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 Rules 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 Rules 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 | 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.<br><br>REGISTRAR |
| 2- | 1-06-2022 | This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on 21-06-22 .Notices be issued to appellant and his counsel for the date fixed.<br><br>CHAIRMAN |

# 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? | × | ✓ |
| 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? | × | ✓ |
| 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: _____

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 appellant 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)

==========

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| 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

**SARDAR HUSSAIN**
Advocate, High Court
at Judicial Complex Swabi

Office:

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 / gourds deemed pit 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 1.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 dated14/04/2022 but the .d 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 depending 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 well 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)

**VERSUS**

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 re arrival repor that you are sick and remained in quarantine 14 days for Cor treatment. Disciplinary proceeding started against you. DSP Admin Samina Z appointed as Enquiry officer. Enquiry officer found you habitual absentee of 757 in your service. Enquiry officer sent the medical chit to Medical Superintendent Hospital Topi for verification vide this office Memo: No. 19, dated 04.08.2020 Officer Category "C" Hospital Topi remarks that "Bogus entry made on Sr. # 0 30.06.2020 on patient Israr is bogus attached with enquiry files.

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

**You remained dismissed from service Vide OB No. 18, dated 14.0 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. 21.07.2020 (29 days) and from 04.08.2020 to 10.09.2020 (38 days) (Total absence =**

Delinquent Bugler Constable appear before the Enquiry Officer and given statement which is not satisfactory due to which he found guilty. The defaul Constable Israr Hussain No. 0 was served with Final Show Cause Notice on his ad through District Police Officer Swabi vide his office Memo: No. 677,dated 13.08.202

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

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

Order Announced.

DIRECTOR
Police Training Scho
Mansehra

OB No. 37
Dated 15-9-2020

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

DIRECTOR
Police Training Schoo

بخدمت جناب ڈپٹی انسپکٹر جنرل پولیس صاحب (اپیلٹ اتھارٹی) K.P.K پشاور

اسرار حسین ولد راحت حسین (بگلور) ساکن ٹوپی ضلع صوابی بگلور نمبر 2
متعینہ پی۔ٹی۔ایس مانسہرہ

بنام

ڈائریکٹر پولیس ٹریننگ سکول مانسہرہ ..... (ریسپانڈنٹ)

× ×

ڈیپارٹمنٹل اپیل برخلاف حکم برطرفی اپیلانٹ مورخہ 19.3.2019 نمبری 995-98 جسکی رو سے اپیلانٹ کو غیر قانونی۔غلط طور خلاف واقعات۔بلا اطلاع وتسوائی کا موقع دیئے بغیر (Condemned Unheard) بلا انعقاد قانونی انکوائری اپیلانٹ کو برطرف کیا گیا ہے

استدعا اپیل :۔ منظوری اپیل حکم ریسپانڈنٹ کو خلاف قانون خلاف واقعات اور سنی برمبنی اور بغیر موقع دیئے قرار دیکر منسوخ فرمایا جاکر اپیلانٹ کو جملہ Back Benefit بشمول سنیارٹی کے ساتھ اپنی ملازمت پر بحال فرمایا جائے

جناب عالی! اپیلانٹ حسب ذیل عرض کرتا ہے۔

1) یہ کہ اپیلانٹ پولیس ٹریننگ سکول مانسہرہ میں بطور (بگلور) از مورخہ 10/12/2012

یہ کہ اپیلانٹ گذشتہ سال لاک ڈاؤن میں بڑا بیمار رہی مبتلا ہو کر اپنی ڈیوٹی کرنے سے قاصر رہا۔

یہ کہ اپیلانٹ نے اس بابت اپنے آفسران مجاز کو زبانی طور پر آگاہ کرائے۔ اور رخصت (چھٹی) طلب کرتا رہا ہے۔

یہ کہ اپیلانٹ لاک ڈاؤن ماہ 8/20 میں شدید بخار میں مبتلا ہوا۔ کہ میڈیکل رسید دیا گیا۔ جبکہ سائل نے جاز آفسر کو دے دیا۔

اپیلانٹ نے لاک ڈاؤن کے دوران مکمل طور پر ڈیوٹی کر چکا ہے۔

میڈم کنیز فاطمہ نے بتایا تھا کہ سب مکمل نمبر کیساتھ ڈیوٹی کرو ہم نے بھی مکمل ہاتھ ڈیوٹی کیا ہوا ہے۔ جو کہ پی۔ٹی۔ایس روزنامچہ میں ریکارڈ درج ہے۔

اپیلانٹ کا ۴ مہینے کا تنخواہ میڈم کنیز فاطمہ نے منظور کیا تھا۔

اور اپیلانٹ نے تنخواہ دینے کو میڈم کو کہا تو میڈم نے کہا کہ ہیڈ آفس سے آنے کا شروع کر دی۔

یہ کہ اپیلانٹ نے لاک ڈاؤن کے دوران موٹر سائیکل پر بھی ڈیوٹی جائن کیا گیا ہے۔

لاک ڈاؤن میں سارا مکمل گھر میں رہا۔ اور میڈم نے بتایا تھا کہ نمبر کیساتھ ڈیوٹی ہوا ہے ڈیوٹی کرو۔ ہم نے بھی ڈیوٹی سر انجام دیا ہے۔

P.T.O

OB-37

یہ کہ حکم مورخہ 08-9-08 کا نمبری من جملہ دیگر واقعات بوجوہات

ذیل خلاف قانون، خلاف واقعات، بلا اختیار اور مروجہ اصول انصاف

(Principles of natural Justice) اور باہمی تضادات پر مبنی ہونے کی بنا پر ناقابل

عمل ہونے کی حامل ہے۔ اور اپیلانٹ جملہ (Basic Benefits) کے علاوہ

پر بحالی کا حقدار ہے۔

بوجوہات ہذا یہ حکم ہر طرح اپیلانٹ خلاف قانون برخلاف واقعات اور

مبنی پر بد نیتی ہے۔

یہ کہ اپیلانٹ کو تبھی بابت انکوائری قانون کوئی اطلاع بروقت نہیں دیا گیا ہے۔

یہ کہ اپیلانٹ کی برطرفی سے قبل بابت انکوائری نہ ہی کوئی اظہاری استفسار جاری کیا گیا ہے

اور نہ ہی اپیلانٹ پر اسکے مقدمہ کے اندراج پر کوئی اطلاع دی گئی ہے۔

اور نہ ہی کوئی استفسار کیا گیا ہے۔

یہ کہ مبینہ انکوائری اصل بدست مختیہ ظفر میڈم پی ایس۔ ما تحت سے دوران اپیلانٹ

انکوائری آفیسر کو اپنی مجبوری / بیماری کے بابت اپنی ملازمت سے غیر حاضری کو بابت مطلع کرتا رہا

اور اسی انکوائری میں اپیلانٹ کی ملازمت سے برطرفی کی کوئی سفارش نہیں کی گئی ہے

جبکہ مرحوم انکوائری آفیسر کی بابت اپیلانٹ لاعلم تھا۔

P.T.O

(۵) یہ کہ اپیلانٹ کی غیر حاضری متصدانہ تھی بلکہ بوجوہات مندرجہ بالا تھی۔

اپیلانٹ کو بتایا کہ ہمارے پاس کچھ کنفٹ لاد دی ہے آپ اسکو اتری ختم کریں گا تھی اپیلانٹ نے اسکو بتایا کہ رشوت لینے والا اور دینے والا دونوں جہنمی ہے۔ اپیلانٹ نے انکار کیا۔

یہ کہ اپیلانٹ اپنے افسران بالا کے احکامات اور بمطابق اپنی ملازمت جاری رکھنے کا مستحق ہے۔

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

لہٰذا استدعا ہے کہ بوجوہات بالا من جملہ دیگر وجوہات جو کہ بوجوہات بالا پیش اپیلانٹ پیش کرے گا۔ اپنی ملازمت پر بحال فرمایا جائے۔ Back Benefit کے ساتھ بحال فرمایا جائے۔ سائل دعا گو رہے گا۔

Date- 10/9/020

FC کامیٹل اسرار حسین ائیر سٹاف P.T.S مالیکنڈ

موبائل نمبر- 03109347607 / 03118235051

THE DIRECTORATE OF TRAINING,
KHYBER PAKHTUNKHWA, PESHAWAR.
Email: dsptrgbasic@gmail.com
No. 9073 / Dated 05 / 11 /2020 Phone & Fax No. 091-9211268

(20) D 167 orders

ORDER

This order shall dispose-off the department appeal/application, preferred by FC/[redacted] Constable Israr Hussai No.2 of Line Staff PTS, Mansehra against the major punishment of dismissal from service vide OB No.37 dated 15/09/202 passed by Director, PTS Mansehra.

Brief facts of the case are that the appellant/applicant during his absence on 13.07.2020, sent a medical chit throug 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 wa appointed as an Enquiry Officer. During the enquiry, the appellant/applicant was found a habitual absentee of 757 day absence during his service. The Enquiry Officer sent the medical chit to Medical Superintendent Category "C" Hospita Topi for verification vide Office Memo: No.19, dated 04.08.2020. The Medical Officer Category "C" Hospital, Top remarked that entry made on Sr.No.642-26, dated 30.06.2020 on patient Israr has not been entered in the Hospital Registar 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 perio of 757 days during his previous service.

The appellant/applicant was previously dismissed from service Vide OB No.18, dated 14.03.2019 and reinstate 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 31.07.2020 (29 day 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 n found satisfactory and the appellant/applicant was found guilty and, hence, was served with Final Show Cause Notice on h 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/applica appeared for personal hearing but failed to satisfy the Director, PTS, Mansehra.

In view of the reasons stated above and conclusion 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 w. immediate effect vide OB No.37 dated 15.09.2020 and his period of absence of 67 days was treated as Leave Without Pa 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 ar 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 o Police, Directorate of Training, Central Police Offices, Peshawar, appellate authority, dismiss the appeal of Ex-FC/[redacted] Constable Israr Hussain No.2 of Line Staff PTS, Manchra and maintain the order of dismissal passed by Director, PT Mansehra 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 / 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, 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 be 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.

## 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 11/4/2022.

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.

05/04/22

**(IRFAN TARIQ) PSP**
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

17 A

بخدمت جناب انسپکٹر جنرل آف پولیس صاحب (اپیلٹ اتھارٹی)

اسرار حسین ولد راحدت حسین (بیگولر) ساکن ٹوپی ضلع صوابی بیلٹ نمبر 02 متعینہ پی ٹی ایس مانسہرہ (سائل)

بنام

ڈائریکٹر پولیس ٹریننگ سکول مانسہرہ (رسپانڈنٹ)

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ڈیپارٹمینٹل اپیل برخلاف حکم برطرفی اپیلانٹ مورخہ 15.09.2020 وحکم جناب ڈپٹی انسپکٹر جنرل پولیس مردان ڈویژن مردان جس کی وجہ سے اپیلانٹ کو غیر قانونی غلط طور پر خلاف واقعات بلا اطلاع وشنوائی کا موقع دیے بلا انعقاد قانونی انکوائری اپیلانٹ کو برطرف کیا گیا ہے

استدعا اپیل بمنظوری اپیل حکم رسپانڈنٹان کے خلاف قانونی واقعات اور مبنی بر نیتی اور بغیر موقع دیے قرار دیکر منسوخ فرمایا جا کر اپیلانٹ کو جملہ (Back Beneifit) بشمول سنیارٹی کے ساتھ اپنی ملازمت پر بحال فرمایا جائے۔

جناب عالی! اپیلانٹ حسب ذیل عرض کرتا ہے۔

۱۔ یہ کہ اپیلانٹ پولیس ٹریننگ سکول مانسہرہ میں بطور ہیوگراز مورخہ 12.10.2012 تعینات ہوکر اپنے فرائض انتہائی خوش اسلوبی دیانداری 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 ہوکر اپنی ڈیوٹی سے قاصر تھا۔

۳۔ یہ کہ اپیلانٹ نے اس بابت اپنے آفسران مجاز کو زبانی طور پر آگاہ کرائے ہوئے رخصت (چھٹی) طلب کرتا رہا۔

۴۔ یہ کہ اپیلانٹ لاک ڈون 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 ڈاون کے دوران سٹاف کے ساتھ ڈیوٹی کر چکا ہے۔ میڈ ثمینہ ظفر صاحبہ نے بتایا تھا۔ کہ سب سٹاف نمبر کے ساتھ ڈیوٹی کرو ہم نے بھی سٹاف کے ساتھ ڈیوٹی کیا ہوا ہے جو کہ پی ٹی ایس روزنامچہ میں ریکارڈ درج ہے اپیلانٹ کا ۲ مہینے کا تنخواہ دینے کو میڈم ثمینہ 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 ڈاون کے دوران موٹر سائیکل پر بھی ڈیوٹی جائن کیا گیا تھا لاک ڈاون میں سارا سٹاف گھر میں رہا اور میڈیم نے بتایا تھا کہ نمبر کے ساتھ ڈیٹیل وایز ڈیوٹی کرو ہم نے بھی ڈیوٹی سرانجام دیا ہے

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

وجوہات:

۱۔ یہ کہ حکم برطرفی اپیلانٹ خلاف قانون برخلاف واقعات اور مبنی بر بد نیتی ہے۔

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

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

یہ کہ مملولہ انکوائری اول بدست ثمینہ ظفر میڈم پی ٹی ایس مانسہرہ کے دوران اپیلانٹ انکوائری آفیسر کو اپنی مجبوری / بیماری کے باعث اپنی ملازمت سے غیر حاضری کو بابت مطمین کر چکا تھا۔ اور اسی انکوائری میں اپیلانٹ کی ملازمت سے بطرفی کی کوئی سفارش نہیں کی گئی ہے

اپیلانٹ تین بچون 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 گو رہے گا۔

اسرار حسین لائن سٹاف PTS مانسہرہ

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)

**VERSUS**

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

(19)

# وکالت نامہ

بعدالت سروس ٹریبونل خیبر پختونخوا

احزار حسین بنام پولیس اتھارٹی

منجانب _____ دعوی یا جرم _____

تھانہ _____ الیف آئی آر _____ تاریخ _____

**باعث تحریر آنکہ** مقدمہ مندرجہ بالاعنوان میں اپنی طرف سے واسطے پیروی و جوابدہی بمقام پشاور

کے لئے **دانیال خان چمکنی** ایڈوکیٹ سپریم کورٹ آف پاکستان کو بدین شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص روبرو عدالت حاضر ہوتا رہونگا۔ اور بوقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کرونگا اگر پیشی پر من مظہر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے برخلاف ہوگیا 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 بروز 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 مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختانہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پرداختہ صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دعوی و جواب دعوی اور درخواست اجرائے 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 اجرا کرانے اور ہر قسم کا روپیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپرد ثالثی و راضی نامہ کو فیصلہ برخلاف کرنے، اقبال دعوی دینے کا بھی اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا قرقی یا گرفتاری قبل از اجراء ڈگری بھی موصوف کو بشرط ادائیگی علیحدہ مختانہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزو کی کاروائی 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 ہرجانہ التوائے پڑے 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

مورخہ 13/05/22 مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Attested and Accepted by:

Danial Khan Chamkani
Advocate Supreme Court
Of Pakistan.
Cell No. 0314-9160522
BC No. 11-1891
CNIC No. 17301-9421648-3