


10.08.2022

Counsel for the appellant present. Mr. Muhammad Riaz Khan Painsdakhel, Assistant Advocate General for respondents present.

On previous date notices were not issued. Therefore, fresh notices be issued to respondents for submission of written reply/comments. To come up for written reply/comments on 23.09.2022 before S.B.






(Fareeha Paul)
Member (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 899/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/06/2022	<p>The appeal of Mr. Ahmad Ali resubmitted today by Roeeda Khan 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-	15.6.22 Noted By Counsel	<p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on <u>28.6.22</u>. Notices be issued to appellant and his counsel for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>
28.06.22	 15/6/2022 Rs-500/- Appellant Deposited Security & Process Fee A. Jaffar 01/7/22	<p>28.06.22 Learned counsel for the appellant present. Preliminary arguments heard and record perused.</p> <p>Points raised need consideration. The appeal is admitted for regular hearing subject to all 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 reply/comments. To come up for written reply/comments on 10.08.2022 before S.B.</p> <p style="text-align: right;"> (Fareeha Paul) Member (E)</p>

The appeal of Mr. Ahmad Ali son of Mehmood Khan r/o Abdur Rehman Banda Mardan received today i.e. on 24.05.2022 is incomplete on the following score which is returned to the counsel for the appellants for completion and resubmission within 15 days.

- 1- Copy of departmental appeal is not attached with the appeal which may be placed on it. Annexure-B is an application for supply of dismissal order but not a copy of departmental appeal.
- 2- Annexure-A of the appeal is illegible which may be replaced by legible/better one.
- 3- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.

No. 1164 /S.T,

Dt. 25/5 /2022

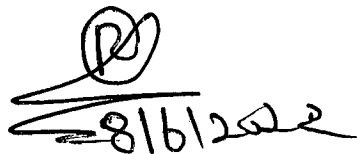


Roeda Khan Adv. Pesh.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Reply of objection No 1 has been mentioned in para 5 of facts of Appeal while objection No 2 and 3 has been Removal.



8/6/2022

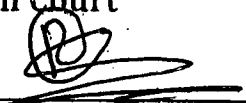
BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

CHECK LIST

1.	Case title	<u>Ahmed Ali vs police</u>		
2.	Case is duly signed.		Yes	No
3.	The law under which the case is preferred has been mentioned.		Yes	No
4.	Approved file cover is used.		Yes	No
5.	Affidavit is duly attested and appended.		Yes	No
6.	Case and annexure are property paged and numbered according to index.		Yes	No
7.	Copies of annexure are legible and attested. If not, then better copies duly attested have annexed.		Yes ✓	No
8.	Certified copies of all requisite documents have been filed.		Yes	No
9.	Certificate specifying that no case on similar grounds was earlier submitted in this court, filled.		Yes	No
10.	Case is within time.		Yes	No
11.	The value for the purpose of court fee and jurisdiction has been mentioned in the relevant column.		Yes	No
12.	Court fee in shape of stamp papers affixed. For writ Rs. 500, for other as required}		Yes	No
13.	Power of attorney is in proper form.		Yes	No
14.	Memo of addressed filed.		Yes	No
15.	List of books mentioned in the petition.		Yes	No
16.	The requisite number of spare copies-attached { Write petition- 3, Civil appeal(SB-2) Civil Revision (SB-1, DB-2)		Yes	No
17.	Case (Revision /appeal/petition etc) is filled on a prescribed form.		Yes	No
18.	Power of attorney is attested by jail authority (for jail prisoner only)		Yes	No

It is certified that formalities /documentations as required in column 2 to 18 above, have been fulfilled.

Name:- **Roeeda Khan**
Advocate High Court
Peshawar

Signature: - 

Dated: - 8-6-2022

FOR OFFICE USE ONLY

Case: - _____

Case received on _____

Complete in all respect: Yes/No, (If NO, the grounds) _____

Signature _____

(Reader)

Dated: - _____

Countersigned: - _____

(Deputy Registrar)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. 899 /2022

Ahmad Ali

VERSUS

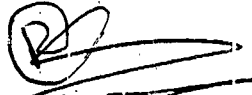
District Police Officer Mohmand Tribal District & Other

INDEX

S#	Description of Documents	Annexure	Pages
1.	Grounds of Petition.		1-5
2.	Affidavit.		6
3.	Addresses of parties		7
4.	Application for Condonation of Delay		8-9
5.	Copies of dismissal order	"A"	10
6.	Copy of application	"B"	11
7.	Copy of rejection order	"C"	12-13
8.	Copy of revision petition	"D"	14
9.	Wakalatnama		

اپیلتنٹ
APPELLANT

Through


Rozeeda Khan
Advocate, High Court
Peshawar.

Dated: 24/05/2022

(1)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2022

Ahmad Ali S/o Mehmood Khan R/o Abdur Rehman
Banda Mardan.

Appellant

VERSUS

1. District Police Officer Mohmand Tribal District.
2. Regional Police Officer Mardan.
3. Inspector General of Police KPK Peshawar.

Respondents

APPEAL U/S-4 OF THE KHYBER
PAKHTUNKHWA SERVICES
TRIBUNAL ACT 1974 AGAINST THE
ORDER DATED 21-12-2021,
WHEREBY THE APPELLANT HAS
BEEN AWARDED MIJOR
PUNISHMENT OF DISMISSAL
FROM SERVICE AGAINST WHICH
THE APPELLANT FILED
DEPARTMENTAL APPEAL ON
DATED 20.01.2022 WHICH HAS
BEEN REJECTED ON 29.04.2022 ON
NO GOOD GROUNDS.

PRAYER:-

ON ACCEPTANCE OF THIS APPEAL
BOTH THE IMPUGNED ORDER DATED

(2)

21/12/2021 & 29.04.2022 MAY KINDLY BE
SET ASIDE AND THE APPELLANT MAY
KINDLY BE REINSTATED ON HIS
SERVICE ALONG WITH ALL BACK
BENEFITS. ANY OTHER REMEDY
WHICH THIS AUGUST TRIBUNAL
DEEMS FIT THAT MAY ALSO BE
ONWARD GRANTED IN FAVOUR OF
APPELLANT.

Respectfully Sheweth,

1. That the Appellant has been appointed as Constable on 2011 with respondent department.
2. That after appointment the appellant performed his duty regularly and with full devotion and no complaint whatsoever has been made against the appellant.
3. That while performing his official duty with respondent department the appellant has been dismissed from service on 21.12.2021 by the respondent department on the allegation that the appellant failed to attend the basic recruit course but the appellant was never informed by the respondent department and was unaware regarding the said course. (Copy of dismissal order is attached as annexure "A").

4. That the said dismissal order dated 21.12.2021 has never been communicated to the appellant, It was communicated to the appellant on 17.01.2022 when the appellant properly submitted an application for providing the copy of dismissal order to the appellant **(Copy of application is attached as annexure "B")**.
5. That the appellant submitted departmental appeal on 20.01.2022 against the impugned order dated 21.12.2021 but unluckily the appellant has not been kept the copy of departmental appeal which has been un rejected on 29.04.2022 **(Copy of rejection order is attached as annexure "C")**
6. That the appellant submitted revision petition within one month from the rejection order dated 29.04.2022 against the impugned order dated 21.12.2021 to respondent department. **(Copy of revision petition is attached a annexure "D")**.
7. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following grounds inter alia:-

GROUNDS:-

- A. That the impugned order dated 21/12/2021 & 29.04.2022 are void and ab-initio order because it has been passed without fulfilling codal formalities in this respect the appellant relied upon a judgment reported on 2007 SCMR Page 834.

(4)

- B. That no charge sheet and statement of allegation has been issued or served to the appellant, which is a clear cut violation of Rule-6 (A) (B) of police Rules-1975.
- C. That the impugned order is also void because no regular or departmental inquiry was conducted against the appellant which is mandatory before imposing the major penalty and no opportunity of personal hearing and defense has been provided to the appellant relied upon a judgment reported on 2003 PLC (CS) Page 365 on 2021 PLC (CS) page 235 as well as judgment of this Tribunal in service appeal No. 1181/2018 decided on 17.09.2021.
- D. It is a well settled principle of law no one can be condemned unheard because it is against the natural justice of law in this respect the appellant relied upon a judgment reported on 2008 SCMR page:678.
- E. That no statement of witness has been recorded & no opportunity of cross examination has been provided to the appellant. In this respect the appellant relied upon a judgment reported on 2016 SCMR Page 108.
- F. That the punishment has been awarded to the appellant is come under the definition of harsh punishment.
- G. That any other ground not raised here may graciously be allowed to be raised at the

time full of arguments on the instant service appeal.

It is therefore, most humbly prayed that on acceptance of this appeal both the impugned order dated 21/12/2021 & 29.04.2022 may kindly be set aside and the appellant may kindly be reinstated on his service along with all back benefits. Any other remedy which this august tribunal deems fit that may also be onward granted in favour of appellant.

APPELLANT

Through

Roeed Khan

&

Sheeba Khan

Advocates, High Court
Peshawar.

Dated: 24/05/2022

NOTE:-

As per information furnished by my client, no such like appeal for the same petitioner, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Tribunal.

Advocate.

6)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2022

Ahmad Ali

VERSUS

District Police Officer Mohmand Tribal District & Other

AFFIDAVIT

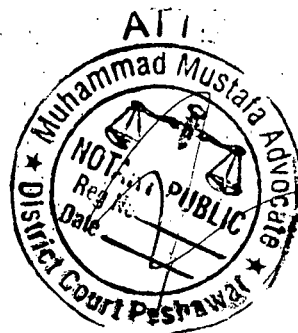
I, Ahmad Ali S/o Mehmood Khan R/o Abdur Rehman Banda Mardan, do hereby solemnly affirm and declare that all the contents of the **instant appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Court.

U.S. 31
DEPONENT



IDENTIFIED BY:

Roeeda Khan
Advocate High Court
Peshawar.



(7)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2022.

Ahmad Ali

VERSUS

District Police Officer Mohmand Tribal District & Other

ADDRESSES OF PARTIES

PETITIONER.

Ahmad Ali S/o Mehmood Khan R/o Abdur
Rehman Banda Mardan

ADDRESSES OF RESPONDENTS

1. District Police Officer Mohmand Tribal District.
2. Regional Police Officer Mardan.
3. Inspector General of Police KPK Peshawar.

(س.ب)
APPELLANT

Through

(R)
Roeeda Khan
Advocate, High Court
Peshawar.

Dated: 24/05/2022

3

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2022

Ahmad Ali

VERSUS

District Police Officer Mohmand Tribal District & Other

APPLICATION FOR CONDONATION OF DELAY (IF ANY)

Respectfully Sheweth,

Petitioner submits as under:

1. That the above mentioned appeal is filing before this Hon'ble Tribunal in which no date is fixed for hearing so far.

GROUND:

A. That the impugned order is void and illegal and no limitation run against the void orders because the impugned order has been passed without fulfilling the codal formalities.

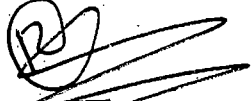
B. That there are number of precedents of the Supreme Court of Pakistan which provides that the cases shall be decided on merits rather than technicalities.

191
C. That there are many judgment of the superior court that if the respondent has no case on merit limitation has not becomes a huddle in way of justice.

It is, therefore, requested that the limitation period (if any) may kindly be condone in the interest of justice.

Through

APPELLANT


Roeeza Khan
Advocate, High Court
Peshawar.

Dated: 24/05/2022



(A) (10)

**OFFICE OF THE
DISTRICT POLICE OFFICER
MOHMAND TRIBAL DISTRICT GHALLANAI**


Email: dpomohmand@gmail.com
Ph: 0924-290179 Fax: 0924-290056

ORDER:

This order will dispose off the inquiry proceeding against PC Ahmad Ali No. 2913 with the allegations that he was time and again directed via district control room to report at respective training center for basic training. But he turned deaf ear to the orders and failed to report at the training center. Moreover, the delinquent official reluctant to appear before the inquiry officer in connection with inquiry.

To scrutinize the conduct of the delinquent official, he was issued charge sheet together with statement of allegation & inquiry was entrusted to Mr. Pasham Gul (DSP Ambar) vide this office letter No. 983-986/PA. The inquiry officer after fulfilling all legal and codal formalities, the alleged constable was found at fault, however, recommended for Major Punishment.

Based on the above I ~~Satah ud-Din Kandil~~, District Police Officer, Mohmand being the competent authority and exercise of power vested in me under the Khyber Pakhtunkhwa, Government Servant (Efficiency & Discipline) rules 2011, hereby awarded him Major Punishment of Dismissal from the service with immediate effect.


District Police Officer
Mohmand Tribal Dist

OB No. 10612
Date: 21/12/2021

No. 3385-28 /PA, dated Mohmand the 21/12/2021

Copy forwarded to the:

- Regional Police Officer, Mardan for favor of kind information please
- HC/EC/FMC
- Pay Officer

"C" (12)

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Constable Ahmad Ali No. 2913 of Mohmand District against the order of District Police Officer, Mohmand, whereby he was awarded major punishment of dismissal from service vide OB: No. 1042 dated 21.12.2021 by the District Police Officer, Mohmand. The appellant was proceeded against departmentally on the allegations that he was selected for basic recruit course and in this regard he was time and again directed via District Control Room to report at respective training Centre for basic recruit training. But he turned a deaf ear to the orders and failed to report at the training center.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and Mr. Pasham Gul Sub Divisional Police Officer, Ambar District Mohmand was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings wherein he reported that the defaulter Officer was contacted time and again to appear before the enquiry Officer, but he failed and remained absent, which showed that he was no more interested in Police Service. He recommended the delinquent Officer for ex-parte action.

Therefore, after perusal of enquiry papers and recommendations of the enquiry Officers the delinquent Officer was awarded major punishment of dismissal from service by the District Police Officer, Mohmand vide his office OB: No. 1042 dated 21.12.2021.

Feeling aggrieved from the order of District Police Officer, Mohmand, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 30.03.2022.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. As the appellant has bitterly failed to produce any cogent reason to justify his absence because the appellant got absorbed in Police Department on 23.07.2020 and due to non performance of duties his salary was stopped and enquiry was initiated on 24.06.2021 and remained absent till order of his dismissal. Hence, the absence period i.e 01 year, 04 months & 28 days of the appellant clearly depicts the casual and lethargic attitude towards his official duties as the very conduct of appellant is unbecoming of a disciplined Police Officer. Hence, order passed by the competent authority does not warrant any interference.

(13)

Keeping in view the above, I, Yaseen Farooq, PSP Regional Police Officer, Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.


Regional Police Officer,
Mardan.

No. 3302 /ES, Dated Mardan the 29/04 /2022.

Copy forwarded to District Police Officer, Mohmand for information and necessary action w/r to his office Memo: No. 250/DPO/M dated 10.02.2022. His Service Record is returned herewith.

(*****)

(B) III

شماره ثبت فن 1 م 2

درود صحت 1 م 2

2011/11

عنوان

درود صحت 1 م 2

بنام آقای علی ولد محمد ذکاء فرزند محمد
کلیه تراکنشها و پولها را تسویه نماید

(Signature)
17/11/22

no - 656379 -

تاریخ

درود صحت 1 م 2 - درود صحت 1 م 2 - درود صحت 1 م 2

بنام آقای علی ولد محمد ذکاء فرزند محمد - درود صحت 1 م 2

کلیه تراکنشها و پولها را تسویه نماید - درود صحت 1 م 2

بنام آقای علی ولد محمد ذکاء فرزند محمد - درود صحت 1 م 2

کلیه تراکنشها و پولها را تسویه نماید - درود صحت 1 م 2

بنام آقای علی ولد محمد ذکاء فرزند محمد - درود صحت 1 م 2

17/01/2022

شماره ثبت فن 1 م 2

درود صحت 1 م 2 - درود صحت 1 م 2 - درود صحت 1 م 2

کلیه تراکنشها و پولها را تسویه نماید

(Signature)

Dr/Oo M. M. M.

no 348-8384430

For Comments:

no 587/ES

dt: 20-01-22

R. V. S. Madala
17/01/2022

جناب عالی

گزارش ہسٹری میں رائل کا پچازاد جوائی کیوینر میں ڈیوٹی
پر حاضر تھا جو کہ سال 2011ء میں ایک دہشت گرد حملے
کے نتیجے میں شہید ہوا جس پر 2011ء میں من اسائل
کو باقاعدہ شہید کوٹہ میں سپیشل خاصہ دار فورس کیوینر
میں جوتی کیا گیا سپیشل خاصہ دار فورس کی ڈیوٹی۔
صرف خاصہ دار فورس کیوینر 1997ء کیس تھا ہوتی
ہے سپیشل خاصہ دار فورس کے جوان صرف طلبہ افران
بالا ڈیوٹی پر حاضر ہوتے ہیں علاوہ انہی من اسائل امن
طلبی میں بھی ڈیوٹی انجام دے رہا تھا۔

یہ کہ جب سال 2020ء میں کیوینر پولیس فورس میں
ضم ہو گئی تو میں باقاعدہ افسران بالا کے پاس بھی گیا کہ
مجھے ٹریننگ کیلئے بھیج دیا جائے کیونکہ مجاز افسران صاحبان
نے مجھے بتلایا کہ یہ شہید کوٹہ ہے جس پر صرف شہید کے بچے
فورس میں لے جاسکتے ہیں لہذا میں وہاں سے واپس
آیا جو نہ میں سپیشل خاصہ دار فورس میں ڈیوٹی کا عادی
تھا میں اپنی ڈیوٹی کال کا انتظار کر رہا تھا کہ مجھے حکم
ہوا کہ آپلو جاکر کیس سے ڈیسس کر دیا ہے

یہ کہ من اسائل کو نہ الگوٹیری کی بابت طلب کیا گیا ہے
نہ مجھے شوکانہ چارج شیٹ دیا گیا ہے

استدعا ہے کہ من سائل اپنی کم کاری پر حال
کرنے کے احکامات صادر فرما کر مسئلہ روکنا ہوگی

عین کو از غیبت ہوگی

صدر دارالکتابت بغداد

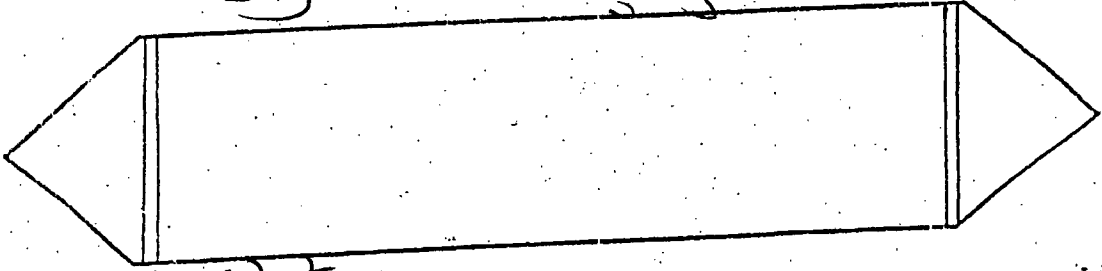
احمد علی Ex-FC ولد محمود خان سکنہ عبد الرؤف بانڈہ

2913

صاحب داران

قائمہ جبرودان

بعد التحدث مع السيد محمد علي



2022 منجانب السيد محمد علي

بنام السيد محمد علي

سورخه
مقدمه
دعوى
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کاروائی متعلقہ آن مقام سورخہ کیلئے دولت محلہ اور دولت محلہ مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ یا اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبیل ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سب سے وہ ہوگا۔ کوئی تاریخ پیشتی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 26 ماہ 2022

العبد _____ واہ العبد _____

بمقام سورخہ کے لئے منظور ہے۔

Accepted R.Y.