


FORM OF ORDER SHEET

Court of _____

Review Petition No. 1380/2024

No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	15/11/2024	<p>The Review Petition in appeal no. 516/2021 submitted today by Mr. Asadullah Khan Yousafzai Advocate. It is fixed for hearing before Division Bench at Peshawar on 21.11.2024. Original file be requisitioned. Parcha Peshi is given to the counsel for the petitioner.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK,
PESHAWAR.

Review Petition No. 1380 /2024

IN

S.A.No.516/2024

Sher Ahmad Petitioner

Versus

Govt. of KP through Chief Secretary and others..... Respondents

APPLICATION FOR HEARING OF THE
ABOVE TITLED REVIEW PETITION AT
PRINCIPAL SEAT, PESHAWAR.

Respectfully Sheweth;

- 1) That the titled review petition is being filed before this Hon'ble Tribunal at principal seat, Peshawar.
- 2) That the petitioner has engaged the counsel at principal seat, Peshawar and also paid the agreed fee and cannot afford travelling expenses from Peshawar to Swat, which may be calculated at Rs.20,000/- per trip.
- 3) That the counsel for the appellant is practicing at principal seat Peshawar and also frequently appearing before the Hon'ble Tribunal at Peshawar, therefore, it is also inconvenient for the counsel to appear in the instant review petition at Swat on each and every date.

Keeping in view, what has been stated above, it is, therefore, humbly prayed that the titled Review Petition may kindly be heard at principal seat, Peshawar in the best interest of just and equity.

Dated: 15.11.2024

Petitioner
Through


Asad Ullah Khan Yousafzai
Advocate High Court

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Review Petition No. 1380 /2024

IN

S.A No.516/2021

Sher Ahmad.....Petitioner

VERSUS

Govt. of Khyber Pakhtunkhwa through

Chief Secretary and others..... Respondents

I N D E X

S#	Description of documents.	Annexure	Pages.
1.	Review petition		1-3
2.	Affidavit		4
3.	Addresses of the parties.		5
4.	Copy of grounds & judgment dated 25.09.2024	A	6-15
5.	Wakalatnama		16

Petitioner

Through


Asadullah Khan Yousafzai

Advocate High Court

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Review Petition No. 1380 /2024
IN
S.A No.516/2021

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 17986
Dated 15/11/24

Sher Ahmad S/o Mardana Khan
Office Assistant DC Office, Lower Chitral.

.....Petitioner

VERSUS

1. Govt. of Khyber Pakhtunkhwa (KPK), through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary Finance Govt. of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. Commissioner Malakand Division at Saidu Sharif, Swat.
4. Deputy Commissioner/ DC, Chitral.

.....Respondents

**REVIEW PETITION U/S 7-A OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 (AMENDED IN
2024)**

RESPECTFULLY SHEWETH:-

1. That petitioner is the bonafide resident of District Lower Chitral and is serving as Assistant (BPS-16) in the Office of Deputy Commissioner Lower Chitral.
2. That petitioner filed S.A No.516/2021 challenging his demotion order dated 05.11.2020 passed by Deputy Commissioner Chitral as well as order dated 10.12.2020

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passed by Commissioner Malakand whereby departmental appeal of the petitioner was dismissed.

3. That this hon'ble Tribunal after hearing the parties, partially accepted the appeal filed by petitioner in the manner that demotion / reduction order was ordered to be continue for 05 years. (Copy of judgment dated 25.09.2024 is attached)
4. That being aggrieved of the impugned order dated 25.09.2024, the petitioner seeks review of the same, inter-alia on the flowing grounds:-

GROUND

- A. That it nor went escaped from the eyes of this hon'ble Tribunal while passing the impugned order that the petitioner was wrongly punished, because there was no evidence on the record nor any evidence was produced by the prosecution during the inquiry, which connect the petitioner with the commission of alleged offence.
- B. That the impugned order is very harsh in its nature and the punishment awarded to the petitioner that will be fulfilled after the retirement of the petitioner, because the petitioner is going to be retired on 10.09.2025 and he will suffer the rigger of punishment for the whole life, which will adversely affect his pension and pensionary benefits also.
- C. That as evident from the record that the petitioner has not committed any wrong nor signed the alleged document, but he himself become complainant and filed a complaint to the high-ups, wherein, the accused

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were properly charged in a criminal case registered u/s 419/ 420/ 468/ 471 PPC, which shows the bonafide of the petitioner and in consequent whereof the precious state property was protected.

- D. That as transpires from the service record the petitioner has an unblemished service record and in such eventuality the impugned punishment of 05 years is very harsh and arbitrary in nature.
- E. That the prosecution has miserably failed to produce the cogent evidence regarding the guilt of the petitioner, but even then the order passed by this hon'ble Tribunal is based on surmises and conjectures and not on strong and cogent grounds, therefore, liable to be reviewed and be set-aside.
- F. That any other ground not specifically taken will be argued at the time of hearing with prior permission of this hon'ble Tribunal

It is, therefore, humbly requested that, on acceptance of this review petition order dated 25.09.2024 may please be reviewed by setting aside the impugned order/ judgment.

Any other relief deemed fit may also be graciously granted.


Petitioner

Through 

Asadullah Khan Yousafzai
Advocate High Court

CERTIFICATE

Certified that order dated 25.09.2024 is fit for review, and no such like other application/review has been filed before this Hon'ble Tribunal.


Advocate

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

In Re: Review Petition No. _____/2024
IN
S.A.No.516/2021

Sher AhmadPetitioner

Versus

Govt. of Khyber Pakhtunkhwa through Chief Secretary & others
.....Respondents

AFFIDAVIT

I, Sher Ahmad son of Mardana Khan, Office Assistant DC Office, Lower Chitral (petitioner), do hereby affirm and declare on oath that the contents of the accompanying **Review Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal


Deponent

CNIC No.15201-0561243-9



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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Review Petition No. _____/2024

IN

S.A No.516/2021

Sher Ahmad.....Petitioner

VERSUS

Govt. of Khyber Pakhtunkhwa through

Chief Secretary and others..... Respondents

MEMO OF ADDRESSES

PETITIONERS

Sher Ahmad S/o Mardana Khan

Office Assistant DC Office, Lower Chitral.

RESPONDENTS

1. Govt. of Khyber Pakhtunkhwa (KPK), through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary Finance Govt. of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. Commissioner Malakand Division at Saidu Sharif, Swat.
4. Deputy Commissioner/ DC, Chitral.

Petitioner

Through



Asadullah Khan Yousafzai
Advocate High Court

BEFORE THE SERVICE TRIBUNAL kpk AT
PESHAWAR

Service Appeal No. 516 /2021.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 503

Dated 08/01/2021

Sher Ahmad
S/o Mardana Khan
R/O Assistan DC Office, lower Chitral, Chitral.

Appellant

V E R S U S

1. Government of Khyber Pakhtunkhwa (KPK) through Chief Secretary, at Civil Secretariat, Peshawar.
2. Secretary Finance Government of K.P.K at Civil Secretariat, Peshawar.
3. Commissioner Malakand Division at Saidu Sharif, Swat.
4. Deputy Commissioner/DC, Chitral.

Respondents

Appeal U/S 4 of Khyber Pakhtunkhwa, Service Tribunal Act 1974, read with all those other applicable provisions of law governing the subject matter, for setting aside the impugned

filed to-day order dated 05.11.2020 passed by the Deputy Commissioner Chitral, whereby the appellant was awarded a major penalty of reduction/demotion into a lower post of scale from BPS-16 to BPS-14 has been imposed upon the appellant and impugned order dated 10.12.2020 passed by the Commissioner Malakand who dismissed the departmental appeal of the appellant.

Prayer:

That on acceptance of the subject Service Appeal the impugned order dated 05.11.2020 passed by the Deputy Commissioner Chitral, and the impugned order dated

Registrar
08/01/2021

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar


10.12.2020 passed by the Commissioner Malakand Division at Saidu Sharif Swat, may kindly be set aside, declare as null and void and against the fundamental rights of the appellant and consequently the appellant may kindly be allowed to continue his service in BPS-16 alongwith all back benefits. Any other relief which deems Just and proper may also be granted to the appellant keeping in view facts and circumstance of the case.

Respectfully Sheweth:

That brief facts and grounds giving rise to the instant Service Appeal are as under;

1. That the appellant is bonafide resident of District Lower Chitral and is serving as Assistant BPS-16 in the Office of Deputy Commissioner Lower Chitral.
2. That Prior to the present position the appellant was serving as Incharge record room Judicial Council.
3. That a person namely Muhammad Ali Shah prepared a bogus document pertaining to 1904 each and another person namely Syed Jalal Shah (son of the former Governor Northern Area) got the copy of the same bogus document and presented before the appellant for attestation as Incharge record room.
4. That when the appellant gone through the old record/register it transpired that the copy of the document presented for attestation was bogus and not matching to the record, therefore the appellant refused to attest the same.
5. That Mr. Syed Jalal Shah threatened the appellant of worse consequences, furthermore he filed a complaint against the appellant before the worthy Settlement Officer (SO) Chitral, whereby the appellant was summoned by the SO and the appellant clarified his position before the worthy SO in accordance with facts narrated about.

ATTEST (6) That the appellant submitted an application before the Deputy Commissioner Lower, Chitral for initiating criminal proceeding against both the persons, who prepared a bogus Sanad and also tried to get its attestation by applying coercive measures against the appellant, but the worthy Deputy Commissioner Lower, Chitral directed the concerned authorities to initiate criminal


 COMMISSIONER
 MALAKAND DIVISION
 SWAT
 PUNJAB

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proceedings against one Muhammad Ali Shah, consequent upon FIR No. 547 dated 20.09.2019 U/Ss 417, 420, 468, 471 PPC, Police station Chitral was lodged against him, wherein appellant is the complainant, while the other person namely Said Jalal Shah, was exonerated by the Deputy Commissioner Lower Chitral. (Copies of application and FIR are attached as Annexure-"A")

7. That in the meanwhile disciplinary proceedings were also initiated against the appellant and one Amin ur Rahman (Naib Qasid), a preliminary and final inquiry was conducted against the appellant and the major penalty of reduction/demotion to a lower post of Scale, i.e. BPS-16 TO PBS-14 was imposed upon the appellant, while the Naib Qasid Mr. Amin ur Rahman was awarded minor penalty of censure vide impugned order dated 05.11.2020. (Copies of inquiries, show cause, reply and order dated 05.11.2020 are attached as Annexure "B")
8. That against the impugned order, the appellant filed departmental appeal before the worthy Commissioner Malakand which too was dismissed on 10.12.2020. (Copies of departmental appeal and order dated 10.12.2020 is attached as annexure "C")
9. That the impugned orders are liable to be set aside inter alia on the following grounds.

GROUNDS:

- A. That the appellant has committed no wrong as he refused to attest the bogus document prepared by both Mr. Muhammad Ali Shah S/O Hayabi Shah and Mr. Said Jalal Shah S/O Said Karam Ali Shah (Ex-Governor Northern Areas) and tried to grab the valuable state property of about thousands of Kanals, in the grab of a bogus and manipulated document.
- B. That the appellant saved the state property mentioned above by refusing the attestation of the said document which was not entered in the old register of 1904 of the Judicial Council Chitral.
- C. That Mr. Said Jalal Shah who is high political figure of Northern Areas influenced the district administration for initiating the disciplinary proceedings against the appellant and got exonerated himself of the criminal proceedings against him initiated on the complaint of the appellant against both the persons mentioned above.
- D. That the appellant has been discriminated in the impugned order proceedings as one Amin ur Rahman (Naib

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Khyber Pakhtunkhwa
Service Tribunal
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penalty of reduction/demotion from BPS-16 To BPS-14 was imposed against the appellant.

- E. That the appellant has an unblemished service record since his appointment as Junior Clerk back in the year 1989 and neither such like complaint has been lodged against him nor has been guilty of any misconduct.
- F. That the appellant is likely to be retired of his service in the near future and such like major penalty would be deemed as snatching of bread of his family.
- G. That no opportunity of personal hearing, and recording statement was provided to the appellant during inquiry hence the impugned orders are liable to be set aside on this score alone.
- H. That neither the appellant has committed any wrong nor guilty of mis-conduct, rather the appellant proved himself as a best custodian of public record, and an honest person.
- I. That the appellant is quit innocent because neither he made a bogus/fake document as a part of the record, rather himself became a complainant and initiate criminal proceeding against the culprit, but even then full doze has been given to him by awarding major penalty which is untenable in the eyes of law and liable to be set-aside.
- J. That in light of the afore mentioned situation the imposed penalty is not only arbitrary and illegal but also harsh and un natural.
- K. That the acts and omission of respondents is against the Civil Service Act 1973, Efficiency and Disciplinary Rules and applicable Fundamental and Supplementary Rules.
- L. That any other ground which has not specifically been taken may also be allowed to be argued.


It is, therefore, most humbly prayed that the instant Appeal may kindly be allowed as prayed for.

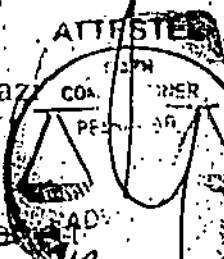

Appellant

ATTESTED

EXAMINER
Peshawar
Service Tribunal

Through


Asad Ullah Khan Yousafzai
Advocate, Peshawar.

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CO-ADJUTANT
PESHAWAR

Verification;

Verified on Oath that the contents of the above appeal are true and correct.

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Case No. 516/2021 Sher Ahmad versus Government of Khyber Pakhtunkhwa (KPK) through Chief Secretary, Peshawar and others. Case No. 516/2021 by Division Bench comprising Member Judicial and Ms. Rashida Bano, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

BEFORE: **AURANGZEB KHATTAK** ... MEMBER (Judicial)
RASHIDA BANO ... MEMBER (Judicial)

Service Appeal No. 516/2021

Date of presentation of Appeal.....08.01.2021
Date of Hearing.....25.09.2024
Date of Decision.....25.09.2024

Sher Ahmad S/O Mardana Khan, Office Assistant DC Office, Lower Chitral.....*Appellant*

Versus

1. Government of Khyber Pakhtunkhwa (KPK) through Chief Secretary, at Civil Secretariat, Peshawar.
2. Secretary Finance Government of K.P.K at Civil Secretariat, Peshawar.
3. Commissioner Malakand Division at Saidu Sharif, Swat.
4. Deputy Commissioner/DC, Chitral.....(*Respondents*)

Present:

Mr. Asad Ullah Khan Yousafzai,For appellant
Mr. Naseer-ud-Din Shah, Assistant Advocate GeneralFor respondents.

JUDGMENT

AURANGZEB KHATTAK, MEMBER (JUDICIAL): The facts of

the case, as narrated by the appellant in his memorandum of appeal, are that he joined services in the respondent department as Junior Clerk in the year 1989. Prior to his current position, he served as In-charge of the record room of Judicial Council, Chitral. He allegedly refused to attest a

document presented by Syed Jalal Shah, which was purportedly bogus and dated back to 1904, allegedly prepared by Mr. Muhammad Ali Shah.

His refusal led to the initiation of a complaint against him. Subsequently, disciplinary proceedings were initiated against him, resulting in the

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Peshawar

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imposition of a major penalty of reduction/demotion to a lower post of scale i.e from BPS-16 to BPS-14 vide order dated 05.11.2020; while the Naib Qasid, Amjn ur Rahman, received only a minor penalty of censure. Feeling aggrieved, he submitted a departmental appeal to the Commissioner of Malakand, which was dismissed on December 10, 2020, prompting him to challenge the impugned orders before this Tribunal.

2. The respondents were summoned, who contested the appeal by way of filing their respective written reply/comments.

3. The learned counsel for the appellant contended that the appellant acted in the interest of the state by refusing to attest the bogus document, thereby preventing the illegal appropriation of state resources. He next contended that the decision to impose a major penalty upon the appellant was discriminatory, as the Naib Qasid involved in the same proceedings received only a minor censure despite similar involvement in the incident. He further contended that the appellant's service record was exemplary, making the severity of the punishment unwarranted. He also contended that no opportunity for a personal hearing was given to the appellant during the inquiry process, which infringed upon his right to a fair procedure. He next argued that the appellant was not guilty of any misconduct and was unjustly targeted due to the influence wielded by Syed Jalal Shah. He further argued that the imposition of a major penalty

25/09/2024

shortly before the appellant's retirement could significantly affect his family's financial well-being. He also argued that the penalty imposed upon the appellant was arbitrary, harsh and violated the principles

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Service Tribunal
Peshawar

enshrined in the Civil Service Act, 1973 and the Efficiency and Disciplinary Rules, 2011. In the last, he argued that the appeal in hand may be accepted as prayed for.

4. On the other hand, the learned Assistant Advocate General for the respondents contended that the appellant himself had admitted in his application to the Deputy Commissioner that he had erroneously attested the bogus documents and requested leniency. He next contended that inquiries, initiated at the behest of the appellant's application, had conclusively determined his involvement in the attestation of alleged documents, necessitating disciplinary action. He further contended that the appellant's claim of being forced into the situation was unfounded, as evidence pointed towards a consistent pattern of misconduct. He also contended that, as the in-charge of records, the appellant bore ultimate responsibility for the integrity of the documents held within the record room and consequently, was appropriately penalized. He next argued that the disciplinary proceedings were conducted in accordance with established rules and protocols, providing the appellant with an opportunity to defend himself, but he failed to prove his innocence. Finally, he concluded by asserting that the appeal in hand may be dismissed with cost.

5. We have heard the arguments of learned counsel for the appellant as well as learned Assistant Advocate General for the respondents and have perused the record.

6. The perusal of the record shows that the appellant, while serving in-charge of the record room at Judicial Council in Chitral, before taking

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Khyber Pakhtunkhwa
Service Tribunal
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...the role of Assistant BPS-16 in the Office of the Deputy Commissioner of Lower Chitral, was charged in a case of tampering with the official record. According to the appellant, he encountered a situation where Muhammad Ali Shah prepared a bogus document from 1904, which Syed Jalal Shah attempted to have attested. However, upon reviewing the records, he identified the document as fraudulent and refused to attest it. Available on the record is an application written by the appellant to the Deputy Commissioner/District Collector of District Chitral, requesting the initiation of proceedings against Muhammad Ali Shah and Syed Jalal Shah, wherein the appellant himself stated that he provided the said person, older register for inspection. He very cleverly and smartly placed a good and self-made documents, Muharra 1905 by Shuja-ul-Mulk Mehtar Chitral Register, between the pages and that he had made a photocopy of it from the Naib Qasid and fraudulently and maliciously taken away with the attested from me. Such an admission of the appellant carries significant weight in legal and disciplinary contexts, as it not only reflects personal accountability but also diminishes the scope for defense strategies that might argue against any involvement or intention. The acknowledgment of oversight through this admission shapes the narrative of the case. Moreover, within the framework of institutional responsibility and professional conduct, such admissions serve as a critical juncture. They offer a benchmark for evaluating the integrity and reliability of individuals tasked with maintaining document authenticity and procedural accuracy. The appellant's admission thus becomes an integral

on the role of Assistant BPS-16 in the Office of the Deputy Commissioner of Lower Chitral, was charged in a case of tampering with the official record. According to the appellant, he encountered a situation where Muhammad Ali Shah prepared a bogus document from 1904, which Syed Jalal Shah attempted to have attested. However, upon reviewing the records, he identified the document as fraudulent and refused to attest it. Available on the record is an application written by the appellant to the Deputy Commissioner/District Collector of District Chitral, requesting the initiation of proceedings against Muhammad Ali Shah and Syed Jalal Shah, wherein the appellant himself stated that he provided the said person, older register for inspection. He very cleverly and smartly placed a good and self-made documents, Muharra 1905 by Shuja-ul-Mulk Mehtar Chitral Register, between the pages and that he had made a photocopy of it from the Naib Qasid and fraudulently and maliciously taken away with the attested from me. Such an admission of the appellant carries significant weight in legal and disciplinary contexts, as it not only reflects personal accountability but also diminishes the scope for defense strategies that might argue against any involvement or intention. The acknowledgment of oversight through this admission shapes the narrative of the case. Moreover, within the framework of institutional responsibility and professional conduct, such admissions serve as a critical juncture. They offer a benchmark for evaluating the integrity and reliability of individuals tasked with maintaining document authenticity and procedural accuracy. The appellant's admission thus becomes an integral

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piece of evidence in assessing both the merit of the disciplinary action taken and the propriety of upholding such actions upon appeal. In conclusion, the appellant's admission in his application to the Deputy Commissioner is a cornerstone of the case, providing a clear acknowledgment of his role in the erroneous attestation and forming an essential basis for the disciplinary and legal outcomes that followed. This acknowledgment not only reflects the appellant's acceptance of accountability but also informs the broader discourse on professional ethics and responsibilities in administrative functions.

Ans
25/09/2024

7. Moreover, inquiries were initiated in the matter at the behest of the appellant's application and after thorough examining the circumstances surrounding the attestation of alleged documents. The investigation ultimately concluded that there was sufficient evidence to substantiate the appellant's involvement, which necessitated disciplinary action against him due to the serious nature of the allegations. Following the completion of the inquiries, disciplinary proceedings were conducted in accordance with the rules. The appellant was provided opportunity to present his defense and respond to the evidence against him but he failed to prove his innocence.

8. The impugned order dated 05.11.2020, which resulted in the appellant's major penalty of reduction in pay scale from BPS-16 to BPS-14, however, raises concerns regarding compliance with Fundamental Rule (F.R.) 29. This rule stipulates that when a government

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servant is reduced to a lower grade or post due to misconduct or inefficiency, the authority must explicitly state the duration of the

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reduction. In this case, the order dated 05.11.2020 did not specify how long the demotion would remain in effect. The clarity intended by F.R. 29 is essential for ensuring that individuals understand the duration of any sanctions imposed.

9. In view of the above, we partially accept the appeal by modifying the impugned order dated 05.11.2020 to the extent that the penalty of reduction/demotion from BPS-16 to BPS-14 shall remain effective for five years with effect from 05.11.2020. Parties are left to bear their own costs. File be consigned to the record room.

10. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 25th day of September, 2024.*

[Signature]
AURANGZEB KHATTAK 25/9/2024
Member (Judicial)

Certified to be true copy
[Signature] 25/10/24
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

[Signature]
RASHIDA BANO
Member (Judicial)

Khyber Pakhtunkhwa Service Tribunal, Peshawar
Application No. _____ Date 30-9-24
Name of Applicant A. Azam Khan
Number of Pages 11-8
Copying Fee 5/-
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Total 5/-
Name & Sign of Applicant _____
Date of Completion of Copy _____
Date of Delivery 25-10-24
04-11-24

CA No. 916
ORDER
5th Sept.

