

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 988/2018

Date of institution ... 03.08.2018

Date of judgment ... 08.10.2021

Kamran Khalil S/O Farooq Khan, R/O Regi, Peshawar, Ex-Constable No. 5888, Police Line Peshawar. ... (Appellant)

VERSUS

Superintendent of Police Headquarters, Peshawar and two others.

... (Respondents)

Present:

MR. ARBAB SAIF UL KAMAL,
Advocate

... For appellant.

MR. MUHAMMAD RASHEED,
Deputy District Attorney

... For respondents.

MR. AHMAD SULTAN TAREEN,
MR. MIAN MUHAMMAD

... CHAIRMAN
... MEMBER (EXECUTIVE)

JUDGEMENT

MIAN MUHAMMAD, MEMBER (E):- The service appeal has

been filed against original impugned order dated 27.04.2017 whereby major penalty of "removal from service" was awarded to the appellant, appellate order dated 21.06.2017 and order on his revision petition dated 28.06.2018.

2. Brief facts of the case are that the appellant was enlisted as constable in the respondent-department on 07.01.2012. He was deputed for basic recruit training at PTC Swat from where he returned as unqualified and remained absent w.e.f 21.01.2017. He was therefore, charge sheeted for misconduct

on account of willful absence and an enquiry was conducted through ASP, Hayatabad. The enquiry officer submitted report on 18.04.2017 upon which he was issued final show cause notice. The appellant was again deputed for basic recruit training on 15.04.2017 but he again did not report arrival in PTC Hangu despite the directions to join the course immediately. He was therefore awarded the major penalty of removal from service under the Khyber Pakhtunkhwa Police rules 1975 and the period of absence period from 21.01.2017 to 23.01.2017, 19.02.2017 to 05.03.2017 and 15.04.2017 to 27.04.2017 was treated as leave without pay vide impugned order dated 27.04.2017. He preferred departmental appeal on 26.05.2017 which was rejected/filed on 21.06.2017. His revision petition dated 22.06.2018 was also filed on 28.06.2018 on the ground being time barred for one year and one month.

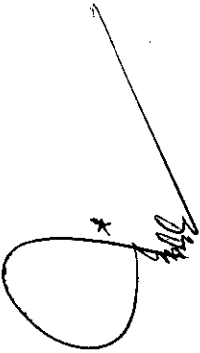
3. Parties were heard and available record perused thoroughly with assistance of their respective learned counsel.

4. Learned counsel for the appellant contended that the competent authority while awarding major penalty of "removal from service" and treating the absence period as leave without pay, exceeded beyond his power and jurisdiction because the enquiry officer had only recommended the absence period to be treated as leave without pay whereas the competent authority also awarded him the major penalty of "removal from service" which is in itself a harsh penalty on the face of absence period

for only thirty days. When absence period was treated as leave without pay the authority infact regularized the absence period of the appellant, therefore, removal from service was not justified and not maintainable. To strengthen his arguments learned counsel for the appellant relied on 2011 SCMR 1504, 2006 SCMR 434 and 2012 SCMR 165. Learned counsel for the appellant was confronted with the question of limitation as well as non-submission of application for condonation with memorandum of appeal. He made a reference to and relied on PLD 2005 (SC) 153 with the arguments that the court has suo-moto powers to condone the delay. He, therefore, contended that the original, appellate and revision order i.e 27.04.2017, 21.06.2017 and 28.06.2018 respectively are ab-initio, void by keeping in view recommendation of the enquiry officer as well as treatment of absence period as leave without pay. The impugned orders are therefore, based on malafide and against the canons of justice, law and rules may be set aside and appellant be reinstated in service with all back benefits.

5. Learned DDA did not agree with the arguments of the learned counsel for the appellant and contended that being enlisted Constable in the respondent-department on 07.01.2012, he was required to successfully complete the basic recruit training for confirmation but he returned unqualified on ~~06~~ different ~~05~~ occasions and particularly on these two occasions when he absented himself from the course. His conduct was

unbecoming to and quite contrary to the personnel of a disciplined force. He was properly charge sheeted and opportunity of personal hearing and self-defense was accordingly provided to the appellant by the enquiry officer. The appellant could not produce any medical document(s) in support of his claim to have been the only male member of family attending his mother or mother in law during that period. Moreover, the medical prescription and documents attached with the memorandum of appeal are other than of those dates of his absence period. It is also not proved that the medical documents submitted in respect of Mrs. Rambila Bibi is the same lady being claimed as his mother in law. It was further contended that the service appeal is time barred and no condonation has been requested for. In any way, plausible and cogent reasons for justification are required to substantiate the delay involved in the case. The question of limitation cannot be taken for granted but taken seriously and diligently. In support of his arguments, learned Deputy District Attorney relied on 2009 SCMR 1435, 2010 SCMR 1982, PLJ 2009 SC 1099, 2004 SCMR 1426 unreported judgement of Supreme Court of Pakistan dated 11.11.2019 in Civil Appeal No. 290 of 2018 titled Mst. Mamoona Bibi, Khyber Pakhtunkhwa Service Tribunal judgement dated 03.03.2021 in service appeal No. 1398/2017 titled "Muhammad Abdullah Ali Tasleem, Ex-Warder Prison Central Jail Bannu-vs-Government of Khyber Pakhtunkhwa

A handwritten signature, possibly "M. Ali", is written in the left margin. Below it is a large, hand-drawn circle with a small asterisk inside it.


through Secretary Home and Tribal Affairs", unreported judgement of the Supreme Court of Pakistan dated 10.01.2020 in Civil Petition No.1706 of 2018 titled "Fakhar Zaman-vs-Province of Khyber Pakhtunkhwa through Secretary Elementary and Education" and Khyber Pakhtunkhwa Service Tribunal judgement dated 02.12.2019 in service appeal No. 381/2019 titled "Ali Bahadar (ASI)-vs-District Health Officer Buner and others"

06. Perusal of record reflects that the appellant being enlisted as Constable was deputed for basic Recruit Training at PTC Swat but absented himself w.e.f 21.01.2017 and returned unqualified. He was again deputed for Basic Recruit Training at PTC Hangu on 15.04.2017 but he did not report his arrival to join the training despite the fact that he had been summoned and directed to join the course immediately otherwise strict action will be taken against him. No doubt, under chapter 19 (serial 19.1 and 12.21) of the Police Rules 1934 an enlisted constable is required to undergo the Basic Recruit Training and come out successful and qualified. The appellant being personnel of a disciplined force was duty bound to have complied with legal orders of the authority. Moreso, absence for a single day without sanction of the Competent Authority constitutes misconduct. The appellant as per his reply and plea contained in departmental appeal dated 26.05.2017 took the shelter that his mother in law was seriously ill and having no male issue, the appellant had to support the family. But the medical documents of his reportedly mother in law submitted in support of his claim, relates to the period

November/December, 2013 and December,2016 whereas he had been proceeded against for unauthorized and willful absence during the period w.e.f 20.01.2017 to 23.01.2017, 19.02.2017 to 05.03.2017 and 15.04.2017 to 27.04.2017.

07. As a sequel to the above, the instant service appeal does not stand on merit and circumstances, we therefore, find no illegality on part of the respondents warranting to interfere with. The service appeal being devoid of merit is therefore, dismissed. Parties are left to bear their own costs. File be consigned to the record room

ANNOUNCED
08.10.2021


(AHMAD SULTAN TAREEN)
CHAIRMAN


(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

ORDER


08.10.2021

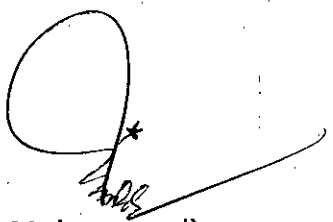
Appellant alongwith his counsel present. Mr. Ahmad Jan Khan, SI (Legal) alongwith Mr. Abdul Rashid, DDA for respondents present. Arguments heard and record perused.

Vide our detailed order of today placed on file, the instant service appeal does not stand on merit and circumstances, we therefore, find no illegality on part of the respondents warranting to interfere with. The service appeal being devoid of merit is therefore, dismissed. Parties are left to bear their own cost. File be consigned to the record room.

Announced:

08.10.2021


(AHMAD SULTAN TAREEN)
CHAIRMAN


(Mian Muhammad)
Member(E)

11.03.2021

Due to non availability of Bench, the case is adjourned to 15.06.2021 for arguments before D.B



READER


15.06.2021

Nemo for the appellant. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Notice for prosecution of the appeal be issued to the appellant as well as his counsel and to come up for arguments before the D.B on 05.10.2021.

*For
Asif Masood
05-10-21
M*



(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

05.10.2021

Appellant alongwith his counsel Mr. Arbab Saif-ul-Kamal, Advocate, present. Mr. Ahmad Jan Khan, S.I (Legal) alongwith Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present.

Arguments heard. To come up for order before this D.B on 08.10.2021.


(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

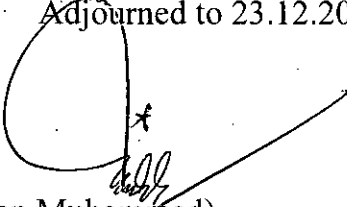

CHAIRMAN


13.10.2020

Counsel for the appellant is present. Mr. Muhammad Jan, DDA for respondents are present.

Learned counsel for the appellant seeks time for preparation of the brief. Request is acceded to and the matter is adjourned.

Adjourned to 23.12.2020 for arguments before D.B.

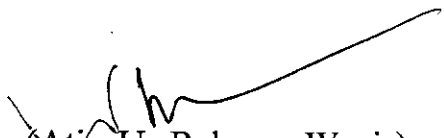

(Mian Muhammad)
Member (E)

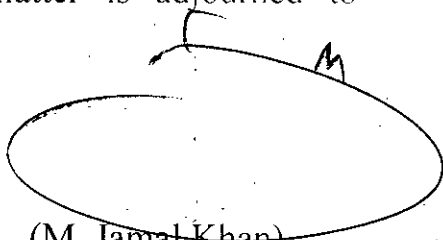

(Rozina Rehman)
Member(J)

23.12.2020

Uzma Syed, Advocate for appellant is present. Mr. Kabirullah Khattak learned Additional Advocate General alongwith Raziq H.C for respondents present.

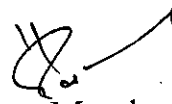
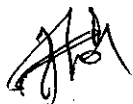
According to the learned counsel her senior is busy before Peshawar High Court Peshawar and requested for adjournment. The request is acceded to and the matter is adjourned to 11.03.2021 for arguments before D.B.


(Atiq-Ur-Rehman Wazir)
Member (E)


(M. Jamal Khan)
Member (J)

14.01.2020

Appellant absent. Learned counsel for the appellant absent. Mr. Zia Ullah learned Deputy District Attorney for the respondent present. Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for further proceedings/arguments on 11.03.2020 before D.B. Appellant be put to notice for the date fixed,



11.03.2020 Member Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 28.04.2020 before D.B.



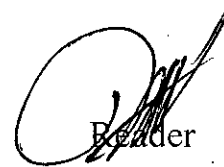
Member



Member

28.04.2020


Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 05.08.2020 before D.B.



Reader

05.08.2020

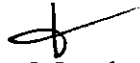
Due to summer vacation case to come up for the same on 13.10.2020 before D.B.



Reader

25.06.2019

Counsel for the appellant and Mr. Ziaullah, DDA for respondents present. Learned counsel for the appellant seeks time to file rejoinder. Adjourned. Case to come up for rejoinder and arguments on 28.08.2019 before D.B.



Member



Member

28.08.2019

Junior to counsel for the appellant present. Mr. Ziaullah, DDA for respondents present. Junior to counsel for the appellant submitted rejoinder which is placed on file. Case to come up for arguments on 12.11.2019 before D.B.



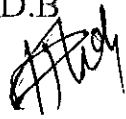
Member



Member

12.11.2019

Appellant in person present. Mr. Kabirulllah Khattak learned Additional Advocate General for the respondents present. Appellant seeks adjournment that his counsel is not in attendance. Adjourn. To come up for arguments on 14.01.2020 before D.B.



Member



Member

Service Appeal No. 988/2018

29.01.2019

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Raziq, Head Constable for the respondents present. Written reply not submitted. Learned Additional AG requested for further adjournment. Adjourned to 21.02.2019 for written reply/comments before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

21.02.2019


Counsel for the appellant and Addl. AG alongwith Muhammad Raziq, H.C for the respondents present.

Representative/of respondents requests for more time as the requisite reply is in process of preparation. Adjourned to 02.04.2019 on which date the requisite reply shall positively be submitted.


Chairman

02.04.2019

Junior to counsel for the appellant present. Mr. Kabirullah, Addl: AG alongwith Mr. Muhammad Raziq, H.C for respondents present. Written reply submitted which is placed on file. Case to come up for rejoinder and arguments on 25.06.2019 before D.B.


(Ahmad Hassan)
Member

07.09.2018 Learned counsel for the appellant present. Preliminary arguments heard.

The appellant (Ex-Constable) has filed the present service appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, against 22.04.2017 whereby he was removed from service on the ground/allegations that he while deputed to Basic Recruit Training at PTS Swat, was returned as unqualified and absented himself without taking permission or leave. The appellant has also challenged the order dated 21.06.2017 whereby his departmental appeal was rejected and the order dated 28.06.2018 whereby his Review Petition was filed being time barred.

The present service appeal was filed on 03.08.2018 i.e. after more than one (01) year of the issuance of order of the appellate authority. The Review Petition of the appellant also found hopelessly time barred.

In the interest of justice, the present service appeal is admitted for regular hearing subject to all the legal objections including the issue of limitation. 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 01.11.2018 before S.B.,

Appellant Deposited
Security & Process Fee


Member

01.11.2018 Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 19.12.2018.


MEMBER

19.12.2018

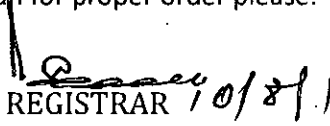

Appellant in person and Mr. Kabirullah Khattak learned Additional Advocate General present. Written reply not submitted. No one present on behalf of respondents. Notice be issued to the respondents with the direction to furnish written reply/comments. Adjourn. To come up written reply/comments on 29.01.2019 before S.B.


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 988/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/08/2018 11-8-2018	<p>The appeal of Mr. Kamran Khalil resubmitted today by Mr. Saadullah Khan Marwat 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 10/8/18</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>7-9-2018</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Kamran Khalil son of Farooq Khan r/o Regi Peshawar ex-constable no. 5888 Police Line Peshawar received today i.e. on 03.08.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Annexures of the appeal may be flagged.
- 3- Index of the appeal may be prepared according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 4- Annexures of the appeal are illegible which may be replaced by legible/better one.
- 5- Annexure-A of the appeal is missing.
- 6- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1528 /S.T,

Dt. 3/8 /2018.


REGISTRAR 3/8/18
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Saadullah Khan Marwat Adv. Pesh.

Sir,
Resubmitted after
completion of. My

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BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S.A No. 988/2018

Kamran Khalil

versus

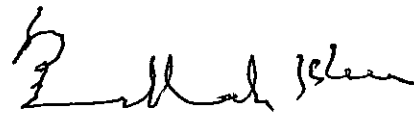
Superintendent & others

I N D E X

S.#	Description of Documents	Annex	Page
1.	Memo of Appeal		1-3
2.	Medical Receipts	"A"	4-18
3.	Recommendations of IO dated 18-04-2017	"B"	19
4.	Removal order dated 28-04-2017	"C"	20
5.	Representation dated 26-05-2017	"D"	21-22
6.	Rejection order dated 21-06-2017	"E"	23
7.	Revision Petition dated 22-06-2018	"F"	24
8.	Rejection order dated 28-06-2018	"G"	25

Appellant

Through



Dated: 03-08-2018

(Saadullah Khan Marwat)
Advocate
21-A Nasir Mansion,
Shoba Bazaar, Peshawar.
Ph: 0300-5872676
0311-9266609

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S. A. No. 908 / 2018

Kamran Khalil S/o Farooq Khan,
R/O Regi, Peshawar,
Ex-Constable No.5888,
Police Line Peshawar

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1225

Dated 03/8/2018

Appellant

VERSUS

1. Superintendent of Police,
Headquarters, Peshawar.
2. Capital City Police Officer,
Peshawar.
3. Provincial Police Officer,
KP, Peshawar Respondents

98

APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974 AGAINST
OB NO. 1841 DATED 22-04-2017 OF R. NO. 01
WHEREBY APPELLANT WAS REMOVED FROM SERVICE
AND THE PERIOD OF ABSENCE WAS TREATED AS
WITHOUT PAY OR OFFICE ORDER NO. 970-75 / PA
DATED 21-06-2017 OF R. NO. 02, WHEREBY
REPRESENTATION OF APPELLANT WAS REJECTED OR
OFFICE ORDER NO. S / 2549 / 18 DATED 28-06-2018
WHEREBY REVISION PETITION OF APPELLANT WAS

Filed to-day
Registrar
3/8/18

Re-submitted to -day
and filed.

FILED:

Sheweth
Registrar
10/8/18

Respectfully Sheweth:

1. That appellant was enlisted as Constable on 07-01-2012.
2. That appellant mother in law became seriously ill and there was no other family member to make her treatment except the appellant. From time to time, she was treated from various doctors including Police Hospital Peshawar. Finally she gained health but she is too weak to walk.
(Copies as annex "A")

3. That in the enquiry report of Inquiry Officer dated 18-04-2017 recommendation was made that the absence period be treated as leave without pay. (Copy as annex "B")
4. That on 27-04-2017, appellant was removed from service with immediate effect and the period of absence from 21-01-2017 to 23-01-2017, 19-02-2017 to 05-03-2017 and from 15-04-2017 till 27-04-2017 was treated as leave without pay. (Copy as annex "C")
5. That on 26-05-2017, appellant submitted appeal before R. No. 02 for reinstatement in service which was rejected on 21-06-2017. (Copies as annex "D" & "E")
6. That on 22-06-2018, appellant submitted revision petition before R. No. 03 for the aforesaid purpose which was rejected on 28-06-2018 which copy was received from the office on 02-08-2018. (Copies as annex "F" & "G")

Hence this appeal, inter alia, on the following grounds:-

GROUND

- a. That as stated in the body of appeal, appellant never absented from duty intentionally but was due to the compelling circumstances stated therein.
- b. That it was necessary for the authority to follow the recommendations of the Inquiry Officer and to not make any deviation from the same except re-coursing to Law.
- c. That no statement of any witness was recorded in presence of appellant nor he was afforded opportunity of cross-examination what to speak of self defense and personal hearing along with Final Show Cause Notice, so the impugned orders are of no legal effect.
- d. That as and when absence period was treated leave without pay then the authority cannot remove him from service as by then absence period was regularized by the authority.
- e. That the Inquiry Officer also made recommendation to treat the absence period as leave without pay, so the authority cannot travel beyond the recommendations except re-coursing to law.

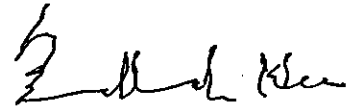
- f. That original, appellate and revisional orders are ab-initio void by keeping in view recommendations of the Inquiry Officer as well as treating absence period leave without pay.
- g. That the impugned orders are based on malafide and is against the norms of Justice, Law and Rules.

It is, therefore, most humbly prayed that on acceptance of the appeal order dated 22-04-2017, 21-06-2017 and 28-06-2018 of the respondents be set aside and appellant be reinstated in service with all back benefits.



Appellant

Through



Saadullah Khan Marwat



Amjad Nawaz

Advocates

Dated: 03-08-2018



A

4

5/B-2 Phase - 5 Hayatabad Peshawar Pakistan
Tel: +92-91-5838000 | Fax: +92-91-5838333
UAN: 111-REH-MAN
Appointments: +92-91-5838666

OUT-PATIENT RECEIPT

THIS FORM MAY ONLY BE USED FOR SYSTEM-GENERATED RECEIPTS

PR #: 13-11-009783 *13-11-00978 Paid #: 13-0621380
 Patient: Mrs. Rambila Bibi (60 Years / F) Prescription #: PH-13-12-001241
 Consultant: - 3* Req Made By: Mr. Shakeel Ur Rehman
 Department: Pharmacy

Sr	RX No	Medicine	Unit Price	Qty	M.R.P
1	RX-004151956	Ciproxin Tab 500 mg	50.46	10	504.60
2	RX-004151957	Concor Tab 2.5 mg	4.29	28	120.12
3	RX-004151958	Lowplat Plus Tab 75 mg	14.50	30	435.00
4	RX-004151959	Panadol Tab 500 mg	0.90	10	9.00
5	RX-004151955	Esso Caps 40 mg	19.93	14	279.00

Amount In Words: Rupees One Thousand Three Hundred Forty-Eight Only

Total Amount: 1,348

Received By: Amjad Ali Mr.
Received On: Dec 02, 13 12:42

Net Amount: 1,348

Print On: Dec 02, 13 12:42:48



Handwritten signature: Shakeel Ur Rehman



5/B-2 Phase -5 Hayatabad Peshawar Pakistan
 Tel: +92-91-5838000 | Fax: +92-91-5838333
 UAN: 111-REH-MAN
 Appointments: +92-91-5838666
 Health Care for All | www.rmi.edu.pk

OUT-PATIENT RECEIPT

THIS FORM MAY ONLY BE USED FOR SYSTEM-GENERATED RECEIPTS

PR #: 12-04-005288 *12-04-005288 Paid #: 14-0013513
 Patient: Mrs. Karima (66 Years / F) Prescription #: PH-14-01-010178
 Consultant: 8* Req Made By: Mr. Ikram Ullah Khan
 Department: Pharmacy

S#	Rx No	Medicine	Unit Price	Qty	M.R.P
1	RX-004375612	Lowplat Plus Tab 75 mg	14.50	30	435.00
2	RX-004375613	Concor Tab 2.5 mg	4.29	28	120.12
3	RX-004375614	Rolip Tab 10 mg	20.00	30	600.00

Amount In Words: Rupees One Thousand One Hundred Fifty-Five Only

Total Amount: 1,155

Received By: Zubair Ali FP189 Mr.
 Received On: Jan 07, 14 12:57

Net Amount: 1,155

Print On: Jan 07, 14 12:57:02



DISCLAIMER : THIS FORM CAN ONLY BE USED FOR PATIENT REPORTS

Echocardiography

 Request No: 14-01-002884 PR No: 13-11-009783 Entered: 13, Jan, 14 02:50PM
 Patient Name: Mrs. Rambila Bibi (Female: 60 Years) Printed: 13, Jan, 14 03:37PM
 Consultant: Niaz Ali Dr. Location: Cardiology

Measurements	Observed	Normal Range(mm)	Parameter	Values	Range
Aortic Root Dimension	30	20-40	EPSS		0-9
Left Atrial Dimension	42	19-39	PHT		-
LV End Diastolic Dimension	48	36-56	E Velocity(cm/sec)		34-9
LV End Systolic Dimension	32	25-41	A Velocity(cm/sec)		31-87
IVS Thickness	10	8-12	E: A Ratio		5-1.7
LVPW Thickness	10	7-11	RVSP	30	-
Rt. Vent. Dimension	23	7-25			
LV Function Indices					
Fractional Shortening	34%		Ejection Fraction	62%	
IVRT			E. Wave DT		
PAP(mmHg)					
Sys			Dias		

Valves	Gradient (mmHg)		Peak Velocity (cm/sec)	Valve Area (cm ²)		Regurgitation
	Peak	Mean		Doppler	2-D	
Mitral Valve						Trace
Tricuspid Valve						Trace
Aortic Valve						+1
Pulmonic Valve						

Comments:

- o Status Post CABG.
- o Mildly dilated LA.
- o Good LV systolic function.
- o No regional wall motion abnormality at rest.
- o E.A ratio across the mitral valve is reversed.
- o Valves are normal in structure.
- o No clot or pericardial effusion.

Conclusion:

Good LV systolic function.



Dr. Muhammad Arshad Hussain

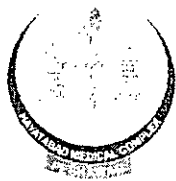
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13-11-009783

DEPARTMENT OF CARDIOLOGY

POSTGRADUATE MEDICAL INSTITUTE

Hayatabad Medical Complex, Peshawar (Pakistan)
Hospital Exchange No. 9217140-46 Ward No 2107



Cardiac Catheterization Report

Patient Name	Rambila	Age	55 Years
Patient ID	680/13	Type	Paid
Cath. No	680/13	Consultant	Dr. Zahid Aslam Awan
Procedure	Cor Angio	Address	Charsadda
Date	26-11-2013	Hosp No	131113929

PROCEDURE:

Right Femoral Artery entered through seldinger technique. 6F sheath put in J.L/ 4.0 6F diagnostic catheters used for LCA. Coronary Angiography done in PA. Cranial 90 LAO, RAO, 30, LAO caudal & PA Caudal views. JR 4.0 diagnostic catheter used for RCA & views taken in LAO 30, RAO 30. Pressure homeostasis achieved.

LMS	Distal - 90%
LAD	Proximal - 90%
CIRC	Proximal - Total OMI - Big Vessel - Normal
RCA	Proximal - 90% Mid - 90%

Result: TVD/LMS Disease
Recommendation: Urgent CABG


Signature



5/B-2 Phase - 5 Hayatabad Peshawar Pakistan
 Tel: +92-91-5838000 | UAN: 111-REH-MAN | Fax: +92-91-5838333
 Appointments: +92-91-5838666
 healthcare@rmi.edu.pk | www.rmi.edu.pk

8
1

INVOICE

DISCLAIMER: THIS FORM CAN ONLY BE USED FOR INVOICES

Patient Invoice
RMI Patients

Invoice #: 13-11-001662

Patient Information

PR No: 13-11-009783
 Name: Mrs Rambila Bibi
 Gender: Female Age: 60 Years Weight: kg kg
 Height: ft
 Address: Village Regi, Distt Tehsil peshawar
 Consultant: Dr. Niaz Ali

Admission Information

Admission No: 13-11-001662
 Admission Date: 26/11/2013 5:33PM
 Ward: Ward B
 Room/Bed: 218 / A
 Discharge Date: 02/12/2013 11:48AM
 Discharge Type: Normal Discharge

Package	Amount
o CABG Coronary Artery By-Pass Grafting	280,000 Procedure Done

General Services:

Service	Date	Charges	Department
1 Ventilator	28/11/2013	750	General Services
2 Physiotherapy	28/11/2013	500	Physiotherapy
3 Physiotherapy	28/11/2013	500	Physiotherapy
4 Physiotherapy	29/11/2013	500	Physiotherapy
5 Physiotherapy	30/11/2013	500	Physiotherapy
6 Physiotherapy	30/11/2013	500	Physiotherapy
7 Physiotherapy	1/12/2013	500	Physiotherapy
8 Physiotherapy	2/12/2013	500	Physiotherapy

Cash Deposit:	Rs.	280,000
Consumption:	Rs.	280,750
Adjustment Amount:	Rs.	(750) Reason: vent=-750(covered in package)
Final Bill:		280,000

Amount Receivable: 0 Zero ONLY

Mr. Rizwan Ullah

CLEARED
Date

BILLING
RMI Rehman Medical Institute
Hayatabad Peshawar Pakistan



S/B-2 Phase - 5 Hayatabad Peshawar Pakistan
 Tel: +92-91-5838000 | UAN: 111-REH-MAN | Fax: +92-91-5838333
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 healthcare@rmi.edu.pk | www.rmi.edu.pk

INVOICE

9

DISCLAIMER: THIS FORM CAN ONLY BE USED FOR INVOICES

Patient Invoice
 RMI Patients

Invoice #: 13-11-001662

Patient Information

PR No: 13-11-009783
 Name: Mrs Rambila Bibi
 Gender: Female Age: 60 Years Weight: kg kg
 Height: ft
 Address: Village Regi, Distt Tehsil peshawar

Admission Information

Admission No: 13-11-001662
 Admission Date: 26/11/2013 5:33PM
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Consultant: Dr. Niaz Ali

Package	Amount
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General Services:

Sl. No	Service	Date	Charges	Department
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2	Physiotherapy	28/11/2013	500	Physiotherapy
3	Physiotherapy	28/11/2013	500	Physiotherapy
4	Physiotherapy	29/11/2013	500	Physiotherapy
5	Physiotherapy	30/11/2013	500	Physiotherapy
6	Physiotherapy	30/11/2013	500	Physiotherapy
7	Physiotherapy	1/12/2013	500	Physiotherapy
8	Physiotherapy	2/12/2013	500	Physiotherapy

Cash Deposit:	Rs.	280,000
Consumption:	Rs.	280,750
Adjustment Amount:	Rs.	(750) Reason: vent=-750(covered in package)
Final Bill:		280,000

Amount Receivable: 0 Zero ONLY.

Mr. Rizwan Ullah

CLEARED
 Date

BILLING
 RMI Rehman Medical Institute
 Hayatabad Peshawar Pakistan

Parvula BSB
60y

9/12/13

Post-RTSA

2/1/14

AS. Aspirin plus
100mg

AS. Coumadin
5mg

CIB AS. Colip 100
100mg

Cap. Espira
100mg

AS. Panadol
2 tablets

Syp. Surbex
2 tablets
?



11



Dr. Niaz Ali - Professor
MRCP, FRCS (Glasgow)

Consultant Cardiac Surgery

niaz.ali@rmi.edu.pk | Direct Tel: +92-91-5838309

Clinic Timing: 05:00 pm - 08:00 pm (Monday - Saturday)

11:00 am - 01:00 pm (Monday)

Ram bile R.D.

Handwritten signature

13/1/16

18 progrel
- U¹³ $\frac{75}{100}$ P

tes. Cmu or
L¹³ P

Handwritten initials

tes. Bolip
U¹³ $\frac{100}{100}$ P

Cop 1 B850 20
U¹³ $\frac{100}{100}$ P

Handwritten signature

5/B-2 Phase - 5 Hayatabad Peshawar Pakistan

Tel: +92-91-5838000 (Ext. 3609) | Fax: +92-91-5838333 | Appointments: +92-91-5838666

healthcare@rmi.edu.pk

REH-MAN
www.rmi.edu.pk

12



Dr. Niaz Ali - Professor
MRCP, FRCS (Glasgow)
Consultant Cardiac Surgery
niaz.ali@rmi.edu.pk | Direct Tel: +92-91-5838309
Clinic Timing: 05:00 pm - 08:00 pm (Monday - Saturday)
11:00 am - 01:00 pm (Monday)

Hamid Raza
boy

16/11/15

Pool case

1) complete
J3 E1
2) same
J3 E1

Feldan cream
J3 E1

1) Surbex
J3 E1

13



5/B-2 Phase - 5 Hayatabad Peshawar Pakistan
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info@rmi.edu.pk | www.rmi.edu.pk

VOUCHER

Discharge Sheet

DISCLAIMER: THIS FORM IS FOR INTERNAL USE ONLY

RMI Patients

Follow Up:

Visit your Consultant (Dr.Niaz Ali) on 09/12/2013.

Please ensure that you have booked an appointment prior to your visit by calling on the following telephone number: (92-91) 5825501-07 lines

Discharged By: ~~Fawaz Khan~~

Medical Officer

Dr Niaz Ali

Checked

13481-

DISCLAIMER : THIS FORM IS FOR INTERNAL USE ONLY.

RMI Patients

Patient Information

PR No: 13-11-009783
 Name: Mrs Rambila Bibi
 Gender: Female Age: 60 Years-
 Phone: 03229192801
 Address: Village Regi, Dist Tehsil peshawar

Blood Group:
 Weight: kg
 Height: ft

Admission Information

Admission No: 13-11-001662
 Admission Date: 26/11/2013 5:33PM
 Ward: Ward B
 Room/Bed: 218/A
 Discharge Date: 2-12-13
 Discharge Type: Normal

Consultant

Primary: Dr. Niaz Ali
 Secondary: Dr. Niaz Ali

Package

o CABG Coronary Artery By-Pass Grafting

Department

(Cardiac Surgery)

Diagnosis

Coronary Artery Disease

Presenting Complaints

CHEST PAIN
 SOB
 PALPITATION

Clinical Status

IMPROVED

Investigations

ATTACHED

Risk Factors

ALREADY EXPLAINED

Treatment At Hospital

Operation Notes

CABG DONE ON 27_11_2013
 SVG HARVESTED MEDIAN STERNOTOMY DONE LIMA HARVESTED AORTA AND
 RIGHT ATRIAL CANNULATION DONE CPB ESTABLISHED COOLING DONE
 AORTA X CLAMPED COLD BLOOD ANTEGRADE CARDIOPLEGIA USED
 INETRMITTENTLY.
 FINDINGS:
 GOOD QUALITY SVG AND LIMA GOOD L V FUNCTION
 GOOD DISTAL FLOW ESTABLISHED IN THE GRAFTS
 GRAFTS:
 SVG TO OM
 SVG TO DISTAL RCA
 SVG TO DIAGNAL
 RE WARMING AND DE AIRING DONE PATIENT CAE OFF BY PASS
 UNEVENTFULLY HEMOSTASIS DONE R V EPICARDIAL PACING WIRE LEFT
 PLEURAL DRAIN AND ONE PARICARDIAL DRAIN PUT IN ROUTINE CLOSURE
 ASD

Medicines

INJ CALFORAN
 INJ AUGMENTIN

Post Operative Complication

ALREADY EXPLAINED

Precautions

Medicines:

CAP ESSO 40 MG

ایک کیپسول شام (۲ ہفتہ) کھانے کے پہلے

TAB CIPROXIN 500 MG

ایک گولی صبح شام (۸ گھنٹے)

TAB CONCOR 2.5M G

ایک گولی صبح (جاری)

TAB LOWPLAT PLUS 75 MG

ایک گولی صبح (جاری)

TAB PANADOL

دو گولی صبح دوپہر شام حسب ضرورت (۵) درد کی صورت میں

TAB SPIROMIDE 40 MG

ایک گولی صبح (جاری)

Checked



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 UAN: 111-REH-MAN
 Appointments: +92-91-5838666

15

OUT-PATIENT RECEIPT

THIS FORM MAY ONLY BE USED FOR SYSTEM-GENERATED RECEIPTS

PR #: 13-11-009783 *13-11-00978 Paid #: 13-0635445
 Patient: Mrs. Ramblla Bibi (60 Years / F) Prescription #: PH-13-12-011432
 Consultant: Niaz Ali DR * Req Made By: Mr. Kamran Ahmad
 Department: Pharmacy

S#	Rx No	Medicine	Unit Price	Qty	M.R.P
1	RX-004192338	Rolip Tab 10 mg	20.00	30	600.00
2	RX-004192339	Surbex Syrup 120 ml	47.00	4	188.00

Amount In Words: Rupees Seven Hundred Eighty-Eight Only

Total Amount: 788

Received By: Amjad Ali Mr.
 Received On: Dec 09 13 12:44

Net Amount: 788

9

Print On Dec 09 13 12:44:06

Professor

Dr. Manzoor Ahmad Khan

M.S. ORTH., F.I.C.S., F.C.P.S., F.P.A.M.S., F.B.O.A., M.I.S.P.O., M.I.C.D.R.
 WINNER OF LIFE TIME ACHIEVEMENT AWARD.
 FROM SICOT, AIMS, SAARC, AND PAK. ORTH. ASSOCIATION FOR
 OUT-STANDING SERVICES FOR ORTHOPAEDIC SURGERY

Ex. Consultant/Principal Khyber
 Medical College, Peshawar.
 Dean, Faculty of Medicine
 University of Peshawar.
 Head of Orthopaedic Department
 Khyber Medical College
 Visiting Orthopaedic Surgeon, K.T.H.
 Honorary Director, Artificial
 Limb Centre/ Petcot, Peshawar.
 Honorary Consultant Orthopaedic Surgeon
 Pakistan Air Force Peshawar.
 Honorary Group Captain P.A.F.
 Honorary Consultant Orthopaedic Surgeon
 UNHCR/PRCS. Peshawar.
 Honorary Chairman, Bom, Pupos.

Winner of The Man Of The Year Award For 2009,
 From American Biographic Institute,
 For Out-Standing Services For Pakistan.
Consultant Orthopaedic Surgeon

Phone: 091-5851947
 Office: 091-5851138
 Clinic 6-B Park Road,
 University Town
 Peshawar

Bills

8/2/17

- ① Diclofag 2h
 1+1
 ② Glukovin 2h
 1+1
 ③ Panroz 2h / Asoda Syrup
 2+2+2
 ④ Neurohex 2h
 1+1
 ⑤ Seoplex 2h
 1+1
 ⑥ Painset Gel
 2h

تحت پوش پر سونیں
 اچار، چٹنی، کھٹی چیزیں نہ کھائیں
 بھاری چیزیں نہ اٹھائیں
 جھک کر کام نہ کریں
 کمر نہ دباویں
 ٹھنڈے پانی سے وضو نہ کریں
 ٹھنڈے پانی سے نہ نہائیں

Professor
DR. MANZOOR AHMAD KHAN
 M.S. ORTH., F.I.C.S., F.C.P.S., F.P.A.M.S.,
 F.B.O.A., M.I.S.P.O., M.I.C.D.R.
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Professor

Dr. Manzoor Ahmad Khan

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Consultant Orthopaedic Surgeon

Phone: 091-5851947
 Office: 091-5851138
 Clinic 6-B Park Road,
 University Town
 Peshawar

Bibi

6/12/16

1 Waltrub 7ch
 سفید 1+1

2 Meroni 7ch
 سفید 1+1

1 Prazole 7ch
 سفید 1+1

1/2 Gabrit M 7ch
 سفید 1+1

تحت پوش پرسونیں
 اچار چٹنی، کھٹی چیزیں نہ کھائیں
 بھاری چیزیں نہ اٹھائیں
 جھک کر کام نہ کریں

کمر نہ دو لائیں
 ٹھنڈے پانی سے وضو نہ کریں
 ٹھنڈے پانی سے نہ نہائیں

2 J-shell 7ch
 سفید 1+1

2 Amnid hean
 سفید 1+1

Professor
DR. MANZOOR AHMAD KHAN
 M.S. ORTH., F.I.C.S., F.C.P.S., F.P.A.M.S.
 F.B.O.A., M.I.S.O., M.I.C.D.R.
 Consultant Orthopaedic Surg

CLINICAL NOTES

VISIT 1

R. No:

Date: 28-5-15

Patient name: Raheeb

S/o, D/o, w/o age/sex

Op
L.B.P
+ knee
pains

Rx
Pain relief - 10
C, 30
M. Paracetamol
C, 30
P. 500 mg
V. 250 mg
M. 250 mg
C, 30
M. Betameth
C, 30

10 Dny
12 C
3 Dny
30 C

آئندہ معائنہ 30 دن بعد

[Signature]
بایات

VISIT 2

Op
L.B.P
UC

Rx
P. 500 mg
C, 30
- M. Paracetamol
C, 30
- M. T. 500 mg
C, 30 - 1/4
- M. 500 mg
C, 30 - 1/2
- M. 500 mg
C, 30 - 1/2
- M. 500 mg
C, 30 - 1/2
- M. 500 mg
C, 30 - 1/2
- M. 500 mg
C, 30 - 1/2
- M. 500 mg
C, 30 - 1/2

Date: 13-4-17
24.4.17
P. 500 mg
C, 30

[Signature]
P. 500 mg
C, 30

آئندہ معائنہ 30 دن بعد

[Signature]
بایات

B

19

18-4-17₅

FINDING U/R 6(5) OF POLICE RULES 1975 AGAINST
RECRUIT CONSTABLE KAMRAN KHALIL NO. 5888.

The enquiry in hand was referred to this office to ascertain the misconduct committed by the subject police official vide order of enquiry No. 61/E/PA dated 21-02-2017.

Short facts are that it has been alleged reported by Principal PTC, Swat vide letter No. 162-63 / CD dated 17-02-2017 that recruit Constable Kamran No. 5888 while deputed for basic recruit Training at PTS, Swat returned as unqualified and absented himself with effect from 21-01-2017 till date. This amounts to gross misconduct at their part and against the discipline of the force. Hence he was Charge Sheeted and Summary of Allegation was also issued to him by the W/SP Hqrs: Peshawar.

The alleged constable was called into the office and heard in person through repeated summons. His statement was recorded in which he stated that his mother was ill but he did not produce medical documents. Furthermore as per report of MM Police Lines, Peshawar with effect from 21-01-2017 to 23-01-2017, 19-02-2017 to 05-03-2017 total sixteen (16) days.

Forgoing in view that the absence period of the alleged Constable Kamran No. 5888 may please counted as leave without pay.

All relevant papers are attached herewith please.

Submitted for further approval please.

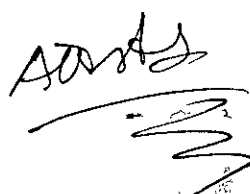
Sdb/

MUHAMMAD SHOAIB KHAN (PSP)
Enquiry Officer
Assistant Superintendent of Police
Hayatabad Sub-Division
Peshawar

Worthy Superintendent of Police,
HQR, Peshawar.

Issue Final Show Cause Notice
Sd / SP-Hqr. 17-04-2017

No. 450 / E / St. dated Peshawar 18-04-2017.



C



20

27-4-17

ORDER

This office order relates to the disposal of formal departmental enquiry against Recruit Constable Kamran No.5888 of Capital City Police Peshawar on the allegations that he while deputed for Basic Recruit Training at PTS Swat was returned as unqualified & absented himself w.e.f 21.01.2017 till date without taking permission or leave.

In this regard, he was issued charge sheet and summary of allegations. ASP Hayatabad was appointed as E.O. He conducted the enquiry proceedings & submitted his report that defaulter official did not produced medical documents & remained absent from 21.01.2017 to 23.01.2017 & from 19.02.2017 to 05.03.2017 (16-days). The E.O. further recommended that his absence may be treated as leave without pay vide Enquiry Report No.450/ST dated 18.04.2017.

Upon the finding of E.O, he was issued final show cause notice but he failed to receive the said notice.

Note: On 15th April 2017, he again deputed for basic training. He was summoned with the direction to join the course immediately otherwise he will be dealt strictly.

On 26.04.2017, CDI Police Lines reported that MM Atif PTC Hangu was contacted on phone No.03139951470. During telephonic conversation he told him that Recruit Constable Kamran has not been reported arrival in PTC Hangu as yet.

From perusal of record it came to light that Recruit Constable Kamran No.5888 was enlisted on 07 January 2012. He was selected for basic recruit training for 06 times. Beside this, he again failed to report for basic recruit training at PTC Hangu.

In the light of recommendations of E.O & other material available on record, the undersigned came to conclusion that the alleged official is guilty of this misconduct & found unwilling worker. Therefore, he is hereby removed from service under Police & Disciplinary Rules-1975 with immediate effect. Hence, the period he remained absent from 21.01.2017 to 23.01.2017 & 19.02.2017 to 05.03.2017 & from 15.04.2017 till date is treated without pay.


SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR

OB. NO. 1841 / Dated 27/4 /2017

No. 2101-07/PA/SP/dated Peshawar the 28/4 /2017

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

Capital City Police Officer Peshawar





D

21.

26-5-17

BEFORE THE HONORABLE CHIEF CAPITAL CITY POLICE PESHAWAR

Kamran Recruitment Constable No. 5888

VERSUS

By No. 200-134610
Dt. 26.5.2017
Incl.

SP/L
For comments

- 1. SP Headquarter Peshawar
- 2. The State.

... respondents

For comments

APPEAL AGAINST THE ORDER DATED 28/04/2017 WHEREIN THE RESPONDENTS NO.1 DISMISSED THE APPELLANT WITHOUT ANY PROPER REASON

Prayer:

ON ACCEPTANCE OF THIS APPEAL THE ORDER DATED 28/04/2017 MAY KINDLY BE SET ASIDE AND THE APPELLANT MAY KINDLY BE RE-INSTATED IN SERVICE

FMC
put up

RESPECTED SIR,

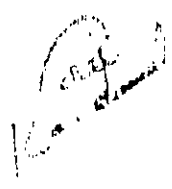
- 1. That the appellant is serving from the last 6 years and recruited in year 2012.
- 2. That the appellant performed his duty with honestly and punctually
- 3. That the appellant mother in law was seriously ill and the wife of the appellant is the only daughter and except her there is no other children, the petitioner had to support family, therefore, the petitioner had to look after the entire family.

AWAS

- 4. That it is shown that the appellant properly served his statements as recorded
- 5. That the appellant have children of tender age, and his wife is the head of his family, except his job the appellant and his entire above family have no other source of income.
- 6. That the absence of the appellant was never intentional nor willful, but due to the above said reason
- 7. That the appellant assure that he will never absent from his service and will perform his duties with full devotion.
- 8. That the appellant expect leniency from this Honourable office and requires for sympathies

It is, therefore, requested that the appellant may kindly be re-instated on service.

Appellant
 In Person
KAMRAN KHALIL
 Recruitment Constable No. 5888
 Contact No. 03329234664






E

23

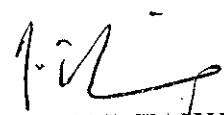
21-6-17
OFFICE OF THE
CAPITAL CITY POLICE OFFICER,
PESHAWAR

Phone No. 091-9216889
Fax No. 091-9212597

ORDER

This order will dispose off departmental appeal preferred by ex-Recruit constable **Kamran Khalil No. 5888** who was awarded the major punishment of **Removal** from service under Police Rules-1975 vide OB No. 1841 dated 27.4.2017 by SP/HQrs: Peshawar on the charge mentioned below:-

- That he while deputed for basic recruit training course at PTS Swat who was returned as unqualified and absented himself with effect 21.1.2017 to 23.1.2017= 2-days, 19.2.2017 to 5.3.2017=16-days and 15.4.2017 to 27.4.2017=12-days (**Grand total= 30-days**)
- 2- Proper departmental proceedings were initiated against him and Mr. Muhammad Shoaib Khan, ASP-Hayatabad was appointed as the E.O. who during enquiry found him guilty of the charge. On receipt of the findings of E.O, he was issued FSCN but he failed to submit his written reply. Hence the Competent Authority awarded him the above major punishment.
- 3- He was called in O.R. on 21.6.2017, and heard in person. Enquiry file was thoroughly examined. He was provided full opportunity to defend himself but he miserably failed to produce any cogent reason in his favour. Perusal of record further reveals that he was selected six times for basic recruit course on different occasions but he deliberately avoided to join the course. As such he was returned unqualified to Capital City Police Peshawar.
- 4- Keeping in view the above explained position it came to light that all codal formalities have been completed before awarding him punishment by the Competent Authority. He deserves no leniency, therefore there is no justification to interfere in the order passed by SP-HQRs. The allegations levelled against him stand proved against him, hence his appeal for re-instatement in service is **rejected/filed**.


(MUHAMMAD TAHIR) PSP
CAPITAL CITY POLICE OFFICER,
PESHAWAR.

No. 970-75 /PA dated Peshawar the 21/06 /2017.

Copies for Information and n/a to the:-

1. SP/HQRs: Peshawar.
2. PO/OASI/CRC for making necessary entry in his S.Roll.
3. FMC along with FM
4. Official concerned.



F

24

Kejrestan 22-6-18
For reaction pls

22/6/18

To: The Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

Subject: REVIEW PETITION FOR RE-INSTATE IN SERVICE

Memo:

It is submitted that I was enlisted in Police Department in the year 2012, I performed my duty to the entire satisfaction of my superior and honestly and punctually. My mother in law was seriously ill and my wife is the only daughter and except her there is no any other children to support family, I had to support family and I had to look after the entire family. I was absent from my duty several days (i.e 30 days) due to medical treatment of my Mother in law. Due to this negligent I was awarded major punishment of removed from my service by SP/Hqrs, Peshawar vide OB No. 1841, dated 27.04.2017.

2... I have submitted my appeal for re-instate in service to the CCPO, Peshawar vide PA CCPO office Dy. No. 200 PA-CCPO, dated 26.05.2017, but the same appeal was rejected/filed vide order No. 970-75/PA, dated 21.06.2017.

3... I have children of tender age and whole family, except my job there is no any other source of income. My absence from service was never intentional nor willful, but due to the reason of illness of Mother in Law. There is no any absentee on the record against me, during my service.

4... Keeping in view of the above circumstance; it is, therefore, humbly requested that I may kindly be re-instate in service, I assure you sir! That I will never absent from my service in future and will perform my duties with full keen and interest.

I shall be very thankful to your for this act of kindness.

Dated: 22.06.2018.

Yours obediently,

Kamran Khalil

(KAMRAN KHALIL)

Ex-Constable Belt No. 5888,
Contact No. 0332-9234664

CNIC - 17301-9901415-9

S.S

Per Master Process N

[Signature]
22/6

[Signature]



G
1

25

28-6-18

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE,
PESHAWAR.

No. S/ 2549 /18, dated Peshawar the 28/06/2018.

To : The Capital City Police Officer,
Peshawar.

Subject: APPEAL (EX-FC KAMRAN KHALIL NO. 5888)

Memo :

Ex-Constable Kamran Khalil No. 5888 of District Police Peshawar had submitted appeal to the Worthy Inspector General of Police, Khyber Pakhtunkhwa, Peshawar for reinstatement into service. His appeal was processed at Central Police Office, Peshawar.

Perusal of appeal revealed that the appellant was dismissed from service on 27.04.2017 and his appeal was rejected by CCPO Peshawar on 21.06.2017. His appeal is time barred for about 01 year and 01 month. Therefore his appeal is hereby filed being time barred.

The applicant may please be informed accordingly.

Received on 2.8.18
from the office

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

Attest

Limitation *Kamran Khalil vs Police*
185

S/A# 988/2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Mr. Respondent
DDA

Appeal No. 1398/2017

Date of Institution ... 23.11.2017

Date of Decision ... 03.03.2021



Muhammad Abdullah Ali Tasnim, Ex-Warder Prison Central Jail, Bannu.
... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Home and Tribal Affairs
Civil Secretariat Peshawar and one other. ... (Respondents)

Present.

Mr. Mubarak Zeb,
Advocate. ... For appellant

Mr. Kabirullah Khattak,
Addl. Advocate General ... For respondents.

MR. HAMID FAROOQ DURRANI, ... CHAIRMAN
MR. ATIQRU REHMAN WAZIR, ... MEMBER(E)

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

1. Some of the facts and hypothesis involved in the instant appeal are based on novel propositions. Before proceeding further, it is necessary to mention that the appellant has not questioned any decision/order pertaining to his terms or conditions of service. A letter dated 31.08.2015 has been impugned with prayer for setting aside the same in addition to order regarding removal of appellant from service. It is, also noted that, as per claim of appellant, a departmental appeal was preferred against the order on 20.08.2017, which was not responded to. Pertinently, the purported order has not seen light of the day so far while even its contents and date of issue have not been provided throughout.

2. It is the case of appellant that he was appointed as Jail Warder in the Prison Department on 18.12.2004. When posted in Central Jail Bannu, the appellant was charged in a criminal case through FIR No. 234 dated 10.05.2006 u/s 302/324/34 PPC. After having been put to trial, he was acquitted by a court of competent jurisdiction on 15.12.2014. Upon acquittal, the appellant approached the respondents for joining of his duty but was verbally informed that he had been removed from service. He came to know through letter dated 31.08.2015 issued by one of the respondents that the entire record of Central Jail D.I.Khan was destroyed due to the militant's attack on the jail.

3. We have heard learned counsel for the appellant as well as learned Addl. AG for the respondents and have also gone through the available record.

4. Learned counsel for the appellant attempted to argue that no enquiry was held against the appellant before passing of impugned order. The appellant was never associated with the departmental proceedings, if any. Similarly, he was not afforded the opportunity of personal hearing and setting forth his defence. The impugned order was therefore, untenable and liable to be struck down.

As against that, learned Addl. AG contended that the appeal was not maintainable being barred by time. He referred to the prayer in the appeal and stated that the appellant had prayed for setting aside of impugned letter dated 31.08.2015 by the respondents, which was, in his view, beyond the jurisdiction of the Tribunal on the touchstone of provisions contained in Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. In support of his arguments learned AAG relied on 2006-SCMR-1630, 1990-SCMR-1106

and a judgment of this Tribunal handed down in Service Appeal No. 19/2011 decided on 15.12.2017.

5. We have considered the arguments of learned counsel for the appellant as well as the documents brought on record by him. Similarly, the arguments from other side have also been kept in consideration.

6. In our view, the grievance of appellant, though not fully supported by the record, may take the matter beyond the jurisdiction of this Tribunal. The limited scope of jurisdiction of Tribunal, as provided by the law, would not include the setting aside of letters departmentally communicated. Alongside, it is held that setting aside of any order, content whereof are not known to any of the parties or the Tribunal, as the case may be, shall be hypothetical only. In that backdrop, the appeal in hand is not entertainable at all.

7. We are in agreement with the argument of learned AAG regarding the delay in submission of departmental appeal by the appellant. As per available record, a departmental appeal/application for reinstatement of appellant was submitted to the Inspector General of Prisons Department/respondent No. 2 on 20.08.2017, after the acquittal of appellant. The appellant, for the sake of submitting appeal before this Tribunal, waited and preferred the same on 23.11.2017. He chose to wait for the outcome of correspondence between different offices of the respondents. Needless to note that it was not obligatory upon the appellant to wait for the outcome of correspondence and in the meanwhile lose time for submission of appeal. On this score alone, the appeal in hand is incompetent. Guidance is sought from judgments reported as 2006-SCMR 453 and 2012 SCMR 195.

8. For what has been discussed above, the appeal in hand is dismissed, leaving the parties to bear their respective costs. Needless to note that the decision of this appeal shall not mar the rights of appellant in preferring the matter to some other forum for adjudication.

File be consigned to the record room.

SP/
(ATIQUR REHMAN WAZIR)
MEMBER(E)

SP/
(HAMID FAROOQ DURRANI)
CHAIRMAN

ANNOUNCED
03.03.2021

one copy
[Signature]

Date of Presentation of Application	<i>03/03/21</i>
Number of Words	<i>2060</i>
Copying fee	<i>22/-</i>
Urgent	<i>E</i>
Total	<i>22/-</i>
Name of Copier	<i>---</i>
Date of Copying	<i>10/3/21</i>
Date of Delivery of Copy	<i>10/3/21</i>

Khanam Khalid / Police

2009 SC 1099

[Appellate Jurisdiction]

Present: Iftikhar Muhammad Chaudhry, CJ, Raja Fayyaz Ahmed & Ch. Ijaz Ahmed, JJ.

SOHAIL BUTT--Petitioner

versus

DEPUTY INSPECTOR GENERAL OF POLICE (NORTH) NATIONAL HIGHWAY AND MOTORWAY POLICE and others--Respondents

Civil Petition No. 396 of 2009, decided on 20.5.2009.

(Against the judgment dated 31.12.2008 passed by the Federal Service Tribunal, Islamabad, in Appeal No. 707(R)/CS/2007).

Constitution of Pakistan, 1973--

----Art. 212(3)--If departmental appeal is not filed within the statutory period, the appeal before the tribunal would not be competent meaning thereby where departmental appeal is time-barred, then the appeal before the tribunal is also time-barred. [P. 1102] A

Finding of Service Tribunal--

----Finding of Service Tribunal having finding of fact would not call for interference by Supreme Court while exercising power under Art. 212(3) of the Constitution. [P. 1102] B

1995 SCMR 1505, PLD 1990 SC 951, PLD 2002 SC 101, 2004 SCMR 1426 & 2006 SCMR 453, ref.

Constitution of Pakistan, 1973--

----Art. 212--Interpretation--The word 'public importance' can only be defined by a process of judicial inclusion or exclusion because the expression public importance is not capable of any precise definition and has not a rigid meaning, therefore, each case has to be judged in the circumstances of that case as to whether the question of public importance is involved--Public importance must include a purpose or aim in which the general interest of community as opposed to the particular interest of the individuals is directly and vitally concerned.

[P. 1103] C

Constitution of Pakistan, 1973--

----Art. 212(3)--Ingredients of--Ingredients of Art. 212(3) of the Constitution clearly show that constitutional power under Art. 212 is discretionary in character/nature which has to be exercised reasonably, honestly and not arbitrarily or capriciously or in bad faith--It is pertinent to mention that involvement of a question of law of public importance alone could justify leave to appeal under Art. 212(3) of the Constitution--In other words, appeal against order of service tribunal is competent only on ground of law of public importance, otherwise barred--Leave refused. [P. 1104] D

Mr. Haider Hussain, ASC and Mr. M.S. Khattak, AOR for Petitioner.

Nemo for Respondents.

Date of hearing: 20.5.2009.

Order

Ch. Ijaz Ahmed, J.--Sohail Butt, petitioner, seeks leave to appeal against the judgment dated 31-12-2008 whereby the Federal Service Tribunal, Islamabad, dismissed his appeal on merits as well as time barred.

2. Detailed facts have already been mentioned in para 1 of the impugned judgment and memo of petition in para 2. However, necessary facts out of which the present petition arises are that the petitioner was serving as Senior Patrol Officer in the National Highways and Motorway Police when he was transferred from Islamabad to Sector N-5 (North II) vide order dated 8-2-2003. The petitioner absented himself from duty on 8-2-2003 without any information/prior permission of his seniors and reported back on duty on 11-3-2003 after absenting himself for 31 days. The petitioner on the said date, i.e. 11-3-2003 again absented himself from duty without any intimation or permission from the competent authority. Report was entered against him on daily diary No. 18 dated 11-3-2003 qua his absence from the office. Petitioner reported back on 11-4-2003 after remaining absent from duty for 31 days. Petitioner did not report for duty at his new place of posting till 16-5-2002. Respondents had initiated disciplinary proceedings against him by issuing charge sheet to him under the Punjab Police (Efficiency and Disciplinary) Rules, 1975. An Inquiry Officer was appointed. Petitioner raised objection that respondents had no lawful authority to initiate proceeding against him under Efficiency and Disciplinary Rules after the enforcement of Removal from Service (Special Powers) Ordinance, 2000. Respondents issued fresh charge sheet alongwith statement of allegations to the petitioner on 3-6-2004 under the provisions of the aforesaid Ordinance, 2000. The petitioner submitted reply to the charge sheet controverting the allegations leveled in the charge sheet.

Petitioner had failed to appear before the inquiry officer in spite of repeated notices issued to him by the inquiry officer. Senior Superintendent of Police as competent authority under Section 2(aa) of the said Ordinance, had decided in terms of Section 5(1)(4) of the Ordinance as under:

"It is not necessary to have an inquiry into the above charges conducted through an Inquiry Officer or Inquiry Committee".

Show cause notice dated 13-12-2004 was sent to him by the competent authority. Petitioner was awarded major penalty of dismissal from service w.e.f. 10-9-2004 vide order dated 9-4-2005. Petitioner being aggrieved filed appeal before the Deputy Inspector General of Police on 5-7-2007 which was dismissed vide order dated 12-7-2007 as time barred and the same could not be entertained. The petitioner being aggrieved filed Appeal No. 707(R)/CS/2007 before the Federal Service Tribunal, Islamabad, which was dismissed on merits as well as time barred. Hence the present petition.

3. Learned counsel for the petitioner submits that learned Service Tribunal erred in law to dismiss the appeal of the petitioner as time barred without adverting to the facts and circumstances of the case of the petitioner as the impugned order of dismissal was passed by an incompetent authority, i.e., Senior Superintendent of Police whereas Chief Executive vide Notification dated 27-5-2000 through S.R.O. No. 208(1)/2000 has authorized the head of the department/subordinate office to exercise the power of competent authority for the class of persons holding posts in BPS-16-19 while exercising power conferred by Section 2(a) of the Ordinance. He further urges that petitioner met with an accident and got fractured in his left feet and was admitted in Tehsil Headquarter Hospital Gujar Khan. Medical certificate was also submitted to the Sr. Superintendent of Police concerned when petitioner appeared before him. The petitioner could not attend office on account of his illness and the medical certificates were also submitted before the Senior Superintendent of Police who did not consider the same at the time of awarding major penalty to the petitioner. Learned Service Tribunal also erred in law to decide the appeal of the petitioner without judicial application of mind.

4. We have given our consideration to the contentions of the learned counsel of the petitioner and also perused the record. It is proper and appropriate to reproduce the basic facts in chronological order to resolve the controversy between the parties:--

- (i) Show cause notice was issued to the petitioner on 13.12.2004.
- (ii) The petitioner was removed from service on 9-4-2005.
- (iii) The petitioner filed appeal before the departmental authority on 5-7-2007.
- (iv) The departmental appeal of the petitioner was dismissed as time barred on 12-7-2007.

Mere reading of the aforesaid facts it is crystal clear that the departmental appeal of the petitioner was barred by limitation for more than two years. It is settled proposition of law that if departmental appeal is not filed within the statutory period, the appeal before the Tribunal would not be competent meaning thereby where departmental appeal is time-barred, then the appeal before the Tribunal is also time-barred. The appeal before the Tribunal was also incompetent on that account. There are series of judgments of this Court in support of the aforesaid proposition of law. See Anwarul Haq case (1995 SCMR 1505), Chairman PIA case (PLD 1990 SC 951). The above view was re-affirmed in the following judgments:--

- (i) Dr. Anwar Ali Sahto case (PLD 2002 SC 101)
- (ii) Khyber Zaman case (2004 SCMR 1426)
- (iii) Syed Ashfat Hussain Shah case (2006 SCMR 453).

The learned Service Tribunal had taken a lot of pain to consider the case of the petitioner even on merits in spite of the fact that his appeal before the Service Tribunal was incompetent as the departmental appeal filed by the petitioner was dismissed as time barred as depicted from para 4 of the impugned judgment. It is settled principle of law that finding of Service Tribunal having findings of fact would not call for interference by this Court while exercising power under Article 212(3) of the Constitution. It is pertinent to mention here that petitioner is a member of discipline force but his conduct as evident from the narration of facts would not deserve any leniency as the petitioner had absented himself from duty without securing any permission from any higher authority for a considerable period approximately 3 months. Petitioner had also failed to file reply of the show cause notice issued to him at his given address and even when the same was published in the newspaper, therefore, learned Service Tribunal was justified to come to the conclusion that petitioner had no case even on merits. As mentioned above the learned Tribunal dismissed the appeal as time barred as well as on merits, even otherwise the learned counsel of the petitioner has failed to raise any question of public

importance as contemplated under Article 212(3) of the Constitution. It is better and appropriate to reproduce Article 212 (3) of the Constitution to resolve the controversy between the parties:

"212. Administrative Courts and Tribunals.--

(1) -----

(2) -----

(3) An appeal to the Supreme Court from a judgment, decree, order or sentence of an Administrative Court or Tribunal shall lie only if the Supreme Court, being satisfied that the case involves a substantial question of law of public importance, grants leave to appeal". (under lines are ours)

The word 'satisfied' means existence of mental persuasion much higher than mere opinion meaning thereby the phrase satisfied means simply makes up its mind. See Blyth v. Blyth ((1966) AER 524 (541)), also means a mind not troubled by doubt or to adopt the language of Smith, J a mind which has reached on clear conclusion England v. Payne (1944 NZLR 610 (626)). The word 'substantial question of law' means a 'substantial question of law as between the parties in the case involved'. See Raghuman Prasad Singh & others versus the Deputy Commissioner of Partabgarh & others (AIR 1927 P.C. 101). The dictum laid down by the Privy Council was followed by the Indian Supreme Court in the case of Sir Chunilal versus Mehta & Sons Ltd (AIR 1962 SC 1314). The word 'public importance' I can only be defined by a process of judicial inclusion or exclusion because the expression public importance is not capable of any precise definition and has not a rigid meaning, therefore, each case has to be judged in the circumstances of that case as to whether the question of public importance is involved. But it is settled that public importance must include a purpose or aim in which the general interest of the community as opposed to the particular interest of the individuals is directly and vitally concerned. See Abdul Aziz's case (PLD 1982 SC (AJ&K) 16). The word 'grants' means 'permission'.

The following are the ingredients of said Articles:--

(a) An appeal lies to the Apex Court from a judgment, decree, order or sentence of such Court or Tribunal.

(b) Appeal shall only lie if the Apex Court grants leave to appeal being satisfied that the case involves a substantial question of law of public importance. The above referred ingredients of Article 212 (3) of the Constitution clearly show that constitutional power under this Article is discretionary in character/nature which has to be exercised reasonably, honestly and not arbitrarily or capriciously or in bad faith. It is pertinent to mention that involvement of a question of law of public importance alone could justify leave to appeal under Article 212 (3) of the Constitution. In other words, appeal against order of Service Tribunal is competent only on ground of law of public importance, otherwise barred. We find that the Service Tribunal has examined each and every piece of evidence at considerable length before coming to the conclusion that apparently the petitioner had absented himself without permission of his higher officer as evident from para 3 of the impugned judgment. We are not persuaded that the Service Tribunal has ignored any material evidence or mis-reading the same in reaching its conclusions.

5. In view of what has been discussed above, we do not find any merit in this petition and the same is dismissed. Leave refused.

(M.S.A.) Leave refused.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.988/2018.

Kamran Khalil Ex-Constable No. 4644 Peshawar.....**Appellant.**

VERSUS.

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Superintendent of Police HQrs: Peshawar.....**Respondents**

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6.	Copy of FSCN	D	7
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(1)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.988/2018.

Kamran Khalil Ex-Constable No. 4644 Peshawar.....**Appellant.**

VERSUS.

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Superintendent of Police HQrs: Peshawar.....**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 of 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 has concealed the material facts from Honorable Tribunal.
7. That the appellant has got no locus standi and cause of action to file the instant appeal.

FACTS:-

- 1- Para No.1 is incorrect to the extent that appellant was enlisted on 07 January 2012. He was selected for basic recruit training for 06 times but he deliberately avoided to join the course. Besides, the appellant again on 15 April 2017 was deputed for basic recruit training. He was summoned with the direction to join the course immediately, otherwise he would be dealt with strictly, but the appellant failed to report for basic recruit training at PTC Hangu.
- 2- Para No.2 is totally incorrect. The appellant stated before the Enquiry Officer that his mother was ill, but he did not produce medical documents. The enquiry officer during the course of enquiry found him guilty of the charges.
- 3- Para No.3 pertains to record, hence needs no comments.
- 4- Para No.4 is correct to the extent that the appellant was proceeded departmentally on allegations, that the appellant while deputed for Basic Recruit Training at PTC Swat was returned as un-qualified and absented himself from his lawful duty without taking leave/permission. In this regard the appellant was issued Charge Sheet, Statement of Allegations. ASP/Hayatabad was appointed as enquiry officer. He conducted the enquiry and submitted his report that the appellant did not produce any medical record in support of his absence from lawful duty. Upon the finding of enquiry officer, he was issued final show cause notice. After fulfilling all codal formalities he was awarded major punishment of removal from service.
- 5- Para No.5 is correct to the extent that the appellant filed departmental appeal, which after due consideration was filed/rejected on the ground that the allegations against him were stand proved.
- 6- Para No.6 is incorrect. The appellant filed revision petition before the appellate authority, which was rejected on the grounds that his appeal was badly time barred for about One Year and One Month.

②

6- Para No.6 is incorrect. The appellant filed revision petition before the appellate authority, which was rejected on the grounds that his appeal was badly time barred for about One Year and One Month.


That appeal of the appellant being devoid of merits may kindly be dismissed.


GROUNDS:-

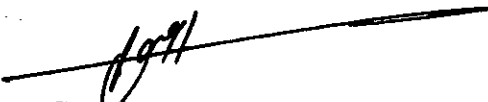
- A. Incorrect. The appellant has absented himself deliberately without taking leave/permission.
- B. Incorrect. The competent authority has no binding to follow the recommendation of enquiry officer, as explain in the judgment order dated 25.01.2018 passed by this Honorable Tribunal.
- C. Incorrect. Proper departmental enquiry was conducted against him. The appellant was provided with full opportunity of personal hearing, but he failed to defend himself.
- D. Incorrect. The appellant was treated as per law/rules.
- E. Incorrect. Para already explained in the above para.
- F. Incorrect. The appellant was treated in accordance with law/rules.
- G. Incorrect. The appellant treated as per law/rules. The allegations against him stood proved.

PRAYERS:-

It is therefore most humbly prayed that in light of above facts, submissions the appeal of the appellant devoid of merits, legal footing may be set aside/ dismissed.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.


Capital City Police Officer,
Peshawar.


Superintendent of Police
HQrs: Peshawar.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.988/2018.

Kamran Khalil Ex-Constable No. 4644 Peshawar.....Appellant.


VERSUS.


- 1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
- 2. Capital City Police Officer, Peshawar.
- 3. Superintendent of Police HQrs: Peshawar.....Respondents.

AFFIDAVIT.

We respondents 1 to 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.


**Provincial Police Officer,
 Khyber Pakhtunkhwa,
 Peshawar.**


**Capital City Police Officer,
 Peshawar.**


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

(4)

CHARGE SHEET

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, hereby, charge that Recruit Constable Kamran No.5888 of Capital City Police Peshawar with the following irregularities.

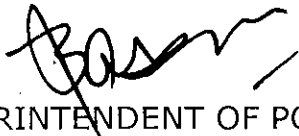
"It has alleged been reported by Principal PTS Swat vide letter No.162-63/GB dated 17.02.2017 that you Recruit Constable Kamran No.5888 while deputed for Basic Recruit Training at PTS Swat returned as unqualified & absented yourself w.e.f. 21.01.2017 till date. This amounts to gross misconduct on your 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

(5)

DISCIPLINARY ACTION

I, Superintendent of Police, Headquarters, Capital City Police Peshawar as a competent authority, am of the opinion that Recruit Constable Kamran No.5888 has rendered him-self liable to be proceeded against under the provision of Police Disciplinary Rules-1975

STATEMENT OF ALLEGATION

"It has alleged been reported by Principal PTS. Swat vide letter No.162-63/GB dated 17.02.2017 that Recruit Constable Kamran No.5888 while deputed for Basic Recruit Training at PTS Swat returned as unqualified & absented himself w.e.f. 21.01.2017 till date. 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 ASP/Hayat Abad 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.

Bassir
SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

No. 61 /E/PA, dated Peshawar the 21/2-17 /2017

1. ASP/Hayat Abad is directed to finalize the aforementioned departmental proceeding within stipulated period under the provision of Police Rules-1975.
2. Official concerned

P.A

for Process
Shahid
ASP HAYATABAD CIRCLE
PESHAWAR

FINDING U/R 6(5) OF POLICE RULES **GAINST**
RECRUIT CONSTABLE KAMRAN NO. 5888

6

The enquiry in hand was referred to this office to ascertain the misconduct, committed by the subject police official vide order of enquiry No. 61/E/PA dated 21.02.2017.

Short facts are that "it has alleged been reported by principal PTS Swat vide letter No. 162-63/GB dated 17.02.2017 that Recruit constable Kamran No. 5888 while deputed for basic recruit training at PTS Swat returned as unqualified and absented himself w.e. from 21.01.2017 till date. This amounts to gross misconduct on their part and against the discipline of the force. Hence he was charge sheeted and summary of allegation was also issued to him by the W/SP HQrs, Peshawar.

The alleged constable was called in to the office and heard in person through repeated summons. His statement was recorded, in which he stated that his mother was ill but he did not produced medical documents. Furthermore as per report of MM Police Lines, Peshawar w.e. from 21.01.2017 to 23.01.2017, 19.02.2017 to 05.03.2017 (total 16 days)

Forgoing in view, that the absence period of the alleged Constable Kamran No. 5888 may please counted as leave without pay.

All relevant papers are attached herewith please,
Submitted for further approval please.

Shoaib

MUHAMMAD SHOAIB KHAN (PSP)
Enquiry Officer,
Assist: Superintendent of Police,
Hayatabad: Sub-Division,
Peshawar.

Worthy Superintendent of Police,
HQr, Peshawar.

No. 450 /E/St, dated Peshawar the 18 /04 /2017.

*Issue Final
Show leave notice*

Shoaib

SP-HQr

17/04/17

ASP HAYATABAD CIRCLE
PESHAWAR

7

FINAL SHOW CAUSE NOTICE


I Superintendent of Police, Headquarters, Capital City Police Peshawar, as competent authority, under the provision of Police Disciplinary Rules 1975 do hereby serve upon you, Constable Kamran No.5888 the final show cause notice.

The Enquiry Officer, ASP Hayatabad, after completion of departmental proceedings, has recommended you for leave without pay for you Constable Kamran No.5888 as the charges/allegations leveled against you in the charge sheet/statement of allegations.

And whereas, the undersigned is satisfied that you Constable Kamran No.5888 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.q

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. 61/4 /PA, SP/HQrs: dated Peshawar the 20/4 /2017.

Copy to official concerned

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BEFORE THE SERVICE TRIBUNAL, K.P.K, PESHAWAR.



260
21-2-14

In Re: SERVICE APPEAL NO: 343 /2014

Jhan Zeb, FC No. 417 5/0 Mir Abbas R/O Mattani
Peshawar Kandi Azez khel mohallah Sheer Khan matani

.....APPELLANT.

Versus

1. S.S.P Peshawar.
2. Chief Capital City Police Officer, Peshawar.
3. Inspector General of Police K.P.K, Peshawar

.....RESPONDENTS.


SERVICE APPEAL U/S 4 Khyber Pakhtunkhwa
Services Tribunal Act.

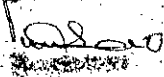
Respectfully Sheweth:

1. That the appellant was inducted in the police force as constable on 17.10.1995 and had served the department almost 14 years.

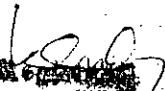
That after joining his duty the appellant performed his functions diligently upto the year 2009, The appellant when proceeded for performing Umrah to Saudi Arabia on 16.6.2009.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar 2.


21/2/14

As submitted to
and filed.


7/2/14

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

Service Appeal No. 343/2014

Date of Institution... 21.02.2014

Date of decision... 25.01.2018



Jehan Zeb, FC No. 4171 son of Mir Abbas R/O Kandi Aziz Khel, Mohallah Sheikhani, Matani, District, Peshawar. ... (Appellant)

Versus

1. S.S.P Peshawar and two others.

(Respondents)

Mr. Shakil Khan Gillani,
Advocate.

For appellant.

Mr. Muhammad Jan,
Deputy District Attorney

For respondents

MR. NIAZ MUHAMMAD KHAN,
MR. GUL ZEB KHAN,

CHAIRMAN
MEMBER

ATTESTE
[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: -

Arguments of the

learned counsel for the parties heard and record perused.

FACTS

2. The appellant was dismissed from service on 21.08.2013 due to willful absence. Against this order, the appellant filed departmental appeal on 29.08.2013 which was rejected on 21.01.2014 and thereafter he filed the present service appeal on 21.02.2014

ARGUMENTS

3. The learned counsel for the appellant argued that the enquiry officer proposed punishment of one year service without cumulative effect and the authority dismissed the appellant. That the authority could not disagree with the

enquiry officer without assigning any reason. That the appellant did perform his duty diligently and obediently during the whole of his service.

4. On the other hand the learned Deputy District Attorney argued that the appellant had admitted his absence in memorandum of appeal and also during enquiry officer. That all the codal formalities were fulfilled. That the competent authority could deviate from the findings of the enquiry officer keeping in view the circumstances of the case.

CONCLUSION

5. The absence was admitted by the appellant. The only point raised by the learned counsel for the appellant is whether the authority could impose the penalty not recommended by the enquiry officer. It is well known proposition of administrative law that the enquiry officer can only give his findings regarding guilt or otherwise. The enquiry officer can never propose any penalty. It is always for the authority to decide that what penalty should be imposed keeping in view the guilt of delinquent. No case is made out, however, it is also a settled practice of law that in case of absence the maximum punishment to be awarded is "removal from service" and not "dismissal from service". The Tribunal therefore, deems it appropriate to convert the penalty of "dismissal from service" into "removal from service". The appeal is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

Announced *self-Niaz Muhammad Khan*
25.01.2018 *Chairman*

self-Gulzeb Khan
Member

Certified to be true copy
FC-1
Khayr Muhammad
Service Tribunal,
Peshawar

Date of Presentation of Application 06-02-18
Number of Words 1200
Copying Fee 8.00
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Total 10.00
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Date of Copying 06-02-18

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S. A. No. 988 /2018

Kamran Khalil

versus

S.P & Others

REPLICATION

Respectfully Sheweth,

Preliminary Objections:

All the preliminary objections are illegal and incorrect. No reason in support of the same is ever given as to why the appeal is time barred, bad for mis and non-joinder of necessary parties, unclean hands, without cause of action, estoppel, concealment of material facts and without locus standi.

ON FACTS

1. Admitted correct to the extent of enlistment of appellant in service on 07-01-2012. Rest of the para is incorrect and is without proof.
2. Not correct. This para of the appeal is not replied to its contents. Medical receipts were provided to the respondents and Inquiry Officer.
3. Admitted correct by the respondents regarding recommendation of IO to treat the absence period as leave without pay.
4. Not correct. The para of the appeal is correct regarding the aforesaid recommendation of IO to treat the absence period as leave without pay. Rest of the para of reply is incorrect.
5. Admitted correct by the respondents regarding submission of appeal and its rejection. No proper enquiry was conducted.
6. Not correct. The para of the appeal is correct, when rejection order is passed on any petition then limitation holds no filed..

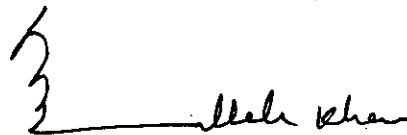
GROUNDS:

All the grounds of the appeal are legal and correct while that of the reply are illegal and incorrect. The same are again adopted.

It is, therefore, most humbly prayed that the appeal be accepted as prayed for.

Appellant

Through



Saadullah Khan Marwat

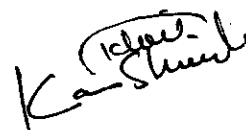
Advocate,

Dated: 27-08-2019

AFFIDAVIT

I, **Kamran Khalil**, appellant do hereby solemnly affirm and declare that contents of the **Appeal & replication** are true and correct to the best of my knowledge and belief while that of reply of respondents are illegal and incorrect.

I reaffirm the same on oath once again to be true and correct as per the available record.



DEPONENT



BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S. A. No. 988 /2018

Kamran Khalil

versus

S.P & Others

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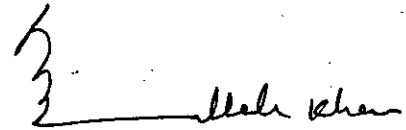
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Saadullah Khan Marwat

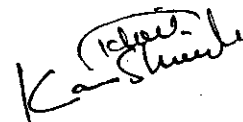
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DEPONENT

