

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 637/2018

Date of institution ... 11.05.2018

Date of judgment ... 13.03.2019

Zahid Iqbal Ex-Constable No. 1377, District Police Bannu

... (Appellant)

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Bannu Region Bannu.
3. District Police Officer, Bannu.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 16.03.2017 PASSED BY RESPONDENT NO. 1 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT FILED AGAINST THE ORDER DATED 28.01.2011 OF RESPONDENT NO. 2 AND ORDER DATED 18.12.2010 OF RESPONDENT NO. 3 HAS BEEN REJECTED, MODIFYING THE PENALTY OF DISMISSAL FROM SERVICE INTO REMOVAL FROM SERVICE.

Miss. Naila Jan, Advocate.

.. For appellant.

Mr. Kabirullah Khattak, Additional Advocate General

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. MUHAMMAD HAMID MUGHAL

.. MEMBER (JUDICIAL)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Appellant

alongwith counsel present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Muhammad Farooq, Inspector (Legal) for the respondents present. Arguments heard and record perused.

2. Brief facts of case as per present service appeal are that the appellant was serving in Police Department as Constable. He was imposed major penalty of

*M. Amin
13.3.2019*

dismissal from service on the allegation of absence from duty by the competent authority vide order dated 18.12.2010. The appellant filed departmental appeal on 20.01.2011 which was rejected vide order dated 28.01.2011, the appellant also filed revision petition before the Inspector General of Police (undated) which was disposed of vide order dated 16.03.2017 and the penalty of dismissal from service was modified into removal from service hence, the present service appeal on 11.05.2018.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant was serving in Police Department. It was further contended that the appellant was imposed major penalty of dismissal from service vide order dated 18.12.2010 on the allegation of absence from duty. It was further contended that the appellant was ill and due to illness it was beyond the control of the appellant to perform duty and the copy of medical prescription is also annexed with the appeal. It was further contended that the impugned order is void being retrospective i.e from the date of absence therefore, limitation does not run against the void order. It was further contended that neither charge sheet, statement of allegation was served upon the appellant nor proper inquiry was conducted nor the appellant was provided opportunity of personal hearing and defence, therefore the impugned order is illegal and liable to be set-aside.

4. On the other hand, learned Additional Advocate General for the respondents opposed the contention of learned counsel for the appellant and contended that appellant was serving in Police Department. It was further contended that the appellant remained absent from lawful duty without permission of the higher authority. It was further contended that all the codal formalities were fulfilled before imposing the major penalty of dismissal from

M. Anwar
13.3.2019

service. It was further contended that the appellant was imposed major penalty of dismissal from service vide order dated 18.12.2010 by the competent authority under the provision of Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 and the appellant was required to file departmental appeal within fifteen days but he has filed departmental appeal on 20.01.2011 which was rejected on 28.01.2011. It was further contended that the appellant was required to file service appeal within thirty days from the date of decision of departmental appeal but the appellant has filed the present service appeal on 11.05.2018 after more than seven years as the appellant was barred under the provision of Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 to file revision petition before the Inspector General of Police but the appellant filed revision petition before the Inspector General of Police therefore, it was contended that the appeal is badly time barred and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was serving in Police Department. He was imposed major penalty of dismissal from service vide order dated 18.12.2010 on the allegation of absence from lawful duty. The record further reveals that departmental inquiry was also conducted against the appellant. The inquiry report reveals that the appellant was time and again summoned but he did not appear before the inquiry officer therefore, ex-parte proceeding was initiated against him. The record further reveals that the impugned order was passed on 18.12.2010, the appellant was required to file departmental appeal within fifteen days from the date of impugned order but the appellant has filed departmental ^{appeal} on 20.01.2011 which was rejected on 28.01.2011. The appellant was required to file service appeal within one month from the date of decision of departmental appeal dated 28.01.2011 as he was barred under the provision of Khyber Pakhtunkhwa Removal from Service

*W. Amin
13.3.2019*

(Special Powers) Ordinance, 2000 to file revision petition before Inspector General of Police but he had filed revision petition (undated) before the Inspector General of Police which was disposed vide order dated 16.03.2017. Same way he had also filed writ petition before the worthy High Court which was dismissed vide order dated 27.04.2017 and the appellant has filed service appeal on 11.05.2018 after a delay of more than seven years after departmental appeal decision therefore, present service appeal is badly time barred. Though the impugned order was passed retrospectively i.e from the date of absence but the same ^{does not} was not make impugned order void, reliance is placed on SCMR 1998 page 1890. As such, without touching the merit of the appeal, the present service appeal is dismissed being time barred. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
13.03.2019


(MUHAMMAD HAMID MUGHAL)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

13.03.2019

Appellant alongwith counsel present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Muhammad Farooq, Inspector (Legal) for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of four pages placed on file, without touching the merit of the appeal, the present service appeal is dismissed being time barred. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
13.03.2019


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER



(MUHAMMAD HAMID MUGHAL)
MEMBER

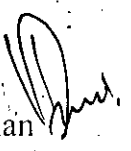
S.A 237/208

28.11.2018

Miss Njala Jan, Advocate for appellant and Mr. Muhammad Riaz Pinda Khel, Asstt. AG for the respondents present.


Former has submitted power of attorney in the case and requests for adjournment as she has been engaged lately. Adjourned to 28.01.2019 for arguments before the D.B.


Member


Chairman

28.01.2019


Appellant with counsel present. Mr. Muhammad Jan, alongwith Mr. Muhammad Farooq, Inspector (Legal) for respondents present. Counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 06.03.2019 before D.B.


(Ahmad Hassan)
Member

(M. Hamid Mughal)
Member

06.03.2019

Appellant alongwith his counsel present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Farooq, Inspector (Legal) for the respondents present. Arguments heard. To come up for order on 13.03.2019 before D.B.


(M. HAMID MUGHAL)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

30.05.2018

Learned counsel for the appellant present. Preliminary arguments heard.

Vide original impugned order dated 18.12.2010 the appellant (Ex-constable) was awarded major punishment of dismissal from service. Learned counsel for the appellant also argued that since the punishment was awarded to the appellant with retrospective effect as such the limitation would not run against the same.

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections including the issue of limitation.


The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 13.08.2018 before S.B

Appellant Deposited
Security & Process Fee


Member

13.08.2018

Counsel for the appellant and Mr. Kabirullah Khattak AAG alongwith Mr. Asghar Ali, Head Constable for respondents present. Written reply by respondent submitted. To come up for rejoinder and arguments on 15.10.2018 before D.B.


(Muhammad Amin Khan Kundi)
Member

15.10.2018

Clerk to counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General for the respondent present. Clerk to counsel for appellant submitted rejoinder which is placed on file. Due to general strike of the bar, the case is adjourned. To come up on 28.11.2018 before D.B




Member


Member

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 637/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	11/05/2018	<p style="text-align: center;">The appeal of Mr. Zahid Iqbal presented today by Mr. Fazal Shah Mohmand Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 11/5/18</p>
2-	15/05/18.	<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>30/05/18.</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 637 /2018

Zahid Iqbal.....Appellant

V E R S U S

PPO and Others.....Respondents.

I N D E X

S.No	Description of Documents	Annexure	Pages
1.	Service appeal with affidavit		1-6
2.	Copies of Medical chits with applications	A	7-22
3.	Copy of Dismissal Order	B	28-
4.	Copy of Departmental appeal & Order dated 28-01-2011	C& D	29-25
5.	Copy of appeal and Order dated 16-03-2017	E & F	26-42
6.	Wakalat Nama		43


Appellant

Dated:-07-05-2018

Through


Fazal Shah Mohmand

Advocate, Peshawar

OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301 8804841

Email:- fazalshahmohmand@gmail.com

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 637 /2018

Khyber Pakhtukhwa
Service Tribunal

Diary No. 680

Zahid Iqbal Ex Constable No 1377, District Police Bannu.

Dated 11-5-2018

.....Appellant

V E R S U S

1. Provincial Police Officer, KPK Peshawar.
2. Regional Police Officer, Bannu Region Bannu.
3. District Police Officer, Bannu.

.....Respondents

**APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974
AGAINST THE ORDER DATED 16-03-2017 PASSED BY
RESPONDENT NO 1 WHERE BY DEPARTMENTAL APPEAL OF THE
APPELLANT FILED AGAINST THE ORDER DATED 28-01-2011 OF
RESPONDENT NO 2 AND ORDER DATED 18-12-2010 OF
RESPONDENT NO 3 HAS BEEN REJECTED, MODIFYING THE
PENALTY OF DISMISSAL FROM SERVICE INTO REMOVAL FROM
SERVICE.**

PRAYER:-

On acceptance of this appeal the impugned order dated 16-03-2017 of respondent No 1 may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits.

Respectfully Submitted:-

1. That the appellant was appointed as Constable in District Police Bannu on 15-07-2009 and since recruitment he performed his duties with honesty and full devotion and to the entire satisfaction of his superior Officers.

Filed to-day
Registrar
11/5/18

2. That the appellant while posted to Police Lines became ill and was unable to have performed his duties, therefore visited the Medical Officer time and again, who advised him medicines with bed rest,

- 2 -

regarding which he duly informed respondent No 3 vide application dated 25-08-2010 and even reported for duty after being declared fit. **(Copies of Medical Certificates with applications are enclosed as Annexure A).**

3. That after recovery, the appellant reported for duty but was told that he has been dismissed from service by respondent No 3 vide order dated 18-12-2010. **(Copy of order is enclosed as Annexure B).**
4. That the appellant preferred departmental appeal before respondent No 2 on 20-01-2011 which was rejected vide Order dated 28-01-2011. **(Copy of appeal and order is enclosed as Annexure C & D).**
5. That there after the appellant filed appeal Under Section 11-A of Police Rules 1975 before respondent No 1 and consequently the penalty of dismissal from service was modified into that of removal from service vide Order dated 16-03-2017, copy of which was obtained by the appellant on 12-04-2018. **(Copy of Appeal and order dated 16-03-2017 is enclosed as Annexure E & F).**
6. That the impugned Order dated 16-03-2017 of respondent No 1 is against the law, facts and principles of justice on grounds inter-alia as follows:-

GROUND:-

- A. That the impugned order is illegal and void ab initio.
- B. That the appellant has not been treated according to law and rules and respondents have badly violated the procedure set forth by the law and rules.
- C. That no charge sheet and Show Cause notice were communicated to the appellant.

- D. That no inquiry was conducted in the matter to have found out the true facts and circumstances.
- E. That no proceedings as set forth in law of the time were adopted and no publication was made to fulfill the requirements of law.
- F. That exparte action has been taken against the appellant and he has been condemned unheard in violation of the principles of natural justice.
- G. That even the impugned order original order is void being passed with retrospective effect in which case no limitation runs.
- H. That the appellant was not afforded opportunity of personal hearing nor ever it was tried to find out the true facts and circumstances, the impugned order is as such liable to be struck down.
- I. That even otherwise the absence was not willful and deliberate rather the same was because of circumstances compelling in nature and were beyond the control of the appellant as well.
- J. That no loss has been caused to any one and the penalty is harsh as in case of absence, treating the period as without pay would serve the ends of justice.
- K. That the appellant did nothing that would amount to misconduct and he has been awarded major penalty in violation of law, rules and dictums of the superior Courts.
- L. That the impugned order is defective and as such not maintainable in the eyes of law.

M. That the appellant is jobless since his illegal dismissal/removal from service.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for.

Any other relief not specifically asked for and deemed appropriate in the circumstances of the case may also be granted in favor of the appellant.

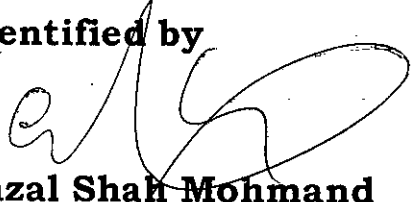
Dated:-07-05-2018

Appellant
Through
Fazal Shah Mohmand
Advocate, Peshawar.

AFFIDAVIT

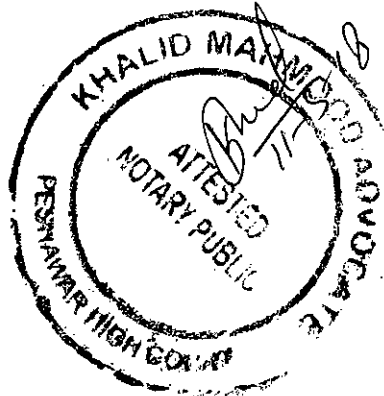
I, Zahid Iqbal Ex Constable No 1377, District Police Bannu, do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Identified by



Fazal Shah Mohmand
Advocate Peshawar.


DEPONENT



BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No _____/2018

Zahid Iqbal.....Appellant

V E R S U S

PPO and Others.....Respondents.

Application for the condonation of delay if any.

Respectfully submitted:-


1. That the accompanying appeal is being filed today in which no date of hearing has been fixed so far.
2. That the grounds of appeal may be considered as integral part of this application.
3. That the impugned order being void abinitio, illegal and time factor becomes irrelevant in such cases, furthermore copy of impugned order was obtained by the appellant on 12-04-2018 and the appeal is as such within time.
4. That the law as well as the dictums of the superior Courts also favors decisions of cases on merit.

It is therefore prayed that on acceptance of this application, the delay if any in filing of appeal may kindly be condoned.

Dated:-07-05-2018


Appellant

Through


**Fazal Shah Mohmand,
Advocate, Peshawar**

AFFIDAVIT

I, Zahid Iqbal Ex Constable No 1377, District Police Bannu, do hereby solemnly affirm and declare on oath that the contents of this **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Identified by


Fazal Shah Mohmand

Advocate Peshawar


DEPONENT



26/5/2010 "A"
4960

7

[Faint handwritten notes, possibly a list of items or names]

Vertebrate Specimens

- 1- F Skull 1621
1717
- 2- F Skull
1712
- 3- Skull
212
- 4- Cy. Skull
1711
- 5- F Skull
1711
- 6- F Skull
1711

D.M.O. HOSPITAL
BANGALURU

ATTESTED

GUL CLINICAL LABORATORY



Opposite Gate No.1 2nd Floor
D.H.Q Hospital Bannu
Phone : 0928-615386

8

Patient's Name : Uwani Age: 23 yr Sex: ♂

Referred by Dr. Dr. M. H. Khan Lab. No. _____ Date 26/5/10

IMMUNOLOGY

TEST	RESULT	TEST	RESULT
WR/Kahn Test		Blood Group (ABO)	
V.D.R.L.		Rheuses Positive / Negative	
Rheumatiod Factor		Rh Genotype	
Casoni Test		Rh Phenotype	
Montoux Test		Widal Test	
Blood for T.B		To	1/80
T-1 IgM		TH	1/40
T-2 IgG			
Blood for Typhodat		AH	1/40
T-1 IgM		BH	1/20
T-2 IgG		H. Pylory	
Blood for Mycodat Test		Brucella ABROTUS	
T.P.H.A. Test		MELITENSIS	
Toxoplasma Test		L.E. Factor / Cell	
Pregnancy Test		L.D. Bodies	
Australia Antigen:(HBs Ag)			
HBE Ag		Anti D.N.A.	
H.C.V			
H.I.V		Blood for Trophonine IC Test	
MALARIAL PARASITE	No MP seen		
A.S.O. Titre (N. upto.....200 iu/l)	✓		

[Signature]
Signature

[Signature]

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55722
26/6/2010
Vertical Hospital

(9)

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Siddons
- Head
- Deputy
- Mr A.
- Mr B.

1. T. Gosh 101
17171

2. T. Blair
171

3. T. Leonard
1713

4. C. ...
1717

5. S. ...
1717

6. T. ...
1717

A. ...
1717

[Handwritten signature]

Mr
Mrs

Mr
Mrs
- F.T.
- T.H.

Medical
D. ...

NO HOSPITAL

ATTESTED

GUL

CLINICAL LABORATORY

Opposite Gate No.1 2nd Floor
D.H.Q Hospital Barnu Phone : 0928-615386



HEMATOLOGY

SPECIMEN : _____

LAB. NO : _____

10

PATIENT NAME: *Abdul Karim*

AGE & SEX : *3*

REF. BY: DR. *Dr. Abdul Karim*

DATE: *26/6/10*

TEST	RESULT	NORMAL	D.I.C
<input type="checkbox"/> HB	<i>12</i> Gm/%	M. 14-----17 F. 12-----15	<input type="checkbox"/> POLYMORPHS <i>66</i> %
<input type="checkbox"/> TLC	<i>9600</i> /mm ³	4000-----10000	<input type="checkbox"/> LYMPHOCYTES <i>32</i> %
<input type="checkbox"/> ESR	mm. After 1st. Hour	M. 0-----10 F. 0-----20	<input type="checkbox"/> MONOCYTES <i>01</i> %
<input type="checkbox"/> PLT	/mm ³	150-----400X10 ³	<input type="checkbox"/> EOSINOPHILS <i>01</i> %
<input type="checkbox"/> RBC	M/mm ³	M. 4.5-----6.0 F. 4.5-----5.5	<input type="checkbox"/> BASOPHILS %
<input type="checkbox"/> PCV	%	M. 40-----54 F.37-----47	<input type="checkbox"/> MYELOBLASTS %
<input type="checkbox"/> MCV	fl.	77-----93	<input type="checkbox"/> PROMYELOCYTES %
<input type="checkbox"/> HCH	Pg	27-----32	<input type="checkbox"/> MYELOCYTES %
<input type="checkbox"/> MCHC	%	31-----35	<input type="checkbox"/> METAMYELOCYTES %
<input type="checkbox"/> RETICS	%	Adults 0.5-----2 Infants 2-----5	<input type="checkbox"/> BAND CELLS %
<input type="checkbox"/> B.T.	MIN.	1-----9	<input type="checkbox"/> NORMOBLASTS NUCLEATEDRBCSs <i>1/100WBC</i>
<input type="checkbox"/> C.T	MIN.	5-----11	RBC MORPHOLOGY
<input type="checkbox"/> Partial Thromboplastine Time	SEC.	30-----45	<input type="checkbox"/> NORMOCYTIC NORMOCHROMIC
<input type="checkbox"/> PROTHROMBIN Time	15 SEC.	11-----15	<input type="checkbox"/> HYPOCHROMIA
<input type="checkbox"/> PROTHROMBIN (Control)	SEC.		<input type="checkbox"/> MICROCYTOSIS
<input type="checkbox"/> MALARIAL PARASITE			<input type="checkbox"/> MACROCYTOSIS
BLOOD GROUP	ABO	RH	<input type="checkbox"/> ANISICYTOSIS
			<input type="checkbox"/> POIKILOCYTOSIS
			<input type="checkbox"/> TARGET CELLS

Comments:

M.S.J
Signature

[Handwritten Signature]

GUL CLINICAL LABORATORY

Opposite Gate No.1 2nd Floor D.H.Q Hospital Bannu
Phone : 0928-615386

11



Name Uwaji No. Age 23 Sex M

Referred by Dr: Dr. H. J. Khan Date 26/6/10

BIOCHEMISTRY

TEST	Units	RESULT	Normal Range
Glucose F	mg/dl	/	76-110
Glucose R	mg/dl	/	110-180
HEPATIC PROFILE			
Billirubin Total	mg/dl	7.8	0-1.0
Billirubin Direct	mg/dl	α	0.0-25
SGPT (ALT)	u/l	800	MO-43 FO-36
SGOT (AST)	u/l	α	MO-37 FO-31
Alkaline Phosphatase	u/l	135	M. 80-306 F. 65-306 Child up to 645
Gamma GT	u/l		M11-50 F7-32
Total Proteins	G/dl		6.6-8.7
Albumin	G/dl		3.8-4.4
Globulin	G/dl		1.8-3.6
A/G Ratio			1.1-2.2
RENAL PROFILE			
Urea	mg/dl		10-50
BUN	mg/dl		5-24
Creatinine	mg/dl		0.6-1.2
Creatinine Clearance	ml/min		70-110
Uric Acid (Urates)	mg/dl		M3.4-7.0 F2.4-5.7
ELECTROLYTES			
Sodium	mEq/l		136-149
Potassium	mEq/l		3.8-5.2
Chloride	mEq/l		98-107
Bicarbonate	mEq/l		25-29
PANCREATIC INJURY			
Amylase	u/l		0.220

TEST	Units	RESULT	Normal Range
CARDIAC ENZYMES			
SGOT (As T)	u/l		MO-37 FO-31
CPK	u/l		M15-130 F15-110
CK MB	u/l		0.25
LDH	u/l		105-315
Aldolase	u/l		2-8
ATHEROGENIC MARKERS			
Total Lipids	mg/dl		500-800
Triglycerides	mg/dl		70-150
Total Cholesterol	mg/dl		100-220
HDL	mg/dl		M35-55 F45-65
LDL	mg/dl		Less than 150
B. Lipoproteins	mg/dl		Less than 550
THYROID PROFILE			
T3	Mcq/dl		0.8-1.6
T4	Mcq/dl		5.0-11.5
TSH	u/l		0.5-40
MISCELLANEOUS			
Calcium	mg/dl		8.1-10.4
Phosphorus	mg/dl		3.0-4.5
Megnesium	mg/dl		1.5-2.0
Lithium	mEq/dl		
Iron	mcg/dl		60-160
TIBC	mcg/dl		240-410
Acid Phosphatase	u/l		4.0-13.5
INR			

Remarks _____

 Signature

GUL CLINICAL LABORATORY



Opposite Gate No.1 2nd Floor
D.H.Q Hospital Bannu
Phone : 0928-615386

12

Patient's Name : میرزا شکیل Age: 23 Sex: ♂

Referred by Dr. Dr. Shaukat Ali Lab. No. _____ Date 26/6/10

IMMUNOLOGY

TEST	RESULT	TEST	RESULT
WR/Kahn Test		Blood Group (ABO)	
V.D.R.L.		Rheuses Positive / Negative	
Rheumatiod Factor		Rh Genotype	
Casoni Test		Rh Phenotype	
Montoux Test		Widal Test	
Blood for T.B		To	480
T-1 IgM		TH	1140
T-2 IgG			
Blood for Typhodat		AH	1140
T-1 IgM		BH	1120
T-2 IgG		H. Pylory	
Blood for Mycodat Test		Brucella ABROTUS	
T.P.H.A. Test		MELITENSIS	
Toxoplasma Test		L.E. Factor / Cell	
Pregnancy Test		L.D. Bodies	
Australia Antigen (HBsAg)			
HBE Ag		Anti D.N.A.	
H.C.V			
H.I.V		Blood for Trophonine IC Test	
MALARIAL PARASITE	No m.p seen		
A.S.O. Titre (N. upto.....200 iu/l)	α		

Signature

NET
Camp
a. Vertig
61434
20171201

(13)

Ch
Gadeh
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1- H Seal 16
1712
2- H Seal
171
3- Galm
171
4- H Seal
171
5- F Heps
171
6- H Seal
171
7- H Seal
171
8- H Seal
171
9- H Seal
171
10- H Seal
171

Medical Superintendent
D.H. [Signature]

[Signature]
171-171
171-171

ATTESTED
[Signature]

GUL

CLINICAL LABORATORY

Opposite Gate No.1 2nd Floor D.H.Q Hospital Bannu
Phone : 0928-615386

14



Name Jalal Khan No. Age 23 Sex M

Referred by Dr: Dr. Sultan Khan Date 24/7/10

BIOCHEMISTRY

TEST	Units	RESULT	Normal Range
Glucose F	mg/dl	/	76-110
Glucose R	mg/dl	/	110-180
HEPATIC PROFILE			
Billirubin Total	mg/dl	4.6	0-1.0
Billirubin Direct	mg/dl	α	0.0-25
SGPT (ALT)	u/l	430	MO-43 FO-36
SGOT (AST)	u/l	α	MO-37 FO-31
Alkaline Phosphatase	u/l	98	M: 80-306 F: 65-306 Child up to 645
Gamma GT	u/l		M11-50 F7-32
Total Proteins	G/dl		6.6-8.7
Albumin	G/dl		3.8-4.4
Globulin	G/dl		1.8-3.6
A/G Ratio			1.1-2.2
RENAL PROFILE			
Urea	mg/dl		10-50
BUN	mg/dl		5-24
Creatinine	mg/dl		0.6-1.2
Creatinine Clearance	ml/min		70-110
Uric Acid (Urates)	mg/dl		M3.4-7.0 F2.4-5.7
ELECTROLYTES			
Sodium	mEq/l		136-149
Potassium	mEq/l		3.8-5.2
Chloride	mEq/l		98-107
Bicarbonate	mEq/l		25-29
PANCREATIC INJURY			
Amylase	u/l		0.220

TEST	Units	RESULT	Normal Range
CARDIAC ENZYMES			
SGOT (As T)	u/l		MO-37 FO-31
CPK	u/l		M15-130 F15-110
CK MB	u/l		0.25
LDH	u/l		105-315
Aldolase	u/l		2-8
ATHEROGENIC MARKERS			
Total Lipids	mg/dl		500-800
Triglycerides	mg/dl		70-150
Total Cholesterol	mg/dl		100-220
HDL	mg/dl		M35-55 F45-65
LDL	mg/dl		Less than 150
B. Lipoproteins	mg/dl		Less than 550
THYROID PROFILE			
T3	Mcq/dl		0.8-1.6
T4	Mcq/dl		5.0-11.5
TSH	u/l		0.5-40
MISCELLANEOUS			
Calcium	mg/dl		8.1-10.4
Phosphorus	mg/dl		3.0-4.5
Megnesium	mg/dl		1.5-2.0
Lithium	mEq/dl		
Iron	mEq/dl		60-160
TIBC	mEq/dl		240-410
Acid Phosphatase	u/l		4.0-13.5
INR			

Remarks _____

Signature
Signature

M.S.
M.S.
M.S.

ذوالاقتبال

67377
25/8/2010
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1- To Gen
17/7/164

2- To Durr
17/1

3- To Park
17/1

M.M.M. S. P. R. R.
17/1

4- S. F. N. R. R.
17/1

A Dept of Health Com
17/1

Medical Officer
D.H.Q. Hospital
Sargodha

M.O.
D.H.Q. HOSPITAL
SARGODHA

ATTESTED

JLD/MA 74060

Veritas 25/9/010

(16)

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 - 2. To [unclear] 141341
 - 3. To [unclear]
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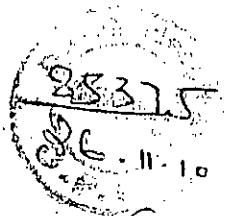
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M.D.
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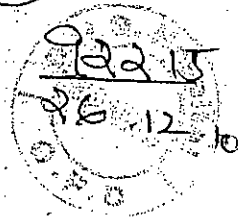
Shingam
 Medical Superintendent
 D.H.O. Teaching Hospital
 Bahawalpur

Resdy for (over)
 Medical Officer
 D.H.O. Teaching Hospital
 Bahawalpur

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Shera Gun
Medical Superintendent
D.H.Q. Teaching Hospital
Bannu

Prof. Ahmad
Medical Officer
D.H.Q. Teaching Hospital
Bannu

ATTESTED

(21)

خدمت حیات DPO صاحب مہنوں

عدوانی درخواست ہم پر دھتک لڑی، عدالت

حیات عالی!

گذر مہنوں کی کئی سی کے مسائل کی طبیعت لڑی، عدالت دھتک لڑی، اسٹار 27

اور پھیلا سے رجوع کرنے پر ڈاکٹر ڈانے مسائل کو انجام کا سگورہ دینے سے اس

کو Bed rest پر رکھا ہے۔ جسکی فولو اپ کی درخواست آ پیرا لف ہے۔

اسلئے مسائل اپنی لڑی کو شش آ بارہ چورائی ڈیوٹی پر حاضر پورے سے عام

ہے۔ لہذا اسٹار 27 کے مسائل کو ہم نے کچھ دنوں کی رحمت عبادت کیوانے

مسائل ایک اسے احسان کیلئے ممنون و مشکور رہے گا

حاضر

ڈاکٹر اقبال حسین

نمبر 1377

پولیس اسٹیشن مہنوں

مہنوں 25-8-2010

(22)

1.9.11
22.15

انجمن صحت
22.15

عہدہ مائبہ! عہدہ مڈیکل کی آپ بڑا بہت خور یا کسی ذمہ دار شخص سے
انکو اپنی کراہی جائے اور عہدہ جو کورہ 7 سوالات جو معنی ہے اور ان
کو 2- کے بعد Point کر دینے سے اسے حوالہ غور کریں۔

عہدہ مڈیکل حکیمانہ شوقاز لوٹس سے پیلے کی ہے اور میں حلقہ کتابوں
کہ معنی ہے شوقاز لوٹس وصول نہیں کیا ہے۔ اعراف ہی وصولی کی نگہانی عہدہ
عرفہ عہدہ نگہانی اور شوقاز کی وصولی کی نگہانی کا حوالہ کر لیں

دوران بیماری سے پیکر آج تک معیے بار یا اپنی بے کتابی اور بحالی کی درخواستوں
رہ معیوں اور اسکی عدالت میں پیشی ہی کر معیوں

DPO صاحب نے 18.12.10 کو معیہ مڈیکل کے آؤٹر کھلا کر کے وقت اسی بات کو
بالکل نظر انداز کر دیا تھا کہ میں مڈیکل کے آؤٹر کے Medical bed سے تھا۔

درخواست + مڈیکل

- 26.5.10
- 26.6.10
- 24.7.10
- 25.9.10
- 25.10.10
- 28.11.10
- 26.12.10

پہلے پورے معیہ 1.9.11 سے 2.2.15 میں مڈیکل پورے معیہ سے
اور 3.2.15 کو معیہ ہسپتال کے سے Fitness certificate دے کر فٹنس قرار
دے دیا گیا۔

ASAD

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"B"

23

ORDER:

My this order will dispose off departmental proceeding initiated against constable Zahid Iqbal No.1377 while posted to Police Line, that he deliberately absented himself from Govt Duty vide DD no. 27 dated 29-05-2010 as reported by MHC Line, Bannu vide DD No. 57 dated 31-05-2010 in order to avoid the training program.

Resultantly he was proceeded departmentally under RSO, 2000 and departmental committee comprising of DSP/HQ and R.I Line was constituted who (Enquiry committee) conducted the enquiry and recommended for major punishment. Finally, show cause notice was served upon him through the local police of PS City. Opportunity of personal hearing was afforded to the defaulter constable but he did not avail the same.

Keeping in view the recommendation of the enquiry committee I, **SAJJAD KHAN**, District Police Officer, Bannu in exercise of the power vested in me under KPK, Removal From Service (Special Power) Ordinance 2000, hereby award him major punishment of dismissal from service from the date of absence with immediate effect..

OB No. 1360
Dated 18/12/2010

District Police Officer,
Bannu

No. / dated Bannu, the

/2010.

Copy to:

1. The SHO PS City for service the order copy upon the delinquent police official under intimation to this office. Also keep a copy on PS record.
2. The OASI along with the enquiry papers.
3. Pay Officer.

اندر

District Police Officer,
Bannu

(Signature)

بخدمت جناب ریجنل پولیس آفیسر صاحب بنوں ریجن بنوں

اپیل دوبارہ بحال کرنے سروس جو کہ DPO صاحب نے
بحوالہ OB1360/18-12-10 ڈسٹس کرنے کا حکم کیا ہے۔

عنوان

۶۷۱

۲۶

جناب عالی!

گزارش ہے کہ سائل 15-07-2009 کا بھرتی شدہ کنشیل ہے۔ جو کہ بحوالہ مد 27 روزنامہ 29-05-2010 کو غیر
حاضر ہوا تھا۔ جس پر انکوائری مقرر ہو کر بعد اختتام انکوائری جناب D P O صاحب نے نے بحوالہ
OB1360/18-12-2010 مورخہ 18-12-2010 کو ڈسٹس کرنے کا حکم صادر فرمایا ہے۔

چونکہ سائل ریکروٹ ہے اور بنیادی ریکروٹ کورس بھی پاس نہیں کیا ہے۔ اور پولیس رولز سے ناواقف ہے۔ اور بیماری کی وجہ سے
غیر حاضر ہوا تھا۔ جس کے میڈیکل کاغذات ہمراہ لف ہے۔

سائل ایک غریب خاندان سے تعلق رکھتا ہے۔ اور سائل کے سوا گھر کا دوسرا سرپرست نہیں ہے۔ جو کہ سائل کی قلیل تنخواہ سے گھر
چولہا جلتا ہے۔

مندرجہ بالا امور کو مد نظر رکھتے ہوئے سائل کو ایک Chance دیکر سروس پر بحال کرنے کا حکم صادر فرمائیں۔
سائل تاحیات دعا گورہیگا۔

مورخہ: 20-01-2011

العارض

EX کنشیل زاہد اقبال نمبر 1377

محلہ رہنواز وکیل بنوں سٹی

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(25)

POLICE DEPTT:

BANNU REGION.

ORDER.

My this order will disposed off the departmental appeal in #/o Ex-Recruit Constable Zahid Iqbal No.1377 of Operation Staff Bannu against the order of DPO/Bannu by virtue of which, he was awarded major punishment of dismissal from service from the date, of absence by DPO/Bannu vide O.B No.1360 dated 18.12.2010 for committing of the following omissions:-

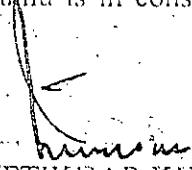
Recruit Constable Zahid Iqbal No.1377 while posted to Police Lines, Bannu that he ~~was~~ deliberately absented himself from Govt duty vide Daily Dairy No.27 dated 29.05.2010 without any leave or proper permission of the competent authority.

Resultantly he was proceeded departmental under RSO, 2000 and departmental Committee comprising of DSP/HQR and RI Police Lines, Bannu was constituted who (Inquiry Committee) conducted the inquiry and recommended for major punishment. Finally show cause notice was served upon him through the local Police of PS, City. Opportunity of personal hearing was afforded to the defaulter constable but he did not avail the same.

The services of the said recruit constable were less then three years and he proved himself as inefficient Police official in the very initial stages of his service, which is crystal clear from the above facts.

The petitioner has filed the present appeal against the order dated 18.12.2010 of DPO/Bannu. Record perused. There is no provision of appeal under Police Rules 12-21 and the view taken by DP/Bannu is in consonance with law/rules. Hence, appeal is rejected.

Order announced.


(IFTIKHAR KHAN)
P.S.P.

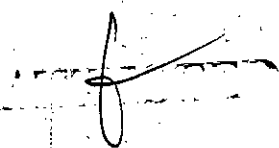
Regional Police Officer,
Bannu Region, Bannu.

No. 143 /EC, dated Bannu, the 28/01/2011.

Copy to District Police Officer, Bannu for information and necessary action.


(IFTIKHAR KHAN)
P.S.P.

Regional Police Officer,
Bannu Region, Bannu.



To: - The Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar

26

Subject:- PETITION UNDER RULE 11(A) OF POLICE RULE 1975
(AMENDED 2014)

Respected Sir,

With due respect and humble submission appellant submits petition for revival and survival of the lost service on the following facts and grounds:-

FACTS:-

1. That appellant was enlisted in Police department as constable and was posted in Police Lines Bannu. Appellant suffered from chronic disease which did not allow appellant to join duties.
2. That petitioner remained under treatment of authorized medical officer of District Headquarters Hospital Bannu and the authorities wrongly marked petitioner as absent from duty. Copies of the relevant treatment documents are enclosed.
3. That the elders of the petitioner always stressed treatment than joining duties but the department took ex-parte action against petitioner. Petitioner was never associated in the departmental proceedings and the entire proceedings were carried out at the back of petitioner.
4. That neither charge sheet nor show cause notice was served on petitioner. The petitioner was completely condemned unheard.
5. That petitioner was dismissed from service vide order bearing OB No. 1360 dated 18.12.2010 of District Police Officer, Bannu and similarly the Regional Police Officer Bannu rejected the departmental appeal of appellant vide order dated 28.01.2011.
6. That presently petitioner is quite fit for job therefore, approach your good office for reinstatement in service on the following grounds.

GROUND:-

- A. That the impugned orders have been passed against the law and rules governing the subject matter. Petitioner was proceeded against departmentally on the charges of absence from duty despite the fact the authorities were in picture that petitioner was suffering from chronic disease. The authorities instead of managing treatment of petitioner issued dismissal from service order of petitioner.
- B. That the order passed by Regional Police Officer Bannu in departmental appeal of petitioner is against the facts and record as the District Police

Officer Bannu had dismissed the petitioner from service on charges of absence from duty while Regional Police Officer Bannu has laid down in the impugned order the no appeal lies against the order passed under Police Rule 12.21 while the order of District Police Officer was not passed under the said rules as petitioner was dismissed from service while according to the said rules if there are no prospects of Police officers of becoming good Police officers during three years of joining service than such Police officers shall be discharged from service. The orders of the District Police Officer Bannu and Regional Police Officer Bannu are contradictory to each other on facts and grounds advanced for doing away with the service of petitioner.

- C. That the impugned orders are outcome of ex-parte proceedings therefore, the orders are not sustainable and worth set-aside.
- D. That petitioner belongs to poor family and spent the hard earned money of parents on his treatment therefore, reinstatement of petitioner for running the own and members of the family life boat.
- E. That the lower authorities did not consider the illness of petitioner. The alleged absence of duty was not deliberate but inevitable.

It is therefore, requested that the impugned order may be aside and petitioners may be reinstated in service with back benefits.

Yours sincerely

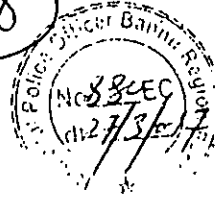


Zahid Iqbal
Ex-constable No. 1377
District Bannu

ATTESTED



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE,
PESHAWAR.



No. SI 1761 /17, dated Peshawar the 16/03/2017.

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 Zahid Iqbal No. 1377. The appellant was awarded punishment of dismissal from Service by DPO, Bannu vide OB No. 1360, dated 18.12.2010, on charges of absence for a period of 06 months and 28 days.

He preferred appeal before the RPO, Bannu which was filed vide order No. 143/EC, dated 28.01.2011. His appeal was also rejected by CPO vide memo: No. 1724/Legal, dated 14.05.2015. No. 31280/E-II, dated 23.02.2013 and order Endst: No. S/7674/16, dated 23.11.2016.

Meeting of Appeal Board was held on 10.03.2017, wherein the appellant was heard in person. On examination of record, it revealed that the impugned order of dismissal from service was passed vide order dated 18.12.2010 and his departmental appeal was rejected vide order dated 28.01.2011 as well as CPO vide Memo: No. 1724/Legal, dated 14.05.2012. His appeal was filed by Appellate Board in CPO vide order Endst: No. S/7674/16, dated 23.11.2016.

There is no concept of successive appeals in disciplinary rules. Therefore, his petition is hereby rejected.

However, the Board decided that penalty of dismissal from service is modified into removal from service in the interest of his suitability for future service in any other department.

This order is issued with approval by the Competent Authority.

(NAJEEB-UR-RAHIMAN)
AIG / Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

No. SI 1762-70 /17-

Copy of above is forwarded for information and necessary action to the:-

1. Regional Police Officer, Bannu Region, Bannu.
2. District Police Officer, Bannu.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PRO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
5. PA to Addl: IGP/HQs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQs: Khyber Pakhtunkhwa, Peshawar.
7. PA to AIG / Legal, CPO.
8. Office Supdt: E-IV, CPO, Peshawar.
9. I/C Central Registry Cell, (CRC), CPO.

Najab
EC
No. 1097 /EC, dt 24/3/17
DPO Bannu
For m.c.
Chamra
RPO Bannu
22/3

b

BEFORE THE PESHAWAR HIGH COURT, BANNU BENCH

Writ Petition No. 685-B/2015

Zahid Iqbal S/o Muhammad Iqbal resident of house No.232/B, BENCH
Mullah Rab Nawaz, Railway road, Bannu city.

PETITIONER

Versus

1. Provincial Police Officer/Inspector General of Police
KPK, Peshawar.
2. D.I.G Bannu Range, Bannu.
3. D.P.O Bannu.

RESPONDANTS

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION
OF ISLAMIC REPUBLIC OF PAKISTAN, 1973 FOR SETTING
ASIDE THE DISMISSAL ORDER DATED 18-12-2015 OF D.P.O
BANNU AND BE BEDECLARED AGAINST LAW VOID,
ARBITRARY, WITHOUT JURISDICTION AND INEFFECTIVE
UPON THE RIGHT OF PETITIONER

PRAYER: -

On acceptance of instant writ petition, the impugned
dismissal order of petitioner from service may very kindly be set
aside and the respondents may very kindly be directed to reinstate
service of petitioner with all its back benefit to meet the ends of
justice.

BRIEF FACTS:-

1. That in the year, 2009, certain posts of police constables were
advertised and I accordingly applied, whereby I was
enlisted as Police constable and number 1377 pertaining to
District Bannu was issued in my name and after that I had
attended the recruitment training for six months and
thereafter I became severe ill due to jaundice disease.

That during the training after six months, when petitioner
became severely ill due to the said disease petitioner
submitted various application as well as verbal requests to

ATTESTED

EXAMINED
Peshawar High Court

Filed To

2.

14 DEC 2015

Additional Registrar

(2)

39

the high-ups of Hangu Training school, but the petitioner was told that during the training there is no such provision to allow you to leave the training for private as well as official medical treatment from the hospital, due to which the petitioner was constrained to discontinue the training and treated himself at DHQ hospital Bannu (Photo copies of prescriptions chit including laboratory results and other documents in respect of treatment of petitioner are annexed as annexure "A", consisting of 36 pages).

3. That the respondent No.3 on the basis of some bald allegations issued show-cause notice dated 26-08-2010, to the petitioner to which the petitioner submitted proper reply. (Photo copies of the show-cause notice is annexure as "B").

4. That without receiving written reply of the petitioner and giving opportunity of personal hearing, by dint of order issued by respondent No, 3 vide his office letter No.1360 dated 18-12-2010, as impugned hereby, straight away the dismissal order was issued (Photo copy of order dated 18.12.2010 is annexure "C").

5. That thereafter the petitioner filed an appeal before the respondent No.2 against the order dated 18.12.2010 of D.P.O Bannu but without hearing and giving any opportunity to the petitioner, the appeal was dismissed with the observation that no appeal lies against dismissal order (Photo copy of the appeal and order dated 28-01-2011 "D" & "E").

6. That being dissatisfied with the orders of respondents No.2 & 3 the petitioner also went in appeal before the Inspector General Khyber Pukhtunkhwa, but the same was also dismissed being un-heard, by repeating the observations of

ATTESTED

BY INSPECTOR
Khyber Pukhtunkhwa
Bannu

3

respondents No.2 & 3. (Photo copies of the appeal and order are annexed herewith as annexure "F" & "G" respectively).

31

7. That while the petitioner was under treatment an inquiry was initiated in which the petitioner was exonerated and was once again recommended for recruitment training at Noshehra Police Station Centre being supervised by the Army personnel and the petitioner was accordingly proceeded for training but during the said period, a show cause notice was issued by the respondent No.3 and was subsequently dismissed by him and thus the recruitment training was left un-attended by the petitioner.

8. That the petitioner feeling aggrieved from impugned discriminatory action contrary to Law and Rules and omission on the part of respondents No.3 dated 18.12.2010 seeking redressing of his grievance before this Honorable Court inter-alia on the following grounds;

GROUNDS

1. That the act and omission on the part of respondents particularly respondent No, 3 while dismissing the petitioner from his service, is against the spirit of principles governing the public/civil service as well as police rules and thereby have caused grave miscarriage of justice.

2. That while dismissing the petitioner from his service, without giving an opportunity of personal hearing to the petitioner, is against the principle of *audi alter partem* and is also violative of Articles 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973:

3. That the petitioner has been discriminated and victimized apparently due to extraneous and political influence and

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ATTESTED

[Handwritten signature]

Secretary, Court
Karachi

without any lawful justification, withholding and ignoring law, rules and good governance by dismissing the petitioner to be an effort not only on the basis of political motivation but to frustrate the rights of the petitioner accredited duly by the constitution, law.

- 4. That the petitioner is duly qualified, nothing to the adversity of the petitioner is available with the respondents to restrain the petitioner from performance of active duty or for that purpose to dismiss the petitioner without any lawful jurisdiction but under political and extraneous influence.
- 5. That the counsel for the petitioner may graciously be allowed to raise additional grounds and records, as the case may be, during the course of arguments, if needed.
- 6. That the petitioner has left with no other officious alternate and speedy remedy except to invoke the constitutional jurisdiction of this Honorable court.

It is therefore, humbly prayed that on acceptance of Writ petition, the impugned dismissal order of the petitioner may very kindly be set aside and the respondents may very kindly be directed to re-instate service of petitioner with all its back benefit to meet the ends of justice.

Dated: 07-12-2015.

Petitioner
Through counsel,

Fakhar Ud Din

Syed Fakhar-Ud-Din Shah,
Adcate Supreme court of
Pakistan, (stationed at Bannu)

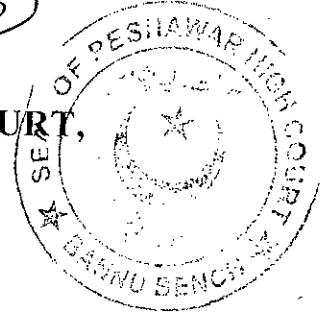
Noor Zada Khan Ahmad
Advocate High court Bannu

NZK

ATHE

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**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
BANNU BENCH**
(Judicial Department)



W.P.No.685-B/2015

JUDGMENT

Date of hearing: 24.4.2017.

Appellant-petitioner Zahid Iqbal by Syed Fakhruddin
Shah and Noor Zada Khan Advocate.

Respondent _____

IJAZ ANWAR, J.- Through this writ petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, petitioner Zahid Iqbal seeks the following prayer:

"It is, therefore, humbly prayed that on acceptance of this writ petition, the impugned dismissal order of the petitioner may very kindly be set aside and the respondents may very kindly be directed to re-instate service of petitioner with all its back benefit to meet the ends of justice."

2. In the year 2009, certain posts of police Constables were advertisement. The petitioner applied

Imran*

[Signature]
Bannu Bench

34

and accordingly he was enlisted as Police Constable.

1377 number of District Bannu was issued to him and

thereafter he attended the recruitment training for six

months but then he became ill due to jaundice disease.

He submitted applications as well as made verbal

requests to the high-ups to exempt the petitioner from

the training on medical ground but they refused,

therefore, he could not continue the training. The

respondent No.3, issued show-cause notice dated

26.8.2010 to the petitioner to which he submitted his

reply but without receiving written reply and giving

opportunity of personal hearing, the respondent No.3,

awarded major punishment of dismissal from service to

the petitioner vide order bearing OB No.1360 dated

18.12.2010. The petitioner filed appeal to respondent

No.2 but the same was dismissed vide order dated

28.01.2011 and thereafter he filed another appeal to

Inspector General, Khyber Pakhtunkhwa and the same

was also dismissed, therefore, he approached this Court

filing the instant writ petition.

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[Handwritten signature]

ATTESTED

Imran

[Handwritten signature]
EXAMINER
Khyber Pakhtunkhwa High Court
Bannu Bench

35

3. Arguments of learned counsel for the petitioner heard in motion and available record perused.

4. The petitioner was removed from service vide order dated 18.12.2010 under Khyber Pakhtunkhwa, Removal From Services (Special Power) Ordinance, 2000. His appeal was also dismissed. He then approached the Department by filing mercy petition. Same was also filed vide letter dated 14.5.2012. This writ petition has been filed after about three (03) years of the rejection of his appeal.

5. Admittedly the petitioner was a civil servant within the meaning of Section 2 of Khyber Pakhtunkhwa Civil Servants Act, 1973. At the relevant time he had the remedy to seek his grievances from the Services Tribunal under Section 10 of the Khyber Pakhtunkhwa, Removal From Services (Special Power) Ordinance, 2000 but he failed to avail the same. The jurisdiction of this Court has been expressly excluded under Article 212 of the Constitution of

Imran/*

ATTESTED

EXAMINER
Peshawar High Court
Dewan Branch

36

Islamic Republic of Pakistan, 1973. Besides, Section 10 of the Khyber Pakhtunkhwa, Removal From Services (Special Power) Ordinance, 2000 was given overriding effect as any order under Section 9 of the said Ordinance can be challenged before the Services Tribunal. This being the case, the writ petition is held not maintainable, therefore, the same is dismissed accordingly.

Announced.
Di: 24.4.2017.

~~sd-~~
Mr. Justice Ishtiaq Ibrahim

Sd/- Mr. Justice Ijaz Anwar

CERTIFIED TO BE TRUE COPY

2/5/17
Examiner

Peshawar High Court Senna Bench
Authorized Under Article 87 of
The Qanun-e-Shahadat Order 1984

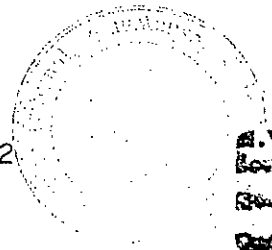
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Date of Presentation of Application 29/4/2017
No of Pages 8
Copying Fee 16
Urgent Fee 1
Total 16
Date of Preparation 02/5/2017
Date Given for Delivery 08/5/17
Date of Delivery of Copy 2/5/17
Received By J. W. J.

37

BEFORE THE SERVICE TRIBUNAL K.P.K., PESHAWAR

Service Appeal No. 1293 /2012



N.W.F. Province
Bannu
No. 1292
Date 03/12/12

Luqman Khan, Ex-Constable No. 1423,
District Police Bannu,
S/o Muhammad Syed Shah
R/o Zamin Kala, Mardan, Bannu.....Appellant

Versus

1. Inspector General of Police K.P.K., Peshawar
2. Deputy Inspector General of Police Regional Police,
Office, Bannu Region Bannu.
3. District Police Officer, Bannu.

.....Respondents

Appeal u/s 4 of NWFP Service Tribunal
Act 1974 against the order of respondent
No. 3 dated 17.09.2012 whereby the
appellant has been dismissed with
immediate effect from his service.

~~Filed in file~~
[Signature]
3/12/12

[Signature]

Prayer in Appeal:

On acceptance of this appeal the order of
dismissal passed by respondent No. 3
dated 17.09.2012 may please be set-
aside and the appellant be reinstated back

[Signature]

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S.No	Date of order proceeding	Order or other proceedings with signature of judge or Magistrate
1	2	3

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

APPEAL NO.1293/2012

(Luqman Khan-vs- Inspector General of Police Khyber Pakhtunkhwa, Peshawar and others).

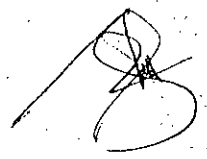
JUDGMENT

ABDUL LATIF, MEMBER:

Counsel for the appellant (Mr. Ghulam Nabi, Advocate) and Mr. Mir Faraz Khan, Inspector (Legal) alongwith Mr. Ziaullah, GP for respondents present.

2. The instant appeal has been filed by the appellant under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act-1974 against the order of respondent No. 3 dated 17.09.2012 whereby the appellant has been dismissed with immediate effect from service. He prayed that on acceptance of this appeal the order of dismissal passed by respondent No. 3 dated 17.09.2012 may please be set aside and the appellant be reinstated back to his service with all his back benefits.

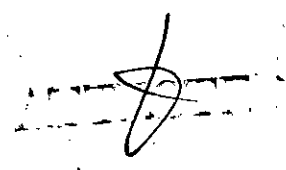
3. Brief facts giving rise to the instant appeal are that the appellant was appointed as Foot Constable in District Police Bannu on 15.07.2009. That the appellant served the respondent-department for 01 year and 03 months and then was selected for recruit course held at




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PTC Hangu. That on 06.10.2010 the appellant went to PTC Hangu for joining the recruit course but the concerned moharrer advised the appellant to bring naqalmaid roznamcha in respect of departure from police line Bannu. That as a result appellant returned back on 07.10.2010 and went to Police Line Bannu for his naqalmaid roznamcha report in respect of departure report, but the line officer was not present on duty, hence the appellant was advised to visit the concerned officer on the next date i.e. 08.10.2010. That the appellant then went to PTC Hangu for joining the recruit course but the Incharge Moharrer refused to accept the appellant arrival and said that the Commandant has stopped further acceptance of the recruit course due to shortage of accommodation. That the appellant after refusal of the Incharge of Moharrer of PTC Hangu returned back to Police Line Bannu for duty but the line Officer at Bannu also refused to accept him on duty. That because of the above said factual position that appellant was given a termination letter dated 14.10.2010 under rule 12.21 of Police Rules. That feeling aggrieved the appellant filed a departmental appeal before the respondent No. 2 which was rejected on 16.11.2010. That the said appeal of the appellant alongwith his other 04 colleagues was duly accepted and he was reinstated back at his service the impugned order dated 14.10.2010 was set-aside and the case was remanded to the department to conduct proper departmental enquiry against the appellant. That the appellant then joined his duty, and he was allotted a new number 1129 and was taken back at his duties on 03.07.2012. That in the meanwhile the appellant then received a fresh charge sheet alongwith the statement of allegation dated 03.07.2012, whereby some vague and baseless allegations were leveled against the appellant, however the appellant duly replied the said statement of allegation





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within the prescribed time. That finally the appellant was handed over a letter of dismissal dated 17.09.2012, whereby he was awarded a major punishment of dismissal from the service and the absence period w.e.f 05.10.2010 to 14.10.2010 was treated as leave without pay. That the appellant filed a departmental appeal before the respondent No. 2 against the above noted dismissal order which was duly dismissed by the said officer on 08.11.2012, hence the present service appeal.

4. The learned counsel for the appellant argued that impugned order of dismissal of the appellant was illegal, unlawful, without authorities/jurisdiction and based on mala fide intentions of the respondents, hence liable to be set aside. He further argued that mala fide intentions of the respondent-department were clear from the fact that two other colleagues of the appellant namely Shah Daisal and Mohibullah who were on the same footings were reinstated by the department whereas the appellant had been refused the same benefit/treatment without any cogent reasons. He further argued that no regular/full-fledged enquiry was conducted to prove the charge inspite of the fact that case was remanded by the Service Tribunal for such enquiry and hence the action of the department by not providing full opportunity of defense to the appellant was not lawful. He further contended that penalty awarded to the appellant was not proportionate to the fault if at all he remained absent for 9 days and the said absence was also not willful but the appellant was compelled to return to the Police Lines to get the naqalmaqad where he was not extended cooperation by the relevant official. He further argued that appellant was condemned unheard as the penalty of dismissal was inflicted on him on the basis of summary proceedings which was not maintainable

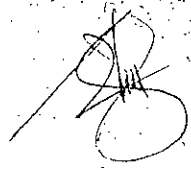
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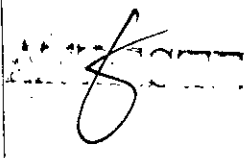
under the law and prayed that on acceptance of this appeal the penalty of dismissal may be set aside and the appellant may be reinstated in service with all back benefits.

5. The learned Government Pleader argued that the appellant was dismissed from service under the Police Rules-1975 on account of willful absence from recruit course. He further argued that *de-novo* enquiry was conducted against the appellant on the directions of the Service Tribunal by observing all codal formalities and the respondents had no malafide against the appellant. He further argued that each and every case had its own merits and cases of Shah Faisal and Mohibullah constable were different from that of the appellant. He added that the appellant was provided full opportunity of defense against the charge which was established through a full-fledged enquiry and orders passed by the authorities were valid and lawful. He prayed that the appeal being devoid of merits may be dismissed.

6. Arguments of learned counsels for the parties heard and record perused with their assistance.

7. From perusal of the record, it transpired that the appellant failed to present himself in the recruit course which led to his discharge from service under Police Rules, 12.21. He agitated his discharge before this Tribunal who vide judgment dated 09.04.2012 reinstated him in service and remanded case to the department for *de-novo* enquiry and providing full opportunity of defense to the appellant against the charges of absence. The appellant was dismissed from service after the *de-novo* enquiry. On perusal of record of the case and perusal of

ATTESTED


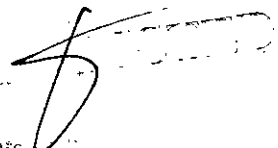


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similar nature cases of constables Shah Faisal and Mohibullah it revealed that on similar charges of absence from recruit course the said officials were proceeded afresh on the directions of this Tribunal and they were awarded minor punishment of withholding of three annual increments without cumulative effect and the intervening period was treated as extra-ordinary leave without pay. From perusal of the record, the Tribunal is of the considered view that appellant remained absent from the recruit course for nine days and that too due to the compelling circumstances as he could not get the requisite naqama from the Police Lines due to non-cooperation from the said quarters. In our view the appellant deserves to be treated alike and should not be treated so harsh. We therefore modifies the impugned order of his dismissal and covert the same into stoppage of three annual increments for a period of one year. The appellant is reinstated in service and intervening period is treated as extra-ordinary leave without pay and the absence of 9 days is also treated as extra-ordinary leave without pay. Parties are left to bear their own cost. File be consigned to the record room.

8. Our this judgment will also dispose of the other connected appeal No. 1294/2014 titled Irfanullah in the same manner as the same question of facts and law are involved.

sd/- Abdul Latif, Member
sd/- Pir Bakhtish Shah, Member



Stamp: *Chief Justice*
Member
Member
Member

ANNOUNCED
 22.03.2016

Date: 05-04-2016
 No: 2400
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 05-04-2016

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Appeal No.637/2018

Zahid Iqbal Ex-Constable, No.1377,

District Police Bannu,

..... Appellant

Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar,
2. The Regional Police Officer, Bannu Region, Bannu.
3. The District Police Officer, Bannu

..... Respondents

PARA WISE COMMENTS/REPLY ON BEHALF OF RESPONDENTS NO.1,2 & 3.

Preliminary Objections

1. That the appeal of the appellant is badly time-barred.
2. That the appeal is not maintainable in its present form.
3. That the appellant has concealed the actual facts from this Honorable Tribunal.
4. That the appeal is bad in law due to mis-joinder and non-joinder of necessary parties.
5. That the appellant has approached the Honourable Tribunal with unclean hands.
6. That the appellant has got no cause of action and locus-standi to file the instant appeal.
7. That the appellant has been estopped by his own conduct.

OBJECTIONS ON FACTS:

Respectfully Sheweth

1. Correct to the extent that the appellant was appointed/ enlisted as constable but rest of the para is incorrect. The appellant was a habitual absentee having a colorful service record did not follow the prescribed rule/ law.
2. Incorrect. The appellant is a habitual absentee did not inform his senior or superior officers about his illness and willingly absented without permission or information and no such like application was received to the Respondents Department.
3. Incorrect. All codal formalities were adopted during inquiry proceedings but he badly failed to associate with the inquiry proceedings and after establishment of charges, he was dismissed from service. (Copy of charge sheet & statement of allegations, inquiry and final show cause notice are annexed as annexure "A", "B", "C" and "D").
4. Pertains to record. Hence, needs no comments.
5. Pertains to record. However, the appellant was proceeded under RSO 2000 which provide only one departmental appeal. Hence, the appeal is badly time barred.
6. The impugned orders issued by high ups are quite legal according to law/ rules. The respondent department also submit their reply on the following grounds.

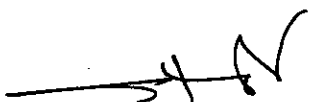
OBJECTIONS ON GROUNDS


- A. The impugned orders issued by high ups are quite legal according to law/ rules.
- B. Incorrect. He was treated according to law and rules and was called time and again to associate with the inquiry proceedings but he did not obey legal order of high ups which shows dis-efficiency on his part..
- C. Incorrect. Proper charge sheet and Show-cause notice was served upon the appellant. Opportunity of personal hearing was afforded to the defaulter constable but he did not avail the same.
- D. Incorrect. Departmental Committee comprising of DSP/HQ and R.I Line was constituted to probe into the allegations who conducted Proper departmental inquiry and on the basis of reality/ circumstances and final outcome of the inquiry committee, recommended the appellant for major punishment of dismissal from service.
- E. Incorrect. All codal formalities of defense and personal hearing were provided and the impugned orders was communicated to him.
- F. Incorrect. Reply has already been given in para "E".
- G. Pertains to record. Hence, needs no comments.
- H. Incorrect. Reply has already been given in Para "C".
- I. Incorrect. The appellant is a habitual absentee did not inform his senior or superior officers about his illness and willingly absented without permission or information.
- J. Incorrect. The appellant was treated according to law/rules and all codal formalities were adopted.
- K. Incorrect. The appellant is a habitual absentee and on the basis of real facts and circumstances of the Inquiry conducted by DSP/HQrs and R.I.Line, recommended him for major punishment.
- L. Incorrect. The impugned orders are quite legal and in accordance with law/rules.
- M. Pertains to record. Hence, needs no comments.


The Respondents department may kindly be allowed to advance any other grounds & material as evidence in the time of arguments.

PRAYER:

In view of the above replies, it is most humbly prayed that the appeal of the appellant may kindly be dismissed with cost please.


District Police Officer,
Bannu
(Respondent No.3)


Regional Police Officer,
Bannu Region, Bannu
(Respondent No.2)


Provincial Police Officer,
Pakhtunkhwa Peshawar
(Respondent No.1)

POLICE DEPTT:

DISTT: BANNU.

ENQUIRY REPORT.

Conducted from 14.6.2010 to 18/8/2010.

On the order of District Police Officer, Bannu.
Reet:

Against/Constable Zahid Iqbal No.1377 on the charges
of misconduct under section 3 of the NWFP Removal from
service (Special Power) Ord:2000.

Enquiry Officer :- MOHAMMAD SHAFIQ KHAN
D.S.P. HQrs; BANNU.

AZMAT ALI KHAN
R.I. POLICE LINES.

NO. 258-Ho

Dated: 19.9 /2010

CONSTITUTION/DESCRIPTION OF THE INCIDENT.

Fact: Constable Zahid Iqbal No.1377 was charge sheeted. He wa deliberately absented himself from the duty vide D.D. No.27 dated 29.5.010 as reported by MHC Lines, Bannu vide DD No.57 dated 31.5.2010 in order to avoid the training programme.

DELIBERATIONS :-

The enquiry was marked to the enquiry committee to probe into the allegations. The said Recruit Constable Zahid-Iqbal No.1377 was summoned time and again but he did not appear before the the enquiry Committee to record his statement. At last he was summoned through his home Police station i.e. P.S.City but he did not receive the copy of the charge and nor appear before the enquiry committee. Statement of Lines Miharar Shafiullah was recorded. He stated the said recruit Constable is still absent with effect from 29.5.2010 to date.

C O N C L U S I O N .

After conducting the enquiry and perusal of the record the enquiry committee reached to the conclusion that the Recruit Constable Zahid Iqbal No.1377 was summoned time and again but he did not appear before the enquiry committee to record his statement and ^{nor} receive the copy of the charge sheet.(statements of Lines Moharer and D.F.C. P.S. City are enclosed for perusal. According to the statement of Lines Moharer, the Recruit Const: is still absent. Therefore he is recommended for exparte acti and for awarding major punishment please.

1. (MOHAMMAD SHAFIQ KHAN)
D.S.P.HQrs; BANNU.

2.(AZMAT ALI KHAN)
R.I.POLICE L

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 637/2018

Zahid IqbalAppellant

V E R S U S

PPO & Others.....Respondents

REPLICATION ON BEHALF OF THE APPELLANT

REPLY TO PRELIMINARY OBJECTIONS.

All the preliminary objections raised by the respondents are incorrect and as such denied. Instant appeal is well within time, the appellant is not estopped by his conduct to file instant appeal and he has got valid cause of action/locus standi. The appellant has come to this honorable Tribunal with clean hands, have concealed nothing from this honorable tribunal and in instant appeal necessary parties have been impleaded.

REPLY TO FACTS/GROUNDS.

Comments of the respondents are full of contradictions and are based on malafide. Respondents have failed to show that the claim of the appellant is incorrect. The comments amount to admissions on part of the respondents, as they have failed to deny the plea of the appellant through cogent and convincing reasoning. Respondents have tried to mislead this honorable tribunal by twisting the facts and misinterpreting the law on the subject. No Charge sheet and show cause notice was ever communicate dot the appellant, which fact is substantiated by the contradictory version of the respondents. Even otherwise the impugned order is void and as such liable to be struck down.

In the circumstances the appellant is denied treatment according to law and rules which is his fundamental right guaranteed in constitution of the land. The impugned orders are

also not speaking orders which are not based on any reasoning. Respondents have failed to substantiate their version and bring anything on record in support of their version; the impugned order is as such liable to be struck down.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Dated:-15-10-2018


Appellant

Through


Fazal Shah Mohmand

Advocate Peshawar

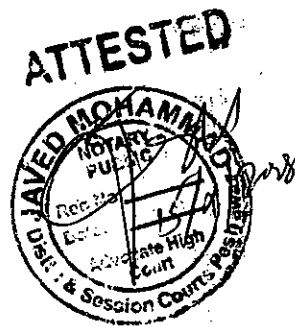
A F F I D A V I T

I, Zahid Iqbal Ex Constable No 1377, District Police Bannu, (The Appellant), do hereby solemnly affirm and declare on oath that the contents of this **Replication** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Identified by


Fazal Shah Mohmand

Advocate Peshawar.




DEPONENT

0172417A



BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 637/2018

Zahid IqbalAppellant

V E R S U S

PPO & Others.....Respondents

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REPLY TO FACTS/GROUNDS.

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It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Dated:-15-10-2018


Appellant

Through


Fazal Shah Mohmand

Advocate Peshawar

A F F I D A V I T

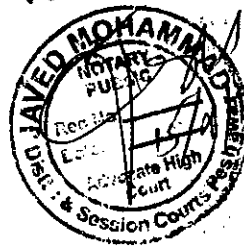
I, Zahid Iqbal Ex Constable No 1377, District Police Bannu, (The Appellant), do hereby solemnly affirm and declare on oath that the contents of this **Replication** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Identified by


Fazal Shah Mohmand

Advocate Peshawar.

ATTESTED




DEPONENT

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No.637/2018

Zahid Iqbal Ex-Constable, No.1377,

District Police Bannu,

..... Appellant

Versus


1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar,
2. Regional Police Officer, Bannu Region, Bannu.
3. District Police Officer, Bannu


..... Respondents

AUTHORITY LETTER.

Mr. Muhammad Farooq Khan, Inspector Legal is hereby authorized to appear before The Service Tribunal Khyber Pakhtunkhwa Peshawar on behalf of the undersigned in the above cited case.

He is authorized to submit and sign all documents pertaining to the present appeal.


District Police Officer,
Bannu
(Respondent No.3)


Regional Police Officer,
Bannu Region, Bannu
(Respondent No.2)


Provincial Police Officer,
Pakhtunkhwa Peshawar
(Respondent No.1)

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

Appeal No.637/2018

Zahid Iqbal Ex-Constable, No.1377,

District Police Bannu,

..... Appellant

Versus

1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar,

2. Regional Police Officer, Bannu Region, Bannu.

3. District Police Officer, Bannu

..... Respondents

AFFIDAVIT

I, **Muhammad Farooq Khan**, Inspector Legal representative for Respondent Nos. 1,2 & 3 do hereby solemnly affirm and declare that the contents of the accompanying comments submitted by me are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Tribunal.


DEPONENT

11101-1483421-1

10

DISCIPLINARY ACTION

I, **SAJJAD KHAN**, District Police Officer, Bannu as competent authority, of the opinion that **Constable Zahid Iqbal No.1377 and Maghfrullah No. 1377** ¹⁵⁹⁸ has rendered himself liable to be proceeded against as he committed the following act/omissions within the meaning of section 3 of the NWFP Removal from Service (Special Powers) Ordinance, 2000.


STATEMENT OF ALLEGATIONS.

- That they deliberately absented themselves vide DD No. 27 dated 29-05-2010 as reported by MHC Lines, Bannu vide DD No. 57 dated 31-05-2010 in order to avoid the training program.
- That they have ceased to become a good Police Officer.

For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations **Mr. Dyl Hk / R I, Bannu** is appointed as enquiry Officer under section 5 of the Ordinance.

The Enquiry Officer shall, in accordance with the provision of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make within thirty days of the receipt of this order, recommendations as to punishments or other appropriate action against the accused.

The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the enquiry committee.


District Police Officer,
S Bannu.
10/6/2010

No. 242 / dated Bannu, the 14 / 06/2010.


A Copy of the above is forwarded to the:-

1. The Enquiry Officer for initiating proceedings against the accused under the provision of the NWFP, Removal from Service (S.P) Ordinance, 2000.
2. The concerned Officer with the directions to appear before the Enquiry Officer, on the date, time and place fixed by the Enquiry Officer, for the purposes of the enquiry proceeding.

CHARGE SHEET.

I, **SAJJAD KHAN**, District Police Office, Bannu, as competent authority, hereby charge you **Constable Zahid Iqbal No.1377 and Maghfrullah No. 1598** for the allegations, stated in the attached statements of allegation.

- i. By reasoning of the above, you appear to be guilty of misconduct under section-3 of the NWFP (Removal from Service) Special Powers Ordinance, 2000, and have rendered yourself liable to all or any of the penalties specified in section-3 of Ordinance ibid.
- ii. You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.
- III. Your written defense, if any should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case exparte action shall follow against you.
- IV. Intimate whether you desire to be heard in person
- V. A statement of allegations is enclosed.


**District Police Officer,
Bannu.**
10/6/2010

DISCIPLINARY ACTION

I, SAJJAD KHAN, District Police Officer, Bannu as competent authority, of the opinion that **Constable Zahid Iqbal No.1377 and Maghfrullah No. 1377** ¹⁵⁹⁸ has rendered himself liable to be proceeded against as he committed the following act/omissions within the meaning of section 3 of the NWFP Removal from Service (Special Powers) Ordinance, 2000.

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- That they have ceased to become a good Police Officer.

For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations **Mr. DSP Huz / Ali**, Bannu is appointed as enquiry Officer under section 5 of the Ordinance.

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The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the enquiry committee.


District Police Officer,
Bannu.
10/6/2010

No. 242 / dated Bannu, the 14 / 06/2010.

A Copy of the above is forwarded to the:-

1. The Enquiry Officer for initiating proceedings against the accused under the provision of the NWFP, Removal from Service (S.P) Ordinance, 2000.-
2. The concerned Officer with the directions to appear before the Enquiry Officer, on the date, time and place fixed by the Enquiry Officer, for the purposes of the enquiry proceeding.

CHARGE SHEET.

I, **SAJJAD KHAN**, District Police Office, Bannu, as competent authority, hereby charge you **Constable Zahid Iqbal No.1377 and Maghfrullah No. 1598** for the allegations, stated in the attached statements of allegation.


i. By reasoning of the above, you appear to be guilty of misconduct under section-3 of the NWFP (Removal from Service) Special Powers Ordinance, 2000, and have rendered yourself liable to all or any of the penalties specified in section-3 of Ordinance ibid.

ii. You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.

III. Your written defense, if any should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case exparte action shall follow against you.

IV. Intimate whether you desire to be heard in person

V. A statement of allegations is enclosed.


District Police Officer,
Bannu.
10/6/2010

District Police Officer, Bannu as competent authority, under the North-West Frontier Province Removal from Service (Special Powers) Ordinance, 2000, do hereby serve you **Recruit Constable Zahid Iqbal No. 1377** as follows:

3

1. On going through the findings and recommendations of the Inquiry Officer, the material on record and other connected papers including your defense before the said Officer.

I am satisfied that you have committed the following acts/omissions specified in section 3 of the said Ordinance.

- That he deliberately absented himself vide DD No. 27 dated 29-05-2010 as reported by MHC Lines, Bannu vide DD No. 57 dated 31-05-2010 in order to avoid the training program. Thus he ceased to become a good Police Officer.

2. As a result thereof, I, as competent authority have tentatively decided to impose upon you the penalty of punishment under section 3 of the Ordinance.

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you.

4. If no reply to this notice is received within seven days of its deliver, in the normal course of circumstance, it shall be presumed that you have no defense to put in and in that case an exparte action shall be taken against you.

5. The copy of the findings of the Inquiry Officer is enclosed.

District Police Officer,
Bannu.
26/8/2010

اگر اساتذہ 1377 ڈیڑھ لیسال اور اس کے
232 اس

D.F.C

منہ

اگر اساتذہ نے خود کوئی لیسال اور اس کے

المنہ اساتذہ

منہ

منہ اساتذہ

D.F.C

11/11/2010

11/11/10

FINAL SHOW NOTICE:

I, **SAJJAD KHAN**, District Police Officer, Bannu as competent authority, under the North-West Frontier Province Removal from Service (Special Powers) Ordinance, 2000, do hereby serve you **Recruit Constable Zahid Iqbal No. 1377** as follows:

1. On going through the findings and recommendations of the Inquiry Officer, the material on record and other connected papers including your defense before the said Officer.

I am satisfied that you have committed the following acts/omissions specified in section 3 of the said Ordinance.

- That he deliberately absented himself vide DD No. 27 dated 29-05-2010 as reported by MHC Lines, Bannu vide DD No. 57 dated 31-05-2010 in order to avoid the training program. Thus he ceased to become a good Police Officer.

2. As a result thereof, I, as competent authority have tentatively decided to impose upon you the penalty of punishment under section 3 of the Ordinance.

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you.

4. If no reply to this notice is received within seven days of its deliver, in the normal course of circumstance, it shall be presumed that you have no defense to put in and in that case an exparte action shall be taken against you.

5. The copy of the findings of the Inquiry Officer is enclosed.

*Received today
on 10-11-2010*

*Anwar Ali
Shah - 514*

J.P.
District Police Officer,
Bannu.
26/8/2010

POLICE DEPTT:

DISTT: BANNU.

ENQUIRY REPORT.

Conducted from 14.6.2010 to 18/8/2010.

On the order of District Police Officer, Bannu.

Rect:

Against/Constable Zahid Iqbal No. 1377 on the charges
of misconduct under section 3 of the NWFP Removal from
service (Special Power) Ord: 2000.

Enquiry Officer :-

MOHAMMAD SHAFIQ KHAN
D.S.P. HQrs; BANNU.

AZMAT ALI KHAN

R.I. POLICE LINES.

NO. 258-Ho /

Dated. 19.9 / 2010.

CONSTITUTION/DESCRIPTION OF THE INCIDENT.

Rect: Constable Zahid Iqbal No.1377 was charge sheeted. He wa deliberately absented himself from the duty vide D.D. No.27 dated 29.5.010 as reported by MHC Lines, Bannu vide DD No.57 dated 31.5.2010 in order to avoid the training programme.

DELIBERATIONS :-

The enquiry was marked to the enquiry committee to probe into the allegations. The said Recruit Constable Zahid-Iqbal No.1377 was summoned time and again but he did not appear before the the enquiry Committee to record his statement. At last he was summoned through his home Police station i.e. P.S.City but he did not receive the copy of the charge and nor appear before the enquiry committee. Statement of Lines Miharar Shafiullah was recorded. He stated the said recruit Constable is still absent with effect from 29.5.2010 to date.

C O N C L U S I O N .

After conducting the enquiry and perusal of the record the enquiry committee reached to the conclusion that the Recruit Constable Zahid Iqbal No.1377 was summoned time and again but he did not appear before the enquiry committee to record his statement and ^{nor} receive the copy of the charge sheet.(statements of Lines Moharer and D.F.C. P.S. City are enclosed for perusal) According to the statement of Lines Moharer, the Recruit Const: is still absent. Therefore he is recommended for exparte action and for awarding major punishment please.

1. (MOHAMMAD SHAFIQ KHAN)
D.S.P.HQrs; BANNU

2. (AZMAT ALI KHAN)
R.I.POLICE LINES.

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 637/2018

Zahid IqbalAppellant

V E R S U S

PPO & Others.....Respondents

REPLICATION ON BEHALF OF THE APPELLANT

REPLY TO PRELIMINARY OBJECTIONS.

All the preliminary objections raised by the respondents are incorrect and as such denied. Instant appeal is well within time, the appellant is not estopped by his conduct to file instant appeal and he has got valid cause of action/locus standi. The appellant has come to this honorable Tribunal with clean hands, have concealed nothing from this honorable tribunal and in instant appeal necessary parties have been impleaded.

REPLY TO FACTS/GROUNDS.

Comments of the respondents are full of contradictions and are based on malafide. Respondents have failed to show that the claim of the appellant is incorrect. The comments amount to admissions on part of the respondents, as they have failed to deny the plea of the appellant through cogent and convincing reasoning. Respondents have tried to mislead this honorable tribunal by twisting the facts and misinterpreting the law on the subject. No Charge sheet and show cause notice was ever communicate dot the appellant, which fact is substantiated by the contradictory version of the respondents. Even otherwise the impugned order is void and as such liable to be struck down.

In the circumstances the appellant is denied treatment according to law and rules which is his fundamental right guaranteed in constitution of the land. The impugned orders are

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 637/2018

Zahid IqbalAppellant

V E R S U S

PPO & Others.....Respondents

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REPLY TO FACTS/GROUNDS.

Comments of the respondents are full of contradictions and are based on malafide. Respondents have failed to show that the claim of the appellant is incorrect. The comments amount to admissions on part of the respondents, as they have failed to deny the plea of the appellant through cogent and convincing reasoning. Respondents have tried to mislead this honorable tribunal by twisting the facts and misinterpreting the law on the subject. No Charge sheet and show cause notice was ever communicate dot the appellant, which fact is substantiated by the contradictory version of the respondents. Even otherwise the impugned order is void and as such liable to be struck down.

In the circumstances the appellant is denied treatment according to law and rules which is his fundamental right guaranteed in constitution of the land. The impugned orders are

also not speaking orders which are not based on any reasoning. Respondents have failed to substantiate their version and bring anything on record in support of their version; the impugned order is as such liable to be struck down.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Dated:-15-10-2018


Appellant

Through



Fazal Shah Mohmand

Advocate Peshawar

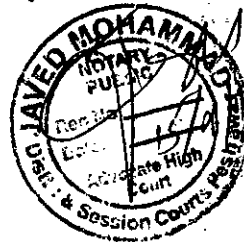
A F F I D A V I T

I, Zahid Iqbal Ex Constable No 1377, District Police Bannu, (The Appellant), do hereby solemnly affirm and declare on oath that the contents of this **Replication** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Identified by


Fazal Shah Mohmand
Advocate Peshawar.

ATTESTED




DEPONENT