

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 858/2019

Date of Institution ... 20.06.2019

Date of Decision ... 17.09.2019

Jehanzeb Naib Qasid son of Ayub Khan R/O village Shahbaz Azamat Khel, District Bannu. ... (Appellant).

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Law, Parliamentary Affairs & Human Rights Peshawar and others. ... (Respondents)

Present.

Mr. Bahlol Khattak,
Advocate.

... For appellant

MR. HAMID FAROOQ DURRANI,

... CHAIRMAN

JUDGMENTHAMID FAROOQ DURRANI, CHAIRMAN:-

1. The facts as noted in the memorandum of appeal suggest that the appellant was appointed as Naib Qasid in the office of Additional Advocate General at Bannu on 01.10.2011. On 15.12.2016, he was implicated in a criminal case registered through FIR No. 790 dated 15.12.2014 recorded u/s 302/324/148/149 PPC P.S Saddar, District Bannu. Subsequently, the appellant was arrested and was acquitted from the court of competent jurisdiction on 28.03.2018. After acquittal he visited his office for resumption of duty where he came to know that he was already removed from service through order dated 01.06.2017. A departmental appeal was submitted by the appellant which remained undecided.

2. Learned counsel for the appellant heard and available record gone through.

3. It is available on record that the appellant was proceeded against departmentally on account of absence from duty. The absence attributable to the appellant in the charge sheet was 07 days in October, 2016, 08 days in November, 2016, 14 days in December, 2016 and whole months of January and February 2017. Evidently, the absence of appellant was for periods before the lodging of FIR on 15.12.2016 while, admittedly, he remained absconder for one year three months and thirteen days. The appellant was arrested on 24.02.2018 and was acquitted on 28.03.2018. On the other hand, the charge sheet and statement of allegations were dispatched to the appellant through his home address on 03.03.2017 which returned undelivered due to his abscondance. Subsequently, notices were published in two newspapers requiring the resumption of duty by appellant, but to no avail. The impugned order of removal from service was issued against the appellant on 01.06.2017 i.e. much before his arrest and confinement.

4. It is also a matter of record that the departmental representation for reinstatement into service was preferred by the appellant on 26.04.2018 which was not responded to. In the circumstances, the appellant was obligated to have preferred the service appeal within time prescribed by law but he opted to submit the appeal in hand on 20.06.2016, much beyond a period of one year from the date of submission of departmental representation/appeal. The appeal in hand is, therefore, barred by time and on this score alone does not warrant admission for regular hearing. It is resultantly dismissed in limine.

File be consigned to the record room.



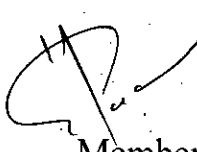


(HAMID FAROOQ DURRANI)
CHAIRMAN

Form- A
FORM OF ORDER SHEET

Court of _____

Case No.- 858/2019

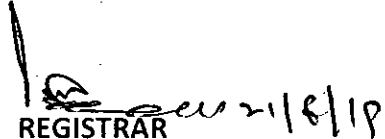
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	27/06/2019	<p>The appeal of Mr. Jehanzeb Khan resubmitted today by Mr. Bahlol Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR >> 16/19</p>
2-	02.08.2019	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>02/08/19</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Learned counsel for the appellant present. Heard.</p> <p>During the course of arguments it transpired that the appellant was absconder in criminal case when he was removed from service vide order dated 01.06.2017. The appellant allegedly filed departmental appeal on 25.04.2018. Learned counsel for the appellant seeks adjournment to assist this Tribunal on the issue of limitation/maintainability of the present service appeal. Adjourn. To come up for preliminary hearing on 17.09.20.19 before S.B.</p> <p style="text-align: right;"> Member</p>

The appeal of Mr. Jehanzeb Naib Qasid son of Ayub Khan r/o village Shahbaz Azmat Khel District Bannu received today i.e. on 20.06.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Law under which appeal is filed is not mentioned.
- 2- Memorandum of appeal may be got signed by the appellant.
- 3- Address of respondent no. 4 is incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 4- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.

No. 1110 /S.T,

Dt. 21-6- /2019.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Bahlol Khattak Advo. Peshawar.

objections removed
and Appeal is re-submitted on
27.6.2019
Bahlol

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

Service Appeal No. 858 /2019

Jahanzeb Khan..... Appellant
Versus

Government of KP and others..... Respondents

I N D E X

S.No.	Description of documents.	Annexure	Pages.
1	Grounds of appeal.		1-3
3	Addresses of the parties.		4
4	Copy of appointment Order dated 01.10.2011	A	5
5	Copy of FIR No.790 dated 15.12.2016	B	6
6	Copy of order sheet dated 28.03.2018	C	7-11
7	Copy of dismissal order dated: 01.06.2017	D	12
8	Copy of show cause notice dated 31.01.2017	E	13
9	Copy of committee and charge sheet	F & G	14-15
10	Copy of statement of allegation	H	16
11	Copy of departmental appeal	I	17-18
12	Wakalatnama.		19

Appellant
Jahanzeb (Wahid Qasid)
S/o Ayub Khan r/o
Village Shahbaz Azmat
Khel, District Bannu

Dated: _____

through

Bahlol
Bahlol Khattak
Advocate Supreme Court
Of Pakistan Peshawar.

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK,
PESHAWAR

Service Appeal No. 858 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 870

Dated 20-6-2019

Jahanzeb (Naib Qasid)
S/O Ayub Khan
R/o Village Shahbaz Azmat Khel,
District Bannu

..... Appellant

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Law, Parliamentary Affairs & Human Rights Peshawar
2. The Advocate General Khyber Pakhtunkhwa
3. The Accountant General Khyber Pakhtunkhwa
4. The Additional Advocate General Khyber Pakhtunkhwa Bannu.
5. The District Accounts Officer Bannu.
6. Mr. Sajid Naib Qasid Additional Advocate General office Bannu Cantt

..... Respondents

Subject: **APPEAL UNDER SECTION 4 (1) SERVICE TRIBUNAL ACT, 1974 FOR RE-INSTATEMENT OF PETITIONER / APPELLANT INTO SERVICE.**

Filed to-day

Registrar
20/6/19

Respectfully Sheweth:

- 1) That the appellant was appointed as Naib Qasid in the office of Additional Advocate General Bannu on 1.10.2011. (Annexure A copy attached).
- 2) That the appellant performed his duties honestly and regularly without no complaint.


Re-submitted to-day and filed.

Registrar
20/6/19

- 3) That on 15.12.2016, the appellant was falsely implicated in a murder case vide FIR N.790 dated 15.12.2016 U/S 302/324/148/149 PPC PS Saddar District Bannu. (Copy of FIR is enclosed as Annexure B).
- 4) That later on the appellant was arrested in the above stated case.
- 5) That on 28.03.2018, the appellant was acquitted from the court of ASJ-II Bannu vide judgment dated 28.03.2018. (Copy of judgment is Annexed as Annexure C).
- 6) That after acquittal from the court the appellant went to his office for resuming his duty, but to his utter surprise, he came to know that the department has dismissed the appellant from service vide order dated 01.06.2017. (Copy enclosed as Annexure D).
- 7) That the show cause notice was issued on 31.01.2017 by the Assistant advocate General Bannu. (Copy of show cause is annexure E).
- 8) That the Advocate General KP constitute Committee under Rule 10(1)(a) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 for inquiry on 03.03.2017 and framed the charge sheet accordingly. (Copies are attached as Annexure F & G).
- 9) That afterward statement of allegation was served upon the appellant by the A.G Khyber Pakhtunwa.(Copy is attached as annexure H).
- 10) That appellant submitted his departmental appeal but the result of the same is still awaited. (Annexure I).
- 11) That the appellant is a poor person having no other source of income.

- 12) That if the appellant is not re-instated then the entire family would suffer from starvation.
- 13) That the appellant has been condemned unheard and no opportunity of personal hearing has been provided, which is the requirement of law, justice and equity.
- 14) That due to fear of enemies; appellant was unable to attend his office and to perform duties.
- 15) That this honorable Service Tribunal has vast powers to re-instate the appellant as being a poor person.

It is therefore, humbly prayed that on acceptance of this appeal the appellant may kindly be re instated on his job.

Appellant

Jahanzeb (Naib Qasid)
 S/o Ayub Khan r/o
 Village Shahbaz Azmat
 Khel, District Bannu

Dated: _____

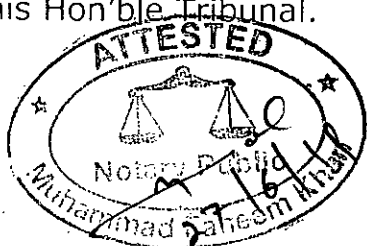
through

Behlol

Behlol Khattak
 Advocate Supreme Court
 Of Pakistan Peshawar.

AFFIDAVIT

I, Jahanzeb (Naib Qasid) S/o Ayub Khan r/o Village Shahbaz Azmat Khel, District Bannu, do hereby affirm and declare on oath that the contents of the application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Deponent

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

Service Appeal No. _____/2019

Jahanzeb Khan..... Appellant

Versus

Government of KP and others..... Respondents

ADDRESSES OF THE PARTIES

APPELLANT:

Jahanzeb (Naib Qasid)
S/o Ayub Khan r/o
Village Shahbaz Azmat
Khel, District Bannu

RESPONDENTS:

- 1) Government of Khyber Pakhtunkhwa through Secretary Law, Parliamentary Affairs & Human Rights Peshawar.
- 2) The Advocate General Khyber Pakhtunkhwa.
- 3) The Accountant General Khyber Pakhtunkhwa.
- 4) The Additional Advocate General Khyber Pakhtunkhwa. **Bannu**
- 5) The District Accounts Officer Bannu.
- 6) Mr. Sajid Naib Qasid Additional Advocate General Office Bannu Cantt

Appellant
Jahanzeb (Naib Qasid)
S/o Ayub Khan r/o
Village Shahbaz Azmat
Khel, District Bannu

Dated: **9/06/2019**

Through

Bahlol
Bahlol Khattak
Advocate Supreme Court
Of Pakistan Peshawar.

A) دس

OFFICE ORDER

On the recommendations of the Departmental Selection Committee, Mr. Jehanzeb S/O Ayub Khan is hereby appointed as Naib Qasid (BPS-J1) against the vacant post in the office of the Additional Advocate General, Khyber Pakhtunkhwa, Bannu with immediate effect on the following terms and conditions:-

1. He will get pay at the minimum of BPS-01, including usual allowances as admissible under the rules. He will be entitled to annual increment as per existing policy.
2. The appointment is subject to the antecedent's verification of the appointee.
3. He shall be governed by the NWFP, Civil Servants Act, 1973 and all the laws applicable to the Civil Servants and Rules made there under.
4. He shall, for all intents and purposes, be a Civil Servant except for purpose of pension and gratuity. In lieu of pension and gratuity, he shall be entitled to receive such amount as would be contributed by him towards Contributory Provident Fund (C.P. Fund) alongwith the contributions made by Government.
5. He shall produce Medical Certificate of fitness before the assumption of charge.
6. In case, he wishes to resign at any time, 14-days notice will be necessary or in lieu thereof 14-days pay will be forfeited.
7. He has to join duties at his own expenses.
8. If he accepts the post on the above terms and conditions, he may report for duty in the office of Additional Advocate General, Khyber Pakhtunkhwa, Bannu within fifteen (15) days of receipt of this offer. In case of failure, this office order shall stand withdrawn.

Attested
 Zari Dullu
 Deputy Advocate General
 Bannu

ADVOCATE-GENERAL,
 KHYBER PAKHTUNKHWA,
 PESHAWAR.

No. 9962-09 IAG,

dated Peshawar the 01/02/2011

A copy is forwarded for information and necessary action to the:

1. Additional Advocate General, Khyber Pakhtunkhwa, Bannu.
2. Deputy Advocate General, Khyber Pakhtunkhwa, Bannu.
3. District Comptroller of Accounts, Bannu.
4. Mr. Jehanzeb S/O Ayub Khan, Resident of Shahbaz Azmat Khel, Tehsil & District Bannu.
5. Relevant file.
6. Personal File.

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Attested
 ADVOCATE-GENERAL,
 KHYBER PAKHTUNKHWA,
 PESHAWAR.

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انسپیکٹر جنرل پولیس صوبہ سرحد فارم نمبر ۷۳

گورنمنٹ پولیس ایٹاور جاب نمبر 19/540/فارم نمبر۔ تعداد دو ہزار چھتر سو۔ مورخہ 23 مارچ 2006ء پی فور (فارم سٹور جاہز) ضمنی فارم (پولیس)

فارم نمبر ۲۴-۵ (۱)

ابتدائی اطلاعی رپورٹ

کاؤنٹر فائل

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زبردفعہ
مجموعہ ضابطہ فوجداری

ضلع: بنوں

تھانہ: صدر

وقت 16:39 بجے

تاریخ وقت وقوعہ: 15/12/2016

علت نمبر: 790

چا کیدگی پرچہ 15/12/2016 وقت 19:50 بجے	تاریخ وقت رپورٹ: 15/12/2016 وقت 18:40 بجے
شیرمان ولد محمد راعلی سکنہ شہباز عظمت خیل بھر 27/28 سال	نام و سکونت اطلاع دہندہ مستغیث
PPC 302/148/149	مختصر کیفیت جرم (معد دفعہ) حال اگر کچھ لیا گیا ہو۔
اراضی ازاں فرمان خان واقع شہباز عظمت خیل	جائے وقوعہ فاصلہ تھانہ سے اور سمت:-
(1) شہباز خان ولد محمد ایاز (2) خانداد علی ولد لوبان (3) خوب نواز ولد محمد ایاز (4) پرویز (5) جہانزیب عرف مجیب پسران ایوب خان ساکنان شہباز عظمت خیل	نام و سکونت ملزم
بر رسیدگی مراسلہ رپورٹ پر پرچہ دیا گیا	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو
بہ منزلہ اسپیشل رپورٹ	تھانہ سے روانگی کی تاریخ وقت

ابتدائی اطلاع نیچے درج کرو۔

اس وقت ایک تحریری مراسلہ رپورٹ بغرض قائمی مقدمہ منجانب شیراز خان ASI بدست کانسٹیبل ظہور 5916 موصول ہو کر ذیل ہے۔
رپورٹ ریزمان ولد محمد راعلی سکنہ شہباز عظمت خیل بھر 27/28 سال قومی شناختی کارڈ نمبر NIL موبائل نمبر
0334-5898208 آج مورخہ 15/12/2016 بوقت 18:40 بجے ہمراہ نعش ماقتولین والد اش محمد راعلی برادر اش مریم خان
بمقام سول ہسپتال بنوں رپورٹ کرتا ہے کہ امروز عصر دیہہ میں مع والد ام محمد راعلی برادر ام مریم خان خانہ ماموں ام حقدار خان کے گھر
سے خانہ خود آ رہے تھے جب بمقام اراضی ازاں فرمان خان پہنچے تو وہاں پر پہلے سے موجود مسمیان (1) شہباز خان ولد محمد ایاز (2)
خانداد علی ولد لوبان (3) خوب نواز ولد محمد ایاز (4) پرویز (5) جہانزیب عرف مجیب پسران ایوب خان ساکنان شہباز عظمت خیل مسلح
بہ کلاشنکوف جن کو مسمی شہباز خانداد علی نے حکم دیا کہ مارو بیچ کر نہ جائے تو مسمیان خوب نواز پرویز جہانزیب نے اپنے اپنے کلاشنکوف
سے بوقت 16:30 بجے ہم پر بہ نیت قتل فائرنگ شروع کی جن کی فائرنگ سے والد ام محمد راعلی برادر ام مریم خان لگ کر شدید زخمی ہو کر
گر پڑا جبکہ میں خوش قسمتی سے بچ گیا بعد وقوعہ ملزمان موقع سے چلے گئے جب میں والد ام برادر ام کو سنبھالتے ہی زخمت کی تاب نہ
لائے ہوئے بر موقع جاں بحق ہوئے وجہ عداوت یہ ہے کہ 3/4 گھنٹے قبل برادر ام عدنان اور حیدر علی کے درمیان ہاتھ پائی ہوئی تھی بدیں
وجہ وقوعہ ہذا رونما ہوا ہے میں والد ام برادر ام کی قتل اور اپنے اوپر بہ نیت قتل فائرنگ کرنے کا برخلاف ہر پانچ بالا کسان ملزمان متذکرہ بالا
دعویدار ہوں العبد نشان انگوٹھا کارروائی پولیس بدوران گشت وقوعہ ہذا کی اطلاع پا کر فوراً مع نفری پولیس سول ہسپتال بنوں آیا مقتول بالا
کے ساتھ موجود مدعی بالا رپورٹ حرف بحرف ضبط تحریر میں لاکر بذبان اش پڑھ کر سنائی سمجھائی جانے پر صحت رپورٹ درست تسلیم کر کے
زیر رپورٹ خود اپنا نشان انگوٹھا ثبت کیا جس کی میں تصدیق کرتا ہوں

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مقتولین ہائے کے کاغذات مرگ علیحدہ علیحدہ مرتب کر کے بغرض پوسٹ مارٹم زیر حفاظت کانسٹیبل عمران
5921 حوالہ ڈاکٹر صاحب کئے جاتے ہیں، مضمون رپورٹ سے صورت جرم P P C
302-324/148-149 کی پائی جا کر مراسلہ رپورٹ واسطے قائمی مقدمہ تفتیش بدست کانسٹیبل ظہور
5916 ارسال تھانہ ہے، دستخط انگریزی، شیراز خان ASI صدر مورخہ 15/12/2016 کارروائی تھانہ پس
برسیدگی مراسلہ رپورٹ پرچہ بجر ائم بالا چاک ہو کر نقول FIR بغرض تفتیش حوالہ BBI سٹاف کئے جاتے ہیں،
پرچہ بمنزلہ اسپیشل رپورٹ گزارش ہے، دستخط انگریزی 12/12/2016 ASI-PS-Sdr

7

FORM "A"
FORM OF ORDER SHEET

IN THE COURT OF MR. RIAZ AHMAD, ASJ-II, BANNU

Sessions Case No. 83 of 2017

The State... Vs... Khob Nawaz Etc

Serial No. of Order or Proceeding	Date of Order or Proceeding	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
ORDER-27	28/03/2018	

Mr. Noor Salam Khan APP for the state, accused facing trial Khob Nawaz, Khander Ali, Shamtiarz, Jahanzeb alias Muhib and Parvez on bail present.

Accused facing trial named above being charged in the instant case FIR No. 790 dated 15-12-2016 U/S 302/324/148/149PPC of Police Station, Sadder, Bannu seek their acquittal on the basis of compromise.

Allegations against the accused facing trial are that on 15-12-2016 at about 16.30 hours, at the field of Farman Khan situated at Shahbaz Azmat Khel Bannu, falling within the criminal jurisdiction of Police station, Sadder, Bannu, the accused facing trial Shamtiarz Khan and Khander Ali while empty handed whereas rest of the accused persons duly armed with deadly weapons, in prosecution of common object, at the command of the accused Shamtiarz and Khander Ali rest of the accused persons committed the murder of Muhammad Rali (father of the complainant) and Mamrez Khan (brother of the complainant) and also attempted to commit the murder of the complainant which proved ineffective by firing at them with

28/03/018
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Copies
District & Sessions Judge
Bannu
7-4-18

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28

Serial No
of Order or
Proceeding

Date of
Order or
Proceeding

Order or other Proceedings with Signature of Judge or Magistrate and that of parties or
counsel where necessary

Order No.27 dated 28-03-2018 Continued

weapons. Hence, the instant case FIR was registered against the
accused.

Perusal of the records reveals that on 05-03-2018 the
sole major legal heirs of the deceased Muhammad Raji Khan i.e.
Adnan (son), Mst. Mamtaza, Mst. Romana and Mst. Inshada
(daughters) appeared and submitted affidavit Ex PA-1 and
Proforma Ex PB-1 stating therein that they have effected a
genuine compromise with the accused facing trial outside the
court and have pardoned the accused facing trial in the name
of Almighty Allah by waiving off right of Qisas and Diyat and
would have got no objection if the accused persons are acquitted
from the charges leveled against them. To this effect their joint
statement recorded wherein affidavit Ex PA-1, Proforma Ex PB-
1, Fitwa Ex PF-1, copies of CNIC of elders/identifiers Umer
Nawaz Khan and Barkat Ali are Ex PD and Ex PC, whereas
copies of CNICs of Adnan Khan EX PE and Mst. Mamtaza EX
PF were exhibited.

Handwritten signature and date: 28/03/2018

On the same date Adnan Khan and Abdur Rehman
(special attorneys on behalf of Sherman "complainant/legal
heir/son of the deceased") also appeared and submitted Special
Power of Attorney Ex PP, affidavit Ex PG duly attested through
embassy of Abu Dhabi and stated before the court that they

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District & Sessions Judge
Banni
7-4-18

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To Be True Copy
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Serial No. of Order or Proceeding Date of Order or Proceeding

Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary

Order No.27 dated 28-03-2018 Continued

being special attorneys on behalf of the complainant/legal heir son of the deceased Muhammad Rali Khan, who is abroad for earning his livelihood and he has also effected a genuine compromise with the accused named above and has pardoned the accused facing trial in the name of Almighty Allah by waiving off his right of Qisas and Diyat, to this effect their joint statement was also recorded and placed on file.

28/03/018
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Similarly on 05-03-2018 the sole major legal heir of the deceased Mamrez Khan i.e. Mst. Shabnem Bibi (widow) appeared and submitted compromise deed/affidavit Ex PA and proforma Ex PB stating therein that she has also effected genuine compromise with the accused named above and has pardoned the accused facing trial in the name of Almighty Allah by waiving off her right of Qisas and Diyat and would have got no objection if the accused facing trial are acquitted from the charges leveled against them. She also stated that deceased have also survived minor's sons and the accused party has mutated landed property in lieu of Diyat amount according to their shari shares in their names. She produced mutation Ex PM. To this effect her statement got recorded, wherein affidavit Ex PA, proforma Ex PB, Fitwa Ex PF, copies of CNIC of elders/identifiers namely Umer Nawaz and Barkat Ali Khan are

District Sessions Judge
Faisalabad
7-4-18

ATTESTED
To Be True Copy
[Handwritten signature]

Serial No. of Order or Proceeding

Date of Order or Proceeding

Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary

Order No.27 dated 28-03-2018 Continued

Ex PD and Ex PC and token of the widow is Ex PT are exhibited.

Similarly as per direction of this court Patwari Halqa concerned namely Farid Ullah appeared and verified the mutation Ex PM and to this effect his statement was recorded and placed on file.

The SHO concerned as per direction of this court also submitted report in respect of verification of factum of compromise among the parties and list of legal heirs of the deceased.

Since the offences with which the accused facing trial are charged are compoundable and legal heirs of both the deceased have effected a genuine compromise with the accused persons, which is without duress, undue influence or coercion and is in the best interest of both the parties, therefore, the compromise is accepted and without touching merits of the case, the accused namely Khob Nawaz, Khander Ali, Shamtiaz, Jahanzeb alias Muhib and Parvez are acquitted from the charges leveled against them on the basis of compromise. They are on bail, their bail bonds stand cancelled and sureties thereof are absolved from the liability of bail bonds. Case property, be kept intact till the expiry of period of

28/03/018
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ATTESTED

Copyist
District & Sessions Judge
Bareilly
7-4-18

ATTESTED

To Be True Copy

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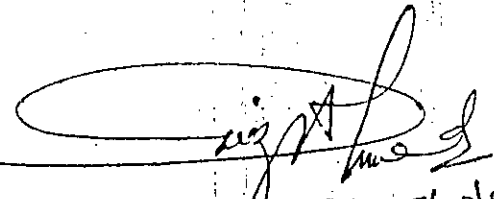
Serial No. of Order or Proceeding
Date of Order or Proceeding

Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary

Order No.27 dated 28-03-2018 Continued

appeal revision and thereafter be disposed off in accordance with law. File be consigned to record room after its necessary completion and compilation.

Announced
28-03-2018



(RIAZ AHMAB)

28/03/18

Additional Session Judge-II, Bannu

ATTESTED
District & Sessions Judge
Bannu

7-4-18

- 1- Registration No: 7280
- 2- Date of Presentation of Application 7-4-18
- 3- Date of Receipt of the file 7-4-18
- 4- Date of Presentation of appeal 7-4-18
- 5- Date of Disposal of appeal 7-4-18
- 6- No. of appeal
- 7- Ordinary
- 8- Extraordinary
- 9- Appeal
- 10- Revision

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12
Annexure

OFFICE OF THE ADVOCATE-GENERAL, KHYBER PAKHTUNKHWA, PESHAWAR

OFFICE ORDER

Whereas, you (Mr. Jehanzeb, Naib Qasid), office of the Additional Advocate General, Khyber Pakhtunkhwa, Bannu had been absent from official duties which detail has been given in the Charge Sheet and Statement of Allegations;

And whereas, Charge Sheet and Statement of Allegations were dispatched on your home address vide correspondence bearing No. 3515-19/AG, dated 03/03/2017 directing you therein to submit your written defence to the Enquiry Committee within seven (07) days;

And whereas, the said mail returned undelivered to you on the reason that you were absconder and not available in your home/village;

And whereas, a reply was also received to this office on 09/03/2017 requesting therein that you have been implicated in a Criminal Case and are absconder. Therefore, you may be placed under suspension rather than to remove/dismiss him;

And whereas, a notice was published in two (02) Newspapers (Daily AAJ and MASHRIQ) directing you to resume your duties within fifteen (15) days of the publication of this notice but you failed to resume your official duties within the target period which has already expired.

And whereas, I as the Competent Authority am left with no option but to exercise the powers conferred upon him under rule 9 of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011;

Now, therefore, in pursuance to rule 9 of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011 and in exercise of all other powers enabling me in that behalf, I, the Advocate General, Khyber Pakhtunkhwa, as the Competent Authority, do hereby remove you (Mr. Jehanzeb, Naib Qasid) from service with immediate effect.

ADVOCATE GENERAL
KHYBER PAKHTUNKHWA, PESHAWAR

Endst. No. 9284-86 IAG

Dated, Peshawar, the 01/06/2017

Copy to the:

1. Additional Advocate General, Khyber Pakhtunkhwa, Bannu.
2. District Accounts Officer, Bannu.
3. Mr. Jehanzeb, Naib Qasid, Additional Advocate General Office, Khyber Pakhtunkhwa, Bannu.

ADVOCATE GENERAL
KHYBER PAKHTUNKHWA, PESHAWAR

Annexure "E" 13



**OFFICE OF THE ADDITIONAL ADVOCATE GENERAL, KHYBER
PAKHTUNKHWA, BANNU**

No. 30 /AAG

Dated Bannu, the 30/01/2014

Tel. No. 0928-9270387, 9270154

Fax No. 0928- 9270387

To,

Mr. Jehanzeb
Naib Qasid,
AAG Office Bannu.

SUBJECT: **Show Cause Notice**

Memo:

It has been observed by the undersigned that you do not take proper interest in your official duties, which is creating problems for the undersigned as well as for the learned Additional Advocate General. Moreover, you have been absent from duty for more than one month without giving any leave application / intimation to the undersigned. Also before this incessant absence, you were a habitual leave hunter and often remained absent for 2-3 days per week without the consent of the undersigned.

You, are, therefore, directed to submit your reply within seven days of this show cause notice, failing which, it will be presumed that you have nothing to say in your defence and then the matter would be submitted before the competent authority for action in accordance with law.

Qudratullah
**Assistant Advocate General
Khyber Pakhtunkhwa,
Bannu**

Copy to:-

- The learned Advocate General, Khyber Pakhtunkhwa, Peshawar.

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Annexure F-14



OFFICE OF THE ADVOCATE-GENERAL, KHYBER PAKHTUNKHWA, PESHAWAR

No. 3515-19 /AG

Dated Peshawar, the 03rd March, 2017

Address: High Court Building, Peshawar.
Tel. No. 091-9210119

Exchange No 9213833
Fax No. 091-9210270

OFFICE ORDER

I, the Competent Authority, under rule 10(1)(a) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, hereby constitute an Inquiry Committee comprising the following officers to conduct enquiry against Mr. Jehanzeb, Naib Qasid, office of the Additional Advocate General, Khyber Pakhtunkhwa, Bannu in the matter of unauthorized absence from official duties as detailed in the Charge Sheet / Statement of Allegations.

1. Mr. Muhammad Arshad Khan, Administrative Officer of this office.
2. Mr. Ahmad Khan, Computer Operator of this office.

Mr. Ahmad Waliullah, Library Assistant, office of the Additional Advocate General, Khyber Pakhtunkhwa, Bannu is also appointed as departmental representative to assist the Inquiry Committee in this regard as provided in rule 10 (1) (c) of the said rules.

The Inquiry Committee is further directed to submit the inquiry report/findings in the matter in accordance with the provisions of rule 11 (7) of the ibid rules.

ADVOCATE GENERAL,
KHYBER PAKHTUNKHWA, PESHAWAR.
(COMPETENT AUTHORITY)

Endst. No. & date even

A copy is forwarded for information and necessary action to:

1. The Assistant Advocate General, Khyber Pakhtunkhwa, Bannu.
2. Mr. Muhammad Arshad Khan, Administrative Officer of this office.
3. Mr. Ahmad Khan, Computer Operator of this office.
4. Mr. Ahmad Waliullah, Library Assistant, Additional Advocate General Office, Khyber Pakhtunkhwa, Bannu.
5. Mr. Jehanzeb, Naib Qasid, Additional Advocate General Office, Khyber Pakhtunkhwa, Bannu.

ADVOCATE GENERAL,
KHYBER PAKHTUNKHWA, PESHAWAR.
(COMPETENT AUTHORITY)

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Annexure → G 15

OFFICE OF THE ADVOCATE-GENERAL, KHYBER PAKHTUNKHWA,
PESHAWAR

CHARGE SHEET

I, Abdul Latif Yousafzai, Advocate General, Khyber Pakhtunkhwa, as the Competent Authority, hereby charge you, Mr. Jehanzeb, Naib Qasid, Additional Advocate General Office, Khyber Pakhtunkhwa, Bannu as follows.

1. That as reported by the Assistant Advocate General, Khyber Pakhtunkhwa, Bannu vide letter No. 35/AAG, dated 08/02/2017 and subsequent attendance sheet for February, 2016, received through FAX on 28/02/2017, you are absent since 07/10/2016 to 28/02/2017 from official duties for eighty eight (88) days without any intimation or taking proper permission of the Competent Authority. The break-up is as under.

S.No	Month	Dates remained absent on
1.	October, 2016 (07-days)	07,08,10,13,15,28,29
2.	November, 2016 (08-days)	04,05,09,11,12,14,19,30
3.	December, 2016 (14-days)	02,03,13,14,15,16,17,19,20, 21,22,23,24,26
4.	January, 2017	(whole month)
5.	February, 2017	(whole month)

2. That such attitude clearly shows that you are intentionally and without any genuine cause avoiding to attend the office.
3. That your conduct is highly objectionable and against the Efficiency and Discipline Rules as given in the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011.
4. You are, therefore, required to submit your written defence within seven (07) days of the receipt of this Charge Sheet to the Inquiry Committee.
5. Your written defence, if any, should reach the Inquiry Committee within the specified period, failing which, it shall be presumed that you have accepted the charges leveled against you and have no defence to offer. In that case ex-parte action shall be taken against you as per available record, in accordance with law.
6. You are also directed to intimate as to whether you desire to be heard in person or otherwise?
7. The Statement of Allegations is also enclosed herewith.

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ADVOCATE GENERAL,
KHYBER PAKHTUNKHWA, PESHAWAR.
(COMPETENT AUTHORITY)

Annexure H-16

OFFICE OF THE ADVOCATE-GENERAL, KHYBER PAKHTUNKHWA,
PESHAWAR

STATEMENT OF ALLEGATIONS

I, Abdul Latif Yousafzai, Advocate General, Khyber Pakhtunkhwa, as the Competent Authority am of the opinion that Mr. Jehanzeb, Naib Qasid of the Additional Advocate General Office, Khyber Pakhtunkhwa, Bannu has rendered himself liable to be proceeded against as he has committed the following acts/omissions within the meaning of rule-3(d) of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011.

1. That as reported by the Assistant Advocate General, Khyber Pakhtunkhwa, Bannu vide letter No. 35/AAG, dated 08/02/2017 and subsequent attendance sheet for February, 2016, received through FAX on 28/02/2017, you are absent since 07/10/2016 to 28/02/2017 from official duties for eighty eight (88) days without any intimation or taking proper permission of the Competent Authority. The break-up is as under.

S.No	Month	Dates remained absent on
1.	October, 2016 (07-days)	07,08,10,13,15,28,29
2.	November, 2016 (08-days)	04,05,09,11,12,14,19,30
3.	December, 2016 (14-days)	02,03,13,14,15,16,17,19,20,21,22,23,24,26
4.	January, 2017	(whole month)
5.	February, 2017	(whole month)

2. For the purpose of inquiry against him with reference to the above allegations, the following Officers are hereby nominated as Inquiry Committee under rule 10(1)(a) of the ibid rules.
 - a. Mr. Muhammad Arshad Khan, Administrative Officer of this office.
 - b. Mr. Ahmad Khan, Computer Operator of this office.
3. The Inquiry Committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty (30) days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
4. The accused as well as Mr. Ahmad Waliullah, Library Assistant of the Additional Advocate General Office, Khyber Pakhtunkhwa, Bannu shall join the proceedings on the date, time and place fixed by the Inquiry Committee.

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ADVOCATE GENERAL,
KHYBER PAKHTUNKHWA, PESHAWAR.
(COMPETENT AUTHORITY)



THE ADVOCATE GENERAL,
KHYBER PAKHTUNKHAWA, PESHAWAR.

To,

Subject: DEPARTMENTAL REPRESENTATION FOR THE REINSTATEMENT INTO SERVICE.

Respected Sir;

1. That I was serving as a Naib-Qasid in the office of the Additional Advocate General Bannu since 01-10-2011.
2. That on 15-12-2016 I was falsely charged in murder case vide F.I.R No. 790, PS Saddar.
(Copy of the FIR is annexure "A").
3. That due to fear of my enemies, I was unable to attend my office and perform my duties.
4. That on 28-03-2018, I was acquitted by the Honourable Court of the Additional Sessions Judge-II Bannu, and the instant case was dropped against all the accused including me.
(Copy of the order is annexure "B").
5. That soon after my acquittal in the instant case, I came to my office on 29-03-2018 for resuming my duties but unfortunately, I was shocked to know that I have been removed from service vide order dated 01-06-2017 on account of my prolong absence. In the meanwhile, I also submitted my arrival report to the Additional Advocate General Bannu, on 29-03-2018, but he refused to accept my arrival report.
(Copy of the arrival report and impugned order is annexure "C & C1").

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6. That I had performed my duties very regularly, honestly and diligently, for seven years.
7. That absence from duty was not willful but due to fear of my enemies and police Department.
8. That I have a transparent and unblemished service record and have served the department for 7 long years.
9. That I am a very poor person, having no source of income.

Therefore, it is most humbly requested that I am kindly be reinstated into my service with all back benefits.

Yours Humbly



Jehanzeb
Naib Qasid Additional
Advocate General
Office Khyber Pakhtunkhawa
Bannu

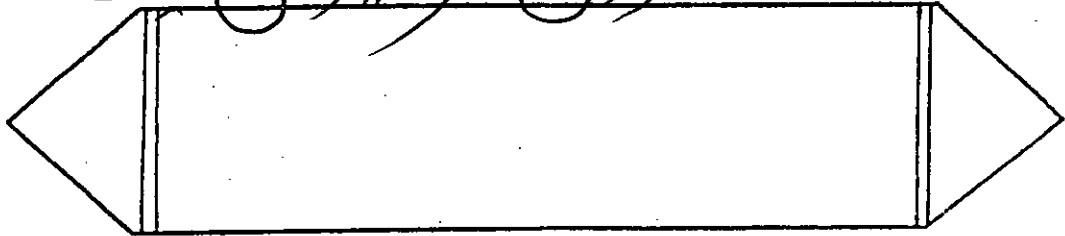
Dated: 25-04-2018

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بعدالت سرورل ٹریبیونل سناور



Appellant ² منجانب
جہانزیب خان بنام گورنمنٹ آف کپک

موزخہ
مقدمہ
دعویٰ
جرم
سرورس اپیل

باعث تحریر آئنگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام سناور کیلئے پہلول خٹک الاولکیت
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا ادکالت نامہ لکھد یا کہ سندر ہے۔

الرقوم 19 ماہ 06 2019

واہ العی

Affected
Bahlol

کے لئے منظور ہے۔

بمقام سناور

جہانزیب خان ولد ابو خان

OFFICE OF THE
ASSISTANT DIRECTOR FOOD,
BANNU DIVISION, BANNU.

75

TO BE SUBSTITUTE EVEN DATE AND NUMBER

Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar

NOTIFICATION.

WHEREAS, on finality of disciplinary proceedings under Khyber Pakhtunkhwa E&D Rules-2011 major penalty of removal from service was imposed upon Mr. Pervez Khan Ex-Lab Attendant, GHS No. 1 District Bannu by the DEO (M) Bannu vide Notification No. 3142-48 dated 6.4.2017.

AND WHEREAS, the said aggrieved Lab Attendant filed a departmental appeals dated 16.4.2018 to the DEO (M) Bannu/Director E&SE Khyber Pakhtunkhwa Peshawar received from DEO (M) Bannu vide letter No. 3812 dated 26.4.2018 for redressal of his grievances/reinstatement in service.

AND WHEREAS, the appellate authority in pursuance of Section 17 read with sub rule (1) & (2) of the E&D Rules-2011 called for the record of the case and comments from the concerned DEO vide letter No. 6066 dated 28.05.2018 for consideration of the appeal.

AND WHEREAS, the DEO concerned provided the requisite record/comments accordingly vide his letter No. 5278 dated 11.6.2018.

AND WHEREAS, from the perusal of the record it was disclosed that the appellant was charged under section PPC-302/ vide FIR No. 790 dated 15/12/2016 Police Station Sadr Bannu and he was required to be kept under suspension through a specific order during the period when he was not actually detained as required under FR-53(b). Which was not done by DEO (M) Bannu.

AND WHEREAS, consequent upon his acquittal from the charges by the Honorable Additional Sessions Judge-II, Bannu vide Judgment dated 28.3.2018, Pervez Khan Ex-Lab Attendant, GHS No. 1 District Bannu has become liable for reinstatement under the provision of relevant rules.


Now therefore, the Director E&SE Khyber Pakhtunkhwa Peshawar, the Appellant Authority, under section-17 read with rules 2(b) of E&D Rules-2011 has decided to set aside the major penalty imposed by the DEO (M) Bannu vide Notification No. 3142-48 dated 6.4.2017 and reinstate Mr. Pervez Khan Ex-Workshop Attendant, GHS No. 1 District Bannu in service w.e.f 19.05.2016. The absconding period from 15.12.2016 to 23.2.2018 is treated as EOL without pay in favour of appellant Mr. Pervez Lab Attendant GHS No.1 Bannu.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

3513-17
Endst: No. _____ /F.No. /A-20/C-IV/Appeal/Bannu Dated Peshawar the 17/8 2018.

Copy of the above is forwarded for information and n/action to the:-

- 6- District Education Officer (Male) Bannu w/r to his letter NO. 5278 dated 11.6.2018.
- 7- District Accounts Officer Bannu.
- 8- Headmaster GHS No. 1 District Bannu.
- 9- Appellant concerned.
- 10- PA to the Director E&SE Khyber Pakhtunkhwa Peshawar.


Assistant Director (Admn)
E&SE, Khyber Pakhtunkhwa, Peshawar
22/2/2018

بعدالت

سروس ٹریبونل لیساور

جہانزیب خان بنام گورنمنٹ وغیرہ
2019ء پنجاب مدعا

موزخہ
مقدمہ
دعویٰ
ایم

باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آج مقام پشاور کیلئے حضرت ایب خان / محمد شاہ سعید الدو لیس

مقررہ کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو رضی نامہ کرنے و تقرر ثالثیت و فیصلہ برحلق دیئے جواب دہی اور اقبال دعویٰ اور
بادورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نرائی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا سہلت
یا اخذ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا اوکالت نامہ لکھ دیا کہ سند ہے۔

Handwritten signature and initials.

Handwritten signature and initials.

الترتوم 2 ماہ اگست 2019

واہ العی

پشاور

جہانزیب خان