

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1367/2018

Date of Institution ... 05.11.2018

Date of Decision ... 11.11.2019

Abdur Rehman S/O Usman Shah R/O Baldho Samar Bagh, Constable Belt No. 4730. ... (Appellant)

VERSUS

SP Headquarter Peshawar and two other. ... (Respondents)

MR. KIFAYAT ULLAH SHAHAB KHEL,
Advocate

--- For appellant.

MR. KABIRULLAH KHATTAK,
Additional Advocate General

--- For respondents

MR. AHMAD HASSAN

MEMBER(Executive)

MR. MUHAMMAD AMIN KHAN KUNDI

MEMBER(Judicial)

JUDGMENT:

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the parties heard and record perused.

ARGUMENTS:

02. Learned counsel for the appellant argued that he was enlisted as Constable (BPS-07) in the Police Department on 19.07.2007 and his performance remained satisfactory. Due to heart ailment, the appellant was advised complete bed rest by the physician. Due to these compelling reasons, he was unable to perform duty. On the other hand on the allegations of absence from duty disciplinary proceedings were conducted under Police Rules 1975 and thereafter major penalty of dismissal from service was awarded to him vide impugned order dated 03.01.2018. Learned counsel for the appellant further argued that two separates enquiries were ordered

against the appellant and respondents nominated two different enquiry officers. The rules demanded that upon winding up separate orders should have been passed on these enquiries. However, the respondents awarded major penalty to the appellant through the impugned order referred to above. He filed departmental appeal on 01.08.2018, which was dismissed on 15.10.2018, hence, the present service appeal. Action against the appellant was not backed by law and rules and the respondents failed to observe various formalities contained therein. Reliance was placed on case law reported as 2011 PLC (CS) 1111, 2018 PLC (CS) 93, 2008 PLC (C.S) 2011, 2007 SCMR 73, 1991 SCMR 640, 1995 SCMR 950, PLD 2000 Supreme Court 502, 2011 PLC (C.S) 808, 2006 SCMR 1018, 2008 SCMR 214.

03. Learned Additional Advocate General in rebuttal at the very outset raised objection on the maintainability of the present service appeal. Departmental appeal filed by the appellant was barred by time. Therefore, the present service appeal was not maintainable. He stated that on account of willful absence from duty disciplinary proceedings were initiated against the appellant. As a member of disciplined force, even on account of illness, he should have got leave/permission from the competent authority. He also stated at the bar that two separate enquiries were conducted against the appellant and major penalty of dismissal from service was imposed on him through impugned order dated 03.01.2018. Action was taken against the appellant after observance of all codal formalities.

CONCLUSION:

04. According to the record submitted by the respondents, the appellant absented himself from duty w.e.f. 14.02.2017 till the issuance of charge sheet on 09.03.2017 and SDPO Cantt: Peshawar was nominated as enquiry officer. The enquiry officer

in his report dated 15.12.2017 opined that as the appellant failed to join the proceedings, therefore, ex-parte action was initiated against him. He further recommended punishment after issuance of show cause notice.

05. Similarly another charge sheet issued by respondents vide endorsement dated 15.05.2017 showed that he remained absent w.e.f 21.11.2016 to 27.01.2017 (two months and six days). To probe the matter SDPO, Chamkani was nominated as enquiry officer. The enquiry officer in his report dated 28.12.2017 proposed to treat the period of his absence as leave without pay. Thereafter, the respondents served final show cause notice dated 19.12.2017 on the appellant. This show cause notice was vague, evasive, ambiguous and not on the proper format. It did not divulge relevant details and was also silent on the crucial point of enquiry which was made basis for issuance of the above show cause notice. Moreover, copy of enquiry report conducted against the appellant was not annexed with the show cause notice. This illegality alone on the strength of countless judgments of the superior courts followed by this Tribunal was sufficient to vitiate the entire disciplinary proceedings. We would again like to emphasize and sensitize the respondents that by not serving the show cause notice on its proper format and non-provision of enquiry report snatched the right of offering proper defense from the appellant and as such he was condemned unheard. Due to these serious inherent flaws/deficiencies and illegalities, it could not be termed as regular enquiry. Only through regular enquiry opportunity of fair trial could be extended to the appellant (2008 SCMR 1369). Even, in some of the judgments such orders were declared as void. It goes against the dictates of Article-4 and 10-A of the Constitution of 1973.

06. This Tribunal deems it appropriate to draw attention of the respondents to Rule-5 of Police Rules 1975 and is reproduced below for ready reference:-

“On receipt of the findings of the Inquiry Officer or where no such officer is appointed, on receipt of the explanation of the accused, if any, the authority shall determine whether the charge has been proved or not. In case the charge is proved the authority shall award one or more of major punishments as deemed necessary”.

07. On the strength of above rule, it was incumbent upon the respondents to have passed separate orders on each enquiry conducted against the appellant. Through impugned order dated 03.01.2018 the appellant was awarded major punishment of dismissal from service for the period, he remained absent i.e from 21.11.2016 to 27.01.2017 (two months and six days) and 14.02.2017 till date (10 months and 17 days) total 12 months and 23 days. Mandatory provisions of rules were flouted without any cogent reason/justification. At this juncture attention of learned Assistant Advocate General was drawn towards the illegality/irregularity committed by the respondents but he was unable to give any satisfactory response.

08. The appellant has more than ten years service and it would be against the principles of natural justice to non-suit him on mere technicalities and that too when the respondents were not able to defend their case on merit. It would also be unjust to adopt different standards for the appellant and respondents. Both of them will have to be treated on equal footings. To address the shortcomings, meet the ends of justice and to provide opportunity of fair trial to the appellant de-novo enquiry be conducted in the matter.

09. As a sequel to the above, the appeal is ^{is} ~~appeals~~ accepted, impugned orders dated 03.01.2018 and 15.01.2018 are set aside and the appellant is reinstated in to

service. The respondents are directed to conduct de-novo enquiry within a period of ninety days after the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of the de-novo proceedings. Parties are left to bear their own costs. File be consigned to the record room.



(AHMAD HASSAN)
Member


(MUHAMMAD AMIN KHAN KUNDI)
Member

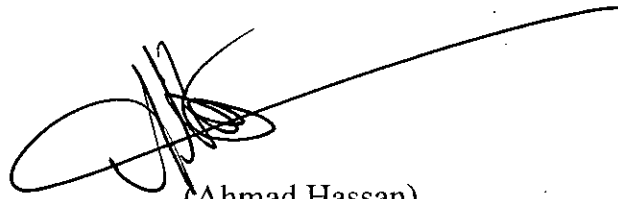
ANNOUNCED
11.11.2019

Order

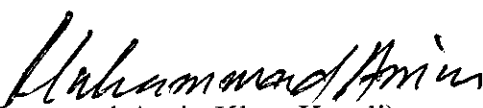
11.11.2019 Counsel for the appellant present. Addl: AG alongwith Mr. M. Raziq, H.C for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today of this Tribunal placed on file, the appeal is appeal is accepted, impugned orders dated 03.01.2018 and 15.01.2018 are set aside and the appellant is reinstated in to service. The respondents are directed to conduct de-novo enquiry within a period of ninety days after the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of the de-novo proceedings. Parties are left to bear their own cost. File be consigned to the record room.

Announced:
11.11.2019




(Ahmad Hassan)
Member



(Muhammad Amin Khan Kundi)
Member

09.07.2019


Junior to counsel for the appellant and Mr. Riaz Paindakheil learned Assistant Advocate General alongwith Muhammad Raziq H.C present. Junior to counsel for the appellant submitted application for adjournment. Application allowed. Adjourn. To come up for arguments on 05.09.2019 before D.B.



Member


Member

05.09.2019

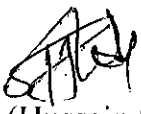
Learned counsel for the appellant and Mr. Riaz Khan Paindakheil learned Assistant Advocate General for the respondents present. Arguments heard. To come up for order on 11.09.2019 before D.B.



(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

11.09.2019

Appellant with counsel present. Mr. Zia Ullah learned DDA for the respondents present. Some points need further consideration. Adjourned. To come up for re-arguments on 11.11.2019 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

21.01.2019 Clerk to counsel for the appellant present. Written reply not received. No one present on behalf of respondent department. Notice be issued to the respondent department with direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 05.03.2019 before S.B


Member


05.03.2019 Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Written reply on behalf of respondents not submitted. Learned Additional AG requested for further adjournment. Adjourned to 28.03.2019 for written reply/comments before S.B.



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

28.03.2019 Appellant in person present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Raziq, Head Constable for the respondents present and submitted written reply. Adjourned to 16.05.2019 for rejoinder and arguments before D.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

16.05.2019 Appellant with counsel and Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Raziq, H.C for respondents present. Rejoinder on behalf of the appellant submitted which is placed on file. Case to come up for arguments on 09.07.2019 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

30.11.2018

Learned counsel for the appellant present. preliminary arguments heard.

The appellant (Ex-Constable) has filed the present service appeal against the order dated 03.01.2018 whereby he was dismissed from service on the ground of absence from duty. The appellant has also challenged the order dated 15.10.2018 through which his departmental appeal was dismissed/rejected.

Learned counsel for the appellant argued inter-alia that the impugned orders are against law, facts and norms of natural justice and that the appellant has not been treated in accordance with law. Further argued that the appellant could not attend to his duties due to severe illness and that the punishment awarded to the appellant is extremely harsh.

Points raised need consideration. It appeared that the appellant has submitted departmental appeal beyond the period of thirty (30) days. In the interest of justice, the appeal is admitted for regular hearing subject to all legal objections including the issue of limitation and maintainability. The appellant is directed to deposit security and process fee within 10 days, thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 21.01.2019 before S.B

Appellant Deposited
Security & Process Fee

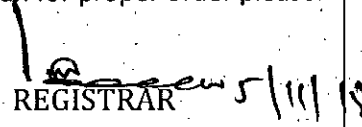



Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1367/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	05/11/2018	<p style="text-align: center;">The appeal of Mr. Abdur Rehman presented today by Mr. Kifayatullah Shahab Khel 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 5/11/18</p>
2-	17-11-2018	<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>30-11-18</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE HONORABLE SERVICE TRIBUNAL KPK PESHAWAR

Abdur Rehman S/o Syed Usman Shah R/o Baldho Samar Bagh, Constable Belt

No 4730.

Appeal No. 1367/2018

(Appellant)

VERSUS

1. SP Headquarter Peshawar
2. Capital City Police Peshawar
3. ASP Chamkani

(Respondents)

INDEX

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4.	Disciplinary Action by SP Peshawar	B	7
5.	Copy of the Order of the SP Peshawar dated 3-1-2018	C	8
6.	Inquiry of ASP Chamkani	D	9
7.	Copy of Departmental Appeal	E	10
8.	Copy of the Order of the CPO Peshawar	F	11
9.	Copies of Prescriptions HMC	G	12-19
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Appellant

Through



Date: 01-11-2018

Kifayat Ullah Shahab Khel
Advocate High Court Peshawar

OFFICE ADDRESS

Office No 4 Floor No 6 bilour Plaza Peshawar Cantt
Mobile No: 0300-5844181

①

BEFORE THE HONORABLE SERVICE TRIBUNAL KPK PESHAWAR

Appeal No. 1367/2018

Abdur Rehman S/o Syed Usman Shah R/o Baldho Samar Bagh, Constable Belt

No 4730.

(Appellant)

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1602

Dated 05/11/2018

VERSUS

1. SP Headquarter Peshawar
2. Capital City Police Peshawar
3. ASP Chamkani Pesh.

(Respondent)

Appeal under section 4 of the services Tribunal act 1974 against the impugned order dated 3-1-2018 passed by respondent no-1. whereby the appellant was dismissed from services and against the order dated 15-10-2018 of Respondent no-2 whereby the appeal of the appellant was dismissed for reinstatement on services and back benefits

P R A Y E R:-

On acceptance of this Appeal the order of Respondent 1 & 2 may kindly be set-aside and the appellant may kindly be reinstated on service with back benefits.

Respectfully Sheweth: -

Filed to-day

Registrar

05/11/18

- 1) That the Appellant was enlisted as constable in BPS- 7 on 19-7-2007 as a constable (Copy of enlistment order dated 19-7-2007 as Annexed "A").
- 2) That the appellant was served in different Police station in Peshawar in which he show a very good performance.

- 3) *That the appellant was very high command on computer therefore the High ups posted him counter kidnapping cell (CKC) Police line Peshawar and conducting very successful cases through forensic cellular.*
- 4) *That the Appellant was transferred to police lines Peshawar where he was deputed by SDPO Najmal Hassan Saqib at his office to assist the investigating officer in criminal cases.*
- 5) *That the appellant work therefore 4 months and then transfer to Kohistan and in the meanwhile he got heart disease and was diagnosed with High blood pressure Cholesterol and irregular heart beat, which was examine by the authorize Doctor in HMC where Doctor advise for complete bed rest. (Copies of Prescription are annexed)*
- 6) *That the appellant also convey his message to Police line Kohistan regarding his sickners.*
- 7) *That the SP HQRS on its own conducted inquiry against the Appellant and even the Appellant was not informed nor any show cause notice was issued/convey to the Appellant to Explain his possession and was dismissed from service. (Copy Attached).*
- 8) *That the appellant aggrieved from the order of respondent No-1 filed an appeal to the respondent No-2 for reinstate and back benefit but the respondent No-2 also up held the order of respondent No. 1 (Copy of order is attached).*
- 9) *That being aggrieved from the order of Respondent No 2 filed the instant appeal on the following grounds interalia:-*

GROUNDS!

- A) That the impugned orders of respondent No 1 to 2 is against the law, facts, norms of natural Justice and material on record and being passed in utter valuation of law and rules hence liable to be set aside.
- B) That the appellant has not been treated by respondent department in accordance with law & rules while passing the impugned order.
- C) That No proper inquiry was conducted by respondent & department while passing the impugned dismissal order.
- D) That no charge sheet, no statement of allegations No final show cause notice where served upon the appellant by the respondents which is clear violation of mandatory provision of law and forwarding the major penalty.
- E) That the appellant was never associated with any inquiry proceeding all the proceedings were conducted at the back of the appellant which is violation of Article 10-A of the constitution of Pakistan .
- F) That the appellant is neither criminal nor involved in any corruption, or misappropriation, embezzlement or other Anti Social Activities.
- G) That a harsh penalty was awarded to the appellant.
- H) That the appellant has never been provided an opportunity of personal hearing.

(4)

- I) That the appellant has served the respondent department for almost 10 years.
- J) That the respondents acted in arbitrary manner while passing the impugned dismissal.
- K) That the mandatory provision of law have not been fulfilled by respondent.
- L) That the other grounds will be argued at the time of arguments with the permission of this Honourable Court.


Appellant

Through



Date: 05-11-2018

**Kifayat Ullah Shahab Khel
Advocate High Court Peshawar**

OFFICE ADDRESS

Office No 4 Floor No 6 bilour Plaza Peshawar Cantt

Mobile No: 0300-5844181

5

AFFIDAVIT

I, Abdur Rehman S/o Syed Usman Shah R/o Baldho Samar Bagh Constable Belt No 4730, do hereby solemnly affirm and declare on oath that the contents of the appeal is true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Court.

ATTESTED



A handwritten signature of the deponent, appearing to be "Abdur Rehman".

DEPONENT

371014058880 1

Home Address	Date of Enlist:	Entries				Charges	E Os Name/ Recom:	Punishment	Plea of the applicant	Remarks/ Opinion of DSP/Legal	Order by the CCPO
		Good	Bad	Min	Ma						
Wadpaga Chamkani Peshawar	19.07.2007	Nil	Nil	Nil	Nil	He while posted at Police Lines Peshawar absented himself from his lawful duty w.e.f 21.11.2016 to 27.01.2017 (02 months & 06 days) and 14.02.2017 to till his dismissal i.e 03.01.2018. (10 months & 17 days) Total Absence 12 months and 23 days.	Mr. Khan Zeb ASP/Chamkani Censur & MR. Kamal Hussain DSP/Cantt:	Dismissed from service. (PR 1975) By SP/HQr: (Waseem Ahmad Khalil)	* Request to set-aside the punishment	*Perusal of record reveals that the Punishment order passed by the competent authority is in accordance with law.	
Total Qlty service											
09 years, 05 months & 17 days											
D.O.B											
30.07.1986											
Educ:											
10 th											
Courses											
Recruit											
						Bad:-	Minor:	Major:			
						Nil	Nil	Nil			

Why was he shunted out of the district? Any idea?

SSP/ops

Capital City Police Office
 Peshawar

(Signature)
 Kifayatullah Khan
 Advocate High Court Peshawar.

Ameel Durrani
 signed

(Signature)
 Kifayatullah Khan
 Advocate High Court Peshawar.



AMX-B

DISCIPLINARY ACTION

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, am of the opinion that Constable Abdur Rahman No.4730 has rendered him-self liable to be proceeded against under the provision of Police Disciplinary Rules-1975

STATEMENT OF ALLEGATION

"That Constable Abdur Rahman No.4730 while posted at Police Lines, Peshawar absented himself from duty w.e.f 21.11.2016 to 27.01.2017 (02-months & 06-days) without taking permission or leave. This amounts to gross misconduct on his part and is against the discipline of the force."

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

2. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused officer, record his finding within 30 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

3. The accused shall join the proceeding on the date time and place fixed by the Enquiry Officer.

[Signature]
SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR

No. 128 /E/PA, dated Peshawar the 15/05 /2017

1. SDPO Chamkani is directed to finalize the aforementioned departmental proceeding within stipulated period under the provision of Police Rules-1975.

2. Official concerned

[Signature]
Kifayatullah Khan
Shahab Khel
Advocate High Court Peshawar.

128-a
17
74-a
17

ORDER

This office order relates to the disposal of formal departmental enquiry against Constable Abdur Rahman No.4730 of Capital City Police Peshawar on the allegations that he while posted at Police Lines, Peshawar absented himself on the following period without taking permission or leave.

S#	From	To	Total
01	21.11.2016	27.01.2017	02-months & 06-days
02	14.02.2017	Till date	10-months & 17-days
Total			12-months & 23-days

In this regard, he was issued charge sheet & summary of allegations. Two separate enquiries were initiated & conducted by SDPO Chamkani & SDPO Cantt.

SDPO Chamkani conducted the enquiry proceedings in the 1st absence period & submitted his report that the defaulter official taken the plea of his illness but failed to produce any medical prescriptions. The E.O further recommended that his period of absence may be treated as leave without pay vide Enquiry Report No.25/St dated 28.12.2017.

SDPO Cantt conducted the enquiry proceedings in 2nd absence period & submitted his report that the defaulter official did not attend the enquiry proceedings. The E.O further stated that he has been transferred to District Kohistan but he failed to report arrival as yet as per intimation of DPO Kohistan and recommended him for taking ex-parte decision against the defaulter official after issuing of final show cause notice vide Enquiry Report No.712/E/S dated 15.12.2017.

Upon the finding of E.O, he was issued final show cause notice & delivered him on home address through local Police PS Chamkani but he failed to receive the said notice or appear before this office as yet.

In the light of recommendations of E.O & other material available on record, the undersigned came to conclusion that the alleged official is not interested in his job and found unwilling worker. Therefore, he is hereby dismissed from service under Police & Disciplinary Rules-1975 with immediate effect. Hence, the period he remained absent from 21.11.2016 to 27.01.2017 & 14.02.2017 till date is treated without pay.

KJP
Shahin
Advocate

Enil 54

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

OB. NO. 55 / Dated 3/1/2018 3.1.2018

No. 11-17 /PA/SP/dated Peshawar the 3/1/2018

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

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

[Handwritten signature]
3/1/2018

TO : THE SP HQs, PESHAWAR
FROM: THE SDPO CHAMKANI, PESHAWAR
NO. 25 /ST, DATED 28-12/2017

SUBJECT: ABDUR UR RAHMAN NO 4730 POLICE LINE PESHAWAR

MEMO:

Please refer to your office diary No. 128/PA, dated: 15.05.2017 on the subject cited above.

ALLEGATIONS:

According to the statement of allegations, Constable Abdur ur Rahman No 4730 while posted at Police Line Peshawar remained absent from his lawful duty with effect from 21/11/2016 to 27/01/2017 (02 month and 06 days) without leave or permission.

PROCEEDINGS:


The alleged official was summoned to join the enquiry proceedings who appeared before the undersigned, heard in person and his statement was recorded.

FINDINGS:

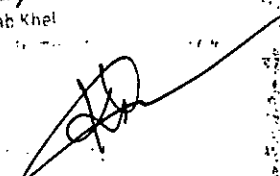
The alleged constable stated that he was ill. In this regard, he filed produced medical record.

RECOMMENDATION:

Keeping in view the above, it is recommended that his absence period may be treated as leave without pay and award him punishment of censure.


(KHAN ZEB) PSP
A.S.P. Chamkani Sub Division
Peshawar

Xifayatullah Khan
Shahab Khel



14.0

40

10 Annexet - E

BEFORE THE CAPITAL CITY POLICE OFFICER, PESHAWAR

DEPARTMENTAL APPEAL:

Dy: No.	56	PA-CCPO
Dt:	21/7/2018	
Encl:		

No 301-6
1-8-2018

Respectfully shewith;

Applicant got dismissed from service vide order No. 55 dated 03.01.2018 by the SP HQrs, Peshawar:, Following submissions are made in self-defense;

- I. Applicant got inducted in Police Deptt: in year 2007, and after completing recruit training served in different police stations.
- II. As applicant was computer literate, therefore, I got posted in Counter Kidnapping Cell (CKC) Police Lines, Peshawar.
- III. Applicant remained part of many successful cases which were solely worked out through Cellular Forensic.
- IV. On 21.11.2016 applicant was transferred and posted to Police Lines.
- V. After being closed to Police Lines, SDPO Gahar Najm-ul-Hassan Saqib deputed the applicant at his office to assist the officer on criminal investigation vide order dated 17.01.2017.
- VI. Applicant remained deputed there for 04 months whereafter, I got transferred out of district to upper Kohistan dated 08.06.2018.
- VII. In the meanwhile, I got heart disease and was diagnosed with high blood pressure, cholesterol and irregular heart beat. I got myself checked from Hayatabad Medical Complex (HMC) on 02.01.2017 whereafter doctor advised me for complete bed rest.
- VIII. I conveyed my sickness to the upper Kohistan Police Line and continued my treatment from Hayatabad Medical Complex (Prescription annexed).
- IX. While I was under treatment, SP HQrs, on its own conducted an enquiry, for which I was never made part of and by taking ex-parte decision I was dismissed from service.
- X. It is pertinent to mention that applicant was transferred to upper Kohistan and I was not the strength of Police Lines, Peshawar, then how can I be dismissed from service by the SP HQrs. And applicant was dismissed from service through an ex-parte action without associating me with the enquiry proceedings.

Therefore, it is requested that the dismissal orders may be set-aside and I may kindly be re-instated to service.

Kif
Shah
Khan
Peshawar.

AMM

0332-0318548

1/2/2018

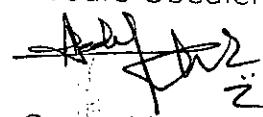
Fme

put up record

Dy. Supdt. Police

01/8/18

Yours Obediently,



Ex-Constable Abdur-Rehman
Belt No. 4730

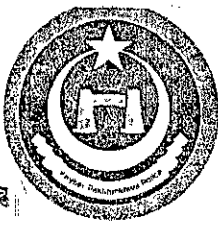
DSP/Legal

for comments pl.

hfy

PA

31/7/18



Amer F
**OFFICE OF THE
CAPITAL CITY POLICE OFFICER,
PESHAWAR**

Phone No. 091-9210989

Fax No. 091-9212597

ORDER.

This order will dispose off the departmental appeal preferred by Ex-Constable **Abdur Rehman No.4730** who was awarded the major punishment of "Dismissal from service" by SP/HQrs Peshawar vide OB No.55, dated 03-01-2018.

2- The allegations leveled against him were that he while posted at Police Lines Peshawar absented himself from his lawful duty w.e from 21-11-2016 to 27-01-2017 (02 months & 06 days) and from 14-02-2017 till his dismissal i.e 03-01-2018 (10 months & 17 days) for a total period of 12 months and 23 days.

3- He was issued proper charge sheet and summary of allegations by SP/HQrs Peshawar and SDPO Chamkani was appointed as enquiry officer for his first absence period. The enquiry officer in his findings submitted that the delinquent official has taken the plea of his illness but failed to produce any medical prescription etc to cover his absence. The delinquent official was recommended that period of absence may be treated as leave without pay. Similarly on account of his another absence, SDPO Cantt. was appointed as enquiry officer. The enquiry officer submitted in his findings that the accused official failed to attend the enquiry proceedings and further stated that he has already been transferred to District Kohistan in another allegations. On perusal of findings of both the enquiry officers, the competent authority issued him Final Show Cause Notice which was delivered to him on home address through local Police of PS Chamkani but he failed to receive the same and also ^{did} not appear before the competent authority, hence he was awarded the above major punishment by SP/HQrs Peshawar.

4- He was heard in person in O.R. The relevant record perused along with his explanation but he failed to submit any plausible explanation in support of his absence, therefore his appeal to set aside the major punishment awarded to him by SP/HQrs Peshawar vide OB No.55, dated 03-01-2018 is dismissed/rejected.

(Signature)
**(QAZI JAMIL UR REHMAN)PSP
CAPITAL CITY POLICE OFFICER,
PESHAWAR**

No. 1164-69 /PA dated Peshawar the 15/10/ 2018

Copies for information and n/a to the:-

1. SP-HQr, Peshawar.
2. BO/OASI/CRC for making necessary entry in his S.Roll.
- ✓ 3. FMC along with FM
4. Official concerned.

(Signature)
Jayacullah Khan
Bahab Khel
District High Court Peshawar

AA 202

Hayatatabad Medical Center

Phase-4 Hayatabad, Peshawar. Phone: 0-46. Fax: --
Email: info@hmckp.gov.pk, Website: hmckp.gov.pk

PARCHI_INVOICE

Peshawar

0-46. Fax: --
gov.pk
IC



Annex *AG*

CARDIO

OPD

Token# 86

Appointment Time : 11:50

M.R. No : K0100001199693

Name : ABDUL REHMAN

Gender : Male

Age : 31 Year(s)

Serial # : 311952

Invoice # : K01181280127

Father/Husband : SYED USMAN SHAH

Amount Paid : 20.00

Date : 08-MAR-18 11:30:13

History

*HTN
ECHO
PAPG*

Clinical Examination

BP: 180/100

Pulse 100

Provisional Diagnosis

Investigations

*HTN
ECHO
ECG
Cholesterol*

*1) Ascend 3mg
2) Metoprolol AM 100
3) Gmlone 20
4) Rulony 10mg*

[Signature]

12

A) inner

Hayatabad Medical Complex, Peshawar

Phase-4 Hayatabad, Peshawar. Phone: +92-91-9217140-46. Fax: --
Email: info@hmckp.gov.pk, Website: www.hmckp.gov.pk



PARCHI_INVOICE_OPD_HMC

CARDIOLOGY - OPD

Token# 86

Appointment Time : 10:30

M.R. No : K0100001199693

Name : ABDUL REHMAN

Gender : Male

Age : 31 Year(s)

Serial # : 310982

Invoice # : K01181280127

Father/Husband : SYED USMAN SHAH

Amount Paid : 20.00

Date : 18-MAY-17 10:10:13

History

chest pain

Clinical Examination

150/100

Provisional Diagnosis

Investigations

ECG
ECG

R.

job Ascard

Dr. ...

job - Voltage AM

107/60

job - Copd

Dr. ...

[Signature]



Hayatabad Medical Complex, Peshawar
 Hayatabad, Peshawar. Phone: +92-91-9217140-46. Fax: --
 Email: info@hmckp.gov.pk, Website: www.hmckp.gov.pk
PARCHI_INVOICE_OPD_HMC



CARDIOLOGY - OPD

Token# 86

Jointment Time : 11:30
 R. No : K0100001199693
 Name : ABDUL REHMAN
 Gender : Male
 Age : 31 Year(s)

Serial # : 311952
 Invoice # : K01181280127
 Father/Husband : SYED USMAN SHAH
 Amount Paid : 20.00
 Date : 11-DEC-17 10:50:13

History

*Supraventricular
 chest pain*

Clinical Examination

*BP 100/70 - Lab normal
 normal*

Provisional Diagnosis

Lab Normal

Investigations

*ECG
 Normal*

*ECG normal
 (normal) normal*

Syed Usman
 Hayatullah Khan
 Peshawar

[Signature]

19

Hayatabad Medical Complex, Peshawar

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Email: info@hmckp.gov.pk, Website: www.hmckp.gov.pk

PARCHI_INVOICE_OPD_HMC



CARDIOLOGY - OPD

Token# 86

Appointment Time : 09:50

Serial # : 340982

M.R. No : K0100001199693

Invoice # : K01181280127

Name : ABDUL REHMAN

Father/Husband : SYED USMAN SHAH

Gender : Male

Amount Paid : 20.00

Age : 31 Year(s)

Date : 02-JAN-17 09:30:13

History

- HTN
- P chest
- palpitation

Clinical Examination

BP 160/100
Pulse 90/hr
S clear

Provisional Diagnosis

Investigations

Adv of Ch
Lungs
Lipid Profile
Urea/Creat
U/S Abd men

- 1) Co-Tasmin 40/12-5-3
کے ساتھ - 12-5-3
- 2) Accord 75-5
کے ساتھ - 1
- 3) Concor 5mg
کے ساتھ - 1
- 4) Lipiget 20mg
کے ساتھ - 1

[Signature]
Associate High Court Peshawar.

16

Hayatabad Medical Complex, Peshawar

Phase-4 Hayatabad, Peshawar. Phone: +92-91-9217140-46. Fax: --
Email: info@hmckp.gov.pk, Website: www.hmckp.gov.pk

PARCHI_INVOICE_OPD_HMC



CARDIOLOGY - OPD

Token# 86

Appointment Time : 11:10	Serial # : 320952
M.R. No : K0100001199693	Invoice # : K01181280127
Name : ABDUL REHMAN	Father/Husband : SYED USMAN SHAH
Gender : Male	Amount Paid : 20.00
Age : 31 Year(s)	Date : 10-AUG-17 11:00:13

History

*HTN
Pulch
Pulch*

Clinical Examination

*BT
KST
Pulch
102*

Re

1) Aseard

2) Pulch

Provisional Diagnosis

3) Lipid

Investigations

*WBC
lipid
ch
EKG*

4) Pulch

5) Pulch

6) Pulch

7) Pulch

K. Fayal Khan

Specialist
Peshawar

17

18

24/1/12



HAYATABAD MEDICAL COMPLEX PGMI PESHAWAR CARDIOLOGY DEPARTMENT ECHOCARDIOGRAPHY

CRC

Name: ABDUL REHMAN Age: 31 Yrs Date: 11/12/2017
 Address: PESHAWAR Sex: Male Type: Paid

ADULT

#	PARAMETER	Dimension (cm)	Adult
1.	Left Ventricular Diameter (end diastole)	4.5	3.5-5.7
2.	Left Ventricular Diameter (end systole)	3.3	
3.	Right Ventricular Diameter	2.0	0.9-2.6
4.	Interventricular septal thickness (diastole)	1.3	0.6-1.1
5.	Left ventricular posterior wall thickness (diastole)	1.2	0.6-1.1
6.	Aortic root diameter	2.4	2.0-3.7
7.	Left atrial dimension	3.3	1.9-4.0
8.	Fractional shortening	32%	30-44%
9.	Ejection fraction	64%	
10.	Mitral valve area		cm ²
11.	VSD size		cm

DOPPLER

GRADIENT	Peak mmHg	Mean mmHg
Mitral valve		
Tricuspid Valve		
Aortic valve		
Pulmonary valve		
VSD gradient		
REGURGITATION		
Mitral valve		
Tricuspid valve		
Aortic valve		+1
Pulmonary Valve		
HAEMODYNAMICS (mmHg)		
RVSP		
Pulmonary artery		
Systemic BP		
Doppler Mitral valve area		cm ²

2D COMMENTS:

- > LA is normal in size.
- > LV is normal in size with preserved systolic function.
- > RV is normal in size with preserved function.
- > Aortic valve is thickened with normal opening.
- > IVS/PW are increased in thickness.
- > No definite ASD/VSD seen.
- > No LA or LV clot seen.

DOPPLER COMMENT:

- > AR documented.

CONCLUSION:

**MILD CONCENTRIC LVH, MILD AR
PRESERVED LV SYSTOLIC FUNCTION**

Dr. Khan

✓ OAS
✓ Offi

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02/11

18 | No. 1/13 | 34



HAYATABAD MEDICAL COMPLEX PGMI PESHAWAR CARDIOLOGY DEPARTMENT ECHOCARDIOGRAPHY

CRC

Name: ABDUL REHMAN Age: 31 Yrs Date: 02/01/2017
Address: PESHAWAR Sex: Male Type: Paid

ADULT				DOPPLER		
#	PARAMETER	Dimension (cm)	Adult	GRADIENT	Peak mmHg	Mean mmHg
1.	Left Ventricular Diameter (end diastole)	4.2	3.5-5.7	Mitral valve		
2.	Left Ventricular Diameter (end systole)	2.9		Tricuspid Valve		
3.	Right Ventricular Diameter	2.0	0.9-2.6	Aortic valve		
4.	Interventricular septal thickness (diastole)	1.3	0.6-1.1	Pulmonary valve		
5.	Left ventricular posterior wall thickness (diastole)	1.2	0.6-1.1	VSD gradient		
6.	Aortic root diameter	2.5	2.0-3.7	REGURGITATION		
7.	Left atrial dimension	3.2	1.9-4.0	Mitral valve		
8.	Fractional shortening	31%	30-44%	Tricuspid valve		
9.	Ejection fraction	62%		Aortic valve		+1
10.	Mitral valve area		cm ²	Pulmonary Valve		
11.	VSD size		cm	HAEMODYNAMICS (mmHg)		
				RVSP		
				Pulmonary artery		
				Systemic BP		
				Doppler, Mitral valve area		cm ²

2D COMMENTS:

- > LA is normal in size.
- > LV is normal in size with preserved systolic function.
- > RV is normal in size with preserved function.
- > Aortic valve is thickened with normal opening.
- > IVS/PW are increased in thickness.
- > No definite ASD/VSD seen.
- > No LA or LV clot seen.

DOPPLER COMMENT:

- > AR documented.

CONCLUSION:

**MILD CONCENTRIC LVH, MILD AR
PRESERVED LV SYSTOLIC FUNCTION**

Shanab Khan
Shanab Khan
Associate High Court Peshawar.

✓ OA:
✓ Offi

WS
BPA
02/1

HAYATABAD MEDICAL COMPLEX
Hayatabad, Peshawar.



PATHOLOGY DEPARTMENT
Ph: 091-9217140-46, Ext: 2077

CHEMICAL PATHOLOGY

Name Abdul Rehman Age 31 Sex Male
 Ward / OPD: _____ Ward / OPD: Cardiology
 Poor / Ent: / Receipt No. _____ Lab No. Bur
 Test Required: S. Cholesterol only Date: 10/11/16

TEST	RESULT	REF. RANGE	TEST	RESULT	REF. RANGE
Glucose Fasting		60-115 mg/dl	Total Protein		6.0 - 8.0 g/dl
Glucose 2 Hrs ABF		60-140 mg/dl	Albumin		60-140 mg/dl
Glucose Random		65-155 mg/dl	Glucose Random		65-155 mg/dl
		Normal: 5.0-6.5%	A/G Ratio		1.5 - 2.7
Glycated HbA1C		Diabetic: Good Control: 5.5-6.8% Fair Control: 6.8-7.6% Poor Control: >7.6%	CPK		24 - 195 U/L
Urea		20 - 40 mg/dl	CK - MB		Upto 25 U/L
Creatinine		0.6 - 1.3 mg/dl	AST (SGOT)		Upto 35 U/L
Sodium		135 - 140 mmol/l	LDH		Upto 490 U/L
Potassium		3.4 - 5.5 mmol/l	Total Cholesterol	<u>374</u>	Desirable <200 mg/dl Borderline high 200-239mg/dl High > 240 mg/dl
Uric Acid		M: 3.5 - 7.2 mg/dl F: 2.6 - 6.0 mg/dl	Triglycerides		Upto 200mg/dl
Bilirubin (Total)		0.2 - 1.1 mg/dl	HDL-Cholesterol		> 35 mg/dl
Bilirubin (Direct)		Upto 0.25 mg/dl	LDL - Cholesterol		> 130 mg/dl
ALT (SGPT)		mg/dl	Phosphorus		Adult: 2.5 - 5.0 mg/dl Children: 4.0 - 7.0 mg/dl
Alkaline Phosphatase		Adult: 98-3.6 U/L Child: 250-630 U/L	Calcium		8.0 - 10.5 mg/dl
Gamma - GT		M: 11 - 61 U/L F: 09 - 39 U/L	Acid Phosphatase		M: upto 5.4 U/L F: upto 4.2 U/L
			Amalyse		35 - 140 U/L
			Lithium		Therapeutic Range: 0.6 - 1.2 mmol/l

REMARKS

BIOCHEMIST

CHEMICAL PATHOLOGIST

- ✓ The
- ✓ DSI
- ✓ Pay
- ✓ O.A.
- ✓ Offi

Advocate High C

44
 Original
 address. H.P.
 02/11



ایڈوکیٹ:
 بار کونسل ایسوسی ایشن نمبر: 157835
 رابطہ نمبر: 0300-581181

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب:
 سر سید سید علی محمد صاحب

مخائب: عبدالرحمان بنام سید علی محمد	دعویٰ: علت نمبر: مورخہ: جرم: تھانہ:
--	---

باعث تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ
 آن مقام کے لئے لفافہ تقدیر سے
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظریاتی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخستہ منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے
 الرقوم:



مقام:
 کے لیے منظور ہے۔

Acceptance
Khyber Pakhtunkhwa
Adkward

عبدالرحمان بنام سید علی محمد صاحب

نوٹ: اس وکالت نامہ کی فونو کالی ناقابل قبول ہوگی۔

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

Service Appeal No.1367/2018.

Abdur Rehman Ex- Constable No. 4730 Peshawar.....Appellant.

VERSUS.

1. Capital City Police Officer, Peshawar.
2. Superintendent of Police HQrs, Peshawar...
3. SDPO Chamkani.....Respondents.

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2	Affidavit	----	4
3	Copy of charge sheet 1 st period	-A	5
4	Copy Charge Sheet 2 nd period	B	6-7
5	Copy of allegation 1 st period	C	8
6	Copy of allegation 2 nd period	D	9
7	Copy of inquiry report 1 st period	E	10
8	Copy of inquiry report 1 st period	F	11
9	Copy of inquiry report 2 nd period	G	12
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BEFORE THE KYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service appeal No.1367/18

Abdur-Rehman Ex- Constable No.4730 CCP, Peshawar..... Appellant

Versus

1. SP/HQrs: Peshawar.
2. Capital City Police Peshawar.
3. SDPO/Chamkani..... respondents

Reply on behalf of respondents No.1, 2, & 3.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS.

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

FACTS:-

1. Para No.01 pertains to record, hence need no comments.
2. Para No.02 pertains to record, hence need no comments.
3. Para No.03 pertains to record, hence need no comments.
4. Para No.04 is incorrect in fact the appellant while posted at police Lines, Peshawar deliberately absented himself from his lawful duty without taking leave/permission.
5. Para No.05 is incorrect and denied. The appellant absented himself without taking leave/permission and was enjoying his long absence period without any prior permission.
6. Para for the appellant to Prove.
7. Incorrect. The appellant was issued charge sheet and statement of allegations for willful absence from duty. Two separate enquiries were initiated and conducted by SDPO/Chamkani, SDPO/Cantt:. SDPO/Chamkani conducted the enquiry in the 1st absence period (21.11.2016 to 27.01.2017 total 2 Months and Six days) and submitted his report that the appellant ^{had} taken the plea of his illness, but failed to produce any medical prescriptions to justify his stance. SDPO/Cantt: conducted the enquiry in second absence period (14.02.2017 to 03.01.2018 total 8 Months and 17 days) Grand Total (12 months & 23 days) and submitted his

report that the appellant did not attend the enquiry proceedings and further stated that he has already been transferred to district Kohistan. Upon the finding of enquiry officers he was issued final show cause notice and delivered him on home address through local police of PS Chamkani. After fulfilling all the codal formalities, he was awarded major punishment of dismissal from service.(copy of charge sheet, statements of allegations , enquiry reports and final show cause notice are attached)

8. Para No.08 is correct to the extent that he filed departmental appeal which after due consideration was filed/rejected on the ground that the allegations were stand proved. It is worth mentioning here that his appeal was also time barred for about 7 months.
9. Incorrect. The appeal is not tenable on the given grounds.

GROUND:-

- A. Incorrect. The orders are just, legal and have been passed in accordance with law and rules.
- B. Incorrect. The appellant was treated as par law/rules. Proper departmental enquiries were conducted and the enquiry officers reported that charges leveled against the appellant were proved. Therefore, the punishment order was passed which is in accordance with law.
- C. Incorrect. Para already explain in Para B.
- D. Incorrect. The appellant was issued charge sheet, statements of allegations for willful absence from duty. He was also issued final show cause notice which was delivered to him on home address through the local police.
- E. Incorrect. The appellant was associated in the enquiry proceedings and proper of opportunity of defense was provided to appellant, but he failed to defend the charges leveled against him.
- F. Para not related, hence needs no comments.
- G. Incorrect the punishment order was passed by competent authority in pursuance of his long absence period which is not tolerable in the disciplined force.
- H. Incorrect the appellant availed the opportunities of defense, but he could not prove himself innocent with plausible grounds.
- I. Para pertains to record, hence needs no comments.
- J. Incorrect. The punishment order was passed in accordance with law/rules and no right of appellant has been violated.
- K. Incorrect. After fulfilling the codal formalities, he was awarded major punishment of dismissal from service.
- L. That respondent may also be allowed to advance any additional ground at the time of hearing the appeal.

Prayers:-

It is, therefore, most humbly prayed that in light of above facts and submission, the appeal of the appellant being devoid of merits, legal footing may be dismissed.



**Capital City Police Officer,
Peshawar.**



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



**Sub Division Police Officer,
Chamkani.**

BEFORE THE KYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service appeal No.1367/18


Abdur-Rehman Ex- Constable No.4730 CCP, Peshawar..... Appellant


Versus

1. SP/HQrs: Peshawar.
2. Capital City Police Peshawar.
3. SDPO/Chamkani..... respondents

AFFIDAVIT.

We respondents 1, 2 &3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.


**Capital City Police Officer,
Peshawar.**


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


**Sub Division Police Officer,
Chamkani.**

(11)

CHARGE SHEET

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, hereby, charge that Constable Abdur Rahman No.4730 of Capital City Police Peshawar with the following irregularities.


"That you Constable Abdur Rahman No.4730 while posted at Police Lines, Peshawar were absent from duty w.e.f. 14.02.2017 till date without taking permission or leave. This amounts to gross misconduct on your part and is against the discipline of the force."

You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

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

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.


SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR.

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DISCIPLINARY ACTION

110
712 PA
13/3/17

I, Superintendent of Police, Headquarters, Capital City Police Peshawar as a competent authority, am of the opinion that Constable Abdur Rahman No.4730 has rendered him-self liable to be proceeded against under the provision of Police Disciplinary Rules-1975

STATEMENT OF ALLEGATION

"That Constable Abdur Rahman No.4730 while posted at Police Lines, Peshawar absented himself from duty w.e.f 14.02.2017 till date without taking permission or leave. This amounts to gross misconduct on his part and is against the discipline of the force."

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

2. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused officer, record his finding within 30 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

3. The accused shall join the proceeding on the date time and place fixed by the Enquiry Officer.

[Signature]
SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR

No. 74 /E/PA, dated Peshawar the 9/3 /2017

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

PA
For Proceeding
[Signature]
Dy: Supdt of Police

30



(5)
**OFFICE OF THE
DEPUTY SUPERINTENDENT OF POLICE,
CANTT: SUB-DIVISION, PESHAWAR.**

No. 712 /E/Steno dated Pesh: the 15/12/2017.

To The Superintendent of Police,
Hqrs, Peshawar.

DISCIPLINARY ACTION AGAINST CONSTABLE Abdur Rehman 4730

RECEIVED

BRIEF

ALLIGATIONS

The subject enquiry was referred to this office to ascertain the misconduct, committed by the subject police Constable vide order of enquiry No.74/E/PA, dated 14.02.2017.

Short facts are that accused Constable **Abdur Rehman No.4730**, while posted at Police line, Peshawar remained absent from lawful duty w.e.f. 14.02.2017 to till date , without approval and prior permission from the competent officer hence he was charge sheeted and summary of allegation was issued to him by the Police line, Peshawar.

The accused Constable was called on to the office through repeated summons, to record His statement but he has failed to appear before the under singed office. He did not produce himself.

His has been transferred to district Kohistan on OB#6918-22/E-IV dated 06.06.2017, while DD# 26 he has been departure to Kohistan. But he did not ensure their presence on the deputed place. (OASI Order enclosed herewith)

FINDINGS:

In the light of the above circumstances, the accused Constable did not submit his reply within specified period despite the fact that he was summoned to join the enquiry proceedings time and again but he did not join the proceedings. Taking Ex-parte decision, he is, therefore recommended for punishment after the issuance of final show cause notice.

Submitted for further approval please.

All relevant documents are attached herewith.


KAMAL HUSSAIN

Enquiry Officer,
Deputy Superintendent of Police,
Cantt: Sub-Division, Peshawar.

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CHARGE SHEET

I, Superintendent of Police, Headquarters, Capital City Peshawar, as a competent authority, hereby, charge that Constable Abdur Rahman No.4730 of Capital City Police Peshawar with the following irregularities.


"That you Constable Abdur Rahman No.4730 while posted at Police Lines, Peshawar were absent from duty w.e.f 21.11.2016 to 27.01.2017 (02-months & 06-days) without taking permission or leave. This amounts to gross misconduct on your part and is against the discipline of the force."

You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

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

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.


SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

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DISCIPLINARY ACTION

I, Superintendent of Police, Headquarters, Capital City Police Peshawar as a competent authority, am of the opinion that Constable Abdur Rahman No.4730 has rendered him-self liable to be proceeded against under the provision of Police Disciplinary Rules-1975

STATEMENT OF ALLEGATION

"That Constable Abdur Rahman No.4730 while posted at Police Lines, Peshawar absented himself from duty w.e.f 21.11.2016 to 27.01.2017 (02-months & 06-days) without taking permission or leave. This amounts to gross misconduct on his part and is against the discipline of the force."

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

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

[Signature]
SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR

No. 128 /E/PA, dated Peshawar the 15/05 /2017

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

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TO : THE SP HQs, PESHAWAR
FROM: THE SDPO CHAMKANI, PESHAWAR
NO. 25 /ST, DATED 28-12 /2017
SUBJECT: **ABDUR UR RAHMAN NO 4730 POLICE LINE PESHAWAR**

MEMO:

Please refer to your office diary No. 128/PA, dated: 15.05.2017 on the subject cited above.

ALLEGATIONS:

According to the statement of allegations, Constable Abdur ur Rahman No 4730 while posted at Police Line Peshawar remained absent from his lawful duty with effect from 21/11/2016 to 27/01/2017(02month and 06days) without leave or permission.

PROCEEDINGS:

The alleged official was summoned to join the enquiry proceedings who appeared before the undersigned, heard in person and his statement was recorded.

FINDINGS:

The alleged constable stated that he was ill. In this regard, he filed produced medical record.

RECOMMENDATION:

Keeping in view the above, it is recommended that his absence period may be treated as leave without pay and award him punishment of censur.



(KHAN ZEB) PSP
A.S.P Chamkani Sub Division
Peshawar

02/11

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FINAL SHOW CAUSE

ICE

I Superintendent [redacted], Headquarters, Capital City Police Peshawar, as competent authority, under the provision of Police Disciplinary Rules 1975 do hereby serve upon you, Constable Abdur Rahman No.4730 the final show cause notice.

The Enquiry Officer, SDPO Cantt, Peshawar after completion of departmental proceedings, has recommended you for ex-parte decision for you Constable Abdur Rahman No.4730 as the charges/allegations leveled against you in the charge sheet/statement of allegations.

And whereas, the undersigned is satisfied that you Constable Abdur Rahman No.4730 deserve the punishment in the light of the above said enquiry reports.

I, competent authority, have decided to impose upon you the penalty of minor/major punishment under Police Disciplinary Rules 1975.

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

2. If no reply to this notice is received within 7 days of its receipt, in normal course of circumstances, it shall, be presumed that you have no defence to put in and in that case as ex-parte action shall be taken against you.


SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR

No. 74/E /PA, SP/HQrs: dated Peshawar the 09.12.2017

Copy to official concerned

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original

BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR

S.A No. 1367/2018

Abdul Rehman

Versus

Superintendant Police Peshawar & Others

INDEX

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3.	<i>Condonation of delay application</i>		7-8

Dated 25/03/2019

Appellant
Petitioner

Through

KIFAYAT ULLAH SHAHAB KHEL
&
MUHAMMAD ADNAN
Advocates, High Court
Peshawar.

Office Add: Floor No.6, Office No. 4, Bilour Plaza, Peshawar
Sadar: Cell No: 0300-5844181

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**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

S.A No. 1367/2018

Abdul Rehman

Versus

Superintendant Police Peshawar & Others

REJOINDER ON BEHALF OF APPELLANT

**Respectfully Sheweth
Preliminary Objection:-**

All the preliminary objections raised by the Respondent are incorrect and raised with the intention to deprive the appellant from his due legal rights, and appeal of the appellant is not time barred because the period of limitation starts from the final order of the respondent while appellant applied to this Hon'ble Court in time, while deciding the departmental appeal of the appellant by Respondent No.2 has not raised any objection regarding the limitation while passing the final order, so it comes under the principle of estopple locus - poenitentiae.

FACTS:-

1. That the appellant has never been allowed any opportunity to be hear in person and

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absence of the appellant is not willful and intentional.

2. That after passing the final order, the limitation period should be started while the appellant approached to this Hon'ble Court in time and petition of the appellant is not time barred.
3. That the appeal of the appellant is in time and CCPO didn't raise any objection while deciding the appeal where is the instant appeal filed within a specified time.
4. That no Show-Cause Notice has been delivered or issued to the appellant and no fair opportunity of personal hearing was granted to the appellant, which is against the legal maxim "**No one should be condemned unheard**".
5. That the appellant was never associated with any inquiry proceeding whereas no proper inquiry was conducted by the Respondents and the Appellant is not treated by the Respondents in accordance with law and rules while passing the impugned order.

GROUNDS:-

A. That the order is illegal and which is not passed in accordance with law and rules.

B. In the appellant was not treated in accordance with law and rules, proper departmental inquiry was not conducted and the inquiry officer reported the charge leveled against the appellant were also not proved, therefore, the impugned order may kindly be suspended/ set aside.

C. That Para No. C is correct and the reply is incorrect.

D. That appellant was not issued any charge-sheet, statement of allegation for absence of duty and no Show-Cause Notice was delivered to the appellant by the local police.

E. That the appellant was not treated lawfully according to the law and rules and was not given a chance of personal hearing, therefore, the appellant has a legal right not to be condemned unheard.

(5)

F. That absence of the appellant was not willful and intentional but due to severe illness.

G. That the punishment order was passed by competent authority was illegal and not in accordance with law.

H. That the appellant is innocent and respondents didn't provide any opportunity to the appellant to hear in person.

I. That the appellant during his entire 10 years of service will full zeast and zeal and never gave any chance of complaint to his superiors regarding his service.

J. That the respondents acted in arbitrary manner and the punishment order was passed illegally, where the right of the appellant has been violated.

K. That mandatory provision of law has not been fulfilled by the respondents nor respondents fulfilled the codal formalities while awarding the major punishment.

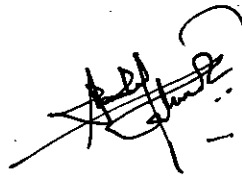
It is, therefore, most humbly prayed that on acceptance of this rejoinder the comments filed by Respondents may be

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rejected and the appeal of the appellant may please be accepted and the appellant may graciously be reinstate in service keeping in view the overall circumstances & legal position of the case.

Any other relief which this Hon'ble' Tribunal may deems fit and appropriate may also very graciously be granted in favor of the appellant.

Dated 25/03/2019



Petitioner / Appellant

Through



**KIFAYAT ULLAH SHAHAB KHEL
&
MUHAMMAD ADNAN
Advocates, High Court
Peshawar.**

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**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

S.A No. 1367/2018

Abdul Rehman

Versus

Superintendant Police Peshawar & Others

AFFIDAVIT

I, Abdur-Rehman, Ex-Constable No.4730 CCP, Peshawar, do hereby solemnly affirm and declare on oath that contents of the Rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



DEPONENT

CNIC:

37101 4058880 1



09 APR 2019

(7)

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

Appeal No. _____/2019

Abdul Rehman

.....Applicant

VERSUS

Superintendent of Police and Others

.....Respondents

APPLICATION FOR CONDONATION OF DELAY

RESPECTFULLY SHEWETH:-

1. That the above captioned case is pending before this Honourable Court, in which is fixed for 16/05/2019.

2. That the petitioner was not served and not know about ~~order~~ inquiry which is pending against the petitioner while the petitioner was seriously ill having disease and high blood pressure, cholesterol and irregular Heart beat which was examined by the authorized Doctor in HMC Hospital, where the doctor advised him for complete bed rest. (Copies of the prescription are annexed with main file).

3. That the appellant approached to this Honourable Court within time, and also approached to the C.C.P. ^{within one month} after getting knowledge.

4. That the applicant also convey his message to Police Line Kohistan regarding his sickness.
5. That the grounds mentioned in the appeal may be considered integral part of this application.
6. That the law or court preference to the case decide on merits not on technicalities.

It is, therefore, most humbly prayed that on acceptance of this applicant, the delay, if any in filing the above titled appeal may kindly be condoned in the interest of justice and fair play.

Dated:- 09/05/2019

Petitioner / Applicant Appellant

Through

KIFAYAT ULLAH SHAHAB KHEL
Advocate, High Court,
Peshawar

~~Dear~~ ~~Friend~~

One line for the ~~purpose~~

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Before the Honorable Service Tribunal KPK

Abul Rehman versus Sp Headquarter and others

Subject.

Application for Adjournment

Respectfully shievit!

- 1- That the above titled case is pending adjourning for arguments before this honorable Court.
- 2- That Counsel of the appellant is busy in High Court peshawar and cannot appear today to argue the instant case.
- 3- That there is no bar by Law to accept the instant application.

It is therefore requested that on acceptance of this application that date of hearing may kindly be adjourned to some other date.

Through
Muhammad Adnan Advocate Appellant

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KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 2014 /ST

Dated 19-11- 2019

To


The Superintendent Circle Headquarters,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 1367/2018, MR. ABDUR REHMAN.

I am directed to forward herewith a certified copy of Judgement dated 11.11.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.