

S.No	Date of order proceeding s	Order or other proceedings with signature of judge or Magistrate
1	2	3
	02.05.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO.281/2014</p> <p style="text-align: center;">(Hawaldar Khan -vs- Inspector General Police KPK 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. Sajid Amin, Advocate) and Mr. Ziaullah, GP for respondents present.</p> <p>2. On the absence from duty w.e.f 21.03.2005 to 23.03.2005 (two days) and again 04.04.2005 to 30.04.2005 (twenty six days), appellant was proceeded against and the following penalty was imposed on him vide impugned order dated 30.03.2008.</p> <p style="text-align: center;">“Therefore, in exercise of the power vested in me under section-3 of the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance 2000. I am taking a lenient view and award him major punishment of reduction in pay by two stages and the period of his absence of treated as leave without pay.”</p> <p>His departmental appeal was rejected vide order dated 06.12.2013 on the ground that the same is time barred.</p>

3. Arguments heard and record perused.

4. After going through the record and hearing pro & contra arguments, it was found that no time limit has been fixed in the impugned order as required under FR-29. Since it is a continuous wrong, involving monetary loss to the appellant, therefore this Tribunal does not agree with the contention of the learned Government Pleader that departmental appeal was time barred, ^{and} therefore the instant appeal is not maintainable. Consequently, in pursuance of FR-29 the Tribunal, without going into further discussion, is inclined to fix the penalty period of reduction for three years. The impugned order be treated modified accordingly. Appeal is disposed of in the above terms. Parties are left to bear their own cost. File be consigned to the record room.


(MUHAMMAD AAMIR NAZIR)
MEMBER


(PIR BAKHSH SHAH)
MEMBER

ANNOUNCED
02.05.2016

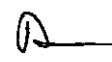
01.07.2015

Appellant in person and Mr. Muhammad Ayaz, H.C alongwith Addl: A.G for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 24.11.2015.


Chairman

24.11.2015

Appellant in person and Addl: AG for respondents present. Arguments could not be heard due to learned Member (Judicial) is on official tour to D.I. Khan. Therefore, the case is adjourned to 4/3/16 for arguments


Member

04.03.2016

Appellant in person and Mr. Fayaz, Head Constable alongwith Asst: AG for respondents present. Arguments could not be heard due to shortage of time. Therefore, the case is adjourned to 02.052016 for arguments.


Member


Member

Appeal No. 281/2014
Mr. Hamid ul Haq

10.


04.02.2015

Appellant deposited process
fee & security




Counsel for the appellant present. Preliminary arguments heard and case file perused. Through the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, the appellant has impugned order dated 03.08.2015, vide which the major penalty of reduction in pay to maximum of time scale has been imposed upon the appellant. Against the above referred impugned order appellant filed departmental appeal which was rejected vide order dated 10.12.2013, hence the instant appeal on 07.01.2014. He contended that the competent authority did not justify the specified period which is violation of fundamental Rule 29. He further contended that limitation would not run against void order.

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 03.04.2015 before the learned Bench-III.


Member

03.04.2015

Agent of counsel for the appellant and Mr. Wisal Ahmad, Inspector (Legal) alongwith Addl: AG for the respondents present. To come up for written reply/comments on 01.07.2015 before S.B.


Chairman

22.09.2014

Mr: Sajid Amin, Advocate present and filed Wakalat Nama on behalf of the appellant. He requested for adjournment. Request accepted. To come up for preliminary hearing on 23.10.2014.



Member

23.10.2014

Clerk of counsel for the appellant present, and requested for adjournment. Request accepted. To come up for preliminary hearing on 08.01.2015.



Member

Reader Note:

08.01.2015

Appellant in person present. Since the Tribunal is incomplete, therefore, case is adjourned 04.02.2015 for the same.


Reader

3.

23.04.2014

Clerk of counsel for the appellant present and requested for adjournment due to general strikes of the Bar. To come up for preliminary hearing on 29.05.2014.


Member

4.

29.05.2014


Counsel for the appellant present and requested for adjournment. Request accepted. To come up for preliminary hearing on 16.07.2014.


Member

5.

16.07.2014

Counsel for the appellant present and requested for adjournment. Request accepted. To come up for preliminary hearing on 19.08.2014.


Member

6.

Reader Note.

19.08.2014


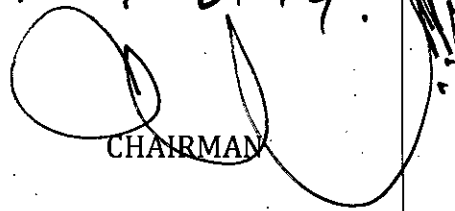
Appellant in person present. The Hon'able Bench is on tour to Abbottabad, therefore, case to come up for preliminary hearing on 22.9.2014.


Reader

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 231 /2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	27/02/2014	<p>The appeal of Mr. Hawaldar Khan resubmitted today by Qari Fateh-ur-Rehman Advocate, may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	4-3-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>23-4-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Hawaldar Khan Son of Dedar Khan Constable No. 472 Police Line Nowshera received today i.e. on 07.01.2014 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be drafted according to sub-rule-2 (a) of rule-6 of the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Copies of Charge Sheet, Statement of allegations, Show Cause Notice, enquiry report and its replies are not attached with the appeal which may be placed on it.
- 3- Copy of departmental appeal is not attached with the appeal which may be placed on it.
- 4- Annexure-A of the appeal is illegible which may be replaced by legible/better one.

Not removed

No 46 /S.T,

Dt. 08/01 /2014.

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Qari Fateh-ur-Rehman Adv. Nowshera.

That I have clean up all the objection and resubmitting according to the direction of this honorable court, but objection No- 2, 3, are not concern with my self as it belong to department authority, where as I had applied for, but my request was turn down by the effect of their statement. that these may be recalled by concerned honorable order.

J.

Qari Fateh ur Rehman
(Advocate).

- Service Tribunal/court
Peshawar.
- 28/2/2014.

12.2.2

21/10/20
10/20

That I have cleared up other objections and
submitting according to the direction
of the Hon'ble Court. But objection
of the Hon'ble Court is not correct with my
self as it belong to Government property.
I have as I had applied for. But
my request was dismissed by the
effect of their statement. But these
may be recalled by concerned hon'ble
order.

28/12/2014
P. S. S. S.
- Senior Advocate
(Advocate)
P. S. S. S.

Before the service Tribunal K.P.K. Peshawar

In Re: Service Appeal No 981 /2014

HAWALDAR KHAN _____ Appellant.

VS

I.G.P. K.P.K. and other _____ Respondents.

INDEX.

S.No	Description of Documents	Annex	Pages
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(3)	Copy of DPO Nowshera order Dated. 05-08-2005	(A) (B)	9
(4)	Copy of DIGP Mardan, Order Dated.07-12-2013		10
(5)	Wakalat Nama		11

Handwritten Signature
Appellant through Counsel

Handwritten Signature
Qari Fateh Ur Rahman

0331-9116728

Advocate Peshawar High court

Dated:  2014

Before The service tribunal KPK Peshawar.

Appeal NO. 281/2014
HAWALDAR KHAN S/O DEDAR KHAN

R/O DHERI MIAN ASHAQ, POST OFFICE

PABBI, NOWSHERA

27
07-1-2014

Constable NO.472 Police Line Nowshera _____ Appellant

VS

- 1. Inspector General Police KPK Peshawar**
- 2. Deputy Inspector general of Police Mardan**
- 3. District Police Officer Nowshera _____ Respondents**

Service Appeal U/S 4 of NWFP Service tribunal act 1977 against the order dated: 03-08-2005 Passed by Respondent No. 3 Where by appellant was awarded major penalty of reduction and pay to minimum of time scale per Indefinite period where by representation of appellant was rejected by respondent No.2 wide order Dated: 10-12-2013 without assigning any legal reason.

PRAYER IN APPEAL

To set aside the impugned order dated: 03-08-2005 and 10-12-2013 Passed by respondent No.2 and 3 respectively and the appellant Be restored to his original position with all service benefit from the Date of reduction.

Respectfully Sir,

It is submitted as under

7/1/2014

1. That the appellant was appointed as constable on 28-08-1995 vide belt No.472 and the police department at Nowshera and was serving to the best of his ability and to the entire satisfaction of his superior.
2. That the baseless allegation were leveled against the appellant and was charged on the ground of absented from service regarding the movement by respondent NO.3 vide order dated: 03-08-2005.
3. That the appellant was proceed against departmental on such charge and respondent No.3 imposed on major punishment of reduction to the minimum of time scale vide dated 03-08-2005

(Copy of order is annex A)

4. That the feeling aggrieved from the same, appellant preferred departmental representation before respondent No.2 which also met with the following remarks.

"Being time bard the appeal is filed forth with however due to his physical condition he may be granted light duty."

(Copy of order DIG annexure B)

5. That the orders passed by respondent No.2 have seriously aggrieved the appellant, and thus the same before this honorable Tribunal, inter alia, on the following grounds.

GROUNDS.

- (A) That the impugned order date: 10-12-2013 and 03-08-2005 are against law and facts and records of the case hence untenable.
- (B) That the competent authority passed mechanical order and departmental authority also passed similar order without application of mind, Had both these authorities looked into the fact of the case deeply, they were not passed such impugned orders.
- (C) That the no cogent and confidence inspiring evidence was brought on surface about the involvement of appellant in charges leveled against him. He was awarded major penalty of reduction ~~and~~ ⁱⁿ pay to

maximum of time scale without specified any period. so such punishment is violation of fundamental Rule N0.29, which is under

"F-R 29" if the Government servant is on account of misconduct or inefficiency, Reduce to lower grade or post, or to lower stage and his time scale, the authority ordering such reduction shall state the period of which it shall be effective and whether, on restoration it shall operate violated the principal of natural justice so imposition of punishment on appellant without providing him chance of hearing is illegal is liable to set aside."

Therefore such a punishment is not sustainable in the eye of law and is liable to set aside.

- D. That it is the legal right of employee to defend him in a case he is charged with any act of misconduct and such any act of misconduct is required to be proved through independent and impartial full pledge inquiry with the active participation of the employee neither full pledge inquiry was conducted by respondent nor appellant was allowed to participate in the said inquiry, such procedure adopted by the respondent against K.P.K. Government servant rules therefore such in impugned order are liable to be set aside.**
- E. That the impugned order are base on mala fide and personal grudges, so are liable to set aside.**
- F. That the appellant was not provided any opportunity of being heard and he was condemned unheard therefore, Bothe confident authority as well as appellate authority violation the principle of nature justice, so imposition of punishment on appellant without providing him chance of hearing is illegal and is liable to be set aside.**

- G. That appellant was not providing any opportunity to cross examine and defense thus both authority have violated the fundamental right of appellant.
- H. The appellant has not been here in according with law.
- I. That the appellant has been made victim of high handedness of the respondents heaving no fault on the part.
- J. That the cause of act of respondent that appellant was highly discriminated.
- K. That the appellant due to rules proprietary fare play and natural justice is required to restore the appellant on his original position.
- L. That any other ground may be adduced at the time of argument with kind permission of this honorable court.

For the foresaid reason it is therefore most humbly prayed that on acceptance of this appeal the impugned order 03-08-2005 and 10-12-2013 graciously be set aside and the appellant be restore to his original position with all service benefit from the date of reduction.

Any other remedy which deem fit by this honorable tribunal may also be granted and favorers of appellant.

Dated: 03-03-2014

Hamid
Appellant through counsel
F. Rahman
Qari Fateh ur Rahman

Advocate Peshawar High court

Before The Services Tribunal K.P.K. Peshawar**In Re. Service appeal No _____ 2014.****Hawaldar Khan _____ Appellant****VS****I.G.P, K.P.K and others _____ Respondents****Affidavite .**

I do here by solemnly affirm and declared that the contents of the accompanying service appeal are true and correct to the best of my knowledge and believe and nothing has been concealed from this honorable court.

Hawaldar
Deponent

CNIC# 17201-3039366-3

Before The Services Tribunal K.P.K. Peshawar

In Re. Service appeal No _____ 2014.

Hawaldar Khan _____ Appellant

VS

I.G.P, K.P.K and others _____ Respondents

Addressess of parties

Appellants

Hawaldar khan S/O Dedar Khan, R/o Dair Mian Ishaq, P/s Pabbi, Nowshera. Constable belt No. 472, Police line Nowshera.

RESPONDENTS.

1. Inspector General Police K.P.K Peshawar
2. Deputy Inspector General of police Mardan region-1 Mardan.
3. District police officer Nowshera.

H. Habib
Appellant through counsel

f. Rahman
Qari Fateh ur Rahman

Dated: *01/12/2014*

Advocate Peshawar High court

BETTER COPY OF ANNEX "A"

ORDER:

Constable Havaldar No 472 while posted to PP/Jehangira absented himself from duty with effect from 21/03/2005 to 23/03/2005 and from 4/4/2005 to 30/4/2005. He was issued charge sheet/statement of allegation. An enquiry committee consisting of the following officers was constituted by the undersigned to conduct an enquiry against him under the NWFP removal from service. (Special power) ordinance, 2000.

1. Mr. Sohail Khalid. DSP/Pabbi.
2. Inspector Muhammad Ashraf Khan R.I. Lines.

The enquiry committee conducted enquiry and submitted his finding which revealed that the defaulter official was suffering from UTI. He remained under treatment with doctor of DHQ Hospital Pabbi and Emergency Satellite complex Hospital Pabbi. He also produced Medical Certificate granted by the Doctor of DHQ Hospital Nowshera for six days and not for seven days with effect from 03/04/2005 to 09/04/2005/ the enquiry committee recommended that the period of absence may be counted as Medical leave.

He was least interest in the service, before this he absented himself on fifteen time (15) and awarded him punishment on different occasion. Therefore, in exercise of the power vested in me under section 3 of the NWFP removal from service (Special powers) ordinance 2000. I am taking a lenient view and award him major punishment of reduction in pay by two stages and the period of his absence of treated as leave without pay.

D.A No 07
Dated 03/08/2005

SIGNED
DISTRICT POLICE OFFICER
NOWSHERA

OFFICE OF THE DISTRICT POLICE OFFICE, NOWSHERA

NO ~~3094-9770~~ Dated Nowshera the 5/8/05
3015/16 copy to the: -

1. Accountant.
2. D.H.Q
3. D.S.P
4. S.H.O with papers.

Attested
A. Rahman

Attested
F. Bahua

Annex = (A) (9)

Constable Jawaldar No. 072 while posted to PP/Jehangir
absented himself from duty with effect from 21.3.05 to
23.3.05 & from 4.4.05 to 30.4.05. He was issued Charge
sheet/attachment of allegation. An Enquiry Committee
consisting of the following Officers was constituted by
the undersigned to conduct an enquiry against him under
the WPP, Removal from service (Special Powers) Ordinance, 2000.

1. Mr. Shahid Khalid D.R/Pabbi.
2. Inspector Mohammad Ashraf Khan A.I. Lines

The Enquiry Committee conducted enquiry and submitted
his findings which revealed that the defaulter official was
suffering from JH. He remained under treatment with doctor
of D.H. Hospital Pabbi and Emergency satellite complex
Hospital Pabbi. He also produced Medical Certificate granted
by the Doctor of D.H. Hospital Nowshera for six days and not
for seven days with effect from 4.4.05 to 9.4.05. The Enquiry
Committee recommended that the period of absence may be
counted as Medical leave.

He was least interest in the service, before this
he absented himself on fifteen times (15) and award him
punishment on different occasion. Therefore, in exercise of
the power vested in me under section 3 of the WPP, Removal
from service (Special Powers) Ordinance, 2000. I am taking
a lenient view and award him major punishment of reduction
in pay to two stages and the period of his absence be
treated as leave without pay.

District Police Officer,
Nowshera.

OFFICE OF THE DISTRICT POLICE OFFICER, NOWSHERA.

~~5/8/05~~ Dated: Nowshera, 5/8/05.

Copy to the:-

1. Accountant.

with papers.

Annex = (B) (10)

Government of Khyber Pukhtunkhwa
Office of the Deputy Inspector General of Police
Mardan Region-I, Mardan
Phone No. 0937-9230113, Fax No. 0937-9230115

Dy No: 3098
P.A D.P.O. NSR
dt 10.12.13
Encls: _____

From: The Deputy Inspector General of Police,
Mardan Region-I, Mardan

To: The District Police Officer,
Nowshera.

No. 5756/ES.

06, December, 2013.

Subject: APPEAL FOR WITHDRAWAL OF PUNISHMENT.

Memo:

Please refer to your office Memo No. 7000/PA dated 27.11.2013.

Constable Hawaldar No. 472 of your District appeared before the Worthy/DIG, Mardan in Orderly Room held in this office on 04.12.2013 for withdrawal of his punishment i.e reduction of pay by two stages and period of absence is treated as leave without pay vide DPO/ Nowshera OB No. 607 dated 03.08.2005.

The worthy DIG/Mardan has given the following remarks.

"Being time heard the appeal is filed forthwith, However due to his physical condition, he may be granted light duty"

Asmat Ullah
(ASMAT ULLAH)
Office Superintendent
For Deputy Inspector General of Police,
Mardan Region-I, Mardan.

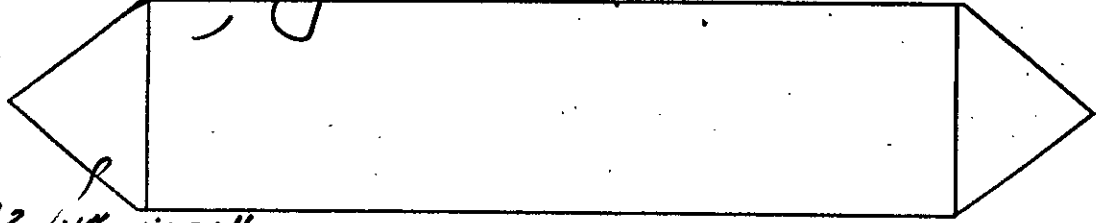
OBC, EC, OHC & FMS.

For necessary action.

OB 26 2055
10/12/13

Asmat Ullah
DPO - NSR
09.12.13.

بعدالت ضد سروں ٹریبونل کی کارروائی



2014ء منجانب سہیل جوالدار و علم دہلوی
بنام ~~سروں ٹریبونل~~ حکومت
حکومت

جوالدار و علم دہلوی

موزخہ 4/11/2014
مقدمہ جوالدار و علم دہلوی حکومت
دعویٰ رسل
جرم

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ
آن مقام ~~سہیل جوالدار و علم دہلوی~~ کیلئے ~~قاری فتح الرحمن~~ کے لئے
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلف دینے جو اب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائہ التوائے مقدمہ کے سبب سے وہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

المرقوم 6/11/2014ء

واہ العبد

بمقام

Attested & Accepted
J. Kalman

سہیل

جوالدار و علم دہلوی
سہیل جوالدار و علم دہلوی

BEFORE THE SERVICES TRIBUNAL K.P.K. PESHAWAR

In Re: Service Appeal No. _____ /2014.

HAWALDAR _____ Appellant.

vs

IGIP, K.P.K. and others Respondents.

INDEX.

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(2)	Addresses of parties		(8)
(3)	copy of D.P.O. Newsletters, order date - 5/8/2005.	(A)	(9)
(4)	copy of D.I.G.P. mandan, order date - 7 th 12/2013.	(B)	(10)
(5)	wakalat nama.		(11)

Date: 6th / 2014

Hand
Appellant.
through counsel.
+ Sakhar

Qari Fatch ul Rahman.
Advocate Newsletters.

0331-9116728.

①

BEFORE THE SERVICES TRIBUNAL K.P.K. PESHAWAR.

HAWAIDAR KHAN S/O DEDAR KHAN.

R/o DHERY MAIN ASHAQ, POST OFFICE,
PABBI, NOWSHERA.

Constable No-472, Police Line, Nowshera.

Appellant.

VS

27
07-01-14

- (1) Inspector General Police K.P.K. Peshawar.
- (2) Deputy Inspector General of Police, Mardan.
- (3) District Police Officer, Nowshera.

----- Respondents.

Service Appeal u/s 4 of NINFP Service Tribunal Act, 1977 against the order date 3/8/2005 passed by respondent No.3, whereby Appellant was awarded major penalty of reduction in pay to the minimum of time scale for indefinite period, whereby representation of the Appellant was rejected by respondent No. (2) vide order date, 10/12/2013, without assigning any legal reason.

Prayer in Appeal.

To set aside the impugned order date ³18/2005 and 10/12/2013, passed by respondents No 2 and 3 respectively and the appellant be restored to his original position with all service benefits from the date of reduction.

(2)

Respectfully Sir,

It is Submitted as under.

- (1) That the appellant was appointed as constable on 28/8/1995 vide Belt No 472 in the police department at Nonsihara and was serving to the best of his abilities and to the entire satisfaction of his Superiors.
- (2) That the baseless allegations were levelled against the appellant and was charge on the ground of absented from service, regarding the movement of respondent No 3, vide order dated, 3/8/2005.
- (3) That the appellant was proceed against departmentally on such charges and respondent No 3, imposed on a major punishment of reduction to the minimum of time Scale vide date, 3⁸/₂₀₀₅
(copy of order is Annexure (A)).
- (4) That Feeling aggrieved from the same, the appellant preferred departmental representation before respondent no 2, which also met with the following remarks.
" Being time beard the appeal is filed forthwith, However due to his physical condition, he may be granted light duty."

(copy of order, Digi. Annexure (B))

(Cont)

(3)

- (5) That the order passed by respondent no 2 have seriously aggrieved the appellant, & thus appellant the same before this Honourable Tribunal, inter alia, on the following grounds.

————— GROUNDS —————

- (A) That the impugned orders date, 10/12/03 and d, 3/8/2005 are against law, facts and record of the case, hence untenable.
- (B) That the competent authority passed a mechanical order & the departmental authority also passed a similar order without application of mind. Had both these authorities looked into the facts of the case deeply, they would not passed such impugned orders.
- (C) That the no cogent & confidence inspiring evidence was brought on surface about the involvement of appellant in charges levelled against him, but he was awarded major penalty of reduction in pay to the maximum of time scale without specified any period. So such punishment is violation of fundamental rules No 29 which is under —
- FR 29 if a Govt servant is, on account of misconduct or inefficiency, reduced to a lower grade or post, or to a lower stage, in his time scale, the authority ordering

(4)

violated the principles of natural justice, so imposition of punishment on appellant without providing him chance of hearing is illegal and is liable to be set aside.

- (G) That the appellant was not provided any opportunity to cross Examine & defence, thus both authorities have violated the fundamental rights of the appellant.
- (H) The appellant has not been heard in accordance with law.
- (i) That the appellant has been made victim of highhandedness of the respondents having no fault on his part.
- (j) That because of act of respondent, the appellant was highly discriminated.
- (k) That appellant due to rules proprietary, Fair-play, & natural justice is require to be restored the appellant on his original position.
- (L) That any other ground may be adduced at the time of Arguments, with kind permission of this Honourable court.

(5) For the aforesaid reasons, it is, therefore most humbly prayed that on acceptance of this appeal,

(cont)

⑤

such reduction shall state the period of which it shall be effective & whether, on restoration, it shall operate to postpone future increments & if so, to what extent,

therefore, such a punishment is not sustainable in the eye of law & is liable to be set aside.

(D) That it is the legal right of an employee to defend him in a case, he is charged with any act of misconduct and such a act of misconduct is required to be proved through independent & impartial, full pledged inquiry with the active participation of the employees, neither full-fledged inquiry was conducted by respondents nor appellant was allowed to participate in said inquiry. Such a procedure adopted by the respondent are against K.P.K. Govt Servant Rules, therefore, such an impugned order are liable to be set aside.

(E) That the impugned orders are based on malafide and personal grudges, so are liable to be set aside.

(F) That the appellant was not provided any opportunity of being heard and he was condemned unheard, therefore, both competent authorities as well as appellants authority

⑥

The impugned orders date, 3/8/2005 and 10/12/2013, may graciously be set aside and the appellant be restored to his original position with all service benefits from the date of reduction.


Any other remedy which deems fit by this honorable Tribunal may also be granted in favour of appellant.

Dated: 6th / 2014

Hard
Appellant.

Through counsel.
F. Rahman.

Qari Fatch ur Rahman.


Muhammad Saeed Khan.
Advocates.

7)
BEFORE THE SERVICES TRIBUNAL, K.P.K. PESHAWAR
In Re. Service Appeal No. _____ 2014

Hawaladar Khan _____ Appellant.

vs
i.G.P. K.P.K. & others _____ Respondents.


Affidavit.

I do hereby solemnly affirm & declare
that the contents of the accompanying
service appeal are true & correct to
the best of my knowledge and belief
and nothing has been concealed
from this honorable court.

Hand
Deponent

CNIC # 17201-30993663.

ATTESTED


04.07.2014
Mian Sibghat Ullah Shah
Advocate
Notary Public/Oath Commissioner
High Court Peshawar



(8)

BEFORE THE SERVICES TRIBUNAL K.P.K. PESHAWAR.

Service Appeal No _____ 2014.

Hawalदार Khan.

vs _____ Appellant

I.G.P. K.P.K. & others Respondents.

ADDRESSES OF PARTIES

Appellant

Hawalदार Khan S/O Dedar Khan.
R/O DAIR MAIN ISHAQ. P.S PABBI, NOWSHERA.
Constable Belt No 472, police Line Nowshera.

Respondents,

- 1) Inspector General police
K.P.K. Peshawar.
- 2) Deputy Inspector General of police
Mardan Region-I Mardan.
- 3) District police officer Nowshera.

Date: 6th of
2014.

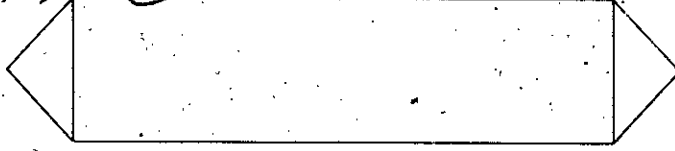
^{Hand}
Appellant
through counsel.

f. Rahma
Qari Fatch ur Rahman
Advocate, Peshawar.

MUHAMMAD SAIED KHAN.

Advocate Nowshera.

بعدالت CPIC سرویس ٹریبیونل کیس 19



22 ستمبر

20/14

بنام لوبوں اور
حوالہ

مورثہ

مقدمہ

دعویٰ سرویس لوبوں

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام کے مقررہ اصولوں کے مطابق کیلئے مسماہر آگے لائے گئے ہیں۔ مقررہ اصولوں کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر خلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرداخت منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

20/14

سید

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المرقوم

Accepted

20/14

SATID Amin
Advocate, Patna

عدالت سٹیشنری مارچ
پوسٹ بکس نمبر 193 2220193
Mob: 0345-9223239

کے لئے منظور ہے۔

مقام کیس 19

Handwritten signature

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

Service Appeal No. 281/2014

Hawaladar Khan Constable No. 472,
S/O Dedar Khan
R/O Dheri Mian Ashaq, Post Office, Pabbi.
District Nowshera.

.....Applicant

V E R S U S

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, Mardan.
3. District Police Officer, Nowshera.

.....Respondents

PARAWISE REPLY ON BEHALF OF RESPONDENTS No. 1,2&3

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS

1. That the appellants has got no cause of action.
2. That the appeal is badly time-barred.
3. That the appellants is estopped from moving the instant appeal due to his own conduct.
4. That the appeal is not maintainable in its present form.
5. That the appellants has not come to the Honourable Tribunal with clean hands.

On Facts

1. Para to the extent of appointment/enlistment, pertains to record, needs no comments while rest of the para is incorrect hence, denied.
2. Para incorrect because the appellants while posted to Police Post, Jehangira absented himself from his lawful duty due to which he was proceeded departmentally and an enquiry committee was constituted for probing into the conduct of defaulter official/appellants. The said committee concluded the enquiry and submitted report whereupon the appellants was awarded punishment of reduction in pay by 02 stages. Therefore, the plea of the appellants is not based on solid reasons. (Charge sheet and statement of allegation attached).
3. Para incorrect, the appellants was awarded punishment of reduction in pay by 02 stages and not to the stage alleged by the appellants in his service appeal.

4. Para regarding aggrieved-ness of the appellant is not related, needs no comments while rest of the para is correct because the appellant was supposed to challenge the punishment order well in time but he bitterly failed to do so for the reasons best known to him. Moreover, the limitation prescribed for appeal is 30 days under the law, therefore, the appeal being badly time barred was filed by the appellate authority which is in accordance with the norms of natural justice.
5. The appellant has got no cause of action to file instant appeal.


On grounds

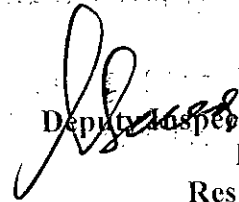
- A. Para incorrect, because if the appellant was aggrieved from the order dated 03-08-2005, then he was supposed to challenge the same before the proper forum well in time but he did not bother, therefore, the order dated 10-12-2013, is in accordance with law, facts and material available on record hence, tenable in the eyes of law.
- B. Para incorrect. The punishment order passed by the competent authority and that of the appellate authority is neither mechanical nor fanciful rather passed after application of prudent mind which does commensurate with the gravity of misconduct of the appellant.
- C. Para incorrect. After taking into consideration cogent and confidence inspiring evidence the punishment order was passed which is in consonance with the canons of justice. Moreover, the stance regarding non mentioning of specific period pertaining to time scale, is totally false and frivolous because the appellant was awarded the punishment of reduction in pay by 02 stages which fact is also admitted by the appellant by annexing the punishment order with the instant appeal.
- D. Para incorrect. The appellant was provided full opportunity of defending himself during the enquiry proceedings. Therefore, the plea/objection raised by the appellant being devoid of its legal footing is liable to be set aside.
- E. Para incorrect. The respondent department has no grudge against the appellant hence, plea regarding malafide is false and baseless.
- F. Para already explained needs no comments.
- G. Incorrect. The appellant was provided ample opportunity to defend himself.
- H. Para incorrect. The stance of appellant is false and baseless.
- I. Para incorrect. Neither the respondent department has committed any high handedness nor has made the appellant a victim, rather after fulfilling all codal formalities, the punishment order was passed.
- J. Incorrect. Para already explained needs no comments.


K. Incorrect. Para explained earlier needs no comments.

L. That the respondents also seek permission of this Honourable Tribunal to adduce additional grounds at the time of arguments.

It is, therefore, humbly prayed that the appeal may kindly be dismissed with cost.


Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.
Respondent No. 1


Deputy Inspector General of Police,
Mardan.
Respondent No. 2


District Police Officer,
Nowshera.
Respondent No. 3

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

Service Appeal No. 281/2014

Hawaladar Khan Constable No. 472,
S/O Dedar Khan
R/O Dheri Mian Ashaq, Post Office, Pabbi.
District Nowshera.

.....Applicant

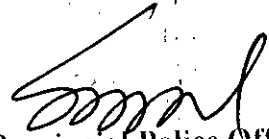
V E R S U S


1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, Mardan.
3. District Police Officer, Nowshera.

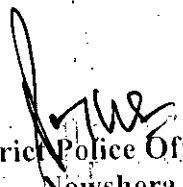
.....Respondents

AFFIDAVIT

We the respondents No. 1,2 & 3 do hereby solemnly affirm and declare on Oath that the contents of parawise comments to the appeal are true and correct to the best of our knowledge and belief and nothing has been concealed from the Honourable tribunal.


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


Deputy Inspector General of Police,
Mardan Region-I, Mardan.
Respondent No. 2


District Police Officer,
Nowshera
Respondent No. 3

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 720 /ST

Dated 6 / 5 / 2016


To

The D.P.O,
Government of Khyber Pakhtunkhwa,
Nowshera.

Subject: - **JUDGMENT**

I am directed to forward herewith a certified copy of Judgement dated 2.5.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.