

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1109/2018

Date of Institution ... 17.08.2018

Date of Decision ... 01.09.2021

Muhammad Bilal Ex-Constable 166 District Karak.

... (Appellant)

VERSUS

District Police Officer Karak, and one other.

... (Respondents)

UZMA SYED

Advocate

... For Appellant

MUHAMMAD RASHEED

Deputy District Attorney

... For Respondents

SALAH-UD-DIN

ATIQ-UR-REHMAN WAZIR

...

...

MEMBER (JUDICIAL)

MEMBER (EXECUTIVE)

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the case are that the appellant was appointed as Constable in police department. During the course of his service, Naib Amir Jumāt-e- Islami District Karak submitted a complaint against the appellant, alleging therein that the appellant had used abusive comments on his facebook page against two reputed persons seated with the provincial Amir Jamat-e-Islami on the eve of participatory at *Nari Panos* and misguided the general public. The appellant was departmentally proceeded against on the said complaint and on conclusion of the inquiry he was dismissed from service vide order dated 03.05.2018. Feeling aggrieved, the appellant filed departmental appeal, which was partially accepted and the penalty of dismissal was converted into the penalty of

stoppage of one increment without accumulative effect and the intervening period was treated as leave without pay, against which the appellant filed the instant service appeal with prayers that the order dated 22-06-2018 may be modified to the extent to restore the increment of the appellant and the intervening period may be treated as with all pay and back benefits.

02. Learned counsel for the appellant has contended that the dismissal order dated 03-05-2018 in respect of the appellant was set aside by the appellate authority vide order dated 22-06-2018 and re-instated him into service, but imposition of minor penalty of stoppage of one increment and treating the intervening period as leave without pay is illegal and contrary to the norms of natural justice, as setting aside the dismissal order dated 03-05-2018 means that the appellant was innocent, so treating the period as without pay has no legal backing and is liable to be modified; that while imposing minor penalty of stoppage of increment, no time period has been mentioned, which is violation of FR-29 as well as E&D Rules, 2011; that section-17 of the Civil Servant Act, 1973 provides that where a civil servant has, under an order which is later set aside, been dismissed or removed from service or reduced in rank, he shall, on the setting aside of such order, be entitled to such arrears of pay as the authority setting aside such order may determine; that this Tribunal vide judgments in Service Appeals No 318/2016, 510/2016 and 1003/2017 has already granted such relief in similar cases; that the apex court vide its judgments reported in 1999 SCMR 1873, 2013 SCMR 752, 2010 PLC (CS) 151 have held that after re-instatement, the respondents shall not deny back benefits to a civil servant.

03. Learned Deputy District Attorney appearing on behalf of respondents has contended that the allegations/charges against the appellant were established by the inquiry officer, hence he was dismissed from service vide order dated 03-05-2018, after observing all the codal formalities; that upon his departmental appeal, the major penalty of dismissal was converted into minor penalty of stoppage of one increment and treating the intervening period as leave without pay, which was

accordingly implemented; that the appellant being member of a disciplined force had committed a gross misconduct which was established against him beyond any shadow of doubt, however, the appellate authority took a lenient view and his major penalty was converted into minor penalty; that the appellant was treated in accordance with law and rule; that the appellant remained out of service for the period from his dismissal until his re-instatement, therefore the appellant is not entitled for the salary for the intervening period on the principle of no work no pay.


04. We have heard learned counsel for the parties and have perused the record. Record reveals that the appellant was proceeded against on the complaint of a religious leader, who alleged that some inappropriate material was uploaded by the appellant on his facebook page against the said local leader, upon which the competent authority initiated disciplinary proceedings against him and was ultimately dismissed from service vide order dated 03-05-2018. The appellant however, was re-instated into service by the appellate authority vide order dated 22-06-2018 but with stoppage of increment and treating the intervening period (one month and nineteen days) as leave without pay, which was challenged by the appellant in this Tribunal.

05. It has been laid down through judgments of the Apex Courts as well as this Tribunal that grant of back benefits to an employee, who was re-instated by a Court/Tribunal or the department, was a rule and denial of such benefit was an exception. The appellant was held back from the performance of his duty with the respondent department owing to the departmental proceedings against him, which was a circumstance beyond his control, whereas the said proceedings finally were decided in his favor. The only exception justifying to withhold back benefits could be that he accepted some other gainful employment/engaged in profitable business during the intervening period, which is not the case here. The reinstatement of an employee means that there has been no discontinuance in his service and for all intent and purposes, he shall be deemed to have never left his post, therefore, the intervening period from 03-05-2018 to 22-06-2018 shall be considered as on duty

and accordingly the appellant is entitled to such benefits. Reliance is placed on 1999 SCMR 1873, 2010 PLC(CS) 151, 2006 SCMR 421, 2013 SCMR 752. The appellant stated at the bar that the issue of stoppage of increment has already been settled.

06. With the observations herein above, the appeal in hand is accepted and the appellant is held entitled to the benefits for the period from 03-05-2018 to 22-06-2018. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
01.09.2021



(SALAH-UD-DIN)
MEMBER (JUDICIAL)



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

ORDER

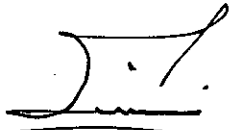
01.09.2021

Miss Uzma Syed, Advocate for the appellant present. Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is accepted and the appellant is held entitled to the benefits for the period from 03-05-2018 to 22-06-2018. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

01.09.2021



(SALAH-UD-DIN)
MEMBER (JUDICIAL)



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

04.02.2021

Due to COVID-19, the case is adjourned for the same on 03.05.2021 before D.B.


READER

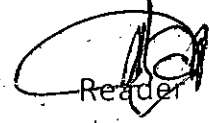
3.5.2021

Due to COVID-19, the case is adjourned to 1-9-2021 for the same.


Reader

13.5 .2020

Due to COVID19, the case is adjourned to
5/8/2020 for the same as before.


Reader

05.08.2020


Due to summer vacation case to come up for the same on
06.10.2020 before D.B.



Reader

06.10.2020

Representative of appellant on behalf of appellant present.
Mr. Kabir Ullah Khattak learned Additional Advocate
General for respondents present.

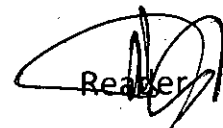
Lawyers are on general strike, therefore, the case is
adjourned to 24.11.2020 for arguments, before D.B.


(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

24.11.2020


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


Reader

28.11.2019

Due to general strike of the Pakistan Bar Council, the case is adjourned. To come up on 23.01.2020 before D.B.


Member


Member

23.01.2020

Due to general strike of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Adjourned to 13.03.2020 for rejoinder and arguments before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

13.03.2020

Appellant in person present. Mr. Muhammad Jan, DDA for respondents present. Appellant seeks adjournment as his counsel is not available today. Adjourned. To come up for arguments on 13.05.2020 before D.B.


Member


Member

15.04.2019


Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Muhammad Adil PASI present. Representative of the respondent department submitted written reply/comments. To come up for rejoinder/arguments on 08.07.2019 before D.B.


Member

08.07.2019

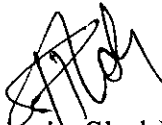
Counsel for the appellant and Asst. AG alongwith Mr. Taswar Hussain, PASI for respondents present. Learned counsel for the appellant seeks adjournment. Granted. Case to come up for arguments on 23.09.2019 before D.B.


Member


Member

23.09.2019

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council learned counsel for the appellant is not in attendance. Mr. Riaz Khan Paindakhel learned Assistant Advocate General for the respondents present. Adjourned. To come up for rejoinder and arguments on 28.11.2019 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

11.12.2018

Counsel for the appellant present and requested for adjournment. Adjourned. To come up for preliminary hearing on 22.01.2019 before S.B.

MA
Muhammad Amin Khan Kundi
Member

22.01.2019

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant (Ex-Constable) has filed the present service appeal against the order dated 22.06.2018 whereby the appellate authority by taking lenient view converted the order of dismissal of the appellant from service into stoppage of one annual increment without cumulative effect.

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit process fee and security within 10 days thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 11.03.2019 before S.B.

AS
Appellant Deposited
Security & Process Fee

Q
Member

11.03.2019

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Written reply on behalf of respondents not submitted. Learned Additional AG requested for adjournment for filing of written reply. Adjourned. To come up for written reply/comments on 15.04.2019 before S.B.

MA
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1109/2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	06/09/2018	<p>The appeal of Mr. Muhammad Bilal resubmitted today by Syed Noman Ali Bukhari Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 6191/18</p>
2-	7-9-18	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>19-9-2018</u></p> <p style="text-align: right;"><i>[Signature]</i> MEMBER</p>
19.09.2018		<p>Counsel for the appellant present and made a request for adjournment. Granted. Case to come up for preliminary hearing on 24.10.2018 before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> (Ahmad Hassan) Member</p>
	23-10-18	<p><i>Due to Retirement of Honorable Chairman the Tribunal is non functional therefore the case is adjourned to come up for the same on 11-12-2018</i></p> <p style="text-align: right;"><i>[Signature]</i> Reader</p>

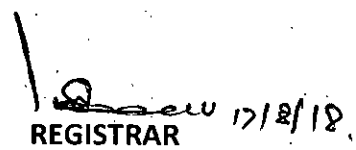
The appeal of Mr. Muhammad Bilal Ex-Constable No. 166 District Karak received today i.e. on 17.08.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of dismissal order mentioned in the memo of appeal is not attached with the appeal which may be placed on it.
- 2- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 3- Copy of departmental appeal is not attached with the appeal which may be placed on it.
- 4- Order dated 3.5.2018 is illegible which may be replaced by legible/better one.

No. 1705 /S.T,

Dt. 17/8 /2018.


Uzma Syed Adv. Pesh.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Six.

① copy of dismissal order is annexed
A.

② copy of charge sheet, statement of
allegation, enquiry report ~~not~~ not served
to appellant. and no regular inquiry was
conducted against the appellant.

③ departmental appeal not available to appellant
may be requisite from the dept.

④ better copy submitted. all objections were removed
a file resubmitted

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1109 /2018

Muhammad Billal

VS

Police Deptt:

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S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	-----	1-3
2.	Copy of order dated 3.5.2018	A	04
3.	Copy of appellate order 22.06.2018	B	05
4.	Vakalat Nama	-----	

APPELLANT

THROUGH:


(UZMA SYED)


(SYED NOMAN ALI BUKHARI)
ADVOCATES, HIGH COURT

(1)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 1109 /2018

Muhammad Billal Ex-Constable 166
District Karak.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1299

Dated 17/8/18

APPELLANT

VERSUS

1. The District Police Officer karak,.
2. The regional police officer, region KOhat.

RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 22.06.2018 RECEIVED ON 19.07.2018 WHEREBY ORDER DATED 03.05.2018 HAS BEEN MODIFIED AND THE PENALTY OF THE DISMISSAL FROM SERVICE CONVERTED IN TO THE PENALTY OF STOPPAGE OF ONE ANNUAL INCREMENT WITHOUT ACCUMULATIVE EFFECT HAS BEEN IMPOSED UPON THE APPELLANT AND INTERVENING PERIOD TREATED AS LEAVE WITHOUT PAY.

Filed to-day
[Signature]
Registrar
17/8/18.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 22.06.2018 MAY BE MODIFIED TO THE EXTENT THAT THE RESPONDENTS MAY BE DIRECTED TO RESTORE THE SAID ONE INCREMENT OF THE APPELLANT AND THE INTERVENING PERIOD MAY BE TREATED WITH ALL PAY AND OTHER SERVICE BACK BENEFITS AS THE DISMISSAL ORDER DATED 03.05.2018 OF THE APPELLANT WAS SET ASIDE BY THE DPO KARAK. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

**Re-submitted to -day
and filed.**

[Signature]
Registrar
6/9/18

RESPECTFULLY SHEWTH:

FACTS:

1. That the appellant was appointed as constable in police department and work with full zeal and zest.
2. That the complaint was filed against the appellant on the basis of which the appellant was departmentally proceeded, without charge sheet, statement of allegation, regular inquiry and even without show cause notice, the impugned order dated 03.05.2018 was passed against the appellant whereby the appellant was dismissed from service. The appellant been aggrieved from the impugned dismissal order preferred departmental appeal but the copy of the departmental appeal was not available with the appellant so the same will may be requisite from the department, on departmental appeal the order dated 03.05.2018 has been modified, the appellant was reinstated and the penalty of the dismissal from service converted in to the penalty of stoppage of one annual increment without accumulative effect has been imposed upon the appellant and intervening period treated as leave without pay. **(Copy of impugned order and rejection order is attached as Annexure-A & B)**
3. That now the appellant come to this august Tribunal on the following grounds amongst others

GROUND:

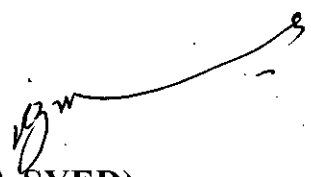
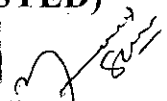
- A) That the order dated 22.06.2018 is against the law, facts, norms of justice and material on record, therefore not tenable and liable to be modified.
- B) That as the removal order dated 03.05.2018 of the appellant was set aside by the DPO vide order dated 22.06.2018 and reinstate him into service. the penalty of the dismissal from service converted in to the penalty of stoppage of one annual increment without accumulative effect has been imposed upon the appellant and intervening period treated as leave without pay. The major penalty converted into minor penalty which means that the appellant was innocent so the period treating as leave without pay has no legal backing and liable to be modified.
- C) That niehter charge sheet, statement of allegation, show cause notice was served upon the appellant nor inquiry was conducted against the appellant, which was necessary and mandatory in law before imposing major punishment which is violation of law, rules and norms of justice.

- D) That the appellant has not been treated under proper law despite he was a civil servant of the province, therefore, the impugned order is liable to be set aside on this score alone
- E) That the appellant remained unpaid employee for period from dismissal from service till reinstatement into service. So the appellant has right for back benefits according to superior court judgments.
- F) That as the penalty of stoppage of one increment for one year has been imposed upon the appellant therefore there remain no ground to treat absence period as leave without pay and it amount to double jeopardy to stoppage of one increment for one year as well as his absence period was treated as leave without pay which is violation of Article -13 of the Constitution of Pakistan.
- G) That the appellant was not treated according to law and rules and has been deprived from his legal rights of salaries for the intervening period.
- H) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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


APPELLANT
Muhammad Billal

THROUGH:


(UZMA SYED)
&

(SYED NOMAN ALI BUKHARI)
ADVOCATES, HIGH COURT

ORDER

Annex

(A) (4)

My this Order will dispose off the departmental enquiry against Constable Muhammad Bilal No. 166 (suspended) of this district Police.

Facts are that as per complaint submitted by the Naib Amir Jamat-e-Islami of district Karak that Constable Muhammad Bilal No.166 used abusive comments on his own Facebook page against two reputed persons seated with the Provincial Amir Jamat-e-Islami on the eve of participatory Jalsa at Nari Panos and misguided the general public against them which was confessed by him in the office of the undersigned. Furthermore, Constable Muhammad Bilal No. 166 also creating chaos in the participatory Jalsa which was failure by the workers of the said party. All this speaks highly adverse on his part and shows his non professionalism and against the Police Rules being a member of discipline Force.

He was issued with Charge Sheet and Statement of allegations. Mr. Abid Khan Afridi, SDPO, Karak was appointed as Enquiry Officer to conduct proper departmental enquiry against him and to submit his findings in the stipulated period.

The Enquiry Officer reported that he confessed his guilt before of him as well as the WDPO Karak leaving no trace of doubt that the accused official Muhammad Bilal No. 166 has indulged himself in the extra departmental activities which is strictly prohibited in Police Rules-14.30 (Prohibition in politics by Police official). Being a member of discipline Force, accused official should have to bring his personal issues into the notice of the WDPO rather than resorting to such an unprofessional and indecent manner against any political party or political figure through Facebook account/page. Therefore, the allegations leveled against the accused official Muhammad Bilal No. 166 are proved.

He was issued with Final Show Cause Notice, in response to the Final Show Cause Notice, accused official submitted his reply, which is found unsatisfactory.

He was called and heard in person in the Orderly Room held in this office but he could not produce any cogent reason in his defense.

Keeping in view of the above and available record and facts on file, perusal of enquiry papers and findings report, he is found guilty of the charges, being a member of disciplinary Force, he violated the Police Rules 14-30 and misguided the general public. This act on the part of defaulter Constable comes within the professional misconduct as well. Therefore, in exercise of ~~power conferred~~ upon me, I, Muhammad Furqan Bilal, District Police Officer, Karak, hereby imposed a charge, punishment or dismissal from service upon the defaulter Constable Muhammad Bilal No. 166 with immediate effect.

OB No. 296
Dated 23/05/2018

District Police Officer, Karak

District Police Officer
(Karak)

ATTESTED

42

[Handwritten signatures and notes in Urdu]

[Handwritten signature and date: 21/5/2018]

BETTER COPY

Order

Mu this order will dispose off the departmental inquiry against constable Muhammad Bilal suspended of this District Police.

Facts are that as per complaint submitted by the Naib Ameer Jamat E Islami of District Karat that Constable Muhammad Bilal used abusive comments on his own face book page.

He was issued with charge sheet and statement of allegation. Mr. Abid Khan Afridi, SDPO Kark was appointed as inquiry officer to conduct proper departmental inquiry. The inquiry officer reported that he confessed his guilt before of him as well as W.DPO Karak which is strictly prohibited in Police Rules 14.30.

He was issued with issued with final show cause notice in response to the final show cause notice.

Accused official submitted his reply which is found unsatisfactory.

He was called and heard in person in the Orderly Room held in this office but he could not produce any cogent reason in his defense.

Keeping in view of the above and available record and facts on file perusal of inquiry papers and findings report is found guilty of the charges. He violated the police rules 1430 and misguided the general public this act on the part of the defaulter constable comes within the profession misconduct as well. Therefore in exercise of power conferred upon me I Muhammad Furqan Bilal District Police Karak hereby imposed major punishment of dismissal from service upon the defaulter constable Muhammad Bilal with immediate effect.

Dated 30.05.2018

VAKALAT NAMA

NO. _____/20

IN THE COURT OF Service Tribunal, Peshawar

Muhammad Bilal (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Deptt (Respondent)
(Defendant)

I/We, Muhammad Bilal

Do hereby appoint and constitute ***Uzma Syed, Advocate Peshawar***, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20

R. L.
(CLIENT)

ACCEPTED

UZMA SYED
Advocate High Court Peshawar.

Cell: (0335-8390122)

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service appeal No. 1109/2018

Muhammad Bilal Ex-Constable No. 166

...Appellant

VERSUS

District Police Officer, Karak & Others

... Respondents

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Respondents

**District Police Officer
Karak**

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

Service Appeal No. 1109/2018

Muhammad Bilal Ex-Constable No. 166

.....Appellant

VERSUS

District Police Officer, Karak & Other

.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Respectively Sheweth:-

Parawise comments are submitted as 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 appeal is bad for misjoinder and non-joinder of parties.
- v. That the appellant has already been redressed by the appellate departmental authority i.e respondent No. 2. Therefore, the appeal is not maintainable.
- vi. The appellant is stopped to file the instant appeal for his own act.

ON FACTS:-


1. Pertains to record, hence no comments.
2. The appellant attended a political gathering of jumat-e-Islame. The appellant misguided the public/ participants of the gathering and viral objectionable/ abusive message on his book page. On taking notice of the above misconduct of the appellant he was served with charge sheet alongwith statement of allegations and SDPO HQrs was appointed as inquiry officer. The allegations/charges leveled against the appellant were established by the inquiry officer; upon which final show cause notice was issued to the appellant. The departmental proceedings culminated into his dismissal from service vide order book NO. 2196 dated 03.05.2018. the appellant filed departmental appeal before the respondent No. 2 which was partially accepted with modification of punishment i.e dismissal from service to stoppage of one annual increment without cumulative effect and their intervening period was treated as leave without pay. The appellant was also administered warning to be careful in future. Copies of face book page, charge sheet/statement of allegation, report of inquiry officer and final show cause notice are annexed.


3. The appellant has already been redressed by the departmental appellate authority i.e respondent No. 2, therefore, the appellant has got no locus standi.

Grounds:-

- A. Incorrect, the being member of a discipline force had committed a gross misconduct which was established against him beyond any shadow of doubt. However, the respondent No. 2 exercised a lenient view and the punishment of dismissal from service was converted into minor punishment of stoppage on one increment.
- B. Incorrect, neither the appellant removal from service as he was not dismissed from service by the respondent No. 1 nor the impugned order was set aside by the respondent No. 2, but infact it was modified as submitted in Para No. A.
- C. Incorrect, charge sheet, statement of allegation and final show cause was served upon the appellant to which he filed replies, joined the inquiry proceedings. Furthermore,, the major punishment of dismissal from has already been converted into minor punishment by the respondent No. 2 (appellate authority).
- D. Incorrect, the appellant was treated in accordance with law & rules.
- E. The appellant remained out of service from the period of dismissal to reinstatement, therefore, the appellant is not entitled for salary for the intervening period on the principle of "No work, no pay" furthermore, the action of respondent No. 2 is covered u/s 17 of Civil Service Act-1973 and PR-54.
- F. Incorrect, the charges were established against the appellant and the major punishment of dismissal from service was converted into major punishment of dismissal from service was converted into minor punishment of stoppage of one year increment.
- G. Incorrect, the appellant was treated in accordance with law and rules and all codal formalities were completed during the department conducted against the appellant.
- H. The respondent through representative may also be allowed to advance other grounds during hearing.

In view of the above, it is submitted that the appeal is devoid of merits/facts may graciously be dismissed please.


District Police Office,
Karak
 (Respondent No. 1)


Regional Police Officer,
Kohat
 (Respondent No. 1)

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service appeal No. 1109/2018

Muhammad Bilal Ex-Constable No. 166

....Appellant

VERSUS

District Police Officer, Karak & Others

.... Respondents

AFFIDAVIT

We the respondents do hereby affirm on oath that the contents of comments prepared in response to the above titled Service Appeal are true and correct to best of our knowledge and belief.



District Police Officer, Karak

**District Police Officer
(Karak)**

ORDER

My this Order will dispose off the departmental enquiry against **Constable Muhammad Bilal No. 166 (suspended)** of this district Police.

Facts are that as per complaint submitted by the Naib Amir Jamat-e-Islami of district Karak that Constable Muhammad Bilal No. 166 used abusive comments on his own Facebook page against two reputed persons seated with the Provincial Amir Jamat-e-Islami on the eve of participatory Jalsa at Nari Panos and misguided the general public against them which was confessed by him in the office of the undersigned. Furthermore, Constable Muhammad Bilal No. 166 also creating chaos in the participatory Jalsa which was failure by the workers of the said party. All this speaks highly adverse on his part and shows his non professionalism and against the Police Rules being a member of discipline Force.

He was issued with Charge Sheet and Statement of allegations. Mr. Abid Khan Afridi, SDPO, Karak was appointed as Enquiry Officer to conduct proper departmental enquiry against him and to submit his findings in the stipulated period.

The Enquiry Officer reported that he confessed his guilt before of him as well as the W/DPO Karak leaving no trace of doubt that the accused official Muhammad Bilal No. 166 has indulged himself in the extra departmental activities which is strictly prohibited in Police Rules 14.30 (Prohibition in politics by Police official). Being a member of discipline Force, accused official should have to bring his personal issues into the notice of the W/DPO rather than resorting to such an unprofessional and indecent manner against any political party or political figure through Facebook account/page. Therefore, the allegations leveled against the accused official Muhammad Bilal No. 166 are proved.

He was issued with Final Show Cause Notice, in response to the Final Show Cause Notice, accused official submitted his reply, which is found unsatisfactory.

He was called and heard in person in the Orderly Room held in this office but he could not produce any cogent reason in his defense.

Keeping in view of the above and available record and facts on file, perusal of enquiry papers and findings report, he is found guilty of the charges, being a member of disciplinary Force, he violated the Police Rules 14-30 and misguided the general public. This act on the part of defaulter Constable comes within the professional misconduct as well. Therefore, in exercise of power conferred upon me, I, Muhammad Furqan Bilal, District Police Officer, Karak, hereby imposed a major punishment of dismissal from service upon the defaulter Constable Muhammad Bilal No. 166 with immediate effect.

OB No. 296
Dated 03/05/2018

District Police Officer, Karak

District Police Officer
(Karak)

42
روسی ریاستی + وزیر اعلیٰ کے نام
کراچی پولیس ایجنسی
کراچی

POLICE DEPTT:

KOHAT REGION

ORDER.

This order will dispose of a departmental appeal, moved by Ex-Constable Muhammad Bilal No. 166 of Karak district Police against the punishment order, passed by DPO Karak vide OB No. 296, dated 03.05.2018 whereby he was awarded major punishment of dismissal from service for the allegations of conveying insulting comments on Facebook against Naib Amir Jamat-e-Islami of district Karak.

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 21.06.2018.

I have gone through the available record and came to the conclusion that the appellant has been awarded severe punishment as compared to allegations. Therefore, by taking a lenient view, the order of dismissal from service, passed by DPO Karak is hereby converted into stoppage of one annual increment without cumulative effect. The intervening period is treated as leave without pay. He is warned to be careful in future.

**Order Announced
21.06.2018**

(MUHAMMAD IJAZ KHAN) PSP
Region Police Officer,
Kohat Region.

No. 7/07 /EC, dated Kohat the 27/06 /2018.

Copy for information and necessary action to the District Police Officer, Karak w/r to his office Memo: No. 7982/LB, dated 04.06.2018. His service record is returned herewith.

OTHC / SRC / PO

Per my action.

(MUHAMMAD IJAZ KHAN) PSP
Region Police Officer,
Kohat Region.

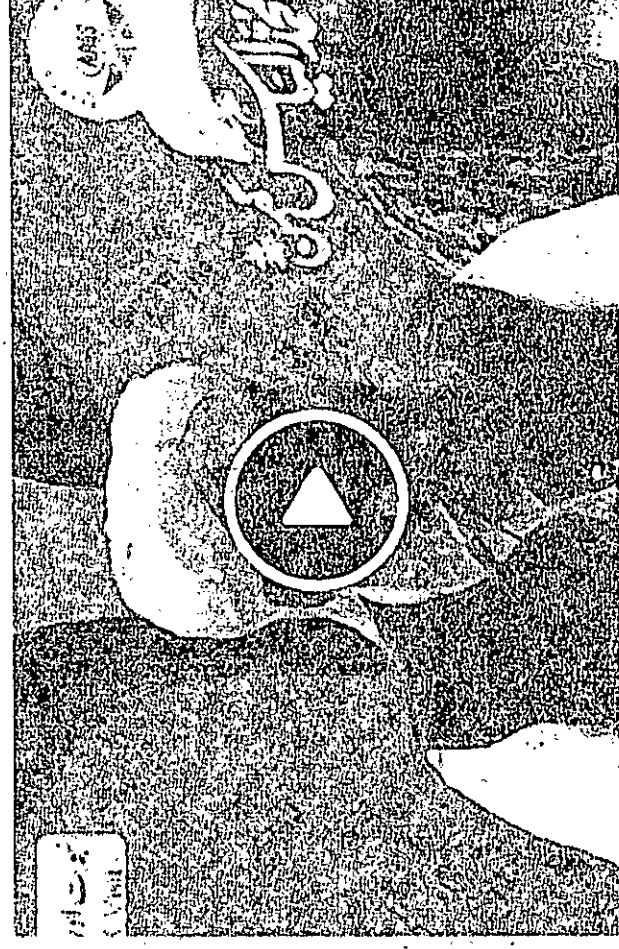
Bilal Bilalatk



الجنة خوشبو جہانگیرہ
Bilal Bilalatk shared خوشبو محل جہانگیرہ

الجنة خوشبو محل جہانگیرہ
new video

جماعت اسلامی والوں کو ووٹ دینا ناجائز اور
حرام ہے، اور ان کے ساتھ تعلق رکھنا ناجائز
اور حرام ہے، فخر جمعیت مفتی اعظم
جمعیت علماء اسلام (ف) پ



دیکھو شیطان جو صاف نظر آتا ہے سفید
ہی والا جسکا میں بار بار زکر کرتا ہوں شیطان
ہی سے تعلق رکھتا ہے



Mehboob Khattak and 5 others

30 Comments



Comment

Page



Bilal Bilal ktk

...

اج میں جماعت شیطانی کے جلسے میں چلے گی اتو سارے شیطانی گروپ کاپنے لگے کہ ابھی کوئی رولہ ہوگا

Mehboob Khattak and 10 others 58 Comments

Like

Comment

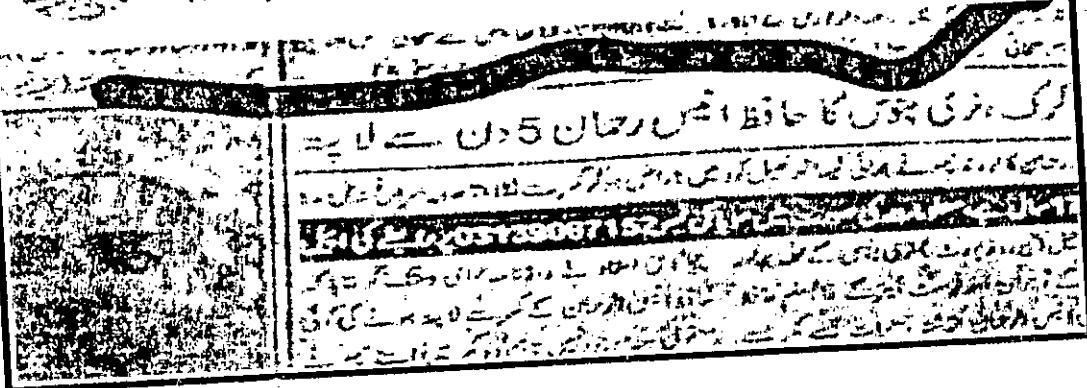


Bilal Bilal ktk shared Tauseef Khattak's post.

کئی دن پہلے جماعت شیطانی ڈگر نری والوں نے کئی بچوں کے اپر پیسے لے تھے دو تین لاکھ میں بھجے تھے مانسہرہ میں



Tauseef Khattak



Bilal Bilalatk shared
Inqilab's post.

جماعت شیطانی نے کچھ اور مردودی کو جنم دیا

Islami Inqilab added 4 new
photos.



شہولیٹی جلسہ کا آغاز ہو گیا ہے امیر صوبہ
مشتاق احمد خان صاحب پہنچ گئے۔
کرک :-



و پیٹ بڑا شیطانی گروپ

Farhat Ullah added 3 new photos.



نی پنوس۔

غراب مشتاق احمد خان صاحب شہولیٹی
جلسے سے خطاب۔

Page 8



CHARGE SHEET

1. I, Muhammad Furqan Bilal, District Police Officer, Karak as competent authority, hereby charge you **Constable Muhammad Bilal No. 166 (suspended) Police Lines Karak** as follow:-

"As per complaint submitted by the Naib Amir Jamat-e-Islami of district Karak that you Constable Muhammad Bilal No.166 used abusive comments on your own Facebook page against the two reputed persons seated with the Provincial Amir Jamat-e-Islami on the eve of participatory Jalsa at Nari Panos and misguided the general public against them which was confessed by you in the office of the undersigned. Furthermore, you Constable Muhammad Bilal No. 166 also creating chaos in the participatory Jalsa which was failure by the workers of the said party. All this speaks highly adverse on your part and shows your non professionalism and against the Police Rules being a member of discipline Force. This act on your part is against service discipline and amounts to gross misconduct."

2. By reason of your commission / omission, constitute miss-conduct under Police disciplinary Rule-1975 (amendment Notification No. 3859/Legal, dated 27.08.2014) Govt. of Khyber Pakhtunkhwa, Police Department and have rendered your-self liable to all or any of the penalties specified in Police Rule-1975 ibid.

3. You are, therefore, required to submit your written defense within 07-days of the receipt of this charge sheet to the enquiry Officers SDPO HQ are hereby appointed for the purpose of conducting enquiry.

Your written defense if any should reach the Enquiry Officers within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.

4. Intimate whether you desire to be heard in person.

5. A statement of allegation is enclosed.

[Signature]
District Police Officer, Karak

DISCIPLINARY ACTION

1. I, Muhammad Furqan Bilal, District Police Officer, Karak as competent authority, is of the opinion that **Constable Muhammad Bilal No. 166 (suspended) Police Lines Karak** has rendered himself liable to be proceeded against on committing the following act / commission within the meaning of Police Disciplinary Rule-1975 (amendment Notification No. 3859/Legal, dated 27.08.2014) Govt: of Khyber Pakhtunkhwa, Police Department.

STATEMENT OF ALLEGATIONS

As per complaint submitted by the Naib Amir Jamat-e-Islami of district Karak that Constable Muhammad Bilal No.166 used abusive comments on his own Facebook page against two reputed persons seated with the Provincial Amir Jamat-e-Islami on the eve of participatory Jalsa at Nari Panos and misguided the general public against them which was confessed by him in the office of the undersigned. Furthermore, Constable Muhammad Bilal No. 166 also creating chaos in the participatory Jalsa which was failure by the workers of the said party. All this speaks highly adverse on his part and shows his non professionalism and against the Police Rules being a member of discipline Force. This act on his part is against service discipline and amounts to gross misconduct."

2. The enquiry Officers SDPO HQ in accordance with provision of the Police Rule-1975 (amendment Notification No. 3859/Legal, dated 27.08.2014) Govt: of Khyber Pakhtunkhwa, Police Department may provide reasonable opportunity of hearing to the accused official, record his finding and make within 10-days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused.

3. The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.

District Police Officer, Karak

No. 84 / PA (Enq), dated 23/1/3 /2018.

Copy to:-

128. The enquiry Officers for initiating proceeding against the accused under the Provision of the Police Disciplinary Rule-1975 (amendment Notification No. 3859/Legal, dated 27.08.2014) Govt: of Khyber Pakhtunkhwa, Police Department.

2. Constable Muhammad Bilal No. 166 (suspended) Police Lines Karak.

Findings

Kindly refer to Charge Sheet No. 83-84/PA(Enq) dated 16.03.2018, issued to Constable Muhammad Bilal No. 166 Police Lines, Karak.

As per charge Sheet allegations, the accused official used abusive language/comments against Naib Amir Jamat e Islami Karak on his Facebook page. He also misguided the general public on the eve of participatory Jalsa at Nari Panos and created chaos in the Jalsa. All this speaks highly adverse on his part. Hence, the undersigned is appointed as an Enquiry Officer (E.O) to dig out the real facts and report.

The accused official was summoned and recorded his statement, placed on file. According to the statement of delinquent official he admitted in his written statement that he shared the said post from his Facebook Account and also post the comments. Moreover, he stated that he has landed dispute with the Naib Amir Jamat e Islami and therefore, resorted to such act on his Facebook page. However, he denied the allegations of chaos in the Jalsa.

In order to ascertain the real facts, his Facebook page account comments were procured and perused, placed on file.

The accused official was heard in person and he confessed in front of the undersigned as well as the worthy, District Police Officer, Karak leaving no trace of doubt that the accused official Muhammad Bilal No. 166 has indulged in himself in the extra departmental activities which is strictly prohibited in Police Rules 14-30 (Prohibition in Politics by Police Official). Being a member of discipline force, the accused official, should have to bring his personal issue into the notice of the worthy District Police Officer, Karak rather than resorting to such an unprofessional and unethical manner against any Political party or Political figure through Facebook Account/ page.

In view of the position explained above, adopting all legal and procedural formalities, the allegations leveled against the accused official Muhammad Bilal No. 166 are proved.

Finding report is submitted, please.

Dy: Superintendent of Police,
Hqrs, Karak

FINAL SHOW CAUSE NOTICE.

1. I, Muhammad Furqan Bilal, District Police Officer, Karak as competent authority under the Police Rule-1975 hereby serve you **Constable Muhammad Bilal No. 166 (suspended) Police Lines Karak** as follow:-

That consequent upon the completion of enquiry conducted against you by Enquiry Officers **Mr. Abid Khan Afridi, SDPO Karak.**

2. On going through the finding and recommendation of the Enquiry Officer and materials on the record and other connected papers including your defense before the said Enquiry Officer, the charge against you was proved and you have committed the following acts / omission specified in Police Rule-1975:-

"As per complaint submitted by the Naib Amir Jamat-e-Islami of district Karak that you Constable Muhammad Bilal No.166 used abusive comments on your own Facebook page against the two reputed persons seated with the Provincial Amir Jamat-e-Islami on the eve of participatory Jalsa at Nari Panos and misguided the general public against them which was confessed by you in the office of the undersigned. Furthermore, you Constable Muhammad Bilal No. 166 also creating chaos in the participatory Jalsa which was failure by the workers of the said party. All this speaks highly adverse on your part and shows your non professionalism and against the Police Rules being a member of discipline Force. Such act on your part is against service discipline and amounts to gross misconduct."

3. As a result thereof I, as competent authority, have tentatively decided to impose upon you the penalty of major punishment under Police Rule-1975.

4. You are therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you, also intimate whether you desire to be heard in person.

6. If no reply to this Notice is received within Seven days of its delivery in the normal course of circumstances, it will be considered/presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

7. Copy of findings of the Enquiry Officer is enclosed.

District Police Officer, Karak.



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 1860 /ST

Dated: 17/09 /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,
Karak.

Subject: JUDGMENT IN APPEAL NO. 1109/2018, MR. MUHAMMAD BILAL.

I am directed to forward herewith a certified copy of Judgement dated
01.09.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR