

SA 15878/2020

08.05.2024 01. Appellant present in person. Mr. Muhammad Jan,  
District Attorney for the respondents present.

02. Appellant stated that his counsel is not available  
today and requested for adjournment. Absolute last chance is  
given for arguments on payment of cost of Rs. 2000/-. In case  
of failure no other chance will be given and the case will be  
decided without the arguments. To come up for cost and  
arguments on 05.06.2024 before the D.B at camp court, Swat.  
PP given to the parties.



(Fareeha Paul)  
Member(E)  
Camp Court, Swat.



(Rashida Bano)  
Member(E)  
Camp Court Swat

\*Fazle Subhan, P.S\*

SCANNED  
KPST  
Peshawar

02.01.2024

Appellant in person present. Mr. Asad Ali Khan,  
Assistant Advocate General for the respondents present.

Appellant seeks adjournment on the ground that his  
counsel is busy before the Peshawar High Court, Peshawar.  
Adjourned. To come up for arguments on 05.03.2024 before  
the D.B at Camp Court Swat. Parcha Peshi given to the  
parties.

SCANNED  
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Peshawar



(Rashida Bano)  
Member (J)  
Camp Court Swat



(Salah-ud-Din)  
Member (J)  
Camp Court Swat

\*Naeem Amin\*

05<sup>th</sup> March, 2024

1. Appellant in person present. Mr. Asad Ali Khan, Assistant  
Advocate General for the respondents present.

2. Appellant seeks adjournment on the ground that his counsel  
has not turned up from Peshawar. Adjourned. To come up for  
arguments on 08.05.2024 before the D.B at Camp Court Swat.

Parcha Peshi given to the parties.

SCANNED  
KPST  
Peshawar



(Salah-ud-Din)  
Member (J)  
Camp Court Swat



(Kalim Arshad Khan)  
Chairman  
Camp Court Swat


\*Naeem Amin\*

03.10.2023

Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

Learned counsel for the appellant seeks adjournment in order to properly assist the court on the next date. Adjourned. To come up for arguments on 06.12.2023 before the D.B at Camp Court Swat. Parcha Peshi given to the parties.

SCANNED  
KPST  
Peshawar

  
(Rashida Bano)  
Member (J)  
Camp Court Swat


  
(Salah-ud-Din)  
Member (J)  
Camp Court Swat


\*Naeem Amin\*

06.12.2023 1. Learned counsel for the appellant present. Mr. Muhammad Jan, learned District Attorney for the respondents present.

2. Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 09.01.2024 before D.B at camp court Swat. P.P given to the parties.

SCANNED  
KPST  
Peshawar

  
(Muhammad Akbar Khan)  
Member (E)  
Camp Court Swat

  
(Rashida Bano)  
Member (J)  
Camp Court Swat


\*Kamranullah\*


7<sup>th</sup> June, 2023

1. Mr. Imran Khan, Advocate present and filed wakalatnama on behalf of the appellant. Mr. Fazal Shah Mohmand, Additional Advocate General for the respondents present.

2. Being freshly engaged, learned counsel for the appellant seeks adjournment in order to prepare the case. Last chance is given to the appellant to argue the case on the next date positively failing which the case will be decided on the available record. To come up for arguments on 04.07.2023 before the D.B at camp court Swat. P.P given to the parties.

SCANNED  
KPST  
Peshawar

  
(M. Akbar Khan)  
Member(E)

  
(Kalim Arshad Khan)  
Chairman  
Camp Court Swat


*\*Adnan Shah, P.A.\**

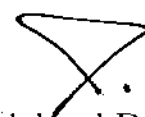
04.07.2023

Appellant in person present. Mr. Muhammad Jan, District Attorney for the respondents present

Appellant requested for adjournment on the ground that his counsel is not available today due to strike of lawyers. Adjourned. To come up for arguments on 03.10.2023 before the D.B at Camp Court Swat. Parcha Peshi given to the parties.

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Peshawar

  
(Fareeha Paul)  
Member (E)  
Camp Court Swat

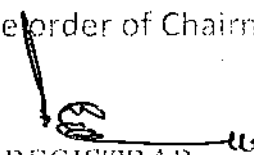

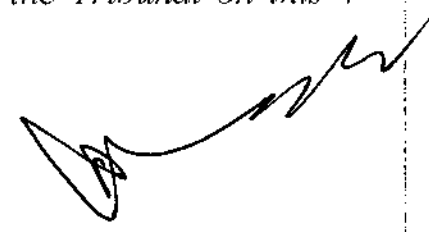
  
(Salah-ud-Din)  
Member (J)  
Camp Court Swat

*\*Naeem Amin\**

## FORM OF ORDER SHEET

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

Restoration Application No. 267/2023

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	28.04.2023	<p>The application for restoration of Appeal no. 15878/2020 submitted today by Mr. Taimur Ali Khan Advocate. It is fixed for hearing before Division Bench at Peshawar on 04/5/23. Original file be requisitioned.</p> <p>By the order of Chairman</p>  REGISTRAR
	4 <sup>th</sup> May, 2023	<p>1. Learned counsel for the applicant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondent present.</p> <p>2. Learned Addl: AG on behalf of the respondents did not controvert the contention of the learned counsel for the petitioner. Instant application is for restoration of appeal No. 15878/2020 dismissed in default on 05.04.2023. Considering the contention of learned counsel for the applicant and in the interest of justice, instant service appeal is restored to its original number. To come up for arguments on 07.06.2023 before D.B at camp court Swat.</p> <p>3. <i>Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 4<sup>th</sup> day of May, 2023.</i></p> <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <div style="text-align: center;">             (Salah Ud Din)            Member(J)         </div> <div style="text-align: center;">             (Kalim Arshad Khan)            Chairman         </div> </div>

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Peshawar



05<sup>th</sup> April, 2023

1. Nobody is present on behalf of the appellant. Mr. Muhammad Jan, District Attorney for the respondents present.

2. On 15<sup>th</sup> March, 2023, learned counsel for the appellant was directed to submit amended appeal as prayed in the application within 15 days but neither amended appeal is submitted nor anybody on behalf of the appellant is present today before the court, therefore, the appeal in hand is dismissed in default as well as non-compliance of court order. Consign.

3. *Pronounced in open court in Swat and given under our hands and seal of the Tribunal on this 05<sup>th</sup> day of April, 2023.*

(Salah-ud-Din)  
Member (J)  
Camp Court Swat

(Kalim Arshad Khan)  
Chairman  
Camp Court Swat

SCANNED  
KPST  
Peshawar

15<sup>th</sup> Mar, 2023

1. Learned counsel for the appellant present. Mr. Asi Masood Ali Shah, Deputy District Attorney alongwith Mr. Alamzeb, XEN for the respondents present.

2. Arguments on application for amending the instant appeal by impugning the rejection order dated 18.11.2020 heard.

3. Learned Deputy District Attorney did not contest the application submitted by learned counsel for the appellant for amending the instant appeal by impugning the rejection order dated 18.11.2020. Therefore, the application is allowed. Learned counsel for the appellant is directed to submit amended appeal as prayed in the application within 15 days. This appeal pertains to Camp Court Swat, therefore, let it be fixed for arguments on 05.04.2023 before D.B at Camp Court Swat. Parcha Peshi given to the parties.

SCANNED  
14/03/23  
Peshawar



(Salah ud-Din)  
Member (J)



(Kalim Arshad Khan)  
Chairman


12.01.2023

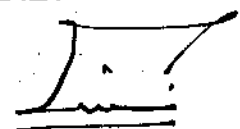
- Learned counsel for the appellant present. Mr. Alamzeb, XEN  
alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for

the respondents present.

SCANNED  
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Learned counsel for the appellant submitted an application for  
amending the instant appeal by impugning the rejection order dated  
18.11.2020, copy of which handed over to learned Deputy District  
Attorney. Adjourned. To come up for reply and arguments on  
amendment application on 15.03.2023 before the D.B.

  
(Mian Muhammad)  
Member (E)

  
(Salah-Ud-Din)  
Member (J)



04<sup>th</sup> July, 2022

Clerk of counsel for appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Alamzeb XCN for respondents present.

Respondents have submitted written reply/comments which is placed on file and copy of the same is handed over to learned counsel for appellant. To come up for arguments on 11.10.2022 before D.B.

(Kalim Arshad Khan)  
Chairman

11.10.2022

Learned counsel for the appellant present. Mr. Fazle Amin, Deputy Collector alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not gone through the brief of the instant appeal. Adjourned. To come up for arguments on 18.11.2022 before the D.B.

(Mian Muhammad)  
Member (E)

(Salah-Ud-Din)  
Member (J)

18<sup>th</sup> Nov. 2022

Lawyers are on strike today.

Case is adjourned to 12.01.2023 for arguments before the DB. Office is directed to notify the next date on the notice board as well as website of the Tribunal.

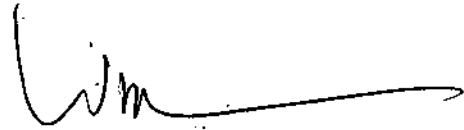
(Fareeha Paul)  
Member(E)

(Rozina Rehman)  
Member(J)

31.01.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG for respondents present.

Reply/comments on behalf of respondents are still awaited. Notices be issued to respondents for submission of reply/comments. To come up for reply/comments before the S.B on 31.03.2022.



(Atiq-Ur-Rehman Wazir)  
Member (E)

3-3-2022

Due to retirement of the Honorable Chairmen to come up for the same as before on 23.05.2022.



23.05.2022

Junior to counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG alongwith Mr. Raheem Bakht, Assistant for the respondents present.

Written reply/comments on behalf of respondents not submitted. Representative of the respondents requested for time to submit written reply/comments. Last opportunity is granted. To come up for written reply/comments on 04.07.2022 before S.B.



(Mian Muhammad)  
Member (E)

11.08.2021

Junior to counsel for the appellant present.

I have gone through the memorandum of appeal and documents annexed therewith. Points raised need consideration. The appeal is admitted for full hearing, subject to all just and legal objections including that of limitation to be determined during full hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 15.12.2021 before the D.B.

  
Chairman

15.12.2021

Appellant in person present.

Appellant submitted an application for extension of time to submit security and process fee. Application is allowed and the appellant is directed to deposit the security and process fee within three days, thereafter notices be issued to the respondents for submission of written reply/comments. To come up for written reply/comments on 31.01.2022 before S.B.





  
(MIAN MUHAMMAD)  
MEMBER (E)

  
20/12/21

## FORM OF ORDER SHEET

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

Case No. 15878 /2020

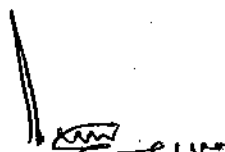
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/12/2020	<p>The appeal of Mr. Shafiullah resubmitted today by Mr. L. Nwab Ali Noor Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>25/01/2021</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	25.01.2021.	<p>Appellant is present in person. He submitted that his counsel has proceeded to Bannu and is not available today. Requested for adjournment. Adjourned to 28.04.2021 on which date file to come up for preliminary hearing before S.B.</p> <p style="text-align: right;"> (MUHAMMAD JAMAL KHAN) MEMBER (JUDICIAL)</p>
	28.04.2021	<p>Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 12.08.2021 for the same as before.</p> <p style="text-align: right;"> Reader</p>

The appeal of Mr. Shafiullah son of ahir Shah Regulation Jamadar Sub-Division Dargai received today i.e. on 08.12.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ✓1- Address of appellant as well as respondent no.4 is incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- ✓2- Copy of reply to show cause notice mentioned in the memo of appeal is not attached with the appeal which may be placed on it.
- ✓3- Annexure-A of the appeal is illegible which may be replaced by legible/better one.
- ✓4- Annexures of the appeal are not in sequence which may be annexed serial as mentioned in the memo of appeal.
- ✓5- Wakalat nama in favour of appellant be placed on file.
- ✓6- Memorandum of appeal may be got signed by the appellant.
- ✓7- Annexures of the appeal may be attested.
- ✓8- Annexures of the appeal may be flagged.
- ✓9- Affidavit may be got attested by the Oath Commissioner.

No. 4016 /S.T,

Dt. 09/12 /2020

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. L.Nawab Ali Noor Adv. Pesh.

*Respectfully Submitted*

*Needfull done kindly put before the  
Court. of my further today with obj.*

*10.12.20*

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Shafiqullah

v/s

Geog. Deptt.

SCANNED  
KPST  
Peshawar

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: _____	✓	
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	x	✓
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	x	✓
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On _____	✓	
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	✓	
26	Whether copies of comments/reply/rejoinder submitted? On _____	✓	
27	Whether copies of comments/reply/rejoinder provided to opposite party? On _____	✓	

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: Taimur Ali Khan

Signature: \_\_\_\_\_

Dated: \_\_\_\_\_

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

SCANNED  
KPST  
Peshawar

**AMENDED SERVICE APPEAL NO. 15878/2020**


Shafi Ullah

VS

Irrigation Department

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**INDEX**

S.No.	Description of documents	Annexure	P.No
1	Memo of amended Service Appeal	----	01-06
2	Affidavit	----	07
3	Copy of appointment order dated 28/02/2004	A	08
4	Copy of relevant documents	B	09-16
5	Copies of the suit and order	C	17-21
6	Copies of Show Cause Notice	D	22
7	Copy of replies	E	23-29
8	Copy of the order dated 20.08.2020	F	30
9	Copies of departmental appeal and order/memo dated 18.11.2020	G&H	31-36
10	Copies of application and order sheet dated 15.03.2023	I&J	37-38
11	Copies of charge sheet along with statement of allegations	K	39-41
12	Wakalat Nama	----	42

APPELLANT  
THROUGH:  
  
TAIMUR ALI KHAN  
ADVOCATE, HIGH COURT  
033 3-9390916

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

**AMENDED SERVICE APPEAL NO. 15878/2020**

Shafi Ullah S/OvZahir Shah Regulation Jamadar,  
Sub Division Dargai.

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 5659

Dated 30/5/2023

**APPELLANT**

**VERSUS**

1. Government of KP through Chief Secretary Civil Secretariat, Peshawar.
2. Chief Engineer North Irrigation Department KP at Kababyan, Peshawar.
3. Executive, Engineer Malakand Irrigation Division, Malakand.
4. Enquiry Officer/S.D.O Drainage Irrigation Sub Division, Mardan.

**RESPONDENTS**

**AMENDED APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974, AGAINST THE ORDER DATED 20.08.2020, WHEREIN MAJOR PENALTY OF DISMISSAL FROM SERVICE WAS IMPOSED UPON THE APPELLANT WITH IMMEDIATE EFFECT, HOWEVER, THE RESPONDENT NO.3 MENTIONED IN THAT ORDER THAT THE APPOINTING AUTHORITY HAS BEEN PLEASED TO CONSIDER THE SERVICES OF THE APPELLANT FOR MAJOR PENALTY OF DISMISSAL FROM GOVT. SERVICE TO COMPULSORY RETIREMENT FROM GOVT. SERVICE WITH IMMEDIATE EFFECT AND AGAINST THE ORDER/LETTER DATED 18.11.2020 WHICH WAS PASSED ON DEPARTMENTAL APPEAL OF THE APPELLANT.**



**PRAYER:**

**ON ACCEPTANCE OF THIS AMENDED SERVICE APPEAL THE ORDER DATED 20.08.2020 AND ORDER DATED/LETTER DATED 18.11.2020 MAY PLEASE BE SET ASIDE AND THE APPELLANT MAY PLEASE BE REINSTATED INTO HIS SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO, BE AWARDED IN FAVOUR OF APPELLANT.**

**RESPECTFULLY SHEWETH:**

**FACTS:**

1. That the appellant was appointed as regulation beldar in irrigation Department vide notification No. 499/7-E SUB dated 28.02.2004. **(Copy of order is attached as Annexure-A).**
2. That appellant has tried his level best to performed his duty with full deviation and till date no complaint is there of his misconduct nor any other allegation over the same.
3. That appellant as citizen of Pakistan/president of KPIEF KPK always rose his voice against corruption, illegalities, irregularities, favoritism, nepotism as well as for the betterment of his colleagues, Civil Servants lead his unity with full devotion and done his best what he can. **(Copies of relevant is attached as Annexure-B)**
4. That in this respect appellant filed a declaratory suit before the SCJ which was dispose off between the parties. **(Copy of the suit is attached as Annexure-C)**
5. That it is to be noted by your honor that right from the begging a lot of interference of the Political setup along with officers whom always obliged the blue eyed persons same time ignored the poor civil servant or those who were entitled whom ignored, Petitioner being citizen of Pakistan as well as, president done his duty according law rules as result respondents and high officials along with political setup was very much aggrieved from Petitioner.

6. That it is further to be noted being aggrieved from the same respondents firstly threatened, warned to shut up the appellant and when Petitioner didn't care the same respondents alleged baseless allegations on basis of which served show cause notice over the appellant. **(Copy of Show cause Notice is attached as Annexure-D).**
7. That appellant properly submitted detail reply on 04.03.2020, 01.07.2020 and 23.07.2020 of the Show Cause Notices as well as submitted copies of the civil suit, statements and Judgment/order of the court mentioned the status of Employees Union CBA No. 1389 irrigating Department. **(Copy of replies is attached as Annexure-E)**
8. That may see no inquiry no personal hearing, no cross examination no evidence from even all mentioned done under the one roof of office with malafide intention bulldoze the basic constitutional rights of the appellant through an order dated 20.08.2020 directly imposed the major penalty of dismissal from service upon the appellant with immediate effect, however, the respondent No.3 mentioned in that order that the appointing authority has been pleased to consider the services of the appellant for major penalty of dismissal from Govt. service to compulsory retirement from Govt: service with immediate effect. **(Copy of the order dated 20.08.2020 is attached as Annexure-F)**
9. That the appellant filed departmental appeal on 04.09.2020 against the order dated 20.08.2020, wherein the major penalty of dismissal from service was imposed upon the appellant with immediate effect however, the respondent No.3 mentioned in that order that the appointing authority has been pleased to consider the services of the appellant for major penalty of dismissal from Govt. service to compulsory retirement from Govt: service with immediate effect and due to the reason, the appellant in his departmental appeal inadvertently written as dismissal from service instead of compulsory retirement from service on which order/memo dated 18.11.2020 was passed in which it was mentioned that the appellant has not been dismissed from service, but compulsory retired from Govt. service. **(Copies of departmental appeal and order/memo dated 18.11.2020 are attached as Annexure-G&H)**
10. That as the appellant did not challenge the order/memo dated 18.11.2020 in his prayers in the instant appeal, therefore the appellant filed application in this Honorable Tribunal to allow him to amend

the instant appeal by impugning the order/memo dated 18.11.2020 in his appeal, which is allowed by Honorable Tribunal on 15.03.2023. **(Copies of application and order sheet dated 15.03.2023 are attached as Annexure-I&J)**

11. That may see so called show cause notice dated 23.07.2020 only allegations of black mailing/Defamation of Govt. Officers Officials through print and electronic media same is general allegation nor mentioned any verdict nor mentioned any name of any officers/officials, Whether on same ground a civil servant is liable to award Major penalty of compulsory retirement only on this ground?
12. That may visit the charge sheet along statement of allegations in which baseless allegation were leveled against the appellant. **(Copies of charge sheet along with statement of allegations are attached as Annexure-K)**
13. That without any reason the appellant first dismissed from service then compulsory retired without any justified reason only and lonely reason that why he raise voice for the rights of the people, why he rose against the corruption, why he is talking to print or Electronic media? Why he not got permission for any statement to print or electronic Media from officers? Why he disturb the officers/officials? But till date not a single officer not any officials aggrieved before any inquiry nor before any competent forum.
14. That having aggrieved from all mentioned entire processes which is no relevancy with law same time violation of the service rules/ Constitution of Islamic Republic of Pakistan 1973 the appellant approach this Hon' able Forum on following grounds amongst others.

**GROUND:**

- A) That over the political intervention, malafide baseless charges appellant under the punishment same is continue is/was against the service rules, illegal, unlawful, unconstitutional act of the respondents hence need the same to be, declare illegal unlawful, unconstitutional liable to be set aside.
- B) That the impugned order dated 20.08.2020 and order/memo 18.11.2020 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.

- C) That when there is nothing in field no proper inquiry is there is nor made responsible the appellant for any specific relevant misconduct, corruption, illegalities, or any specific crime committed or violation of any law, hence question of discrimination before this Hon' able Court.
- D) That till date no such like action was ever taken nor over the mentioned general allegations any president is present was there for civil servant nor respondents have right to initiate the same which is also violation of the Constitution and service rules on base of the same order in question liable to be set aside.
- E) That under what law and circumstances punishment of the appellant was awarded when no fault and default on part of appellant reason best known to them.
- F) That no opportunity of personal hearing and defense has been provided to the appellant before passing the impugned order which is violation of law and rules.
- G) That the whole action was taken against the appellant on fact finding inquiry which is not permissible under the law and as the impugned orders are liable to be set aside.
- H) That no proper inquiry was conducted against the appellant as no opportunity of defense was provide as neither statements were recorded in the presence of the appellant nor gave him opportunity of cross, but despite that he was compulsory retired from service, which is clear violation of law and rules.
- I) That in the impugned order dated 20.08.2020 major penalty of dismissal from service was imposed upon the appellant with immediate effect however, the respondent No.3 mentioned in that order that the appointing authority has been pleased to consider the services of the appellant for major penalty of dismissal from Govt. service to compulsory retirement from Govt: service with immediate effect and due to the reason, the appellant in his departmental appeal inadvertently written as dismissal from service instead of compulsory retirement from service on which order/memo dated 18.11.2020 was passed in which it was mentioned that the appellant has not been dismissed from service but compulsory retired from Govt. service.

- J) That under the constitution appellant has the same rights like other but same not extended equally which is injustice.
- K) That action on part of respondents amount to misuse of power and approach beyond from the jurisdiction under the law mentioned for.
- L) That superior court repeatedly delivered Judgment in respect Article 4, 25 and present case respondents violate the same also.
- M) That under the law being Civil Servant same is the negligence of the respondents with malafide intention.
- N) The appellant seeks permission of this Honorable Tribunal to advance other grounds and proof at the time of arguments.

It is therefore most humbly prayed, that on acceptance of this appeal, this Hon' able court may graciously be pleased to set aside/declare, null and void all mentioned processes and order dated 20.08.2020 and letter/memo dated 08.11.2020 and appellant may kindly be reinstated into his service with all back and consequential benefits. any other remedy, which this august tribunal deems fit and appropriate that, may also, be awarded in favour of appellant.

  
**APPELLANT**

**Shafi Ullah**

THROUGH:

  
**(TAIMUR ALI KHAN)**

**ADVOCATE HIGH COURT**

&

  
**(SHAKIR ULLAH TORANI)**

**ADVOCATE**

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

**AMENDED SERVICE APPEAL NO. 15878/2020**

Shafi Ullah

VS

Irrigation Department

**AFFIDAVIT**

I, Shafi Ullah S/o Zahir Shah Regulation Jamadar Sub Division Dargai, do hereby solemnly affirm and declare on oath that the contents of the amended appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret and concealed from this Hon'ble Tribunal.



شعیب اللہ  
**DEPONENT**

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AmceA 8

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No.  
To,

488

7-E(Stib)

Dated Malakand the 28/03/2004

Mr. Shafiullah,  
Son of Zahir Shah  
Village and P.O. Piran (Gul Nargis),  
Malakand Agency.

Subject:-

APPOINTMENT AS A REGULATION BOLDAR BASIC PAY SCALE No. (2) (1915-65-3865) IN AMANDARA SECTION.

As per decision of Government vide Notification No. SCR(VI)E&AD, dated 30.6.2003, you are hereby offered a post of Regulation Boldar DPS No. (2) (1915-65-3865) against the vacant post of your father died on 16.05.2000 with the following conditions.

1. The appointment is purely on contract basis in Basic Pay Scale No. (2) (1915-65-3865) Per Month plus usual allowances as admissible under the contract policy of the Government.
2. Your employment in this Division is purely on contract basis and your services may be terminated without any notice and reasons being assigned at any time.
3. You will have to join ~~your~~ your own expenses.
4. You will have to produce a medical certificate.
5. You will have to produce a fitness certificate.
6. You will have to produce a certificate that you are not a dismissed Government Servant.
7. Your services will be governed by Contract Policy Rules 2002 vide No. FD (SOSR-11/12-1/02, dated 26.10.2002).
8. If you accept the post on the above mentioned conditions you shall report for duty to the undersigned upto 15/03/2004.
9. You should also bring copy of Pension Book of your father for verification of Service Record.

Executive Engineer,  
Malakand Irrigation Division,  
Malakand.

- Copy to :-
1. Superintending Engineer, Northern Irrigation Circle - Malakand for information please.
  2. P.S. to Minister for Irrigation & Power DWP, Peshawar for information please.
  3. Agency Accounts Officer, Malakand for information please.
  4. SDO Irrigation Head Works Malakand for information and necessary action.
  5. DA&TIC (Local) for information.

Attested to be true  
Copy

Executive Engineer,  
Malakand Irrigation Division,  
Malakand.

ATTESTED







(10)

(11)

Ann. B-11

**HYDER PAKHTOON KHWA IRRIGATION EMPLOYEES FEDERATION**

خیبر پختون خواہ ایریگیشن ایسپلائز فیڈریشن ایریگیشن ڈویژن ملاکنڈ

ہیڈ آفس چیف انجینئر آفس ملکہ ایریگیشن صوبہ خیبر پختون خواہ  
درسک روڈ کبابیان پشاور

ڈویژن آفس ایریگیشن آفس نہر بنگلہ درگئی ملاکنڈ

رجسٹریشن ملاکنڈ ڈویژن  
**C.B.A**  
1389

.....PWF

صدر شیخ اللہ 0343-5319327

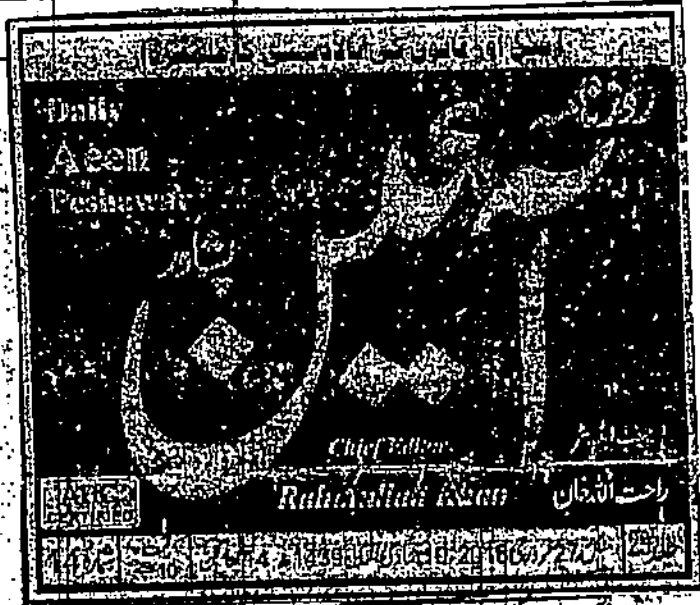


جنرل بکری حجاجہ سبحان گل



Ref No. \_\_\_\_\_

Dated \_\_\_\_\_



ایریگیشن ایسپلائز فیڈریشن کے انتخابات کی تیاری

ایریگیشن ایسپلائز فیڈریشن کے انتخابات کی تیاری

Attested

ATTESTED







**Gul Zameen**  
President  
0333-0287000

پاکستان ورکر اتحاد یاغندہ باد // بناؤ سجاؤ پاکستان // مراد پور اتحاد یاغندہ باد

Recognized by The K.P.K Government of Pakistan

پیس ڈبلیو ڈی لیبر یونین کی اینڈ ڈبلیو خیبر پختونخواہ

**P.W.D Labour Union K.P.K**

C&W Deptt: Reg: No: 43 C.B.A

**Habib Nawaz**  
V. President!  
0333-9730670

**PAKISTAN WORKER FEDERATION**

**Syed Ghafar Shah**  
D. G Secretary  
0301-8365419

Head Office: Fahim Plaza Flat # B-5 Hashtnaghari Peshawar

Ref No: \_\_\_\_\_ L.U.P \_\_\_\_\_ Date: \_\_\_\_\_

روزنامہ پشاور جہازات 27 اگست 2020ء

# مجاہدین کے گھوڑے مارنے والوں کو جلاؤ

ڈیوٹی سے غیر حاضر گھوسٹ ملازمین مفت میں تھوڑا ہیں، نوکریوں میں رشتہ داروں کو نوازنے اور غیر قانونی مزدور مشینوں سے بے نی ڈبلیو ڈی

روٹی (موجودہ جنسوسی) پی ڈی ایف ڈی لیبر یونین خیبر پختونخواہ نے ملکر ہر مہینے ملاکڑ کے کھوسٹ ملازمین کی ایل سی سے لیبر ماہیگری، نوکریوں میں رشتہ داروں کو نوازنے اور غیر قانونی مزدور مشینوں سے بے نی ڈبلیو ڈی کے خلاف کارروائی کرنے اور غیر حاضر ملازمین اور جلاؤ کے خلاف کارروائی کرنے کا مطالبہ کیا ہے۔



حاکم، پی ڈی ایف ڈی لیبر یونین کے سربراہ صدر گل زامین ہنس کا انٹرویو کرنے ہیں۔

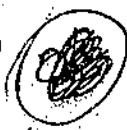
بھائی پر نہیں کا لگرن کے دوران کیا اس وقت ہر مہینے ملاکڑ میں ملازمین نے کہا کہ ہم نے ملکر ہر مہینے ملاکڑ میں خلاف صورت لگوتی، لیبر قانونی پر مشورہ اور ملاکڑ کے ایجنسین اور مہینے مل خان سمیت دیگر ایجنسیوں کے نوکریوں میں ایسے رشتہ داروں کو نوازنے کے خلاف کارروائی کرنے کی اور ہمیشہ کہہ سکتے ہیں کہ ہمارے ہمارے ملازمین کے بچوں اور اہلیت کو بھرنی کرنے کی بات کی ہے جس پر ملکر ہر مہینے ملاکڑ کو سیکشن کے ریکارڈ میں رجسٹر اور پی ڈی ایف ڈی لیبر یونین کے ملکی صدر شیخ اظہر کو انتہائی کاروائی کا نشانہ بناتے ہوئے اور اس پر ایک سنگ کالام کا نوکری رجسٹر اور نواز کرنے کے احکامات جاری کیے ہیں ملاکڑ ہم نے نوکریوں اور خلاف صورت لگوتی کے خلاف کارروائی پر ہمیں مل خان کے ڈیڑے کے مطابق لکھنا تھا جس کی سزا دی جا رہی ہے اور نوکری رجسٹر کے ساتھ ساتھ ہمارے لیبر یونین کے خلاف بھی جی ساڑھی

ATTACHED



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Ann. B-16



**Khyber Pakhtunkhwa Irrigation Employees Federation k.P.K Peshawar.**  
 (Reg No 06/2008)  
 Add: Chief Engineer Irrigation South Warsak Road Kababyan Peshawar.

President: S. Tahsinullah  
 Cell: 0346-5663356

Vsp: Sadqat Ali  
 Cell: 0333-9229470

Sec Genral Rabnawaz Khan Khattak  
 Cell: 0346-9252984  
 0333-4933843  
 0300-5973605

Date: 20/6/2019

Ref \_\_\_\_\_

نوٹیفیکیشن

عنوان:- مسوخی نوٹیفیکیشن نمبر 0875 مورخہ 08/01/2019

سید محمد حسین اللہ بحیثیت صدر خیر بختون خواہ اریگیشن ڈسٹریکٹ فیڈریشن اپنے آئینی اختیارات کو استعمال کرتے ہوئے اور کانپنڈ کے مہم داران سے مشاورت کے جزل بیکری خیر بختون خواہ اریگیشن ڈسٹریکٹ فیڈریشن کا جاری کردہ نوٹیفیکیشن جو کہ اس نے غیر قانونی طور پر ضلع لاکنڈ کے کانپنڈ کو ختم کر دیا اور وہی کانپنڈ جس میں صدر شیخ اللہ اور تمام دیگر اراکین کو بحالی کا نوٹیفیکیشن جاری کرنا ہوں کیونکہ آئین کے روح سے جزل بیکری کو کانپنڈ ختم کرنے کا ہمارا نہیں ہے اور نواکانپنڈ جس میں صدر بہرہ دیگر مہم داران بحال رہے گا اور اپنے ملازمن کے مطالبات پر افسران بالا سے دلانا وقت گنت شود کر کے مسائل حل کرنے کی کوشش کریں گے۔ اور یہ مہم داران اگلے مستند ہونے والے الیکشن تک بحال رہے گے۔

شکر

1	شیخ اللہ	صدر
2	محمد علی	جزل بیکری
3	نار	بینر نائب صدر 1
4	رحمان سید	بینر نائب صدر 11
5	وجہ	نائب صدر
6	اجمل	نائب صدر 1
7	منگور	ذیلی جزل بیکری
8	جنت علی	ایڈیشنل جزل بیکری
9	علی محمد	جائز بیکری
10	ہلال احمد	فائنل بیکری
11	مید اللہ	پریس بیکری
12	سید سجاد اللہ	آفس بیکری

سید محمد حسین اللہ صدر  
 سید محمد حسین اللہ صدر خیر بختون خواہ  
 اریگیشن ڈسٹریکٹ فیڈریشن خیر بختون خواہ

کاپی برائے اطلاع:

- 1 ذیلی کمانڈر لاکنڈ
- 2 ہیرڈنگ انجینئر اریگیشن سرکل مردان
- 3 ایگزیکٹو انجینئر اریگیشن لاکنڈ ڈسٹریکٹ
- 4 تمام ڈسٹریکٹ آفسر لاکنڈ ڈسٹریکٹ
- 5 تمام اخبارات

Attested

ATTESTED







علاقہ قاضی مالکنڈ کی عدالت  
21/3/19

0375 مورخہ 08/01/2019 غیر قانونی غیر آئینی وغیر اخلاقی طور پر مدعی کو

صدارت کے عہدے سے برخاست کرتے ہوئے نوٹیفیکیشن نمبری

07/12/2017 منسوخ 046-KPK-I.E.F.Peshawar بحالیہ

کرے اور مدعا علیہ نمبر 4 کو خیبر پختونخواہ ایریکیشن ایسپلائز فیڈریشن ایریکیشن

ڈویژن مالکنڈ کا صدر اور مدعا علیہ نمبر 5 کو یونین کا جنرل سیکریٹری ظاہر کرے۔

دعویٰ صدور حکم امتناعی دوائی بنام مدعا علیہاں بدیں مضمون کہ مدعا علیہاں ہرگز مجاز

نہیں ہیں کہ وہ مدعی کو بطور صدر خیبر پختونخواہ ایریکیشن ایسپلائز فیڈریشن

ایریکیشن ڈویژن مالکنڈ تسلیم کرنے سے انکار کرے۔ نیز مدعا علیہاں ہرگز مجاز نہیں

ہیں کہ وہ مدعا علیہ نمبر 4 کو یونین کا صدر اور مدعا علیہ نمبر 5 کو یونین کا جنرل سیکریٹری

ظاہر کرے۔

دعویٰ صدور حکم تاکیدی دوائی بنام مدعا علیہاں بدیں مضمون کہ وہ خط نمبر 0375

مورخہ 08/01/2019 کو غیر آئینی وغیر قانونی تصور کرتے ہوئے مدعی کو خیبر

پختونخواہ ایریکیشن ایسپلائز فیڈریشن ایریکیشن ڈویژن مالکنڈ کا صدر تسلیم کرے۔



مایت بغرض کورٹ فیس و اختیار سماعت مبلغ 500/- روپے

مقرر کی جاتی ہے۔

ذموی مدعی اندر معیاد ہے اور عدالت حضور کو اختیار سماعت

مائل ہے۔

*Handwritten signature*

جناب عالی!

گزارشات منجانب مدعی حسب ذیل عرض ہیں۔

یہ کہ مدعی حکم ایریکیشن مالکنڈ میں بحیثیت نائب قائد ملازم ہے۔

ATTESTED

Max. C

بیان

سید محسن اللہ جلا صلی اللہ علیہ وسلم (مدعا علیہ نمبر 2)

حلفاً بیان کیا کہ میں مقدمہ بعنوان شفع اللہ بنام

صداقت علی وغیرہ میں مدعا علیہ نمبر 2 ہوں۔ دعویٰ مدعی

درست تسلیم کرتا ہوں۔ اگر عدالت مقدمہ صذا میں کے خلاف بقفا

مذاکرہ کرے تو مجھے کوئی اعتراض نہ ہے۔ اس نسبت میں

امثال دعویٰ پیش کرتا ہوں جو کہ Ex: PA ہے۔

مسکدرست تسلیم کرتا ہوں



سید محسن اللہ جلا صلی اللہ علیہ وسلم  
سید محسن اللہ (مدعا علیہ نمبر 2)

(سید محسن اللہ)

20/4/19  
ملاکنڈ ہجرام سٹ ضلع

Attested  
A

ATTESTED

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کدالت حساب سول حج صاحب مدظلہ

شیخ الاسلام (نام) صداقت علی وغیرہ

Ex: PA

دعوی استفسار حق

~~20~~  
~~20~~  
~~20~~

اعتیالی جواب دعوی منجانب مدعا علیہ

سید کسٹین اللہ

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حساب عالی گذارش منجانب مدعا علیہ

یہ کہ مقدمہ عنوان بالا کدالت حضور زبیر محمدی

مقدمہ دعوی مدعی درست و صحیح ہے

7-12-2017 مدعی شفیع اللہ محمدی

اور مدعی ناہال مذکورہ عنیدہ ہے

تخلیہ ایڈیشن آف سیران و دیگر حکم جات کے آئین کے ساتھ خط و کتابت کرنے کا حجاز ہے

نوسیفیشن جاری خواہوں تودہ کوئی مدعی قابل مستوفی ہے

یہ کہ دعوی مدعی درست ہے اور حسب استناد دعوی مدعی درست ہے

Attest

ATTESTED

CERTIFIED TO BE TRUE COPY  
Malakand

بین شفیق اللہ ولد ملا محمد شاہ ساکن گندہ گنگن  
 پیران تحصیل شفیق اللہ گنگن۔

حلفہ بیان کرتا ہے کہ میں نے پیران گندہ گنگن  
 عذا بہ فذلت سرکار علیہ داریہ کیا ہے۔ اب چونکہ میں  
 بہ منہ خانہ طور پر حاصل ہو گیا ہے۔ اسلئے بہ فذلت  
 سرکار علیہ مقدمہ سندھ صلا کے خواہاں نہ ہوں۔ درخواست  
 بہ آدھی مقدمہ طور پر PA، ریلوے پش پک۔ سندھ  
 سندھ کے مقدمہ عذا کہ عین دستبرداری کے مقدمہ سرکار

مقدمہ شفیق اللہ

المرقوم 254-07-01

Attested

01/07/19  
 سید محمد علی شاہ گندہ گنگن  
 تعلقہ

شفیق اللہ  
 شفیق اللہ ولد ملا محمد شاہ ساکن  
 گندہ گنگن تحصیل شفیق اللہ گنگن  
 - 15402-47-01855 # 15402  
 شفیق اللہ گنگن

ATTESTED

SHOW CAUSE NOTICE

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Ann. D-

I Engr: Ali Ur Rehman Executive Engineer Malakand Irrigation Division Malakand, under the Khyber Pakhtunkhwa Govt: servants (E&D) Rules 2011, do hereby serve you, Mr. Shafiullah Regulation Jamadar presently working in Dargai Irrigation Sub Division Dargai.

1. That consequent upon the completion of inquiry conducted against you by the enquiry officer for which you were given opportunity of hearing.
2. On going through the conclusion of the inquiry officer that your action tantamount to Black Mailing / Defamation of Govt: officers / officials through Print and Electronic Media.
3. Now therefore, the inquiry officer having considered the charges received vide Superintending Engineer Mardan Irrigation Circle Mardan letter No. 1123/75-E, dated 01.07.2020, as exercise of the powers under rules -4 (b) (iii) of Khyber Pakhtunkhwa (E&D) Rules 2011, was pleased to impose the major penalty of "Dismissal from Govt: Service" with immediate effect.
4. You are therefore, required show cause notice, as to why the aforesaid penalty should not be imposed upon you and also intimate, whether you desire to be heard in person.
5. If no reply to this show cause notice is received within 07 days of its delivery, it shall be presumed that you have no defense to put and in that case an ex-party action shall be taken against you.

9 Denied  
Show Cause Notice  
on 27/7/2020 on  
by hand, M/E  
27/7/2020

23/07/2020  
EXECUTIVE ENGINEER  
MALAKAND IRRIGATION DIVISION  
MALAKAND

Attested  


**ATTESTED**

4.3.20

*Received*

*E*

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*E*

*23*

*Mr. E. 23*

To,

The Enquiry Officer / S.D.O,  
Drainage Irrigation sub Division Mardan.

Sub:

Reply of the show cause Notice / Questioner

Respected Sir,

The accused respondent employee humbly submitted as under in response of the show cause/ questioners notice dated nil regarding inquiry of the legal status of Khyber Pakhtunkhwa Irrigation Employees Federation (Ref: No 06/2008)

- i. That, the respondent / accused is regulation Jamadar in sub Divisional Officer, irrigation Dargai.
- ii. Para No 2 of the question is correct
- iii. That in response to Para No 3, it is submitted that "Irrigation Employees Union" was Registered as C.B.A vide registration No 13/89 by the competent authority. Under the aforementioned registration number notification No 680/IEU/I Peshawar dated 05-05-2003 was issued, wherein office bearers for Malakand Irrigation Division were legally nominated by the competent authority. (Notification annexed)

later on "Irrigation Employees Union" was converted to "Khyber Pakhtunkhwa Irrigation Federation KPK Peshawar" and lawfully registered vide Reg No 06/2008. The Provincial President vide Notification R. No 048 dated 20-04-2019, in consultation with the cabinet, restored the undersigned as president of the Irrigation

*Attested*

**ATTESTED**

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Ann E. 24

Employees Federation Malakand Division, Irrigation Deptt. And cancelled notification No 0875 dated 08-01-2019

- iv. That earlier the provincial President had nominated the undersigned as caretaker president of the KP Irrigation Employees Federation Malakand Irrigation Division vide Notification Ref. No 046 K.P.K 1 E.F dated 07-12-2007.
- v. That the provincial General Secretary of KPK Irrigation Employees Federation vide Notification Ref. No 0875 dated 08-01-2019, cancelled the earlier notification regarding the undersigned which was challenged before the Civil Court in Case No 46/1 of 2019 by the undersigned. During proceedings of the Civil Suit, the Provincial President cancelled notification No 875 date 08-01-2019 vide notification No 048 dated 20-04-2019 and application dated 01-7-2019 was filed before the court and the case was withdrawn vide order / judgment dated 01-07-2019. Now the undersigned perform his duties as President of the "KPK Irrigation Employees Federation Malakand Irrigation Division Vide Notification No 048 dated 20-04-2019.
- vi. That questioner No 4 does not relate to the undersigned directly. The "KPK Irrigation Employees Federation" has been registered as C.B.A vide registration No 06/2018 by the competent authority.
- vii. That question No 5 is incorrect.
- viii. That question No 6 is not correct.
- ix. That question No 7 is not admitted as specific allegations have not been leveled against the undersigned.

Attested  
*[Signature]*

ATTESTED  
*[Signature]*

- x. That the allegations leveled in Para No 7 are vague and not specific, therefore the undersigned is unable to reply.
- xi. That the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, empower the competent authority to take disciplinary action against an employee on charges of corruption, inefficiency and misconduct under the rules. The show-cause notice/questioner does not mention any specific allegation against the undersigned employee. The grounds of allegation mentioned in the questioner are vague, not specific and clear, therefore the undersigned is unable to comment. However, it is not admitted that the undersigned is guilty of any mis-conduct.

Hence, in light of the above facts and circumstances, it is humbly requested that the show-cause/questioner be disposed of without further legal proceedings as it is unnecessary to hold inquiry against the accused/undersigned under the service rules.

Shafi Ullah Son of Zahir Shah  
Regulation Jamadar  
Sub Divisional Officer, Irrigation Dargai.  
0343-5319327

Attested  
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To: The Enquiry Officer / Deputy Collector,  
Mardan Irrigation Division Mardan,

*[Signature]*

Sub: Reply of the show cause Notice / charge  
Sheet dated 18-06-2020

Respected Sir,

The respondent employee humbly submitted as under .

- i. That, the para 1 of the charge sheet / statement of allegation is not correct, hence denied. The respondent-employee is not guilty of any mis-conduct. The respondent has not violated any provision of the E & D Rules 2011. The respondent is the District President of Khyber Pakhtunkhwa Irrigation Employees Federation which is a registered C.B.A under the relevant law. The charge-sheet dated 18-06-2020 neither reveal any specific statement of allegations against the respondent employee, nor specific news item of electronic and print media has been alleged for defaming specific government officer / officials of Malakand Irrigation Division, Malakand
- ii. That, the allegation leveled in the charge- sheet dated 18-06-2020, were previously agitated vide charge sheet dated nil regarding inquiry of the legal status of Khyber Pakhtunkhwa Irrigation Employees Federation, and the inquiry officer/ S.D.O Drainage irrigation sub-division Mardan had been appointed to probe the mater. The respondent -employee had submitted a detailed reply wherein the aforementioned inquiry officer had not disposed up the matter for reason not known to the respondent - employee. The detail reply is annexed as a ready -reference.

R. *[Signature]* 1.7.2020. *[Signature]*

ATTESTED *[Signature]*

(Scribble)

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SLM

Copy to Show Cause

To,

The Executive Engineer,  
Malakand Irrigation Division, Malakand

Subject: Reply of the show cause notice dated; 23/07/2020

Respected Sir,

The respondent / employee humbly submit as under in response to the show cause notice dated: 23/07/2020.

1. That in response in *Para No.1* of the show cause notice, it is humbly submitted that the respondent/ employee is a faithful and law abiding servant under your esteemed office. The respondent employee has never used defamatory statement against any superior officer of the department through electronic and print media. The respondent / employee had requested for personal hearing vide reply of the earlier show cause notice dated 18/06/2020 to explain his position, which was denied by the inquiry officer. Opportunity of personal hearing is the legal right of the respondent employee which was denied and hence the finding of the inquiry officer is not in accordance with law and practice.

2. That the finding of the inquiry officer are not admitted as no opportunity of personal hearing has been provided to the respondent employee.

Detail reply of *Para No 2* has already been submitted in reply dated 01/07/2020.

3. That the major penalty imposed by the inquiry officer is not appropriate and according to law hence not admitted. The respondent employee humbly request for personal hearing as provided by *Efficiency and Discipline rules 2011*.

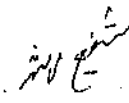
4. That the aforesaid penalty imposed / recommended by the inquiry officer is against the spirit and parameters of *E and D rules 2011* therefore not tenable in the eyes of law. The respondent employee humbly request for personal hearing as provided by the prevailing rules of *E and D 2011*.

Attested  
*[Signature]*

ATTESTED

5. That the respondent employee received copy of the show cause notice on 27/07/2020 at 2:00 PM whereas 28th to 30th July were working days and after that 31 July 1st and 2nd august 2020 were declare holidays for *Eid ul adha*. Hence reply of the show cause notice is within time.

In light of the above facts and circumstances, keeping in view the earlier detail reply of the show cause notices and statement of irrigation, it is humbly prayed that the show cause notices be disposed up without any further legal proceedings by exonerating of vague and un founded charges of the show cause notice.

  
Respondent / Employee

Shafi Ullah

Regulation Jamadar

Dargai Irrigation Sub Division, Dargai.

*Attested*  


**ATTESTED**



OFFICE OF THE EXECUTIVE ENGINEER

MALAKAND IRRIGATION DIVISION MALAKAND

e-mail: - irfgallonmkd@yahoo.com

0932-452049

No. 1975 /7-E (Sub),  
Dated Malakand the 20 /08/2020.

**OFFICE ORDER.**

WHERE AS:- Mr. Shafiullah S/O Zahir Shah (Regulation Jamadar) declare himself as a President of un-registered and Illegal Employees Association, presently working in Dargai Irrigation Sub Division Dargai, who use to approach Print and Electronic Media for black mailing of Govt: officers/ officials for their self interest.

AND WHERE AS:- In this connection, I Engr: Ali Ur Rahman Executive Engineer Malakand Irrigation Division Malakand sent their case to Registrar Trade Union Labour Department to Solicite opinion. In reponse the Registrar Trade Union Malakand Division at Swat informed this office that as per record of their office, no Union in name and style of PWD Labour Union in Khyber Pakhtunkhwa is registered with Registrar Labour Department Swat communicated vide No. DL/RTU748-49, dated 23.01.2020.

WHERE AS:- In the mean while an enquiry was ordered against the official for defaming Govt: officers / officials for malafide intentions.

AND WHERE AS:- Subsequently charge sheet and statement of Allegation was served upon the official through the enquiry officer, but the official failed to submitte written defence of his Unregistered Worker Union and have not shown any thing of the registration of their employee Association, which is mandatory under the rules.

WHERE AS:- Therefore, the enquiry officer having considered the charges received vide Superintending Engineer, Mardan Irrigation Circle, Mardan letter No. 1123/75-E, dated 01.07.2020, as exercise of powers under rules-4 (b) (iii) of Khyber Pakhtunkhwa (E&D) rules 2011, was please to impose the major penalty of "Dismissal from Govt: service" with immediate effect.

NOW WHERE AS:- After having lengthy correspondence and the power conferred upon the Competent Authority under the rules, because his action tantamount to black mailing / defemation of Govt: officers / officials through print and Electronic Media, the undersigned being Appointing Authority has been pleased to consider the services of Mr. Shafiullah Regulation Jamadar for major penalty of "Dismissal from Govt: Service" to "Compulsory Retirement from Govt: Service" with immediate effect.

EXECUTIVE ENGINEER

Copy forwarded for information and necessary action to the:-

1. Superintending Engineer, Mardan Irrigation Circle, Mardan w/r to his No.1123/75-E, dated 01.07.2020.
2. Mr. Ajmal Khan Deputy Collector Irrigation Mardan (Enquiry Officer).
3. Sub Divisional Officer, Dargai Irrigation Sub Division, Dargai. w/r to his No. 349/2-E, dated 07.08.2020.
4. District Accounts Officer Malakand.
5. DAO/HC (Local).
6. Official Concerned.

EXECUTIVE ENGINEER

ATTACHED

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(3D)

~~Handwritten signature~~

To,

**THE CHIEF ENGINEER NORTH,**  
Irrigations Department,  
Khyber Pakhtunkhwa,  
At Kababiyar, Peshawar

Subject: APPEAL/DEPARTMENT REPRESENTATION  
AGAINST THE IMPUGNED ORDER DATED  
20/08/2020 IN WHICH IMPOSED ON THE  
APPLICANT MAJOR PENALTY OF  
"DISMISSAL FROM SERVICE" BY THE  
RESPONDENTS DUE TO ALLEGED  
ALLEGATIONS WITHOUT PROPER INQUIRY,  
NO OPPERTUNITY OF PERSONAL HEARING,  
NO CROSS EXAMINATION OF WITNESS HAS  
BEEN GIVEN, THE WHOLE INQUIRY WERE  
DONE BY INQUIRY OFFICER/EXECUTIVE  
ENGINEER WITH THE MALAFIDE  
INTENTION, MALICIOUS PROSECUTION,  
WITHOUT COGENT EVIDENCE WHICH IS  
AMOUNT TO MISOCARRIAGE OF LAW AND  
MISOCARRIAGE OF JUSTICE.

Respectfully Sheweth:

1. That the applicant is permanent resident of District Malakand and is performing his duty as "Regulation jamadar" in the office of Dargai Irrigation Sub Division Dargai

*Attended*  
*[Signature]*

Office of the Chief Engineer North  
Irrigation Department  
Peshawar  
5666  
04/09/2020

*ATTACHED*  
*[Signature]*

*[Handwritten signature]*

- 2. That the applicant is posted as Regulation ~~Officer~~ *Bejjad* in department on 28/02/2004 and till date performed his duty in District Malakand with full zeal and zeest, with full devotion without nay complaint from his high ups.
- 3. That the applicnat has tried his level best to performed his duty with full zeal and zeest and devotion.
- 4. That the Department Official given show cause notice to the applicant without any Official No and date, which was duly replied by the applicant on 04/03/2020, 01/07/2020 and 23/07/2020 respectively along with attested copies of civil suit, statement and judgment regarding his status of Employees Union (CBA No. 1389) Irrigation Department.
- 5. That the applicant is served with office impugned order No. 1975/7-E(Sub) dated Malakand The 20/08/2020, through which the applicant dismissed from his service.
- 6. That the applicant dismissal from his service without adopting due process of law nor according with the rules and regulations laid down in the services rules and structure which is in effective upon the rights of the applicant.

*[Handwritten signature]*

ATTESTED

7. That alleged allegation levelled against the applicant was not proved till date, no proper inquiry has been conducted, no opportunity of personal hearing has been given, no examination of cross witnesses because the official have not witness nor any evidence against the applicant and without fulfilment of process of law, but the respondents/inquiry officers conducted one sided inquiry with malicious prosecution, with the malafide intention, without any cogent reason while imposed major penalty "dismissal from service" on the applicant is against the norms of justice.
8. That the respondent has committed serious illegalities and irregularities while issuing the impugned dismissal order as no cogent reason is mentioned while imposing the major penalty, hence the impugned order is illegal, unlawful, void-ab-initio as well as corum-non-judice.
9. That the impugned order of the respondent is against the principle of natural justice and as no chance of personal hearing is given to the applicant while conducting the alleged inquiry as well as issuing impugned order.
10. That the impugned order is even against the Constitution of Islamic Republic of Pakistan

Attest  
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1973 as well as principle of policy, hence the same are liable to be set aside:

- 11. That the applicant is treated against the law, rather discriminately been treated and with malafide, hence the impugned orders are liable to be set aside.

For the aforesaid reasons, it is, therefore, humbly prayed that by accepting of this departmental appeal/representation, the impugned order dated 20/08/2020, whereby the applicant dismissed from his service as major penalty may graciously please be set aside by declaring the impugned orders as illegal, unlawful, against the rules, regulations governing the subject matter, constitution and the applicant may be reinstated without imposition of any kind of penalty with all back benefits.

20/8/20  
Dated:-04/09/2020

Applicant *Shafiullah*

**Shafiullah**  
Regulation Jamadar  
Dargai Irrigation Sub  
Division Dargai.

**Note:**

All the relevant documents and impugned order dated 20/08/2020 are attached herewith.



*Shafiullah*  
4-9-20  
*Shafiullah*

0343-5319327

*Shafiullah*

ATTORNEY





H (35) (28) Mr. Q. 38  
OFFICE OF THE CHIEF ENGINEER (NORTH)  
IRRIGATION DEPARTMENT PESHAWAR.  
Phone 9222819 & Fax No 9212123

No. 3410 /Rev/CC/1-R /Mardan

Dated Peshawar the 18/11/2020

To

✓ Mr. Shafi Ullah, Regulation Jamadar  
Dargai Irrigation Sub Division,  
Dargai.

Subject: APPEAL/DEPARTMENT REPRESENTATION AGAINST THE IMPUGNED ORDER DATED 20.08.2020 IN WHICH IMPOSED ON THE APPLICANT MAJOR PENALTY OF "DISMISSAL FROM SERVICE" BY THE RESPONDENTS DUE TO ALLEGED ALLEGATION WITHOUT PROPER INQUIRY, NO OPPORTUNITY OF PERSONAL HEARING, NO CROSS EXAMINATION OF WITNESS HAS BEEN GIVEN THE WHOLE INQUIRY WERE DONE BY INQUIRY OFFICER/EXECUTIVE ENGINEER WITH THE MALAFIDE INTENTION, MALICIOUS PROSECUTION, WITHOUT COGENT EVIDENCE WHICH IS AMOUNT TO MISCARRIAGE OF LAW AND MISCARRIAGE OF JUSTICE.

I am directed to refer to the subject noted above and to state that your appeal was referred to Superintending Engineer Mardan Irrigation Circle Mardan for report wherein he stated that an inquiry was ordered by this office vide letter No. 462/158-M, dated 21/02/2020 and Mr. Kifayat Ullah Khan the then SDO Drainage Irrigation Sub Division Mardan was nominated as inquiry officer to conduct fact finding inquiry against the following officials regarding mis-use of powers through un-Registered worker union.

- (i) Mr. Ajmal Khan (Mate)
- (ii) Mr. Shafi Ullah (Regulation Jamadar)

2. The inquiry officer conducted a detailed fact finding inquiry through which both the officials were found guilty and accordingly Mr. Muhammad Ajmal Khan Deputy Collector Irrigation Division Mardan nominated as inquiry officer vide this office No. 946/75-E, dated 09-06-2020 to conduct formal inquiry in the matter against the above named officials, wherein dismissal from service for Shafi Ullah (Regulation Jamadar) and compulsory retirement from service for Mr. Ajmal Khan (Mate) was recommended by the inquiry officer.

D:\D:\M18 Mardan\Shafiuallah.docx

*Attested*

ATTESTED

3. In light of the above the Executive Engineer Malakand Irrigation Division Malakand being competent authority, served show cause notices upon both the officials and were called for personal hearing on 29-07-2020.

4. The competent authority (Executive Engineer Malakand Irr. Division Malakand) revised the penalties imposed by the inquiry officer of both the said officials;

S.No	Name of official	Recommendation of the inquiry officer	Penalty imposed by the competent authority	Remarks furnished by Executive Engineer Malakand Irr. Division Malakand (Competent Authority)
1.	Mr. Ajmal Khan (Mate)	Compulsory Retirement from Govt. Service	CENSURE	The officials was already retired from Govt. service on 30-06-2020, while the inquiry report was received through letter No. 1123/75-E dated 01-07-2020, therefore the penalty was imposed as CENSURE as the accused official was already retired.
2	Mr. Shafi Ullah (Regulation Jamadar)	Dismissal from Govt. Service	Compulsory retired from Govt. service.	The penalty of compulsory retirement was imposed in place of dismissal from govt. service on humanitarian ground, so that the pensionary benefits other perks and privileges of the official may no effected.

5. As explained above, the appellant has not been "dismissed from his service" but "Compulsory retired from Govt. service" with all pensionary benefits, perks and privileges.

6. (The appeal is therefore not found line with the penalty imposed upon the appellant and also not found in-line with rule 17(1) of Khyber Pakhtunkhwa govt. service E&D rules 2011.)

CANAL COLLECTOR (8)

Copy to the:-

1. Superintending Engineer Mardan Irrigation Circle Mardan w/r to his letter No. 2369/75-E dated 28-10-2020 for information please.
2. Executive Engineer Malakand Irrigation Division Malakand for information.
3. PA to Chief Engineer (North) Irr. Department Peshawar.

CANAL COLLECTOR

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Before The KP Service Tribunal, Peshawar  
Appeal NO. 15878/2020

37

Shafi Ullah V/S Immigration Deptt.

Application for amending the ~~present~~ instant appeal  
by impugning the rejection order dated 18/11/2020

Respectfully Sheweth:

1. That the instant appeal was filed for today  
for arguments.

2. That the appellant filed departmental appeal  
against the 20/08/2020 on which ~~was~~ order  
dated/memo dated 18/11/2020 was passed, however  
the appellant has not challenged the order  
memo dated 18/11/2020 in this instant Service  
appeal, which is necessary.

3. It is therefore most humbly prayed that on  
on acceptance of this application, the appellant  
may kindly allowed to amend the instant  
appeal to impugn the order/memo dated  
18/11/2020 in the appeal.

ATT/STED

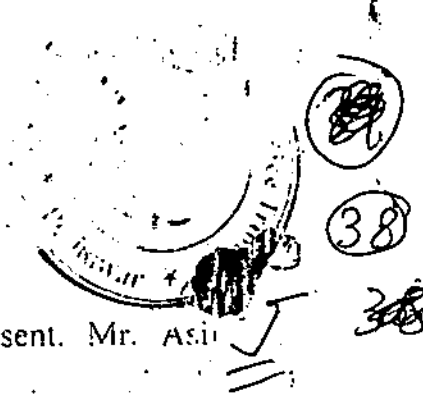
through

Appellant

Faiman Ali Khan

(Adv)

A. No. 15878/2022  
Shafiqullah vs Govt



15<sup>th</sup> Mar, 2023

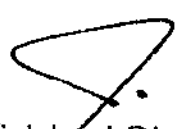
1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith M. Alamzeb, XEN for the respondents present.


2. Arguments on application for amending the instant appeal by impugning the rejection order dated 18.11.2020 heard.

3. Learned Deputy District Attorney did not contest the application submitted by learned counsel for the appellant for amending the instant appeal by impugning the rejection order dated 18.11.2020. Therefore, the application is allowed. Learned counsel for the appellant is directed to submit amended appeal as prayed in the application within 15 days. This appeal pertains to Camp Court Swat, therefore, let it be fixed for arguments on 05.04.2023 before D.B at Camp Court Swat.

Parcha Peshi given to the parties.

SCANNED  
YOUSUF  
Peshawar

  
(Salah-ud-Din)  
Member (I)

  
(Kalim Arshad Khan)  
Chairman

Certified to be true copy  
MINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

ATTACHED

K (39)

(Signature)

Mr. G. (Signature)

28-6-2020

**CHARGE SHEET**

I, All-ur-Rahman, Executive Engineer, Malakand Irrigation Division, Malakand as competent authority hereby charge you, Mr. Shafiullah, Regulation Jamadar while posted in Dargal Irrigation Sub-Division Dargal (Malakand Irrigation Division, Malakand)

- 1- That you while serving as Regulation Jamadar in Dargal Irrigation Sub-Division of Malakand Irrigation Division, Malakand committed the act/omission of misconduct for defaming the government officers/officials of Malakand Irrigation Division through print and electronic media by using illegal take forum of PWD Worker Labour Union of Khyber Pakhtunkhwa
- 2- By reason of above you appear to be guilty of misconduct under rules 3 of the government of Khyber Pakhtunkhwa government servant (E&D Rules) 2011 and have rendered yourself liable to all or any of the penalties specified under rules 4 of the rule ibid.
- 3- You are therefore required to submit your written defense within 07 days of the receipt of this charge sheet through the enquiry officer.
- 4- Your written defense if any should reach the enquiry officer within the specified period failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.
- 5- Intimate whether you desire to be heard in person.
- 6- The statement of allegation is enclosed.

(Signature)

Executive Engineer,  
Malakand Irrigation Division,  
Malakand

28/6/2020

**ATTACHED**

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Prx. G - 39

**STATEMENT OF ALLEGATION**

I, Ali-ur-Rahman, Executive Engineer, Malakand Irrigation Division, Malakand am of the opinion that:-

- 1- "Mr. Shafulah, Regulation Jamadar, while posted in Dargai Irrigation Sub Division, Dargai of Malakand Irrigation Division, Malakand has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning of relevant Civil Servant (E&D) Rules 2011"
- 2- For the purpose of enquiry against the said accused Mr. Ajmal Khan, Deputy Collector, Mardan Irrigation Division Mardan has been appointed as "Enquiry Officer"
- 3- Enquiry Officer shall provided reasonable opportunity of hearing to the accused, recorded his finding and submit report within 30 days.
- 4- The accused and the well conversant representative of Malakand Irrigation Division, Malakand shall join the proceeding on the date/time and place fixed by the Enquiry Officer.

Executive Engineer  
Malakand Irrigation Division  
Malakand

Attested

ATTESTED

سوال نامہ برائے شیفہ اللہ ریگولیشن جمہ دار اریگیٹیشن ڈویژن ملاکنڈ

- ۱۔ کیا یہ درست ہے۔ کہ آپ ملاکنڈ اریگیٹیشن ڈویژن میں بطور ریگولیشن جمہ دار تعینات ہیں؟
  - ۲۔ بطور سرکاری اہلکار آپ خیبر پختونخوا سروس رولز 2011 کے زمرے میں آتے ہیں؟
  - ۳۔ کیا یہ درست ہے۔ کہ آپ CBA نمبر 1389 کے صدر ہیں؟
  - ۴۔ اگر آپ CBA مذکورہ کے صدر ہیں۔ تو آپ نے محکمہ لیبر ڈیپارٹمنٹ سے رجسٹریشن کرائی ہے۔ دستاویزی ثبوت شامل کریں۔
  - ۵۔ اگر آپ نے ایک غیر رجسٹرڈ تنظیم بنائی ہے۔ تو آپ کا یہ فعل سروس رول کے منافی ہے۔ جواب شامل کریں۔
  - ۶۔ ایک غیر رجسٹرڈ تنظیم چلانا دھوکہ دہی کے زمرے میں آتا ہے۔ جواب شامل کریں۔
  - ۷۔ آپ کا یہ فعل محکمہ اریگیٹیشن کے قواعد و ضوابط اور وقار کے منافی ہے۔ صفائی پیش کرے۔
  - ۸۔ آپ نے کس قانون کے تحت پرنٹ اور الیکٹرانک میڈیا میں محکمہ کے خلاف ہرزہ سرائی کی ہے۔ جو کہ محکمہ کے ساتھ کو نقصان پہنچانے کے مترادف ہے۔ صفائی بمعدہ ثبوت پیش کریں۔
  - ۹۔ پرنٹ اور الیکٹرانک میڈیا میں جانے سے پہلے سرکاری اہلکار کو مجاز آفیسر سے اجازت طلب کرنا ضروری ہے۔ آپ نے کب اور کس سے اجازت طلب کی ہے۔ جو کہ KPK سروس رولز 2011 کے تحت تمام سرکاری اہلکاران بمعہ رجسٹرڈ تنظیم پر واجب ہے۔ صفائی بمعدہ ثبوت پیش کریں۔
- نوٹ: اس سوال نامہ کے جوابات تین دن کے اندر اندر انکو آری آفیسر کو پیش کریں۔

انکو آری آفیسر  
ڈیپٹی اریگیٹیشن سب ڈویژن مردان

Attached

ATTACHED