

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	10.03.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO.1082/2013</p> <p style="text-align: center;">(Muhammad Irshad -vs- Inspector General of Police Khyber Pakhtunkhwa Peshawar and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>ABDUL LATIF, MEMBER:</u></p> <p>Appellant with counsel (Mr. Nasrum-Minallah, Advocate) and Mr. Muhammad Ghani, SI (Legal) alongwith Mr. Ziaullah, GP for respondents present.</p> <p>2. The instant appeal has been filed by the appellant under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act-1974 against the order dated 23.01.2013 whereby the penalty of dismissal from service has been imposed upon the appellant and against the order whereupon the penalty of dismissal from service was maintained vide order dated 19.06.2013. He prayed that on acceptance of this appeal both the above said orders may kindly be set aside and the appellant may graciously be reinstated in service with all back benefits.</p> <p>3. Brief facts giving rise to the instant appeal are that the appellant was appointed as Constable in the year 1995. That the</p>

appellant was sick and applied for leave which were not considered on the pretext that the law and order situation is not good. That during the absence of the appellant from service due to above said reason the respondents issued two show cause notices to the appellant but the period which was considered for the dismissal of the appellant which is reflected as DD. No. 07 dated 13.08.2012 and DD report No. 40 dated 22.11.2012, neither any notice of the same was issued nor anything received by the appellant and as such without completion of formal procedure the services of the appellant were terminated by imposing the major penalty of removal from service vide an ex-parte order dated 23.01.2013. That the appellant preferred departmental appeal on 07.05.2013 which was rejected on 19.06.2013, hence the present service appeal.

DFL

4. The learned counsel for the appellant argued that order of the respondents was against the law, facts, material on record and violation of the laid down procedure hence not tenable and needed to be set aside. He further argued that appellant was dismissed from service without assigning any reason and without affording him opportunity of personal hearing and without any regard to the eighteen years service at the credit of the appellant. He further argued that no charge sheet, statement of allegations was served on the appellant and no proper enquiry was conducted hence impugned order were not maintainable in the eyes of law. He further argued that the respondents ignored the treatment certificates of the appellant issued by the concerned Medical Officer, the proceedings were therefore, unjust, malafide and penalty imposed upon the appellant was very harsh and non-commensurate to the allegations of absence

of three days. He further argued that impugned order suffered from legal infirmity as absence period of the appellant of 3 days was treated as leave without pay, hence not maintainable and needed to be struck down. He prayed that on acceptance of this appeal the impugned order may be set aside and appellant may be reinstated in service with all back benefits.

5. The learned Government Pleader resisted the appeal and stated that the appeal was not maintainable as the same was time barred. He further argued that impugned order was passed on 23.01.2013 reportedly received by the appellant on 15.03.2013 while appeal before the departmental authority was submitted on 07.05.2013 which was rejected on 19.06.2013 and instant service appeal was lodged on 12.07.2013. He stated that since appeal before the departmental authority was barred by time, hence under the law the instant appeal was incompetent. He further contended that summary procedure under Rule-5 of the Police Rules-1975 were adopted by issuing of three different show cause notices for the absence of the appellant on different occasions and proceedings were conducted according to law and rules. He prayed that the appeal being devoid of any merits and also not maintainable may be dismissed.

6. Arguments of learned counsels for the parties heard and record perused with their assistance.

7. From personal of the record, it transpired that the appellant was proceeded for absence of three days show cause notice whereof served for each day of absence separately. The record reveals that the

QFL

appellant furnished medical chits on account of his treatment which were not taken into account nor was any enquiry conducted to establish the charge of willful absence against the appellant. Similarly appellant was not provided adequate opportunity of defense against the charge nor was he heard in person before imposition of the major penalty of dismissal from service on him. Furthermore the impugned order suffered from legal infirmity as it treated the absence period of the appellant as leave without pay and simultaneously imposed upon him the major punishment of dismissal from service. The penalty seems to be too harsh keeping in view the magnitude of the allegations and further keeping in view the eighteen years long service of the appellant. We therefore deem it appropriate to set aside the impugned order and reinstate the appellant in service. The competent authority is however at liberty to proceed against the appellant *de-novo* but strictly in accordance with law and rules by providing him adequate opportunity of defense and opportunity of personal hearing before passing any adverse order against him. The issue of the intervening period will be decided as per rules on outcome of the *de-novo* proceedings. The appeal is decided in the above terms. Parties are left to bear their own cost. File be consigned to the record room.


(PIR BAKHSH SHAH)
MEMBER


(ABDUL LATIF)
MEMBER

ANNOUNCED
10.03.2016

MP. Routine 8

To: _____ From: _____

Date: _____ To: _____

Encl: _____

SUBJECT: _____

→ लिस्ट

13.

1) Time barred
D.A. ↑

1. 0 23 . 1. 2013 : 15.3. 2013
D.A. : 7.5.2013
+ Ref. 19.5.2013
S : A : 12.7.2013

2) Police rules 1975

✓ Case proceeding : 5(3)(9)/e

- 3 show cause notices.

1082/2013

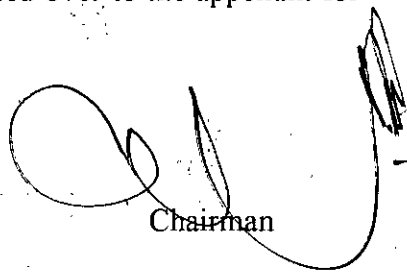
16.10.2015

Since 15.10.2015 has been declared as public holiday on account of Ist Muharramul Haram, therefore, case is adjourned to 10.3.2016 for the same.


READER

17.01.2014

Appellant in person and Mr. Muhammad Ghani, ASI (legal) on behalf of respondents with AAG present. Written reply on behalf of respondents received, copy whereof is handed over to the appellant for rejoinder on 29.4.2014.


Chairman

29.4.2014

Appellant in person and Mr. Muhammad Shafique, Inspector Legal for respondents with AAG present. Rejoinder received on behalf of the appellant, copy whereof is handed over to the learned AAG for arguments on 25.9.2014.


Member

25.09.2014

Appellant in person and Mr. Muhammad Ghani, SI (Legal) on behalf of respondents with Mr. Muhammad Adeel Butt, AAG present. Arguments could not be heard due to non-availability of learned counsel for the appellant and incomplete bench. To come up for arguments on 13.3.2015.


Chairman

13.3.2015

Counsel for the appellant alongwith appellant and Mr. Ziaullah, GP with Muhammad Shafiq, Inspector (Legal) for the respondents present. The learned Member-II of the Bench is on leave, therefore, case is adjourned to 15.10.2015 for arguments.


MEMBER

Appeal No. 1082/2013
Mr. Muhammad Yasir

3.

08.10.2013

Counsel for the appellant present and requested for adjournment for certain correction/amended in the original Service appeal. To come up for correction/preliminary hearing on 19.11.2013.


Member

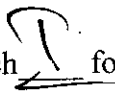
19.11.2013

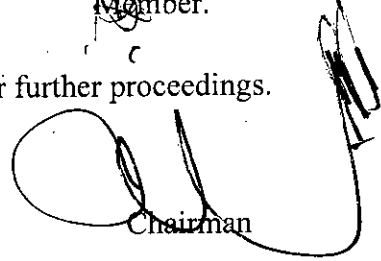
Appellant with counsel present and submitted an application for amendment in prayer of appeal. Application is accepted. Preliminary arguments heard. Appellant filed departmental appeal on 07.05.2013 against the original order dated 23.01.2013 which was rejected and communicated to the appellant on 19.06.2013. The instant appeal filed before this Tribunal on 12.07.2013. Counsel for the appellant further contended that the appellant has not been treated in accordance with law/rules. No charge sheet, statement of allegation has been issued to the appellant to the charges mentioned in the original as well as impugned order dated 19.06.2013. The show cause notices dated 29.05.2012, 02.07.2012 and 24.08.2012 has been issued to the appellant. No proper inquiry have been conducted. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply on 17.01.2014.

Appellant deposited security & process fee Rs 180/- Bank receipt is attached with file
Jhel


Member.

19.11.2013

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




Chairman

5.

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1082/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	12/07/2013	<p>The appeal of Mr. Muhammad Irshad presented today by Mr. Nasrum-Minallah Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	24-7-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>8-10-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

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

Appeal No. 1082 / 2013.

Muhammad Irshad

.....Appellant.

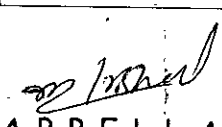
VERSUS

I.G.Police & Others

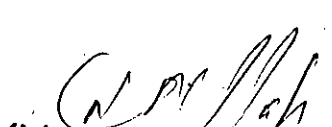
.....Respondents.

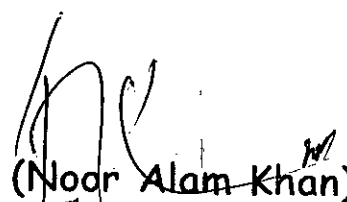
I N D E X

Sr. No	Description of Documents	annexure	Page No.
2	Memo of Appeal Along with Affidavit Addresses Of the Parties.	-	1-4
	Copy of Medical Documents	A	5-20
3	Copy of Order of Dismissal/Removal from Service Dated; 23 /01/2013.	B	21-24
4	Copy of Departmental Appeal	C	25
5	Copy of Order of Dismissal of Appeal Dated; 19/06/2013.	D & E	26
6	Waqalat Nama		27


APPELLANT

Through:-


(Nasrum-Minallah)
Advocate High Court,
PESHAWAR


(Noor Alam Khan)
Advocate Supreme Court,
PESHAWAR

Cell No.0333-9148358

Office: FF 29 Bilor Plaza Peshawar Cantt:

BEFORE THE K.P.K SERVICES TRIBUNAL PESHAWAR.

Appeal No. 1082 / 2013.

Muhammad Irshad Ex. Constable No.1594 Mardan Police.
.....Appellant.

VERSUS

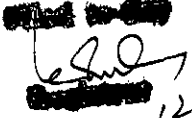
N.W.F. Peshawar
1131
12/7/13

1. Inspector General of Police NWFP Peshawar.
2. Deputy Inspector General of Police Mardan Region-1 Mardan.
3. District Police Officer Mardan

.....Respondents.

APPEAL U/S 4 OF THE K.P.K SERVICES TRIBUNAL ACT, 1974
AGAINST THE ORDER DATED: 23/01/2013, WHEREBY THE
PENALTY OF "DISMISSAL FROM SERVICE" HAS BEEN IMPOSED
UPON THE APPELLANT, AND AGAINST THE ORDER, WHEREUPON
THE PENALTY OF "DISMISSAL FROM SERVICE" WAS MAINTAINED
VIDE ORDER DATED: 19/06/2013.

PRAYER


12/7/13
On acceptance of this appeal, both the above said orders may
kindly be set aside and the appellant may graciously be
reinstated in service with all back benefits etc.

Respectfully Sheweth:-

- 1) That the above named appellant was appointed in the year 1995 as constable in police department on regular bases the appellant always worked hard with honesty and dedication and had never been acted against the rules and procedure of the department and its disadvantage.

BEFORE THE K.P.K SERVICE TRIBUNAL, PESHAWAR.

In Appeal No...../2013

D# 113
12-7-2013

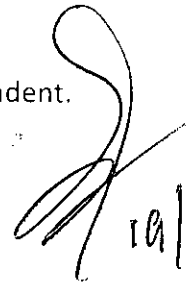
Muhammad Irshad.

.....Petitioner/Appellant.

VERSUS

I.G Police and others

.....Respondent.


19/11/2013

Application For amendment in prayer of Appeal
to the extent of setting aside only the final order
of the respondents dismissing the departmental
appeal of the appellant.

That the petitioner/appellant respectfully submits as under.

1. That the above tilted service appeal in pending before this Hon able court/tribunal wherein the date of hearing is fixed for today i.e 19.11.2013.
2. That the inadvertently the appellant in his prayer of appeal prayed for setting aside of two orders i.e (i) order of dismissal of the appellant and (ii) order of dismissal of the departmental appeal/representation of the appellant.
3. That during the course of preliminary hearing this Hon, able court/tribunal observed the above said legal flaw in the appeal, hence this application for correction in prayer of appeal to the extent of prayer of only setting aside of final order of the authority.


4. That the case of the petitioner/appellant is at a preliminary stage as no other proceedings has been conducted in the case so far and as such there is no bar in allowing the petitioner/appellant for amendment in appeal, further it will erase the chance of multiplicity of litigations between the parties..


It is therefore respectfully prayed that on acceptance this petition the petitioner may be allowed to amend the prayer in appeal as prayed for.

Petitioner/Appellant

Dated: 19/11/2013.

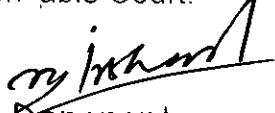
Through:-


(M.M Zeshan)
Advocate High Court,
PESHAWAR

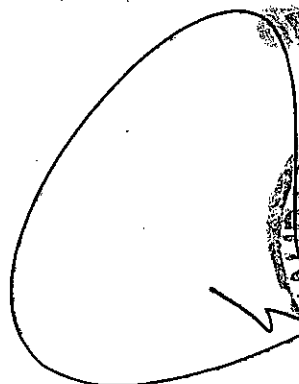


(Nasrum-Minallah)
Advocate High Court,
PESHAWAR

AFFIDAVIT,

I, Muhammad Irshad ex Constable No.1594 Mardan Police, (Petitioner/appellant), do hereby solemnly affirm and states on oath that the contents of accompanying application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon' able Court.


Deponent.

Dated; 19/11/2013.


TESTED

HALIDA RAHIMANI
ADVOCATE HIGH COURT
PESHAWAR

2) That the appellant was sick and when the high-ups were requested to grant leave to appellant for medical checkups and frequently visits to the hospital, the same were not considered on the pretext that the law and order situation in not good.

(copies of medical documents are annexed as A)

3) That the during the absence of the appellant from service due to above said reason the respondents issued two show cause notices to the appellant but the period which was considered for the dismissal of the appellant which is reflected as DD No.07 dated 13/08/2012 and DD report No. 40 dated 22/11/2012, neither any notice of the same was issued nor anything received by the appellant and as such with out completion of formal procedure the services of the appellant was terminated by imposing the major penalty of removal from service vide an ex-party order dated: - 23/01/2013.

(Copy is annexed as "B".)

4) That being aggrieved from the said order from removal from service the appellant has preferred a departmental appeal to the competent authority against the said order on 07/05/2013, but the same has earned no fruit and dismissed on 19/06/2013.

(Copy of appeal and order thereon is annexed as "C" and "D" respectively).

5) That the petitioner being aggrieved from the said orders of the respondents approaches this Hon, able forum for setting aside the above mentioned orders and re-instatement of service on the following grounds amongst others.

GROUND S.

- A. That the order of the respondent management is against law, facts, and violation of the procedure.
- B. That the order of the respondents is without any legal justification and against due course of law.
- C. That the respondents terminated the service of the appellant without assigning any reason, which is highly unjust and prejudicial to the rights of the appellant.

- D. That the appellant totally stand condemned unheard, the impugned orders doesn't provide any reason, and the petitioner more than 18 years of service to his credit, being a regular employee could not has been thrown out illegally and without any process of law, such orders being void ibinitio could not be allowed to remain in field.
- E. That neither any show cause notice was issued to the appellant nor the appellant was provided with any opportunity of personal hearings and as it manifest from the dismissal order the same was passed ex-parte in absence of the appellant.
- F. That no inquiry was conducted in the case of the appellant and the respondents terminated the services of the appellant according to their own whims an wishes which is against the mandate of law and procedure as provided by the law.
- G. That on permission of this Hon, able court the Appellant reserves the right to urge other grounds at the time of arguments.

It is therefore most humbly prayed that on acceptance of this appeal the order from removal from service may kindly be set aside and the appellant may graciously be reinstated in service with all back benefits and consequential relief.

M Irshad
APPELLANT

Through:-

Nasrum Minallah
(Nasrum-Minallah)
Advocate High Court,
PESHAWAR

Noor Alam Khan
(Noor Alam Khan)
Advocate Supreme Court,
PESHAWAR

AFFIDAVIT

I, Muhammad Irshad Constable No.1594, Mardan Police, do hereby solemnly affirm and states on oath that the contents of accompanying appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon' able Court.

Dated; 12/07/2013

M Irshad
(Deponent)

BEFORE THE K.P.K SEVICES TERIBUNAL PESHAWAR.

Appeal No. _____ / 2013.

Muhammad Irshad

.....Appellant.

VERSUS

I.G.Police & Others

.....Respondents.

ADRESSES OF THE PARTIES

Muhammad Irshad Constable No.1594, Mardan Police.

.....Appellant.

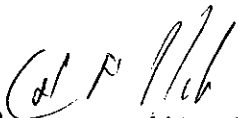
VERSUS


1. Inspector General of Police NWFP Peshawar.
2. Deputy Inspector General Of Police Mardan Region-1 Mardan.
3. District Police Officer Mardan.

.....Respondents

APPELLANT

Through:-


(Nasrum-Minallah)
Advocate High Court,
PESHAWAR


(Noor Alam Khan)
Advocate Supreme Court,
PESHAWAR

Annex "A"

5

OUT-PATIENTS DEPARTMENT:

NAME *P. G. Y. ...*

YEARLY NO. *2201*

DATE *2-5-12*

DISEASE *4p Bulbar ...*

Sp

4p Bulbar ...

LB P

ly: ...

9. ... play ... Spain

COUNTERSIC

745 B ...

Medical Super ... Hospital ...

714 Mac ...

Bill ...

715 ... HOSPITAL ...

ATTESTED

Rs. 3

FACE VALUE RUPEES

6

OUT-PATIENTS DEPARTMENT.

NAME 1594 - 20/12

YEARLY NO 9450

DATE 26-7-72

DISEASE

W LBP

8

Be with

4: midline play Q Super

De Carter

MS. Bucher

COUNTERSIC

MS. Bucher

Medical Superintendent
H Q Hospital, Jordan.

MS. Bucher

Da Capra Brd Part 2

2 days

Medical Officer
H.Q. HOSPITAL
JORDAN.
26/7/72

ATTESTED

OUT-PATIENTS DEPARTMENT.

NAME *J. C. ...*

YEARLY NO. *3850*

DATE *13-5-72*

DISEASE *Bern ...*

7
FACE VALUE RUPEE 3

*R ... in ...
on ...
A ...
A ...
A ...
A ...
for 2 weeks*

COUNTERSIG

Medical Super
DHG Hospital

Medical Officer
D.H.G. HOSPITAL
N. MARDAN

ATTESTED

OUT-PATIENTS DEPARTMENT.

FACE VALUE RUPEES

4

NAME *Cyber*

YEARLY NO. *67/10*

DATE *27-5-12*

DISEASE *Burkitt's*

R

Dr. M. A. Khan
Dr. M. A. Khan
Dr. M. A. Khan

COUNTERSIGNATURE

Dr. M. A. Khan
Dr. M. A. Khan

Medical Superintendent
D.H.G. Hospital, Mardan

Dr. M. A. Khan
Dr. M. A. Khan

27-5-12

Medical Officer
D.H.G. HOSPITAL
MARDAN.

(N. 112)
ATTESTED

Rs, 2

(9)

OUT-PATIENTS DEPARTMENT.

NAME *[Handwritten Name]*

YEARLY NO. *3745*

DATE *11-9-12*

DISEASE *GUSP*

FACE VALUE RUPEE

5

[Handwritten notes]

[Handwritten notes]

COUNTERSIC!

Medical Superintendent
D H S Hospital

[Handwritten signature]
Medical Officer

[Handwritten signature]

[Handwritten notes]

[Handwritten signature]

Medical Officer
D H S HOSPITAL
WARDAN.

Attested
ATTESTED

IS.

10

OUT-PATIENTS DEPARTMENT.

NAME *C. P. R.*

YEARLY NO. *8442*

DATE *25-9-12*

DISEASE

FACE VALUE RUPEES

6

COUNTERSIGN.

G. H. S. P.

Medical Superintendent
P. H. S. Hospital, *Madan.*

4. 10. 12

12

Diga

M.S. - Bue dross

on D

20/12/12

Ad. cert. not out for

(2) wills

Medical Officer
D. H. S. HOSPITAL
K. C. S. N.

ATTESTED

No.

11

OUT-PATIENTS DEPARTMENT.

NAME *20/1/12*

YEARLY NO *3398*

DATE *9-10-12*

DISEASE *Bruise on*

of Tarsus.

of Gout.

FACE VALUE RUPEES

7

COUNTERSIGNED

Dr. Mahmood

Dr. N. H. Q.

Medical Superintendent
D.H.Q. Hospital, Mardan.

Dr. Mahmood

Dr. N. H. Q.

Dr. N. H. Q. Hospital Mardan

Medical Officer
D.H.Q. HOSPITAL,
MARDAN.

9-10-12

ATTESTED

Rs. 12

OUT-PATIENTS DEPARTMENT.

NAME *S. L. B. P.*

YEARLY NO. *8113*

DATE *23-10-12*

DISEASE

S. L. B. P.

FACE VALUE RUPEES

8

COUNTERSIGNED

S. L. B. P.
Medical Superintendent
Hospital, Mardan.

Mr. B. C. P.

Mr. D. C. P.
Mr. D. G. P.

Mr. C. P. P.

(2) Mrs. P.

S. L. B. P.
D.H.Q. HOSPITAL
MARDAN

Attested

13

OUT-PATIENTS DEPARTMENT.

NAME *J. C. / R.*

YEARLY NO. *24 45*

DATE *8-11-12*

DISEASE *G. I. B. P.*

FACE VALUE RUPEES 9

COUNTERSIGNATURE

G. J. P.

Medical Superintendent,
D H Q Hospital, Mardan.

Mr. J. P. M.

Mr. A. S. J.

Cephalic

*See report sent Recd
for two weeks*

OFFICER
D.H.Q. HOSPITAL
MARDAN

ATTESTED

No.

14

OUT-PATIENTS DEPARTMENT.

NAME 26/1/20

YEARLY NO. 7010

DATE 23-11-72

DISEASE

FACE VALUE RUPEE 10

R Ginn

COUNTERSIGNATURE

G. Nochi

Medical Superintendent
D.H.G. Hospital, Mardan.

Dr. Nochi

Dr. 26/1/20

Dr. Fakhri

Dr. Leghari

Dr. Captain Bilal Raza

Dr. Tahir

Medical Officer
D.H.G. HOSPITAL
MARDAN

ATTESTED

Rs.

15

OUT-PATIENTS DEPARTMENT.

NAME *د. ل. س. م.*

YEARLY NO. *2139*

DATE *7-12-12*

DISEASE *S*

FACE VALUE RUPEE *15*

COUNTERSIGN

LR 12

Medical Superintendent
D.H.G. Hospital, *Muzaffargarh*

Dr. J. S. Khan
Medical Officer

Dr. J. S. Khan
Medical Officer
at Muzaffargarh
for
the purpose of
admission
to the
General Hospital
at Muzaffargarh
for the purpose of
admission
to the
General Hospital
at Muzaffargarh

Medical Officer
D.H.G. HOSPITAL,
MUZAFFARGARH.

Attested
ATTESTED

16

OUT-PATIENTS DEPARTMENT.

NAME *J. C. N.*

YEARLY NO. *5943*

DATE *2-12-12*

DISEASE *flu*

FACE VALUE RUBER

R

flu

As Tagora

COUNTERSIGNATURE
[Signature]
Medical Superintendent
D.H.Q. Hospital, Mardan.

*As with a
As with a
As with a*

Medical Officer
D.H.Q. HOSPITAL,
MARDAN.

[Signature]
ATTESTED

17

RS,

OUT-PATIENTS DEPARTMENT.

NAME *2 C 11 R*

YEARLY NO. *1298*

DATE *4-5-13*

DISEASE

FACE VALUE RUPEE 13

S. H. ...

COUNTERSIC

S. H. ...
Medical Superintendent
D.H.O. Hospital, Mardan.

*MS. D. G. ...
to ...
be ...
In two weeks*

Medical Officer
D.H.O. HOSPITAL
MARDAN

ATTESTED

Rs.

OUT-PATIENTS DEPARTMENT.

NAME *محمد علي*

YEARLY NO. *5080*

DATE *18-1-12*

DISEASE

FACE VALUE RUPEE

18

COUNTERSIC

[Signature]
Medical Officer
D.H.G. Hospital, Mardan.

*9 June 14,
1/5 Bueghra
at Bueghra
Del Capital Bueghra
For two weeks*

[Signature]
Medical Officer
D.H.G. HOSPITAL
MARDAN

[Signature]
ATTESTED

19

RS.

OUT-PATIENTS DEPARTMENT.

NAME *Srinivas*

YEARLY NO. *8849*

DATE *31-1-13*

DISEASE *Pain*

FACE VALUE RUPEE

15

R

2. 1/2 ...

2. 1/2 ...

2. 1/2 ...

2. 1/2 ...

2. 1/2 ...

2. 1/2 ...

2. 1/2 ...

2. 1/2 ...

2. 1/2 ...

COUNTERSIGNED

Medical Superintendent
D.H.G. Hospital, NARDAN.

Medical Officer
D.H.G. HOSPITAL,
NARDAN.
31-1-13

(Signature)
ATTESTED

No.

Rs.

20

OUT-PATIENTS DEPARTMENT.

NAME *20/1/15*

YEARLY NO *3578*

DATE *14-2-13*

DISEASE *Bruise*

FACE VALUE RUPEE

16

M. Subramanian

M. Prasad

M. Prasad

M. Prasad

*On 14-2-13
14-2-13*

COUNTER SIGNATURE

Medical Superintendent
D H G Hospital, Mardana.

Medical Officer
D.H.G. HOSPITAL
MARDANA.

ATTESTED

DISMISSAL ORDER

Constable **Muhammad Irshad No. 1594**, while posted at Police Lines Mardan, remained absent from duty without any leave/permission of the competent authority for the following periods:-

1. DD report No. 10 dated 07.05.2012 to DD report No. 59 dated 08.05.2012 (01day)
2. DD report No. 09 dated 26.07.2012 to DD report No. 26 dated 28.07.2012 (02 days)

In this connection, he was served with proper Show Cause Notices under NWFP Police Rules 1975, issued vide this office Nos. 572/PA/SCN/R dated 29.05.2012 & 763/PA/SCN/R dated 24.08.2012. The first Show Cause Notice was delivered upon him in person on 04.06.2012, while the second was delivered upon his relative Anwar Ali on 11.09.2012 through Jabbar Police.

It is added that he while posted at Police Lines was transferred to the House's Guard of Mr. Rahim Dad Khan, Senior Provincial Minister at Hathian, but when he was directed by the Lines Officer vide DD report No. 52 dated 11.05.2012 to assume his duty at his new place of posting, he deliberately refused to join the duty at his new place of posting and left the Police Lines on his own sweet. In this connection, he was served with another Show Cause Notice, issued vide this office No. 683/PA/SCN/R dated 02.07.2012 and delivered the same upon him in person on 11.08.2012 through Jabbar Police.

In compliance, he was bound to submit his replies within the stipulated time of Fifteen days on the receipt of each Show Cause Notice, but he did not bother to submit his reply in compliance of a single Show Cause Notice till date, proving that he has nothing to offer in his defense.

It is further added that he was relieved for Police Station Garhi Kapura on account of transfer vide DD report No. 57 dated 13.08.2012, where instead of in-time arrival, he assumed the duty vide DD report No. 40 dated 22.11.2012, but it is worth to mention here after one day stay at Police Station Garhi Kapura, he again remained absent from duty without any leave/permission of the competent authority vide DD report No. 06 dated 23.11.2012 till date.

Keeping in view the non-submitting his replies in compliance of three delivered Show Cause Notices and continuously absence since long, I am of the considered opinion that Constable Muhammad Irshad No. 1594 of Police Station Garhi Kapura is not interested in Police Service and his more retention in the Police Force will badly affect the other Constables, therefore ex-parte action is taken against him by awarding major punishment of dismissal from Police Force with effect from 14.08.2012 with counting his three days absence's period, quoted above as leave without pay with immediate effect, in exercise of the power vested in me under NWFP Police Rules 1975 including last Para of the show cause notices.

Order announced

O.B No. 213

Dated 23/01/2013

No. 562-66/PA dated Mardan the 28/1/2013.

Copy for information and necessary action to the :-

- (1) S.P/HQs Mardan.
- (2) SHO Garhi Kapura
- (3) Pay Officer.
- (4) E.C (DPO) Mardan.
- (5) OASI (DPO) Mardan with () enclosures.

(Danishwar Khan)

District Police Officer.

Mardan

2013

کو دسترا امان نامہ (SRC) سے موصول ہوا۔

ATTESTED

15-03-2013

(22)

OFFICE OF THE DISTRICT POLICE OFFICER MARDAN

No. 683 /PA/SCN/R

Date 27 /2012

SHOW CAUSE NOTICE UNDER POLICE RULES 1975

Whereas, you Constable Muhammad Irshad No. 1594, while posted at Police Lines Mardan, remained absent from duty without any leave/permission of the competent authority vide DD report No.52 dated 11.05.2012 till-date. *Report*


You are therefore, found guilty of misconduct, as defined in section 2 (iii) of NWFP Police Rules 1975 and as such are liable to action under section 3 of the said Rules.

Based on the above facts, I am satisfied that no enquiry is needed in this case as contained in section 5.3 clauses (a) & (c) under the said Rules.

Now, therefore you Constable Muhammad Irshad are called upon under section 4 (1) of the NWFP Police Rules 1975, to show cause within 15 days of the issuance of this notice, as to why ~~one or more penalties including major penalty of dismissal from service should not be imposed upon you.~~

NOTE.

Take note that if you failed to submit reply in compliance of this show cause notice within the stipulated time, it will be presumed that you have nothing to offer in your defense and in that case, an ex-parte action shall straightaway be taken against you without any further notice.


(Danishwar Khan)
District Police Officer,
Mardan

Copy to SHO/Jabbar, (Attention Moharar) with the directions to deliver this notice upon Constable Muhammad Irshad s/o Muhammad Yaqoob r/o Gaddar and the receipt thereof should be returned to this office within (05) days positively.


ATTESTED

کشفہ جناب ڈپٹی ایگزیکٹو ایف ایس ایم این ریجن ون مراد

درخواست ہزار بجالی ملرزمت
جناب عالی

727
7/5/13

وردانہ گزارش ہے کہ سائل کو لوہہ مغیر حافی ری 14 جولاء 1994
نمبر 215 حوزہ 23/2013 بنا۔ DPQ جس نے محکمہ ہذا علیحدہ پروف
کرنے سائل کا شعراہ محکمہ ہذا سے بند ہو کر چونکہ سائل ایک غریب
اور در پرف گھرانے سے تعلق رکھتا ہے۔ سائل کا کنیڈ زیارہ اور
آمدنی بند ہو کر شعلت میں مبتلا ہوا۔ چونکہ سائل نے غلطی
براہر جبری کیا ہے۔ سائل کے چھوٹے چھوٹے بچے ہیں۔ اس سائل
کا کون سا سیدار غریب بھی نہیں ہے۔ سائل بیمار بھی ہے۔ اور
سائل کے پاس ملکہ 2 حوالہ کیلئے رقم بھی نہیں ہے۔

بذریعہ درخواست عاجزانہ استدعا ہے کہ

سائل کو بعدہ کانٹیل بحال کر کے سائل تاحق دعا گوارا ہوگا۔

no. 1371/E3 dt. 7/5/13

سائل کو ارٹارڈ نمبری Ex Constable 1594 ولد (محبوب سوم)

D/o Mardau
In comments

کن گھر اصلے مراد نمانہ حیدر
الہ آباد

ATTESTED

019/MON

ORDER.

My this order will dispose-off the appeal preferred by Ex-Constable Muhammad Irshad No. 1594 of Mardan District Police against the order of his dismissal from service passed by the District Police Officer, Mardan vide OB: No. 215 dated 23.01.2013.

Brief facts of the case are that he while posted at Police Lines, Mardan remained absent from duty without any leave/permission of the competent authority for the following periods:-

- i. DD report No. 10 dated 07.05.2012 to DD report No. 59 dated 08.05.2012 (01 day)
- ii. DD report No. 9 dated 26.07.2012 to DD report No. 26 dated 28.07.2012 (02 days).

In this connection he was served with Show Cause Notices under NWFP Police Rules 1975, issued vide District Police Officer, Mardan via his office Memo: No. 572/PA/SCN/R dated 29.05.2012 & 73/PA/SCN/R dated 24.08.2012. The first Show Cause Notice was delivered upon him in person on 04.06.2012, while the second was delivered upon his relative Anwar Ali on 11.09.2012 through the local Police of Police Station, Jabbar. It is added that he while posted at Police Lines, Mardan was transferred to the House's Guard of Mr. Rahim Dad Khan, Senior Provincial Minister at Hathian, but when he was directed by the Line Officer vide DD report No. 52 dated 11.05.2012 to assume his duty at his new place of posting, he deliberately refused to join the duty at his new place of posting and left the Police Lines on his own sweet. In this connection he was served with another Show Cause Notice issued vide District Police Officer, Mardan vide his office Memo: No. 683/PA/SCN/R dated 02.07.2012 and delivered the same upon him in person on 11.08.2012 through the local Police of Police Station, Jabbar.

In compliance, he was bond to submit his replies within the stipulated time of fifteen days on the receipt of each Show Cause Notice, but he did not bother to submit his reply in compliance of a single Show Cause Notice till date, proving that he was nothing to offer in his defense.

It is further added that he was relieved for Police Station Garhi Kapura on account of transfer vide DD report No. 67 dated 13.08.2012, where instead of in time arrival, he assumed the duty vide DD report No. 40 dated 22.11.2012, but it is worth to mention here after one day stay at Police Station Garhi Kapura he again absent from duty with out any leave permission of the authority vide DD report No. 06 dated 23.11.2012 till date.

I have perused the record which shows 21 bad entries regarding his absence and also heard the appellant in person in Orderly Room held in this office on 14.06.2013 but he failed to justify his absence period and could not advance any ground in his defence. Therefore, I MUHAMMAD JAFER Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal and do not interfere in the order passed by the competent authority vide OB: No. 215 dated 23.01.2013, thus the appeal is filed.

ORDER ANNOUNCED.

(MUHAMMAD JAFER)

Deputy Inspector General of Police,
Mardan Region-I, Mardan.

No. 1829 /ES, Dated Mardan the 17/6/13 19/6/2013.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office memo: No. 2013/LB dated 03.06.2013. He may be informed accordingly.

His Service Roll & Fauji Missal is returned herewith.

ATTESTED

وکالت نامہ

بعدالت جناب جسٹس محترم نوحہ والا سر جسٹس سید عیوب علی شاہ

محمد ارشد آئی۔ جی۔ لوہے کے محلہ

منجانب محمد ارشد و بیٹے شہین 1594 مردان جرم یاد دہی سوسائٹی
ایف آئی آر - تاریخ 11 جولائی 13 امر تھانہ

باعث تحریر آنکہ مقدمہ مندرجہ بالا عنوان اپنی طرف سے واسطے پیروی و جواب دہی

بمقام شمار کیلئے

محمد ارشد و بیٹے شہین

نور عالم خان ایڈووکیٹ سپریم کورٹ آف پاکستان / امجد نور ایڈووکیٹ ہائی کورٹ پشاور

چیمبر میں وائس آف پریذیڈنٹ غیر پنشن خواہ محمد امجد نور ایڈووکیٹ ہائی کورٹ پشاور

کو بدیں شرط وکیل مقرر کیا ہے۔ کہ میں ہر پیشی کا خود یا بذریعہ مختار خاص رو بروعدالت حاضر ہوتا ہوں گا۔ بوقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیشی پر من مظہر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ تیز وکیل صاحب موصوف صدر مقام پکھری کی کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ اگر مقدمہ علاوہ صدر مقام پکھری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے پیچھے پیش ہونے پر من مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کل ساختہ پرداخت صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل و نگرانی ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کے روپیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپرد تاشی و راضی نامہ فیصلہ برخلاف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور بصورت اپیل و برآمد کی مقدمہ یا منسوفی ڈگری یکطرفہ درخواست حکم امتناعی یا قرتی یا گرفتاری قبل اجراء ڈگری بھی موصوف کو بشرط ادائیگی علیحدہ مختار نہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزو کی کارروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے دوسرے وکیل یا بیرسٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کے ہر امر وہی اور ایسے ہی اختیارات حاصل ہوں گے جیسے کے صاحب موصوف کا حاصل ہیں۔ اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا۔ اور صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا۔ کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا لہذا مختار نامہ لکھی دیا کہ سند رہے۔

موضوعہ مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

محمد ارشد

محمد ارشد
ایڈووکیٹ
ہائی کورٹ پشاور

نور عالم خان
ایڈووکیٹ
سپریم کورٹ آف پاکستان

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

Service Appeal No. 1082/2013.

Muhammad Irshad Ex-Constable No. 1594 Mardan PoliceAppellant.

VERSUS.

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, Mardan Region-I, Mardan.
3. District Police Officer, Mardan.....Respondents.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS

1. That the appellant has not come to this Honourable Tribunal with clean hands.
2. That the appellant has got no cause of action.
3. That the appellant has concealed material facts from this Honourable Tribunal.
4. That the appellant is estopped by his own conduct, by law to bring the instant appeal.
5. That the present appeal is bad in its present form hence not maintainable and liable to be dismissed.
6. That the instant appeal is time-barred.
7. That the appeal is bad due to non-joinder and mis-joinder of necessary parties.

Para wise comments on behalf of respondents No. 1, 2 & 3 are submitted as below:-

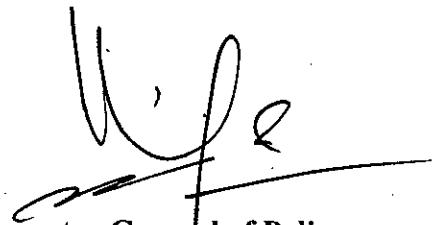
1. Correct to the extent that the appellant/petitioner was appointed in the year 1995 as constable in Police Department but the later part is incorrect as the petitioner is habitual absentee.
2. Incorrect. The petitioner being employee of the disciplined force was required to obtain leave by following proper procedure whatever be his plea and the appellant/petitioner has not taken also the plea of his illness at the time of departmental proceedings initiated against him.
3. Incorrect. The appellant/petitioner was issued three Show Cause Notices vide this office Nos. 582/PA/SCN/R dated 29.05.2012, 763/PA/SCN/R dated 24.08.2012 & 683/PA/SCN/R dated 02.07.2012, which were served upon him in person while one was delivered upon through his relative namely: Anwar Ali on 11.09.2012 by the local Police of PS Jabbar. All the codel formalities were fulfilled. **(Copies of signed deliveries are attached as Annexure A, B & C)**
4. Correct that his departmental appeal, being devoid of merit coupled by his failure to convince the appellate authority, was filed vide his office order No. 1829/ES dated 19.06.2013.
5. Incorrect. The appellant/petitioner has been awarded the punishment which he deserved.

COMMENTS ON GROUNDS

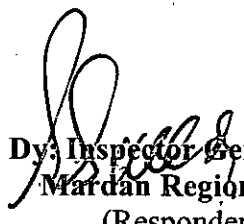
- A) Incorrect. The orders of the respondent department is in accordance with law and facts and has followed the legal procedure.

- B)** Incorrect. The orders of the respondents holds legal justification and is accordance with due course of law.
- C)** Incorrect. The appellant/petitioner has been rightly terminated, justifying his conduct which proved prejudicial to his service.
- D)** Incorrect. The appellant/petitioner, being an employee for 18 years of a disciplined force, did not bother to submit his replies in compliance and kept his absence deliberately continued: hence, resulted into his dismissal from the service through an ex-parte action against him.
- E)** Incorrect. The appellant/petitioner was issued three Show Cause Notices as mentioned above in Para No. 03. Further the petitioner did not bother to appear before the competent authority and was, therefore, dismissed after fulfilling all the codel formalities.
- F)** Incorrect. The appellant/petitioner did not appear (already mentioned above in Para-E) before his seniors and they, as competent authorities, had the powers under section 5 sub-section 4 of services laws to decide his fate, based on appellant's own spoiled service record, and without any enquiry.
- (Copy of relevant rules is attached as Annexure "D")**
- G)** No comments.

In view of the above circumstances, it is humbly prayed that the appeal of the appellant being baseless, devoid of legal force and badly time-barred, may kindly be dismissed.



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



**Dy. Inspector General of Police,
Mardan Region-I, Mardan.
(Respondent No. 2)**



**District Police Officer,
Mardan.
(Respondent No. 3)**

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

Service Appeal No. 1082/2013.


Muhammad Irshad Ex-Constable No. 1594 Mardan PoliceAppellant.

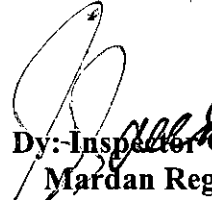
VERSUS.

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar
2. Deputy Inspector General of Police, Mardan Region-I, Mardan.
3. District Police Officer, Mardan.....Respondents.

COUNTER AFFIDAVIT.

We, the respondents do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Tribunal.


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


**Dy: Inspector General of Police,
Mardan Region-I, Mardan.**
(Respondent No. 2)


**District Police Officer,
Mardan.**
(Respondent No. 3)

OFFICE OF THE DISTRICT POLICE OFFICER MARDAN

Date 25 /2012

No. 592 /PA/SCN/R

SHOW CAUSE NOTICE UNDER POLICE RULES 1975

Whereas, you Constable Muhammad Irshad No. 1594, while posted at Police Lines Mardan, remained absent from duty without any leave/permission of the competent authority vide DD report No. 10 dated 07.05.2012 till-date.

You are therefore, found guilty of misconduct, as defined in section 2 (iii) of NWFP Police Rules 1975 and as such are liable to action under section 3 of the said Rules.

Based on the above facts, I am satisfied that no enquiry is needed in this case as contained in section 5. 3 clauses (a) & (c) under the said Rules.

Now, therefore you Constable Muhammad Irshad are called upon under section 4 (1) of the NWFP Police Rules 1975, to show cause within 15 days of the issuance of this notice, as to why one or more penalties including major penalty of dismissal from service should not be imposed upon you.

NOTE.

Take note that if you failed to submit reply in compliance of this show cause notice within the stipulated time, it will be presumed that you have nothing to offer in your defense and in that case, an ex-parte action shall straightaway be taken against you without any further notice.

(Danishwar Khan)
District Police Officer,
Mardan

Copy to SHO/Jabbar, (Attention Moharrar) with the direction to deliver this notice upon Constable Muhammad Irshad s/o Muhammad Yaqoob r/o Gaddar and the receipt thereof should bereturned to this office within (05) days positively.

[Handwritten signatures and initials]
4/6/12

OFFICE OF THE DISTRICT POLICE

N

No. 763 /PA/SCN/R

2418
date 17/08/2012

SHOW CAUSE NOTICE UNDER POLICE RULES 1975

Whereas, you Constable Muhammad Irshad No. 1594, while posted at Police Lines, remained absent from duty without any leave/permission of the competent authority vide DD report No. 09 dated 26.07.2012 till-date.

You are therefore, found guilty of misconduct, as defined in section 2 (iii) of NWFP Police Rules 1975 and as such are liable to action under section 3 of the said Rules.

Based on the above facts, I am satisfied that no enquiry is needed in this case as contained in section 5.3 clauses (a) & (c) under the said Rules.

Now, therefore you Constable Muhammad Irshad are called upon under section 4 (1) of the NWFP Police Rules 1975, to show cause within 15 days of the issuance of this notice, as to why one or more penalties including major penalty of dismissal from service should not be imposed upon you.

NOTE.

Take note that if you failed to submit reply in compliance of this show cause notice within the stipulated time, it will be presumed that you have nothing to offer in your defense and in that case, an ex-parte action shall straightaway be taken against you without any further notice.


District Police Officer,
Mardan

Copy to SHO Jabbar, (Attention Moharrar) with the directions to deliver this notice upon Constable Muhammad Irshad s/o Muhammad Yaqoob r/o Gaddar and the receipt thereof should be returned to this office within (05) days positively.

6 copy (sent)

SHO PS S/O
6-9-12

اشاد میراں ستمہ مع تہادوں میں اہل وقت میں
مع ستمہ ستمہ ستمہ ستمہ ستمہ ستمہ ستمہ ستمہ
ستمہ ستمہ ستمہ ستمہ ستمہ ستمہ ستمہ ستمہ

اللہ تعالیٰ عرفان مدد جان واد ستمہ ستمہ

5804901-16101

اللہ تعالیٰ

ستمہ ستمہ ستمہ ستمہ ستمہ ستمہ ستمہ ستمہ

ستمہ ستمہ

ستمہ ستمہ ستمہ ستمہ ستمہ ستمہ ستمہ ستمہ

ستمہ ستمہ ستمہ ستمہ ستمہ ستمہ ستمہ ستمہ

ستمہ ستمہ ستمہ ستمہ ستمہ ستمہ ستمہ ستمہ

Shir Kassar

17.3.12

OFFICE OF THE DISTRICT POLICE OFFICER MARDAN

No: 683 /PA/SCN/R

Date 27 /2012

SHOW CAUSE NOTICE UNDER POLICE RULES 1975

Whereas, you Constable Muhammad Irshad No. 1594, while posted at Police Lines Mardan, remained absent from duty without any leave/permission of the competent authority vide DD report No.52 dated 11.05.2012 till-date.

You are therefore, found guilty of misconduct, as defined in section 2 (iii) of NWFP Police Rules 1975 and as such are liable to action under section 3 of the said Rules.

Based on the above facts, I am satisfied that no enquiry is needed in this case as contained in section 5. 3 clauses (a) & (c) under the said Rules.

Now, therefore you Constable Muhammad Irshad are called upon under section 4 (1) of the NWFP Police Rules 1975, to show cause within 15 days of the issuance of this notice, as to why one or more penalties including major penalty of dismissal from service should not be imposed upon you.

NOTE.

Take note that if you failed to submit reply in compliance of this show cause notice within the stipulated time, it will be presumed that you have nothing to offer in your defense and in that case, an ex-parte action shall straightaway be taken against you without any further notice.

(Danishwar Khan)
District Police Officer,
Mardan

Copy to SHO/Jabbar, (Attention Moharrar) with the directions to deliver this notice upon Constable Muhammad Irshad s/o Muhammad Yaqoob r/o Gaddar and the receipt thereof should be returned to this office within (05) days positively.

د. محمد زبیر خان
SHO PS Jabbar
7-8-12

21/11/12

بابت کاروں کی رقمیں
میں

1584

میں
میں

11-8-12

11-8-12

11-8-12

21/11/12

be admissible to him from such date as may be specified by the competent authority.

(5) Power to appoint an Inquiry Officer or Inquiry Committee:

1. Subject to the provisions of sub-section (2), the competent authority shall before passing an order under Section 3, appoint an inquiry Officer or Inquiry committee to scrutinize the conduct of a person in Government Service or a person in corporation service, who is alleged to have committed any of the facts or omissions specified in Section 3.(1)

The inquiry officer, or, as the case may be the inquiry committee shall,

- (a) Communicate to the accused the charges and statement of allegation specified in the order of inquiry passed by the competent authority.
- (b) Require the accused within seven days from the day the charge is communicated to him to put in a written defence.
- (c) enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defence of the accused as may be considered necessary and the accused shall be entitled to cross-examine the witnesses against him and
- (d) Hear the case from day-to-day and no adjournment shall be given except for special reasons to be recorded in writing and intimated to the competent authority.

2. Where the Inquiry Officer or as the case may be, the Inquiry committee is satisfied that the accused is hampering or attempting to hamper, the progress of the inquiry he or it shall record a finding to that effect and proceed to complete the inquiry in such manner as he, or it, deems proper in the interest of justice.

3. The Inquiry Officer or, as the case may be the Inquiry committee shall submit his or its, findings and recommendations to the competent authority within twenty-

4. The competent authority may dispense with the inquiry under sub-section (1) if it is in possession of sufficient documentary evidence against the accused, or for reasons to be recorded in writing, it is satisfied that there is no need of holding an inquiry.

5. Where a person who has entered into plea bargain under any law for the time being in force, and has remained the assets or gains acquired through corruption or corrupt practices voluntarily the inquiry shall not be ordered, provided that show cause notice shall be issued on the basis of such plea bargaining to such person informing of the act person informing of the action proposed to be taken against him and the grounds of such action requiring him to submit reply within fifteen days of the receipt of the notice. On receipt of the reply, the competent authority may pass such orders, as it may deem fit.

(6) Powers of the n[Inquiry Officer or] Inquiry Committee ---

The n[Inquiry Officer or] Inquiry committee shall have power:

- (a) To summon and enforce attendance of any person and examine him on oath;
- (b) To require the discovery and production of any documents.
- (c) To receive evidence on affidavit and
- (d) To record evidence.

(7) Procedure to be followed by the n[Inquiry Officer or] Inquiry committee:---

The Inquiry Officer or Inquiry Committee shall subject to any rule made under this Ordinance, have power to regulate its own procedure, n[for] the fixing of place and time of its sitting and threading whether to sit in public or in private, and in the case of corporate committee to all notwithstanding the temporary absence any of its members.

BEFORE THE K.P.K SERVICES TRIBUNAL PESHAWAR.

In Ref. of Appeal No.1082/ 2013.

Muhammad Irshad

.....Appellant.

V E R S U S

Inspector General of Police K.P.K, & Others.

..... Respondents.

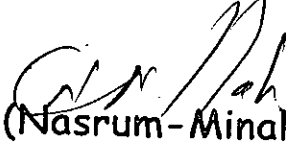
I N D E X

Sr. No.	Description of Documents	Annexure	Page No.
1)	Memo of Rejoinder		1-3

Dated: 29 /04/2014.

A P P E L L A N T

Through:-


(Nasrum-Minallah)
Advocate High Court,
PESHAWAR

Cell No.0333-9148358

Office- F.F 29 Bilor Plaza Peshawar Cantt,

BEFORE THE K.P.K SEVICES TERIBUNAL PESHAWAR.

In Ref. of Appeal No.1082/ 2013.

Muhammad Irshad

.....Appellant.

V E R S U S

Inspector General of Police K.P.K, & Others.

.....Respondents.

REJOINDER ON BEHALF OF APPELLANT.

Para-wise Reply to the preliminary objections.

1. Para 1 of the preliminary objections is incorrect, and without substance.
2. Para 2 of the preliminary objections is also incorrect and baseless as the appeal of the appellant fully disclose the cause of action.
3. Para 3 of the preliminary objections is also incorrect, rather the respondents have concealed material facts from this Hon,able Tribunal, further all necessary facts which was in the knowledge of the appellant has duly been mentioned in the appeal, moreover the appeal is having the support of affidavit.
4. Para 4 of the preliminary objections is also incorrect, against facts and record, and the respondents made an attempt to misguide this Hon,able tribunal by making false assertions.
5. Para 5 of the preliminary objections is also incorrect and the appeal of the appellant is very much maintainable in the lights of facts and grounds mentioned in the appeal.

6. Para 6 of the preliminary objections is also incorrect, against facts and record further the appeal of the appellant is well within time, further the order of the respondents is void abinitio and patently illegal thus there is no limitation against an illegal order.
7. Para 7 of the preliminary objections is also incorrect and all necessary parties against whom the appellant seeking relief has been mentioned in the appeal.

ON FACTS.

1. Para 1 to the extent of record of joining of service of the appellant need no reply, however with regard to the other allegations with regard to habitual absence of the appellant is concern the same having no force and legal evidence behind it.
2. Para 2 of written reply of the respondents is incorrect and against the fact the appellant fully realized the fact that he was an employee of a discipline force and as such he performed his duty with full commitment and having no record of any rowdiness activity in his long 18 years service, moreover no inquiry were conducted and no chance of hearing was provided to the appellant by the respondents to urge the plea of illness before them.
3. Para 3 of written reply of the respondents is also incorrect, the alleged show cause notices even if taken into considerations the same are not related to the period on the basis of which the appellant was dismissed hence the respondent are trying to mislead this hon,able tribunal by taking the shelter of the show cause notices mentioned in this para, and to defend their illegal orders which they have passed without following the codal formalities..
4. Para 4 of written reply also incorrect the appeal of the appellant was dismissed without mentioning any logical and cogent ground which were necessary for the disposal of the appeal of the appellant .
5. Para 5 of written reply is also incorrect and baseless, the appellant has not been treated in accordance with law and the impugned orders were passed with malafide intentions without following the rules, regulation and policy on the subject.

ONGROUNDS.

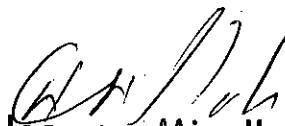
- A. Para A of written reply is in-correct and against the facts and record the impugned orders are totally in contrast to the rules and procedure, hence the impugned orders are not tenable in the eye of law.
- B. Para B of written reply is also in-correct detailed reply has been given in the preceding paras.
- C. Para C of written reply is also in-correct and against the facts detailed reply has been given in the preceding paras.
- D. Para D of written reply is in-correct and misconceived as when the order is an ex-parte order then how the appellant could submit his replies to the alleged show cause notice, hence this para is self contradictory.
- E. In response to Para E of written reply it is submitted that Para ~~E~~ of written reply also incorrect, detailed reply has been given in the preceding paras further no chance of person hearing has been given the appellant which against the basic principle of natural justice.
- F. Para inquiry is foremost requirement of law and the no one could be held guilty of any charges on the sole wish of the superior officer.
- G. Para G also needs no reply.

It is therefore most humbly prayed that in the light of the above submission and grounds taken in the appeal, the appeal of the appellant may graciously be accepted throughout.

Dated: 29 /04/2014.

A P P E L L A N T

Through: -


(Nasrum-Minallah)
Advocate High Court,
PESHAWAR

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 445 /ST

Dated 15 / 3 / 2016

To


The DPO,
Mardan.

Subject: -

JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 10.3.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.