


FORM OF ORDER SHEET

Court of _____

Appeal No. 1692/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	01/10/2024	<p>The appeal of Mr. Amanullah resubmitted today by Mr. M.Maaz Madni Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 04.10.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>


The appeal of Mr. Aman Ullah received today i.e on 11.09.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Index of the appeal is incomplete.
- 2- Appeal has not been flagged/marked with annexures marks.
- 3- Annexures of the appeal are unattested.
- 4- Copy of impugned order dated 04.05.2024 mentioned in the heading of the appeal is not attached with the appeal be placed on it.
- 5- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 747 /Inst./2024/KPST,

Dt. 19/9 /2024.

Received on 19/9/2024


OFFICE ASSISTANT
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Maaz Madni Adv.
High Court at Peshawar.

- Re-submitted with the request that some important documents are not yet received that needs to be place on file, so, time be extended in re-submission of complete filed.



Extended with direction 26/9
to resubmit within seven
days
27/9/24.


No. 847/Inst/2024/KPST
dt. 27-9-2024.

PTO

- R/5a,

- All the objection from 2-5

has properly been removed.

- Re-Submitted please, 

01/12/2024

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 1692 /2024

AMAN ULLAH

V/S

DISTRICT JUDICIARY


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Dated: 11THSeptember, 2024

APPELLANT

Through:


MUHAMMAD MAAZMADNI,
ADVOCATE HIGH COURT, PESHAWAR
TF-291, 292, Deans Trade Centre,
Peshawar Cantt:
0333-9313113, 0314-9965666
muhammad.m3adv@gmail.com

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 1692 /2024

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 15697

Dated 11-09-2024

AMAN ULLAHs/o Muhammad Yousaf, (Ex-Driver BPS-06),
o/o District & Session Judge, District Charsadda,
r/o Muslim Abad, Railway Station, Mardan Road, Charsadda

.....APPELLANT

VERSUS

- 1- THE HONOURABLE ADMINISTRATIVE JUDGE,
through REGISTRAR, Peshawar High Court, Peshawar.
- 2- THE DISTRICT & SESSIONS JUDGE,
District Charsadda.

.....RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974
READ WITH ALL ENABLING LAW & RULES AGAINST
THE APPELLATE ORDER DATED 04-07-
2024*(Communicated to the appellant on 12-08-2024 through*
*Respondent No. 2)***(ONLY TO THE EXTENT OF**
IMPOSITION OF MINOR PENALTY) WHEREBY WHILE
DECIDING THE DEPARTMENTAL APPEAL DATED 01-
06-2024 FILED AGAINST THE IMPUGNED REMOVAL
ORDER DATED 04-05-2024, HAS PARTIALLY BEEN
ACCEPTED AND WAS CONVERTED INTO STOPPAGE
OF ONE INCREMENT FOR A PERIOD OF THREE
YEARS AND THE INTERVENING PERIOD IS TREATED
AS LEAVE WITHOUT PAY.

PRAYER:

That on acceptance of the instant service appeal the
appellate order dated 04/07/2024 may very kindly be
modified to the extent of stoppage of One Increment for
period of three years and the appellant be reinstated into
servicewith all Back&consequential benefits. Any other
remedy which this august Tribunal deems appropriate that
may also be awarded in favor of the appellant.

Respectfully Sheweth;

FACTS:

Brief facts giving raise to the instant appeal are as under:

1. That appellant is a regular employee of the respondent Department and was appointed as Driver BPS-06 after fulfilling all the legal & codal formalities required for the post and since then the appellant is performing his duty quite efficiently whole heartedly and upto the entire satisfaction of his high ups.
2. That he was transferred and posted with ASJ-II, Charsadda at Tangi in June 2023 and assigned duty over official motor car bearing registration No. AA-2809, on the directives of the officer, the appellant took the car for its inspection to Motor Vehicle Examiner on 28-06-2023, who after thorough examination given the remarks that some important parts of the car needs to be repair/replaced and accordingly the log book of the car was also maintained by the appellant.

Copy of Motor Vehicle Examiner, Charsadda dated 28.06.2023 and Log Book is attached Annex A.

3. In the month of August 2023 summer vacation of District judiciary commenced wherein my summer vacation for 20 days started from 15-08-2023 to 04-09-2023. It is to clarify here that 13th of August 2023 is Sunday whereas 14th of August 2023 was public holiday in respect of Independence Day.
4. That, On, 5th of September 2023 (placed as absent day), the appellant performed duty with ASJ-II, Charsadda at Tangi for the whole day and took the officer to Peshawar for collecting His uniform. On the way to Tangi Charsadda when it was about 09:30 pm while passing from Umarzai bazar, the appellant requested ASJ-II, Tangi sitting with me in the car to drop me in Umarzai bazaar so that the appellant may reach home situated in main Charsadda from Umarzai Bazar, resultantly, the ASJ-II, Tangi not only refused the submission of the appellant but constantly abused the appellant and the parents of the appellant and called the appellant with the dog, a Jewish and Yazeed and in response appellant could not uttered a single word because the said ASJ-II, Charsadda at Tangi was not only his immediate officer and teacher of Quran too. The said ASJ-II, Charsadda at Tangi despite knowledge that my duty hours starts from 8:00 am and ends at 2:30 pm,

the appellant obeyed all His order & directions and went to Peshawar beyond my duty hours, but he did not realized this sacrifices.

5. That, ASJ-II, Charsadda at Tangi called explanation vide dated 08-09-2023 regarding my absence to which I replied and also tendered my pardoned for any inconvenience if occurred in the performance of my duties but the ADJ-II, Tangi declared the same as unsatisfactory and called for another explanation by forwarding a letter no. 198/AD&SJ-II, Tangi dated 12-09-2023 and again I submitted before the District Judge, Charsadda on 14-09-2023 in shape of mercy petition.

Copy of Explanations, Reply is attached as Annexur..... B

6. That, in response to the letter dated 12-09-2023, Muhammad Tariq, Learned Civil Judge/JM-I, Tangi was nominated as inquiry officer in the charge sheet and statement of allegation served upon me to conduct a formal inquiry into the matter who accordingly on 02-10-2023 started inquiry and in the meanwhile ASJ-II, Tangi issued a letter No. 05/AD&SJ-II, Tangi dated 05-01-2024 to District Judge, Charsadda, regarding withdrawal of the appellant as Driver, consequently the District & Session Judge, Charsadda issued belated suspension order vide Endst: No. 17-21/DJ-06 dated 06-01-2024.

Copy of Charge Sheet, Statement of allegation is attached as Annexure C

7. That, a formal Inquiry was conducted by Learned Civil Judge/JM-I, Tangi without fulfilling the codal formalities required for the inquiry regarding, examination, cross-examination and personal defense, submitted inquiry report vide dated 21-02-2024 without any recommendation and proving the allegation mentioned in the Charge Sheet & Statement of Allegation, and accordingly District & Session Judge, Charsadda issued Show Cause Notice No. 359/DJ-06, Charsadda dated 27-02-2024 to which the appellant tendered his reply by denying all the allegation therein.

Copy of Inquiry Report, Show Cause notice & Reply is attached D.

8. That, the appellant was served with the impugned office order dated 04/05/2024 whereby Major penalty of "Removal from

Service has been imposed upon the appellant in utter violation of law & rules and material available on record.

Copy of Impugned Order dated 04.05.2024 is attached as Annexure E

9. That, the appellant feeling highly aggrieved from the impugned order dated 04/05/2024, filed Department Appellant dated 01/06/2024 which was partially accepted vide appellate order dated 04/07/2024 (*Communicated to the appellant on 12-08-2024 through Respondent No. 2*) by re-instating the appellant into service and converted the major Penalty into stoppage of One Annual Increment for a period of three years as well as the intervening period is treated as leave without pay.

Copy of Departmental Appeal & Appellate Order dated 04/07/2024 is attached as Annexure F & G

10. That, appellant is left with no other remedy but to file the instant service appellant before this Tribunal on the following grounds amongst others:

GROUND:

- A. That, the impugned removal order dated 04/05/2024 & whereafter appellate order dated 04/07/2024 to the extent of Stoppage of One Annual Increment for a period of three years and treating the intervening period as leave without pay passed against the appellant is against the law, rule, fact and material available on record and needs interference of this Tribunal.
- B. That, the impugned order dated 04/05/2024 & whereafter appellate order dated 04/07/2024 to the extent of Stoppage of One Annual Increment for a period of three years and treating the intervening period as leave without pay is illegal as no codal formality required for issuance of such like order has been adopted as according to the various judgment passed the superior court of the country without personal hearing issuance of penalty is illegal and the same is not only against the Law but also against the Islamic injunctions.
- C. That it is well settled principle laid down by the superior courts of the country that negligence is not a misconduct as the

same has not been proved by the Inquiry Officer nor any recommendation has been given, hence, the impugned order dated 04/05/2024 & whereafter appellate order dated 04/07/2024 to the extent of Stoppage of One Annual Increment for a period of three years and treating the intervening period as leave without pay needs to be struck down/modified and the appellant be reinstated into service with all back benefits.

- D. That, neither any allegation mentioned in the statement of allegation nor absence has been proved against the appellant, even then the appellant have been issued the impugned removal order dated 04/05/2024 & whereafter appellate order dated 04/07/2024 to the extent of Stoppage of One Annual Increment for a period of three years and treating the intervening period as leave without pay needs to be modified.
- E. That, the impugned order dated 04/05/2024 is void *abi initio* in a sense that misbehavior is not a material thing that another person could establish it, for the person with whom the misbehavior occurs and in the instant case the representative from Headquarter Charsadda namely Hazrat Ali was nominated who was not aware of the fact of the case could not establish it rather the representative has brought on record the PAST & CLOSED transaction before the inquiry officer and on the basis of which the misbehavior with the high up is not proved. Furthermore, it is well settled principle laid down that no one be punished on the basis of misbehavior reported as 2005-PLC-CS-571.
- F. That no regular inquiry was conducted which is pre-requisite in the punitive matter while imposing major penalty upon a civil servant as per various judgments of the Superior courts.
- G. That a place which has been dignified for justice has committed injustice by not following codal formalities as well as issued the appellate order dated 04/07/2024 to the extent of Stoppage of One Annual Increment for a period of three years and treating the intervening period as leave without pay needs to be looked fairly, justly and in accordance to Law.

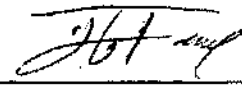
- H. That the appellant has been punished for the fault of others as on the basis of assertion and mis-representation the impugned order dated 04/05/2024 is illegal and liable to be modified in light of reported judgment 2023 PLC (CS) page 374.
- I. That impugned order dated 04/05/2024 & whereafter appellate order dated 04/07/2024 to the extent of Stoppage of One Annual Increment for a period of three years and treating the intervening period as leave without pay is harsh one and it is well settled law that major penalty deteriorates the future of a civil servant with another judgment regarding harsh punishment is 2008-SCMR-214.
- J. That impugned order dated 04/05/2024 issued after the report of inquiry officer wherein no recommendation has been given in the inquiry report and such is also against the dictum reported as 1993-PLC-CS-184.
- K. The impugned order dated 04/05/2024 has been passed on the basis of Past & Closed transaction & whereafter passing of the appellate order dated 04/07/2024 to the extent of Stoppage of One Annual Increment for a period of three years and treating the intervening period as leave without pay is against the dictum of the superior court
- L. That impugned order dated 04/05/2024 has been issued in repose to singly show cause and it is well settled principle the show cause notice along with personal hearing is against the law reported as PLJ-2018-Tr.C (Service) 06 and accordingly passing of the appellate order to the extent of Stoppage of One Annual Increment for a period of three years and treating the intervening period as leave without pay at this stage is illegal.
- M. That impugned order dated 04/05/2024 has been passed in violation of the judgment reported as 2020-PLC-CS-560 which enumerates that it is the duty of the institution to provide feasible environment to its employees but in the case of appellant such feasibility has been avoided and kept the appellant under stress on one way or the other.

- N. That the ASJ-II, Charsadda at Tangi has himself admitted the fact in the para-6 of the letter No. 196 dated 08-09-2023 that "when I snubbed and directed you to continue your driving . . ." nor the appellant demanded any consideration.
- O. That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 11-09-2024

Appellant



Through:


MUHAMMAD MAAZ MADNI
Advocate, High Court, Peshawar

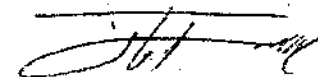
CERTIFICATE

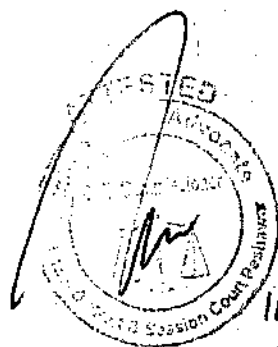
No, such like appeal has been filed or pending on the subject matter between the parties before this Honourable Tribunal.


ADVOCATE

A F F I D A V I T

I, Aman Ullahs/o Muhammad Yousaf, do hereby solemnly affirm on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.


DEPONENT
17101-5203957-7



11/09/2024



**DISTRICT TRANSPORT OFFICE
CHARSADDA**

GHANI KHAN ROAD NEAR MUSLIM COLLAGE BOYS SECTION

No.MVE/CHD/NOC/490
Dated: 28/06/2023

To
Additional session Judge-(II)
Charsadda at \TANGI

Subject: INSPECTION OF Vehicle NO.AA-2809.

Refer to your letter No146.AD & SJ/(II)Tangi dated 26-06-2023.

I have checked the Government Vehicle bearing Reg. No AA-2805 at Motor Vehicle Examiner office Charsadda on 26-06-2023. The Vehicle has the following needs to repaired/replaced.

S.No	Nature of Work
01	Full Overhauling
02	Front & Back Full Hissa
03	Front Bumper Replace
04	Tire Replace

~~Adel Shoukat~~
~~Motor Vehicle Examiner,~~
~~Charsadda Examiner~~
~~Charsadda~~

APPROVED

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ANNE - "B" 7

No. 196 /AD&SJ-II, Tangi

Dated 08.09.2023.

To

✓ Mr. Aman Ullah Driver.

Subject: ABSENCE FROM DUTY AND INSUBORDINATION.

1. On 17th august 2023, with the permission of worthy Peshawar High Court, Peshawar, I had proceeded to UK for visit purpose. You remained willfully incommunicado from 14th august to 16th august 2023. I as well as Mr. Wasi Ullah gunman, made repeated calls on your mobile number but you did not respond willfully. This is why I faced difficulties in basic shopping for the said visit.
2. On 17th august 2023, you repeated the same negative conduct and intentionally made yourself unavailable and incommunicado. So, I faced problem to reach to Peshawar airport to catch the flight.
3. I returned on 1st September 2023. Again you made yourself intentionally unavailable and incommunicado. This again created difficulty for me to approach home from the airport.
4. On 5th September 2023, when I asked you about your willful unavailability, you argued with me in impolite language.
5. You being responsible for the maintenance of the official vehicle do not look after the same in terms of maintenance, cleanliness, service and documentation etc.


ATTSTED

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6. On 5th September 2023 you took me to Peshawar in order to try and pick the uniform (court pants) from Peshawar. On way to home you refused to drive the vehicle from Umerzai Bazar onward and asked me to drive the vehicle myself. When I snubbed and directed you to continue your driving to my destination, you started abusive language against me; you also demanded Rs.1000/- as consideration for drive from Umerzai to Tangi on the pretext of fare.

7. You repeatedly demand fare from me from Charsadda to Tangi on daily basis.

All these acts and omissions on your part constitute misconduct and insubordination. So, explain you position within two (02) days.

Otherwise it shall be presumed that you have no defense at all.

Sher Aziz,
Additional Sessions Judge-II,
Charsadda at Tangi.

Copy to:

1. The District & Sessions Judge, Charsadda,
2. Office copy.

Additional Sessions Judge-II,
Charsadda at Tangi.

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ANNEX "A"

No. 198 /AD&SJ-II, Tangi

Dated 12.09.2023

EX-10-1/3
CJ-II/mg
27/01/2024
Muhammad Farooq Khan
Civil Judge (Additional)
Tangi

To: The District & Sessions Judge,
Charsadda.

Subject: EXPLANATION OF MR. AMAN ULLAH JAN, DRIVER
FOR ABSENCE AND INSUBORDINATION.

Respected Sir,

Reverently submitted that the undersigned had called explanation from M. Aman Ullah Jan, driver for his willful absence from duty and insubordination vide letter of this office bearing No.196/AD&SJ-II, Tangi dated 08.09.2023. Consequently, he submitted his explanation on 13.09.2023. The explanation presented by the said official is unsatisfactory. Therefore, the matter is referred to your goodself for further proceedings. The explanation in original while copy of above mentioned letter are annexed herewith.

Yours Sincerely,

SHER AZIZ,

Additional District & Sessions Judge-II,
Charsadda at Tangi.

Copy to:

- 1. Official concerned for information.
- 2. Office copy.

ATTSTED

ATTSTED

18 MAY 2024

SHER AZIZ,

Additional District & Sessions Judge-II,
Charsadda at Tangi.

RECEIVED

Handwritten notes in a table with multiple columns and rows, containing various illegible characters and symbols.

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Handwritten notes at the bottom of the page, including the word "ASTR" and other illegible characters.

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Office of the
DISTRICT & SESSIONS JUDGE,
CHARSADDA

091-9220444
dsicharsadda@vsnl.com
districtjudgeincharsadda.gov.pk

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CHARGE SHEET

ANN- 40

I, Muhammad Asif Khan, District & Sessions Judge, Charsadda / Competent Authority under the Khyber Pakhtunkhwa Government Servants (E&D) Rules 2011, do hereby charge you official namely Mr. Aman Ullah Driver of this Sessions Division attached to the Court of AD&SJ-II, Tangi as under:-

That you, while posted as Driver in the court of learned Addl. Sessions Judge-II, Tangi, have committed the following:-

1. You have committed negligence / misconduct by remaining absent from duty with effect from 14th to 17th August, 2023 as well as on 1st September and 5th September, 2023, without prior information or any intimation which has been reported against you by learned AD&SJ-II, Tangi in his complaint/letter bearing No.198/AD&SJ-II, Tangi dated 12.09.2023.
- ii. You have misbehaved with the learned AD&SJ, Tangi and refused to drive the official vehicle and also demanded consideration for driving. You have also found negligent to maintain the official vehicle.
2. By reason of all these, you appeared to be guilty of negligence, inefficiency and misconduct under Rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule 4 of the Rules ibid.
3. You are, therefore, required to submit your written defence within seven (07) days of the receipt of this Charge Sheet to the Inquiry Officer.
4. Your written defence, if any, should reach the Inquiry Officer within specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.
5. Intimate whether you desire to be heard in person.
6. A statement of allegations is enclosed.

Competent Authority

M. ASIF KHAN
District & Sessions Judge,
Charsadda

ASIF KHAN



Office of the
**DISTRICT & SESSIONS JUDGE,
CHARSADDA**

091-9220444

dsicharsadda@yahoo.com

districtjudiciarycharsadda.gov.pk

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DISCIPLINARY ACTION

1. Muhammad Asif Khan, District & Sessions Judge, Charsadda, as Competent Authority, am of the opinion that Mr. Amanullah, Driver attached to the Court of learned AD&SJ-II, Tangi has rendered himself liable to be proceeded against, as he has committed the following acts/omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011:

STATEMENT OF ALLEGATION:

- i. He, being posted in the Court of learned AD&S-II, Tangi, have committed negligence / misconduct by remaining absent from duty with effect from 14th to 17th August, 2023 as well as on 1st September and 5th September, 2023, without prior information or any intimation which has been reported against him by learned AD&SJ-II, Tangi in his complain/letter bearing No.198/AD&SJ-II, Tangi dated 12.09.2023.
 - ii. He also misbehaved with the learned AD&SJ, Tangi and refused to drive the official vehicle and also demanded consideration for driving besides the fact that he does not care of maintenance of the official vehicle.
2. For the purpose of inquiry against the said accused/official with reference to the above allegations, Mr. Muhammad Tariq learned Civil Judge/(M-), Tangi, is appointed as Inquiry Officer under Rule-10(1)(a) of the ibid Rules.
 3. The Inquiry officer shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused/official, record his findings and made, within 30 days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused/official.
 4. Mr. Amanullah, Assistant/Reader attached to the court of learned ASJ-I, Tangi is nominated as Representative of the department and the accused/official shall join the proceedings on the date, time and place fixed by the inquiry officer.

Competent Authority

MUHAMMAD ASIF KHAN
District & Sessions Judge, Charsadda

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ANNEX- "D" "
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Page | 1

Inquiry report of Aman Ullah (Driver)

INQUIRY REPORT

The Hon'ble District and Sessions Judge-Charsadda, has commenced an inquiry against Mr. Aman Ullah (Driver) following complaint no. 198/AD&SJ-II, Tangi, dated 12/09/2023, lodged by the learned Additional District and Sessions Judge-II, Tangi. This inquiry, initiated by an order dated 02/10/2023, includes a charge sheet and a statement of allegations, and has been directed to the undersigned.

FACTS:

- i. The Additional District and Sessions Judge-II, Tangi, vide letter no. 196/AD&SJ-II, Tangi, dated 09/09/2023, issued a notice to Aman Ullah (driver), hereinafter referred to as the "accused/official," seeking an explanation for his absence and insubordination. The accused submitted a written reply, which was deemed unsatisfactory. Consequently, a formal complaint was lodged via letter no. 198/AD&SJ-II, Tangi, on 12/09/2023, and forwarded to the competent authority, the District and Sessions Judge, Charsadda.
- ii. The competent authority has provided the accused with a statement of allegations and formulated a charge sheet against the accused in due course.
- iii. The statement of allegations is reproduced as under:

"He, being posted in the Court of learned AD&SJ-II, Tangi, have committed negligence/misconduct by remaining absent from

21/02/24
Muhammad Tariq Khan
Civil Judge/Judicial Magistrate-I
Tangi

18 MAY 2024

EXAMINER
Agency Branch

ATTSTED

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Inquiry report of Aman Ullah (Driver)

duty with effect from 14th to 17th August, 2023 as well as on 1st September and 15th September, 2023, without prior information or any intimation which has been reported against him by learned AD&SJ-II, Tangi in his complaint/letter bearing No. 198/AD&SJ-II, Tangi, dated 12/09/2023.

He also misbehaved with the learned AD&SJ-II, Tangi and refused to drive the official vehicle and also demanded consideration for driving besides the fact that he does not care of maintenance of the official vehicle."

PROCEEDINGS:

On 04/10/2023, the ongoing inquiry was received and registered accordingly. The accused/official and the representative from the department were formally notified and attended the inquiry proceedings.

On 13/10/2023, the accused/official submitted a written defense, categorically refuting all the allegations. Subsequently, both parties were instructed to present their respective evidence to substantiate their claims.

EVIDENCE:

a. Complainant's evidence:

The representative of the department, acting on behalf of the complainant, provided his statement as IW-01. He presented pertinent records, exhibited as Ex IW-1/1 to IW-1/9.

b. Accused/Official's evidence:

The accused/official, identified as RW-1, presented his statement. He reiterated the narrative outlined in his written response and refuted the allegations made in the complaint.

Cap
2/10/24
Abdhamid Tariq Khan
Civil Judge/Judicial Magistrate-I
Lahore

[Signature]

18 MAY 2024

ATTESTED

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Inquiry report of Aman Ullah (Driver)

**DUTIES OF DRIVER AS PER JUDICIAL ESTACODE
THIRD EDITION REVISED & ENLARGED 2021 Volume-II:**

25. The driver of each motor vehicle shall be notified to observe strictly the following instructions:

- a) He shall be responsible for the proper up-keeping and cleanliness of the motor vehicle, petrol consumption careful driving, caution against accidents and timely service and repair.
- b) He shall be responsible for any damage which may be caused to the vehicle due to his negligence.
- c) He shall get entries recorded in the Log Book before the officer leaves the vehicles, except where the officer is not required to make entries personally.
- d) The driving and traffic regulations and speed limits laid down in the different areas, shall be strictly observed and in all built up areas the speed of vehicles shall not exceed 30/40 kilo meters per hour.
- e) Vehicle shall not be left un-attended or kept in a dangerous position.
- f) Should any officer/ refuse to cooperate in regard to the observation of these rules the driver shall not argue with him but carry out the orders of the officer and report the incident to the officer incharge.
- g) Any contravention of the above rules shall be considered as misconduct and disciplinary action shall be taken against the driver.

Cue
2/02/24

Stamp: 2/02/24

**CASUAL LEAVE OF GOVERNMENT SERVANT AS PER
ESTA CODE OF KHYBER PAKHTUNKHWA (REVISED
EDITION) 2011:**

- a) Government Servants are not entitled to casual leave as of right. Casual leave is granted by way of grace to enable government Servants to attend to their private affairs of casual nature. It is entirely within the discretion of the sanctioning authority either to sanction or refuse leave.

FINDINGS/CONCLUSION:

The entire inquiry stemmed from the complaint filed by Additional District and Session Judge-II, Tangi, wherein it was asserted that the accused/official was consistently absent from

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Inquiry report of Aman Ullah (Driver) official duties without prior intimation and exhibited non-cooperation in his role as a driver. The burden of proof fell on the complainant to substantiate the claims that the accused/official habitually neglected his duties, displayed misbehavior, and failed to cooperate in his capacity as a driver.

Upon examining the available records, it was revealed that the accused was absent from duty between the 14th and 17th of August, 2023, as well as on the 1st and 15th of September, 2023, without providing any advance information/permission. Additionally, he refused to operate the official vehicle and demanded compensation for driving, neglecting the maintenance of the vehicle. Despite being issued an explanation, the accused failed to provide reasonable grounds for his negligent behavior. The department representative presented ample documentary evidence against the accused, particularly exhibits 1/1 and 1/9, which indicated that the accused had previously faced disciplinary action for willful absence and non-compliance with transfer orders. In that earlier inquiry, the competent authority, through an order dated 06/09/2022, imposed a minor penalty of Censure in accordance with Rule 4(a)(i) of Khyber Pakhtunkhwa (Efficiency & Disciplinary) Rules, 2011.

Furthermore, the accused had filed numerous applications against the complainant before Hon'ble the Chief Justice of the Peshawar High Court, Worthy Registrar of the Peshawar Court, and the A.I. Pakistan Judicial Employee Association. These actions were indicative of the accused's

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Muhammad Tariq Khan
Civil Judge/Judicial Magistrate-I
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PESHAWAR COURT

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(21)

Inquiry report of Aman Ullah (Driver)

misconduct, stubbornness, and habitual behavior. Consequently, the allegations against the accused were considered substantiated.

Detailed inquiry report is submitted before the competent authority for further necessary actions/orders.

Dated. 21/02/2024

[Signature]
MUHAMMAD TARIQ KHAN
Inquiry Officer/Civil Judge-I
Tangi.

Certificate:

It is certified that his inquiry report consists of 05 pages, including this page. Each page has been signed and sealed by me after making necessary correction therein.



[Signature]
MUHAMMAD TARIQ KHAN
Inquiry Officer/Civil Judge-I
Tangi.

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[Signature]
13 MAY 2024
Examined
Training Agency Branch
Courts of District & Sessions Judge
Tangi

REGISTERED

08 MAY 2024

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Muhammad Tariq Khan
Civil Judge (Judicial Magistrate)
Faisalabad
Amber

13/10/23

ATTACHED

18 MAY 2024

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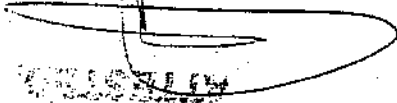
Main body of handwritten Urdu text, containing several lines of descriptive or narrative content.

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Stamp: Muzaffarabad District Court, dated 13/10/23.

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18 MAY 2024



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میں نے اپنے لیے ایک نوٹ لکھا ہے۔
 یہ نوٹ آپ کے لیے ہے۔
 اس میں میں نے اپنے خیالات بیان کیے ہیں۔
 امید ہے کہ آپ کو یہ سہول ہوگی۔
 اگر کوئی سوال ہو تو براہ کرم اطلاع دیجیے۔
 شکریہ ادا کرتا ہوں۔

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Absence from duty and

13/10/23

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Case No. 129/4

Inquiry vs Aman Ullah

Annex F

I.W-01:- Statement of Hazrat Bilal Assistant/Clerk of Court attached to Senior Civil Judge (Admin), Charsadda/representative of District Courts, Charsadda on Oath.

Stated that I have been appointed as representative by Hon'ble District & Sessions Judge, Charsadda vide Officer Order bearing No. Endst: No. 106-09/DJ-19, dated 15.01.2024, copy of which is available on file which is Ex. IW-1/1. The respected Additional District & Sessions Judge-II, Tangi has called an explanation against the respondent/accused Aman Ullah (driver) vide letter No. 196/AD&SJ-II, Tangi, dated 08.09.2023, copy of which is Ex. IW-1/2. The reply of the respondent/accused was declared unsatisfactory by Additional District & Sessions Judge-II, Tangi and the matter was forwarded to Hon'ble District & Sessions Judge, Charsadda, vide letter No. 198/AD&ASJ-II, Tangi, dated 12.09.2023 which is Ex. IW-1/3. Thereafter, the accused was charge sheet and disciplinary action was initiated against him, copies whereof is Ex. IW-1/4 and Ex. IW-1/5 respectively. Similarly, I produced the photocopy of letter No. 05/AD&SJ-II, Tangi, dated 05.01.2024 of the respected Additional Sessions Judge-II, Tangi, which is addressed to Hon'ble District & Sessions Judge, Charsadda for removal/withdrawal of accused/respondent which is Ex. IW-1/6. Likewise, I have seen the photocopy of the Office Order of the Hon'ble District & Sessions Judge, Charsadda bearing Endst No. 17-21/DJ-06, dated 06.01.2024, which is Ex. IW-1/7 vide which the respondent/accused has been suspended from service for a period of thirty (30) days. Today I have brought the relevant documents of the previous inquiry against the respondent/accused in the shape of letter bearing No. 265/SCJ (admn), Charsadda dated 19.03.2022, and final order of the then Hon'ble District & Sessions Judge, Charsadda dated 06.09.2022 regarding the said inquiry, copies whereof are Ex. IW-1/8 & Ex. IW-1/9 respectively.

XX.....NIL (Opportunity Given)

R.O. & A.C

27-01-2024

Muhammad Tariq Khan
Civil Judge/Judicial Magistrate-I
Tangi

Muhammad Tariq Khan
Judicial Magistrate-I, Tangi

12 MAY 2024

ATTSTED

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EX. No. 16
C.J. Inquiry
29/01/2024

No. 05 TANGI

Dated: 05.01.2024

To:

The District & Sessions Judge,
Charsadda.

Additional Sessions Judge
Civil Judge

Subject: REMOVAL/WITHDRAWAL OF DRIVER AMAN ULLAH

Respected Sir,

Reverently submitted that Mr Aman Ullah is attached with the undersigned as driver. An inquiry is pending against him in the court of learned Civil Judge-I, Tangi being initiated on the complainant of the undersigned. During the recent winter vacation, he repeated the same conduct and willfully kept himself incommunicado. Repeated calls were made on his mobile number but he did not bother to attend even a single call. I am really fed up of this official due to his contumacious and insubordination conduct.

Therefore, your goodself is earnestly requested to remove/withdraw the said driver from my court/office, please.

Obediently yours,

Sher Aziz,
Additional Sessions Judge-II,
Charsadda at Tangi.

ATTSTED

The official - be suspended and the letter in hand be sent to the learned Judge for consideration and for concluding the inquiry at the earliest.

CA
6/1/24

ATTSTED
18 MAY 2024
Additional Sessions Judge
Charsadda at Tangi

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[Handwritten Signature]
08/01/24



Office of the
**DISTRICT & SESSIONS JUDGE,
CHARSADDA**

091-9220444
dsicharsadda@yahoo.com
districtjudiciarycharsadda.gov.pk

OFFICE ORDER

Pursuant to the compl nt of learned Addl: Sessions Judge-II, Tangi, against Mr. Amanullah Driver couple with the fact that an inquiry is already pending against him with regard to the same allegations, the said official i.e. Mr. Aman Ullah Driver attached to the court of learned Addl: Sessions Judge-II, Tangi is hereby suspended from service for a period of thirty (30) days.

[Handwritten: EX-17, CJ-II/Inquiry Officer Tangi, 27/01/2024]
[Signature]
Muhammad Tariq Khan
Civil Judge/Judicial Magistrate-I
Tangi

[Signature]
MUHAMMAD ASIF KHAN
District & Sessions Judge
Charsadda

Endst: No. 17-21 /DJ- 06

Dated: 06.01.2024

Copies for information to:

1. The learned Addl: Sessions Judge-II, Tangi.
2. The learned Inquiry Officer/CJ- Tangi with direction to conclude the inquiry proceedings at the earliest.
3. The Budget & Accounts Assistant: Sessions Court, Charsadda
4. The Incharge, Confidential Branch.
5. Official concerned.

[Signature]
District & Sessions Judge,
Charsadda

NO-20
08/1/24
CJ-I

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[Signature]
18 MAY 2024
Examiner
Copying Agency Branch
Courts of Distt & Sessions Judge
Charsadda

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Case No. 129/4

Inquiry vs Aman Ullah

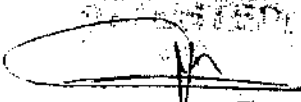
بیان ملزم / اسپونڈنٹ امان اللہ (ڈرائیور):

یہ ناطہ ہے کہ میں نے کسی قسم کی Mis conduct یا نفلت mis behavior سے ہمراہ اپنے آفیسر نہیں کہے نہ ہی کبھی اپنے آفیسر کی حکم عدولی کی ہے۔ دراصل 05 ستمبر 2023 کو میں اپنے آفیسر کیساتھ صبح 9 بجے سے رات 10:30 بجے تک مسلسل ڈرائیور کی ذیوئی سرانجام دے رہا تھا جس دوران مجھے اپنے والدہ ماجدہ کی ہسٹرمرگ ہونے کی وجہ سے قریب المرگ ہونے کی بار بار اطلاعات ملی لیکن میں نے اپنے والدہ کو قریب المرگ حالت میں چھوڑ کر اپنے آفیسر کے ہاں آن ڈیوٹی رہا اور بوقت 9:45 بجے شب جب میں اپنے آفیسر کیساتھ بحیثیت ڈرائیور اپنی پر عمر زنی بازار پہنچا تو وہاں پر پورے بازار میں صرف ایک رکشہ کھڑا پایا جو کہ میرے واپس چار سدہ جانے اور قریب المرگ والدہ کے لئے پہنچنے کا واحد ذریعہ تھا جس وجہ سے میں نے اپنے معزز آفیسر صاحب کو درخواست کی کہ مجھے یہاں سے رخصت رہے اس لیے کہ صاحب کا بنگلہ 10 کے فاصلہ پر تھا اور پھر وہاں سے مجھے وہاں کا کوئی ذریعہ نظر نہیں آتا تھا جس پر آفیسر صاحب نے ذمہ تیز سید کرنے کے لئے ہاتھ اٹھایا جس سے میں نے روک لیا جس پر آفیسر صاحب نے مجھے انتہائی بے عزت کیا اور ساتھ ساتھ یہ بھی کہا کہ میں تجھے نشان عبرت بناؤں گا حالانکہ میں نے ایسے کوئی تا فرمانی یا نفلت یا تلخ کلامی آفیسر صاحب کے ساتھ نہیں کی تھی اور اس طرح آفیسر صاحب کو بنگلہ پہنچانے اور رات 10:30 بجے وہاں سے نکل کر وہاں سے ٹریکٹر ٹرائل میں بیٹھ کر جانب چار سدہ سے آتی ہوئی ٹیکسی کو 1200 روپے دیکر 11:30 بجے اپنی ہسٹرمرگ پر پڑی والدہ کے پاس پہنچا اور پھر میری والدہ کے آئی ہسٹرمرگ پر پڑنے کی وجہ سے 11 دن بعد وفات پائی لیکن میں اپنے ذیوئی کی خاطر اسکی خدمت کا جو تقاضا تھا وہ بھی پورا نہ کر سکا حالانکہ میں اپنی ضعیف والدین کا واحد کفیل اور خادم ہوں جبکہ چھوٹا بھائی پچھلے 20 سالوں سے کراچی میں مقیم ہے۔ میں نے اپنی ذیوئی کے دوران اپنے بچوں کے parents teacher meeting جو کہ سکول میں ہوتی کو کبھی join نہیں کیا ہے اس لیے کے بصورت دیگر آفیسر صاحب کے ذیوئی میں خلل پڑنے کا اندیشہ ہوتا ہے۔ میں اپنی پوری استعداد اور جادو افشانی کیساتھ اپنی ذیوئی سرانجام دے رہا ہوں اور کبھی بھی نفلت mis conduct یا آفیسر کیساتھ ناطہ رو یہ یا حکم عدولی کا مظاہرہ نہ کیا ہے نہ کر دنگا بلکہ معین شدہ خالیوں کو اور اصولوں کو مد نظر رکھ کر اپنی ذیوئی بطریق احسن سرانجام دیتا ہوں جس بابت روز قیامت اللہ کو بھی جواب دوں گا۔

XX.....NIL (Opportunity Given)
R.O. & A.C
21.02.2024


Muhammad Tariq Khan
Judicial Magistrate-I, Tangi

Muhammad Tariq Khan
Judicial Magistrate-I
Tangi.


15 MAR 2024

ATTSTED

33

Case No. 29/4

(Inquiry against Aman Ullah Driver)

Statement of Aman Ullah Driver (accused/respondent):

I, accused/respondent in the instant inquiry does not want to cross-examine the departmental representative/IW-1 and instead rely on my own statement, which is recorded by me today.

R.O. & A.C
21.02.2024



Aman Ullah (Driver) _____ (Accused/petitioner)

Muhammad Tariq Khan
CJ/Judicial Magistrate-I,
Tangi.

dup

Muhammad Tariq Khan
CJ/Judicial Magistrate-I,
Tangi.

ATTENDED

[Signature]

18 MAY 2024

Magistrate
Court of Sessions Judge
Tangi

ATTENDED



Office of the
**DISTRICT & SESSIONS JUDGE,
CHARSADDA**

091-9220444
dsjcharsadda@yahoo.com
districtjudiciarycharsadda.gov.pk

No: 359 /DJ-06, Charsadda

Date: 27/02/2024

SHOW CAUSE NOTICE

I, Muhammad Asif Khan, District & Sessions Judge, Charsadda, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Aman Ullah, Driver, as follows:

- i. that you have committed negligence/misconduct by remaining absent from duty w.e.f. 14th to 17th August, 2023 as well as on 1st September and 5th September, 2023 without prior information or any intimation. Besides, you have misbehaved with the learned ASJ, Tangi and refused to drive the official vehicle rather demanded consideration for driving from learned ASJ, Tangi.
- ii. that upon submission of your reply to the explanation called from you by learned ASJ, Tangi, the same was found unsatisfactory and the matter was forwarded to the undersigned for further proceedings. Thereafter, formal inquiry was initiated against you by framing Charge and Statement of Allegations. Inquiry was conducted by learned CJ-I, Tangi and submitted his detailed report, wherein the charge has been proved against you.
- iii. on going through above;

I am satisfied that you have committed the following acts/omissions specified in Rule-3 of the said rules;

- (a) guilty of misconduct
 - (b) guilty of absenting yourself from duty without prior approval of leave.
2. I, as competent authority, have tentatively decided to impose upon you any of the penalty specified in Rule 4 of KP (Efficiency & Discipline) Rules, 2011.
 3. You are, therefore, required to show cause as to why aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
 4. If no reply to this notice is received within seven 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.
 5. Copy of the report of Inquiry Officer is enclosed.

Competent Authority

MUHAMMAD ASIF KHAN
District & Sessions Judge, Charsadda

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سوال نمبر 1: کیا ریٹائرمنٹ ایمان اللہ نے جو جواب ہائٹ شوکار نوٹس بخسور جناب ADJ-II صاحب لکھی جمع کرایا تھا آپ لے اپنے بیان میں اسے پیش کیا ہے یا نہیں؟

سوال نمبر 2: کیا ریٹائرمنٹ ایمان اللہ کے شوکار نوٹس کے جواب کو جب جناب ADJ-II صاحب لکھی نے Unsatisfactory قرار دیا تو اس میں Unsatisfactory ہونے کے وجوہات دیئے ہیں یا نہیں؟

سوال نمبر 3: Ex-Pw 1/6 میں رجوعیات Removal/ Withdrawal کی کیا ہے یا نہیں؟

سوال نمبر 4: کیا ریٹائرمنٹ ایمان اللہ کی دو کمپنوں کیلئے Suspend ہونے سے لگے سزوں کی سزا سنائی میں اثرات دیکھے؟

سوال نمبر 5: کیا ریٹائرمنٹ ہے کہ آپ نے ExPw 1/8 اور ExPw 1/9 کی تعلق جو رجوعیات جس کے ہیں ان میں ریٹائرمنٹ ایمان اللہ اسی ڈیگوریزی میں Exonorate کی ہو سکتی ہے؟

یہ اطلاع ہے کہ یومی نے کسی قسم کی Mis Conduct یا منسلات Mis Behavior میں اسے کسی کمپنوں کی سے نہیں لکھی ہے؟ ایسے کی حکم عدالت کی ہے۔ دراصل 05 ستمبر 2023 کو یومی نے ایسے کی سزا سنائی 9 بجے سے رات 10:30 تک مسلسل ڈرائیو کی ڈیوٹی سرانجام دے کر ایسے کی دوران کے اسے والدہ ایسے کی سزا سنائی ہونے کی خبر سے قریب الرنگ ہونے کی اطلاع لگائی گئی تھی اس میں نے اپنے والدہ کو قریب الرنگ حالت میں چھوڑ کر اپنے ایسے کی ان آؤٹ ڈیوٹی رات 9:45 بجے شب جب میں اپنے ایسے کی ساتھ بحیثیت ڈرائیو ڈیوٹی پر سرسائی بازار پہنچا تو وہاں پر ایسے کی بازار میں صرف ایک رکشہ کھڑا پایا جو کہ ایسے کی پاس جارہا تھا اور ایسے کی والدہ کیلئے ٹکٹے کا واحد ذریعہ تھا جس وجہ سے میں نے اپنے ایسے کی صاحب کو درخواست کی کہ مجھے یہاں سے رخصت کرے اسلئے کہ

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ARTISTE

Handwritten text in Urdu script, appearing to be a list or schedule of events. The text is oriented vertically and includes various names and dates.

37



Office of the
**DISTRICT & SESSIONS JUDGE,
CHARSADDA**


☎ 091-9220444
✉ dlscharsadda@yahoo.com
🌐 districtjudgecharsadda.gov.pk

38 ANNEXUR - E

OFFICE ORDER

Upon conclusion of the disciplinary proceedings initiated and completed against the official Mr. Aman Ullah, Driver, major penalty of Removal from Service is awarded to the accused/official within the meaning of Rule 4(1)(b)(ii) of Khyber Pakhtunkhwa (Efficiency & Discipline) Rules, 2011. He is hereby removed from service with immediate effect.

May, 04, 2024


MUHAMMAD ASIF KHAN
Competent Authority /
DSJ, Charsadda

Enclst: No. 649-52/DJ-06

Dated: 04.05.2024

Copies for information to:

1. The District Accounts Officer, Charsadda. For information & compliance.
2. Budget & Accounts Assistant, Sessions Court, Charsadda. For information & compliance.
3. Official concerned.
4. Office copy.


District & Sessions Judge,
Charsadda


ASSISTANT

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To

THE WORTHY REGISTRAR,
Peshawar High Court, Peshawar.

ANNE - "F"

Through: Proper Channel

Subject: DEPARTMENTAL APPEAL AGAINST THE ORDER
04/05/2024 WHEREBY THE APPELLANT HAS BEEN
REMOVED FROM SERVICE

Respected Sir,

With great reverence, it is, stated as under that:

1. I was appointed as Driver (BPS-06) in the year 2018 after fulfilling all the codal and legal formalities required for the post and served the district Judiciary with full zeal & zest.
2. I was transferred and posted with ASJ-II, Charsadda at Tangi in June 2023 and assigned duty as driver over official motor car bearing registration No. AA-2809, on the directives of ASJ-II, Charadda at Tangi, I took over the car for its inspection to Motor Vehicle Examiner on 28-06-2023, who after thorough examination given the remarks that some important parts of the car needs to be repair/replaced and accordingly the log book of the car was also maintained by me.
(Copy of Motor Vehicle Examiner, Charsadda dated 28.06.2023 and Log Book is attached)
3. In the month of August 2023 summer vocation of District Judiciary commenced, wherein my summer vocation for 20 days started from 15-08-2023 to 04-09-2023.
4. It is pertinent to mention here that 13th of August 2023 is Sunday whereas 14th of August 2023 was public holiday in respect of Independence Day.
5. On, 5th of September 2023 (placed as absent day), I performed duty with ASJ-II, Charsadda at Tangi for the whole day and took the officer to Peshawar for collecting His uniform. On the way to Tangi Charsadda when it was about 09:30 pm while passing from

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Umarzai, I requested ASJ-II, Tangi sitting with me in the car to drop me in Umarzai bazaar so that I may reach home situated in main Charsadda from here, resultantly, the ASJ-II, Tangi not only refused my submission but constantly abused me and my parent and called me a dog, a Jewish and Yazeed and in response I could not uttered a single word because the said ASJ-II, Charsadda at Tangi was not only my immediate officer and teacher of Quran too. The said ASJ-II, Charsadda at Tangi despite knowledge that my duty hours starts from 8:00 am and ends at 2:30 pm, I obeyed all his order & directions and went to Peshawar beyond my duty hours, but he did not realized my sacrifices.

6. ASJ-II, Charsadda at Tangi called explanation vide dated 08-09-2023 regarding my absence, to which I replied and also tendered my pardoned for any inconvenience if occurred in the performance of my duties but the ADJ-II, Tangi declared the same as unsatisfactory and called for another explanation by forwarding a letter no. 198/AD&SJ-II, Tangi dated 12-09-2023 and again I submitted before the District Judge, Charsadda on 14-09-2023 in shape of mercy petition.

(Copy of Explanations, Reply is attached)

7. In response to the letter dated 12-09-2023, Muhammad Tariq, Learned Civil Judge/JM-I, Tangi was nominated as inquiry officer in the charge sheet and statement of allegation served upon me to conduct a formal inquiry into the matter who accordingly on 02-10-2023 started inquiry and in the meanwhile ASJ-II, Tangi issued a letter No. 05/AD&SJ-II, Tangi dated 05-01-2024 to District Judge, Charsadda, regarding my withdrawal as Driver, consequently the District & Session Judge, Charsadda issued my belated suspension order vide Endst: No. 17-21/DJ-06 dated 06-01-2024.

(Copy of Charge Sheet, Statement of allegation is attached)

8. Formal Inquiry was conducted by Learned Civil Judge/JM-I, Tangi without fulfilling the codal formalities required for the inquiry regarding, examination, cross-examination and personal defense, submitted inquiry report vide dated 21-02-2024 without any recommendation and proving the allegation mentioned in the Charge Sheet & Statement Of Allegation, and accordingly District & Session Judge, Charsadda issued Show Cause Notice No.

NOTED

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359/DJ-06, Charsadda dated 27-02-2024 to which the applicant tendered his reply by denying all the allegation therein.

(Copy of Inquiry Report, Show Cause notice & Reply is attached)

9. Astonishingly, I was served with the impugned office order dated 04/05/2024 whereby Major penalty of Removal from Service has been imposed upon me in utter violation of law & rules.

(Copy of Impugned Order dated 04.05.2024 is attached)

GROUND:

- A. The impugned order dated 04/05/2024 passed is against the law, rule, fact and material available on record and needs to be struck off.
- B. The impugned order dated 04/05/2024 is illegal as no codal formality required for issuance of such like order has been adopted as according to the various judgment passed the superior court of the country without personal hearing issuance of penalty is illegal and the same is not only against the Law but also against the Islamic injunctions.
- C. The it is well settled principle laid down by the superior courts of the country that Negligence is not a misconduct reported as:

- 2005-SCMR 1617
- 2006-PLC-CS-14
- PLD-2001-SC-378
- 2005-PLC-CS-1015
- 2002-SCMR-690
- 2002-SCMR-857.

D. Neither any allegation stated in the statement of allegation nor absences has been proved upon me, even then I have been issued the impugned order dated 04/05/2024.

E. The impugned order dated 04/05/2024 is void *abi initio* in a sense that misbehavior is not a material thing that another person could establish it for the person with whom the misbehavior occurs and in the instant the representative from Headquarter Charsadda namely Hazrat Ali was nominated who was not aware

ATTORNEY

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of the fact of the case could not establish it rather the representative has brought on record the PAST & CLOSED transaction before the inquiry officer and on the basis of which the misbehavior with the high up is not proved. Furthermore, it is well settled principle laid down that no one be punished on the basis of misbehavior reported as 2005-PLC-CS-571.

F. No regular inquiry was conducted which is pre-requisite in the punitive matter while imposing major penalty upon a civil servant as per judgments of the Superior courts.

G. A place which has been dignified for justice has committed injustice by not following codal formalities.

H. I have been punished for the fault of others as on the basis of assertion and mis-representation the impugned order dated 04/05/2024 as illegal and is liable to be struck down in light of reported judgment 2023 PLC (CS) page 374.

I. The impugned order dated 04/05/2024 is harsh one and it is well settled law that major penalty deteriorates the future of a civil servant with another judgment regarding harsh punishment is 2008-SCMR-214.

J. The impugned order dated 04/05/2024 issued after the report of inquiry office wherein no recommendation has been given in the inquiry report and such is also against the dictum reported as 1993-PLC-CS-184.

K. The impugned order dated 04/05/2024 has been passed on the basis of Past & Closed transaction reported as:

2002-PLC-CS-391
PLD-2017-LAH-68
2017-PLC-CS-507

L. The impugned order dated 04/05/2024 has been issued in repose to singly show cause and it is well settled principle the show cause notice along with persona hearing is against the law reported as PLJ-2018-Tr.C (Service) 06.

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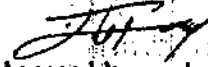
M. The impugned order dated 04/05/2024 has not been passed in violation of the judgment reported as 2020-PLC-CS-560 which enumerates that it is the duty of the institution to provide feasible environment to its employees but in my case such feasibility has been avoided and kept me under stress on one way or the other.

N. The ASJ-II, Charsadda at Tangi has himself admitted the fact in the para-6 of the letter No. 196 dated 08-09-2023 that "when I snubbed and directed you to continue your driving" nor I demanded any consideration but have told the officer that I will spend 1000 to 1500 rupees in fare now at this time i.e. 10:00 pm from Tangi to my home at Charsadda, and as such no consideration is demanded from the officer.

O. Other proof would be agitated later on at the time of hearing.

In view of the above, it is, therefore, most kindly requested that on acceptance of the instant Departmental Appeal against the impugned order dated 04/05/2024 may be set aside and I may be re-instated into service with all back and consequential benefits, please.

Sincerely Yours,



(AMAN ULLAH JAN)

Ex-Driver (BS-06)

Sessions Court, Charsadda

Copy to:

District & Session Judge, Charsadda.


ATTY/RET



The
PESHAWAR HIGH COURT
Peshawar

All communications should be addressed to the Registrar Peshawar High Court, Peshawar and not to any official by name.

Exch: 9210149-58
Off: 9210135
Fax: 9210170

www.peshawarhighcourt.gov.pk
info@peshawarhighcourt.gov.pk
phcpsh@gmail.com

No. 5989 / Admn
To

Dated 15/07/2024

**The District & Sessions Judge,
Charsadda.**

Subject: **DEPARTMENTAL APPEALS NO. 10/2024.**
Aman Ullah Vs Distt: & Sessions Judge, Charsadda.

Dear Sir,

I am directed to enclose herewith copy of the judgment dated 04.07.2024, passed by the Hon'ble Senior Puisne Judge of this Court in the subject departmental appeal for compliance.

Yours Sincerely

(MAMREZ KHAN KHALIL)
ADDITIONAL REGISTRAR (ADMN)

Copy to:-

- Mr. Aman Ullah, Ex-Driver Sessions Court Charsadda/ Appellant along with copy of the judgment.

ATTSTED

(MAMREZ KHAN KHALIL)
ADDITIONAL REGISTRAR (ADMN)

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

Departmental Appeal No.10-2024

Aman Ullah vs. DSJ, Charsadda.

JUDGMENT

IJAZ ANWAR, J: - I have duly considered the record, appeal, and comments submitted by the learned District & Sessions Judge, Charsadda.

2. In the instant matter, departmental proceedings have been conducted against the appellant. The Inquiry Officer after conducting the inquiry concluded that the appellant/accused had committed misconduct and that the allegations leveled against him were proved.

3. In the inquiry proceedings, certain lapses have been noted, however, ignoring the same, it appears that the appellant has misbehaved with the learned Additional District & Sessions, Judge-II, Charsadda, which amounts to misconduct within the meaning of law, and as such, the infirmities in the departmental proceedings are ignored. However, it is an established principle of law that the penalty must be commensurate with the guilt of accused. It is based upon the notion of proportionality which requires that punishment ought to reflect the degree of moral culpability associated with the offence, for which it is

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imposed. The August Supreme Court of Pakistan in the case titled "Auditor General of Pakistan Vs Muhammad Ali" (2006 SCMR 63) has held as under:-

"The element of bad faith and willfulness may bring an act of negligence within the purview of misconduct but lack of proper care and vigilance may not always be willful to make it a case of grave negligence inviting service punishment. The philosophy of punishment is based on the concept of retribution, which may be either through the method of deterrence or reformation. The purpose of deterrent punishment is not only to maintain balance with the gravity of wrong done by a person but also to make an example for others as a preventive measure for reformation of the society, whereas the concept of minor punishment in the law is to make an attempt to reform the individual wrong doer. In service matters, the extreme penalty for minor acts depriving a person from right of earning would definitely defeat the reformatory concept of punishment in administration of justice. In view thereof, we would not take any exception to the view of the matter taken by the Tribunal."

4. Thus keeping in view the above principle, I am of the view that the penalty imposed is too harsh, which is a fit case to interfere with this Departmental Appeal. Accordingly, the impugned order of removal dated 04.05.2024 is set aside and converted into that of stoppage of one annual increment for a period of three years. The appellant stands reinstated in service, but he shall not be entitled to any arrears and interregnum be treated as leave without pay.

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5. The learned District Judge, Charsadda is further directed to post the appellant with any other Hon'ble Judge in the District Courts, Charsadda, and his services be strictly placed under observation for a period of three years.

6. This Departmental Appeal is partially allowed in the above terms.

Announced:
04.07.2024



Senior
Puisne Judge

Amir Shehzad

Hon'ble Mr. Justice Ijaz Akbar, J

ATTEST

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محکمات ضمانت عین ملک و دستاویزات برائے سیشن جج صاحب چھار سداہ

درخواست نمبر: 04/07/2024
جج صاحب فیصلہ نمبر: 03/24
تاریخ: 10/2024

صاحب عالی

گزارش کی بنیاد پر سیشن جج صاحب کو مورخہ 05.05.2024 کو
ضمانت کیا گیا تھا جسکی نام سیشن جج صاحب نے حکمانہ اپیل مورخہ 03/24
کو رد کر دیا اور سیشن جج صاحب نے اپنی گزارش سے انتہائی خوش
اسلوبی سے منظور کیا اور سیشن جج صاحب نے اپنی گزارش کے احکامات صادر
فرمائیں۔

اس لیے آپ صاحبان کی صورت انتہائی مبارکباد
التماس ہے کہ حکم فیصلہ مورخہ 04.07.2024 کو من و عن مان
کی بنیاد پر سیشن جج صاحب کو بحالی کے احکامات جاری فرمائیں

العارضین

محمد امجد

آل انجمن اہل حق، انان اللہ

مورخہ 12/24

DRSF, Chd.

ATTESTE

(POWER OF ATTORNEY)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2024

AMAN ULLAH

VS

DISTRICT JUDICIARY & OTHERS

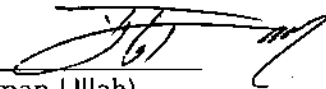
I, Aman Ullah do hereby nominated and appointed **MUHAMMAD MAAZ MADNI**, Advocate High Court, Peshawar, to be counsel in the above matter for me/us and on my/our behalf as agreed to appear, plead, act and answer in the above court or any appellate court or any court to which the business is transferred in the above matter as and is agreed to sign and file petition, appeals, statements, accounts, exhibits, compromises or other documents whatsoever, in connection with the said matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc and to apply for and issue summons and other writs or subpoena and to apply for and get issued any arrest, attachment or other execution, warrants or order and to conduct any proceedings that may arise there out; and to apply for and receive payment of any or all sums or submit the above matter to arbitration, and to employ an other legal practitioner authorizing him to exercise the power and authorities hereby conferred on the advocate whenever he may think fit to do so.

AND to do all acts legally necessary to manage and conduct the said case in all respects whether herein specified or not, as may be proper and expedient.

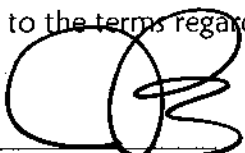
AND I/WE hereby agree to ratify and confirm all lawful acts done on my/our behalf; under or by virtue of these present or of the usual practice in such matter. PROVIDED always that I/WE undertake at the time of calling of the case by the court I/MY authorized agent shall inform the advocate and make him appear in the court, if the case, may be dismissed in default, it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us.

IN WITNESS WHERE OF I/We hereunto set MY/OUR hand to these presents, the contests of which have been explained to and understood by ME/US this 16th day of September 2024.

EXECUTANT


(Aman Ullah)

Accepted subject to the terms regarding fees:


MUHAMMAD MAAZ MADNI,
ADVOCATE HIGH COURT, PESHAWAR
BC No.(BC-11-1460)
CNIC No. 17101-9263898-1

OFFICE: KHATTAK LAW ASSOCIATES, TF-291 & 292, Deans Trade Centre, Peshawar Cantt.
Contact#: 0333-9313113, 0314-9965666