

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT, SWAT

Service Appeal No. 1506/2018

Date of Institution ... 06.12.2018
Date of Decision ... 06.12.2021

Muhammad Jamil Son of Amir Bahadar Khan Resident of Gorri,
Tehsili Wari District Dir Upper.

... (Appellant)

VERSUS

District Coordination Officer, Dir Upper and one another.

... (Respondents)

Syed Abdul Haq,
Advocate

... For appellant.

Muhammad Riaz Khan Paindakheil,
Assistant Advocate General

... For respondents.

Rozina Rehman

... Member (J)

Atiq ur Rehman Wazir

... Member (E)

JUDGMENT

Rozina Rehman, Member(J): Brief facts of the case are that appellant was appointed as Sepoy in Dir Levies (Provincial). He was proceeded against departmentally on the allegations of absence from duty and was dismissed from service on 14.11.2011. He filed departmental appeal which was also dismissed, hence, the present service appeal.

2. We have heard Syed Abdul Haq Advocate learned counsel for appellant and Muhammad Riaz Khan Paindakheil, learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Syed Abdul Haq Advocate, learned counsel for appellant submitted that impugned order is illegal, against law and facts as the

07/04/2021

Due to COVID-19, the case is adjourned to

09/06/2021 for the same.



READER

9/6/21

Due to non availability of the bench
the case is adjourned to 08/12/2021.


Reader

appellant was not treated in accordance with law. He contended that the appellant was dismissed from service without issuance of show cause notice and that no regular inquiry was initiated. That opportunity of defense was also not provided to the appellant according to law and lastly he submitted that the appellant has put in considerable service of eight years but was dismissed from service on the ground of alleged unauthorized absence which punishment is extremely harsh and does not commensurate with the gravity of misconduct. He, therefore, requested for reinstatement of appellant with all back benefits.

4. Conversely, learned AAG submitted that Incharge Levy Post Wari reported in respect of absence of Sepoy Muhammad Jamil without prior permission of the competent authority. He was contacted time and again to resume duty but to no avail. A proper notice was issued with direction to appellant to submit reply but he failed and a report was received from DFC concerned in respect of the appellant who had left for abroad on 05.10.2011. He submitted that major punishment of dismissed from service was imposed upon appellant after fulfillment of all codal formalities.

5. From the record it is evident that appellant was recruited as Sepoy in BPS-01 in Dir Levies (Provincial) vide order dated 29.06.2005. Incharge Subedar Levy Post Wari reported in respect of absence of the appellant w.e.f 30.09.2011, therefore, proper notice was issued by Commandant Dir Levies/District Coordination Officer Dir Upper to the present appellant with direction to explain your position but he failed to approach with proper defense and vide order dated 14.11.2011, he was dismissed from service. He filed departmental appeal on 02.10.2018 which was dismissed being badly



time barred and not covered under the Rules vide order dated 10.10.2018.

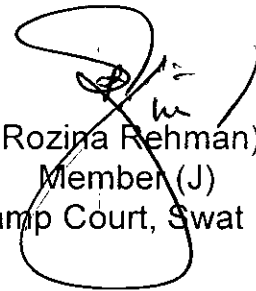
6. It is well-entrenched legal proposition that when an appeal before departmental authority is time barred, the appeal before Service Tribunal would be incompetent. In this regard reference can be made to cases titled Anwarul Haq v. Federation of Pakistan 1995 SCMR 1505, Chairman, PIAC v. Nasim Malik PLD 1990 SC 951 and State Bank of Pakistan v. Khyber Zaman & others 2004 SCMR 1426

7. Having considered the matter from all angles in the light of material available on file, we do not find any merit in the instant service appeal which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
06.12.2021



(Atiq ur Rehman Wazir)
Member (E)
Camp Court, Swat



(Rozina Rehman)
Member (J)
Camp Court, Swat

Order

06.12.2021

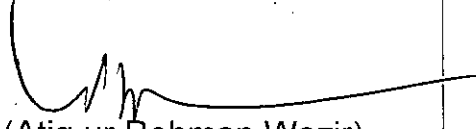
Appellant present through counsel.

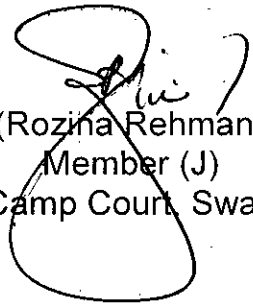
Muhammad Riaz Khan Paindakheil, learned Assistant Advocate General for respondents present.

Vide our judgment of today of this Tribunal placed on file, we do not find any merit in the instant service appeal which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

Announced.

06.12.2021


(Atiq ur Rehman Wazir)
Member (E)
Camp Court, Swat.


(Rozina Rehman)
Member (J)
Camp Court, Swat

08.02.2019

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant (Ex-Levy Sepoy) was dismissed from service on the ground of absence from duty vide order dated 14.11.2011. On 02.10.2018 the appellant submitted departmental appeal/application for his reappointment in service. Vide order dated 10.10.2018 the departmental appeal/application of the appellant was rejected.

Learned counsel for the appellant mainly argued that discriminatory treatment was met out to the appellant in that Levy Sepoy Maqbool Shahzada whose services were terminated vide order dated 14.11.2011 was reinstated by the appellate authority vide order dated 29.09.2017. Learned counsel for the appellant while relying upon the judgment of august Supreme Court of Pakistan reported in 2018 SCMR page 903 argued that this Tribunal has the jurisdiction to entertain the present service appeal.

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. 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 and 02.04.2019 before S.B at Camp Court Swat. The respondent department is directed to furnish IBMS Travel History/Passport Travel History of the appellant.



Member

Camp Court, Swat

02.04.2019

Appellant in person present. Security and process fee not deposited. Appellant submitted application for extension of time to deposit security and process fee. Application is allowed with direction to deposit security and process fee within 7 days. Thereafter notices be issued to the respondents for written reply/comments To come up for written reply/comments 07.05.2019 before S.B at Camp Court Swat.

Appellant deposited
Security and Process Fee



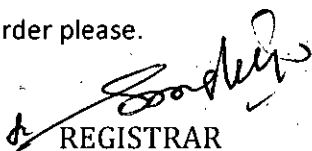

Member

Camp Court, Swat.

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1506/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/12/2018	<p style="text-align: center;">The appeal of Mr. Muhammad Jamil resubmitted today by Syed Abdul Haq 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>
2-	24-12-18	<p style="text-align: center;">This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put up there on <u>8-2-19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1568/2018

Date of Institution ... 20.12.2018
Date of Decision ... 30.09.2020

Aman Ullah Khan Son of Khyber Khan, Field Officer C/O Directorate of Archeology and Museums, Khyber Pakhtunkhwa, Peshawar

... (Appellant)

VERSUS

Secretary to Government of Khyber Pakhtunkhwa, Sports, Tourism, Culture, Archeology, Museum & Youth Affairs Department and three others.

... (Respondents)

Barrister Mian Tajamal Shah

... For Appellant

Mr. Muhammad Jan,
Deputy District Attorney

... For Respondents

Mrs. ROZINA REHMAN
Mr. ATIQ-UR-REHMAN WAZIR

... **MEMBER (J)**
... **MEMBER (E)**

JUDGEMENT: -.

Mr. ATIQ UR REHMAN WAZIR: - Appellant Mr. Aman Ullah Khan, initially appointed as Assistant Curator (BPS-16) has approached this Tribunal with the prayers that respondents be directed to issue the final seniority list and to promote the appellant into his Basic Pay Scale/BPS-17 according to his seniority and from the date he was eligible for promotion.


07.07.2020 Bench is incomplete. Therefore, the case is adjourned.
To come up for the same on 08.09.2020, at camp court
Swat.

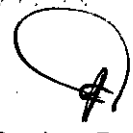

Reader

08.09.2020 Nemo for appellant.

Mr. Muhammad Jan learned Deputy District Attorney for
respondents present.

Notice be issued to appellant/counsel for 07.10.2020 for
arguments, before before D.B at Camp Court, Swat.


(Attiq ur Rehman)
Member (E)
Camp Court, Swat

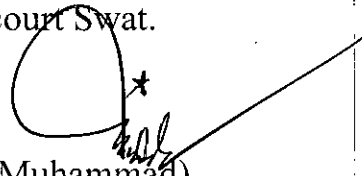

(Rozina Rehman)
Member (J)
Camp Court, Swat


07.10.2020

Appellant in person alongwith Assistant to the counsel
for the appellant is present. Mr. Muhammad Riaz Khan
Paindakhel, Assistant Advocate General for respondents
present.

According to the Assistant, learned counsel is busy in the
Daar-UI-Qaza, Swat the bench of the august Peshawar High
Court, Peshawar and requested for adjournment.

Adjourned to 09.12.2020 for arguments before D.B at
camp court Swat.


(Mian Muhammad)
Member(E)


(Muhammad Jamal Khan)
Member
Camp Court Swat

03.03.2020

Learned counsel for the appellant present. Mr. Riaz Paindakhel learned Assistant Advocate General for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourn. To come up for arguments on 07.04.2020 before D.B. at Camp Court Swat.


Member


Member
Camp Court Swat


Due to corona virus tour
to Camp Court Swat has been
cancelled. To come up for the
same on 02-06-20



Reader

02.06.2020

Due to Covid-19, the case is adjourned. To come up for the same on 07.07.2020, at camp court Swat.


Reader

09.12.2020

Due to Covid-19, case is
adjourned to 03.02.2021 for
the same as before.


Reader

03.02.2021

Nemo for parties.

Muhammad Riaz Khan Paindakheil learned Assistant
Advocate General for respondents present.

Preceding date was adjourned on account of Covid-19,
therefore, notice be issued to parties for 07.04.2021 for
arguments before D.B at Camp Court Swat.



(Mian Muhammad)
Member (E)
Camp Court, Swat



(Rozina Rehman)
Member (J)
Camp Court, Swat

07.10.2019

Appellant in person and Mr. Anwar-ul-Haq, Deputy District Attorney alongwith Mr. Razaullah, Levy Head Clerk for the respondents present. Representative of respondents submitted joint para-wise reply on behalf of respondents No. 1 & 2 which is placed on record. Case to come up for rejoinder and arguments on 02.12.2019 before D.B at Camp Court Swat.



(Muhammad Amin Khan Kundi)

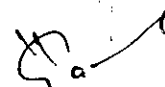
Member
Camp Court Swat

02.12.2019

Appellant in person present. Mr. M. Riaz Khan, Paindakhel, Assistant Advocate General for respondents present. Appellant submitted an application for adjournment as his counsel is not available today. Adjourn. To come up for arguments on 03.02.2020 before D.B at camp court Swat.



Member



Member
Camp Court Swat

03.02.2020

Learned counsel for the appellant and Mr. Riaz Paindakheil learned Assistant Advocate General present and requested for adjournment. Adjourn. To come up for arguments on 03.03.2020 before D.B at Camp Court, Swat.



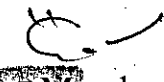
Member



Member
Camp Court, Swat.

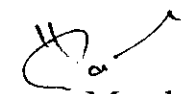
07.05.2019

Appellant in person present. Written reply not submitted. Raza Ullah Head Clerk representative of the respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 02.07.2019 before S.B at Camp Court, Swat.


Member
Camp Court, Swat.

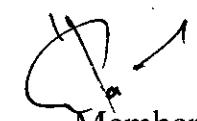
02.07.2019

Appellant in person present. Written reply not submitted. Raza Ullah Head Clerk representative of the respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 02.09.2019 before S.B at Camp Court Swat.


Member
Camp Court, Swat.

02.09.2019

Appellant in person present. Written reply not submitted. Razaulah, H.C representative of the respondent-department present and again requested for time to furnish reply. Granted by way of last chance. Adjourn. To come up for written reply/comments on 07.10.2019 before S.B at camp court Swat.


Member
Camp Court Swat

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

Service Appeal No. 1506 /2018

Muhammad Jamil..... Appellant


VERSUS

District Co-ordination Officer, Dir Upper and 1 other Respondents

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7.	Copy of order dated 10.10.2018	<u>C</u>	11
8.	Copy of reinstatement order of one Maqbool <i>Sheh Zada</i>	<u>D-D-1</u>	12-13
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Appellant through Counsel


SYED ABDUL HAQ
HIGH COURT DARULQAZA
BAR ROOM SWAT
Cell No 0333-9546154

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

Service Appeal No. 1506 /2018

Muhammad Jamil Son of Amir Bahadar Khan Resident of Gorri, Tehsil Wari District Dir Upper.....

Appellant
Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Diary No. 1732

1) District Co-ordination Officer, Dir Upper.

Dated 06-12-2018

2) Secretary Home & Tribal Affairs, Government of Khyber Pakhtunkhwa at Peshawar.

Respondents

APPEAL UNDER SECTION 4 OF THE GOVT. OF KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 10.10.2018 WHEREBY DEPARTMENTAL APPEAL OF APPELLANT WAS REJECTED.

PRAYER IN APPEAL

On acceptance of this appeal, the impugned order qua termination of appellant may kindly be set aside and the appellant be reinstated in service with all back benefits.

Respectfully Sheweth;

~~Filed to-day~~

~~Registrar~~

The facts of the instant are as under.

1. Re-submitted to-day and filed.

That the appellant was appointed as Sepoy in BPS-1 in Dir

Levies (Provincial) against the vacant post vide

appointment order dated 26.06.2005 (Annexure-A)

Registrar

2. That the appellant served the Department devotedly and efficiently without any break but in the meanwhile due to security threats from the militants, the appellant was not able to perform duty in the office of respondent.
3. That the respondent No.1 without any notice and adopting due procedure of law, proceeded the case of appellant one sided, resultantly they dismissed the appellant from his service w.e.f 11.11.2011 (Copy of removal from service date 14.11.2011 as annexure-B).
4. That when the appellant returned back to his hometown, he got knowledge about his dismissal order, he immediately filed an appeal before respondent No.2 but he too dismissed the appeal vide order dated 10.10.2018 (as annexure-C) , as the same was received by the appellant on 20.11.2018 .
5. That the appellant have no other remedy except to file the instant service appeal before the Service Tribunal inter alia on the following grounds.

GROUND

- A. That the act of the respondent Department for not considering the appellant for reinstatement according to his entitlement is an illegal, unlawful, without authority, hence liable to be set aside.

- B. That the same matter of one Maqbool Shehzada was resolved by the respondent No.2 wherein his appeal was allowed and was reinstated in service, so as per rule of consistency the appellant is also entitled to be treated alike. (Copy of reinstatement order of one Maqbool Shehzada is attached, may be considered integral part of this appeal)

- C. That the appellant was dismissed from service without issuing a show cause notice and regular enquiry, so incase of imposing major penalty, principal of natural justice requires that a regular enquiry is to be conducted in matter and opportunity of defense also be provided to civil service, so on this score too, the appellant has right to be reinstated.

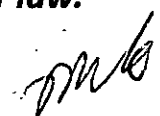
- D. That the appellant is a long service period of eight years and was dismissed from service only on the ground of

allege unauthorized absence from duty is extremely harsh one and not commensurate with the petty misconduct born out of the absence of the appellant, so the respondents under the law are bound to treat the allege absentee as leave of sort, So the appellant has a privilege right to be reinstated in service.

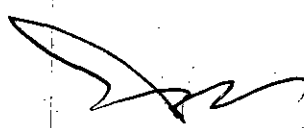
E. That the allege absentee is neither willful not habitual but the appellant was not able to approach and file application or appear for duty due to the reason mentioned earlier.

F. That the appellant seek leave of this honourable tribunal to raise/argue any additional point at the time of arguments.

It is, therefore, humbly prayed on acceptance of this Service appeal the the impugned order may kindly be set aside and the appellant may kindly be re-instated in service with all back benefits as per law.


Appellant

Counsel Through


SYED ABDUL HAQ,
Advocate,

5

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

Service Appeal No. _____/2018

Muhammad Jamil..... Appellant

VERSUS

District Co-ordination Officer, Dir Upper and 1 other Respondents

Affidavit

I Muhammad Jamil Son of Amir Bahadar Khan Resident of Gorri, Tehsil Wari District Dir Upper do hereby affirm that the contents of the above titled Service Appeal are true and correct to the best of my knowledge and belief and nothing is concealed from this honourable Tribunal.

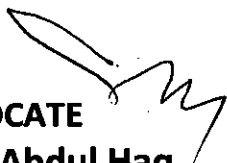


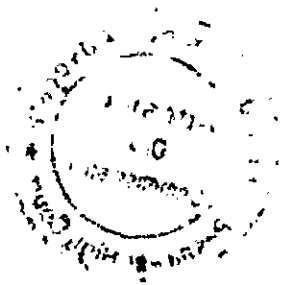
DEPENDENT

(CNIC 15702-6802712-9)

Identified by

ADVOCATE
Syed Abdul Haq,
Advocate, High Court





6

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

Service Appeal No. _____/2018

Muhammad Jamil..... Appellant

VERSUS

District Co-ordination Officer, Dir Upper and 1 other Respondents

ADDRESSES OF THE PARTIES

APPELLANT

Muhammad Jamil Son of Amir Bahadar Khan Resident of Gorri, Tehsil Wari District Dir Upper

CNIC: 15702-6802712-9

MOB: 03028055165

RESPONDENTS

1. District Co-ordination Officer, Dir Upper.
2. Secretary Home & Tribal Affairs, Government of Khyber Pakhtunkhwa at Peshawar.

Appellant , through Counsel


SYED ABDUL HAQ
HIGH COURT DARULQAZA
BAR ROOM SWAT
Cell No 0333-9546154

7

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

Service Appeal No. _____/2018

Muhammad Jamil.....applicant/appellant

VERSUS

District Co-ordination Officer; Dir Upper and 1 other Respondents

**APPLICATION FOR CONDONATION OF DELAY UNDER
SECTION 5 OF THE LIMITATION ACT,**

Respectfully sheweth;

1. That the impugned dismissal order dated 10.10.2018 has been received by the applicant/appellant on 20.11.2018 so the instant appeal is well within time, however, if this honourable tribunal deem it time barred then, the allege time (though not admitted) be condoned on the following grounds.

GROUND

- A. That valuable rights are attached and the applicant/appellant cannot be non-suited mere on the allege ground of limitation (although the instant appeal before this honourable is within time)

- B. That according to the alleged dismissal order dated 10.10.2018, no copy has been forwarded to the concerned official and the same was gotten by the applicant/appellant after submitted the applicant in the concern office at Peshawar.
- C. That as per law no limitation run against the void order so, if this honourable tribunal presume that the service appeal is barred by time then the same be condoned as per spirit of natural justice.

It is therefore humbly prayed that the application may kindly be accepted as prayed for.

Applicant/appellant
through counsel

Syed Abdul Haq,
Advocate, High Court

Affidavit

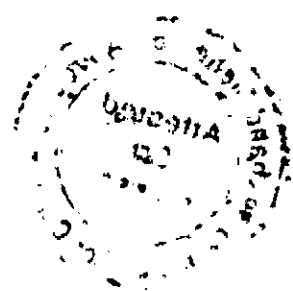
I Muhammad Jamil Son of Amir Bahadar Khan Resident of Gorri, Tehsil Wari District Dir Upper do hereby affirm that the contents of the above titled application are true and correct to the best of my knowledge and belief and nothing is concealed from this honourable Tribunal.

Identified by

ADVOCATE

DEPENDENT
(CNIC 15702-6802712-9)





A

OFFICE OF THE DISTRICT COORDINATION OFFICER UPPER DIR.

OFFICE ORDER.

As approved by the competent authority and conveyed by the Section Officer (SPL:II) Government of NWFP Home & Tribal Affairs Department, Peshawar letter No.2/5-SOS-II/HD/99/Vol:36 dated 20-10-1999, the following persons of Upper Dir District are hereby recruited as Sepoys in BPS-1 in Dir Levies Provincial against the vacant posts of Sepoys subject to the production of Health and Age Certificates from the Medical Superintendent Upper Dir. They will produce surety bonds to ensure that they will neither cultivate poppy on their lands nor will lease it out to any other person for such like purpose. In case of violation of the bond, they will besides dismissal from the service will also be liable to pay Rs.50,000/- as penalty to the Government:-

S.No.	Name	Father's Name	Residence
1.	Sartaj Khan	Gul Rasool	Almas
2.	Amjad Ali	Aqal Mohammad	Tarpatar
3.	Inayatullah	Bakht Zamin	Jabber
4.	Shakirullah	Sher Zamin	Kass Bibyawar
5.	Shah Khalid	Raza Khan	Toormang
6.	Wakil Badshah	Shah Ambar Khan	Akhagram
7.	Hanifullah	Mohammad Zaman	Shinkarai
8.	Liaqat Ali Khan	Gul Ambar Khan	Daskore
9.	Mohammad Jamil	Amir Bahadar	Gorrai
10.	Shah Jehan	Gujar Khan	Dogram
11.	Mehboob Khan	Abidullah	Dislawar
12.	Mohammad Ayub	Nasib Rawan	Sundal
13.	Saeedullah Khan	Fateh Mohammad	Galkore
14.	Badshah Zada	Habibur Rahman	Karnat
15.	Anwar Wali	Fazal Rahman	Khaposai
16.	Laal Mohammad	Asal Mohammad	Umralai
17.	Wazir Zada	Badshah Zada	Katigam
18.	Ismail	Abdul Jabbar Khan	Jatgram
19.	Islamuddin	Jan Bakht Khan	Wari Payeen

District Coordination Officer
Upper Dir.

No. 2/5-SOS-II/HD/99/Vol:36 DCO/LHC

Dated

Dir the, 29/6/2005.

Copy forwarded to the:-

1. Mr. Nazir, Upper Dir.

2. Section Officer (SPL:II) Home & Tribal Affairs Department Peshawar.

3. District Accounts Officer, Upper Dir.,

4. Officials concerned for compliance.

ATTESTED TO BE
TRUE COPY

District Coordination Officer
Upper Dir.

OFFICE OF THE DISTRICT COORDINATION OFFICER DISTRICT DIR UPPER

10

No: 12296-99 /DCO/LHC/

Dated Upper Dir the: 14/11/2011.

To,

1. Mr. Muhammad Jamil Levy Sepoy,
(Provincial).

B

Subject: - REMOVAL FROM SERVICE.

Memo:

As reported by Incharge Subidar Levy Post Wari, you remained absent from duty with effect from 30-09-2011 and further reported that you have gone abroad which is mis-conduct on your part and attracts disciplinary action against you.

You were directed to explain your positions vide this office notice no, 12014 dated 2-11-2011 but you failed to approach this office with your defense.

Therefore, keeping in view the above facts you are hereby dismissed from service w.e.f 11-11-2011 with immediate effect.

[Signature]

{Commandant Dir Levies}

DISTRICT COORDINATION OFFICER
DIR UPPER

Even No, & Dated:-

Copy forwarded to the:-

- The Subidar Major Dir Levies:
- The District Accounts Officer Dir Upper for information and necessary action.
- File.

[Signature]

{Commandant Dir Levies}

DISTRICT COORDINATION OFFICER
DIR UPPER

[Signature]

{Commandant Dir Levies}

DISTRICT COORDINATION OFFICER
DIR UPPER

ATTESTED TO BE
TRUE COPY

10/1
13-11

کتاب میں لکھی گئی کتاب لکھنے کے بارے میں

SO(P-II)
Please process

18/11/18

P-4/2

1991-92 کا ادوار 10 تا 14 اور 15
میں لکھی گئی کتاب لکھنے کے بارے میں

"مختصر تاریخ پاکستان"

1991-92 میں لکھی گئی کتاب لکھنے کے بارے میں

1993-94 میں لکھی گئی کتاب لکھنے کے بارے میں

1991-92 میں لکھی گئی کتاب لکھنے کے بارے میں

1991-92 میں لکھی گئی کتاب لکھنے کے بارے میں

نیا ڈیڑھی تاریخ پاکستان

1991-92 میں لکھی گئی کتاب لکھنے کے بارے میں

1991-92 میں لکھی گئی کتاب لکھنے کے بارے میں

SO P-II
Dated 10/9
Dated 3-11-18
by hand

17758
31/10/18

1991-92 میں لکھی گئی کتاب لکھنے کے بارے میں

1991-92 میں لکھی گئی کتاب لکھنے کے بارے میں



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT**

No. SO (Levies)/HD/6-234/018/Muhammad Jamil
Dated Peshawar the 10/10/2018.

To,

Mr. Muhammad Jamil s/o Amir Bahadar Khan,
R/o District, Dir Upper.

Subject: - DEPARTMENTAL APPEAL OF MR. MUHAMMAD JAMIL S/O AMIR
BAHADAR KHAN FOR REINSTATEMENT IN SERVICE.

Memo:

Please refer to your application dated 02.10.2018 on the subject noted above.

Your request for reinstatement in service was processed in the department at appropriate level and rejected on the grounds that the appeal carries no weight, badly time barred and not covered under the Rules.

Endst: No & date of even

Copy forwarded to:-

1. The Deputy Commissioner / Commandant Levies, Dir Upper.
2. PS to Home Secretary, Khyber Pakhtunkhwa.

Section Officer (Police-II)
Ph No. 091-9210503 Fax No. 9210201

Section Officer (Police-II)

15/10/18
ATTESTED TO BE
TRUE COPY



D 12

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT**

No. SO (Police-II)/HD/6-181/017/Maqbool
Dated Peshawar the 29.09.2017

To,

The Deputy Commissioner /
Commandant Levies,
Dir Upper.

Subject: - **DEPARTMENTAL APPEAL OF MR. MAQBOOL SHAHZADA
FOR RE-INSTATEMENT IN SERVICE.**

Sir,

p-9/0

I am directed to refer to your letter No. 18251/DC/LHC/HD/appeal dated 25.08.2017 on the subject noted above and to forward herewith a copy of Order dated 29.09.2017 passed by Home Secretary on the departmental appeal of Mr. Maqbool Shahzada, application (self-explanatory), for information and further necessary action. The appellant may be informed accordingly.

p-

Yours Faithfully,

Encls as Above

Endst: No & date of even

M. J. J. J.
Section Officer (Police-II)
Ph No. 091-9210503 Fax No. 9210201

Copy forwarded to the:-

1. District Account Officer, Dir Upper.
2. PS to Secretary Home & Tribal Affairs Department.

J/C

**ATTESTED TO BE
TRUE COPY**

M. J. J. J.
Section Officer (Police-II)

IN THE COURT OF SECRETARY HOME
KHYBER PAKHTUNKHWA
(APPELLATE AUTHORITY)

APPELLANT Mr. Maqbool Shahzada s/o Anwar Khan, Levy Sepoy Dir Upper
VERSUS
COMMANDANT LEVIES, Dir Upper

OFFICE ORDER

OBSERVATIONS:-

This order will dispose off the departmental appeal filed by Levy Sepoy Mr. Maqbool Shahzada s/o Anwar Khan, Levy Sepoy district Dir Upper against orders issued by the DC / Commandant Levies, Dir Upper on 14.11.2011 on account of absence from duty since 25.09.2011.

2. The official was informed about his dismissal from service and his pay was stopped. The Deputy Commissioner / Commandant Levies Dir Upper stated in his comments that applicant has gone to abroad & not willing to perform Government service anymore. The applicant recorded their statement that his brother was a patient of cancer and due to medical treatment & financial burden he started private work at Karachi.

DECISION:-

3. After going through the record and statement of the appellant, it transpires that the punishment awarded is harsh in the circumstances. The undersigned being competent authority accepts the appeal and re-instates him in service with immediate effect on compassionate grounds. Intervening period from the date of termination to the date of reinstatement shall be treated as leave without pay besides stoppage of 01 increment. The appellant may be informed accordingly.


(HOME SECRETARY)
KHYBER PAKHTUNKHWA

Announced
Dated 29.09.2017


**ATTESTED TO BE
TRUE COPY**

13

D-1

06/6

بعدالت

کورٹ فیس

قیمت ایک روپیہ

مورخہ

مقدمہ

دعویٰ

جرم

۶ دسمبر ۲۰۱۸ء منجانب رولڈنس
محمد عقیل بنام حکومت

S. Appeal No — 18

باعث تحریر آنکہ

مقدمہ مندرجہ بالا میں اپنی طرف سے واسطے پیروی وجواب دہی وکل کاروائی
متعلقہ آن مقام

مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل
اختیاط ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب

دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زراس پر دستخط کرنے کا اختیار ہوگا نیز بصورت
عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ ڈائر کرنے اپیل نگرانی و
نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ بصورت ضرورت مذکور کے نسل 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 ہر جانہ التوائے مقدمہ کے
سبب سے ہا گا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے
وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہو تو وکیل
صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا ک سند ہے

المرقوم ۶ ماہ دسمبر ۲۰۱۸ء

العبد گواہ شدہ العبد
بمقام

Attested and accepted

Seal Abdul Haq

0311-095-0959

محمد عقیل ولد اسد ہار دھال

"B"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.**

TB

No.

Appeal No. 1506 of 20 18

M. Jamil Appellant/Petitioner

Versus

DCO, Div Upper Respondent

Respondent No. I

Notice to:

Distt. Co-ordination officer
Div Upper

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....

Day of.....April 20 19

at Comp Court Swat

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

TB

Appeal No. 1876 of 20 18

M. Jamal Appellant/Petitioner

Versus

D.C.O., DIV. UPPER Respondent

Respondent No. 2

12/4/18

Notice to: -

*Secy. Home & Tribal affairs
Govt. of KPK Peshawar*

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 7th Jan 2019 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No. dated~~

Given under my hand and the seal of this Court, at Peshawar this 11th

Day of April 20 18

at Camp Court Secret

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

لبہ خباب : ۳ باب سردس ٹریبونل اور کمیٹی کورٹ سمیت

محمد حبیب بنام حکومت
اپیل

رہنما سمیت عمر اور اجازت ٹائم رائے

کورٹ میں جمع کرنے سے عدالت حضور میں

اس میں سب سے پہلے فرم کرنا

خباہی ۳۱

۱۵ اپریل ۲۰۱۹ء عدالت حضور میں سزا دیا گیا ہے۔ جس میں

تاسع مئی ۲۰۱۹ء بتایا گیا کہ ۱۶/۹/۲۰۱۹ء

۱۶/۹/۲۰۱۹ء میں عدالت حضور نے کورٹ میں جمع کرنے

کی اجازت جاری کیا ہے۔ گورنمنٹ نے کورٹ میں جمع

کرنے سے انہیں روک دیا ہے۔ جب عدالت میں عدالت حضور

نے اجازت رد کر دی ہے۔ تاہم عدالت حضور

سے کورٹ میں جمع کرنا

بے اثر ہے۔

اس میں کورٹ میں جمع کرنے

سے ٹائم رائے کا حکم صادر کیا گیا

۱۶/۹/۱۹

محمد حبیب

اس میں محمد حبیب کے نام سے درخواست

شمارہ ۱۶/۹/۱۹

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
PESHAWAR SERVICE TRIBUNAL AT CAMP COURT SWAT.**

Service Appeal No: 1506 of 2018.

Muhammad Jamil (Petitioner)


Versus

1. Deputy Commissioner Commandant Dir Levies District Dir Upper.
2. Secretary Home & TA's Department Govt of Khyber Pakhtunkhwa Peshawar.

..... (Respondents)

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04	Notice of Absence No.12014	"B"	5
05	DFC report	-	6
06	Removal Order	"C"	7
07	Rejected Departmental Appeal No.SO(Levies)/HD/6-234/018 Muhammad Jamil dated 10.10.2018	"D"	8


Mr. Raza Ullah
Levy Head Clerk Dir.

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
PESHAWAR SERVICE TRIBUNAL AT CAMP COURT SWAT.**

Service Appeal No: 1506 of 2018.

(1)

Muhammad Jamil (Petitioner)

Versus

1. Deputy Commissioner Commandant Dir Levies District Dir Upper.
2. Secretary Home & TA's Department Govt of Khyber Pakhtunkhwa Peshawar.

..... (Respondents)

AFFIDAVIT

I, Razaullah Levy Head Clerk Office of the Deputy Commissioner Dir Upper, do hereby solemnly affirm and declare on oath that the contents of accompanying **joint parawise comments** on behalf of **Respondents No 1 & 2** are true and correct to the best of my knowledge and belief that nothing has been concealed from this Hon'ble Court.



DEPONENT

CNIC No. 15702-2500720-3

Identified by

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service appeal No. 1506 of 2018

Muhamad Jamil s/o Amir Bahadar r/o Gorri, Tehsil Wari District Dir Upper
.....(Appellant)

Versus

- 1) District Coordination Officer Dir Upper.
- 2) Secretary Home & Tribal Affairs, Government of Khyber Pakhtunkhwa at Peshawar
..... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 10-10-2018 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED

JOINT PARAWISE COMMENTS IN RESPECT OF RESPONDENT NO.01 & 02 ARE AS UNDER:-

PRELIMINARY OBJECTIONS:-

- 1) That the appellant has no cause of action or locus standi.
- 2) That the appellant has been stopped by his own conduct to file the appeal.
- 3) That the appeal is not maintainable under Section-4 of the service Tribunal Act-1974.
- 4) That this Honorable Tribunal has no jurisdiction to entertain the appeal.
- 5) That the appellant has not come to the Tribunal with clean hand.

RESPECTFULLY SHEWETH

- 1) Para No. 1 is correct to the extent of appointment.
- 2) No comments.
- 3) Incorrect. The Incharge Levy Post Wari reported dated 07-10-2011 that Sepoy Muhammad Jamil is absent from duty since 30-09-2011 without prior permission of the competent authority and despite the fact the he was several times contacted to make sure his presence for duty but he failed to do so (copy enclosed at Annexure "A").

Owing to the reason above, a notice was issued against the accused levy official vide this office letter No. 12014/DCO/LHC dated 02-11-2011 with the directions to submit reply of the same within 05 days positively otherwise major penalty may be imposed against him but he failed to submit any solid proof of his absenteeism nor he present himself for duty, and DFC reported on 04-11-2011 that the sepyo concerned have been proceeded abroad to Saudi Arab on 05-10-

2011 hence the then commandant Dir Levies was satisfied to impose major penalty of "Removal from Service" vide this office letter No. 12296-99/DCO/LHC dated 14-11-2011 (Copies enclosed at Annexure "B" and "C" respectively).

- 4) Incorrect. The appeal of the appellant was rejected by the Secretary Home & Tribal Affairs Department Khyber Pakhtunkhwa Peshawar/Respondent No. 02 after fulfilling of all the legal formalities and on the grounds that the same was based on surmise & conjecture and was time barred (Enclosed at Annexure "D").
- 5) No comments

GROUNDs.

- A) In correct as explained at para No. 03 & 04.
- B) No comments.
- C) Incorrect. Notice was issued against the appellant but the DFC reported that he has gone abroad to Saudi Arab (as explained at para No. 03)
- D) Incorrect. As explained in above paras.
- E) Incorrect. As explain in the above paras.
- F) No comments.

In light of the facts explained above, it is humbly prayed that the appeal filed by the appellant does not merit consideration may kindly be dismissed with cost please.

Deputy Commissioner/
Commandant Dir Levies
Upper Dir
(Respondent No. 1)
DC/Commandant
Dir Levies

Secretary Home & Tribal Affairs Department
Khyber Pakhtunkhwa Peshawar.
(Respondent No. 02)
Home Secretary
Khyber Pakhtunkhwa

لانت :- کتاب گمانڈینڈ ڈیر لیوی ڈی سی او صاحب ڈیر بالا
از :- سر سید ڈیر لیوی پوسٹ ڈاڑی ڈیر بالا
عنوان :- رپورٹ خلاف سپاہی محمد جمیل خان 214 برادر ذیل سپاہی
صاحب عالی :-

گزارش میثقی ہے کہ سپاہی محمد جمیل لیوی پوسٹ ڈاڑی
میں لیتا۔ ڈیوٹی کا حق ۔ کہ سپاہی 30 9/01 سے قیصر حاضر رہا
مجموعہ بار بار ڈیوٹی کئے اور کیا۔ کین جاہر نہ ہو سکا۔ مزید
معلومات حاصل کرنے سے معلوم ہوا۔ کہ بقول والد سپاہی مذکورہ
سپاہی محمد جمیل خشت و منہ دردی کے سلسلے میں بطور فر 10/01 کو
سعودی حب کیا ہے۔

لہذا اب صاحبان کی خدمت میں قانون کارروائی کے رپورٹ کی شہادت ہے۔

نقطہ

الحامد المبرقوم 7 10/01

صاحب سید ڈیر لیوی پوسٹ ڈاڑی

Received on 31/10/2011
R/M
31/10/2011

دفتر ڈسٹرکٹ کوآرڈینیشن ایفیسر / کمانڈنٹ ڈیر لیویز ضلع دیر بالا۔

نمبر 12014-اڈی-سی-اوا ایل-ایچ-سی مورخہ 2011 / 11 / 20۔

﴿نوٹس غیر حاضری﴾

لیوی صوبیدار / واڑی کے رپورٹ کے مطابق تم

سسی محمد جمیل۔۔۔ لیوی سپاہی، ریجنل نمبر۔۔۔ 214۔۔۔ مورخہ 2011 / 19 / 30

سے 5 / 10 / 2011 (دن) تک اپنی ڈیوٹی سے کوئی اجازت لئے بغیر غیر حاضر ہو۔

تمہارا یہ رویہ حکومتی قواعد و ضوابط اور لیوی فورس کے ڈسپلن کی خلاف ورزی ہے۔

لہذا تم کو بذریعہ نوٹس ہذا اطلاع کی جاتی ہے کہ کیوں نہ تمہارے خلاف ملازمت

سے برخاستگی آرڈیننس 2000 کی تحت انتظامی کارروائی کر کے تم کو ملازمت سے

فارغ کیا جائے۔

اپنا جواب اس نوٹس کے ملتے ہی۔۔۔ کچھ دن کے اندر اندر مورخہ۔۔۔ 2011 / 11 / 6۔

تک دفتر ہذا بھیج دو، ورنہ تمہارے خلاف یکطرفہ کارروائی کر کے تمہیں نوکری سے برخاست

کیا جائے گا۔ صوبیدار متعلقہ کو ہدایت کی جاتی ہے کہ نوٹس بعد از تعمیل دفتر ہذا کو تین یوم کے اندر

اندر واپس کرے۔

ڈی۔سی۔اوا کمانڈنٹ
DC OT Commandant
Air Levies
کوآرڈینر ڈیر بالا۔

(6)

میں اس کے لئے وار تفصیل

All No -
افترار کے لئے طلبہ کی فہرست
فارسی کے لئے طلبہ کی فہرست

157029 - 157029 - 157029

3/11/2011

میں فضل اور ولد محمد علی محمد علی

افترار کے لئے طلبہ کی فہرست
فارسی کے لئے طلبہ کی فہرست

157029 - 2490010 - 3

3/11/2011

محمد

صناعت عالی - میں سنی لہوی D-F-C جس کے لئے نقد رقم کی ضرورت ہے

یہ رقم سیاسی محفل کے بارے میں منسلک ہے۔

یہ رقم سیاسی محفل کے بارے میں منسلک ہے۔

D-F-C جس کے لئے نقد رقم کی ضرورت ہے

4/11/2011

Annex "C" (7)

OFFICE OF THE DISTRICT COORDINATION OFFICER DISTRICT DIR UPPER

No: 12296-99 /DCO/LHC/

Dated Upper Dir the: 14/11/2011.

To,

1. Mr. Muhammad Jamil Levy Sepoy,
(Provincial).

Subject: - REMOVAL FROM SERVICE.

Memo:

As reported by Incharge Subidar Levy Post Wari, you remained absent from duty with effect from 30-09-2011 and further reported that you have gone abroad which is mis-conduct on your part and attracts disciplinary action against you.

You were directed to explain your positions vide this office notice no, 12014 dated 2-11-2011 but you failed to approach this office with your defense.

Therefore, keeping in view the above facts you are hereby dismissed from service w.e.f 11-11-2011 with immediate effect.



{Commandant Dir Levies}

DISTRICT COORDINATION OFFICER
DIR UPPER. *ds*

Even No, & Dated:-

Copy forwarded to the:-

- The Subidar Major Dir Levies.
- The District Accounts Officer Dir Upper for information and necessary action.
- File.



{Commandant Dir Levies}

DISTRICT COORDINATION OFFICER
DIR UPPER. *ds*



(8) *Amir D*

(14)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT**

No. SO (Levies)/HD/6-234/018/Muhammad Jamil
Dated Peshawar the 10/10/2018.

To,

Mr. Muhammad Jamil s/o Amir Bahadar Khan,
R/o District, Dir Upper.

Subject: - DEPARTMENTAL APPEAL OF MR. MUHAMMAD JAMIL S/O AMIR
BAHADAR KHAN FOR REINSTATEMENT IN SERVICE.

Memo:

Please refer to your application dated 02.10.2018 on the subject noted above.

Your request for reinstatement in service was processed in the department at appropriate level and rejected on the grounds that the appeal carries no weight, badly time barred and not covered under the Rules.

[Signature]
Section Officer (Police-II)
Ph No. 091-9210503 Fax No. 9210201

Endst: No & date of even

Copy forwarded to:-

1. The Deputy Commissioner / Commandant Levies, Dir Upper.
2. PS to Home Secretary, Khyber Pakhtunkhwa.

Section Officer (Police-II)

[Signature]
ATTESTED TO BE
TRUE COPY