

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

SERVICE APPEAL NO. 1150/2018

Date of institution ... 14.09.2018

Date of judgment ... 19.09.2019

Mohammad Arif S/o Ghulam Nabi (Ex-Constable No. 359 District Police Torghar)
R/o Village Jagori, P.O Kotli Bala, Tehsil Baffa District Mansehra.

... (Appellant)

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Torghar.

... (Respondents)

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST
ORDER DATED 21.02.2018 OF THE DISTRICT POLICE OFFICER
TORGHAR WHEREBY THE APPELLANT HAS BEEN AWARDED
MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE AND
ORDER DATED 06.07.2018 (DELIVERED ON 29.08.2018) OF THE
REGIONAL POLICE OFFICER HAZARA REGION ABBOTTABAD
WHEREBY APPELLANT DEPARTMENTAL APPEAL HAS BEEN
REJECTED.

Mr. Muhammad Aslam Tanoli, Advocate.

.. For appellant.

Mr. Muhammad Bilal Khan, Deputy District Attorney

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. HUSSAIN SHAH

.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Appellant

alongwith his counsel and Mr. Muhammad Bilal Khan, Deputy District Attorney alongwith Mr. Siraj, Reader for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was serving in Police Department as Constable. He was imposed major penalty of dismissal from service vide order dated 21.02.2018 on the allegation of

M. Amin
19.9.2019

absence from duty with effect from 14.11.2017. The appellant filed departmental appeal on 17.03.2018 which was rejected vide order dated 06.07.2018 but the departmental authority order was not communicated to the appellant therefore, the appellant submitted application for providing copy of the departmental authority order dated 06.07.2018 on 28.08.2018 and on the basis of which the order was received to the appellant on 29.08.2018 as claimed by the appellant in para-7 & 8 of the service appeal hence, the present service appeal on 14.09.2018.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant was appointed as Constable vide order dated 27.07.2007 in Police Department. It was further contended that the appellant was performing his duty with the District Public Prosecutor Torghar. It was further contended that the appellant was transferred from the office of District Public Prosecutor to Police Line Judba Torghar on 14.11.2017 but the appellant was not communicated the said transfer order and when the appellant received information of his transfer on 31.01.2018, he reported for duty at Police Line Judba Torghar vide daily diary no. 6 dated 31.01.2018 and thereafter, the appellant remained present at Police Line Judba Torghar. It was further contended that the absence of the appellant was not deliberate but he was not informed regarding his transfer order to Police Line Judba Torghar. It was further contended that the departmental proceeding was initiated against the appellant but he was not informed regarding the departmental proceeding therefore, the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside and prayed for acceptance of appeal.

5. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that

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the appellant was transferred from the office of District Public Prosecutor Torghar to Police Line Judba Torghar but he did not report/arrival in the Police Line Judba Torghar therefore, he deliberately remained absent from duty. It was further contended that all the codal formalities were fulfilled before passing the impugned order of major penalty of dismissal from service therefore, the competent authority has rightly dismissed the appellant from service on the basis of inquiry report and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was serving in Police Department as Constable. He was having seven years service in his credit at the time of imposing major penalty of dismissal from service. The record further reveals that the appellant was performing his duty in the office of District Public Prosecutors Torghar, Mansehra at Oghi. The record further reveals that he was transferred vide order dated 14.11.2017 from the office of District Public Prosecutor to Police Line Judba Torghar but there is nothing on the record to show that the appellant was informed regarding his transfer order and the appellant has claimed in his service appeal that he was performing his duty in the office of District Public Prosecutor after his transfer as he was never informed by the respondent-department. The record further reveals that the departmental proceeding was initiated against the appellant but there is nothing on the record in the shape of Parwan/statement of witnesses to show that the appellant was informed regarding departmental proceeding and the inquiry officer has conducted ex-parte inquiry proceeding. Meaning thereby, that the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside. As such, we partially accept the appeal, set-aside the impugned order and reinstate the appellant into service with the direction to respondent-department to conduct de-novo inquiry with in a period of 90 days strictly in accordance with law with further direction to associate the appellant in inquiry proceeding and the inquiry officer is also directed to record

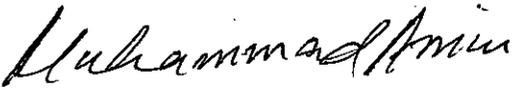
M. Ammar
19.9.2019

the statement of the concerned District Public Prosecutor Torghar with whom the appellant has claimed to have performed duty after his transfer to Police Line Judba Torghar regarding performing of duty of the appellant. The issue of back benefits will be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
19.09.2019



(HUSSAIN SHAH)
MEMBER
CAMP COURT ABBOTTABAD


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
CAMP COURT ABBOTTABAD

19.09.2019

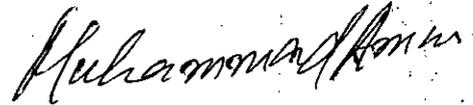
Appellant alongwith his counsel and Mr. Muhammad Bilal Khan, Deputy District Attorney alongwith Mr. Siraj, Reader for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of four pages placed on file, we partially accept the appeal, set-aside the impugned order and reinstate the appellant into service with the direction to respondent-department to conduct de-novo inquiry with in a period of 90 days strictly in accordance with law with further direction to associate the appellant in inquiry proceeding and the inquiry officer is also directed to record the statement of the concerned District Public Prosecutor Torghar with whom the appellant has claimed to have performed duty after his transfer to Police Line Judba Torghar regarding performing of duty of the appellant. The issue of back benefits will be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
19.09.2019



(HUSSAIN SHAH)
MEMBER
CAMP COURT ABBOTTABAD



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
CAMP COURT ABBOTTABAD

17.06.2019

Counsel for the appellant and Mr. Muhammad Bilal, DDA alongwith Mian Rashid Ali, S.I(Legal) for respondents present. Written reply/comment not submitted. Requested for adjournment. Adjourned. Case to come up for written reply/comments on 11.07.2019 before S.B at camp court Abbottabad.



(Ahmad Hassan)
Member
Camp Court A/Abad

11.07.2019

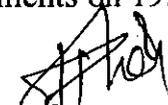
Counsel for the appellant and Mian Rashid Ali, S.I alongwith Mr. Muhammad Bilal Khan, Deputy District Attorney for the respondents present. Representative of the department submitted written reply on behalf of respondents No. 1 to 3. Case to come up for rejoinder and arguments on 18.09.2019 before D.B at Camp Court Abbottabad.



(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

18.09.2019

Counsel for the appellant and Mr. Muhammad Bilal Khan, Deputy District Attorney alongwith Mian Rashid Ali, S.I for the respondents present. Partial arguments heard. Learned Deputy District Attorney seeks adjournment. Case to come up for further arguments on 19.09.2019 before D.B at Camp Court Abbottabad.



(Hussain Shah)
Member
Camp Court Abbottabad



(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

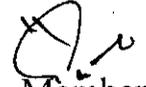
16.01.2019

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant (Ex-Constable) has filed the present service appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 against the order dated 21.02.2018 whereby he was awarded punishment of dismissal from service on the ground of absence from duty. The appellant has also challenged the order through which his departmental appeal was rejected/filed.

Points urged need consideration. The present appeal is admitted for regular hearing subject to all legal objections including the issue of limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 21.03.2019 before S.B at camp court Abbottabad.

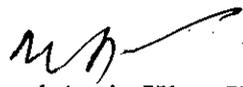
Admitted
Security & Process Fee


Member

Camp Court A/Abad

21.03.2019

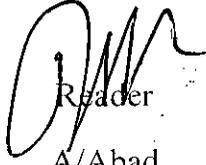
Clerk of counsel for the appellant present. Mr. Muhammad Bilal Khan, Deputy District Attorney for the respondents present. Neither written reply on behalf of respondents submitted nor representative of the department is present therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned. To come up for written reply/comments on 17.06.2019 before S.B at Camp Court Abbottabad.


(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

FORM OF ORDER SHEET

Court of _____

Case No. 1150/2018

S.No:	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/09/2018	<p>The appeal of Mr. Muhammad Arif presented today by Mr. Muhammad Aslam Khan Tanoli 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 14/9/18</p>
2-	22/9/18	<p>This case is entrusted to visiting S. Bench at A/Abad for preliminary hearing to be put up there on 13-11-18</p> <p style="text-align: center;"> CHAIRMAN</p> <p>13.11.2018</p> <p>None for the appellant..Due to retirement of the Hon'ble Chairman the Service Tribunal is incomplete. Tour to Camp Court Abbottabad has been cancelled. To come up for the same on 16.01.2019 at camp court Abbottabad.</p> <p style="text-align: right;"> Reader A/Abad</p>

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal no. 1150/2018

Mohammad Arif S/O Ghulam Nabi (Ex-Constable No. 359
District Police Torghar) R/O Village Jagori, P.O. Kotli Bala, Tehsil
Baffa District Mansehra.

Appellant

VERSUS

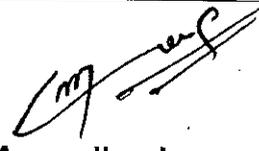
1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Torghar.

Respondents

SERVICE APPEAL

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4.	Departmental Appeal dated 17-03-2018	"C"	14-15
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6.	Application dated 28-08-2018	"E"	17
7.	Wakalatnama		


Appellant

Through


(Mohammad Aslam Tanoli)
Advocate High Court
at Haripur

Dated: *14*-09-2018

BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No.. 1150/18

Mohammad Arif S/O Ghulam Nabi (Ex-Constable No. 359
District Police Torghar) R/O Village Jagori, P.O. Kotli Bala, Tehsil
Baffa District Mansehra.

Khyber Pakhtunkhwa
Service Tribunal

Appellant

Diary No. 1435

VERSUS

Dated 14-9-2018

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Torghar.

Respondents

**SERVICE APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL
ACT 1974 AGAINST ORDER DATED 21-02-2018 OF THE DISTRICT
POLICE OFFICER TORGHAR WHEREBY THE APPELLANT HAS BEEN
AWARDED MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE
AND ORDER DATED 6-07-2018 (DELIVERED ON 29-08-2018) OF
THE REGIONAL POLICE OFFICER HAZARA REGION ABBOTTABAD
WHEREBY APPELLANT'S DEPARTMENTAL APPEAL HAS BEEN
REJECTED.**

**PRAYER: ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL
BOTH THE IMPUGNED ORDERS DATED 21-02-2018 AND 6-07-2018
(DELIVERED ON 29-08-2018) OF RESPONDENTS MAY
GRACIOUSLY BE SET ASIDE AND APPELLANT BE RE-INSTEATED IN
SERVICE WITH ALL CONSEQUENTIAL SERVICE BACK BENEFITS.**

Filed to - da Respectfully sheweth,

1. That appellant was enrolled on the strength of Police Department as Constable on 27-07-2007 thus has rendered more than 10 years service.

Registrar

14/9/18

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2. That since his enrollment in service the appellant always performed his assigned official duties with zeal, zest, devotion, dedication and honesty to the entire satisfaction of his superiors and never provided a chance of reprimand. Appellant has meritorious service record at his credit.
3. That in fact while appellant posted at District Torghar, he was deployed to perform his duties with District Public Prosecutor Torghar. The DPP Torghar had his offices at Mansehra and Oghi. Earlier the DPP ordered the appellant to perform duties at Mansehra and subsequently he was shifted to the office at Oghi. Through out entire period of his deployment with the DPP Torghar appellant always discharged his duties effectively and never absented himself from duties, therefore, there was no complaint by his immediate Officer (the DPP Torghar).
4. That on 25-01-2018 the appellant was telephonically informed by Moharrir Police Lines Judba (Torghar) that on 14-11-2017 he had been transferred to Police Lines Judba (Torghar). On 31-01-2018 in according to information and under the direction of District Public Prosecutor Torghar the appellant proceeded to and reported for further duties at Police Lines Judba (Torghar) vide Daily Dairy No. 6 dated 31-01-2018. **(Copy of Daily Diary dated 31-01-2018 is attached as Annex-"A").**

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5. That thereafter appellant remained present at Police Lines Judba. He never absented himself from his duties but on 21-02-2018 he was dismissed from service by the District Police Officer Torghar vide his order OB No. 90 dated 21-02-2018 without any reason and justification. **(Copy of impugned order dated 21-02-2018 is attached as Annex-"B")**.
6. That appellant aggrieved of the aforementioned order dated 21-02-2018 of the District Police Officer Torghar preferred a departmental appeal dated 17-03-2018 before the Regional Police Officer Hazara Region Abbottad explaining all facts and circumstances of the matter. **(Copy of departmental appeal dated 17-03-2018 is attached as Annex-"C")**.
7. That the appellant's above cited departmental appeal was rejected without giving consideration by the Regional Police Officer Hazara Region Abbottabad vide order No. 2587/PA dated 16-07-2018 delivered to appellant on 29-08-2018. **(Copy of appeal rejection order of RPO is attached as Annex-"D")**.
8. That though the appellant's departmental appeal was rejected by the Regional Police Officer Hazara Region Abbottabad during the month of July 2018 but the appellant was issued with an invisible copy of the same on 29-08-2018 by OHC Torghar and that too on

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specific written request of appellant. **(Copy of application dated 28-08-18 is attached as Annex-"E").**

9. That neither appellant was issued transfer order from District Public Prosecutor Torghar office to Police Lines Judba (Torghar) nor was informed through any other means. Due to the reason the appellant continued to perform duties with District Public Prosecutor in his office at Oghi till 31-01-2018 when he was telephonically informed by Moharrir Police Lines Judba and relieved by the DPP for further duties. After having reported for duty at Police Lines Judba appellant never absented from duty. The District Police Officer Torghar without probing into the matter or conducting inquiry as envisaged under prevailing law, departmental rules and regulations dismissed the appellant from service. Even the appellant was not provided with a chance of personal hearing. Hence instant service appeal, inter alia, on the following:-

GROUND:

- a) That both the impugned orders OB No. 90 dated 21-02-2018 and 2587/PA dated 6-07-2018 (delivered on 29-08-2018) of the District Police Officer Torghar and the Regional Police Officer Hazara Region Abbottabad are void-ab-initio, illegal, unlawful, non-speaking without lawful authority and have been passed perfunctorily, arbitrarily, whimsical, and slipshod in manner, against the

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facts and circumstances of the case, without any reason and proof, hence are liable to be set aside.

- b) That no proper departmental inquiry was conducted of which conduction was mandatory under law before awarding major penalty of dismissal from service to the appellant by the District Police Officer Torghar.
- c) That neither any Charge Sheet nor Show Cause Notice was issued to the appellant nor was a witness, if any, produced against the appellant nor was he provided with the opportunity of cross-examining such witness. No enquiry findings were supplied to the appellant. Even the appellant was not afforded with the opportunity of personal hearing which was mandatory under the law.
- d) That no transfer order was issued to the appellant with regard to his alleged transfer dated 14-11-2017 from the office of District Public Prosecutor Torghar situated at Oghi to Police Line Judba. Even appellant's immediate boss DPP Torghar was never informed of such transfer. Not to speak of that even DPP Torghar was never called by the DPO Torghar to confirm about appellant's performance duties with him or otherwise, hence the impugned orders are liable to be set aside on this score alone.
- e) That respondents have not treated the appellant in accordance with law, departmental rules & regulations

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and policy on the subject and have acted in violation of Article-4 of the constitution of Islamic Republic of Pakistan 1973 and unlawfully issued the impugned orders, which are unjust, unfair and hence not sustainable in the eyes of law.

- f) That the appellant authority has also failed to abide by the law and even did not take into consideration the grounds taken in the memo of appeal. Thus the impugned order of the appellate authority is contrary to the law as laid down in the KPK Police Rules 1934, other departmental rules regulations read with section 24-A of the General Clause Act 1897 read with Article 10A of the Constitution of Islamic Republic of Pakistan 1973.
- g) That appellant has rendered more than 10 years service in the police department but has been dismissed from service by the respondents without any reason, justification and proof in violation of law, departmental rules and regulations and principle of natural justice hence impugned orders need to be set aside.

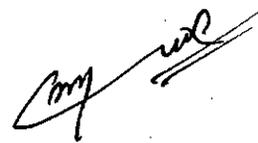
PRAYER:

It is therefore, humbly prayed that on acceptance of instant appeal the impugned orders dated 21-02-2018 & - 607-2018(delivered on 29-08-2018) of the District Police Officer Torghar and Regional Police Officer, Hazara Region, Abbottabad respectively may graciously be set aside and

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the appellant be reinstated in his service from the date of dismissal with all consequential service back benefits.

Any other relief which this Honorable Tribunal deems fit in the circumstance of the case may also graciously be awarded.



APPELLANT

THROUGH

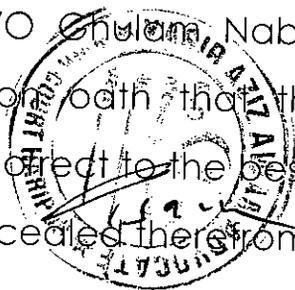


(MOHAMMAD ASLAM TANOLI)
ADVOCATE HIGH COURT
HARIPUR

Dated: 14-09-2018

AFFIDAVIT

I, Mohammad Arif S/O Ghulam Nabi do hereby solemnly declare and affirm on oath that the contents of instant appeal are true and correct to the best of my knowledge and nothing has been concealed therefrom.



Dated: 14-09-2018



Deponent/Appellant

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BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Mohammad Arif S/O Ghulam Nabi (Ex-Constable No. 359
District Police Torghar) R/O Village Jagori, P.O. Kotli Bala, Tehsil
Baffa District Mansehra.

Appellant

VERSUS

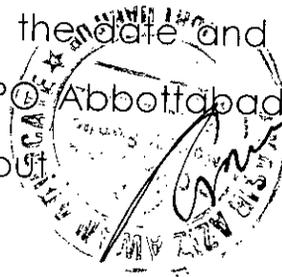
1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Torghar.

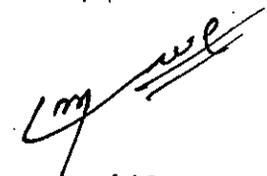
Respondents

SERVICE APPEAL

AFFIDAVIT:

I, Mohammad Arif S/O Ghulam Nabi do hereby solemnly
declare and affirm on oath that the contents of the instant
Service Appeal are true and correct to the best of my
knowledge and belief and nothing has been suppressed
from this Honourable Service Tribunal. It is further declared
and affirmed that the date and some other lines of order
No. 2587/PA of RPO Abbottabad issued to appellant is so
invisible to read it out.




Deponent/Appellant

Dated: 14-09-2018

Identified By:


Mohammad Aslam Tanoli
Advocate High Court
At Haripur,


Appellant

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BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Mohammad Arif S/O Ghulam Nabi (Ex-Constable No. 359
District Police Torghar) R/O Village Jagori, P.O. Kotli Bala, Tehsil
Baffa District Mansehra.

Appellant

VERSUS

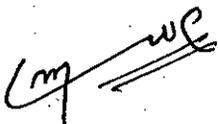
1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Torghar.

Respondents

SERVICE APPEAL

CERTIFICATE

It is certified that no such Appeal on the subject has ever
been filed in this or any other court prior to the instant one.


APPELLANT

Dated: 14-09-2018

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Mohammad Arif S/O Ghulam Nabi (Ex-Constable No. 359
District Police Torghar) R/O Village Jagori, P.O. Kotli Bala, Tehsil
Baffa District Mansehra.

Appellant

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Torghar.

Respondents

SERVICE APPEAL

**APPLICATION FOR CONDONATION OF DELAY IN FILING THE
APPEAL BEFORE THIS HONOUR SERVICE TRIBUNAL.**

Respectfully Sheweth:

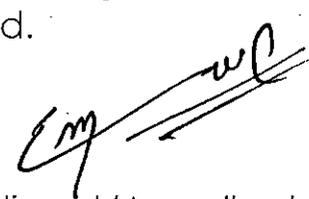
1. That the Applicant/Appellant has today filed the Service Appeal, which may be considered as part and parcel of this application, against the order dated 21-02-2018 and order No.2587/PA dated 6 July, 2018 (Delivered on 29-08-2018) whereby appellant has been dismissed from service by the DPO Haripur and his departmental appeal has been turned down by the appellate authority illegally, unlawfully against the departmental rules and regulations and against the facts of the matter.
2. That impugned orders passed by the departmental authorities are illegal ab-initio, null & void, without jurisdiction, lawful authority, in sheer violation of mandatory statutory provisions of law thus are ineffective against the rights of Applicant/Appellant.
3. That Applicant/appellant for the review of the aforesaid illegal order submitted a departmental appeal to the Appellate Authority but the same has not been taken into consideration and turned down which causes tremendous loss in future of the appellant.

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7. That as the orders of departmental authorities are void, being passed in sheer violation and derogation of the statutory provisions governing the terms and condition of service of the appellant, therefore the same are a nullity in the eyes of law and being a void and unlawful orders, causing a recurring cause of action to the Applicant/Appellant can be challenged and questioned irrespective of a time frame. That impugned order was perhaps issued during the month of July, 2018 but an invisible copy of the same was provided on 29-08-2018 and that too on the specific written request of the appellant perusing his case rigorously.
8. That the instant application is being filed as an abundant caution for the condonation of delay, if any.
9. That the impugned orders are illegal, void ab-initio, a nullity in the eyes of law thus liable to be set aside in the interest of justice.

It is therefore respectfully prayed that on acceptance of the instant application the delay, if any, in the filing of the above titled appeal may graciously be condoned.

Through:


Applicant/Appellant

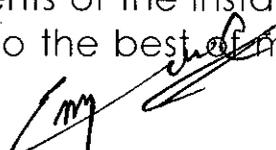

(Mohammad Aslam Tanoli)
Advocate High Court
At District Bar Haripur

Dated: 14-09-2018

AFFIDAVIT:

I, Mohammad Arif Shulam Nabi do hereby solemnly declare and affirm on oath that the contents of the instant application/appeal are true and correct to the best of my knowledge and belief.

Dated: 14-09-2018


Applicant/Appellant



(13)

Annex-B

District Police Officer, Torghar

DISMISSAL ORDER

The order will dispose off the departmental proceedings conducted against Constable Arif No.359 posted at Police Line Judba who was absent himself from duty w.e.f 14-11-2017 to 31-01-2018 77 days & 01-02-2018 to uptill now without any information/permission by your senior.

A Charge Sheet/Disciplinary Action was served upon him vide this office Memo. No.775-76/PA dated, 27-12-2017 and entrusted to DSP/Head Quarter for enquiry. On 28-01-2018 the Enquiry Officer in his finding report stated that Constable Arif No.359 was called to appear before the enquiry officer many time but he not appear before the Enquiry Officer which shows he not want to serve in Police Department and recommended him for Major punishment. A final showcause notice was served upon him vide this office Memo. No.59/PA dated, 01-02-2018 to appear before the undersigned and give reason about his absence in a stipulated period but till now he not give reply nor produce before the undersigned which show he not want to serve in police department.

Therefore, Keeping in view and, In light of recommendation of enquiry officer and perusal of record & his long absence period I, Sardar Khan, District Police Officer, Torghar competent authority in exercise of power under the Police Rules 1975 is hereby awarded him major punishment i.e. dismissed from service from the date of absence i.e 14-11-2017 with immediate effect.

Order announced


District Police Officer,
Torghar.

OB No. 90 / dated, Torghar, the 27-02/2018.

Copies to the :-

- ✓ 1. SRC Torghar
- 2. Pay Officer Torghar.

Handwritten notes:
1. Step 500
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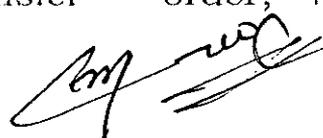
Annex-C

**BEFORE THE DEPUTY INSPECTOR GENERAL
OF POLICE, HAZARA DIVISION, ABBOTTABAD**

Subject: APPEAL AGAINST THE IMPUGNED
ORDER BEARING OB NO.90 DATED
21.02.2018 PASSED BY THE DISTRICT
POLICE OFFICER, TORGHAR
WHEREBY THE MAJOR PUNISHMENT
I.E. DISMISSAL FROM SERVICE FROM
THE DATE OF ABSENCE I.E. 14.11.2017
WITH IMMEDIATE EFFECT WAS
IMPOSED UPON THE APPELLANT.

Respected Sir,

- 1 That, the appellant was posted in Torghar and was detailed with DPP Torghar who asked to sit in his office at Mansehra and later on used to sit in DPP Office, Torghar at Oghi. The appellant was allegedly transferred on 14.11.2017 but, no intimation has been given to the appellant and appellant was discharging his duties in the office of DPP Torghar. Moharrir police line Judba informed the appellant about his transfer on 25.01.2018 and in view of such information/transfer order, the



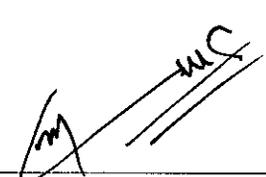
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appellant reported his arrival at police line, Torghar on 31.01.2018.

2. That, the appellant remained on his duties after 31.01.2018 at Torghar and never absented himself from duties.
3. That, on account of not having received any information/intimation about his transfer, the appellant had discharged his duties in the office of DPP, Torghar.

It is, therefore, most humbly requested that the order of dismissal passed by the District Police Officer, Torghar may please be set aside and appellant be reinstated in service with all back benefits.

Dated 17.03.2018



CONSTABLE ARIF
BNo.359
.....Appellant



16

Annex-D

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules 1975 submitted by *Ex-Constable Arif No. 359 Torghar District* against the order of punishment i.e. *Dismissal from service* awarded to him by the DPO Torghar his OE No: 90, dated 21.02.2018.

Facts leading to punishment awarded to him are that he while posted at Police Line Jadba absented himself from duty without any leave or permission from 11.2017 to 31.01.2018 (77 days) and from 01.02.2018 to 21.02.2018 (21 days).

After receiving his appeal, comments of DPO were obtained which the undersigned called appellant in O.R on 06.06.2018 where he failed to provide any plausible reason in his defence. Therefore the punishment awarded to him i.e. *Dismissal from service* seems to be genuine, which is held and his appeal is filed.

[Signature]
REGIONAL POLICE OFFICER
Hazara Region Abbottabad

No. 276/PA
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office Memo: No: 276
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for your office record.

The District Police Officer Hazara wide h
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lissal containing of the file.

[Signature]
REGIONAL POLICE OFFICER
Hazara Region Abbottabad

Affected

[Signature]
DIRECTOR GHAF
29-08-18

Better Copy

(76)

ORDER

Amnet-1)

This order is hereby passed to dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules 1975 submitted by Ex-Constable Arif No. 359 Torghar District against the order of punishment i.e. Dismissal from service awarded to him by the DPO Torghar his OB No. 90 dated 21-02-2018.

Facts leading to punishment awarded to him are that he while posted at Police Line Judba absented himself from duty without any leave or permission from 14-11-2017 to 31-01-2018 (77 days) and from 01-02-2018 to 21-02-2018 (21 days).

After receiving his appeal comments of DPO were obtained which were perused. The undersigned called appellant in O.R. on 06-06-2018 where he failed to explain any plausible reason in his defence. Therefore the punishment awarded to him by DPO Torghar i.e. Dismissal from service seems to be genuine, which is held and his appeal is filed.

Sd/-
REGIONAL POLICE OFFICER
Hazara Region Abbottabad

No. 2587 /PA

Dated Abbottabad

- 2018.

Copy of above is forwarded to the District Police Officer Torghar vide his office Memo No. 2765 dated -05-2018 for information and necessary action.

Service Record/Fuji Missal containing enquiry file is returned herewith for your office record.

Sd/-
REGIONAL POLICE OFFICER
Hazara Region Abbottabad

گورنمنٹ پبلسک سروس کمیشن

دہلی نئی آبادی کے لئے گورنمنٹ پبلسک سروس کمیشن، ایف ایف ایف آباد

ضلع جالپائی

تذکرہ پیش کردہ مندرجہ ذیل کے ناموں کے لئے منظور کیا گیا ہے

Dismissed - مختلف اسٹیٹس کے لئے منظور کیا گیا ہے

پہلے سے گورنمنٹ پبلسک سروس کمیشن کے تحت

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گورنمنٹ پبلسک سروس کمیشن کے تحت

28/08/2018

محمد عارف خان

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Attested
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S.No: 26656

DBA No: 206

BC No: [] [] [] [] [] [] [] [] [] []

Name of Advocate: محمد اسلم نسوری

وکالت نامہ



بعدالت: جناب کلمہ منی صاحبہ کمرہ عدالت فون لکھنؤ لکھنؤ پورہ
 عنوان: محمد عارف
 منجانب: ایڈووکیٹ محمد عارف
 نوعیت مقدمہ: [] [] [] [] [] [] [] [] [] []
 باعث تحریر آئیکہ: [] [] [] [] [] [] [] [] [] []

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی برائے پیشی یا تصنیف مقدمہ بمقام ایڈووکیٹ انوار حسین
 محمد اسلم نسوری ایڈووکیٹ لکھنؤ پورہ

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص روپر و عدالت حاضر ہوتا رہوں گا اور بروقت
 پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر منظر حاضر نہ ہوا اور مقدمہ میری
 غیرحاضری کی وجہ سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہوں گے نیز وکیل صاحب
 موصوف صدر مقام پکھری کے علاوہ کسی جگہ یا پکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ
 ہوں گے اور مقدمہ پکھری کے علاوہ کسی اور جگہ سماعت ہونے پر یا بروز تعطیل یا پکھری کے اوقات کے آگے پیچھے پیش ہونے
 پر منظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختانہ کے واپس کرنے کے بھی صاحب
 موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داختہ صاحب موصوف مثل کردہ ذات منظور و مقبول ہوگا اور صاحب موصوف کو
 عرض دعویٰ یا جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی و ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی
 اختیار ہوگا اور اور کسی حکم یا ڈگری کرانے اور ہر قسم کارروپیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور
 اس کے ثالثی و راضی نامہ و فیصلہ برحلف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت جانے بیر و نجات از پکھری صدر
 اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا قزقی یا گرفتاری قبل از گرفتاری و اجراءے ڈگری بھی صاحب
 موصوف کو بشرط ادائیگی علیحدہ مختانہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ
 مذکور یا اس کے کسی جزوی کارروائی کے یا بصورت اپیل کسی دوسرے وکیل کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے وکیل کو
 بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ جو کچھ ہر جانہ
 التوا پڑے گا وہ صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب
 موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے
 برخلاف نہیں ہوگا۔

Acceptance by
M. Aslam Nasri

مورخہ: 20/09/14
 دن 14
 ماہ 09
 سال 2018

لہذا وکالت نامہ لکھ دیا ہے کہ سندر ہے۔
 مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔
 (محمد عارف نسوری)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO. 1150/2018.

Muhammad Arif.....Appellant

VERSUS

1) Provincial Police Officer Khyber Pakhtunkhwa & others.

..... Respondents

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2	Affidavit		

Deponent

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO. 1150/2018.

Muhammad Arif.....Appellant

VERSUS

Provincial Police Officer Khyber Pakhtunkhwa & others.

..... Respondents

Reply/ Comments On Behalf Of Respondents

RESPECTFULLY SHEWETH:-

PRELIMINARY OBJECTION:-

- a) The appeal is not based on facts and appellant has got no cause of action or locus standi.
- b) That appeal is not maintainable in the present form.
- c) The appeal is bad for non-joinder of necessary and mis-joinder of unnecessary parties.
- d) The appellant is estopped by his own conduct to file the appeal.
- e) The appeal is barred by the law and limitation.
- f) The appellant has not come to the Honorable Tribunal with clean hands.
- g) That the appellant has suppressed/concealed the original facts from this honorable service tribunal hence not entitled for any relief and the appeal is liable to be dismissed.
- h) That the competent authority has passed the order after fulfillment all the codal formalities hence the appeal is liable to be dismissed without any further proceeding.

FACTS:-

1. Pertains to record.
2. Pertains to record.
3. Incorrect, the appellant while posted at Police Line Judba has absented himself from duty with effect from 14-11-2017 to 31-01-2018 (total 77 days) and with effect from 01-02-2018 to his date of dismissal from service without any

leave or permission which reflects his irresponsible attitudes towards disciplined force.

4. Incorrect.
5. In reply to Para No. 05 it is submitted that on 28-01-2018 the enquiry officer in his finding report stated that the appellant was called to appear before the enquiry officer many time but he did not appear before the enquiry officer which shows he did not want to serve in police department and recommended him for major punishment.
6. Correct to the extent of filing of appeal before he respondent No. 02 which has been rejected being punishment is genuine.
7. Correct, to the extent that appellant filed departmental appeal. However, it was filed by the competent authority as per law/rules.
8. Incorrect copy of the order was given to appellant without any delay
9. Incorrect the appellant absented himself from duty in non compliance of order of the competent authority hence the appeal is not maintainable on the following grounds:-

GROUND:-

- A. Incorrect. The impugned orders are legal, correct and in accordance with law and rules.
- B. Incorrect. The appellant was treated in accordance with law and proper opportunity of personal hearing was given to the appellant but he failed to appear before the enquiry officer.
- C. Incorrect. All the proceedings were conducted in accordance with law /rules Charge sheet/ statement of allegations were issued to the appellant. DSP HQ, was appointed as enquiry officers. Appellant was directed

time and again to appear before the enquiry officer but he deliberately did not attend the enquiry proceedings.

- D.** Incorrect appellant has been treated in accordance with law. No article of constitution of Islamic Republic of Pakistan rules 1973, has been violated by respondents.
- E.** Incorrect. The appellant was treated in accordance with law rules & regulations.
- F.** Incorrect. Appellant has been treated in accordance with rules/law.
- G.** Pertains to record.

PRAYER:

In view of the above mentioned facts, the appeal in hand may kindly be dismissed being devoid of any legal force and badly time barred case.



**District Police Officer
Torghar
(Respondent No. 3)**



**Regional Police Officer
Hazara Region Abbottabad
(Respondent No. 2)**



**Provincial Police Officer
KPK Peshawar
(Respondent No. 1)**

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO. 1150/2018.

Muhammad Arif.....Appellant

VERSUS

Provincial Police Officer Khyber Pakhtunkhwa & others.

..... Respondents

AFFIDAVIT

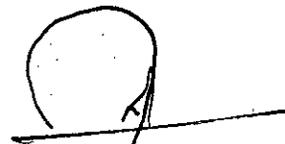
We respondents do solemnly affirm and declare that the contents of the comments are true and correct to our knowledge and belief and that nothing has been concealed from this Honorable tribunal.



**District Police Officer
Torghar
(Respondent No. 3)**



**Regional Police Officer
Hazara Region Abbottabad
(Respondent No. 2)**



**Provincial Police Officer
KPK/Peshawar
(Respondent No. 1)**

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 1746 /ST

Dated 14/10 2019

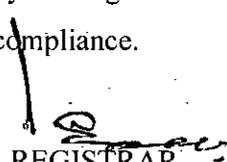
To

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

SUBJECT: -

JUDGMENT IN APPEAL NO. 1150/2018, MR. MUHAMMAD ARIE.

I am directed to forward herewith a certified copy of Judgement dated 19.09.2019 passed by this Tribunal on the above subject for strict compliance.


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO. 1150/2018.

Muhammad Arif.....Appellant

VERSUS

1) Provincial Police Officer Khyber Pakhtunkhwa & others.

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BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO. 1150/2018.

Muhammad Arif.....Appellant

VERSUS

Provincial Police Officer Khyber Pakhtunkhwa & others.

..... Respondents

Reply/ Comments On Behalf Of Respondents

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time and again to appear before the enquiry officer but he deliberately did not attend the enquiry proceedings.

- D. Incorrect appellant has been treated in accordance with law. No article of constitution of Islamic Republic of Pakistan rules 1973, has been violated by respondents.
- E. Incorrect. The appellant was treated in accordance with law rules & regulations. /
- F. Incorrect. Appellant has been treated in accordance with rules/law.
- G. Pertains to record.

PRAYER:

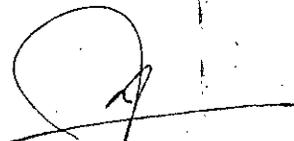
In view of the above mentioned facts, the appeal in hand may kindly be dismissed being devoid of any legal force and badly time barred case.



**District Police Officer
Torghar
(Respondent No. 3)**



**Regional Police Officer
Hazara Region Abbottabad
(Respondent No. 2)**



**Provincial Police Officer
KPK Peshawar
(Respondent No. 1)**

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO. 1150/2018.

Muhammad Arif.....Appellant

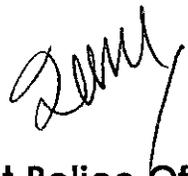
VERSUS

Provincial Police Officer Khyber Pakhtunkhwa & others.

..... Respondents

AFFIDAVIT

We respondents do solemnly affirm and declare that the contents of the comments are true and correct to our knowledge and belief and that nothing has been concealed from this Honorable tribunal.



District Police Officer
Torghar
(Respondent No. 3)



Regional Police Officer
Hazara Region Abbottabad
(Respondent No. 2)



Provincial Police Officer
KPK Peshawar
(Respondent No. 1)

1998 S C M R 801**[Supreme Court of Pakistan]****Present: Nasir Aslam Zahid, Munawar Ahmad Mirza and Abdur Rehman Khan, JJ****HAQ NAWAZ KIANI---Petitioner****versus****THE PROVINCE OF PUNJAB through Chief Secretary, Government of Punjab, Civil Secretariat Lahore and others---Respondents**

Civil Petition No. 1103 of 1997, decided on 2nd March, 1998.

(On appeal from the judgment dated 5-9-1997 passed by the Punjab Service Tribunal, Lahore, in Appeal No.391 of 1996).

Qanun-e-Shahadat (10 of 1984)---

---Art. 49---Constitution of Pakistan (1973), Art. 212(3)---Change in date of birth---Civil servant at fag-end of his career, when retirement age was just approaching, seeking change in his date of birth---Civil servant through District Magistrate got his date of birth changed from relevant birth register and on basis of entries freshly recorded, got his Matriculation Certificate rectified with regard to date of birth---Petitioner (civil servant) being Senior Police Officer sought rectification of age in his service record which was refused---Service Tribunal dismissed civil servant's appeal against refusal of rectification of his service record---Validity---Service Rules regarding correction of age within two years from entry into service were apparently sound and logical---Civil servant could not be normally permitted to awake from deep slumber and dramatically announce change in his date of birth; when about to retire---Service Tribunal had properly considered all facts and aspects of case and had assigned cogent reasons for declining relief---Legal position discussed and conclusions drawn by Service Tribunal did not suffer from any defect, illegality or impropriety---Development of tendency whereby unwarranted claims, attempting to show error in "date of birth" being asserted towards retiring age by fabricating- or manipulating documents in that behalf, deprecated---Grievances agitated by civil servant did not make out any substantial question of law having public importance---Leave to appeal to Supreme Court was refused in circumstances.

Raja Muhammad Bashir, Advocate Supreme Court with Mehr Khan Malik, Advocate-on-Record for Petitioner.

Nemo for Respondents-

Date of hearing: 2nd March, 1998.

JUDGMENT**MUNAWAR AHMAD MIRZA, J.**---This petition is directed against judgment, dated 5th September, 1997 passed by the Punjab-Service Tribunal, Lahore in Appeal No.391 of 1996.

claimed to have performed duty after his transfer to Police Line Judba Torghar regarding performing of duty of the appellant. The issue of back benefits will be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

19.09.2019

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
CAMP COURT ABBOTTABAD

(HUSSAIN SHAH)
MEMBER
CAMP COURT ABBOTTABAD

restore the judgment and the decree delivered by the learned Additional District Judge on 30-7-1990. No order as to costs".

(iv) 1998 SCMR 1494 (Syed Iqbal Haider v Federation of Pakistan)

"12. We may also refer to the submission made by the learned Attorney-General that in Government service an employee cannot make any application for change in his date of birth after two years. On analogy, such rule should also be followed in judiciary, which otherwise would lead to serious complications, and open a pandora's box. Similarly authenticity of date of birth recorded in the documents cannot be challenged belatedly, specially beyond the abovementioned period. "

13. For the foregoing reasons, we have I no hesitation, in holding that impugned judgment suffers from legal defects and direct that same be set aside. Consequently, appeal is allowed. The parties are, however, left to bear their own costs.

M.B.A./G-357/S
allowed.

Appeal

Torghar to Police Line Judba Torghar but he did not report/arrival in the Police Line Judba Torghar therefore, he deliberately remained absent from duty. It was further contended that all the codal formalities were fulfilled before passing the impugned order of major penalty of dismissal from service therefore, the competent authority has rightly dismissed the appellant from service on the basis of inquiry report and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was serving in Police Department as Constable. He was having seven years service in his credit at the time of imposing major penalty of dismissal from service. The record further reveals that the appellant was performing his duty in the office of District Public Prosecutors Torghar, Mansehra ^{act} and Oghi. The record further reveals that he was transferred vide order dated 14.11.2017 from the office of District Public Prosecutor to Police Line Judba Torghar but there is nothing on the record to show that the appellant was informed regarding his transfer order and the appellant has claimed in his service appeal that he was performing his duty in the office of District Public Prosecutor after his transfer as he was never informed by the respondent-department. The record further reveals that the departmental proceeding was initiated against the appellant but there is nothing on the record in the shape of Parwan/statement of witnesses to show that the appellant was informed regarding departmental proceeding and the inquiry officer has conducted ex-parte inquiry ^{proceeding} Meaning thereby, that the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside. As such, we partially accept the appeal, set-aside the impugned order and reinstate the appellant into service with the direction to respondent-department to conduct de-novo inquiry with in a period of 90 days strictly in accordance with law with further direction to associate the appellant in inquiry proceeding and the inquiry officer is also directed to record the statement of the concerned District Public Prosecutor Torghar with whom the appellant has

◀ (iii) 1998 SCMR 602 (Pakistan Broadcasting Corporation v. Subedar Major (Rctd.) Abdul Razzaq)

"Coming to the entry copy P-1 in the Birth Register, it is worthy to note that it was issued on 12-8-1935. The respondent sought declaration from Civil Court in respect of said entry in Birth Register in 1971. Said decree was obtained in a suit filed by the respondent against the public-at-large. At least the Authorities maintaining the Birth Register, should have been impleaded in said suit as defendants. Said decree by no stretch of imagination, can be binding on anybody, much less on the appellant. There is no explanation as to why the respondent waited for a period of 36 years to obtain the decree. In this case deposition, the respondent appearing as P.W.2 admitted that he was recruited in army in August, 1943 and that he had mentioned his age to be 16 years. He further stated that he had obtained the birth certificate in 1971. He denied the suggestion that he was issued the birth certificate in 1935. This would amount to saying that the respondent disowned copy of entry Exh. P-1, which was admittedly obtained on 12-8-1935 a age per the endorsement on it."

Dealing with the evidence, learned Additional District Judge in his judgment dated 30-7-1990 has commented as follows:----

"As already given above in Exh. P-1 date of birth given is 16-4-1929 (Although it relates to the Muhammad Rashid, nevertheless the respondent claims himself as the same person having been born on 16-4-1929) In Exh. P-6 the school leaving certificate of Abdur Razzaq his date of birth shown is 13-3-1929, in Exh. P-4 the application submitted by him for joining the service with the appellant, he himself had given his date of birth to be 29-3-1929. In his Identity Card the said date is shown as 29-3-1929 and with the Army Authorities record Exh. P-3 he was shown to be of 16 years at the time of joining of Army Service on 16-8-1943. It is, thus, very much clear that although heavy onus lay upon the respondent to prove his actual date of birth but he miserably failed to discharge such onus. In view of the documentary evidence produced by him and also on the basis of oral evidence led by him he could not be declared as having been born on 16-4-1929. "

The explanation furnished by the High Court about date of birth mentioned in the school leaving certificate P-6 being different from the one given in the National Identity Card is not convincing. It is debatable if the learned Single Judge in the High Court while dealing with the revision application, could have delivered a judgment that can be by an Appellate Court.

In our view, learned Additional District Judge had arrived at the right conclusion, which is supported by valid reasons. Consequently, we accept this appeal and set aside the impugned judgment and the decree and

absence from duty with effect from 14.11.2017. The appellant filed departmental appeal on 17.03.2018 which was rejected vide order dated 06.07.2018 but the departmental authority order was not communicated to the appellant therefore, the appellant submitted application for providing copy of the departmental authority order dated 06.07.2018 on 28.08.2018 ^{and on the basis of} which ~~was~~ received to the appellant on 29.08.2018 as claimed by the appellant in para-7 & 8 of the service appeal hence, the present service appeal on 14.09.2018.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant was appointed as Constable vide order dated 27.07.2007 in Police Department. It was further contended that the appellant was performing his duty with the District Public Prosecutor Torghar. It was further contended that the appellant was transferred from the office of District Public Prosecutor to Police Line Judba Torghar on 14.11.2017 but the appellant was not communicated the said transfer order and when the appellant received information of his transfer on 31.01.2018, he reported for duty at Police Line Judba Torghar vide daily diary no. 6 dated 31.01.2018 and thereafter, the appellant remained present at Police Line Judba Torghar. It was further contended that the absence of the appellant was not deliberate but he was not informed regarding his transfer order to Police Line Judba Torghar. It was further contended that the departmental proceeding was initiated against the appellant ^{but} he was not informed regarding the departmental proceeding therefore, the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside and prayed for acceptance of appeal.

5. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was transferred from the office of District Public Prosecutor

12. Additionally, respondent having kept quiet had consciously acquiesced to the entries contained in Matriculation Certificate and service book, hence she is estopped by her conduct to challenge the same at such belated stage. Learned Chairman of Punjab Service Tribunal has apparently misconstrued legal position and misread the evidence by taking favourable view towards the respondent, in the impugned judgment. The conclusions drawn by the Tribunal suffer from legal infirmity and contravene principles of justice. Therefore, in our opinion, impugned judgment is not sustainable. In this behalf we are supported by following judgments of this Court extracts whereof are reproduced below:--

(i) 1994 SCMR 1633 (M. R. Khalid v. Chief Secretary, Punjab):

"After hearing the learned counsel for the petitioner, we are not persuaded that any case for interference with the judgment of the learned Tribunal has been made out. Admittedly, while taking the competitive examination the petitioner had himself declared his date of birth to be 2-6-1930. He remained in service for about 35 years thereafter. His name together with his declared date of birth appeared in the gradation lists and civil lists periodically published by the Provincial Government. He did not object to the incorrect publication of his date of birth till a few years before his retirement. The mere fact that he was able to obtain a decree from the Additional District Judge did not advance his case for the Government was not a party to the civil suit brought by him. Though the Government has undoubtedly the power to correct an incorrectly recorded date of birth of a civil servant but the silence of the petitioner over the major portion of his service was such that he did not merit a favourable decision from the Government. We are, therefore, unable to find any substance in this petition. It is hereby dismissed."

(ii) 1998 SCMR 801 (Hag Nawaz Kiani v. The Province of Punjab)

"On thorough scrutiny, we have noticed that service rules regarding correction of age within two years from entry into service are apparently sound and logical. Government servant cannot be normally permitted to rise from deep slumber and dramatically announce change in the date of birth when about to retire. The Service Tribunal has properly considered all facts and aspects of the case and has assigned cogent reasons by declining the relief. In our opinion, legal position dismissed that conclusion drawn by the Service Tribunal for passing impugned judgment do not suffer from any defect illegality of impropriety. We wish to observe that lately a tendency has developed whereby unwarranted claims attempting to show errors in 'date of birth' are asserted towards retiring age by fabricating or manipulating documents in that behalf. Obviously, such practice must be discouraged and effectively curbed. Additionally, the grievances agitated before us do not make out any substantial questions of law having public importance. "

DDA

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

SERVICE APPEAL NO. 1150/2018

Date of institution ... 14.09.2018

Date of judgment ... 19.09.2019

Mohammad Arif S/o Ghulam Nabi (Ex-Constable No. 359 District Police Torghar)
R/o Village Jagori, P.O Kotli Bala, Tehsil Baffa District Mansehra.

... (Appellant)

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Torghar.

... (Respondents)

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST ORDER DATED 21.02.2018 OF THE DISTRICT POLICE OFFICER TORGHAR WHEREBY THE APPELLANT HAS BEEN AWARDED MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE AND ORDER DATED 06.07.2018 (DELIVERED ON 29.08.2018) OF THE REGIONAL POLICE OFFICER HAZARA REGION ABBOTTABAD WHEREBY APPELLANT DEPARTMENTAL APPEAL HAS BEEN REJECTED.

Mr. Muhammad Aslam Tanoli, Advocate.

.. For appellant.

Mr. Muhammad Bilal Khan, Deputy District Attorney

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. HUSSAIN SHAH

.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Appellant

alongwith his counsel and Mr. Muhammad Bilal Khan, Deputy District Attorney alongwith Mr. Siraj; Reader for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was serving in Police Department as Constable. He was imposed major penalty of dismissal from service vide order dated 30.02.2018 on the allegation of

District Police Officer, Torghar

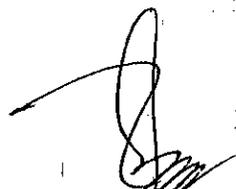
DISMISSAL ORDER

The order will dispose off the departmental proceedings conducted against Constable Arif No.359 posted at Police Line Judba who was absent himself from duty w.e.f 14-11-2017 to 31-01-2018 77 days & 01-02-2018 to uptill now without any information/permission by your senior.

A Charge Sheet/Disciplinary Action was served upon him vide this office Memo. No.775-76/PA dated, 27-12-2017 and entrusted to DSP/Head Quarter for enquiry. On 28-01-2018 the Enquiry Officer in his finding report stated that Constable Arif No.359 was called to appear before the enquiry officer many time but he not appear before the Enquiry Officer which shows he not want to serve in Police Department and recommended him for Major punishment. A final showcause notice was served upon him vide this office Memo. No.59/PA dated, 01-02-2018 to appear before the undersigned and give reason about his absentee in a stipulated period but till now he not give reply nor produce before the undersigned which show he not want to serve in police department.

Therefore, Keeping in view and, In light of recommendation of enquiry officer and perusal of record & his long absence period I, Sardar Khan, District Police Officer, Torghar competent authority in exercise of power under the Police Rules 1975 is hereby awarded him major punishment i.e. dismissed from service from the date of absence i.e. 14-11-2017 with immediate effect.

Order announced


**District Police Officer,
Torghar.**

OB No. 90 / dated, Torghar, the 21-02/2018.

Copies to the :-

1. SRC Torghar
2. Pay Officer Torghar.

فون سر

۱۰۱۰۰۰۱
ادنیٰ فقیر OHC طبع توڑی
حکم جناب ۱۵۰ صاحب علیہ توڑی
سراج صاحب لائن

بکار سے نکال دینا
بجائے میں علیہ علیہ FC عارف اللہ علیہ علیہ
بجائے میں علیہ علیہ علیہ علیہ علیہ علیہ علیہ
کا حکم ہو اچھے مطلع رہ کر بعد از قلم لیں
مذکورہ کو سامان سے جاری ہوگی کے رخصت ہو
کیا جائے

مطلع رہ کر جاری لکھیں

NA. AQI. 1000.
OHC. Tooghar
21-02-2018

Matlab No. 0324-501000
12-12-17 کو برقی طور پر سونپا گیا، یون اطلاع کے لیے 11:55 بجے
OFFICE OF THE DISTRICT POLICE OFFICER, TORGHAR

No. 59 /PA dated, Torghar the 01 / 02 / 2018.

FINAL SHOW CAUSE NOTICE.

(Unit Rule (3) KPK Police Rules, 1975)

1. That You Constable Arif No.359 Posted at Police line, have rendered yourself liable to be proceed under Rule 5 (30) of the Khyber Pakhtunkhwa Police Rules 1975 for the following misconduct:

i. You while posted as Police line has absented himself from duty without any information/permission w.e.f 14-11-2017 to Till now . A charge sheet was served upon you vide this office Endst: No.775-76/PA dated, 27.12.2017 and the enquiry entrusted to DSP/Hqrs: . The enquiry officer in his finding suggested for Major punishment. Now a final showcase notice is served upon you if you have any cogent reason about your absentee otherwise ex.parte action will be taken against you.

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 Officer.

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 Rule, 1975 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 as 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.

9. Ground of action are also enclosed with the notice.

Received by Arif

Dated, 1 / 1 / 2018

TA / فرم 112
جسٹس

Period of Absence. 96 days

District Police Officer,

Dismissed from Service Torghar

DPO Torghar
20/02/017

انڈیکس انکوائری

مختصر پولیس لائن جہاد

انٹوائری اذان کیشل عارف 359

S/No	تفصیل قاعدات	قلمات	بازبان	کیفیت
1	چار 2 شب	انٹوائری	02	
2	فائنڈنگ رپورٹ	ارو	01	
3	بیان اذان ضرر لائن جہاد	=	01	
4	انڈیکس انکوائری / انڈیکس آرڈر شیٹ	=	02	
5	نقل ریٹ غیر حاضری 24 روزہ تاخیر 11/14 پولیس لائن جہاد 17	=	01	
			07	کل قطعات =

O.B.V.O 90

DATE 21-02-18

از دفتر Dsp/HQ
ماہ کوثر
=α=α=α=α=

ماہنگہ رپورٹ
=α=α=α=

جناب عالی /
شمارہ جاریہ شیٹ نمبری 775-76-PA
27.12.17 جاریہ جناب DPO
کوثر انٹوائٹری اذ ان کیٹیل عارف 359
کی انٹوائٹری جھے مارے ہوئی ہریان
انٹوائٹری ذیل حالاتے ہائے گے:

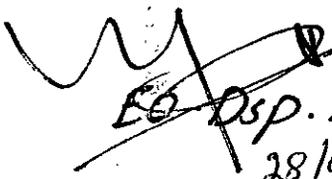
کیٹیل مذکورہ DPP جب گنر تعیناتے تھا مورخہ 09/11/17 کو گنر DPP
سے ملوز ہوکر GD لائن ہوا مذکورہ کیٹیل نے اپنی حافی کی رپورٹ
پولس لائن جبکہ میں نہیں کسی جو کہ مورخہ 14/11/17 سے غیر حاضر ہوا
اور مذکورہ کیٹیل بدستور غیر حافی سے جسکی غیر حافی پر مورخہ 27/12/17
سے جاریہ شیٹ نمبری 775-76
27.12.17 جاری ہوا مذکورہ کیٹیل کو برائے قلمبندی بیان
بار بار بذریعہ وائٹریس سے طلب کیا گیا جو حاضر نہ آیا اور نہ ہی کوئی تحریری
بیان انٹوائٹری انفر کو ارسال کیا ہے

مذکورہ کیٹیل مورخہ 14/11/17 سے تا حال بدستور غیر ہے اور بار بار طلبی پر حاضر
نہ آیا جس سے حافی ظاہر ہوا ہے کہ مذکورہ حکیم پولس فورس میں ملازمین
کا فوایشن مندر ہے اور اشراں بالا کے حکم کو نہیں مانتا اور میں مرضی ڈیوٹی کرنا
ہے۔ لہذا مذکورہ کے بارے میں مناسب حکم صادر فرمایا جاوے رپورٹ

Issue formal show cause
notice



DPO Tugheer
30/01/2018



Dsp. HQ. TG
28/01/018

ماہنگہ گزارش ہے

بین ازان اسرار و مہمات

بنامی ہفتہ کاشن عارفی 359 دہہ سر سے سیکر جنرل عارفی کا عبد نذیر
جناب عارفی و اطلاع رہا ہے کہ مہمات و نیا نیا۔ ص 13/13 و نذیر
جناب عارفی و اطلاع رہا ہے کہ مہمات و نیا نیا۔ ص 13/13 و نذیر
کاورد کیا جو یہ دستور عید صاف ہے کہ مہمات و نیا نیا۔

28-01-18
MHE-PL-76

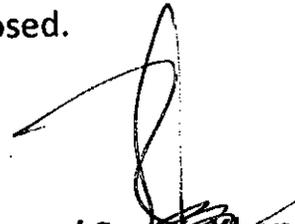
کیسٹ	تفصیل کارروائی	تاریخ آرڈر	S/N
	کوہذکورہ کنٹریل کیلئے پروانہ لفظوں پیش جاری ہووا۔	27-12-17	(1)
	کوہذکورہ کنٹریل دفتر DSP/45 آٹھ سے قالربا۔	28-12-17	(2)
	کوہذکورہ کنٹریل کیلئے پروانہ لفظوں پیش جاری ہووا۔	4-1-18	(3)

OFFICE OF THE DISTRICT POLICE OFFICER, TORGHAR

No. 775-76 /PA, Torghar dated Tor Ghar the 27/12 2017

CHARGE SHEET

1. I, Sardar Khan, District Police Officer, Torghar as competent authority hereby charge you Constable Arif No.359 posted at Police Line Judba as explained in the attached statement of allegations.
2. You appear to be guilty of misconduct under police disciplinary rules 1975, and have rendered yourself liable to all or any of the penalties specified in the said police disciplinary rules.
3. You are therefore directed to submit your written defense within (07) Seven days on the receipt of the charge sheet in the Enquiry officer.
4. Your written defense, if any, should reach the enquiry office within the specified period, failing which it shall be presumed that you have no defense to put in hand and in the case expartee action shall follow against you.
5. Intimate whether you desire to be heard in person or otherwise.
6. Statement of allegation is also enclosed.


(Sardar Khan)
District Police Officer,
Torghar

DISCIPLINARY ACTION

I, Sardar Khan, District Police Officer, Torghar as competent authority am of the opinion that Constable Arif No.359 posted at Police Line Judba has rendered himself liable to be proceeded against as you committed the following act/omission with in the meaning under the KPK Removal from service (Special Powers) Re-appealed Act 2011 Police Disciplinary Rules 1975.

STATEMENT OF ALLEGATION

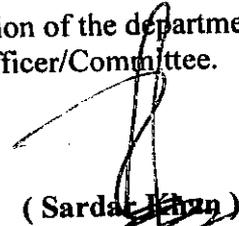
You while posted as police line Judbah has absented himself from the duty without any permission / information by your senior w.e.f 14.11.2017 to uptill now which show you not take interest on duty and also shows gross misconduct on your part and your pay will stopped.

For the purpose of scrutinizing the conduct with reference to the above allegation, an Enquiry committee of the following is constituted.

DSP/Head Quarter Judbah

The enquiry officer/Committee shall in accordance with the provision of this ordinance, provided reasonable opportunity of hearing to the accused, record finding and make within 07 days of the receipt of this order, recommendation as to punishment or the appropriate action the accused.

The accused and a well conversant representation of the departmental shall in the proceedings on the date, time and place fixed by the enquiry officer/Committee.


(Sardar Khan)
District Police Officer,
Torghar

Copy of the above is forwarded to:-

Constable Arif No.359 posted at Police Line Judba with the direction to submit his written statement to the Enquiry Officer the receipt of this charge sheet/statement of allegations and also to appear before Enquiry Officer on the date, time and place fixed for purpose of departmental proceedings.

۵۰۱۱

تفصیل کے ساتھ ۲۴ اگست ۱۱/۱۷ ۱۴

صلاحیہ

۲۴ اگست ۱۱/۱۷ ۱۴ صفت ۵۷۱۳۵ کے الیگزینڈر کے حکم کے تحت
 عدالت نے ۳۵۹ حصے فراہم کر کے ۱۱/۱۷ کو گورنمنٹ ڈپارٹمنٹ
 سے C.D. لائن کو بھیجا۔ جو ناظم انشورنس کے ذریعہ عدالت
 آئی۔ عدالت نے الیگزینڈر کے حکم کے تحت ۱۱/۱۷ کو
 تفصیل کے ساتھ ۲۴ اگست ۱۱/۱۷ ۱۴ کو عدالت سے ارسال کیا۔

صاحب علی

تفصیل کے ساتھ



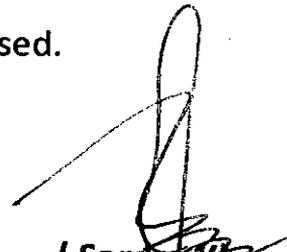
mm. p. J. Q
 18-01-018

OFFICE OF THE DISTRICT POLICE OFFICER, TORGHAR

No. 775-76 /PA, Torghar dated Tor Ghar the 27/12 2017

CHARGE SHEET

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(Sardar Khan)
District Police Officer,
Torghar

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STATEMENT OF ALLEGATION

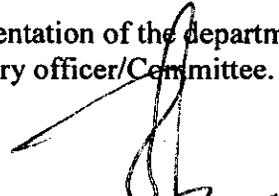
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The accused and a well conversant representation of the departmental shall in the proceedings on the date, time and place fixed by the enquiry officer/Committee.


(Sardar Khan)
District Police Officer,
Torghar

Copy of the above is forwarded to:-

Constable Arif No.359 posted at Police Line Judba with the direction to submit his written statement to the Enquiry Officer the receipt of this charge sheet/statement of allegations and also to appear before Enquiry Officer on the date, time and place fixed for purpose of departmental proceedings.

صرفہ

Days off

نقل پلٹ نہ 29 روزانہ 14/11/17

دراصل

مد 29 رپورٹ غیر مرضی سے 14/11/17 صحت 30 آگے سے رپورٹ مینڈ ٹائٹل عارف پٹر 359 پی
ٹر منتظر ہو کر 14/11/17 کو پٹر DPP صحت سے 15 دنوں ہوئی تھی جو تاصل انتظار کے باوجود مقرر
آیا۔ کسے عارف رپورٹ غیر مرضی درج روزانہ کی طرح سے نقل پلٹ علیحدہ وقت کے انتظار کے
تاریخ میں ارسال ہوئی۔

صاف علی -
تعمیراتی وجہ سے

PA
ISSUE CHANGE
SHEET

pay stop
DP0179

Sr
Kasripated
do. see file

Stat
M.M.P.H. TA
14-11-17

Sir, DP 0179
26-12-17
forwarded

27.11.17

نقل ریٹ = 56 روزہ 31/01/18

مرہ 56 سہری - 50 31/01/18 وقت 11:55 بجے اندر وقت کا فیس - عارف

الذی 359 غیر جانبدارہ بحوالہ مرہ 29 روزہ 14/01/18، آری ہے
 بیافے عیار مجھے سورہ 16 کو ٹر لائن کے بند بوجھ موبائل کے فونٹ
 اطلاع دے کہ آپ کے ٹرانسفر لائن کے پورے ہے چونکہ میں
 DPP 50 مرہ کے ساتھ تعینات جھنوں نے میرے ڈیوٹی کے دفتر
 مانتہرہ میں لگانے لگے ہیں جبکہ DPP 50 مرہ اوپر ملا ہے
 ملائے دیگر DPP 50 مرہ کے ساتھ ڈیوٹی سے سرانجام دے ہے
 آپ آری تو معلوم ہوا کہ مرہ - غیر جانبدارہ - بدتر ہے سہری
 کیوڈ کے دستخط انٹری - گفہ - مذکورہ - سہری - درج دریا
 ہے نقل ریٹ علیحدہ مرتب کر کے 16/02/18 - 16/02/18 میں 10 مرہ الیہ

جناب عالی
 نقل بھٹا - اہل ہے
 لکھنؤ
 M.M. L.T.G
 16-02-18

نقلیہ دہلی سے 21 روزہ کی 02/01/08

17:00 بجے اس وقت گنتی تمام 40

مرد ای گنتی - تمام

پولیس ملازمان کیلئے جمہوریہ از ڈیوٹی کے ملازمان گنتی میں موجود پانچ خاص لوگ 05 ڈیوٹی خلیل الرحمن HC جبکہ دو نم 05 ڈیوٹی فقیر سعید کی رگانی جگر وید متفرق ڈیوٹیوں کے طالبات ڈیوٹی پر پڑھ کر سائی مسیحتی گت بعد سائے سرور کے حکم اقدام گنتی چھوڑی گئی جبکہ کینڈا - عابد اللہ 359 گنتی میں عدم موجود پایا گیا جبکہ خلاف رپورٹ غیر جاری ہے 08 روزہ نامیہ نقل دینے کا پورہ مرتبہ مگر کے احقران بلا کے خدمت میں ارسال ہو گئی

دبیرہ پانچ روزہ

م: زاد عالی

نقلیہ دہلی سے 02/01/08

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MM.P.L.T.G
16-02-08

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District Police Officer, Torghar

DISMISSAL ORDER

The order will dispose off the departmental proceedings conducted against Constable Arif No.359 posted at Police Line Judba who was absent himself from duty w.e.f 14-11-2017 to 31-01-2018 77 days & 01-02-2018 to uptill now without any information/permission by your senior.

A Charge Sheet/Disciplinary Action was served upon him vide this office Memo. No.775-76/PA dated, 27-12-2017 and entrusted to DSP/Head Quarter for enquiry. On 28-01-2018 the Enquiry Officer in his finding report stated that Constable Arif No.359 was called to appear before the enquiry officer many time but he not appear before the Enquiry Officer which shows he not want to serve in Police Department and recommended him for Major punishment. A final showcause notice was served upon him vide this office Memo. No.59/PA dated, 01-02-2018 to appear before the undersigned and give reason about his absentee in a stipulated period but till now he not give reply nor produce before the undersigned which show he not want to serve in police department.

Therefore, Keeping in view and, In light of recommendation of enquiry officer and perusal of record & his long absence period I, Sardar Khan, District Police Officer, Torghar competent authority in exercise of power under the Police Rules 1975 is hereby awarded him major punishment i.e. dismissed from service from the date of absence i.e. 14-11-2017 with immediate effect.

Order announced


**District Police Officer,
Torghar.**

OB No. 90 / dated, Torghar, the 21-02/2018.

Copies to the :-

1. SRC Torghar
2. Pay Officer Torghar.

خون سر

از دفتر OHC مطلع تو روز
حکم جناب دادگاه عالی و دفتر
سراج صاحب لائن

بکار سرانجام رسید حکم FC عمارق الله مندر آید
بوجود بنده عاقبتی حکم سے درخواست ہوئی
کا حکم سراج صاحب مطلع رہ کر بعد از طلب رسید
مذکورہ کو سامان سے جاری و بنی کے رخصت کر
کیا جائے۔

مطلع رہ کر رفاہی لکھیں کہیں

NA. AQI. 500.
OHC. Toghra
21-02-2008

OFFICE OF THE DISTRICT POLICE OFFICER, TORGHAR

No. 59 /PA dated, Torghar the 01 / 02 / 2018.

FINAL SHOW CAUSE NOTICE.

(Unit Rule (3) KPK Police Rules, 1975)

1. That You Constable Arif No.359 Posted at Police line, have rendered yourself liable to be proceed under Rule 5 (30) of the Khyber Pakhtunkhwa Police Rules 1975 for the following misconduct:

i. You while posted as Police line has absented himself from duty without any information/permission w.e.f 14-11-2017 to Till now . A charge sheet was served upon you vide this office Endst: No.775-76/PA dated, 27.12.2017 and the enquiry entrusted to DSP/Hqrs: . The enquiry officer in his finding suggested for Major punishment. Now a final showcase notice is served upon you if you have any cogent reason about your absentee otherwise ex.parte action will be taken against you.

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 Officer.

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 Rule, 1975 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 as 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.

9. Ground of action are also enclosed with the notice.

Period of Absence 96 days

District Police Officer,

Torghar

Received by Arif

Dated, 1 / 2018

Dismissed from Service

TAI No 112
Arif

DPO Torghar
20/02/017

انڈیکس انکوائری

مختصر پولیس لائن جہاں

انکوائری اذان کیل عارف 359

S/No	تفصیل معاذات	قلمیات	بازبان	کیفیت
1	چار 2 شب	انکوائری	02	
2	فائنڈنگ رپورٹ	ارر	01	
3	بیان اذان ضرر لائن جہاں	=	01	
4	انڈیکس انکوائری / انڈیکس آرڈر شیٹ	=	02	
5	نقل رپٹ مختصر حاضری 24 روزہ نامہ 11/17 پولیس لائن جہاں	=	01	
		کل قلمیات =	07	

O B N O 90

DATE 21-02-18

از دفتر Dsp/HQ
ماہ کوثر
=α=α=α=α=

ماہ کوثر
=α=α=α=

جناب عالی /
شمارہ جاریہ شیٹ نمبری 775-76-PA
27.12.17 جاریہ جناب Dpo
کوثر انٹوائٹری اذان کیشل عارف 359
کی انٹوائٹری جے مارک ہوئی بدوہان
انٹوائٹری ذیل حالات ہائے گے:

کیشل مذکورہ DPP جب گنر تعینات تھا مورخہ 09/11/17 کو گنر DPP
سے ملوز ہو کر GD لائن ہوا مذکورہ کیشل نے اپنی حافی کی رپورٹ
پولس لائن جبکہ میں نہیں کی جو کہ مورخہ 14/11/17 سے غیر حافی ہوا
اور مذکورہ کیشل بدستور غیر حافی سے جسکی غیر حافی پر مورخہ 27/12/17
سے جاریہ شیٹ نمبری 775-76
27.12.17 جاری ہوا مذکورہ کیشل کو برائے قلمبندی بیان
بار بار بذریعہ وائٹریس سے طلب کیا گیا جو حافی نہ آیا اور نہ ہی کوئی تحریری
بیان انٹوائٹری انفر کو ارسال کیا ہے

مذکورہ کیشل مورخہ 14/11/17 سے تا حال بدستور غیر حافی اور بار بار طلبی پر حافی
نہ آیا جس سے حافی ظاہر ہونا لگتا ہے مذکورہ حکیم پولس فورس میں ملازمین
کا فواریشن مندرجہ ہے اور افسران بالا کے حکم کو نہیں مانتا اور میں مرضی ڈھونڈ کر لانا
ہے۔ لہذا مذکورہ کے بارے میں مناسب حکم صادر فرمایا جاوے رپورٹ

Issue formal show cause
notice



DPO Tooghan
30/01/2018

EQ Dsp. HQ. T9
28/01/018

ماہ کوثر کے گزارش ہے

پہلے ان کے بارے میں جانیں

بانی جینرل کانسٹیبل عارف خان 359 D.P.P. سر سے ملنے والا پتہ ہے جو قاضی عبدالغلام
جوانی پور اور اطلاع کے لیے جی ایم پورہ کا پتہ ہے۔ پتہ کا صفحہ 13/13/13
جوانی پور اور اطلاع کے لیے جی ایم پورہ کا پتہ ہے۔ پتہ کا صفحہ 13/13/13
خانہ 13/13/13

28-01-18
M.H. P. T. 1

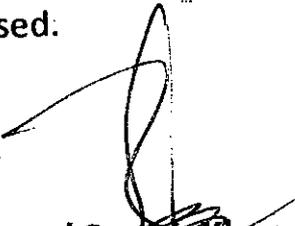
کیفیت	تفصیل کارروائی	تاریخ آرڈر	S/N
	کو مذکورہ کنٹریل کیلئے روانہ ہونے لپٹ جاری ہووا	27-12-17	(1)
	کو مذکورہ کنٹریل دفتر DSP/4 سے قالربا	28-12-17	(2)
	کو مذکورہ کنٹریل کیلئے روانہ ہونے لپٹ جاری ہووا	4-1-18	(3)

OFFICE OF THE DISTRICT POLICE OFFICER, TORGHAR

No. 775-76 /PA, Torghar dated Tor Ghar the 27/12 2017

CHARGE SHEET

1. I, **Sardar Khan, District Police Officer, Torghar** as competent authority hereby charge you Constable Arif No.359 posted at Police Line Judba as explained in the attached statement of allegations.
2. You appear to be guilty of misconduct under police disciplinary rules 1975, and have rendered yourself liable to all or any of the penalties specified in the said police disciplinary rules.
3. You are therefore directed to submit your written defense within (07) Seven days on the receipt of the charge sheet in the Enquiry officer.
4. Your written defense, if any, should reach the enquiry office within the specified period, failing which it shall be presumed that you have no defense to put in hand and in the case expartee action shall follow against you.
5. Intimate whether you desire to be heard in person or otherwise.
6. Statement of allegation is also enclosed.


(**Sardar Khan**)
District Police Officer,
Torghar

DISCIPLINARY ACTION

I, Sardar Khan, District Police Officer, Torghar as competent authority am of the opinion that Constable Arif No.359 posted at Police Line Judba has rendered himself liable to be proceeded against as you committed the following act/omission with in the meaning under the KPK Removal from service (Special Powers) Re-appealed Act 2011 Police Disciplinary Rules 1975.

STATEMENT OF ALLEGATION

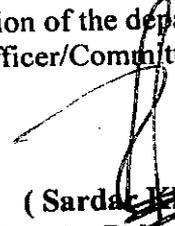
You while posted as police line Judbah has absented himself from the duty without any permission / information by your senior w.e.f 14.11.2017 to uptill now which show you not take interest on duty and also shows gross misconduct on your part and your pay will stopped.

For the purpose of scrutinizing the conduct with reference to the above allegation, an Enquiry committee of the following is constituted.

DSP/Head Quarter Judbah

The enquiry officer/Committee shall in accordance with the provision of this ordinance, provided reasonable opportunity of hearing to the accused, record finding and make within 07 days of the receipt of this order, recommendation as to punishment or the appropriate action the accused.

The accused and a well conversant representation of the departmental shall in the proceedings on the date, time and place fixed by the enquiry officer/Committee.


(Sardar Khan)
District Police Officer,
Torghar

Copy of the above is forwarded to:-

Constable Arif No.359 posted at Police Line Judba with the direction to submit his written statement to the Enquiry Officer the receipt of this charge sheet/statement of allegations and also to appear before Enquiry Officer on the date, time and place fixed for purpose of departmental proceedings.

۵۰۱۱

فصل اول ۲۴ لغت ۱۱ ۱۴ ۰۱۷

صاحب کوثر

۲۴ لغت غیر ملکی صیا ۱۱ ۱۴ صفت ۰۱۷ ۳۵ ۰۱۷ ۳۵ لغت غیر ملکی
 عرفا ۳۵۹ صفت ۱۱ ۱۶ ۰۹ کوثر DPP ۱۱ ۱۶
 سے C.D. لائن جوئی تھا جو ناظر اشعار کے طور پر ملتا
 آتا ہے عرفا لغت غیر ملکی ۱۱ ۱۶ ۰۹ کوثر DPP ۱۱ ۱۶
 فصل اول ۲۴ لغت ۱۱ ۱۴ ۰۱۷

ما علی

فصل اول

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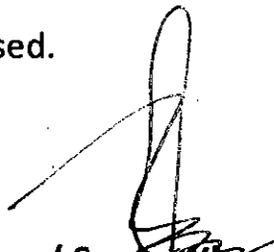
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OFFICE OF THE DISTRICT POLICE OFFICER, TORGHAR

No. 775-76 /PA, Torghar dated Tor Ghar the 27/12 2017

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(Sardar Khan)
District Police Officer,
Torghar

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STATEMENT OF ALLEGATION

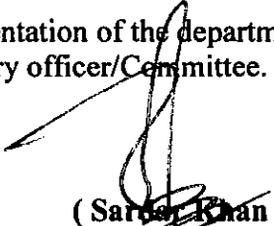
You while posted as police line Judbah has absented himself from the duty without any permission / information by your senior w.e.f 14.11.2017 to uptill now which show you not take interest on duty and also shows gross misconduct on your part and your pay will stopped.

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The accused and a well conversant representation of the departmental shall in the proceedings on the date, time and place fixed by the enquiry officer/Committee.


(Sardar Khan)
District Police Officer,
Torghar

Copy of the above is forwarded to:-

Constable Arif No.359 posted at Police Line Judba with the direction to submit his written statement to the Enquiry Officer the receipt of this charge sheet/statement of allegations and also to appear before Enquiry Officer on the date, time and place fixed for purpose of departmental proceedings.

مذکورہ

Pay Stop

نقل پٹے کے لئے 29 روزانہ 14/11/17

لاریں

مد 29 روزانہ غیر ضروری سے 14/11/17 صحت 30 آگے کے لئے روزانہ مینڈ کاٹنے سے عارف پٹر 359 پی

ٹر اسٹور سے 14/11/17 کو ڈی پی پی سے 15 دنوں میں بھی جو ناطل انتظار کے بارے میں ضرورت
آیا ہے عارف روزانہ غیر ضروری درج روزانہ کی طرح سے نقل پٹے کے لئے مینڈ کاٹنے کے لئے لاریں

منا عارف

تقریباً 100

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14-11-17

Sr,
DP-0179
26-12-17
forwarded

27-11-17

نقلہ سے منہ 21 ددوئی 02/018

مر 21 گنتی - شام 17:00 بجے اسوقت گنتی شام 02/018

پولیس ملازمت کیلئے جمادع از ڈیوٹی ملازمت گنتی
میں موجود پانچے جانک لوک 05 ڈیوٹی خلیل الرحمن HC
جیکر دوئم 05 ڈیوٹی فقیر سعید کی رگانی جانک و دیگر
متفرق ڈیوٹیوں کے مطابق ڈیوٹی پر یہ پڑھ کر سائی
مسموٹی گے بعد سے سرور کے حکم اعدم گنتی چھوڑی گئی
جیکر کڑیلے عابد اللہ 359 گنتی میں عدم موجود پایا گیا
جیکر خلاف ریکورڈ غیر جانکی 28 روز نامہ ہے نقل دیکھ
علیہ مرتبہ کرتے احسن ان با لکے خدمت میں ارسال ہوگی

دیورہ فیروز زو

مناذ عالی

نقلہ سے مطابق اہل سین

MM. PLTG

16-02-018

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BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO. 1150/2018.

Muhammad Arif.....Appellant

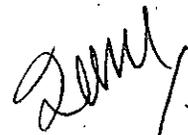
VERSUS

Provincial Police Officer Khyber Pakhtunkhwa & others.

..... Respondents

AFFIDAVIT

We respondents do solemnly affirm and declare that the contents of the comments are true and correct to our knowledge and belief and that nothing has been concealed from this Honorable tribunal.



District Police Officer
Torghar
(Respondent No. 3)



Regional Police Officer
Hazara Region Abbottabad
(Respondent No. 2)



Provincial Police Officer
KPK Peshawar
(Respondent No. 1)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO. 1150/2018.

Muhammad Arif.....Appellant

VERSUS

1) Provincial Police Officer Khyber Pakhtunkhwa & others.

..... Respondents

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S #	Description Documents	of Annexure	Page #
1	Comments / Reply		
2	Affidavit		

Deponent