

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.**

**Service Appeal No. 942/2018**

BEFORE: MR. KALIM ARSHAD KHAN, ... CHAIRMAN  
MR. MIAN MUHAMMAD, ... MEMBER(E)

**Muhammad Hayatullah**, Ex-Constable No. 8120, FRP D.I.Khan Range D.I.Khan.  
..... (*Appellant*)

Versus

1. **The Inspector General of Police**, Khyber Pakhtunkhwa Peshawar.
2. **The Commandant, FRP**, Khyber Pakhtunkhwa, Peshawar.
3. **The Superintendent of Police, FRP, D.I.Khan Range**,  
D.I.Khan. .... (*Respondents*)

Mr. Muhammad Mahaz Madni,  
Advocate ... For appellant

Mr. Kabirullah Khattak,  
Addl. Advocate General ... For respondents.

-----  
Date of Institution.....23.02.2018  
Date of Hearing.....07.04.2022  
Date of Decision.....08.04.2022

**JUDGEMENT**

**KALIM ARSHAD KHAN CHAIRMAN.** This appeal is against the original order dated 21.11.2016, whereby the appellant was removed from service. This appeal is also against the appellate order dated 15.11.2017, allegedly communicated to the appellant in January, 2018, whereby departmental appeal of the appellant was rejected.

2. It is alleged in the appeal that while being in service, the appellant was diagnosed with Hepatitis C Disease and admitted in Government Police & FC Hospital, Tank where he was being treated; that after prolong absence the Doctor advised him for proper treatment which continued till the end of 2016 and he was also advised for complete bed rest; that the appellant had informed his high ups about his illness and after recovery he approached the concerned quarter for joining duty but he

was handed over the impugned order dated 21.11.2016, whereby he was removed from service; that aggrieved from the impugned order, he filed departmental appeal on 30.03.2017 which was rejected and against that he filed Review Petition under Rule 11-A of the Khyber Pakhtunkhwa Police Rules, 1975 which was also rejected on 15.11.2017 and communicated to the appellant in January, 2018, hence this appeal, which was originally filed on 23.02.2018 and was returned to the counsel for the appellant with the objection for completion and resubmission within 15 days but that was again presented on 30.07.2018.

3. On receipt of appeal, the preliminary arguments were heard and it was admitted to full hearing. Respondents submitted reply, wherein it was contended that during his short length of service, the appellant remained absent from duty without any leave or prior permission of the seniors for a long period of 311 days; that on account of his absence he was awarded minor punishments of confinement to quarter guard for 12 days and stoppage of one annual increment with cumulative effect. That the appellant remained absent vide daily diary report No. 09 dated 15.04.2016 without leave or prior permission and the plea taken by the appellant regarding his illness was afterthought; that the appellant continuously remained absent from duty, therefore, he was issued show cause notice on 02.05.2016 but he did not respond to that. Regarding the facts alleged in the appeal that the appellant had duly informed his high ups about his illness and also applied for medical leave, the respondents denied these facts in their written reply. It is also stated in the reply that a proper departmental enquiry was conducted against the appellant and he was charge sheeted alongwith summary of allegations. The enquiry officer was nominated to conduct proper enquiry; that after fulfillment of all codal formalities, the appellant was removed from service by the competent authority. As to the departmental appeal, it is contended in the reply that that the same was thoroughly examined and rejected on sound grounds vide order dated 12.06.2017. Thereafter, the appellant submitted

Handwritten signature and date: 08/12/2017

Review Petition before the Appellate Board at Central Police Office Peshawar which was thoroughly examined and rejected vide order dated 15.11.2017 on the ground of limitation as well as on merit. It is also added in the reply that rejection order of departmental appeal had been conveyed to the appellant vide Endst No. 4761/EC, dated 12.06.2017.

4. We have heard learned counsel for the appellant and learned AAG for the respondents.

5. Arguing the appeal, the learned counsel for the appellant relied on 2000-SCMR-1743, 2007 SCMR-1860, PLJ 2018 Tr.C. (Services) 138 and 2015 PLC (C.S) 117 and submitted that the punishment awarded to the appellant was not sustainable. It was prayed that on acceptance of the appeal, the impugned order might be set aside and the appellant be reinstated in service with all back benefits.

6. On the contrary, learned AAG for the respondents supported the impugned order and submitted that the appellant was proceeded under the relevant rules for his absence from duty and while fulfilling all the codal formalities, he was appropriately awarded the punishment.

7. This appeal was first presented on 23.02.2018 and was returned to the learned counsel for the appellant for its completion and resubmission within 15 days but it was submitted with a delay of 139 days. There is no application for condonation of delay nor is there any plausible explanation for the same. Therefore, the late resubmission of appeal after the time given by the office, could not be explained plausibly. Moreover, the exact date of receipt of the appellate order has not been mentioned in the appeal rather it is alleged that it was in the month of January, 2018. The signature and stamp under the affidavit of the appeal bears the date 06.01.2018 which shows that the appeal was drafted on 06.01.2018 but it was filed on 23.02.2018. This fact not only points fingers toward the conduct of the appellant but

also makes the appeal barred by limitation. The only ground for seeking condonation of delay in the application is that due to non-availability/missing of appointment letter, which according to the appellant, was necessary document for this appeal, is not convincing because that order could not have been placed on the file till recording of the judgment. Similarly, the application for condonation of delay also seems to have been drafted on 06.01.2018 like the appeal and even if we consider the service role annexed as annexure-A with the appeal, to be the appointment letter, there is no justification urged as to why after 06.01.2018 the appeal was initially filed on 23.02.2018 and then resubmitted on 30.07.2018.

8. Now coming to the merit of the case in the light of the case law relied upon by the learned counsel for the appellant, 2000-SCMR-1743, 2007-SCMR-1860 and 2015 PLC(CS) 117 are not relevant because none of these pertain to absence of the appellants of the said cases. While PLJ 2018 Tr.C Services 138 is on the point that leave applied for on medical ground shall not be refused provided that authority, competent to sanction leave, may in its discretion, secure a second medical opinion by requesting a civil surgeon or medical board as the case may be, and to have civil servant medically re-examined. But in this case although it is alleged by the appellant that he had informed his superiors and had also applied for the medical leave yet there is no such application annexed with the appeal by the appellant while the respondents have denied such facts, therefore, this case law is also not helpful to the appellant.

9. There is no denying the fact that the appellant remained absent from duty for 311 days without any permission, leave or application/intimation. The appellant could not explain as to what was the factor which stopped him to make application to his high ups to obtain leave. According to him he was suffering from Hepatitis disease. If it was so, he could have applied and obtained medical leave, which if applied, is hardly refused. The appellant was serving in the disciplined force and was required to maintain strict discipline having regard to nature of duties enjoined to such force and

*Handwritten signature and date:*  
 08/11/22

his attitude could neither be excused and tolerated nor his willful absence can be ignored or taken leniently. Reliance is placed on a case law decided by the august Supreme Court of Pakistan and reported as 2022 P L C (C.S.) 278 titled "*Deputy Inspector General of Police, Lahore and Others Versus Sarfraz Ahmed*", wherein the august Supreme Court of Pakistan was pleased to have observed as under:

**"(a) Civil service---**

*---Police constable---Willful absence from duty, involvement in criminal cases and maintaining relations with criminals---Dismissal from service---Department had conducted a regular inquiry against the respondent-police constable in which it was found that he had close relations with criminals operating in the city against whom as many as 37 FIRs had been registered for the offences of robbery, kidnapping for ransom, dacoity etc.---Department had followed all the legal formalities while awarding penalty of dismissal to the respondent and he was given full opportunity to defend himself-- Furthermore respondent remained absent (from duty) for a long period of about 55 days without taking prior leave or without informing his higher ups---Respondent being a member of a highly disciplined force was required to maintain strict discipline having regard to nature of duties enjoined to such forces and his attitude could not be excused and tolerated---Appeal was allowed, impugned judgment of Provincial Service Tribunal was set-aside, and major penalty of dismissal from service imposed upon respondent was maintained."*

10. Therefore, this appeal is groundless and is accordingly dismissed. Cost to follow the event. Consign.

11. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 08<sup>th</sup> day of April, 2022.



(KALIM ARSHAD KHAN)  
Chairman

(MIAN MUHAMMAD)  
Member (E)

SA 942/2018

08<sup>th</sup> April, 2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG for the respondents present. Arguments heard and record perused.

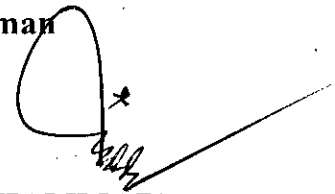
Vide our detailed judgment of today, containing 05 pages, this appeal is groundless and is accordingly dismissed. Cost to follow the event. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 08<sup>th</sup> day of April, 2022.*



**(KALIM ARSHAD KHAN)**

Chairman



**(MIAN MUHAMMAD)**

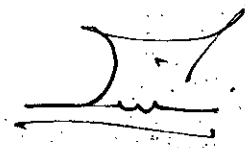
Member (E)

06.09.2021

Mr. Muhammad Maaz Madni, Advocate, for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he is not feeling well today. Adjourned. To come up for arguments before the D.B on 04.01.2022.

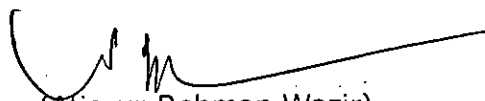
  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

04.01.2022

Counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Former seeks adjournment in order to further prepare the brief. Request accorded. To come up for arguments on 07.04.2022 before the D.B.

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

  
Chairman

07.04.2022

Mr. Muhammad Mahaz Madni, Advocate for appellant present and Mr. Kabirullah Khattak, Addl. AG for the respondents present. Arguments heard. To come up for order on 08.04.2022 before this D.B.

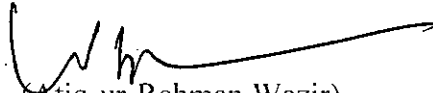
(Mian Muhammad)  
Member(E)

Chairman

02.03.2021

Junior to counsel for the appellant and Addl. AG for the respondents present.

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, the matter is adjourned to 3.06.2021 for hearing before the D.B.

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


  
Chairman

03.06.2021

Mr. Said Khan, junior of learned counsel for the appellant present. Mr. Ihsanullah, ASI alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

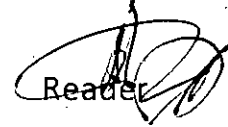
Junior of counsel for the appellant sought adjournment on the ground that the appeal in hand will be argued by his senior Mr. Muhammad Maaz Madni Advocate however, he is unable to appear before the D.B today due to some domestic problem. Adjourned. To come up for arguments before the D.B on 06.09.2021.

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

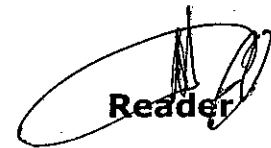
  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)



\_\_\_\_\_ .2020 Due to COVID19, the case is adjourned to  
12/8 /2020 for the same as before.


  
Reader


12.08.2020 Due to summer vacations case to come up for the same on  
15.10.2020 before D.B.

  
Reader

15.10.2020 Mr. Mir Zaman Safi, Advocate for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.


Learned counsel submitted that his senior counsel is busy before the Hon'ble Peshawar High Court, Peshawar and cannot attend the Tribunal today and requested for adjournment. Adjourned to 09.12.2020 on which to come up for arguments before D.B.

  
(Atiq-ur-Rehman Wazir)  
Member (Executive)

  
(Muhammad Jamal Khan)  
Member (Judicial)

09.12.2020 Appellant alongwith counsel and Mr. Muhammad Jan, DDA for the respondents present.

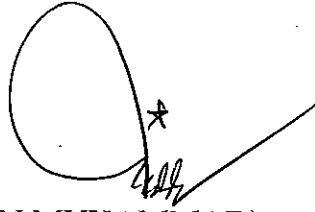
Learned counsel states that in the instant case penalty has been awarded to the appellant on 21.11.2016 but has been given effect from 15.04.2016. He, therefore, requests for adjournment of instant matter to a date after hearing of the proposition regarding retrospectivity of penalty by a Larger Bench of this Tribunal. Adjourned to 02.03.2021 for hearing before the D.B.

  
(Rozina Rehman)  
Member(J)

  
Chairman

19.03.2020

None for the appellant present. Addl: AG for respondents present. Due to general strike on the call of Peshawar Bar Council, the case is adjourned. To come up for arguments on 20.05.2020 before D.B.

A handwritten signature consisting of a large, stylized loop followed by a vertical line and a diagonal stroke.

(MAIN MUHAMMAD)  
MEMBER

A handwritten signature consisting of the letters 'M' and 'A' in a cursive style.

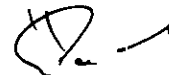
(M.AMIN KHAN KUNDI)  
MEMBER

08.11.2019

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 31.12.2019 before D.B.



Member



Member

31.12.2019

Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 11.02.2020 for arguments before D.B.



(Hussain Shah)  
Member



(M. Amin Khan Kundi)  
Member

11.02.2020

Junior to counsel for the appellant present. Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not available today. Adjourned. To come up for further proceedings/arguments on 19.03.2020 before D.B.



(Hussain Shah)  
Member



(M. Amin Khan Kundi)  
Member


19.06.2019

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Neither representative of the department present nor written reply submitted therefore, notices be issued to respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Case to come up for written reply/comments on 12.07.2019 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

12.07.2019

Nemo for the parties' present. Fresh notices be issued to them. To come up for written reply/comments on 06.09.2019 before S.B.

  
Member

06.09.2019

Junior to counsel for the appellant and Mr. Usman Ghani District Attorney alongwith Ihsanullah, ASI for the respondents present.

Written reply furnished by the respondents. To come up for arguments on 08.11.2019 before the D.B. The appellant may furnished rejoinder, within a fortnight, if so advised.

Chairman 

04.2.2019

Nemo for appellant. Addl. AG for the respondents present.

Learned AAG states that representative of respondents has not contacted him regarding preparation of requisite comments, therefore, the matter may be ~~adjourned~~ adjourned for the needful. Adjourned to 27.3.2019 before S.B.

  
Chairman

27.03.2019

Learned counsel for the appellant present. Written reply not submitted. Ihsan Ullah SI legal representative of the respondent department seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 26.04.2019 before S.B.

  
Member

26.04.2019

Nemo for appellant. Addl. *Adv. General* for the respondents present.

Learned AAG requests for adjournment in order to procure written reply from the respondents.

Adjourned to 19.06.2019 on which date written reply/comments shall positively be submitted.

  
Chairman

**Service Appeal No. 942/2018**

**13.12.2018**

Counsel for the appellant Muhammad Hayat Ullah present. Preliminary arguments heard. It was contended by the learned counsel for the appellant that the appellant was serving in Police Department as Constable, he was removed from service vide order dated 22.11.2016 by the competent authority on the allegation of absence with effect from 15.04.2016. It was further contended that on getting the knowledge about the removal order, the appellant filed departmental appeal on 30.03.2017 which was rejected copy of rejection order of departmental authority is not available on record. The appellant filed revision petition on 14.09.2017 and was rejected on 15.11.2017 which was communicated to the appellant in January 2018 and thereafter, the appellant filed the present service appeal. It was further contended that neither proper inquiry was conducted nor opportunity of personal hearing and defence was provided to the appellant. It was further contended that the appellant was ill and it was beyond the control of the appellant to attend the duty, in this respect the appellant also annexed copy of medical prescriptions. It was further contended that there is some delay in filing of departmental appeal but the appellant has filed application for condonation of delay therefore, the impugned order is illegal and liable to be set-aside.

The contention raised by the learned counsel for the appellant needs consideration. The 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 the respondents for written reply/comments for 04.02.2019 before S.B.

Appellant Deposited  
Security & Process Fee

*MA*  
**Muhammad Amin Khan Kundi**  
Member

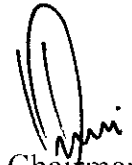
15.10.2018

Neither appellant nor his counsel present. Case to come up for preliminary hearing on 22.11.2018 before S.B.

  
(Ahmad Hassan)  
Member

22.11.2018




Mr. Muhammad Mahaz Madni, Advocate, counsel for the appellant present and requests for adjournment as he could not prepare the case. Adjourned to 13.12.2018 for preliminary hearing before S.B.

  
Chairman

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 942 /2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	30.07.2018	<p>The present appeal was received on 23.2.2018 which was returned to the counsel for the appellant for completion and resubmission within 15 days. Today i.e. on 30.07.2018 he resubmitted the same late by 139 days. The same may be entered in the institution register and put up to the Worthy Chairman for appropriate order please.</p> <p style="text-align: right;">   REGISTRAR 30/7/18 </p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>15-8-2018</u></p> <p style="text-align: right;">   CHAIRMAN </p>
2	1-8-18	
15.08.2018		<p>Clerk to counsel for the appellant preset. As lawyer community is on strike due to killing of an advocate at D.I.Khan. Case to come up for preliminary hearing on 15.10.2018 before S.B.</p> <p style="text-align: right;">   Chairman </p>




The appeal of Mr. Muhammad Hayat Ullah Constable No. 8120 FRP D.I.Khan Police received today i.e. on 23.02.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 2- Copy of removal from service order and departmental appeal against it are not attached with the appeal which may be placed on it.

No. 394 /S.T.

Dt. 26/02 /2018.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Bibi Sabah Adv. Pesh.

R/Sia,

- The deficiency at S#1 & 2 has properly been removed, No Show cause, charge sheet statement of allegation, enquiry report and replies were not intimated by the respondent on making request through application by the appellant. Only the impugned order was provided which is placed at Annex-D page -21.

- Due to serious illness of the counsel of the appellant, the appellant engaged his counsel.

- The Delay, if any was due to non-communication of the impugned order. may kindly be condoned please.

PTO



24/07/2018.

- D.A is placed on page - 93.  
the reply of rejection has not  
been communicated to the  
appellant only verbally informed.

- Re-Submitted after fulfilling  
all the requisite.



30/07/2018.

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

SERVICE APPEAL NO. 942 /2018

**MUHAMMAD HAYAT**

**V/S**

**POLICE DEPARTMENT**

**INDEX**

<b>S.NO.</b>	<b>DOCUMENTS</b>	<b>ANNEXURE</b>	<b>PAGE</b>
1	Memo of appeal	.....	1-6
2	Affidavit	.....	7
3	Application for Condonation of Delay	.....	8-10
4	Addresses of Parties	.....	11
5	Service Enrolment	<b>A</b>	12
6	Discharge Slip	<b>B</b>	13
7	Medical Prescriptions	<b>C</b>	14-20
8	Impugned order	<b>D</b>	21
9	Departmental Appeal	<b>E</b>	22-23
10	Application u/Rule 11-A	<b>F</b>	24
11	Appellate order	<b>G</b>	25
12	Vakalat nama	.....	16

**APPELLANT**

THROUGH:



**MUHAMMAD MAAZ MADNI,**  
**ADVOCATE, PESHAWAR**

ROOM NO. 1, UPPER FLOOR,  
NEW ISLAMIA CLUB BUILDING,  
KHYBER BAZAR, PESHAWAR CITY  
**0345-9090737, 0333-9313113**

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

SERVICE APPEAL NO. 942 /2018

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 266

Dated 23/2/2018

**MUHAMMAD HAYAT ULLAH, Ex-Constable No. 8120,**

FRP DI Khan Range DI Khan.

..... **APPELLANT**

**VERSUS**

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Commandant, FRP, Khyber Pakhtunkhwa, Peshawar.
3. The Superintendent of Police, FRP, DI Khan Range DI Khan.

..... **RESPONDENTS**

**APPEAL UNDER SECTION 4 OF THE KHYBER**  
**PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974**  
**AGAINST THE IMPUGNED ORDER DATED 21-11-2016**  
**WHEREBY THE APPELLANT HAS BEEN REMOVED FROM**  
**SERVICE AND AGAINST THE APPELLATE ORDER DATED**  
**15-11-2017 COMMUNICATED TO THE APPELLANT**  
**JANUARY 2018 WHEREBY THE DEPARTMENTAL APPEAL**  
**OF THE APPELLANT HAS BEEN REJECTED ON NO**  
**GOOD GROUNDS**

Filed to-day

Registrar

23/2/18

Re-submitted to-day  
and filed.

Registrar

30/2/18

Prayer:

2

On acceptance of this appeal the impugned order dated 21-11-2016 and 22-11-2017 communicated to the appellant in JANUARY 2018 may please be set aside and the appellant be re-instated into service with all consequential back benefits. Any other remedy which this Honourable Tribunal deems appropriate that may also be awarded in favour of the appellant.

---

Respectfully Sheweth:-

1. That, the appellant was enrolled in service as constable in FRP Police after fulfilling all the codal formalities required for the post vide order dated 08-01-2011. Copy of service Roll is attached as annexure ..... A.
2. That, the appellant after appointment took over the charge and started performing his duty quite efficiently whole heartedly and upto the entire satisfaction of his high ups.
3. That, the appellant has an unblemished service record of more than 5 years and served the department in such a way that the appellant has not given anyone the chance of any complaint.

4. That, in the year 2016 the appellant was diagnosed to be infected with HEPATITIS and was admitted in the Government Hospital of Police & FC Hospital Tank, where necessary treatment of the appellant was started. Copy of discharge slip is attached as annexure ..... **B.**

5. That, after getting a little bit health from the prolonged illness the doctor advised for taking proper treatment of his illness which continued till the end of the year 2016 upon these prescriptions the appellant was also advised for complete bed rest. Copies of the medical prescriptions are attached as annexure ..... **C.**

6. That, the appellant during his illness time and again informed his high ups regarding his illness and also applied for medical leave which was also allowed.

7. That, after getting health the appellant approached to the concerned quarter for joining of his duty, but the appellant was handed over the impugned order dated 21-11-2016 whereby the appellant has been removed from service. Copy of the impugned order is attached as annexure ..... **D.**

8. That, feeling aggrieved from the impugned order dated 21-11-2016 the appellant filed Departmental Appeal dated 30-03-2017 which was rejected against which the appellant filed application under Rule-11-A

of KP Police Rules 1975 which was also rejected on 22-11-2017 communicated to the appellant in January 2018. Copy of the Departmental Appeal, 11-A application and appellate order is attached as annexure ..... **E, F & G.**

9. That, the appellant feeling no other adequate remedy but to approach this Honourable Tribunal for the redressal of his grievances on the following grounds amongst others:

**GROUND S:**

- A- That, the impugned removal order dated 21-11-2016 & appellate order dated 22-11-2017 is void ab initio, against the Law & Rules and material available on record hence not tenable in the eye of Law and may be set aside.
- B- That, the appellant has not been treated by the respondents in accordance with Law & Rules and as such the respondents violated Article 4 & 25 of the Constitution of the Islamic Republic of Pakistan.
- C- That the respondents acted in arbitrary and malafide manner while issuing the impugned removal order dated 21-11-2016 & appellate order dated 22-11-2017.
- D- That the impugned removal order dated 21-11-2016 & appellate order dated 22-11-2017 has neither been issued in the public interest nor exigencies of service.

- E- That, the respondent has issued the impugned removal order dated 21-11-2016 & appellate order dated 22-11-2017 by knowing the actual situation of the appellant.
- F- That, no regular/fact finding inquiry has been conducted in the matter of appellant, which is prerequisite as per Supreme Court Judgments in punitive actions against the Civil Servant.
- G- That, no statement of allegation or charge sheet has been issued upon the appellant while issuing the impugned removal order dated 21-11-2016 & appellate order dated 22-11-2017.
- H- That, no show cause notice nor chance of personal hearing has been given to the appellant before issuing the impugned removal order dated 21-11-2016 & appellate order dated 22-11-2017 against the appellant.
- I- That appellant seeks permission to advance other grounds and proofs at the time of hearing.
- J- That, the appellant has neither violated any rules of service Law in his service career in the past nor even think to do so in future, while imposing the major penalty of removal from service against the appellant and is against the settled principles of service rule and arbitrary manner by respondent hence



6

need the interference of the Honourable Tribunal.

It is therefore humbly prayed that on acceptance of this service appeal the dismissal order mentioned in the heading of appeal may please be declared illegal, unlawful, without lawful authority and the appellant be re-instated with all back benefit.

محمد صباح  
Appellant

Through

  
**Bibi Sabah**

Advocate

High Court, Peshawar

Cell No.0333-9142116

Dated \_\_/01/2018

7

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

In Re:  
Service Appeal No. \_\_\_\_\_/2018

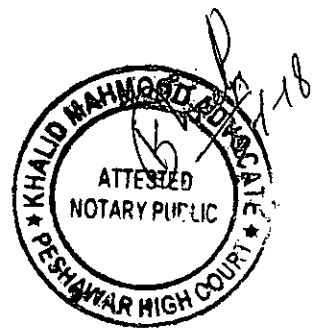
Muhammad Hayat Ullah.....**Appellant**

**V E R S U S**

District Police Officer & others.....**Respondents**

**A F F I D A V I T**

I, Muhammad Hayat Ullah, Constable No.812, FRP No.D.I.Khan, Police Line, Tank R/o Mohallah Majavor, P.O Pai Muhammad Akbar, Tehsil and District Tank, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



محمد حیات اللہ  
**DEPONENT**

8

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

In Re:  
C.M. No. \_\_\_\_\_/2017  
In  
Service Appeal No. \_\_\_\_\_/2018

Muhammad Hayat Ullah.....**Appellant**

**V E R S U S**

District Police Officer & others.....**Respondents**

**PETITION FOR CONDONATION OF**  
**DELAY,**

**Respectfully Sheweth:**

1. That the captioned case is being filed before this Honourable Court in which no date of hearing has yet been fixed.
2. That the grounds of the review petition may be read as an integral part of this appeal.
3. That the petitioner was under the impression that the limitation for filing a of this appeal was 30 days
4. That due to non availability/missing of appointment letter which is the necessary document for this appeal/petition. The appellant could not filed appeal within due time.

- 5. That delay, if any in filing the review petition is neither intentional nor deliberate, but due to the reason stated above.
- 6. That valuable rights of the petitioner are involved, the same would be defeated, if delay if any in filing the review petition is not condoned.

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

محمد صبا  
Appellant

Through



**Bibi Sabah**  
Advocate  
High Court, Peshawar  
Cell No.0333-9142116

Dated \_\_/01/2018

10

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

In Re:

C.M. No. \_\_\_\_\_/2017

In

Service Appeal No. \_\_\_\_\_/2018

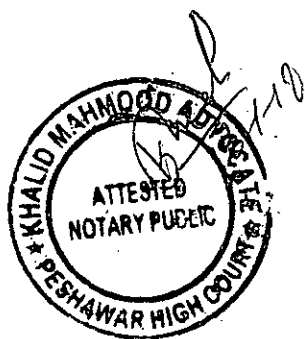
Muhammad Hayat Ullah.....**Appellant**

**V E R S U S**

District Police Officer & others.....**Respondents**

**A F F I D A V I T**

I, Muhammad Hayat Ullah, Constable No.812, FRP No.D.I.Khan, Police Line, Tank R/o Mohallah Majavor, P.O Pai Muhammad Akbar, Tehsil and District Tank, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



محمد حیات اللہ  
DEPONENT

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

SERVICE APPEAL NO. \_\_\_\_\_/2018

**MUHAMMAD HAYAT . V/S POLICE DEPARTMENT**

**ADDRESSES OF PARTIERS**

**MUHAMMAD HAYAT ULLAH**, Ex-Constable No. 8120,  
FRP DI Khan Range DI Khan.  
R/O Mohallah Majavor, P.O Pai Muhammad Akbar  
Tehsil & District, Tank

..... APPELLANT

**VERSUS**

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Commandant, FRP, Khyber Pakhtunkhwa, Peshawar.
3. The Superintendent of Police, FRP, DI Khan Range DI Khan.

..... RESPONDENTS

APPELLANT

THROUGH:



**MUHAMMAD MAAZ MADNI,**  
**ADVOCATE, PESHAWAR**

ROOM NO. 1, UPPER FLOOR,  
NEW ISLAMIA CLUB BUILDING,  
KHYBER BAZAR, PESHAWAR CITY

**0345-9090737, 0333-9313113**

Annexure - A

ENROLMENT AND SERVICE ROLL OF

Serial No. ( ) in  
 ( ) in  
 ( ) in

District  
 District  
 District

Name	Father's Name	Tribe or caste	Village or Town	Post and Telegraph Office	Police Station	District	Province	Date of Birth	Height	Chest Measurement	Date of Enrolment	Age on Enrolment	Distinctive Marks
Muhammad Hapatullah	Pur Dil Khan	Rumeli	Mehi Motaway Moh: Akbar	Plo Pori	P. S. Maroljungi	Tank	K. P. K.	13-04-1982	5-7 1/2	33 X 34 1/2	08-01-2011	18Y-08M-25D	

Enrolment Roll No. \_\_\_\_\_ dated \_\_\_\_\_ received back and attached to the Fauji Misal

Service prior to present employment, which is approved for pension service.

Service or department	Rank or grade	Pay of last Appointment	From	To	PERIOD		
					Year	Months	Days
		<u>Attested</u>					
Use of and character of service on discharge from above service			Reference to orders approving above service for pension service in the Police Department.				

I understand that I have been appointed under section 7 of the Police Act (V of 1861), and the purport of that section and the provisions of the Act and of the Rules issued under it and now in force, by which my discipline and conduct are governed, has been explained to me. I agree to serve faithfully under the provision of the said police Act and to obey all lawful orders issued to me by Superior Officers and undertake not to resign my appointment within three years from the date of my enrolment. I have received a certificate of appointment issued under section 8 of the Police Act (V of 1861).



Signature

Placed impression of fingers and thumb of left hand.

Left Little	Left ring	Left middle	Left Index	Left thumb

POLICE AND F.C HOSPITAL TANK

DISCHARGE SLIP

Annexure - (B) 13

NAME OF THE PATIENT Waliullah FATHER/HUSBAND Waliullah

P/NO 73 D.O. ADMISSION 7.4.04 D.O DISCHARGE 14.4.04

DIAGNOSIS infective hepatitis

Inva: \_\_\_\_\_

TREATMENT AT HOSPITAL

TREATMENT AT HOME

DL Metronidazole 500 mg 1000ml  
B.D

cap. cotrimoxazole (co)  
(4)

inj. Zephadrin 100ml  
D.D

cap. riboflavin

- inj. Cystamine 500mg

cap. Zephadrin  
2+2+2

inj. succinyls 1000ml D.D

Cidoxys D  
2+2+2

Cidoxys D  
2+2+2

Admitted but went to home  
for one month

MEDICAL OFFICER,  
POLICE AND F.C HOSPITAL  
TANK

DR. FALAK NAZ  
M.O. (TANK)

ATTESTED



Sent To: \_\_\_\_\_

# OUT DOOR PATIENT TICKET

DHHS - 02 (7)

District Colo

CRP No: 8120

Facility Name \_\_\_\_\_

Name W. K. G. E.

Age: \_\_\_\_\_

Sex: M

Father's/Husband's Name \_\_\_\_\_

Monthly OPD Serial No. 1204/893

Provisional Diagnosis: infective Hepatitis

Date

Clinical Findings / Investigations / Treatment / Referred / Test Findings

14/5/06

RP - cap. 4/500000  
ob. W. x 1+1  
- sup. j. 1/2/2/2  
ob. W. x 2+2+2  
- col. 1/2/2/2  
ob. W. x 2+2+2

Admitted bed rest at  
Home for one month

[Signature]  
14.5.06

DISTRICT HEALTH INFORMATION SYSTEM



[Handwritten mark]

15

Serial No.

OUT DOOR PATIENT TICKET

District

CB

CRP No.

8120

Facility Name

Name

Arora

Age

Sex

M

Father's/Husband's Name

Monthly OPD Serial No.

1505/73

Provisional Diagnosis

hypertensive nephritis

Date

14/6/06

Clinical Findings / Investigation / Treatment / Referred / Test Findings

R - eff. assessment  
ocul x 1+1  
- eff. Jct  
ocul x 2+2  
- eff. Jct  
2+2

Admitted bed rest  
at Home for 1 week

*[Signature]*  
14/6/06

ATTESTE

Sent To: \_\_\_\_\_

# OUT DOOR PATIENT TICKET

DHS: 02(D)

District: Civ

CRP No: 3120

Facility Name: \_\_\_\_\_

Name: Wic... 3

Age: \_\_\_\_\_

Sex: M

Father's/Husband's Name: \_\_\_\_\_

Monthly OPD Serial No. 1657/95

Provisional Diagnosis: infective hepatitis

Date	Clinical Findings / Investigations / Treatment / Referred / Test Findings
14/7/95	<p>Sp - <u>conf. admission</u>  <u>OGU x 1/1</u></p>
	<p>Sp. <u>jeep</u>  <u>OGU x 2+2+2</u></p>
	<p>Sp. <u>admission D</u>  <u>OGU x 2+2+2</u></p>
	<p><u>Admitted bed rest</u>  <u>at Home for one</u>  <u>month</u></p>
	<p><u>[Signature]</u></p>

DISTRICT HEALTH INFORMATION SYSTEM



18

ATTESTE

(17)

(17)

Sent for: \_\_\_\_\_

OUT DOOR PATIENT TICKET

District: Colt CRP No: 8121

Facility Name: \_\_\_\_\_

Name: W. J. ... Age: \_\_\_\_\_ Sex: M

Father's/Husband's Name: \_\_\_\_\_

Monthly OPD Serial No. 2096/122

Provisional Diagnosis: reflexive hypokinesia

Date	Clinical Findings / Investigations / Treatment / Referred / Test Findings
14/3/16	<p>PT - esp. 4.85 essential          - esp. 3.75 essential          - esp. 2.25 essential          - esp. 2.25 essential          Admitted bed rest at          Home for one month</p> <p style="text-align: right;"><i>[Signature]</i></p>

DISTRICT HEALTH INFORMATION SYSTEM



ATTESTED

18

OUT-DOOR PATIENT TICKET

Sent To: \_\_\_\_\_

District

Civ

CRP No:

3120

Facility Name

Name

W. W. W.

Age:

Sex:

M

Father's/Husband's Name

Monthly OPD Serial No.

3110/95

Provisional Diagnosis:

Myeloma Hodgkin's

Date

Clinical findings / Investigations / Treatment / Referred / Test Findings

Clinical findings / Investigations / Treatment / Referred / Test Findings

9  
14/9/95

R - exp. various body  
ob. x 14

Trab. complex  
12/13/95

Colony D  
ob. x 2 + 2

Admitted bed base  
at Home for one  
month

*[Signature]*  
14-9/95

DISTRICT HEALTH  
INFORMATION SYSTEM

INFORMATION SYSTEM



ATTESTED

19

18

OUT DOOR PATIENT TICKET

Sent To:

District

C-15

City No.

2120

Facility Name

Name

J. C. ...

Age

Sex

M

Father's/Husband's Name

Monthly OPD Serial No.

2445/129

Provisional Diagnosis

Acute Hepatitis

Date

Clinical Findings / Investigations / Treatment / Referred / Test Findings

14/10/06

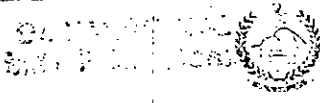
Rf

- cap. 4x1000 wmt
- oc 5 x 1+1
- cap. Hepatitis
- oc 5 x 2+2+2
- Cap. D
- 2+2+2

Admitted bed 4000 wmt  
Home for one month

*[Signature]*  
14/10/06

DHS  
DISTRICT HEALTH  
INFORMATION SYSTEM



LATEST

20

14

DHS - 02 (F)

OUT DOOR PATIENT TICKET

Sent To:

District EV

CRP No: 8120

Facility Name \_\_\_\_\_ Age: \_\_\_\_\_ Sex: M

Name ASIO ROZ Age: \_\_\_\_\_ Sex: \_\_\_\_\_

Father's/Husband's Name \_\_\_\_\_

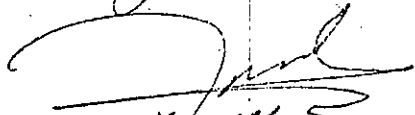
Monthly OPD Serial No. 2913/124

Provisional Diagnosis Multiple Myeloma

Date 14/11/06

- cap. vision WPT  
 2+3 + 1+1  
 - sup. by 8000 (3)  
 2+2+2  
 - Glasses - D  
 2+2+2

Admitted bed rest  
 at home for three  
 weeks

  
 14/11/06

DISTRICT HEALTH INFORMATION SYSTEM



ATTEST

Annexure - (D)

(91)  
 DIKHAN RANGE  
 Hayat

ORDER:-

This Order will dispose off departmental enquiry conducted Ullah No.8120/FRP, of FRP, D.I.Khan Range, on the Charges that according to dated 15.04.2016 of FRP Police Line Tank, he is absent from law full duties without any leave or permission.

On the basis of above, he was serve with show cause notice on 02. to submit his reply with in stipulated period of (7) days of its receipt but he served with proper Charge Sheet and Statement of allegations. SI Mushtaq Hus an Enquiry Officer. He was required to submit the reply of charge sheet but he completion of all codal formalities, the Enquiry Officer submitted his finding report relevant papers, wherein he stated that defaulter Constable was time and again summoned to re statement and also for completion of Departmental proceedings but he did not attended the Enquiry proceedings. From the perusal of his service record it is evident that he was enlisted on 08.01.2011. During the service he remained absent for a period of (311) days previously. He was also awarded minor punishments confinement to quarter guard for 12 days and stoppage of one year annual increment with cumulative effect previously. He was served with Final Show Cause Notice on 12.09.2016, he was required to submit his reply of Final Show Cause Notice within stipulated period of (15) days but he failed to do so. He is habitual absentee and there is no chance to became a good Police Officer.

Keeping in view the facts stated above, as well as recommendation of Enquiry Officer, MR. HAMEED ULLAH BALOCH, in exercise of powers conferred upon me under Khyber Pakhtunkhwa Police Rules 1975 amendments 2014 by taking ex-parte action hereby **Removed Constable Hayat Ullah No.8120/FRP from Service from the date of absence i.e 15.04.2016.** His absence period i.e from 15.04.2016 to till date is treated as without pay.

ORDER ANNOUNCED.  
 Dated 21.11.2016.

*Handwritten signature*

(HAMEED ULLAH BALOCH)  
 Superintendent of Police,  
 FRP, DIKhan Range DIKhan.

OB NO 1037  
 22-11-016

*Handwritten signature*  
 Attested.



Annexure - (E) (22) (37) (E) (20)

BEFORE THE HON WORTHY COMANDANT FRP KHYBER PAKHTUN  
KHAWA PESHAWAR

Subject

MERCY APPEAL/REPRESENTATION OF HAYATULLAH  
NO.8120/FRP OF DIKHAN REGION AGAINST THE  
IMPUGNED ORDER OF SP/FRP DIKHAN WHERAS THE  
MAJOR PANELTY OF REMAVAL FROM SERVICE HAS  
BEEN IMPOSED AND THE ABSENCE PERIOD HAS  
BEEN GRANTED AS LEAVE WITH OUT PAY VIDE  
ORDER NO.1037 DT;22.11.2016.

PRAYER IN APPEAL

With due respects and humble submission, it is Humbly brought into your kind notice that if my Mercy appeal is accepted then the impugned Order of the SP FRP DIKhan may be set a side and the appellant may be re-Instated with retrospective effect with all back benefits Beside this, my absence period may also be treated as earned leave with full pay on Medical Grounds please.

~~As Sr. Constable~~ was posted as Police Constable in 08/2011, and performed my duty devotedly, honestly punctually and regularly, and no chance of any complaint has been provided to my Superiors. But unfortunately on 14.4.2016 the appellant fell seriously ill and rushed to Official/Govt Doctor Frontier Constabulary Tank, and Beside the necessary Treatment / Medicines, he advised me Bed rest for a month (Medical Prescription attached as annexure-1), as such my illness prolonged day by day, and according to the Doctor Advice I was getting my proper Treatment for a bout 3 months and become to died bed, from 14.4.2016 and onward to 14.11.2016 (all monthly Medical Prescription and advice for bed rest for a month by month, up to 14,11,2016, are attached as annexures 1-8).

During the period of my illness I informed my immediate Boss / Commandant. And my in charge allowed me verbally to

During, the entire period of my stated Absence from 4/2016 to 11/2016 no explanation, show cause Notice etc have been given to the appellant as required under the rules. An Inquiry was conducted regarding my stated absence; But the Inquiry Officer also violated the rules and regulation by giving no chance of my personal hearing in my defense.

ATT/STL

23

The Competent authority also not taken my genuine plea regarding my prolonged illness for which the Documentary proves have also been provided, but my genuine request set a side and issued the impugned termination orders of the appellant (Copy attached as annexure-9) in hazard manner which is illegal and contrary to rules and regulation of Govt Servants rules 2011.

R/Sir, In view of the above facts, your good and kind self is humbly requested that, my Mercy Appeal in the light of attached Medical Prescriptions and recommendation of bed rests for the months from 4/2016 to 11/2016, as well as on humanitarian Grounds may be considered favorably and the Impugned Orders of the SP FRP, may be set a side and I MAY BE RE-INSTATED TO MY SERVICE WITH RETROSPECTIVE EFFECT, AND OBLGED PLEASE.

Hon:/Sir, in view of the above facts it is once again humbly requested that my Marcy Appeal kindly be considered in the light of attached Medical Prescriptions and purely on humanitarian grounds, and I may re-Instated to my Job, as I am a poor man and nothing else, as there is no other source of my income to look after my aged parents and obliged please.

Thanking you in anticipation, and shall remain very thankful to you for your this act of kindness please.

Dated. 30.03.2017

Yours Obediently,

Hayatullah No.8120 Ex Constable  
FRP. DIKhan S/O Purdil Khan R/O  
Mohd Akbar, Tehsil & Distt: Tank.

AT/ESI

Annexure - (F)

24

بخدمت جناب انسپکٹر جنرل آف پولیس خیبر پختونخواہ پشاور

اپیل رقم

عنوان:

جناب عالی :-

گزارش ہیکہ جناب والا کی طرف سے جاری شدہ چھٹی انگریزی نمبر S/5185-86/2017 مورخہ 21.08.2017 معروض ہوں کہ سائل نے دوبارہ سروس بحالی کیلئے جناب کمانڈنٹ FRP خیبر پختونخواہ پشاور کو اپیل دائر کی تھی جو کہ جناب کمانڈنٹ FRP صاحب نے بحوالہ حکم نامہ 4761/EC مورخہ 12.06.2017 کے ذریعے میری اپیل کو رد کیا۔ جسکی فوٹو کاپی ہمراہ لف ہے۔

لہذا استدعا کی جاتی ہے کہ میری اپیل کو دوبارہ برائے مزید کارروائی کیلئے کیٹی میں شامل کر کے دوبارہ کوکری پر بحال کئے جانے کا حکم صادر فرمایا جائے۔ برائے آئندہ محتاط رہونگا۔ اور اپنی ذیوبی خوش اصلاحی سے سرانجام دیتے ہوئے آفسران بالا کو کسی قسم کی شکایت کا موقع نہیں دوںگا۔

عین نوازش ہوگی۔

فقط مورخہ 14.09.2017

العارض

سابقہ کنسٹیبل حیات اللہ خان نمبر 8120/FR.P ڈیرہ اسماعیل خان

محمد حیات اللہ

24



Haji No. 828 & 829  
(9) No. S/ 7360

OFFICE OF THE INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
PESHAWAR. 1332/FRP  
/17, dated Peshawar the 15/11/2017

ORDER

*Amexuse* - (9) 7281 15 11

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975, submitted by Ex-FC Hayat Ullah No. 8120. The petitioner was removed from service w.e.f 15.04.2016 by SP/FRP, DIKhan vide OB No. 1037, dated 22.11.2016 on the charge of absence from duty for 07 months and 07 days.

His appeal was rejected by Commandant, FRP, Khyber Pakhtunkhwa, Peshawar vide order Endst: No. 4761/EC, dated 12.06.2017.

Meeting of Appellate Board was held on 02.11.2017 wherein petitioner was heard in person. During hearing petitioner contended that his father was ill.

Perusal of record revealed that petitioner was removed from service on the charge of long absence from duty for a period of 07 months and 07 days vide order dated 22.11.2016. His departmental appeal was rejected vide order dated 12.06.2017. The instant review petition filed on 14.09.2017 is time barred besides his service record contain 30 bad entries. He is habitual absentee and there are no prospects of his becoming a good police officer or mending his ways and abandoning his habit of absence from duty. Therefore, the Board decided that his petition is hereby rejected.

This order is issued with the approval by the Competent Authority.

NO 8813 / EC  
date 21/11/2017  
Copy to SP FRP DIKhan  
for information.

(ARIF SHAKIBAZ KHAN)  
AIG (Retirement)  
For Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.

No. S/ 7361-67

Copy of the above is forwarded to the:

1. Commandant, FRP, Khyber Pakhtunkhwa, Peshawar.
2. Supdt. of Police, FRP, DIKhan.
3. PSO to IGP, Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Lega, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E.V. CPO Peshawar.

EC  
Please inform the  
concerned authorities  
of commandant E.V. CPO

*for n/a action*

Signature of Officer  
22/11

Electronic Order No. 2017/20474 dated November 02, 11, 2017 7:50am

*for n/a action*

**OFFICE OF THE INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA, PESHAWAR**

No. 7360-/17 dated Peshawar the 15/11/2017

**Order**

This order is hereby passed to disposed of departmental appeal under Rule 11-A of the Khyber Pakhtunkhwa Police Rule 1975 submitted by Ex-FC Hayat Ullah No. 8120. The petitioner was removed from service w.e.f. 15-04-2016 by SS/FRP, DI Khan vide OB No. 1037, dated 22.11.2016 on the charge of absence from duty for 07 months and 07 days.

His appeal was rejected by Commandant, FRP, Khyber Pakhtunkhwa Peshawar vide order Endst No. 4761/EC dated 12-06-2017.

Meeting of appellate Board was held on 02-11-2017 wherein petitioner was heard in person. During hearing petitioner contended that his father was ill.

Perusal of record reveals that petitioner was removed from service on the charge of long absence from duty for a period of 07 months and 07 days vide order dated 22-11-2016. His Departmental Appeal was rejected vide order 12.06.2017. The instant review petitioner filed on 14-09-2016 is timed barred besides his service record contains 30 bad entries. He is habitual absentee and there are no prospects of his becoming a good police officer or mending his way and abandoning his habit of absence from duty. Therefore, the Board decided that his petition is hereby rejected.

This order is issued with the approval of the competent authority.

(ARIF SHAHBAZ KHAN)

AIG/Establishment

For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar

Copy of the above is forwarded to the:

1. Commandant, FRP, Khyber Pakhtunkhwa, Peshawar
2. Superintendent of Police, FRP DI Khan.
3. PSO to IGP Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Add: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Superintendent, E-IV CPO Peshawar.



**VAKALATNAMA**

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

\_\_\_\_\_ OF 2018

**MUHAMMAD HAYAT ULLAH** (APPELLANT)

**VERSUS**

**POLICE DEPARTMENT** (RESPONDENT)

I/We MUHAMMAD HAYAT ULLAH  
Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK & Muhammad Maaz Madni, Advocates, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 20 / 07 / 2018



CLIENT



ACCEPTED

NOOR MOHAMMAD KHATTAK

&



MUHAMMAD MAAZ MADNI  
ADVOCATES

OFFICE:

Room No.1, Upper Floor,  
Islamia Club Building, Khyber Bazar,  
Peshawar City.

Phone: 091-2211391

Mobile No.0345-9090737, 0333-9313113

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.942/2018.

**Muhammad Hayat Ullah**, Ex-constable No. 8120, FRP DI Khan Range, DI Khan  
.....Appellant

**VERSUS**

1. **Inspector General of Police,**  
Khyber Pakhtunkhwa, Peshawar.
2. **Commandant, Frontier Reserve Police,**  
Khyber Pakhtunkhwa, Peshawar.
3. **The Superintendent of Police,**  
FRP DI Khan Range, DI Khan ..... Respondents

**PRELIMINARY OBJECTIONS**

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has no cause of action to file the instant appeal.
4. That the appellant has not come to this Honorable Court with clean hands.
5. That the appellant is estopped due to his own conduct to file the instant Service Appeal.
6. That the appellant trying to concealed material facts from this Honorable Tribunal.

**WRITTEN REPLY ON BEHALF OF RESPONDENTS**

**FACTS**

**RESPECTED SHEWETH:-**

1. Para No.1 pertains to the appellant record needs no comments.
2. Incorrect and denied. The appellant found a habitual absentee and having a blemish service record..
3. Incorrect and denied. From perusal of the service record of the appellant it has been found that he was enlisted in the year 2011, during his short length service he was remained absented himself from lawful duties without any leave or prior permission of his senior for a long period of (311) days previously. On account of absence he was awarded minor punishments of confinement to quarter guard for 12 days and stoppage of one annual increment with cumulative effect.
4. Incorrect and denied. The appellant was remained absent from lawful duty vide daily dairy report No. 09, dated 15.04.2016, without any leave or prior permission of the competent authority. The plea taken by the appellant regarding to his illness is after thought story.
5. Incorrect and denied. That the appellant was continuously remained absent from duty therefore, he was issued Show Cause Notice, which was properly served upon him on 02.05.2016, he required to submit his reply of Show

Cause Notice and to inform the competent authority regarding to his illness, but he failed to do so.

6. Incorrect and denied. The allegations are false and baseless, as neither the appellant informed the high ups regarding to his illness nor he applied for granting medical leave.
7. Incorrect and denied. Proper departmental enquiry has been conducted against him as he was issued Charge Sheet alongwith Summary of Allegation and Enquiry Officer was nominated to conduct proper enquiry against him. After fulfillment of all codal formalities the appellant was removed from service by the competent authority.
8. Para No. 8 is admitted to the extent that departmental appeal submitted by the applicant was thoroughly examined and rejected on sound grounds vide order dated 12.06.2017. Thereafter, he submitted revision petition before Appellate Board at CPO Peshawar, which was thoroughly examined and also rejected vide order dated 22.11.2017 on the ground of time barred and merit as well. Moreover a copy of rejection order of departmental appeal has already been conveyed to the appellant vide order Endst; No. 4761/EC, dated 12.06.2017.
9. Incorrect and denied. The appellant has not come to this Honorable Court with clean hands therefore; the instant appeal may kindly be dismissed on the ground of time barred.

### GROUNDS

- A. Incorrect and denied. The orders issued by the respondents are legally justified and in according to law/rules.
- B. Incorrect and denied. The appellant was remained absent from duty for a long period of 07 months and 07 days, without prior permission of the competent authority. On the account of his prolong absence he was dealt with proper departmental enquiry and after fulfillment of all codal formalities the appellant was removed from service, thus the appellant was treated in according to law/rules and the respondent were not violated any article of the constitution of Islamic Republic of Pakistan in the case of the appellant.
- C. Incorrect and denied, as explain in the preceding para No. B that the appellant was remained absent from duty for a long period of 07 months and 07 days, without prior permission of the competent authority and after proper enquiry he was removed from service. Subsequently, his departmental appeal was rejected on sound ground vide office **order Endst; No. 4761/EC, dated 12.06.2017** and thereafter his mercy petition was rejected by the Appellate Board vide CPO order dated 22.11.2017.

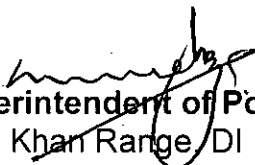



- D. Incorrect and denied. The order of his removal from service and subsequent rejection order of departmental appeal dated 12.06.2017 of the Appellate Authority are legally justified and in accordance to law/rules.
- E. Incorrect and denied. The appellant was proceeded against proper departmentally and his guilt was fully established against him during course of enquiry therefore, he was removed from service. Departmental appeal of the appellant was thoroughly examined as he being heard in person in orderly room by the Appellate Authority on 01.06.2017, but he failed to advance any justification regarding to his prolong absence, therefore his departmental appeal was rejected vide order Endst; No. 4761/EC, dated 12.06.2017.
- F. Incorrect and denied. Proper departmental enquiry has been initiated against the appellant as he was issued Charge Sheet alongwith Statement of Allegations and Enquiry Officer was nominated to unearth the actual facts. After completion of enquiry the Enquiry Officer submitted his findings, wherein the appellant was found guilty of the charges leveled against him. Upon the findings of Enquiry Officer he was served with Final Show Cause Notice, but he failed to submit his reply within stipulated period of 15 days. After fulfillment of all codal formalities the appellant was removed from service under Police Rules 1975 amended 2014 vide order dated 22.11.2016.
- G. Incorrect and denied. On the allegation of absence the appellant was issued Charge Sheet alongwith Summary of Allegation which was properly served upon him, but the appellant failed to submit reply of Charge Sheet or appeared before the Enquiry Officer despite that he was summoned time and again by the Enquiry Officer.
- H. Incorrect and denied. Upon the finding of Enquiry Officer the appellant was served with Final Show Cause Notice, but he failed to submit his reply within stipulated period of 15 days. The opportunity of personal hearing for defence had already been provided to the appellant by the competent authority, but he deliberately failed to avail this opportunity. Moreover, during the proceeding of departmental appeal the opportunity of person hearing for defence was offered, to which he availed and it is evident from the rejection order of the Appellate Authority.
- I. The respondent may also be permitted to advance additional grounds at the time of arguments.
- J. Incorrect and denied. The appellant was a habitual absentee as his service record reveals that he was previously remained absent from duty for a long period of (311) days, to which he was awarded minor punishments confinement of quarter guard for 12 days and stoppages of one year annual increment with cumulative effect etc and it is settled proposition of law that


and after laps of more than 01 years he desired to reinstate in service. Thus the instant appeal may kindly be dismissed on the ground of time barred and merit as well.

**PRAYERS**

It is therefore, most humbly prayed that in the light of aforesaid facts/submission the service appeal may kindly be dismissed with cost.

  
Superintendent of Police, FRP  
DI Khan Range, DI Khan  
(Respondent No.3)

  
Commandant, FRP,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No.2)

  
Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No.1)