KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

CASE TITLE: Waheed Ahmad V/S I.G. K.P. Police etc

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: Mehboob Ali Khan Dagai Adv.	✓	
2	Whether Counsel/Appellant/Respondent/Deponents have signed the requisite documents?	✓	
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 paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	×	✓
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?	×	✓
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 Dagai
Advocate H.C.

Signature:

Dated: 9/5/2025

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:-

GROUNDS:-

A. That the impugned order dated 16/11/2021 is void 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

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.

Waheed.

APPELLANT

Through

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.

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
Advocate High Court
Peshawar.

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

APPELLANT

Through

Mehboob Ali Khan Dagai
Advocate, High Court
Peshawar.

Dated: 09/05/2022

(9)

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.f 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. Noor 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 1975, 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. 1112

Dated 16/11/2021.

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.

No. 9205-14/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

Annexure - "B"

بخدمت جناب RPO صاحب مردان

معنون: اپیل برخلاف حکم نمبری 1117 مورخہ 16/11/2021

جاریہ جناب ڈی پی او صاحب صوابی

جناب عالی!

گزارش ہے کہ من سائل کو جناب DPO صاحب صوابی نے بحوالہ درج بالا حکم نمبری ملازمت سے برخاست کرنے کا حکم صادر فرمایا ہے۔ من سائل کے خلاف غیر حاضری کا الزام عائد تھا۔ سائل پولیس لائن میں تعینات تھا۔ اور حسب اجازت رخصت پر گھر چلا گیا تھا۔ جو اس دوران من سائل کا والد جو کہ بیمار تھا۔ اور اس کا سلسلہ علاج جاری تھا۔ مگر اسی روز اس کی طبیعت زیادہ بگڑ گئی۔ اور انکو ہسپتال لے جانا پڑا۔ اور سائل کے گھر میں کوئی دیگر ذمہ دار فرد موجود نہ تھا۔ اور من سائل کا انکے ساتھ جانا اور دیکھ بھال کرنا ضروری تھا۔ سائل اپنے والد کے سلسلہ علاج کے ساتھ ساتھ ذہنی تناؤ اور ڈیوٹی پر حاضری میں مشکلات سے دوچار تھا۔ جس کی وجہ سے من سائل ہر وقت اپنی حاضری کی اطلاع نہ دے سکا کیونکہ طبیعت کچھ بہتر نہ تھی۔ اور جب سائل کے والد کی صحت کچھ بہتر ہوئی تو سائل نے حاضری کی تو معلوم ہوا کہ سائل کو ملازمت سے برخاست کیا گیا ہے۔

جناب عالی سائل کی غیر حاضری بدنیتی پر مبنی نہیں۔ اور نہ ہی سائل دیدہ دانستہ غیر حاضر ہوا تھا۔ بلکہ یہ امر مجبوری عدم حاضر ہوا۔ سائل کے گھر میں کوئی دوسرا ذمہ دار فرد نہ ہے۔ اور من سائل کے بال بچوں اور والدین کا واحد کفیل اور سہارا ہوں۔

لہٰذا استدعا ہے کہ درخواست ہذا منظور فرما کر حکم صادر فرمایا جائے کہ سائل کو ملازمت پر بحال کرنے کا حکم صادر فرمائیں۔ سائل عمر بھر دعا گو رہے گا۔

العارض

سائل محمد صدیق احمد سابقہ کنسٹیبل نمبر 1156 ولد ... ساکن ... صوابی

16/11/021

Attested

0300-51...

Annexure-C (11)

ORDER.

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.

Attested. Advocate.

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.

Regional Police Officer,
Mardan.

No. 2771 **/ES, 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.

(*****)

12

قیمت 50 روپے

123098

ایڈوکیٹ: [illegible]

بارکونسل/ایسوسی ایشن نمبر: be-09-2623

رابطہ نمبر: 03005908467

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سروس ٹریبونل پشاور

منجانب: وحید احمد ایڈووکیٹ

دعویٰ: Services Appeal

علت نمبر: [illegible]

مورخہ: [illegible]

جرم: [illegible]

تھانہ: [illegible]

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام پشاور کے لیے محمد عثمان ایڈووکیٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہرجانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہٰذا وکالت نامہ لکھ دیا تا کہ سند رہے

المرقوم: 29/5/22

PESHAWAR BAR ASSOCIATION
ADVOCATE

العبد — العبد

مقام پشاور — کے لیے منظور ہے۔

Accepted

Advocate

Waheed

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

Before the Hon'ble Chairman Services Tribunal
K.P. Peshawar.

Waheed Ahmad — vs — I.G. Police etc.

Appeal No. 667/22. Application for extention of time for payment of Security.

R/Sheweth:

1. That the captioned service Appeal is pending before this Hon'ble Tribunal for 20/7/22.
2. That due to serious illness of petitioner/Appellant, the payment of Security in the captioned Appeal could not be made within specified time.

It is prayed that time for Security payment may be extended.

Petitioner/Appellant

Through: (Waheed Ahmad)
Shaukat Ali Khan Yaqubi,
Advocate H.C, Peshawar.

Dated:- 24/5/22.

Put up to the worthy chairman alongwith appeal.
24/5/2022

Allowed
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	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. REGISTRAR
2-	13/5/22	This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on 13/5/22 Notices be issued to appellant and his counsel for the date fixed. CHAIRMAN

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.

Rs 500/-
Appellant Deposited
Security & Process Fee
26/5/22

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.

(Kalim Arshad Khan)
Chairman