


FORM OF ORDER SHEET

Court of _____

Appeal No. 856 /2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/06/2024	<p>The appeal of Mr. Shoukat Hayat presented today by Mr. Saif Ali Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 24.06. 2024. Parcha Peshi given to the counsel for the appellatant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

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

Service Appeal No. 856 /2024

Shoukat Hayat.....Appellant

VERSUS

Chief Minister, Khyber Pakhtunkhwa and others. Respondents

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Appellant

Through

Saif Ali Khan

&

Muhammad Asim

Advocates High Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No: 836/2024

Shoukat Hayat S/o Mir Salam Khan

Associate Processor, Govt. Degree College, Badabir,
Peshawar

.....**APPELLANT**

*****Versus*****

1. Chief Minister, Khyber Pakhtunkhwa through Principle Secretary.
2. Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
3. Secretary, High Education, Khyber Pakhtunkhwa, Peshawar.

.....**RESPONDENTS**

SERVICE APPEAL UNDER SECTION 4 OF
SERVICE TRIBUNAL ACT, 1974 AGAINST THE
ORDER OF CHIEF MINISTER DATED 30/05/2024.

PRAYER:

ON ACCEPTANCE OF INSTANT APPEAL, THE
IMPUGNED ORDER OF THE RESPONDENT NO. 1
DATED 30/05/2024 MAY PLEASE BE SET ASIDE AND
TWO WITHHOLDING INCREMENTS FOR TWO YEARS
AS PER ORDER MAY PLEASE BE

**RESTORED ALONG WITH THREE NUMBER
OF PERs IN FAVOUR OF APPELLANT
AGAINST RESPONDENT.**

Respectfully Sheweth:-

- 1) That the appellant was Associate Professor of History was civics in Grade BPS-19 of Govt. Degree College Badh Bair and now in GDC Kohedaman, Peshawar. (Copy of the service card is attached A Annexure "A")
- 2) That the appellant filed a casual leave application to the hon'ble Principal Govt. Degree College, Badhber, Peshawar. (Copy of application is attached as Annexure "B")
- 3) That the appellant has performed his duties honestly and to his abilities.
- 4) That during the period of his service at Govt. Degree College Badhbair the principal filed a complaint with the allegation of misbehavior, coming late to the class and non-serious attitude toward performance of his duties etc, falsely leveled against the appellant. (Copy of complaint is attached as Annexure "C").
- 5) That as per report of the Principal remaining absent period from the duties in the month of 2021 on 4th, 6th, 11th, 13th, 26th, 38th and 30th of August, 2021 and 2nd & 3rd September of 2021.
- 6) That on the allegations leveled against the appellant, the departmental inquiry was conducted by the department and a committee was constituted, which consists of Syed Muhammad Alishah (PCS EC 20)

Commissioner Kohat Division and Mr. Irfan Ullah Principal GDC Pabbi Nowshera. (Copies of the inquiry committee as well as findings of the inquiry are attached as Annexure "D & E")

- 7) That the that perusal of the absentia mentioned against the appellant was a Crona period as per notification of National Command & Operation Center (NCOC), Islamabad released from the office of Prime Minister, Islamabad on dated 02.08.2021 reference similarly and the order was also issued with reference NOCO letter No.801/AC/NCOC-01 dated 28.08.2021, Islamabad as per order release on 02.08.2021, in which Peshawar was mentioned highly Covid area in the order "the office routine was normal officer working hours for public/ private office were continued however, attendance level was reduced from 100% to 50% of August 2021, both the orders issued from the P.M Office Islamabad. (Copy of the Notification dated 02.08.2021 and 28.08.2021 are attached as Annexure "F")
- 8) That appellant submitted his reply for the allegations leveled against him and explained his position.
- 9) That the appellant pointed out the definition given in E&D Rules, 2011 in which willful/ habitual absence is clearly stipulated in E&D Rules, 2021. And the willful habitual absence is clear cut that appellant does not call under willful and habitual absence according to Act 2011 & E&D Rules. (Copies of the written reply dated 06.12.2023 is attached as Annexure "G")
- 10) That after the submission of reply on behalf of appellant, the appellant call upon for personal hearing

by Inter Provincial Coordination Department for the allegations/ charges against the appellant E&D Rules, 2011. Before the competent authority during the personal hearing the Secretary inter Provincial Coordination Decampment mentioned the minor penalty of withholding of two increments for two years remained which was proposed by the inquiry officers. (Copies of the notification on dated 04.01.2024 is attached as Annexure "H")

- 11) That the appellant filed a review appeal before the Chief Minister KPK for setting aside the minor penalty of withholding of two increments for the period of two years. but the appellate authority regret the appeal of the appellant and maintained the minor penalty of withholding of two increments. (Copies of notification dated 30.05.2024 is attached as Annexure "I").
- 12) That from reliable sources the PSB has been held on 25.06.2024 but appellant was not considered for promotion. (Copy of PSB notification is attached as Annexure "J").
- 13) That appellant being aggrieved now approaches this hon'ble Tribunal, inter-alia on the following grounds:-

GROUND.

- A. That the order dated 30.05.2024 passed by the Appellate Authority is against the rules and the law of Rule 4(2) of E&D Act, 2011.
- B. That the order of the Appellate Authority upon appeal of dated 30.05.2024 is void and null and against the law

and justice, not tenable in the eyes of law and is liable to be set-aside for the sack of justice.

- C. That appellate Authority passed the order by regretting the appeal of the appellant as against the E&D Rules, 2011 and did not considered the rules of 211 as defined in the Act.
- D. That the inquiry officers passed order against the appellant without producing any evidence against the allegations which were leveled in charge sheet, hence the order is liable to be set-aside.
- E. That the appellant does not fall with the allegation leveled against him and the and the appellant is not habitual and willful absentee.
- F. That in the inquiry report, it has been mentioned by inquiry committee that there were written complaints on behalf of students, but during the inquiry neither complaints were found nor any plaint was produced before the inquiry officer.
- G. That no chance of cross examination was given to the appellant by the inquiry committee after submitting of reply of appellant.
- H. That it is the provision of law that appellant shall have issued notice, but no notice and publication of information was sent to appellant for habitual and willful absentia from the duties to the appellant which is mandatory under the law to issue notice by immediate officer (Principal) and it is the violation of provision of law and all the allegations against the appellant and false are self-made by the principal of the College that

there is no evidence on the record that appellant was willfully absent from duties.

- I. That, counsel for appellant seeks leave of this Hon'ble Court to argue further points, having legal bearing, at the time of arguments.

It is humbly prayed that on acceptance of instant appeal the impugned order of the respondent no.1 dated 30.05.2024 may please be set-aside and two withholding increments for two years as per order may please be restored alongwith three number of PERs in favour of appellant against respondent.

Any other relief which this hon'ble court deems appropriate in the circumstances of the case though not specifically asked for may kindly also be granted.

Dated:

Appellant

Through

Saif Ali Khan

&

Muhammad Asim

Advocates High Court

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

Service Appeal No. _____/2024

Shoukat Hayat.....Appellant

VERSUS

Chief Minister, Khyber Pakhtunkhwa and others. Respondents

AFFIDAVIT

I, Shoukat Hayat S/o Mir Salam Khan Presently residing at House No.237, Street No.4, Sector P-2, Phase-IV, Hayatabad, Peshawar (Appellant) do hereby affirm and declare on oath that the contents of the **Appeal** are true and correct to the best of my knowledge and belief and nothing material has been concealed from this hon'ble Tribunal.

Deponent

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

In re:
Service Appeal No. _____/2024

Shoukat Hayat.....Appellant

VERSUS

Chief Minister, Khyber Pakhtunkhwa and others. Respondents

*APPLICATION FOR ISSUANCE OF DIRECTIONS
TO THE RESPONDENTS TO INCLUDE THE
NAME OF APPELLANT IN THE UPCOMING PSB
MEETING.*

Respectfully Sheweth:

- 1) That the above titled appeal is being filed before this hon'ble Tribunal alongwith instant application.
- 2) That the grounds of main appeal may kindly also be considered as part and parcel of this application.
- 3) That the appellant came to know that in the PSB meeting is going to be held within few months, therefore, the appellant request that his name may be included in the upcoming PSB meeting as he is the most senior in the senility list.
- 4) That appellant is having a good prima-facie case in his favour and is also sanguine about its success and if the relief as prayed in the heading of this application is not granted, the appellant will suffer great loss in terms of his seniority position.

- 5) That balance of convenience also lies in favour of appellant.

It is, therefore, humbly prayed that the respondents may graciously be directed to include the name of appellant in the upcoming PSB meeting.

Appellant

Through

Saif Ali Khan

&

Muhammad Asim
Advocates High Court

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

In re:

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

Service Appeal No. _____/2024

Shoukat Hayat.....Appellant

VERSUS

Chief Minister, Khyber Pakhtunkhwa and others. Respondents

ADDRESSES OF PARTIES

APPELLANT

Shoukat Hayat S/o Mir Salam Khan
Presently residing at House No.237, Street No.4,
Sector P-2, Phase-IV, Hayatabad, Peshawar

RESPONDENTS

1. Chief Minister, Khyber Pakhtunkhwa.
2. Govt. of Khyber Pakhtunkhwa through
Chief Secretary, Civil Secretariat,
Peshawar.
3. Secretary Higher Education, Khyber
Pakhtunkhwa, Peshawar
4. Director Higher Education, Khyber Pakhtunkhwa,
Peshawar.

Appellant

Through

Saif Ali Khan

&

Muhammad Asim
Advocates High Court

To (2) Copy of all the applications on
dated 3/8/2021 15/8/2021 12/8/2021 10/8/2021
The Principal are attached with Annexure 6
GDC Badaber, Peshawar

Sub: Casual Leave

Respected Sir,

Due to some private
affairs here at home I am not
in a position to attend the
College on 4-8-2021, therefore, I
request you to grant me casual
leave. Regards.

Associate Prof. 3/8/21
Prof. Mansoor Hayat Khan
GDC Badaber, Peshawar

To

(3)

The Principal
GDC Badaber, Peshawar

Sub: Casual Leave

Respected Sir

With due respect I have
the honour to say that I cannot
attend the College today (i.e. 6-8-2021)
because of urgent matter and, therefore,
request for casual leave. Regards,

Associate Prof 5/8/21
Prof. Mankat Hayat Khan
GDC Badaber, Peshawar

(4)

To

The Principal
Govt Badli, Bhamra

Sub: Casual Leave

Respected Sir,

I have been victim to
severe cold and sneezing and
therefore, cannot attend Alie
College on 9-8-2021 and, therefore,
request you for casual leave.

Regards.

Associate Prof. 8/8/2021

Prof. Mankat Hayat Khan
Govt Badli, Bhamra

(5)

To

The Principal
GDC Budake, Rehman.

Sub. Casual Leave

Respected Sir,

I am proceeding to my
village in CW some family
matters and therefore cannot
attend the College on 13.8.2021.
I therefore, request you to grant
me casual leave. Regards.

Associate Prof. 12/8/2021

Prof. Manku Haryan
GDC Budake, Rehman.

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To

The Principal,
GDC Badli, Bishnupur

Subject: Casual leave

Respected Sir,

Respectfully stated that I
will be engaged in a few
official matters in Secretariat and
will not be in a position to attend
the College on 11-8-2021. I, therefore,
request you for grant of casual
leave. Regards.

Associate Prof. 10/8/2021
Prof. Manoj Kumar Hazarika
GDC Badli, Bishnupur



DIRECTORATE OF HIGHER EDUCATION

KHYBER PAKHTUNKHWA

Rano Garhi, Peshawar

Tel # 091-2650025 / 9330496

E-mail:- dhexkppesh@gmail.com

Facebook.com/dhexkppeshawar

Twitter.com/dhexkppeshawar

Case/Estb Branch/Act/General Comp File

Date/Peshawar the 12/10/2022

7-8

To

- Copy of the inquiry committee on dated 15/10/2022 are attached with*
1. Mr. Muhammad Ali Shah (PCS-EG-BS-20)
Awaiting posting Establishment Department.
 2. Prof: Irfanullah
Principal, Govt; Degree College, Pabbi, Nowsehra.

(7)

SUBJECT

DISCIPLINARY PROCEEDINGS AGAINST MR. SHAIKAT HAYAT, ASSOCIATE PROFESSOR OF HISTORY-CUM-CIVICS (BS-19), GOVT; DEGREE COLLEGE, BADABER, PESHAWAR.

Respected Sir,

السلام عليكم

I am directed to refer to the Section Officer (Colleges-II) Govt; of Khyber Pakhtunkhwa, Higher Education Department letter No. SO (Colleges-II)/HED/12-1/2022/Shaukat Hayat/4503-05 dated 21.09.2022 addressed to you and copy thereof endorsed to this office on the subject cited above and to state that Mr. Afraseyab, Assistant Director (Academics) of this Directorate will assist you during the inquiry proceedings, please.

Yours Faithfully,

(Gohar Hussain)

DY: DIRECTOR (ESTABLISHMENT)

Endst; No. 19221-27 /

Copy of the above is forwarded to the:-

1. Section Officer (Colleges-II) Govt; of Khyber Pakhtunkhwa, Higher Education Department Peshawar with reference to his letter referred above.
2. Principal, Govt; Degree College, Badaber, Peshawar.
3. Principal, Govt; Degree College, No. 1 D.I.Khan.
4. Mr. Shaukat Hayat, Associate Professor of History-cum-Civics, (B-19), Govt; Degree College, No. 1 D.I.Khan under transfer to Govt; Degree College, Badaber, Peshawar alongwith a copy of Charge Sheet/ Statement of allegations with the direction to appear before the Inquiry Officer on the date, time and venue fixed by the Inquiry Officer.
5. Mr. Afraseyab, Assistant Director (Academics), Local Directorate with the remarks to assist the Inquiry Officer during the inquiry proceedings on the date fixed by him.

(Signature)

DY: DIRECTOR (ESTABLISHMENT)

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DISCIPLINARY ACTION

I. Dr. Shahzad Khan Bangash, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Mr Shoukat Hayat, Associate Professor of History-Cum-Geology, Govt. Degree College Badher, Peshawar has rendered himself liable to be proceeded against, as he committed the following acts/ omissions, within the meaning of rule 03 of the Khyber Pakhtunkhwa Govt. Servants (Efficiency and Discipline) Rules, 2011:

STATEMENT OF ALLEGATIONS

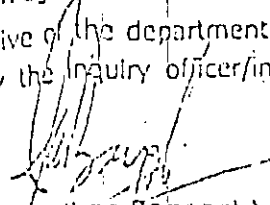
- i. That a number of complaints were pouring in from the Principal, Govt. Degree College Badher Peshawar wherein various allegations of misbehaviour, coming late to the classes & non-serious attitude towards performance of duties etc. were levelled against him. The Principal concerned directed, you, time and again through explanations/warnings to mend your ways towards your duties but to no avail.
 - ii. That as per report of the Principal, Govt. Degree College Badher Peshawar he periodicaly remained absent from duty in the month of August, 2021 i.e on 4th, 6th, 9th, 11th, 13th, 26th, 28th & 30th of August, 2021 and 2nd & 3rd September, 2021 without prior permission of the Principal and without acceptance of his leave applications by the Principal concerned.
 - iii. That Director Higher Education, Khyber Pakhtunkhwa conducted a fact finding inquiry through Professor Bakhtyar (Principal, Govt. Degree College Lahor Swabi and the allegations stood established against him.
2. For the purpose of inquiry against the said accused with reference to the above allegations, an Inquiry officer/inquiry committee, consisting of the following, is constituted under rule 10(1)(a) of the Ibid rules.

i. Muhammad Ali Shah (P.S. EG-BS-70) O&D

ii. Prof. Irfanullah, Prof. Govt. Degree Coll. Peshawar

3. The Inquiry officer/inquiry committee shall, in accordance with the provisions of the Ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within sixty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Inquiry officer/inquiry committee.


(Dr. Shahzad Khan Bangash)
Chief Secretary, Khyber Pakhtunkhwa

Copy of the inquiry report as well as finding of the inquiry is attached with Ann D

INQUIRY REPORT IN RESPECT OF MR. SHOUKAT HAYAT,
ASSOCIATE PROFESSOR OF HISTORY-CUM-CIVICS, GOVT
DEGREE COLLEGE BADHABER, PESHAWAR

(9)

Brief facts of the case

In the year 2021, a fact finding inquiry was conducted against Mr. Shoukat Hayat, Associate Professor of History-Cum-Civics at government degree college Badhaber. Professor Bakhtiyar, Principal Government Degree College Lahor was nominated as fact finding inquiry officer. The detailed inquiry report may please be perused vide (Annex- I).

In the light of the report of the fact-finding inquiry, Mr. Shoukat Hayat, Associate Professor of History-Cum-Civics at government degree college Badhaber was issued charge sheets/ statement of allegations by the 'Competent Authority' which were accordingly served upon him. An inquiry committee comprising of Muhammad Ali shah, OSD (PCS-EG BS 20) and Professor Irfanullah, Principal, Government Degree College, Pabbi Nowshera was constituted to formally inquire into the matter and submit its report within ten days (Annex-II). Mr. Afraseyab, Assistant Director (Academics), Directorate of Higher Education, Peshawar was assigned the duties of the departmental representative in the instant inquiry to facilitate the proceedings of the inquiry by the inquiry committee (Annex-III).

Proceedings

The accused officer submitted the parawise replies to the charge sheet/ statement of allegations (Annex-IV). The accused officer was summoned before the inquiry committee on 23-12-2022 (Annex-V).

After the receipt of replies of accused officer/ officials and perusal of the record provided by the administrative department/ departmental representative, the accused was given the chance to clarify the things, consolidate the replies submitted by him and was cross examined accordingly.

The detailed inquiry proceedings against the officer, including his replies and findings of the inquiry committee are recorded as under:

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Allegations against Mr. Shoukat Hayat, Associate Professor of
History-Cum-Civics, Govt Degree College Badhber, Peshawar

Statement of allegations containing three (3) charges, already served upon the accused officer are reproduced below and discussed charge wise along with the reply of the accused and findings of the inquiry committee:

Charge (1): THAT A NUMBER OF COMPLAINTS WERE POURING IN FROM THE PRINCIPAL, GOVT. DEGREE COLLEGE BADHBER PESHAWAR WHEREIN VARIOUS ALLEGATIONS OF MISBEHAVIOR, COMING LATE TO THE CLASSES & NON-SERIOUS ATTITUDE TOWARDS PERFORMANCE OF DUTIES ETC. WERE LEVELED AGAINST YOU. THE PRINCIPAL CONCERNED DIRECTED YOU TIME AND AGAIN THROUGH EXPLANATIONS / WARNINGS TO MEND YOUR WAYS TOWARDS YOUR DUTIES BUT TO NO AVAIL.

Reply of the accused

To this charge, the accused officer replied that allegations of misbehavior, non-serious attitude towards performance of duties and coming late to the classes are subjective / intangible and do not carry weight. He added that as Law knows no subjectivity / intangibility or wishful thinking of anyone but objectivity, detachment and tangibility of act. While replying to this charge leveled against him, he gave the following answers;

- a) Misbehavior means bad-mannered, uncivilized way, hooting, calling hot names, exchange of hot and abusive words or uncivilized body touch. He objected that keeping in view this definition of misbehavior, how can the department substantiate that he ever misbehaved during the discharge of his duties. He also inquired about the existence of any evidence, video, audio, pictures or evidence of any

(11)

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college teacher or class-IV to prove misbehavior with the in charge principal of the college?

Al
b) To the allegation of non-serious attitude towards performance of duties, he stated that the said allegation bears no standing. He added that he has served in Govt Degree College Badaber, Peshawar from 2014 to 2020 under the full-fledged Principal of BPS-20 namely Prof. Muhammad Sadiq. He stressed that his PERs from 2014 to 2020 may very kindly be perused that will manifest his character.

c) Replying to the allegation of coming late to the classes, he stated that during the month of August, 2021, there were no activities / functioning activities in the College because of Covid-19. Government of Pakistan National Command and Operation Centre (NCOC) Islamabad issued notifications with different intervals wherein it was stated that "All type of education institutes countrywide will follow staggered opening (50 % attendance 3 * days a week" (Annex- VI). He also produced another notification of NCOC stating therein "Ban on all types of indoor / outdoor gatherings and closure of education sector" (Annex- VII).

Discussion

The committee will discuss all the three justifications given by accused officer as followed;

- a. As far as the allegation of misbehavior and the reply of the accused officer to the said allegation is concerned, when an explanation was called from accused officer for being absent from official duties on 04, 06, 09, 11 and 13 August 2021 without prior permission, the accused officer, instead of giving some valid or justifiable reason for his absence responded to his Principle to avoid such kind of practices (calling his explanation) in future (Annex-VIII). This is one among numerous examples which the inquiry committee

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found while perusing the record provided by the departmental representative establishing the misbehavior of the accused officer beyond any doubt.

b. As far as the allegation of the non serious attitude towards the performance of duties is concerned, departmental representative provided the computerized record of attendance management system in respect of accused officer w.e.f 12.01.2021 till 06.06.2022. On almost all the dates, the accused officer is found absent from the college and proving beyond doubt that he does not take his job seriously (Annex-IX).

c. As far as the accusation of coming late to the classes is concerned, there is a complaint to this effect submitted by the students of the concerned college (Annex-X). In response to the instant accusation, the accused officer has relied upon the two notifications issued by National Command and Operation Centre (NCOC) but he has failed to justify the noncompliance of the office order of the Principal of the college concerned vide which it has been clearly directed to all the staff to attend the college on the given timings and which was accordingly endorsed by the accused officer (Annex-XI). Even during the conduct of mid-term exam (1st semester Fall 2020 w.e.f 23.08.2021 to 25.08.2021), while the accused officer was assigned the duty of the superintendent for the said exam, he opted to be absent on 24.08.2021 (Annex-XII). So once again proving beyond doubt that he is amenable to any supervisory jurisdiction.

Findings

Keeping in view the above given discussion and perusal of record, allegation No I against the accused officer is fully proved.

Charge (II): THAT AS PER REPORT OF THE PRINCIPAL, GOVT. DEGREE COLLEGE BAHIBER PESHAWAR YOU PERIODICALLY REMAINED ABSENT FROM DUTY IN THE

(B) 28

MONTH OF AUGUST, 2021 I.E. ON 4TH, 6TH, 9TH, 11TH, 13TH, 26TH, 28TH & 30TH OF AUGUST, 2021 AND 2ND & 3RD SEPTEMBER, 2021 WITHOUT PRIOR PERMISSION OF THE PRINCIPAL AND WITHOUT ACCEPTANCE OF YOUR LEAVE APPLICATIONS BY THE PRINCIPAL CONCERNED.

Reply of the accused

To this allegation, the accused officer replied that there were no academic / functioning activities in the College, then how the officer be asked about his absence which indirectly means the violation of the standing instructions of Government. He added that the days of absenteeism reflected in the charge sheet are invalid as the functioning / duties in the College came to normally after mid September, 2021. He also furnished two notifications of NCOC to consolidate his arguments (Annex-VI, VII).

Discussion

Perusal of record shows that the officer concerned has willfully absented himself from the official duties without any prior approval from the competent authority. Explanations to this effect and the casual replies of the accused officer in response to these explanations may please be perused vide (Annex-XIII). The two notifications of NCOC furnished by the accused officer were also evaluated critically.

- i. First notification dated 2 August 2021 was issued with applicability period w.e.f. 1-9-2021 till 15-9-2021. This notification authorized 50% attendance 3 days a week. But this attendance relates to students not staff.
- ii. Second notification dated 28-8-2021 was issued with applicability period w.e.f. 4-09-2021 till 12-09-2021. This notification enforces closure of educational institutions.

The accused officer while furnishing the notifications forgot that the second allegation leveled against him spans over the month of August 2021 till 3rd September 2021 i.e. the period wherein 50% attendance of educational institutions for three days a week was authorized by NCOC.

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And this attendance ratio was for the pupils, not the teachers. Committee has also been mindful of the fact that issuance of notifications by NCOC can not be taken as suspension of Leave Rules. When the immediate boss is there, ensuring the attendance of all the staff members, calling meetings to ensure observance of timings by all the staff members (Annex- XIV), it is beyond comprehension that the accused officer is flouting all the set governmental set of procedures and whiling away the time as per his own whims and desires. His plea of furnishing the two notifications of NCOC for his remaining absent are totally misplaced and do not reflect the contents of the said notifications and have failed to absolve him.

Findings

Keeping in view the above given discussion and perusal of record, allegation No II against the accused officer is fully proved.

CHARGE (II) THAT DIRECTOR HIGHER EDUCATION, KHYBER PAKHTUNKHWA CONDUCTED A FACT FINDING INQUIRY THROUGH PROFESSOR BAKHTIAR PRINCIPAL, GOVT. DEGREE COLLEGE LAHORSWAH AND THE ALLEGATIONS STOOD ESTABLISHED AGAINST YOU.

Reply of the accused

To this allegation, the accused officer replied that the biased attitude of the in charge principal of the College can be manifested from the fact that he forwarded his PER - 2021 from his own to the Director Higher Education KP with recording of adverse remarks (making the same ground for adverse entries on the basis of which this charge sheet was established) without waiting for or giving him an opportunity to submit the copies which is against the rule / law in toto. But the Director Higher Education KP did not agree with this act of the in charge principal the College and expunged the adverse remarks.

Discussion


Allegation No. III is redundant in the instant inquiry as allegation No I and allegation No II were proven through the fact finding inquiry alluded to in allegation No III and proved to be the cause of action for the


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instant inquiry. So this allegation is left unattended being replication of allegation No I and II.

This inquiry report comprises of 07 pages and 14 annexures. All the pages have been signed/ initialed by the inquiry committee.


Professor Irfanullah,
Principal,
Government Degree College,
Pabbi Nowshera


Muhammad Ali Shah
(OSD, PCS-EG, BS-20)



DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA
Rano Garhi, Peshawar



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No. 17641 / CA-1/ Estt: Branch/A-12/Shaukat Hayat/ Hist-cum-Civics Dated Peshawar the 09/10 /2023

To *copy of the show cause notice on 09/10/2023*
are attached with Annexure

REGISTERED
MOST IMMEDIATE

The Principal
Govt: Degree College, Koh-e-Daman,
Peshawar.

SUBJECT

DISCIPLINARY PROCEEDINGS AGAINST MR. SHAUKAT HAYAT, ASSOCIATE PROFESSOR OF HISTORY-CUM-CIVICS (BS-19), GOVT; DEGREE COLLEGE, BADABER, PESHAWAR.

Memo:

I am directed to refer to the subject cited above and to enclose herewith two copies of Show Cause Notice duly signed by the Competent Authority in respect of Mr. Shaukat Hayat, Associate Professor of History-cum-Civics of your College with the request that the same may be served upon the accused officer and return one copy of the Show Cause Notice after obtaining his signature as token of receipt and also send reply to the Show Cause of the Officer concerned within stipulated time period for onward submission to the Provincial Government, please.

[Signature]
09/10/23

DY: DIRECTOR (ESTABLISHMENT)

Endst; No. _____/

Copy of the above is forwarded to the Section Officer (Colleges-II), Govt; of Khyber Pakhtunkhwa, Higher Education Department, Peshawar with reference to his letter No. SO (Colleges-II)/HED/1-127/2023/Shaukat Hayat dated 09.10.2023.

DY: DIRECTOR (ESTABLISHMENT)

SHOW CAUSE NOTICE

I, Muhammad Azam Khan, Chief Minister Khyber Pakhtunkhwa, as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve show cause notice upon you, Mr. Shaukat Hayat, Associate Professor of History-Cum-Civics (BS-19) posted at Govt. Degree College Koh-e-Daman as follows:

1. (i) that consequent upon the completion of inquiry conducted against you, by the inquiry officers Mr. Syed Muhammad Ali Shah (PCS EG BS-20) Commissioner Kohat Division & Mr. Irfanullah, Prof./Principal Govt. Degree College, Pabbi Nowshera wherein you were given opportunity of hearing.
- (ii) on perusal of the findings and recommendations of the Inquiry Officers, the material on record and other connected papers including your defence before the Inquiry Officers.

I am satisfied that you have committed the following acts/omissions specified in rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011:-

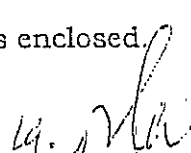
- (a) misconduct;
- (b) habitually absenting yourself from duty without prior approval of leave;

2. As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you the penalty of *withholding of 02 months of pay* under rule-4 of the said rules. *a period of 02 years.*

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within seven days or not more than fourteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

5. A copy of the findings of the inquiry officer is enclosed.

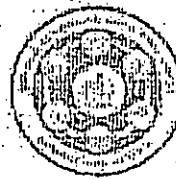

(Muhammad Azam Khan)
Chief Minister,
Khyber Pakhtunkhwa

Government of Pakistan
National Command and Operation Centre (NCOC)

ISLAMABAD

Fax 051-9224720

Ann F
(17)



Subject: Revised NPIs for High Disease Prevalence Cities

COVID update at PM office dated 2nd August 2021 reference.

1. COVID update encompassing proposed NPIs was presented by NCOC to Honourable Prime Minister of Pakistan on 2nd August 2021. After taking a detailed stock of current COVID situation in different parts of country, Honourable Prime Minister very kindly consented the approval of stringent measures for high disease prevalence cities only (Lahore, Rawalpindi, Faisalabad, Multan, Peshawar, Abbottabad, Muzaffarabad, Mirpur, Gilgit, Skardu and Islamabad). As regards to Karachi and Hyderabad, stringent measures already enforced by Sindh Government.

2. Revised NPIs for high disease prevalence cities are as under:-

Ser	Sector	NPIs	NPIs Effective Duration
a.	Business Timings	Market / business activities will continue till 08:00 pm less essential services (Petrol Pumps, Pharmacies, Medical Facilities, Vaccination Centers, Milk / Dahi Shops and Tanneries).	3 rd August to 31 st August 21
b.	Closed Days	There will be 2 x closed days during a week. Choice of closed days will be at the discretion of federating units.	
c.	Dining	Complete ban is imposed on indoor dining; however, outdoor dining will be allowed till 10:00 pm under strict COVID protocols. Takeaways are allowed 24/7.	
d.	Weddings	Indoor weddings will be banned with effect from 8 th August 21. Outdoor weddings will be allowed with maximum 400 x guests under strict COVID protocols. Timings for outdoor weddings will be till 10:00 pm.	
e.	Religious	There will complete closure of shrines.	
f.	Cinemas	There will complete closure of cinemas.	
g.	Gatherings	Ban is imposed on all types of indoor gatherings including cultural, musical / religious / miscellaneous event; however, outdoor gatherings will be allowed for maximum 400 x individuals under strict COVID protocols.	
h.	Sports	Continuation of ban on contact sports (Karate, Boxing, Martial Arts, Rugby, Water Polo, Kabaddi & Wrestling) will be ensured by federating units.	
i.	Gyms	Continuation of indoor Gyms for vaccinated individuals only.	
j.	Office Routine	Normal office working hours for public / private offices will continue; however, attendance level is reduced from 100% to 50 %.	
k.	Public Transport	Occupancy level of public transport is reduced from 70% to 50%. Ban is imposed on all type of snacks serving to the passengers during journey by the	



18



Subject: **Special NPIs - High Disease Prevalence Districts (Punjab, KP & ICT)**

References

- A NCOC letter no 801/A/2 /NCOC-01 dated 28 August 2021.
B COVID update at PM office dated 3rd September 2021.
1. COVID update encompassing special NPIs for selective high disease prevalence districts of Punjab, KP & ICT was presented by NCOC to Honourable Prime Minister of Pakistan on 3rd September 2021. After taking a detailed stock of current disease situation in different districts, daily hospital admissions, pressure on critical care and availability of oxygen; Honourable Prime Minister very kindly consented the approval of special NPIs for following 24 x high disease prevalence districts:-

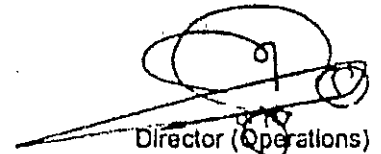
Federating Units	Districts
Punjab (15)	Rawalpindi, Gujrat, Gujranwala, Sheikhupura, Sialkot, Lahore, Faisalabad, Sargodha, Khushab, Mianwali, Bhakkar, Khanewal, Multan, Bahawalpur and Rahim Yar Khan
KP (8)	Peshawar, Swabi, Malakand, Swat, Haripur, Abbottabad, Mansehra and D I Khan
ICT	Islamabad

2. Special NPIs for high disease prevalence districts are as under:-

Ser	Sector	Special NPIs
a.	Gatherings	Ban on all types of indoor / outdoor gatherings.
b.	Gyms	Ban on all types of indoor Gyms.
c.	Public Transport	Ban on intercity public transport.
d.	Education	Closure of education sector.

3. Special NPIs will remain enforced from 4 - 12 September 21 in above mentioned 24 x high disease prevalence districts.
4. NPIs for remaining sectors will remain enforced as already communicated vide letter at reference A (copy attached).
5. Review for special NPIs will be carried out at NCOC on 9th September 21.
6. All federating units are requested to institute robust mechanism for implementation of special NPIs and share details with NCOC accordingly.
7. A close monitoring of disease prevalence / critical health care system is being carried out at NCOC on daily basis and necessary decisions will be taken whenever deemed appropriate to control the disease spread.
8. All concerned are requested to issue notifications at priority and dissemination to all concerned, please.




Director (Operations)
(Mazhar Ajaib)

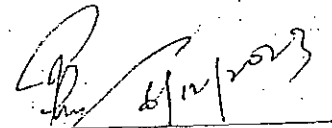
To

Ministry of National Health Services, Regulation and Coordination
Ministry of Interior
Ministry of Federal Education and Professional Training
Ministry of Information and Broadcasting
Chief Secretary Punjab
Chief Secretary Sindh

Chief Secretary Balochistan
Chief Secretary KP
Chief Secretary AJK
Chief Secretary GB
Commissioner ICT

Copy of the reply of show cause notice are attached with
 Reply to Showcause Notice
 Ann G On Page (19)

Allegations	Questions of Law	Questions of Facts	Findings of Enquiry	Reply/ Arguments of the accused
1. That a number of complaints were pouring in from principal GDC Badaber, Peshawar wherein various allegations of misbehaviour, come late to the classes and non-serious attitude towards performance of duties.	The word "Misbehaviour" is alien to E&D Rules, 2011; therefore, it does not stand from the very root.	No evidence produced to materially establish with solid proof regarding any misbehavior.	Charge proved.	When the very word "Misbehaviour" is alien to E&D Rules, 2011 then how it was proved. The principal forwarded my PER 2021 and recoded adverse entries and marked it below average on the basis of the same allegations but the Director of Higher Education KP did not agree with the principal and expunge the adverse remarks and marked it as average. Now the question is, That on one side Director Higher Education KP agreed with the principal to initiate enquiry against the accused and on the other side did not agree with the principal of his adverse remarks recorded in the 2021 PER of the accused. This contrast and double standard is alien to law and the rules established under the law.
2. Absence from duty in the month of August, 2023, i.e. on 4 th , 6 th , 9 th , 11 th , 13 th , 26 th , 28 th & 30 th of August 2023 and 2 nd & 3 rd of September, 2023. Total= 10 days	Wilful/habitual absence is clearly stipulated in E&D Rules 2011 as <i>9. "Procedure in case of wilful absence.— Notwithstanding anything to the contrary contained in these rules, in case of wilful absence from duty by a Government servant for seven or more days, a notice shall be issued by the competent authority through registered acknowledgement on his home address directing him to resume duty within fifteen days of issuance of the notice. If the same is received back as undelivered or no response is received from the absentee within stipulated time, a notice shall be published in at least two leading newspapers directing him to resume duty within fifteen days of the publication of that notice, failing which an ex-parte decision shall be taken against the absentee. On expiry of the stipulated period given in the notice, major penalty of removal from service may be imposed upon such Government servant."</i> Hence wilful/habitual absence does not stand.	No evidence of wilful/habitual absence established under the procedure stipulated in the E&D Rules 2011.	Charge of wilful absence proved. (page-5 of enquiry report)	If charge of wilful absence is proved then the requirements of the procedure for proving of wilful absence under the stipulated procedure of E&D Rules 2011 have been fulfilled?


 6/12/2023

Associate Prof. Shaukat Hayat Khan

I desire to be heard in person.



Copy of the personal hearing are

GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

Checked with

Ham

(H)

Dated Peshawar 14th January 2024

(20)

(J)

NOTIFICATION

No. SO(C-II)HED/1-127/2023/86-88 WHEREAS Mr. Shaukat Hayat, Associate Professor of History-Cum-Civics (BS-19), Government Degree College Koh-e-Daman, Peshawar was proceeded against under the Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011 for the charges mentioned in the charge sheet and Statement of Allegations;

2. **AND WHEREAS** the Competent Authority, upon receipt of the reply to show cause notice submitted by the Associate Professor, under Rule-15 of the Rules laid, appointed Mr. Masood Ahmad, Secretary, Inter Provincial Coordination Department to afford him the opportunity of personal hearing on his behalf.

3. **NOW THEREFORE**, the Hon'ble Chief Minister, Khyber Pakhtunkhwa (being Competent Authority) after having considered the charges, evidence on record, the explanation of the accused officer after affording him opportunity of personal hearing and in exercise of powers under Rule-14(5)(ii) of the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011 has been pleased to confirm the minor penalty of **"withholding of two increments for a period of two years"** on Mr. Shaukat Hayat, Associate Professor of History-Cum-Civics (BS-19), Govt. Degree College, Koh-e-Daman, Peshawar.

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

Endst; No. & Date Even.

Copy for information forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director Higher Education, Khyber Pakhtunkhwa, Peshawar.
3. Principal, Government Degree College Koh-e-Daman, Peshawar.
4. Mr. Shaukat Hayat, Associate Professor of History-Cum-Civics (BS-19), Government Degree College Koh-e-Daman, Peshawar.

(ABDUL WALI KHAN)
SECTION OFFICER (COLLEGES-II)

DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA
RECEIVED
12 JAN 2024
C/O: 118-119-120

copy of the review petition or Appeal are attached with Annexure I

To

The Honourable Chief Minister (Caretaker)
Khyber Pakhtunkhwa

(20)

Subject: Review Petition

Respectfully sheweth,

With profound respect I would like to put forward the following lines for your kind consideration: -

1. I, Shaukat Hayat Khan Associate Professor in History-cum-Civics of Govt College Badaber, Peshawar now posted in Govt College Kohe Daman and Mr. Zahir Shahi Associate Professor/in charge Principal Govt College Badaber, Peshawar were colleagues and friends and both belonged to Karak district. But unfortunately, due to some private and social issues, acrimony was developed which resulted in abuse of power/office on the part of in-charge principal of the college.
2. The In-charge Principal initiated enquiry based on frivolous and flimsy allegations of misbehavior and wilful absence. Nonetheless the fact that I rebutted effectively through documentary evidence mentioned below in columns, however, penalty of withholding of two annual increments was imposed on me without duly considering my contention in the subject important.

Allegations	Questions of Law	Questions of Facts	Findings of Enquiry	Reply/ Arguments of the accused
1. Misbehaviour	<i>The word "Misbehaviour" is alien to E&D Rules, 2011; therefore, it does not stand from the very root.</i>	No evidence produced to materially establish with solid proof regarding any misbehavior.	Charge proved.	When the very word "Misbehaviour" is alien to E&D Rules, 2011 then how it was proved. The principal forwarded my PER 2021 and recoded adverse entries and marked it below average on the basis of the same allegations on the basis of which charge sheet was established but the Director of Higher Education KP did not agree with the principal and marked it as average. Now the question is, that on one side Director Higher Education KP agreed with the principal to initiate enquiry against the accused and on the other side did not agree with the principal of his adverse remarks

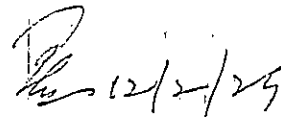
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				recorded in the 2021 PER of the accused. This contrast and double standard is alien to law and the rules established under the law. (copy attached)
2. Wilful Absence	Wilful absence is clearly stipulated in E&D Rules 2011 as 9. "Procedure in case of wilful absence.—Notwithstanding anything to the contrary contained in these rules, in case of wilful absence from duty by a Government servant for seven or more days, a notice shall be issued by the competent authority through registered acknowledgement on his home address directing him to resume duty within fifteen days of issuance of the notice. If the same is received back as undelivered or no response is received from the absentee within stipulated time, a notice shall be published in at least two leading newspapers directing him to resume duty within fifteen days of the publication of that notice, failing which an ex-parte decision shall be taken against the absentee. On expiry of the stipulated period given in the notice, major penalty of removal from service may be imposed upon such Government servant." Hence wilful /habitual absence does not stand!	No evidence of wilful/habitual absence established under the procedure stipulated in the E&D Rules 2011.	Charge of wilful absence proved. (page-5 of enquiry report)	When the requirements of the procedure for proving of wilful absence under the stipulated procedure of E&D Rules 2011 have not been fulfilled then, how the allegation is established.

Prayer:

Being aggrieved by the said order, I submit my appeal to your kind self to waive off the penalty in the spirit of justice and kindness. There is no other substance in the matter except ill-will and bias.

I strongly desire to be heard in person.



Associate
Prof. Shaukat Hayat Khan
GDC Kohe Daman, Peshawar



**GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT**

Copy of the appellate authority are
Dated Peshawar the May 30, 2024

NOTIFICATION

attached with Annexure

22

No.SO(C-II)HED/1-127/2023. WHEREAS Mr. Shaukat Hayat, Associate Professor of History-Cum-Civics (BS-19), Government Degree College Koh-e-Daman, Peshawar was proceeded against under the Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011 for the charges mentioned in the charge sheet and Statement of Allegations.

2. **AND WHEREAS** the Competent Authority, upon receipt of the reply to show cause notice submitted by the Associate Professor, under Rule-15 of the Rules ibid, appointed Mr. Masood Ahmad, Secretary, Inter Provincial Coordination Department to afford him the opportunity of personal hearing on his behalf.

3. **AND WHEREAS** the Competent Authority after having considered the charges, evidence on record, report of the inquiry officer, and in exercise of powers under Rule-14(5)(ii) of the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011 has been pleased to confirm the minor penalty of "Withholding of two increments for a period of two years" upon the accused.

4. **AND WHEREAS** Mr. Shaukat Hayat, Associate submitted Reviews appeal to the appellate authority (Chief Minister, Khyber Pakhtunkhwa) for setting aside the order of penalty of the charges leveled against him and penalty imposed upon him by the Competent Authority.

5. **NOW THEREFORE**, the Appellate Authority after having considered the appeal of the penalized officer, and in exercise of the powers under Rule 17(2) of the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011 is pleased to uphold minor penalty of "withholding of two increments for a period of two years" and regret the appeal of Mr. Shaukat Hayat, Associate Professor of History-Cum-Civics (BS-19), Government Degree College Koh-e-Daman, Peshawar.

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

Endst: No. & Date Even.

Copy for information forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director Higher Education, Khyber Pakhtunkhwa, Peshawar.
3. Principal, Government Degree College Koh-e-Daman, Peshawar.
4. Mr. Shaukat Hayat, Associate Professor of History-Cum-Civics (BS-19), Government Degree College Koh-e-Daman, Peshawar.
5. Master file.

Muhammad Shahbaz Khan
(MUHAMMAD SHAHBAZ KHAN)
SECTION OFFICER (COLLEGES-II)

Annex J Page 26



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

No. SO(PSB)/ED/1-25/2024/(05)

Dated Peshawar, the 14.06.2024.

To

1. The Additional Chief Secretary,
Government of Khyber Pakhtunkhwa,
Planning & Development Department.
2. The Senior Member, Board of Revenue,
Khyber Pakhtunkhwa.

SUBJECT: - MEETING OF THE PROVINCIAL SELECTION BOARD.

Dear Sir,

I am directed to refer to the subject and to say that meeting of Provincial Selection Board will be held on 25th June, 2024 at 11:00 AM under the chairmanship of Chief Secretary, Khyber Pakhtunkhwa in the Conference Room of Chief Secretary, Khyber Pakhtunkhwa. Agenda of the meeting alongwith working papers will be provided subsequently.

2. You are requested to kindly make it convenient to attend the meeting.

Yours faithfully,

SECTION OFFICER (PSB)

14/6/24

Encl. As above

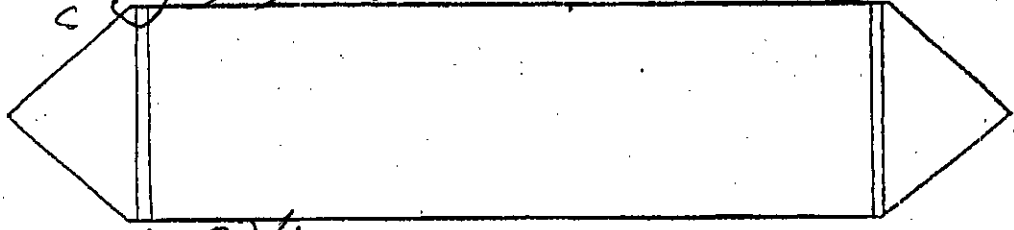
Endst. of even No. & date.

A copy is forwarded to: -

1. The PSO to Chief Secretary, Khyber Pakhtunkhwa.
2. The P.S to Chief Secretary, Khyber Pakhtunkhwa.
3. The P.S to Secretary Establishment Department.
4. The P.S to Special Secretary (Reg.) Establishment Department.

SECTION OFFICER (PSB)

بعدالت جان روس ٹریبونل اور



2024ء پنجاب
 سوکھت جان بنام گورنمنٹ آف ونگ
 اپیلز
 Respondents
 KPK

موزخہ
 مقدمہ
 دعویٰ
 جرم

باعث تحریر آنکہ

ایڈووکیٹ علی کورٹ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
 آن مقام _____ کیلئے مسٹر علی کمال محمد عام ایڈووکیٹ علی کورٹ
 مقرر کر کے اتر کر کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا۔ نیز
 وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
 بصورت ڈگری کرنے اجراء اور صولی چیک ورد پیہار عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی اور منسوخی
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
 کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
 پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو وکیل صاحب پابند ہوں گے۔ کہ پیروی
 مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم _____ ماہ _____ 20

بمقام _____ کے لئے منظور ہے۔

Accepted by