


FORM OF ORDER SHEET

Court of _____

Appeal No. 1256/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	4/9/2024	<p>The appeal of Mr. Mubassir Iqbal presented today by Mr. Javed Iqbal Gulbela Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 12/9/2024. Parcha Peshi given to counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

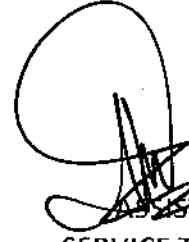
Mubasin

The appeal of Mr. ~~Qaiser~~ Iqbal received today i.e. on 20.08.2024 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

1. Annexures A, B, E, F, G are not legible.
2. According to Sub rule-4 of Rule 6 of Khyber Pakhtunkhwa Service Tribunal rules 1974 respondent No 01 is un-necessary/ improper parties, in light of the rules ibid and on written direction of Worthy Chairman the above mentioned respondent numbers be deleted/struck out from the list of respondents.

No. 634 /S.T,

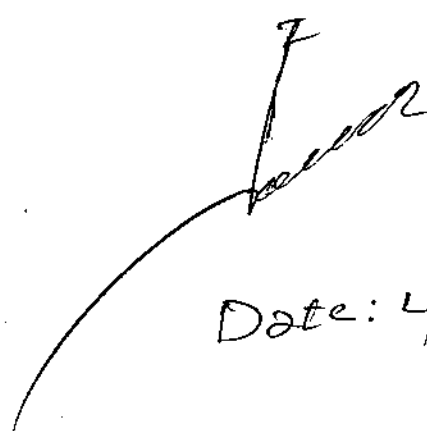
Dt. 02/09 /2024


ASSISTANT
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Javed Iqbal Gulbela Adv. Pesh.

Respected Sir;

Re-submitted after removal
of above objection as per need
and kindly be fixed for hearing
before the Honble Bench of
This Tribunal.


Date: 4/09/2024

The appeal of Mr. Qaiser Iqbal received today i.e. on 20.08.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1. Annexures A, B, E, F, G are not legible.
2. According to Sub rule-4 of Rule 6 of Khyber Pakhtunkhwa Service Tribunal rules 1974 respondent No_____ are un-necessary/ improper parties, in light of the rules ibid and on written direction of Worthy Chairman the above mentioned respondent numbers be deleted/struck out from the list of respondents.

No. _____/S.T,

Dt. _____/2024



ASSISTANT
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Javed Iqbal Gulbela Adv. Pesh.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Mubassir Iqbal vs Govt & others

S/N	CONTENTS	YES	NO
1	This Appeal has been presented by: <u>Javed Iqbal Gulbela</u>		
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	/	
3	Whether appeal is within time?	/	
4	Whether the enactment under which the appeal is filed mentioned?	/	
5	Whether the enactment under which the appeal is filed is correct?	/	
6	Whether affidavit is appended?	/	
7	Whether affidavit is duly attested by competent Oath Commissioner?	/	
8	Whether appeal/annexures are properly paged?	/	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	/	
10	Whether annexures are legible?	/	
11	Whether annexures are attested?	/	
12	Whether copies of annexures are readable/clear?	/	
13	Whether copy of appeal is delivered to AG/DAG?	/	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	/	
15	Whether numbers of referred cases given are correct?	/	
16	Whether appeal contains cutting/overwriting?		
17	Whether list of books has been provided at the end of the appeal?		
18	Whether case relate to this court?		
19	Whether requisite number of spare copies attached?		
20	Whether complete spare copy is filed in separate file cover?		
21	Whether addresses of parties given are complete?		
22	Whether index filed?		
23	Whether index is correct?		
24	Whether Security and Process Fee deposited? On		
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On		
26	Whether copies of comments/reply/rejoinder submitted? On		
27	Whether copies of comments/reply/rejoinder provided to opposite party? On		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:

Javed Iqbal Gulbela

Signature:

Javed

Dated:

12-8-2024

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR

Service Appeal No. 1256 /2024

Mubassir Iqbal

VERSUS

Registrar PHC, Peshawar & others

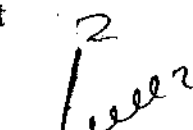
INDEX

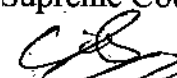
S NO.	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE
1.	Grounds Of the Appeal		1-4
2.	Affidavit		5
3.	Addresses Of Parties		6
4.	Copies of Show Cause Notice Dated: 07-03-2023 and Statement of allegation and reply	"A, B & C"	7-9
5.	Copies of inquiry along with inquiry report	"D" & D/I	10-29
6.	Copies of order No.01, 02 & 03, Show Cause Notice Under Rule 14(4) Dated: 15-04-2023 And impugned removal from service Office Order No. 6010-15/F-41 Dated:16-05-2023	"E, F & G"	30-34
7.	Copies of Departmental Appeal No.13/2023 Dated: 13-06-2023 and impugned Appellate Order Dated: 24-07-2024 of the, Senior Puisne Judge/Administrative Judge, Peshawar High Court Peshawar	"H & I"	35-38
8.	Wakalat Nama		39

Dated: 12-08-2024


Appellant

Through


Javed Iqbal Gulbela
Advocate Supreme Court,
Pakistan.


Saghir Iqbal Gul Bela
Advocate High Court.

①

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 1256 /2024

Diary No. 15075

Dated 20/8/24

Mubassir Iqbal (Ex-Junior Clerk/Moharrir Civil Judge-I, Swabi).

..... Appellant

VERSUS

1. Senior Puisne Judge/Administrative Judge, Peshawar High Court Peshawar.
2. The Registrar, Peshawar High Court Peshawar.
3. District & Sessions Judge, Swabi.

..... Respondents

Appeal u/s 4 of the Khyber Pakhtunkhwa Services Tribunal Act -1974 against the impugned Office Order No. 6010-15/F-41 Dated: 16-05-2023 of the office of District & Session Judge, Sawabi; whereby the Appellant has been illegally removed from his Service and Departmental Appeal No.13/2023 of the Appellant Dated:13-06-2023 has been turned down vide impugned Order Dated: 24-07-2024 of the Senior Puisne Judge/Administrative Judge, Peshawar High Court Peshawar, in a classical, cursory and whimsical manner.

Respectfully Sheweth,

1. That the Appellant was appointed and inducted onto the rolls of the Respondent Department as Junior Clerk/Moharrir at District Courts, Sawabi, whereby the Appellant started rendering his services with devotion and pragmatism.
2. That the appellant has been falsely booked for allegations of "Habitual late comer, Carelessness and Non-punctual", and thus a Show Cause Notice Dated: 07-03-2023 as well as statement of allegation in this regard has been issued on 07-03-2023. The appellant properly replied the same, wherein the

Medio-day
Registrar

Resubmitted by
Medio-day

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

Service Appeal No. _____/2024

Mubassir Iqbal (Ex-Junior Clerk/Moharrir Civil Judge-I, Swabi).

..... *Appellant*

VERSUS

1. The Registrar, Peshawar High Court Peshawar.
2. District & Sessions Judge, Swabi.

..... *Respondents*

Appeal u/s 4 of the Khyber Pakhtunkhwa Services Tribunal Act-1974 against the impugned Office Order No. 6010-15/F-41 Dated: 16-05-2023 of the office of District & Session Judge, Sawabi; whereby the Appellant has been illegally removed from his Service and Departmental Appeal No.13/2023 of the Appellant Dated:13-06-2023 has been turned down vide impugned Order Dated: 24-07-2024 of the Senior Puisne Judge/Administrative Judge, Peshawar High Court Peshawar, in a classical, cursory and whimsical manner.

Respectfully Sheweth,

1. That the Appellant was appointed and inducted onto the rolls of the Respondent Department as Junior Clerk/Moharrir at District Courts, Sawabi, whereby the Appellant started rendering his services with devotion and pragmatism.
2. That the appellant has been falsely booked for allegations of "Habitual late comer, Carelessness and Non-punctual", and thus a Show Cause Notice Dated: 07-03-2023 as well as statement of allegation in this regard has been issued on 07-03-2023. The appellant properly replied the same, wherein the

Registrar

Re-submitted to-day
and filed.

4/8/24

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appellant portray the true and correct scenario and negate the allegation of the respondents. (Copies of Show Cause Notice Dated: 07-03-2023 and Statement of allegation and reply are annexed as annexure "A, B & C")

3. That to dumped and heap the illegality lunched by the respondents, they have nominally initiated inquiry and it is too astonishingly that legal procedure for an inquiry against the Appellant under E & D Rules has not been adopted nor the evidence lead by the appellant has been properly appreciated by the respondent department, which has no status in the eye of law. (Copies of inquiry along with inquiry report is annexed as annexure "D")
4. That the inquiry report has been submitted to Respondent No.03 vide order-01 Dated: 15-04-2023, thereafter another Show Cause Notice Under Rule 14(4) Dated: 15-04-2023, which was followed by the impugned Office Order No. 6010-15/F-41 Dated: 16-05-2023; Wherein the appellant has been illegally and unlawfully removed from service. (Copies of order No.01, 02 & 03, Show Cause Notice Under Rule 14(4) Dated: 15-04-2023 And impugned removal from service Office Order No. 6010-15/F-41 Dated:16-05-2023 are annexed as annexure "E, F & G")
5. That feeling aggrieved the appellant moved Departmental Appeal before Senior Puisne Judge/Administrative Judge, Peshawar High Court Peshawar, on 13-06-2023 against the impugned removal from service office order No. 6010-15/F-41 Dated: 16-05-2023 of the office of Respondent No.03; but the prayer of the Appellant has been turned down in a classical cursory and whimsical manner vide impugned Appellate Order Dated: 24-07-2024. (Copies of Departmental Appeal No.13/2023 Dated: 13-06-2023 and impugned Appellate Order Dated: 24-07-2024 of the Senior Puisne Judge/Administrative Judge, Peshawar High Court Peshawar are annexed as annexure "H & I")
6. That from the above cited story, the grievances, that comes into existence, having no other adequate remedy available, and forum to be addressed at, the Appellant approaches this Hon'ble Tribunal for setting aside the Impugned removal from service office order No. 6010-15/F-41 Dated: 16-

3

05-2023, impugned Appellate order Dated: 24-07-2024, and for his re-instatement into service, upon the following grounds, inter-alia:-

GROUND:

- A. That the Impugned removal from service office order No. 6010-15/F-41 dated: 16-05-2023, and the impugned Appellate order Dated: 24-07-2024 are wrong, illegal, vide ab-initio and are not sustainable at all.
- B. That the Impugned Orders are unwarranted, illogical and against the rules, therefore not maintainable at all.
- C. That no proper inquiry was ever conducted in case of the Appellant, nor legal procedure for an inquiry against the Appellant under E & D Rules has not been adopted nor the evidence lead by the appellant has been properly appreciated under the law by the respondents department, therefore the impugned orders are unwarranted and liable to be set aside.
- D. That even the Departmental Appeal of the Appellant has been simply shelved without any rem or reason, and thus was turned down by the respondents, which is not sustainable in the eye of law.
- E. That no charge sheet was ever service upon the appellant, thus mandatorily provision under the law was violated, therefore, the inquiry against the appellant is unlawful and void ab-initio; hence both the impugned orders are against the law; therefore liable to be turn down.
- F. That no Final show cause notice was issued to the appellant, therefore, both the impugned orders are illegal and thus liable to be turn down and thus appellant is liable to be reinstated into service with all back benefits.
- G. That all the allegation against the appellant are based on the hallucination and have no nexus with the true, and correct scenario of the appellant. Therefore both the impugned orders are illegal, void-ab-initio and thus be canceled.

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H. That from every angle the Appellant is liable to be re-instated into service with all back benefits.

I. That any other ground not raised here may graciously be allowed at the time of arguments.

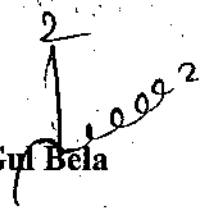
It is therefore most humbly prayed that on acceptance of the instant service appeal, Impugned removal from service office order No. 6010-15/F-41 Dated: 16-05-2023, of the office of District & Sessions Judge, Sawabi, And the impugned Appellate order Dated: 24-07-2024, of the Senior Puisne Judge/Administrative Judge, Peshawar High Court Peshawar, may kindly be set aside and by doing so, the Appellant may kindly be reinstated into service with all back benefits.

Any other relief, which this August Tribunal deems fit and appropriate, may also be awarded in the favor of the Appellant.

Dated: 12-08-2024


Appellant

Through


Javed Iqbal Gul Bela
(ASC)


Saghir Iqbal Gul Bela.
(AHC)

Alamzeb Khan


M. Arif Mohmand
(Advocates)

NOTE:

That as per information of my client, no such service appeal has been moved by the Appellant, prior to this ones.


ADVOCATE.

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**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

Service Appeal No. _____/2024

Mubassir Iqbal

VERSUS

Registrar PHC, Peshawar & others

AFFIDAVIT

I, *Mubassir Iqbal (Ex-Junior Clerk/Moharrir Civil Judge-I, Swabi)*, do hereby solemnly affirm and declare on oath that all contents of instant Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

M I
DEPONENT

CNIC:

Cell No:

Identified by
Javed Iqbal Gulbela
Advocate, Supreme Court
Pakistan.



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**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

Service Appeal No. _____/2024

Mubassir Iqbal

VERSUS

Registrar PHC, Peshawar & others

ADDRESSES OF THE PARTIES

ADDRESSES OF THE APPELLANTS:

Mubassir Iqbal (Ex-Junior Clerk/Moharrir Civil Judge-I, Swabi)..

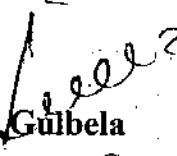
ADDRESSES OF THE RESPONDENTS:

1. Senior Puisne Judge/Administrative Judge, Peshawar High Court Peshawar.
2. The Registrar, Peshawar High Court Peshawar.
3. District & Sessions Judge, Swabi.

Dated: 12-08-2024


Appellant

Through

2

Javed Iqbal Gulbela
Advocate Supreme Court,
Pakistan.

7

Tel: 0338-280372
Fax: 0338-280117
Email: dsjswabi@gmail.com
dsjswabi@yahoo.com

No. 274 / (F-41)/DSJ

Dated Swabi: 07/03/2023

Ann-"A"

SHOW-CAUSE NOTICE

I, Muhammad Rauf Khan, District & Sessions Judge, Swabi as Competent Authority under the Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules 2011, do hereby serve you Mubassir Iqbal, Junior Clerk/Moharrir attached to the Court of learned Civil Judge-1, Swabi as under:-

Whereas, the learned Civil Judge-1, Swabi vide its letter No. 1093/CJ-1, Swabi, dated the 07.03.2023 complaint against your conduct as well as your poor performance being later comer. In this respect, you have also served show-cause notices regarding your late coming before the court duties, which is on record as reported by the learned Judicial Officers time and again.

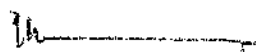
Whereas, you being a responsible official of the court still on prohibition and in this regard your probation was extended for period of one year vide this office order No. 218-23/(F-41) dated: 11-01-2023, you were under an immediate obligation to discharge your duty honestly and with loyalty to avail leave/short leave from the competent authority in case of any urgency etc.

Whereas, by reason of the above facts you appeared to be guilty of misconduct within the meaning of Rule 3 (a)(b) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 and your service is liable to termination without assigning any reason, you have rendered yourself liable to all or any of the penalties specified in Rule-4 of the law *ibid*.

You are therefore, directed to show-cause as to why the aforesaid penalty/ penalties may not be imposed upon you and to submit your reply / defense within 7 days of the receipt of this show-cause notice otherwise it will be presumed that you have no defense to offer. In that case ex-parte action shall be taken against you.

You have the option as to whether you want to be heard in person. A statement of allegations is enclosed herewith.

ATTESTED
02 JUN 2023
District & Sessions Judge
Swabi

Competent Authority

Muhammad Rauf Khan
District & Sessions Judge,
Swabi

JAVED JOBAL GULBEHA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

Better Copy

**OFFICE OF THE
DISTRICT & SESSION JUDGE SWAT**

Tell: 0938:280372
Fax: 0938:280117

No1284/(F-41)DSJ

Dated Swabi: 07/03/2023

SHOW-CAUSE NOTICE

I, Muhammad Rauf Khan, District & Session Judge, Swabi as Competent Authority under the Khyber Pakhtunkhwa Government servants (Efficiency & Disciplinary) Rules 2011 do hereby serve you Mubassir Iqbal. Junior Clerk/Moharrir attached to the court of learned Civil Judge-I, Swabi, as under:

Whereas, the learned Civil Judge-I, Swabi vide its letter No. 1093/CJ-I Swabi, dated the 07.03.2023 complaint against your conduct as well as your poor performance being later comer. In this respect, you have also served show-cause notices regarding your late coming before the court duties, which is on record as reported by the learned Judicial Officers time and again.

Whereas, you being a responsible official of the court still on prohibition and in this regard your probation was extended for period of one year vide this office order No. 218.23/(F-41) dated: 11-01-2023, you were loyalty to avail leave/short leave from the competent authority in case of any urgency etc.

Whereas, by reason of the above facts you appeared to be guilty of misconduct within the meaning of Rules 3 (a)(b) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 and your service is liable to termination to all or any of the penalties specified in Rule-4 of the law ibid.

You are therefore, directed to show-cause as to why the aforesaid penalty penalties may not be imposed upon you and to submit your reply defense within 7 days of the receipt of this show-cause notice otherwise in will be presumed that you have no defense to offer, in that case ex-parte action shall be taken against you.

You have the option as the whether you want to be heard in person statement of allegations is enclosed herewith.

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

Compete Authority
Muhammad Rauf Khan
District & Session Judge.
Swabit

8

Tel: 0938-280372
Fax: 0938-280117
Email: dsjswabi1@gmail.com
dsjswabi@yahoo.com

No. 12-35 / (F-4) / DSJ

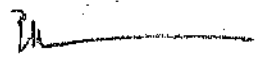
Dated Swabi: 07/03/2023

Amn-B

STATEMENT OF ALLEGATIONS

Whereas, you accused/official **Mubassir Iqbal**, Junior Clerk/Moharrir attached to the court of learned Civil Judge-I, Swabi, you are habitual late comer, carelessness and non-punctual. You are also availing leaves/short leaves without prior permission of competent authority as reported by the learned Judicial Officer vide letters No. 02/CI-I, dated Swabi 06-01-2023. Similarly, another letter No. 03/CI-I, dated: 07-07-2023 relates your poor performance and misconduct regarding later coming is on record. Being a responsible official of the court and still on prohibition, you were under an immediate obligation to discharge your duty honestly and with loyalty and to avail leave/short leave from the competent authority in case of any urgency etc. Therefore, show-cause notice is hereby given to you.

Competent Authority


Muhammad Rauf Khan
District & Sessions Judge,
Swabi

ATTESTED
02 JUN 2023

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

Better Copy

**OFFICE OF THE
DISTRICT & SESSION JUDGE SWAT**

Tell: 0938:280372

Fax: 0938:280117

No:128/(F-41)DSJ

Dated Swabi: 07/03/2023

STATEMENT OF ALLEGATION

Whereas, you accused/official Mubassir Iqbal, Junior Clerk/Moharrir attached to the court of learned Civil Judge-I, Swabi, you are habitual late comer, carelessness and non-punctual. You are also availing leaves/short leaves without prior permission of competent authority as reported by the learned Judicial Officer vide letter No. 02/CJ-I, dated Swabi 06-01-2023. Similarly, another letter No. 03/CJ-I dated 07-07-2023 relates your poor performance and misconduct regarding later coming is on record. Being a responsible official of the court and still on prohibition, you were under an immediate obligation to discharge you duty honestly and with loyalty and to avail leave/short leave from the competent authority in case of any urgency etc, Therefore, show-case notice is hereby given to you.

Compete Authority

Muhammad Rauf Khan

District & Session Judge.

Swabit

JAVED ALI GULBELA
Advocate
Supreme Court of Pakistan
13171

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14/3/23

Ann - "C"

To,

The Hon'ble,
District & Sessions Judge,
Swabi.

Subject: REPLY/DEFENCE WITH RESPECT TO SHOW-CAUSE NOTICE BEARING NO.1284/F41/DSJ AND STATEMENT OF ALLEGATIONS BEARING NO.1285/F41/DSJ BOTH DATED: 07.03.2023.

Hon'ble Sir;

I have the honor to submit my reply/defence in respect of the subject show-cause notice & statement of allegations as under;

1. Respect Sir, I have already submitted the written reply of the said show cause notice in which I fully explain the reason due to which I was on short leave on that day and copy of the same was also attached for your kind perusal.
2. Respected Sir, I am very thankful to Judiciary for appointing me in son quota. Sir, my father rendered long service in this prestigious department and I am too striving hard to fulfill all my duties up-to the satisfaction of my superior officers. Moreover, I have been performing my duty with utmost dedication, honesty and hard work and also having computer proficiency have also proved myself to be a helping hand to my other colleague beside completing my own duties during the last year. Sir, in the recent month Hon'ble judicial officer (CJ-1) checked our office record which was admirable.
3. Respected Sir, I am really apologized on the acts done by me unintentional. I am dutiful official and feel honour while serving in this prestigious department. Sir, I am highly regretful of my carelessness for which I seek mercy from your honour. I promise that in future, I shall remain careful. Moreover, it is requested that I have never be reluctant and discharge of my duties nor have absented from duties for any mal-purpose rather my absentia was accidental.

Handwritten signature and stamp:
SUPERVISOR
District & Sessions Judge

Yours Obediently,

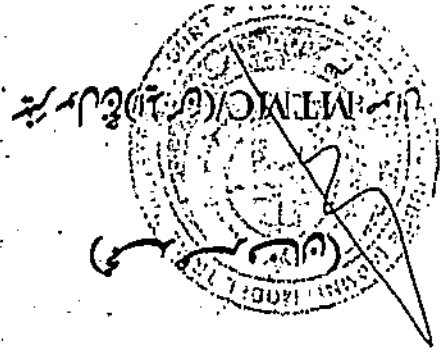
Handwritten signature of Mubassir Iqbal

Mubassir Iqbal
Moharrir to Civil Judge-I

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

JAVED IOBAL / SULBELA
 Advocate
 Supreme Court of Pakistan
 (ASC # 5317)

id no: _____
 name: _____
 signature: _____



12/04/2023

Signature

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12/4/2023	8/3/2023	1/8	

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SENIOR CIVIL JUDGE (ADMN), SWABI

Phone # 0938-280128
Fax# 0938-280274
Email: scjadmswabi@gmail.com

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Order No#1
08.03.2023

Inquiry file received from the office of Hon'ble District & Sessions Judge, Swabi/Competent Authority. Be entered in the relevant register. Notice to accused/official be issued for 14.03.2023, representative of the department be also summoned for the date fixed.

Muhammad Irfan

Senior Civil Judge, Admn/Inquiry Officer
Swabi

0-2
14/3/23

Departmental representative and the delinquent official present who submitted reply to show cause notice & statement of allegation (constituted upon one page only). Be placed on file. Both the parties are directed to submit list of witnesses within two days. File to come up for evidence of departmental representative for 20/3/23

Attested
Muhammad Irfan
3/10/23
INDEPENDENT
DISTRICT & SESSIONS JUDGE
Swabi

JAVED GULBER
Advocate
Supreme Court of Pak.
(ASC # 5317)

3/16/23
M.A.
Khan

Department of representative products
Being used official about notice
has issued to him for 4/4/23

0-5
3/13/23

representative of the Department products
has being used official not products
Hence adjourned for departmental
representative evidence till 3/13/23

0-4
28/3/23

SCJ Admin Swab

Both the parties Present. Submitted
the list of witnesses, placed on file
file come up for evidence of
representative for 28-03-2023..

0-3
20/03/2023

13

Inquiry: Mūdassir Iqbal JC

Order No. 06

04.04.2023

Representative of the Department present. Delinquent Official also present.

The statement of the representative of the Department recorded today as PW-01. The accused/official sought time for cross examination. Time granted and cross reserved. File to come up for cross examination of the representative of the department on 6/4/2023.

Muhammad Irfan
SCJ-Admin/Inquiry Officer,
Swabi

Order No. 07

06.04.2023

Representative of the Department present.

The case was fixed for cross examination on PW-1 on behalf of the accused official. The case was called time and again and peon of the court was sent to inform the accused official to come for cross examination, but he did not attend the court in time; however came at 12.45 PM at closing hours. This attitude of the accused official is condemnable. He is warned to be careful in future. Today, due to shortage of time cross examination could not be recorded. Hence adjourned.

File to come up for cross examination of the representative of the department on 07/04/2023.

Muhammad Irfan
SCJ-Admin/Inquiry Officer,
Swabi

Alamullah
MUHAMMAD
3/10/2023
District & Sessions Judge
Swabi

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)


14

Inquiry: Mubassir Iqbal JC

Order No. 08
07.04.2023


Representative of the Department present. Accused official absent.

Vide letter No. 20/CJ-1, Swabi dated 07.04.2023 a complaint was submitted to the worthy District & Sessions Judge, Swabi against the accused official that he is absent from duty. The same was marked to the undersigned to be placed on the inquiry file already initiated against the accused official. Since accused official is absent, therefore, file to come up for cross examination on PW-1 for 10.04.2023.


Muhammad Irfan
SCJ-Admin/Inquiry Officer,
Swabi


Order No. 09
10.04.2023

Representative of the Department present. Accused official also present. Cross examination of PW-1 recorded and closed. File to come up for evidence of accused official for 11.04.2023.


Muhammad Irfan
SCJ-Admin/Inquiry Officer,
Swabi

Order No. 10
11.04.2023

Representative of the Department present. Accused official also present. Evidence of the accused official recorded as DW-1 to DW-3 and closed. Arguments also heard and record gone through. File to come up for order on 12.04.2023.


Muhammad Irfan
SCJ-Admin/Inquiry Officer,
Swabi

Handwritten notes and stamps:
37/4/23
37/4/23

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

15

Inquiry: Mubassir Iqbal JC

Order No. 11
12.04.2023

Representative of the Department present. Accused official also present. As per my detailed findings, the allegations against the accused official stand proved, hence he is held guilty of misconduct and guilty of habitually absenting himself from duty without prior approval of leave, as per Section-3(b)(d) of the Khyber Pakhtunkhwa Govt. Servants (E&D) Rules 2011, therefore, I being inquiry officer, in light of the available record, do hereby recommend major penalty of **removal from service** to the accused official according to Section-4(1)(b)(III) ibid rules.

This inquiry file be sent to the competent authority/District & Sessions Judge, Swabi for further necessary action at his end, please.

Announced: 12.04.2023

Muhammad Irfan
SCI-Admin/Inquiry Officer,
Swabi

12/4/23

Accused
M. Iqbal
12/4/23
District & Sessions Judge
Swabi

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

16

PW—01
04.04.2023

Statement of Riaz Muhammad, Assistant/acting Superintendent,
Departmental Representative

Stated that I have been nominated as departmental representative by the Hon'ble District & Sessions Judge, Swabi in the instant inquiry. That the delinquent official Mubassir Iqbal was appointed as Junior Clerk against the retired son/medical invalidation quota vide Office Order No. 12570-73/(F-53) dated 21.12.2021 (ExpW1/1). Now he is working as Junior Clerk/Moharrir in the office of CJ-I, Swabi. The allegations against the accused official that he is habitual late comer, non-punctual and careless. That he is in habit of availing casual/short leave without prior permission of the competent authorities as reported by the learned CJ-I, Swabi vide letter No. 02/CJ-I dated 06.01.2023.(ExpW1/2). Another letter bearing No. 03/CJ-I dated 07.01.2023 (ExpW1/3); also relates to his poor performance and misconduct and late coming etc. The learned CJ-I, Swabi vide letter No. 1093/CJ-I, Swabi dated 07.03.2023 (ExpW1/4) requested for transfer of the delinquent official on the ground of his negligence, carelessness and non-punctuality, upon which a show-cause notice (ExpW1/5) was given to the delinquent official, along with statement of allegation (ExpW1/6) and vide office order No. 1280-83/F-51/D&SJ Dated 07.03.2023 inquiry was initiated against the delinquent official, who submitted his reply/defense before the inquiry officer, which is placed on file.

In respect of letter bearing No. 03/CJ-I dated 07.01.2023, the Hon'ble District & Sessions Judge, Swabi vide letter No. 263/F-41/DSJ dated 11.01.2023, issued a show-cause notice (ExpW1/7) along with statement of allegations (ExpW1/8). Vide office order bearing No. 218-23/F-41/DSJ Dated 11.01.2023 (ExpW1/9), the Hon'ble District & Sessions Judge, keeping in view the poor performance of the delinquent official has extended the initial period for next one year with strict warning to improve performance, otherwise his service will be dispensed with without assigning any reason before the expiry of extended period of probation. But despite the directions the delinquent official failed to improve his performance. Furthermore, the previous conduct of the delinquent official

4/4/23
Assistant
District & Sessions Judge
Swabi

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

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was also very poor. The then learned Senior Civil Judge (Judl;), Swabi vide his letter No. 1151/SCJ Dated 26.04.2022 filed a complaint against the delinquent official (ExpW1/10), wherein the same allegations of late coming, non-punctuality and absence from duty without intimation, were leveled against him. Keeping in view the ibid complaint, the Hon'ble District & Sessions Judge given a show-cause notice vide No. 3534/F-41/DSJ Dated 27.04.2022 (ExpW1/11), coupled with statement of allegations vide No. 3535/F-41/DSJ Dated 27.04.2022 (ExpW1/12) to the delinquent official. The official filed his reply to the show-cause notice and statement of allegations on 30.04.2022 (ExpW1/13). Upon receipt of reply, the delinquent official was also heard personally; however, he failed to satisfy the Hon'ble District & Sessions Judge, Swabi and resultantly the delinquent official was penalized and an amount equal to his absentees was deducted from his salary and was ordered for his personal hearing. He was again warned at the personal hearing. Furthermore, the then Senior Civil Judge (Judl;) Swabi also filed a complaint bearing No. 69/SCJ dated 10.06.2022, against the delinquent official and one Mr. Saqib JC for not performing their duties according to rules and procedures (copy of same is ExpW1/14). The learned Sessions Judge vide endorsement No.4780/F-41 dated 10.06.2022 directed SCJ (Admin) for fixing the responsibility by conducting facts finding inquiry. After receipt of facts finding inquiry the learned Sessions judge, vide letter NO. 5138/F-40/DSJ Dated 23.06.2022 (ExpW1/15) issued warning to the delinquent official. The relevant portion is reproduced as below:

4/4/23

"Whereas, the inquiry has been filed however, you are warned to desist from such practice in future; failing which you will expose yourself to disciplinary proceeding in accordance with law."

*Muhammad
Advocate
3/10/23*

Despite of repeated directions, warnings and complaints the delinquent official failed to improve his performance and punctuality, which is evident from his casual leave record that till date he has availed 19 casual leaves since January 2023 i.e. 05 in the month of January, 09 in the month of February, 04 in the month of March and 01 in the month of April. Copy of the relevant page of his attendance register is (ExpW1/16). Even he

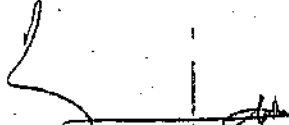
JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

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remained absent in the instant inquiry on 28th and 31st March, which shows that he is careless in discharge of his duties and guilty of misconduct; hence liable to be punished under the KPK Govt. Servants (E&D) Rules, 2011.

XXXXX (Sought time for cross)

R.O&A.C: 04.04.2023


Muhammad Irfan
SCJ-Admin/Inquiry Officer,
Swabi

Handwritten notes:
Kasul...
WA...
27/4/23
D. O. No. 110/2023
D. O. No. 110/2023
Swabi

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

19

19

Cross Examination on PW-1 Riaz Muhammad, Departmental Representative by the accused official

10.04.2023

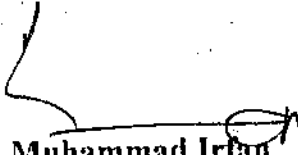
It is correct that an official can avail 25 casual leave in a year. Self stated that as per Judicial Esta Code availing of 25 casual leave is not a matter of right.

Q. Whatever the record pertaining to previous inquiries produced by you, the accused official has not been penalized?


A. Minor penalty of censure/warning has been awarded to accused official besides extending his probation period for further one year.

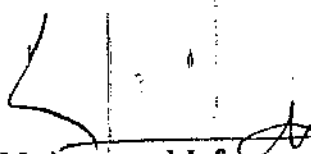
It is incorrect to suggest that the accused official has performed duty with zeal and devotion. It is further incorrect to suggest that accused official is not a late comer and never remained absent from his duty.

R.O&A.C: 10.04.2023


Muhammad Irfan
SCJ-Admin/Inquiry Officer,
Swabi

Statement of Departmental Representative:
I do hereby close my evidence.


Riaz Muhammad
Representative of Department


Muhammad Irfan
SCJ-Admin/Inquiry Officer,
Swabi

JAVED IHSAN GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

Accused
10/4/23
316777

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99

DW-01

11.04.2023

Statement of Faran Nawaz Yousafzai Computer Operator
attached to the court of Civil Judge-I Swabi on oath;

Stated that the accused official is working as Moharrir in the court of learned Civil Judge-I is performing his duty to the best of his abilities. He updates periodic table, PQS statements and other proformas well within time. He usually comes late at morning and reached the office late due to lack of personal transport. As far as Casual leave is concerned, an official can avail upto 25 Casual leaves per year, however, he availed 20 casual leaves till date mainly due to illness and hospitalize of his mother.

XX..... It is correct that I am not the controlling officer of the accused official nor I have assigned any duty to him. It is correct that I have stated in my examination in chief that the accused official is late comer. It is correct that the learned Civil Judge-I and the then learned Senior Civil Judge (Judicial) had already issued explanations and complaints against the accused official and warning had already been issued to him. It is correct that as per the Judicial Esta Code availing of 25 casual leave in year is not a matter of right of an official. It is correct that I am not in a possession of any medical prescription of the mother of accused official. It is correct that on 07.04.2023 the accused official had not arrived till 09:15 AM and when contacted by me upon the inquisition of my Presiding Officer, the accused official then told me to file my casual leave application, that was rejected and the accused official was marked as absent. It is also correct that the Presiding Officer i.e. learned Civil Judge-I had also filed complaint against the accused official vide letter No. 20/CJ-I dated 07.04.2023 to the Hon'ble District & Sessions Judge Swabi which is available on case file which is Ex.DW-1/P-1 and the District & Sessions Judge directed SCJ-Admu to place the letter on already pending inquiry. It is correct that time and again the presiding officer has verbally warned the accused official to

11/4/23

Karim
SUPERIOR COURT
District & Sessions Judge Swabi


JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

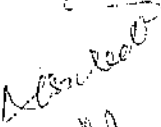
21

DW-1
Contd

shun the practice of coming late at the morning but despite that he is a habitual late comer. It is incorrect to suggest that being my colleague I have wrongly deposed in his favor.

R.O. & A.C
11.04.2023


MUHAMMAD IRFAN
SCI-Admin Swabi/Inquiry Officer


3/19/23
SUDHAKAR K. K. SINGH
Assistant & Sessions Judge
Swabi

~~JAVED IQBAL GULBELA~~
Advocate
Supreme Court of Pakistan
(ASC # 5317)

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DW-02

11.04.2023

Statement of Ibrahim N.O attached to the court of CJ-I
Swabi on oath:

Stated that the accused official always come late at the morning and inform me and computer operator that he is coming late. For the last 5 and 6 days now he is coming on time. Though he comes late at the morning but usually sits late at closing hour and finish his work on time.

XX..... I am not the controlling officer of the accused official. It is correct that the accused official is a late comer in the morning but now for the last 5 and 6 days he comes on time. It is correct that the presiding officer has called so many explanations from the accused official and also submitted complaints to the District & Sessions Judge against him. It is also correct that he was time and again warned to shun the practice of coming late at morning. It is incorrect to suggest that binc the colleague of accused official I am deposing wrongly in order to save his skin.

R.O & A.C

11.04.2023

MUHAMMAD IRFAN
SCJ-Admin Swabi/Inquiry Officer

11/4/23

Adil Bano
11/4/23
District & Sessions Judge
Swabi

JAVED TOBAK GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

23

1029

DW-03

11.01.2023

Statement of Mubassir Iqbal Accused Official on oath:

Stated that being Moharrir of the court I perform my duty with zeal, devotion and to the best of my abilities. I always finish my work well within time. The presiding officer besides my daily routine had assigned me completion of all proformas, PQS statements, preparation of daily Cause list etc. which I do complete well within time. Whenever I come late in the morning I inform my colleagues to submit my short leave application. As far as my availing of casual leave is concerned, the same is because of illness of my mother as there is no other male member in home to look after her. All the allegations leveled against me in the instant complaint is baseless, however, I assured that I will be careful in future and will discharge my duty with zeal and devotion.

XX..... It is correct that not only my present presiding officer the then learned SCJ(Judl) with whom I was performing duty as Moharrir had called explanations and filed complaints against me. It is also correct that earlier in a complaint the District & Sessions Judge had appointed the then learned SCJ-Admn to probe into the matter and a minor penalty of censure/warning was issued to me. It is also correct that vide office order dated 11.01.2023 due to my poor performance my probation period was extended for further one year and strict directions were issued to me to improve my performance otherwise my services will be dispense with without assigning any reason before the expiry of extended period of probation. It is correct that I am still in probation. It is correct that vide office order no.263/F-41/DSJ dated 11.01.2023, a show cause notice was issued to me with the same allegation of habitual later comer and absence of duty on 07.01.2023 without prior permission. It is correct that similarly vide office order dated 3534/F-41/DSJ dated 27.04.2022 the Hon'ble District & Sessions Judge issued a show cause notice that I was absent on 26.04.2022 from duty without prior

11/4/23

Asst. Secy
 3/1/23
 1/24

AVED JUDICIAL GULBELA
 Advocate
 Supreme Court of Pakistan
 (AS-317)

24

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W-3
Contd

permission of the competent authority and a habitual late comer. It is correct that vide office order No. 5138-39/F-40/DSJ dated 23.06.2022, Warning was issued by the Hon'ble District & Sessions Judge Swabi on receipt of fact finding inquiry conducted against me by the then learned Senior Civil Judge Admn Swabi where the allegation against me was proved. It is also correct that till date I have availed 20 casual leaves in three months. It is further correct that on 07.04.2023 another complaint was filed against me by my presiding officer wherein once again it is alleged that I remained absent till 09:15 AM from my duty and even on the same date I did not attend my duty and I was marked as absent. It is correct that in my reply to show cause notice I admitted my carelessness, the relevant para is reproduced "Sir I am highly regretful of my carelessness for which I seek mercy from your honor". It is correct that my present presiding officer and the then learned presiding officer have filed complaints against me to the Hon'ble District & Sessions Judge for mainly two reasons i.e. late comer and remain absent without any sanction leave. It is also correct that time and against was warned to shun this practice. It is also correct that during the proceedings of this inquiry I remained absent on 28.03.2023, 31.03.2023 and 07.04.2023. Self stated that on 28.03.2023 I was on casual leave whereas on 31.03.2023 due to the rush of work in my court I came late to mark my attendance in the instant inquiry.

R.O & A.C
11.04.2023

[Signature]
MUHAMMAD IRFAN
SCJ-Admin Swabi/Inquiry Officer

Statement of Mubassir Iqbal Accused Official:
I close my evidence.

[Signature]
Mubassir Iqbal Accused Official

[Signature]
MUHAMMAD IRFAN
SCJ-Admin Swabi/Inquiry Officer

[Signature]
[Signature]
SUPERINTENDING
District & Sessions Judge
Swabi
11/4/23

[Signature]
JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

25

Ann. "D/I"

IN THE COURT OF MUHAMMAD IRFAN,
Senior Civil Judge (Admn)/Inquiry Officer, Swabi

Departmental Inquiry
against **Mr. Mubassir Iqbal, Junior Clerk** attached
to the Court of Civil Judge-I, Swabi

Facts:

The learned Civil Judge-I, Swabi vide letter No. 1093/CJ-I Dated 07.03.2023 filed a complaint against the accused official Mubassir Iqbal Junior Clerk/Moharrir on account of his absence from duty, habitual late comer, carelessness and non-punctual, due to which her court routine work was hampered.

Per previous history of the official his probation period was extended for the next one year vide Office Order No. 2183-23/(F-41) D&SJ dated 11.01.2023 with a direction to improve his performance, otherwise his service will be dispensed with without assigning any reason. Statement of allegation and show-cause notice were issued to the accused official on 07.03.2023 and vide Office Order bearing No.2080-83/(F-41)D&SJ dated 07.03.2023, the worthy District & Sessions Judge, being competent authority ordered an inquiry against the accused official under KPK Govt. Servants (E&D) Rules, 2011 and nominated the undersigned as Inquiry Officer to conduct inquiry against the accused official and to submit report within a period of 30-days, with further direction to the accused official to submit reply to the show-cause notice / statement of allegation within 07-days to the inquiry officer.

12/4/23

Inquiry Proceedings:

On 08.03.2023, the inquiry file received to the undersigned and notices were issued to the accused official and representative of the department. On 14.03.2023, the accused official submitted reply to the show-cause notice and statement of allegations. Both the parties were provided ample opportunity to produce their evidence of their choice, which they did.

Accepted
12/4/23
Inquiry Officer

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

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Sole statement of representative of the department was recorded as PW-1. On the other hand, the accused official produced Mr. Faran Nawaz and Ibrahim as DW-1 and DW-2 respectively and got recorded his own statement as DW-3.

The allegations against the accused official are 1. Habitual late comer, 2. Carelessness, 3. Non-punctual and 4. Availing leave/short leave without prior permission of the competent authority, despite for the fact that he was time and again warned and even his period of probation was extended by the competent authority vide office order No. 218-23/F-41/DSJ Dated 11.01.2023.

In order to prove the allegations, the representative of department produced and exhibited the relevant record. Record transpires that accused official Mubassir Iqbal was appointed as Junior Clerk against the retired son/medical invalidation quota vide Office Order No. 12570-73/(F-53) dated 21.12.2021 (ExpW1/1). Now he is working as Junior Clerk/Moharrir in the office of CJ-I, Swabi. The allegations against the accused official that he is habitual late comer, non-punctual/careless and is in habit of availing casual/short leave without prior permission of the competent authorities as reported by his Presiding Officer/CJ-I, Swabi vide letter No. 02/CJ-I dated 06.01.2023 (ExpW1/2). Another letter bearing No. 03/CJ-I dated 07.01.2023 (ExpW1/3), also relates to his poor performance and misconduct and late coming etc. The learned CJ-I, Swabi vide letter No. 1093/CJ-I, Swabi dated 07.03.2023 (ExpW1/4) requested for transfer of the delinquent official on the ground of his negligence, carelessness and non-punctuality, upon which a show-cause notice (ExpW1/5) was given to the delinquent official, along with statement of allegation (ExpW1/6) and vide office order No. 1280-83/F-51/D&SJ Dated 07.03.2023 inquiry was initiated against him. Furthermore, in respect of letter bearing No. 03/CJ-I dated 07.01.2023, the Hon'ble District & Sessions Judge, Swabi vide letter No. 263/F-41/DSJ dated 11.01.2023, issued a show-cause notice (ExpW1/7) along with statement of allegations (ExpW1/8). Vide office order bearing No. 218-23/F-41/DSJ Dated 11.01.2023 (ExpW1/9), the

12/4/23

12/4/23
SUDHANU K. TEJAN
District & Sessions Judge
Swabi

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

Hon'ble District & Sessions Judge, keeping in view the poor performance of the delinquent official has extended the initial period of probation for next one year with strict warning to improve performance, otherwise his service will be dispensed with without assigning any reason before the expiry of extended period of probation. The then learned Senior Civil Judge (Judl;), Swabi vide his letter No. 1151/SCJ Dated 26.04.2022 filed a complaint against the delinquent official (ExpW1/10), wherein the same allegations of late coming, non-punctuality and absence from duty without intimation, were leveled against him. Keeping in view the ibid complaint, the Hon'ble District & Sessions Judge given a show-cause notice vide No. 3534/F-41/DSJ Dated 27.04.2022 (ExpW1/11), coupled with statement of allegations vide No. 3535/F-41/DSJ Dated 27.04.2022 (ExpW1/12) to the accused official. The official filed his reply to the show-cause notice and statement of allegations on 30.04.2022 (ExpW1/13). Upon receipt of reply, the accused official was also heard personally; however, he failed to satisfy the competent authority and resultantly the accused official was penalized and an amount equal to his absentees was deducted from his salary and was ordered for his personal hearing. He was again warned at the time of personal hearing. Furthermore, the then Senior Civil Judge (Judl;), Swabi also filed a complaint bearing No. 69/SCJ dated 10.06.2022, against the delinquent official and one Mr. Saqib JC for not performing their duties according to rules and procedures (copy of same is ExpW1/14). The learned Sessions Judge vide endorsement No.4780/F-41 dated 10.06.2022 directed SCJ (Admin) for fixing the responsibility by conducting facts finding inquiry. After receipt of facts finding inquiry the learned Sessions judge, vide letter NO. 5138/F-40/DSJ Dated 23.06.2022 (ExpW1/15) issued warning to the accused official. The relevant portion is reproduced as below:

"Whereas, the inquiry has been filed, however, you are warned to desist from such practice in future; failing which you will expose yourself to disciplinary proceeding in accordance with law."

12/4/22
AF

Abdul
SUDHAKAR
DISTRICT JUDGE
5/6/22

JAVED IBEAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

Despite of repeated directions, warnings and complaints the accused official failed to improve his performance and punctuality, which is evident from his casual leave record that till date he has availed 19 casual leaves since January 2023 i.e. 05 in the month of January, 09 in the month of February, 04 in the month of March and 01 in the month of April. Copy of the relevant page of his attendance register is (ExPW1/16). Even he remained absent in the instant inquiry on 28th, 31st March and 7th April. The Presiding Officer of the accused official vide letter No. 20/CJ-I, Swabi dated 07.04.2023 also filed a complaint Ex(DW1/P-1) regarding his absence from duty and the competent authority has ordered to place the said complaint as part and parcel of the ongoing inquiry.

As per the available record and evidence recorded by both the parties, the allegations against the accused officials have been proved as witnesses of the accused official have admitted that he is habitual latecomer, coupled with the fact that accused official himself admitted in his reply that he is regretful of his carelessness. Furthermore, during the course of instant inquiry he remained absent on 28.03.2023, 31.03.2023 and 07.04.2023, which shows the attitude of the accused official towards discharge of his duties, if an official is so careless during inquiry proceedings then what to talk about his usual duty. During the course of inquiry another complaint was submitted by his presiding officer, which is ordered to be placed on the instant inquiry file by the competent authority. As discussed above, the accused official is in probation and he was communicated earlier to improve his performance, otherwise his service shall be dispensed without further proceedings but I am afraid he has turned deaf ears to all the directions and warnings of the competent authority.

12/4/23
 ✓

Accused

SYED M. ALI
 District Judge

Findings of the Inquiry:

Keeping in view the previous conduct of the accused official and his attitude during the ongoing inquiry proceedings, the accused official, despite warning and repeated directions, failed to improve his

MAVEED GULBELA
 Advocate
 Supreme Court of Pakistan
 (ASC # 5317)

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declared guilty of misconduct and guilty of habitually absenting himself from duty without prior approval of leave as per Section-3(b)(d) of the Khyber Pakhtunkhwa Govt. Servants (E&D) Rules 2011, therefore, I being inquiry officer, in light of the available record, do hereby recommend major penalty of removal from service to the accused official according to Section-4(1)(b)(III) of the ibid rules.

This inquiry file be sent to the competent authority/District & Sessions Judge, Swabi for further necessary action at his end, please.

Announced: 12.04.2023

Muhammad Irfan
SCJ-Admin/Inquiry Officer,
Swabi

12/4/23

*Final show cause
notice be issued
to the concerned official.
His reply should reach
within 07 days.*

[Signature]

12/4/23

Mirza
District & Sessions Judge
Swabi
12/4/23

JAVEED AL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

COURT OF DISTRICT & SESSIONS JUDGE, SWABI

Title: Inquiry Against Mubasir Iqbal

Order/Proceeding Sheet

S.No. & Date of order

15.04.2023

O:01

1. Inquiry report in Court File No. 1/6 of 2023 along with its enclosures, received from the learned Inquiry Officer/Senior Civil Judge-Admn Swabi and perused.

2. Final Show cause notice in terms of Rule-14(d) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, be issued to the accused official. His copy is placed on file.

2. Put up for written reply of the accused official on 03/05/2023

(MUHAMMAD RAUF KHAN)

Competent Authority/
District & Sessions Judge, Swabi

1. Accused/official present in person. Departmental representative Riaz

Muhammad also in attendance. Written reply to the Final Show

Cause notice submitted by the accused/official. Placed on file.

2. Put up for personal hearing of the accused/official on 16.05.2023.

Departmental representative is directed to appear along with relevant

record on the date fixed.

(Muhammad Kaur Khan)

District & Sessions Judge,
Swabi

11.7.2023
11.7.2023

Supreme Court of Pakistan
(ASC # 5317)
Advocate
JAVED IQBAL GULBELA

30

Ann-F

30

Better Copy

COURT OF DISTRICT & SESSION JUDGE SWAT

Title: Inquiry Against Mubasir Iqbal

S.No & Date of order	Order/Proceeding Sheet
<p><u>Or:01</u> 15.04.2023</p>	<p>1. Inquiry report in Court File No. 1/6 of 2023 along with its enclosures, received from the learned Inquiry Officer/Senior Civil Judge-Admin Swabi and perused.</p> <p>2. Final Show cause notice in terms of Rules-14(4) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, be issued to the accused official, its copy is placed on file.</p> <p>3. Put up for written reply of the accused official on 03/05/2023</p> <p style="text-align: right;">(MUHAMMAD RAUF KHA) Competent Authority District & Session Judge, Swabi</p>
<p><u>Or: 02</u> 03.05.2023</p>	<p>1. Accused/Official present in person, Department representative Riaz Muhammad also in attendance. Written reply to the Final Show Case Notice submitted by the accused/official. Placed on file.</p> <p>2. Put up for personal hearing of the accused/official on 16.05.2023 Departmental representative is directed to appear along with relevant record on the date fixed.</p> <p style="text-align: right;">(MUHAMMAD RAUF KHA) Competent Authority District & Session Judge, Swabi</p>

JAVED IQBAL GULBELA
Supreme Court of Pakistan
(A) # 5317

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COURT OF DISTRICT & SESSIONS JUDGE, SWABI

Title: Inquiry Against Mubasir Iqbal

S.No. & Date of order	Order/Proceeding Sheet
<p><u>Or: 03</u> 16.05.2023</p>	<p>1. Accused /official Mubasir Iqbal (Junior Clerk /Moharrir BPS-11) present in person. Departmental Riaz Muhammad (Superintendent Sessions Court) also present along with relevant record. The accused/official was heard in person at some length but he was unable to defend him ^{and to} satisfactorily account for the charges levelled against him. Hence, he is found guilty of inefficiency and misconduct as enumerated in Rule-2(1)(i)(1) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011. Therefore, major penalty of removal from service is awarded to the accused /official under Rule-4(1)(b)(iii) of ibid rules read with Section-11 of the Khyber Pakhtunkhwa Civil Servant Act 1973.</p> <p>2. Accordingly, the accused /official is removed from service with immediate effect. The record be kept accordingly in safe custody.</p> <p><u>Announced</u> 16.05.2023</p> <p style="text-align: right;">7th 16/5/23 (Muhammad Rauf Khan) District & Sessions Judge, Swabi</p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;"> <p style="text-align: center; font-weight: bold;">ATTEST</p> <p style="text-align: center;">16/05/2023</p> </div>

~~JAVED IQBAL GULBELA~~
Advocate
Supreme Court of Pakistan
(ASC # 5317)

COURT OF DISTRICT & SESSION JUDGE SWAT

Title: Inquiry Against Mubasir Iqbal

S.No & Date of order	Order/Proceeding Sheet
<p>Or:03 16.05.2023</p>	<p>1. Accused /official Mubassir Iqbal (Junior Clerk /Moharrir BPS-11) present in person. Departmental Riaz Muhammad (Superintendent Session Court) also present along with relevant record. The accused/official was heard in person at some length but he was unable to defend him and satisfactory account for the charges levelled against him. Hence he is found guilty of inefficiency and misconduct as enumerated in. Rules-2(1)(i)(1) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011.</p> <p>Therefore, major penalty of removal from service is awarded to the accused under Rule-4(1)(b)(iii) of bid rules read with Section-11 of the Khyber Pakhtunkhwa Civil Servant Act 1973.</p> <p>2. Accordingly, the accused official is removed from service with immediate effect. The record be kept accordingly in sale custody</p> <p><u>Announced</u> <u>16.05.2023</u></p> <p style="text-align: right;">(MUHAMMAD RAUF KHA) Competent Authority District & Session Judge, Swabi</p>

JAVED IOBAL GULBELA
Supreme Court of Pakistan
(MSC # 5317)

32

**Office of The
District & Sessions Judge, Swabi**

Phone # 0938-280172
Fax # 0938-280117

dsjswabi@yahoo.com
dsjswabi@gmail.com

Ann-F

**Show Cause Notice Under Rule 14(4)
15.04.2023**

I, Muhammad Rauf Khan, District & Sessions Judge Swabi, as Competent Authority under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011 (the Rules), do hereby serve you accused /official namely, Mubasir Iqbal (Junior Clerk/Moharrir) attached to the Court of Civil Judge-I Swabi, as under: -

Whereas, you the accused /official named above were charged with misconduct and inefficiency, upon which the undersigned issued show cause notice and statement allegations and the same were sent to the Inquiry Officer under Rule 10(1)(a) of E&D Rules 2011, for conducting proper inquiry. The Inquiry Report has been received on 12.04.2023, wherein the Inquiry Officer has held that charge against you have been proved.

Whereas, I am satisfied that you have committed the following acts /omissions as specified in Rule 2(1)(i)(f) of the Rules ibid i.e. inefficiency and misconduct.

Whereas, you are hereby directed through this notice that you being a responsible official of the court have committed gross misconduct and inefficiency by habitually remaining absent without prior permission, coming late to the office, carelessness and early departure from the Court of learned Civil Judge-I Swabi, without prior permission. In this regard the concerned Court has submitted various complaints regarding your inefficiency and misconduct, which are on the record. Moreover, the enquiry officer has also submitted in his report dated 12.04.2023 that you even remained absent during the enquiry proceeding on 07.04.2023 and the concerned Presiding Officer of the court

15/4/23

TESTED
07/04/2023

JAVED IQBAL QULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

32

Better Copy

**OFFICE OF THE
DISTRICT & SESSION JUDGE SWAT**

Tell: 0938:280372
Fax: 0938:280117

dsjswabi@yahoo.com
dsjswabi@gmail.com

Show Cause Notice Under Rules 14(4)

15.04.2023

I, Muhammad Rauf Khan, District & Session Judge Swabi, as Competent Authority under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011 (the Rules), do hereby serve you accused/official namely, Mubassir Iqbal (Junior Cler/Moharrir) attached to the Court of Civil Judge-I Swabi, as under:-

Whereas, you the accused/official named above were charged with misconduct and inefficiency upon which the undersigned issued show case notice and statement of allegations and the same were sent to inquiry officer under Rule 10(1)(a) of E&D Rules 2011, for conducting proper inquiry. The inquiry Report has been received on 12.04.2023, wherein the inquiry Officer has held that charge against you have ben proved.

Whereas, I am satisfied that you have committed the following acts commissions as specified in Rule 2(1)(i)(1) of the Rules ibid i.e inefficiency and misconduct.

Whereas, you are hereby directed through this notice that you being a responsible official of the court have committed gross misconduct and inefficiency by habitually remaining absent without proper permission. Coming late to the office, carelessness and early departure from the Court of learned Civil Judge-I, Swabi, without complaints regarding you inefficiency and misconduct, which are on the record. Moreover, the enquiry officer has also submitted in this report dated 12.04.2023 that you even remained absent during the enquiry proceeding on 07.04.2023 and the concerned Presiding Officer of the court.

Advocate
Court of Pakistan
(ASC # 5317)

33

**Office of The
District & Sessions Judge, Swabi**

reported against you on the same date. Apart from the above, an inquiry was previously conducted against you and warning was issued to you vide office order bearing endorsement No. 5138-39(F-40)/D&SJ dated 23.06.2022. Even otherwise, you are still on probation but despite repeated warnings and directions you did not mend your way and as such your services are not satisfactory.

Whereas, for the above reasons, I, being Competent Authority, have tentatively decided to impose upon you the penalty prescribed under the Rule 4(b)(iii) of the Rules ibid i.e. major penalty of removal from service.

You, the accused /official, is therefore, directed to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person. If no reply to this notice is received within seven (07) days or not more than fifteen (15) days of delivery of the notice, it shall be presumed that you have no defence to make it and in that case an ex-parte action shall be taken against you.

Dated: 15.04.2022

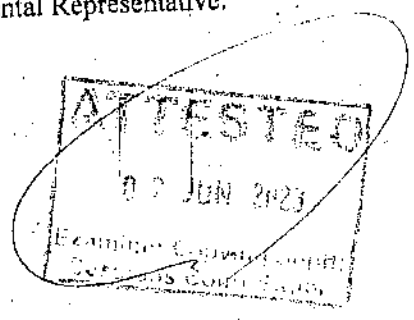
M
15/4/23
(Muhammad Rauf Khan)
Competent Authority
/District & Sessions
Judge, Swabi

Endst: No. 1818-19/(F-40)/D&SJ Dated 17.04.2023

Copy for information and needful to:

1. The accused official with copy of enquiry report dated 12.04.2022, submitted by the learned Inquiry Officer /SCJ-Admn Swabi.
2. The Departmental Representative.

M
15/4/23
Competent Authority
/District & Sessions
Judge, Swabi



~~JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)~~

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Page 2

OFFICE OF THE
DISTRICT & SESSION JUDGE SWAT

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Dated: 15.04.2022

(Muhammad Rauf Khan)
Competent Authority
/District & Sessions
Judge, Swabi

Endst: No. 1818-19/(F-40)/D&SJ

Dated: 17.04.2023

Copy for information and needful to:

1. The accused official with copy of enquiry report dated 12.04.2023, submitted by the learned Inquiry Officer / SCJ-Admin Swabi.
2. The Departmental Representative.

Competent Authority
/District & Sessions
Judge, Swabi

JAVED IGGI
Advocate
Supreme Court of Pakistan
(ASC 85317)

JAVED IGBAL GULBB
Advocate
Supreme Court of Pakistan
(ASC # 5317)

16/5/23
District & Sessions Judge

1. The Registrar Peshawar High Court, Peshawar.
2. The Senior Civil Judge-Admi Swabi.
3. The District Accounts Officer, Swabi.
4. The Budget & Accounts Assistant Sessions Division Swabi.
5. The official concerned.
6. Office.

Copy for information and receipt for:

16/5/23
(Muhammad Rami Khan)
District & Sessions Judge
Swabi

ATTESTED

official is removed from service with immediate effect.

Section-11 of the Khyber Pakhtunkhwa Civil Servant Act 1973. Hence, the accused awarded to the accused official under Rule-4((b)(iii)) of bid rules read with (Discipline) Rules 2011. Therefore, major penalty of removal from service is Rule-20((K)(1)) of the Khyber Pakhtunkhwa Government Servants (Efficiency & official has been found guilty of inefficiency and misconduct as enumerated in And Whereas, on the strength of material available on record, the accused

his probation. during the initial period of his probation as well as during the extended period of And Whereas, the services of accused official were not found satisfactory personal hearing.

satisfactorily account for the charges either in his written reply or during the official was personally heard. However, he could not defend himself and served with final show cause notice and after receiving his reply, the accused accordingly submitted the Inquiry Report. Consequently, the accused official was And Whereas, the Inquiry Officer conducted the inquiry as per rules and

Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline)-Rules 2011 followed by charge sheet and statement of allegations were issued to him under the (SPS-11), attached to the court of learned Civil Judge-I Swabi, a show cause notice Pursuance to complaints against Mr. Mubasir Iqbal (Junior Clerk /Moharrir

OFFICE ORDER
16.05.2023

No 6010-15/F-41

Dated: 16. 05. 2023

DISTRICT & SESSIONS JUDGE SWABI

OFFICE OF THE

Phone # 0938-280372
Fax # 0938-280117
dswabi@goib.gov.pk
dswabi@mail.com

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ANN-5

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Fax: 0938:280117

**OFFICE OF THE
DISTRICT & SESSION JUDGE SWAT**

dsjswabi@yahoo.com
dsjswabi@gmail.com

Ref No. 6010-15/F-14

Dated:16-05-2023

OFFICE ORDER

16.05.2023

Pursuance to complaints against Mr. Mubassir Iqbal (Junior Cler / Moharrir BPS-11), attached to the court of leaned Civil Judge-I, Swabi, a show cause notice followed by charge sheet and statement of allegations were issued to him under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011.

And Whereas, the inquiry Officer conducted to inquiry as per rules and accordingly submitted the inquiry report, Consequently, the accused/official was served with personally heard. However, he could not defend himself and satisfactorily account for the charges either in his written reply or during the personal hearing.

And Whereas, the services of accused/official were not found satisfactory during the initial period of his probation as well as during the extended period of his probation.

And Whereas, on the strength of material available on record, the accused /official has been found guilty of inefficiency and misconduct as enumerated in Rule02(1)(i)(1) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011. Therefor major penalty of removal from service is awarded to the accused / official under Rule-4(1)(b)(iii) of ibid rules read with Section-II of the Khyber Pakhtunkhwa Civil Servant Act 1973. Hence, the accused/official is removed from service with immediate effect.

**(Muhammad Rauf Khan)
Competent Authority
/District & Sessions
Judge, Swabi**

Copy for information and needful to:

1. The Registrar Peshawar High Court, Peshawar.
2. The Senior Civil Judge-Admin Swabi.
3. The District Account Officer, Swabi.
4. The Budget & Accounts Assistant Session Division Swabi.
5. The Official concerned.
6. Office.

**District & Sessions
Judge, Swabi**

JAVED IQBAL
AC...
Supreme Co...
(ASC # 3)

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Ann - H

**BEFORE THE SENIOR PUISNE JUDGE
PESHAWAR HIGH COURT PESHAWAR AS
APPELLATE AUTHORITY**

Peshawar High Court, Pesh
Receipt No 8242
Date 14-6-23
Signature [Signature]

Mubassir Iqbal (Ex Junior Clerk/Moharrir Civil Judge I Swabi)

.....Appellant

VERSUS

District and Session Judge Swabi

.....Respondent



SUBJECT: Departmental appeal against the order of Learned District and Session Judge Swabi dated 16.05.2023 whereby appellant has been removed from service which is illegal against law and facts.

PRAYER: On acceptance of this appeal, impugned order of removal dated 16.05.2023 passed by the Learned District and Session Judge Swabi may please be set aside and appellant may please be reinstated in service with all back benefits. Any other relief deemed fit in the circumstances of the case and not specifically asked for may also be graciously granted.

Respected Sir,

Appellant humbly submits as under:

1. That appellant is served with show cause notice dated 07.03.2023 along with statement of allegations (Copy of show cause notice along with statement of allegation is attached as Annexure A)
2. That appellant properly replied the same (Copy of the reply is attached as Annexure B)
3. That the inquiry has not been conducted as per E&D Rules (Copy of the inquiry proceedings/report & recommendation is attached as Annexure C)
4. That respondent passed order of removal of appellant dated 16.05.2023 which is illegal against law and facts on the following grounds:

ATTESTED
EXAMINER
Peshawar High Court

GROUNDS:

- A. Because no charge sheet has been served upon the appellant which is sine qua non for disciplinary proceedings and solely on this ground the entire proceedings are vitiated.
- B. Because serving statement of allegation with show cause notice is a novel procedure and alien to KP E&D Rules 2011 and thus the whole proceedings are coram-non-judice.
- C. Because the penalty imposed is very harsh and disproportionate and in violation of celebrated judgments of the Honorable Supreme Court of Pakistan.
- D. Because, even, the statement of allegation is vague and not specific which has caused prejudice to appellant in defending his case.
- E. Because the Learned Civil Judge has only requested for transfer of appellant and not for initiation of disciplinary proceedings.
- F. Because availing of short leave is obviously with the permission of competent authority within permissible limit and is neither a charge nor an offence.
- G. Because the charge of habitual late comer, carelessness and non-punctual are also not specific charges as the circumstances, date, time has not been specified, so that appellant could submit his justification in precise manner.
- H. Because there is no evidence or finding as to how appellant is regarded as careless.
- I. Because one odd circumstance of late coming, that too when appellant is the only male member of the family to look after his ailing mother and old father can't be stretched to habitual late coming, in order to throw away appellant from service.
- J. Because there is nothing on record/evidence to show that performance of appellant is poor.
- K. Because penalty of removal is a stigma on career of young civil servant which may cause serious hurdles in his future service career.

ATTESTED
EXAMINER
Peshawar High Court

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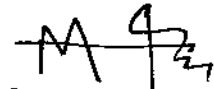
L. Because by no stretch of imagination appellant can be vexed with major dose of removal from service in the facts and circumstances of the case.

M. Because appellant is innocent and falsely charged.

N. Because appellant is jobless and entitled for back benefits.

It is therefore humbly prayed that on acceptance of this departmental appeal, impugned order of removal dated 16.05.2023 passed by the Learned District and Session Judge Swabi may please be set aside and appellant may please be reinstated in service with all back benefits. Any other relief deemed fit in the circumstances of the case and not specifically asked for may also be graciously granted.

(Appellant)
Mubassir Iqbal
(Ex- Junior Clerk/Moharrir
attached to Civil Judge-I Swabi)



Dated: 13/06/2023

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ATTESTED
EXAMINER
Peshawar High Court

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Judgment Sheet
IN THE PESHAWAR HIGH COURT, PESHAWAR
(Judicial Department)

Departmental Appeal No.13/2023

Mubassir Iqbal vs. DSJ, Swabi

ORDER

Date of Hearing: 24.7.2024
Appellant by: In person
Department by: Mr. Riaz Khan, Superintendent.



IJAZ ANWAR, J: - The record transpires that the appellant never remained punctual in his probation period. He was awarded a minor penalty and his probation period was extended to the next year. Despite that, he did not mend his ways throughout his probation period, and there were complaints against him regarding his inefficiency. Being a probationer, the appellant should have remained punctual and efficient. Since the appellant has not completed his probation period satisfactorily, I find no merit in the instant appeal, therefore, the same is rejected accordingly.

Announced:
24.7.2024

Senior
Puisne Judge

Nazir

Hon'ble Mr. Justice Ijaz Anwar, J

CERTIFIED TO BE TRUE COPY
EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 8, 7 of
the Oath-taking-Shahadat Act 1984
16 AUG 2024

و کالت نامہ

KP Service Tribunal, Pesh.

Registrar PTC, Pesh & other, Mubarex label

Service Appeal

تاریخ: 12/08/2024

بابت نامہ

مقام: رجسٹرار پٹیالہ

موضوع: رجسٹرار پٹیالہ کی خدمات پر اعتراض

مقدمہ: رجسٹرار پٹیالہ کی خدمات پر اعتراض

مطلب: رجسٹرار پٹیالہ کی خدمات پر اعتراض

مذکورہ بالا تمام باتوں پر اعتراض ہے۔

رجسٹرار پٹیالہ کی خدمات پر اعتراض ہے۔

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رجسٹرار پٹیالہ کی خدمات پر اعتراض ہے۔

Accepted by:

BC-23-6484

11-1749

BC-10-7924

44 تاریخ: 12/08/2024