FORM OF ORDER SHEET

Court of	•		

Appeal No. 1386/2024

3	S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
_	1	2	3		
	1-	29-Aug-24	The appeal of Mr. Shahid Rasool resubmitted today by Mr. Sawal Nazir Khan Advocate. It is fixed for		
			preliminary hearing before Single Bench at Peshawar on 19-		
			Sep-24. Parcha Peshi given to counsel for the appellant.		
			By order of the Chairman RECISTRAR		
	,				
	:				
-					

The appeal of Mr. Shahid Rasool received today lie on 15.08.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ① According to sub-rule-4 of rule-6 of Khyber Pakhtunkhwa Service Tribunal rules, 1974 respondent nos. 3&6 are un-necessary/improper parties, in light of the rules ibid and on the written direction of the Worthy Chairman' the above mentioned respondent number be deleted/struck out from the list of respondent.
- Memorandum of appeal is not signed by the appellant.
- Appeal has not been flagged/marked with annexures marks.
- Annexures of the appeal are unattested.
- (5) Three copies/sets of the appeal along with annexures i.e. complete in all respect for Tribunal and one for each respondent be submitted with the appeal.

594_/Inst./2024/KPST,

KHYBER PAKHTUNKHWA PESHAWAR.

Sawal Nazir Khan Adv. Supreme Court at Bannu.

Sin, 29/8/2024 Re-submitted after complition

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR CHECK LIST Case Title: Shahid Posool-VS- D-A-A

	Smarket Massay - 12-17-14		
S#	CONTENTS	YES	NO
1	This Appeal has been presented by:		[
2	Whether Counsel/Appellant/Respondent/Depc nent 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 co rect?		
16	Whether appeal contains cutting/overwriting?		
17	Whether list of books has been provided at the end of the appea;?		
18	Whether case relate to this court?	~.	
19	Whether requisite number of spare copies attacl ed?		i
20	· · · · · · · · · · · · · · · · · · ·		
21_	Whether addresses of parties given are complete?		
22	Whether index filed?		
	Whether index is correct?		
	Whether Security and Process Fee deposited? On		
	Whether in view of Khyber Pakhtunkhwa Sen ice Tribunal Rules	٠ . إ	
25	1974 Rule 11, notice along with copy of appeal and annexures has	ļ	1
	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.

Signature: Date 1:

BEFORE THE PROVINCIAL SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 1386/2024

Shahid Rasool

Vs

Departmental Appellate Authority & Others

<u>INDEX</u>

S.No	Description of Documents	Annexure	Pages
1	Grounds of appeal, certificate and memo of addresses of the parties		1-7
2	Copy of appointment order of the Appellant	"A"	8-9
3	Copies of Application and accord of approval	"B"	10-11
4	Copies of Application and NOC	"C"	12-13
5	Copies of extracts from websites	"D"	14-20
6	Copies of Application and order dated 28/07/2020	"E" & "F'	21-22
7	Copies of final show cause notice, reply and impugned order dated 16/10/2020	"G" & "H"	23 -3 9
8	Copies of memo of Appeal and impugned order dated 24/07/2024	"[" & "]"	31-35
9	Copy of Passport of the Appellant	"K"	36-40
10	Power of Attorney and Wakalatnama		41-44

APPFII ANT

THROUGH

SAWAL NAZIR KHAN
ADVOCATE SUPREME COURT

Dated: 6/08/2024



BEFORE THE PROVINCIAL SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 386 /2024

Shahid Rasool (Computer Operator BPS-16) Son of Rasool Khan Resident of Soordag Latambar Tehsil & District Karak.

..... (Appellant)

Versus

- Departmental Appellate Authority/Administrative Judge,
 Peshawar High Court, Peshawar through Registrar Peshawar
 High Court, Peshawar.
- 2) District & Sessions Judge Karak.

.....(Respondents)

SERVICE APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT, 1974 READ WITH ALL LAW & RULES PROVISIONS OF RELEVANT **IMPUGNED ORDER** DATED THE AGAINST RESPONDENT NO.2, THE 16/10/2020 OF WHEREBY MAJOR PENALTY OF "REMOVAL FROM SERVICE" WAS IMPOSED UPON THE APPELLANT, AS WELL AS, AGAINST THE IMPUGNED JUDGMENT 24/07/2024 OF THE ORDER DATED **APPELLATE** DEPARTMENTAL **AUTHORITY/RESPONDENT** NO.1 WHEREBY **DEPARTMENTAL APPEAL OF THE APPELLANT WAS** REJECTED/DISMISSED.

word

Me lour of

ON ACCEPTANCE OF THIS SERVICE APPEAL, THIS PRAYER: HONOURABLE TRIBUNAL MAY VERY GRACIOUSLY BE PLEASED TO SET ASIDE BOTH THE IMPUGNED ORDERS NO. 1960-67/DSJ/KK DATED 16/10/2020 OF RESPONDENT NO.2 AND DATED 24/07/2024 PASSED IN SERVICE APPEAL NO. 01/2021 BY RESPONDENT -NO.1 AND DIRECT THE RESPONDENTS TO RE-INSTATE THE APPELLANT IN SERVICE WITH FULL BACK BENEFITS AND WITH RETROSPECTIVE EFFECT: AND MAY ALSO VERY GRACIOUSLY BE PLEASED TO GRANT ANY OTHER REMEDY DEEM FIT BY THIS HONOURABLE TRIBUNAL IN THE CIRCUMSTANCES, TO MEET THE **ENDS OF JUSTICE.**

Respectfully Sheweth:-

PRATUS

Succinct but most relevant facts giving rise to the institution of 1) instant Appeal are that the Appellant was appointed as Computer Operator in BPS-16 vide order dated 21/03/2018. (Copy of appointment order is hereby annexed as

Annexure-A)

That the Appellant submitted an application for two years Extra 2) Ordinary/Ex-Pakistan Leave vide Application dated 24/01/2020, which after proper procedure was placed before the learned District & Sessions Judge Karak, wherein, 120 days leave with full pay was awarded to the Appellant, i.e. w.e.f 1st March 2020 to 30th June 2020.

(Copies of Application and accord of approval are hereby action for the annexed as Annexure-B)

That the Appellant thereafter obtained proper No objection 3) Certificate (NOC) for proceeding abroad and accordingly proceeded abroad i.e. for United Arab Emirate.



(Copies of Application and NOC are hereby annexed as Annexure-C)

4) That, after proceedingS of the Appellant abroad the whole world was crippled by Pandemic COVID-19 and strict restrictions were imposed on movement of human-being from one place to another place, which continued for more than two years and got relaxed in the month of April 2022.

(Copies of extracts from websites are hereby annexed as Annexure-D)

That the situation was beyond the control of the Appellant and he could not return home land due to national and interlineal restrictions, thus in such eventuality the Appellant submitted an application for extension of his leave period, however, the request of the Appellant was turned down vide office order Endst: No. 1598-04/D&SJ/KK dated Karak the 28/07/2020.

(Copies of application and order dated 28/07/2020 are hereby annexed as Annexure-E & F respectively)

That all of a sudden without adopting the proper procedure, final show cause notice issued to the Appellant to which the Appellant submitted his reply and explained his position; however unfortunately major penalty of "removal from service" was imposed upon the Appellant, but the same was not imparted upon the Appellant vide impugned order No. 1960-67/DSJ/KK dated Karak the 16/10/2020.

(Copies of final show cause notice, reply and impugned order dated 16/10/2020 are hereby annexed as Annexure-G & H respectively)

7) That the Appellant thus preferred Departmental Appeal against the impugned order, but the same was also rejected vide impugned order dated 24/07/2024 by the Appellate Authority.

(Copies of memo of Appeal and order thereof are hereby annexed as Annexure-I & J respectively)

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8) That now the Appellant has got no other choice but to knock at the door of this Honourable Tribunal for the remedy and the ends of justice with a prayer in the head note of this Service Appeal, inter alia, on the following grounds.

GROUNDS

- a) That both the impugned orders i.e. removal from service and rejection of departmental appeal are against the law, rules, facts and principal of justice and as such are liable to be set aside.
- b) That the overall situation of the world due to pandemic COVID19 was well in the knowledge of everyone, thus the state of affairs was beyond the control and access of the Appellant. The same have not been taken into consideration by the Departmental Authorities which is obviously the violation of the principle of *Audi Alter Partum* and as such the removal from service order impugned herein are totally ineffective upon the rights of the Appellant.
- the Departmental Authorities whereas the Appellant has been awarded with the major penalty in a very cruel and harsh manner in-spite of the fact that the Appellant was never at fault.
- d) That, the absence of the Appellant was not willful, rather the same was beyond the control of the Appellant to join his duties.
- e) That, the impugned order of the Appellate authority is not speaking one and is based on misreading of facts and law.
- That, the Appellant has tried his level best to return home land and join back his duties, but due to COVID-19 pandemic restrictions he could not make it possible despite all his efforts.
- g) That, it has been mentioned in the impugned order dated 24/07/2024 of the Appellate Authority that the Appellant has returned from UAE yesterday, and he is not interested in

returned from UAE

wed with



from service and his appeal was pending then his non return to the country is not a valid ground for dismissal of Appeal.

(Copy of Passport of the Appellant is hereby annexed as Annexure-K)

- h) That both the impugned orders are arbitrary and discriminatory both in law and in facts.
- i) That no opportunity of personal hearing was granted to the Appellant.
- j). That the absence period, mentioned in the impugned order could be converted into leave without pay in circumstance of the case under the law and cannon of justice.
- k) That the proceedings carried out by the Department are *corum* non-judice thus having no sanctity in the eyes of law.
- That the Counsel for Appellant seeks permission to rely and advance additional grounds at the time of hearing of this Appeal.

For the aforesaid reasons and others to be stated at the time of arguments, it is, therefore, most humbly prayed that on acceptance of instant appeal, this Honourable tribunal may very graciously be pleased to allow the Appeal of the Appellant as prayed for.

APPELLANT

THROUGH

In shus

SAWAL NAZIR KHAN
ADVOCATE SUPREME COURT

Dated: 66/08/2024

BEFORE THE PROVINCIAL SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. ____/2024

Shahid Rasool

Vs

Departmental Appellate Authority & Others

CERTIFICATE

It is to certify that no such like appeal has ever been moved by the appellant before this Honourable Tribunal and the contents of this appeal are true and correct.

APPELLANT

THROUGH

SAWAL NAZIR KHAN ADVOCATE SUPREME COURT

Dated: 06/08/2024

An slew & A



BEFORE THE PROVINCIAL SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. _____/2024

Shahid Rasool

VS

Departmental Appellate Authority & Others

MEMO OF ADDRESSES OF THE PARTIES

Address of the Appellant:

Shahid Rasool (Computer Operator BPS-16) Son of Rasool Khan Resident of Soordag Latambar Tehsil & District Karak.

Addresses of the Respondents:

- Departmental Appellate Authority/Administrative Judge,
 Peshawar High Court, Peshawar through Registrar Peshawar
 High Court, Peshawar.
- 2) District & Sessions Judge Karak.

.. (Respondents)

THEOLIGH

APPELLANT

SAWAL NAZIR KHAN ADVOCATE SUPREME COURT

Dated: 06 / 08 / 2024

I due to

PAKHTUNKHWA, PESHAWAR

Service Appeal	No	/2024
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Advocate Oath Commissioner **Shahid Rasool**

VS

Departmental Appellate Authority & others

<u>Affidavit</u>

I, Shahid Rasool S/o Rasool Khan Latamber Tehsil & District Karak, do hereby solemnly affirm that the contents of this Service Appeal is true & correct to the best of my knowledge & belief and nothing have been concealed from this Hon'able Court.

DEPONENT

SHAHID RASOOL

14202-8860330-3



OFFICE OF THE DISTRICT & SESSIONS JUDGE, KARAK

ORDER

<u> Dated: 21,3,2018</u>

Consequent upon the recommendations of Departmental Selection Committee in its meeting dated 21.3.2018 the following initial appointment through recruitment is made on temporary basis subject to medical fitness and antecedents' verification:

S/No	Name of the Candidate with father name	Recommended for appointment against the post of
1	Mr. Nazeerullah son of Habibullah resident of Warana Mosakan Tehsil Takht-e-Nasrati District Karak.	Computer Operator (BPS-16)
2	Mr. Shahid Rasool son of Mohammad Rasool Khan resident of Nawaz Abad P.O Latamber Tehsil & District Karak.	Computer Operator (BPS-16)

Their appointment to the service shall be subject to the following terms and conditions:

- i. They will be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973 and Khyber Pakhtunkhwa Civil Servants (Appointments, Promotion and Transfer) Rules, 1989 (as amended up to date).
- ii. They will be allowed the minimum pay of BPS mentioned with post plus other allowances as admissible under the rules.
- iii. They shall be governed by such rules and instructions relating to Leave, T.A and Medical Attendance as are prescribed from time to time.
- iv. They will be eligible for continuance and eventual confirmation on the post on satisfactory completion of their probation period for two years subject to the availability of permanent posts and on the completion of prescribed training, if any.
 - Their services shall be liable to be dispensed with at any time without notice and assigning any reason before the expiry of the period of their probation/extended period of probation for further one year, if, their work or conduct during this period is not found satisfactory. In the event of termination from service, fourteen days notice or in lieu thereof fourteen days pay will be paid by the Government. In case of resignation, they will give one month notice to the Competent Authority or in lieu thereof one month pay

3/2/2018 19/2/2018

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shall be forfeited to the Government. The resignation shall, however, be subject to acceptance by the Competent Authority.

vi. They will be governed by the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011 and Khyber Pakhtunkhwa Government Servants (Conduct) Rules, 1987 and any other rules or instructions made and/or issued by the Government and/ or Competent Authority from time to time.

If the above terms and conditions of appointment are acceptable to the candidate, they should report for duty to the undersigned immediately. The offer of appointment shall be deemed to have been cancelled if they failed to report for duty within one month from the date of issuance of this order.

They will join duty at their own expenses.

Nasrullah Khan Gandapur District & Sessions Judge, Karak

No. 573 - 76 DSJ Karak

Dated: 21.03.2018

Copies forwarded to the:

- 1. Hon'ble Registrar, Peshawar High Court, Peshawar.
- 2. District Accounts Officer Karak.
- 3. The officials concerned.
- 4. Office Copy.

My Sol

Nasrullah Khan Gandapur

District & Sessions Judge, Karak

Hon'ble the District & Sessions Judge, Kařak.

Through:

Proper Channel.

Subject:

APPLICATION FOR GRANT OF TWO YEARS EXTRA ORDINARY/EX-PAKISTAN LEAVE (WITHOUT PAY).

Respected Sir,

With due veneration it is submitted that the applicant is serving in this esteemed Department as Computer Operator BPS-16 w.e.f 24.03.2018 till date and prior to joining the present post through proper channel rendered 02 years and 03 months service in the Local Government and Rural Development Department KPK, thus having total service length of 04 years and 01 month on credit.

That the father of the applicant is serving abroad i.e. United Arab Emirates for the last 30 years; wherein, he has been attached with National Food & Product Company and during his said service, he has met with cardiac disease for which he is under treatment in the said company. The applicant being elder son is required to take his care for which the applicant is in intense need of Extra Ordinary/Ex-Pakistan Leave (without Pay) for the period of 02 years w.e.f 03.02.2020 to 03.02.2022.

It is therefore, very humbly prayed that kindly grant sanction of 02 years Extra Ordinary/Ex-Pakistan Leave (without Pay), so that the applicant may served his father.

Yours Obediently,

Shahid Rasool,

Computer Operator.

No.01/SCJ-I,ICK Dated: 24.01. 2020.

OFFICE OF THE SENIOR CIVIL JUDGE-I/JM KARAK.

Forwarded in original to the Senior Civil Judge (Admn) Karak for further necessary action, please.

Senior Civit Judge-I/JM, Karak

MINK

No. 109 /SCJ(ADMN)

Dated: 24/01/2020

OFFICE OF THE SENIOR CIVIL JUDGE (ADMN) KARAK.

Forwarded in original to Hon'ble the District & Sessions Judge, Karak for rther necessary action, please.

Syed Fazal Wadood Jan

Senior Civil Judge (Admn)/Judge MTMC, Karak

) ETTESTED

MIN 20



RICT JUDICIARY KHYBER PAKHTUNKHWA OFFICE OF THE DISTRICT & SESSIONS JUDGE, KARAK

Email: dsjkarak@yahoo.com

- Phone: 0927-290672 Fax No: 0927-290671

OFFICE ORDER:

Extra Ordinary Ex-Pakistan leave without pay for the period of two years has been moved by the applicant namely Shahid Rasool, Computer Operator (BPS - 16). The working strength of StenoTypists and Computer Operators at District Headquarter as well as at Tehsil Takht-e-Nusrati and BD Shah is less than the required/sanctioned strength and grant of such leave will adversely affect the Administration of Justice. The ground mentioned in the application is that the applicant is required to take care of his ailing father at United Arab Emirates while he has having other brothers and brought family members and thus alternate can easily be managed. Besides, the applicant is in process of his completion of initial probation period.

In foregoing situation, the applicant is allowed to avail 120 days earned leave with full pay from the date of availing or shall wait for completion of ongoing process of recruitment and to re-submit the application for consideration of Competent Authority.

> Jahangir Khan District & Sessions Judge, Karak

No. <u>1371-76</u> D&SJ/KK

Dated Karak the 15/02/2020

Copy for information to:

- 1. Worthy, The Registrar, Peshawar High Court, Peshawar.
- 2. Learned, The Senior Civil Judge Admn, Karak.
- 3. Learned, The Senior Civil Judge (J I), Karak.
- 4. The District Account Officer, Karak.
- 5. Clerk of Court, Karak.

6. Official Comment.

SUPERINTENDENT

District & Sessions Judge...

and from the state of the state of

Karak



То

Hon'ble the District & Sessions Judge,

Karak.

Through:

Proper Channel

Subject:

NO OBJECTION CERTIFICATE FOR PROCEEDING

ABROAD I.E. UNITED ARAB EMIRATES.

Respected Sir,

With due reverence it is submitted that I have been granted 120 days Ex-Pakistan earned leave with full pay from the date of availing such leave vide your good office order No.1371-76 D&SJ/KK dated 15.02.2020.

Now, I want to avail such leave w.e.f 01st March, 2020 so it is very humbly requested that I may please be granted N.O.C/permission to proceed abroad i.e. United Arab Emirates and oblidge.

Yours Obediently,

(Shahid Rasool)

Computer Operator to Senior Civil Judge-I/JM, Karak.

No. 06 /SCJ-I/KK

Dated:19.02.2020

OFFICE OF THE SENIOR CIVIL JUDGE-I/JM KARAK.

Forwarded in original to the Senior Civil Judge (Admn) Karak for further necessary action, please.

Allowed

accordingly

SHAH SULTAN DURRANI Senior Civil Judge-I/JM, Karak.

184

Forwarded in original to the Hon'ble District & Sessions Judge, Karak for further necessary action, please.

SAYED FAZAL WADOOD JAN
Senior Civil Judge (Admin),
Karak / Judge MTMC.

DISTRICT JUDICIARY KHYBER PAKHTUNKHWA OFFICE OF THE DISTRICT & SESSIONS JUDGE, KARAK

Email: dsikarak@yahoo.com

Phone: 0927-290672 Fax No: 0927-290671

No. 14 D2 /D&SJ/KK

Dated Karak the 20/02/2020

NO OBJECTION CERTIFICATE

To Whom It May Concern

Mr. Shahid Rasool, Computer Operator (BPS – 16) having CNIC No. 14202-8860330-3, Passport No. AY9803302, has been granted 120 days Ex-Pakistan leave to United Arab Emirates w.e.f Sunday, March 01 of 2020. The undersigned has got no objection, if, he leaves Pakistan for U.A.E from the date of his leave availed.

Jahangir KhanDistrict & Sessions Judge,
Karak

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Marrict Courts Karak Computer Operator

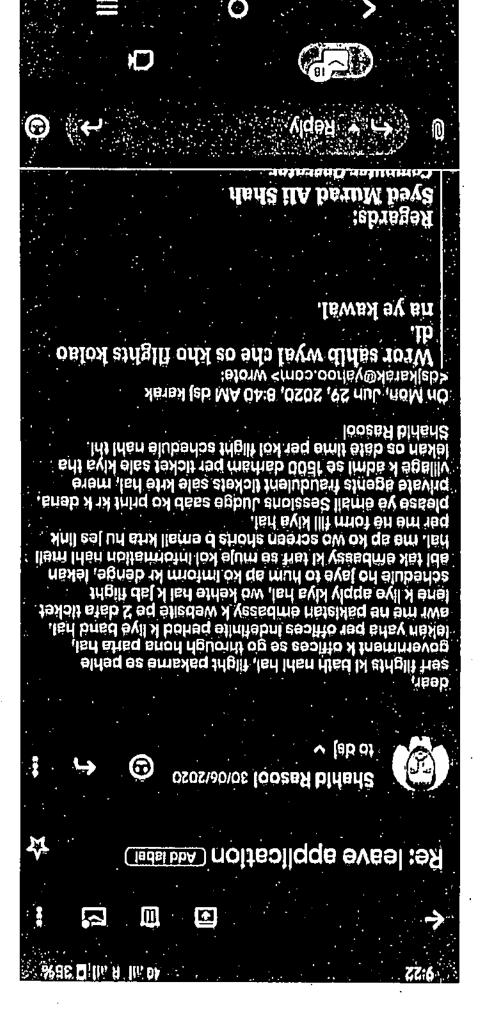
Shahid Rasool 14/10/2020

olease find the attached reply of show cause notice.

(Shahld Rasool) (Add label)

Reply of Show Cause Notice











APRIL 7, 2020

10:55 PM W

APRIL 8, 2020

zubair saab please send me that form of ticket to Pakistan, I want to go back home country. 609 AM W

sartaj brother, zaheer gave ur number to me. 6:09 AM W

brother please send me that form, im in trouble 7:38 PM 2/

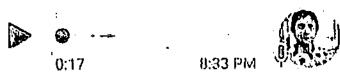
i want to register my name in the upcoming flight 7.38 PM 🛷

Lorwarded



Covid-19 in UAE: Pakistanis told to register for special flights back home... www.khaleejtimes.com

Covid-19 in UAE: Pakistanis told to register for special flights back home - https://www.khaleejtimes.com/coronavirus-pandemic/covid-19-in-uae-pakistanis-told-to-register-for-special-flights-back-home (633 PM)



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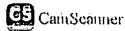




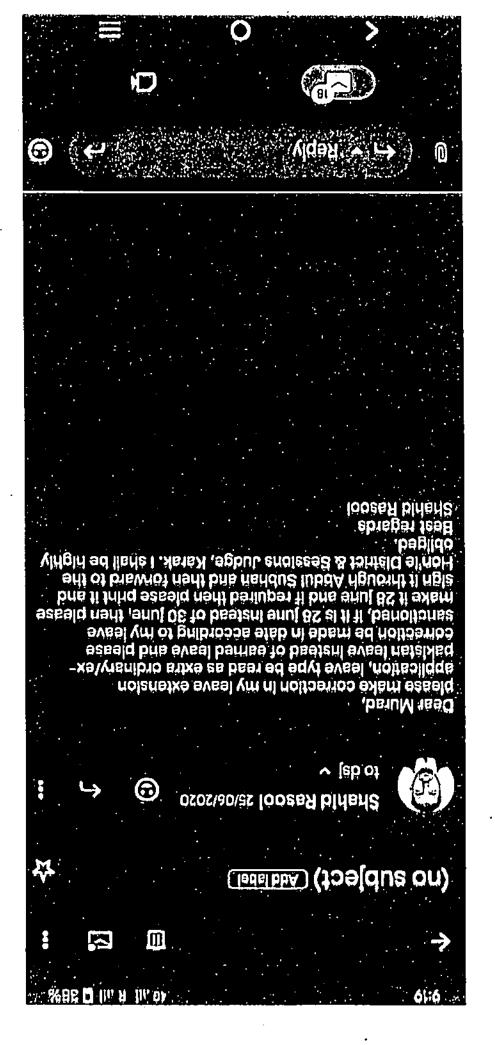
John Colons















School break amid COVID-19

Suspending visas

The UAE has suspended, effective March 17, 2020, all visas to all foreigners, with the exception of diplomatic passport holders. The decision did not apply to those who already had their visas issued prior to the aforementioned date.

Federal Authority For Identity, Citizenship, Customs & Port Security (then ICA) noted that the additional precautionary decision will be valid until a mechanism for medical examination has been established in the countries of departure as part of other global measures taken for the common good of all nations to curb further spread of the coronavirus.

Relynks

<u>mporarily suspends visas as COVID-</u>

19 declared pandemic - WAM

Suspending flights



Jours of Sound

GS CamScanner

Did the UAE remove all Covid restrictions?

9779

Update 2022-11-26: The United Arab Emirates Has pitted all COVID-19 related entry restrictions, allowing travellers to enter the country without proof of vaccination, recovery or a negative test result.

https://global-monitoring.com

COVID-19 pandemic - United Arab Emirates - A3M

Global Monitoring

МОЯЕ ВЕЅИГТЅ

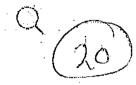
When did Covid lockdown start in UAE?

On 23rd March 2020, shopping centers, mails, and public facilities were closed, and on 26th March 2020, a 10-h travel restriction was imposed. On 4th April 2020, the Emirate of Dubal enacted a 24-h travel restriction to curb the rapid spread of the virus.

https://www.ncbl.nlm.nlh.gov Effects of the COVID-19 lockdown and recovery on People's mobility and ...

☐ Ø Ñ Home Search Saved
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- > Handling the COVID-19 outbreak
- > Primary governmental efforts to contain COVID-

Primary governmental efforts to contain COVID-19

When there was an outbreak of COVID-19 in March 2020, the UAE Government took several steps as a primary measure to control its spread. Measures included closing schools and higher education institutions and starting distance learning, suspending prayers in all places of worship, closing shopping centres and entertainment destinations, suspending the issuance of new UAE visas, suspending flights and enabling working from home.



Scippl break amid COVID-

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CamScanner



То

The Hon'ble District & Sessions Judge,

Karak.

Through:

PROPER CHANNEL

Subject:

APPLICATION FOR EXTENSION OF EXTRA-ORDINARY EX-PAKISTAN LEAVE (WITHOUT PAY)

Respected Sir,

With due reverence it is submitted that I have been granted 120 days Ex-Pakistan earned leave with full pay from 01st March, 2020 vide your good office order No. 1371-76 D&SJ/KK dated 15.2.2020 for the purpose of looking after my ailing father at U.A.E.

That since, my said earned leave will expire on 30th June, 2020 but unfortunately the concerned offices at U.A.E are closed for indefinite period due to lock-down owing to pandemic COVID-19 and for the said reason I am unable to join my duty.

In view of above, it is very humbly prayed that my leave may graciously be extended (without pay) till the situation to be normal for which I shall be highly obliged.

Yours Obediently,

(Shahid Rasool)

Computer Operator to SCJ (Judicial-I), Karak.

OFFICE OF THE SENIOR CIVIL JUDGE-I KARAK

_SCJ-I/Karak

Dated 23/06/202.

Forwarded in original to Learned the Senior Civil Judge (Admn) Karak

for onward submission, please.

SHAR SULTAN DURRANI Senior Civil Judge-I Karak

OFFICE OF THE SENIOR CIVIL JUDGE, KARAK

No. 331

Dated Karak the 23.06.2020.

Forwarded in original.

to the Hon'ble

District and Sessions Judge, Karak for appropriate order, please

Senior Civil Judge, (Admin) Karak

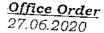




<u>DISTRICT JUDICIARY KHYBER PAKHTUNKHWA, KARAK</u> OFFICE OF THE DISTRICT & SESSIONS JUDGE KARAK

Email: dsikarak@yahoo.com

Fax No: 0927-290673



Application of Shahid Rasool Computer Operator for extension in earned leave, presented through Mr. Sakhi Abdul Subhan, Computer Operator and forwarded by Senior Civil Judge, Judicial Karak is received. The applicant has already been granted earned leave on full pay vide Office Order bearing Endst. No. 1371-76/D&SJ/KK dated 15.02.2020, which has to be expired on 30th June, 2020. The reason assigned for such extension is that the applicant being abroad at United Arab Emirates is unable to proceed and join duty due to lockdown owing to Pandemic of Covid-19. The extension so requested is for indefinite period till normalization of situation. The sole reason mentioned in the application is not appealing as the overseas Pakistanis have already been granted permission for travelling to Pakistan, Similarly, there is no such application of the applicant presented to Embassy or other Authority for going back to Pakistan and sincere efforts on part of applicant is missing on the face of it. Even the authorization of Mr. Sakhi Abdul Subhan for presentation of application for extension is not made in a proper legal manner.

Consequently, the application for extension of earned leave stands dismissed with the direction to applicant for joining duty on expiry of earned leave. It is not out of place to mention here that non-arrival of the applicant will be considered as willful absence from duty that will obviously lead the Office to initiate disciplinary proceedings against the applicant by attracting the provisions of Khyber Pakhtunkhwa Civil Servant (Efficiency and Discipline) Rules, 2011.

> Jehangir Khan District & Sessions Judge, Karak

Endst. No. 1598-07

dated Karak the 28.0872020

Copy for information to:

1. Senior Civil Judge (Admn), Karak.

2. Senior Civil Judge (Judicial), Karak.

3. Superintendent Sessions Court, Karak.
4. B&A Assistant to District & Sessions Judge, Karak.

5. COC to Senior Civil Judge (Admn), Karak.

6. Applicant through Sakhi Abdul Subhan, Computer Operator.

District & Sessions Judge, Karak

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DISTRICT JUDICIARY KHYBER PAKHTUNKHWA office of the

DISTRICT AND SESSIONS JUDGE, KARAK

Email: diskarak@yahoo.com Phone: 0927-290672 Fax No: 0927-290673

FINAL SHOW CAUSE NOTICE

I, Jehangir Khan, District and Sessions Judge, Karak as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, do hereby serve you, Mr. Shahid Rasool Computer Operator (BPS - 16), in the establishment of District and Sessions Judge, Karak as follows.

- That you remained absent from duty w.e.f July 1st of 2020 without any
- That you were directed to resume your duty and explain the reasons of your absence from duty vide Office Order bearing endorsement # 1598. 04/D&SJ/KK Dated Karak the 28/07/2020, and you being served through Mr. Sakhi Abdul Subhan (Computer Operator); the person who presented application for extension of leave on your behalf. You have also been delivered notice under reference through your personal WhatsApp Number +971507121390, which was seen and read by you but you failed to resume your duties within 15 days.
- That your sole ground of unavailability of flights due to Covid 19 has iii. already been seized to exist as flights are in operation and you after lapse of 69 days could not ensure your presence on duty.
 - In addition to above, you are still absent and not responding to the earlier notice dated 28/07/2020:

Your act and omission enumerated herein above make it evident that you are guilty of misconduct, which is a valid ground for disciplinary action as prescribed under the Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules, 2011.

WHEREAS, by reason of above, you, Mr. Shahid Rasool (Computer Operator) prima-facie has been found guilty of misconduct and inefficiency under Rule 3 (a) (b) and (d) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules, 2011 and liable to disciplinary action under the aforesaid rules, which may lead to imposition of one or more of the penalties including major penalty of Dismissal/Removal from Service as

Final Show Cause Notice to Mr. Shahid Raspol (Computer Operator)

prescribed in Rule 4 (iii) and (iv) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules, 2011.

NOW THEREFORE, you Mr. Shahid Rasool (Computer Operator) are called upon to Show Cause within 15 days of the publication of this notice in Press as to why one or more penalties including the major penalty of "removal from service" may not be imposed upon you under Rule – 4 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules, 2011

Your written reply to the Show Cause Notice should be reached to the undersigned within 15 days of the publication of this Notice, if no reply to this notice is received within 15 days of its delivery, it shall be presumed that, you have no defence to put in, and in that case, an ex-parte action shall be taken against you.

Competent Authority

Jehangir Khan
District & Sessions Judge,

Karak

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DISTRICT JUDICIARY KHYBER PAKHTUNKHWA office of the

DISTRICT AND SESSIONS JUDGE, KARAK Email: dsjkarak@yahoo.com

Phone: 0927-290672 Fax No: 0927-290673

OFFICE ORDER 16/10/2020

In furtherance of proceedings initiated upon the written report dated 04/07/2020 of the Office of Superintendent District Judiciary, Karak; whereby, it was established that the accused official has remained absent from his official duty and thus act of willful absence was committed by accused official namely Shahid Rasool (Computer Operator). Consequently, the conduct of inquiry was dispensed with for being mandated by Rules in case of willful absence from duty without permission and intimation.

Therefore, show cause notice was issued to accused official with direction to submit his reply through the presenter of application (Mr. Sakhi Abdul Subhan, Computer Operator); however, no written reply was submitted.

Sequel to above, final show cause notice was issued to accused official on the channel of scheduled newspaper through KP Information and Publication Department, Peshawar, which was again served but replied this time through official email dsjkarak@yahoo.com from engr.shahidkhattak@gmail.com. Mere assertions and excuses for willful absence have been shown in such reply but nothing material/documentary evidence has been annexed thereto. The purpose of. leave was to care his father settled abroad but this fact has been known from the source report that his father has already been arrived to Pakistan and no one is there to be cared for. Similarly, thousands of passengers are coming back from the U.A.E on daily basis and thus the earlier plea of non-availability of flights was colorfully converted into plea of retention of passport by sponsor. The offer and opportunity of presenting additional evidence as well as personal hearing was also not availed.

From the perusal of available record, including note sheets, show cause notice; final show cause notice and reply; it is evident that willful absence from duty without permission and intimation has been committed by accused official namely Shahid Rasool (Computer Operator) and is still absent from his duty for more than three (03) months after date of expiry of leave for 4 months i.e. 30/06/2020.

Consequently, major penalty of "Removal from Service envisaged in Rule - 4 (b) (iii) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 is imposed upon the official namely Shahid Rasool (Computer Operator). In addition to that, the salary, if drawn, in period of absence (beyond the period of granted leave) shall be recovered in accordance with law.

> JEHANGIR KHAN District and Sessions Judge, Karak

No. 1960--67 /DSJ/KK

Dated Karak the 16/10/2020

Copy forwarded for information to:

- 1. Worthy, the Registrar, Peshawar High Court, Peshawar.
- 2. The Senior Civil Judge Admn, Karak.
- 3. The Senior Civil Judge Judicial, Karak.
- #. The District Account Officer, Account Office, Karak.
- 5. The Superintendent, District Judiciary, Karak.
- 6. The Clerk of Court, Karak:
- 7, The Budget & Account Assistant, Karak.
- 8. Official concerned by name through his email engr.shahidkhattak@gmail.com

District and Sessions Judge, Karak

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BEFORE THE ADMINISTRATIVE JUDGE, PESHAWAR HIGH COURT PESHAWAR

Shahid Rasool, Ex- Computer Operator District Courts Karak, resident of Soor Daag, Latamber, Tehsil & District Karak.

(Appellant)

VERSUS -

District and Sessions Judge, Karak (Authority).

(Respondent)

Subject: DEPARTMENTAL APPEAL U/S 22 OF KPK CIVIL SERVANTS ACT 1973 READ WITH RULE 3 OF KPK CIVIL SERVANTS (APPEAL) RULES 1986 AGAINST THE OFFICE ORDER NO: 1960-67 DSI/KK DATED 16/10/2020, (NEVER COMMUNICATED TO APPELLANT OFFICIALY) WHEREYB APPELLANT WAS REMOVED FROM SERVICE.

PRAYER ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED OFFICE ORDER NO: 1960-67 DSI/KK DATED 16/10/2020 MAY PLEASE BE SET ASIDE AND APPELLANT MAY BE REINSTATED TO SERVICE WITH FULL BACK BENEFITS.

Respectfully Submitted:

1. That appellant, while posted as Computer Operator in District Judiciary Karak, applied for two year ex-Pakistan leave to the respected District & Sessions Judge Karak vide application Annexure "A".

- 2. That the Hon'ble District & Sessions Judge Karak, granted 120 days earned leave to appellant vide office order No: 1371-76 DSJ/ KK dated 15/02/2020, which appellant availed from 01/03/2020. (Copy is annexure "B")
- 3. That appellant on 23/06/2020 applied for extension of leave on the grounds mentioned in application. (Copy is annexure "C")
- 4. That application of the appellant for extension of leave was declined by Hon'ble District & Sessions Judge, Karak vide order dated 28/07/2020. (Copy is Annexure "D")
- 5. That departmental proceedings were initiated against the appellant by the Hon'ble District & Sessions Judge, Karak, on 07/07/2020 which was followed by show cause notice. (Copy of Show-Cause Notice is Annexure "E")
- 6. That on 14/10/2020, appellant filed reply to Show-Cause Notice and explained his position with sound and valid reasons. (Copy of Reply is Annexure "F")
- 7. That major penalty of Removal From Service, was imposed on appellant, vide impugned order dated 16/11/2020 which was never conveyed to the appellant. (Copy of Impugned order is Annexure "G")
- 8. That appellant assail the impugned order inter alia on following grounds.

GROUNDS:

- A. That all the proceedings conducted against the appellant were illegal and run counter to provisions of KPK Government Servant E&D Rules 2011, hence resultant orders of Removal from service/ major penalty is nullity in the eyes of law.
- É. That appellant applied for two years, ex- Pakistan leave, however 120 days earned leave was granted to appellant

which he availed on 01/03/2020 and due to circumstances, beyond control of appellant, Covid 19, he stucked up abroad and was unable to come back, he well in time applied for extension of leave, result whereof was never conveyed to appellant, hence the impugned proceedings against the appellant are void ab-initio.

- C. That there is no question of willful absence of appellant from his duty, rather it was compulsion, beyond the control of appellant due to which, he was unable to came back. Moreso, appellant was ailing and was tested positive of Covid 19, that is why he was unable to resume back and join his duties.
- D. That nationally and internationally circumstances were abnormal, the embassies were not working and it was not possible to fly back to Pakistan. The appellant tried his best to avail flight but it was not possible. The record of ailment and online application for flight is annexed as Annexure "H".
- E. That element of willful absence is necessary for impugned action, which is lacking against the appellant, hence impugned action is nullity in the eyes of law.
- F. That impugned order of removal from service was never communicated to appellant, and appellant received the same through his own efforts on 13/12/2020 and is filing the instant appeal which is well within time.
- G. That appellant is at initial state of his career and the impugned harsh action ruined the entire career of appellant, as well will spoil the career of appellant as such liable to be set aside.
- H. That appellant seeks the permission of this Hon'ble Court to rely on additional grounds at the time of hearing of appeal.

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Therefore, it is humbly prayed that on acceptance of instant Departmental Appeal, the impugned office order No: 1960/67 DSJ/KK dated 16/10/2020 may please be set aside and appellant may be reinstated into service will full back benefits.

Dated: 12/01/2021

Appellant .

Shahid Rasool-

S/o Rasool Khan

Ex- Computer Operator

District Courts Karak

R/o Soor Daag, Latamber,

Tehsil & District Karak

Cell No:

AFFIDAVIT:

Stated on oath that the contents of appeal are correct & nothing is concealed or misstated.

DEPONENT

DEPONENT

JUDGMENT SHEET PESHAWAR HIGH COURT, PESHAWAR JUDICIAL DEPARTMENT

Departmental Appeal No.01/2021

Shahid Rasool

District & Sessions Judge, Karak

Date of hearing

24.07.2024

For Appellant(s):

In person.

For Department:

Senior Haftz Zafar lappl, Record Room, Clerk/Incharge

Office of the District & Sessions

Judge, Karak.

ORDER

IJAZ ANWAR, J. It appears that initially, the appellant has applied for two years Ex-Pakistan Leave but was granted only 120 days leave. He has, however, not returned in time on account of Covid-19. On the directions of this Authority, the appellant has produced his Passport, however, he stated that yesterday, he has returned from UAE.

It appears that the appellant is more interested in 2. service abroad than to prefer his services in the District Judiciary. In view thereof, I find no merit in the instant Departmental Appeal. It is accordingly rejected.

Announced D1:24.07.2024

> Senior Puisne Judge

Hon'ble Mr. Justice Haz Anwar

Government of Pakisum Ministry of Interior requires and requests in the name of

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Director General Immigration and Passports. F6326665

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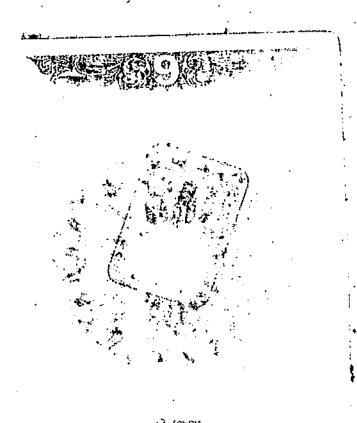
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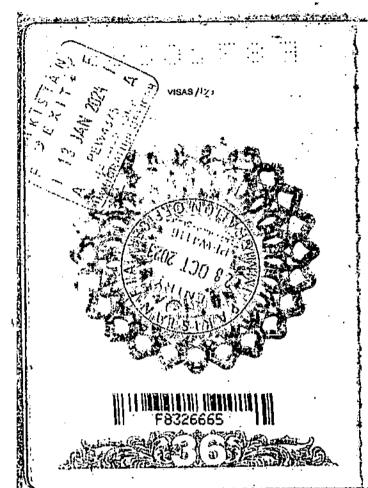
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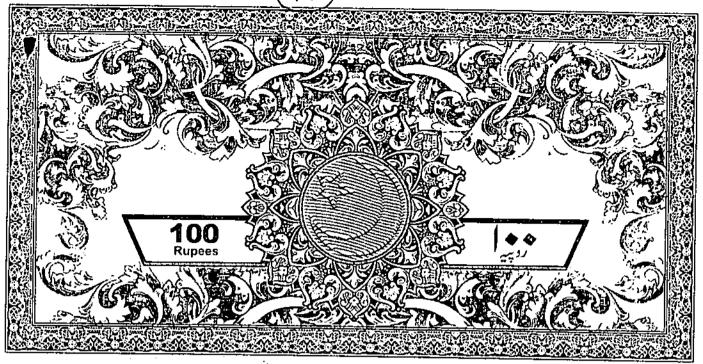
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POWER OF ATTORNEY

(Under Order: III, Rules: 1&2, C.P.C.)

I, Shahid Rasool S/O Rasool Khan R/O Soor Dag, Latambar Tehsil & District Karak, do hereby constitute and appoint Mr. Rasool Khan Son of Gul Bat Khan R/O Soor Dag Latambar Tehsil & District Karak as my true and lawful attorney for me, in my name and on my behalf to appear/ act/ sign/ verify/ present/ withdraw/ answer any suit, Miscellaneous application, appeal, revision, affidavit and writ petition etc, to receive process in any suit, application, appeal, writ petition or any other judicial proceedings of whatever nature in this court or any other court and to act generally in all such proceedings in any way (for me, in my name and on my behalf) in which I might be allowed or called upon to act.

IN WITNESS hereof, we set forth our hand hereon, to it in presence of two witnesses at Bannu on this <u>off</u> day of <u>August</u> 2024

(Principal/Executant)

Shahid Rasool

CNIC: 14202-8860330-3

SPECIAL ATTORNEY

Rasool Khan

CNIC:14202-9724746-5

Witness No.1
Sohaib Ahmad S/O Muhammad

Jahangeer Khan R/O Soor Dag District Karak

CNIC: 14202-2617377-3

Witness No.2

Arsalan Khan S/O Hamid Ullah
Khan R/o Kakki District Bannu.

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CNIC: 11101-2896067-9

