

02.10.2018

Appellant absent. Learned counsel for the appellant absent. Mr. Riaz Ahmed Paindakhel learned Assistant Advocate General. Case called for several time but none turned up on behalf of the appellant. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.



(Hussain Shah)  
Member



(Muhammad Hamid Mughal)  
Member

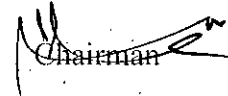
ANNOUNCED

02.10.2018

25.01.2018

None present on behalf of appellant. Mr. Muhammad Jan, DDA for the respondent present. To come up for arguments on 02.04.2018 before D.B.


  
Member

  
Chairman

02.04.2018

Clerk to counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General for respondents present. Due to general strike of the bar, the case is adjourned. To come up for arguments on 31.05.2018 before D.B.

  
(Ahmad Hassan)  
Member

  
(Muhammad Hamid Mughal)  
Member

31.05.2018

Neither the appellant nor his counsel is present. Mr. Muhammad Jan, District Attorney for the respondents present. Adjourned. To come up for arguments on 07.08.2018 before the D.B.


  
Member

  
Chairman

07.08.2018


Clerk to counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Clerk to counsel for the appellant requested for adjournment as learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 02.10.2018 before D.B.

  
(Muhammad Amin Kundi)  
Member

  
(Muhammad Hamid Mughal)  
Member


22.03.2017

Clerk to counsel for the appellant and Mr. Nabi Gul, Supdt. alongwith Mr. Ziaullah, GP for respondents present. Arguments could not be heard due to incomplete bench. Adjourned. To come up for arguments on 25.07.2017 before D.B.

  
(AHMAD HASSAN)  
MEMBER

11. 25.07.2017

Agent to counsel for the appellant and Mr. Kabir Ullah Khattak, Assistant AG for the respondent present. Agent to counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 20.11.2017 before D.B.

  
(Ahmad Hassan)  
Member

  
(Muhammad Hamid Mughal)  
Member


20.11.2017 Clerk to counsel the appellant present. Assistant Advocate General, for the respondents present. Clerk to counsel for the appellant requested for adjournment as his counsel is not available. Adjourned. To come up for arguments on 24.01.2018 before D.B.

  
(Gul Zeb Khan)  
MEMBER

  
(MUHAMMAD HAMID MUGHAL)  
MEMBER

29.02.2016

Counsel for the appellant and Mr. Nabi Gul, Supdt. alongwith Addl: A.G for respondents present. Para-wise comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 20.6.2016.

  
Member

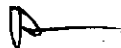
20.06.2016

Clerk to counsel for the appellant and Mr. Nabi Gul, Sudpt alongwith Asstt: AG for respondents present. Rejoinder not submitted. Requested for time. To come up for rejoinder/ arguments on 14.11.2016.

  
Member.

14.11.2016

Counsel for the appellant and Addl: AG alongwith Mr. Salah-Ud-Din, AD(Lit) for respondents present. Rejoinder submitted. To come up for arguments on 22.03.2017.



(ABDUL LATIF)  
MEMBER

  
(PIR BAKHSH SHAH)  
MEMBER

4

25.06.2015

Appellant Deposited  
Security & Process Fee

Counsel for the appellant present. Learned counsel for the appellant argued that another service appeal No. 592/2015 has already been admitted to regular hearing wherein identical factual and legal controversies are involved.

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 for 27.8.2015 before S.B to be heard alongwith the afore-stated connected appeal.

  
Chairman

4

27.08.2015

Counsel for the appellant and Mr. Muhammad Khalid, AD alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 23.11.2015 before S.B.

  
Chairman

23.11.2015

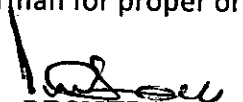


Agent of counsel for the appellant and Mr. Nabi Gul, Supdt. alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 29.2.2016 before S.B.

  
Chairman

Form- A  
FORM OF ORDER SHEET

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


Case No. 597/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	03.06.2015	<p>The appeal of Mr. Fazal Akbar resubmitted today by Mr. Ijaz Anwar Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	5-6-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>9-6-15</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3	09.06.2015	<p>None present for appellant. Notice to counsel for the appellant be issued for 25.6.2015 for preliminary hearing before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Fazle Akbar resubmitted to-day i.e. on 02.06.2015 is again returned to the counsel for the appellant with the direction to submit one spare copy of the memorandum of appeal along with annexures i.e. complete in all respect within 7 days.

No. 851 /S.T,

Dt. 2/6 /2015.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Sajid Amin Adv. Pesh.

Sir,

Re Submitted after Collection



The appeal of Mr. Fazle Akbar Ex-Naib Qasid Directorate of Social Welfare Special education and Women Empowerment department received to-day i.e. on 20.05.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Annexure-D of appeal is illegible which may be replaced by legible/better one.

No. 772 /S.T,

Dt. 21/5 /2015

*to*  
**REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.**

**Mr. Ijaz Anwar Adv. Pesh.**

*Ex-8*

*Resubmitted after completion*

*Ijaz*



**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR**

Appeal No. 597 /2015

**Fazal Akbar**, Ex- Naib Qasid, Directorate of Social Welfare  
Special Education and Women Empowerment, Khyber  
Pakhtunkhwa Peshawar.

**(Appellant)**

VERSUS

Govt. of Khyber Pakhtunkhwa through Secretary Social  
Welfare Special Education and Women Empowerment,  
Khyber Pakhtunkhwa Peshawar.

**(Respondents)**

**INDEX**

<b>S. No</b>	<b>Description of Documents</b>	<b>Annexure</b>	<b>Page No</b>
1	Memo of appeal and Affidavit		1 - 4
2	Copies of the appointment order, Medical Certificate and Arrival Report	A, B & C	5 - 7
3	Copy of the termination order dated 19.01.2015.	D	8
4	Copy of the departmental appeal dated 06.02.2015.	E	9- 11
5	Vakalatnama		

Through

مقرر  
Appellant

**IJAZ ANWAR**  
Advocate Peshawar.

&  
**SAJID AMIN**  
Advocate Peshawar.

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

Appeal No. 597/2015

A.W.F. Province  
Service Tribunal

Diary No. 520

Dated 20-5-2015

**Fazal Akbar**, Ex- Naib Qasid, Directorate of Social Welfare  
Special Education and Women Empowerment, Khyber  
Pakhtunkhwa Peshawar.

(Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Social Welfare Special Education and Women Empowerment, Khyber Pakhtunkhwa Peshawar.
2. Director Secretary Social Welfare Special Education and Women Empowerment, Khyber Pakhtunkhwa Peshawar.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 19.1.2015, whereby the appellant has been terminated, against which his departmental appeal dated 06.2.2015, has not been responded despite the lapse of 90 days statutory period.

Prayer in Appeal: -

On acceptance of this appeal the impugned order dated 19.1.2015, may kindly be set aside and the appellant may be re-instated into service with all back wages and benefits of service.

Respectfully Submitted:

1. That the appellant was initially appointed as Naib Qasid in the year 2011. The appellant was also medically examined and when found fit he duly took over charge of his Post. *(Copies of the appointment order dated 19.04.2014, Medical Certificate and Arrival Report are attached as Annexure A, B & C)*

Filed to-day  
Registrar  
20/5/15

re-submitted to-day  
and filed.

Registrar

3/6/15

2. That ever since his appointment the appellant has performed his duties as assigned with zeal and devotion and there was no complaint what so ever regarding his performance.
3. That while serving in the said capacity, without serving upon the appellant any notice charge sheet or show cause, quite illegally he has been terminated from service vide order dated 19.01.2015, allegedly on the ground of absence from duty. *(Copy of the termination order dated 19.01.2015, is attached as Annexure D)*
4. That the appellant also submitted his departmental appeal on 06.02.2015, however the same has not been responded despite the lapse of 90 days statutory period. *(Copy of the departmental appeal dated 06.02.2015, is attached as Annexure E)*
5. That the impugned order 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 the appellant have not been treated in accordance with law hence his rights secured and guaranteed under the law are badly violated.
- B. That no proper procedure has been followed before the termination of service of the appellant. He has not been served with 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 and an order based on such defective proceedings is liable to be set aside.
- C. That the appellant has not been provided opportunity of personal hearing before the termination of his service, hence the appellant has been condemned unheard.
- D. That no charge sheet or statement of allegations as prescribed under the law and rules has been served upon the appellant hence the appellant has not been provided fair opportunity to defend himself against the charges leveled.

- E. That the appellant has never been served with any absence notice before awarding the termination of his service nor any publication has been made thus the order of termination from service is against the principles of natural justice.
- F. That the word termination from service is alien to service laws, there is no such penalty prescribed under E & D Rules, 2011, as such the order of termination from service is not tenable under the law and is liable to be set aside on this score alone.
- G. That the impugned order is not a speaking order and is thus violative of the section 24-A of the General Clauses Act.
- H. That the appellant duly applied for the post of Naib Qasid and was appointed by the competent authority after observing all codal formalities. The appellant duly took over charge of his post, performed his duties for more then 3 years, as such valuable rights have been created in his favour the same cannot be taken away illegally with one stroke of pen.
- I. That the appellant has never committed any act or omission which could be termed as misconduct albeit he has been terminated from service. Moreover the allegation of continuous long absence is also baseless and unfounded.
- J. That the impugned order is politically motivated and is passed under the political pressure of the local MPA. The appellant have been victimized for the sole reason of belonging to a particular political party.
- K. That the appellant has an unblemished and spotless service career at his credit, the penalty imposed upon him is harsh and liable to be set aside.
- L. That the appellant is jobless since his illegal termination from service

M. That the appellant seeks the permission of this Honorable Tribunal to rely on additional ground at the hearing of this appeal.

*It is, therefore, humbly prayed that on acceptance of this Service Appeal the order dated 19.01.2015, may kindly be set aside and the appellant may be reinstated into service with all back wages and benefits of service.*

تقریر  
Appellant

Through

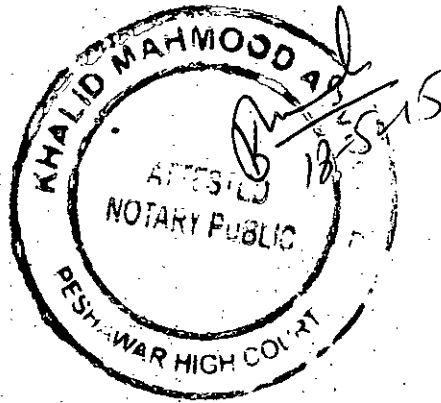
11  
2

IJAZ ANWAR  
Advocate Peshawar

&  
SAJID AMIN  
Advocate Peshawar

**AFFIDAVIT**

I, *Fazal Akbar, Ex- Naib Qasid, Directorate of Social Welfare Special Education and Women Empowerment, Khyber Pakhtunkhwa Peshawar*, do hereby solemnly affirm and declare on oath that the contents of the above appeal are true and correct and that nothing has been kept back or concealed from this Honourable Tribunal.



تقریر  
DEPONENT

5

ANNEXI "A"

GOVERNMENT OF KHYBER PAKHTUNKHWA  
DIRECTORATE OF SOCIAL WELFARE  
AND WOMEN DEVELOPMENT, OPP: ISLAMIA COLLEGIATE  
SCHOOL, JAMRUD ROAD PESHAWAR.

Dated Peshawar the 19.04.2011

ORDER

No. E-17/35/DSW/3142 On the recommendation of Departmental Selection Committee, and approval of the competent authority Mr. Fazl-e-Akbar S/O Fazal Wahid, resident of P/O Jhanda Tehsil & District Swabi, is hereby appointed as Naib-Qasid (BPS-01) on regular basis in the Directorate of Social Welfare & Women Development Khyber Pakhtunkhwa Peshawar on the following terms and conditions:

- 1- He shall, for all in intents and purpose, be civil servant except for the purpose of pension or gratuity. In lieu of pension and gratuity, he shall be entitled to receive such amount contributed by him towards Contributory Provident Fund (CP Fund) along with the contributions made by the Government Servants to their Accounts in the said fund in the prescribed manner.
- 2- He shall be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973 and other laws applicable to civil servants and the rules made there under.
- 3- He shall be considered on probation for a period of two years w.e.f the date of his arrival. The probation period is extendable up to three years.
- 4- His services shall be liable to termination at any time without assigning any reasons therefore, before the expiry of the period of probation / extended period of probation if his work during this period is not found satisfactory. In such an event, he shall be given a month notice of termination from service or one month's pay in lieu thereof. In case he wishes to resign at any time, a month's notice shall be necessary or in lieu thereof a month's pay shall be forfeited.
- 5- The appointee must report for duty within 15 days after issuance of this order, failing which it will be considered as cancelled.

-Sd-

Director

Social Welfare & Women Dev:

Copy to:

- 1- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- The Section Officer-II, Social Welfare Department Peshawar.
- 3- The Assistant Director (Budget & Accounts) Directorate of Social Welfare & Women Development Khyber Pakhtunkhwa Peshawar.
- 4- The official Concerned.

Assistant Director (Admn)  
Social Welfare & Women Dev:

6

ANNEX "B"

MEDICAL CERTIFICATE

Name of official Mr. Fazl-e-Akbar

Caste or race Muslim

Father's name Mrs. Begum Akbar

Residence Alco, Tehsil Dera Ismail Khan

Date of birth 01-01-1985

Exact height by measurement 5-7

Personal mark of identification \_\_\_\_\_

Signature of the official [Signature]

Signature of head of office \_\_\_\_\_

Seal of office \_\_\_\_\_

I do hereby certify that I have examined Mr. Fazl-e-Akbar a candidate for employment in the Office of the Secret. Magistrate and cannot discover that he had any disease communicable or other constitutional affection or bodily infirmity except nil

I do not consider this as disqualification for employment in the office of the S. M.  
His age according to his own statement 26 year and by appearance about year 26

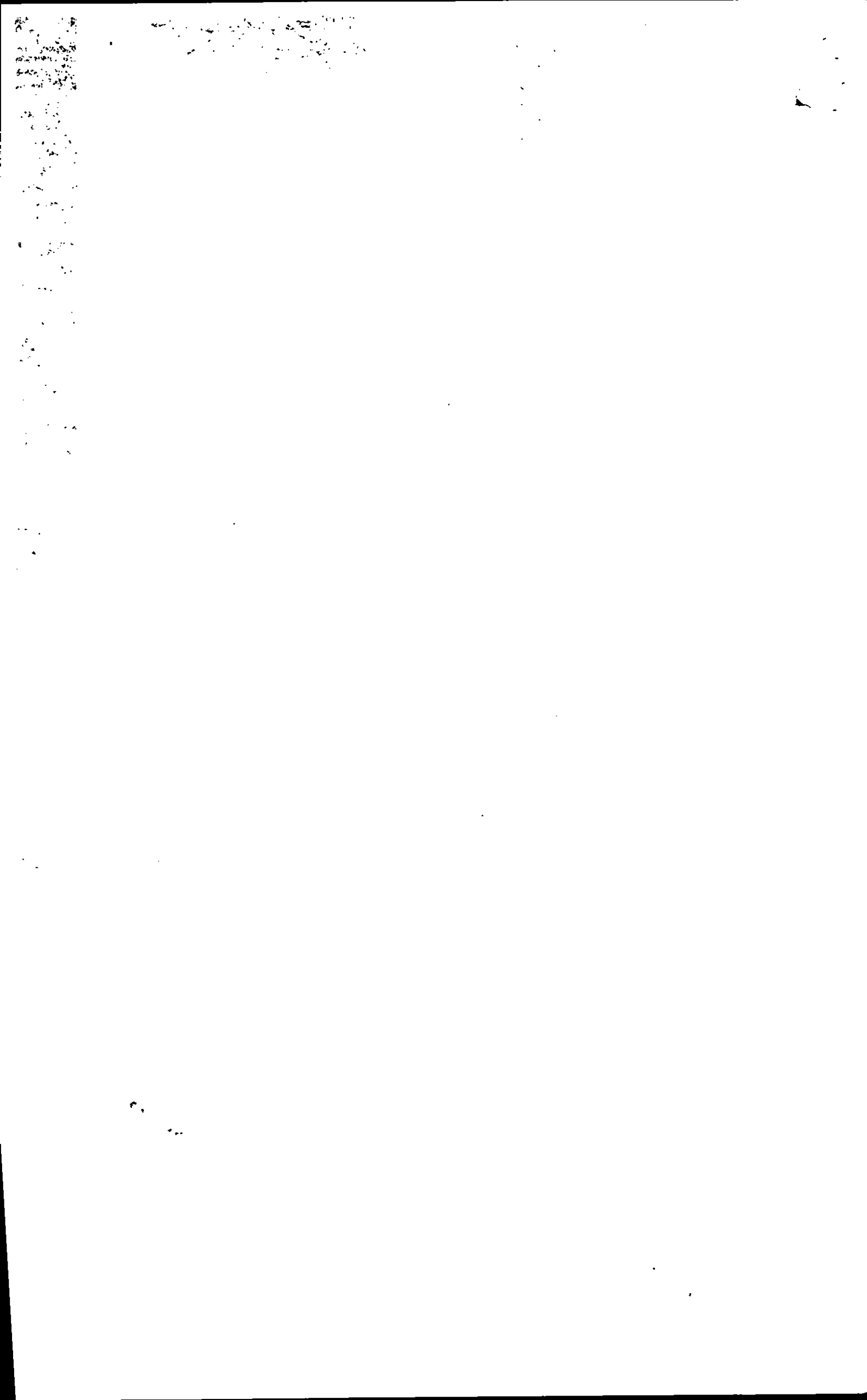
[Signature]

MEDICAL SUPERINTENDENT,  
CIVIL HOSPITAL

27/09/11

LEFT HAND THUMB AND FINGER IMPRESSIONS

[Handwritten mark]





7

ANNEX-1-C

To

The Director,  
Social Welfare & Women Dev: Deptt.,  
Khyber Pakhtunkhwa.

Subject: ARRIVAL REPORT.

Reference your office order No. E-17/35/DSW/8954-57 dated 19-04-2011 on the subject noted above and I hereby submit my arrival report as Naib Qasid (BPS-01) today on 27-4-2011 (A.N).

Your Obediently,

*Fazl-e-Akbar*

Fazl-e-Akbar  
Naib Qasid

Directorate of Social Welfare & Women  
Dev: Deptt. Khyber Pakhtunkhwa

Dated: 27-04-2011

*ADA*

*[Handwritten signature]*

*[Handwritten signature]*

8

ANNEX "D"

FROM :

FAX NO. :

Feb. 01 2015 02:07AM P1

GOVT OF KHYBER PAKHTUNKHWA  
DIRECTORATE OF SOCIAL WELFARE  
SPECIAL EDUCATION AND WOMEN EMPOWERMENT  
PESHAWAR

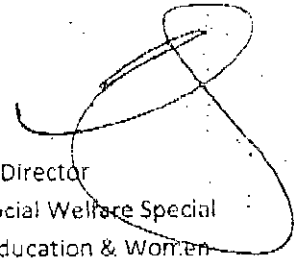
No: DSW/7823

Dated: 19/01/15

Office Order:

In light of the recommendations of the inquiry officer and subsequent notice in the News Paper for resuming duties in respect of Rahaman Said Chowkidar and reminders on the Home Address of Mr. Fazal Akbar Naib Qasid for resuming duties and showing valid reasons for their prolonged absence without prior permission, both the officials failed to resume their duties and, therefore, their services are hereby terminated with immediate effect on account of their willful absence, in

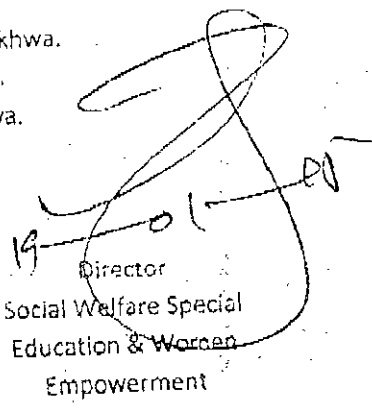
best public interest



Director  
Social Welfare Special  
Education & Women  
Empowerment

Copy to:

- 1) Accountant General Khyber Pakhtunkhwa.
- 2) DDO Directorate of Social Welfare, SE and WE Department Khyber Pakhtunkhwa.
- 3) PS to Minister Social Welfare, SE and WE Department Khyber Pakhtunkhwa.
- 4) PS to Secretary Social Welfare, SE and WE Department Khyber Pakhtunkhwa.
- 5) Officials Concerned.



Director  
Social Welfare Special  
Education & Women  
Empowerment



GOVT OF KHYBERPAKHTUNKHWA  
DIRECTORATE OF SOCIAL WELFARE  
SPECIAL EDUCATION AND WOMAN EMPOWERMENT  
PESHAWAR

No: Dsw/7823

Dated: 19/01/15

**Office Order:**

In light of the recommendations of the inquiry officer and subsequent notice in the News Paper for resuming duties in respect of Rahaman Said Chowkidar and remainders on the Home Address of Mr. Fazal Akbar Naib Qasid for resuming duties and showing valid reasons for their prolonged absence without prior permission, both the officials failed to resume their duties and, therefore, their services are hereby terminated with immediate effect on account of their willful absence in the best public interest.

Sd/-

Director

Social Welfare Special  
Education & Women  
Empowerment

Copy to:

- 1) Accountant: General Khyber Pakhtunkhwa.
- 2) DDG Directorate of Social Welfare, SE and WE Department Khyber Pakhtunkhwa.
- 3) PS to Minister Social Welfare, SE and WE Department Khyber Pakhtunkhwa.
- 4) PS to Secretary Social Welfare, SE and WE Department Khyber Pakhtunkhwa.
- 5) Officials Concerned.

Sd/-

Director

Social Welfare Special  
Education & Women  
Empowerment

*Ahmed*  
*A*

9

ANNEXI-E

To

The Secretary,  
Social Welfare, Special Education &  
Women Empowerment Department  
Khyber Pakhtunkhwa, Peshawar.

Through: Proper Channel

Subject: *Departmental Appeal against the order dated 19.01.2015,  
whereby the applicant has been terminated from service.*

Prayer in Departmental Appeal.

*On acceptance of this Departmental Appeal order dated  
19.01.2015,, 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 Naib Qasid on 19.04.2011. I was medically examined and when found fit I also took over charge of my post and started performing my duties.
2. That ever since from my appointment I have performed my duties as assigned to me with zeal and devotion and have never given any chance of complaint to my superiors regarding my performance.
3. That while serving in the said capacity without serving upon me any notice, charge sheet or show cause notice I have been terminated from service vide order dated 19.01.2015, allegedly on the ground of absence from duty.
4. 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:

*gkly*

*ADC (P&S)  
Peshawar  
16/02/15*

GROUNDS 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.
- B. That no procedure has been followed before the termination of my services I have not been served with any absence notice, charge sheet or show cause notice nor any inquiry has been conducted, thus the impugned order is illegal and void abenatio.
- C. That I have not been provided opportunity of personal hearing before awarding me the penalty 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 I have never been served with any absence notice before nor any publication has been made before the termination of my services on the ground of absence.
- F. That the word termination from service is alien to service laws, there is no such penalty prescribed under E & D Rules, 2011, as such the order of termination from service is not tenable under the law and is liable to be set aside on this score alone.
- G. That no period of absence has been shown in the impugned order, the impugned order is thus not a speaking order and is violative of the section 24-A of the General Clauses Act.
- H. That I duly applied for the post of Naib Qasid and was appointed by the competent authority after observing all codial formalities. I duly took over charge of my post, performed my duties for more then 3 years, as such valuable rights have been created in my favour the same cannot be taken away illegally with one stroke of pen.

*M.C.*

(11)

- I. That I have never committed any act or omission which could be termed as misconduct albeit I have been terminated from service. I have never absented my self willfully. Moreover the allegation of continuous long absence is also baseless and unfounded.
- J. That the impugned order is politically motivated and is passed under the political pressure of the local MPA. I have been victimized for the sole reason of belonging to a particular political party.
- K. That I have a long and spotless service career at my credit, the penalty imposed upon me is harsh and liable to be set aside.
- L. That I am jobless since my illegal termination from service.

*It is, therefore, humbly prayed that on acceptance of this Departmental Appeal the order dated 19.01.2015, may kindly be set aside and the undersigned may be reinstated into service with all back benefits.*

Yours Obediently

فہم اکر

**FAZAL AKBAR**

EX- Naib Qasid,

Directorate of Social Welfare

Special Education and Women

Empowerment, Khyber Pakhtunkhwa  
Peshawar.

R/O P.O Jhanda Tehsil & District Swabi.

Contact No. 0347-5098139.

Dated: 6 / 02 / 2015

CPY  
C

Fazali Ahmad N/Q  
Appeal

POWER OF ATTORNEY

In the Court of KPK Service Tribunal Peshor  
Pazl Akbar

} For  
} Plaintiff  
} Appellant  
} Petitioner  
} Complainant

VERSUS

Govt of KPK and others

} Defendant  
} Respondent  
} Accused  
}

Appeal/Revision/Suit/Application/Petition/Case No. \_\_\_\_\_ of \_\_\_\_\_  
Fixed for \_\_\_\_\_

I/We, the undersigned, do hereby nominate and appoint

IJAZ ANWAR ADVOCATE, SUPREME COURT OF PAKISTAN

and Sajid Amin Admi my true and lawful attorney, for me in my same and on my behalf to appear at Peshor to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or subpoena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at \_\_\_\_\_ Peshor  
the \_\_\_\_\_ day to \_\_\_\_\_ the year \_\_\_\_\_

Executant/Executants \_\_\_\_\_  
Accepted subject to the terms regarding fee \_\_\_\_\_

Accepted  
Sajid Amin Admi  
Admi  
Peshor

Ijaz Anwar

Advocate High Courts & Supreme Court of Pakistan

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT  
FR-3 B-1, Fourth Floor, Hilour Plaza, Saddar Road, Peshawar Cantt  
Ph: 091-8272154 Mobile: 0333-9107225



**Before the Service Tribunal Khyber Pakhtunkhwa,**  
**Peshawar**  
**Service Appeal No.597 / 2015**

Mr. Mr. FAzal Akbar (Ex-Naib Qasid) **APPELLANT**  
**VERSUS**

1. Secretary to Govt. Social Welfare Special Education & Women Empowerment Department, office at Opposite Islamia College, Jamrud Road, Peshawar.
2. Director Social Welfare, Special Education and Women Empowerment Department (**Respondents**)

**PARA WISE COMMENTS BY DIRECTORATE OF SOCIAL WELFARE**

**PRE-LIMINARY OBJECTIVES:**

1. That the Appellant has no cause of action.
2. That the Appeal is not maintainable in its present form.
3. That the Appeal is bad for non-Joinder of necessary and misjoinder of unnecessary parties.
4. That the Applicant has been estopped by his own conduct to file the Appeal.
5. That Appellant has not come to this Tribunal with clean hand.

**FACTS**

1. Correct
2. Incorrect, hence denied. The appellant proved problematic throughout his service. He was a habitual duty evader and used to remain absent from duty for weeks and months without proper and prior permission of the competent authority. A number of explanations and letter of Absence from duty were served upon him but in vain (**Annex-A, B, C**). His salary was also stopped to compel him to join his duties.
3. Incorrect hence denied. As stated in para-2 supra the appellant was a habitual duty evader and used to remain absent from duty without prior permission of the competent authority. The appellant never informed either through telephone or in written regarding his absence.
4. Incorrect and not admitted. A proper notice was issued and communicated to the appellant at his home address (**Annex-C**) to join his duties. Since the appellant failed to arrive for duty with in the

specified period, his services were therefore terminated after fulfilling all the codal formalities.


5. The order dated 19-01-2015 is legal, lawful, in accordance with law and evident from the details given in the preceding paras.

**Grounds of Departmental Appeal**

- A. Incorrect hence denied. The appellant has been treated in accordance with Law as evident from the factual position narrated in the preceding paras hence question of violation of rights does not arise at all.
- B. Incorrect hence denied. Proper procedure was adopted and all codal formalities were fulfilled before removing the appellant from service as evident from the details given in preceding paras of the facts.
- C. Incorrect hence denied. Vide letter No. DSW/5174-78 dated 5/11/2014 and letter No. Admin/DSW/7328-36 dated 05/01/2015 (**Annex-A,C**), the appellant was directed to explain the reason for being absent without getting any prior permission of the competent authority. All the codal formalities were fulfilled by respondents and on the basis of willful absence the appellant was terminated from his services (**Annex D**).
- D. As per para 4 mentioned above.
- E. Incorrect hence denied. The factual position has been narrated in Para-2 and 4 of the facts.
- F. Incorrect hence denied. Under Section-09 of the E & D rules 2011, the competent authority is authorized to impose major penalty on the absentee (**Annex-E**)
- G. Incorrect hence denied. The order dated 19-01-2015 was issued in accordance with the rules and policy of the Govt.
- H. Correct to the extent that the appellant was appointed after fulfilling all codal formalities and similarly he was removed from service after fulfilling all codal formalities. Since the order dated 19-01-2015 was legal and in accordance with the rules, the question of illegality therefore does not arise at all.

- I. Incorrect hence denied. The factual position has been explained in preceding paras.
- J. Incorrect, the appellant has admitted to be an activist of a particular political party which itself is a gross mis-conduct as per rules. The allegation that his removal from service was due to political pressure is baseless and carries no weight.
- K. Incorrect hence denied. The factual position has been explained in para-2, 3 & 4 of the facts.
- L. The appellant was terminated after observing all codal formalities.
- M. The respondents seek the permission of this honorable Tribunal to rely on additional grounds at the time of hearing of this appeal.
- In view of the above, it is prayed that the appeal being devoid of any merit, may graciously be dismissed.

~~Secretary to Govt of  
KHYBER PAKHTUNKHWA  
SOCIAL WELFARE DEPARTMENT PESHAWAR  
(RESPONDENT NO. 1)~~

  
(Director)  
SOCIAL WELFARE DEPARTMENT PESHAWAR  
KHYBER PAKHTUNKHWA  
(RESPONDENT NO. 2) 23/12/15

(A) 1/2

GOVERNMENT OF KHYBER PAKHTUNKHWA  
DIRECTORATE OF SOCIAL WELFARE, SPECIAL EDUCATION AND  
WOMEN EMPOWERMENT JAMRUD ROAD PESHAWAR.

No. Admn/DSW/ 7328-36


DATED PESHAWAR THE 5/11/2014

To,

Mr Fazal Akbar S/O Fazal Wahid  
Naib Qasid  
Directorate of Social Welfare SE&WE.  
Resident, Village Janda P/O Janda District Swabi.


Subject EXPLANATION

I am directed to refer to this office letter No. 5174-78 dated 05/11/2014 on the subject noted above and say that you are not obey order of the competent authority to join your duty on time. You are directed to explain the reasons for being absent without getting any prior permission of the competent authority. Your reply should reach this office within two days positively otherwise strict disciplinary action will be taken against you under E&D rules.

  
Assistant Director (Admn)  
Social Welfare, S.E & W.E  
Khyber Pakhtunkhwa

Copy to:-

1. PA to Director Social Welfare, SE&WE Department

  
Assistant Director (Admn)  
Social Welfare, S.E & W.E  
Khyber Pakhtunkhwa



Registered Mail

GOVERNMENT OF KHYBER PAKHTUNKHWA  
DIRECTORATE OF SOCIAL WELFARE, SPECIAL EDUCATION &  
WOMEN EMPOWERMENT, OPPOSITE ISLAMIA COLLEGE  
JAMRUD ROAD, PESHAWAR.

No. DSW/ 5174-78  
Dated Peshawar the 5 / 11 /2014

091-9216099

To

Mr. Fazal Akbar (Naib Qasid)

Subject: ABSENCE FROM DUTY

As reported you are found willfully absent from official duty since long. On account of your willful absence, so many memorandums were issued to you but you are failed to join your duty. Hence you are finally advised to immediately report for duty to Assistant Director (Admn) Directorate of Social Welfare, otherwise ex-parte action will be initiated against you.

The Assistant Director (B & A) Directorate of Social Welfare is requested not to release his salary till further order.

This issue with the approval of DSW.

Assistant Director  
(Establishment)

Copy to:

1. The Assistant Director (B & A).
2. The Assistant Director (Admn).
3. PA to DSW.

*[Handwritten Signature]*  
Assistant Director  
(Establishment)

*[Handwritten Signature]*

(C) (B)

GOVT OF KHYBER PAKHTUNKHWA  
DIRECTORATE OF SOCIAL WELFARE  
SPECIAL EDUCATION AND WOMEN EMPOWERMENT  
PESHAWAR

No: DSW/7823

Dated: 19/01/15

Office Order:

In light of the recommendations of the inquiry officer and subsequent notice in the News Paper for resuming duties in respect of Rahaman Said Chowkidar and reminders on the Home Address of Mr. Fazal Akbar Naib Qasid for resuming duties and showing valid reasons for their prolonged absence without prior permission, both the officials failed to resume their duties and, therefore, their services are hereby terminated with immediate effect on account of their willful absence, <sup>in</sup>

best public interest

Director  
Social Welfare Special  
Education & Women  
Empowerment

## Copy to:

- 1) Accountant General Khyber Pakhtunkhwa.
- 2) DDO Directorate of Social Welfare, SE and WE Department Khyber Pakhtunkhwa.
- 3) PS to Minister Social Welfare, SE and WE Department Khyber Pakhtunkhwa.
- 4) PS to Secretary Social Welfare, SE and WE Department Khyber Pakhtunkhwa.
- 5) Officials Concerned.

19-01-15  
Director  
Social Welfare Special  
Education & Women  
Empowerment

GOVERNMENT OF KHYBER PAKHTUNKHWA  
DIRECTORATE OF SOCIAL WELFARE, SPECIAL EDUCATION AND  
WOMEN EMPOWERMENT JAMRUD ROAD PESHAWAR.

No. Admn/3-9//DSW/ 894-98

DATED PESHAWAR THE 4/2 /2014.

To,

Mr Fazal Akbar  
N/Q AD (B&A ) Section  
Directorate of Social Welfare SE&WE.


Subject EXPLANATION

It has been found with grave concern that you were directed to work with other class IV for unloading the chairs from truck but you slipped away on the plea that Assistant Director(B&A) has assigned duty to you. On contacting AD (B&A) it was found that you were lying and had made clean pair of heels. You are directed to explain and defend your self otherwise disciplinary action would be initiated against you under E&D rules . .

(Umar Zarin Khattak)  
Assistant Director (Admn)  
Social Welfare, S.E & W.E  
Khyber Pakhtunkhwa

Copy to:-

1. PA to Director Social Welfare, SE&WE Department.
2. Assistant Director (B&A) Directorate of Social Welfare.
3. Assistant Director (Establishment) Directorate of Social Welfare.
4. Official Concerned.

  
Assistant Director (Admn)  
Social Welfare, S.E & W.E



44

# ESTA CODE

**ESTABLISHMENT CODE KHYBER PAKHTUNKHWA  
( REVISED EDITION ) 2011**

**A COMPENDIUM OF LAWS, RULES AND INSTRUCTIONS  
RELATING TO THE TERMS AND CONDITIONS  
OF PROVINCIAL CIVIL SERVANTS**

**COMPILED BY;  
(O&M) SECTION  
ESTABLISHMENT & ADMINISTRATION DEPARTMENT**



within a period of ninety days, excluding the time during which the post held by the competent authority remained vacant due to certain reasons:

Provided further that if the case is not decided by the competent authority within the prescribed period of ninety days, the accused may file an application before the appellate authority for early decision of his case, which may direct the competent authority to decide the case within a specified period;

- (d) afford an opportunity of personal hearing before passing any order of penalty under clause (f), if it is determined that the charge or charges have been proved against him;
- (e) exonerate the accused, by an order in writing, if it is determined that the charge or charges have not been proved against him; and
- (f) impose any one or more penalties mentioned in rule 4, by an order in writing, if the charge or charges are proved against the accused:

Provided that where charge or charges of grave corruption are proved against an accused, the penalty of dismissal from service shall be imposed, in addition to the penalty of recovery, if any.

8. **Action in case of conviction or plea bargain under any law.**---Where a Government servant is convicted by a court of law on charges of corruption or moral turpitude or has entered into plea bargain and has returned the assets or gains acquired through corruption or corrupt practices, or has been acquitted by a court of law as a result of compounding of an offence involving moral turpitude under any law for the time being in force, the competent authority, after examining facts of the case, shall-

- (a) dismiss the Government servant where he has been convicted on charges of corruption or moral turpitude or has entered into plea bargain and has returned the assets or gains acquired through corruption or corrupt practices voluntarily:

Provided that dismissal in these cases shall be with immediate effect from the date of conviction by a court of law; and

- (b) proceed against the Government servant under rule 5, where he has been convicted of charges other than corruption or moral turpitude.

9. **Procedure in case of wilful absence.**---Notwithstanding anything to the contrary contained in these rules, in case of wilful absence from duty by a Government servant for seven or more days, a notice shall be issued by the competent authority through registered acknowledgement on his home address directing him to resume duty within fifteen 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 fifteen days of the publication of that notice, failing which an ex-parte decision shall be taken against the absentee. On expiry of the stipulated period given in the notice, major penalty of removal from service may be imposed upon such Government servant.

10. Procedure to be followed by competent authority where inquiry is necessary.---(1) If the competent authority decides that it is necessary to hold an inquiry against the accused under rule 5, it shall pass an order of inquiry in writing, which shall include-

- (a) appointment of an inquiry officer or an inquiry committee, provided that the inquiry officer or the inquiry committee, as the case may be, shall be of a rank senior to the accused and where two or more accused are proceeded against jointly, the inquiry officer or the convener of the inquiry committee shall be of a rank senior to the senior most accused;
  - (b) the grounds for proceeding, clearly specifying the charges along with apportionment of responsibility;
  - (c) appointment of the departmental representative by designation; and
  - (d) direction to the accused to submit written defense to the inquiry officer or the inquiry committee, as the case may be, within reasonable time which shall not be less than seven days and more than fifteen days of the date of receipt of orders.
- (2) The record of the case and the list of witnesses, if any, shall be communicated to the inquiry officer or the inquiry committee, as the case may be, along with the orders of inquiry.

(3) In a case where preliminary or fact finding inquiry was conducted, and the competent authority decides to hold formal inquiry, the inquiry officer or the inquiry committee for the purpose of conducting formal inquiry shall be different from the inquiry officer or the inquiry committee which conducted the preliminary inquiry.

11. Procedure to be followed by inquiry officer or inquiry committee.---(1) On receipt of reply of the accused or on expiry of the stipulated period, if no reply is received from the accused, the inquiry officer or the inquiry committee, as the case may be, shall inquire into the charges and may examine such oral or documentary evidence in support of the charges or in defense of the accused as may be considered necessary and where any witness is produced by one party, the other party shall be entitled to cross-examine such witness.

(2) If the accused fails to furnish his reply within the stipulated period, the inquiry officer or the inquiry committee, as the case may be, shall proceed with the inquiry ex-parte.

(3) The inquiry officer or the inquiry committee, as the case may be, shall hear the case on day to day and no adjournment shall be given except for reasons to be recorded in writing, in which case it shall not be of more than seven days.

(4) Statements of witnesses and departmental representative(s), if possible, will be recorded in the presence of accused and vice versa.

(5) Where the inquiry officer or the inquiry committee, as the case may be, is satisfied that the accused is hampering or attempting to hamper the progress of the inquiry, he or it shall administer a warning and if, thereafter, he or it is satisfied that the accused is acting in disregard to the warning, he or it shall record a finding to that effect and proceed to complete the inquiry in such manner as may be deemed expedient in the interest of justice.



Daily Attendance Register of the BUDGET & ACCOUNTS

Of the month of APRIL, 2014.

Serial No.	Name	Rank	DATE AND HOURS												OF ATTENDANCE												Total NO. O Days						
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24		25	26	27	28	29	30
01	SARDAR ALI	O/ASSISTANT	A	A	A	X	X	A	A	A	A	X	X	X	X	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	X	X	
02	SALIM MUHAMMAD	O/ASSISTANT	A	A	A	X	X	A	A	A	A	X	X	X	X	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	X	X	
03	MUHAMMAD ADWAN	O/OPERATOR	A	A	A	X	X	A	A	A	A	X	X	X	X	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	X	X	
04	DAULI KHAN	J/CLERK	D	D	D	X	X	D	D	D	D	X	X	X	X	D	D	D	D	X	X	D	D	D	D	X	X	D	D	D	X	X	
05	SAJID ALI SHAH	J/CLERK	SA	SA	SA	X	X	SA	SA	SA	SA	X	X	X	X	SA	SA	SA	SA	X	X	SA	SA	SA	SA	X	X	SA	SA	SA	X	X	
06	TAJVEED AKHTER	N/OASID	P	P	P	X	X	P	P	P	P	X	X	X	X	P	P	P	P	X	X	P	P	P	P	X	X	P	P	P	X	X	
07	ZUBAIR KHAN	N/OASID	P	P	P	X	X	P	P	P	P	X	X	X	X	P	P	P	P	X	X	P	P	P	P	X	X	P	P	P	X	X	
08	Fazle Akber	N/O	A	A	A	X	X	P	P	A	A	X	X	X	X	P	P	A	A	X	X	P	P	A	A	X	X	P	P	A	A	X	X

Daily Attendance Register of the Budget & Accounts

Of the month of MAY, 2014

DATE AND HOURS

OF ATTENDANCE

Serial No.	Name	Rank	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
01	Sardar Ali	offt.	A	X	X	A	A	A	A	A	A	X	X	A	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	A	X	
02	Saeed Muhammad	off	A	X	X	A	A	A	A	A	A	X	X	A	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	A	X	
03	Muhammad Aman	offt.	A	X	X	A	A	A	A	A	A	X	X	A	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	A	X	
04	Daulat Khan	JLC	A	A	A	A	A	A	A	A	A	X	X	A	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	A	X	
05	Sajid Ali Shah	JLC	SA	X	X	SA	SA	SA	SA	SA	SA	X	X	SA	SA	SA	SA	SA	X	X	SA	SA	SA	SA	X	X	SA	SA	SA	SA	SA	X	
06	Jawid Akhtar	W/O	A	X	X	A	A	A	A	A	A	X	X	A	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	A	X	
07	Zubair Khan	W/O	A	X	X	A	A	A	A	A	A	X	X	A	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	A	X	
	Fazle Akbar	W/O	A	X	X	A	A	A	A	A	A	X	X	A	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	A	X	

# Daily Attendance Register of the BUDGET & Accounts

Of the month of JUNE, 2014

DATE AND HOURS

OF ATTENDANCE

Sl. No.	Name	Rank	DATE AND HOURS												OF ATTENDANCE											Total NO. Of Days	R								
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23			24	25	26	27	28	29	30	31
	Sardar Ali	O/A	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	Saeed Mohammad	O/A	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	Muhammed Adnan	K.P.O.		A	A	A	A	A	X	X	A	A	A	A						X	X	A	A	A	A	X	X	A	X	X	A	X			
	Dawlat Khan	J/C	X	D	D	D	D	D	X	X	D	D	D	D						X	X	D	D	D	D	D	D	D	X	X	D	X			
	Sajid Ali Shah	J/C	X	SA	SA	SA	SA	SA	X	X	SA	SA	SA	SA						X	X	SA	SA	SA	SA	SA	SA	SA	X	X	SA	X			
	Talid A. Khan	N/A	X	P	P	P	P	P	X	X	P	P	P	P						X	X	P	P	P	P	P	P	X	X	P	X				
	Zubair Khan	N/A	X	P	P	P	P	P	X	X	P	P	P	P						X	X	P	P	P	P	P	P	X	X	P	X				
	Muhammad Wars	N/A	X						X	X										X	X							X	X						
	Muhammed Hilal	N/A				P	P	P	X	X	P	P	P	P						X	X	P	P	P	P	P	P	X	X	P	X				
	Fazle Akbar	N/A		P	P	A	A	A	X	X	A	P	A	A						X	X	A	A	P	P	A	P	P	X	X	A	X			



Daily Attendance Register of the BUDGET & Accounts

Of the month of July, 2014

Serial No.	Name	Rank	DATE AND HOURS												OF ATTENDANCE												Total NO. Day						
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24		25	26	27	28	29	30
01	Sardar Ali	ofA	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	X	X	X	X	X	X	X	X	X
02	Saeed Muhammad	ofA	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	X	X	X	X	X	X	X	X	X
03	Muhammad adnan	K/A	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	X	X	X	X	X	X	X	X	X
04	Dawlat Khan	T/C	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	X	X	X	X	X	X	X	X	X
05	Sajjad Ali Shah	T/C	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	X	X	X	X	X	X	X	X	X
06	Tauhid Akhtar	N/A	P	P	P	P	X	X	P	P	P	P	X	X	P	P	P	P	X	X	P	P	P	P	X	X	X	X	X	X	X	X	X
07	Zubair Khan	N/A	P	P	P	P	X	X	P	P	P	P	X	X	P	P	P	P	X	X	P	P	P	P	X	X	X	X	X	X	X	X	X
08	Muhammad Haseeb	N/A	P	P	P	P	X	X	P	P	P	P	X	X	A	A	P	P	X	X	A	A	A	P	P	X	X	X	X	X	X	X	X
09	Fazle Akbar	N/A	P	P	A	A	X	X	A	A	P	A	X	X	A	A	P	P	X	X	A	A	A	P	P	X	X	X	X	X	X	X	X

28, 29, 30, 31  
 Holiday  
 Eid

Daily Attendance Register of the BUDGET Accounts

Of the month of August, 2014

DATE AND HOURS

OF ATTENDANCE

Name	Rank	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	Total NO. Of Days	Re
Sardar Ali	O/A	X	X	A	A	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	A	X	X	A	A	A	A	A	X	X			
Saeed Muhammad	O/A	X	X	A	A	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	A	X	X	A	A	A	A	A	X	X			
Muhammad adnan	KPO	X	X	A	A	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	A	X	X	A	A	A	A	A	X	X			
Asif Ali Khan	JIC	X	X	P	P	P	P	P	P	X	X	P	A	A	A	X	X	P	A	A	A	A	X	X	P	A	A	A	A	X	X			
Sajid Ali Shah	JIC	X	X	A	A	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	A	X	X	A	A	A	A	A	X	X			
Tarun Akhtar	N/O	X	X	P	P	P	P	P	P	X	X	P	P	P	P	X	X	P	P	P	P	P	X	X	P	P	P	P	P	X	X			
Zubair Khan	N/O	X	X	A	A	A	A	A	A	X	X	P	P	P	P	X	X	P	P	P	P	P	X	X	P	P	P	P	P	X	X			
Muhammad Hilal	N/O	X	X	P	P	P	P	P	P	X	X	P	P	P	P	X	X	P	P	P	P	P	X	X	P	P	P	P	P	X	X			
Fazle Akbar	N/O	X	X	A	A	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	A	X	X	A	A	A	A	A	X	X			



Daily Attendance Register of the B & A

Of the month of Sept - 2014.

Serial No.	Name	Rank	DATE AND HOURS												OF ATTENDANCE												Total NO. Of Days						
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24		25	26	27	28	29	30
01	Sardar Ali	O/A	A	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	A	X	X	A	A	A	A	
02	Saeed Muhamad	O/A	A	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	A	X	X	A	A	A	A	
03	Muhammad adnan	O/A	A	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	A	X	X	A	A	A	A	
04	Wafas Ali Khan	S/C	A	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	A	X	X	A	A	A	A	
05	Sajid Ali Shah	J/C	A	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	X	X	A	A	A	A	A	X	X	A	A	A	A	
06	Said Akhtar	N/O	P	P	P	P	P	X	X	P	P	P	P	X	X	P	P	P	P	X	X	P	P	P	P	P	X	X	P	P	P	P	
07	Zubair Khan	N/O	P	P	P	P	P	X	X	P	P	P	P	X	X	P	P	P	P	X	X	P	P	P	P	P	X	X	P	P	P	P	
08	Muhammad Hilal	N/O	P	P	P	P	P	X	X	P	P	P	P	X	X	P	P	P	P	X	X	P	P	P	P	P	X	X	P	P	P	P	
09	Fazle Akbar	N/O	P	P	A	A	A	SUN	SUN	A	A	A	P	P	SUN	SUN	A	A	P	P	SUN	SUN	A	A	P	P	SUN	SUN	A	A	A	A	



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

In the matter of :  
Appeal No. 597/2015

Mr. Fazal Akbar (Ex Naib Qasid)

(Appellant)

**VERSUS**

Govt of Khyber Pakhtunkhwa through Secretary Social Welfare  
Special Education & Women Empowerment Department Khyber  
Pakhtunkhwa Peshawar.

(Respondents)

**REJOINDER ON BEHALF OF THE APPELLANT**

Respectfully submitted:

The appellant submit his rejoinder as under:

Preliminary Objections:

1. That the appellant has a cause of action to file the instant appeal.
2. That the appeal is maintainable in its present form.
3. That all the necessary parties are included in the appeal.
4. That no rule of estoppel applies to present appeal.

Facts of the Case:

1. Contents of para 1 of the appeal are correct hence no comments.
2. Denied, para No. 2 of the appeal is correct.
3. Denied, para No. 3 of the appeal is correct.

4. Denied and incorrect, para No. 4 of the appeal is correct.
5. That the impugned order is illegal, unlawful against the law and facts, hence liable to be set aside.

**Grounds of Appeal:**


- A. Para A of the appeal is correct, the appellant have not been treated in accordance with law, his rights secured and guaranteed under the law are badly violated.
- B. Para B of the appeal is correct.
- C. Para C of the appeal is correct.
- D. Para D of the appeal is correct.
- E. Para E of the appeal is correct.
- F. Para F of the appeal is correct.
- G. That the impugned order is not a speaking order and is thus violative of section 24-A of the General clauses Act.
- H. Para H of the appeal is correct.
- I. Para I of the appeal is correct.
- J. Denied, para J of the appeal is correct.
- K. Denied, para K of the appeal is correct.
- L. That the appellate is jobless since his illegal termination from service.

M. That the appellant seeks the permission of this honorable tribunal to rely on additional grounds at the hearing of this appeal.

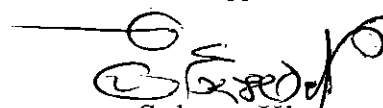
It is, therefore, prayed that the appeal of the appellant may be accepted as prayed for.

  
Appellant

Through

  
IJAZ ANWAR  
Advocate Peshawar

&

  
Saleem Khan  
Advocate Peshawar

**AFFIDAVIT**

I do hereby solemnly affirm and declare on oath that the contents of the above rejoinder as well as appeal are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.

  
Deponent

**ATTESTED**

