رہے ہیں۔
- 5۔ یہ کہ یہ بات روز روشن کی طرح بالکل واضح اور عیاں ہے کہ آپ کی دفتر سے طویل غیر حاضری سے متعلق محکمہ کی کارروائی آپ کے علم میں ہے پھر بھی اپنی صفائی میں محکمہ سے کسی بھی طرح کی غلط و کتابت کرنے یا ذاتی طور پر ڈیوٹی پر حاضر ہونے سے گریزاں ہیں۔
- 6۔ یہ کہ آپ کو آخری بار اطلاع دی جاتی ہے کہ آپ کے اپنے مفاد میں ہے کہ آپ نوٹس ہڈا کی اشاعت سے چودہ (14) یوم کے اندر زبردستی کے دفتر میں پیش ہو کر اپنی طویل غیر حاضری کے دفاع میں تحریری متوقف پیش کرنیں ورنہ ایک طرفہ کارروائی عمل میں لائی جائے گی جس میں آپ کو ملازمت سے برخاست کرنا بھی شامل ہے تاکید ہے۔

انجینئر مید بادشاہ

ڈپٹی ڈائریکٹر ایکسٹریکٹڈ ٹیکسیشن نارکائیٹکس کنٹرول

ڈی آئی خان ریجن ڈیپارٹمنٹ

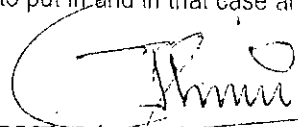
ڈی آئی خان

(10) ANNEX "E"

SHOW CAUSE NOTICE

Under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, you Mr. Faheem Ullah, Excise & Taxation Constable (BPS-05) office of Excise & Taxation Officer, Tank are hereby served as follows:

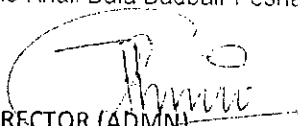
1. That as reported by the Excise & Taxation Officer, Tank, vide his letter No. 86/E&T, dated. 09.10.2014 you remained absent from your official duties since 21.01.2014. And when contacted by the concerned inspector Mr. Akhtar Zaman to perform your duty, you refused to join duty stating that you belong to Peshawar District and cannot perform duty in District Tank. The ETO Tank therefore, requested disciplinary action against you. Again you were found absent by Anti-corruption team during its visit to ETO Office Tank and the ETO concerned called explanation vide his letter No. 111/E&T, dated. 21.10.2014. However, you didn't bother to reply. Meanwhile, a complaint was received against you and in order to escape you approached for your transfer to Peshawar. Accordingly you were called to perform duty in this Directorate vide order No. 12125-27, dated. 23.10.2014 and further directed to perform security duty vide this Office Order No. 12739-40, dated, 25.11.2014, however, due to irresponsible attitude and frequent absences, the then Director Admin(E&T) was constrained to cancel your order and send you back to ETO Office Tank vide his order No. 8558, dated. 07.01.2015.
2. The Excise and Taxation Officer, Tank again complained to the Deputy Director, Excise and Taxation South reporting that you are still absent and requested disciplinary action against you under the E&D Rules, 2011. Resultantly, the Deputy Director, Excise and Taxation D.I.Khan region was appointed to conduct a comprehensive formal inquiry in case of your long absence.
3. The Inquiry has been completed and report received from the Inquiry Officer vide his letter No. 610/DD(DIKhan), dated. 22.06.2015 wherein you have been held to be extremely casual and ridiculed the official duty time and again, you have further been found not to be interested in your job and has ceased to be efficient. The Inquiry Officer further declared you to be a perpetual nuisance for the department and recommended your termination from service.
4. In view of the above as well as your service record, I am satisfied that you have committed the following acts/omission specified in Rule 3 of the said rules:
  - (a) Guilty of Habitually absenting yourself from duty without prior approval of leave.
  - (b) Guilty of misconduct;
5. As a result thereof, I, as the Competent Authority, have tentatively decided to initiate departmental proceedings for imposition of Major penalty upon you including removal from service, as well as recovery of all the service benefits received by you during the period of your unauthorized absence.
6. You are, therefore, required to show cause as to why the aforesaid penalties should not be imposed upon you and also intimate whether you desire to be heard in person.
7. If no reply to this notice is received within seven (07) days or not more than fifteen (15) days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

  
DIRECTOR (ADMN),  
EXCISE TAXATION AND  
NARCOTICS CONTROL DEPARTMENT  
KHYBER PAKHTUNKHWA, PESHAWAR.  
Dated Peshawar the 25/06/2015.

Endst: No. 562-65/Estb/P.File

Copy forwarded for information to:-

1. Deputy Director, Excise, Taxation and Narcotics Control Department, D.I.Khan Region.
2. Excise and Taxation Officer, Tank.
3. Faheem Ullah s/o Niaz Muhammad r/o Mohallah Balo Khail Bala Badbair Peshawar.

  
DIRECTOR (ADMN),  
EXCISE TAXATION AND  
NARCOTICS CONTROL DEPARTMENT  
KHYBER PAKHTUNKHWA, PESHAWAR.



(11)

ANNEX "F"



**DIRECTORATE GENERAL EXCISE TAXATION AND  
NARCOTICS CONTROL DEPARTMENT  
KHYBER PAKHTUNKHWA.**

*Auqaf Complex, Shami Road, Peshawar Cantt. Phone Nos. 091-9212260-9211209.*

ORDER

Dated Peshawar the 28/07/2015.

No. 1044 /Estb/XXXV-D-82. Whereas, Mr. Faheem Ullah, Constable, Office of the Excise and Taxation Officer, Tank remained absent from his official duties since 21.01.2014 as reported by the Excise and Taxation Officer, Tank and when contacted by the concerned inspector to perform his duty, he reportedly refused to join duty stating that he belongs to Peshawar District and cannot perform duty in District Tank. The ETO Tank therefore, requested disciplinary action against him. Again he was found absent by Anti-corruption team during its visit to ETO Office Tank and the ETO concerned called his explanation vide letter No. 111/E&T, dated. 21.10.2014. However, he didn't bother to reply. Meanwhile, due to a complaint against him he managed to get himself transferred to Peshawar. Accordingly he was called to perform duty in this Directorate vide order No. 12125-27, dated. 23.10.2014 and further directed to perform security duty vide this Office Order No. 12739-40, dated, 25.11.2014, however, due to irresponsible attitude and frequent absences, the then Director Admin(E&T) was constrained to cancel his order and send him back to ETO Office Tank vide his order No. 8558, dated. 07.01.2015.

And whereas, the Excise and Taxation Officer, Tank again complained and requested disciplinary action against him, under the E&D Rules, 2011. Resultantly, the Deputy Director, Excise and Taxation D.I.Khan region was appointed to conduct a comprehensive formal inquiry in case of his long absence. The Inquiry stands completed and report received from the Inquiry Officer vide his letter No. 610/DD(DIKhan), dated. 22.06.2015 wherein Mr. Faheem Ullah, Excise & Taxation Constable have been held to be extremely casual and ridiculed the official duty time and again. He has further been found not to be interested in his job and has ceased to be efficient. The Inquiry Officer further declared him to be a perpetual nuisance for the department and recommended your termination from service.

As a result thereof a notice to the said Mr. Faheem Ullah, for misconduct was issued vide this Office Endst: No. 562-65, dated. 25.06.2015 requiring him to show cause within seven(07) days or not more than fifteen(15) days as to why major penalty of removal from service may not be imposed upon him. However, despite the lapse of the deadline on 10.07.2015, neither he turned up nor sent any reply, therefore, I Muhammad Javed Marwat, Director General Excise and Taxation Khyber Pakhtunkhwa, Peshawar, as competent authority, am satisfied that circumstances exist that renders it necessary to impose major penalty of removal from service upon the said Mr. Faheem Ullah under Rule 4(1)(b)(iii) of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 with immediate effect in the best public interest. Accordingly, all the service benefits, if any, received by the official from the date of his absence (i.e., 21.01.2014) are declared illegal and recoverable in favour of the Government of Khyber Pakhtunkhwa Excise, Taxation and Narcotics Control Department.

DIRECTOR GENERAL,  
EXCISE, TAXATION AND  
NARCOTICS CONTROL DEPARTMENT,  
KHYBER PAKHTUNKHWA, PESHAWAR.

No. 1045-51 /Estab/XXXV-D-82,

Copy forwarded for information to:-

1. PS to Secretary to Government of Khyber Pakhtunkhwa, Excise, Taxation & Narcotics Control Department, Peshawar.
2. Accountant General, Khyber Pakhtunkhwa Fort Road, Peshawar
3. District Accounts Officer, Tank.
4. Deputy Director Excise and Taxation, D.I.Khan Region.
5. Excise and Taxation Officer, Tank.
6. Faheem Ullah s/o Niaz Muhammad r/o Mohallah Balo Khail Bala Badbair Peshawar.
7. Personal File.

DIRECTOR GENERAL,  
EXCISE, TAXATION AND  
NARCOTICS CONTROL DEPARTMENT,  
KHYBER PAKHTUNKHWA, PESHAWAR.



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ANNEX "G" 4

To

The Secretary,  
Excise and Taxation Department,  
Khyber Pakhtunkhwa, Peshawar.

Through: Proper Channel

Subject: *Departmental Appeal against the order dated 28.07.2015, whereby the applicant has been terminated from service.*

Prayer in Departmental Appeal.

*On acceptance of this Departmental Appeal order dated 28.07.2015, may kindly be set aside and the undersigned may be reinstated into service with all back benefits.*

Respected Sir,

I very humbly submit the following few lines for your kind and sympathetic consideration:

1. That I was initially appointed as Excise & Taxation Constable on 17.12.2007.
2. That ever since from my appointment I have performed my duties as assigned to me with zeal and devotion and have never given any chance of complaint to my superiors regarding my performance.
3. That while serving in the said capacity, I was transfer to ETO Tank vide order dated 09.10.2014, however due to my domestic problems and enmity at my Village I at the relevant time could not join my duties at Tank Office, therefore, I requested for permission to allow me to continue my duties at Peshawar, accordingly my transfer order was cancelled and I was allowed to perform my duties at Peshawar.
4. That thereafter I was again transferred to Tank, I duly obeyed the order and reported for duties at Tank and started performing my duties but due to some personal grudges of some of the officials I was not allowed to mark my attendance and was verbally directed to report to Peshawar Office. Thereafter I came back to Peshawar and also made complaint against the harsh attitude of those officials. However instead of redressal of my grievances, I was made a rolling stone, and was neither allowed to perform my duties at Peshawar nor at Tank. I continuously visited at Tank Office but every time I visited there they would refused to allow me to perform my duties and would direct me to report to Peshawar.

- 5. That to my great surprise departmental proceedings were initiated against me on the baseless allegations of absence from duty and without serving upon me any charge sheet and statement of allegations, a partial inquiry was conducted and I thereafter a show cause notice was though issued but never communicated to me.
- 6. That lastly I was awarded the major penalty of Removal from service vide order dated 28.07.2015.
- 7. That the order of my removal from service is illegal unlawful against the law and facts hence liable to be set aside inter alia on the following grounds.

**GROUND OF DEPARTMENTAL APPEAL.**

- A. That I have not been treated in accordance with law hence my rights secured and guaranteed under the law are badly violated.
- B. That no procedure has been followed before the termination of my services I have not been served with any absence notice, charge sheet, nor any proper inquiry has been conducted, thus the impugned order is illegal and void abenatio.
- C. That I have not been provided opportunity of personal hearing before awarding me the penalty hence I have been condemned unheard.
- D. That no charge sheet or statement of allegations as prescribed under the law and rules has been served upon me hence I have not been provided fair opportunity to defend my self against the charges leveled.
- E. That no period of absence has been shown in the impugned order or show cause notice, the impugned order is thus not a speaking order and is violative of the section 24-A of the General Clauses Act.
- F. That the charge of Misconduct is also false and baseless besides the same charge is general in nature no specific instance /charge of misconduct has been shown/stated thus on this score alone it becomes crystal clear that the charges leveled against me are baseless and are based on malafide intensions.




14

- G. That I duly applied for the post of Excise & Taxation Constable and was appointed by the competent authority after observing all codial formalities. I duly took over charge of my post, performed my duties for more then 7 years, as such valuable rights have been created in my favour the same cannot be taken away illegally with one stroke of pen.
- H. That I have never committed any act or omission which could be termed as misconduct albeit I have been terminated from service. I have never absented my self willfully. Moreover the allegation of continuous long absence is also baseless and unfounded.
- I. That I have not been proper associated with the inquiry proceedings, statement of witnesses if any have never been recorded in my presence nor I have been allowed to cross examine those who may have deposed against me.
- J. That the order of my removal from service is made with retrospective effect since no penalty can be imposed with retrospective effect as such the order impugned is liable to be set aside on this score alone.
- K. That I belong to a poor family, I have a long family dependent upon me, due to the illegal removal from service my whole family is also suffering.
- L. That I am jobless since my illegal removal from service.
- M. That I have a long and spotless service career at my credit, the penalty imposed upon me is harsh and liable to be set aside.

*It is, therefore, humbly prayed that on acceptance of this Departmental Appeal the order dated 28.07.2015, may kindly be set aside and the undersigned may be reinstated into service with all back benefits.*

Yours Obediently



  
FAHEEM ULLAH  
EX- Constable,  
Directorate General Excise & Taxation  
Khyber Pakhtunkhwa  
Peshawar.

Dated: \_\_\_ / 08 / 2015

**POWER OF ATTORNEY**

In the Court of CPK Service Tribunal Peshawar  
Fadim Ullah

} For  
} Plaintiff  
} Appellant  
} Petitioner  
} Complainant

**VERSUS**

Govt of CPK and others

} Defendant  
} Respondent  
} Accused  
}

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

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

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

→ Yasir Saleem Adv.

→ Adv Sajid Amin H. Ullah

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

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

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

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

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

Sajid Amin  
Ullah

Sajid Amin  
Ullah

Ijaz Anwar  
Advocate High Courts & Supreme Court of Pakistan

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

Service Appeal No. 1369/2015.

Fahim Ullah, Ex-Constable, Directorate General, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar.

**(Appellant)**

**VERSUS**

Government of Khyber Pakhtunkhwa, & others.

**(Respondents)**

**I N D E X**

<b>S.No</b>	<b>Description of documents</b>	<b>Annexure</b>	<b>Pages</b>
01	Para wise Comments.		1-5
02	Affidavit		6
03	Copy of inquiry report.	"A"	7
04	Absence Notices	"B", "C", "D", "E" & "F"	8-12
05	Copy of Publication	"G"	13
07	Copies of Show cause notice & Registered post receipts are attached.	"H" & "I"	14-15
08	Copies of removal from service order No. 1044/Estb/XXXV-D-82 dated. 08-07-2015 and register post receipt are attached.	"J" & "K"	16-17

**The Respondents**

Through counsel.



**S. Hamad Ali Shah**

(Advocate)

Supreme Court of Pakistan

Legal Advisor,

Excise, Taxation &

Narcotics Control Department

Khyber Pakhtunkhwa

①

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

**Service Appeal No. 1369/2015.**

Fahim Ullah, Ex-Constable, Directorate General, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar.

**(Appellant)**

**VERSUS**

1. Government of Khyber Pakhtunkhwa, through Secretary, Excise & Taxation Department Khyber Pakhtunkhwa, Peshawar.
2. Director General Excise, Directorate of Excise, Taxation and Narcotics Control Department, Khyber Pakhtunkhwa, Peshawar.
3. Director (Admn) Excise and Taxation, Excise, Taxation and Narcotics Control Department Khyber Pakhtunkhwa, Peshawar.

**(Respondents)**

**Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated. 28.07.2015, whereby the appellant has been awarded the major Punishment of Removal from Service, against which his departmental appeal has not been responded despite the lapse of 90 days statutory period.**

**REPLY ON BEHALF OF RESPONDENT NO-2**

**Respectfully Sheweth.**

**Preliminary objections.**

1. That, the appellant has no cause of action.
2. That, the appellant has no locus standi.
3. That, the appellant has not come to Tribunal with clean hand.
4. That, the appeal is bad for non-joinder and mis-joinder of unnecessary parties.
5. That, the appellant has been estopped by his own conduct to file the appeal-in-hand.
6. That, the appeal is time barred.

**FACT.**

2

1. Para-1 is correct.
2. Para-2 is incorrect as sufficient material exists on record which negates the claim of the appellant.
3. Regarding Para-3 & Para-4, it is correct to the extent that the appellant was transferred to ETO Office Tank on 21.01.2014 and the primary reason for his transfer was his unpaid salary and non-availability of the post of constable in Peshawar. On 26.08.2014, a complaint was received from one Mr. Wali Khan charging the said Mr. Fahim Ullah, Constable for appropriation of Rs. 35,000/- from him on account of his Flying coach No. AJK-861. In that case the Regional Deputy Director, Excise and Taxation D.I.Khan was directed to conduct a fact finding inquiry vide this Office letter NO. 11226/E&T, dated. 15.09.2016. On 09.10.2014 Engineer Asghar Wazir, ETO Tank reported vide his letter No. 86/E&T, dated. 09.10.2014 the long absence of Mr. Fahim Ullah since 21.01.2014(Arrival date) and requested taking disciplinary action against him. It was particularly during the complaint & inquiry phase that Mr. Fahim Ullah constable disappeared and in order to escape the complainant as well as the inquiry proceedings, he absented himself from official duty without any approval or intimation. However, still the then Director General Excise and Taxation, Khyber Pakhtunkhwa extended favor to him and directed him to work in his office and security duty with the Director Admn: was assigned to him. Since he was again found to be very casual therefore upon verbal directions of the Director Admn: his duty order in Directorate was cancelled and withdrawn on 07.01.2015. The allegation of the appellant that he was made a rolling stone, and was neither allowed to perform his duties at Peshawar nor at Tank is baseless having no recorded proof. He could have complained this but he never bothered to attend the office either here in the Directorate nor there in the ETO Office Tank. **(Copy of inquiry report is Annexed-"A" and absence Notices are Annexed-"B", "C", "D", "E" & "F")**
5. Regarding Para-5 the allegation of unauthorized absence from duty was not false as the Inquiry Officer in case of appropriation of Rs. 35,000/- also summoned him three(03) times but he did not attend his office as well. The inquiry Officer in his recommendation also recommended proceedings against him under the E&D Rules, 2011. Since both the Excise and Taxation Officer, Tank and the Regional Deputy Director Excise and Taxation reported his absence, therefore, regular departmental proceedings were initiated against him and Engineer Eid Badshah, Deputy

Director Excise and Taxation D.I.Khan Region was entrusted to conduct inquiry into the long absence of the appellant.

3

6. Regarding Para-6 it is incorrect that a partial inquiry was conducted and that he was not associated with the inquiry proceedings. To the contrary the Inquiry Officer summoned him on registered post at his home address and when he failed to appear before him, a newspaper proclamation was also published in the Daily Aaj dated. 15.05.2015 and the said Fahim Ullah constable personally appeared before the Inquiry officer on 27.05.2015 and committed that he will be dutiful in future. However, the inquiry officer went on to state that the appellant did not submit written statement and continued to stay absent till 22.06.2015. The Inquiry Officer clearly stated in the Inquiry Report that keeping in view Mr. Faheem Ullah whimsical nature and official material/documents on record the findings are as follows:-
- a. He is extremely casual nature official and has ridiculed the official duty time and again.
  - b. He has neither proper grounds nor interest to justify his long absence.
  - c. He is not interested in the job and ceased to be an efficient official.

The inquiry officer in his concluding note stated that Mr. Fahim Ullah Constable has become a ***perpetual nuisance for the department*** and shall be terminated from service since 21.01.2014.

Therefore, the statement that the allegations against him were baseless or notices were not communicated to the appellant are absolutely misleading and without any proof. **(Copy of Publication is attached as Annexed-"G")**

7. Regarding Para-7 the show cause notice dated. 25.06.2015 and removal from service order No. 1044/Estb/XXXV-D-82, dated. 28-07-2015 were duly sent on his home address. **(Copies of Show cause notice, registered post receipt along with removal from service order and registered post receipt are attached as Annexed-"H", "I", "J" & "K")**
8. Pertains to record.
9. Regarding Para-9 the order of removal from service was preceded by a lengthy process and based on facts and rules.

### **G R O U N D S.**

- A. The appellant's own conduct throughout has rendered him liable to be proceeded against and no right of the appellant has ever been violated

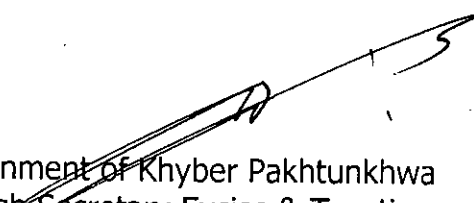



- (4)
- B. Incorrect many notices and two (02) show cause notices were issued including a newspaper proclamation.
  - C. He was provided many opportunities for personal hearing but he deliberately avoided and he has not been condemned unheard as the inquiry officer certified that he appeared before him. So it is incorrect that he either didn't know or has been condemned unheard.
  - D. The procedure prescribed in the E&D Rules has been followed.
  - E. Incorrect. The absence period has been shown.
  - F. The charge of misconduct is genuine and not based on any malafide intentions rather it was a bonafide act of the lawful authority in a lawful manner.
  - G. Absence without leave or not obeying the lawful orders of the competent authority amounts to misconduct and the entire case is that of willful absence and disobedience of lawful orders. The allegation of personal grudges of some high officials is unlogical as what grudges could a high ranking official have with a person of appellant's level. It is again just a baseless blame without any proof.
  - H. That the appellant has been provided every opportunity but he deliberately avoided each and every opportunity and he really made a joke of Govt: service, rules and procedures.
  - I. Incorrect, the impugned order is very much legal.
  - J. The personal file of the official speaks loads of his conduct and service career and the penalty imposed upon him is not excessive.
  - K. No comments.
  - L. As per paras mentioned above.
  - M. His joblessness is due to his own wrongdoings.


In view of the above it is prayed that the departmental appeal of the appellant is meritless and he is estopped from seeking remedy due to his own conduct as such the instant appeal is only a poor attempt to mislead the

5


honorable Tribunal. It is nothing except wastage of time and efforts.  
Therefore the instant appeal may be dismissed with costs.

  
Government of Khyber Pakhtunkhwa  
through Secretary Excise & Taxation  
Department.  
**(Respondent No. 1)**

  
Director General,  
Excise & Taxation  
Khyber Pakhtunkhwa  
**(Respondent No. 2)**

  
Director (Admin)  
Excise & Taxation  
Khyber Pakhtunkhwa  
Peshawar.  
**(Respondent No. 3)**

Through Counsel.

  
**S. Hamad Ali Shah**  
(Advocate)  
Supreme Court of Pakistan  
Legal Advisor,  
Excise, Taxation &  
Narcotics Control Department  
Khyber Pakhtunkhwa  
Peshawar.

(6)

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

**Service Appeal No. 1369/2015.**

Fahim Ullah, Ex-Constable, Directorate General, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar.

**(Appellant)**

**VERSUS**

Government of Khyber Pakhtunkhwa, & others.


**(Respondents)**

**AFFIDAVIT**

I, **Arshad Javed** Inspector (Litigation) section, of this Directorate General, Excise, Taxation & Narcotics Control Department Khyber Pakhtunkhwa Peshawar, do hereby solemnly affirm and verify on oath that the contents of accompanying "**Para wise Comments**" are true and correct to the best of my knowledge and belief, and nothing has been kept concealed or misstated.

THE DEPONENT.

**Identified by:**



**S. Hamad Ali Shah**  
(Advocate)  
Supreme Court of Pakistan  
Legal Advisor,  
Excise, Taxation &  
Narcotics Control Department  
Khyber Pakhtunkhwa  
Peshawar.



Annexure  
A  
27

**ENQUIRY REPORT**

**Subject: ABSENCE FROM OFFICIAL DUTY.**

Reference Directorate General Excise, Taxation & Narcotics Control Khyber Pakhtunkhwa letter No.11065/E&T, dated; 15<sup>th</sup> April 2015 (**Annex A**), wherein the undersigned had been directed to conduct a comprehensive formal enquiry against Mr. Faheem Ullah, Constable (BS-05) of Excise, Taxation & Narcotics Control Office Tank, for his long absence.

**Charges:** Excise, Taxation & Narcotics Control Officer Tank vide his office letter No.87/E&T, dated;09/10/2014 (**Annex B**), reported to Directorate General Excise, Taxation & Narcotics Control Khyber Pakhtunkhwa the absence report of Mr. Mr.Faheem Ullah, Constable (BS-05) as follows.

"Mr.Faheem Ullah constable of this office is absent from duty since 21/01/2014 i.e.(Arrival date).He has been contacted on his cell no.0345-4808072 many time by the concern Inspector Akhter zaman to perform his duty.But to no avail.He was contacted by the undersigned(ETO Tank) many time but he refused to join duty on the plea, that he belongs to Badabera District Peshawar and can not perform duty in district Tank"

**Proceedings:** Mr.Faheem Ullah Constable (BS-05) was summoned on registered post on his postal address vide this office letter No.328/DD (DI Khan Region), dated;22/04/2015 (**Annex C**) to appear before the undersigned for the subject enquiry. But he failed to appear and explain his position. Consequently, a proclamation was issued in the daily Aaj,dated;15/05/2015 (**Annex D**), directing him to appear and submit written statement in defense of his long absence from Excise, Taxation & Narcotics Control Office Tank within fourteen (14) days of issuance of proclamation. Consequently, Mr.Faheem Ullah Constable (BS-05) appeared before the undersigned on 27/05/2015 and verbally committed that be duty full in future .But he absented himself once again from Excise, Taxation & Narcotics Control Office Tank after an informal appearance for only one(01)day on,dated;28/05/2015.He also did not submit his written reply for his long absence in the subject enquiry to the undersigned to date, i.e 22/06/2015.

**Findings:** Keeping in view of Mr.faheem Ullah's constable (BS-05) whimsical nature and official materials/documents on record, the findings are as follows:

- 1) He is extremely casual nature official and has ridiculed the official duty time and again.
- 2) He has neither proper grounds nor interest to justify his long absence.
- 3) He is not interested in the job and ceased to be an efficient official.

**Recommendation:** In view of the above, Mr.faheem Ullah constable (BS-05) has become a perpetual nuisance for the Department and he shall be terminated from service since 21/01/2014

(ENGR. EID BADSHAH)  
DEPUTY DIRECTOR EXCISE, TAXATION & NARCOTICS CONTROL DEPARTMENT  
DI KHAN REGION, DI KHAN

22/6/15

Approved  
17/5/16



*P B 7*  
*Tamkeen* (32)

(8)

**OFFICE OF THE EXCISE & TAXATION DISTRICT TANK**

NO. 86 /E & T

Dated: 9/10/2014

To,

Director General,  
Excise & Taxation  
Khyber Pakhtunkhwa Peshawar.

**Subject: - LONG ABSENCE OF Mr.FAHEEM ULLAH CONSTABLE.**

**Memo:**

It is submitted that Mr.Faheem Ullah constable of this office is absent from duty since 21/01/2014 i.e. (Arrival date). He has been contacted on his cell no.0345-4808072 many times by the concerned Inspector Akhtar Zaman to perform his duty. But to no avail.

He was contacted by the under signed many times but he refused to join the duty on the plea, that he belongs to Badabera District Peshawar and can not perform duty in District Tank.

You are therefore requested that disciplinary action may kindly be initiated please against him.

(ENGINEER ASGHAR WAZIR)

Excise & Taxation Officer,  
Motor Registering Authority

Distt: Tank

Dated: 9/10/2014

NO. 86-88 /E & T

Copy forwarded to:-

- 1) PS to Secretary for Excise & Taxation Khyberpakhtunkhwa for information please.
- 2) Deputy Director Excise & Taxation D I Khan for Information please and similar request mentioned above:

DIAN 6723

17/10/2014

(ENGINEER ASGHAR WAZIR)

Excise & Taxation Officer,  
Motor Registering Authority

Distt: Tank

*DD concerned to submit a fact finding report/inquire*

*Attended*  
*17/5/16*

DIRECTOR (ADMN)	
DIRECTOR (REV)	
DEPUTY DIR (ADMN)	
DEPUTY DIR (IT)	
DEPUTY DIR (REGIST)	
ANALYST	
ACCOUNTS	
TRAINING	
OFFICE	
SECRETARY	
DIRECTOR GENERAL	

*DD*

*17/10/14*





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Ammeene

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**OFFICE OF THE EXCISE & TAXATION DISTRICT TANK**

NO. \_\_\_\_\_ /E & T

Dated: 18/12/2014

From: Excise & Taxation Officer,  
District Tank.

To, Deputy Director,  
Excise & Taxation  
D.I.Khan Region D.I.Khan..

**Subject: - LONG ABSENCE OF Mr.FAHEEM ULLAH CONSTABLE.**

**Memo:**

Reference Assistenant Director Admn Anti-Corruption Estt Khyber Pakhtunkhwa  
letter No.727778/ACE, Dated 26/08/2014,  
Director General Excise & Taxation letter No.11534 Dated 29/09/2014,  
Deputy Director Excise & Taxation D I Khan Region letter No.732/DD  
Dated.14/10/2014,letter No.746-47/DD Dated 15/10/2014.and final Notice  
No.772/DD Dated 28/10/2014.and this office letter No.119-121 Dated 30/10/2014.

It is submitted that Mr Fahim ullah constable of this office failed to give any reply  
and is still absent from the office. It shows that he is not interesting in the job.  
Therefore, it is requested that action may please be initiated under E & d rules  
2011. e against him.

Excise & Taxation Officer,  
Motor Registering Authority  
Distt: Tank

Dated: 18/12/2014

NO. 158-161 /E & T

Copy forwarded to:-

- 1) Director General Excise & Taxation Khyber Pakhtunkhwa Peshawar for Information  
please and similar request mentioned above.
- 2) PS to Secretary for Excise & Taxation Khyberpakhtunkhwa Peshawar for information  
please .

Handwritten: 7880  
12/11/2015

Excise & Taxation Officer,  
Motor Registering Authority  
Distt: Tank

Handwritten: Attended

Handwritten: 12/5/16

SEARCHED	
SERIALIZED	
INDEXED	
FILED	
NOV 18 2014	
TANK	

Handwritten: 12/11

11  
1E  
Announcement  
Dated: 25/07/15

11

From: Excise & Taxation Officer TANK

TO,

Mr. Faheem-Ullah (Excise & Taxation Constable)

Subject: Willfull Absence From Official Duty.

Reference to the subject cited above.

It is stated that your order vide No 121125-27/Estb/P. file Dated 23-10-2014, has been cancelled and withdrawn by the competent authority. i.e Director General Excise & Taxation Khyber Pakhtunkhwa vide NO 8558/Estb /P. File dated 07-01-2015 in the best public interest. But you failed to take charge of your duty up till now in the office of the undersigned.

Therefore, you are hereby directed to report and to the office of undersigned for official duty, failing which strict disciplinary proceeding under Khyber Pakhtunkhwa efficiency and disciplinary rules 2011 will be proposed.

K  
08/02/2015

NO 201-03

Dated: 29/01/2015

BE/10

EXCISE & TAXATION OFFICER  
MOTOR REGISTERING AUTHORITY  
DISTRICT TANK

COPY TO:

1. PA To Director General Excise & Taxation Khyber Pakhtunkhwa for information please with reference to his order No 8558/Estb/P. file Dated 07-01-2015
2. Deputy Director Excise & Taxation DIKhan Region
3. P. File

EXCISE & TAXATION OFFICER  
MOTOR REGISTERING AUTHORITY  
DISTRICT TANK

Attended

17/5/16





GOVERNMENT OF KHYBER PAKHTUNKHWA  
OFFICE OF THE DEPUTY DIRECTOR, EXCISE & TAXATION,  
DI KHAN REGION, DI KHAN.

Ph# 0966-9280269, Email: dddikhan@gmail.com

6 F 23  
Amir Khan

12

18

No. 328 /DD(DI Khan Region)

Dated 22/04/2015

NOTICE

To  
Faheem Ullah S/O Niaz Muhammad,  
R/O Balu Khel Bala, Badabher,  
Peshawar.

Subject: ABSENCE FROM OFFICIAL DUTY.

Memo:  
Refer to the Director General, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar order No.8558/Estb/P.File dated 07-01-2015, wherein your detailment order No.121125-27/Estb/P.File dated 23-01-2014 had been withdrawn with immediate effect and you were directed to assume the charge of your duties in the office of ETO Tank.

You failed to take charge of your duties in the office as mentioned in ETO Tank letter No.200 dated 29-01-2015 and letter No.232/E&T dated 12-03-2015 addressed to the Director General, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar.

In this regard, The Director General, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar has appointed the undersigned as inquiry officer vide order No.11065/E&T dated 15-04-2015.

You are hereby, directed to appear before the undersigned on 04-05-2015 at 10.00AM and explain your position that why disciplinary action under Khyber Pakhtunkhwa Civil Servants (Efficiency & Disciplinary) Rules, 2011 may not be initiated against you.

Furthermore, in case of non compliance, Ex-parte decision will be taken against you.

*[Signature]*  
(ENGR; EID BADSHAH)  
DEPUTY DIRECTOR EXCISE & TAXATION  
DI KHAN REGION, DI KHAN.  
dated; 22/04/2015

329-30  
No. \_\_\_ /DD(DI Khan Region)  
Copy for information to:

- 1) Director General Excise & Taxation Khyber Pakhtunkhwa Peshawar.
- 2) Excise & Taxation Officer, Tank.

*Attended*

*[Signature]*  
17/5/16

*[Signature]*  
(ENGR; EID BADSHAH)  
DEPUTY DIRECTOR EXCISE & TAXATION  
DI KHAN REGION, DI KHAN.

پیش  
رہ  
متعلق  
رہے  
اشاء  
تحریر  
ہے

Deily Aaj daria, 15/5/2015

13

## نوٹس اظہار وجوہ

سرکار بنام فہیم اللہ ایکسٹرا اینڈ ٹیکسیشن کانسٹیبل ٹانک بعنوان

- 1- یہ کہ ڈائریکٹر جنرل ایکسٹرا اینڈ ٹیکسیشن اینڈ نارکائیکس کنٹرول ڈیپارٹمنٹ پشاور نے بذریعہ آرڈر نمبر 8558/Estb./p.File مورخہ 23/01/2014 آپ کا Detailment order واپس لیتے ہوئے آپ کو ایکسٹرا اینڈ ٹیکسیشن آفس ٹانک میں ڈیوٹی سرانجام دینے کی ہدایت کر دی تھی۔
- 2- یہ کہ ایکسٹرا اینڈ ٹیکسیشن آفیسر ٹانک کی چھٹی نمبرات 200 مورخہ 29/01/2015 اور نمبر 232/E&T مورخہ 12/03/2015 کے مطابق آپ اپنی ڈیوٹی پر حاضر ہونے سے قاصر رہے ہیں۔
- 3- یہ کہ اس ضمن میں ڈائریکٹر جنرل ایکسٹرا اینڈ ٹیکسیشن اینڈ نارکائیکس کنٹرول ڈیپارٹمنٹ پشاور نے اپنے حکم نامہ نمبر 11065/E&T مورخہ 15/04/2015 کے تحت زبردستی کو انکواری آفیسر مقرر کر دیا۔
- 4- یہ کہ زبردستی آپ کو دفتر ہڈا کی چھٹی نمبر (DIKHAN Region) 328/DD مورخہ 22/04/2015 کے ذریعے مورخہ 04/05/2015 بوقت 10:00 بجے صبح دفتری اوقات میں پیش ہو کر اپنی صفائی کا موقع فراہم کر چکا ہے جس کے باوجود آپ دفتر آنے میں ناکام رہے ہیں۔
- 5- یہ کہ یہ بات روز روشن کی طرح بالکل واضح اور عیاں ہے کہ آپ کی دفتر سے طویل غیر حاضری سے متعلق محکمہ کی کارروائی آپ کے علم میں ہے پھر بھی اپنی صفائی میں محکمہ سے کسی بھی طرح کی خط و کتابت کرنے یا ذاتی طور پر ڈیوٹی پر حاضر ہونے سے گریزاں ہیں۔
- 6- یہ کہ آپ کو آخری بار اطلاع دی جاتی ہے کہ آپ کے اپنے مفاد میں ہے کہ آپ نوٹس ہڈا کی اشاعت سے چودہ (14) یوم کے اندر زبردستی کے دفتر میں پیش ہو کر اپنی طویل غیر حاضری کے دفاع میں تحریری موقف پیش کریں ورنہ ایک طرفہ کارروائی عمل میں لائی جائے گی جس میں آپ کو ملازمت سے برخاست کرنا بھی شامل ہے تاکید ہے۔

## انجینئر عید بادشاہ

ڈپٹی ڈائریکٹر ایکسٹرا اینڈ ٹیکسیشن نارکائیکس کنٹرول

ڈی آئی ٹانک ریجن۔ ڈیرہ اسماعیل خان

SHOW CAUSE NOTICE

Amended  
H

14

92

Under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, you Mr. Faheem Ullah, Excise & Taxation Constable (BPS-05) office of Excise & Taxation Officer, Tank are hereby served as follows:

1. That as reported by the Excise & Taxation Officer, Tank, vide his letter No. 86/E&T, dated. 09.10.2014 you remained absent from your official duties since 21.01.2014. And when contacted by the concerned inspector Mr. Akhtar Zaman to perform your duty, you refused to join duty stating that you belong to Peshawar District and cannot perform duty in District Tank. The ETO Tank therefore, requested disciplinary action against you. Again you were found absent by Anti-corruption team during its visit to ETO Office Tank and the ETO concerned called explanation vide his letter No. 111/E&T, dated. 21.10.2014. However, you didn't bother to reply. Meanwhile, a complaint was received against you and in order to escape you approached for your transfer to Peshawar. Accordingly you were called to perform duty in this Directorate vide order No. 12125-27, dated. 23.10.2014 and further directed to perform security duty vide this Office Order No. 12739-40, dated, 25.11.2014, however, due to irresponsible attitude and frequent absences, the then Director Admin(E&T) was constrained to cancel your order and send you back to ETO Office Tank vide his order No. 8558, dated. 07.01.2015.
2. The Excise and Taxation Officer, Tank again complained to the Deputy Director, Excise and Taxation South reporting that you are still absent and requested disciplinary action against you under the E&D Rules, 2011. Resultantly, the Deputy Director, Excise and Taxation D.I.Khan region was appointed to conduct a comprehensive formal inquiry in case of your long absence.
3. The Inquiry has been completed and report received from the Inquiry Officer vide his letter No. 610/DD(DIKhan), dated. 22.06.2015 wherein you have been held to be extremely casual and ridiculed the official duty time and again, you have further been found not to be interested in your job and has ceased to be efficient. The Inquiry Officer further declared you to be a perpetual nuisance for the department and recommended your termination from service.
4. In view of the above as well as your service record, I am satisfied that you have committed the following acts/omission specified in Rule 3 of the said rules:
  - (a) Guilty of Habitually absenting yourself from duty without prior approval of leave.
  - (b) Guilty of misconduct;
5. As a result thereof, I, as the Competent Authority, have tentatively decided to initiate departmental proceedings for imposition of Major penalty upon you including removal from service, as well as recovery of all the service benefits received by you during the period of your unauthorized absence.
6. You are, therefore, required to show cause as to why the aforesaid penalties should not be imposed upon you and also intimate whether you desire to be heard in person.
7. If no reply to this notice is received within seven (07) days or not more than fifteen (15) days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

Amended

12/5/16

*[Signature]*

DIRECTOR (ADMIN),  
EXCISE TAXATION AND  
NARCOTICS CONTROL DEPARTMENT  
KHYBER PAKHTUNKHWA, PESHAWAR.  
Dated Peshawar the 25/06/2015.

Endst: No. 562-65/Estb/P.File

Copy forwarded for information to:-

1. Deputy Director, Excise, Taxation and Narcotics Control Department, D.I.Khan Region.
2. Excise and Taxation Officer, Tank.
3. Faheem Ullah s/o Niaz Muhammad r/o Mohallah Balo Khail Bala Badbair Peshawar.

*[Signature]*

DIRECTOR (ADMIN),  
EXCISE TAXATION AND  
NARCOTICS CONTROL DEPARTMENT  
KHYBER PAKHTUNKHWA, PESHAWAR.

No. 430

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which an acknowledgement is due.



Received a registered\* addressed to \_\_\_\_\_

Initials of Receiving Officer \_\_\_\_\_  
\*Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary

Insured for Rs. (in figures) \_\_\_\_\_ (in words) \_\_\_\_\_

insured.

Insurance fee Rs. \_\_\_\_\_ Ps. \_\_\_\_\_  
Weight (in words) \_\_\_\_\_ Kilo Grams

Alberhad

11-11  
I  
Answer.

15

17/5/16

**No. 430** For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which an acknowledgement is due.

Received a registered letter addressed to \_\_\_\_\_

Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Initials of Receiver: \_\_\_\_\_

Insured for Rs. (in figures) \_\_\_\_\_ (in words) \_\_\_\_\_

Insurance fee Rs. \_\_\_\_\_ Ps. \_\_\_\_\_ (in words) \_\_\_\_\_

Name and address of sender: \_\_\_\_\_

Weight: \_\_\_\_\_ Kilo \_\_\_\_\_ Grams

*uninsured*



**DIRECTORATE GENERAL EXCISE TAXATION AND  
NARCOTICS CONTROL DEPARTMENT  
KHYBER PAKHTUNKHWA.**

*Auqaf Complex, Shami Road, Peshawar Cantt. Phone Nos. 091-9212260-9211209.*

16

**ORDER**

Dated Peshawar the 28/07/2015.

No. 1044- /Estb/XXXV-D-82. Whereas, Mr. Faheem Ullah, Constable, Office of the Excise and Taxation Officer, Tank remained absent from his official duties since **21.01.2014** as reported by the Excise and Taxation Officer, Tank and when contacted by the concerned inspector to perform his duty, he reportedly refused to join duty stating that he belongs to Peshawar District and cannot perform duty in District Tank. The ETO Tank therefore, requested disciplinary action against him. Again he was found absent by Anti-corruption team during its visit to ETO Office Tank and the ETO concerned called his explanation vide letter No. 111/E&T, dated. 21.10.2014. However, he didn't bother to reply. Meanwhile, due to a complaint against him he managed to get himself transferred to Peshawar. Accordingly he was called to perform duty in this Directorate vide order No. 12125-27, dated. 23.10.2014 and further directed to perform security duty vide this Office Order No. 12739-40, dated, 25.11.2014, however, due to irresponsible attitude and frequent absences, the then Director Admin(E&T) was constrained to cancel his order and send him back to ETO Office Tank vide his order No. 8558, dated. 07.01.2015.

And whereas, the Excise and Taxation Officer, Tank again complained and requested disciplinary action against him, under the E&D Rules, 2011. Resultantly, the Deputy Director, Excise and Taxation D.I.Khan region was appointed to conduct a comprehensive formal inquiry in case of his long absence. The Inquiry stands completed and report received from the Inquiry Officer vide his letter No. 610/DD(DIKhan), dated. 22.06.2015 wherein Mr. Faheem Ullah, Excise & Taxation Constable have been held to be extremely casual and ridiculed the official duty time and again. He has further been found not to be interested in his job and has ceased to be efficient. The Inquiry Officer further declared him to be a perpetual nuisance for the department and recommended your termination from service.

As a result thereof a notice to the said Mr. Faheem Ullah, for misconduct was issued vide this Office Endst: No. 562-65, dated. 25.06.2015 requiring him to show cause within seven(07) days or not more than fifteen(15) days as to why major penalty of removal from service may not be imposed upon him. However, despite the lapse of the deadline on 10.07.2015, neither he turned up nor sent any reply, therefore, I Muhammad Javed Marwat, Director General Excise and Taxation Khyber Pakhtunkhwa, Peshawar, as competent authority, am satisfied that circumstances exist that renders it necessary to impose major penalty of removal from service upon the said Mr. Faheem Ullah under Rule 4(1)(b)(iii) of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 with immediate effect in the best public interest. Accordingly, all the service benefits, if any, received by the official from the date of his absence (i.e., 21.01.2014) are declared illegal and recoverable in favour of the Government of Khyber Pakhtunkhwa Excise, Taxation and Narcotics Control Department.

*Ahsanul*

*[Signature]*

DIRECTOR GENERAL,  
EXCISE, TAXATION AND  
NARCOTICS CONTROL DEPARTMENT,  
KHYBER PAKHTUNKHWA, PESHAWAR.

*17/5/15 NB 1045-51.*

/Estab/XXXV-D-82,

Copy forwarded for information to:-

1. PS to Secretary to Government of Khyber Pakhtunkhwa, Excise, Taxation & Narcotics Control Department, Peshawar.
2. Accountant General, Khyber Pakhtunkhwa Fort Road, Peshawar
3. District Accounts Officer, Tank.
4. Deputy Director Excise and Taxation, D.I.Khan Region.
5. Excise and Taxation Officer, Tank.
6. Faheem Ullah s/o Niaz Muhammad r/o Mohallah Balo Khail Bala Badbair Peshawar.
7. Personal File.

*[Signature]*

DIRECTOR GENERAL,  
EXCISE, TAXATION AND  
NARCOTICS CONTROL DEPARTMENT,  
KHYBER PAKHTUNKHWA, PESHAWAR.

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

Service Appeal No. 1369/2015.

Fahim Ullah, Ex-Constable, Directorate General, Excise & Taxation, Khyber  
Pakhtunkhwa, Peshawar.

**(Appellant)**

**VERSUS**

Government of Khyber Pakhtunkhwa, & others.

**(Respondents)**

**I N D E X**

<b>S.No</b>	<b>Description of documents</b>	<b>Annexure</b>	<b>Pages</b>
01	Para wise Comments.		1-5
02	Affidavit		6
03	Copy of inquiry report.	"A"	7
04	Absence Notices	"B", "C", "D", "E" & "F"	8-12
05	Copy of Publication	"G"	13
07	Copies of Show cause notice & Registered post receipts are attached.	"H" & "I"	14-15
08	Copies of removal from service order No. 1044/Estb/XXXV-D-82 dated. 08-07-2015 and register post receipt are attached.	"J" & "K"	16-17

**The Respondents**

Through counsel.



**S. Hamad Ali Shah**

(Advocate)

Supreme Court of Pakistan

Legal Advisor,

Excise, Taxation &

Narcotics Control Department

Khyber Pakhtunkhwa

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

Service Appeal No. 1369/2015.

Fahim Ullah, Ex-Constable, Directorate General, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar.

**(Appellant)**

**VERSUS**

Government of Khyber Pakhtunkhwa, & others.

**(Respondents)**

**I N D E X**

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**The Respondents**

Through counsel.



**S. Hamad Ali Shah**  
(Advocate)

Supreme Court of Pakistan  
Legal Advisor,  
Excise, Taxation &  
Narcotics Control Department  
Khyber Pakhtunkhwa

①

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

**Service Appeal No. 1369/2015.**

Fahim Ullah, Ex-Constable, Directorate General, Excise & Taxation, Khyber  
Pakhtunkhwa, Peshawar.

**(Appellant)**

**VERSUS**

1. Government of Khyber Pakhtunkhwa, through Secretary, Excise & Taxation  
Department Khyber Pakhtunkhwa, Peshawar.
2. Director General Excise, Directorate of Excise, Taxation and Narcotics  
Control Department, Khyber Pakhtunkhwa, Peshawar.
3. Director (Admn) Excise and Taxation, Excise, Taxation and Narcotics  
Control Department Khyber Pakhtunkhwa, Peshawar.

**(Respondents)**

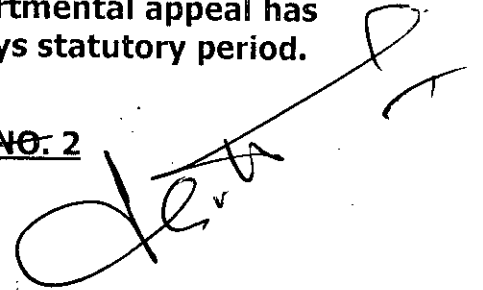
**Appeal under Section 4 of the Khyber Pakhtunkhwa Service  
Tribunal Act, 1974, against the order dated. 28.07.2015, whereby  
the appellant has been awarded the major Punishment of  
Removal from Service, against which his departmental appeal has  
not been responded despite the lapse of 90 days statutory period.**

**REPLY ON BEHALF OF RESPONDENT NO. 2**

**Respectfully Sheweth.**

**Preliminary objections.**

1. That, the appellant has no cause of action.
2. That, the appellant has no locus standi.
3. That, the appellant has not come to Tribunal with clean hand.
4. That, the appeal is bad for non-joinder and mis-joinder of unnecessary  
parties.
5. That, the appellant has been estopped by his own conduct to file the  
appeal-in-hand.
6. That, the appeal is time barred.





**FACT.**

2

1. Para-1 is correct.
2. Para-2 is incorrect as sufficient material exists on record which negates the claim of the appellant.
3. Regarding Para-3 & Para-4, it is correct to the extent that the appellant was transferred to ETO Office Tank on 21.01.2014 and the primary reason for his transfer was his unpaid salary and non-availability of the post of constable in Peshawar. On 26.08.2014, a complaint was received from one Mr. Wali Khan charging the said Mr. Fahim Ullah, Constable for appropriation of Rs. 35,000/- from him on account of his Flying coach No. AJK-861. In that case the Regional Deputy Director, Excise and Taxation D.I.Khan was directed to conduct a fact finding inquiry vide this Office letter NO. 11226/E&T, dated. 15.09.2016. On 09.10.2014 Engineer Asghar Wazir, ETO Tank reported vide his letter No. 86/E&T, dated. 09.10.2014 the long absence of Mr. Fahim Ullah since 21.01.2014(Arrival date) and requested taking disciplinary action against him. It was particularly during the complaint & inquiry phase that Mr. Fahim Ullah constable disappeared and in order to escape the complainant as well as the inquiry proceedings, he absented himself from official duty without any approval or intimation. However, still the then Director General Excise and Taxation, Khyber Pakhtunkhwa extended favor to him and directed him to work in his office and security duty with the Director Admn: was assigned to him. Since he was again found to be very casual therefore upon verbal directions of the Director Admn: his duty order in Directorate was cancelled and withdrawn on 07.01.2015. The allegation of the appellant that he was made a rolling stone, and was neither allowed to perform his duties at Peshawar nor at Tank is baseless having no recorded proof. He could have complained this but he never bothered to attend the office either here in the Directorate nor there in the ETO Office Tank. **(Copy of inquiry report is Annexed-"A" and absence Notices are Annexed-"B", "C", "D", "E" & "F")**
5. Regarding Para-5 the allegation of unauthorized absence from duty was not false as the Inquiry Officer in case of appropriation of Rs. 35,000/- also summoned him three(03) times but he did not attend his office as well. The inquiry Officer in his recommendation also recommended proceedings against him under the E&D Rules, 2011. Since both the Excise and Taxation Officer, Tank and the Regional Deputy Director Excise and Taxation reported his absence, therefore, regular departmental proceedings were initiated against him and Engineer Eid Badshah, Deputy

Director Excise and Taxation D.I.Khan Region was entrusted to conduct inquiry into the long absence of the appellant.

3

6. Regarding Para-6 it is incorrect that a partial inquiry was conducted and that he was not associated with the inquiry proceedings. To the contrary the Inquiry Officer summoned him on registered post at his home address and when he failed to appear before him, a newspaper proclamation was also published in the Daily Aaj dated. 15.05.2015 and the said Fahim Ullah constable personally appeared before the Inquiry officer on 27.05.2015 and committed that he will be dutiful in future. However, the inquiry officer went on to state that the appellant did not submit written statement and continued to stay absent till 22.06.2015. The Inquiry Officer clearly stated in the Inquiry Report that keeping in view Mr. Faheem Ullah whimsical nature and official material/documents on record the findings are as follows:-

- a. He is extremely casual nature official and has ridiculed the official duty time and again.
- b. He has neither proper grounds nor interest to justify his long absence.
- c. He is not interested in the job and ceased to be an efficient official.

The inquiry officer in his concluding note stated that Mr. Fahim Ullah Constable has become a ***perpetual nuisance for the department*** and shall be terminated from service since 21.01.2014.

Therefore, the statement that the allegations against him were baseless or notices were not communicated to the appellant are absolutely misleading and without any proof. **(Copy of Publication is attached as Annexed-"G")**

7. Regarding Para-7 the show cause notice dated. 25.06.2015 and removal from service order No. 1044/Estb/XXXV-D-82, dated. 28-07-2015 were duly sent on his home address. **(Copies of Show cause notice, registered post receipt along with removal from service order and registered post receipt are attached as Annexed-"H", "I", "J" & "K")**

8. Pertains to record.

9. Regarding Para-9 the order of removal from service was preceded by a lengthy process and based on facts and rules.

#### **GROUND S.**


A. The appellant's own conduct throughout has rendered him liable to be proceeded against and no right of the appellant has ever been violated

- B. Incorrect many notices and two (02) show cause notices were issued including a newspaper proclamation.
- C. He was provided many opportunities for personal hearing but he deliberately avoided and he has not been condemned unheard as the inquiry officer certified that he appeared before him. So it is incorrect that he either didn't know or has been condemned unheard.
- D. The procedure prescribed in the E&D Rules has been followed.
- E. Incorrect. The absence period has been shown.
- F. The charge of misconduct is genuine and not based on any malafide intentions rather it was a bonafide act of the lawful authority in a lawful manner.
- G. Absence without leave or not obeying the lawful orders of the competent authority amounts to misconduct and the entire case is that of willful absence and disobedience of lawful orders. The allegation of personal grudges of some high officials is unlogical as what grudges could a high ranking official have with a person of appellant's level. It is again just a baseless blame without any proof.
- H. That the appellant has been provided every opportunity but he deliberately avoided each and every opportunity and he really made a joke of Govt: service, rules and procedures.
- I. Incorrect, the impugned order is very much legal.
- J. The personal file of the official speaks loads of his conduct and service career and the penalty imposed upon him is not excessive.
- K. No comments.
- L. As per paras mentioned above.
- M. His joblessness is due to his own wrongdoings.


In view of the above it is prayed that the departmental appeal of the appellant is meritless and he is estopped from seeking remedy due to his own conduct as such the instant appeal is only a poor attempt to mislead the

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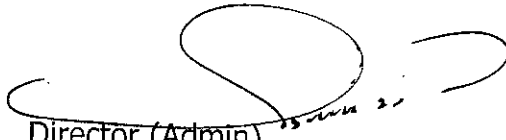
honorable Tribunal. It is nothing except wastage of time and efforts.  
Therefore the instant appeal may be dismissed with costs.



Government of Khyber Pakhtunkhwa  
through Secretary Excise & Taxation  
Department.  
**(Respondent No. 1)**




Director General,  
Excise & Taxation  
Khyber Pakhtunkhwa  
**(Respondent No. 2)**



Director (Admin)  
Excise & Taxation  
Khyber Pakhtunkhwa  
Peshawar.  
**(Respondent No. 3)**

Through Counsel.



**S. Hamad Ali Shah**  
(Advocate)  
Supreme Court of Pakistan  
Legal Advisor,  
Excise, Taxation &  
Narcotics Control Department  
Khyber Pakhtunkhwa  
Peshawar.

(6)

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

**Service Appeal No. 1369/2015.**

Fahim Ullah, Ex-Constable, Directorate General, Excise & Taxation, Khyber  
Pakhtunkhwa, Peshawar.

**(Appellant)**

**VERSUS**

Government of Khyber Pakhtunkhwa, & others.


**(Respondents)**

**AFFIDAVIT**

I, **Arshad Javed** Inspector (Litigation) section, of this Directorate  
General, Excise, Taxation & Narcotics Control Department Khyber  
Pakhtunkhwa Peshawar, do hereby solemnly affirm and verify on oath  
that the contents of accompanying "**Para wise Comments**" are true and  
correct to the best of my knowledge and belief, and nothing has been  
kept concealed or misstated.

THE DEPONENT.

**Identified by:**



**S. Hamad Ali Shah**  
(Advocate)  
Supreme Court of Pakistan  
Legal Advisor,  
Excise, Taxation &  
Narcotics Control Department  
Khyber Pakhtunkhwa  
Peshawar.



A-  
Annexure  
7

### ENQUIRY REPORT

**Subject: ABSENCE FROM OFFICIAL DUTY.**

Reference Directorate General Excise, Taxation & Narcotics Control Khyber Pakhtunkhwa letter No.11065/E&T, dated; 15<sup>th</sup> April 2015 (**Annex A**), wherein the undersigned had been directed to conduct a comprehensive formal enquiry against Mr. Faheem Ullah, Constable (BS-05) of Excise, Taxation & Narcotics Control Office Tank, for his long absence.

**Charges:** Excise, Taxation & Narcotics Control Officer Tank vide his office letter No.87/E&T, dated;09/10/2014 (**Annex B**), reported to Directorate General Excise, Taxation & Narcotics Control Khyber Pakhtunkhwa the absence report of Mr. Mr.Faheem Ullah Constable (BS-05) as follows.

"Mr.Faheem Ullah constable of this office is absent from duty since 21/01/2014 i.e.(Arrival date).He has been contacted on his cell no.0345-4808072 many time by the concern Inspector Akhter zaman to perform his duty.But to no avail.He was contacted by the undersigned(ETO Tank) many time but he refused to join duty on the plea, that he belongs to Badabera District Peshawar and can not perform duty in district Tank"

**Proceedings:** Mr.Faheem Ullah Constable (BS-05) was summoned on registered post on his postal address vide this office letter No.328/DD (DI Khan Region), dated;22/04/2015 (**Annex C**) to appear before the undersigned for the subject enquiry. But he failed to appear and explain his position. Consequently, a proclamation was issued in the daily Aaj,dated;15/05/2015 (**Annex D**), directing him to appear and submit written statement in defense of his long absence from Excise, Taxation & Narcotics Control Office Tank within fourteen (14) days of issuance of proclamation. Consequently, Mr.Faheem Ullah Constable (BS-05) appeared before the undersigned on 27/05/2015 and verbally committed that be duty full in future .But he absented himself once again from Excise, Taxation & Narcotics Control Office Tank after an informal appearance for only one(01)day on,dated;28/05/2015.He also did not submit his written reply for his long absence in the subject enquiry to the undersigned to date, i.e 22/06/2015.

**Findings:** Keeping in view of Mr.faheem Ullah's constable (BS-05) whimsical nature and official materials/documents on record, the findings are as follows:

- 1) He is extremely casual nature official and has ridiculed the official duty time and again.
- 2) He has neither proper grounds nor interest to justify his long absence.
- 3) He is not interested in the job and ceased to be an efficient official.

**Recommendation:** In view of the above, Mr.faheem Ullah constable (BS-05) has become a perpetual nuisance for the Department and he shall be terminated from service since 21/01/2014

(ENGR. EID BADSHAH)  
DEPUTY DIRECTOR EXCISE, TAXATION & NARCOTICS CONTROL DEPARTMENT  
DI KHAN REGION, DI KHAN

22/6/15



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**OFFICE OF THE EXCISE & TAXATION DISTRICT TANK**

NO. 86 /E & T

Dated: 9/10/2014

To,

Director General,  
Excise & Taxation  
Khyber Pakhtunkhwa Peshawar.

**Subject: - LONG ABSENCE OF Mr.FAHEEM ULLAH CONSTABLE.**

**Memo:**

It is submitted that Mr.Faheem Ullah constable of this office is absent from duty since 21/01/2014 i.e. (Arrival date).He has been contacted on his cell no.0345-4808072 many time by the concern Inspector Akhtar Zaman to perform his duty. But to no avail.

He was contacted by the under signed many time but he refused to join the duty on the plea, that he belongs to Badabera District Peshawar and can not perform duty in District Tank.

You are therefore requested that disciplinary action may kindly be initiated please against him.

**(ENGINEER ASGHAR WAZIR)**

Excise & Taxation Officer,  
Motor Registering Authority  
Distt: Tank

NO. 86 - 88 /E & T

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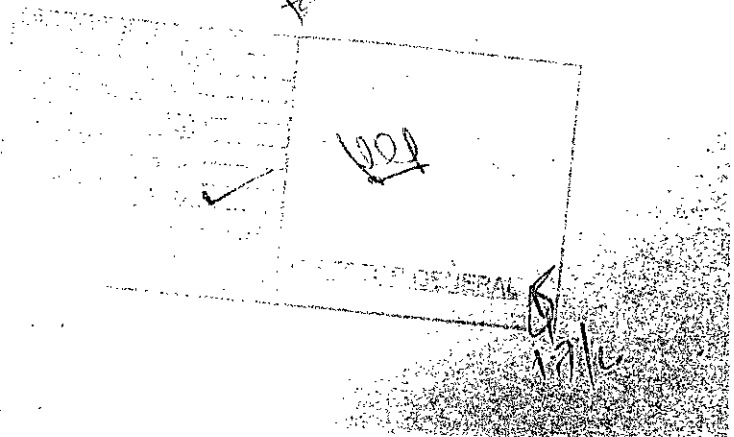
Dated: 9/10/2014

- 1) PS to Secretary for Excise & Taxation Khyberpakhtunkhwa for information please.
- 2) Deputy Director Excise & Taxation D I Khan for Information please and similar request mentioned above.

5d XXXX  
**(ENGINEER ASGHAR WAZIR)**

Excise & Taxation Officer,  
Motor Registering Authority  
Distt: Tank

DD concerned to submit a  
fact finding report/return



10 C 2  
Annexure

(93)

OFFICE OF THE DEPUTY DIRECTOR, EXCISE & TAXATION,  
DIKHAN REGION DIKHAN.

No. 772 /DD/ DIKHAN REGION  
To

Dated 28/10/2014

The Excise & Taxation Officer,  
Tank.

Subject:- LONG ABSENCE OF MR. FAHIM ULLAH CONSTABLE.

Memo:-

Reference your letter No. 86-88/E&T dated 09/10/2014.

You are directed to stop the salary of Mr. Fahim Ullah Constable of your office hence forthwith. If he has received salaries of his absence period, it must be recovered from him under intimation to this office.

You are further directed to initiate proper disciplinary action against him under E&D Rules, 2011.

DEPUTY DIRECTOR,  
EXCISE & TAXATION,  
DIKHAN REGION DIKHAN.

No. 773 /DD  
Copy to:-

Dated

The Director General, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar for necessary action.

7054  
5-11-14

DEPUTY DIRECTOR,  
EXCISE & TAXATION,  
DIKHAN REGION DIKHAN.

Ensure follow up

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8/08/11

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Handwritten notes: "RCD" in a circle, "Annexure" written below it, "10" in a circle, and a signature in a circle.

**OFFICE OF THE EXCISE & TAXATION DISTRICT TANK**

NO. \_\_\_\_\_ /E & T  
From:

Dated: 18/12/2014

Excise & Taxation Officer,  
District Tank.

To,

Deputy Director,  
Excise & Taxation  
D.I.Khan Region D.I.Khan..

**Subject: - LONG ABSENCE OF Mr.FAHEEM ULLAH CONSTABLE.**  
**Memo:**

Reference Assistenant Director Admn Anti-Corruption Estt Khyber Pakhtunkhwa  
letter No.727778/ACE, Dated 26/08/2014,  
Director General Excise & Taxation letter No.11534 Dated 29/09/2014,  
Deputy Director Excise & Taxation D I Khan Region letter No.732/DD  
Dated.14/10/2014,letter No.746-47/DD Dated 15/10/2014.and final Notice  
No.772/DD Dated 28/10/2014.and this office letter No.119-121 Dated 30/10/2014.

It is submitted that Mr Fahim ullah constable of this office failed to give any reply  
and is still absent from the office. It shows that he is not interesting in the job.  
Therefore, it is requested that action may please be initiated under E & d rules  
2011. against him.

Excise & Taxation Officer,  
Motor Registering Authority  
Distt: Tank

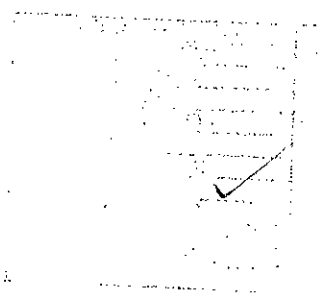
Dated: 18/12/2014

NO. 15R-161 /E & T  
Copy forwarded to:-

- 1) Director General Excise & Taxation Khyber Pakhtunkhwa Peshawar for Information  
please and similar request mentioned above.
- 2) PS to Secretary for Excise & Taxation Khyberpakhtunkhwa Peshawar for information  
please .

Handwritten notes: "7280" and "12/11/2015"

Signature of Excise & Taxation Officer,  
Motor Registering Authority  
Distt: Tank



Handwritten initials or signature.

Handwritten number "12/11" with a small symbol above it.

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Announcement

11

Dated: 23/01/15

From: Excise & Taxation Officer TANK

TO,

Mr. Faheem-Ullah ( Excise & Taxation Constable)

Subject: Willfull Absence From Official Duty.

Reference to the subject cited above.

It is stated that your order vide No 121125-27/Estb/P.file Dated 23-10-2014, has been cancelled and withdrawn by the competent authority. i.e Director General Excise & Taxation Khyber Pakhtunkhwa vide NO 8558/Estb /P.File dated 07-01-2015 in the best public interest. But you failed to take charge of your duty up till now in the office of the undersigned.

Therefore, you are hereby directed to report and to the office of undersigned for official duty, failing which strict disciplinary proceeding under Khyber Pakhtunkhwa efficiency and disciplinary rules 2011 will be proposed.

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08-2015

EXCISE & TAXATION OFFICER  
MOTOR REGISTERING AUTHORITY  
DISTRICT TANK

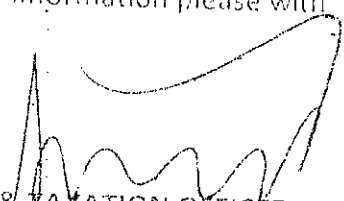
NO 201-03

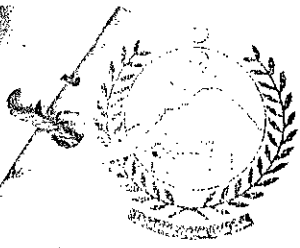
Dated: 29/01/2015

NETO

COPY TO:

1. PA To Director General Excise & Taxation Khyber Pakhtunkhwa for information please with reference to his order No 8558/Estb/P.file Dated 07-01-2015
2. Deputy Director Excise & Taxation Dikhan Region
3. P.File

  
 EXCISE & TAXATION OFFICER  
 MOTOR REGISTERING AUTHORITY  
 DISTRICT TANK



GOVERNMENT OF KHYBER PAKHTUNKHWA  
OFFICE OF THE DEPUTY DIRECTOR, EXCISE & TAXATION,  
DI KHAN REGION, DI KHAN.

Ph# 0966-9280269, Email: dddikhan@gmail.com

NOTICE

No. 328 /DD(DI Khan Region)

Dated 22/04/2015

To

Faheem Ullah S/O Niaz Muhammad,  
R/O Balu Khel Bala, Badabher,  
Peshawar.

Subject: ABSENCE FROM OFFICIAL DUTY.

Memo:

Refer to the Director General, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar order No.8558/Estb/P.File dated 07-01-2015, wherein your detailment order No.121125-27/Estb/P.File dated 23-01-2014 had been withdrawn with immediate effect and you were directed to assume the charge of your duties in the office of ETO Tank.

You failed to take charge of your duties in the office as mentioned in ETO Tank letter No.200 dated 29-01-2015 and letter No 232/E&T dated 12-03-2015 addressed to the Director General, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar.

In this regard, The Director General, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar has appointed the undersigned as inquiry officer vide order No.11065/E&T dated 15-04-2015

You are hereby, directed to appear before the undersigned on 04-05-2015 at 10.00AM and explain your position that why disciplinary action under Khyber Pakhtunkhwa Civil Servants (Efficiency & Disciplinary) Rules, 2011 may not be initiated against you.

Furthermore, in case of non compliance, Ex-parte decision will be taken against you.

(ENGR; EID BADSHAH)  
DEPUTY DIRECTOR EXCISE & TAXATION  
DI KHAN REGION, DI KHAN.

dated: 22/04/2015

329-30

No. /DD(DI Khan Region)

Copy for information to:

- 1) Director General Excise & Taxation Khyber Pakhtunkhwa Peshawar.
- 2) Excise & Taxation Officer, Tank.

(ENGR; EID BADSHAH)  
DEPUTY DIRECTOR EXCISE & TAXATION  
DI KHAN REGION, DI KHAN.

Daily Aaj darca, 15/5/2015

نارکانہ میں کنٹرول ڈیپارٹمنٹ کی انعامی کارڈ پر ہارنا

## نوٹس اظہار وجوہ

سرکار بنام فہیم اللہ ایکسٹرنل اینڈ ٹیکسیشن کانسٹیبل ٹانک

بعنوان

یہ کہ ڈائریکٹر جنرل ایکسٹرنل اینڈ ٹیکسیشن اینڈ نارکانہ ٹیکس کنٹرول ڈیپارٹمنٹ پشاور نے بذریعہ آرڈر نمبر 8558/Estb./p.Fil مورخہ 23/01/2014 آپ کا Detailment order واپس لیتے

دئے آپ کو ایکسٹرنل اینڈ ٹیکسیشن آفس ٹانک میں ڈیوٹی سرانجام دینے کی ہدایت کر دی تھی۔

یہ کہ ایکسٹرنل اینڈ ٹیکسیشن آفیسر ٹانک کی چھٹی نمبرات 200 مورخہ 29/01/2015 اور نمبر

232/E&T مورخہ 12/03/2015 کے مطابق آپ اپنی ڈیوٹی پر حاضر ہونے سے قاصر رہے ہیں۔

یہ کہ اس ضمن میں ڈائریکٹر جنرل ایکسٹرنل اینڈ ٹیکس کنٹرول ڈیپارٹمنٹ پشاور نے اپنے

علم نامہ نمبر 11065/E&T مورخہ 15/04/2015 کے تحت زبردستی کو انکو وائری آفیسر مقرر کر دیا۔

یہ کہ زبردستی آپ کو دفتر ہڈا کی چھٹی نمبر (DIKHAN Region) 328/DD مورخہ

22/04/2015 کے ذریعے مورخہ 04/05/2015 بوقت 10:00 بجے صبح دفتری اوقات میں پیش

و کر اپنی صفائی کا موقع فراہم کر چکا ہے جس کے باوجود آپ دفتر آنے میں ناکام رہے ہیں۔

یہ کہ یہ بات روز روشن کی طرح بالکل واضح اور عیاں ہے کہ آپ کی دفتر سے طویل غیر حاضری سے متعلق

حکمہ کی کارروائی آپ کے علم میں ہے پھر بھی اپنی صفائی میں محکمہ سے کسی بھی طرح کی خط و کتابت کرنے یا

اتی طور پر ڈیوٹی پر حاضر ہونے سے گریزاں ہیں۔

یہ کہ آپ کو آخری بار اطلاع دی جاتی ہے کہ آپ کے اپنے مفاد میں ہے کہ آپ نوٹس ہڈا کی اشاعت

سے چودہ (14) یوم کے اندر زبردستی کے دفتر میں پیش ہو کر اپنی طویل غیر حاضری کے دفاع میں تحریری

سوقف پیش کریں ورنہ ایک طرفہ کارروائی عمل میں لائی جائے گی جس میں آپ کو ملازمت سے برخاست

کرنا بھی شامل ہے تاکید ہے۔

انجینئر سعید بادشاہ

ڈپٹی ڈائریکٹر ایکسٹرنل اینڈ ٹیکس کنٹرول ڈیپارٹمنٹ نارکانہ ٹیکس کنٹرول

ڈی آئی خان ریگن ڈیپارٹمنٹ خان

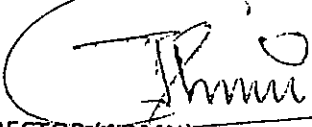
SHOW CAUSE NOTICE

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(14)

Under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, you Mr. Faheem Ullah, Excise & Taxation Constable (BPS-05) office of Excise & Taxation Officer, Tank are hereby served as follows:

1. That as reported by the Excise & Taxation Officer, Tank, vide his letter No. 86/E&T, dated. 09.10.2014 you remained absent from your official duties since 21.01.2014. And when contacted by the concerned inspector Mr. Akhtar Zaman to perform your duty, you refused to join duty stating that you belong to Peshawar District and cannot perform duty in District Tank. The ETO Tank therefore, requested disciplinary action against you. Again you were found absent by Anti-corruption team during its visit to ETO Office Tank and the ETO concerned called explanation vide his letter No. 111/E&T, dated. 21.10.2014. However, you didn't bother to reply. Meanwhile, a complaint was received against you and in order to escape you approached for your transfer to Peshawar. Accordingly you were called to perform duty in this Directorate vide order No. 12125-27, dated. 23.10.2014 and further directed to perform security duty vide this Office Order No. 12739-40, dated, 25.11.2014, however, due to irresponsible attitude and frequent absences, the then Director Admin(E&T) was constrained to cancel your order and send you back to ETO Office Tank vide his order No. 8558, dated. 07.01.2015.
2. The Excise and Taxation Officer, Tank again complained to the Deputy Director, Excise and Taxation South reporting that you are still absent and requested disciplinary action against you under the E&D Rules, 2011. Resultantly, the Deputy Director, Excise and Taxation D.I.Khan region was appointed to conduct a comprehensive formal inquiry in case of your long absence.
3. The Inquiry has been completed and report received from the Inquiry Officer vide his letter No. 610/DD(DIKhan), dated. 22.06.2015 wherein you have been held to be extremely casual and ridiculed the official duty time and again, you have further been found not to be interested in your job and has ceased to be efficient. The Inquiry Officer further declared you to be a perpetual nuisance for the department and recommended your termination from service.
4. In view of the above as well as your service record, I am satisfied that you have committed the following acts/omission specified in Rule 3 of the said rules:
  - (a) Guilty of Habitually absenting yourself from duty without prior approval of leave.
  - (b) Guilty of misconduct;
5. As a result thereof, I, as the Competent Authority, have tentatively decided to initiate departmental proceedings for imposition of Major penalty upon you including removal from service, as well as recovery of all the service benefits received by you during the period of your unauthorized absence.
6. You are, therefore, required to show cause as to why the aforesaid penalties should not be imposed upon you and also intimate whether you desire to be heard in person.
7. If no reply to this notice is received within seven (07) days or not more than fifteen (15) days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

  
 DIRECTOR (ADMN),  
 EXCISE TAXATION AND  
 NARCOTICS CONTROL DEPARTMENT  
 KHYBER PAKHTUNKHWA, PESHAWAR.  
 Dated Peshawar the 25/06/2015.

Endst: No. 562-65/Estb/P.File

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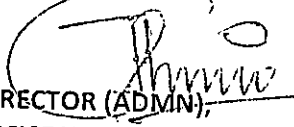
1. Deputy Director, Excise, Taxation and Narcotics Control Department, D.I.Khan Region.
2. Excise and Taxation Officer, Tank.
3. Faheem Ullah s/o Niaz Muhammad r/o Mohallah Balo Khail Bala Badbair Peshawar.

No. 430

For Insurance Notices see reverse  
 Stamps affixed except in case of  
 uninsured letters of not more than  
 the initial weight prescribed in the  
 Post Office Guide or on which no  
 acknowledgement is due.

Received a registered\* addressed to \_\_\_\_\_

Initials of Receiving Officer \_\_\_\_\_  
 Insured for Rs. (in figures) \_\_\_\_\_ (in words) \_\_\_\_\_

  
 DIRECTOR (ADMN),  
 EXCISE TAXATION AND  
 NARCOTICS CONTROL DEPARTMENT  
 KHYBER PAKHTUNKHWA, PESHAWAR.

Insured. } Insurance fee Rs. \_\_\_\_\_ Ps. (in words) \_\_\_\_\_ Weight } Kilo \_\_\_\_\_



"J" *Amir*

(16)

**DIRECTORATE GENERAL EXCISE TAXATION AND  
NARCOTICS CONTROL DEPARTMENT  
KHYBER PAKHTUNKHWA.**

*Augaf Complex, Shami Road, Peshawar Cantt. Phone Nos. 091-9212260-9211209.*

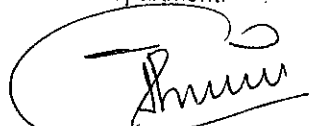
**ORDER**

Dated Peshawar the 28/07/2015.

No. 1044- /Estb/XXXV-D-82. Whereas, Mr. Faheem Ullah, Constable, Office of the Excise and Taxation Officer, Tank remained absent from his official duties since **21.01.2014** as reported by the Excise and Taxation Officer, Tank and when contacted by the concerned inspector to perform his duty, he reportedly refused to join duty stating that he belongs to Peshawar District and cannot perform duty in District Tank. The ETO Tank therefore, requested disciplinary action against him. Again he was found absent by Anti-corruption team during its visit to ETO Office Tank and the ETO concerned called his explanation vide letter No. 111/E&T, dated. 21.10.2014. However, he didn't bother to reply. Meanwhile, due to a complaint against him he managed to get himself transferred to Peshawar. Accordingly he was called to perform duty in this Directorate vide order No. 12125-27, dated. 23.10.2014 and further directed to perform security duty vide this Office Order No: 12739-40, dated, 25.11.2014, however, due to irresponsible attitude and frequent absences, the then Director Admin(E&T) was constrained to cancel his order and send him back to ETO Office Tank vide his order No. 8558, dated. 07.01.2015.

And whereas, the Excise and Taxation Officer, Tank again complained and requested disciplinary action against him, under the E&D Rules, 2011. Resultantly, the Deputy Director, Excise and Taxation D.I.Khan region was appointed to conduct a comprehensive formal inquiry in case of his long absence. The Inquiry stands completed and report received from the Inquiry Officer vide his letter No. 610/DD(DIKhan), dated. 22.06.2015 wherein Mr. Faheem Ullah, Excise & Taxation Constable have been held to be extremely casual and ridiculed the official duty time and again. He has further been found not to be interested in his job and has ceased to be efficient. The Inquiry Officer further declared him to be a perpetual nuisance for the department and recommended your termination from service.


As a result thereof a notice to the said Mr. Faheem Ullah, for misconduct was issued vide this Office Endst: No. 562-65, dated. 25.06.2015 requiring him to show cause within seven(07) days or not more than fifteen(15) days as to why major penalty of removal from service may not be imposed upon him. However, despite the lapse of the deadline on 10.07.2015, neither he turned up nor sent any reply, therefore, I Muhammad Javed Marwat, Director General Excise and Taxation Khyber Pakhtunkhwa, Peshawar, as competent authority, am satisfied that circumstances exist that renders it necessary to impose major penalty of removal from service upon the said Mr. Faheem Ullah under Rule 4(1)(b)(iii) of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 with immediate effect in the best public interest. Accordingly, all the service benefits, if any, received by the official from the date of his absence (i.e., 21.01.2014) are declared illegal and recoverable in favour of the Government of Khyber Pakhtunkhwa Excise, Taxation and Narcotics Control Department.

  
DIRECTOR GENERAL,  
EXCISE, TAXATION AND  
NARCOTICS CONTROL DEPARTMENT,  
KHYBER PAKHTUNKHWA, PESHAWAR.

No. 1045-51. /Estab/XXXV-D-82,

Copy forwarded for information to:-

1. PS to Secretary to Government of Khyber Pakhtunkhwa, Excise, Taxation & Narcotics Control Department, Peshawar.
2. Accountant General, Khyber Pakhtunkhwa Fort Road, Peshawar
3. District Accounts Officer, Tank.
4. Deputy Director Excise and Taxation, D.I.Khan Region.
5. Excise and Taxation Officer, Tank.
6. Faheem Ullah s/o Niaz Muhammad r/o Mohallah Balo Khail Bala Badbair Peshawar.
7. Personal File.

  
DIRECTOR GENERAL,  
EXCISE, TAXATION AND  
NARCOTICS CONTROL DEPARTMENT,  
KHYBER PAKHTUNKHWA, PESHAWAR.