

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	27.10.2017	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p style="text-align: center;">Appeal No. 1142/2016</p> <p style="text-align: center;">Date of Institution ... 14.11.2016 Date of Decision ... 27.10.2017</p> <p>Taj Noor Khan, District Public Prosecutor Chitral.</p> <p style="text-align: right;">Appellant</p> <p style="text-align: center;">VERSUS</p> <p>Secretary Home and Tribal Affairs Department Khyber Pakhtunkhwa (Countersigning Officer) Civil Secretariat Peshawar and 4 others.</p> <p style="text-align: right;">Respondents</p> <p>Mr. Farid Ullah Kundi, Advocate --- For appellant.</p> <p>Mr. Zia Ullah, Deputy District Attorney --- For respondents.</p> <p>MR. GUL ZEB KHAN --- MEMBER MR. MUHAMMAD AMIN KHAN KUNDI --- MEMBER</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>GUL ZEB KHAN, MEMBER:</u> Learned counsel for the appellant and Mr. Zia Ullah, Deputy District Attorney for the respondents present.</p> <p>2. Appellant Taj Noor has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 for expungment of adverse entries made in his ACR for the calendar year 2014 by respondent No. 1 & 2 and communicated to him on 11.07.2016 against which he filed departmental representation on 02.08.2016 which was not responded to and thereafter he filed the present service appeal.</p> <p>3. Learned counsel for the appellant argued that the ACR for the calendar</p>

year 2014 of the officer is not objective, rather it is evasive and ambiguous as on the one hand, while recommending the appellant as fit for promotion, the authors have found him as an honest and upright person as well as a best performer of his job but on the other hand, in the overall grading, the appellant has been marked as average in Part III of the PER. That the adverse entries have been given/recorded in the ACR of the appellant without any counseling, advice, warning or any complaint and thus are not sustainable in the eyes of the law/ rules. That the ACR in question has been scribed by the reporting officer and countersigning officer quite late, i.e in the mid of 2015 and that at that time the countersigning officer was not the DG of prosecution and even then he declared the appellant not fit for promotion.

4. On the other side the Learned Deputy District Attorney argued that the reporting as well as countersigning officers are in a better position to evaluate the performance of a subordinate officer than this Honorable Tribunal. That in the instant case, the appellant has worked under the concerned countersigning officer who have rightly declared him not fit for promotion. Learned Deputy District Attorney further argued that the intelligence level of the appellant can better be judged from the entries made by him in relevant columns of the PER which are full of mistakes and therefore it has rightly been remarked that he cannot shoulder higher or additional responsibilities. That the impugned order dated 02.08.2016 has been issued after fulfilling all the codal formalities, therefore the instant appeal may graciously be dismissed with special cost.

5. We have heard the learned counsel for the appellant and learned Deputy District Attorney for the respondents and have gone through the record available on file.

6. Perusal of record reveals that the appellant is a senior public prosecutor but there is nothing on the record to show that the previous record of the appellant was bad. Rather it shows that he has performed unblemished service for a long period. Moreover, the record further

reveals that the reporting officer has reported that the appellant has performed to the best of his capacity and also reported him as an honest and upright but despite that adverse entry of not fit for promotion has been recorded against the appellant. It is pertinent to mention here that there is nothing on the record to show that any counseling or warning were issued to the appellant at the proper time before recording the adverse entry in the Annual Confidential Report, which is mandatory before recording such adverse entry. Furthermore, the record also reveals that the Annual Confidential Report of the appellant was for the year 2014 and it was mandatory upon the respondents to convey the adverse entry to the appellant within a stipulated period as contained in the relevant instructions of the Provincial Government on Performance Evaluation Reports. Rather the respondents have conveyed the same to the appellant through letter dated 11.07.2016 i.e after more than one and a half year, which was not justified. In this regard 1999 PLC (C.S) 447 (Service Tribunal Punjab) is cited wherein it has been held that:-

----Adverse remarks ----Expunction---Adverse remarks viz. "below average and "not a willing worker" were recorded in Annual Confidential Report of civil servant for relevant year without bringing to the notice of civil servant at proper time that his performance lacked something which he might remove before the year closed up---before giving adverse entries in-Annual confidential Report, counseling at proper time was essential---No document having been appended by Authority showing that such

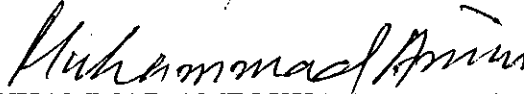
requirement was adequately met with, adverse remarks against civil servant were untenable—In absence of such a timely warning, civil servant could not be condemned at the fag-end of the year concerned.

It was also held in 1999 PLC (C.S) 624 Supreme Court (Azad Jammu and Kashmir) that:-

(d) Civil Service-

---- Annual Confidential Report----Adverse entries—Competency---Annual Confidential Report of civil servant for the year 1985-86 were conveyed to civil servant in 1990-----Effect--- Incumbent upon Authority concerned to convey adverse annual confidential reports to civil servant within thirty days--- Adverse remarks against civil servant in his Annual Confidential Report, could not be read against him in circumstances.

7. As a sequel to above discussion we are constrained to accept the appeal and expunge the adverse remarks recorded against the appellant in his ACR for year 2014. Parties are left to bear their own costs. File be consigned to the record room.


(MUHAMMAD AMIN KHAND KUNDI)
MEMBER

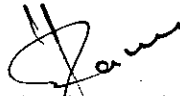

(GUL ZEB KHAN)
MEMBER

ANNOUNCED
27.10.2017

08. 25.07.2017

Counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondent present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 27.10.2017 before D.B.


(Ahmad Hassan)
Member

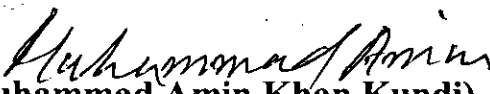

(Muhammad Hamid Mughal)
Member

27.10.2017

Learned counsel for the appellant present. Mr. Zia Ullah, Deputy District Attorney for the respondent present. Vide separate judgment of today of this Tribunal placed on file, the present appeal is accepted and the adverse remarks recorded against the appellant in his ACR for year 2014 is expunged. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

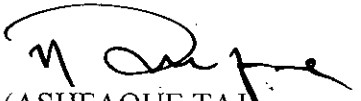
27.10.2017


(Muhammad Amin Khan Kundi)
Member


(Gul Zeb Khan)
Member

06.02.2017

counsel for the appellant and Mr. Liaqat Ali Deputy Director (Legal) alongwith Addl: AG for respondents present. Written reply on behalf of respondents No. 1,2 and 3 submitted. None appeared on behalf of respondents No. 5: To come up for written reply/comments of respondents No. 5 on 02.03.2017 before S.B.


(ASHFAQUE TAJ)
MEMBER

02.03.2017

Appellant in person, Mr. Liaqat Ali, Deputy Director (Legal) and Zakiullah, Senior Auditor alongwith Assistant AG for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing on 20.04.2017.


Chairman

20.04.2017

Appellant in-person present. Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Appellant submitted rejoinder and requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 25.07.2017 before D.B.


(Ahmad Hassan)
Member

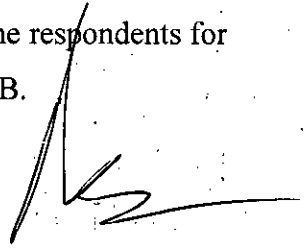

(Muhammad Amin Khan Kundi)
Member

30.11.2016

Counsel for the appellant present. Preliminary arguments heard and case file perused. Through the instant appeal, the appellant has impugned adverse remarks in his PER for the period of 2014 communicated to the appellant in July, 2016. Against the impugned adverse remarks in his PER, appellant filed departmental appeal on 02.08.2016 which was not respondent within the statutory period hence, the instant service appeal.

Appellant Deposited
Security Process Fee

Since the matter pertains to the terms and conditions of service of the appellant, therefore, the appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days where-after notices be issued to the respondents for written reply/comments for 17.01.2017 before S.B.


Member

17.01.2017

Appellant in person and Mr. Muhammad Ashraf, Senior Clerk alongwith Mr. Kabirullah Khattak, Assistant AG for respondents present. Written reply by respondent not submitted. Learned Assistant AG requested for adjournment on behalf of respondents. To come up for written reply/comments on 06.02.2017 before S.B.


(ASHFAQUE YAJ)
MEMBER

BEFORE THE PROVINCIAL SERVICE TRIBUNAL KPK
PESHAWAR.

Service Appeal No. ^{1142/} of 2016.

Taj Noor VS Secretary H&TA KPK etc

Service Appeal

INDEX

S. No.	Particulars	Annexure	Page
1.	Memo: / Grounds of Appeal	-	01 - 06
2.	Affidavit	-	07
3.	Application for suspension of impugned adverse	-	-
4.	remarks	-	08-09
5.	Affidavit	-	10
6.	Copies of covering letter No DP/E&AI(6)8148 Dtd 13/07/2014 along with P.E.R	"A" & "B"	11 -17
7.	Copies of covering letter No 356 dtd 02/08/2016 and departmental appeal	"C" & "D"	18-20
8.	Wakalatnama		
9.	Wakalatnama		21

Dated 14 November 2016.

Your humble Appellant,

Taj Noor

Through Counsel,


FARID ULLAH KUNDI ASC
PHC-BA Peshawar

0

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 1142 / of 2016.

**Khyber Pakhtunkhwa
Service Tribunal**

Taj Noor Khan Distt Public Prosecutor Chitral

Diary No. 1178

Dated 14-11-2016

VERSUS

- 1:- **Secretary** Home and Tribal Affairs Department Khyber Pakhtoon Khawa (Countersigning Officer) Civil Secretariat Peshawar
- 2:- **Director General** Prosecution Khyber Pakhtun Khawa (Reporting Officer) Civil Secretariat Peshawar
- 3:- **Chief Secretary** Khyber Pakhtoon Khawa (Departmental Appellate Authority) Civil Secretariat Peshawar
- 4:- **Government of Khyber Pakhtun Khawa** through Chief Secretary KPK, Peshawar
- 5:- **Accountant General** KPK Peshawar

(RESPONDENTS)

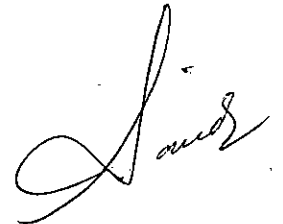
APPEAL U/S- 4 OF KPK SERVICE TRIBUNAL ACT 1974 FOR EXPUNGING OF ADVERSE ENTRIES IN THE PERFORMANCE EVALUATION REPORT FOR THE PERIOD OF 01/01/2014 TO 31/12/2014 OF APPELLANT ENTERED BY RESPONDENT NO 1 & 2

Filed to-day

Registrar

14/11/16

PRAYER.



ON ACCEPTANCE OF THIS APPEAL, THIS HONOURABLE TRIBUNAL MAY BE PLEASED TO DECLARE THE IMPUGNED REPORT AND

2

ADVERSE REMARKS ENTERED BY RESPONDENT NO - 1 & 2 AS ILLEGAL, VOID, AGAINST THE LAW, VOID ABI-NITIO AND INEFFECTIVE UPON THE RIGHTS OF APPELLANT AND THE APPELLANT MAY GRACIOUSLY BE DECLARED AS FIT PERSON FOR PROMOTION AND OTHER BENEFITS OF THE SERVICES.

Respectfully sheweth,

The Appellant respectfully submit as under :-

- 1:- That the Respondents conveyed after more than ^{one &} half an year an adverse entries in the PER for the year 2014 of Appellant and raised finger on unblemished and nit & clean 19 years service of Appellant from BPS -17 to BPS-19. Copies of covering letter No- DP/E&AI(6)8184 Dated Peshawar 13/07/2014 and attested copies of PER for the year 2014 are attached as Annexure "A" & "B",
- 2:- That appellant served very efficiently and honestly with due conscience to the entire satisfaction of his high ups of prosecution department and courts as well. These facts are admitted by Reporting Officer (Res- No 2) filling column NO- 1 & 2 of Part III of PER of Appellant in words with "He performed to the best of his capacity I agree with Part II of PER and rewarded with words as " Honest & Upright" Person.
- 3:- That appellant is going in 58 years of his life, serving as District Public prosecutor Chitral, the far flung area of the country for the last more than four years i.e since 2012 and no public complaint or any finger has been raised from any corner.
- 4:- That soon after receiving the PER covered by letter already enclosed as Annex- A, the appellant made Representation/ Departmental

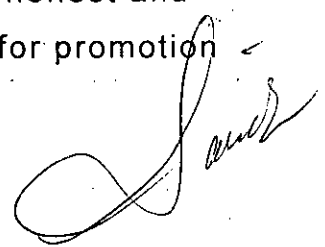
Sand

Appeal to The Chief Secretary KPK through proper channel on 02/08/2016, for expunging the Adverse/impugned remarks, well with in time i.e after few days which was received vide diary No 6298 dtd 02/08/2016 by the concerned of Directorate of Prosecution KPK but has yet to be decided even the stipulated period had been elapsed. Attested Copies of representation/Departmental Appeal covered by letter No-356-DPP/Cht'l dated 02/08/2016 are enclosed as Annexure "C" & "D"

5:- That as the statutory period of three month has been elapsed but no response from the departmental appellate authority has been received, HENCE aggrieved from the impugned remarks and silent conduct of the Respondents No-1 to 3, Appellant respectfully approaches this Honorable Tribunal through instant appeal for seeking redress, inter alia, on the following grounds:

G/R/O/U/N/D/S

- a) That the impugned adverse remarks entered by Respondent No -1&2 are unconstitutional, illegal, against the law and justice, void ab initio, corm non judice, ineffective up on the rights of appellant, with out any proof and evidence hence liable to be set aside in toto.
- b) That the Respondents were bound by law to communi-
-cate the impugned adverse remarks with in one months but they kept mom and communicate the same after a lapse of one and half an year through unauthorized designatory which is a flagrunt violation of the rules and instructions of the Government. (1982 PLC(CS)392) Para 5.2.1 of instruction ibid)
- c) That the report of the reporting officer is not objective, circumspective but evasive and ambiguous as he found the appellant as the best performer of his job, a honest and upright person and recommended him as fit for promotion



while on the other hand an overall grading was marked as average in Part III of the PER. (2004 SCMR164)

d) That the report has been scribed very late in the mid of 2015 when the reporting officer was not the DG of prosecution even then he declared the appellant fit for promotion.

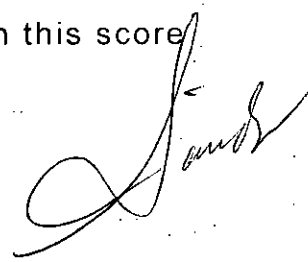
e) That the adverse remarks made by countersigning authority in Part III (2) of the PER are his self made entries, neither supported by any specific instance, complaint or record to justify his stance nor reported by reporting authority further the wrong spelling is improperly reading, may be the fault of my handwriting or his eagle eyes which is beyond of the power and perception of every one.

f) That the adverse remarks of the countersigning authority not allowing appellant for promotion for the reason only of not allegedly properly filling Columns No 1&2 of Part II of PER are so much hard and harsh which amount to beheading instead of cutting extra nail as maximum punishment of the civil servant.

The remarks reproduced as

" Not fit for promotion as he even could not fill the I and II columns of ACR properly. These were full of mistakes" (the underlines word were added after that)

g) That the appellant had thoroughly condemned unheard neither any notices had been issued nor any opportunity for explanation or reformation, personal hearing and to defend himself had been provided which is clear cut violation of law Further neither any warning has been issued nor his counseling has been made of as required under the mandatory provision of Para 3.6 of the instructions ibid hence the impugned remarks are liable to be set aside on this score alone.



h) That the adverse entries made by reporting and countersigning authority are in conflict of Para 0.2 and 0.3 which stipulate complete mechanism for writing PER. The authorities had also violated the service rules and promotion policy 2009

i) That the adverse entries conveyed through unlawful and in very funny manners. As per para 4.1 (vi) of the instructions ^{some} ibid, these must be conveyed by head of the department while the ^{is} by Assistant Director Admin/Finance who has no such authority. Further the covering letter is signed on 11/07/2016 but had sent vide reference No DP/E&AI(6) 8148 dated the Peshawar 13/07/2014.

j) That the appellants may kindly be permitted to agitate some more legal and factual grounds during the proceeding

It is thus humbly prayed that on acceptance of appeal in hand the impugned adverse entries made ^{by} Respondents in the PER of the appellant may graciously be ordered to be expunged from the service record of appellant and the appellant may be graciously declare a fit person to be promoted on his turn as well. Any other remedy which this honourable tribunal may deem fit in the best interest of justice

Dated 14/11/2016 Humble Petitioner

Taj Noor DPP Chitral (Appellant)

Through:

Fauz
Faridullah Kunali
Adv. Peshawar

6

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. of 2016.

Taj Noor VS Secretary H&TA KPK etc

Service Appeal

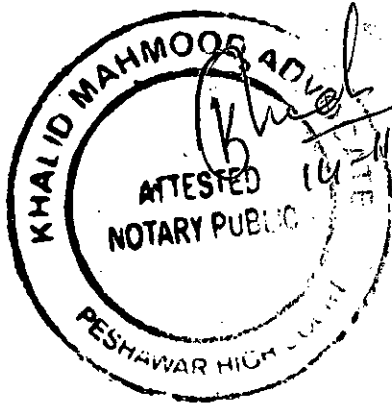
AFFIDAVIT

I Taj Noor District Public Prosecutor Chitral Solmenly declare and affirm on oath that no other appeal is preferred on the subject noted above and all the contents of this appeal are true to the best of my knowledge and belief and no thing has been kept secret in this honourable Tribunal.

Appeal

Date 14/11/2016

Taj Noor Appellant/ Applicant/ Deponent



Said

7

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. of 2016.

Taj Noor VS Secretary H&TA KPK etc

Service Appeal

MEMO OF ADDRESSES OF PARTIES

APPELLANT

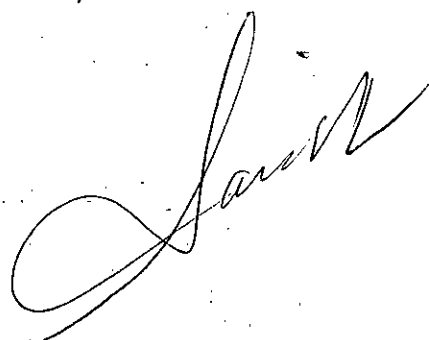
Taj Noor Khan Distt Public Prosecutor Chitral

Respondents

- 1:- **Secretary Home and Tribal Affairs Department Khyber Pakhtoon Khawa (Countersigning Officer) Civil Secretariat Peshawar**
- 2:- **Director General Prosecution Khyber Pakhtun Khawa (Reporting Officer) Civil Secretariat Peshawar**
- 3:- **Chief Secretary Khyber Pakhtoon Khawa (Departmental Appellate Authority) Civil Secretariat Peshawar**
- 4:- **Government of Khyber Pakhtun Khawa through Chief Secretary KPK Peshawar**
- 6:- **Accountant General KPK Peshawar**

(RESPONDENTS)

Taj Noor (Appellant)



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

C

Service Appeal No. of 2016.

Taj Noor VS Secretary Peshawar etc

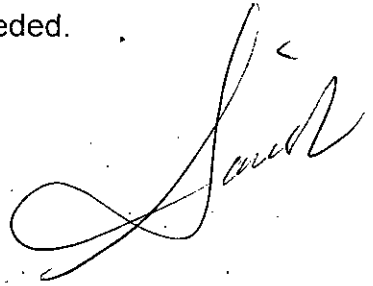
Service Appeal

APPLICATION FOR SUSPENSION OF IMPUGNED ADVERSE REMARKS IN THE PERFORMANCE EVALUATION REPORT FOR THE YEAR 2014 MADE BY RESPONDENTS NO 1 AND 2 WHERE BY THE APPELLANT HAS BEEN DECLARE UNFIT FOR PROMOTION, TILL THE DISPOSAL OF AN APPEAL AND RESPONDENTS BE DIRECTED TO CONSIDER THE APPELLANT IN THE FORTH COMING DEPARTMENTAL PROMOTION COMMITTEE (DPC) MEETING FOR PROMOTION.

Respectfully sheweth,

Applicant/ Appellant pray as followings:-

- 1) That the appellant had preferred an appeal against the impugned adverse entries in this honorable Tribunal which may be, and its grounds there in, considered as integral part of the instant application.
- 2) That appellants had preferred an appeal on very strong and cogent grounds with much hopes of success. An appeal of the appellant is prima facie and eventually it would be succeeded.



9

3) That balance of convenience lies in favour of applicant/ Appellant as it would more inconvenient for appellant if the impugned adverse entries are not suspended. further the Appellant is on right while the Respondents had acted against the law.

4) That the Departmental Promotion Committee has going to meet in the near future to promote some of us where the said adverse entries would be hurdle in the way of promotion of appellant and would create many problems for all if not suspended while on the other side there would be no deference for Respondents in case of acceptance of this application.

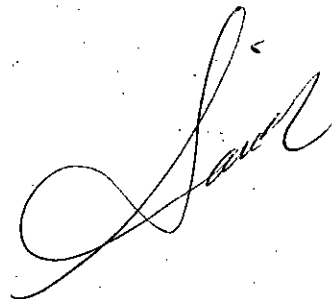
In wake of the submissions made above, it is most respectfully PRAYED that on acceptance of this application, this Honourable Tribunal may be pleased to grant interim injunction, as prayed for, in the heading of this application.

Dated 14 Nov, 2016

Your humble Applicant,

Taj Noor Appellant/ Applicant,

Witnessed by me
in the presence of



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. of 2016.

Taj Noor VS Secretary H&TA KPK etc

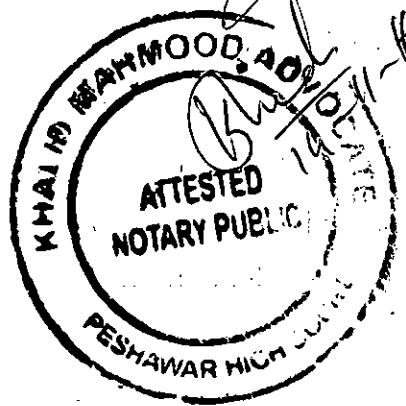
Service Appeal

AFFIDAVIT

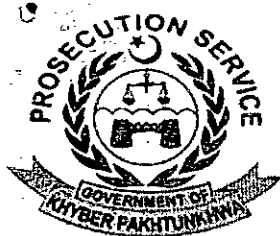
I Taj Noor District Public Prosecutor Chitral Solmenly declare and affirm on oath that no other appeal is preferred on the subject noted above and all the contents of this application are true to the best of my knowledge and belief and no thing has been kept secret in this honourable Tribunal.

Date 14/11/2016

Taj Noor Appellant/ Applicant/ Deponent



[Handwritten signature]



Annex "A" 11
DIRECTORATE OF PROSECUTION
KHYBER PAKHTUNKHWA

No. DP/EEA(16) 8148

Dated Peshawar 13/17/2014
Office Phone # 091-9212559
Fax # 091-9212559

E-mail kprosecution@yahoo.com

To

Mr. Taj Noor Khan,
District Public Prosecutor,
Chitral.

Subject: - **PERFORMANCE EVALUATION REPORT FOR THE PERIOD
01-01-2014 TO 31-12-2014.**

I am directed to refer to the subject noted above and to enclose herewith your PER for the period 01-01-2014 to 31-012-2014, which has been underlined as red initiating remarks for further necessary action, please.

(Encl: as above)

R. Puzk 11/7/14

(Muhammad Muzafar)

Assistant Director Admin/Finance

10/1/14

19/7/2016
2016/07/19
2016/07/19

Annex B

FOR OFFICERS IN BPS 19 & 20

CONFIDENTIAL

اسکیل 19 اور 20 کے افسران کے لیے

بصیغہ راز

12

GOVERNMENT OF N.-W.F.P.

حکومت صوبہ سرحد

Department/Office Home & T.A's Department Service/Group Prosecution
گراؤنڈ گروپ

PERFORMANCE EVALUATION REPORT

کارکردگی رپورٹ

FOR THE PERIOD 01/01/2014 TO 31/12/2014
۰۱/۰۱/۲۰۱۴ تا ۳۱/۱۲/۲۰۱۴

PART I

حصہ اول

(TO BE FILLED IN BY THE OFFICER REPORTED UPON)

(متعلقہ افسر خود پُر کریں)

- Name (in block letters) TRAJ NOOR
نام (تایف حروف میں)
 - Personnel number 00101781-
انٹرویو نمبر
 - Date of birth 03/3/1959
تاریخ پیدائش
 - Date of entry in service 28/11/1998
ملازمت اختیار کرنے کی تاریخ
 - Post held during the period (with BPS) District Public Prosecutor District Bps 19
پیش نظر عہدہ میں عہدہ (مع اسکیل)
 - Academic qualifications B.A. LL.B.
تعلیم
 - Knowledge of languages (Please indicate proficiency in speaking (S), reading (R) and writing (W))
زبانوں کا علم
(S) (پڑھنے، اور لکھنے کی صلاحیت) (R) (لکھنے کی صلاحیت) (W) (بولنے کی صلاحیت)
- (1) English (R, S, W) (2) Urdu (S, R, W)
(3) Pushto (S, R, W)

[Handwritten signature]

[Handwritten signature]
MUHAMMAD MUZAFAR
Assistant Director Admin/Finance
Directorate of Prosecution
Home Deptt, KPK

8. Training received during the evaluation period (Training courses attended earlier, if any, may please be listed separately on the back page of the report)
 متعلقہ عرصہ کے دوران تربیت کی تفصیل (اگر سے پہلے تربیت کو اس میں شریک، وزارت کے منو کی پشت پر درج کریں)

Name of course attended کورس کا نام	Duration with dates تاریخوں کے ساتھ دورانیہ	Name of institution and country نورسے اور ملک کا نام
1) In-service training of Public Prosecutors	31-3-2014 to 11-4-2014	Islamabad Hotel, Islamabad (Pakistan)
2) Case management techniques for Public Prosecutors.	01-12-2014 to 05-12-2014	P.T.D.C. motel at Mingora Swat.


9. Period served
 عرصہ ملازمت
 (i) In percent post
 فیصد عرصہ سے پہلے
02 years (ii) Under the reporting officer one year
 رپورٹنگ افسر کے تحت

PART II

حصہ دوم

(TO BE FILLED IN BY THE OFFICER REPORTED UPON)
 (متعلقہ افسر خود پر کریں)

1. Job description
 ذمہ داریوں کی تفصیل
issue guid. limits to 110, scrutiny of case file, submit
 of challans, tendering legal opinions, to police and other
 departments in criminal matter. drafted APPEALS, revis
 and BEA's, where ever cases were found fit for APPE
 for discharge of accused, when no evidence was fou
 after hectic efforts by Police. Office routine work
 administration work, during the period.


MUHAMMAD MUZAFAR
 Assistant Director (Admin/Finance)
 Directorate of Prosecution
 Home Dept, KPK
 AFRIDI

2. Brief account of achievements during the period supported by statistical data where possible. Targets given and actual performance against such targets should be highlighted. Reasons for shortfall, if any, may also be stated
 پیش نظر حصہ میں نمایا کام کو اعداد و شمار کے ساتھ مختصر بیان کریں۔ اہداف اور کارکردگی کو نمایاں طور پر لکھیں۔ اہداف نامکمل رہ جانے کی وجہ بھی بیان کریں

In the reporting period, As district public prosecutor I performed pre-trial and post trial Supervision of investigation, by giving opinion, issuing guide lines also. I supervised the work and attendance of prosecutors, in courts, during proceedings. I issued written directions to prosecutors, for improving their efficiency.

PART III

حصہ سوم

REPORTING OFFICERS EVALUATION

(رپورٹنگ افسر کا جائزہ)

1. Please comment on the officer's performance on the job as given in part II (2) With special reference to his knowledge of work, ability to plan organize and supervise, analytical skills, competence to take decisions and quality and quantity of output. How far was the officer able to achieve the targets? Comment on the officer's contribution, with the help of statistical data, if any, in the overall performance of the organization. Do you agree with what has been stated in part II (2)?

حصہ دوم (۲) میں بیان کی گئی کارکردگی کا جائزہ لیں۔ افسر کے علم، تنظیمی اور نگرانی کرنے کی صلاحیت، نگرانی مہارت اور فیصلہ کرنے کی صلاحیت کے متعلق رائے دیں۔ کارکردگی کے معیار و مقدار کے حوالے سے بھی رائے دیں۔ کارکردگی کے معیار و مقدار کے حوالے سے بھی رائے دیں۔ اہداف کو پورا کرنے میں افسر کس حد تک کامیاب رہا رہا۔ ادارے کی مجموعی کارکردگی میں افسر کے کردار کی اعداد و شمار کے حوالے سے نشاندہی کریں۔ کیا۔ آپ حصہ دوم (۲) میں دی گئی معلومات سے متفق ہیں؟

He performed to the best of his capacity. I agree with Part II (2).

Ali A. C
 AD
MUHAMMAD MUZAFAR
 Assistant Director (Admin/Finance)
 Directorate of Prosecution
 Home Deptt, KPK

15

2. Integrity (Morality, uprightness and honesty)
(درست بازی، ایمانداری) دیانت

Honest or upright.
↑

3. Pen picture including the officer's strengths and weaknesses with focus on emotional stability, ability to work under pressure, communication skills and interpersonal effectiveness (Weakness will not be considered as adverse entry unless intended to be treated as adverse)

قلمی خاکہ: افسر کی خوبیوں اور کمزوریوں کا جائزہ لیں، خصوصاً جذباتی ٹھہراؤ، دباؤ کی حالت میں کام کرنے کی صلاحیت، رابطہ اور باہمی اہتمام و تنظیم پیدا کرنے کی صلاحیت بیان کریں (کوٹاہی کو اس وقت تک مثبت تصور نہ کیا جائے جب تک رپورٹنگ افسر ضروری نہ سمجھے)

His approach in this
Context was average.
↑

4. Area and level of professional expertise with suggestions for future posting
پیشہ وارانہ مہارت اور آئندہ تعیناتی کی نشاندہی

He can be posted
as DPP.
↑

Alleg

Assistant Director (Admin/Finance)
Directorate C
Home Deptt, KPK

5. Training and development needs
زیادترین کے لیے تجویز

Advanced / Proscutorial /
Administrative trainings
۹

6. Overall grading
مجموعی درجہ

Very Good اعلیٰ	Good اچھا	Average اوسط ✓	Below Average گھٹے
--------------------	--------------	----------------------	-----------------------

7. Fitness for promotion
ترقی کے لیے مہارت

Comment on the officer's potential for holding a higher position and additional responsibilities
اگر کی اعلیٰ عہدے پر کام کرنے اور اضافی ذمہ داریوں سنبھالنے کی صلاحیت کے بارے میں رائے دیں

Fit for promotion. However, he cannot shoulder higher or additional responsibilities.

Name of the reporting officer
(Capital letters) ASMATULKATH KHAN.
رپورٹنگ افسر کا نام (دائیں حروف میں)

Signature Asmat
دستخط

Designation EX-06 (P)
عہدہ

Date 09.06.15
تاریخ

MUHAMMAD MUHAMMAD
Assistant Director (Admin/Finance)
Directorate of Prosecution
Home Deptt, KPK

17

PART IV

حصہ چہارم

(REMARKS OF THE COUNTERSIGNING OFFICER)

(کاؤنٹر سائنگ افسر کی رائے)

1. How often have you seen the work of the officer reported upon?

افسر کا کام کس حد تک آپ کی نظر سے گزرتا رہا؟

Very frequently اکثر و بیشتر	Frequently اکثر	Rarely شاذ و نادر	Never بھی نہیں
---------------------------------	--------------------	----------------------	-------------------

~~AA Shah~~

2. How well do you know the officer? If you disagree with the assessment of the reporting officer, please give reasons

آپ افسر کو کس حد تک جانتے ہیں؟ اگر آپ رپورٹنگ افسر کی رائے سے متفق نہیں ہیں تو اس کی وجہ بیان کریں

Observed his work during the process of Appeals and periodical meetings. Also observed his level of intellect from column I & 2 of this ACR.

3. Overall grading

مجموعی درجہ

Very good بہت اچھی	Good اچھا	Average اوسط	Below Average اوسط سے کم
-----------------------	--------------	-----------------	-----------------------------

~~AA Shah~~

~~AA Shah~~

4. Recommendation for promotion

ترقی کے لیے سفارش

(Comment on the officer's potential for holding a

higher position and additional responsibilities)

(افسر کی اپنی عہدے پر کام کرنے اور اضافی ذمہ داریوں سنبھالنے کی صلاحیت کے بارے میں رائے بیان کریں)

Not fit for promotion as he never called not fill the I and 2 columns of ACR properly. These were full of mistakes

~~AA Shah~~

Amir

18

OFFICE OF THE DISTRICT PUBLIC PROSECUTOR CHITRAL

No. (56)

Dated 02-08-2016

To
The Director General Prosecution,
Khyber Pakhtunkhwa.


Through: - PROPER CHANNEL.

Subject: - REPRESENTATION / DEPARTMENTAL APPEAL FOR
EXPUNGING OF ADVERSE ENTRIES IN THE PER FOR
THE YEAR 2014 IN LINE WITH PARA-6.2 OF THE
INSTRUCTIONS ON PERFORMANCE EVALUATION
REPORT.

Dear Sir,

Enclosed herewith representation / departmental appeal on the subject noted above, for onward submission to the Chief Secretary Khyber Pakhtunkhwa through Home & Tribal Affairs Department, for consideration, in line with the statutory requirement of para-6.2 of the Instructions on Performance Evaluation Report.

Yours faithfully,


TAJ NOOR
District Public Prosecutor
Chitral

02/08/2016

Received by
02/08/16



To

The Chief Secretary,
Khyber Pakhtunkhwa.

Annex
19

Through:- PROPER CHANNEL.

Subject:- REPRESENTATION / DEPARTMENTAL APPEAL FOR
EXPUNGING OF ADVERSE ENTRIES IN THE PER FOR THE
YEAR 2014 IN LINE WITH PARA-6.2 OF THE INSTRUCTIONS ON
PERFORMANCE EVALUATION REPORT.

Dear Sir,


1. That the appellant has rendered about 18 years approved service in BS-17 to BS-19 with unblemished service record.
2. That the adverse entries recorded in the PER for the period of 2014 are biased and not supported by any cogent and convincing evidence.
3. That I have performed my duties to the best of my knowledge and never been deviated from my lawful duty.
4. That since December 2012, I am performance my duty as District Public Prosecutor Chitral, in a far flung area of Khyber Pakhtunkhwa despite the illness of joint pain and backache from the year 2008, with the age of about 58 years.
5. That the adverse entries in the PER of the appellant for the year 2014 are required to be expunged inter-alia on the following grounds:-
 - a) That the adverse entries are totally in conflict in line with the requirement of paras-0.2 & 0.3 which stipulate a complete mechanism for writing of PERs.
 - b) That the reporting and countersigning officers have exceeded his authority by reflecting in the PER that the officer is not fit for further promotion, the consideration for promotion under the service rules and promotion policy 2009, is the mandate of the competent authority i.e. Chief Minister and that too on the recommendation of the Provincial Selection Board, on this count alone, the adverse entries are required to be expunged.
 - c) That neither any warning has been issued to the appellant nor his counseling has been made as required under the mandatory provision of para-3.6 of the instructions ibid, on this count too the same is required to be set-aside.

True Copy
Said

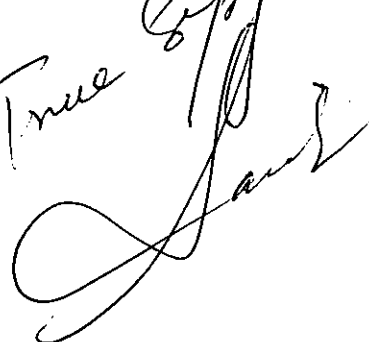
- d) That according to the mandatory requirement of para-5.2.1 of the instruction *ibid*, that adverse entries are required to be communicated to the officer under report till June 2015, of the succeeding year, however, the same has been communicated to the appellant on 19-07-2016, which fact too is in violation of the aforesaid mandatory provision of the instruction *ibid*.
- e) That the adverse entries are required to be communicated to the officer in BS-17 and above by the head of department; however, the appellant is in BS-19 and the same has been communicated by the Assistant Director, which fact is also in violation of para-4.1(vi) of the instruction *ibid*.

In view of the above legal and factual aspect of the case, it is most humbly prayed that the adverse entries recorded in my PER for the year 2014 may kindly be expunged in order to secure the ends of justice.

Yours faithfully,


TAJ NOOR
District Public Prosecutor
Chitral

02/8/2016

True Copy


Vakalat Nama

**IN THE PROVINCIAL SERVICE TRIBUNAL KPK
PESHAWAR**

In Service Appeal No: _____ / 2016

Taj Noor Appellant

Versus

Secretary H & TA of KPK etc Respondents

I Taj Noor District Public Prosecutor Chitral Appellant do hereby appoint
Mr. Farid Ullah Kundi ASC Peshawar in the above mentioned Writ Petition to
do all or any of the following acts, deeds and things:-

- 1:- To appear, act and plead for me in the above mentioned Appeal in this Tribunal or any other Court/ Tribunal in which the same may be tried or heard, and any other proceeding out of or connected there with.
- 2:- To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said Appeal, or any other documents, as may be deemed necessary or advisable by him for conduct, prosecution or defence of the said case at all its stages.
- 3:- To do all other act and thing which may be deemed necessary or advisable during the course of the proceeding.

AND HEREBY AGREE

- a) to ratify what ever the said Advocate may do in the proceeding
- b) not to hold the Advocate responsible if the said case be proceeded Ex parte or dismissed in default in consequence of my absence from the court / Tribunal when it is called for hearing.
- c) that the Advocate shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fees remain unpaid.

In witness where of I have signed this power of attorney / Vakalat Nama hereunder, the content of which have been read / explained to me and fully understood by me on this day Tuesday, 14 November, 2016 at Peshawar.

Signature of executants

1: Taj Noor Appellant.....

Attested & Accepted

Farid Ullah Kundi Advocate Supreme Court
Peshawar

Sabir Khan AHC Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

IN SERVICE APPEAL NO. 1142/2016

TAJ NOOR

.....PETITIONER

VERSUS

1. Government of Khyber Pakhtunkhwa, through Chief Secretary Khyber Pakhtunkhwa, Peshawar and others Respondents

PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS 1 to 3

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action.
2. That the appellant has got no locus standi to file the instant appeal.
3. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
4. That the appeal is not maintainable in its present form.
5. That the appellant is estopped by his own conduct to file the appeal.
6. That the appellant concealed material facts from this Honourable Tribunal.
7. That the appeal is time barred.
8. That the appellant has not come to this Honourable Tribunal with clean hands.

FACTS:-

1. Para No.1 pertains to record, hence needs no comments.
2. Para No.2 is incorrect. The reporting officer also put his remarks in overall grading as "average" and in Comments on the officer's potential for holding a higher position and additional responsibilities, he put his remarks that the appellant cannot shoulder higher or additional responsibilities. Moreover, remarks of the countersigned officer are "observed his work during the process of appeals and periodical meetings, also observed his level of intellectual from column 1 & 2 of this ACR" and

recommendation for promotion is "Not fit for promotion as he even could not fill 1 and 2 columns of ACR properly, these were full of mistakes".

3. Para No.3 needs no comments. However, appellant being a civil servant is liable to serve anywhere within or outside the Province as required under section-10 of the Khyber Pakhtunkhwa Civil Servant Act, 1973.
4. Para No.4 is correct to the extent that the appellant submitted a departmental appeal against the adverse remarks and the same was processed to the competent authority for decision.
5. Para No.5 is incorrect. The appeal of the appellant is time barred and on this score alone the appeal is liable to be dismissed.

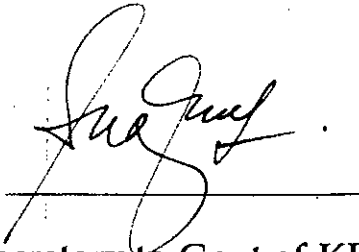
GROUNDS

- a) Para-(a) is incorrect. The adverse remarks entered by Respondent No. 1 & 2 are based on observing his level of intelligence as mentioned in column No.1 and 2 of the PERs, which are full of mistake and his approach towards official duties that he cannot shoulders higher or additional responsibilities hence, proves his inefficiency and incompetency.
- b) Para-(b) is incorrect. The the adverse remarks was communicated timely by the Respondent No.2 to the appellant vide letter No: DP/E&A/ (6) 8148 dated 13-07-2016.
- c) Para-(c) is incorrect. The comments of reporting officer were obtained by the respondent regarding adverse remarks to the appellant alongwith other officers and the same were communicated to this Directorate by the then reporting officer vide letter PS(Food Deptt:)/PER/2016/3337 dated 31-10-2016 (**Annexure-A**) the remarks of the Reporting officer were endorsed.
- d) Para-(d) is incorrect. The reporting officer rightly scribed the PERs as per Instructions on performance period from 01-01-2014 to 31-12-2014 as he remained Director General (Prosecution) for the above mentioned period.
- e) Para-(e) is incorrect. The mistakes in column No.1 & 2 of PERs written by the appellant under his handwriting are highlighted by the countersigning officer.
- f) Para-(f) is incorrect. As replied in para (e).

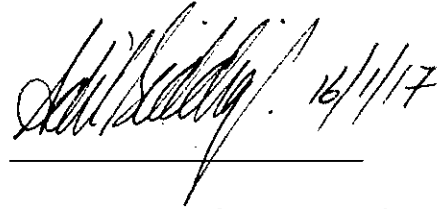
- g) Para-(g) is incorrect. No violation of any Law has been committed by the Respondents. And all the proceedings were taken in accordance with the relevant law and Rules.
- h) Para-(h) is incorrect. The appellant approached in term of part-III at para-(3) is average.
- i) Para-(i) is incorrect. The adverse remarks were properly communicated to the appellant by the Assistant Director Admn/Finance on the direction of the competent authority.
- j) Para-(j) is legal and the respondents may kindly be permitted to defend the allegation of appellant during the proceedings.

PRAYER:

It is, therefore, most humbly prayed that on acceptance of the para wise comments, the instant appeal, may graciously be dismissed with special cost.



Secretary to Govt of KPK
Home & Tribal Affairs Department,
(Respondent No.1 and for
respondent No.3)



Director General Prosecution
Khyber Pakhtunkhwa,
(Respondent No.2)

Annex-A

98

GOVERNMENT OF KHYBER PAKHTUNKHWA
FOOD DEPARTMENT

No.PS/ (Food Deptt)/PER/2016/3337

Dated: 26-10-2016.

31

To

The Director General (Prosecution),
Directorate of Prosecution,
Khyber Pakhtunkhwa, Peshawar.

Subject: - DEPARTMENTAL APPEAL FOR EXPUNGING OF ADVERSE
REMARKS.

Dear Sir,

Please refer to your letter No.D.P/E&A/(6)1692 dated 21-9-2016 on the subject as cited above.

2. The desired comments in respect of the officers concerned are hereby adduced as noted below against each:-

S.No	Name & Designation	Comments
1.	Mr.Nasratullah Jan, Distt: P.P. Charsadda	The contention of the appellant is frivolous and not plausible. He lacks potentiality to cope with administrative and prosecutorial responsibilities. He relies upon political maneuverings and groupings in the Prosecution Department. He prefers postings of his choice and avoids challenging jobs. His integrity is questionable. He is not fit for further promotion.
2.	Mr. Amir Subhan Khan Khattak, Distt: P.P. Nowshera.	The contention of the appellant is frivolous and not plausible. His performance as a whole remained unsatisfactory. He is unfit for any responsible post. He avoided posting in the ATK, Peshawar. I do not agree with Part-II (2). He is inefficient and has got no initiative. He depends more upon his subordinates. He is not fit for further promotion.
3.	Mr. Taj Noor, Distt: P.O. Chitral.	His approach in term of Part-III (3) was average. He cannot shoulder higher or additional responsibilities. In fact the countersigning authority recorded very adverse remarks which might be taken into consideration.

7740
31/10/16

ACCA / inspect

(ASMATULLAH KHAN GANDAPUR)
SECRETARY FOOD

31.10.16

7

31/10/16

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

IN SERVICE APPEAL NO. 1142/2016

TAJ NOOR

.....Applicant

VERSUS

2. Government of Khyber Pakhtunkhwa, through Chief Secretary Khyber Pakhtunkhwa, Peshawar and others Respondents

PARA-WISE REPLY ON BEHALF OF RESPONDENTS 1 to 3

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

1. That the applicant has got no cause of action.
2. That the applicant has got no locus standi to file the instant appeal.
3. That the application is bad for mis-joinder and non-joinder of necessary parties.
4. That the application is not maintainable in its present form.
5. That the applicant is estopped by his own conduct to file the appeal.
6. That the applicant concealed material facts from this Honourable Tribunal.
7. That the application is time barred.
8. That the applicant has not come to this Honourable Tribunal with clean hands.

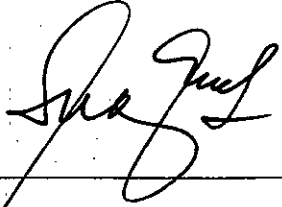
GROUND

1. With respect to Para-1, the contents of the parawise comments of the respondents annexed with this application may kindly be considered as integral part of this reply.
2. Para-2 is incorrect. The applicant has got no prima facie case rather the steps taken by the respondent are according to the relevant Rules.
3. Para-3 is incorrect. Balance of convenience lies in favour of the respondents.

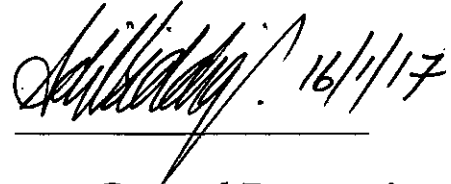
4. Para-4 is incorrect. In case of granting status quo, the eligible Prosecutors will suffer irreparable loss.

PRAYER:

It is, therefore, most humbly prayed that on acceptance of this reply, the instant application, may graciously be dismissed with special cost.



Secretary to Govt of KPK
Home & Tribal Affairs Department,
(Respondent No.1 and for
respondent No.3)



Director General Prosecution
Khyber Pakhtunkhwa,
(Respondent No.2)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. of 2016.

Taj Noor khan Distt Public Prosecutor Chitral

VERSUS

Secretary Home and Tribal Affairs Department Khyber
Pakhtoon Khawa etc (RESPONDENTS)

SERVICE APPEAL U/S- 4 OF KPK
SERVICE TRIBUNAL ACT 1974

REJOIDER ON BEHALF OF APPELLANT

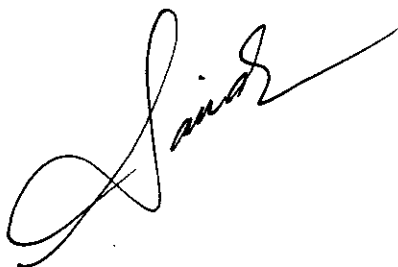
All the preliminary objections are evasive and general format saved in computer is reproduced in the instant comments as usual hence not sustainable.

- 1) Para No 1 of appeal is admitted in comments
- 2) Para 2 of the comments is repetition of wrong and impugned wording and not admitted.
- 3) Para 3 is accepted subject to rules and regulation and without nepotism, discrimination and keeping blue eyes person under their umbrella.
- 4) Para 4 is admitted correct hence no reply.
- 5) Para 5 is replied and try to save their skin as they communicate the impugned and wrong remarks after an half year while on the other side, appellant preferred well with in time a departmental and present appeal as well.



REJOPIDER TO REPLY ON GROUNDS

- A) Reply to ground 1 in the comment is incorrect as appellant was the best for 19 years in the service but become inefficient and in competent all of the sudden when the out of law and record instructions were regretted by appellant and when the favorite and blue eyed person, juniors to appellant, succeeded to approach high ups for their promotion.
- B) Reply to ground 2 is also not sustainable as the PER of 2014 is communicated after more then two and half years with out asking for explanation by appellant through the office of unauthorized official while they were bound to communicate the same with in one month and through proper authority as per law.
- C) Reply to ground 3 is based on oral allegation and with bad smell of rivals, junior to appellants, as the reporting officer declare the appellant as the best performer, most honest and upright person while on the other hand his performance was noted as average.
- D) Reply to ground 4 in the comments is ambiguous and the reporting officer was not immediate boss at the time of scribing PER and even till 31/12/ 2014 i.e the tenure / period of writing ASR.
- E) Reply to ground 5 in the comment is wrong too as all the spellings are correct, at the most clear hand writing would be the fault of writer which is divine gift not blessed to every one. The full of mistakes entries of countersigning authority are self explanatory, available at page 17 of the appeal.
- F) Reply to ground 6 in the comments is evasive and appellant reply is as given in para 5.

A handwritten signature in black ink, appearing to be 'S. J. S.', is located at the bottom right of the page.

- G) Reply to ground 7 in the comments is not replied well but eye washed as the legal provisions and rights of the appellant like, the respondents were bound by law to communicate these entries well with in time, issue show cause notice and provide opportunity to be heard the appellant in person to explain his position are not abided.
- H) Reply to ground 8 in the comments are astonishing as asking something else but answered other and it would be said that even not replied.
- I) Reply to ground 9 in comments is also amount to no answer as communication through unauthorized officials and in back date is self explanatory on the record.

It is thus humbly prayed that the appeal of the appellant may kindly be accepted as prayed in the prayer of appeal.

Dated 18/04/2017

Your Humble appellant


Taj Noor DPP Bunneir

Appellant


Counsel for Appellant

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 2603 /ST

Dated 05 /12/2017

To

The Director General Prosecution,
Government of Khyber Pakhtunkhwa,
Civil Secretariat,
Peshawar.

Subject: **JUDGEMENT/ORDER IN APPEAL NO. 1142/16, MR. TAJ NOOR KHAN.**

I am directed to forward herewith a certified copy of Judgment/order dated 27/11/2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR

o/c
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.