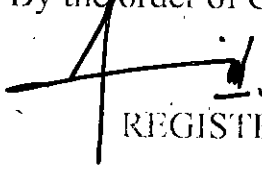


FORM OF ORDER SHEET

Court of _____

Appeal No. _____

57/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	02/01/2024	<p>The appeal of Mr. Muhammad Tariq Jan presented today by Mr. Wasal Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ . Parcha Peshi is given to counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

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

Service Appeal No. 57 /2023

Muhammad Tariq Jan, Process Server VS Learned District & Session Judge, Charsadda & 01 other.

Index

Sr.No	Description Of Documents	Annexure	Page No.
			1 to 16
1	Grounds of Appeal		17
2	Affidavit of Appeal		18
3	Addresses of Parties		19 to 20
4	Application for Suspension of Operation of Impugned Order		21 to 22
5	Copy of Application regarding information of Theft of Motorcycle to Respondent No.2	A	22
6	Copy of Naqalmaid Dated 7/06/2022	B	23
7	Copies of Notice of High Court, Peshawar with report	C	24 to 25
8	Copy Of Application submitted by Appellant to CCPO, Peshawar	D	26
9	Copy of Statement of Superintendent, Session Courts, Charsadda	E	27
10	Copy of Show Cause Notice	F	28
11	Copies of reply of Show Cause Notice	G	29 to 30
12	Copies of Charge sheet/Statement of allegations	H	31 to 32
13	Copies of reply of charge sheet/Statement of allegations	I	33 to 36
14	Attested Copy of statement/Arguments of representative of Respondent No.2	J	37 to 38
15	Attest Copy of Statement of Jamil Khan Naib Nazir	K	39
16	Attested Copy of statement of Appellant	L	40 to 44
17	Attested Copy of Statement of Naseeb Ullah	M	45 to 46
18	Attested Copies of Statement of Naseer Khan	N	47 to 48
19	Copy of Prepared cross examination Paper	O	49
20	Attested Copy of Final Show Cause Notice	P	50
21	Attested Copies of reply of Final Show Cause Notice	Q	51 to 57
22	Attested Copies of impugned Order Dated 12/04/2023	R	58 to 62
23	Attested Copy of Letter dated 19/04/2023	S	63
24	Attested Copies of Grounds of Appeal before Respondent No.1	T	64 to 71
25	Attested Copy of Application for Suspension of Operation of Impugned Order	U	72
26	Attested Copies of Comments of Respondent No.2	V	73 to 77

27	Copy of Letter/Notice recovery of Pay Dated 07/10/2023	W	78
28	Copy of reply of Letter Dated 07/10/2023	X	79
29	Copy of letter dated 08/11/2023 to SCJ (Admin) Peshawar for invoice	Y	80
30	Copy of Invoice of CD 70 Motorcycle Honda Model 2018	Z	81
31	Copy of seniority List of Process Servers	ZA	82 to 84
32	Copy of Minutes of Meeting of DPC for Promotion of process Servers Dated. 18/11/2023	ZB	85 & 86
33	Copy of Promotion Order of Process Servers Dated 20/11/2023 to the Post of Bailiffs	ZC	87
34	Attested copies of Judgment dated 12/12/2023 passed by Respondent NO.1	ZD	88 to 93
35	Wakalat Nama		94

Dated: 29/12/2023

Appellant



Muhammad Tariq Jan

Process Server



HAJI WASAL KHAN

ADVOCATE, CHARSADDA

Through:

(1)

BEFORE THE CHAIRMAN KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 57 /2023

Muhammad Tariq Jan, Process Server, in the Establishment of learned Senior
Civil Judge (Admin) Charsadda _____ Appellant.

VS

1. The Learned District & Sessions Judge, Charsadda.
2. The Learned Senior Civil Judge (Admin) _____ Respondents.
Charsadda

Service Appeal U/S 4 of the Service Tribunal Act, 1974, against the judgment/order dated 12/12/2023 passed by Respondent No. 1 whereby the Departmental Appeal of Appellant was dismissed and Judgment/Order dated 12/04/2023 passed by Respondent No.2 on the basis of enquiry report of Enquiry Officer whereby the Appellant was ordered/ directed to deposit the prevailing market price of stolen official Motorcycle CD-70 Honda bearing Registration No. A-6124 Charsadda Model 2018 Chassis No. JB201702 Engine No. B509198 with the amount of Government taxes and cost of registration (whatever applicable) in the office for onward deposit in State Exchequer within 30 days otherwise the same shall be recovered from his pay with further order of withholding of annual increments for 03 years under Rule 4 (I) (a)(ii)(iii) of Khyber-Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

(2)

PRAYER IN APPEAL

On acceptance of this Service Appeal both the Judgments/Orders dated 12/12/2023 and 12/04/2023 referred to above passed by Respondents may very kindly be set aside being illegal, harsh, against principle of natural justice; against facts and material available on record, Law/Rules on the subject and against verdicts of Superior Courts and till disposal of this Appeal operation of impugned Orders may be suspended.

Respectfully Sheweth

The Appellant respectfully submits as under: -

FACTS OF THE CASE IN BRIEF

- 1- That Appellant has been inducted as Process Server in Process Serving Agency of Respondent No. 2 in the month of July 2003 and is performing his duty as such in the said court at Charsadda, devotedly and to the best of his ability having no complaint from any quarter.
- 2- That Appellant along with other Process Servers and Bailiffs of the court of Respondent No.2 were delivered Motorcycles Model 2018 for the performance of their duty to deliver various summons/Notices of various Courts including Honorable High Court Peshawar to litigants public and verbally directed to take the Motor Bikes with them to their houses after duty hours wherever they reside, and this Order still is in existence.

(3)

- 3- That Appellant was entrusted Motorcycle Honda CD-70 Model 2018 having Registration No. A-6124 Charsadda Engine No. B-509198 Chassis No. JB201702 (Registration copy is retained in the office of Respondent No.2).
- 4- That the Appellant was using the said Motorcycle for service of Summons/Notices issued by various courts, upon litigants and witnesses in his allotted illaqa, after duty hours taking it to his house in Garhi Rajkol, Ring Road, Peshawar being verbally permitted by Respondent No.2 and bringing back on the next day to the court. However, no fuel charges were being paid to him.
- 5- That during reshuffling of illaqa the Appellant was allotted illaqa of Mufti Abad and others on 02/06/2022 for the purpose of service of notices/summons upon litigants and witnesses issued from various courts including Honorable High court, Peshawar. This illaqa was previously allotted to Arshad Ahmad, process server and he was entrusted with the notice of Honorable High Court Peshawar titled "Gohar Ali vs Munir Khan" which was handed over to Appellant for service after 02/06/2022, the date of reshuffling of illaqa by Nailb Nazir Jameel Khan of the Court of Respondent No.2. The Appellant on 07/06/2022 visited the illaqa to serve notice upon the litigant Gohar Ali and searched him in various villages but in spite of his hectic efforts the house of that litigant was not traced out, so with his this report he took the notice along with him to Honorable High Court, Peshawar for its deposit with concerned clerk, when he was returning home on his official bike to Peshawar and being resident of Peshawar in the past for so many occasions he had delivered notices etc., to

(4)

concerned clerk at Honorable High Court, Peshawar with direction of the office.

- 6- That for the deposit of this notice he went to Peshawar High Court on his official Bike which he parked in front of the main gate of Honorable Peshawar High Court duly locked and went himself inside the premises of Honorable High Court to the office of concerned clerk.
- 7- That the concerned clerk was not present on his seat by that time, so he waited there for 10/15 minutes and thereafter came out from the gate of Honorable High Court to the parking place to check his motorcycle but found it missing.
- 8- That immediately the Appellant contacted on Mobile phone Naseeb Ullah, clerk of Shakeel Ahmad Khan Advocate, High Court, his brother, who was present by that time in High Court and requested him to come and help him in searching of his Bike They both searched the same in the nearby places but could not find out the same, so the Appellant handed over the notice to him for its deposit with concerned clerk of High Court in Cr. Branch and himself went to PS East Cantt, Peshawar where he vide his written Application reported the matter about the stolen Bike which was recorded in the shape of Naqal Mad dated 07/06/2022.
- 9- That early in the morning of 08/06/2022 the Appellant informed verbally Respondents about the theft of official motor cycle but he was directed to submit his written application in this respect with his police report, so after obtaining copy of Naqal mad from Moharrir of PS East Cantt Peshawar, the Appellant submitted the same with his written application to Respondent

(5)

No.2 on 10/06/2022 (Copies of application and Naqal Mad dated 07/06/2022 are annexed as annexure A & B)

10- That early in the morning on 08/06/2022 the Appellant also contacted the said Naseeb Ullah to inquire from him about the deposit of notice with the concerned clerk but he replied that he could not deposit the same due to his engagement in his work, as such the Appellant after obtaining the same from him deposited it with the concerned clerk namely Nasir Irshad whose signature on the back of its photocopy regarding its receipt was obtained (copy of notice is annexed as Annexure-C)

11- That time and again the Appellant visited PS. East Cantt Peshawar and requested the SHO and Moharrir of the PS to incorporate the contents of Naqal mad dated 07/06/2022 into FIR but best known to them, his request was not acceded to, hence he filed an application to CCPO Peshawar which was forwarded to SHO concerned for doing the needful but till date no FIR has been scribed. In this connection the Appellant also requested Respondent No.2 to contact the High Ups of police to issue orders to the concerned SHO for incorporation of the contents of Naqal Mad into Fir and to trace out the official Bike but Respondents remained mum (copy of application submitted to CCPO, Peshawar is annexed as Annexure-D)

12- That fact finding enquiry was ordered in the matter and entrusted to learned AD&SJ II, Charsadda who got recorded the statements of some officials of the Respondents including superintendent of Sessions Courts, Charsadda and also statement of Appellant but according to the wish of AD&SJ II, Charsadda to which the Appellant protested, (Copy of Statement of Superintendent is annexed as Annexure E).

(6)

- 13- That after sending the fact-finding enquiry file to Respondent No.2, she served show cause notice on the Appellant which the Appellant replied through written reply (Copies of Show Cause Notice & Reply are annexed as Annexure F&G)
- 14- That the Appellant was charge sheeted with statement of allegations by Respondent No.2 and directed to submit his reply but to the Enquiry Officer, so appointed, where the Appellant submitted his reply (Copies of Chargesheet, Statement of allegation and reply are annexed as Annexure H&I).
- 15- That Enquiry Officer recorded statements of Respondent No.2's representative and Jamil Khan Naib Nazir during enquiry proceedings in absence of Appellant without awarding him opportunity of cross examination, more so, when their evidence is not on oath and not in the shape of statement (s) while recorded statements of appellant and his witnesses namely. NaseebUllah and Naseer Khan duly cross examined (Attested copies of statements are annexed as Annexure J, K, L, M & N).
- 16- That the learned Civil Judge/Enquiry officer also placed on enquiry file the pre-prepared cross examination paper, to be put on Appellant which might have been prepared by Respondent No.2 for her representative (copy whereof is annexed as Annexure -O)
- 17- That on completion of enquiry proceedings the Learned Civil Judge/Enquiry officer returned the enquiry file along with enquiry report to Respondent No.2, who served Appellant with Final Showcase Notice (Attested copy of final show cause notice is annexed as Annexure P).

(7)

18- That Appellant submitted his reply to Final Show cause Notice and desired to be heard in person (Attested copy of reply is annexed as Annexure Q).

19- That Respondent NO.2 passed order dated 12/04/2023 conveyed to the Appellant on 19/04/2023 vide letter No. 588-90 SCG (A) Charsadda, where by harsh punishments, though minor penalties, in shape of withholding of annual increments for 03 years and recovery of the price of motor cycle as per prevailing market value/rate with taxes was ordered with further order to the Appellant to deposit the same with the office within 30 days otherwise the same shall be recovered from his monthly salary (attested copies of order impugned dated 12/04/2023 & letter dated 19/04/2023 are annexed as Annexure R & S).

20- That the Appellant being aggrieved from the order dated 12/04/2023 passed by Respondent No.2 filed Departmental appeal before Respondent No.1 on 08/05/2023 with an application for suspension of operation of impugned order dated 12/04/2023 till the decision of Departmental Appeal, to which Respondent No.2 filed comments on 16/05/2023 (Attested copies of Departmental Appeal, Application and comments are annexed as Annexure T, U&V).

21- That Respondent No.2 before the decision of Departmental Appeal of Appellant also directed the Appellant through a Notice of recovery of price of stolen Motor Bike, to which he replied but his reply was not considered and again directed him verbally to submit a simple request for the grant of relief in the price while fixing the same so that he may be promoted in the coming DPC meeting to be held on 18/11/2023 wherein

(8)

06 Process Servers were intended to be promoted to the post of Bailiffs and the name of Appellant in the seniority list was on serial No.3. However, in the DPC meeting held on 18/11/2023 04 Process Servers juniors to Appellant were promoted as Bailiffs while he was deprived of his promotion (Attested copies of relevant documents are annexed as Annexure-W, X, Y, Z, ZA, ZB and ZC).

22- That vide Judgment dated 12/12/2023 Respondent No.1 dismissed the Departmental Appeal of Appellant for no good grounds, (Attested copies of Judgment dated 12/12/2023 are annexed as Annexure-ZD).

23- That feeling aggrieved from both the Judgments/orders dated 12/04/2023 and 12/12/2023 passed by Respondents the Appellant is filing this Service Appeal along with an application for suspension of operation of the impugned Judgments/orders passed by Respondents on the following grounds amongst others: -

GROUNDS

- A- That both the Impugned orders/ Judgments passed by Respondents are harsh, void-ab-initio, illegal, against the norms of justice, against facts and material available on record, law/rules on the subject, against verdicts of Superior Courts issued in this respect from time to time and against principle of natural justice, hence untenable.
- B- That the theft of official Motorcycle from the front gate of Honorable High Court, Peshawar duly locked was beyond the control of the Appellant for which the Appellant has promptly lodged his report through written

(9)

application in Police Station East Cantt. Peshawar but till date no recovery of the bike has been effected by the police, more particularly, when Respondents did not take interest in the recovery of Bike by making correspondence with High Ups of police, as such passing of such Harsh impugned orders by Respondents basing it on miss-conduct and negligence of Appellant is not sustainable in the eye of law.

C- That since his appointment as process server in the month of July 2023 in BPS-1 (now post upgraded to BPS-5) the Appellant has not gained any adverse remarks or any complaint against him from any quarter and he is performing/has performed his duty honestly and to the best of his ability, thus keeping in view his brilliant record of service he should have been given warning/censure if in the opinion of Respondent No.2 he had committed any wrong in delivering the notice of Honorable High Court, Peshawar of his Illaqa to the concerned clerk for which receipt was obtained, because in the past he had done so on the direction of Nazir/Naib Nazir of his Establishment, he being the resident of Peshawar, hence the punishments awarded to him are against the norms of natural justice and liable to be sit-aside.

D- That Respondent No.2 failed to produce Superintendent of Sessions Court Charsadda and also concerned clerk of august High Court, Peshawar who received the Notice, before Enquiry Officer/Civil Judge Charsadda for recording their statements and cross examination by Appellant whose statements have been referred to in enquiry report and further statements of Respondent NO.2's representative & Jameel Khan Naib Nazir have been recorded in absence of Appellant by not awarding him any opportunity of

(10)

cross examination, as such those statements are no statements in the eye of law, thus the impugned orders/Judgements dated 12/04/2023 and 12/12/2023 based on such evidence is not maintainable in the eye of law, keeping in view the verdicts of superior Courts in this respect.

E- That the copy of Notice available on record shows that it was properly received by Nasir Irshad of CR-Branch of Honorable High Court which further denotes that when the Appellant had not ever taken the Notices of High Court and he was stranger for the delivery of the Notice of his Illaga then why the same was received from him by the concerned official at High Court on 08/06/2022 by endorsing his signature regarding its receipt, so the notice has reached to the proper branch of High Court and not misplaced, though served or un-served on the addressee, hence the award of such harsh punishments to the Appellant are illegal keeping in view the past record of service and also his hectic efforts for the recovery of stolen Motorcycle when in its stealing he has no hand or negligence as such the impugned orders are liable to be sit-aside.

F- That statement of Superintendent of Sessions Courts, Charsadda based upon the information of clerk of august High Court, Peshawar belied by the fact of delivery of notice on 08/06/2022 by the Appellant to the concerned clerk who put his signature regarding its receipt though this witness was neither produced in the fact finding proceedings before that enquiry officer nor before Civil Judge/enquiry officer and the witnesses of Respondent No.2 as per Qanoon-e-Shahadat should have been cross examined by the Appellant but he was not afforded the opportunity of cross examination, as such the evidence of Respondent No.2 is no evidence in the eye of law

(11)

specially when the statement of representative of Respondent No.2 is not recorded on oath and also does not denote whether it is statement or points for arguments and awarding punishments to the Appellant on this evidence is totally illegal hence both the Judgments/Orders are liable to be sit-aside.

G- That there is no precedent of the nature that the official from whose custody an official vehicle is stolen away where in its stealing he has no hand and has reported the matter to the Police promptly for its stealing was ever fined for depositing its market prevailing price and that too of new Model vehicle when the stolen vehicle is Model 2018 and the same was used in the performance of duty till its theft, and was in bad condition, hence the orders impugned are not sustainable in the eye of law and liable to be sit-aside.

H- That the cross examination put on the Appellant and his witnesses also supports the plea of Appellant to the effect that he has not committed any misconduct or negligence in the performance of his duty as he used to take previously the notices and letters of Respondents to the Honorable High Court, Peshawar so the impugned orders / Judgements are liable to be sit-aside.

I- That the impugned orders / Judgements are also defective in the eye of law on the point of ignoring the fact that if the stolen bike is recovered by the police, then who will be its owner when the price of the bike is recovered from the Appellant, as such the impugned orders are liable to be sit-aside on this score too.

J- That the impugned orders are not speaking orders in the eye of law for the reason that firstly Civil Judge/Enquiry Officer has not fulfilled the requirements of Rules/Law by not summoning the important witnesses of Respondent No.2 and secondly no opportunity of cross examination was afforded to Appellant on the witnesses so examined in enquiry proceedings in his absence on the basis of whose statements harsh punishments were awarded to Appellant by Respondent No.2 when the act of delivering the notice to the concerned clerk in the Honorable High Court was not so serious because the Appellant being resident of Peshawar previously used to deliver High Court's Notices and Letters to the concerned clerk on the direction of Nazir/Naib Nazir of the court of Respondent No .2 as such the impugned orders are liable to be set aside.

K- That as far as the mentioning of log books in the enquiry report is concerned, the enquiry officer did not mention the date of the order of issuing log books to Process Servers and Bailiffs because these were issued to them after the instant occurrence of theft of the bike of Appellant, hence the findings of enquiry officer in this respect is completely wrong and irrelevant as such basing the impugned orders on such findings of Enquiry officer are liable to be set aside.

L- That the impugned order dated 12/04/2023 reveals that the Appellant has been awarded such harsh punishments on the ground of misconduct and not negligence, meaning thereby, that he has committed no negligence in the performance of his duty by returning the notice of his Illaqa after service in the High court which was duly received by the concerned clerk, as

(13)

such the impugned orders are not sustainable in the eye of Law and liable to be sit-aside.

M- That had the Appellant not previously delivered the notices in High Court then how and why the concerned clerk of Honorable High court received from him the notice of his Illaga and put his signature of receipt on photocopy of the notice available on record, hence the Appellant has committed no misconduct in this respect, as such the impugned orders are untenable.

N- That the Appellant has acted in good faith in delivering the Notice in High court Peshawar, however, his only fault was that he did not obtain permission for delivery of Notice from his office and for such minor fault he should have been awarded warning/Censure, if he was found to have done such act unauthorizedly, hence orders of such harsh punishments are liable to be set aside.

O- That the Appellant has more than 20 years service as Process Server in BPS-5 and is waiting for promotion to the post of Bailiff in BPS-06 and is low paid Government servant having large family members to feed them in these hard days with small monthly salary, and if the amount of stolen Motor Cycle is recovered from him, his family members will suffer starvation as such the impugned orders in these circumstances are also not sustainable in the eye of law.

P- That it is true that the Notice/Summon of august High Court Peshawar was entrusted to Arshad Ahmad Process Server on 05/04/2022 along with other notices for service on litigants in his assigned areas i.e.: Mufti Abad, Behlola, Wali Bagh, Moosa Kale, Mohd Nari, Wapda Kale, and Khan Mahietc. and

(14)

Appellant was also entrusted with Notices/Summons of his assigned areas i.e. Check Hisara (Sholgara), Geedar etc. but on reshuffling of the areas, the Appellant was assigned the areas of Arshad Ahmad Process Server and his areas were assigned to Arshad Ahmad Process Server and that is why they both returned the notices with them of their old areas to Jamil Khan Naib Nazir for its entrustment to the Appellant as well as to Arshad Ahmad Process Server who did so by making cutting of their names on the Notices, however, during enquiry proceedings the statement of this Naib Nazir was recorded in the absence of Appellant, as such he remained uncross examined. If an opportunity of cross examination would have been given to Appellant, then this question of cutting would have been solved. However, at present too it is a question of common sense that on the reshuffling of areas, the notices/ Summons of the areas of both of them would have automatically exchanged by returning the same to office and it was Jamil Khan Naib Nazir who replaced/alterd the names by making cutting of their names, Hence the findings of Respondent No.1 in this respect are not weighty, as such liable to be set aside.

Q- That in the Notice of august High Court, Peshawar the date of hearing was near i.e. 14/06/2022 and the Appellant could not trace out the litigant Gohar Ali R/O Khan Mahi, Charsadda till 07/06/2022, that is why he wanted to return the Notice so as to issue fresh Notice through other source of execution, which was done through Police of the Illaqa, and Appellant had no malafide intention in the return of Notice in the august High Court, which was duly received by Nasir Irshad of the CR-Branchon 08/06/2022 by acknowledging its receipt on the back of Notice, hence the return of Notice

(15)

was bonafide and not malafide , so the findings of Respondent No.1 are not sustainable in the eye of law.

R- That it was usual for Appellant to take the Bike to his house at Peshawar after duty hours and bring back to Charsadda for the performance of duty in the area, as all the Process Servers and Bailiffs were verbally permitted by the Authority, however the Appellant has not misused the same and always used in the performance of official duty, with no payment of fuel charges of the said vehicle in spite of the fact that vast areas of 03 Process Servers for service of Notices were assigned to Appellant still he had made no complaint to the Authority in this respect, hence the findings of Respondent No.1 in the impugned Judgement dated 12/12/2023 are not sustainable in the eye of Law.

S- That while going to his house at Peshawar if the Motor Cycle on the way would have been snatched from the Appellant by some one then what would be the fate of that case, because the taking of Motor Cycle to his house was permitted by Authority to him and others, as such the determination of question of official use of the vehicle by the Appellant as well as other officials/Officers residing at Peshawar or faraway places from their places of duty is not possible, hence the findings of Respondent No.1 in this respect are not sustainable in the eye of Law.

T- That other grounds do exist in favor of the Appellant which will be agitated at the time of arguments with permission of this Honorable Tribunal.

It is, therefore, humbly prayed that on acceptance of this Service

(16)

Appeal both the impugned orders /Judgments dated 12/04/2023 and 12/12/2023 passed by Respondents may very kindly be set aside.

Dated: - 26/12/2023

Appellant

Mans

Muhammad Tariq Jan

Process Server in the Establishment of

Respondent No.1

Wasal Khan

Through: -

HAJI WASAL KHAN ADVOCATE,
CHARSADDA

(17)

BEFORE THE CHAIRMAN KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL PESHAWAR

Service Appeal No _____ / 2023

Muhammad Tariq Jan Process Server in the Establishment of
Respondent No.2 ----- Appellant

VERSUS

1. The learned District & Session Judge Charsadda
2. The learned Senior Civil Judge (Admin)
Charsadda. _____ Respondents

AFFIDAVIT

I, Muhammad Tariq Jan Process Server of the Establishment
of learned Senior Civil Judge (Admin) Charsadda do hereby
affirm and declare on oath that the contents of the accompanying
Service Appeal are true and correct to the best of my knowledge
and belief and nothing has been kept concealed from this
Honorable Tribunal.

Dated 25/12/2023

Appellant

Muhammad Tariq Jan

Muhammad Tariq Jan
Process Server

Attested
MC 25-12-2023
[Signature]

(18)

BEFORE THE CHAIRMAN KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2023

Muhammad Tariq Jan Process Server in the Establishment of
learned Senior Civil Judge (Admin) Charsadda. _____ Appellant

VERSUS

1. The learned district & Session judge Charsadda.
2. The learned senior civil judge (admin)
Charsadda. _____ Respondents

ADDRESSES OF THE PARTIES

A. ADDRESS OF APPELLANT

Muhammad Tariq Jan S/O Haji Wasal Khan R/O Garhi
Rajkol Ring Road Abubakar Lane Peshawar, Process Server
in the Establishment of Respondent No.2

B. ADDRESSES OF RESPONDENTS

1. The learned District & Session Judge Charsadda
2. The learned Senior Civil Judge (Admin) Charsadda.

Dated 25/12/2023

Muhammad Tariq Jan
Appellant

Muhammad Tariq Jan
Process Server

Through:-

Haji Wasal Khan
Haji Wasal Khan Advocate,
Charsadda.

(19)

BEFORE THE CHAIRMAN KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service appeal No. _____ /2023

Muhammad Tariq Jan Process server (Appellant)

VS

Learned District & Sessions judge Charsadda & one other (Respondent)

PETITION FOR SUSPENSION OF THE OPERATION OF
IMPUGNED ORDER DATED 12.4.2023 ~~ALSO~~ TILL THE
DISPOSAL OF ^{THIS} SERVICE APPEAL ON THE ABOVE TITLE.

Respectfully Sheweth

The appellant / petitioner respectfully submits as under :-

1. That the appellant / petitioner is filing Service Appeal in this Honorable Tribunal on the above title wherein no date is fixed as yet.
2. That respondent No.2 is reluctant to recover the prevailing market value of the stolen motor cycle model 2018 CD 70 Honda handed over to Appellant / Petitioner for the performance of his duty, though the amount of penalty imposed is not yet known.
3. That there is likelihood of the acceptance of Service Appeal of the Appellant / petitioner in view of major legal & factual defects in the impugned order as well as in evidence.
4. That if the amount of penalty so imposed is recovered from the appellant / Petitioner then the very purpose of filing of this Appeal will fall to ground and in this way the Appellant / Petitioner will suffer irreparable loss.
5. That the grounds of service appeal may also be read as grounds of this petition.

(20)

It is therefore, humbly prayed that on acceptance of this petition
the operation of impugned order dated 12-04-2023 ^{may} very kindly be suspended
till disposal of this service appeal.

Dated 25/11/2023

Appellant

Muhammad Tariq Jan
Process Server

Through:

Wasal Khan
Haji Wasal Khan
Advocate, Charsadda


AFFIDAVIT

I, Muhammad Tariq Jan Appellant/Petitioner do here by affirm and declare on
oath that the contents of this petition are true and correct to the best of my
knowledge and belief and noting has been kept concealed from this Honorable
Tribunal.

Deponent

Muhammad Tariq Jan
Process Server

Muhammad Tariq Jan

Attested
11/12/23



محترم جج (ایڈمن) صاحب صاحبہ چار سڈا

محترم عالمی درہرست اقدری نسبت اہل علاقہ جی جی/سرقہ موٹر سائیکل
 سنہ 2019ء میں 70 کی ریسٹرڈ سنہ A-6124
 جس میں نمبر 2017 JB 2018 کی ریسٹرڈ 8509198 کی ریسٹرڈ ڈرائیور
 کے تعلق میں ایک ایسا نوٹس ہے جس میں ذیل ہے۔

2003ء میں بطور تحصیل کنندہ (پراسسنگ آفیسر) کے طور پر
 محکمہ اعلیٰ درجہ کے ایک صاحبان کے زیر سرپرستی خدمات کے لئے
 مقرر ہوئے اور نسبت اہل علاقہ جی جی/سرقہ موٹر سائیکل
 کے تعلق میں ایک ایسا نوٹس ہے جس میں ذیل ہے۔
 2013ء میں بطور تحصیل کنندہ کے طور پر مقرر ہوئے اور نسبت
 اہل علاقہ جی جی/سرقہ موٹر سائیکل کے تعلق میں ایک ایسا نوٹس
 ہے جس میں ذیل ہے۔

محکمہ اعلیٰ درجہ کے ایک صاحبان کے زیر سرپرستی خدمات کے لئے
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 ہے جس میں ذیل ہے۔

Senior Civil Judge (Admin)
 Char Sadda
 Received on: 18-9-22
 Diary No: 363
 For Action: SJ-CAD
 Date:
 Signature:

ATTESTED

 18 SEP 2023
 Examiner
 Copying Agency Branch
 Court of District & Sessions Judge
 Char Sadda

رقم	رقم
نمبر	نمبر
07-08-2022 16:28 کل	27/21 PE EASTCANTT
نہایت کی طرف سے جس کے ذریعے لا روزہ میں امریکہ کی کوری نیکل اور ٹیکسٹائل کے مطابق نہایت کی طرف سے جس کے ذریعے لا روزہ میں امریکہ کی کوری نیکل اور ٹیکسٹائل کے مطابق نہایت کی طرف سے جس کے ذریعے لا روزہ میں امریکہ کی کوری نیکل اور ٹیکسٹائل کے مطابق نہایت کی طرف سے جس کے ذریعے لا روزہ میں امریکہ کی کوری نیکل اور ٹیکسٹائل کے مطابق نہایت کی طرف سے جس کے ذریعے لا روزہ میں امریکہ کی کوری نیکل اور ٹیکسٹائل کے مطابق	
11.11.2022	سید
11.11.2022	5501-3257242

Attested to be true Copy

Masal @
Masal Khan Advocate,
Charsadda

(241)

عدالت عالیہ پشاور ہائی کورٹ، پشاور

30-3-2022

6854 58547

CR 586/2020 With CM 803/2020 (MOTION CASES)

Civil Revision

Gohar Ali VS Munir Khan

(SUMMON-D) - I. Gohar Ali So Ghulam Muhammad Resident of Chacha Kili Khujana District Charsadda

14-Jun-2022

PETITIONER

DR: 03 AM

کوٹھت عدالت اور عدالت سے جاری کیا گیا۔

30-3-2022

برائے ایڈووکیٹس رجسٹرار

S.No 747

Date

5/04/22

Bailliff F.S

N.Nazir Charsadda

Alles

بیان صحتی

میں بیان کرتا ہوں کہ میں نے مارچ 2022 میں اور میرا ماسک ڈیوٹی کی نسبت میرے
 کوئی شہر نہیں گیا تھا۔ مگر میں نے اس وقت تک اس وقت درست اور صحیح لکھا ہے
 کہ میں نے کبھی کبھی اس وقت تک اس وقت تک اس وقت تک اس وقت تک اس وقت تک
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 رہا ہے۔ میں نے اس وقت تک اس وقت تک اس وقت تک اس وقت تک اس وقت تک

7.06.22
Tanzim

CR Branch
 نامہ الی
 9/8/22

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دعا ہے کہ اللہ تعالیٰ اس شخص کو صحت عطا فرمائے

اس وقت تک اس وقت تک اس وقت تک اس وقت تک اس وقت تک

ATTESTED

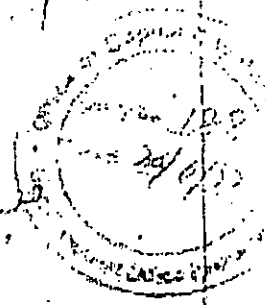
CA *[Signature]*

18 SEP 2023

CR Branch
 Court of Justice
 Chhatrapati

(26)

صحت کتب خانہ (2019-2020)
Vite BS First Court
11
2022 '06 '20



17
میں علم ہو گیا کہ اس شخص نے ایک گاڑی خریدی ہے جس کا نمبر BS-50-918 ہے۔
اس گاڑی کی کارڈ نمبر AB1234 ہے جس کا نام احمد علی ہے۔
اس گاڑی کی کارڈ نمبر BS-50-918 ہے جس کا نام احمد علی ہے۔
اس گاڑی کی کارڈ نمبر BS-50-918 ہے جس کا نام احمد علی ہے۔
اس گاڑی کی کارڈ نمبر BS-50-918 ہے جس کا نام احمد علی ہے۔
اس گاڑی کی کارڈ نمبر BS-50-918 ہے جس کا نام احمد علی ہے۔

اپنے اپنے حقوق پر عمل کرنا چاہیے

علی رضا خان

ATTESTED

18 SEP 2023

Excise & Taxation
Agency Branch
Office of Excise & Taxation
Faisalabad

11/11

بیان جو علی سید شہدایت - سیشن کورٹ چارسدہ - 22/6/22

میر حلف بیانی ہوں کہ مورخہ 8/6/2022 کو داخل خان ایئر لائن
میں سید طارق پر اس میں سرور صبح 8.30 بجے دفتر زیر دستخطی
آئے اور اس وقت کہ ہم ٹھہرے سیشن جج صاحب سے
ملاقات کرنا چاہتے ہیں۔ انہوں نے زمانہ مجھے آگاہ
کیا کہ کل مورخہ 7/6/2022 کو طارق و P کا موٹر سائیکل
چوری ہو چکا ہے۔ مدیہ صاحبہ سے اجازت طلب کر کے ان
دولوں کو اندر جانے کی اجازت دی۔

اسی دن تقریباً 12.30 بجے ایسا اور خان کورٹ سے
ناصر علی صاحب جیم جو ڈائریل براہج میں ایچارج ہے
سے اطلاع دی کہ 11 بجے (گیارہ بجے) سیشن کورٹ
کا اہل کار طارق (جو کہ قتل کے جملہ سے لہا ہے) نے
ایک تھیل واپس کی ہے۔ لیکن اس میں خیر رنگی کی
بات یہ ہے کہ یہ تھیل لوئیس والوں نے اٹھاتا کی ہے
ہیکے طارق نے تھیل اٹھاتا نہیں کہ ہے۔ لوئیس والے
موقع پر حاضر تھے اور غالباً ایک اہل کار (طارق)
نے یہ تھیل گھریا دفتر میں بیٹھ کر لکھا ہے۔ مزید
تفصیل آپ اہل کار نے تھیل کو مندرجہ ذیل دیا اور
تھیل تھیل تھیل تھیل تھیل تھیل تھیل تھیل تھیل
ہی سید بیان ہے

22/06/2022
Supt
محمد علی سید شہدایت

INDEXED

18 SEP 2023

EXAMINAL
CIVIL AND
COURTS OF DISTRICT & SESSIONS JUDGES
CHAGAN

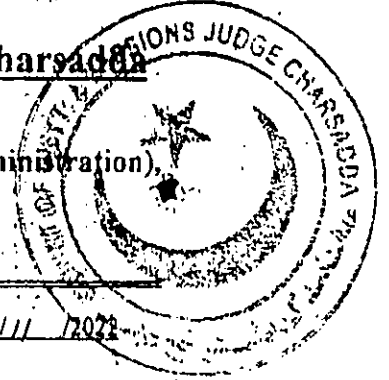
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18



District Judiciary Charsadda

Office of the
Senior Civil Judge (Administration),
Charsadda



Phone: 091 - 92 20 435

No. 1245 /SCJ(A). Chd.

Dated: 17/11/2022

To

Mr. Muhammad Tariq Khan,
Process Server.

Subject: EXPLANATION OF MUHAMMAD TARIQ PROCESS SERVER
REGARDING THEFT OF OFFICIAL MOTORCYCLE

You accused official were handed over Motorcycle Honda CD-70 bearing registration No.A-6124/Chasadda for service of summonses/notices in your assigned Halqa and you reported regarding theft of the Motorcycle from outside premises of Hon'ble Peshawar High Court, Peshawar, while delivering a summons/notice, for which you were not authorized to do so. Thus, you have committed gross negligence in performance of your duties, which resulted in missing of official Motorcycle.

You are therefore directed to explain your position as to why not proceedings under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules-2011 shall be initiated against you in this respect. Your reply must reach this office within 07 days of this notice. In case of non-submission of reply, you would be found guilty of misconduct and it would be presumed that you have nothing to say in your defence and proceedings against you would be completed in *ex-parte*.

Saim
(Mrs. Saira Bano)
SCJ(A) Charsadda/
Competent Authority

Senior Civil Judge (Admin)
Charsadda

ATTESTED

18 SEP 2022

EXAMINED
By: [Signature]
Date: [Signature]
Chasadda

(29)

(2)

To,

The Learned Senior Civil Judge (Admin)
Competent Authority, Charsadda

Subject: Reply of Explanation dated 17/11/22
received on 19/11/22.

Please
file

Respected Madam,

with due respect I submit my reply
of explanation dated 17/11/22 as under:-

- (1) That I am serving as process server since 2003
- (2) That I am performing my duties honestly and no one has come forward to lodge any complaint against me.
- (3) That I am the resident of Garhi Rajkol, Ring Road Peshawar and use to come to Charsadda on motorcycle for duty and back to my house.
- (4) That being the resident of Peshawar Naib Nazir of this Establishment used to hand over the summons/ notices of Hon'ble Peshawar High Court Peshawar for its delivery to the concerned clerk and that is why I was also handed over different summons/ notices of Hon'ble Peshawar High Court Peshawar, which I have delivered to the concerned clerk. However, later on a person of this Establishment has been given this duty.
- (5) That being unaware of the fact that delivery of the notices/summons in Hon'ble Peshawar High Court, Peshawar to the concerned clerk, which I have done previously, was unauthorised one, I would have never done so.
- (6) That I have presumed that the notice/summon of Hon'ble Peshawar High Court Peshawar, which was marked to me for service, will also be handed over to me for delivery to the concerned clerk of Hon'ble Peshawar High Court Peshawar, so being the resident of Peshawar I took the same for its delivery.

TESTED

Senior Civil Judge (Admin)
Charsadda

Received on: 23-11-2022

Diary No: 475

For Action: SCJ (A)

Date: 19

18 SEP 2023

Examiner
Agency Stamp
Sessions Judge
Charsadda

(7) That I had properly locked my motor cycle Honda CD-70 bearing No-A-6124 Charsadda in front of the main gate of Hon'ble Peshawar High Court Peshawar. Where 2/3 - Police constables were present on duty. However, when I went to the office of the concerned clerk, he was not present on his seat, so I came back for checking of motorcycle which I found missing, I searched the same hether and thether with the help of Naseeb Ulah, clerk of my brother Shakeel Ahmad Khan Advocate who was by that time present in Hon'ble Peshawar High Court Peshawar, but could not succeed to find the same, then I went to P.S East cantt. Peshawar and lodged report regarding the theft of my motorcycle.

(8) That the theft of my motorcycle was beyond of my control which I had duly locked and committed no negligence in this respect and was so conscious of its look after. That after 10/15 minutes, I again came to the parking place, but found the same missing.

(9) That I am personally making efforts in tracing out the motorcycle and its culprit/accused but till date could not succeed. Whenever, it comes to my knowledge that accused of motorcycles' theft has/have been arrested by any police station at Peshawar I at once visit the said police station with the hope that my motor cycle might be recovered by them but till date not traced out recovered.

(10) That I have committed neither negligence nor misconduct with regard to the theft of motorcycle and delivery of notices/summon directly by me due to unawareness of delivery, because in the past I had done so privately by the order of various Naib Nazirs being the resident of Peshawar.

(11) That I am a low paid Govt Servant and have no source of income to feed and educate my children except my monthly salary.

It is, therefore requested that my reply may kindly be considered sympathetically and I may be exonerated of the charges.

I will pray for your long long and prosperity.

Dated: 23-11-2022

ATTESTED

Yours obediently

Muhammad Taniz Jan

Muhammad Taniz Jan
Process Server in the court
of Senior Civil Judge
(Admin) Charsadda.

18 SEP 2023

Examiner
Copying Agency Branch
Courts of Dist. & Sessions Judge
Charsadda

(31)

17



District Judiciary Charsadda

Office of the
Senior Civil Judge (Administration)
Charsadda

Phone: 091 - 92 20 435

Dated: 25/11/2022

No 1270 /SCJ(A), Chd.
To

Mr. Muhammad Tariq Khan,
Process Server.

CHARGE SHEET

I, Mrs. Saira Bano, Senior Civil Judge (Admin) Charsadda/Competent Authority under the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 do hereby charge you accused/official Mr. Muhammad Tariq Khan Process Server as follows:

1. That you were handed over official motorcycle Honda CD-70 bearing Registration No. A-6424/Charsadda for service of summonses/notices in your assigned Halqa.
2. That you reported through *Naqalamd* on 07.06.2002 at P.S East Cantt. (Peshawar) about the missing of the Motorcycle from outside premises of Hon'ble Peshawar High Court, Peshawar.
3. That you were not authorized to visit the premises of Hon'ble Peshawar High Court, Peshawar for service of summonses/notices nor any summons/notice was handed over to you by the Naib Nazir pertaining to the Hon'ble Peshawar High Court, Peshawar.
4. That explanation was called on from you but your reply was not found satisfactory.
5. That above mentioned act of you accused/official amounts to misconduct and negligence on your part in performance of your official duty, hence, you are accused of misconduct as defined in section 2 (1) of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011.

You are therefore required to submit your reply/defence within 07 days of the receipt of this charge sheet before the inquiry officer Miss. Aisha Hayat, Civil Judge-VII, Charsadda that why not penalties as provided under section 4 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 be imposed upon you.

(Mrs. Saira Bano)
SCJ(A), Charsadda/
Competent Authority

Senior Civil Judge (Admin)
Charsadda

ATTESIED

18 SEP 2022
Examiner
Service Agency Branch
Court of Civil & Sessions Judge
Charsadda

(32)

18



District Judiciary Charsadda

Office of the
Senior Civil Judge (Administration),
Charsadda

Phone: 091 - 92 20 435

No. 1271 /SCJ(A), Chd.

Dated: 25.11.2022

To

Mr. Muhammad Tariq Khan,
Process Server.

STATEMENT OF ALLEGATIONS

Whereas, you accused/official Mr. Muhammad Tariq Khan Process Server appeared to be guilty of misconduct under the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified under rule 4 of the ibid Rules on the following grounds:

1. That you were handed over official motorcycle Honda CD-70 bearing Registration NO.A-6424/Charsadda for service of summonses/notices in your assigned Hafqa.
2. That you reported through *Naqzamd* on 07.06.2002 at P.S East Cantt. (Peshawar) about the missing of the Motorcycle from the outside premises of Hon'ble Peshawar High Court, Peshawar.
3. That you were not authorized for service of summonses/notices of the Hon'ble Peshawar High Court, Peshawar and as per report of Naib Nazir, no summons or notice was handed over to you for its service in Hon'ble Peshawar High Court, Peshawar.
4. That missing of Motorcycle allegedly from outside premises of Hon'ble Peshawar High Court, Peshawar is negligence and misconduct on your part and, therefore, your this act amounts to negligence and you committed misconduct and negligence in performance of duties as defined in section 2(1) of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011.

Therefore, inquiry is hereby ordered to be initiated against you under the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011.

(Mrs. Saira Bano)
SCJ(A), Charsadda
Competent Authority

Senior Civil Judge (Admin),
Charsadda

RECEIVED

18 SEP. 2023

Office of the Senior Civil Judge (Administration)
District Judiciary Charsadda

(33)

To, The learned civil Judge VCA/Enquiry officer,
Charsadda.
Subject: Reply of charge sheet bearing No. 1270/SCJ(A)
Charsadda dated 25.11.22

Respected Madam,
with due respect I submit my reply of charge sheet
bearing No. 1270/SCJ(A) Charsadda dated 25.11.22 as follows:-

1) That Para No. 1 of the charge sheet is admitted to be correct.
2) That with regard to Para No. 2 of charge sheet it is
submitted that official motor cycle CD-70 bearing
Registration No. A-6124 Charsadda was handed over
to me for the service of summons/Notices. I had
parked the motor cycle in parking place under the B.R.T.
overbridge just in front of main gate of Hon'ble High Court
Peshawar duly locked and by the time 2:30 Police personnel
were present there on duty, which was stolen away by
someone and despite my best struggle and search
hithers and thithers I could not succeed to find
trace out the same, so I rushed to P.S. East Cantt Peshawar
where on my written application report was lodged regarding
the theft of the motor cycle. I also informed the learned
Senior civil Judge (Adm'n) Charsadda through written
application in this respect. I time and again visited the
said P.S. but the recovery of my motor cycle is still awaited
whenever any accused of the theft of motor cycles is arrested
by the police of any police station at Peshawar I immediately
visit the said P.S. with the hope of recovery of my motor
cycle.

3) That the notice/summon which I deposited with the
concerned clerk of Hon'ble Peshawar High Court, Peshawar
related to my Halqa assigned to me, as such the
same was entrusted to me for service upon the party(s)
and after service, I being the resident of Peshawar
took the same along with me for its deposit in Hon'ble
High Court Peshawar because in the past too I used
to deposit the summons/Notices of High Court, Peshawar
on the verbal directions of the then Naib Nazir(s).
I parked my motor cycle in the parking place in the front
of main gate of Hon'ble High Court Peshawar, under the
B.R.T. overbridge where by that time 2:30 Police officials
were available for duty. The motor cycle was duly locked
I visited the office of concerned clerk in the Hon'ble
High Court, Peshawar, who was not present on his
seat, so I came back to parking place after 10/15

TESTED

P To

18 SEP 2023

Examiner
Agency Branch
Court of Dist & Sessions Judge
Charsadda

(34)

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minutes to see my motor cycle but found it missing. I with the help of Naseebullah, close of my brother namely Shakaal Ahmad Khan Advocate, who was present in Honible High Court Peshawar by that time and was informed by me in mobile, searched the motor cycle. hi there and the other but were failed to find out the same, so I went to PS. East Cantt. Peshawar where the report was lodged on my written application about the theft of my motor cycle. I did not remained negligent in the care of motor cycle but due to misfortune the incident of theft took place. I am innocent in this episode because I remained very conscious about its care.

- 4) That prior to this charge sheet I was also served with an explanation in this respect and I have given my detailed reply thereto. I have also submitted information application to learned Senior Civil Judge (Admin) Charsadda and another statement in the matter and request that my those above mentioned application, statements and reply to explanation may be considered the part of reply of the charge sheet. The theft of my motor cycle was beyond my control. I had taken enough care by locking and parking the same in the parking place where 2/3 police personal were present on duty but it was my misfortune when this incident took place. Since previously I had delivered numerous notices/summons of Honible High Court, Peshawar with the verbal directions of the then acting Magistrate, so I construed that authorization is not needed for the delivery of notices/summons in Honible Peshawar High Court. If, however I was aware of the fact that direct delivery of executed notice/summons was not allowed, I would have not taken the notice/summons to Honible High Court, Peshawar.
 - 5) That keeping in view the above detailed reply to the charge sheet, I have committed no negligence in the performance of my duty, as such the same will not come within the definition of misconduct.
 - 6) That excepting this unfortunate incident, no one has come forward to lodge any complaint against about the performance of my official duty. I am a low-paid Govt. servant and my family members depend on my monthly salary and there is no other source of my income to feed and educate my children.
- It is, therefore, requested that the reply of the charge sheet may very kindly be treated satisfactory and I may be exonerated of the charges levelled against me. I will pray for your long life and prosperity.

Dated: 30/11/2022

ATTESTED

Yours obediently,
Muhammad Tariq Jan
Process Server, in the Court
of learned Senior Civil Judge (A),
Charsadda.

18 SEP 2023

Examiner
Copying Agency Branch
Peshawar
Sessions Judge

To, The learned Civil Judge III/Enquiry officer,
 Charsadda.
 Subject: Reply of statement of allegations bearing
 No. [27]/SCB(A) Chd. dated 25.11.2022

Respected Madam,
 with reference to the above statement of
 allegations I, with due respects, submit my reply as under:-

- 1) That Para No. 1 of the statement of allegations is correct.
- 2) That Para No. 2 of the statement of allegations is also correct, with clarification that I had submitted my written application to S.D.P.S. East Cantt not for recording Nagalmal but for lodging report in the shape of F.I.R.
- 3) That with regard to Para No. 2 of the statement of allegations it is submitted that the summons/notice of Honble High Court, Peshawar having been related to my Halqa was entrusted to me for service upon the party (S) which after service I wanted to deliver the same to the concerned clerk of Honble High Court Peshawar and that is why being the resident of Peshawar I went August High Court, Peshawar and parked my official motor cycle duly locked in parking place in front of main gate of High Court, Peshawar under the B.R.T. overbridge where by that time 2/3 Police personnel were present on duty. It is further submitted that it is true that no authority letter was with me for its deposit in the August High Court, Peshawar but previously too I had deposited numerous notices/summons of August High Court Peshawar with concerned clerk there and obtained receipts from him, which I would deliver to the then Naib Nazir (S) because through his/their verbal directions being the resident of Peshawar I would take those summons/notice to August Peshawar High Court - after parking motor cycle I went to the office of concerned clerk but by that time he was not present on his seat, so after 10/15 minutes I in order to check the motor cycle came to the parking place but was astonished to see that the motor cycle was missing. Naseebullah, clerk of my brother Shakeel Ahmad Khan Advocate was present in August High Court, Peshawar so I contacted him and I with his help searched the motor cycle hither and thither but failed to trace out the same. So I went to P.S. East Cantt. Peshawar where on my written application reported was lodged. I have committed no negligence in this respect

18 SEP 2022

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(2)

as well as in the performance of my official duty. I am still trying my best to locate and trace out my motor cycle and also the accused who has committed the offence of theft. Whenever I come to know that an accused of such like offences has been arrested by any P.S. of Peshawar I immediately rush there with the hope that my motor cycle would have been recovered from him but till date not recovered. Inshallah one day it will be recovered.

4) That the allegations of negligence and misconduct in missing of motor cycle on my part are incorrect, for the reason that the theft of motor cycle by someone was beyond my control and further every one takes the care of safety of his/her motor cycle/car etc. but unfortunately the theft is committed. I am performing my duty since my appointment in the year 2003 as Process Server to the best of my honesty and ability as is evident from my service record.

I am a low paid Govt. servant having long service, ^{and} having no source of income excepting my monthly salary to feed and educate my children.

It is, therefore, requested that on acceptance of my above reply, I may be exonerated of the charges contained in the statement of allegations. I will pray for your long life and prosperity.

Dated: 30/11/2022


Yours obediently,




(Mohammad Tariq Jan)

Process Server

Attached with the court of learned Senior Civil Judge (Admin), Charsadda.


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18 SEP 2023

Executive
Clerking Agency
Court of Distt & Sessions Judge
(Charsadda)

(37)

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DR-2 Evidence / arguments of department i.e. Senior Civil Judge (Admn) Charsadda through Departmental Representative:

- 1) The learned Senior Civil Judge authorizes a Process Server for returning back the notices of the august Peshawar High Court, Peshawar through proper receipt diary and Mr. Muhammad Tariq. Process Server was not authorized in this behalf. The fact has also been admitted by Mr. Muhammad Tariq Jan, Process Server in Para No.1 of the cross examination dated 06.02.2023. The concerned Naib Nazir in his statement as PW-1 dated 21.06.2022 in fact-finding inquiry support the version of the department.
- 2) The fact revealed by Mr. Muhammad Tariq Jan, Process Server in Para No.5 of his reply to explanation dated 23.11.2022 as well as his statement (EW-3 dated 05.01.2023) that he was unaware of the authorization of a Process Server for returning back the notices to the august Peshawar High Court, Peshawar, speaks of his inefficiency as he is a senior employee / process server working since [2003]. Moreover, he has stated in his statement as PW-2 dated 21.06.2022 in fact-finding inquiry to the learned Addl: District & Session Judge-II, Charsadda, that he has not return any notice directly to the august Peshawar High Court, Peshawar but returned all notices to the Naib Nazir concerned which were then returned through authorized process server in this behalf. His two different statements have also led to discrepancy.
- 3) He has returned the notice without attestation from the concerned Civil / Naib Nazir as well as entry in return register maintained by the Naib Nazir, as admitted by him (Muhammad Tariq Jan, Process Server) in Para No.2 of his cross examination dated 06.02.2023. Moreover, all kind of notices are attested by Civil / Naib Nazir concerned and returning of the notice of august Peshawar High Court, Peshawar without attestation is violation of the rules as well as directions of Peshawar High Court, Peshawar. His admitted fact in the ibid para

ATTESTED

1 | Page

18 SEP 2023

Agency Branch
Courts of District & Session Judge
Charsadda

(38)

of cross examination that he has not noticed the attestation also reveals his lack of interest and inefficiency.

- 4) He has also not recorded detail of the journey / return of notice for the date i.e. 07.06.2022, despite directions of the Senior Civil Judge, Charsadda contained in office order No. 259/SCJ(Admn) Charsadda dated 18.03.2022; SOPs for use of official motorbikes bearing No. 388-91/SCJ(Admn) Charsadda dated 29.06.2019 and bearing No. 475-76/SCJ, Charsadda dated 15.09.2018; and SOPs of the Hon'ble District & Sessions Judge, Peshawar (forwarded by Hon'ble Peshawar High Court, Peshawar dated 24.06.2019); His statement in Para No.4 of cross examination that no process server maintained log book is not his concern which is the domain of Senior Civil Judge, Charsadda.
- 5) That returning notice to the august Peshawar High Court, Peshawar without being authorized, no attestation from the Naib Nazir as required under the rules, his admitted facts of inefficiency, non-compliance of the order of competent authority regarding maintenance of log book for government vehicle, loosing of official motorbike due to negligence, leads to inefficiency and misconduct on part of the accused / official.

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Evidence closed

11/9/23
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ATTESTED

18 SEP 2023

Examiner
Corwall Agency Branch
Court of District & Sessions Judge
Charsadda

DAVID بیان میں جیل خان نایب ناظر حارسہ

بیان کیا کہ میں عدالت SC حارسہ میں کثرت
نایب ناظر قیادت میں ہوں۔ میں نایب ناظر کو

نوٹس معززہ معنون گوہر میں ہم ونیر خان موضع 5/4/22 کو

ہائی کورٹ کے نوٹس میں ڈاک وصول ہو کر ہی روز متعلقہ حلقے کے

PS اردگرد کو بہ حشر اور 747 مورخہ 22/4/22 کو 5/4/22 پر

میں جواز کیا۔ قتل جسٹس رفیع۔ یہی دوران تقریباً 20 ویں

اعداد SC اردگرد میں حلقہ طاق کی تبدیلی ہوئی۔ اردگرد PS

کا طاق طارق خان PS کو حوالہ کیا گیا حلقے کے تبدیلی کے

رہے جو نوٹس و ممبران کی تبدیلی اردگرد PS اور طارق خان PS

کے اپنے آ رہے ہیں کیا ہے۔ حکم ہوا اردگرد PS کے نام رجسٹر

ہے اور حکم ہوا اردگرد PS کا نام مٹا کر اور طارق خان PS کا

نام رجسٹر ہے۔ اور مذکورہ نوٹس واپسی کے وقت جو رپورٹ

تعمیر کردہ ہے وہی رپورٹ میں نایب ناظر سے امداد شدہ

ہے۔ اور اسطرح نوٹس میں / قتل و ممبران تمام ڈاک

ممبران یوسف علی ہائی کورٹ کو لے جایا کرتا تھا۔ اور عبداللہ یوسف

کے بارے میں کہلا رہے تھے۔ یہی تمام PS کے تمام رجسٹر کے ساتھ

ATTESTED

18 SEP 2023

Examined
Reporting Agency Branch
Court of District & Sessions Judge
Charsadda

(5)

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تلاش کیا مگر یہ ملا۔ اب یہی سب مجھے معلوم ہوا ہے کہ موٹر سائیکل
چور اور پینشن ورکس کی ایلی ٹیم میں گرفتار ہوئے تو میں وہاں اس تسلی
پر جا کر چھوٹی رشتہ داروں کو سزا دلوانے سے باز رہا ہوں گا جو ملکہ ناچاران
پر آمد نہیں ہوئے۔ انشاء اللہ تیز آمد ہوگا۔

میں ایک کم نمونہ در در ملازموں اور میری تقریباً 2 سال سے 20
اور پینشن ورکس کی ایلی ٹیم میں گرفتار ہوئے تو میں وہاں اس تسلی
پر جا کر چھوٹی رشتہ داروں کو سزا دلوانے سے باز رہا ہوں گا جو ملکہ ناچاران
پر آمد نہیں ہوئے۔ انشاء اللہ تیز آمد ہوگا۔

5112B

محض ظاہر

سول جج صاحب / انوائسری آفیسر جاگیرہ



18 SEP 2023

Courts of the Bench
Judge

(51)

XXXX صرح شان اہل کار محمد طابق جان و p ستر رسول صحابہ

① نہ صرف شان کیا کہ جو لوگس نے جاری ہیں انہیں صناد
 ستر رسول صحابہ نے جاری نہیں کیا تھا لیکن اس سے پہلے
 صحابی ٹورٹ لوگس خطوط و مکتوبات نامہ ناظر لستارہ
 رہا لیکن پیارہ کے زبلا والی لکھتے تھے اور صحابی پر جان
 تھا زیادہ تھے اور قلم علم نہ تھا کہ یہ طریقہ کار ہے انہوں
 نو میں ہندوستان کا صحابی سے اجازت لیا

از خود تھا کہ یہ مات میں ہے تو لوگس والی لکھتے تھے
 سے لکھتے تھے کہ لازمی ہے لیکن میں چونکہ لستارہ رہا
 صحابی اور اس دن میں نے اس مات غور نہیں کیا تھا
 انہوں نے قلم علم صحابہ سے مات تو ہندوستان لکھتے تھے

از خود کیا کہ چونکہ گاڑی/سوتل سائیکل میں نے یہ انہوں
 کار بار لکھیں میں نہیں لکھ صحابی ٹورٹ سے من لکھتے
 سنا ہے کہ ٹورٹ کی لکھ اس وقت جاری ہے لوگس
 اہل کار صحابی موجود تھے لکھتے تھے اس بار لکھتے تھے
 نہیں۔ از خود کیا کہ میں سوتل سائیکل کو اچھے لکھتے
 لکھتے صحابی ٹورٹ کے اندر ملا لکھتے

② لکھتے خود کیا کہ اس وقت میں صحابی پیارہ کے پاس
 آتے تھے (Log Book) میں تھا کہ اس سے نہیں

کار

(32)

(35) از خود کیا کہ متعلقہ فونک بھی ہم نہیں تھا بلکہ اس
 وقت اینڈ سٹ ہم جو رہیں تھا افریقی وقت استقامت
 کیا لیکن وہ دائرہ نہیں آیا۔ اگر یہ متعلقہ پانچ میں
 صلاحیت میں کی لغز ایک سے زیادہ ہے لیکن یہ سہ 2 کا
 ایسا کام ہوتا ہے اور نوٹس وصول کرنے سے انکاری
 طور پر اور دوسرے فونک میں سے جو کہ جب متعلقہ
 سہ 2 افریقی آئے تو نوٹس اس کے حوالے کرنا

(36) از خود کیا کہ میں نے موقع کے بارے میں پورا طور پر
 سیر نہیں کیا۔ اللہ میں ہمارے بعد سنبالچ ہمارے
 کو موٹر سائیکل کے چور کی اور خانہ میں مدد پر دست
 آگاہ کیا تھا

سن کر دھت لکیم کیا
 سوال چ ہمارے بارے میں

06-02-23

ATTESTED

18 SEP 2023

Examiner
 District Agency Branch
 District of Faisalabad
 Faisalabad

جہاں لکھا ہے کہ ... اور ...
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 ... اور ...

Aisha Hayat
 Civil Judge/JM V II
 Charsadda

(Handwritten signature)

ATTESTED

18 SEP 2023

Examiner
 Copying Agency Branch
 Courts of Civil & Sessions Judge
 Charsadda

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بہر حلف بیان، لکھنؤ ایئر ٹرک انڈیا پرائیویٹ لمیٹڈ، سیکرٹری جنرل، لاہور

25/01/23

بہر حلف بیان کیا کہ میں مورخ 08/06/22 کو لکھنؤ، ہائی
 کورٹ میں موجود تھا اور ایک (P.S.) کے تحت
 ٹورس کو حلف دیا۔ مذکورہ بیان بہرہ دہی کے حوالے سے
 دیا گیا ہے۔ اس سے پہلے بیان ہوا کہ جو سے منسٹر سائیکل سیکوری
 کی تہہ چوری کی تھی اور منسٹر سائیکل سیکورٹی
 کو تلاش کیا اور منسٹر سائیکل سیکورٹی میں ملا اور طارق نے
 P.S. نے کیا کہ میں نے طارق کے درجہ جاکر رپورٹ درج کیا
 ہے۔ میں نے اسے کام میں معروف ہونے کو دیکھ کر
 مذکورہ بارہ ٹورس ہائی کورٹ کے متعلقہ سہ ماہی میں دیکھ
 نہ کہ سزا اور اس ٹورس کو اگست 2022-08-08 کو
 طارق کے حوالے کیا

سنہ ۲۰۲۳ء میں لکھنؤ
 سول جج عمارت - VII

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18 SEP 2023

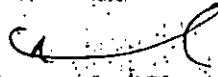
Examiner
 Agency Branch
 Courts of High & Sessions Judges
 Ghazipur

(58)

میں نصر خان دفتر میں عدالت سشن کورٹ چار سدرہ نے ہر طرف بیان کیا
 کہ محمد طارق خان قبیل گندہ رنڈ روڈ بھادور کا رہائشی ہے اور روزانہ کے
 حساب سے ڈیوٹی کرتے آنا چاہتا کرتا ہے۔ چند سال قبل محمد طارق خان
 قبیل گندہ بہراہ دیگر قبیل گندہ گان دنیلمان عدالت سشن چار سدرہ
 میں تعینات تھے اور ہائی کورٹ کے نوٹس دے دیگر لیٹرز لوگم رہائشی
 بھادور حکم سپریم کورٹ سشن کورٹ چار سدرہ / انٹیکس آفیس سشن کورٹ چار سدرہ
 ہائی کورٹ کے چاہتا کرتا تھا اور رسید / رسیدات معلقہ ملک ہائی کورٹ
 بھادور سے وصول کر کے سشن کورٹ چار سدرہ لایا کرتا تھا اسی طرح
 دیگر رہائشی بھادور جو کہ سشن کورٹ چار سدرہ میں تعینات تھے بھی
 ہائی کورٹ کے نوٹس و خطوط ہائی کورٹ بھادور میں جمع کرنے کے لئے
 لایا کرتے تھے اور سادہ کاغذ پر رسید / رسیدات معلقہ ملک
 سے لایا کرتے تھے یہی میرا بیان ہے جو کہ درست ہے۔

نصر خان دفتر میں سشن کورٹ
 چار سدرہ


 Aisho Hayat
 Civil Judge/JM VII
 Charsadda

ATTESTED

 18 SEP 2023
 EXAMINER
 Copying Agency Branch
 Court of Civil & Sessions Judge
 Charsadda

(48)

(28)

XXX شرح بیان لکھنؤ دفتری سین کورٹ چارٹرڈ

پر دفع بیان کیا کہ چند سال پہلے جب میں سین کورٹ

Superintendant آفس میں تعینات تھا اور جب وہی

ہائی کورٹ کے ڈپٹی سیکریٹری جنرل کے طور پر مقرر ہوا تھا

تو میں نے Super-Int. صاحب کے کتبا و آراء کے بعد حالتی

بیانہ جو کہ ناٹیفکیشن کے تحت جاری کیا گیا تھا

جسکی رسید وہ 20 مارچ 1952ء کو میرے پاس پہنچی اور اس پر

اسی ضمن میں نے کئی نوٹس PHC کے تحت جاری کیے تھے

جو کہ اب بھی جاری ہیں۔

یہی میرا بیان ہے۔

سین کورٹ چارٹرڈ

سید ج. چارٹرڈ - 11

ATTACHED

18 SEP 2023

Secretary
District
Court
Lucknow

(49)

(3)

جرح بر بیان محمد طارق جان، پیادہ

آپ نے بیان میں کہا ہے کہ میں نوٹس واپس کرنے کیلئے ہائی کورٹ گیا تھا۔ نوٹس واپسی کیلئے جناب سینئر سول جج صاحب ایک پیادے کو ہار جاتا ہے۔ کیا اس بابت آپ کو جناب سینئر سول جج صاحب نے ہار کیا تھا؟

۱۱۲۔ کوئی بھی نوٹس واپسی کیلئے ہائی کورٹ آرزو کے مطابق اس کو سول ناظر یا ناظر سے تصدیق کرانا اور جس پر اندراج لازی ہے۔ کیا آپ نے ایسا کیا ہے؟

۱۱۳۔ کیا آپ نے سرکاری موڑ سائیکل پارک میں کھڑی کرتے وقت پارک کے نمائندے سے رسید لی تھی؟

۱۱۴۔ ہر سرکاری گاڑی کا لاگ بک ہوتا ہے۔ جس میں گاڑی پر کیا گیا سفر اور وہ لکھا جاتا ہے۔ پرائس سرورڈ کو ہائی کورٹ اور سینئر سول جج چارلس کے طرف سے بار بار ہدایات جاری کی گئی ہیں کہ وہ لاگ بک رکھیں گے جس میں سفر کی تمام تفصیلات لکھا جائے گا۔ کیا آپ نے لاگ بک میں ہمت نوٹس واپسی ہائی کورٹ اسی دن کی انٹری کی ہے؟

۱۱۵۔ آپ نے بیان میں کہا ہے کہ مورخہ 07.06.2022 کو جب میں ہائی کورٹ متعلقہ برانچ برائے واپسی نوٹس گیا تو متعلقہ کلرک موجود نہ تھا۔ کیا وہ چھٹی پر تھا؟ کیا متعلقہ برانچ میں صرف ایک کلرک ہے؟ کیا ایک کلرک موجود نہ تھا تو اس کے سینئر یا جو بھی نے نوٹس لینے سے انکار کیا؟

Attested to be true copy.

Wassal A.
Haji Wassal Khan
Advocate, Charsadda

(50)



District Judiciary Charsadda

Office of the
Senior Civil Judge (Administration)
Charsadda

Phone: 091 - 92 20 435

No 329 /SCJ(A), Chd.

Dated: 02/03/2023

FINAL SHOW CAUSE NOTICE:

1. Mrs. Saira Bano, Senior Civil Judge (Admn), Charsadda as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules-2011, do hereby serve you accused/official Mr. Muhammad Tariq, Process Server, as follows:

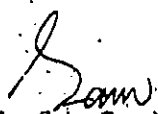
2. **WHEREAS**, you Mr. Muhammad Tariq, Process Server, committed negligence and misconduct in performance of duties as defined in rule-2(1) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules-2011 vide charge sheet bearing No.1270/SCJ(A), Chd dated: 25.11.2022.

3. **WHEREAS**, Miss. Aisha Hayat, Civil Judge-VII, Charsadda was appointed as Inquiry Officer, who has submitted the inquiry report, in which charge stands proved against you (Copy of inquiry report is enclosed).

4. **AND WHEREAS**, I as Competent Authority, on considering the findings and recommendations of the Inquiry Officer, have reached the conclusion that the charge/allegation contained in the aforementioned charge sheet has been established.

5. **NOW THEREFORE**, you Mr. Muhammad Tariq, Process Server, are called upon to show cause in writing within (07) days of the date of receipt of this notice as to why a penalty as provided in rules-4(1)(a)(ii)&(iii) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules-2011 may not be imposed upon you and to submit additional defense in writing, if any, with the period specified above. You are required to indicate in your reply, if you want to be heard in person.

6. In case no reply is received within the specified period, it would be presumed that you have no defense to offer or you have declined to offer the same and accept the charge and in that case action against you shall be taken ex-parte


(Mrs. Saira Bano)
SCJ(A) Charsadda/
Competent Authority

Senior Civil Judge (Admn),
Charsadda

Mr. Muhammad Tariq (Accused/Official)

TESTED


16 SEP 2023

Examiner
Copying Agency Branch
Court of District & Sessions Judge
Charsadda

(51)

12.

To, The Hon'ble Senior Civil Judge (Admin) /
Competent Authority, Charsadda

Subject: - Reply of Final Show Cause Notice
bearing no. 329/SCJ(A), Chd. dated
02/03/23 received by me on 03/03/23

Respected Madam,
with due respect I submit my reply to the
subject notice as under: -

Submit
better
which is
Defensible
on
4/3/23

1) That I am serving as process server in the
Process Serving Agency since my appointment in
the year 2003 and perform my duty honestly,
hard workingly and to the best of my ability,
without gaining any complaint from any quarter
in my whole tenure of service which is pointer
towards the good performance of my duty.

2) That since I have fully mentioned the facts
and mode of incident of the theft of my motor
cycle in my statement before Enquiry officer and
replyes to Explanation as well as Charge sheet / statement
of allegations, so there is no need to reiterate the same
and my those replyes and statement may be considered
as Reply to this Final Show Cause Notice, besides the
reply to the findings of Enquiry officer as are held
in her Enquiry Report.

3) That the Enquiry officer while reproducing the
statement of allegations on page 2 at the bottom (ii)
has held that I was not authorised to serve the
summon/notice of Hon'ble Peshawar High Court upon
the party (g) and that as per report of Naib Nazim, no
summons or notices was issued handed over to me for
its service in Hon'ble Peshawar High Court, Peshawar,
so in this respect I submit that the statement of
allegation to the extent of service of Hon'ble High
Court Peshawar's Summon/notice is on wrong footing
because I had only taken the notice to High Court
Peshawar and not taken the same for its service there
upon anybody but the purpose of its taking was
to deliver the same to the concerned clerk,

4) That the Enquiry officer further held in the report
that the taking of summons and letters to Peshawar
High Court, Peshawar was the duty of Admin. In-charge
Process Server but in the past every Process Server

ATTESTED

overleaf - (2)

18 SEP 2023

Exhibitor
Copy to Agency Branch
Court of Dist & Sessions Judge
Charsadda

(52)

(2)
resident of Peshawar per verbal directions of Nazir
Naib Nazir was taking the summons/ notices of
Honble Peshawar High Court for its delivery there
to the concerned clerk and I too had taken
the notices there for its handing over to the concerned
clerk ~~but~~ on different occasions being the resident
of Peshawar. Now this duty usually has been assigned to
the said Adrian Yusuf, Process Serivier.

- 5) That I admit my mistake to the extent that I have not
returned the notice of Honble Peshawar High Court, Peshawar
to the Naib Nazir for attestation after its execution/ service
upon the party(s) and then with his permission I had to take
the same to High Court. However, this has been done due to
misunderstanding, because as the residents of Peshawar
usually had taken the notices of Honble High Court Peshawar
vide verbal permission/direction of Nazir/ Naib Nazir
in the past. In this respect I put myself at the mercy of
your honour. I also swear by Almighty Allah that the
theft of my official Motor cycle was beyond my control
as I had properly locked the same in the parking place
in front of main gate of High Court, Peshawar and
in this respect I have committed no negligence and was
so conscious of its ~~own~~ care that after 10/15 minutes of
its parking I again came out of the premises of High Court
for its look after but I found the same ^{missing}. No doubt exists
in this respect. I tried my best to recover my Motor
cycle through my efforts as well as with the help of Police
and in this respect I submitted an application to C.C.P.O,
Peshawar for issuance orders to S.H.O. East Canton
Peshawar, who was pleased to do so, but till date
it has not been recovered. (Photo copy of the application
is attached).
- 6) That the Enquiry officer has further held in her
Enquiry Report that I had also committed negligence
to the effect that I did not keep a log book for
travel record, and in this respect I submit the reply
that logbooks have been issued to us including me
about two months ago and not before the theft of my
motor cycle, with further reply that we were allowed
to take the motor cycles along with us to our house after
duty hours.
- 7) That since the ~~of~~ theft of official motor cycle was
committed and in this respect I had informed The Department
but The Department remained silent in this respect

ATTESTED

next page - 3

18 FEB 2023

Copy of
Court of
Chief Justice
Peshawar
Branch
Sessions Judge
Peshawar

(3)

and did not pursue the matter with the High ups of Police. If The Department would have taken interest in the recovery of motor cycle, it would have been recovered.

- 8) That during the fact finding Enquiry I recorded my statement under the dictation of learned ASJ-II, Charsadda, though if any admission is there, the same was not recorded with my free will. Further, the other witnesses who recorded their statement during the fact finding Enquiry before ASJ-II, Charsadda were not produced before the Enquiry officer for my cross examination and so is the case regarding the statement of Hqsat. Khalid Coe, Senior Civil Judge (Admin) Charsadda, for which I was not allowed to cross examine him.
- 9) That the Enquiry officer has held in her enquiry report that there was cutting on the notice of Peshawar High Court, Peshawal to the effect that the name of Arshad process server was replaced by my name. To this effect I submit that since the Halqa of Multitabad etc. was assigned for service of summons/ notices to the said Arshad, process server. So the notice of High Court was entrusted to him for service on 05-11-2022 and when this Halqa was assigned to me the Naib Nazir cut the name of the said Arshad and instead wrote my name and entrusted the notice to me after 02/6/22 for service upon the Party(S).
- 10) That I am a low-paid Govt. servant, having large family members to feed them in these hard days with my monthly salary and I have no source of income except my salary and also have in credit 20 years service as process server, waiting for promotion.
- 11) That if your honour comes to the conclusion that the cost/price of the stolen motor cycle is to be recovered from me, then in that case my request would be that while fixing the price of the motor cycle, its manufacture year and condition may be taken into consideration and also the price so fixed may be ordered to be recovered from my monthly salary.

(A

next Page 4

18 SEP 2023

Exhibit
Criminal Agency Branch
City of Charsadda, District
Charsadda

(54)

41

in equal easy instalments and further if the motorcycle is recovered at any time may also be ordered to be my property.

12) That in order to clarify my position further I want to be heard in person.

It is, therefore, requested that if possible I may very kindly be exonerated of the charges levelled against me and further request that I may be pardoned for taking the notice of Peshawar High Court directly though under misunderstanding and oblige.

Dated: 08/03/2023

Yours obediently,
(Signature)
(Muhammad Tariq Jan)
Process Server, Process
Serving Agency of the
Establishment of your honour.

TESTED

18 SEP 2023

Examiner
Serving Agency Branch
Courts of District & Sessions Judge
Muzaffargarh

(55)

To,

The Hon'ble Senior Civil Judge (Admin)/
Competent Authority, Charsadda.

Subject: - Reply Of Final Show Cause Notice bearing No. 329/SCJ(A), Chd
dated 02/03/2023 received by me on 03/03/2023.

Respected Madam,

With due respect I submit my reply to the above subject notice as under:

- 1) That I am serving as process server in the process serving Agency since my appointment in the year 2003 and perform my duty honestly, hardworkingly and to the best of my ability, without gaining any complaint from any quarter in my whole tenure of service which is pointer towards the good performance of my duty.
- 2) That since I have fully mentioned the facts and mode of incident of the theft of my motor cycle in my statement before inquiry officer and replies to explanation as well as charge sheet/ statement of allegations, so there is no need to reiterate the same and my those replies and statement may be considered as reply to this final show cause notice, besides the reply to the findings of inquiry officer as are held in her enquiry report.
- 3) That the enquiry officer while reproducing the statement of allegations on page-2 at the bottom (iii) has held that I was not authorized to serve the summon / Notice of Hon'ble Peshawar High Court upon the party (s) and that as per report of Naib Nazir, no summons or Notices was handed over to me for its service. In Hon'ble Peshawar High Court, Peshawar, so in this respect I submit that the statement of allegation to the extent of service of Hon'ble High Court Peshawar's Summon /Notice is on wrong footing because I had only taken the Notice to High Court, Peshawar and not taken the same for its service there upon anybody but the purpose of its taking was to deliver the same to the concerned clerk.
- 4) That the Enquiry officer further held in the report that the taking of summons and letters to Peshawar High Court, Peshawar was the duty of Adnan Yusof process server but in the past every process server residents of Peshawar per verbal direction of Nazir/Naib Nazir was taking the summons / Notices of Hon'ble Peshawar High Court, Peshawar for its delivery there to the concerned clerk and I too had taken the Notices there for its handing over to the concerned clerk on different occasions being the resident of Peshawar. Now this duty solely has been assigned to the said Adnan Yusof, process server.

(56)

- 15
- 5) That I admit my mistake to the extent that I have not returned the Notice of Hon'ble Peshawar High court, Peshawar to the Naib-Nazir for attestation after its execution / Service upon the party (s) and then with his permission I had to take the same to High Court. However, this has been done due to misunderstanding, because we, the Presidents of Peshawar usually had taken the Notices of Hon'ble High Court Peshawar vide verbal permission/direction of Nazir/Naib-Nazir in the past. In this respect I put myself at the mercy of your honor. I also swear by Almighty Allah that the theft of my official Motor cycle was beyond my control as I had properly locked the same in the parking place in front of main gate of High Court, Peshawar and in this respect I have committed no negligence and was so conscious of its care that after 10/15 minutes of its parking I again came out of the premises of High Court for its look after but I found the same missing. No doubt exists in this respect. I tried my best to recover my motor cycle through my efforts as well as with the help of police and in this respect I submitted an application to CCPO, Peshawar for issuance orders to SHO P.S East Cantt, Peshawar, who was pleased to do so, but till date it has not been recovered (Photo copy of the application is attached).
- 6) That the enquiry officer has further held in her Enquiry Report that I had also committed negligence to the effect that I did not keep a log book for travel record, and in this respect I submit the reply that logbooks have been issued to us including me about two months ago and not before the theft of my Motor cycle, with further reply that we were allowed to take the motor cycles along with us to our houses after duty-hours.
- 7) That since the theft of official Motor cycle was committed and, in this respect, I had informed the Department but the Department remained silent in this respect and did not pursue the matter with the High Ups of Police. If the Department would have taken interest in the recovery of Motorcycle, it would have been recovered.
- 8) That during the fact-finding Enquiry I recorded my statement under the direction of learned ASJ-ii Charsadda, though if any admission is there, the same was not recorded with my free will. Further, the other witnesses who recorded their statements during the fact-finding Enquiry before ASJ-ii Charsadda were not produced before the Enquiry officer for my cross examination and so is the case regarding the statement of Hazrat Bilal COC, of senior civil Judge (Admin) Charsadda, for which I was not allowed to cross examine him.
- 9) That the Enquiry officer has held in her enquiry report that there was cutting on the notice of Peshawar, High Court, Peshawar to the effect that the name of Arshad process server was replaced by my name, to this

(57)

effect I submit that since the Halqa of Muftiabad etc was assigned for service of Summons / Notices to the said Arshad, process Server, so the notice of High Court was entrusted to him for service on 05-04-2022 and when this Halqa was assigned to me the Naib Nazir cut the name of the said Arshad and instead wrote my name and entrusted the notice to me after 02-06-2022 for service upon the party(s).

- 10) That I am a low paid Govt Servant, having large family members to feed them in these hard days with my monthly salary and I have no other source of income except my salary and also have in credit 20 years' service as process server, waiting for promotion.
- 11) That if your honor comes to the conclusion that the cost /price of the stolen Motor cycle is to be recovered from me, then in that case my request would be that while fixing the price of the motor cycle, its manufacture year and condition may be taken into consideration and also the price so fixed may be ordered to be recovered from my monthly salary in equal easy instalments and further if the motor cycle is recovered at any time may also be ordered to be my property.
- 12) That in order to clarify my position further I want to be heard in person.

It is therefore, requested that if possible I may very kindly be exonerated of the charges levelled against me and further request that I may be pardoned for taking the Notice of Peshawar High Court directly though under misunderstanding and obliged.

Dated: 08/03/2023

Yours Obediently,



(Mohamimad Tariq Jan)
Process Server,
Process serving Agency
of the Establishment of
your honor.

Attested to be true Copy

Wasal
Haji Wasal Khan
Advocate, Charsadda

(58)

15

FORM "A"
FORM OF ORDER SHEET

Court of _____ of _____

Case No. _____ of _____

Serial No. of Order Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
	<p><u>ORDER-13</u> 12.04.2023</p> <p><i>Saw</i> 12/4/23</p>	<p>On 29.03.2023, the accused official in person was present and heard. He has already submitted his reply in response to final show cause notice issued to him under rule-14 (4) (a), (b) (c) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules-2011.</p> <p>2. Brief facts, constituting the background of the instant inquiry are that Mr. Muhammad Tariq, serving as Process Server in the establishment of this office, submitted an application to the undersigned on 10.06.2022 regarding theft of official Motorcycle Honda CD-70 bearing Registration No.A-6124/Charsadda, handed over to him for service of summons/notices in his assigned area. Accompanying the application, copy of Naqalmad dated: 07.06.2022 of Police Station East Cantt, Peshawar was also submitted, whereby he has lodged report before the Police to the effect that on 07.06.2022 at 12:00 hours, he parked Motorcycle Honda, 70-C.C, bearing Registration No.A-6124, Engine No.B509198,</p> <p style="text-align: right;">ATTESTED</p>

16 SEP 2023

Examiner
Copying Agency Branch
Courts of Distt & Sessions Judge
Charsadda

(59)

FORM "A"
FORM OF ORDER SHEET

Court of _____

Case No. _____ of _____

Serial No. of Order Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
	<p><u>Continued:</u></p> <p><u>ORDER-13</u> 12.04.2023</p> <p><i>Saw</i> 12/4/23</p>	<p>Chassis No. B201702 in front of the gate of Hon'ble Peshawar High Court, Peshawar and after 20 minutes when he returned, the Motorcycle was missing. On receipt of the application, the matter was reported to the Hon'ble District & Sessions Judge, Charsadda vide letter bearing No.709/SCJ(Admin) Charsadda dated: 14.06.2022. The Hon'ble District & Sessions Judge, Charsadda vide order dated: 16.06.2022 entrusted the matter to the learned Additional Sessions Judge-II, Charsadda for discreet inquiry. Consequently, the learned Additional Sessions Judge-II Charsadda submitted discreet/fact finding inquiry report to the Hon'ble District & Sessions Judge, Charsadda vide Endst. No.170/AD&SJ-II, Charsadda dated: 28.06.2022. The Hon'ble District & Sessions Judge, Charsadda vide Office Order bearing Endst. No.729/DJ dated: 06.07.2022 sent the inquiry report alongwith inquiry file to the undersigned for formal inquiry.</p> <p>3. On receipt of inquiry, the undersigned being 'Competent Authority' called the accused official for</p>

ATTESTED

16 SEP 2023

Examiner
Copying Agency Branch
Court of Dist & Sessions Judge
Charsadda

(60)

FORM "A"
FORM OF ORDER SHEET

Court of _____ of _____
Case No. _____

Serial No. of Order Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
	<p><u>Continued:</u></p> <p><u>ORDER-13</u> 12.04.2023</p> <p><i>Saw</i> 12/4/23</p>	<p>explanation, reply to which was submitted on 24.11.2022, which was not found satisfactory. Accordingly, accused official was charged sheeted and statement of allegations was handed over to him on 25.11.2022, while Miss. Aisha Hayat, learned Civil Judge-VII, Charsadda was appointed as Inquiry Officer to conduct inquiry into the matter and submit report to the undersigned.</p> <p>4. Miss. Aisha Hayat, learned Civil Judge-VII, Charsadda/Inquiry Officer after recording statements of the concerned officials including accused official and concluding inquiry proceeding has held as under:-</p> <p><i>"Considering the aforementioned facts, the delinquent official's failure to comply with the required protocols of obtaining authorized and attested summonses/notices and the subsequent loss of the official motorcycle indicates gross negligence and misconduct, thus rendering him guilty under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011."</i></p>

ATTESTED

16 SEP 2023

Examiner
Copying Agency Branch
Courts of Distt & Sessions Judge
Charsadda

(61)

61

FORM "A"
FORM OF ORDER SHEET

Court of _____
Case No. _____ of _____

Serial No. of Order Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
	<p><u>Continued:</u></p> <p><u>ORDER-13</u> 12.04.2023</p> <p><i>Saw</i> 12/4/23</p>	<p>5. It is evident from the available record including reply to show cause and personal hearing that accused official has tried to justify his conduct on grounds of his misunderstanding that he took the notice to the Hon'ble Peshawar High Court, Peshawar for the purpose of its delivery only as per past practice because the residents of Peshawar were usually taking the notices of Hon'ble Peshawar High Court, Peshawar on the verbal directions of Nazir/Naib Nazir, while the theft of Motorcycle was beyond his control. Since, a Process Server has been authorized for the returning of notices etc. to the Hon'ble Peshawar High Court, Peshawar through a proper receipt book and the accused official without authorization as well as without attestation of Naib Nazir had taken the notice at his own for the reasons best known to him, which caused loss of official Motorcycle, therefore, he cannot seek exemption or refuge from the charge only on the ground of misunderstanding.</p> <p>6. It is, therefore, established from the record that the accused official has clearly committed misconduct, as</p>

ATTESTED

16 SEP 2023

Examiner
Copying Agency Branch
Courts of Dist. & Sessions Judge
Sharada

(62)

FORM "A"
FORM OF ORDER SHEET

Court of _____ of _____
Case No. _____

Serial No. of Order Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
	<p><u>Continued:</u></p> <p><u>ORDER-13</u> 12.04.2023</p>	<p>defined in rule-4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 having acted against the good order of service discipline. I, being the Competent Authority hold the accused official guilty of misconduct and impose upon him the minor penalty of withholding annual increments for a period of Three (03) years as well as recovery of value of Motorcycle as per prevailing market price alongwith government taxes and cost of its registration documents, whatever applicable, within the meanings of rule 4-(1)(a)(ii)&(iii) of the Rules ibid. Accused official shall deposit the requisite amount within 30 days otherwise, the same shall be recovered from the pay of the accused/official and be deposited in the State exchequer.</p> <p>7. The inquiry file be handed over to C.O.C of this establishment for safe custody.</p> <p><u>Announced:</u> 12.04.2023</p> <p style="text-align: right;"><i>Saim</i> (Mrs. Saira Bano) SCJ(A), Charsadda/ Competent Authority</p>

ATTESTED

16 SEP 2023

Examiner
Copying Agency Branch
Court of Dist & Sessions Judge
Charsadda

(63)

10



District Judiciary Charsadda

Office of the
Senior Civil Judge (Administrative)
Charsadda



Phone: 091 - 92 20 435

ORDER:

WHEREAS, disciplinary proceedings against accused official Mr. Muhammad Tariq, Process Server under the Khyber Pakhtunkhwa Government Servants' (Efficiency & Discipline) Rules-2011 were initiated, upon the charges of founding guilty of negligence and misconduct.

3. WHEREAS, on receiving the inquiry report and going through the evidence recorded by the Inquiry Officer and the relevant record, he was served with show cause notice under rule-4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and was asked to submit reply with intimation that whether he wants to be heard in person.

4. WHEREAS, accused official submitted reply to the show cause and was personally heard on 29.03.2023 as opted by him in reply to the show cause notice. In reply the accused/ official did not say anything plausible in respect of the findings of the inquiry officer.

4. AND WHEREAS, while keeping in view the evidence available on record and failure of accused/official to justify his stance taken in defense, charge stood proved against him.

5. NOW THEREFORE, I, being Competent Authority impose the following minor penalties upon the accused official as enumerated in Rule-4 (1) (a) (ii) (iii) of the Government of Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules; 2011.

i. It is ordered that value of Motorcycle Honda CD-70 as per prevailing market rate with government taxes and cost of registration documents, whatever applicable, be recovered from the accused official and be deposited in the state exchequer under Rule-4 (1) (a) (iii) of the ibid Rules, 2011.

ii. He is also awarded penalty of withholding annual increments for a period of Three (03) years under Rule-4 (1) (a) (ii) of the ibid Rules, 2011.

Accused official shall deposit the requisite amount within 30 days otherwise, the same shall be recovered from the pay of the accused official and be deposited in the State exchequer.

Saw
(Mrs; Saira Bano)
SCJ(A) Charsadda/
Competent Authority Charsadda

No. 588-90 /SCJ(A)-Chd.

Dated: 19/04/2023

Copy forwarded to:

1. The Hon'ble District & Sessions Judge, Charsadda for information, please.
2. The official concerned by name.
3. Office copy.

Saw
SCJ(A) Charsadda/
Competent Authority

Senior Civil Judge (Admin)
Charsadda

ATTESTED

18 SEP 2023

Examiner
Copying Agency Branch
Courts of Distt & Sessions Judge
Charsadda

(64)

①

BEFORE THE COURT OF LEARNED DISTRICT AND SESSION JUDGE/

DEPARTMENTAL AUTHORITY, CHARSADDA.

Departmental Appeal No. _____ / 2023

Muhammad Tariq Jan Process Server in the Establishment of learned Senior Civil Judge, (Admin) Charsadda..... Appellant.

Versus

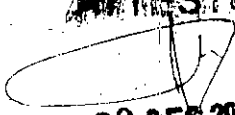
The learned Senior Civil Judge (Admin) Charsadda..... Respondent.

Departmental Appeal against the order dated 12/04/2023 passed by Respondent on the basis of Enquiry Report of Enquiry Officer whereby the Appellant was ordered to deposit the prevailing market price of official Motor cycle CD-70 bearing Registration number A-6124 Charsadda along with the amount of Government Taxes and cost of registration documents (whatever applicable) in the office for onward deposit in State Exchequer within 30 days, otherwise the same shall be recovered from his pay with further order of withholding of Annual increments for three years under Rule 4 (1) (a) (ii) (iii) of Khyber Pakhtunkhwa Govt Servants (Efficiency and Discipline) Rules 2011.

PRAYER: -

On acceptance of this Departmental Appeal order dated 12/04/2023 may very graciously be set aside being harsh one and also not in accordance with law and Rules of service on the subject and material available on file, and with further prayer that if this Honorable court is of the opinion that some deficiency has occurred on the part of the Appellant in this occurrence then the minor penalties so imposed upon the Appellant may kindly be converted into penalty of censure/warning and the penalty of deposit of amount may be ordered to the amount of Motorcycle Model 2018 keeping in view the condition of other Motorcycles CD--70 available with other Bailiffs and Process Servers presently and whatever the amount would be come, its recovery may be ordered to be made from the monthly Salary of Appellant in equal easy instalments under Rule 4 (i) (a) (i) (iii) of Khyber Pakhtunkhwa Govt Servants (E&D) Rules 2011, with further prayer for ordering the Appellant to be the owner of the said Bike if recovered by police.

*Dist. & Sessions Judge
Charsadda*

ATTESTED

22 DEC 2023

EXAMINER
Copying Agency Branch
Cms of Dist & Sessions Judge

(65)

(2)

Respectfully Sheweth: -

That the Appellant respectfully submits as Under: -

BRIEF FACTS OF THE CASE: -

1. That the Appellant is serving as Process Server in the Establishment of Respondent since his induction in service in the month of July-2003.
2. That the Appellant is performing his duty honestly, devotedly, obediently and to the best of his ability and did not give any chance of complaint to his officers in the whole tenure of his service, which fact is apparent from his record.
3. That the Appellant is the resident of Ghari Rajkol, Ring Road, Peshawar and daily comes for duty and goes back home at Peshawar on Motorcycle.
4. That in the year 2018 Process Servers and Bailiffs were handed over Official Motor cycles to use the same for the performance of their duties and to take the same with them to their homes. The Appellant was also handed over the Motor cycle Honda CD-70 Registration Number A-6124 Charsadda for the said purpose (Registration Copy is retained in the office of Respondent).
5. That as usual the Appellant was/is performing his duty in the office as well as in the Ilaqa assigned to him for the services of Summons/ Notices of various Courts upon litigant and witnesses, while riding on Motorcycle.
6. That during reshuffling of illaqa's, the Appellant was allotted area of Mufti Abad and others on 2/06/2022 for the purpose of services of Summons/Notices upon litigants and witnesses, issued from various courts including Honorable Peshawar High Court, Peshawar and it was in the context of Notice of Honorable Peshawar High Court issued firstly to Arshad Ahmed Process Server on 05/04/2022 as by that time the illaqa (Mufti Abad etc) was assigned to him; and this notice along with other notices were handed over to Appellant for service upon the litigants after the change of illaqa which he after execution was returning to the concerned Clerk at Honorable High Court Peshawar, though for its direct deposit no written permission/ Authorization was obtained, Parked his official Motorcycle duly locked in the parking place in front of main gate of High Court Peshawar.
7. That the Appellant went inside the office of concerned clerk at High Court to deliver the Notice to him but he was not present on his seat and his other colleagues were not ready to receive the same, as such the Appellant after waiting

Distt. Secy
Charsadda
2/5/22

ATTESTED

22 DEC 2023

EXAMINER
Agency Branch

(66)

3

for about 10/15 minutes came out to the parking place to see his Motorcycle but found it missing.

8. That at once the Appellant contacted Naseeb Ullah clerk of Shakeel Ahmad Khan Advocate, his brother for help in searching of Motorcycle. They both searched in the parking place but failed to trace out the same, so Appellant handed over the notice to the said Naseeb Ullah for its deposit with concerned clerk and he went to Police Station East Cantt Peshawar for lodging report where his report was lodged in the shape of Naqalmad Dated 07/06/2022.
9. That early in the morning on 08/06/2022 the Appellant verbally informed the Respondent regarding the theft of Official Motorcycle but it was directed to him to submit written application, so when he got the copy of Naqalmad dated 07/06/2022 from Moharrir of Police Station East Cantt Peshawar early in the morning of 10/06/2022 then he on this date submitted written application accompanied by copy of Naqalmad to the Respondent (Copy of application and Naqalmad are attached).
10. That the Appellant on 08/06/2022 contacted the said Naseeb Ullah to enquire about the deposit of Notice and also its receipt but he told him that due to his engagement in his work on 07/06/2022 he could not deliver the notice to the concerned clerk, so he again went to High Court Peshawar and collected from him the notice which he the (Appellant) on that very date delivered to the concerned clerk by obtaining his signature on the back of its photocopy, available on the enquiry file (Photocopy attached).
11. That the Appellant visited the said Police Station time and again and ordered to enquire the progress and recovery of Motorcycle and also to register the case in the shape of F.I.R but no progress till date is made and also his request for the registration of Naqalmad into F.I.R has not been acceded to, so he submitted an application in this respect to CCPO Peshawar for directing the SHO concerned to do the needful but in vain (Copy of the application is attached and also available on enquiry file).
12. That fact-finding enquiry was ordered against the Appellant and entrusted to learned AD&SI II, Charsadda who got recorded the statements of some officials of this Honorable Court and also recorded the statement of Appellant but under his

ATTESTED

22 DEC 2023

EXAMINER
COURT ATTORNEY BRANCH

(67)

(4)

dictation to which he protested and if any admissions or omissions are there in his statement those are due to the above fact.

13. That thereafter the Appellant was served with Show Cause notice by the Respondent to which he replied in the manner stated above, where after he was charge sheeted and also was given statement of allegation, the replies thereto were submitted to the Enquiry Office (copies of Show Cause notice, its reply, charge sheet and statement of allegation and its replies are attached herewith)
14. That evidence of both the Appellant with his witnesses as well as Respondent through representative and Jamil Khan (Naib Nazir) were recorded during enquiry proceedings before Civil Judge/ Enquiry Officer. However, it is pertinent to mention here that the witnesses of Respondent who had deposed against the Appellant during the fact finding enquiry and also the concerned clerk of Honorable Peshawar High Court were not produced before Enquiry Officer i.e Civil Judge/ Enquiry Office to record their evidence and give chance to Appellant to cross examine them and also pre-prepared questionnaire to be put during cross examination on Appellant and statement of representative namely Hazrat Bilal, CCC were placed on file of enquiry, which are against the Norms of Justice and further no permission for cross examination on the witnesses so produced in enquiry proceedings before Civil Judge/ Enquiry Officer was not given and provision of rule 11 of ibid rules were not complied with.
15. That after completion of enquiry proceedings enquiry file with enquiry report was returned to Respondent who served the Appellant with final Show Cause notice and he replied the same in the same manner as given to other Show Cause notices; charge sheet and statement of allegation (reply to final Show-Cause notice is attached).
16. That the Respondent passed the impugned order on 12/04/2023, conveyed to the Appellant on 19/04/2023 vide number: 588-90/SCJ (A) Chd whereby harsh punishment, though minor penalties in the shape of withholding of Annual increments for 03 years and recovery of the price of Motorcycle as per prevailing market value/rate with taxes was ordered to be made, which shall be deposited by the Appellant with the office within 30 day, otherwise the same shall be recovered from his pay and deposited in State Exchequer (Copy of letter and attested copy of impugned order dated 12/04/2023 are attached).

ATTESTED

22 DEC 2023

Examination
Copying Agency Branch

(68)

(5)

17 That the Appellant being aggrieved of the impugned order dated 12/04/2023 is filing the instant Departmental Appeal for its setting aside on the following grounds amongst others.

GROUNDS: -

- A. That the Impugned order dated 12/04/2023 passed by the Respondent is illegal, void- ab-initio, against facts and material available on record, law and Rules on the subject, against verdicts of Superior Courts issued in this respect from time to time and principle of natural justice, hence untenable.
- B. That the theft of official Motorcycle was beyond the control of Appellant as he had taken great care by parking it in the parking place duly locked and as regards the deposit of notice which was interested to him for service was that of his illaqa so he after searching the party (s) in the illaqa on 07/06/2022 was going to deposit the same with concerned clerk at Peshawar High Court Peshawar, being the resident of Peshawar, though due to misunderstanding he had not returned the notice in his office and also without authorization the notice was being delivered which he delivered on 08/06/2022 and obtained signature of concerned clerk on the photocopy, however this was not a serious matter but when the theft of Motorcycle was committed the Respondent/Authority took it serious and it was treated as misconduct and negligence on the part of Appellant. In such like cases only, censure/warning has been given to the officials. Impugned order is not in accordance with the norms of justice, so is liable to be set aside.
- C. That since his appointment in the month of July 2003 in BPS-1 and post upgraded to BPS-5, neither any adverse remarks nor any complaint from any quarter has been filed against the Appellant and thus he has brilliant record and keeping in view his tenure of service and brilliant record, if in the opinion of Authority/Respondent he has committed any act of omission/commission, though the same was due to misunderstanding and he has duly deposited the notice, he should have been awarded only "censure" under rule 4 (1)(a)(i), as such punishments awarded to him are harsh, hence impugned order is liable to be set aside.
- D. That the statement of the Superintendent, Session Courts Charsadda, given during fact finding enquiry, based upon the information of clerk of High Court, Peshawar

ATTESTED

22 DEC 2023

Examiner
Agency Branch

(69)

6

is belied by the fact of deposit of notice on 08/06/2022 by the Appellant with the concerned clerk by obtaining his signature in this respect, though this witness was neither produced before Civil Judge/ Enquiry Office for evidence nor during fact finding enquiry. The Appellant was not asked to cross examine him and cross examination on other witnesses namely Jamil Khan, Arshad Ahmad, PS and Hazrat Bilal COC were also not permitted which is against the Law and Rules and verdicts of superior Courts. further the above-named witnesses except Jamil Khan were not summoned and examined during proceedings before Civil Judge/Enquiry Office and only Hazrat Bilal and Jamil Khan with Pre-Prepared statement and questionnaire (available on file) was produced, which shows the keen interest of department towards the punishment of Appellant hence the impugned order on this score too is not sustainable. (Reliance placed on 2023 SCMR 603,2023 PLC (CS)81 and others).

- E. That though minor penalties cannot be hindrance towards the promotion of an Official, still the department wants to deprive the Appellant from his promotion to the post of Bailiff, in the near future who is on SL# 03 of the seniority list. However, the law and verdicts of superior courts are clear on the point that when proceeding against an official who is senior to other (s) are pending, then any promotion of other official instead of him is barred: (Reliance placed on 2007 SCMR1769 and other), Hence the impugned order is not sustainable and liable to be set aside.
- F. That the Respondent will not be able to produce any precedent in the shape of Authority of any superior Court to show that an Official/Officer from whose custody the Official vehicle was stolen he was ordered to deposit its price and that too of the prevailing market rate. The impugned order thus is an ambiguous order because the Motorcycle is model 2018 user for about 4 ½ years and is a second hand one with deteriorated condition, instead the recovery from the Appellant was ordered to be that of a new Motorcycle and also before ordering the amount was not mentioned to be recovered from the Appellant; in the light of model and condition of Motorcycle, hence the impugned Order also on this core is not sustainable in the eye of Law.
- G. That the law on the point is that superior Courts have held in enormous of authorities that evidence without cross examination is no evidence in the eye of law, hence the impugned order is untenable.

TESTED

22 DEC 2023

Examiner
Coaching Agency Branch

(70)

(7)

- H. That the cross examination put on the witnesses of the Appellant also supports/ strengthens the plea of Appellant, hence the Impugned order is not sustainable in the eye of Law.
- I. That it was the duty of Respondent/department to prove the charges by producing and examining their evidence first but this duty was shifted to Appellant by Civil Judge/ Enquiry Office by ordering him to produce and examine his evidence first and then the only statement of Jamil Khan Naib Nazir was recorded and then Pre-prepared statement of Hazrat Bilal COC was placed on file without permission to Appellant to put upon them cross questions, this practice is against the Norms of Justice; hence the Impugned order is liable to be set aside.
- J. That the impugned order is also defective in the eye of law that in this case report of theft has been made by the Appellant and no order has been made by the Respondent that if the Motorcycle is recovered by the police then who will be owner of the same, hence on this score too the impugned order is not sustainable.
- K. That the impugned order is a speaking order in the eye of law because the Respondent has failed to examine the controversy in its true and legal perspective, thus interference of this Honorable Court is warranted.
- L. That as regards the log books, the same were handed over to Bailiffs and Process Server after this occurrence, so before this occurrence of theft no log book was available with Appellant, hence the findings of Enquiry Officer in this respect is completely wrong and irrelevant, hence basing the impugned order on the finding of Civil Judge/ Enquiry Officer, it has no footing to stand upon; as such, the impugned order is liable to be set aside.
- M. That the impugned order reveals that the Respondent has imposed punishment on the Appellant only under misconduct and not negligence, meaning there by that he was not negligent towards the performance of his duty, still negligence doesn't come with in the definition of mis-conduct, hence impugned order is not sustainable.
- N. That the Appellant has acted in good faith and due to misunderstanding to take the notice directly to the concerned clerk of honorable High Court Peshawar for the reason that in the past he has done so at the verbal direction of Nazir/Naib Nazir, being the resident of Peshawar and further the Bailiffs and Process Servers are allowed to take with them the Official Motorcycles to their homes, so the

ATTESTED

22 DEC 2023

Examiner
Agency Branch

(71)

8

impugned order is not in accordance with the procedure of the court of Respondent, as such not sustainable in the eye of law.

- Q. That if the appeal doesn't lie against the impugned order then the same may be termed as representation/review petition in the interest of justice.
- P. That other grounds do exist in favor of the Appellant which will be agitated at the time of arguments but with the permission of this honorable court.

It is therefore, humbly prayed that the appeal of the Appellant may very graciously be accepted and impugned order set aside and that if this Honorable Court is of the opinion that some deficiency is there on the part of Appellant and warrants imposition of minor penalty, then the penalties so imposed upon the Appellant may kindly be converted into minor penalty of censure/warning and the penalty of deposit of amount may be ordered to the amount of Motorcycle Model 2018 keeping in view the condition of Motor cycles available with other Process Servers at present and whatever the amount would become, its recovery may be ordered to be made from the monthly salaries of Appellant in equal easy installments, under Rule 4(1)(a)(i)(iii), of Khyber Pakhtunkhwa Government

servants (E&D) Rules 2011, with further prayer for ordering the Appellant to be the owner of the said bike if recovered by police, please
 Dated: 05/05/2023

Appellant/Petitioner
 Muhammad Tariq Jan

Process Server in the establishment of respondent.

Through: - i) Mujeeb Ur Rehman Khan Advocate

ii) Wasai Khan, Advocate Charsadda

ATTESTED
 22 DEC 2023

Affidavit

Examiner
 Wing Agency Branch
 Ch. Dhan & Sessions Judge

I, Muhammad Tariq Jan, Appellant do here by affirm and swear on oath that the contents of this departmental appeal are correct to the best of my knowledge and belief.

Deponent

Mujeeb Ur Rehman Khan Advocate
 District Bar Charsadda

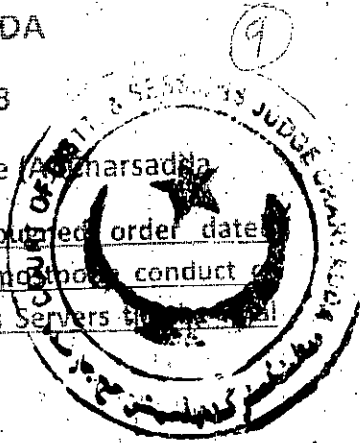
(72)

BEFORE THE COURT OF HONORABLE DISTRICT AND SESSION'S JUDGE/
DEPARTMENTAL AUTHORITY CHARSAKDA

Departmental Appeal No. _____ /2023

Muhammad Tariq Jan VS Learned Senior Civil Judge (Charasakda)

Petition for the suspension of the operation of impugned order dated 12/04/2023 and also for issuance of order to respondent to not to conduct proceedings of DPC for the promotion of Bailiffs out of Process Servers till the final disposal of this departmental Appeal.



Respectfully Sheweth

The Appellant/Petitioner respectfully submits as under:-

1. That the Appellant/petitioner is filing the accompanying Departmental appeal in this Honorable Court on the above title wherein no date is fixed as yet.
2. That the Respondent/Department is reluctant to recover the prevailing market value of the Motor Cycle Model 2018, Honda CD-70 handed over to Appellant/petitioner for the performance of his duty, though the penalty amount imposed still is not known.
3. That there is full chance of the acceptance of appeal keeping in view various major lacunae in the impugned order.
4. That if the amount ordered to be recovered from Appellant/Petitioner is recovered from his pay then the very purpose of this appeal will fall to ground, and there will be irreparable loss to the Appellant/Petitioner.
5. That it has also come to the knowledge of appellant/petitioner that respondent wants to promote senior process servers to the post of bailiffs excluding the name of appellant/petitioner who being on Serial No.3 of the seniority list and in this way deprives him of his promotion right, for which he waited for 20 years, which warrants issuance of order to respondent not to conduct DPC proceedings for promotion of bailiffs out of process servers till the final disposal of departmental appeal.
6. That the grounds of departmental appeal may also be read as ground of this petition.

It is, therefore, humbly prayed that on acceptance of this petition, the operation of the Impugned order dated 12/04/2023 may kindly be suspended with issuance of further order to the respondent, not to conduct the DPC proceedings for the promotion of Bailiffs out of Process Servers wherein the seniority list, the name of appellant is on Serial No. 3, till final disposal of Departmental appeal, please.

Dated: 05/05/2023

Appellant/Petitioner
Muhammad Tariq Jan

Process Server in the establishment of respondent

Through Mr. Mujeeb-ur-Rehman, Esq. (Advocate) Charasakda
Affidavit

I, the petitioner, Muhammad Tariq Jan, Process Server do here-by affirm and declare on oath that the contents of this petition are correct to my knowledge and belief.

ATTESTED

Deponent

22 DEC 2023

Examiner
Copying Agency Branch
Courts of Distt & Sessions Charasakda

05/05/2023

(73)

BEFORE THE HON'BLE DISTRICT & SESSIONS JUDGE,
CHARSADDA



Departmental Appeal

Muhammad Tariq Jan Process Server

.Versus.

Senior Civil Judge (Admn), Charsadda

Subject: PARA-WISE COMMENTS ON BEHALF OF
RESPONDENT.

Respected Sir,

Para-wise comments of respondent/Senior Civil Judge
(Admn), Charsadda in the captioned Departmental Appeal are as under:-

FACTS:

- 1). Para-1: Related to record.
- 2). Para-2: Related to record.
- 3). Para-3: Not related to respondent.
- 4). Para-4: Correct. Motorcycles were provided to Process Servers for services of the summonses/notices in their assigned areas/halqas.
- 5). Para-5: Correct as being Process Server it includes job description of appellant.
- 6). Para-6: Correct only to the extent of assigning him the area of Mufti Abad by the undersigned vide office order dated: 02.06.2022 for the purpose of services of notices etc, however, for delivery of notices/dockets Process Server, namely, Adnan Yousaf was deputed and not the appellant.

ATTESTED.

04 OCT 2023

Examiner
Copying Agency Branch
Courts of Distt & Sessions Judge
Charsadda

(74)

- 7). Para-7: Related to facts alleged by the appellant.
- 8). Para-8: Related to the facts alleged by the appellant.
- 9). Para-9: Correct in the manner that the appellant alongwith his father met the Hon'ble District & Sessions Judge, Charsadda, who directed them to contact the respondent and as such appellant was directed to submit written report, however, on 10.06.2022 appellant submitted an application alongwith copy of Naqalmad of Police Station East Cantt. Peshawar regarding theft/missing of Motorcycle, which was forwarded to the Hon'ble District & Sessions Judge, Charsadda for appropriate orders.
- 10). Para-10 Related to the facts alleged by the appellant.
- 11). Para-11 No comments as not related to respondent.
- 12). Para-12 No comments as not related to respondent. It is, however, added that no such objection was raised at the time of recording his statement or soon there-after till formal inquiry was initiated.
- 13). Para-13 Correct as legal procedure provided in the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules-2011 has been followed and no prejudice caused to the appellant.
- 14). Para-14 No comments as not related to respondent. It is, however, added that on receipt of inquiry report, the inquiry was found to have been conducted in accordance with the provisions of ibid Rules.

ATTESTED

04 OCT 2023

Signature
Deputy Magistrate
District & Sessions Judge
Charsadda

(75)

- 15). Para-15 : Correct.
- 16). Para-16 : Incorrect. After conducted inquiry in accordance with the Rules ibid, as charge stood proved against the appellant, he was awarded punishment while keeping in view the gravity of charge and loss incurred to the state exchequer.
- 17). Para-17 : No comments as not related to respondent.

GROUND:

- 18). Para-A: Incorrect as no illegality has been made by the respondent and the appellant was dealt in accordance with rules.
- 19). Para-B: Incorrect as the Motorcycle was provided to the appellant and other Process Servers for the purpose of serving notices and summonises etc. in their assigned area. The area where Motorcycle is shown missing by appellant was not assigned to him nor the notice which he alleges to have taken to the august Peshawar High Court, Peshawar was attested by the Naib Nazir, which has been admitted by the appellant. Act of appellant beyond his authorization resulting into loss of government property, which amounts to misconduct and was dealt with accordingly.
- 20). Para-C: No comments as to service history of appellant, however, he could not be exonerated only on the ground that there was no adverse remarks on his service record

Law

ATTESYED

09 OCT 2023

Examined
Copying Agency Branch
Cts of Dist & Sessions Judge
Charsadda

(76)

and more-so the as stated above, the punishment was provided in accordance with law.

21). Para-D: No comments as to the proceedings of fact finding inquiry. As far as objection regarding not permitting appellant for cross examination the witnesses during formal inquiry is concerned, as stated above, no such objection has been raised during inquiry or even during personal hearing. Moreover, appellant was proceeded against due to misconduct committed by him and not due to personal grudges, hence, denied.

21). Para-E: Incorrect. No proceedings for promotion of Process Servers has been initiated by respondent till yet. Even otherwise promotion of an employee is decided by Departmental Selection Committee.

22). Para-F: Incorrect as the department has to acquire new Motorcycle as a result of loss caused by the appellant due to his negligence and misconduct, hence, he was rightly held liable for recovery of the price of Motorcycle as per market value.

23). Para-G: No comments.

24). Para-H: Incorrect as appellant himself admits that his act of delivery of notice to Peshawar High Court, Peshawar was without his authorization.

25). Para-I: No comments as pertains to Inquiry Officer.

26). Para-J: Incorrect as no order regarding unforeseen future transaction can legally be made.

ATTESTED

09 OCT 2023

Examiner
Copying Agency Branch
Ctts of Distt & Sessions Judge
Gharsadda

(77)

- 27). Para-K: Incorrect.
- 28). Para-L: No comments as not related to the respondent. Moreover, the maintenance of log book or otherwise was not the subject matter.
- 29). Para-M: Incorrect as appellant has been charged for misconduct and negligence, which stood proved against him.
- 30). Para-N: Incorrect as in light of material available on record, appellant cannot take shelter of so called misunderstanding.
- 31). Para-O: No comments as not related to the respondent.
- 32). Para-P: No comments.

Comments are submitted as directed, please.

Dated: 15.05.2023

Sanctioned to be True Copy
 Examiner / Moharrir
 Copying Agency Branch
 Court of Distt & Sessions Judge
 Charsadda

Sau
 Respondent
 Senior Civil Judge (Admn),
 Charsadda

ATTESTED

09 OCT 2023
 EXAMINER
 Copying Agency Branch
 Court of Distt & Sessions Judge
 Charsadda

5217
 Date of Application: 6/10/2023
 Signature of Applicant: *[Signature]*
 Amount: 2000
 Signature of Officer: *[Signature]*
 Date of Preparation: 9/10/2023
 Date of Delivery: 9/10/2023



(78)

District Judiciary Charsadda

**Office of the
Senior Civil Judge (Administration),
Charsadda**

Phone: 091 - 92 20 435

No. 1239 /SCJ (Admin) Charsadda

Dated 07 .10.2023


To

Mr. Muhammad Tariq Jan,
Process Server,
Process Serving Agency, Charsadda.

Subject: NOTICE: RECOVERY OF PAY

Consequent upon the inquiry against you, the penalty of recovery/depositing the requisite amount of motorbike within 30 days was awarded to you vide office order No. 588-90/SCJ (A)-Chd dated 19.04.2023, but till date you have not complied the order.

You are therefore directed to deposit the same within seven (07) days of issuance of this notice, otherwise the same shall be recovered from your pay as per order mentioned above.


Senior Civil Judge (Admin),
Charsadda


OFFICE OF SENIOR CIVIL JUDGE (ADMINISTRATION), CHARSADDA

No. 1240-41 /SCJ (Admin) Charsadda

Dated: 07.10.2023

Copy forwarded to:

1. The Hon'ble District & Sessions Judge, Charsadda for information, please.
2. Office Copy.


Senior Civil Judge (Admin),
Charsadda

Senior Civil Judge (Admin)
Charsadda

(74)

To,

The learned Senior Civil Judge (Admin)
Chassadla

Subject: Reply of Notice: Recovery of Pay

Respected Madam,

with reference to your honour's letter
No. 1239/SCJ (Admin) Chassadla dated 07/10/2023,
received to me on 09/10/2023, I submit my
reply regarding the recovery of certain amount
(not yet known) from my monthly pay as under:-

1. That the order referred to in the above
mentioned letter, as your good self knows, I
have impugned in Departmental Appeal
before learned District & Sessions Judge, Chassadla
which is still pending disposal.
2. That in the impugned order neither the actual
amount of the stolen Motor Bike HONDA CD 70
Model 2018 has been given nor it is mentioned
that if the same is recovered by the Police,
then after recovery of its price from my pay
who will be its owner: Either Department or
myself.
3. That what will be the sale of stoppage of 03
Annual increments, whether the same will exist
or not and if your honour is pleased to alter
the same into warning/censure, then the Departmental
Authority in this respect is empowered to issue such
order, so consultation in this respect with learned
District & Sessions Judge, Chassadla is necessary.
4. That after clearing the above position, I will ~~not~~
request your honour to fix reasonable price of
CD-70 used motor cycle model 2018, keeping in view
the condition of the same also available with other Process
Servers of this establishment.
5. That I may also request for the recovery of the amount
suggested in equal easy instalments from my monthly pay
if it is suggested that reasonable price may be fixed. So
I may be able to deposit the amount through my monthly pay
instalments.

Attested to be true copy from original.

Wasal

Haji Wasal Khan Advocate
Chassadla.

(80)



District Judiciary Charsadda
Senior Civil Judge (Administration),
Charsadda

Phone: 091 - 92 20 435

No. 1357 /SCJ (Admin), Chd

Dated 08 /11/2023

To
The Learned Senior Civil Judge (Admin),
Peshawar.

Subject: INVOICE OF MOTORCYCLE

Dear Sir,

One of the process servers of this establishment has been penalized for the recovery of amount of official motorcycle (Honda CD-70) for theft due to his negligence. Now the official has requested for fixation of appropriate amount for recovery of motorcycle procured in 2018, for which an invoice of motorcycles along with registration charges in 2018 (per unit) is required to undersigned for further process.

Since the official motorcycles for Process Serving Agency were procured by your goodself office, it is, therefore, requested that the above-mentioned documents may kindly be sent to this office at your earliest convenience, please.

Senior Civil Judge (Admin),
Charsadda

OFFICE OF SENIOR CIVIL JUDGE (ADMINISTRATION), CHARSAZZA

No. 1358-60 /SCJ (Admin) Charsadda

Dated: 08 .11.2023

Copy forwarded for information to:

1. The Hon'ble District & Sessions Judge, Charsadda, please.
2. Mr. Muhammad Tariq Jan, Process Server.
3. Office Copy.

Attested
Wasal Q
WASAL KHAN
Advocate Charsadda

Senior Civil Judge (Admin),
Charsadda

Senior Civil Judge (Admin),
Charsadda

(81)



24-37 K.M. Lahore-Sheikhupura Road Sheikhupura.
SALES TAX REGISTRATION NUMBER: 02-06-8711-001-37
NATIONAL TAX NUMBER: 0801063-3

Original
Duplicate

Page No: 1 / 1

INVOICE

Buyer: 306494
SENIOR CIVIL JUDGE PESHAWAR
JUDICIAL COMPLEX KHYBER ROAD, PESHAWAR
PESHAWAR Through: AL-JABRAN ENTERPRISES(PESHAWAR)
STRN: NTN:9053000-4

Serial No: 92729730
Date: 10.07.2018
Sale Office: Rawalpindi
Sale Group: Peshawar

Sr. #	Model	Order #	Order Date	Engine No	Chassis No.	Qty	Value Exc. S/TAX Rs.
1	CD70 RED	876218	27.06.2018	B509261	B3201765	1	54,700.85

Note:- Above Motorcycles have been delivered Against Order No(s): 459561, Against DO No(s): 0082767598,	Total	54,700.85
	Sales Tax (already Paid at advance)	9,299.15
	Less Discount	0.00
	Total	64,000

Advance Income Tax @ 0.00 % 0:00

For & on behalf of
Atlas Honda Limited

(Signature of Authorized Person)

Atlas Honda Limited
Registered Office: 1-McLeod Road, Lahore. Phones: (92-42) 725015-17, 7233515-17 Fax: (92-42) 7233518
Karachi Plant: F-36 Estate Erosou, S.T.E. UAN: 111-111-243 / PH: (92-21) 32678861-66 Fax: (92-21) 32563750
Sheikhupura Plant: 26/27 km LHR-SKP Road, Sheikhupura, Pakistan. Ph: (92-66) 3400501-4 Fax: (92-66) 3400500
Multan Office: Azma Wasb Road, Ph: (92-61) 4571891, 4540054 Fax: (92-61) 4541690
Rawalpindi Office: 60-Bank Road, Near Singapore Plaza, Saddar Ph: (92-51) 5120484-86 Fax: (92-51) 5120487

Attested
WASAL
WASAL KHAN
Advocate, Charsadda

(82)



Common Seniority List: For promotion to the post of Bailiff (BPS-06) amongst from the post of Process Servers (BPS-05) District Charsadda (Senior Civil Judge (Admin), Charsadda)

S.No	Name of official	Educational Qualification	Date of Birth	Date of 1st entry in District Judiciary on regular basis/Arrival	Date of Appointment in present BPS-05	Remarks
1	Sabir Ahmad	Matric	25.04.1976	16.07.2003	15.07.2003	
2	Mian Nadeem Ahmad	Matric	15.05.1977	16.07.2003	15.07.2003	
3	Muhammad Tariq Jan	M.A.	11.09.1977	16.07.2003	15.07.2003	
4	Rahmat Tahir	M.A.	09.10.1977	16.07.2003	15.07.2003	
5	Noor Qadir	Matric	01.04.1978	16.07.2003	15.07.2003	
6	Adnan Yousaf	Matric	05.02.1981	16.07.2003	15.07.2003	
7	Fazal Muhammad	F.A.	01.11.1977	07.01.2004	07.01.2004	
8	Akbar Ali No. 02	Matric	11.05.1978	07.01.2004	07.01.2004	
9	Falak Niaz	B.A.	20.09.1980	07.01.2004	07.01.2004	
10	Haq Nawaz	B.A.	14.09.1983	07.01.2004	07.01.2004	
11	Fazle Rahman	F.A.	01.05.1984	09.01.2004	07.01.2004	
12	Kashif Mehmood	F.A.	20.03.1986	07.01.2004	07.01.2004	The official has reinstated by Pric Peshawar w.e.f 11.03.2017 with all back benefits.
13	K.fayat Ullah	Matric	16.07.1982	01.12.2005	10.11.2007	Transferred from DE Khan

Senior Civil Judge (Admin)
Charsadda

Transferred from DE Khan

23 NOV 2023

(83)


S.No	Name of official	Educational Qualification	Date of Birth	Date of 1st entry in District Judiciary on regular basis/Arrival	Date of Appointment in present BPS-05	Remarks
14	Syed Musa Raza	Matric	04.01.1989	16.02.2008	16.02.2008	Transferred from Peshawar
15	Siraj Muhammad	F.A.	16.03.1978	28.10.2008	28.10.2008	
16	Muhammad Ali No. 02	F.Sc.	01.05.1980	28.10.2008	28.10.2008	
17	Irfan Ullah	Matric	11.05.1984	30.10.2008	28.10.2008	
18	Mujahid Shah	Matric	20.04.1987	29.10.2008	28.10.2008	
19	Muhammad Ali No. 01	Matric	20.03.1988	28.10.2008	28.10.2008	
20	Ijaz Ahmad	M.A.	07.04.1988	28.10.2008	28.10.2008	
21	Khalil Ur Rahman	Matric	09.04.1988	29.10.2008	28.10.2008	
22	Hazrat Rehman	F.A.	01.04.1989	31.10.2008	28.10.2008	
23	Azam Jan	B.A.	14.01.1990	29.10.2008	28.10.2008	
24	Mudassir Hussain	F.A.	06.02.1990	30.10.2008	28.10.2008	
25	Arshad Ahmad	F.A.	13.04.1973	04.05.2009	30.05.2003	Transferred from Peshawar
26	Muhammad Dawood Jan	F.A.	20.02.1990	21.09.2013	20.09.2013	Deceased Sons Quota
27	Hammad Ullah	F.A.	08.03.1985	04.04.2014	03.04.2014	
28	Hazrat Bilal	Matric	06.04.1988	08.01.2016	06.01.2016	

Seminar Civil Judge (Admin):
Chitral/Sardar

Signature

(84)

S.No	Name of official	Educational Qualification	Date of Birth	Date of 1st entry in District Judiciary on regular basis/Arrival	Date of Appointment in present BPS-05	Remarks
29	Azam Jan	F.A.	12.04.1987	09.10.2017	07.10.2017	
30	Jawad Ahmad	BS Mathematics (Master)	01.04.1995	06.02.2019	02.02.2019	
31	Shah Zeb	BS CS (Master)	15.04.1995	06.02.2019	02.02.2019	
32	Munsif Khan	B.Sc. Mathematics	15.05.1998	06.02.2019	02.02.2019	
33	Alia Ihsan	M.A.	16.09.1987	16.10.2019	12.10.2019	Female Quota
34	Nasif Shah	M.A. Islamiyat	04.04.1988	29.03.2023	28.03.2023	Retired Employees Sons Quota
35	Saddam Hussain	M.A. Islamiyat	03.01.1994	29.03.2023	28.03.2023	Retired Employees Sons Quota
36	Lubna	M.Sc. Environmental Science	25.03.1993	29.03.2023	28.03.2023	Female Quota
37	Azra	M.A. (Economics)	07.04.1993	29.03.2023	28.03.2023	Female Quota
38	Raza Danial	B.A.	30.08.1994	29.03.2023	28.03.2023	Minority Quota


Senior Civil Judge (Admn),
Charsadda

Senior Civil Judge (Admn),
Charsadda

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Examiner

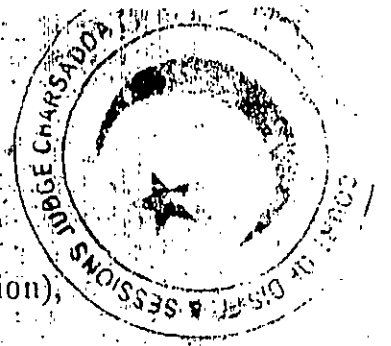
Grouping Agency Branch
Dist & Sessions Judge
Charsadda



(85)

District Judiciary Charsadda

Senior Civil Judge (Administration),
Charsadda



Phone: 091 - 9220435

MINUTES OF THE MEETING OF DEPARTMENTAL PROMOTION
COMMITTEE HELD ON 18.11.2023

Meeting of the subject committee was held on 18.11.2023, in order to conduct the promotion for the posts of Bailiff (BPS-06) from amongst the posts of Process Servers (BPS-05).

The committee consisted of the following:

1. Ms. Saira Bano, Senior Civil Judge (Admn), Charsadda, Chairperson Departmental Promotion Committee, Charsadda.
2. Mr. Hamid Sajjad, Civil Judge, Peshawar, Nominee of august Peshawar High Court Peshawar.
3. Mr. Abdullahi Qazi, Civil Judge-III/JM, Charsadda, Nominee of Senior Civil Judge (Admn), Charsadda.

Against Six (06) vacant posts of Bailiff (BPS-06), Seniority-Fitmess of Twelve (12) senior most officials amongst the Process Servers (BPS 05) were thoroughly perused so as to promote the best suitable candidates. For the purpose, twelve (12) senior most officials, i.e. Process Servers were considered (working paper is annexed as Annexure A).

One official at S. No. 03 i.e. Muhammad Tariq Jan, Process Server, has been penalized for recovery of amount and withholding of three increments vide Order No. 588-90/SCJ(A)-Chd dated 19.04.2023 for loss of motorbike due to his negligence. The inquiry against official was initiated on 06.07.2022, whereupon he was found guilty of negligence and was penalized as mentioned above. The official has filed an appeal before Hon'ble District & Sessions Judge, Charsadda which is still pending. Moreover, in ACR for year 2022 he is graded as "Average" with the following remarks of authority in column fitness for promotion: "Fit for promotion: Subject to decision of appeal". Keeping in view the above, the committee

Senior Civil Judge (Admn)
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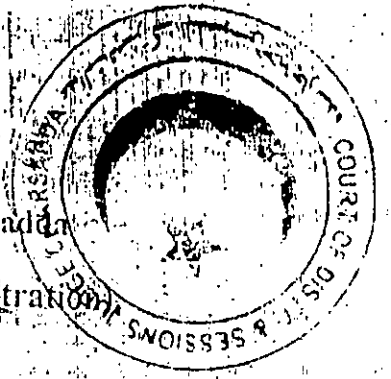
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Judge Charsadda



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District Judiciary Charsadda
Senior Civil Judge (Administration)
Charsadda



Phone: 091 - 9220435

unanimously decided to defer his case for promotion till decision of appeal.

Amongst the remaining, after evaluation of their eligibility criteria, fitness and ACRs for the last three years, the following Six (06) senior most officials were found fit for promotion to the post of Bailiff (BPS-06).

S. No	Name of Official / Process Server	Present post held since
1	Sabir Ahmad	16.07.2003
2	Mian Nadeem Ahmad	16.07.2003
3	Rahmat Tahir	16.07.2003
4	Noor Qadir	16.07.2003
5	Adnan Yousaf	16.07.2003
6	Fazal Muhammad	07.01.2004

The committee unanimously recommended them for promotion to post of Bailiff (BPS-06) with immediate effect.

(Mr. Hamid Sajjad)
Civil Judge, Peshawar
Nominee of Peshawar
High Court, Peshawar

(Mr. Abdullah Qazi)
CJ-III/JM, Charsadda
Nominee of SCJ (Admn),
Charsadda

(Ms. Saira Bano)

Senior Civil Judge (Admn)/
Chairperson DPC, Charsadda

OFFICE OF THE SENIOR CIVIL JUDGE (ADMINISTRATION), CHARSADDA

No. 1385-89/SCJ (Admn) Charsadda

Dated: 18.11.2023

Copy forwarded to:

1. The Worthy Registrar, Peshawar High Court, Peshawar.
2. The Hon'ble District & Sessions Judge, Charsadda.
3. Members of the Committee.
4. Office Copy

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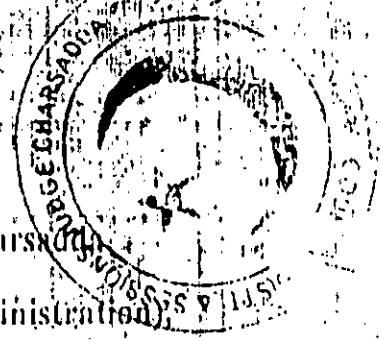
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Courts of Distt & Sessions
Charsadda

Senior Civil Judge (Admn),
Charsadda

Senior Civil Judge (Admn),
Charsadda



(87)



Distric Judiciary Charsadda
Senior Civil Judge (Administration)
Charsadda

Phone: 091 - 9220435

No. 14/11 /SCJ (Admn), Charsadda

Dated: 20/11/2023

OFFICE ORDER:

On the recommendation of Departmental Promotion Committee in its meeting held on 18.11.2023, the following officials are hereby promoted to the post mentioned against their names in the public interest with immediate effect:

S. No.	Name of Official	Existing Post	Promoted to
1	Sabir Ahmad	Process Server (BPS-05)	Bailiff (BPS-06)
2	Mian Nadeem Ahmad	Process Server (BPS-05)	Bailiff (BPS-06)
3	Rahmat Tahir	Process Server (BPS-05)	Bailiff (BPS-06)
4	Noor Qadir	Process Server (BPS-05)	Bailiff (BPS-06)
5	Adnan Yousaf	Process Server (BPS-05)	Bailiff (BPS-06)
6	Fazal Muhammad	Process Server (BPS-05)	Bailiff (BPS-06)

They shall be on probation for a period of One (01) year as per rules.

Senior Civil Judge (Admn)
Charsadda

OFFICE OF SENIOR CIVIL JUDGE (ADMINISTRATION), CHARSADDA

No. 14/2-21 SCJ (Admn) Charsadda

Dated: 20/11/2023

Copy forwarded to

1. The Worthy Registrar, Peshawar High Court, Peshawar
2. The Honorable District & Session Judge, Charsadda.
3. The District Accounts Officer, Charsadda.
4. The Civil Nazir/Najib Nazir, Civil Courts, Charsadda
5. The Officials concerned.

6. Office Copy

20/11/2023

Senior Civil Judge (Admn)
Charsadda

Senior Civil Judge (Admn)
Charsadda

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Handwritten signature

Before

MUHAMMAD ASIF KHAN
Appellate Authority / District Judge, Charsadda



Case No.

Date of Institution: 02-05-2023

Date of Decision: 12-12-2023

MUHAMMAD TARIQ JAN

Process Server in the Establishment of
Senior Civil Judge (Admin), Charsadda.

..... Appellant

VERSUS

Senior Civil Judge (Admin), Charsadda.

..... Respondent

DEPARTMENTAL APPEAL AGAINST THE ORDER

Of Senior Civil Judge (Admin), Charsadda Dated 12.04.2023.

J U D G M E N T:

1. The appellant/official filed this departmental appeal against the order dated 12.04.2023 passed by learned Senior Civil Judge (Admin), Charsadda, whereby minor penalty of withholding annual increments for a period of three years as well as recovery of value of motorcycle and cost of registration documents, was imposed upon the appellant.

2. Facts in brief giving rise to the institution of present appeal are that the appellant Muhammad Tariq Jan, Process Server attached to the establishment of respondent, had submitted an application to the effect that on 07.06.2022 at 12.00 hours, he parked the official Motorcycle Honda 70 CC bearing Registration No. A-6121.

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22 DEC 2023

Examiner
Gopatri Agency Branch,
Charsadda District & Sessions Judge

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Engine No.B509198, Chassis No.JB201702 in front of the gate of Hon'ble Peshawar High Court, Peshawar. After about 20 minutes, when he came out, the Motorcycle was missing. He further mentioned in the application that to this effect he lodged report in Police Station East Cantt, Peshawar vide Naqa Madd dated 07.06.2022. That at first instance, the appellant verbally informed the respondent regarding the incident and thereafter, submitted written application. Fact finding inquiry was initiated, whereafter show cause notice was issued to the appellant. After that, during formal inquiry, appellant was found guilty and vide impugned order, minor penalty within the meaning of Rule 4(1)(a)(ii)&(iii) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 was imposed against the appellant whereby annual increments of the official/appellant were withheld for a period of three years as well as recovery of value of motorcycle as per prevailing market price along with government taxes and cost of its registration documents was also ordered.

3. Feeling aggrieved, the appellant filed present appeal. Comments of respondent i.e. learned Senior Civil Judge (Admin), Charsadda were sought which were accordingly submitted. Relevant record requisitioned. Appellant/official was personally heard. Record perused.

4. Main questions for determination before the undersigned are that;

(1) Whether the appellant was authorized to return back notices to the Hon'ble Peshawar High Court, Peshawar?

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22 DEC 2023

Examiner
Copying Agency Branch
Cantt East & Occupants
Charsadda

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- (2) Whether the notice dated 05.04.2022 was entrusted by the office to the appellant?
- (3) Whether motorcycle in question went missing during performance of official duties?

Questions No.1 and 2 are interlinked, so taken up together for evaluation. Perusal of the available record would unfold that the appellant/official is attached as Process Server to the establishment of respondent i.e learned Senior Civil Judge (Admin), Charsadda. Like other members of Process-Serving Agency, the appellant was also provided a motorcycle for official duties i.e for service of notices and summonses etc in his duty assigned areas. Record would further transpire that during the relevant days, the areas Mufti Abad, Behlola, Wali Bagh, Mosa Kalley and Khanmai were assigned to the appellant. He was duty bound to make use of the officially allotted motorcycle in the specified areas for official duties. It is evident from the record that when a notice for service is received from the Hon'ble Peshawar High Court, Peshawar, the same is returned back after its execution by an official authorize in this behalf and to this effect acknowledgement is recorded in receipt book by the concerned authorized official. As highlighted above, stance of the appellant is that he had proceeded to Peshawar High Court, Peshawar so as to return summons/notice dated 05.04.2022. During inquiry proceeding by learned Inquiry Officer it was surfaced that the said-summons/notice was entrusted to one Arshid

Process Server whose name was altered with name of Tariq by making
ting therein. No explanation is available in respect of the alleged

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22 DEC 2023

Examiner
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Suits of Distt & Sessions
Charsadda

cutting. Rather Naib Nazir Jameel Khan whose statement was recorded as P.W. 1 during inquiry proceeding deposed in unequivocal words that he has no knowledge of said cutting. That over the said notice, attestation of Naib Nazir was also found missing which was required as per rule and procedure. The appellant himself admitted in his statements during inquiry proceeding that he was not authorized by the authority to take notices etc to the Hon'ble Peshawar High Court.

6. There is nothing in black and white that the appellant was directed to either execute notices of the High Court or to return it back to the Hon'ble Court. Although, the appellant contended that he was verbally directed by the Naib Nazir to take notice to the Hon'ble Peshawar High Court as this was past practice that an official belonging to Peshawar District was used to take such notices etc. He further added to have transmitted the notice on account of misunderstanding. However, this justification is of no help to the appellant. Even the Naib Nazir in his report totally negated the assertion of the appellant and denied to have handed over any notice or summons to the appellant for its service or return to the Hon'ble Peshawar High Court, Peshawar. Rather in his report he mentioned that as per relevant register, on 07.06.2022 the appellant/official was on field duty.

Thus, in view of the above highlighted facts and circumstances, it is clear that neither the appellant was authorized to return back the notices of Hon'ble High Court nor the notice in question was officially entrusted to the appellant either to execute or return it to the High Court. As such, both the questions No.1 & 2 are answered in negative.

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22 DEC 2023

Examiner
Employing Agency Branch
of High & Peshawar JUDG
Chairman

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7. So far as the third question is concerned, as mentioned hereinbefore, the appellant was not authorized to take notices etc to the Hon'ble Peshawar High Court, Peshawar and nothing has been brought on record that in fact the appellant himself deposited the notice in the Peshawar High Court. Rather in his reply the appellant testified that on the eventful day he went to the concerned clerk at Peshawar High Court but the clerk was not available on his seat and other officials were not ready to receive the notice. That he waited for 10/15 minutes whereafter he came out to parking area and found his motorcycle missing. That he handed over the said notice to one Naseeb Ullah clerk of Shakeel Ahmad advocate but later on, the said clerk informed the appellant that he could not deliver the notice to the concerned clerk at High Court due to his personal engagement and thus the appellant himself deposited it on 08.06.2022. Interestingly, the appellant alleged date of his visit to the concerned branch of High Court on 07.06.2022 at 12:00 hours and after wait of 10/15 minutes came out at about 12:20 hours, which fact is evident from Naqahmad dated 07.06.2022. However, Superintendent Sessions Court, Charsadda in his statement recorded as PW.5 during inquiry proceedings, mentioned that on 07.06.2022 at 12:30 hours, Nasir Ali Incharge Judicial Branch, Peshawar High Court informed him that the appellant returned a notice at 11:00 hours being unserved but the said notice was executed by the local police. The said Nasir Ali further disclosed that most probably the official Tariq had made service of the notice either in his house or in the office. That the official had thrown the notice on table and left the

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ATTESTED
22 DEC 2023
Examiner
Suing Agency Branch
Distt & Sessions Judge
Charsadda

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office without any explanation. This testimony would totally contradict the very statement of appellant to have deposited the notice on 08.06.2022.

In view of the above facts and circumstances, it can safely be held that the appellant has not substantiated his stance that he approached the Hon'ble Peshawar High Court, Peshawar in connection with his official duties, in consequence whereof his motorcycle went missing. Thus, the third question is also decided in negative.

8 For what has been discussed above it is held that the respondent has correctly passed the impugned order, which does not warrant any interference by this appellate authority. As such, the appeal in hand is hereby dismissed.

9 Copy of this judgment be sent to the learned Senior Civil Judge (Admin), Charsadda for information and further necessary action.

Announced
17.12.2023


MUHAMMAD ASIF KHAN
Appellate Authority / DSJ,
Charsadda

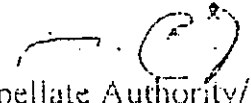
CERTIFICATE




Certified that this judgment consists of six (06) pages, every page has been read, checked and signed by me.

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22 DEC 2023

Examiner
Copying Agency Branch,
Court of Distt & Sessions Judge,
Charsadda


Appellate Authority/DSJ,
Charsadda

قیمت 50 روپے	26164	پشاور بار ایسوسی ایشن، خیبر پختونخواہ
ایڈوکیٹ: حاجی واصل خان	بار کونسل ایسوسی ایشن نمبر: bc-09-0367	  
	رابطہ نمبر: 0300-5854074	

بعدالت جناب: صبر منیر سرور کی سروس ریپل کی خبر پختونخواہ پشاور

دعویٰ: <u>سروس ریپل</u>	منجانب: <u>ایڈوانٹس</u>
علت نمبر:	<u>محمد طارق جان پیر ایس سہرور</u>
مورخہ:	
جرم:	<u>ڈیٹ کی سہولت پر نام کی وجہ وغیرہ</u>
تھانہ:	<u>چار سڑک</u>

بابت تحریر آگے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام پشاور کیلئے حاجی واصل خان کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کال اختیار ہوگا، نیز وکیل صاحب راضی نامہ کرنے و تقررات فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت 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 اور بصورت ضرورت مقدمہ مذکورہ 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 وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جائزہ مقدمہ کے سبب سے ہوگا کوئی تازگی پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

Alleged & accepted
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المرقوم: 26/12/2023
PESHAWAR BAR ASSOCIATION
KHYBER PAKHTOONKHWA

المقام: پشاور واہ شد العبد کے لیے منظور ہے۔

ایڈوانٹس محمد طارق جان پیر ایس سہرور کی استیغانت سے سب سے متعلقہ (پشاور)