


The appeal of Mr. Fazal Subhan son of Ibne Masood r/o Charbagh Swat, Ex- Constable No. 461 Police Line Swat received today i.e. on 03.01.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ① Annexures of the appeal may be attested.
- ② Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 3- Print of the memo of appeal is very dim.
- ④ Copy of departmental appeal is not attached with the appeal which may be placed on it.
- ⑤ Page nos. 15, 17 to 25 of the appeal are illegible which may be replaced by legible/better one.
- 6- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 19 /S.T,

Dt. 7-1- /2020.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Saadullah Khan Marwat Adv. Pesh.

Sir
Re-submitted after
Completion


Objections no. 1, 2, 4 and 5 are still stands, the appeal is returned again to the counsel for the appellant for completion and resubmission within 15 days.

No. 203 /S.T,

Dt. 17-01 /2020


REGISTRAR

Mr. Saadullah Khan Adv. Pesh.

Sir
Objections No 1-4 and 5 are removed
As far as Objection No 2 is concerned that
are not available with appellant. The same will
be placed on file when recovered. 

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 754 /2019

Fazal Subhan


versus

D.P.O & Others

I N D E X

S. No	Documents	Annex	P. No.
1.	Memo of Appeal		1-3
2.	Dismissal order dated 13-01-2009	"A"	4
3.	Representation dated 03-02-2014	"B"	5-7
5.	Reinstatement of other constables	"C"	8-18
6.	Judgments in similar cases	"D"	19-29

Through Appellant



Saadullah Khan Marwat
Advocate.
21-A Nasir Mansion,
Shoba Bazaar, Peshawar.
Ph: 0300-5872676
0311-9266609

Dated.31-12-2019

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. _____/2019

Fazal Subhan S/O Ibne Masood,
R/o Charbagh Swat,
Ex-Constable. No. 461,
Police Station Ghalegai,
Swat Appellant

Versus

1. District Police Officer,
Upper Dir.
2. Deputy Inspector General
of Police, Malakand Region,
at Mingora Swat.
3. Provincial Police Officer,
KP, Peshawar. Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST O.B NO. 08 DATED 13-01-2009 OF R. NO.
01 WHEREBY APPELLANT WAS DISMISSED FROM
SERVICE WITH EFFECT FROM 08-08-2008:**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth:

1. That appellant was enlisted in service as Constable on 05-05-2006 and served the department till the date of removal from service.
2. That appellant was deputed to Police Training Centre Hangu, in the year 2006 and qualified the same and then reported back to Police Line Swat. During this period he served Police Station Charbagh, PS Khwaza Khiela and Ghalegai.

3. That due to the deteriorated situation of the Swat valley, all most all Govt. functionaries were collapsed, miscreants were ruling the area and the Govt. Servants were not only kidnapped but were also beheaded.
4. That, apart from the aforesaid miserable condition of the people, subsequent burden was also put by making them Internally Displaced Persons (IDPs) from their houses.
5. That due to the aforesaid situation, appellant was made absent from duty since 08-08-2008 till date of dismissal from service but the said absence was neither willful nor intentional, yet was due to the aforesaid situation.
6. That on the said score of absence from duty, appellant was dismissed from service with effect from 08-08-2008, vide order dated 13-01-2009 by R. No. 1. (Copy as annex "A")
7. That thereafter, appellant submitted departmental appeal for reinstatement in service before R. No. 02 on 03-02-2014 which is pending disposal. (Copy as annex "B")
8. That in similar circumstances and by keeping in view the aforesaid situation, orders were passed on 30.11.2010 wherein 253 constables were reinstated in services, 20 constables on 18.02.2011 and 12 on 07.02.2012 by the authorities. (Copies as annex "C")
9. That the same subject matter came up for hearing before this hon'ble Tribunal in numerous cases and after through probe, their appeals were accepted vide judgments dated 02.05.2016, etc. (Copies as annex "D")

Hence this appeal, inter alia, on the following grounds:-

GROUND S:

- a. That appellant never absented from duty willfully and intentionally but the same was due to the deteriorated situation of the area as stated earlier.

- b. That the Govt. itself realized the aforesaid truth and fact that the servants never absented from duties at their own will but was due to the aforesaid circumstances.
- c. That in the circumstances, the Board reinstated numerous constables, etc. into their services and appellant was dropped for no legal reason. The representations of those officials were also time barred.
- d. That similarly and equally placed servants be treated similarly and equally and not to discriminate them inter-se.
- e. That neither any charge sheet, statement of allegations and show cause notice was served upon appellant nor any enquiry was conducted what to speak of associating him with the same or to give him opportunity of cross examination, being mandatory.
- f. That when one class is availing the same benefits, depriving the same class tent-amounts to malafide and discrimination.

It is, therefore, most humbly prayed that on acceptance of appeal, order dated 13-01-2009 of the respondents be set aside and appellant be reinstated in service with all back benefits, with such other relief as may be deemed proper and just in circumstances of the case.



Appellant

Through



Saadullah Khan Marwat



Arbab Saif-ul-Kamal



Amjad Nawaz
Advocates.

Dated 31-12-2019

A 1

ORDER


This order will dispose off the enquiry initiated against Constable Fazal Subhan No.461, who while posted to Police Station Ghalegai absented himself from duty with vide DD No.35, dated 08/08/2008 and failed to report. Thus absented himself from his legitimate duty and a report to this effect was entered at Police Station Ghalegai vide DD No.35, dated 08/08/2008.

He was issued charge sheet with statement of allegations. Enquiry was initiated against him and DSP Legal was appointed as Enquiry Officer. The Enquiry Officer in his finding report submitted that the defaulter Constable was summoned time and again, but did not appear to record his statement. Hence he was recommended for Major punishment of the Enquiry Officer. He was issued Final Show Cause Notice No. 589/E, dated 02/12/2008 but no reply has been received.

This constitutes misconduct, cowardice on his part and as such he is liable for action under section 5 sub section (4) of the Removal from service (Special Powers) Ordinance 2000 (Amendment) Ordinance 2001.

This constitutes misconduct/disinterest on his part and as such he is liable for action under section 5 Sub Section (4) of the Removal from service (Special Power) Ordinance 2000 (Amendment) Ordinance 2001 and dispose with the enquiry proceeding as laid down in the Ordinance and am further satisfied that there is no need of holding further departmental enquiry. Since the defaulter Constable has been found guilty of gross misconduct as defined in the said Ordinance, I Mr. Dilawal Khan Bangash DPO Swat as a competent authority, therefore impose major penalty by dismissing him from service from the date of absence i.e 08/08/2008.

Order announced.


District Police Officer, Swat

O.B. No. 8

Dated. 13-1-09

کوتاهای عزت‌نادر - حج آید ...

برخواست کرده ...

بنام ...

در خصوص ...

۰۸ ...

۰۸ ...

...

مجلسی حضور حوش انکون امانتدارک سید و مومنی از بنام رب دانتقا

۲۲ - ریوت نشه صورتگال (انتقال زندگی) هر صفا ارتقا کندون
صدا مقون. بالاصحوص. لو اوس اضمین و اسیکارانکی زندگی
اجتناب بنایا کن. اسی طرح کنه روز مسائل کو مقاصدا
ارتقا کندون سید مقون چا نشه هار و اکتان ذبح کن
کا شفق لو غیبی دهکار ملل رسه کنی - اور
رسه طرح مزار اسیارنک کی زندگی حفظ مومنی اسی

۲۳ - سید مقون اسیارنک جانکی جانکی خاطر کراچی
کار خیر کن. کنن ارتقا کندون سید مسائل کراچی
کانتان صید بجای کج زندگی - اسی طرح سائق بیرون
مستعد جان چکنه کاسوچ کر سعور عرب
صدا اسی طرح مسائل کو و اسی طرح کفیل کراچی
اسر روز کار کنن

۲۴ - سید مقون اسیارنک و وطن خود اسیارنک
مزار اسیارنک و اسیارنک موصوف
۱۳-۰۱-۰۹
نور کاسه سید مقون کراچی

سید مقون کراچی

میرے ساتھ ہی غیبی وعدہ تھا کہ اللہ انشا اللہ میں
کے ساتھ ہوں جان بچنے کی خاطر ارحم و تندر جان
وہاں پر ہی ساتھ رہنا تھا کہ حال خراب ہونے سے
اور اس کے ساتھ ساتھ ہی پورے ہی ہونے کا تھا۔

میرے ساتھ ہی غیبی وعدہ تھا کہ اللہ انشا اللہ میں
کے ساتھ ہوں جان بچنے کی خاطر ارحم و تندر جان
وہاں پر ہی ساتھ رہنا تھا کہ حال خراب ہونے سے
اور اس کے ساتھ ساتھ ہی پورے ہی ہونے کا تھا۔

گھبراہٹ سے انتہائی خوف اور بے ہوشی
03/08/2008ء 13/08/08ء کا ہے اور منسوخ قرار دیا گیا
میں نے اپنے آپ کو دوبارہ نوری پیکل کے ساتھ
صدر دفتر میں

میں نے اپنے آپ کو دوبارہ نوری پیکل کے ساتھ
صدر دفتر میں

03/02/14

C-4

ORDER

WHEREAS as per the approval of the Provincial Police Officer, Khyber Pukhtunkhwa a Committee had been constituted vide this office No: 9871-77/E dated 16/11/2010, headed by DPO Swat to recorder under the cases of the personnel dismissed during militancy.

AND WHEREAS the Committee has, after thorough deliberations and scrutiny of the relevant record, submitted its findings vide No: 14732/E dated 29/11/2010 wherein 253 personnel have been recommended for reinstatement in service.

NOW THEREFORE as per the approval of the Provincial Police Officer, the following personnel recommended by the Committee are hereby reinstated in service with effect from the date of their dismissal. The period during which they remained out of service after dismissal and the period of their absence will be treated as leave without pay.

S.No.	Name and No.
1.	Ex-Constable Bahader Khan No. 1322
2.	Ex-HC Mian Said Rehmani No.582
3.	Ex-Constable Muhammad Saeed No. 1543
4.	Ex-Constable Fida Hussain No. 751
5.	Ex-Constable Zia-ud-din No.1581
6.	Ex-Constable Sami Ullah No. 103
7.	Ex-Constable Sadiq Akbar No. 310
8.	Ex-Constable Ayaz Ali No. 1402
9.	Ex-PASI Haz Ali No.35 (Shaheed Son)
10.	Ex-Constable Farman Ali No.757
11.	Ex-Constable Shafiqullah No. 298
12.	Ex-Constable Sher Ali Khan No. 443
13.	Ex-Constable Sabir Hussain No. 1421
14.	Ex-Constable Sharafat Khan No. 776
15.	Ex-Constable Farid Anwar No. 1091
16.	Ex-Constable Asmat Ali No. 1304
17.	Ex-Constable Niaz Mond No. 822
18.	Ex-Constable Abdul Wadod No. 151
19.	Ex-Constable Muhammad Shoab No 112/RR
20.	Ex-Constable Shah Hussain No. 1257
21.	Ex-HC Abdul Wali Khan No. 378
22.	Ex-Constable Naseer Un-din No.1415
23.	Ex-Constable Ajmal Khan No. 1524

Amir

24.	Ex-Constable Gul Fariz Khan No. 1512
25.	Ex-Constable Fayal Wadood No. 12311
26.	Ex-Constable Sultanat Khan No. 556
27.	Ex-Constable Bakht Nawab No. 111/RR
28.	Ex-Constable Saeed ulBh No. 1042
29.	Ex-Constable Nasir Ali No.1074
30.	Ex-Constable Zahoor Ahmad No. 1038
31.	Ex-Constable Said Akbar No.1118
32.	Ex-Constable Muhammad Ali No.1850
33.	Ex-Constable Falak Zeb No. 887
34.	Ex-Constable Adalat Khan No. 1254
35.	Ex-Constable Mulak Zada No. 953
36.	Ex-Constable Zahoor Ahmad No. 165/RR
37.	Ex-Constable Akhtar Ali No. 49
38.	Ex-Constable Shakir Hussain No. 290
39.	Ex-Constable Akbar Ali No. 1306
40.	Ex-Constable Akber Ali No. 1528
41.	Ex-Constable Zoor Muhammad Khan No. 549
42.	Ex-Constable Muhammad Alam No 512
43.	Ex-Constable Amir Khattam No. 30
44.	Ex-Constable Nasir-Ullah Khan No. 1428
45.	Ex-Constable Muhammad Zeb Khan No. 371
46.	Ex-Constable Hayat Muid Khan No. 143
47.	Ex-Constable Subhan Ullah No. 186/RR
48.	Ex-Constable Asad-ullah Jan No. 1226
49.	Ex-Constable Rashid Khan No. 33/RR
50.	Ex-Constable Habib-ur- Rehman No. 205/RR
51.	Ex-Constable Abdullah No. 885
52.	Ex-Constable Niaz Ali Shah No. 130/RR
53.	Ex-Constable Sher Alam Khan No. 144/RR
54.	Ex-Constable Said Mahmood Jan No. 615
55.	Ex-Constable Muhammad Shoab No. 645
56.	Ex-Constable Ajab Khan No. 172
57.	Ex-Constable Tariq No. 1534
58.	Ex-Constable Karim Ullah Khan No. 608
59.	Ex-Constable Shafi Ullah No. 1506
60.	Ex-Constable Bashir Ahmad No. 1457
61.	Ex-Constable Izzat Mond No. 1244
62.	Ex-Constable Shehzada No. 364
63.	Ex-Constable Umar Zaib No. 1448
64.	Ex-Constable Majeed Khan No. 81

65.	Ex-Constable Shornaher Khan No. 508
66.	Ex-Constable Sabz Ali Khan No. 1417
67.	Ex-Constable Baktawar Khan No. 1251
68.	Ex-Constable Bacha Wali No. 1434
69.	Ex-Constable Rasheed Ahmad No. 1791
70.	Ex-Constable Muho Sher Ali Khan No. 463
71.	Ex-Constable Adalat Khan No. 275
72.	Ex-Constable Mian Said Parvez No. 752
73.	Ex-Constable Jahan Parvez No. 293
74.	Ex-Constable Rohmat Ali No. 927
75.	Ex-Constable Abdul Harveed No. 206
76.	Ex-Constable Bakht Ullah No. 92
77.	Ex-Constable Shekar Ali No. 1371
78.	Ex-Constable Zikriya No. 421
79.	Ex-Constable Zahir Ahmad No. 1450
80.	Ex-Constable Said Ahmad Khan No. 917
81.	Ex-Constable Bakht Zarin No. 1694
82.	Ex-Constable Rizal Muhammad No. 1467
83.	Ex-Constable Zahid Ullah No. 1394
84.	Ex-Constable Bakht Namroz No. 667
85.	Ex-Constable Mian Said Gul No. 344
86.	Ex-Constable Hidayat Ullah Khan No. 335
87.	Ex-Constable Umar Rehman No. 729
88.	Ex-Constable Gohar Ali No. 625
89.	Ex-Constable Said Azam No. 12/RR
90.	Ex-ASI Aman Khan
91.	Ex-Constable Najib Ullah No. 1481
92.	Ex-Constable Agha Ullah No. 1514
93.	Ex-Constable Feroz Khan No. 961
94.	Ex-Constable Ubaid Ullah No. 190
95.	Ex-Constable Akbar Bach No. 852
96.	Ex-Constable Sher Alam No. 996
97.	Ex-Constable Muhammad Ayaz No. 488
98.	Ex-Constable Anwar-ul-Haq No. 572
99.	Ex-Constable Muhammad Iqbal No. 369
100.	Ex-Constable Gohar Ali No. 642
101.	Ex-Constable Rizwan Ullah No. 1454
102.	Ex-Constable Yousof Khan No. 350
103.	Ex-Constable Farooq No. 13
104.	Ex-Constable Muhammad Snaib No. 1528
105.	Ex-Constable Ali Muhammad No. 1456

106.	Ex-Constable Muntaz Ali No. 62
107.	Ex-Constable Shah Wali Khan No. 1502
108.	Ex-Constable Nisan Khan No. 383
109.	Ex-Constable Luqman Ali No. 95
110.	Ex-Constable Jehan Ali No. 195
111.	Ex-Constable Mushtaq Khan No. 1113
112.	Ex-Constable Amir Muhammad No. 176/RR
113.	Ex-Constable Alam Khan No. 1078
114.	Ex-Constable Sher Shah No. 862
115.	Ex-Constable Arjid Ali No. 1044
116.	Ex-Constable Sher Ali Khan No. 1353
117.	Ex-Constable Iftikhar No. 564
118.	Ex-Constable Bakht Akbar No. 1288
119.	Ex-Constable Taj Muhd. No. 1111
120.	Ex-Constable Alam Badshah No. 1196
121.	Ex-Constable Liaqat Ali No. 225
122.	Ex-Constable Liaqat Ali No. 253
123.	Ex-Constable Azam Khan No. 1427
124.	Ex-Constable Habib Ullah No. 1446
125.	Ex-Constable Yar Badshah No. 933
126.	Ex-Constable Nadar Shah No. 468
127.	Ex-Constable Nazir Muhd No. 1379
128.	Ex-IC Asghar Khan No. 31
129.	Ex-Constable Ali Rasheed No. 1480
130.	Ex-Constable Fazal Rehman No. 784
131.	Ex-Constable Bakhtaj No. 1329
132.	Ex-Constable Ibrar Hussain No. 420
133.	Ex-Constable Zafar Alam No. 653
134.	Ex-Constable Muhd Rafiq No. 1633
135.	Ex-Constable Sajjad Khan No. 1518
136.	Ex-Constable Umar Khitab No. 1109
137.	Ex-Constable Ahmad Ali No. 1318
138.	Ex-Constable Rehmat Ali No. 175
139.	Ex-Constable Iqbal Hussain No. 1486
140.	Ex-Constable Rehman Ullah No. 1466
141.	Ex-Constable Ayaz Ahmad No. 320
142.	Ex-Constable Sadq No. 1470
143.	Ex-Constable Shafiq-ur-Rehman No. 851
144.	Ex-Constable Bashir Ahmad No. 1377
145.	Ex-Constable Liaqat Ali No. 1345
146.	Ex-Constable Aziz-ur-Hassan No. 1170

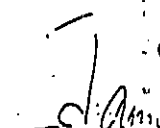
147.	Ex-Constable Zakir Hussain No. 308
148.	Ex-Constable Mirarullah No. 533
149.	Ex-Constable Muslim Khan No. 101/RR
150.	Ex-Constable Zafar Ali Khan No. 70
151.	Ex-Constable Najib Ullah Khan No. 1439
152.	Ex-Constable Ranim Khan No. 571
153.	Ex-Constable Azam Khan No. 45
154.	Ex-Constable Mian Said Bacha No. 1362
155.	Ex-Constable Hazrat Alam No. 1570
156.	Ex-Constable Irfan Ud Din No. 1549
157.	Ex-Constable Sher Hussain Khan No. 685
158.	Ex-Constable Muid Raza No. 131/RR
159.	Ex-Constable Mian Said Farooq No. 333
160.	Ex-Constable Muhammad Tahir No. 1703
161.	Ex-Constable Bahadur Nawab Khan No. 1635
162.	Ex-Constable Amir Khan No. 1000
163.	Ex-Constable Sami Ullah No. 1500
164.	Ex-Constable Muhammad Qasim No. 1600
165.	Ex-Constable Muid. Arif Khan No. 1393
166.	Ex-Constable Asmat Ali No. 1723
167.	Ex-Constable Farhad Ali No. 1761
168.	Ex-Constable Mian Said Ghani No. 1689
169.	Ex-Constable Inam Ullah No. 1145
170.	Ex-Constable Umar Farooq No. 1677
171.	Ex-Constable Israr Ahmad No. 1622
172.	Ex-Constable Amal Khan No. 1569
173.	Ex-Constable Rehmat Ali No. 496
174.	Ex-Constable Zara Wali No. 134
175.	Ex-Constable Anwar Ullah No. 1656
176.	Ex-Constable Bakht Kayam No. 1800
177.	Ex-Constable Anwar Ali No. 1574
178.	Ex-Constable Aziz Ullah Khan No. 1591
179.	Ex-Constable Hazrat Bilal No. 1776
180.	Ex-Constable Farman Ali No. 217/RR
181.	Ex-Constable Muid Alam Khan No. 1774
182.	Ex-Constable Asghar Khan No. 1720
183.	Ex-Constable Abdullah No. 1661
184.	Ex-Constable Mohammad Azim No. 971
185.	Ex-Constable Said Sarfullah No. 1600
186.	Ex-Constable Samin Khan No. 1724
187.	Ex-Constable Salim Ullah No. 1575

188.	Ex-Constable Mayad Ali No. 1614
189.	Ex-Constable Waqar Ali Khan No. 1414
190.	Ex-Constable Yaqub Khan No. 1601
191.	Ex-Constable Farman Ali No. 1669
192.	Ex-Constable Rehmat Zaid No. 1679
193.	Ex-Constable Fayaz Ali No. 914
194.	Ex-Constable Wali Ahmad No. 841
195.	Ex-Constable Barkat Ali Khan No. 190/RR
196.	Ex-Constable Nazir Mahmood No. 1771
197.	Ex-Constable Mohim Basha No. 1608
198.	Ex-Constable Muhd. Kashif No. 1579
199.	Ex-Constable Nisar Ahmad No. 1565
200.	Ex-Constable Fazal Haq No. 1589
201.	Ex-Constable Ajab Khan No. 1553
202.	Ex-Constable Shah Ali Yaq Khan No. 1645
203.	Ex-Constable Hazrat Ali No. 1797
204.	Ex-Constable Zia Ullah No. 104/RR
205.	Ex-Constable Naeem Iqbal No. 1716
206.	Ex-Constable Amjad Ali No. 1624
207.	Ex-Constable Farhad Ali No. 127
208.	Ex-Constable Hazrat Usman No. 1691
209.	Ex-Constable Umar Zaman No. 160/RR
210.	Ex-Constable Zafar Ali No. 159
211.	Ex-Constable Saeed Ullah No. 1513
212.	Ex-Constable Sher Bahadar Shah No. 211/RR
213.	Ex-Constable Arif Ali Shah No. 828
214.	Ex-Constable Fazal Ali No. 1647
215.	Ex-Constable Abdur Rehman No. 1607
216.	Ex-Constable Muhammad Ikram No. 240
217.	Ex-Constable Inayat Ullah No. 1665
218.	Ex-Constable Sajid Ullah No. 1672
219.	Ex-Constable Karim Ullah No. 1788
220.	Ex-Constable Umar Muhammad No. 1361
221.	Ex-Constable Nawab Rehmani No. 1664
222.	Ex-Constable Zai Ullah Khan No. 9/RR
223.	Ex-Constable Qayum Khan No. 1586
224.	Ex-Constable Imran Ali No. 531
225.	Ex-Constable Nasir Ali No. 1623
226.	Ex-Constable Riaz Ali No. 1559
227.	Ex-Constable Haider Ali No. 1667
228.	Ex-Constable Dadshah Muhammad No. 142/RR

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229.	Ex-Constable Sher Zaiman No. 1167
230.	Ex-Constable Muhammad Jan No. 1708
231.	Ex-Constable Mian Gill Bacha No. 1696
232.	Ex-Constable Saif Ullah No. 1769
233.	Ex-Constable Zahir Ullah No. 1644
234.	Ex-Constable Farveez Khan No. 65/RR
235.	Ex-Constable Muhammad Naeem No. 1746
236.	Ex-Constable Fazal Bacha No. 505
237.	Ex-Constable Barkat Ali No. 1312
238.	Ex-Constable Amir Zeb No. 1787
239.	Ex-Constable Kalim Ullah Jan No. 1656
240.	Ex-Constable Zai-ur-Rehman No. 1694
241.	Ex-Constable Muhammad Alam No. 1730
242.	Ex-Constable Fazal Hayat No. 1658
243.	Ex-Constable Hazrat Nawaz Khan No. 721
244.	Ex-Constable Ikram Ullah No. 1605
245.	Ex-Constable Tariq Rahim No. 1782
246.	Ex-Constable Wali Khan No. 212/RR
247.	Ex-Constable Abdull Khan No. 188/RR
248.	Ex-Constable Muhammad Parvez No. 63/RR
249.	Ex-Constable Muhammad Zahid No. 71/RR
250.	Ex-Constable Sardar Ali No. 45/RR
251.	Ex-Constable Luqman No. 95
252.	Ex-Constable Bahad Ali No. 4688/FRP
253.	Ex-Constable Sher Afzal No. 1388/FRP

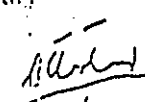
Order announced.


 (MAZI JAMIL-UR-REHMAN)
 Deputy Inspector General of Police,
 Malakand Region, Saidu Sharif, Swat.
 SAIF

No. 10214-14/E
 Dated 30/11/2010.

Copy for information and necessary action to the:-

1. Provincial Police Officer, Khyber Pakhtoonhwa, Peshawar
2. District Police Officer, Swat.
3. Superintendent of Police, FRP, Swat.


 [Signature]

OFFICE ORDER

WHEREAS as per the approval of the Provincial Police Officer, FR, Paktunkhwa Committee had been constituted vide this office No:9871 dated 16/11/2010, headed by DPO Swat to reconsider the cases of the persons absented during maternity.

AND WHEREAS the Committee has, after thorough deliberation scrutiny of the relevant record, submitted its findings vide No:89/OAS1, 04/01/2012 wherein 12 personnel have been recommended for reinstatement service.

NOW THEREFORE as per the approval of the Provincial Police Officer, following personnel recommended by the Committee are hereby reinstate service with effect from the date of their dismissal. The period during which remained out of service after dismissal and the period of their absence will treated as leave without pay.

S.No	Name and No.
1.	Ex-Constable Minhaj-ud-Din No.139
2.	Ex-Constable Zahoor Hussain No.1738
3.	Ex-Constable Ali Bazz No.501
4.	Ex-Constable Muhammad Israr No.119
5.	Ex-Constable Attaullah No.924
6.	Ex-Constable Muhammad Ali No.1693
7.	Ex-Constable Fazal Hassan No.1504
8.	Ex-Constable Ikram No.1189
9.	Ex-Constable Qaiser Ali Shah No.675
10.	Ex-Constable Bashir Ahmad No.270
11.	Ex-Constable Parwanat Khan No.30
12.	Ex-Constable Fazal Rabbi No.579

Order announced.

(AKHTAR HAYAT KHAN)
Deputy Inspector General of Police
Malakand Region, Kaidu District, Swat

No. _____ /E

Dated: 07/02/2012

Copy for information and necessary action to the:-

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. District Police Officer, Swat.

Handwritten signatures and initials:
A.H.K.
[Signature]
[Signature]
[Signature]



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR

No. SI/1656/117, dated Peshawar the 15/3/2017

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Constable Noor Khan No: 462. The appellant was dismissed from service by DPO, Dir Lower vide OB No. 361, dated 16.03.2009 on the charge of absence from duty for 02 months and 04 days.

Meeting of Appellate Board was held on 02.03.2017 wherein appellant was heard in person. During hearing petitioner contended that he was posted at Malakand Region as DFC. He could not bring Summons and Warrants to the area because of terrorism. Terrorists and Taliban threatened him time and again on his cell phone.

The Board examined his service record which revealed that appellant has no bad entry during his service. Moreover, he has qualified Recruit Course and A-1 examination.

Keeping in view 07 years, 11 months and 12 days service at the credit of petitioner free from Terrorists and Taliban, the Board decided that the petitioner is hereby re-instated in service, however, the intervening period including period of absence from duty is considered as period in service but not on duty and he will not be entitled for salary of the intervening period. He remain under special watch for one year.

This order is issued with the approval by the Competent Authority.

[Signature]
(NAJEB-UR-REHMAN BUGTI)
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar

11657-6417.

Copy of the above is forwarded to the:

1. Regional Police Officer, Malakand in Swat.
2. District Police Officer, Dir Lower.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.
8. Central Registry Cell, CPO

*Similar copy placed
at
Director's Office
D-7/11/17*

Reinstated

*Amended
Board
order*

ORDER

17.

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This order shall dispose of departmental appeal under rule 11 of Khyber Pakhtunkhwa Police Rules, 1975, submitted by Ex-Constable Sadiq-ur-Rehman No. 4881 of FRP Malakand Range, against the order of SP FRP Malakand Range, Swat, wherein he was removed from service.

Brief facts of the case are that Ex-Constable Sadiq-ur-Rehman No. 4881 of FRP Malakand Range was enlisted as constable on 26-07-2007. Later on during the course of duty he was absented himself from duty with effect from 20-07-2008, till the date of his removal from service.

In this regard he was issued charge sheet and statement of allegation, but neither he report/arrival for duty, nor replied to charge sheet within stipulated period. Thereafter on 08-11-2008 he was issued Urdo Parwan, but he failed to do so, therefore, the Enquiry Committee recommended him for major punishment of removal from service. Later on he was issued final show cause notice but his reply was not received within stipulated period.

In the light of recommendation of Enquiry Committee and other material available on record he was removed from service by the SP FRP Malakand Range, Swat, vide office OB No. 151, dated 14-11-2009.

After going through the available record it has pointed out that the appellant has neither participated with enquiry proceedings, nor provided opportunity of personal hearing.

The applicant has heard in person in orderly room held on 03-08-2017, during the course of hearing he contended that at those days the Swat Valley was under control of miscreants/Taliban and were kidnapping, killing the Government employees, especially of Police department. He further stated that being a member of the Force (Police Department) he was received threat from Taliban; then he along with his family members were compulsively shifted to other safe place i.e. Punjab Province. He further added that his removal from service order was not communicated to him. His plea was found plausible and satisfactory.

Keeping in view the above, vis-à-vis his unblemished service record also a trained soldier he (Ex-constable Sadiq-ur-Rehman No. 4881 of FRP Malakand Range) is hereby reinstated in service and the punishment of his removal from service is hereby modified and converted into major punishment of his removal from service is hereby modified and converted into major punishment of deduction in pay as timescale constable. The period of his absence from duty and the intervening period are considered as period in service but not on duty and he will not be entitled fro salary of this absence and intervening period.

Order announced.

sd/-

Commandant

Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar

No. 5914 / EC, dated Peshawar the 09 / 08 / 2017
Copy of above is forwarded to the SP FRP Malakand
Range Swat for information and necessary action.
His service record sent herewith.

ORDER

...dispose of departmental appeal under Rule 1975, submitted by Ex-constable Sadiaur-Rennoor of FRP Malakand Range, against the order of SP FRP Malakand Range, Swat, whereby he was removed from service.

...facts of the case are that Ex-constable Sadiaur-Rennoor, No. 488A of FRP Malakand Range was enlisted as constable on 15.07.2002. Later on during the course of duty he was absented himself from duty with effect from 20.07.2008, till the date of his removal from service.

...in this regard he was issued charge sheet and statement of allegations, but he neither reported for duty, nor replied to charge sheet within stipulated period. Thereafter, on 08.11.2008 he was issued Urdu Farwan, but he failed to do so, therefore, the Enquiry Committee recommended him for major punishment of removal from service. Later on he was issued final show cause notice but his reply was not received within stipulated period.

...in the light of recommendation of Enquiry Committee and other documents available on record, he was removed from service by the SP FRP Malakand Range, Swat, vide office OB No. 151, dated 14.11.2009.

...After going through the available record it has noticed that the appellant has neither participated with enquiry proceedings, nor provided opportunity of personal hearing.

...The applicant has heard in person in orderly room held on 03.08.2017. During the course of hearing he contended that at those days the Swat valley was under control of miscreants/Taliban and were kidnapping, killing the Government employees, especially of Police department. He further stated that being a member of the Force (Police Department) he was received threat from Taliban, they had also warned that if members were compulsively shifted to other safe place in Punjab province, he would be killed. He stated that his removal from service order was not communicated to him. His plea was found plausible and satisfactory.

...Keeping in view the above facts and circumstances, the punishment of removal from service of the appellant (Ex-constable Sadiaur-Rennoor) is hereby modified and converted into major punishment of deduction of 10 months scale pay. The period of his absence from duty and the intervening period are considered as period in service but not on duty and he will not be entitled for salary of his absence and intervening period.

Order issued.

...Copy of above is forwarded to the ... for information and necessary action. His service record is ...

ORDER

This order shall dispose of departmental appeal under rule 11 of Khyber Pakhtunkhwa Police Rules, 1975, submitted by Ex-Constable Taj Bhadar No. 4899 of FRP Malakand Range, against the order of SP FRP Malakand Range, Swat, wherein he was removed from service.

Brief facts of the case are that Constable Taj Bhadar No. 4899 of FRP Malakand Range was enlisted as constable on 26-07-2007. He was absented himself from duty with effect from 01-04-2009, till the date of his removal from service.

In this regard he was issued charge sheet and statement of allegations, but neither he report/arrival for duty, nor replied to charge sheet within stipulated period. Thereafter on 28-04-2009 he was issued Urdo Parwan, but he failed to do so, therefore, the Enquiry Committee recommended him for major punishment of removal from service. Later on he was issued final show cause notice but his reply was not received within stipulated period.

In the light of recommendation of Enquiry Committee and other material available on record he was removed from service by the SP FRP Malakand Range, Swat, vide office OB No. 294, dated 21-02-2009.

After going through the available record it has pointed out that during the course of enquiry the applicant has neither participated with enquiry proceedings, nor provided opportunity of personal hearing.

The applicant has heard in person in orderly room held on 03-08-2017, during the course of hearing he contended that at those days the Swat Valley was under control of miscreants/Taliban and were kidnapping, killing the Government employees, especially of Police department. He further stated that being a member of the Force (Police Department) he was received threat from Taliban, then he along with his family members were compulsively shifted to other safe place i.e. Punjab Province. He further added that his removal from service order was not communicated to him. His plea was found plausible and satisfactory.

Keeping in view the above, vis-à-vis his unblemished service record also a trained soldier he (Ex-constable Taj Bhadar No. 4899 of FRP Malakand Range) is hereby reinstated in service and the punishment of his removal from service is hereby modified and converted into major punishment of his removal from service is hereby modified and converted into major punishment of deduction in pay as timescale constable. The period of his absence from duty and the intervening period are considered as period in service but not on duty and he will not be entitled for salary of this absence and intervening period.

Order announced.

sd/-
Commandant

Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar

No. 5913 / EC, dated Peshawar the 09 / 08 / 2017
Copy of above is forwarded to the SP FRP Malakand Range Swat for information and necessary action.
His service record sent herewith.

This order shall dispose of departmental appeal under rule 11 of Khyber
Malakand Range against the order of SP FRP Malakand Range Swat valley was
removed from service.

Brief facts of the case are that applicant Thadar No. 4899 of FRP
Malakand Range was enlisted as constable on 26.07.2007. He was absented himself
on duty with effect from 01.04.2009 till the date of his removal from service.

In this regard he was issued charge sheet and statement of allegations, but
either he report/arrival for answer replied to charge sheet within stipulated period.
Hereafter on 28.04.2009 he was issued show cause notice. He failed to do so. Therefore
the Enquiry Committee recommended him for major punishment of removal from
service. Later on he was issued final show cause notice but his reply was not received
within stipulated period.

In the light of recommendation of Enquiry Committee and material
available on record he was removed from service by the SP FRP Malakand Range Swat
valley office OB No. 294, dated 21.02.2009.

After going through the available record it has pointed out that during the
course of enquiry the applicant has neither participated with enquiry proceedings nor
provided opportunity of personal hearing.

The applicant was heard in person in order. He'd on 03.08.2017.
During the course of hearing he contended that at those days the Swat valley was under
control of miscreants/Taliban and were kidnapping, killing the employees of
Police Department. He further stated that being a member of the Force
(Police Department) he was received threat from Taliban, then he along with his family
members were compulsively shifted to other safe place i.e. Keshmir. He further stated
that his removal from service order was not communicated to him. His plea was found
plausible and satisfactory.

Keeping in view the above vis-a-vis his furnished service record, also
trained soldier he Ex-constable Thadar No. 4899 of FRP Malakand Range
reinstated in service and the equivalent soldier removed from service
and converted into major punishment of reversion to original rank. The
period of his absence from duty and the intervening period shall be treated as period in
service but not on duty and he will not be entitled for salary of his absence and
intervening period.

Order announced

Commandant
Kia Reserve Police
Baramulla, Baramulla

No. 111/EC dated 21.02.2009

Copy of above order is being sent to the concerned authorities for
information and necessary action. A copy of this order is being sent to the

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BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. _____/2012

Murad Ali S/o Muhammad Mashal Khan,
R/o Char Bagh, Ex-C. No. 4708, FRP,
Police Station Matta, Swat Appellant

Versus

1. Commandant, FRP, KPK,
Peshawar.
2. Superintendent of Police, FRP,
Malakand Region, Swat.
3. Provincial Police Officer, KPK,
Peshawar. Respondents

⇔⇔⇔⇔⇔⇔⇔⇔⇔⇔

**APPEAL AGAINST OFFICE ORDER
NO.1964-65/EC, DATED 09.04.2012 OF
R.NO.1 (APPELLATE AUTHORITY)
WHEREBY REPRESENTATION OF
APPELLANT WAS REJECTED AGAINST OB
NO.138 DATED 10.10.2008 OF R.NO.2
(ORIGNIONAL AUTHORITY) WHO
DISMISSED APPELLANT FROM SERVICE
FOR NO LEGAL REASON.**

⇔⇔⇔⇔⇔⇔⇔⇔⇔⇔

Respectfully Sheweth,

1. That on 25.07.2007, appellant was enlisted as FRP constable in Malakand Range by R.No.1.
2. That it was an admitted fact that the whole Swat valley was under the control of miscreants/Taliban. Normal life was absolutely ineffective. Miscreants/Taliban were kidnapping, killing and beheading Government employees, especially of

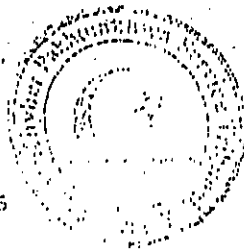
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BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 588 /2012

Dr. Q. J. Farooqi
District Judge
Case No. 562

Date 23/05/12

Murad Ali S/o Muhammad Mashai Khan,
R/o Char Bagh, Ex-C. No. 4708, FRP,
Police Station Matta, Swat



Appellant

Versus

1. Commandant, FRP, KPK,
Peshawar.

2. Superintendent of Police, FRP,
Malakand Region, Swat.

3. Provincial Police Officer, KPK,
Peshawar.

Respondents

APPEAL AGAINST OFFICE ORDER
NO.1964-65/EC, DATED 09.04.2012 OF
R.NO.1 (APPELLATE AUTHORITY)
WHEREBY REPRESENTATION OF
APPELLANT WAS REJECTED AGAINST OF
NO.138 DATED 10.10.2009 OF R.NO.2
INTERNAL AUTHORITY WHO
DISMISSED APPELLANT FROM SERVICE
FOR NO LEGAL REASON.

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Respectfully Sheweth,

That on 25.07.2007, appellant was enlisted as FRP constable in Malakand Range by R.No.1.

That it was an admitted fact that the whole Swat valley was under the control of mercenaries/Taliban. Hence the law enforcement agencies were absolutely ineffective. Mercenaries/Taliban were kidnapping, killing and torturing Government employees, especially of

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Date of Order or proceedings.

Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.



02.05.2016

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT SWAT

APPEAL NO. 538/2012

(Murad Ali Vs. Commandant FRP, C/PK Peshawar & 2 others.)

JUDGMENT

MUHAMMAD AZIM KHAN AFRIDI CHAIRMAN:

Appellant with counsel and Mr. Muhammad Zubair, Senior Government Pleader along with Mushtaq Ahmad, Inspector (Legal) for the respondents present.

Murad Ali son of Muhammad Mashal Khan hereinafter referred to as the appellant has preferred the instant appeal against order dated 09.4.2012 communicated to the appellant on 02.5.2012 vide which his departmental appeal against original order dated 10.10.2008 of removal from service was regretted.

Brief facts giving rise to the present appeal are that the appellant was appointed as Constable in FRP Malakand Range vide appointment order dated 25.07.2007. While serving, he was found absent from duty for a period of 3 months and 8 days and after conducting enquiry removed from service vide order dated 10.10.2008 where against departmental appeal of the appellant was rejected on 09.4.2012 and hence the instant service appeal on 23.05.2012.

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We have heard arguments of the learned counsel for the parties and perused the record.

Perusal of the record would suggest that charge sheet dated 09.08.2008 was communicated to the appellant on the allegations of wilful absence. However, according to findings/report of the enquiry committee appellant had not turned up in response to notice issued to the appellant for resuming duty and facing an enquiry. It is evident from the record that enquiry procedure was not followed by the enquiry committee as the appellant was neither associated with the enquiry proceedings nor any opportunity of hearing afforded to him and, furthermore, in case of absence, publication of any notice in prescribed manners was not made in the newspapers. Furthermore the alleged period of absence was during the days of militancy and, according to the stance of the appellant, similarly placed employees were reinstated in service and that appellant was also entitled to same treatment.

Since the appellant was subjected to enquiry wherein neither prescribed procedure was followed nor appellant associated with the same as such we deem it more appropriate to set aside the impugned original order dated 10.10.2008 as well as the appellant in service, placing the respondents at liberty to departmentally proceed against the appellant afresh, if need be, and that the plea of the appellant, in respect of reinstatement of similarly placed persons in service shall also be taken into account during the enquiry which shall be concluded within a period of 2 month from the date of receipt of this judgment. In case the

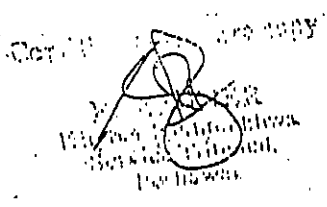
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enquiry is not conducted then the period of absence till reinstatement be treated as leave of the kind due. The appeal is disposed of accordingly. Parties are however left to bear their own costs. File be consigned to the record room.

Announced 02.05.2016 sdy- M. Azim Khan Afzidi,
Chairman

sdy- Abdul Latif,
Member



Mr. ...
Mr. ...
Mr. ...
Mr. ...
Mr. ...
Mr. ...

10-05-2016
1600
10-05-2016
12-05-2016
12-05-2016

Attended
[Signature]

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT SWAT**

Service Appeal No. 957/2016

Date of Institution... 04.08.2016

Date of decision... 07.12.2017



Shoukat Ali son of Muhammad Shafiq, R/O Kokari Mingora Swat Ex-Constable
No. 4741, FRP Platoon No. 83, P.S Mingora Swat. (Appellant)

Versus

1. Superintendent of Police, FRP Malakand Region, Malakand and two others.
(Respondents)

ARBAB SAIFUL KAMAL,
Advocate

For appellant.

MR. KABIRULLAH KHATTAK,
Addl Advocate General

For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. MUHAMMAD HAMID MUGHAL,

CHAIRMAN
MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - This judgment shall also
disposed of other connected appeals No. 697/2016 Muhammad Said, No.
958/2016 Fazal Yaseen, No. 959/2016 Afzal Khan, and No. 961/2016 Umar Ali
as in all the appeals common questions of law and facts are involved.

2. Arguments of the learned counsel for the parties heard and record perused.

FACTS

3. The appellant Shaukat Ali, Umar Ali and Afzal Khan were removed
from service on 28.08.2016, the appellant Fazal Yaseen was removed from

ATTESTED

NIAZ MUHAMMAD KHAN

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service on 02.02.2009 and the appellant Muhammad Saeed was removed from service on 21.09.2009. The appellants then filed departmental appeals belatedly which were rejected then the appellant also approached this Tribunal belatedly not within the stipulated time.

ARGUMENTS

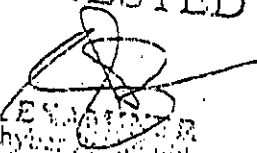
4. The learned counsel for the appellants argued that the very orders of removal from service are void because all these orders have been given retrospective effect. That in view of judgment reported as 1985-SCMR-1178, no limitation shall run against void order.

5. On the other hand the learned Addl. Advocate General argued that the departmental appeals are hopelessly time barred. That the revision within the meaning of Rule 11 -A of Khyber Pakhtunkhwa Police Rules, 1975 could not enlarge the period of limitation. That all the codal formalities were fulfilled by the department.

CONCLUSION

6. Regardless of other merits of the case it is an admitted position that all these orders have been given retrospective effect and in view of so many judgments delivered by this Tribunal on the basis of judgment reported in 1985-SCMR-1178 the retrospective order is a void order and no limitation shall run against void order.

7. Since no limitation runs against a void order, any successive appeals or revision would not curtail the rights of the appellants qua the limitation or in other

ATTESTED

Khyber Pakhtunkhwa
Service Tribunal

respect. Presuming that all other elements of due processes have been complied with, the void order cannot be sustained on this score alone.

8. As a sequel to the above discussion, the present appeals are accepted and the appellants are reinstated in service. The department is however, at liberty to hold de novo proceedings in accordance with law within a period of ninety days. The intervening period shall be subject to the final outcome of the de novo proceedings. Parties are left to bear their own costs. File be consigned to the record room.

Announced 07-12-2017
Sd/- Niaz Muhammad Khan,
Chairman
Camp Court Swat

Sd/- M. Haris Mughal,
Member

Certified true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation 13-12-17
Number of 1200
Copying 8
Urgent _____
Total 8
Name of Copy [Signature]
Date of Copy 15-12-17
Date of Delivery of 15-12-17

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. _____/2016

Riaz S/o M. Ayub Khan, R/o Charbagh,
Swat, Ex-Constable No. 1017, Police Line,
Swat. Appellant

Versus

1. District Police Officer, Swat.
2. Regional Police Officer, Malakand Range, Saidu Sharif, Swat.
3. Inspector General of Police, KP, Peshawar. Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST OB NO. 128, DATED 27.06.2008 OF R. NO. 1
WHEREBY APPELLANT WAS DISMISSED FROM SERVICE
OR OFFICE ORDER NO. 2553/E DATED 11.03.2013
WHEREBY REPRESENTATION OF APPELLANT WAS
REJECTED BY R. No. 2 OR OFFICE ORDER NO. _____,
DATED 10.05.2016 OF R. No. 3 FOR NO LEGAL REASON.

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth:

1. That appellant was enlisted as Constable on 28.08.2007 and thereafter he was deputed to Baloch Regiment Centre, Abbottabad for training which was successfully completed and he was declared as passed.
2. That due to the deteriorated situation of the Swat valley, all most all Govt. functionaries were helpless, miscreants were ruling the area and the Govt. Servants were not only kidnapped but were also beheaded.
3. That apart from the aforesaid miserable condition of the people, subsequent burden was also put on them by making them Internal Displaced Persons (IDPs) from their houses.



BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 960 /2016

Riaz S/o M. Ayub Khan, R/o Charbagh,
Swat, Ex-Constable No. 1017, Police Line,
Swat.

Appellant

Khyber Pakhtunkhwa
Service Tribunal

Case No. 808

Dated 04-8-2016

Versus

1. District Police Officer, Swat.
2. Regional Police Officer, Malakand Range, Saidu Sharif, Swat.
3. Inspector General of Police, KP, Peshawar. Respondents

⊕<=>⊕<=>⊕<=>⊕<=>⊕

APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST OB NO. 128, DATED 27.06.2008 OF R. NO. 1
WHEREBY APPELLANT WAS DISMISSED FROM SERVICE
OR OFFICE ORDER NO. 2553/E DATED 11.03.2013
WHEREBY REPRESENTATION OF APPELLANT WAS
REJECTED BY R. No. 2 OR OFFICE ORDER NO.
DATED 10.05.2016 OF R. No. 3 FOR NO LEGAL REASON.

Filed to Day

⊕<=>⊕<=>⊕<=>⊕<=>⊕

Registrar

Respectfully Sheweth:

4/8/16

Re-submitted to-day and filed.

Registrar 2/9/16

1. That appellant was enlisted as Constable on 28.08.2007 and thereafter he was deputed to Baloch Regiment Centre, Abbottabad, for training which was successfully completed and he was declared as passed.
2. That due to the deteriorated situation of the Swat valley, all most all Govt. functionaries were helpless, miscreants were ruling the area and the Govt. Servants were not only kidnapped but were also beheaded.
3. That apart from the aforesaid miserable condition of the people, subsequent burden was also put on them by making them Internal Displaced Persons (IDPs) from their houses.

ATTESTED

EXAMINER
 Khyber Pakhtunkhwa

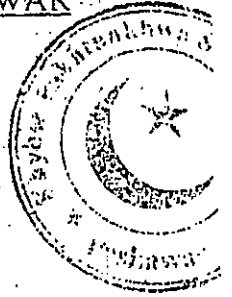
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
CAMP COURT SWAT.

Service Appeal No. 960/2016

Date of Institution ... 04.08.2016

Date of Decision 06.09.2018



Riaz S/o M. Ayub Khan, R/O Charbagh, Swat, Ex-Constable No. 1017, Police Line, Swat. (Appellant)

VERSUS

1. District Police Officer, Swat and 2 others. (Respondents)

Mr. Arbab Saif Ul Kamal, Advocate --- For appellant.

Mr. Usman Ghani, District Attorney --- For respondents

MR. AHMAD HASSAN, MR. SUBHAN SHER --- MEMBER (Executive) CHAIRMAN

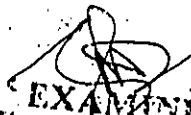
JUDGMENT

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The brief facts are that appellant was appointed as Police Constable in 2007. Disciplinary proceedings on account of willful absence from duty were initiated against him and culminated in imposition of major penalty of removal from service w.e.f 19.07.2008 till 18.02.2009 vide order dated 27.06.2008. Feeling aggrieved the appellant filed departmental appeal which was rejected on 11.03.2013. Subsequently, the appellant submitted review petition which was also rejected on 10.05.2016, hence, the instant service appeal.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ARGUMENTS

3. Learned counsel for the appellant argued that during the height of militancy in Malakand Division government functionaries were forced by the militants to stay away from duty and refusal resulted in brutal killings. The appellant was also a victim of the same circumstances. On account of absence from duty major penalty of removal from service was imposed on him. However, learned counsel for the appellant contended that absence was not deliberate and willful. His case was also considered and rejected by the review board. That vide order dated 30.11.2010 and 07.02.2012. Similarly placed person were reinstated in service by the respondents. Reliance was placed on judgment of this Tribunal dated 02.05.2016 rendered in service appeal no. 588/2012.

4. Learned District Attorney argued that on account of willful absence from duty, the appellant was awarded major penalty of removal from service. The appellant failed to submit application for reinstatement in time which was a sufficient proof of conduct. All codal formalities were observed before imposition of major penalty of removal from service on him.

CONCLUSION.

5. We have examined this case from two angles. Firstly disciplinary proceedings were carried out by the respondents at the back of the appellant. No valid proof was produced during the hearing by the respondents that the appellant was properly associated with the enquiry proceedings in these circumstances it can be safely inferred that elements of due process and opportunity of fair trial were denied to him, rather he was condemned unheard. This aspect of the case has also been deliberated in the judgment of this Tribunal dated 02.05.2016. Secondly, going

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

by the principle of consistency there is a strong ground for treating the case of the appellant of the analogy of similarly placed persons already reinstated by the respondents. As impugned order was passed with retrospective effect so limitation in this case would not affect the cause of action.

6. As a sequel to the above discussion, the appeal is accepted, the impugned order dated 27.06.2008, 11.03.2013 and 10.05.2016 are set aside. The respondents are at liberty to conduct departmental proceedings against the appellant afresh within a period of three months. That plea of the appellant in respect of reinstatement of similarly placed persons in service shall also be taken into account during the enquiry proceedings. In case de-novo enquiry is not conducted by the respondents, the period of absence and intervening shall be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

(SUBHAN SHER) Chairman
(AHMAD HASSAN) Member
Camp court Swat
06.09.2018

ANNOUNCED
06.09.2018

Certified to be true copy

AMIR KHAN
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 19-11-18
Number of Words 1600
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مستجاب اہلانت

فصلی بجان بنام محکمہ ٹولیس و تحریہ

دعوی اپیل

باعضرت محترمہ اینٹکہ

مترجمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام پشاور کیلئے استدعا کرتا ہوں کہ اس کا ایلو کیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے دہنی نامہ و تقریر ثالث و فیصلہ برتلاف دینے جواب دہی اور قبیل دعویٰ اور لکھنؤ ڈگری کرنے اجراء اور وصولی چیک دروپہ اور مرضی دعویٰ اور درخواست ہر قسم کی تجدیق اور اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری بیکطرفہ یا اپیل کی برآمدگی اور مشورتی اپیلز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ منکر کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تفرز کا اختیار ہوگا اور اس پر مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساتھ پر وائٹہ منظور قبول ہوگا و دوران مقدمہ میں جو شرحہ و ترجمانہ التوا مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بغیا و فریب کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام روزہ پر ہو یا مد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم ۱۹-۱۲-۳۱

العبد

القائد

العبد

فضل بجان

سید اللہ خان مراد
ایڈووکیٹ

عبد کوان
ایڈووکیٹ




۱۱۳
ارباب سید اکمال
ایڈووکیٹ
Rina
روینہ ناز
ایڈووکیٹ

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 454 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	31/01/2020	<p>The appeal of Mr. Fazal Subhan resubmitted today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p>decrease</p> <p> REGISTRAR - 31/1/2020</p>
2-	09.03.2020	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>09/03/2020</u></p> <p> CHAIRMAN</p> <p>Learned counsel for the appellant present and seeks adjournment. Adjourn. To come up on 22.04.2020 before S.B.</p> <p> Member</p>

22.04.2020

Due to COVID19, the case is adjourned to 23.07.2020 for the same as before.



Reader

23.07.2020

Appellant is absent. The legal fraternity is observing strike today therefore, no proceedings could be conducted. The case is adjourned to 06.10.2020. To come up for previous proceedings before S.B.

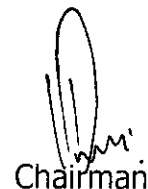


(MUHAMMAD JAMAL KHAN)
MEMBER

06.10.2020

Junior to counsel for the appellant present.

Learned senior counsel for the appellant is not in attendance today due to general strike on the call of Khyber Pakhtunkhwa Bar Council. The matter is adjourned to 09.12.2020 for hearing before S.B.



Chairman

09.12.2020

Junior counsel for appellant present.

She made a request for adjournment as senior counsel is not in attendance; granted. To come up for preliminary hearing on 11.03.2021 before S.B.



(Rozina Rehman)
Member (J)

11.03.2021

Appellant present through counsel.

Issue involved in the instant case is pending before Larger Bench and the Larger Bench has not yet concluded the proceedings before it, therefore, instant matter is adjourned to 17/06/2021 before S.B.


(Rozina Rehman)
Member (J)

17.06.2021

Junior to counsel for the appellant and states that Senior counsel is not in attendance due to general strike of the bar.

Adjourned to 21.09.2021 for preliminary hearing before S.B.


Chairman

754/2020

21.09.2021

Counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant argued that in the wake of spread of insurgency in Malakand Division/Swat, the appellant could not perform his duty in the prevailing circumstances beyond his control. He was removed from service from the date of his absence i.e 08.08.2008 vide impugned order of respondent No.1 dated 13.01.2009. The impugned order was challenged departmentally on 03.02.2014 and his departmental appeal was ~~not decided~~ ^{an} through impugned appellate order ~~within statutory period~~. The appellant, thereafter, filed service appeal in Service Tribunal on 03.01.2020. The issue of limitation was brought to the notice of learned counsel for the appellant and he was rightly expected to justify the question of limitation as the service appeal in hand is badly time barred. In support of his arguments he referred to the reinstatement order of the similarly placed 253 employees dated 30.11.2010, the reinstatement of 12 officials dated 07.02.2012, the reinstatement of individual case of Noor Khan dated 15.03.2017 and reinstatement of Taj Bahadar dated 09.08.2017. All these ex-employees/officials have been reinstatement in service by the respondent(s) themselves. Moreover, this Tribunal judgement dated 02.05.2016 in the Service Appeal of Murad Ali bearing service appeal No. 588/2012 and judgement dated 07.12.2017 in service appeal of Shokat Ali bearing No. 957/2016 whereby service appeals had been allowed and relief granted to them. This Tribunal has recently admitted the service appeal of Farman Ali bearing NO. 1369/2018 in preliminary hearing on 29.06.2021. In addition to the above, 1996 SCMR 1185, 2000 SCMR 75 and 2009 SCMR 01 were placed and relied on in support of arguments with the request that the same benefits may be extended to the appellant being similarly placed and identical case at par with them.

Points raised need consideration. The appeal is provisionally admitted to regular hearing, subject to all just and legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time or extension of time is not sought, the office shall submit the file with a report of non-compliance. File to come up for arguments on 25.01.2022 before the D.B.

Appellant Deposited
Security & Process Fee
21/9/21

(Mian Muhammad)

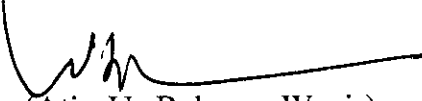
Member(E)

25.01.2022

Nemo for the appellant. Mr. Noor Zaman Khattak, Addl.

Deputy District Attorney for respondents present.

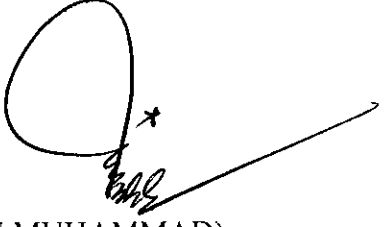
Reply/comments on behalf of respondents are still awaited. Learned Additional Advocate General sought time for submission of reply/comments. Last opportunity is granted to respondents to furnish reply/comments. To come up for reply/comments before the S.B on 24.03.2022.


(Atiq-Ur-Rehman Wazir)
Member (E)

24.03.2022

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present.

Written reply/comments not submitted. Notices be issued to the respondents for submission of written reply/comments. Adjourned. To come up for written reply/comments on 12.05.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER(E)

12.05.2022

Counsel for appellant present.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Arif Salim Stenographer for respondents present.

Reply on behalf of respondents was not submitted. Representative of respondents requested for time to submit reply/comments. Last opportunity granted for submission of comments. If the reply/comments are not submitted, right of respondents for submission of comments shall be deemed as struck off. To come up for reply/comments on 19.07.2022 before S.B.


(Rozina Rehman)
Member (J)

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