

20.01.2022

Clerk of learned counsel for the appellant present.

Due to general strike of the bar, the case is adjourned. To come up for preliminary hearing on 17.03.2022 before S.B.


(Mian Muhammad)
Member(E)


17.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 20.06.2022 for the same as before.


Reader

20.06.2022

Junior to counsel for the appellant present and requested for adjournment on the ground that the learned counsel for the appellant is busy before the Hon'ble Peshawar High Court. Request accepted. To come up for preliminary hearing on 29.07.2022 before S.B.



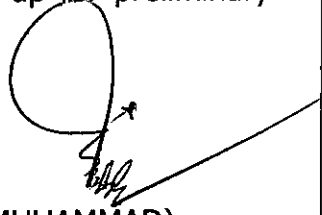

(Fareeha Paul)
Member(E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7466 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	28/09/2021	<p>The appeal of Mr. Rashid Khan 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</p>
2-		<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put up there on <u>23/11/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	23.11.2021	<p>Appellant in person present.</p> <p>Former requests for adjournment on the ground that learned counsel is not available. Adjourned. To come up for preliminary hearing on 20.01.2022 before S.B.</p> <p style="text-align: right;"> (MIAN MUHAMMAD) MEMBER (E)</p>

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 7466 /2021

Rashid Khan.....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		1-4
2.	Application for condonation of delay with Affidavit		5
3.	Copy of Acquittal Order dated 28-02-2013 & Judgment dated 15-05-2014 in Service Appeal No 506/2012	A & B	6-10
4.	Copy of Order dated 08-09-2014	C	11
5.	Copy of departmental appeal & Report dated 09-02-2021	D & E	12-16
6.	Vakalat Nama		17

Dated:-24-09-2021


Appellant

Through


FAZAL SHAH MOHMAND
ADVOCATE,
SUPREME COURT OF PAKISTAN.

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 _____/2021

Rashid Khan, Constable No 92, District Police Mardan,
Presently at Counter Terrorism Department, Headquarters,
Peshawar.

.....Appellant

V E R S U S

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

.....Respondents

APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 FOR MODIFYING/VARYING ORDER DATED 08-09-2014 OF RESPONDENT NO 2 WHEREBY THE APPELLANT HAS BEEN REINSTATED IN SERVICE WITH IMMEDIATE EFFECT AND THE PERIOD OF ABSENCE HAS BEEN TREATED AS LEAVE WITHOUT PAY AND AGAINST WHICH DEPARTMENTAL APPEAL OF THE APPELLANT HAS NOT BEEN RESPONDED SO FAR DESPITE THE LAPSE OF MORE THAN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:-

On acceptance of this appeal the impugned order dated 08-09-2014 of respondent No 2 may kindly be modified/varied to the extent of reinstating the appellant in service from the date of dismissal with all back benefits.

Respectfully Submitted:-

1. That the appellant was enlisted as Constable in District Police Mardan on 26-10-2007 and since then the appellant performed his duties with honesty and full devotion and to the entire satisfaction of his high ups.
2. That in the year 2010 the appellant while lastly posted to Police Station Saro Shah, was falsely involved in case FIR No 1485 dated 25-10-2010 Under Sections 506/354/186 PPC of Police Station City Mardan, the appellant was suspended on 24-11-2011 and was dismissed from service by respondent No 3 vide order

dated 07-06-2011, where against, the appellant after exhausting departmental remedy filed Service Appeal No 506/2012 and in the meanwhile the appellant was acquitted of the criminal case by the Court of Senior Civil Judge/City Magistrate Mardan vide Order/judgment dated 28-02-2013. It is pertinent to mention here that in the meanwhile the Service Appeal of the appellant was argued on 15-05-2014 and during the course of arguments, the appellant produced copy of acquittal order and finally appeal of the appellant was accepted, the order of appellate authority was set aside and the case was remanded to respondent No 2 for reconsideration of departmental appeal in the light of acquittal order and taking into consideration all relevant facts vide Order & Judgment dated 15-05-2014. **(Copy of Acquittal Order dated 28-02-2013 & Judgment dated 15-05-2014 in Service Appeal No 506/2012 are enclosed as Annexure A & B).**

3. That accordingly respondent No 2 held that de-novo inquiry would be futile exercise, so without ordering for de-novo inquiry the appellant was reinstated into service with immediate effect and the period of absence was treated as leave without pay vide order dated 08-09-2014. **(Copy of Order dated 08-09-2014 is enclosed as Annexure C).**
4. That the appellant preferred departmental appeal before respondent No 1 on 04-01-2021, wherein respondent No 2 has filed report vide letter dated 09-02-2021 however till dated the same has not been finally decided. **(Copy of departmental appeal & Report dated 09-02-2021 is enclosed as Annexure D & E).**
5. That the impugned Order dated 08-09-2014 to the extent of reinstating the appellant into service with immediate effect and treating the period of absence as leave without pay, is against the law, facts and principles of justice on grounds inter-alia as follows:-

GROUND S:-

- A. That the impugned Order dated 08-09-2014 to the extent of reinstating the appellant with immediate effect instead of reinstating him from the date of dismissal and treating the period of absence as leave without pay is, illegal, unlawful and void ab-initio.

- B.** That mandatory provisions of law and rules have badly been violated by the respondents and the appellant has not been treated according to law and rules.
- C.** That the appellant did nothing that amounts to misconduct hence he has been punished for no fault on his part, hence the impugned order is liable to be modified/varied.
- D.** That in the impugned order it has categorically been held that the criminal charges after acquittal are not established, hence in view of law on the subject and the latest judgment of the Apex Court, the appellant is entitled to all service benefits.
- E.** That the law and rules on the subject are very much clear which favor the case of the appellant are also. Fundamental Rules, Civil Service Regulations, General Financial Rules and Khyber Pakhtunkhwa ESTA CODE are very much clear on the point.
- F.** That no de-novo proceedings were conducted rather in the impugned order it has been held that de-novo would be futile exercise, hence too the appellant cannot be kept deprived of the benefits of intervening period.
- G.** That the appellant was never charged for absence hence too the impugned order is liable to modification accordingly.
- H.** That it has time and again held by the superior Courts that reinstating employee but not allowing benefits violation of Article 25. it has also been held that in case of reinstatement, allowing benefits is rule while refusal is an exception, hence too the appellant could not be kept deprived of his service benefits.
- I.** That even other wise there is no omission or commission on part of the appellant thus has been deprived of his due legal rights for no fault.
- J.** That the appellant has about 14 years of service with unblemished service record and was never employed gainfully during the intervening period.

K. That the appellant seeks the permission of this honorable tribunal for further/additional grounds at the time of arguments.

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

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

Dated:-24-09-2021


Appellant

Through


FAZAL SHAH MOHMAND
ADVOCATE,
SUPREME COURT OF PAKISTAN.

CERTIFICATE

Certified that as per instructions of my client, no Service Appeal on the same subject and between the same parties has been filed previously or concurrently before this Honorable Tribunal.


ADVOCATE

AFFIDAVIT

I, Rashid Khan, Constable No 92, District Police Mardan, Presently at Counter Terrorism Department, Headquarters, Peshawar, (the appellant), 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.


DEPONENT

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No _____/2021

Rashid Khan.....Appellant

V E R S U S

PPO and others.....Respondents

Application for 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 issue being of financial matter/recurring cause of action hence the limitation would have no adverse implication, thus the instant appeal is liable to be decided on merit.
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:-24-09-2021

Rashid Khan
Appellant

Through

Fazal Shah Mohmand
FAZAL SHAH MOHMAND
ADVOCATE,
SUPREME COURT OF PAKISTAN.

AFFIDAVIT

I, Rashid Khan, Constable No 92, District Police Mardan, Presently at Counter Terrorism Department, Headquarters, Peshawar, (the appellant), 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.

Rashid Khan
DEPONENT

-6- "A"

IN THE COURT OF SENIOR CIVIL JUDGE, MARDAN.

Case No. 46/2 of 2011.

2011-2-4-11

2011-5-3-13

Order—15.
28.02.2013.

Accused on bail present.

This order of the court is directed to dispose of an application submitted by the accused for his acquittal under section 249-A Cr. P.C.

I have heard the arguments of the learned counsel for the accused and APP for the State and have gone through file with their valuable assistance.

From the record available on file it is evident that the FIR has been registered after a considerable delay of more than one hour which has not been properly explained. The accused was charge for the commission of offence under section 506/354/136 PPC but from the plain reading of the FIR which is evident that intention of the grievous hurt is missing, thus, section 506 PPC is not applicable to the facts of the case. Moreover, the present case was put in court 02.04.2011 and charge added was framed on 03.09.2012 but the complainant despite several summons and warrant of arrest did not turn up before the court for recording his statement in support of her version, which shows her least interest in the case in hand. Beside this other PWs are also not appear before the court during this period. This act of the prosecution shows that they are not interest in the case in hand. The other aspect of the case is that it has not been supported by the independent corroboration and no material is available on the case to connect the accused with the commission of offence.

Keeping in view the above detailed discussion and available record it is said that it is a fit case for invoking the provision of section 249-A Cr.P.C. because there is no probability of the accused being convicted in the case in hand and further proceeding in the case would be a futile exercise. Thus, the accused is hereby acquitted from the charges so leveled against him. He is on bail, his bail bonds stands cancelled and his sureties are stand discharged from the liabilities of bail bonds.

File be consigned to the record room after its necessary completion and compilation.

Announced:

Dated: 28.02.2013.

(Hidayat Ullah Khan)

Senior Civil Judge/City Magistrate, Mardan

SENIOR CIVIL JUDGE
MARDAN

Certified to be True Copy
05/3/13

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Mardan
05/3/13

34490
11/11/13

-7- "B" (4)

BEFORE THE KHYBER PAKHTOONKHA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 5061 2012

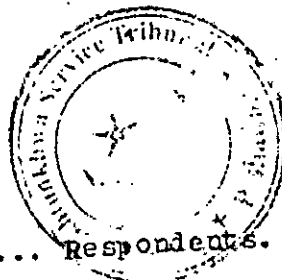
H.W.J. Peshawar
Secretary
Docket No. 458
Dated 17-4-12

Ex-Constable Rashid Khan No. 1778 S/O Ayub Khan,
resident of Dako Baba Tehsil Takht Bhai District
Mardan Appellant

Versus

1. District Police Officer,
District Mardan.
2. Deputy Inspector General of police,
District Mardan

..... Respondents.



APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL
ACT, 1974.

Respectfully sheweth:

Appellant humbly submits as under :-

1. That appellant served to the entire satisfaction of his superiors since 26-10-2007 and there is neither any warning nor any sort of complaint against appellant.

Filed to file
[Signature]
17/4/12-2.

That appellant was suspended from service vide order dated 24-11-2011 being involved in criminal case. (Copy of F.I.R. is Annexure 'A' suspension order is Annexure 'B').

ATTESTED

[Signature]
CHIEF CLERK
Khyber Pakhtoonkhwa
Service Tribunal
Peshawar

3. That the appellant was charge sheeted which was properly replied by appellant. (Copy of charge sheet/reply is Annexure 'C').

That Inquiry Committee vide order dated 3-01-2011 to keep these papers of departmental proceedings pending till decision of the case. (Copy of inquiry report dated 3-01-2011 is Annexure 'D').



S.No. of order or proceedings	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	15.5.2014	<p style="text-align: center;"><u>Appeal No. 506/2012</u> <u>(Ex-Constable Rashid Khan-vs-DPO, Mardan and another)</u></p> <p>Appellant with counsel and Mr. Muhammad Ghani, ASI (legal) on behalf of respondents with AAG present. Arguments heard and record perused.</p> <p>At the outset of his arguments, the learned counsel for the appellant produced order dated 28.2.2013 of the Senior Civil Judge/City Magistrate, Mardan, whereby the appellant has been acquitted of the charges levelled against him in FIR No.1485 dated 25.10.2010 under sections 506/354/186 PPC P.S City Mardan. The learned counsel argued that charge sheet against the appellant contains the only allegation of his involvement in the said criminal case, therefore, with his acquittal in the criminal case, charge against the appellant would vanish and would no longer be available to the respondent-department to sustain penalty against the appellant. The learned counsel further augmented his arguments by pointing out that even the inquiry committee had initially recommended in its report/findings dated 03.1.2011 to keep pending departmental/inquiry proceedings against the appellant till decision of the case by the competent court of law; but the competent authority did not agree with the recommendations of the inquiry committee and, rather, directed for a recommendation of major penalty (sheet). According to the learned counsel, the inquiry committee, then, faithfully followed directions of the competent authority and recommended imposition of major penalty of dismissal from service and treating absence period of 80 days of the appellant as leave without pay vide its report/findings dated 18.4.2011. Following the recommendations, the competent authority issued final show cause notice and recorded order of dismissal on the reply to show cause notice by the appellant, besides ordering a separate</p>

ATTESTED

EXAMINER
 Kyber Panchtarkhwg
 Service Tribunal
 Peshawar

inquiry against lady Constable Saira, who was complainant in the criminal case against the appellant. The learned counsel maintained that neither the charge of absence was levelled against the appellant in the charge sheet nor the absence period could be treated as leave without pay after imposition of major penalty of dismissal from service on the appellant. The learned counsel concluded that the lady Constable namely Saira was, however, subjected to minor penalty of stoppage of three annual increments with cumulative effect.

The appeal has been resisted by the respondents on several grounds mentioned in the written reply of the respondents, wherein, the impugned action against the appellant was defended on the ground that departmental/inquiry proceedings were conducted in accordance with law, but the development of acquittal of the appellant from the criminal charge for which he was charged in the charge sheet, subsequent to the departmental/inquiry proceedings and even filing of the departmental appeal by the appellate authority on 20.2.2012, has changed the whole scenario, requiring reconsideration of case of the appellant by the appropriate departmental authority.

Therefore, on the partial acceptance of the appeal, the order dated 20.2.2012 of the appellate authority is set aside and case is remanded to the appellate authority i.e. D.I.G of Police, Mardan Region-I, Mardan (Respondent No.2) for reconsideration of the case/departamental appeal of the appellant in the light of his subsequent acquittal in the criminal case and also in the light of fact that the appellant was never charged for absence from duty but his so-called absence period for 80 days was treated as leave without pay. In the light of above discussion and while taking into consideration all relevant facts, the appellate authority shall pass a fresh order within reasonable time, but in no case beyond the period prescribed by the law, where-after, if still aggrieved, the appellant

ATTESTED

BY
 JUDGE
 Service Tribunal

may have recourse to remedy available to him under the law. There shall, however, be no order as to costs.

ANNOUNCED
15.5.2014

[Signature]
MEMBER

[Signature]
CHAIRMAN

[Signature]
Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 05/7/21

Number of Words 1600

Copying Fee 18/-

Legal 4/-

Total 22/-

Name of Copyholder _____

Date of Completion of Copy 05/7/21

Date of Delivery of Copy 05/7/21

ORDER

This order will dispose off the appeal preferred by Ex-Constable Rasheed Khan No. 1778 of Mardan District Police against the order of dismissal by the District Police Officer, Mardan vide OB No. 2217 dated 07.06.2011.

Brief facts of the case are that he while posted at Police Station Saro Shah was charge in case HP No. 1485 dated 25.10.2010 u/s 506/351/186 PPC Police Station City, Mardan registered on the report of Lady Constable Saira No. 1623 charging the appellant that on 25.10.2010, she was on duty at main gate of District Secretariat. In the meanwhile the above mentioned Ex-Constable came there and ask for giving her mobile number. On the refusal he pulled her veiling wrapper (Chader) gave her a slap and threat of dire consequences. Accordingly he was arrested and sent to judicial lock up from where was released on bail by the Court.

In this connection he was placed under suspension and closed to Police Lines, Mardan, and proceeded against departmentally. DSP Sheikh Maltoom, Mardan & SI Legal, Mardan were nominated for departmental enquiry who after finalizing the enquiry submitted their findings. Presenting that he intentionally availing to appear before the enquiry committee holding him responsible of the allegations levelled against him. The enquiry Officer appointed that the case registered against the complainant Ex-Constable was under trial in the court, therefore enquiry may be kept pending till the decision of the court.

On transfer of DSP Sheikh Maltoom his predecessor Mr. Khan Akbar Khan and SI Legal, Mardan after fulfilling necessary process submitted their findings proposing that the allegation of illicit relation between both Constable & Lady Constable Saira have been proved. The enquiry Officer recommended for awarding of major punishment, therefore he was dismissed from service. Later on he submitted an appeal to the then Ben DIG/Mardan for re-instatement in service, his case was perused and filed vide the office endorsement No. 580/ES dated 20.02.2012.

He preferred an appeal to the Honourable Service Tribunal Khyber Pakhtunkhwa, Peshawar and on acceptance of the appeal, the order No. 580/ES dated 20.02.2012 of the appellate authority (DIG/Mardan) was set aside and the case is remanded to the appellate authority in the name of Police Mardan Region-I, Mardan (Respondent) vide appeal No. 306/2012 dated 15.05.2011 for re-consideration of the case/departmental appeal of the appellant in the light of his subsequent acquittal in the criminal case for passing a fresh order.

I have come to conclusion that criminal charges are not established after acquittal from court. Holding the official guilty by enquiry officers, without substantial evidence seems denying the ends of justice. Initiating a de novo inquiry would be futile, where the complainant Lady Constable Saira was also exonerated in the case and makes her position controversial. In these circumstances he is reinstated in service with immediate effect, absence period to be treated as leave without pay.

ORDER ANNOUNCED.

1088
19/9/14

OB/EC/0451
For ms
[Signature]
DPO, Mardan

MUHAMMAD SAIED P/S
Deputy Inspector General of Police
Mardan Region-I, Mardan

RES. Dated Mardan the 21/4.

Copy to District Police Officer, Mardan for information to be inserted upon the

[Handwritten notes]

ORDER

This order will dispose-off the appeal preferred by Ex- Constable Rasheed Khan No. 1778 of Mardan District Police against the order of dismissal by the district police officer. Mardan vide OB: No. 2217 dated 07.06.2011.

Brief facts of the case are that the while posted at police station Saro Shah was charge in case FIR No. 1485 dated 25.10.2010 U/s 506/354/186 PPC police station: City, mardan registered on the report on Lady constable Saira NO. 1623 charging the appellant that on 25.10.2010, she was on duty, at Maia Gate of District Secretariat, in meanwhile the above mentioned Ex-constable came there and ask for giving her mobile number. On the refusal her puffed her veiling wrapper (Chader) gave her a lap and threat of dire consequences. Accordingly he was arrested and sent to judicial lock up from where was released on bail by the court.

In this connection he was placed under suspension and closed to police lines, Mardan and proceeded against departmentally. DSP Sheikh Maltoon, Mardan & St. Legal, Mardan were nominated for departmental enquiry who after finalizing the enquiry submitted their findings. presenting that the intentionally avoiding to appear before the enquiry committee holding him responsible of the allegation leveled against him. The enquiry officer appointed that the case registered against the defaulter ex-constable was under trial in the court, therefore enquiry may be kept pending till the decision of the court.

On transfer of DSP Sheikh Maltoon his predecessor Mr. Khan Akbar Khan and SI Legal, mardan after fulfilling necessary process submitted their findings prescbing that the allegations of illicit relation between both constable & lady constable Saira have been proved. The enquiry officer recommended him for awarding of major punishment, therefore he was dismissed from service. Leter on he submitted an appeal to the then DIG/Mardan for reinstatement on service, his case was perfered and filed vide the office endorsement NO. 580/FS dated 20.02.2012.

He preferred an appeal in the Hon'ble service Tribunal, Khyber Pakhtunkhwa, Peshawar and on acceptance of the appeal, the order No. 580/FS dated 20.02.2012 of the appellate authority (DIG/mardan) was set aside and the case is remanded to the appellate authority in DIG of police Mardan Region-I, mardan (respondent) vide appeal No. 506/2012 dated 15.05.2014 for reconsideration of the case/departmental appeal of the appellant in the light of his subsequent acquittal in the criminal case for passing a fresh order.

I have come to conclusion that criminal charges are not established after acquittal from court. Holding the official guilty by inquiry officers without substantial evidence seems defying the ends of justice. Initiating a denovo inquiry would be fulfile. Where the complainant Lady constable was also co-accused in the case and makes her position controversial. In these circumstances he is re-instated in service with immediate effect, absence period to be treated as leave without pay

ORDER ANNOUNCED.

Muhammad Saeed PSP
Deputy Inspector General of police,
Mardan Region-I, Mardan

کھوجا صاحب الشہر و ضلع کوئٹہ، ضلع کوئٹہ، خیبر پختونخوا

put up

Office of the Provincial Police Officer, Khuzdar, Peshawar. Complaint Cell No. 44 Date 11/21

بابت 19/9/10 کوئٹہ میں واقع سٹیٹ ایئر لائنز
مطابق شہزادہ ازہرہ 10/5/10 - 9-08/10 کوئٹہ

کامیابی
ایئر لائنز کے ذریعے

1- ایئر لائنز کے ذریعے کوئٹہ سے لاہور کے لیے ٹکٹ

2- ایئر لائنز کے ذریعے لاہور سے کوئٹہ کے لیے ٹکٹ
کھوجا صاحب الشہر و ضلع کوئٹہ، ضلع کوئٹہ، خیبر پختونخوا

3- ایئر لائنز کے ذریعے کوئٹہ سے لاہور کے لیے ٹکٹ

4- ایئر لائنز کے ذریعے لاہور سے کوئٹہ کے لیے ٹکٹ
کوئٹہ سے لاہور کے لیے ٹکٹ
لاہور سے کوئٹہ کے لیے ٹکٹ

5- ایئر لائنز کے ذریعے کوئٹہ سے لاہور کے لیے ٹکٹ
لاہور سے کوئٹہ کے لیے ٹکٹ

6- ایئر لائنز کے ذریعے کوئٹہ سے لاہور کے لیے ٹکٹ

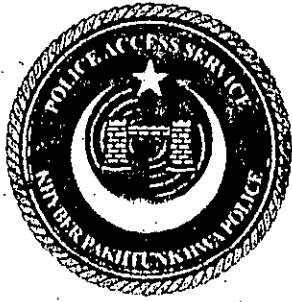
03172627639

کھوجا صاحب الشہر و ضلع کوئٹہ، ضلع کوئٹہ، خیبر پختونخوا
کوئٹہ سے لاہور کے لیے ٹکٹ

Signature

16/02-130214-9

ایئر لائنز کے ذریعے کوئٹہ سے لاہور کے لیے ٹکٹ



AC Cell

-13-

CR-1427/E

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar

No 109-10 /CPO/IAB/PAS, dated Peshawar the 06/01/2021.

To: The Regional Police Officer,
Mardan.

Subject: APPEAL AGAINST ORDER DATED 08/09/2014.

Memo:-

Respected Sir,

Enclosed please find herewith an application/complaint submitted by Rasheed Khan for necessary action & report by 25.01.2021 positively for onward submission to the Worthy Inspector General of Police, Khyber Pakhtunkhwa.

J 611

(DSP/PAS)
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

OLR

D.I.G Office, Mardan.

Diary No. 65 /C Cell

Dated: 08-01-21

C.C

The AIG C&E for the favour of information please:

DPO, Mardan

// For information and report.

RPO, Mardan

07/1/21

-14- "E"

GOVERNMENT OF KHYBER PAKHTUNKHWA,
Office of the Region Police Officer,
Mardan
Tel: 0937-9230113, Fax: 0937-9230115

To: The Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar.

Dated 09/02/2021.

Subject: APPEAL IN INST ORDER DATED 08-09-2014 SUBMITTED BY RASHEED
KHAN.

Men

I hereby refer to your office Memo: No. 109-10/CPO/TAB/PAS, dated 06-01-2021 the subject noted above.

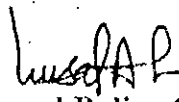
It is submitted that a complaint was filed by Constable Rasheed Khan No. 92 of this District Mardan is as under:-

1. That applicant while posted at Police Station Saro Shah was involved in a criminal case vide FIR No. 1485 dated 25-10-2010 u/s 506/35/186 PPC Police Station City Mardan.
2. That on account of aforementioned allegations, the applicant was issued charge sheet and statement of allegations and enquiry was entrusted to the then DSP Sheikh Maltoon and Late SI Ali Gohar Khan Legal Branch.
3. That during the course of enquiry, the applicant was contacted time and again to appear before the enquiry officer but neither he appeared before the enquiry officer nor submitted his reply. The enquiry committee submitted its findings that the enquiry papers may please be kept intact till the decision of the case by the competent court of law.
4. The then DPO did not agree with the findings of Enquiry Officers and returned enquiry papers to the then DSP Sheikh Maltoon and Late SI Ali Gohar Khan Legal Branch. On transfer of Muhammad Ashfaq Ahmed the then DSP Sheikh Maltoon, the enquiry was handed to Mr. Khan Akbar Khan the then DSP Sheikh Maltoon. However, during the course of enquiry the applicant was provided full-fledged opportunity to produce evidence/grounds in his defence, but he failed. Therefore, after fulfilment of all legal and codal formalities, the Enquiry Officers recommended the applicant for awarding major punishment of dismissal from service and his absence period eighty (80) days may also be counted as leave without pay.
5. Therefore, the applicant was issued Final Show Cause Notice to which his reply was received but found un-satisfactory hence, he was awarded major punishment of dismissal from service with immediate effect while his absence period of 80 days was treated as leave without pay, which does commensurate with the gravity of misconduct of applicant.

That applicant preferred departmental appeal before the then DIG Mardan for reinstatement in service, but the same was filed vide order No. 580/ES dated 20-02-2012.

7. That applicant approached the Khyber Pakhtunkhwa Service Tribunal through Service Appeal No. 506/2012. The Service Tribunal vide order dated 15-05-2014 accepted appeal of the applicant with the directions to the department that "the order dated 20-02-2012 of the appellate authority is set aside and case is remanded to the appellate authority i.e D.I.G of Police, Mardan Region-I, Mardan for consideration of the case/departmental appeal of the appellant in the light of his subsequent acquittal in the criminal case for passing a fresh order".
8. As per directions of the Khyber Pakhtunkhwa Service Tribunal, the then DIG Mardan (appellate authority) perused the case and the applicant was reinstated in service with immediate effect and his absence period was treated as leave without pay order No. 5930/ES dated 04-09-2014.
9. The applicant was required to file appeal instead of application.

Keeping in view the above, it is therefore, requested that complaint of the complainant may very kindly be filed.


Regional Police Officer,
Fa Mardan

Police Access Service (PAS) cpo Peshawar

Diary No: 2724 ⁻¹⁶⁻ PAS.

Dated: 4 / 1 / 2021.

Sent to put up

Phone No: - 091-9223576

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

-17-

Service Appeal No. _____/2021

Rashid KhanAppellant

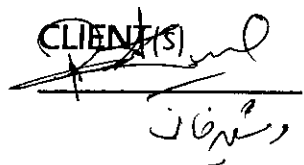
VERSUS

P.P.O & othersRespondent(s)

I, the undersigned, do hereby appoint and constitute, **Fazal Shah Mohmand** Advocate Supreme Court & **Rabia Muzaffar** Advocate. To act, appear and plead in the above-mentioned matter and to withdraw or compromise the said matter or submit to arbitration any differences or dispute that shall arise touching or in any manner relating to the said matter and to receive money and grant receipts therefore and to do all other acts and things which may be necessary to be done for the progress and the course of the prosecution of the said matter.

1. To draft and sign files at necessary pleadings, applications, objections, affidavits or other documents as shall be deemed necessary and advisable for the prosecution of the said matter at all its stages.
2. To employ any other Legal Practitioner, authorizing him to exercise the power as conferred on the undersigned Advocate, wherever he may think fit to do so.

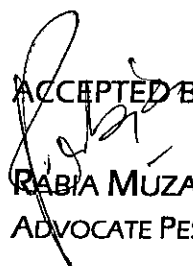
AND I hereby agree to ratify whatever the Advocate or his substitute shall do in the above matter. I also hereby agree not to hold the Advocate or his substitute responsible for the result of the said matter in consequence of his absence from the Court when the said matter is called up for hearing. I further hereby agree that in the event for the whole or any part of the fee to be paid to the Advocate remaining unpaid, he shall be entitled to withdraw from the above matter. Received by me on 24-9-21

~~CLIENT(S)~~


ACCEPTED BY:


FAZAL SHAH MOHMAND
ADVOCATE,
SUPREME COURT OF PAKISTAN.

&

ACCEPTED BY:

RABIA MUZAFFAR
ADVOCATE PESHAWAR