

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST

CASE TITLE: *Wahed Ahmad* vs *J. G. K. P. Police etc*

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: <i>Mehboob Ali Khan Dageni</i>	✓	
2	Whether Counsel/Appellant/Respondent/Deponents have signed the requisite documents? <i>Kan</i>	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly pagged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	x	✓
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	x	✓
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On _____		
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____		
26	Whether copies of comments/reply/rejoinder submitted? On _____		
27	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: *Mehboob Ali Khan Dageni*
Advocate H.C.

Signature: *[Signature]*

Dated: *9/5/22*

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 667 /2022

Waheed Ahmad

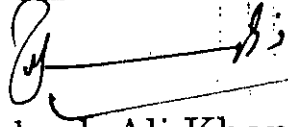
VERSUS

Inspector General of Police KPK Peshawar & Others

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APPELLANT

Through 

Mehboob Ali Khan Dagai
Advocate, High Court
Peshawar.

Dated: 09/05/2022

①

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. _____/2022

Waheed Ahmad S/o Jangrez Khan Ex-Constable No.
156 R/o Mohallah Par Moli Manki Tehsil Lahore,
District Swabi.

Appellant

VERSUS

1. Inspector General of Police KPK Peshawar.
2. Regional Police Officer Mardan
3. District Police Officer Swabi

Respondents

APPEAL U/S-4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL
ACT 1974 AGAINST THE ORDER
NO.4709-14/PA, DATED 16-11-2021,
WHEREBY THE APPELLANT WAS
AWARDED MAJOR PUNISHMENT OF
DISMISSAL FROM SERVICE AND ALSO
THE ORDER OF THE APPELLATE
AUTHORITY ON THE DEPARTMENTAL
APPEAL VIDE ENDORSEMENT NO.
2771/ES DATED MARDAN THE
05.04.2022.

PRAYER:-

ON ACCEPTANCE OF THIS APPEAL THE
IMPUGNED ORDERS NO. 4709/PA,
DATED 16/11/2021 AND ALSO ORDER OF
APPELLATE AUTHORITY ON THE
DEPARTMENTAL APPEAL VIDE ORDER
NO. 2771/ES DATED MARDAN THE
05.04.2022 MAY KINDLY BE SET ASIDE
AND THE APPELLANT MAY KINDLY BE
REINSTATED IN SERVICE WITH ALL
BACK BENEFITS.
ANY OTHER REMEDY WHICH THIS
AUGUST TRIBUNAL DEEMS FIT MAY
ALSO BE GRANTED IN FAVOUR OF
APPELLANT.

Respectfully Sheweth.

1. That the Appellant was appointed as Constable on 29.06.2012 with respondent department.
2. That the appellant performed his duty regularly and with full devotion and no complaint whatsoever was made against the appellant.
3. That the father of the appellant ~~of the~~ was seriously ailing on the faithful dates, and on each and every date he was taking to different hospitals and doctors for diagnoses etc but to no avail.
4. That the health of the father of the appellant gradually had become too much week and despite of request of the appellant for so many times to the

concerned authority, he was not left on leave.

5. That since there was no other male person during those days in the house of the appellant, so due to serious illness of father of the appellant, the appellant was constrained not to go on his duty and to look after his father.
6. That no show cause notice or statement of allegation or any other information with regard to inquiry proceedings against the appellant were received to the appellant.
7. That no formal inquiry was conducted against the appellant and the appellant was proceeded Ex-parte and awarded major punishment of dismissal from service, referred to above. **(Copy of dismissal order is attached as annexure "A").**
8. That against the impugned order the appellant submitted departmental appeal on 16.11.2021 which was rejected vide order 2771/ES dated Mardan 05.04.2022. **(Copy of departmental appeal & rejection order are attached as annexure "B & C").**
9. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following grounds inter alia:-

13
GROUND:-

A. That the impugned order dated 16/11/2021 is void ~~is~~ ab-initio.

B. That the impugned order dated 16.11.2021 has been passed without fulfilling codal formalities. Reliance is placed on 2007 SCMR Page 834.

C. That no charge sheet and statement of allegations were issued or served upon the appellant, which is a clear cut violation of Rule-6 (A) (B) of police Rules-1975.

D. That the impugned order is also void because no regular or departmental inquiry was conducted against the appellant which is mandatory before imposing the major penalty and no opportunity of personal hearing and defense was provided to the appellant. Reliance is placed on a judgment reported on 2003 PLC (CS) Page 365 and 2021 PLC (CS) page 235 as well as judgment of this Tribunal in service appeal No. 1181/2018 decided on 17.09.2021.

E. That it is a well settled principle of law that no one could be condemned unheard, which

(5)

is against the natural justice of law.
Reliance is placed on 2008 SCMR page:678.

F. That no opportunity of cross examination has been provided to the appellant. In this respect the appellant relied upon a judgment reported on 2016 SCMR Page 108.

G. That the absence of the appellant was not intentional but due the serious illness of his father.

H. That under the law on the subject no dismissal ~~or~~ removal from service, in such like cases, can be awarded and that the punishment awarded to appellant is too much harsh which is liable to be set aside.

I. That since his dismissal, the appellant is jobless and that this service is the only source of livelihood of the appellant and his large family including his decrepit, ailing and octogenarian parents.

J. That since the period from Saturday i.e 01.05.2022 till Sunday i.e 08.05.2022 was declared as holidays for Eid-ul-Fittar, therefore, on 1st opening date, i.e on

09.05.2022, the instant appeal was filed by the appellant.

K. That any other ground not raised here may graciously be allowed to be raised at the time of full arguments.

It is therefore, most humbly prayed that on acceptance of this appeal the impugned orders No. 4709/PA, Dated 16/11/2021 and also order of appellate Authority on the Departmental Appeal vide order No. 2771/ES dated Mardan the 05.04.2022 may kindly be set aside and the appellant may kindly be reinstated in service with all back benefits.

Through *Mehboob*
APPELLANT
dis
Mehboob Ali Khan Dagai
Advocate, High Court
Peshawar.

Dated: 30/04/2022

NOTE:-

No such like appeal is either pending or decided earlier, as per instruction of my client.

[Signature]
Advocate.

(7)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. _____/2022

Waheed Ahmad

VERSUS

Inspector General of Police KPK Peshawar & Others

AFFIDAVIT

I, Waheed Ahmad S/o Jangrez Khan Ex-Constable No. 156 R/o Mohallah Par Moli Manki Tehsil Lahore, District Swabi, do hereby solemnly affirm and declare that all the contents of the **instant appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.

Waheed
DEPONENT

IDENTIFIED BY:

Mehboob Ali Khan Dagai
Mehboob Ali Khan Dagai
Advocate High Court
Peshawar.

H. W.
9/5/2022

(8)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. _____/2022

Waheed Ahmad

VERSUS

Inspector General of Police KPK Peshawar & Others

ADDRESSES OF PARTIES

PETITIONER.


Waheed Ahmad S/o Jangrez Khan Ex-Constable
No. 156 R/o Mohallah Par Moli Manki Tehsil
Lahore, District Swabi.

ADDRESSES OF RESPONDENTS

1. Inspector General of Police KPK Peshawar.
2. Regional Police Officer Mardan
3. District Police Officer Swabi

Through

APPELLANT's


Mehboob Ali Khan Dagai
Advocate, High Court
Peshawar.

Dated: 09/05/2022

Annexure - A

ORDER

This Order will dispose of the departmental enquiry against Constable Waheed No.1156, who while posted to Police Lines Swabi, willfully absented himself from duty w/e 11.08.2021 to 23.08.2021 and 06.10.2021 till date without any leave or prior permission of the authority. He was issued with charge sheet alongwith summary of allegations and Mr. Saad ul Amin DSP H.Qrs Swabi was appointed as Enquiry Officer. The enquiry officer conducted proper departmental enquiry, recorded statements of all concerned, collected evidence and submitted his findings, wherein the enquiry officer recommended the defaulter Constable Waheed No.1156 for ex parte proceedings for the mis-conduct.

The undersigned has gone through the enquiry papers and findings of the enquiry officer and by agreeing with the recommendations of the enquiry officer issued Final Show Cause Notice to defaulter. The Final Show Cause Notice were sent to SHO PS Lahor for service upon him, consequently Final Show Cause Notice was handed over to his relative namely Jehanzeb for service upon him on 09.11.2021. He was clearly directed vide Para No.05 of the Final Show Cause Notice to submit his reply within seven days of the receipt of the Notice, otherwise ex parte action will be taken against him, however he did not bother to submit his reply nor appear for personal hearing even after lapse of 08 days which shows his dis-interest in Police service and has nothing to offer in his defence hence ex-parte action.

Therefore, I, Muhammad Shoaib Khan, PSP, District Police Officer, Swabi, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules 197, hereby award Constable Waheed No.1156, Major Punishment of dismissal from service with immediate effect. He will not be entitle for payment of any salary for the period of his absence on the principle no work no pay

(MUHAMMAD SHOAIB KHAN) PSP
DISTRICT POLICE OFFICER, SWABI

Certified to be true copy,

O B No. 1117

Dated 16/11/2021.

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI
No. 4207-14/PA, dated Swabi, the 16/11/2021.

Copies to the:-

1. DSP Lahor with the directions to recover the government property i.e Arms ammunition, Bullet proof Jacket if any.
2. DSP H.Qrs Swabi.
3. Establishment Clerk.
4. Fauji Missal Clerk.
5. Pay Officer, Swabi
6. Official concerned.

ATTESTED

District Police Officer, Swabi

[Handwritten signatures and initials]

Amman - B

بخدمت جناب - APO صاحب مردون
 معنون در اصل برفیق حکیم غزنی 1117 مورخ 16/11/2011
 جناب صاحب - ڈی ای او صاحب مردون

جناب - 15/11/2011

گزشتہ درجہ کے من سامنے و جناب - DPO صاحب مردون نے
 بحوالہ درجہ 10 کے حکیم غزنی کی خدمت سے درخواست کرنے کا حکم صادر فرمایا ہے
 من سامنے نے ضلع غزنی کا الزام لیا ہے۔ سامنے کی وجہ سے
 تعینات کیا گیا۔ اور حسب اجازت رخصت کر کے علاقہ لہور جو اس دوران
 من سامنے کے والد صاحب ہیں۔ اور اس کے علاوہ معالجہ جاری تھا۔ مگر اس دوران
 ان کی طبیعت اچانک بد ہوئی۔ اور ان کو ہسپتال لے جایا گیا اور سامنے نے
 حکیم غزنی کی دیکھ بھال اور فریاد موجود ہے۔ اور من سامنے کا رشتہ صاحب
 جناب در رخصت کر کے غزنی لے گیا۔ سامنے کے والد کے علاج معالجہ سے
 سب سے بہتر ہو گیا ہے۔ اور اس دوران اور خدمت میں بھی سب سے بہتر ہو گیا
 ہے۔ اس دوران من سامنے کو غزنی حاضر کر لیا گیا۔ اور حسب سامنے کے والد
 کی طبیعت اچانک بد ہوئی تو سامنے نے غزنی کے حکیم غزنی کی دیکھ بھال
 سامنے کو غزنی سے سرفارما لیا ہے۔

Attested
 [Signature]

15/11/2011
 حکیم غزنی کی دیکھ بھال اور فریاد ہے۔ اور من سامنے کے والد
 کی طبیعت اچانک بد ہوئی۔ اور ان کو ہسپتال لے جایا گیا اور سامنے نے
 حکیم غزنی کی دیکھ بھال اور فریاد موجود ہے۔ اور من سامنے کا رشتہ صاحب
 جناب در رخصت کر کے غزنی لے گیا۔ سامنے کے والد کے علاج معالجہ سے
 سب سے بہتر ہو گیا ہے۔ اور اس دوران اور خدمت میں بھی سب سے بہتر ہو گیا
 ہے۔ اس دوران من سامنے کو غزنی حاضر کر لیا گیا۔ اور حسب سامنے کے والد
 کی طبیعت اچانک بد ہوئی تو سامنے نے غزنی کے حکیم غزنی کی دیکھ بھال
 سامنے کو غزنی سے سرفارما لیا ہے۔

15/11/2011

16/11/2011

ORDER.

Amnukure - 604
11

This order will dispose-off the departmental appeal preferred by Ex-Constable Waheed No. 1156 of Swabi District against the order of District Police Officer, Swabi, whereby he was awarded major punishment of dismissal from service vide OB: No. 1117 dated 16.11.2021 by the District Police Officer, Swabi. The appellant was proceeded against departmentally on the allegations that he while posted at Police Lines, Swabi, absented himself from his lawful duty without any leave/permission of the competent authority with effect from 11.08.2021 to 23.08.2021 and from 06.10.2021 till date of his dismissal.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and Deputy Superintendent of Police, Headquarters, Swabi was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings wherein he reported that the defaulter Officer was contacted time and again to appear before the enquiry Officer, but he failed and remained absent, which showed that he was no more interested in Police Service. He recommended the delinquent Officer for ex-parte action.

He was issued Final Show Cause Notice but despite lapse of specified time he did not bother either to submit the reply or assume the duty.

Therefore, after perusal of enquiry papers and recommendations of the enquiry Officers the delinquent Officer was awarded major punishment of dismissal from service by the District Police Officer, Swabi vide his office OB: No. 1117 dated 16.11.2021

Feeling aggrieved from the order of District Police Officer, Swabi, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 15.03.2022.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. As the appellant has bitterly failed to produce any cogent reason to justify his absence. Hence, the absence period i.e 53 days of the appellant clearly depicts the casual and lethargic attitude towards his official duties as the very conduct of appellant is unbecoming of a disciplined Police Officer. Hence, order passed by the competent authority does not warrant any interference.

Keeping in view the above, I, Yaseen Farooq, PSP Regional Police Officer, Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.




[Signature]
Regional Police Officer,
Mardan.

No. 2771 /IES, Dated Mardan the 05/04 /2022.

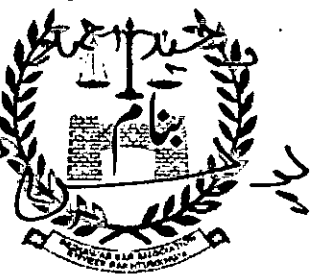
Copy forwarded to District Police Officer, Swabi for information and necessary action w/r to his office Memo: No. 03/Insp: Legal dated 14.01.2022. His Service Record is returned herewith.

(*****)

Attested
[Signature]
A. Mardan

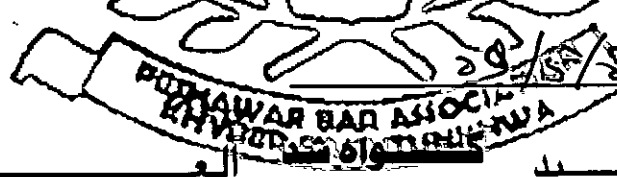
تبدیل 50 روپے	123098	  
ایڈویکیٹ: <u>ڈاکٹر احمد</u>	بار کونسل / ایسوسی ایشن نمبر: <u>2623-09-09</u>	
رابطہ نمبر: <u>03005908467</u>		پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعد ازاں جناب: محترم جج سید سید علی حسین خاں

منجانب: <u>وحید احمد ایڈووکیٹ</u>	دعویٰ: <u>Services Appeal</u>
	علت نمبر: _____
	موضوع: _____
	جرم: _____
	تھانہ: _____
باعث تحریر آنکہ	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ / مقام
 آن مقام پشاور میں محترم جج سید علی حسین خاں کی ڈی سی کی کوویل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز ذیل صاحب کو
 راضی نامہ کرے گا اور فیصلہ بر حلف دینے جواب دہی دعویٰ اقبال دعویٰ اور درخواست از جرم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل انگریزی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کارروائی کے واسطے اور وکیل یا مختار کو نوبت کو اپنے ہمراہ لے جائے گا۔ مقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی عملہ مذکورہ بالا اختیار حاصل ہوں گے اور ان کا سزاخستہ پر داخلہ منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانبہ ہوگا اسے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دولہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

الرقوم: 2623/09/09



مقام پشاور Accepted
Advocate
 کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

Before the Hon'ble Chairman Services Tribunal
vs J.G. Pooe etc.



Waqar Ahmad vs J.G. Pooe etc.
Application for extension of
time for payment of security.

Appd No. 65/22.

R/Sherah:

1. That the Appd Service Appeal
is pending before this Hon'ble
Tribunal for 22/7/22.

2. That due to various reasons
of security in be made within specified
time.

It is prayer tendered.
Payment may be extended.
The time for such

through:
Appellant/Respondent
M. Khan (Appd)
vs J.G. Pooe etc.

24/5/22

Put up to the meeting
change in appeal

24/5/22

24/5/22

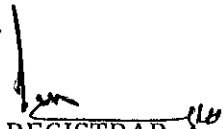

24/5/22

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 667/2022 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/05/2022	<p>The appeal of Mr. Waheed Ahmad presented today by Mr. Mehboob Ali Khan Dagai 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</p>
2-	12/5/22	<p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on <u>13/5/22</u> Notices be issued to appellant and his counsel for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>

13.05 2022

Learned counsel for the appellant present and heard.

Learned counsel for the appellant submits that the appellant is aggrieved of the order No. 4709/PA dated 16.11.2021, by way of which the appellant was awarded major punishment of dismissal from service. Against which, he filed departmental representation on the same date, which was decided on 05.04.2022 vide order bearing endorsement No. 2771/SE. He filed this appeal on 09.05.2022 and stated that he could not file this appeal within 30 days because of Eid holidays.

The appeal is admitted to regular hearing subject to all just and legal objections by the other side. The appellant is directed to deposit security and process fee within 10 days, thereafter notices be issued to the respondents for submission of reply/comments. To come up for reply/comments before the S.B on 20.07.2022.

Rg 400/0
Appellant Deposited
Security & Process Fee
26/5/22

(Kalim Arshad Khan)
Chairman