

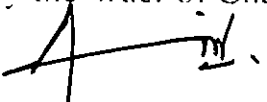
FORM OF ORDER SHEET

Court of _____

Appeal No. 2460/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	24/11/2023	The appeal of Mr. Muhammad Suleman re-submitted today by Syed Noman Ali Bukhari Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ Parcha Peshai is given to the counsel for the appellant.

By the order of Chairman


REGISTRAR

The appeal of Mr. Muhammad Salman Yousaf Ex-Junior Clerk District Court Lakki Marwat received today i.e on 08.11.2023 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Printing of grounds of appeal is very dim which is not acceptable.
- 2- Appeal has not been flagged/marked with annexures marks.
- 3- Copy of enquiry report is not attached with the appeal.

No. 3868 /S.T.

Dt. 10-11 /2023.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Syed Noman Ali Bukhari Adv.
High Court A. Abad.

Objections

- 1) Fresh copy of the grounds are attached.
- 2) All the annexes are flagged.
- 3) Copy are attached with the appeal.

All objections are cleared.

(24-11-2023).

Ansarullah

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 2460 /2023

Muhammad Salman Yousaf

V/S

Judicial Deptt:

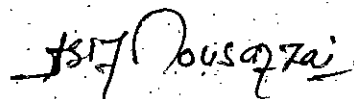
INDEX

S.NO.	Documents	Annexure	Page No.
1.	Memo of Appeal		01-07
2.	Copy of Relevant Documents	--A--	8-15
3.	Copy of Office Order dt. 31.03.2021	--B--	16
3.	Copy of Impugned Order dt. 04.05.2021	--C--	17
4.	Copy of Departmental Appeal dt.17.05.2021	--D--	18
5.	Copy of Relieving Order dt. 19.05.2021	--E--	19-20
6.	Copy of COVID-19 Test	--F--	21-23
7.	Copy of Relevant Documents of the appellants wife	--G--	24-26
8.	Copy of Rejection Order dt:	--H--	27-28
9.	Vakalat Nama		


APPELLANT

Muhammad Salman Yousaf

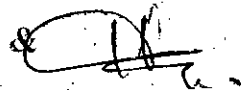
THROUGH:



M. ASIF YOUSAFZAI
ASC



(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT



(Hilal Zubair)
ADVOCATE PESHAWAR.

①

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 2468 /2023

Muhammad Salman Yousaf, Ex-Junior Clerk,
District Court, Lakki Marwat.

(APPELLANT)

VERSUS

1. The District & Session Judge, Lakki Marwat.
2. The Registrar Peshawar High Court, Peshawar.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KP SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 22/08/2022 WHEREIN APPELLANT WAS COMPULSORY RETIRED FROM SERVICE WITH RETROSPECTIVE EFFECT AND AGAINST NOT DECIDING DEPARTMENTAL APPEAL OF THE APPEAL WITHIN STATUTORY PERIOD OF 90 DAYS.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL THE IMPUGNED ORDER DATED 22/08/2022 MAY KINDLY BE SET-ASIDE AND THE APPELLANT MAY BE RE-INSTATED INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF THE APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was initially appointed as Junior Clerk (BPS-11) in the District Judiciary on 13.11.2006 and performing his duties with the utter most dedication.
2. That the appellant filed application along with the medical report, to the district & Session Judge-II Lakki Marwat for medical leave on dated 06.01.2022, where in he requested for 15-days leave due to serious illness. The application was forwarded from District & Session Judge-II Lakki Marwat to Medical Superintendent City Hospital Lakki Marwat for the verification on 06.01.2022. In light of that letter the medical superintendent send back the verification to the District & Session Judge-II Lakki Marwat on 7.01.2022 along with the recommendation. Meanwhile, other medical certificate submitted by the appellant on 07.01.2022 for reconsideration to the District & Session Judge-II Lakki Marwat in light of the above letter the same was forwarded by the District & Session Judgment Lakki Marwat to medical Superintendent to re-examine the appellant on 08.01.2022, the standing medical board was constituted on 12.01.2022 for the re-examination of the appellant. **Copy of memos are attached as Annex-A1, A2, A3, A4 & A5.**
3. That a complaint/report was received by the District & Session Judge-III Lakki Marwat regarding the willful absence of the appellant on dated 7.01.2022, the learned District & Session Judge Lakki Marwat issued order of suspension and show cause notice on 27.01.2022. **Copy of show cause notice is attached as annexure-B.**
4. That the notice was issued on 03.02.2022, which was not properly served on appellant, letter on the submission of report, the District & Session Judge Lakki Marwat issue a final show cause notice, the appellant properly replied to the show cause notice. **Copy of show cause notice and reply is attached as annexure-C & D.**
5. That the competent authority District & Session Judge on 03.03.2022 appoint the inquiry office to conduct the regular inquiry against the appellant. Meanwhile the charge sheet & Statement of allegation was also issued to the appellant on 03.03.2022. **Copy of office order and charge sheet is attached as annexure-E & F.**

6. That the inquiry was conducted against the appellant wherein the statement of the witness was recorded in absence of the appellant and no chance of cross-examination was given to the appellant. **Copy of inquiry report is attached as annexure-G & H.**
7. That thereafter, the final show cause notice was issued to the appellant the appellant properly replied to the show cause notice and denied the entire allegations. **Copy of show cause and reply is attached as annexure-I & J.**
8. That the impugned order was passed by the competent authority on 22.08.2022 wherein the appellant was awarded major penalty of compulsory retirement from service with retrospective effect. **Copy of impugned order is attached as annexure-K.**
9. That when the order was communicated to the appellant they filed departmental appeal, against it, along with the reason of delay on 13.07.2023 but the same was not responded within statutory period of 90 days. **Copy of departmental appeal is attached as annexure-L.**
10. That now the appellant comes to this august Tribunal for the redressal of his grievances on the following grounds amongst others

GROUNDS:

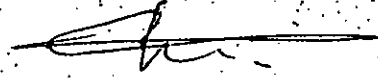
- A) That the order dated 22/08/2022 are against the law, facts, norms of justice and material on record, therefore, not tenable and liable to be set aside.
- B) That the appellant has been condemned unheard in violation of Article 10-A of the Constitution of Islamic republic of Pakistan and in violation of maxim "Audi Alterum Partum" and has not been treated according to law and rules. That according to reported judgment cited as 2019 CEC 1750 stated that Audi Alterum Partum" shall be read as part and parcel of the every statute. The same principle held in the Superior Court judgments cited as 2016 SCMR 943, 2010 SCMR 1554 and 2020 PLC(cs) 67.
- C) That the appellant has not been treated in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan 1973 by the respondents and the appellant has been dismissed from his legal service without adopting legal Pre-requisite mandatory Legal procedure. The order

passed in violating of mandatory provision of law, such order is void and illegal order according to superior court judgment reported as 2007 SCMR 834 and 2015 SCMR 795. Hence the impugned order is liable to be set aside.

- D) That the impugned order was retrospective order which was void in the eye of law and also void according to Superiors Court Judgment reported as 2002 SCMR 1129, 2006 PLC 221 and KPK Service Tribunal Judgment titled as Abdul Shakoor Vs Govt of KPK.
 - E) That the appellant was deprived of his inalienable right of personal hearing and opportunity to cross examine witnesses. The opportunity of offering proper defense was snatched from the appellant. The Hon'able Service Tribunal has been consistently following this yardstick almost in all cases, so departure from the set pattern and that too without any cogent reason in the present case would cause irreparable damage to the appellant at the cost of substantial justice. Such inquiry proceeding could not be termed as fair, just and reasonable. such practice has already been disapproved by the apex court contained in its judgments PLD 1989 SC 335, 1996 SCMR 802, 2018 PLC (CS)997 and 2019 SCMR 640.
 - F) That the appellant; mother is seriously ill, therefore cannot attend duties, so absentia of the appellant was not willful but on the ground of illness of mother which is beyond the control of the appellant. So, according to superior Court Judgment cited as 2003 SCMR 214 availing leave on medical grounds without permission could not be considered an act of gross misconduct entailing major penalty, the major penalty in this case on the basis of absentia on medical ground is so harsh and not commensurate with guilt. So the impugned order is liable to be set-aside.
 - G) That no proper regular inquiry was conducted before imposing major penalty. Moreover, the appellant was not associated with the same, neither the statement recorded in presence of appellant nor was the chance of cross examination provided to the appellant which is violation of **Rule-10 and Rule 11 of the E&D Rules 2011**, which were totally ignored before imposing punishment which is illegal and against the law, rules and natural justice
- II) That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

(3)

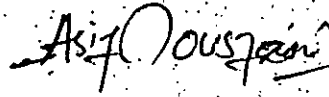
It is, therefore, most humbly prayed that the appeal of the
appellant may be accepted as prayed for.



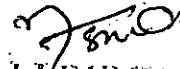
APPELLANT

Muhammad Salman Yousaf

THROUGH:



M. ASIF YOUSAFZAI
ASC



(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT



(Hilal Zubair)

ADVOCATE PESHAWAR

6

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. _____ /2023

Muhammad Salman Yousaf

V/S

Judicial Deptt.

CERTIFICATE:

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.



DEPONENT

LIT OF BOOKS:

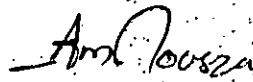
1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE
3. Any other case law as per need.



APPELLANT

Muhammad Salman Yousaf

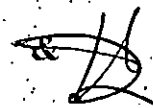
THROUGH:



M. ASIF YOUSAFZAI
ASC



(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT



(Hilal Zubair)

ADVOCATE PESHAWAR.

8

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. _____ /2023

Muhammad Salman Yousaf

V/S

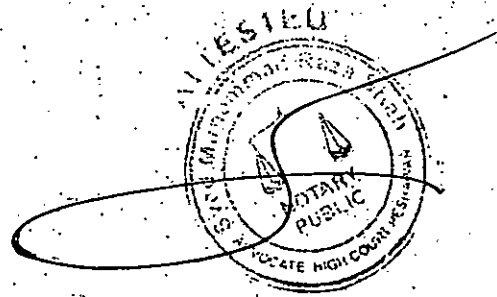
Judicial Deptt.

AFFIDAVIT

I, Muhammad Salman Yousaf (Appellant) do hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this honorable Tribunal.

DEPONENT

Muhammad Salman Yousaf



OFFICE OF THE DISTRICT & SESSIONS JUDGE, LAKKI MARWAT

FORM

(Application for Casual leave up to 4 days by (Staff))

Name of Officer/Official

Muhammad Suleman Yousaf

Designation with place of posting

Moharrir to ASJ-II

Leave sought for*

Medical leave

Days for which Leave required
(For casual only)

No. of days

From

To

15

06-01-2022

20-01-2022

Purpose

Medical Leave. Seriously ill. Prescription chit of MS City Hospital Lakki Marwat appended with application. Message received through telephone.

4
J-1-22

Signature of Official

Dated: 05-01-2022

F O R O F F I C E U S E

Leave Account
(for casual leave only)

Previous Balance	This Leave	Remaining Balance

Superintendent to D&SJ.

Order of the leave
Sanctioning Authority.

Forwarded to DSJ for appropriate orders please

Office to report

06/Jan/22

District & Sessions Judge, II
Lakki Marwat

ATTESTED

Examiners to
District & Session Judge
Lakki Marwat

CITY HOSPITAL LAKKI MARWAT

OUT DOOR PATIENT TICKET



10

District: LAKKI MARWAT OPD No: 696 Date: 1-1-22

Name: [Handwritten Name] Age: Sex:

Father's/Husband's Name: [Handwritten Name]

Provisional Diagnosis:

Clinical Findings /investigations

Rx
matkul
(b) Oxidil 2gm in
100cc pcd
per day
high grade 3-4
mt
Vag
de
Wald
Tong
Spleen
A Enter per
and Bed Rest for 15 days

Senior Medical Officer
City Hospital, Lakki Marwat

ATTESTED

[Signature]
Examiner to
District & Session Judge
Lakki Marwat

(13)

A

DISTRICT JUDICIARY KHYBER PAKHTUNKHWA,
Office of the District & Sessions Judge, Lakki Marwat

Phone# 0969-538150 Fax# 0969-538152 E-Mail: dajlakki@yahoo.com

No 79 /DSJ

Dated 06/01/2022

From **District & Sessions Judge,
Lakki Marwat.**

To **Medical Superintendent,
City Hospital,
Lakki Marwat.**

Subject: **VERIFICATION OF MEDICAL PRESCRIPTION OF
THE DOCTOR IN RESPECT OF MR. MUHAMMAD
SULEMAN YOUSAF, JUNIOR CLERK (BPS-11).**

Memo:

With reference to the subject noted above, please find the enclosed original medical prescription (Out Door Patient Ticket) bearing no. 696 dated 05-01-2022 in respect of Mr. Muharamad Suleman Yousaf, Junior Clerk (BPS-11), District Courts, Lakki Marwat for verification alongwith mentioning the nature of diagnosed disease and be returned the same to this office for further process.

gumar
District & Sessions Judge,
Lakki Marwat.

Exp No-6

(Signature)
Khalid Anwar
Senior Judge / Judge
District & Sessions Court
Lakki Marwat
Signature of Khw
31.03.2022

ATTESTED

(Signature)
Examiner to
District & Sessions Judge
Lakki Marwat

OFFICE OF THE MEDICAL SUPERINTENDENT CITY HOSPITAL LAKKI MARWAT

Email: cityhosplakki@gmail.com
Ph#: 0969-512349
Fax#: 0969-512349



No. 07 /M-1

Dated: 07/01/2022.

To,

The District & Sessions Judge,
Lakki Marwat.

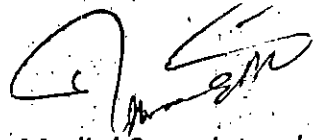
SUBJECT: - VERIFICATION OF MEDICAL PRESCRIPTION OF THE DOCTOR IN RESPECT OF MR. MUHAMMAD SULEMAN YOUSAF, JUNIOR CLERK (BPS-11).

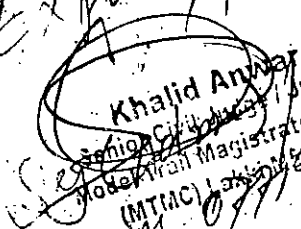
Memo:-

Reference Your Office Letter No. 79/DSJ Dated 06-01-2022.

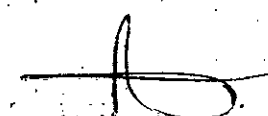
The medical prescription bearing No.696 dated 05-01-2022 and bearing long leave of 15 days in respect of Mr. Muhammad Suleman yousaf Junior Clerk (BPS-11) is not countersigned, and hence leave is not verifiable from this office.

However, the OPD ticket No.696 Dated 05-01-2022 is correct.


Medical Superintendent,
City Hospital Lakki Marwat.

Ex Pw 6/4

Khalid Anwar
Senior City Judge
Muzaffar Magistrate Court
(MTMC) Lakki Marwat
31.03.2022

ATTESTED


Examiner to
District & Sessions Judge
Lakki Marwat

Sent to:

OUT DOOR PATIENT TICKET

DHS-02 (F)

DISTRICT HEADQUARTER HOSPITAL LAKKI

District:

CRP No:

7083

Facility Name:

Name:

Age:

Sex:

Fathers / Husbands Name:

Monthly CPD Serial No.:

Provisional Diagnosis:

Date:

17/2

To whom it may concern

It is certified that
 Mr. Salman G. Yousuf Khan
 is suffering from Severe depression
illness → is unable to perform
 his duties efficiently. Therefore
 he may be considered to be
 examined by Medical board.

(26)

(2)

(3)

(10)
DISTRICT JUDICIARY KHYBER PAKHTUNKHWA,

Office of the District & Sessions Judge, Lakki Marwat

Phone#0969-538150

Fax# 0969-538152

E-Mail: dsjlakki@yahoo.com

No: 85 DSJ/LK

Dated: 08 /01/2022

From

The District & Sessions Judge,
Lakki Marwat.

To

The Medical Superintendent,
District Hospital, Lakki Marwat. /DHA

Subject:

RE-EXAMINATION OF THE APPLICANT NAMED MR. MUHAMMAD SULMAN YOUSAF,
JUNIOR CLERK (BPS-11), DISTRICT COURTS, LAKKI MARWAT & SUBMISSION OF
SECOND MEDICAL OPINION.

Memo:

With reference to the subject noted above it is submitted that Mr. Muhammad Suleman Yousaf, Junior Clerk (BPS-11) posted in this Sessions court, has submitted an application alongwith OPD ticket bearing No. 696 dated 05-01-2022 (Copies enclosed as per annex-A & B respectively) pertaining to the City Hospital, Lakki Marwat for grant of 15 days earned leave on medical grounds.

In this respect the said OPD ticket has been sent to Medical Superintendent, City Hospital, Lakki Marwat vide this office letter bearing No. 79/DSJ dated 06-01-2022 for verification (Copy enclosed as per annex-C).

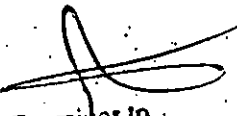
In response to this office letter, the Medical Superintendent, City Hospital, Lakki Marwat has submitted his report vide letter bearing No. 7/M-I dated 07-01-2022 wherein stated that "The medical prescription bearing no. 696 dated 05-01-2022 and bearing long leave of 15 days in respect of Mr. Muhammad Suleman Yousaf, Junior Clerk (BPS-11) is not countersigned, and hence leave is not verifiable from this office." (Copy enclosed as per annex-D).

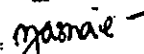
In view of the above, the Rule-13 of the Khyber Pukhtunkhwa Civil Servant Leave Rules-1981 pertaining to leave on medical certificate states that "The authority competent to sanction leave may, however, at its discretion, secure a second medical opinion by requesting the civil surgeon or the medical Board to have the applicant medically examined". (Copy enclosed as per annex-E).

Similarly the directions of Hon'ble Peshawar High Court, Peshawar, Medical leave will not be granted on the basis of provision of medical certificate issued by unauthorized doctors. (Copies enclosed as per annex-F-I & F-II).

You are, therefore, required to examine the subject applicant and submit your second medical opinion complete in all respect as required under the rule for further process into the matter please.

ATTESTED

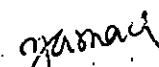

Examiner to
District & Sessions Judge
Lakki Marwat.


(IJAZ RASHID)
District & Sessions Judge
Lakki Marwat.

No. 86-87 /DSJ/L. District & Sessions Judge, Lakki Marwat. Dated the Lakki: 08 /01/2022.

Copy-forwarded for information to:

1. Medical Superintendent, City Hospital, Lakki Marwat conveying the name of unauthorized person/ doctor who advised 15 days medical rest to the applicant on OPD ticket.
2. Mr. Muhammad Suleman Yousaf, Junior Clerk (BPS-11) is directed to appear before the Medical Superintendent, District Headquarter Hospital, Lakki Marwat for Second Medical Examination without any further delay.


District & Sessions Judge
Lakki Marwat

OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL LAKKI
MARWAT



0969-538008



0969-538008



dhq_lakki@gmail.com

SUBJECT: STANDING MEDICAL BOARD

Reference to the Honorable District & Session Judge Lakki Marwat Vide letter No. 86-87/DSJ/L.M dated: 08-01-2022.

The following Standing Medical Board is hereby constituted for Medical Examination of Mr. Muhammad Sulman Yousaf, Junior Clerk (BPS-11) attached to District Courts Lakki Marwat.

1. Dr. Manzoor Ahmad Medical Specialist
2. Dr. Waliullah Orthopedic Surgeon
3. Dr. Wasim Sajjad Surgeon

Date of Examination: 17-01-2022 (10:00am)

Medical Superintendent
DHQ Hospital Lakki Marwat

No. 123-26/M.B Dated: 13/01/2021.

Copy to the:

1. Honorable District & Session Judge Lakki Marwat for information please.
2. All the above mention Doctors for information and compliance.
3. Mr. Muhammad Sulman Yousaf, Junior Clerk (BPS-11) Lakki Marwat is hereby directed to be present before standing medical board on due date and time.
4. Office record.

Medical Superintendent
DHQ Hospital Lakki Marwat

seen & placed
on relevant record
gms.

14/01/2022

ATTESTED

Examiner to
District & Session Judge
Lakki Marwat

(18)

OFFICE OF THE DISTRICT & SESSIONS JUDGE, LAKKI MARWAT.

To

Muhammad Suleman Yousof,
Junior Clerk (BPS-11),
Lakki Marwat.

No. 368/D&SJ/Admn

Dated 27/01/2022

Subject: **SHOW CAUSE NOTICE.**

Whereas, you on 06-01-2022 submitted an application alongwith, medical prescription seeking 15 days earned leave on medical grounds w.e.f 06-01-2022 to 20-01-2022. In compliance with the directions issued by the Hon'ble Peshawar High Court, Peshawar vide letter bearing No.336-370/Admn dated 14-01-2012, your application was forwarded to concerned Medical Superintendent, City Hospital, Lakki Marwat vide letter bearing No.79/DSJ dated 06/01/2022 for verification of medical prescription.

In response to the said letter, the Medical Superintendent, City Hospital, Lakki Marwat submitted letter bearing No.07/M-I, dated 07-01-2022, wherein your requested leave was not countersigned and was verifiable from his office.

On receiving the said information, a letter was sent to the Medical Superintendent, DHQ Hospital, Lakki Marwat vide bearing No.85/DSJ/L.K dated 08-01-2022 for medical re-examination of you and submission of second medical opinion.

The said office (Medical Superintendent, DHQ Hospital, Lakki Marwat) through letter Endst: bearing No.123-26/M.B dated 12/01/2021 constituted the medical board for medical examination of you and the date was fixed for 17-01-2022 at 10:00 am.

Despite information you have not appeared before the medical board on the date fixed for 17-01-2022 at 10:00 am and also have not applied for any other kind of leave and you remained absent from your duties since 06-01-2022 without any prior permission.

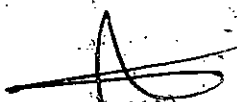
Despite the above, you have not complied with the office order of this office vide bearing No.12/DSJ/LK/Admn Dated 05-01-2022 regarding posting/transfer of ministerial staff including you and have not yet made the charge of relinquishment and assumption.

The above act amounts to cheating and perjury on your part. You have also been directed and warned previously in so many matters to be careful in future. However every time your attitude/conduct deteriorated further. Your acts/conduct amounts to cheating, misconduct & also show negligence toward official duty on your part.

You are, therefore, directed to explain your position that why disciplinary proceedings may not be taken against you under the Khyber Pakhtunkhwa Government Civil Servant (Efficiency and Discipline) Rules, 2011(Revised) besides criminal proceedings under relevant law. Your reply should reach to this office within 07 days positively.

In case of failure, it shall be presumed that you have nothing in your defense, & consequently expert action shall be initiated.

ATTESTED


Examiner to
District & Session Judge
Lakki Marwat


(IJAZ RASHID)

District & Sessions Judge,
Lakki Marwat.

(23)

(G)

n

OFFICE OF THE DISTRICT & SESSIONS JUDGE, LAKKI MARWAT.

To

Muhammad Suleman Yousaf,
Junior Clerk (BPS-11),
Lakki Marwat.

No. 387 /D&SJ/Admn.
Dated 08 /02/2022

Subject

FINAL SHOW CAUSE NOTICE.

17

With reference to this office letter bearing no. 308/D&SJ/Admn dated 27-01-2022 on the subject noted above, you were required to submit your written reply within the 07 days but you were hiding from taking the said Show Cause Notice and remained failed. In this respect you are issued Final Show Cause Notice in the matter as mentioned below:

Whereas, you on 06-01-2022 submitted an application alongwith medical prescription seeking 15 days earned leave on medical grounds w.e.f 06-01-2022 to 20-01-2022. In compliance with the directions issued by the Hon'ble Peshawar High Court, Peshawar vide letter bearing No.336-370/Admn dated 14-01-2012, your application was forwarded to concerned Medical Superintendent, City Hospital, Lakki Marwat vide letter bearing No.79/DSJ dated 06/01/2022 for verification of medical prescription.

In response to the said letter, the Medical Superintendent, City Hospital, Lakki Marwat submitted letter bearing No.07/M-1, dated 07-01-2022, wherein your requested leave was not countersigned and was verifiable from his office.

On receiving the said information, a letter was sent to the Medical Superintendent, DHQ Hospital, Lakki Marwat vide bearing No.85/DSJ/L.K dated 08-01-2022 for medical re-examination of you and submission of second medical opinion.

The said office (Medical Superintendent, DHQ Hospital, Lakki Marwat) through letter Endst: bearing No.123-26/M.B dated 12/01/2021 constituted the medical board for medical examination of you and the date was fixed for 17-01-2022 at 10:00 am.

Despite information you have not appeared before the medical board on the date fixed for 17-01-2022 at 10:00 am and also have not applied for any other kind of leave and you remained absent from your duties since 06-01-2022 without any prior permission till date i.e. 08-02-2022.

Despite the above, you have not complied with the office order of this office vide bearing No.12/DSJ/LK/Admn Dated 05-01-2022 regarding posting/transfer of ministerial staff including you and have not yet made the charge of relinquishment and assumption.

The above act amounts to cheating and perjury on your part. You have also been directed and warned previously in so many matters to be careful in future. However every time your attitude/conduct deteriorated further, Your acts/conduct amounts to cheating, misconduct & also show negligence toward official duty on your part.

You are, therefore, directed to explain your position that why disciplinary proceedings may not be taken against you under the Khyber Pakhtunkhwa Government Civil Servant (Efficiency and Discipline) Rules, 2011 (Revised), besides criminal proceedings under relevant law. Your reply should reach to this office within 07 days positively.

In case of failure, it shall be presumed that you have nothing in your defense, & consequently expert action shall be initiated.

ATTESTED

Examiner to
District & Sessions Judge
Lakki Marwat

(JAZIRASHID)
District & Sessions Judge
Lakki Marwat

The District & Session Judge
Lakki Marwat

25

Subject: REPLY FINAL SHOWCASE NOTICE BEARING NO. 387, DATED
08.02.2022

9

18

Respected Sir,

I have the honour to refer to your good self letter referred to in the above subject aside which I have been ask to show cause for my alleged absence from duty following by order bearing Endst: No. 303-307, dated 27.01.2022 placing under suspension for period of 90 days. I submitted the following few lines for your good self:-

- 1) That on 06.01.2022 I submitted an application for medical leave of 15 days duly endorsed by an authorized Medical Doctor of City Hospital Lakki Marwat.
- 2) That according to procedure the said application was re-sent to MO of City Hospital for verification of the prescription. The said application was returned being not countersigned as the same according to MS City Hospital Lakki Marwat was verifiable.
- 3) The consequently the MS DHQ Hospital Lakki was ask to get the said respondent / official re-examined for 2nd Medical opinion.
- 4) That compiling with your grievously kind direction the MS DHQ Hospital Lakki Marwat constituted Medical Board and fixed it proceeding on 17.01.2022. As per the communication I put up appearance for examination by the Medical Board on 17.01.2022 but for some reasons best known to them proceeding of the Medical Board could not be conducted (copy of the OPD chit is annexed). Thereafter nothing has been intimated to me. The process of medical board is still pending.
- 5) That ironically during the proceedings of in medical board being pending, I was served with final showcase notice.

Dear Sir,

The absence form duty as attributed to me was since nor a deliberate one but was an output of an format compulsion due to severe trauma where for I requested medical leave. However if this get of mine has been taken as delinquency on my part, I tender unconditional apology and place myself at your kind mercy. I am assured that my case would be viewed with leniency. I may kindly be condoned this time and re-instated in service. I wish to join my duties immediately basis the final that the medical condition still persists. I also wish to be heart in person.

I thank you sir.

Your humble respondent,

Received on 24/02/2022
WTO
24/02/2022

Place on file
gao
District & Session Judge
Lakki Marwat

Muhammad Sulman Yousaf
J/C BPS - 11

Exp 10-9/15

ATTESTED

Shahzad Ahmad
Sikandar Ali
Model Trail Magistrate
Lakki Marwat

Examiner (S)
District & Session Judge
Lakki Marwat

31.03.2022

CHARGE SHEET

1. Mr. Ijaz Rashid, District & Sessions Judge, as Competent Authority, hereby charged you, that you, Mr. Muhammad Suleman Yousaf, Junior Clerk (BPS-11), under the establishment of Senior Civil Judge (Admn), Lakki Marwat as follow:

That you, while posted as Muharrir (BPS-11) in the court of Learned Additional Sessions Judge-II, Lakki Marwat, has committed the following acts/omission, within the meaning of Rule 3(a)(b)(d) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011(Revised)

1. The Complaint/ report submitted by the Superintendent of this office on 27-01-2022 regarding your willful absence from your assigned official duties w.e.f. 06-01-2022 to 27-01-2022, in response of which vide order sheet no. 01 dated 27-01-2022, you were placed under the suspension vide this office order bearing No. 302/DSJ/L.M. and its endorsement bearing No. 303-307/DSJ/L.M. dated 27-01-2022 with immediate effect.
2. Show Cause Notice in detail, was issued vide this office letter bearing No. 308/DSJ/Admn dated 27-01-2022 upon your continuously willful absence from your official duties w.e.f. 06-01-2022 to 27-01-2022 but you failed to submit your reply within the stipulated span of time.
3. In the light of order Sheet No. 02, Final Show Cause Notice was issued vide this office letter bearing No. 387/DSJ/Admn dated 08-02-2022 upon your continuously willful absence from your official duties w.e.f. 06-01-2022 to 08-02-2022 but again you failed to submit your reply within the stipulated span of time as stated in Order Sheet No. 03 dated 17-02-2022.
4. In response to the Final Show Cause Notice, you submitted your reply in person on 24-02-2022 and left the office without any prior permission as stated vide Order Sheet No. 04 dated 25-02-2022.
5. Also, you have not complied with the office order of this office vide bearing No. 12/DSJ/L.K./Admn dated 05-01-2022 regarding posting/transfer of ministerial staff including you as you have not yet made the charge of relinquishment and assumption.
6. Your above mentioned act/ conduct amounts to cheating, misconduct & also show negligence toward official duty on your part.
7. You are, therefore, required to submit your written defense as required under the rule-10 (d) within seven days of the receipt of this Charge Sheet to the inquiry officer.
8. Your written defense, if any, should reach the inquiry officer within the seven days of receipt of this communication, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.
9. Intimate whether you desire to be heard in person.
10. A statement of allegations is enclosed.

Sd/-
District & Sessions Judge,
Lakki Marwat

Endst: No. 618-20 /DSJ/L.M. Dated. 03 /03/2022.

Copy forwarded to:

1. Mr. Khalid Anwar, Senior Civil Judge (Admn), Lakki Marwat / Inquiry Officer, for information and to hold proper inquiry against the delinquent official concerned under the Khyber Pakhtunkhwa (Efficiency & Discipline) Rules-2011 (Revised).
2. The Accused Official/ *Muhammad Suleman Yousaf* under the establishment of *SCJ-Admn* for information.
3. Mr. Iftikhar Alam, Computer Operator of the Office as he is appointed as a departmental representative under Rule-10 (1)(c) for information and compliance.

[Signature]
District & Sessions Judge
Lakki Marwat

[Signature]
District & Sessions Judge,
Lakki Marwat

① 5
03.03.22

DISCIPLINARY ACTION

1. Ijaz Rashid, District & Sessions Judge, Lakki Marwat, as Competent Authority, am of the opinion that Mr. Muhammad Suleman Yousaf, Junior Clerk (BPS-11), under the establishment of Senior Civil Judge (Admn), Lakki Marwat, has rendered himself liable to be proceeded against, as he committed the following acts/omission, within the meaning of Rule 3(a)(b)(d) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011(Revised).

STATEMENT OF ALLEGATIONS

1. The Complaint/ report submitted by the Superintendent of this office on 27-01-2022 regarding your willful absence from your assigned official duties w.e.f. 06-01-2022 to 27-01-2022, in response of which vide order sheet no. 01 dated 27-01-2022, you were placed under the suspension vide this office order bearing No. 302/DSJ/L.M. and its endorsement bearing No. 303-307/DSJ/L.M. dated 27-01-2022 with immediate effect.
2. Show Cause Notice in detail, was issued vide this office letter bearing No. 308/DSJ/Admn dated 27-01-2022 upon your continuously willful absence from your official duties w.e.f. 06-01-2022 to 27-01-2022 but you failed to submit your reply within the stipulated span of time.
3. In the light of order Sheet No. 02, Final Show Cause Notice was issued vide this office letter bearing No. 387/DSJ/Admn. dated 08-02-2022 upon your continuously willful absence from your official duties w.e.f. 06-01-2022 to 08-02-2022 but again you failed to submit your reply within the stipulated span of time as stated in Order Sheet No. 03 dated 17-02-2022.
4. In response to the Final Show Cause Notice, you submitted your reply in person on 24-02-2022 and left the office without any prior permission as stated vide Order Sheet No. 04 dated 25-02-2022.
5. Also, you have not complied with the office order of this office vide bearing No. 12/DSJ/L.K./Admn dated 05-01-2022 regarding posting/transfer of ministerial staff including you as you have not yet made the charge of relinquishment and assumption.
6. Your above mentioned act/ conduct amounts to cheating, misconduct & also show negligence toward official duty on your part.

For the purpose of holding an inquiry against the said accused/official with reference to the above allegations, an inquiry officer named below is nominated under Rule 10 (1)(a) of the ibid rule:

Mr. Khalid Anwar,
Senior Civil Judge(Admn),
Lakki Marwat.

The inquiry officer shall, in accordance with the provisions of the ibid Rules, provide reasonable opportunity of hearing to the accused/official, record his findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused/ official.

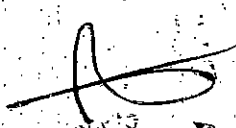
—sd—
District & Sessions Judge,
Lakki Marwat

Dated. 03 /03/2022.

Ends: No. 621-23/DSJ/L.M
Copy forwarded to:

1. Mr. Khalid Anwar, Senior Civil Judge (Admn), Lakki Marwat / Inquiry Officer, for information and to hold proper inquiry against the delinquent official concerned under the Khyber Pakhtunkhwa (Efficiency & Discipline) Rules-2011 (Revised).
2. The Accused Official/Muhammad Suleman Yousaf, Junior Clerk (BPS-11) under the establishment of SCJ (Admn), Lakki Marwat for information.
3. Mr. Iftikhar Alam, Computer Operator in the Office of Superintendent as he is appointed as a Departmental Representative under Rule-10 (1)(c) for information and compliance.

ATTESTED


Examiner to
District & Sessions Judge
Lakki Marwat

gymal -
District & Sessions Judge
Lakki Marwat

21

7

محکمہ عدالت لاہور (جنرل رولز) میں مقدمات کی فہرست

P.W-1
16-3-2022

8

حکومت پاکستان کے خلاف مقدمات کی فہرست

مقامی عدالت لاہور (جنرل رولز) میں مقدمات کی فہرست

مقامی عدالت لاہور (جنرل رولز) میں مقدمات کی فہرست

مقامی عدالت لاہور (جنرل رولز) میں مقدمات کی فہرست

مقامی عدالت لاہور (جنرل رولز) میں مقدمات کی فہرست

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مقامی عدالت لاہور (جنرل رولز) میں مقدمات کی فہرست



Khalid Anwar
Senior Civil Judge / Judge
Model Trial Magistrate Court
(MTMC) Larki Marwat
16.03.2022

مقامی عدالت لاہور (جنرل رولز) میں مقدمات کی فہرست

مقامی عدالت لاہور (جنرل رولز) میں مقدمات کی فہرست

مقامی عدالت لاہور (جنرل رولز) میں مقدمات کی فہرست

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مقامی عدالت لاہور (جنرل رولز) میں مقدمات کی فہرست

ATTESTED


A

P.W-2

Senior Civil Judge / Judge
Model Trial Magistrate Court
(MTMC) Larki Marwat

مہر علی پور کے ساتھ پیش پورا ہے۔ اگر کسی کو کچھ
مقتور کر لیں تو وہ لوہے اور 15 روپے کی ایجاد تھی۔ جو ہر
20/20 کو حکم کرنے والی تھی۔

مورخ 1/2/2022 تا 27/1/2022 احمد علی محمد سلطان اوسف جوہر علی
بغیر درازت کے ایک ڈیڑھ سے تیز رفتور

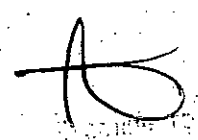

Khalid Anwar
Senior Civil Judge / Judge,
Muzil Trail Magistrate Cou
(MTMC) Larki Marwat
16.03.2022

مقتور کار نوٹس جوہر علی پور 308/105 مورخ 27-01-2022
جسٹس صاحب نے مورخ 27-01-2022 کو اوسف جوہر علی پور کے پاس
اسکا جوہر مقتور کردہ نام میں موصول ہوا ہے۔

اسی طرح آری مٹی کار نوٹس جوہر علی پور 387 مورخ 2-2-08
جسٹس صاحب نے مورخ 2-2-08 کو اوسف جوہر علی پور کے پاس
اسکا جوہر مقتور کردہ نام میں موصول ہوا ہے۔

مورخ 23-2-2022 بمقام 10:00 AM بجے محمد سلطان اوسف جوہر
مکتوب میں لکھ کر مقتور کردہ جوہر کے ساتھ ساتھ مورخ 23-2-2022
کے مقتور کردہ جوہر میں جوہر میں شامل ہو گیا ہے جو مقتور
کیا گیا ہے لیکن وہ شامل نہ ہے۔ اور اس کے لکھ کر مقتور کردہ جوہر کو اوسف
جوہر علی پور 23-2-2022 کو مورخ علی پور کے پاس اوسف جوہر علی پور
اور ساتھ ساتھ مورخ 23-2-2022 کے ساتھ ساتھ مورخ 23-2-2022
لیکن وہ ایک ہی ڈیڑھ سے تیز رفتور ہے۔

TESTED
738-62 مورخ 27-2-2022 محمد سلطان اوسف جوہر علی پور



Senior Civil Judge

Handwritten Urdu text, likely a legal document or affidavit, consisting of approximately 10 lines of cursive script.

Handwritten signature in Urdu script.

Khaliq Anwar
Senior Civil Judge, Judge
Model Trial Magistrate Court
MTMC, Lakhri Marwal

Handwritten signature and initials.

Handwritten signature in Urdu script.
16/3/2022

ATTESTED

Handwritten signature.

Magistrate

24

10

PW-2

18/3/2022

بیت الزان نام کے مکان پر واقع ہوئی ہے جس کی تفصیلات درج ذیل ہیں۔

مکمل پتہ: کراچی، ضلع کراچی، سیکشن 10

تاریخ: 24/3/2022 کو وقت 10:30 AM صبح کے آفس ہور میں

10-10

18-3-2022

اس کے ساتھ ساتھ نوٹس نمبر 387 سے 8/3/2022

مقامی

عنوان

مکمل پتہ: کراچی، ضلع کراچی، سیکشن 10

تعداد

تعداد

مکمل پتہ: کراچی، ضلع کراچی، سیکشن 10

مکمل پتہ: کراچی، ضلع کراچی، سیکشن 10

مکمل پتہ: کراچی، ضلع کراچی، سیکشن 10

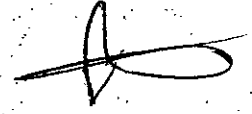
محمد رفیق

محمد رفیق



Khalid Anwar
Senior Civil Judge / Judge
Model Trial Magistrate Court
MTMC, Sakki Marwat

ATTESTED



Engineer to
District & Session Judge
Sakki Marwat

محمد رفیق

18.03.2022

18/3/2022

بہان ازراں خاتون صاحبہ نے عدالت میں محمد عمر اور
جناب امیر بیٹنل سہیل جی کے خلاف شکایت کی ہے

عدالت میں کہتا ہوں کہ میں عمر اور جناب امیر بیٹنل
سہیل جی کے خلاف شکایت میں بطور حشر کا ڈیوٹی
کے طور پر ہوں، میں نے محمد سلیمان ایوسف اور صاحبہ کو
عدالت میں جناب امیر بیٹنل جی کے خلاف شہادت کی ہے
جناب امیر بیٹنل سہیل جی کے خلاف شکایت میں بطور حشر
کے طور پر ہوں۔ 738-62/2021 سے 27 مارچ 2021 تک جو وہ
3/2021 کے وقت متعلقہ کمرے میں تھے۔ میں نے عدالت
میں محمد سلیمان ایوسف اور صاحبہ کے خلاف شہادت کی ہے اور انہیں
غیر حاضر قرار دیا ہے۔ اور کہہ گیا کہ وہ اپنی ڈیوٹی پر حاضر ہو کر
شہادت دیا ہے۔ بنا پر غائب ہو گیا ہے۔ صاحبہ نے عدالت میں
شہادت کی ہے کہ میں نے انہیں اپنے گھر پر لایا ہے اور وہ عدالت
میں اپنی شہادت دینے کے لیے آیا ہے۔ انہیں نے محمد سلیمان ایوسف اور
صاحبہ نے اپنی شہادت کے باوجود کچھ کرنے کا کوئی بھی رپورٹ نہیں دیا ہے
اور نہ اس نے اپنی شہادت کے باوجود اپنے میں آج اپنی
شہادت میں اپنے ساتھ صاحبہ اور صاحبہ کے ساتھ

لاہور میں 16 مارچ 2021 سے لیکر 18 مارچ 2022

ATTESTED

Khaid Anwar
Senior Civil Judge / Judge
Model Trial Magistrate Court
(MTMC), Larki Marwat
18-03-2022

NP-2
District & Session Judge
Larki Marwat

P. 2.


(26)

= Ex PW 3/2 2021 کے لیے ع. ب. گورنمنٹ
 Ex PW 3/4 کے لیے ع. ب. گورنمنٹ = Ex PW 3/3 کے لیے ع. ب. گورنمنٹ
 2022 کے لیے ع. ب. گورنمنٹ Ex PW 3/5 کے لیے ع. ب. گورنمنٹ =
 Ex PW 3/7 2022 کے لیے ع. ب. گورنمنٹ Ex PW 3/8
 = Ex PW 3/8 2022 کے لیے ع. ب. گورنمنٹ
 اس کے ساتھ ساتھ اس کے لیے اس کے لیے اس کے لیے اس کے لیے اس کے لیے اس کے لیے
 اس کے لیے اس کے لیے اس کے لیے اس کے لیے اس کے لیے اس کے لیے اس کے لیے اس کے لیے
 اس کے لیے اس کے لیے اس کے لیے اس کے لیے اس کے لیے اس کے لیے اس کے لیے اس کے لیے
 اس کے لیے اس کے لیے اس کے لیے اس کے لیے اس کے لیے اس کے لیے اس کے لیے اس کے لیے
 اس کے لیے اس کے لیے اس کے لیے اس کے لیے اس کے لیے اس کے لیے اس کے لیے اس کے لیے
 اس کے لیے اس کے لیے اس کے لیے اس کے لیے اس کے لیے اس کے لیے اس کے لیے اس کے لیے

خالد انوار
 Khalid Anwar
 Senior Civil Judge / Judge
 Model Trial Magistrate Court
 (MTMC) Larkki Marwat
 18/8/2022

محمد رفیق
 محمد رفیق

ATTESTED


 Examiner to
 District & Session Judge
 Larkki Marwat

PW-4
18/3/2022

میں نے ان کے خلاف جو تہمتیں لگائی ہیں وہ سب ثابت ہو چکی ہیں
اور یہ تہمتیں جیٹ کے خلاف لگائی گئی ہیں۔

خلفا بیان کرتا ہے کہ وہ یہ تہمتیں جیٹ کے خلاف لگائی ہیں۔

جیٹ کے خلاف تہمتیں لگائی گئی ہیں اور وہ تہمتیں جیٹ کے خلاف لگائی گئی ہیں۔

اور یہ تہمتیں جیٹ کے خلاف لگائی گئی ہیں اور وہ تہمتیں جیٹ کے خلاف لگائی گئی ہیں۔

12/05/2022 PW-4/Admn
میں نے ان کے خلاف جو تہمتیں لگائی ہیں وہ سب ثابت ہو چکی ہیں

اور یہ تہمتیں جیٹ کے خلاف لگائی گئی ہیں اور وہ تہمتیں جیٹ کے خلاف لگائی گئی ہیں۔

اور یہ تہمتیں جیٹ کے خلاف لگائی گئی ہیں اور وہ تہمتیں جیٹ کے خلاف لگائی گئی ہیں۔


اور یہ تہمتیں جیٹ کے خلاف لگائی گئی ہیں اور وہ تہمتیں جیٹ کے خلاف لگائی گئی ہیں۔

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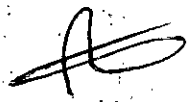
مستند دستخط کیا

جیٹ کے خلاف
جو تہمتیں لگائی گئی ہیں

XX


Khalid Anwar
Senior Civil Judge / Judge
Model Trial Magistrate Court
MTC, Pakk Marwat

ATTESTED


Examiner to
District & Session Judge
Lahar Marwat

28

PW-5

18/3/2022

بیان ازاں نظر احوال پیادہ ناظریت (جنس) خدیجہ بیگم

حلفاً بیان کرتا ہوں کہ میں ناظریت (جنس) خدیجہ بیگم

مخاطب (انجمن) میں بطور پیادہ کی گواہی سرزبان

کے دوران اور اس وقت میرے ساتھ عمل میں آیا تھا

(حلف) سے یہ دیکھا گیا ہے جس کے تمام سرکاری نوٹس

میں درج ہیں بحوالہ نمبر 85 حوالہ 8/11/2022 میں پیادہ


کو برائے تھیں جسے محمد سلیمان ایسے جرنل ملک کے باپ

علا میں پیادہ آئے کہ گھر گیا بیٹن کو مائیکال مندرجہ ذیل

دست سے دیکھا گیا علا جیسا نام احتشام تھا اور نوٹس

بحوالہ نمبر 85 دیا گیا جس میں پیادہ نے اپنا گھر

کوئی وقت حوالہ 10/22 کو گیا اور متعلقہ برائے کے گواہ کیا


Khalid Anwar
Senior Civil Judge / Judge
Model Trial Magistrate Court
(MTMC) Laki Matwat
3-2022

اسی طرح میں پیادہ کو ایک عدولت حوالہ 27/22-303

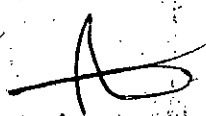
حوالہ 27/22 کے نام پر دیا گیا۔ میں پیادہ پر اسے

محمد سلیمان ایسے جرنل ملک کے گھر گیا بیٹن کے

میں درج تھا اس کے ساتھ (جنس) اور لڑکانہ مقدمہ


میں درج ہے کہ نوٹس لیا گیا اور کوئی سے انکار

TESTED



اور بیان کرتے ہیں کہ یہاں کے لوگوں کو یہ سالہ خزانہ
میں 3/2 کو مسٹر محمد سلیمان یوسف جوڈیئر مگسٹریٹ
کے کھلے باب میں مسٹر یوسف جوڈیئر مگسٹریٹ
کا اور ڈسٹرکٹ جج کی کالی (جس میں ٹائٹل و حقیقت کے ذریعے
تین گروہوں کے بارے میں واقعہ پر لکھی گئی ہے) سے جوڑ کر
دیکھ کر یہ نتیجہ نکلا گیا ہے۔


اسی طرح من پیاوہ کو ڈسٹرکٹ جج
من پیاوہ کے نام درج بہت سے ٹائٹل من پیاوہ پر
کیا تو مسٹر محمد سلیمان یوسف جوڈیئر مگسٹریٹ کے
پرچہ کے اندر بیان کرتے ہوئے کہ یہ ٹائٹل اور حقیقت
کو صحیح علم میں رکھنے کے لیے ضروری ہے کہ اس پر
ایسی ٹائٹل واقعہ کے جوڑ کے ساتھ من پیاوہ پر ڈسٹرکٹ جج
میں درج کیا گیا ہے۔


Khalid Anwar
Senior Civil Judge / Judge
Model Trial Magistrate Court
(MTMC) Lakkhi Marwat
18-03-2022

اسی طرح ڈسٹرکٹ جج
من پیاوہ کے نام درج بہت سے ٹائٹل من پیاوہ پر
یوسف جوڈیئر مگسٹریٹ کے کالی میں بیان کیا گیا ہے وہ واقعہ پر جوڈیئر
مگسٹریٹ کی طرف سے لکھی گئی ہے اور ڈسٹرکٹ جج کے
میں درج کیا گیا ہے۔

ATTESTED


افسار کے نام سے لکھی گئی ہے اور اس کے
کے نام سے لکھی گئی ہے اور اس کے
کے نام سے لکھی گئی ہے اور اس کے


Examiner to
District & Sessions Judge
Lakkhi Marwat


میر من پیارہ کو دیا جو میں نے میرا منہ سے
 کھا لیا ہے میں نے اسے مار ڈالی کیا میں کو بائیں ہاتھ سے
 نہ کھا رہیں جو سے من پیارہ نے جو الہ لکھ میرا 426 صف
 2022 3 کی پروڈکٹ اور اسے گو سے دے گا اسے لکھ من
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میر من پیارہ

میر من پیارہ


 Khalid Anwar
 Senior Civil Judge / Judge
 Model Town Magistrate Court
 (MTMC) Lakhna Wat
 18/3/22

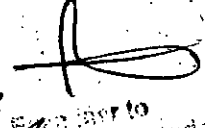
ATTESTED


 District & Sessions Judge
 Lakhna Wat

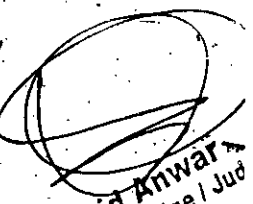
31

بجائے کٹر جانوں کے میں کٹر جانوں کی منیت کرتا ہوں اور میں نے اس منیت کو اپنی جان سے قربان کر دیا ہے۔
 (1) کٹر جانوں کے لئے میں نے اپنی جان سے قربان کر دیا ہے اور میں نے اس منیت کو اپنی جان سے قربان کر دیا ہے۔
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ATTESTED



Senior Civil Judge /
Model Trial Magistrate
(NTMC) Lakkī Mar



Khalid Anwar
Senior Civil Judge / Jud
Model Trial Magistrate
(NTMC) Lakkī Mar
31.03.2022

حکم دہرائی کے لئے ایف ڈی ڈی (DHD) کے ساتھ ساتھ دہرائی کے لئے
اور دیگر اہم ترین چیزوں کے لئے ایف ڈی ڈی کے ساتھ ساتھ
اور دیگر اہم ترین چیزوں کے لئے ایف ڈی ڈی کے ساتھ ساتھ

(22)

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ATTESTED

Examiner to
District Sessions Judge
Lakki Marwat

Khalid Anwar
Senior Civil Judge / Judge
Model Trial Magistrate Court
(MTMC) Lakki Marwat
31.03.2022

Ex PW 6/15 کے ساتھ ساتھ
3/2022 سے 6/18-20 کو
Charge Sheet Ex PW 6/16 کے ساتھ ساتھ

23

3/2022 سے 6/21-23 کو
Disciplinary action statement of

Ex PW 6/17 کے ساتھ ساتھ
3/2022 سے 6/21-23 کو

Ex PW 6/18 کے ساتھ ساتھ

Exhibit کے ساتھ ساتھ

Khalid Anwar
Senior Civil Judge / Judge
Model Trial Magistrate Court
(MTMC) Jakk. Marwat

31.03.2022

XX

ATTESTED

District Judge
Jakk. Marwat

No 3718-19/DSJ/L.M.

Dated: 15/07/2022

SHOW CAUSE NOTICE

I, Ijaz Rashid, District & Sessions Judge, Lakki Marwat, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Muhammad Suleman Yousaf, Junior Clerk (BPS-11) attached to the Court of CJ-II (Naurang), Lakki Marwat (under transfer to AD&SJ-II, Lakki Marwat as Moharrir), as follows:

1. (i). That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing vide communication No. 618-20/DSJ/L.M. dated 03-03-2022.

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

I am satisfied that you have committed the following acts/ omissions specified in rule 03 of the said rules and have been found guilty of:

(a) Inefficient

(b) Misconduct.

(c) Habitually & willful absenting himself from official duties without prior permission/ application for leave from the date of 06-01-2022.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of **compulsory retirement/ removal/ dismissal from service** under rule 04(1)(b)(ii-iv) of the said rules.

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

4. If no reply to this notice is received within seven days or not more than fifteen 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.

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

ATTESTED

(IJAZ RASHID)

Competent Authority/
District & Sessions Judge,
Lakki Marwat.

Endorsement no. & date even
Forwarded in original to: District & Session Judge
Lakki Marwat.

1. Mr. Mthammad Suleman Yousaf, Junior Clerk (BPS-11)/ accused official through the Senior Civil Judge (Admn), Lakki Marwat for ensuring its service upon accused official under intimation to this office for further proceeding into the matter.

2. Mr. Iftikhar Alam, Computer Operator (BPS-16)/ Departmental Representative to appear with all the relevant record on the date of hearing.

District & Sessions Judge,
Lakki Marwat.

35

DISTRICT JUDICIARY KHYBER PAKHTUNKHWA,

Office of the District & Sessions Judge, Lakki Marwat
Phone# 0969-538150 Fax# 0969-538152 E-Mail: dsjlakki@yahoo.com

No. 3744⁵⁹/DSJ/L.M

Dated 22/08/2022

OFFICE ORDER.

WHEREAS disciplinary proceedings were conducted against Mr. Muhammad Suleman Yousaf, Junior Clerk (BPS-11) (under suspension) within meaning of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

AND WHEREAS Show Cause Notices vide this office letter bearing No. 308/D&S.J/Admn dated 27-01-2022 and subsequent letter No. 387/D&S.J/Admn dated 08-02-2022 was called upon his willful absentee from his official duties w.e.f 06-01-2022 without prior permission.

AND WHEREAS his reply was found not satisfactory so the accused official was served with charge sheet, statement of allegations and Inquiry Officer was nominated for conducting proper inquiry in the matter under the Rules ibid.

AND WHEREAS the Inquiry Officer conducted the inquiry as per rules and accordingly submitted inquiry report. Consequently the accused official was served with Final Show Cause Notice bearing No. 3718-19/DSJ/LM dated 15-07-2022 and he was afforded the opportunity of personal hearing but he did not avail.

AND WHEREAS after going through the findings and recommendations of the inquiry officer, material on record and reply to the final show cause notice, charge against the accused official as mentioned in the charge sheet & statement of allegations stands proved.

NOW, THEREFORE, it is notified that the accused official, namely Mr. Muhammad Suleman Yousaf, Junior Clerk (BPS-11) awarded with major penalty of compulsory retirement under rule 4(1)(b)(ii) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 w.e.f. 05-01-2022.

Amal
(IJAZ RASHID)
District & Sessions Judge,
(Competent Authority)
Lakki Marwat.

Endst: No. & dated even:
Copy forwarded to:

1. The Registrar, Hon'ble Peshawar High Court, Peshawar for information, please.
2. The Senior Civil Judge (Admn), Lakki Marwat for information and further necessary action.
3. The District Accounts Officer, Lakki Marwat for information and further necessary action.
4. The Superintendent, District Courts, Lakki Marwat for information.
5. Mr. Iftkhar Alam, Computer Operator/Departmental Representative in the said inquiry for information.
6. The official concerned by name.

ATTESTED

Amal
Examiner to
District & Session Judge
Lakki Marwat.

Amal
District & Sessions Judge,
(Competent Authority)
Lakki Marwat.

PESHAWAR HIGH COURT PESHAWAR.

(APPELLATE AUTHORITY)

Through The Registrar, Peshawar High Court.

36

INDEX

S.NO	DOCUMENTS	ANNEXURE	PAGE.
1.	Memo of Departmental appeal with affidavit.	---	
2.	Application for condonation of delay with affidavit.	---	
3.	Supporting documents.	A-1	



APPELLANT

Muhammad Suleman Yousaf,
Ex- Junior Clerk,
Distt: Court, Lakki Marwat.
Contact No.
CNIC No.

37

1

BEFORE THE HON'ABLE PUISNE JUDGE,
PESHAWAR HIGH COURT PESHAWAR.
(APPELLATE AUTHORITY)

PHC JUDICIARY NO. 9548
Dt. 13.7.23

Through The Registrar, Peshawar High Court.

APPEAL AGAINST THE PENALTY ORDER DATED.
22.08.2022 PASSED BY LEARNED DISTT: & SESSIONS
JUDGE, LAKKI MARWAT WHEREBY MAJOR PENALTY
OF COMPULSORY RETIREMENT WAS IMPOSED UPON
APPELLANT WITHOUT ANY COGENT REASONS AND
PROCEDURE IN LAW.

R.SHEWETH.

Most respectfully the appellant submits as under:

- 1- That the appellant was appointed as Junior Clerk in the Distt: Judiciary on 13.11.2006 and has almost good record of service throughout.
- 2- That in 2022 the appellant faced unavoidable circumstances, which included sever illness of his mother, domestic problems leading to life threats to his dependents and illness of his wife who finally died on 13.09.2022. All such situation affected the appellant mentally. More so due to life threats he left his native village and shifted to some other place for safety which shows the grievousness of the situation. All the position was actually stated and explained before the learned D&S Judge at the relevant time and requested for leave but the learned authority turned deaf ears to the genuine requests of the appellant. The same situation was also explained in the reply dated.18.07.2022.
- 3- That despite above actual and factual position, major penalty was imposed upon the appellant vide order dated. 22.08.2022 through ex-parte proceeding in utter violation of law and principles of justice.

- 39
- 4- That the appellant files the instant appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned order is against the law, principle of justice and material on record, therefore, liable to be set-aside.
- B- That the impugned order has been passed with retrospective effect i.e (05.01.2022) which is against the law because as per Apex Court's judgment a penalty with retrospective effect cannot be imposed. (1985 SCMR-1178, 2007 PLC(CS)-1281).
- C- That if the charge sheet is perused it will transpire that:

Charge No.1 is the report of superintendent and passing of suspension order, which is not a charge/ allegation at all.

Charge No.2 is also misleading one because the appellant submitted his reply 24.2.2022 but the authority failed to appreciate the date of communication, because in law there is no concept of delivery to relatives or minors.

Charge No.3 is almost the charge No.2. but interestingly the *final show cause* notice was given prior to inquiry, i.e putting a horse behind the cart.

Charge No.4 is also wrong, because the appellant requested to allow him for joining duty which was not permitted along with request of personal hearing which was also not done.

Charge No.5 is the charge which was duly responded in the reply dated. 18.07.2022, i.e threats to life, mother's illness, shifting from native village to some other place due to dangerous situation including treats of kidnapping of his minor children and ultimate the demise of wife's death.

Charge No.6 is also baseless because no cheating etc was proved , the appellant did appear on 17.1.2022 before the Medical Board but Board was not convened and nor the appellant was ever informed about any other scheduled meeting of the Medical Board. Secondly, the medical prescription was held genuine and correct as

31

per report of the M.S “ the OPD ticket No. and date is correct” and the only technicalities was made hindrance.

Charge No.7,8,9,&10 are no charges at all.

From the above it transpires that a major penalty was imposed on only one charge (No.6) which is not commensurate with the guilt of appellant keeping in view the grave situation faced by appellant. The Apex Court has held that punishments should always be commensurate with guilt otherwise the law will lose its efficacy.(2006 SCMR-1120, 2023 SCMR-803, 2008 PLC 40).

- D- That the appellant was not even given proper chance of defence and an ex-parte action was taken because in view of compelling circumstances , mentioned above, the authority was required to at least acknowledge the difficulties he faced, especially when the same were brought in the knowledge of authority as mentioned in reply dated.18.07.2022. Thus the very principle of fair trial and spirit of Article-10 A of the Constitution are violated.
- E- That the whole process under E&D Rules was violated because final show cause was given first as initial step i.e prior to charge sheet and statement of allegations, which show the ultimate intention of authority which resulted in violation of principle of justice and fair play. Thus the whole foundation of imposing penalty falls to grounds.
- F- That even the report of the M.S of City Hospital dated.7.01.2022 has not described the medical certificate as fake one , whereas, the appellant was present on the date of scheduled meeting of the Medical Board (17.1.2022) but meeting was not held and thereafter no further directions were issued to appellant. Therefore, the penalty basing on such report in utter violation of law and principle of justice.
- G- That even the mode and manner adopted for serving show cause notices was not a recognized mode and manner in law because in such situation, as mentioned above, notices could not be served through relatives etc and the procedure of publication was not adopted by the authority. Thus the whole action against the appellant is a nullity in the eyes of law.

- (40)
- H- That the authority has not applied his independent mind and kept the grave situation, faced by appellant, in mind and has resultantly imposed a very harsh penalty.
- I- That even no chance of personal hearing was provided as mandated in the E&D Rules, 2011 especially when there was no refusal on the appellant's side nor there was any proof in black and white regarding not availing the chance of hearing despite proper communication. Thus the very spirit of justice has been violated.
- J- That the appellant seeks permission to advance other ground and facts at the time of hearing.

It is, therefore, most humbly prayed that the impugned penalty order dated. 22.08.2022 may very graciously be set-aside and the appellant may be reinstated with all back benefits. Any other remedy deems appropriate that may also be awarded in favour of appellant.


APPELLANT

Muhammad Suleman Yousaf,
Ex- Junior Clerk,
Distt: Court, Lakki Marwat.
Contact No.
CNIC No.

NOTE: All necessary documents along with condonation of delay application are attached herewith for the king perusal of the Hon'able Appellate Authority.

(41)

BEFORE THE HON'ABLE PUISNE JUDGE,

PESHAWAR HIGH COURT PESHAWAR.

(APPELLATE AUTHORITY)

Through The Registrar, Peshawar High Court.

**APPLICATION FOR CONDONATION OF DELAY FOR
CONDONING THE PERIOD DELAYED IN FILING
DEPARTMENTAL APPEAL BEYOND THE PRESCRIBED
PERIOD OF 30 DAYS.**

R.SHEWETH.

- 1- That the appellant has filed departmental appeal along with this application for condonation of delay.
2. That the appellant was facing grave mental trauma as explained in para-2 of the departmental appeal and as evident from the record, therefore, the appellant was unable to file the instant departmental appeal in time.
3. That the superior Courts have already held that decision on merit should always be encouraged rather than knocking out applicant/appellant on the grounds of technicalities, including limitation. (2003 PLD(SC)-724, 2007 PLC(CS)-1246). Therefore, the appellant also request for decision on merit instead of limitation to meet the ends of justice.
4. That the grounds of main departmental appeal may also be considered as integral part of this application.

It is, therefore, humbly prayed that the delay in filing this departmental appeal may very graciously be condoned in the interest of justice and to meet the ends of justice and the appeal maybe decided on merit and grounds mentioned in the main departmental appeal.

42

~~APPELLANT~~

Muhammad Suleman Yousaf,
Ex- Junior Clerk,
Distt: Court, Lakki Marwat.
Contact No.
CNIC No.

BEFORE THE HON'ABLE PUISNE JUDGE,

BEFORE THE HON'ABLE PUISNE JUDGE,

PESHAWAR HIGH COURT PESHAWAR.

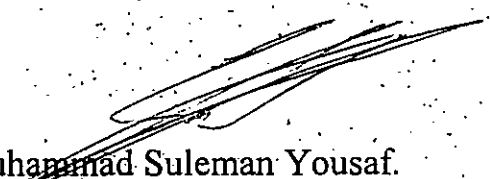
(APPELLATE AUTHORITY)

Through The Registrar, Peshawar High Court.

AFFIDAVIT.

I Muhammad Suleman Yousaf S/O Yousaf Khan, Ex- Junior Clerk Distt: Courts Lakki Marwat (Appellant) do hereby affirm on Oath that the contents of departmental appeal are true and correct to the best of my knowledge and belief and nothing has been concealed.

DEPONENT


Muhammad Suleman Yousaf.

BEFORE THE HON'ABLE PUISNE JUDGE,

PESHAWAR HIGH COURT PESHAWAR.

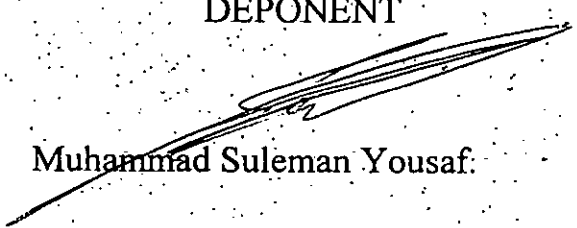
(APPELLATE AUTHORITY)

Through The Registrar, Peshawar High Court.

AFFIDAVIT.

I Muhammad Suleman Yousaf S/O Yousaf Khan, Ex- Junior Clerk Distt: Courts Lakki Marwat (Appellant) do hereby affirm on Oath that the contents of application for condonation of delay are true and correct to the best of my knowledge and belief and nothing has been concealed.

DEPONENT


Muhammad Suleman Yousaf:

VAKALAT NAMA

46

NO. _____/2023

IN THE COURT OF Service Tribunal Peshawar.

Salman Yousof (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Gouti k.p. (Respondent)
(Defendant)

I/We, Salman Yousof

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court of Pakistan & Syed Noman Ali Bukhari, Advocate High Court & Hilal Zubair Advocate** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

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.

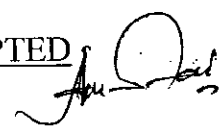
AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

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.

Dated _____/2023


(CLIENT)

ACCEPTED


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT,
OF PAKISTAN.
(BC No. 10-7327)


(S. NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar
Cell No. 0302-5548451
0333-9103240
0306-5109438
0310-9503909


HILAL ZUBAIR
Advocate