

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1965/2021

Date of Institution ... 19.01.2021

Date of Decision ... 18.01.2022

Saeed Iqbal, Ex-Constable No. 772, Police Station Gumbat Kohat.

... (Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others.

... (Respondents)

Taimur Ali Khan,
Advocate

... For Appellant

Muhammad Riaz Khan Paindakheil,
Assistant Advocate General

... For respondents

AHMAD SULTAN TAREEN
ATIQU-UR-REHMAN WAZIR

...
...

CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):-

Brief facts of the

case are that the appellant while serving as Constable in Police Department was proceeded against on the charges of absence from duty and was ultimately dismissed from service vide order dated 15-09-2020. Feeling aggrieved, the appellant filed departmental appeal dated 07-10-2020, which was rejected vide order dated 24-12-2020, hence the instant service appeal with prayers that the impugned orders dated 15-09-2020 and 24-12-2020 may be set aside and the appellant may be re-instated in service with all back benefits.

02. Learned counsel for the appellant has contended that the impugned orders are against law, facts and norms of natural justice, therefore not tenable and laible to be set aside; that inquiry proceedings were not conducted in

accordance with the prescribed procedure as the appellant was not provided proper chance of defense as neither any statement of witnesses were recorded in presence of the appellant nor any chance of cross-examination of the witnesses was afforded to the appellant, which is clear violation of law, rules and inquiry proceedings; that in reply to the charge sheet, the appellant has submitted his medical prescription that the appellant met an accident and was severely injured but such stance of the appellant was not taken into consideration; that absence period of the appellant has already been treated as leave without pay, therefore there remains no ground to panelize the appellant for absence; that the appellant requested for proper medical board to be constituted to examine the appellant, which however was not constituted and the appellant was condemned unheard; that the appellant was borne on the strength of Karak Police and was serving on loan basis in Kohat police, hence against taken against him by Kohat police was taken by incompetent authority, as such, the whole proceedings against the appellant is void ab initio and the impugned order is illegal and void, therefore liable to be set aside; that no show cause notice was served upon the appellant before imposition of major penalty, which is against norms of natural justice and fair play; that the penalty of dismissal from service is harsh, which does not commensurate with guilt of the appellant, therefore the same is not sustainable in the eye of law and liable to be set aside; that absence of the appellant was not intentional but due to his severe injuries, which made him unable to resume his duty; that the appellant has been condemned unheard and has not been treated in accordance with law.

03. Learned Assistant Advocate General for the respondents has contended that the appellant willfully absented himself from lawful duty on different occasions; that lastly, the appellant while posted in Kohat willfully absented himself on 16-02-2020 for a period of 12 days without permission of the competent authority; that on the same charges, the appellant was proceeded

departmentally, where the appellant produced medical prescription and took plea of his injuries, but his medical prescriptions were found fake; that the appellant was associated with proceedings of the inquiry and was afforded appropriate opportunity of defense, but the appellant failed to prove his innocence; that the charges leveled against him proved beyond any doubt, hence was awarded with major punishment of dismissal from service.

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

05. Record reveals that the appellant was proceeded against on absence of 12 days. The appellant met an accident and after recovery from the injuries, the appellant resumed his duty. The appellant was served with charge sheet/statement of allegation, to which he responded and presented medical prescription in respect of his treatment. The inquiry officer in his report has taken into consideration medical prescriptions, but were termed as fake and opined that in case, he was injured due to accident, he was required to inform the authorities well in time, hence his absence amounts to misconduct, which deserve to be awarded with major punishment. It is a well-settled legal proposition that leave on medical grounds even without permission of the competent authority does not constitute gross misconduct entailing major penalty of dismissal from service. Reliance is placed on 2008 SCMR 214. The inquiry officer was supposed to take a lenient view, instead he recommended him for major punishment, which appears to be harsh. Competent authority had jurisdiction to award any of the punishments mentioned in law to the government employee but for the purpose of safe administration of justice such punishment should be awarded which commensurate with the magnitude of the guilt, Otherwise the law dealing with the subject would lose its efficacy. Reliance is placed on 2006 SCMR 1120

06. The impugned order would suggest that the appellant was proceeded against on the ground of absence for the mentioned period, however the

authority has treated the mentioned period as leave without pay, as such the very ground, on the basis of which the appellant was proceeded against, has vanished away. Wisdom in this respect derived from the judgment of the august supreme court of Pakistan, reported as 2006 SCMR 434 and 2012 TD (Services) 348. We have observed that the appellant has not been treated in accordance with law, as no final showcause notice was served upon him, thus deprived him of the opportunity to prove his innocence. The disciplinary proceedings were also conducted in absence of the appellant and the appellant was not associated with proceedings of the inquiry, thus the respondents skipped a mandatory step prescribed in law.

07. We are of the considered opinion that absence of the appellant was neither willful not so long but due to his injuries and stance of the appellant was considered to some extent by the inquiry officer, despite he was recommended for major penalty, which to our opinion appears to be harsh. The appellant was not treated in accordance with law and was condemned unheard.

08. In view of the situation, we are inclined to partially accept the appeal. The appellant is re-instated in service by converting the major penalty of his dismissal into minor penalty of stoppage of an increment. The intervening period is treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

18.01.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN



(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

ORDER

18.01.2022


Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakheil, Assistant Advocate General for respondent present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, we are inclined to partially accept the appeal. The appellant is re-instated in service by converting the major penalty of his dismissal into minor penalty of stoppage of an increment. The intervening period is treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

18.01.2022

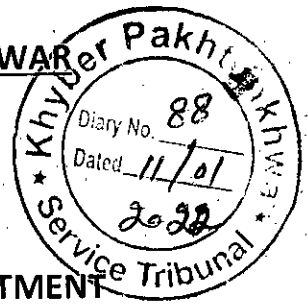

(AHMAD SULTAN TAREEN)
CHAIRMAN


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

06/01/22

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 1965/2021



Put up to the worthy chair-man
with relevant appals.

SAEED IQBAL

VS

POLICE DEPARTMENT

11/11/2022

APPLICATION FOR EARLY HEARING IN THE ABOVE TITLE APPEAL

Fix in next week
14/11/2022

R/SHEWETH:

- 1- That the above mentioned service appeal is pending adjudication before this august Tribunal which is fixed for today for arguments, due to strike the same has been adjourned to 21.04.2021.
- 2- That the appellant filed the above mentioned appeal against his dismissal order from service.
- 3- That the appellant has no any other source of income and still jobless due to dismissal from service, and his financial position is hard and unbearable.
- 4- That the principal of natural justice demands that such like matter should be heard as earlier as possible to the ends of justice.

It is therefore, most humbly prayed that on acceptance of this application the appeal of the appellant may very kindly be fixed and heard on an earlier date.

Dated: 11.01.2022.

Saeed
APPELLANT

THROUGH:

TAIMUR ALI KHAN
ADVOCATE

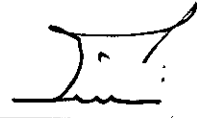
12.11.2021

Mr. Taimur Ali Khan, Advocate for the appellant present. Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments before the D.B on 06.01.2022.



(Atiq Ur Rehman Wazir)
Member (E)

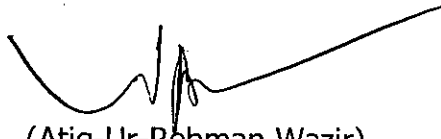


(Salah-ud-Din)
Member (J)

06.01.2022

Learned counsel for the appellant present. Mr. Kabirulah Khattak, Additional Advocate General for respondents present.

Due to paucity of time, arguments could not be heard. Adjourned. To come up for arguments before the D.B on 21.04.2022.



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



Chairman

26.03.2021

Counsel for the appellant present. Preliminary arguments heard. Record perused.

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notice be issued to respondents. To come up for reply/comments on 28/06/2021 before S.B.

Appellant Deposited
Security & Process Fee

28/3/21

(Rozina Rehman)
Member (J)

28.06.2021

Counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Arif Saleem Stenographer for respondents present.

Representative of respondents submitted reply which is placed on file. To come up for rejoinder, if any, and arguments on 12.11.2021 before D.B.

(Rozina Rehman)
Member(J)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 1965 /2021


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/01/2021	<p>The appeal of Mr. Saeed Iqbal resubmitted today by Mr. Taimur Ali Khan 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;"><i>[Signature]</i> REGISTRAR 29/1/2021</p>
2-	<p>26.03.2021</p> <p style="text-align: center;">P</p>	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>26/03/21</u> appellant present Preliminary</p> <p>order on record of the</p> <p>to be considered <i>[Signature]</i> Instant</p> <p>order of the Bench for the hearing</p> <p>of the Bench for the hearing</p> <p>to be issued by the Bench</p> <p>reply/comment on <u>26/3/2021</u> before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> Member</p>

The appeal of Mr. Saeed Iqbal Ex-Constable No. 772 Police Station Gumbat Kohat received today i.e. on 19/01/2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal are illegible which may be replaced by legible/better one.
- 2- Appeal has not been flagged/marked annexures' marks.
- 3- Annexures of the appeal may be attested.
- 4- Memo of appeal may be got signed by the appellant.
- 5- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 136 /S.T,

Dt. 20/01 /2021



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Taimur Ali Khan Adv. Pesh.

Respected Sir,

- 1- Removed
- 2- Removed
- 3- Removed
- 4- Removed
- 5- Removed

Resubmitted after compliance


29/01/2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE, TRIBUNAL
PESHAWAR.

APPEAL NO. _____/2021

Saeed Iqbal

V/S

Police Deptt:

INDEX

S.no.	Documents	Annexure	Page
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02.	Copies of medical reports	A	05-10
03.	Copies of charge sheet along with statements of allegations and reply to charge sheet	B,C&D	11-13
04.	Copy of inquiry report	E	14
05.	Copies of dismissal order dated 15.09.2020, departmental appeal and rejection order	F,G&H	15-18
06.	Wakalat Nama	-----	19

APPELLANT

THROUGH:


TAIMUR ALI KHAN
(ADVOCATE HIGH COURT)


ASAD MAHMOOD
(ADVOCATE HIGH COURT)

Room No. Fr-8, 4th Floor,
Bilour Plaza, Peshawar Cantt:
Contact No. 03339390916

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPEAL NO. 1965/2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1263

Dated 19-1-2021

Saeed Iqbal, Ex-Constable No.772,
Police Station Gumbat, Kohat.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Kohat Region Kohat.
- ✓ 3. The District Police Officer, Kohat.
4. The District Police Officer, Karak.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 15.09.2020, WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE AND AGAINST THE ORDER DATED 24.12.2020, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

Filed to-day

Registrar

19/1/2021 PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 15.09.2020 AND 24.12.2020 MAY KINDLY BE SET ASIDE AND THE RESPONDENTS MAY BE DIRECTED TO REINSTATE THE APPELLANT INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

Re-submitted to-day
and filed.

Registrar
19/1/2021

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was appointed in as Constable in the year 2009 at Home District Karak and was transferred to District Kohat on loan basis and since his appointment the appellant has performed his duty with great devotion and honesty whatsoever assigned to him and no complaint has been filed by his superiors regarding his performance.
2. That while serving in the said capacity the appellant was posted in Police Station Gumbat and detailed for duty in Chorlukki Cross Nakabandi and visited home with the proper permission of superiors and on returning to duty, the appellant met with accident due to which he was severe injured and rushed to different doctors for his treatment and due to that reason the appellant was compel to remain absent from his duty. The appellant has informed his superior of the concerned police station about the accident. **(Copies of medical reports are attached as Annexure-A)**
3. That on regaining health, the appellant resumed his duty on 08.06.2020 and while performing duty, charge sheet along with the statement of allegations were issued to the appellant on 08.07.2020 on the basis of that absence after performing duty for about one month. Which was duly replied by the appellant in which he mentioned that he was not willfully remain absent from duty, but due to the accident he was severe injured and was compel to remain absent from performing his duty and requested that his absence period may kindly be considered on medical leave. **(Copies of charge sheet, statement of allegations and reply to charge sheet are attached as Annexure-B,C&D)**
4. That inquiry was conducted against the appellant in which no proper opportunity of defence was provided to the appellant as neither statements were recorded in the presence of the appellant nor gave him opportunity of cross examination, but despite that the inquiry officer recommended major punishment for the appellant. It is pertinent to mentioned here that the inquiry officer mentioned in his report that the appellant has submitted medical report of his illness which was sent for verification and found fake and bogus, but in such like situation proper Medical Board should be arranged by the department for medical examination of the appellant to know the authenticity of the illness of the appellant. **(Copy of inquiry report is attached as Annexure-E)**
5. That the respondent No.3 passed an order dated 15.09.2020, whereby the appellant has dismissed from service after performing duty for more than 03 months after regaining health without observing the illness and reply to charge sheet of the appellant and the absence

period of the appellant was treated as leave without pay. The appellant filed departmental appeal on 07.10.2020 which was also rejected on 24.12.2020 for no good grounds. **(Copies of dismissal order dated 15.09.2020, departmental appeal and rejection order are attached s Annexure-F,G&H)**

6. That now the appellant come to this august Tribunal on the following grounds amongst others.

GROUNDS:

- A) That the impugned orders dated 15.09.2020 and 24.12.2020 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That the inquiry proceeding was not conducted according to the prescribed procedure as the appellant was not provided proper chance of defence as neither any statement of witnesses was recorded in the presence of appellant nor any chance of cross examine of the witnesses was provided to the appellant, which is clear violation of law, rules and inquiry proceeding.
- C) That in the reply of charge sheet, the appellant clearly mentioned that he has met with the accident and was severe injured due to which he was compel to remain absent from duty and his absence period may kindly be treated on medical leave, but without observing the illness of the appellant, he was dismissed from service.
- D) That the absence period of the appellant has already been treated as leave without pay, therefore, there remain no ground to penalize the appellant on that absence.
- E) That in the inquiry report, the inquiry officer mentioned that the medical report submitted by the appellant has sent for verification was found fake and bogus, but in such like situation proper Medical Board should be arranged by the department for medical examination of the appellant to know the authenticity of the illness of the appellant, but no such arrangement has been made by the department and only rely the report MS of the concerned Hospital, which is against the norms of justice and fair play.
- F) That the appellant was on the strength of the District, Karak Police and on loan basis at Kohat and the competent authority for the appellant is District Police Kark and not the District Police Officer Kohat and if the official of District Kohat wanted to take some action against the appellant on his absence, the respondent No.3 should properly informed respondent No.4 for taking that action, which shows that action has against the appellant by incompetent authority and as such the whole action against the appellant is void ab initio and

as such the impugned order is illegal and void, therefore liable to be set aside on this ground only.

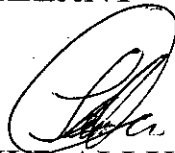
- G) That no show cause notice was issued to the appellant before passing the impugned order, which is against the norms of justice and fair play.
- H) That the penalty of dismissal from service is very harsh which is passed in violation of law and law, therefore, the same is not sustainable in the eyes of law and liable to be set aside.
- I) That the appellant did not intentionally absent from his duties, but he was ill due to which he was unable to perform his duty and was compel to remain absent from his duty. Therefore, needs to be treated with a lenient view.
- J) That the appellant has been condemned unheard and has not been treated according to law and rules.
- K) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.



APPELLANT

THROUGH:



**TAIMUR ALI KHAN
(ADVOCATE HIGH COURT)**

&



**ASAD MAHMOOD
(ADVOCATE HIGH COURT)**

DHO HOSPITAL KARAK
OF T. P. O. KARAK

(6)

lewnak

926

Name Saeed Iqbal

Father's/Husband's Name

M

Monthly OPD Serial No.

Provincial Diagnosis:

Date

Clinical Findings/Investigations/Treatment

8/3/20

→ HOF

Lt Shoulder Dislocate

Wrist

2 1/2" brace in place.

Restriated movements

(2)

Dr

M. Iqbal

08/03/20

7

Book No:

Received from

With letter No.

the sum of Rupees

in cash on account of

by cheque

in

Receipt No.

Dated

Saeed Gabriel 'U

9/3/20

Lt-Shoulder

3207

Payment of Accountant Treasurer

Signature

Designation.

Sex. Male

Rs.

150

[Signature]

Routine 99

Monthly OPD Serial No.

Provincial Diagnosis:

Date

Clinical Findings/Investions/Treatment/Test Findings

09/03/2020

Lower limb pain

Tail Distal

... ..

... ..

... ..

... ..

... ..

Dr. Rizwan Ahmad
Chief Surgeon (Ortho) Govt

8

DHC HOSPITAL KARAK

DHS 0201

Sent To:

OUT DOOR PATIENT TICKET

District: _____ CRP NO: 6051

Facility Name: _____

Name: Jatir Age: _____ Sex _____

Father's/Husbands' Name: _____

Monthly OPD Serial No. _____

Provincial Diagnosis: _____

Date

Clinical Findings/Investations/Treatment/Test Findings

17/3
2

[Handwritten notes in the clinical findings section, including "Nervous system", "Diagnosis", and other illegible text.]

[Handwritten signatures and notes in the bottom left corner.]

Dr. Rizwan
Chief Surgeon DHC Karak

9

DHO HOSPITAL KARAK

OUT DOOR PATIENT TICKET

District

CPB No.

Facility Name

Name:

Jalpa

Age:

30

Sex

Male

Father's/Husbands' Name:

?

Monthly OPD Serial No. _____

Provincial Diagnosis: _____

Date

Clinical Findings/Investions/Treatment/Test Findings

*6 DS
20*

*Ligature
Dissection*

*Severe laceration
of surface
Tub 4.5x1.5 cm
Tub 1.5x1
Tub 1.5x1
Tub 1.5x1
Tub 1.5x1
Tub 1.5x1
Tub 1.5x1
Tub 1.5x1*

[Handwritten signature]

Dr Rizwan Ahmad
[Signature]



2798-99/PA

B (11) No. 3694
10.7.2020
Office of the
District Police Officer,
Kohat

Dated 08-7-2020

CHARGE SHEET

I, **MR. JAVED IQBAL, DISTRICT POLICE OFFICER, KOHAT,**
as competent authority under Khyber Pakhtunkhwa Police Rules
(amendments 2014) 1975, am of the opinion that you **Constable Saeed Iqbal**
No. 872 rendered yourself liable to be proceeded against, as you have omitted
the following act/omissions within the meaning of Rule 3 of the Police Rules
1975.

- i. ***You Constable Saeed Iqbal No. 872, while posted at PS
Gumbat has absented yourself from official duty vide
DD No. 19 dated 16.02.2020 and reported arrival vide
DD No. 07 dated 08.06.2020 (absence period 112 days)
without any leave or permission from the competent
authority.***

2. By reasons of the above, you appear to be guilty of
misconduct under Rule 3 of the Rules ibid and have rendered yourself liable to
all or any of the penalties specified in the Rule 4 of the Rules ibid.

3. You are, therefore, required to submit your written
statement within 07days of the receipt of this Charge Sheet to the enquiry
officer.

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 ex-parte action shall be taken against you.

4. A statement of allegation is enclosed.

ATTESTED

**DISTRICT POLICE OFFICER,
KOHAT**

26/7



No. 2798-89/PA

Office of the
District Police Officer,
Kohat

Dated 08-7-2020

DISCIPLINARY ACTION

I, **MR. JAVED IQBAL, DISTRICT POLICE OFFICER, KOHAT** as competent authority, am of the opinion that you **Constable Saeed Iqbal No. 872** have rendered yourself liable to be proceeded against departmentally under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) as you have committed the following acts/omissions.

STATEMENT OF ALLEGATIONS

- i. *You Constable Saeed Iqbal No. 872, while posted at PS Gumbat has absented yourself from official duty vide DD No. 19 dated 16.02.2020 and reported arrival vide DD No. 07 dated 08.06.2020 (absence period 112 days) without any leave or permission from the competent authority.*

2. For the purpose of scrutinizing the conduct of said accused with reference to the above allegations *SOPD/city, Kohat* is appointed as enquiry officer. The enquiry officer shall in accordance with provision of the Police Rule-1975, provide reasonable opportunity of hearing to the accused official, record his findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.

The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.

ATTENDED

**DISTRICT POLICE OFFICER,
KOHAT 6/7.**

No. 2798-89/PA, dated 08-7-2020.

Copy of above to:-

1. *SOPD/city, Kohat* :- The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Rule-1975.
2. The **Accused official**:- with the directions to appear before the Enquiry Officer, on the date, time and place fixed by him, for the purpose of enquiry proceedings.

بجایہ چارہ شیشہ 99-9798 مورفہ جولائی 2020
بجایہ 150 کوٹھاکٹ مورفہ مورفہ

سائنس حقیقت کو سمجھنا ہے۔ کہ سری ڈیوٹی جو اس کے اس
نشانہ کے پرستی۔ سائنس ایک ضروری کام ہے جس
سے "شبابی" لہجہ کو حاصل کیا۔ مورفہ 162 والیس پر
اساتے میں "سائنس" کے لہجہ کو حاصل کیا۔ مورفہ 162 والیس پر
شمالی "سائنس" کے لہجہ کو حاصل کیا۔ مورفہ 162 والیس پر
بجایہ شیشہ شیشہ

قبل از یہ سائنس کوئی محمد حافی شیشہ
رنگارنگ صاف صاف ہے۔

حقیقت کو سمجھنا ہے۔ کہ سری ڈیوٹی جو اس کے اس
نشانہ کے پرستی۔ سائنس ایک ضروری کام ہے جس
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اساتے میں "سائنس" کے لہجہ کو حاصل کیا۔ مورفہ 162 والیس پر
شمالی "سائنس" کے لہجہ کو حاصل کیا۔ مورفہ 162 والیس پر
بجایہ شیشہ شیشہ

سید اقبال 772 نشانہ کتب

7/20 137

للہ

ATTACHED

(22) E (14)

FINDING

DEPARTMENTAL ENQUIRY AGAINST CONSTABLE SAEED IQBAL NO. 872

This departmental enquiry has been initiated against the above named defaulter Constable while posted at PS Gumbat Kohat. On the allegation that he was absented himself from official duty without any leave or prior permission from the competent authority vide DD No. 19 dated 16.02.2020 and reported arrival vide DD No. 07 dated 08.06.2020 (total absence period 112 days).

On the basis of the above allegation, he was issued charge Sheet with summary of allegation by W.DPO Kohat vide office Endst: No. 2798-99/PA dated 08.07.2020. The undersigned was appointed as enquiry officer to conduct departmental enquiry against him.

During the course of enquiry defaulter Constable Saeed Iqbal and IHC Dildar No. 973 Moharrir of Police Station Gumbat were summoned heard in person and recorded their statements which are enclosed with enquiry file.

The above named defaulter Constable stated that he absented himself from duty due to he was ill and produced medical leave certificates for advised rest (the period of absence) granted by Dr. Rizwan Ahmed Chief Surgeon DHQ Hospital Karak.

The Medical Certificate has been sent to the Medical superintendent DHQ Hospital Karak for verification which it revealed that fake and bogus vide his letter No. 1601/ADMN DHQ Hospital Karak dated 23.07.2020 attached herewith.

IHC Dildar Moharrar of PS Gumbat stated that Constable Saeed Iqbal No. 872 has absented himself from official duty without any leave/prior permission w.e.f 16.02.2020 to 08.06.2020 (Total 112 days).

Keeping in view the above circumstances and from the enquiry so far conducted it is, established that Constable Saeed Iqbal No. 872 has absented himself from duty intentionally/deliberately w.e.f 16.02.2020 to 08.06.2020 (total 112 days). Moreover, he prepared Medical leave certificates for the period of absence is found fake and (bogus.) Therefore, it is recommended that he may be awarded Major punishment.

Submitted please.

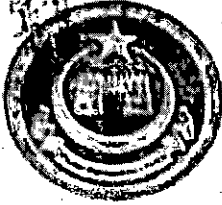
ATTESTED

Bashir Dad

(BASHIR DAD)

SUB-DIVISIONAL POLICE OFFICER,
CITY CIRCLE KOHAT

No. 334 /City Dated 28/07/2020



24
E 15

OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT

ORDER

This order will dispose of departmental enquiry against Constable Saeed Iqbal No. 72 of this district Police under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

Brief facts of the case are that Constable Saeed Iqbal No. 72 while posted at PS Gumbat has absented himself from official duty vide DD No. 19 dated 16.02.2020 and reported arrival vide DD No. 07 dated 08.06.2020 (*absence period 112 days*) without any leave or permission from the competent authority.

For the above, serious / professional misconduct of the accused official, charge sheet alongwith statement of allegations was served upon the accused official. DSP City Kohat was appointed as enquiry officer to scrutinize the conduct of accused official. During enquiry the accused official found guilty of the charges.

The accused official was heard in person in Orderly Room held on 10.09.2020. He was afforded opportunity of defense but he failed to submit any plausible explanation.

In view of above and available record, the undersigned reached to the conclusion that the defaulter constable is willfully absented from duty for 112 days. Therefore, in exercise of powers conferred upon me under the rules ibid I, Javed Iqbal, District Police Officer, Kohat award him a major punishment of Dismissal from service with immediate effect. The unauthorized leave may be treated as leave without pay. Kit etc issued to him be collected and report.


DISTRICT POLICE OFFICER,
KOHAT 11/9

OB No. 636 ✓


Date 15-9-2020 ✓

No 4554-56 PA dated Kohat the 16-9-2019

CC:-

R.I. Reader, Pay officer, SRC and OHC for necessary action.

15.09.2020 ✓


APPROVED

To

The Regional Police Officer
Kohat region, Kohat.

G (16)

Subject **DEPARTMENTAL APPEAL AGAINST THE ORDER NO. 636 DATED 15/09/2020 PASSED BY THE DISTRICT POLICE OFFICER KOHAT VIDE WHICH APPELLANT WAS DISMISSED FROM SERVICE**

Respected Sir,

Facts.

1. That appellant was recruited as constable in the year 2009 at home District, Karak. The appellant was transferred to District Kohat on loan basis.
2. That appellant while posted in Police Station Gumbat and detailed for duty at Chorlukki Cross Nakabandi and visited home village with proper permission of the senior and on 14/02/2020, the appellant while on way back to duty point for resuming duties sustained injuries in road accident.
3. That appellant conveyed message to the senior to this effect who advised proper treatment and told not to bother above the duty.
4. That on regaining health, the appellant resumed duties on 08/06/2020 vide reported vide reported recorded in the Daily Diary Serial No. 07 of Police Station Gumbat.
5. That appellant was performing duties and later on departmental proceedings were initiated against the appellant.
6. That appellant submitted reply in response to the charge sheet that the appellant was not absent but the injuries caused in road accident did not allow the appellant to resume duties.
7. That disciplinary proceedings initiated against the appellant culminated in passing the impugned order, hence this departmental appeal on the following grounds.

Grounds.

- a. That the impugned order has been passed against the facts and evidence on record. The appellant was not absent from duty but the injuries sustained in road accident did not allow the appellant to resume duties. The appellant no sooner and was recovered from the injuries then join duties.

RK
ATTESTED

- b. That the whole departmental proceedings initiated against the appellant were conducted at the back of appellant. No one was examined as witness in the presence of appellant. The appellant was not confronted with any evidence supporting the alleged charges.
- c. That the Enquiry Officer did not associate the appellant in the proceedings. He has conducted x-parte proceedings and has based the opinion on no evidence.
- d. That neither the findings of enquiry officer never supplied to the appellant nor any final show cause notice was issued to the appellant. In short fair opportunity of defense was not provided to appellant.
- e. That the record of appellant's service was unblemished. The authorities accepted the arrival of appellant and after the alleged absence period. The appellant was properly paid for the said period. Therefore the impugned order is void and has wrongly been passed.
- f. That the defense of appellant was not considered. The conduct of appellant of resuming duties after recovery from injuries was not taken into account.
- g. That appellant belongs to poor family and the loss of services order amounts to punishing the entire members of the family of appellant.
- h. That appellant was on the strength of District, Karak police on loan basis at Kohat, therefore, the impugned order was passed by wrong forum and DPO Karak was the proper and legal forum for disposal of disciplinary action against the appellant, therefore, the impugned order is void ab initio.

Prayer

So it is, therefore, most humbly and respectfully prayed that on acceptance of the instant departmental appeal this worthy appellant authority may very graciously be pleased to set aside the impugned order dated 15/09/2020 and the appellant may kindly be re-instated in service with all back benefits.

Dated 07/10/2020



ATTESTED

Appellant

Saeed Iqbal
Ex- Constable No. 772
District, Karak.

POLICE DEPTT:

KOHAT REGION

H (18)

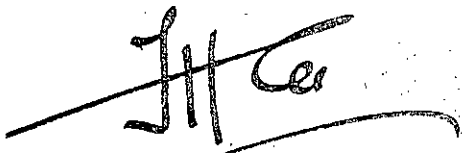
ORDER.

This order will dispose of a departmental appeal, moved by Ex-Constable Saeed Iqbal No. 772 of Kohat district Police against the punishment order, passed by DPO Kohat vide OB No. 636, dated 15.09.2020 whereby he was awarded major punishment of **dismissal from service** on the allegations of his long absence of 112-days from lawful duty without any leave or prior permission.

He preferred an appeal to the undersigned upon which comments were obtained from DPO Kohat and his service record was perused. He was also heard in person in Orderly Room, held on 23.12.2020. During hearing, he did not advance any plausible explanation in his defense.


I have gone through the available record and came to the conclusion that the punishment order passed by DPO Kohat is justified. The allegations leveled against him are proved beyond any shadow of doubt. His appeal being devoid of merits **is hereby rejected.**

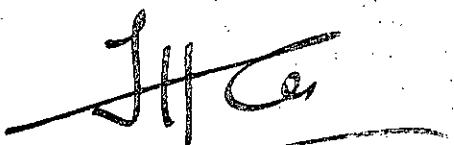
Order Announced
23.12.2020

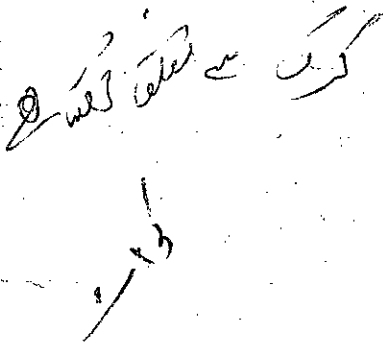

(TAYYAB HAFEEZ) PSP
Region Police Officer,
Kohat Region.

No. 22011 /EC, dated Kohat the 24/12 /2020.

Copy to DPO Kohat for information and necessary action w/r to his office Memo: No. 17573/LB, dated 16.12.2020. His Service Record Roll & Fauji Missal is returned herewith.


ATTESTED


(TAYYAB HAFEEZ) PSP
Region Police Officer,
Kohat Region.



24/12

یقیناً الت

سروس ٹریڈ ہونٹل لٹشاور

سید اقبال 2، بجانب ایبٹ آباد
سید اقبال بنام حکمہ پوروس

منور خطہ
مقدمہ
دعوی
جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام لٹشاور کیلئے (صوبہ) کان اور اسد محمد اور کوشس

مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
دیکھل صاحب کو رضی نامہ کرنے و تقرر حالت و فیصلہ برحلف دیئے جواب دہی اور اقبال دعوی اور
بصورت ڈگری کرنے اجراء اور صولی چیک در و پیہ از عرضی دعوی اور درخواست ہر قسم کی تصدیق
از راس پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل گرانے و نقل خوانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ یا اختیارات حاصل ہوں گے اور اس کا ساخت
بروآختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے کہ پیروی
رکوز کریں۔ لہذا وکالت نامہ لکھو یا کہ مندر ہے۔

Accepted
&
Attested



المرقوم _____ ماہ _____ 20

گواہ الب

کے لئے منظور ہے۔
Lalul

مقام

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service appeal No. 1965/2021
Saeed Iqbal Ex-Constable No. 772

.....Appellant

VERSUS

Provincial Police Officer,
Khyber Pakhtunkhwa, & others

..... Respondents

INDEX

S #	Description of documents	Annexure	pages
1.	Parawise comments	-	1-3
2.	Affidavit	-	04
3.	Detail of absence period of the appellant	A	05
4.	Copy of verification of medical documents vide Letter No. 325 dated 21.07.2020	B	06
5.	Copy of letter No. 1601/Admn/DHQ/KK dated 23.07.2020.	C	07


Deponent

P. 1

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service appeal No. 1965/2021
Saeed Iqbal Ex-Constable No. 772

.....Appellant

VERSUS

Provincial Police Officer,
Khyber Pakhtunkhwa, & others

..... Respondents

PARAWISE COMMENTS BY RESPONDENTS.

Respectfully Sheweth:-

Parawise comments are submitted as under:-

Preliminary Objections:-

- i. That the appellant has got no cause of action.
- ii. That the appellant has got no locus standi.
- iii. That the appeal is not maintainable in the present form.
- iv. That the appellant is estopped to file the instant appeal for his own act and previous in different service record with different kind of punishment.
- v. That the appellant has not come with clean hands to this Honorable Tribunal.
- vi. That the appeal of the appellant is badly time barred.

FACTS:-

1. Appointment of appellant in Police department and subsequent his transfer posting, pertains to record and irrelevant to the instant appeal. Similarly, the appellant was duty bound to perform his obligations under the law & rules for which he was paid from public treasury. The appellant was habitual absentee. List of his absence is **annexure A**.
2. The appellant was transferred and posted in district Kohat willfully absented himself on different occasions. Lastly the appellant while posted in Police station Gumbat Kohat willfully absented himself from lawful duty vide daily diary No. 19 dated 16.02.2020 for a period of 112 days. In addition, the appellant had not obtained any leave or permission for the reason mentioned by him. During the course of departmental inquiry, the appellant produced medical description to the medical officer and took plea of illness etc. The inquiry officer vide his office Letter No. 325 dated 21.07.2020 approached Medical Superintendent, DHQ Hospital Karak for verification. The authorities concerned vide his letter No. 1601/Admn:/DHQ/KK dated 23.07.2020, stated that the OPD chits are found fake / bogus. Similarly, the private clinic chit of Dr. Rizwan Surgeon is also reported fake / bogus. Copies are annexure **B & C**.

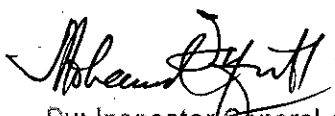
3. Incorrect, the appellant submitted a concocted story of his illness and produced fake medical documents as mentioned above. In view of his willful absence, the appellant was proceeded with departmentally under the relevant rules and a regular inquiry was conducted against him.
4. Incorrect, the appellant was associated with the inquiry proceedings and afforded opportunity of defense, but failed to advance any defense.
5. The charge / allegation leveled against the appellant was established beyond any shadow of doubt, therefore, the appellant was awarded punishment of dismissal from service by the respondent No. 3 and his departmental appeal was rejected by respondent No. 2 after due process.
6. The appellant is estopped to file the instant appeal for his own act and previous conduct.


Grounds:-

- A. Incorrect, legal and speaking order are passed by the respondent No. 2 & 3 based on facts and evidence collected during the course of a regular inquiry.
- B. Incorrect, a regular inquiry was conducted against the appellant in accordance with the relevant rules and the appellant was afforded opportunity of defense.
- C. Incorrect, the appellant had willfully absented himself from lawful duty for about 112 days for which he produced medical prescription / certificates, which were verified by the inquiry officer from the authority concerned and reported fake / bogus, which is another criminal offense.
- D. The appellant had willfully absented himself from lawful duty for which he was awarded punishment of dismissal from service by respondent No. 3 and the absence period is treated as **unauthorized leave** without pay by the competent authority.
- E. Incorrect, constitution of Standing Medical Board relates to examination of individual / official and it is not related to verification of documents as provided by the appellant which are found fake / bogus by the authorities concerned. The appellant if so was suffering from any health issue, he was at liberty to seek proper leave from the competent authority, but the appellant did not file any application for leave etc. Furthermore, the appellant was a habitual absentee.
- F. Incorrect, the appellant was serving and posted under the command of Respondent No. 3 and willfully absented himself from district Kohat. Hence, the respondent No. 3 is a competent authority to proceed against him under the relevant rules.


- G. The charge / allegation leveled against the appellant regarding submission of fake / bogus medical documents to the department was established. The appellant was heard in person by respondents No. 2 & 3 but failed to advance any plausible explanation to his misconduct. Furthermore, there is no provision of issuing final show cause notice under the Khyber Pakhtunkhwa, Police Rules 1975.
- H. Incorrect, the punishment imposed on the appellant by respondent No. 3 is commensurate to the charge established against him and his previous conduct as well.
- I. Incorrect, the appellant willfully absented himself from lawful duty for a period of 112 days and he was also habitual absentee.
- J. Incorrect, the appellant was associated with the inquiry proceedings by inquiry officer, afforded opportunity of hearing by respondents No. 2 & 3.
- K. The respondents may also be allowed to advance other grounds during the course of arguments.

In view of the above, it is submitted that the appeal is devoid of merits and prayed that the appeal may graciously be dismissed with cost.


 Dy: Inspector General of Police,
 Kohat Region, Kohat
 (Respondent No. 2)


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


 District Police Officer,
 Kohat
 (Respondent No. 3)


 District Police Officer,
 Karak
 (Respondent No. 4)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

P. 4

Service appeal No. 1965/2021
Saeed Iqbal Ex-Constable No. 772

.....Appellant

VERSUS

Provincial Police Officer,
Khyber Pakhtunkhwa, & others

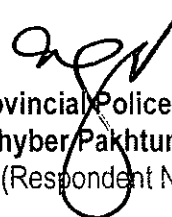
..... Respondents

COUNTER AFFIDAVIT

We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Tribunal.



Dy: Inspector General of Police,
Kohat Region, Kohat
(Respondent No. 2)



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



District Police Officer,
Kohat
(Respondent No. 3)



District Police Officer,
Karak
(Respondent No. 4)

DETAILS / PREVIOUS RECORD OF APPELLANT
CONSTABLE SAEED IQBAL NO. 772

S #	Charges	Punishment awarded
1.	Willful absence from duty on DD No. 19 dated 16.02.2020 to 08.06.2020.	112 days absence dismissed from service.
2.	Willful absence from duty dated 06.04.2015	01 day without pay.
3.	Willful absence from duty dated 22.07.2015	01 day without pay.
4.	Willful absence from duty dated 26.07.2015	02 days without pay.
5.	Willful absence from duty dated 31.07.2015	04 days without pay.
6.	Willful absence from duty dated 16.03.2016	02 days without pay.
7.	Willful absence from duty dated 08.05.2016	01 day without pay.
8.	Willful absence from duty dated 17.11.2017	10 days without pay.
9.	Willful absence from duty dated 24.12.2018	01 day without pay.
10.	Willful absence from duty dated 16.11.2019	01 day without pay.
11.	Willful absence from duty on DD No. 10 dated 14.08.2020	05 days 19 hours without pay.
12.	Willful absence from duty on DD No. 23 dated 01.09.2020	08 days 22 hours without pay.
13.	Willful absence from duty dated 08.08.2020	05 days without pay.
14.	Willful absence from duty dated 23.08.2020	08 days without pay.

aeed
[Signature]
RSI

From: The Sub Divisional Police Officer,
City Kohat

(20) Annex "B"
P. 06

To: The Medical Superintendent,
DHQ Hospital Karak.

No. 325 /City dated Kohat the 21/07 2020.

Subject: VERIFICATION.

Memo:

Enclosed please find herewith Medical Chits vide OPD number 2662 dated 30.05.2020, 559 dated 06.05.2020, 6081, dated 17.03.2020, 3207 dated 09.03.2020 and 926 dated 08.02.2020 issued by DHQ Hospital Karak.

Constable Saeed Iqbal No. 872 has absented himself from official duty w.e.f 26.02.2020 to 08.06.2020. The reason of absence he produced Medical leave certificates.

It is therefore requested that the above Medical ^{OPD} Certificates are submitted herewith for verification and report to this office for further necessary completion of the above named official departmental enquiry.

Encl: 06 OPD Chits.

(original)

Mud. v. k

Sub Divisional Police Officer,
City Kohat

All chits of Hospital carry Fake signatures - clinic chit u signature is also Fake - FIR against this may be lodged call on + clear

Surgical Specialist
DHQ Hospital
Karak

Sub Divisional Police Officer
City Circle Kohat



OFFICE OF THE MEDICAL SUPERINTENDENT
DISTRICT HEADQUARTER HOSPITAL KARAK

No. 1601 / Admn / DHQH/KK
Dated. 23 / 07 / 2020

26

Annex. C -
P.07.

To

The Sub Divisional Police Officer,
City Kohat

Subject: VERIFICATION.

Memo:

Reference your good office letter No: 325/City dated Kohat the 21.07.2020

Enclosed find herewith the following OPD chits an original in r/o Constable Seed

Idial regarding medical leave is hereby returned after verification with the hospital record.

1. OPD Chit No 3297 Dated 09.03.2020 (The concerned Doctor signature is found fake/Bogus)
2. OPD Chit No 6081 Dated 17.03.2020 (The concerned Doctor signature is found fake/Bogus)
3. OPD Chit No 453/509 Dated 06.05.2020 (The concerned Doctor signature is found fake/Bogus)
4. OPD Chit No 2662 Dated 30.05.2020 (The concerned Doctor signature is found fake, Bogus)
5. OPD Chit No 926 Dated 08.03.2020 (Verified)
6. Private Clinic Chit of Dr Rizwan Surgeon is found fake/Bogus.

Steno
Part of B. file
Mirza
Sub Divisional Police Officer
City Circle Kohat
22/7

[Signature]
Medical Superintendent
DHQ Hospital Karak

[Signature]
Medical Superintendent
DHQ Hospital Karak

[Signature]
Sub Divisional Police Officer
City Circle Kohat

OFFICE OF THE MEDICAL SUPERINTENDENT
DISTRICT HEAD QUARTER HOSPITAL, KARAK

No. 1601 /Admn/DHQ/KK

Dated 23.07.2020.

To: The Sub Divisional Police Officer,
City Kohat.

Memo.

Reference your good office Letter No. 325/City dated Kohat the
21.07.2020.

Enclosed find herewith the following OPD chits an original in r/o
Constable Saeed Iqbal regarding medical leave is hereby returned after verification
with the hospital record.

1. OPD chit No. 3207 dated 09.03.2020 (The concerned Doctor
signature is found fake/Bogus).
2. OPD Chit No. 6081 dated 17.03.2020 (The concerned Doctor
signature is found fake/Bogus).
3. OPD Chit No. 155/599 dated 06.05.2020. (The concerned
Doctor signature is found fake/Bogus).
4. OPD Chit No. 2662 dated 30.05.2020. (The concerned Doctor
signature is found fake/Bogus).
5. OPD Chit No. 926 dated 08.03.2020. (verified).
6. Private Clinic Chit of Dr. Rizwan Surgon is found fake / bogus.

-Sd-

Medical Superintendent
DHQ Hospital, Karak