

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	<p data-bbox="527 610 1502 647" style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p data-bbox="690 685 1161 735" style="text-align: center;">Service Appeal No. 579/2013.</p> <p data-bbox="633 772 1226 809">Date of Institution ... 07.03.2013</p> <p data-bbox="633 817 1226 859">Date of Decision ... 13.10.2017</p> <p data-bbox="479 897 1485 1034">Muhammad Azmat Shah(Ex-Constable // 1462 D.I. Khan Police) S/o Muhammad Aslam Shah, R/o Paniyala, Tehsil Paharapur, District D.I.Khan</p> <p data-bbox="1347 1034 1518 1084" style="text-align: right;">Appellant</p> <p data-bbox="917 1084 1031 1121" style="text-align: center;">Versus</p> <ol data-bbox="495 1158 1518 1333" style="list-style-type: none"> 1. The Government of Khyber Pakhtunkhwa through its Provincial Police Officer, Peshawar. 2. The Deputy Inspector General Police Dera Ismail Khan Region. 3. The District Police Officer Dera Ismail Khan. <p data-bbox="1299 1333 1518 1383" style="text-align: right;">Respondents</p> <p data-bbox="276 1432 446 1482">13.10.2017</p> <p data-bbox="576 1420 787 1457" style="text-align: center;"><u>JUDGMENT</u></p> <p data-bbox="560 1507 1518 1557" style="text-align: center;"><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Learned</p> <p data-bbox="479 1594 1518 1731">counsel for the appellant present. Learned District Attorney on behalf of the official respondents present.</p> <p data-bbox="479 1769 1518 2155">2. The appellant has filed the present appeal under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act,1974 against the respondents and made impugned order dated 11.05.2012 of respondent No. 3 whereby the appellant was awarded major penalty of Dismissal from Service on the ground of absence from duties. The appellant has also challenged order dated 11.09.2012 whereby the departmental appeal of the appellant was rejected by</p>

D. Amin

the respondent No. 2.

3. Learned counsel for the appellant argued that the impugned order of dismissal of service is illegal and void. Further argued that the impugned order was issued without observing the codal formalities. Further argued that the impugned order is also harsh. Further argued that vide the impugned order, the competent authority has also regularized the absence period of appellant as leave without pay hence the impugned order of dismissal from service is not tenable in the eyes of law hence liable to be set aside.

4. On the other hand learned District Attorney while opposing the present appeal argued that the appellant remained willfully absent without any application or permission and codal formalities were also completed, as such the impugned order doesn't warrant any interference.

5. Arguments heard. File perused.

6. Perusal of the impugned order dated 11.05.2012 would show that the competent authority (respondent No. 3) while awarding the major punishment of dismissal of service on the charge of absence from duties, also treated the period of absence of appellant as leave without pay. The concluding para of the impugned order dated

11.05.2012 is reproduced as under:-

"In the light of above, I, SOHAIL, KHALID, District Police Officer D.I. Khan in exercise of powers conferred upon me under the KPK Removal from

imp

Service (Spl: Powers Ord: 2000, Amendment Act-

2005, awarded against Constable Azmat Shah No.

1462 major punishment Dismissal from Service and

absent period w.e.from 10.01.2010 to 19.10.2010 i.e

09-months & 10-days treated as leave without pay

with immediate effect".

7. The authority while passing the order of dismissal of the

appellant from service on the ground of absence from duty, treated

the period of absence of the appellant as leave without pay and in

this way regularized his absence, hence the very ground has

vanished on which the appellant had been proceeded against. When

appellant was treated on leave without pay then he could not have

been considered absent. In this regard judgment of august Supreme

Court of Pakistan titled LAHORE DEVELOPMENT AUTHORITY

and others---Petitioners Versus MUHAMMAD NADEEM

KACHHROO and another---Respondents (2006 S C M R 434) may

be quoted as a reference. Consequently the present appeal is

accepted and the impugned orders to the extent of punishment of

Dismissal of appellant from service are set aside and resultantly the

appellant is reinstated. The intervening period shall be treated as

leave of the kind due. Parties are left to bear their own costs. File be

consigned to the record room.

(M. Amin Khan Kundli)

MEMBER

ANNOUNCED

13.10.2017

(M. Hamid Mughal)

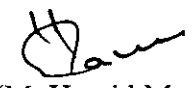
MEMBER

Down

27.07.2017

Counsel for the appellant and Asst: AG for respondents present. During the course of arguments learned AAG pointed out that the present appeal is badly time barred upon which the learned counsel for the appellant seeks adjournment to prepare the case on point of limitation. Adjourned. To come up for arguments on 08.09.2017 before D.B.


(Ahmad/Hassan)
Member


(M. Hamid Mughal)
Member

8/9/2017

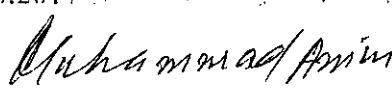
Agent to counsel for the appellant and Mr. Khabirullah Khattak, Assistant AG alongwith Mr. Khalid Nawaz, Inspector Legal for the respondents present. Arguments could not be heard due to non-availability of DB. To come up for arguments on 13/10/2017 before DB.

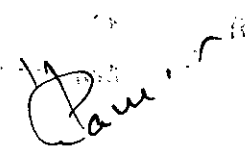

(Muhammad Hamid Mughal)
MEMBER

13.10.2017

Learned counsel for the appellant present. Learned District Attorney on behalf of the official respondent present. Vide separate judgment of today of this Tribunal placed on file, the present appeal is accepted and the impugned orders to the extent of punishment of Dismissal of appellant from service are set aside and resultantly the appellant is reinstated. The intervening period shall be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room after its completion.


ANNOUNCED
13.10.2017


(Muhammad Amin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member

29.08.2016

Counsel for the appellant and Additional AG for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned for final hearing to 7.12.2016 before D.B.


Member


Chairman

07.12.2016

Appellant with counsel and Assistant AG for the respondents present. Learned counsel for the appellant requested that inquiry report alongwith complete record which was initiated against the appellant may be requisitioned from the concerned office. Request accepted. Accordingly the complete record be requisitioned. One of the Member (Judicial) Mr. Muhammad Aamir Nazir is on casual leave therefore, the Bench is incomplete, hence adjourned. To come up for record and arguments on 11-4-17 before D.B.


(ASHFAQUE TAJ)
MEMBER

11.04.2017

Appellant in person present. Mr. Chan Shah, S.I (legal) alongwith Mr. Ziaullah, Government Pleader for respondents also present. Appellant requested for adjournment on the ground that his counsel is not available. Adjourned. To come up for arguments on 27.07.2017 before D.B.


(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

12.02.2016

Appellant in person and Mr. Attaullah, SI (Legal) alongwith Assistant AG for respondents present. Appellant stated that his senior counsel is out of station and requested for adjournment. To come up for arguments on

9.5.2016.



MEMBER



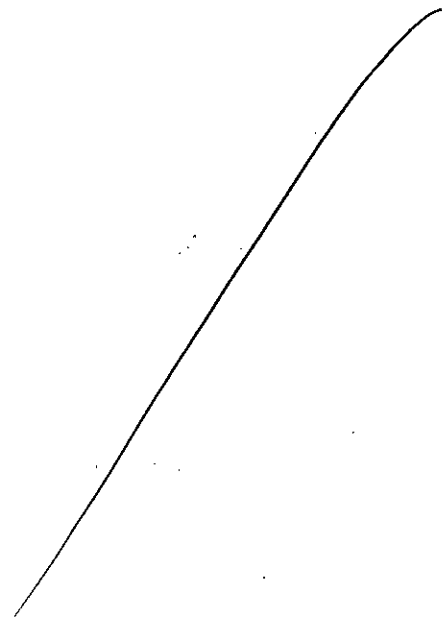
MEMBER

09.05.2016

Appellant in person and Mr. Nazir Ahmad, HC alongwith Mr. Muhammad Jan, GP for respondents present. Appellant requested for adjournment due to General Strike of the Bar. To come up for arguments on 29.08.2016.

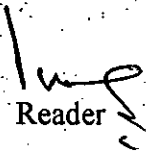


Member



24.11.2014

Appellant with counsel and Mr. Khalid Nawaz, ASI (Legal) on behalf of respondents with Mr. Muhammad Adeel Butt, AAG present. The Tribunal is incomplete. To come up for written reply/comments on 23.02.2015.


Reader

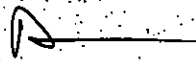
14 23.02.2015

Appellant with counsel and Mr. Muhammad Bilal Khan, Head Constable for respondents alongwith Addl: A.G present. Written reply submitted. The case is assigned to D.B for rejoinder and final hearing for 25.08.2015.


Chairman

25.08.2015

Counsel for the appellant and Mr. Jumma Khan, S.I alongwith Mr. Ziaullah, GP for respondents present. Learned counsel for the appellant requested for adjournment to file rejoinder. To come up for rejoinder on 6-10-2015



Member



Member

06.10.2015

Appellant in person and Mr. Khalid Nawaz, S.I alongwith Mr. Muhammad Jan, GP for respondents present. Rejoinder submitted, copy whereof supplied to learned GP. To come up for arguments on

12-2-16



Member



Member

Appeal No. 579/2013,
Mr. Muhammad Asim at Ghosh.

12. 06.05.2014

Counsel for the appellant and Mr. Ziaullah, GP for the respondents present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the original order dated 11.05.2012, he filed departmental appeal on 01.06.2012, which has been rejected on 11.09.2012, hence the present appeal on 07.03.2013. He further contended that the enquiry officer submitted enquiry report after on year and eight months which is mandatory within 25 days. The appellant has been dismissed from service on 11.05.2012 under Khyber Pakhtunkhwa Removal from Service (Special Power) ordinance 2000, Amendment Act 2005 which is, ^{at} that time not in field. Counsel for the appellant also filed an application for condonation of delay.

The Learned Government Pleader while assisting the Tribunal was of the view that the instant appeal is time barred before the appellate authority as well as this Tribunal. He ^{was} relying on 2007 SCMR 513, 2009 SCMR 1435 and 2013 SCMR 911.

Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. To come up for written reply/comments on main appeal as well as reply/arguments on application for condonation of delay on 14.07.2014.

Appellant Deposited
Security & Process Fee
Rs. 180/- Bank
Receipt is Attached with File.
19-5-14

13. 06.05.2014

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

Member
Chairman

14.7.14

The Hon'ble Bench is on Resc
Resc case is signed B 24-11-14
Resc

9.
13.01.2014

Appellant with counsel present and requested for adjournment due to general strike of the Bar. To come up for preliminary hearing on 04.02.2014.


Reader

10.
04.02.2014

Appellant in person present and requested for adjournment due to non-availability of his counsel. To come up for preliminary hearing on 14.03.2014.


Member

11.
14.03.2014


Counsel for the appellant present and requested for adjournment. To come up for preliminary hearing on 06.05.2014.


Member




6
05.09.2013

Counsel for the appellant present. Preliminary arguments heard. Contended that he has filed the departmental appeal against the order dated 15.08.2012. The instant appeal filed on 11.03.2013 which seems to be time barred. He further contended that he has also filed an application for condonation of delay. Therefore, pre-admission notice be issued to the GP/respondents to assist the court. To come up for further preliminary hearing on 24.10.2013.


Member

7
24.10.2013

Counsel for the appellant and Mr. Nazir Ahmad, HC with Mr. Zia Ullah, GP for the respondents present. The learned counsel for the appellant requested for adjournment. To come up for preliminary hearing as per order sheet dated 05.09.2013 on 16.12.2013.


Member

8
16.12.2013

Appellant in person present and requested for adjournment as his counsel was busy in the High Court Peshawar. To come up for preliminary hearing on 03.01.2014.


Member


3
24.05.2013

None for the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunals (Amendment Ordinance, 2013) (Khyber Pakhtunkhwa Order II of 2013), the case is adjourned on note Reader for proceeding as before on 2.7.2013


Reader.


4
02.07.2013

Counsel for the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunals (Amendment) Ordinance 2013, (Khyber Pakhtunkhwa Ord. II of 2013), the case is adjourned on note Reader for proceedings as before on 28.08.2013.


Reader

5
28.08.2013

Appellant in person present and requested for adjournment. Case is adjourned. To come up for preliminary hearing on 05.09.2013.


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 579/2013

S. No. Date of order Order or other proceedings with signature of judge or Magistrate
Proceedings

1

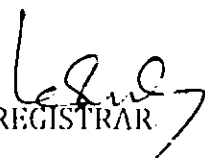
2

3

1

28/03/2013

The appeal of Mr. Muhammad Azmat Shah resubmitted today by Mr. Ysir Khaled Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.


REGISTRAR

2

3-4-2013

This case is entrusted to Primary Bench for preliminary hearing to be put up there on 22-5-2013.

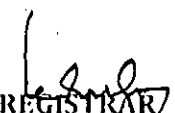

CHAIRMAN

The appeal of Mr. Muhammad Azmat Shah Ex-constable received today i.e. on 07/03/2013 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal is unsigned which may be got signed by the appellant.
- 2- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 3- Annexures of the appeal may be attested.
- 4- Two more copies/sets of the appeal along with annexures i.e. complete in all respect for Tribunal and one for each respondent may also be submitted with the appeal.

No. 395 /S.T,

Dt. 8/3 /2013.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

MR. YASIR KHALED ADV. PESH.

Note: Resubmitted, Needful done



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

In Re; Service Appeal # 579/2013

Muhammad Azmat Shah, Ex-Constable # 1462

VERSUS

Government of Khyber Pakhtunkhwa through its Provincial Police
Officer, Peshawar and 2 others

I N D E X

S.No.	Description of documents	Annexure	Page
1.	MEMO/GROUNDS OF APPEALF along with AFFIDAVIT		1-6
2.	Memo f Address		7
3..	Service Certificate (Copy)		8
2.	Copy of Final Report of enquiry officer		9
3..	Copies of medical documents etc		10-20
4.	Copy of impugned order dated 11.5.2012		21
5.	Copy of departmental appeal and the impugned order dated 11.9.2012 of the respondent # 2		22-24
6.	Copy of appeal/petition and the impugned order dated 7.2.2013 passed by the respondent # 1		25-28
7.	Application for condonation of delay alongwith Affidavit		29-31
8.	Wakalatnama		

APPELLANT
through

Yasir
Yasir Khalid,
Advocate High Court,
Peshawar

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

In Re: Service Appeal # 579/2013

L.W.F. Province
539
07-3-13

Muhammad Azmat Shah (Ex-Constable # 1462: D.I.Khan Police)
son of Muhammad Aslam Shah resident of Paniyala, Tehsil
Paharpur, District D.I.Khan

APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa through its Provincial Police Officer, Peshawar.
2. Deputy Inspector-General of Police, D.I.Khan Region.
3. District Police Officer, Dera Ismail Khan.

Respondents

APPEAL under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 from: i) the order issued by the respondent # 3 on 11.5.2012 whereby the appellant was dismissed from service; ii) order dated 11.9.2012 by which his appeal was dismissed by the respondent # 2; and iii) order dated 7.2.2013 through which the

Re-submitted to
and filed.

7/3/13
28/3/13

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

In Re: Service Appeal # 2/2013

Muhammad Azmat Shah (Ex-Constable # 1462: D.I.Khan Police)
son of Muhammad Aslam Shah resident of Panjvala, Tehsil
Paharpur, District D.I.Khan

APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa through its Provincial Police Officer, Peshawar.
2. Deputy Inspector-General of Police, D.I.Khan Region.
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Respondents

APPEAL under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 from: i) the order issued by the respondent # 3 on 11.5.2012 whereby the appellant was dismissed from service; ii) order dated 11.9.2012 by which his appeal was dismissed by the respondent # 2; and iii) order dated 7.2.2013 through which the

RECEIVED
11.05.2012
11.09.2012
07.02.2013

respondent # 1 has also filed/rejected his (appellant's) appeal/petition

PRAYER: To set aside the impugned orders dated 11.5.20.12, 11.9.2012 and 7.2.2013, as aforesaid, and reinstate the appellant into service with all back benifits

Respectfully submitted:

1. That the appellant was regular employee (Constable # 1462 of D.I.Khan) of Police Department since 31.5.2007. He had to his credit more than five years service with clean record.
2. That the appellant fell ill during 10.1.2010 to 19.10.2010. During his absence owing to sickness, as aforesaid, the respondent # 3 proceeded against him *ex parte* and dismissed him from service vide order dated 11.5.2011.
3. That he filed appeal before the respondent # 2, who dismissed the same vide order dated 11.9.2012.
4. That thereafter, he filed appeal/petition before the respondent # 1. The same was also filed (rejected) on 7.2.2013.

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(appellant's) appeal/petition

PRAYER: To set aside the impugned orders dated
11.2.2012, 11.9.2012 and 7.2.2013, as aforesaid,
and reinstate the appellant into service with all
back benefits

Respectfully submitted.

1. That the appellant was regular employee (Constable # 1462 of D.I.Khan) of Police Department since 31.2.2007. He had to his credit more than five years service with clean record.
2. That the appellant fell ill during 10.1.2010 to 19.10.2010. During his absence owing to sickness, as aforesaid, the respondent # 3 proceeded against him ex parte and dismissed him from service vide order dated 11.2.2011.
3. That he filed appeal before the respondent # 2, who dismissed the same vide order dated 11.9.2012.
4. That thereafter, he filed appeal/petition before the respondent # 1. The same was also filed (rejected) on 7.2.2013.

THE APPELLANT, having no other adequate remedy, is thus driven to this Hon'ble Tribunal for setting aside the said orders, as aforesaid and his reinstatement into service with all back benefits, *inter alia*, on the following

GROUND S:

- A. That the impugned orders suffer from latent and patent illegalities and flaws. The same are as such unsustainable.
- B. That the absence of appellant was not intentional but owing to sickness/illness.
- C. That no enquiry as required by law was conducted. The appellant was not even associated with such so-called enquiry. He was not allowed to cross-examine witnesses (PWs). He was not given any chance to produce his defence. The enquiry officer (E.O) did everything at his (appellant) back. The Enquiry Report thus drawn is nothing in the eye of law.
- D. That the appellant would have produced PROOF respecting his absence in the shape of Medical Recipes and Prescriptions etc before the E.O, if he had ever been summoned to attend any such proceedings.

THE APPELLANT, having no other adequate remedy, is thus driven to this Hon'ble Tribunal for setting aside the said orders, as aforesaid and his reinstatement into service with all back benefits, inter alia, on the following

GRUNDS:

A. That the impugned orders suffer from latent and patent illegalities and flaws. The same are as such unsustainable.

B. That the absence of appellant was not intentional but owing to sickness/illness.


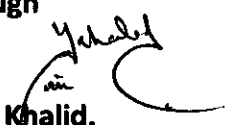
C. That no enquiry as required by law was conducted. The appellant was not even associated with such so-called enquiry. He was not allowed to cross-examine witnesses (PWs). He was not given any chance to produce his defence. The enquiry officer (E.O.) did everything at his (appellant) back. The Enquiry Report thus drawn is nothing in the eye of law.

D. That the appellant would have produced PROOF respecting his absence in the shape of Medical Recipes and Prescriptions etc before the E.O. if he had ever been summoned to attend any such proceedings.

- E. That even the Competent Authority (respondent # 3) did not take note of these aspects, as aforesaid.
- F. That he was not at all served with any Show Cause Notice.
- G. That he was not provided with copy of so-called enquiry report.
- H. That the Competent Authority (DPO) did not give him opportunity of personal hearing.
- I. That the impugned order dated 11.5.2012 is bereft of any sound reason.
- J. That the respondents # 1 and 2 did not give him (appellant) any chance of personal hearing. Their orders dated 11.9.2012 and 7.2.2013 respectively on his appeal and appeal/petition are bereft of reason/s.
- K. That the entire proceedings from stage "A" to "Z" including the three impugned questions herein are non'est, nullity and without jurisdiction/lawful authority.
- L. That the impugned orders indicate off hand disposal of matter without conscious application of mind to the facts of the case in the light of relevant law.

● It is, therefore, humbly prayed that on accepting this appeal, this Hon'ble Tribunal may very graciously be pleased to:

- a. set aside the impugned order dated 11.5.20.12;
- b. set aside the impugned order dated 11.9.2012;
- c. set aside the impugned order dated 7.2.2013;
- d. reinstate the appellant into service with all back benefits; and
- e. make such other order, as may be deemed most suitable in the facts and circumstances of this case.


APPELLANT
through

Yasir Khalid,
Advocate High
Court,
Peshawar

NOTE: Copies of documents asked for from office of DPO, DIKhan are not being provided to the appellant. Therefore, this August Tribunal may be pleased to send for the entire record from office of DPO in the interest of justice.


ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

In Re; Service Appeal # /2013

Muhammad Azmat Shah, Ex-Constable # 1462

VERSUS

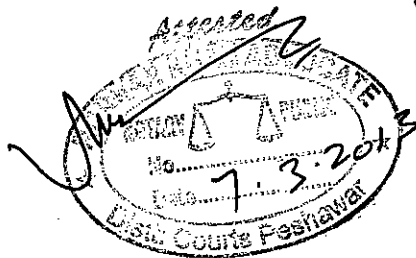
Government of Khyber Pakhtunkhwa through its Provincial Police
Officer, Peshawar and 2 others

AFFIDAVIT

I, Muhammad Azmat Shah (Ex-Constable # 1462: D.I.Khan Police) son of Muhammad Aslam Shah resident of Paniyala, Tehsil Paharpur, District D.I.Khan do hereby declare and state:

1. That the accompanying appeal has been drafted under my instructions;
2. That I am conversant with facts and circumstances stated therein; and
3. That all the facts and circumstances mentioned in the appeal are correct and true.

Azmat Shah



DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

In Re; Service Appeal # 15013

Muhammad Azmat Shah, Ex-Constable # 1462

VERSUS

Government of Khyber Pakhtunkhwa through its Provincial Police
Officer, Peshawar and 2 others

AFFIDAVIT

I, Muhammad Azmat Shah (Ex-Constable # 1462, D.I. Khan Police) son of
Muhammad Aslam Shah resident of Panjvala, Tehsil Pabpur, District D.I. Khan do
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DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

In Re; Service Appeal # /2013

Muhammad Azmat Shah, Ex-Constable # 1462

VERSUS

Government of Khyber Pakhtunkhwa through its Provincial Police
Officer, Peshawar and 2 others

MEMO OF ADDRESS

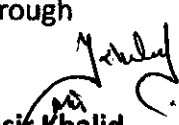
APPELLANT:

Muhammad Azmat Shah (Ex-Constable # 1462: D.I.Khan Police)
son of Muhammad Aslam Shah resident of Paniyala, Tehsil
Paharpur, District D.I.Khan

RESPONDENTS:

1. Government of Khyber Pakhtunkhwa through its Provincial Police
Officer, Peshawar.
2. Deputy Inspector-General of Police, D.I.Khan Region.
3. District Police Officer, Dera Ismail Khan.

APPELLANT
through


Yasir Khalid,
Advocate High Court,
Peshawar

فائنل رپورٹ

حکمانہ انکوائری رپورٹ بر خلاف کنسٹیبل عظیم شاہ، 1462 بسلسلہ غیر حاضری

رہا

میں

میں

میں

عظیم شاہ، 1462 متعین تھانہ یارک مورخہ 10.01.10 تا 19.10.10 بلاوجہ غیر حاضر ہونے پر

میں منجانب ڈسٹرکٹ پولیس آفیسر صاحب ڈیرہ اسماعیل خان کی طرف سے باقاعدہ چارج شیٹ جاری ہوکر

13227-2 مورخہ 10.08.10 انکوائری آفیسر جنرل ایف ایچ ایم ایف کے سامنے پیش کی گئی اور

یو ایچ ایچ سیب الزمن، 1060 کے برعکس ثابت ہوئے۔

میں لے چے بیان میں مدعا معالجہ کرانے کا ذکر پیش کیا ہے۔ مگر شہادت میں سید یکن کا اذعان پیش نہیں کیا گیا

یو ایچ ایچ سیب الزمن، 1060 نے تقابلاً نمبر 14 مورخہ 10.01.10 بابت غیر حاضری پر تقریباً

19.1 بابت حاضری الزام علیہ کنسٹیبل کی تائید کر کے تحقیق پر مبنی بتلائے ہیں۔

بیل عظیم شاہ، 1462 قبل ازین ریکارڈ کے مطابق چار سالہ مختصر عرصہ ملازمت کے دوران مختلف اوقات

2 ماہ بلاوجہ غیر حاضر ہو چکا ہے۔ جن کی تفصیل علیحدہ لف ہے۔

ان کی سے الزام علیہ کنسٹیبل غیر حاضری کر کے گا عادی ثابت ہوا ہے اور مورخہ 10.01.10

میں 282 نوم بلاوجہ غیر حاضری ہونے کا قصور وار ثابت کیا گیا ہے۔ جس کی اطلاع ان کے سامنے پیش کی گئی

پر صورت میں حکم کے ساتھ پیش کردہ پولیس سے درخواست کیے جانے کا سوا اثر کیا جاتا ہے۔

Time 6/11

Handwritten signature or mark

10

TEACHING HOSPITAL D.I. KHAN

Out Door Patient's Department

Date 1 / 20 /

Yearly No

Name Mr. Sultan Khan E. (D. 10/10)

Disease 1875 Rs 5/-

11/1/10

Bp - 160/90 - 140

lt sinus

My homocystin x 10/10

C 2 - 2

Ed fever - not (3)
will not

Advised not for one month,

M. B. Khan

M. B. Khan

Travis Cady

Travis Cady

11

F.H.O. TEACHING HOSPITAL D.I.KHAN

Out Door Patient's Department

Date / / 20

Yearly No

Name 1662 a. m. / 53 Dg. Dist

Disease 9447 Rs 5/-

192/10

14 Sides

Tes Vornu 5m (3)

1+1

Sip Soubex @ bottle

2+2

Advised complete bed rest for one month.

(Signature)

(Signature)

(Signature)

Time out

(Signature)

D.I.Q TEACHING HOSPITAL D.I.KHAN
OutDoor Patient's Department

Date / / 20

Yearly No

Name 16/2 Umar Khan (Duplicate)

Disease 24745 Rs 5/-
15/4/10

U.S. Khan

Let Nafsan 550 (3)
Chest

- Hand bed

- Let Sun bed - 2 (2)
Chest

Advise rest for one month.

16/2 Umar Khan
D.I.Q Hospital
D.I. Khan

True copy

for

(13)

D.I.Q TEACHING HOSPITAL D.I.KHAN

Out Door Patient's Department

Date / / 20

Yearly No

Name H. K. Khan - Ahmed (Duplicate)

Disease H. K. Khan Rs 5/-

18/3/10



H. Khan

- Test Bacterium 100% P/B
11/10/10

- Hand Bed

Let Doctor D.S. (2)
(1)

Advised bed rest for one month.

H. Khan

 D.I.Q. Teaching Hospital

14

D.I.KHAN TEACHING HOSPITAL D.I.KHAN

Out Door Patient's Department

Date / / 20

Yearly No

Name 1462 Mr. [unclear] (Duplicate)

Disease 31239 Rs 5/-

107910

1st stage

Let patient rest (30)

1+1

Hard bed

Let chrysalis rest (30)

1+1

Advised rest for one month

[Signature]

Tune [unclear]

→

15

D.I.KHAN TEACHING HOSPITAL D.I.KHAN

Out Door Patient's Department

Date / / 20 Yearly No

Name M. R. Khan (Duplicate)

Disease 18653 Rs 5/-
11/6/10

At siling

Tel Lezoni (3)

1+1

Hand Bed

Advised complete bed rest
for one month.

M. R. Khan

M. R. Khan
True copy
11/6/10

16

D.I.Q TEACHING HOSPITAL D.I.KHAN

Out Door Patient's Department

Date / / 20

Yearly No

Name Ukz o Cm Ckt L? (Duplicate)

Disease 2/658 Rs 5/-
10/110

lt shoes

- by varan ilu Bd x 15 dy.

- Hand bed

- by Mettye-S-L (7)
شیرین کرمی

Admit rest for one month

Ukz o Cm Ckt L?
شیرین کرمی

The city

fir

TEACHING HOSPITAL D.I.KHAN

Out Door Patient's Department

Date: / / 20 Yearly No
Name: U62010110 (Duplicate)

Disease: GC, OAS Rs 5/-
118110

Lt Silver

Cep. Rovani (3)
1+1

- Hand bed

- Lal Mellycal (3)
1+1

Advised Bed rest for one month

U62010110
118110

[Handwritten signature]

[Handwritten signature]

[Handwritten signature]

D.H.Q TEACHING HOSPITAL D.I.KHAN

Out Door Patient's Department

Date / / 20

Yearly No

Name 1163 Omer Shah AF (duplicate)

Disease SH 732 Rs 5/-

4/9/10

Pt sleep

Cef Roven
1+1

(88)

- Hand sig.

- til Mullyed l
1+1

(30)

Advent complete bed mt for

(1 1/2) month.

[Signature]

[Signature]

D.I.KHAN

True copy

[Signature]

19

D.I. KHAN TEACHING HOSPITAL D.I. KHAN

Out Door Patient's Department

Date / / 20 Yearly No. 3

Name OC 22367

Disease 8-12 Rs 5/-

In Diet. 1/15
In Deodorant 1/15
No SA
X-ray Mt
Knee joint
Antibiotic
X-ray
Skull X-ray

150mg Infexin 50mg (15)

150mg Tab Almir 100mg (15)

150mg Tab Phazendol (15)

Adv. drug polybit 1/15
Adv sent for three (3) days
Tone call

Handwritten signature or mark at the bottom of the page.

20

DHIS-01

Sent To:

OUT DOOR PATIENT TICKET

Polio Hospital
D.I. Khan

District: _____ CRP No: _____

Facility Name: _____

Name: Muhammad Ali Age: _____ Sex: M

Father's / Husband's Name: Said

Monthly OPD Serial No. 145

Provisional Diagnosis: _____

Date

Clinical Findings / Investigations / Treatment / Referred / Test Findings

RIA 5 days back

Legs redness to

10/12/1 Soap

in half hour

10/12/1

skin
tender

Hand wash (20) 1/2

Polio Hospital
D.I. Khan

1462

21

ORDER

This order is aimed to dispose off the department proceeding against Constable Azmat Shah No.1462 on the charges that he while posted at PS/Yarik DIKhan absented himself from lawful duty w.e from 10.01.2010 to 19.10.2010 i.e 09-months & 10 days without any leave and permission from higher authorities.

The defaulter Constable was served with charge sheet/statement of allegations. An enquiry was conducted into the matter through **Mr. Abdul Ghafoor Khan, DSP/City DIKhan**. The Enquiry Officer in his finding the defaulter Constable found guilty of the charges levelled against him. His reply to the charge sheet was received and placed on record.

In the light of above, I, **SOHAIL KHALID**, District Police Officer DIKhan in exercise of powers conferred upon me under the RPF Removal from Service (Sp): Powers Ord: 2000, Amendment Act-2005, awarded against Constable Azmat Shah No.1462 major Punishment Dismissal from Service and absent period w.e from 10.01.2010 to 19.10.2010 i.e 09-months & 10-days treated as leave without pay with immediate effect.

ORDER ANNOUNCED

Dated 11.05.2012

District Police Officer
Dora Ismail Khan

OB 941
DI 11-5-12
11/5

250
15/5/2012
Azmat Shah
No. 1462
31/5/2012
For Appeal
500

All-est'd
D. Ismail Khan

True Copy
5/5

جناب عالی!

نہایت ادب سے سائل حسب ذیل گزارشات عرض کرتا ہے کہ:-

سائل ایک نہایت ہی غریب بیمار ہے۔ اسے اتنی دیکھنا ہے اور گھر کا تمام خرچ و خورات کا بوجھ سائل پر ہے۔ چھوٹے چھوٹے بہن بھائی ہیں۔ والد صاحب بوجہ بیماری گھر میں ہوتا ہے۔

2. سائل سال 2010 میں شدید بیمار ہو گیا تھا اور بوجہ بیماری سرکاری سول ہسپتال ڈیرہ اسماعیل خان میں علاج و معالجہ کراتا رہا۔ سائل کی تھانہ یارک میں تعیناتی تھی۔ سائل نے وہاں کئی بار والد صاحب کے ذریعے کئی بار اطلاع بھجوائی کہ سائل بیمار ہے لیکن وہاں پر سائل کو غیر حاضر کر دیا گیا۔ اور والد کو کہا کہ یہ بیمار ہو گا تو میڈیکل علاج و معالجہ کی رپورٹ بھی ساتھ دے گا اور غیر ماضی ختم ہو جائے گی۔

3. سائل عرصہ 9/10 ماہ تک بیمار رہا اور میڈیکل آفیسر صاحب نے مکمل علاج و معالجہ کی رپورٹ حوالہ کیں ہیں جو میرے پاس محفوظ ہیں سائل کے خلاف غلط اور بے بنیاد انکوائری کر کے سائل کو سروس سے ڈسمس کر دیا گیا۔ حالانکہ سائل کے پاس میڈیکل کے تمام کاغذات محفوظ ہیں اور سائل کئی بار پیش کرنے کے لیے گیا لیکن کسی نے وصول نہیں کیے اور یہی کہا کہ DPO صاحب کو پیشی ہوگی تو پیش کرنا۔

4. سائل کی جناب DPO صاحب کو پیشی نہیں ہوئی۔ سائل تھانہ کینٹ میں حاضر سروس تعینات تھا کہ سائل کو ڈسمس فراہم سروس کا نتیجہ موصول ہوا۔

حالیہ جاہ

سائل جب بیمار تھا اور نوکری نہیں کر سکتا تھا تو کس طرح حاضر رہ سکتا تھا۔ سائل نے سال 2010 کے بعد حاضر سروس ہونے سے اب تک بہترین ڈیوٹی دی ہے۔ سائل کو برخاستہ کرنے سے سائل کے گھر میں سخت تنگی آگئی ہے۔ والد صاحب سخت بیمار ہے۔ علاج و معالجہ سے رہ گیا ہے۔ جبکہ چھوٹے چھوٹے بہن بھائی روزمرہ خوراک کھانے سے بھی محروم ہو گئے ہیں۔ سائل کی تمام بیماریوں کی رپورٹ ہمراہ لف ہے۔ سائل کا کوئی قصور نہیں۔ سائل غیر حاضر نہیں ہوا بلکہ بیماری کی وجہ سے ڈیوٹی پر حاضر نہ آسکا۔

لہذا بذریعہ درخواست استدعا ہے کہ سائل کو دوبارہ سروس پر بحال کیا جائے۔

سائل تاحیات دعا گور ہے گا۔

مورخہ 1.6.2012

الحاضر

سائل محمد عظیم شاہ خٹک ضلع ڈیرہ اسماعیل خان

(Handwritten Signature)

Tune GM

(Handwritten Mark)

OFFICE OF THE DEPUTY INSPECTOR GENERAL OF POLICE,DERA ISMAIL KHANAPPELLATE AUTHORITYAPPEAL AGAINST DISMISSAL FILED BY EX-CONSTABEL MOHAMMAD AZMAT SHAH NO. 1462ORDER:

This order is meant to dispose off the appeal preferred by Ex-Constable Mohammad Azmat Shah No. 1462 of DIKhan District against the order of major punishment i.e. "dismissal from service" awarded to him by DPO DIKhan vide O.B No.941 dated 11.05.2012. He while posted at PS Yarik absented himself with out any prior permission/ leave and remained absent from duty w.e.f 10.01.2010 to 19.10.2010 (9-Months & 10-days). A proper Charge Sheet and statement of allegation were issued on 30.08.2010 against him to which he replied that he was ill and was under treatment but could not produce medical certificates. DSP/City was appointed as Enquiry Officer who conducted the enquiry and found him guilty of the charges and recommended him for major punishment. Final Show Cause Notice was issued which was received by him on 30.04.2011 and replied as earlier to the Charge Sheet. The DPO DIKhan awarded him a major punishment of Dismissal from Service and period of absence was treated as leave with out pay.

The appellant preferred the instant appeal against the order of DPO DIKhan

The Perusal of the record shows that the appellant absented himself with out any prior permission/ leave and remained absent from duty w.e.f 10.1.2010 to 19.10.2010 (9-Months & 10-days). Earlier he remained absent from duty on several occasions i.e. 21.05.09 to 19.07.09, 06.05.09 to 14.05.09, 16.05.09 to 20.05.09, 4.08.09 to 06.08.09, 8.8.09 to 11.08.09, 14.8.09 to 11.11.09, 14.11.09 to 17.12.09 and 29.12.09 to 8.1.2010 i.e 7-Months. The authority awarded him a minor punishment as leave with out pay and warned him to be careful in future. Similarly, he remained absent from duty w.e.f 14.4.2011 to 12.6.11, i.e 01-Month and 28-days to which the authority granted medical leave on full pay on the production of Medical Certificates. Despite this, the appellant once again absented himself and this time for a little less than a year. After having spent 9-months as a leisure, now he has come back to seek forgiveness without establishing any evidence to corroborate his plea.

The appellant seems to be unwilling and habitual absentee. The appellant though pleads forgiveness but unfortunately his service record is replete with punishments. There are frequent instances of his absenting himself with-out prior permission and ironically this frequency is increasing with the passage of time. He should have realized that he was part of a disciplined force which was faced with crucial challenges. In this difficult time, when Police and the community need selfless sacrifices, this sort of attitude is absolutely not tolerable.

Tune GH

JK
R

12-9-12
24

Therefore, in light of the fore-going observations, it is held that DPO has correctly passed this order and therefore, this appeal is dismissed and filed.

While parting with, however, it is necessary to bring on record an irregularity committed by the Enquiry Officer. The record shows that this enquiry was marked to DSP City Abdul Ghafoor on 30.08.2010 but shockingly the Enquiry Officer completed the enquiry and submitted report on 11.04.2012, after one year and eight months. This speaks volumes of the inefficiency and lethargy of the Enquiry Officer who kept sleeping over the enquiry file for one year and eight months. He is being issued an explanation for this irresponsible and unprofessional behavior.

(QAZI JAMIL-UR-REHMAN)
Dy: Inspector General of Police,
DIKhan Range, DIKhan

No. 2292/ES, Dt: 11-09-2012

Copy to the District Police Officer, DIKhan for information with reference to his office Memo: No.12399 dated 4.7.2012 with the direction to instruct all under his commands to complete the departmental enquiries well within the stipulated time.

EC/IB/MSI

(QAZI JAMIL-UR-REHMAN)
Dy: Inspector General of Police,
DIKhan Range, DIKhan

Explanation
issued
12

EC/IB/MSI
for reflection

263 2. Call the explanation
of S/O/city

- Application received on
 - Copying fee deposited on
 - Judgement sent for copying on
 - Date of work being
 - Copying fee
 - Search fee
 - Stamp fee
 - Copy completed on
 - Copy delivered on
 - Case of
- Dist: Police Officer
Small Khan
- 12-9-12

OB 1594
DI 17-9-12

Tare GM

g
a

محدرت جناب D. I. G ڈویژن ڈیرہ اسماعیل خان

دعوت کیلئے محمد عظیم شاہ نے 1462 ولہ محمد اسلم شاہ
قوم قسری سبکیہ بنیالہ تحصیل بہاولپور ضلع ڈیرہ اسماعیل خان

بلاغ

بیت

Mereey Petition بہاولپور حکم 09/12/11 عودہ جناب
D. I. G ڈیرہ اسماعیل خان سبکی سے صاحب سہ ماہی بنیالہ
عزیز حاضری حسب حکم جناب S.P صاحب ڈیرہ اسماعیل خان تحصیل
کو حسب سابق قائم رکھا اور اسٹیل کی اپیل خارج کی ہے۔

رسدعا Mereey Petition

مختصری Mereey Petition

حکم عودہ 09/12/11 عودہ جناب D. I. G صاحب ڈیرہ
تفریق فرمائے جو زیر بیت حکم کو منو فرمائے جو
ٹیل کو از تاریخ ڈسپل سے بچھڑے کیلئے ضلع ڈیرہ
بھال فرمایا جاوے اور ایام عزیز حاضری کو

محمد اسلم شاہ

رحمت کھریں تقدیر خیراتے ہوئے یا ۔ مدد کمال ہو
 منظور خیراتے ہوئے بندہ شکر و تحسین بھی
 عطاء فرمائی جاوے

وجوہات Mercy Petition

جناب عالی! سائل حسب ذیل وجوہات Mercy Petition گزشتہ آگسٹ کے
 ۱۔ یہ کہ من سائل محکمہ پولیس ڈیپو ایسٹل فن موٹر 31/05
 07 بمقام کینسل جھرنی ہوا اور باقاعدہ ریکارڈ کورس
 بھی پاس کیا ہوا ہے۔

۲۔ یہ کہ سائل عقائد پارک تعمیرات تھا کہ اچانک سائل
 شہرہ بیہوش ہوا بریٹائے عنبر حاضری موٹر 10/05
 10 تا 19/10 تقریباً نو ماہ تک دین بریٹائے بھاری
 عنبر حاضری دیا اور اس دوران سائل کے طرف
 کاروائی نہ ہو کر بغیر جوابدہی عازم نہایت
 شہرہ کار لوٹس محکم جناب D.P.O صاحب ڈیپو
 موٹر 11/05 12 از سڈرٹ جھرنی کینسل پاس
 کیا ہے جناب زہر عبت حکم کے طرف
 اپیل آجناب کو کی گئی جو کہ حکم موٹر 11/05
 12 موٹر آجناب من سائل کی اپیل نا منظور ہو کر

حکم ڈسپلینری بدستور قائم رہا... نقل حکم نفاذ ہے
 حکم زیر بحث مجاہد D.P.O ڈی اے حضور نقاشی تھا
 کیونکہ جناب D.P.O صاحب نے نہ تو من سائل کی
 شوائبی کی رو نہ ہی من سائل کے پیام میں کوئی
 رخصت میں نقل نہ ہو گیا بلکہ جملہ کاروائی بلکہ ہر
 طور پر اس انجام دی گئی اور اس الیم نقطہ کو آغوش
 نے بھی نظر انداز کیا جس وجہ سے سائل قابل رحم ہے

۴۔ یہ کہ سائل کی عدت عدوت زائر پنج سال سے ایک
 غریب شخص سے ہے لیکن امیر والدین بہیمانہ ہیں جنکی
 گفتار بہرہ من سائل سے دیگر کوئی ذرا شہرہ سائل
 نہیں مگر رین تمام امور ان کو جناب D.P.O صاحب
 نے یکسر نظر انداز کر دیا ہے۔ اس لیے
 سائل قابل رحم ہے

۵۔ یہ کہ سائل اچانک بیمار ہو کر تھوڑے ڈاکو صاحبان سے
 عدوت سے معاہدہ کرتا رہا اور عدوت ہو گیا
 کہ کے باقاعدہ کارسہ کار انجام دینا رہا مگر فقیر

Time 6:45
 علی
 ۱۵

شہزادی من سائل جناب D.P.O صاحب نے بیکھرفہ
 کاروائی کرنے سے پہلے من سائل کو ڈسکس کھلم کھلا
 جبکہ من سائل نے باقاعدہ درخواستیں صاحب سے پیش کی
 تھیں حاصل کی ہوئی تھی مگر جناب D.P.O صاحب
 نے ان تمام امور کو نظر انداز کرتے ہوئے
 بیکھرفہ طور پر کاروائی سے انجام دیا ہے
 اس لیے سائل قابل معافی و رحم ہے۔

۶۔ یہ کہ سائل نوحہ (۱۶) (۱۷) دن ذیہر عدالت رہا جسکی
 باقاعدہ سپورل پتیاں سے عدالت حاصل ہوئی
 ہے مگر انکو اثری افسر نے گذشتہ غیر حاضرین
 کو بھی شمار کیا جنکا قبل انیں مطلع بھی ہو چکا
 تھا اس لیے تمام غیر حاضرین کا مجموعی ایک
 سال آریو کا بیان کیا۔ ان حضروا واقعات و
 حقائق کے تحت من سائل کو از عدالت واصل
 کیا گیا جو کہ من سائل قابل رحم ہے اور عدالت
 سلازمنٹ کا حق دار ہے۔

۔۔۔ یہ کہ مسائل کے پیچھے چھوٹے ہیں بجائے ہیں جس کی
 کفالت بندہ مسائل ہے دیگر کوئی ذرا کھڑے مسائل
 ہیں اس لیے مسائل قابلِ عملی ہے

بندہ استدعا ہے کہ منظور کی Meteeey Petition

حکم عزم 9/11 صدرہ جناب D.1.6
 صاحب ڈیو نظر تالی فرمائے ہوئے مسائل کے حل
 پارہ کر کے ہوئے از تاریخ واصل سے عہدہ
 کینسل بحال فرمایا جائے اور پارہ پھر ماضی
 کو عہدہ بحال ہو / رصفت صدق بقور فرمائے
 ہوئے اور بندہ سزاوارہ تمناؤں بھی عطاء فرمائی
 جاویں

اللہ تعالیٰ
 اعلم
 ۲۰

24/09/12

EX کینسل عمر عظمت شاہ 1462

N.I.L:12103-0930543-9

اللہ تعالیٰ

28

From : The Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

To : The Deputy Inspector General of Police,
Dikhan Region.

No. 3182 /E-II dated Peshawar the 07 /02 /2013.

Subject: MERCY PETITION

Memo:

Please refer to your office Memo: No. 2861/ES dated: 03.12.2012.

The mercy petition of Ex-Constable Muhammad Azmat Shah No. 1462 for re-instatement in Service has examined & filed by the competent authority as there is no provision in the rules regarding mercy petition for re-instatement in Service. Moreover one appeal lies against the original order which the applicant already availed.

Your office has filed his appeal vide No. 2292/ES dated: 11.09.2012. The applicant may be informed accordingly.

M. Khan
(MUMTAZ KHAN)
Registrar
For Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar

True Copy
→
→

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

In Re; Service Appeal # /2013

Muhammad Azmat Shah, Ex-Constable # 1462

VERSUS

Government of Khyber Pakhtunkhwa through its Provincial Police
Officer, Peshawar and 2 others

APPLICATION under section 14 of the Limitation Act, 1908 with humble request for treating instant service appeal within time by excluding the time spent in good faith before I.G, Police, KPK (Provincial Police Officer) in appeal/petition

Respectfully submitted:

- a. That the applicant has filed appeal today. Date of hearing therein is yet to be fixed.
- b. That for facts and reasons, facts and reasons mentioned in appeal may be treated as part of this application.
- c. That the applicant was labouring under the impression that Provincial Police Officer had power to hear petition and further appeal. He thus spent time before that forum in such appeal/petition in good faith. Such time in such appeal/petition till 7.2.2013 and institution of this appeal may be condoned by this Hon'ble Tribunal.
- d. That this Hon'ble Tribunal has ample powers to exclude the time spent by the applicant bona fide in proceedings before the said

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

In Re; Service Appeal # \2013

Muhammad Azmat Shah, Ex-Constable # 1422

VERSUS

Government of Khyber Pakhtunkhwa through its Provincial Police
Officer, Peshawar and 2 others

APPLICATION under section 14 of the Limitation
Act, 1908 with humble request for treating instant
service appeal within time by excluding the time
spent in good faith before I.G, Police, KPK
(Provincial Police Officer) in appeal/petition

Respectfully submitted:

- a. That the applicant has filed appeal today. Date of hearing therein is yet to be fixed.
- b. That for facts and reasons, facts and reasons mentioned in appeal may be treated as part of this application.
- c. That the applicant was labouring under the impression that Provincial Police Officer had power to hear petition and further appeal. He thus spent time before that forum in such appeal/petition in good faith. Such time in such appeal/petition till 7.2.2013 and institution of this appeal may be condoned by this Hon'ble Tribunal.
- d. That this Hon'ble Tribunal has ample powers to exclude the time spent by the applicant bona fide in proceedings before the said

forum till institution of this appeal while computing the period of limitation in the interest of justice.

It is, therefore, prayed that on accepting this application, this Hon'ble Tribunal may be pleased to exclude the time so spent in good faith, as aforesaid, in appeal/petition before Provincial Police Officer till institution of this appeal, from the period of limitation.

Azamat Ghul

APPLICANT

through

Yasir Khalifa

Yasir Khalifa

Advocate High Court,

Peshawar

forum till institution of this appeal while computing the period of limitation in the interest of justice.

It is, therefore, prayed that on accepting this application, this Hon'ble Tribunal may be pleased to exclude the time so spent in good faith, as aforesaid, in appeal/petition before Provincial Police Officer till institution of this appeal, from the period of limitation.

Yasir Khattar
APPLICANT
through
Yasir Khattar
Advocate High Court,
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

In Re; Service Appeal # /2013

Muhammad Azmat Shah, Ex-Constable #1462

VERSUS

Government of Khyber Pakhtunkhwa through its Provincial Police
Officer, Peshawar and 2 others

I, Muhammad Azmat Shah (Ex-Constable # 1462: D.I.Khan Police) son
of Muhammad Aslam Shah resident of Paniyala, Tehsil Paharpur,
District D.I.Khan do hereby declare and state:

1. That the accompanying application for condonation of
delay/exclusion of time spent before IGP/PPO till the
filing of this appeal has been drafted under my
instructions;
2. That I am conversant with facts and circumstances
stated therein; and
3. That all the facts and circumstances mentioned in the
application are correct and true.


DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

in Re; Service Appeal # \2013

Muhammad Azmat Shah, Ex-Constable # 1462

VERSUS

Government of Khyber Pakhtunkhwa through its Provincial Police
Officer, Peshawar and 2 others

I, Muhammad Azmat Shah (Ex-Constable # 1462; D.I. Khan Police) son
of Muhammad Aslam Shah resident of Panjyala, Tehsil Parapur,
District D.I. Khan do hereby declare and state:

1. That the accompanying application for condonation of
delay/exclusion of time spent before IG/PPO till the
filing of this appeal has been drafted under my
instructions;
2. That I am conversant with facts and circumstances
stated therein; and
3. That all the facts and circumstances mentioned in the
application are correct and true.


DEPONENT

POWER OF ATTORNEY

IN THE Khyber Pakhtunkhwa Service Tribunal, Peshawar

RE: Service Appeal No 1/2013

[Plaintiff

[Appellant

[Petitioner

[Applicant

[Complainant

[Deeplee/Deeplee

Muhammad Azmat Shah

VERSUS

Govt of KPK through Provincial Police Chief & others

[Respondent

[Respondent

[Defendant

[Judgment debtor

I/We Muhammad Azmat Shah, Ex-Constable No. 1462 (son of Muhammad Aslam Shah s/o Mubillah Hassan Khan, Pannigala, Tehsil Pakpattan District @ 12km) & Yasir Khalid appellant.

the above named hereby appoint Shakeel Azam Awan Advocate, High Court, Peshawar, in the above mentioned case, to do all or any of the following acts, deeds and things:

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal or any other Court/Tribunal in which the same may be tried or heard, and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by him for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payments of, and issue receipts for, all money that may be or become due and payable to me/us during the course or on the conclusion of the proceedings.
4. To do all other acts and things which may be deemed necessary or advisable during the course of the proceedings.

AND HEREBY AGREE:

- a. To ratify whatever the said Advocate may do in the proceedings.
- b. Not to hold the Advocate responsible if the said case be proceeded against ex-parte or dismissed in default in consequence of his absence from the Court/Tribunal when it is called for hearing.
- c. That the Advocate shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fees remains unpaid.

In witness whereof I/we have signed this Power of Attorney/Wakalatnama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this 6th day of

March 2013 at Peshawar.

Azmat Shah

Signature of the executant/s

Attested/Accepted

Shakeel Azam Awan
6/3/13

Yasir Khalid

Shakeel Azam Awan, Advocate, High Court,
7- Abid Plaza, Hashtnagri, G.T. Road, Peshawar.
(Phone # 091-2213330 Cell: 0321-9897731)

Yasir Khalid, Advocate,
High Court, Peshawar

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

Service Appeal No. 579/2013

Muhammad Azmat Shah (Ex-Constable No. 1462, DIKhan Police)
S/o Muhammad Aslam Shah r/o Paniala Tehsil Paharpur District Dera Ismail Khan
.....(Appellant)

Versus

1. The Provincial Police Officer (IGP), Khyber Pakhtunkhwa Peshawar.
2. The Regional Police Officer (DIG), Dera Ismail Khan
3. The District Police Officer, Dera Ismail Khan.....(Respondents)

WRITTEN REPLY ON BEHALF OF RESPONDENTS.

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action & locus standi.
2. That the appeal is bad for misjoinder/non-joinder of necessary parties.
3. That the appeal is time barred.
4. That the appellant has not come with clean hands.
5. That the appellant is estopped due to his own conduct.
6. That the appellant has concealed the material facts from Honourable Tribunal.
7. That appeal is not maintainable & incompetent
8. That the Honourable Service Tribunal has no jurisdiction to entertain the instant appeal.

BRIEF FACTS

1. Pertains to record.

Incorrect. Infact appellant absented himself from lawful duties w.e.from 10.01.2010 to 19.10.2010 i.e. 09 months and 10-days without leave or permission. In this connection a proper departmental inquiry was initiated against him he did not produce any medical documents regarding illness to the Enquiry Officer. The appellant was given opportunity of defence but he failed to prove his contention.

3. Pertains to record.

4. Pertains to record.

GROUND

A. Incorrect. The order was passed after proper departmental inquiry under the law & rules.

B. Incorrect. The appellant absented himself from lawful duties w.e.from 10.01.2010 to 19.10.2010 (9-months & 10-days) without any leave or permission. The appellant was habitual absentee remained absent from duties on

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230215

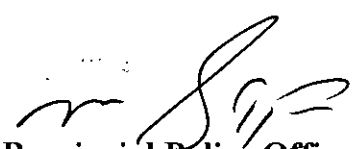
Govt. Pleader
Dera Ismail Khan

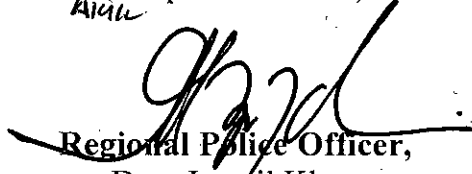
several occasions i.e. 21.5.09 to 19.7.09, 14.8.09 to 11.11.09, 14.11.09 to 17.12.09 and 29.12.09 to 8.1.2010 i.e. 7-Months.


- C. Incorrect. A proper departmental inquiry was initiated on the allegation of willful absent from duties and a proper opportunity of defence was given to him.
- D. Incorrect. No such medical report and prescription etc were produce by the appellant to Enquiry Officer or competent authority.
- E. Incorrect.
- F. Incorrect. Charge Sheet and Summary of Allegation were received by the appellant on 17.02.2011 by hand and final show cause notice on **30.04.2011**.
Copies enclosed as Annex "A & B".
- G. Incorrect.
- H. Incorrect. Opportunity of personal hearing was given to him.
- I. Incorrect. The order was passed under the law & rules and appellant was found guilty.
- J. Incorrect. Opportunity of personal hearing was given to the appellant.
- K. Incorrect. A proper departmental proceedings were initiated under the law & rules and appellant was found guilty.
- L. Incorrect.

PRAYER

It is, therefore, most humbly prayed that on acceptance of these parawise comments, the Appeal of the Appellant which is devoid of legal footing and merit may graciously be dismissed.


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


Regional Police Officer,
Dera Ismail Khan
(Respondent No.2)


District Police Officer,
Dera Ismail Khan
(Respondent No.3)

Vetted

Jalil
Govt: Headster
Dera Ismail Khan

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

Service Appeal No. 579/2013

Muhammad Azmat Shah (Ex-Constable No. 1462, DIKhan Police)
S/o Muhammad Aslam Shah r/o Paniaala Tehsil Paharpur District Dera Ismail Khan
.....(Appellant)

Versus


1. The Provincial Police Officer (IGP), Khyber Pakhtunkhwa Peshawar.
2. The Regional Police Officer (DIG), Dera Ismail Khan
3. The District Police Officer, Dera Ismail Khan.....(Respondents)


A U T H O R I T Y

We, the respondents do hereby authorised DSP/Legal, DIKhan to appear before the Service Tribunal Khyber Pakhtunkhwa, Peshawar, on our behalf, He is also authorised to produce/ withdraw any application or documents in the interest of Respondents and the Police Department.



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


Dy: Inspector General of Police,
D.I.Khan Range D.I.Khan
(Respondent No.2)


District Police Officer,
Dera Ismail Khan
(Respondent No.3)

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

Service Appeal No. 579/2013


Muhammad Azmat Shah (Ex-Constable No. 1462, DIKhan Police)
S/o Muhammad Aslam Shah r/o Paniala Tehsil Paharpur District Dera Ismail Khan
.....(Appellant)

Versus

1. The Provincial Police Officer (IGP), Khyber Pakhtunkhwa Peshawar.
2. The Regional Police Officer (DIG), Dera Ismail Khan
3. The District Police Officer, Dera Ismail Khan.....(Respondents)

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS

We, the respondents do hereby solemnly affirm and declare on oath that the contents, of Comments/Written reply to Appeal are true & correct to the best of our knowledge and nothing has been concealed from this Honourable Tribunal.


Provincial Police Officer

Khyber Pakhtunkhwa, Peshawar
(Respondent No.1)


Dy: Inspector General of Police,

D.I.Khan Range D.I.Khan
(Respondent No.2)


District Police Officer,

Dera Ismail Khan
(Respondent No.3)

CHARGE SHEET

I, GUL AFZAL, District Police Officer, DIKhan, as competent authority, hereby charge you Constable Azmat Shah No. 1462 as follow:-

You while posted at Police Station Yarik DIKhan absented yourself from lawful duties w.e.f. 10.1.2010 to till date without any leave/ permission from competent authorities. This act on your part amounts to gross misconduct, which is punishable under the rules.


2. By reasons of the above, you appear to be guilty of misconduct under section-3 of the NWFP (Removal From Service) Special Powers, (amendment) Act-2005 and have rendered yourself liable to all or any of the penalties in section-3 of the Ordinance ibid.

3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Enquiry Officer.

4. Your written defence, if any, should reach the enquiry officer/committee within the specified period, failing which it shall be presumed that you have no defence to put in and in that case exparte action shall follow against you.

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

6. A statement of allegations is enclosed.


District Police Officer,
Dera Ismail Khan

(A)

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DISCIPLINARY ACTION

I, GUL AFZAL, District Police Officer, Dera Ismail Khan as a competent authority am of the opinion that you Constable Azmat Shah No. 1462 have rendered yourself liable to be proceeded against and committed the following acts/omissions within the meaning of section-3 of the NWFP removal from service (Spl. power) Ord. 2000.

STATEMENT OF ALLEGATION

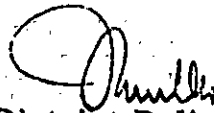
You while posted at Police Station Yarik DIKhan absented yourself from lawful duties w.e.f. 10.1.2010 to till date without any leave/ permission from competent authorities. This act on your part amounts to gross misconduct, which is punishable under the rules.

Hence the statement of allegation.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegation Ghaffar Khan Dsp/ City Dera Ismail Khan is appointed as enquiry officer to conduct proper departmental enquiry under section-3 of the ordinance.

3. The enquiry officer shall in accordance with the provision of the ordinance provide reasonable opportunity of the hearing to the accused, record its findings and make, within twenty five days of the receipt of this order recommendations as to punishment or other appropriate action against the accused.

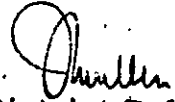
4. The accused and a well conversant representative of the department shall join the proceedings on the date time and place fixed by the enquiry officers.


District Police Officer,
Dera Ismail Khan
/2010

No. 13224-25 / Dated DIKhan the 30-08-

Copy to: -

1. Ghaffar Khan Dsp/ City Dera Ismail Khan. The enquiry officer for initiating proceeding against the defaulter under the provision of NWFP Removal from service special Ord: 2000. Enquiry papers containing _____ pages are enclosed.
2. Constable Azmat Shah No. 1462 with the direction to appear before the E.O on the date, time and place fixed by the E.O, for the purpose of enquiry proceeding.


District Police Officer,
Dera Ismail Khan

Received by hand
Azmat Shah
17/02/2011

(B)

FINAL SHOW CAUSE NOTICE

1. SOHAIL KHALID District Police Officer, DIKhan as competent authority under the Khyber Pakhtunkhwa removal from service (Special Power) Ordinance-2000 (Amendment Act 2005), do hereby served you Constable Azmat Shah No.1462 as follow.

1. (i) That consequent upon the completion of enquiry conducted against you by the Enquiry Committee/Officer for which you were given opportunity of hearing vide this office communicator No. 13222-25, dated 30.08.2010.
- (ii) On going through the findings and recommendations of the enquiry officer, the material on record and other connected papers including your defence before the said committee.

I am satisfied that you have committed the following acts/omissions specified in section-3 of the said ordinance.

You while posted at PS/Yarik DIKhan, absent from your self from law full duty w.e from 10.01.2010 to 19.10.2010 i.e 09-months & 10-days without any leave/permission from higher authorities.

2. As a result thereof, I SOHAIL KHALID, District Police Officer, DIKhan as competent authority have tentatively decided to impose upon you the penalty of Major/Minor punishment u/s 3 of the said ordinance.
3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you.
4. If no reply to this notice is received within 7-days of its deliver, in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case an expert action shall be taken against you.
5. The copy of finding of the enquiry officer is enclosed.


District Police Officer,
Dera Ismail Khan
16/4

Received

Azmat
Shah

30/4/2011

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Appeal No. 579/2013

Muhammad Azamt Shah VERSUS Police Department

REJOINDER ON BEHALF OF APPELLANT
IN RESPONSE TO THE REPLY
SUBMITTED BY THE RESPONDENTS.

RESPECTFULLY SHEWETH,

PRELIMINARY OBJECTIONS:-

(1 to 2):

All the preliminary objections raised by the respondents are incorrect and baseless and not in accordance with law and rules rather the respondents are stopped due to their own conduct to raise any objection at this stage of the appeal.

ON FACTS:-

1. Admitted correct, hence need no comments.
2. Incorrect and replied accordingly. That in the said mentioned period the appellant was seriously ill and the doctor concerned advised the appellant for complete bed rest. That the said advised in shape of Medical Receipts prescription etc are attached. That inspite of that the appellant was dismissed from service vide

impugned order dated 11/05/2012 without conducting regular inquiry in the matter.

3. Admitted correct. Needs no comments.

4. Correct. Needs no reply.

GROUND:-

(A TO ~~C~~)

A. Incorrect, hence denied.

B. Incorrect. The appellant had not willfully absented himself, but due to reason beyond his control, absented from duties. The respondent leveled baseless allegations of absented against appellant. No evidence is annexed in support of respondent stance.

C. Incorrect, hence denied. No inquiry in accordance to law is conducted by the respondent.

D. Incorrect, hence denied. The appellant provided all medical prescriptions to the department authorities.

E. Incorrect. The departmental authority while acting against the appellant ignore all norms of justice and principles of equity.

F. Incorrect, hence denied. The departmental ^{authority} ~~while~~ while ^{issuing} ~~while~~ charge sheet and show cause notice dated


30/08/2010, withheld all proceedings under the iron curtain and informed the appellant when all proceedings and inquiry was completed by the concerned authority.

REPLY TO THE GROUNDS OF WRITTEN REPLY NO. 6 TO
OF RESPONDENTS:-

All the grounds of main appeal are correct and in accordance with law and prevailing rules and that of respondents are incorrect and baseless, hence denied. That the impugned orders dated 11/05/2012, 11/09/2012 and 07/02/2013 are against the law, facts, norms and liable to be set aside.

It is therefore, most humbly prayed that the appeal of the appellant may kindly be accepted as prayed for.

Dated: 06/10/2015

Appellant
Through

HAJI YASIR KHALID
Advocate, High Court,
Peshawar.

AFFIDAVIT:-

Solemnly affirm and declare on oath that the contents of the above rejoinder as well as the titled appeal are true and correct to best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.




DEPONENT

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 2306 /ST

Dated 25 / 10 / 2017

To


The District Police Officer,
Government of Khyber Pakhtunkhwa,
D.I.Khan.

Subject: -

JUDGMENT IN APPEAL NO. 579/2013, MR. MUHAMMAD AZMAT SHAH.

I am directed to forward herewith a certified copy of Judgement dated 13.10.2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.