

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1045/2015

Date of Institution ... 18.09.2015

Date of Decision ... 24.01.2022

Nadir Shah Son of Muhammad Zahir Shah, Ex-Lecturer Government Superior Science College Peshawar. ... (Appellant)

VERSUS

Chief Secretary, Khyber Pakhtunkhwa, Peshawar and others.

... (Respondents)

Noor Muhammad Khattak,
Advocate

... For Appellant

Muhammad Adeel Butt,
Additional Advocate General

... For respondents

AHMAD SULTAN TAREEN ...
ATIQU-UR-REHMAN WAZIR ...

CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):-

Brief facts of the

case are that the appellant while serving as Lecturer in Higher Education Department, was proceeded against on the charges of absence from duty and was ultimately removed from service vide order dated 21-04-2015. Feeling aggrieved, the appellant filed departmental appeal dated 20-05-2015, which was not responded within the statutory period, hence the instant service appeal with prayers that the impugned order dated 21-04-2015 may be set aside and the appellant may be re-instated in service with all back benefits.

02. Learned counsel for the appellant has contended that the impugned order is illegal, unlawful and contrary to the norms of natural justice, therefore, not tenable and liable to be set aside; that the appellant has not been treated in

accordance with law, hence his rights secured under the Constitution has badly been violated; that no proper procedure has been followed before imposition of major penalty of removal from service upon the appellant; that the appellant has not been served with charge sheet/statement of allegation nor any inquiry has been conducted, thus the whole proceedings are nullity in the eye of law; that the appellant has not been provided opportunity of personal hearing before awarding major penalty of removal from service, hence the appellant has been condemned unheard; that absence of the appellant was not willful, rather the appellant properly applied for Ex-Pakistan leave, which was duly considered and the appellant was of the impression that such leave has been granted; that the appellant had gone abroad for higher studies on full bright scholarship and appellant was the only candidate selected from Khyber Pakhtunkhwa; that as per rule-12 of the leave rules, the appellant was entitled to extra ordinary leave without pay for two years at a time, but the respondent refused such leave, which was against law and rule; that the appellant resumed his duty on 27-12-2014 but he was declared absent with effect from 01-09-2014 and was removed from service vide order dated 21-04-2015; that the impugned order is not a speaking order and is in violation of section 24 A of the General Clauses Act; that the appellant has never committed any act or omission which could be termed as misconduct albeit the appellant has been removed from service; that the appellant has long and spotless service at his credit, the penalty so awarded is harsh and liable to be set aside.

03. Learned Additional Advocate General for the respondents has contended that the appellant while serving as Lecturer in the Higher Education Department, applied for full bright scholarship for higher studies, for which the appellant was selected at University of Georgia USA and the appellant applied for Ex-Pakistan leave, but before approval of such leave, the appellant left for USA and sent another application from USA; that the appellant left the country without

obtaining NOC from the department and without seeking permission of the competent authority, therefore, the appellant was proceeded in absentia and absence notices were sent at his home address but he did not turn up, hence such notices were published in newspapers, but the appellant did not respond, hence the penalty of removal from service was imposed upon the appellant due to his willful absence.

04. We have heard learned counsel for the parties and have perused the record.

05. Record reveals that the appellant was initially appointed as Lecturer on ad-hoc basis in the year 2010 and upon promulgation of regularization Act, 2014, his services were regularized. During the course of his service, the appellant availed the opportunity of getting foreign scholarship for higher studies. In order to join higher studies in USA, the appellant submitted application for leave without pay, which was admissible to the appellant under Rule-12 of Revised Leave Rules, 1981 as the appellant was holding five years service at his credit, but such leave was not granted to the appellant, which however was not warranted as the scholarship was foreign funded with no cost on provincial government and it was beneficial for the respondents that one of their teacher was getting higher qualification, who in return would deliver in a better way. The respondents were supposed to appreciate the intelligence of the appellant, who grabbed Full Bright scholarship, instead they have discouraged him by implicating him in legal jargons under the pretext that as per rule *ibid*, it was upon discretion of the competent authority either to grant or refuse such leave. The competent authority was supposed to exercise his discretion judiciously as his request for such leave was based on genuine reason to up-grade his qualification, but the competent authority had not done it the way it was required to be done.

06. Interestingly, the appellant was proceeded against under Rule-9 of the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011

inspite of the fact that the appellant was in regular contact with the respondents, as is evident from record and the respondents were well aware of the fact that the appellant is in USA for higher education. It was funny on part of the respondents knowing the whereabouts of the appellant, still they issued notices in newspapers with warning to the appellant to resume duty. Upon publication of notices in the newspapers, the appellant came back and resumed his duty and again requested for grant of extra-ordinary leave for the purpose of higher study, but his request was not even processed and the respondents continued with the disciplinary proceedings to the extent of fulfillment of formalities, hence ex-parte action was taken against him and he was removed from service without conducting a regular inquiry. The Supreme Court of Pakistan in its judgment reported as 2008 SCMR 1369 has held that in case of imposing major penalty, the principles of natural justice required that a regular inquiry was to be conducted in the matter and opportunity of defense and personal hearing was to be provided to the civil servant proceeded against, otherwise civil servant would be condemned unheard and major penalty of dismissal from service would be imposed upon him without adopting the required mandatory procedure, resulting in manifest injustice.


07. The impugned order would suggest that the appellant was proceeded against on the ground of absence for the mentioned period, however the authority has treated the mentioned period as leave without pay, as such the very ground, on the basis of which the appellant was proceeded against, has vanished away and the appellant cannot be penalized for the absence, which was regularized by the respondents themselves and on this score alone, the impugned order is liable to be set aside. Wisdom in this respect derived from the judgment of the august Supreme Court of Pakistan, reported as 2006 SCMR 434 and 2012 TD (Services) 348.

08. The appellant was not guilty of charges of gross misconduct or corruption, therefore, extreme penalty of dismissal from service for the charge of absence and that too on genuine reason, which cannot be termed as willful absence and which does not constitute gross misconduct entailing major penalty of removal from service. Competent authority had jurisdiction to award any of the punishments mentioned in law to the government employee but for the purpose of safe administration of justice such punishment should be awarded which commensurate with the magnitude of the guilt, Otherwise the law dealing with the subject would lose its efficacy. Reliance is placed on 2006 SCMR 1120.

09. We are of the considered opinion that the appellant has not been treated in accordance with law, as the appellant was entitled for extra-ordinary leave under Rule-12 of Revised Leave Rules 1981, but was not granted, which however was not warranted. The appellant was not proceeded in accordance with law, hence was kept deprived of his job in an illegal and mechanical manner. In view of the foregoing discussion, the instant appeal is accepted. The impugned order dated 21-04-2015 is set aside and the appellant is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
24.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

ORDER


24.01.2022

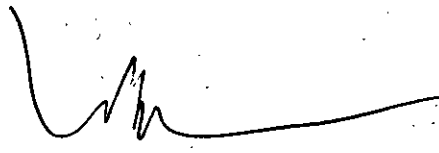
Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Jehanzeb Superintendent for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant appeal is accepted. The impugned order dated 21-04-2015 is set aside and the appellant is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

24.01.2022

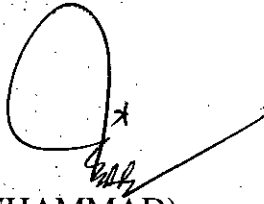

(AHMAD SULTAN TAREEN)
CHAIRMAN


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

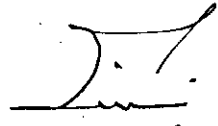
23.08.2021

Appellant alongwith his counsel present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Jehanzeb Awan, Supdt for respondents present.

Arguments could not heard due to paucity of time. Adjourned. To come up for arguments before the D.B on 09.09.2021.



(MIAN MUHAMMAD)
Member(E)



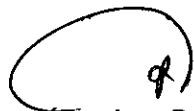
(SALAH-UD-DIN)
Member(J)

09.09.2021

Clerk to counsel for appellant present.

Kabir Ullah Khattak learned Additional A.G for respondents present.

Lawyers are on general strike. Therefore, case is adjourned. To come up for arguments on 24.01.2022 before D.B.



(Rozina Rehman)
Member (J)




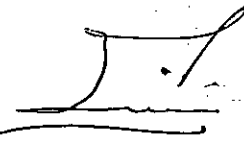
Chairman

07.07.2021

Junior of learned counsel for the appellant present. Muhammad Zafrullah Khan, Assistant Director alongwith Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present.

We being Members of Larger Bench, remained busy in hearing arguments in the appeals fixed before the Larger Bench, therefore, arguments in the instant appeal could not heard. Adjourned. To come up for arguments before the D.B on 20.08.2021.

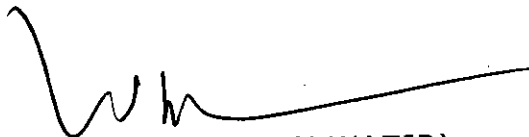

(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

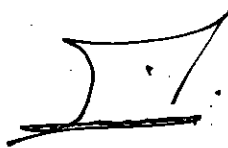

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

19.07.2021

Mr. Noor Muhammad Khattak, Adocate, for the appellant present. Qazi Ayaz, Litigation Officer alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Learned counsel for the appellant stated that as arguments could not be concluded today, therefore, adjournment may be granted. Adjourned. To come up for arguments before the D.B on 23.08.2021.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

29.01.2021

Counsel for appellant present.

Asif Ali Shah learned Deputy District Attorney alongwith Jehanzeb Superintendent for respondents present.

Proper compilation was done by the learned counsel for appellant while necessary documents were also produced by the representative of respondents which were placed on file. A joint request was made for adjournment. Adjourned. To come up for arguments on 11.03.2021 before D.B.

(Mian Muhammad)
Member (E)

(Rozina Rehman)
Member (J)

11.03.2021

Due to non availability of Bench, the case is adjourned to 27.04.2021 for arguments before D.B

READER

27.4.21

Due to COVID-19, the case is adjourned to 17.8.2021 for the same.

*Case was noted
Am
22/6/21*

25.11.2020

Counsel for the appellant present. Addl: AG along with Mr. Jehanzeb, Supdt for respondents present.

Learned counsel for the appellant states that the page numbering of appeal is not correct which requires rectification. He, therefore, requests for time to do the needful. May do so within fifteen days. To come up for arguments on 29.01.2021 before D.B. The representative of the respondents is also required to produce all the relevant record to be suggested by the learned Additional Advocate General positively, on the next date of hearing:

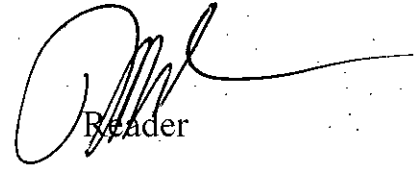
(Mian Muhammad)
Member (E)

Chairman

~~29.01.21~~
~~Learned counsel for the appellant states that the page numbering of appeal is not correct which requires rectification. He, therefore, requests for time to do the needful. May do so within fifteen days. To come up for arguments on 29.01.2021 before D.B. The representative of the respondents is also required to produce all the relevant record to be suggested by the learned Additional Advocate General positively, on the next date of hearing:~~
~~Chairman~~
~~Member (E)~~

26.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 10.06.2020 before D.B.



Reader

10.06.2020

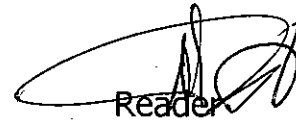
Bench incomplete as one learned Member (J) is on leave. Therefore, the case is adjourned. To come up for the same on 21.08.2020 before D.B.



Reader

21.08.2020

Due to summer vacation case to come up for the same on 23.10.2020 before D.B.



Reader

23.10.2020

Junior to counsel for the appellant and Mr. Muhammad Jan, DDA alongwith Jehanzaib, Superintendent for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 25.11.2020 for hearing before the D.B.



(Mian Muhammad)
Member



Chairman

A. No. 1045/2015

23.10.2019

Counsel for the appellant present. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present.

Learned counsel requests for adjournment as learned senior counsel for the appellant is engaged today before Federal Service Tribunal at Islamabad.

Adjourned to 26.12.2019 before the D.B


Member


Chairman

26.12.2019

Appellant in person present. Mr. Ziaullah, DDA for respondents present. Appellant seeks adjournment. Adjourn. To come up for arguments on 27.02.2020 before D.B.


Member


Member

27.02.2020

Appellant with counsel present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Israr Ahmad Assistant present. Representative of the respondent department is directed to furnish IBMS (Travel History) of the appellant. Adjourn. To come up for record/arguments on 26.03.2020 before D.B.

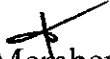

Member



Member

15.03.2019

Mr. Muhammad Maaz Madni, Advocate has submitted Wakalatnama executed by the appellant. Addl. AG for the respondents present.

Learned counsel for the appellant requests for time to prepare the brief. Adjourned to 11.06.2019 before the D.B.


Member


Chairman

11.06.2019

Counsel for the appellant and Mr. Usman Ghani, DDA for the respondents present.

Due to paucity of time hearing is adjourned to 31.07.2019 before the D.B.


Member


Chairman

31.07.2019

Junior to counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 23.10.2019 before D.B.



Member


Member

Service Appeal No. 1045/2015

07.02.2019

Counsel for the appellant present. Mr. Kabirullah Khattak,
Additional AG for the respondents present. Learned counsel for the
appellant requested for adjournment. Adjourned to 15.03.2019 for
arguments before D.B-I.


(AHMAD HASSAN)
MEMBER

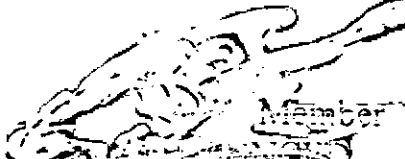

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

~~12.03.2019~~

~~Respondents present.~~

~~Order is already issued and the case has been
closed regarding the respondents and the appellant.~~


~~Dismissed for non-prosecution. File is
assigned to the record copy.~~



Member
~~12.03.2019~~


Kundi

30.08.2018

Appellant in person and Mr. Kabirullah Khattak, Additional AG for the respondents present. Appellant seeks adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 21.09.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

21-9-18

*Since 21, September has been declared as public holiday, therefore the case is adjourned for the same
on 4-11-18.*



09.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 14.12.2018.


Reader

14.12.2018


Junior to counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General present. Junior to counsel for the appellant seeks adjournment as senior counsel is not in attendance. Adjourn. To come up for arguments on 07.02.2019 before D.B.



Member


Member

06.12.2017

Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney for respondent also present. Counsel for the appellant requested for adjournment. Adjourned. To come up for amended appeal and arguments on 12.02.2018 before the D.B.


(Ahmad Hassan)
Member (E)


(Muhammad Amin Khan Kundi)
Member (J)

12.02.2018

Agent to counsel for the appellant and Mr. Kabir Ullah Khattak, Learned Additional Advocate General for the respondents present. DBA is on strike, therefore the case is adjourned. To come up for arguments on 17.04.2018 before D.B


(Ahmad Hassan)
MEMBER


(Muhammad Hamid Mughal)
MEMBER

17.04.2018


Clerk of the counsel for appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents also present. Clerk of the counsel for appellant seeks adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for arguments on 03.07.2018 before D.B.



(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

03.07.2018

Appellant with counsel and Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 30.08.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Amin Kundi)
Member

29.12.2016

Counsel for the appellant and Mr. Murad Khan, Supdt. alongwith Addl. AG for respondents present. Arguments could not be heard due to incomplete bench. Case adjourned to 15.05.2017 for arguments before D.B.


Chairman

15.05.2017

Junior counsel for the appellant and Mr. Murad Khan, Superintendent alongwith Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Junior counsel for the appellant requested for adjournment on the ground that his senior counsel is not available today. Adjourned for arguments to 17.08.2017 before D.B.


(GUL ZEB KHAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

17.08.2017

Appellant in person present. Mr. Ziaullah, Deputy District Attorney for the respondents present. Appellant submitted an application for adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 06.12.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member (J)


(Muhammad Hamid Mughal)
Member (J)

1045/15

14.4.2016

Appellant in person and Muhammad Irfan, AD & Ali Haider, Lecturer alongwith Addl. A.G for respondents present. Written statement by respondent No. 2 & 3 submitted. Learned Addl. AG relies on the same on behalf of respondent No:1, 4 and 5. The appeal is assigned to D.B for rejoinder and final hearing for 09.8.2016.




Chairman

09.08.2016

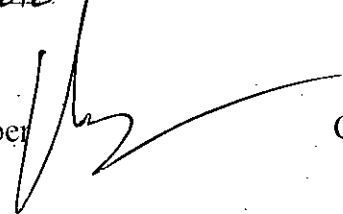
Agent to counsel for the appellant Mr. Ziaullah, GP for respondents present. Rejoinder submitted which is placed on file. To come up for arguments on 4-11-16.



Member


Member

4.11.2016

Appellant with counsel and Assistant AG for the respondents present. Learned AAG requested for adjournment. To come up for final hearing on 29-12-2016 before the D.B.

Member 


Chairman

28.10.2015

Appellant in person present. Seeks adjournment. Adjourned for preliminary hearing to 12.11.2015 before S.B.


Chairman

12.11.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Lecturer when subjected to inquiry on the allegations of wilful absence from duty and removed from service vide impugned order dated 21.4.2015 where against he preferred departmental appeal on 20.5.2015 which was not responded and hence the instant service appeal on 22.9.2015.

That the appellant had gone overseas for upgrading his qualification and was entitled to leave as sufficient leave was available in his account and that removal from service of the appellant was not made in the prescribed manners and as such liable to be set aside.

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 9.2.2016 before S.B.


Chairman

09.02.2016

Appellant with counsel and Mr. Asif Khan, Lecturer for respondent No. 5 alongwith Addl: A.G for all respondents present. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 14.4.2016 before S.B.


Chairman

Appellant Deposited
Security & Process Fee

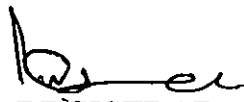




FORM-A

FORM OF ORDER SHEET

Court _____

Case No. 1045/2015

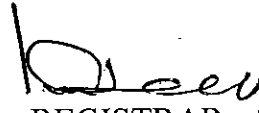
	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	22.09.2015	<p>The appeal of Mr. Nadir Shah resubmitted to-day by Mr. Shah Faisal Utmankhel Advocate, may be entered in the institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	30-9-15	<p>This case be put up before the S.B for preliminary hearing on <u>14-10-2015</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	14.10.2015	<p>None present for appellant. The appeal be relisted for preliminary hearing for 28.10.2015 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Nadir Shah son of Muhammad Zahir Shah, Ex-Lecturer Government Superior Science College, Peshawar received to-day i.e. on 18.09.2015 is incomplete on the following scores which is returned to his counsel for completion and resubmission within 15 days.

1. Pages of the appeal may be properly annexured/pagewise, duly attested by appellant or his counsel.
2. Applications dated 18.8.2015, dated 10.10.2014, and dated 10.2.2015 are illegible, which may be replaced by legible one.
3. 7 more copies of appeal alongwith annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1444 /ST,

Dated 18/9 /2015


REGISTRAR
KPK SERVICE TRIBUNAL,
PESHAWAR.

Mr. Shah Faisal Utmankhel, Advocate, Peshawar.

Re-submitted

22/09/2015

Nadir

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

Appeal No. 1045 /2015

Nadir Shah

Versus

Chief Secretary, Khyber Pakhtunkhwa, Peshawar etc

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4.	Copies of application to the principle GSSC Peshawar under the subject leave with or without pay for academic purpose dated 18/08/2014 and other applications dated 10/Oct/2014, application to the secretary Higher Education Peshawar dated 10 Feb 2015, Arrival application to the principle GSSC, Peshawar dated 27/12/2014 with diary no. 980, dated 30/12/2014	A, B, C, D, & E	10-14
5.	Copy of the removal from service order dated 21/04/2015	F	15
6.	Copy of departmental appeal	G	16-19
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Nadir Shah
Appellant

Through

SHAH FAISAL UTMANKHEL,
Advocate, High Court Peshawar

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

**A.W.F. Province
Service Tribunal
Diary No. 1093
Dated 18-9-2015**

Appeal No. 1045 /2015

Nadir Shah son of Muhammad Zahir Shah, Ex-Lecturer
Government Superior Science College, Peshawar.

.....APPELLANT

VERSUS

1. Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. Secretary Higher Education Commission, Islamabad.
3. Director Higher Education Commission, Khyber Pakhtunkhwa, Peshawar.
4. Government of Khyber Pakhtunkhwa, Higher Education, Archives & Libraries Department through its Secretary.
5. Principle, Government Superior Science College, Peshawar.

.... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT 1974 AGAINST
THE ORDER DATED 21/04/2015 WHEREBY THE
APPELLANT WAS AWARDED THE MAJOR PENALTY OF
REMOVAL FROM SERVICE, AND THE DEPARTMENTAL
APPEAL FILED ON 20/05/2015 OF THE APPELLANT HAS
LAPSED

18/9/15
 De-submitted to-day.
 22/9/15.

Prayer in Appeal: -

On acceptance of this appeal the impugned order dated 21/04/2015 communicated to the appellant on 14/05/2015, whereby the appellant was awarded major penalty of removal from service, against which departmental appeal on dated 20/05/2015 was filed by the appellant of which no order has been passed yet, may kindly be set aside and the appellant be re-instated with all back benefits on his services

RESPECTFULLY SUBMITTED:

1. That the appellant was initially appointed as Lecturer on adhoc basis on the year 2010, later on adhoc appointment was extended from time to time. It is pertinent to mention here that on promulgation of Adhoc Appointments Regularization Act 2014 by Provincial Assembly, the service of the undersigned were also regularized in the year 2014.
2. That ever since appointment of the appellant performed his duties as assigned with zeal and devotion and there was no complaint whatsoever regarding appellant's performance.
3. That during the course of services of the appellant the appellant applied for scholarship of higher studies accordingly the appellant got full bright scholarship of higher studies at University of Georgia in USA. It is pertinent to mention here that the appellant was the only

candidate selected from the Khyber Pakhtunkhwa for the said scholarship.

4. That in order to join studies abroad, appellant also submitted applications for Ex-Pakistani leave (Leave without pay), however appellant was not given any response, thereafter I went abroad and joined his studies. It is pertinent to mention that the appellant is in touch with the department and continuously made request for Ex-Pakistan leave vide applications dated 18/08/2014 and 10/10/2014.
5. That a notice of assumption of duty was issued, thereafter appellant came back in December 2014, and submitted his arrival report dated 17/12/2014. Thereafter again made requests and submitted application for Ex-Pakistan Leave which was received vide Diary No.980, dated 30/12/2014. Since under the rules appellant was entitled for leave therefore appellant was assured that his leave will be sanctioned. In order to continued his studies appellant left for USA with impression that this time his leave application being properly processed / forwarded will be allowed.
6. That the appellant also made correspondence with his department from abroad regarding the sanction or otherwise of his leave, however appellant was given no response. (Copies of application to the principle GSSC Peshawar under the subject leave with or without pay for academic purpose dated 18/08/2014 and other applications dated 10/Oct/2014, application to the secretary Higher

Education Peshawar dated 10 Feb 2015, Arrival application to the principle GSSC, Peshawar dated 27/12/2014 with diary no. 980, dated 30/12/2014 are attached as annexure A, B, C, D, & E)

7. That in the meantime appellant came to know that he has been proceeded against in absentia and has been removed from service vide notification dated 21/04/2015. (Copy of the removal from service order dated 21/04/2015 is annexed as annexure F)

8. That the appellant thereafter filed a departmental appeal on dated 20/05/2015 and because of having no plausible reply the department has not decided the departmental appeal of the appellant within a span of 90 days and till date, appellant waited for statutory period and when now has become completely disappointed, hence now approaches this Honourable Forum in the instant appeal. (Copy of the departmental appeal etc are attached as annexure G).

9. That the order whereby appellant has been removed from service, is illegal, unlawful against the law and fact hence liable to be set aside on the following grounds inter alia: -

Grounds: -

A. That the impugned order of respondents of removal of services of the appellant is illegal, null, void in the eyes of law and against the principle of natural justice, hence liable to be set aside.

- B. That appellant has not been treated in accordance with law hence rights of the appellant secured and guaranteed under the law are badly violated.
- C. That no properly procedure has been followed before the imposition of penalty of removal from service upon the appellant. Appellant has not been served with any charge sheet or statement of allegations nor any inquiry has been conducted to roper into the charges thus the whole proceedings are nullity in the eyes of law.
- D. That the appellant has not been provided opportunity of personal hearing before awarding the appellant the penalty of removal from service, hence I have been condemned unheard.
- E. That no charge sheet or statement of allegations as prescribed under the law and rules has been served upon me hence I have not been provided fair opportunity to defend himself against the charges leveled.
- F. That the application submitted by the appellant vide diary no.980 dated 30/12/2014 was purposely misplaced. Moreover appellant was never informed about the rejection of the application for leave (if it was so), therefore appellant had the impression that the same is allowed.

G. That as per rule 12 of the Civil servant Leave revised leave rule, 198, "Extra Ordinary Leave may be granted on any ground up to a maximum period of five years at a time; provided that the Civil Servant to who such leave is granted has been in continuous service for a period of not less than ten years. In case of Civil Servant has not completed ten years of continuous service, Extra Ordinary leave without pay for a maximum period of two years may be granted at the discretion of the leave sanctioning authority. The leave can be granted irrespective of fact whether a Civil servant is a permanent or temporary employee". Since the undersigned had a genuine reason as such leave could not be refused to the appellant.

H. That the impugned order of removal from service it has been alleged that appellant remained absent from duty w.e.f.01/09/2014 while appellant duly reported for duty on 27/12/2014, however this fact has been ignored.

I. That the impugned order is not a speaking order and is in violation of the section 24-A of the General Clauses Act.

J. That appellant has never committed any act or omission which could be termed as misconduct albeit appellant has been removed from his service. Appellant applied for leave and the application was forwarded, since appellant was

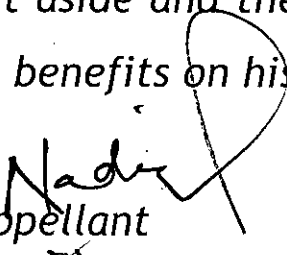
entitled for leave, therefore appellant was hopeful that his leave will be sanctioned.

K. That appellant have a long and spotless service career of about 5 years at appellant's credit, the penalty imposed upon me is harsh and liable to be set aside.

L. That other grounds would be raised at the time of arguments with the permission of this Honourable Forum.

It is, therefore, most humbly prayed that On acceptance of this appeal the impugned order dated 21/04/2015 communicated to the appellant on 14/05/2015, whereby the appellant was awarded major penalty of removal from service, against which departmental appeal on dated 20/05/2015 was filed by the appellant of which no order has been passed yet, may kindly be set aside and the appellant be re-instated with all back benefits on his services

Dated: 18/09/2015


Appellant

Through


SHAH FAISAL UTMANKHEL,
Advocate, High Court Peshawar

Certificate:

Certified that no such like appeal has earlier been filed before this Honorable tribunal.


Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

Appeal No. 1045 /2015

Nasir Shah

Versus

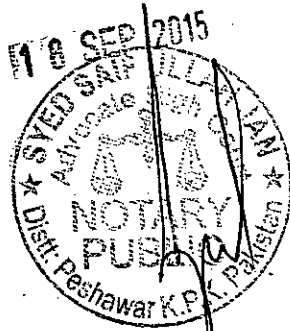
Chief Secretary, Khyber Pakhtunkhwa, Peshawar etc

AFFIDAVIT

I, Nasir Shah son of Muhammad Zahir Shah, Ex-Lecturer Government Superior Science College, Peshawar do hereby solemnly affirm and declare on oath that the contents of the instant appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

Nasir
Deponent

ATTESTED



BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

Appeal No. 1045 /2015

Nasir Shah

Versus

Chief Secretary, Khyber Pakhtunkhwa, Peshawar etc

ADDRESSES OF PARTIES

ADDRESS OF APPELLANT:

Nasir Shah son of Muhammad Zahir Shah, Ex-Lecturer Government Superior Science College, Peshawar.

ADDRESSES OF RESPONDENTS: -

- 1. Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2. Secretary Higher Education Commission, Islamabad.
- 3. Director Higher Education Commission, Khyber Pakhtunkhwa, Peshawar.
- 4. Government of Khyber Pakhtunkhwa, Higher Education, Archives & Libraries Department through its Secretary.
- 5. Principle, Government Superior Science College, Peshawar.

Nasir
Appellant

Through

[Signature]
SHAH FAISAL UTMANKHEL,
Advocate, High Court Peshawar

18/08/2014
Ms
Nadir Shah

NADIR SHAH
Lecturer
Government Superior
Science College, Peshawar

8/08/2014
Nadir Shah
1000
1000
1000

It is to inform you that under U.S. Aid Education Program I have been selected on full
to all scholarship from K.P.K. Therefore it is requested that my this application may be
board of the secretary. If other education Peshawar for leave without or without pay with
instructed from 01/11 to June 2015. After completion of my academic course in Georgia U.S.A.
I am requested to come back and rejoin the college. In my this course no national exchequer is

The Principal
U.S.A. Peshawar

Subject: Leave with or without pay for academic purposes.

A - 10

H. Amwair

(10) AA

Better copy of Page no. 10

To,

The Principle,
GSSC, Peshawar

10

Subject: LEAVE WITH OR WITHOUT PAY FOR ACADEMIC PURPOSES

Sir,

It is to inform you that under US AID education program I have been selected for Fulbright scholarship from KPK. Therefore it is requested that my this application may be forwarded to the Secretary Higher Education, Peshawar for leave with or without pay from 01/09/2014 to June 2015. After completion of my academic course in Georgia, USA I am supposed to come back and re-join the college. In my this course no National Exchequer is involved.

Thanks,

Yours Obediently,

SD/-

Nadir Shah

Dated: 18/08/2014

Attested Copy

(Signature)

AMURE
① ②

The Principal
Government Superior Science College, Peshawar.

B - 11

SUBJECT: LEAVE WITHOUT PAY FOR ACADEMIC PURPOSES.

Respected Sir/Madam,

I have been working as a lecturer on Adhoc basis since October 2010 in Government Superior Science College, Peshawar. My services along with 241 other lecturers were regularized in May 2014 through an act passed by provincial assembly KPK. I got Fulbright scholarship in April 2014 for higher education in USA. After waiting for a long time for the official notification I left Pakistan for USA in mid-August of this year without filing an application for leave. The reason that I could not file an application prior to my leaving Pakistan is that without official notification my status was not clear.

Respected Sir/Madam, I am imploring your good office through this application that I should be granted leave without pay from September 1st, 2014 till May 29th, 2015. And I should also be allowed to take charge of my duties in June 2015 after notification of my regularization, which is still pending. This act of kindness will enable me to concentrate on my studies at the University of Georgia, Athens, USA and I will be able to come back and serve my country fully equipped with experience and knowledge.

Thanking You,

Nadir Shah (Fulbrighter),
Lecturer in English,
GSSC, Peshawar.

Dated: 10th Oct, 2014

Nadir
MS
10/10/2014

Better copy of Page no. 11

To,

The Principle,
GSSC, Peshawar.

Subject: Leave without pay for academic purposes

Respected Sir / Madam,

I have been working as a lecturer on Adhoc basis since October 2010 in Government Superior Science College, Peshawar. My services along with 241 other lecturers were regularized in May 2014 through an Act passed by Provincial Assembly KPK. I got Fulbright Scholarship in April 2014 for Higher Education USA. After waiting for long time for official notification I left Pakistan for USA in Mid August of this year, without filing an application for leave. The reason for that I could not file an application for leave is that without official notification my status is not clear.

Respected Sir/Madam, I am imploring your good office through this application that I should be granted leave without pay from September 1st 2014 till May 29, 2015 and I should also be allowed to take Charge of my duties from June 2015 after notification of my regularization which is still pending. This act of kindness would enable me to concentrate upon my studies at University of Georgia, Athens, USA and I will be able to come back and serve my country fully equipped with experience and knowledge.

Thanking you,

Attested Copy



Nadir Shah (Fulbrighter)
Lecturer in English,
GSSC, Peshawar



The University of Georgia

College of Arts & Sciences

Peabody Hall
Athens, Georgia 30602-1625
(706) 542-5356

Handwritten marks and signature: *ARRIVE*

Secretary,
Higher education,
Govt of KPK, Peshawar.

C - 12

Subject: Ex-Pakistan leave with or without pay.

Sir,

I have the honor to request you that I may be granted Ex-Pakistan leave with or without pay on Fulbright scholarship by the United States of America.

I am lecturer in English and imparting education to the students of B.S level of Govt. Superior Science College Peshawar since Oct 2010. In May 2014 I was regularized and prior to that Adhoc lecturer. In April 2013 I got Fulbright scholarship for higher education. The day of my leaving application was because of the fact that I was not regularized up to May 2014. However on 18-08-2014, 10-10-2014 and 31-12-2014, I submitted application for the said leave but unfortunately my applications were misplaced either in college or Secretariat. However my pay is stopped while the leave was delayed due to my own faults.

After completion of my course I am supposed to come back to my country with new vision. It is requested that I may be granted education leave with effect from September 2014. It is expected that I will join the college in June 2015. (After 5 months).

Thanks

Yours' Obediently

Nadir Shah

Nadir Shah
Lecturer Govt. Superior Science College

Dated: 10th February, 2015

Handwritten signature and date: *DS 690 15/2/15*

Better copy of Page no. 12

To,

The secretary,
Higher Education,
Government of KPK, Peshawar

Subject: Ex-Pakistan leave with or without pay

Respected Sir,

I have the honor to request you that I may be granted Ex-Pakistan leave with or without pay as I am on Fulbright scholarship by the United States of America.

I am lecturer in English and imparting education to the students of BS Level of Government Superior Science College, Peshawar since Oct 2010. In may 2014 I was regularized and prior to it I was Adhoc lecture. In April 2013 I got Fulbright Scholarship for Higher Education. The delay in the leave application was because of the fact that I was not regularized up to May. However on 18/08/2014, 10/10/2014 and 31/12/2014 I submitted applications for the said leave but unfortunately my applications were misplaced either in college or secretariat. However my pay is stopped while the leave was delayed due to my own faults.

After completion of my course I am supposed to come back to my country with new vision. It is requested that I may be granted education leave with effect from September 2014. It is prayed that I will join the college in June 2015. (After 5 months).

Thanks,

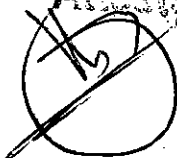
Yours Obediently,

NADIR SHAH

Dated: 10th February 2015

Lecturer Govt. Superior Science College

Attested Copy



To

(12)
Answer

The Principal,
G.S.S.C, Peshawar.
Subject : Arrival Report

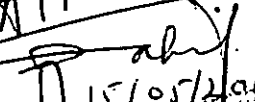
D - (13)

Respected Sir,

I beg to submit my arrival report w.e.f 26/12/2014 with Government of Khyber Pakhtunkhwa notification no. SO (colleges) 71/2-5/2010 dated 15/12/2014. The government has also regularized my services through the above cited notification number. w.e.f 26/5/2014.

Thanking you.

Attested


15/05/2015
LECTURER
Gov. Sub. Sci
College Peshawar (Cont)

M
27/12

Yours sincerely
Nadir Saeed
Lecturer in
G.S.S.C.P.

Nadir
27/12/2014



GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

(F) F-15

F-15

NOTE FOR CHIEF SECRETARY

SUBJECT: REMOVAL FROM SERVICE.

Mr. Nadir Shah, lecturer in English (BS-17), Govt. Science Superior College, Peshawar, is absent from duty since 01.09.2014 (F / A). His absence notice was published in the daily newspapers i.e. Daily Aaj and Daily Mashriq on 02-02-2015, and 03-02-2015 respectively (F / B & C). However, instead of joining duty he submitted an application stating thereby that he is on Fulbright Scholarship in the US and will join the college in June 2015 and that he may be granted leave (with or without pay) for the absence period (F / D).

2. Record shows that he availed the foreign scholarship without approval of the Govt.

3. Under Rule-9 of the Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011 (F / E) any officer/official who remains absent from duty without proper permission is liable to be removed from service after completion of all codal formalities.

4. The Chief Secretary, Khyber Pakhtunkhwa, being the competent authority for BS-17 officers is requested that Mr. Nadir Shah, lecturer in English (BS-17), Govt. Science Superior College, Peshawar, who is willfully absent from duties w.e.f 01.09.2014 may be removed from service under the Efficiency & Discipline Rules, 2011 with immediate effect. The period from which he is absent i.e. 01.09.2014 till date may be treated as un-authorized absence from duties (without pay):

5. Proposal contained at Para-4 above is submitted for approval of Chief Secretary, Khyber Pakhtunkhwa.

SECRETARY TO GOVT. OF
KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

CHIEF SECRETARY,
KHYBER PAKHTUNKHWA

PTO

DS(C) / S.A.B

PTO

17

07. The Note for Chief Secretary has been examined. Chief Secretary, Khyber Pakhtunkhwa, being competent authority, may approve removal of M. Nadir Shah, Lecturer in English (BS-17), Govt. Superior Science College Peshawar from service w.e.f. 01-09-2014 under Rule-9 of E&D Rules, 2011.

(Dr. ~~Ashtar~~ Nazir)
Secretary Establishment
April 09, 2015

Chief Secretary, Khyber Pakhtunkhwa.

Approved

~~AMW~~
13/4/15
Chief Secretary
Govt. of Khyber Pakhtunkhwa

RECEIVED HED

12/4/15
APR 13/2015

Dr. S. J. (C)

Pl p.u draft notification, as placed

below.

Steno

SC (C/II)

As amended.

Steno

SC (C/II) DFA is submitted pp

DS (C) / S.M.S

P777

15/04

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13/4/15

18

AS
Andare



**GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT**

Dated Peshawar the 21.04.2015.

NOTIFICATION

No. SO (COLLEGES-II)HED/2-5/2014. WHEREAS Mr. Nadir Shah, lecturer in English (BS-17), Govt. Superior Science College, Peshawar is absent from duties since 01-09-2014.

2. **AND WHEREAS** notices were issued to him on his home address as well as in leading newspapers with the direction to resume duty within 14 days, failing which ex-parte action under Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011 will be initiated against him;

3. **AND WHEREAS** the accused lecturer did not report for duty in response to the absence notices.

4. **NOW THEREFORE,** The Competent Authority, in exercise of powers conferred upon him under the Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011, is pleased to impose upon the said officer the penalty of removal from service with immediate effect, and his absence from duty, from 01.09.2014, till imposition of penalty shall be treated as unauthorized absence from duty (without leave).

SECRETARY TO GOVT. OF
KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

Endst: No. & Date Even.

Copy for information forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director Higher Education, Khyber Pakhtunkhwa, Peshawar.
3. Principal Govt. Superior Science College, Peshawar.
4. Officer concerned.

Rukhsana Jabeen
(RUKHSANA JABEEN)
SECTION OFFICER (COLLEGES-II)

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**OFFICE OF THE DIRECTOR HIGHER
EDUCATION KHYBER PAKHTUNKHWA
PESHAWAR.**

Encls: No. 1212-15/CA-II/Estt; Branch: A-12/Nadir Shah; English

Dated Peshawar the 14/05.2015

Copy of the overleaf is forwarded for information & necessary
action to the:-

1. Principal Govt; Superior Science College, Peshawar.
2. Section Officer (Colleges-II) Govt; of Khyber Pakhtunkhwa,
Higher Education Department Peshawar.
3. Superintendent Promotion Cell, local Directorate.
4. Officer concerned.

3. Bashi

DY: DIRECTOR (ESTABLISHMENT)

See



(19)

GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT

NO.SOG/HE/2-83/PIO Vol-IV/2015
Dated 19-05-2015


To

Mr. Nadir Shah,
House # 850, Street 35, D/4,
Phase 1, Hayatabad Peshawar.

SUBJECT: PROVISION OF DOCUMENTS UNDER RTI ACT, 2013.

I am directed to refer to your application dated 19-05-2015 on the subject noted above and to enclose herewith the requisite information/documents as requested by you, under RTI Act, 2013 please.

Encl: as above


(RAHMANI GUL)
SECTION OFFICER (Estt. & Admn.)

Endst: No & Date even.

Copy forwarded to the:-

- 1- Assistant Registrar, Right to Information Commission, 7th Floor, Tasneem Plaza, 6th Saddar Road Peshawar.
- 2- PA to DS (Admn), Higher Education Department.

SECTION OFFICER (Estt. & Admn.)

AFFERS

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G-20

To

The Honourable Chief Secretary,
Khyber Pakhtunkhwa,
Peshawar.

Subject:

Departmental Appeal against the Notificaiton No. SO (COLLEGES-II)HED/2-5/2014 dated 21.04.2015, communicated to the undersigned on 14.05.2015, whereby the major punishment of Removal From Service has been imposed upon the undersigned.

Prayer in Departmental Appeal.

On acceptance of this Departmental Appeal impugned notification dated 21.04.2015, may kindly be set aside and the undersigned may be reinstated into service with all back benefits.

Respected Sir,

I very humbly submit the following few lines for your kind and sympathetic consideration:

1. That the appellant was initially appointed as Lecturer on adhoc basis on the year 2010, later my adhoc appointment was extended from time to time. It is pertinent to mention here that on promulgation of Adhoc Appointments Regularization Act, 2014, by the Provincial Assembly, the services of the service of the undersigned were also regularized in the year 2014.
2. That ever since my appointment I have performed my duties as assigned with zeal and devotion and there was no complaint whatsoever regarding my performance.
3. That during the course of my service the undersigned applied for scholarship for higher studies, accordingly I got full bright scholarship for higher studies at University of Georgia in USA. It is pertinent to mention here that the undersigned was the only

21

candidate selected from the Khyber Pakhtunkhwa for the said scholarship.

- 4. That in order to join my studies abroad, I also submitted applications for Ex-Pakistan leave (Leave without pay), however I was not given any response, thereafter I went abroad and join my studies. It is pertinent to mention that I remained in touch with my department and continuously made requests for Ex-Pakistan Leave vide applications dated 18.08.2014 and 10.10.2014.
- 5. That a notice of assumption of duty was issued, thereafter I came back in December, 2014, and submitted my arrival report dated 27.12.2014. I thereafter again made requests and submitted application for Ex-Pakistan Leave which was received vide Diary No.980 dated 30.12.2014. Since under the rules I was entitled for leave therefore I was assured that my leave will be sanctioned. In order to continue my studies I left for USA with impression that this time my leave application being properly processed / forwarded will be allowed.
- 6. That I also made correspondence with my department from abroad regarding the sanction or otherwise of my leave, however I was given no response.
- 7. That in the meantime I came to know that I have been proceeded against in absentia and have been removed from service vide notification dated 21.04.2015. Copy of the notification was however communicated to me on 14.05.2015.
- 8. That the order whereby my service has been terminated is illegal, unlawful against law and fact hence liable to be set aside inter alia on the following grounds:

GROUND OF DEPARTMENTAL APPEAL.

- A. That I have not been treated in accordance with law hence my rights secured and guaranteed under the law are badly violated.

22

- B. That no proper procedure has been followed before the imposition of penalty of removal from service upon me. I have not been served with any charge sheet or statement of allegations nor any inquiry has been conducted to probe into the charges, thus the whole proceedings are nullity in the eye of law.
- C. That I have not been provided opportunity of personal hearing before awarding me the penalty of removal from service hence I have been condemned unheard.
- D. That no charge sheet or statement of allegations as prescribed under the law and rules has been served upon me hence I have not been provided fair opportunity to defend my self against the charges leveled.
- E. That the application submitted by the undersigned vide diary No. 980 dated 30.12.2014, was purposely misplaced. Moreover I was never informed about the rejection of the application for leave (if it was so), therefore I had the impression that the same is allowed.
- F. That as per Rule 12 of the Civil Servant Leave Revised Leave Rules, 198, "*Extra Ordinary leave may be granted on any ground up to a maximum period of five years at a time; provided that the civil servant to whom such leave is granted has been in continuous service for a period of not less than ten years. In case a civil servant has not completed ten years of continuous service, Extr Ordinary Leave without pay for a maximum period of two years may be granted at the discretion of the leave sanctioning authority. The leave can be granted irrespective of the fact whether a civil servant is a permanent or temporary employee.*" Since the undersigned had a genuine reason as such leave could not be refused to me.
- G. That the impugned order of removal from service it has been alleged that I remained absent from duty w.e.f 01.09.2014, while I duly reported for duty on 27.12.2014, however this fact has been ignored.
- H. That the impugned order is not a speaking order and is thus violative of the section 24-A of the General Clauses Act.

23

- I. That I have never committed any act or omission which could be termed as misconduct albeit I have been terminated from service. I duly applied for leave the application was forwarded, since I was entitled for leave, therefore I was hopeful that my leave will be sanctioned.
- J. That I have a long and spotless service career of about 5 years at my credit, the penalty imposed upon me is harsh and liable to be set aside.
- K. That I am jobless since my illegal removal from service.

It is, therefore, humbly prayed that on acceptance of this Departmental Appeal impugned notification dated 21.04.2015, may kindly be set aside and the undersigned may be reinstated into service with all back benefits.

Yours Obediently

Nadir

Nadir Shah
EX- Lecturer,
Govt. Superior Science College
Peshawar.
R/O House No. 850 Satreet 3, D-4 Phase 1
Hayatabad Peshawar.

Dated: 20 / 05/2015

1045/2015

20



16411

ایڈووکیٹ/ڈپٹی ایڈووکیٹ
بار کونسل اہلکار ایسوسی ایشن
رابطہ نمبر: 03339228336

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: حیدر حسن سردس ٹریبونل کراچی

دعویٰ: سردس ٹریبونل	منجانب: ایڈووکیٹ
علت: زمین	ناظر: شاہ بنام
موضوع: زمین	محکمات: زمین
جرم:	محکمات: زمین
تھانہ:	محکمات: زمین

بابت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام حیدر حسن سردس ٹریبونل کو ذیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی مکمل اختیار ہوگا، نیز ذیل صاحب کو راضی نامہ کرنے و تقریر حالت و فیصلہ بر طرف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں مدد تخطا کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا تاخیر یا غیرت یا اہیل کی برآمدگی اور منسوخی، نیز دائر کرنے اہیل نگرانی و نظربانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور ذیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقریر کا اختیار ہو گا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساتھ بذاختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جہان التوائے مقدمہ کے سبب سے ہوگا وہ ذیل موصوف وصول کرنے کا اختیار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو ذیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: 18-9-15

الع بد _____ واہ شد _____ الع بد

مقام _____ کے لئے منظور ہے۔

نوٹ: اس حکمت نامہ کی ذمہ داری، قائل قائل ہوگی۔

نادر شاہ بنام
Nader
حکومت پشاور

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal 1045/2015

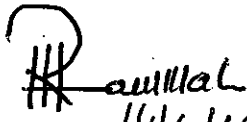
Mr. Nadir Shah..... Appellant

VERSUS

Govt of Khyber Pakhtunkhwa & others..... Respondents.

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6.	Absence notices	D-1,2,3,4,5	7,8,9,10,11,12
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Respondents 14/4/16

Service Appeal 1045/2015

Mr. Nadir Shah..... Appellant

VERSUS

Govt of Khyber Pakhtunkhwa & others..... Respondents.

PRELIMINARY OBJECTIONS:-

Respectfully Sheweth:-

1. That the appellant has got no cause of action to file the instant appeal.
2. That the appellant has concealed material facts from the Hon'able Tribunal.
3. That the Hon'able Tribunal lacks jurisdiction to entertain the instant appeal.
4. That the appellant has not come to the Hon'able Tribunal with clean hands.
5. That the appeal is bad for mis-joinder and non joinder of unnecessary parties.

REPLY ON FACTS:-

1. Correct to the extent that the appellant was appointed as Adhoc Lecturer in the subject of English in the year 2010, but it is pertinent to mention here that, the appellant left for abroad without seeking permission of Competent Authority. Therefore his regularization was not recommended (Annexure-A).
2. Correct to the extent that before 01/09/2014 no complaint was lodged against him. However on 01/09/2014, he proceeded abroad and left the College without prior approval of the Competent Authority and violated the rules.
3. Pertains to record. Needs no comments.
4. Incorrect. The appellant was required to obtain NOC of the Department for scholarship for higher studies abroad as prerequisite but he did not do so. Later on he sent a letter which was signed by his brother (Annexure-B) which clearly show the malafide intention of the appellant and his presence aboard. As far as his application for leave dated 18/08/2014 is concerned, the same is not available in the record
5. Incorrect. The appellant was directed by his Principal repeatedly but he always turned a deaf ear to his call as evident from the letter (Annexure-C). On top of that, without taking NOC, which is the pre-requisite for availing Ex-Pakistan leave under Government Servant leave rules, he left for aboard, in total contravention to the rules.
6. Incorrect. It is pertinent to mention here, that proper procedure for granting of leave was not fulfilled by the appellant. No arrival report has been filed by the appellant.
7. Incorrect. The appellant remained absent without prior approval of the Competent Authority, several absence letters were addressed to him(Annexure-C). Again, absence notices were issued against him but he failed to appear and resume his duties (Annexure-D) similar publication in Newspapers was also issued (Annexure-D Supra). Therefore, the appellant was proceeded under KPK Efficiency & Disciplinary Rules, 2011 and the Competent Authority imposed the penalty of Removal from Services upon him due to his wilful absence from duties (Annexure-E).

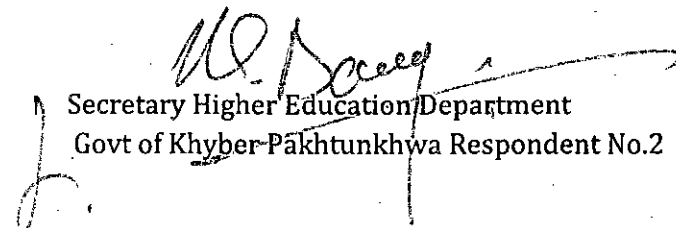
8. Incorrect. Reply of the Departmental appeal was attached as Annexure F. 29
9. Incorrect. The removal order dated 21/4/2015 was issued within four corners of law fully based on the norms of justice.

ON GROUNDS:-

- A. Incorrect. All codal/legal formalities were strictly followed by the Respondent Department.
- B. Incorrect. The appellant has been rightly treated according to rules and regulations.
- C. Incorrect. The appellant is trying to conceal material facts from the Hon'able Tribunal. Several absence notices, as already mentioned above, were issued against him but the appellant neither failed to reply nor appeared in person.
- D. Incorrect. All legal procedure under Rule-9 of E&D Rules-2011, was fully observed.
- E. Incorrect. As explained in Para-C.
- F. Incorrect. The appellant left the country without prior approval of the Competent Authority. His application being Diary No.980 dated 30/12/2014, does not appear to have been received in this office as the record of this office is silent. The version put forwarded by him was not maintainable as no Government servant can take shelter under the shadow of taking plea that his case has already in progress, hence left the situation. The appellant has rightly been penalized for irresponsible attitude.
- G. Correct to the extent that extra ordinary leave for five years is admissible to civil servants, who have ten years and more service in their credit while extra ordinary leave without pay for two years is admissible to those civil servants, who have less than 10 years service in their credit under the revised leave Rules-1981, however, it is discretion of leave competent authority to grant leave to a civil servant or otherwise. The plea of the appellant is baseless.
- H. Incorrect. The appellant left the country without obtaining NOC from the Competent Authority. As far as arrival report is concerned it is ambiguous and it has not been received by the Principal.
- I. Incorrect. All legal formalities were completed by Respondent Department.
- J. Incorrect. Already explained in preceeding paras above.
- K. No comments.
- L. That the respondents also seek permission of the Hon'able Tribunal to raise further grounds at the time of arguments.

PRAYERS:-

It is therefore, humbly prayed that the appeal is not maintainable as it is based on misconception hence the appeal may graciously be dismissed.


Secretary Higher Education/Department
Govt of Khyber-Pakhtunkhwa Respondent No.2


Director Higher Education
Khyber Pakhtunkhwa Respondent No.3

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal 1045/2015

Mr. Nadir Shah..... Appellant

VERSUS

Govt of Khyber Pakhtunkhwa & others..... Respondents.

AFFIDAVIT

I, Irfan Ullah khan Assistant Director Litigation Higher Education Department do hereby declare and affirm on oath that the contents of Para Wise Comments are correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'able Tribunal.


Deponent 19/4/16

CNIC No.11101-6409112-3

Identify by

**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA,
KHYBER ROAD PESHAWAR**

Phone # 091-9210242, 9211025/Fax # 9210215
No. 2503 / CA-II/ Estt: Branch /A-12/Nadir Shah/English

Dated Peshawar the 27/10/2014

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To

The Deputy Secretary (Colleges)
Govt; of Khyber Pakhtunkhwa,
Higher Education Department Peshawar.

SUBJECT
Memo:


LEAVE WITHOUT PAY FOR ACADEMIC PURPOSES.

I am directed to enclose herewith the unsigned application in respect of Mr. Nadir Shah Adhoc Lecturer in English Govt; Superior Science College, Peshawar requesting therein for Extra Ordinary Leave (without pay) w.e.f 01.09.2014 till May, 2015 for necessary action with the remarks that Principal Govt; Superior Science College, Peshawar reported that the above-mentioned Adhoc lecturer is absent from duty since 01.09.2014 without application/ information and proceeded abroad **(Copy enclosed)**. This office also asked the Principal to send a letter to the lecturer concerned on his home address under registered cover with the direction to report for duty within 15 days otherwise disciplinary action will be initiated against him and apprise this office about the latest position and copy thereof be endorsed to your officer. **(Copy enclosed)**. The Principal concerned did accordingly and sent registered letter to the lecturer concerned with similar direction **(Copy enclosed)**. But the lecturer concerned has failed to report for duty so far.


Now the Principal has forwarded the unsigned application of the above-mentioned adhoc lecturer concerned of his College for Extra Ordinary Leave (without Pay) for higher studies. As he left for abroad to USA and got admission there without seeking permission/ prior approval of the Competent Authority, therefore, this Directorate does not recommend his regularization, please.

Endst: No.

2504


DY: DIRECTOR (ESTABLISHMENT)

Copy of the above is forwarded to the Principal Govt; Superior Science College, Peshawar with reference to his Endst: No. 638 dated 13.10.2014 with the remarks to explain his position as to why he sent the unsigned application of the lecturer concerned to this office.


DY: DIRECTOR (ESTABLISHMENT)

B-

5 16(33) / 31

The Principal,
Govt. Superior Science College, Peshawar.

SUBJECT: LEAVE WITHOUT PAY FOR ACADEMIC PURPOSES.

Respected Sir/Madam.

I have been working as a lecturer on Adhoc basis since October 2010 in Government Superior Science College, Peshawar. My services along with 241 other lecturers were regularized in May 2014 through an act passed by provincial assembly KPK. I got Fulbright scholarship in April 2013 for higher education in USA. After waiting for a long time for the official notification I left Pakistan for USA in mid-August of this year without filing an application for leave. The reason that I could not file an application prior to my leaving Pakistan is that without official notification my status was not clear.

Respected Sir/Madam. I am imploring your good office through this application, that I should be granted leave without pay from September 1st, 2014 till May 29th, 2015. And I should also be allowed to take charge of my duties in June 2015 after notification of my regularization, which is still pending. This act of kindness will enable me to concentrate on my studies here at University of Georgia, Athens, USA and I will be able to come back and serve my country fully equipped with experience and knowledge.

Thanking You.

Nadir Shah (Fulbrighter),
Lecturer in English,
GSSC, Peshawar.

Dated: 10th Oct, 2014

No: 638

13/10/2014

Forwarded to the Director H.E.

for necessary action.

[Signature]

13/10/2014
PRINCIPAL
Govt. Sup. Sc. College,
Peshawar.

RECEIVED ON
* 14 OCT 2014 *
Diary # *[Signature]* Page # 280
* 0345-9028234 *

NADAR UL MOUK
Director of applicants

Annexure C

36

No. _____
Dated: 29/9 2014

Registered

To

Mr. Nadir Shah S/O Muhammad Zubair Shah
H.No. 850 Street 35-D/41 Phase 1
Hayat Abad Peshawar.

Subject: REGULARIZATION OF ADHOC LECTURER/ ABSENT FROM DUTY.

Memo,

You are absent from your duty since, 1-9-2014 without any information/Application. You are directed to report for duty within 15 days otherwise disciplinary action will be initiated against you under (E &D) Rules, 2011.

Principal

Govt: Superior Science College Peshawar

Endst.No

8607-8

Copy for information and necessary action to the Director Higher Education Khyber Pakhtun Khuwa Peshawar with reference to his No. 22168/ C-A-11 / E.Tab/A1-12/Nadir Shah/ English dated: 25-9-2014.

Principal


CA II
RECEIVED ON
30 SEP 2014
Diary # 1422 Page # 206
D/Clerk

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ABSENCE NOTICE

You, Mr. Nadir Shah Lecturer in English Govt; Superior Science College, Peshawar are absent from duty since 01.09.2014 without prior permission/ application. The Principal Govt; Superior Science College, Peshawar sent a registered letter No. 606 dated 29.09.2014 on your home address H. No. 850, Street 35-D/ 41 Phase-1 Hayatabad (Peshawar) with the direction to report for duty within 15 days otherwise disciplinary action will be initiated against you under E&D Rules, 2011. Instead of joining your duties you submitted an unsigned application to the Principal through your brother for leave without pay for academic purposes stating that you got Fulbright Scholarship for higher education and left Pakistan for U.S.A in mid August of this year without submitting any application for leave. You are absent from your duty since 01.09.2014 till date.

You are hereby directed in your own interest to report for duties within 15-days of the issuance of this notice and explain the reason of your willful absence from duties failing which it will be presumed that you are no more interested in your service and ex-prate action will be taken against you culminating in your dismissal from service.


SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT PESHAWAR.

Dec 24/2014



D-1 (29) 34
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**GOVERNMENT SUPERIOR SCIENCE COLLEGE
PESHAWAR**
Phone No. 091-2563067/ E-mail.gssc.Pesh@Yahoo.com

No. 1937 1056 Date. 27/2 /2015

To: Mr. Nadir Shah

Mr.Nadir Shah S/o Muhammad Zubair Shah
House No.850 Street No.35-D/41 Phase-I
Hayat Abad Peshawar.

SUBJECT: ABSENT FROM DUTY

Memo:

Please refer to this office No.1056 dated 04.02.2015 you are once again directed to report for duty and explain your position to proceed further in the matter.

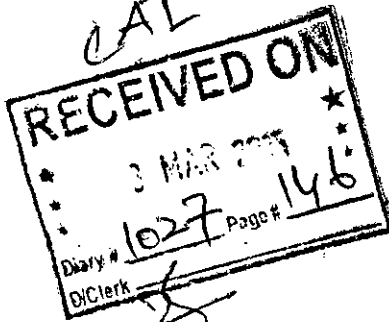
Principal

1937-39

Copy for information of necessary action to the:

Director Higher Education Khyber Pakhtunkhwa Peshawar.

Principal



Date 04/02/2015

D-2
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No. 1056

To
Mr. Nadir Shah S/o Muhammad Zubair Shah
H No. 850 Street No. 35-D/41 Phase-I
Hayat Abad Peshawar.

Subject: ABSENT FROM DUTY

Memo: As per report of the Chairman of the Department you are absent from your duty since 12.01.2015 without any information / Application you are directed to report for duty otherwise disciplinary action will be initiated against you under (E&D) Rules 2011.

[Signature]
Principal

No. 1056-57

Copy for information and necessary action to the:

Director Higher Education Khyber Pakhtunkhwa Peshawar
With copy of report of the Chairman English Department of the College.

[Signature]
Principal

CAI

RECEIVED ON
* * * * *
09 FEB 2015
Diary # 9085 Page # 336
D/Clerk *[Signature]*



GOVERNMENT SUPERIOR SCIENCE COLLEGE
PESHAWAR

Phone No. 091-2563067/ E-Mail.gssc.Pesh@Yahoo.com

No. 2030 Dated 31/3/2015

To

The Director Higher Education
Khyber Pakhtunkhwa Peshawar.

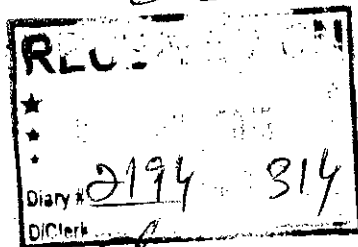
Subject ABSENCE FROM DUTY

Memo:

It is submitted that as per report of the chairman English Deptt:
Mr. Nadir Shah Lecturer of English is absent from duty since 12/01/2015
without any information/application.

The under signed has called him to resume his duty vide this office
No.1056 dated 04.02.2015 copy Endorsed to your office vide No.1056-57 even
date. Reminder issued to him vide No.1937 dated 27.02.2015, but he did not report
for duty, copy endorsed to your office vide No. 1937-38 nor submit any reply.

The report is submitted for information and further necessary action at
your end please.



Principal

پشاور ایبٹ آباد اسلام آباد اور کراچی سے بیک وقت شائع ہونے والا کثیر الاشاعت قومی روزنامہ

روشنی کی منانت، آج کا نصب العین

روزنامہ

پشاور

پاکستان

ایڈیٹر
عبدالواحد یوسفی

صفحات 12

جلد 26

بیمبر 2 فروری 2015ء

شمارہ 24

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ABSENCE NOTICE

You, Mr. Nadir shah Lecturer in english Govt; superior science college, Peshawar are absent from duty since 01.09.2014 without prior permission/ application. The principal Govt; superior science college, Peshawar sent a registered letter Number 606 dated 29.09.2014 on your home address H.No. 850, street 35-D/ 41 phase-1 Hayatabad (Peshawar) with the direction to report for duty within 15 days otherwise disciplinary action will be initiated against you under E&D rules, 2011. Instead of joining your duties you submitted an unsigned application to the principal through your brother for leave without pay for academic purposes stating that you got fulbright scholarship for higher education and left Pakistan for U.S.A in mid August of this year without submitting any application for leave. You are absent from your duty since 01.09.2014 till date.

You are hereby directed in your own interest to report for duties within 15-days of the issuance of this notice and explain the reason of your willful absence from duties failing which it will be presumed that you are no more interested in your service and ex-prate action will be taken against you culminating in your dismissal from service.

SECRETARY TO GOVT:
OF KHYBER PAKHTUNKHWA HIGHER
EDUCATION DEPARTMENT PESHAWAR.

INF(P)496 www.khyberpakhtunkhwa.gov.pk

services under (QCBS) Method up in the request for p iii. You are in Technical Propos Financial Propos sealed envelopes Terms of Referer. 2015 till 12 hours. iv. RFP docum the undersigned day during office closing date on refundable) for ea v. Any other c from office of the working days. vi.2% E/Money schedule Bank o Engineer will be a certificate on q Deposit is attach the Technical sea

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<http://www.dailymashriq.com.pk>

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DAILY MASHRIQ PESHAWAR

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صدر کے ہائی
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پشاور

ABC CERTIFIED
پشاور اور اسلام آباد سبکدوشی وقت شائع ہونے والا کثیر الاشاعت قومی اخبار

جلد 48
شکل 13 رجب الہی 1436ھ 03 ستمبر 2015ء 21:12 بجت 12 روپے 65 شماره

وفاقی وزیر داخلہ کی زیر صدارت اہم اجلاس، سیکرٹری ر

حکومت کے دوروں کو فزوی کی سربراہی میں لے کر آئے اور ان کے

اسلام آباد کے ای (بی) کو وفاقی وزیر داخلہ پر چرچی خاتون کے کہے کہ ان کے وفاقی

کے خلاف فزوی کریم کی واکوں شروع کرنے کی حمایت دیتے ضروری اصلاحات

حکومت کو

حکومت کو

حکومت کو

حکومت کو

اگر آپ کسی کام کو کراچی کے لیے...
اداری وقت پر ان کے وقت...
انہیں ای واپز کی کام...
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ABSENCE NOTICE

You, Mr. Nadir Shah Lecturer in English Govt. superior science college, Peshawar are absent from duty since 01.09.2014 without prior permission/application. The principal Govt. superior science college, Peshawar sent a registered letter Number 606 dated 29.09.2014 on your home address H.No. 850, street 35-D/41 phase-1 Hayatabad (Peshawar) with the direction to report for duty within 15 days otherwise disciplinary action will be initiated against you under E&D rules, 2011. Instead of joining your duties you submitted an unsigned application to the principal through your brother for leave without pay for academic purposes stating that you got fulbright scholarship for higher education and left Pakistan for U.S.A in mid August of this year without submitting any application for leave. You are absent from your duty since 01.09.2014 till date.

You are hereby directed in your own interest to report for duties within 15-days of the issuance of this notice and explain the reason of your willful absence from duties, failing which it will be presumed that you are no more interested in your service and ex-Parte action will be taken against you culminating in your dismissal from service.

SECRETARY TO GOVT.
OF KHYBER/PAKHTUNKHWA HIGHER
EDUCATION DEPARTMENT PESHAWAR.
INF(P)495 www.khyberpakhtunkhwa.gov.pk

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GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

39

Dated Peshawar the 21.04.2015.

NOTIFICATION

3937-40

No. SO (COLLEGES-II)HED/2-5/2014. WHEREAS Mr. Nadir Shah, lecturer in English (BS-17), Govt. Superior Science College, Peshawar is absent from duties since 01-09-2014.

2. AND WHEREAS notices were issued to him on his home address as well as in leading newspapers with the direction to resume duty within 14 days, failing which ex-parte action under Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011 will be initiated against him;

3. AND WHEREAS the accused lecturer did not report for duty in response to the absence notices.

4. NOW THEREFORE, The Competent Authority, in exercise of powers conferred upon him under the Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011, is pleased to impose upon the said officer the penalty of removal from service with immediate effect, and his absence from duty, from 01.09.2014, till imposition of penalty shall be treated as unauthorized absence from duty (without leave).

SECRETARY TO GOVT. OF
KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

Endst: No. & Date Even.

Copy for information forwarded to the:-

- 1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2. Director Higher Education, Khyber Pakhtunkhwa, Peshawar.
- 3. Principal Govt. Superior Science College, Peshawar.
- 4. Officer concerned.

Rukhsana Jabeen.
(RUKHSANA JABEEN)
SECTION OFFICER (COLLEGES-II)

ODDLE
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RECEIVED ON
23/4/15



**OFFICE OF THE DIRECTOR HIGHER
EDUCATION KHYBER PAKHTUNKHWA
PESHAWAR.**

Endst: No. 1212-15/CA-II; Estt: Branch/ A-12/Nadir Shah; English

Dated Peshawar the 14/05.2015

Copy of the overleaf is forwarded for information & necessary
action to the:-

1. Principal Govt; Superior Science College, Peshawar.
2. Section Officer (Colleges-II) Govt; of Khyber Pakhtunkhwa,
Higher Education Department Peshawar.
3. Superintendent Promotion Cell, local Directorate.
4. Officer concerned.

DY: DIRECTOR (ESTABLISHMENT)

STATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA,
KHYBER ROAD PESHAWAR

No. 22626 /CA-I/Estt: Branch /A-12/Nadar Shah/ English
Phone # 091-9210242, 9211025/Fax # 9210215

Dated Peshawar the 21/9/2015

To

The Special Secretary
Govt; of Khyber Pakhtunkhwa
Higher Education Department Peshawar.

SUBJECT

DEPARTMENTAL APPEAL AGAINST THE NOTIFICATION NO. SO (COLLEGES-II)/HED/2-5/2014 DATED 21.04.2015, COMMUNICATED TO THE UNDERSIGNED ON 14.05.2015, WHEREBY THE MAJOR PUNISHMENT OF REMOVAL FROM SERVICES HAS BEEN IMPOSED UPON THE UNDERSIGNED.

Dear Sir,

I am directed to refer to your office letter No. SO (Colleges-II) /2-5/2014/Nadir Shah/ 1170 dated 27.08.2015 on the subject cited above and to resubmit the Para-wise comments after necessary rectification as desired, please.

FACTS:-

1. Correct to the extent that he was appointed as adhoc Lecturer in English in 2010 and his adhoc appointment was extended from time to time. On promulgation of adhoc appointments Regulations Act, 2014 by the Provincial Assembly, the services of some 188 adhoc lecturer (Male & Female) including the appellant were regularized w.e.f 26.05.2014 vide Provincial Notification dated 15.12.2014 and at that time he left for abroad without seeking approval of the Competent Authority.
2. Correct to the extent that before 01.09.2014 no complaint was lodged against him. However, on 01.09.2014, he proceeded abroad and left the College without prior approval of the Competent Authority and violated the rules.
3. Not admitted. He was required to obtain NOC of the Department for Scholarship for higher studies abroad in USA as prerequisite but he didn't bother to do so. Later-on he sent an unsigned application through his Principal & instead of signing the same by himself his brother name was written on it. It shows that he was not available in the country and proceeded abroad at the time.
4. The Principal Govt; Superior Science College, Peshawar forwarded an unsigned application dated 10.10.2014 of the Ex-lecturer wherein his brother name was written which transpire that he was not available in the country and submitted his application through his brother to the Principal. So far his application dated 18.08.2014 is concerned, same is not available in the record.

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5. Not admitted. The Principal directed him time and again through several letters with the direction to resume his duty but he fail to reply as his evident from the report of the Principal vide letter No. 2030 dated 31.03.2015.
6. Not admitted.
7. He was proceeded under Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011 and the Competent Authority imposed the penalty of Removal from the Service upon him due to his willful absence from duty vide Notification No. SO (Colleges-II)/HED/2-5/2014/3937-40 dated 21.04.2015 duly endorsed by the Directorate of Higher Education Khyber Pakhtunkhwa.
8. Not admitted. The order dated 21.04.2015 is issued within four corners of law fully based on the norms of justice, hence, not liable to be set aside.

GROUND OF DEPARTMENTAL APPEAL

- A. Not admitted.
- B. Not admitted. He applied for Extra Ordinary Leave w.e.f 01.09.2014 to 29.05.2015 and sent an unsigned application through his brother duly forwarded by the Principal and left the College without permission of the Competent Authority. In such cases Rule-09 of Efficiency and Discipline Rules, 2011 "titled procedure in case of willful absence" is very much clear according to which in case of willful absence from duty from Government Servant for seven or more days, a notice shall be issued by the Competent Authority through registered acknowledgment on his home address directing him to resume duty within 15 days of issuance of the notice. If the same is received back as undelivered or no response is received from the absentee within stipulated time, a notice shall be published in at-least two leading newspapers directing him to resume duty within 15 days of the publication of that notice, failing which an ex-parte decision shall be taken against the absentee. On the expiry of the stipulated period given in the notice, major penalty of Removal from service may be imposed upon the Government Servant. The Principal sent several letters under registered cover on home address of the lecturer concerned with the direction to resume duty but he failed to do so. Absence Notice was also served upon him through Newspapers with the similar direction but to no avail.
- C. Not admitted. All legal procedure under Rule-09 of E&D Rules, 2011 was fully observed.
- D. As explained in Para-C.
- E. Not admitted. His application bearing Diary No. 980 dated 30.12.2014 doesn't appear to have been received in this office as the record of this office is silent. The version put forward by him is not maintainable as no Government Servant can take shelter under the shadow of taking the plea that his case had already in progress, hence, left the station. The appellant has rightly been penalized for irresponsible attitude.

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- F. Admitted to the extent that Extra Ordinary Leave for five years is admissible to Civil Servants who have ten years and more service in their credit while Extra Ordinary Leave without pay for two years is admissible to those Civil Servants who have less than ten years service in their credit under the Revised Leave Rules, 1981. However, it is discretion of Leave sanctioning authority to grant leave to a Civil Servant or otherwise. The plea of the lecturer concerned is baseless.
- G. Not admitted. As per report of the Principal, he remained absent from duty w.e.f 01.09.2014 to 29.05.2015 despite the fact that he sent several letters followed by reminders on his home address under registered cover with the direction to report for duty but to no avail.
- H. Not admitted. The order dated 21.04.2015 is issued within four corners of law fully based on the norms of justice, hence, not liable to be set aside.
- I. Not admitted. It is the discretion of leave sanctioning authority to grant leave or not.
- J. As explained in Para-H above.
- K. No comments.

Yours Faithfully,

M. Bashir

(Mohammad Bashir)

BY: DIRECTOR (ESTABLISHMENT)

o/v l/v

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Rejoinder No. _____/2016

In

Service Appeal No. 1045/2016

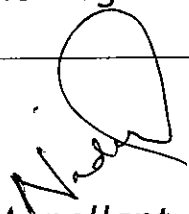
Nadir Shah

Versus

Govt of KPK and others

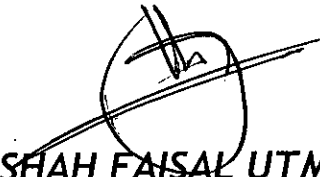
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Appellant

Through

Dated: 09.08.2016


SHAH FAISAL UTMANKHEL,
Advocate, High Court Peshawar



**GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT**

Dated Peshawar the December 15th, 2014.

NOTIFICATION

NO. SO(COLLEGES-II)HED/2-5/2010. In pursuance of Section 3 of the Khyber Pakhtunkhwa Adhoc Lecturers (Regularization of Services) Act, 2014, the Competent Authority is pleased to regularize the services of the following lecturers (BS-17) appointed on adhoc basis, w.e.f. 26.05.2014: -

S.#	Name / Designation	Posting Station
1.	Muhammad Iqbal adhoc lecturer in Pashto	GDC Totakan Malakand Agency.
2.	Islam ud Din adhoc lecturer in Pak Study	GDC Agra Malakand.
3.	Imtiaz Ahmad Khan adhoc lecturer in Pashto	GDC Darband Mansehra
4.	Siraj Ahmad adhoc lecturer in History	GDC Wari, Dir Upper.
5.	Zafar Iqbal adhoc lecturer in Urdu	GPGC No.1 Abbottabad
6.	Asif Khan adhoc lecturer in Urdu	GDC Lassan Nawab Mansehra
7.	Jamil Ahmad Khan adhoc lecturer in Pashto	GDC Ghari Kapora, Mardan
8.	Zakir Ullah adhoc lecturer in Islamiyat	GDC Babozai Mardan
9.	Liaqat adhoc lecturer in Urdu	GDC Nathiagali Abbottabad
10.	Kalim Ullah adhoc lecturer in English	GDC, Batkela
11.	Muhammad Riaz adhoc lecturer in Urdu	GDC Darazinda F.R D.I. Khan.
12.	Qazi Amjad adhoc lecturer in Urdu	GDC Havelian Abbotabad
13.	Muhammad Amir adhoc lecturer in Chemistry	GDC Havelian, Abbotabad
14.	Naveed Khan adhoc lecturer in Islamiyat	GPGC Haripur
15.	Humayun khan adhoc lecturer in Pak Study	GDC Mirali N.W.A
16.	Abdur Rehman adhoc lecturer in Islamiyat	GDC Matta Swat
17.	Fazli Karim adhoc lecturer in History	GDC Darzinda FR D.I. Khan
18.	Shah Nawaz Khan adhoc lecturer in Computer Science	GPGC Nowshehra
19.	Abdul Ghaffar Khan adhoc lecturer in Islamiyat	GDC Madyan, Swat.
20.	Ubaid Ullah adhoc lecturer in Islamiyat	GDC Hangu
21.	Saud Abbasi adhoc lecturer in English	GDC Nathiagali Abbottabad
22.	Kamran Khan adhoc lecturer in Statistics	GDC Kulachi D.I Khan
23.	Imran Afsar adhoc lecturer in Political Science	GDC Lassan Nawab Mansehra
24.	Noor ul Bashir adhoc lecturer in Pashto	GDC Takht Bhai Mardan
25.	Sohail Naeem adhoc lecturer in Political Science	GPGC Dargai Malakand Agency
26.	Muhammad Humayun adhoc lecturer in Pak Study	GDC Ghari Kapora, Mardan
27.	Muhammad Bilal adhoc lecturer in History	GDC Daggar (Buner)
28.	Nazir Ahmad adhoc lecturer in English	GDC Lund Khwar Mardan
29.	Zahid Ali adhoc lecturer in Geography	GDC Wadpaga Peshawar
30.	Abdul Hameed, adhoc lecturer in English	GDC Sherwan, Abbottabad.
31.	Muhammad Faiq adhoc lecturer in Pak Study	GPGC Swabi
32.	Rahim Ullah adhoc lecturer in English	GPGC Khar Bajur Agency
33.	Fazal Said, adhoc lecturer in Physics	GPGC No.1 Abbottabad

82.	Muhammad Ilyas adhoc lecturer in Political Science	GDC Wadpaga Peshawar
83.	Jawad Akhtar adhoc lecturer in Computer Science	GDC Barkhalozai Bajaur Agency
84.	Muhammad Hanif adhoc lecturer in Economics	GDC Puran, Shangla
85.	Muhammad Sohalb adhoc lecturer in Political Science	GPGC Charsadda.
86.	Abdul Naeem Khan adhoc lecturer in Pashto	GPGC Dargai Malakand.
87.	Aizaz Ullah, lecturer in Statistics	GDC Kotha, Swabi.
88.	Farman Ullah adhoc lecturer in History	GDC Ghari Kapora, Mardan
89.	Mukhtiar Hussain adhoc lecturer in English	GPGC Timargara Dir Lower
90.	Arshad Ali adhoc lecturer in Pak Study	GDC Tangi Charsadda
91.	Amir Taimor adhoc lecturer in Maths	GDC Ekka Ghund Mohmand Agency
92.	Imran Ullah adhoc lecturer in English	GDC Totakan Malakand Agency
93.	Khalil-ur-Rehman adhoc lecturer in Urdu	GDC Paniala D.I Khan
94.	Alam Jan adhoc lecturer in Computer Science	GDC Bakhshali Mardan
95.	Sarfaraz Khan adhoc lecturer in Physics	GDC Havelian Abbottabad
96.	Nazif Ullah adhoc lecturer in Biology	GPGC Miranshah S.W.A
97.	Amtiaz Khan adhoc lecturer in Urdu	GDC Tank
98.	Syed Sultan Zaib Bacha adhoc lecturer in Urdu	GPGC Timargara, Dir Lower.
99.	Ikram Jafar adhoc lecturer in English	GDC Toru, Mardan
100.	Abdul Salam adhoc lecturer in Islamyat	GPGC Mardan
101.	Rehmat Ullah adhoc lecturer in Urdu	GDC Tank
102.	Zohaib Akhtar adhoc lecturer in Economics	GDC Zaida Swabi
103.	Yasir Ihsan adhoc lecturer in Statistics	GDC Oghi Mansehra
104.	Inam Ullah Khan adhoc lecturer in Economics	GDC Wana S.W.A
105.	Mudassar adhoc lecturer in Physics	GDC Thana Malakand Agency
106.	Muhammad Muslim Khan adhoc lecturer in Physics	GPGC Miranshah N.W.A
107.	Imam-ud-Din adhoc lecturer in English	GDC Sabirabad, Karak.
108.	Qaisar Zaman adhoc lecturer in Biology	GDC Dagger Buner
109.	Nadir, Shah adhoc lecturer in English	GSSC Peshawar
110.	Muhammad Tariq adhoc lecturer in English	GDC Zarobi Swabi
111.	Ihsan Ullah, adhoc lecturer in Physics,	GDC No.3 D.I Khan.
112.	Siraj Khan, adhoc lecturer in Physics	GPGC Miranshah N.W.A
113.	Sajid Khan, adhoc lecturer in Physics	GDC Domail Bannu.
114.	Muhammad Tariq adhoc lecturer in English	GDC Bagan Kuram Agency
115.	Abid Saleem adhoc lecturer in English	GPGC Kohat
116.	Lugman Khalil adhoc lecturer in Economics	GPGC Kohat
117.	Ihsanullah, adhoc lecturer in Zoology,	GDC Latambar, Karak.
118.	Shahid Khan adhoc lecturer in Maths	GPGC, Timergara
119.	Sohail Ahmad adhoc lecturer in Urdu	GDC Totakan, Malakand Agency.
120.	Rahim Dad adhoc lecturer in Maths	GDC Thana Malakand Agency
121.	Muslim Khan, adhoc lecturer in Maths	GDC Landi Kotal, Khyber Agency.
122.	Ahmad Khan adhoc lecturer in Chemistry	GPGC Miranshah S.W.A
123.	Hezb Ullah, adhoc lecturer in Zoology	GDC Bagan, Kurram Agency.
124.	Jamil Fazal adhoc lecturer in Geography	GDC Darband Mansehra
125.	Muhammad Asad Khan adhoc lecturer in Statistics	GPGC Dargai Malakand
126.	Muhammad Imran adhoc lecturer in Chemistry	GDC Paharpur D.I Khan
127.	Gul Bahadar adhoc lecturer in Physics	GPGC Kohat
128.	Muhammad Usman Khan adhoc lecturer in Botany	GDC Paniala, D.I. Khan.

Section Officer (Civil)
Govt. of Khyber Pakhtunkhwa
Higher Education & Technical Education

①

BEFORE THE HON'BLE KHYBER PAKHHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Rejoinder No. ____/2016

In

Service Appeal No. 1045/2016

Nadir Shah

Versus

Govt of KPK and others

REJOINDER TO THE WRITTEN REPLY OF RESPONDENTS ON
BEHALF OF THE APPELLANT IS AS UNDER

RESPECTFULLY SHEWETH,

REPLY TO THE PRELIMINARY OBJECTION:-

1. That para No 1 of preliminary objection of the written reply is incorrect, hence denied. As the Appellant is having cause of action and locus standi to file the above noted appeal.
2. That para No 2 of preliminary objection of the written reply is incorrect, hence denied. All the material facts has been submitted.
3. That para No 3 of preliminary objection of the written reply is incorrect, hence denied. The Appellant being public servant of the province is very much competent to invoke the jurisdiction of the Hon'ble Service Tribunal.

4. That para No 4 of preliminary objection of the written reply is incorrect, hence denied.
5. That para No 5 of preliminary objection of the written reply is incorrect, hence denied. All the necessary and important parties has been joined and no unnecessary parties has been impleade in the service appeal.

ON FACTS:

1. *That Para No 1 of written reply is incorrect, hence denied. While para No 1 of the service appeal is correct, in fact the Respondents had made misstatement in the reply, the Appellant had left abroad after seeking proper permission from the competent authority and regularization of the Appellant has been recommended and documentary proof in this respect is present which confirms the misstatement on the part of Respondents. (Copy of the List of the regularized candidates lecturer is attached)*
2. *That Para No.2 of the written reply is admitted by the Respondents correct, moreover Appellant after adopting proper procedure and permission from competent authority left abroad and had not violated any rules detail facts has been given in Para No 2.*
3. *That on Para No.3 of the written reply is admitted correct by the Respondents, hence needs no answer.*
4. *That para no.4 of the written reply is incorrect hence denied, while para no 4 of the service appeal is correct.*
5. *That Para No.5 of the written reply is incorrect hence denied, while Para No 5 of the service appeal is correct, the Appellant*

is very much entitle for the ex-Pakistan leave and no violation of any rule has been committed by the Appellant.

6. That Para No.5 of the written reply is incorrect hence denied, while para no 6 of the service appeal is correct.

7. That para no.7 of the written reply is incorrect hence denied. while para no 7 of the service appeal is correct.

8. That Para No.8 of the written reply is incorrect hence denied while para no 6 of the service appeal is correct.

9. That Para No.9 of the written reply is incorrect hence denied, while para no 9 of the service appeal is correct.

REPLY TO REPLY ON GROUNDS:

A. That Para No A of the reply to the grounds of written reply is incorrect, and ground A of the service appeal is correct.

B. That Para No B of the reply to the grounds of written reply is incorrect, and ground B of the service appeal is correct.

C. That Para No C of the reply to the grounds of written reply is incorrect, and ground C of the service appeal is correct.

D. That Para No D of the reply to the grounds of written reply is incorrect, and ground D of the service appeal is correct.

E. That Para No E of the reply to the grounds of written reply is incorrect, and ground E of the service appeal is correct.

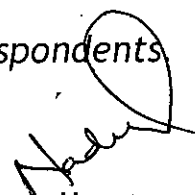
F. That Para No F of the reply to the grounds of written reply is incorrect, and ground F of the service appeal is correct.

G. That Para No G of the reply to the grounds of written reply is admitted as correct, and ground G of the service appeal is correct, the plea of the Appellant is very much valid and is very much entitled for the ex-Pakistan leave under the rules.

H. That Para No H of the reply to the grounds of written reply is incorrect, and ground H of the service appeal is correct.

- I. That Para No I of the reply to the grounds of written reply is incorrect, and ground I of the service appeal is correct.
- J. That Para No J of the reply to the grounds of written reply is incorrect, and ground J of the service appeal is correct.
- K. That Para No K of the grounds of service appeal is admitted as correct, hence needs no answer.
- L. That Para No L of the reply to the grounds of written reply is incorrect, and ground L of the service appeal is correct.

It is, therefore, most humbly prayed that on acceptance of the service appeal and rejoinder, the relief as prayed for in the service appeal may kindly be allowed in favour of Appellant against the Respondents


Appellant

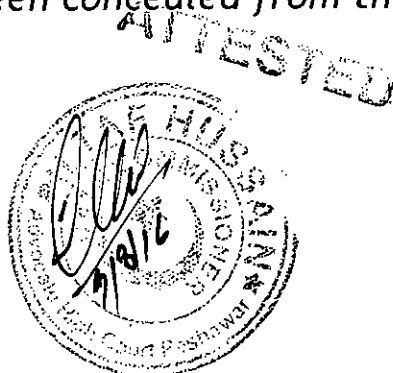
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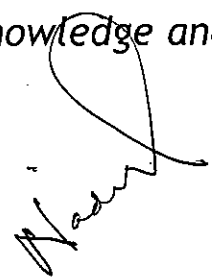
Dated: 09.08.2016


SHAH FAISAL UTMANKHEL,
Advocate, High Court Peshawar

Affidavit:-

It is solemnly affirm and declare on oath that the contents of the rejoinder are true and correct to the best of my knowledge and nothing has been concealed from this Hon'ble Court.




DEPONENT

36.	Ms.Saiqa Faryal Mehsood adhoc lect;in Computer Science	GGDC, Wana
37.	Ms.Alweena Javeed adhoc lect;in Comp;Sc;	GGC, Bboni Chitral

2. Terms and conditions of their regular appointment will be as under:

- i. They will get pay at the minimum of BPS-17 including usual allowances as admissible under the rules. They will also be entitled to annual increments as per existing policy.
- ii. They shall be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973 and all the laws applicable to the Civil Servants and Rules made there-under.
- iii. They will have all rights / privileges contained in Khyber Pakhtunkhwa Civil Servants Act, 1973 with all amendments made therein including Khyber Pakhtunkhwa Civil Servants (Amendment) Act. 2013 and Rules made there-under.
- iv. Their employments in the department is purely temporary and their services are liable to be terminated without assigning any reason at thirty (30) days notice or on the payment of 30 days salary in lieu thereof. In case they wish to resign at any time, 30-days notice will be necessary or in lieu thereof 30 days pay will be forfeited.
- v. They shall, initially, be on probation for a period of one year extendable upto two years.
- vi. Their seniority shall be determined in the light of the above Notification chronologically in accordance Section-4 of the Khyber Pakhtunkhwa Adhoc Lecturers (Regularization of Services) Act, 2014.

SECRETARY TO GOVT. OF
KHYBER PAKHTUNKHWA.
HIGHER EDUCATION DEPARTMENT

Endst: No. & Date Even.

Copy of the above is forwarded to the: -

- 1. Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
- 2. Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
- 3. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
- 4. Secretary to Governor, Khyber Pakhtunkhwa.
- 5. Secretary (Infrastructure, Coordination & Administration Department, FATA Secretariat, Warsak Road, Peshawar.
- 6. Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 7. Director, Higher Education, Khyber Pakhtunkhwa, Peshawar.
- 8. Director Education (FATA), Khyber Pakhtunkhwa, Warsak Road, Peshawar.
- 9. Director, Information for wide publicity through media.
- 10. Districts / Agency Accounts Officers concerned.
- 11. Principals, Government Colleges (Male) concerned.
- 12. P.S. to Minister for Higher Education, Khyber Pakhtunkhwa.
- 13. P.S to Secretary, Higher Education Department.
- 14. Lecturers concerned.

(ZAHID USMAN KAKA KHEL)
SECTION OFFICER (COLLEGES-II)

* Muhammad Asif *

BEFORE THE HON'BLE KHYBER PAKHHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Rejoinder No. _____/2016

In

Service Appeal No. 1045/2016


Nadir Shah

Versus

Govt of KPK and others

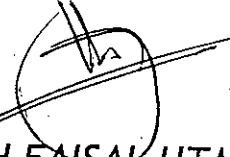
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Appellant

Through

Dated: 09.08.2016


SHAH FAISAL UTMANKHEL,
Advocate, High Court Peshawar

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BEFORE THE HON'BLE KHYBER PAKHHTUNKHWA SERVICE

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Govt of KPK and others

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- 3. That on Para No.3 of the written reply is admitted correct by the Respondents, hence needs no answer.
- 4. That para no.4 of the written reply is incorrect hence denied, while para no 4 of the service appeal is correct.
- 5. That Para No.5 of the written reply is incorrect hence denied, while Para No 5 of the service appeal is correct, the Appellant

is very much entitle for the ex-Pakistan leave and no violation of any rule has been committed by the Appellant.

6. That Para No.5 of the written reply is incorrect hence denied, while para no 6 of the service appeal is correct.

7. That para no.7 of the written reply is incorrect hence denied. while para no 7 of the service appeal is correct.

8. That Para No.8 of the written reply is incorrect hence denied while para no 6 of the service appeal is correct.

9. That Para No.9 of the written reply is incorrect hence denied, while para no 9 of the service appeal is correct.

REPLY TO REPLY ON GROUNDS:

A. That Para No A of the reply to the grounds of written reply is incorrect, and ground A of the service appeal is correct.

B. That Para No B of the reply to the grounds of written reply is incorrect, and ground B of the service appeal is correct.

C. That Para No C of the reply to the grounds of written reply is incorrect, and ground C of the service appeal is correct.

D. That Para No D of the reply to the grounds of written reply is incorrect, and ground D of the service appeal is correct.

E. That Para No E of the reply to the grounds of written reply is incorrect, and ground E of the service appeal is correct.

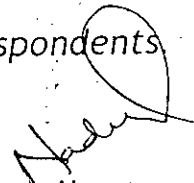
F. That Para No F of the reply to the grounds of written reply is incorrect, and ground F of the service appeal is correct.

G. That Para No G of the reply to the grounds of written reply is admitted as correct, and ground G of the service appeal is correct, the plea of the Appellant is very much valid and is very much entitled for the ex-Pakistan leave under the rules.

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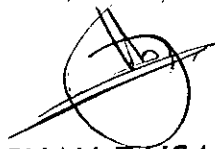
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- J. That Para No J of the reply to the grounds of written reply is incorrect, and ground J of the service appeal is correct.
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It is, therefore, most humbly prayed that on acceptance of the service appeal and rejoinder, the relief as prayed for in the service appeal may kindly be allowed in favour of Appellant against the Respondents


Appellant

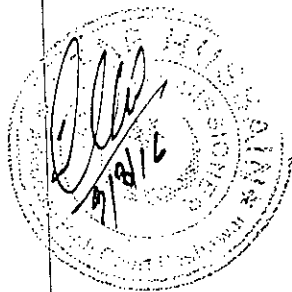
Through

Dated: 09.08.2016


SHAH FAISAL UTMANKHEL,
Advocate, High Court Peshawar

Affidavit:-

It is solemnly affirm and declare on oath that the contents of the rejoinder are true and correct to the best of my knowledge and nothing has been concealed from this Hon'ble Court.





DEPONENT



GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

Dated Peshawar the December 15th, 2014.

NOTIFICATION

NO. SO(COLLEGES-II)HED/2-5/2010. In pursuance of Section 3 of the Khyber Pakhtunkhwa Adhoc Lecturers (Regularization of Services) Act, 2014, the Competent Authority is pleased to regularize the services of the following lecturers (BS-17) appointed on adhoc basis, w.e.f. 26.05.2014: -

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1.	Muhammad Iqbal adhoc lecturer in Pashto	GDC Totakan Malakand Agency
2.	Islam ud Din adhoc lecturer in Pak Study	GDC Agra Malakand.
3.	Imtiaz Ahmad Khan adhoc lecturer in Pashto	GDC Darband Mansehra
4.	Siraj Ahmad adhoc lecturer in History	GDC Wari, Dir Upper.
5.	Zafar Iqbal adhoc lecturer in Urdu	GPGC No.1 Abbottabad
6.	Asif Khan adhoc lecturer in Urdu	GDC Lissan Nawab Mansehra
7.	Jamil Ahmad Khan adhoc lecturer in Pashto	GDC Ghari Kapora, Mardan
8.	Zakir Ullah adhoc lecturer in Islamiyat	GDC Babozai Mardan
9.	Liaqat adhoc lecturer in Urdu	GDC Nathiagali Abbottabad
10.	Kalim Ullah adhoc lecturer in English	GDC, Batkela
11.	Muhammad Riaz adhoc lecturer in Urdu	GDC Darazinda F.R D.I. Khan.
12.	Qazi Amjid adhoc lecturer in Urdu	GDC Havelian Abbotabad
13.	Muhammad Amir adhoc lecturer in Chemistry	GDC Havelian, Abbotabad
14.	Naveed Khan adhoc lecturer in Islamiyat	GPGC Haripur
15.	Humayun khan adhoc lecturer in Pak Study	GDC Mirali N.W.A
16.	Abdur Rehman adhoc lecturer in Islamiyat	GDC Matta Swat
17.	Fazil Karim adhoc lecturer in History	GDC Darzinda FR D.I. Khan
18.	Shah Nawaz Khan adhoc lecturer in Computer Science	GPGC Nowshehra
19.	Abdul Ghaffar Khan adhoc lecturer in Islamiyat	GDC Madyan, Swat.
20.	Ubaid Ullah adhoc lecturer in Islamiyat	GDC Hangu
21.	Saud Abbasi adhoc lecturer in English	GDC Nathiagali Abbottabad
22.	Kamran Khan adhoc lecturer in Statistics	GDC Kulachi D.I Khan
23.	Imran Afsar adhoc lecturer in Political Science	GDC Lissan Nawab Mansehra
24.	Noor ul Bashir adhoc lecturer in Pashto	GDC Takht Bhai Mardan
25.	Sohail Naeem adhoc lecturer in Political Science	GPGC Dargai Malakand Agency
26.	Muhammad Humayun adhoc lecturer in Pak Study	GDC Ghari Kapora, Mardan.
27.	Muhammad Bilal adhoc lecturer in History	GDC Daggar (Buner)
28.	Nazir Ahmad adhoc lecturer in English	GDC Lund Khwar Mardan
29.	Zahid Ali adhoc lecturer in Geography	GDC Wadpaga Peshawar
30.	Abdul Hameed, adhoc lecturer in English	GDC Sherwan, Abbottabad.
31.	Muhammad Faig adhoc lecturer in Pak Study	GPGC Swabi
32.	Rahim Ullah adhoc lecturer in English	GPGC Knar Bajur Agency
33.	Fazal Said, adhoc lecturer in Physics	GPGC No.1 Abbottabad

82.	Muhammad Ilyas adhoc lecturer in Political Science	GDC Wadpaga Peshawar
83.	Jawad Akhtar adhoc lecturer in Computer Science	GDC Barkhalozai Bajaur Agency
84.	Muhammad Hanif adhoc lecturer in Economics	GDC Puran, Shangla
85.	Muhammad Sohaib adhoc lecturer in Political Science	GPGC Charsadda.
86.	Abdul Naeem Khan adhoc lecturer in Pashto	GPGC Dargai Malakand.
87.	Aizaz Ullah, lecturer in Statistics	GDC Kotha, Swabi.
88.	Farman Ullah adhoc lecturer in History	GDC Ghari Kapora, Mardan
89.	Mukhtiar Hussain adhoc lecturer in English	GPGC Timergara Dir Lower
90.	Arshad Ali adhoc lecturer in Pak Study	GDC Tangi Charsadda
91.	Amir Taimor adhoc lecturer in Maths	GDC Ekka Ghund Mohmand Agency
92.	Imran Ullah adhoc lecturer in English	GDC Totakan Malakand Agency
93.	Khalil-ur-Rehman adhoc lecturer in Urdu	GDC Paniala D.I Khan
94.	Alam Jani adhoc lecturer in Computer Science	GDC Bakhshali Mardan
95.	Sarfraz Khan adhoc lecturer in Physics	GDC Havelian Abbottabad
96.	Nazif Ullah adhoc lecturer in Biology	GPGC Miranshah S.W.A
97.	Ambiaz Khan adhoc lecturer in Urdu	GDC Tank
98.	Syed Sultan Zaib Bacha adhoc lecturer in Urdu	GPGC Timergara, Dir Lower.
99.	Ikram Jafar adhoc lecturer in English	GDC Toru, Mardan
100.	Abdul Salam adhoc lecturer in Islamyat	GPGC Mardan
101.	Rehmat Ullah adhoc lecturer in Urdu	GDC Tank
102.	Zohaib Akhtar adhoc lecturer in Economics	GDC Zaida Swabi
103.	Yasir Ihsan adhoc lecturer in Statistics	GDC Oghi Mansehra
104.	Inam Ullah Khan adhoc lecturer in Economics	GDC Wana S.W.A
105.	Mudassar adhoc lecturer in Physics	GDC Thana Malakand Agency
106.	Muhammad Muslim Khan adhoc lecturer in Physics	GPGC Miranshah N.W.A
107.	Imam-ud-Din adhoc lecturer in English	GDC Sabirabad, Karak.
108.	Qaisar Zaman adhoc lecturer in Biology	GDC Dagger Buner
109.	Nadir Shah adhoc lecturer in English	GSSC Peshawar
110.	Muhammad Tariq adhoc lecturer in English	GDC Zarobi Swabi
111.	Ihsan Ullah, adhoc lecturer in Physics.	GDC No.3 D.I Khan.
112.	Siraj Khan, adhoc lecturer in Physics	GPGC Miranshah N.W.A
113.	Sajid Khan, adhoc lecturer in Physics	GDC Domail Bannu.
114.	Muhammad Tariq adhoc lecturer in English	GDC Bagan Kuram Agency
115.	Abid Saleem adhoc lecturer in English	GPGC Kohat
116.	Luqman Khalil adhoc lecturer in Economics	GPGC Kohat
117.	Ihsanullah, adhoc lecturer in Zoology,	GDC Letambar, Karak.
118.	Shahid Khan adhoc lecturer in Maths	GPGC, Timergara
119.	Sohail Ahmad adhoc lecturer in Urdu	GDC Totakan, Malakand Agency.
120.	Ranin Dad adhoc lecturer in Maths	GDC Thana Malakand Agency
121.	Muslim Khan, adhoc lecturer in Maths	GDC Landi Kotal, Khyber Agency.
122.	Ahmad Khan adhoc lecturer in Chemistry	GPGC Miranshah S.W.A
123.	Hezb Ullah, adhoc lecturer in Zoology	GDC Bagan, Kurram Agency.
124.	Jamil Fazal adhoc lecturer in Geography	GDC Darband Mansehra
125.	Muhammad Asad Khan adhoc lecturer in Statistics	GPGC Dargai Malakand
126.	Muhammad Imran adhoc lecturer in Chemistry	GDC Paharpur D.I Khan
127.	Gul Bahadar adhoc lecturer in Physics	GPGC Kohat
128.	Muhammad Usman Khan adhoc lecturer in Botany	GDC Paniala, D.I. Khan.

Govt. of Khyber Pakhtunkhwa
 Higher Education
 & Libraries Department

36.	Ms.Saiqa Faryal Mehsood adhoc lect;in Computer Science	GGDC, Wana
37.	Ms.Alweena Javeed adhoc lect;in Comp;Sc;	GGC, Booni Chitral

2. **Terms and conditions of their regular appointment will be as under:**

- i. They will get pay at the minimum of BPS-17 including usual allowances as admissible under the rules. They will also be entitled to annual increments as per existing policy.
- ii. They shall be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973 and all the laws applicable to the Civil Servants and Rules made there-under.
- iii. They will have all rights / privileges contained in Khyber Pakhtunkhwa Civil Servants Act, 1973 with all amendments made therein including Khyber Pakhtunkhwa Civil Servants (Amendment) Act. 2013 and Rules made there-under.
- iv. Their employments in the department is purely temporary and their services are liable to be terminated without assigning any reason at thirty (30) days notice or on the payment of 30 days salary in lieu thereof. In case they wish to resign at any time, 30-days notice will be necessary or in lieu thereof 30 days pay will be forfeited.
- v. They shall, initially, be on probation for a period of one year extendable upto two years.
- vi. Their seniority shall be determined in the light of the above Notification chronologically in accordance Section-4 of the Khyber Pakhtunkhwa Adhoc Lecturers (Regularization of Services) Act, 2014.

SECRETARY TO GOVT. OF
KHYBER PAKHTUNKHWA.
HIGHER EDUCATION DEPARTMENT

Endst: No. & Date Even.

Copy of the above is forwarded to the: -

- 1. Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
- 2. Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
- 3. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
- 4. Secretary to Governor, Khyber Pakhtunkhwa.
- 5. Secretary (Infrastructure, Coordination & Administration Department, FATA Secretariat, Warsak Road, Peshawar.
- 6. Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 7. Director, Higher Education, Khyber Pakhtunkhwa, Peshawar.
- 8. Director Education (FATA), Khyber Pakhtunkhwa, Warsak Road, Peshawar.
- 9. Director, Information for wide publicity through media.
- 10. Districts / Agency Accounts Officers concerned.
- 11. Principals, Government Colleges (Male) concerned.
- 12. P.S. to Minister for Higher Education, Khyber Pakhtunkhwa
- 13. P.S to Secretary, Higher Education Department.
- 14. Lecturers concerned.

(ZAHID USMAN KAKA KHEL)
SECTION OFFICER (COLLEGES-II)

* Muhammad Asif *

24/1/2022 DB. Pesh (T)

Nadir Shah :-

0

P/16 - impud - 21/4/2015

(Absence treated as without leave)

initially appointed - 2010 - Regularized in 2014.

P/10 have application for study abroad
Another application - 10/10/2014 for ex post facto
3rd application - 10/2/2015

Arrival 27/12/2014

Not a willful absence but for improvement of
Qualification - (Degree)

General application - Rule 12 of Revised
leave rule 1981

Leave on Pak -

Rule 23 -

Absence period is not based on facts. P/12
ex post facto approval. F.R. 85 P/13

Rule 12⁽³⁾ of leave Rules 1981

No charge sheet / Statement of allegations
Rule - 9 wrongly applied as 9 was available.
2008 SCMR 609

No personal Hearing -
2003 PCCs 365

No regular inquiry - 2008 SCMR 1369,
2017 SCMR 1880

Absence period - 1-9-2014 - 21/4/2015
Harsh Prakash

2016 PCCs, 335

BEFORE THE COURT OF HON'BLE SERVICE TRIBUNAL PESHAWAR

In service appeal no. 1045/2015

Nadir shah

VERSUS

Govt of KPK and other

APPLICATION FOR THE GRANT OF ADJOURNMENT IN THE
ABOVE NOTED SERVICE APPEAL.

RESPECTFULLY SHEWETH,

1. That the above noted service appeal is pending before this Hon'ble court in which date of hearing is 17/08/2017.
2. That the counsel for the appellant is being out of station, hence unable to appear before this Hon'ble court for today.
3. That non appearance of the appellant is not intentional but due to above mentioned reasons.

It is, therefore, most humbly prayed that on acceptance of this application the above appeal may kindly be adjourned to any other suitable date.

Date 17/08/2017

Through

Applicant/petitioner



BASHIR KHAN WAZIR

Advocate, Peshawar

VAKALATNAMA

Before the KP Service Tribunal, Peshawar

Appeal
~~Writ~~ Petition No. _____ /2019

Nadir Shah

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Higher Educations

(RESPONDENT)
(DEFENDANT)

I/We Nadir Shah

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 15 / 3 / 2019

Nadir
CLIENT

Nadir
ACCEPTED
NOOR MOHAMMAD KHATTAK
ADVOCATE
15401-0705985-5
(BC-08-0853)

Muhammad Maaz Madni
MUHAMMAD MAAZ MADNI
ADVOCATE

15/3/19

OFFICE:
Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.