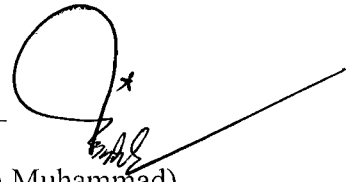


21.06.2022

Mr. Daniyal Khan Chamkani, Advocate for the appellant present.
Preliminary arguments heard.

Learned counsel for the appellant while opening his arguments, contended that the appellant is aggrieved of the impugned order dated 15.09.2020 whereby he was dismissed from service. He sought departmental remedy through departmental appeal dated 20.09.2020 which was also rejected vide appellate order dated 05.11.2020. Thereafter, he preferred revision petition under Rule 11-A of the Khyber Pakhtunkhwa Police Rules, 1975 but it met the same fate and was rejected on 14.04.2022. He was affected by Covid-19 and remained under treatment for it. It was further argued that the base of fake/bogus medical chit has not been properly enquired about because it was duly registered in category C Hospital Topi District Swabi. Rather, it was decided in a whimsical and mechanical manner with total disregard to Rule 7 of the Police Rules, 1934. Moreover, in the impugned order on his revision petition the period of absence of 67 days has been mentioned which was an old and closed transaction. The appellant has not been treated in accordance with law and rules. The impugned orders are, therefore, liable to be set aside, he concluded.

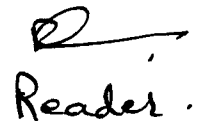
Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments. To come up for reply/comments before the S.B on 09.08.2022.



(Mian Muhammad)
Member (E)

9.8.2022 Due to The Public Holiday

The case is Adjourned to 29-9-2022





Reader.

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 836/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	27/05/2022	<p>The appeal of Mr. Israr Hussain presented today by Mr. Danial Khan Chamkani Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	1-06-2022	<p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on <u>21-06-22</u>. Notices be issued to appellant and his counsel for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

CASE TITLE:

Sardar Hussain v/s Provincial Police Officers,

S#	CONTENTS	YES	NO
1	This Appeal has been presented by:	✓	
2	Whether Counsel/Appellant/Respondent/Deponents have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	x	✓
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	x	✓
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On _____		
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____		
26	Whether copies of comments/reply/rejoinder submitted? On _____		
27	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: Sardar Hussain

Signature: [Handwritten Signature]


Dated: 27/05/2022

The appeal of Mr. Israr Hussain son of Rahdat Hussain Ex-Constable (Bugler) No. 2 r/o Topi Mohallah Matona Tehsil Topi District Swabi received today i.e. on 13.05.2022 is incomplete on the following score which is returned to the counsel for the appellat for completion and resubmission within 15 days.

- 1- Check list is not attached with the appeal.
- 2- Appeal has not been flagged/marked with annexures marks.
- 3- Annexures of the appeal may be attested.
- 4- Affidavit may be got attested by the Oath Commissioner.
- 5- Departmental appeal is incomplete which may be completed.
- 6- Copy of revision petition mentioned in para-5 of the memo of appeal is not attached with the appeal which may be placed on it.
- 7- Copies of orders dated 15.09.2020 and 05.11.2020 are illegible which may be replaced by legible/better one.
- 8- In the memo of appeal places have been left blank which may be filled up.
- 9- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.

No. 1034 /S.T,

Dt. 13-5- /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Dinal Khan Chamkani Adv. Pesh.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

Peshawar

Service Appeal No 836 /2022

ISRAR HUSSAIN Ex Constable (Bugler) No 2 C/O Police Training
School Manshera

.....(Appellant)

VERSUS

The Provincial Police Officer KPK Peshawar and others

.....(Respondents)


=====

INDEX

S.No	Description of Documents	Annex	Pages
1.	Service Appeal		1-7
2.	Affidavit		8
3.	Addresses of the parties		9
4.	Copy of Medical prescription	A	10
5.	Copy of impugned dismissal order No 37 dated 15.09.2020	B	11
6.	Copy of department appeal and order dated 05.11.2020	C	12-16
7.	Copy of revision Petition and order dated 14.04.2022	D	17
8.	Notice to respondents	E	18
9.	Wakalatnama		19
10.			
11.			


Petitioner

Through


DANIAL KHAN CHAMKANI
Advocate Supreme Court
Peshawar
Cell No: 03201993451

Dated: 13/05/2022

Office:


SARDAR HUSSAIN
Advocate, High Court
at Judicial Complex Swabi

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

Peshawar

Service Appeal No _____/2022

ISRAR HUSSAIN son of **RAHDAT HUSSAIN** Ex Constable (Bugler)

No 2 R/O Topi Moh: Matona Tehsil Topi, District Swabi

.....(Appellant)

V E R S U S

1. The Provincial Police Officer KPK Peshawar.
2. The Additional Inspector General of Police [HQrs] KP Peshawar
3. The Deputy Inspector General of Police Training Directorate Training KP CPO Peshawar.
4. The Director Police Training School Sehno Mansehra .
.....(Respondents)

SERVICE APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974 AGAINST THE IMPUGNED ORDER
DATED 15/09/2020 Vide O. Bo. No. 37
WHEREBY THE APPELLANT WAS DISMISSED
FROM SERVICE BY THE RESPONDENT No. 4
DIRECTOR POLICE TRAINING SCHOOL
MANSEHRA.

PRAYER IN APPEAL :

on acceptance of the instant appeal, the impugned office order dated 15/09/2020 may graciously be set aside and appellant may also be reinstated in service with all back benefits any other adequate remedy which is not prayed by the appellant in facts / grounds deemed fit may also be granted.

Respected Sir,

Respectfully Sheweth:

FACTS

1. That appellant was serving as Constable in police department and has been performed his duty with great zeal and punctuality out of more than Ten Years of unblemished service.
2. Appellant was absent 14 days from duty, wherein the appellant remained sick due to Cot. 19 Symptom and was quarantined for 14 days sick leave by the Medical Officer of Category C Hospital Topi District Swabi.

(Copy of Medical prescription is annexure "A")

3. That vide OB No 37 dated 15/09/2020 the appellant was dismissed from service under the police rules 1975 [06] by the Respondent No.4 Director Police Training Mansehra

(Copy of impugned dismissal order is annexure "B")

4. That the appellant filed departmental appeal on 20/09/2020 to the Respondent No. 3 i.e. DIG Police Training RP Peshawar against the impugned order dated 15/09/2020 but the same was rejected on 05/11/2020 which shows In letter of rejection order under Rule 11-A dated 14/04/2022 but the departmental appeal rejection letter was not communicated to the appellant and was kept silent as and the appellant came to know later on

(Copy of departmental appeal dated 05/11/2020 is attached as annexure C).

5. That later on the appellant filed a revision petition/ appeal under Rule 11-A police Rules 1975 [amended 2014] to the Provincial Police Officer Khyber Pakhtunkhwa, Peshawar on dated 14/04/2022 upon the revision petition the Additional Inspector General of Police {HQrs} Khyber Pakhtunkhwa, Peshawar upheld the Impugned dismissal order of the appellant

(Copy of rejection of revision petition order dated 14/04/2022 is attached as annexure D)

7. That feeling aggrieved from the impugned orders the appellant now failing the instant appeal on the following grounds inter Alia.

GROUNDS :-

- A. That the impugned office orders is against law, facts circumstances unconstitutional and void-initio hence not sustainable in the eye of law as there is no proper inquiry was conducted and the procedure was not adopted hence the impugned order is liable to set aside.
- B. That the impugned office order has been issued on presumption against the appellant was the appellant was not provided fair opportunity for defending himself as per Article 10-A of the constitution , which is against the golden principle of natural justice that no one should be condemned unheard.
- C. That at the time last absence appellant was remained sick due Covid 19 Symptom and was quarantined for 14 days sick leave by the Medical Officer of Category C Hospital Topi District Swab'.

- D. That the enquiry officer was not examined the medical prescription of the appellant as per Category C Topi, Hospital register nor recorded statement of the concern Medical Officer regarding medical checkup.
- E. That the appellant was not served final show cause notice nor given opportunity of personal hearing before the competent authority neither the appellant was cross examine by the enquiry officer and the impugned order was passed in harsh manner but not in accordance with law and rules hence liable to set aside.
- F. That the dismissal from service on the score of absence but such absence was not willful but was due to the compelling circumstances of illness. That absence does not constitute any misconduct when the same is not willful and similarly thousands equally placed employees have been reinstated into their service not only by the department but also by the Hon'able Tribunal /Court and those judgments were upheld by the apex court.
- G. That is also previously remained ill due to viral infected diseases of Skin for long time and during time to time the appellant requested for sick leave as to avoid from spreading viral infected diseases of Skin to other Police personals but the respondents

ignored several times sick leave requests of the appellant and awarded different kind minor penalties which shows in letter dated 22/09/2020.

- H. That the appellant was dismissed from service by the Director Police Training Mansehra with immediate effect on 15/09/2020 and period of different times 67 days absence was considered as Leave without pay, but prior the Impugned dismissal the appellant was awarded different kind of minor penalties and then the absence period of 67 days was considered as Leave without pay as contained in the Impugned order which is double punishment and double jeopardy, thus suchlike double punishment is not tenable in the eye of law and against rules hence liable to be set aside.
- I. That the whole departmental proceedings against the appellant was based on personal ill will and with ill intention and harsh, illegally and major penalty was awarded to the appellant which is the principal of natural justice.
- J. That any other ground may be adduced during the course of argument, the kind permission of this Honorable Tribunal

It is therefore very humbly prayed, that the instant appeal of the appellant may graciously be accepted and the

impugned officer order dated 15/09/2020 may also be set aside and the appellant may kindly be reinstated into service with all back benefit.

Any other relief as deemed appropriate in the circumstances of the case not specifically asked for may also be granted to appellant.

Appellant

Through

Dated: /05/2022

DANIAL KHAN CHAMKANI
Advocate Supreme Court
Peshawar

SARDAR HUSSAIN
Advocate, High Court
At Judicial Complex Swabi.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

Peshawar

Service Appeal No _____/2022

ISRAR HUSSAIN son of **RAHDAT HUSSAIN** Ex Constable (Bugler)
No 2 C/O Police Training School Manshera

.....(Appellant)

V E R S U S

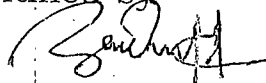
The Provincial Police Officer KPK Peshawar and others

.....(Respondents)

AFFIDAVIT

I, **ISRAR HUSSAIN** son of **RAHDAT HUSSAIN** Ex Constable (Bugler) No 2 C/O Police Training School Manshera resident of village Topi, Mohallah Matona, Tehsil Topi, District, do hereby solemnly affirm and declare that the contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


Identified by



Sardar Hussain Advocate

High Court

At Judicial Complex Swabi

Deponent 

ISRAR HUSSAIN

CNIC NO 16202-2123279-7

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

Peshawar

Service Appeal No _____/2022

ISRAR HUSSAIN Ex Constable (Bugler) No 2 C/O Police Training
School Manshera

.....(Appellant)

V E R S U S

The Provincial Police Officer KPK Peshawar and others

.....(Respondents)

ADDRESSES OF PARTIES

PETITIONER:

ISRAR HUSSAIN son of RAHDAT HUSSAIN Ex Constable
(Bugler) No 2 R/O Topi Moh: Matona Tehsil Topi, District
Swabi

RESPONDENTS:

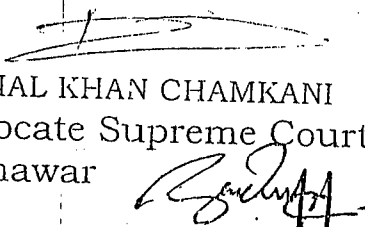
1. The Provincial Police Officer KPK Peshawar.
2. The Additional Inspector General of Police [HQrs] KP
Peshawar
3. The Deputy Inspector General of Police Training
Directorate Training KP CPO Peshawar.
4. The Director Police Training School Sehno Mansehra .

Appellant

Through

Dated: /05/2022

DANIAL KHAN CHAMKANI
Advocate Supreme Court
Peshawar


SARDAR HUSSAIN
Advocate, High Court
At Judicial Complex Swabi.

During absence on 13.07.2020, you sent a medical chit through fax and received arrival report that you are sick and remained in quarantine 14 days for COVID-19 treatment. Disciplinary proceeding started against you. DSP Admin Samina Zaidi appointed as Enquiry officer. Enquiry officer found you habitual absentee of 757 days in your service. Enquiry officer sent the medical chit to Medical Superintendent of Hospital Topi for verification vide this office Memo: No. 19, dated 04.08.2020. Enquiry Officer Category "C" Hospital Topi remarks that "Bogus entry made on Sr. # 6733 on 30.06.2020 on patient Israr is bogus attached with enquiry files.

The Enquiry officer found you guilty of gross misconduct and in finding recommended that defaulter Constable is not taking any interest towards his assigned duties and absented himself from duty for the period of 757 days during his previous service.

You remained dismissed from service Vide OB No. 18, dated 14.07.2019 re-instated on 29.07.19 vide OB No. 58, dated 29.08.19.

Recently you are also absented himself from your lawful duties from 22.07.2020 (29 days) and from 04.08.2020 to 10.09.2020 (38 days) (Total absence = 67 days).

Delinquent Bugler Constable appear before the Enquiry Officer and given statement which is not satisfactory due to which he found guilty. The defaulter Constable Israr Hussain No. 6733 was served with Final Show Cause Notice on his behalf through District Police Officer Swabi vide his office Memo: No. 677, dated 13.08.2020.

The defaulter Constable Bugler Israr Hussain No. 2, appear before the undersigned Orderly Room on 15.09.2020, during personal hearing/cross questions in connection with long deliberate absence and submission of Bogus Medical Chit. He failed to satisfy the undersigned.


Due to above mentioned reasons departmental proceeding have taken against you. Exercise of the power vested in me under Police Rule 1975 (6) (iv). He is hereby punished with dismissal from service with immediate effect. Period of absence 67 days as leave without pay.

Order Announced.

OB No. 37
Dated 15-9-2020

1. Copy submitted to the Deputy Inspector General of Police, Training, Khyber Pakhtunkhwa for favour of information:-
2. PO/SRC PTS Mansehra for further necessary action.
3. RI PTS Mansehra for necessary action.


DIRECTOR
Police Training School
Mansehra


DIRECTOR
Police Training School

بخدمت جناب ڈپٹی انسپکٹر جنرل پولیس صاحب (ایپلٹ انٹیلیجنس) K.P.K پشاور

اسرار حسین ولد راجہ تھیں (بگولہ) ساکن ٹوپی - ضلع جہلم - جہلم ڈویژن
تعمیر پی۔ ٹی۔ ایس مانسہرہ

نام

ڈپٹی انسپکٹر پولیس ٹریننگ سکول مانسہرہ
(ایپلٹ انٹیلیجنس)

ڈپٹی انسپکٹر ایپل بر خلاف حکم برطرفی ایپلٹ مورخہ 2019.3.19 شمسی
98-95 جسکی رو سے ایپلٹ کو غیر قانونی - غلط طور خلاف قواعد - بلا اطلاع
و مستثنائی کا موقع دینے بغیر (Condemned Unheard) بلا انعقاد قانونی آڈیٹری
ایپلٹ کو برطرف کیا گیا ہے

استدعا ایپل :- منظور کی ایپل حکم ایپلٹ کو خلاف قانون خلاف قواعد
اور سب سے برہنہ اور بغیر موقع دینے قرار دیکر جسوج فرمایا جا کر ایپلٹ کو جملہ
Back Benefit بشمول سینیورٹی کے ساتھ اپنی ملازمت پر بحال فرمایا جائے

جناب عالی! ایپلٹ صاحب ذیل عرض کرتا ہے

1) برک ایپلٹ پولیس ٹریننگ سکول مانسہرہ میں بطور (بگولہ) از مورخہ 10/12/2012

P.T.O. 1

تھا یہ کہ ایئرلائٹ گذشتہ سال لاک ڈاؤن میں پڑا پچھارہ ماہ قبل اس کے کہ ایئر لائنوں کو
سے حتمی طور پر -

کہ ایئرلائٹ نے اس بابت اپنے آئٹن مجاز کو زبان طور پر آگاہ کر کے -
یوں رجسٹریشن (طلب کرنا رہا ہے -

کہ ایئرلائٹ لاک ڈاؤن ماہ $3\frac{4}{5}$ میں شدید بخار میں مبتلا ہوا
کہ اس کے بعد ریسٹ دیا گیا۔ جو کہ سال کے مجاز آخر کو دہرے دیا۔
ایئرلائٹ کے لاک ڈاؤن کے دوران سٹاف کیساتھ ڈیوٹی کر چکا ہے -

یہ تمام ٹیم نے طفرے بنایا تھا کہ سب سٹاف نمبر کیساتھ ڈیوٹی کروانے میں سٹاف
کیساتھ ڈیوٹی کیا ہوا ہے۔ جو کہ پی۔ پی۔ ایس روزنامے میں ریکارڈ درج ہے۔
ایئرلائٹ کا ۵ مہینے کا تقوٰۃ میڈیم ٹیم نے طفرے بنایا تھا۔

اور ایئرلائٹ نے تقوٰۃ دینے کو میڈیم ٹیم کی ٹیم کے ساتھ ساتھ شہر کے
یہ کہ ایئرلائٹ نے لاک ڈاؤن کے دوران موٹر سائیکل پر بھی ڈیوٹی جاتے بنا کر
لاک ڈاؤن میں سارا سٹاف گھر میں رہا۔ اور میڈیم نے بنایا تھا کہ نمبر کیساتھ
ڈیوٹی دینے کے لیے ڈیوٹی کرنا دیا ہے۔

یہ کہ حکم موروثی 20-9-50 کا نمبر 58-37 من جملہ دیگر واقعات پر جو حالت

ذیل خلاف قانون، خلاف واقعات، بلا اختیار اور ذریعہ اہول القاف
(Principle of natural Justice) اور یا ہی تضادات پر مبنی ہونے کے بنا پر ناقابل
اعتدال کے قابل نہیں ہے۔ اور اپیلانٹ جملہ (Bentley) کے ساتھ
پر یہاں کا اختیار ہے۔

مذکورہ حالت میں یہ کہ حکم پر طرفی اپیلانٹ خلاف قانون پر خلاف واقعات اور
مبنی پر یہ نہیں ہے۔

یہ کہ اپیلانٹ کو تہی بابت انکوائری قانون تو نہیں / اطلاع بروقت نہیں دیا گیا ہے۔
یہ کہ اپیلانٹ کو ہر طرفی سے قبل بابت انکوائری نہ ہی کوئی اطلاع یا مشورہ جاری کیا گیا ہے
اور نہ ہی اس پر طرفی پر اسے مگر کے انکوائری پر کوئی اطلاع دیا گیا ہے۔
اور نہ ہی کوئی مشورہ دیا گیا ہے۔

یہ کہ عدلیہ انکوائری اصل بدست ٹھنڈے ظفر میں ہی کی گئی۔ ماہر کے دوران اپیلانٹ
انکوائری انکوائری کو اپنی بیخبری / بیماری کے باعث اپنی ملازمت سے غیر حاضری کو بابت مہینوں پر کیا
گیا۔ اور ایسی انکوائری میں اپیلانٹ کی ملازمت سے ہر طرفی کو کوئی اطلاع نہیں دی گئی ہے
جسے صرف انکوائری کے بابت اپیلانٹ لاعلم تھا۔

(6) یہ کہ ایپلائٹ کے غیر جانبدار مقصداً نہ ہوں بلکہ بوجھات مندرجہ ذیل

یاد رکھیں۔

میں نے ایپلائٹ کو بتایا کہ ہمارے لیے پورکٹ لادو میں ہیں
آپنی انٹراکٹو ٹیم کے لوگوں کا لیکن ایپلائٹ نے اس کو بتایا کہ مشورے لینے والا اور وہ
ملا دھون جینی ہے۔ ایپلائٹ نے انکار کیا۔

یہ کہ ایپلائٹ اپنے انٹرن کار کے احکامات اور بحفاظت اپنی ملازمت

جاری رکھنے کا متفق ہے۔
ایپلائٹ میں بچوں کا باپ ہے اور اپنے کنبے کا واحد کنبہ ہے۔

لیکن اس دعا ہے کہ بوجھات بالا من جملہ دیگر بوجھات جو کہ بوجھات
پیشی ایپلائٹ پیش کرے گا۔ اپنی ملازمت پر جملہ Back Benefit
کے ساتھ بحال فرمانا جائے۔ ساتھ دعا کرے گا۔

Date: _____
P.T.S مائیکرو
FC کا کسٹومر سروس لائن سٹاف
20/09/2020
mob. No - 03109347607 / 03118235051



(20) D 107
order

ORDER

This order shall dispose-off the department appeal/application, preferred by ~~FC/~~ Constable Israr Hussain No.2 of Line Staff PTS, Manshira against the major punishment of dismissal from service vide OB No.37 dated 15/09/2020 passed by Director, PTS Manshira.

Brief facts of the case are that the appellant/applicant during his absence on 13.07.2020, sent a medical chit through fax and stated in arrival report that he was sick and remained in quarantine for 14 days due to COVID-19 symptom. Disciplinary proceedings were initiated against the appellant/applicant. DSP Admin. Mrs. Samina Zafar Bukhari was appointed as an Enquiry Officer. During the enquiry, the appellant/applicant was found a habitual absentee of 757 days absence during his service. The Enquiry Officer sent the medical chit to Medical Superintendent Category "C" Hospital Topi for verification vide Office Memo No.19, dated 04.08.2020. The Medical Officer Category "C" Hospital, Topi remarked that entry made on Sr.No.642-26, dated 30.06.2020 on patient Israr has not been entered in the Hospital Register and as such is bogus.

The Enquiry Officer found the appellant/applicant guilty of gross misconduct and as per the findings report prove that the defaulter Constable was not taking interest towards his assigned duties and absented himself from duty for a period of 757 days during his previous service.

The appellant/applicant was previously dismissed from service vide OB No.18, dated 14.03.2019 and reinstated into service on 29.07.2019 vide OB No.58, dated 29.08.2019.

Recently, the applicant/applicant absented himself from his lawful duties from 22.06.2020 to 21.07.2020 (29 days) and from 04.08.2020 to 10.09.2020 (38 days) with a total absence of 67 days.

The appellant/applicant appeared before the Enquiry Officer and submitted his written statement which was not found satisfactory and the appellant/applicant was found guilty and, hence, was served with Final Show Cause Notice on his home address through District Police Officer, Swabi vide Memo No.677, dated 13.08.2020.

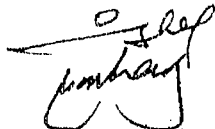
The appellant/applicant was afforded an opportunity of personal hearing and on 15.09.2020 the appellant/applicant appeared for personal hearing but failed to satisfy the Director, PTS, Manshira.

In view of the reasons stated above and conclusion of the department proceedings the Director, PTS, Manshira exercise of powers vested in him under Police Rules, 197 (6)(iv) awarded major punishment of dismissal from service with immediate effect vide OB No.37 dated 15.09.2020 and his period of absence of 67 days was treated as Leave Without Pay. The appellant preferred an appeal/application against the said order to the undersigned.

I have gone through the appeal and relevant record as well as the comments received from AIG, Training and I am therefore, in full agreement with the Order of Director, PTS Manshira.

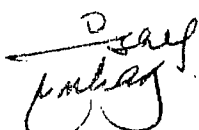
Therefore, in view of the above I, MUHAMMAD IMTIAZ SHAH, PSP/QPM, Deputy Inspector General of Police, Directorate of Training, Central Police Offices, Peshawar, appellate authority, dismiss the appeal of ~~Ex-FC/~~ Constable Israr Hussain No.2 of Line Staff PTS, Manshira and maintain the order of dismissal passed by Director, PTS Manshira dated 15.09.2020.

ORDER ANNOUNCED


MUHAMMAD IMTIAZ SHAH, PSP/QPM,
Deputy Inspector General of Police,
Directorate of Training,
Central Police Offices, Peshawar

9074-77
No. /Trg: dated: 25 / 11 / 2020.

- Copy of above is forwarded for information and necessary action to the:-
1. Assistant Inspector General of Police, Training Khyber Pakhtunkhwa
 2. Director PTS Manshira.
 3. Dy. Superintendent of Police, Training Khyber Pakhtunkhwa.
 4. P.A to DIG/Training, Training Khyber Pakhtunkhwa.


MUHAMMAD IMTIAZ SHAH, PSP/QPM,

BETTER COPY

LOGO

THE DIRECTORATE OF TRAINING,
KHYBER PAKHTUNKHWA, PESHAWAR.
Email: dsptrgbasic@gmail.com

No. 9073/Dated 05-11-2020 Phone & Fax No. 09-9211268

ORDER

This order shall dispose-off the department appeal/application, preferred by FC/Constable Israr Hussain No.2 of Line Staff PTS, Mansehra against the major punishment of dismissal from service vide OB No. 37 Dated 15-09-2020 passed by Director, PT Mansehra.

Brief facts of the case are that the appellant/applicant during his absence on 13-07-2020, sent a medical chit through fax and stated in arrival report that he was sick and remained in quarantine for 14 days due to COVID-19 symptom. Disciplinary proceedings were initiated against the appellant/applicant, DSP Admin, Mrs. Samina Zafar Bukhari was appointed as an Enquiry Officer. During the enquiry, the appellant/applicant was found a habitual absentee of 757 days absence during his service. The Enquiry Officer sent the medical chit to Medical Superintendent Category "C" Hospital Topi for verification vide Office Memo No. 19, dated 04-08-2020. The Medical Officer Category "C" Hospital, Topi remarked that entry made on Sr. No. 642-26, dated 30-06-2020 on patient Israr has not been entered in the Hospital Register and as such is bogus.

That Enquiry Officer found the appellant/applicant guilty of gross misconduct and as per the findings report provide that the defaulter Constable was not taking interest toward his assigned duties and absented himself from duty for a period of 757 days during his previous service.

The appellant/applicant was previously dismissed from service Vide OB No. 18 dated 14-03-2019 and reinstated into service on 29-07-2019 vide OB No. 58 dated 29-08-2019.

Recently, the appellant/applicant absented himself from his lawful duties from 22-06-2020 to 21-07-2020 (29 days) and from 04-08-2020 to 10-09-2020 (38 days) with a total absence of 67 days.

The appellant/applicant appeared before the Enquiry Officer and submitted his written statement which was not found satisfactory and the appellant/applicant was found guilty and hence, was served with Final Show

Cause Notice on home address through District Police Officer Swabi vide Memo: No. 677, dated 13-08-2020.

The appellant/applicant was afforded an opportunity of personal hearing and on 15-09-2020. The appellant/applicant appeared for personal hearing but failed to satisfy the Director PTS Mansehra.

In view of the reasons stated above and conduction of the department proceedings the Director, PTS, Mansehra exercise of powers vested in him under Police Rules, 197 (6)(iv) awarded major punishment of dismissal from service was immediate effect vide OB No. 37 dated 15-09-2020 and his period of absence of 67 days was treated as Leave Without Pay. The appellant preferred an appeal/application against the said order to the undersigned.

I have gone through the appeal and relevant record as well as the comments received from AIG, Training and I am therefore, in full agreement with the Order of Director, PTS Mansehra.

Therefore, in view of the above I, **MUHAMMAD IMTIAZ SHAH PSP/QPM**, Deputy Inspector General Police, Directorate of Training, Central Police Offices, Peshawar, appellate authority, dismiss the appeal of **Ex-FC/Constable Israr Hussain No.2** of Line Staff PTS, Mansehra and maintain the order of dismissal passed by Director, PTS Mansehra dated 15-09-2020.

ORDER ANNOUNCED

(Sign)

MUHAMMAD IMTIAZ SHAH PSP/QPM,
Deputy Inspector General of Police,
Directorate of Training,
Central Police Offices, Peshawar

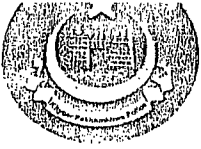
No. 9074-77/Trg: dated: 25-09-2020

Copy of above is forwarded for information and necessary action to the:-

1. Assistant Inspector General of Police, Training Khyber Pakhtunkhwa.
2. Director PTS mansehra.
3. Dy: Superintendent of Police, Training Khyber Pakhtunkhwa.
4. P.A to DIG/Training Khyber Pakhtunkhwa.

(Sign)

MUHAMMAD IMTIAZ SHAH PSP/QPM,



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

01/11/22

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-FC (bugler) Israr Hussain No. 2. The petitioner was dismissed from service by Director, Police Training School, Mansehra vide OB No. 37, dated 15.09.2020 on the allegations that he while posted at Police Training School, Mansehra during his absence on 13.07.2020, sent a medical chit through fax and stated in his arrival report that he was sick and remained in quarantine for 14 days due to Covid-19 symptom. During enquiry proceedings, his medical chit was sent to Medical Superintendent, Category "C" Hospital Topi for verification vide letter No. 19, dated 04.08.2020. The Medical Officer Category "C" Hospital Topi remarked that the entry made on Sr. No. 642-26; dated 30.06.2020 on patient Israr has not been entered in the Hospital Register and as such is bogus. He remained absent from duty w.e.f 22.06.2020 to 21.07.2020 and 04.08.2020 to 10.09.2020 (67-days). During his previous service he was remained absent for 757 days. His appeal was rejected by Deputy Inspector General of Police, Training, Khyber Pakhtunkhwa, Peshawar vide order No. 9073-77/Trg; dated 05.11.2020.

Meeting of Appellate Board was held on 29.03.2022 wherein petitioner was heard in person. Petitioner contended that he was ill.

Perusal of the record revealed that he remained absent for long period of 67 days. He has earned 11 bad entries on charges of absence from duty which establishes that he is habitual absentee and there is no prospects of mending his ways. During the proceedings, he could not submit solid evidence of his innocence. Therefore, the Board decided that his petition is hereby rejected.

Sd/-

SABIR AHMED, PSP

Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/ 762-68 /22, dated Peshawar, the 14 / 11 /2022.

Copy of the above is forwarded to the:

1. Deputy Inspector General of Police, Training, Khyber Pakhtunkhwa, Peshawar.
2. Director, Police Training School, Mansehra. One Service Roll and one enquiry file containing 36-pages of the above named Ex-FC received vide your office Memo: No. 1644, dated 09.11.2021 is returned herewith for your office record.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

(IRFAN TARIQ) PSP

AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

05/10/22

بخدمت جناب انسپکٹر جنرل آف پولیس صاحب (ایپلٹ اتھارٹی)
اسرار حسین ولد راجدات حسین (بیگولر) ساکن ٹوپی ضلع صوابی بیلٹ نمبر 02 متعینہ پی ٹی ایس مانسہرہ (سائل)
بنام
ڈائریکٹر پولیس ٹریگ سکول مانسہرہ
(رسپانڈنٹ)

ڈیپارٹمنٹل ایپل بر خلاف حکم برطانی اپیلانٹ مورخہ 15.09.2020 حکم جناب ڈپٹی انسپکٹر جنرل پولیس مردان ڈویژن مردان جس کی وجہ سے اپیلانٹ کو غیر قانونی غلط طور پر خلاف واقعات بلا اطلاع و شہوانی کا موقع دئے بلا انعقاد قانونی انکوائری اپیلانٹ کو برطرف کیا گیا ہے استدعا اپیل منظور ہی اپیل حکم رسپانڈنٹان کے خلاف قانونی واقعات اور نئی بریٹی اور بغیر موقع دئے قرار دیکر منسوخ فرمایا جا کر اپیلانٹ کو جملہ (Back Benefit) بشمول سناریائی کے ساتھ اپنی ملازمت پر بحال فرمایا جائے۔

جناب عالی! اپیلانٹ حسب ذیل عرض کرتا ہے۔
۱- یہ کہ اپیلانٹ پولیس ٹریگ سکول مانسہرہ میں بطور ہیڈ کوارٹر مورخہ 12.10.2012 تعینات ہو کر اپنے فرائض انتہائی خوش اسلوبی دیا انداری اور اپنے افسران بالا کے مکمل اطمینان کی حد تک سرانجام دیتا رہا ہے۔

۲- یہ کہ اپیلانٹ گزشتہ سال لاک ڈاؤن میں بڑا بخار میں مبتلا ہو کر اپنی ڈیوٹی سے قاصر تھا۔

۳- یہ کہ اپیلانٹ نے اس بابت اپنے افسران مجاز کو زبانی طور پر آگاہ کر کے ہونے رخصت (چھٹی) طلب کرتا رہا۔

۴- یہ کہ اپیلانٹ لاک ڈاؤن ماہ 08.04.2020 میں شدید بخار میں مبتلا ہوا کہ میڈیکل رسید دیا گیا جو کہ سائل نے مجاز آفسر کو دے دیا۔

۵- اپیلانٹ کے لاک ڈاؤن کے دوران سٹاف کے ساتھ ڈیوٹی کر چکا ہے۔ میڈیٹین ظفر صاحبہ نے بتایا تھا کہ سب سٹاف نمبر کے ساتھ ڈیوٹی کروہم نے بھی سٹاف کے ساتھ ڈیوٹی کیا ہوا ہے جو کہ پی ٹی ایس روزنامہ میں ریکارڈ درج ہے اپیلانٹ کا ۲ مہینے کا تنخواہ دینے کو میڈم شمینہ ظفر صاحبہ نے سٹاف کیا تھا۔ اور اپیلانٹ نے تنخواہ دینے کو میڈم صاحبہ کو کہا تو میڈم صاحبہ نے گالی گلوچ شروع کی تھی۔

۶- یہ کہ اپیلانٹ نے لاک ڈاؤن کے دوران موٹر سائیکل پر بھی ڈیوٹی جان گیا تھا لاک ڈاؤن میں سارا سٹاف گھر میں رہا اور میڈیم نے بتایا تھا کہ نمبر کے ساتھ ڈیوٹی وایز ڈیوٹی کروہم نے بھی ڈیوٹی سرانجام دیا ہے

۷- یہ کہ حکم مورخہ 15.08.2020 حکم ڈپٹی انسپکٹر جنرل مورخہ 05.11.2020 من جملہ دیگر واقعات بوجوہات ذیل خلاف قانون، خلاف انصاف واقعات بلا اختیار اور ذاتی اصول انصاف اور باہمی تضادات پر مبنی ہونے کی بنا پر ناقابل پزیرائی ہے بلکہ قابل منسوخی ہے اور اپیلانٹ جملہ Back Benefit کے ساتھ پر بحالی کا حقدار ہے۔

وجوہات:

۱- یہ کہ حکم برطانی اپیلانٹ خلاف قانون بر خلاف واقعات اور نئی بر بدیہتی ہے۔

۲- یہ کہ اپیلانٹ کو نہ ہی بابت انکوائری قانونی نوٹس اطلاع بروقت نہیں دیا گیا ہے۔

۳- یہ کہ اپیلانٹ کی برطانی سے قبل بابت انکوائری نہ ہی کوئی اخباری اشتہار جاری کیا گیا ہے اور نہ ہی ایس برطانی پر اس کے گھر کے ایڈریس پر کوئی اطلاع دی گئی ہے

یہ کہ معمولہ انکوائری اول بدست شمینہ ظفر میڈم پی ٹی ایس مانسہرہ کے دوران اپیلانٹ انکوائری آفیسر کو اپنی مجبوری اپجاری کے باعث اپنی ملازمت سے غیر حاضری کو بابت مطمئن کر چکا تھا۔ اور ایسی انکوائری میں اپیلانٹ کی ملازمت سے برطانی کی کوئی سفارش نہیں کی گئی ہے

اپیلانٹ تین بچوں کا باپ ہے اور اپنے کنبے کا واحد کفیل ہے

لہذا استدعا ہے کہ بوجوہات بالا من جملہ دیگر وجوہات جو کہ بوجوہات بالا پیش اپیلانٹ پیش کرے گا اپنی ملازمت پر جملہ Back Benefit کے ساتھ بحالی فرمایا جائے

اسرار حسین
سائل دعا گور ہے گا۔
اسرار حسین لاک سٹاف PTS مانسہرہ

BEFORE THE SERVICE TRIBUNAL KEYBER PAKHTUNKHWA

Peshawar

Service Appeal No _____/2022

ISRAR HUSSAIN Ex Constable (Bugler) No 2 C/O Police Training
School Manshera

.....(Appellant)

V E R S U S

The Provincial Police Officer KPK Peshawar and others

.....(Respondents)

=====

To,

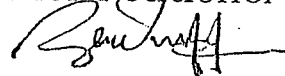
1. The Provincial Police Officer KPK Peshawar.
2. The Additional Inspector General of Police [HQrs] KP
Peshawar
3. The Deputy Inspector General of Police Training
Directorate Training KP CPO Peshawar.
4. The Director Police Training School Sehno Mansehra .

Subject :NOTICE FOR FILING SERVICE APPEAL .

That the petitioner is filling SERVICE APPEAL before Service Tribunal KPK
Peshawar , therefore you are hereby informed through this notice along with
relevant record regarding the filling to above Service Appeal .

Dated : 13.05.2022

Counsel for Petitioner



SARDAR HUSSAIN

Advocate, High Court .

Office: at Judicial Complex Swabi
Shahmansoor

Cell: 03115680349

وکالت نامہ

بعدالت سروس ٹریبونل فیڈریشن

اعزاز حسین بیگم پوئیس اٹھن ۱۵۲۱۴

منجانب دعویٰ یا جرم

تھانہ ایف آئی آر تاریخ

باعتبار آنکہ مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی بمقام لہذا

کے لئے وانیال خان چمکنی ایڈووکیٹ سپریم کورٹ آف پاکستان کو بدین شرط وکیل مقرر

کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کروں گا اگر پیشی پر من مظهر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام کچہری کے کسی اور جگہ یا کچہری کے مقررہ اوقات سے پہلے یا پیچھے یا بزدور تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ اگر مقدمہ علاوہ صدر مقام کچہری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا کچہری کے اوقات کے آگے پیچھے پیش ہونے پر من مظهر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا محنتانہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پرداخت صاحب موصوف مثل کردہ ذات خود منظور 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 بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کارروائی وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپرد نمائش و راضی نامہ کو فیصلہ برخلاف کرنے، اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یا کٹرفہ درخواست حکم اتناعی یا قرتی یا گرفتاری قبل اجراء، ڈگری بھی موصوف کو بشرط ادا یعنی علیحدہ محنتانہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزوی کارروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے کسی دوسرے وکیل یا بیرسٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں۔ اور ایسے مشیر قانون کو ہر امر میں وہی اور ویسے ہی اختیارات حاصل ہوں گے۔ جیسے کہ صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جائد التوائے بڑے گا۔ وہ صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی 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 یہ مختار نامہ لکھ دیا کہ سند رہے

مورے 13/05/22 مضمون مختار نامہ من لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Attested and Accepted by:

Danial Khan Chamkani
Advocate Supreme Court
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