

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.524/2014

Date of Institution ... 26/3/2014

Date of Decision ... 30/8/2017

Yaseen Khan S/O Fatih Mulk Khan,  
Ex-Constable at District Lower Dir,  
R/O Rani, Tehsil Balambat, District Lower Dir

... (Appellant)

VERSUS

1. District Police Officer, District Lower Dir.
2. Regional Police Officer Malakand Division.
3. Inspector General of Police Khyber Pakhtunkhwa.
4. Deputy Superintendent of Police, Headquarter Lower Dir

... (Respondents)

Mr. Taimur Ali Khan,  
Advocate

--- For appellant.

Mr. Ziaullah,  
Deputy-District Attorney

.... For respondents.

MR. GUL ZEB KHAN

... MEMBER

MR. MUHAMMAD HAMID MUGHAL

... MEMBER

JUDGMENT

GUL ZEB KHAN, MEMBER. The aforesaid appeal dated 26/3/2014 has been lodged by Mr. Yaseen Khan hereinafter referred to as appellant, under Section-4 of Khyber Pakhtunkhwa Service Tribunal Act 1974, wherein he has impugned the order dated 2/1/2014 vide which the appellant was awarded major penalty of Dismissal from Service. The appellant filed departmental appeal against the impugned order on 30/1/2014 which was rejected on 10/2/2014, hence this appeal.

2. Brief facts of the case giving rise to the instant appeal are that the appellant was appointed as constable on 11/1/2010. That appellant never remained absent from his lawful duties and successfully completed his probation period. In 2013, the appellant fell serious

ill and, due to ailment he, remained absent from duties. Upon recovery, he joined his duties accordingly. That on 5/12/2013, the appellant again felt seriously ill and as observed by a Physician at District Headquarter Hospital Timergara, he was suffering from Migraine and typhoid. Upon his recovery on 24/12/2013, the appellant went to his duty station, but was not allowed to perform duties. Rather he was informed that an enquiry is pending against him. That on 30/12/2013, appellant was informed vide letter dated 26/12/2016 that he has been dismissed from service.

3. Learned counsel for the appellant argued at the bar that mandatory provisions of law and rules have been violated by the respondents as the appellant has not been treated according to law and rules. That the impugned order dated 2/1/2014 is illegal, against the law, facts and material on record. That the appellant has been condemned unheard during inquiry. Neither his statement has been record nor any show cause notice has been given to him, which is violation of Article 10-A of the Constitution as well as Principles of natural justice. That since the impugned order is illegal and without any justification, hence the same be set-aside.

4. On the other side learned Deputy District Attorney argued before the court that since the appellant has willfully absented himself without any leave, hence he was rightly proceeded against and dismissed from service vide impugned order dated 2/1/2014. That the instant appeal is without any substance and therefor may be dismissed with costs.

5. We have heard arguments of learned counsel for the appellant and learned Deputy District Attorney for the respondents and have gone through the record available on file.

6. Perusal of record would reveal that no opportunity of personal hearing during the course of disciplinary proceedings was provided to the appellant. Similarly no documentary proof in the shape of registered acknowledgment letter at the home address of the appellant was provided by respondent-department to show that notice has been

received by appellant which were mandatory under the rules. But this point can also not be ignored that the absence of the appellant from duties is an admitted fact. However, there is also another aspect of the present case, which requires due consideration and that is that the competent authority, while awarding major penalty of dismissal of service, also treated the absence of the appellant as leave without pay. Relevant portion of the impugned order dated 2/1/2014 is reproduced as under:-

“I have gone through the enquiry file, finding of the Enquiry Officer and have reached at the conclusion that the defaulter constable is a habitual absentee; and not interested to serve in the Police Department, therefore he is hereby dismissed from service from the date of his absence i.e with effect from 6/12/2013. The period of absence from 2/9/2013 to 11/11/2013 and from 6/12/2013 to date is also treated as leave without pay”.

When the authority while dismissing the appellant on the ground of absence from duty, also decided the appellant's leave to be treated as without pay for the said period of absence, so by this way he regularized his absence, and the very ground for awarding penalty to the appellant had vanished. Reference 2006 SCMR 434. Consequently, the present appeal is accepted and the impugned orders to the extent of awarding of penalty of dismissal of service are set-aside. Resultantly the appellant is reinstated. The intervening period shall be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

30.08.2017

  
(Muhammad Hamid Mughal)  
MEMBER

  
(Gul Zeb Khan)  
MEMBER

30/8/2017

Counsel for the appellant and Mr. Ziaullah,  
Deputy District Attorney for the respondents present.  
Arguments heard and record perused.

Vide our detailed judgment of today placed on file,  
the present appeal is accepted and the impugned orders  
to the extent of awarding of penalty of dismissal of  
service are set-aside. Resultantly the appellant is  
reinstated. The intervening period shall be treated as  
leave of the kind due. Parties are left to bear their own  
costs. File be consigned to the record room.

ANNOUNCED

30.08.2017





(Muhammad Hamid Mughal)  
MEMBER

  
(Gul Zeb Khan)  
MEMBER

14.04.2017

Counsel for the appellant present. Mr. Ziaullah, Government Pleader for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 01.08.2017 before D.B.

  
(Ahmad Hassan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

01.08.2017

Mr. Taimur Khan, Advocate filed fresh Wakalat Nama on behalf of the appellant. Asst: AG alongwith Mr. Zewar Khan, SI(Legal) for respondents present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 30.08.2017 before D.B.

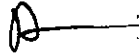
  
(Gul Zeb Khan)  
Member

  
(Muhammad Hamid Mughal)  
Member

15.04.2016

Counsel for the appellant and Mr. Usman Ghani, Sr. GP for respondents present. Learned counsel for the appellant submitted rejoinder and requested for adjournment. Adjourned for arguments to

~~22-8-16~~



Member



Member

22.08.2016

Appellant in person and Mr. Usman Ghani, Sr. GP for respondents present. Appellant requested for adjournment. Request accepted. To come up for arguments on

~~28-12-16~~



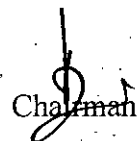
Member



Member

28.12.2016

Appellant in person and Mr. Muhammad Jan, GP respondents present. Arguments could not be heard due to incomplete bench. Case adjourned to 14.04.2017 for arguments before D.B.



Chairman

6

30.01.2015

None present for appellant. Mr. Fazal Ghafoor, PASI on behalf of respondents alongwith learned Addl: AG present. Written reply submitted. The appeal be placed before D.B for rejoinder and final hearing on 24.07.2015.

  
Chairman

24.07.2015

Appellant with counsel and Mr. Ziaullah, GP with Naees Assistant for the respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 08.10.2015.

  
MEMBER

  
MEMBER

08.10.2015

Counsel for the appellant and Assistant A.G for respondents present. The Bench is incomplete therefore, case is adjourned to 11-1-2016 for arguments.

  
MEMBER

11.01.2016

Appellant in person and Addl: A.G for respondents present. The learned Member (Executive) is on official tour to Swat as well as non-availability of learned counsel for the appellant therefore, case is adjourned to 15.4.16 for arguments.

  
MEMBER

Appeal No. 524/2014  
Mr. Yuseen Khan

3.

13.06.2014

Counsel for the appellant present and requested for

adjournment. Request accepted. To come up for further preliminary hearing on 15.07.2014.

Member

15.07.2014

Counsel for the appellant present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the original order dated 02.01.2014, he filed departmental appeal on 08.01.2014, which has been rejected on 10.02.2014, hence the present appeal on 25.03.2014. He further contended that the impugned order dated 10.02.2014 has been issued in violation of Rule-5 of the Civil Servant (Appeal) Rules 1986. Counsel for the appellant also filed an application for condonation of delay. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. To come up for written reply/comments on main appeal as well as reply/arguments on application for condonation of delay on 22.10.2014.

Appellant Deposited  
Security & Process Fee  
Rs. 250/- Bank  
Receipt is Attached with File.

Member

15.07.2014

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

Chairman

22-10-14

The Hon. Mr. Justice Khan is on  
leave, therefore case is adjourned to  
30-1-15

Recd





Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 524/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11/04/2014	<p>The appeal of Mr. Yaseen Khan resubmitted today by Mr. Rehman Ullah Shah Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	15-6-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>13-6-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>


The appeal of Mr. Yaseen Khan Ex-Constable Distt. Dir Lower received today i.e. on 26 .03.2014 is incomplete on the following score which is returned to the counsel for the appellants for completion and resubmission within 15 day.

- 1- Annexure-C of the appeal is incomplete which may be completed.
- 2- Copies of charge sheet, statement of allegations, show cause notice and replies thereto are not attached with the appeal which may be placed on it.
- 3- Copy of dismissal order is not attached with the appeal which may be placed on it.
- 4- Annexures of the appeal may be attested.

No. 523 /S.T,

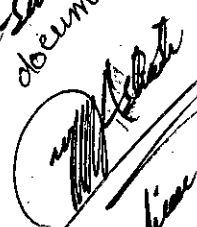
Dt. 26/03 /2014.

Mr. Ibrahim Shah Adv. Pesh.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

*R/Sis  
Removed all objections  
re-submitted again. Further stated that no other  
documents have been given to the appellant.*

*Adv -  
Advocate.*

  
Ibrahim Shah Adv.  
8/4/14

Note:

Resubmitted as per direction.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 524 /2014

Yaseen Khan S/O Fatih Mulk Khan

APPELLANT

VERSUS

District Police Officer, Distt Lower Dir

RESPONDENTS

Index of documents


S.NO	Documents	Annexure	Pages
1	Grounds of Appeal		01-05
2	Affidavit and Addresses of the Parties		06 - 07
3	Application for condonation of delay		08
3	Appointment order	A	09
4	Copy of application & Medical Reports	B - B3	10 - 13
5	Copy of Dismissal order, Charge sheet and order date 02-01-2014	C	14-16
6	Departmental Appeal and order	D - D1	<del>15</del> - 17-18
7	Wakalatnama		

  
Appellants

Through

  
Ibrahim Shah

&

  
Rehman Ullah Shah

M.A. LL.M

Advocates

Ibn e Abdullah Law Associates  
11 Azam Tower University Road, Peshawar.  
Phone & Fax # 091- 570 2021  
[www.ibneabdullah.com](http://www.ibneabdullah.com)

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 524 /2014

Yaseen Khan S/O Fatih Mulk Khan

Ex – Constable at District Lower Dir

R/O Rani, Tehsil Balambat, District Lower Dir

APPELLANT

VERSUS

1. District Police Officer, Distt Lower Dir
2. Regional Police Officer Malakand Division
3. Inspector General of Police Khyber Pakhtunkhwa
4. Deputy Superintendent of Police, Headquarter Lower Dir

RESPONDENTS

APPEAL UNDER SECTION 04 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE ORDER OF REGIONAL POLICE OFFICER, MALAKANAD DATED 10-02-2014 (APPELLATE AUTHORITY) WHEREBY ORDER OF DISMISSAL FROM SERVICE HAS BEEN UPHELD AS A MAJOR PENALTY AGAINST THE APPELLANT

PRAYER IN APPEAL.

On acceptance of this appeal, this Honourable Tribunal may very graciously be pleased to set aside the impugned order dated February 10, 2014. And, the appellant may very graciously be reinstated into service from the date of his dismissal i.e. 26.12.2013 with all service benefits.

Respectfully submitted as under:

1. That the appellant was appointed as Constable on January 11, 2010 vide order dated January 11, 2010 by Respondent No.1 and was assigned the duties of Constable.
2. {Copy of the appointment order is annexed as "A"}

472  
26/3/2014

26/3/14

no-submitted to-403 and filed.

11/4/14

3. That Appellant served the department with commitment and always remained on duty at various stations in the time when terrorism in Malakand division was at peak and the Government of Pakistan was fighting an operation against the militants particularly in District Lower Dir.
4. That Appellant never remained absent from his duties and successfully completed his probation period which was 3 years from the date of appointment. Appellant, a young age qualified person, always remained at threat and risk but his commitment towards duties as Constable never resisted by regular suicide bomber, bomb blast and attacks on police officials.
5. That in late 2013, appellant felt serious ill and due to ailment he remained absent from duties. Upon recovery, he joined his duties and after an enquiry, he was re-instated into service. This was based on solid reason of ailment and a reasonable justification was given.
6. That on December 05, 2013 the appellant after performing duties came to his home, and felt serious ill. He was suffering from Migraine and typhoid as the same was observed by a Physicians at Distt Headquarter Hospital Timergara.
7. It is worth to mention that the appellant is the only major son of his parents, and the father of the appellant remained at Lahore for labor and earnings. The father of the appellant came for proper treatment, and resultantly, it took a week later to communicate the reason of absence from duties. The father of the appellant went to the duty station of the appellant to report the same to process application for leave, but the same was not accepted and even harsh words were used by the concern officer.

{Copy of application and medical certificates are attached as "B – B3}

8. That the appellant is still under treatment for migraine. Upon recovery, the appellant went to his duty station on December 24, 2013, but was not allowed to perform duties. He was informed that an enquiry is pending against the appellant.

9. That on December 30, 2013, appellant was informed vide letter dated December 26, 2013 that he has been dismissed from service by Respondent No.1.

{Copy of the dismissal letter is annexed as "C"}

10. That the appellant preferred departmental appeal before Respondent No.2 but it was turn down and the decision of dismissal was upheld.

{Copy of departmental appeal and order are annexed as "D – D1"}

11. That the order of dismissal is totally against the law and no proper procedure has been adopted by Respondents. Hence the instant appeal on the following amongst other grounds inter – alias:

GROUNDS:

A. That the Law on the subject has been violated altogether, in that neither any show-cause or, for that matter, any charge sheet was served upon the appellant nor was he required to put in a written defence as contemplated under the law.

B. That the major penalty of dismissal from service has been imposed on the appellant, without conducting any proper inquiry, which was mandatory

under the law, hence the punishment awarded to the appellant is a nullity in the eye of law.

- C. That the law on the subject provides for a charge sheet to be served on the accused civil servant; he shall be required to put in a written defence within seven days of the communication of the charge sheet and a regular inquiry shall be conducted in the accused official be, associated therewith, giving him the opportunity to cross examine the witnesses produced against him and he shall also be allowed to record evidence in his defence. These legal requirements contemplated by the Law put aside and the impugned order was passed in a vacuum, which has never been the mandate of law.
- D. That the appellant was not given the opportunity being heard.
- E. That the appellant served the department for almost 4 years, he remained faithful to his duties and served the department with full devotions, commitment and enthusiasm. This could be confirmed from his service record.
- F. That Respondents have adopted harsh methods and impose major penalty without adopting proper mechanism. Hence the order of dismissal is liable to be set aside.
- G. Further grounds may be argued when the stance of the respondents come forthwith.

**PRAYER**

It is therefore, most humbly prayed that on acceptance of the instant appeal, this Honourable Tribunal may very graciously be pleased to set aside the impugned order dated February 10, 2014, and initial order of dismissal i.e.

26/12/2013 And, the appellant may very graciously be reinstated into service from the date of his dismissal i.e. 26.12.2013 with all service benefits.



Appellant

Through:



Ibrahim Shah & Rehman Ullah Shah

M.A, LL.M

Advocates

Ibn e Abdullah Law Associates

11 Azam Tower University Road, Peshawar

Phone & Fax # 091- 570 2021

[www.ibneabdullah.com](http://www.ibneabdullah.com)



(06)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No...../2014

Yaseen Khan S/O Fatih Mulk Khan

APPELLANT

VERSUS

District Police Officer, Distt Lower Dir & others

RESPONDENTS

AFFIDAVIT

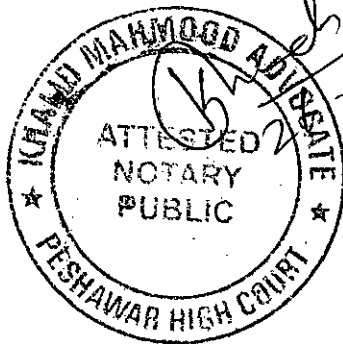
I, Yaseen Khan S/O Fatih Mulk Khan R/O Rani, Lower Dir, do hereby solemnly affirm and declare on oath that the contents of the accompanying Appeal are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Tribunal.

Deponent

Identified by:

Rehman Ullah Shah

Advocate



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No...../2014

Yaseen Khan S/O Fatih Mulk Khan

APPELLANT

VERSUS

District Police Officer, Distt Lower Dir

5. Regional Police Officer Malakand Division

6. Inspector General of Police Khyber Pakhtunkhwa

7. Deputy Superintendent of Police, Headquarter Lower Dir

RESPONDENTS

ADDRESSES OF THE PARTIES

Yaseen Khan S/O Fatih Mulk Khan

R/O Rani, Tehsil Balambat, District Lower Dir

1. District Police Officer, Police Line, Balambat, Distt Lower Dir

2. Regional Police Officer Malakand Division at Saidu Sharif Swat.

3. Inspector General of Police Khyber Pakhtunkhwa, Police Line Peshawar

4. Deputy Superintendent of Police, Headquarter Balambat, Lower Dir

Appellant

Through



Advocates

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No...../2014

Yaseen Khan S/O Fatih Mulk Khan

APPELLANT

VERSUS

District Police Officer, Distt Lower Dir & others

RESPONDENTS

APPLICATION FOR CONDONATION OF DELAY

Respectfully submitted as under:

1. That the instant appeal has been filed before this Hon'ble Tribunal in which no date is fixed yet.
2. That this application may be considered as integral part of the appeal.
3. That the instant appeal is preferred with a delay of few days. But the order of appeal was communicated to the appellant on March 20, 2014, hence the instant appeal is filed within time from the date of service.
4. That superior courts have held that matters may be decided on merit rather technicalities.
5. That the delay is not deliberate or intentional.

It is therefore, most humbly request that the delay may kindly be condoned in the best interest of justice.

Appellant

Through

Ibrahim Shah & Rehman Ullah Shah

M.A, LL.M


Advocates

ORDER.

Mr. Yaseen Khansio Fateh Mulk Khan  
 Village: Rani ..... Police Station: Khall  
 District: Dir Lower is hereby enlisted as Constable on Three-year's  
 Probation in Basic Pay Scale No. 05 (3340-160-8140) with effect  
 from: 11-1-2010 and allotted Constabulary No. 1491. Height: 5  
8 Inch, Chest: 33x34 Inch, Edu: P.A. Date of Birth 21-7-91

OB No. 94

Dated: 11/1/10

  
 (MUMTAZ ZARIN)  
 TSh: QPM  
 District Police Officer,  
 Dir Lower at Timergara.

Attested  
**ATTESTED**

حکومت خیابان SHO صاحب کفالتہ عمر باغ خلع لائبریری

درخواست برائے جھٹی

موربانہ ڈائریس ہے کہ سائل ریلوے کانسٹیبل کیساتے۔ اور آپ کے زیر سایہ ڈیوٹی سرانجام دے رہا ہے۔

سائل 5 دسمبر کو گھو آیا تو سائل بیمار ہوا۔ سائل کو شدید سردی اور ٹائفائیڈ ہوا ہے۔ جس سے سائل ڈیوٹی دینے پر قادر نہیں ہو سکتا۔

سائل درخواست بوساطت والکر ڈائرریا سے کیونکہ سائل چلنے سے کام لے۔

لینڈ اپ اس کی خدمت میں عرض ہے کہ سائل کو

22 دسمبر تک جھٹی عطا فرمائیں تاکہ صحت یاب ہو کر ڈیوٹی کر سکا  
عین نواز شری پوری

بیسویں

بایسن خان ولد باغ صاحب خان

کانسٹیبل 1491

کفالتہ عمر باغ

09/12/2014

ATTESTED

11

Dr. Shah Islam (Faroqi)

D.H.M.S (Pesh)  
R.H.M.P (Pak)  
N.C.H. (Islamabad)



Annexure "B-1"  
ڈاکٹر شاہ اسلام (فاروقی)

ڈی ایچ ایم ایس (پشاور)  
آر ایچ ایم پی (پاک)  
این سی ایچ (اسلام آباد)

Ph: 0945-822074  
Cell: 0345-9535074  
Cell: 0300-5705074

Name Taim Khan Age 24.7 Sex ♂ Date 07-12-13

Rec

ویج Titane 19.

12 BD 5

ویج Mofar 80 1M 3

ویج Zantac BD  
12 B-5

B.P 110/80

Pulse

48 Capor d. 500  
1-1-5

Temp

102 F

48 Paracet.  
" "

Weight

48 Zantac 50

one week  
H. G. Fever  
Body Pain!

84p Motilal

ACW  
MP

Capit. Bed Rest one  
week.

TP Red dot 10  
(+)

DR. SHAH ISLAM FARQI  
D.H.M.S (Pesh) R.H.M.P (Pak)  
N.C.H (Islamabad)  
N.C.H Hospital Tumergara

Taim Khan  
Shah

ایم ایف ایچ ایم سی اور اینڈ کلینک بالمقابل جامع مسجد ہسپتال تیرگور

ATTESTED

(12)

Annexure "B-2"

GS&PD.Khyber Pakhtunkhwa.1932/175-DHS-3300 Pads-11-9-13

Medical No. 2

Rs. 5/-

No.

OUT-PATIENTS DEPARTMENT

NAME.....

YEARLY NO.....

DATE.....

No.

Rs. 5/-

OUT-PATIENTS DEPARTMENT

NAME.....

YEARLY NO.....

DATE.....

0061102

DISEASE.....

14-12-2013

FACE VALUE RUPEES 5/- FACE VALUE RUPEES 5/-

6 nasal obt,  
headache

Ray PNS

Hazy maxillary

sinuses

maxillary

sinusitis

6 x-rays 400p  
11/11/13

6 Brain 400p  
12/14/13

6 Soft tissue 10p  
11/13/13

xyrossin 11 spray  
24/2/13

Headache

sinusitis

Dr. [Signature]

ALISTO

**Dr. Zain**  
ENT Care Clinic  
MBBS, FCPS  
(PIMS, Islamabad)

(13)



Annexure "B-3"

**ڈاکٹر زین**

ای این ٹی کیئر کلینک  
ایم پی بی ایس۔ ایف سی پی ایس

**ENT SPECIALIST HEAD NECK SURGEON**

ناک، کان، گلہ، ہر آؤر گردن سرجن

Name Yasru Age 23y Sex F Date 05-02-14

Clinical Record

Rx

- 50 maxicin 400  
1000 mg 1000 mg day

- 50 ibuprofen 500  
1+1 x 05 day

- 50 fexofenadine 120  
100 mg 100 mg day

- xynorone NI spray  
2+2 x 05 day

Zain

Ph:  
0945-823060  
0945-824226

کلینک: حسن میڈیکل کمپلیکس بالقابل D.H.Q، ہسپتال تیرگرہ

**ATTESTED**



(4) چوتھی انکوائری (بوجہ غیرہ ضری)

سال رواں میں مذکورہ کنٹینیل پھر مورخہ 09 05.013 کو پولیس لائن تیسر گروہ سے غیر حاضر ہو کر بدستور غیر حاضر چلا آ رہا تھا، جس پر سابقہ DPO میاں جمشید انعام اللہ صاحب نے مذکورہ کے خلاف ریشیت جاری کر کے بحوالہ ڈسپلنری ایکشن نمبری 1437/EC مورخہ 08.013 انکوائری کا حکم صادر فرما کر انکوائری کا عدالت من DSP ہیڈ کوارٹر کو حوالہ ہوئی تھی، حسب طلبیدہ مذکورہ نے مورخہ 27.08.013 پر پولیس لائن بدوران انکوائری حاضری کر کے کل ایک سو گیارہ/111 یوم غیر حاضر رہنے پر موز DSP ہیڈ کوارٹر نے اپنے فائینڈنگ میں مذکورہ کا ایام غیر حاضری کل ایک سو گیارہ/111 یوم بلا متخواہ شمار کرنے اور (Last Warning) کا سفارش کیا تھا۔ جس پر جناب سابقہ DPO میاں جمشید انعام اللہ صاحب نے بحوالہ آرڈر بک نمبر 1152 مورخہ 09.09.013 باقاعدہ طور پر منظوری کی احکامات صادر فرمائے تھے۔ نقل فائینڈنگ رپورٹ ہمراہ انکوائری حذا سے لے مگر انکوائری پرا حکامات کی منظوری سے مذکورہ چھ 6/ یوم قبل اپنے جائے تعیناتی تھانہ شرباغ سے بحوالہ مد 20 روز نامچہ 02.09.013 غیر حاضر ہو کر بدوران فزیکل چیکنگ بھی غیر حاضر رہا۔ چونکہ مذکورہ کو معلوم ہوا تھا کہ اگر وہ بدوران چیکنگ اسی طرح غیر حاضر ہا تو اسکا خیر نہیں ہونگا۔ بدیں وجہ اس نے تھانہ شرباغ میں بحوالہ مد 18 روز نامچہ 11.11.013 کو اپنی حاضری کی رپورٹ درج کر کے جو کہ کل ستر 70/ یوم مزید غیر حاضر رہا۔

فائینڈنگ رپورٹ :- موجودہ پانچواں انکوائری (بوجہ غیر حاضری)

بعد قلمبندی بیانات و معلومات انکوائری سے پایا گیا کہ مذکورہ کنٹینیل کا موجودہ انکوائری کے علاوہ فائینڈنگ رپورٹ بحوالہ انکوائری نمبری 1437/EC مورخہ 16.08.013 دفتر ہیڈ کلرک صاحب (ریکارڈ برانچ) کو بحوالہ ڈاگ ہی نمبری 591 مورخہ 06.09.013 کو بھیجا گیا تھا۔ چونکہ مذکورہ نے اس سے چار 4 دن قبل تھانہ شرباغ سے بحوالہ مد 20 روز نامچہ 02.09.013 غیر حاضر ہو کر بدوران فزیکل چیکنگ بھی غیر حاضر رہا ہے۔ مذکورہ کے خلاف جناب DPO صاحب نے چارج شیٹ نمبری 21410/EB مورخہ 01.11.013 جاری کر کے انکوائری کا حکم صادر فرما کر مذکورہ نے حسب عادت اپنے ایام غیر حاضری سے پہلے کی طرح تھانہ شرباغ میں بحوالہ مد 18 روز نامچہ 11.11.013 کو تھانہ شرباغ میں اپنی حاضری کی رپورٹ درج کی۔ جو کہ ستر 70/ یوم غیر حاضر رہا اور چند روز بعد بحوالہ مد 18 روز نامچہ 06.12.013 تھانہ شرباغ سے بدستور غیر حاضر چلا آ رہا ہے۔ نیز مذکورہ کہ کنٹینیل یاسین خان نمبر 1491 ولد فاتح ملک خان ساکن رانی تھانہ خال مورخہ 11.01.010 کا بھرتی شدہ ہے۔ مذکورہ کا محکمہ پولیس میں بمطابق سروس رول عرصہ ملازمت اب تک کل تین 3 سال اور اٹھ 8 ماہ ہے۔ یعنی (تیرہ سو چوبیس 1324/ یوم)، جن میں مذکورہ نے چار سو بیستائیس 445/ یوم غیر حاضر رہ چکا ہے۔ اور اسکے علاوہ مذکورہ بحوالہ مد 18 روز نامچہ 06.12.013 تھانہ شرباغ سے بدستور غیر حاضر چلا آ رہا ہے، حاضری کی بجائے زیادہ غیر حاضر رہا ہے۔ مذکورہ نے انکوائری حذا میں بیان دینے کے بعد حسب عادت پھر تھانہ شرباغ سے بحوالہ مد 34 روز نامچہ 06.12.013 سے بدستور غیر حاضر چلا آ رہا ہے۔ مذکورہ محکمہ پولیس کیلئے ایک ناسور ہے، جس سے دیگر اہلکاران پولیس پر بڑے اثرات پڑ سکتے ہیں۔ مذکورہ کا محکمہ پولیس میزید رکھنا محکمہ کے مفاد میں نہیں ہے۔ بلکہ محکمہ پولیس پر ایک بوجھ اور باعث نقصان ہے۔ بار بار طویل غیر حاضری کا مرتکب ہوا ہے۔ اور کئی بار آخری وارننگ دینے کیساتھ ساتھ ایک بار محکمہ حذا سے برخاست بھی ہو چکا ہے۔ جو دوبارہ بحال ہو کر اسکے بعد بھی کئے بار غیر حاضر رہا ہے۔ اب بھی بدستور غیر حاضر ہے۔ کنٹینیل یاسین خان 1491 بغیر کوئی وجوہات کے بار بار غیر حاضری مرتکب پایا ہے، اس سے یہ ثابت ہوتا ہے کہ مذکورہ کنٹینیل کا اصلاح ممکن نہیں ہے اور بالکل پولیس ملازمت کی قابل نہیں ہے۔ لہذا بمطابق پولیس رولز باب 16 فقرہ 2 موثوقی کی سزا کی سفارش کیجاتی ہے۔

ڈی. ایس. بی. ایڈ کوارٹر  
ضلع دیر پانچ تیسر گروہ  
24.12.013

OR

DPD/DI/ma  
26/12/2013  
ATTESTED

Date \_\_\_\_\_  
Prepared By \_\_\_\_\_

Dismissed for am  
See via  
DPD/A.D.

(15)

No/218 — SA

PS - Sambar - Balgh -

CHARGE SHEET.

Eq No 1473A

dt. 01/11/2013.

I. Mian Jamshed Inamullah (PSP), District Police Officer, Dir Lower at Timergara as competent authority, hereby charge you FC Yaseen Khan No.1491 committed as follows: -

That while you posted at Police Station Samarbagh absent yourself from duty with effect from 02/09/2013 to date without any leave or prior permission from your superior.

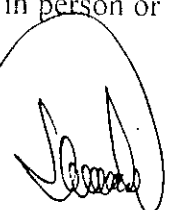
2- By reason of above, you appear to be guilty of mis-conduct and have rendered your-self liable to all or any of the penalties specified in Rule-4 of the Disciplinary Rules, 1975.

3- You are; therefore, require to submit your written reply within 07 days of the receipt of this charge sheet to the enquiry officer.

4- Your written reply, if any, should reach the enquiry officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-part action shall follow against you.

5- Intimate to whether you desire to be heard in person or not?

6- A statement of allegation is enclosed.

  
District Police Officer,  
Dir Lower at Timergara.

No. 214/0 /EB,

Dated 1-11 /2013

✓ Copy to accused FC Yaseen Khan No.1491 of Police Station Samarbagh.

~~A w g~~  
Attested to be true.

OFFICE OF THE DISTRICT POLICE OFFICER,  
DIR LOWER AT TIMERGARA

ORDER

This is a proper departmental order against Constable <sup>Yasun Khan</sup> ~~Badam Hussain~~ No. 1491 on the charge that while he posted at Police Station Samar Bagh absented himself from duty with effect from 02/09/2013 to 11/11/2013 and from 06/12/2013 to-date without any leave or prior permission and also remained absent during physical checking of Police personnel. He was served Charge Sheet with couple of statement of allegation and DSP Hqrs was appointed as enquiry officer to conduct proper departmental enquiry against him and submit his finding. The Enquiry Officer conducted proper departmental enquiry recorded the statement of all concerned including defaulter constable. The Enquiry Officer in his finding submitted that the defaulter constable has absented himself intentionally and recommended him for dismissal from service under PR 16-2 being a habitual absentee also a stigma on face of Police force.

He was called to orderly room for personal hearing, but he produced any cogent reasons.

I have gone through the enquiry file, finding of the Enquiry Officer and have reached at the conclusion that the defaulter constable is a habitual absentee; and not interested to serve in the Police department, therefore he is hereby dismissed from service from the date of his absence i.e with effect from 06/12/2013. The period of absence from 02/09/2013 to 11/11/2013 and from 06/12/2013 to date is also treated as leave without pay.

ORDER ANNOUNCED

OB No. 17  
Dated 21/11/2014

*[Signature]*  
District Police Officer,  
Dir Lower at Timergara

*[Signature]*

Attested to be  
true  
*[Signature]*

۱. در جواب و D. در باره اسامی دانشمندان ایشان و مقام  
فصل سوم

در جواب استعلامی که از سوی شما  
مربوط به اسامی دانشمندان و مقام  
ایشان و در باره اسامی دانشمندان  
مستعمل در صفت و فصل دوم

صنایع عالی

بنا بر این اسامی یا اسامی دانشمندان و در باره اسامی دانشمندان  
مستعمل در صفت و فصل دوم

بنا بر این اسامی یا اسامی دانشمندان و در باره اسامی دانشمندان  
مستعمل در صفت و فصل دوم

بنا بر این اسامی یا اسامی دانشمندان و در باره اسامی دانشمندان  
مستعمل در صفت و فصل دوم

بنا بر این اسامی یا اسامی دانشمندان و در باره اسامی دانشمندان  
مستعمل در صفت و فصل دوم

بنا بر این اسامی یا اسامی دانشمندان و در باره اسامی دانشمندان  
مستعمل در صفت و فصل دوم

بنا بر این اسامی یا اسامی دانشمندان و در باره اسامی دانشمندان  
مستعمل در صفت و فصل دوم

بنا بر این اسامی یا اسامی دانشمندان و در باره اسامی دانشمندان  
مستعمل در صفت و فصل دوم

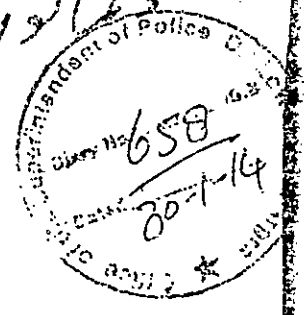
ATTESTED

یہ کہ جن مسائل انتہائی اہم انداز میں اور قابل اعتقاد ہیں

اور ایک مشرفی شخصیت کے لیے اور ایک اہم اور اہل اثری ہے

یہ کہ مسائل میں کیا جانے لگا ہے کہ آپ صاحبان عہدہ ہائی رینک  
مسائل کو حل کرنے اور کامیاب طور پر حل کرنا

یہ کہ مسائل اور مسائل کے حل اور دین آپ صاحبان کو زندگی میں  
تعمیر اور ترقی



8 / 01 / 014

محکمات بالذکر سے جو کہ مسائل میں  
درخواستیں ہیں ان کو منظور کر کے کامیاب

NO 270 / EDT 08/1/14

EC  
Per report  
D. Khan  
DD/Asst. Commr  
30/1/14

DD - Dir. Lanes

For comment

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14/9/14

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Handwritten signature

2154797087



(18)

Annexure "D1" 1242 18-2-14

**OFFICE OF THE REGIONAL POLICE OFFICER, MALAKAND**  
**REGION, AT SAIDU SHARIF SWAT**

**ORDER:**

This order will dispose off the appeal preferred by Ex-Constable Yaseen Khan No. 1491 of Dir Lower District for reinstatement in service.

Brief is that, the above named Ex-Constable while posted at Police Station Samar Bagh absented himself from duty with effect from 02/09/2013 to 11/11/2013 and 06/12/2013 till the date of dismissal without any leave or prior permission. He was served Charge Sheet with couple of statement of allegation and DSP/ Hqrs: was appointed as Enquiry Officer. The Enquiry Officer after conducting proper departmental enquiry reported that he absented intentionally and recommended him for dismissal from service under Police Rules 16-2. He was called in orderly room and heard in person by DPO/ Dir Lower but he did not produce any cogent reason in his defence. The DPO / Dir Lower perused his service record and found that prior to this he was dismissed from service when his service was much required during exigency. Later on he was reinstated in service vide Regional Police Office, order issued over Endst: No. 5434/E, dated 27/07/2012. Therefore, the DPO/ Dir Lower dismissed him from service from the date of his absence vide OB No. 17 dated 02/01/2014.

The appellant was called in Orderly Room on 07/02/2014 and heard in person, but he did not produce any substantive materials in his defense. Therefore I uphold the order of District Police Officer, Dir Lower, whereby the appellant has been awarded major punishment for dismissal from service.

Order announced.

*(Handwritten Signature)*  
**(ABDULLAH KHAN) PSP**  
Regional Police Officer,  
Malakand, at Saidu Sharif Swat  
\*Naqi\*

No. 1237-38 /E,

Dated 10-2- /2014.

Copy for information and necessary action to the:-

- ① District Police Officer, Dir Lower with reference to his office Memo: No. 2039/EB, dated 31/01/2014.
2. Ex- Constable Yaseen Khan No. 1491 of Dir Lower District.

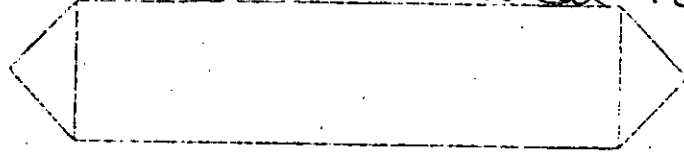
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OB no. 185  
dt-12-4-13 EC

*(Handwritten Signature)*  
DPO Dir Lower  
18/2/2014

*(Handwritten Signature)*  
IN TESTE

Before The Service Tribunal Peshawar,



Yaseen Khan 2014

26-03-13

Distt Police Officer: Yaseen Khan  
Lower Dir

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام Peshawar کے لیے Advocate { Rehman Ullah Shah  
Ibrahim Shah  
Atiq-ur-Rehman  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی اس کاروائی کا مکمل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ذگری کرنے اجراء اور وصولی چیک دروپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی  
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت  
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے  
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے  
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوا سے مقدمہ کے  
سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب یا ہندوں  
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ مندر ہے۔

Jaseen

2014

March 26

المزوم

العبد العبد العبد

کے لئے منظور ہے۔

Peshawar

Attested  
&  
Accepted

Rahman

Ali P

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESAHWAR**

Service Appeal No. 524/ 2014

Yaseen Khan s/o Fateh-ul-Mulk Khan.....Appellant.

**VERSUS**

1) District Police Officer Dir Lower and others..... Respondent.

**PARA WISE REPLAY ON BEHALF OF RESPONDENTS.**

Respectfully sheweth:

**PRELIMINARY OBJECTIONS.**

- 1) That the appeal is badly time barred.
- 2) That the appellant has no locus standi to file the present appeal.
- 3) That the appellant has not come to this August Tribunal with clean hands.
- 4) That the present appeal is not tenable in it's present form.
- 5) That the appellant has estopped by his own conduct to file the present appeal.

**ON FACTS**

1. Pertains to record.
2. Pertains to record.
3. Incorrect, Police is an organized force and responsible for law and order situation during peace as well as in war time. The appellant was previously dismissed from service due to his willful absence on 07.05.2012 vide OB No 788 during exigency.(order of dismissal is attached as annexure"A").
4. Incorrect, the appellant is a habitual absentee and this was his 4<sup>th</sup> time to remain absent without any reason. The appellant being a member of discipline force deliberately absented himself from lawful duties.(Reports of absence are attached as annexure"B"-B4).
5. Incorrect, the applicant absented himself from lawfull duties w.e.f 09.05.2013 to 27.08.2013 i.e total 111 days and after conducting an enquiry the applicant's absentia treated as leave without pay vide OB No. 1152.(Order is attached as annexure "C")
6. Incorrect, the appellant absented himself from lawful duties. The proper way of medical treatment is that the patient is to be refered to the government Hospital, but the appellant presented Homeopathic (Private) receipt which are not admissible before the authorities. The authorities rightly awarded major punishment to the appellant.
7. Incorrect, the appellant was not seriously interested in his job, that's why he absented himself from lawful duties with out any prior permission The father of the appellant did not came to the duty station as the record of the

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30.01.15



station is silent.

8. Incorrect, the appellant absented himself from lawful duties without any prior permission from authorities, therefore departmental inquiry was initiated against the appellant.
9. The order of dismissal was issued by the respondent No. 01, after fulfilling all codal formalities. (Order is attached as Annexure "D".)
10. Correct.
11. Incorrect, the order is legal, in accordance with rules and proper procedure was adopted by the respondents while dealing the case of the appellant.

**ON GROUNDS**

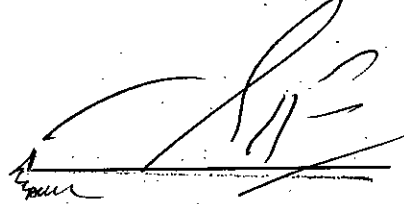
- A. Incorrect, the appellant was served with show-cause notice, properly charge sheeted and summery of allegation was also issued to him. He was treated according to the rules and no discrimination has been done by the respondent. (Copy of charge sheet and statement of allegations are Annexure "E")
- B. Incorrect, proper departmental inquiry was initiated against the appellant and the respondent No. 01 rightly awarded major punishment to the appellant. All codal formalities has been fulfilled by the respondents.
- C. Incorrect, proper opportunities of defense was given to him and all the codal formalities has been fulfilled by the respondents while dealing the appellant case. The order is in accordance with law and rules.
- D. Incorrect, the appellant was given proper opportunity of hearing and the principal of natural justice. i.e Audi Altram patram has been fulfilled.
- E. Incorrect, the appellant was habitual absentee and want to spoil the discipline of the department.
- F. Incorrect, the punishment is rightly awarded to the appellant.
- G. Further ground will be forwarded at the time of argument by the respondents .

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PRAYER:-

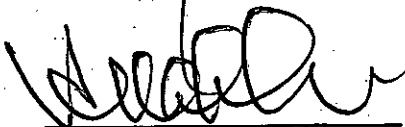
It is therefore most humbly prayed that on acceptance of this written reply the appeal may please be dismissed with costs.

Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.



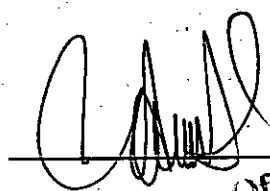
Provincial Police Officer  
Khyber Pakhtunkhwa

Regional Police Officer,  
Malakand, at Saidu Sharif, Swat.




Regional Police Officer  
Malakand, at Saidu Sharif Swat.

District Police Officer,  
Dir Lower at Timergara.



District Police Officer  
Dir Lower at Timergara

Deputy Superintendent of Police,  
Head Quarter Dir Lower.



Sub-Divisional  
Police Officer  
Timergara Dir (L)

0-6  
30-01-15

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 524/ 2014

Yaseen Khan s/o Fateh-ul-Mulk Khan.....Appellant.

**VERSUS**

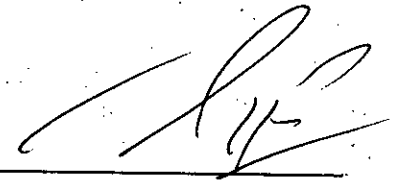
1) District Police Officer Dir Lower and others..... Respondent.

**POWER OF ATTORNEY.**

We the following respondents do hereby authorized Mr. Muzafar Khan SI Legal Timergara Dir Lower to appear on our behalf before the Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar in connection with above service appeal.

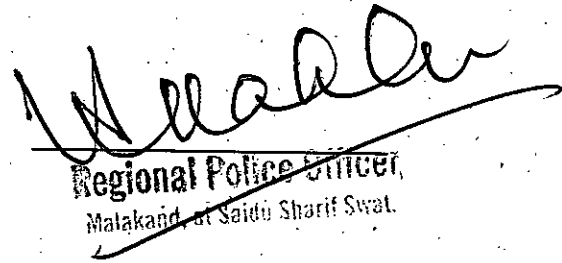
He is also authorized to submit all the relevant Documents required by the Honorable court in the above writ petition.

**Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.**



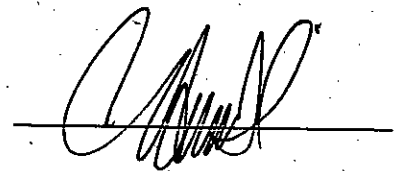
Provincial Police Officer  
Khyber Pakhtunkhawa

**Regional Police Officer,  
Malakand, at Saidu, Swat.**



Regional Police Officer,  
Malakand, at Saidu Sharif Swat.

**District Police Officer,  
Dir Lower at Timergara.**



District Police Officer  
Dir Lower at Timergara

**Deputy Superintendent of Police,  
Head Quarter Dir Lower.**



Sub-Divisional  
Police Officer  
Timergara Dir (L)

6  
30

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 524/ 2014

Yaseen Khan s/o Fateh-ul-Mulk Khan.....Appellant.

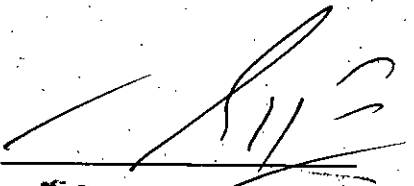
**VERSUS**

1) District.Police Officer Dir Lower and others..... Respondent.

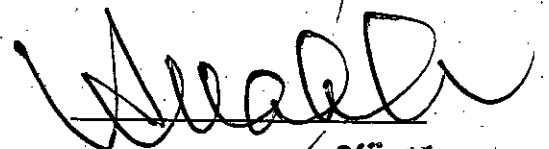
**AFFIDAVIT**

*We the undersigned do hereby solemnly affirm and declare on Oath that the content of the Para-Wise comment are true and correct to the best of our knowledge and belief and nothing has suppressed or concealed from this Honorable Tribunal.*

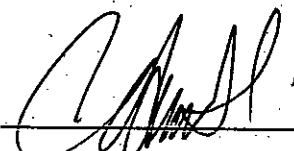
**Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.**

  
Provincial Police Officer  
Khyber Pakhtunkhwa


**Regional Police Officer,  
Malakand, at Saidu, Swat.**

  
Regional Police Officer,  
Malakand, at Saide Sharif Swat.

**District Police Officer,  
Dir Lower at Timergara.**

  
District Police Officer,  
Dir Lower at Timergara

**Deputy Superintendent of Police,  
Head Quarter Dir Lower.**

  
Sub-Divisional  
Police Officer  
Timergara Dir. (L)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 524/ 2014

Yaseen Khan s/o Fateh-ul-Mulk Khan.....Appellant.

**VERSUS**

1) District Police Officer Dir Lower and others..... Respondent.


**PARA WISE REPLAY TO THE APPLICATION FOR CONDONATION OF DELAY.**

Respectfully submitted is under.

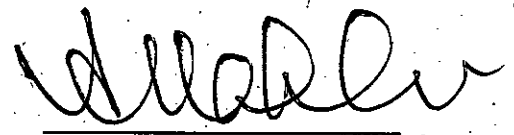
- 1) Need no comments.
- 2) That main reply may kindly be considered integral part of this reply.
- 3) That the said appeal is badly time barred and such delay is deliberate. Further according to judgments of superior courts each and every day is to be explained.
- 4) Every case has its own merits and facts.
- 5) That the delay is deliberate and intentional.

It is therefore humbly requested that the application for condonation of delay may please be dismissed.

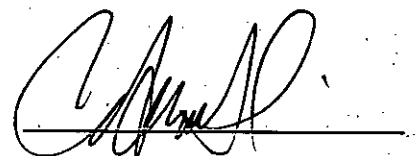
Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.

  
Provincial Police Officer  
Khyber Pakhtunkhwa

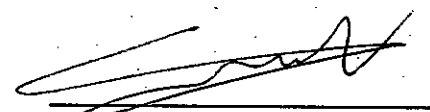
Regional Police Officer,  
Malakand, at Saidu, Swat.

  
Regional Police Officer,  
Malakand, at Saidu Sharif Swat.

District Police Officer,  
Dir Lower at Timergara.

  
District Police Officer  
Dir Lower at Timergara

Deputy Superintendent of Police,  
Head Quarter Dir Lower.

  
Sub: Divisional  
Police Officer  
Timergara Dir. (L)

Serial No

15. CENSURES AND PUNISHMENTS

Charge: Absented himself from duty w.e.f 9-11-10 to 11-11-10. From Adtl JCP/Comdt, PTC. Home Memo NO 354/AC dt 28-01-11. DO-57 NO 94/DT/07 dt 02-01

Punishment Awarded 2-chg - 1/11th and leave by pay.

OB NO 50 dt 15-1-11 this office dt 26-3-01

*[Signature]*

Charge: Absented himself from duty w.e.f from 18-10-2011 to 20-10-2011

Punishment: Discharge from Service w.e.f from 18-10-2011 i.e. the date of his absence.

OB No 733 dt 07/05/2012

*[Signature]*

تعارف نامہ

کفلہ 34 اور تاریخ 12/12/03

سرکار ہریانہ

سر 34 ایئرٹیکسٹ غیر ملکی اخبارات کے بارے میں 12/12/03 کا وقت 18:30 بجے اس وقت  
 کابل کابل میں 1491 شمارہ سیکرٹری جنرل کے نام سے ڈیڑھ گھنٹے کے لیے طلب کیا گیا۔  
 مذکورہ کی تلاش میں کابل کے اخبارات کی حدود تک پہنچا۔ تمام وجود پایا گیا۔  
 یہل مذکورہ کی طرف ایئرٹیکسٹ کے ذریعے روزنامہ پورے پورے کابل کے تمام  
 غیر ملکی اخبارات کے بارے میں اس کے بارے میں اس کے بارے میں اس کے بارے میں

میں سے ملے

Rel  
 MMPSS 13991  
 17-12-03

Sis  
 Forwarded  
 S. MASHUR  
 SHO P.S.S.  
 17-12-0

تاریخ

نمبر 34 اور تاریخ 12/12/03

محمد امجد علی

نمبر 34 رپورٹ غیر صاف کارخانہ میں علی احمد 12/12/03 کا وقت 18:30 سے 19:00 وقت  
کے درمیان میں 1491 شمارہ نمبر کا رپورٹ میں تھوڑے سا لکھنے سے طلب کیا گیا۔  
مذکورہ کی تراسی مارٹ کے ساتھ ساتھ حدود تک لکھیں۔ عدم وجود یا یا تو اس پر یہ صفت  
بیل مذکورہ کی طرف رپورٹ غیر صاف ہے، دراصل جو چیز ہر دو لکھوں سے صاف ہے  
غیر صاف ہے، لہذا اس کا رپورٹ میں لکھا گیا ہے کہ وہ اس میں اور سال میں لکھا گیا ہے۔

سید امجد علی

Rel  
MMPSS 13991  
17-12-03

Sis  
Forwarded  
S. Mas  
SHO. P.S.  
17-12-0



تفانہ تریاج  
نمبر 20 روزنامہ 2/9/13

نمبر 20 روزنامہ 5440 2/9/13 وقت 19:10 بجے

اصدقت نیل بایس (1491) بنگالہ سٹیٹ ریسرچ

محمد رفیقانہ فیضی لکھنؤ لکھنؤ لکھنؤ لکھنؤ لکھنؤ

خاندانہ تریاج نیل کی تلاش ریسرچ لکھنؤ لکھنؤ لکھنؤ

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10-11-013

تفاتیح  
تعداد 20 روزنامه 2  $\frac{9}{13}$  2  $\frac{9}{13}$  2  $\frac{9}{13}$

تعداد 20 روزنامه غیرمستقیم 545 2  $\frac{9}{13}$  2  $\frac{9}{13}$  2  $\frac{9}{13}$

تعداد 20 روزنامه مستقیم 1191 2  $\frac{9}{13}$  2  $\frac{9}{13}$  2  $\frac{9}{13}$

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تعداد 20 روزنامه مستقیم 1191 2  $\frac{9}{13}$  2  $\frac{9}{13}$  2  $\frac{9}{13}$

Character Roll of

Continued

Serial No

15. CENSURES AND PUNISHMENTS --Conted.

Charge: That while posted at D. ...  
... about ...  
...  
09/10/2013 to ...

Punishment: ...

... 09-03-2013 to 09-03-2013 total  
111 days absence is treated as leave  
without pay

CR No. 1152  
09-09-2013

D.P.C. Order

Charge: That while posted at ...  
... from duty ...  
... with ...  
... supervisor

Punishment: ...

CR No. 11  
2/11/2014

D.P.C. Order

Annexure "D"

OFFICE OF THE DISTRICT POLICE OFFICER,  
DIR LOWER AT TIMERGARA

ORDER

Yaseen Khan  
~~2002/2002~~

This is a proper departmental order against Constable No. 1491 on the charge that while he posted at Police Station Samar Bagh absented himself from duty with effect from 02/09/2013 to 11/11/2013 and from 06/12/2013 to-date without any leave or prior permission and also remained absent during physical checking of Police personnel. He was served Charge Sheet with couple of statement of allegation and DSP Hqrs was appointed as enquiry officer to conduct proper departmental enquiry against him and submit his finding. The Enquiry Officer conducted proper departmental enquiry recorded the statement of all concerned including defaulter constable. The Enquiry Officer in his finding submitted that the defaulter constable has absented himself intentionally and recommended him for dismissal from service under PR 16-2 being a habitual absentee also a stigma on face of Police force.

He was called to orderly room for personal hearing, but he produced any cogent reasons.

I have gone through the enquiry file, finding of the Enquiry Officer and have reached at the conclusion that the defaulter constable is a habitual absentee; and not interested to serve in the Police department. therefore he is hereby dismissed from service from the date of his absence i.e with effect from 06/12/2013. The period of absence from 02/09/2013 to 11/11/2013 and from 06/12/2013 to date is also treated as leave without pay.

**ORDER ANNOUNCED**

OB No. 17  
Dated 20/01/2014

District Police Officer,  
Dir Lower at Timergara

20/1

CHARGE SHEET.

Ammed (E)

I, Muhammad Ijaz Abid, District Police Officer, Dir Lower at Timergara as competent authority, hereby charge you Constable Yaseen Khan No.1491 committed as follows: -

That while you posted at Police Lines Timergara absented yourself from duty with effect from 18/01/2013 to date without any leave or prior permission from your superior.

- 2- By reason of above, you appear to be guilty of mis-conduct and have rendered your-self liable to all or any of the penalties specified in Rule-4 of the Disciplinary Rules, 1975.
- 3- You are; therefore, require submit your written reply within 07 days of the receipt of this charge sheet to the enquiry officer.
- 4- Your written reply, if any, should reach the enquiry officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-part action shall follow against you.
- 5- Intimate to whether you desire to be heard in person or not?
- 6- A statement of allegation is enclosed.

No. 4429 /EB,

Dated 7/3 /2013.

*M. Ijaz Abid*  
District Police Officer,  
Dir Lower at Timergara.

Ranai PS Khall.

Copy to accused Constable Yaseen Khan son of Fatch Mulk Khan r/o

P.T.O

DISCIPLINARY ACTION.

I, Muhammad Ijaz Abid, District Police Officer, Dir Lower at Timergara as competent authority, as of the opinion that Constable Yaseen Khan No.1491 has rendered yourself liable to be proceeded against departmentally as you have committed the following acts/omission as defined in Rule 2 (iii) of Police Rules 1975.

STATEMENTS OF ALLEGATION.

That while he posted at Police Lines Timergara absented himself from duty with effect from 18/01/2013 to date without any leave or prior permission from his superior.

- 2- For the purpose of scrutinizing the conduct of said officer with reference to the above allegations Mr. Ghulam Ahad Khan DSP Hqrs is appointed as enquiry officer.
- 3- The enquiry officer shall conducted proceedings in accordance with provisions of Police Rules 1975 and shall provide reasonable opportunity of defence and hearing to the accused officer, record its findings and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.
- 4- The accused officer shall join the proceeding on the date, time and place fixed by the Enquiry officer.

District Police Officer,  
Dir Lower at Timergara.

No. 4430-31 /EC. Dated Timergara, the 7 / 3 /2013.

- 1- Mr. Ghulam Ahad Khan DSP Hqrs (Enquiry Officer) for initiating proceeding in the light of the attached original documents containing 03 sheets against the accused Constable Yaseen Khan No.1491 under Police Rules 1975.
- 2- Constable Yaseen Khan s/o Fatch Mulk Khan r/o Ranai PS Khall

Sd/-  
District Police Officer,  
Dir Lower at Timergara.

613

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

In Re: \_\_\_\_\_

Service Appeal No: 524 /2014

**Yaseen Khan S/O Fateh-ul-Mulk Khan**

**Appellant**

**Versus**

**District Police Officer Dir Lower & Others**

**Respondents**

**REJOINDER ON BEHALF OF APPELLANT**

Respectfully Sheweeth,

**Preliminary Objections:**

The objections raised by Respondents are false, unfounded, hence are not tenable. Appellant has a legal grievance and as such, a legal footing to file the instant appeal. No question of estoppel is pinpointed nor is there any to stop appellant from instituting the present lies. Similarly, the explanation and clarification given by the respondents are based on is a matter of records, hence no comments.

**Para wise:**

1. Para no. 01 is admitted correct, hence no reply.
2. Para no. 02 of comments is admitted correct, hence no reply.
3. Para no. 03 is incorrect hence denied. The appellant felt serious ill and due to ailment he remained absent from duties and upon recovery, he joined his duties and after enquiry, he was re-instated into service.
4. Para no. 04 is incorrect, hence denied. The absence of the appellant from the duty was not intentional but due to the above mentioned circumstances.
5. Para no. 05 is incorrect, hence denied.
6. Para no. 06 is incorrect, hence denied. The appellant was not given due attention in Government Hospital therefore he prefer Private treatments due to severity of his illness.
7. Para No. 07 is incorrect, hence denied.
8. Para No. 08 is incorrect, hence denied.

9. Para No. 09 is incorrect, hence denied.

10. Para No. 10 is admitted Correct.

11. Para No. 11 is incorrect hence denied.

GROUND.

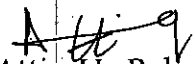
- a. Incorrect and wrong, hence denied. No proper show cause notice has been served upon appellant. Rest of the Para of the comments is denied as wrong and incorrect.
- b. Incorrect and wrong, hence denied. No proper inquiry has been conducted. Rest of the Para of the comments is denied as wrong and incorrect.
- c. Comments of the Respondents are wrong hence denied.
- d. Comments of the Respondents are wrong hence denied.
- e. Incorrect, hence denied.
- f. Incorrect, hence denied.
- g. Incorrect, hence denied.

Therefore, the august tribunal may be pleased to accept the appeal preferred by the appellant with the directions to the respondents for reinstatement the services of the appellant's in the best interest of justice.

Any other remedy which this Hon'ble court deems appropriate in law, equity and justice may also be granted.

Appellant

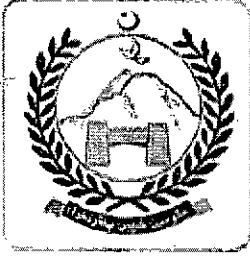
Through.

  
Rehman Ullah Shah, Attiq Ur Rehman

M.A, LLM

Advocates High Court





**KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

No. 1249 /ST Dated: 21/09/2017

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281  
Fax:- 091-9213262

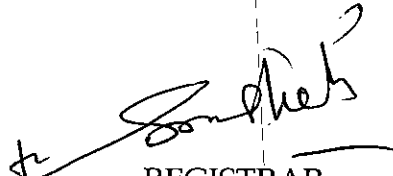
To,

The Regional Police Officer,  
Government of Khyber Paktunkhwa,  
Malakand.

Subject: - **JUDGMENT IN APPEAL NO. 524/2014, YASEEN KHAN.**

I am directed to forward herewith a certified copy of judgment dated 30/08/2017 passed by this tribunal on the above subject for strict compliance.

**Encl: as above**

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR  
o/c

بعدالت جناب

سروس ٹریڈنگ لیسٹاؤ

2 جناب پاسپورٹ خان ایبٹ آباد  
پاسپورٹ خان بنام محکمہ پاسپورٹ

524/2014 اپریل

مورخہ

دعویٰ

جزم

### باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ  
آن مقام لیسٹاؤ کیلئے و جج محمد امجد علی مسزکی اور جج مسزکی علی شاہ ایبٹ  
فوباز خان

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جو اب دہی اور اقبال دعویٰ اور  
بصورت لٹگری کرنے اجراء اور وصولی چیک و روپیہ از عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی  
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت  
مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے  
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے  
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے  
سبب سے ہوگا۔ کوئی تاریخ پیش مقام دورہ پر ہو یا حدت۔ باہر و وکیل صاحب پابند ہوں  
گے۔ کہ پیروی مذکور کریں۔ لہذا کالت نامہ لکھ دیا کہ سندرت۔

20

ماہ

المرقوم

Accepted

&  
Attested

Amir Sani  
Signature

M. Khan

Signature

کے لئے منظور ہے۔

Signature

مقام