

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1493/2018

Date of Institution ... 05.12.2018
Date of Decision ... 29.03.2021

Suleman Ahmad, Constable No.32, District Police Nowshera.
... (Appellant)

VERSUS

Regional Police Officer, Mardan and two others.
... (Respondents)

Fazal Shah Mohmand,
Advocate ... For appellant.

Kabir Ullah Khattak,
Additional Advocate General ... For respondents.

ROZINA REHMAN ... MEMBER (J)
ATIQU UR REHMAN WAZIR ... MEMBER (E)

JUDGMENT

ROZINA REHMAN, MEMBER: Appellant was a constable. He was awarded punishment of stoppage of two increments with fine of Rs.1000-/. It is the legality and validity of this order which has been challenged by him in the instant service appeal U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.


2. The relevant facts leading to the instant appeal are that appellant was enlisted as Constable who was posted as Gunman with S.S.P in the year 2009. He was awarded minor punishment of

stoppage of two increments with accumulative effect with Fine of Rs. 1000/- on the allegations that he remained absent from Moharram duty on 19.12.2009. He came to know about the said punishment in April, 2018 when deductions were made from his salary. He, therefore, preferred departmental appeal which was rejected, hence, the present service appeal.

3. We have heard Mr. Fazal Shah Mohmand Advocate and Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Mr. Fazal Shah Mohmand Advocate learned counsel appearing on behalf of appellant, inter-alia, argued that the impugned orders are illegal and against law as mandatory provisions of law were badly violated by the respondents and appellant was not treated according to law. Learned counsel argued that neither charge sheet nor show cause notice was served upon appellant who was condemned unheard. It was further argued that no inquiry was conducted in order to find out the real facts of the case and the impugned order was passed which is not maintainable in the eyes of law.

5. Conversely, learned A.A.G argued that the order passed by the competent authority is in accordance with law. He argued that strict directions had been issued by the competent authority in respect of performance of duties during Muharram, therefore, the appellant was informed for compliance of the said orders but he did not bother to

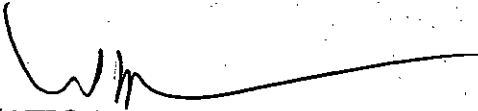


ensure his arrival at Police Lines Nowshera and that after fulfillment of all legal and codal formalities, he was awarded appropriate punishment which does commensurate with the gravity of misconduct of the appellant.

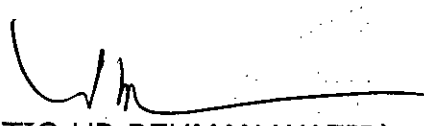
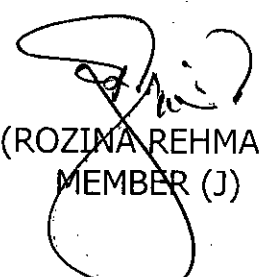
6. Perusal of record would reveal that vide order dated 25.01.2010 appellant was awarded minor punishment of stoppage of two increments with accumulative effect and fine of Rs. 1000/- as he did not bother to obey the lawful orders of the senior and absented himself from his duties. Nothing was brought on record that any show cause notice, charge sheet or statement of allegations were ever served upon appellant. Similarly, not an iota of evidence was produced before this Bench in order to show that before awarding punishment, any inquiry was conducted according to law. As per record, the deductions from the salary of the appellant was made in April, 2018, therefore, the stance of appellant is very much clear that the impugned order dated 25.01.2010 was never communicated to the appellant for the reasons best known to the respondents and after getting knowledge regarding deduction from his salary, he preferred departmental appeal which was rejected on 07.09.2018. Learned A.A.G produced different documents in shape of different Naqalmads at this belated stage when case was fixed for arguments and order. It is even otherwise a matter of recurring pecuniary benefits, the appellant has a continual cause of action.

7. In view of the foregoing reasons, we allow this appeal as prayed for. No order as to costs. File be consigned to the record room.

ANNOUNCED.
29.03.2021


(ATIQ UR REHMAN WAZIR)
MEMBER (E)


(ROZINA REHMAN)
MEMBER (J)

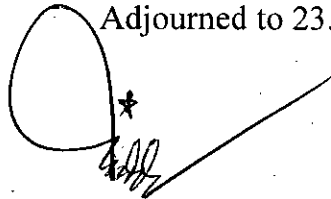
S.No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	29.03.2021	<p><u>Present.</u></p> <p>Fazal Shah Mohmand, ... For appellant Advocate</p> <p>Kabir Ullah Khattak, ... For respondents Additional Advocate General</p> <p>Vide our detailed judgment of today of this Tribunal placed on file, we allow this appeal as prayed for. No order as to costs. File be consigned to the record room.</p> <p><u>ANNOUNCED.</u> 29.03.2021</p> <p> (ATIQ UR REHMAN WAZIR) MEMBER (E)</p> <p> (ROZINA REHMAN) MEMBER (J)</p>

08.09.2020

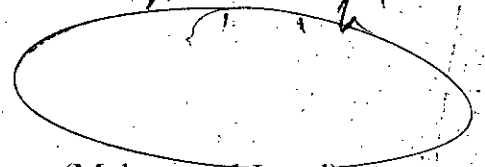
Appellant is present in person. Mr. Kabirullah Khattak,
Additional Advocate General for respondents present.

Formal request for adjournment that the learned
counsel is engaged in the august Peshawar High Court,
Peshawar.

Adjourned to 23.10.2020 for arguments before D.B.



(Mian Muhammad)
Member (E)

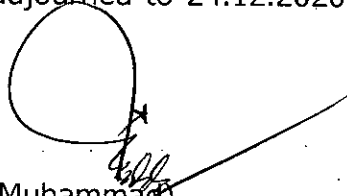


(Muhammad Jamal)
Member(J)

23.10.2020

Junior to counsel for the appellant and Zara Tajwar,
DDA for the respondents present.

The Bar is observing general strike, therefore, the
matter is adjourned to 24.12.2020 for hearing before the
D.B.



(Mian Muhammad)
Member



Chairman

24.12.2020

Due to summer vacation, case is adjourned to
29.03.2021 for the same as before.



Reader

30.01.2020

None for the appellant present. Addl: AG for respondents present. Due to General Strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the instant case is adjourned. To come up for further proceedings/arguments on 31.03.2020 before D.B. Appellant be put on notice for the date fixed.


Member


Member

31.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 23.06.2020 before D.B


Reader

23.06.2020

Junior to counsel for the appellant Mr. Kabirullah Khattak learned Additional AG for the respondents present.

Former requests for adjournment as learned senior counsel for the appellant is engaged in the High Court Bar Association Election as a candidate.

Adjourned to 08.09.2020 for arguments before D.B.


Member


Chairman

04.07.2019

Appellant in person and Addl. AG alongwith Muhammad Fayaz, H.C for the respondents present.

Written reply submitted which is placed on file and a copy handed over to appellant. To come up for rejoinder and arguments on 13.09.2019 before the D.B.


Member

13.09.2019

Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Fayaz H.C present. Learned counsel for the appellant submitted rejoinder which is placed on file and seeks adjournment. Adjourn. To come up for arguments on 27.11.2019 before D.B.


Member


Member

27.11.2019

Counsel for the appellant present. Addlt: AG alongwith Mr. Fayaz, HC for respondents present. Learned counsel for the appellant seeks adjourned. Adjourn. To come up for arguments on 30.01.2020 before D.B.



Member




Member

1493/2018

09.04.2019

Appellant alongwith counsel present.

An application for extension of time for depositing security and process fee is submitted. The appellant states that he could not make the requisite deposit due to ailment of his mother whom he was attending at hospital. The application is allowed. The appellant shall make the necessary deposit within three days, where-after, notices be issued to the respondents for submission of written reply/comments.


Appellant Deposited
Security & Process Fee

Adjourned to 28.05.2019 before S.B.


Chairman

28.05.2019

Counsel for the appellant and Addl. AG present.
None of representative of the respondents present.

Fresh notices be issued to respondents for submission of written reply/comments on 04.07.2019 before S.B.


Chairman

22.02.2019

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant (Constable) has filed the present service appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 against the order dated 25.01.2010 whereby he was awarded minor punishment of stoppage of two (02) increments with accumulative effect and fine Rs.1000/- . The appellant has also challenged the order dated 07.09.2018 through which his departmental appeal was rejected.

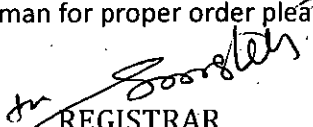

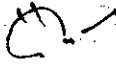
Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections including the issue of limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for written reply/comments. To come up for written reply/comments on ^{09.04.2019} 29.03.2019 before S.B.


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1493/2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	17/12/2018	<p>The appeal of Mr. Suleman Ahmad resubmitted today by Mr. Fazal Shah Mohmand 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</p> <p>2-</p>	24/12/2018.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>21/01/2019.</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>21.01.2019</p> <p>Clerk to counsel for the appellant present. Due to general strike of the bar, case is adjourned. To come up for preliminary hearing on 22.02.2019 before S.B.</p> <p style="text-align: right;"> Member</p>

The appeal of Mr. Suleman Ahmad Constable no. 32 District Police Nowshera received today i.e. on 05.12.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Annexures-A&C of the appeal are illegible which may be replaced by legible/better one.

No. 2358 /S.T,

Dt. 5/12 /2018.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Fazal Shah Mohmand Adv. Pesh.

Sir, Resubmitted after necessary completion.


17/12/18 (Adv.)

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 1493 /2018.

Suleman Ahmad.....Appellant

V E R S U S

RPO and others.....Respondents

I N D E X

S.No	Description of Documents	Annexure	Pages
1.	Service appeal with affidavit		1-3
2.	Application for condonation of delay with affidavit		4
3.	Copy of order dated 20-01-2010	A	5
4.	Copy of departmental appeal and order dated 07-09-2018	B & C	6-7
5.	Copies of Salary Statement	D	8-16
6.	Wakalat Nama		17

Dated:-03-12-2018

Suleman

Appellant

Through

Fazal Shah Mohmand

Fazal Shah Mohmand
Advocate, Peshawar

OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301
8804841 Email:- fazalshahmohmand@gmail.com

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BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 1493/2018

Suleman Ahmad, Constable No 32, District Police Nowshera.

.....**Appellant**

V E R S U S

Khyber Pakhtukhwa
Service Tribunal

Diary No. 1724

Dated 05/12/18

1. Regional Police Officer, Mardan
2. District Police Officer Nowshera.
3. Provincial Police Officer KPK Peshawar.....**Respondents**

**APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974
AGAINST THE ORDER DATED 07-09-2018 PASSED BY
RESPONDENT NO 1 WHERE BY DEPARTMENTAL APPEAL OF
THE APPELLANT FILED AGAINST THE ORDER DATED 20-01-
2010 OF RESPONDENT NO 2 HAS BEEN REJECTED/FILED.**

PRAYER:-

On acceptance of this appeal the impugned orders dated 07-09-2018 of respondent No 1 and Order dated 20-01-2010 of respondent No 2 may kindly be set aside and the appellant may kindly be ordered to be restored his 2 increments and the fine of Rs 1000/- imposed upon the appellant may not be recovered from him.

Respectfully Submitted:-

1. That the appellant was enlisted as Constable on 01-08-2008 in District Police Nowshera, remained posted to various Stations and since then he performed his duties with honesty and full devotion.
2. That in the year 2009, the appellant while posted as Gun man with SSP was awarded minor punishment of stoppage of 2 increments with accumulative effect and fine of Rs. 1000/- on the allegations that he absented himself from Muharram duty on 19-12-2009, by respondent No 2 vide order date 20-01-2010, however the appellant was never informed about the same. (Copy of Order dated 20-10-2010 is enclosed as Annexure A).
3. That the appellant after coming to know of the punishment on when deductions started from his salary in April 2018, preferred departmental appeal before respondent No.1 dated Nil which was rejected vide order dated 07-09-2018, copy of which has not been communicated to the appellant however, the appellant obtained copy of the same on 15-11-2018. (Copy of

Filed to-day

Regd. 11/12/18

Re-submitted to-day
and filed.

Registration

departmental appeal and Order dated 07-09-2018 is enclosed as Annexure B and C).

4. That the impugned order dated 07-09-2018 of respondent No 1 and order dated 20-01-2010 of respondent No 2 are against the law, facts and principles of justice on grounds inter alia as follows:-

GR O U N D S :-

- A. That the impugned orders are illegal and void ab-initio.
- B. That mandatory provisions of law and rules have badly been violated by the respondents and the appellant has not been treated according to law and rules and the appellant did nothing that amounts to misconduct.
- C. That no charge sheet and show cause notice were served upon the appellant.
- D. That exparte action has been taken against the appellant and he has been condemned unheard.
- E. That no inquiry was conducted to find out the true facts and circumstances.
- F. That the impugned order is defective as per FR 29 and as such not maintainable in the eyes of law.
- G. That even otherwise the absence from duty was neither willful nor deliberate rather the same was because of illness of the appellant which circumstances were compelling in nature and were beyond the control of the appellant as well.
- H. That the impugned orders are not speaking orders and thus not tenable in the eyes of law.
- I. That the appellant was not provided the opportunity of personal hearing and the impugned order is defective as well.
- J. That the punishment is harsh being in contrary to the principle of proportionality of sentence.
- K. That the appellant did nothing that would amount to misconduct.
- L. That the appellant has more than ten years of service with unblemished service record.

M. That the appellant seeks the permission of this honorable tribunal for further/additional grounds at the time of arguments..

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Dated-03-12-2018

Suleman
Appellant

Through

Fazal
Fazal Shah Mohmand
Advocate, Peshawar

AFFIDAVIT

I, Suleman Ahmad Constable No 32, District Police Nowshera, do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

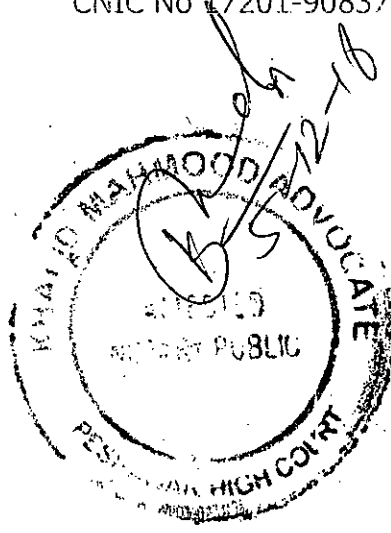
Suleman

DEPONENT

CNIC No 17201-9083791-7

Identified by

Fazal
Fazal Shah Mohmand
Advocate Peshawar



- 4 -

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No _____/2018

Suleman Ahmad.....Appellant

V E R S U S

RPO and others.....Respondents

Application for the condonation of delay if any.

Respectfully submitted:-

1. That the accompanying appeal is being filed today in which no date of hearing has been fixed so far.
2. That the grounds of appeal may be considered as integral part of this application.
3. That the impugned order being void ab-initio, illegal and time factor becomes irrelevant in such cases, furthermore copy of impugned order was communicated to the appellant on 15-11-2018 and the appeal is as such within time.
4. That the law as well as the dictums of the superior Courts also favors decisions of cases on merit.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Dated:-03-12-2018

Suleman Ahmad
Appellant

Through

Fazal Shah Mohmand
Fazal Shah Mohmand
Advocate, Peshawar

AFFIDAVIT

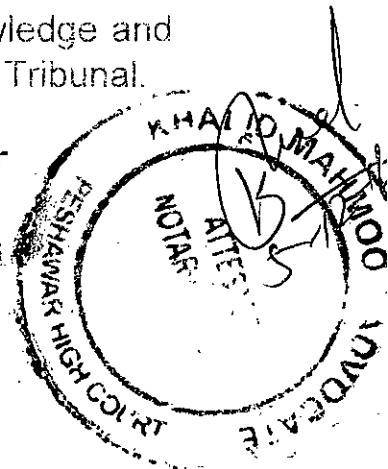
I, Suleman Ahmad Constable No 32, District Police Nowshera, do hereby solemnly affirm and declare on oath that the contents of this **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Identified by

Fazal Shah Mohmand
Fazal Shah Mohmand
Advocate Peshawar

Suleman Ahmad
DEPONENT

CNIC No 17201-9083791



-5-

ORDER

Constable Sultan Ahmed No. 37 of the ...
... with SSP Ishfaq Khan. On ... he was directed to ...
... Nowshera for Muharram duty, but he did not ...
... of the senior and absented himself. Being found ...
... and disobedient, he is hereby awarded ...
... with accumulative effect.

Order No 93
Dated 20/01/2010

District Police Officer,
Nowshera.

No 117-20

PA. dated Nowshera, the 25/1-2010
Copy of above for information & necessary action to be

- 1 Pay Officer
- 1 Establishment Clerk
- 1 OHC
- 1 FMO

ORDER

Constable Salman Ahmad No. 32 while deployed as Guraman with SSP Ishfaq Khan. On 19.12.2009, he was directed to report at Police Lines Nowerha for Muharram duty but he did not bother to obey the lawful orders of the senior and absented himself. Being found indiscipline inefficient and disobedient, he is hereby awarded minor punishment of stoppage of 02 increments with accumulative effect & Fine Rs. 1000/-.

OB No. 93

Dated 20.01.2010.

District Police Officer

Nowshera

No. 117-20/ PA/dated Nowshera the 25-1-2010

Copy of above for information & necessary action to the: -

1. Pay Officer.
2. Establishment Clerk.
3. O.H.C
4. F.M.C

"B"

-6-

To: The Deputy Inspector General of Police,
Mardan Region - Mardan.
Through:- Proper Channel
Subject: APPEAL.

Respected Sir,

With due respect I beg to submit that I have been awarded a Minor punishment of stoppage of 2 increments with cumulative effect by the then District Police Officer Nowshera, vide OB No.93 dated 20/01/2010 for the allegations of absence from duty on 19-12-2009, against which I am going to submit the present Appeal on the following grounds/justifications:-

1. I was suffering from Fever + Headache and was lying on bed, therefore, I could not perform the duty on 19-12-2009.
2. I had consulted the local practitioner for my treatment and resume duty next day when I was recovered.
3. No enquiry was conducted into the matter.
4. I was not given any opportunity of personal hearing.
5. I am serving in the department for the last 9 years.
6. I had performed my duties up to the entire satisfaction of my superiors.
7. I have been put to great financial loss and my service career has also been damaged, due to this punishment.
8. I was not informed about the said punishment and it was noticed just now, therefore, delay in submission of Appeal may kindly be condoned.

Therefore, I approach your good self to kindly accept my Appeal and the order of punishment of stoppage of 2 increments with cumulative effect by the then DPO Nowshera vide OB No.93 dated 20-01-2010 may kindly be withdrawn.

I shall be highly obliged and will pray for your long life and prosperity

CR
[Signature]

Yours Obediently,
[Signature]
(Suleman Ahmad)

ORDER

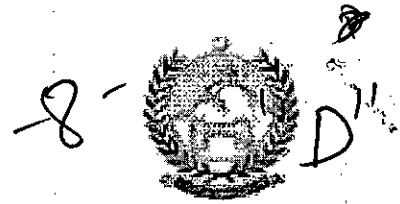
This order of dispose of the departmental appeal preferred by constable Suleman Ahmad No. 32 of Nowshera District Police against the order of District Police Officer Nowshera whereby they was awarded Minor punishment of Stoppage of two increments and accumulative office & one of Rs. 1000/- vide the office OB No. 93 dated 20.01.2019.

Brief facts of the case are that the appellant was deployed the Gunmen with SSP Ishfaq Khan on 19.12.2009 he was directed to record of Police Laws, Nowshera nor Muharram duty did not bother to obey the lawful orders of the senior and absented himself being found inefficient and disobedient. Therefore awarded him minor punishment of stoppage of two increments with accumulative effect and fin. of Rs. 1000/- vide District Police Officer, Nowshera OB. No. 97 dated 20.01.2019.

He was called its orderly from to this office on 09.05.2018 and heard in person. The appellant did not produce any cogent reason for his innocence. Therefore, I find no grounds into the order passed by the then District Police Officer, Nowshera .

**(Muhammad Ali Khan) PSP
Regional Office**

Government of Khyber Pakhtunkhwa
District Accounts Office Nowshera
Monthly Salary Statement (May-2017)



Personal Information of Mr SULEMAN AHMAD d/w/s of MUHAMMAD SHER KHAN

Personnel Number: 00414876 CNIC: 1720190837913 NTN:
 Date of Birth: 06.04.1988 Entry into Govt. Service: 01.08.2008 Length of Service: 08 Years 10 Months 001 Days

Employment Category: Active Temporary

Designation: CONSTABLE 80003634-GOVERNMENT OF KHYBER PAKH

DDO Code: NR4218-NR4010 Law and Order Nowshera

Payroll Section: 001

GPF Section: 001

Cash Center:

GPF A/C No:

Interest Applied: No

GPF Balance:

46,749.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2016

Pay Scale Type: Civil

BPS: 05

Pay Stage: 8

Wage type		Amount	Wage type		Amount
0001	Basic Pay	11,950.00	1000	House Rent Allowance	1,002.00
1210	Convey Allowance 2005	1,932.00	1300	Medical Allowance	1,500.00
1547	Ration Allowance	681.00	1567	Washing Allowance	150.00
1646	Constabulary R Allowance	300.00	1901	Risk Allowance (Police)	5,010.00
1902	Special Incentive Allowance	775.00	2148	15% Adhoc Relief All-2013	348.00
2168	Fixed Daily Allowance	2,730.00	2199	Adhoc Relief Allow @10%	234.00
2211	Adhoc Relief All 2016 10%	1,195.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3005	GPF Subscription - Rs 745	-745.00	3530	Police wel:Fud BS-1 to 18	-239.00
4004	R. Benefits & Death Comp:	-450.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 0.00 Recovered till May-2017: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 27,807.00 Deductions: (Rs.): -1,434.00 Net Pay: (Rs.): 26,373.00

Payee Name: SULEMAN AHMAD

Account Number: 10032803720011

Bank Details: ALLIED BANK LIMITED, 250287 MAIN BAZAR MAIN BAZAR,

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address:

City: NOWSHERA

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: sulemanahmadksheshgi@gmail.com

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WAKALAT NAMA

In the court of: Service Tribunal KPK Pesh

Suleman Ahmael

Petitioner/ Complainant
Appellant

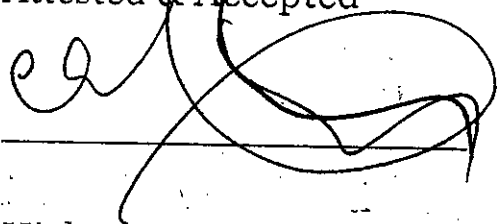
VERSUS

RPO in others

Respondent

I Suleman Ahmael in the above noted Service Tribunal do hereby appoint Mr. Fazal Shah ASC Advocate ~~High Court~~ as my/our counsel in the above proceedings and authorize him to appear, plead, defend, act, compromise, withdraw, negotiate or refer to arbitration for me/ us as my / our advocate/ legal attorney in the above mentioned matter, without any liability for his default and with the authority to engage/ appoint any other Advocate/ Counsel on my/our behalf and to file amended petition/any miscellaneous application or any other documentation which is legally required on my /our behalf for the above proceedings.

Attested & Accepted



High Court, Peshawar
Cell:



(CLIENT)

BEFORE THE HONOURABLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Service Appeal No. 1493/2018

Suleman Ahmad, Constable No. 32, District Police, Nowshera.

.....Appellant

V E R S U S

1. Regional Police Officer, Mardan.
2. District Police Officer, Nowshera.
3. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

I N D E X

S.No.	Description of documents	Annexure	Pages
1.	Reply to the appeal	-	1-3
2.	Reply to the condonation application	-	4-5
3.	Affidavit	-	6

BEFORE THE HONOURABLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 1493/2018

Suleman Ahmad, Constable No. 32, District Police, Nowshera.

.....Appellant

V E R S U S

- 1. Regional Police Officer, Mardan.
- 2. District Police Officer, Nowshera.
- 3. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

REPLY ON BEHALF OF RESPONDENTS

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS

- 1. That the appellant has got no cause of action.
- 2. That the appeal is badly time-barred.
- 3. That the appellant has been estopped by his own conduct to file the appeal.
- 4. That the appeal is not maintainable in its present form.
- 5. That the appellant has not come to the Honourable Tribunal with clean hands.

On Facts

- 1. Para to the extent of enlistment of appellant in Police Department as constable pertains to record needs no comments, while rest of the para is not plausible because every Police Officer/Official is under obligation to discharge his duties to the entire satisfaction of his high-ups.
- 2. Correct to the extent that the appellant was awarded minor punishment of stoppage of 02 annual increments with cumulative effect and fine Rs. 1000/- vide order dated 20-01-2010. Because, in the year 2009 militancy was on peak therefore, the competent authority had issued strict directions that Police Officials including the present appellant will perform duties in Police Lines, from the 1st Muharram till 10th of Muharram. Hence, in compliance of the said order, the appellant was informed through his local Police Station because his cell phone was found switched off but even then he did not bother to ensure his arrival at Police Lines, Nowshera for the purpose. Therefore, after fulfillment of all legal

and codal formalities, the appellant was awarded appropriate punishment which does commensurate with the gravity of misconduct of appellant. Moreover, the appellant in order to cover the question of limitation has propounded the story that he was never informed regarding the punishment. Therefore, stance of the appellant is devoid of legal footing.

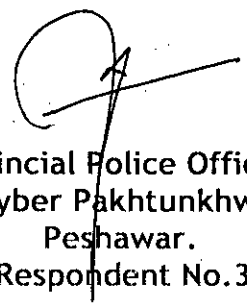
- 3. Para to the extent of preferring departmental appeal is correct, needs no comments while rest of the para is incorrect because the appellant in order to give legal cover to the departmental as well as the instant service appeal in terms of limitation, cooked this story which is not plausible.
- 4. Incorrect. That the order passed competent authority as well as by the appellate authority is in accordance with law, facts and principles of justice hence, the same is liable to be maintained on the following grounds amongst the others.

GROUNDS

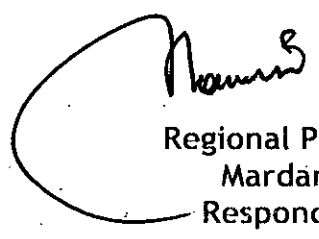
- A. Para is incorrect. The order passed by the competent authority and that of appellate authority are legal and lawful hence, warrants no interference.
- B. Incorrect. The punishment order has been passed in accordance with law, because the respondent department had no grudges or ill-will against the appellant, therefore, plea taken by the appellant is not plausible.
- C. Para already explained hence, no comments.
- D. Incorrect. The order passed by the competent authority is in consonance with the principles of natural justice.
- E. Para already explained hence, no comments.
- F. Para explained earlier hence, no comments.
- G. Incorrect. Plea taken by the appellant is not plausible because being member of disciplined force he was required to inform his high-ups regarding his so called illness but he did not bother to do so rather willfully and deliberately absented himself from his lawful duty.
- H. Incorrect. The order passed by the competent authority as well as appellate authority is speaking one hence, tenable in the eye of law.
- I. Para already explained needs no comments.

- J. Incorrect. That order passed by the competent authority is nether harsh nor contrary to the principle of propoportionality.
- K. Para explained earlier hence, no comments.
- L. Plea taken by the appellatnt is not plausible because length of service and unblemished record does not exonerate any official/officer from his future wrong deeds.
- M. The respondents also seek permission of this Honourable Tribunal to advance additional grounds at the time of arguments.


It is, therefore, most humbly prayed that on acceptance of above submissions the appeal of the appellatnt may very kindly be dismissed with cost.



Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
Respondent No.3



Regional Police Officer,
Mardan Region
Respondent No.01



District Police Officer,
Nowshera.
Respondent No.02

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

C.M No. ____/2018 in

Service Appeal No. 1493/2018

Suleman Ahmad, Constable No. 32, District Police, Nowshera.

.....Appellant

V E R S U S

- 1. Regional Police Officer, Mardan.
- 2. District Police Officer, Nowshera.
- 3. Provincial Police Officer/Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

REPLY TO THE APPLICATION FOR CONDONATION OF DELAY

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS

- 1. That the applicant has no cause of action to file the instant application.
- 2. That the application is barred by law.

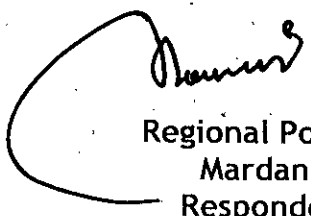
Facts

- 1. That the appeal filed by the appellant before this Honourable Tribunal may kindly be dismissed being a badly time barred.
- 2. Incorrect. The same cannot be considered as integral part of the petition.
- 3. Incorrect. Plea taken by the applicant is whimsical/concocted rather fanciful hence, liable to be set at naught.
- 4. Incorrect. As the apex court of Pakistan has held that the question of limitation cannot be considered a "technicality" simpliciter as it has got its own significance and would have substantial bearing on merits of the case.

It is therefore, most humbly prayed that on acceptance of above submissions, the instant application may very kindly be dismissed.



Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
Respondent No.3



Regional Police Officer,
Mardan Region
Respondent No.01



District Police Officer,
Nowshera.
Respondent No.02

BEFORE THE HONOURABLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 1493/2018

Suleman Ahmad, Constable No. 32, District Police, Nowshera.

.....Appellant

V E R S U S

- 1. Regional Police Officer, Mardan.
- 2. District Police Officer, Nowshera.
- 3. Provincial Police Officer/Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

AFFIDAVIT

We the respondents do hereby solemnly affirm and declare on Oath that the contents of reply to the appeal are true and correct to the best of our knowledge and belief and nothing has been concealed from the Honourable Tribunal.

Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
Respondent No.3

Regional Police Officer,
Mardan Region
Respondent No.01

District Police Officer,
Nowshera.
Respondent No.02

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Service Appeal No 1493/2018.

Suleman Ahmad.....**Appellant.**

V E R S U S

RPO & Others.....**Respondents**

REPLICATION ON BEHALF OF THE APPELLANT.

REPLY TO PRELIMINARY OBJECTIONS.

All the objections raised by the respondents are incorrect and as such denied. The appellant has got a valid cause of action and locus standi to bring the present appeal, which is well within time. The appellant has come to this honorable tribunal with clean hands and the appellant is not estopped by his conduct to file instant appeal.

REPLY TO FACTS/GROUNDS:

Comments of the respondents are full of contradictions, rather amounts to admissions and are based on malafide. Respondents have failed to show that the version of the appellant is incorrect. Even respondents have failed to show and substantiate their version referring to any law and rules. In the circumstances the appellant has been deprived of her rights without any omission or commission on his part and he has been deprived of his rights guaranteed by the Constitution and law of the land. No Charge Sheet and Show Cause Notice was issued to the appellant, nor was ever any inquiry conducted in the matter. The appellant was not even provided opportunity of personal hearing, thus too the impugned order is void being in total disregard to the law, rules and principles of natural justice. Exparte action has been taken against the appellant and the order too as such is void and time factor becomes irrelevant in such scenario.

In the circumstances the appellant has not been treated according to law and rules being his fundamental right. The impugned order is in total disregard of the law and rules and as such alien to law which cannot be

maintained, the appellant as such entitled to be restored his increments and fine accordingly with all benefits.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for.

Dated:-13-09-2019.

afman
Appellant

Through

Fazal Shah Mohmand
Fazal Shah Mohmand

Advocate Peshawar

AFFIDAVIT

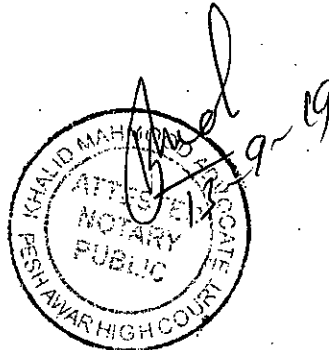
I, Suleman Ahmad Constable No 32, District Police Nowshera, (the appellant), do hereby solemnly affirm and declare on oath that the contents of this **Replication** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Identified by

Fazal Shah Mohmand
Fazal Shah Mohmand
Advocate Peshawar.

DEPONENT

Suleman



Before The Service Tribunal KPK Peshawar

SA No. 1483/2018

Suleman Ahmad vs Distt Police Officer

Application for extension of time for depositing Security/Process fee

Respectfully submitted.

1. That the titled Service Appeal is pending before this honorable Tribunal and is fixed for to-day i.e. 4/19.
 2. That on the very last of hearing the case was admitted for hearing and the appellant was directed to deposit the Process fee but he has not deposited the same independently.
 3. That extending time for depositing Security is in the interest of justice as the valuable rights of the appellant are involved.
- It is therefore prayed that the appellant may kindly be granted time to deposit the Process fee Security for the Process.

Dated
9-4-2019

Through
Appellant's Advocate
Faisal Khan
Suleman Ahmad

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 821 /ST

Dated 18/05 / 2021

To


The District Police Officer,
Government of Khyber Pakhtunkhwa,
Nowshera.

Subject: -

JUDGMENT IN APPEAL NO. 1493/2018, MR. SULEMAN AHMAD.

I am directed to forward herewith a certified copy of Judgement dated 29.03.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal No. 161/2016

Date of Institution ... 19.02.2016

Date of Decision ... 24.10.2017

Respondent
Limitation
can not touch
the merit of
the case

Tahmeedullah Ex-Constable No. 866 District Police Charsadda son of Rafiullah R/O Juma Gul Koroona Sherpao, Tehsil Tangi, District, Charsadda. ... (Appellant)

VERSUS

AA
AGC
ad

1. Capital City Police Officer, Peshawar and 2 others. ... (Respondents)

MR. FAZAL SHAH, ... For appellant
Advocate

MR. ZIAULLAH, ... For respondents.
Deputy District Attorney,

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

JUDGMENT

NIAZ MUIHAMMAD KHAN, CHAIRMAN. Arguments of the
learned counsel for the parties heard and record perused.

FACTS

2. The appellant was dismissed from service vide order dated 16.08.2010, against which he filed departmental but no copy of departmental appeal or any date of the same is available on the file, however, his departmental appeal was rejected on 19.04.2012, both on the ground of limitation as well as merits. The appellant then filed application under Rule 11-A of the Khyber Pakhtunkhwa Police Rules,

1975 on 30.03.2015 which was also rejected on 23.12.2015 and thereafter the present service appeal was filed on 19.02.2016.

ARGUMENTS.

The learned counsel for the appellant argued that the appellant was not provided with a personal hearing by the competent authority, hence the order is void. He, in this regard, relied upon a judgment reported as 2009-SCMR-161. That the limitation would not be attracted on the ground of the order being void. That the order was given retrospective effect and in the light of judgment reported as 2011-SCMR-1220, such order is illegal. That the enquiry proceedings were defective as to the extent of the process was fulfilled.

4. On the other hand, the learned Deputy District Attorney argued that the departmental appeal was time barred, hence the present service appeal is also time barred. That when the present appeal is time barred, then this Tribunal has no power to discuss the merits of the case. In this regard, he relied upon judgments of the august Supreme Court of Pakistan reported as 2011-SCMR-676 and 2009-SCMR-1121. He further argued that the appellant was given personal hearing by the appellate authority and also by the enquiry officer.

CONCLUSION.

5. Admittedly, the departmental appeal was time barred and then after the rejection of the departmental appeal, the appellant resorted to revision which cannot enlarge the period of limitation as remedy of revision is not provided under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

6. This Tribunal is now first to determine the issue of limitation and if the appeal is time barred then this Tribunal cannot touch the merits of the case. The

learned counsel for the appellant tried to convince this Tribunal that non provision of personal hearing by the authority make the order void. The judgment referred to by the learned counsel for the appellant is regarding *audi alteram partem*. No where it has been mentioned that the personal hearing must be provided by the authority. The appellant was provided personal hearing by the enquiry officer and then by the appellate authority. The learned counsel for the appellant has not been able to pin point any provision in the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 whereby the authority was bound to provide personal hearing nor any such rule is there in the Khyber Pakhtunkhwa Police Rules, 1975. Under the general principles of *audi alteram partem*, at least one personal hearing is to be provided to the appellant which has been provided to him as discussed above. This Tribunal is not inclined to accept the arguments of the learned counsel for the appellant that this appeal should be treated within time merely on the ground of non provision of personal hearing by the authority.

7. Consequently, this appeal being time barred is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

(GUL ZEB KHAN)
MEMBER

ANNOUNCED
24.10.2017

innocence, the cause of his involvement projected by him is some political rivalry. But the evidence produced by the prosecution in bringing home the guilt does fully support and justify his involvement in the commission of offence, who has rightly been convicted for taking an innocent life of a child in a merciless and cruel manner for no fault of the minor boy. He does not deserve any leniency.

7. In view of the above, the appeal being without merit is dismissed accordingly.

N.H.Q./G-21/SC

Appeal dismissed

2011 S.C.M.R-676

[Supreme Court of Pakistan]

Present: Ifikhar Muhammad Chaudhry, C.J.
Raja Fayyaz Ahmed and Ch. Ijaz Ahmed, JJ.

RAJA KHAN—Petitioner

versus

MANAGER (OPERATION) FAISALABAD ELECTRIC SUPPLY
COMPANY (WAPDA) and others—Respondents

Civil Petition No. 636 of 2009, decided on 21st May, 2009.

(Against the judgment dated 11-2-2009 passed by the Federal Service Tribunal, Islamabad, in Appeal No. 445(R) CE of 2005).

(a) Removal from Service (Special Powers) Ordinance (XVI of 2000)---

—Ss. 34 & 10—Constitution of Pakistan, Art. 212(3)—Compulsory retirement from service—Dismissal of first departmental appeal being time barred—Dismissal of second departmental appeal as not competent—Dismissal of appeal by Service Tribunal on merits as well as its being time barred—Validity—Petitioner had filed appeal before Tribunal without fulfilling mandatory requirement of S. 4 of Service Tribunals Act, 1973 in regard to limitation—Court could not compromise on limitation—Petitioner during four years of service had been punished for unauthorized absence as many as eight times—Petitioner by his subsequent conduct had accepted punishment and compulsory retirement by getting his pension claim and monthly pension regularly—Supreme Court refused to grant leave to appeal in circumstances. [pp. 679, 680, 681, 682] A, B, F, H, I, M & N.

2011] Raja Khan v. Manager (Operation) Faisalabad Electric Supply Company (Ch. Ijaz Ahmed, J) 677

Haji Ghulam Rasul's case PLD 1971 SC 376; Mst. Amina Begum's case PLD 1978 SC 220 and Nawab Syed Raunaq Ali's case PLD 1973 SC 236 rel.

(b) Constitution of Pakistan---

—Art. 212(3)—Service Tribunal, finding of validity—Such finding being finding of fact would not call for interference by Supreme Court. [p. 680] C.

Ch. Muhammad Azim's case 1991 SCMR 255 rel.

(c) Constitution of Pakistan---

—Art. 212(3)—Concurrent findings of fact by Appellate Authority and Service Tribunal—Validity—Supreme Court would not interfere with such findings. [p. 680] D.

Ifikhar Ahmed Malik's case 2005 SCMR 806 rel.

(d) Service Tribunals Act (LXX of 1973)---

—S. 4—Departmental appeal being time-barred—Effect—Appeal before Service Tribunal would not be competent. [p. 680] E.

Chariman PIA and others v. Nasim Malik PLD 1990 SC 951; Muhammad Aslam v. WAPDA and others 2007 SCMR 513; and Government of Pakistan through Secretary, Establishment Division v. Bashir Ahmad Khan PLD 1985 SC 309 rel.

(e) Limitation---

Appeal, if required to be dismissed for being time-barred, then its merits need to be discussed. [p. 681] G.

Khan Sahib Sher Muhammad Mir's case 1987 SCMR 92 rel.

(f) Constitution of Pakistan---

—Art. 212(3)—Constitutional jurisdiction under Art. 212(3) of the Constitution—Discretionary in character. [p. 682] J.

(g) Constitution of Pakistan---

—Arts. 185(3) & 212(3)—Grant of leave to appeal by Supreme Court—Discretionary. [p. 682] K.

Ghulam Qadir Khan's case 1986 SCMR 1386 rel.

Time barred -
S.A.H.
O.I. Z. J. K.

(h) Constitution of Pakistan---

---Arts. 199 & 212(3)---Void order---Constitutional jurisdiction of High Court and Supreme Court---Scope---Such jurisdiction might be refused, if same was meant to enable petitioner to circumvent provisions of law of limitation or if he was stopped by his conduct from challenging order. [p. 682] L

Muhammad Ismail's case 1983 SCMR 168; Abdur Rashid's case 1969 SCMR 141 and Wali Muhammad's case PLD 1974 SC 106 rel.

Haider Hussain, Advocate Supreme Court and M.S. Khattak, Advocate-on-Record for Petitioner.

Nemo for Respondents.

ORDER

CH. IJAZ AHMED, J.---Raja Khan, petitioner, seeks leave to appeal against the impugned judgment dated 11-2-2009 whereby the learned Federal Service Tribunal, Islamabad, dismissed his appeal on merits as well as time-barred.

2. Detailed facts have already been mentioned in the impugned judgment. However, necessary facts out of which the present petition arises are that petitioner was appointed as Chowkidar with the respondents establishment from April, 1985. Show cause notice dated 23-2-2004 under section 5(4) of the Removal from Service (Special Powers) Ordinance, 2002 along with statement of allegations was served upon the petitioner containing the following charges:--

- (1) Whereas you Mr. Raja Khan, Chowkidar PESCO (WAPDA) Jhang Circle Jhang are charged with misconduct as per statement of allegations attached.
- (2) And whereas on the basis of documentary evidence available, it is not considered necessary to have formal inquiry against you and that proceedings are being initiated under section 5(4) of the Removal from Service (Special Powers) Ordinance 2002 which might entail imposition of a major penalty of dismissal from service as specified in section 3 of the said ordinance.
- (3) Now, therefore, you are required to show cause within 15 days from the date of receipt of this notice as to why the proposed action should not be taken against you.
- (4) If no response is received from you within the time stipulated above, it would be presumed that either you have no defence, to

2011] Raja Khan v. Manager (Operation) Faisalabad Electric Supply Company (Ch. Ijaz Ahmed, J) 679

offer and/or you have willfully declined to do so. The case shall then be decided on 'ex parte' without further reference.

Whereas you Mr. Raja Khan, Chowkidar, PESCO Jhang Circle Jhang are charged with gross misconduct, inefficiency, corruption and mal practices for the following charges and other relevant circumstances.

As per report of Mr. Shahzad Nasir, Telephone Attendant and Mr. Ghulam Abbas Bhatti Telephone Attendant PESCO Jhang Circle Jhang. You are absent from duty w.e.f. 6-2-2004 to 17-2-2004 without intimation/prior permission/sanction leave from the Circle Superintendent/Technical Officer/and by the undersigned.

If any mishap/incident create in Circle office, who are responsible. You are already so many times directed to present in the office after closing hours but you have failed in official duties."

Petitioner submitted reply to the show cause notice and admitted that he was absent from duty on account of illness. The competent authority after providing him personal hearing awarded major penalty of compulsory retirement from service w.e.f. 31-3-2004 vide order dated 29-3-2004. Petitioner being aggrieved filed departmental appeal on 6-4-2004 before the appellate authority who dismissed the same as time barred vide order dated 10-11-2004. Thereafter the petitioner filed another appeal before the Managing Director Power on 8-12-2004 which was dismissed vide order dated 4-2-2005 on the ground that there is no provision of second appeal "further appeal" under the rules. Petitioner being aggrieved filed Appeal No. 445(R)CS/2005 in the Federal Service Tribunal, Islamabad, on 12-4-2005 which was dismissed vide impugned judgment dated 11-2-2009. Hence the present petition.

3. Learned counsel for the petitioner submits that the impugned order of dismissal of the petitioner dated 29-3-2004 was passed by incompetent authority, therefore, the same was coram non iudice and without lawful authority. He further urges that impugned order of the department was void, therefore, no limitation would run against such type of order. It can be agitated at any time and could be ignored being a void order. Learned Service Tribunal had not adverted to this aspect of the case, therefore, the impugned judgment was passed by the learned Service Tribunal without application of mind.

4. We have given our anxious consideration to the contentions of the learned counsel of the petitioner and perused the record. It is an admitted fact that show cause notice was served upon the petitioner

under the provisions of Removal from Service (Special Powers) Ordinance, 2002 wherein it is specifically provided under the provisions of the Ordinance that petitioner has to file departmental appeal within the prescribed period of 15 days. The order of compulsory retirement was passed by the competent authority on 29-3-2004. The petitioner filed departmental appeal on 6-4-2004 which was dismissed as time barred on 10-11-2004. Thereafter the petitioner filed second appeal before the Managing Director on 8-12-2004 which was also dismissed on 4-2-2005 in the following terms:-

"It is to inform you that your appeal under reference does not merit consideration as there is no provision of second appeal "further appeal" under the rules."

5. The learned Service Tribunal had rightly come to the conclusion that appellate authority was justified to dismiss his appeal as time-barred and second appeal was also dismissed with cogent reasons on account of non availability of any provision under the rules to file second appeal to higher authority after dismissal of the first appeal. We have also re-examined the material on record with the assistance of the learned counsel of the petitioner. We do not find any infirmity or illegality with regard to the conclusion arrived at by the learned Service Tribunal with regard to the finding mentioned in para 7 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 as law laid down by this Court in Ch. Muhammad Azim case (1991 SCMR 255). Even otherwise this Court does not interfere with the concurrent findings of fact arrived at by the departmental authorities and learned service Tribunal while exercising the power under Article 212(3) of the Constitution. See *Iftikhar Ahmed Malik case*, (2005 SCMR 806). It is settled proposition of law that when an appeal of the employee was time barred before the appellate authority then the appeal before the Tribunal was also not competent in view of the various pronouncements of this Court. See *Chairman PIA and others v. Nasim Malik* (PLD 1990 SC 951) and *Muhammad Aslam v. WAPDA and others* (2007 SCMR 513). The question of law with regard to the representation has already been decided by this Court in *Government of Pakistan through Secretary Establishment Division v. Bashir Ahmad Khan* (PLD-1985 SC 309). The relevant observation is as follows:-

"He challenged his first compulsory retirement through a review application filed on 23rd of October, 1974, which was decided on 3-6-1975. This was the final order passed on review. It could be challenged within 30 days, before the Tribunal under section 4 of the Service Tribunals Act. If the appellant chose not to file an appeal but only to repeat a representation before the same

authority who had decided the review, that by itself would not give him another cause of action to file an appeal under section 4. The period spent in making the representation this second or any other representation after the decision of the review application, could not be excluded as of right in counting the period of limitation The review petition filed by the respondent in that behalf was decided on 13-6-1978. Instead of filing an appeal before the Tribunal under section 4 within 30 days of this final order passed on review, he made another representation which caused further delay. The period consumed during the processing of the subsequent representation could not be excluded as of right. And there being no condonation on any good ground by the Tribunal, the appeal filed on 14-1-1979, was clearly time barred and should have been dismissed accordingly."

6. The appeal of the petitioner before Service Tribunal is incompetent under section 4(1)(b) of the Service Tribunal Act, 1973. Since the petitioner has filed appeal before the Service Tribunal without fulfilling the mandatory requirement of section 4 in regard to limitation and court cannot compromise on the limitation. See:-

Muhammad's case (1998 SCMR 1354)

Messrs Raja Industries' case (1998 SCMR 307)

Mst. Sirajun-Munira's case (1998 SCMR 785)

7. It is admitted fact that appeal is obviously time barred and it has been held by this Court in *Khan Sahib Sher Muhammad Mir's case* (1987 SCMR 92) that when an appeal is required to be dismissed on limitation, its merits need not be discussed. In spite of the aforesaid law laid down by this Court the learned Service Tribunal has considered the case on merits and the appeal was also dismissed on merits. It is pertinent to mention here that the competent authority awarded penalty of compulsory retirement vide order dated 29-3-2004. The petitioner had accepted the punishment awarded by the respondents due to his conduct on the basis of subsequent events as the petitioner applied for payment of his pensionary benefit to the respondents. Petitioner got settled his pension claim within three months after his retirement and received Rs. 155,733 as well as monthly pension. He also received his monthly pension regularly. Petitioner preferred appeal before the Service Tribunal on 12-4-2005. This fact was also noted in the impugned judgment in para 10. Even on merits the learned Service Tribunal was justified to dismiss his appeal on the well known principal of "approbate and reprobate." See *Haji Ghuilm Rasul's case* (PLD 1971 SC 376). The learned Service Tribunal was justified to dismiss his appeal on the well

known principle of estoppel keeping in view subsequent events. See *Mst. Amina Begum's case* (PLD 1978 SC 220).

8. The conduct of the petitioner has been highlighted by the Service Tribunal in para 10 of the impugned judgment which is reproduced herein below:--

"We have seen placed on the record a number of documents which indicate the service record of the appellant. From 1989 to 27-3-2003, the appellant has been punished for unauthorized absence as many as eight times. The punishment included censure, stoppage of one annual increment for one year (1983), reduction to three lower stage in time scale for a period of three years (1990), stoppage of one annual increment for one year (1993) and stoppage of annual increment for one year (1995)."

9. It is settled principle of law that constitutional jurisdiction under Article 212(3) is discretionary in character. It is settled law that grant of leave to appeal is discretionary. See *Ghulam Qadir Khan's case* (1986 SCMR 1386). It is also settled law that constitutional jurisdiction against void order may be refused if it was meant to enable petitioner to circumvent provisions of law of limitation or if he was estopped by his conduct from challenging of order. See:--

Muhammad Ismail's case (1983 SCMR 168)

Abdur Rshid's case (1969 SCMR 141)

Wali Muhammad's case (PLD 1974 SC 106)

10. Keeping in view the conduct of the petitioner mentioned herein above in para 10 of the impugned judgment we are not inclined to exercise our discretion in favour of the petitioner on the well known maxim that he who seeks equity must come with clean hands as law laid down by this Court in *Nawab Syed Raunaq Ali's case* (PLD 1973 SC 236).

11. In view of what has been discussed above we do not find any infirmity or illegality in the impugned judgment. Even otherwise the learned counsel has failed to raise any question of public importance in the present case as contemplated under Article 212(3) of the Constitution. The petition has no merit and the same is dismissed. Leave refused.

S.A.K./R-7/SC

Leave refused

2011 S C M R 683

[Supreme Court of Pakistan]

Present: M. Javed Butt, Muhammad Farrukh Mahmud
and Muhammad Sair Ali, JJ

GHULAM SHABBIR AHMED and another---Appellants

versus

THE STATE---Respondent

Criminal Appeal No. 265 of 2005, decided on 28th May, 2009.

(On appeal against the judgment dated 24-10-2002 passed by the Lahore High Court, Multan Bench in CrI. A. No. 34 of 2002):

(a) Penal Code (XLV of 1860)---

---S. 302(b)---Re-appraisal of evidence---Double murder---Prompt F.I.R.---Ocular account supported by medical evidence---Identity of accused was not disputed at all and he had been described by name and by his deeds in promptly lodged F.I.R.---Statements of prosecution witnesses were fully supported by medical evidence and corroborated by the facts---Matter was reported to police within 45 minutes and postmortem of both the deceased were conducted on the same night within six hours of their death---Motive as given in F.I.R. also stood proved and was corroborated by ocular account---Ocular account was also supported from report of Forensic Science Laboratory which revealed that empties recovered from spot were fired from one weapon---Statements of defence witnesses did not help the accused---Effect---Prosecution had successfully proved its case beyond doubt against accused and he was rightly convicted under S. 302(b), P.P.C.---Sentence of death awarded to accused by Trial Court and maintained by High Court was not interfered with by Supreme Court---Appeal was dismissed. [p. 687] A

(b) Penal Code (XLV of 1860)---

---S. 302(b)---Qanun-e-Shahadat (10 of 1984), Art. 22---Re-appraisal of evidence---Identification of accused in Court---Photographs of accused---Accused was not previously known to prosecution witnesses and was only described by features, who was arrested after two years of the occurrence---Prosecution witnesses had seen accused for very short time and they did not identify him during identification parade but identified him at the time of recording of his statement in Court---Effect---Such identification in Court was meaningless as by that time accused was already known to prosecution witnesses as only that

basis of inferences, only such circumstances as are well authenticated."

Where there are indications of design in the preparation of a case resting on circumstantial evidence, the Court should be on its guard against the possibility of being deliberately misled into false inference."

5. By now, it is a consistent view that when any case rests entirely on circumstantial evidence then, each piece of evidence collected must provide all links making out one straight chain where on one end its noose fit in the neck of the accused and the other end touches the dead body. Any link missing from the chain would disconnect and break the whole chain to connect the one with the other and in that event conviction cannot be safely recorded and that too on a capital charge. As was held in the case of *Fazal Elahi* (ibid) and in view of the changed social norms and standard of ethics of the society, to which the witnesses belong and also the questionable credibility of the investigating agency and its incompetency to professionally investigate such blind crimes, by now, the Courts have to exercise more and more cautions before accepting and resting its opinion of being guilty on circumstantial evidence collected apparently in a dishonest, dubious and rough manner.

6. Therefore, we are left with no option but to adopt the same care and caution, keeping in view the peculiar facts and circumstances of the case, which cannot be put apart from the one, cited above.

7. With all respects to the Bench of the learned Federal Shariat Court, these precautions and judicial care so required, was not observed and view of the trial Judge with regard to the guilt of the appellant was endorsed by it. Thus, the approach to the evidence in the case was not in accord with the principle since long well settled.

8. Accordingly, while extending benefit of doubt to the appellant this appeal is allowed and the appellant Imran @ Dully is acquitted of all the charges, levelled against him by setting aside his conviction and sentences awarded to him. He be set free forthwith if not required in any other case.

9. In view of our above findings, Criminal Shariat Appeal No.26(S)/09 titled *Farzand Ali v. Imran @ Dulli etc.* has been

Muhammad Asif Chatha v. Chief Secretary, Government of Punjab (Ijaz Ahmed Chaudhry, J) 165

2015 S C M R 165

[Supreme Court of Pakistan]

Present: Ijaz Ahmed Chaudhry and Umar Ata Bandial, JJ

MUHAMMAD ASIF CHATHA and others---Appellants
versus

CHIEF SECRETARY, GOVERNMENT OF PUNJAB,
LAHORE and others---Respondents

Civil Appeal Nos.222 to 238 of 2012, decided on 25th November, 2014

(On appeal against the judgment dated 25-11-2011 passed by Punjab Service Tribunal, Lahore in Appeals Nos.2933 to 2936, 2939 to 2943, 2951 to 2005, 4416 of 2006, 500 to 505 and 591 of 2006).

(i) Constitution of Pakistan---

Art. 212(3)---Civil service---Appeal against judgment of Service Tribunal filed before the Supreme Court---Question of fact---Such question could not be gone into in appeal proceedings before the Supreme Court under Art. 212(3) of the Constitution. [p. 170] B

(ii) Civil Servants (Appointment, Promotion and Transfer) Rules, 1973---

R. 8-B---Punjab Civil Servants (Appointment and Conditions of Service) Rules, 1974, R. 13--- Appointment on acting/officiating basis---Promotion---Scope---Appointment on acting/officiating basis did not confer any vested right for regular promotion. [p. 170] C

See, Aziz-ud-Din's case 2010 SCMR 1301 ref.

(iii) Punjab Civil Servants (Appointment and Conditions of Service) Rules, 1974---

R. 13---Promotion to higher post on officiating basis---Civil servants acting regularization of such promotion---Limitation---Delay of 30 days in raising issue of regularization of promotion---Effect---Three vacancy lists were issued during the period when civil servants

[Handwritten signatures and initials]

appointment on officiating basis in the years 1995-1998, could not have agitated the matter in the year 2001--Civil servants seemingly had accepted their appointment on officiating basis--Appeal filed by civil servants seeking regularization of their promotion was dismissed accordingly. [pp. 169, 170, 171] A, D, E & F

Jafar Ali Akhtar Yousafzai v. Islamic Republic of Pakistan PLD 1970 Quetta 115 distinguished.

(d) Service Tribunals Act (LXX of 1973)--

S. 4--Departmental representation, filing of--Limitation period Appeal filed before Service Tribunal--Limitation period and competency--When a departmental representation was barred by time then without disclosing any sufficient reason for delay, no subsequent order of disposal of such incompetent representation could create fresh cause of action and that the appeal filed before the Service Tribunal would be incompetent. [p. 171] G

* Abdul Wahid v. Chairman, Central Board of Revenue Islamabad and others 1998 SCMR 882 and NED University of Engineering and Technology v. Syed Ashfaq Hussain Shah 2006 SCMR 453 ref.

Saif ul Malook, Advocate Supreme Court for Appellants (in all cases).

Respondents in person.

Mudassar Khalid Abbasi, A.A.-G. for Government of Punjab

Date of hearing: 13th November, 2014.

JUDGMENT

IAZ AHMED CHAUDHRY, J.--These appeals by leave of the Court have been directed against the judgment dated 25-11-2011 passed by the learned Punjab Service Tribunal, Lahore, whereby the appeals filed by the appellants were dismissed.

2. Briefly stated the facts of the matter are that the appellants were possessing B.Sc. Engineering Degree were promoted to the post of Assistant Engineer/SDO in BS-17 on officiating basis between the years 1995 to 1998 whereas the respondents who were holding B. Tech Degree were promoted in the year 2001 to the same post on officiating basis.

2015] Muhammad Asif Chatha v. Chief Secretary, Government of Punjab (Ijaz Ahmed Chaudhry, J) 167

Appellants challenged the said order in Intra Court Appeal as also before this Court but remained unsuccessful. Thereafter, the Secretary, Communication and Works Department, Government of Punjab, took up the matter and vide the order dated 18-12-2002 he regularized the appointment of the appellants on the advice of the Regulating Wing of S&GAD and on the ground that regular posts were available in the year 1995-1998 at the time of promotion of the appellants on officiating basis. Consequently, the promotion of the respondents was converted as officiating. The respondents assailed this order before the learned Punjab Service Tribunal by filing Appeals. The learned Service Tribunal vide the order dated 10-12-2003, accepted the appeals and set aside the order dated 18-12-2002 of the Competent Authority and directed fresh hearing of the matter after hearing all concerned within a period of 60 days. Pursuant to the direction of the learned Service Tribunal, the Department again took up the matter and vide the order dated 27-7-2005 the Competent Authority decided that officiating promotion of the appellants could not be treated as regular. Feeling aggrieved, the appellants filed departmental appeals but as the same were not decided within the statutory period of 90 days, therefore, they filed the impugned appeals before the Punjab Service Tribunal. During the pendency of appeals before the Service Tribunal, it came to the notice of the learned Tribunal that one Section Officer in the office of Secretary C&W Department, Lahore, instead of putting departmental appeals before the Appellate Authority/Chief Secretary Punjab opted to decide these appeals of his own on 28-12-2005. On this, the learned Tribunal directed the Appellate Authority to decide the departmental appeals of the appellants within 60 days. Pursuant to this direction of the Tribunal, the Chief Secretary/Appellate Authority finally decided the matter and rejected the departmental appeals of the appellants. The learned Service Tribunal vide the impugned judgment also dismissed the appeals filed by the appellants. Thereafter, the appellants filed Civil Petitions Nos. 164 to 172, 230 to 236 and 240 of 2012 before this Court, out of which have arisen the instant appeals, in which leave was granted on 15-3-2012, which reads as under:--

"Leave to appeal is granted in all these listed petitions, inter alia, to examine if an official/officer has been authorized to be competent authority to hold a post against a clear vacancy in officiating capacity, whether it would tantamount to his promotion because an employee cannot be allowed to continue on officiating position for an indefinite period; subject to all just exceptions, keeping in view the case of Jafar Ali Akhtar Yousafzai v. Islamic Republic of Pakistan (PLD 1970 Quetta

3. Learned counsel for the appellants has contended that appointment of a duly qualified person against a permanent vacancy could not be described as officiating as the same could be deemed regular under section 2(2) of the Punjab Civil Servants Act, 1974; that the learned Service Tribunal while dismissing the appeals of the appellants has not taken into consideration the law laid down by this Court; that the learned Service Tribunal has wrongly relied upon the judgments of this Court reported at *Tariq Aziz ud Din and others* (2010 SCMR 1301) and *Dr. S.M. Inkisar Ali v. Government of Sindh* (2011 SCMR 121) and the unreported judgment passed in Civil Petition No. 1583-L of 1998; that even if the case is not covered by Rule 13 of the Punjab Civil Servants (Appointment and Conditions of Service) Rules, 1974; even then an appointment made in the prescribed manner could not be treated as officiating; that during the period 1995-1998 the relevant qualification of the respondents for promotion was lacking; that long temporary service was to be considered as regular due to flux of time and that the competent authority had passed a detailed order on 18-12-2002, therefore, the same provided valid and legal basis for declaring the promotion of appellants as regular. Learned counsel in support of the contentions has relied on *Jafar Ali Akhtar v. Islamic Republic of Pakistan* (PLD 1970 Quetta 115); *Muhammad Tahir v. Secretary, Communication and Works Department, Government of Punjab etc.*, (2009 PLC(C.S.) 527), *Khaliq ur Rehman Khan, SP, Khanewal v. Muhammad Ali Mirza* (1992 SCMR 989), *Luqman Zareen and others v. Secretary Education, N.-W.F.P. etc.* (2006 SCMR 1938), *Irfan Majeed v. University of Karachi etc.* (2010 PLC (C.S.) 1118) and *Muhammad Amjad v. Dr. Israr Ahmed etc.* (2010 PLC (CS) 760).

4. Respondent Muhammad Farooq Malik, who appeared in person submits that the appellants had accepted their promotion on officiating basis and never challenged the same before any forum for about 6 years; that there was no question of ineligibility or lack of qualification on the part of the respondents because the matter stood finally decided by the competent authority that B.Tech. (Hons.) Degree be treated at par with B.Sc. (Engineering) Degree; that in view of Rule 13 of the Punjab Civil Servants (Appointment and Conditions of Service) Rules, 1974 officiating promotion neither confers any right of promotion on regular basis nor any such promotee could claim the same as regular; that since 1995 to 2002 three seniority lists have been issued and in all these lists, appellants were shown as officiating and the same; that in the presence of

2015) Muhammad Asif Chatha v. Chief Secretary, Government of Punjab (Ijaz Ahmed Chaudhry, J) 169

respondents and were not eligible for such promotion on regular basis; they were rightly ignored and their promotion was rightly treated as on officiating basis.

5. Learned Assistant Advocate-General, who appeared on behalf of the Government of Punjab has supported the impugned judgment.

6. We have heard learned counsel for the appellants, respondent in person, as also learned Assistant Advocate General at some length and have perused the record.

7. The questions involved in these appeals are three fold; (i) whether the appointment of appellants on officiating basis was valid; (ii) whether the respondents were rightly promoted on regular basis in the year 2001; and (iii) Whether the appeals before the Service Tribunal were time barred.

8. After the enforcement of Punjab Civil Servants Act, 1974, as well as Punjab Civil Servants (Appointment and Conditions of Service) Rules, 1974, the legal position is clear, the Punjab Civil Servants Rules were framed by the Government pursuant to the powers conferred under section 23 of the Punjab Civil Servants Act, 1974. In terms of section 13 of the Rules, the Government conferred power on the appointing authority to make appointment by promotion against such post on officiating basis. It would be relevant to reproduce the said Rule, which is under:-

13. Appointment on officiating basis---(i) Where a post falls vacant as a result of deputation, posting outside cadre, leave, suspension or appointment on acting-charge basis of the (regular) incumbent or is reserved under the rules to be filled by transfer, if none is available for transfer, the appointing authority may make appointment by promotion against such post on officiating basis:

Provided that a post reserved for regular promotion; on deferment of a civil servant due to any reason, may be filled by promotion on officiating basis.

(ii) No person shall be promoted on officiating basis unless he possesses the qualifications and experience prescribed for the post and his promotion as such is approved by the chairman of the appropriate selection authority.

(iii) An officiating promotion shall not confer any right of promotion

(iv) *Officiating promotion shall be made on the same terms and conditions as to pay as are prescribed for regular appointment by promotion.*

9. From the bare perusal of the above provisions, it is clear that the appointing authority is empowered to make appointments on officiating basis. This leads us to the question as to whether at the time of promotion of the appellants on officiating basis, were there permanent posts available or not? We have found that regarding this matter, three inquiries have been held in order to resolve the issue. First was held on 10-9-2002 and vide the order dated 18-12-2002, the appellants were declared to be promoted on regular basis. Second was dated 27-7-2005 whereby it was mainly held that there is no ground for considering the officiating promotion of appellants as on regular basis on the ground that promotion cannot be granted with effect from an early date. Third inquiry was carried out by a committee headed by Additional Chief Secretary on the direction of the Chief Secretary. The Committee after detailed deliberation on 27-10-2010 held that the prayer of the appellants for promotion on regular basis is not legally tenable and is liable to be rejected and that there were no permanent posts available at the time of appointment of the appellants on officiating basis. Except the order dated 18-12-2002 which was passed without hearing some of the parties, it is the consistent stand of the Department that the appellants could not have been promoted on regular basis. Whether at that time permanent posts were available or not is also a question of fact, which cannot be gone into in these proceedings. This Court in *Tariq Aziz-ud-Din case* reported at 2010 SCMR 1301 has specifically cleared that appointment on acting charge basis does not confer any vested right for regular promotion, as is evident from Rule 8-B of the Civil Servants (Appointments, Promotions and Transfer) Rules, 1973. It is important to note here that the said Rule 8-B is *pari materia* to Rule 13 of the Punjab Civil Servants (Appointment and Conditions of Service) Rules, 1974. It is also noteworthy that the appellants never challenged the condition of 'officiating' for a long period of about 6 years. It was for the first time in the year 2001 when they agitated the matter before the learned High Court when the respondents were promoted as Assistant Engineers/SDOs on regular basis. Besides, since 1995 three seniority lists were issued showing the appellants not only junior to the respondents but also on officiating basis but they kept mum and never challenged the said

with law, then the question of limitation is also a question of law. The appellants after their appointment on officiating basis in the years 1995-1998 could not have agitated the matter in the year 2001. It seems they had accepted their appointment on officiating basis. It is by now a well-settled principle of law that if a departmental representation is barred by time then, without disclosing any sufficient reason for delay, no subsequent order of disposal of such incompetent representation could create fresh cause of action and that the appeal filed by the civil servant before the Tribunal would be incompetent. Reliance in this regard has been placed on *Abdul Wahid v. Chairman, Central Board of Revenue, Islamabad etc.* (1998 SCMR 882) and *NED University of Engineering and Technology v. Syed Ashfaq Hussain Shah* (2006 SCMR 453). The question of limitation being basic requirement has to be strictly dealt with. So far as the eligibility of respondents is concerned, we find that the Federal Government had issued a policy letter dated 26-10-1973 holding that B.Tech (Hons) degree be treated at par with B.Sc. (Engineering) degree. Pursuant to this decision, the Government of Punjab also issued a notification on 1-2-1981 declaring B.Tech. (Hons.) degree in particular specialization equivalent to corresponding B.Sc. (Engineering) degree. The Government of Punjab also amended the Rules of (i) Communication and Works Department, (ii) Irrigation and Power Department, and (iii) Housing Physical and Environmental Planning Department for promotion of Sub-Engineers. As a result several persons were promoted. Despite the above said amendment, several employees of Physical and Environmental Planning Department were not allowed promotion on the ground that B.Tech (Hons) degree is not equivalent to B.Sc. (Engineering) degree. Pakistan Engineering Council also refused to recognize B.Tech. (Hons.) degree equivalent to B.Sc. (Engineering) degree. The matter ultimately then came up before this Court in Civil Petition No.216 of 1991 but this Court dismissed the same on 5-12-1992. However, this Court in Suo Motu Review Petition No. 52 of 1993 reopened the matter and while recalling its earlier order directed the competent authority to consider the case of B.Tech (Hons) degree holders for promotion to BS-17. Pursuant to this Direction of this Court the service rules of Assistant Engineers were amended on 16-12-2000 whereby B.Tech. (Hons.) degree holders also became eligible for promotion as Assistant Engineers/SDO. Even otherwise, it has been brought to our notice through C.M.A. No.4341 of 2012 that on

been promoted on regular basis vide order dated 27-12-2011, where cases of three have been deferred due to their incomplete service since the last DPC. Four more posts against 15% quota have fallen vacant and the appellants will be considered on their turn in the forthcoming meetings of Departmental Promotion Committee. The case reported as *Jafar Ali Akhtar Yousafzai v. Islamic Republic of Pakistan* (PLD 1970 Quetta 115) on the basis of which leave was granted is distinguishable as it relates to the period before the enforcement of Punjab Civil Servants Act, 1974 and the Rules framed thereunder. The learned Punjab Service Tribunal has passed a well-reasoned judgment which is unexceptionable.

10. For what has been discussed above, we do not find any merit in these appeals, which are accordingly dismissed.

MWA/M-52/SC

Appeal dismissed

Ex parte Respondents Nos.3 to 8.

Date of hearing: 10th November, 2014.

2015 S C M R 172

[Supreme Court of Pakistan]

Present: Anwar Zaheer Jamali,
Iqbal Hameedur Rahtman and Qazi Faez Isa, JJ

The CHAIRMAN, NATIONAL ACCOUNTABILITY
BUREAU---Appellant

versus

FEHMIDA BEGUM and others---Respondents

Civil Appeal No. 1038 of 2000, decided on 25th November, 2014.

(On appeal from judgment of Lahore High Court, Lahore, dated 30-6-2000, passed in Writ Petition No. 914 of 2000)

National Accountability Ordinance (XVIII of 1999)---

---S. 5(o)---"Person"---Definition---Person standing as guarantor of a loan obtained by the company---Company defaulting in payment of loan---Such person/guarantor liable for prosecution before Accountability Court---Scope---Any person may be a director or employee of the company while at the same time be a guarantor as well---Employee/director in question was the surety or guarantor

JUDGMENT

ANWAR ZAHEER JAMALI, J.---This civil appeal with leave of the Court in terms of the order dated 16-8-2000, is directed against judgment dated 30-6-2000, passed by a five member Bench of the Lahore High Court, in Writ Petition No.914 of 2000, whereby the writ petition filed by respondent No.1 was allowed and consequently the writ proceedings in Reference No.8 of 2000, against respondent No.2, Mukhtar Hussain, the husband of the petitioner, were quashed by a majority of three to two.

The controversy involved in the said petition revolved around interpretation of "person" as defined in subsection (o) of section 5 of National Accountability Bureau Ordinance, 1999 (in short "the NAB Ordinance"), which at the relevant time read as under:--

(o) "Person" includes in the cause of a corporate body, the sponsors, Chairman, Chief Executive, Managing Director, elected Directors, by whatever name called, and guarantors of the company or any one exercising direction or control of the affairs of such corporate body, but will not include employees appointed and designated as Director or Chief Executive; and in the case of any firm, partnership or sole proprietorship, the partners, proprietor or any person having interest in the said firm, partnership or proprietorship concern or direction or

guarantee, until all moneys due from the company had been paid, and therefore, once the company defaulted in its liability to repay the loan amount, it was the obligation of the said employee/director to repay the loan amount. High Court was not right in holding that said employee/director, despite being a guarantor, was not liable for prosecution before the Accountability Court. Judgment of High Court was set aside in circumstances. Appeal was allowed accordingly. (p. 176) A, B & C

By Raja M. Ibrahim Satti, Senior Advocate Supreme Court and Iqbal Zaffar, Additional DPG NAB for Appellant.

By M. A. Siddiqui, Advocate Supreme Court for Respondents Nos.1 and 2.

Imp. file

Salman Ahmed
Ahmed US
Police

ORDER

Constable Salman Ahmed No. 32 while deployed as Gunman with SSP Ishfaq Khan. On 19.12.2009, he was directed to report at Police lines Nowshera for Muharram duty but he did not bother to obey the lawful orders of the senior and absented himself. Being found indisciplined, inefficient and disobedient, he is hereby awarded minor punishment of stoppage of 02 increments with accumulative effect, fine of Rs 1000/-

OB No. 93

Dated 20/01/2010.

District Police Officer,
Nowshera. H

No. 117-20

/PA. dated Nowshera, the 25-1-2010.
Copy of above for information & necessary action to the:-

1. Pay Officer.
2. Establishment Clerk.
3. O.H.C.
4. F.M.C.

Appellate order

ORDER.

This order will dispose-off the departmental appeal preferred by **Constable Suleman Ahmad No. 32** of Nowshera District Police against the order of District Police Officer, Nowshera whereby he was awarded Minor Punishment of Stoppage of two increments with accumulative effect & fine of Rs. 1000/-, vide his office OB No. 93 dated 20.01.2010.

Brief facts of the case are that the appellant was deployed as Gunman with SSP Ishfaq Khan. On 19.12.2009 he was directed to report at Police Lines, Nowshera for Muharram duty but he did not bother to obey the lawful orders of the senior and absented himself. Being found indisciplined inefficient and disobedient. Therefore awarded him Minor Punishment of stoppage of two increments with accumulative effect and fine of Rs. 1000/- vide District Police Officer, Nowshera OB: No. 93 dated 20.01.2010.

He was called in orderly room held in this office on **09.05.2018** and heard in person. The appellant did not produce any cogent reason for his innocence. Therefore, I find no grounds to intervene into the order passed by the then District Police Officer, Nowshera.

Besides, the appeal is filed being badly time barred.

ORDER ANNOUNCED.

Muhammad
(MUHAMMAD ALI KHAN)PSP
Regional Police Officer,
Mardan.

No. 5596 /ES,

Dated Mardan the 07/09 /2018.

Copy to District Police Officer, Nowshera for information and necessary action w/r to his office Memo: No. 5597/PA dated 27.08.2018. The Service Roll is returned herewith.

(*****)

By No. 2162
RA. D.P.O. NOK
10-09-18

EC/FMC

For n. action

*DPONSAR
7/9/18*

*Scmp 2015 pnr 165
Scmp 2011 676*



Mercy Petition / *net*
challenge
NO discussion

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.

No. SI 4064 /18, dated Peshawar the 18/10 /2018.

To: The Regional Police Officer,
Mardan.

Dy No: 2538

P.A. D.P.O. No.:

dt 22-10-18

Encls: 1

Subject: MERCY PETITION.

Memo:

Please refer to your office Memo: No. 6263/ES. dated 08.10.2018.

The competent authority has examined and filed the appeal submitted by Constable Salman Ahmad No. 32 of Nowshera District Police against the punishment of stoppage of two increments with accumulative effect & fine of Rs. 1000/- awarded by the District Police Officer, Nowshera vide OB No. 93, dated 20.01.2010 being badly time barred.

The applicant may please be informed accordingly.

Sir
ccs attached
Ali

NO 6553/ES
DT: 22/10/18

EC / DPO Nowshera 19/10

[Signature]
(SYED ANIS-UL-HASSAN)
Registrar,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

For information and n. action with
to this office under no. 6264/ES dt. 8/10
please.

EC / FMC

for-m. action

[Signature]
DPO NSR
22-10-18

سیکورٹی کلیئرنس فارم برائے پولیس ملازمان

2



حصوں

(To be filled by officer personally)

- 1- نام: سلمان احمد
- 2- عہدہ: 32
- 3- ولدیت: محمد اسلام
- 4- ذات: مسلم
- 5- مذہب: اسلام
- 6- منسلک سہیلی: ڈاکٹران فونٹیک باہان تحصیل و ضلع نوشہرہ
- 7- موجودہ مستقل ایڈریس: ضلع مہمناضیل فونٹیک مارا ڈاکٹران فونٹیک باہان تحصیل و ضلع نوشہرہ
- 8- مقامات: فونٹیک کلاں
- 9- شادی کا راز نمبر: 17201-9083791-7
- 10- پاسپورٹ نمبر: Nil
- 11- سہیلی نمبر: 0345-9382145
- 12- تاریخ پیدائش: 6.4.1988
- 13- تاریخ بھرتی: 28.6.2008
- 14- بھرتی ضلع: فونٹیک
- 15- موجودہ شعبہ/ایران: ایچ ایچ ڈی گنر اسٹاف سروس ڈی ایچ
- 16- تاریخ تعیناتی: 25-2-2013
- 17- (a) Elite کی ٹریننگ حاصل کی ہے۔ ہاں/نہیں
- (b) ATS کی ٹریننگ حاصل کی ہے۔ ہاں/نہیں
- (c) سال تربیت اثر ٹریننگ و ادارہ: نہیں
- (d) عمر ATS/Elite ڈیوٹی: کلاں

50

18: کچھن پانچ تعیناتیاں

نمبر شمار	تعیناتی	سال
1	گنر اسٹاف سروس ڈی ایچ	2013-2-28
2	ایچ ایچ ڈی گنر اسٹاف سروس ڈی ایچ	2013-2-21
3	ایچ ایچ ڈی گنر اسٹاف سروس ڈی ایچ	
4		
5		

19: تفصیل تعلیم

نمبر شمار	نام سکول/کالج/یونیورسٹی/ادرس	سال
	گورنمنٹ ہائی اسکول فونٹیک مارا	2005
	گورنمنٹ ہائی اسکول فونٹیک مارا	2008
	B.P. پروڈکشن کالج نوشہرہ	2013

20: تمام بڑی حکمانہ سزائیں (میجر سزائیں، بشمول برخواستگی، جبری رہائش، تنزیلی، طبی سروس، سٹاپ آؤٹ/سٹنٹ)

نمبر شمار	تاریخ	سزا	مجاز اتھارٹی	نتیجہ اپیل
1				
2				
3				
4				

لوئیس لائن

نقل مذکورہ 4 روزہ 12/18/49

عد 49 جو کہ طبری، محمد صدخان صاحب وقت 20/12/49
 درجہ سیکرٹری بلقان 33 جو کہ ایس ایس ایف
 کے ساتھ بطور کنستبل کے متعلق تھا۔
 یہ حکم صادر فرمایا ہے کہ مذکورہ نیشنل گولڈ گارڈ
 کے قریب سے گزرتے ہوئے 10/12/49 کو لوئیس لائن میں ڈیوٹی
 سرکاری میں رہیں۔ مذکورہ نیشنل گولڈ گارڈ
 مودل ٹریننگ کمانڈو کے طور پر لگاؤ کو اللہ تعالیٰ سے
 نہ مذکورہ نیشنل گولڈ گارڈ کو اللہ تعالیٰ سے
 لوئیس لائن میں طبری کا رپورٹ کر کے مذکورہ
 نے باہر آئے حاضر ہو کر لوئیس لائن میں
 کیجئے۔ یہاں مذکورہ نیشنل گولڈ گارڈ غیر حاضر
 درجہ 4 روزہ 12/18/49 کو نقل مذکورہ بالا کے وقت میں
 اراکین حاضر

صاحب
 نقل کیا گیا ہے
 M.M.P. C. NSR

Forwarded
 P. P. C. NSR

PBN 2151
 22/12/49

کونین لیس

نقل ورد - اورنگ آباد 27

19/10

27

حاضری عمر سید خان ما وقت 08:30 ع مورم 19/10

وقت نیشنل کالج مان 32 عمر حاضر شدہ بحوالہ مورم 19/10

روزنامہ 19/10 سے حاضر اسکرینائی تصدیق سے مورم 19/10

تصدیق سے عمر حاضر رہا آت حاضر آمانیوں سے

حاضری کی جاوے ہیں حسب گفنت نیشنل فنڈورہ کی حاضری

درجہ اور حاضری مورم 19/10 سے تصدیق سے مورم 19/10

تصدیق سے مورم 19/10 سے تصدیق سے مورم 19/10

منا عالی

5/10

forwarded

نقل مطابق لکھنؤ

17/11/2010

19/11/2010



Pi
19/11/10

ENLISTMENT ORDER

Mr: Suleman Ahmad
S/O Muhammad Sher R/O Meta Khel Keshgi Bala
Police Station Nowshera Kalan
Tehsil & Distt: Nowshera is hereby enlisted as Constable time
scale on three year probation in the B.P.S No. 5 W.E From 01-08-2008 and
allotted Constabulary No. 32

His particulars are as under :-

Height 5 Feet 8 1/2 Inch

Chest 33 X 35

Date of Birth 06-04-1988

Age on enrolment years 20 Months 03 Days 25

Qualification 10th

His service is purely on temporary basis and would be liable
to terminate at any time without any notice.

Muhammad
District Police Officer,
Nowshera.

OB No. 1019

Dated 2.8 2008.

No. 26-15 / OHC, dated Nowshera the 2-8 /2008.

Copy to the:

1. District Accounts Officer, Nowshera
2. Accountant
3. E.O NSR.
4. F.M.C, NSR