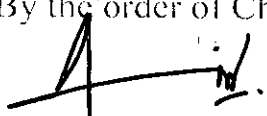


FORM OF ORDER SHEET

Court of _____

Appeal No. 108/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/01/2024	
		The appeal of Mr. Khalid Shah resubmitted today
		by Mr. Tariq Kakar Advocate. It is fixed for preliminary
		hearing before touring Single Bench at A.Abad on _____
		By the order of Chairman
		
		REGISTRAR

The appeal of Mr. Khalid Shah received today i.e on 01.01.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- ✓ Check list is not attached with the appeal.
- 2- ✓ Appeal has not been flagged/marked with annexures marks.
- 3- ✓ Memorandum of appeal is not signed by the appellant.
- 4- Annexures of the appeal are not in sequence.
- 5- Annexures of the appeal are unattested.
- 6- Memorandum of appeal is misprinted.
- 7- Page no 8 of the appeal is illegible.

No. 21 /S.T.

Dt. 2/1 /2024.



REGISTRAR
SERVICE TRIBUNAL
KHYBER-PAKHTUNKHWA
PESHAWAR.

Mr. Tariq Kakar Adv.
High Court Peshawar.

Sic, objection removed Resubmitted

Tariq Kakar
ASC

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

APPEAL NO. 108 /2023

Khalid Shah

.....APPELLANT

VERSUS

Director General Prosecution and others

.....RESPONDENTS

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Grounds of Appeal		1-4
2.	Affidavit		5
3.	Copy of Appointment order	A	6
4.	Copy of Application for lien dated 01.10.2022	B	7
5.	Copy of covering letter dated 04.10.2023	C	8
6.	Copy of Appeal dated 20.11.2023	D	9
7.	Copy of Order dated 07.12.2023	E	10
8.	Copy of application dated 18.09.2023	F	11
9.	Copy of Covering letter dated 18.09.2023	G	12
10.	Wakalat Nama		13

(APPELLANT)

THROUGH:


Tariq Kakar

Advocate,
Supreme Court of Pakistan
&


Tasleem Bibi

Advocate High Court at Abbottabad

Dated: 26.12.2023

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 108 /2023

Khalid Shah S/o Syed Ali Shah,
Naib Qasid (BPS-03),
DPP Office, District Battagram,

.....**APPELLANT**

VERSUS

- 1- Director General Prosecution, Khyber Pakhtunkhwa, Peshawar
- 2- District Public Prosecutor, District Battagram
- 3- Government of Khyber Pakhtunkhwa through Secretary Home,
Civil Secretariat, Peshawar

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST
THE IMPUGNED ORDER DATED 07.12.2023 PASSED BY
RESPONDENT NO. 1, WHEREBY THE REQUEST OF
APPELLANT OF LIEN AND RE-ADJUSTMENT WAS
REFUSED AND TURNED DOWN.

PRAYER:

ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED
ORDER DATED 07.12.2023 PASSED BY RESPONDENT NO.
1 MAY PLEASE BE SET ASIDE AND RESPONDENTS BE
DIRECTED TO GRANT LIEN AND RE-ADJUSTMENT IN THE
MATTER OF THE PETITIONER WITH COSTS
THROUGHOUT.

Respectfully Sheweth:

ON FACTS:

- 1- That the appellant was inducted in the respondents Prosecution Department as Naib Qasid (BPS-03). **(Copy of appointment letter is attached).**
- 2- That the appellant is a highly qualified person and also continued his efforts to apply to other posts proportionate to his qualification and the petitioner got succeeded in applying to the NADRA, where he was appointed as Deputy Assistant Director on Contract basis.
- 3- That the appellant submitted an application before the respondents on 18.09.2023, seeking grant of lien extension for one year. **(Copy of application dated 18.09.2023 is attached herewith).**
- 4- That receiving no response and reply of the application in the required period, the appellant submitted an appeal through proper channel on 20.11.2023 before the relevant respondent, which was duly processed and finally it was disposed off on 07.12.2023. **(Copy of order dated 07.12.2023).**
- 5- That feeling aggrieved from the order dated 07.12.2023 of the authority, the appellant beseeches the indulgence of this Hon'ble court inter-alia on the following grounds:-

GROUND:

- A- That the impugned order dated 07.12.2023 is illegal, against the law, facts, rules and regulation pertaining to the matter and as such is not sustainable in the eyes of law.
- B- That in the impugned order of the authority, it is held that the appellant was in probation period but this reason given is against the law as an employee of class-IV, could not be appointed on probation basis and even if, there is any condition mentioned in the appointment order, it is against the law and norms of justice and is not practicable.
- C- That the appellant is entitled for grant of lien and re-adjustment as per the law and rules on the subject and hence the refusal of the authority is not understandable.
- D- That when a right has been given and created by the law and developed in the case law of the superior courts, then such right is required to be extended in favour of the employee and as such refusal on the part of the respondents is discrimination and against the provisions of law.
- E- That the petitioner has not been treated in accordance with law and such behavior of the respondents creates anguish, acrimony, hate and despondency as the rights being bestowed by law is refused without any legal justification.
- F- That the petitioner seeks permission of this Honorable Tribunal to raise any other grounds available at the time of arguments.

4

It is therefore, most humbly prayed that on acceptance of this appeal, the impugned order dated 07.12.2023 passed by respondent no. 1 may please be set aside and respondents be directed to grant lien and re-adjustment in the matter of the petitioner with costs throughout.

(APPELLANT)

THROUGH:

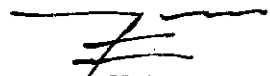


Tariq Kakar

Advocate,

Supreme Court of Pakistan

&



Tasleem Bibi

Advocate High Court at Abbottabad

Dated: 26.12.2023

(5)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____ /2023

Khalid Shah

.....**APPELLANT**

VERSUS

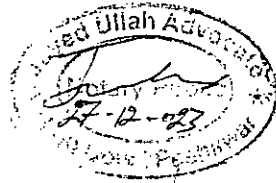
Director General Prosecution and others

.....**RESPONDENTS**

AFFIDAVIT

I, **Khalid Shah** S/o Syed Ali Shah, Naib Qasid (BPS-03), DPP Office, District Battagram, do hereby solemnly affirm and declare on Oath that the contents of the Appeal are true and correct and nothing has been concealed from this Hon'ble Tribunal.


DEPONENT





**DIRECTORATE OF PROSECUTION
KHYBER PAKHTUNKHWA**

No. DP/

Dated Peshawar 13/06/2022
Office Phone # 091-6212555/091-9212542
Fax # 091-6212553
E-mail: kpprosecution@whod.com

6

(A)

ORDER:

No. DP/ESA/1133/97/03-116 :- On the recommendations of Departmental Selection Committee (D.S.C), Mr. Khalid Shah aka Hyed Ali Shah is hereby appointed as Naib Qasid (BS-03) against the vacant post in the office of District Public Prosecutor, Battagram, as per Government rules/policy on the following terms & conditions:-


1. His Services shall be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Khyber Pakhtunkhwa Prosecution Service and the rules made there under.
2. He shall get pay at the minimum of BS-03 including usual allowances as admissible under the Rules. He shall also be entitled to annual increment as per existing policy.
3. He shall be initially, on probation for a period of one year extendable for a further period of one year.
4. In case he wishes to resign at any time, fourteen days (14) prior notice shall be necessary or in lieu thereof fourteen days (14) pay shall be forfeited.
5. He shall produce a medical certificate of fitness from Medical Superintendent of District Headquarter Hospital concerned and character certificate from two Gazetted Officers.
6. His retention in service will be subject to verification of his domicile and testimonials from the concerned authorities/offices.
7. His appointment is liable to be terminated at any time without assigning any reason before the expiry of the period of probation/extended period of probation, if his performance during this period is not found satisfactory.
8. He shall join duty at his own expenses.
9. If the offer of appointment is acceptable to him on above conditions, he should report for duty to the office of District Public Prosecutor, Battagram within 30 days of the issuance of this order.


-sd-
Director General Prosecution
Khyber Pakhtunkhwa

Ends: of Even No. & Date:

1. Copy forwarded for information to the:-
2. District Public Prosecutor, Battagram.
3. District Account Office, Battagram.
4. Manager, Employment Exchange Office Manshira.
5. Assistant Director IT, Directorate of Prosecution, Khyber Pakhtunkhwa.
6. PA to Director General Prosecution, Khyber Pakhtunkhwa.
7. Official Concerned.

ATTESTED


DISTRICT PUBLIC PROSECUTOR
Battagram.


Deputy Director Administration

(7)

بخدمت جناب ڈسٹرکٹ پبلک پراسیکیوٹر صاحب ضلع بنگرام
درخواست بمراد (Lien) عرصہ 01 سال

(B)

جناب عالی! درخواست ذیل عرض ہے۔

- 1- یہ کہ سائل کی تعیناتی بحیثیت نائب قاصد BPS-03 میں مورخہ 13.06.2022 کو ڈسٹرکٹ پبلک پراسیکیوٹر آفس بنگرام میں ہوئی تھی اور جو کہ مستقل آسامی ہے۔
- 2- یہ کہ سائل باقاعدگی سے اپنی ڈیوٹی سرانجام دے رہا ہے۔ (کاپی آرڈر معہ معاشری رپورٹ لف ہے)۔
- 3- یہ کہ سائل کی تعیناتی نادرا ڈیپارٹمنٹ میں ڈپٹی اسٹنٹ ڈائریکٹر DAD معاشی بنیاد پر ہوئی ہے۔ (نقل آرڈر لف ہے)۔
- 4- یہ کہ سائل کو Lien ایک سال کیلئے چھٹی درکار ہے۔
- 5- لہذا استدعا ہے کہ سائل کو Lien پر عرصہ 01 سال کیلئے چھٹی دینے کا حکم صادر فرمایا جائے۔

المرقوم 01.10.2022

خالد شاہ ولد سید علی شاہ (نائب قاصد BPS-03) ڈسٹرکٹ پبلک پراسیکیوٹر آفس بنگرام

رابطہ نمبر: 0344-2555225

The
District Public Prosecutor
Battagram

No: 435 01/10/2022/ DPP/BM.
Battagram Phone & Fax # 0997- 511711
Email: dppbattagram@gmail.com

To: The Worthy Director General Prosecution,
Home & Tribal Affairs Department,
Khyber Pakhtun Khwa, Peshawar.

Subject: APPLICATION OF MR. KHALID SHAH NAIB QASID
BPS-03 LIEN FOR ONE YEAR.

Respected Sir

I have the honour to Enclose find herewith an application in original along with other documents of Mr. Khalid Shah Naib Qasid BPS-03 of this office for lien one-year w.e.f. 01-10-2022 to 01-10-2023 / for further necessary action please.

o/c

District Public Prosecutor
Battagram

The
District Public Prosecutor
Battagram

No. 1435/04/10/2022/DPP/BM

Battagram, Phone & Fax # 0997-311711

To,

The worthy Director General Prosecutor,
Home & Tribal Affairs Department,
Khyber Pakhtunkhwa, Peshawar.

Subject: **APPLICATION OF MR. KHALID SHAH NAIB QASID BPS-03 LIEN FOR ONE YEAR.**

Respected Sir,

I have the honour to Enclose find herewith an application in original along with other documents of Mr. Khalid Shah Naib Qasid BPs-03 of this office for lien one year w.e.f. 01.10.2022 to 01.10.2023 for further necessary action please.

-sd-

District Public Prosecutor
Battagram

بخدمت جناب ایڈیشنل چیف سیکرٹری ہوم اینڈ ٹرائیکل آفیسرز ڈیپارٹمنٹ خیبر پختونخواہ پشاور

9

عنوان: اپیل برائے RE-ADJUSTMENT

جناب عالی!

- (1) یہ کہ سائل کی تعیناتی بحیثیت نائب قاصد BPS-03 پر مورخہ 13/06/2022 کو محکمہ پراسیکوشن DPP آفس ضلع بگرام میں ہوئی تھی۔ (نقل آرڈر لف ہے)
 - (2) یہ کہ سائل نے محکمہ نازرا میں ڈپٹی اسٹنٹ ڈائریکٹر کی پوسٹ کے لیے اپلائی کیا تھا جس میں سائل عارضی بنیاد پر بھرتی ہوا۔ (نقل آرڈر لف ہے)
 - (3) یہ کہ سائل نے مورخہ 01/10/2022 سے 01/10/2023 تک ایک سال کی مدت کیلئے lien کیلئے اپلائی کیا تھا۔ جسکی منظوری کالیئر سائل کو موصول نہیں ہوا۔ (نقل درخواست لف ہے)
 - (4) یہ کہ سائل نے ایک سال Lien کا وقت مکمل ہونے سے پہلے ایک اور درخواست بابت Lien، DPP آفس میں جمع کرائی۔ (نقل درخواست لف ہے)
 - (5) یہ کہ سائل کو بزرگیہ لیٹر نمبری DP/E&R /PF/12139 مورخہ 02/10/2023 کو معلوم ہوا کہ سائل کو نوکری سے برخواست کیا ہے۔ (نقل لیٹر لف ہے)
- لہذا استدعا ہے کہ سائل کو بحیثیت نائب قاصد DPP آفس میں Re-adjust کیا جائے۔ سائل تاحیات دعا گو رہے گا۔

المرقوم: 20-11-2023

خالد شاہ (نائب قاصد)

DPP office Battagram



DIRECTORATE OF PROSECUTION
GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

No. DP/ _____
Dated Peshawar the 27/12/2023
Office Landline#091-9212559

E

10

<https://prosecution.kp.gov.pk>

<https://prosecution.kp.gov.pk/>

<https://www.facebook.com/kp.prosecution>

<https://twitter.com/kp.prosecution>

ORDER:

No. DP/E&A/114725-27 WHEREAS, Mr. Khalid Shah, Ex-Naib Qasid (BPS-03) office of District Public Prosecutor, Battagram was appointed as Deputy Assistant Director at NADRA on 23-09-2022, and who had joined his new assignment without issuance of proper relieving order from this Directorate.

2. WHEREAS, he requested through filing of application dated: 18-09-2023 for extension in lieu w.e.f 01-10-2023 to 01-10-2024 which was turned down by the Competent Authority, on the ground that the ex-official had not completed his probation period in Prosecution Service and joined his new assignment as Deputy Assistant Director, NADRA on 03-10-2022, without intimation to this Directorate and proper relieving order by the Competent Authority. While, as per instructions with regard to retention of lien circulated vide letter No.SOR.I(S&GAD) 1-62/80, dated 17.4.1989, "lien of a civil servant can only be retained if he is a confirmed employee and is working against a permanent post and who applies to a post having higher pay-scale, through proper channel and on appointment he is relieved by the previous department". Thus, he already stands relieved of the post of Naib Qasid (BPS-03), District Public Prosecutor, Battagram w.e.f 03-10-2022.

3. AND WHEREAS, he has again approached this office through filing of appeal dated: 20-11-2023 en-route Home Department for re-adjustment against the post of Naib Qasid (BPS-03), which was examined in light of available office record and is found not tenable as it neither stands the test of scrutiny nor has any justification to hold grounds on merit.

4. NOW THEREFORE, in view of the above circumstance, appeal of the appellant is hereby, regretted by the Director General Prosecution Khyber Pakhtunkhwa being Competent Authority,

-Sd-

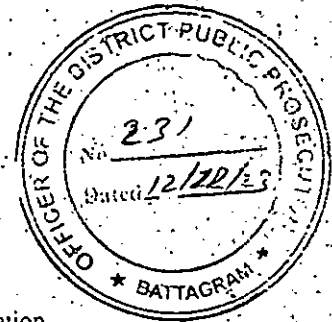
Director General Prosecution
Khyber Pakhtunkhwa.

Endst: of even No. dated:

Copy forwarded for information to the:

1. District Public Prosecutor, Battagram.
2. PS to Additional Chief Secretary, Home & Tribal Affairs Department.
3. PA to Director General Prosecution, Khyber Pakhtunkhwa.
- ✓ Official concerned.

Assistant Director Administration



DISTRICT PUBLIC PROSECUTOR
Battagram

F

11

بخدمت جناب DPP صاحب ضلع بنگرام

درخواست بمراد Lien Extention عرصہ ایک سال مزید

جناب عالی!

- 1- یہ کہ سائل کی تعیناتی بحیثیت نائب قاصد BPS-03 میں مورخہ 13-06-2022 کو DPP آفس بگرام میں ہوئی تھی جو کہ مستقل آسامی ہے۔ (کاپی آرڈر لف ہے)
 - 2- یہ کہ اس دوران سائل کی تعیناتی نادرا ڈیپارٹمنٹ میں بطور ڈپٹی اسٹنٹ ڈائریکٹر عارضی بنیاد پر ہوئی۔ (نقل آرڈر لف ہے)
 - 3- یہ اس سلسلے میں سائل نے مورخہ 01-10-2022 کو مورخہ 01-10-2023 تک ایک سال کے لیے Lien کی چھٹی لی تھی جس کی درخواست اور آفس لیٹر کی کاپی ہمراہ لف ہے۔
 - 4- یہ کہ مذکورہ Lien منظوری کی نقل تاحال سائل کو نہیں ملی۔
 - 5- یہ کہ اب سائل کی چھٹی Lien مورخہ 01-10-2023 کو پوری ہونے والی ہے۔
- لہذا بذریعہ درخواست استدعا ہے کہ سائل Lien چھٹی کو مزید 01 سال کے لیے مورخہ 01-10-2023 سے 01-10-2024 تک Extend کرنے کا حکم صادر فرمایا جاوے۔

الرقوم:

18-09-2023

خالد شاہ ولد سید علی شاہ (نائب قاصد BPS-03) ڈسٹرکٹ پبلک پرائیویٹ آفس بگرام

رابطہ نمبر: 0344-2555225

4 673

(12)

**District Prosecutor
Battagram**

The No: 529 18/109/2023/DPP/BM.
Battagram Phone & Fax # 0997- 311711
Email: dppbattagram@gmail.com

To,


The Director General Prosecution,
Home & Tribal Affairs Department,
Khyber Pakhtunkhwa, Peshawar.

Subject: -

**APPLICATION OF MR. KHALID SHAH NAIB QASID
BPS-03 LIEN FOR ONE YEAR.**

Respected Sir,

I have the honor to enclose find herewith an application in original along with other documents of Mr. Khalid Shah Naib Qasid BPS-03 of this office for lien one year w.e.f. 01-10-2023 to 01-10-2024 for further necessary please.


District Public Prosecutor
Battagram

وکالت نامہ

13

سروس سٹریٹ
بعدالت پشاور کورٹ پشاور

BC-10-8916

CNIC = 17301-5530636

Mob = 03149111011

مورخہ

مقدمہ

دعویٰ

جرم

مخانب اسپیلانٹ

نثار شاہ بنام ڈائریکٹر جنرل پراسیکیوشن

باعث تحرے آنکہ

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

آن مقام پشاور کیلئے طارق جاوید تسلیم جی میں ایڈووکیٹ

مقرر کر کے اقرار کیا جاتا ہے کہ وکیل موصوف کو مقدمہ کی کل کاروائی کا مکمل اختیار حاصل ہوگا نیز وکیل صاحب کو عرضی دعویٰ داخل کرنے، جواب دعویٰ، اپیل، نظر ثانی کا بھی اختیار حاصل ہوگا نیز وکیل صاحب بصورت ڈگری برخلاف من اختیار دہندہ اپیل، نگرانی، نظر ثانی از عدالت ابتداء تا عدالت انتہا یعنی سپریم کورٹ آف پاکستان دائر کر سکتا ہے وکیل موصوف بصورت عدم پیروی کاروائی یکطرفہ یا ڈگری یکطرفہ بخلاف درخواست دائر کر سکتا ہے اور وکیل موصوف میری جانب سے مقدمہ میں بصورت ڈگری چیک یا نقد روپیہ کی شکل میں وصولی کر سکے گا اور مزید یہ کہ وکیل موصوف مقدمہ متذکرہ کی کل یا جزوی کاروائی کیلئے اپنی بجائے دیگر وکیل بھی اپنے ساتھ مقرر کر سکتا ہے جس کو بھی وہ جملہ اختیار حاصل ہونگے جو کہ وکیل موصوف کو حاصل ہیں مجھے اس صورت میں تمام ساختہ پر داختم منظور و قبول ہوگا لہذا میں نے وکالت نامہ ہذا تحریر کر کے اس پر دستخط انشان انگشت ثبت کر دیا ہے تاکہ سند رہے۔

20

المرقوم 27

ماہ 12

وہ ال

کے لئے منظور ہے۔

Accepted
Accepted

بمقام

نثار شاہ وکیل سید علی شاہ
(petitioner)