

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 768/2018

Date of Institution ... 01.06.2018

Date of Decision ... 04.10.2021

Muhammad Tahir Ex-Constable No. 964 District Police QRF-7, Kohat.
... (Appellant)VERSUSInspector General of Khyber Pakhtunkhwa Police, Peshawar and two others.
...(Respondents)Present.

Syed Mudasir Pirzada, ... For appellant.

Mr. Kabirullah Khattak,
Addl. Advocate General ... Forrespondents.MR AHMAD SULTAN TAREEN ... CHAIRMAN
MIAN MUHAMMAD, ... MEMBER(E)JUDGMENT

AHMAD SULTAN TAREEN, CHAIRMAN:-The appellant named above invoked the jurisdiction of this Tribunal through service appeal described above in the heading challenging thereby the penalty imposed upon him in pursuance to the disciplinary proceedings under E&D Rules, purporting the same being against the facts and law on the subject.

2. Brief facts of the case are that the appellant while serving as Constable in District Police Kohat QRF, a criminal case was registered against him alongwith other accused vide FIR No. 677 dated 06.09.2016 u/s 9C-CNSA P.S



Pirwadahai, Rawalpindi. The appellant was proceeded against departmentally and was dismissed from service on 04.01.2017. Feeling aggrieved, the appellant filed departmental appeal on 16.02.2018 which was rejected on 11.05.2018, hence the present appeal on 01.06.2018.

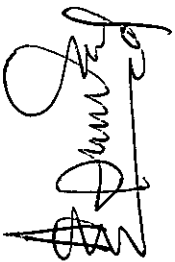
3. The appeal was admitted for regular hearing on 19.09.2018. Notices were issued to the respondents for submission of written reply/comments. On 20.12.2018, the respondents have submitted written reply/comments refuting the claim of the appellant with several factual and legal objections and asserted for dismissal of appeal with cost.

4. We have heard arguments of learned counsel for the parties and have also gone through the available record with their assistance.

5. Obviously, the plea which the respondents have tried to establish against the appellant through parawise comments and arguments at the bar is mainly linked with his involvement in the criminal case. It has been asserted on behalf of the respondents that the appellant being member of disciplined force indulged himself in criminal activity/narcotics case and earned bad name to the department; and that departmental and criminal proceedings are of distinct in nature and can work side by side and decision of the criminal court if any is not binding in the departmental proceedings. It was also argued on behalf of respondents that Rule 5 (3) KP Police Rules, 1975 (amended 2014) empowers the competent authority to take disciplinary action without necessity of the formal inquiry through appointment of an inquiry officer. It is observed that the impugned order dated 04.01.2017 tells about the reasons which predominantly prevailed to satisfy the competent authority for deciding imposition of major



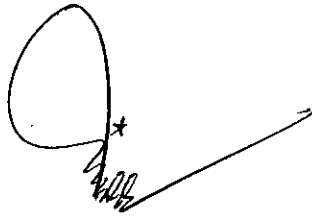
penalty of dismissal from service upon the appellant, originates from the fact that he was reported as absent from official duty vide DD No. 28 dated 06.09.2016 till date without any leave or permission from the competent authority; and secondly that when show cause notice was sent at home address of the appellant, his relatives informed about confinement of appellant in Adiala Jail Rawalpindi in a narcotics case which information was got confirmed and he was found involved in the occurrence reported vide FIR No.677 dated 06.09.2016 u/s 9-C CNSA P.S Pirwadahai Rawalpindi. It is noteworthy that the date of absence of the appellant as noted vide DD No. 28 was 06.09.2016 onwards and the date of registration of the criminal case against him is also the same. So, it can be safely presumed that absence of the appellant was the consequence of his arrest in case FIR No. 677 dated 06.09.2016 of P.S Pirwadahai Rawalpindi and not a willful absence. CSR 194 under the heading of Committals to Prison provides that a Government servant when is charged in a criminal offence or debt and is committed to prison shall be considered as under suspension from the date of his arrest. So, the arrest and committal of a government servant to prison on charge of a criminal offence will be considered automatic suspension from the date of his arrest. CSR 194 also provides that in case, such a Government servant is not arrested or is released on bail, the competent authority may suspend him by specific order, if the charge against him is connected with his position as Government servant or is likely to embarrass him in the discharge of his duties or involves moral turpitude. In any case, the provision of CSR 194 does not necessitate any disciplinary action more than suspension. In the present case of the appellant, the competent authority exercised its power in excess of the said



provision of CSR 194. No ground for disciplinary action in the manner as taken by the competent authority in case of the appellant was made out prior to decision of the criminal case against the appellant. We are mindful of the fact that the criminal proceedings and departmental proceedings can go parallel and even acquittal of the accused has no bearing upon the departmental disciplinary proceedings; but every criminal charge has its different circumstances. In our view, if a Government servant is charged for an offence connected with his position as such, he can be proceeded against simultaneously in departmental proceedings and in criminal proceedings on account of the charge of an offence. The case of the appellant is not one involving the charge against him connected with his position as Government servant. Therefore, it was not justifiable to proceed against him for imposition of punishment under Efficiency and Discipline Rules. Needless to say that certified copy of judgment dated 06.02.2018 passed by the Hafiz Hussain Azhar Shah, Additional Sessions Judge/Judge Special Court CNS Rawalpindi in Narcotics Case No. 164 of 2017 has been produced during the course of arguments and placed on file. The said judgment relates to case FIR No. 677 dated 06.09.2016 Offence u/s 9-C of the CNSA, 1997 of Police Station Pirwadahai, Rawalpindi which was taken as ground for disciplinary action against the appellant. According to operative part of the judgment, it is provided that the prosecution has miserably failed to prove its case against accused/present appellant beyond any shadow of doubt whereas slightest doubt goes in favour of accused, therefore, extending benefit of doubt, accused Muhammad Tahir son of Muhammad Munir is acquitted from the case. When the criminal case taken as ground for disciplinary action against the

appellant has failed at trial of the accused, the said ground having worked for disciplinary action against the appellant and imposition of major penalty upon him has vanished. We, therefore, hold that the imposition of the penalty of dismissal from service upon the appellant remained no more tenable.

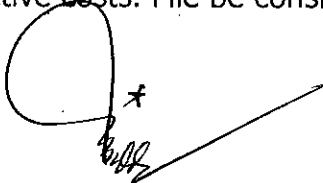
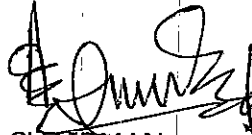
6. For what has been discussed above, the appeal at hands is accepted, the impugned order is set aside and the appellant is reinstated into service from the date of his absence. However, the period commencing from the date of absence of the appellant till passing of this judgment shall be treated as leave of the kind due in accordance with law. Parties are left to bear their respective costs. File be consigned to the record room.



(MIAN MUHAMMAD)
Member(E)


(AHMAD SULTAN TAREEN)
Chairman

ANNOUNCED
04.10.2021

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
	04.10.2021	<p><u>Present.</u></p> <p>Syed Mudasir Pirzada, ... For appellant. Advocate.</p> <p>Mr. Kabirullah Khattak, Addl. Advocate General ... For respondents.</p> <p><u>AHMAD SULTAN TAREEN, CHAIRMAN:-</u></p> <p>Vide our detailed judgment of today and placed on this file, the appeal at hands is accepted, the impugned order is set aside and the appellant is reinstated into service from the date of his absence. However, the period commencing from the date of absence of the appellant till passing of this judgment shall be treated as leave of the kind due in accordance with law. Parties are left to bear their respective costs. File be consigned to the record room.</p> <p style="text-align: center;">  (MIAN MUHAMMAD) Member (E) </p> <p style="text-align: right;">  CHAIRMAN </p> <p><u>ANNOUNCED</u> 04.10.2021</p>

28.06.2021

Appellant alongwith clerk of learned counsel for the appellant present. Mr. Arif Saleem, Stenographer alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Appellant submitted adjournment application on the ground that his counsel is not available today due to illness. Adjourned. To come up for arguments before the D.B on 04.10.2021.



(ATIQ UR REHMAN WAZIR)
MEMBER (EXECUTIVE)



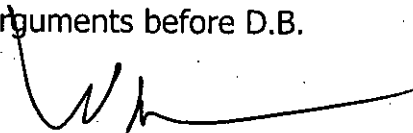
(SALAH-UD-DIN)
MEMBER (JUDICIAL)

24.11.2020 Due to non-availability of D.B, the case is adjourned to
04.02.2021 for the same as before.


Reader

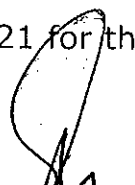
04.02.2021 Learned counsel for the appellant present. Mr. Kabirullah Khattak
learned Additional Advocate General alongwith Arif Saleem Stenographer
for respondents present.

Learned counsel for the appellant requested for adjournment.
Request is acceded to, the appeal is adjourned to 16.04.2021 for
arguments before D.B.


(ATIQU-UR-REHMAN WAZIR)
MEMBER (E)


(MUHAMMAD JAMAL KHAN)
MEMBER(J)

16.04.2021 Due to demise of the Worthy Chairman the Tribunal is
defunct, therefore, case is adjourned to 28.06.2021 for the same
as before.


Reader

12.5.2020

Due to COVID19, the case is adjourned to

4/8/2020 for the same as before.



Reader

04.08.2020

Due to summer vacation case to come up for the same on
05.10.2020 before D.B.



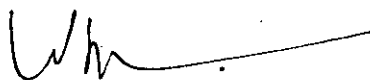
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05.10.2020

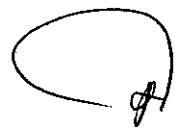
Nemo for parties.

Mr. Muhammad Jan learned Deputy District Attorney
present.

Perusal of record would reveal that preceding two
dates were adjourned on a reader's note, therefore,
case is adjourned to 24.11.2020 before D.B, subject to
notice to both the parties.



(Atiq ur Rehman Wazir)
Member (E)




(Rozina Rehman)
Member (J)

22.01.2020

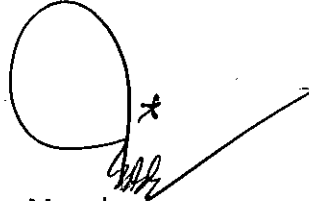
Due to general strike on the call of the Khyber Pakhtunkhwa Bar Council, learned counsel for the petitioner is not available today. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Adjourned to 12.03.2020 for further proceedings/arguments before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

12.03.2020

Appellant in person present. Addl: AG alongwith Mr. Arif Saleem, Constable for respondents present. Appellant submitted rejoinder which is placed on file. Appellant seeks adjournment. Adjourned. To come up for arguments on 12.05.2020 before D.B.



Member


Member

19.07.2019

Learned counsel for the appellant has sent an application for adjournment through Diary No. 791 dated 18.07.2019 which is placed on record. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Inayatullah, Head Constable for the respondents present. Adjourned to 07.10.2019 for arguments on restoration application before D.B.


(HUSSAIN SHAH)


(M. AMIN KHAN KUNDI)

07.10.2019

~~MEMBER~~ Due to official tour of Hon'ble Members to Camp ~~MEMBER~~

Court Swat, the instant matter is adjourned to 29.11.2019 for the same.



Reader

29.11.2019

Learned counsel for the petitioner present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith representative Inayat Ullah H.C present and submitted reply.

Arguments heard. File perused.

The instant application for restoration of service appeal No.768/2018 was filed within time. Hence in the interest of justice, the same is allowed and the main service appeal bearing No. 768/2018 is restored. No order as to costs. To come up for arguments on the main service appeal bearing No. 768/2018 on 22.01.2020 before D.B. File of the instant application be consigned to the record room.

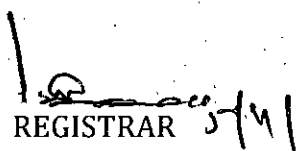

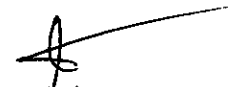


Member


Member

Form-A
FORM OF ORDER SHEET

Court of _____

Appeal's Restoration Application No. 178 /2019

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	05.04.2019	<p>The application for restoration of appeal No. 768/2018 submitted by Syed Mudassir Prizada Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR 5/4/19</p>
2	12-4-19	<p>This restoration application is entrusted to D. Bench-I to be put up there on <u>9-5-19</u></p> <p style="text-align: right;"> CHAIRMAN</p>
09.05.2019		<p>Mst. Roeda Khan, Advocate for learned counsel for the petitioner present.</p> <p>Notice be issued to the respondents for further proceedings on 19.07.2019 before D.B.</p> <p style="display: flex; justify-content: space-around;">  Member  Chairman </p>

20.12.2018

Learned counsel for the appellant present. Mr. Kabirullah Khattak learned Additional Advocate General alongwith Ishaq Gul DSP representative of respondent department present and submitted written reply/comments. Adjourn. To come up for rejoinder if any and arguments on 15.02.2019 before D.B


Member

15.02.2019

Learned counsel for the appellant and Mr. Kabiurllah Khattak learned Additional Advocate General for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for rejoinder/arguments on 01.04.2019 before D.B


(Hussain Shah)
Member


(Muhammad Amin Khan Kundi)
Member

01.04.2019

Nemo for appellant. Addl. AG alongwith Ishaq Gul, DSP (Legal) for the respondents present.

It is already past 4.00 PM and no one is in attendance to represent the appellant despite repeated calls.

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


Member


Chairman

ANNOUNCED
01.04.2019

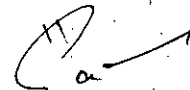
19.09.2018

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, against the order dated 04.01.2017 whereby he was awarded major punishment of dismissal from service and against the order dated 11.05.2018 whereby his departmental appeal was rejected.

Points raised need consideration. The present appeal is admitted for regular hearing subject to all just 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 on 13.09.2018 before S.B.

Appellant Deposited
Security & Process Fee


Member

13.09.2018

Appellant Muhammad Tahir Khan in person present. Mr. Arif Saleem, ASI alongwith Mr. Kabirullah Khattak, Add: AG for respondents present. Written reply not submitted. Representative of the respondents requested for adjournment. Granted. Case to come up for written reply/comments on 05.11.2018 before S.B.


Chairman

05.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 20.12.2018. Written reply not received.


READER

23.07.2018

Rad Ali Learned counsel for the appellant present.
Preliminary arguments heard.

The appellant has filed the present appeal u/s 4 with the prayer that the respondent department be directed to post the appellant properly and pay him the dues with all back benefits.

Allegedly the appellant was transferred from Peshawar to District Kohistan in the capacity of Junior EPI Technician vide order dated 05.10.1999 however he has not performed any duty thereafter and allegedly he is still in service as no action/disciplinary action has been taken against him until yet. On 17.02.2018 the appellant has filed departmental appeal. Learned counsel for the appellant stressed that the appellant is still on service.

Points raised need consideration. The present appeal is admitted for regular hearing subject to all just 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 28.08.2018 before S.B.




Member

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 768 /2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	01/06/2018	<p>The appeal of Mr. Muhammad Tahir Khan presented today by Syed Mudasar Pirzada 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 01/06/18 </p> <p>This case is entrusted to Primary Bench preliminary hearing to be put up there on <u>13/6/18</u>.</p> <p style="text-align: right;">  CHAIRMAN </p> <p>13.06.2018</p> <p>Appellant Muhammad Tahir Khan in person present and requested for adjournment as learned counsel for the appellant is not in attendance. Granted. To come up for preliminary hearing on 19.07.2018 before S.B.</p> <p style="text-align: right;">  Chairman </p>

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal 768 2018

Ex- Constable Muhammad Tahir No- 964 R/o District Kohat

(Appellant)

VERSUS

1. INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLIEC KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT.

(Respondent)

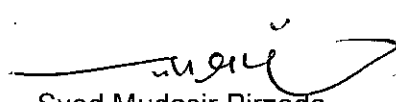
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4	Copy of impugned Order dated 04-01-2017 along with departmental representation dated 16-02-2018 & Rejection order dated 11-05-2018	A	8-11
5	Copy of Final Show Cause Notice -25-10-2016	B	12
	Wakalatnama		


Appellant

Through

Date 22 / 05 / 2018


Syed Mudasir Pirzada
Advocate HC
0345-9645854

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal 768 2018

Khyber Pakhtukhwa
Service Tribunal

Diary No. 1024

Dated 01-6-2018

Ex- Constable Muhammad Tahir No- 964 District Police QRF-7 Kohat

(Appellant)

VERSUS

- 1:-INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
- 2:-DEPUTY INSPECTOR GENERAL OF POLIEC KOHAT REGION KOHAT
- 3:-DISTRICT POLICE OFFICER KOHAT.

(Respondent)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 04-01-2017 VIDE OB-NO 13 IN WHICH THE RESPONDENT NO:-3 UPON THE FINAL SHOW CAUSE NOTICE DATED 25-10-2016 DISMISS THE APPELLANT FROM SERVICE ON THE BASIS OF FAKE CRIMINAL CASE DATED 06-09-2016 AND AFTER ACQUITTAL APPELLANT PREFERED DEPARTMENTAL REPRESENTATION DATED 16-02-2018 AND THE RESPONDENT GIVEN FALSE CONSOLATION THAT REPRESENTATION WILL BE ACCEPTED BUT THE SAME WAS REJECTED ON DATED 11-05-2018 .

Filed to-day

Registrar

Pray:

In view of above submission it is requested, by accepting of instant appeal the impugned order of Respondents may be set aside and the present appellant may please be re instated in the service with all back benefits are blessed with any other remedy as the honorable tribunal deem proper .

Respectfully Sheweth,

With great veneration the instant appeal is preferred by the appellant on the following grounds:-

Facts:

Briefly facts are that the appellant while serving as constable Belt No-964 in District Police Kohat QRF and a false criminal case was register against the appellant along with other accused dated 06-09-2016 u/s 9C-CNSA PS Pirwadahai Rawalpindi .

That on the above count, the appellant was proceeded against departmentally resulting in the dismissal from service by respondent No-3 dated 04-01-2017 vide order bearing OB-13(Copy of Impugned Order annexed as annexure A).

That the petitioner preferred an departmental appeal before the respondent No-2 against the impugned order of respondent No-3 but the same was rejected on 11-05-2018(Copy of rejection order & representation is already annexed at page No-9-11)

That the allegation were not inquired by any enquiry officer in accordance with law and the appellant was served with the Final Show Cause Notice.(Copy annexed as annexure C)

That the appellant face the trial before the court of learned ADJ/Judge Special Court CNS Rawalpindi after prolong legal battle earned an acquittal in the above mentioned criminal case on dated 06-02-2018.

That the allegations were not inquired by enquiry officer and the appellant was dismissed from service without giving any opportunity of fair hearing and proceedings have been initiated. Feeling aggrieved by the appellant from the impugned order of the respondent No-3 the appellant preferred representation for giving the opportunity of being heard in person but the same was not entertain nor accepted .

Grounds:


- a. That since the appointment of appellant in the police department performed duty with honesty and sincerity and devotion in the police department in QRF -7 Kohat. During course of enquiry none from any other police official was examined in support of the charges leveled against the appellant. No allegation mentioned above practice by the appellant nor proved against any cogent reason against the appellant. The appellant had numerous good entries in his service record which could be verified form the service record of the appellant.
- b. That the no enquiry officers was appointed for enquiry and ex-parte dismissed the appellant without the aid of enquiry or enquiry officer as well as without serving the charge sheet etc.

- c. That there is no cogent evidence on the record which proves that the appellant has committed any offence and the appellant not heard in person in all respects and the respondent No-3 Kohat has acted whimsically and arbitrarily, which is apparent from the enquiry report submitted by the enquiry officer.
- d. That the biasness of the respondents is clearly shown from the application submitted by appellant to the respondent No-2 regarding the personal hearing but no response on the application tendered.
- e. That again the biasness of the respondent No-2&3 clearly proved by not entertaining the representation of the petitioner, keeping in view the decision of the apex court the respondent No-2&3 were duty bound to record reasons of rejection 'when departmental appeal was submitted to the competent authority was bound to decide the same within reasonable time after application of independent mind, by giving reasons such was a requirement of law as well as of the principle of natural justice 2009 (PLC)(CS) 77
- f. That it is clearly mentioned in 2003 PLC CS 1468 that any instruction issued in violation of Rules would be illegal and void.
- g. That it is worth mentioning here that these facts have also been intimated to respondent No-2 but in vain.
- h. That the impugned order is not based on sound reasons and same is not sustainable in the eyes of law, the same is based on wrong assumptions of facts.
- i. That the departmental enquiry was not conducted according to the rules.
- j. That the penalty has been imposed on extraneous considerations which is not the subject of the occurrence but the appellant has been penalized.
- k. That the impugned order is the outcome of surmises and conjecture.
- l. That the impugned order is suffering from perversity of reasoning, hence liable to be set aside.
- m. That the order of the respondent is very much harsh in nature.
- n. That some other grounds will be agitated at the time of arguments with the prior permission of the Honorable Highness.

Pray:

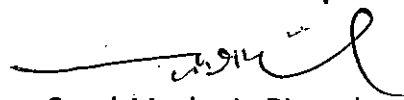
In view of above submission it is requested, by accepting of instant appeal the impugned order of Respondents N0-3 may be set aside and the present appellant may please be re instated in the service with all back benefits and blessed with any other remedy as the honorable tribunal deem proper .

Dated: _____/2018.



(Appellants)

Through



Syed Mudasir Pirzada
Advocate HC at Kohat
0345-9645854

Certificate:-

Certified that no such like appeal has earlier been filed in this Hon able Service tribunal as per instruction of my client .

List of Books

- 1:- Constitution of Pakistan 1973
- 2:- Police Rules
- 3:- Case Law according to need.

Service Appeal _____ 2018

AFFIDAVIT

I, Syed Mudasir Pirzada Advocate, as per instruction of my client do here by solemnly affirm and declare that all the contents of accompanying service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable Tribunal

Syed Mudasir Pirzada
Advocate
KHALID MAHMOOD ADVOCATE
ATTESTED
NOTARY PUBLIC
PESHAWAR HIGH COURT

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal _____ 2018

Ex- Constable Muhammad Tahir No- 964 District Police QRF-7 Kohat

(Appellant)

VERSUS

1. INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT. (Respondent)

ADDRESS OF THE PARTIES

APPELLANT :-

Ex- Constable Muhammad Tahir No- 964 District Police QRF-7 Kohat

RESPONDENTS

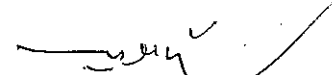
1. INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT.



Appellant

Through

Date 22 / 05 / 2018


Syed Mudasir Pirzada
Advocate HC
0345-9645854

8

POLICE DEPTT:

DISTRICT KOHAT

ORDER

This order is passed on the Show Cause Notice against Constable Tahir Khan No. 964 of this District Police under the Khyber Pakhtunkhwa, Police Rules, 1975 Amendment 2014.

Brief facts are that he while posted at QRF-7 Mobile had absented himself from official duty vide DD No. 28 dated 06.09.2016 till date, without any leave or permission from the competent authority, which shows his in-efficiency and lack of interest in the discharge of government duties.

He was issued a Show Cause Notice and sent to him through his home address. The Show Cause Notice was received by his nephew and narrated that constable Tahir Khan No. 964 is confined in Adyala Jail Rawalpindi in a Necrotic case. Besides, the Muharir of P.S Pirwadai was contacted and confirmed the involvement of Constable Tahir No. 964 in a Narcotic case. The Muharir of the concerned Police Station stated that he is involved in case vide FIR No. 677 dated 06.09.2016 u/s 9 C PS Pirwadai Rawalpindi. Presently the above named accused constable is confinement in District Jail Adyala Rawalpindi.

In view of above I, Javed Iqbal District Police Officer, Kohat in exercise of the powers conferred upon me, is hereby award him a major punishment of "**Dismissal from Service**" from the date of his absence.

OB No. 13

Date 04-1-2017

**DISTRICT POLICE OFFICER,
KOHAT**

No 833-35/PA dated Kohat the 06-2-2017

Copy of above is forwarded to the Reader, Pay Officer, EC and OHC for necessary action.

**Syed Mudassar Pirzada
Advocate
District Courts Kohat**

*Attested
by Council*

۱۹/۱/۱۷
فیل
کونسل
ڈیپوٹ
کلی

Handwritten signature/initials

9

BEFORE THE DEPUTY INSPECTOR GENERAL OF
POLICE, KOHAT REGION KOHAT

Subject: APPEAL AGAINST THE ORDER OF DPO KOHAT
BEARING OB NO. 13 DATED 04-01-2017 VIDE WHICH
THE APPELLANT EX-CONSTABLE MUHAMMAD TAHIR
KHAN NO. 964 OF KOHAT DISTRICT POLICE WAS
DISMISSED FROM SERVICE W.E.F. 06-09-2016

Respectfully Sheweth,

With veneration, the appellant submits the instant appeal for
judicious consideration on the basis of the following facts and grounds:

FACTS:

Shortly stated, the facts are that the appellant was proceeded
against departmentally by DPO Kohat and dismissed from
service on the allegation of absence from duty w.e.f. 06-09-
2016 and his involvement in the narcotic case.

GROUND:

- a) That the appellant had not absented himself from duty w.e.f. 06-09-2016. Rather he was involved falsely in case FIR No. 677 dated 06-09-2016 U/s 9CNSA by Police of P.S Pirwadhai.
- b) That no show cause notice was served upon the appellant by DPO Kohat during the appellant's confinement in Adyala Jail Rawalpindi.
- c) That the fact of appellant's confinement in Jail was known to DPO Kohat as evident from the impugned order passed by DPO Kohat.
- d) That the appellant was proceeded against departmentally by DPO Kohat in absentia and ex-party action was taken against the appellant vide the impugned order dated 04-01-2017 prior to his acquittal in the case on 06-02-2018.
- e) That no opportunity of defence was provided to the appellant by DPO Kohat as no show cause notice was served upon the appellant during his confinement in Adyala Jail Rawalpindi.
- f) That the appellant was acquitted in the criminal case by competent court of law on 06-02-2018 (copy of the judgment is enclosed)

By *Muhammad Pirzad*
Advocate
District Courts Kohat
5

- g) That the appellant has preferred the instant appeal after his acquittal in the case and it would have been futile attempt on the part of the appellant to challenge his dismissal from service before earning an acquittal in the case.
- h) That it would be unjust to penalize the appellant for not filing departmental appeal before earning his acquittal in the criminal case which had formed the foundation for his dismissal coupled with his absence from duty.
- i) That the absence from duty of the appellant w.e.f. 06-09-2016 was due to his false involvement and arrest of the appellant by Pirwadhai Police Rawalpindi vide case FIR No. 677 dated 06-09-2016 U/S 9CNSA P.O Pirwadhai, Rawalpindi.
- j) That the absence from duty and the alleged involvement of the appellant in the criminal case were the only grounds on which the appellant was dismissed from service which grounds have disappeared through his acquittal making the appellant re-emerge as a fit and proper person entitled to continue with his service.

Prayer:

In view of the above submissions, it is prayed that the impugned order passed by DPO Kohat may kindly be set aside and the appellant re-instated in service from date of dismissal i.e. 06-09-2016 with all the back benefits please.

Yours Obediently

Attest by counsel
Syed Munir Pirzai
 Advocate
 District Courts Kohat

Ex. Constable Muhammad Tahir Khan
 No. 964
 S/o Muhammad Munir
 R/o Mir Ahmad Khel, P.O MRS Kohat

Dated: 16-02-2018

11

POLICE DEPTT:

KOHAT REGION

ORDER.

This order will dispose of a departmental appeal, moved by Ex-Constable Muhammad Tahir Khan No. 964 of Kohat district Police against the punishment order, passed by DPO Kohat vide OB No. 13, dated 04.01.2017, whereby he was awarded major punishment of Dismissal from service for the allegations of his involvement in case vide FIR No. 677, dated 06.09.2016 u/s 9-CNSA, Police Station Rawalpindi.

He preferred an appeal to the undersigned, upon which comments were obtained from DPO Kohat and his service record was perused. He was also heard in person in Orderly Room, held in this office on 09.05.2018, but he did not advance any plausible reply in his defense.

I have gone through the available record and came to the conclusion that the allegations leveled against the appellant are proved beyond any shadow of doubt and the authority has passed a legal and speaking order. Therefore, his appeal, being devoid of merit is hereby rejected.

**Order Announced
09.05.2018**

(MUHAMMAD HAZ, PSP)
Region Police Officer,
Kohat Region.

M.H.E.C.
10/05/2018

No. 5797 /EC, dated Kohat the 10/05 /2018.

Copy to the District Police Officer, Kohat for information w/r to his office Memo: No. 5008/LB, dated 08/05/2017. His service record is returned herewith please.

Syed Mudassar
District Police Officer
Kohat

by Council
[Signature]

(MUHAMMAD HAZ, PSP)
Region Police Officer,
Kohat Region.

M.H.E.C.
10/05/2018

OFFICE OF THE DISTRICT POLICE OFFICER KOHAT

SHOW CAUSE NOTICE

(Under Rule 5(3) KPK Police Rules, 1975)

1. That You **Constable Tahir Khan No. 964** have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa, Police Rules 1975 (Amendment 2014) for following misconduct;
 - i. You while posted at QRF-7 Mobile had absented yourself from official duty vide DD No. 28 dated 06.09.2016 till date, without any leave or permission from the competent authority, which shows your in-efficiency and lack of interest in the discharge of government duties.
2. That by reason of above, as sufficient material is placed before the undersigned, therefore it is decided to proceed against you in general Police proceeding without aid of enquiry officer:
3. That the misconduct on your part is prejudicial to good order of discipline in the Police force.
4. That your retention in the Police force will amount to encourage in efficient and unbecoming of good Police officers.
5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules.
6. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 (Amendment 2014) for the misconduct referred to above.
7. You should submit reply to this show cause notice within 07 days of the receipt of the notice failing which an ex-parte action shall be taken against you.
8. You are further directed to inform the undersigned that you wish to be heard in person or not.

*Syed Mudassar Pirzada
Advocate
District Courts Kohat*

No. 15098 /PA

Dated 25-10-2016

[Signature]
DISTRICT POLICE OFFICER,
KOHAT *24/10*

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service appeal No. 768/2018

Ex- Constable Muhammad Tahir No. 964

.....Appellant

VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa, and others

..... Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.

I N D E X

S N	Description of documents	Annexure	pages
1.	Parawise comments	-	01-02
2.	Counter affidavit	-	03
3.	Copy of absence report	A	04-05
4.	Service of charge sheet through SHO & report with statement of relative of the appellant	B	06

①

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service appeal No. 768/2018
Ex- Constable Muhammad Tahir No. 964

.....Appellant

VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa, and others

..... Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.

Respectively Sheweth:-

Parawise comments are submitted s under:-

Preliminary Objections:-

- i. That the appellant has got no cause of action.
- ii. That the appellant has got no locus standi.
- iii. That the appeal is not maintainable in the present form.
- iv. That the appellant has not come to this Hon: Tribunal with clean hands.
- v. That the appeal is badly time barred.

FACTS:-

1. The appellant while posted at QRF 7 Mobile had willfully absented himself from lawful duty and to this effect a report was entered in daily diary vide No. 28 dated 06.09.2016, Police station KDA, Kohat. So far as, his involvement in narcotics case is concerned, it is submitted that during the course of inquiry, it was ascertained that the appellant was arrested in narcotics case by Rawalpindi Police vide FIR No. 677 dated 06.09.2016 U/S 9C CNSA, PS Pirwadai. Copy of absence report is annexure "A".
2. On the charge of appellant willful absence from duty, he was proceeded with departmentally. The show cause notice issued against the appellant by Respondent No.3 under Rule 5 (3) KP Police Rules 1975 (Amended 2014) was served at his home address, which was received by his brother named Muhammad Kamran. It was reported by DFC that the appellant was confined at Adyala jail Rawalpindi. Hence, the proceedings culminated his dismissal from service annexure "B".
3. The departmental appeal of the appellant was devoid of merit and correctly rejected by the respondent No.2.
4. Incorrect, the competent authority is empowered to proceed under Rule 5 (3) KP Police Rules 1975 (Amended 2014).
5. The appellant being member of a disciplined force indulged himself in criminal activity / narcotics and earned bad name to the department. Furthermore, departmental and criminal proceedings are distinct in nature. Therefore, the decision of criminal court if any is not binding on the departmental proceedings.
6. The appellant was proceeded on the charge of willful absence from lawful duty, however, during course of proceedings his involvement and arrest by Punjab Police was ascertained.

GROUND:-

- A). Incorrect, besides dismissal from service of the appellant and involvement in a narcotics / criminal case, the appellant earned 17 bad entries in his service, remained absent on different occasions and awarded different kind of punishments. The appellant was habitual absentee as well.
- B). The respondent No.3 is empowered for proceedings under Rule 5 (3) KP Police Rules 1975 (Amended 2014), hence there was no need to appoint enquiry officer under the rules ibid.
- C). Incorrect, willful absence from duty of the appellant vide DD No. 28 dated 06.09.2016 is documentary and cogent evidence against the appellant. Furthermore, the appellant himself admitted his arrest in the narcotics case.
- D). Incorrect, the appellant did not appear before the respondent No. 3 till the disposal of inquiry. The contents of appeal transpired that the decision in criminal case arrived on 06.02.2018, while the punishment order was passed on 04.01.2017.
- E). Incorrect, the appellant was heard in person by Respondent No: 2 during departmental appeals mentioned in the order and a speaking order was passed by the departmental appellate authority.
- F). Irrelevant, each and every case has its own facts and merits.
- G). Incorrect.
- H). Incorrect, legal and speaking orders were passed by the respondents No. 2 & 3.
- I). Incorrect, detail reply is submitted in the para No b.
- J). Incorrect, the appellant was treated for his own conduct.
- K). Incorrect.
- L). Incorrect, legal and speaking orders were passed in accordance with law & rules.
- M). Incorrect, the appellant indulged himself in narcotics case, besides his willful absence from the duty.
- N). The respondents may also be allowed to advance any other grounds at the time of hearing.

Keeping in view of the above, the appeal is without merit and not substantiated/badly time barred. It is, therefore, prayed that the appeal may kindly be dismissed with cost please.

Dy: Inspector General of Police,
Kohat Region Kohat
(Respondent No. 2)

Inspector General of Police,
Khyber Pakhtunkhwa,
(Respondent No. 1)

District Police Officer,
Kohat
(Respondent No. 3)

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

Service appeal No. 768/2018

Ex- Constable Muhammad Tahir No. 964

.....Appellant

VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa, and others

..... Respondents

COUNTER AFFIDAVIT

We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Tribunal.

Dy: Inspector General of Police,
Kohat Region Kohat
(Respondent No. 2)


Inspector General of Police,
Khyber Pakhtunkhwa,
(Respondent No. 1)

District Police Officer,
Kohat
(Respondent No. 3)

مر 28 امداد اطلاع، رپورٹ غیر حاضری (SHO) صدمہ 9/16 کا وقت 6:40 بج اس وقت
 تعمیر کار LHC ایچ آر 7 ARF7 حوالے سے ہزاروں فون اطلاع دی کہ کنسٹرکشن
 افقی حسین 983، طغرائی 490، طاہر خان 964 عدلی ARF7 حوالے
 گفتگو ڈھونڈی گئی تھی۔ اسی وقت گیس کے کنالے نہیں آئے اور یہ
 یہاں بڑے کمان میں موجود ہے۔ ص کے صلاح رپورٹ غیر حاضری درج
 روزنامہ کی جاوے۔ ہم مددہ اطلاع درج روزنامہ پور ٹول مدد علیہ مرتب
 کرتے نظر میں کارروائی انہوں نے بالکل فرسٹ میں ارسال ہوئی

حنا علی

ٹول اطلاع اصل ہے


 MHC-KDA
 20-10-16

جناب عالی!

گزارش پیشہ نمائندگی ٹیلیگرام ڈائریجن 964 جو الیور 28
CRF7

روزنامہ 9/6 سے دستاویز غیر جانبدار سے ٹیلیگرام ڈائریجن

کا تنخواہ بندش درخواست مورخہ 22/9 کو ارسال

کیا ہے۔

اس دعا ہے کہ مذکورہ ٹیلیگرام ڈائریجن کے خلاف حکمانہ کارروائی


شروع کرنے کا حکم صادر فرمایا جاوے

تقریر 19/10

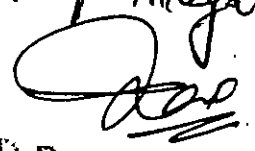
عصمت اللہ عمر رحمانہ KDA

Sir

forwarded


SHO/KDA
20-10-16

JSSU charge sheet and
Summary of Allegation.



D.P.L. KHAN
20-10-16

ستور مار لوئس حوالہ کیا گیا

ال محمد عازان ولد شہر خان سکنہ علی چتر ماڈرن کولون

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0334 8269026

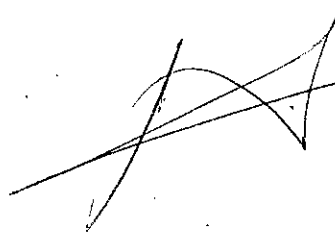



عدالت عالی

کالینیل طالبہ 964 جو کہ نامہ اعمال آرڈینا جیل میں ہے مکہ معافی

گنہگار ہو جو ریاستہائے سندھ میں موجود ہے اور اس حوالہ کیا گیا ہے اور اس

فرجی ہے


DFC KDA
29-10-16


SHO
Police Station
UDA, Kohat

KDA ہے

BEFORE THE HONOABLE KPK SERVICE TRIBUNAL PESHAWAR.

Service Appeal No: 768/2018

Ex-Constable No: 964/ Kohat Range _____ Appellant.

Versus

**The Inspector General of Police
KPK Peshawar and others**

_____ Respondent.

Rejoinder for and on behalf of appellant to the comments, filed by respondents

Respected Sheweth,

Rejoinder to the comments of respondent are as under.

Reply to Preliminary Objection :-

- 1:- That Para No-1 in preliminary Objection is incorrect because the appellant has good cause of action and balance of convenience is also in favor of present appellant and the appeal with in time.
- 2:- That Para No-2 is incorrect to the appellant has been removed from service then after competent authority tribunal has jurisdiction to entertain service appeal as per law and proper law is made for it.
- 3:- That Para No-3 is incorrect ,the appellant has properly file departmentally appeal to the respondent above but in vain having no other alternate remedy except the instant appeal and remaining.
- 4:- That the Para No-4 is incorrect, the appellant feeling aggrieved from the impugned order having no alternate remedy hence approach to the honorable tribunal with clean hand.
- 5- That Para No: 5 is incorrect, the appellant has file the department representation which was not entertain hence approach to this tribunal for the redressal of his grievance with in time as per report of officials of respondents

Facts Reply:-

- 1:-Facts Para No- 1,2 of the facts is legal and pertains to record hence need no comments.
- 2:-Facts Para No- 3 of the facts is incorrect no personal hearing nor any opportunity to cross examine the witness even though that not provided any opportunity of hearing which is already admitted in impugned order and there is no legal cogent available in rejection order which transpired from rejection order.
- 3:-Facts Para No- 4 of the facts is incorrect to the extent that no such factor has been mentioned in impugned order regarding Police Rule 5(3)
- 4:-Facts Para No- 5 of the facts is totally incorrect and against the rules when any official is convicted then the the respondent reply is different and rest of the para will discuss at the time of arguments.

Reply to grounds of comments :-

- 1:-That the Para No-A of the grounds is incorrect appellant being innocent acquitted from all the charges as well as the facts which are mentioned in comments are by respondents are without record.
- 2:- That Para No- b is incorrect the rules ibid not mentioned in the impugned order and respondent properly issued show cause notice and then without following the enquiry rules directly award major punishment .
- 3:-That Para No- C of the grounds of comments of respondents is incorrect and confused one because in the impugned order dismissed on the basis of criminal case while in comments absentee charges explain, which means the appellant is dismissed on the score of absentee.

4:- That Para No- D is incorrect and strange on which will discuss at the time of arguments hence need no comments.

5:- That Para No- E is incorrect nothing available on record which proof the stance of the respondent and even ignored the acquittal order .

6:- That Para No- F of the grounds of comments is incorrect no speaking order is mentioned in rejection of appeal so far as the decision of superior court is binding for every one as mentioned in appeal.

7:- That Para No- G of the grounds of comments is incorrect all aspect and facts were brought in knowledge of respondent in departmental representation but in vain and this legal fact has not explain in comments of respondent .

8:-That Para No-H will discuss at the time of arguments.

9:-That Para I,,of reply is already mentioned in para b hence needs no comments.

10- That Para J is incorrect no single piece of evidence is available on record which Connect the appellant with guilt also acquit from the charges.

11:- That Para K is incorrect it respondent above have no answer to respond before honourable tribunal

12:- That Para L is incorrect the appellant no speaking order is passed which is self explanatory form the impugned order..

13: That Para M is incorrect the appellant is acquitted from all the charges .

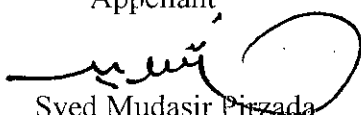
14:-That Para N is incorrect the respondent have no right to allowed to for futher arguments on the basis the respondent have no defense

Prayer:-

On acceptance of this rejoinder the appeal may kindly graciously be accepted and appellant may please be reinstated in service with all back benefits and the instance of the appellant is with in time after releasing from jail on the basis of acquittal and it is also prayed that any other remedy as deemed proper by the honorable tribunal respectively may award please.


Appellant

Through


Syed Mudasir Pirzada
Advocate District Courts
Kohat

DT:- 12-3-20

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

768
Service Appeal No. 178/2020

Muhammad Tahir.....Appellant

V E R S U S

IGP etc.....Respondents

APPLICATION FOR ADJOURNMENT

Respectfully Sheweth:

1. That the above titled appeal is pending adjudication before this Hon'ble Tribunal and is fixed for today i.e. 28.06.2021.
2. That the counsel for appellant is not feeling well due to the reaction of COVID-19 vaccine, therefore, is not in a position to appear before this Hon'ble Tribunal.

It is, therefore, respectfully prayed that on acceptance of this application, the titled case may kindly be adjourned.

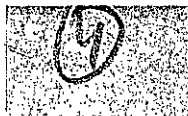
Through

Appellant



Syed Mudasir Pirzada
Clerk of
Syed Mudasir Pirzada
Advocate High Court

Dated: 28.06.2021



BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Restoration Application No. 178/2019

In Service Appeal No. 768/18

Muhammad Tahir ex-Constable No. 964

.....Appellant

VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar & other

..... Respondents

REPLY ON BEHALF OF THE RESPONDENTS.

Respectively Sheweth:-

Reply on behalf of the respondents is submitted as under:-

Preliminary Objections:-

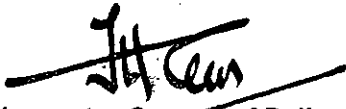
- a) That the application is not maintainable in its present form.
- b) That the applicant is estopped to file the instant application for his own conduct.
- c) That the applicant is not based on facts.

FACTS:-

1. Pertains to record, hence no comments.
2. Para No. 2 of the application is false, as neither counsel for the applicant / appellant, no applicant appeared before the Honorable Tribunal on the date fixed.
3. Incorrect, in previous date of hearing the applicant / appellant had appeared before the Honorable and was in knowledge of date of hearing fixed for 01.04.2019, but counsel for the applicant and applicant himself deliberately did not pursue their appeal.
4. Incorrect, counsel for the applicant was also engaged in appeals of other appellants and due to non-prosecution, the appeals were dismissed in default by this Honorable Tribunal, which speaks of willful non-prosecution of appeals. Copies enclosed.

5. It is very amazing stance of counsel for the applicant as "the appellant appeared on 25.03.2019, date recorded in the diary of the counsel and on inquiry it was revealed that the appeal has been dismissed for non-prosecution on the previous date i.e 01.04.2019".
6. Besides, above para No. 5 of the application is also contradictory to para No. 2 of the application of applicant.
7. The applicant and his counsel deliberately did not appeared before the Honorable Tribunal, therefore, they are responsible for their own conduct.

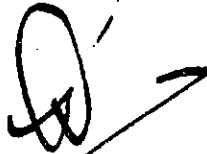
In view of the above, it is submitted that the application is contrary to facts and law. It is therefore, humbly prayed that the application may be dismissed with cost please.



Dy: Inspector General of Police,
Kohat Region, Kohat
(Respondent No. 2)



Inspector General of Police,
Khyber Pakhtunkhwa,
(Respondent No. 1)



District Police Officer,
Kohat
(Respondent No. 3)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Restoration Application No. 178/2019
In Service Appeal No. 768/18
Muhammad Tahir ex-Constable No. 964

.....Appellant


VERSUS


Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar & other

..... Respondents

COUNTER AFFIDAVIT

We; the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of reply to restoration application are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Tribunal.


Dy: Inspector General of Police,
Kohat Region, Kohat
(Respondent No. 2)


Inspector General of Police,
Khyber Pakhtunkhwa,
(Respondent No. 1)


District Police Officer,
Kohat
(Respondent No. 3)

Service Appeal 685 2018

Instable Samin Gul No-701 R/o District Kohat



Khyber Pakhtunkhwa Service Tribunal

Case No. 632

Dated: 27-4-2018

VERSUS

- 1:-INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
- 2:-DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
- 3:-DISTRICT POLICE OFFICER KOHAT.

(Respondent)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 15-01-2014 VIDE NO 69 IN WHICH THE RESPONDENT NO:-3 UPON THE REPORT OF ENQUIRY OFFICER REMOVED THE APPELLANT FROM SERVICE WITH EFFECT FROM 22-06-2013 THE APPELLANT PREFERRED DEPARTMENTAL REPRESENTATION AND THE RESPONDENT GIVEN FALSE CONSOLATION THAT REPRESENTATION WILL BE ACCEPTED BUT THE SAME WAS REJECTED ON DATED 07-03-2014.

Prayer:

01.04.2019

Nemo for appellant. Addl. AG alongwith Ishaq Gul, DSP (Legal) for the respondents present.

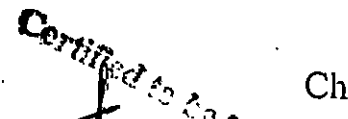
It is already past 4.00 PM and no one is in attendance to represent the appellant despite repeated calls.

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


Member


Chairman

ANNOUNCED
01.04.2019

Certified to be true copy

 Khyber Pakhtunkhwa Service Tribunal, Peshawar

Date of Presentation of Appeal 12-4-19
 Name of the Appellant Samina Gul
 Copy of the Appeal 4
 Legal 4
 Total 4
 Name of the Officer [Signature]
 Date of Completion of the Appeal 18-5-19
 Date of Delivery of Copy 18-5-19



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

Service Appeal No. 851 2014

893
13/6/2014

Inspector Mazhar Jehan S/o Jahan Khan R/o Barh Tehsil & District Kohat (Presently) Counter Terrorism Department Police Line Kohat
..... (Appellant)

VERSUS



1. Deputy Inspector General of Police, Kohat Region
2. Provincial Police officer / Inspector General of Police KPK Peshawar

..... (Respondents)

APPEAL U/S 4 of Service Tribunal Act 1974 against the impugned order No. 1714 / E C dated Kohat 12-02-2013 of the respondent No. 1 who awarded punishment for feature of 2 years approved service of the appellant.

PRAYER:

On acceptance of this appeal, the impugned order dated 12-02-2013 awarded punishment mentioned above of respondent No. 1 to the appellant may kindly be set-aside and also other suitable remedy may kindly be granted.

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13/6/14

ATTESTED

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal

15.04.2019

None present on behalf of the appellant. Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Ishaq Gul, DSP (Legal) for the respondents present. Notice be issued to appellant and his counsel for attendance and arguments for 13.06.2019 before D.B.

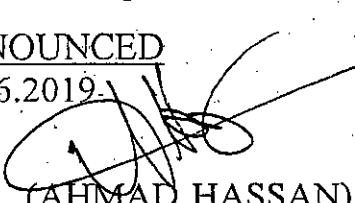

(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

13.06.2019


None present on behalf of the appellant. Mr. Kabirullah Khattak, Additional AG for the respondents present. Called several times till 4:00 PM but no one appeared on behalf of the appellant nor he was present in person. Therefore, the appeal in hand is dismissed in default. File be consigned to the record room.

ANNOUNCED
13.06.2019


(AHMAD HASSAN)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application	1-8-2019
Number of Words	300
Copying Fee	1200
Urgent	4
Total	16
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Date of Completion of Copy	1-8-2019
Date of Delivery of Copy	1-8-2019

13/12

~~Munawar Khan M H~~

~~351/19 Said Kamil Shah 02/12~~

~~1/19 Saeeda Akhlu~~

~~908/15 Gul Mah~~

~~191/19 Jawaid Khan~~

~~29/19 Sahar Gul~~

~~352/19 Dr. Abdul Ghafoor~~

~~363/19 Talat Farid~~

~~13/19 Rahim Daul~~

10/12

~~909/13 Marsool Akhlu~~

چالان تکمیل زیر دفعہ 173 ض ف

مقدمہ نمبر 677

تاریخ: 17-10-1964

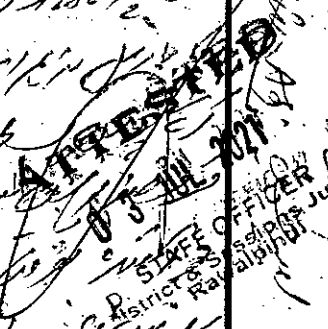


مقدمہ نمبر 677 مورخہ 9/6/64 جرم 9-C

1 نام و پتہ پیشہ یا اطلاع دہندہ	2 نام پتہ مکان گزار پتے کے ساتھ محل درمیان	3 نام پتہ مکان جو چالان کے لئے		5 تصیل نام اگر کوئی ہو	6 نام و پتہ گواہان
		گرفزار	پر ضمانت		
	90				مختصر حالات مقدمہ 164 No 10-10-17
<p>Handwritten notes and signatures are present in this section, including a large signature across the middle and a stamp from the District Court, Rawalpindi.</p>					

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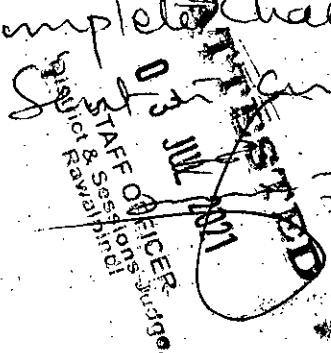
Kamra
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تعمیراتی

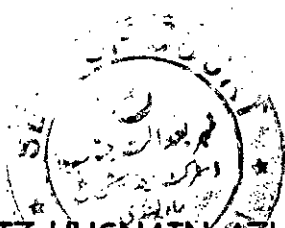
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Kamra
 19-9-16

Incomplete Challan
 Superintendent



21-9-16



IN THE COURT OF JUDGE HAFIZ HUSNAIN AZHAR SHAH
ADDL: SESSIONS JUDGE / JUDGE SPECIAL COURT, CNS,
RAWALPINDI

Narcotics Case No.164 of 2017

THE STATE

Through Sikandar Hayat S.I, Police Station Pirwadhai,
 Rawalpindi.

(Complainant)

VERSUS

Muhammad Tahir s/o Muhammad Munir, Caste Bangash, resident of Mir
 Ahmed Khel, Tehsil & District Kohat (KPK),

(Accused)

F.I.R No.677 Dated 06.09.2016
Offence u/s 9(c) of the CNSA, 1997
Police Station Pirwadhai: Rawalpindi

Date of Decision 06.02.2018

=====

Present:- Accused Muhammad Tahir on bail.
 Rana Saadat Ali, learned ADPP for the State.
 Mr. Tahir Mehmood Abbasi Advocate for defense.

JUDGMENT

This case has been registered against accused Muhammad
 Tahir s/o Muhammad Munir under Section 9(c) of the Control of
 Narcotics Substance Act, 1997 registered at Police Station Pirwadhai:
 Rawalpindi and accused has been facing trial in captioned narcotics case.

2. Succinct of the prosecution story given in the complaint
 (Exh.PA) is that on 06.09.2016 the complainant Sikandar Hayat S.I/I.O
 (Pw-5) in connection with investigation of case F.I.R No.676 dated
 06.09.2016 under Section 9(c) of the Control of Narcotics Substance Act,
 1997 Police Station Pirwadhai was present at Picket at main road Magallah
 Pirwadhai. At about 12:10 p.m the accused came there and his physical
 search was conducted, when from his dub of shalwar chas garda-numa

Hafiz Husnain Azhar Shah
 06-02-2018
 Husnain Azhar Shah
 Addl. District & Sessions Judge
 Rawalpindi

ARRESTED
 06 JUL 2017
 DISTRICT & SESSIONS JUDGE
 RAWALPINDI





The State v. Muhammad Tahir
 Case FIR No.677/2016 u/s 9(c) CNSA P.S Pirwadhai:

22

wrapped in yellow colour tape 1 1/2 packet was recovered which was weighed and found 1280 grams. Apart from char's garda-numa, personal belongings of accused and amount was also recovered. The case property, personal belongings of accused and amount were taken into possession. The whole case property was sent for chemical analysis whereupon Narcotics Analysis Report Exh.PE was received in positive. Hence, this case under Section 9(c) of the Control of Narcotics Substance Act, 1997 against the accused.

3. On receipt of report u/s 173 of Cr.P.C., copies as required u/s 265-C of Cr.P.C were delivered to the accused and he was formally charge sheeted on 22.11.2016 to which he pleaded not guilty and claimed trial, therefore, the prosecution evidence was summoned.

4. In order to prove prosecution's case, the following prosecution witnesses appeared in the witness box:-

PW-1 Zahoor Ahmed 4538/HC, is Moharrir Malkhana who kept the sealed parcels after receiving from Sikandar Hayat Haideri S.I/I.O and handed over same to Amir Husain A.S.I on 09.09.2016 for depositing in PFSA Lahore.

PW-2 Muhammad Masood S.I, is duty officer and author of F.I.R (Exh.PA).

PW-3 Amir Hussain A.S.I, He deposited the sample parcel at PFSA Lahore.

PW-4 Muhammad Ali 5744/C, is one of the recovery witnesses. He narrated the entire story of recovery.

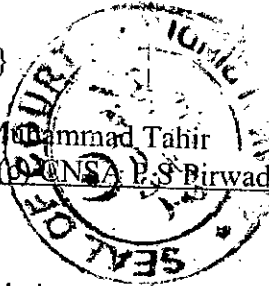
PW-5 Sikandar Hayat S.I/I.O, is complainant and I.O of the case in hand. He drafted complaint (Exh.PA), prepared recovery memos (Exh.PB and Exh.PC) and rough site sketch (Exh.PD).

Husnain Azhar Shah
 Addl. District & Sessions Judge
 Rawalpindi

ATTESTED
 03 JUL 2021
 STAFF OFFICER
 District & Sessions Judge
 Rawalpindi

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The State v. Muhammad Tahir
Case FIR No.677/2016 u/s 9(b)(i)(NS) P.S Pirwadhai:

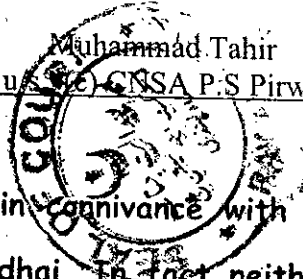


5. Learned ADPP for the State gave-up one of the recovery witnesses Javid Iqbal 5804/C being unnecessary, tendered the Narcotics Analysis Report (Ex.PE) and closed the prosecution evidence.
6. On closure of the prosecution evidence by the learned ADPP, the accused was examined u/s 342 of the Cr.P.C and entire prosecution story / evidence was put to him.
7. The accused opted to produce defense evidence, however, did not opt to himself appear under Section 340(2) Cr.PC.
8. In reply to various questions, the accused deposed that:-
 "It is incorrect, in fact Muhammad Ali constable illegally took away me from G-9 Markaz Islamabad alongwith Zahid Ullah due to his grudge with Zahid Ullah, while I and Zahid Ullah were going to hospital for zahid's checkup but Muhammad Ali constable due to his grudge with Zahid Ullah on account of an altercation taken place between them as the above said constable alleged Zahid Ullah for having possession of forged documents of his vehicle but when the registration book of the vehicle turned out genuine one and whereupon when we protested to Muhammad Ali constable leveling false allegation of forgery on me and Zahid Ullah. The hot words were exchanged between us and the constable on 04.09.2016. Moreover, after the above social incident Muhammad Ali constable brought me and Zahid Ullah in his illegal custody to Police Station Pirwadhai, Rawalpindi, where he leveled allegation of terrorism, upon us and also demanded bribe of Rs.20,00,000/- which was refused by me and Zahid Ullah. Whereupon the constable got registered the present false and concocted case against us under the

06-02-2018
 Husnain Azhar Shah
 Addl. District & Sessions Judge
 Rawalpindi

ATTESTED
 03 JUL 2018
 STAFF OFFICER
 District & Sessions Judge
 Rawalpindi

The State v. Muhammad Tahir
Case FIR No.677/2016 u/s (C) CNSA P.S Pirwadhaj:



provision of CNSA in connivance with police officials of Police Station Pirwadhaj. In fact neither any occurrence took place nor any recovery affected from me and Zahid Ullah. Police conducted all there fake proceedings while sitting in the Police Station.

It is incorrect, in fact neither any occurrence took place nor any recovery affected from me. Police conducted all there fake proceedings while sitting in the police station.

Police also mentioned fake place of recovery and the proceedings and parcel was also fake. I have no concern whatsoever, with the alleged F.I.R, so Exh.PA-1 is false.

It is incorrect, in fact neither any occurrence took place nor any recovery affected from me and Zahid-Ullah. Police conducted all these fake proceedings while sitting in the Police Station. Police also mentioned fake place of recovery and proceedings and parcel was also fake. I have no concern whatsoever, with the alleged recovery.

It is incorrect; in fact Muhammad Ali constable illegally took away me and Zahid-Ullah from G-9 Markaz Islamabad. I with Zahid-Ullah was going to hospital for Zahid's checkup but Muhammad Ali constable due to his grudge with me and Zahid-Ullah on account of an altercation taken place between him and us as. The above said constable alleged us for having possession of forged documents of his vehicle but when the registration book of the vehicle turned out genuine one and there upon and Zahid-Ullah protested to Muhammad Ali constable for leaving false allegation of forgery on us, the hot words were exchanged between me, Zahid-Ullah and constable

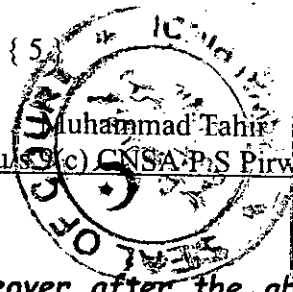
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Husnain Azhar Shah
06-02-2018
Husnain Azhar Shah
Addl. District & Sessions Judge
Rawalpindi

ARRESTED
05 JUL 2018
STAFF OFFICER
DISTRICT & Sessions Judge
Rawalpindi

35

The State v. Muhammad Tahir
Case FIR No.677/2016 u/s 9(c) CNSA P.S Pirwadhai:



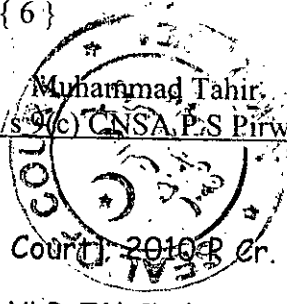
on 04.09.2016. Moreover after the above said incident Muhammad Ali constable brought me and Zahid Ullah in his illegal custody to Police Station Pirwadhai, Rawalpindi. Where he leveled allegations of terrorism upon me and Zahid Ullah and also demand bribe of Rs. 20,00,000/- which was refused by us. Where upon the constable got registered the present false and concocted case against me and Zahid Ullah. Under the provision of CNSA in connivance with police officials of Police Station Pirwadhai. In fact neither any occurrence took place nor any recovery affected from me. Police conducted all these fake proceedings while sitting in the Police Station."

9. Mr. Tahir Mehmood Abbasi Advocate for defense argued that accused has falsely been involved in this case; that none from public was associated, thus alleged recovery is violation of Section 103 Cr.P.C; that there are major contradictions and discrepancies in the prosecution evidence; that in the prosecution story, the recovered contraband charrs garda-numa is alleged to be weighing 1280 grams and whole the case property was sent for chemical analysis whereas the Narcotics Analysis Report Exh.PE shows its weight only 1250 grams; that there are sufficient differences in prosecution evidence which totally dismantle the prosecution case; that the complainant and I.O is same which is not allowed as per police rules; He further argued that all above make the case of the prosecution doubtful. Learned defense counsel in support of his arguments has relied upon NLR 1994 SD 614; 1994 P Cr. LJ 1618 [Federal Shariat Court]; 2001 P Cr. LJ 1762 [Karachi]; 2004 P Cr. LJ 218 [Federal Shariat Court]; 2004 YLR 3267 [Karachi]; 2006 YLR 2979 [Lahore]; 2008 YLR 1003 [Lahore]; PLJ 2009 Cr.C (Lahore) 741 [Multan Bench Multan]; 2009 YLR 1307 [Karachi]; 2009 P Cr. LJ 1334 [Lahore];

106-97-2018
Husnain Azhar Shah
Addl. District & Sessions Judge
Rawalpindi

ARRESTED
07 JUL 2017
STAFF OFFICER

The State v. Muhammad Tahir
Case FIR No.677/2016 u/s 9(c) CNSA, P.S Pirwadhaj



2010 P Cr. LJ 157 [Federal Shariat Court], 2010 P Cr. LJ 348 [Peshawar]; 2010 P Cr. LJ 360 [Karachi]; 2013 YLR 711 [Lahore]; 2013 P Cr. LJ 1185 [Sindh]; 2014 P Cr. LJ 882 [Peshawar]; 2015 P Cr. LJ 1762 [Sindh]; 2015 YLR 1786 [Peshawar]; 2016 MLD 2057 [Lahore] and lastly argued that it is a basic principle of administration of justice in the criminal cases that even a single doubt in the prosecution case, is sufficient to extend benefit to the accused as the case in hand and prayed for acquittal of the accused.

10. On the other hand, Rana Saadat Ali learned ADPP opposed the defense story and contended that prosecution has proved its case beyond any shadow of doubt. He further argued that there was no element of animus and malafide on the part of the police to implicate him falsely in the case and if any minor discrepancy and inconsistency exists in the prosecution evidence, it cannot affect the recovery from the accused. Learned ADPP requested that accused be awarded severe punishment.

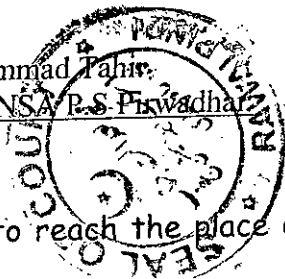
11. Arguments heard and record perused.

12. Perusal of record shows that there are major discrepancy in the depositions of Pw-4 as in the first two lines of cross-examination the witness states: It is correct that the accused Muhammad Tahir was also apprehended from the same vehicle from which the accused Zahid Ullah was apprehended on the same date. The complaint (Exh.PA) as well as the evidence of complainant (Pw-5) shows that it was the time when the complainant was busy in investigation of earlier case F.I.R No.676 of same date. If both the accused, Zahid Ullah and Muhammad Tahir were apprehended from one vehicle, then it is astonishing to note that why the separate cases were registered on same date against the accused which makes the case of prosecution doubtful.

Another aspect of this case makes it doubtful that Pw-4 in reply to a question mentioned: We departed from Police Station at about

Husnain Azhar Shah
06-02-2018
Husnain Azhar Shah
Addl. District & Sessions Judge
Rawalpindi

ATTESTED
03 JUL 2018
STATION OFFICER
District & Sessions Judge
Rawalpindi



08:00 a.m. The way was rushy, so it took to reach the place of recovery about 15 minutes.

14. It is also necessary to mention regarding contradiction of both the recovery witness and complainant that Pw-4 deposed: "We departed from Police Station at about 08:00 a.m on taxi" whereas the complainant states: At this stage I don't remember my statement in case of Zahid Ullah, where I deposed that I proceeded to recovery place on foot". These depositions of both the prosecution witnesses are fatal to the story of prosecution.

15. It is also important to note that Pw-4 stated that whole the proceeding of both the accused took about 03:30/04:00 hours whereas the Pw-5 states proceeding period about 1½ hour.

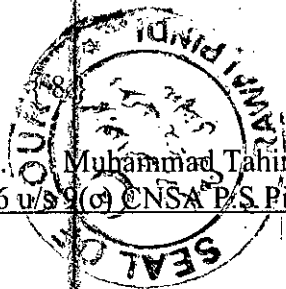
16. The learned defense counsel has produced in defense the attested copy of narcotics case F.I.R No.676 of same date 06.09.2016 offence under Section 9(c) of the Control of Narcotics Substance Act, 1997 as Exh.DA wherein the report under Section 173 Cr.PC, charge against accused Zahid Ullah, evidence and judgment are included. No doubt the said judgment is not binding upon this court, but one thing is clear that both Zahid Ullah and present accused Muhammad Tahir were allegedly travelling in the same vehicle and as such were de-boarded/ apprehended at the same time and admittedly the said accused Zahid Ullah was acquitted by the court learned Sessions Judge Rawalpindi vide judgment dated 25.08.2017. These circumstances, also make ambiguity and doubt in the case in hand that what was the procedural requirement to lodge the separate criminal cases.

Another fact Pw-4 states during his cross-examination chars garba was slab-numa 1½ packet and the Pw-5 also quoted it 1½ packet and later stated that "I prepared 01 sealed parcel of complete 1½ packet" but when the contraband was de-sealed in the court, it was in one piece.

Husnain Azhar Shah
Addl. District & Sessions Judge
Rawalpindi
06-02-2018

ATTESTED
03 JUL 2017
STAFF OFFICER
District & Sessions Judge
Rawalpindi

The State v. Muhammad Tahir
Case FIR No.677/2016 u/s 9(a) CNSA P/S Pirwadhai.

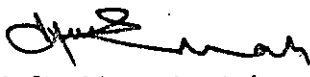


Furthermore the Pw-5 during cross-examination, to the reply of a question stated "I sent whole contraband to PFSA and after return now it is 01 piece and volunteered that after return from PFSA the contraband is now in present shape, which fact has also made the case of prosecution doubtful.

18. The case of prosecution becomes further doubtful to the extent of weight of the allegedly recovered contraband from the present accused as in the complaint, recovery memo and evidence its weight has been mentioned 1280 grams whereas the Narcotics Analysis Report (Exh.PE) shows its weight 1250 grams.

19. From the above mentioned factors the case against the accused is flatly doubtful, so I conclude that the prosecution has miserably failed to prove its case against accused beyond any shadow of doubt whereas slightest doubt goes in favour of accused; therefore, extending benefit of doubt, accused Muhammad Tahir s/o Muhammad Munir is acquitted from this case. The accused is on bail, so surety is released from the liability of bail bonds. The case property be kept intact till the decision of appeal/revision and then be destroyed as per law. File consigned to the record room after its due completion and compilation.

Announced.
06.02.2018.


(Judge Hafiz Husnain Azhar Shah)
Additional Sessions Judge/
Judge Special Court CNS
Rawalpindi

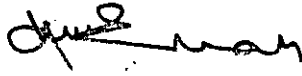
06-02-2018

Certified that this judgment consists of eight (08) pages, which have been dictated, read, corrected and signed by me wherever required and announced in open court.

06.02.2018



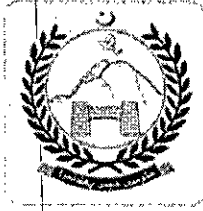
TESTED
03 JUL 2021
STAFF OFFICER
District & Sessions Judge
Rawalpindi


Additional Sessions Judge/
Judge Special Court CNS
Rawalpindi

06-02-2018
Husnain Azhar Shah
Addl. District & Sessions Judge
Rawalpindi

Application No. 53639
Date: 3/27/20
11
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3/27/20
MLK

3/27/20



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 2190 /ST

Dated: 03/11 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262


To

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

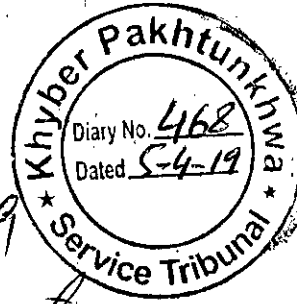
Subject: JUDGMENT IN APPEAL NO. 768/2018, MR. MUHAMMAD TAHIR.

I am directed to forward herewith a certified copy of Judgement dated 04.10.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR



Service Appeal No. 768/18

Restoration Appli. no. 178/19

Muhammad Tahir *No - 768* R/o *District Kohat*

Appellant

VERSUS

Inspector General of Police KPK Peshawar.etc

Respondent

**APPLICATION FOR RESTORATION OF SERVICE APPEAL WHICH WAS
DISMISSED FOR NON PROSECUTION**

Respectfully sheweth.

1. That the captioned Service Appeal was pending in this hon'ble court and was fixed for submission of rejoinder as well as for arguments.
2. That due to inadvertent omission and misunderstanding the clerk of the counsel of petitioner noted date of hearing 01\05\2019 instead of 01\04\2019.
3. That due to the reason the correct date was not conveyed to the appellant which led nonappearance of the appellant before this hon'ble court
4. That the nonappearance of the appellant or his counsel is not intentional but due to the misunderstanding of the date noted in the diary of the counsel.
5. That appellant appeared on 25\03\2019 the dated recorded in the diary of the counsel and on inquiry it was revealed that the appeal has been dismissed for non prosecution on the previous date i.e.

01\04\2019

6. That becoming to know the factum of dismissal for non prosecution the appellant has filed the application promptly without any delay

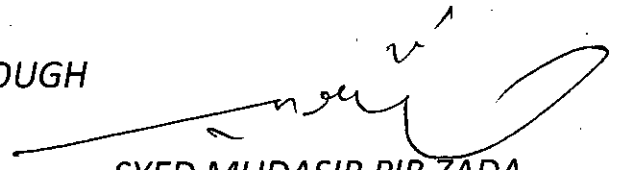
7. That if the appeal was not restored to its original numbers the appellant shall suffer irreparable loss. law does require a lis to be to be adjudicate upon on merits rather that to be dismissed on mere technicalities, hence this petition.

it is therefore respectfully prayed that this hon'ble court may be pleased to accept this petition and be further pleased to restore the appeal dismissed for non prosecution on its original number so as to be disposed on merits in accordance with law.



APPELLANT

THROUGH



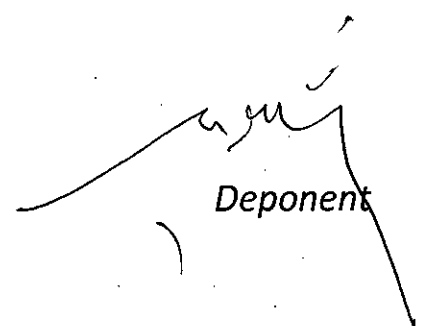
SYED MUDASIR PIR ZADA

ADVOCATE

HIGH COURT PESHAWAR

AFFIDAVIT.

AS PER INSTRUCTION of my client that all 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 court



Deponent

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal 768 2018

1024
01-6-2018

Ex- Constable Muhammad Tahir No- 964 District Police QRF-7 Kohat

(Appellant)



VERSUS

- 1:-INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
- 2:-DEPUTY INSPECTOR GENERAL OF POLIEC KOHAT REGION KOHAT
- 3:-DISTRICT POLICE OFFICER KOHAT.

(Respondent)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 04-01-2017 VIDE OB-NO 13 IN WHICH THE RESPONDENT NO:-3 UPON THE FINAL SHOW CAUSE NOTICE DATED 25-10-2016 DISMISS THE APPELLANT FROM SERVICE ON THE BASIS OF FAKE CRIMINAL CASE DATED 06-09-2016 AND AFTER ACQUITTAL APPELLANT PREFERED DEPARTMENTAL REPRESENTATION DATED 16-02-2018 AND THE RESPONDENT GIVEN FALSE CONSOLATION THAT REPRESENTATION WILL BE ACCEPTED BUT THE SAME WAS REJECTED ON DATED 11-05-2018 .

01.04.2019

Nemo for appellant. Addl. AG alongwith Ishaq Gul, DSP (Legal) for the respondents present.

It is already past 4.00 PM and no one is in attendance to represent the appellant despite repeated calls.

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

Certified to be true copy
Khyber Pakhtoon Khwa
Service Tribunal,
Peshawar

[Signature]
Member

[Signature]
Chairman

ANNOUNCED
01.04.2019

Date of Presentation of Application 05-04-78
Number of Words 400
Copying Fee 4.00
Urgent 2.00
Total 6.00
Name of Copyist [Signature]
Date of Completion of Copy 05-04-78
Date of Delivery of Copy 05-04-78

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

Restoration Application No. 178/2019
In Service Appeal No. 768/18
Muhammad Tahir ex-Constable No. 964

.....Appellant

VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar & other

..... Respondents

REPLY ON BEHALF OF THE RESPONDENTS.

Respectively Sheweth:-

Reply on behalf of the respondents is submitted as under:-

Preliminary Objections:-


- a) That the application is not maintainable in its present form.
- b) That the applicant is estopped to file the instant application for his own conduct.
- c) That the applicant is not based on facts.


FACTS:-

1. Pertains to record, hence no comments.
2. Para No. 2 of the application is false, as neither counsel for the applicant / appellant, no applicant appeared before the Honorable Tribunal on the date fixed.
3. Incorrect, in previous date of hearing the applicant / appellant had appeared before the Honorable and was in knowledge of date of hearing fixed for 01.04.2019, but counsel for the applicant and applicant himself deliberately did not pursue their appeal.
4. Incorrect, counsel for the applicant was also engaged in appeals of other appellants and due to non-prosecution, the appeals were dismissed in default by this Honorable Tribunal, which speaks of willful non-prosecution of appeals. Copies enclosed.

5. It is very amazing stance of counsel for the applicant as “the appellant appeared on 25.03.2019, date recorded in the diary of the counsel and on inquiry it was revealed that the appeal has been dismissed for non-prosecution on the previous date i.e 01.04.2019”.
6. Besides, above para No. 5 of the application is also contradictory to para No. 2 of the application of applicant.
7. The applicant and his counsel deliberately did not appeared before the Honorable Tribunal, therefore, they are responsible for their own conduct.

In view of the above, it is submitted that the application is contrary to facts and law. It is therefore, humbly prayed that the application may be dismissed with cost please.


Dy: Inspector General of Police,
Kohat Region, Kohat
(Respondent No. 2)


Inspector General of Police,
Khyber Pakhtunkhwa,
(Respondent No. 1)


District Police Officer,
Kohat
(Respondent No. 3)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Restoration Application No. 178/2019

In Service Appeal No. 768/18

Muhammad Tahir ex-Constable No. 964

.....Appellant


VERSUS


Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar & other

..... Respondents

COUNTER AFFIDAVIT

We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of reply to restoration application are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Tribunal.


Dy: Inspector General of Police,
Kohat Region, Kohat
(Respondent No. 2)


Inspector General of Police,
Khyber Pakhtunkhwa,
(Respondent No. 1)


District Police Officer,
Kohat
(Respondent No. 3)

Service Appeal 685 2018

Unstable Samin Gul No-701 R/o District Kohat



Khyber Pakhtunkhwa Service Tribunal

Case No. 632

Dated 27-4-2018

VERSUS

- 1:-INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
- 2:-DEPUTY INSPECTOR GENERAL OF POLIEC KOHAT REGION KOHAT
- 3:-DISTRICT POLICE OFFICER KOHAT.

(Respondent)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 15-01-2014 VIDE NO 69 IN WHICH THE RESPONDENT NO:-3 UPON THE REPORT OF ENQUIRY OFFICER REMOVED THE APPELLANT FROM SERVICE WITH EFFECT FROM 22-06-2013 THE APPELLANT PREFERRED DEPARTMENTAL REPRESENTATION AND THE RESPONDENT GIVEN FALSE CONSOLATION THAT REPRESENTATION WILL BE ACCEPTED BUT THE SAME WAS REJECTED ON DATED 07-03-2014.

01.04.2019

Nemo for appellant. Addl. AG alongwith Ishaq Gul, DSP (Legal) for the respondents present.

It is already past 4.00 PM and no one is in attendance to represent the appellant despite repeated calls.

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

[Signature]
Member

[Signature]
Chairman

ANNOUNCED
01.04.2019

Certified to be true copy

 Khyber Pakhtunkhwa Service Tribunal, Peshawar

Date of Presentation 12-4-18
 Number of Witnesses 4
 Copies for 4
 Urgent 4
 Total 4
 Name of C. O. [Signature]
 Date of Completion of Copy 18-5-18
 Date of Delivery of Copy 18-5-18

ray:



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

Service Appeal No. 851 2014

893
13/6/2014

Inspector Mazhar Jehan S/o Jahan Khan R/o Barh Tehsil & District Kohat (Presently) Counter Terrorism Department Police Line Kohat
..... (Appellant)

VERSUS



1. Deputy Inspector General of Police, Kohat Region
2. Provincial Police officer / Inspector General of Police KPK Peshawar

..... (Respondents)

APPEAL U/S 4 of Service Tribunal Act 1974 against the impugned order No. 1714 / E C dated Kohat 12-02-2013 of the respondent No. 1 who awarded punishment for -feature of 2 years approved service of the appellant.

PRAYER:

On acceptance of this appeal, the impugned order dated 12-02-2013 awarded punishment mentioned above of respondent No. 1 to the appellant may kindly be set-aside and also other suitable remedy may kindly be granted.

[Handwritten signature]
13/6/14

ATTESTED

[Handwritten signature]

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal

15.04.2019

None present on behalf of the appellant. Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Ishaq Gul, DSP (Legal) for the respondents present. Notice be issued to appellant and his counsel for attendance and arguments for 13.06.2019 before D.B.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

13.06.2019

None present on behalf of the appellant. Mr. Kabirullah Khattak, Additional AG for the respondents present. Called several times till 4:00 PM but no one appeared on behalf of the appellant nor he was present in person. Therefore, the appeal in hand is dismissed in default. File be consigned to the record room.


ANNOUNCED

13.06.2019


(AHMAD HASSAN)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 1-8-2019
Number of Words 800
Copying Fee 1200
Urgent 4
Total 16
Name of Copyist df
Date of Completion of Copy 1-8-2019
Date of Delivery of Copy 1-8-2019

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Khyber Pakhtukhwa
Service Tribunal

Service Appeal 854 / 2016

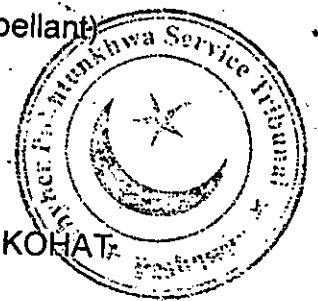
Diary No. 877

Dated 24-8-2016

Ex-Inspector/ SI Ghulam Murtaza S/o Ghulam Mustafa R/o Khattak Colony Kohat

(Appellant)

VERSUS



1. INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT.
3. DISTRICT POLICE OFFICER KOHAT.

(Respondent)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 24-03-2016 VIDE OB-NO-263 IN WHICH THE RESPONDENT NO:-3 UPON THE RECOMMENDATION FROM PRELIMINARY ENQUIRY AWARDED THE PUNISHMENT OF REVERSION FROM THE RANK OF INSPECTOR TO SUBINSPECTOR AND THE APPELLANT PREFERRED DEPARTMENTAL REPRESENTATION DATED 22-04-2016 AND THE RESPONDENT GIVEN FALSE CONSOLATION THAT REPRESENTATION WILL BE ACCEPTED BUT THE SAME WAS REJECTED ON DATED 28-07-2016.

22.11.2018

Appellant absent. Learned counsel for the appellant absent. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Mr. Ishaq Gul DSP legal representative of respondents present. However no one appeared on behalf of appellant despite of repeated calls. Earlier, the present service appeal was also dismissed for want of prosecution vide order dated 12.01.2017. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.

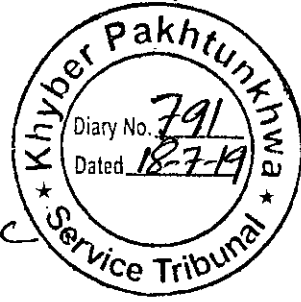
Date of Presentation of Appeal 2
Number of Pages 4/52
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Total 4.02
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Date of Completion of Copy 03

[Signature]
Member

Certified to be true copy

[Signature]

Before The KPK Service Tribunal Peshawar



Muhammad Tahir v/s IGP- etc
Appellant
Respondt.

put up to the court with
relevant appl.

Leads

R/Shewellin,

Service Appeal. No: 768/18
18/7/19
Police
Deptt:

Appellant states as Under.

- i) That above mentioned Service appeal is pending adjudicate before the Tribunal and next date is fixed for arguments on restoration application i.e 19 $\frac{7}{19}$.
- ii) That the appellant Council since long engaged in the treatment of mother who is at very verge of life and under treatment at AFIC Islamabad.
- iii) That due to above reason the Council is unable to appear before honourable tribunal.

Therefore it is humbly prayed the date may graciously be adjourned.

Appellant

through

Syed Mudasir Pirzada
Advocate PHC

DT :- 18/7/19