

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
AT CAMP COURT SWAT

SERVICE APPEAL NO. 28/2018

Date of institution ... 08.01.2018

Date of judgment ... 02.04.2019

Habib-ur-Rehman (Police Constable No. 436)
R/O Village Chakesar Tehsil Alpuri, Shangla

... (Appellant)

VERSUS

1. District Police Officer, Shangla.
2. Provincial Police officer, Khyber Pakhtunkhwa, Peshawar.
3. Deputy Inspector General of Police, Malakand Region, Saidu Sharif, Swat.
... (Respondents)

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED
OFFICE ORDERS DATED 17.08.2009 & 21.12.2017.

Mr. Shams-ul-Hadi Advocate. _____

.. For appellant.

Mr. Mian Ameer Qadir, District Attorney _____

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI _____

.. MEMBER (JUDICIAL)

Mr. MUHAMMAD HAMID MUGHAL _____

.. MEMBER (JUDICIAL)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Learned counsel

for the appellant present. Mr. Mian Ameer Qadir, District Attorney for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was serving in Police Department. He was imposed major penalty of dismissal from service vide order dated 17.08.2009 on the allegation of absence from duty. The appellant filed departmental appeal on 28.12.2016 which was rejected on 02.02.2017. The appellant filed revision petition before the Inspector General of Police (copy of the same is not available on record) however, the

M. Amin
2.4.2019

same was rejected vide order dated 21.12.2017 hence, the present service appeal on 08.01.2018.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant was serving in Police Department. It was further contended that the impugned order was passed retrospectively from the date of absence therefore, the impugned order is void and no limitation run against the void order. It was further contended that the appellant was seriously ill therefore, the absence of the appellant was not intentional but it was beyond the control of the appellant to attend the duty. It was further contended that the other colleagues of the appellant were also removed from service on the allegation of absence from duty but they were reinstated in service by the department and the appellant was not reinstated. It was further contended that neither proper inquiry was conducted nor any absence notice was issued to the appellant at his home address therefore, the impugned order is illegal and liable to be set-aside.

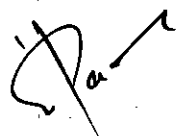
5. On the other hand, learned District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving in Police Department. It was further contended that the appellant remained absent from duty without permission of the higher authority. It was further contended that proper charge sheet, statement of allegation was framed and the appellant was summoned for departmental inquiry but the appellant did not appear rather the father of the appellant stated, that he had gone to Dubai for treatment therefore, ex-parte proceeding was initiated against the appellant. It was further contended that the appellant has admitted in the departmental appeal that he had gone abroad. It was further contended that the impugned order was passed in the year 2009 but the appellant has filed departmental appeal in the year 2016 after a delay of 7 years and no

M. Amin
2.4.2019

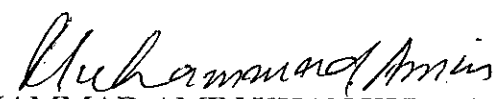
condonation of delay application has been filed by the appellant therefore, it was vehemently contended that the departmental appeal is badly time barred therefore, prayed that the present appeal may be dismissed being time barred.

6. Perusal of the record reveals that the appellant was serving in Police Department. He was imposed major penalty of dismissal from service vide order dated 17.08.2009 on the allegation of absence from duty with effect from 08.03.2009. The record further reveals that the appellant filed departmental appeal on 28.12.2016 after a delay of seven years. Though the impugned order was passed retrospectively but the same does not make the impugned order void and illegal. Reference is placed on SCMR 1998 page 1890. The appellant has also admitted in the departmental appeal that he had gone abroad. The record further reveals that the charge sheet, statement of allegation was framed and he was summoned for inquiry proceeding but his father stated that the appellant had gone to Dubai for treatment therefore, ex-parte departmental proceeding was initiated against the appellant and the departmental committee recommended him for major penalty. As the departmental appeal was filed by the appellant after a delay of more than seven years and no application for condonation of delay has been filed therefore, the departmental appeal is badly time barred. As such, without touching the merit of case, the present service appeal is not maintainable being time barred hence, dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
02.04.2019



(MUHAMMAD HAMID MUGHAL)
MEMBER
CAMP COURT SWAT




(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
CAMP COURT SWAT

07.01.2019

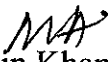
Appellant in person present. Mr. Anees-ur-Rehman, Inspector (Legal) alongwith Mr. Mian Amir Qadir, District Attorney for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned to 01.04.2019 for arguments before D.B at Camp Court Swat.



(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member
Camp Court Swat

01.04.2019

Counsel for the appellant and Mr. Mian Ameer Qadir, District Attorney for the respondents present. Arguments heard. To come up for order on tomorrow i.e 02.04.2019 before D.B at Camp Court Swat.


(M. Amin Khan Kundi)
Member
Camp Court Swat


(M. Hamid Mughal)
Member
Camp Court Swat


02.04.2019


Learned counsel for the appellant present. Mr. Mian Ameer Qadir, District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of three pages placed on file, without touching the merit of case, the present service appeal is not maintainable being time barred hence, dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

02.04.2019


(MUHAMMAD HAMID MUGHAL)
MEMBER
CAMP COURT SWAT


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
CAMP COURT SWAT

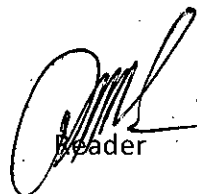
07.08.2018

Clerk to counsel for appellant and Mohammad Saeed SS, for respondent present. Due to summer vacations, the case is adjourned. To come ur for the same on 05.09.2018 at camp court Swat.

Reader

07.08.2018

Clerk to counsel for appellant and Raees khan Inspector for respondent present. Due to summer vacations, the case is adjourned. To come ur for the same on 05.09.2018 at camp court Swat.



Reader

05.09.2018

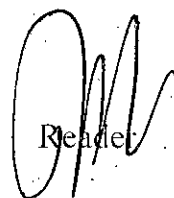
Appellant Habib ur Rehman in person present. Mr. Raees, Inspector alongwith Mr. Usman Ghani, District Attorney for respondents present. Written reply on behalf of respondents submitted copy of which was also handed over to the appellant. Case to come up for rejoinder, if any, and arguments on 06.11.2018 before D.B at camp court Swat.



Chairman
Camp Court Swat

06.11.2018

Due to retirement of the Hon'ble Chairman Service Tribunal is incomplete. Tour to Camp Court Swat has been cancelled. To come up for the same on 07.01.2019 at camp court Swat.




Reader

Service Appeal No. 28/2018

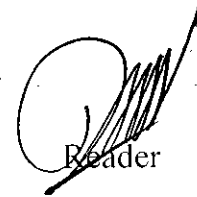
04.04.2018

Appellant in person and Mr. Usman Ghani, District Attorney for the respondents present. Written reply not submitted. Learned District Attorney seeks further adjournment. Granted. To come up for written reply/comments on 09.05.2018 before S.B at Camp Court, Swat.


Chairman
Camp court, Swat

09.05.2018

The Tribunal is non-functional due to retirement of the Worthy Chairman. To come up for the same on 06.06.2018 before the S.B at camp court, Swat.


Reader


06.06.2018

Neither the appellant nor his counsel present. Mr. Usman Ghani, District Attorney for the respondents present. Written reply not submitted. Learned District Attorney requested for further adjournment. Granted. To come up for written reply/comments on 03.07.2018 before S.B at Camp Court Swat.


Chairman
Camp Court, Swat

03.07.2018

Mr. Khurshid clerk of the counsel for the appellant present. Mr. Usman Ghani learned District Attorney for the respondents present. Written reply not submitted. Adjourned by way of last chance. To come up for written reply/comments on 07.08.2018 before S.B at camp court Swat.


Chairman
Camp Court, Swat


02.02.2018

Learned counsel for the appellant present. Preliminary arguments heard and case file perused.

Learned counsel for the appellant argued that initially the appellant was absent from duty for a few days due to which he was removed from service with effect from the date of absence i.e 08.03.2009 by respondent No. 3, vide impugned order dated 17.08.2009 without conducting formal enquiry or giving any opportunity of self-defence to the appellant. That the appellant preferred departmental appeal on 28.12.2016 which was rejected vide order dated 02.02.2017 on the ground of being time barred. That the impugned order dated 17.08.2009 is void order as retrospective order is not acceptable in the eyes of law. That in similar cases belonging to Malakand Region the appellants were reinstated in service. That no limitation runs against void orders and the cases of similarly placed persons. Learned counsel also relied on the judgment reported as 2002 PLD (C.S) 268.

Points raised need consideration. Admitted for regular hearing subject to all legal objections including limitation. The appellant is also directed to deposit security and process fee within (10) days, whereafter notice be issued to the respondents department for written reply/comments on 08.03.2018 before S.B at Camp Court, Swat.

Appellant Deposited
Security & Process Fee


(Gul Zeb Khan)
Member
Camp Court Swat.

08.03.2018



Clerk to counsel for the appellant and Addl: AG for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 04.04.2018 before S.B at camp court, Swat.


Chairman
Camp court, Swat

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 28/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	8/1/2018	<p>The appeal of Mr. Habib-ur-Rehman presented today by Mr. Shamsul Hadi Advocate, may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 8/1/18</p>
2-	11-1-2018	<p>This case is entrusted to Touring S. Bench at Swat for preliminary hearing to be put up there on <u>02-02-2018</u></p> <p style="text-align: right;"> CHAIRMAN</p>

6

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR.**

Service Appeal No. 28 /2018.

Habib ur Rehman.....Appellant

V E R S U S

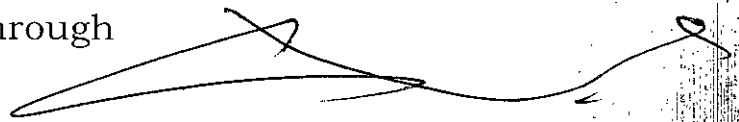
District Police Officer, Shangla and others.....Respondents

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S.N	Description of Documents	Annex	Pages
1.	Memo of Appeal.		1--- 3
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5.	Copy of Departmental appeal and order dated:21.12.2017.	B	7-10
6.	Copy of Judgment	C	11-13
7.	Wakalat Nama		14

Appellant

Through



Shams ul Hadi

Advocate, Peshawar.

Office: Near Al-Falah Mosque, Hayat
Abad, Mingora.

Cell No. 0347-4773440.

Dated: 03/01/2018.

1

**BEFORE THE KHYBER PAKHTOON KHWA SERVICES
TRIBUNAL, PESHAWAR**

Service Appeal No. 28 /2018.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 14

Dated 08/01/2018

Habib -ur-Rehman (Police Constable No.436)

R/O Village Chakesar Tehsil Alpuri, Shangla.....Appellant

V E R S U S

1. District Police Officer, Shangla.
2. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
3. Deputy Inspector General of Police, Malakand Region,
Saidu Sharif, Swat..... Respondents

**APPEAL UNDER SECTION 4 OF KHYBER
PUKHTUNKHWA SERVICES TRIBUNAL ACT
1974 AGAINST THE IMPUGNED OFFICE
ORDERS DATED: 17.08.2009 & 21/12/2017.**

PRAYER IN APPEAL:

On acceptance of this appeal the impugned Orders dated: 17.08.2009 and 02/02/2017 regarding major penalty i-e Removal from service of appellant may kindly be set aside and the appellant may kindly be re-instated to his service with all back benefits of service.

Respectfully Sheweth:

1. That initially the appellant joined the respondent/department since long and as such performed his duties with zeal and zest and till date no compliant what so ever has been recorded from any quarter.
2. That in the year 2009, the appellant due illness could not continued his services and as such the appellant remained absent from service for a short period.

Filed to-day
Registrar
08/01/18

3. That thereafter without observing legal formalities, the appellant was dismissed from through impugned order dated:17.08.2009 and as such the appellant was retrospectively dismissed from service from the date of his absence i-e 08.03.2009.(Copies of impugned office order dated:17.08.2009 is annexure-A)
4. That when the respondents re-instated some of his colleagues in similar circumstances so against the said removal order, the appellant filed departmental appeal before the Resp No.3 where the same was rejected vide order dated:21.12.2017.(Copy of Departmental appeal and order dated:21.12.2017 are annexure-B)

That being aggrieved from the impugned orders, the appellant approached this Hon'ble Tribunal on the following grounds amongst other inter alia:

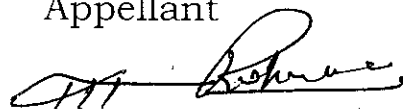
GROUND:

- A. That the impugned office orders are against the facts, law and procedure, hence, untenable being unjust and unfair.
- B. That the appellant was removed from service retrospectively which is a void order and now it is settle preposition of law that no limitation runs against void order nor the same has any legal sanctity.(Copy of recent judgment passed by this august court is annexure-C)
- C. That the appellant was not treated in accordance with law and rules, thus acted in violation of the relevant laws laid down for the purpose.
- D. That the whole departmental proceedings against the appellant was based on personal ill will and with ill intention a harsh and illegal penalty was imposed on the appellant.

- E. That no opportunity in shape of personal hearing was afforded to the appellant and nor statement of allegation and show cause notices were communicated to the appellant, So legal formalities were ignored by the respondents and a harsh penalty was imposed upon appellant.
- F. That any other ground may be adduced during the course of argument, with the kind permission of this Hon'ble Court.

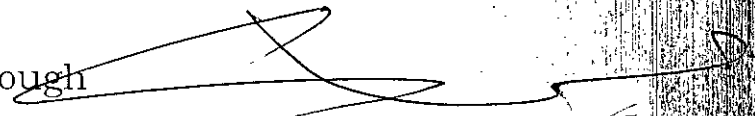
It is, therefore, most humbly prayed that On acceptance of this appeal, impugned Orders dated: 17.08.2009 and 21/12/2017 regarding major penalty i.e Removal from service of appellant may kindly be set aside and the appellant may kindly be re-instated to his service with all back benefits of service.

Appellant



Habib -ur-Rehman (Police Constable No.436)

Through



Shams ul Hadi

Dated: 03/01/2018

Advocate, Peshawar.

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2018.

Habib ur Rehman.....Appellant

V E R S U S

District Police Officer, Shangla and others.....Respondents

AFFIDAVIT

I, **Shams ul Hadi**, Advocate, Peshawar do hereby as per information conveyed to me by my client solemnly affirm and declare that the contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


ADVOCATE



**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR.**

Service Appeal No. _____/2018.

Habib ur Rehman.....Appellant

V E R S U S

District Police Officer, Shangla and others.....Respondents

ADDRESSES OF THE PARTIES

APPELLANT:

Habib -ur-Rehman (Police Constable No.436)

R/O Village Chakesar Tehsil Alpuri, Shangla

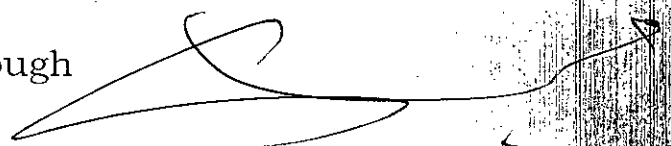
Cell No.

RESPONDENTS:

1. District Police Officer, Shangla.
2. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
3. Deputy Inspector General of Police, Malakand Region,
Saidu Sharif, Swat.

Appellant

Through



Shams ul Hadi

Advocate, Peshawar.

Dated: 03/01/2018

ORDER

6 Annex
A3

F.C Habib-ur-Rehman No. 436 posted at P.S Besham had departed on 15 days Casual Leave with effect from 08.3.2009. On expiry of leave he failed to report for duty and instead sent doctor prescription with advice for 10 days medical leave. Few days later he sent another medical certificate for further medical leave for 10 days. His medical problem did not appear genuine and, therefore, on subsequent initial inquiry it transpired that he has gone abroad. His this act clearly constituted gross misconduct on his part.

F.C Habib-ur-Rehman was, therefore, proceeded against departmentally and hence served with Charge Sheet and Statement of Allegations. Inquiry Committee was duly constituted comprising SDPO Alpuri DSP Riaz Hussain and R.I Distt Shangla Insp Shaiber Khan to conduct proper departmental proceedings against F.C Habib-ur-Rehman No 436. The Inquiry Committee has summoned F.C Habib-ur-Rehman for hearing, but he did not appear before it despite duly served summon. Instead his father Mr Nowsherwan has recorded statement at the time of summon service that his son Habib-ur-Rehman suffers from mental illness and has been sent to Dubai for treatment. The statement of his father has been duly attested by IHC Nisar Ahmad and SHO Chakisar S.I Pervaiz Khan. In the light of statement of his father and the available circumstances the Inquiry Committee has found the act of Habib-ur-Rehman as gross misconduct under the law and, therefore, recommended him discharge from service.

On perusal of the Inquiry proceedings and statement of his father the undersigned is satisfied that F.C Habib-ur-Rehman No. 436 has willfully absented himself from official duty since long and gone abroad for some job. His this act constitutes gross misconduct under service rules and relevant law. Therefore, I, **Gul Wali Khan**, District Police Officer, Shangla, as a competent authority exercising the powers vested in me under the NWFP Removal from Service (Special Powers) Ordinance, 2000, and Police Rules 12.21 award absented F.C Habib-ur-Rehman major punishment of discharge from service with effect from the date of his absence from duty, 08.3.2009.

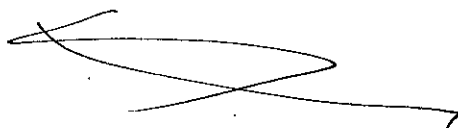
Order announced.



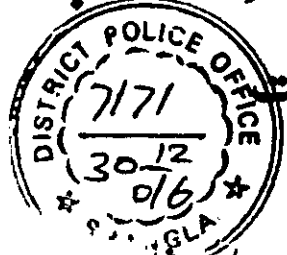
(Gul Wali Khan)
District Police Officer
Shangla

OB No. 91
Dated 17/08/2009

A.C



عالی قدر جناب ڈپٹی انسپکٹر جنرل صاحب محکمہ پولیس ملاکنڈ ریجن وادی



عنوان: درخواست بمراد ملازمت بحالی

جناب عالی!

آداب! گزارش بخدمت اقدس کہے کہ میں بحسبیت پولیس کانسٹیبل بلٹ نمبر 436 تعینات ہو چکا تھا۔ مجھے اس پٹی سے ہے۔ فرائض منصبی پوری ایمانداری، جانفشانی اور عرق ریزی سے انجام دیتا رہا۔ لیکن شوخی قسمت سے میں ایک ایسی بیماری مجھے ڈاکٹری مشورے کے مطابق بیرون ملک جانا پڑا۔ فی الوقت مجھے 15 یوم کی چھٹی عطا کی گئی لیکن علاج کا دورانیہ طول اٹھانے مجھے وہاں ٹھہرنا پڑا۔ اسی دورانے میں محکمہ پولیس کے حکام نے میرا برخواستگی کے احکامات مورخہ 17/03/2009 کو صادر فرمائے جناب والا! میری ماہوار مشاہیرہ میری خاندان کی کفالت کا واحد ذریعہ تھا۔ علاج معالجے کے اخراجات اور گھریلو اخراجات گراں میرے لئے ناقابل برداشت ہے۔

اب اللہ تعالیٰ کے فضل و کرم سے میں صحت یاب ہوں اور ملازمت جاری رکھنے کا بے حد متمنی ہوں۔

لہذا درخواست بخدمت اقدس ہے کہ اگر جناب والا ازراہ انسانی ہمدردی میری بحالی کے احکامات صادر فرمائیں اور مجھے روزگاری سے نجات دلائیں تو غریب پروری ہوگی۔

No 10867 / E - dated 28/12/2016

عریضہ
حبیب الرحمان ولد نوشیروان
سکنہ گزنی حجرہ چکیہ ضلع شانگلہ

EC/DPO Shangla

for comments please.

EC/Si/ Legal
for comments

Regional Police Officer,
Shangla, at Saha Sherif Sarg,
28/12/2016

DPO Shangla

E-7-c

(8)

From: The District Police Officer,
Shangla

To : The Regional Police Officer,
Malakand at Saidu Sharif, Swat

No: 261 /EB, Dated Alpuri the, 11 / 01 / 2017

SUBJECT: MERCY PETITION

Memo:

Kindly refer to Region Office Swat Endst: No. 10867/E, dated 28/12/2016.

It is submitted that Ex Constable Habibur Rahman No. 436 was proceeded for 15 days casual leave with effect from 08/03/2009. On completion of leave he failed to report back for duty and sent Doctor's Prescription for 10 days medical leave. Later on he sent another medical leave for 10 days. Both medical certificates didn't appear genuine were therefore inquired into. An initial enquiry has transpired that he has gone to Dubai for job/working which is violation of rules.

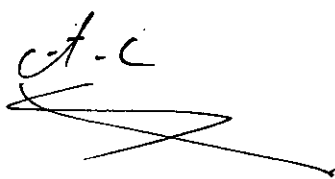
He was served Charge Sheet and Statement of Allegation. DSP Riaz Hassain and Inspector Shaibar Khan have been appointed as Enquiry Officers. The Enquiry Officers in their finding report recommended the defaulter Constable for discharge from service from the date of his absence i.e. 08/03/2009.

After that was served him Final Show Cause Notice on 21/06/2009. Reply received through SHO Police Station Chakisar instead of his father Mr. Nawsher Rawan has recorded statement at the time of summon service that his son Habibur Rahman suffer from mental illness and has been sent to Dubai for treatment. The statement of his father has been duly attested by IIC and SHO Police Station Chakisar.

The competent authority DPO Shangla awarded him a major punishment i.e. discharge from service from the date of absence i.e. 08/03/2009 vide this office OB NO. 91 dated 17/08/2009 due to less than three years his service.

The mercy/ petition, enquiry containing 28 pages and service roll of the above named petitioner are submitted herewith for your kind perusal and further necessary action please.

Encl: (AA)

A-C



District Police Officer,
Shangla

By Regist

9

The Regional Police Officer,
Malakand, at Saidu Sharif, Swat.

The District Police Officer, Shangla.

No. 120 /E, dated Saidu Sharif, the 02-02- /2017.

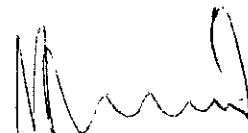
Subject: **MERCY PETITION.**

Memorandum:

Please refer to your office memo: No. 261/EB, dated 11/01/2017.

Application of Ex-Constable Habib Ur Rahman No. 436 of Shangla District for re-instatement in Service has been examined by Worthy Regional Police Officer, Malakand, and filed being time barred.

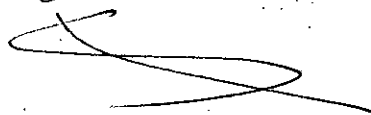
Encls: Services Roll
containing enquiry 28 pages.



(OFFICE SUPDT)
For Regional Police Officer,
Malakand, at Saidu Sharif Swat

✓

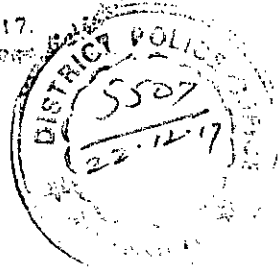
etc



0:175 HP LASERJET FAX

OFFICE OF THE
INSPECTOR GENERAL OF POLICE *10/17/E*
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE *21-12-17*
PESHAWAR.

No. SI 7824 /17, dated Peshawar the 21/12/2017.



The Regional Police Officer,
Malakand Region, Swat.

APPEAL (EX-FC HABIB-UR-RAHMAN NO. 436)

Ex-Constable Habib-ur-Rahman No. 436 of District Police Shangla had submitted
to the Worthy Inspector General of Police, Khyber Pakhtunkhwa, Peshawar for
reinstatement into service. His appeal was processed / examined at Central Police Office,
Peshawar and filed by the competent authority being badly time barred for about 08 years.
The applicant may please be informed accordingly.

(SYED ZIA ALI SHAH),
Registrar.

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

g/c
20/12

A/o 14541 /E
dt. 21-12-17

E.C/DPO Shangla

*For info. The applicant
may be informed accordingly
please.*

[Signature]
20/12/2017
Office Supdt:

For: Regional Police Officer,
Malakand, at Saidu Shani Swat

EC
Per. 11 Oct 2017

[Signature]
DPO S
22-12-17

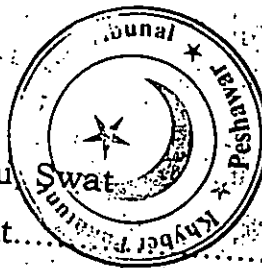
ob. Chaudhary
[Signature]

A-C
[Signature]

BEFORE THE KHYBER PAKHTOON KHWA SERVICES
TRIBUNAL, PESHAWAR

Service Appeal No. 165/2016.

Rashid Ahmad (Ex-CT)GHS Dehaira
R/O Village Kuz Bandy District Swat.....



11
50
Khyber Pakhtoon
Service Tribunal
Diary No. 138
25/2/2016

Appellant

VERSUS

1. District Education Officer(Male) Swat.
 2. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.....
- Respondents

APPEAL UNDER SECTION 4 OF KHYBER
PUKHTUNKHWA SERVICES TRIBUNAL ACT
1974 AGAINST THE IMPUGNED OFFICE
ORDERS DATED:18.05.2011 & 02.02.2016.

PRAYER IN APPEAL:

On acceptance of this appeal the impugned Orders dated 18.05.2011 and 02.02.2016 regarding major penalty i-e removal of service of appellant may kindly be set aside and the appellant may kindly be re-instated to his service with all back benefits of service.

Respectfully Sheweth:

1. That initially the appellant joined the respondent/department on 11.03.1993 as C.T and as such performed his duties with zeal and zest.
2. That during his service the appellant requested for long leave and as such the same was granted for 1090 days(without pay) from 06.10.2004 to 30.09.2007 vide office order dated:13.10.2004.(Copies of office order dated:13.10.2004 and service book are annexure-A)

ATTESTED

Signature
Khyber Pakhtoon Khwa
Services Tribunal,
Peshawar

(12)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT SWAT**

Service Appeal No. 165/2016

Date of Institution... 25.02.2016

Date of decision... 07.12.2017



Rashid Ahmad (Ex-CT) GHS Dehairai, Swat R/O Village Kuz Bandy, District Swat. ... (Appellant)

Versus

1. District Education Officer (Male) Swat and another. ... (Respondents)

MR. SHAMSUL HADI,
Advocate ...

For appellant.

MR. KABIRULLAH KHATTAK,
Addl Advocate General ...

For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. MUHAMMAD HAMID MUGHAL, ...

CHAIRMAN
MEMBER

ATTESTED

(Signature)
EX-MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned
counsel for the parties heard and record perused.

FACTS

2. The appellant was removed from service on 18.05.2011 against which he filed departmental appeal on 14.12.2015 which was rejected on 02.02.2016 and thereafter the present service appeal on 25.2.2016.

ARGUMENTS

3. The learned counsel for the appellant argued that the impugned order has been made effective from a back date which is a void order. He further argued that no limitation shall run against void order. He relied upon a judgment reported in

(Signature) *(Signature)*

1985-SCMR-1178 and argued that void order cannot be sustained in the eyes of law.

4. On the other hand the learned Addl. Advocate General argued that the present appeal is hopelessly time barred as the departmental appeal was filed after almost 5 years of the original order. That the department has fulfilled all the codal formalities.

CONCLUSION

5. Admittedly the removal order has been given retrospective effect and in view of so many judgments delivered by this Tribunal on the basis of judgment reported in 1985-SCMR-1178, the retrospective order is a void order and no limitation shall run against void order. Presuming that all other elements of due process have been complied with, the void order cannot be sustained on this score alone.

6. As a sequel to the above discussion, the present appeal is accepted and the appellant is reinstated in service. The department is however, at liberty to hold denovo proceedings in accordance with law within a period of ninety days. The intervening period shall be subject to the final outcome of the denovo proceedings within a period of ninety days. Parties are left to bear their own costs. File be consigned to the record room.

Announced by - Niaz Muhammad Khan, Chairman
07-12-2017

sd/- M. Hamid Nizhal, Member

Certified to be true copy
EX-AN
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

etc etc
[Signature]

مورخہ

مقدمہ

دعویٰ

جرم

۲۰ منجانب ارب سید انیس
 لیسٹ آرٹھن بنام گونڈت

باعث تحریر آنکھ

مقدمہ مندرجہ بالا میں اپنی طرف سے واسطے پیروی وجواب دہی و کل کاروائی متعلقہ آن مقام گیسٹ آرٹھن لیسٹ - مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیاط ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زراس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ ڈائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ بصورت ضرورت مذکور کے نسل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برواختہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہر جانہ التوائے مقدمہ کے سبب سے ہا گا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا ک سند ہے

المرقوم
 ۱۱ ماہ لاکھ
 ۲۰۱۶

العبد گواہ شدہ العبد
 بمقام

کے لئے منظور ہے

Accepted by
 A Hosted

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TEIBUNAL PESHAWAR
(CAMP COURT AT SWAT)

SERVICE APPEAL NO. 28/2018

Ex Constable Habib ur Rahman (Police Constable) No. 436
r/o Chakisar Tehsil Besham District Shangla

(Appellant)

VERSUS

1. The District Police Officer, Shangla
2. The Provincial Police Officer, Khyber Pakhtunkhwa
3. The Deputy Inspector General of Police, Malakand at Swat

(Respondents)

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3	Affidavit	-	04
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DEPONENT

(2)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
(CAMP COURT AT SWAT)

SERVICE APPEAL NO. 28/2018

Ex Constable Habib ur Rahman (Police Constable) No. 436
r/o Chakisar Tehsil Besham District Shangla

(Appellant)

VERSUS

1. The District Police Officer, Shangla
2. The Provincial Police Officer, Khyber Pakhtunkhwa
3. The Deputy Inspector General of Police, Malakand at Swat (Respondents)

Para-wise reply by Respondents:

Respectfully Sheweth,

Preliminary Objections:

1. That the present service appeal is not maintainable in its form
2. That the appellant has not come to this August Tribunal with clean hands
3. That the present appeal is badly time barred.
4. That the Honorable Service Tribunal has no jurisdiction to entertain the present service appeal.
5. That the appellant has got no cause of action or locus standi.
6. That the appellant has suppressed the material facts from this honorable tribunal.

ON FACTS:

- i. Pertain to record.
- ii. It is incorrect. The appellant absented himself from duty with effect from 08/03/2009 to 17/08/2009 without any intimation/permission. Proper departmental proceedings were initiated against the appellant and after complete proceedings, he was dismissed from service vide order dated 14/08/2009. He remained absent for a long period and filed no application/appeal within the prescribed period as per requirement of law.
- iii. Para No. 3 is incorrect, proper departmental enquiry was initiated against the appellant and finally, he was dismissed from service by the competent authority on 17/08/2009. Enquiry documents containing 07 pages is attached with reply.
- iv. That Para No.04 is incorrect, the appellant has not appeared against the dismissal of order within the prescribed period of limitation as required by law.

GROUND:

- A) Incorrect, that the office order is based on facts, law and procedure hence tenable, being just and fair.
- B) Incorrect, the respondent No. 1 provide tide for legal sanctity for appellat. But the appellat not provide any documents in his defense on opportune.
- C) Incorrect, the appellat was treated in accordance with law rules on the subject.
- D) Incorrect, the departmental proceedings against the appellat was based on facts evidence and a lot of other materials available against the appellat no, ill will has ever noticed or proved anywhere.
- E) Incorrect, ample opportunity of personal hearing was afforded to the appellat but he failed to produce any plausible defense.
- F) That the respondents also seek permission of this Honorable Tribunal to advance further grounds and all the available materials against the appellat during the course of arguments i.e. service roll, original enquiry file, finding report and daily diary reports etc.

In view of the above facts and circumstances the appeal of appellat may kindly be dismissed with cost.



Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar
(Respondents No. 2)



Regional Police Officer,
Malakand at Saidu Sharif, Swat
(Respondents No. 3)
Regional Police Officer,
Malakand at Saidu Sharif, Swat.



District Police Officer,
Shangla
(Respondents No. 1)
District Police Officer,
SHANGLA.

ORDER

F.C Habib-ur-Rehman No. 436 posted at P.S Besham had departed on 15 days Casual Leave with effect from 08.3.2009. On expiry of leave he failed to report for duty and instead sent doctor prescription with advice for 10 days medical leave. Few days later he sent another medical certificate for further medical leave for 10 days. His medical problem did not appear genuine and, therefore, on subsequent initial inquiry it transpired that he has gone abroad. His this act clearly constituted gross misconduct on his part.

F.C Habib-ur-Rehman was, therefore, proceeded against departmentally and hence served with Charge Sheet and Statement of Allegations. Inquiry Committee was duly constituted comprising SDPO Alpuri DSP Riaz Hussain and R.I Distt Shangla Insp Shaiber Khan to conduct proper departmental proceedings against F.C Habib-ur-Rehman No 436. The Inquiry Committee has summoned F.C Habib-ur-Rehman for hearing, but he did not appear before it despite duly served summon. Instead his father Mr Nowsherwan has recorded statement at the time of summon service that his son Habib-ur-Rehman suffers from mental illness and has been sent to Dubai for treatment. The statement of his father has been duly attested by IHC Nisar Ahmad and SHO Chakisar S.I Pervaiz Khan. In the light of statement of his father and the available circumstances the Inquiry Committee has found the act of Habib-ur-Rehman as gross misconduct under the law and, therefore, recommended him discharge from service.

On perusal of the Inquiry proceedings and statement of his father the undersigned is satisfied that F.C Habib-ur-Rehman No. 436 has willfully absented himself from official duty since long and gone abroad for some job. His this act constitutes gross misconduct under service rules and relevant law. Therefore, I, **Gul Wali Khan**, District Police Officer, Shangla, as a competent authority exercising the powers vested in me under the NWFP Removal from Service (Special Powers) Ordinance, 2000, and Police Rules 12.21 award absented F.C Habib-ur-Rehman major punishment of discharge from service with effect from the date of his absence from duty, 08.3.2009.

Order announced.



(Gul Wali Khan)
District Police Officer
Shangla


OB No. 91
Dated 17/08/2009

FINDING

This enquiry report pertains to the allegation leveled against Constable Habib-Ur-Rahman No.436 posted to Police Station Besham. The allegation is that he had gone 15 days casual leave with effect from 08/03/2009. On completion of leave he failed to report for his duty and instead sent doctor's prescription for 10 days medical leave. Few days later you sent another medical certificate for medical leave for 10 days. Both medical certificates did not appear genuine and were therefore enquired into. An initial enquiry has transpired that he has gone to Dubai for job/ working which is against the law and the service rules.

To scrutinize the conduct of the accused constable with reference to the above mentioned allegation a committee comprising the undersigned was constituted by the District Chief, under the, NWFP, removal from service (Special Powers) Ordinance 2000, vide letter No.25/E dated 16/04/2009.

During the course of enquiry the accused constable was summoned through local police, vide enclosed daily diary report No. 07, dated 25/04/2009, Police Station, Chakisar. According to the above cited daily diary, the statement of Nowsherawan, father of the above cited accused constable was recorded where-in he stated that he has gone to Dubai for treatment and would return back after recovery. As the constable has proceeded to Dubai/absented himself with out permission and also did not appear before the committee till now, therefore the committee recommends him to be discharged from service from the date of his absence.


(SHAIBAR KHAN)
RI/Police Lines, Shangla.

01. 6. 2009


(RIAZ HUSSAIN)
DSP/Alpuri.

01. 6. 2009

Annex (C)

NO-462H
26-6-09

FINAL SHOW CAUSE NOTICE.

I, Mr. Gul Wali Khan, District Police Officer, Shangla as competent authority under the NWFP Removal from Service (Special Powers) Ordinance, 2000 do hereby serve you Constable Habibur Rahman No.436 follows.

- 1) i. That consequent upon the completion of Enquiry conducted against you by the Enquiry Committee for which you given opportunity of hearing vide this office communication 25, dated 16.04.2009.
- ii. Ongoing through the findings, recommendations of the Enquiry Committee, the material on record and other connected papers including your defense the committee.

I am satisfied that you have committed the following acts/omission specified in Section-3 of the said Ordinance.

You Constable Habibur Rahman No.436 had gone on 15 days casual leave with effect from 08.03.09. On completion of leave you failed to report for your duty and instead sent doctor's prescription for 10 days medical leave. Few days later you sent another medical certificate for medical leave for 10 days. Both your medical certificates did not appear genuine and were therefore enquired into. An initial enquiry has transpired that you have gone to Dubai for job/working which is against the law and the service rules.

- 2) As a result thereof, I as competent authority have tentatively decided to impose upon you the penalty of major punishment.
- 3) You are, therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you also intimate whether you desire to be heard in person.
- 4) If no reply to this notice is received within fifteen days of its delivery in the normal course of circumstances, it shall be presumed that you has no defence to put in that case as ex-parte action shall be taken against you.
- 5) The copy of the findings of the Enquiry Committee is also enclosed.


District Police Officer,
Shangla.

No. 25 /E,

Dated 24/06/09 /09.

0:462H
5.6.09

63
1/3
5

(3) Annex (D)

CHARGE SHEET

Mr. Gul Wali Khan, District Police Officer Shangla as competent authority hereby charge you Constable Habibur Rahman No. 436, as follow:-

Your Habibur Rahman No. 436 had gone on 15 days casual leave with effect from 08/3/09. On completion of leave you failed to report for your duty and instead sent doctor's prescription for 10 days medical leave. Few days later you sent another medical certificate for medical leave for 10 days both your medical certificates did not appear genuine and were therefore enquired into. An initial enquiry has transpired that you have gone to Dubai for job/working which is against the law and the service rules.

2. By reasons of the above, you appear to be guilty of misconduct under section-3 of NWFP Removal from Service (Special Powers) Ordinance, 2000, and have rendered yourself liable to all or any of the penalties specified in Section-3 of the Ordinance 2000.

3. You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the Enquiry Officer.

4. Your written defense, if any, should reach the Enquiry Officer within the specified period, failing which it, shall be presumed that you have no defense to put in and that exparte action shall follow against you.

5. Intimate whether you desire to be heard in person.

6. A statement of allegations is enclosed.



District Police Officer
Shangla.

Annex E ✓

DISCIPLINARY ACTION


I Mr. Gul Wali Khan, District Police Officer Shangla as competent authority, is of the opinion that you Constable Habibur Rahman No.436 has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning of Section-3 of the N.W.F.P Removal from Service (Special Powers) Ordinance, 2000.

Statement of allegation.

Your Habibur Rahman No. 436 had gone on 15 days casual leave with effect from 08.3.09. On completion of leave you failed to report for your duty and instead sent doctor's prescription for 10 days medical leave. Few days later you sent another medical certificate for medical leave for 10 days. Both your medical certificates did not appear genuine and were therefore enquired into. An initial enquiry has transpired that you have gone to Dubai for job/working which is against the law and the service rules.

For the purpose of scrutinizing the conduct of said accused with the reference to the above allegation, Mr. Riaz Hussain, DSP Alpuri and Mr. Shaibar Khan, R.I Shangla, is appointed as Enquiry Officers. The Enquiry shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make within 25 days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

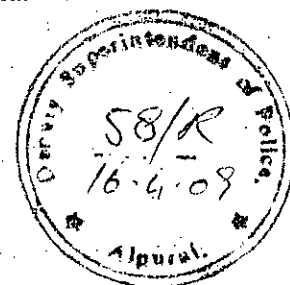
The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Enquiry Officer.


District Police Officer
Shangla.

No 25 /E, Dated 16/04 /2009.

Copy of above is sent to:

1. Mr. Riaz Hussain, DSP Alpuri.
2. Mr. Shaibar Khan, R.I Shangla.



For initiating proceeding against the officer/official under the provision contained in NWFP/Removal from Service (Special Powers) Ordinance, 2000.

Habibur Rahman No. 436
with direction to appear before the Enquiry Officer on the date time and place fixed by the Enquiry Officer, for the purpose of the enquiry proceedings.

ضابطہ علی

تذکرہ جس کے تحت سبب لکھا ہے 436 بجو (م 5 روزانہ 8/3 سے

سبب سے یوم رخصت الفقیہہ اور گھر خود رکھنا۔ مذکورہ کٹیل رخصت

الفقیہہ کی اختتام پر بزراجم برادر اس خورسرا اور ہفتہ میں سبب سے یوم رخصت

جو جو (م 12 روزانہ 23/3 دن 2 روزانہ) کے اس کے کٹیل مذکورہ

نے سبب سے یوم رخصت کے اختتام پر مذکورہ یوم میں سبب سے یوم رخصت

بزراجم برادر اس مذکورہ بلا اس کے جو بھی جو (م 25 روزانہ 29/3 دن 2

روزانہ) کے ہر دو سبب سے یوم رخصت کے متعلق کٹیل مذکورہ ہر دو مذکورہ (م 29/3 دن 2

بلا اس کے سبب سے یوم رخصت کے متعلق رخصت سے 500 روپے۔ سبب سے یوم

نے سبب سے یوم کو بزراجم خون ایضاً (م 29/3 دن 2 روزانہ) کے ہر دو سبب سے یوم

ضابطہ 500 روپے۔ نہ متعلق کٹیل مذکورہ سبب سے 23/3 سے 29/3

مذکورہ کٹیل جس کے جو (م 12 روزانہ 14/3 دن 2 روزانہ) کے ہر دو سبب سے یوم

مذکورہ کٹیل کے متعلق کٹیل مذکورہ حاضر ہر دو کے

بیزا اس کے سبب سے یوم کٹیل مذکورہ اس کے ہر دو سبب سے یوم کٹیل مذکورہ

400 روپے نقد ہر دو سبب سے یوم کٹیل مذکورہ ہر دو کے

ضابطہ علی

مذکورہ کٹیل ہر دو سبب سے
سواہ سبب سے یوم کٹیل
(سختی آنکری)
Sd/- P. Besham
12/4/59

جای علی

گزارش حسب مکاتبات جناب سید ابراهیم 436 کوالم مدد 5 روزنامه 3/8/09 تا سید ابراهیم اصف
 دستاویز به خود روزنامه 11/4/09 سید ابراهیم اصف تا سید ابراهیم اصف 23/3/09 درج روزنامه 11/4/09
 آتش خورشید این سید ابراهیم اصف کوالم مدد 12/4/09 روزنامه 3/8/09 درج روزنامه 11/4/09
 این سید ابراهیم اصف کوالم مدد 25/3/09 روزنامه 3/8/09 درج
 سید ابراهیم اصف کوالم مدد 25/3/09 روزنامه 3/8/09 درج
 روزنامه 11/4/09 سید ابراهیم اصف کوالم مدد 25/3/09 روزنامه 3/8/09 درج
 کسکه کده مذکورہ میں سید ابراهیم اصف کوالم مدد 25/3/09 روزنامه 3/8/09 درج
 سید ابراهیم اصف کوالم مدد 25/3/09 روزنامه 3/8/09 درج
 آتش خورشید 23/3/09 سید ابراهیم اصف کوالم مدد 25/3/09 روزنامه 3/8/09 درج
 6/4/09 درج روزنامه 11/4/09 سید ابراهیم اصف کوالم مدد 25/3/09 روزنامه 3/8/09 درج

تاریخ

گزارش سید ابراهیم اصف کوالم مدد 25/3/09 روزنامه 3/8/09 درج
 کسکه کده مذکورہ میں سید ابراهیم اصف کوالم مدد 25/3/09 روزنامه 3/8/09 درج
 سید ابراهیم اصف کوالم مدد 25/3/09 روزنامه 3/8/09 درج

الغرض

دورخان جوڑتھا کٹا

3/11/09

جای علی

سید ابراهیم اصف کوالم مدد 25/3/09 روزنامه 3/8/09 درج
 سید ابراهیم اصف کوالم مدد 25/3/09 روزنامه 3/8/09 درج
 سید ابراهیم اصف کوالم مدد 25/3/09 روزنامه 3/8/09 درج

Sd/- BR SHAM

12/4

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SD

15.04.09

OBC.P.O.SH

Pay Stopped Inquiry Commission
 to complete the inquiry of Sir,
 the earliest.

DPO. Shaniga.

11/1/09

Forwarded

Sd/- Alpurar

13/04

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

(CAMP COURT AT SWAT)

Service Appeal No. 28/2018: EX Constable Habib Ur Rahman Police Constable
No. 436 r/o Chakisar Tehsil Besham District Shangla.....(appellant)

VERSUS

- 1) The District Police Officer Shangla
- 2) The Provincial Police Officer Khyber Pakhtunkhwa Peshawar
- 3) The Deputy Inspector General of Police Malakand at
Swat..... (Respondents).

AFFIDAVIT

I Raees Khan Inspector legal office of the District Police officer Shangla do hereby
solemnly affirm & state on oath that the whole contents of this best of my knowlage and belief
that nothing has been concealed from this Honorable Tribunal Court.



Inspector Raees Khan
Inspector legal
shangla
Ph #: 03429469870
Office #: 0996850015

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT SWAT

Service Appeal No. 28/2018

Mr. Habib ur rahman police Ex constable no 436 r/o Chakisar teh Besham distt shangla
(Appellant).

VERSUS

1. The District police officer shangla
2. The provincial police officer,kpk.
3. The Deputy Inspector General of Police, Malakand at Saidu Sharif, Swat.....(Respondents)

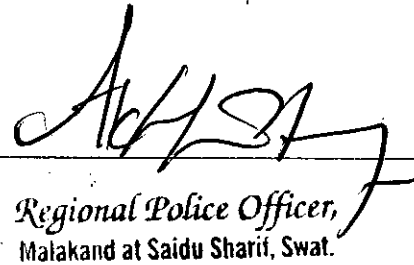
AUTHORITY LETTER

Mr. Raees Khan Inspector District Shangla is hereby authorized to appear on behalf of the respondents below, before the Honorable tribunal court. He is authorized to submit all the required documents and replies etc to the Honorable tribunal court.

Provincial Police Officer
 Khyber Pakhtunkhwa Peshawar
 (Respondents No 02)



Regional Police Officer
 Malakand at Saidu Sharif, Swat
 (Respondents No 03)



Regional Police Officer,
 Malakand at Saidu Sharif, Swat.

District Police Officer
 Shangla
 (Respondents No 01)



District Police Officer,
SHANGLA,

ORDER

304
Date: 4/3/16

Order No. 73/2016

This order is hereby passed in dispose of departmental appeal under Rule Pakhtunkhwa Police Rules 1975, submitted by Ex-Constable Imran of FRP Malakand Range, against the order of the SP, FRP Kohat Range in which the applicant was removed from service.

Ex-Constable Imran Khan No. 4279 of FRP Malakand Range was enlisted on while posted in platoon No. 72 Gil Kauda district Swat, absented himself from duty from 06.10.2008 till to the date his removal from service i.e. 21-02-2009 without the permission of the competent authority for the period of 04 months and 14 days.

He was issued charge sheet along with summary of allegations vide SP FRP Swat Order Endst: No. 775/EC, dated 16-12-2008, but neither he reported for duty nor he submitted reply to the charge sheet in the stipulated period. He was also issued Urdu copy of charge sheet but he failed to submit reply in the response of the same within the stipulated period. Therefore the defaulter Constable was recommended for removal from service by the enquiry committee.

After completion of the enquiry the enquiry committee submitted the report recommending him for major punishment. In the light of recommendation of the enquiry committee he was removed from service vide office order Endst: No. 312/EC, dated 21-02-2009.

The enquiry file of the applicant was perused and found that the applicant has not participated in the proper departmental proceedings as he was not participated with the enquiry and he was dismissed from service with slipshod manner.

He was also heard in person, during the course of hearing he advanced cogent reasons for his absence and his plea was found plausible and satisfactory.

In view of the above and as well as his poor family background I take into consideration that (Ex-Constable Imran Khan No. 4279 of FRP Malakand Range) is hereby removed from the date of removal from service. However, the period of absence and the period from service are treated as extra ordinary leave without pay.

Announced.

Imran
Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar.

OB/AS/EC/1/16
For n/a

SP/FRP/SWAT
04/03/16

OB No. 123
73/2016

Dated Peshawar the 03/03/2016

A copy of above is forwarded for information and necessary action to the SP, FRP Swat with RO his office memo No. 2175/EC, dated 02.12.2015 His Service File sent herewith.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11- of Khyber Pakhtunkhwa Police Rules 1975, submitted by Ex-Constable Khalil-ur-Rehman No.4289 of FRP Malakand Range, against the order of the SP, FRP/Malakand Range, Swat in which the applicant was removed from service.

Brief facts of the case are that Ex-Constable Khalil-ur-Rehman No.4289 of FRP Malakand Range was enlisted on 11-05-2006. He while posted to platoon No.78 district Swat, absented himself from lawful duty w.e.f. 02.12.2008 till to the date of his removal from service i.e. 21-02-2009 without any leave or prior permission of the competent authority for the period of 02 months and 20 days.

He was issued charge sheet along with summary of allegations vide SP FRP Malakand Range Swat office order Endst: No.775/EC, dated 16-12-2008, but neither he reported for duty nor submitted reply to the charge sheet in the stipulated period. He was also issued Urdu parwana to resume his duty but he failed to submit reply in the response of the same within stipulated period, therefore the defaulting Constable was recommended for removal from service by the enquiry Committee.

In the light of recommendation of enquiry Committee he was removed from service vide office order OB: No.23, dated 21-02-2009.

The enquiry file of the applicant was perused and found that the applicant has not dealt with proper departmental proceedings as he was not participated with the enquiry proceedings while he was removed from service unheard.

He was also heard in person, during the course of hearing he advanced cogent reasons in his defense his plea was found plausible and satisfactory.

Keeping in view the above and as well as his poor family back ground I, take a lenient view, he (Ex-Constable Khalil-ur-Rehman No.4289 of FRP Malakand Range) is hereby re-instated in service from the date of removal from service. However, the period of absence and the intervening period from service are treated as extra ordinary leave without pay.

Order announced:

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

2388

No. /EC, dated Peshawar the 18/03/2016

Copy of above is forwarded for information and necessary action to the SP, FRP Malakand Range Swat with R/O his office memo No. 190/EC, dated 04.02.2016. His Service Roll and D/File sent herewith.

E. S. / Record
along with B/Papers

OB No 163
22/3/2016

ORDER

This order shall dispose off the departmental appeal of Ex-Constable Zameen Khan No. 4842 of FRP/Malakand Range.

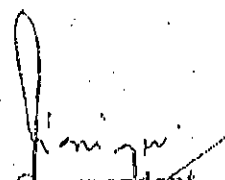
Brief facts of the case are that Ex- Constable Zameen Khan No. 4842 of FRP/Malakand Range, absented himself from lawful duties w. e. from 07.08.2008 till the date of dismissal i.e. 14.11.2008 for a total period of (98) days without any leave/permission of the competent authority.

In this connection he was issued charge sheet and statement of allegations, but neither he neither reported his arrival nor submitted his reply of charge sheet. After that he was issued final show cause notice but he again failed to submit his reply. The Enquiry committee recommended him for major punishment. Resultantly he was removed from service vide SP/FRP Malakand Range Swat office OB No.151, dated 14.11.2008.

After going through the available record and also having the applicant in person in orderly room held in this office on 04.01.2016 it has pointed out that the applicant was not proceeded according to law as he was neither participated with proceedings nor he was provided the opportunity of personal hearing.

Keeping in view the above facts as well as his poor family background, which he explained during the course of personal hearing, I take a lenient view, the Ex-Constable Muhammad Zameen Khan No. 4842 of FRP/Malakand Range is hereby Re-instated in service from the date of dismissal from service. However his absence period and the intervening period from service are hereby treated as extraordinary leave without pay.

Order announced.


Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar.

No: 914 /EC, dated Peshawar the 29 / 01 /2016.

Copy of the above is forwarded for information and necessary action to SP/FRP/Malakand Range Swat with R/O his office No. 2210/EC, dated 08.12.2015. His service record alongwith enquiry file sent herewith.

This order is hereby passed in response of departmental appeal under

Regulation 11-A of Khyber Pakhtunkhwa Police Rules 1975, submitted by Ex-Constable

Mr Khan No. 48377457 of FRP Malakand Range against the order of the SP/FRP

Malakand Range Svat, in which the applicant was removed from service.

All facts of the case are that Ex-Constable Bshir Khan No. 48377457 of FRP

Malakand Range was enlisted in Police Department on 26.07.2007. While he was posted

at Phatoon No. 85 FRP/Svat absent himself from lawful duty w.e.f. from 27.06.2008 till

date of his removal from service i.e. 10.10.2008. He was issued charge sheet and

summary allegation vide SP/FRP/Malakand Range Svat office order Encls: No. 501/EC

dated 08.07.2008, but neither he reported his arrival for duty nor replied to charge sheet

the stipulated period. He was also issued final show cause notice vide this office Encls:

504/EC, dated 015.07.2008, but his reply was not received in the stipulated period.

The said Constable was recommended for removal from service by the enquiry

committee.

In the light of recommendation of the enquiry committee he was removed

from service vide SP/FRP/Svat Range office Encls: No. 138 dated 10.10.2008.

The enquiry file of the applicant was perused and found that the applicant has not

participated with proper departmental proceedings as he was not participated with the enquiry

committee while he was removed from service with slipsheet manner.

He was also heard in person during the course of hearing he advanced contentions

in his defence. His plea was found plausible and satisfactory.

Keeping in view the above and as well as his poor family back ground I take a

view in view he (Ex-Constable Bshir Khan No. 48377457 of FRP Malakand Range Svat,

thereby re-instated in service from the date of removal from service. However, the period of

leave and the intervening period from service are treated as extra ordinary leave without pay.

Order announced.

Commandant

Frontier Reserve Police

Khyber Pakhtunkhwa, Peshawar.

SP/EC, dated Peshawar the 04/02/2016

Copy of above is forwarded for information and necessary action to the SP/FRP

Malakand Range Svat with R/O his office memo No. 115/EC, dated 19.01.2016, alongwith

copy of record and other relevant papers sent herewith.

