

09.11.2018


Due to retirement of the Hon'ble Chairman Service Tribunal is incomplete. Tour to Camp Court Swat has been cancelled. To come up for the same on 11.01.2019 at camp court Swat.



Chairman

11.01.2019

Clerk of counsel for the appellant present and requested for adjournment. To come up for preliminary hearing on 08.03.2019 before S.B at Camp Court Swat.




(Muhammad Amin Khan Kundi)
Member
Camp Court Swat

08.03.2019

Nemo for appellant.

Despite repeated calls no one is in attendance on behalf of the appellant.

Dismissed for non-prosecution. File be consigned to the record room.



Chairman
Camp Court, Swat

ANNOUNCED
08.03.2019

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. _____ 1178/2018 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/09/2018	<p>The appeal of Mr. Farman Ali resubmitted today by Mr. Shabir Ahmad Khan 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 24/9/18</p>
2-	25-9-2018	<p>This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put up there on 09-11-2018.</p> <p style="text-align: right;">CHAIRMAN</p>


Sir,

Referred to your office letter No. 1878/S.t dated 19/09/2018, reply to the objections, are submitted as under;

1. Objection noted, with this regard the detail reply has already been given in Para 8 of the service appeal on page No. 3 which is reproduced as :

“It is worth mentioning here that most of the documents are in the possession of respondent No.3 but the same was not provided to the appellant by respondent No. 3”

2. Objection No.2 noted and removed.
3. Objection No.3 noted and removed (a separate application for the correction of relevant section / law has been filed / attached before this Honorable Tribunal)
4. Objection No.4 Noted and removed.
5. Objection No. 5 Noted and removed.
6. Objection No. 6 noted and removed. One more copy attached with main appeal.


Shabir Ahmed Khan,
Advocate, High Court

Dated: 22/09/2018

The appeal of Mr. Farman Ali son of Usman Ghani resident of Mohallah Malokabad Swat Ex-Constable No. 1154 received today i.e. on 19.09.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ✓ 1- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- ✓ 2- Copy of revision petition mentioned in the memo of appeal is not attached with the appeal which may be placed on it.
- ✓ 3- The law under which appeal is filed is wrong.
- ✓ 4- Page no. 9 and 10 of the appeal are illegible which may be replaced by legible/better one.
- ✓ 5- Annexures of the appeal may be flagged.
- ✓ 6- One more copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1878 /S.T,

Dt. 19-9 /2018.

↓
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Shabir Ahmad Khan Adv. Swat.

BEFORE SERVICE TRIBUNAL KPK, PESHAWAR

SERVICE APPEAL NO. 1178 OF 2018

Farman Aliappellant

Vs

Provincial Police Officer and others.....Respondents

Application for correction of section of law quoted in the subject of above cited appeal which was mistakenly written as civil Servant Act, 1974 instead of Service Tribunal Act, 1974.

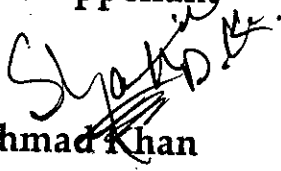
Respectfully Sheweth;

The petitioner / appellant submits as under;

1. That the above service appeal was filed before your respective office and returned ^{to the} appellant with some objections in which objection No.3 was for the correction of section of laws.
2. That by mistakenly in the subject of appeal Civil Servant Act, 1974 instead of Service Tribunal Act, 1974 was written by the appellant which needs to be corrected.

It is therefore, humbly prayed that on acceptance of this petition, the Service Tribunal Act, 1974 may be assumed instead of Civil Servant Act, 1974.

Petitioner / Appellant
Through Counsel


Shabir Ahmad Khan
Advocate, High Court

**BEFORE KHYBER PAKHTUNKHWAH
SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1178 of 2018

Farman AliAppellant

Vs

Provincial Police Officer Khyber Pakhtunkhwa at Peshawar
and othersRespondents

SERVICE APPEAL

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Appellant

Through Counsel

Shabir Ahmad Khan
Advocate, High Court
Office Address: Hamza Law Chamber,
Dubai Plaza,
Near Azad Medicine Company
Dakhana Road, Mingora, Swat
Cell No. 0341-5666363

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

Service Appeal No: _____ of 2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1460

Dated 19-9-2018

Farman Ali son of Usman Ghani resident of Muhalla Malokaba, Mingora,
Tehsil Babozai, District Swat (Ex-Constable No. 1154).

...Appellant

VERSUS

1. Provincial Police Officer Khyber Pakhtunkhwa at Peshawar.
2. Regional Police Officer Malakand R-III at Saidu Sharif Swat.
3. District Police Officer Swat at Gulkada Saidu Sharif.

....Respondents

Service appeal under section 4 of the ~~Service Tribunal~~ ^{Service Tribunal}

Act, 1974 against the impugned order dated 12-09-

^{Filed to-day} 2009 of respondent No. 3 whereby the appellant was

^{Registrar} dismissed from service. Appellant preferred

departmental appeal to respondent No. 2 which was

^{Re-submitted to and filed.} also dismissed vide order dated 13-01-2012. Then

the appellant moved an application to the review

^{Registrar} committee of respondent No. 1 but the same was

also filed by the respondent No. 1 vide order No.

3573/18 dated 04-09-2018.

Respectfully Sheweth:-

●The appellant submits as under:-

1. That the appellant was initially recruited in police department as constable in year 1999.
2. That the appellant performed his duty with great zeal and enthusiasm from date of appointment to 2009.
3. That in District Swat Militancy was in peak and Muhalla Malokabad was hub of miscreants. The local Taliban/militants threatened the appellant time and again and at last the appellant due to threatening of militants remained absence from duty.
4. That the respondent No. 3 issued charge sheet to the appellant and enquiry was entrusted to DSP Legal but the enquiry officer did not record the statement of the appellant but proceeded the enquiry Ex-parte and recommended the appellant for major punishment. No regular enquiry has been conducted by the enquiry officer.
5. That on the recommendation of the enquiry officer the respondent No. 3 dismissed the appellant from service.
(Copy of order of respondent No. 3 is attached herewith as Ann: A).
6. That the appellant aggrieved from the order of respondent No. 3, preferred departmental appeal to the respondent No. 2 but without giving any ample opportunity of hearing, filed the appeal of appellant. **(Copies of department appeal and order of respondent No. 2 is attached herewith as Ann: B & C).**
7. That against the impugned order of respondent No. 2 appellant moved an application to the review committee

board of respondent No. 1 but the same was also filed by the respondent No. 1 (**Copy of order of respondent No. 1 is Ann: D**), hence the instant appeal:-

8. That it is worth mentioning here that most of the documents are in the possession of respondent No. 3 but the same was not provided to the appellant by respondent No. 3.

GROUND:-

- a. That the appellant was not treated in accordance with law and rules on the subject and the impugned order has been passed in violation of law and rules. Therefore, the impugned order is not sustainable and is liable to be set aside.
- b. That the universal cannon of natural justice have been violated and no ample opportunity of presenting the delinquent stance/version has been given. The impugned order is unreasonable, arbitrary and is liable to be aside.
- c. That no regular enquiry has been conducted, so in this score too the impugned order is liable to be set aside.
- d. That other important points will be raised during the course of arguments with prior permission of this Hon'ble Court.

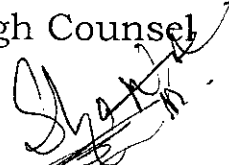
It is therefore, humbly prayed that on acceptance of this service appeal, the impugned

orders of respondents may graciously be set aside and appellant may be reinstated in service with all back benefits. Any other relief as deemed appropriate in the circumstances of the case and not specifically asked for may also be granted to appellants.

Appellant



Through Counsel



SHABIR AHMAD KHAN

Advocate High Court.

Dated: 18-09-2018

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

Service Appeal No: _____ of 2018

Farman Ali

...Appellant

VERSUS

Provincial Police Officer Khyber Pakhtunkhwa at Peshawar and
others

...Respondents.

AFFIDAVIT

I, Farman Ali son of Usman Ghani resident of
Muhalla Malokaba, Mingora, Tehsil Babozai,
District Swat (Ex-Constable No. 1154) do hereby
stated on oath that all the contents of this service
appeal are true and correct to the best of my
knowledge and belief; nothing has been kept
concealed from this Court.

Deponent



Farman ali

ATTESTED


Fazal Amin Advocate,
Oath Commissioner,
S/O: 1951, Date: 18/9/18
District Courts, Gornada Swat.

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

Service Appeal No: _____ of 2018

Farman Ali

...Appellant

VERSUS

Provincial Police Officer Khyber Pakhtunkhwa at Peshawar
and others

...Respondents.

MEMO OF ADDRESSES.

Address of the appellant:

Farman Ali son of Usman Ghani resident of Muhalla Malokaba, Mingora,
Tehsil Babozai, District Swat (Ex-Constable No. 1154).

Addresses of the respondents:

1. Provincial Police Officer Khyber Pakhtunkhwa at Peshawar.
2. Regional Police Officer Malakand R-III at Saidu Sharif Swat.
3. District Police Officer Swat at Gulkada Saidu Sharif.

Appellant

Through Counsel

SHABIR AHMAD KHAN

Advocate High Court.

1154

7

Amme
"A"

ORDER

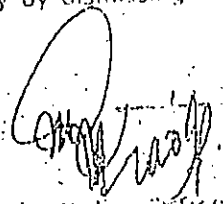
This order will dispose of the enquiry initiated against Constable Farman No. 1154 ; who while posted to Guard Bungalow D.I.C. Region Swat absented himself from duty with effect from 08/11/2008 to Javal 2009. He did not appear in Shahred Police Line vide DP, No.08, dated 08/11/2008 and failed to report for duty.

He was issued charge sheet with statement of allegations. Enquiry was initiated against him and a Legal was appointed as Enquiry Officer. The Enquiry Officer in his final report submitted that the defaulter Constable was summoned and a report was submitted but did not appear in record for statement. Hence he was recommending Major punishment of the Enquiry Officer. He was issued Final Show Cause Notice No. 72/E, dated 24/01/2009 but no reply has been received.

This constitutes misconduct, cowardice on his part and as such he is liable for action under section 5 sub section (1) of the Removal from service (Special Powers) Ordinance 2000 (Amendment) Ordinance 2001.

This constitutes misconduct/disinterest on his part and as such he is liable for action under section 5 Sub Section (1) of the Removal from service (Special Power) Ordinance 2000 (Amendment) Ordinance 2001 and dispose with the enquiry proceedings as laid down in the Ordinance and as further satisfied that there is no need for any further departmental enquiry. Since the defaulter Constable has been found guilty of gross misconduct as defined in the said Ordinance, I, as a competent authority, therefore impose major penalty by dismissing him from service from the date of absence i.e 08/11/2009.

Order announced.


District Police Officer Swat

O.B. No. 126
Dated. 12.9.09

Alleged
Shahid A.K.A
Adroze
18/9/08

Better copy**ORDER**

This order will disposed of the enquiry initiated against constable Farman No. 1154, who while posted to Guard Banglow DIG Region Swat absented himself from duty with effect from 08/11/2008 to Javid Shaheed Police Line vide DD No. 08 daetd 08/11/2008 and failed to report for duty.

He was issued charge sheet with statement of allegations. Enquiry was initiated against him and DSP Legal was appointed as Enquiry Officer. The Enquiry Officer in his finding report submitted that the defaulter constable was summoned but did not appear to record his statement, hence he was recommended major punishment of the Enquiry Officer. He was issued Final Show cause notice No. 72/E dated 24/01/2009 but nor reply has been received.

This constitutes misconduct, cowardice on his part and as such he is liable for action under section 5 sub section (1) of the Removal from service (Special Powers) Ordinance 2000 amendment) Ordinance 2001.

This constitutes misconduct/disinterest on his part and as such he is liable for action under section 5 sub section (1) of the Removal from service (Special Powers) Ordinance 2000 (Amendment) Ordinance 2001.. and dispose with the enquiry proceeding as laid down in the Ordinance and any further satisfied that there is need for conducting further department enquiry, hence the defaulter constable has found guilty of gross misconduct as defined Ordinance. I being competent authority as a DPO Swat Qazi Ghulam Farooq, therefore impose major penalty by dismissing him from service from the date of absence i.e. 08/11/2009.

Order announced.

-sd-

District Police Officer.

O.B. no. 126

Dated: 12.09.2009

*Attested
by
12/9/09*

بعدالت جناب DIG صاحب ملاکنڈ ڈویژن ضلع سوات

سائل فرمان علی ولد عثمان غنی ساکن ملوک آباد، مینگورہ (کانٹیننٹل محکمہ پولیس نمبر 1154)

درخواست بمراد سائل پر رحم فرما کر سائل کو دوبارہ بحیثیت کانٹیننٹل بحال کرنے کا حکم صادر فرمایا جائے۔

جناب عالی! سائل حسب ذیل عرض رساں ہے۔

- ۱۔ یہ کہ سائل محلہ ملوک آباد، ضلع سوات کا مستقل پیدائشی باشندہ ہے۔
- ۲۔ یہ کہ سائل سال 1999ء میں محکمہ پولیس میں بحیثیت کانٹیننٹل بھرتی ہو کر 09 مارچ 2009ء تک اپنی ڈیوٹی کی فرائض سرانجام دے رہے تھے۔
- ۳۔ یہ کہ بد قسمتی سے حالات کشیدگی اور بار بار سائل کو دھمکیاں دینے کے باوجود من سائل بیرون ملک سعودی عرب چلا گیا حالانکہ سائل انتہائی مجبوری اور اپنے جان بچانے کی خاطر بیرون ملک چلا گیا تھا۔
- ۴۔ یہ کہ سائل اب ملک میں موجود ہے اور سائل اپنی ڈیوٹی بحال کرنے کا خواہشمند ہے۔
- ۵۔ یہ کہ سائل اور سائل کے بال بچوں پر رحم فرما کر سائل کو بحال کیا جائے۔

لہذا استدعا ہے کہ بمنظوری درخواست ہذا حسب استدعا سائل کو محکمہ پولیس میں بحال

کرنے کا حکم صادر فرمایا جائے۔

sd:

عریضہ:

سائل فرمان علی Ex-Constable

لکھنؤ
ملاکنڈ ڈویژن
2009.03.09

10/124

Revenue
C

From: The Deputy Inspector General of Police,
Malakand Region, Saidu Sharif, Swat.

To: The District Police Officer, Swat.

No: 150 / D, dated Saidu Sharif, the 12/01/2012. 340
15/1/12

Subject: APPLICATION FOR REINSTATEMENT IN SERVICE.

Memorandum:

Reference your office Memo No. 146/D, dated 04/01/2012 on the subject.

Application of Ex-Constable Farman Ali No. 1154 of Swat District for reinstatement in service, was examined by the Regional Police Chief and filed. He may be informed accordingly.

Office Supt:
For: Deputy Inspector General of Police,
Malakand Region, Saidu Sharif, Swat.

OB/E C
1154
DPO/Swat
12-11-12

CR. N. 11
14-1-12

APPROVED
Shahin A. Khan
18/1/2012

Better Copy Page No. 10

From: The Deputy Inspector General of Police,
Malakand Region, Saidu Sharif, Swat

To. The District Police Officer, Swat
No. 150 / E, Dated Saidu Sharif, The 12/01/2012

Subject: APPLICATION FOR REINSTATEMENT IN SERVICE

Memorandum:
Reference your office Memo No. E16/E dated
04/01/2012 on the subject

Subject:
Application of Ex-Constable Farman Ali No. 1154
of Swat District for reinstatement in service was examined by
the Regional Police Chief and filed. His appeal is filed. He
may be accordingly.

Office SUPdt:
For Deputy inspector General of Police
(Malakand Region, Saidu Sharif, Swat)

OB/EC

Sd _____

DPO Swat

12/01/2012

OB No. 11 dated 14/01/2012

*All esied
by
Advocate
21/9/18*



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

No. S/ 3573 /18, dated Peshawar the 04/10/2018.


To : The Regional Police Officer,
Malakand Region, Swat.

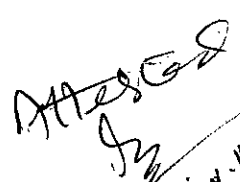
Subject: APPEAL (EX-FC FARMAN ALI NO. 1154)

Memo :

Ex-FC Farman Ali No. 1154 of District Police Swat had submitted appeal to the Worthy Inspector General of Police, Khyber Pakhtunkhwa, Peshawar for reinstatement into service. His appeal was processed / examined at Central Police Office, Peshawar and filed by the competent authority being time barred for about 09 years.

The applicant may please be informed accordingly.


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


Shabir Ali Khan
Advocate
18/9/2018.

ANNA

D3

(11-A)

محضر جناب IGP صاحب جسیر، گڑھی نوالہ

جناب صاحب

مخبروں نے کہہ سائل محکمہ پولیس ضلع سوات میں سال 1999ء میں بمباری کے دوران کئی حالات میں سائل بحوالہ OS
نمبر 126 سورہ 12/09/2009ء میں ہو چکا ہے۔ سائل غریب اور ہال پتہ دار ہے اور محکمہ پولیس میں نوکری کا

غلام ہے۔

استدعا ہے کہ سائل کو نوکری پر بحال کرنے کا حکم صادر فرمائیں۔ تو سائل

ذرا گورہیگا۔

العارض



آپ کا تابع فرمان

سابقہ کنستبل فرمان علی ٹیلٹ نمبر 1154

وارد نشان عینی ساکن محلہ چینہ لوک، آباد، مینگورہ، سوات

شناختی کارڈ نمبر: 1-9822598-15602

انٹرویو



Advocate

27/9/2014

بعدالت جناب سروس سٹریٹون لیمب کورٹ اسٹ سوات

مورخہ 18 ستمبر 2018 منجانب اسپرائٹ

مقدمہ فرماں علی بنام فکرم لوگین دسرہ دعوی جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنے طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام سروس سٹریٹون لیمب کورٹ اسٹ سوات کیلئے شہید لکھنوالہ درج ذیل فیصلہ منظور ہو کر مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ برحلف دینے جواب دہیا و اقبال دعوی اور درخواست ہر قسم کی تصدیق زر اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف اپیل کی برآمدگی اور منسوخ مذکور کے مکمل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برواختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سند رہے

المرقوم 18 ماہ ستمبر 2018

العبد گواہ شد العبد فرماں علی

Attested and Accepted by Shabir Ahmad Khan D.O. کیلئے منظور ہے۔

العبد گواہ شد

مقام سروس سٹریٹون لیمب کورٹ اسٹ سوات

S:

Referred to your office letter No. 1878/S.t dated 19/09/2018, reply to the objections, are submitted as under;

1. Objection noted, with this regard the detail reply has already been given in Para 8 of the service appeal on page No. 3 which is reproduced as :

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4. Objection No.4 Noted and removed.

5. Objection No. 5 Noted and removed.

6. Objection No. 6 noted and removed. One more copy attached with main appeal.


Shabir Ahmed Khan

Advocate, High Court

Dated: 22/09/2018

The appeal of Mr. Farman Ali son of Usman Ghani resident of Mohallah Malokabad Swat Ex-Constable No. 1154 received today i.e. on 19.09.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

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No. 1878 /S.T.

Dt. 19-9 /2018.

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Shabir Ahmad Khan Adv. Swat.

BEFORE SERVICE TRIBUNAL KPK, PESHAWAR

SERVICE APPEAL NO. 1178 OF 2018

Farman Aliappellant

Vs

Provincial Police Officer and others.....Respondents

Application for correction of section of law quoted in the subject of above sited appeal which was mistakenly written as civil Servant Act, 1974 instead of Service Tribunal Act, 1974.

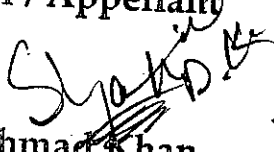
Respectfully Sheweth;

The petitioner / appellant submits as under;

1. That the above service appeal was filed before your respective office and returned ^{to the} appellant with some objections in which objection No.3 was for the correction of section of laws.
2. That by mistakenly in the subject of appeal Civil Servant Act, 1974 instead of Service Tribunal Act, 1974 was written by the appellant which needs to be corrected.

It is therefore, humbly prayed that on acceptance of this petition, the Service Tribunal Act, 1974 may be assumed instead of Civil Servant Act, 1974.

Petitioner / Appellant
Through Counsel


Shabir Ahmad Khan
Advocate, High Court

**BEFORE KHYBER PAKHTUNKHWAH
SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1178 of 2018

Farman AliAppellant

Vs

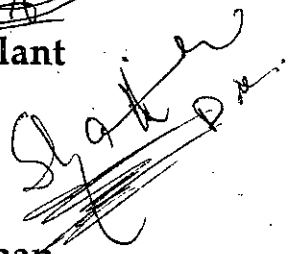
Provincial Police Officer Khyber Pakhtunkhwa at Peshawar
and othersRespondents

SERVICE APPEAL

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Appellant

Through Counsel 

Shabir Ahmad Khan
Advocate, High Court
Office Address: Hamza Law Chamber,
Dubai Plaza,
Near Azad Medicine Company
Dakkhana Road, Mingora, Swat
Cell No. 0341-5666363

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

Service Appeal No: _____ of 2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1460

Dated 19-9-2018

Farman Ali son of Usman Ghani resident of Muhalla Malokaba, Mingora,
Tensil Babozai, District Swat (Ex-Constable No. 1154).

...Appellant

VERSUS

1. Provincial Police Officer Khyber Pakhtunkhwa at Peshawar.
2. Regional Police Officer Malakand R-III at Saidu Sharif Swat.
3. District Police Officer Swat at Gulkada Saidu Sharif.

...Respondents

Service appeal under section 4 of the ^{Service Tribunal} Civil Servant

Act, 1974 against the impugned order dated 12-09-

~~Filed to day~~ 2009 of respondent No. 3 whereby the appellant was

[Signature]
Registrar

dismissed from service. Appellant preferred

departmental appeal to respondent No. 2 which was

also dismissed vide order dated 13-01-2012. Then

the appellant moved an application to the review

committee of respondent No. 1 but the same was

also filed by the respondent No. 1 vide order No.

3573/13 dated 04-09-2018.

Respectfully Sheweth:-

The appellant submits as under:-

1. That the appellant was initially recruited in police department as constable in year 1999.
2. That the appellant performed his duty with great zeal and enthusiasm from date of appointment to 2009.
3. That in District Swat Militancy was in peak and Muhalla Malokabad was hub of miscreants. The local Taliban/militants threatened the appellant time and again and at last the appellant due to threatening of militants remained absence from duty.
4. That the respondent No. 3 issued charge sheet to the appellant and enquiry was entrusted to DSP Legal but the enquiry officer did not record the statement of the appellant but proceeded the enquiry Ex-parte and recommended the appellant for major punishment. No regular enquiry has been conducted by the enquiry officer.
5. That on the recommendation of the enquiry officer the respondent No. 3 dismissed the appellant from service.
(Copy of order of respondent No. 3 is attached herewith as Ann: A).
6. That the appellant aggrieved from the order of respondent No. 3, preferred departmental appeal to the respondent No. 2 but without giving any ample opportunity of hearing, filed the appeal of appellant. **(Copies of department appeal and order of respondent No. 2 is attached herewith as Ann: B & C).**
7. That against the impugned order of respondent No. 2 appellant moved an application to the review committee

board of respondent No. 1 but the same was also filed by the respondent No. 1 (**Copy of order of respondent No. 1 is Ann: D**), hence the instant appeal:-


8. That it is worth mentioning here that most of the documents are in the possession of respondent No. 3 but the same was not provided to the appellant by respondent No. 3.

GROUNDS:-

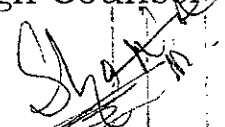
- a. That the appellant was not treated in accordance with law and rules on the subject and the impugned order has been passed in violation of law and rules. Therefore, the impugned order is not sustainable and is liable to be set aside.
- b. That the universal canon of natural justice have been violated and no ample opportunity of presenting the delinquent stance/version has been given. The impugned order is unreasonable, arbitrary and is liable to be set aside.
- c. That no regular enquiry has been conducted, so in this score too the impugned order is liable to be set aside.
- d. That other important points will be raised during the course of arguments with prior permission of this Hon'ble Court.

It is therefore, humbly prayed that on acceptance of this service appeal, the impugned

orders of respondents may graciously be set aside and appellant may be reinstated in service with all back benefits. Any other relief as deemed appropriate in the circumstances of the case and not specifically asked for may also be granted to appellants.

Appellant 

Through Counsel



SHABIR AHMAD KHAN
Advocate High Court.
Dated: 18-09-2018

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

Service Appeal No: _____ of 2018

Farman Ali

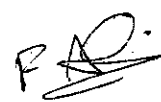
...Appellant

VERSUS

Provincial Police Officer Khyber Pakhtunkhwa at Peshawar and
others **...Respondents.**


AFFIDAVIT

I, Farman Ali, son of Usman Ghani resident of
Muhalla Malokaba, Mingora, Tehsil Babozai,
District Swat (Ex-Constable No. 1154) do hereby
stated on oath that all the contents of this service
appeal are true and correct to the best of my
knowledge and belief; nothing has been kept
concealed from this Court.

Deponent 

Farman ali

ATTESTED


Fazal Amin
Oath Commission
S/O: 1051 18/9/18
District Court Swat

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

Service Appeal No: _____ of 2018

Farman Ali

...Appellant

VERSUS

Provincial Police Officer Khyber Pakhtunkhwa at Peshawar
and others

...Respondents.

MEMO OF ADDRESSES.

Address of the appellant:

Farman Ali son of Usman Ghani resident of Muhalla Malokaba, Mingora,
Tehsil Babozai, District Swat (Ex-Constable No. 1154).

Addresses of the respondents:

1. Provincial Police Officer Khyber Pakhtunkhwa at Peshawar.
2. Regional Police Officer Malakand R-III at Saidu Sharif Swat.
3. District Police Officer Swat at Gulkada Saidu Sharif.

Appellant

Through Counsel


SHABIR AHMAD KHAN
Advocate High Court.

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ORDER

This order will disposed of the enquiry initiated against constable Farman No. 1154, who while posted to Guard Banglow DIG Region Swat absented himself from duty with effect from 08/11/2008 to Javid Shaheed Police Line vide DD No. 08 daetd 08/11/2008 and failed to report for duty.

He was issued charge sheet with statement of allegations. Enquiry was initiated against him and DSP Legal was appointed as Enquiry Officer. The Enquiry Officer in his finding report submitted that the defaulter constable was summoned but did not appear to record his statement, hence he was recommended major punishment of the Enquiry Officer. He was issued Final Show cause notice No. 72/E dated 24/01/2009 but nor reply has been received.

This constitutes misconduct, cowardice on his part and as such he is liable for action under section 5 sub section (1) of the Removal from service (Special Powers) Ordinance 2000 amendment) Ordinance 2001.

This constitutes misconduct/disinterest on his part and as such he is liable for action under section 5 sub-section (1) of the Removal from service (Special Powers) Ordinance 2000 (Amendment) Ordinance 2001. and dispose with the enquiry proceeding as laid down in the Ordinance and any further satisfied that there is need for conducting further department enquiry, hence the defaulter constable has found guilty of gross misconduct as defined Ordinance. I being competent authority as a DPO Swat Qazi Ghulam Farooq, therefore impose major penalty by dismissing him from service from the date of absence i.e. 08/11/2009.

Order announced.

-sd-

District Police Officer.

O.B. no. 126

Dated: 12.09.2009

Handwritten signature and date:
12/9/09

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292

Handwritten signature and text

Subm. A. No. 1819/17

بعدالت جناب DIG صاحب ملاکنڈ ڈویژن ضلع سوات

سائل فرمان علی ولد عثمان غنی ساکن ملوک آباد، میگورہ (کانٹریبل محکمہ پولیس نمبر 1154)

درخواست برآمد سائل پر رحم فرما کر سائل کو دوبارہ بحیثیت کانٹریبل بحال کرنے کا حکم صادر فرمایا جائے۔

جناب عالی! سائل حسب ذیل عرض رساں ہے۔

- ۱۔ یہ کہ سائل محلہ ملوک آباد، ضلع سوات کا مستقل پیدائشی باشندہ ہے۔
- ۲۔ یہ کہ سائل سال 1999ء میں محکمہ پولیس میں بحیثیت کانٹریبل بھرتی ہو کر 09 مارچ 2009ء تک اپنی ڈیوٹی کی فرائض سرانجام دے رہے تھے۔
- ۳۔ یہ کہ بد قسمتی سے حالات کشیدگی اور بار بار سائل کو دھمکیاں دینے کے باوجود من سائل بہرہ وانا ملک سعودی عرب چلا گیا حالانکہ سائل انتہائی مجبوری اور اپنے جان بچانے کی خاطر بیرون ملک چلا گیا تھا۔
- ۴۔ یہ کہ سائل اب ملک میں موجود ہے اور سائل اپنی ڈیوٹی بحال کرنے کا خواہشمند ہے۔
- ۵۔ یہ کہ سائل اور سائل کے بال بچوں پر رحم فرما کر سائل کو بحال کیا جائے۔

لہذا استدعا ہے کہ بمنظوری درخواست ہذا حسب استدعا سائل کو محکمہ پولیس میں بحال

کرنے کا حکم صادر فرمایا جائے۔

sd:

عریضہ:

سائل فرمان علی Ex-Constable

لکھنؤ
20.9.09

10/114

Attenuate

C

To: The Deputy Inspector General of Police,
Malakand Region, Saibu Sharif, Swat.
The District Police Officer, Swat.

340
13/11/12

From: 15 DE, dated Saibu Sharif, the 19/01/2012.

APPLICATION FOR REINSTATEMENT IN SERVICE.

Reference your office Memo No. 146/DE, dated 04/11/12 on the
subject, application of Ex-Constable Farman Ali No. 1154 of Swat District for
reinstatement in service, was examined by the Regional Police Chief and filed. He has
advised that he may be informed accordingly.

[Signature]
Office Asstt:
For: Deputy Inspector General of Police,
Malakand Region, Saibu Sharif, Swat.

OB/E

[Signature]

2/10/2012

13-11-12

SP. No. 11
11/11/12

APPROVED

[Signature]
Shahin Akhbar
18/12/12

Better Copy Page No. 10

From: The Deputy Inspector General of Police,
Malakand Region, Saidu Sharif, Swat

To: The District Police Officer, Swat
No. 150 / E, Dated Saidu Sharif, The 12/01/2012

Subject: APPLICATION FOR REINSTATEMENT IN SERVICE

Memorandum:

Reference your office Memo No. E16/E dated
04/01/2012 on the subject

Subject:

Application of Ex-Constable Farman Ali No. 1154
of Swat District for reinstatement in service was examined by
the Regional Police Chief and filed. His appeal is filed. He
may be accordingly.

Office SUPdt:

For Deputy inspector General of Police
(Malakand Region, Saidu Sharif, Swat)

OB/EC

Sd _____

DPO Swat

12/01/2012

OB No. 11 dated 14/01/2012

*Amended
Advocate
22/9/15/18*



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

No. S/ 3573 /18, dated Peshawar the 04/10/2018.

To : The Regional Police Officer,
Malakand Region, Swat.

Subject: APPEAL (EX-FC FARMAN ALI NO. 1154)

Memo :

Ex-FC Farman Ali No. 1154 of District Police Swat had submitted appeal to the Worthy Inspector General of Police, Khyber Pakhtunkhwa, Peshawar, for reinstatement into service. His appeal was processed / examined at Central Police Office, Peshawar and filed by the competent authority being time barred for about 09 years.

The applicant may please be informed accordingly.

373
(SYED ANIS-UL-HASSAN),
Registrar,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

278
Attested
Shahin A. Khan
Advocate
18/9/2018

پنجاب اور خیبر پختونخواہ

عادی

کراچی ہے۔ پولیس ضلع سوات میں سال 1999ء میں نمبر 110/09/2009 ڈسکس ہو چکا ہے۔ ساکن اور چھوڑنے والے بچہ دار ہے اور نکلے پولیس میں نوکری ہے
نمبر 128 مورخہ 12/09/2009 ڈسکس ہو چکا ہے۔ ساکن اور چھوڑنے والے بچہ دار ہے اور نکلے پولیس میں نوکری ہے

1416

استدعا ہے کہ سائل کو نوکری پر بحال کرنے کا حکم صادر فرمائیں۔ سائل

دعا گو رہیگا۔

العارض



آپکا تابع فرمان

سابقہ کنسٹیبل فرمان علی بیلٹ نمبر 1154

ولد عثمان غنی ساکن محلہ چیدر ملوک آباد، بینگورہ، سوات

شناختی کارڈ نمبر 1-9822598-9802

صواب
علی بیلٹ
22/9/08

بعدالت جناب سروس ٹریبونل ضلع خٹوات کیپ کورٹ اسوات

مورخہ 18 ستمبر 2018
 مقدمہ فرمان علی بنام حکم پولیس دسبرہ
 دعویٰ
 جرم
 سروس ٹریبونل

باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنے طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام سروس ٹریبونل کیپ کورٹ اسوات کیلئے شہید لکھنؤ دیکھیں اور اس وقت مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کوراضی نامہ و تقرر ثالث و فیصلہ برحلف دینے جواب دہیا و اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زر اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف اپیل کی برآمدگی اور منسوخ مذکور کے مکمل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برواختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہر جانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرنے وقت کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سند رہے

2018

ماہ ستمبر

18

المرقوم

العبد

گواہ شد

العبد

فرمان علی

گواہ شد

العبد

بمقام سروس ٹریبونل کیپ کورٹ اسوات

Accepted and
 Shabir Ahmad Khan
 Advocate D.K.