

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

INDEX

APPEAL NO 706 OF 2024

BARKAT ALI ... VS ... DISTRICT & SESSIONS JUDGE, PESHAWAR AND ANOTHER

SUBJECT: WRITTEN STATEMENT /REPLY ON BEHALF OF RESPONDENTS NO 1&2

S/N	DETAIL OF DOCUMENTS	TOTAL PAGES	NUMBER
1	INDEX	01	01/01
2	COMMENTS/WRITTEN STATEMENT/REPLY	03	02/04
3	COPY INTIMATION REPORT/COMPLAINT NO 09 dated 26-10-2023	03	05/07
4	COPIES ORDER TO PROCEED AGAINST THE DELINQUENT OFFICIALS	02	08/09
5	COPIES STATEMENT OF ALLEGATIONS AND CHARGE SHEET	02	10/11
6	REPLY TO CHARGE SHEET & STATEMENT OF ALLEGATIONS	03	12/14
7	DETAILED INQUIRY REPORT DATED 04-01-2024 (COPIES)	10	15/24
8	FINAL SHOW CAUSE NOTICE NO 152 dt: 08-01-024	01	25/25
9	REPLY TO FINAL SHOW CAUSE NOTICE	03	26/28
10	FINAL REMOVAL ORDER FROM SERVICE NO 832-40 dt: 07-02-2024	02	29/30
11	COUNTER AFFIDAVIT	01	31/31

*Prepared by
office clerk
English B search
25/07/2024.*

[Signature]
SUPERINTENDENT SESSIONS
COURT PESHAWAR
25/07/2024.

25-07-24

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Appeal No. 706 of 2024

Khyber Pakhtunkhwa
Service Tribunal

Barkat Ali

Diary No. 14523

--VS--

Dated 25-07-24

District & Sessions Judge, Peshawar & another

Written Statement/Reply on Behalf of Respondents No. 1 & 2

FACTS:

1. Pertains to record. It is, however, added that that appellant/official had a cloudy reputation of a lazy, unreliable and involvement of corrupt practices.
2. Pertains to record, needs no comments.
3. Pertains to record, needs no comments.
4. Pertains to record, however, it is notable that the inquiry proceedings were conducted in accordance with relevant rules wherein the allegations against the appellant/official were proved through pro & contra evidence.
5. Pertains to record, needs no comments.
6. Incorrect. The appellant/official was granted the major penalty in accordance with rules and after fulfilment of all codal formalities, affording numerous opportunities of defense to the appellant/official, including personal hearing, but he failed to bring anything on record to prove his innocence.

GROUND:

- A. Incorrect. The appellant/official has been treated in accordance with law and rules on the subject.
- B. Incorrect. All the procedures provided in E&D Rules-2011 had been thoroughly and completely followed. The appellant/official was present on all dates of hearing and had full opportunity to defend himself, but he failed to provide any cogent evidence to prove his innocence.
- C. Incorrect. As explained in para-B above, the appellant/official was present during the inquiry proceedings and was well aware of all the proceedings being carried out. He was confronted with all the evidence produced against him, and was afforded plenty opportunities to bring anything in his defense, but he failed, and thus, was proceeded in accordance with relevant rules.
- D. Incorrect. As per record, the appellant/official was assigned with the duties of docket diary/dispatch etc, and was responsible for all the docks sent by/received to the court concerned. It is also evident from record that the appellant/official handed over the Bail Order in question along with forged revenue papers etc to another delinquent official Hameed ur Rehman Naib Qasid for its delivery to the Nazir for its further transmission to the Office of


Tehsildar Peshawar for verification. Receiving the alleged responding verification letter, the bail bonds with fake revenue papers were placed before the learned JMIC, who found the verification letter/revenue papers doubtful, and resultantly summoned the revenue officials for re-verification of the documents. The Naib Tehsildar namely Tehseen Ullah appeared as PW-4 before the court and disowned the verification letter, with further disclosure that the verification letter issued by the court was neither received at Revenue Office nor was responded by them. The appellant official present in the court did not cross examine the PW-4 to rebut his stance, thus, established the factum of preparation of bogus revenue papers/verification letter, and their presentation before the court. (3)


- E. Incorrect. In para-D above, the appellant/official has denied receiving any response/letter/document from any quarter, while in the instant para, he admits to have handed over the memos to Hameed-ur-Rehman Naib Qasid. This contradiction standalone dismisses the plea of appellant/official; while his involvement in the act has already been established as explained in para-D above.
- F. Incorrect. It is evident from record that appellant/official was responsible for diary/dispatch of court's correspondence. Reader of the Court as PW-I had deposed that the verification letter was sent to the Muharrar (appellant) for onward dispatch; and that after receiving the verification letter back from the concerned office, the Muharrar handed that to the Naib Qasid who placed the same before the learned JMIC. The appellant cross-examined the PW-I but could not shatter his testimony. The statement of PW-4 attests that neither the verification letter was received at the Tehsildar Office nor the same was issued by the said office, then the question arises that how the responding letters reached the office of Muharrar (appellant). The statement of PW-I answers this question that the Muharrar had received the said letter, thus, the appellant/official had to explain that how the said letter reached his office, why did he receive the same from an authorized person, and that why did he not bring this fact into the notice of his Presiding Officer. The CCTV footage shows that co-official Hameed ur Rehman Naib Qasid had taken a sealed envelope from the Muharrar's office and presented it before the learned JMIC. In view of the abovementioned facts, brought on record during the inquiry proceedings, the appellant/official was found involved in the entire collusion by facilitating the actual felons to fabricate forged documents and present them before the court.
- G. Incorrect. As explained in para-F above, the involvement of appellant/official was proved through cogent evidence and beyond any shadow of doubt, thus, the major penalty of removal from service was awarded on the charges of corruption and misconduct.
- H. Incorrect. Since sufficient material was available on record against the appellant/official, who could not provide any solid ground to defend himself, as evident from final/impugned order, thus, he was proceeded

against in accordance with law/relevant rules on the subject. Furthermore, the punishment awarded to the appellant/official is in accordance with the gravity and nature of the charges against him.

- I. Incorrect. The competent authority has acted as per law, in accordance with the facts & circumstances of the case, and no violation of law/rules has been committed.
- J. Incorrect. As explained in para-I above, the appellant/official was proceeded against in accordance with law and rules on the subject, and no perspicacity of any sort has been committed by the authority.
- K. Incorrect. The appellant/official has been treated on merit, and the penalty was imposed upon him after due course of law, and following the procedure. The punishment awarded to him was absolutely in line with the prescribed rules, which could not be quantified as against the natural justice. (4)
- L. Incorrect. The charges levelled against the appellant/official were grave in nature, which were proved after thorough inquiry. The appellant/official was given every opportunity of defense, but he failed to defend himself in both written as well as oral form.
- M. Needs no comments, however, it is added that the penalty imposed upon the appellant/official was appropriate and in line with his fault.
- N. Incorrect. As explained above, the appellant/official has cheated with the court, by heling the culprits to prepare and produce bogus revenue papers and verification letter thereupon. This fact was proven against him after a thorough and lawful inquiry; thus, he was awarded the major penalty.
- O. Incorrect. As explained above, the appellant/official had ample opportunities to defend himself and provide any proof in rebuttal of the charges against him, but he failed and thus was treated accordingly.
- P. Incorrect. The appellant/official was treated on merit, and the penalty was imposed upon him after due course of law, and following the procedure in letter & spirit. The punishment awarded to him was absolutely in line with the prescribed rules on the subject.

In view of the above, it is submitted that the appeal in hand being devoid of merits has no weightage in the eyes of law, therefore, the same may be dismissed, please.


[IKHTIAR KHAN]
Registrar, Peshawar High Court,
Peshawar/Respondent# 1.


[INAM ULLAH WAZIR]
District & Sessions Judge,
Peshawar/Respondent# 2

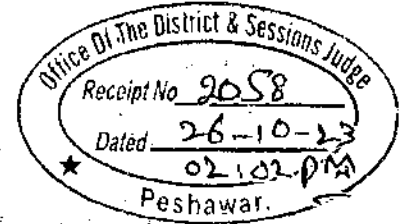
No. 9 JMIC-I, PeshawarDated: 26th October, 2023

To,

The Worthy
District & Sessions Judge,
Peshawar.

From;

Fahim Ahmad
Judicial Magistrate-I,
Peshawar

Subject: Intimation Report

Respected Sir,

I have the honor to submit that on 25/10/2023, order of the Worthy Peshawar High Court, Peshawar, in Cr. Misc. (B.A) No.4074-P/2023, titled 'Rahim Gul Vs Furqan Ullah & State', and Cri.Misc. (B.A) No.4017-P/2023 were presented to the undersigned. The same were sent to the Superintendent Sessions Court, Peshawar, for their verifications, and after due verification by the Superintendent Sessions Court, Peshawar, the same were returned to this Court. Thereafter, the bail bonds along with revenue papers were submitted before the undersigned which were sent to the Tehsildar, Peshawar, for verification of the said revenue papers vide this Court letters No.18 & 19 dated 25/10/2023.

On the same day, the revenue papers along verification reports of the Tehsildar concerned communicated through letter No.168/23 dated 25/10/2023, and letter No. 96 dated 25/10/2023, and bail bonds were put up before the undersigned. However, on suspicion, the

Attested
Superintendent
District & Sessions Court,
Peshawar.

25/10/23

Fahim Ahmad
Judicial Magistrate-I,
Peshawar

concerned Tehsildar was contacted for confirmation. In compliance, Mr. Danyal Mushtaq, Reader to the Tehsildar concerned put his appearance before the Court and stated that neither the revenue papers and letter of this Court have been received by the Tehsildar office nor any verification in this regard has been made by their office and also termed the seal and signature of the Tehsildar, Peshawar as bogus and fake. He further disclosed that revenue papers are also a colour-printed copy, meaning thereby the same have not been issued by Tehsildar Office.


(b)

In this respect, complaints of this Court vide letters dated 25/10/2023 were made to the SHO of PS East Cantt, Peshawar, for the registration of FIR against the culprits involved in fake and bogus verification of revenue papers, copy whereof is attached herewith.


Regarding diary-dispatch of this Court maintained for correspondence with the Tehsildar Office, the Muharrir namely Barkat Ali and Naib Qasid namely Hamid ur Rahman were inquired, however, they could not forward any plausible explanation in this regard. Copy of the relevant page of the said diary dispatch is attached herewith.

Today, the concerned Naib Tehsildar, Peshawar, was noticed for recording his statement and accordingly, he put his appearance before the Court. His statement was

Attached


Superintendent
District & Sessions Court,
Peshawar.

25/7/24


26-10-23
FAHIM AHMAD
Judicial Magistrate-I
Peshawar

recorded before the Court wherein he supported the same version as narrated by Mr. Danyal Mushtaq Reader to Tehsildar, Peshawar. The statement of Mr. Tahseen Ullah Niab Tehsildar, Peshawar, is attached herewith in original.

The matter is, therefore, submitted along with complete record for information and orders deemed appropriate.

(7)

Fahim Ahmad
Fahim Ahmad
Judicial Magistrate-1,
Peshawar

25/7/24 (8)

Attested

Caution

Superintendent
District & Sessions Court,
Peshawar.

25/7/24



DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA, PESHAWAR

Ph#091-9210099 Fax#091-9212419
eMail: scPeshawar@yahoo.com
web: SessionsCourtPeshawar.gov.pk

No. 6983-85
Dated Peshawar 26/10/23

OFFICE ORDER

WHEREAS, Mr. Fahim Ahmad, learned Judicial Magistrate-I, Peshawar submitted a complaint/report to the effect that fake Revenue Papers (Fardat) were made and presented in connection with Bail Petitions No. Cr.M.BA 4074-P/2023 and Cr.M.BA No. 4017-P/2023; along with Fake Verification Reports containing bogus stamp & signature of the Tehsildar Peshawar.

AND WHEREAS, Being the custodians of the official documents within the court, Barkat Ali Junior Clerk/Muharrar, Zikria Kibria Junior Clerk/Muharrar and Hameed-ur-Rehman Naib Qasid have been associated with the above-mentioned act.

NOW THEREFORE, Mr. Muhammad Ayaz Khan, learned Additional District & Sessions Judge-XII, Peshawar is appointed as Inquiry Officer, to proceed against the delinquent officials, in accordance with law/relevant rules, and submit report to this Office, within a month.

Mr. Sajjad Ahmad Jan, Assistant/ACC shall represent this Office during the inquiry proceedings.

Attested
Zund

Superintendent
District & Sessions Court,
Peshawar.

25/10/24

No. 83(DAS) 6983-85 Dated Peshawar the 26/10/2023

Copy forwarded to:

1. The worthy Registrar, Peshawar High Court, Peshawar.
2. The Inquiry Officer, along with copies of Charge Sheet and Statement of Allegations served upon the delinquent official.
3. The officials concerned.

[Signature]
District & Sessions Judge,
Peshawar.

(8)

2

27



DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA, PESHAWAR

Ph#091-9210099 Fax#091-9212419
 eMail: scPeshawar@yahoo.com
 web: SessionsCourtPeshawar.gov.pk

No. 6978-82
 Dated Peshawar 26/10/23

OFFICE ORDER

Mr. Fahim Ahmad, learned Judicial Magistrate-I, Peshawar, vide his letter No. 09 dated 26/10/2023, has reported the preparation and production of fake/bogus Revenue Papers (Fardat) before his Court in connection with Bail Petitions No. Cr.M.BA 4074-P/2023 and Cr.M.BA No. 4017-P/2023. The three officials, i.e. two Muharrars Barkat Ali and Zikria Kibria, and Naib Qasid of the Court namely Hameed-ur-Rehman, being custodians of the documents, are tentatively found responsible for the misconduct. Consequently, a departmental inquiry has been initiated, and all three officials stand suspended for ninety (90) days or until further notice, whichever comes first.

Affected

2

Superintendent
 District & Sessions Court,
 Peshawar.

25/7/24

Ashfaque Taj

[ASHFAQUE TAJ]
 District & Sessions Judge,
 Peshawar.

No. 83(DAS) 6978-82 Dated Peshawar the 26/10/2023

Copy forwarded for information/necessary action to:

1. The worthy Registrar, Peshawar High Court, Peshawar.
2. The learned Senior Civil Judge (Admn), Peshawar.
3. The learned Judicial Magistrate-I, Peshawar.
4. The Assistant/ACC, Sessions Court, Peshawar.
5. Officials concerned.

Ashfaque Taj

District & Sessions Judge,
 Peshawar.



DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA, PESHAWAR

Ph#091-9210099 Fax#091-9212419
eMail: scPeshawar@yahoo.com
web: SessionsCourtPeshawar.gov.pk

No. 6990-92
Dated Peshawar 26/10/23

DISCIPLINARY ACTION

I, Ashfaqe Taj, District & Sessions Judge, as competent authority, am of the opinion that (1) Barkat Ali Junior Clerk/Muharrar, (2) Zikria Kibria, Junior Clerk/Muharrar, and (3) Hameed-ur-Rehman, Naib Qasid have rendered themselves liable to be proceeded against, as they have committed the following acts/omissions, within the meaning of Rules 3(b) & (c) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATION(S)

1. Prepared and presented fake Revenue Papers (Fardat) in connection with Bail Petitions No. Cr.M.BA 4074-P/2023 and Cr.M.BA No. 4017-P/2023. Also, prepared bogus verification reports upon the same by affixing fake stamps & signature of the Tehsildar Peshawar.

Attested

Superintendent
District & Sessions Court,
Peshawar.

25/11/24

1. For the purpose of inquiry against the said accused official with reference to the above allegations, Mr. Muhammad Ayaz Khan, learned Additional District & Sessions Judge-XII, Peshawar is appointed under Rule 10(1)(a) of the rules ibid.
2. The inquiry officer shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record his findings and make, within **thirty** days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
3. The accused and Mr. Sajjad Ahmad Jan, Assistant/representative of this office, shall join the proceedings on the date, time and place fixed by the Inquiry Officer.

Ashfaqe Taj

[ASHFAQE TAJ]

District & Sessions Judge/
Competent Authority,
Peshawar.



DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA, PESHAWAR

Ph# 091-9210099 Fax# 091-9212419
eMail: scPeshawar@yahoo.com
web: SessionsCourtPeshawar.gov.pk

No. 6987-89
Dated Peshawar 26/10/23

CHARGE SHEET

I, **Ashfaque Taj**, District & Sessions Judge Peshawar, as competent authority, hereby charge you, (1) **Barkat Ali Junior Clerk/Muharrar**, (2) **Zikria Kibria, Junior Clerk/Muharrar**, and (3) **Hameed-ur-Rehman, Naib Qasid** as follow:

1. That, while posted in the Court of learned Judicial Magistrate-I Peshawar, you committed the following irregularities:

a. Prepared and presented fake Revenue Papers (Fardat) in connection with Bail Petitions No. Cr.M.BA 4074-P/2023 and Cr.M.BA No. 4017-P/2023. Also, prepared bogus verification reports upon the same by affixing fake stamps & signature of the Tehsildar Peshawar.

2. By reason of the above, you all appear to be guilty of **Misconduct & Corruption** under Rules 3(b) & (c) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule-4 of the rules ibid.

3. You are, therefore, required to submit your written defense within **seven** days of the receipt of this charge sheet to the Inquiry Officer.

4. Your written defense, if any, should reach the Inquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case, ex-parte action shall be taken against you.

5. Intimate whether you desire to be heard in person.

6. A statement of allegations is enclosed.

Ashfaque Taj

[ASHFAQUE TAJ]

District & Sessions Judge/
Competent Authority,
Peshawar.

Attended

Taj

Superintendent
District & Sessions Court,
Peshawar.
25/12/24

11

3
96

69

**BEFORE THE WORTHY INQUIRY OFFICER MR. MUHAMMAD AYAZ
KHAN HON'BLE ADDITIONAL DISTRICT & SESSIONS JUDGE-XII,
PESHAWAR.**

**REPLY TO THE CHARGE SHEET & STATEMENT OF ALLEGATIONS
DATED 26-10-2023**

Respectfully Sheweth:

Barkat Ali, Junior Clerk / Muharrar, attached to the court of Judicial Magistrate-I Peshawar, the petitioner, submits most respectfully, the following reply to the charge sheet & statement of allegations dated 26-10-2023 for your kind consideration and favour of acceptance.

1. The petitioner is serving as Muharrar attached to the court of Mr. Faheem Ahmad Judicial Magistrate-I Peshawar, wherein he was served with the charge sheet and statement of allegations dated 26-10-2023 along with 02 other Officials.
2. That prior to the instant charge sheet & statement of allegations neither any complaint nor any sort of disciplinary proceedings were ever initiated against the petitioner.
3. That the charge sheet contains the allegation detailed as under;

1. That, while posted in the court of learned Judicial Magistrate-I Peshawar, you committed the following irregularities;

- a. Prepared and presented fake Revenue Papers (Fardat) in connection with Bail Petitions No. Cr.M.BA 4074-P / 2023 and Cr.M.BA No. 4017-P/2023. Also, prepared bogus verification reports upon the same by affixing fake stamps & signature of the Tehsildar Peshawar.

That while serving as Muharrar attached to the Court Learned Judicial Magistrate-I, Peshawar, he was tentatively associated with the preparation and production of fake / bogus revenue papers (Fardat) in connection with Bail Petitions No. Cr.M.BA 4074-P/2023 and Cr.M.BA No. 4017-P/2023 and was suspended by the Hon'ble District & Session Judge Peshawar vide Office Order No. 6978-82 dated 26-10-2023.

5. The allegation against him was based upon an intimation report No. 09 JMIC-I Peshawar dated 26-10-2023 filed by Mr. Faheem Ahmad JMIC-I Peshawar before the worthy District & Session Judge Peshawar.

Attended
[Signature]
Superintendent
District & Sessions Court,
Peshawar.

25/11/24
4.

- 6. That the Hon'ble Peshawar High Court Peshawar while passing the order in Cr.M.BA 4074-P/2023 and Cr.M.BA No. 4017-P/2023 allowed bail to the accused / petitioners with the direction to be released on submission of bail bonds to the tune of Rs. 300,000/- with two sureties each in like amount to the satisfaction of concerned Judicial Magistrate / MOD.
 - 7. That the Learned JMIC-I Peshawar on receiving the bail bonds sent the accompanying revenue record / Fard Jamabandi to the Tehsildar Peshawar vide letter No. 19 JMIC-I Peshawar dated 25-10-2023 for their due verification.
 - 8. That the petitioner being Muharrar attached to the court of JMIC-I Peshawar entered the letters of verification of both the accused Gul Raheem and Muddassar Khan at serial No. 18 & 19 of DAK BOOK dated 25-10-2023.
 - 9. The letters in matter of routine were handed over to Peon / Naib Qasid Hameed-Ur-Rehman for its further submission in accordance with the laid down procedure before the Superintendent Sessions Court Peshawar and then its onward submission before Tehsildar Peshawar.
 - 10. That after handing over the documents to Hameed-ur-Rehman on 25-10-2023 the petitioner never received back any response from either the Superintendent Sessions Court Peshawar or the Tehsildar Peshawar.
 - 11. That the petitioner did not receive any instruction from the Court of Hon'ble JMIC-I Peshawar regarding the verification of the revenue record and he also did not receive any response from the Office of Tehsildar Peshawar, as it was not within his job description or competence.
 - 12. That no receipt of any response from either Superintendent Sessions Court Peshawar or Tehsildar Peshawar exists on record. The representatives of the accused directly submitted the fake and fraudulently prepared revenue record and verification letter before the Hon'ble JMIC-I, Peshawar.
- It is also worth mentioning that none of the 02 Muharrars attached to the Court of JMIC Peshawar were associated with either return or verification of revenue record (Fardat).
- 13. That the petitioner was utterly surprised and shocked to receive the suspension letter along with the Charge sheet and statement of allegations. The petitioner has never associated himself with any act, which would have tarnished his image and adversely affect his service career during entire period of his service record.

137

33

Attested
[Signature]

Superintendent
District & Sessions Court,
Peshawar. 11.
25/7/24


- 14. That the petitioner has been framed in the controversy without any association with alleged act of fraud and deceit before the Hon'ble Court and thus places himself at the mercy of the worthy inquiry Officer and respectfully submits, to exonerate him of the charges leveled against him.

In view of the above, it is humbly requested that the charge sheet along with statement of allegations dated 26-10-2023, may kindly be recalled and the petitioner may be exonerated from charges leveled against him with all the benefits of continuous service.

The petitioner seeks leave of the worthy authority to provide him the opportunity to be heard in person.

(14)

Accepted



Superintendent
District & Sessions Court,
Peshawar.

25/11/23



34

3/11/2023

Barkat Ali
Junior Clerk / Muharrar,
attached to the court of
Judicial Magistrate-I
Peshawar.

Peshawar, Dated
3rd November, 2023

1

**BEFORE MR. NASIR KHAN ADDITIONAL DISTRICT & SESSIONS JUDGE-
XVI, PESHAWAR/INQUIRY OFFICER**

**DEPARTMENTAL INQUIRY UNDER KHYBER PAKHTUNKHWA
GOVERNMENT SERVANTS (EFFICIENCY AND DISCIPLINE) RULES, 2011**

Name of delinquent officials:- 1. Barkat Ali [Muharrir BPS-11]
2. Zikria Kibria [Muharrir BPS-11]
3. Hameed Ur Rehman [Naib Qasid BPS-04]

Establishment:- District & Sessions Judge, Peshawar

BACKGROUND FACTS:

With reference complaint No.09 dated 26-10-2023, the Judicial
Magistrate-I, Peshawar reported the preparation and presentation of bogus
revenue papers alongwith bail bonds before his court in connection with
bail application No.Cr.M.BA 4074-P/2023 and Cr.M.BA 4017-P/2023.

The delinquent officials viz above, posted and attached as Muharrir and
Naib Qasid, respectively, with the court of Judicial Magistrate-I,
Peshawar, were apparently found responsible for the preparation of fake
and bogus revenue papers and thus they being found guilty of misconduct
& corruption within the meaning of Rule 3(b) & 3(c) of the Khyber
Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules,
2011 [hereafter referred "Rules, 2011"], rendered themselves liable to be
proceeded against under the Rules, 2011. For that reasons, the competent
authority was pleased to order for departmental inquiry against the
delinquent officials as per contemplation of Rule 5(1)(b) read with Rule

Departmental Inquiry into Charge against Barkat Ali & Zakria Kibria [both muharrir
BPS-11 and Hameed Ur Rehman [Naib Qasid BPS-04]

Affected

Chief

Superintendent
District & Sessions
Magistrate-I,
Peshawar.

25/12/24

25/12/24

15

10 of the Rules, 2011. Vide order No.6983-85 dated 26-10-2023, Mr. Muhammad Ayaz Khan, AD&SJ-XII, Peshawar was appointed as Inquiry Officer under Rule 10(1)(a) of Rules, 2011 as to conduct the Inquiry against the delinquent officials under Rule 11 of Rules, 2011, into the charges. The statement of allegations was issued and the delinquent officials were charge sheeted under Rule 5(2) of the Rules, 2011 for the charge of misconduct and corruption as envisaged under Rule-3(b) & 3(c) of Rules, 2011. The delinquent officials were also directed to file their written defense to the charge before the Inquiry Officer as provided under Rule-10(1)(d) of the Rules, 2011.

[It may be noted that; Mr. Muhammad Ayaz Khan AD&SJ-XII,

Peshawar proceeded with the subject inquiry, but owing to his transfer,

the competent authority via his office order dated 25-11-2023, appointed

the undersigned as inquiry officer to continue with inquiry from the point/proceeding, it was left by the erstwhile Inquiry Officer]

2. **INQUIRY PROCEEDINGS as per Rule-11 of The Rules, 2011**

The delinquent officials filed their written defense to the charge, which were found to be unsatisfactory. The statements of Kashif Elahi [Reader]/PW-1, Ismail [steno]/PW-2 and Asfandyar [junior clerk]/PW-3, attached to the Court of Judicial Magistrate-I, Peshawar, were recorded. Mr. Tehsin Ullah Naib Tehsildar was examined as PW-4. Faisal Khan Junior clerk English branch was examined as Pw-5.

Departmental Inquiry into Charge against Barkat Ali & Zakria Kibria [both muharrir BPS-11 and Hameed Ur Rehman [Naib Qasid BPS-04]

Attended
Superintendent
District & Sessions Court,
Peshawar.
25/11/23
04.11.2024

16

16

As per directions of former inquiry officer, the Judicial Magistrate-I, Peshawar Mr. Faheem Ahmad has also submitted a detailed report, which is placed on file.

Thereafter, opportunity as per contemplation of Rule-11(1) of Rules, 2011 was also extended to the delinquent officials as to record their statements and produce evidence in their defense, if they so wishes. The delinquent officials recorded their statements. On request of delinquent official Barkat Ali [Muharrir], the incharge CCTV control room was summoned, who produced CCTV recording, saved in USB, which is placed on file. After viewing the video recording, one of the delinquent official named Hameed Ur Rehman [Naib Qasid], having the sealed envelope in his hands, on the relevant day and time, was found roaming in court's veranda/corridors along one Muhammad Numan Shah Advocate, therefore, on application of the representative of competent authority, the said Muhammad Numan Shah Advocate was also summoned and examined as CW.

After recording the statement of CW, again opportunity was extended to the delinquent officials for recording their additional statements or to produce evidence in their defense, but they did not opt for.

3. FINDINGS:

The record made available before me, unravels that the accused named Raheem Gul son Ajab Gul [charged in case FIR No.422 dated 10-

Departmental Inquiry into Charge against Barkat Ali & Zakria Kibria [both muharrir BPS-11 and Hameed Ur Rehman [Naib Qasid BPS-04]

Attended
Court

Superintendent
District & Sessions Court,
Peshawar.

09.11.2011

(17)

17

08-2023 under section 489-B/419/420 PPC PS Shah Qabool] and accused named Muhammad Asif Khan son of Umar Zaman [charged in case FIR No.32 dated 14-03-2023 under section 9D KP CNSA PS Excise] were admitted to bail by the honorable Peshawar High Court after their bail petitions No.4074-P/2023 [decided on 23-10-2023] and petition No.4017-P/2023 [decided on 17-10-2023] were allowed subject to furnish bail bonds in the tune of rupees three lac and rupees two lac respectively. As result thereof, the sureties Shah Nazar Khan & Irfan Ullah with attestifier Neor Din [for accused Raheem Gul son of Ajab Gul] and sureties Mudassir Khan & Faqeer Gul with attestifier Siraj Afridi [for accused Muhammad Asif Khan son of Umar Zaman] appeared and produced bail bonds, appended by revenue papers/periodical record, before the Judicial Magistrate-I, Peshawar. The Judicial Magistrate after getting the orders of the Peshawar High Court verified from the concerned branch at High Court, vide its office letter No.18 & 19 dated 25-10-2023 [confidential] sent the revenue papers/periodical record to Tehsildar, Peshawar for verification. The delinquent official named Barkat Ali [Muharrir], assigned with the duties of docket dispatch, was handed over the sealed confidential letters, which he with reference entry in the Dak-book at serial Nos.18 and 19, sent the letters to office of Tehsildar, Peshawar. Allegedly, the letters he had handed over to other delinquent official named Hameed Ur Rehman [Naib Qasid] for its delivery at the office of Nazir, who was supposed to dispatch/transmit it to the office of Tehsildar,

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18

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Superintendent
District & Sessions Court
Peshawar

25/10/24

04.1.2524

Departmental Inquiry into Charge against Barkat Ali & Zakria Kibria [both muharrir BPS-11 and Hameed Ur Rehman [Naib Qasid BPS-04]

Peshawar for verification. Receiving the alleged responding verification letter, the bail bonds with revenue papers were placed before the learned Judicial Magistrate for further necessary action. The learned Judicial Magistrate finding the verification letter/revenue papers suspicious, summoned the revenue authority for further verification of the documents presented before Court. The Naib Tehsildar putting appearance before the learned Judicial Magistrate, disclosed the verification documents and revenue papers to be fake and fictitious. It may be noted that; during inquiry the Naib Tehsildar Peshawar named Tehsin Ullah was also examined as PW-4, who had confirmed that the letters issued by the court

verification of revenue papers were neither received at revenue office nor had these letters been responded by the office of Tehsildar. The witness has further confirmed that the alleged verification letters bearing fake signature and seal as well as the revenue papers, appended thereto, are bogus and fictitious as being falsely fabricated. PW-4 has not been cross examined by the delinquent officials whereas no evidence, to the contrary, is either available on file to suggest that either the verification letter was genuine or the revenue papers, presented along bail bonds, were valid abstract/copies of the original. In light of statement of PW-4, it has thus been clearly established that the verification letters as well as the revenue papers were falsely fabricated and then presented before the court posing it to be genuine documents.

Departmental Inquiry into Charge against Barkat Ali & Zakria Kibria [both muharrir BPS-11 and Hameed Ur Rehman [Naib Qasid BPS-04]

Alleged
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Superintendent
District & Sessions Court,
Peshawar

25/07/24

Handwritten signature and date: 25/7/24

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19

Now adverting to the next important question as that who amongst the delinquent officials was in collusion/association with sureties/felons and, that how they had been facilitated by the court officials to make and present false and bogus documents before the court. As evident from the all-inclusive complaint filed by the learned Judicial Magistrate and further seconded by his detailed report filed before the former inquiry officer, the delinquent official named Barkat Ali [Muharrir] was assigned the job to maintain Dak-book, dispatch and receive letters/correspondence. In this context, PW-1 [reader of the court] [later on re-examined] has also deposed that the letters, addressed to revenue authority for verification of periodical record, was handed over to Muharrir for its onward dispatch. The witness has further disclosed that receiving the verification letter back from the concerned office, the muharrir handed it over to the Naib Qasid, who placed the verification documents before the court. In his cross examination, PW-1 has further confirmed that in routine all correspondence, pertaining to the court, are being sent and received by the muharrir. Availing opportunity to cross-examine the witness, the Muharrir Barkat Ali could not shatter his testimony as to suggest that either the verification letter was not handed over to him for its onward dispatch to the concerned quarter or that, he had not received the posed responding [fake] letters. Keeping the statement of PW-4 in view, when the verification letters were not received at the office of Tehsildar and that responding letters were also not issued by said revenue authority, then the

Departmental Inquiry into Charge against Barkat Ali & Zakria Kibria [both muharrir BPS-11 and Hameed Ur Rehman [Naib Qasid BPS-04]

Attended

Superintendent
District & Sessions Court,
Peshawar.

25/1/2024

20

90

question would arise that how the responding letters then reached and received at the office of Muharrir. The statement of PW-1, in this context has unraveled that the Muharrir had received the responding letter, who then managed to present it before the court, therefore, it was for the Muharrir Barkat Ali, being assigned with the job of dispatch and receipt of correspondence/letters, to have had established that how the verification letters were received at his office and, if these were not produced before him by an authorized person in routine modus then; firstly; why he had received it from an unauthorized person and secondly; why he had failed to bring this fact into the notice of Presiding Officer.

(21)

21

Recording his statement, the Muharrir Barkat Ali has though denied that he had received back the responding letters from the office of revenue authority but, firstly while cross examining the relevant PWs, he could not shatter their testimony on the point that he had received the responding letters and then managed to place it before the court. secondly, on the application of same official, the CCTV recording pertaining to the court area/court room of Judicial Magistrate-I, Peshawar has been made part of the record, which also gives visual pictures that after receiving the responding letters [wrapped in sealed envelope], the co-official/Hameed Ur Rehman, accompanied by one advocate named Numan Shah, had taken the sealed envelope from the office of Muharrir and presented it before the presiding Officer. In such view of the facts, the delinquent official Barkat Ali [Muharrir] is found involved in the entire collusion,

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Superintendent
District & Sessions Court,
Peshawar

04.1.2024
[Signature]

who has facilitated the actual felons to fabricate false documents and to present it before the court.

Coming to the role played by delinquent official Hameed Ur Rehman in the collusion of scheming and managing the fabrication of false documents and its presentation before the court. In routine, the Naib Qasid attached with each Court has been primarily assigned the duty to take the outgoing letters/docket to concerned office/addressee under Dak-book, being maintained in every court for the said purpose. In the present case too; the verification letters duly sealed were handed over to Hameed Ur Rehman for its delivery in the office of Nazir, for its onward dispatch to the office of revenue authorities/Tehsildar, Peshawar. The said delinquent official, however, deliberately failed to hand it over in the said office rather being hands in gloves with the sureties/felons, he handed it over to one Advocate Numan Shah, who then passed it to the sureties for fabrication and manipulation of false verification letters. In this context, the CCTV footages, placed on record, shows that receiving the sealed envelope from the office of Muharrir, the Naib Qasid Hameed Ur Rehman after roving in the corridors, joins the company of Numan Shah Advocate, handing over the sealed envelope to him. Examining the said advocate as CW, he has categorically admitted that, as per instructions of his client/sureties [the felons], he contacted the Naib Qasid Hameed Ur Rehman, who handed the sealed envelope over to him, which then he passed to the sureties and one other unknown person. The statement of

Departmental Inquiry into Charge against Barkat Ali & Zakria Kibria [both muharrir BPS-11 and Hameed Ur Rehman [Naib Qasid BPS-04]

Attested


Superintendent
 District & Sessions Court,
 Peshawar

25/11/24
 04.11.2024

22

99

Advocate Numan Shah finding support from the CCTV footages has sufficiently established that the Naib Qasid Hameed Ur Rehman was also hired for the felony and he had made it possible for the actual felons to manage the fabrication of false documents whereas, with the assistance and support of Hameed Ur Rehman [Naib Qasid], the fake and bogus documents were then presented before the court. The delinquent official Hameed Ur Rehman [Naib Qasid] while recording his statement has though denied that he was handed over the sealed envelope by Muharrir for its transmission to the office of Nazir but, during cross examination of CW, the delinquent official Hameed Ur Rehman could not establish that either the CCTV footages are fictitious or he had not joined hands with actual felons and facilitated them.

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93

So far as the role of delinquent official Zakria Kibria [Muharrir] is concerned, since he has neither been assigned the duty related dispatch of docket or to receive any correspondence whereas, the evidence recorded also do not suggest that through any other mean or mode he had extended any facilitation to his colleagues officials or had provided any assistance and support to the actual felons. Therefore, the official Zakria Kibria [Muharrir] is found innocent.

Evaluating the facts ibid and viewing it in all perspectives, it can be safely gathered that the delinquent officials named Barkat Ali [Muharrir] and Hameed Ur Rehman [Naib Qasid] are guilty of misconduct and corruption, therefore, the charge against the officials viz above under Rule

Departmental Inquiry into Charge against Barkat Ali & Zakria Kibria [both muharrir BPS-11 and Hameed Ur Rehman [Naib Qasid BPS-04]

Affected
 Superintendent
 District & Sessions
 Court,
 Peshawar.
 23/1/2024

3(b) and 3(c) of Rules, 2011 has successfully been established and proved therefore, they are accordingly found guilty.

4. Recommendation/conclusion:

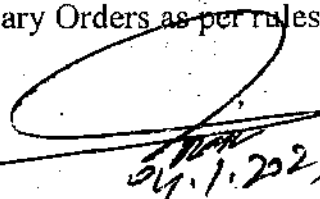
The delinquent officials named Barkat Ali [Muharrir BPS-11] and Hameed Ur Rehman [Naib Qasid BPS-04], working in the establishment of District & Sessions Judge, Peshawar since found guilty of misconduct as per Rule 3(b) and corruption under Rule 3(c) of The Rules, 2011, therefore, the major penalty/penalties as per contemplation of Rule 4(b) of Rules, 2011 is/are proposed to be imposed against them.

The other delinquent official Zakria Kibria [Muharrir BPS-11] since found to be innocent therefore, he may be discharged of the allegations of misconduct and corruption.

With above observation and conclusion, the Inquiry report is submitted before the Hon'ble District & Sessions Judge/Competent Authority for his perusal and further necessary Orders as per rules, please.

Agreed
25/7/24

Superintendent
District & Sessions Court,
Peshawar.
25/7/24


25.1.2024

(NASIR KHAN)

Additional District & Sessions Judge-XVI/
Inquiry Officer District, Peshawar

Agreed
Issue notices
as per EPD Rules

Taqi Fozil
6/11/24

District & Sessions Judge
Peshawar

Departmental Inquiry into Charge against Barkat Ali & Zakria Kibria [both muharrir BPS-11 and Hameed Ur Rehman [Naib Qasid BPS-04]

OFFICE OF THE DISTRICT AND SESSIONS JUDGE PESHAWAR

No.83 (DAS) 152 Dated Peshawar, the 08 10/1 2024

SHOW CAUSE NOTICE

I, **Ashfaque Taj**, District & Sessions Judge, Peshawar, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 do hereby serve you, **Barkat Ali, Junior Clerk (BPS-11)** as follow:

1. That, while posted as Muharrar to the Court of Mr. Fahim Ahmad, learned Judicial Magistrate-I, Peshawar, your Presiding Officer submitted a complaint/report to the effect that fake Revenue Papers (Fardat) were made and presented before the Court in connection with Bail Petitions No. Cr.M.BA 4074-P/2023 and Cr.M.BA No. 4017-P/2023; along with Fake Verification Reports containing bogus stamp & signatures of the Tehsildar Peshawar. Formal inquiry was conducted wherein the charges of misconduct and corruption have been proved against you and another.
2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of **Removal from Service** under rule 4(1)(b)(iii) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 rules ibid.
3. You are required to furnish a reply to this notice within **seven** days.
4. If no reply to this notice is received within **seven** days of its delivery, it shall be presumed that you have no defense to put in, and in that case, an ex-parte action shall be taken against you.
5. Intimate whether you desire to be heard in person.
6. A copy of the findings of Inquiry Officer is enclosed.

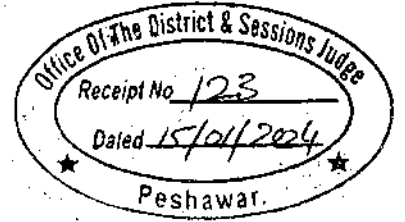
Ashfaque Taj
[ASHFAQUE TAJ]
District & Sessions Judge,
Peshawar.

Affected
Superintendent
District & Sessions Court,
Peshawar.
25/10/24

o/c

To,

The Worthy,
District & Session Judge, Peshawar.
(Competent Authority).



Subject: REPLY TO THE SHOW CAUSE NOTICE NO.
152, DATED. 08.01.2024.

Respected Sir,

Reference your Show Cause Notice dated 08.01.2024, I very humbly submit my reply as under:-


1. That the undersigned is serving against the post of Muharrar to the court of Judicial Magistrate -I, Peshawar. He has more than 13 years service, and performing his duties with the entire satisfaction of his superior and never give a chance of complaint to his high ups whereas performing his duties with utter dedication and honesty, and having the cleanest tract record through out his career, serving of show cause on the undersigned is a spot on the best tract service record of the undersigned.
2. That the undersigned was served with the charge sheet and statement of allegation vide dated 26-10-2023 with the allegation as to the following:-
 - a. *The preparation and presented fake Revenue Paper (Fardat) in the connection with Bail Petitioner No. Cr.M.BA 4074-p/2023. Also, prepared bogus verification reports upon the same by affixing fake stamps and signature of the Tehsildar Peshawar.*
3. That the undersigned has already denied the above cited accusations vide his reply dated 03.11.2023 and thereby explained the true facts of the case.
4. That the undersigned attached to the court of JMC-I Peshawar entered the latter of verification of both the accused on serial NO.18 & 19 of the DAK Book on dated 25.10.2023 .
5. The letters in the matter were entered in the book and were handed over to Peon/Naib Qasid Hameed ur Rehman for its further submission in accordance with laid down procedure

Attacked
Superintendent
District & Sessions Court,
Peshawar.

25/07/24

before the superintendent Session Court, Peshawar or the Tehsildar Peshawar .

6. That the undersigned had not received back any response from either Superintendent Session Courts Peshawar or other concerned quarter, therefore, no entry in the book was made, and the representative of the accuseds directly submitted the fake and fraudulently prepared revenue record and verification letter before the Hon'able JMC-I Peshawar.
7. That the undersigned have only job to make entries of the various letter/ memos etc in the relevant register/book. I handed over the official memos for onward submission to Naib Qasid Hameedur Rehman and that too in sealed envelope. Thereafter I never received any back response officially nor I placed the said documents before the Hon'able JMC-I. So I cannot be held responsible for the acts and omissions of others. (27)
8. That it was also evident from the record of CCTV footage, that peon Naib Qasid received the sealed enveloped from Muhhrrar room for verification ,but the peon did not go to Nazir office he joined the company of Advocate Noman Shah, while did not bring the receiving from Nazir office. Mean while the statement of advocate Noman Shah clearly shows that peon gave him the letter along with the DAK Book and clearly told that to return to him (Hameedur Rehman) because the Muharrar will not receive it from you people. Thereafter the said documents were directly given back to Hameedur Rehman who placed the same before the JMC-I. All such statement clearly shows that I am innocent and has no role in the whole episode. (7)
9. That it is evident from footage of CCTV, and statement of an Advocate in inquiry who was examined as CW, has categorically admitted and explained the whole story proves that I am not guilty of any kind of misconduct. More so, the

Attested

Superintendent
District & Sessions Court,
Peshawar.

25/7/24

worthy inquiry officer has also not proved any misconduct against me beyond shadow of doubts.

Keeping in view the above mentioned facts and para wise reply to the show cause notice, it is very humbly requested that the show cause notice served upon me may please be withdrawn and I may please be exonerated from the charges leveled against me.

I shall also request for personal hearing.

Yours Obediently,

Barkat Ali Jr. Clerk/Muharrar
Attached to the Court of JMC-I Peshawar.

Dated: 15/01/2024

Attested
Superintendent
District & Sessions Court,
Peshawar.
25/01/2024

28

15/01/2024

8



DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA, PESHAWAR

Ph#091-9210099 Fax#091-9212419
eMail: scPeshawar@yahoo.com
web: SessionsCourtPeshawar.gov.pk

No. 832-40
Dated Peshawar 07/2/24

ORDER

WHEREAS, a complaint was submitted by Mr. Fahim Ahmad, learned Judicial Magistrate-I Peshawar to the effect that fake Revenue Papers (Fardaats) were prepared and presented before his Court in connection with Bail Petitions No. Cr.M.BA 4074-P/2023 and Cr.M.BA No. 4017-P/2023; along with Fake Verification Reports containing bogus stamp & signature of the Tehsildar Peshawar. Thus, formal inquiry was ordered to be conducted against the court's officials namely (1) Barkat Ali Junior Clerk/Muharrar, (2) Zikria Kibria Junior Clerk/Muharrar, and (3) Hameed-ur-Rehman Naib Qasid.

AND WHEREAS, the learned Inquiry Officer submitted his report on 04/01/2024 wherein the charges of misconduct and corruption were reported to have been established against Barkat Ali Junior Clerk/Muharrar and Hameed-ur-Rehman Naib Qasid, while Zikria Kibria Junior Clerk was reported to be innocent in the instant charges. Thus, Final Show Cause Notices were issued to both the delinquent officials via No. 152 & 153 dated 08/01/2024. They submitted their separate replies on 13/01/2024 and 15/01/2024, as well as, were heard in person but they failed to provide any satisfactory proof in their defense.

NOW, THEREFORE, in exercise of powers conferred upon the undersigned under rule 4(1)(b)(iii) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules-2011, the delinquent officials i.e. (1) **Barkat Ali Junior Clerk (BPS-11)** and (2) **Hameed-ur-Rehman Naib Qasid (BPS-03)** of this Sessions Division are hereby **Removed from Service**, in the interest of public service, with immediate effect; while **Mr. Zikria Kibria, Junior Clerk** is exonerated of the charges levelled against him in the instant proceedings.



[ASHFAQUE TAJ]
District & Sessions Judge,
Peshawar.

No. 83(DAS) 832-40 Dated Peshawar, the 07 / 02 / 2024

Copy forwarded for information/necessary action to:

1. The worthy Registrar, Peshawar High Court, Peshawar.
2. The learned M.I.T, Peshawar High Court, Peshawar.
3. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
4. Mr. Nasir Khan, AD & SJ-XVI Peshawar/Inquiry Officer.
5. The Senior Civil Judge (Admn), Peshawar.
6. The Assistant/ACC, Sessions Court, Peshawar.
7. The Assistant/CoC, District Courts, Peshawar.
8. The Assistant/Accountant, Sessions Court, Peshawar.
9. Officials concerned.

Attested
[Signature]
Superintendent
District & Sessions Court,
Peshawar.

25/07/2024

[Signature]
District & Sessions Judge,
Peshawar.

(30)

(3)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Appeal No. 706 of 2024

Barkat Ali

--VS--

District & Sessions Judge, Peshawar & another

(31)

COUNTER AFFIDAVIT

I, Inam Ullah Wazir, District & Sessions Judge, Peshawar do hereby affirm and declare on oath that the contents of this reply are true and correct to the best of my knowledge and nothing has been concealed from this Hon'ble Tribunal.

It is further stated on oath that the answering respondents have neither been placed ex-parte, nor their defense has been struck off, or cost imposed.

Deponent



Inam Ullah Wazir
Inam Ullah Wazir,
District & Sessions Judge,
Peshawar.

25/11/24



DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA, PESHAWAR

Ph#091-9210099 Fax#091-9212419
eMail: scPeshawar@yahoo.com
web: SessionsCourtPeshawar.gov.pk

No. 3748
Dated Peshawar 01/07/24

To

The Additional Registrar (Admn),
Peshawar High Court,
Peshawar.

Subject: **APPEAL NO. 706/2024**
"Barkat Ali ... VS... D&SJ Peshawar & OTHERS"

Reference: PHC letter No. 5297/Admn dated 14/06/2024

Dear Sir,

The requisite para-wise comments are forwarded herewith, for vetting and approval. It is further stated that Mr. Rahmdad Khan, Superintendent BPS-17 (0300-5946391) of this office is hereby designated as Departmental Representative to attend the Service Tribunal KPK Peshawar on each date of hearing in connection with the subject Departmental Appeals, with the assistance of Mr. Sajjad Ahmad Jan, Assistant/ACC (0300-5949003) of this Office.

[INAM ULLAH WAZIR]
District & Sessions Judge,
Peshawar.

No. 3749 Dated Peshawar the, 01/07/2024

Copy forwarded to the Registrar, Khyber Pakhtunkhwa Service Tribunal,
Peshawar, for information.

District & Sessions Judge,
Peshawar.