

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL**

*MISC APPLI NO-403 / 2024*

SERVICE APPEAL NO. 572/2024


1. Chief Secretary, Khyber Pakhtunkhwa,
2. Secretary, Establishment & Administration Department
3. Secretary, Finance Department.....(Appellants)

VERSUS

Mr. Fawad Hussain .....(Respondent)  
*computer operator, Directorate of Food, WP.*

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Section Officer (Litigation)  
Government of KP  
Establishment Department

BEFORE THE HON'ABLE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR

MISC APPL No 403/2024

SERVICE APPEAL NO. 572/2024

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 13013

Dated 27-05-2024

1. Chief Secretary, Khyber Pakhtunkhwa,
2. Secretary, Establishment & Administration Department
3. Secretary, Finance Department.....(Appellants)

VERSUS

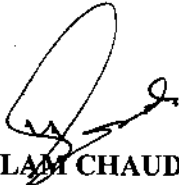
Mr. Fawad Hussain .....(Respondent)

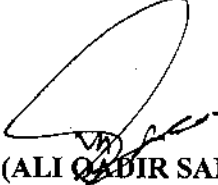
APPLICATION FOR SETTING ASIDE EX-PARTE DECREE AS PER ORDER-9 RULE 13 CPC


1908

RESPECTFULLY SHEWETH:-

1. That the subject case was fixed for hearing on 10-05-2024 before the Chairman, Khyber Pakhtunkhwa, Service Tribunal and disposed off as Ex-Party without hearing the Respondents (Annex-A).
2. That a Notice for hearing in the instant case was received to the Respondents on 03-05-2024. Consequently, Mr. Khaliq-ur-Rehman, Superintendent (BS-17) and Mr. Amjad Ali Superintendent (BS-17) of Litigation-II Section, Judicial wing appeared before the Hon'ble Service Tribunal on 10-05-2024 on behalf of Chief Secretary, Khyber Pakhtunkhwa and Secretary, Establishment Department.
3. That the worthy Chairman, during the course of hearing asked the Representatives of Establishment Department whether they are authorized by the respondents to appear before the Tribunal or otherwise and asked for productions of authority letter. Since, both the representatives did not have the authority letter at that moment; therefore, the case was decided ex-parte against the answering respondents.
4. That according to a famous legal maxim "Audi Alterum Patern" i.e. No one should be condemned unheard. In light of the aforementioned legal principle, a fair opportunity of hearing may thus be accorded to the answering respondents by setting aside the ex-parte in light of Order-9, Rule 13 of Civil Procedure Code, 1908, please.

  
(NADEEM ASLAM CHAUDHARY)  
Chief Secretary,  
KHYBER PAKHTUNKHWA.  
Through,  
(Kaleem Ullah Baloch)  
Special Secretary, Establishment  
(Respondent No. 01)

  
(ALI QADIR SAFI)  
SECRETARY,  
ESTABLISHMENT DEPARTMENT,  
Through  
(Kaleem Ullah Baloch)  
Special Secretary, Establishment  
(Respondent No. 02)

  
(AMER SULTAN TAREEN)  
SECRETARY,  
FINANCE DEPARTMENT  
(Respondent No. 03)

**BEFORE THE HON'ABLE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR**

**SERVICE APPEAL NO. 572/2024**

- 1. Chief Secretary, Khyber Pakhtunkhwa,
- 2. Secretary, Establishment & Administration Department
- 3. Secretary, Finance Department.....(Appellants)

**VERSUS**

Mr. Fawad Hussain .....(Respondent)

**AFFIDAVIT**

I, Ali Qadar Safi, Secretary Establishment Department (PMS BS-20), respondent, do hereby solemnly declare that contents of the Para-wise Comments are correct to the best of my knowledge and record and nothing has been concealed from this Hon'ble Tribunal. It is further stated on oath that in this Para-wise Comments, the answering Respondent has neither been placed ex-parte nor their defense/struck up.

DEPONENT

*[Signature]*  
 CNIC No. 6102-7963030-7  
 Contact No. 0333 7009346

**ATTESTED**



**27 MAY 2024**

S.A. No 572/2024

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10<sup>th</sup> May, 2024

1. Junior to counsel for the appellant and Mr. Arshad Azam, Assistant Advocate General present.

2. Despite service, reply on behalf of respondents was not submitted, nor anybody is present on behalf of respondents.

Therefore, they are placed ex-parte. To come up for arguments on 22.07.2024 before D.B. P.P given to the parties.



(Kalim Arshad Khan)  
Chairman

\*Mutozem Shah\*



Section Officer (Litigation)  
Government of KP  
Establishment Department

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BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR.

Khyber Pakhtunkhwa  
Service Tribunal

APPEAL No. 572 /2024

Diary No. 11863

Dated 21-03-2024

Mr. Fawad Hussain, Computer Operator (BPS-16) Directorate of Food, Khyber  
Pakhtunkhwa

..... Appellant

Versus

1. The Government of Khyber Pakhtunkhwa,  
Through Chief Secretary Government of Khyber Pakhtunkhwa,  
Civil Secretariat Peshawar.
2. The Establishment & Administration Department,  
Through Secretary Establishment & Administration Government of Khyber  
Pakhtunkhwa,  
Civil Secretariat, Peshawar.
3. The Finance Department,  
Through Secretary Finance to the Government of Khyber Pakhtunkhwa,  
Civil Secretariat, Peshawar.
4. The Government of Khyber Pakhtunkhwa  
Through Additional Chief Secretary Merged Areas,  
Office at Warsak Road, Peshawar.

..... Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL ACT, 1974 FOR ADJUSTMENT OF THE  
APPELLANT IN THE CIVIL SECRETARIAT, KHYBER  
PAKHTUNKHWA.

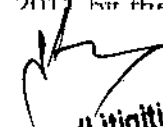
RESPECTFULLY SUBMITTED:

The appellant most humbly beg to submit as under:

1. That the Appellant is a law-abiding citizen of Pakistan and also hails from a respectable family. He was appointed as Budget Assistant in FATA Development Authority Administration Department on contract basis vide Notification dated 27-10-2007.

Copy of the notification dated 27-10-2007 is Annex-A.

2. That the services of the Appellant were regularized vide Notification dated 22-11-2011 by the approval of Board of Directors created in its 22nd meeting held on 25th

  
Section Officer (Litigation)  
Government  
Establishment Department



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
No. SO(Policy)/E&AD/Misc/2020  
Dated Peshawar, the December 24, 2020

To

1. The Director STI, E&A Department.
2. All Additional Secretaries in E&AD.
3. All Deputy Secretaries in E&AD.
4. All Section Officers in E&AD.
5. The Estate Officer/Programme Officer (Computer Cell) in E&AD.

Subject: SIGNING OF PARAWISE COMMENTS ETC IN SERVICE APPEALS.

Dear Sir,

I am directed to refer to this Department letter No.SOR-VI/E&AD/I-23/2005 dated 12-01-2008 (copy enclosed) on the subject. The Competent Authority has been pleased to authorize the Special Secretary (Establishment) Establishment Department to sign the para-wise comments in cases of service appeals filed by the Civil Servants before the Khyber Pakhtunkhwa Service Tribunal on behalf of Chief Secretary, Khyber Pakhtunkhwa and Secretary, Establishment Khyber Pakhtunkhwa.

Yours faithfully,

SECTION OFFICER (POLICY)

ENDST: NO. & DATE EVEN

Copy forwarded to:

1. Secretary to Govt. of Khyber Pakhtunkhwa, Law Department
2. Registrar, Peshawar High Court Peshawar.
3. Advocate General Khyber Pakhtunkhwa, Peshawar.
4. Registrar Khyber Pakhtunkhwa Service Tribunal, Peshawar.
5. PS to Chief Secretary, Khyber Pakhtunkhwa
6. PS to Secretary Establishment, Khyber Pakhtunkhwa
7. PS to Special Secretary (Establishment) Establishment Department
8. PS to Special Secretary (Reg). Establishment Department.

SECTION OFFICER (POLICY)

Section Officer (Litigation)  
Government of KP  
Establishment Department