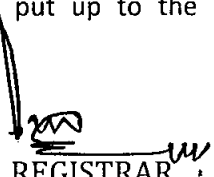
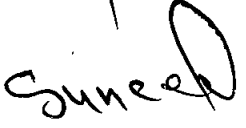





Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 892/2022 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/06/2022	<p>The appeal of Mr. Bilal presented today by Roeda Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-	15.6.22 Noted By Suneeb   18/6/2022	<p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on <u>27.6.22</u>. Notices be issued to appellant and his counsel for the date fixed.</p> <p> CHAIRMAN</p>
	27.06.2022	<p>Learned Member (Executive), is on leave. Therefore, the case is adjourned to 05.08.2022 for the same as before.</p> <p> READER</p>

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. 892/2022

Muhammad Arshad Ex-Constable No. 5961

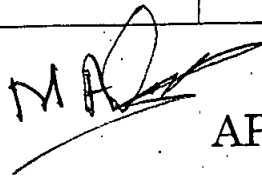
VERSUS

Senior Superintendent of Police Operation Peshawar &

Other


INDEX

S#	Description of Documents	Annexure	Pages
1.	Grounds of Petition.		1-5
2.	Affidavit.		6
3.	Addresses of parties		7
4.	Application for Condonation of Delay		8-9
5.	Copy of removal order	"A"	10
6.	Copy of departmental appeal & rejection order	"B & C"	17 to 12
7.	Wakalatnama		




APPELLANT

Through


Roeda Khan
Advocate, High Court
Peshawar.

(1)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2022

Muhammad Arshad Ex-Constable No. 5961 R/o
District Peshawar.

Appellant

VERSUS

1. Senior Superintendent of Police Operation Peshawar.
2. Capital City Police Officer Peshawar.
3. Inspector General of Police KPK Peshawar.

Respondents

APPEAL U/S-4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL
ACT 1974 AGAINST THE ORDER DATED
26-07-2017, WHEREBY THE APPELLANT
HAS BEEN AWARDED MAJOR
PUNISHMENT OF REMOVED FROM
SERVICE HAS BEEN AWARDED TO
THE APPELLANT AGAINST WHICH THE
APPELLANT FILED DEPARTMENTAL
APPEAL ON 15.08.2017 WHICH HAS NOT
BEEN DECIDED ON 18.12.2020.

(2)

PRAYER:-

ON ACCEPTANCE OF THIS APPEAL
THE IMPUGNED ORDERS DATED
26/07/2017 & 18.12.2020, MAY KINDLY BE
SET ASIDE AND THE APPELLANT MAY
KINDLY BE Reinstated ON HIS SERVICE
ALONG WITH ALL BACK BENEFITS.
ANY OTHER REMEDY WHICH THIS
AUGUST TRIBUNAL DEEMS FIT THAT
MAY ALSO BE ONWARD GRANTED IN
FAVOUR OF APPELLANT.

Respectfully Sheweth,

1. That the Appellant has been appointed as Constable since long time with respondent department.
2. That the appellant performed his duty regularly and with full devotion and no complaint whatsoever has been made against the appellant.
3. That the appellant while performing is official duty with respondent department domestic problem has been arises to the appellant at the month of October 2016 due to which the appellant was unable to performed his duty with respondent department.
4. That due to the reason mentioned in para-4 the appellant has been remove from service on 26.07.2017 by the respondent department on the ground of absentee. (Copy of removal order is attached as annexure "A").

5. That the appellant submitted departmental appeal on 15.08.2017 against the impugned order dated 26.07.2017 which has been decided on 18.12.2020 and the said rejection order has been communicated to the appellant on 10.05.2022. (Copy of departmental appeal & Rejection order are attached as annexure "B & C").
6. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following grounds inter alia:-

GROUND:-

- A. That the impugned order dated 26/07/2017 & 18.12.2020 are void and ab-initio order because it has been passed without fulfilling codal formalities in this respect the appellant relied upon a judgment reported on 2007 SCMR Page 834.
- B. That no charge sheet and statement of allegation has been issued or served to the appellant, which is a clear cut violation of Rule-6 (A) (B) of police Rules-1975.
- C. That the impugned order is also void because no regular or departmental inquiry was conducted against the appellant which is mandatory before imposing the major

(4)

penalty and no opportunity of personal hearing and defense has been provided to the appellant relied upon a judgment reported on 2003 PLC (CS) Page 365 on 2021 PLC (CS) page 235 as well as judgment of this Tribunal in service appeal No. 1181/2018 decided on 17.09.2021.

D. It is a well settled principle of law no one can be condemned unheard because it is against the natural justice of law in this respect the appellant relied upon a judgment reported on 2008 SCMR page:678.

E. That no statement of witness has been recorded & no opportunity of cross examination has been provided to the appellant. In this respect the appellant relied upon a judgment reported on 2016 SCMR Page 108.

F. That the absence of the appellant is not deliberate or intentionally but due to the reason mentioned in the above para's.

G. That the impugned order dated 26.07.2017 has been passed from the retrospective effect which comes under the definition of vide order.

(5)
H. That the punishment awarded to the appellant is come under the definition of harsh one.


I. That any other ground not raised here may graciously be allowed to be raised at the time full of arguments on the instant service appeal.

It is therefore, most humbly prayed that on acceptance of this appeal the impugned orders dated 26/07/2017 & 18.12.2020, may kindly be set aside and the appellant may kindly be reinstated on his service along with all back benefits.

Any other remedy which this august tribunal deems fit that may also be onward granted in favour of appellant.


APPELLANT

Through


Roeed Khan
Advocate, High Court
Peshawar.

NOTE:-

As per information furnished by my client, no such like appeal for the same petitioner, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Tribunal.


Advocate.

(6)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2022

Muhammad Arshad Ex-Constable No. 5961

VERSUS


Senior Superintendent of Police Operation Peshawar &
Other

AFFIDAVIT

I, Muhammad Arshad Ex-Constable No. 5961 R/o District Peshawar., do hereby solemnly affirm and declare that all the contents of the **instant appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Court.


DEPONENT

IDENTIFIED BY:


Roeeda Khan
Advocate High Court
Peshawar.

(2)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2022

Muhammad Arshad Ex-Constable No. 5961

VERSUS

Senior Superintendent of Police Operation Peshawar &
Other

ADDRESSES OF PARTIES

PETITIONER.


Muhammad Arshad Ex-Constable No. 5961 R/o
District Peshawar.

ADDRESSES OF RESPONDENTS

1. Senior Superintendent of Police Operation Peshawar.
2. Capital City Police Officer Peshawar.
3. Inspector General of Police KPK Peshawar


APPELLANT

Through


Roeda Khan
Advocate, High Court
Peshawar.

(8)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2022

Muhammad Arshad Ex-Constable No. 5961

VERSUS

Senior Superintendent of Police Operation Peshawar &
Other

APPLICATION FOR CONDONATION OF DELAY (IF ANY)

Respectfully Sheweth,

Petitioner submits as under:

1. That the above mentioned appeal is filing before this Hon'ble Tribunal in which no date is fixed for hearing so far.

GROUND:

A. That the impugned order is void and illegal, and no limitation run against the void orders because the impugned order has been passed without fulfilling the codal formalities.

B. That there are number of precedents of the Supreme Court of Pakistan which provides that the cases shall be decided on merits rather than technicalities.

(9)

C. That the punishment has been awarded to the appellant is come under the definition of void order because it has been passed from retrospective effect.

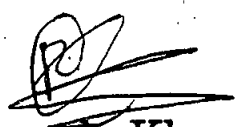
D. That the appellant submitted departmental appeal on 15.08.2017 against the impugned order dated 26.07.2017 which has been decided on 18.12.2020 and the said rejection order has been communicated to the appellant on 10.05.2022.

E. That according to the judgment of superior court and according to specific provision of law limitation has been counted from the date of knowledge /communication.

It is, therefore, requested that the limitation period (if any) may kindly be condone in the interest of justice.


APPELLANT

Through


Roeeda Khan
Advocate, High Court
Peshawar.

1 "A" (10)

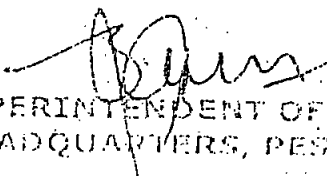
ORDER

This office order relates to the disposal of formal departmental enquiry against Constable Arshid No.5961 of Capital City Police Peshawar on the allegations that he while posted at Police Lines, Peshawar absented himself from lawful duty w.e.f 16.10.2016 till date without taking permission or leave.

In this regard charge sheet & summary of allegation was issued to him. SDPO Chamkani was appointed as Enquiry Officer. He conducted the enquiry proceeding & submitted his report that the defaulter official is not taking interest in his official duty. The E.O further recommended for taking ex-parte decision against defaulter official vides Enquiry Report No.17 dated 22.07.2017.

In light of recommendations of E.O, he is hereby removed from service under Police & Disciplinary Rules-1975 with immediate effect. Hence, the period of absence from 16.10.2016 till date is treated as without pay.

Encl (0)


SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR

OB. NO. 2569 / Dated 27/7 /2017

No. 3835-4/1/PA/SP/dated Peshawar the 27/7 /2017

Copy of above is forwarded for information & n/action to:

- ✓ The Capital City Police Officer, Peshawar.
- ✓ DSP/HQrs, Peshawar.
- ✓ Pay Officer
- ✓ OASI, CRC & FMC along-with complete departmental file.
- ✓ Officials concerned.

To:

Inspector General of Police
Khyber Pakhtunkwaha Peshawar

Subject:-

Departmental Appeal Against the order dated 26.07.2017
whereby major punishment removal from service has been
granted to the appellant


Dear Sir,

Respectfully Sheweth

1. That the appellant has been appointed as constable since long time with respondent department and after appointment the appellant performed his duty with full devotion and hard work and no complaint whatsoever has been made against the appellant.
2. That the appellant while performing is official duty with respondent department domestic problem has been arises to the appellant at the month of October 2016 due to which the appellant was unable to performed his duty with respondent department.
3. That due to the reason mentioned in para-4 the appellant has been remove from service on 26.07.2017 by the respondent department on the ground of absentee.
4. That the appellant belongs to a poor family.

It is, therefore, requested that on acceptance of the instant departmental appeal the impugned order 26.07.2017 may kindly be set aside and the appellant may kindly be restored on his original post along with all back benefits.

Dated :- 15-08-2017


Muhammad Arshad
Ex-Constable 5961



OFFICE OF THE
CAPITAL CITY POLICE OFFICER
PESHAWAR

Phone No. 091-9210989

Fax No. 091-9212597

ORDER

This order will dispose of departmental appeal preferred by ex-constable Muhammad Arshid No. 5961 who was awarded the major punishment of "dismissal from service" under PR-1975 by SP-HQrs: Peshawar vide OB No. 2869 dated 26.07.2017.

2- The allegations levelled against him were that he while posted at Police Lines Peshawar absented himself from his lawful duty w.e.f 16.10.2016 till his dismissal i.e 26.07.2017 with out permission or leave from the competent authority for a total period of (09-months & 10-days).

3- Proper departmental proceedings were initiated against him and SDPO/Chamkani Peshawar was appointed as the enquiry officer, who conducted a detailed enquiry and recommended him for ex-parte action. On receipt of findings of the enquiry officer, the competent authority i.e SP-HQrs: issued him Final Show Cause Notice to which he replied. The same was perused and found unsatisfactory by the SP-HQrs, Peshawar, as such awarded him the above major punishment.

4- He was heard in person in O.R. The relevant record perused along with his explanation. He was given ample opportunity to defend himself but he could not produce any plausible explanation. All legal formalities have been fulfilled by enquiry officers and the Competent Authority. His appeal for re-instatement in service is rejected/filed being also time barred for 03-years and 03 months.

(MUHAMMAD ALI KHAN) PSP
CAPITAL CITY POLICE OFFICER,
PESHAWAR

No. 1601-06 /PA dated Peshawar the 18/12 2020

Copies for information and n/a to the:-

1. SP-HQrs: Peshawar.
2. BO/OASI/CRC.
3. FMC along with FM.
4. Official concerned.

