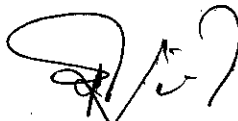


O R D E R
28.03.2022

Nemo for the appellant. Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present.

The appeal in hand was called on for hearing after various intervals, however none appeared on behalf of the appellant till closing time, therefore, the appeal in hand stands dismissed in default. File be consigned to the record room

ANNOUNCED
28.03.2022


(Rozina Rehman)
Member (J)


(Salah-ud-Din)
Member (J)

30.11.2021

Junior of learned counsel for the appellant present.

Mr. Kabir Ullah Khattak, learned Additional Advocate General for respondents present.

Former made a request for adjournment as senior counsel for the appellant is busy before Hon'ble Peshawar High Court, Abbottabad Bench. Adjourned. To come up for arguments on 28.03.2022 before D.B.



(Atiq ur Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

20.01.2021

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

On the last date of hearing, the proceedings were adjourned through Reader Note due to non-availability of the Bench. It is adjourned to 20.04.2021. Notices to the parties be issued for the next date.

(Mian Muhammad)
Member(E)

Chairman

20.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 12.08.2021 for the same as before.

Reader

12.08.2021

Nemo for appellant.

Asif Masood Ali Shah learned D.D.A for respondents present.

Preceding date was adjourned on a Reader's note, therefore, appellant/counsel be put on notice for 30.11.2021 for arguments before D.B.

*Noted
13/9/21*

(Rozina Rehman)
Member (J)

Chairman

~~Nemo for appellant.~~

~~Asif Masood Ali Shah learned D.D.A for respondents present.~~

~~Preceding date was adjourned on a Reader's note, therefore,~~

~~appellant/counsel be put on notice for 30.11.2021 for arguments~~

~~before D.B.~~

28-4 .2020

Due to COVID19, the case is adjourned to
8/7 /2020 for the same as before.


Reader

08.07.2020

Due to COVID19, the case is adjourned to 02.09.2020 for
the same as before.

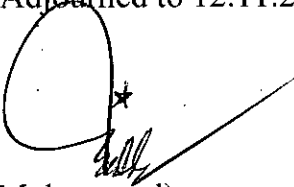

Reader

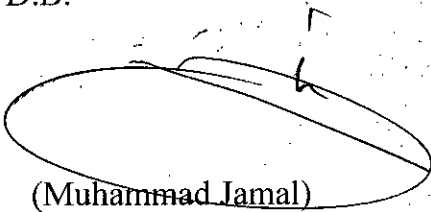
02.09.2020

Mr. Syed Noman Ali , Advocate junior to counsel for
the appellant present. Mr. Kabirullah Khattak, Additional
Advocate General for respondents present.

Junior to counsel for the appellant seeks adjournment
as senior counsel was busy before the august Supreme Court
of Pakistan.


Adjourned to 12.11.2020 before D.B.


(Mian Muhammad)
Member (E)


(Muhammad Jamal)
Member(J)

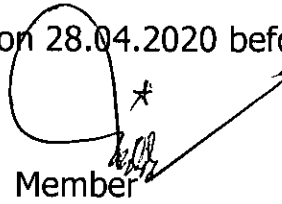
12.11.2020

Proper D.B is not available, therefore, the case is
adjourned for the same on 20.01.2021.


Reader

04.03.2020

Counsel for the appellant present. Addl: AG for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 28.04.2020 before D.B.

A handwritten signature consisting of a large, stylized letter 'D' with a small asterisk-like mark above it, and a long diagonal stroke extending from the bottom right of the 'D'.

Member

A handwritten signature consisting of the letters 'MA' in a stylized, cursive font, followed by a small flourish.

Member

06.09.2019

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 18.11.2019 for arguments before D.B.



(Hussain Shah)
Member



(M. Amin Khan Kundi)
Member

18.11.2019

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned to 16.01.2020 for arguments before D.B.



(Hussain Shah)
Member



(M. Amin Khan Kundi)
Member

16.01.2020

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Kabirullah Khattak, Additional AG for the respondents present. Adjourned to 04.03.2020 for arguments before D.B.



(Ahmad Hassan)
Member



(M. Amin Khan Kundi)
Member

29.03.2019

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 15.05.2019 before D.B.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

15.05.2019

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned to 11.07.2019 for arguments before D.B.


(AHMAD HASSAN)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

11.07.2019


Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 06.09.2019 before D.B.



Member


Member

11.10.2018


Counsel for the appellant present. Mr. Ziaullah, DDA for respondents present. Counsel for the appellant submitted rejoinder which is placed on file and seeks adjournment. Granted. Case to come up for arguments on 23.11.2018 before D.B.

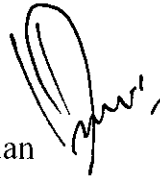

(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

23.11.2018

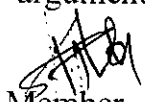
Counsel for the appellant and Addl. AG for the respondents present. Counsel for the appellant requests for adjournment. Other side has no objection. Adjourned to 24.01.2019 for arguments before D.B.



Member


Chairman

24.01.2019

Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. ~~As P.S~~ ~~Counsel is not to attend.~~ Adjourned. To come up for arguments on 29.03.2019 before D.B


Member


Member

29.03.2018

Counsel for the appellant and Mr. Kabir Ullah Khattak, Additional AG for the respondent present. Representative of the respondent department is not in attendance therefore, notice be issued to the respondents to attend the court positively. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 03.05.2018 before S.B.


Chairman

03.05.2018

The Tribunal is non functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on 28.06.2018 before S.B.



Reader

28.06.2018

Appellant in person present. Mr. Muhammad Jan, DDA alongwith Ihsan Ullah, S.I for the respondents presents. Written reply submitted on behalf of respondents. To come up for rejoinder if any and arguments on 15.08.2018 before D.B.


Member

15.08.2018

Clerk to counsel for the appellant and Mr. Usman Ghani learned District Attorney present. Due to general strike of the bar, the case is adjourned. To come up on 11.10.2018 before D.B.



(Muhammad Amin Kundi)
Member

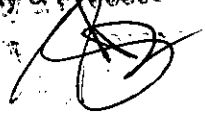


(Muhammad Hamid Mughal)
Member

29.01.2018

Counsel for the appellant present. Preliminary arguments heard and case file perused. Learned counsel for the appellant argued that he joined the Police Department as Constable in 2006. During militancy many police officials after having been threatened by the militants remained absent from duty. Departmental proceedings were initiated against the appellant and vide impugned order dated 24.12.2009 he was removed from service from the first day of his absence from official duty. He preferred departmental appeal on which no date is mentioned the same was rejected on 05.09.2017. Thereafter he filed review petition under Rule-11-A of Khyber Pakhtunkhwa Police Rules 1975, which was rejected on 15.03.2017, hence, the instant service appeal. As the impugned order is void ab-initio, limitation would not affect the cause of action in the instant appeal. Proper enquiry has not been conducted against the appellant and was condemned unheard. The appellant has not been treated according to law and rules. Reliance was placed on case law reported as 1985 SCMR 1178.

Appellant Deposited
Security & Process Fee



Points urged need consideration. Admit, subject to limitation. Appellant is directed to deposit of security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 01.03.2018 before S.B.


(AHMAD HASSAN)
MEMBER

01.03.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Representative of the department is not in attendance therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned. To come up for written reply/comments on 29.03.2018 before S.B.



(Muhammad Amin Khan Kundi)
Member

Form-A

FORM OF ORDERSHEET

Court of _____

Case No. 53/2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	15/1/2018	<p>The appeal of Syed Hameed Jan resubmitted today by Mr. Taimur Ali Khan Advocate, may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"><i>S. S. Sheikh</i> REGISTRAR</p>
2-	19/01/18	<p>This case is entrusted to Fouring S. Bench for preliminary hearing to be put up there on <u>29/01/18</u>.</p> <p style="text-align: right;"><i>[Signature]</i> MEMBER.</p>

The appeal of Syed Hameed Jan Ex-Constable No. 4922 FRP Malakand Range Swat received today i.e. on 01.01.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Affidavit may be got attested by the Oath Commissioner.
- 3- Annexures of the appeal may be attested.
- 4- Annexures of the appeal may be flagged.
- 5- 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.
- 6- Copy of departmental appeal and revision petition mentioned in para-4 of the memo of appeal is not attached with the appeal which may be placed on it.
- 7- Annexure-E of the appeal is missing.
- 8- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.


No. 11 /S.T,

Dt. 02/01/2018


REGISTRAR 2/1/18
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Taimur Ali Khan Adv. Pesh.

Respected Sir

- 1- Removed (P#04)
 - 2- Removed (P#07-18)
 - 3- Removed (P#07-18)
 - 4- Removed (P# 7,8,9,10,11,15)
 - 5- Removed as charge sheet, show cause notice etc was not issued to appellant
 - 6- Removed as departmental appeal is attached as Annexure B.
 - 7- Removed (Annex-E attached - P#11)
 - 8- Removed (05 copies attached)
- 

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 53/2018

Syed Hameed Jan

V/S



Police Deptt:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	-----	01-04
2.	condonation of application	-----	5-6
3.	Copy of removal order	A	07
4.	Copy of departmental appeal	B	08
5.	Copy of rejection	C	09
6.	Copy of rejection of revision	D	10
7.	Copy f orders	E	11-14
8.	Copy of judgment	F	15-18
9.	Vaklat Nama	-----	19

APPELLANT

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
&

ASAD MAHMOOD
ADVOCATE HIGH COURT

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 53 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 04

Dated 01-1-2018

Syed hameed Jan, Ex- Constable, No.4922,
FRP, Malakand Range Swat.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, KPK, Peshawar.
2. The Commandant FRP, KPK, Peshawar.
3. The Superintendent of Police, FRP, Malakand Range Swat.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 26.10.2017 COMMUNICATED TO THE APPELLANT ON 05.12.2017, WHEREBY THE REVISION OF THE APPELLANT UNDER RULE 11-A OF POLICE RULES 1975 AMENDED IN 2014 FOR REINSTATMENT HAS BEEN REJECTED FOR NO GOOD GROUND AND AGAINST THE ORDER DATED 05.09.2017 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS ALSO BEEN REJECTED AGAINST THE ORDER DATED 24.12.2009 FOR NO GOOD GROUND.

Filed to-day

Registrar

01/01/18

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 26.10.2017, 05.09.2017 AND 24.12.2009 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

Registrar

Re-submitted to-day
and filed.

15/1/18

RESPECTFULLY SHEWTH:

FACTS:

1. That the appellant joined the police force in the year 2006 and completed all his due training etc and also have good service record throughout.
2. That due to the militancy in Malakand range, many police officials have threaten by the militants and remained absent from duty. the appellant has also threaten to life and due to that reason he was shifted along with his family to safe place and due to which was compel to remain absent from his duty.
3. That on the basis of above reason, one sided departmentally inquiry proceeding was conducted against the appellant and removed from service from the first date of his absence of official duty vide order dated 24.12.2009. **(Copy of order dated 24.12.2009 is attached as Annexure-A)**
4. That when the security situation in Malakand Region became better, he came again and filed departmental appeal for his reinstatement, but his departmental appeal was rejected on 05.09.2017. The appellant then filed revision under Rule 11-A of the Police Rules 1975 amended in 2014 which was also rejected on 26.10.2017 which was received by the appellant on 5.12.2017 however the appellant did not keep the copy of revision which may be requisite from the department. **(Copies of departmental appeal, rejection order, and rejection of revision are attached as Annexure-B,C&D)**
5. That now the appellant come to this august tribunal on the following grounds amongst others.

GROUND:

- A) That the impugned order dated 26.10.2017, 05.09.2017 and 24.12.2009 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That the appellant has been condemned unheard and has not been treated according to law and rules.

- C) That no regular inquiry was conducted against the appellant and the appellant was removed on the basis of one sided inquiry, which is not permissible in law. Therefore the impugned order is liable to be set aside on this ground alone.
- D) That the penalty of removal from service has been imposed upon the appellant with retrospective effect and as per Superior courts judgments executive/departmental authority has no power to pass orders with retrospective effect and such like order are void orders.
- E) That the appellant was discriminated as due to militancy many police officials were remain absent for having threat to their lives by the militants and were dismissed or removed from their service by the department on the basis of absence, but they were reinstated by the department itself, but same benefit was not extended to the appellant which is against the principal of natural justice. **(Copy of orders are attached as Annexure-E)**
- F) That this august Tribunal also accepted similar natural of appeals and the appellant also expected the same relief from this august Tribunal. **(Copy of judgment is attached as Annexure-F)**
- G) That no charge sheet was served to the appellant before passing the impugned order of removal from service, which is the violation of law and rules.
- H) That even no show cause notice was issued to the appellate before imposing major punishment of removal from service, which is violation of law and rules.
- I) That the penalty of removal from service is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law.
- J) That the appellant did not intentionally absent from his duty but militancy and threat to his life compel him to remain absent from duty.
- K) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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



APPELLANT

Syed Hameed Jan

THROUGH:



(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT



ASAD MAHMOOD
ADVOCATE HIGH COURT

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2017

Syed Hameed Jan

V/S

Police Deptt:

.....
**APPLICATION FOR CONDONATION
OF DELAY IN THE INSTANT APPEAL**

RESPECTFULLY SHEWETH:

1. That the instant appeal is pending before this Honourable Tribunal in which no date has been fixed.
2. That the penalty of removal from service has been imposed upon the appellant with retrospective effect and as per Superior courts judgments executive/departmental authority has no power to pass orders with retrospective effect and such like order are void orders.
3. That the august Supreme Court of Pakistan has held that decision on merit should be encouraged rather than knocking-out the litigants on technicalities including limitation. Therefore, appeal needs to be decided on merit (2003, PLD (SC) 724.
4. That due to militancy in Malakand Range and threat to the life appellant, the appellant was unable to file the departmental appeal before the competent authority in time, otherwise, the appeal of the appellant on merit is good enough to be decided on merits.

It is therefore most humbly prayed that the instant appeal may be decided on merit by condoning the delay to meet the ends of justice.

Syed Hameed Jan
APPELLANT
Syed Hameed Jan

THROUGH:

(Signature)
(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
&
(Signature)
ASAD MAHMOOD
ADVOCATE HIGH COURT

AFFIDAVIT

It is affirmed and declared that the contents of application are true and correct to the best of my knowledge and belief.

DEPONENT

ATTESTED
Oath Commissioner
Zahoor Ahmad Advocate
Distt: Court Peshawar,

15 JAN 2018

ORDER

A (7)

F.C Said Hamid Jan No. 4922 PL: No. 87 FRP Swat Malakand Range has remained absent from lawful duty from 04/03/2009 to date

He was proceeded against departmentally under the NWFP Removal from Service (Special Powers) Ordinance, 2000, with duly constituted Inquiry Committee comprising the following police officers:

- 3 S.I Rehmat Ali Khan, R.I FRP Lines, Swat.
- 4 S.I Bacha Khan Khan, L.O FRP Lines, Swat.
- 3 S.I Ghulam Ahad Khan Line officer II, FRP Swat.

The Inquiry Committee had completed all the requisite codal formalities and submitted the enquiry report, wherein it has been observed that the defaulter F.C Said Hamid Jan No. 4922 was enlisted in FRP on 26/07/2007. The defaulter F.C Said Hamid Jan No. 4922 deserted the force during an emergency situation and thus demonstrated cowardice in the line of duty. Later on, he was given the opportunity to join his duty but he failed to do so. In the light of the above inquiry report, the Inquiry Committee has found the defaulter constable guilty of charges and recommended his removal from service.

I, the undersigned, have thoroughly perused the enquiry report and the inquiry papers of the Inquiry Committee. The defaulter constable has been provided an ample amount of opportunity for personal hearing but he never availed this Chance. I fully agree with the findings and recommendations of the Inquiry Committee. Therefore, the defaulter F.C Said Hamid Jan No. 4922, Platoon No.87, FRP, Malakand Range, is hereby removed from service from the first date of his absence of official duty.

Order announced.

~~Superintendent of Police FRP
Malakand Range Swat.~~

No. 1758 /EC,

Dated 24/12 /2009.

Copy to the worthy Commandant, Frontier Reserve Police, N.W.F.P.
Peshawar, for favour of kind information, please.

Superintendent of Police FRP
Malakand Range Swat.

O.B.No. 249

Dated 27/12 /2009.

ATTESTED

کذمت چہا بگاڑتہ FRP ملدہ حقوق فوائدا

8

چہا عالی

ارش ہے۔ FRP ملا کڈ رینگ میں 2006

یاد رہتی ہوا تھا اور ریکورڈ کورس پاس کیا گیا

لہذا اس وقت اسٹیٹ سے انجام دی ہے۔

سے ملا کڈ رینگ اسٹیٹ کڈی کی لیسٹ علی آ گیا اور اسٹیٹ

نے سیکوری فورسز حلقہ چھوڑ دیا ہے اور ان

کو اس وقت تک اور بے سار کو شہد کئے

چونکہ سب کو کب اسٹیٹ کڈیوں کی جانب سے جان سے

مارنے کی دھمکیاں مل رہی تھیں۔ اس وقت سے

سب محفوظ رہے۔ ان کے ساتھ محفوظ مقام

پر منتقل ہو گیا۔

چونکہ سب نے بڑی کوشش کی کہ فوری پر جان سے لیں

جان کا خطرہ لاحق تھا اس وقت سے غیر حاضر ہو کر فوری

میں 2010 میں ہر فوائدا لیا۔

چونکہ سب ایک عزیز خاندان سے تعلق رکھتا ہے۔

کا ذمہ داریاں ہیں۔ لہذا اس کے ساتھ ساتھ

کو فوری پر دوبارہ جان بچانے کا حکم جاری کیا گیا۔

Ex - کسٹمر سروسز FRP 4922 ملا کڈ رینگ

ATTESTED

Phone No. 0346 2703092

ORDER

Office of S.A. F.P.S. No. 1226 Date 13/09/2017 C 9

This order shall dispose of departmental appeal under Rule 11 of Khyber Pakhtunkhwa, Police Rules 1975, lodged by Ex-Constable Syed Hameed Jan No. 4922, of FRP Malakan Range swat against the order of SP FRP Malakan Range swat wherein he was removed from service.

Brief facts of the case are that Ex-Constable Syed Hameed Jan No. 4922 was recruited as constable on 27-07-2007. During the course of duty he absented himself from lawful duty with effect from 04-03-2009 till to his removal from service i.e 21-12-2009, for total period of 87 days. He was issued charge sheet and statement of allegation vide office Endst: No. 985 dated 30-03-2009, but he did not report/arrival for duty neither replied to the charge sheet in the stipulated period. Thus issued Urdu Parwana vide office Endst: No. 908/EO, dated 01-04-2009. Later on he was issued final Show Cause Notice vide office Endst: 1175/EC, dated 12-11-2009, but his reply not receive in the stipulated period and the defaulter constable was recommended for removal from service by the Enquiry Committee.

In the light of recommendation of Enquiry Committee and other material available on record, the defaulter constable Syed Hameed Jan No. 4922 was removed from service by SP FRP Malakan Range swat vide Office O.B No.249 dated 21-12-2009.

After going through the available record, it has pointed out that a proper enquiry has already been initiated against the applicant and thereafter he was removed from service.

The applicant was heard in person in orderly room held on 10.08.2017, but he failed to satisfy the undersigned. His appeal is time barred too.

Keeping in view the facts mentioned above there is no cogent reason to interfere in the order of SP FRP Peshawar Range, Peshawar. Therefore, **his appeal is hereby rejected** on the ground of time barred and merit as well.

OB/EC/OASD Order Announced.
For n/a

[Signature]
SP/FRP Malakan Range Swat
12/9/2017

[Signature]
Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar.

No. ~~577-75~~/EC, dated Peshawar the 05/09/2017.

Copy of above is forwarded for information and necessary action to the:-

1. SP FRP Malakan Range swat. His Service Record alongwith D File are sent herewith for office record.
2. Ex-constable Syed Hameed Jan No. 4922 S/O Gul lan. village Alla Dir, Distract Dir upper.

[Signature]
ATTESTED

OB NO 96
Dated 12-09-2017

Office of
No. JS48
Date 17-12-17

D 10



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

No. SI 7095-96 /17, dated Peshawar the 26/10/2017.

To: The Commandant,
Frontier Reserve Police,
Khyber Pakhtunkhwa, Peshawar.

Office of the Inspector General of Police
Khyber Pakhtunkhwa
Date: 27/10/17
Page: 6758

Subject: APPEAL (EX-FC SYED HAMEED JAN NO. 4922).

Memo:

S.R
F.m
D-file

Please refer to your office Memo: No. 7908/SI Legal, dated 20.10.2017.

The competent authority has examined and filed the appeal submitted by Ex-Constable Syed Hameed Jan No. 4922 of FRP Malakand Range for re-instatement in service being badly time barred.

The applicant may please be informed accordingly.

Encl: S. Roll - 1
F. Missal - 1 +
Encl 1 file

(Signature)
(ARIF SHAHBAZ KHAN)
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

OB No. - 120
Date 15/12/2017

Cc:-

Ex-Constable Syed Hameed Jan No. 4922 of FRP Malakand Range

SI/Legal

OFFICE OF COMMANDANT FRP, KP Pesh
No. 877/si Legal, dated 26/11/2017

(Signature)

J.D.Y. Commandant

Copy of above is forwarded to the
SP FRP Malakand Range, Swat for
information with direction to
inform the applicant accordingly.

OB/EC/OASI
For n/a

Enclose: service roll - ①
D-File, Fayj Missal - ①

TESTED

(Signature)
SP FRP Malakand Range Swat

(Signature)
For Commandant FRP KP, Peshawar

Mar 2017 9:48

HP LASERJET FAX



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. SI/ 1656

/17, dated Peshawar the 15/3/2017

ORDER

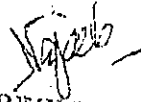
This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Constable Noor Khan No. 462. The appellant was dismissed from service by DPO, Dir Lower vide OB No. 361; dated 16.03.2009 on the charge of absence from duty for 02 months and 04 days.

Meeting of Appellate Board was held on 02.03.2017 wherein appellant was heard in person. During hearing petitioner contended that he was posted at Malakand Region as DFC. He could not bring Summon and Warrants to the area because of terrorism. Terrorists and Taliban threatened him time and again on his cell phone.

The Board examined his service record which revealed that appellant has no bad entry during his service. Moreover, he has qualified Recruit Course and A-1 examination.

Keeping in view 07 years, 11 months and 12 days service at the credit of petitioner and threats from Terrorists and Taliban, the Board decided that the petitioner is hereby re-instated in service, however, the intervening period including period of absence from duty is considered as period in service but not on duty and he will not be entitled for salary of the intervening period. He will remain under special watch for one year.

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


(NAJEEB-UR-REHMAN BUGVI)
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. SI/ 1657-64/17.

Copy of the above is forwarded to the:

1. Regional Police Officer, Malakand at Swat.
2. District Police Officer, Dir Lower.
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/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: B-IV CPO Peshawar.
8. Central Registry Cell, CPO.

PS: Sierra Branch Unit 20/17/10/10/17


ATTESTED

ORDER

NEW No. 4211

1225
14/9/2015

This order shall dispose of the departmental appeal lodged by, Ex- Constable Muhammad Shahid No.4890 of FRP Malakand Range Swat, against the order of SP FRP Malakand Range Swat.

Ex-Constable Muhammad Shahid No.4890 was enlisted as Constable in Police Department on 26.07.2007. He while posted to FRP Lines Timergara District Dir Lower platoon No.86 absented himself from his lawful duty w.e.f.1.09.2008 till his removal from service. He was issued charge sheet and statements of allegation vide Endst: No. 648/EC, dated 30.10.2008, thus issued Final Show Cause Notice vide Endst: No.886/EC, dated 3.01.2009. The Constable was recommended for removal from service by the enquiry committee.

In the light of the recommendation of the enquiry committee and material available on the record the defaulter Constable Muhammad Shahid No.4890 was removed from service vide SP FRP Malakand Range Swat Endst: No.239, dated 21.02.2009. Like some other personnel to the force the appellant also absented himself due to uncertain and tense situation in Malakand division especially at swat District. As the appellant is a trained Constable therefore in the best interest of the state he was recommended by SP FRP Malakand Range Swat for re-instatement in service.

He was heard in person. Keeping in view his poor family background, I take a lenient view and the order regarding award of punishment i.e. removal from service is here by set aside. Ex- Constable Muhammad Shahid No.4890 of FRP Malakand Range Swat is here by reinstated in service from with immediate effect. However the period of absence and the intervening period from service are treated as extra ordinary leave without pay.

[Signature]
Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar.

No. 7659 /EC dated Peshawar the 9 10 9 /2015.

Copy of above is forwarded to SP FRP Malakand Range Swat for information and necessary action.

OB No- 319
Date: 14/09/2015

Encl - 5/Relax &
Enquiry file

OB/OAS/EC/PO
For: 14/9
[Signature]
SP FRP SWAT
14/09/2015.

[Signature]
ATTESTED

ORDER

18/11/15

13
OFFICE OF S.P.
1446
18/11/2015


This order shall dispose off the departmental appeal lodged by,

Ex- Constable Muhammad Jan No. 4893 of FRP Malakand Range Swat against the order of SP FRP Malakand Range Swat. ³⁶⁰⁹

Constable Muhammad Jan No.4893 was enlisted as Constable in Police Department on 26.07.2007. He while posted to Platoon No.86 Police Station Timergara District Dir Lower absented himself from his lawful duty w.e.f.2.04.2008 till his removal from service. He was issued charge sheet and statement of allegation vide SP FRP Malakand Range Swat Endst: No.482/EC, dated 7.07.2008. He failed to submit reply to the final show cause notice in the stipulated period and the defaulter Constable was recommended for removal from service by the enquiry committee.

In the light of the recommendation of the enquiry committee and material available on the record the defaulter Constable Muhammad Jan No.4893 was removed from service vide SP FRP Malakand Range Swat OB No.122 dated 22.07.2008.

He was heard in person. Keeping in view his poor family background, I take a lenient view and the order regarding award of punishment i.e. dismissal from service is here by set aside. Ex- Constable Muhammad Jan No.4893 of FRP Malakand Range Swat is here by re-instated in service with immediate effect. However the period of absence and the intervening period from service is treated as extra ordinary leave without pay.


Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa Peshawar

No. 9583 EC dated Peshawar the 13 / 11 / 2015.

Copy of above alongwith service record is submitted to the SP FRP Malakand Range Swat for information and necessary action.


ATTESTED

19
OFFICE SP FRP
No. 937
Date: 04/08/16
Swat

ORDER

This order is hereby passed to dispose of departmental appeal under II of Khyber Pakhtunkhwa, Police Rules 1975, submitted by Ex-Constable Muhammad Arsalan No.7490/4870 of FRP Malakand Range against the order of SP/FRP Malakand Range, Swat.

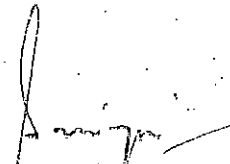
Brief facts of the case are that Constable Muhammad Arsalan No.7490/4870 was enlisted as constable in police department on 26.07.2007. He while posted to platoon No.86 Dir Lower absented himself from his lawful duty w.e.f.4.09.2008 till his removal from service. He was issued Charge Sheet and statement of allegations vides SP FRP Malakand Range Swat office Endst: No.646/EC, dated 30.10.2008, but neither he reported for duty nor submitted reply to the charge sheet in the stipulated period. In this regard he was issued Final Show cause Notice vide SP FRP Malakand Range Swat office Endst: No.890/EC, dated 03.01.2009, but he failed to submit reply to the final show cause notice in the stipulated period.

In the light of the recommendation of Enquiry Committee constable Muhammad Arsalan No.7490/4870 was removed from service vide SP FRP Malakand Range Swat OB No.23, dated 21.02.2009.

After going through the available record and also heard the applicant in person in orderly room, held in this office on 30.05.2016, it has pointed out that the applicant was not proceeded according to law as he was not provided the opportunity of personal hearing.

Keeping in view the above facts and as well as his poor family background, I, take a lenient view, he (Ex-constable Muhammad Arsalan No.7490/4870 FRP Malakand Range Swat) is hereby re-instated in service from the date of dismissal from service. However, his period of absence and the intervening period from service are treated as extra ordinary leave without pay.

Order announced.


Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar.

No. 6131/EC, dated Peshawar the 02/08/2016.

Copy of above is forwarded for information and necessary action to the SP FRP/Malakand Range, Swat. His service record alongwith departmental file sent herewith.

JAS/EC/DO
in action

SP/FRP/Swat
2.8.2016


ATTESTED

F (15)

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 900 /2014

Attaur Rehman S/o Amir Zada, R/O Kityari,
District Dir Lower, Ex - Constable No. 4647
Special Branch, Saidu Sharif, Swat Appellant



Versus

1. Additional I.G.P / Commandant,
Frontier Reserve Police, KP, Peshawar.
2. Superintendent of Police, FRP, Malaknad
Range, Swat Respondents

923
27-6-2014

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT,
AGAINST OFFICE ORDER NO. 4110-11 / EC,
DATED 22.06.2011 OF RESPONDENT NO. 1,
WHEREBY APPEAL AGAINST OFFICE ORDER NO.
265, DATED 21.02.2009, REMOVING APPELLANT
FROM SERVICE, WAS REJECTED FOR NO LEGAL
REASON.**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth;

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

1. That appellant was enlisted as constable in Frontier Reserve Police vide order dated 25.10.2004 with effect from 18.10.2004. (Copy as annex "A")
2. That on 28.07.2006, appellant passed recruit course from P.T.C, Hangu. (Copy as annex "B")
3. That on 18.02.2009, appellant was issued Charge Sheet containing allegation of absence from duty with effect from 14.11.2008 till date. The same was not replied as it was not served upon him. (Copy as annex "C")
4. That perhaps self made enquiry was made in the case in hand wherein appellant was shown absent from duty with effect from 14.11.2008 till date. In the said enquiry report, it was held that appellant

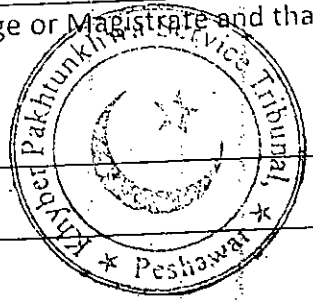
27/6/14

submitted to
and filed.

ATTESTED

11/7/14

No. of proceedings	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
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1	2	3
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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, CAMP COURT SWAT.

APPEAL NO.900/2014

(Attaur Rehman-vs-Additional I.G.P/Commandant, Frontier Reserve Police, KP, Peshawar.)

02.05.2016

JUDGMENT

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN: Counsel for the appellant and Mr. Mushtaq Ahmad, S.I alongwith Mr. Muhammad Zubair, Senior Govt. Pleader for respondents present.

Attaur Rehman S/O Amir Zada, hereinafter referred to as the appellant, has preferred the instant appeal under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against order dated 21.02.2009 vide which he was removed from service on the allegations of absence from duty for a period of 3 months and 7 days and where-against the department appeal of the appellant was rejected on 22.6.2011.

Learned counsel for the appellant argued that the appellant was given charge sheet on 18.02.2009 wherein he was directed to submit written defense within 7 days of the receipt of the same to the inquiry officer/committee. That the said charge sheet was never served on the appellant as after lapse of period of 2 days from the date of issuance of the same he was removed from service vide impugned order dated 21.02.2009. That neither any inquiry was conducted through any inquiry officer or inquiry committee nor any opportunity of hearing was afforded to the appellant and as such the impugned order is void ab-initio.

ATTESTED

[Signature]
EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

[Signature]
ATTESTED

the appellant has preferred service appeal

27.06.2014 after lapse of about three years after rejection of his departmental appeal but said delay was due to wave of militancy and illegal confinement of appellant by the militants. Reliance also placed on case law reported as 2002 PLC (CS) 268 wherein the august Supreme Court of Pakistan has allowed delay of period of about 10 years in the interest of justice.

Learned Senior Govt. Pleader argued that the appellant was afforded opportunity of hearing and was found guilty and therefore removed from service vide impugned order dated 21.2.2009 where against his departmental appeal was also rejected. That the service appeal of the appellant was hopelessly barred by the time limitation.

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

It is regretted to say that the impugned order was passed by the SP FRP Malakand Range Swat on 21.2.2009 just after 3 days of signing charge sheet dated 18.2.2009 meaning thereby that the mandatory period of 7 days of submitting written defense was yet to elapse. It is also observed with regret that 2 committee Members i.e DSP FRP Swat and Reserve Inspector FRP Swat have signed a facts finding report dated nil stating therein that the appellant was neither giving reply to the charge sheet nor appearing before the inquiry committee. It can be safely inferred from the date of charge sheet and impugned order of removal from service dated 21.2.2009 that the inquiry committee has either conducted the proceedings, if any, on the very next date of charge sheet i.e 19.2.2009 or 20.2.2009 though they were obliged to have waited for 7 days from the date of receipt of charge sheet by the appellant. We are also constrained to take note of observations of the SP FRP Malakand Range Swat wherein he has untruly stated that ample amount of opportunity of personal hearing was provided to the appellant who never availed the said chance. In such a state of affairs we are left with no option but to hold that the entire

ATTESTED

K
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

proceedings including the impugned orders of the competent authority as well as appellate authority are in fact misuse and abuse of authority by the respondents and, therefore, the same are declared void.

In the aforesaid circumstances as well as case law referred to by learned counsel for the appellant reported in 2002 PLC (CS) 268 Supreme Court of Pakistan we hold that time limitation was not a hurdle in the way of justice extendable to the appellant in the circumstances of the instant case.

For the above mentioned reasons we accept the instant appeal and reinstate the appellant into service. The respondents are placed at liberty to conduct de-novo inquiry against the appellant but strictly in accordance with law and, if conducted, shall be concluded within a period of 2 months from the receipt of this judgment. In case of inquiry the period of absence from service shall be subject to outcome of inquiry which, in the absence of inquiry, is treated as leave of the kind due. Parties are, however, left to bear their own costs. File be consigned to the record room.

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

sd/-
(ABDUL LATIF)
MEMBER

sd/-
(MUHAMMAD AZIM KHAN AFRIDI)
CHAIRMAN

CAMP COURT
Swat

ANNOUNCED
02.05.2016

ATTESTED

Date of Presentation of Application 17-05-2016
Number of Words 1600
Copying Fee 10
Urgent 2
Total 12
Name of Copyist [Signature]
Date of Completion of Copy 17-05-2016
Date of Delivery of Copy 17-05-2016

بعد است

سروس ٹریڈنگ اینڈ انورسٹمنٹ


سید محمد جان 2 منجانب اسٹریٹ
سید محمد جان بنام

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ

آن مقام لٹیشن اور کیلئے بہم خورد علی خان اور اسٹریٹ اور اسٹریٹ
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یا کٹ طرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے، اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پر داخہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

Accepted
Attested


المرقوم 20 ماہ

العہد گواہ العہد

مقام کے لئے منظور ہے۔

"B"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.**

No.

Appeal No. 53 of 20 18. *Regd*

Dr. Javed Hussain Jami Appellant/Petitioner

K.P. P. No. 116/18 Respondent

Respondent No. _____

Notice to:

Supdt. Police F.P. Muzaffargarh

Range, District -

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 13-2-2018 at 8.00 A.M. If you wish to urge anything against the appellent/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. _____ dated _____

Given under my hand and the seal of this Court, at Peshawar this _____
Day of Feb. 20 18.

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.**

No.

Appeal No..... 53 of 2018.

Dr. Javed Hussain Jinnah Appellant/Petitioner
Versus

Govt of KP, Peshawar Respondent

Respondent No..... I

Notice to: - Procurator General
KPK Peshawar

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....14/7/18.....

Day of.....Friday.....2018.

[Handwritten signature]

[Handwritten signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.**

No.

Appeal No.....53..... of 2018.

FRP, M. M. Durrani, Appellant/Petitioner
Versus
P.P.O. K.P.H.P. - E. & F. Respondent
Respondent No.....3.....

Notice to:

Supdt of Police, FRP, M. M. Durrani
Range Quarters

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....

Day of.....march.....2018.

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.**

No.

Appeal No. 53 of 2018.

Syed Humayun Javed
Appellant/Petitioner
F.P.P. M. S. and R. M. S. vs. M. S. S.
Respondent

Respondent No. 1

Notice to:

*Provincial Public Officer,
K.P.S. Peshawar*

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 09-3-2018 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. dated

Given under my hand and the seal of this Court, at Peshawar this 13/1

Day of March 20 18

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

Appeal No.....137..... of 20 18.

Appellant/Petitioner
FRP, *[Handwritten Name]* versus *[Handwritten Name]*
Respondent
Respondent No.....2.....

Notice to: *[Handwritten Name]* FRP, KPK

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....
Day of.....20 12

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.**

No.

53
Appeal/No. of 20
Subject: *Police Officer - Constable*
Appellant/Petitioner
Versus
P.P.O, K.P.S, Peshawar etc
Respondent

Respondent No.
Notice to: *Inspector of Police, F.P.P.
Medicinal Range, Peshawar*

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....at **8.00 A.M.** If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing **4 copies** of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....
Day of.....20

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

Present: Muhammad Haleem. C. J., Muhammad Afzal Zullah and Nasim Hasan. Shah, JJ

NOOR MUHAMMAD--Petitioner

versus

THE MEMBER ELECTION COMMISSION, PUNJAB and others--Respondents

Civil Petition for Special Leave to Appeal No. 116 of 1985, decided on 23rd February, 1985.

(On appeal from the judgment, dated 29-1-1985 of the Lahore High Court in Writ Petition No. 367 of 1985).

(a) Houses of Parliament and Provincial Assemblies (Elections) Order (5 of 1977)--

---S. 10 (2) (b) (3)--Election to Provincial Assembly--Disqualification-Candidate removed from service with retrospective effect--Removal, held, patently unlawful and void in relevant regard--Such order could not be given effect to and Election Commission could therefore, refuse to accept and perpetuate such order. [p. 1180] B & C

Noor Muhammad v. Muhammad Abdullah and others 1984 SCMR 1578; Dr. Muhammad Abdul Latif v. The Province of East Pakistan and others P L D 1964 Dacca 647 and Nawab Syed Raunaq Ali etc. v. Chief Settlement Commissioner and others P L D 1973 S C 236 ref.

(b) Civil service--

--- Removal from service--Order of departmental authority, held, could not be made to operate retrospectively--No executive authority was vested with such powers unless expressly empowered in that behalf by Rules--Order of dismissal /removal could take effect only from date it was passed.

Noor Muhammad v. Muhammad Abdullah and others 1984 SCAIR 157,8; Dr. Muhammad Abdul Latif v. The Province of East Pakistan and others P L D 1964 Dacca 647 and Nawab Syed Raunaq Ali etc. v. Chief Settlement Commissioner and others P L D 1973 S C 236 ref.

(c) Civil service--

--- Removal from service--Order purporting to give retrospective effect to order of removal from service, held, patently unlawful and void in relevant regard--Such order could not be given effect to.

Noor Muhammad v. Muhammad Abdullah and others 1984 SCMR 1578; Dr. Muhammad Abdul Latif v. The Province of East Pakistan and others P L D 1964 Dacca 647 and Nawab Syed Raunaq Ali etc. v. Chief Settlement Commissioner and others P L D 1973 S C 236 ref.

Raja Azizuddin, Advocate Supreme Court instructed by Rana Maqbool Ahmad, Advocate-on-Record (absent) for Petitioner.

Mr. Tanvir Ahmad Khan, Assistant A.-G. Pb. and Mian Anamul Haq, Advocate Supreme Court for Respondents Nos. 1 and 2.

Nemo for Respondent No. 3.

Date of hearing: 23rd February, 1985.

ORDER

NASIM HASAN SHAH, J.-- The petitioner's nomination papers for election to the Provincial Assembly PP-85 District Faisalabad were rejected, on appeal, by the learned Member Election Commission vide order, dated 27-1-1985. This order was challenged by a writ petition (W.P. No. 367 of 1985) which was dismissed in limine by the order, dated 29-1-1985, impugned before us.

The facts, which form the background, are that the petitioner was serving as a Zilledar in the Irrigation Department. He was dismissed from service by the order of the Superintending Engineer, dated 19-10-1983 but it was directed in the said order that it will take effect from 29-7-1981. On appeal, the said order was modified by the Chief Engineer vide order, dated 23-1-1984 to the extent that the order of dismissal from service was converted to that of removal from service. However, the direction contained in the order of the Superintending Engineer that the removal from service would take effect from 29-7-1981 was maintained. In these circumstances, the question has arisen whether the petitioner stands disqualified from being elected or chosen as a Member of the Provincial Assembly.

The provision governing the situation is section 10(2)(b)(3) of the House of Parliament and Provincial Assemblies (Elections) Order, 1977, which reads as under:-

"S.10(2)-- A person shall be disqualified from being elected or chosen as, and from being, a member, of Parliament.---

- (a)
- (b) if
 - (1).....
 - (2)

- (3) he has been removed or compulsorily retired from service of Pakistan on the ground of misconduct, unless a period of three years has elapsed since his removal or compulsory retirement;
- or
- (4)
- (5)
- (6)....."

It may be mentioned that the petitioner had earlier on filed nomination papers for elections to the Local Council, which were held on 28-9-1983. Here too he was found to be disqualified and

the order of the election authorities was maintained right up to the Supreme Court of Pakistan vide judgment reported in Noor Muhammad v. Muhammad Abdullah and others 1984 S C M R 1578. The relevant portion of the said judgment may be reproduced below:-

"Before us the main contention urged on petitioner's behalf was that since according to his service record the petitioner had been removed from service w.e.f. 29-7-1981 (i.e. from a date prior to the election-day) his disqualification therefore stood removed retrospectively and as such his election was valid. This contention is wholly misconceived and overlooks the fact that on the day of election i.e. on 28-9-1983, no order of his dismissal or removal had yet been passed by the Government. Obviously, therefore, on that date he was in Government service. The result is that irrespective of the fact as to whether or not the Government was legally empowered to remove him from service with retrospective effect, he was disqualified from contesting election on the date when it is actually held. As such his election was rightly held by the Election Tribunal to be void. In this view of the matter we find no merit in the petition, which is consequently dismissed."

Both the learned Member of the Election Commission and the learned Judges of the High Court, have in the present case, relied upon the above judgment to hold the petitioner to be disqualified.

The learned counsel for the petitioner contended before us that in the aforesaid judgment no final opinion was expressed by this Court on the question whether the Government was empowered to remove him with retrospective effect and whether the order, dated 19-10-1983 which purported to take effect from 29-7-1981 was not a valid order.

Be that as it may, the law is quite clear that an order of a departmental authority cannot be made to operate retrospectively because no executive authority is vested with such powers unless expressly empowered in this behalf by the rules, which is not the case here. Hence the order of dismissal/ removal could take effect only from that date when it was passed. See *Province of Punjab v. Khan Khaliq Day Khan* P L D 1953 Lah. 295 and *Dr. Muhammad Abdul Latif v. The Province of East Pakistan and others* P L D 1964 Dacca 647. Consequently, the petitioner must be deemed to be in service until 19-10-1983 and simply because the order passed on that date stated that it would take effect from 29-7-1981 would not have the effect of making the order to take effect from the said date but it would be deemed to take effect from the date on which it was actually passed, namely, from 19-10-1983.

The learned counsel for the petitioner, however, submitted that the vires of the order, dated 19-10-1983 passed by the departmental authorities in a service matter could not be questioned in collateral proceedings like an appeal before the election authorities.

This contention too has no force. This Court in *Nawab Syed Raunaq Ali etc. v. Chief Settlement Commissioner and others* P L D 1973 S C 236 clearly observed:-

"It is now well-established that where an inferior tribunal or Court has acted wholly without jurisdiction or taken any action "beyond the sphere allotted to the tribunal by law and, therefore, outside the area within which the law recognises a privilege to err", then such action amounts to a "usurpation of power unwarranted by law" and such an act is a nullity; that is to say, "the result of a purported exercise of authority which has no legal effect whatsoever". In such a case, it is well-established that a superior Court is not bound to give effect to it, particularly where the appeal

is to the latter's discretionary jurisdiction. The Courts would refuse to perpetuate, in such circumstances, something which would be patently unjust or unlawful."

The order of the Superintending Engineer, dated 19-10-1983 purporting to give retrospective effect to his order with effect from 29-7-1981 was patently unlawful and, in fact, void in the relevant regard. Hence it could not be given effect and the Election Commission could refuse to accept and perpetuate it.

There is, thus, no force in this petition which fails and is, accordingly, dismissed hereby.

M. Z. M.

Petition dismissed.

Service Appeal No. 53/2018

Syed Hameed Jan Ex. Constable No.4922, FRP Malakand Range Swat.....Appellant

V E R S U S

1. **Provincial Police Officer**
Khyber Pakhtunkhwa, Peshawar.
2. **Superintendent of Police FRP**
Malakand Range, Swat.
3. **Addl: IGP/Commandant**
Frontier Reserve Police,
Khyber Pakhtunkhwa, Peshawar Respondents

PRELIMINARY OBJECTIONS:

1. That the appeal is badly time-barred.
2. That the Appellant has approached the Hon'ble Tribunal not with clean hands.
3. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
4. That the Appellant has no cause of action.
5. That the Appellant is estopped due to his own conduct to file the instant appeal.

WRITTEN REPLY ON BEHALF OF RESPONDENTS IS AS UNDER:-**ON FACTS**

1. Para No.1 pertains to the Appellant record, therefore, needs no comments.
2. Incorrect. The Appellant while posted for emergency duties with platoon No. 87 at District Swat deliberately deserted/absented himself from lawful duties w.e.f 04-03-2009, till the date of his removal from service, without prior permission of his senior.
3. Incorrect. On the allegation of absence the appellant was dealt with proper departmental proceedings and after fulfillment the due codal formalities he was removed from service.
4. Incorrect that the appellant was filed departmental appeal after lapse of more than Nine (9) years which was rejected under Police Rule 1975 on the ground of time barred and meritless.
5. That the appellant has got no cause of action to file instant appeal.

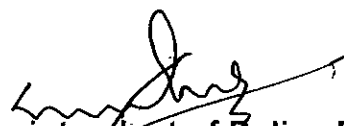
GROUND:

- a. Incorrect. The allegations are false and baseless. The orders are legally justified and in accordance with law / rules.
- b. Incorrect. That the opportunity of personal hearing was provided to the appellant, but he failed to avail the opportunity of personal hearing.
- c. Incorrect. Proper departmental enquiry was initiated against him as he was issued Charge Sheet and Enquiry Committee was constituted to conduct enquiry against him. After completion of enquiry the Enquiry Committee submitted their findings. (Copy of enquiry report, charge sheet attached herewith as annexure A & B).
- d. Incorrect. That proper departmental enquiry was initiated against the Appellant and during the course of enquiry he was found guilty of the charges leveled against him. After fulfillment of due codal formalities he was removed from service from the date of absence. The authority mention by the appellant in the Para is not at per with the case of appellant.


- e. Incorrect. That the deserted officials who had reported back within stipulated period were allowed to join their duties accordingly. But the officials who failed to return back for joining duty within due date were removed from service as per law and have never been reinstated in service, owing to their cowardice.
- f. Incorrect. The case of the appellant is not at par with the cases mentioned in the Para.
- g. Incorrect. That the Appellant was issued Charge Sheet and an Enquiry Committee was constituted to conduct enquiry against him. After completion of enquiry the Enquiry Committee submitted their findings. The copy of Charge Sheet has already been annex with the instant reply as annexure "A".
- h. Incorrect. Upon the finding of Enquiry Committee the appellant was issued Final Show Cause Notice, but he failed to submit his reply. (Copy of Final Show Cause Notice is attached herewith as annexure C).
- i. Incorrect. The punishment of removal from service awarded to the appellant is commensurate with the gravity of his gross misconduct.
- j. Incorrect. That the Appellant being a member of ideal Police force was showed extreme cowardice at that time, when his services were highly required for public security, but he deserted himself from lawful duty. While on the other hand his colleague constables bravely facing with the militancy situation. Moreover, that appellant along with other deserters are not eligible / entitled for re-instatement in service as it will certainly encourage others to desert in hard times and thus pave way for cowardice inclinations.
- k. The respondent may also be permitted to create additional ground at the time of arguments.

PRAYERS:

Keeping in view of above mentioned facts / submission the instant appeal may very kindly be dismissed with cost.


Superintendent of Police FRP,
Malakand Range Swat
(Respondent No.2)


Commandant FRP
Khyber Pakhtunkhwa Peshawar
(Respondent No.3)


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

CHARGE SHEET.

"A"

1 MR. HAZRAT ALI KHAN Supt: of Police FRP Malakand Range, Swat as

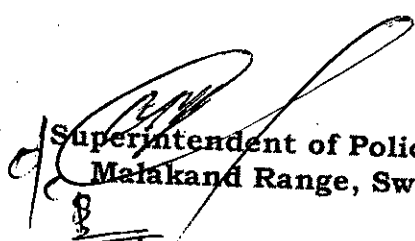
competent authority here by charge You Mr. Seed Hameed Jan 4922
That you while posted at 87

where as you Constable Seed Hameed Jan 4922
absented your self from your lawful duty vide D.D. Report No. 13 dated 4-3-2
with effect from 4-3-2008 uptil _____ without leave/permission of
competent authority. Thus issued charge sheet.

- 2.) By reasons of the above. You appear to be guilty of misconduct under section - 3 the NWFP (removal from service) specials powers 2000, and have rendered your self lia to all or any of the penalties specified in section - 3 of the ordinance bid.
- 3.) You are, there fore required to submit your written defense with in 07 days of t receipt of this charge sheet to the Enquiry officer / committee, as the case may be.
- 4.) Your written defense if any should reach the Enquiry Officer /committee within t specified period, failing which it shall be presumed that you have no defence to put and in the case exparte action shall follow against you.
- 5.) Intimate whether you desire to be beard in persons.
- 6.) A statement of allegation is enclosed.

No. 985 /EC

Dated: 30/3/2009/


Superintendent of Police, FRP
Malakand Range, Swat.
25/3

فائنل ڈنگ رپورٹ ممبرانہ انکوائری برخلاف
کمیٹی سید محمد علی خان
نمبر 87 متعینہ تقاضا حیدرآباد
نمبر 4922 پلاٹ نمبر

تاریخ بھرتی	تعلیم	سابقہ غیر حاضری	وارنٹ	موجودہ غیر حاضری
26/7	10th	(2)	nil	4 سے 3/59

جناب عالی!

مذکورہ بالا ملازم نمبر 13 روزنامہ 3-59 کے مطابق غیر حاضر ہو کر مسلسل غیر حاضری کے بناء بحوالہ آرڈرنگ

نمبری مورخہ کو اس کی تنخواہ بند ہو کر چارج شیٹ نمبری 985 مورخہ 30-3-59 کو جاری کی گئی جبکہ
کاغذات بغرض مزید انکوائری، انکوائری کمیٹی کو مارک ہوئی۔

انکوائری کمیٹی کے جانب سے پروانہ نمبری 908 مورخہ 1-4-59 کو غیر حاضر شدہ ملازم کے گھر کے پتے پر جاری ہو کر

مذکورہ ملازم کو تاکید کی گئی کہ اپنے ڈیوٹی پر حاضر ہو کر اپنے غیر حاضری کے وجوہات قلمبند کرنے کے واسطے انکوائری کمیٹی کے روبرو پیش ہو جائے مگر حال
اپنے ڈیوٹی پر حاضری کی اور نہ انکوائری کمیٹی کی روبرو پیش ہوا۔ جس سے معلوم ہوتا ہے کہ یہ ملازم دیدہ دانستہ اپنی ڈیوٹی سے بلا جواز غیر حاضر ہوا ہے۔

جناب والا!

مورخہ 4-3-59 سے بدستور اپنے ڈیوٹی سے بلا جواز غیر حاضر ہونا چارج شیٹ کا جواب نہ دینا اور دیدہ دانستہ اپنے

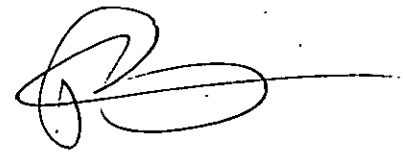
غیر حاضری کے وجوہات قلمبند کرنے کے واسطے انکوائری کمیٹی کے روبرو پیش نہ ہونا ڈپلین رولز کی خلاف ورزی ہے لہذا اس طویل اور مسلسل غیر حاضری کے
بناء پولیس آرڈر 2002ء کے آرٹیکل 113 کے تحت تاریخ غیر حاضری از مورخہ 4-3-59 سے ڈسچارج کرنے اور فائنل شوکار نوٹس
جاری کرنے کی سفارش کی جاتی ہے۔ فائنل ڈنگ رپورٹ مرتب ہو کر بغرض مزید کارروائی پیش خدمت ہے۔

کمیٹی ممبران



لائن آفیسر ایف۔ آر۔ پی سوات

hmt
آر۔ آئی۔ ایف۔ آر۔ پی سوات



لائن آفیسر ایف۔ آر۔ پی سوات

Issue him Final show
case notice

SP. F.P. MKD

"C"

FINAL SHOW CAUSE NOTICE.

1. MR. HAZRAT ALI KHAN Supt.: of Police FRP Malakand Range, Swat is competent authority, under the N.W.F.P removal from service (Special power) ordinance 2000 as follow:

- 1). That consequent upon the completion of Inquiry which you are given opportunity of hearing.
- 2). On going through the findings and recommendation of the Inquiry Officer, the material on record other connected paper including your defence the said committee.

I am satisfied that you have committed the following Acts/ misconduct's specified in section - 3 of the said Ordinance.

— Where is you Constable Said Hamid Jan No. 4922 absented your self from your lawful duty vide D.D report No.13 Dated 04/03/2009 with effect 04/03/2009 up till now without leave / permission of the competent authority. Thus issued Charge sheet in statement of Allegation vide this office Endst: No. 985 dated 30/03/2009 your reply to the Charge sheet not received in this office uptill now. Thus issued Final Show Cause notice.

3). You are therefore directed to reply to the final show cause notice as to way the aforesaid penalty should not be imposed upon you. And also intimate whether you desire to be heard in person.

4). If no reply to this notice is received within fifteen days after its delivery in the normal course of circumstances it shall be presumed that you have nothing to offer and in the case, Ex parte action shall follow against you.

Copy of the finding of the Inquiry Officer is enclosed.

[Signature]
Superintendent of Police FRP,
Malakand Range Swat.

No. 1175 /EC

ORDER.

Dated 12/11 /2009

Reply to the Final show cause notice is not received in the stipulated period. Therefore the delinquent const. is hereby removed from service under the N.W.F.P. removal from service (special powers) ordinance 2000 from the date of his last absence.

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.53/2018

Syed Hammed Jan

VS

Police Deptt:

.....
REJOINDER ON BEHALF OF APPELLANT
.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-5) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

1. Admitted correct by the respondents as the service record of the appellant is present with the department.
2. Incorrect. The appellant was not deliberately absent from his duty but due to some extreme militancy and threat to his life, the appellant was compelled to remain absent from his duty.
3. Incorrect. The appellant was removed from service without fulfilling codal formalities which is not permissible under the law.
4. Incorrect. While para 4 of the appeal is correct.
5. Incorrect. The appellant has good cause of action to file the instant appeal which is liable to be accepted on the following grounds.

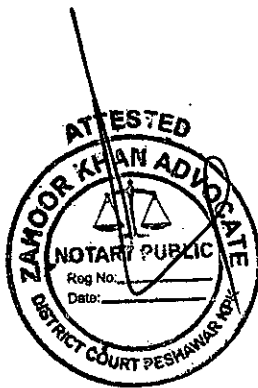
GROUND:

- A) Incorrect. The impugned orders of the respondents are not in accordance with law, facts, norms of justice and material therefore not tenable and liable to be set aside.
- B) Incorrect. While para B of the appeal is correct.
- C) Incorrect. No regular inquiry was conducted against the appellant and charge sheet and statement of allegations were not communicated

to the appellant before inquiry proceeding which is mandatory under the law which means that respondents did not adopt the proper procedure before passing the impugned order of the discharge from service.

- D) Incorrect. While para D of the appeal is correct.
- E) Incorrect. The case of the appellant is same as the other officials who were reinstated by the department and the appellant being similar placed person is also entitle for the same relief under the principle of consistency.
- F) Incorrect. The case of the appellant is similar as decided by this Honourable Tribunal and is also entitled for the same relief.
- G) Incorrect. No charge sheet and statement of allegations were not communicated to the appellant which is mandatory under the law and rules.
- H) Incorrect. No show cause notice was communicated to the appellant which is violation of law and rules.
- I) Incorrect. While para I of the appeal is correct.
- J) Incorrect. Many officials were remained absent from his duty due to extreme militancy which were reinstated by the department but the appellant being similar placed person deprived from the same benefits which means that the appellant was discriminated.
- K) Legal.

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



Through:

Saeed Khan
APPELLANT
(Signature)
(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.

(Signature)
DEPONENT

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.53/2018

Syed Hammed Jan

VS

Police Deptt:

.....
REJOINDER ON BEHALF OF APPELLANT
.....

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5. Incorrect. The appellant has good cause of action to file the instant appeal which is liable to accepted on the following grounds.

GROUND:

- A) Incorrect. The impugned orders of the respondents are not in accordance with law, facts, norms of justice and material therefore not tenable and liable to set aside.
- B) Incorrect. While para B of the appeal is correct.
- C) Incorrect. No regular inquiry was conducted against the appellant and charge sheet and statement of allegations were not communicated.

to the appellant before inquiry proceeding which is mandatory under the law which means that respondents did not adopt the proper procedure before passing the impugned order of the discharge from service.

- D) Incorrect. While para D of the appeal is correct.
- E) Incorrect. The case of the appellant is same as the other officials who were reinstated by the department and the appellant being similar placed person is also entitle for the same relief under the principle of consistency.
- F) Incorrect. The case of the appellant is similar as decided by this Honourable Tribunal and is also entitled for the same relief.
- G) Incorrect. No charge sheet and statement of allegations were not communicated to the appellant which is mandatory under the law and rules.
- H) Incorrect. No show cause notice was communicated to the appellant which is violation of law and rules.
- I) Incorrect. While para I of the appeal is correct.
- J) Incorrect. Many officials were remained absent from his duty due to extreme militancy which were reinstated by the department but the appellant being similar placed person deprived from the same benefits which means that the appellant was discriminated.
- K) Legal.

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

Through:

Sayed Ali Khan
APPELLANT
Sayed Ali Khan
(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.

Sayed Ali Khan
DEPONENT