

BEFORE THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR

Service Appeal No. 2617/2023

MR. Aurang Zaib Khan, Ex Assistant.....(Appellant)


VERSUS

Government of KP, through Chief Secretary & Others..... (Respondents)

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DEPONENT


CNIC No. 17301-6272682-3
Contact No. 0315-5737137

Dated 24-09-2024

191

BEFORE THE CHAIRMAN KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. 2617/2023

MR. Aurang Zaib Khan, Ex Assistant.....(Appellant)
Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Diary No. 16065

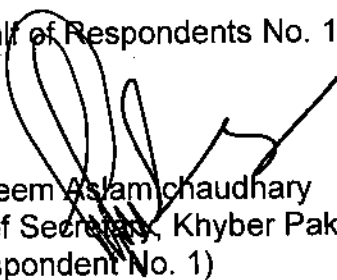
Government of KP, through Chief Secretary & Others.....(Respondents)
Dated 26-09-24

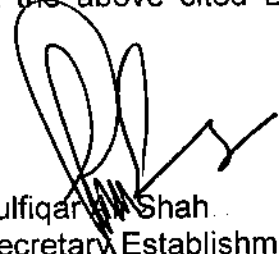
Application/Request for submission of Additional Documents on behalf of Respondents No. 1 & 4.

Respectfully Sheweth.

1. That the subject Service Appeal has been pending before the Khyber Pakhtunkhwa Service Tribunal, Peshawar, wherein the next date of hearing is fixed on 23-10-2024.
2. That the department has submitted additional relevant records in the instant Service Appeal for proper explanation of the case as under:
 - i. Copies of nomination of inquiry Officer alongwith charge sheet and statement of allegations (**Annex-I**).
 - ii. Copy of final report of the Inquiry Officer submitted to Establishment Department (**Annex-II**).
 - iii. Copy of report provided by Medical Director Lady Reading Hospital (MTI), Peshawar regarding all prescription/OPD chits submitted by the appellant in the instant case (**Annex-III**).
 - iv. Copy of personal hearing vide letter dated 16-05-2023 (**Annex-IV**).

In view of the above mentioned facts, it is most humbly prayed that Khyber Pakhtunkhwa Service Tribunal, Peshawar may accept the above cited Documents on behalf of Respondents No. 1 & 4 please.


Nadeem Aslam Chaudhary
Chief Secretary, Khyber Pakhtunkhwa
(Respondent No. 1)
Through
Ahmad Zeb
Special Secretary Establishment


Zulfiqar Ali Shah
Secretary Establishment
(Respondent No. 4)
Through
Ahmad Zeb
Special Secretary Establishment

Through

Additional Advocate General,
Khyber Pakhtunkhwa
Service Tribunal, Peshawar.

3

BEFORE THE CHAIRMAN KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. 2617/2023

MR. Aurang Zaib Khan, Ex Assistant.....(Appellant)

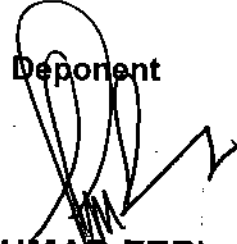
VERSUS

Government of KP, through Chief Secretary & Others..... (Respondents)

AFFIDAVIT

I, Ahmad Zeb, Special Secretary, Establishment Department, do hereby solemnly declare that contents of the parawise comments are true and correct to the best of my knowledge and record and nothing has been concealed from this Hon'ble Court.

Deponent



(AHMAD ZEB)
Special Secretary
Establishment Department

Identified By

Advocate General,
Khyber Pakhtunkhwa,
Peshawar.



4

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT**

AUTHORITY LETTER

Mr. Riaz Khan, Superintendent Litigation-III, Govt. of Khyber Pakhtunkhwa, Establishment Department is hereby authorized to submit Additional Documents in the Hon'ble Service Tribunal, Peshawar in "**Service Appeal NO. 2617/2023 Title Aurang Zaib Khan VS Govt. of Khyber Pakhtunkhwa & others**" on behalf of respondent No.1 & 4.

A handwritten signature in black ink, appearing to be 'Nadeem Aslam Chaudhary'.

**Nadeem Aslam Chaudhary
Chief Secretary, Khyber Pakhtunkhwa
(Respondent No. 1)
Through
Ahmad Zeb
Special Secretary Establishment
Establishment**

A handwritten signature in black ink, appearing to be 'Zulfiqar Ali Shah'.

**Zulfiqar Ali Shah
Secretary Establishment
(Respondent No. 4)
Through
Ahmad Zeb
Special Secretary**



5

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(ESTABLISHMENT WING)**

No. SOE.IV (ED) 2(890)18/Aurangzeb
Dated Peshawar 28.10.2022

To

Mr. Yousaf Haroon, PMS (BS-17),
Section Officer, Sports Department.

Subject: - **DISCIPLINARY ACTION AGAINST AURANGZEB, ASSISTANT,
(BS-16), LAW DEPARTMENT.**

I am directed to refer to the subject noted above and to inform that the Competent Authority is pleased to appoint you as inquiry officer to conduct inquiry against Mr. Aurangzeb, Assistant (BS-16), Law Department for his willful absence.

2. Copies of Charge Sheet and Statement of Allegations along-with relevant record are enclosed herewith.

Encl: As Above:

Endst: Even No. & Date.

Copy forwarded to: -

1. CSO to Chief Secretary, Khyber Pakhtunkhwa.
2. Section Officer (General), Law Department with the request to assist and provide the relevant record to the Inquiry Officer.
3. P.S to Secretary (E), Establishment Department.
4. P.S to Special Secretary (E), Establishment Department
5. P.A to Addl. Secretary (E), Establishment Department.
6. P.A to Dy. Secretary (E), Establishment Department.
7. Mr. Aurangzeb, Assistant (BS-16), Law Department (along-with copies of Charge Sheet and Statement of Allegations).
8. Master File.

(SIRAJ MUHAMMAD)

SECTION OFFICER (E-IV)

Accepted
M/V
Superintendent
Govt. of K.P.K
Estab: Deptg

SECTION OFFICER (E-IV)



6
2/2/22

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(ESTABLISHMENT WING)**

NOTE FOR CHIEF SECRETARY, KHYBER PAKHTUNKHWA

Subject: - DISCIPLINARY ACTION AGAINST AURANGZEB, ASSISTANT,
(BS-16), LAW DEPARTMENT.

Law Department submitted willful absence report of Mr. Aurangzeb Khan, Assistant (BS-16) and surrendered his services with the request to initiate disciplinary action against the accused.

2. The accused was posted to Law Department on 07.01.2022 (Annex-I) and submitted his arrival report on 26.01.2022 (Annex-II) thereafter, remained absent without prior approval of the competent authority till date. (Annex-III)

3. Therefore, disciplinary proceeding was initiated against him under Rule 9 of (E&D) Rules 2011 by issuance of absence notice at his home address on 30.03.2022 directing him to report for duty and also explain reasons of willful absence from duty (Annex-IV). But, the accused official didn't report. As per next step under rules ibid absence notices were published in newspapers (Annex-V). Consequently, he submitted an application stating that his absence was due to adverse health conditions, neither willful nor deliberated. (Annex-VI).

4. Subsequently, his application was sent to Law Department for views/comments. In response, Law Department intimated that as the said official has only submitted his arrival report for duty on 26.01.2022 and thereafter, he did not attend the office and the salary of the said official has already been stopped. Further, Law Department has asked to take necessary action in the matter as per rules/policy. (Annex-VII).

5. This act of the accused official tantamounts to misconduct, therefore, an inquiry is required to be initiated against the accused official to dig out the facts, investigate the charges leveled against him under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

6. Chief Secretary, Khyber Pakhtunkhwa, being Competent Authority under Rule 4 (1)(b) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, is requested to sign Charge Sheet and Statement of Allegations (Annex-VIII&IX) and appoint an inquiry officer from the following panel of officers, incorporating name(s) of inquiry officer / committee in Para-02 of Statement of Allegations.

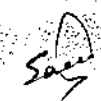
AA-20/22
AA
Superintendent
Govt. of K.P.K.
Estab: Deptt

20/2/22

368 Z

- i. Mr. Yousaf Haroon, PMS (BS-17),
Section Officer, Sports Department.
- ii. Mr. Arshad Aziz, (PMS BS-17),
Section Officer (Transport), Administration Department.

7. Para-6 of the note is submitted for approval please.


 (AKHTAR SAEED TURK)
 SECRETARY ESTABLISHMENT
 October, 21, 2022.

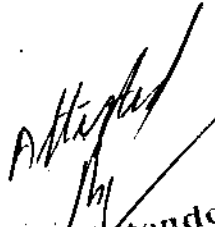
CHIEF SECRETARY, KHYBER PAKHTUNKHWA

8. Para 7 approved.


 24/10

CHIEF SECRETARY
 Govt. of KHYBER PAKHTUNKHWA

Sec: Estab:


 Superintendent
 Govt. of K.P.K.
 Estab: Deptt:


25/10

SSE


ASSE

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Date: 21/10/2022
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- 09. In pursuance of para-6, Mr. Yousaf Haroon, PMS (BS-17), Section Officer, Sports Department was appointed as Inquiry Officer to conduct formal inquiry against the accused, Mr. Aurangzeb, Assistant (BS-16), Law Department (Annex-X). In compliance, he has submitted the inquiry report.(Annex-XI).
- 10. The Inquiry Officer held that the charges levelled against the accused have been proved. The accused has failed to prove his willful absence after 26.01.2022. Furthermore, the accused neither provided any proof regarding prior permission of leave from Law Department nor any evidence with regard to his illness as the supporting documents/prescriptions in support of his medical leave have been denied by the concerned Hospital/Doctors (Annex-XII).
- 11. Rule-14(4) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 stipulates that where the charge or charges have been proved against the accused the competent authority shall issue a show cause notice to the accused (Annex-XIII).
- 12. Chief Secretary, being competent authority under Rule-14(4) of the ibid rules may sign the Show Cause Notice placed at (Annex-XIV) and insert tentative penalty in the space left blank from the list of penalties at (Annex-XV).

Accepted
 Superintendent
 Govt. of KPK
 Estab: Deptt.

[Signature]
 (Zulfiqar Ali Shah)
 SECRETARY ESTABLISHMENT
 27 December, 2022

**CHIEF SECRETARY,
 KHYBER PAKHTUNKHWA**

13. *Needful done.*

Sec/Est

[Signature]
 26/12
CHIEF SECRETARY
 Govt. of Khyber Pakhtunkhwa

[Signature]
 30/12

SS/CE
AS/B
80(1v)

[Signature]
 30/12

Date: 27/12/22
 Date: 27/12/22

F(S) No: 27-12-22

Reference Para-13:

14. In pursuance of para-12/N, a show cause notice was served upon Mr. Aurangzeb, Assistant (BS-16), Law Department imposing therein the tentative penalty of "Dismissal from service" on him.

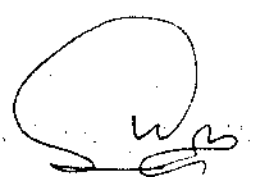
15. In response, the accused has submitted his reply (**Annex-XVI**) wherein he has disagreed with the findings of the inquiry officer; however, his plea and the medical reports are merely a repetition of his stance already presented before the inquiry officer that too has been declared fake (**Annex-XVII & XVIII**). Moreover, the medical prescriptions alone do not justify his absence from duty. The accused official has requested to be heard in person.

16. Keeping in view the request of the accused, the competent authority, under Rule 7(d) of Khyber Pakhtunkhwa, Government Servant (Efficiency and Discipline) Rules, 2011(**Annex-XIX**), may like to grant an opportunity of personal hearing before passing final orders.

17. Para-16 is submitted for perusal/approval, please.

Khyber Pakhtunkhwa
Diary No. 583
Dated: 02/02/23

Diary No. 427
PIS No. 2108/023
Date: 21/02/23


**SECRETARY
ESTABLISHMENT**
02 February, 2023

**CHIEF SECRETARY,
KHYBER PAKHTUNKHWA**


Attached
by

Superintendent
Govt. of K.P.K
Estab: Deptt:

18. AS staff to afford personal hearing and
furnish report

Secretary Establishment

AS staff


15/5/2023
CHIEF SECRETARY
Govt. of Khyber Pakhtunkhwa

P.156.5

02/02/2023

19. Vide Para-18/N of the Note, the undersigned was directed to afford an opportunity of personal hearing to Mr. Aurangzeb Assistant (BS-16). Background of the case is that on transfer of Mr. Aurangzeb Assistant (BS-16) to Law Department on 07.01.2022, he reported arrival on 26.01.2022. Afterwards, he remained absent from duty without prior permission of the competent authority. A tentative penalty of "Dismissal from Service" was imposed on him by the competent authority in light of the recommendations of the Inquiry Officer.

20. Pursuant to the direction of the Chief Secretary, Khyber Pakhtunkhwa, the concerned official was heard at length on 23.05.2023 in presence of departmental representatives (Annex-XX). He submitted a written statement, wherein he requested that he may be given a chance and he will be careful in future (Annex-XXI). During the course of personal hearing, the official was cross examined. However, he could not convince / satisfy the undersigned and departmental representatives. As found out by the Inquiry Officer, he also submitted bogus medical prescriptions in support of his stance that he was advised by Doctors for bed rest which amounted to serious misconduct.

21. Foregoing in view, it is recommended that the tentative penalty Dismissal from Service, already imposed upon the official, may be confirmed, please.

Chief Secretary

Additional Secretary (Staff)

Additional Secretary (Staff)
to Chief Secretary
Khyber Pakhtunkhwa, Peshawar.

22. The penalty of removal from service is imposed. Pl take further action accordingly.

Secretary Establishment

[Signature]
5/6/2023

CHIEF SECRETARY
Govt. of Khyber Pakhtunkhwa

595/11
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6/6/023

Alleged
Superintendent
Govt. of F. PK
Estab: Deptt:
E-10

06/06

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Annex - XI

MOST IMMEDIATE / URGENT

GOVERNMENT OF KHYBER PAKHTUNKHWA,
SPORTS, CULTURE, TOURISM, ARCHAEOLOGY,
MUSEUMS & YOUTH AFFAIRS DEPARTMENT

13-A Khyber Road, Peshawar



091-9211169



091-9212535



socamu940@gmail.com

No. SO (Cul) 1-5/2017/Misc. /4600
Dated Peshawar, the 2nd December, 2022

To:

The Section Officer (E-IV),
Government of Khyber Pakhtunkhwa,
Establishment Department.

Subject:

**DISCIPLINARY ACTION AGAINST AURANGZEB ASSISTANT (BPS-16) LAW
DEPARTMENT.**

Kindly refer to your letter No. SOE-IV(ED)2(890)18/Aurangzeb dated
28-10-2022 on the subject noted above and to enclose herewith the Inquiry Report
alongwith enclosures for further necessary as desired, please.

Encl: as above.

Attested
Superintendent
Govt. of PPK
Estab: Deptt:

Yousaf Haroon
(YOUSAF HAROON)
Section Officer (Arch & Museum)

INQUIRY REPORT

SUBJECT: - DISCIPLINARY ACTION AGAINST AURANGZEB ASSISTANT (BPS-16) LAW DEPARTMENT.

INTRODUCTION

Mr. Aurangzeb Assistant (BPS-16) Law Department. Charged under Rule-9(E&"D) Rules, 2011 for his willful Absence from official duties. Subsequently, he has been charge sheeted and the undersigned has been appointed as Inquiry officer vide Establishment Department letter No. SOE-IV (ED)2(890)18/Aurangzeb dated 28-10-2022.

BRIEF BACKGROUND OF THE CASE.

Mr. Aurangzeb Assistant (BPS-16) was transferred from Home Department and posted in Law Department on 07-01-2022. The official submitted his Arrival report on 26-01-2022 since then he remained absent from duty without prior permission from Law Department. Accordingly, Law Department requested for his Transfer and suitable substitute besides initiation of disciplinary proceedings. The Establishment Department subsequently initiated proceedings under Rule -09 of E&D Rules, 2011 by issuance of absent notice at his home Address directing him to resume his duty within 15 days but no response received from the official within the stipulated period. In orders to further fulfill the requirement of Rules -09 of E&D Rules, 2011, notices were published in two leading newspapers directing him to resume his duty within 15 days publication of the notice. Consequently, the Establishment Department appointed the undersigned for initiation of formal Inquiry under Rules 05 of E&D Rules, 2011.

PROCEEDINGS OF THE INQUIRY

On 31-10-2022, a letter issued to Mr. Aurangzeb Assistant (BPS-16) Law Department conveying him that the undersigned has been appointed as Inquiry Officer and directed him to submit your written defence within 07 days of receipt of this letter besides whether you wish to be heard in person or otherwise, (Annex-I). Moreover, the Establishment Department and Law Department were requested to depute well conversant official & submit personal File and record of the official on 07-11-2022, the same have been provided by both the Department, (Annex-II).

[Handwritten signature]

Accepted

Superintendent
Govt. of J. P.K
Estab: Deptt:

On 07-11-2022, the official attended the office of undersigned however he requested for two days for submission of written defence and personal hearing with the inquiry Officer. Upon expiry of two days he was called on his cell phone number on 10-11-2022 and 11-11-2022 however he did not pick the call. Another letter was issued on 14-11-2022 against the accused directing him to submit his written defence **else** ex-parte decision shall be taken against him, (Annex-III).

On 15-11-2022, the accused appeared before the inquiry Officer and submitted his written defence besides he was personally heard. He came up with a plea that his Absence was due to Adverse Health conditions and requested in his written defence that his willful absence was neither willful nor deliberated and requested that period w.e.f 26-01-2022 to 03-02-2022 may be treated as duty period while period w.e.f 04-02-02-2022 to 24-05-2022 may be treated as Medical Leave. Upon question, why you did not inform the parent Department during such long illness for which he accepted his fault and said he had, verbally informed the Department however no proof of which is available nor verified by the Departmental representative. The prescriptions provided with written defence has been confirmed through Telephone from concerned Doctors wherein they have denied issuance of these chits. The prescriptions of Dr. Liaqat Zaman Bangash wherein he was Advised 15 days bed rest was confirmed however they claimed that they had closed the clinic altogether in 2020 while the prescriptions with the accused is of 2022.

On 16-11-2022, a letter issued to Dr. Masood Ur Rahman who has twice advised the accused with bed rest for 15 days for verification / Authentication for his Medical prescriptions but he too denied issuance of any such chits / prescriptions vide his letter dated 17-11-2022, (Annex-IV). (IN ORIGINAL)

On 15-11-2022, the accused was directed to produce the Original OPD Chits within two days in order to check and substantiate it from relevant forums but he failed to provide the same despite repeated calls but he did not pick the phone. He was called on his cell phone number but he did not received the call. In order to further verify

Attested
13
Superintendent
Govt. of F.P.K
Estab: Deptt

his OPD chits of Lady Reading Hospital, a letter issued to Medical Director as to whether the institution has advised the accused Medical leave or otherwise.(Annex-V)

The reply of which received from Medical Director LRH vide its letter No. 1400-03/LRH dated 01-12-2022 wherein they too have denied issuance of these prescriptions, (Annex-VI). (IN ORIGINAL)

FINDINGS OF THE INQUIRY

- i). The Accused failed to prove his willful absence after 26-01-2022, he has no proof regarding prior permission of leave from Law Department.
- ii). He did not even once informed neither his posting nor parent Department about his illness during absence period.
- iii). He has no discharged slips of medical leave to support his contentions.
- iv). The prescriptions provided are unstamped.
- v). The prescriptions / documents provided in support of medical leave have been denied by the concerned doctors / physicians.
- vi). The bed rest recommended by two physicians for three consecutive times have been verified from Dr. Masood Ur Rahman and Dr. Liaqat Zaman Bangash through telephone and written correspondence who denied issuance of any such Medical Advice to the accused.
- vii). On 15-11-2022, the accused was directed to provide the original chits / prescriptions of Lady Reading Hospital for Authentication / Verification as the same was not legible hence could not be ascertained but the accused failed to provide the same despite repeated calls but his cellphone numbers remained off. In order to further verify his OPD chits of Lady Reading Hospital, a letter issued to Medical Director as to whether the institution has advised the accused Medical leave or otherwise. Upon reply, they denied issuance of these prescriptions rather it is fake / Bogus.

RECOMMENDATIONS.

In view of above proceedings & findings, the charges against the accused have been fully proved hence the competent authority may impose any penalties under rules 04 and 14 of the E&D Rules, 2011, please.

Attested
 Superintendent
 C. of K.P.K
 S.S. Deptt.



Annex-XII

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**MEDICAL TEACHING INSTITUTE
LADY READING HOSPITAL, PESHAWAR**

No. 1400-03 /LRH/PA
Dated 01/12/2022

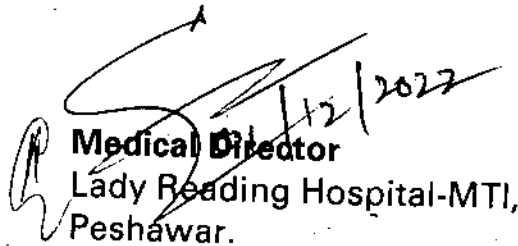
To

(Yousaf Haroon)
Section Officer (Arch and Museum)
Government of Khyber Pakhtunkhwa
Sports, Culture, Tourism, Archaeology,
Museums & Youth Affairs Department
13-A Khyber Road, Peshawar.

**SUBJECT: DISCIPLINARY ACTION AGAINST AURANGZEB ASSISTANT
(BPS-16 LAW DEPARTMENT)**

Reference your letter No. SO(Cul)1-5/2017/Misc/4200-01, dated Peshawar, the 26th November, 2022.

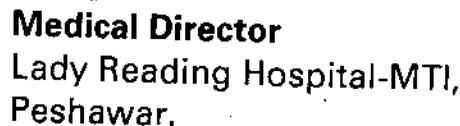
The prescriptions / OPD chits bearing MR No. ko9236478623323 issued on the name of Mr. Aurangzeb of dated 2 April 2022 and MR No. ko98098621346 issued on the name of Mr. Aurangzeb of dated 20th April 2022 are fake / bogus as confirmed from MIS department.


Medical Director
Lady Reading Hospital-MTI,
Peshawar.

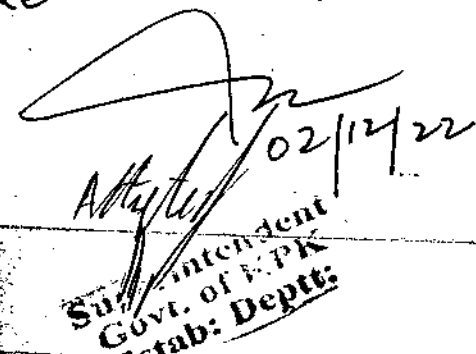
No. /LRH/PA

Copy forwarded to the:-

1. Section Officer (E-IV) Establishment Government of Khyber Pakhtunkhwa Department, for information.
2. Hospital Director Lady Reading Hospital-MTI
3. Manager Operation Lady Reading Hospital-MTI


Medical Director
Lady Reading Hospital-MTI,
Peshawar.

Recd today


02/12/22
Superintendent
Govt. of P.P.K
Estab: Deptt:

SA

DSE

A/SE



IMMEDIATE

REGISTERED

OFFICE OF THE CHIEF SECRETARY
KHYBER PAKHTUNKHWA

Tel: 091-9210683
Fax: 091-9210447

PS/Secy E&AD KP
Diary No. 3717
FTS No. _____
Date 16-5-23

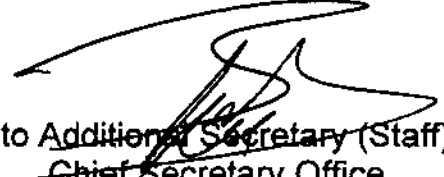
No. AS Staff / CS / KP / 2-3 / 2023 / 39-41 Dated Pesh: the 16th May, 2023

To
Mr. Aurangzeb,
Assistant (BS-16),
Resident of Village Saeedan,
Tarnab Farm, Peshawar.

Subject:- PERSONAL HEARING

I am directed to refer to the subject captioned above and to state that under Rule-7(d) of Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011, personal hearing in connection with inquiry regarding wilful absence from duty is scheduled to be held on 23.05.2023 (Tuesday) at 1100 hours in Office of the Additional Secretary (Staff) to Chief Secretary, Khyber Pakhtunkhwa.

2. You are, therefore, requested to attend the aforesaid office for personal hearing on due date, time & venue, positively.


PA to Additional Secretary (Staff)
Chief Secretary Office
16-05-2023

C.C:-

1. PS to Secretary Establishment Khyber Pakhtunkhwa
2. PS to Secretary Law Department Khyber Pakhtunkhwa

(with the request to depute a well conversant officer from your departments to attend Personal Hearing on said date & time, please)


Superintendent
Govt. of KP
Estab: Deptt:

SO (E-10)