

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

Service Appeal No.884/2018

Date of Institution ... 12.07.2018  
Date of Decision ... 06.10.2021

Anwar Said Ex-Constable No.1701 Swat Police, District Swat.

... (Appellant)

**VERSUS**

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar  
and two others.

... (Respondents)

Imdad Ullah,  
Advocate

... For appellant.

Asif Masood Ali Shah,  
Deputy District Attorney

... For respondents.

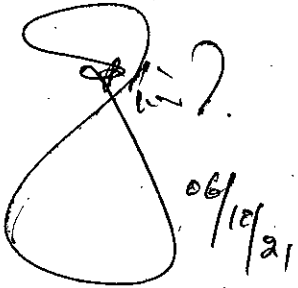
Rozina Rehman  
Atiq Ur Rehman Wazir

... Member (J)  
... Member (E)

**JUDGMENT**

Rozina Rehman, Member (J): Facts gleaned out from the memorandum of appeal are that appellant was enlisted as Constable. He was proceeded against departmentally on the allegations of absence from duty and vide order dated 13.01.2009, he was dismissed from service.

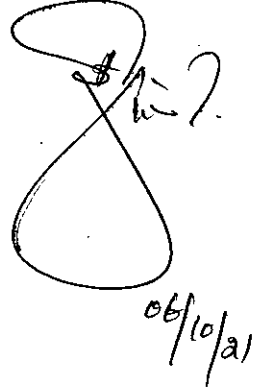
2. We have heard Imdad Ullah Advocate for appellant and Asif Masood Ali Shah learned Deputy District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

  
06/10/21

3. Imdad Ullah Advocate learned counsel appearing on behalf of appellant, in support of appeal contended with vehemence that impugned orders are illegal and void-ab-initio as the appellant was not treated according to law and rules. That the appellant has been discriminated and given step motherly treatment and was condemned unheard. He argued that no regular inquiry was initiated against the appellant and that the appellant was not given fair trial as enshrined under the Constitution of Islamic Republic of Pakistan, 1973. Lastly, he submitted that the appellant received threats but remained at his post and was later on forced to leave his post when threats were diverted to his parents.

4. Conversely, learned D.D.A submitted that the appellant deliberately absented himself from duty and deserted in a time when his services were direly needed to the Police Department and that desertion from duty was gross-misconduct on part of the appellant, therefore, he was proceeded against departmentally and after being proved guilty of willful absence, he was dismissed from service. He further argued that the appellant was dismissed from service on 13.01.2009, whereas, departmental appeal was filed on 18.12.2017 which was dismissed on 12.03.2018, whereas, service appeal was filed on 12.07.2018 but no application for condonation of delay was filed.

5. From the record, it is evident that appellant was enlisted as Constable. He absented himself from duty vide D.D. No.12 dated 03.08.2008 and failed to report, therefore, he was issued charge sheet alongwith statement of allegations and proper inquiry was initiated against him. After submission of the inquiry report, he was



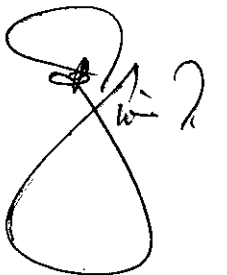
06/10/21

issued final show cause notice and was dismissed from service from the date of his absence. The Government servant becomes liable for disciplinary action after seven days of his willful absence. If he in pursuance to the lawful process does not come up to explain the reasons of his absence, the ex-parte decision against him is the requirement of law irrespective of any factual position under which he absented himself from attendance of the duty.

6. In the instant case, appellant remained absent since 03.08.2008 and was dismissed on 13.01.2009 w.e.f 03.08.2008. He filed departmental appeal on 18.12.2017 which was dismissed being badly time barred on 12.03.2018. He has to file service appeal within 30 days of the communication of the order of the appellate authority but service appeal was filed on 12.07.2018.

7. It is well-entrenched legal proposition that when an appeal before departmental authority is time barred, the appeal before Service Tribunal would be incompetent. In this regard reference can be made to cases titled Anwarul Haq v. Federation of Pakistan 1995 SCMR 1505, Chairman, PIAC v. Nasim Malik PLD 1990 SC 951 and State Bank of Pakistan v. Khyber Zaman & others 2004 SCMR 1426.

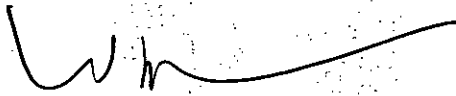
8. It merits a mention here that after successful military operation, the Provincial Government announced general amnesty for Police personnel dismissed on account of absence during insurgency and a Committee was formed to forward cases of dismissed Police personnel for consideration. The appellant neither appeared before the Committee nor approached the appellate authority in time. It is also worth to mention here that Review/Revisional and Appeal Boards were constituted following amendment in Police Rules, 1975 to

  
06/10/21

consider cases against the orders of appellate authority in revisional jurisdiction and these were not meant for considering cases of dismissed Police personnel in time of insurgency.

9. For what has been discussed above, instant service appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.  
06.10.2021



(Atiq Ur Rehman Wazir)  
Member (E)  
Camp Court, Swat



(Rozina Rehman)  
Member (J)  
Camp Court, Swat

**Order**

06.10.2021

Appellant present through counsel.

Asif Masood Ali Shah learned Deputy District Attorney  
alongwith Khawas Khan S.I for respondents present.

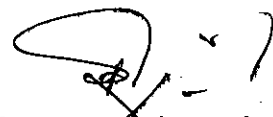
Vide our judgment of today of this Tribunal placed on file,  
instant service appeal is dismissed. Parties are left to bear  
their own costs. File be consigned to the record room.

Announced.

06.10.2021



(Atiq Ur Rehman Wazir)  
Member (E)  
Camp Court, Swat



(Rozina Rehman)  
Member (J)  
Camp Court, Swat


05/04/2021

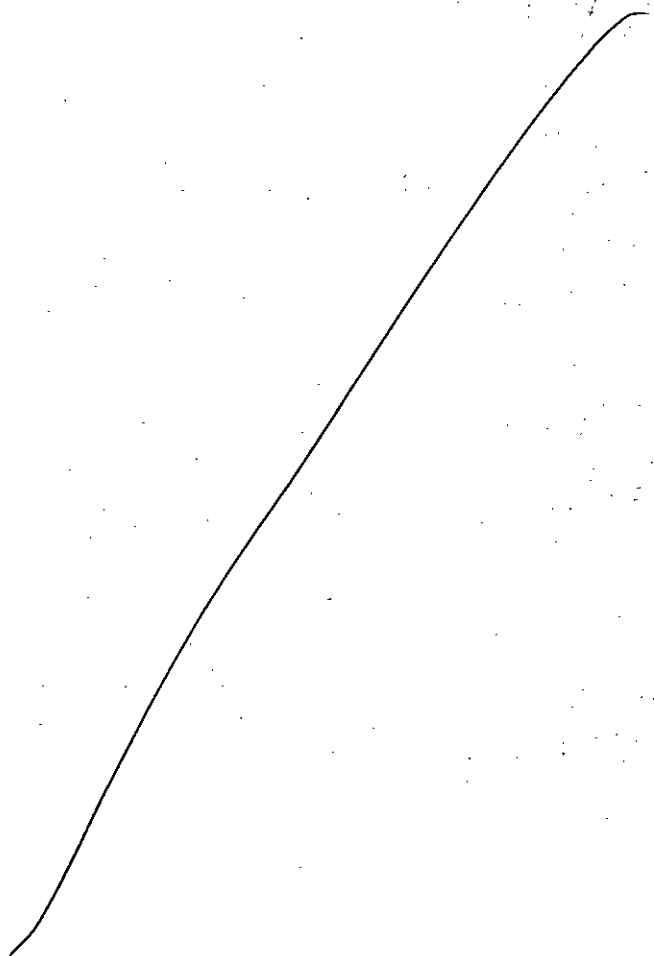
Due to COVID-19, the case is adjourned to

05/05/2021 for the same.

  
READER

Due to COVID-19 the case is  
adjourned to 06/10/21

  
Reader

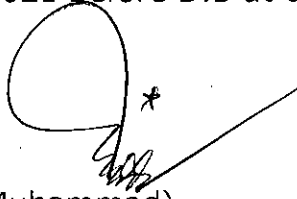


01.02.2021

Nemo for parties.

Muhammad Riaz Khan Paindakhel, Assistant Advocate General for respondents is present.

Preceding date was adjourned on account of Covid-19, therefore, both the parties be put on notice for the date fixed. Issue involved in the instant case is pending before Larger Bench of this Tribunal, therefore, case is adjourned to 05.04.2021 before D.B at camp court Swat.



(Mian Muhammad)  
Member(E)



(Rozina Rehman)  
Member(J)  
Camp Court Swat

06.07.2020 Bench is incomplete. Therefore, the case is adjourned.  
To come up for the same on 07.09.2020, at camp court  
Swat.

  
Reader


07.09.2020

Appellant present through counsel.

Mr. Riaz Paindakhel learned Assistant Advocate  
General for respondents present.

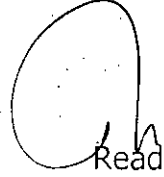
Learned counsel for appellant seeks adjournment as  
issue involved in the present case is pending before  
Larger Bench of this Tribunal.

Adjourned to 07.12.2020 for arguments before D.B.  
at Camp Court, Swat.

  
(Attiq-ur-Rehman)  
Member  
Camp Court, Swat

  
(Rozina Rehman)  
Member  
Camp Court, Swat

07.12.2020 Due to COVID-19, case is adjourned to 01.02.2021 for  
the same as before.

  
Reader.



02.03.2020

Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney for the respondents present, Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 06.04.2020 before D.B at Camp Court Swat.

  
Member

  
Member  
at Camp Court Swat

Due to corona virus  
tour to camp Court swat  
has been cancelled. To come  
up for the same on-01/06/20

  
Reader

01.06.2020

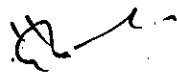
Due to Covid-19, the case is adjourned. To come up for the same on 06.07.2020, at camp court Swat.

  
Reader

02.09.2019


Learned counsel for the appellant present. Mian Amir Qadir, DDA alongwith Mr. Khawas Khan, SI for respondents present. Learned counsel for the appellant seeks adjournment as he has not prepared the brief. Adjourn. To come up for arguments on 04.11.2019 before D.B at camp court Swat.

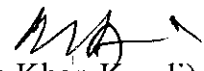
  
Member

  
Member  
Camp Court Swat

04.11.2019


Appellant alongwith his counsel and Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 08.01.2020 for arguments before D.B at Camp Court Swat.


  
(Hussain Shah)  
Member  
Camp Court Swat

  
(M. Amin Khan Kundi)  
Member  
Camp Court Swat

08.01.2020

Appellant in person and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Muhammad Ishaq, Head Constable for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today due to general strike of Khyber Pakhtunkhwa Bar Council. Adjourned to 02.03.2020 for arguments before D.B at Camp Court Swat.

  
(Hussain Shah)  
Member  
Camp Court Swat

  
(M. Amin Khan Kundi)  
Member  
Camp Court Swat

(M. Amin Khan Kundi)  
Member  
Camp Court Swat

07.02.2019

Appellant in person and Mian Amir Qadar learned Deputy District Attorney alongwith Khawas Khan SI present. Representative of the respondent department submitted written reply/comments. Adjourn. To come up for rejoinder/arguments on 03.04.2019 before D.B at camp Court Swat.



Member  
Camp Court Swat.

03.04.2019

Learned counsel for the appellant and Mr. Mian Ameer Qadir, District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments including the arguments on the issue of limitation on 10.06.2019 before D.B at Camp Court Swat.



(M. Amin Khan Kundi)  
Member  
Camp Court Swat



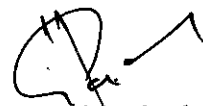
(M. Hamid Mughal)  
Member  
Camp Court Swat

10.06.2019

Clerk of counsel for the appellant and Mian Ameer Qadir learned District Attorney for the respondents present. Clerk of counsel for the appellant submitted rejoinder and seeks adjournment for arguments. Adjourn. To come up for arguments including the arguments on the issue of limitation on 02.09.2019 before D.B at Camp Court Swat.




(M. Amin Khan Kundi)  
Member  
Camp Court Swat



(M. Hamid Mughal)  
Member  
Camp Court Swat


05.11.2018

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 04.12.2018 at camp court Swat.

  
Reader


04.12.2018

Appellant in person and Mr. Usman Ghani learned District Attorney alongwith Mr. Khawas Khan Inspector present. Written reply not received. Representative of the requested for adjournment. Adjourn. To come up for written reply/comments on 09.01.2019 before S.B at Camp Court Swat.

  
Member  
Camp Court, Swat

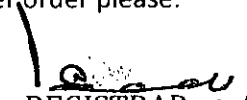


09.01.2019

Clerk of counsel for the appellant present. Mr. Khawas Khan, S.I (Legal) alongwith Mr. Mian Ameer Qadir, District Attorney for the respondents present. Written reply on behalf of respondents not submitted. Learned District Attorney requested for further adjournment. Adjourned. Case to come up for written reply/comments on 07.02.2019 before S.B at Camp Court Swat.

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court Swat

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_  
Case No. 884/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	12/07/2018	<p>The appeal of Mr. Anwar Saeed presented today by Mr. Azizur-Rehman Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 12/17/18</p>
2-	13.07.2018	<p>This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put up there on <u>07.09.2018</u></p> <p style="text-align: right;"> CHAIRMAN</p>
07.09.2018		<p>Appellant Anwar Saeed in person alongwith his counsel Mr. Imdadullah, Advocate present and heard preliminary.</p> <p>Contends that the impugned order passed by the authority has been given effect retrospectively which is against the law particularly held as illegal by the august Supreme Court of Pakistan in various judgment.</p> <p>Points urged need consideration. Admit. The appellant is directed to deposit of security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 05.11.2018 before S.B. at camp court Swat.</p> <p style="text-align: right;"> Chairman Camp Court Swat</p>

Appellant Deposited  
Security & Process Fee



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

Service Appeal No. 884 of 2018

Anwar Said Ex-Constable No. 1701 Swat Police, District Swat.

...Appellant

VERSUS

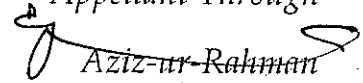
The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar and Others.

...Respondents

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Appellant Through



Aziz-ur-Rahman

Advocate Swat

Office: Khan Plaza, Gulshone Chowk,  
Mingora Swat, Cell 0333 929 7746

4

BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 884 of 2018

Anwar Said Ex-Constable No. 1701 Swat Police, District <sup>Khyber Pakhtunkhwa</sup> Swat. <sub>Service Tribunal</sub>

Diary No. 1150

...Appellant Dated 12-7-2018

VERSUS

1. The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer Malakand Range at Saidu Sharif, District Swat.
3. The District Police Officer District Swat at Gulkada.

...Respondents

Filed to-day  
Registrar  
12/7/18

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER O.B. NO. 8 DATED 13-01-2009 WHEREBY THE MAJOR PENALTY OF DISMISSAL FROM SERVICE WAS IMPOSED UPON THE APPELLANT AGAINST THE LAW, RULES AND SHARIAH, THUS IS LIABLE TO BE SET ASIDE, FEELING AGGRIEVED FROM THE SAME THE APPELLANT PREFERRED A DEPARTMENTAL APPEAL WHICH WAS ALSO REJECTED VIDE ORDER NO. 2503-E DATED 12-03-2018 IN A SUMMARY MANNER AGAINST THE LAW, RULES AND SHARIAH, HENCE IS ALSO LIABLE TO BE SET ASIDE.

---

21

PRAYER:

*That on acceptance of this appeal both the orders impugned may very kindly be set aside and the appellant reinstated back into service with all back/consequential benefits.*

---

Respectfully Sheweth:

Facts:

- i. *That the appellant was serving the police force as constable with zeal, courage and devotion and to the satisfaction of the authorities without any complaint of any kind.*
- ii. *That the appellant during the peak of insurgency showed extra ordinary gallantry by staying at his station of duty, while many others have fled and also the government has lost its writ completely.*
- iii. *That the appellant received threat, but his still remained at his post, but had to leave his post when threats were diverted to his parents. So in order to shift his parents to a safe place the appellant left the station by stating his purpose to the Incharge.*
- iv. *That his mother got ill and he had to be with her which factor made his stay a bit later than the required.*
- v. *That even then the appellant approached his station of duty, but was not allowed to join his*



duty, so dejected he returned to his parents to look after his ailing mother.

- vi. That the appellant approached time and again the authorities who finally informed the appellant about his dismissal and giving the appellant his dismissal order bearing O.B. No. 8 dated 13-01-2009. Copy of the order dated 13-01-2009 is enclosed as Annexure "A".
- vii. That feeling aggrieved of the same the appellant preferred a departmental appeal, but the same was also rejected vide order No. 2503-E dated 12-03-2018 in a summary manner against the law, rules and Shariah. Copy of the departmental appeal is enclosed as Annexure "B" and that of the order dated 12-03-2018 is enclosed as Annexure "C", respectively.
- viii. That still feeling aggrieved and having no other option this honourable tribunal is approached on the following grounds for the redressal of the grievances.

Grounds:

- a. That the appellant has not been treated in accordance with the law and rules on the subject.
- b. That the appellant has been condemned as unheard and none of the codal formalities were fulfilled rather a farce inquiry was conducted in the absence of the appellant.

4/

- c. That the appellant has been discriminated with as many similarly persons have been reinstated back into service while the appellant is being ignored.
- d. That this is a classic case of its kind showing the fanciful and colourful exercise of the authority to the utter detriment of the appellant.
- e. That the orders impugned are not sustainable in the eyes of the law.

It is, therefore, very respectfully prayed that on acceptance of this appeal the appellant may very kindly be reinstated back into service with all back benefits.

Any other relief deemed appropriate in the circumstances and not specifically prayed for may also very kindly be granted.

Appellant

*Anwar Said*

Anwar Said

Through Counsels,

*Aziz-ur-Rahman*

Aziz-ur-Rahman

*Imdad Ullah*

Imdad Ullah  
Advocates Swat

5/

BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. \_\_\_\_\_ of 2018

*Anwar Said Ex-Constable No. 1701 Swat Police, District Swat.*

*...Appellant*

**VERSUS**


*The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar and Others.*

*...Respondents*

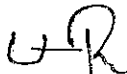
AFFIDAVIT

*It is solemnly stated on Oath that all the contents of this service appeal are true and correct to the best of my knowledge and belief and nothing has either been misstated or kept concealed before this honourable tribunal.*

Deponent

  
Anwar Said

**ATTESTED**

  
**UMAR SADIQ Advocate,**  
**OATH COMMISSIONER**  
Distt: Courts Swat.  
No. 159 Date 9-7-18

6/

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

Service Appeal No. \_\_\_\_\_ of 2018

*Anwar Said Ex-Constable No. 1701 Swat Police, District Swat.*

*...Appellant*

**VERSUS**

*The Provincial Police Officer Khyber Pakhtunkhwa,  
Peshawar and Others.*

*...Respondents*

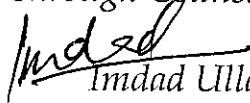
**ADDRESSES OF THE PARTIES**

*Appellant:*

*Anwar Said Ex-Constable No. 1701 Swat Police, District Swat.*

*Respondents:*

1. *The Provincial Police Officer Khyber Pakhtunkhwa,  
Peshawar.*
2. *The Regional Police Officer Malakand Range at  
Saidu Sharif, District Swat.*
3. *The District Police Officer District Swat at  
Gulkada.*

*Appellant  
Through Counsel,  
  
Imdad Ullah  
Advocate Swat*

**ORDER**

Annexure A

7/

This order will dispose off the enquiry initiated against Constable Anwar Said No.1701, who while posted to Police Station Ghalegai absented himself from duty with vide DD No.12, dated 03/08/2008 and failed to report. Thus absented himself from his legitimate duty and a report to this effect was entered at Police Station Ghalegai vide DD No.12, dated 03/08/2008.

He was issued charge sheet with statement of allegations. Enquiry was initiated against him and DSP Legal was appointed as Enquiry Officer. The Enquiry Officer in his finding report submitted that the defaulter Constable was summoned time and again, but did not appear to record his statement. Hence he was recommended for Major punishment of the Enquiry Officer. He was issued Final Show Cause Notice No. 573/E, dated 02/12/2008 but no reply has been received.

This constitutes misconduct, cowardice on his part and as such he is liable for action under section 5 sub section (4) of the Removal from service (Special Powers) Ordinance 2000 (Amendment) Ordinance 2001.

This constitutes misconduct/disinterest on his part and as such he is liable for action under section 5 Sub Section (4) of the Removal from service (Special Power) Ordinance 2000 (Amendment) Ordinance 2001 and dispose with the enquiry proceeding as laid down in the Ordinance and am further satisfied that there is no need of holding further departmental enquiry. Since the defaulter Constable has been found guilty of gross misconduct as defined in the said Ordinance, I Mr. Dilawar Khan Bangash DPO Swat as a competent authority, therefore impose major penalty by dismissing him from service from the date of absence i.e 03/08/2008.

Order announced.

O.B. No. 5

Dated. 13.1.09.

District Police Officer, Swat

*B*

**Attested**

*Wadad*

**Advocate**

محضور جناب ریجنل پولیس آفیسر صاحب ملاکنڈ بمقام سید و شریف ضلع سوات۔

Annexure B

عنوان:- رحم درخواست بابت دوبارہ بحال کرنے بحیثیت کنشیل

جناب عالی!

سائل گاؤں چتوڑ علاقہ سید و شریف کا سکوتی باشندہ ہے۔ سائل محکمہ پولیس سوات میں مورخہ 27-07-2007 کو ایک دلی لگاؤ اور جذبہ کے ساتھ بحیثیت کنشیل بلٹ نمبر 1701 بھرتی ہو کر ریکروٹ کورس PRC سنٹر مردان سے نمایاں پوزیشن میں پاس کیا۔ ٹریننگ کے اختتام پر ضلع سوات کے مختلف تھانہ جات میں ڈیوٹی سرانجام دیتا رہا۔ حالیہ کشیدہ حالات کے دوران سائل تھانہ غالیگے میں ڈیوٹی پر مامور تھا۔ اس دوران سائل نے اپنے دیگر ساتھیوں کے ہمراہ دہشت گردوں کے کئی حملے پسپا کی تھی۔ جبکہ مقامی دہشت گرد طالبان کے وجہ سے گاؤں جانا ترک کیا تھا۔ دہشت گردوں نے مجھ تک رسائی حاصل کرنے کے خاطر میرے والدین کو جان سے مارنے کی دھمکیاں دینا شروع کی۔ والدین کو محفوظ مقام پر منتقل کرنے کے خاطر تھانہ غالیگے سے شب باشی پر چلا گیا۔ والدین کو محفوظ مقام شگر گڑھ منتقل کرتے وقت والدہ صاحبہ جو گردوں کے مرض میں مبتلا تھی۔ تکلیف میں اضافہ ہونے پر والدہ صاحبہ کے علاج معالجہ میں مصروف رہا۔ قدرے افاقہ ہونے پر بہ مشکل اپنے جائے تعیناتی آکر معلوم ہوا۔ کہ سائل کو محکمہ پولیس سے برخاست کیا گیا ہے۔ چونکہ اس وقت حالات انتہائی کشیدہ اور افراتفری کا عالم تھا۔ اور سائل کے والدہ صاحبہ بیمار تھی۔ جس کے علاج معالجہ کیلئے واپس چلا گیا۔ والدہ صاحبہ کی بیماری اور بے روزگاری کے وجہ سے کافی مقروض ہو چکا تھا۔ جس کے وجہ سے محنت مزدوری کے سلسلہ میں کوئیٹہ اور کراچی کا رخ کرتا رہا۔ بحالی کیلئے کئی درخواستیں جمع کی ہے۔ لیکن رہنمائی اور وسیلہ نہ ہونے کے بناء درخواست افسران بالا تک بروقت نہ پہنچ سکے۔ اب جبکہ حالیہ کشیدہ حالات کے دوران برخاست شدہ اہلکاران رفتہ رفتہ بحال ہو رہے ہیں۔ جس کے وجہ سے سائل کو امید پیدا ہوئی ہے۔ سائل ذہنی اور جسمانی لحاظ سے فٹ ہے۔ اور انتہائی مالی مشکلات سید و چار ہے۔ لہذا بذریعہ درخواست استدعا ہے کہ سائل کے بالا مجبوریوں کو مد نظر رکھتے ہوئے سائل کو محکمہ پولیس میں دوبارہ بحالی کا موقع فراہم کریں۔ تو سائل محکمہ پولیس کیلئے خدمات سرانجام دینے کے ساتھ ساتھ آپ صاحبان کے دراز عمری، ترقی اور خوشحالی کیلئے دعاگوں رہوں گا۔

العارض!

سابقہ کنشیل انور سید ولد خورشید سابقہ نمبر 1701

ساکن چیتوڑ تحصیل بابوزی ضلع سوات

شناختی کارڈ نمبر 7-149-6882-15602

موبائل نمبر 0347976453

18/12/17

Attested  
Advocate

9/

Annexure         



**OFFICE OF THE  
REGIONAL POLICE OFFICER, MALAKAND**

**AT SAIDU SHARIF SWAT.**

*Ph: 0946-9240381-83 & Fax No. 0946-9240390*

*Email: dtgmalakand@yahoo.com*

**ORDER:**

The following Ex-Constable / Ex-SPF of the Districts noted against each, submitted applications for reinstatement in Service. Their applications were thoroughly examined and found long time barred having no legal justification to consider; hence their applications are hereby filed:-

S. No	Name and No	District	Date of Dismissal
1.	Ex-Constable Rashid Ahmad No. 1834	Swat	21/02/2009
2.	Ex-Constable Mushtaq Ahmad No. 1007	Buner	24/08/2017
3.	Ex-Constable Muhammad Amin No. 2146	Dir Lower	15/07/2013
4.	Ex-Constable Anwar Said No. 1701	Swat	13/01/2009
5.	Ex-Constable Shah Aurang Zeb No. 341	Buner	24/04/2017
6.	Ex-Constable Kamal Khan (SPF) No. 2721	Swat	08/09/2015
7.	Ex-Constable Said Rahman (SPF) No. 123	Buner	15/06/2016

The applicants of yours respective Districts may be informed accordingly, please.

No. 2503 /E,

Dated 12-03-2018.

(AKHTAR HAYAT KHAN)  
Regional Police Officer  
Malakand, at Saidu Sharif Swat  
\*\*Naqi\*\*

*Handwritten signature and date 9/03*

Copy to District Police Officers, Swat, Buner and Dir Lower for information and necessary action. The applicants of your respective District may be informed accordingly please.

\*\*\*\*\*

**Attested**  
*Handwritten signature*  
**Advocate**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

10/

In the matter of:-

Anwar Said

Appellant

VERSUS

The PPO. K.P and  
Others

Respondents

KNOWN ALL to whom these present shall come that I/we, the undersigned appoint

AZIZ-UR-RAHMAN and IMDAD ULLAH

Advocates High Court

To be the advocate for the Appellant in the above mentioned case to do all the following acts, deeds and things or any one of them, that is to say:-

- ❖ To acts, appear and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or revision or execution or at any other stage of its progress until its final decision.
- ❖ To present pleadings, appeals, cross objections or petitions for execution review, revision, withdrawal, compromise or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of the said case in all its stages.
- ❖ To withdraw or compromise the said or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
- ❖ To receive money and grant receipts therefore, and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
- ❖ To employ any other Legal Practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate wherever he may think fit to do so.
- ❖ I understand that the services of aforesaid lawyer are hired irrespective of the outcome of the case.

And I/We hereby agreed to ratify whatever the advocate or his substitute shall to do in the said premises.

And I/We hereby agree not to hold the Advocate or his substitute responsible for the result of the said case in consequences of his absence from the Court when the said case is called up for hearing.

And I/We hereby agree that in the event of the whole or any part of the fee agreed by me/us to be paid to the Advocate remaining unpaid, the Advocate shall be entitled to withdraw from the prosecution of the case until the same is paid.

IN THE WITNESS WHEREOF I/WE hereunto set my/our hand(s) to these present the contents of which have been explained to and understood by me/us, this 07 day of 07 2018.

Anwar Said

(Signature or thumb impression)

(Signature or thumb impression)

(Signature or thumb impression)

Accepted subject to terms regarding fees

الایم ایم

(AZIZ-UR-RAHMAN)

Advocate High Court

Office: Khan Plaza, Gulshone Chowk

G.T. Road Mingora, District Swat.

Cell No. 0300 907 0671

Imdad Ullah

(IMDAD ULLAH)

Advocate High Court

Office: Khan Plaza, Gulshone Chowk,

G.T. Road, Mingora, District Swat

Cell No. 0333 929 7746



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

**Service Appeal No. 893/2018.**

Anwar Said (Ex-Constable) No.1701, District Swat.

..... Appellant

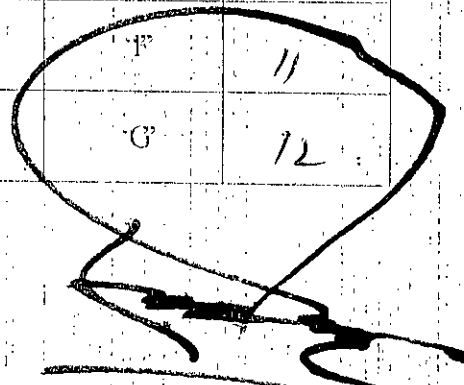
**VERSUS**

1. The Provincial Police officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Malakand Region at Saidu Sharif Swat.
3. The District Police Officer, Swat.

..... Respondents

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4	Copy of DD report	'A'	6
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8	Copy of finding report	'E'	10
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District Police Officer, Swat  
(Respondent No.03)

(1)

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

**Service Appeal No. 893/2018.**

Anwar Said (Jex-Constable) No.1701, District Swat.

..... Appellant

**VERSUS**

1. The Provincial Police officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Malakand Region at Saidu Sharif Swat.
3. The District Police Officer, Swat.

..... Respondents

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.**

**Respectfully Shewith,**

The comments on behalf of Respondents are submitted as below.

**Preliminary Objections.**

1. That the appellant has got no Cause of action and locus standi to file the present appeal.
2. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
3. That the appeal is time barred.
4. That the appellant has not come to the Tribunal with clean hands.
5. That this Hon'ble Tribunal has got no jurisdiction to entertain the present appeal.
6. That the instant appeal is not maintainable in its present form.
7. That the appellant concealed the material facts from this Hon'ble Tribunal.

**FACTS:**

- i. Correct to the extent that the Appellant was serving as Constable in Police Department.
- ii. Incorrect. The appellant while posted at Police Station Ghalegay absented himself from his lawful duty and a report regarding his absence from duty was entered at Police Station Ghalegay vide DD No.12 dated 03/08/2008. He remained absent from duty w.e.f 03/08/2008 to 13/01/2009 without obtaining proper leave from the competent authority (copy of DD report annexed as "A").

iii. Incorrect. The appellant remained absent from duty without obtaining prior permission or proper leave from the competent authority, which was clear violation of the service rules.

iv. Incorrect. The contention of the appellant regarding illness of his mother is not based on facts and cogent reason, he absented himself from lawful and did not inform his chain of command accordingly.

v. The appellant had not approached to his place of duty during the period for which he remained absented from his duty.

vi. Correct to the extent that on the basis of report entered at Police Station Chalegay vide DIJ No.12 dated 03/08/2008, the respondent No.03 issued charge sheet coupled with statement of allegations against the appellant vide No.573/E dated 06/11/2008 and DSP Legal was appointed as Enquiry Officer who conducted proper enquiry into the matter and the appellant was also given opportunity of personal hearing, but the appellant did not bothered to appear before the Enquiry Officer. The Enquiry Officer submitted his finding report wherein he reported that the appellant had deliberately absented himself from duty and recommended him for major punishment. The Respondents No.03 on the recommendations of the Enquiry Officer dismissed the appellant from service vide OIB No.08 dated 13/01/2009 (copy of Show Cause Notice, Charge sheet, statement of allegations, finding report and final order are annexed as "B", "C", "D", "E" and "F" respectively.

vii. Correct. The appellant aggrieved from the dismissal order of the Respondent No.3 preferred departmental appeal before the respondent No.2 but the same after thorough examination was also filed being time barred, having no legal justification for consideration (copy of appellate order as annexed "(G)").

viii. Incorrect. As replied above.

GROUNDS:

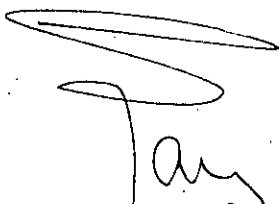
a. Incorrect. The appellant has been treated in accordance with Law/Rules and proper departmental enquiry was conducted against the appellant by providing ample opportunity of personal hearing to the appellant, but he failed to appear before the Enquiry Officer, therefore on the recommendations of the Enquiry officer respondent No.03 dismissed him from service.


b. Incorrect. The appellant had not been condemned unheard and during the course of Enquiry all codal formalities have been fulfilled and no miscarriage of justice has been committed by the Enquiry officer.

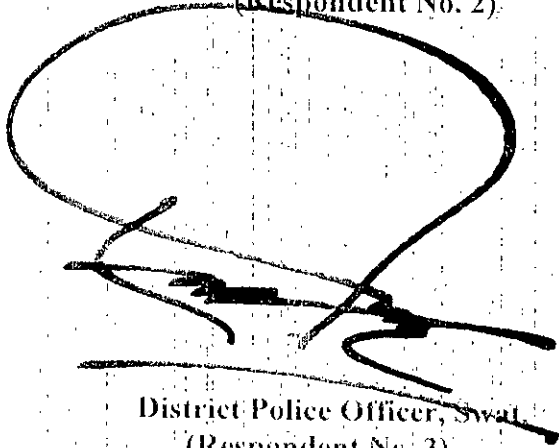
- c. Incorrect. The appellant has not been discriminated nor similar person have been re instated in service. The appellant was deliberately absented himself from his lawful duty without prior permission or approved leave.
- d. Incorrect. the instant case of the appellant is not classic of its kind because the competent authority of the Police Department i.e respondent while exercising their authority in accordance with Law/Rules has also awarded the punishment in the same nature cases to other Police officials beside the present appellant who such illegal acts/misconducts during rendering their services.
- e. No comments.

**PRAYER:**

It is therefore requested that the appeal of appellant may kindly be dismissed with cost being devoid of merits and without any legal substance.

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

  
Regional Police Officer  
Malakand Region  
(Respondent No. 2)

  
District Police Officer, Swat  
(Respondent No. 3)

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

**Service Appeal No. 893/2018.**

Anwar Said (Ex-Constable) No.1701, District Swat.

..... Appellant

**VERSUS**

1. The Provincial Police officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Malakand Region at Saidu Sharif Swat.
3. The District Police Officer, Swat.

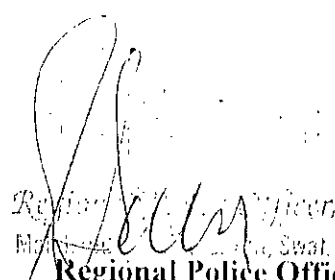
..... Respondents

**AFFIDAVIT**

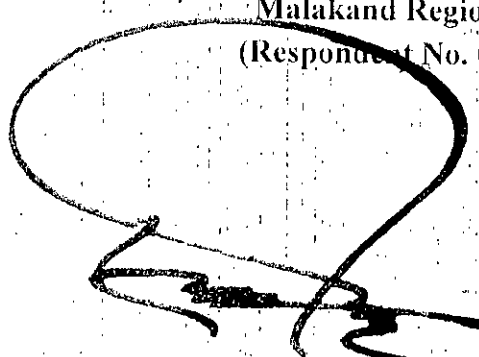
We, the above respondents do hereby solemnly affirm and declare on oath that the accompanying Para-wise comments submitted in reply to above cited Service Appeal are correct to the best of our knowledge and nothing has been concealed from this Honorable Tribunal.



**Provincial Police officer  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 01)**



**Regional Police Officer  
Malakand Region  
(Respondent No. 02)**



**District Police Officer, Swat  
(Respondent No. 03)**

5

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 893/2018.

Anwar Said (Ex-Constable) No.1701, District Swat.

..... Appellant

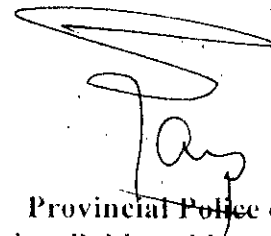
VERSUS

1. The Provincial Police officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Malakand Region at Saidu Sharif Swat.
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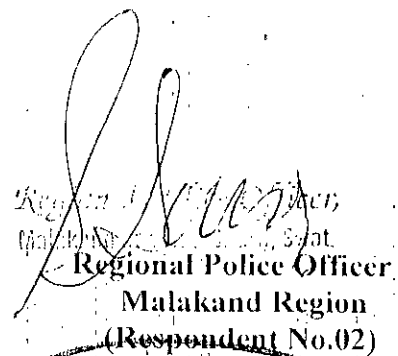
..... Respondents

AUTHORITY LETTER

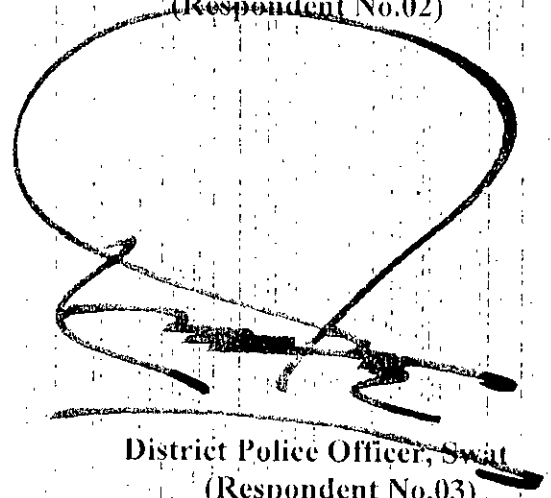
We, the above respondents, do hereby authorize Mr. Khawas Khan SI Legal Swat to appear in the Service Tribunal on our behalf on each date fixed in connection with titled case and do whatever is needed.



Provincial Police officer  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 01)



Regional Police Officer,  
Malakand Region  
(Respondent No.02)



District Police Officer, Swat  
(Respondent No.03)

Ame 22 A

17/5

تاریخ

3/8 17/5

12 دھرتی پتھر (1000) 1100 سے 1100 3/8 17/5  
 1700 ڈیجیٹل سیریاں 1700 ڈیجیٹل سیریاں  
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Amex 52A

BETTER COPY

ضلع سوات

P.S

نقلہ نمبر 12-08-03

بد نمبر 12 رپورٹ غیر حاضری SHO وقت 11:00 بجے 03-08-08 کنسٹیبل انور سید نمبر 1701 بکار سرکار بارک کنسٹیبلان میں تلاش کیا گیا مذکورہ کے

متعلق معلوم ہوا کہ مذکورہ اپنے ساتھ بسزہ بکس بھی لے جا کر واپس نہ آنے کا کہا سریدست مذکورہ کے خلاف رپورٹ غیر حاضری درج روز نامچ کی گئی۔

جناب علی

نقل برطابق اصل ہے

SD-

MCH P.S Ghalegay

10-10-08

ATTESTED

-SD

SHO P.S Ghalegay

10-10-08



Annex B (7)

**FINAL SHOW CAUSE NOTICE**

You, Constable Enway Sindi No 1701 while posted to Police Station Chakanga absented your self from duty with effect from \_\_\_\_\_ uptill now with out any leave or permission from your immediate officer. The EO in his finding report recommended you for Major Punishment.

Your are, therefore, served with this final show cause notice to Show cause with in 03 days of the receipt of this notice as to why the proposed action, which may included you dismissal from service, should not be taken against you, in case your written reply is not received within 03 days, you will be definitely dismissed from service.

No. 573 /E

Dated 2/12 /2008

Constable \_\_\_\_\_

S/o \_\_\_\_\_

R/o \_\_\_\_\_

District \_\_\_\_\_

District Police Officer, Swat

*o/c* [Signature]  
2/14

**CHARGE SHEET**

Amer 52 C

8

I Mr. Dilawar Khan Bangash, DPO Swat as competent authority, hereby charge you, Constable Anwar Said No.1701 as following that you, while posted in PS Ghalegai committed the following irregularities:

You Constable Anwar Said No.1701 while posted to Police Station Ghalegai, absented himself from duty with effect from 03/08/2008 till to date with out permission or leave vide DD No.12 dated 03/08/2008 of Police Station Ghalegai.

All these based on your malafied intention, negligence, omission and disinterest in duty which is gross misconduct on your part.

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

3. You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the Enquiry officer / Committee, as the case may be.

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

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

6. A statement of allegations is enclosed.

No. 573 /EB

Dated 6-11 / 2008

*B/C* District Police Officer, Swat  
R-35/10

Amir Said

**DISCIPLINARY ACTION**

I Mr. Dilawar Khan Bangash, DPO, Swat District Police Officer, Swat as competent authority, am of the opinion that Constable Anwar Said No.1701, 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 ALLEGATIONS**

That he while posted to Police Station Ghalegai absented your self from duty with effect from 03/08/2008 till to date with out permission or leave vide DD No.12 dated 03/08/2008 of Police Station Ghalegai.

All these based on your malafied intention, negligence, omission and disinterest in duty which is gross misconduct on your part.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an Enquiry committee consisting of the following is constituted under section 3 of the Ordinance.

- 1. Mr. Muhammad Ayaz Khan DSP/Legal, Swat
- 2. \_\_\_\_\_

3. The enquiry Committee 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, recommendation as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place given by the enquiry Committee.

*2/6*  
**District Police Officer, Swat**

No. 573 /E, Dated Gulkada the, 6-11 2008.

Copy of above is forwarded to the:-

- 1. Mr. Muhammad Ayaz Khan DSP/Legal, Swat
  - 2. \_\_\_\_\_ } for initiating proceeding
- against the Officer/Official under the provisions of the NWFP/Removal from Service (Special Powers) Ordinance 2000.
- 3. Constable Anwar Said No.1701 *Throught ps. Colobegai*

With the direction to appear before the enquiry Committee on the date, time and place fixed by the Committee for the purpose of he proceeding.

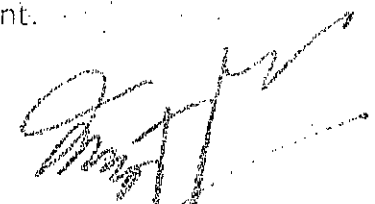
Am ex 52 E 10

**FINDING REPORT**

This is regular departmental enquiry against Constable Answer Said NO 1701. According to the allegation, that the Constable while posted in Police PS. Ghalega absented himself from lawful duty with effect from 3/8/08 uptill now with out getting prior permission of the high ups.

In this connection proper departmental enquiry was conducted and the undersigned was appointed as Enquiry Officer. The defaulter Constable was summoned for 17/11/08 but did not attend this office. According to report of MHC DPC/Sw. Ghalega he is absent from 3/8/08 up till now. The charges/allegation were proved against the defaulter Constable Answer Said NO 1701 and found him guilty of the charges.

Being found guilty of charges/allegation, Constable Answer Said NO 1701 is recommended for major punishment.



Muhammad Ayaz  
DSP/Legal, Swat

E-1

*[Faint handwritten notes and signatures]*

1701

Am-e-JZ F 11  
14 pages

**ORDER**

This order will dispose off the enquiry initiated against Constable Anwar Said No.1701, who while posted to Police Station Ghalegai absented himself from duty with vide DD No.12, dated 03/08/2008 and failed to report. Thus absented himself from his legitimate duty and a report to this effect was entered at Police Station Ghalegai vide DD No.12, dated 03/08/2008.

He was issued charge sheet with statement of allegations. Enquiry was initiated against him and DSP Legal was appointed as Enquiry Officer. The Enquiry Officer in his finding report submitted that the defaulter Constable was summoned time and again, but did not appear to record his statement. Hence he was recommended for Major punishment of the Enquiry Officer. He was issued Final Show Cause Notice No. 573/E, dated 02/12/2008 but no reply has been received.

This constitutes misconduct, cowardice on his part and as such he is liable for action under section 5 sub section (4) of the Removal from service (Special Powers) Ordinance 2000 (Amendment) Ordinance 2001.

This constitutes misconduct/disinterest on his part and as such he is liable for action under section 5 Sub Section (4) of the Removal from service (Special Power) Ordinance 2000 (Amendment) Ordinance 2001 and dispose with the enquiry proceeding as laid down in the Ordinance and am further satisfied that there is no need of holding further departmental enquiry. Since the defaulter Constable has been found guilty of gross misconduct as defined in the said Ordinance, I Mr. Dilawar Khan Bangash DPO Swat as a competent authority, therefore impose major penalty by dismissing him from service from the date of absence i.e 03/08/2008.

Order announced.

District Police Officer, Swat

O.B. No. 8

Dated. 13.1.09



OFFICE OF THE  
REGIONAL POLICE OFFICER, MALAKAND

AT SAIDU SHARIF SWAT.

Ph: 0946-9240381-83 & Fax No. 0946-9240390

Email: dlmalakand@yahoo.com

ORDER:

The following Ex-Constable / Ex-SPF of the Districts noted against each, submitted applications for reinstatement in Service. Their applications were thoroughly examined and found long time barred having no legal justification to consider; hence their applications are hereby filed:-

S. No	Name and No	District	Date of Dismissal
1.	Ex-Constable Rashid Ahmad No. 1834	Swat	21/02/2009
2.	Ex-Constable Mushtaq Ahmad No. 1007	Buner	24/08/2017
3.	Ex-Constable Muhammad Amin No. 2146	Dir Lower	15/07/2013
4.	Ex-Constable Anwar Said No. 1701	Swat	13/01/2009
5.	Ex-Constable Shah Aurang Zeb No. 341	Buner	24/04/2017
6.	Ex-Constable Kamal Khan (SPF) No. 2721	Swat	08/09/2015
7.	Ex-Constable Said Rahman (SPF) No. 123	Buner	15/06/2016

The applicants of yours respective Districts may be informed accordingly, please.

No. 2503 /E,

Dated 12-03-2018.

(AKHTAR HAYAT KHAN)  
Regional Police Officer,  
Malakand, at Saidu Sharif Swat  
\*\*Naqi\*\*

Copy to District Police Officers, Swat, Buner and Dir Lower for information and necessary action. The applicants of your respective District may be informed accordingly please.

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Attested  
  
Advocate

بھنور جناب راجنل پولیس آفیسر صاحب ملاکنڈ بمقام سید و شریف ضلع سوات۔

Annexure B

عنوان:- رحم درخواست بابت دوبارہ بحال کرنے بحیثیت کنشیل

جناب عالی!

سائل گاؤں چوڑ علاقہ سید و شریف کا سکوتی باشندہ ہے۔ سائل محکمہ پولیس سوات میں مورخہ 27-07-2007 کو ایک دلی لگاؤ اور جذبہ کے ساتھ بحیثیت کنشیل بلٹ نمبر 1701 بھرتی ہو کر ریکروٹ کورس PRC سنٹر مردان سے نمایاں پوزیشن میں پاس کیا۔ ٹریننگ کے اختتام پر ضلع سوات کے مختلف تھانہ جات میں ڈیوٹی سرانجام دیتا رہا۔ حالیہ کشیدہ حالات کے دوران سائل تھانہ غالیگے میں ڈیوٹی پر مامور تھا۔ اس دوران سائل نے اپنے دیگر ساتھیوں کے ہمراہ دہشت گردوں کے کئی حملے سپاں کی تھی۔ جبکہ مقامی دہشت گرد طالبان کے وجہ سے گاؤں جانا ترک کیا تھا۔ دہشت گردوں نے مجھ تک رسائی حاصل کرنے کے خاطر میرے والدین کو جان سے مارنے کی دھمکیاں دینا شروع کی۔ والدین کو محفوظ مقام پر منتقل کرنے کے خاطر تھانہ غالیگے سے شب باشی پر چلا گیا۔ والدین کو محفوظ مقام سرگڑھ منتقل کرتے وقت والدہ صاحبہ جو گردوں کے مرض میں مبتلا تھی۔ تکلیف میں اضافہ ہونے پر والدہ صاحبہ کے علاج معالجہ میں مصروف رہا۔ قدرے افاقہ ہونے پر بہ مشکل اپنے جائے تعیناتی آکر معلوم ہوا۔ کہ سائل کو محکمہ پولیس سے برخاست کیا گیا ہے۔ چونکہ اس وقت حالات انتہائی کشیدہ اور افراتفری کا عالم تھا۔ اور سائل کے والدہ صاحبہ بیمار تھی۔ جس کے علاج معالجہ کیلئے واپس چلا گیا۔ والدہ صاحبہ کی بیماری اور بے روزگاری کے وجہ سے کافی مقروض ہو چکا تھا۔ جس کے وجہ سے محنت مزدوری کے سلسلہ میں کوئٹہ اور کراچی کا رخ کرتا رہا۔ بحالی کیلئے کئی درخواستیں جمع کی ہے۔ لیکن رہنمائی اور وصلہ نہ ہونے کے بناء درخواست افسران بالا تک بروقت نہ پہنچ سکے۔ اب جبکہ حالیہ کشیدہ حالات کے دوران برخاست شدہ اہلکاران رفتہ رفتہ بحال ہو رہے ہیں۔ جس کے وجہ سے سائل کو امید پیدا ہوئی ہے۔ سائل ذہنی اور جسمانی لحاظ سے فٹ ہے۔ اور انتہائی مالی مشکلات سید و چار ہے۔ لہذا بذریعہ درخواست استدعا ہے کہ سائل کے بالا مجبوریوں کو مد نظر رکھتے ہوئے سائل کو محکمہ پولیس میں دوبارہ بحالی کا موقع فرہم کریں۔ تو سائل محکمہ پولیس کیلئے خدمات سرانجام دینے کے ساتھ ساتھ آپ صاحبان کے دراز عمری، ترقی اور خوشحالی کیلئے دعاگوں رہوں گا۔

العارض!

سابقہ کنشیل انور سید ولد خورشید سابقہ نمبر 1701

ساکن چیتوڑ تحصیل بابوزی ضلع سوات

شناختی کارڈ نمبر 15602-6882149-7

موبائل نمبر 0347976453

18/12/17

Attested

Advocate