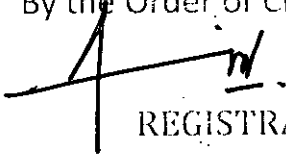


Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 56/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	02/01/2024	<p>The present appellant initially went in Writ Petition before, the Hon'ble Peshawar High Court Mingora Bench Swat and the Hon'ble High Court vide its order dated 20.12.2023 while treating the Writ Petition into an appeal and has sent the same to this Tribunal for decision in accordance with law. This case is entrusted to touring Single Bench at Swat for preliminary hearing to be put up there on</p> <p>By the Order of Chairman  REGISTRAR</p>



THE
PESHAWAR HIGH COURT
MINGORA BENCH, SWAT.

All communication should be addressed to the Additional Registrar of this Bench and not to any official by name.

No. 4/44 / Writ Petition Branch;

Dated: 23-12-2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 10248

Dated 02/01/2024

To

The Registrar,
Khyber Pakhtunkhwa Service Tribunal Peshawar,
Old Judicial Complex, Khyber Road, Peshawar. 091-9212281

Subject: Writ Petition No. 257-M of 2022 titled as "Israr Ahmad Vs The District & Sessions Judge/Zilla Qazi, Swat & 1 others".

Respected Sir,

I am directed by the Hon'ble Division Bench of this Court vide judgment dated 20-12-2023 to forward herewith the original grounds of subject Writ Petition alongwith Comments, Annexures etc and certified copy of order sheets and judgment for necessary action in the light of judgment dated 20-12-2023.

S. No	Case No with Title.	Pages/ Sheets
01	<u>W.P 257-M of 2022</u> <i>Israr Ahmad Vs The District & Sessions Judge Swat & 1 other</i>	<u>90 Pages</u> (1-File)

Kindly acknowledge the receipt of this letter along with its enclosures please.

Encl. a.a

Assistant Registrar
For (ADDITIONAL REGISTRAR)

Xe 23/12/23

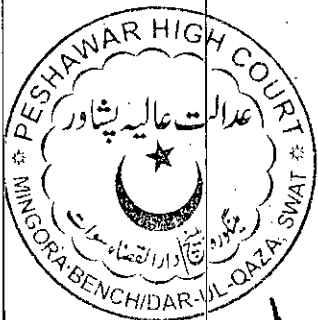
PESHAWAR HIGH COURT, MINGORA BENCH
(DAR-UL-OAZA), SWAT

FORM OF ORDER SHEET

Court of

Case No..... of.....

Serial No. of order or proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
1	2	3
	20.12.2023	<p><u>W.P No.257-M/2022</u> <u>(Israr Ahmad Vs. The District & Sessions Judge/ Zila Qazi, Swat)</u></p> <p>Present: <u>Hafiz Bakht Amin, Advocate for petitioner.</u></p> <p><u>Mr. Inayat Ullah Khan, A.A.G for official Respondents.</u></p> <p align="center">***</p> <p><u>MUHAMMAD NAEEM ANWAR, J.</u>-Through instant petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner seeks the following prayer:</p> <p>“It is, therefore, very humbly prayed that on the acceptance of this writ petition, the Adverse Remarks may kindly be expunged and the petitioner may be graded as "GOOD" or "VERY GOOD" and "Fit for promotion" and on the acceptance of instant writ petition, the orders dated 02.02.2022 & 02.11.2021 may be declared illegal, null & void ab-initio by cancelling the same. Any other relief, which though not specifically prayed for, but for which the petitioner is otherwise entitled, may also be granted, please.”</p> <p>2. At the very outset, when learned counsel for petitioner was confronted with the job description and status of service of the petitioner, who submitted at the bar that the petitioner, being the official of the District</p>




Sabz Ali* (D.B)

HON'BLE MR. JUSTICE MUHAMMAD NAEEM ANWAR
HON'BLE MR. JUSTICE SHAHID KHAN

Judiciary, is a civil servant. He also produced copy of judgment of Khyber Pakhtunkhwa Services Tribunal Peshawar dated 17.08.2017 rendered in the case of an employee of the District judiciary in Service Appeal No.41/2016 titled "Zubair Ahmad Vs. The Appellate Judge Register through Registrar, Peshawar High Court Peshawar" and submitted at the bar that the matter relates to terms and conditions of service of the petitioner, as such, he would be satisfied if the instant petition is sent to the Khyber Pakhtunkhwa Services Tribunal for its decision in accordance with law. As the learned A.A.G has got no objection, therefore, in view of the submission of learned counsel for petitioner, office is directed to send this petition, in original, along with all annexures to the Khyber Pakhtunkhwa Services Tribunal Peshawar, where same shall be treated as appeal against the impugned orders and shall be decided in accordance with law. A copy of this petition along with annexures shall be retained by the office for the purpose of record of this court.

Announced
20.12.2023

Certified to be True Copy


EXAMINER
Peshawar High Court, Mingora/Dar-ul-Qaza, Swat
Authorized Under Article 07 of Qanoon-e-Shahadat Order 1984

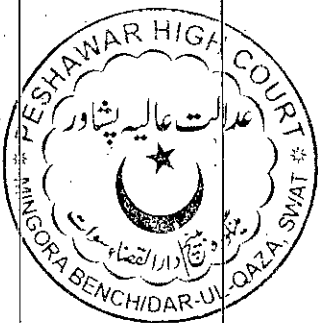

JUDGE


JUDGE

Sabz Ali* (D.B)

HON'BLE MR. JUSTICE MUHAMMAD NAEEM ANWAR
HON'BLE MR. JUSTICE SHAHID KHAN

Office
21/12/2023



BEFORE THE HON'BLE PESHAWAR HIGH COURT,
MINGORA BENCH/DAR-UL-QAZA, SWAT.

Writ Petition No. 257-M /2022

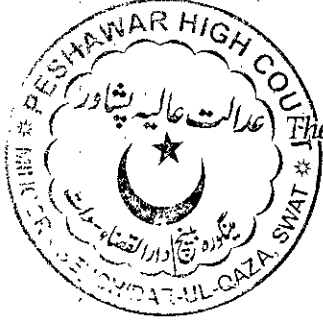
Israr Ahmad son of Hazrat Bilal, R/O Nawakaly Mingora, Tehsil
Babuzai, District Swat..... Petitioner

VERSUS

The District & Sessions Judge/ Zilla Qazi, Swat and one other Respondents

INDEX

S.No	Particulars	Annexure	Page No.
1.	Para-wise comments	---	1 to 5
2.	Report regarding court staff (Copy)	A	6
3.	Report against Israr Ahmad, Naib Qasid (Copy)	B	7
4.	Explanation (Copy)	C	8
5.	Reply of explanation (Copy)	D	9
6.	Charge-Sheet (Copies)	E, F	10-11
7.	Statement of allegation (Copy)	G	12-13
8.	Reply to statement of allegation (Copies)	H,I,J	14-16
9.	Inquiry report (Copies)	K,L,M,N	17-20
10.	Show-cause notice (Copies)	O,P	21-22
11.	Reply to show-cause notice (Copies)	Q,R,S,T	23-26
12.	Order (Copy)	U	27
13.	ACR(Copies)	V,W	28-29
14.	Peon book (Copy)	X	30
15.	Affidavit	Y	31
16.	Authority letter	Z	32



Peshawar High Court, Mingora/Dar-ul-Qaza, Swat
Authorized Under Article 07 of Quam-e-Shahada Order 1984
EXAMINER

certified to be correct

FILED TODAY

31 OCT 2022

Additional Registrar

(Shahid Sangam)
Superintendent

Representative of respondents No.1&2

Received Copy For AAG

Sign

Date

31/10
2022

BEFORE THE HON'BLE PESHAWAR HIGH COURT,
MINGORA BENCH/DAR-UL-QAZA, SWAT.

Writ Petition No. 257-M /2022

Israr Ahmad son of Hazrat Bilal, R/O Nawakaly Mingora, Tehsil
Babuzai, District Swat..... Petitioner

VERSUS

The District & Sessions Judge/ Zilla Qazi, Swat and one other... Respondents

PARA WISE COMMENTS.

WRIT PETITION NO. 257-M OF 2022 TITLED "ISRAR AHMAD VERSUS THE DISTRICT AND SESSIONS JUDGE/ZILLA QAZI AND ONE OTHER

Preliminary

Respectfully submitted that under Article 199 read with Article 212 of the of the constitution of the Islamic republic of Pakistan, the Hon'ble High Court has no jurisdiction in the matter in issue.

The matter in nutshell: -

Inquiry and adverse remarks in ACR against the petitioner are two different phenomena. The petitioner was awarded minor penalty of "Censure" in the last inquiry against him whereas in ACR for the year 2020, the petitioner was pen-pictured with average output and need improve his sense of responsibility. The petitioner requests for expunging adverse remarks from his ACR and narrating fabricated story of inquiry, which is not only irrelevant but also time-consuming.

As a matter of fact, a complaint was received from the court of learned AD&SJ/Child Protection Court, Swat, through letter bearing No. 118/CPC, dated 07-10-2020, against the petitioner i.e., Mr. Israr Ahmad, Naib Qasid, that he on 06.10.2020, at 03:30 PM was found having left door of Retiring Room open and thereby files and assets of the court unattended. Another complaint received vide letter bearing No. 119/CPC, Swat dated 09-10-2020, from the same Presiding Officer against the petitioner for defiant misbehaviour with the Presiding Officer, in open court and front of litigants and counsel and even not observing dress-code. Copies of both the complaints are attached herewith and marked as annexure "A" & "B".

FILED TODAY

31 OCT 2022

Additional Registrar

Ld. Addl. Adv. P/A use it.
reference subject to annex all the documents of the subject case for perusal.

Adv. Advocate General
Peshawar High Court
Mingora Bench Darul-Qaza, Swat
31/10/22

District & Sessions Judge
Zilla Qazi Swat

(10)

Hence, explanation was called from the petitioner bearing No. 2259/E.B dated 10-10-2020. The petitioner submitted his reply and upon perusal, it was found not satisfactory and unfounded. Copies are enclosed and marked as annexure "C" & "D". Resultantly, the petitioner was charge-sheeted, and statement of allegations handed over to him. Additional District & Sessions Judge-III/IZQ, Swat, was appointed as Inquiry Officer. Later on, it was brought into the notice of the undersigned that the petitioner belonged to the establishment of Senior Civil Judge (Admn), therefore, to meet the end of justice, the Inquiry in question was withdrawn from Additional District & Sessions Judge-III/IZQ, Swat, and sent to the competent authority/ Senior Civil Judge (Admn), Swat, for further legal proceedings against the official as per law. The learned SCJ (A), Swat issued a fresh charge-sheet and fresh statement-of-allegations to the petitioner and appointed Civil Judge-X/IQ, Swat, as Inquiry Officer. The petitioner submitted his reply to the Inquiry Officer. Copies of charge-sheet, statement of allegation and reply of the petitioner are enclosed and marked as annexures "E", "F", "G", "H", "I", "J".

The Inquiry was almost complete and concluded by the Inquiry Officer, when the petitioner moved an application for disposal of the Inquiry with the request that the matter has been patched-up. Thus, the Inquiry Officer submitted his report consisting of four (04) sheets with recommendation of minor penalty, under Rule-4, Sub-Rule (1) (a) (i) of the E & D Rules, 2011 i.e., Censure. Copies of the report of Inquiry Officer are enclosed herewith and marked as annexure "K", "L", "M", "N".

On receipt of the Inquiry file, the competent authority i.e., Senior Civil Judge (Admn) issued show-cause notice to the petitioner bearing letter No. 450/SCJ(Admn) Swat, dated 15-02-2021, the petitioner submitted his lengthy-reply consisting of four (04) sheets; but without any convincing reason in his defence. Copies are enclosed herewith and marked as annexures "O", "P", "Q", "R", "S" and "T".

The competent authority i.e., the Senior Civil Judge (Admin) after considering the facts and circumstances of the matter, imposed the same minor penalty of "Censure" as recommended by the

FILED TODAY

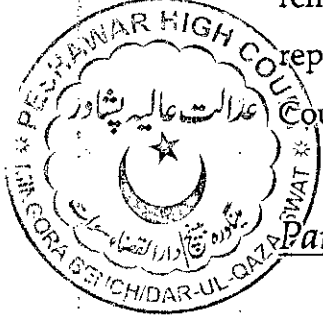
31 OCT 2022

Additional Registrar

**District & Sessions Judge/
Zilla Qazi Swat**

Inquiry Officer, enumerated in Rule-4(I)(a)(i) of the Government of Khyber Pakhtunkhwa, Civil Servants (Efficiency & Discipline) Rules 2011. Copy of the order is enclosed herewith and marked as "U".

The petitioner twisted the real facts in a manner to match his untruthfulness for fetching favour and thereby expunging adverse remarks recorded in his ACR, for the year 2020 against him by the reporting officer i.e., Additional District & Sessions/Child Protection Court. Copy enclosed herewith and marked as "V" and "W".



Para-Wise Comments:

1. Para No.1 is correct to the extent of appointment; however, the rest is denied. Past performance cannot be treated as licence for committing wrong in the future.
2. Correct; needs no answer.
3. Incorrect, hence denied; record shows that the first complaint bearing No. 118/CPC, dated 07-10-2020 by AD&SJ/Child Protection Court against the petitioner was placed before the undersigned on 09-10-2020. Complaint of the petitioner against AD&SJ/Child Protection Court was later placed before the undersigned however on the same day. It is absolutely incorrect that the complaint in the backdrop of Section 228 PPC was forwarded in the late hours on the same date. In fact it was submitted two days later, on 09.10.2020 with allegation that the official had misbehaved in the open Court in presence of litigant and counsel. Hence, as per record on file, whatever has been stated by the petitioner is incorrect & false, establishing that he is untruthful official/person.
4. Incorrect, hence denied; the first two lengthy sentences of the petition are correct whereas the petitioner received the explanation bearing No.2259/E.B dated 10-10-2020, on same day of its issuance i.e. 10-10-2020 and his signature was duly secured on the peon-book. Copy of the peon-book is enclosed herewith and marked as annexure "X".

FILED TODAY

31 OCT 2022

Additional Registrar

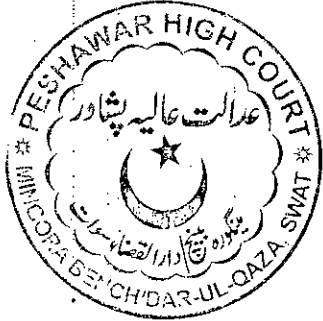
**District & Sessions Judge/
Zilla Qazi Swat**

5. The first three sentences are correct. Whereas the last sentence is incorrect, hence denied; the petitioner was appointed as Naib Qasid, after retirement of his father as senior clerk which was contrary to the prevalent rules.
6. Correct to the extent of charge sheeting the petitioner, rest is incorrect, hence denied.
7. Incorrect, hence denied. The complaint of the learned ASJ/CPC was found genuine through discrete inquiry, therefore, the petitioner was proceeded against.
8. Incorrect, hence denied. It is pertinent to mention here that in the course of inquiry, the Chairman of APJEA and President of District Judicial Employees Association started Jirgas, the petitioner submitted apology, in pursuance whereof the learned ASJ/CPC, Swat withdrawn from the prosecution of charge against the official/petitioner.
9. Incorrect, hence denied. Keeping in view the conduct of petitioner, the Presiding Officer was legally obliged to record true pen picture of the petitioner in the ACR and she did it accordingly.
10. Incorrect, hence denied. Previous record does not immunize a person to commit wrong and misbehave with others especially with elders and senior officers.

11. Incorrect, hence denied. The learned SCJ (A), Swat proceeded according to law.
12. Incorrect, hence denied. The petitioner deliberately making repetition of past performance; without having valid and cogent ground for his ill-disciplined behaviour.
13. Incorrect, hence denied.

Grounds: -

- a) Incorrect, hence denied.
- b) Incorrect, hence denied.
- c) Incorrect, hence denied.
- d) Incorrect, hence denied. Due to proven guilt of the petitioner through unconditional apology, the learned



FILED TODAY

31 OCT 2022

Additional Registrar

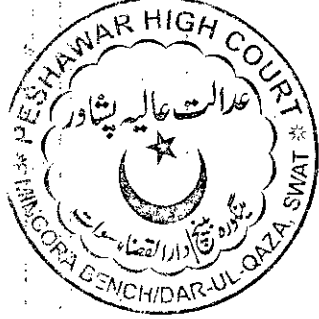
**District & Sessions Judge/
Zilla Qazi Swat**

Reporting and Countersigning Officer rightly recorded adverse remarks against the petitioner.

- e) Incorrect, hence denied.
- f) Incorrect, hence denied. The act of the petitioner i.e., misbehaving in the open Court in presence of litigants and counsel was extremely outrageous, contumacious, and thus, left no room for issuing any warning.
- g) Incorrect, hence denied. The petitioner was not properly pen-pictured but treated very leniently.
- h) Incorrect, hence denied.
- i) Incorrect and irrelevant, hence denied. Promotion to the next grade is subject to the law, rules and earning three good PERs in the serving cadre/grade. In the prospective promotion to the post of Daftari BPS-6 from amongst posts of Class-IV employees, the petitioner is at serial No.71 with no prospect of his promotion in the near future.
- j) Incorrect, hence denied.
- k) Incorrect, hence denied. Already answered in para (f) above. The case of the petitioner is out of the ambit of referred law on the subject.
- l) Need no answer.

The petition is whimsical, ultra vires and against factual position, therefore, it may be dismissed.

Submitted as directed, please.



Peshawar High Court, Mirgora/Dar-ul-Qaza, Swat
Authorized Under Article 177 of Constitution of Pakistan
EXAMINER

Certified to be True Copy

FILED TODAY

31 OCT 2022

Additional Registrar

[Signature]

District & Sessions Judge/
Zilla Qazi, Swat
Respondent No.1

[Signature]

Senior Civil Judge/
AIQ, Swat
Respondents No.2

Annexure "A"

No: 118 CPC, Swat

dated: 07/10/2020

To:

The Hon'ble,
District and Sessions Judge/
Zilla Qazi, Swat.

From:

Saadia Andaleeb,
Additional Sessions Judge/
Judge Child Protection Court,
Swat.

SUBJECT: REPORT REGARDING COURT STAFF.

Respected Sir:

With great veneration it is brought into your kind notice that on 06.10.2020 at 03:30 PM, after attending the meeting regarding performance monitoring and evaluation policy, when I came back to Court, the door of Retiring Room was left open. No staff member was present in court. The court files and assets were left open unattended.

Report is submitted for necessary action, please.



(SAADIA ANDALEEB)

Additional Sessions Judge/
Presiding officer, Child Protection Court,
Swat.

*Some copy be placed
in separate file and
explanation be called
from the official concerned
within 3 days i.e. on or before
12.10.2020. All
District Sessions Judge/
Zilla Qazi Swat -
9-10-20*

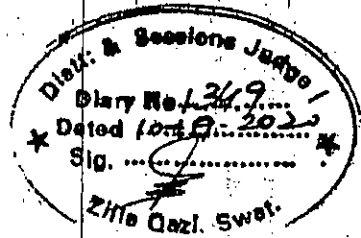
"B"

Annexure "B"

No: 119 CPC, Swat

dated: 09/10/2020

To: The Hon'ble,
District and Sessions Judge/
Zilla Qazi, Swat.



70

From: Saadia Andaleeb,
Additional Sessions Judge/
Judge Child Protection Court,
Swat.

*Seen, copy be placed
in separate file and
explanation be called
from the official &
need within the
or day i.e
12-10-20*

SUBJECT: REPORT AGAINST ISRAR AHMAD, NAIB QASID.

Respected Sir:

With great veneration and regret it is brought into your kind notice that despite the incident took place on 06.10.2020, when the Naib Qasid of this Court left the court room open and unattended. Today, once again he severely misbehaved with the undersigned. Despite the clear direction of the Hon'ble, Peshawar High Court, Peshawar, he is not observing the dress code and used to misbehave with the undersigned in open court in front of litigants and counsels. Many oral warning were given to him, but in vain. Due to his irrational and uncivilized behaviour court work is badly suffering.

Hence, complaint under section 228 PPC is hereby forwarded against Israr Ahmad, Naib Qasid of this court to your goddself for further necessary action.

(SAADIA ANDALEEB)
Additional Sessions Judge/
Presiding officer, Child Protection Court,
Swat.

*District & Sessions Judge
Zilla Qazi Swat*

"C"

Annexure "C"



**DISTRICT & SESSIONS JUDGE/
ZILLA QAZI SWAT**

Office: 0946-713891
FAX: 0946-713893
WEBSITE: dsjswat.gov.pk
EMAIL: dsjswat@gmail.com

No. 2259 /E.B

Dated: 10 / 10 / 2020


To: Mr. Israr Ahmad
Naib Qasid to the Court of
Child Protection Court Swat.

SUBJECT: EXPLANATION

Memo:
It has been reported by the learned ASJ/Child Protection Court vide letter No.118/CPC, Swat dated 07/10/2020 and letter No. 119/CPC Swat dated 09/10/2020 that you are not taking interest in performance of your duties and not observing the dress code as prescribed by the Hon'ble Peshawar High Court Peshawar. You also left the Court unattended and misbehaved with the presiding officer of the court. Your this act of gross negligence and disobedience amounts to misconduct on your part.

You are, therefore, asked to explain your position as to why not strict disciplinary action under the Government of Khyber Pakhtunkhwa Civil Servants (Efficiency & discipline) Rules, 2011, may be initiated against you.

Your reply must reach this office within three days i.e. on or before 12/10/2020, otherwise, it will be presumed that you have nothing in your defence.


(SHOAIB KHAN)
District & Sessions Judge/
Zilla Qazi, Swat

CHARGE SHEET

I, **Abdul Salam Khan Sarkani**, Senior Civil Judge (Admn) / AIQ, Swat as competent authority hereby charge you Mr. Israr Ahmad, Naib Qasid attached in the Court of learned Civil Judge-1 / JM, Bahrain, Swat as follow:

That you, while posted as Naib Qasid in the Court of learned ASI/CPC, committed the following guilt:

It has been reported by the learned ASI/Child Protection Court vide letter No.118/CPC, Swat, dated 07/10/2020 and letter No.119/CPC Swat dated 09/10/2020 that: -

1. *On 06/10/2020 at 03:30 PM when the Presiding Officer of the Court of Child Protection Court came back after attending the meeting of Judicial Officers regarding performance of monitoring and evaluation Policy, you had left the door of Retiring Room open, unattended and had left for home without permission of the Presiding officer of the said Court.*
2. *You are not taking interest in performance of your duties;*
3. *You have misbehaved with Presiding Officer of the Child Protection Court in open Court in front of litigants and counsel despite the fact that you have been given several oral warnings from time to time; and*
4. *You are not observing the Court dress as prescribed by the Hon'ble Peshawar High Court, Peshawar.*

This act of gross negligence and inefficiency on your part amounts to misconduct under the Government of Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011.

2. *By reason of the above, you appeared to be guilty of inefficiency & misconduct under rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule 4 of the rules ibid.*

Senior Civil Judge (Admn)
Alta Hana Qazi
Swat

Annexure "F" (11)
DGE (ADMN) / AIQ, SWAT (14)

OFFICE OF THE SE

3. You are, therefore, required to submit your written defence within seven days of the receipt of the Charge Sheet to the inquiry officer Mr. Basharat Rauf, learned Civil Judge/Illaqia Qazi-X, Swat.
4. Your written defence, if any, should reach to the inquiry officer within the specific period, failing which it shall be presumed that you have no defence to put in and in that case ex parte action shall be taken against you.
5. Intimate whether your desire to be heard in person.
6. A statement of allegation is enclosed.
7. Issued under my signature and seal of this court on 26th day of November, 2020.

[Abdul Salam Khan Sarkani]
Senior Civil Judge (Admn) / AIQ/
Competent Authority, Swat.

Senior Civil Judge (Admn)
Alla Mansa Bazi
Swat.

Annexure "G" (12)

OFFICE OF THE SENIOR CIVIL JUDGE (ADMN) / AIQ, SWAT

DISCIPLINARY ACTION

I, Abdul Salam Khan Sarkani, Senior Civil Judge (Admn) / AIQ, Swat as Authority, am of the opinion that Mr. Israr Ahmad, working as Naib Qasid in the Court of learned Civil Judge-I / JM, Bahrain, Swat, due to his misconduct reported vide complaints through letters No.118/CPC, Swat, dated 07/10/2020 and letter No.119/CPC Swat dated 09/10/2020 has rendered himself liable to be proceeded against, as he committed the following act(s)/negligence, within the meaning of rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATION

It has been reported by the learned ASJ/Child Protection Court vide letter No.118/CPC, Swat, dated 07/10/2020 and letter No.119/CPC Swat dated 09/10/2020 that: -

- (i) On 06/10/2020 at 03:30 PM when the Presiding Officer of the Court of Child Protection Court came back after attending the meeting of Judicial Officers regarding performance of monitoring and evaluation Policy, you had left the door of Retiring Room open unattended and had left for home without permission of the Presiding officer of the said Court.
- (ii) You are not taking interest in performance of your duties;
- (iii) You have misbehaved with Presiding Officer of the Child Protection Court in open Court in front of litigants and counsel despite the fact that you have been given several oral warnings from time to time; and
- (iv) You are not observing the Court dress prescribed by the Hon'ble Peshawar High Court, Peshawar.

These act of negligence and inefficiency on your part amounts to misconduct under the Government of Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011.

2 For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer Mr. Basharat Rauf, learned

Senior Civil Judge (Admn)
Alla Mulla Sarkani

OFFICE OF THE SENIOR CIVIL JUDGE (ADMN) / AIQ, SWAT

Civil Judge/IO-X, Swat, has been appointed under Rule-10 (1) (a) of the
ibid rules:

3. The inquiry officer shall, in accordance with the provision of the
ibid rules, provide reasonable opportunity of hearing to the accused,
record his findings and make, within thirty days of the receipt of this
order, recommendation as to punishments or other appropriate action
against the accused.

4. Now, therefore, Israr Ahmad, the accused official is called upon to
submit his reply to the above mentioned heads of charges and allegations
direct to the inquiry officer within 07 days of its receipt. In case of his
failure, it shall be presumed that he has nothing in his defence and ex-
parte action shall be taken against him.

5. The accused / official and Clerk of Court, Sikandar Hayat as
representative of this office shall join the proceedings on the date, time
and place fixed by the inquiry officer.

6. Issued under my signature and seal of this court on 26th day of
November, 2020.

[Abdul Salam Khan Sarkani]
Senior Civil Judge (Admn) /
AIQ/Competent Authority, Swat.
Senior Civil Judge (Admn)
Alla Hana Qazi
Swat.

OFFICE OF THE SENIOR CIVIL JUDGE (ADMIN) / AIQ, SWAT

Endst: No. 2384-87/SCJ (Admin) / AIQ, Swat Dated: 26/11/2020

Copy forwarded to:

1. The Hon'ble District & Sessions Judge / Zilla Qazi, Swat
2. The Inquiry Officer.
3. The official concerned by name.
4. Office of COC / Record.

Senior Civil Judge (Admn) /
AIQ/Competent Authority, Swat.

Senior Civil Judge (Admn)
Alla Hana Qazi
Swat.

14
17

بعض صاحب رسول جج صاحب X انکوائری آفیسر، سوات

وضاحتی جواب بابت الزامات

عنوان

جناب عالی!

بحوالہ چارج شیٹ بابت الزامات محترمہ ایڈیشنل سیشن جج صاحبہ چائلڈ پروٹیکشن کورٹ، سائیل کے ترتیب وار جوابات اور وضاحتی بیان درجہ ذیل ہیں۔

اولاً: چارج نمبر حقائق کے منافی ہے کیونکہ سائل ایک سرکاری ملازم ہے اور معزز عدالت میں سرکاری ملازمت سے وابستہ قواعد و ضوابط کو مد نظر رکھ کر ڈیوٹی کو اپنا فرض سمجھ کر سرانجام دے رہا ہے۔ اس بات میں کوئی حقیقت نہیں کہ سائل دروازہ کھلا چھوڑ کر باغیچہ اجازت کے چلا گیا۔ اصل حقیقت یہ ہے کہ سائل نے عدالت کی معزز جج صاحبہ کے حکم کی تعمیل کی ہے حتیٰ کہ اس کے حکم پر کئی مرتبہ اسکی ذاتی رہائش گاہ گھر جا کر ذاتی کام اور باورچی خانہ کے برتنوں کو دھویا ہے لیکن جب محترمہ جج صاحبہ سائل کو ذاتی کاموں کیڑے وغیرہ دھونے کی نسبت بار بار تنگ کرتی رہی تو سائل نے انکار کر دیا کہ عدالت کے کام اور سرکاری ڈیوٹی کے علاوہ گھر کا کوئی کام نہیں کروں گا اور اسی کو بہانہ بنا کر معزز جج صاحبہ نے نہ صرف سائل بلکہ تمام سٹاف کے خلاف بے الزام لگایا ہے۔ اسلئے یہ الزام درست تسلیم نہ ہے۔

بشارت زلف
محکم دلائل سے مزین و متنوع ومنفرد موضوعات پر مشتمل مفت آن لائن مکتبہ

ثانیاً: الزام نمبر ۲ میں کوئی حقیقت نہیں ہے۔ بحیثیت سرکاری ملازم سائل ہمیشہ اپنی ڈیوٹی کو اپنا فرض سمجھتے ہوئے خوش اسلوبی سے سرانجام دے رہا ہے۔ سائل نے کبھی بھی اپنے شخص شدہ ڈیوٹی میں غفلت نہیں بھرتی ہے البتہ معزز جج صاحبہ کے گھر کے ذاتی کاموں سے تنگ آ کر سائل نے صرف ان کا انکار کیا ہے جو کہ سائل کی ڈیوٹی کے زمرے میں آتا ہی نہیں ہے البتہ بحیثیت سرکاری ملازم سائل نے اپنے فرائض منصبی میں کبھی بھی غفلت سے کام نہیں لیا ہے۔ اسلئے یہ الزام بالکل من گھڑت اور بے بنیاد ہے۔

ثالثاً: الزام نمبر ۳ بالکل حقائق کے منافی ہے۔ بحیثیت ایک سرکاری ملازم جو کہ ایک معزز عدالت میں ڈیوٹی پر تعینات ہو، اس قسم کی حرکت اور misbehaviour کرنا سمجھ سے بالاتر ہے؛ جس کا سائل کبھی بھی تصور نہیں کر سکتا۔ سائل نے ہمیشہ محترمہ جج صاحبہ کے

15

A ہیں۔ اصل حقیقت بابت الزام نمبر 3 بالکل برعکس ہے، محترمہ جج صاحبہ کا رویہ مسائل کے ساتھ انتہائی نامناسب اور غیر انسانی رہا ہے اور عدالت کے اندر فریقین مقدّمہ اور وکلاء کی موجودگی میں مسائل کی بے عزتی کی ہے اور مسائل کو گھر کا ذاتی خادم سمجھ کر سخت اور نامناسب رویہ اپنایا ہے۔ مزید یہ کہ مسائل نے محترمہ جج صاحبہ کے ہر جائز حکم کی تعمیل کی ہے اور اس نسبت کبھی بھی warning کی ضرورت محسوس نہیں ہوئی ہے اور نہ ہی مسائل کو warning دی گئی ہے کیونکہ مسائل نے کبھی بھی ایسی حرکت نہیں کی ہے جس سے مسائل کو warning کی ضرورت پیش آئے۔ تاہم محترمہ جج صاحبہ کے نامناسب اور غیر انسانی رویہ کی بابت عدالت کے تمام سٹاف نے محترم سیشن جج صاحب کو بھی بذریعہ بخت شیر علی شیونگرافر آگاہ کیا تھا اور مسائل نے بھی اہل نسبت محترم سیشن جج صاحب کو درخواست لڑاری تھی جو کہ مسل پر موجود ہے۔ یہاں یہ بات بھی قابل ذکر ہے کہ ان سب حقائق کے باوجود مسائل کا تبادلہ بغیر تحقیق کے محض الزامات کی بنیاد پر بحریں کیا گیا لیکن بحیثیت ایک ذمہ دار سرکاری ملازم مسائل نے اس میں بھی مثال مٹول نہیں کی اور بحریں میں اپنی فرائض منصبی ایمانداری کے ساتھ سرانجام دے رہا ہے جبکہ معاملہ اللہ تبارک و تعالیٰ جو کہ احکم الحاکمین ہے، کو سپرد کیا ہے، حالانکہ حقیقت یہ ہے کہ مسائل اس سے پہلے بڑے جنرل آرڈر مورخہ 27.04.2018 سے مورخہ 26.09.2019 تک بحریں میں اپنی ڈیوٹی سرانجام دے چکا ہے۔

سمن

الزام نمبر 3 بالکل غلط اور بے بنیاد ہے۔ مسائل نے ہمیشہ معزز پشاور ہائی کورٹ، پشاور کے مختص شدہ یونیفارم کا باقاعدگی سے اہتمام کیا ہے اور کبھی بھی اس کی خلاف ورزی نہیں کی ہے تاہم جب مسائل محترمہ جج صاحبہ کے گھر کے ذاتی کام کیلئے جاتا تو واسکٹ اتارنا کیونکہ اس وقت مسائل کیلئے ڈریس میں ہونا ممکن نہ ہوتا اور نہ مسائل نے ہمیشہ مختص شدہ ڈریس کی پابندی کی ہے۔

مختصاً سارے الزامات بالکل غلط اور بے بنیاد ہیں۔ مسائل نے کبھی بھی اپنے فرائض منصبی میں غفلت کا مظاہرہ نہیں کیا ہے اور یہی وجہ ہے کہ اس نسبت صفحہ مسل پر مسائل کے خلاف (محض مسائل کو تنگ کرنے کیلئے بے بنیاد بی برعناد لیٹرز مذکورہ محررہ 07-09.10.2020 جس کا مسائل کو علم ہی نہیں تھا اور انکو آری لڈا سے مسائل کو اس کا علم

Annexure "J"

18
19

ہوا) معزز عدل! کورٹ، سوات کا کچھ بشکل Explanation یا کوئی اور تحریر موجود نہ ہیں اور نہ ہی عدالت مذکور کے ریکارڈ میں اس نسبت کوئی مواد موجود ہیں کہ مسائل سے الزامات بالا کی نسبت کوئی جواب طلبی وغیرہ کی گئی ہو کیونکہ اس کی ضرورت ہی پیش نہ آتی ہے۔

لہذا بحالات بالا مسائل استدعا کرتا ہے کہ قانون و انصاف اور انسانی حقوق کے اصولوں اور سب سے بڑھ کر سیریم لاء، کلام اللہ و قرآن عظیم الشان کے سورۃ النساء آیت نمبر 58 کے ایک جز، ”اور جب تم لوگوں کے درمیان فیصلہ کرو تو عدل کے ساتھ فیصلہ کرو“ اور اسی سورۃ النساء کے آیت نمبر 135 ”اے ایمان والو! انصاف کو قائم رکھنے کیلئے اللہ کے لئے گواہ بن کر کھڑے ہو جاؤ، خواہ یہ (انصاف کی بات اور گواہی) تمہارے اپنی ذات، تمہارے والدین اور تمہارے قرابت مندوں کے خلاف ہی پڑے، کوئی امیر ہو یا غریب، اللہ ہی دونوں کا سب سے زیادہ حقدار ہے تو تم خواہش کی پیروی نہ کرو، مبادا کہ تم انصاف سے ہٹ جاؤ اور اگر تم زبانوں کو مروڑو گے یا اعراض کرو گے تو یاد رکھو کہ اللہ جو کچھ تم کر رہے ہو، اس سے اچھی طرح باخبر ہے۔“ کو مد نظر رکھ کر اپنی برعدن و انصاف متفق کیا جا کر مسائل کی دادی فرمائی جا کر بے بنیاد الزامات پر مبنی انکو ازری بلا مزید کاروائی داخل دفتر فرمائی جانے کے احکامات صادر فرمائیں جائیں۔

مسٹر احمد احمد
(اسرار احمد)
نائب قاصد

المرقوم: 04/12/2020

مسٹر احمد احمد

“K”

ANNEXURE "K"

BEFORE THE
CIVIL

MR MEENA QAISAR
JUDGE AT GULKADA

Inquiry against

Mr Israr Ahmad Naib Qasid

17

Inquiry No. 41/6 dated: 03/11/2020

Against accused official namely Israr Ahmad

INQUIRY REPORT:

Vide order dated 25/11/2020, in shape of disciplinary action against accused/official Israr Ahmad annexed with Statement of allegation and Charge Sheet of your good self, the undersigned was appointed Inquiry Officer under Rule 10 Sub Rule-(1)(a) of the Khyber Pakhtunkhwa Government Servant (Efficiency and Disciplinary) Rules, 2011. The same enumerate the statement of allegations in the following paragraph:

1. "That you accused Mr. Israr Ahmad is reported by the learned ASJ/Child Protection Court vide letter No. 118/CPC Swat, dated 07/10/2020 and letter No. 119/Child Protection Court, Swat dated 09/10/2020; was assigned a duty of Naib Qasid and you accused on 06/10/2020 at 03:30 PM had left the doors of the retiring room of the said Court room as unattended and left for your home without the permission of the Presiding Officer of the said Court.

2. You were further reported to be not taking any interest as well as misbehaved with the Presiding Officer of the said Court in front of the litigants and counsel despite of the fact that he had been given several oral warnings from time to time and you were also not observing the dress code, prescribed by the Hon'ble Peshawar High Court Peshawar.

3. You were also served with an explanation bearing No.2259/EB dated 10/10/2020, upon which you have submitted

MEENA QAISAR
JUDGE AT GULKADA

your reply, out the same was held to be "not satisfactory" by the Worthy District & Sessions Judge/Zilla Qazi, Swat and considering your partial admission, you were then charge sheeted vide endst; No. 2287-88/EB, dated 14/10/2020 and the inquiry was marked to the learned ADJ-III, Swat. But vide order No. 05 & 06 dated 06/11/2020 in the inquiry No. 79/6 dated 09/10/2020 the same was withdrawn from the Court of learned ADJ-III, Swat by the Hon'ble District & Session Judge, Swat vide postscript order No. 03 dated 29/10/2020 for the reasons that the accused/official belongs to the establishment of learned Senior Civil Judge/A'ala Illaqa Qazi(Admin), Swat being competent authority for all intent and purposes against the official concerned.

4. The Senior Civil Judge/A'ala Illaqa Qazi(Admin), Swat, also considering your partial admission of your reply to the explanation, charge sheeted you on 26/11/2020 and the instant inquiry was marked to the Court of learned Civil Judge/Illaqa Qazi-X swat.

On reception of inquiry file captioned above, the same was entered with inquiry No. 41/6 and the accused official was summoned for 02/12/2020. Accused/official Israr Ahmad appeared and submitted written defense/reply on 04/12/2020 which was placed on file.

After submission of written defense, the statement of accused/official was recorded in presence of departmental representative. The inquiry was then fixed for departmental statement/record. In the meanwhile, the accused/official requested the

MEENA IASAR
Civil Judge (S) Qazi-X
Swat

Annexure "M"

BEFORE THE INQUIRY
CIVIL JUDGE-X/K

MEENA QAISAR
ULKADA

Inquiry against accused/official Israr Ahmad Naib Qasid

inquiry officer for allowing him for production of witnesses in his defense. Request was accepted and he was given a number of opportunities were given to him but lastly, he submitted another application for issuing notice to two of the witnesses, calling them through the Inquiry Officer. The same application was turned down and his evidence was closed. The departmental representative was summoned, who appeared before the Inquiry Officer for production of evidence or record in support of the instant inquiry, but he stated that the whole record is already available on inquiry file and he do not want to produce any further record in the instant inquiry from the department side.

The inquiry was then fixed for further proceeding but in the meanwhile the accused/official requested the undersigned for giving him sometime as he is trying to patch up the matter with the learned Presiding Officer/ASJ/Judge Child Protection Court who reported his complaint. The inquiry was then fixed for further proceedings. In the meanwhile, a report against accused Israr Ahmad was received from the office of District & Sessions Judge/Zilla Qazi, Swat 27/01/2021, whereby the accused official had tendered written to the learned Presiding Officer/ASJ/Judge Child Protection Court, apology with regard to his behavior and performance of duty.

The record available on the inquiry file reflects that the accused official being employee of the District Judiciary Swat and Peshawar High Court, Peshawar was duty bound to observe the code of conduct as well as the dress code prescribed for the officials. As per the report, received from the office

19

~

Meena
MEENA QAISAR
Civil Judge X/K

"N"

ANNEXURE N

BEFORE THE
CIVIL JUDGE

ER MEENA QAISAR
AT GULKADA

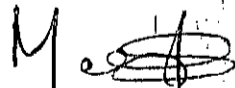
25

Inquiry against accused/official Israr Ahmad Naib Qasid

of Hon'ble District & Sessions Judge/Zilla Qazi, Swat dated 27/01/2021, the accused/official in other words had admitted his guilt when he tendered written apology 26/01/2021 to the learned Presiding Officer ASJ/Judge Child Protection Court, Swat in presence of two witnesses namely Bakht Sher Ali Khan and Wali Khan Wardag. Thus, it is held that nothing as such was brought forth on record that the report was wrongly made by the learned Presiding Officer ASJ/Judge Child Protection Court, Swat or it was made due to some ill will and *malafide* against the accused/official.

Though, the accused/official had acted without *malafide* but all the material available showing that he worked without due care, so negligence and disobedience cannot be ruled out on the part of accused/official, for which the accused/official is recommended for minor penalty, Under Rule-4, sub Rule (1) (a) (i) of the E & D Rules, 2011 i.e. *Censure*.

Inquiry report is hereby submitted for your kind perusal and further directions, please.



Meena Qaisar
Civil Judge-X/Ilaga Qazi, Swat

MEENA QAISAR
Civil Judge-X/Ilaga Qazi,
Swat.

"O"

Annexure "O"

No. 450 /SCJ (Admin), Swat

Dated 15/02/2021

Handwritten marks including the number 23 and a signature.

To, Mr. Israr Ahmad,
Naib Qasid in the Court of
Civil Judge / JM-1, Bahrain Swat

Subject: SHOW-CAUSE NOTICE

Memo:

I, Abdul Salam Khari Sarkani, the Senior Civil Judge (Admin), Swat, Competent Authority, under the Khyber Pakhtunkhwa Government Servant Efficiency and Disciplinary Rules 2011 Serve you Mr. Israr Ahmad, Naib Qasid of this establishment, as follows: -

Whereas inquiry proceedings were initiated vide order dated 23.09.2020 after observing legal requirements and the same was entrusted to Mr. Basharat Rauf, CJ/IQ-X, Swat, however, upon his transfer, the same was concluded against you by the incumbent inquiry officer Mrs. Meena Qaisar Civil Judge-X, Swat vide inquiry report bearing No.06/CJ/IQ-X, Swat dated 18.01.2021, duly received, examined and found that the inquiry officer concluded the charges into the following terms: -

"The record available on the inquiry file reflects that the accused official being employee of the District Judiciary Swat and august Peshawar High Court, Peshawar was duty bound to observe the code of conduct as well as the dress code prescribed for the officials. As per the report, received from the office of Hon'ble District & Sessions Judge / Zilla Qazi, Swat dated 27/01/2021, the accused/official in other words had admitted his guilt when he tendered written apology 26/01/2021 to the learned Presiding Officer ASJ/Judge Child Protection Court, Swat in presence of two witnesses namely, Bakht Sher Ali Khan and Wali Khan Wardag. Thus, it is held that nothing as such was brought forth on record that the report was wrongly made by the learned Presiding Officer ASJ/Judge Child Protection Court, Swat or it was made due to some ill will and malafide against the accused / official.

Though, the accused/official had acted without malafide but all the material available showing that he worked without due care, so negligence and disobedience cannot be ruled out on the part of accused/official, for which the accused/official is recommended for minor penalty, under Rule-4, sub Rule (D)(a)(i) of the E&D Rules, 2011 i.e., Censure."

And thereby recommended / proposed minor penalty under Rule 4 of E&D Rules, 2011.

Senior Civil Judge (Admin)
Abdul Salam Khari Sarkani
Swat.

"P"

Annexure "P"

22

2. You are hereby informed regarding the above proved charges and the proposed penalties against you. I, being the Competent Authority, have decided to give you reasonable opportunity of showing cause against the penalties proposed against you as to why one or more penalties as provided in Rule 4 may not be imposed against you as sufficient documentary evidence is available on the file.

3. You are also informed to submit additional defence in writing if any within a period of seven days from the day of communication and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within seven days of its delivery, it shall be presumed that you have no defence to put in and, in that case, an ex-parte action shall be taken against you.

(Abdul Salam Khan Sarkani)
Senior Civil Judge (Admin) / AIQ/
Competent Authority, Swat

Swat

"Q"

Annexure

"Q"

28

42

42

To,

The Learned Senior Civil Judge/
A'ala Haqa Qazi, Swat.

SUBJECT: REPLY TO SHOW-CAUSE NOTICE.

Respected Sir,

I have the honour to refer to your goodself office No. 450/SCJ (Admn:), Swat dated 15/2/2021 in connection with reply of the captioned subject.

Detail reply in the subject matter is as under:

1. Inquiry report is against the norms of Justice and injunction of Islam as minor Penalty of Censure has no legal effect inter alia on the following grounds:

- a. The Inquiry Officer has failed to assess the situation properly and as such recommendations regarding penalty in the Inquiry Report are not suitable, appropriate in the eyes of law and universal justice?
- b. The Inquiry Officer has not applied judicial mind to the inquiry which is essential for conducting a fair inquiry as obvious facts in favor of the applicant have totally been ignored.
- c. The Inquiry has been conducted by the Inquiry Officer according to his own will and wishes.
- d. That the Inquiry Officer ignored the basic principles of universal justice and has not followed the procedure and

30-02-2021

Annexure "R"

as such recorded one-sided statement and ignored the Procedures regarding burden of proofs and neither probe into the matter regarding the charges levelled by the complainant/Worthy Additional Sessions Judge/Judge Child Protection Court, Swat.

- e. The Inquiry Report is a result of misreading and non reading of materials available on the inquiry file which is making the inquiry report non-sustainable in the eyes of law as surprisingly, the Inquiry Officer has interpreted the statement given by the applicant plainly rather than understanding its true essence by applying judicial mind.
- f. The Inquiry Officer has ignored the essential ingredients, imperative for conducting of a fair inquiry which are mandatory in the eye of law for the purpose to maintain the dignity and respect of the applicant.

2. That to prove the innocence, the applicant has produced two witnesses as PW-2 & PW-3 as per Qanoon-e-Shahadat Order in his favour who totally supported the version of the applicant while he has not closed his evidence as his application for producing further evidence was dismissed; however, in the meanwhile, the matter has been patched up. It is very strange that nothing has been produced against the applicant even a single witness has not been recorded his statement against him to prove

Annexure "B"

the alleged allegations leveled against him as Per the E&D Rules, 2011 which reflects that there is nothing as wrong in the shape of misbehavior and dress code as well as other allegations leveled against the applicant.

3. It is worth to mention that the Worthy Additional Sessions Judge/Judge Child Protection Court, Swat has concerned over the complaint against her goodself in August Peshawar High Court to the extent of which the applicant gave statement before witnesses, which is self-explanatory and as a result of which the Worthy Judge Child Protection Court has affirmed before the witnesses to withdraw the inquiry and showed her satisfaction over it. It is also worth to mention that the applicant's statement is about the complaint made by someone in August Peshawar High Court and being Presiding Officer of the Court, the applicant tendered his apology before the witnesses, however, the Inquiry Officer has interpreted the statement with her own will without applying judicial mind. It is once again affirmed that the allegations levelled against him were baseless in respect of which applicant's reply is available on file is self explanatory.

3. It is also not admitted that sufficient documentary evidence is available on the file in shape of statement of the applicant as well as statements of PW-2 & PW-3 while there is nothing available against the applicant as no single explanation, whatsoever,

2010 L. J. A.

"T"

Annexure "T"
26

available on file against the applicant except alleged letters dated 07/10/09/2020, therefore, imposition of penalties against the appellant will be considered against the norms of Justice and Fundamental Rights of the applicant and will have no legal effect.

- 4. It is further communicated that the applicant who is innocent and the charges /allegations could not be proved, shall desired to be heard in Person.

For the reasons alluded above, the applicant requested to consider the inquiry report as illegal, void, ab-initio and against the norms of Justice and the Proposed minor penalty may kindly be withdrawn as the complainant/Worthy Additional Sessions Judge/Judge Child Protection Court, Swat already expressed in written that "the undersigned is no more interested to pursue the subject complaint and may be filed."

APPLICANT

ISRAR AHMAD
NAIB QASID

Dated: 20 / 02 / 2021



**CIVIL JUDGE (ADMIN)
A'ALA ILLAQA QAZI SWAT**

Office: 0946-712669
FAX: 0946-713893

WEBSITE: dsjswat.gov.pk
EMAIL: scjswat1@gmail.com

ORDER

Consequent upon order dated 29.10.2020 of Hon'ble District & Sessions Judge / Zilla Qazi, Swat, inquiry proceedings against Israr Ahmad Naib Qasid was initiated as per rules & he was charge sheeted and statement of allegation was handed over to him. Mr. Basharat Rauf, learned Civil Judge / IQ-X, Swat was appointed as Inquiry Officer, however, upon his transfer, the inquiry report furnished by the incumbent Inquiry officer Mrs. Meena Qaisar learned Civil Judge / IQ-X, Swat perused, wherein, Inquiry Officer recommended "minor penalty, under Rule-4(1)(a)(i) of the E&D Rules, 2011 i.e., CENSURE", considering the evidence / facts and circumstances before her and therefore, I being competent authority has issued show cause notice against the accused served upon him, and copy of the inquiry report was also handed over to the accused / official. The accused / official submitted his reply, placed on file. He was personally heard. Therefore, considering the facts / circumstances of the matter, I agree with the recommendations of the learned Inquiry Officer against the delinquent official and imposed minor penalty of "Censure" as enumerated in Rule-4(1)(a)(i) of the Government of Khyber Pakhtunkhwa, Civil Servants (Efficiency & Discipline) Rules, 2011".

The office / COC is directed to make necessary entries in the service book / personal file record of the above named accused official in terms mentioned above.

Abdul Salam Khan Sarkani
Senior Civil Judge (Admin) / A'ala Illaqa Qazi /
Competent Authority, Swat

**OFFICE OF THE SENIOR CIVIL JUDGE (ADMIN) / A'ALA ILLAQA QAZI,
SWAT**

Ends: No. 758-61 / SCJ (Admin), Swat

Dated: 11 / 03 / 2021

Copy forwarded to:

1. The Hon'ble District & Sessions Judge / Zilla Qazi, Swat.
2. The Inquiry Officer.
3. The official concerned by name.
4. Office of COC / Record.

*Senior Civil Judge (Admin) /
A'ala Illaqa Qazi / Competent Authority,
Swat.*

"V"

Annexure "V"

28
A

Appendix-x vide Para 18(i)

CONFIDENTIAL

Form, E, Fresh

Form for Daftari/
Qasids/Naib Qasids/
Chowkidars.

GOVERNMENT OF N.W.F.P
JUDICIARY DEPARTMENT.
CONFIDENTIAL REPORT.

For the period from: 23-06-2020 to 9-10-2020

PART-I

1. Name: Yasser Ahmad
2. Designation (when appointed): Naib Qasid
3. Present Designation: Naib Qasid
4. Date of Birth: 16-03-1994
5. Date of entry into Government Service: 25-10-2017
6. Qualification at the time of appointment: FSK
7. Branches/Sections in which employed during the period: In the court of ASJ/CPC Court Sialkot
8. Qualification acquired after employment: NA

PART-II

A. PERFORMANCE

	AI	A	B	C	D
1. Promptness and accuracy in disposing of work				AS	
2. Sense of responsibility					AS
3. Takes interest in his work.					AS
4. Whether he possesses adequate knowledge of the work assigned to him.			AS		
5. Integrity:-			AS		

- a) Incorruptible _____
 - b) Reported to be corrupt _____
 - c) Believed to be corrupt because _____
 - d) Monetary consideration _____
- No complaints for corruption received against him

Annexure "W"

29

- 6. Knowledge of Typing NO
- 7. Trustworthy NO
- 8. Honest Yes
- 9. Confident Yes
- 10. Fit for any responsible job. NO

PART-III

	By Reporting Officer	By Countersigning Officer
a) Recommended for accelerated promotion.	<input type="checkbox"/>	<input type="checkbox"/>
b) Fit for promotion.	<input type="checkbox"/>	<input type="checkbox"/>
c) Recently	<input type="checkbox"/>	<input type="checkbox"/>
d) Not yet fit for promotion.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Unfit for further promotion.	<input type="checkbox"/>	<input type="checkbox"/>

PART-IV

General Assessment	By Reporting Officer	By Countersigning Officer
i) Very good.	<input type="checkbox"/>	<input type="checkbox"/>
ii) Good.	<input type="checkbox"/>	<input type="checkbox"/>
iii) Average.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv) Below Average.	<input type="checkbox"/>	<input type="checkbox"/>
v) Poor.	<input type="checkbox"/>	<input type="checkbox"/>

FEN PICTURE.

I found him an official with average out but as he needs to improve his sense of responsibility.

Reporting Officer's Signature [Signature]
 Name (in Block Letters) SAADIA ANDALEEB
 Designation Provisional Officer
 Dated 01-06-2021 Dist. Protection & Security Welfare Court, Mairansud Cantonment of Swat.

General Remarks by higher Officers: fully agreed. As above official be informed regarding address entries.
 Countersigning Officer's Signature [Signature]
 Name (in Block Letters) ABDUL SALAM KHAN
 Designation Sy (A) Swat

Amexure "X"

Amo

Amexure X

Pen Book Of

No.	Date	Name	Description	By whom delivered	Acknow- ledgment
2993	09-10-20	CJ III	Subst No 1232 08-10-20	See	[Signature]
2994	" "	CJ E	" "	B	[Signature]
2995	" "	President & DBA	No 2251/EB 09-10-20	[Signature]	10-10-2020
2996	" "	Rept. Register	No 2252/EB 09-10-20	[Signature]	10-10-2020
2997	10-10-2020	Mr. Issac Ahmad	N/A 2259/EB 10-10-2020	[Signature]	[Signature]
2998	" "	Mr. Issac Ahmad	N/A 2253-58/EB 09-10-2020	[Signature]	[Signature]

By whom delivered
Acknow- ledgment

No.
Date

Name

Description

By whom delivered

Acknow- ledgment

(30)

**BEFORE THE HON'BLE PESHWA JUDGE IN CHARGE
MINGORA BENCH/DAR-UL-QAZA, SWAT.**

Writ Petition No. 257-M /2022

Israr Ahmad son of Hazrat Bilal, R/O Nawakaly Mingora, Tehsil
Babuzai, District Swat..... Petitioner

VERSUS

The District & Sessions Judge/ Zilla Qazi, Swat and one other Respondents

AFFIDAVIT

I, Shahid Sangam, Superintendent to the District & Sessions Judge/
Zila Qazi, Swat, representing respondent No.1, 2, do hereby solemnly affirm
and declare on oath that contents of the comments of respondent No.1 and 2
in the above titled writ petition, are true and correct to the best of my knowledge
& belief and nothing has been kept concealed from this
honourable Court.

DEPONENT



(Shahid Sangam)

CNIC No.15602-9303605-7

Superintendent

Representative of respondents No.1&2



**DISTRICT & SESSIONS JUDGE
ZILLA QAZI SWAT**

Office: 0946-713891
FAX: 0946-713893




WEBSITE: dsjswat.gov.pk
EMAIL: dsjswt@gmail.com


Endst: No. 1888 /E.B

Dated: 21/10/2022

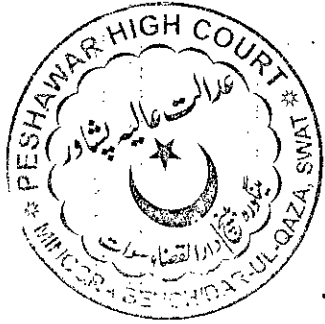
AUTHORITY LETTER

Mr. Shahid Sangam, Superintendent of this office is hereby authorized to attend the honourable Peshawar High Court, Mingora Bench / Dar-ul-Qaza, Swat, and to submit comments on behalf of the Respondent No. 1 and 2, in Writ Petition No. 257-M/2022, titled "*Israr Ahmad versus The Sessions Judge/Zilla Qazi and one other*".


District & Sessions Judge/
Zilla Qazi, Swat
Respondent No.1


Senior Civil Judge/
AIQ, Swat
Respondents No.2

IN THE PESHAWAR HIGH COURT, MINGORA BENCH,
SWAT



WRIT PETITION NO. 257^m OF 2022

Ibrar Ahmad VIS The Distt. & Sessions Judge

This petition had been presented by M.r. Hafiz Bakht Amin Advocate

On behalf of the petitioner /petitioners.

The petition is in proper form, copies of all the relevant documents have been attached.

one Three (01) spare copies of writ petition have also been attached.

Petition be entered in the relevant register and placed before Hon'able court

(D.18) For further orders on 30-03-2022 the date fixed.

READER

Dated: 01/03/2022

Certified to be True Copy

EXAMINER

Peshawar High Court, Mingora/Dar-ul-Qaza, Swat
Authorized Under Article 07 of Quota-e-Shahadat Order, 1997

Dated: 01/03/2022

COUNTERSIGNED

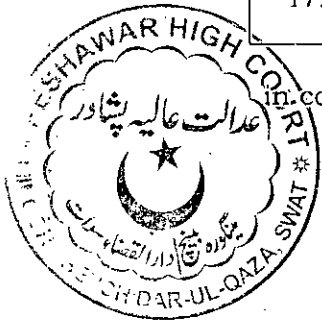
[Signature]
Additional Registrar,
Peshawar High court,
Mingora Bench, swat.

**IN THE PESHAWAR HIGH COURT,
MINGORA BENCH/ DAR-UL-QAZA, SWAT.**

CHECK LIST

S.No	Case Title	Yes	No
	Mr. Israr Ahmad S/O Hazrat Bilal R/O Mingora Swat		
	Versus		
	The District & Session Judge/Zila Qazi, Swat & Other		
1.	Case is duly signed	✓	
2.	The law under which the case is preferred has been mentioned	✓	
3.	Approved file cover is used	✓	
4.	Affidavit is duly attested and appended	✓	
5.	Case and annexures are properly paged & numbered according to index.	✓	
6.	Copies of annexures are legible & attested If not, then better copies duly attested have been annexed.	✓	
7.	Certified copies of all the requisite documents have been filed.	✓	
8.	Certified specifying that no case on similar grounds was earlier submitted in this court, filed	✓	
9.	Case is within time	✓	
10.	The value for the purpose of court fee & jurisdiction has been mentioned in the relevant column.	✓	
11.	Court fee in shape of stamp paper is affixed. (For revision Rs. 100 for other as required)	✓	
12.	Power of attorney is in proper form.	✓	
13.	Memo addresses filed	✓	
14.	List of books mentioned in the petition.	✓	
15.	The requisite number of spare copies attached. (Revision Petition-3 Nos, Civil Appeal (SB-1, DB-2), Civil Revision (SB-1, DB-2)	✓	
16.	Case (Revision/ Appeal/ Petition etc) is filed on a prescribed form.	✓	
17.	Power of attorney is attested by jail authority (For jail prisoners only)		✓

It is certified that formalities/ documentation as required in column 01 to 17 above, have been fulfilled.



Baw
Hafiz Bakht Amin
Advocate, High Court.
Date: 01.03.2022

FOR OFFICE USE ONLY

Case No. _____
Case received on. _____
Complete in all respect: Yes/ No (If no. the grounds) _____
Date in court. _____

FILED TODAY

01 MAR 2022

Additional Registrar

Signature _____
(Reader)

Dated _____

Countersigned: _____
(Deputy Registrar)

01/03/22
ADD

**BEFORE THE PESHAWAR HIGH COURT,
MINGORA BENCH/ DAR-UL-QAZA, SWAT.**

Writ Petition No. 257-M of 2022
Appeal No. 56/2024

Israr Ahmad S/O Hazrat Bilal, R/o Nawakaly, Mingora,
Tehsil Babuzai, District Swat. (Petitioner)

Versus

The District & Session Judge/Zila Qazi, Swat & other.

..... (Respondents)

INDEX WRIT PETITION

S.#	Description of Documents	Annexures	Page #
1.	Writ Petition	---	1 - 9
2.	Certificate & List of Books	---	10
3.	Affidavit	---	11
4.	Correct Addresses of the parties	---	12
5.	Copy of appointment Order	A	13-14
6.	Copy of Departmental Representation	B	15-18
7.	Copy of Departmental Appeal	C	19-22
8.	Copy of Order dated 02.02.2022	D	23
9.	Copy of Order dated 02.11.2021	E	24-28
10.	Copy of Application of petitioner	F	29-30
11.	Copy of letter dated 09.10.2020	G	31
12.	Copy of Explanation	H	32
13.	Copy of Reply	I	33
14.	Copy of Transfer Order	J	34
15.	Copy of Order dated 29.10.2019	K	35
16.	Copy of Order dated 26.11.2020	L	36-37
17.	Copy of statement of PW-2	M	38-39
18.	Copy of statement of PW-3	N	40-41
19.	Copy of letter dated 26.01.2021	O	42
20.	Court Fee worth Rs. 500/-	---	43
21.	Legal Notice + Receipt	---	44
22.	Wakalatnama	---	45

Petitioner

Through

Hafiz Bakht Amin
Advocate, High Court.
Cell #:03409095609

Certified to be True

EXAMINER

Office Address:
Bilal Plaza Room No.210
Airport Road, Mingora Swat.
Dated: 01.03.2022.

FILED TODAY

01 MAR 2022

Additional Registrar

Peshawar High Court, Mingora/Dar-ul-Qaza, Swat
Authorized Under Article 07 of Quone-Shahada Order 1982

**BEFORE THE PESHAWAR HIGH COURT,
MINGORA BENCH/ DAR-UL-QAZA, SWAT.**

Writ Petition No. 257-M of 2022

Appeal No. 56/2024

Israr Ahmad son of Hazrat Bilal, R/o Nawakaly, Mingora,
Tehsil Babuzai, District Swat.

..... (Petitioner)

VERSUS

1. The District & Sessions Judge/Zila Qazi, Swat.
2. The Senior Civil Judge (Admn:)/A'ala Ilaqa Qazi, Swat.

..... (Respondents)

**WRIT PETITION UNDER ARTICLE 199 OF
THE CONSTITUTION OF THE ISLAMIC
REPUBLIC OF PAKISTAN, 1973.**

Respectfully Shewith:

Brief facts giving rise to the instant appeal are as under:

1. That the petitioner was appointed to the post of Naib Qasid vide appointment Order bearing Endst: No.2416-42/SCJ/AIQ, Swat dated 23/10/2017 and has been rendering services with full satisfaction of the Superiors and has, so far, completed more than 4 years unblemished service in the afore-mentioned capacity. Copy of the Appointment Order is annexed herewith as "Annexure-A".
2. That, the learned Reporting Officer/ Additional District Judge/ Presiding Officer of Child Protection Court, Swat had recorded Adverse remarks relating to the petitioner for the period 23/06/2020 to 09/10/2020, whereagainst the petitioner

FILED TODAY

01 MAR 2022

Additional Registrar

preferred departmental Representation and, thereafter lodged appeal to respondent No. 01, which was dismissed in limine. Copies of the departmental representation and Appeal as well as order dated 02.02.2022 by the Hon'ble District & Sessions Judge, Swat & order dated 02.11.2021 by the learned Senior Civil Judge (Admn.), Swat are annexed herewith as "**Annexure-B to E**", respectively.

3. That the petitioner had once submitted an application to the Hon'ble District & Sessions Judge relating to the use of vituperative language and denigrating treatment of the Hon'ble ASJ/Judge Child Protection Court with the petitioner in the early hours on 09.10.2020 wherein the petitioner thrashed out the details of the above elaborated unbecoming treatment on the part of Hon'ble ASJ/Judge CPC. When the Hon'ble ASJ/CPC got information regarding the submission of the afore-mentioned application, she hastened to lodge a report in the backdrop of Section 228 PPC in the late hours on the very same date. Copies of application and letter dated 09.10.2020 are annexed herewith as "**Annexure-F & G**".
4. That the Hon'ble District & Sessions Judge called explanation of the petitioner vide No.2259/E.B dated 10.10.2020 whereagainst the petitioner submitted his detailed reply on 12.10.2020. While the explanation letter was still in the process of transmission and had not been received by the petitioner, the Hon'ble District & Sessions Judge gave order for the transfer of the petitioner to Tehsil Bahrain vide Endst: No.2253-58/E.B on the very same date i.e. 09.10.2020 which itself bespeaks of the hasty and biased approach in the above detailed matter of the petitioner. Copy of Explanation, reply

FILED TODAY

01 MAR 2022

Additional Registrar

thereof and Transfer Order are annexed herewith as **“Annexure-H, I & J”**.

5. That, on receipt of the petitioner's explanation, the Hon'ble District & Sessions Judge ordered an inquiry into the afore-detailed matter vide order No.2 dated 12.10.2020 and appointed Mrs. Alia Sadia Lodhi, Additional District & Sessions Judge-III, Swat for conducting inquiry into the above-detailed matter. Since the appointed Inquiry Officer was not the competent authority, the inquiry was entrusted to the Senior Civil Judge (Admn:), Swat who, while conducting inquiry brought into the limelight another irrelevant factor that the very induction of the petitioner appeared to be void ab-initio. The SCJ (Admn:) was further directed vide order No.3 dated 29.10.2019 for conducting probe into the matter of the petitioner in the light of newly highlighted facts. Thus, instead of addressing the complaint by the petitioner and providing him with equitable remedy, the very induction/ appointment was unjustifiably called in question. Copy of the order dated 29.10.2019 is annexed herewith as **“Annexure-K”**.

6. That vide order dated 26.11.2020, the learned SCJ (Admn:) charge sheeted the petitioner, utterly disregarding the explanation by the petitioner, handed over the inquiry to the learned Civil Judge-X by appointing the afore-mentioned Hon'ble Judge as Inquiry Officer. Copy of order dated 26.11.2020 is annexed herewith as **“Annexure-L”**.

7. That having been driven to the edge of the cliff, the petitioner was left with no option but to tender apology for an act which the petitioner had not ever committed, solely on account of the uncalled-for advice by the elders of the department. It is noteworthy that the witnesses adduced evidence, fully

FILED TODAY

07 MAR 2022

Additional Registrar

supportive of the petitioner's version as against which the complainant's (Hon'ble ADJ/Judge CPC version) did not find any backing in the evidence, adduced by Mr. Imran Khan, Junior Clerk/ Muharrir Child Protection Court and Ikram Ullah, Steno. Copies of the statements/ PW-2 & PW-3 are annexed herewith as "**Annexure-M & N**".

8. That on acceptance of the petitioner's apology as detailed out in para No.7, the complainant (Hon'ble ADJ/Judge Child Protection Court) hushed up the entire inquiry proceedings by showing her non-interest into the matter vide letter No.15 dated 26.01.2021. Copy of said letter is annexed herewith as "**Annexure-O**".

9. That despite the outward patch-up, the sentiment of vengeance kept simmering, for which the learned complainant ADJ/Presiding Officer of CPC waited for an opportune time. Although, the petitioner had served under the complainant learned ADJ only for three and a half months, the complainant learned Judge vented her hidden anger by making adverse entries in the ACR for the period dated 23/06/2020 to 09/10/2020. The same is replete with her rancorous appraisal of the petitioner which bespeaks itself that the Hon'ble Reporting Officer was biding her opportune time to vent her anger upon a poor Naib Qasid (the petitioner) which is flagrantly violative of the fundamental norm of Natural Justice that "None can be a judge of his own cause" (Nemo debet esse Judex in Propria Causa) and has thus flouted the foundation stone of fair play and unbiased treatment.

FILED TODAY

01 MAR 2022

Additional Registrar

10. That the previous Reports/PERs of the petitioner's Service record are found to be 'Good' and the petitioner has never earned adverse entries in his earlier service career, prior to the

subject adverse entries in the petitioner's record. Even the eight and a half months performance, as portrayed in 2020 ACR does not contain any adverse entry which has been recorded by another learned Presiding Officers. All earlier reports show the applicant as intelligent, respectable and possessing all good qualities pertaining to his job.

11. That the petitioner preferred departmental appeal to respondent No.2/learned Senior Civil Judge (Admn:), Swat who perused all the previous record and showed satisfaction over it on but astonishingly while writing the order on 02.11.2021 dismissed the same without touching the previous record of the petitioner and most astonishingly the learned SCJ (Admn:) referred to a letter (written by the Hon'ble District & Sessions Judge, Swat) regarding appointment of the petitioner along with other employees of the judiciary in the representation, which had no direct concern with the representation crystalizing thereby the clear malafide on the part of the learned Presiding Officers/ respondents. Copy of order dated 02.11.2021 has already been annexed as **"Annexure-E"**.

12. That respondent No.1/ the Hon'ble District Judge/Zila Qazi, Swat also did not pay heed to the representation and without touching the merits and previous record of the petitioner or judgments of the Superior Courts dismissed the appeal in limine without plausible and cogent reasons which is illegal and against the constitutional rights of the petitioner as well as the guiding provisions as contained under Section 24 (A) of the General Clauses Act, 1956. Copy of order dated 02.02.2022 has already been annexed as **"Annexure-D"**.

FILED TODAY

01 MAR 2022

Additional Registrar

13. That the petitioner always abides by the laws and the rules and regulations of service and has thoroughly given consideration to his official duty within the contours of the rules and the impugned Adverse remarks recorded by the worthy reporting Officer are against the Norms of Justice and contrary to the instructions laid down in the guide to Performance Evaluation Reports and having no other adequate remedy, prefers the instant appeal before this Hon'ble Court for expunging the remarks given by the reporting officer, inter alia, on the following grounds.

Grounds:

- a) That the impugned orders dated 02.02.2022 & 02.11.2021 are against the Norms of Justice and Fundamental rights of the petitioner
- b) That the impugned orders dated 02.02.2022 & 02.11.2021 are unjustified, without plausible and cogent reason and against the verdicts of the Judgments of the Superior Courts of Pakistan which is against the constitutional Provisions of the Constitution of Islamic Republic of Pakistan.
- c) That the Impugned Orders dated 02.02.2022 & 02.11.2021 are beyond the scope of the Charge Sheet and Show-Cause Notice and is not maintainable in the eyes of the prevailing laws of the country and are liable to be set aside.
- d) That no Counselling & Warning has been issued in written before recording the Adverse Remarks for the Period 23/6/2020 to 09/10/2020 which are mandatory in the eyes of law and the Judgments of the Superior Courts

FILED TODAY

01 MAR 2022

Additional Registrar

of Pakistan as reported in: 1990 PLC(CS) 808, 1995 PLC(CS)1204, 1996 SCMR 256, 1997 SCMR 1749, 2002 PLC(CS) 1251 & 2012 PLC(CS) 1208.

No heed was given to these judgments of the Superior Courts of Pakistan and ignored totally the wisdom and ratio decidendi, laid down therein and the respondents turned down the representation and departmental appeal filed by the petitioner which reflects non-reading and mis-reading of these judgments.

- e) That the petitioner has not been rated and assessed with due consideration and unbiased application of mind.
- f) That there is nothing on record, indicating that any counselling or warning has been ever conveyed to the petitioner by the worthy Reporting Officer during the period of the adverse entries of the petitioner, reported upon.
- g) That Adverse Remarks are biased and based on sheer mala fides because no material grounds have been mentioned for the Adverse Remarks, hence, needs to be expunged.
- h) That the Reporting Officer in Part-III has graded the petitioner as "Average" and "Not Fit for promotion" but it is mandatory that the worthy Reporting Officer should have made such observation which have not been recorded and therefore such like Adverse remarks could not be sustained and needs to be expunged.

FILED TODAY

01 MAR 2022

Additional Registrar

- i) That under Section-9 of the Civil Servant Act 1973, every Civil Servant has the right for consideration for promotion and even in case of disciplinary proceedings this right is not taken away. Therefore, the existing remarks are violation of the prevailing Rules and Act.
- j) That the adverse remarks recorded by worthy Reporting Officer in Part-III (Pen Picture) in his ACR for the period. 23/06/2020 to 09/10/2020 are not justified and smacks mala fide.
- k) That the Adverse remarks are against the golden Principle of law and wisdom of the Apex Court of Pakistan reported in various judgments. The same is reproduced for ease of reference; **1997 SCMR 1749 titled as "Noor Elahi...VS...Director of Civilian Personnel Rear Air Headquarters, Peshawar and 02 Others."** wherein, it is held that before passing any condemning remarks, the officer shall be put under notice, wherein the instant case, no notice was ever issued to the petitioner that in view of the; Articles 10-A & 14 of the Constitution of Islamic Republic of Pakistan, these remarks cannot remain in the field. **"Abul A'la Maudoodi.....VS.....Govt: of West Pakistan (PLD 1964 SC 673)** that the Opinion must be based on certain material and in the instant case, no adverse material was available against the petitioner, therefore, these remarks are liable to be expunged.
- l) That any other ground not specifically raised shall be argued at the time of arguments with the request of this august Court

FILED TODAY

01 MAR 2022

Additional Registrar

PRAYER:

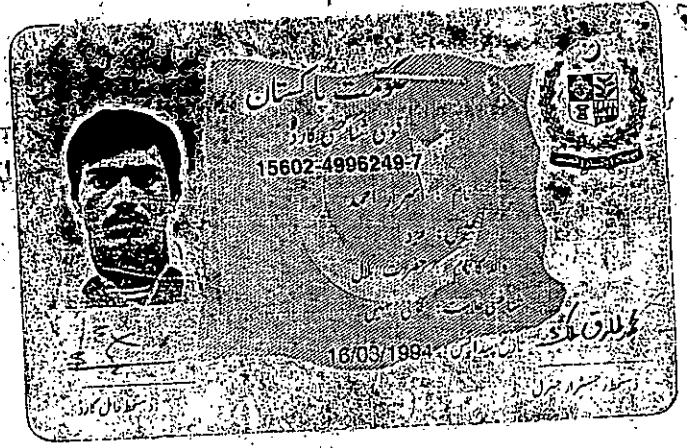
It is, therefore, very humbly prayed that on the acceptance of this Writ Petition, the Adverse Remarks may kindly be expunged and the petitioner may be graded as "GOOD" or "VERY GOOD" and "Fit for promotion" and on the acceptance of instant writ petition, the orders dated 02.02.2022 & 02.11.2021 may be declared illegal, null & void ab-initio by cancelling the same. Any other relief, which though not specifically prayed for, but for which the petitioner is otherwise entitled, may also be granted, please.

Petitioner
ISRAR AHMAD**Dated: 01-03-2022.****FILED TODAY****01 MAR 2022****Additional Registrar**

**BEFORE THE PESHAWAR
MINGORA BENCH/ DA**

Writ Petition No. 257-1

Israr Ahmad son of Hazrat Bilal, R/
Babuzai, District Swat.



VERSUS

The District & Sessions Judge/Zila Qazi, Swat & Another

..... (Respondents)

CERTIFICATE

As per instruction of my client it is hereby certified that no writ petition is pending on the same subject matter between the same parties.

LIST OF BOOKS/RELEVANT LAWS:

1. The Constitution of the Islamic Republic of Pakistan, 1973.
2. The West Pakistan General Clauses Act, 1956.
3. Case Laws according to need.
4. Any other relevant law books, notification and rules as per need.

Petitioner

Israr Ahmad
ISRAR AHMAD

Dated: 01-03-2022.

FILED TODAY

01 MAR 2022

Additional Registrar

**BEFORE THE PESHAWAR HIGH COURT,
MINGORA BENCH/ DAR-UL-QAZA, SWAT.**

Writ Petition No. 257-M of 2022

Israr Ahmad son of Hazrat Bilal, R/o Nawakaly, Mingora, Tehsil Babuzai, District Swat. (Petitioner)

VERSUS

The District & Sessions Judge/Zila Qazi, Swat & Another
..... (Respondents)

AFFIDAVIT

I, Israr Ahmad son of Hazrat Bilal resident of Nawakaly, District Swat bearing CNIC No.15602-4996249-7, do hereby solemnly affirm and declare on oath that the contents of this writ petition are true and correct and nothing has been kept concealed from this Hon'ble Court.

It is further affirmed that no such like petition has been filed in any other Court.

Deponent,

[Signature]
Israr Ahmad

CNIC #: 15602-4996249-7

Dated: 01-03-2022.

FILED TODAY

01 MAR 2022

Additional Registrar

S.No 952
Certified that the above was verified on Solemn affirmation before me on this 01 day of 03 2022
by Israr Ahmad
S/o Hazrat Bilal R/o Swat
who was identified by self
[Signature] who is personally known to me.

**Oath Commissioner
Peshawar High Court
Mingora Bench/Dar-ul-Qaza, Swat.**

01/03/22

**BEFORE THE PESHAWAR HIGH COURT,
MINGORA BENCH/ DAR-UL-QAZA, SWAT.**

Writ Petition No. 257-M of 2022

Israr Ahmad son of Hazrat Bilal, R/o Nawakaly, Mingora, Tehsil Babuzai, District Swat. (Petitioner)

VERSUS

The District & Sessions Judge/Zila Qazi, Swat & Another

..... (Respondents)

CORRECT ADDRESSES OF THE PARTIES

Correct address of the petitioner is as under:

Israr Ahmad son of Hazrat Bilal resident of Mohallah Burhankhel, Nawakaly, Mingora, Tehsil Babuzai, District Swat.

CNIC No: 15602-4996249-7

Cell No: 03459071012

Correct addresses of the respondents are as under:

1. The District & Sessions Judge/Zila Qazi, Swat.
2. The Senior Civil Judge (Admn:)/A'ala Ilaqa Qazi, Swat.

Petitioner


ISRAR AHMAD

Dated: 01-03-2022.

FILED TODAY

01 MAR 2022

Additional Registrar

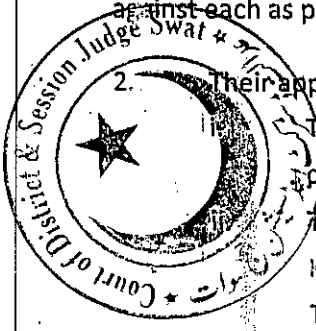
ORDER

13

On the recommendations of the Departmental Selection Committee in its meeting held on 07/10/2017, the competent authority is pleased to order the appointment on temporary basis of the following candidates with effect from the date of assumption of charge of their respective posts, subject to medical fitness and verification of antecedents/testimonials: -

S.No	Name	Father's Name	Appointed as	OT	Merit
1	Ainjad Ali	Raham Dad	Naib Qasid (BPS-03)	Retired Employees	Sons
2	Rafiqullah	Sher Alam Khan	Naib Qasid (BPS-03)	Retired Employees	Sons
3	Asfandyar	Khair-ur-Rehman	Naib Qasid (BPS-03)	Retired Employees	Sons
4	Barakat Ali	Akbar Khan	Naib Qasid (BPS-03)	Retired Employees	Sons
5	Israr Ahmad	Hazrat Bilal	Naib Qasid (BPS-03)	Retired Employees	Sons
6	Mazia Bibi	Inayat Khan	Naib Qasid (BPS-03)	Female Quota	
7	Muhammad Rehman	Shah Wazir Khan	Naib Qasid (BPS-03)	Open Merit	
8	Rashid Ahmad	Gul Mukhtyar	Naib Qasid (BPS-03)	Open Merit	
9	Fazal Raziq	Saifur Ali	Naib Qasid (BPS-03)	Open Merit	
10	Sabir Shah	Muhammad Siraj	Naib Qasid (BPS-03)	Open Merit	
11	Sami-ur-Rehman	Qabil Rehman	Naib Qasid (BPS-03)	Open Merit	

Senior Civil Judge Swat at Said Sharif 23/10/17



The new appointees fulfill the criteria prescribed for the posts mentioned against each as per rules.

2. Their appointment to the service shall be subject to the following terms and conditions:-

The appointees shall produce Medical Fitness Certificate before assumption of charge

They will be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973 and Khyber Pakhtunkhwa Government Servant (Appointment, Promotion & Transfer) Rules, 1989.

- iii. They shall remain on probation for the period prescribed by the relevant rules.
- iv. They will be eligible for the continuance and eventual confirmation on the post, on satisfactory completion of period of probation, subject to the availability of permanent post.
- v. They will be allowed the minimum pay of BPS-03 plus other allowances as admissible under the rules. Those who are already in Government Service and

whose pay is more than the minimum of BPS-03 will be allowed to draw pay which they were drawing before their appointment, subject to permission by the Competent Authority. Their pay shall be fixed at proper stage in BPS-03.

- vi. They shall be governed by such rules and instructions relating to leave, T.A, and Medical Attendance as may be prescribed from time to time.
- vii. The seniority of the new appointees for purpose of promotion shall be maintained as per relevant rules.
- viii. Their service shall be liable to be dispensed with at any time without notice and assigning any reason before the expiry of the period of probation/extended period of probation, if their work or conduct during the said period is not found satisfactory. In the event of termination from service, they will be given fourteen days' notice or in lieu thereof fourteen days' pay will be paid to them. In case of resignation, they will give one month notice to the Authority or in lieu thereof one month pay shall be forfeited to the Government. The resignation shall, however, be subject to acceptance by the Authority.
- ix. They will be governed by the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and the Khyber Pakhtunkhwa Government Servants Conduct Rules, 1987 and any other instructions which may be issued by the Competent Authority from time to time.

3. If the above terms and conditions of appointment are acceptable to them, they should report for duty to the undersigned immediately. The offer of appointment shall be deemed to have been cancelled if any one fails to report for duty to the undersigned within one month from the date of issue of this order.

They shall join duty at their own expenses.



Abdul Basit
(Abdul Basit)
Senior Civil Judge/
Aalla Illaqa Qazi, Swat

OFFICE OF THE SENIOR CIVIL JUDGE/AALLA ILLAQA QAZI, SWAT

Endst: No. 2476-42 /SCJ/AIQ, Swat

Dated: 23/10/2017

Copy forwarded to: -

1. The Worthy Registrar, Peshawar High Court, Peshawar.
2. The Hon'ble District & Sessions Judge/Zilla Qazi, Swat.
3. The District Comptroller of Accounts/District Accounts Officer, Swat.
4. The Budget & Accounts Assistant to the Court/office of Hon'ble District Sessions Judge/Zilla Qazi, Swat.
5. The Civil Nazir/Assistant of this Court/office.
6. The officials named above for necessary action.
7. Personal files of the officials concerned.

Abdul Basit
Senior Civil Judge/
Aalla Illaqa Qazi, Swat
Swat at Saidu Sharif

ATTESTED TO BE TRUE COPY

Abdul Basit
EXAMINER,
District & Sessions Judge/
Zilla Qazi, Swat
28/10/17
3-2-22

(5) 8

BEFORE THE LEARNED SENIOR CIVIL JUDGE/
AIQ (ADMN:), SWAT

Subject: REMARKS IN ACR FOR THE YEAR 2020

Representation against the Adverse Remarks Recorded by Reporting Officer for the Period 23/6/2020 To 09/10/2020, Issued by The Clerk of Court Office of The Learned Senior Civil Judge (Admn:)/AIQ, Swat Vide Letter No.2088 Dated 07/09/2021

Respected Sir,

The applicant submits as under:

*Seen
copy in
separate
file for
decision
as per law*

1. That the applicant appointed as Naib Qasid and rendering his services with full satisfaction of the Superiors.
2. That the previous PER's of the applicant have never earned adverse entries in his earlier service career. All earlier reports have shown the applicant as intelligent, respectable and having all good qualities pertaining to his job.
3. That the Reporting Officer has recorded the above detailed adverse remarks out of rancor and spite. In this regard, the Hon'ble Madam, once previously lodged forth her complaint against the applicant vide letter dated 07 & 09/10/2020 which is replete with her rancorous appraisal of the applicant which bespeaks itself that the Hon'ble Reporting Officer was biding her opportune time to vent her anger upon a poor Naib Qasid (the applicant) which is flagrantly violative of this fundamental notion of Natural Justice that "None can be a judge of his own cause" (Nemo debet esse Judex in Propira Causa) and has thus flouted the foundation stone of fair play and unbiased treatment. The complaint of the Hon'ble Reporting Officer was probed into by the Inquiry Committee which recommended the minor penalty of 'Reprimanding' (Censure) for the applicant.

[Signature]
The Learned Senior Civil Judge
Admn: AIQ Swat

*C.T.A
Baw*



4. That the following Adverse remarks have been recorded by the Reporting Officer with Counter Signing Officer:

PART-II

1. "Promptness and accessory in disposing of work" (C)
2. "Sense of responsibility" (D)
3. "Takes interest in his work" (D)
4. "Trust worthy" (No)
5. "Fit for any Responsible Job" (No)

PART-III

"Not Yet Fit for Promotion"
"Average"

Pen Picture.

"I found him as official with average output and he needs to improve his sense of responsibilities".

5. That the applicant always abide by laws and due consideration has been given to his official duty within the contours of the rules and the impugned Adverse remarks recorded by the worthy Reporting Officer are against the Norms of Justice and Contrary to the Instructions laid down in the guide to Performance Evaluation, inter alia on the following grounds.

GROUND.

- A. That the biased remarks of the Reporting Officer regarding the applicant "as being unfit for promotion" would cast a horrible shadow on the future career of the applicant and would squarely obscure the probable chances of any future promotion by tarnishing the PER of the applicant with negative epithets as 'untrustworthy' lacking promptitude and sense of responsibility. Besides being unfit for promotion, all of which are utterly founded on personal bias and lopsided hatred.
- B. That no counselling and warning has been issued in written before recording the Adverse Remarks for the Period 23/6/2020 to 09/10/2020 which are mandatory in the Eye of



law and the Judgments of the Superior Courts of Pakistan, reported in; 1990 PLC(CS) 808, 1995 PLC(CS)1204, 1996 SCMR 256, 1997 SCMR 1749, 2002 PLC(CS) 1251, 2012 PLC(CS) 1208.

- C. That there is nothing on record indicating that any counselling or warning has been ever conveyed to the applicant by the worthy Reporting Officer during the period under adverse report.
- D. That Adverse Remarks are biased and based on sheer mala fides because no material grounds mentioned for the Adverse Remarks, hence, need to be expunged.
- E. That the Reporting Officer in Part-III has graded the applicant as "Average" and "Not Fit for promotion" but it is mandatory that the worthy Reporting Officer should have made such observation which have not been recorded and therefore, such like Adverse remarks could not be sustained and needs to be expunged.
- F. That under Section -9 of the Civil Servant Act 1973, Every Civil Servant has right for Consideration for Promotion and even in case of disciplinary proceeding this right is not taken away. Therefore, the Existing remarks are violative of the Prevailing Rules and Act.
- G. That the Adverse remarks recorded by worthy reporting Officer in Part-III (Pen Picture) in his ACR for the period 23/6/2020 To 9/10/2020 are not justified and smacks of mala fide.
- H. That the Adverse remarks are against the golden Principle of Law and wisdom of the Apex Court of Pakistan reported in various Judgements. The same is reproduced for ease of reference; "Noor Elahi.....VS.....Director of Civilian Personnel Rear Air Headquarters, Peshawar and 2 others." (1997 SCMR 1749) wherein, it is held that before Passing

any Condemning remarks the official shall be put under notice wherein the instant case, no notice was ever issued to the applicant that in view of the; Articles 10-A & 14 of the Constitution of Islamic Republic of Pakistan, these remarks cannot remain in the field. Wisdom can also be drawn from the case "Abul A'la Maudoodi.....VS.....Govt: of West Pakistan (PLD 1964 SC 673)" that the Opinion must be based on Certain material and in the instant Case, no adverse material was available against the applicant, therefore, these remarks are liable to be Expunged.

PRAYER:

For the foregoing reasons, it is humbly prayed that the Adverse Remarks may kindly be Expunged and the applicant may be graded as "Good" or "Very Good" and "Fit for Promotion" and may please be graded appreciably and equitably.

(ISRAR AHMAD)

Naib Qasid

Dated: 05/10/2021

C.T.C
BAM

**BEFORE THE COURT OF HON'BLE DISTRICT &
SESSIONS JUDGE/ZILA QAZI SWAT**

Israr Ahmad, Naib Qasid Versus Senior Civil Judge (Judl:)/AIQ, Swat

REMARKS IN ACR FOR THE YEAR, 2020

APPEAL AGAINST THE IMPUGNED ORDER DATED 02.11.2021 PASSED BY THE LEARNED SENIOR CIVIL JUDGE (ADMN:)/ AIQ, SWAT IN REPRESENTATION FILED BY THE APPELLANT AGAINST THE ADVERSE REMARKS RECORDED BY REPORTING OFFICER FOR THE PERIOD 23.06.2020 to 09.10.2020, ISSUED BY THE CLERK OF COURT OFFICE OF THE LEARNED SENIOR CIVIL JUDGE (ADMN:) VIDE NO. 2088/SCJ (ADMN:), SWAT DATED 07.09.2021.

Respectfully Sheweth;

The appellant submits as under;

1. That in connection with the adverse entries recorded by the learned Reporting Officer for the period 23.06.2020 to 09.10.2020, duly countersigned by the concerned learned officer, the appellant made a departmental representation wherein the appellant supplicated for the expunction of the adverse remarks in his ACR. In the afore-stated representation, the appellant placed reliance on the judgments of the superior judiciary as precedents:

*1990 PLC (CS) 808
1995 PLC (CS) 1204
1996 SCMR 256
1997 SCMR 1749
2002 PLC (CS) 208*

But to the utter dismay of the appellant, no heed/ appreciation was given to the ratio decidendi as contained in the above-referred judgments of the Honorable Superior



30-11-20
District & Sessions
Zilla Qazi Swat

Courts and were totally ignored by turning down the very departmental representation, lodged forth by the appellant which itself signifies the non-reading and mis-reading of the stated judgments and utterly bypassing the wisdom contained therein. (Representation made to the learned SCJ (Admn:), Swat is enclosed.

2. That the impugned order dated 02.11.2021 is against the norms of Natural Justice and fundamental rights of the appellant and needs your benign and compassionate consideration for expunction of the un-accounted for adverse entries recorded by the learned Reporting Officer against the appellant. (Order dated 02.11.2021 is enclosed)
3. That prior to the above-referred adverse entries, the learned Senior Civil Judge (Admn:)/AIQ, Swat have gone through the previous record and ACRs of the appellant wherein nothing found adverse against appellant and showed satisfaction over it, however, in the order the same are totally ignored.
4. That the factum of malafide floats on the very surface of the impugned order dated 02.11.2021 wherein instead of elucidating reasons for the afore-said impugned order, a biased endeavor has been made to deflect focus from rejection of the departmental representation by calling in



DL
 District & Sessions
 Zilla Qazi
 30-11

question the very induction of the appellant into the present service and has termed the Appointment order of the appellant as 'void ab initio' which bespeaks the hidden sense of bias of the learned Reporting Officer/ SCJ (Admn), Swat.

5. That the impugned order, being beyond the scope of the Charge sheet and show-cause notices having been issued to the appellant, is non maintainable in the eyes of the prevailing laws and legal norms and is, therefore, liable to be set aside.
6. That the impugned order dated 02.11.2021 of the learned Reporting officer/SCJ (Admn:), Swat is unjustified, founded on bias, having no plausible and cogent reason behind it and oblivious of the erudite judgments of the superior judiciary and contravenes the spirit of the Constitution of Pakistan as contained in Articles 189 and 201, hence, necessary to be set aside.



PRAYER:

For the foregoing reasons, it is humbly prayed that the appeal in hand may kindly be accepted and the impugned order as announced by the learned Senior Civil Judge (Admn:)/AIQ, Swat dated 02.11.2021, may kindly be set aside and the

DA
District & Sessio
Zilla Qazi
30-11-21

adverse remarks recorded in the appellant's ACR be expunged and appellant be graciously graded as 'GOOD' or 'VERY GOOD' and 'FIT FOR PROMOTION'.



Appellant

[Handwritten signature]

Israr Ahmad
Naib Qasid

Dated: 30.11.2021

[Handwritten signature]
District & Sessions
Zilla Qazi S
30-11-21

صافری صبیحہ
 22/11/2022
 خدمت میں ہے۔ چونکہ واقعی اتفاقاً برج، لیزا سٹو، سو/مورز 22/11/2022
 لاہور، مس۔ سابق ایڈو۔ سید سعید عالی نے اس کی اطلاع دی ہے۔
 فیصلہ کرنا
 ریڈر عالی نے اس کی اطلاع دی ہے۔
 طاہرہ طاہرہ

Order No.5
 /02/2022

Present: Petitioner/ official, namely, Israr Ahmad in person.

He has been heard and record perused.

Feeling aggrieved by adverse remarks in his ACR, recorded by the reporting officer for the period from 30-06-2020 to 09-10-2020 and endorsed by the countersigning officer, the official/ appellant filed the present petition.

No plausible, convincing and genuine reason has been advanced to take any exception against the impugned remarks, therefore, this departmental appeal is hereby dismissed in limine.

File be consigned to the record room after necessary completion and compilation.

(SHOAIB KHAN)
 District & Sessions Judge/
 Zila Qazi, Swat.
 District Judge/Zila Qazi,
 Swat



TESTED TO BE TRUE COP
 EXAMINER,
 District & Sessions Judge
 Zila Qazi, Swat
 03.02.22

Order--03
02.11.2021

Official in person present, duly heard who relied upon his representation & seek relief to expunge remarks from his PER (23.06.2021 to 09.10.2021), of the reporting officer (Saadia Andaleeb Presiding Officer Child Protection & Juvenile Welfare Court, Malakand Division at Swat / ADJ/IZQ-, Swat), agreed by the counter signing officer (Senior Civil Judge (Admn:), Swat).

C.T.C
Baw

COC have already produced inquiry file No.40/6 of 2020 & 09/6 of 2020 & other relevant record for perusal.



Representation of official Israr Ahmad Naib Qasid against the adverse remarks, seen, perused. Para No.3 of representation itself signifying that accused / official has undergone an inquiry, initiated upon the complaint of Reporting Officer; however record reveals that the same was concluded by the duly appointed Inquiry Officer, namely, Mrs. Meena Qaisar Civil Judge / IQ-X, Swat under E&D Rule, 2011, wherein, fair opportunity was provided to the official for explaining & defending his case & finally he was awarded minor penalty of *Censure* (See file No.9/6 of 2020 disposed of vide finding dated 09.03.2021 of the Competent Authority).

Senior Civil Judge (Admn)
Alta Iftaah Qazi
Swat.

Cont...

(25)

As per record, official didn't impugn the same before available ^{legal} forum, hence, penalty of "Censure" is intact / in field. Pertinent to mention that the aforementioned inquiry was also related to the period under report.

The main thrust of representation is that counseling / warning has not been conveyed to the applicant by the reporting officer for the period under report. In this regard, suffice it to say that full-fledged inquiry 09/6 has been initiated & completed against the official & he was awarded minor penalty for the relevant period & letter No.758-61/SCJ(Admn:), Swat dated 11.03.2021 was given to the official; therefore, requirement of law has been fulfilled so far counseling warning is concerned.

C.T.C
Bar

Therefore, in the circumstances, remarks recorded by Reporting Officer against the official seems genuine & based on relevant record; No mala fide (of whatsoever nature) can be attributed to the Reporting Officer. As the learned Presiding officer of CPC / ADJ, Swat has already pardoned the official in connection with his complaint & she has requested for filing of the subject inquiry proceedings against the official, therefore, in such a



Senior Civil Judge (Admn)
Atta Ullah Gazi
Swat.

background of the matter, element of mala fide & bias couldn't ^{be} attributed against the reporting officer.

In addition to the above, as per office record, under file No.40/6 of 2020, the very appointment of official is under question. The Hon'ble District & Sessions Judge / Zilla Qazi, Swat observed vide his order dated 29.10.2019, that: -

"Subsequent to the above order, it has been brought into the notice of the undersigned that the accused / official belongs to the establishment of learned Senior Civil Judge / A'ala Illaqa Qazi (Admn:), Swat. Thus the Senior Civil Judge Swat is the competent authority for all intent and purposes against the official concerned. As such, the pending inquiry proceedings against the accused / official namely, Israr Ahmad, entrusted to the Inquiry Officer/ Additional District & Sessions Judge-III, Swat, stands withdrawn. The office is directed to send all the relevant material to the SCJ(A), Swat for departmental proceedings against the above named official, in the light of complaints submitted by the learned Presiding Officer of the Child Protection Court.

Senior Civil Judge (Admn.)
A'ala Illaqa Qazi
Swat.



C.T.C
Bar

Order--03
02.11.2021
Contd...

During the above proceedings, it has also been learnt that the accused / official was inducted against quota seat of retired employee's son vide order bearing No.2416-42/SCJ/AIQ, Swat dated 23.10.2017, after the retirement of his father as Reader / Senior Clerk. Under the law, the children of the Senior Clerks have no quota seats and thus his induction, prima facie, appears to be void ab-initio, which aspect also needs proper probe. Thus, the SCJ, Swat is further directed for proper probe / proceedings in the light of above highlighted facts and further necessary proceedings according to law.

Admittedly, official is the son of Hazrat Bilal (Retired Senior Clerk). In spite of that, he was appointed against the quota of Class-IV. In this regard, letter No.945/SCJ (Admn:)/AIQ, Swat Dated 31/03/2021 alongwith annexures "A to Z & AA to CC" is already addressed to the Hon'ble District & Sessions Judge / Zilla Qazi, Swat for guidance into the matter. The Hon'ble District & Sessions Judge / Zilla Qazi, Swat forwarded the same to the august Peshawar High Court vide letter No.2329/E.B Dated 01.11.2021 subject:- *Mistaken appointments against quota seats by the departmental selection committee---Guidelines (See the relevant file & correspondence as part of this order).*

Senior Civil Judge (Admn)
Alla Hlaga Qazi
Swat.

Hence, in the circumstances, representation being devoid of merits is hereby turned down. COC / Civil Nazir to do the needful in the relevant file. Concerned official be informed.

The requisitioned record returned to COC for safe custody.

File be consigned to record room after necessary completion & compilation.

Announced:
02.11.2021

(Abdul Salam Khan Sarkani)
Senior Civil Judge (Admn.) / AIQ,
District Swat.

Senior Civil Judge (Admn)
Alia Illana Gazi
Swat.



C.T.V
Baw

No. 12.126
Date of Presentation of Application. 04.11.21
Number of Watch Copy Prepared. 04.11.21
Number of Words. 07-P
Copy Fee.
Name of Copyist. Rahmat Ali
Signature.
Copying Fee. F.o.c
Date of delivery. 04.11.21

ATTESTED TO BE TRUE COPY

EXAMINER,
District & Sessions Judge:
Zilla Qazi. Swat
04.11.21

بعدالت جنہ - سینیچ مہیا سے علی علیہ السلام صلوات

درخواست برادر کاروان کے برخلاف سینیچ ASJ/CPC صلوات
بوجہ تفصیح کرنے اور کتابیاں دینے و پڑھانی کرنے -

Seen, placed in file
District & Sessions Judge
Zilla Qazi Swat
09-10-2020

جنہ مائی! گزارش کی جاتی ہے کہ میں عدالت ASJ/CPC میں بطور نائب قاضی ڈیوٹی انجام دے رہا ہوں جب سے پکارا میٹیم یہاں ڈیوٹی کرنے پر مجھے اس کاروانہ مکمل سٹاف کے ساتھ خاص طور پر میرے ساتھ ہر بہت بُرا رہا۔ یہیں دنوں میں جب ڈیوٹی سے فارغ ہو جاتا تھا تو میٹیم مجھے کمال کرتے ہلا لیتے اور مجھ سے اپنے گھر کے کام کرواتے اور کئی دفعہ گھر کے برتن بھی دھوئے ہیں آئندہ اس نے تیرے دھونے کا کیا تو میں نے انکار کیا تو اس وجہ سے میٹیم کاروانہ پہلے سے بھی بدتر ہونے لگا۔

C.A. Ban

جنہ مائی - جب سے میٹیم یہاں آیا ہے اور جیسے ہی عدالت کھلی آجاتی ہے تو سٹاف ڈیوٹی گھوٹے بارے میں سٹاف کو بتاتی ہے کہ میرا بیس ٹھیک نہیں ہے، میرا باکو روم ٹھیک نہیں، میرا ٹریفیک نہیں ہے اور بہت سے مسئلے شگوائے کرتے ہیں اس کا الزام بھی ہم پر



جنہ مائی! عدالت میں جب کوئی کام نہیں ہوتا تو اس کا

معدہ بھی ٹھیک رہتا، اتارا جاتا ہے اور کہتی ہے کہ سینیچ مہیا نے مجھے ڈائل بننے کے ڈیوٹی دے رکھے ہیں سب سے سب ڈائل ہے اور مجھے ڈائل کے علاوہ، مجھ کو نہیں بھیجا جاتا ہے آج تو اس نے صدر کی طرف عدالت میں لوگوں کے سامنے مجھے کہا کہ مجھے نہ دیکھو میرے طرف نہ دیکھو اور نیچے دیکھو اور کتابیاں دینے کے لیے تم مجھے نیچوں دیکھو رہے اور نائب کورٹ

کو بھی گرفتار کرنے سے کھی لیا گیا کہ اسے گرفتار کرو

تو سماجی!

میں تیار کرو میں نے تو کئی دفعہ Complaint کھی لیا ہے لیکنا اس کا کوئی حل ہی نہیں کھل آتا۔

رائے مہربانی اس معاملے کو حل کرنے منظور

و کا بیٹا جیسا آپ کو مناسب لگے۔

دلریہ

اسرار احمد دہلوی

CPCC
Ban

مائب قاعدہ CPCC

1/10/2020

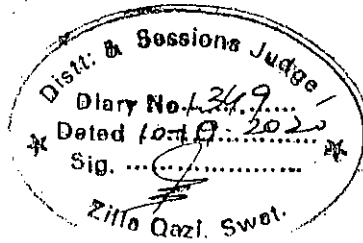
No: 119 CPC, Swat

dated: 09/10/2020

31

To:

The Hon'ble,
District and Sessions Judge/
Zilla Qazi, Swat.



From:

Saadia Andaleeb,
Additional Sessions Judge/
Judge Child Protection Court,
Swat.

*Seen, copy be placed
in separate file and
explanation be called
from the official Ca
red within three
day i.e a
or before
12-10-20*

SUBJECT: REPORT AGAINST ISRAR AHMAD, NAIB QASID.

Respected Sir:

With great veneration and regret it is brought into your kind notice that despite the incident took place on 06.10.2020, when the Naib Qasid of this Court left the court room open and unattended. Today, once again he severely misbehaved with the undersigned. Despite the clear direction of the Hon'ble, Peshawar High Court, Peshawar, he is not observing the dress code and used to misbehave with the undersigned in open court in front of litigants and counsels. Many oral warning were given to him, but in vain. Due to his irrational and uncivilized behaviour court work is badly suffering.

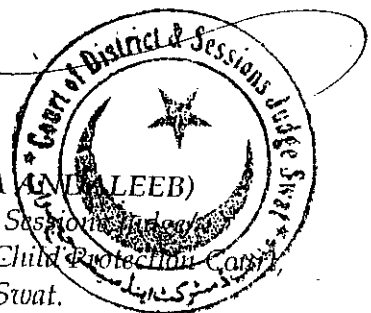
Hence, complaint under section 228 PPC is hereby forwarded against Israr Ahmad, Naib Qasid of this court to your goddself for further necessary action.

*9-10-20
District & Sessions Judge
Zilla Qazi Swat*

*C.T. u
Bar*

[Handwritten Signature]

(SAADIA ANDALEEB)
Additional Sessions Judge/
Presiding officer, Child Protection Court,
Swat.





**DISTRICT & SESSIONS JUDGE/
ZILLA QAZI SWAT**

Office: 0946-713891 FAX: 0946-713893
WEBSITE: dsjswat.gov.pk EMAIL: dsjswat@gmail.com

No. 2259 /E.B

Dated: 10 / 10 / 2020

To:

Mr. Israr Ahmad
Naib Qasid to the Court of
Child Protection Court Swat.


SUBJECT: EXPLANATION

Memo:

It has been reported by the learned ASJ/Child Protection Court vide letter No.118/CPC, Swat dated 07/10/2020 and letter No. 119/CPC Swat dated 09/10/2020 that you are not taking interest in performance of your duties and not observing the drees code as prescribed by the Hon'ble Peshawar High Court Peshawar. You also left the Court unattended and misbehaved with the presiding officer of the court. Your this act of gross negligence and disobedience amounts to misconduct on your part.

You are, therefore, asked to explain your position as to why not strict disciplinary action under the Government of Khyber Pakhtunkhwa Civil Servants (Efficiency & discipline) Rules, 2011, may be initiated against you.

Your reply must reach this office within three days i.e. on or before 12/10/2020, otherwise, it will be presumed that you have nothing in your defence.


(SHOAIB KHAN)
District & Sessions Judge/
Zilla Qazi, Swat



33

محضوړ جناب ڈسٽرڪٽ اينڊ سيشن جج صاحب / ضلع قاضي، سوات

جواب طلبی بابت چھٹی نمبری 2259/E.B محرمہ 10/10/2020

عنوان:

جناب عالی!

سائل جواب طلبی کے سلسلے میں حسب ذیل عرض گزار ہے۔

۱۔ یہ کہ سائل نے ہمیشہ اپنی ڈیوٹی کو فرائض منصبی سمجھ کر ایمانداری سے ادا کیا ہے اور کبھی بھی اس میں کوتاہی نہیں کی ہے۔

۲۔ یہ کہ سائل کی بابت جواب طلبی میں ذکر شدہ چھٹی نمبر 118 / CPC محرمہ 07/10/2020 و 119/CPC محرمہ 09/10/2020 سے سائل بالکل لاعلم ہے اور نہ اس نسبت سائل کو آگاہ کیا گیا ہے۔ مزید یہ کہ سائل نے عدالت کے اندر اپنی ڈیوٹی ہمیشہ ایمانداری سے کی ہے لیکن عدالت کا محترمہ جج صاحبہ سائل کو بدیں وجہ تنگ و پریشان کرنا تھا کہ گھر جا کر اس کے کپڑے اور باورچی خانہ کے برتنوں کو دھوئیں، پھر بھی سائل نے کئی مرتبہ حکم کی تعمیل کی لیکن جب محترمہ جج صاحبہ سائل کو اس نسبت بار بار تنگ کرتی رہی تو سائل نے انکار کر دیا کہ عدالت کے علاوہ گھر کا کوئی کام نہیں کروں گا اور اسی کو بہانہ بنا کر جج صاحبہ سائل کو بے تنگ و پریشان کرتا ہے۔

۳۔ یہ کہ آفیسر جلیس صاحبہ کا رویہ نہ صرف سائل سے بلکہ عدالت کے تمام سٹاف کے ساتھ انتہائی نامناسب، غلیظ اور غیر انسانی رہا ہے اور اس نسبت آپ صاحبان کو بھی مطلع کیا جا چکا ہے۔

۴۔ یہ کہ آفیسر جلیس صاحبہ سائل کو گالیاں دیتا ہے اور غلیظ زبان استعمال کرتی ہے۔ اس نسبت سائل نے آپ صاحبان کو بذریعہ سپرنٹنڈنٹ اور بخت شیر علی خان، صدر ایچا سوات کو بھی درخواست گزار لیکن اس کے باوجود سائل کو سنے بغیر سائل کا تبادلہ بحرین کیا جا کر سائل کے ساتھ بے انصافی کی جا کر جواب طلبی کی گئی جو کہ قرآن مجید کے سورۃ الحجرات آیت نمبر 6 کی صریح خلاف ورزی ہے۔ اسی لئے سائل کی درخواست ہے کہ معاملہ کی پوری تحقیق کیلئے آیت بالا کو مد نظر رکھتے ہوئے حسب ضابطہ fact findings کا وائری عمل میں لائی جائے۔ بصورت دیگر اس دارالامتحان کے اندر سائل اگرچہ نائب قاصد کے پوسٹ پر تعینات ہے لیکن اللہ تبارک و تعالیٰ کی ذات ایسی بے نیاز ہستی ہے اور سائل اسی کے عدالت اعلیٰ سے انصاف کا منتظر ہے گا۔ (نیز میرے complaint کی بابت درخواست محرمہ 09/10/2020 کی نقل بھی شامل مسل کی جاتی ہے)

جواب طلبی منظور کی جا کر بلا مزید کارروائی داخل دفتر کی جائے۔

آپ کا تابع الحام

اسرار احمد، نائب قاصد

12/10/2020



C.P.C

Baw



**DISTRICT & SESSIONS JUDGE/
ZILLA QAZI SWAT**

PHONE: 0946-713893
FAX: 0946-713893
WEBSITE: dsjswat.gov.pk
EMAIL: dsjswat@gmail.com

34

ORDER

Consequent upon two successive complaints of the Presiding Officer of the Child Protection Court / Additional Sessions Judge within a short period of just two days against her Naib Qasid namely Israr Ahmad through letter bearing No.118 dated 07/10/2020 and letter No. 119 dated 09/10/2020, in the interest of public service, the following transfer / adjustment are hereby ordered with immediate effect:-

S.N	Name of official with designation	Presently Working Court/ Office	Transferred to	Remarks
1.	Israr Ahmad, Naib Qasid	Child Protection Court Swat	Civil Judge/IQ-Bahrain	Vice #2
2.	Muhammad Hayat Daftri	Civil Judge/IQ-I Bahrain	English Branch	Vice #3
3.	Faisal Ahmad, Naib Qasid	English Branch DSJ Swat	Child Protection Court Swat	Vice #1

(SHOAIB KHAN)

*District & Sessions Judge/
Zilla Qazi, Swat*

OFFICE OF THE DISTRICT & SESSIONS JUDGE/ZILLA QAZI, SWAT

Endst: No. 2253-58/E.B

Dated: 09/10/2020

Copy forwarded to:

1. The Senior Civil Judge/A'ala Illaqa Qazi (Admin:) Swat.
2. All Courts concerned for information.
3. The B&AA of this office.
4. The Civil Nazir to SCJ/AIQ(A), Swat.
5. The officials concerned for information and immediate compliance.
6. Personal files of the officials concerned.



*District & Sessions Judge/
Zilla Qazi, Swat*

ATTESTED TO BE TRUE COPY

(Signature)
EXAMINER,
District & Sessions Judge/
Zilla Qazi, Swat
3.2.22

19/10/19

ADSCF... Swat

AS

Postscript)
Order No.3
29/10/2019

Subsequent to the above order, it has been brought into the notice of the undersigned that the accused/official belongs to the establishment of learned Senior Civil Judge/A'ala Ilaqa Qazi (Admn.), Swat. Thus, the Senior Civil Judge Swat is the competent authority for all intent and purposes against the official concerned. As such, the pending inquiry proceedings against the accused/official namely, Israr Ahmad, entrusted to the Inquiry Officer/Additional District & Sessions Judge-III, Swat, stands withdrawn. The office is directed to send all the relevant material to the SCJ(A), Swat, for departmental proceedings against the above named official, in the light of complaints submitted by the learned Presiding Officer of the Child Protection Court.

During the above proceeding, it has also been learnt that the accused/official was inducted against quota seat of retired employee's son vide order bearing No.2416-42/SCJ/AIO, Swat, dated 23.10.2017, after the retirement of his father as Reader/Senior Clerk. Under the law, the children of the Senior Clerks have no quota seats and thus his induction, prima facie, appears to be void ab-initio, which aspect also needs proper probe. Thus, the SCJ, Swat is further directed for proper probe/proceedings in the light of above highlighted facts and further necessary proceedings according to law.

Asrar
District & Sessions Judge/
Zila Qazi, Swat.
District & Sessions Judge/
Zila Qazi Swat



36

ORDER
03.11.2020

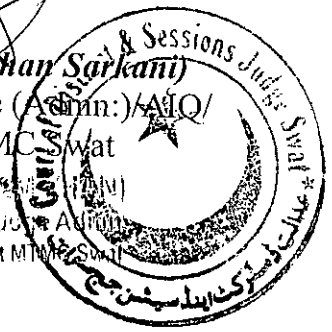
Office order dated 29.10.2020 of the Hon'ble District & Sessions Judge / Zilla Qazi, Swat received, however, requisite record pertaining to inquiry proceedings against accused official, namely, Israr Ahmad is not received so far, therefore, COC is directed to receive the record from the office of Hon'ble District & Sessions Judge / Zilla Qazi, Swat and put it for an appropriate date / time. Proper file be maintained accordingly. *be registered*

(Abdul Salam Khan Sarkani)
Senior Civil Judge (Admn) / Competent
Authority / Zilla Qazi, Swat
Senior Civil Judge (Admn)
Model Trial Court MTMC Swat

ORDER
23-11-2020

COC produced attested copies of inquiry file against Israr Ahmad Naib Qasid. Original file be also requisitioned from the Record Room and notice be given to the accused/official Israr Ahmad for appearance/attendance on 26-11-2020.

(Abdul Salam Khan Sarkani)
Senior Civil Judge (Admn) / AIO /
Judge MTMC Swat
(ABDUL SALAM KHAN)
Senior Civil Judge (Admn)
Model Trial Court MTMC Swat



Order
26.11.2020

Office order dated 29.10.2020 of the Hon'ble District & Sessions Judge / Zilla Qazi, Swat received, wherein, the undersigned is directed to initiate disciplinary proceedings and further necessary action against Israr Ahmad, Naib Qasid.

(Signature)

Clerk of Court as representative on behalf of this office / establishment is present. Original Inquiry File No.79/6 produced, available. Accused official namely Israr Ahmad, Naib Qasid present in person. Available

Senior Civil Judge (Admn)
Alla Ullaga Qazi
Swat.

37

Order
26.11.2020
Contd...

record is perused. Accused official heard. His reply to the explanation was already found not satisfactory by the Hon'ble District & Sessions Judge / Zilla Qazi, Swat. I being competent authority have also found the reply of explanation of the accused / official as not satisfactory.

In the circumstances, accused / official is charge sheeted. Statement of allegations also handed over to him. Mr. Basharat Rauf, learned Civil Judge / Illaqa Qazi-X, Swat is hereby appointed as Inquiry Officer under rule 10(1)(a) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. The Inquiry officer, in accordance with the ibid rules shall provide reasonable opportunity of hearing to the accused; record findings and make, preferably within thirty days of the receipt of this order; recommendations as to punishment or other appropriate action against the accused official. Moreover, Mr. Sikandar Hayat, COC / Assistant shall appear before the learned Inquiry Officer as representative of this office (Authority) and do all necessary acts as provided under the law.



The accused official is directed to submit his written defence before the learned Inquiry Officer as directed in the charge sheet.

Relevant documents alongwith charge sheet & statement of allegations coupled with formal orders regarding appointment of Inquiry Officer shall be issued to the learned Inquiry Officer at once. Muharrir concerned is directed to do the needful.

ABDUL SALAM KHAN SARKANI,
Senior Civil Judge (Admn)/
Competent Authority, Swat.

Senior Civil Judge (Admn)
Alla Illaqa Qazi
Swat.

بیان عمران خان جو دستخطوں / تحریر جائیلڈ
ڈویژن ٹورٹ ڈسٹریکٹ ٹورٹس سوات

حلفاً بیان کیا کہ سیشن اسرار احمد
نائب قاضی قاضی قاضی قاضی قاضی
جسٹس قاضی قاضی قاضی قاضی قاضی
قاضی قاضی قاضی قاضی قاضی قاضی
احمد نے اپنی فراڈ کیس میں لکھی گئی
قسم نوٹاری میں لکھی اور یہی لکھی گئی
ڈیوٹی اہلکاروں کی اور یہی لکھی گئی
کی رہائش کے سلسلے میں اور وقت
کی غلطی کا مرتکب نہیں ہوا ہے وہ ہمیشہ
علاقہ منظم شدہ یونیفارم میں آیا ہے۔



مطلب اسرار احمد نائب قاضی
ڈویژن ٹورٹ ڈسٹریکٹ ٹورٹس سوات
تفصیلاً اسرار احمد سے

مخبر: محمد نواز خان
11.1.21

PW-2
11.1.21
X X

(2)

میرے کلمے کے مطابق میں نے
اسرائیل اور نائب قاضی کو میڈیم
اور پرائیمری کلاس آفس کے ساتھ
قسم کی گستاخی نہیں کی ہے۔

یہ درست ہے کہ نائب قاضی اسرائیل
نے اپنی ریورٹ میں اسلوب سے ہر ایک
کو اس کے اپنے اسٹاپ ممبران کے ساتھ
جوڈیسیل کفایت نہیں کی تھی۔
کئی چیزیں دیا۔

میرے درست تسلیم کیا



سوات
میرے درست تسلیم کیا
سوات

11.1.24

بیان اراام اللہ سٹیٹو بصرالت ہفت
سینسول جج اسوات (جوڈیشل)

حلف بیان کیا کہ سال 2018
میں میں اسرار احمد نائیب قاضی بصرالت
بطور نائیب قاضی قاصد میرے ساتھ
دے دیا گیا اس دوران نائیب قاضی
اسرار احمد ایڈووکیٹ جنرل
اور ایگنڈا سے ایٹام دے ریاض اور
میں بدوران جو اسرار احمد میں
سنگی قسم کی کوئی غلطی یا غفلت نہیں

مخانب مائیرہ / COC



اسرار احمد نائیب قاضی قاصد کا رویہ یہ ہے کہ
میں اسرار احمد نائیب قاضی قاصد اور جج اسوات
ساتھ اسٹیٹو بصرالت میں اور قابل مدعا
ہے۔

(2)

(41)

- 62

PW-3

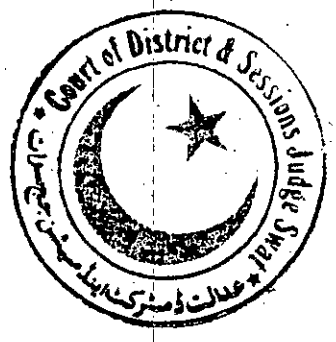
11.1.21

x x

سٹر درجست - تسلیم کیا گیا

سنوات

سوائے 3
11.1.21



No. 15 / ASJ/CPC Swat

Dated: 26 / 01 / 2021

To:

The District & Sessions Judge/
Zilla Qazi Swat

From:

Saadia Andaleeb
Additional Sessions Judge/
Judge Child Protection Court
Swat.

P O F

Handwritten signature and date: 27.01.2021

Handwritten marks: 49, 42

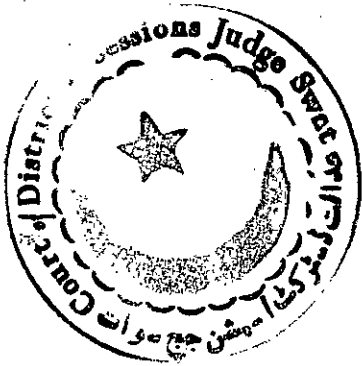
SUBJECT: REPORT AGAINST ISRAR AHMAD NAIB QASID

Respected Sir,

Kindly refer to this Court letter No. 119/CPC Swat dated 09/10/2020, on the subject cited above.

It is submitted that the official concerned has appeared before the undersigned, who has tendered apology with regard to his behaviour and performance of duty. Hence, the undersigned is now satisfied and accept the apology of the official, namely, Israr Ahmed, Naib Qasid.

Therefore, the undersigned is no more interested to pursue the subject complaint and may be filed without further proceedings, please.



Handwritten signature of Saadia Andaleeb

(SAADIA ANDALEEB)
Additional Sessions Judge/
Presiding Officer, Child Protection
Court, Swat

The inquiry officer for
consideration as per law/rules.

Handwritten date: 27-01-2021

ATTENDED TO BY THE COPM

Handwritten date: 17.12.2021

LEGAL NOTICE

From: Hafiz Bakht Amin Advocate,
Office: Bilal Plaza, Room No. 210
Airport Road, Mingora, Swat
Cell No. 03409095609

To,

1. The District & Sessions Judge/Zila Qazi, Swat.
2. The Senior Civil Judge (Admn:)/A'ala Ilaqa Qazi, Swat.

Assalam-o-Alaikum!

You are hereby informed that I am going to file a writ petition in Peshawar High Court, Mingora Bench/Dar-ul-Qaza, Swat against the illegal order/appointment against the adverse remarks of ACR for the period from 23/06/2020 to 09/10/2020, Swat.

Bakht
Hafiz Bakht Amin Advocate

Dated: 28/02/2022

(45)

BEFORE THE PESHAWAR HIGH COURT, MINGORA
BENCH/ DAR-UL-QAZA, SWAT.

Writ Petition No. _____ -M of 2022

WAKALAT NAMA

Mr. Israr Ahmad S/O Hazrat Bilal, R/O Nawakaly, Mingora, Tehsil Babuzai,
District Swat.

VERSUS

The District & Session Judge/ Zila Qazi, Swat & other.

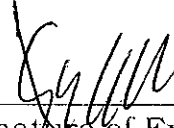
I, Mr. Israr Ahmad S/O Hazrat Bilal do hereby appointed Mr. Hafiz Bakht Amin Advocate High Court of Pakistan in the above-mentioned case, to do all or any of the following acts, deeds and things: -

1. To appear, act and plead for us in the above-mentioned case in the court/ Tribunal in which the same may be tried or heard, and any other proceedings arising out of or connected therewith.
2. To sign and verify and file, petitions, appeals, affidavits and applications as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at all stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of the proceedings.
4. To do any act necessary or ancillary to the above acts, deeds and things.
5. To appoint any other counsel to do any/ all of the acts, deeds and things.
6. We, shall appear in the court/ tribunal on every date of hearing for assistance and if due to our nonappearance, any adverse judgment/ order/ decree is passed, he will not be held responsible.

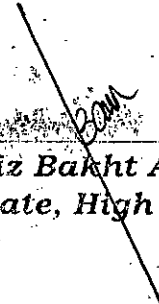
IN WITNESS whereof we signed this Wakalat Nama hereunder, the contents of which have been read/ explained to us and fully understood by us this 01.03.2022.

Mr. Israr Ahmad

Name of Executant



Signature of Executant

~~~~

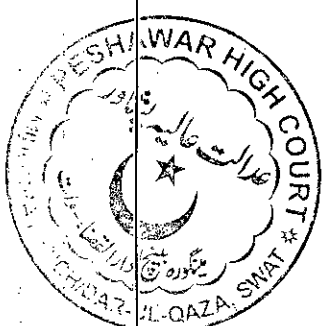

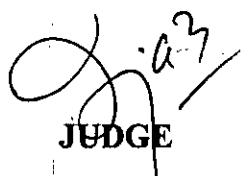
Hafiz Bakht Amin
Advocate, High Court.

PESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT


FORM OF ORDER SHEET

Court of

Case No: of

1	Date of Order or Proceedings 2	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary. 3
	<p>30-03-2022</p> 	<p><u>W.P No. 257-M/2022</u> <u>With interim Relief.</u></p> <p>Present: Hafiz Bakht Amin, Advocate for petitioner.</p> <p>*****</p> <p>Respondents are directed to submit parawise comments within a fortnight. Adjourned for a date in office.</p> <p style="text-align: right;">  JUDGE </p> <p style="text-align: right;">  JUDGE </p>

Certified to be True Copy

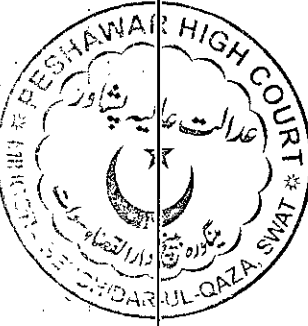

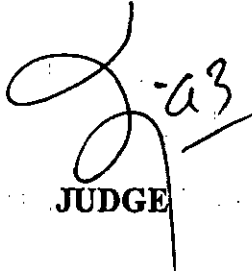


EXAMINER
 Peshawar High Court, Mingora/Dar-ul-Qaza, Swat
 Authorized Under Article 07 of (Constitutional Order 1984)

Office
09/14

PESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT**FORM OF ORDER SHEET**

Court of

Case No..... of.....

1	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
1	2	3
	<p>29-09-2022</p>	<p><u>W.P No. 257-M/2022.</u></p> <p>Present: Hafiz Bakht Amin, Advocate for the petitioners.</p> <p style="text-align: center;">*****</p> <p>The comments of respondents are still awaited. The office is directed to issue reminder for filing of the requisite comments within a fortnight.</p> <p style="text-align: right;">  JUDGE </p> <p style="text-align: right;">  JUDGE </p> <p style="text-align: center;"> Certified to be True Copy  EXAMINER Peshawar High Court, Mingora/Dar-ul-Qaza, Swat Authorized Under Article 07 of Qasoon-e-Shahadat Order 1984 </p>

Office
30/9

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
MINGORA BENCH (DAR-UL-QAZA), SWAT
(Judicial Department)

W.P No.257-M/2022

*Israr Ahmad s/o Hazrat Bilal r/o Nawakaly, Mingora Tehsil Babuzai,
District Swat..... Petitioner.*

Versus

*The District & Sessions Judge/Zilla Qazi, Swat and
another..... Respondents.*

Present: *Hafiz Bakht Amin, Advocate for Petitioner.*

Mr. Haq Nawaz Khan, A.A.G for official Respondents.

Date of hearing: 02.03.2023.

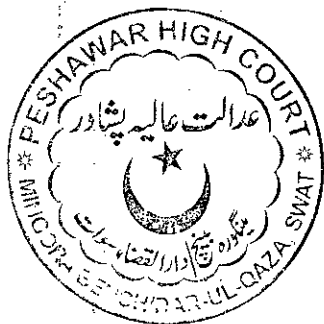
JUDGMENT

MUHAMMAD NAEEM ANWAR, J.- Through instant petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, Israr Ahmad, the petitioner, has assailed the adverse remarks in his Annual Confidential Report (ACR) for the period w.e.f. 23.06.2020 to 09.10.2020, where in Part-III, the learned Reporting Officer remarked that the petitioner is "not yet fit for promotion" signed the same on 01.06.2021 and agreed by the learned Countersigning Officer, as such, he seeks expunging of said adverse remarks in his service book.

2. Respondents were directed to furnish their parawise comments, in response to which, same were submitted alongwith enclosures.

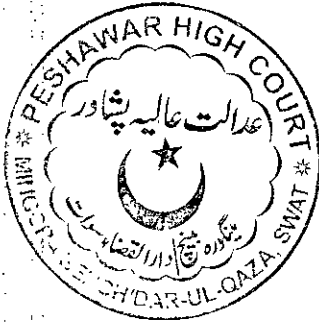
3. Arguments heard and record perused.

4. At the very outset, when learned counsel for the petitioner was confronted with the adverse entries/ remarks in

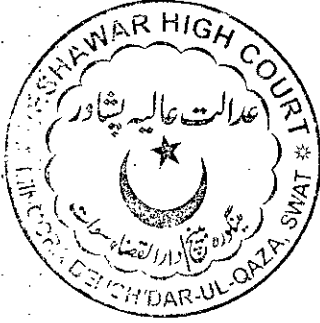


M

the A.C.R qua the jurisdiction under article 199 of Constitution that as to whether this Court could decide the matter when the petitioner is the employee of the establishment of learned Senior Civil Judge and for redressal of grievances of such employees of the establishment of Subordinate Judiciary, a Tribunal is already functioning, he submitted that when the matter was reported by the Reporting Officer that petitioner "*not yet fit for promotion*", this Court has got exclusive jurisdiction under Article 199 of the Constitution, and not the Tribunal, he placed reliance on the cases of "Mrs. Sajida Tahir Vs. Chairman, Governing Board, National Institute of Modern Languages, Islamabad and 02 others"(1995 PLC CS 1204), "Amna Imran Vs. Federation of Pakistan and others" (2019 PLC CS 134) and "Ch. Saeed Ahmad Vs. Federation of Pakistan through Secretary, Finance, Division Islamabad and 02 others" (1995 PLC CS 1204)

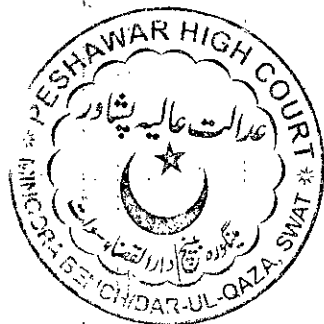


5. Perusal of record reveals that the petitioner was serving as Naib Qasid since 23.01.2017 however, when he was posted as Naib Qasid with the learned Presiding Officer of the Child Protection Court, Swat, the petitioner has submitted an application before the learned District & Sessions Judge, Swat being aggrieved from the behavior of the learned Presiding Officer whereas, on same date, the matter was also reported by the Additional District

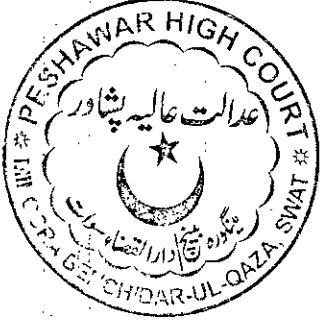


Judge/Child Protection Court, Swat to the learned District & Sessions Judge, on the basis of which, on 10.10.2020 an explanation was sought from the petitioner by the learned District & Sessions Judge, Swat and thereafter he was transferred to the Court of learned Civil Judge/Illaqa Qazi, Bahrain, Swat vide office order dated 09.10.2020. On the basis of report of the learned Presiding Officer of the Child Protection Court, Swat, the learned Senior Civil Judge (Admn), Swat, being the competent authority, initiated an inquiry against the petitioner with directions to him to appear before the Inquiry Officer/ Civil Judge-X, Swat Mr. Basharat Rauf and to submit reply to charge sheet. The petitioner was associated with the inquiry proceedings followed by the Show-cause notice and at the end, the inquiry report was submitted by the learned inquiry officer, and then the competent authority, while considering the recommendations of the learned Inquiry Officer against petitioner, imposed minor penalty of '*censure*' in terms of rule 4 (1)(a) (i) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011. This order was passed on 11.03.2021 while on 01.06.2021, the Reporting Officer in Para-III of the ACR for the period commencing from 23.06.2020 to 09.10.2020 marked at serial No. "d" (*not yet fit for promotion*) and Countersigning Officer agreed with the learned Reporting Officer.

6. Without going into the intricacies or perplexities of the matter, the case law relied upon by learned counsel for petitioner is not applicable to the facts and circumstances of the case rather it is a simple matter pertaining to the adverse remarks in ACR conveyed to the petitioner, for which, he has filed a representation before the learned Senior Civil Judge and same was dismissed on 02.11.2021. The instant petition was filed on 01.03.2022 with the assertion that this Court has got jurisdiction for sole reason that he was held "*not yet fit for promotion*". The contention of learned counsel for petitioner in view of the principle laid down by the apex Court in the cases of "Noor Elahi Vs. Director of Civilian Personnel Rear, Air Headquarter Peshawar and 02 others" (1997 SCMR 1749) and "Saeed Ahmad Vs. Federation of Pakistan" (1996 SCMR 256), is misconceived because the entries of service book could be challenged before the Tribunal but the petitioner was wrongly advised to file this petition. There is sky high difference between the entries of the service book on the basis of "Part-III" of ACR and the decision of Departmental Promotion Committee declaring an employee not fit for promotion, in such an eventuality, in the latter case, of course this Court has got the jurisdiction. Reliance may be placed on the principle enunciated in the cases of (i) Muhammad Anis and others v. Abdul Haseeb and others (PLD 1994 SC 539) (ii) Muhammad

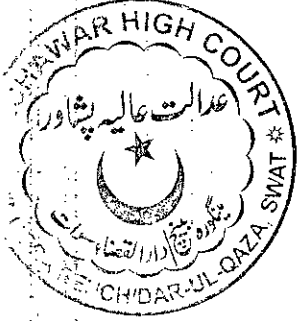


MA



Iqbal v. Executive District Officer (Revenue) (2007 SCMR 682) (iii) Syed Abdul Qadir Shah v. Government of Punjab (1972 SCMR 323) (iv) Mian Abdul Malik v. Dr. Sabir Zameer Siddiqui and others (1991 SCMR 1129) (v) Muhammad Akram and others v. The State and others (1996 SCMR 324). However, the case of the petitioner relates to the adverse remarks in the Service Book which falls within the jurisdiction of Tribunal which requires to be adjudicated upon under the Khyber Pakhtunkhwa Subordinate Judiciary Service Tribunal Act, 1991, which has got exclusive jurisdiction in the matter in terms of section 5 of the *ibid* Act. Perusal of record further reveals that the petitioner applied for certified copy of the order on 04.11.2021 and same was provided to him on same date but thereafter, he filed the instant petition on 01.03.2022. In accordance with section 7 of the *ibid* Act, the provisions of Limitation Act, 1908 i.e., sections 5 & 12 shall apply to the appeal filed under the *ibid* Act before the learned Tribunal. For presentation of appeal before the learned Tribunal neither there is any provision in the Act nor in the Khyber Pakhtunkhwa Subordinate Judiciary Service Tribunal Rules, 1992, however, keeping in view that the adverse entries/ remarks against the petitioner which of course is a recurring cause of action however, limitation for entertaining the appeal shall be dilated upon by the Tribunal, therefore, without making any discussion, office is directed to send the

same alongwith its enclosures to the Khyber Pakhtunkhwa Subordinate Judiciary Service Tribunal, where the fate of the adverse entry/remarks in Part-III of the ACR pertaining to specific period shall be decided, in accordance with law. Office shall retain a copy of instant petition for the record of this Court.



Announced
02.03.2023

JUDGE

JUDGE

Certified to be True Copy

EXAMINER
Peshawar High Court, Mingora/Dar-ul-Qaza, Swat
Authorized Under Article 07 of Qanun-e-Shahadat Order 1984

Office
8/3/2023


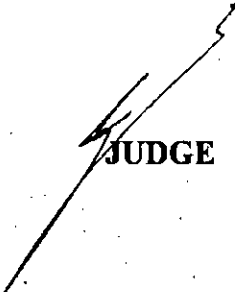

Sabz Ali/* (D.B)

HON'BLE MR. JUSTICE MUHAMMAD NAEEM ANWAR
HON'BLE MR. JUSTICE MUHAMMAD IJAZ KHAN

PESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT**FORM OF ORDER SHEET**

Court of

Case No. of




1	Date of Order or Proceedings 2	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary. 3
	07-06-2023	<p><u>W.P No. 257-M/2022.</u></p> <p>Present: Hafiz Bakht Amin, Advocate for the petitioner.</p> <p style="text-align: center;">*****</p> <p>Notice to the respondents for a short date in office.</p> <p style="text-align: right;"> JUDGE</p> <p style="text-align: right;"> JUDGE</p> <p style="text-align: center;">Certified to be True Copy</p> <p style="text-align: center;"> EXAMINER Peshawar High Court, Mingora/Dar-ul-Qaza, Swat Authorized Under Article 07 of Qanoon-e-Shahadat Order 1984</p>

PESHAWAR HIGH COURT, MINGORA BENCH
(DAR-UL-QAZA), SWAT

FORM OF ORDER SHEET

Court of

Case No..... of.....

Serial No. of order or proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
1	2	3
	19.09.2023	<p><u>W.P 257-M/2022</u></p> <p>Present: Hafiz Bakht Amin, Advocate for Petitioner.</p> <p>Khwaja Salah Uddin, A.A.G for the official respondents along with Mr. Sahid Sangum, Superintendent.</p> <p align="center">***</p> <p>The latter requests for adjournment as he could not prepare the instant case. In view of the above, this case is adjourned to 22.11.2023 with the directions to the latter to argue the case on the next date, positively.</p> <p align="right"> <u>JUDGE</u></p> <p align="right"> <u>JUDGE</u></p> <p align="center">Certified to be True Copy</p> <p align="center"> EXAMINER Peshawar High Court, Mingora/Dar-ul-Qaza, Swat Authorized Under Article 07 of Qanoun-e-Shahadat Order 1984</p>


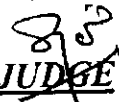
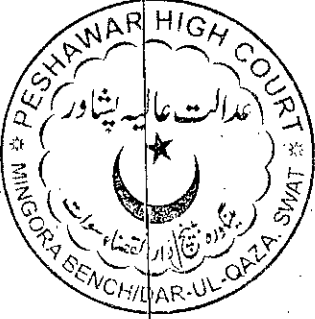

07/11/2019

PESHAWAR HIGH COURT, MINGORA BENCH
(DAR-UL-QAZA), SWAT

FORM OF ORDER SHEET

Court of

Case No of

Serial No. of order or proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
1	2	3
	22.11.2023	<p><u>W.P 257-M/2022</u></p> <p>Present: Hafiz Bakht Amin, Advocate for petitioner.</p> <p>Khwaja Salah Uddin, Additional A.G for the official respondents along with Mr. Shahid Sangum, Superintendent office of the DSJ, Swat.</p> <p align="center">***</p> <p>Comments of respondents are not available in the instant petition. Office is directed to locate the same and place it on record. Adjourned to 20.12.2023.</p> <p align="right">  JUDGE </p> <p align="right">  JUDGE </p> <p align="center">  </p> <p align="center"> Certified to be True Copy  EXAMINER Peshawar High Court, Mingora/Dar-ul-Qaza, Swat Authorized Under Article 07 of Qanoon-e-Shahadat Order 1984 </p>

Mushiq Ahmad/SSS*

(D.B)

HON'BLE MR. JUSTICE MUHAMMAD NAEEMANWAR
HON'BLE MR. JUSTICE SHAHID KHAN.

Office 23/11