

Sr. No	Date of order/ proceeding	Order or other proceedings with signature of Judge or Magistrate
1	2	3
<p>05.04.2018</p> <p><i>Hamid</i></p>		<p align="center"><b><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></b></p> <p align="center">Appeal No. 1203/2016</p> <p>Date of Institution ... 30.11.2016 Date of Decision ... 05.04.2018</p> <p align="center">Umer Sani son of Bashir Ullah, resident of Jhongara, P.O Bakh Shali, Tehsil &amp; District Mardan.</p> <p align="center">Versus</p> <p>1. Director Elementary &amp; Secondary Education Peshawar. 2. Executive District Officer Elementary &amp; Secondary Education Mardan. 3. District Education Officer, (Female) Mardan.</p> <p align="center"><b><u>JUDGMENT</u></b></p> <p align="center"><b><u>MUHAMMAD HAMID MUGHAL, MEMBER: -</u></b></p> <p>Appellant, learned counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General on behalf of the respondents present.</p> <p>2. Appellant (Ex-Junior Clerk) has filed the present service appeal u/s 4 of the Khyber Pakhtunkwa Service Tribunal Act. 1974 against the order dated 02.03.2016 whereby he was dismissed from service on the ground</p>

absence from duty w.e.f 07.12.2014

3. Learned counsel for the appellant argued that the appellant was appointed as Junior Clerk by order of Executive District Officer (E&SE) Mardan vide order dated 03.12.2012 however vide impugned order dated 02.03.2016 the appellant was awarded punishment of dismissal from service on the ground of absence from duty. Further argued that the impugned order of dismissal from service was issued without observing any codal formalities and legal requirements and that the appellant was condemned unheard. Further argued that the appellant has not been treated in accordance with law as such the impugned order is not tenable.

4. As against that learned Additional Advocate General argued that the appellant remained absent for a period of more than one year from his duty and in this respect complaints were made by the Headmistress and staff of the school where the appellant was posted. Further argued that absence notice/ Show Cause Notices were issued to the appellant at his home address and through publication in the newspapers however the same met no response. Further argued that the appellant remained absent from duty without

Handwritten signature/initials

any application and permission hence punishment was rightly awarded to the appellant.

5. Arguments heard. File perused.

6. The appellant was appointed as Junior Clerk in the year 2012 on the deceased son quota. Sufficient material is available on record to substantiate <sup>the</sup> plea taken by the respondent department that the appellant did not attend to his duties. Along with written reply the respondent department has also filed several complaints against the appellant submitted by the Incharge and staff of the school where the appellant was posted. Absence notice/Show Cause Notice against the appellant through publication also available on file. In the impugned order the competent authority has clearly mentioned that three (03) absence notices were sent to the home of the appellant and final Show Cause Notice was published in the Daily Mashriq and Daily Aaj for the appearance of appellant and to justify his absence however he did not attend the office. In this backdrop Learned counsel for the appellant could not make out the case for the reinstatement of the appellant.

7. In light of the above scenario the prayer of the appellant for reinstatement in service is regretted. However

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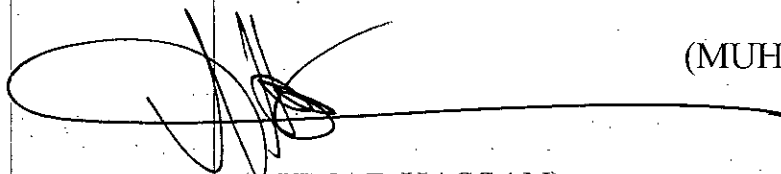
in view of the provisions of Rule-9 of Khyber Pakhtunkhwa (Efficiency & Discipline) Rules, 2011, the penalty of dismissal from service is converted into removal from service from the date of issuance of original impugned order dated 02.03.2016. Absence period of the appellant w.e.f 07.12.2014 till 02.03.2016 shall be treated as unauthorized absence without pay. The present appeal is decided in the above terms. Parties are left to bear their own costs. File be consigned to the record room after its completion.

ANNOUNCED

05.04.2018



(MUHAMMAD HAMID MUGHAL)  
MEMBER




(AHMAD HASSAN)  
MEMBER

06.2.2018

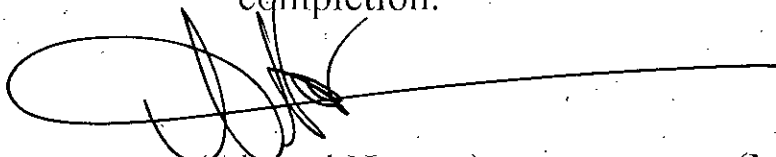
Counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Granted. To come up for arguments on 05.04.2018 before D.B.

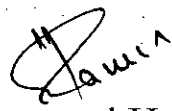
  
Member

  
Chairman

05.04.2018

Learned counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General for respondents present. Vide separate judgment of today of this Tribunal placed on file, the prayer of the appellant for reinstatement in service is regretted. However in view of the provisions of Rule-9 of Khyber Pakhtunkhwa (Efficiency & Discipline) Rules, 2011, the penalty of dismissal from service is converted into removal from service from the date of issuance of original impugned order dated 02.03.2016. Absence period of the appellant w.c.f 07.12.2014 till 02.03.2016 shall be treated as unauthorized absence without pay. The present appeal is decided in the above terms. Parties are left to bear their own costs. File be consigned to the record room after its completion.

  
(Ahmad Hassan)  
MEMBER

  
(Muhammad Hamid Mughal)  
MEMBER

09. 18.07.2017

Appellant in person present. Mr. Muhammad Adeel Butt, Additional AG alongwith Mr. Abdul Jameel, Litigation Officer for the respondent present. Written reply on behalf of respondent No. 1 and 3 already submitted. Additional AG stated that the post of respondent No. 2 no more exist. Hence to come up for rejoinder and argument on 12.09.2017 before S.B.



(Muhammad Hamid Mughal)  
Member

12.09.2017

Appellant in person and Adll: AG for the respondents present. Appellant seeks adjournment as his counsel is not in attendance. Adjourned. To come up for arguments on 29.11.2017 before D.B.



Member  
(Executive)



Member  
(Judicial)

29.11.2017

Counsel for the appellant and Mr. Ziaullah, DDA for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 06.02.2018 before D.B.



Member



Chairman

30.03.2017

Counsel for the appellant and Addl: AG for the respondents present. Written reply not submitted. Requested for further adjournment. To come up for written reply/comments on 26.04.2017 before S.B.

  
Chairman

26.04.2017

Counsel for the appellant and Addl: AG for the respondents present. Written reply not submitted. Request for adjournment. Request accepted. To come up for written reply and comments on 30.05.2017 before S.B.

  
(Ahmad Hassan)  
Member

30.05.2017

Appellant in person and Addl. AG for the respondents present. Written reply not submitted. Requested for adjournment. Request accepted. Last opportunity granted. To come up for written reply/comments on 18.07.2017 before S.B.

  
Registrar

1203/2016

13.01.2017

Learned counsel for the appellant argued that the appellant was serving as Junior Clerk when dismissed from service vide impugned order dated 02.03.2016 where-against he preferred departmental appeal on 18.05.2016 which was not responded and hence the instant service appeal on 30.11.2016.

That the allegations of wilful absence from duty attributed to the appellant are against facts and law. That the enquiry was not conducted in the mode and manners prescribed by rules and that no opportunity of hearing was ever afforded to the appellant despite the fact that the appellant was confined to bed due to sickness.

Points urged need consideration. Admit subject to limitation. Subject to deposit of security and process fee within 10 days notices be issued to the respondents. To come up for written rely/comments on 01.03.2017 before S.B.

Appellant Deposited  
Security Process Fee

Chairman

01.03.2017

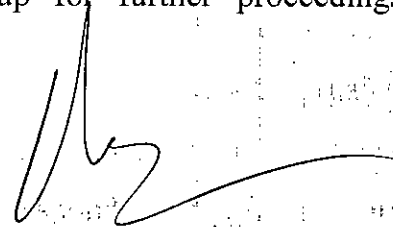
Clerk to counsel for the appellant and Addl. AG for respondents present. Written reply not submitted. Requested for further adjournment. To come up for written reply/comments on 30.03.2017 before S.B.

(MUHAMMAD AAMIR NAZIR)  
MEMBER



21.12.2016

Counsel for the appellant present. Preliminary arguments heard and case file perused. Through the instant appeal, the appellant has impugned order dated 02.03.2016 vide which appellant was dismissed from service. Against the impugned order appellant filed departmental appeal on 18.05.2016 which was not responded within the statutory period. However appellant filed the instant appeal with the considerable delay on 30.11.2016. Alongwith appeal, appellant filed an application for condonation of delay. Since the matter required further assistance, therefore, pre-admission notice be issued to Addl. AG to argue the case on the next date. To come up for further proceedings on 24.01.2017 before S.B.



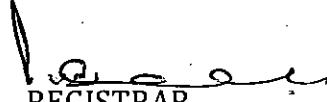

(MUHAMMAD AAMIR NAZIR)  
MEMBER



Form- A  
FORM OF ORDER SHEET

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

Case No. 1203/2016


S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	05/12/2016	<p>The appeal of Mr. Umar Sani resubmitted today by Mr. Shah Faisal Nasapi Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>21-12-16</u></p> <p style="text-align: right;"> MEMBER</p>

The appeal of Mr. Umar Sani son of Bashir Ullah r/o Jhangara Distt. Mardan received today i.e. on 30.11.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Approved file cover is not used.
- 3- One more copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1983 /S.T,

Dt. 1 /12 /2016

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Shah Faisal Nasapai Adv. Pesh.

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

In Re:  
Service Appeal No. 1203 /2016

Umer Sani.....Appellant

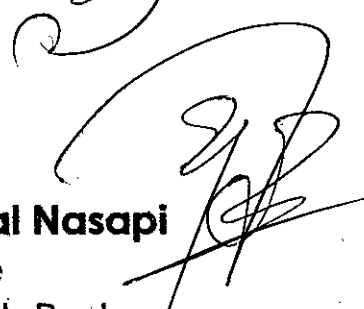
**V E R S U S**

Director E&SE Peshawar & others.....Respondents

**I N D E X**

S.No	Description of Documents	Annex	Pages
1.	Service Appeal		1-4
2.	Affidavit		5
3.	Application for condonation of delay with affidavit		6-7
4.	Address of parties		8
5.	Copy of appointment order	A	9
6.	Copies of dismissal order dated 02.03.2016 and departmental appeal dated 18.05.2016	B	10-14
7.	Copy of Medical prescription	C	15
8.	Wakalatnama		16

Through Appellant

*Umer Sani*  
  
**Shah Faisal Nasapi**  
Advocate  
High Court, Peshawar  
Cell No.0301-3026694  
0316-3026694

Dated 29.11.2016

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

Khyber Pakhtunkhwa  
Service Tribunal

In Re:  
Service Appeal No. 1203/2016

Diary No. 1232  
Dated 30-11-2016

Umer Sani S/o Bashir Ullah,  
R/o Jhongara, P.O Bakh Shali,  
Tehsil & District Mardan.....**Appellant**

**VERSUS**

1. Director Elementary & Secondary Education  
Peshawar
2. Executive District Officer Elementary & Secondary  
Education, Mardan
3. District Education Officer, (Female) Mardan  
.....**Respondents**

**SERVICE APPEAL U/S 4 OF THE SERVICE  
TRIBUNAL ACT 1974 against the order  
dated 02.03.2016**

Filed to-day

Registrar

30/11/16 Prayer

On acceptance of this appeal the  
impugned dismissal order dated  
02.03.2016 may be set aside and the  
appellant may be reinstated.

Re-submitted to -day  
and filed.

Registrar

5/12/16  
**Respectfully Sheweth:-**

1. That the appellant was appointed as Junior Clerk BPS-07 vide appointment order No.17960/G dated 03.12.2012. (Copy of appointment order is attached as annexure "A").
2. That appellant was performing his duties upto the entire satisfaction of the high-up's without any complaint, and having got unblemished and spot less service record of 4 long years.
3. That respondent without fulfilling the legal requirements, by not issuing show cause notice, nor conducted inquiry and passed an order dismissed the services of the appellant vide order dated 02.03.2016 without the intimation to appellant.
4. That appellant when appeared for duty as per routine on 07.05.2016 was told that he is dismissed from service and with hard efforts he got the dismissal order on 09.05.2016 and filed departmental appeal on 18.05.2016. (Copies of dismissal order dated 09.05.2016 and departmental appeal dated 18.05.2016 is attached as annexure "B").
5. That the respondents till date not decided the departmental appeal by delaying the matter on one pretext or on the other hence appellant with

no other remedy except this appeal on the following amongst other grounds:

**GROUNDS:**

- A. That the impugned dismissal order from service is illegal, against the law and natural justice.
- B. That no show cause notice, charge sheet or statement of allegations were issued/communicated to the appellant, nor appellant was informed about the impugned order.
- C. That no inquiry was conducted in the matter or any evidence was collected nor respondents have complied due process of law.
- D. That appellant is regular in his service and performing his duties regularly, but respondent without perusing the record and without satisfaction passed the impugned dismissal order on conjecture and surmises.
- E. That appellant was not provided any opportunity of hearing as guaranteed by the constitution of 1973.
- F. That appellant was not served nor was informed of the dismissal order, and appellant got the knowledge on 07.05.2016 and got copy on

7  
09.05.2016 then filed departmental appeal with in time.

- G. That respondent, on the basis of malafide for ulterior motive have not decided the departmental appeal and kept the same pending despite appellants approached so many times, but they did not decide only comments were forwarded on 28.06.2016.
- H. That appellant is a poor person and the only earning person of his entire family.
- I. That department has exercised the power not vested in them and failed to exercise the power vested in them.

It is, therefore prayed that on acceptance of this appeal the impugned dismissal order dated 02.03.2016 may be set aside and the appellant may be reinstated on his service with all back benefits.

Through

*W. Sany*  
Appellant

*[Signature]*  
**Shah Faisal Nasapi**  
Advocate

High Court, Peshawar

Dated 29.11.2016



7

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

In Re:  
Service Appeal No. \_\_\_\_\_/2016

Umer Sani.....Appellant

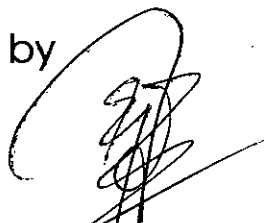
**VERSUS**

Director E&SE Peshawar & others.....Respondents

**AFFIDAVIT**

I, Umer Sani S/o Bashir Ullah, R/o Jhongara, P.O Bakhali, Tehsil & District Mardan, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Identified by



**Shah Faisal Nasapi**  
Advocate High Court

*Umer Sani*

**DEPONENT**

CNIC No.16101-7118556-3



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

In Re:

Service Appeal No. \_\_\_\_\_/2016

Umer Sani.....Appellant

**V E R S U S**

Director E&SE Peshawar & others.....Respondents

**APPLICATION FOR CONDONATION  
OF DELAY IF ANY IN FILING OF  
APPEAL.**

**Respectfully Sheweth:**

1. That this application is filing alongwith the accompanied service appeal the grounds of which may be considered as an integral part of this application.
2. That applicant has pursing the matter vigilantly but the respondents are delaying the matter and not decided the departmental appeal till date.
3. That valuable rights of the applicant are involved with the case, further applicant is also suffering from disease and advised complete rest by the doctor, hence the delay if any is condonable. (Copy of medical is annexure "C").

It is, therefore prayed that the delay if any filing of appeal may be condoned in the large interest of justice.

Through

Appellant



**Shah Faisal Nasapi**

Advocate

High Court, Peshawar

Dated 29.11.2016

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

In Re:  
Service Appeal No. \_\_\_\_\_/2016

Umer Sani.....**Appellant**  
**VERSUS**

Director E&SE Peshawar & others.....**Respondents**

**AFFIDAVIT**

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Identified by



**Shah Faisal Nasapi**  
Advocate High Court



**DEPONENT**

CNIC No.16101-7118556-3



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

In Re:  
Service Appeal No. \_\_\_\_\_/2016

Umer Sani.....**Appellant**

**VERSUS**

Director E&SE Peshawar & others.....**Respondents**

**ADDRESSES OF PARTIES**

**APPELLANT:**

Umer Sani S/o Bashir Ullah,  
R/o Jhongara, P.O Bakh Shali,  
Tehsil & District Mardan

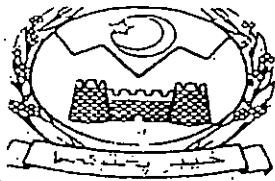
**RESPONDENTS:**

1. Director Elementary & Secondary Education  
Peshawar
2. Executive District Officer Elementary & Secondary  
Education, Mardan
3. District Education Officer, (Female) Mardan

Through Appellant

  
**Shah Faisal Nasapi**  
Advocate  
High Court, Peshawar

Dated 29.11.2016



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Amee  
"A"

APPOINTMENT IN THE DECEASED QUOTA:

Consequent upon the recommendation of the inquiry committees for the deceased quota the competent authority is pleased to appoint the following candidates against the Junior Clerk post in (BPS-07/Rs.5800-320-15400)+ usual allowances as admissible to them under the rules w.e.f. the Date of their taking over charge in the interest of public service, subject to the terms and conditions.

S.NO	NAME /FATHER NAME	ADDRESS	PLACE OF DUTY	REMARKS
1	UMAR SANI/SO BASHIR ULLAH	JUNGARA BAKHSI/ALI MARDAN	GGHS/MOHIB ULLAH BANDA	A.V.P

TERMS AND CONDITION:

- Their Services will be considered regular but without Pension & Gratuity in terms of Section-19 of the NWFP Civil Servant Act, 1973 as amended vide NWFP Civil Servants (Amendment) Act, 2005. He will however be entitled to contributory Provident Fund in such a manner and at such rates as per prescribed by the Govt.
- In case, he is already in Government Service and working against pensionable post on regular basis before 1<sup>st</sup> day of July 2001, without any service break, on application to Executive District Officer ( E & SE) Mardan through proper channel and selection by the department, is appointed and allowed choice of option either to retain benefit of pension & gratuity as allowed to him under his previous terms of appointment or to avail the benefit of Contributory Provident Fund allowed to him under new appointment.
- His services are liable to termination on one month's notice from either side. In case of resignation without notice his one-month pay/allowances shall be forfeited to the Government.
- He should join his post within 15 days of the issuance of this Notification. In case of failure to join their post within 15 days of the issuance of this notification, his appointment will expire automatically and no subsequent appeal etc shall be entertained.
- He will be on probation for a period one year extendable for another one year.
- He will be governed by such rules, and regulations as may be issued from time to time by the Govt.
- His services can be terminated at any time, in case his performance is found unsatisfactory during probationary period. In case of misconduct, he shall be proceeded under the rules framed from time to time.
- Charge report should be submitted to all concerned.
- The Drawing and Disbursing Officers should submit a certificate for release of pay as under Name \_\_\_\_\_ S/O \_\_\_\_\_ appointed against JC post at GHS/GGHS \_\_\_\_\_ vide order No. \_\_\_\_\_ of S.No. \_\_\_\_\_ Certificates/Degrees/DMCs and domicile certificate of District Mardan have been personally verified and found correct however, if any discrepancy detected later on will be the whole responsibility of the undersigned

Signature \_\_\_\_\_ Name \_\_\_\_\_ GHS/GGHS \_\_\_\_\_

(BAHADAR KHAN MARWAT)  
EXECUTIVE DISTRICT OFFICER  
E & SE Mardan

Endst: No. 17960/6 Dated Mardan the 3/12 2012

Copy forwarded for information and necessary action to the:

10. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
11. District Coordination Officer Mardan.
12. District Comptroller of Accounts Mardan.
13. District Officer (Male) E & SE Local Office.
14. Principal/Head Master/Head mistress as concerned.
15. Candidates concerned.
16. G.File.

EXECUTIVE DISTRICT OFFICER  
E & SE Mardan

Amx  
e 2

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**TREATMENT AT HOME**

Tab. Aulon hooms  
series

Tab. Maxilt 75mg  
or

Tab. Bone out 0.75g

Tab. ESSO 400

Tab. Surfax #

Ad five Months rest  
As the patient is suffering  
from Septic Arthritis Hip Joint

Countersigned

Medical Superintendent  
D.H.Q. Hospital Mardan

Orthopaedic Surgeon  
D.H.Q. HOSPITAL  
MARDAN

اور پی ڈی  
بروز منگل - جمعہ

آئندہ یہ کارڈ اپنے ساتھ لانا نہ بھولئے۔

**DISCHARGE CARD**

**ORTHOPAEDIC UNIT**

District Head Quarter Hospital  
MARDAN

Incharge Orthopaedic Surgeon  
**DR. FARMAN ULLAH**  
M.D, MS, Ph.D (Ortho)

**MEDICAL OFFICERS**

Dr. Sajid  
M.D, M.S

Dr. Khalil-ur-Rehman  
M.B.B.S, M.S

Dr. Zafarullah  
M.B.B.S

Dr. Rofaq  
M.B.B.S, F.C.P.S-II

Dr. Arif  
M.B.B.S, F.C.P.S-II

Dr. Muhammad Shoaib  
M.B.B.S, F.C.P.S-II

Dr. Adnan  
M.B.B.S, F.C.P.S-II

Pt's Name Umar Sami

Address Jhungara Bakhshali  
Mardan

D.A. 06-07-2016 Adm No. 1019-711

D.O.P. 07/07/16 D.O.D. 20/7/16

Diagnosis Septic arthritis Rt Hip

Treatment Conservative treatment

F.C  
S.P

**CLINICAL RECORD**

H/O pain Hip

**INVESTIGATIONS**

CBC ESR, Xray Hip

AIRTAL 100/200mg

**TREATMENT AT HOSPITAL**

by Niguel M

by Nor M

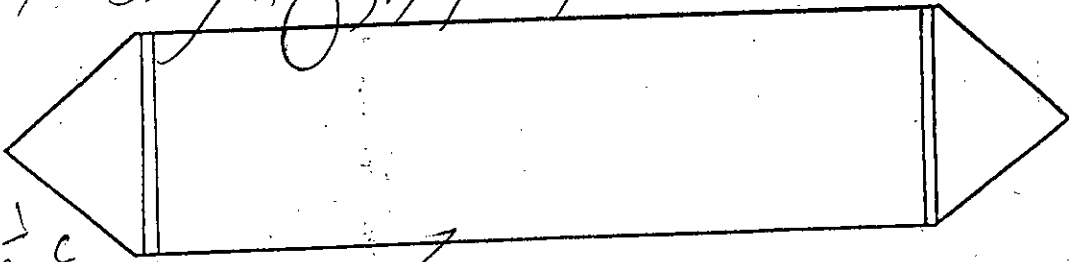
by Phil M

**OPERATION**

Consent for Jct

HILORIC 40/80mg

# بعدالت



موزخہ  
مقدمہ  
دعویٰ  
جرم

عمر ثانی (۱) دائرہ کار  
2 مخانب  
عمر ثانی  
Appellant

## باعث تحریر آئنگے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی وکل کاروائی متعلقہ  
آن مقام کیلئے سندھ تاسیسی مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو رضی نامہ کرنے و تقرر ثالث فیصلہ برحلف دیئے جواب دی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک دروپیہار عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساختہ  
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائے التوائے مقدمہ کے سبب سے وہ ہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سند ہے۔

المرقوم  
20  
واہ العب  
مقام کے لئے منظور ہے۔

عمر ثانی و  
MSB 03169464849



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Appeal No. 1203/2016

Umer Sani -----(Appellant)

**VERSUS**

Director Education &Others -----(Respondents)

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S.NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGES	
1.	Para wise Comments		1	2
2.	Copies of Complaints	A	3	5
3.	Copy of publication	B	6	6



District Education Officer(F)

Mardan

Dated: 12 / 4 /2017

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**Appeal No. 1203/2016

Umer Sani -----(Appellant)

**VERSUS**

Director Education &amp; Others -----(Respondents)

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS**

Respectfully Sheweth,

Preliminary Objections:-

1. That the appellant has got no cause of action and locus standi to file the instant appeal.
2. That the instant appeal is bad in its present form, hence incompetent and liable to be dismissed.
3. That the instant appeal is not maintainable in the eye of law.
4. That the instant appeal is badly time barred.
5. That the Honourable Court lack jurisdiction to entertain the instant subject matter.
6. That the instant appeal is liable to be dismissed on account of non-joinder and mis-joinder of un-necessary parties.
7. That the appellant concealed the material facts.
8. That the appellant has not come to this Honourable Tribunal with clean hands.
9. That the appellant is estopped by his own conduct to file the instant appeal.

**ON FACTS**


1. Para 1 is correct.
2. Para 2 is incorrect, baseless and the appellant remained absent w.e.f 07-12-2014 (1 year & two months) and was reported by Headmistress of the concerned school time & again, to ensure his attendance and was continuously withdrawing his monthly salary, hence denied. (Copies of complaints are attached as annex "A")

- 3. Para 3 is incorrect the appellant was issued show cause absences notices at his Home address but he did not comply with it. Thereafter the competent authority issued final show cause notice through publication for appearance and justification of absence, but the appellant did not attend the office with in stipulated period hence after completing all codal formalities, the order of dismissal was issued accordingly. (Copy of publication is attached as Annex "B" )
- 4. Para 4 is incorrect and being an irregular employee, the appellant remained ignorant, hence denied.
- 5. Para 5 is incorrect, baseless, against law & facts and the instant appeal being devoid of merit is liable to be dismissed.

**GROUND**

- A. Para A is incorrect, baseless and the appellant was an irregular employee which created nuisance for the smooth running of school administration, hence denied.
- B. Para B is incorrect, baseless, against law & facts and thoroughly explained supra in para No.3, hence denied.
- C. Para C is incorrect, baseless, against law & facts, hence denied. As replied above.
- D. Para D is incorrect, baseless, against law & facts, hence denied. As replied above.
- E. Para E is incorrect, baseless, against law & facts, hence denied. As replied in above paras.
- F. Para F is explained supra in para No.3 & 4, hence denied,
- G. Para G is incorrect, baseless and the answering respondent being a responsible government official did not violate any rules and adopted the procedure accordingly, hence denied.
- H. Para H is irrelevant.
- I. Para I is incorrect and baseless, hence denied. As replied in facts.

Therefore it is humbly prayed that keeping in view the above mentioned facts, the instant appeal may kindly be dismissed with cost.

  
 Director  
 Ele.& Sec. Education  
 Peshawar

  
 District Education Officer (F)  
 Mardan

ch

D.A concerned put up on file

(3)

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Main body of handwritten Urdu text, appearing to be a letter or official communication.

Received  
Handwritten Urdu text below the 'Received' stamp, likely a receipt or acknowledgment.

Handwritten Urdu text at the bottom of the main body, possibly a signature or additional notes.

DEO. (Female), Mardan  
Diary No. 4874  
Date: 09/10

No. 103  
dated 09/10/15  
120  
130

Handwritten signatures and stamps, including a circular stamp for 'Miss Mrs. GHS' and 'Mahaullah'.

**ATTESTED**

**DISTRICT EDUCATION OFFICER (FEMALE) (E&S) MARDAN**

09-10-2015

کتابت صحت و سقم و غیرہ کے لئے  
مردان

صحت کا نام

DA Clerk  
Makhtun

مردانہ تفریق سے - درج ذیل کے لڑکوں کو  
26/11/2015  
صحت کا نام لکھ کر اور اس کے ساتھ  
اس کے ساتھ لکھ کر اور اس کے ساتھ

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Head Mistress

D.E.O. (Female), Mardan  
Dairy No. 5895  
Date: 26/11

26/11/2015

اس کے ساتھ لکھ کر اور اس کے ساتھ

- 1. Nabeesat Yousaf
- 2. Zahra
- 3. Nasreen Jamwal
- 4. Zahra
- 5. Bibi Sherafat

DISTRICT EDUCATION  
OFFICER (FEMALE)  
(E&SE) MARDAN

26-11-2015

کتابت عنان ڈسٹرکٹ ایجوکیشن آفیسر

صروال

(دفعہ 100 میں جوئے کی عمر کافی ہے مسلسل  
دوسال سے طبعاً خالص ہے)

صدا بے جا ہے!

قد بلند تر رہیں ہے۔ کہ گورنمنٹ گزٹ میں جوئے کی عمر

عمر کافی تصنیف ہے۔ جو ان کے ساتھ اسکول میں خالص

ہو گیا ہے۔ کہ مسلسل طبعاً خالص ہے۔ مع ان کے کوئی بار اطلاع

ہے ہے۔ کہ ان کی تنخواہ آگے ہے۔ مگر میں شخص کو بچانے دیکھ

آج نہیں ہے۔ کہ اسکول کی بجٹ کے لئے خالص مسٹر دے

کتنوں کو جوئے کی عمر آگے ہے۔ وہ مع ان کے کوئی نہیں ہے

آج کے حصان سے ان کے ہے۔ کہ اسکول کے اسکول  
کتابت فرمائیں۔

Magish - حسن زینب  
میں زینب

Salama of ...

Head Mistress  
GGHS Momballah Banda  
Mardan

ATTEST

DISTRICT EDUCATION OFFICER (M.A.B.) MARDAN

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	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50
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نوٹس غیر حاضری شوکار نوٹس  
آپ کی فرمائش (جنرل کمرنگ) کو منتظر کرنا ہو گا۔

یہ (ٹی) درخواست  
یارگیری  
18-2  
ماریج کی آخری تا  
ایمانی ہے۔ 3-1  
رٹ کے وسیع  
ل اور تاخیر سے آ  
سٹاڈ اور ڈیوٹی آف  
لے رٹس وارڈ ہوں اور  
اے ٹاڈ اور ڈیوٹی آف

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Dated 15/2/2016

Afsan Khan

Put up on fell for further  
n/a claim  
16/2/16

D.E.O. (Female), Mardan  
Dairy No. 1652  
Date: 16/2

ATTESTED

DISTRICT EDUCATION  
OFFICER (FEMALE)  
(E&S) MARDAN