

S.No	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	05.08.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO. 169/2014</p> <p style="text-align: center;">(Younas Ali-vs- Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH , MEMBER:</u></p> <p style="text-align: center;">Counsel for the appellant (Mr. Saif Ullah Khalil, Advocate) and Mr. Tariq Mahmood, ASI alongwith Mr. Ziaullah, GP for respondents present.</p> <p>2. Younas Ali, A Police Constable, on the basis of absence from duty was awarded penalty vide impugned order dated 30.09.2011 per concluding para of the same, as follows:-</p> <p style="padding-left: 40px;">“Keeping in view his bad financial status and on humanitarian ground, he is awarded major punishment of “Time Scale” with final warning. Period of absence be treated as absence and without pay.</p> <p>His departmental appeal was rejected vide order dated 10.01.2014, hence this appeal under section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.</p> <p>3. Arguments heard and record perused.</p> <p>4. During the course of arguments it was resolved that as no time has been given in the impugned order as provided in F.R-29, therefore the impugned order</p>

may be modified. Consequently, the impugned order is modified and the penalty awarded as above be read as reduction of one stage in time scale for one year. Appeal disposed of accordingly. Parties are left to bear their own cost. File be consigned to the record room.


(ABDUL LATIF)
MEMBER


(PIR BAKHSH SHAH)
MEMBER

ANNOUNCED
05.08.2016

13.08.2015

Appellant with counsel and Assistant A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 10.11.2015 before S.B.


Chairman

10.11.2015

Appellant in person and Mr. Habib Khan, ASI alongwith Addl: A.G for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 26.4.2016.


Chairman

26.04.2016

Counsel for the appellant and Mr. Muhammad Tariq Usman, S.I (legal) alongwith Mr. Ziaullah, GP for respondents present. Rejoinder submitted. The learned Members Judicial & Executive are on official tour to D.I. Khan, therefore, case is adjourned for arguments to 05.08.2016 before D.B.


Chairman

4.9.2014

Mr. Amjad Khan, Advocate on behalf of counsel for the appellant and Mr. Muhammad Tariq, ASI on behalf of respondents with Mr. Muhammad Adeel Butt, AAG present. Written reply has not been received, and request for further time made on behalf of the respondents. Another chance is given for written reply/comments on 31.12.2014.


Chairman

31.12.2014

No one is present on behalf of the appellant. Mr. Muhammad Adeel Butt, AAG for the respondents present. The Tribunal is incomplete. To come up for written reply/comments on 11.03.2015.


Reader.

11.03.2015

Appellant in person and Addl. A.G. for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply on 29.5.2015 before S.B.


Chairman.

29.05.2015

None present for appellant. Assistant A.G. for respondents present. Due to issue of transport on account of local election parties could not be appeared before the Tribunal. Adjourned for written reply/comments to 13.8.2015 before S.B.


Chairman

Appeal No. 169/2014.
Mr. Younus Ali.

3- 04.04.2014

Appellant with counsel present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the original order dated 30.09.2011, he filed departmental appeal on 17.12.2013, which has been rejected on 10.01.2014, hence the present appeal on 11.02.2014. Counsel for the appellant also filed an application for condonation of delay. He further contended that the original order is void ab-initio. The appellant is awarded major punishment of "Time Scale" as well as absent period is treated without pay. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. To come up for written reply/comments on main appeal as well as reply/arguments on application for condonation of delay on 17.06.2014.

Appellant Deposited
Security Process Fee
Rs. 180/- Bank
Receipts Attached with File.

[Handwritten Signature]
7/4/14

[Handwritten Signature]
Member

04.04.2014

This case be put before the Final Bench 1 for further proceedings.

[Handwritten Signature]
Chairman

17.6.14

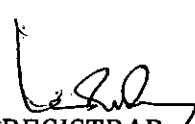

The Hon'ble bench is on recess
Therefore case is adjourned up to 4.9.14.

[Handwritten Signature]
Reeds

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 169/2014


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	13/02/2014	<p>The appeal of Mr. Younas Ali resubmitted today by Mr. Saifullah Khalil Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p align="right">  REGISTRAR </p>
2	18-2-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>4-4-2014</u>.</p> <p align="right">  CHAIRMAN </p>

The appeal of Mr. Younas Ali Constable No 359 received today i.e. on 11.02.2014 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Address of respondent No. 3 is incomplete which may be completed according to rules.
- 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- Annexures of the appeal may be attested.
- 4- Appeal may be page marked according to the index.

No. 219 /S.T.

Dt. 12/02 /2014.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.


Mr. Saifullah Khalil Adv. Pesh.

Sir,

13.2.14

The case file is corrected.

Re-submitted Please!


Advocate.

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Services Appeal No. 169 /2014

Younas Ali

VERSUS

Inspector General of Police, KPK, Peshawar etc

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5.	Copy of the impugned order No. 692, dated 10/01/2014	B	10-16
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Appellant

Through

Ullah
SAIF ULLAH KHALIL (SENIOR

Advocate, High court Peshawar

Cell #

0300 5941431

Office Address: -

Zabeel Palace Hotel, G.T. Road, Peshawar

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Services Appeal No. 169 /2014

RECEIVED
167
11-2-14

Younas Ali No. 359, Constable, Posted at PS Latambar, District Karak. **.. APPELLANT**

VERSUS

1. Inspector General of Police, KPK, Peshawar.
2. Deputy Inspector general of Police Kohat Region Kohat.
3. ~~Deputy~~ ^{District} Police officer District Karak, Police line Karak. **... RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE SERVICES
TRIBUNAL ACT AGAISNT THE ORDER NO.
779, DATED 30/09/2011 OF RESPONDENT
NO.3, VIDE WHICH MAJOR PUNISHMENT OF
TIME SCALE WAS AWARDED TO THE
APPELLANT AND AGAINST THE ORDER NO.
609, DATED 10/01/2014, OF RESPONDENT
NO.2 VIDE WHICH THE DEPARTMENTAL
APPEAL OF THE APPELLANT WAS DISMISSED

RECEIVED
11/2/14

re-submitted to the
and filed:
13/2/14



PRAYER IN APPEAL:

ON ACCEPTANCE OF THIS APPEAL BOTH THE
IMPUGNED ORDERS OF THE RESPONDENTS
MAY KINDLY BE SET ASIDE AND THE
RESPONDENTS AND THE MAJOR PUNISHMENT
OF TIME SCALE AWARDED TO THE
APPELLANT MAY KINDLY BE CANCELLED /
SET ASIDE

RESPECTFULLY SHEWETH,

The appellant submit as under:

1. That the appellant was appointed as Constable in the year 1990.
2. That vide order No.779, dated 30/09/2011 of respondent No.3 awarded penalty of time scale to the appellant. (Copy of the impugned order No.779, dated 30/09/2011 is attached as annexure A).
3. That against the said order the appellant preferred a departmental appeal before respondent no.2, but respondent no.2, vide order No. 692, dated 10/01/2014 rejected the appeal of the appellant. (Copy of the impugned order No. 692, dated 10/01/2014 are attached as annexure B).

4. That the appellant feeling aggrieved files the instant appeal on the following grounds inter alia:

GROUNDS:

- A. That both the impugned orders of respondents are against the law and facts, hence liable to be cancelled.
- B. That the appellant was not served with any show cause notice nor any personal hearing has been given to the appellant and as such the appellant has been condemned unheard.
- C. That according to the impugned order the appellant was allegedly absented from his service for 33 days, for which major penalty in the time scale cannot be awarded, because the appellant has unblemished continuous service for 22 years, which cannot be taken away from the appellant through a single stroke.
- D. That no inquiry whatsoever has been conducted against the appellant, nor any opportunity of hearing is given to the appellant, if any so called inquiry is conducted in the absence of the appellant.

E. That the house of the appellant was destroyed due to flood in year 2011 as such he was busy for reconstruction of his house and as such he was absented from his duty, which was not wilful but was due to the above reason and high-ups were duly informed in this respect and the same can be treated as leave without pay, but the major penalty cannot be given to the appellant, which is harsh and never allowed by the law and also against the cannon of natural justice.

F. That even it is the law of natural justice that circumstances should be considered while deciding a case.

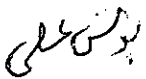
G. That absence of the appellant was never wilful or intentional and it was brought in the notice of the respondents even beside the above the mother of the appellant was seriously ill and there was no one to care of her, except the appellant.

H. That appellant belongs to a very poor family and the sole bread earner for his mother and the impugned orders have made his life miserable, as he is having no other source of income, thus his case needs sympathetic consideration.

I. That other grounds would be raised at the time of arguments with the prior permission of this Honourable Court.

It is, therefore, most humbly prayed that on acceptance of this appeal the impugned orders of the respondents may kindly be set aside and the respondents be directed to remove the time scale and the appellant be restored to his original position / post.

Dated: 11/02/2014


Appellant

Through


SAIF ULLAH KHALIL (SENIOR)

Advocate, High court Peshawar

Certificate: -

Certified that as per instructions of my client no such like appeal has earlier been filed before this Honourable Court.


Advocate

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Services Appeal No. _____/2014

Younas Ali

VERSUS

Inspector General of Police, KPK, Peshawar etc

ADDRESSES OF PARTIES

ADDRESS OF APPELLANT:

Younas Ali No. 359, Constable, Posted at PS Latambar, District Karak.

ADDRESSES OF RESPONDENTS:

1. Inspector General of Police, KPK, Peshawar.
2. Deputy Inspector general of Police Kohat Region Kohat.
3. ~~Deputy~~ Police officer District Karak.

Distt.

Appellant

Through



SAIF ULLAH KHALIL (SENIOR)

Advocate, High court Peshawar

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Services Appeal No. _____/2014

Younas Ali

VERSUS

Inspector General of Police, KPK, Peshawar etc

AFFIDAVIT

I, Younas Ali No. 359, Constable, Posted at PS Latambar, District Karak do hereby solemnly affirm and declare on oath that the contents of the instant appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.



Deponent

Identified by:

Ullah

SAIF ULLAH KHALIL (SENIOR)

Advocate, High Court Peshawar

Younas Ali
 11-02-2014

ORDER

This order is passed on the departmental proceedings initiated against Constable Younas Ali No.359, who absented himself from his lawful duty w.e. from 12.07.2011 to 15.08.2011 (total 33-days) vide Daily Diary No. 04, dated 16.08.2011 Police Station Latamber. His pay was stopped to this effect.

He was served with charge sheet and statement of allegation and Mr. Subhan, SDPO Takht -e- Nasrati was appointed as enquiry officer. The enquiry officer submitted finding report with the remarks that the defaulter official absented himself without any leave or prior permission. The charges leveled against him are proved, placed on file. Then Final Show Cause Notice issued against him. In response to the Final Show Cause Notice, the accused official submitted unsatisfactory reply, placed on file.

For the purpose of adopting legal procedure, his service record was perused and found numerous red entries inclusion on absence and minor punishments. He is found habitual absentee.

In view of the above, it is evident from the entire proceedings that minor punishment does not correct him except award of major punishment of dismissal. Keeping in view his bad financial status and on humanitarian ground, he is awarded major punishment of "Time Scale" with final warning. Period of absence be treated as absence and without pay. Pay released.

OB No. 779

Dated. 30/9/2011

[Signature]
District Police Officer, Karak

Attested

[Signature]
Adequate

[Signature]

کتابت شد
پہلے انڈر سے پرائیمری اسکول
سینئر رول انڈر سے

[Signature]
Adequate

DSP/HQ:111
09/12/2011

Constable

ORDER

16-1-14

This order will dispose of a departmental appeal (17.12.2013) filed by constable Younis Ali No. 539 of Karak district against the major punishment (time scale) awarded to him by DPO Karak vide his office O.B No. 779 dated 20.09.2011.

Facts of the case are that the appellant while posted at PS Latamber absented himself from lawful duty w.e.f 22.07.2011 to 15.08.2011 (33 days) vide DD No. 04 dated 16.08.2011. He was properly dealt with departmentally by the competent authority on the above score of charges, which resulted into above punishment.

I have gone through the record, which indicates that the appellant is habitual absentee and remained absent on 13 occasions. The appellant was provided opportunity during enquiry proceedings, but failed to explain his conduct.

Keeping in view of the above and previous conduct of the appellant, the appeal is not maintainable / substantiated. Moreover, the appeal being **badly time bared** is hereby rejected / filed.

[Signature]
(DR. ISHTIAQ AHMED MARWAT)
Dy: Inspector General of Police
Kohat Region, Kohat.

OFFICE OF THE DY: INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT

No. 629 /EC, Dated Kohat the 16-1 /2014

Copy of above to the District Police Officer, Karak for necessary action. *Record is enclosed herewith.*

SRE/OKR
for 7/1/14
[Signature]
Dist. Police Officer
Karak 16/1/14

[Signature]
(DR. ISHTIAQ AHMED MARWAT)
Dy: Inspector General of Police
Kohat Region, Kohat.

xx
Attested
[Signature]
Advocate

(11)

No. 7984 /EC
Dated 27/7/2011

CHARGE SHEET

1. I, Sajid Khan Mohmand, District Police Officer, Karak as competent authority, hereby charge you Constable Younus Ali No. 359 Police Station Latamber as follow: -

"You Constable Younus Ali No. 359 of Police Station Latamber absented yourself from your lawful duty w-e form 10.07.2011 till vide Daily Diary No. 33 dated 12.07.2011 Police Station Latamber. Your pay has been stopped to this effect. Such act on your part is against discipline and amount to gross-misconduct/ negligence in duty."

2. By reason of your commission / omission, constitute miss-conduct under Section-3 of the KPK (Removal from Service) Special Power Ordinance-2000 and have rendered your-self liable to all or any of the penalties specified in Section-3 of the ordinance ibid.

3. You are, therefore, required to submit your written defense within 7 days of the receipt of this charge sheet to the enquiry Officer Mr. Subhan Khan SDPO Takht -e- Nasrati 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

*Attested
Jalal
Advocate*

[Signature]
(SAJID KHAN MOHMAND)
District Police Officer, Karak.

[Signature]
SDPO/Takht

12

No. _____ /EC
Dated _____ /2011

DISCIPLINARY ACTION

1. I, Sajid Khan Mohmand, District Police Officer, Karak as competent authority, is of the opinion that Constable Younus Ali No. 359 of Police Station Latamber has rendered himself liable to be proceeded against on committing the following act / commission within the meaning of Section-3 of KPK Removal from Service (Special Powers) Ordinance-2000.

STATEMENT OF ALLEGATION

Constable Younus Ali No. 359 of Police Station Latamber absented himself from his lawful duty w. 12.07.2011 tili date vide Daily Diary No. 33, dated 12.07.2011 Police Station Latamber. His pay has been stopped to this effect. Such act on his part is against discipline and amount to gross misconduct/ negligence in duty."

2. The enquiry Officers, Officer Mr. Subhan Khan SDPO Takht -e-Nasrati shall in accordance with provision of the ordinance may provide reasonable opportunity of hearing to the accused official, record his finding and make within 15-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.

(SAJID KHAN MOHMAND)
District Police Officer, Karak.

No. 7885-87 EC (enquiry), dated 27/7 /2011

Copy to:-

1. The enquiry Officer for initiating proceeding against the accused under the Provision of the KPK / Removal from Service (Special Power) Ordinance-2000.
2. Constable Younus Ali No. 359 of Police Station Latamber
3. Reader to District Police Officer, Karak along with relevant record to assist the enquiry officer.

Attested
Fullah
Advocate

456/m.
29-07-2011

51720/m

Alleged
Widow
Advocate

No. 215 /IN,
Dated, 26-08-2011.

(MUHAMMAD SUBHAN)
Sub Divisional of Police Officer
Lahore-Masrafi.

In view of the above it is therefore requested that the accused official absented himself without any leave or permission while on the other hand the house of accused official have been damaged from Moon Boon rains which calls for the for lenient view. Submitted for further consideration please.

During course of enquiry a written perwana was sent to SHO/KKX/IN, for verification the statement of accused official, D.R.C. Mr. Saleem produce the said perwana along with detail report who supported the version of accused official.

not allow me to join his duty. During course of enquiry a written perwana was sent to SHO/KKX/IN, for verification the statement of accused official, D.R.C. Mr. Saleem produce the said perwana along with detail report who supported the version of accused official. In view of the above it is therefore requested that the accused official absented himself without any leave or permission while on the other hand the house of accused official have been damaged from Moon Boon rains which calls for the for lenient view. Submitted for further consideration please.

Kindly this is in response to your Goodself direction vide Endst: No. 8915/EC, dated 26.08.2011, wherein an enquiry to scrutinize the conduct of accused official constable Koushal No. 559, was entrusted to me. The report of the enquiry in that the accused official constable Koushal No. 559 absented himself from his lawful duty w.e. from 10.07.2011 till date vide D.D. No. 55 dated 12.07.2011 Police Station Lataber. Accused official was summoned and his statement was recorded. He stated in his statement that on 10.07.2011 he was transferred from guard duty Sub Jail Kaak to Police Station Lataber. He went to home he saw that the boundary wall and one room of his house have been fall down from the present Moon Boon rains. There was no male person except of the underassigned for reconstruction of house because my parents have been died since long and only one son of the underassigned at about 02/09 years was present there was no room for residing of his wife and children. He immediately purchase articles on loan for reconstruction of his house. When he re-constructed of his house and able for living of his family member then he went to police station Lataber and enter his arrival report and daily diary dated 16.08.2011. He further stated that his absence was not willfully but the living of his family member without roof did not allow me to join his duty.

FINDING:-

(3)

8/19/2011
5077217100

Mr

Attested.

8/19/11

James M
Attorney

Handwritten text in Urdu script, likely a legal statement or affidavit.

Handwritten text in Urdu script, likely a legal statement or affidavit.

Handwritten text in Urdu script, likely a legal statement or affidavit.

Handwritten text in Urdu script, likely a legal statement or affidavit.

Handwritten text in Urdu script, likely a legal statement or affidavit.

Handwritten text in Urdu script, likely a legal statement or affidavit.

(15)

James M
Attorney

Attested

(16)

No 2570
in 12.19.11

FINAL SHOW CAUSE NOTICE.

I, Sajid Khan Mohmand, District Police Officer, Karak as competent authority under the NWFP removal from service (Special Powers) Ordinance-2000, do hereby serve you Constable Younus Ali No. 359 as follow:-

1. That consequent upon the completion of enquiry conducted against you by Enquiry Officer Mr. Subhan Khan SDPO Takht-e-Nasrati

2. On going through the finding and recommendation of the Enquiry Officer, the materials on the record and other connected papers including your defence before the said Enquiry Officer, I am satisfied that the charge against you is proved and you have committed the following acts / omission specified in Section-3 of the said Ordinance:-

3. You Constable Younus Ali No. 359 of Police Station Latamber absented yourself from your lawful duty w-e form 10.07.2011 till date vide Daily Diary No. 33 dated 12.07.2011 Police Station Latamber. Your pay has been stopped to this effect. Such act on your part is against discipline and amount to gross misconduct/ negligence in duty."

4. As a result thereof I, as competent authority, have tentatively decided to impose upon you the penalty of major punishment under section-3 of the said ordinance

5. 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 finding of the Enquiry Officer is enclosed.

*Attested
Jama
12/19/11*

Sajid Khan Mohmand
SAJID KHAN MOHAMMAD
District Police Officer, Karak

BEFORE THE SERVICE TRIBUNAL KP, PESHAWAR

Appeal No. 169/2014

Younas Ali Ex- Constable No. 359 of District Police Karak
(Appellant)

Versus

1. The Inspector General of Police, Khyber Pakhtunkwa, Peshawar.
2. The Dy: Inspector General of Police, Kohat Region, Kohat.
3. The District Police Officer, Karak. (Respondents).

Reply / Para-wise comments to appeal on behalf of Respondents.

The requisite reply / parawise comments on behalf of respondent's No. 1 to 3 are submitted as below,

Respectfully Shiewith,

Preliminary objections

1. The appellant has got no cause of action to file the present appeal.
2. The appellant has not come to this Tribunal with clean hands.
3. The appeal is not maintainable in its present form.
4. The appeal is time barred.
5. The appeal is bad for mis-joinder and non-joinder of necessary parties

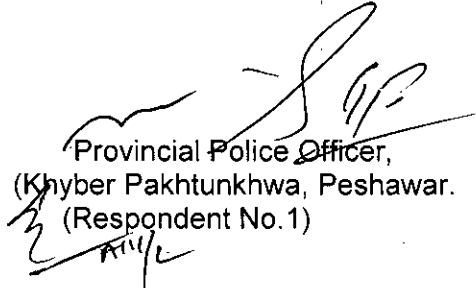
Facts


1. Admitted correct according to the service record, needs o comments.
2. Admitted correct according to the record, need no comments.
3. The applicant filed departmental / appeal to respondent No. 2 after a period of three years, due to which it was not maintainable and rejected by the appellant authority i.e respondent No. 2 vide order No. 629 / EC dated 10.01.2014 being badly time barred.
4. Need no comments.

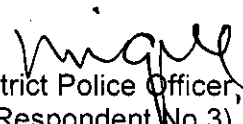
GROUNDS

- a. Incorrect, proper punishment order were passed in accordance with the provision of N.W.F.P now Khyber Pakhtunkhwa Police Rules 1975 after conducting enquiry by the competent officer of the rank of inspector.
- b. Incorrect, proper charge sheet coupled with summary of allegation were served upon the appellant (copies enclosed on annexure A/A-1 and proper opportunity of hearing was provided to the appellant before awarding punishment.
- c. Incorrect the appellant remained habitual absentee through out his performance of duties in Police department in the capacity of Constable. His service records include 13-adverse entries of absence from duties. Conduct of a defaulter is always taken into consideration by the authority before disposal of a disciplinary action case.
- d. Incorrect, Proper departmental enquiry was got conducted through an Officer of Police of the rank of Inspector during the course of which statement of appellant and two of his co-villagers were recorded and proper opportunity of personnel hearing was provided to the appellant. Copies of statement enclosed on Annexure-B B/2.
- e. Incorrect, in fact an employee is supposed to abide by the law & rules while he is in active service because violation of law & rules definitely results in punishment. The appellant filed no application before his competent authority for grant of leave if he needed.
- f. Incorrect, already explained in Paras B,C,D and E.
- g. Incorrect, as per para mentioned above.
- h. Subject to proof.
- i. That the respondents may also take additional grounds during arguments stage with the provision of Honorable Service Tribunal to prove irregularities and ill attitude of appellant during his performance of duties in Police department in the capacity of constable.

In the light of above mentioned facts and circumstances, it is requested that appeal filed by the appellant may very kindly be dismissed being time barred and without any solid ground.


Provincial Police Officer,
(Khyber Pakhtunkhwa, Peshawar.
(Respondent No.1)


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


District Police Officer, Karak
(Respondent No.3)

BEFORE THE SERVICE TRIBUNAL KP, PESHAWAR

Appeal No. 169/2014


Younas Ali Ex- Constable No. 359 of District Police Karak
(Appellant)

Versus

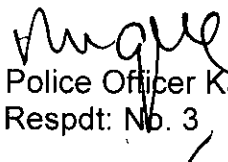
1. The Inspector General of Police, Khyber Pakhtunkwa, Peshawar.
2. The Dy: Inspector General of Police, Kohat Region, Kohat.
3. The District Police Officer, Karak.

Subject: **AUTHORITY**

We the respondents do hereby authorize Mr. Muhammad Tariq Usman ASI / Legal, district Karak to represent us in the above cited service appeal. He is also authorized to submit comments etc on our behalf before the Service Tribunal Khyber Pakhtunkhwa, Peshawar.


Provincial Police Officer
Khyber Pakhtunkhwa, Peshawar
Respdt: No. 1


Deputy Inspector General of Police
Kohat Region/Kohat
Respdt: No.2


District Police Officer Karak
Respdt: No. 3

BEFORE THE SERVICE TRIBUNAL KP, PESHAWAR

Appeal No. 169/2014

Younas Ali Ex- Constable No. 359 of District Police Karak
(Appellant)

Versus

3. The Inspector General of Police, Khyber Pakhtunkwa, Peshawar.
4. The Dy: Inspector General of Police, Kohat Region, Kohat.
3. The District Police Officer, Karak.

Subject: **AFFIDAVIT**

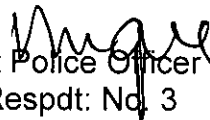
We the respondents do hereby affirm on oath that the contents of comments prepared in response to the above titled service appeal are true and correct to best of our knowledge and belief.



Provincial Police Officer
Khyber Pakhtunkhwa, Peshawar
Respdt: No. 1



Deputy Inspector General of Police
Kohat Region Kohat
Respdt: No.2



District Police Officer Karak
Respdt: No. 3

Annexure = 'A'

No. 7989 /EC
Dated 27/7 /2011

CHARGE SHEET

1. I, Sajid Khan Mohmand, District Police Officer, Karak as competent authority, hereby charge you Constable Younus Ali No. 359 Police Station Latamber as follow:-

"You Constable Younus Ali No. 359 of Police Station Latamber absented yourself from your lawful duty w-e form 10.07.2011 till vide Daily Diary No. 33 dated 12.07.2011 Police Station Latamber. Your pay has been stopped to this effect. Such act on your part is against discipline and amount to gross misconduct/ negligence in duty."

2. By reason of your commission / omission, constitute miss-conduct under Section-3 of the KPK (Removal from Service) Special Power Ordinance-2000 and have rendered your-self liable to all or any of the penalties specified in Section-3 of the ordinance ibid.

3. You are, therefore, required to submit your written defense within 7-days of the receipt of this charge sheet to the enquiry Officer Mr. Subhan Khan SDPO Takht -e- Nasrati 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.


(SAJID KHAN MOHMAND)
District Police Officer, Karak.



(86)
11

No. _____/EC

Dated _____/2011

DISCIPLINARY ACTION

1. I, Sajid Khan Mohmand, District Police Officer, Karak as competent authority, is of the opinion that Constable Younus Ali No. 359 of Police Station Latamber has rendered himself liable to be proceeded against on committing the following act / commission within the meaning of Section-3 of KPK Removal from Service (Special Powers) Ordinance-2000.

STATEMENT OF ALLEGATION

Constable Younus Ali No. 359 of Police Station Latamber absented himself from his lawful duty w-c form 10.07.2011 tili date vide Daily Diary No. 33, dated 12.07.2011 Police Station Latamber. His pay has been stopped to this effect. Such act on his part is against discipline and amount to gross misconduct/ negligence in duty."

2. The enquiry Officers, Officer Mr. Subhan Khan SDPO Takht -e-Nasrati shall in accordance with provision of the ordinance may provide reasonable opportunity of hearing to the accused official, record his finding and make within 15-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.

(SAJID KHAN MOHMAND)
District Police Officer, Karak

No. 7985-87/EC (enquiry), dated 27/7 /2011

Copy to:-

1. The enquiry Officer for initiating proceeding against the accused under the Provision of the KPK / Removal from Service (Special Power) Ordinance-2000.
2. Constable Younus Ali No. 359 of Police Station Latamber
3. Reader to District Police Officer, Karak along with relevant record to assist the enquiry officer.

بیان آزان کائید لائن عملی 359 خطہ تہہ حال کے ریفورٹ کر کے لائنوں میں

نے دریافت بیان کیا کہ میں مجسمہ پورسہ سال 1990ء کو بطور کائید
 ضلعے کولچٹ میں بھرتیا ہو کر سال 2002ء کو ضلع گری تیار دلہ ہو گیا۔
 ضلع 7/10ء کو میرا تبادلہ کارڈ میں جیل گری سے خطہ ہو گیا۔ چونکہ میں
 اپنا ذاتی نجما سامان گھر سونے کیلئے گھر خود واقع لغڑی چلے گیا۔
 جب گھر پہنچا۔ تو معلوم ہوا کہ حالیہ وزن سون ہارٹوں کا جوڑے سے
 ٹن کے گھر کا کمرہ گھر چکا تھا۔ اور ساتھ ہی چار دیواری کا دیوار بھی
 کریک ہو چکا تھا۔ چونکہ میں گھر کا واحد نرینہ مسرت ہوا والدین
 صاحبان ہم عرصہ دراز سے فوت ہو چکے ہیں۔ اور سائل کا آمد نرینہ بیٹا
 بہتر تیب 8/9 اور باقی چھوٹے چھوٹے بیٹیاں ہیں۔

خا جلالہ۔ ریٹائر کیلئے ڈیڑھ گھر بھی میسر نہیں تھا۔ اور ماہ رمضان
 ہم آنے والے تھے۔ اور ساتھ ہی بیوی اور بچیاں سب رور ہی تھی۔ لہذا
 میرے عقل پر کافی پشیم اور بوجھ اگر میں سیدھا گاڑر کے مکان والے
 کے پاس چلے گیا۔ اور وہاں سے قرض پر گاڑر وغیرہ لاکر گھر میں آید کہہ
 ہائے ریٹائر تعمیر کیا گیا۔ اور دیواریں جو کریک ہوئی تھی۔ آید ساتھ
 اندر کا طرف آید آید ایٹھ لگائی۔ تاکہ خرابی حال زیادہ نقصان سے

بچ سکے۔
 خا جلالہ۔ میں جب کام سے تھوڑا فارغ ہوا۔ تو صرف 8/11 کا کہ انہی عافری کا دیوار
 مکان لہر میں کہ۔ یہی عید عافری قعدہ اور عمدہ نہیں ہے۔ بلکہ میری
 جوہر کا تھا۔ یہ دفع معافی 8/11 کو آئندہ کہنے کو سنا طر ہو گیا۔

Yousuf

سوال نمبر 10 چاہئے تو یہ ہے کہ آپ گھر تعمیر کرنے کے وقت منظر
 کیا کرتے۔ آپ نے ایسا کیوں نہیں کیا ہے ؟

جواب = میں جب گھر چلا گیا تو حالت دو اعضاء برداشت سے باہر تھی
لہذا میرا سرورج و فکر بالکل کام چھوڑ گئے۔ کئی سال تک گھروں کے
دور رہے تھے۔ بدیں وجہ زخمیت و پیرہ نہیں لگا ہے۔

سوال نمبر ② کیا واقعی آیت کمرہ تعمیر کیا ہے؟ اور میں خود اپنے لئے کمرہ
کو چیک کر رہا تھا؟

جواب = جہاں۔ ہاں۔ بالکل تعمیر کیا ہے۔ آپ صاحبانے شک کس بھی
وقت چیک کر سکتا ہے۔

سوال نمبر ③ ایک بار پھر موقع ملے تو کمرہ تعمیر کیا ہے۔ ہر
بھی صاف کپڑے میں۔ روز بھر تک رہے آپ کے خلاف قانون کارروائی
کرتا تھا؟

جواب = میں حلفاً کہتا ہوں اور آپ صاحب چیک کر کے اگر میں نے
بصورت سے کام لیا ہے۔ تو بیشک میرے خلاف قانون کارروائی
کیا جاوے

Younas Akhtar

8/9/11

Attested.

M. J. Akhtar
8/9/11

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Appeal No. 169/2014

Younas Ali


Versus

IGP and others

INDEX

S.NO	DESCRIPTION	ANNEXURE	PAGES
1.	rejoinder		1-3
2.	Copies of other relevant case		5-6
3.	Affidavit		4

Dated: 26/04/2016

Appellant
Through 
SAIF ULLAH KHALIL (SENIOR),
Advocate, High Court Peshawar

Appeal No. 169/2014

Younas Ali

Versus

IGP and others

REJOINDER TO THE PARAWISE COMMENTS OF THE RESPONDENTS

Respectfully Sheweth,

The appellant submit as under; -

Reply to preliminary objection: -

1. Para No.1 of the preliminary objections is incorrect hence denied. The appellant has got a cause of action and locus standi to file the instant appeal.
2. Para No.2 of the preliminary objections is incorrect hence denied. The appellant has invoked the jurisdiction of this Honourable Tribunal with clean hands.
3. Para No.3 of the preliminary objections is incorrect hence denied. The appeal is very much maintainable in its present shape.
4. Para No.4 of the preliminary objections is incorrect hence denied. The appeal is very much within time.

5. Para No.5 of the preliminary objections is incorrect hence denied. All the necessary parties have been made parties in the instant case.

Facts:

1. Para No.1 needs no reply.
2. Para no.2 needs no reply.
3. Para no.3 is incorrect, hence denied. The departmental appeal of the appeal of the appellant is very much within time, because the appellant has a recurring cause of action, as in his continuous services and the appellant is legally allowed to challenge the impugned order at any time, before his retirement.
4. Para NO.4 needs not comments.

Grounds: -

- a. Para No. a of the parawise comments is incorrect, and that of the appeal is correct, both the impugned orders of respondents are against the law and facts, hence liable to be set aside, because the same is not passed in accordance with the KPK police rules 1995 and the appellant has also not provided any opportunity of hearing, furthermore in a similar service appeal no. 382 of 2011, similar relief has already been granted and being legal question the appellant is also entitled for the same relief. (Copies are attached).
- b. Para b is incorrect, hence denied, while that of appeal is correct, no charge sheet, statement of allegations have

been served upon the appellant, neither any opportunity of personal hearing was given to the appellant.

- c. Para c of the parawise comments is incorrect, hence denied, while that of appeal is correct, the appellant is not a habitual absentee and he also way performed his duties to the entire satisfaction of his superiors. Furthermore such a harsh penalty cannot be awarded for a minor alleged mistake of the appellant.
- d. Para d of the parawise comments is incorrect, hence denied, while that of appeal is correct, the detailed reply is given above.
- e. Para e of the parawise comments is incorrect, hence denied, while that of appeal is correct, the appellant always performed his duties in accordance with the law and rules applicable to him.
- f. Para f, g, h and i of the parawise comments are incorrect, hence denied, while that of appeal are correct.

It is, therefore, most humbly prayed that the parawise comments of the respondents may very kindly be turned down and the appeal of the appellant may very kindly be accepted, as prayed for therein.

Dated: 26/04/2016

Through

Appellant


SAIF ULLAH KHALIL (SENIOR),
Advocate, High Court Peshawar

4

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Appeal No. 169/2014

Younas Ali

Versus


IGP and others

AFFIDAVIT

I, Saif Ullah Khalil (Senior) Advocate, High Court Peshawar, do hereby solemnly affirm and declare on oath that as per instructions of my client the contents of the instant rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable.


ADVOCATE




26-04-2016

5
BEFORE THE KHYBER PAKHTUNKHWA

TRIBUNAL, PESHAWAR

SERVICE APPEAL No. 382/2012



Constable Aurang Zeb No.715 Police Line Karak
.....Appellant.

Versus

1. The Deputy Inspector General of Police, Kohat Region Kohat.
2. The District Police Officer, KarakRespondents.

Service Appeal under section 10 of the Khyber Pakhtunkhwa Removal from service (Special Power) Ordinance, 2000 read with section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

Respectfully Sheweth,

Facts giving rise to the present writ petition are as under:-

1. That appellant was enlisted as Foot Constable in the Frontier Reserve Police, but later transferred and absorbed in regular Force. He has got long standing service at his credit.
2. That on 10-07-2011 appellant proceeded on 03 days causal leave as his brother was seriously ill and there was no male member to look after his ailing brother. Later on he was operated upon, therefore there was no occasion for the appellant to resume his duty and therefore, he timely informed his superior about the illness of his brother and requested for further extension of his leave. Appellant was assured regarding extension of his leave (Medical prescription are attached as

Handwritten signature
20/3/12
ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Attested
Handwritten signature



6

27.8.2014

Appellant with counsel and Mr. Muhammad Adil Butt, Additional Advocate General, present. At the outset of the argument, the learned counsel for the appellant pointed out that while awarding major penalty of 'time scale', the competent authority i.e. District Police Officer, Karak (respondent No. 2) neither mentioned reduction to stages nor specified the period during which the penalty shall remain operative, in violation of FR-29. The learned counsel for the appellant also assailed the impugned order on the ground that after treating the absence period as leave without pay, the competent authority could not impose the penalty, mentioned above. Having said that, the learned counsel for the appellant stated at the Bar that the appellant would be satisfied if the stages of reduction to the time scale and period during which the penalty shall remain operative are specified in accordance with the provision of FR-29.

In view of the above, the learned AAG would not object to the implementation of law/FR-29 in its letter and spirit. Therefore, while upholding the penalty awarded to the appellant by the competent authority, the penalty of 'time scale' is deemed to be reduction in time scale by two stages for one year. The appeal is disposed of accordingly, with no order as to costs.

ANNOUNCED
27.8.2014

*Sd/-
Member*

*Sd/-
Chairman*

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Advised

Date of Presentation of Application 29.9.2014
 Number of Words 800
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BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR


Appeal No. 169/2014

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Versus

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Dated: 26/04/2016.

Through

Appellant

SAIF ULLAH KHALIL (SENIOR),

Advocate, High Court Peshawar

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Appeal No. 169/2014

Younas Ali

Versus

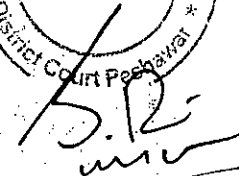
IGP and others

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ADVOCATE




26-04-2016

5
BEFORE THE KHYBER PAKHTUNKHWA

TRIBUNAL, PESHAWAR

SERVICE APPEAL No. 382 / 2019



Constable Aurang Zeb No. 715 Police Line Karak
.....Appellant.

Versus

1. The Deputy Inspector General of Police, Kohat Region Kohat.
2. The District Police Officer, Karak Respondents.

Service Appeal under section 10 of the Khyber Pakhtunkhwa Removal from service (Special Power) Ordinance, 2000 read with section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

Respectfully Submitted,

Facts giving rise to the present writ petition are as under:-

1. That appellant was enlisted as Foot Constable in the Frontier Reserve Police, but later transferred and absorbed in regular Force. He has got long standing service at his credit.
2. That on 10-07-2011 appellant proceeded on 03 days casual leave as his brother was seriously ill and there was no male member to look after his ailing brother. Later on he was operated upon, therefore there was no occasion for the appellant to resume his duty and therefore, he timely informed his superior about the illness of his brother and requested for further extension of his leave. Appellant was assured regarding extension of his leave (Medical prescription was attached as

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20/3/12
ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Attested
[Signature]

27.8.2014



Appellant with counsel and Mr. Muhammad Aded Butt, Advocate General, present. At the outset of the argument the learned counsel for the appellant pointed out that while awarding major penalty of 'time scale', the competent authority i.e. District Police Officer, Karak (respondent No. 2) neither mentioned reduction to stages nor specified the period during which the penalty shall remain operative, in violation of FR-29. The learned counsel for the appellant also assailed the impugned order on the ground that after treating the absence period as leave without pay, the competent authority could not impose the penalty, mentioned above. Having said that, the learned counsel for the appellant stated at the Bar that the appellant would be satisfied if the stages of reduction to the time scale and period during which the penalty shall remain operative are specified in accordance with the provision of FR-29.

In view of the above, the learned AAG would not object to the implementation of law/FR-29 in its letter and spirit. Therefore, while upholding the penalty awarded to the appellant by the competent authority, the penalty of 'time scale' is deemed to be reduction in time scale by two stages for one year. The appeal is disposed of accordingly, with no order as to costs.

ANNOUNCED
27.8.2014

*Sd/-
Member*

*Sd/-
Chairman*

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Advised

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BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Younas Ali

Versus

IGP KPK, Peshawar

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

RESPECTFULLY SHEWETH,

1. That the above titled appeal has been filed before this Honourable Tribunal.
2. That the impugned order on the departmental appeal of the appellant was passed on 10/01/2014, through which the departmental appeal of the appellant was dismissed and the same was communicated to the appellant on 16/01/2014, which is very much clear from the said order at page 10 annexure B.
3. That the present appeal before this Honourable Tribunal is filed on 11/02/2014 and as such it is well within time.
4. That if there is any delay in filing of this appeal the same is not intentional, but due to delivery of copy of the departmental appeal to the appellant on 16/01/2014.

5. That the delay, if any, may kindly be condoned in the large interest of justice, as valuable rights of the appellant are involved with the instant appeal and the appellant's entire service has been taken on a single illegal stroke by the respondents.

It is, therefore, most humbly prayed that on acceptance of this petition the delay, if any, may kindly be condoned in the large interest of justice and the present appeal may kindly be disposed off on merits.

Appeal

~~YOUNAS ALL~~

Through

SAIF ULLAH KHALIL (Senior)

Advocate, High Court Peshawar

AFFIDAVIT:

Declared on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

یونس علی
DEPONEN



04-04-2014

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Younas Ali

Versus

IGP KPK, Peshawar

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

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Appeal

~~YOUNAS ALI~~

Through

SAIF ULLAH KHALIL (Senior)

Advocate, High Court Peshawar

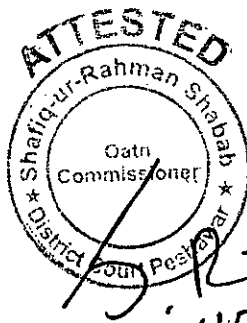
AFFIDAVIT:

Declared on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

یونس علی

DEPONEN

T



04-04-2014

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Younas Ali

Versus

IGP KPK, Peshawar

APPLICATION UNDER SECTION 5 OF THE
LIMITATION ACT FOR CONDONATION OF
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It is, therefore, most humbly prayed that on acceptance of this petition the delay, if any, may kindly be condoned in the large interest of justice and the present appeal may kindly be disposed off on merits.

Appeal

YOUNAS-ALI

Through

SAIF ULLAH KHALIL (Senior)

Advocate, High Court Peshawar

AFFIDAVIT:

Declared on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

یونس علی

DEPONENT

T



04-04-2014

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Younas Ali

Versus

IGP KPK, Peshawar

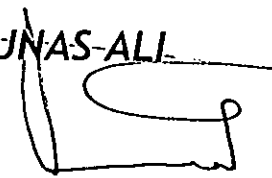
APPLICATION UNDER SECTION 5 OF THE
LIMITATION ACT FOR CONDONATION OF
DELAY

RESPECTFULLY SHEWETH,

1. That the above titled appeal has been filed before this Honourable Tribunal:
2. That the impugned order on the departmental appeal of the appellant was passed on 10/01/2014, through which the departmental appeal of the appellant was dismissed and the same was communicated to the appellant on 16/01/2014, which is very much clear from the said order at page 10 annexure B.
3. That the present appeal before this Honourable Tribunal is filed on 11/02/2014 and as such it is well within time.
4. That if there is any delay in filing of this appeal the same is not intentional, but due to delivery of copy of the departmental appeal to the appellant on 16/01/2014.

5. That the delay, if any, may kindly be condoned in the large interest of justice, as valuable rights of the appellant are involved with the instant appeal and the appellant's entire service has been taken on a single illegal stroke by the respondents.

It is, therefore, most humbly prayed that on acceptance of this petition the delay, if any, may kindly be condoned in the large interest of justice and the present appeal may kindly be disposed off on merits.

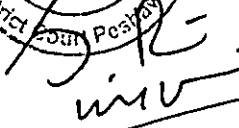
Appeal
YOUNAS-ALI
Through 
SAIF ULLAH KHALIL (Senior)
Advocate, High Court Peshawar

AFFIDAVIT:

Declared on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

یونس علی
DEPONEN




04-04-2014

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Younas Ali

Versus

IGP KPK, Peshawar

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

RESPECTFULLY SHEWETH,

1. That the above titled appeal has been filed before this Honourable Tribunal.
2. That the impugned order on the departmental appeal of the appellant was passed on 10/01/2014, through which the departmental appeal of the appellant was dismissed and the same was communicated to the appellant on 16/01/2014, which is very much clear from the said order at page 10 annexure B.
3. That the present appeal before this Honourable Tribunal is filed on 11/02/2014 and as such it is well within time.
4. That if there is any delay in filing of this appeal the same is not intentional, but due to delivery of copy of the departmental appeal to the appellant on 16/01/2014.

2. That the delay, if any, may kindly be condoned in the large interest of justice, as valuable rights of the appellants are involved with the instant appeal and the appellants' entire service has been taken on a single illegal stroke by the respondents.

It is, therefore, most humbly prayed that on acceptance of this petition the delay, if any, may kindly be condoned in the large interest of justice and the present appeal may kindly be disposed off on merits.

Appeal
 Through
 RAIF ULLAH KHAN (Senior)
 Advocate, High Court Peshawar

AFFIDAVIT:

Declared on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

DEPOSEN



Handwritten signature and date: 15-5-14