

8.8.2022

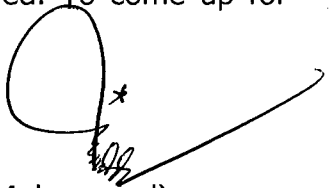
Due to the Public Holiday the  
Case is Adjourned to 1-9-2022

  
Reader.

01.09.2022

Nemo for the appellant. Mr. Muhammad Adeel Butt,  
Additional Advocate General alongwith Mr. Fayyaz H.C for the  
respondents present.

Reply/comments on behalf of respondents have already  
been submitted. Notice be issued to the appellant and his counsel  
to attend the court on the next date. Adjourned. To come up for  
preliminary hearing on 07.10.2022 before S.B.

  
(Mian Muhammad)  
Member (E)

*Counsel was  
informed to be present  
due to non-availability  
of postal tickets*

SCANNED  
KPST  
Peshawar

06.01.2022

Nemo for the appellant. Mr. Kabirullah Khattak, Addl. AG for the respondents present.

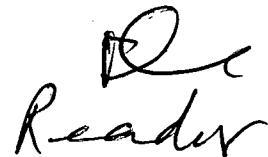
As per preceding order sheet, pre-admission notice was given to the respondents to assist the Tribunal on the point. Lawyers are on general strike today. Case to come up for preliminary hearing on 03.03.2022 before S.B.



(Rozina Rehman)  
Member (J)

3-3-2022

Due to retirement of the Honorable Chairman the case is Adjourned to come up for the <sup>same</sup> as before on 2<sup>6</sup>/<sub>22</sub>



Reader

02.06.2022

Appellant in person present. Mr. Muhammad Fayaz, Head Constable alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Representative of the respondents submitted reply, copy of which handed over to the appellant. Lawyers are on general strike, therefore, to come up for preliminary hearing before the S.B on 08.08.2022.



(Salah-Ud-Din)  
Member (J)

02.11.2021

Learned counsel for the appellant contended that the appellant is aggrieved of the impugned order dated 16.05.2019 whereby the appellant was dismissed from service from the dated of his absence i.e 19.12.2018. He preferred departmental appeal dated nil for reinstatement in service which was decided/rejected by the appellate authority vide order dated 22.01.2021. Thereafter the appellant preferred revision petition before respondent No.3 which was not responded within stipulated statutory period and then the instant service appeal was filed in the Service Tribunal on 19.07.2021. It was further contended that the departmental appeal has been rejected/filed on the basis of limitation whereas no limitation runs against a void order. To strengthen his arguments, learned counsel for the appellant placed reliance on citation (a) and Para-6 of 2019 SCMR 648, Citation (b) and (c) of 1985 SCMR 1178 and this Tribunal judgment dated 02.05.2016 in service appeal No. 588/2012 "titled Murad Ali-vs-Commandant FRP and others", judgement dated 07.12.2017 in service appeal No. 957/2016 "titled Shoukat Ali S/O M. Shafiq-vs-Superintendent of Police FRP Malakand Region" and judgement of larger bench of this Tribunal in service appeal No. 562/2016 dated 02.03.2018 "titled Rahim-Ud-Din son of Said Rehman-vs-Khyber Pakhtunkhwa IGP and other". Let pre-admission notice be issued to the respondents to assist the Tribunal on the point. To come up for preliminary hearing on 06.01.2022 before the S.B.

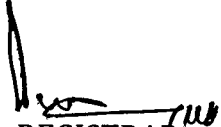

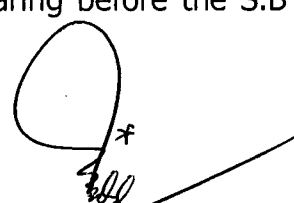
  
(Mian Muhammad)  
Member(E)

Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 2143 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	04/08/2021	<p>The appeal of Mr. Ziad Gul resubmitted today by Mr. Shah Faisal Ilyas 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</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>13/09/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	13.09.2021	<p>Nemo for the appellant present.</p> <p>Notices be issued to the appellant and his counsel. Adjourned. To come up for preliminary hearing before the S.B on 02.11.2021.</p> <p style="text-align: right;"> (MIAN MUHAMMAD) MEMBER (E)</p>

The appeal of Mr. Zahid Gul Ex-Constable No. 1353 District Nowshera received today i.e. on 19.07.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Certificate be given to the effect that appellant has not filed any service appeal earlier on the subject matter before this Tribunal.
- 2- Check list is not attached with the appeal.
- 3- Memorandum of appeal may be got signed by the appellant.

No. 1414 /S.T,

Dt. 27/07 /2021

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Shah Faisal Ilyas Adv. Pesh.

Respected Sir.

All objection  
are cleared and file resubmitted

Thanks



**BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR**

Service Appeal No. 2143/2021

Zaid Gul.....(Appellant)

**V E R S U S**

District Police Officer (DPO) District Nowshera and  
others.....Respondents)


**I N D E X**

S.No	Description of Documents	Annex	Pages
1.	Service Appeal with affidavit		1-8
2.	Addresses of Parties		9
3.	Copy of impugned order dated 15/05/2019	A	10-10A
4.	Copies of appeal and order dated 22/01/2021	B	11-13
5.	Copy of appeal to respondent No. 3	C	14
6.	Copy of judgment	D	15-41
7.	Wakalat Nama		42

Appellant

Through

Date: 19/07/2021

  
**Shah Faisal Ilyas**  
Advocate High Court,  
Peshawar.  
Cell: 0300-5850207

**BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2021

Zaid Gul, Ex-Constable No. 1353, District  
Nowshera.....(Appellant)

**V E R S U S**

1. District Police Officer (DPO) District Nowshera.
2. Regional Police Officer (DIG), Mardan Region.
3. Government of Khyber Pakhtunkhwa through  
Inspector General of Police/ PPO, Khyber  
Pakhtunkhwa, Peshawar.
4. Assistant Superintendent of Police, Nowshera Cantt,  
Nowshera.....Respondents)

**SERVICE APPEAL U/S 4 OF SERVICES**  
**TRIBUNAL ACT, 1973 AGAINST THE**  
**IMPUGNED ORDER DATED 22/01/2021**  
**PASSED BY RESPONDENT NO. 2**  
**WHEREBY HE DISMISSED THE**  
**DEPARTMENTAL APPEAL AGAINST THE**  
**IMPUGNED ORDER DATED 15/05/2019**  
**PASSED BY RESPONDENT NO 1,**  
**WHEREBY THE APPELLANT HAS BEEN**  
**AWARDED MAJOR PUNISHMENT OF**

**DISMISSAL FROM SERVICE WITH  
RETROSPECTIVE EFFECT.**

**Prayer in Appeal:**

*On acceptance of this Service Appeal, the impugned order dated 22/01/2021 and order dated 15/05/2019 passed by respondents No. 1 and 2 may please be set aside and the appellant may very graciously reinstated in service with all back/ consequential benefits.*

**Respectfully Sheweth:**

1. That appellant in the year of 2009 joined the police department as a constable and performed his duty with zeal and devotion.
2. That appellant has transparent service record 'with nine years service in his credit.
3. That applicant while posted at Police Post Bara Banda, District Nowshera, domestic problem raised, and that's why appellant was not in the condition to perform his duty, hence, absented.



4. That applicant tried for leave but in vain, despite heacted efforts.
5. That respondent No. 1, nominated Enquiry Officer respondent No. 4 and in enquiry proceedings, applicant was dismissed from service vide impugned order dated 15/05/2019. (Copy of impugned order dated 15/05/2019 is attached as annexure "A").
6. That appellant approached to respondent No. 2 for reinstatement but the same was rejected due to time barred. (Copies of appeal and order dated 22/01/2021 are attached as annexure "B").
7. That being void order and no limitation run against the same, appellant file another application to IGP, but the later of the same is not conveyed to the appellant yet. (Copy of appeal to respondent No. 3 is attached as annexure "C").
8. That feeling aggrieved from the appellant having no other adequate, efficacious, alternate remedy,

4 ~~12~~

approaches this Hon'ble Tribunal, inter alia, on the following grounds.

**GROUND S:**

- A. That being void orders no limitation run against the same, hence needs to be set aside. (Copy of judgment is attached as annexure "D").
- B. That the impugned orders dated 22/01/2021 and order dated 15/05/2019 passed by respondents No. 1 and 2 are illegal, against law, without lawful authority and jurisdiction, being void order with retrospective effect.
- C. That appellant was imposed major penalty, so, the respondents are bound to conduct regular inquiry to probe the allegations levelled against him, but respondents have not followed the prescribed procedure, therefore, action/ orders of respondents No. 1 & 2 are without lawful authority, hence, liable to be set aside.

- D. That the whole proceedings of the so-called inquiry was conducted in the absence of appellant, he was not provided an opportunity of hearing, hence he was condemned unheard which is violation of golden principle that no one should be condemned unheard.
- E. That against the appellant, general allegations have been levelled and no specific reference of any incident has been given, thus, findings of respondents No. 1 & 2 are based on assumptions, presumptions, which are not sustainable in the eyes of law.
- F. That so-called enquiry officer has not recorded statement of any witnesses nor collected any evidence in support of allegations levelled against the appellant, so, the inquiry was not conducted in a fair and transparent manner, therefore, dismissal of the appellant from service on such

so-called inquiry report is highly illegal, arbitrary, without lawful authority and jurisdiction.

G. That it is fundamental rights of the appellant to be treated equally and are also entitled to equal protection of law, but in the instant case, the respondents have blatantly bypassed all rules regulating the subject matter.

H. That appellant is not engaged in any profit oriented activity and remained jobless since removal order, therefore, he is entitled for all back benefits.

I. That appellant belongs from poor family, there is no other source of income without this job and the appellant is only source of livelihood of his entire poor family.

J. That any other ground may be adduced during the course of arguments, with the kind permission of this Hon'ble Tribunal.

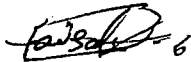
It is, therefore, respectfully prayed that on acceptance of this Service Appeal, the impugned order dated 22/01/2021 and order dated 15/05/2019 passed by respondents No. 1 and 3 may please be set aside and the appellant may very graciously reinstated in service with all back/ consequential benefits.

Any other remedy which deemed appropriate and just in the circumstances of the case, be also issued/ ordered/ given.

زیاد گل  
Appellant

Through

Date: 19/07/2021

  
**Shah Faisal Ilyas**  
Advocate High Court,  
Peshawar.

**CERTIFICATE:**

As per instruction of my client it is certified that no such like Service Appeal has earlier been filed on the subject matter before this Hon'ble Tribunal

  
**ADVOCATE**

**BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2021

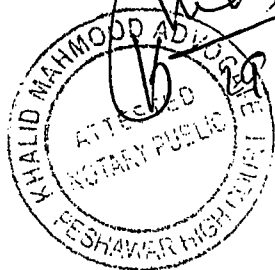
Zaid Gul.....(Appellant)

**V E R S U S**

District Police Officer (DPO) District Nowshera and  
others.....Respondents)

**AFFIDAVIT**

I, Zaid Gul, Ex-Constable No. 1353, District Nowshera, do hereby solemnly affirm and declare on oath that the contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



*Zaid Gul*  
**DEPONENT**

**BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2021

Zaid Gul.....(Appellant)

**V E R S U S**District Police Officer (DPO) District Nowshera and  
others.....Respondents)**ADDRESSES OF PARTIES****APPELLANT:**

Zaid Gul, Ex-Constable No. 1353, District Nowshera.

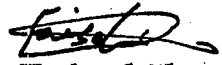
**RESPONDENTS:**

1. District Police Officer (DPO) District Nowshera.
2. Regional Police Officer (DIG), Mardan Region.
3. Government of Khyber Pakhtunkhwa through  
Inspector General of Police/ PPO, Khyber  
Pakhtunkhwa, Peshawar.
4. Assistant Superintendent of Police, Nowshera Cantt,  
Nowshera.

Appellant

Through

Date: 19/07/2021

  
**Shah Faisal Ilyas**  
 Advocate High Court,  
 Peshawar.

POLICE DEPARTMENT

Nowshera

ORDER

This order will dispose of a departmental enquiry initiated under Pakhtunkhwa Police Rules-1975, against Constable Ziyad Gul No. 1333, under the charge that he while posted at Police Post Bara Banda selected for refresher course vide DD No. 19/12/2018, but he did not report for the said course and remained absent without leave/permission of the competent authority vide DD No. 19 dated 25/12/2018, till date Nowshera till date.

On account of which he was issued Show Cause Notice and was summoned time and again to collect his SCN, but failed, therefore, departmental action has been initiated against him through Mr. Tassawar Iqbal, ASP, Cantt. Nowshera. The enquiry officer after fulfillment of legal formalities submitted his report to the undersigned, wherein the enquiry officer highlighted that the defaulter official has little interest in police job, he even did not bother to defend himself against the allegations leveled against him in the charge sheet and statements of allegations therefore recommended for major punishment of dismissal.

He was served with Final Show Cause Notice on 22/04/2019, but failed to submit his reply. His continuous absence seems that he is no more interested in police job.

He was called in orderly room and heard in person by the undersigned on 15/05/2019, wherein he failed to produce any cogent reason in his defense, therefore, he is hereby awarded major punishment of dismissal from service from the date of absence in exercise of powers vested in me under Khyber Pakhtunkhwa Police Rules-1975.

OB No. 558

Dated 16/5/2019

District Police Officer  
Nowshera

No. 2268-21 /PA dated Nowshera, the 15/05/2019

Copy for information and necessary action to the



- 1. Pay Officer
- 2. Establishment Clerk
- 3. OMO
- 4. INOC with its enclosures (21 sheets)

**ATTESTED**



10A


**Khyber Pakhtun Khwa**  
S.No. 2075-18



**ZIYAD GUL**  
Designation: FC/1357  
CNIC: 37201-6724810-1  
Nowshera Police Baidar Police

**NOWSHERA  
POLICE**

F/Name: Zafer Gul  
Date Of Appointment: 5-9-2008  
Identification Mark: Nil  
Address: Pabbi  
Date Of Issue: 10-05-2018  
Emergency No: 0336-8467100



Valid Upto: 30-12-2021  
Blood Group: Nil

**NOWSHERA  
POLICE**

SUBJECT APPLICATION FOR RE INSTATEMENT IN SERVICE

Respected Sir,

It is submitted as under:-

- 1 That applicant in the year of 2009 joined the police department as a constable and performed his duty with complete zeal and zest.
- 2 That applicant has transparent service record with nine years service in his credit.
- 3 That applicant while posted at Police Post Bara Banda, district Nowshera domestic problem raised and that's why applicant was not in the condition to perform his duty well and good hence, absented.
- 4 That applicant tried for leave but in vain.
- 5 That honorable DPO, Nowshera nominated enquiry officer Sp Cant, Nowshera and in enquiry proceedings applicant was dismissed from service (dismissal order attached).
- 6 That neither show cause notice was served nor any cross examination conducted upon the applicant.
- 7 That applicant belongs from poor family there is no other source of income without this job.
- 8 That all family responsibilities upon the shoulders of applicant.
- 9 That applicant absentia was not intentionally but due to domestic problems.

PRAYER

It is, therefore requested that applicant may kindly be reinstated in service, please.

*msp legal  
for comments.*

*DPONSL*

*Ziad Gul*  
**ATTESTED**

Ziad Gul Ex-Constable No. 1353  
District Nowshera  
Mobile No. 0336-9467100

**ORDER.**

This order will dispose-off the departmental appeal preferred by Ex-Constable Ziad Gul No. 1353 of Nowshera District Police against the order of District Police Officer, Nowshera, whereby he was awarded major punishment of dismissal from service vide OB No. 558 dated 16.05.2019. The appellant was proceeded against departmentally on the allegations that he while posted at Police Post Bara Banda, selected for refresher course vide daily diary No. 09 dated 19.3.2018, but he did not report for the said course and remained absent without any leave/permission of the competent authority vide daily diary No. 19 dated 25.12.2018 till date of his dismissal.

He was issued Show Cause Notice and was informed time and again to collect the same but he failed. Therefore, proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and Assistant Superintendent of Police Cantt Nowshera was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities, submitted his findings wherein he reported that the appellant was contacted time and again to appear before the enquiry Officer, but he failed and remained absent, which showed that he was no more interested in Police Service. He recommended the appellant for major punishment of dismissal from service.

He was issued Final Show Cause Notice on 22.04.2019, but neither did he submit his reply nor did he assume the duty.

He was also provided opportunity of self defense by summoning him in the Orderly Room by the District Police Officer, Nowshera on 15.05.2019, but he failed to advance any cogent reasons in his defense. Hence, he was awarded major punishment of dismissal from service vide OB: No. 558 dated 16.05.2019.

Feeling aggrieved from the order of District Police Officer, Nowshera, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 20.01.2021.

From the perusal of service record of the appellant, it has been found that the allegations leveled against the appellant have been proved beyond any shadow of doubt. He had been earlier dismissed from service on account of his absence. Hence, the very conduct of appellant is unbecoming of a disciplined Police Officer. Moreover, the appellant approached this forum at a belated stage without advancing any cogent reason regarding such delay. Hence, order passed by the competent authority does not warrant any interference.

*Feb*  
**ATTESTED**

Keeping in view the above, I, Sher Akbar, PSP S.St Regional Police Officer, Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being badly time barred.

Order Announced.

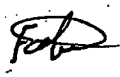
  
Regional Police Officer,  
Mardan.

No. 387 /ES, Dated Mardan the 22 /01/2021.

Copy forwarded to District Police Officer, Nowshera for information and necessary action w/r to his office Memo: No. 63/PA dated 08.01.2021. His Service Record is returned herewith.

(\*\*\*\*)

Nowshera,  
District Police Officer,  
Nowshera,  
FATA.



**ATTESTED**



BEFORE HONORABLE INSPECTOR GENERAL POLICE, KPK  
PESHAWAR

**Subject:** APPLICATION FOR RE-INSTATEMENT IN SERVICE.

Respected Sir,

It is submitted as under;

1. That applicant in the year of 2009 joined the police department as a constable and performed his duty with complete zeal and zest.
2. That applicant has transparent service record with nine years service in his credit.
3. That applicant while posted at police post Bara Banda, District Nowshera Domestic problem raised and that's why applicant was not in the condition to perform his duty well and good hence, absented.
4. That applicant tried for leave but in vain.
5. That honorable DPO, Nowshera nominated enquiry officer SP Cantt, Nowshera and in enquiry proceedings applicant was dismissed from service (dismissal order attached)
6. That neither show cause notice was served nor any cross examination conducted upon the applicant.
7. That applicant approached to regional police officer for re-instatement but the same was rejected due to time barred hence the instant application before your honour. (Order attached with)
8. That applicant belongs from poor family there is no other source of income without this job.
9. That all family responsibilities upon the shoulders of applicant.
10. That applicant absence was not intentionally but due to domestic problems.

**Prayer:**

It is, therefore, requested that applicant may kindly be reinstated in service, please.

  
**ATTESTED**

Ziad Gul Ex-Constable No. 1353  
District Nowshera  
Mob: 0336-6767100

15

2019 S C M R 648

[Supreme Court of Pakistan]

Present: Gulzar Ahmed, Faisal Arab and Ijaz ul Ahsan, JJ

Qazi MUNIR AHMED---Petitioner

Versus

RAWALPINDI MEDICAL COLLEGE AND ALLIED HOSPITAL through Principal and others---Respondents

Civil Petitions Nos. 606 and 607 of 2018, decided on 6th March, 2019.

(Against the Judgment dated 07.12.2017 passed by the Lahore High Court, Rawalpindi Bench, Rawalpindi in Intra Court Appeals Nos. 181 and 196 of 2012)

✓ (a) Limitation---

---Void order--- No period of limitation ran against a void order.  
Yousaf Ali v. Muhammad Aslam Zia PLD 1958 SC 104 ref.

Page 6

(b) Appeal---

---Aggrieved person--- Scope---Any aggrieved person whether or not he was a party in a lis had the right to approach an appellate forum.

H.M. Saya and Co. v. Wazir Ali Industries Ltd. PLD 1969 SC 65 ref.

(c) Constitution of Pakistan---

---Art. 199---Constitutional petition---Competency---Necessary and proper party i.e. Provincial Government not impleaded---Where petitioner did not implead the Provincial Government as a party in the constitutional petition, despite the fact that the said Government was a necessary and proper party in the case, the constitutional petition was not competent and was liable to be dismissed.

Government of Balochistan v. Mir Tariq Hussain Khan Magsi 2010 SCMR 115 ref.

(d) Constitution of Pakistan---

---Art. 199---Contract employment---Constitutional petition filed by a contract employee--- Maintainability---Contract employee was debarred from approaching the High Court in its constitutional jurisdiction---Only remedy available to a contract employee was to file a suit for damages alleging breach of contract or failure to extend the contract.

Federation of Pakistan v. Muhammad Azam Chatha 2013 SCMR 120 ref.

**ATTESTED**

(e) Master-servant---

---Contract employee---Contract employee could not press for reinstatement to serve for the left-over period and could at the best claim damages to the extent of unexpired period of his service.

Federation of Pakistan v. Muhammad Azam Chatha 2013 SCMR 120 ref.

Sardar Abdul Raziq Khan, Advocate Supreme Court and Syed Razaqat Hussain Shah,

Advocate-on-Record for Petitioner (in both cases).

Mian Abdul Rauf, Advocate Supreme Court for Respondents.

Date of hearing: 6th March, 2019.

## ORDER

**IJAZ UL AHSAN, J.**---Through this order, we propose to decide C.P.L.As. Nos.606 and 607 of 2018 as common questions of law are involved and both petitions arise out of the same impugned judgment of the Lahore High Court, Rawalpindi Bench, Rawalpindi.

2. The petitioner seeks leave to appeal against a judgment of the Lahore High Court, Rawalpindi Bench, Rawalpindi, dated 07.12.2017, through which Intra Court Appeals (I.C.As. Nos.196 and 181 of 2012) filed by the Respondents were accepted, the judgment dated 30.08.2012 passed by the learned Single Judge in Chambers was set aside and the constitutional petition (W.P.No.2059 of 2011) filed by the petitioner was dismissed.

3. The brief facts necessary for disposal of this lis are that the petitioner was appointed as an ECG Technician in District Headquarters Hospital, Rawalpindi in 2005 on contract basis. In 2009, his services were terminated. He challenged his termination through a representation which was not decided. He therefore approached the High Court in its constitutional jurisdiction. The High Court ultimately directed the Respondents to decide the petitioner's representation. This was dismissed by the departmental authority on 06.08.2011. The petitioner challenged the said order through Writ Petition No.2059 of 2011, which was allowed, vide order dated 30.08.2012. The Respondents feeling aggrieved challenged the said judgment through two separate Intra Court Appeals. These were allowed, vide impugned judgment dated 07.12.2017. Hence, these petitions.

4. The learned counsel for the petitioner submits that the Division Bench of the High Court fell in error in reversing the findings of the learned Single Judge in a mechanical manner. He further maintains that the ICA filed by the Rawalpindi Medical College ("RMC"), which was neither a party to the proceedings in the writ petition nor was directly aggrieved of the order dated 30.08.2012, was not competent. He further maintains that the ICA filed by the Government of Punjab was barred by time and the learned Division Bench erred in law in entertaining the appeals and ultimately accepting the same.

5. The learned counsel for the Respondents on the other hand has defended the impugned judgment. He has pointed out that even if the appeal filed by the Government of Punjab was barred by time, another appeal filed by RMC was admittedly within time. It is settled law that if two appeals against the same impugned judgment are filed, one of which is within time, the other appeal should also be entertained and decided on merit rather than being dismissed on technical grounds thereby creating legal complications and anomalies.

✓ 6. We have heard the learned counsel for the parties and carefully examined the record. There is no denial of the fact that the appeal filed by the RMC was within time. As such, even if the appeal filed by the Government of Punjab was barred by time, the learned Division Bench had legal basis and lawful justification to entertain and decide both appeals on merits. Even otherwise, the order of petitioner's appointment was found to be void. Further, in terms of the law laid down by this Court in the judgment reported as Yousaf Ali v. Muhammad Aslam Zia (PLD 1958 SC 104), no period of limitation runs against a void order.

7. As far as the argument of the learned counsel for the petitioner that RMC could not have filed an appeal, suffice it to say that any aggrieved person whether or not he was a party in a lis has the

**ATTESTED**

07-Aug-19, 10:47 AM

right to approach an appellate forum. Reference in this regard may usefully be made to H. M. Saya & Co. v. Wazir Ali Industries Ltd. (PLD 1969 Supreme Court 65). The learned ASC for the petitioner has not been able to convince us either that the appeal filed by the RMC was not competent or that the same was wrongly entertained and decided by the Division Bench.

8. Adverting to the merits of the case, we find that vide letter dated 22.06.2004, the Principal Secretary to the Chief Minister, Punjab had desired that the case of the petitioner for re-employment be placed before the Re-employment Board for consideration on merit. However, it appears that the Medical Superintendent, DHQ Hospital, Rawalpindi without referring the matter to the Re-employment Board, and on his own accord directly appointed the petitioner on contract basis. Such order was clearly in violation of the aforementioned letter as well as beyond the powers of the said office.

9. We have specifically asked the learned counsel for the petitioner that under what authority of the law the Chief Minister had the power to issue directives regarding re-employment of government servants. He has not been able to provide any legally sustainable response to the same.

10. It also appears that the case of one Rizwana Bibi involving identical questions had been dismissed by a Division Bench of the High Court. The said matter came up for hearing before this Court in C.P.L.A. No.155 of 2010 which was dismissed vide judgment dated 15.02.2010. The points of law involved in the petitioner's case are the same regarding which findings have already been relieved and law laid down in Rizwana Bibi's case. As such, the learned High Court was justified in relying on the same and refusing to grant relief to the petitioner.

11. It is also noticed that the petitioner did not implead the Province of Punjab as a party in the constitutional petition. This was despite the fact that the said Government was a necessary and proper party in the case. In the circumstances, even otherwise, the constitutional petition was not competent and was rightly dismissed by the Division Bench. Reference in this regard may usefully be made to Government of Balochistan v. Mir Tariq Hussain Khan Magsi (2010 SCMR 115).

12. We have also noticed that the dispute between the parties related to contract employment. This Court has in various pronouncements settled the law that a contract employee is debarred from approaching the High Court in its constitutional jurisdiction. The only remedy available to a contract employee is to file a suit for damages alleging breach of contract or failure to extend the contract. Reference in this behalf may be made to Federation of Pakistan v. Muhammad Azam Chattha (2013 SCMR 120), where it has been held that it is a cardinal principle of law that a contract employee cannot press for reinstatement to serve for the left over period and can at the best claim damages to the extent of unexpired period of his service. Therefore, it was correctly held that the petitioner approached the wrong forum in the first place and the learned Single Judge had exceeded his jurisdiction by interfering in a purely contractual matter.

13. The learned counsel for the petitioner has not been able to show us any legal, procedural or jurisdictional error, defect or flaw in the impugned judgment that may require interference by this Court in exercise of its jurisdiction under Article 185(3) of the Constitution of the Islamic Republic of Pakistan, 1973. The impugned judgment of the Division Bench is well reasoned, based on settled principles of law on the subject and the conclusions drawn are duly supported by the record. We are therefore not inclined to grant leave to appeal in this matter.

14. For the foregoing reasons, these petitions being devoid of merits stand dismissed. Leave to appeal is refused.

MWA/M-12/SC

Petitions dismissed.

  
**ATTESTED**



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1985 S C M R 1178

**Present: Muhammad Haleem. C. J., Muhammad Afzal Zullah and Nasim Hasan. Shah, JJ****NOOR MUHAMMAD--Petitioner****versus****THE MEMBER ELECTION COMMISSION, PUNJAB and others--Respondents**

Civil Petition for Special Leave to Appeal No. 116 of 1985, decided on 23rd February, 1985.

(On appeal from the judgment, dated 29-1-1985 of the Lahore High Court in Writ Petition No. 367 of 1985).

**(a) Houses of Parliament and Provincial Assemblies (Elections) Order (5 of 19'77)--**

---S. 10 (2) (b) (3)--Election to Provincial Assembly--Disqualification--Candidate removed from service with retrospective effect--Removal, held, patently unlawful and void in relevant regard--Such order could not be given effect to and Election Commission could therefore, refuse to accept and perpetuate such order. [p. 1180] B & C

Noor Muhammad v. Muhammad Abdullah and others 1984 SCMR 1578; Dr. Muhammad Abdul Latif v. The Province of East Pakistan and others P L D 1964 Dacca 647 and Nawab Syed Raunaq Ali etc. v. Chief Settlement Commissioner and others P L D 1973 S C 236 ref.

**(b) Civil service--**

--- Removal from service--Order of departmental authority, held, could not be made to operate retrospectively--No executive authority was vested with such powers unless expressly empowered in that behalf by Rules--Order of dismissal /removal could take effect only from date it was passed.

Noor Muhammad v. Muhammad Abdullah and others 1984 SCAIR 157,8; Dr. Muhammad Abdul Latif v. The Province of East Pakistan and others P L D 1964 Dacca 647 and Nawab Syed Raunaq Ali etc. v. Chief Settlement Commissioner and others P L D 1973 S C 236 ref.

**(c) Civil service--**

--- Removal from service--Order purporting to give retrospective effect to order of removal from service, held, patently unlawful and void in relevant regard--Such order could not be given effect to.

Noor Muhammad v. Muhammad Abdullah and others 1984 SCMR 1578; Dr. Muhammad Abdul Latif v. The Province of East Pakistan and others P L D 1964 Dacca 647 and Nawab Syed Raunaq Ali etc. v. Chief Settlement Commissioner and others P L D 1973 S C 236 ref.

Raja Azizuddin, Advocate Supreme Court instructed by Rana Maqbool Ahmad, Advocate-on-Record (absent) for Petitioner.

  
**ATTESTED**

Mr. Tanvir Ahmad Khan, Assistant A.-G. Pb. and Mian Anamul Haq, Advocate Supreme Court for Respondents Nos. 1 and 2.

Nemo for Respondent No. 3.

Date of hearing: 23rd February, 1985.

**ORDER**

**NASIM HASAN SHAH, J.--** The petitioner's nomination papers for election to the Provincial Assembly PP-85 District Faisalabad were rejected, on appeal, by the learned Member Election Commission vide order, dated 27-1-1985. This order was challenged by a writ petition (W.P. No. 367 of 1985) which was dismissed in limine by the order, dated 29-1-1985, impugned before us.

The facts, which form the background, are that the petitioner was serving as a Zilledar in the Irrigation Department. He was dismissed from service by the order of the Superintending Engineer, dated 19-10-1983 but it was directed in the said order that it will take effect from 29-7-1981. On appeal, the said order was modified by the Chief Engineer vide order, dated 23-1-1984 to the extent that the order of dismissal from service was converted to that of removal from service. However, the direction contained in the order of the Superintending Engineer that the removal from service would take effect from 29-7-1981 was maintained. In these circumstances, the question has arisen whether the petitioner stands disqualified from being elected or chosen as a Member of the Provincial Assembly.

The provision governing the situation is section 10(2)(b)(3) of the House of Parliament and Provincial Assemblies (Elections) Order, 1977, which reads as under:-

"S.10(2)-- A person shall be disqualified from being elected or chosen as, and from being, a member, of Parliament.---

- (a) .....
- (b) if
  - (1).....
  - (2) .....

*[Signature]*  
**ATTESTED**

(3) he has been removed or compulsorily retired from service of Pakistan on the ground of misconduct, unless a period of three years has elapsed since his removal or compulsory retirement;

- or
- (4) .....
- (5) .....
- (6)....."

It may be mentioned that the petitioner had earlier on filed nomination papers for elections to the Local Council, which were held on 28-9-1983. Here too he was found to be disqualified and the order of the election authorities was maintained right up to the Supreme Court of Pakistan vide judgment reported in Noor Muhammad v, Muhammad Abdullah and others 1984 S C M R 1578. The relevant portion of the said judgment may be reproduced below:-

"Before us the main contention urged on petitioner's behalf was that since according to his service record the petitioner had been removed from service w.e.f. 29-7-1981 (i.e. from a date prior to the election-day) his disqualification therefore stood removed retrospectively and as such his

election was valid. This contention is wholly misconceived and overlooks the fact that on the day of election i.e. on 28-9-1983, no order of his dismissal or removal had yet been passed by the Government. Obviously, therefore, on that date he was in Government service. The result is that irrespective of the fact as to whether or not the Government was legally empowered to remove him from service with retrospective effect, he was disqualified from contesting election on the date when it is actually held. As such his election was rightly held by the Election Tribunal to be void. In this view of the matter we find no merit in the petition, which is consequently dismissed."

Both the learned Member of the Election Commission and the learned Judges of the High Court, have in the present case, relied upon the above judgment to hold the petitioner to be disqualified.

The learned counsel for the petitioner contended before us that in the aforesaid judgment no final opinion was expressed by this Court on the question whether the Government was empowered to remove him with retrospective effect and whether the order, dated 19-10-1983 which purported to take effect from 29-7-1981 was not a valid order.

Be that as it may, the law is quite clear that an order of a departmental authority cannot be made to operate retrospectively because no executive authority is vested with such powers unless expressly empowered in this behalf by the rules, which is not the case here. Hence the order of dismissal/ removal could take effect only from that date when it was passed. See *Province of Punjab v. Khan Khaliq Day Khan P L D 1953 Lah. 295* and *Dr. Muhammad Abdul Latif v. The Province of East Pakistan and others P L D 1964 Dacca 647*. Consequently, the petitioner must be deemed to be in service until 19-10-1983 and simply because the order passed on that date stated that it would take effect from 29-7-1981 would not have the effect of making the order to take effect from the said date but it would be deemed to take effect from the date on which it was actually passed, namely, from 19-10-1983.

The learned counsel for the petitioner, however, submitted that the vires of the order, dated 19-10-1983 passed by the departmental authorities in a service matter could not be questioned in collateral proceedings like an appeal before the election authorities.

This contention too has no force. This Court in *Nawab Syed Raunaq Ali etc. v. Chief Settlement Commissioner and others P L D 1973 S C 236* clearly observed:-

"It is now well-established that where an inferior tribunal or Court has acted wholly without jurisdiction or taken any action "beyond the sphere allotted to the tribunal by law and, therefore, outside the area within which the law recognises a privilege to err", then such action amounts to a "usurpation of power unwarranted by law" and such an act is a nullity; that is to say, "the result of a purported exercise of authority which has no legal effect whatsoever". In such a case, it is well-established that a superior Court is not bound to give effect to it, particularly where the appeal is to the latter's discretionary jurisdiction. The Courts would refuse to perpetuate, in such circumstances, something which would be patently unjust or unlawful."

The order of the Superintending Engineer, dated 19-10-1983 purporting to give retrospective effect to his order with effect from 29-7-1981 was patently unlawful and, in fact, void in the relevant regard. Hence it could not be given effect and the Election Commission could refuse to accept and perpetuate it.

There is, thus, no force in this petition which fails and is, accordingly, dismissed hereby.

  
**ATTESTED**

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M. Z. M.

Petition dismissed.

  
**ATTESTED**

**BEFORE KPK SERVICE TRIBUNAL PESHAWAR**

S.A No. \_\_\_\_\_/2018

Farman Ali S/O Wali Ahmad,  
R/o Abuha, Barikot Swat,  
Ex-Constable. No. 1425,  
Police Line Swat . . . . . Appellant

**VERSUS**

- 1. District Police Officer, Swat.
- 2. Regional Police Officer, Malakand  
Region at Sadiu Sharif, Swat.
- 3. Provincial Police Officer,  
KP, Peshawar. . . . . Respondents

⇄<=>⇄<=>⇄<=>⇄<=>⇄

**APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974  
AGAINST OB NO. 14 DATED 21-01-2006 OF R. NO. 01  
WHEREBY APPELLANT WAS DISMISSED FROM  
SERVICE RETROSPECTIVELY AND THE PERIOD OF  
ABSENCE WAS TREATED AS LEAVE WITHOUT PAY OR  
OFFICE ORDER NO. 8931 / E DATED 27-10-2016 OF  
R. NO. 02 WHEREBY DEPARTMENTAL APPEAL OF  
APPELLANT WAS REJECTED OR OFFICE ORDER NO.  
7652 / 16 DATED 23-11-2016 OF R. NO. 03  
WHEREBY REVISION PETITION OF APPELLANT WAS  
REJECTED:**

*FD*  
**ATTESTED**

⇄<=>⇄<=>⇄<=>⇄<=>⇄

**Respectfully Sheweth:**

- 1. That appellant was enlisted in service in the year 2002 as Constable and served the department till the date of removal from service.

2. That appellant was deputed to PTC, Hangu for training in the year 2003 and qualified the same.
3. That thereafter appellant served in various Police Stations for about five (05) years without any complaint.
4. That at the time, Swat Valley was in clutches of the miscreants and it was well in knowledge of every one that they were ruling the area and the government machinery was totally collapsed. Employees were kidnapping, beheading and killing either through guns or bomb blasts. In such a situation employees of almost all of every department let their services, especially of the police department which was in target of the miscreants.
5. That on account of absence, appellant was removed from service on 21-01-2006 by R. No. 1 from the date of absence from duty, 02-07-2005 and the absence period was treated as leave without pay. (Copy as Annex "A")
6. That thereafter appellant appeal before R. No. 02 on 02-02-2006 for reinstatement in service followed by subsequent representation dated 22-08-2016, which was rejected on 27-10-2016. (Copies as Annex "B", "C" & "D")
7. That Revision Petition before R. No. 03 was filed for the aforesaid purpose which was rejected on 23-11-2016. (Copy as Annex "E")
8. That not only appellant was dismissed from service on the score of absence but numerous others were also dismissed as such and they were reinstated into their services vide order dated 30-11-2010, 15-03-2017 and 09-08-2017 (Copies as Annex "F")
9. That apart from the aforesaid fact, the subject matter came up for consideration before the hon'ble Tribunal and after thorough probe, their appeal's were accepted vide judgments dated 02-05-2016 and 07-12-2017, etc. (Copies as Annex "G")

Hence this appeal, inter alia, on the following grounds:

  
**ATTESTED**

GROUND S:

- a. That appellant was enlisted in service in the year 2002 and served the department till the date of removal from service.
- b. That at the time, the Swat Valley was in clutches of the miscreants and it is will in knowledge of every one that they were ruling the area and the government machinery was totally collapsed. Employees were kidnapping, beheading and killing either through guns or bomb blasts. In such a situation employees of almost all of every department let their services, especially of the police department.
- c. That appellant was removed from service on the score of absence but such absence was not willful but was due to the deteriorated situation of the area.
- d. That absence does not constitute any misconduct when the same is not willful and as stated earlier, hundreds and thousands similarly and equally placed employees have been reinstated into their services not only by the department but also by the hon'ble Tribunal / courts which judgments were upheld by the apex court.
- e. That in the impugned order dated 21-01-2006, the authority regularized the absence period and in such situation, he cannot be dismissed from service.
- f. That as is evident from the impugned orders none was served upon appellant, so no question of limitation ever arises.
- g. That codal formalities enumerated in the Rules were never observed, being mandatory. The impugned orders not per the mandate of Law and based on malafide.

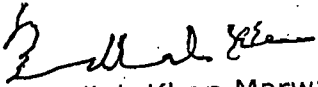
*[Signature]*  
**ATTESTED**

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It is, therefore, most humbly prayed that on acceptance of appeal, orders dated 21-01-2006, 27-10-2016 and 23-11-2016 of the respondents be set aside and appellant be reinstated in service with all consequential / back benefits, with such other relief as may be deemed proper and just in circumstances of the case.

Appellant

Through

  
Saadullah Khan Marwat

Amjad Khan  
Advocates.

Dated 30-10-2018

  
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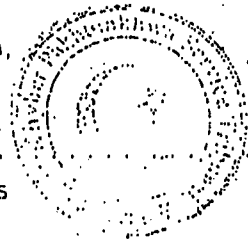


BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 588 /2012

D. O. No. 562  
Date: 23/05/12

Munir Ali S/o Muhammad Mashai Khan,  
R/o Char Bagh, Ex-C. No. 4708, FRP,  
Police Station Matta, Swat



Appellant

Versus

1. Commandant, FRP, KPK, Peshawar.
  2. Superintendent of Police, FRP, Malakand Region, Swat.
  3. Provincial Police Officer, KPK, Peshawar.
- Respondents

APPEAL AGAINST OFFICE ORDER  
NO.1964-65/EC DATED 09.04.2012 OF  
R.NO.1 (APPELLATE AUTHORITY)  
WHEREBY REPRESENTATION OF  
APPELLANT WAS REJECTED AGAINST OR  
NO.138 DATED 10.10.2008 OF R.NO.2  
REFERRENTIAL AUTHORITY) WHO  
DISMISSED APPELLANT FROM SERVICE  
FOR NO LEGAL REASON.

**ATTESTED**

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*[Handwritten signature]*

Respectfully Sheweth,

1. That on 25.07.2007, appellant was enlisted as FRP constable in Malakand Range by R.No.1.

That it was an admitted fact that the whole Swat valley was under the control of miscreants/Taliban. General discipline was absolutely ineffective. Miscreants/Taliban were kidnapping, killing and torturing Government employees, employees of

*[Handwritten notes and signatures]*

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No. of proceedings

Date of Order or proceedings.

Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.

02.05.2016

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
CAMP COURT SWAT.

APPEAL NO. 588/2012

(Murad Ali Vs. Cominandant FRP, K/PK Peshawar & 2 others.)

JUDGMENT

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:

Appellant with counsel and Mr. Muhammad Zubair, Senior Government Pleader alongwith Mushtaq Ahmad, Inspector (Legal) for the respondents present..

Murad Ali son of Muhammad Mashal Khan hereinafter referred to as the appellant has preferred the instant appeal against order dated 09.4.2012 communicated to the appellant on 02.5.2012 vide which his departmental appeal against original order dated 10.10.2008 of removal from service was regretted.

Brief facts giving rise to the present appeal are that the appellant was appointed as Constable in FRP Matakand Range vide appointment order dated 23.07.2007. While serving so he was found absent from duty for a period of 3 months and 8 days and after conducting enquiry removed from service vide order dated 10.10.2008 where-against departmental appeal of the appellant was rejected on 09.4.2012 and hence the instant service appeal was preferred on 23.05.2012.

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**ATTESTED**

We have heard arguments of the learned counsel for the parties and perused the record.

Perusal of the record would suggest that charge sheet dated 09.08.2008 was communicated to the appellant on the allegations of wilful absence. However, according to findings/report of the enquiry committee appellant had not turned up in response to notice issued to the appellant for resuming duty and facing an enquiry. It is evident from the record that enquiry procedure was not followed by the enquiry committee as the appellant was neither associated with the enquiry proceedings nor any opportunity of hearing afforded to him and, furthermore, in case of absence, publication of any notice in prescribed manners was not made in the newspapers. Furthermore the alleged period of absence was during the days of militancy and, according to the stance of the appellant, similarly placed employees were reinstated in service and that appellant was also entitled to same treatment.

Since the appellant was subjected to enquiry wherein neither prescribed procedure was followed nor appellant associated with the same as such we deem it more appropriate to set aside the impugned original order dated 10.10.2008 as well as that under dated 09.01.2012 and as consequence thereof reinstate the appellant in service, placing the respondents at liberty to departmentally proceed against the appellant afresh, if need be, and that the plea of the appellant in respect of reinstatement of similarly placed persons in service shall also be taken into account during the enquiry which shall be concluded within the period of 2 month from the date of receipt of this judgment. In case

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District of ...  
Date: ...

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**ATTESTED**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
CAMP COURT SWAT

Service Appeal No. 957/2016

Date of Institution... 04.08.2016

Date of decision... 07.12.2017



Shoukat Ali son of Muhammad Shafiq, R/O Kokari Mingora Swat Ex-Constable  
No. 4741, FRP Platoon No. 83, P.S Mingora Swat. ... (Appellant)

Versus

1. Superintendent of Police, FRP Malakand Region, Malakand and two others. ... (Respondents)

ARBAB SAIFUL KAMAL,  
Advocate

For appellant.

MR. KABIRULLAH KHATTAK,  
Addl Advocate General

For respondents.

MR. NIAZ MUHAMMAD KHAN,  
MR. MUHAMMAD HAMID MUGHAL,

CHAIRMAN  
MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - This judgment shall also  
disposed of other connected appeals No 697/2016 Muhammad Said, No.  
958/2016 Fazal Yaseen, No. 959/2016 Afzal Khan, and No. 961/2016 Umar Ali  
as in all the appeals common questions of law and facts are involved.

2. Arguments of the learned counsel for the parties heard and record perused.

FACTS

3. The appellant Shaukat Ali, Umar Ali and Afzal Khan were removed  
from service on 28.08.2015, the appellant Fazal Yaseen was removed from

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CHAIRMAN

service on 02.02.2009 and the appellant Muhammad Saeed was removed from service on 21.09.2009. The appellants then filed departmental appeals belatedly which were rejected then the appellant also approached this Tribunal belatedly not within the stipulated time.

#### ARGUMENTS

4. The learned counsel for the appellants argued that the very orders of removal from service are void, because all these orders have been given retrospective effect. That in view of judgment reported as 1985-SCMR-1178 no limitation shall run against void order.

5. On the other hand the learned Addl. Advocate General argued that the departmental appeals are hopelessly time barred. That the revision within the meaning of Rule 11 -A of Khyber Pakhtunkhwa Police Rules, 1975 could not enlarge the period of limitation. That all the codal formalities were fulfilled by the department.


#### CONCLUSION

6. Regardless of other merits of the case it is an admitted position that all these orders have been given retrospective effect and in view of so many judgments delivered by this Tribunal on the basis of judgment reported in 1985-SCMR-1178 the retrospective order is a void order and no limitation shall run against void order.

7. Since no limitation runs against a void order, any successive appeals or revision would not curtail the rights of the appellants qua the limitation or in other

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ATTESTED

  
 Attesting Officer  
 Khyber Pakhtunkhwa  
 Service Tribunal

respect. Presuming that all other elements of due processes have been complied with, the void order cannot be sustained on this score alone.

8. As a sequel to the above discussion, the present appeals are accepted and the appellants are reinstated in service. The department is however, at liberty to hold denovo proceedings in accordance with law within a period of ninety days. The intervening period shall be subject to the final outcome of the denovo proceedings. Parties are left to bear their own costs. File be consigned to the record room.

Announced sdf - Niay Muhammad Khan,  
07-12-2017 Chairman  
Camp Court Swat

sdf M. Hamid Nughal  
Member

Certified copy  
Khuzdar  
Service Tribunal,  
Peshawar

Date of Presentation 13-12-17  
Number of 1200  
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Urgent —  
Total 8  
Name of Copy MA  
Date of Copy 15-12-17  
Date of Delivery of Copy 15-12-17

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

Service Appeal No. 562/2016

Date of Institution. ... 16.05.2016

Date of Decision. ... 02.03.2018

Rahim-ud-Din son of Syed Rehman, R/O A'oo Talash, Tehsil Timergara,  
District Dir Lower. ... (Appellant)

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar anmd two  
others. ... (Respondents)

Mr. Sajjad Ahmad Khan, Advocate  
Mr. Muhammad Asif Yousafzai, Advocate.  
Arbab Saiful Kamal, Advocate ... For appellants.

Mr. Usman Ghani, District Attorney and  
Mr. Muhammad Jan, Deputy District Attorney ... For respondents.

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MR. NIAZ MUHAMMAD KHAN, ... Chairman.  
MR. MUHAMMAD HAMID MUGHAL, ... Member.  
MR. MUHAMMAD AMIN KHAN KUNDI, ... Member.  
MR. AHMAD HASSAN, ... Member.  
MR. GUL ZEB KHAN, ... Member.

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN-

The following appeals are also clubbed with this appeal for decision of  
common issue explained below:-

*[Signature]*  
**ATTESTED**

1. Appeal No. 1259/2011 Fazal Malik
2. Appeal No. 1994/2011, Mst. Zaitoon Bibi,
3. Appeal No. 1183/2014, Zafeerullah Khan,
4. Appeal No. 1186/2014, Muhammad Bashir,
5. Appeal No. 103/2015, Muhammad Raza.

FACTS.

1. In a number of appeals this tribunal (DB) delivered judgment as to void status of retrospective order of major punishment of removal/dismissal/compulsory retirement (for brevity "termination"). The mother ruling relied upon was *Noor Muhammad v The member Election Commission and others* (1985 SCMR 1178). One of such judgment of this tribunal is entitled "*Muhammad Ismail v Deputy Inspector General and another*" bearing Service Appeal # 463 OF 2012 decided on 22-11-2017. Another Judgment of this Tribunal is entitled "*Arif Khan v Inspector General of Police and three others*" bearing # 1213/2015 decided on 18-12-2017. In almost all these judgments of this tribunal it was decided that retrospective order being void could not be modified to give the same prospective effect under section 7 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. It was also decided that retrospective order being void order would not attract any limitation. All the present members of this Tribunal had delivered the same judgments. But during hearing of this appeal it was brought to the notice of the DB comprising of the Chairman and one Learned

  
**ATTESTED**



member that another bench (DB) of this tribunal had delivered a contrary opinion qua the modification of retrospective part of void order in service appeal No. 984/2013 entitled "Muhammad Ayaz Vs. Government of Khyber Pakhtunkhwa through Secretary, E&SE, Peshawar and others" decided on 14-11-2017. Going through this judgment it appeared that both the learned members of the bench had already delivered the former opinion in first two mentioned appeals above and now they have delivered contrary opinion while sitting not in larger bench and without discussing their earlier judgments. Perhaps the Learned members were not apprised of the earlier judgments neither the same judgments were pressed into service nor discussed. The bench (DB) hearing the present appeal could not decide the issue due to two contrary views of this tribunal. It was therefore, considered necessary to constitute a larger bench to decide the issue.

ARGUMENTS.

2. All the lawyers for different appellants defended the first opinion while the DDA supported the second opinion. In favor of first opinion the judgments referred to in conclusion part were relied upon. In favour of second opinion the DDA relied upon judgments discussed also in conclusion part.

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**ATTACHED**

CONCLUSION.

3. This Tribunal is now to decide three questions. The first one is whether the retrospective order of termination in any form is a void order? And if so can void order be modified to make it operative prospectively? The third and final question would be that if prospective part of the order is held to be legal one after modification then whether limitation would be attracted to the legal portion of the order?
4. In the first opinion of this Tribunal as to void status of retrospective order and non modification of such order the reliance was placed only on the judgment reported as 1985 SCMR 1178 entitled "*Noor Muhammad v The member Election Commission and others*". This judgment declares retrospective order as void order. The other judgments relied upon by the lawyers for appellants also are based mainly on this mother judgment therefore, there is no need to discuss those judgments. But nothing is there in *Noor Muhammad* judgment as to modification of such void order and whether the order could be modified to make it prospective and legal. This tribunal is first to discuss *Noor Muhammad* case. In this case the issue before the august Supreme Court was not of a service matter but of disqualification of a candidate for elections who was in service and was terminated retrospectively. This Tribunal while delivering first opinion was not assisted anymore and it was opined that void order

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**ATTESTED**

could not be rectified. The second opinion of this tribunal as to rectification of void order is also not based on any supportive rulings or law. The august Supreme Court in the same judgment had referred to a judgment of Lahore High Court (PLD 1953 L 295). This judgment was delivered in a service matter declaring such retrospective order as void. Another judgment delivered in service matter by august Supreme court also held the same view [2002 PLC(C.S) 1027] relying mainly on mother judgment of 1985. A judgment of FST [ 2007 PLC (C.S) 5] has declared such retrospective order as void *ab initio* and the whole proceedings were declared to be nullity for being retrospective. But in all these judgments the question of separation of prospective part of the order is not discussed. A judgment referred to by the august Supreme Court in mother judgment is PLD 1964 Dacca 647 entitled "*Dr Muhammad Abdul Latif v. The Province of East Pakistan and others*" which has touched this aspect of the issue though not decided conclusively. In this judgment the worthy High Court referred to some judgments from Indian Jurisdiction and held that such retrospective order could be legal to the extent of prospectivity and needed not be bad in toto. But their lordships did not reach a definite conclusion and in para 9 of the judgment while discussing different judgments from Indian jurisdiction left the discussion un concluded by holding that the counsel for the appellant requested that his client would be satisfied if declaration was given to the effect that the order

  
**ATTESTED**

of dismissal covering the period prior to the order was bad. Their lordships wrote that they did not enter into detailed discussion of the aforesaid question and held for the purpose of the appeal that an order of dismissal of the nature might be supported to the extent it was found valid and need not be declared bad in toto. But in this judgment reliance was placed on judgments from Indian Jurisdiction. Now we are to see whether position in India qua the present law in this part of our country (Khyber Pakhtunkhwa particularly) is the same and whether after the judgment of *Dr Muhammad Abdul Latif* above any change in legal scenario emerged in Pakistan and for that matter this Province.

5. In order to appreciate this judgment and its relevance and applicability we would have to discuss position in India on the subject. This issue was raised and discussed in India in many cases including *Sudhir Ranjan Halder v State of West Bengal* referred to in *Dr Muhammad Abdul Latif* case above. The Kerala High Court has now finally decided this issue in a case entitled "*State of Kerala v A.P Janardhanan*" in WA # 2773 of 2007 decided on 29-03-2008 (<https://indiankanoon/doc>). This judgment has traced the history of rulings on the subject and has finally decided that in India such retrospective order is not a void order for the reason that no legal precedent or law was available in India where under such order could be declared void. That in some Indian service laws express authority

  
**ATTESTED**

was given to executive to pass such retrospective orders ( Para 12 to 14 of the judgment). It was then finally held that in those cases where no express authority was given to executive to pass retrospective order of removal then that order would be illegal and not void and that prospective part can be separated from retrospective part and can be effective prospectively. The opinion in *Dr Muhammad Abdul Latif* case based on Indian jurisdiction had no relevance in Pakistan because at the time when this judgment was delivered we had a judgment of worthy Lahore High Court (PLD 1953 L 295) which had declared such retrospective order as void order. It was perhaps in this context that their lordships in *Dr Muhammad Abdul Latif* case did not deliver binding and conclusive judgment to be followed as ratio and left the matter undecided by giving just passing remarks which would be treated merely as *obiter*. And now in Pakistan two judgments of august Supreme Court referred to above have declared such order as void order. The first question is decided in positive.

6. Now this tribunal is to see whether a retrospective void order in this area can be modified and prospective portion be separated as effective and legal. This would need discussion and application of mind as we have failed to lay hand on any judgment which prohibited such severance. The first conclusion as drawn by this tribunal and the FST in case reported in [2007 PLC (C.S) 5.] was based only on the status of void order. It was understood that since void order was a

  
**ATTESTED**

nullity hence could not be rectified. One other judgment on the same point is 1993 PLC (C.S) 308 of FST entitled *Abbas Ali v The Executive Engineer and others*. We have also failed to lay hand on any judgment of superior courts which allows such rectification of void orders ( Indian judgments and *Dr Muhammad Abdul Latif* judgment allow such severance but as discussed above in India such order is only illegal and not void. In *Dr Muhammad Abdul Latif* case the order was held illegal and not void on Indian pattern ). We are now to come out of this imbroglio by applying juristic sense and prevalent rules of interpretation on the subject.

The assistance and help can be sought from jurisprudence of *vires* of laws. We know that Courts while declaring any law as *ultra vires* have a tool and technique to save valid portion of *ultra vires* laws. This is called rule of reading down and severance. This leads us to conclusion that if any law is declared *ultra vires* then legal portion if separable can be saved and need not be held to be *ultra vires* in toto due to its being solely in conjunction with bad law. Though this tool is available in saving statutes but on the same analogy it can be used in executive orders. Similarly if any legal portion of an executive order is separable then there seems no hurdle in not saving the same. Secondly the retrospective order is not held to void *ab Initio* by august Supreme Court but only void. Only FST [2007 PLC(C.S)5] has declared it as such but without any reference to any form of jurisprudence. The

  
**ATTESTED**

difference is that the former is invalid right from the foundation and cannot be corrected. But the latter is not invalid from the start but has been made invalid subsequently. In retrospective order the foundation is valid and whole proceedings are valid and only in the final order the termination is made retrospective. This tribunal is therefore, of the view that question no 2 as framed is decided in positively holding that such order can be modified.

8. Coming to the third question this tribunal is of the view that since the retrospective order is held to be a void order no limitation would be attracted to challenge the same. If limitation is applied then how the tribunal would rectify the same as rectification would be made only after declaring the appeals to be within time. The tribunal cannot rectify any such order without assuming jurisdiction and no jurisdiction can be assumed without bringing the appeal within time.
9. In the last this tribunal deems it appropriate to discuss one judgments of Punjab Service Tribunal on subject. This is in case entitled "*Ihsanul Haq Chaudhery v The Deputy Commissioner*". (1988 PLC (C.S) 511). According to this judgment the error of retrospectivity can be modified. This opinion is based not on any ruling but on wordings used in *Noor Muhammad's* case. In *Noor Muhammad* case the Court observed that order would not operate retrospectively but prospectively. From this observation the Punjab Service Tribunal held that such retrospective order was not void and could be rectified. But

  
**ATTESTED**

this tribunal with due deference is not inclined to accept the conclusion of the Punjab Service Tribunal about void status of the retrospective order as the august Supreme Court in Noor Muhammad's case has categorically held such order as void order. The Supreme Court did not discuss the rectification in this judgment. However the effect from prospective date, as observed by august Supreme Court would strengthen our above conclusion that the prospective part can be severed and protected despite the nature of the order as void.

ANNOUNCED

02.03.2018

(NAZ MUHAMMAD KHAN)  
Chairman

(M. HAMID MUGHAL)  
Member

(M. AMIN KHAN KUNDI)  
Member

(AHMAD HASSAN)  
Member

(GUL ZEB KHAN)  
Member

(Approved for reporting)

  
**ATTESTED**



25.1.2019

Counsel for the appellant requests for adjournment on account of further preparation of brief. Adjourned to 20-02-19 before S.B.

Chairman

20.02.2019

Learned counsel for the appellant present.

Learned counsel for the appellant contended that he appellant was removed from service through order dated 14.01.2010, however, it was given effect from 07.01.2009, while, no executive order could operate retrospectively. It was further argued that a number of similarly placed person were reinstated into service by the respondents through recommendations of committee on 30.11.2010. On the other hand, the appellant was denied such treatment and his departmental appeal was rejected being barred by time. It was also the contention of learned counsel that the codal formalities were not fulfilled in the case of proceeding against the appellant whose absence from duty was attributable to the prevailing law and order situation in the Swat Valley. She relied on 1985 SCMR-1178, PLD 2008 Supreme Court 663 and a judgment of this tribunal passed in appeal No. 385/17.

In view of the above, the appeal in hand is admitted for regular hearing subject to all just and legal exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for written reply/comments for 08.04.2019 before S.B.

**ATTESTED** Chairman

1007 SCMR 729  
2012 PLC CS 701

محمد رفیق عثمانی

No order could be given retrospective effect

42

**WAKALATNAMA**

**BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR**

BC-10-7965

Service Appeal No. \_\_\_\_\_/2021

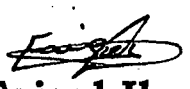
Zaid Gul.....(Appellant)

**VERSUS**

District Police Officer (DPO) District Nowshera and others.....Respondents)

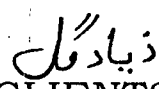
I, Zaid Gul, Ex-Constable No. 1353, District Nowshera in the above noted **Service Appeal** do hereby appoint and constitute **Shah Faisal Ilyas**, *Advocate High Court and Federal Shariat Court of Pakistan* to appear. Plead, act, compromise, withdraw or refer to arbitration to me/ us as my/ our Counsel in the above noted matter, I/ we also authorized the said Counsel to file appeal, revision, review, application, and make any miscellaneous application in Criminal/ Civil matters or arising out of the matter and to withdraw and receive in my/ our behalf all sums and amounts deposited on my/ our account in the above noted matter.

ATTESTED & ACCEPTED



**Shah Faisal Ilyas**

Advocate High Court,  
Peshawar  
Office: 17-B, Haroon Mansion  
Khyber Bazar, Peshawar.  
Cell: 0300-5850207  
CNIC: 17201-8581525-7



**CLIENTS**

Zaid Gul

**W A K A L A T N A M A****BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR**

BC-10-7965

Service Appeal No. \_\_\_\_\_/2021

Zaid Gul.....(Appellant)

**V E R S U S**District Police Officer (DPO) District Nowshera and  
others.....Respondents)

I, Zaid Gul, Ex-Constable No. 1353, District Nowshera in the above noted **Service Appeal** do hereby appoint and constitute **Shah Faisal Ilyas**, *Advocate High Court and Federal Shariat Court of Pakistan* to appear. Plead, act, compromise, withdraw or refer to arbitration to me/ us as my/ our Counsel in the above noted matter, I/ we also authorized the said Counsel to file appeal, revision, review, application, and make any miscellaneous application in Criminal/ Civil matters or arising out of the matter and to withdraw and receive in my/ our behalf all sums and amounts deposited on my/ our account in the above noted matter.

ATTESTED &amp; ACCEPTED


**Shah Faisal Ilyas**Advocate High Court,  
Peshawar

Office: 17-B, Haroon Mansion

Khyber Bazar, Peshawar.

Cell: 0300-5850207

CNIC: 17201-8581525-7


  
CLIENTS  
Zaid Gul

“A”

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR. S.B

No.

APPEAL No. 7/43 of 20 21.

Recd  
✓

Zaid Gul

Appellant/Petitioner

Versus

D. F. O Nowshera

RESPONDENT(S)

Notice to Appellant/Petitioner Zaid Gul Ex-Constable

No. 1353, Dist: Nowshera

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 2/11/2021 at 9:00 AM.

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

M.P.  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR. S.B

No.

*Recd*

Appeal No..... 7/43 ..... of 201 .

Zaid Gul ..... Appellant/Petitioner

Versus

D.P.O Nowshera ..... Respondent

Respondent No..... 1 .....

Notice to: Distt. Police Officer (DPO) Distt. Nowshera.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 16/1/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.


Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Pre-Admission Notice ~~Copy of appeal has already been sent to you vide this~~

office Notice No..... dated.....

Given under my hand and the seal of this Court, at Peshawar this 22/12

Day of..... Dec..... 2021 .

  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**"B"**

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.  
 JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR. S.B

No.

Appeal No. 7143 of 2021.*Reed*  
..... Zaid Gul ..... Appellant/Petitioner

Versus

..... D.P.O. Nowshera ..... RespondentRespondent No. 2

Notice to:

Regional Police Officer (D/G)  
Mardan.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on..... 8/1/2022 ..... at 8.00 A.M. If you wish to urge anything against the appellants/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

*Pre-Admission Notice*Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No. .... dated.....

Given under my hand and the seal of this Court, at Peshawar this..... 22<sup>th</sup>Day of..... Dec-20 21*[Signature]*  
Registrar,Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

- Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
 2. Always quote Case No. While making any correspondence.

پنجاب ہائیڈرو پاور بورڈ  
پنجاب  
پنجاب

Day of ..... 15-5-20

Given under my hand and the seal of this Court at Peshawar this 15th

office Notice No. .... dated .....

Copy of appeal is sent. Copy of appeal has already been sent to you vide this  
this appeal petition.

notice posted to this address by registered post will be deemed sufficient for the purpose. The  
address given in the appeal petition will be deemed to be your correct address, and in the  
address. If you fail to furnish such address your address contained in this notice will be  
given to you by registered post. You should inform the Registrar of any change in your  
notice of any alteration in the date fixed for hearing of this appeal petition.

appeal petition will be heard and decided in your presence.  
default of your appearance on the date fixed and in the manner aforementioned, the  
alongwith any other documents upon which you wish to place also take note that in  
this Court at least seven days before the date of hearing a copies of written statement  
advocate, duly supported by your power of attorney, you may therefore, appear, and to  
the case may be postponed either in person or by authorized representative, and any  
appeal petition, you are required to do so on the date fixed or any other date to which  
on ..... at 8:00 A.M. If you wish to make anything appear, you  
refered informed that the said appeal petition is fixed for hearing before the Court in  
the above case by the petitioners in this Court and notice has been ordered to issue to you in  
Province Service Tribunal Act, 1974 has been presented/registered for consideration in

WHEREAS an appeal petition under the provision of the Khyber Pakhtunkhwa

Wardan

Notice to: - Regional Police Officer (DIP)

Respondent No. 1

D. B. O. Momena

Respondent

M. J. B. S.

Appellant/Petitioner

5/11/20

Appeal No.

of 2021

No.

PESHAWAR  
JUDICIAL COMPLEX (OGD), KHYBER ROAD  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

cc B 22

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.

S.B

No.

Appeal No. .... of 20 ..

7143

21

Appellant/Petitioner

Recd

Zaid (W) Versus

Respondent

D.P.O Nawshera

Respondent No. .... 4

Notice to:

Assistant Superintendent of Police

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of Admission Notice has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....22/12.....

Day of.....Dec 20 ..

[Signature]  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR  
 JUDICIAL COMPLEX (OLD KHYBER ROAD)  
 PESHAWAR.

No.

Appel No. 113  
 of 20 21  
 Appellant/Petitioner Shah (Mr)

Respondent D.P.O Nowshera  
 Respondent No. N

Notice to: Assistant Superintendent of Police

WHEREAS an appeal petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration in the above case by the petitioner in this Court and notice has been ordered to issue, you are hereby informed that the said appeal petition is fixed for hearing before the Tribunal on 11/11/2021 at 8:00 A.M. If you wish to raise anything against the appeal petition you are at liberty to do so on the date fixed or any other day to which the case may be postponed either in person or by authorised representative or by Advocate duly supported by your power of Attorney. You are therefore required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal petition will be heard and decided in your absence.

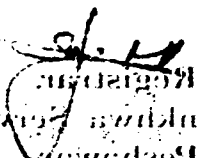
Notice of any alteration in the date fixed for hearing of this appeal petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal petition.

Copy of appeal is attached. Copy of report has already been sent to you vide this Notice

Office Notice No. .... dated .....

Given under my hand and the seal of this Court at Peshawar this 21 11 2021

Day of ..... 2021

  
 Registrar  
 Khyber Pakhtunkhwa Service Tribunal  
 Peshawar

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and gazetted holidays.  
 2. Always quote Case No. While making any correspondence.

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.

No. 7143 21

Appeal No. 7143 of 20

.....Appellant/Petitioner

D.P.O Nowshera  
Versus

3  
.....Respondent

Govt. of KPK Through Inspector General of

Notice to: Police / PPO, KPK Peshawar.

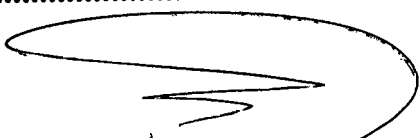
**WHEREAS** an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on.....at 8.00 A.M. If you wish to urge anything against the appellent/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated..... 22/10

Given under my hand and the seal of this Court, at Peshawar this.....

Day of.....20

  
30/12/21



**Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.**

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

Note: 1. Always quote case no. while making any correspondence.  
2. The hours of attendance in the court are the same that of the High Court except Sunday and gazetted holidays

REGISTRAR

क्याब्र बकतलुकनवा सेवासे त्रिबुनल, बेशवाव

REGISTRAR

*Handwritten signature*

Date of ..... 50

Given under my hand and the seal of this Court at Beshwar, this .....

Office Notice No. .... dated ..... 55 4

Copy of appeal is sent to you. Copy of appeal has already been sent to you vide this notice posted to this address by registered post for the purpose of the purpose of address given in the appeal petition will be deemed to be your correct address and further address. If you fail to furnish such address your address contained in this notice which is given to you by registered post. You should inform the Registrar of any change in your Notice of any alteration in the date fixed for hearing of this appeal petition will be heard and decided in your absence.

default of your appearance on the date fixed and in the manner aforementioned, the along with any other documents upon which you rely. Please also take notice that in this Court at least seven days before the date of hearing 4 copies of written statement Advocate, duly supported by your power of Attorney. You are, therefore, required to file the case may be postponed either in person or by authorized representative or by any appeal petitioners you are at liberty to do so on the date fixed or any other day to which you are hereby informed that the said appeal petition is fixed for hearing before the Registrar at 8:00 A.M. If you wish to file any thing against the provisions of the Prolonged Trial Act, 1924, has been presented/registered for consideration in

under the provision of the Khyber Pakhtunkhwa

under the provision of the Khyber Pakhtunkhwa

under the provision of the Khyber Pakhtunkhwa

Notice to: - Office / BBO KBR Beshwar

Copy of KBR Memorandum / Beshwar

D. B. O. Muzaffer

*Handwritten initials*

No.

REGISTRAR

JUDICIAL COMPLEX (OGD), KHYBER ROAD

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, BESHWAR

“B”

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


Appeal No. 7143/2021

MR. ZIAD GUL APPELLANT

**V E R S U S**

PPO Khyber Pakhtunkhwa and other  
**INDEX**

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1.	Reply		1,2,3
2.	Affidavit		4
3.	Detail of bad entries	A	5-6
4.	Copy OF showcāse notice	B	B-7
5.	Copy of charge sheet	C	8-9
6.	Copy of enquiry report	D	10
7.	Copies of final showcāse notice	E	11
8.	Copy of rejection order	F	12-13
9.	Copy of order	G	14

  
Inspector Legal  
District Nowshera

(1)

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

Service Appeal No. 7143/2021

Ziad Gul, Ex-Constable No. 1353,  
District Nowshera.

.....Appellant

**V E R S U S**

1. District Police Officer, Nowshera.
2. Regional Police Officer, Mardan.
3. Government of Khyber Pakhtunkhwa, through Inspector General of Police/PPO, Khyber Pakhtunkhwa.
4. Assistant Superintendnet of Police, Nowshera Cantt:.

.....Respondents

**REPLY ON BEHALF OF RESPONDENTS**

Respectfully Sheweth: -

**PRELIMINARY OBJECTIONS: -**

1. That the appellant has got no cause of action and locus standi to file the instant appeal.
2. That the appeal is badly barred by law and limitation.
3. That the appellant is estopped by his own conduct to file the instant appeal.
4. That the appeal is not maintainable in its present form.
5. That the appellant has not come to the Honourable Tribunal with clean hands.
6. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.

**Reply on Facts: -**

1. Para to the extent of joining Police Department by the appellant pertains to record, while regarding rest of the para, it is stated that appellant has never performed his duty with zeal and devotion which is evident from the service record of the appellant as the same is tainted with bad entries. (Detail of bad entries is annexure "A").
2. Incorrect. Service record of the appellant is not transparent rather is full of bad entries. Detail of bad entries has already been annexed as annexure (A).
3. Incorrect. Appellant while posted at Police Post, Bara Banda was selected for refresher course vide daily diary No. 09 dated 19-12-2018, but he did not report for the said course and remained absent vide daily diary No. 19 dated 25-12-2018, Police Lines, Nowshera. On 28-01-2019, he was transferred to Police Post, Jalozai but he also failed to

report there and remained absent vide daily diary No. 12 dated 05-02-2019, Police Post, Jalozai. On account of his absence, appellant was issued show cause notice but despite being repeatedly informed, he did not bother to collect the same. (Copy of Show Cause Notice is annexure "B").

4. Incorrect. There is nothing on record to show that appellant applied for leave. It is worth to mention that appellant at para 03 of the appeal himself admitted that due to some domestic issue he was unable to perform duty hence, remained absent.
5. Para correct to the extent that appellant was issued Show Cause Notice and was informed time and again to collect the same but he did not bother to do so, hence, departmental proceedings were initiated against the appellant and the then ASP Nowshera Cantt: was nominated as enquiry office. Appellant was issued charge sheet and statement of allegations which were duly received by him on 05-04-2019 but he did not bother to submit his written defense. Hence, the enquiry officer after fulfillment of all legal and codal formalities, recommended the appellant for major punishment of dismissal from service. However, before awarding him major punishment he was issued Final Show Cause Notice which was duly received by him but this time too appellant did not bother to submit his reply, therefore, was awarded major punishment of dismissal from service. (Copy of charge sheet and statement of allegation is annexure "C", copy of enquiry report is annexure "D" and Final Show Cause Notice is annexure "E").
6. Para correct to the extent that appellant moved departmental appeal before respondent No. 02 however, the same was rejected/filed being badly time-barred. (Copy of rejection order is annexure "F").
7. Incorrect. Order passed by respondent No. 02 is valid and in accordance with law and rules. Moreover, revision petition of the appellant was also filed being badly time barred. (Copy of order is annexure "G").
8. That appeal of the appellant is liable to be dismissed inter-alia on the following grounds: -

**Reply on Grounds**

- A. Incorrect. Orders passed against appellant were in accordance with law and rules hence, stood valid. Appellant had a very casual attitude towards his duties and did not bother to move departmental appeal within stipulated time, hence, he took this plea.
- B. Incorrect. Both the orders i.e passed by respondent No. 01 and 02 are legal and in accordance with law and rules.

- C. Incorrect. Proper departmental enquiry was conducted against appellant but appellant despite this fact that he received charge sheet and statement of allegation as well as Final Show Cause Notice, did not bother to submit his reply or to join enquiry proceeding. Moreover, during short span of service i.e 08 years, appellant remained absent for 668 days which reflects that appellant was not interested in his official duty.
- D. Para already explained above.
- E. Para already explained above.
- F. Incorrect. Appellant's own conduct was sufficient to prove his misconduct.
- G. Incorrect. Appellant was provided ample opportunity to defend himself but did not bother to put forward anything in his defense.
- H. Para not related.
- I. Para not related.
- J. The respondents also seek permission of this Honourable Tribunal to advance additional grounds at the time of arguments.

**Prayers**

It is, therefore, most humbly prayed that on acceptance of above submissions, the appeal of the appellant may very kindly be dismissed with costs, please.

Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.  
Respondent No. 03

Regional Police Officer,  
Mardan.  
Respondent No. 02

District Police Officer,  
Nowshera.  
Respondent No.01

Assistant Superintendent of Police,  
Nowshera Cantt:  
Respondent No.04

(4)

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

Service Appeal No. 7143/2021

Ziad Gul, Ex-Constable No. 1353,  
District Nowshera.

.....Appellant

**V E R S U S**

1. District Police Officer, Nowshera.
2. Regional Police Officer, Mardan.
3. Government of Khyber Pakhtunkhwa, through Inspector General of Police/PPO, Khyber Pakhtunkhwa.
4. Assistant Superintendnet of Police, Nowshera Cantt:.

.....Respondents

**AFFIDAVIT**

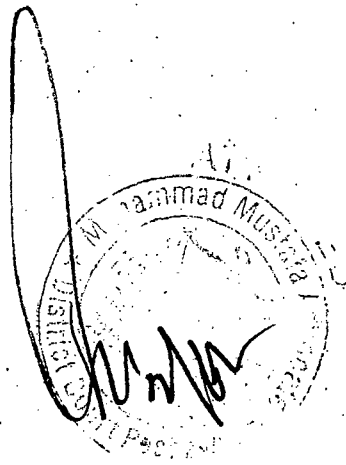
We the respondents No. 1, 2,3 & 4 do hereby solemnly affirm and declare on Oath that the contents of reply to the appeal are true and correct to the best of our knowledge and belief and nothing has been concealed from the Honourable tribunal.

Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.  
Respondent No. 03

Regional Police Officer,  
Mardan.  
Respondent No. 02

District Police Officer,  
Nowshera.  
Respondent No.01

Assistant Superintendent of Police,  
Nowshera Cantt:  
Respondent No.04





## انڈکس فوجی مثل آذان کسنٹینیل ضیا دگل نمبر 1353

سیریل نمبر	تفصیل	آرڈر بک مع تاریخ	کل قطعات
01	انسٹاٹ آرڈر، شیناختی کارڈ کاپی، میڈیکل سرٹیفکیٹ، تھانہ ویرینٹیشن، ڈومیسائل سرٹیفکیٹ	114/01.02.2010	05 عدد
02	02 یوم غیر حاضری پر 03 یوم ایکسٹرا ڈرل کی سزا دی گئی	807/21.02.2010	01 عدد
03	02 یوم غیر حاضری پر وارننگ دی گئی	08/02.01.2012	09 عدد
04	92 یوم غیر حاضری ڈیوٹی میں شمار ہوئی	215/26.06.2012	17 عدد
05	04 یوم غیر حاضری رخصت بلا تخواہ میں شمار ہوئی	19.07.2012/ SP FRP MKD	01 عدد
06	13 یوم غیر حاضری رخصت بلا تخواہ میں شمار ہوئی	354/15.10.2012	10 عدد
07	04 یوم غیر حاضری رخصت بلا تخواہ میں شمار ہوئی	344/08.10.2012	01 عدد
08	03 یوم غیر حاضری رخصت بلا تخواہ میں شمار ہوئی	396/12.11.2012	01 عدد
09	03 یوم غیر حاضری رخصت بلا تخواہ میں شمار ہوئی	402/14.11.2012	01 عدد
10	59 یوم غیر حاضری رخصت بلا تخواہ میں شمار ہوئی	169/31.01.2013	12 عدد
11	05 یوم غیر حاضری رخصت بلا تخواہ میں شمار ہوئی	51/14.02.2013	01 عدد
12	08 یوم غیر حاضری رخصت بلا تخواہ میں شمار ہوئی	86/07.03.2013	01 عدد
13	18 یوم غیر حاضری رخصت بلا تخواہ میں شمار ہوئی	125/15.04.2013	01 عدد
14	22 یوم غیر حاضری رخصت بلا تخواہ میں شمار ہوئی	182/27.05.2013	10 عدد
15	01 یوم غیر حاضری رخصت بلا تخواہ میں شمار ہوئی	333/27.09.2013	01 عدد
16	10 یوم غیر حاضری رخصت بلا تخواہ میں شمار ہوئی اور 05 یوم ایکسٹرا ڈرل کی سزا دی گئی	364/22.10.2013	02 عدد
17	11 یوم غیر حاضری الگ لیو میں شمار ہو کر وارننگ دی گئی	370/24.10.2013	10 عدد
18	21 یوم غیر حاضری رخصت بلا تخواہ میں شمار ہو کر 10 یوم کوارٹر گارڈ اور 10 یوم ایکسٹرا ڈرل کی سزا دی گئی	415/19.05.2014	14 عدد
19	95 یوم غیر حاضری رخصت بلا تخواہ میں شمار ہو کر 03 انکمپینٹ ضبطت سے اور 07 یوم ایکسٹرا ڈرل کی سزا دی گئی	415/19.05.2014	16 عدد
20	05 یوم غیر حاضری رخصت بلا تخواہ میں شمار ہوئی	657/19.07.2014	02 عدد
21	01 یوم غیر حاضری رخصت بلا تخواہ میں شمار ہوئی	841/08.09.2014	02 عدد
22	06 یوم غیر حاضری میں سے 03 یوم غیر حاضری رخصت بلا تخواہ میں شمار ہوئی اور 03 یوم رخصت کلاں میں شمار ہو کر 02 یوم ایکسٹرا ڈرل کی سزا دی گئی	894/19.09.2014	02 عدد

(B)

02 عدد	1006/27.10.2014	03 یوم غیر حاضری میں سے 02 یوم غیر حاضری رخصت بلا تخواہ میں شمار ہوئی جبکہ ایک یوم ایکسٹرا ڈرل کی سزا دی گئی	23
02 عدد	1006/27.10.2014	02 یوم غیر حاضری پر 02 یوم ایکسٹرا ڈرل کی سزا دی گئی	24
02 عدد	22.10.2014/DSP-FRP	04 یوم غیر حاضری پر 02 یوم ایکسٹرا ڈرل کی سزا دی گئی	25
02 عدد	1075/14.11.2014	02 یوم غیر حاضری پر 03 یوم ایکسٹرا ڈرل کی سزا دی گئی	26
09 عدد	198/18.02.2015	25 یوم غیر حاضری رخصت بلا تخواہ میں شمار ہو کر ایک انکریمینٹ ضبط کیا گیا جبکہ 05 یوم ایکسٹرا ڈرل کی سزا دی گئی	27
13 عدد	02.05.2016/DY Commandant EF	46 یوم غیر حاضری رخصت بلا تخواہ میں شمار ہو کر وارننگ دی گئی	28
72 عدد	No.16627/31EF/23.10.2017	97 یوم غیر حاضری لائگ لیو میں شمار ہوئی	29
01 عدد	240/06.12.2017	ایلیٹ فورس پشاور سے ضلع ہذا تبدیل ہوا	30
01 عدد	1412/11.09.2017	ایلیٹ فورس پشاور سے ضلع ہذا تبدیل ہو کر کنستبلری نمبر 11353 الاٹ کیا گیا	31
03 عدد	1616/13.10.2017	12 یوم غیر حاضری رخصت بلا تخواہ میں شمار ہو کر سنشور کی سزا دی گئی	32
08 عدد	2041 / 20/12/017	95 یوم غیر حاضری پر محکمہ پولیس سے درخواست کیا گیا	33

عدد 6


588 / 18-5-2018.

دو بارہ ڈیڑی ہر سال ہر ماہ ہر ماہ  
تین سالہ ڈیڑی ہر سال ہر ماہ ہر ماہ

جناب عالی!

مہاراجہ شاہی مہاراجہ ٹوٹ

مہاراجہ شاہی مہاراجہ ٹوٹ

  
FMC. PL. NSR  
17-04-2018

FMC NSR D.

3 (1)

ES-500 P.15 of 1971

Month of

7

**OFFICE OF THE DISTRICT POLICE OFFICER, NOWSHERA**  
**SHOW CAUSE NOTICE**

Annex B

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


You, Constables Ziyad Gu' No.1353 while posted at PS Jalozai, have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 for following misconduct:-

1. Remained absent from duty without any leave or permission of the competent authority vide DD No. 12 dated 05.02.2019, PS Jalozai and is still absent.

2. That by reasons 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 inefficiency and unbecoming of good Police officers. 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.
5. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.
6. You should submit reply to this show cause notice within **07** days of the receipt of the notice failing which an ex-parte action shall be taken against you.
7. You are further directed to inform the undersigned that you wish to be heard in person or not.
8. Grounds of action are also enclosed with this notice.

No. /PA

Dated: 08/03/2019

  
District Police Officer,  
Nowshera.

Annex. (8)

C

**CHARGE SHEET**

I, **Mansoor Aman, PSP** District Police Officer, Nowshera, as competent authority, hereby charge **Constable Ziad Gul No. 1353** as per Statement of Allegations enclosed.

2. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.

3. You are, therefore, required to submit your written defense within **07 days** of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.

4. Your written defense, if any should reach the Enquiry Officer 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 follow against you.

5. Intimate whether you desire to be heard in persons.

  
**District Police Officer,  
Nowshera.**

*Handwritten notes in Urdu:*  
جواب دیا گیا  
13/11/2019  
13/11/2019

9

C2

**DISCIPLINARY ACTION**

I, Mansoor Aman, PSP, District Police Officer, Nowshera as competent  
in the opinion of the opinion that Constable Ziad Gul No. 1353 has rendered himself liable to  
be proceeded against as he committed the following acts/omissions within the meaning of Police  
Rules, 1975.

**STATEMENT OF ALLEGATIONS**

Whereas, Constable Ziad Gul No. 1353, while posted at PP Bara Banda,  
was sent for refresher course vide DD No. 09 dated 19.12.2018, but he did not report for the  
said course and remained absent vide DD No. 19 dated 25.12.2018, Police Lines. On  
13.01.2019, he was transferred to PP Jalozai, but he also failed to report there and is still absent  
vide DD No. 12 dated 05.02.2019, PP Jalozai. On account of which he was issued Show Cause  
Notice and was informed time and again to collect his SCN, but he failed, which seems that he is  
no more interested in Police job, which amounts to grave misconduct on his part and rendered  
him liable for Minor/Major punishment under Khyber Pakhtunkhwa Police Rules, 1975.

For the purpose of scrutinizing the conduct of the said accused official with  
reference to above allegations, Mr. Tassarwar Iqbal, ASP Cantt Nowshera is hereby  
nominated as Enquiry Officer.

The Enquiry Officer shall in accordance with the provision of Police Rules,  
1975, provide reasonable opportunity of hearing to the defaulter official, record his findings and  
make immediate recommendations as to punish or other appropriate action against the defaulter  
official.

Constable Ziad Gul No. 1353 is directed to appear before the Enquiry  
Officer on the date, time and place fixed by the Enquiry Officer.

  
District Police Officer,  
Nowshera.

No. 17 /PA,  
Dated 14/03/2019.

*Handwritten notes:*  
1. Mansoor Aman  
2. Ziad Gul  
3. 14/03/19

*Handwritten note:*  
Call him

*Handwritten signature and date:*  
14-3-19

*Handwritten note:*  
- earlier enquired  
- absent record

Annex:

(D) 107

1

ENQUIRY REPORT FC ZIAD GUL 1353 POSTED POLICE POST BARA BANDA

ALLEGATION:

Whereas, Constable Ziad Gul No. 1353, while posted at PP Bara Bandā PS Risalpur, selected for refresher course vide DD.No. 09 dated 19.12.2018, but he did not report for the said course and remained absent vide DD.No. 19 dated 25.12.2018 at police Lines Nowshera. On 28.01.2019, he was transferred to PP Jalojai, but he also failed to report there and is still absent vide DD.No. 12 dated 05.02.2019, PP Jalojai. On account of which he was issued show cause notice and was informed time and again to collect his show cause notice, but he failed, which seems that he is no more interested in police job, which amounts to gross misconduct on his part and rendered him liable for Minor/Major punishment under Khyber Pakhtunkhwa Police Rules 1975.

PROCEEDINGS:

The delinquent police official was contacted through his mobile number and through local police to submit his written defense in response to charge sheet but he did not respond. Written notices were issued from this office No. 223/R, dated 14.03.2019, No. 289/R, dated 22.03.2019 and last notice No. 317/R, dated 28.03.2019 was served upon him through local police of PS Pabbi.

The delinquent police official received charge sheet on 05.04.2019, but did not submit his reply even after repeated reminders.

The record of his 08 year service was perused, which reveals that he remained 668 days absent from duty. He has been awarded Major Punish one, three times Minor punishment and 27 bad entries.

FINDING:

The undersigned after enquiry has arrived at conclusion that the respondent police official has little interest in police profession. His service record who even does not bother to submit his defence against charge sheet. His conduct and previous record is evident to the fact that the respondent constable Ziad Gul No.1353 is not fit for police job. Therefore, it is recommended that he may be awarded Major punishment of dismissal from service, if agreed.

No. 375 / St:

Dated 15/04 /2019.

PA

Assistant Superintendent of Police  
Circle Cantt Nowshera

issue final  
show cause notice.

ADP-NR

Amex

11

E3

**FINAL SHOW CAUSE NOTICE**

Whereas, you **Constable Ziad Gul No. 1353**, while posted at Police Post Bara were selected for refresher course vide DD No. 09 dated 19.12.2018. but you did not report for the course and remained absent without any leave/permission of the competent authority vide DD No. 25.12.2018, Police Lines, Nowshera and is still absent.


On account of which you were issued Show Cause Notice and was informed to appear and again to collect your SCN, but failed, therefore, departmental action has been initiated against you through Mr. Tassarwar Iqbal, ASP Cantt Nowshera. The enquiry officer after fulfillment of legal formalities submitted his report to undersigned, highlighted therein that you have received your SCN but failed to submit your reply, which seems that you are no more interested in police job and recommended for major punishment.

Therefore, it is proposed to impose Major/Minor penalty including dismissal as envisaged under Rules 4(b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence, I, Mansoor Aman, PSP, District Police Officer Nowshera, in exercise of the powers vested in me under Rules 5(3) (a) & (b) of the Khyber Pakhtunkhwa Police Rules 1975, call upon you to Show Cause finally as to why the proposed punishment should not be awarded to you.

Your reply shall reach this office within **07 days** of the receipt of this notice. failing which, it will be presumed that you have no defense to offer.

You are at liberty to appear for personal hearing before the undersigned.

  
**District Police Officer,  
Nowshera.**

No. 119 /PA,  
Dated 17/01/2019.

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Constable Ziad Gul No. 1353 of Nowshera District Police against the order of District Police Officer, Nowshera, whereby he was awarded major punishment of dismissal from service vide OB No. 558 dated 16.05.2019. The appellant was proceeded against departmentally on the allegations that he while posted at Police Post Bara Banda, selected for refresher course vide daily diary No. 09 dated 19.12.2018, but he did not report for the said course and remained absent without any leave/permission of the competent authority vide daily diary No. 19 dated 25.12.2018 till date of his dismissal.

He was issued Show Cause Notice and was informed time and again to collect the same but he failed. Therefore, proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and Assistant Superintendent of Police Cantt Nowshera was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities, submitted his findings wherein he reported that the appellant was contacted time and again to appear before the enquiry Officer, but he failed and remained absent, which showed that he was no more interested in Police Service. He recommended the appellant for major punishment of dismissal from service.

He was issued Final Show Cause Notice on 22.04.2019, but neither did he submit his reply nor did he assume the duty.

He was also provided opportunity of self defense by summoning him in the Orderly Room by the District Police Officer, Nowshera on 15.05.2019, but he failed to advance any cogent reasons in his defense. Hence, he was awarded major punishment of dismissal from service vide OB No. 558 dated 16.05.2019.

Feeling aggrieved from the order of District Police Officer, Nowshera, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 20.01.2021.

From the perusal of service record of the appellant, it has been found that the allegations leveled against the appellant have been proved beyond any shadow of doubt. He had been earlier dismissed from service on account of his absence. Hence, the very conduct of appellant is unbecoming of a disciplined Police Officer. Moreover, the appellant approached this forum at a belated stage without advancing any cogent reason regarding such delay. Hence, order passed by the competent authority does not warrant any interference.



Keeping in view the above, I, Sher Akbar, PSP S.St Regional Police Officer, Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being badly time barred.

Order Announced.

  
Regional Police Officer,  
Mardan.

No. 387 /ES, Dated Mardan the 22-01- /2021.

✓ Copy forwarded to District Police Officer, Nowshera for information and necessary action w/r to his office Memo: No. 63/PA dated 08.01.2021. His Service Record is returned herewith.

(\*\*\*\*\*)

*ee/mc*  
*For m. action*

*↓*  
*DP nowshera*

No. 142/PA  
dt 22/1/2021



CR-2431/ES

(14)

Annex: (4) G.

OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
Central Police Office, Peshawar.

No. S/ 495 /21, dated Peshawar the 12/02 /2021.

To : The Regional Police officer,  
Mardan.

Subject: REVISION PETITION.

Memo:

The Competent Authority has examined and filed the revision petition submitted by Ex-FC Ziad Gul No. 1353 of Nowshera district Police against the punishment of dismissal from service awarded by District Police Officer, Nowshera vide OB No. 558, dated 16.05.2019, being badly time barred.

The applicant may please be informed accordingly.

356  
12/2/21

✓  
X  
W  
OS  
17/2

ppr Attached,  
A/EC

(SYED ANIS-UL-HASSAN)

Registrar,

For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.

10/2

EC/DPO, DSR  
For inaction  
RPO, Mardan  
17/2/21

EC/PMC  
For inaction

↓

DPO DSR  
23/2/2021

No. 952/ES  
dt. 18-02-21

NO. 417/BA  
dt. 24/02/2021