

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
CAMP COURT SWAT

Service Appeal No. 811/2015

Date of Institution... 14.07.2015

Date of decision... 06.12.2017

Mst. Afroz wife of Syed Muhammad Khan resident of Village Dangram, Tehsil Babuzai, District Swat.. ... (Appellant)

Versus

1. Peshawar High Court, Peshawar , through its Registrar, Peshawar High Court Peshawar and other one ... (Respondents)

MR. Muhammad Javid Khan,  
Advocate ... For appellant.

MR. KABIRULLAH KHATTAK,  
Addl Advocate General ... For respondents.

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN  
MR. MUHAMMAD HAMID MUGHAL, ... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellant is aggrieved from order dated 17.12.2013 whereby his services were terminated being in probation. Against this order she filed departmental appeal on 15.01.2014 which was rejected on 15.06.2015 and thereafter, the appellant filed the present service appeal on 14.07.2015.

### ARGUMENTS

3. The learned counsel for the appellant argued that though the appellant was terminated during probation but, at least, she should have been given a show cause notice. In this regard, the learned counsel for the appellant relied upon some judgments reported as 2012 PLC (C.S) 839, and 2003 PLC (C.S) 1421. He also pressed into service another judgment reported as 1981-SCMR-523 in which the probationer was reverted and it was held that the probationer could not be reverted to the lower post.

4. On the other hand the learned Addl. Advocate General argued that the appellant has rightly been terminated due to her bad performance during her period of probation. That no convincing ground has been put forth by the appellant or by learned counsel for the appellant for reversal of the impugned order.

### CONCLUSION

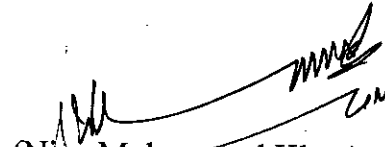
5. Admittedly the appellant was in probation. The impugned order would show that no stigma was attributed to the appellant. This order was passed on the basis of her non satisfactory work. According to Section 11 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, the services of a civil servant may be terminated without notice during the initial or extended period of probation. The first two judgments relied upon by the learned counsel for the appellant deal with such situation when some stigma is attributed to the civil servant during period of probation which is not the case here. The judgment reported as 1981-SCMR. 523

deals with different situation in which the appointment order was cancelled for being illegal. Hence this judgment is also not applicable.

As a consequence of the above discussion, this appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.



(Muhammad Hamid Mughal)  
Member




(Niaz Muhammad Khan)  
Chairman  
Camp Court, Swat

ANNOUNCED  
06.12.2017

811/2015


03.05.2017


Mr. Sher Afzal, father of the appellant, on behalf of the appellant present. Mr. Ajab Khan, Computer Operator alongwith Mian Amir Qadar, Deputy Attorney for the respondents also present. Due to non-availability of learned counsel for the appellant as well as incomplete bench arguments could not be heard. To come up for arguments on 05.09.2017 before D.B at Camp Court Swat.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER  
Camp Court Swat

05.09.2017

Counsel for the appellant and Mr. Muhammad Zubair, District Attorney for the respondents present. Counsel for the appellant seeks adjournment. Adjourned.. To come up for final hearing on 06.12.2017 before the D.B at camp court, Swat.

  
Member


  
Chairman  
Camp court, Swat.

06.12.2017

Counsel for the appellant and Mr. Kabeerullah Khattak, Addl. AG for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, this appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.


  
Member

  
Chairman  
Camp Court, Swat.

ANNOUNCED  
06.12.2017

04.05.2016

Agent of counsel for the appellant and Mr. Amir Qadir, GP for the respondents present. Written reply by respondents submitted. The appeal is assigned to D.B for rejoinder and final hearing for 14.10.2016 at camp court, Swat.

  
Chairman  
Camp Court, Swat

04.10.2016

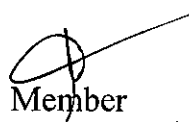
Appellant with counsel and Mr. Muhammad Zubair, Senior Government Pleader for the respondents present. The instant service appeal is against the orders of the District & Sessions Judge, Swat endorsed by the Hon'ble Peshawar High Court, Peshawar. Similar service appeals have been assigned to full bench for resolving the issue of jurisdiction agitated by the respondents. The instant appeal will be heard after decision of the full bench in the said appeals. Adjourned for final hearing before the D.B on 03.1.2017 at camp court, Swat.


  
Member

  
Chairman  
Camp court, Swat

03.1.2017

Counsel for the appellant and Mr. Muhammad Iqbal, ADO alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Since the controversy involved in the instant case is not resolved as the full bench is yet to decide the same. As such the instant appeal is adjourned for final hearing before D.B to 03.05.2017 at camp court, Swat.

  
Member

  
Chairman  
Camp court, Swat




13.01.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was appointed in the prescribed manners as Reader vide order dated 29.5.2012 and while performing duty her services were terminated vide impugned order dated 17.12.2013 during probation on account of absence from duty and unsatisfactory performance where-against she preferred departmental appeal which was rejected on 15.6.2015 and hence the instant service appeal on 14.7.2015.

That a stigma was attached to the character and career of appellant and as such show cause notice and opportunity of hearing was an essential pre-requisite for passing any such orders. Reliance placed on case-law reported as 2003 PLC (C.S) 1421 and 2012 PLC (C.S) 839.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 6.4.2016 before S.B at Camp Court Swat.

  
Chairman  
Camp Court Swat

06.04.2016

None present for appellant. Mr. Ajab Khan, Incharge English Branch alongwith Abdul Qadir, GP for the respondents present. Special Attorney submitted. Requested for adjournment. To come up for written reply/comments on 04.05.2016 at Camp court, Swat.

  
Chairman  
Camp Court, Swat.

Appellant Deposited  
Security & Process Fee

7.9.2015

Mr. Sher Afzal Khan attorney of the appellant present. Requested for adjournment as counsel for the appellant is not in attendance. Adjourned for preliminary hearing to 5.10.2015 before S.B. at Camp Court Swat.

  
Chairman  
Camp Court Swat

5.10.2015

Counsel for the appellant present. Learned counsel for the appellant when confronted with the grounds of termination of service of appellant during probation period on the basis of unsatisfactory performance, requested for adjournment for further preparation of case. Adjourned to 8.12.2015 for preliminary hearing before S.B. at Camp Court Swat.

  
Chairman  
Camp Court Swat

8.12.2015




Mr. Sher Afzal father of the appellant present. Counsel for the appellant is not in attendance. Seeks adjournment. To come up for preliminary hearing on 13.01.2016 before S.B. at Camp Court Swat.

  
Chairman  
Camp Court Swat

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 811/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	14.07.2015	<p>The appeal of Mst. Afroz presented today by Mr. Muhammad Javaid Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	15-7-15	<p>This case is entrusted to Touring Bench Swat for preliminary hearing to be put up thereon <u>3-8-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3.	3.8.2015	<p>None present for appellant. Notice be issued to counsel for the appellant for preliminary hearing for 7.9.2015 before S.B at camp court swat.</p> <p style="text-align: right;"> Chairman Camp Court Swat</p>



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

Service Appeal No. 811 /2015.

Mst. Afroz ..... Appellant.

VERSUS

Peshawar High Court, Peshawar etc ..... Respondents

**INDEX**

S#	Description of documents	Annex	Pages
1.	Memo of Appeal + <i>Application</i>	...	<del>1-6</del> 7-8
2.	Copy of recruitment order bearing Endst: No.3242-3255 dated 05/05/2012.	A	9
3.	Copy of posting order bearing Endst: No.3807-3858 dated 29/05/2012.	B	<del>10</del> 11
4.	Copy of posting order bearing Endst: No.965-969 dated 13/02/2013	C	12
5.	Copy of order bearing Endst: No.2524-2529 dated 22/05/2013	D	13
6.	Copy of arrival report.	E	14
7.	Copy of order bearing Endst: No.4973-4977 dated 25/09/2013.	F	15
8.	Copy of order bearing Endst: No.6240-6247 dated 05/11/2013.	G	16
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Appellant

Mst. Afroz

Through Counsel

(MUHAMMAD JAVAID KHAN)  
ADVOCATE HIGH COURT.

Office: Near Allah-o-Akbar Masjid  
College Colony Saidu Sharif Swat,  
District Swat.

Cell: 0343-9607492

①

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

Service Appeal No. 811 /2015.

K.W.F. Province  
Service Tribunal  
Diary No. 848  
Dated 14-7-2015

Mst. Afroz ~~wife~~ of Syed Muhammad Khan resident of Village  
Dangram, Tehsil Babozai, District Swat ..... Appellant.

VERSUS

- (1) Peshawar High Court, Peshawar, through its Registrar,  
Peshawar High Court, Peshawar.
- (2) District & Sessions Judge/Zila Qazi, Swat ..... Respondents.

Service appeal under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 against the impugned order/judgment dated 15/06/2015 of the respondent No.1, passed in departmental appeal No.02/2014(M), whereby, maintained the impugned order bearing Endst: No.7468-75 dated 17/12/2013 of the respondent No.2, vide which, the appellant being Junior Clerk was terminated from the service.

Respectfully Sheweth:

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

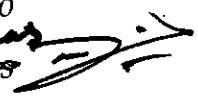
1. That on the recommendations of Departmental Selection Committee, the appellant was recruited as Junior Clerk in District Judiciary Swat, vide office order bearing Endst: No.3242-3255 dated 05/05/2012 by the respondent No.2. (Copy of recruitment order bearing Endst: No.3242-3255 dated 05/05/2012 is Annexure "A").

~~14/7/15~~  
14/7/15

2. That after recruitment, the appellant was posted as Reader in the Court of Senior Civil Judge/A'ala Illaqa Qazi, Swat, vide office order bearing Endst: No.3807-3858 dated 29/05/2012. (Copy of posting order bearing Endst: No.3807-3858 dated 29/05/2012 is Annexure "B").
3. That thereafter, the appellant was transferred and posted as Junior Clerk in Statistic (Computers I.T) Branch, Sessions Division, Swat, vide order bearing Endst: No.965-~~969~~ dated 13/02/2013. (Copy of posting order bearing Endst: No.965-~~969~~ dated 13/02/2013 is Annexure "C").
4. That in the meanwhile, she has got 30 days earned leave w.e.f 20/05/2013 to 18/06/2013 for her marriage vide order bearing Endst: No.2524-2529 dated 22/05/2013. (Copy of order bearing Endst: No.2524-2529 dated 22/05/2013 is Annexure "D").
5. That after availing the above cited earned leave, the appellant submitted arrival report for duty on 19/06/2013. (Copy of arrival report is Annexure E").
6. That later on, due to some unavoidable circumstances, the appellant applied for 41 days earned leave w.e.f 11/07/2013 to 20/08/2013 which was granted vide order bearing Endst: No.4973-4977 dated 25/09/2013. (Copy of order bearing Endst: No.4973-4977 dated 25/09/2013 is Annexure "F").

7. That the husband of appellant had got some serious problems, therefore, the appellant applied for further leave as to help her husband at Karachi, so she was granted 10 days earned leave without pay vide order bearing Endst: No.6240-6247 dated 05/11/2013. (Copy of order bearing Endst: No.6240-6247 dated 05/11/2013 is Ann: "G").
8. That after sanctioning the above leave, the appellant went to Karachi, where, due to matrimonial hitches and she being pregnant, had got serious illness and in such circumstances her return to Swat was not possible, therefore, the appellant made several requests to the respondent No.2 for earned leave without pay, but in vain and terminated the service of appellant vide impugned order bearing Endst: No.7468-75 dated 17/12/2013. (Copy of impugned order Endst: No.7468-75 dated 17/12/2013 is Annexure "H").
9. That being aggrieved, the appellant preferred a departmental appeal before the Hon'ble Peshawar High Court, Peshawar, which was dismissed vide impugned order/judgment dated 15/06/2015. (Copy of impugned order/judgment dated 15/06/2015 is Annexure "I").
10. That the appellant was left with no other option, hence constrained to prefer the instant appeal, inter alia, on the following grounds:-

GROUNDS:

- i. That the impugned act/orders/judgment of the respondents regarding the termination of service of the appellant is wrong, void ab-initio, illegal, ineffective, without lawful authority and against the principles of natural justice. Hence, liable to be set aside and the appellant be reinstated with all back benefits.
- ii. That the respondent No.2 wrongly ignored the compelling circumstances of the appellant and illegally refused the grant of earned leave in her favour.
- iii. That the appellant during her service, efficiently, devotedly and zealously performed her duty with no opportunity of slight complaint to the superiors, which is evident from her official record.
- iv. That the services of appellant were terminated without providing opportunity of hearing and violated the law & rules in this regard.
- v. That the appellant being female suffered matrimonial hatches, which had required time to resolve the same, besides, she being pregnant ~~was~~  suffered a lot and even she was admitted in the Hospital at Karachi. In this respect, medical prescription chit/discharge slip is attached as Annexure "J".
- vi. That the impugned order of respondent No.2 regarding termination of appellant from service and order/judgment of respondent No.1 regarding dismissal of departmental appeal, are against the law, justice and circumstances of the case, therefore, liable to be set aside.

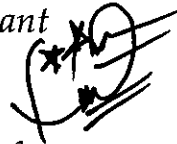
- vii. That the appellant being female, deserve to be reinstated with all back benefits and service emoluments and the impugned orders are liable to be set aside.
- viii. That the impugned orders/judgment are the result of misreading & non-reading of record and misconception of law, required attention of this august Tribunal for the remedy.
- ix. That the appellant is a young, well qualified and efficient lady having no source of income and needy of job, therefore, the law and justice would prefer the reinstatement of the appellant.
- x. That the impugned orders of the respondents No.1 & 2 are whimsical, capricious and founded on surmises and conjectures.
- xi. That the impugned treatment given by the respondents to the appellant is violative of the articles 4, 9, 25 & 27 of the Constitution of Islamic Republic of Pakistan.

In view of the above submissions, it is therefore very humbly prayed before this Hon'ble Tribunal that the impugned order & judgment of the respondents regarding the termination of service of the appellant may graciously be set aside and the appellant may kindly be reinstated with all back benefits service emoluments.

(6)

Any other relief, not specifically asked for, which is deemed fit and proper, may also be very graciously granted.

Appellant



Mst. Afroz

Through Counsel



(MUHAMMAD JAVAID KHAN)  
ADVOCATE HIGH COURT.

Office: Near Allah-o-Akbar Masjid  
College Colony Saidu Sharif Swat,  
District Swat.

Cell: 0343-9607492

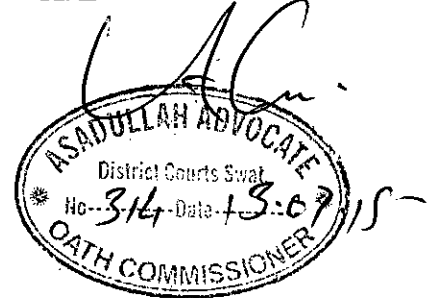
**AFFIDAVIT**

I, Mrs. Afroz, JC, do hereby solemnly affirm and declare on oath that contents of the above titled appeal are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Court/Tribunal.



Mrs. Afroz  
Junior Clerk.

**ATTESTED**



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

Service Appeal No. \_\_\_\_\_/2015.

Mst. Afroz ..... Appellant.

VERSUS

Peshawar High Court, Peshawar etc ..... Respondents

**Application to the effect that one post of  
Junior Clerk may be retained vacant for  
the appellant/applicant till the final  
disposal of the above titled appeal.**

**Respectfully Sheweth:**

The applicant/appellant submits as under:-

1. That the applicant/appellant is going to file the captioned appeal before this august Tribunal, in which no date has been fixed yet.
2. That the applicant/appellant has got good prima facie case and sanguine about the decision of main appeal in her favour. Contents of the main appeal may be read as part & parcel of the instant application.
3. That the balance of convenience is also in favour of the appellant.
4. That some posts of Junior Clerks are vacant under the control of respondents No.1 & 2, which they are intend to fill-up through D.P.C in the near future.
5. That if the vacancies were filled-up through D.S.C or D.P.C, the applicant/appellant would suffer irreparable loss and which would create legal complications, therefore, it is just and appropriate to retain one vacancy for the appellant till the final disposal of the main appeal.



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It is, therefore, very meekly prayed that on acceptance of instant application, one post of Junior Clerk may graciously be retained vacant till the final disposal of the captioned service appeal, ~~leave~~, any other remedy which is just, appropriate and efficacious may also be granted though not specifically been prayed for in the instant application, but the interest of justice demand so.

Appellant



Mst. Afroz

Through Counsel



(MUHAMMAD JAVAID KHAN)  
ADVOCATE HIGH COURT.

Office: Near Allah-o-Akbar Masjid  
College Colony Saidu Sharif Swat,  
District Swat.

Cell: 0343-9607492

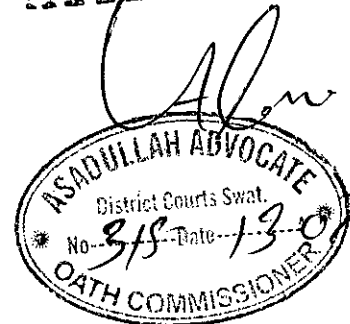
**AFFIDAVIT**

I, Mrs. Afroz, JC, do hereby solemnly affirm and declare on oath that contents of the above titled application are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Court/Tribunal.



Mrs. Afroz  
Junior Clerk.

ATTESTED



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

**ORDER**

On the recommendations of the Departmental Selection Committee, the competent authority is pleased to order the appointment on temporary basis of the following candidates as Junior Clerk in BPS 07, with effect from the date of assumption of charge of the posts, subject to medical fitness and antecedents verification:-

SR.#	Name of Candidate	Father's Name / Husband	Quota
1	Mrs. Sumaira	Akundzada	Female
2	Mr. Samson	Patras Maseh	Minority
3	Mt. Imran Khan	Muhammad Ghani	Merit
4	Mrs. Afroz	Syed Muhammad Khan	Female

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

- i. They will be governed by the N/WFP Civil Servants Act, 1973 and N-WFP Government Servant (Appointment, Promotion & Transfer) Rules, 1989.
- ii. They will be allowed the minimum pay of BPS-7 plus other allowances as admissible under the rules. Those who are already in Govt Service and whose pay is more than the minimum of BPS-7 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 7.
- iii. 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.
- iv. They shall be on probation initially for a period of one year extendable upto two years.
- v. They will be eligible for continuance and eventual confirmation in the post on satisfactory completion of their probationary period, subject to availability of permanent posts and the completion of prescribed training, if any.
- vi. Their services shall be liable to be dispensed with at any time without notice and assigning any reason before the expiry of the period of their probation / extended period of probation. If their work or conduct during this period is not found satisfactory, in the event of termination from service, fourteen days notice shall be given.

*Attn: Mr. [Signature]*

thereof fourteen days pay will be paid by the government. In case of resignation, they will give one month notice to the Competent authority or in lieu thereof one month pay shall be forfeited to the Government. The resignation shall, however, be subject to the acceptance by the Competent Authority.

vii. They will be governed by the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and the NWFP 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.

4. They shall join duty at their own expenses.

Attended  
[Signature]

[Signature]

(Muhammad Ayub Khan)  
District & Sessions Judge/  
Zilla Qazi, Swat.

Endst: No. 3242-3255 /

Dated: 05/05/2012.

Copy forwarded to:-

1. The Registrar, Peshawar High Court, Peshawar.
2. Mr. Anjad Makhdom, Additional District & Sessions Judge/Izati Zilla Qazi-III, Swat/ Nominee of the Peshawar High Court
3. Mrs. Hina Khan, Senior Civil Judge/A'ala Illaqa Qazi, Swat/ Nominee of the District & Sessions Judge, Swat.
4. The District Comptroller of Accounts, Swat.
5. The Nazir / Accountant of this Court.
6. The Civil Nazir to the Court of Senior Civil Judge/A'ala Illaqa Qazi, Swat.
7. The officials by name.
8. Personal file.

[Signature]

(Muhammad Ayub Khan)  
District & Sessions Judge/  
Zilla Qazi, Swat.

**ORDER**

In the interest of public service the following transfers / adjustment amongst the ministerial staff of this Sessions Division are hereby ordered with immediate effect:-

Sr.	Name of official with designation	Transferred from the Court / Branch	Transferred to the Court / Branch	Remarks
1.	Mr. Ali Muhammad Assistant /Reader	Information Center, Sessions Division, Swat.	Additional District & Sessions Judge/IZQ, VI, Swat.	He is directed to join the said court after completion of his current assignment in the court of learned ADJ/IZQ-IV Swat.
2.	Mr. Anwar Ali Steno Typist	Civil Judge/Judge Family Court-II, Swat	Judicial Magistrate Matta	He is directed to join the said court after completion of his current assignment in the court of learned ADJ/IZQ, Matta Swat.
3.	Mr. Atiq Ahmad Computer Operator	Newly appointed	Civil Judge/JM/Ilhqa Qazi, Khwaza Khela	---
4.	Miss. Neelofer Jamal Computer Operator	Newly appointed	Senior Civil Judge/A'ala Ilhqa Qazi, Swat.	---
5.	Mr. Abdul Aziz, Computer Operator	---	Clerk of Court office, Senior Civil Judge/A.I.Q, Swat.	He is directed to train his replacement i.e. the newly posted Computer Operator for 10 days.
6.	Mr. Mehboob Alam Computer Operator	Record Room Sessions Division, Swat.	Judge Family Court-II, Swat.	---
7.	Mr. Akbar Hussain Senior Clerk/Reader	Additional District & Sessions Judge/IZQ-VI, Swat.	Record Room, Sessions Division, Swat.	He is directed to join the new assignment after arrival of Mr. Ali Muhammad, Assistant /Reader
8.	Mr. Muhammad Rashid Reader / Senior Clerk	Senior Civil Judge/ A'ala Ilhqa Qazi, Swat	Judicial Magistrate, Swat.	He is directed to train his replacement i.e. the newly posted reader for 10 days.
9.	Mr. Fazal Rehman Reader / Senior Clerk	Judicial Magistrate, Swat.	Information Center, Sessions Division, Swat.	---
10.	Mr. Naimatullah Reader / Senior Clerk	Judge Family Court-I, Swat	Record Room, Sessions Division, Swat.	He is directed to train his replacement i.e. the newly posted reader for 10 days.
11.	Mr. Ihsan Ali Junior Clerk/Muharrir	Senior Civil Judge/ A'ala Ilhqa Qazi, Swat	Additional District & Sessions Judge/IZQ, Kabal Swat	To work as computer operator in his own pay & scale
12.	Mr. Fazal Rahim Junior Clerk/Muharrir	Civil Judge/Ilhqa Qazi-II, Swat.	Senior Civil Judge/ A'ala Ilhqa Qazi, Swat	As Muharrir
13.	Mr. Samson Junior Clerk/Muharrir	Newly appointed	Record Room, Sessions Division, Swat.	To work as computer operator in his own pay & scale
14.	Mr. Imran Khan Junior Clerk/Muharrir	Newly appointed	Additional District & Sessions Judge/IZQ-I, Swat	---
15.	Mr. Attaullah Junior Clerk	Record Room, Sessions Division, Swat.	Civil Judge/Ilhqa Qazi-II, Swat.	---
16.	Miss. Sumera Junior Clerk/Muharrir	Newly appointed	Judge Family Court-I, Swat	To work as Reader in her own pay & scale
17.	Miss. Afrooz Junior Clerk/Muharrir	Newly appointed	Senior Civil Judge/A'ala Ilhqa Qazi, Swat.	To work as Reader in her own pay & scale
18.	Mr. Hamid Gul Driver	District & Sessions Judge/Zila Qazi, Swat.	Senior Civil Judge/ A'ala Ilhqa Qazi, Swat.	---
19.	Mr. Anwar Ali Driver	Senior Civil Judge/A'ala Ilhqa Qazi, Swat.	District & Sessions Judge/Zila Qazi, Swat.	---

*Ali*

*(Muhammad Ayub Khan)*  
District & Sessions Judge,  
Zila Qazi, Swat.

## OFFICE OF THE DISTRICT &amp; SESSIONS JUDGE/ZILA QAZI SWAT

Dist. No. 3807-3858 /E.C. Brh:

Dated 29/05/2012.

Copy forwarded to:-

All concerned courts in District Swat for information.


The Accountant /Nazir of this Court.

The Civil Nazir to the court of SCJ/AIQ, Swat.

The officials concerned for information and immediate compliance.

Personal files of the officials concerned.

The Incharge, Information Centre, District Courts, Swat.

  
District & Sessions Judge/  
Zila Qazi, Swat.

(12)

ORDER

C

In the interest of public service Mrs. Afroz, Junior clerk/Muharrir to the court of Civil Judge/ Judge Family Court-I, Swat is hereby transferred to Statistic Branch, Sessions Division, Swat, with immediate effect.



(Muhammad Ayub Khan)  
District & Sessions Judge/  
Zila Qazi, Swat.

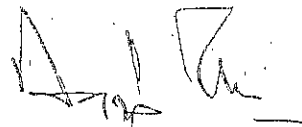
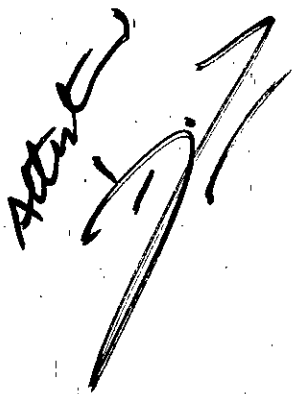
OFFICE OF THE DISTRICT & SESSIONS JUDGE/ZILA QAZI, SWAT

Endst: No. 965-969 /E.C. Brh:

Dated 13/02/2013.

Copy forwarded to:-


1. The Senior Civil Judge/A'ala Illaqa Qazi, Swat.
2. The Accountant /Nazir of this Court.
3. The Civil Nazir to the court of SCJ/AIQ, Swat.
4. Official concerned for information and immediate compliance.
5. Personal file of the official concerned.



District & Sessions Judge/  
Zila Qazi, Swat.

ORDER

Thirty (30) days earned leave w.e.f 20/05/2013 to 18/06/2013 is sanctioned in favour of Miss Afroz, Junior Clerk presently working in the Statistics Branch, Sessions Division Swat, subject to entitlement as per rules. The official shall resume duty on the same post and station after expiry of leave period mentioned above.

  
(Muhammad Afroz Khan)  
District & Sessions Judge/  
Zila Qazi, Swat.  
~~District & Sessions Judge~~  
Swat at Saidu Sharif

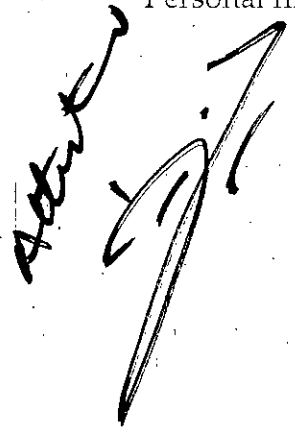
OFFICE OF THE DISTRICT & SESSIONS JUDGE/ZILA QAZI, SWAT

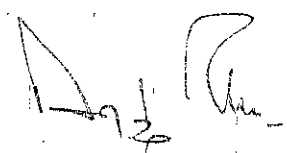
No. 2524-2529/E.C.Brh:

Dated 22/05/2013

Copy forwarded to:-

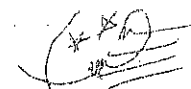
1. The Senior Civil Judge/ A'ala Illaqa Qazi, Swat.
2. The District Comptroller of Accounts, Swat.
3. The Nazir / Accountant of this court.
4. The Civil Nazir to SCJ/ AIQ Swat.
5. The official concerned for information and compliance accordingly.
6. Personal file of the official concerned.



  
District & Sessions Judge/  
Zila Qazi, Swat.  
~~District & Sessions Judge~~  
Swat at Saidu Sharif

ARRIVAL REPORT

In compliance with office order of Hon'ble District Judge/ Zilla Qazi, Swat, bearing Endst: No. 2524-2529/E.C Brh: dated 22/05/2013, I Afroz, Junior Clerk/Muharrir, do hereby submit my arrival report of the post of Junior Clerk/Muharrir at Statistics Branch,(Female wing) Sessions Court, Swat today i.e 19/06/2013 (Fore-noon).

  
(AFROZ) 19/6/2013

Junior Clerk Statistics Branch,  
Female wing Sessions Court,  
Swat.

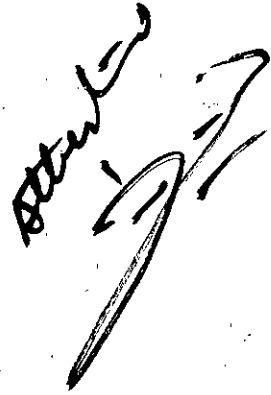
OFFICE OF THE DISTRICT & SESSIONS JUDGE/ZILA QAZI, SWAT.


Endst: No. 3248 - 3253/E.C Brh:

Dated 20 / 06 / 2013.

*Copy forwarded for information to the:*

- 1) The Senior Civil Judge/ Aalla Illaqa Qazi, Swat.
- 2) The District Comptroller of Accounts, Swat.
- 3) Nazir to District & Sessions Judge/ Zila Qazi, Swat.
- 4) Civil Nazir to Senior Civil Judge/ Aala Illaqa Qazi, Swat.
- 5) Incharge Information Centre, Sessions Division, Swat.
- 6) Personal file of the official concerned.
- 7) Office copy.



  
20/6/2013

District & Sessions Judge/  
Zila Qazi, Swat.

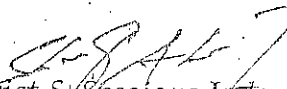


(15)

ORDER

F

In view of application submitted by Mrs. Afroz Junior Clerk of this establishment, 41 days earned leave w.e.f 11/07/2013 to 20/08/2013 (without pay) is hereby sanctioned in her favour with a warning for future to avoid making leave requests and concentrate upon her job. Recovery from her salary for the period mentioned above be made. Her pay is inactive, may be activated subject to adjustment in the above terms.

  
District & Sessions Judge/  
Zila Qazi, Swat.

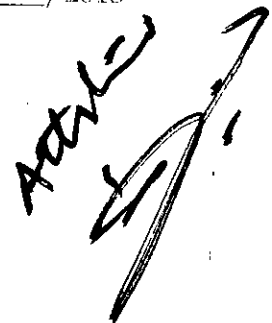
OFFICE OF THE DISTRICT & SESSIONS JUDGE/ZILA QAZI, SWAT

No. 4973-4977 /E.C.Brh:

Dated 25-9-2013

Copy forwarded to:-

1. The Senior Civil Judge/ A'ala Illaqa Qazi Swat.
2. The District Comptroller of Accounts, Swat.
3. The Civil Nazir to the Court of SCJ/ AIQ Swat.
4. The officials concerned for information.
5. Personal file of the official concerned.



  
District & Sessions Judge/  
Zila Qazi, Swat.

ORDER

Ten (10) days earned leave from 01/11/2013 to 10/11/2013 (without pay) is hereby sanctioned in favour of Miss Afrooz, Junior Clerk presently working in the Statistics Branch. The leave shall be adjustable in future as presently no balance is available at her credit.

The official shall submit proper relinquishment and resumption reports. Miss Sumaira, Computer Operator of the said Branch shall perform duty as substitute in addition to her own duty.

*[Signature]*  
District & Sessions Judge/  
Zila Qazi, Swat.

*Attended*  
*[Signature]*

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

No. 6240-6247/E.C.Brh:

Dated 05/11/2013

Copy forwarded to:-

1. The Senior Civil Judge/ Aa'ala Illaqa Qazi Swat.
2. The District Comptroller of Accounts, Swat.
3. The Nazir / Accountant of this Court.
4. The Civil Nazir to SCJ/ AIQ Swat.
5. The officials concerned for information.
6. Personal files of the officials concerned.

*[Signature]*  
District & Sessions Judge/  
Zila Qazi, Swat.

ORDER:

Performance of Mst. Afroz appointed on 05/05/2012 as Junior Clerk/Muharrir (BPS-07) posted in the Statistic Branch of Sessions Division, Swat, being on probation within the meaning of Rule 15 Sub-Rule 2 & 3 read with proviso added to Sub-Rule 3 of the N-W.F.P Civil Servant (Appointment, Promotion & Transfer) Rules 1989, was not found satisfactory and she is absent from duty since 11/11/2013 on the expiry of her 10 days earned leave without pay, allowed vide this office order bearing Endst: 6240-6247/E.C.Brh dated 05/11/2013.

Therefore, her services stand dispensed with and she is terminated from service w.e.f 11/11/2013.

*[Signature]*  
District & Sessions Judge/  
Zila Qazi, Swat.

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

Endst: No. 7468-75/E.C.Brh

Dated: 17 / 12 / 2013.

Copy to:

1. The Registrar, Peshawar High Court, Peshawar.
2. The Senior Civil Judge/ A'ala Illaqa Qazi, Swat.
3. The District Accounts Officer, Swat.
4. The Civil Nazir to the Court of learned Senior Civil Judge/ A'ala Illaqa Qazi, Swat.
5. The Accountant/Nazir of this Court.
6. Incharge Information Centre, Sessions Division, Swat.
7. Incharge Computer Branch of this office.
8. Service record of the official concerned.

*[Signature]*  
District & Sessions Judge/  
Zila Qazi, Swat.

JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT, PESHAWAR  
JUDICIAL DEPARTMENT

Departmental Appeal No.02/2014 (M)

JUDGMENT

Date of hearing.....15-06-2015.....

Appellant (Mst. Afroz) in person.....

Respondent No.1(D&SJ/ZQ, Swat) by none.

*Attended  
S.J.*

YAHYA AFRIDI, J.- Through the instant Departmental Appeal Mst. Afroz, appellant herein, has questioned the legality of the order dated 17-12-2013 whereby she has been terminated from service on the ground of being absent from her duty during the probationary period.

2. In essence, the grievance of the appellant is that she, being female, may kindly be reinstated in service on compassionate grounds.

3. Appellant appeared in person and was heard. Case-file also perused.

4. The appellant was appointed as Junior Clerk (B-7) vide order dated 05-05-2012, however, during probation she applied for the grant of thirty days earned

*G*

leave from 20-05-2013 to 18-06-2013 which was granted and she assumed her duty on 19-06-2013. Again on 01-07-2013 the appellant applied for the grant of 37 days earned leave from 02-07-2013 to 07-08-2013, but on the directions of the competent authority to put up for consideration, instead she submitted fresh application for the grant of 10 days from 02-07-2013 to 11-07-2013 which was allowed, whereafter she continuously submitted applications for the grant of leave, but on refusal, she remained absent from her duty. Resultantly, the appellant was terminated from service with effect from 11-11-2013.

Attorney  
G.

5. Aggrieved from the above order, the appellant filed the instant appeal before this Court on 20-1-2014.

6. Perusal of the record would indicate that the conduct of the appellant was found by the competent authority unsatisfactory in view of violation of sub-rules (2) and (3) read with the proviso to sub-rule(3) of Rule 15 of the N.W.F.P. Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 ("**Rules**") , which reads as under:-

*"15. Probation.- (1) A person appointed to a post on regular basis shall remain on probation*

for a period of two years, if appointed by initial recruitment, and for a period one year, if appointed otherwise, provided that if his work or conduct during the period of probation has, in the opinion of the appointing authority, not been found satisfactory, the appointing authority may, notwithstanding that the period of probation has not expired.-

(a) dispense with his service, if he has been appointed by initial recruitment; or

(b) revert him to his former post, if he has been appointed otherwise, or if there be no such post, dispense with his service; or

(c) extend the period of probation for a period not exceeding one year in all and may, during or on the expiry of such extended period, pass such orders as it could have passed during or on the expiry of the initial probationary period."

Attw  
[Signature]

In view of the above legal position, no case has been made out warranting interference by this Court in the impugned order, which is based on proper appreciation of record and the law cited above.

7. Accordingly, for the reasons stated hereinabove, this appeal, being bereft of any merit, is hereby dismissed.

99  
JUDGE

HSS Ag ~~Dr. Naveed~~ <sup>Dr. Naveed</sup>   
**SPECIAL INVESTIGATIONS**  
 (SCANS, X-RAY ETC.)

29/11/13 <sup>1st scan</sup> GA 19.4 wts No gross anomaly seen. S.A.F Ceph B.P.D 7.9 FL 2.9cm Hc 16.5cm. AC 13.5cm AFI 10.4cm. PL Post reaching OS. <sup>sc</sup> <sub>29/11/13</sub>

29/11/13 S.A.F cephalic GA-19.4 wts LDH No gross F.A seen. AFI-10.4cm. Placenta posterior reaching 16 OS.

20/12/14 seugma b=30cm GA 34.4 wts No gross F.A seen S.A.F, ceph B.P.D 7.9 FL 6 Hc 28.5 Hc 27, AFI 16.9 PL Post Rt. Lat not low lying. <sup>sc</sup> <sub>20/12/14</sub> 6/3/14 Ac 30.6 Ac 28.6 AFI 12

21

*Handwritten signature/initials*

Hb 10.7 D/C   
**DISCHARGE SUMMARY**

DATE OF DELIVERY: 25/4/14 DATE OF DISCHARGE: 27/4/14.

DELIVERED BY: DR. Naveed / Dr. Naveed DELIVERY: SVD/VENTOUSE/FORCEPS/BREECH <sup>2 epi</sup>

LABOUR: SPONTANEOUS/INDUCED/AUG DURATION OF LABOUR: 3h 25min <sup>ACM</sup>

GEST. AGE: 38<sup>wks</sup> WT: 2.5kg SEX: Female

ALIVE/SB/ND: CAUSE:

CAESAREAN DELIVERY: EMER/ELEC LAST PV FINDING:

INDICATION:

IVD epi, plm by CEF A/S 27/14

(F) 2.5kg Btaks Pthas usticalla aftu D/C do contact e dermatologist if ~~is~~ is from pregnancy & is on Priston B-D.

Cap Infexin 500mg 1+1+1 → 7 days  
 Tab Paradol 1x805.

Tab. P/S 1+1+1 > 3 months

Tab. Calceol 1x0.1

Tab Dancin 1x100 for 3 days

Flup in OPD after 6 weeks

*Handwritten signature/initials*

DATE	TREATMENT	RETURN ON
26/11/13	Cap. fepoluit 10.D Tab. Chawal 10.D Somilactom	3/12/13
17/12/13	ct. + Tab Paradol 1x805 Calamine lotion 1/4	14/1/14
6/2/14	ct. R. Tab Emseperu <sup>1+0+1</sup>	20/2/14
20/2/14	ct. R.	6/3/14
6/3/14	ct. R.	20/3/14
20/3/14		27/3/14

POSTNATAL CHECK UP

ضروری اطلاع  
 ۱۔ اسپتال آتے وقت یہ کارڈ ضرور ساتھ لائے اس کے بغیر علاج یا دوا غلط نہیں۔  
 ۲۔ تیار کارڈ بنوانے کے لئے پوری خیر ادا کرنا ہوگی

F.P. LDH L.M.C   
**LADY DUFFERIN HOSPITAL**  
 Chand bibi Road, Karachi. Ph: 32732598-32732606

ANC NO. REG. NO. AGE: 21  
 NAME: *Handwritten name*  
 W/O: *Handwritten name*  
 ADDRESS: *Handwritten address*

PAYMENT STAMP:  
 PAID  
 25 APR 2014  
 LADY DUFFERIN HOSPITAL  
 00319

HIGH RISK FACTOR:  
 1.  
 2.  
 3.  
 SPECIAL INSTRUCTIONS:

BLOOD GROUP: *Positive* Husband's Bl. Group:  
 ANTIBODIES:  
 S. GLUCOSE: 118 <sup>FB8</sup> <sub>112</sub> <sup>11/2/13</sup> <sub>106</sub>  
 CVS: RESP:  
 BREAST: HEIGHT: 150cm

MEDICAL HISTORY:

N/S

SURGICAL HISTORY:

N/S

FAMILY HISTORY:

Mother - HD

CONSANGUINITY:

YES NO

PRESENT HISTORY:

GrA: 18+

C/o Backache +  
over abdominal

pain for 1 mon.  
+ Burning Micturition  
for 20 days + getting since preg.

ADMISSION SUMMARY

Reg No-21311-01111/c  
DoA - 20/11/13  
DoD - 21/12/13  
Pt admit at 18+ wks e c/o fever + localized pain  
She is afebrile since admission  
Uric CS sent to AKUH  
cep. infection started (D4)  
Dlx - CI infection 16 days  
show more wie report in GPD

D/S

Had 2<sup>nd</sup> day T.T from outside.

TETANUS TOXOID

BOOSTER

PREVIOUS OBSTETRIC HISTORY										DATE	B.P.	URINE A/S.	H. B. %	FUNDAL HEIGHT	PRES.	FHS	FM	EDEMA	WT.	REMARKS	RETURN VISIT	INITIAL	
										26/11	100/60	240 NN	12.7	18+4	-	-	-	-	47kg	12h + Scan	4/2	SK	
										29/11/13	90/60	240 NN	11.9	19+4	-	-	-	-	?	C/o High grade Fever 4 days - Vomiting + Bowing constipation			
										7/12	90/60		22+		PPP	-	+	-	48kg	C/o backache 2 days Stech only at bedtime	4/2	SK	
										6/2	100/60	10-6 50%	28+6		Ceph	+	+	-	50kg	Puff turn up after 1 1/2 C/o Vomiting 5 days.	2/2	SK	
										20/2	100/70		30+6		Ceph	+	+	-	51kg	C/w/with Scan today Net taking proper diet. G/w/with chart plotted He, AC, AFI on report.	2/2	SK	
										6/3	100/70		32+6		Ceph	+	+	-	52kg	C/w/with chart plotted	2/2	SK	
										20/3	100/70		34+3		Ceph	+	+	-	53kg	ASC advised.	1/2	Hum	
										8/4/14	110/70		37+3		Ceph	+	+	-	52kg	C/o High grade fever 4 days. Admission F.R	8/4/14	SK	
										28/4	110/70		39+3		Ceph	+	+	-	53kg	Adv admission on 20/4/14 No labour pains till that date	8/4/14	SK	

FILLED BY: Zunaira Akbar (JHO)

22/4/14



To

The Registrar Peshawar

Subject: Departmental Appeal Against the Order Endst:  
No.7468-75/E.C.Brh Dated: 17-12-2013

Respectfully sheweth,

The appellant submits as under:

That the appellant was appointed as junior clerk in District Swat judiciary on 05-05-2013 and till date performing my duties honestly. I have worked with ought most zeal o the best of my abilities.

That in the mid of 2013 I got married and asked for leave as my in-laws are settled at Karachi, so it was not possible for me to continue my duties from there. That initially my application was accepted, but on submitting another application for the extension of the leave so that I with my spouse may settle at swat, not only my application was turned down, but my service was dispensed with instead.

That before my marriage I perfumed my duty regularly punctually and to the best of my abilities and I have never given opportunity of complaint to any one.

That I intend to settle in swat along with my spouse and if opportunity is give to me I will never let you down.

That the said order is against the law, facts and shariah hence liable to be set aside and I being female and selected on merit, that also in district of swat, so my this appeal be considered on compassionate grounds and be reinstated back into service.

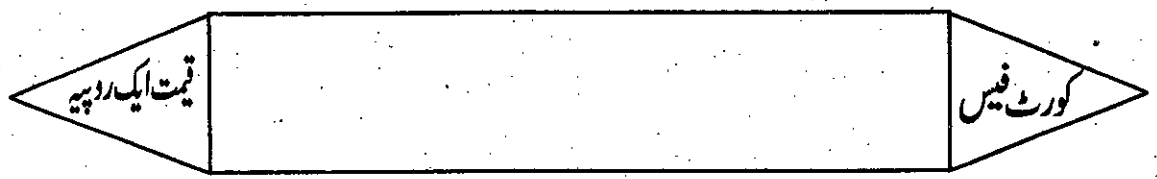
Appellant

Mst. Afroz

Dated: 15/01/2014

بعد الت

خبیر نخبو نخواہ سرور سکرینٹل عنان شاد

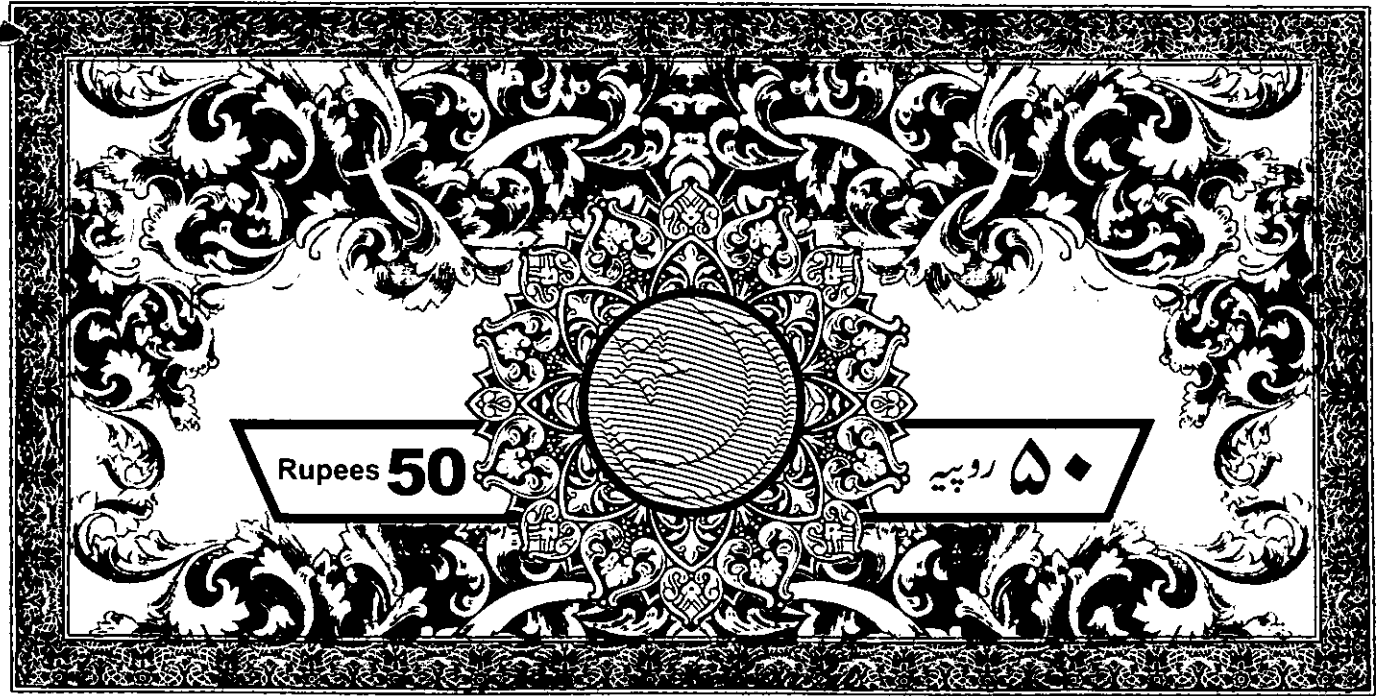


مورخہ 12 جولائی 2015ء منجانب ریسٹریٹ شدہ  
 مقدمہ سماہ افروز بنام شاد عاتق کورٹ ڈرنر  
 دعویٰ Service Appeal  
 جرم باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام شاد کیلئے محمد جاوید خان ریڈر کی مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زرا اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ نہ کر کے کسی یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقررہ شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا سامنے برواختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر دورہ کی وصولی کے لئے صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ

المقوم (شاد) 12 ماہ جولائی 2015ء

واہشہ العبدہ العبدہ  
 سماہ افروز  
 بمقام شاد  
 Acceptance  
 کے لئے  
 H. M. A.



### ﴿مختار نامہ خاص﴾

مند اختیاردہندہ مسماة آفرود زوجہ شیر افضل خان ساکن محلہ کوز پلو دنگرام کوکاری تحصیل ضلع سوات کی ہوں۔ اندر میں وقت بقائمی ہوش و حواس خمسہ براضا مندی خود قرار کر کے لکھ دیتی ہوں۔ کہ من مقررہ ایک سروں اپیل بعنوان "مسماة آفرود بنام" رجسٹرار پشاور ہائیکورٹ وغیرہ بعدالت جناب سروں ٹریبونل پشاور میں زیر سماعت ہے۔ چونکہ من مقررہ بوجہ عورت ذات و پرہ نشین خاتون ہونے کی بناء پر اپیل ہذا کی پیروی کرنے سے اصلاً تا قاصرہ ہو رہا ہے۔ لہذا جناب سے مسماة (1) شیر افضل خان ولد حمزہ خان (2) افتخار افضل خان ولد شیر افضل خان ساکنان دیندار خیل دنگرام کوکاری سوات کو محتقانان خاص مقرر کر کے اختیار دیتی ہوں کہ مختاران خاص مشترکاً و منفرداً عدالت ہذا میں پیش ہو کہ وہ ہذا تہی یا بذریعہ وکیل/بیریسٹرز عدالت ابتدائی تا عدالت سپریم کورٹ یا دیگر عدالت ہائے مروج کرے اور کروائے جواب دعویٰ، درخواست ہائے جواب الجواب یا دیگر درخواست ہائے دیوے۔ اپیل، ٹکرائی، نظر ثانی، رٹ پٹیشن دائر کرے اور کروائیں۔ وکالت نامہ تصدیق کرے، اعتراض کی تصدیق کریں، درخواست گردانا جائے فریق وغیرہ دائر کریں۔ فہرست گواہان داخل کریں شہادت پیش کریں، اہل کمیشن مقرر کریں، اہل کمیشن کے ساتھ بر موقع کارروائی عمل میں لائیں، عذرات داخل کریں، حلف بالحقان تصدیق عمل میں لائیں، مجتہدان خاص من مقررہ کی طرف سے راضی نامہ کریں ثالثی قبول کریں، مصلح مقرر کریں بیان حلفی دیوے/تخریروز بانی بیان دیوے۔ اگر تہی جواب دعویٰ دیوے/فیصلہ ڈگری ہونے کی صورت میں کارروائی اجراء دائر کریں۔ زرڈگری وصول کریں۔ عدالت موصوف کے علاوہ اور عدالت اعظمی سپریم کورٹ آف پاکستان جو بھی ضروری اور قانونی کارروائی عمل میں لائیں۔ جملہ کارروائی بابت سروں اپیل ہذا من مقررہ کو قبول و منظور ہوگی۔ لہذا مختار

نامہ تخریر ہے۔ المرقوم: 30/07/2015

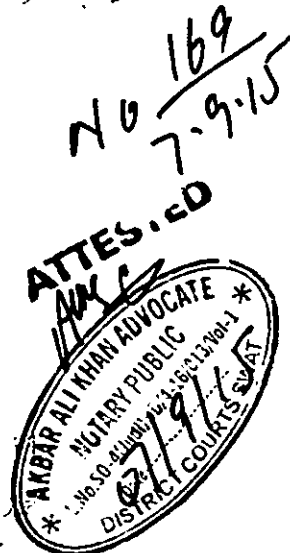
الغرض  
مسماة آفرود  
اختیاردہندہ  
شناختی کارڈ نمبر: 15602-8464978-6

گواہ  
غور تہید ولد سید مشال ساکن سید شریف سوات  
شناختی کارڈ نمبر: 15602-1961982-5

15602-1961982-5

گواہ  
خان ولد محمد شریف ساکن پانچنگارہ سوات  
شناختی کارڈ نمبر: 15602-1550183-3

15602-1550183-3



**AUTHORITY LETTER.**

Mr. Ajab Khan In charge English Branch of this office is being a relevant person and fully conversant with the matter is authorized to attend the court of Hon'ble K.P.K Service Tribunal, Peshawar (at Camp Court, Swat) on behalf of undersigned along with relevant record in connection with following departmental appeal:

"Appeal No. 811/2015 Mst. Afroz v/s Peshawar High Court Peshawar through Registrar etc"

  
District & Sessions Judge/  
Zila Qazi, Swat.

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

05/4/2016.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR.

Appeal No 811 of 2015.

Mst. Afroz ..... Appellant.

**VERSUS**

Peshawar High Court and another..... Respondents.

**PARA WISE COMMENTS**  
**ON BEHALF OF RESPONDENT NO.1 & 2.**

**PRELIMINARY OBJECTIONS:**

- (i) That the appellant has got no cause of action against the respondents.
- (ii) That the appeal is badly time barred.
- (iii) That the appeal is not maintainable in the present form.
- (iv) That the appellant is estopped by her own conduct to file the instant appeal.
- (v) That the appellant has not approached this Hon'ble Court with clean hands.

**ON FACTS:**

Para No.1 to 10 of the appeal are correct.


**ON GROUNDS:**

- a. Para No. 1 is incorrect. The appellant remained absent from duty during her probation period from 12/07/2013 to 09/08/2013, thereafter the authority after observing all the codal formalities terminated her from service, therefore, the order of termination does suffer from any illegality or irregularity.

- b. *The appellant after enjoying 81 days earned leave from 20/05/2013 to 10/11/2013 on different occasions and after that she was supposed to assume the charge on 11/11/2013 but she did not, and submitted another application for the grant of 20 days earned leave which was regretted but even then she did not turn up to join her duty which culminated to her termination due to long absence. During all this period of earned leave and thereafter during absence she was on probation.*
- c. *Para No.3 is admitted as correct.*
- d. *Para No.4 is incorrect hence denied. She was under probation therefore the authority was competent to terminate her service without sending any notice or providing her opportunity of hearing so no law or rule is violated in this regard.*
- e. *Para No.5 is denied. The appellant did not provide any proof to the authority of her disease and admission in hospital at Karachi.*
- f. *Para No.6 is denied the entire proceeding of her termination falls within the legal parameters as prescribed under the rules and law on the subject.*

- g. Para No.7 being incorrect is denied. The law does not provide that female official should be treated in a special manner and that she should be given priority over males in the matters involving her misconduct and disobedience of the orders issued by authority as well as her long absence without cause from duty.
- h. Para No.8 is incorrect. The entire proceeding of her termination are in accordance with law and rules.
- i. Para No.9 is incorrect. The appellant may be qualified and efficient but that does not mean that she should be allowed to disobey the orders of authority. After the rejection of 2<sup>nd</sup> application for earned leave she was supposed to take over the charge of her duty in compliance of the order of the authority but she opted to remain absent.
- j. Para No.10 is incorrect in the light of answers given in the proceeding paras.
- k. Para No.11 is incorrect, hence denied.

In view of the above cited facts and circumstances, the appeal may kindly be dismissed with heavy cost.

  
District & Sessions Judge/  
Zilla Qazi, Swat  
Respondent No.2 (himself) &  
For Respondent No.1.  
District & Sessions Judge  
Swat at Saidu Sharif.

BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1373 of 2014

Bahrul Hayat Ex-Head Constable

...Appellant

VERSUS

The Govt. K.P. through Secretary Finance and Others.

...Respondents

REJOINDER BY THE APPELLANT

Respectfully Sheweth:

Preliminary Objections:

That all the preliminary are incorrect, baseless, whimsical and based on concealment of facts. The appellant has got prima facie case and has approached this Honourable Tribunal well within time with clean hands. Hence all the preliminary objections are denied specifically.

On Facts:

1. Para 1 of the reply as drafted is incorrect, baseless and is in violation of the law and rules on the subject. The respondents had all the relevant documents and they let the appellant perform his duties till his retirement order was issued. The respondents were under the obligation to retire the appellant well on time and the appellant had got no authority to retire himself. The respondents are making the appellant a scape got for the lapse on



their part, which the law never approves of. Hence the para is specifically denied.

2. Para 2 of reply as drafted amounts to admission hence needs no comments.
3. Para 3 of the reply as drafted is incorrect, baseless and whimsical. The respondents had the record of the appellant with them and they could have calculated the date of retirement therefrom. It is a very unique case of its kind as the appellant could not get himself retired neither had he made any effort of any sort to alter his date of birth. The respondents failed to discharge their duties in accordance with the law and rules on the subject and made the appellant a scape goat for the inaction on their part. As far as the salary is concerned so against the same the appellant has rightfully performed his duties with great zeal and punctuality till his retirement. The recovery of the salary the appellant received in lieu of duty will amount to forced labour, which is against the direct commands of the Constitution. Hence the para is specifically denied.
4. Para 4 of the reply is evasive as well and amounts to admission, therefore, needs no comments.

On Grounds:

- a. Ground a of the reply as drafted is incorrect and based on misstatements as the respondents had complete record of the appellant in their custody and they were duty bound to have issued the retirement

order of the appellant on time without any fail. Now that the respondent department had failed to discharge their duty and making the appellant suffer for the lapse on their part. The appellant had no other option, but to perform his duties as the respondent department did not retire him on time rather kept him in active duty till 19-08-2014. Hence the para is denied.

- b. Ground b of the reply as drafted is incorrect and in clear violation of the commands of the Constitution. The respondent department kept the appellant on active duty and the appellant has never taken overpayment rather has taken the salary in lieu of the duty he performed, which fact was well in the knowledge of the respondent department. Hence the para is denied.
- c. Ground c of the reply as drafted is incorrect and whimsical. The appellant was made to remain on active duty till his retirement order was issued by the respondent department. The appellant has never performed any illegality rather the respondent department was in deep slumber and the lapse on their part cannot be attributed to the appellant by any stretch of law and rules on the subject and the action on the part of the respondent department is in utter juxtaposition of the commands of the Constitution. Hence the para is denied specifically.

It is, therefore, very respectfully prayed that  
on acceptance of this rejoinder and the appeal the  
order impugned may very kindly be set aside being

*unlawful and void ab initio and the appeal of the  
appellant accepted as prayed for originally.*

*Appellant*

*عزیز*  
*Bährul Hayat*

*Through Counsels,*

*عزیز*  
*Aziz-ur-Rahman*

*ایمده*  
*Imdad Ullah*

*Advocates Swat*

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

Service Appeal No. 1373 of 2014

Bahrul Hayat Ex-Head Constable.

... Appellant

**VERSUS**

The Govt. K.P. through Secretary Finance and Others.

... Respondents


**AFFIDAVIT**

I Bahrul Hayat solemnly state on Oath that all the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has either been misstated or kept concealed before this Honorable Tribunal.

Deponent

  
Bahrul Hayat

Identified By:

  
Imdad Ullah  
Advocate Swat

