

12.08.2015

Agent of counsel for the appellant present. Counsel for the appellant is not in attendance. Adjourned to 25.8.2015 for preliminary hearing before S.B.


Chairman

25.08.2015

Appellant in person present. Learned counsel for the appellant is not in attendance. Seeks adjournment. Adjourned to 31.8.2015 for preliminary hearing before S.B.


Chairman

31.08.2015

Counsel for the appellant is not in attendance due to strike of the Bar. Adjourned to 21.9.2015 for preliminary hearing before S.B.


Chairman

21.09.2015

None present for appellant despite repeated calls. The Court time is about to over. Dismissed for want of prosecution. File be consigned to the record.






Chairman

ANNOUNCED
21.9.2015

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 757/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	08.07.2015	<p>The appeal of Mr. Ismail Khan resubmitted today by Mr. Muhammad Imran Khan 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	10-7-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>14-7-2015</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3	14.7.2015	<p>None present for appellant. The appeal be relisted for preliminary hearing for 30.7.2015 before S.B.</p> <p style="text-align: right;"> CHAIRMAN</p>
4	30.7.2015	<p>None present for appellant. Notice to counsel for the appellant be issued for preliminary hearing for 12.8.2015 before S.B.</p> <p style="text-align: right;"> CHAIRMAN</p>


The appeal of Mr. Ismail Khan son of Maskeen Khan r/o pawaka Peshawar received to-day i.e. on 30.06.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Not removed

- ① Copy of termination order is not attached with the appeal which may be placed on it.
- ② Copies of departmental appeal and its rejection order are not attached with the appeal which may be placed on it.
- ③ Copy of order dated 03.04.2010 mentioned in heading of the appeal is not attached with the appeal which may be placed on it.
- ④ Annexure-A of the appeal is illegible which may be replaced by legible/better one.
- ⑤ Addresses of respondents No, 2, 3 and 8 of the appeal are incomplete which may be completed according to Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 6- One copy/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1025 /S.T,

Dt. 30/6 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Imran Khan Adv. Pesh.

Note :

1. Termination order is not provided by the department, while information regarding Termination is mentioned in annexure - "C".
2. The appellant is illiterate person, therefore unaware about proper drafting of appeal, he moved an application type departmental appeal which is rejected, the rejection order is available on the back of such application / departmental appeal (annexure "B").
3. Order dt: 03.04.2010 ~~is~~ is not provided by the department by the information is available in annexure "A".
4. Annexure "A" is replaced.
5. Addresses of Res No: 2 & 3 are mentioned while addresses of Res No: 8 is not known to appellant.

6. Objection is fulfilled.

[Handwritten signature]

08-07-15

1

BEFORE THE CHAIRMAN SERVICE
TRIBUNAL KHYBER PUKHTOON
KHAWA PESHAWAR.

Appeal no. 757/2015

ISMAIL KHAN

VERSUS

GOVERNMENT OF KPK AND OTHERS

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5	WAKALATNAMA		9
6	SPARE COPIES FOR RESPONDANTS NO: 1 TO 8		



APPELLANT

Dated: 29.06.2015

M. Zia Through
Muhammad Imran Khan
Muhammad Zia Ullah
Advocates, High Court

BEFORE THE CHAIRMAN SERVICE
TRIBUNAL KHYBER PUKHTOON
KHAWA PESHAWAR.

Appeal no. 757/2015

ISMAIL KHAN S/O: MASKEEN KHAN R/O: PAWAKA PESHAWAR.
APPELLANT

VERSUS

A.W.F. Province
Service Tribunal
Diary No. 755
Dated 30/6/2015

1. GOVERNMENT OF KPK THROUGH CHIEF SECRAETARY
2. TOWN OFFICER (TO) TMA TOWN III PESHAWAR (*Gulshan Iqbal, Arbab*)
3. TOWN OFFICER (F) TMA TOWN III PESHAWAR. (*road, Peshawar.*)
4. THE RESIDENT ASSISSTANT DIRECTOR (AUDIT) TMA TOWN III PESHAWAR.
5. ADMINISTRATIVE OFFICER TMA TOWN III PESHAWAR.
6. ESTABLISHMENT ASSISTANT TMA III PESHAWAR.
7. CHIEF MUNICIPAL OFFICER M.C PESHAWAR.
8. ALAM KHAN S/O: ZARIF KHAN APPOINTED AS ROAD GANG COOLI TOWN IIPESHAWAR.

RESPONDENTS

APPEAL U/S: 4 OF THE NWFP SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 02.06.2015 AND ORDER NO: 1427/ADT-III/PESH DATED 03.04.2010, WHEREBY THE ORDER OF DISMISSAL FROM SERVICE HAS BEEN PASSED AGAINST THE APPELLANT AND RESPONDENT NO: 8 IS APPOINTED ON HIS POST.

PRAYER IN APPEAL:

ON ACCEPTANCE OF THIS APPEAL THE ORDER DATED 02.06.2015 AND ORDER NO: 1427/ADT-III/PESH DATED 03.04.2010 PASSED BY RESPONDENTS MAY PLEASE BE SET-ASIDE AND THE APPELLANT BE RE-INSTATED BACK TO HIS SERVICE WITH ALL BACK BENEFITS.

Filed to-day
30/6/15

RESPECTFULLY SHEWETH:

The appellatnt most humbly submits as under:

That the appellatnt was appointed as a road gang cooli town-III Peshawar against on existing vacancy on the schedule of establishment of TMA-III Peshawar on 03.05.2008.

(Copy of appointment order is attached as annexure A)

Re-submitted to-day
and filed;

8/7/15

2. That the appellant performed his job to the entire satisfaction of his Superior and during service no adverse remark or black spot has been found on the part of appellant.
3. That in the year 2010 the salary of the appellant was stopped by the respondents and on the requests of appellant, respondents were delaying to issue his salary with the pretext that after some days within few days.
4. That even than the appellant was performing his duty and when he requested several times for the release of his salary he was informed by the respondents that his salary will be released soon and till than you do not come to office.
5. That appellant was time to time contacting with respondents, but they were lingering on the matter by one pretext or the other.
6. That during this time period appellant moved many applications but in vain and no positive response is received from respondents.
7. That on 29.04.2015 appellant moved an appeal to the respondents for the redress of his grievances which was turn down on the ground that the appellant had already been terminated from service and respondent No: 8 is appointed on his post on 03.04.2010.

(Copies of appeal and order are attached as annexure B & C)

8. That feeling aggrieved the appellant filed this appeal before this Hon'ble Court on the following grounds inter-alia:

GROUND:-

- A. That the appellant was legally appointed on the post of road gang cooli and was performing his duty regularly
- B. That no codal formalities as enumerated in the concerned laws have been adopted nor any procedure as prescribed in the legal manner has been obeyed by the issuing authority.
- C. That not a single word regarding the enquiry proceedings, evidence or any final show cause notice/publication is available on record before passing the above said Order of dismissal against the appellant.
- D. That such an attitude of hire and fire is not even warranted by any law in the institution where a simple master and servant rule is applicable, whereas the whole procedure of dealing with the Civil Servant in the cases of any misconduct as enumerated in the Service Laws has been bulldozed in such a manner.
- E. That not only the whole process and procedure of E&D Rules, 1973 as well as Removal from Service Ordinance has been ignored and defied, but the service of the appellant has been terminated in such a manner which can not be justified even under the law of jungle.
- F. That the appellant is the only serving member of huge family and such harsh punishment of dismissal from the service not only put him in so many mental worries, financial crises but also spoiled his career in a very bad way.
- G. That there is a basic principle of Islam as well as of law that no one should be condemned unheard but such rule has been ruined out by passing one sided Order.

IT IS, THEREFORE, PRAYED THAT ON ACCEPTANCE OF THIS APPEAL THE ORDER DATED 02.06.2015 AND ORDER NO: 1427/ADT-III PESH DATED: 03.04.2010, WHEREBY THE SERVICE OF THE APPELLANT HAS BEEN DISMISSED AND RESPONDENT NO: 8 IS APPOINTED ON HIS POST BEING ILLEGAL, UNLAWFUL WITHOUT AUTHORITY/JURISDICTION AS WELL AS BEING UNCONSTITUTIONAL AND BASED ON THE MALAFIDE INTENTIONS OF THE RESPONDENTS MAY PLEASE BE SET-ASIDE AND THE APPELLANT BE RE-INSTATED BACK TO HIS SERVICE WITH ALL HIS BACK BENEFITS FROM THE DATE OF HIS ABOVE SAID DISMISSAL.



Dated: 29.06.15

Appellant

Through

M. Zia Ullah

Muhammad Zia Ullah
Muhammad Imran Khan
Advocates, High Court,
Peshawar.

BEFORE THE CHAIRMAN SERVICE
TRIBUNAL KHYBER PUKHTOON
KHAWA PESHAWAR.

ISMAIL KHAN

VERSUS

GOVERNMENT OF KPK AND OTHERS

AFFIDAVIT

It is verified upon oath that the contents of this appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Deponent



Annexure 'A'

6

3

OFFICE OF THE TOWN MUNICIPAL OFFICER
ADMINISTRATION TOWN-III, PESHAWAR

No. _____ /TMO/T-
Dated the Peshawar _____ /

OFFICE ORDER:-

In continuation of office order No. 310-1p/TMO/Pesh. Dated: 3/05/2008, the undersigned is pleased to advise that Mr. Mansoor Khan is Road Gang Cooiy Town-III, Peshawar on a temporary basis @ RS. 4000/- P.M. against an existing vacancy on the schedule of establishment of TMA Town-III, Peshawar.

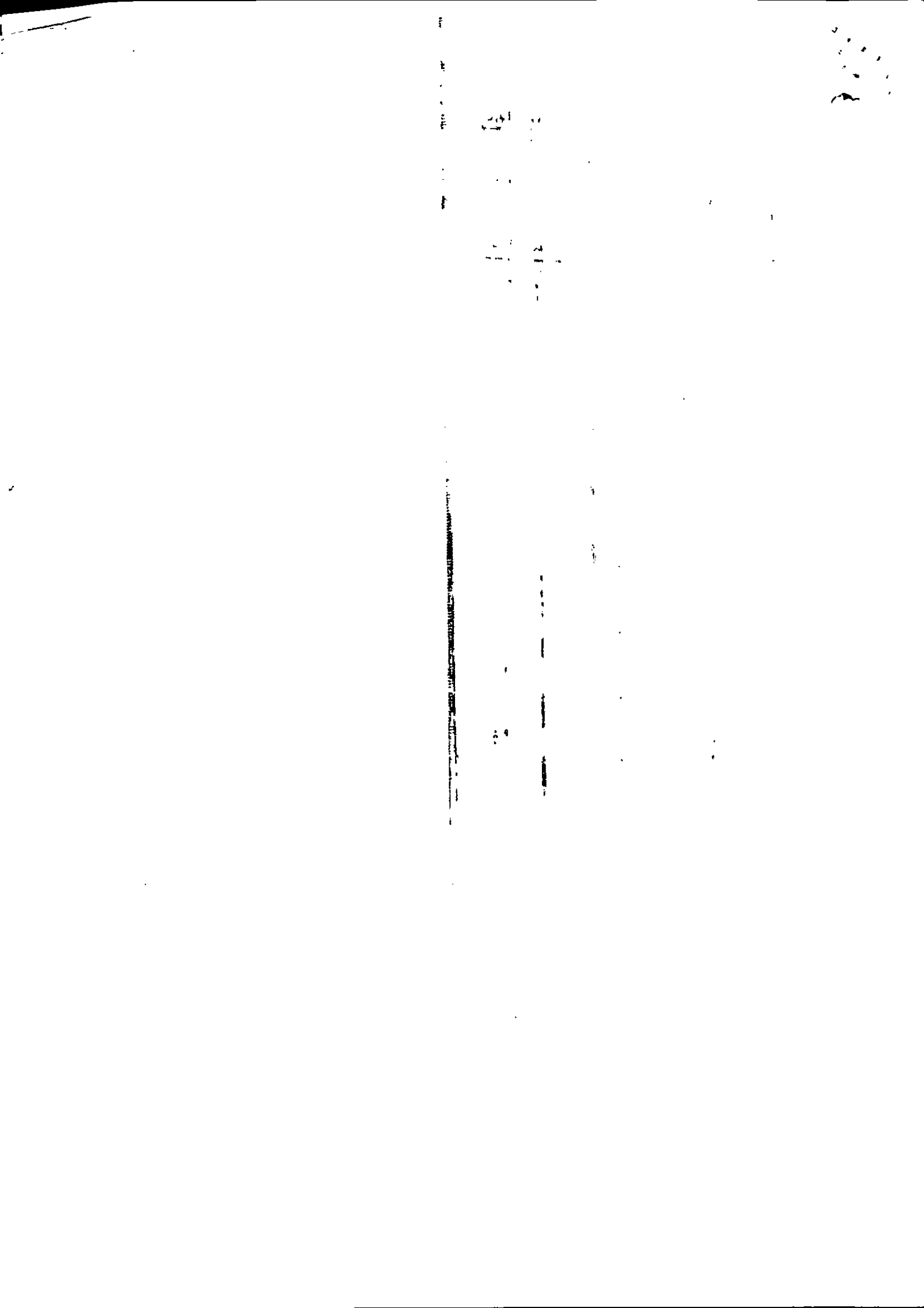
His other terms and conditions of appointment will remain same as notified in the said order.

Endst No. 1358-104 /TMO/T- III/08
Copy to:-

- The Nazim TMA Town-III, Peshawar.
- The TO(I) TMA Town III, Peshawar
- The Town Officer (F) TMA Town - III Peshawar
- The Resident Assst.: Director (Audit) TMA Town III Peshawar
- The Administrative Officer TMA Town III Peshawar
- Establishment Assst. TMA Town III, Peshawar.
- The Official concerned

TOWN MUNICIPAL OFFICER
TMA TOWN-III, PESHAWAR
Date 23/1/08/2008

TOWN MUNICIPAL OFFICER
TMA TOWN-III, PESHAWAR



Annexure C⁽⁸⁾

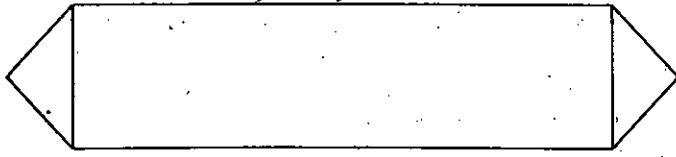
832
مبارك
MCP

Mr. Ismail s/o Miskeen was terminated
from service due to absence from
duty & Mr. Alam Khan s/o Latif Khan
was appointed in his vacant post
as order No 1427 /ADT-III/Post dt
3/4/00

Submitted PL

2A
2/6/05

A.O/



مورخہ

مقدمہ

دعویٰ

جرم

2 منجانب

بنام

اس سے عمل

کو ریکارڈ آف ۱۲۲۲

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام کیلئے محمد عمران خان محمد عبداللہ ریسرٹس

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زر میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے

اور اس کا ساختہ پر داخستہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے

سبب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں

گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

20/5

دھول

ماہ

30

المرقوم

العبد العبد العبد

کے لئے منظور ہے۔

مقام
[Signatures]

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

APPEAL No..... 757 of 20 15

Ismail Khan.

Appellant/Petitioner

Versus

through chief Secy. Pesh

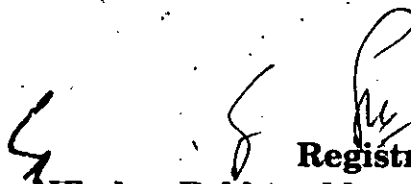
RESPONDENT(S)

Counsel
Notice to Appellant/Petitioner

Mohd Zia Ullah
Mohd Imran Ishaq
Adv. High Court
Pesh

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 12-8-2015 at 8:00 AM

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.


Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.