


FORM OF ORDER SHEET

Court of _____

Appeal No. 741/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/05/2024	<p>The appeal of Mr. Rehmatullah re-filed today by registered post through Mr. Zain Ul Abidin Afridi Advocate. It is fixed for preliminary hearing before touring Single Bench at D.I.Khan 19.08.2024. Counsel for appellant has been informed telephonically .</p> <p>By the order of Chairman  REGISTRAR</p>

**TO, THE REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.**

**Zain Ul Abidin Afridi
Advocate Supreme Court.**


Respected Sir,

The instant appeal has now become mature, and the following deficiencies have also been removed.

1. That the deficiency No.1 is now removed and the address of the appellant is completed according to rule-6 of the Khyber Pakhtunkhwa Service Tribunal Rules 1974.
2. That regarding deficiency No.2, it is the case of the appellant that respondent No.1 removed the appellant from service without issuing any notice, charge Sheet, or Enquiry, Thus not available.

Resubmitted

**REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.**


**Zain Ul Abidin Afridi
Advocate Supreme Court.
Dera Ismail Khan**


This is an appeal filed by Mr. Rehmat Ullah today on 26.04.2024 against the order dated 30.10.2019 against which he made/preferred departmental appeal/representation on dated 20.02.2024 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action and also removing the following deficiencies.

- 1- Address of the appellant is incomplete be completed according to rule-6 of the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal be placed on it.

No. 989 /ST,

DL. 29 / 4 /2024.


29/4/24

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Zain ul Abidin Afridi Adv.
High Court D.I.Khan.

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

Service Appeal No. 741 /2024

Rehmatullah

Versus

DEO(F) D.I. Khan etc

Service Appeal

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Dated: 25-04-2024

Your Humbly Petitioner

رحمت اللہ

Rehmatullah

Through Counsel



Zain-ul-Abideen

Advocate Supreme Court

Dera Ismail Khan.

①

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

Service Appeal No. 741 /2024.

Rehmat Ullah Son of Bara khan Caste Suleman Khel R/O Village
Garah Muhammad Akbar, District ,D.I.Khan.

Appellant

VERSUS

1. District Education Officer (Female) Dera Ismail Khan.
2. Director, Elementary and Secondary Education Department, Khyber
Pakhtunkhwa, Peshawar.

(RESPONDENTS)

**SERVICE APPEAL UNDER SECTION 4 OF THE KPK
SERVICE TRIBUNAL ACT, 1974, AGAINST THE
IMPUGNED ORDER/LETTER ENDST; NO. 21716-21
DATED 30/10/2019, ISSUED BY THE DISTRICT
EDUCATION OFFICER (F) D.I.KHAN I.E. RESPONDENT
NO.1, WHEREIN APPELLANT WAS AWARDED MAJOR
PENALTY OF "REMOVAL FROM SERVICE" BY
RESPONDENT NO.1 FOR ABSENT FROM DUTY.**

Respectfully Sheweth,

Appellant humbly submits as under:-

BRIEF FACTS:

1. That, in accordance with the regulations of the Government of NWFP presently KPK, as outlined in Finance Department Letter No. B-1-22/94-99/FD Vol: II Dated 20/07/1999, and in conformity with Director Education NWFP Peshawar No. 2644:2710/B641-AB Fixed Dated 11/09/1999, the appellant was appointed as a Class-IV (Chowkidar) by the Executive District Officer (Schools & Literacy) in Dera Ismail Khan.

3

This appointment is delineated in Endorsement No. 20114-17, dated 1/10/2007. **(Copy of the CNIC &**

Appointment order is annexed as A & B)

2. That appellant was posted at GGPS GARA MUHAMMAD AKBAR D.I.KHAN Tehsil and District Dera Ismail Khan after complying with all the terms and conditions mentioned in the ibid appointment order Dated 01-10-2007, Thereafter, appellant joined duty as assigned by the superiors.
3. That the appellant always striven hard to discharge and fulfil his duties and tasks assigned to him with due diligence and dedication. Moreover, Service record of the appellant is otherwise unblemished, clean and devoid of any adverse marking, Since, Nothing of the sort had ever been conveyed to the appellant in this respect.
4. That a spurious & False FIR No. 99/2016, Dated 06/06/2016 U/Ss 302/324/34 of the Pakistan Penal Code, 1860, was lodged against the appellant at the Kulachi Police Station in Dera Ismail Khan. Resultantly, for the

(4)

apprehension of being arrested by the Police, ~~Appellant~~ hide from the Police for some time and in this regard, ~~appellante~~ also informed the Respondent. Later on, Learned Session Court D.I.Khan vide Order Dated 11.01.2017 declared the Appellant as absconder but Later on Appellant was detained/arrested by the Local Police on Dated 05.11.2020 and was incarcerated in D.I.Khan Jail. Subsequently, after having full fledged Trial Appellant was acquitted by the Additional Sessions Judge-III, Dera Ismail Khan Vide Judgment Dated 23.11.2023. (Copy of the Order Dated 11.01.2017 & Judgment Dated 23.11.2013 are annexed as Annexure C & D).

5. That, after acquittal, Appellant approached the office of Respondent No. 1 on 01.12.2023 to join his Duty, Wherein, Appellant came to know about the fact that vide letter No. 2291-95 Dated 03.03.2018, District Education Officer initiated the Disciplinary Proceeding against the appellant, yet without rendering any information or notice to the appellant & Later on, on 30.10.2019, District Education Officer (F) Dera

(5)

Ismail Khan, removed the appellant from service vide Endorsement No. 21716-21 on the basis of being absent from service but the appellant was in custody/Jail at said time and Appellant had no knowledge of his removal from service as no notice/Charge Sheet/Removal Order is communicated/sent to him.

6. That, without any ado, Appellant moved an application to DEO (F) D.I.Khan vide (Diary No 6933/27-12-2023) explaining therein the reasons of being absent from the service & inability to join the Duty but unfortunately application of the *applicant* has neither been taken up nor any decision has been given by DEO (F) D.I.Khan in spite of lapse of more than a month. **(Copy of application is annexed as Annexure E).**

7. That thereafter, Appellant preferred Departmental Appeal to the Director Elementary and Secondary School, Peshawar but it wasn't entertained yet, despite being filed through registered post vide receipt No 840. **(Copy of Departmental Appeal & receipt is annexed as Annexure F&G).**

Hence, the *appellant* is left with no other remedy but to invoke the Appellate Jurisdiction of this Honorable Court, inter-alia on the following Grounds.

GROUND:

1. That the impugned order Dated of the respondent No.1 is discriminatory, arbitrary in nature, legally and factually incorrect, ultra-vires, void, Void ab-initio, against the rights of appellant and militates against the principal of natural justice, Hence, liable to be set aside and nullified.

Dr

2. That the appellant is innocent and has been subjected to the penalty, most harsh in nature for no fault on his part. Respondent No.1 failed to regulate the departmental inquiry in accordance with the law & procedure prescribed for the purpose and as such erred at the very outset of the proceedings thus causing grave miscarriage of justice as well as prejudice to the appellant in making defense.

3. That the appellant was not served any Show Cause Notice nor any proper inquiry is conducted in this respect as the *appellant* was in Jail at the time of passing impugn Order and he had no knowledge of

the said Notification, as it is not served on the Appellant.

4. That all the proceedings of departmental action were apparently conducted ex-parte, yet without observing due process.

5. That it is a matter of record that the appellant has been vexed in clear defiance of the law and principles laid by the Superiors courts as well as the Tribunal as could be gathered from the facts and circumstances of the case.

6. That it sounds like the appellant wasn't given a fair chance to present his case, being neither served with a show cause nor offered a personal hearing and was condemned unheard which is the basic ingredient of Natural Justice.

7. That as it is evident from the record that no departmental inquiry had been conducted in this respect and deprived the appellant from presenting his case/stance from being absent as it was impossible for appellant to attend his duty as he was firstly absconder and later on he was incarcerated in Jail, So, he never absented himself willfully nor

(8)

deliberately but the circumstances were beyond the control of Appellant.

8. That the Competent Authority while passing the impugn Order, didn't look at the Past History of Appellant as he never remained absent from his duty from the date of his appointment without prior approval/Permission of the concerned authority.

8. That it seems unjust that the appellant received a harsh penalty for a charge of absence, especially if it doesn't align with the gravity of the situation.

9. That the appellant's history of honest service and satisfactory performance, without any prior complaints, should certainly be taken into consideration when evaluating the situation.

10. That the appellant is a law abiding citizen of Pakistan, besides this job, he has no other source of income and Appellant is the sole bread earner of his family.

11. That the Counsel for ~~Appellant~~ may kindly be allowed to raise additional Grounds at the time of arguments.

9

PRAYER:


In wake of above submissions made above, it is Humbly prayed that on acceptance of instant appeal, impugned order Endst; No. 21716-21 Dated 30/10/2019, may kindly be set-aside and the appellant may kindly be reinstated into service along with all back benefits and any other relief may be granted to the appellant as deemed fit.

Date: 25.04.2024

Your Humbly Appellant,

RehmatUllah

Through Counsel


Zain-ul-Abideen Afridi

Advocate Supreme Court

10

BEFORE THE HONOURABLE KHYBER

PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. _____/2024.

Rehmat Ullah

Vs

DEO(F) Dera Ismail Khan etc

Verification

I, **Rehmatullah S/O Bara khan, R/O Dera ismail khan** verified that the above titled paras of the *appeal* are true to the best of my knowledge and belief and nothing has been concealed so far.

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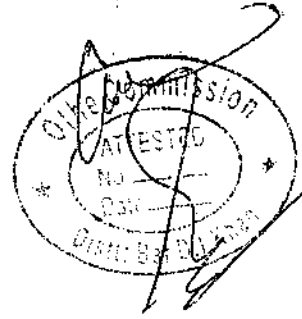
Affidavit

I, **Rehmatullah S/O Bara khan, R/O Dera ismail khan** do hereby solemnly affirms that the content of this *appeal* is true to best of my knowledge and personal belief and nothing has been concealed so far.

Dated: *25.04* 2024

Deponent

Handwritten signature



(11)

طوبیٰ پاکستان

Annexure A



12102-2146534-S



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Attested to be
a True Copy

Attesty

HIPVONG 12102-2146534-5

تعمیراتی کمپنی، کراچی، تحصیل کراچی، پاکستان

منع منہجہ انجینئرنگ خان

16184127838

تعمیراتی کمپنی، کراچی، تحصیل کراچی، پاکستان

15/12/2031

16/12/2021

تعمیراتی کمپنی، کراچی، تحصیل کراچی، پاکستان



(12)

Annexure "B"

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (SCHOOLS & LIT.)
DIKHAN

APPOINTMENT ORDER

Under the provision of Cl. of NWFP Finance 11. No. B-1-22/1-99/FD Vol. II dated 2-07/1999 read with Director Secondary Education NWFP Peshawar No. 26/1-27/0/B-6 dated 11/9/1999 and Govt. of NWFP Finance Dept. No. SOV/FD/1-6/2000-2001/Adm. (SAP) dated 14/9/2000 with the order of Director Secondary Education NWFP No. 1692-171/0/B-6/O/ fixed salary dated 20/9/2000.

The following candidates are hereby appointed as CHOWKIDAR on Contract basis in the schools of the District of Dikhan. Their wages (G.S.) are 17-PM. The following terms and conditions laid down by the Govt. of NWFP from time to time for the period of one year with effect from the date of taking over charge:

S.No.	Name of Candidate	Name of School	Remarks
1.	Rehman Khan S/O Bara Khan R/O DIKHAN Distt.	G.P.S. G. Mohd. Akbar	NCP

TERMS AND CONDITIONS

1. The appointment of the above named Class IV servant is made purely on temporary basis for the above prescribed period and without assurance of the Government.
2. No pensionary benefits should be available and services will be terminated at any time without any notice of reason.
3. The candidate should be subject to all health and other conditions laid down by the Medical Superintendent concerned.

Sd/_____
EXECUTIVE DISTRICT OFFICER
(SCHOOLS & LITERACY) DIKHAN

Encls. No. 20114-17

Dated DIKHAN the 01/10/07

Copy to the:-

1. Dy. District Officer (MT) Primary DIKHAN/Kuluchi.
2. District Accounts Officer, concerned.
3. Headmaster/Headmistress concerned.
4. Official concerned.

V/c _____
EXECUTIVE DISTRICT OFFICER
(SCHOOLS & LITERACY) DIKHAN

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Office of the executive district officer (schools & LIT D.I.KHAN)

APPOINTMENT ORDER

Under the provision of Gov of NWFP Finance no B-1-22/91-99/FD Vol II dated 2/07/1999 read with Director secondary Education NWFP Peshawar no 2644-2710/B-6 a-AB/FIXED dated 11/9/1999 and Gov of NWFP Finance Deptt: No.SOV/FD/1-6/2000-2001/Admin@SAP)dated 14/9/2000 with the Endst of Director Secondary Education NWFP No 4692-1712/B &AO/Fixed Salary dated 20/9/2000.

The following candidate are here by appointed as CHOWKIDAR on contract basis in the school noted against their name on the monthly wages from time to time for the period of one year with effect from the date of taking over charge.

<u>S.NO</u>	<u>NAME OF CANDIDATE</u>	<u>NAME OF SCHOOL</u>	<u>REMARKS</u>
1-	Rehmatullah S/O Bara Khan R/O D.I.KHAN DISTT.	GPS G.Mohd Akbar	NCP

TERMS AND CONDITIONS:

1. The appointment of the above name Class-IV servant is made on temporary basis for the above prescribed period and without assurance of later continuation.
2. No pensionary benefits should be available and services will be terminated at any time without any notice/reason.
3. The candidate should provide health medical certificate from the medical superintend concerned

Sd/-

EXECUTIVE DISTRICT OFFICER
(SCHOOLS&LITERACY) DIKHAN

Endst: No 2014-17

Dated D.I.Khan the 01/10/07

Copy to the:-


1. Dy: District Officer (M/F) Primary D.I.khan/Kulachi
2. District Accounts Officer concerned
3. Headmaster/Headmistress concerned
4. Official concerned

EXECUTIVE DISTRICT OFFICER
(SCHOOLS&LITERACY) DIKHAN

Order - 07
10.01.2017

Case file received from the Court of learned Judicial Magistrate-Kulachi, D.I.Khan. Order sheet dated 10.01.2017 perused.

In the light of said order sheet, the case in hand stands entrusted to the Court of learned Additional Sessions Judge-I, D.I.Khan for disposal in accordance with law.


(Syed Zamarud Shah)
Sessions Judge, D.I.Khan

Or - 08
11.01.2017

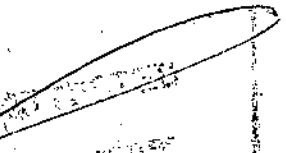
Case file received from the Court of learned Sessions Judge D.I.Khan. Be registered.

Accused Rehmat Ullah and Faiz Ullah sons of Abdur Rehman are absconding. SPP for State present.

This is a case registered under sections 302/324/34 PPC vide FIR No.99 dated 06.06.2016 Police Station Kulachi (D.I.Khan).

Challan u/s 512 Cr.P.C was put in court against the above named accused. Statement of SW Muhammad Shoaib No.875 was recorded and proceedings under section 512 Cr.P.C were initiated against the accused. The Judicial Magistrate Kulachi (D.I.Khan) after recording prosecution evidence u/s 512 Cr.P.C sent the instant case file for further orders.

Prosecution in order to prove its case against accused examined 08-PWs namely Muhammad Rizwan No.7920, Zia Ullah Khan SHO, Sabir Hussain SI, Aman Ullah Moharrir, Dr. Muhammad Younis, Sher Khan, Muhammad Rafique and Ahmed Hussain ASI while remaining PW was abandoned by APP for the State and closed the prosecution evidence within the meaning of Section 512 Cr.P.C.


21.1.2017

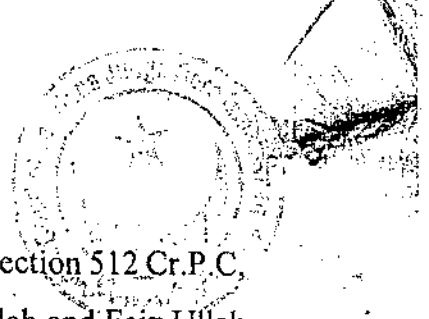
ASJ I
11/1/2017
Annexure C

MR S
ASJ-I
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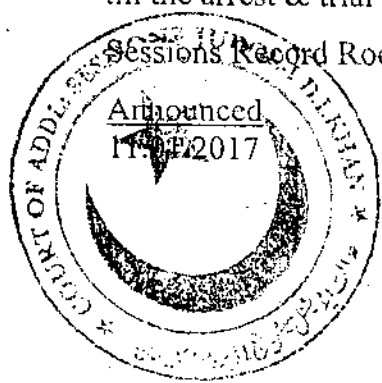
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2017

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2017

14



From prosecution evidence recorded under section 512 Cr.P.C, prima facie case exists against accused Rehmat Ullah and Faiz Ullah sons of Abdur Rehman, Caste Suleman Khel, residents of Gara Muhammad Akbar, Tehsil Kulachi, therefore, they are declared as Proclaimed Offenders. Perpetual warrants of arrest be issued against them and their names be entered in the register of Proclaimed Offenders. In this regard notice be issued to the D.P.O. D.I.Khan for entering his name in the relevant register. Case property be kept intact till the arrest & trial of the Proclaimed Offender. File be consigned to Sessions Record Room after its completion & compilation.



[Signature]
Asghar Shah Khilji
Acting Sessions Judge/ASJ-I,
D.I.Khan

11-01-17

[Signature]
D.P.O. D.I. Khan

01/04/24

No. of Warrant *4434*
 Applicant *1141024*
 Date of Issue *11/01/17*
 Date of Expiry *3/11/24*
 Name of Defendant *[Signature]*
 Copy Delivery Date *11/01/17*
 Signature of Executive Magistrate *[Signature]*

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Additional Sessions Judge-III
Dhaka

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স্বতন্ত্রভাবে

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১০-১২-০২০

১০-১২-০২০

ASJ III

23/11/2023

3/5/2024

Annexure a D

18

(Signature)

IN THE COURT OF SYED MUDASSIR SHAH TERMIZI,
ADDITIONAL SESSIONS JUDGE-III, D.I.KHAN.

SESSIONS CASE NO: 54 OF 2021.

Date of Institution.....03.05.2021.

Date of Decision..... 23.11.2023.

THE STATE

.....VERSUS.....

1. **Rehmat Ullah** son Bara Khan caste Suleman Khel r/o Karah Muhammad Akbar.
2. **Faiz Ullah** son Abdul Rehman caste Suleman Khel r/o Karah Muhammad Akbar.(Accused facing trial)

CHARGE U/S 302/324/34 P.P.C VIDE FIR.NO.99
DATED 06.06.2016 OF PS KULACHI,
DERA ISMAIL KHAN.

Presence: *Kifayat Ullah Dy. PP for the State*
Mr. Qurban Ali Khan Advocate, counsel for accused.

J U D G M E N T:

1. Accused Rehmat Ullah and Faiz Ullah have faced trial before this Court in case FIR No.99 dated 06.06.2016 U/S. 302/324/34 PPC registered at Police Station Kulachi, D.I.Khan for committing Qatl-e-Amd of Juma Khan (brother of complainant Sher Khan).

2. Brief facts of the case as per FIR Ex.PA are that on 06.06.2016, complainant namely Sher Khan alongwith the dead body of his brighter Juma Khan reported the matter to the local

ASJ III
2023
21/11
ASJ III
2017

Additional Sessions Judge III
Dera Ismail Khan
23/11/23

ATTORNEYS
(Signature)

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police at PS that on the eventful night he alongwith his brother Juma Khan and Muhammad Rafique were present at the place of occurrence for the purpose of irrigating their land, in the meanwhile at about 07:30 AM, accused persons duly armed with Kalashnikov came there and made 'Lalkara' and suddenly started firing at them as a result of which Juma Khan got hit with the firing of accused Rehmat Ullah and expired on the spot while accused Faiz Ullah also made firing at complainant, however, he Luckily escape unhurt. Motive behind the occurrence was stated to be dispute over landed property. The occurrence was witnessed by complainant Sher Khan and his brother Muhammad Rafique. Hence, the present FIR.

3. Initially challan u/s 512 Cr.P.C was submitted against the accused on 19.09.2016. SW was examined and thereafter prosecution was invited to produce its evidence in absentia of accused. Accordingly, PWs were examined and on completion of prosecution evidence, vide order dated 11.01.2017, both accused were declared as proclaimed offenders. However, later, both accused were arrested and supplementary challan against them was submitted in due course of law and the case file was entrusted to the court for trial. At this stage accused Rehmat Ullah was in custody while accused Faiz Ullah was on bail. On appearance of accused before the court, provisions of Section 265-C Cr.PC were complied with and thereafter formal charge was framed against the accused on 21.06.2021, to which they pleaded not guilty and claimed trial.

ATTESTED

Examiner

23/11/23
Additional Sessions Judge-115
Dera Ismail Khan

20

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After framing of charge, the prosecution was directed to produce its witnesses in the support of its case.

4. The Prosecution in order to prove its case produced as many as 11 witnesses. The brief resume of the prosecution evidence is as under:-

➤ PW-1 is Abdul Majeed No.229, in his presence accused Faiza Ullah led the police party to the place of occurrence and pin pointed his spot of presence from where he with the intention to commit murder of Sher Khan fired at him with Kalashnikov. Similarly, some steps ahead he pin pointed Point No.2 and stated that from this point Rahmat Ullah fired upon Juma Khan with the intention of murder with Kalashnikov. The S.I circled both the places with red pen on the site plan. He correctly signed the pointation memo, which is correct and correctly bears his signature and is Ex.PW-1/1. (STO by defence counsel that the statement to the above extent is not admissible). He is also marginal witness to the recovery memo Ex.PW-PW-1/2 dated 17.05.2019 vide which in his presence the I.O seized the case property of FIR No.10 dated 20.01.2019 u/s 15 AA/216 as weapon of offence in the present case. In this respect his statements under section 161 Cr.P.C were recorded by the I.O.

➤ PW-2 is Dr. Muhammad Younus THO Hospital Kulachi, he exhibited PM report of the deceased Juma Khan as Ex.PM. He also endorsed injury sheet and inquest report.

➤ PW-3 is Muhammad Shoaib No.875, who stated that he was entrusted with the warrants u/s 204 Cr.PC Ex.PW-3/1 and Ex.PW 3/2 against the accused Faiz Ullah and Rahmat Ullay. He searched the accused named above in their residence as well in the surrounding areas and it was reported to him that accused had gone into hiding. In this

[Handwritten signature]
23/11/23
Additional Sessions Judge-III
Dera Ismail Khan

ATTACHED

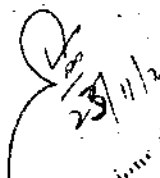
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respect he recorded the statements of notable of the area available overleaf of warrant u/s 204 Cr.PC. His reports on the back of warrants are Ex.PW-3/3 and Ex.PW-3/4 respectively. Similarly, he was also entrusted with the proclamation notices u/s 87 Cr.PC Ex.PW 3/5 and Ex.PW-3/6 issued against the accused named above. He processed the notices accordingly to law and recorded the statements of three notables overleaf of the same. His report overleaf of warrants are ex.PW-3/7 & Ex.PW-3/8 respectively. All the exhibits which are correct and correctly bear his signatures along with marginal witnesses.

➤ PW-4 is Muhammad Shoaib No.875, who stated that on 06.06.2016 at about 08:15 PM, complainant Sher Khan along with the dead body of his deceased brother Juma Khan came to the P.S and reported the matter which he reduced in the shape of FIR Ex.PA. After writing, the same was read over to him, who admitted it correct and made his thumb impression on his report as a token of its correctness and similarly brother of complainant namely Muhammad Rafique also thumb impressed FIR as a verifier. He prepared the injury sheet and inquest report of the deceased Ex.PM/1 & Ex.PM/2 respectively. He sent the dead body to the hospital for autopsy under the escort of constable Rizwan # 7920. After registration of FIR, he handed over the copy of FIR to the investigation staff.

➤ PW-5 is Ahmad Hussain SI, he is marginal witness to the recovery Ex.PW-5/1 vide which I.O took into his possession one blood stained Qameez along with shalwar white in color having cut marks on it in the P.S. I.O sealed the same into parcel No.3 having 3/3 seals of the monograms of SH. Recovery memo is correct and correctly bear his signature as well as the signature of co-marginal witness. Similarly in his presence the I.O took into possession from the place of occurrence blood-stained earth and ten empties and sealed the same into parcel No.1 & 2 respectively. The I.O also signed the empties before sealing


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into parcel. In this respect I.O prepared recovery memo EX.PW-5/2, which is correct and correctly bear his signature as well as the signature of co-marginal witness.

➤ PW-6 is Muhammad Rizwan No.7920, he stated that he was present in the P.S. Moharrir of the P.S handed over to him injury sheet, inquest report of deceased Juma Khan along with dead body, which he further brought to the Civil Hospital Kulachi and handed over to the doctor. After conducting autopsy on the body of deceased, the doctor handed over to him blood stained shalwar and qameez of the deceased along with PM documents, which he further handed over to the I.O. I.O recorded his statement under Section 161 Cr.P.C.

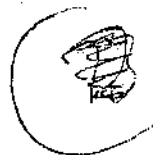
➤ PW-7 is Zia Ullah Inspector Police Line Peshawar, who submitted challan u/s 512 Cr.P.C against the accused.

➤ PW-8 is Sabir Hussain SHO, he after receiving copy of FIR proceeded to the spot where complainant along with eye witness Rafique Khan was present. During spot inspection, he collected blood stained earth from the place of deceased and sealed the same into parcel # 1 (Ex.P-1). Similarly, near the place of accused, he collected ten empties of 7.62 bore which were lying in a scattered position and sealed into parcel No.2 (Ex.P-2). In this respect he prepared recovery memo in the presence of marginal witnesses which is Ex.PC. He also prepared site plan on the pointation of complainant which is Ex.PB. He recorded the statements of PWs under Section 161 Cr.P.C. He went to the houses of accused for their arrest, but neither the accused were found nor any incriminating were recovered and in this respect he prepared house search memo Ex.PC/1. He also recorded statement under Section 161 Cr.P.C. After investigation, he returned to PS where constable Rizwazn # 7920 brough blood-stained garments of deceased alongwith PM documents which were given to him by the doctor. He took into possession the same vide recovery memo Ex.PC/2 in the presence of marginal witnesses. Blood stained

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garments were sealed into parcel No.3 (Ex.P-3). At this juncture he also recorded statements of PWs under Section 161 Cr.P.C. As accused were absconding, therefore, he applied for issuance of warrants under section 204 Cr.P.C vide application Ex.PY and for issuance of proclamation under Section 87 Cr.P.C vide my application Ex.PZ. FSL report in respect of blood-stained articles and empties available on file which are Ex.PK and Ex.PK/1. After completion of investigation, he handed over the case file to the SHO for submission of challan under Section 512 Cr.P.C.

➤ PW-9 is Constable Safi Ullah No.1262, he stated that accused Rahmat Ullah during interrogation admitted before the I.O that he could point out the spot of occurrence. At which the accused led us the place of occurrence and on reaching there, he pointed out the place of occurrence. He also pointed out the place of his presence as well as accused Faiz Ullah and deceased Juma Khan. In this respect I.O prepared pointation memo which is Ex.PW-9/1. (STO from defence that the pointation memo is inadmissible in evidence in view of Qanoon-e-Shahadat as being only a statement before the police).

➤ PW-10 is Abdul Rasheed OIL, on 05.11.2020, the accused Rahmat Ullah after getting interim pre-arrest bail appeared before him in the P.S so he formally arrested him and prepared his card of arrest Ex.PW-10/1.

➤ PW-11 is Abdul Rasheed SHO, he stated that on 10.12.2020, BBA of accused was recalled so he arrested accused and issued his card of arrest Ex.PW-11/1. He cursory interrogated the accused in the PS. On 11.12.2020, he produced accused before concerned Illaqa Magistrate for polic custody vide application Ex.PW-11/2, two days custody was granted. He further interrogated the accused. On 12.12.2020 accused Rehmat Ullah admitted the occurrence and led the police party to the place of occurrence where he pointed out his presence on the spot at

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point No.2, vide pointation memo Ex.PW-1/1. He recorded statements of PWs. On 13.12.2020, he again produced the accused before Illaqa Magistrate for further police custody vide application Ex.PW-11/3, which was disallowed and accused was remanded to judicial lock up. After completion of investigation against accused Rehmat Ullah, he handed over the case file to the SHO.

5. After close of the prosecution evidence, statement of accused facing trial U/S. 342 Cr.P.C were recorded wherein they denied the charge and professed their innocence. However, the accused facing trial neither opted to be examined on Oath nor wished to produce any evidence in their defense.

6. I have heard the learned Dy.PP for the State assisted by learned counsel for the complainant and learned defence counsel for the accused and have thoroughly perused the record.

7. Learned Dy.PP for the state opened the case and stated that there is no malafide on the part of the complainant/prosecution to wrongly implicate the accused for the commission of offence. The record prima facie connects them with the commission of offence. That the prosecution has fully established the charge against the accused through cogent and convincing evidence, therefore, the accused be convicted.

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8. On the other hand, learned counsel for the accused while opposing the arguments of the Prosecution, contended that accused are falsely implicated by the complainant. There is no direct

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evidence against the accused facing trial. Motive behind the occurrence has not been explained as well as proved by the prosecution. That there is no previous enmity. There are so many contradictions in the statements of witnesses, therefore, the case of accused is fit for their acquittal. Lastly requested that they be acquitted.

9. The main case of prosecution is that accused facing trial are charged for committing Qatl-e-Amd of Juma Khan, brother of the complainant, hence the present case vide FIR Ex.PA was registered at Police Station Kulachi, D.I.Khan.

10. Perusal of case file reveals that case of prosecution is mainly based upon the direct evidence of two eye witnesses i.e. complainant Sher Khan and Muhammad Rafique (brother of complainant). However, in the present case, although earlier during trial complainant appeared before the court on some dates of hearing, however later on disappeared and despite hectic efforts prosecution failed to produce complainant and private witnesses before the court and at last SPP for the state closed prosecution evidence. In such a scenario when the complainant and private PWs does not turn up in the court for evidence, despite issuance of repeated summons, notices as well as NBWAs, then the court can drop the testimony of the complainant and private PWs. Moreover, in criminal cases, the complainant (often the victim) plays a vital

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role and their cooperation is essential for the prosecution to proceed effectively. If the complainant refuses to cooperate or repeatedly fails to appear in the court, it can affect the outcome of the case.

11. According to the contents of FIR, complainant has alleged that on the eventful night, he alongwith his brother Juma Khan and Muhammad Rafique were present at the place of occurrence for the purpose of irrigating their land, in the meanwhile at about 07:30 AM, accused persons duly armed with Kalashnikov came there and made 'Lalkara' and suddenly started firing at them as a result of which Juma Khan got hit with the firing of accused Rehmat Ullah and expired on the spot while accused Faiz Ullah also made firing at complainant, however, he Luckily escaped unhurt. The perusal of record shows that no description of alleged land/property is either disclosed by complainant or his PW to the IO nor anything in black & white is available on file which could support the version of complainant. Even FIR is silent about of description of the alleged land. No title document of said land is produced by prosecution to prove the facts that complainant party have got such property. No evidence, material is brought on record which shows that at the time of alleged occurrence the accused party came to the spot and present occurrence took place in such a mode and manner described in the FIR except mere allegations. Admittedly, it is very much evident from the contents of FIR that there is a dispute between the parties over landed property.

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therefore under such circumstances false implication cannot be ruled out. Similarly, it is clear from the contents of F.I.R. that both accused were duly armed with Kalashnikovs and site plan suggest that they were standing at point 2 & 3, but 10 empties were recovered from point 'C', though there was allegation of indiscriminate firing with automatic weapon i.e. Kalashnikovs upon the deceased, complainant and PW Rafique and the latter were shown at point No.4 & 5. The complainant, eye witness Rafique and the deceased were at a very short distance but the formers did not receive any bullet injury. In this regard statement of I.O. is also worth perusal who during cross examination admitted that "it is correct that in the attending circumstances of the present case qua points attributed to the accused and the deceased, normally it is not possible if someone attack the other party with the intention of murder with firearms like Kalashnikov, he could not survive the death". Likewise, it is also the stance of complainant that both accused facing trial were armed with Kalashnikovs and both of them have been nominated for firing at the deceased as well as complainant and PW Rafique. During spot inspection, investigating officer recovered 10 empties from the spot which were sent to the FSL and as per FSL report Ex.PK/1 "ten crime empties marked C1 to C10 are that of 7.62 bore and were fired from one and the same 7.62 MM bore weapon".

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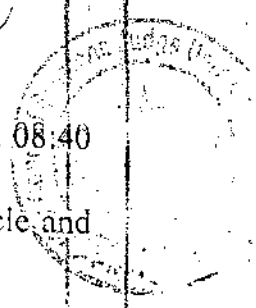
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12. There is no cavil with the ages old principle of criminal justice that burden of proof always lies upon the shoulders of prosecution beyond any reasonable doubt. I have heard the submission of the learned counsel for the accused as well as learned Dy:PP appearing on behalf of the State and gone through the evidence brought on the record by the prosecution with due, deep and with valuable assistance rendered by them. From perusal of evidence brought on the record by the prosecution it shows that prosecution evidence is pregnant with major and material contradictions. In order to prove the occurrence, prosecution has examined as many as eleven official witnesses, however, there is also no supporting corroboratory circumstantial evidence in the case. Constable Muhammad Rizwan No 7920 while examining as PW-6, deposed that he was sitting at PS at about 08:45 AM when the dead body was brought. This stance of the PW totally negates the version of complainant as according to the contents of FIR, complainant alongwith dead body of his brother reported the matter at PS on 06.06.2016 at 08:15. PW-6 further stated that the dead body was brought to the PS in Datsun/Dala and inside the PS on a recovery memo. But this fact was not disclosed by the complainant at the time of lodging of report. Moreover, contents of FIR reflect that occurrence took place at 07:30 and the matter was reported to the local police at 08:15, while one of the marginal witness of the recovery memo namely Ahmad Hussain S.I, during his cross

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examination stated that he alongwith S.I left the PS at about 08:40 hours having four officials including the I.O in official vehicle and reached there within one hour to the spot.

13. In the absence of ocular account, only initial report of the complainant in the shape of FIR is available before the court which can be compared with the statements of official witnesses. It is the stance of complainant in FIR, that on the eventful night he alongwith his brother Juma Khan and Muhammad Rafique were present at the place of occurrence for the purpose of irrigating their land, however, PW-8, (I.O) during cross examination admitted that the place of occurrence as well as its surroundings area, all are barren. Besides, I.O also admitted that no articles used for the purpose of agriculture like spade, Vahola, Kahi etc were recovered from the spot. Likewise, PW-8 admitted it correct that eye witness namely Muhammad Rafique in his statement u/s 161 Cr.P.C did not disclose that when the accused arrived on the spot, they first raised 'Lalkara' and thereafter firing took place. I.O further admitted that no evidence in respect of motive was provided by the complainant party. Similarly, PW-8 stated that complainant has not charged the accused for firing upon Rafique.

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14. Furthermore, prosecution badly failed to produce the eye witnesses of the occurrence, who being independent and impartial witnesses were the best evidence available to prosecution for the reason that case of prosecution is mainly based upon the ocular

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account. The best evidence having been withheld, negative inference in terms of Article 129 (g) of Qanoon-e-Shahadat would be drawn against prosecution that had he been produced, he would have testified against the prosecution version.

15. Moreover, it is the case of the prosecution that during interrogation accused Faiz Ullah disclosed that Kalashnikov recovered vide case FIR No.10 dated 20.01.2019 u/s 216 PPC/15-AA is the same weapon which was used in the present case, therefore, said Kalashnikov was also taken into possession vide recovery memo Ex.PW-1/2 in the present case too. However, no FSL report regarding comparison of the empties recovered from the spot and the Kalashnikov is available on case file. Mere recovery of empties, blood and blood stained last worn garments of the deceased coupled with positive Serologist report, in absence of direct evidence, would not be sufficient to sustain conviction of accused in capital charge. Such recoveries are always considered as corroborative piece of evidence, which are always taken into consideration alongwith evidence and not in isolation.

Additional Sessions Judge
Dera Ismail Khan

Coming to motive which was set up in FIR as dispute over landed property. On one hand it does not catch the prudence of a common man that if there was a common motive of the accused with the complainant party and the deceased, then why the accused had only targeted the deceased and had spared complainant and eye witness who should have also been their foremost target being on

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commission ends with the accused while on the other hand if such motive is established the same is always a double-edged weapon. If it can be the cause for commission of offence than the same is also a tool for false implication of accused. Motive, itself cannot provide any corroboration to prosecution case when direct evidence in the case has been found doubtful. Further the IO during the investigation has also not collected any evidence in support of the motive alleged in the report of the complainant which could establish the stance of the prosecution in respect of the motive averred in the report/FIR.

17. Abscondence of the accused facing trial though was for about more than 02 years but abscondence alone cannot be a substitute for real evidence. People do abscond in order to save themselves from agony of protracted trial. Sometimes they disappear, because of fear of the police and even of the complainant party. Abscondence is not evidence by itself, but is a state of mind of a person who after being charged either rightly or wrongly would react in a particular way. Thus, mere abscondence in view of the discredited and untrustworthy ocular and circumstantial evidence, is of no help to the case of prosecution.

18. Evidence produced in the instant case carried major contradictions which made the case of prosecution doubtful. Further it is well settled principle of law that if a single circumstance creates reasonable doubt in the prudent mind about the guilt of the

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J. Sessions Judge-III
Rehmat Ullah Khan

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accused, then he will be entitled for benefit of doubt as a matter of grace and concession but as the matter of right. Reliance is placed on case titled "Tarique Pervez Vs The state" reported in 1995 SCMR 1345 by the Honorable Supreme Court of Pakistan that for giving the benefit of doubt to an accused it is not necessary that there should be many circumstances creating doubt if a single circumstance creates a reasonable doubt in the prudent mind about the guilt of accused, then he will be entitled to such benefit not as matter of grace and concession but as matter of right. Therefore, in this matter the prosecution has failed to prove the charge against the accused and for the purpose of benefit of doubt to an accused more than one infirmity is not required. A single infirmity creating reasonable doubt in mind of a prudent mind regarding the truth of the charge is sufficient to give the benefit of doubt to the accused. Further, no satisfactory evidence documentary or oral available on record to prove the charge against the present accused. The prosecution is duty bound to prove the charge against the accused person beyond any shadow of doubt. It is also settled principle of law that, it is better for the Court to err in acquittal than in conviction as 100 guilty men may be acquitted but one innocent person must not be convicted. Hence this point is not proved beyond shadow of doubt."

19. For what has been discussed above, this court is inclined to hold that prosecution case is brimming with doubts and

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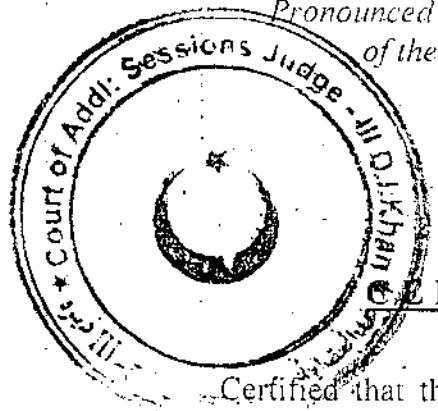
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contradictions and whenever reasonable doubt is created in prosecution case, benefit of the same must be resolved in favour of deceased as a matter of right, therefore, accused facing trial namely Rehmat Ullah and Faiz Ullah are hereby acquitted of the offence charged with vide instant FIR No. 99 dated 06.06.2016 registered at Police Station Kulachi under sections 302/324/34 PPC by extending benefit of doubt. Accused facing trial are on bail, therefore, their sureties be discharged from the liabilities of bail bonds.

20. Case property be kept intact till the expiry period of appeal/revision whereafter be disposed of in accordance with law. File of the case be consigned to record room after its completion and compilation.

Pronounced in open court at D.I.Khan, under my hand and seal of the court this 23rd day of November, 2023.



(Syed Mudassir Shah Termizi)
ASJ-III, Dera Ismail Khan.
Additional Sessions Judge-III
Dera Ismail Khan

CERTIFICATE

Certified that this judgment consists of (16) pages, each page has been read over, corrected wherever it was necessary and signed by me.

(Syed Mudassir Shah Termizi)
ASJ-III, Dera Ismail Khan
Additional Sessions Judge-III
Dera Ismail Khan

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ATTESTED

Signature of Examiner

01/11/23

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Annexure E/1

To,

The District Education Officer (female),
Elementary & Secondary Education,
Dera Ismail Khan.

APPLICATION FOR REINSTATEMENT IN SERVICE/REPRESENTATION
AGAINST THE IMPUGNED ORDER/LETTER ENDST; NO. 21716-21
DATED 30/10/2019

PRAYER

It is, therefore, requested that on acceptance of this representation/departmental application, the impugned order Endst; No. 21716-21 Dated 30/10/2019, may kindly be set-aside and the applicant may kindly be reinstated into service along with previous benefits and any other relief may be granted to the applicant as deemed fit to the concerned applicant authority.

Respected Sir;

Applicant humbly submitted as under:-

1. That, in accordance with the regulations of the Government of NWFP, presently KPK, as outlined in Finance Department Letter No. B-1-22/94-99/FD Vol: II dated 20/07/1999, and in conformity with Director Education NWFP, Peshawar No. 2644:2710/8641-AB Fixed Dated 11/09/1999, Mr. Rehmat Ullah was officially appointed as a Class IV (Chowkidar) by the Executive District Officer (Schools & Literacy) in Dera Ismail Khan. This appointment is delineated in Endorsement No. 20114-17, dated 1/10/07. (Copy of the appointment order is annexed)

Handwritten notes: 20/12/2019, 250/100, and a large handwritten 'P' with an arrow pointing to the list item.

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2. That applicant was posted at GGPS GARA MUHAMMAD AKBAR D.I.KHAN Tehsil District Dera Ismail Khan. After complying all the terms and conditions, mentioned in the ibid appointment order dated 01-10-2007, applicant joined duty as assigned by the superiors.
3. That a spurious First Information Report (FIR) bearing No. 99/2016, dated 06/06/2016, under sections 302/324/34 of the Pakistan Penal Code, 1860; was lodged against the applicant at the Kulachi Police Station in Dera Ismail Khan. Vide order 11/1/2017 the applicant was declared absconder subsequently, the applicant was detained on dated 5/11/2020 and held in custody. Ultimately, the applicant was acquitted on dated 23-11-2023 by the Additional Session Judge III, Dera Ismail Khan
4. That, vide letter No. 2291-95 dated 03/03/2018, the District Education Officer instructed the applicant to provide written defence within seven days from the date of the letter. However, the applicant was proclaimed offender/Absconder at that time and had no knowledge of the above mentioned notification.
5. That, on the date 5/6/2019, the District Education Officer issued a letter (No. 13697-102) to the applicant, demanding an Explanation/Defence within three days. However, the applicant was Absconder at that time in a baseless case filed against him, which left him uninformed about the mentioned explanation letter.
6. That the District Education Officer (F) released an advertisement in the newspaper "Roznama Toqeer" Dated 10/07/2019, requiring the applicant to confirm his attendance at the school within one week after the publication of the said advertisement. However, during the same period, the applicant was Absconder, without being aware of the aforementioned advertisement in the newspaper.
7. That on the date 30/10/2019, Miss Syeda Anjum, District Education Officer (F) Dera Ismail Khan, removed the applicant from service vide

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Endorsement No. 21716-21. However, the petitioner was absconder, and had no knowledge of his removal from service.

8. That subsequently applicant surrender before the court and faced the trial after that applicant was acquitted from the criminal case after which applicant went to join his job on dated 01/12/2023 on which applicant came to know about his removal from his service.

9. That the applicant is the law abiding citizen and possess well reputation in the precincts of the area, beside that this service was the only source of income of the applicant. Applicant is sole bread earner of his family.

10. That the applicant has never been remained absent from the service deliberately or wilfully also did not receive any letter or show cause of removal letter from the concerned department at his residence.

In wake of above submissions, it is respectfully prayed that on acceptance of instant application the impugned order Endst; No. 21716-21 Dated 30/10/2019, may kindly be set-aside and the applicant may kindly be reinstated into service along with previous benefits and any other relief may be granted to the applicant as deemed fit to the concerned applicant authority.

Dated : 26/12/2023

Your humble applicant,

Rehmatullah S/O Bara khanh R/O D.I.KHAN

ADDRESS: MUHAMMAD AKBAR DAKKHANA
KULACHI TEHSIL KULACHI DIST DERA ISMAIL KHAN
Mob No.

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ORDER

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Annexure 4/6

1. WHEREAS, according to report of SDEO (F), Kuachi vide her letter No.124, dated. 13/03/2019 that you Mr. Rehmat ullah, Chowkdar, GGPS Gara Muhammad Akbar Dikhan was absent from duty since 10/2016 to till date.
 2. WHEREAS, as per (MIU) report you have found habitually absent from duty i.e. 23/01/2017, 15/05/2017, 25/09/2017 to till date.
 3. WHEREAS, show Cause Notice was served to you by this office vide this office Endst No. 2291-95, dated. 03/03/2018 with the direction to submit your defense in writing within 07 days of the issue of this notice, but you have failed to do so.
 4. WHEREAS, Explanation letter was served to you by this office vide this office Endst No.1367-102, dated. 05/06/2019 with the direction to submit your defense in writing within 03 days of the issue of this letter, but you have failed to do so.
 5. WHEREAS, this office has called you for personal hearing dated 01/07/2019 but you failed to attend this office
 6. Whereas, this office has been given advertisement in Roznama Toqeer dated. 10/07/2019 to report his duties in the school within one week of the issue of this advertisement but you have failed to do so.
 7. WHEREAS, I Syeda Anjum being competent authority satisfied that you have committed the acts/omissions and proved yourself as absent from Duty.
- Now, Therefore, the undersigned as competent authority in exercise of powers conferred upon me under the section 4 sub rules-b (iii) of Khyber Pakhtunkhwa Govt; servant (Efficiency and discipline) rules-2011 is pleased to impose the Major Penalty "Removal from Service", upon Mr. Rehmat Ullah, GGPS Gara Muhammad Akbar immediately.

SDEO (F) Kuachi

(Syeda Anjum)
District Education Officer (F)
Dera Ismail Khan

Endst. No. 2171b-21

dt. 30/10/2019

Copy of the above is forwarded for information to:-

1. Director Elementary and Secondary Education Khyber Pakhtunkhwa.
2. District Account Officer D.I.K.
3. Deputy Commissioner D.I.K.
4. SDEO (F) concerned.
5. P.A to DEO (F) D.I.K.
6. Master File.

DISTRICT EDUCATION OFFICER
(FEMALE) DERA ISMAIL KHAN

(Signature)

Attested to be
a True Copy

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Annex F

To,

The DIRECTOR,
ELEMENTARY & SECONDARY EDUCATION,
KPK, PESHAWAR.

**DEPARTMENTAL APPEAL/REPRESENTATION AGAINST THE IMPUGNED
ORDER/LETTER Endst; No. 21716-21 Dated 30/10/2019.**

PRAYER

It is, therefore, requested that on acceptance of this representation/departmental appeal, the impugned order Endst; No. 21716-21 Dated 30/10/2019, may kindly be set-aside and the appellant may kindly be reinstated into service along with previous benefits and any other relief may be granted to the appellant as deemed fit to the concerned appellate authority.

Respected Sir;

Appellant humbly submitted as under:-

1. That, in accordance with the regulations of the Government of NWFP, presently KPK, as outlined in Finance Department Letter No. B-1-22/94-99/FD Vol: II dated 20/07/1999, and in conformity with Director Education NWFP Peshawar No. 2644:2710/B641-AB Fixed Dated 11/09/1999, the appellant was appointed as a Class IV (Chowkidar) by the Executive District Officer (Schools & Literacy) in Dera Ismail Khan. This appointment is delineated in Endorsement No. 20114-17, dated 1/10/07.

(Copy of the appointment order is annexed)

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**Attested to be
a True Copy**

2. That appellant was posted at GGPS GARA MUHAMMAD AKBAR D.I.KHAN Tehsil District Dera Ismail Khan. After complying all the terms and conditions, mentioned in

- the ibid appointment order dated 01-10-2007, appellant joined duty as assigned by the superiors.
3. That a spurious First Information Report (FIR) bearing No. 99/2016, dated 06/06/2016, under sections 302/324/34 of the Pakistan Penal Code, 1860, was lodged against the appellant at the Kulachi Police Station in Dera Ismail Khan vide order 11/01/2017 the appellant was declared absconder subsequently, the appellant was detained on dated 05/11/2020 and held in custody. Ultimately, the appellant was acquitted on dated 23/11/2023 by the Additional Sessions Judge-III, Dera Ismail Khan. (Copy of judgment is annexed).
 4. That, vide letter No. 2291-95 dated 03/03/2018, the District Education Officer initiated the disciplinary proceeding against the appellant, yet without rendering any information or notice to the appellant. As the appellant was in custody at said time and had no knowledge of the above mentioned notification, not having served as such.
 5. That all the proceedings of departmental action were apparently conducted ex-parte, yet without observing due process.
 6. That on 30/10/2019, District Education Officer (F) Dera Ismail Khan, removed the appellant from service vide Endorsement No. 21716-21. However, the appellant was absconder at that time, and had no knowledge of his removal from service.
 7. That after acquittal from criminal case the appellant reported for this duty on 1/12/2023 on which appellant came to know about his removal from service.
 8. That appellant moved an application to DEO (F) D.I.Khan vide (diary No 6933/27-12-2023) explaining the inability to join the duty. It is however, unfortunate that the application has neither been taken up nor any decision is made thereon by DEO (F) D.I.Khan in spite lapse of more than a month. (Copy of application is annexed).
 9. That subsequently appellant surrender before the court and faced the trial after that appellant was acquitted from the criminal case after which appellant went to join his

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job on dated 01/12/2023 on which appellant came to know about his removal from his service.

10. That the appellant has never remained absent from the service deliberately or wilfully also did not receive any letter or show cause of removal letter from the concerned department at his residence.
11. That the appellant is the law abiding citizen and possess well reputation in the precincts of the area, beside that this service was the only source of income of the appellant. Appellant is sole bread earner of his family.


In wake of above submissions, it is respectfully prayed that on acceptance of instant appeal the impugned order Endst; No. 21716-21 Dated 30/10/2019, may kindly be set-aside and the appellant may kindly be reinstated into service along with previous benefits and any other relief may be granted to the appellant as deemed fit to the concerned appellant authority.

Dated : /02/2024

Your humble appellant,

Rehmatullah
S/O Bara khan, R/O D.I.Khan.

ADDRESS: MUHAMMAD AKBAR DAKKHANA KULACHI,
TEHSIL KULACHI, DISTRICT DERA ISMAIL KHAN.
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SUPREME COURT BAR ASSOCIATION OF PAKISTAN

ZAIN UL ABIDIN
 Advocate Supreme Court of Pakistan
 12101-7675297-3

M. ANSAR BIKHRI
 President

WASIM MUHAMMAD
 Secretary

Supreme Court Bar Association, Pakistan

Enrollment Date: 01-12-2021

Membership Date: 26-09-2022

Date of Birth: 15-04-1970

Membership No: 10001200

10001200

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VAKLATNAMA

BEFORE THE HONOURABLE Service Tribunal KPK, Peshawar

From Appellant

In the Matter of: Rehmat ullah Plaintiff /Appellant /Petitioner/ Complainant

VERSUS

Govt. of KPK etc Defendant/Respondent/Answered.

In Suit/Case Service Appeal

I/We do here by appoint Mr. ZAIN UL ABIDIN AFRIDI ADVOCATE SUPREME COURT / Muhammad Asif and on my/our behalf, that is to say, News 2 ATK

- To appear, act and plead for me/us in the above mentioned case in this Court/ tribunal in which the same may be tried or heard or any other proceedings what so ever, ancillary thereto, including appeal, revision etc; on payment of fees separately for each court by me / us,
- To sign, verify, file, present or withdraw all/any proceedings, petitions, appeals, cross objections and application for compromise or withdrawal, or for submission to arbitration of the said case or any other documents, as may be deemed necessary or advisable by him/they and to conduct prosecution or defense of the said case at all its stages,
- To undertake execution proceedings, deposit, draw and receive money, cheques, cash and grant receipts thereof and to do all other acts and things which may be conferred to be done for the progress and in the course of prosecution of the said case,
- To appoint and instruct any other Advocate/ legal practitioner authorizing him to exercise the power and authority conferred upon the advocate whenever he/they may think fit to do so and to sign Power of Attorney on our behalf,

I /we, the undersigned do hereby agree to ratify and confirm all acts done by the advocate or his authorized substitute in the matter as my /our own acts, as if done by me/us to intents and purposes, and I /we undertake that I /we or my/our duly authorized agent shall appear in the court on all hearings and will inform the advocate(s) for appearance when case is called and I/we the undersigned agree hereby not to hold the advocate(s) or his/their substitute responsible if the said case be proceeded ex-parte or dismissed in default in consequence of my/our absence from court when it is called for hearing and for the result of the said case, the adjournment costs whenever ordered by the court shall be of the advocate(s) which he/they may receive and retain himself/themselves. I/we the undersigned do hereby agree that in the event of the whole or part of the fees agreed by me/us to be paid to the advocate(s), if remain unpaid, he/they shall be entitled to withdraw from prosecution of the above said case until the same is paid and fee settled is only for the above said case and above court and I /we agree hereby that once fee is paid, I/we shall not be entitled for refund of the same in any case whatsoever.

IN WITNESS WHEREOF, I /we do hereby set my/our hand to these presents, the contents of which have been read / read over, explained fully and understood by me/us on

Date: D 11 April 2024.

Name of Person Appointing the Advocate Rehmat Ullah (Appellant)

Signature: [Signature]

[Signature]
Accepted

ACCEPTED BY

[Signature]
ZAIN UL ABIDIN AFRIDI
Advocate Supreme Court.