

396/18

09.04.2019

Counsel for the appellant and Addl. AG alongwith Attaur Rahman, S.I (Legal) for the respondents present.

Representative of the respondents submitted reply of the respondents which is placed on record. To come up for arguments on 11.06.2019 before the D.B. The appellant may submit rejoinder within a fortnight, if so desires.


  
Chairman

11.06.2019

Mr. Khalid Rahman, Advocate for appellant and Mr. Ziaullah, DDA alongwith Attaur Rahman, Inspector (Legal) for the respondents present.

Learned counsel for the appellant has produced copy of order dated 04.07.2018, whereby, the appellant has been reinstated in service. The same is placed on record. Learned counsel states that he is under instructions to request for withdrawal of instant appeal.

Dismissed as withdrawn. File be consigned to the record room.

  
Member

  
Chairman

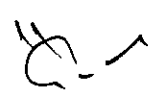
ANNOUNCED  
11.06.2019

13.12.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Written reply not submitted. Learned Additional AG requested for further adjournment. Adjourned. To come up for written reply/comments on 22.01.2019 before S.B.

  
Muhammad Amin Khan Kundi  
Member

22.01.2019 Clerk to counsel for the appellant present. Written reply not submitted. 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 04.03.2019 before S.B.

  
Member

04.03.2019

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG, alongwith Mr. Atta-ur-Rehman, S.I (Legal) for the respondents present. Written reply on behalf of respondents not submitted. Learned Additional AG requested for further adjournment. Adjourned to 09.04.2019 for written reply/comments before S.B.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

20.07.2018

Counsel for the appellant present. Preliminary arguments heard and case file perused. On account of absence from duty disciplinary proceedings were initiated and upon conclusion major penalty of removal from service was imposed on him vide impugned order dated 09.01.2018. Feeling aggrieved he preferred departmental appeal a copy of which is not annexed with the appeal but was rejected on 19.02.2018, hence, the instant service appeal. The appellant has been removed from service on one day absence. Required formalities have not been observed so the order is not tenable in the eyes of law.

Appellant Deposited  
Security & Process Fee

Points urged need consideration. Admit. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 04.09.2018 before S.B.

04.09.2018

Junior to counsel for the appellant Mr. <sup>(KABIR HASSAN)</sup> Khattak, Additional Advocate General for the respondents present. Written reply not submitted on behalf of the official respondents. Requested for adjournment. Adjourned. To come up for written reply/comments on 29.10.2018 before S.B.

  
Member

29-10-18

*Due to Retirement of Honorable Chairman  
The Tribunal is non functional therefore the  
Case is adjourned to come up for the  
same on 13-12-2018*

*Registrar*

27.04.2018

Appellant with counsel present. The Tribunal is non-functional due to retirement of our Hon'ble Chairman. Therefore, the case is adjourned. To come up for same on 26.06.2018.

  
Reader

26.06.2018


Clerk of the counsel for appellant present and requested for adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for preliminary hearing on 20.07.2018 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

20.07.2018

Counsel for the appellant present. Preliminary arguments heard and case file perused. On the basis of FIC, he was proceeded departmentally and major penalty of removal from service was imposed on him on 15.08.2016. He filed departmental appeal on 18.12.2017 which was rejected on 06.02.2018, thereafter he preferred Review Petition before PFC, Peshawar which was rejected on 02.02.2018, hence, the instant service appeal is barred by time. Since the case file for the appellant was confiscated at the point of institution he clarified that the appellant was behind the bar and impugned order was not communicated in time as he filed departmental appeal upon acquittal from the original charge. A spare application for condonation of delay has also been submitted. He has not been treated according to law and rules.




Points argued for consideration. Admitly subject to limitation. The appellant is directed to deposit security sum, unless for within 10 days. If after, notices be issued to the respondents for written reply. For consideration of the case.

  
(Muhammad Amin Khan Kundi)  
Member

**Form-A**  
**FORM OF ORDERSHEET**

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

Case No. 396/2018

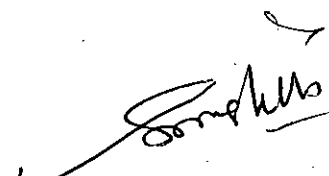
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	20/03/2018	<p>The appeal of Mr. Said Nawaz resubmitted today by Mr. Khaled Rehman Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	21/03/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>02/04/18.</u></p> <p style="text-align: right;"> MEMBER</p> <p>02.04.2018</p> <p>Due to general strike of the bar, the case is adjourned. To come up for preliminary hearing on 27.04.2018 before S.B</p> <p style="text-align: right;"> Member</p>

The appeal of Mr. Said Nawaz Ex-Constable Distt. Police Mardan received today by i.e. on 16.03.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

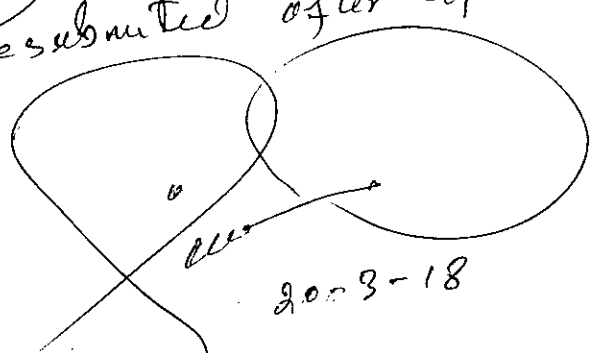
- 1- Copy of departmental appeal is not attached with the appeal which may be placed on it.
- 2- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- 3- Memorandum of appeal is unsigned.
- 4- Annexures of the appeal may be attested.
- 5- Annexures of the appeal may be flagged.
- 6- Appeal may be page marked according to the index of the appeal.
- 7- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

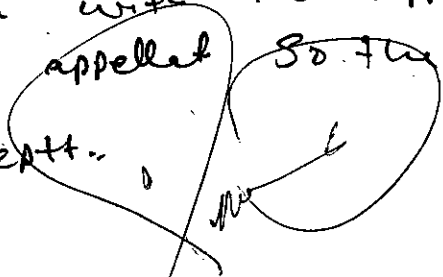
No. 575 /S.T,

Dt. 19/03 /2018

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Khaled Rehman Adv. Pesh.

*Sir*  
Resubmitted after completion  
  
20-3-18

As Regard to objection No.1, the Appellant filed Departmental Appeal which is also evident from the Rejection order which is also evident of that the same is also in time. but the copy of Departmental Appeal is not available with the Appellant and the Department not handing over to the appellant. So the same may be retrieved from the Deptt. 



*[Faint, illegible handwritten text]*

*[Extremely faint, illegible text spanning the bottom portion of the page]*

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 396 /2018

Said Nawaz..... Appellant

Versus

The PPO and others..... Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			1-4
2.	Charge Sheet and Statement of allegations		A	5-6
3.	Impugned original order	09.01.2018	B	7
4.	Impugned appellate order	19.02.2018	C	8
5.	Wakalat Nama			

*Nawaz*  
Appellant

Through

*N*  
Khaled Rahman  
Advocate,  
Supreme Court of Pakistan  
3-D, Haroon Mansion  
Khyber Bazar, Peshawar  
Off: Tel: 091-2592458  
Cell # 0345-9337312

Dated: 16 / 3 / 2018

*del*



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 396/2018

Mr. Said Nawaz

Ex-Constable,

District Police, Mardan ..... Appellant

VERSUS

1. The Provincial Police Officer  
Khyber Pakhtunkhwa, Peshawar

2. The Regional Police Officer,  
Mardan Region, Mardan.

3. The District Police Officer,  
District Mardan ..... Respondents

Khyber Pakhtunkhwa  
Service Tribunal

Entry No. 402

Date 16/3/18

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORIGINAL ORDER DATED 09.01.2018 PASSED BY RESPONDENT NO.3 WHEREBY APPELLANT WAS IMPOSED UPON THE MAJOR PENALTY OF REMOVAL FROM SERVICE AGAINST WHICH APPELLANT FILED DEPARTMENTAL APPEAL TO RESPONDENT NO.2 WHICH WAS UNLAWFULLY REJECTED BY HIM VIDE IMPUGNED APPELLATE ORDER DATED 19.02.2018.

PRAYER:

On acceptance of the instant appeal, the impugned original order dated 09.01.2018 passed by Respondent No.3 and the impugned appellate order dated 19.02.2018 passed by Respondent No.2 may graciously be set aside and appellant may be reinstated into service with all back benefits.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

Filed Monday  
16/3/18  
Registrar

Re-submitted to-day  
and filed.

Registrar

1. That the appellant joined the Police Force way back in the year 2010/11 and has rendered long meritorious service for a period of 07 long years. During this long service, the appellant has not been ever departmentally proceeded against nor any minor penalty has ever been imposed upon him, thus the service of the appellant remained unblemished, spotless throughout.
2. That the appellant while performing duties at Police Lines, Mardan, was Charge Sheet vide Charge Sheet and Statement of Allegations (*Annex:-A*) at the back of the appellant and on the baseless of charges of absence from duty of only 13 hours and even the copies of Charge Sheet and Statement of Allegations were not provided to appellant which were obtained through self-efforts after the impugned orders.
3. That on the basis of charges, a Fact Finding enquiry was conducted without providing Charge Sheet and Statement of Allegations to appellant which are/were mandatory requirements. The Enquiry Committee recommended appellant for major punishment of removal from service without providing him opportunity of personal hearing. It is significant to add here that inspite of repeated requests, the high-ups did not provide of the Enquiry Report to appellant.
4. That thereafter upon the recommendation of the Fact Finding enquiry, appellant was imposed major penalty of removal from service vide impugned original order dated 09.01.2018 (*Annex:-B*) against which appellant preferred Departmental Appeal to Respondent No.2 which was also unlawfully rejected vide impugned appellate order dated 19.02.2018 (*Annex:-C*).
5. **That** appellant, being aggrieved of the acts and actions of Respondents and the impugned orders *ibid*, files this appeal *inter-alia* on the following grounds:-

**Grounds:**

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution

of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned orders, which are unjust, unfair and hence not sustainable in the eye of law.

- B. That no regular inquiry was conducted into the case nor any documentary or oral evidence was recorded in presence of the appellant nor he was provided opportunity of hearing. The entire action was taken at the back of the appellant and thus he was condemned unheard. It is a settled law that where a major penalty is to be imposed then regular inquiry is necessary which has not been done in the case in hand. Even the copy of the Charge Sheet and Statement of Allegations was provided to the appellant which was obtained by the appellant after the issuance of the impugned order.
- C. That under Article-10A of the the Constitution of the Islamic Republic of Pakistan, 1973 provides the right of fair trial for the determination of every civil rights and obligation or in any criminal charges against a person shall be entitled to a fair trial and due process. Even the Enquiry Report was not provided to the appellant which was the mandatory requirement for imposing a major penalty and also appellant was condoned unheard, thus the impugned orders are void, ab-initio as well as against the principle of natural justice.
- D. That the charges of appellant's absence from duty only for 13 hours are of common nature and are negligible while the punishment imposed upon the appellant that too without providing him fair opportunity of defence, is very harsh and does not commensurate with the guilt of appellant.
- E. That the appellant served the Department for long 07 years. During this long service, the appellant has not been ever departmentally proceeded against nor even a minor penalty has ever been imposed upon him, thus the service of the appellant remained unblemished, spotless throughout.
- F. That appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through

*Nazim*  
**Appellant**  
**Khaled Rahman,**  
Advocate,  
Supreme Court of Pakistan

**Dated: 16 /03/2018**

Annex A'

-5-

**CHARGE SHEET UNDER KPK POLICE RULES 1975**

I, Dr. Mian Saeed Ahmed District Police Officer, Mardan as competent authority hereby charge you **Constable Said Nawaz No. 1875**, as follows.

That you **Constable Said Nawaz No. 1875**, while posted at Police lines, Mardan was deliberately absented yourself from lawful duty vide DD No. 06 dated 21.09.2017 without any leave / permission of the competent authority. Therefore, you are recommended for departmental proceedings by DSP/Hqrs, Mardan vide his office Memo: No. 757, dated 29.09.2017.

This amounts to grave misconduct on your part, warranting departmental action against you, as defined in section - 6 (1) (a) of the KPK Police Rules 1975.

1. By reason of the above, you appear to be guilty of misconduct under section - 02 (iii) of the KPK Police Rules 1975 and has rendered yourself liable to all or any of the penalties as specified in section - 04 (i) a & b of the said Rules.
2. You are therefore, directed to submit your written defense **within seven days** of the receipt of this charge sheet to the enquiry officer.
3. Your written defence if any, should reach to the enquiry officer within the specified period, failing which, it shall be presumed that you have no defense to put-in and in that case, an ex-parte action shall follow against you.
4. Intimate whether you desired to be heard in person.

  
(Dr. Mian Saeed Ahmed) PSP  
District Police Officer,  
Mardan

  
**ATTESTED**

- 6 -

**OFFICE OF THE  
DISTRICT POLICE OFFICER  
MARDAN**

Tel: 0937-9230109  
Fax: 0937-9230111  
Email: [dpomardan650@gmail.com](mailto:dpomardan650@gmail.com)  
Facebook: District Police Mardan  
Twitter: @dpomardan

No. 45 /R/D.A-P.R-1975.  
Dated 11-10 /2017.

**DISCIPLINARY ACTION UNDER KPK POLICE RULES - 1975**

I, Dr. Mian Saeed Ahmed District Police Officer, Mardan as competent authority am of the opinion that Constable Said Nawaz No. 1875, rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of section-02 (iii) of KPK Police Rules 1975.

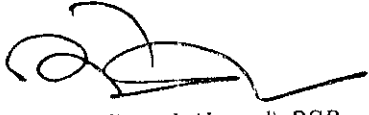
**STATEMENT OF ALLEGATIONS**

That Constable Said Nawaz No. 1875, while posted at Police lines, Mardan was deliberately absented himself from lawful duty vide DD No. 06 dated 21.09.2017 without any leave / permission of the competent authority. Therefore, he is recommended for departmental proceedings by DSP/Hqrs, Mardan vide his office Memo: No. 757, dated 29.09.2017.

2. For the purpose of scrutinizing the conduct of the said official with reference to the above allegations by DSP HQ is appointed as Enquiry Officer.

3. The enquiry officer shall conduct proceedings in accordance with provisions of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused official, record its findings and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.

4. The accused officer shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

  
(Dr. Mian Saeed Ahmed) PSP  
District Police Officer,  
Mardan

**OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN**

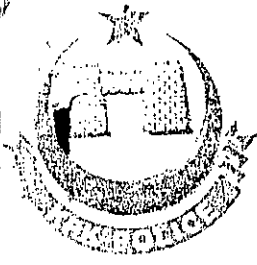
No. \_\_\_\_\_ /R, dated Mardan the \_\_\_\_\_ /2017.

**Copy of above is forwarded to the:**

1. \_\_\_\_\_ for initiating proceedings against the accused official / Officer namely Constable Said Nawaz No. 1875, under Police Rules, 1975.
2. Constable Said Nawaz No. 1875, with the directions to appear before the Enquiry Officer on the date, time and place fixed by the enquiry officer for the purpose of enquiry proceedings.

\*\*\*\*\* !!! \*\*\*\*\*

**ATTESTED**



OFFICE OF THE  
DISTRICT POLICE OFFICER  
MARDAN

Handwritten: *Handwritten B-7*

Tel: 0937-9230109  
Fax: 0937-9230111  
Email: [dpomardan650@gmail.com](mailto:dpomardan650@gmail.com)  
Facebook: District Police Mardan  
Twitter: @dpomardan

No. \_\_\_\_\_ /R,  
Dated \_\_\_\_\_ /2018.

**ORDER**

This order will dispose-off the departmental inquiry, which has been conducted against Constable Said Nawaz No. 1875, on the allegation that while posted at Police lines, Mardan was deliberately absented himself from lawful duty vide DD No. 06 dated 21.09.2017 to DD No. 27 dated 22.09.2017, without any leave / permission of the competent authority. Therefore, he was recommended for departmental proceedings by DSP/Hqrs, Mardan vide his office Memo: No. 757, dated 29.09.2017. This attitude adversely reflected on his performance which is an indiscipline act and gross misconduct on his part as defined in rule 2(iii) of Police Rules 1975.

In this connection, Constable Said Nawaz No. 1875, was charge sheeted vide this office No. 45/R, dated 11.10.2017, and also proceeded him against departmentally through Ikhteraz Khan DSP/HQrs, Mardan, who after fulfilling necessary process, submitted his findings to the undersigned vide his office Memo: No. 04/HQrs, dated 01.01.2018. His service record was checked in which 43 bad entries were found during his 07 years service. The enquiry officer recommended the alleged constable for major punishment.

The undersigned agreed with recommendation of inquiry officer and also heard him in OR on 05.01.2018. Hence the alleged Constable Said Nawaz No. 1875, is hereby awarded major punishment of *Removal from Service*, with immediate effect, in exercise of the power vested in me under the above quoted rules.

Order announced

O.B No. 69

Dated 3/1/2018

Dr. Mian Saeed Ahmed (PSP)  
District Police Officer,  
Mardan.

No. 377-82 /R, dated Mardan the 11/1 /2018.

Copy for information and necessary action to the:

1. Deputy Inspector General of Police Mardan Region-I, Mardan.
2. S.P Operations, Mardan.
3. DSP HQrs, Mardan.
4. Pay officer (DPO) Mardan
5. E.C (DPO) Mardan.
6. OSI (DPO) Mardan.

\*\*\*\*\*!!!\*\*\*\*\*

ATTESTED

Answer C - 8-

ORDER.

This order will dispose-off the appeal preferred by Ex-Constable Said Nawaz No. 1875 of Mardan District Police against the order of District Police Officer, Mardan, whereby he was awarded Major punishment of Removal from Service vide District Police Officer, Mardan OB No. 62 dated 09.01.2018.

Brief facts of the case are that the appellant while posted at Police Lines, Mardan deliberately absented himself from lawful duty with effect from 21.09.2017 to 22.09.2017 without any leave prior permission of the competent authority. Therefore he was recommended for departmental proceeding by DSP/Hqrs: Mardan. Consequently he was charge sheeted and also proceeded against departmentally through Ikhteraz Khan Acting DSP/Headquarter, Mardan. The Enquiry Officer after fulfilling necessary process submitted his findings to District Police Officer, Mardan his service record was also checked in which 43 bad entries were found during his 07 years service. The Enquiry Officer recommended the alleged Constable for Major punishment. Therefore, the District Police Officer, Mardan agreed with the findings of Enquiry Officer and the alleged Constable was Removed from service.

He was called in orderly room held in this office on 14.02.2018 and heard him in person. The appellant did not produce any cogent reason for his absence. Besides the appellant was also absented for 91 days earlier, therefore, I find no grounds to intervene the order passed by District Police Officer, Mardan. Appeal is rejected.

ORDER ANNOUNCED.

(Muhammad Alam Shinwari)PSP  
Regional Police Officer,  
Mardan

No. 1061 /ES, Dated Mardan the 19/02 /2018.

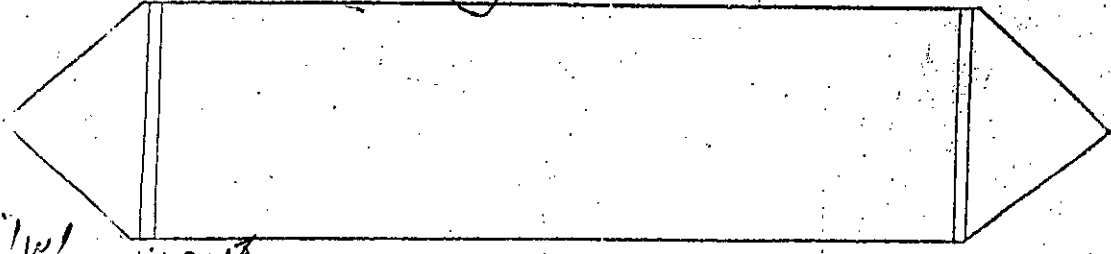
Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 133/LB dated 07.02.2018. The Service Record is returned herewith.

(\*\*\*\*\*)

ATTACHED



# بعد التمسرح



اسرائیل 2018ء بجائے۔

بنام ولیک مسیح نوروز

مورخہ

مقدمہ

دعویٰ

جرم

## باعث تحریر آئنگے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکن کارروائی متعلقہ اور  
 آن مقام 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 ہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
 بصورت ڈگری کرنے اجراء اور صولی چیک روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
 زرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخ  
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
 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 بھی وہی جملہ مذکورہ یا اختیارات حاصل ہوں گے اور اس کا ساختہ  
 پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے وہوگا۔  
 کوئی تارتخ پیشی مقام دورہ نہ ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
 مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 2018ء مارچ 20

بمقام  
 Abtawal  
 Accepted

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

**Service Appeal No. 396/2018.**

Said Nawaz .....Appellant.

**VERSUS.**

District Police Officer, Mardan

& others.....Respondents.

**Respectfully Sheweth:**

**PRELIMINARY OBJECTIONS:-**

1. That the appellant has not come to this Honourable Tribunal with clean hands.
2. That the appellant has got no cause of action.
3. That the appellant has concealed material facts from this Honourable Tribunal.
4. That the appellant is estopped by his own conduct, by law to bring the instant appeal.
5. That the present appeal is bad in its present form hence not maintainable and liable to be dismissed.
6. That the appeal is bad due to non-joinder of necessary parties and mis-joinder of unnecessary parties.
7. That the instant appeal is barred by law & limitation.

**REPLY ON FACTS.**

1. Correct to the extent of joining Police Force in the year 2010/2011, however, to the rest of the Para his service record speaks otherwise, which carries a series of red/bad entries. **(Copy of bad entries is attached as Annexure-A)**
2. Correct to the extent of charge sheet and statement of allegations and the charges of his being absent reported vide DD No. 06 dated 21.09.2017 and DD No. 27 dated 22.09.2017, while, rest of the Para is incorrect. Hence, denied. **(Copies of DD's are attached as Annexure-B&C)**
3. Incorrect and baseless. The appellant has been dealt as per rules/law by providing him opportunity of defence at all fora of the inquiry proceedings. **(Copy of order of appeal rejection is attached as Annexure-D)**
4. Correct, hence, no comments.
5. Incorrect. The appellant is not aggrieved and all the actions and impugned orders are in accordance with the rules/law. Hence, the appellant holds no grounds, legal or moral to stand here in this Honourable Tribunal.


**REPLY ON GROUNDS:-**

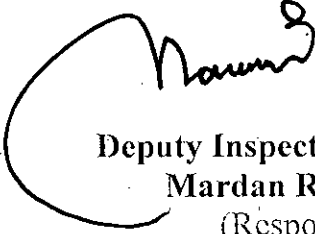
- A. Incorrect. The respondents dealt appellant as per rules/law and there is no violation of any article of the constitution of Pakistan, 1973. Hence, the impugned orders are correct and sustainable in the eyes of law.
- B. Incorrect. Proper inquiry is conducted and all codal formalities are complied with, including, providing opportunity of personal hearing to the appellant at all fora. Hence, denied all the allegations carried in this Para.
- C. Correct and the appellant is dealt accordingly. Hence, denied the allegations contained in this Para.


- D. Incorrect as the appellant is member of a disciplined force and being custodian of the soul and property of the citizens he is bound to perform whole-hearted duty. A single moment absence could cause a big misshape and the appellant was found absent for (13) hrs. Hence, punished as deserved under rules/law.
- E. Incorrect as his service record speaks otherwise.
- F. The respondents also seek permission to raise additional grounds at the time of arguments.

**PRAYER:-**

It is, therefore, requested that the prayer of the appellant, being baseless & devoid of merits, is liable to be dismissed with costs.

  
**Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.**  
(Respondent No. 01)

  
**Deputy Inspector General of Police,  
Mardan Region-I, Mardan**  
(Respondent No. 02)

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

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

Service Appeal No. 396/2018.

Said Nawaz .....Appellant.


**VERSUS.**

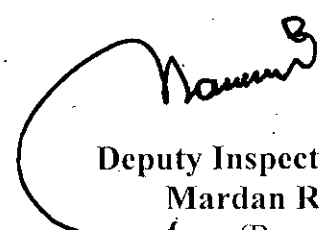
District Police Officer, Mardan


& others.....Respondents.

**COUNTER AFFIDAVIT.**

We, the respondents do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Tribunal.

  
Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.  
(Respondent No. 01)

  
Deputy Inspector General of Police,  
Mardan Region-I, Mardan  
(Respondent No. 02)

  
District Police Officer,  
Mardan  
(Respondent No. 03)

14. COMMENDATORY ENTRIES - Concl'd.

Serial No.

Serial No.

ORDER

In view of his long service, the Board decided that he is hereby re-instated in service and the punishment of removal from service is converted into forfeiture of one year approved service. However, the intervening period including absence period shall be counted towards service as leave without pay. vide

19P KPK Peshawar order. Endst. No. 2623-29/18 dated: 04-07-2018 and pay fixed Rs. - 14040/pm.

OB No. 1311

DT: 9-07-18.

District Police Officer  
Mardan

Fo-02  
verified  
w 9/2018  
M  
A 19/18

MF NO 315

Dr. 12-12-2019

District Comptroller of Accounts

Drawn Arrear Rs: 55924/-

119115 Mardan

a/c Pay & Allices / Encashment of L.P.R.

W.o. 9-17-2018 to 31-18/2018

Less GPF 2626/- RB&DC 1380/-

Net Pay: 52524/-

District Comptroller of Accounts  
Mardan

13/2

Serial No.

15. CENSURES AND PUNISHMENTS.

Fined Rs: 200/- for his  
Absence.

OB No: 778

15-3-013

DPD/MR

①

② days Extra drill for his Absen

OB No-256

28-1-14 2

DPD/MR

① day Extra drill for was Absence

OB No-437

17-2-14 3

DPD/MR

1 day extra drill for his absence

OB No 1021

5-5-2014 4

DPD/MR

① day extra drill for his absence.

OB No 1232  
27-5-14 5

DPD/MR

① day extra drill for his absence.

OB No 1601  
14-7-14 6

DPD/MR

① day extra drill for his absence.

OB No 1625

Serial No.

Serial No.

15. CENSURES AND PUNISHMENTS. - Contd.

① day extra drill for his absence

OB No.  $\frac{1693}{7-8-14}$  8

~~DPO/MR~~

① day extra drill for his absence

OB No.  $\frac{2216}{5-11-14}$  9

~~DPO/MR~~

① day extra drill for his absence

OB No.  $\frac{2253}{11-11-14}$  10

~~DPO/MR~~

① day extra drill for his absence

OB No.  $\frac{388}{2-3-15}$  11

~~DPO/MR~~

① day extra drill for his absence

OB No.  $\frac{2107}{12-11-15}$  12

~~DPO/MR~~

He is strict warning to be careful in future with counting

⑥ days absence period as leave with out pay and his pay released with immediate effect

OB No. 2622

dt 09/11/2017

DPO/Mandir

~~①~~

- ③  $\frac{1786}{22-8-14}$  leave w/o pay - DPO/MR
- ⑦  $\frac{1996}{25-9-14}$  - d - DPO/MR
- ②  $\frac{1996}{25-9-14}$  - d - DPO/MR
- ②  $\frac{2145}{23-10-14}$  - d - DPO/MR
- ②  $\frac{2262}{12-11-14}$  - d - DPO/MR
- ⑤  $\frac{2662}{31-12-14}$  - d - DPO/MR
- ⑩  $\frac{75}{12-1-15}$  - d - DPO/MR
- ②  $\frac{97}{15-1-15}$  - d - DPO/MR
- ①  $\frac{382}{27-2-15}$  - d - DPO/MR
- ③  $\frac{1003}{8-6-15}$  - d - DPO/MR
- ⑦  $\frac{1014}{11-6-15}$  - d - DPO/MR
- ①  $\frac{1016}{11-6-15}$  - d - DPO/MR
- ①  $\frac{1223}{15-7-15}$  - d - DPO/MR
- $29 \frac{2}{16}$  to  $4 \frac{3}{16}$  ④  $\frac{1191}{5.516}$  - do DPO/MR
- ④  $\frac{1191}{5-5-16}$  - do - DPO/MR
- ②  $\frac{2082}{31-8-16}$  - do - DPO/MR
- ⑤  $\frac{2269}{26-9-16}$  - do - DPO/MR
- ⑤  $\frac{2596}{7/11/017}$  - do - DPO/MR

- ③  $\frac{2660}{14/11/07}$  - do - DPO/MR
- ②  $\frac{2947}{26/12/07}$  - do - DPO/MR
- ③  $\frac{45}{8-1-08}$  - do - DPO/MR
- ②  $\frac{52}{9/1/08}$  - do - DPO/MR
- ①  $\frac{114}{16/1/08}$  - do - DPO/MR
- ②  $\frac{2100}{22/10/08}$  - do - DPO/MR
- ②  $\frac{2265}{7/11/08}$  - do - DPO/MR
- ③  $\frac{357}{14/02/09}$  - do - DPO/MR



21 09 / 017

تفقد کا روزنامہ

(56)

پولیس لائن

گنتی ملازمان  
رپورٹ  
تعمیر ماضی

اشرف الرحمان LO وقت 19:30 بجے مورخ 21 09 / 17 اس

ملازمان کی گنتی کٹی گئی۔ فارغ از ڈیوٹی ملازمان میں سے ریفریشنگ  
امیر بھادر 1589، فاروق 3425، بھالون 3065، محمد آصف <sup>349</sup> 3044، لاٹو سرد 470  
شکوکت 266 (باجی خان 3006) مولاداد 729، عبدالعزیز 2205، ضیاح لہری  
فائد عباس 1338، ارشداد 3198، سرد نواز 1875، شعیب 2740، سردار 2327، سنا  
ATS سٹوڈ سے لھت 1144، بٹیر 959 پلاٹون DAR سے ایس 2401 عدم موجود  
پائے گئے۔ کنسٹیبلان ہڈنرہ بالا پولیوڈیوٹی سے فارغ ہو کر لہری والی میں آئے۔  
کنسٹیبلان گوید بھی معلوم تھا کہ لوص محرم الحرام پر قسم حضرت سناشی بننے اور  
خاص طور پر ریفریشنگ لوزس والوں نے پولیوڈیوٹی کے بعد رات ایس گھر میں گزارا میں  
مگر لہری والی نہیں آئے ہیں۔ لہذا آئیڈیل خلاف ریپورٹ <sup>2017</sup> روزنامہ میں پورے تفصیل  
لے کر مناسبت فاروئی ارسال افسران مالا ہوگی۔ گنتی میں موجود ملازمان کو موجودہ  
حالات کے پیش نظر افسران مالا آئی ریڈیات سنا کر اور ان پر سختی سے عمل کرنے کی  
ریڈیات پورے گنتی درخواست کیں۔

حساب عالی

نقل مطابق اصل سے

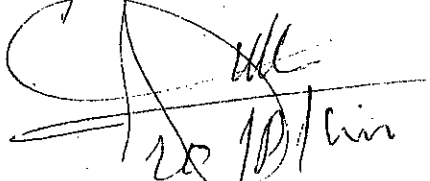
Case

507

MM PL MRD

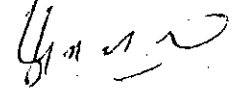
Farmorzel

22/09/17



22/9/17

File No. 507



28-9-2017

پولیس لائن

نقلہ 27 روزنامہ 22/09/17

27/09/17، اشرف اللہ خان صاحب وقت 7:50 صبح 22/09/17 اس وقت  
تھیل سید نواز 1875 غیر طہیزہ کے ساتھ 6 روزنامہ  
22/09/17 سے حاصل کر کے روزنامہ کتب

ضاحی  
نقل علی احمد صاحب  
MA  
M.M. Rine. mba  
28-12-17

Annex A' -5-


LARGE SHEET UNDER KPK POLICE RULES 1975

I, Dr. Mian Saeed Ahmed District Police Officer, Mardan as competent authority hereby charge you Constable Said Nawaz No. 1875, as follows.

That you Constable Said Nawaz No. 1875, while posted at Police lines, Mardan was deliberately absented yourself from lawful duty vide DD No. 06 dated 21.09.2017 without any leave / permission of the competent authority. Therefore, you are recommended for departmental proceedings by DSP/Hqrs, Mardan vide his office Memo: No. 757, dated 29.09.2017.

This amounts to grave misconduct on your part, warranting departmental action against you, as defined in section - 6 (1) (a) of the KPK Police Rules 1975.

1. By reason of the above, you appear to be guilty of misconduct under section - 02 (iii) of the KPK Police Rules 1975 and has rendered yourself liable to all or any of the penalties as specified in section - 04 (i) a & b of the said Rules.
2. You are therefore, directed to submit your written defense within seven days of the receipt of this charge sheet to the enquiry officer.
3. Your written defence if any, should reach to the enquiry officer within the specified period, failing which, it shall be presumed, that you have no defense to put-in and in that case, an ex-parte action shall follow against you.
4. Intimate whether you desired to be heard in person.

  
(Dr. Mian Saeed Ahmed) PSP  
District Police Officer,  
Mardan

OFFICE OF THE  
DISTRICT POLICE OFFICER  
MARDAN

- 6 -

Tel: 0937-9230109  
Fax: 0937-9230111  
Email: [dpomardan650@gmail.com](mailto:dpomardan650@gmail.com)  
Facebook: District Police Mardan  
Twitter: @dpomardan

No. 45 /R/D.A.-P.R-1975.  
Dated 11-10 /2017.

DISCIPLINARY ACTION UNDER KPK POLICE RULES - 1975

I, Dr. Mian Saeed Ahmed District Police Officer, Mardan as competent authority am of the opinion that Constable Said Nawaz No. 1875, rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of section-02 (iii) of KPK Police Rules 1975.

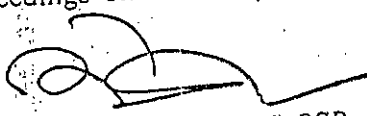
STATEMENT OF ALLEGATIONS

That Constable Said Nawaz No. 1875, while posted at Police lines, Mardan was deliberately absented himself from lawful duty vide DD No. 06 dated 21.09.2017 without any leave / permission of the competent authority. Therefore, he is recommended for departmental proceedings by DSP/Hqrs, Mardan vide his office Memo: No. 757, dated 29.09.2017.

2. For the purpose of scrutinizing the conduct of the said official with reference to the above allegations DSP HQ is appointed as Enquiry Officer.

3. The enquiry officer shall conduct proceedings in accordance with provisions of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused official, record its findings and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.

4. The accused officer shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

  
(Dr. Mian Saeed Ahmed) PSP  
District Police Officer,  
Mardan

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. \_\_\_\_\_ /R, dated Mardan the \_\_\_\_\_ /2017.

Copy of above is forwarded to the:

1. \_\_\_\_\_ for initiating proceedings against the accused official / Officer namely Constable Said Nawaz No. 1875, under Police Rules, 1975.
2. Constable Said Nawaz No. 1875, with the directions to appear before the Enquiry Officer on the date, time and place fixed by the enquiry officer for the purpose of enquiry proceedings.

\*\*\*\*\* !!! \*\*\*\*\*

/ (2)

**OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE**  
**HEADQUARTERS & TRAFFIC MARDAN.**

Inquiry Report conducted vide No.45/R/D.A-P.R-1975, dated 11.10.2017.

**BRIEF HISTORY:-**

That **Constable Said Nawaz No. 1875**, while posted at Police Lines, Mardan was deliberately absented himself from lawful duty vide DD No. 06 dated 21.09.2017 to DD No. 27 dated 22.09.2017 without any leave/permission of the competent authority.

**FINDINGS:-**

In this connection enquiry proceedings were initiated and the alleged **Constable Said Nawaz No. 1875**, was summoned and heard in person. He produced his written statement with medical paper that, he was ill (depression) due to which he remained absent from his duty. The alleged constable was questioned and cross questioned at length. During deep scrutiny and perusing medical document found it invalid reason for his absence, it is concluded that he left his official duty without prior permission of his seniors, which is gross misconduct in the meanings of Police Rules, 1975. He requested for filing the inquiry proceedings against him also committed to be careful in future. (He has earned **no good entry with 43 bad entries** in his service so far).

**RECOMMENDATION:-**

Keeping in view the above facts & previous record of the alleged official, the undersigned is of the view that he is a habitual absentee, performing his duty on his own sweet will and is black stain on Police department. **43 bad entries in his 07 years service**, speaks of his character. His presence in Police department has a negative impact on other officials around him.

It is therefore recommended that, the alleged Constable may kindly be awarded **major Punishment**, if agreed.

*Punishment-  
Recommended*

*Removal from SVC*

*[Signature]*

*OR 1/8 11/17*

*[Signature]*

(IKHTIRAZ KHAN)  
Deputy Superintendent of Police,  
HQs/Traffic, Mardan.

No. 04 /HQrs dated Mardan the 21 / 10 / 2018

*agreed [Signature]*

ORDER.

This order will dispose-off the appeal preferred by Ex-Constable Said Nawaz No. 1875 of Mardan District Police against the order of District Police Officer, Mardan, whereby he was awarded Major punishment of Removal from Service vide District Police Officer, Mardan OB No. 62 dated 09.01.2018.

Brief facts of the case are that the appellant while posted at Police Lines, Mardan deliberately absented himself from lawful duty with effect from 21.09.2017 to 22.09.2017 without any leave/prior permission of the competent authority. Therefore he was recommended for departmental proceeding by DSP/Hqrs; Mardan. Consequently he was charge sheeted and also proceeded against departmentally through Ikhteraz Khan Acting DSP/Headquarter, Mardan. The Enquiry Officer after fulfilling necessary process submitted his findings to District Police Officer, Mardan his service record was also checked in which 43 bad entries were found during his 07 years service. The Enquiry Officer recommended the alleged Constable for Major punishment. Therefore, the District Police Officer, Mardan agreed with the findings of Enquiry Officer and the alleged Constable was Removed from service.

He was called in orderly room held in this office on 14.02.2018 and heard him in person. The appellant did not produce any cogent reason for his absence. Besides the appellant was also absented for 91 days earlier, therefore, I find no grounds to intervene the order passed by District Police Officer, Mardan. **Appeal is rejected.**

ORDER ANNOUNCED.

(Muhammad Ahsan Shinwari)PSP  
Regional Police Officer,  
Mardan

No. 1061 /ES, Dated Mardan the 19/02 /2018.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 133/LB dated 07.02.2018. The Service Record is returned herewith.

(\*\*\*\*\*)



*Insp. In-charge / EC*  
*For Information & Action*  
*[Signature]*  
*DPP, Mardan*  
*20/2/18*



INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
PESHAWAR.

No. S/ 2622 /18, dated Peshawar the 04/07/2018.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-FC Said Nawaz No. 1875. The petitioner was removed from service by DPO, Mardan vide OB No. 62, dated 09.01.2018 on the charge of absence from duty for 0 day.

His appeal was rejected by Regional Police Officer, Mardan vide order Endst: No. 1061/ES dated 19.02.2018.

Meeting of Appellate Board was held on 21.06.2018 wherein petitioner was heard in person. During hearing petitioner contended that his absence was not deliberate but he was ill.

There is long service of 06 years, 06 months and 04 days at the credit of petitioner, therefore in view of his long service the Board decided that the petitioner is hereby re-instated in service and punishment of removal from service is converted into forfeiture of one year approved service. However, the intervening period including absence period shall be counted towards service as leave without pay.

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

(IRFAN ULLAH KHAN)  
AIG/Establishment,  
For Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.

No. S/ 2623-29 /18.

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan. Service Roll alongwith Fuji Missal of the above named Constable received vide your office Memo: No. 2940/ES, dated 03.05.2018 is returned herewith for your office record.
2. District Police Officer, Mardan.
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.

*OB/EC/PO/OSI*  
*For action*

*DPO, Mardan*  
*5/7/18*

*OB 13/11*  
*5-07-18*

Seal of the Superintendent of Police, Mardan, dated 06/07/18.

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

**Service Appeal No. 396/2018.**

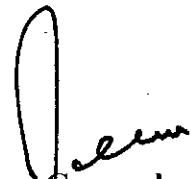
Said Nawaz .....Appellant.

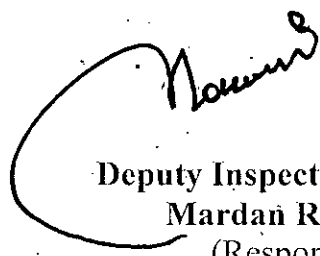
**VERSUS.**

District Police Officer, Mardan  
& others .....Respondents.

**AUTHORITY LETTER.**

Mr. Atta-ur-Rahman Inspector Legal, (Police) Mardan is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above captioned service appeal on behalf of the respondents. He is also authorized to submit all required documents and replies etc. as representative of the respondents through the Addl: Advocate General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

  
**Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.  
(Respondent No. 01)**

  
**Deputy Inspector General of Police,  
Mardan Region-I, Mardan  
(Respondent No. 02)**

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



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OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
PESHAWAR.

No. S/ 2622

/18, dated Peshawar the 04/07/2018.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975, submitted by Ex-FC Said Nawaz No. 1875. The petitioner was removed from service by DPO, Mardan vide OB No. 62, dated 09.01.2018 on the charge of absence from duty for 01 day.

His appeal was rejected by Regional Police Officer, Mardan vide order Endst: No. 1061/ES, dated 19.02.2018.

Meeting of Appellate Board was held on 21.06.2018 wherein petitioner was heard in person. During hearing petitioner contended that his absence was not deliberate but he was ill.

There is long service of 06 years, 06 months and 04 days at the credit of petitioner, therefore, in view of his long service the Board decided that the petitioner is hereby re-instated in service and punishment of removal from service is converted into forfeiture of one year approved service. However, the intervening period including absence period shall be counted towards service as leave without pay.

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

(IRFAN ULLAH KHAN)  
AIG/Establishment,  
For Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.

No. S/ 2623-29 /18.

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan. Service Roll alongwith Fuji Missal of the above named Constable received vide your office Memo: No. 2940/ES, dated 03.05.2018 is returned herewith for your office record.
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3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Adtl: 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.

Handwritten signature and initials: OB/EC/PO/OSI For action

Handwritten signature: DPO, Mardan 5/7/18

Large circular stamp with handwritten text: OB 13/11 07-07-18

Handwritten number: 8

کوریس لائن

تقریباً 30 روز یا 10/18/8

حاضر حاضرین MASI وقت 10 بجے مورخہ 10/18/8 اس وقت ایک

تعمیری پروگرام دفتر ASI سے موصول ہو کر خلیج ہے۔ بحوالہ حکم نمبر 29/13-23-2623

4-7-8

مخارجہ جناب - AIG - اسٹینڈ بحوالہ 1311 08 سابقہ کنٹینر نمبر 1875

9-7-8

مذکورہ پروگرام بحوالہ ہو چکا ہے کنستبلری میں موجود ہیں اسٹ کیا جائے گا۔ نظریہ

حاضرین کے ذریعہ تشکیل دینا ارسال کریں نظریہ علیہ ذہن مہربان کر کے دھت کیا گیا

ضامی  
تاریخ 10/18/8

PHC-MM-PL-MDN

10-08-18

کنستبلری میں اسٹ کیا جائے

1875

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,  
PESHAWAR.

Service Appeal No. 396/2018.

Said Nawaz .....Appellant.

VERSUS.

District Police Officer, Mardan  
& others.....Respondents.

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3.	Copy of Red entries	A	4-7
4.	Copies of DDs reports	B&C	8-9
5.	Copies of Enquiry & appeal rejection orders	D	10-14
6.	Copy of Authority Letter.	----	15