

27.05.2016

None present on behalf of appellant. Mr. Aziz Shah, Reader alongwith Mr. Muhammad Jan, GP for respondents present. Notice be issued to appellant for arguments for 2.11.16 before D.B.

Member

Member

02.11.2016

None for the appellant present. Mr. Muhammad Jan, GP for respondents present. Notices be issued to the appellant/counsel for the appellant. To come up for arguments on 03.03.2017.

(PIR BAKHSH SHAH)  
MEMBER

(ABDUL LATIF)  
MEMBER

*Noted  
for received  
Muhammad  
Jan  
2/11/16*

03.03.2017

None present for the appellant. Mr. Muhammad Raziq, HC alongwith Assistant AG for respondents present. The court time is about to over but non-appeared on behalf of the appellant nor the appellant was present in person despite issuance of the notice to appellant and his counsel, therefore, the instant appeal is hereby dismissed in default. File be consigned to the record room.

ANNOUNCED:  
03.03.2017

(AHMAD HASSAN)  
MEMBER

(MUHAMMAD AAMIR NAZIR)  
MEMER

20.05.2015

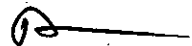
Counsel for the appellant and Mr. Hayat Muhammad, H.C  
alongwith Addl: A.G for respondents present. Written reply on behalf of  
respondents submitted, copy whereof supplied to learned counsel for  
the appellant. To come up for rejoinder on 27.8.2015.



Member

27.08.2015


None for the appellant present. Addl: AG for respondents  
present. Arguments could not be heard due to Learned Member  
(Judicial) is on leave. To come up for rejoinder and final hearing  
on 2-2-2016.



Member

02.02.2016

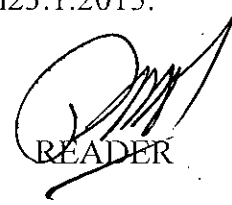
Counsel for the appellant and Addl: AG for  
respondents present. The learned member (Executive) is  
on official tour to Swat. Therefore, the case is adjourned  
to 27.5.16 for arguments.



MEMBER

3.12.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Wisal H.C for the official respondents present. None is available on behalf of private respondents. The Tribunal is incomplete. To come up for the same on 23.1.2015.

  
READER

23.1.2015

Clerk of counsel for the appellant and Mr. Muhammad Jan, GP with Iqbal Munir H.C for the respondents present and submitted that written reply is in process and will be submitted on the next date. Therefore, case to come up for written reply on 6.3.2015.

  
MEMBER

06.3.2015

Counsel for the appellant and Mr. Muhammad Jan, GP with Hayat Muhammad H.C for the respondents present. Representative of the respondents submitted that written reply prepared and placed on the table of concerned officers for signature. He requested that further time may be granted to submit written reply. Therefore, time is granted with direction to submit written reply on the next date without fail. To come up for the same on 20.5.2015.

  
MEMBER

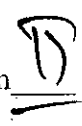
Appeal No. 45/2014  
Mr. Khan Zeb.

6. 10.07.2014

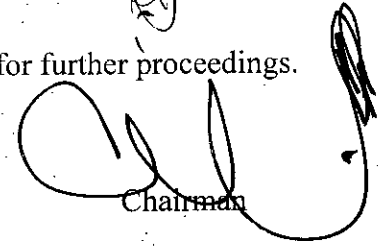
Appellant deposited  
Process fee & Security  
Rs. 260/- Bank Receipt  
attached with file  
of

Appellant with Junior to counsel for the appellant present. Junior to counsel for the appellant filed an application for withdrawal of the appeal but the appellant requested that he want to contest the instant appeal. Miss. Wajiha, Advocate and Miss. Uzma, Advocate present and filed Wakalat Nama on behalf of the appellant. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the original order dated 16.04.2013, he filed departmental appeal on 03.06.2013, which has been rejected on 13.12.2013, hence the present appeal on 10.01.2014. He further contended that the impugned order dated 13.12.2013 has been issued in violation of Rule-5 of the Civil Servant (Appeal) Rules 1986. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. To come up for written reply/comments on 13.10.2014.

10.07.2014

This case be put before the Final Bench  for further proceedings.

Member

  
Chairman

13.10.2014

Counsel for the appellant and Mr. Kabeerullah Khattak, Asstt. AG for the respondents present. Respondents need further time. To come up for written reply on 03.12.2014.

MEMBER

3.

03.03.2014

Clerk of counsel for the appellant present and submitted and application for adjournment. Application accepted. To come up for preliminary hearing on 17.04.2014.

  
Member

4.

17.04.2014

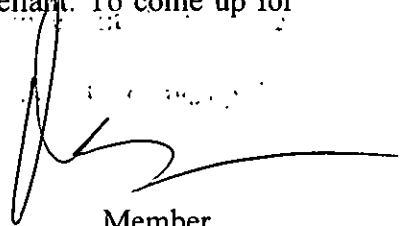
Clerk of counsel for the appellant present and moved an application for adjournment. Application accepted. To come up for preliminary hearing on 28.05.2014.

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
Member

5.

28.05.2014

No one is present on behalf of the appellant. Notices be issued to the appellant/counsel for the appellant. To come up for preliminary hearing on 09.07.2014.

  
Member

Form- A  
FORM OF ORDER SHEET

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

Case No. 45/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	10/01/2014	<p>The appeal of Mr. Khanzeb presented today by Mr. Khan Akber Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	15-1-2014	<p><del>This case is entrusted to Primary Bench for preliminary hearing to be put up there on</del> <u>3-3-2014</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

**BEFORE THE SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA AT PESHAWAR.**

Service Appeal No. 45 /2014

**Khanzeb**

Versus

Inspector General Off Police & others

**INDEX**

Serial No.	Description of documents	Annexure	Page No.
1.	Memo Of appeal <i>alongwith Affidavit</i>		1-6
2.	Copy of Statement of allegations	"A"	7
3.	Copy of Inquiry Report	"B"	8
4.	Copy of Show Cause Notice	"C"	9
5.	Copy of Impugned order dated 16.04.2013	"D"	10
6.	Copy of statement of allegations	"E"	11
7.	Copy of Inquiry Report	"F"	12
8.	Copy of order dated 16.07.2013	"G"	13
9.	Copy of representation/department appeal	"H"	14-15
10.	Copy rejection Order dated 13.12.2013	"I"	16
11.	Wakalat Nama		17

  
Appellant

Through

  
(KHAN AKBER KHAN)

Advocate, Peshawar.

Office: - 107-B, Town Tower,  
Jahangir Abad, University  
Road, Peshawar.

Cell No. 0344-9111911

Dated: - 1<sup>st</sup>/01/2013

②

**-BEFORE THE SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA AT PESHAWAR.**

Service Appeal No. 45 /2014

M.W.P. Province  
District Peshawar  
Case No. 38  
Dated 10-01-2014

**Khanzeb** Ex-Constable No.1739, District Police  
Peshawar.....**Appellant**

Versus

- 1). Inspector General of Police, Khyber PakhtunKhwa, Peshawar.
- 2). Capital City Police Officer, Peshawar.
- 3). Senior Superintendent of Police, Headquarter, Peshawar.
- 4). Superintendent of Police, Rural, Peshawar.
- 5). Superintendent of Police, Headquarter, Peshawar
- 6). Muhammad Ashfaq, Deputy Superintendent Of Police, Rural Circle, Peshawar.
- 7). Tariq Habib, Deputy Superintendent of Police, Faqir Abad Circle, Peshawar.....**Respondents**

=====

**APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATE 16.04.2013 & 16.07.2013, WHEREBY THE APPELLANT WAS AWARDED MAJOR PUNISHMENT OF DISMISSAL FROM SERVICES AND AGAINST THE REJECTION ORDER DATED 13.12.2013, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN FILED/REJECTED FOR NO GOOD REASONS.**

=====

*[Handwritten signature]*  
10/1/14

*[Handwritten signature]*

**PRAYER IN APPEAL:-**

ON ACCEPTANCE OF THE INSTANT APPEAL, THE ORDER DATED 16.04.2013 & 16.07.2013, AND REJECTION ORDER DATED 13.12.2013, MAY KINDLY BE SET ASIDE AND THE APPELLANT MAY GRECIOUSLY BE RE-

*[Handwritten arrow pointing to the date 13.12.2013]*



②

**INSTATED TO HIS SERVICE WITH ALL  
BACK BENEFITS.**

=====

**RESPECTFULLY SHEWETH:**

Brief facts leading to the instant Appeal are as under:-

1. That the appellant was performing his duties as constable in Police Station of District Peshawar, and his performance was upto the entire satisfaction of his superiors. During the duties his performance remained good and there were no complaints against him regarding his performance of duty or otherwise.
2. That on the allegations of absence from duties w.e.f. 28.07.2012 till 07.08.2012 (total of 11 days) Respondent No.4, issued statement of allegations to the appellant and appointed Respondent No.6, as Inquiry Officer, for conducting the inquiry against the appellant. (Copy of statement of allegations is attached herewith as **Annexure: - "A"**).
3. That the said Inquiry Officer/Respondent No.6, during the inquiry, neither issued any sort of notice to the appellant nor any information was conveyed to him and concluded the inquiry against the appellant exparte, wherein he proposed major punishment of dismissal from service of the appellant.. (Copy of the inquiry Report is attached herewith as **Annexure: - "B"**).
4. That on after conclusion of the inquiry, respondent No.4 issued show cause Notice to the appellant, inquiring him to explain his position. (Copy of the show cause notice is attached herewith as **Annexure: - "C"**).
5. That on the basis of said partial inquiry, respondent No.4, vide an Office O.B No.1403 dated 16.04.2013, awarded major penalty of dismissal from service, to the appellant and his absence was also ordered to be leave without pay. (Copy of Impugned Order dated 16.04.2013 is attached herewith as **Annexure: - "D"**).

6. That later on, Respondent No.5, again issued statement of allegation to the appellant, regarding his absence from duties w.e.f. 10.12.2012 to 16.04.2013 (total of 4 months and 6 days) and appointed respondent No.7, as inquiry Officer in the matter. (Copy of Statement of allegations is attached herewith as **Annexure: - "E"**).
7. That the said Inquiry Officer/Respondent No.6, during the inquiry, neither issued any sort of notice to the appellant nor any information was conveyed to him and the previous inquiry was made the base of his inquiry and concluded the inquiry against the appellant ex-parte, wherein he proposed major punishment of dismissal from service of the appellant.. (Copy of the inquiry Report is attached herewith as **Annexure: - "F"**).
8. That on the basis of said partial inquiry, respondent No.3, vide an Office O.B No.2583 dated 16.07.2013, ordered for inclusion of the said absence in the previous dismissal order of the appellant i.e. O.B No.1403 dated 16.04.2013. (Copy of order O.B No. 2583 dated 16.07.2013 is attached herewith as **Annexure: - "G"**).
9. That against the above mentioned impugned order O.B. No.1403 dated 16.04.2013, the appellant submitted his representation/departmental appeal on dated 03/06/2013, to the respondent No.2, which was rejected/filed vide office Order No.2129-34/PA dated 13/12/2013, by the said authority. (Copies of the representation/departmental appeal rejection order dated 13.12.2013 are attached herewith as **Annexure: - "H" & "I"** respectively).
10. That the appellant being aggrieved from the abovementioned impugned order dated 16.04.2013 & 16.07.2013 and rejection order dated 13.12.2013 approaches this Honourable Tribunal for his re-instatement on the following grounds inter-alia.

**GROUNDS:-**

- A). That the impugned Orders dated 16.04.2013 & 16.07.2013 and dated 13.12.2013 are illegal, unlawful and against the principles of nature justice, hence untenable.
- B). That the inquiry officers, during the inquiries, provided neither opportunity of personal hearing to the appellant nor any sort of information was conveyed to him regarding the allegations.
- C). That the appellant has served in the police department for long span of time, with unblemished/spotless record.
- D). That the absence of the appellant was not deliberate, rather it was due to circumstances beyond his control, and the appellant was stuck in solving his problems, hence was unable to send an application for leave.
- E). That the inquiry was conducted in a slipshod manner and the same is against the provisions of Police rules, which is summary in nature as there is nothing to justify the finding of the inquiry Officer.
- F). That no full-fledged inquiry was conducted regarding the allegations rather an ex-parte inquiry was conducted as no information regarding the allegation or inquiry was conveyed to the appellant.
- G). That the respondent No.4, while passing the impugned order, beside the dismissal from services of the appellant has ordered the absence period to be counted as "leave without pay", which is by itself a major punishment, hence the impugned order amounts to double jeopardy.
- H). That after conclusion of inquiry no final show cause notice was issued to the appellant/applicant, hence he was condemned unheard, during the entire so called inquiry, which is the glare violation of provisions of law as well as natural justice
- J). That the Official rejection Order dated 13.12.2013, is not a speaking order because no reasons have been mentioned in the same, which is the violation of section-24 of General Clauses Act.

5

K). That the appellant craves the permission of this Hon'ble Tribunal to raise any other ground or proof at the time of arguments/hearing of the instant case.

For the aforementioned reasons, it is, therefore, humbly prayed that on acceptance of this Appeal, the impugned order dated 16.04.2013 & 16.07.2013 and rejection order dated 13.12.2013, may kindly be set aside and the appellant may graciously be re-instated into his service, with all back benefits of the service, and his absence may graciously be counted as leave with pay.

Any other relief deemed fit by this Hon'ble Tribunal under the circumstances, may also graciously be granted in favor of the appellant.

  
Appellant

Through

  
(KHAN AKBER KHAN)

&

  
(SAIFULLAH MOHMAND)

Advocate, Peshawar.

Dated: 10/01/2014

**CERTIFICATE:**

Certified that as per information furnished by my client no such like service appeal on the subject has earlier been filed in this Hon'ble Tribunal.

  
ADVOCATE

6

**BEFORE THE SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA AT PESHAWAR.**

Service Appeal No. \_\_\_\_\_/2014

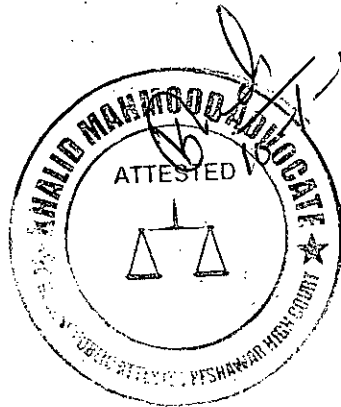
**Khanzeb**

Versus

Inspector General Of Police & others

**AFFIDAVIT**

I, **Khan Akbar Khan Advocate** Peshawar, as per instructions of my client do hereby solemnly affirm and declare on oath that the contents of the instant **Appeal** are true and correct to the best my of knowledge and belief and nothing has been concealed from this Honourable Tribunal.



**K. Akbar**  
**DEPONENT**

(7)

Amended A

**DISCIPLINARY ACTION AGAINST FC KHAN ZEB NO 1739  
OF PS CHAMKANI**

1. I, Superintendent of Police Rural Division, Capital City Police Peshawar, as competent authority am of the opinion that he FC Khan Zeb No 1739 Police Station Chamkani has rendered himself liable to be proceeded against as he committed the following act within the meaning of Section-3 of the NWFP Removal from Service (Special Powers) Ordinance-V/2000.

**STATEMENT OF ALLEGATIONS.**

“Constable Khan Zeb No 1739 was required for duty, searched in the vicinity of Police Station but not found. In this regard an absence entry was made vide D.D No.39 w.e.f. (28.07.2012) till to ( 07.08.2012) ( Total 11 days ), he deliberately absented himself from lawful duty without permission”.

All this amounts to gross misconduct on his part and renders him liable for minor/major punishment under the Rules, removal from “Service (Special Power ordinance 2000).

1. For the purpose of scrutinizing the conduct of the said Constable with reference to the above allegations an enquiry is ordered to be conducted SDPO/Rural is appointed as Enquiry Officer.

2. The Enquiry Officer shall, in accordance with the Provisions of the Ordinance. provide reasonable opportunity of hearing to the accused officer, record its findings and submit within 15 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

The defaulter Constable and well conversant representative of the department shall join the proceedings on the date time and place fixed by the Enquiry Officer.

*[Signature]*  
**Superintendent of Police,  
Rural, Peshawar.**

8

Amend B

From: The Deputy Superintendent of Police,  
Rural Circle, Peshawar.

To: - The Superintendent of Police,  
Rural, Peshawar.

Subject:- **DISCIPLINARY ACTION AGAINST FC KHAN ZEB NO. 1739  
OF PS CHAMKANI PESHAWAR.**

Memo:- Please refer to your office No. 82/SP:Rural dated 28.11.2012 on the  
subject cited above.

**Allegations:**

Constable Khan Zeb No. 1739 while posted at PS Chamkani Peshawar, remained absent from lawful duty vide DD No. 39 dated 28.07.2012 to 07.08.2012 vide DD No. 42 (Total 10 days) without taking any leave or permission of his senior officers. In this regard he was issued Charge Sheet & Statement of Allegation by the W/SP/Rural and the undersign was appointed as E.O to scrutinize the conduct of the said official.

**Proceedings:**

The alleged constable as well as the Muharrir were summoned vide Parvanas No. 3185/s dated 12.12.2012 and No. 1196/s dated 26.03.2013 to all concerned to inform the subject official to appear before the undersigned. But the alleged FC did not bother to appear.

**Findings & Recommendations:**

The reply submitted by Muharrir is worth perusal that the subject official is not interested in official duties. He was called time and again through parvanas as well as his cell phone. But he did not bother to attend the enquiry proceedings and is absent since 10.12.2012 (DD No. 20). It means that he is a habitual absentee and not interested to serve.

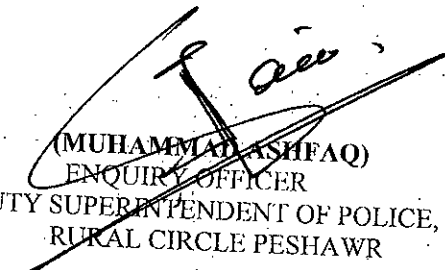
From the above discussion, the undersigned is therefore constrained to propose him for **major punishment.**

Submitted for your kind perusal please.

No. 1402 /S

Dated 12/10/2013

Encl. (09)

  
(MUHAMMAD ASHFAQ)  
ENQUIRY OFFICER  
DEPUTY SUPERINTENDENT OF POLICE,  
RURAL CIRCLE PESHAWAR

9

Amratty C

**SHOW CAUSE NOTICE**

I, Superintendent of Police, Rural Peshawar as competent authority, under the sub Section (4) of Section 5 empowered the competent authority to dispense the enquiry under sub section (1) under Khyber Pukhtoonkhwa under the Rule 1975, do hereby serve you FC Khan Zeb No 1739 of PS Chamkani Capital City Police, Peshawar as follows:

*"That you while posted in PS Chamkani remained absent from your lawful duty vide DD No 39 w.e.f (28.07.2012) up to date without leave or permission which amounts to gross misconduct and against the discipline of the force under the rules 1975".*

1 As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of major punishment under the said rules.

2 You are, therefore, required to show cause as to, why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

3 If no reply to this notice is received within 07-days of its delivery, it shall, be presumed that you have no defense to put in and in that case as ex-parte action be taken against you.

**( Khursheed Ahmad Khan )**  
**Superintendent of Police,**  
**Rural, Peshawar.**

No. 64 /PA, SP/Rural: dated Peshawar the 9 / 10 /2012.

Copy to FC Khan Zeb No 1739 Posted at Police Station Chamkani.



Ammeex, D  
10

## ORDER

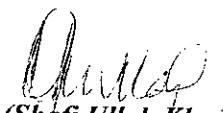
This is an office order for the disposal of the departmental proceedings against Constable Khan Zeb No 1739 on the grounds that he while Posted at Police Station Chamkani has committed negligence in his duty & remained absent for Total 10 days vide DD No 39 dated 28.07.2012 upto 07.08.2012 with out getting prior permission from his seniors.

On the basis of the above mentioned allegations, disciplinary proceedings were initiated against him. He was issued Charge Sheet, alongwith Summary of allegation. SDPO Rural was appointed as enquiry officer.

Findings of the enquiry officer was received and perused by the undersigned. The defaulter Constable Khan Zeb No 1739 was found guilty and the enquiry officer recommended him for Major punishment.

I have gone through the case file & perused the record. Keeping in view, that he remained away from his law full duty due to fear of life threats and militancy hit area of PS Chamkani The record also shows him habitual absentee, presently once again he is absent from lawful duty without permission from Police Line vide DD No 20 since from 10.12.2012. His period of absentia i.e Total 10 days vide DD No 39 dated 28.07.2012 upto 07.08.2012 Therefore, I, being the competent authority, therefore, Constable Khan Zeb No 1739 is hereby awarded Major punishment, of dismissal from service and period of his absence is counted as leave without pay with a view no more services of such truancy official is required in Police Force.

### Order announced.

  
(Shafi Ullah Khan)  
Superintendent of Police Rural,  
Peshawar.

OB No 1403

Dated: 16 / 4 / 2013

No. 82 PA: dated Peshawar, the 16 / 4 / 2013.

Copy for information and necessary action to:-

- 1 SP-HQrs
- 2 SDPO Chamkani
- 3 Pay Officer.
- 4 Fauji Missal Branch enquiry report for record.
- 5 CRC/OASI.

5/12

Amended E

(H)

**DISCIPLINARY ACTION**

I, Superintendent of Police, Headquarters, Capital City Police Peshawar as a competent authority, am of the opinion that Constable Khanzeb No.1739 has rendered him-self liable to be proceeded against under the provision of Police Disciplinary Rules-1975

(6)

**STATEMENT OF ALLEGATION**

"That Constable Khanzeb No.1739 while posted at Police Lines, Peshawar absented himself from duty w.e.f. 10.12.2012 till date without taking permission or leave. This amounts to gross misconduct on his part and is against the discipline of the force."

For the purpose of scrutinizing the conduct of said accused with reference to the above allegations an enquiry is ordered and \_\_\_\_\_ is appointed as Enquiry Officer.

2. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused officer, record his finding within 30 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.
3. The accused shall join the proceeding on the date time and place fixed by the Enquiry Officer.

*[Signature]*  
SUPERINTENDENT OF POLICE,  
HEADQUARTERS, PESHAWAR

No. 284 /E/PA, dated Peshawar the 30/05 /2013

1. SdPo Fagis abad is directed to finalize the aforementioned departmental proceeding within stipulated period under the provision of Police Rules-1975.
2. Official concerned

ENQUIRY REPORTS

Kindly refer to your office 284, dated 30/05/2013 on the subject cited above.

It is a departmental enquiry against constable Khanzeb No. 1739 posted at police line was absent from his lawful duty w.e.f 10/12/2012 to till date with out any information /or sanctioned leave. His act is highly objectionable and amounts to gross misconduct. The alleged constable was put to disciplinary proceeding by the worthy SP IQ. The undersigned was appointed as enquiry officer to initiate departmental proceeding against the alleged constable with reference to the above mentioned allegation.

**Finding:** In order to scrutinize the conduct of the alleged constable called though letter No. 1247 dated 02/07/2013. The OASI police line sent the reply that the above name constable was dismissed from his service vide OB No. 1403 Dated 16/4/2013 (OASI report attached).

During the course of enquiry the undersigned came to the conclusion that the above constable was continuously absent and dismissed from service.

**Recommendation:** Hence keeping in view the above mentioned circumstances the above constable was already dismissed from service while undersigned also suggest for his dismissal. Therefore his enquiry may filed.

*(Signature)*  
(Fariq Habib)  
Deputy Superintendent of Police,  
Faqirabad Circle Peshawar.  
05/07/13

W/SP HQ  
NO // /A-ST

Dated 05/7/2013

*W/SP HQ*

*11/7*

Sic

The del. present  
has been dismissed  
by SP/R.

(14)

Annex (H)

Chief Capital Police Officer (CCPO)  
Peshawar

Subject: Departmental Appeal for re-instatement against the impugned  
OB No. 1403 dated 16-4-2013

Respected sir,

With due deference, I submit the following facts for your kind consideration and necessary action in connection with my dismissal from the service vide OB No. 1403 dated 16/4/2013:

Facts

1. That I belong to a poor family and am the only source of livelihood of my family.
2. That I joined Police force on 20-5-2006 as PC
3. That being educated (Matriculated) my name was placed on A-List (Literate) after completion of PTC course.
4. That I was transferred to PS Chamkani to perform my duties. I worked hard there but remained absent from 28-7-2012 upto 07-08-2012, due to circumstances beyond my control and I was stuck in solving those problems where I was unable to send an application for leave. In the whole period of service, I neither remained absent nor obtained earned leave.
5. That I was issued show cause notice No. 6477/A, SP/Rural: dated Peshawar the 9/10/2012, whereby competent authority decided to impose upon me penalty of major punishment and I was required to defend myself.
6. That I submitted my humble reply before the enquiry officer (SDPO Rural), which was not considered sympathetically.
7. That Superintendent of Police Rural, Peshawar issued impugned OB No. 1403 dated 16-4-2013, dismissing me from the service. The dismissal order

also counted the said period of absence as "leave without pay", which is also a major punishment.

Grounds

1. That I served Police force for more than seven years and have an unblemished record.
  2. That I performed my duty with dedication, honesty and to the entire satisfaction of my superiors.
  3. That I remained absent from 28-7-2012 upto 07-08-2012 from my duty due to circumstances beyond my control and I was facing multifarious problems at my home and family.
  4. That my absence in the said period was due to genuine reasons and I was required to solve those problems immediately.
  5. That in entire period of service, I never remained absent from duty and worked day and night.
  6. That it is against the principles of natural justice and fundamental right to impose two punishments for the same act at the same time.
- In light of the above stated facts, I therefore, very humbly request that my case being genuine be considered on humanitarian and compassionate grounds, as I am the only source of income of my family and reinstated. The said period of absence may be considered as earned leave.

Dated: 3-6-2013

Yours obediently,

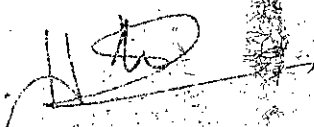
Khan Zeb  
PC No. 1739

**ORDER**

This office order will dispose off departmental appeal of ex-constable **Khanzeb No. 1739** who was awarded the major punishment of **Dismissal** from service vide OB No. 1403 dated 16.4.2013 by SP-Rural Peshawar on the charge of deliberate absence from lawful duty w.e.f. **28.7.12 to 7.8.12 & 10.12.12 to 16.4.13 (4-months and 6-days)** from PS Chamkani & Police Lines Peshawar.

Two separate departmental proceedings were initiated against him and SDPO-Rural and SDPO-Faqirabad were appointed as the E.Os. in their findings they held him responsible of the charges. As such the Competent Authority awarded him the above major punishment.

The relevant record has been perused along with his explanation and also heard him in person in OR on 6/12/2013, but he could not defend himself. The allegations levelled against him stand proved. The undersigned seems no plausible reason to interfere in the order passed by SP/Rural Peshawar, hence his appeal for re-instatement in service is rejected/filed.

  
**CAPITAL CITY POLICE OFFICER,  
PESHAWAR.**

No. 2129-34 /PA dated Peshawar the 13-12-13

Copies for information and n/a to the :-

- 1/ SP-Rural, Peshawar
- 2/ PO /OASI
- 3/ CRC along with S.Roll for making n/entry.
- 4/ FMC encl: complete FM
- 5/ Official concerned.

17

W A K A L A T N A M A

BEFORE THE COURT OF Chairman, Service Tribunal, Peshawar

S.A No \_\_\_\_\_ of 2014

Khan Zeb

(Petitioner)

(Plaintiff) ✓

(Appellant)

VERSUS

Inspector General of Police and <sup>others</sup>

(Respondent)

(Defendant)

I/We خان زيب

In the above noted S.A do hereby appoint

and constitute **Mr. Khan Akbar Khan and Mr. Saif Ullah Mohmand**

Advocates as my/ our Counsels in the subject proceedings and authorize them to appear, plead etc compromise, withdraw or refer the matter for arbitration for me/ us without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel at my/our expense and receive all sums and amounts payable to me/ us and to all such acts which he may deem necessary for protecting my/ our interest in the matter. They are also authorized to file Appeal, Revision, Application for restoration or application for setting asiding exparte decree proceedings on my/ our behalf.

Dated: -10 / 01 / 2014

*[Signature]*

(Client)

*[Signature]*

*K. Akbar*  
**(KHAN AKBAR KHAN)**

And

*[Signature]*

**(Saif Ullah Mohmand)**

Advocates High Courts

Before The Chairman Service Tribunal  
KPK, Peshawar

---

Khanzeb vs Police Deptt

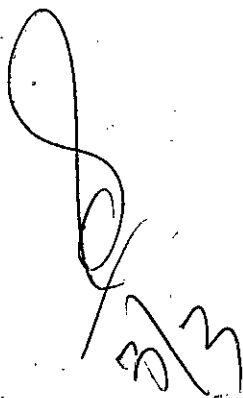
Application for Adjournment

Respectfully sheweth:-

1) That the captioned case is pending adjudication before this Honble court which is fixed for today i.e 3-3-2014.

2) That counsel for appellant is busy in out station's case and is unable to assist this Honble tribunal for today.

It is, therefore, most humbly prayed that on acceptance of this application the captioned appeal may kindly be adjourned to some other date convenient to this Honble Tribunal.



Counsel for  
appellant

Through

Norman Khan  
Advocate



Before The chairman Service Tribunal  
KPK, Peshawar

Khanzeb vs The Police dept.

Application For Adjournment

Respectfully Sheweth:-

1) That the above-mentioned case is pending adjudication before this Honble tribunal which is fixed for today 17.04.2014.

2) That counsel for appellant is busy before the Honble Peshawar High Court, Peshawar and is unable to attend and assist this Honble tribunal for today.

It is, therefore, most humbly requested that the above-mentioned appeal may kindly be adjourned to some other date convenient to this Honble tribunal.

Counsel for  
Appellant

Dated 17.04.2014

through

Kha. Ahsan Khan

Before the Chairman Service Tribunal, W.P.W  
Peshawar

Khanzeb Vs Police Department

Application for withdrawal  
or dismissal for non-prosecution

Respectfully shown:-

- 1) That the captioned appeal is pending adjudication before this Honorable Tribunal which is fixed for today i.e. 09-07-2014.
- 2) That the appellant has taken the brief away from his counsel and is neither attending his phone nor is contacting him otherwise.

It is, therefore, most humbly requested that the captioned case may kindly be withdrawn or dismissed in default.

Counsel for  
appellant

Safdar Ali  
Advocate

9/7/14 dated 9-07-2014

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA  
PESHAWAR**

**Service Appeal No.45/2014.**

Khanzeb Ex-Constable No. 1739, District Police, Peshawar.....**Appellant.**

**VERSUS.**

- 1- Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
  - 2- Capital City Police Officer, Peshawar.
  - 3- Senior Superintendent of Police Head quarter, Peshawar
  - 4- Superintendent of Police, Rural, Peshawar.
  - 5- Superintendent of Police, HQ:rs, Peshawar.
  - 6- Deputy Superintendent of Police, Rural Circle, Peshawar.
  - 7- Deputy Superintendent of Police, Faqir Abad Circle, Peshawar.
- .....**Respondents.**

**Reply for behalf of Respondents 1, 2, 3, 4, 5, 6 and 7.**

**PRELIMINARY OBJECTIONS.**

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

**FACTS:-**

- 1- First Part of Para No.1 is correct while rest of Para is totally incorrect and denied. The appellant has a blemish service record. There exists fourteen (14) red entries, in his service record. (Red entries are annexed as "A").
- 2- Para No. 2 is correct to the extent that the appellant while posted at Police Station Chamkani has committed negligence and remained absent for total 10 days vide DD No. 39 dated 28.07.2012 up to 07.08.2012 without getting prior permission from his seniors. In this regard, disciplinary proceedings were initiated against him, he was issued charge sheet along with summary of allegation.
- 3- Para No. 3 is totally incorrect and denied on the ground that the appellant was issued a show cause notice vide No. 64 PA/SP Rural dated 09.10.2012. He was also summoned through written Parwanas to attend the proceedings and defend himself for allegations leveled against him. The appellant also submitted his reply to the show cause notice. But he did not satisfy the enquiry officer, hence he was recommended for major punishment.

- 4- Para No 4 is incorrect. In fact during the enquiry proceedings, the appellant was issued a show cause notice which he replied but his reply was based on false pretences.
- 5- The allegations leveled by the appellant regarding partial enquiry are false and baseless. In fact proper enquiry was conducted against appellant, he was issued show cause notice, he was summoned by enquiry officer through written Parwanas. The enquiry officer found him guilty of absenting himself from his lawful duty due to fear of threat and militancy hit area of PS Chamkani. Furthermore, the appellant also remained absent from 10.12.2012 to 16.04.2013 (total 4 months and 06 days). So the appellant being a habitual absentee does not deserve any leniency, hence was dismissed.
- 6- Para No. 6 is correct to the extent that the appellant again absented himself from his lawful duty i.e. from 10.12.2012 till 16.04.2013 without any prior permission from his high ups. A separate departmental proceeding was initiated by SDPO Faqir Abad. The enquiry officer in his findings recommended him for major punishment. The competent authority vide OB No 2583 dated 16.07.2013 included the same absence period in his dismissal order dated 16.04.2013.
- 7- Para No. 7 is incorrect and denied. The appellant was issued charge sheet and summary of allegations, he was issued written parwana on 31.08.2013 to attend the proceedings conducted against him.
- 8- Para No 8 regarding partial enquiry is incorrect. In fact two proper departmental enquiries were conducted against him. As both absence periods were proved against him, so he was rightly awarded major punishment of dismissal from service.
- 9- Para No 9 is correct to the extent that the appellant submitted appeal before the appellate authority but was rejected/filed because charges leveled against him were stand proved. It is worth mentioning that his departmental appeal was also time barred for 19 days.
- 10- The punishment orders passed by the competent authority are in accordance with law. So appeal of appellant being devoid of merits may kindly be dismissed on following grounds.

**GROUND:-**

- A. Incorrect. The punishment orders are legal, lawful and in accordance with law/rules, hence liable to be upheld.
- B. Incorrect. The delinquent official was issued show cause notice, and statement of allegations. He was provided ample opportunity to defend himself. But he failed to satisfy the enquiry officer regarding his long absence periods.

- C. Incorrect. The appellant is a habitual absentee from his lawful duty. He has a blemish service record, and there exists 14 red entries in his service record.
- D. Incorrect. The appellant deliberately absented himself without taking prior permission/leave from his seniors. Being a member of a disciplined force, he showed negligence which amounts to gross misconduct, hence was rightly awarded major punishment of dismissal from service.
- E. Incorrect. A proper departmental enquiry was conducted against appellant and the charges of deliberate absence were proved against him.
- F. Incorrect. Para already replied in detail above.
- G. Incorrect. The punishment order passed by the competent authority is legal and in accordance with law/rules.
- H. Incorrect. The appellant was issued final show cause notice he was given ample opportunity to defend himself. But he failed to submit his reply to final show cause notice.
- I. Incorrect. As the charges leveled against appellant were stand proved. Hence the appellate authority being agreed with the punishment order rejected his departmental appeal.
- J. That respondents also seeks permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

**PRAYER.**


Keeping in view the above facts, it is therefore prayed that the subject appeal may kindly be dismissed.


  
**Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.**

  
**Capital City Police Officer,  
Peshawar.**

  
**Superintendent of Police,  
HQs: Peshawar.**

  
**Superintendent of Police,  
Rural, Peshawar.**

  
**Deputy Superintendent  
of Police, Rural Circle,  
Peshawar.**

  
**Deputy Superintendent  
of Police, Fagir Abad Circle,  
Peshawar.**

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA  
PESHAWAR**

**Service Appeal No.45/2014.**

Khanzeb Ex-Constable No. 1739, District Police,  
Peshawar.....**Appellant.**

**VERSUS.**

- 1- Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
- 2- Capital City Police Officer, Peshawar.
- 3- Senior Superintendent of Police Head quarter, Peshawar
- 4- Superintendent of Police, Rural, Peshawar.
- 5- Superintendent of Police, HQ:rs, Peshawar.
- 6- Deputy Superintendent of Police, Rural Circle, Peshawar.
- 7- Deputy Superintendent of Police, Faqir Abad Circle, Peshawar.

.....**Respondents.**

**AFFIDAVIT.**

We respondents 1 to 7 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.

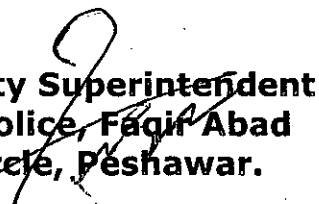
  
**Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.**

  
**Capital City Police  
Officer, Police Lines,  
Peshawar.**

  
**Superintendent of Police,  
HQrs:, Peshawar.**

  
**Superintendent of  
Police, Rural, Peshawar.**

  
**Deputy Superintendent  
of Police, Rural Circle,  
Peshawar.**

  
**Deputy Superintendent  
of Police, Faqir Abad  
Circle, Peshawar.**

1. **Name of Official** Khan Zeb S/o Jehanzeb.
2. **Date of Birth** 10.03.1986 \* 27 سال 5 ماه 23 دن
3. **Date of enlistment** 20.05.2006
4. **Education** 10<sup>th</sup>
5. **Courses Passed** Nil.
6. **Total qualifying service** 06 Years, 05 Months & 28 Days
7. **Good Entries** Nil
8. **Punishment (previous)**

**Minor**

**Major**

1. Awarded minor punishment on charge of absence vide OB No. 629-E dated 20.11.2009
2. Awarded minor punishment of fine Rs. 1000/- & one increment stop vide OB No. 1772/PA dated 18.05.2010

Nil

9. **Bad Entries**

Leave without pay

Extra Drill

Warning

04 months & 29<sup>th</sup> days

07

01

10. **Punishment (Current)**

- Dismissed from service vide OB No. 1403 dated 16.04.2013 on charge of absences.

11. **Leave Account**

Total leave at his credit

Availed leave



Balance

308 Days

30

278 Days

W/CCPO

PA   
 filed. 

  
 CRC 23/7

بعدالت کروشن ریسولوشن ۲۰۱۴

SA 45/2014

مورخہ  
مقدمہ  
دعویٰ  
جرم

۲۰۱۴ء منجانب  
صاحب ریب  
بنام  
۱۹ police  
etc

کروشن ریسول

### باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام لیس اور کیلئے وجہہ رہے منطقی اور لیس  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقریر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ 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 کاروائی 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 پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے  
سبب سے وہوگا۔ کوئی تارتخ 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۔

المرقوم ۹/۱۰/۲۰۱۴

الع د گ و الع  
مقام کے لئے منظور ہے۔

Attested  
Accepted  
by