

FORM OF ORDER SHEET

Court of _____

Appeal No. 304/2024


_____ on condition with signature of judge

3

1 22/02/2024

The appeal of Mr. Mudassar Ahmad resubmitted today by Mr. Taimur Ali Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 22-2-24. Parcha Peshi is given to counsel for the appellant.

By the order of Chairman


REGISTRAR

The appeal of Mr. Mudassar Ahmad received today i.e on 06.02.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Appeal has not been flagged/marked with annexures marks.
- 2- Annexures of the appeal are unattested.
- 3- Affidavit be attested by the Oath Commissioner.
- 4- Copy of letter issued by Headmaster of the School mentioned in para-3 of the memo of appeal is not attached with the appeal be placed on it.
- 5- According to sub-rule-4 of rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974 respondent no.1 is un-necessary/improper party, in light of the rules ibid and on the written direction of the Worthy Chairman the above mentioned respondent be deleted/struck out from the list of respondents.

No. 299 /S.T.

Dt. 14/02 /2024.




REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Taimur Ali Khan Adv.
High Court Peshawar.

Respected Sir

- 1- Removed
- 2- Removed
- 3- Removed
- 4- Removed
- 5- Removed

Resubmitted after compliance


21/02/24.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 304 /2024

Mudassar Ahmed

V/S


District Judiciary

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4	Copy of appointment order dated 02.08.2019	C	10-11
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THROUGH:

APPELLANT


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
Cell# 0333-9390916

(1)

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

SERVICE APPEAL NO. 304/2024

Mudassar Ahmed, Junior Clerk,
District Judiciary, District Khyber.

(APPELLANT)

VERSUS

1. The District & Session Judge, District Khyber.

(RESPONDENT)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 11.09.2023, WHEREBY THE APPELLANT WAS REINSTATED INTO SERVICE, BUT NO BACK BENEFITS IN THE SHAPE OF SALARIES ALONG WITH OTHER EMOLUMENTS FOR INTERVENING PERIOD WITH EFFECT FROM 02.08.2019 TILL 29.06.2021 HAS GRANTED TO HIM AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE RESPONDENT MAY KINDLY BE DIRECTED TO GRANT BACK BENEFITS TO THE APPELLANT IN THE SHAPE OF SALARY ALONG WITH OTHER EMOLUMENTS FOR INTERVENING PERIOD WITH EFFECT FROM 02.08.2019 TILL 29.06.2021 BY MODIFYING THE ORDER DATED 11.09.2023 TO THAT EXTENT ONLY AS THE APPELLANT WAS JOBLESS AND DID NOT DRAW SALARY FROM

ANY DEPARTMENT DURING THAT PERIOD. ANY OTHER REMEDY, WHICH THIS HONORABLE TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO, BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWTH:

FACTS:

1. That the appellant is the bonafide citizen of Pakistan and was born in District Khyber (then Khyber Agency FATA) and have permanent resident in Tehsil Bara, District Khyber which is evident from the domicile certificate, CNIC of the appellant. **(Copies of domicile certificate and CNIC are attached as Annexure-A&B)**
2. That District Judiciary of District Khyber advertised different posts in which the posts of Junior clerks were also included. The appellant being eligible for the post of junior clerk applied for the post of junior clerk.
3. That the appellant was appointed on the post of junior clerk through DSC after fulfilling all codal formalities vide notification dated 02.08.2019 and was performing his duty with devotion and honesty, whatsoever, assigned to him. **(Copy of appointment order dated 02.08.2019 is attached as Annexure-C)**
4. That show cause notice was issued to the appellant in which it was mentioned that on verification from NADRA, you have been found to be bona fide resident of Terri Payyan, District Peshawar. The appellant submitted reply to show cause in which he mentioned that he is bona fide resident and domicile holder of District Khyber and permanent address and present address shown as Terai Payan Peshawar for the reason that his forefather purchased property in District Peshawar long ago and they shifted from District Khyber to District Peshawar and after doubting on his permanent address he also applied for change of address and in this respect he also attached annexures with his reply as a proof. **(Copies of show cause notice and reply to show cause are attached as Annexure-D&E)**
5. That on the basis of above reason, the appellant was terminated from service vide order dated 01.11.2019 without conducting inquiry on the address of the appellant. The appellant filed departmental against the order dated 01.11.2019 which was not respondent within the statutory period of ninety days. **(Copies of order dated 01.11.2019 and departmental appeal are attached as Annexure-F&G)**
6. That the appellant challenged the termination order dated 01.11.2019 in this Honorable Tribunal in service appeal No.1185/2020 and during the pendency of the appellant was appointed as Junior Clerk

in prosecution department on 30.06.2021. (Copies of memo of service appeal and order dated 30.06.2021 are attached as Annexure-H&I)

7. That the appeal of the appellant was heard by this Honorable Tribunal on 26.07.2022 and was decided on 29.07.2022. The Honorable Tribunal allowed the appeal of the appellant, remit the matter back to respondent No.2 to conduct proper inquiry within sixty (60) days after receipt of copy of the order, then pass appropriate order in the light of situation coming out from the result of the inquiry. (Copy of judgment dated 29.07.2022 is attached as Annexure-J)
8. That inquiry was conducted against the appellant in compliance of judgment dated 02.07.2022 and on the basis of finding of inquiry officer, reply of the appellant to show cause notice and personal hearing of the appellant, the appellant was reinstated into service vide order dated 11.09.2023 with effect from 01.11.2019 with no back benefits for the reason that the official remained in service in another department during said period and drawn salary therefrom. (Copy of order dated 11.09.2023 is attached as Annexure-K)
9. That as the appellant was appointed in other department on 30.06.2021 and he also not received salaries from the date appointment i.e 02.08.2019 till his termination order dated 01.11.2019 and as such he is entitle for salaries along with other emoluments for the period with effect from 02.08.2019 till 29.06.2021, therefore, he filed departmental appeal on 26.10.2023 for the back benefits (salaries) w.e.f 02.08.2019 to 29.06.2021, which was not responded within the statutory period of ninety days. (Copy of departmental appeal is attached as Annexure-L)
10. That the appellant has no other remedy except to file the instant appeal in this Honorable Tribunal for redressal of his grievance on the following grounds amongst others.

GROUND:

- A. That not taking on the departmental appeal of the appellant within statutory period of ninety days and not granting back benefits/arrears to the appellant in shape of salaries along with other emoluments for intervening period with effect from 02.08.2019 till 29.06.2021 are against the law, facts, norms of justice, material on record and superior court judgments, therefore, not tenable and the appellant is entitle to back benefits/arrears in the shape of salaries along with other emoluments for the period with effect from 02.08.2019 to 29.06.2021.

B. That in the impugned order dated 11.09.2023 it is mentioned that the appellant is reinstated into service with effect from 01.11.2019 with no back benefits for the reason that the official remained in service in another department during the said period and drawn salary therefrom, but the appellant was appointed as Junior Clerk in prosecution department on 30.06.2021 and during the period with effect from 01.11.2019 till his appointment on 30.06.2021 in the prosecution department he was jobless and has not drawn salary from any other department and as such the appellant is entitle for salaries along with other emoluments for intervening period with effect from 01.11.2019 till 29.06.2021.

C. That the appellant was appointed in the respondent department as junior clerk on 02.08.2019 and has performed his duty till his termination order dated 01.11.2019, but he has not received salaries for said period with effect from 02.08.2019 till 31.10.2019, therefore the appellant entitle for the salaries along with other emoluments with effect from 02.08.2019 till 31.10.2019 for the period on which he has performed his duty as junior clerk.

D. That the appellant did not willfully remained absent from his duty, but the respondent department terminated him from service which was later on reinstated into service through an order dated 11.09.2023 with effect from 01.11.2019 with no back benefits for the reason that the appellant remained in service in another department during the intervening period and drawn salary therefrom, but the appellant was appointed as Junior Clerk in prosecution department on 30.06.2021 and during the period with effect from 01.11.2019 till his appointment on 30.06.2021 in the prosecution department he was jobless and has not drawn salary from any other department and as such the appellant is entitle for salaries along with other emoluments for intervening period with effect from 01.11.2019 till 29.06.2021 as he was restrained to perform his duty with effect from 01.11.2019 to 29.06.2021.

E. That as per superior court judgment that once an official was reinstated in service after exoneration of charges leveled against him, the period during which he remained either suspended or dismissed/removed could not be attributed as fault on his part. Absence of official during period of dismissal/removal was not voluntary on his part but it was due to the order of the authority which restrained from attending his job/duty. Therefore, his service record

(5)

could neither be adversely affected nor could he be denied any benefits to which he would have been entitled had he not been removed/dismissed and as such the appellant is entitle for the salaries for the period with effect from 02.08.2019 till 29.06.2021 on the basis of Apex Court judgment.

- F. That the appellant remained unpaid employees (not remained gainfully employed) for the period with effect from 01.11.2019 till 29.06.2021, which is evident from the affidavit made by the appellant in this respect and as per superior courts judgment, he is entitle for back benefits in the shape of salaries along with other emoluments for the period with effect from 02.08.2019 to 29.06.2021. (Copy of affidavit is attached as Annexure-M)
- G. That the appellant seeks permission of this Honorable Tribunal to advance others grounds and proofs at the time of hearing.

it is, therefore most humbly prayed that on the acceptance of this appeal, the respondent may kindly be directed to grant back benefits to the appellant in the shape of salary along with other emoluments for intervening period with effect from 02.08.2019 till 29.06.2021 by modifying the order dated 11.09.2023 to that extent only as the appellant was jobless and did not draw salary from any department during that period. Any other remedy, which this Honorable Tribunal deems fit and appropriate that, may also, be awarded in favour of appellant.


APPELLANT
Mudassar Ahmed

THROUGH:


TAIMUR ALI KHAN
(ADVOCATE HIGH COURT)

6

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2024

Mudassar Ahmed

VS

District Judiciary

AFFIDAVIT

I, Mudassar Ahmed, Junior Clerk, District Judiciary, District Khyber, (Appellant) do hereby affirm and declare that the contents of this service appeal are true and correct and nothing has been concealed from this Honorable Tribunal.



DEPONENT

DOMICILE CERTIFICATE

Khyber Agency


③
A ⑦

Certificate that Mr./Miss MUDASIR AHMAD
son/daughter of SAEED AHMAD
belongs to a recognized tribe of M. D. K.
Section DOLLAT KHEC Sub section MUSRAT KHEC
residence/village NALA KAJORI PARIANI
and his/h~~r~~ father is a permanent bonafide resident of the tribal area
of Khyber Agency. He/She is an eligible candidate to avail
himself/herself of the seats reserved for the special areas of the
Peshawar Division backward area of Khyber Agency.

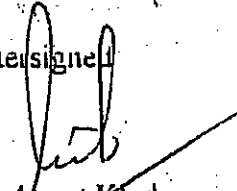
Verified

Attested

Countersigned


Political Pehsidar
POLITICAL AGENT
BARAN POLICE AGENCY.


Asstt. Political Agent
Assistant Political Agent
Both Khyber Agency.


Political Agent Khyber
POLITICAL AGENT

No. 1754/EC.
02-06-04.

(6)

(8)

بیان سفید ریشان

ہم مندرجہ ذیل سفید ریشان اس امر کی تصدیق کرتے ہیں کہ

سما سید احمد ولد سید احمد
 قوم ملائی جنس ملائی جو دولت خیل کنڈے لہوت خیل
 ساکن ملائی کھوری تحصیل دوکانڈہ بارہ
 خیبر ایجنسی کا اصل پیداگئی اور سکونتی باشندہ ہے۔

علاقہ خیبر ایجنسی میں جائیداد رکھتے ہیں۔ میں حکومت پاکستان کے وفادار ہیں قوم کے ساتھ نفع اور نقصان دونوں میں برابر کے شریک ہیں اور بموجب خود ہیں اور اس ضمن میں ہر قسم کی ذمہ داری قبول کرتے ہیں نیز اگر مندرجہ بالا تصدیق میں کسی قسم کی غلطی یا جھوٹ پائی گئی تو ہم مبلغ پچاس ہزار (50,000) روپیہ کفارہ ضرب پاکستانی پلورنی نذر جرمانہ حکومت کو ادا کریں گے۔

سفید ریش محمد علی سید دین خیل سفید ریش محمد سید دین خیل
سید

سفید ریش محمد سید دین خیل سفید ریش دخا فان سید دین خیل
سکوت سما

ATTESTED

M/S

POLITICAL AND FINANCIAL
BARA, INTER-AGENCY

9

B



PAKISTAN National Identity Card

ISLAMIC REPUBLIC OF PAKISTAN

Name
Mudassar Ahmed



Father Name
Speed Ahmed



Gender: M Country of Stay: Pakistan

Identify Number: 17301-8811226-5 Date of Birth: 01.04.1987

Date of Issue: 30.10.2019 Date of Expiry: 30.10.2029

Holder's Signature

54518

سرکار پاکستان کا قومی شناختی کارڈ

17301-8811226-5



101401120552

مدرس احمد کی پیدائش 01.04.1987ء کو ہوئی ہے۔ اس کا پیدائشی نام سید احمد ہے۔ اس کا پیدائشی مقام لاہور ہے۔ اس کا پیدائشی رجسٹریشن نمبر 17301-8811226-5 ہے۔ اس کا پیدائشی رجسٹریشن ڈیٹا 30.10.2019ء کو جاری کیا گیا ہے۔ اس کا پیدائشی رجسٹریشن ڈیٹا 30.10.2029ء تک معتبر رہے گا۔

Registrar General of Pakistan

گمشدہ کارڈ ملنے پر قریبی ایڈریس میں ڈال دیں



(A)

C 10

Page 1 of 2

DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA
K H Y B E R

☎ 091-5615231
✉ dsjkhyber@gmail.com

No. 290-295
Dated Khyber 09/08/2015

ORDER

On the recommendations of the Departmental Selection Committee, dated 31st July, 2019, the Competent Authority is pleased to order, appointment on temporary basis of the following candidates against vacant post of **Junior Clerk (BPS-11)**, with effect from the date of assumption of charge of the post, subject to medical fitness & antecedents/testimonials verification from the quarter concerned: -

S. No	Name	Father Name	CNIC
01	Muhammad Danish	Muhammad Jamil	21202-1663387-7
✓ 02	Mudassar Ahmad	Saeed Ahmad	17301-8811226-5
03	Muhammad Sahid Khan	Shan Gul	21202-6773003-1

2. Their appointments are temporary subject to the following terms & conditions:

- i. *The services shall be governed by the NWFP Civil Servants Act, 1973 and NWFP Government Servants (Appointment, Promotion & Transfer) Rules, 1989.*
- ii. *The appointees shall be allowed the minimum pay of BPS-11 with allied allowances admissible under the rules.*
- iii. *The appointments are on probation for a period of one year extendable up to two years and the delinquent officials, if, found as otherwise their service shall be dispensed with without any reason or notice during the period.*
- iv. *Confirmation of the appointees is subject to their services, conduct, demeanor & performance to the satisfaction of the competent authority/committee during the probation but subject to the availability of the permanent posts.*
- v. *In the event of termination from service, fourteen days notice or in lieu, thereof, fourteen days' pay will be paid by the Govt. In case of resignation, the appointee shall inform thirty (30) days prior, the competent authority through a notice otherwise in lieu, thereof, one month pay shall be forfeited to the Government, however, the resignation shall be subject to the acceptance by the Competent Authority.*

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vi. *The appointees shall be governed by the Government of Khyber Pakhtunkhwa (Efficiency & Discipline) Rules, 2011 & the NWFP, Government Servants conduct Rules, 1987 and any other instructions which may issue by the Competent Authority from time to time.*

3. The appointments are subject to the aforesaid terms & conditions, if, acceptable to the appointees, shall report to the competent authority forthwith. The offer of appointment shall be deemed to have been cancelled, if, the appointee failed to furnish Medical Fitness Certificate and report for duty within a month from the date of issuance of the appointment order or non-verification of their antecedents & testimonials.

4. The appointees shall join their duties at their own expenses.

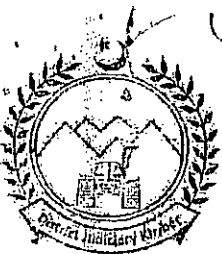
(Shahid Khan)
District & Sessions Judge, Khyber /
Chairman DSC

Endst: No. 290-29 / DSJ Dated Khyber the 2/08 / 2019.

Copy forwarded for information and necessary action to:-

1. The Registrar, Peshawar High Court, Peshawar along with copy of Minutes of the meeting of DSC dated 31/07/2019.
2. Mr. Asif Rashid, AD&SJ-I, Khyber. (Nominee of the Sessions Judge, Khyber).
3. Mr. Shabbir Muhammad Durrani, Senior Civil Judge (Admn), Peshawar (Nominee of the Peshawar High Court, Peshawar).
4. The District Comptroller of Accounts, Khyber.
5. The Clerk of Court of this office.
6. The appointee(s) by name.

(Shahid Khan)
District & Sessions Judge, Khyber /
Chairman DSC



DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA
KHYBER

☎ 091-5615231
✉ dsjkhyber@gmail.com

No. 490
Dated Khyber 24-10-2019

D (12)

NOTICE

Mudassir Ahmad son of Saeed Ahmad (CNIC No: 17301-8811226-5), Junior Clerk, resident of Terri Payyan, District Peshawar.

Whereas, in response to an advertisement published in local newspapers, Daily Mashriq dated, 23/06/2019, your application for the candidature of Junior Clerk was considered.

Whereas, it was highlighted loud & clear in the terms & conditions, in the advertisement, the candidate shall be a bonafide resident & domicile holder of District Khyber.

Whereas, you disclosed to be a bonafide resident of District Khyber and its domicile holder.

Whereas, you were selected during the due process and was appointed accordingly.

(Whereas, the documents so furnished, as your CNIC has been verified from the quarter concern, NADRA, through its regional office vide Endst. No: NADRA/LEA/Misc-03/117 dated: 11/10/2019, whereof, you have been found to be bonafide permanent resident of Terri Payyan, District Peshawar.)

(Now, non-verification of your status as to be a bonafide resident of District Khyber on verification of your CNIC amounts to furnish false information at the relevant stage.)

Now, therefore, the competent authority shall not only withdraw your selection & appointment but can also proceed in accordance with law may amounts to registration of criminal case accordingly.

You may furnish your reply *within 07 days*, failing which, it would be presumed that you have no defense.


[SHAHID KHAN]
District & Sessions Judge,
Khyber

REPLY TO THE NOTICE NO: 490, DATED: 24.10.2019.

In reply to your good-self notice dated: 24.10.2019, the undersigned humbly submits as under.

It is true that I, in response to an advertisement published in local newspaper, Daily Mashriq dated: 23.06.2019, applied for the post of "Junior Clerk" with required qualification and after due process, I was selected and appointed against the post of "Junior Clerk".

As far as my permanent resident is concerned, I am bonafide resident and Domicile holder of District Khyber which is evident from my domicile certificate dully issued by the authorities concerned on 02.06.2004. The domicile certificate is dully verified from Deputy Commissioner, Khyber. Furthermore, the permanent and bonafide residence of respondent is evident from IDPs Registration Form dully issued by the authorities concerned wherein the respondent has been shown as bonafide resident of District Khyber. (Copies of Domicile certificate, verification report and IDPs Registration Form are attached as Annexure-A, B&C)

That in my CNIC, my present as well as permanent address is shown as Terai Bala, P/O Teraye Payyan, for the reason that my forefathers purchased property at District Peshawar long ago and they shifted from District Khyber to District Peshawar for the better future of our family members, therefore, the present and the permanent address was shown as Terai Bala, P/O Teraye Payyan, Peshawar.

The NADRA Authorities has not verified my permanent and bonafide resident at District Khyber i.e. Nala Kajoori, Tehsil Bara.

That, after doubting my permanent address at District Khyber by the NADRA authorities, I applied for change of my permanent address in my CNIC as Nala Kajoori, Tehsil Bara, resultantly the NADRA authorities issued Token accordingly. (Copy of Token is attached as Annexure-D)

Keeping in view above mentioned facts, it is humbly requested that the show cause notice may please be dropped without further proceeding.

Your's Obediently,
Mudassar Ahmed
Junior Clerk.
District & Session Judge
District Khyber.

Date: 31/10/2019.



DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA
KHYBER

☎ 091-9819231
✉ dsjkhyber@gmail.com

No. 505
Dated Khyber 01-11-2019

OFFICE ORDER

You, Mudassir Alitad son of Saeed Ahmad (CNIC No: 17301-8811226-5), Junior Clerk, in response public notice/advertisement published in daily Mashriq dated 23/06/2019, wherein, not only the aspirant/candidate shall be bonafide permanent resident of District Khyber but shall also be domicile holder of District Khyber. You furnished your respective candidatures through applications, wherein, specifically highlighted to be the domicile holders of District Khyber and permanent bonafide residents of District Khyber to avoid your disqualification being not permanent bonafide resident of District Khyber.

On verification from NADRA you are found to be the present & permanent resident of Terri Payyan, District Peshawar. The Information's so furnished regarding your permanent place of resident is contradictory in your CNIC and the information so furnished to this Sessions Division.

On the strength of the disinformation, you procured your candidature to be eligible followed by your selection as Junior Clerk, however, you might have been disqualified at the very initial stage, if, you furnished correct information as to not be the permanent resident of District Khyber rather of District Peshawar. The disinformation so furnished has misled the Competent Authority in your selection & appointment, however, element of mens-rea can no way be ruled out.

The subject disinformation has only been conceded but it has been specifically highlighted that NADRA has been approached to rectify your permanent address in CNIC as District Khyber.

You have procured your candidature & selection as a permanent resident & domicile holder of District Khyber, whereas, on verification from NADRA, the information so furnished by you have been found as incorrect.

The Competent Authority has been pleased to dispense with your services on the ground of furnishing incorrect information to procure your candidature & selection.

You are hereby terminated from the services of Junior Clerk, Establishment of Sessions Division, Khyber with immediate effect.

Dated: 01/11/2019



[SHAHID KHAN]
District & Sessions Judge,
Khyber

Address: Federal Judicial Complex, Phase VII, Hayatabad

www.districtcourtskhyber.gov.pk

To,

The Registrar
Peshawar High Court Peshawar.


G 15

Subject: APPEAL/REPRESENTATION AGAINST TERMINATION OF SERVICES BY DISTRICT AND SESSION JUDGE KHYBER VIDE ORDER DATED 01.11.2019 .

Respectfully,

The appellant submits this appeal for the following facts and reasons:

1. That appellant had applied for the post of Junior Clerk in response to an advertisement published in the press he had submitted all his documents which were found valid and accordingly appellant was selected as Junior Clerk vide order dated 02.08.2019. Copy of appointment letter is enclosed as mark "A".
2. That appellant assumed charge and worked on his post satisfactorily but in the meantime on 24.10.2019 a notice was issued to the appellant by District and Session Judge District Khyber wherein he was required to explain / show cause within seven days. Copy of the notice is enclosed as mark "B".
3. That the appellant honestly stated all the facts in his reply and denied that the appellant has not played foul as he is the bonafide resident of District Khyber. But his family has also property in District Peshawar and for that reason he has given his address both permanent and temporary as that of village Tirai Bala District Peshawar. After the notice appellant applied to NADRA for change of his permanent address which has been accordingly done and new CNIC was issued in his favour which shows his present address as Terai Bala District Peshawar and permanent address as that of District Khyber. Copy of reply and CNIC is attached as mark "C" and "D".
4. That yet his service has been terminated by the Hon'ble District and Sessions judge, Khyber vide order dated 01.11.2019 which is not only harsh but unjust as well, hence, the appellant prefers this appeal for the following grounds.

Grounds

- A. That the appellant had not supplied any false information regarding his permanent domiciled address. His family owns property in village Terai Bala District Peshawar, but they are the original residents of District Khyber where they belong to Afridi Malik Din Khel Tribe and belongs to a known family of Qazian.
- B. That the appellant's domicile certificate is real and true and the appellant's grand father who is alive and owns agricultural property in village Terai Bala of District Peshawar, hence, the appellant has neither concealed the true facts nor has provided forged evidence. But the action taken against him is indeed harsh and unwarranted, the appellant is liable to any action if his permanent and original residence/domicile is not of Khyber Agency his family being owners in Peshawar District the appellant as a young student carelessly described his permanent address of Peshawar though his father and forefathers are still permanent residents of District Khyber.

It is most humbly prayed that the case of the appellant be reconsidered and the termination order passed by the Hon'ble District Sessions Judge Khyber may please be reviewed/ set aside and the appellant be reinstated on his service accordingly.

Yours Sincerely

Appellant

Mudassar Ahmed S/o Saeed Ahmed R/o Malik Din Khel, Dolat Khel, kanday Nusrat Khel, Qazian Post Office Bara, Nala Kor Tehsil Bara District Khyber.

Presently R/o Terai Bala P.O Terai Payyan Pajagal Road, Peshawar

CNIC No. 17301-8811226-5
Cell No. 0333-9198009

Submitted on

7-11-2019.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

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= (17)

APPEAL NO. _____/2020

Mudassar Ahmed, Ex-Junior Clerk,
District Judiciary, District Khyber.

(APPELLANT)

VERSUS

1. The Registrar Peshawar Court Peshawar.
2. The District & session Judge, District Khyber.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 01.11.2019, WHEREBY THE APPELLANT HAS BEEN TERMINATED FROM SERVICE AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 01.11.2019 MAY KINDLY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

**RESPECTFULLY SHEWTH:
FACTS:**

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1. That the appellant is the bonafide citizen of Pakistan and was born in District Khyber (then Khyber Agency in FATA) and have permanent resident in Tehsil Bara, District Khyber, which is evident from the domicile certificate, CNIC of the appellant and CNIC of his father. **(Copies of Domicile Certificate, CNIC and CNIC of father are attached as Annexure-A,B&C)**
2. That District Judiciary of District Khyber has advertisement different posts in which the post of the juniors were also included. The appellant being qualified for the post of junior clerk applied for the said post.
3. That the appellant was appointed on the post of junior clerk through proper DSC after fulfilling all codal formalities vide notification dated 02.08.2019 and has performed with the entire satisfaction of his superiors and no complaint has been field against him regarding his performance. **(Copy of appointment order dated 02.08.2019 is attached as Annexure-D)**
4. That show cause notice was issued to the appellant in which it was mentioned that on verification from NADRA, you have been found to be bonafide permanent resident of Terri Payyan, District Peshawar. The appellant submitted reply to show cause notice in which he clearly mentioned that he is bonafide resident and domicile holder of District Khyber and permanent address and present address shown as Terai Payan Peshawar for the reason that his forefather purchased propey in District Peshawar long ago and they shifted from District Khyber to District Peshawar and after doubting on his permanent address he also applied for change of address and in this respect he also attached annexures with the reply as a proof. **(Copies of notice and reply are attached as Annexure-E&F)**
5. That without conducting inquiry on the permanent address of the appellant and without observing reply to show cause and annexures attached with the reply, the appellant was terminated from service vide order dated 01.11.2019. the appellant filed departmental appeal on 07.11.2019 against the termination which was not responded within the statutory period of ninety days. **(Copies of termination order dated 01.11.2019 and departmental appeal are attached as Annexure-G&H)**

6. That now the appellant come to this august tribunal on the following grounds amongst others.

GROUND:

- A) That not taking action on the departmental appeal of the appellant and the impugned order dated 01.11.2019 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That no inquiry was conducted to confirm whether the appellant is the bonafide permanent resident of District Khyber or not and was terminated from service in slip shod manner by only issuing show cause notice to the appellant which is not permissible under the law and rules.
- C) That the appellant is bonafide permanent resident of District Khyber and have also domicile of District which is evident from the domicile and CNIC of the appellant's father, but he has only mentioned permanent resident in CNIC because that his forefather purchased property in District Peshawar long ago and they shifted from District Khyber to District Peshawar and has also mentioned that in his reply to show cause notice but despite that he was terminated from service.
- D) That the appellant also changed his permanent address in CNIC and the Deputy Commissioner Khyber Tribal District also gave verification to NADRA authority through letter dated 24.10.2019 that the father of the appellant is permanent resident of District Khyber and the appellant also attached the token of that CNIC in his reply to show cause notice but despite that he was terminated from service. (Copy of letter dated 24.10.2019 is attached as Annexure-I)
- E) That permanent residency of the appellant to District Khyber is also evident from the certificate of Competitive Examinations (CCS) 2019 and Return Facilitation Card. (Copies of certificate of Competitive Examinations (CCS) 2019 and Return Facilitation Card are attached as Annexure-J&K)
- F) That the appellant was terminated from service without observing the reply to show cause notice in which he gave the detail about his permanent residency of district Khyber with proofs which is against the norms of justice and fair play.

(4)

(20)

G) That the appellant has been condemned unheard and has not been treated according to law and rules.

H) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for

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APPELLANT

Mudassar Ahmed

THROUGH:

M. Asif

M.ASIF YOUSAFZAI
ADVOCATE SUPREME COURT

&

Faimur Ali Khan

(FAIMUR ALI KHAN)
ADVOCATE HIGH COURT



DIRECTORATE OF PROSECUTION

KHYBER PAKHTUNKHWA
Dated Peshawar 5/1/21
Office Phone 8 091-3212551 091-0210542
Fax 8 091-9212333
E-mail: ppprosecutor@yahoo.com

1 (21)

ORDER:

NO. DP/ESA/15/2021-22 On the recommendations of Departmental Selection Committee (D.S.C), the following candidates are hereby appointed as Junior Clerk (BS-11) against the vacant posts in the Directorate of Prosecution in the public interest:-

S#	CANDIDATE NAME	FATHER NAME	DOMICILE	Zonal/Special Quota
1	Muhammad Usman	Tahir Farooq	D.I Khan	Selected as Junior Clerk (BS-11) in Disable Quota
2	Ms. Hira Jabeen	Mahid Nazeer Ali	D.I Khan	Selected as Junior Clerk (BS-11) in Female Quota
3	Mr. Sidra Akbar	Meer Akbar Shah	Mardan	-do-
4	Mr. Farrukh Bashir	Bashir Masth	Peshawar	Selected as Junior Clerk (BS-11) in Minority Quota
5	Mr. Farmanullah	Khan Lhoni	FR-Peshawar	Selected as Junior Clerk (BS-11) in Zone-I
6	Mr. Mishaat Khan	Sardar Khan	Khyber	-do-
7	Muhammad Hiaz	Muhammad Ayaz	Mohmand	-do-
8	Mr. Mudassar Ahmed	Saeed Ahmad	Khyber	-do-
9	Mr. Shah Zeb	Aurangzeb Khan	FR-Bannu	-do-
10	Mr. Abdul Wahid	Muhammad Zaman	Kurrani	-do-
11	Mr. Abdul Qadir Khan	Dilawar Khan	Kurrani	-do-
12	Mr. Tameer Khan	Muqarrab SAID	Bajaur	-do-
13	Mr. Jawad Khan	Almas Khan	Peshawar	Selected as Junior Clerk (BS-11) in Zone-II
14	Mr. Jawad Khan	Shah Nazar	Peshawar	-do-
15	Mr. Ismail Khan	Said Rohman	Peshawar	-do-
16	Mr. Sherzad Ahmad	Mian Shakeel Ahmad	Nowshera	-do-
17	Mr. Abdul Anwar	Hazrat Jamal	Peshawar	-do-
18	Muhammad Usman	Shahid Saleem	Peshawar	-do-
19	Muhammad Hamza Sahir	Sahir Elahi	Peshawar	-do-
20	Muhammad Afzal Farooq	Sher Afzal	Chitral	Selected as Junior Clerk (BS-11) in Zone-III
21	Mr. Asad Ullah Khan	Raidar Bacha	Mulakand	-do-
22	Mr. Asad Khan	Maimat Khan	Swat	-do-
23	Mr. Asghar Ali Khan	Azami Mulk	Swat	-do-
24	Muhammad Sahir	Halab Ullah	Swat	-do-
25	Mr. Farhad Ali	Abdur Rahman	Duner	-do-
26	Mr. Hafiz Mahad (Jabal)	Jamshud Inzal	Dannu	Selected as Junior Clerk (BS-11) in Zone-IV
27	Mr. Hasan Ullah	Sher Nawaz Din	Esrak	-do-
28	Muhammad Farid	Muhammad Khalid	Dannu	-do-
29	Mr. Shakeel Zaman	Anwar Khan	Karak	-do-
30	Mr. Farmanullah	Momin Khan	Lakot Marwat	-do-
31	Mr. Wasil Hussain	Shaukat Ali Nigah	D.I Khan	-do-

DIRECTORATE OF PROSECUTION
KHYBER PAKHTUNKHWA
Dated Peshawar /2021

ORDER

No. DP/E&A/8202-42: On the recommendation of Departmental Selection Committee (DSC) the following candidates are hereby appointed as Junior Clerks (BS-11) against the vacant posts in the Directorate in the public interest.

S	CANDIDATE NAME	FATHER NAME	DOMICILE	Zonal/Special Quota
1	Muhammad Usman	Tahir Farooq	DI Khan	Selected as Junior Clerk (BS-11) in Disable quota
2	Mr Jabeen	Malik Naseer Ali	DI Khan	Selected as Junior Clerk (BS-11) in Female quota
3	Mr Sidra Akbar	Meer Akbar Shah	Mardan	Do
4	Mr Farukh Bashir	Bashir Masih	Peshawar	Selected as Junior Clerk (BS-11) in Ministry Quota
5	Mr Farman Ullah	Khan Ghani	FR Peshawar	Selected as Junior Clerk (BS-11) in Zone-I
6	Mr Nishat Khan	Sardar Khan	Khyber	Do
7	Muhammad Riaz	Muhammad Ayaz	Mohmand	do
8	Muhammad Ahmad	Saeed Ahmad	Khyber	do
9	Mr Shah Zeb	Aurangzeb Khan	FR Bannu	do
10	Mr Abdul Waris	Muhammad Zaman	Kurram	Do
11	Mr Abdul Qadir Khan	Dilawar Khan	Kurram	do
12	Mr. Tasmee Khan	Muqarab Said	Bajaur	do
13	Mr Jawad Khan	Almas Khan	Peshawar	Selected as Junior Clerk (BS-11) in Zone II
14	Mr Jawad Khan	Shah Nisar	Peshawar	do
15	Mr Ismail Khan	Said Rehman	Peshawar	Do
16	Mr Shehzad Ahmad	Mian Shakeel Ahmad	Nowshera	do
17	Mr Abdul Ahad	Hazrat Jamal	Peshawar	do
18	Muhammad Umair	Shahid Saleem	Peshawar	do
19	Muhammad Hamza Sabir	Sabir Elahi	Peshawar	do
20	Muhammad Afzal Farooq	Sher Afzal	Chitral	Selected as Junior Clerk (BS-11) in Zone III
21	Mr Asad Ullah Khan	Raidar Bacha	Malakand	Do
22	Mr Asad Ullah	Naimat Khan	Swat	Do
23	Mr Asghar Ali Khan	Amani Mulk	Swat	Do
24	Muhammad Sabir	Habib Ullah	Swat	Do
25	Mr. Farhad Ali	Abdur Rahman	Buner	Do
26	Mr. Hafiz Iqbal	Jamshed Iqbal	Bannu	Selected as Junior Clerk (BS-11) in Zone-IV
27	Mr Hassan Ul Maab	Sher Nawaz Deen	Karak	do
28	Muhammad Ramiz	Muhammad Khalil	Bannu	do
29	Muhammad Shakeel Zaman	Arnal Khan	Karak	do
30	Mr. Farman Ullah	Momin Khan	DI Khan	do
31	Mr Wali Hussain	Shaukat Ali Nigah	DI Khan	do

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Sr	2 of 2	FATHER NAME	DOMICILE	Zonal/Special Quota
12	Mr. Hamza Tahir	Tahir Mehmood	Abbottabad	Selected as Junior Clerk (BS-11) in Zone-V
13	Mr. Saifullah	Muhammad Saifdique	Abbottabad	-do-
14	Mr. Gul Nawaz	Gul Muhammad Khan	Haripur	-do-
15	Mr. Attique ur Rehman	Arif Mehmood	Manshehra	Selected as Junior Clerk (BS-11) in Zone-V
16	Mr. Mian Suleman Hussain	Mian Muhammad Hussain	Manshehra	-do-
17	Syed Nasir Ali Shah	Syed Ayub Shah	Manshehra	-do-

THEIR APPOINTMENT SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

1. Their Services shall be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Khyber Pakhtunkhwa Prosecution Service and the rules made there under.
2. They will get pay at the minimum of BS-11 including usual allowances as admissible under the Rules. They shall also be entitled to annual increment as per existing policy.
3. They will be initially, on probation for a period of one year extendable for a further period of one year.
4. In case any one wishes to resign at any time, fourteen days (14) prior notice shall be necessary or in lieu thereof fourteen days (14) pay shall be forfeited.
5. They will produce a medical certificate of fitness from Medical Superintendent of District Headquarter Hospital concerned and character certificate from two Gazetted Officers.
6. Their appointment is subject to satisfactory verification of the antecedents by police, domicile certificate, testimonials by the concerned authorities/officers.
7. Their appointment is liable to be terminated at any time without assigning any reason before the expiry of the period of probation/extended period of probation, if their performance during this period is not found satisfactory.
8. They shall join duty at their own expenses and NO TA/DA shall be admissible
9. If the offer of appointment is acceptable to them on above conditions, they should report for duty to the Directorate of Prosecution within 15 days of the issuance of this order.

-sd-

Director General Prosecution
Khyber Pakhtunkhwa

Enlist of Even No. & Date:

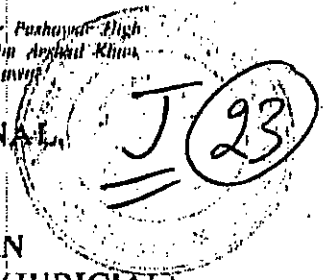
Copy forwarded for information to the:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar
2. JS to Secretary to Government of Khyber Pakhtunkhwa, Home & Tribal Affairs Department.
3. Assistant Director IT, Directorate of Prosecution.
4. Officials Concerned.
5. PA to Director General Prosecution, Khyber Pakhtunkhwa
6. Master File.

Deputy Director Administration

Service Appeal No 1185/2020 filed "Mudassar Ahmed, Ex-Junior Clerk vs. The Registrar, Peshawar High Court Peshawar and others" decided on 29.07.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Ud Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**



**BEFORE: KALIM ARSHAD KHAN ... CHAIRMAN
SALAH UD DIN ... MEMBER (JUDICIAL)**

Service Appeal No.1185/2020

Mudassar Ahmed, Ex-Junior Clerk, District Judiciary, District Khyber.

.....(Appellant)

Versus

1. The Registrar Peshawar High Court, Peshawar.
2. The District & Session Judge, District Khyber.

.....(Respondents)

Present:

Taimoor Ali Khan,
Advocate.....For appellants.

Mr. Muhammad Adeel Butt,
Additional Advocate General.....For respondents

Date of Institution.....25.02.2020
Dates of Hearing.....26.07.2022
Date of Decision.....29.07.2022

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 01.11.2019, WHEREBY THE APPELLANT HAS BEEN TERMINATED FROM SERVICE AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: The facts surrounding the appeal are that the appellant was appointed as Junior Clerk by respondent

ATTESTED

Chairman
Khyber Pakhtunkhwa Service Tribunal
Peshawar

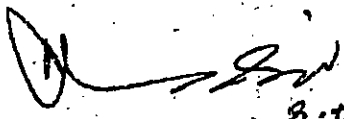
No.2 on 02.08.2019. In the offer of appointment letter it was mentioned at serial No.3 of the terms and conditions that the offer of appointment shall be deemed to have been cancelled, if, the appointee failed to furnish Medical Fitness Certificate and report for duty within a month from the date of issuance of the appointment order or non-verification of their antecedents and testimonials. According to the appellant he joined duties and performing the same to the satisfaction of his superiors when he was terminated from service vide order dated 01.11.2019; that the appellant filed departmental appeal on 07.11.2019 against his termination which was not responded within ninety days, and he filed this appeal.


2. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who, once put appearance through Mr. Kashif Khan, Superintendent Sessions Court, Khyber but thereafter did never turn up nor did they file reply/comments.

3. We have heard learned counsel for the appellants and learned Additional Advocate General for the respondents.

4. The learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeals while the learned Addl: AG controverted the same by supporting the impugned order.

5. The respondents were given various opportunities to file reply/comments but despite given a number of opportunities and a number of


29.07.22


Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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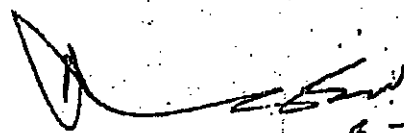
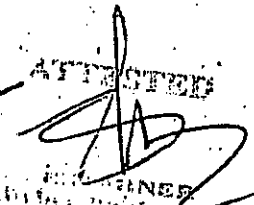
last chances their right to submit written reply was struck off. It appears from the available record that respondent No.2 issued a notice to the appellant vide letter No. 490 dated 24.10.2019; that in response to the advertisement published in the local newspapers, daily Mashriq dated 23.06.2019 his application for the post of Junior Clerk was considered; that it was highlighted loud and clear in the terms and conditions, in the advertisement, that a candidates shall be bonafide resident and domicile holder of District Khyber; that the appellant disclosed to be a bonafide resident of District Khyber and its domicile holder; that the appellant was selected during the process and appointed accordingly; that the CNIC of the appellant was verified from NADRA through its Regional Office vide endorsement No. NADRA/LEA/Misc-03/117 dated 11.10.2019 where-from the appellant was found to be resident of Terri Payyan, District Peshawar; that non-verification of the status of the appellant to be bonafide resident of District Khyber on verification of his CNIC was amounting to furnishing false information at the relevant stage, therefore, respondent No.2 would not only withdraw his selection and appointment but also proceed in accordance with law which might include registration of criminal case. The appellant submitted a reply to the notice on 31.10.2019 wherein it was contended that he was bonafide resident and domicile holder of District Khyber, which was evident from his domicile certificate duly issued by the authority concerned on 02.06.2004 and verified by the Deputy Commissioner, Khyber; that the permanent and bonafide residence of respondent was also evident from the IDPs registration form duly issued by the authorities concerned wherein he had been shown as bonafide resident of District Khyber; that in his CNIC the present as well as

[Handwritten signature]
29.07.22
AFFIRMED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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permanent address was shown as Terai Bala, P/O Teraye Payyan for the reason that his forefathers purchased property at District Peshawar long ago and they shifted from District Khyber to District Peshawar for the better future of family members, therefore, the present and the permanent address was shown as Terai Bala P/O Teraye Payyan, Peshawar. He also alleged that NADRA had not clarified his permanent and bonafide resident at District Khyber i.e. Nala Kajoori, Tehsil Bara. The respondent No.2 vide impugned No. 505 dated 01.11.2019, basing on the contents of the notice, terminated the appellant from services.

06. During the pendency of appeal, the appellant was directed to produce copy of the advertisement which he has produced. The advertisement has been perused which categorically requires that the vacancies advertised in the advertisement were only for the permanent residents holding domicile of District Khyber and there was no requirement of CNIC mentioned in the advertisement, therefore, basing solely on the alleged verification of NADRA of the CNIC of the appellant without verifying the domicile, which was the basic requirement according to the advertisement, does not seem appropriate. Therefore, a proper enquiry was an appropriate step before passing the impugned order, at least for verification of the authenticity of the domicile certificate of the appellant, its present status, whether the appellant has domicile certificate of District Peshawar also, if so, when was that obtained, whether before or after obtaining the domicile certificate of District Khyber, in case he has prepared domicile certificate at Peshawar, to ascertain the fact whether both still exist or one or which one was cancelled which one still


29.7.22
ATTENDED

REGISTRAR
PESHAWAR HIGH COURT
PESHAWAR

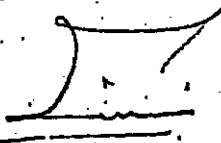
Services Appeal No. 1183/2021 titled "Mudassar Ahmad, Ex-Junior Clerk vs The Registrar Peshawar High Court Peshawar and other" decided on 29.07.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Ud Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.


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exists and, if cancelled, in accordance with law verification from NADRA is also required to be made from District Khyber regarding existence of permanent abode of the appellant and his predecessors. All these factors required thorough and proper probe, before taking any departmental action. Therefore, we allow this appeal, remit the matter back to respondent No.2 to conduct proper enquiry in the light of above within sixty (60) days after receipt of copy of this order then pass appropriate order in the light of situation coming out from the result of the enquiry. The appellant is reinstated for the purpose of enquiry. Costs shall follow the event. Consign.

07. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 29th day of July, 2022.


KALIM ARSHAD KHAN
Chairman


SALAH UD DIN
Member (Judicial)

Certified true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation _____
Number of Pages 57
Copying Fee 25/-
Urgent 5/-
Total 30/-
Name of Applicant _____
Date of Case _____
Date of Delivery _____

20/11/23

20/11/23
20/11/23



K 28

**OFFICE OF THE
DISTRICT & SESSIONS JUDGE, KHYBER
KHYBER PAKHTUNKHWA**

☎ 091-5820748

dsikhyber@gmail.com No: 606/DSJ Dated Khyber the 11th September 2023.

ORDER

Whereas Mr. Mudassir Ahmad was appointed as Junior Clerk by this court vide appointment order on 02-08-2019 after due process of law and was placed on probation for a period of two years, however, his services were terminated on 01-11-2019 on the ground that being resident of Peshawar, he was not bona fide resident of District Khyber.

He filed a departmental appeal against his termination which was not answered, and thereafter he filed an Appeal before the Khyber Pakhtunkhwa Services Tribunal which was decided vide order dated 29-07-2022, directing this Office to conduct proper inquiry and for the purpose of inquiry he was to be treated in service.

And Whereas vide this court order dated 01-09-2022 inquiry officer was appointed to conduct a fact-finding inquiry in the light of the judgment of the Khyber Pakhtunkhwa Services Tribunal.

And Whereas the inquiry officer conducted a thorough fact-finding inquiry and submitted a detailed report vide letter # 65 Dated 01-03-2023. According to the inquiry report at the time of his appointment, he was holding two domiciles, one of District Peshawar and the other of tribal district Khyber, however, on his request the Deputy Commissioner Peshawar cancelled the domicile of District Peshawar on 27-01-2021.

The official was issued a final show cause notice on 21-07-2023 requiring him to submit a reply and to mention whether he opts to be heard in person. In response, the official submitted his reply and was personally heard on 28-07-2023.

And Whereas it has been proved in the inquiry that the official is the bona fide resident of District Khyber being the holder of the domicile of District Khyber, and has also cancelled the domicile of District Peshawar.

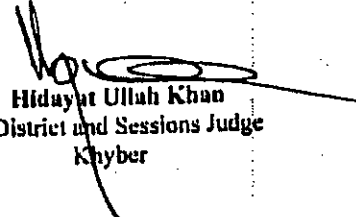
Thus on the basis of the findings of the inquiry officer, reply of the official to the show cause notice, personal hearing and while relying on 2021 SCMR 67, the official is reinstated into service with effect from 01-11-2019 with no back benefits for the reason that the official remained in service in another department during said period and drawn salary therefrom.


Hidayat Ullah Khan
District and Sessions Judge
Khyber

No: 601-09- Khyber the September 11, 2023

Copy forwarded to:

1. The Registrar Peshawar High Court Peshawar.
2. The District Accounts Officer Khyber.
3. Official concerned.
4. Office record.


Hidayat Ullah Khan
District and Sessions Judge
Khyber

To.

The Honorable Registrar
Peshawar High Court Peshawar

Subject: **REQUESTING FOR THE BACK BENEFITS (SALARIES)**
W.E.F 02-08-2019 TO 29-06-2021.

Venerated Sir,

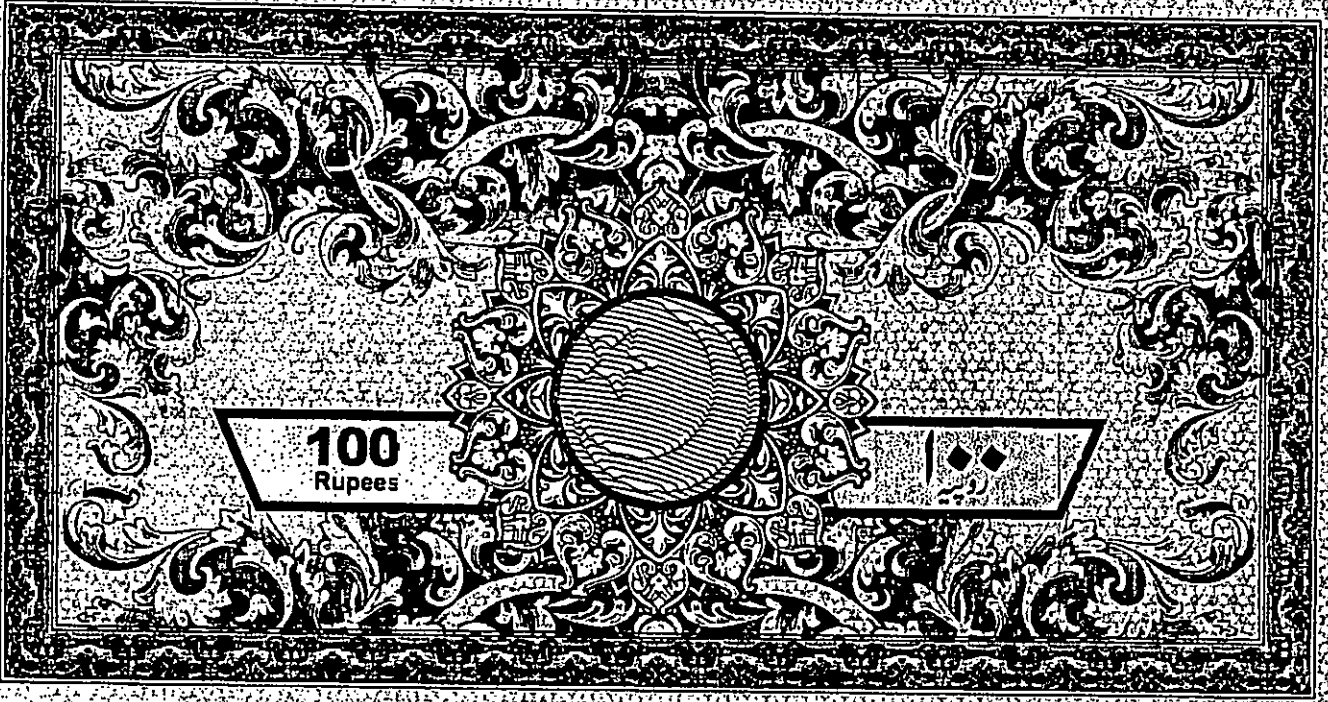
With due respect, it is stated that I was appointed in District Courts Khyber on 02-08-2019 as a Junior Clerk vide Order No. 290-295 dated: 02-08-2019. However, I was terminated from the service on 01-11-2019 on the basis on my address of Peshawar in CNIC vide order No. 505 dated: 01-11-2019. Subsequently, I filed an appeal before the Honorable Service Tribunal, Peshawar, where they ordered to the District & Sessions Judge, Khyber to initiate an inquiry into the matter. Resultantly, I was reinstated into the service by the Honorable District & Sessions Judge, Khyber on 11-09-2023 vide order No. 611/DSJ dated: 11-09-2023 wherein it was stated that **"the official is reinstated into the service w.e.f 01-11-2019 with no back benefits as the official has remained in service in other department & has drawn salary therefrom"**. This is true that I remained in service in another department (Directorate of Prosecution, Home & Tribal Affairs Deptt as a Junior Clerk vide order No. DP/E&A/1(9)8202-42 dated: 30-06-2021), but from 30-06-2021 & onward during the period between 01-11-2019 till 30-06-2021 i remained jobless.

It is pertinent to mention here that I have not drawn any salary from Judiciary since the date of my appointment (02-08-2019) It is, therefore, humbly requested that the reinstatement order may be modified & I may kindly be allowed to withdraw salaries from the date of appointment in Judiciary, i.e., **02-08-2019 to 29-06-2021 as I was jobless & have not drawn any salary from any department during the said period.**

I shall be forever thankful to you for this act of kindness.

Appellant
Mud
26/10/23
MUDASSAR AHMED
Junior Clerk (Muharrar CJ-1 Barra)
Judiciary, District Courts Khyber
0333-9198009

T546908



بیان بلفی

میں مدثر احمد ولد سعید احمد حلفاً بیان کرتا ہوں کہ
01-11-2019 تک میں نے کسی پرزوسی سرکاری
اور غیر سرکاری ملازمت نہیں کی اور نہ ہی اس دوران
کوئی اور روزگار کیا ہے۔



Mud
09/24
Mudassar Ahmed

VAKALAT NAMA

NO. _____/2024

IN THE COURT OF KP Service Tribunal, Peshawar

Mudassar Ahmed

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

District Judiciary

(Respondent)
(Defendant)

I/We, _____

Do hereby appoint and constitute **TAIMUR ALI KHAN, ADVOCATE HIGH COURT**, 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/2023

Mud

(CLIENT)

ACCEPTED

Taimur Ali Khan

TAIMUR ALI KHAN
Advocate High Court

BC-10-4240
CNIC: 17101-7395544-5
Cell No. 03339390916