BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 1354/2018

Date of Institution ... 30.10.2018

Date of Decision ... 15.01.2019

Sajjed Ahmad son of Muhammad Zada R/O Mohallah Cham, Tarpatar, Usheri Darra, District Dir Upper. ... (Appellant)

VERSUS

Regional Police Officer, Malakand Division, Saidu Sharif, Swat and 3 others. ... (Respondents)

MR. AIMAL KHAN BARKANDI, Advocate. ... For appellant

MR. HAMID FAROOQ DURRANI, ... CHAIRMAN

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

The appellant is aggrieved of orders dated 17.12.2009 and 24.04.2018 passed by the respondents. Through the former the appellant was dismissed from service under the provisions of Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000, with effect from the date of his absence (31.07.2009), while through the latter his departmental appeal was rejected.

2. I have heard learned counsel for the appellant whose main argument was in terms that the order dated 17.12.2009 was given effect from the date of absence of appellant, therefore, the same was void and period of limitation for filing of appeal was not to run against the appellant. It was also contended that some other absenting police officials were extended lenient view by the respondent department to which the appellant was also entitled.

3. The available record suggests that the appellant remained absent from duty since 31.07.2009 and was proceeded against departmentally. During the proceedings, it surfaced that the appellant had left for Saudi Arabia for labour. The same fact was recorded in the memorandum of appeal in terms that under restraint the appellant had to leave Pakistan and was in exile to Saudi Arabia. On the other hand, a statement of appellant is available on record wherein it was noted that on 29.04.2009, he left the place of his duty on receiving information regarding illness of his mother. Upon insistence of the mother the appellant left the service, owing to terrorism, however, later when he was permitted to join the duty by his kin, therefore, he reported on 18.06.2009 for resumption. This self contradictory stance of the appellant left many a question marks.

4. It is an admitted fact that the appellant slept over his right of departmental appeal for about nine years and preferred application for reinstatement in the year, 2018 which was rejected being barred by time. It is also a fact that after rejection of appeal/application the appeal in hand was submitted on 30.10.2018 which was also barred by many months.

5. The argument of learned counsel regarding invalidation of the impugned order dated 19.12.2009 due to retrospective effect does not contain much force. The said error in the order was curable, therefore, would not vitiate the proceedings against the appellant. The same is modified to have effect from the date on which it was passed i.e. 19.12.2009 and not from 31.07.2009.

Regarding discrimination against the appellant, alleged on the part of the respondents, suffice it to note that the order dated 24.04.2018 was passed on the application for reinstatement of as many as eight (8) police officials who were declined the relief. It also requires to be noted that precedent cases relied upon by the

appellant had their individual facts and circumstances and were dealt with accordingly by the respondents at the relevant time.

6. In view of the above, the appeal in hand is found without any merits justifying its admission for regular hearing. The same is, therefore, dismissed in limine.

File be consigned to the record room.

(HAMID FAROOQ DURRANI)
CHAIRMAN

ANNOUNCED
15.01.2019

Form- A

FORM OF ORDER SHEET

Court of_____

Case No. 1354/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30 /10/2018	The appeal of Mr. Sajjad Ahmad presented today by Mr. Aimal Khan Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. REGISTRAR
2-	17-11-2018	This case is entrusted to S. Bench for preliminary hearing to be put up there on 28-11-18. CHAIRMAN
	28.11.2018	Appellant absent. Learned counsel for the appellant present. Adjournment requested. Adjourn. To come up for preliminary hearing on 15.01.2019 before S.B. Member

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,

PESHAWAR

Service Appeal No. 1354 /2018

Sajjad Ahmad ..... Appellant

Versus

Regional Police Officer, Malakand & others.....Respondents

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4.	Copy of the order No. OB-648, dated 17.12.2009 of respondent No. 2	B	8
5.	Copy of the charge sheet, statement of allegations and finding report	C	9-12
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Appellant
Sajjad Ahmad

Through

Aimal Khan Barkandi

&

Dara Khan Barkandi
Advocates, Peshawar

FR-30, 4TH Floor, Bilour Plaza, Peshawar Cantt.
Cell: 0300-9320001

(1)

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Khyber Pakhtukhwa Service Tribunal
Diary No. 1583
Dated 30-10-2018

Service Appeal No. 1354 /2018

Sajjad Ahmad s/o Muhammad Zada
r/o Mohallah Cham, Tarpatar, Usheri Darra,
Tehsil & District Dir (upper)

..... Appellant

Versus

1. Regional Police Officer, Malakand Division, Saidu Sharif, Swat
2. District Police Officer (DPO), Dir (upper)
3. Inspector General (I.G) of Police, Khyber Pakhtunkhwa, Peshawar
4. Government of Khyber Pakhtunkhwa though Home Secretary, Civil Secretariat, Peshawar

..... Respondents

Filedto-day
Registrar
30/10/18.

Appeal u/s 4 of the Service Tribunal Act, 1974 against the office order No. 4008-12/E, dated 24.04.2018 of respondent No. 1 whereby the departmental appeal of the appellant, from the order dated 17.12.2009 of dismissal from service passed by respondent No. 2, was dismissed.

PRAYER

On acceptance of this appeal the impugned orders dated 24.04.2018 and 12.12.2009 of respondents No. 1 and 2

respectively may kindly be set aside and the appellant may be reinstated to his post (Constable) with all back benefits admissible under the law and rules.

Respectfully submitted;

1. That the appellant was appointed as Constable in the police department on 27.07.2007 by the respondents, and consistently performed his duty at district Dir Upper.

2. That in the year 2009 the militants and Taliban insurgency prevailed in the northern areas especially where the appellant was performing his duty i.e. district Dir-Upper and the militants openly threatened and pressurized the appellant and his family to face face dire consequences.

3. That the appellant under restraint circumstances had to leave Pakistan and went in exile to Saudi Arabia in order to earn livelihood for family members and mainly to save his life.

4. That during this exile period of the appellant at abroad, respondent No. 2 commenced ex-parte departmental proceedings against the appellant which resulted in dismissal of the appellant u/s 3 (a),(b) of the NWFP Removal from Service (Special Power) Ordinance, 2000 vide order No. OB-648, dated 17.12.2009. (Copy of the order, statement of allegations, charge sheet and finding report are annexure "B" & "C")

5. That upon coming back to Pakistan, the appellant approached the respondents to allow him to resume his duty but to the utter shock of the appellant, it was revealed that the appellant has been dismissed from service.

6. That the appellant filed departmental appeal against the dismissal order on 12.03.2018 before respondent No. 1 which was dismissed on 24.04.2018 vide office order No. 4008-12/E on the ground of being time-barred. (Copy of the order is annexure "A" and department appeal is annexure "D")

7. That the appellant is feeling aggrieved from both the impugned orders dated 24.04.2018 and 12.12.2009 of respondents No. 1 and 2, respectively and is now filing this service appeal on the following grounds;

GROUNDS

A. That the impugned orders of respondents No. 1 and 2 are against the law and facts of the case, hence, are not tenable.

B. That no proper inquiry has taken in the case to ascertain about the actual cause of absence of the appellant from service which was not intentional.

C. That the appellant has not absented intentionally nor has been willful to avoid duty. The appellant's family has a political background too and due to this the appellant had great threats to his life and family.

D. That the appellant was abroad as explained above and had no knowledge of the departmental proceedings

initiated against him, hence, the question of limitation is condonable. The appellant filed department appeal immediately when the appellant came to know about dismissal from service, hence, the departmental appeal is well within time. The absence period can be considered as without pay leave.

E. That the appellant has been condemned unheard. No opportunity of hearing has been provided to the appellant, which is also against the natural justice.

F. That the respondents have already reinstated many other dismissed employees of the police department who were also charged with the same accusations. The appellant can also be re-instated to avoid discrimination and safe-guard the constitutional right of the appellant. (Copy of the orders is annexure "E")

G. That the major penalty imposed on the appellant is too harsh and severe which does not commensurate with the facts of the case.

It is, therefore, prayed that on acceptance of this appeal the impugned orders dated 24.04.2018 and 12.12.2009 of respondents No. 1 and 2, respectively may kindly be set aside and the appellant may be reinstated to his post (Constable) with all back benefits admissible under the law and rules.

Appellant
Sajjad Ahmad

Through

Aimal Khan Barkandi

&

Dara Khan Barkandi
Advocates, Peshawar

(5)

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

In
Service Appeal No._____/2018

Sajjad Ahmad ..... Appellant

Versus

Regional Police Officer, Malakand & others.....Respondents

Application for condonation of delay (if any) in filing the captioned service appeal

Respectfully submitted;

1. That this application is filed along with the above noted appeal in the hon'ble Tribunal.

2. That the appellant is aggrieved from the order dated 12.12.2009 of respondent No. 2 vide which the appellant was dismissed from service.

3. That the appellant submitted departmental appeal/ representation to respondent No. 1 on 12.03.2018 for re-instatement on the post of constable but the same was dismissed on 24.04.2018 by respondent No. 1 as being time barred.

4. That the order dated 24.04.2018 was not communicated to the appellant rather the appellant was asked to wait for decision.

5. That after expiration of the 90 days, the appellant visited the office of respondent No. 1 to ask about the fate of the departmental appeal but no answer

(6)

was given whether the department appeal is accepted or rejected.

6. That on 02.07.2018 the appellant submitted application to respondent No. 2 for provision of order, if any, has been passed on the application/departmental appeal of the appellant but no response received. (Copy of the application is annexure "F")

7. That the appellant/applicant then got an unattested copy of the order dated 24.04.2018 a few weeks ago.

8. That in view of the above, the appeal in hand is well within time, however, to avoid complications this application is filed along with the appeal.

It is, therefore, prayed that the delay, if any, in filing the instant appeal may kindly be condoned and the appeal may be decided on merits.

Appellant/Applicant
Sajjad Ahmad

Through

Aimal Khan Barkandi

&

Dara Khan Barkandi
Advocates, Peshawar

AFFIDAVIT

I do hereby affirm on oath that the paras No. 1 to 8 of the **application** have been drafted as per my instructions which are true and correct to the best of my knowledge & belief, and nothing material has been concealed.

Deponent
15701-3856771-7

Khalid Mehmood Advocate
Attested
Oath Commissioner
Peshawar High Court

24/04 2018 13:34

annex "A"

(7)

Office of the Superintendent of Police at Timergara
Diary No. 3707 Dated 25-4-018

OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND
AT SAIDU SHARIF SWAT.
Ph: 0946-9240381-83 & Fax No. 0946-9240390
Email: digmalakand@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 Fath-Ur-Rehman No. 1192	Chitral	27/04/2016
2.	Ex-Constable Sayed Arif Shah No. 473	Dir Lower	07/11/2009
3.	Ex-Constable Muhammad Naeem No. 1532	Dir Lower	30/04/2013
4.	Ex-Constable Zahidullah No. 1106	Dir Lower	06/02/2008
5.	Ex-Constable Saleh Muhammad No. 1713	Dir Lower	18/12/2014
6.	Ex-Constable Sajjad Ahmad No. 790	Dir Upper	17/12/2009
7.	Ex-Constable Naveed Ali No. 2761	Swat	06/07/2017
8.	Ex-SPO Imran Ullah No. 524/SPF	Buner	21/12/2012

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

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

No. 4008-12 /E,
Dated 24-04- /2018.

Copy to all District Police Officers, in Malakand Region except District Police Officer, Shangla for information and necessary action. The applicants of your respective District may be informed accordingly please.

****

OASI
Inform them

True Copy

District Police Officer,
Dir Lower at Timergara

(1)

annex "B" (8)

ORDER

Constable Sajjad Ahmad No.790, while posted in Police Lines Dir absented himself with effect from 31.7.2009 till to date without any leave or prior permission from the high ups. which is gross misconduct and against the discipline of the force.

He was served with Charge Sheet and Summary of allegation vide this Office Endst: No.3148/EC, Dated. 7.9.2009. An enquiry committee comprising Mr. Khan Zarin Khan DSP Wari and Mr. Abdur Rehman Khan SHO PS: Gandigar was constituted to enquire into the matter. However the defaulter Constable did not appear before the said committee for recording his statement. The committee in its finding report stated that the defaulter Constable is not present in his home and gone to Saudi Arabia for labor. The enquiry committee also stated that he is not fit for the Police force and recommended him for major punishment.

Keeping in view the above facts defaulter Constable Sajjad Ahmad No.790 he is hereby Dismissed form service under section 3 (a) (b) of the NWFP removal from Service (Special Power) Ordinance 2000, with effect from the date of his absence. The Kit/other uniform articles shall immediately be deposited from him in the District Godown

Order announced.

District Police Officer,
Dir Upper

OB ___
Dt: 17-12 /2009.

Free Copy

annex "C" (9)

CHARGE SHEET.

I, Ijaz Ahmad District Police Officer, Dir Upper. As competent authority, hereby charged You Constable Sajad Ahmad No.790 as follows:-

> **You Constable Sajad Ahmad No. 790 while posted at Sambu Guard absented yourself with effect from 29.4.2009 till to date, without any leave or prior permission of the high-ups. Your are not taking interest in your legitimate duty. You're this act amounts to gross misconduct and against the discipline of the force.**

2. By reason 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 the penalties specified in Section-3 of the Ordinance ibid.

3. You are therefore, directed to submit your written defence within 07 days of the receipt of this charge sheet to the enquiry officer/committee.

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

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

6. Statement of allegations is enclosed.

(IJAZ AHMAD)
District Police Officer,
Dir Upper.

No. 1818 /EC, Dated Dir Upper the 27/5 /2009.

Constable Sajad Ahmad No. 790 to submit your reply to the enquiry committee within stipulated period.

True copy

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DISCIPLINARY ACTION.

I, Ijaz Ahmad District Police Officer, Dir Upper. As competent authority, am of the opinion that Constable Sajad Ahmad No. 790 has rendered himself liable to be proceeded under Section 3 of the NWFP Removal From Service (Special Powers) Ordinance 2000.

STATEMENT OF ALLEGATIONS.

Constable Sajad Ahmad No. 790 while posted at Sambu Guard absented from his law full duty with effect from 29.4.2009 till to date, without any leave or prior permission of the high-ups, His this act amounts to gross misconduct and against the discipline of the force.

2. For the purpose of scrutinizing the conduct o the said accused with reference to the above allegations, an enquiry committee consisting of the following is constituted under section 5 of the said ordinance.

1. Mr. Khan Zarin Khan DSP Wari.
2. Mr. Niaz Muhammad Khan SHO Wari.

3. The enquiry committee shall in accordance with the provisions of the ordinance, provide reasonable opportunity of hearing to the accused official, record its findings and make within 20 days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused official shall join the proceedings on the date time and place fixed by the enquiry committee.

(IJAZ AHMAD)
District Police Officer,
Dir Upper.

No. 1819-21 /EC, Dated Dir Upper the 27/5 /2009.

Copy to:-

1. Mr. Khan Zarin Khan DSP Wari.
2. Mr. Niaz Muhammad Khan SHO PS: Wari.
3. Constable Sajad Ahmad No. 790 to submit your reply to the enquiry committee within stipulated period.

True Copy

(11)

بیان از ان کنسٹبل سجاد احمد 790 پولیس لائن دیر بالا۔

نے بدریافت بیان کیا۔ کہ میں مورخہ 27/7/09 کو تھانہ پولیس دیر بالا
تھری ہوکر پولیس لائن تھانات تھا۔ کہ مورخہ 29/7/09 کو بازار دیر میں
ریسٹ دار ملاقی ہوکر بتلایا۔ کہ آپ کا والدہ صاحبہ شدید بیماری میں مبتلا
ہے۔ اور اسکی تیمارداری کیلئے آپ کا گھر جانا نہایت ضروری ہے۔ اس
وجہ پر میں بغیر اجازت کے گھر جا کر جو میرے خلاف مورخہ 29/7/09
کو روزنامچہ پولیس لائن میں رپورٹ غیر حاضری درج ہوئی تھی۔ گھر جا کر معلوم ہوا کہ والدہ صاحبہ معمولی بیمار تھی۔ لیکن اسی نے بتلا کر روز
روز طالبان پولیس پر حملے کر رہے ہے۔ اور حالات نہایت خراب ہے۔ آپ
پولیس کی نوکری چھوڑ دیں۔ اسی وجہ سے میں غیر حاضر ہوکر گھر
میں نے والدہ آپ کو راضی کرکے کہ موت اور زندگی اللہ تعالیٰ کے ہاں ہے۔
تو پھر اسی نے مجھے نوکری کرنے کی اجازت دے دی۔ مورخہ 18/6/09 کو میں
نے پولیس لائن میں حاضری کی ہے۔ جو اپنی نوکری دوران بلا کوتاہی و
خرابی کرنا چاہتا ہوں۔ اسی بار معافی دی جاوے۔ آئندہ کیلئے
محتاط رہوں گا یہی میرا بیان ہے جو کہ درست ہے۔

الراقم
سجاد احمد
کنسٹبل سجاد احمد 790 پولیس لائن

True Copy

Attested.

Sd/- Wari
18-6-09.

(12)

No. 128/DSP/hq
20.6.09

ضلع دیر

فائنڈنگ رپورٹ

دفتر DSP

جناب عالی

بحوالہ ضمولہ انکوائری کاغذات جو خلاف کانسٹیبل سجاد نمبر 790 متعینہ پولیس لائن دیر دوران ڈیوٹی ہوئے۔ کہ کانسٹیبل مذکورہ مورخہ 29/4/09 کو پولیس لائن دیر بالا سے غیر حاضر ہوکر چلے خلاف جناب DPO صاحب دیر بالا نے تنخواہ بند کرنے اور محکمانہ انکوائری شروع کرنیکا حکم صادر فرما کر راقم DSP، SHO واڑی کو مارک کی۔

سلسلہ انکوائری جاری رکھتے ہوئے مذکورہ کو بذریعہ SHO تھانہ گندیگار بغرض انکوائری طلب آنے غیر حاضری کے متعلق کوئی معقول وجہ پیش نہ کرسکا۔ بلکہ والدین کے اصرار پر غیر حاضر ہونا بیان کیا۔ آنے والدین کو اپنی غیر حاضری کرکے مورخہ 18/5/09 کو پولیس لائن دیر بالا میں حاضری دی گئی۔ مذکورہ آئندہ لغایت غیر حاضری ہر پوری طرح نادم اور پشیمان ہے۔ آئندہ وعدہ کیا کہ آئندہ بجائے آئی ڈیوٹی نوکری مستعدی، ایمانداری سے کرونگا۔ چونکہ مذکورہ سال 2007ء بھرتی شدہ ہے۔ آور نوکری کی میعاد لگ بگ 2 سال بنتا ہے۔ لہذا موجودہ حالات کو مدنظر رکھتے ہوئے مذکورہ کی عرصہ غیر حاضری بلا تنخواہ آور نوکری برقرار رکھنے کے احکامات صادر فرماویں۔ جملہ کاغذات انکوائری بغرض منظوری حکم احکام واپسی ارسال خدمت ہے۔

SOPolwani
20-6-09

SHOlwani
20.6.09

ORDER
Period of absence w.e.f 29-4-2009 to 18-6-2009 is treated as leave of kind due & without pay sanctioned

DPO Dir Upper

(OBNO-397
dt: 29-6-09)

True Copy

(13)

Through annex "D"

To,

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

Subject: **APPLICATION FOR RE-INSTATEMENT INTO SERVICE**

Respected Sir,

It is submitted that:-

1. The applicant is belongs to village Usherai, Police Station Gandigar, district Dir Upper.
2. The applicant serving in Police Department as a Constable since 27/07/2007 qualifie basic Recruit Training Course.
3. The applicant remained posted in heavy and sensitive stations of the district.
4. The applicant unfortunately faced the last insurgency and several verbal threats o killing were received by him from militants.
5. The applicant likes other colleagues / Constables deserted from the service to sav him-self from the cruelty of the militants and proceeded abroad for earning livel hood.
6. Thus the applicant was proceeded against departmentally by the District Polic Officer, Dir Upper and lastly dismissed from service vide his office order date 12/12/2009 without completing legal and codal formalities in this regard.
7. After normalization of the situation in Malakand Division most the deserted dismissed applicant's colleagues Constables were re-instated in service in the light o directions of former IGP/ Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
8. The applicant is a young, sound healthy and wishes to serve in Police Department.
9. The applicant affected of the said insurgency period and liable of benefits o re-instatement in service like applicant colleagues reinstated in service in the past o the directions of the former IGP /Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.

Sir,

This is first application of the applicant for re-instatement into service.

Keeping in view of above, it is humbly requested that the applicant may very kindly be re-instated in service from the date of dismissal with all back benefits for which the applicant along-with aged parents and small kids shall ever pray for your long life and prosperity for your this act of kindness in the remaining life and obliged.

Yours Obediently,

True Copy

(SAJJAD AHMAD)
S/O Muhammad Zada
R/O Tor Patar, Usherai,
Police Station Gandidar,
District Upper Dir.
'D' 12/03/2018

(19)

annex "E"

ORDER

This order shall dispose of departmental appeal under rule 11 of Khyber Pakhtunkhwa Police Rules 1975, submitted by Ex-constable Sadiq-ur-Rehman No. 4881 of FRP Malakand Range, against the order of SP FRP Malakand Range, Swat, wherein he was removed from service.

Brief facts of the case are that Ex-constable Sadiq-ur-Rehman No. 4881 of FRP Malakand Range was enlisted as constable on 26.07.2007. Later on during the course of duty he was absented himself from duty with effect from 20.07.2008, till the date of his removal from service.

In this regard he was issued charge sheet and statement of allegations, but neither he report/arrival for duty, nor replied to charge sheet within stipulated period. Thereafter, on 08.11.2008 he was issued Urdo Parwan, but he failed to do so, therefore, the Enquiry Committee recommended him for major punishment of removal from service. Later on he was issued final show cause notice but his reply was not received within stipulated period.

In the light of recommendation of Enquiry Committee and other material available on record he was removed from service by the SP FRP Malakand Range, Swat, vide office OB No. 151, dated 14.11.2009.

After going through the available record it has pointed out that the appellant has neither participated with enquiry proceedings, nor provided opportunity of personal hearing.

The applicant has heard in person in orderly room held on 03.08.2017, during the course of hearing he contended that at those days the Swat valley was under control of miscreants/Taliban and were kidnapping, killing the Government employees, especially of Police department. He further stated that being a member of the Force (Police Department) he was received threat from Taliban, then he alongwith his family members were compulsively shifted to other safe place i.e Punjab Province. He further added that his removal from service order was not communicated to him. His plea was found plausible and satisfactory.

Keeping in view the above, vis-à-vis his unblemished service record also a trained soldier he (Ex-constable Sadiq-ur-Rehman No. 4881 of FRP Malakand Range) is hereby reinstated in service and the punishment of his removal from service is hereby modified and converted into major punishment of deduction in pay as timescale constable. The period of his absence from duty and the intervening period are considered as period in service but not on duty and he will not be entitled for salary of his absence and intervening period.

Order announced.

7.8.2017

Commandant,
Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar

No. 8914 /EC, dated Peshawar the 09/08/2017

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

True Copy

(15)

P-1

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. S/ 1656 /17, dated Peshawar the 15/3/2017

ORDER

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

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

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

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

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

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

No. S/ 1657-64 /17,

Copy of the above is forwarded to the:

1. Regional Police Officer, Malakand at Swat.
2. District Police Officer, Dir Lower.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.
8. Central Registry Cell, CPO.

True copy

(16)

ORDER

This order shall dispose of departmental appeal under rule 11 of Khyber Pakhtunkhwa Police Rules 1975, submitted by Ex-constable Taj Bhadar No. 4899 of FRP Malakand Range, against the order of SP FRP Malakand Range, Swat, wherein he was removed from service.

Brief facts of the case are that constable Taj Bhadar No. 4899 of FRP Malakand Range was enlisted as constable on 26.07.2007. He was absented himself from duty with effect from 01.04.2009, till the date of his removal from service.

In this regard he was issued charge sheet and statement of allegations, but neither he report/arrival for duty nor replied to charge sheet within stipulated period. Thereafter, on 28.04.2009 he was issued Urdo Parwan, but he failed to do so, therefore, the Enquiry Committee recommended him for major punishment of removal from service. Later on he was issued final show cause notice but his reply was not received within stipulated period.

In the light of recommendation of Enquiry Committee and material available on record he was removed from service by the SP FRP Malakand Range, Swat, vide office OB No. 294, dated 21.02.2009.

After going through the available record it has pointed out that during the course of enquiry the applicant has neither participated with enquiry proceedings nor provided opportunity of personal hearing.

The applicant was heard in person in orderly room held on 03.08.2017, during the course of hearing he contended that at those days the Swat valley was under control of miscreants/Taliban and were kidnapping, killing the Government employees, especially of Police department. He further stated that being a member of the Force (Police Department) he was received threat from Taliban, then he alongwith his family members were compulsively shifted to other safe place i.e Karachi. He further added that his removal from service order was not communicated to him. His plea was found plausible and satisfactory.

Keeping in view the above, vis-à-vis his unblemished service record, also a trained soldier he (Ex-constable Taj Bhadar No. 4899 of FRP Malakand Range) is hereby reinstated in service and the punishment of his removal from service is hereby modified and converted into major punishment of deduction in pay as timescale constable. The period of his absence from duty and the intervening period are considered as period in service but not on duty and he will not be entitled for salary of his absence and intervening period.

Order announced.

Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar

No. 5913 /EC, dated Peshawar the 9 / 08/2017

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

True copy

(17) annex "F"

To The worthy District Police Officer,

Dir Upper

Subject: REQUEST FOR PROVISION OF ATTESTED PHOTO COPY OF ORDER IF ISSUED BY THE OFFICE OF REGIONAL POLICE OFFICER, MALAKAND AT SAIDU SHARAIF, SWAT ON THE APPLICATION OF THE APPLICANT

Respected Sir,

It is submitted that:-

1. The applicant was serving as a Constable in district Dir Upper was dismissed from service vide OB No.648, dated 12/12/2009.
2. The applicant submitted application dated 12/03/2018 to the worthy Regional Police Officer, Malakand at Saidu Sharif, Swat / Appellate authority for re-instatement into service.
3. The applicant has not yet been informed as to whether application of the applicant has been accepted by the appellate authority/ Regional Police Officer, Malakand at Saidu Sharif, Swat for re-instatement into service or otherwise.
4. The applicant is in need of an attested photo copy of the order if issued in this regard for filing service appeal in the concerned court.

It is, therefore, humbly requested that an attested copy of the order if passed by worthy Regional Police Officer, Malakand at Saidu Sharif, Swat on the application of the applicant may very kindly be provided to the applicant for the mentioned purpose.

Your's Obediently,

Dated 02/07/2018.

Sad

(SAJJAD AHMAD)
Ex-Constable No.790
District Dir Upper Police
S/O Muhammad Zada r/o village
Tar Patar, PS Gandigar,
District Upper Dir.

For court case

(18)

حکومت پاکستان

قومی شناختی کارڈ

15701-3856771-7

نام : سجاد احمد

جنس : مرد

والد کا نام : محمد زادہ

شناختی علامت : کوئی نہیں

تاریخ پیدائش : 10/04/1988

عثمان یوسف خیل

دستخط رجسٹرار جنرل

دستخط حامل کارڈ

شناختی نمبر : 15701-3856771-7 خاندان نمبر : SL2K0J

موجودہ پتہ : محلہ چم، تارستار، تحصیل دیر، ضلع اپر دیر

مستقل پتہ : ایضاً

تاریخ اجراء : 11/04/2018 تاریخ تنسیخ : 11/04/2028

گمشدہ کارڈ ملنے پر قریبی لیٹر بکس میں ڈال دیں

19

بعدالت سروس ٹریبونل خیبر پختونخوا، پشاور

سروس اپیل نمبر 1354/2018

29 اکتوبر 2018ء منجانب سجاد احمد ولد محمد زادہ، سکنہ محلہ جم، تار پشار، عشیری درہ، دیربالا۔

(اپیلانٹ)

مورخہ 29-10-18

مقدمہ سجاد احمد بنام انسپکٹر جنرل پولیس خیبر پختونخوا وغیرہ

دعویٰ سروس اپیل

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب دہی وکل کاروائی متعلقہ آن مقام پشاور کیلئے ایمل خان بارکنڈی و دارا خان بارکنڈی ایڈوکیٹ کو اپنے وکلاء مقرر کرکے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے وتقرر ثالث وفیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک وروپیہ ارعرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برامدگی اور منسوخی نیز دائر کرنے اپیل نگرانی ونظرثانی وپیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہرجانہ التوائے مقدمہ کے سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سند رہے۔

المرقوم 29 ماہ اکتوبر 2018ء

العبد گواہ العبد

(15701-3556771-7) سجاد احمد

بمقام پشاور کے لئے منظور ہے۔

Accepted by
AIMAL BARKANDI
Advocate
(Aimal Khan Barikandi Adv. Pesh) 29/10/18

Accepted by
Dara Khan Barkandi (Advocate)