

1/1/24

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.1424 of 2023

Khyber Pakhtunkhwa  
Service Tribunal

Rahmat Gul S/O Said Gul

Diary No. 11037 (Appellant)

Dated 7/2/24

**Versus**

Superintending Engineer,  
C&W Saidu Sharif, District Swat and others

..... (Respondents)

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Deponent



Engr: Naveed Mehmood,  
Sub Divisional Officer  
C&W Sub Division Malakand.

**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR**

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**Versus**

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**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 to 6**

Respectfully Sheweth,

**FACTS:-**

1. Yes it's true that Mr. Rahmat Gul S/O Said Gul (herein after called appellant) was appointed as DRR Cleaner in BPS-02 under Employees Son's Quota by the Superintending Engineer C&W Circle Swat (Appointing Authority) vide his Office Order No.438/4-E, Dated 26/09/2012 (Copy of Appointment Order Attached as Annexure-A).
2. Salaries were not paid as after arrival, the whereabouts of the appellant was not known and due to continuous absentee from Govt: Duty, the appellant has been directed several times to resume his duty vide Executive Engineer C&W Division Malakand Office letter No 804/5-E, Dated 20/11/2012 and No.895/4-E, Dated 11/12/2012 as the appellant has proceeded abroad. It is true that Senior Civil Judge dismissed the Case on 16/04/2018 due to non jurisdiction (Copy of Notices Served to appellant and computerized Air Port Arrival attached as (Annexure-B).
3. It is true that the appellant ceases to be a Govt: Employee vide Superintending Engineer C&W Circle Swat Vide letter No.1396/4-E, Dated 26/12/2013 due to continuous absentee from Govt: Duty and proceeding abroad without prior permission within probation period (Copy of termination order attached as Annexure-C).
4. Subject to proof.

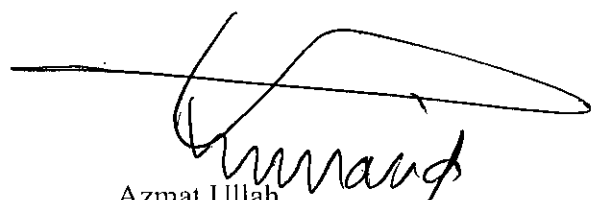
- 5. Subject to proof.
- 6. No comments.

**GROUND**

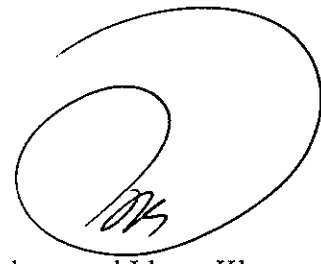
- a) It is incorrect, the order of dismissal of the appellant was as per E&D Rules as the appellant proceeded abroad and absent from Govt: Duty for 11-Months within a probation period and power of dismissal is vested in Superintending Engineer (Appointing Authority) (Annexure C).
- b) Proceeding abroad during a probation period without prior permission /availing Ex-Pakistan Leave Rules is not the theme of Govt: Employee and within a probation period, the appellant was dismissed in the Court of Senior Civil Judge due to non jurisdiction.
- c) As per above.
- d) As per point “(b)”.
- e) Point “e” is correct to the extent of minor discipline fault on part of Govt: employee but in the subject case appellant was proceeded abroad within a probation period for 11-Months without prior permission / NOC Ex-Pakistan Leave Rules.
- f) The Appellant should have availed Ex-Pakistan Leave Rules or Medical Leaves.
- g) As per point “ f” above.
- h) Notices were served an appellant to Explain / resume his duty as per (Annexure-B) and Office Employee was sent to the House of appellant time and again to resume his duty but he was not found in his house. He remained abroad for 11 months. (Ticket Attached as Annexure-B).
- i) This Statement is contrary to statement “F” of the appellant in which appellant claimed himself that he was unable to perform his duties while in this statement he claim that he was performing his duties with great zeal zest and devotion.
- j) The transfer order which was issued erroneously by the than Sub Divisional Officer concerned was immediately with drawn vide this office order No.349/3-E Dated 09/12/2014 as the official has been terminated vide Superintending Engineer C&W Circle Swat (Copy attached as Annexure-D).
- k) As per Statement “(I)”.

- l) The statement is subject to proof that how the Office Order issued by Superintending Engineer vide his office No.1396, has bogus / illegal (**Annexure-C**).
- m) The respondents would like to seek permission of this Hon'able Court to adhere more grounds during the time of arguments.

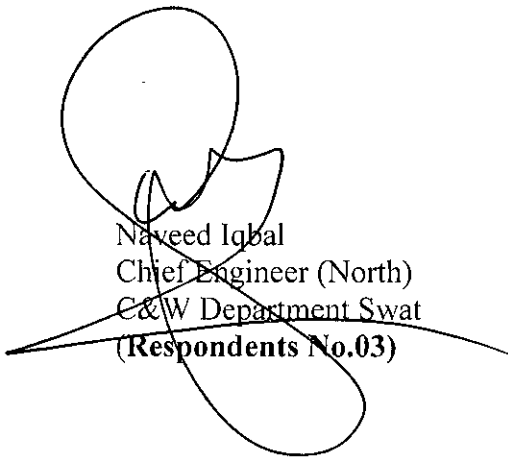
In view of the above Parawise Comments, the appeal my kindly be dismissed.



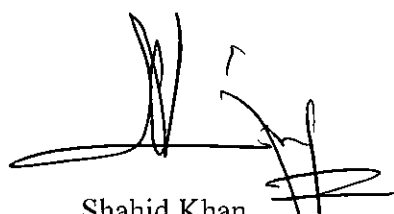
Azmat Ullah  
Superintending Engineer,  
C&W Circle Malakand at Batkhela  
**(Respondents No.01)**




Muhammad Idrees Khan  
Secretary C&W  
Govt: of Khyber Pakhtunkhwa  
**(Respondent No.02)**




Naveed Iqbal  
Chief Engineer (North)  
C&W Department Swat  
**(Respondents No.03)**



Shahid Khan  
Deputy Commissioner  
Malakand at Batkhela  
**(Respondents No.04)**



Riaz Wali Singh  
Executive Engineer,  
C&W Division Malakand at Batkhela  
**(Respondents No.05)**



Naveed Mehmood  
Sub Divisional Officer  
C&W Sub Division Malakand  
**(Respondent No.06)**

(4)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No.1424 of 2023**

Rahmat Gul S/O Said Gul

.....

(Appellant)

**Versus**

Superintending Engineer,  
C&W Circle Malakand and others

.....

(Respondents)

**AFFIDAVIT**


I, Engr, Naveed Mehmood Sub Divisional Officer, C&W Sub Division Malakand at Batkhela (Respondent No.05) do hereby affirm and declare that all the contents of the Parawise comments are correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

It is further stated on oath that in this appeal, the answering respondent neither has been placed ex-party nor their defence has been struck off.

Deponent

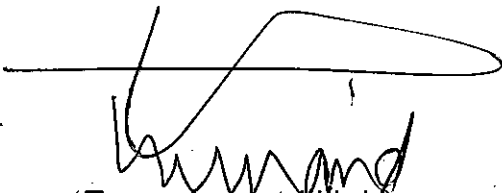


Naveed Mehmood,  
Sub Divisional Officer  
C&W Sub Division  
Malakand at Batkhela  
(Respondent No.05)

  
**SHEHRYAR KHAN**  
Oath Commissioner  
Distt: Courts Malakand  
No: 1 Date: 02/02/24

**AUTHORITY LETTER**

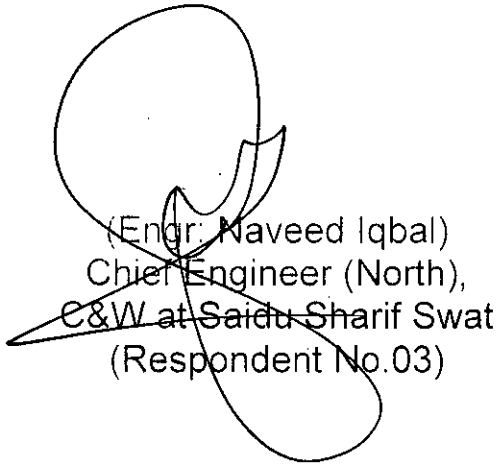
Engr. Naveed Mehmood, Sub Divisional Officer, C&W Sub Division Malakand is hereby authorized to attend the Khyber PakhtunKhwa Service Tribunal Peshawar and file the Parawise Comments in Case Titled "Rehmat Gul S/O Said Gul V/S Govt: of Khyber PakhtunKhwa"



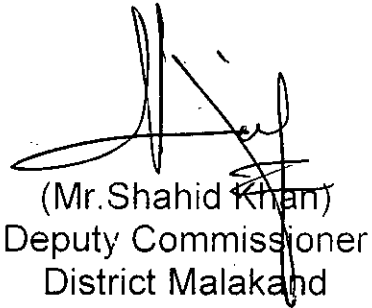
(Engr: Azmat Ullah)  
Superintending Engineer  
C&W Circle Malakand  
(Respondent No.01)



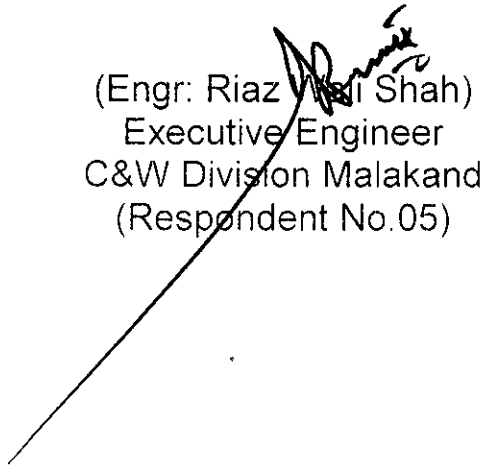
(Muhammad Idrees Khan)  
Secretary C&W,  
Govt: of Khyber PakhtunKhwa  
(Respondent No.02)



(Engr: Naveed Iqbal)  
Chief Engineer (North),  
C&W at Saidu Sharif Swat  
(Respondent No.03)



(Mr. Shahid Khan)  
Deputy Commissioner  
District Malakand  
(Respondent No.04)



(Engr: Riaz Wali Shah)  
Executive Engineer  
C&W Division Malakand  
(Respondent No.05)



(Engr: Naveed Mehmood)  
Sub Divisional Officer  
C&W Sub Division Malakand  
(Respondent No.06)



19

(11)

**OFFICE OF THE SUPERINTENDING ENGINEER**  
**C&W CIRCLE SWAT**

(Phone & Fax No. 0946-9240114)

NO. 438 /14-E,

Dated: 26 /09 /2012:

**OFFICE ORDER.**

Under the provision of Rules-6 (b) of the District Government Rules of Business 2001, as per recommendation of Departmental Selection Committee in its meeting held on 30/08/2012, the Superintending Engineer C&W Circle Swat/Chairman DPC/DSC Malakand (Appointing Authority) vide Government of NWFP (Now KPK) Establishment & Administrative Department, Peshawar Notification No. 6/ E&AD/ 1-3/ 2007, dated 22.03.2007 is pleased to appoint Mr. Rahmat Gul S/o Said Gul R/O Banj Banda Malakand Tehsil Batkhela District Malakand (Ex-Employee Son) as DRR-Cleaner (BPS-02) (viz Rs.4900-170-10000) plus usual allowances as admissible under the rules, on the following terms and conditions:-

- 1) You will get pay at the minimum of BPS-02 (Rs.4900-170-10000) plus usual allowances as admissible under the Rules. You will also be entitled to the annual increment as per existing policy.
- 2) You shall, be governed by the Khyber Pakhtunkhwa Civil Servant Act-1973 and the laws applicable to the Civil Servants and made there under.
- 3) You shall, for all intents and purposes, be a Civil Servant, except for purpose of pension or gratuity, you will be entitled to receive such as amount contributed by you towards contributory provident Fund (C.P.F) along with the contributions made by the Government to your account in the said fund, in the prescribed manner and rates, fixed by the Government from time to time.
- 4) Your Employment in the Communication & Works Department is temporary and your services are liable to be terminated without assigning any reason at fourteen (14) days prior notice or on the payment of 14- days salary in lieu thereof 14- days pay will be forfeited.
- 5) You will, initially be on probation for period of Two years extendable up-to 3- years.
- 6) To produce a Medical Certificate fitness from Medical Superintendent Distt Head Quarter Hospital Batkhela, before reporting for duty as required under the rules.
- 7) You should to join duty at your own expenses.
- 8) You will have to serve any where in Khyber Pakhtunkhwa Province.

If you accept the post on the above terms and conditions you should report to Executive Engineer C&W Division Malakand within 14- days of the receipt of this offer and produce original Certificates in support of your qualification, domicile and health/age etc.

\_\_\_\_\_  
SUPERINTENDING ENGINEER,

Copy forwarded to the: -

1. District Coordination Officer, Malakand.
2. Executive District Officer, (Health) DHQ Hospital Malakand.
- ✓ 3. Executive Engineer C&W Division, Malakand.
4. Agency Account Officer, Malakand.
5. Official concerned.

For information and necessary action please.

\_\_\_\_\_  
SUPERINTENDING ENGINEER,

*Alister*  
*6*

(3) (7) (11) (13)

OFFICE OF THE EXECUTIVE ENGINEER,  
COMMUNICATION & WORKS DIVISION MALAKAND.  
Ph# 0932-412486; Fax# 0932-411905 Email: [cwmkd2010@gmail.com](mailto:cwmkd2010@gmail.com).

No. 824 15-15

Dated Malakand the 20 / 03 / 2012.

To,

*Rahmat Said*  
Mr. Mohammed Gul  
Cleaner office of Sub Divisional Office  
C&W Sub Division No.1 Malakand.

Subject:- ABSENCE FROM GOVT: DUTY.

It has been come to the notice of the undersigned that you <sup>are</sup> have absent from your duty from last several days without any permission / intimation from this office as well as from your Sub-Divisional Officer incharge.

You are hereby directed with this notice to attend your duty within 3-days of the receipt of this notice and also explain your position for willful absence from Govt: duty, otherwise action will be taken against you under E&D Rules 2011.

Copy forwarded for information to :-

*[Signature]*  
EXECUTIVE ENGINEER

1. The Sub Divisional Officer C&W Sub Division No.1 Malakand for information and he is directed, to watch the activities of the official concerned.
2. The Divisional Accounts Officer (Local) for information and he is directed to stop the pay of the above named official.

EXECUTIVE ENGINEER



8 22 14

**OFFICE OF THE EXECUTIVE ENGINEER,  
COMMUNICATION & WORKS DIVISION MALAKAND.**  
Ph# 0932-412486, Fnx# 0932-411905 Email: civmkd2010@gmail.com

No. 895 15-E

Dated Malakand the 11/12/2012.

To

Mr. Rehmat Gul Cleaner,  
S/O Said Gul, Village Bunj Banda,  
Rangmala District Malakand.

Subject: - ABSENCE FROM GOVT DUTY

Reference:- This office letter No.804/5-E, dated 20/11/2012.

You are still continuously absent from your duty inspite of laps of 15- days  
of from the date of issue of letter vide reference quoted above.

You are therefore directed again to attend the duty forthwith and explain  
the reason for your willful absence otherwise disciplinary action would be taken against  
you E&D Rules 2011.

*[Signature]*  
EXECUTIVE ENGINEER

Copy forwarded to :-

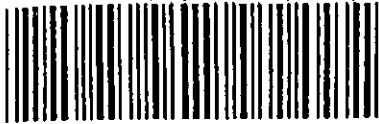
1. The Sub Divisional Officer C&W Sub Division Malakand No-1. He is directed to report this office from further progress of the case.
2. The Divisional Accounts Officer (Local) for information and necessary action.

EXECUTIVE ENGINEER

SHAHEEN AIR INTERNATIONAL

ECONOMY CONFIRM E-TICKET

PNR: 3CLCAD



DATE OF ISSUE : 30-AUG-13  
 TRAVELS (RUH)  
 PRINTED AT : 30-Aug-2013  
 20:03:22

SHAHEEN AIR  
 Change is in the air

OUTBOUND FLIGHT DETAIL

FLIGHT	ORIGIN/DESTINATION	DATE	TIME	CLASS	FARE	STATUS	Extra Bagg.
NL724	RUH / PEW	06-SEP-13	07:00 AM	Economy	SAR 689	CONFIRM	
CURRENT TICKET VALUE:					SAR 689		
TICKET NO.	PASSENGER NAME	PP# / NIC	ALLOW BAG.	FARE	COUPON 1		
7404209731073	GUL RAHMAT / MR	pk	refer below	SAR 689	CONFIRM		

PASSENGER CONTACT NO. : Origin: +966553378518 , Destination: +920  
 REMARKS :

E-Booking by E-BIN GHAITH TRAVELS (RUH) (ebnghalthtruh4) on 30-aug-2013 19:51  
 E-Ticket Created at : 30-08-2013 07:57 PM

Total Amount : SAR 689

Agent Name : E-BIN GHAITH TRAVELS (RUH) Address : PRINCE SULTAN STREET, RIYADH, SAUDI ARABIA  
 Phone : 4640011 Contact Person : MR. RAISUR RAHMAN  
 Thank you for your payment. You can contact E-BIN GHAITH TRAVELS (RUH) ( MR. RAISUR ) at 4640011 for modifications and refund.

Terms & Conditions of Carriage

Passengers must check-in 3:00 Hours before scheduled flight departure time to avoid inconvenience. Check-in counter close before 1:30 Hours of flight departure.  
 All passengers are required to show their Passport at check-in and boarding.  
 Tickets are non-transferable and non-endorsable, and are subject to the following terms and limits:  
 All tickets expire 30 days after flight date. Expired tickets have no value whatsoever and cannot be refunded, cancelled or changed.  
 If outbound segment is not traveled for international travel, the return segment will be cancelled.  
 Shaheen Air International(SAI) assumes no liability for valuable items in the checked and unchecked baggage of the passenger.  
 Flight duration or flight times shown in the ticket or elsewhere or making connections are not guaranteed.  
 For denied or delayed boarding or cancelled or delayed flight, SAI can be obligated to pay compensation only as per Conditions of Carriage.  
 I (passenger) hereby indemnify and hold harmless SAI from any claim beyond the limits provided in the Conditions of Carriage.  
 I (passenger) have read and accept the Conditions of Carriage available on SAI website <http://www.shaheenair.com> or on request from SAI city offices. These Conditions also give notice about the limit of liability of SAI. I understand that purchase of the ticket forms a contract with SAI as per the terms herein and the Conditions of Carriage.  
 Additional non-refundable amount equivalent to 2.2% of the Fare (i.e. SAR 15.00) will be charged for tickets purchased through credit/debit card.  
 Refund will be processed at the place of issuance of ticket on production of the original ticket with the necessary endorsement of SAI.  
 All known taxes are collected at the time of reservation, however there may be some taxes which are collected at Airport on departure.  
 Prior to Ticket Expiration, tickets may be changed or refunded with the following fees applied:

Ticket Refund & Change Policy	Refunds	Modifications
Within 6 Hours of flight departure, and after the flight departure upto 29 days.	86.79	86.79
After 6 Hours to 48 Hours before flight departure.	60.38	60.38
More than 48 hours before flight departure.	30.19	30.19
30 days after flight departure	NO REFUNDS	NO CHANGES

BAGGAGE WEIGHT LIMITATION
RIYADH / PESHAWAR - 55KG ( 02 Piece(s) )
Additional fees apply for all excess baggage.
Baggage size limit L+W+H=62 inches per piece
Baggage must not contain prohibited / dangerous articles
Carry on baggage L+H+W=45 inches. Max weight 7 Kg.

Fees apply for each passenger. For change or refund, NIC / Passport must be provided by all passengers. All charges applicable on gross fare.  
 Original Passport is required for refund of International Ticket(s).

For travel changes, passengers pay the change fee PLUS the difference in the fare. Same fare is not guaranteed.  
 Any E-ticket can not be refunded or changed 3 hours before and 7 hours after the departure of flight.

DAMAGED / MISSING BAGGAGE CLAIM :

Claim is to be submitted on "Baggage Claim Form-Revised" as under or else it will be inadmissible:  
 Damage: Within 3 days (for domestic flight) or within 7 days (for international flight) from the receipt of baggage.  
 Missing/Delayed: within 14 days (for domestic flight) and within 21 days (for international flight) from the date baggage ought to have arrived.  
 Compensation will be paid as per the Conditions of Carriage.

THANK YOU FOR TRAVELING WITH SHAHEEN AIR +92-21-111808080

<http://eticket.shaheenair.com/res/printerFriendlyFinal.php?i=1>

8/30/2013

*Alister*



(10) 25  
OFFICE OF THE SUPERINTENDING ENGINEER  
C&W CIRCLE SWAT

(Phone & Fax No. 0946-9240114)

NO. 1396 /4-E, Dated: 25/12/2013 (12) (10)

To,

The Executive Engineer,  
C&W Division, Malakand. ✓

Subject: APPOINTMENT OF DRR CLEANER (BPS-02).

Ref: Your letter No.150/5-E, dated 05-12-2013.

It is very much disappointing to note that after appointment on 26-09-2013 the Cleaner Mr. Rehmat Gul was proceeded abroad on 01-10-2012 and remained absent upto 06-09-2013 about more than 11 (Eleven Months) during the probation period without any permission of the competent authority / Leave sanction. Nor any action has been taken by your office neither the case about his long absence during the probation period reported to this office.

Therefore due to long absence and going abroad without permission of the competent authority / Leave sanction, he ceases to be in Govt: employee.

*HC*  
*Discuss*  
*9/11/14*  
*27/12*

*2145/S.E.*  
*9/11/2014*

*RE*

*[Signature]*  
SUPERINTENDING ENGINEER,

*Alwka*  
*[Signature]*

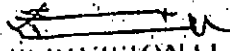
OFFICE OF THE SUB-DIVISIONAL OFFICER C&W SUB DIVN NO.1 MALAKAND

NO. 349 /3-E

Dated Malakand the 09 /12/2014

OFFICE ORDER

The office order issued vide this office letter No.340/3-E dated: 08-12-2014 is hereby withdrawn.

  
SUB-DIVISIONAL OFFICER  
C&W SUB DIVISION NO. 1 MALAKAND

Copy forwarded to Executive Engineer C&W Division Malakand for information please.

SUB-DIVISIONAL OFFICER  
C&W SUB DIVISION NO. 1 MALAKAND

*Asw*  
