

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR CAMP COURT ABBOTTABAD.

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
FAREEHA PAUL ... MEMBER (Executive)

Service Appeal No.5366/2020

Yasir Khawaja son of Khawaja Muhammad Sharif (Ex-Constable No.1429), resident of Mohallah Orish Colony, House No. TG 807/2 Street No. 3, Nawanshehr, Tehsil & District Abbottabad.

.....(*Appellant*)

Versus

1. **Deputy Inspector General of Police/RPO** Hazara Region, at Abbottabad.
2. **District Police Officer**, District Kolai Palas, Kohistan.

.....(*Respondents*)

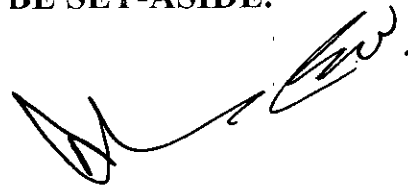
Present:

Mr. Fazlullah Khan,
Advocate.....For appellant.

Muhammad Jan,
District Attorney.....For respondents.

Date of Institution.....04.06.2020
Dates of Hearing.....22.09.2022
Date of Decision.....22.09.2022


APPEAL UNDER ARTICLE 212 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973 READ WITH SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 READ WITH ALL THE OTHER ENABLING LAWS AGAINST THE IMPUGNED ORDER DATED 22.11.2019 WHEREBY, RESPONDENT NO.2 DISMISSED APPELLANT FROM SERVICE AND SIMILARLY ORDER DATED 13.03.2020 PASSED BY THE RESPONDENT NO.1 UPON THE DEPARTMENTAL APPEAL OF THE APPELLANT WHICH ARE ILLEGAL, AGAINST THE LAW AND FACT AND ARE LIABLE TO BE SET-ASIDE.



JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Facts surrounding the appeal are that the appellant was appointed as Police Constable in district Police Abbottabad in the year 2008; that due to the landed property dispute situated in commercial area of Nawanshehr, Abbottabad the real cousin of appellant attempted to illegally occupy the same who had also acquired some portion of appellant's property through illegal means depriving the appellant from his right; that due to political influence, without any reason respondent No.1 issued transfer order of the appellant from District Abbottabad to District Kohistan Kolay Palas in the month of January, 2019; that the appellant submitted his arrival report in the office of respondent No.2; that due to domestic issues, the appellant filed application for leave to respondent No.2; that on 22.11.2019, respondent No.2 passed impugned order in the absence of appellant on the basis of so-called allegation; that the appellant filed departmental appeal on 16.12.2019 before respondent No.1 against the impugned order dated 22.11.2019, which was dismissed and communicated to the appellant on 06.05.2020. He then filed this service appeal in this Tribunal.

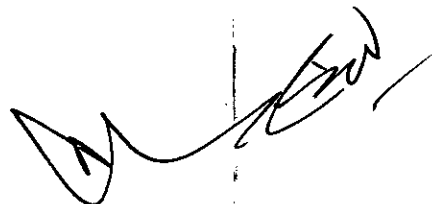
2. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.



3. We have heard learned counsel for the appellant and learned District Attorney for the respondents.

4. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned District Attorney controverted the same by supporting the impugned order.

5. The appellant was dismissed from service on 22.11.2019 for his absence from duty without obtaining any leave. He filed departmental appeal on 16.12.2019 wherein he contended that owing to some domestic dispute he absented but he has said nothing about obtaining or applying for leave. He has not justified his long absence from duty. Moreover, his departmental appeal was filed by the Regional Police Officer on 13.03.2020. He filed this appeal on 04.06.2020. There is an application for condonation of delay with the only ground that because of covid-19 and non-availability of copies due to lockdown the delay was caused in filing appeal. The ground taken in the condonation of delay in filing appeal before this Tribunal, is therefore, condoned. The appellant has no case on merits because admittedly he has not applied for leave for the absence period as there is no application in this regard, therefore, his long unauthorized absence has justified the impugned action and rendering his appeal ill-founded.

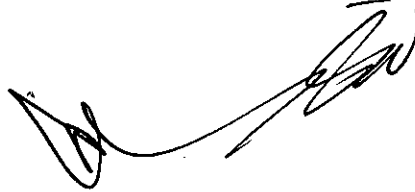


Service Appeal No.5366/2020 titled "Yasir Khawaja-vs-Deputy Inspector General of Police/RPO Hazara Region, at Abbottabad and other", decided on 22.09.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Fareeha Paul, Member, Executive, Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad.

6. As a resultant consequence this appeal fails and is dismissed.

Costs shall follow the event. Consign.

7. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 22nd day of September, 2022.*



KALIM ARSHAD KHAN
Chairman
Camp court Abbottabad



FAREEHA PAUL
Member (Executive)
Camp court Abbottabad

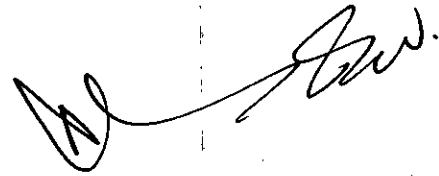
ORDER

22 Sept, 2022

1. Learned counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for respondents present.

2. Vide our detailed judgement of today placed on file (containing 04 pages), this appeal fails and is dismissed. Costs shall follow the event. Consign.

3. *Pronounced in open court in Abbottabad and given under our hands and seal of the Tribunal on this 22nd day of Sept, 2022.*



(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad



(Fareeha Paul)
Member(Executive)
Camp Court Abbottabad

16.03.2022

Due to non-functional of the Tribunal, the case is adjourned to 19.05.2022 for the same.



Reader

19.05.2022

None for appellant present. Mr. Muhammad Asif Masood, DDA for respondents present.

Previous date was changed through Reader note, therefore, notice for prosecution of appeal be issued to the appellant as well as his counsel. To come up for arguments before D.B on 21.07.2022 at camp court Abbottabad.





(Fareeha Paul)
Member(E)


(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

21st July 2022

Learned counsel for the appellant present. Kabiruallah Khttak, Addl: AG and Mr. Noor Zaman Khattak, District Attorney for respondents present.

Learned counsel for the appellant seeks adjournment on the ground that he has not prepared the case. Last opportunity is given to the learned counsel for the appellant to argue the case on the next date, failing which the case will be decided on the available record without the arguments. To come up for arguments on 22.09.2022 before D.B at camp court Abbottabad.


(Salah Ud Din)
Member (Judicial)


(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

21-4-21

Due to covid 19, the case is
Adjourned to 22-9-21 for the same.

R. Reader

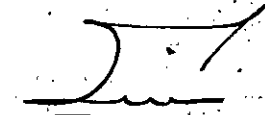
22.09.2021

Mr. Hamayun Khan, Advocate, for the appellant present.
Mr. Riaz Ahmed Paindkhel, Assistant Advocate General for the
respondents present.

Learned counsel for the appellant sought adjournment on
the ground that he has not made preparation for arguments.
Adjourned. To come up for arguments before the D.B on
17.11.2021 at Camp Court Abbottabad.



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)
CAMP COURT ABBOTTABAD



(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD

17.11.2021

Counsel for the appellant and Mr. Muhammad Riaz Khan
Paindakhel, Asstt AG for the respondents present.

Learned counsel for the appellant seeks adjournment in
order to further prepare the brief. Request is accorded To
come up for arguments on 16.03.2022 before the D.B at camp
court, Abbottabad.



(Rozina Rehman)
Member(J)
Camp Court, A/Abad



Chairman
Camp Court, A/Abad

17.11.2020

Mr. Muhammad Hamayun, Advocate, for appellant is present. Learned counsel submitted that while initiating disciplinary proceedings against appellant, the illegal activities as mentioned in the order dated 13.03.2020 passed by the Regional Police Officer, Hazara Region, Abbottabad, has not been specified nor he has been delivered the copy of the impugned order nor the tenets on the subject have been observed, in this regard his absence should have been highlighted in a notice of publication in two daily newspapers, however, nothing of the sort was observed thus violating the relevant rules on the subject. As regard delay, it was due to the spread of COVID-19 as a result of which all the offices including the courts remained closed making him unable to have timely recourse for redressal of his respective grievance.

The points so agitated at the bar need consideration. The appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 15.02.2021 before SJB at Camp Court, Abbottabad.

Appellant Deposited
Security & Process Fee

04/12/20

(MUHAMMAD JAMAL KHAN)
MEMBER
CAMP COURT ABBOTTABAD

15.02.2021

Learned counsel for the appellant and Mr. Riaz Khan Paindakhel learned Asst. AG alongwith Hazrat Khan Reader for respondents present.

Representative of respondents submitted reply which is placed on file. To come up for rejoinder if any, and arguments on 21.04.2021 before D.B at Camp Court, A/Abad.



(Atiq-Ur-Rehman Wazir)
Member (E)
Camp Court, A/Abad

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 5366 /2020

1S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	04/06/2020	<p>The appeal of Mr. Yasir Khawaja received today by post through Mr. Fazlullah 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> <p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>17/11/20</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR CAMP AT ABBOTTABAD

Service Appeal No. 5366 /2020

Yasir Khawaja son of Khawaja Muhammad Sharif (Ex-Constable No. 1429), resident of Mohallah Orish Colony, House No. TC-807/2, Street No. 3, Nawanshehr; Tehsil & District Abbottabad.

...APPELLANT

VERSUS

1. Deputy Inspector General of Police/ RPO Hazara Region, at Abbottabad.

2. DPO District Kolai Palas, Kohistan.

...RESPONDENT

SERVICE APPEAL

INDEX

S.#	Description	Page No.	Annexure
1.	Memo of Appeal	1 to 7	
2.	Application for condonation of dealy	8 to 9	
3.	Copy of order	10	"A"
4.	Copy of departmental appeal	11-12	"B"
5.	Copy of order	13	"C"
6.	Wakalatnama	14	

...APPELLANT

Through

Dated: 1/6 /2020


(FAZLULLAH KHAN)

&


(HAMAYUN KHAN)

Advocates High Court, Abbottabad

1

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR CAMP AT ABBOTTABAD

Service Appeal No. 8366 /2020

Yasir Khawaja son of Khawaja Muhammad Sharif (Ex-Constable No. 1429), resident of Mohallah Orish Colony, House No. 807/2, Street No. 3, Nawanshehr, Tehsil & District Abbottabad.

Diary No. 4653 APPELLANT

VERSUS

Dated 04/06/2020

1. Deputy Inspector General of Police/ RPO Hazara Region, at Abbottabad.
2. DPO District Kolai Palas, Kohistan.

...RESPONDENTS

APPEAL UNDER ARTICLE 212 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973 READ WITH SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 READ WITH ALL THE OTHER ENABLING LAWS AGAINST THE IMPUGNED ORDER DATED 22/11/2019 WHEREBY, RESPONDENT NO. 2 DISMISSED APPELLANT FROM SERVICE AND SIMILARLY ORDER DATED 13/03/2020 PASSED BY THE RESPONDENT NO. 1 UPON THE DEPARTMENTAL APPEAL OF THE APPELLANT WHICH ARE ILLEGAL, AGAINST THE LAW AND FACT AND ARE LIABLE TO BE SET-ASIDE.

Filed to-day

Registrar

04/06/2020

PRAYER:- ON ACCEPTANCE OF INSTANT APPEAL ORDER DATED 13/03/2020 PASSED BY RESPONDENT NO. 1 AND 22/11/2019 PASSED BY RESPONDENT NO. 2 BE DECLARED ILLEGAL, UNLAWFUL, VOID AB-INITIO AND BE SET-ASIDE AND APPELLANT BE RE-INSTATED IN SERVICE WITH ALL BACK BENEFITS. ANY OTHER RELIEF WHICH THIS HONOURABLE COURT DEEMS FIT AND PROPER IN THE INTEREST OF JUSTICE AND FAIR PLAY.

Respectfully Sheweth;-

This appeal mainly proceeds on bellow stated factual and legal grounds.

1. That, the appellant was appointed as Constable in District Police at Abbottabad in the year 2008.
2. That, in consequence of appointment order appellant submitted his arrival report and join duty under police No. 1429.
3. That, after completion of initial and codal formalities appellant was sent for police training to

PTC College Hangu and successfully completed the training.

4. That, due to the landed property dispute situated in commercial area of Nawanshehr, Abbottabad the real cousin of appellant many time attempts illegal and forceful possession thereupon, who has also acquired some portion of appellant's property through illegal means and deprived the appellant from his right to enjoy his property.
5. That, the opponents/ cousin of appellant are politically strong and influential figures due to which they have fully access to the minister and speaker of Provincial Assembly KPK, therefore they used their influence to deprive the appellant from his property and from service.
6. That due to political influence without any reason respondent No. 1 issued transferred order of the appellant from District Abbottabad to District Kohistan Kolay Palas in the month of January, 2019.
7. That on 30/01/2019 appellant submitted this arrival report in the office of respondent No. 2,

8. That when appellant joined his duty at Kohistan his opponent/ cousin illegally dispossessed the family of the appellant from house and illegally got possession of the appellant's house.
9. That on the same day when appellant received the information in respect of his house, appellant filed application for leave, before the respondent No. 2.
10. That when appellant came back to Abbottabad home opponent of the appellant use their political approach against the appellant in District Kohistan through political figure of the Provincial Assembly of KPK.
11. That on 22/11/2019 respondent No. 2 passed impugned order in absence of appellant on the basis of so-called allegation. Copy of order is annexed as Annexure "A".
12. That on 16/12/2019 appellant filed departmental appeal before respondent No. 1 against the impugned order dated 22/11/2019. Copy of appeal is annexed as Annexure "B".
13. That on 13/03/2020 respondent No. 1 passed second impugned order and whereby appeal of the

appellant was dismissed but intentionally not delivered, copy of the said order similarly not given any information in this regard and the said impugned order was received on 06/05/2020 from the office of superintendent of RPO/ respondent No. 1, hence this appeal on the following grounds;-
Copy of order is annexed as Annexure "C".

GROUND:-

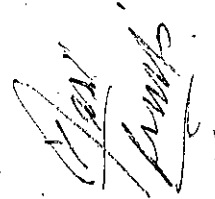
- a. That the impugned order is violative of the principal of natural justice. The appellant has not been treated in accordance with law and the rules on the subject. Hence the impugned order is liable to be set aside.
- b. That no proper enquiry has been conducted. The appellant has not been provided any opportunity to defend charges against him: It was an one sided decision made by DPO Kohistan and being a nullity in the eye of law can't hold field and is liable to be set aside.
- c. That the contention of the appellant has neither been consider nor opportunity of personal hearing has been granted to the appellant, hence the enquiry being one sided.

is liable to be set aside and in consequence thereof, the impugned orders are liable to be set aside.

- d. That service record of the appellant is neat and clean and no complaint from public is available on record which could be made basis for initiating enquiry.
- e. That even otherwise, the appellant is innocent and even if the so called charges leveled against appellant or deemed correct, the punishment awarded for those charges is very harsh and unjustified. Hence the impugned order is liable to be set aside.
- f. That the appellant was not served by any means as prescribed by the law.
- g. That the impugned order is against the law, fact and the principles laid down by the Honourable Superior Courts.
- h. That appellant would like to be heard in person.

- i. That other grounds will be urged at the time of arguments with prior permission of this Honourable Court.

It is therefore, most humbly prayed that on acceptance of instant appeal order dated 13/03/2020 passed by respondent no. 1 and 22/11/2019 passed by respondent no. 2 be declared illegal, unlawful, void ab-initio and be set-aside and appellant be re-instated in service with all back benefits. Any other relief which this Honourable Court deems fit and proper in the interest of justice and fair play.



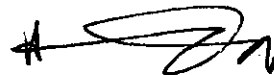
...APPELLANT

Through

Dated: 1/6 /2020

(FAZLULLAH KHAN)

&



(HAMAYUN KHAN)

Advocates High Court, Abbottabad

VERIFICATION:-

Verified on oath that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.



...APPELLANT

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

Service Appeal No. _____/2020

Yasir Khawaja son of Khawaja Muhammad Sharif (Ex-Constable No. 1429), resident of Mohallah Orish Colony, House No. TC-807/2, Street No. 3, Nawanshehr, Tehsil & District Abbottabad.

...APPELLANT

VERSUS

1. Deputy Inspector General of Police/ RPO Hazara Region, at Abbottabad.
2. DPO District Kolai Palas, Kohistan.

....RESPONDENTS

SERVICE APPEAL

APPLICATION FOR CONDONATION OF DELAY.

Respectfully Sheweth;-

1. That the above titled petition is being filed before this Honourable Tribunal.
2. That the appellant has brought a good prima facie case and balance of convenience also lies in favour of the appellant.
3. That valuable rights of appellant is involved.

4. That the condonaton in filing the appeal, if any is occurred due to COVID-19 and non availability of copies due to lockdown. Hence this application
5. That delay in filing of service appeal is not willful.

Keeping in view the above cited submission, it, therefore, humbly prayed that by acceptance of this application the delay may kindly be condone.

Dated: 1/6 /2020

Through


(FAZLULLAH KHAN)

&


(HAMAYUN KHAN)

Advocates High Court, Abbottabad


...APPELLANT

ANNEXUREⁿ Aⁿ 10

ORDER

Constable Yasir Khawaja No.1429 was transferred from Abbottabad to this district on complaint basis vide Regional Police Officer Hazara Region Abbottabad order No.121-25/E Dated 01-01-2019.

He has been absented vide DD No. 08 dated 30-01-2019 till to date

Charge Sheet and disciplinary Action was issued to him on 18-03-2019 and Mr. Habib Ur Rehman SDPO Pallas has been appointed as an enquiry officer and the said charge sheet was served upon him through local police PS Nawasher Abbottabad but said constable did not submit reply of Charge Sheet.


Final show cause notice was issued to him and the same has been sent to his home address for serve upon through District Police Officer, Abbottabad, vide this office letter No.1820/PA dated 02-10-2019.

Keeping in view the recommendation of Enquiry Officer, it revealed that constable Yasir Khawaja No.1429 is habitual absentee and did not take interest in his duty/job, so I came to this conclusion that he cannot become a good police officer in future being a discipline force.

Therefore, in exercise of powers vested in the undersigned under Rule-2 of Police department Rules-1975, I, Iftikhar Ahmad, PSP, District Police Officer, Kolai Pallas Kohistan as a competent authority am constrained to award him the punishment of "**Dismissal from service**" from the date of absence i.e. 30-01-2019 with immediate effect.

Order announced.

OB No. 38
dated - 22-11-2019



(IFTIKHAR AHMAD) PSP
District Police Officer,
Kolai Pallas Kohistan.

No. 2050/OHC Dated 22/11/2019.

Copy of the above is forwarded to District Police Officer, Torghar along with enquiry file (in original) containing (17) pages for necessary and completion of record, please.

OHC/SRC
for Pallas

4452
12/12/2019


(IFTIKHAR AHMAD) PSP
District Police Officer,
Kolai Pallas Kohistan

1cc
No 2050
12/12

OHC
for compliance

17-12-19



ANNEXURE Cⁿ 13
OFFICE OF THE REGIONAL POLICE OFFICER
HAZARA REGION, ABBOTTABAD
0992-9310021-22
0992-9310023
r.rpohazara@gmail.com
0345-9560687
NO: 7965 /PA DATED 13/03/2020


ORDER

This order will dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 submitted by Ex-Constable Yasir Khawaja No.1429 of District Kolai Pallas against punishment order i.e. *Dismissal from service (2nd time)* awarded by District Police Officer, Kolai Pallas vide OB No. 38 dated 22.11.2019.

Brief facts leading to the punishment are that the official was transferred from Abbottabad to Kolai Pallas on complaint basis vide Regional Police Officer, Hazara Region order No.121-25/E dated 01.01.2019 and absented himself vide DD No.08 dated 30.01.2019 Police Lines Kolai Pallas till date of dismissal i.e. 22-11-2019 without any leave our permission.

The appellant was issued charge sheet alongwith summary of allegations and DSP Pallas was deputed to conduct departmental enquiry. The charge sheet and summary of allegation was served upon the official through local police of PS Nawansher, Abbottabad. However the appellant failed to join enquiry proceeding or submit reply of charge sheet. Consequently the EO recommended him for major punishment. The appellant was called in OR, however he failed to appear. Keeping in view the above DPO Kolai Pallas awarded him major punishment of dismissal from service.

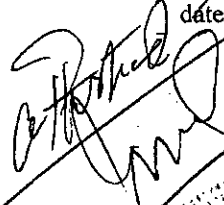
After receiving his appeal, comments of DPO Kolai Pallas were obtained and examined/perused. The undersigned called the official in OR however he failed to appear before undersigned. As per report of SHO PS Nawansher the appellant ^{was} proceeded aboard and no family member ^{was} willing to receive summon. Moreover perusal of his service record transpires that appellant is a habitual absentee and also remained involved in illegal activities and ^{became a} source of defamation for Police department. Therefore in exercise of the powers conferred upon the undersigned under Rule 11-4 (a) of Khyber Pakhtunkhwa Police Rules, 1975 appeal of the official is hereby *filed* with immediate effect.



Qazi Jamil ur Rehman (PSP)
Regional Police Officer
Hazara Region, Abbottabad

No. 7966 /PA, dated Abbottabad the 13-03 /2020.

CC.

1. The District Police Officer, Kolai Pallas Kohistan for information and necessary action with reference to his office Memo No 145/SRC dated 11-02-2020. Service Roll and Fuji Missal containing enquiry file of the appellant is returned herewith for record.
2. The District Police Officer, Torghar with reference to his office Memo No. 75/OHC dated 17-01-2020 for information.


District Police Officer
Torghar
Hazara Region, Abbottabad
06/03/2020

Attested


وکالت نامہ

کورٹ فیس

بعدالت جناب خیر خٹو خواہ سروس ٹریڈنگ سٹور سٹیٹ اسلام آباد

عنوان: ماسٹرفوائفہ بنام DIG وغیرہ

منجانب: ایبلانٹ

نوعیت مقدمہ: سروس ایپل

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آن مقام

غرضل اللہ خان، مہارون خان ایڈورٹسز

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل

صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری

کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت

ضرورت مقدمہ مذکور کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی

جگہ تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا

ساختہ پر داختم مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے

مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا

حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں

کوئی جزو بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد

استجارت نالاش بصیغہ مفلسی کے دائر کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کیا تاکہ سند رہے۔

المقوم:

Accepted & Attended

مقام: Attd

Accepted by

BEFORE HONORABLE KHYBER PAKHTUNKHUWA SERVICE TRIBUNAL
PESHAWAR CAMP COURT, ABBOTTABAD

SERVICE APPEAL NO.5366/2020

**Mr. Yasir Khawaja , Ex-Constable No. 1429, of Police Line Kolai Palas
Kohistan APPELLANT**

VERSUS

1. The Regional Police Officer, Hazara Region, Abbottabad
2. The District Police Officer, Kolai Palas Kohistan.....**RESPONDENTS**

INDEX

S#	Detail of document	Annexure	Page No.
1	Index		1
2	Para Wise Comments	-	2-5
3	Affidavit	-	06
4	DMC PTC,Hangu	A	07
5	On Complaint Transfer Order	B	08
6	Dismissed Order dated 22-11-2019	C	09
7	Absence report Daily Dairy No.8 dated 30-01-2019	D	10
8	Charge Sheet, Finding report, Summon for OR, Final Showcase Notice, Dismissed order OB NO.38 dated 22-11-2019, Absence record, Dismissed Order of DPO Abbottabad vide Order No.92-94/PA dated 09-01-2018	E	11-25
9	Filled Departmental Appeal Order No.7965-66/PA dated 13-03-2020	F	26
10	Finding report, Summon for OR, Habitual absentee record, Involvement of illegal activities, Dismissed Order of DPO Abbottabad vide Order No.92-94/PA dated 09-01-2018	G	27-33
11	Authority letter	-	34
TOTAL			34 Pages

BEFORE HONORABLE KHYBER PAKHTUNKHUWA SERVICE TRIBUNAL
PESHAWAR CAMP COURT, ABBOTTABAD

SERVICE APPEAL NO.5366/2020

**Mr. Yasir Khawaja , Ex-Constable No. 1429, of Police Line Kolai Palas
Kohistan APPELLANT**

VERSUS

1. The Regional Police Officer, Hazara Region, Abbottabad
2. The District Police Officer, Kolai Palas Kohistan..... **RESPONDENTS**

PARA WISE COMMENTS/REPLY ON BEHALF OF RESPONDENTS 1,2

RESPECTFULLY SHEWETH

Respectfully Sheweth that the para-wise comments on behalf of respondents submitted as under:-

PRELIMINARY OBJECTIONS

- I.** The appellant has got no cause of action to file the instant appeal.
 - II.** The appeal is not maintainable in its present form.
 - III.** The appellant has concealed the real facts from this Honorable Court/
Tribunal.
 - IV.** That the appeal of the appellant badly time barred.
 - V.** That the appellant did not come back with clean hands.
-
1. That as per his service record, the appellant was appointed as constable in District Abbottabad on 21-01-2008.
 2. That the appellant was initially appointed in District Abbottabad, and his service record shows that he joined the duty at District Abbottabad at that time.
 3. That the appellant was completed his recruit training from Police Training College Hangu term ending 20-09-2008 and obtained 784 marks out of 1135. During recruit course he was absented from duty of 05 days and punished 05 days. **(Annexure-A= 01 page)**
 4. Pertains to record.
 5. Pertains to record.
 6. That the appellant was transferred from District Abbottabad to District Kolai Palas Kohistan by the competent authority on the complaint by Regional Police Officer, Hazara Region, Abbottabad, vide his office order Endst: No. 121-25/E dated 01-01-2019. **(Annexure-B= 01 page)**
 7. Pertains to record.

8. Pertains to record.
9. That the appellant never submitted any application to Respondent No. 2 or others regarding grant of leave and he left the district on 30-01-2019 without any prior information/permission of their seniors and remained absent till the date of dismissal i.e 22-11-2019 (His total absentee period is 09 month and 22 days). **(Annexure-C= 01 page)**
10. That the appellant was absent at the day of arrival and did not inform to his seniors. Further added that he made his arrival in the District on 30-01-2019 while in evening roll call he was found absent from evening general roll call and the local police made his absent report in daily diary, vide DD No. 08 dated 30-01-2019 at 18:00 hours of Police Line Pallas. **(Annexure-D= 01 page)**
11. That after conducting proper departmental enquiry against the appellant by Mr. Habib ur Rehman DSP Pallas Kohistan. The enquiry officers fulfilled all requirements during the course of enquiry, he was called by the enquiry officer by using all available sources, but neither the appellant appeared before the enquiry officer nor produced any plausible reason/documentary proof in his defense. After completion of proper departmental enquiry, the enquiry officer submitted his finding on 28-08-2019 and recommended him for major punishment. The Respondent No. 2 called the appellant to appear before him on 02-09-2019, but he did not appear till the date of dismissal. However, final show cause notice as issued to him, vide No. 1815/PA dated 02-10-2019 and sent to DPO Abbottabad to act upon, but he did not submit reply of the said final show cause notice. Hence on the recommendation of the enquiry officer, the appellant was dismissed from service, vide Order Book NO. 38 dated 22-11-2019. From perusal of his service record the appellant was habitual absentee and he was dismissed from service at District Abbottabad on the basis of involved illegal activities, vide DPO Abbottabad office order No. 92-94/PA dated 09-01-2018. **(Annexure-E= 15 pages)**
12. That the appellant filed departmental appeal for re-instatement into service before the Worthy Regional Police Officer, Hazara Region, Abbottabad, which was filed, vide his office order. Endst: No. 7965-66/PA dated 13-03-2020. **(Annexure-F= 01 page)**

13. That the Respondent No.1 filed the appeal of the appellant due to the reason that :

The appellant was called in OR, However, he failed to appear before Respondent No. 1. As per report of SHO Police Station Nawansher Abbottabad the appellant was proceeded aboard and no family member was willing to receive summon. Moreover, perusal of his service record transpires that the appellant is a habitual absentee and also remained involved in illegal activities and became a source of a defamation for police department. (Annexure-G= 07 pages)

GROUNDS

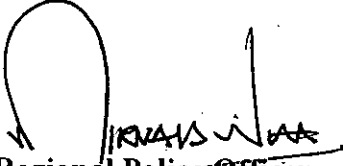
- A. That the order dated 22-11-2019 passed by respondent No.2 and order dated 13-03-2020 passed by Respondent No.1 is true in the eye of law/rules, justice and is based on facts.
- B. That the charge sheet and summary of allegation has been issued against the appellant, vide this office No.394/PA dated 18-03-2019 and Final show cause notice was also issued to him , vide No. 1815/PA dated 02-10-2019 and proper departmental enquiry was conducted. Consequently, the appellant was found guilty. He was given full opportunity.
- C. That the appellant was called at all forms, but he did not appear before any officer and also did not given any plausible reason in his defense. Hence the orders of the respondents are real on facts.
- D. That his service record shows that the appellant was a habitual absentee and also involved in illegal activities as he was dismissed from service at District Abbottabad in the year 2018, similarly, his service record is full of bad entries as he was absented from duty at 19 different occasions during his service, lastly he was absented form his lawful duty at 09 month and 22 days for a long period, so it proved that he could not become a good police officer.
- E. That the punishment of dismissal from service of the appellant granted by the competent authority is in the eye of law and justice, he was granted full opportunity, to prove for his defense.
- F. That the appellant was served in all form which is prescribed by the law.
- G. That the orders of Respondents were issued after fulfilling all the codal formalities, which are based on facts.
- H. That during the course of enquiry, he was called to appear before competent authority, but he did not appeared till date.
- I. That other ground will be raised at the time of argument.


PRAYER

It is therefore, most humbly prayed that on acceptance of Para wise reply on behalf of respondents, the instant appeal of the appellant may graciously be ordered to be dismissed with cost.

VERIFICATION:-

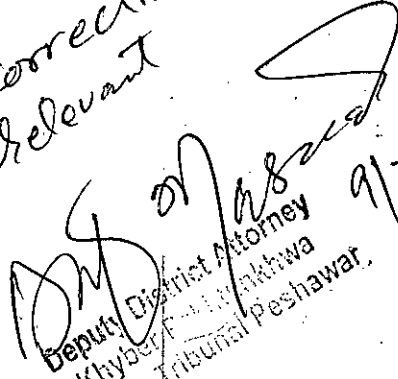
Verified on oath that the contents of foregoing Appeal are true and correct to the best of our knowledge and belief and nothing have been concealed from this honorable court/Tribunal.


Regional Police Officer,
Hazara Region, Abbottabad
Respondent No. 1


District Police Officer,
Kolai Palas Kohistan
Respondent No. 2

*Please see
O.A. @
@/ll
2/8/21*

*Verified
Subject to
annexed all
documents.
correction
relevant*


Deputy District Attorney
Khyber Pakhtunkhwa
Service Tribunal Peshawar.
9/2/2021

BEFORE HONORABLE KHYBER PAKHTUNKHUWA SERVICE TRIBUNAL
PESHAWAR CAMP COURT, ABBOTTABAD

SERVICE APPEAL NO.5366/2020

Mr. Yasir Khawaja , Ex-Constable No. 1429, of Police Line Kolai Palas
Kohistan APPELLANT

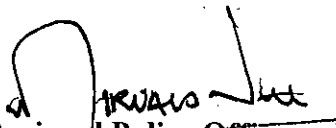
VERSUS

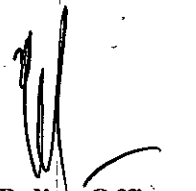
1. The Regional Police Officer, Hazara Region, Abbottabad
2. The District Police Officer, Kolai Palas Kohistan..... **RESPONDENTS**

AFFIDAVIT /COUNTER AFFIDAVIT

We Respondents do hereby solemnly affirm and declare on oath that the content of the accompanied Para Wise comments are true and correct to the best of my knowledge and belief and nothing has been suppressed/concealed from this Honorable Court.

Deponents


Regional Police Officer,
Hazara Region, Abbottabad
Respondent No. 1


District Police Officer,
Kolai Palas Kohistan
Respondent No. 2

Police Training College Hangu



Estb 1935

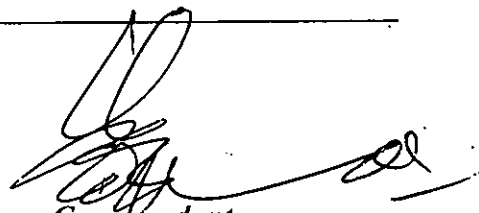
History Sheet/Detail Marks Certificate

Starting Date : 31.01.2008 Ending Date : 20.09.2008
 College Course : Recruit Name : Yasir Khawaja
 Rank : Constable Belt No. : 1429
 Comp#: : 11554 District/Unit : Abbottabad
 Education : 10th Merit : 119

LAW			DRILL			REMARKS .
PPC	76	/100	Drill	38	/70	
CrPC	82	/100	UC	12	/20	
PR	74	/100	EOD	20	/35	
PPW/GPD	88	/100	PT	11	/20	
IST	74	/100	TFC	12	/20	
LSL/QS	65	/100	MD	20	/30	
Sec/WT/GK /FP/AC	80	/100	RM	50	/80	
G.Written Test	NA	/100	Bayonet Fighting	7	/10	
Board Interview	NA	/100	AC	77	/150	

Total:- 537 /700 247/435
 Overall Percentage is:69.07 G-Total:784.00 / 1135

Leave Obtained:9 days Medical Rest:NIL days Absence: 5 days Punishment: 5 days
 E.D Reward: NIL


 Commandant,
 Police Training College Hangu.

Annexure (B) w/ Page 121 ✓

ORDER

Following transfers/postings amongst the lower subordinates are hereby ordered on complaint basis with immediate effect:-

S #	NAME & NO	FROM	TO
01	Constable Yasir Khawaja No.1429	Abbottabad District	Kolai Pallas Kohistan District
02	Constable Raja Waqas No.940	Abbottabad District	Upper Kohistan District
03	Constable Adil No.296	Abbottabad District	Lower Kohistan District

They will draw their pay from Torghar District.

Regional Police Officer,
Hazara Region Abbottabad

No. 121-25 /E, dated Abbottabad the 01-01 /2019

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

1. District Police Officer, Abbottabad w/r to his office Memo: No.6606 dated 31-12-2018.
2. District Police Officer, Upper Kohistan.
3. District Police Officer, Lower Kohistan.
4. District Police Officer, Torghar.
5. District Police Officer, Kolai Pallas Kohistan

OHC
For information
District Police Officer
Kolai Pallas Kohistan

ORDER

Constable Yasir Khawaja No.1429 was transferred from Abbottabad to this district on complaint basis vide Regional Police Officer Hazara Region Abbottabad order No.121-25/E Dated 01-01-2019.

He has been absented vide DD No. 08 dated 30-01-2019 till to date

Charge Sheet and disciplinary Action was issued to him on 18-03-2019 and Mr. Habib Ur Rehman SDPO Pallas has been appointed as an enquiry officer and the said charge sheet was served upon him through local police PS Nawasher Abbottabad but said constable did not submit reply of Charge Sheet.


Final show cause notice was issued to him and the same has been sent to his home address for serve upon through District Police Officer, Abbottabad vide this office letter No.1820/PA dated 02-10-2019.

Keeping in view the recommendation of Enquiry Officer, it revealed that constable Yasir Khawaja No.1429 is habitual absentee and did not take interest in his duty/job, so I came to this conclusion that he cannot become a good police officer in future being a discipline force.

Therefore, in exercise of powers vested in the undersigned under Rule-2 of Police department Rules-1975, I, Iftikhar Ahmad, PSP, District Police Officer, Kolai Pallas Kohistan as a competent authority am constrained to award him the punishment of "*Dismissal from service*" from the date of absence i.e. **30-01-2019** with immediate effect.

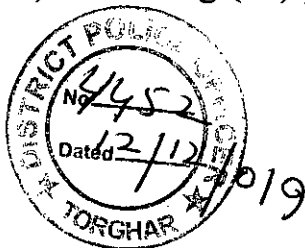
Order announced.

OB. No. 38
dated - 22-11-2019


(IFTIKHAR AHMAD) PSP
District Police Officer,
Kolai Pallas Kohistan.

No. 2050/OHC Dated 22/11/2019.

Copy of the above is forwarded to District Police Officer, Torghar along with enquiry file (in original) containing (17) pages for necessary and completion of record, please.



OHC/SRC
for 'a/c'...


(IFTIKHAR AHMAD) PSP
District Police Officer,
Kolai Pallas Kohistan

12/12

OK for compliance

DP 12-12-19

لوئیس آرنست هیلن

ضلع آبی انورستان

2

Annerkuse (D) 1298 تقویم 8 روزنامه 30/1/19

قدستی نام 30/1/19 مکتوب در وقت شنبه نام مدرسه

مدرسه

مکتوب فارغ از مدرسه موجود است

حاضر فوق از بوفان مطابق اولی در دست لسانی کار
و مکتوب سالی سالی است. ضمناً کمال باشد خواهم

1429 مکتوب میں عدم موجود یا کار موجود عند حاضر

روز 2 روزنامه کی۔ لکھ سناے ضروری ضمناً اتمام

مکتوب چھوڑا کی۔ تقویم 8 روزنامه میں باقی لکھ

مکتوب در حال میں

ضمناً

تقریباً نو امین

[Signature]

M.H. P. Line
19-08-19

دین

forwarded

[Signature]

10. P. Line

19-08-19

CHARGE SHEET

Annexure (E) 15 Pages ①

I, Iftikhar Ahmad, District Police Officer, Kolai Pallas Kohistan being competent authority is hereby charge sheet you FC Yasir Khawaja No.1429 Posted as GD Police Line on the following ground.

It has come to know that you absented yourself from your law full duty vide daily diary No.08 dated 30-01-2019 without any permission from high ups. Which indicates that you did not take keen interest in your duty.

Your above gross misconduct being a member of disciplined force produced very bad name for Police force and calls Minor / Major punishment.

1. By Reason of above you are appear to be guilty of gross misconduct under Police rules -1975 and have rendered your self liable to all or any of the penalties of the rules abide.
2. You are therefore directed to submit written reply in your defense within seven (07) days of the receipt of this Charge Sheet to the enquiry officer / committee.
3. Your written defense if any should reach the enquiry / committee within the stipulated period, failing which it shall be presumed that you have not say anything in your defense ex-party action will be taken against you.
4. A statement of allegation is enclosed.



(Iftikhar Ahmad)
District Police Officer,
Kolai Pallas Kohistan

DISCIPLINARY ACTION

Annexure E (2)

I, Iftikhar Ahmad District Police Officer, Kolai Pallas Kohistan is competent authority and of the opinion that FC Yasir Khawaj No.1429 Posted at GD Police Line rendered himself liable to be proceed against as he committed the following acts / omission within the meaning of Police rules-1975.

STATEMENT OF ALLEGATIONS

It is alleged that that you absented yourself from your law full duty vide daily diary No.08 dated 30-01-2019 without any permission from high ups. Which indicates that you did not take keen interest in your duty..

Mr. Habib-Ur-Rahman DSP Pallas is appointed as enquiry officer and to submit finding within stipulated time.

1. They enquiry officer / committee shall, in accordance with the provision of the Police Rules-1975, provide reasonable opportunity of hearing to the respondent record its findings and may be finalized within a short time of receipt of this order recommendations as to punishment or other appropriate action against the respondent.
2. The respondent and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the enquiry officer.



(Iftikhar Ahmad)
District Police Officer,
Kolai Pallas Kohistan

No. 394 /PA, dated KP Kohistan the 18/03/2019

Copies of the:-

1. Enquiry officer.
2. Respondent Officials through enquiry officer.



(Iftikhar Ahmad)
District Police Officer,
Kolai Pallas Kohistan

Page 2)

OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE,
CIRCLE PALLAS , KOLAI PALLAS KOHISTAN

(B)

NO 01 /R

Dated the 36 / 03 /2019.

Amendment E

To; The District Police Officer
Abbottabad.

Subject: CHARGE SHEET

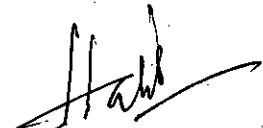
Memo:

Kindly refer to District Police ^{office} Kolai Pallas Kohistan Endstt: No.394/PA dated 18-03-2019.

It is submitted that FC Yasir Khawaja No.1429 of this District is resident of your kind jurisdiction. The subject charge sheet is required to serve upon him.

Therefore it is requested that the charge sheet may kindly be served and he may also be informed to appear in this office within current week for subject purpose please.

(Enclose 02 pages)


Deputy Superintendent of Police,
Circle Pallas, Kolai Pallas Kohistan

NO. 02 /2019

Copy of above is forwarded to the District Police Officer Kolai Pallas Kohistan vide his Office Endstt: No.394/PA dated 18-03-2019 for favor of information please.

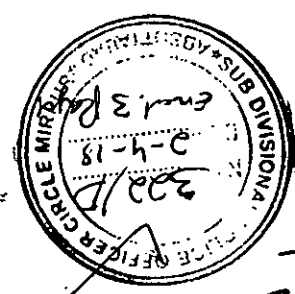

Deputy Superintendent of Police,
Circle Pallas, Kolai Pallas Kohista

Page (3)

SDPO Mir
Abbotta
02/10/17

SHE NSR
for
MS
give

08/01/03



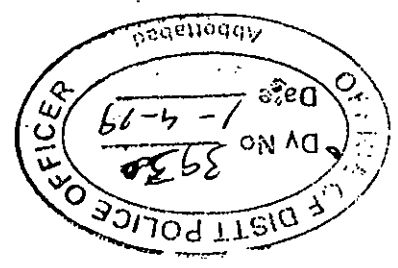
510 PS NSR
2-4-18

ASST
NSR
R/S
2017

SDPO Mirzapur
for service program

Page (4)

Encl



OFFICE
CIRCLE
MIRZAPUR

Amendment F

(4)

283-34
NSR

مقام کسٹبل ایس آر خواجہ نے 1428 سال میں
ایس آر پولیس لائن آرڈر کے تحت میں نے آفیسر صاحب
کو ریفر طریقہ پر پیش کیا ہے۔
دستخط کر لیا ہے۔

1428
0344-9453326
13101-7973028-3

مقام کسٹبل ایس آر خواجہ نے 1428 سال میں
ایس آر پولیس لائن آرڈر کے تحت میں نے آفیسر صاحب
کو ریفر طریقہ پر پیش کیا ہے۔
دستخط کر لیا ہے۔

~~Handwritten signature and date~~
10.05.2019

Sir,

Returned after compliance
report of SHO, PS Mirpur
Pl.

DSP Mirpur
13-05-19

Returned after doing
needful.

Page 5

~~Handwritten signature~~
14/05

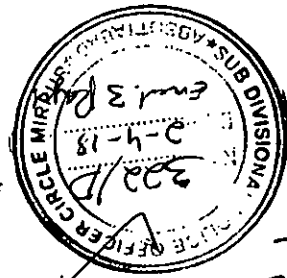
Handwritten notes and stamps at the bottom right corner.

SDPO Mir
Abbotta
02/10/13

for
MS
SHE NSR

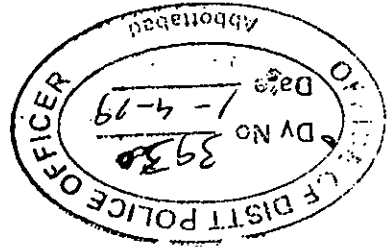
02/08/13
02/09/13

SDPO Mir
Service of process



2-4-19
SHE NSR

ASST
SHE NSR
R/S



Enclosure

NOTICE
OF POLICE OFFICER
CIRCLE MIRROR SUB DIVISIONA

283-34
NSR

خدا عالی - حوالہ انکوائری برخلاف کنسل باسرخوام 1429 لسلسلہ غیر حاضری
ذیل معروض عدوت ہوں -

بدون انکوائری پایا گیا کنسل باسرخوام 1429 حوالہ آرڈر نمبر 25-121 حوالہ 01-01-01
قاریہ RPO مہا ہزارہ ریٹ آباد ضلع سے ضلع کوئی پالس تبادلہ ہوا۔
مذکورہ نے حوالہ 30⁰¹/₁₉ کو وقت 10:50 بجے لائن کوئی پالس کو بیان میں حاضر کیا۔
اسی روز وقت 18:00 بجے گئی شام سے عدم موجود پایا جا کر رپورٹ غیر حاضری درج
روزنامہ ہوئی۔ اور بدستور غیر حاضر رہنے پر حوالہ 18⁰³/₁₉ جاری شدت نمبر 394
PA

مذکورہ کے خلاف جاری ہو کر انکوائری کے نام مارک ہوئی۔ جاری شدت لوہالت
DPO مہا ایٹ آباد نبرہم ضلعی تمام مذکورہ کنسل سے دستخط وصول شدت ہو کر حصول
ہو چکے ہیں۔ اسی طرح انکوائری کے سلسلہ میں پیش ہو کر بیان رکھارڈ کرنے کے لئے
مذکورہ کو نوٹس جاری ہوا۔ متعدد بار مذکورہ کے حوالہ نمبر 03449453326
داخلہ کی کوشش کی گئی لیکن Not Responding۔

مذکورہ کنسل حوالہ 30⁰¹/₁₉ سے نامال لغیر کسی اجازت یا اطلاع کے بغیر بدستور
غیر حاضر ہے اور مستقبل قریب میں بھی مذکورہ کے عدوت پر حاضران
کے امکانات انتہائی کم نظر آتے ہیں۔ مذکورہ کا علم غیر حاضری 07 ماہ
ہو چکے ہیں۔ انکوائری کو مزید التوا میں رکھنے سے سود ہے۔ لہذا مذکورہ
کے خلاف بلکہ رقم بڑی سزا دینے کی سفارش کی جاتی ہے۔ انکوائری
رپورٹ گزارش ہے۔

OR
DPO RPK
21/9/19

Hald
DSP/Pales
28/8/19

جدا علی

حکم پڑا کی نقل کے پلاٹوں میں زمینیں عبدالرشید صاحب SOG کے پاس ہیں
ابن آباد کارپوریشن کے قومی پلان نمبر 0344-9453326 برائے

ان کے قومی پلان نمبر 0344-9453326 برائے
ابن آباد کارپوریشن کے قومی پلان نمبر 0344-9453326 برائے

قومی پلان نمبر 0344-9453326 برائے
قومی پلان نمبر 0344-9453326 برائے

قومی پلان نمبر 0344-9453326 برائے
قومی پلان نمبر 0344-9453326 برائے

MH & S Patta
15-9

H.M. 1/11
P. 1/11

Annexure E (10)

Office of the District Police Officer, Kolai Pallas Kohistan

No. 1815 /PA,

Dated 02 / 10 / 2019

FINAL SHOW CAUSE NOTICE

I Iftikhar Ahmad(PSP) , District Police Officer Kolai Pallas Kohistan as competent authority under Police Rule -1975 do hereby serve you Constable Yasir Khwaja No.1429 follow:-

- i. While Posted at Police Line absented yourself from Law full duty w.e.f. 30-01-2019 till to date without any information/ permission of competent authority.
- ii. You were issued Charge Sheet with summery of allegation, under PR-1975 vide this office Endost: No.394/PA, dated 18-03-2019 and served upon you by PA to DPO Abbottabad on 01-04-2019, but you failed to reply the above Charge Sheet/Summary of allegation and also did not join the enquiry for personnel hearing etc.
- iii. On 02-09-2019 a Parwana was issued to you for appearing before the undersigned in orderly room and Constable Abdul Shakoor No.506 Was deputed to serve the Parwana on you .The said Constable contacted on your Mobile No.0344-9453326 and you showed your location at Abbottabad. When the said constable went to Abbottabad and contacted on your Mobile No. 0344-9453326 you have off your mobile.
- iv. This indicates that you are habitual absentee and did not take interest in law full duties.

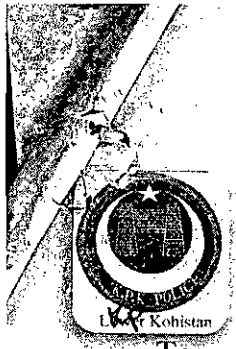
As a result thereof, I Iftikhar Ahmad(PSP) , District Police Officer Kolai Pallas Kohistan is being competent authority have tentatively decided to impose upon you the penalty of **Major punishment** under PR-1975.

1. You are, therefore, required to show cause as to why the aforesaid penalty should not be upon you. Also intimate whether you desire to be heard in person.
2. If no reply to this notice is received with in 15 days of its delivery in the normal course of circumstances, it shall be presumed that you have no defense to put in and in that case an ax part action shall be taken against you.
3. A copy of finding of the enquiry committee is enclosed.


(Iftikhar Ahmad(PSP))
District Police Officer,

Annexure ⑪
E

**OFFICE OF THE DISTRICT POLICE OFFICER,
KOLAI PALLAS KOHISTAN**
No 1820/PA, dated KP/Kohistan the 2 / 10 /2019



To: The District Police Officer,
Abbottabad.

Subject: **FINAL SHOW CAUSE NOTICE**

Memo:

Refer to this Office Endst: No. 394/PA , dated 18-03-2019.

It is submitted that **FC Yasir Khwaja No.1429** of this district is resident of your kind jurisdiction (**Police Station Nawasher**) and the subject Final Show Cause Notice is required to be served upon him.

Therefore, it is requested that the subject Final Show Cause Notice may be served upon him under intimation to this office and he may also be guided to appear in this office within 15 days after receipt it, for further proceeding please.

(Enclosed 02 Pages)

District Police Officer
Kolai Pallas Kohistan

Annexure E (12) ✓

ORDER

Constable **Yasir Khawaja No.1429** was transferred from Abbottabad to this district on complaint basis vide Regional Police Officer Hazara Region Abbottabad order No.121-25/E Dated 01-01-2019.

He has been absented vide DD No. 08 dated 30-01-2019 till to date

Charge Sheet and disciplinary Action was issued to him on 18-03-2019 and Mr. Habib Ur Rehman SDPO Pallas has been appointed as an enquiry officer and the said charge sheet was served upon him through local police PS Nawasher Abbottabad but said constable did not submit reply of Charge Sheet.

Final show cause notice was issued to him and the same has been sent to his home address for serve upon through District Police Officer, Abbottabad vide this office letter No.1820/PA dated 02-10-2019.

Keeping in view the recommendation of Enquiry Officer, it revealed that constable Yasir Khawaja No.1429 is habitual absentee and did not take interest in his duty/job, so I came to this conclusion that he cannot become a good police officer in future being a discipline force.

Therefore, in exercise of powers vested in the undersigned under Rule-2 of Police department Rules-1975, I, Iftikhar Ahmad, PSP, District Police Officer, Kolai Pallas Kohistan as a competent authority am constrained to award him the punishment of "**Dismissal from service**" from the date of absence i.e. **30-01-2019** with immediate effect.

Order announced.

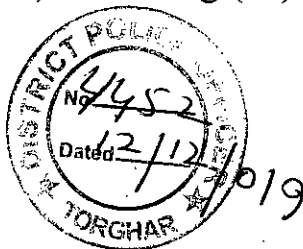
OB. NO. 38
dated - 22-11-2019



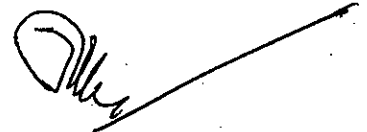
(IFTIKHAR AHMAD) PSP
District Police Officer,
Kolai Pallas Kohistan.

No. 2050/OHC Dated 22/11 /2019.

Copy of the above is forwarded to District Police Officer, Torghar along with enquiry file (in original) containing (17) pages for necessary and completion of record, please.



OHC/SRC
for Pallas



(IFTIKHAR AHMAD) PSP
District Police Officer,
Kolai Pallas Kohistan

11/12/19
for Pallas

OHC
for compliance

17-12-19



Annexure E (13)

OFFICE OF THE DISTRICT POLICE OFFICER,
KOLAI PALLAS KOHISTAN

No. 145 /SRC, KP Kohistan dated the 11 /02 /2020.

To : The Regional Police Officer,
Hazara Region Abbottabad.

Subject: APPLICATION OF EX-CONSTABLE YASIR KHAWAJA NO.1429.

Memo:

Kindly refer to your good office Endstt: No. 33763/PA dated 19-12-2019.


It is submitted that the appellant Ex- constable Yasir Khawaja No.1429 was transferred on complaint basis to this District vide Regional Police Officer Hazara Region order Enstt: No.121-25/E Dated 01-01-2019. He reported his arrival at Police line Kolai Pallas Kohistan vide Daily Diary No.04 Dated 30-01-2019.

He willfully and deliberately absented himself from same very day vide daily diary No.08 Dated 30-01-2019 of Police line Kolai Pallas Kohistan without any leave information or permission of his superiors. He was informed time and again to resume his duties but he moved deaf ear and never turned up. He was proceeded against disciplinary. There was no likelihood of his becoming a good police officer or to ameliorate his attitude towards service. The rotten eggs like him are source to pave way for other employees. Police department is a disciplinary department. Therefore his services were retrenched. Perusal of his service record it transpired that he never served with zeal and fervor rather he remained potential source for the defamation of police department. Due to this certain acts and activities good images of police force have always been shattered and tarnished. The following table will reflect his previous details of punishment from which it is evident that he never mend himself.

S#	Allegations	Nature of punishment	OB No.	Date	Authority awarding punishment
1	Absence	Without pay	322	2-9-2008	DPO Abbottabad
2	Absence	02 days without pay 01 day extra drill	225	5-8-2010	DPO Abbottabad
3	Absence	Warning	374	2-11-2011	DPO Abbottabad
4	Absence	01 day quarter guard	138	20-5-2014	DPO Abbottabad

5	Absence	01 day quarter guard	176	1-7-2014	DPO Abbottabad
6	Absence	Warning	110	6-5-2016	DPO Abbottabad
7	Absence	Warning	129	6-6-2016	DPO Abbottabad
8	Absence	Warning	154	4-7-2014	DPO Abbottabad
9	Transporting alcohol from Hasan Abdal to ATD	Warning	185	11-08-2016	DPO Abbottabad
10	Absence	Leave without pay (18 hrs)	208	2-9-2016	DPO Abbottabad
11	Absence (1 day & 11 hrs)	Fine 1000	272	8-12-2016	DPO Abbottabad
12	Involved in selling of drugs	Dismissal from service later on converted to Forfeiture of 6 months approved service	-	27-09-2017	DPO Abbottabad
13	Contradictory statement before the court	Censure	84	18-10-2017	DPO Abbottabad
14	Absence	Pay stopped	95	21-3-2019	DPO Abbottabad
15	Absence	1 day w/o pay	297	24-11-2017	DPO Abbottabad
16	Taking of illegal gratification	Censure	119-21/PA	9-1-2018	DPO Abbottabad
17	Absence	1 day leave w/o pay	283	22-10-2018	DPO Abbottabad
18	Absence from foot patrolling	Fine RS.500 and 1 day w/o pay	342	24-12-2018	DPO Abbottabad
19	Absence	Dismissal from service	38	22-11-2019	Undersigned

Keeping in view above it merits that the appeal of appellant may be rejected and filed, please.


 (Iftikhar Ahmad) PSP
 District Police Officer,
 Kolai Pallas Kohistan

O/C

Handwritten initials

ORDER

This office order will dispose of the departmental enquiry against **FC Yasir Khawaja No. 1429. Police Station Bakot.** That he while posted in Police Station Bakot, reportedly got involved in selling of drugs through Ghafran S/O Haroon R/O Jalal Baba Chowk.

He was issued Charge Sheet along with statement of allegations. **Mr. Muhammad Ishtiaq DSP Cantt: Abbottabad** was appointed as Enquiry Officer. He conducted proper departmental enquiry against the delinquent officer and recorded statements of all concerned. He was provided ample opportunity to defend himself and rebut the allegations leveled against him. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings, wherein allegations have been proved. Consequently he was issued Final Show Cause Notice. He was summoned to appear in Orderly Room on 04-01-2018. He was given a patient hearing but he had nothing plausible to state in his defence.

Therefore, in exercise of the powers vested in the undersigned under rules 2 (iii) of Police Disciplinary Rules-1975, I, Syed Ashfaq Anwar PSP, District Police Officer, Abbottabad as a competent authority, am constrained to award him the punishment of Dismissal from service with immediate effect.

Order announced.

Handwritten signature and date 04/1/18

District Police Officer
Abbottabad

No. 92-94/PA 9-1-2018

CC.

1. Establishment Assistant.
2. Pay Officer, DPO Office Abbottabad.
3. OASI DPO Office alongwith complete Enquiry File containing 18 pages for completion of record.

Annexure B of Page



ANNEXURE C^H
OFFICE OF THE REGIONAL POLICE OFFICER
HAZARA REGION, ABBOTTABAD

13

0992-9310021-22

0992-9310023

r.rpohazara@gmail.com

0345-9560687

NO: 7965 /PA DATED 13/03/2020


ORDER

This order will dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 submitted by Ex-Constable Yasir Khawaja No.1429 of District Kolai Pallas against punishment order i.e. *Dismissal from service (2nd time)* awarded by District Police Officer, Kolai Pallas vide OB No. 38 dated 22.11.2019.

Brief facts leading to the punishment are that the official was transferred from Abbottabad to Kolai Pallas on complaint basis vide Regional Police Officer, Hazara Region order No.121-25/E dated 01.01.2019 and absented himself vide DD No.08 dated 30.01.2019 Police Lines Kolai Pallas till date of dismissal i.e. 22-11-2019 without any leave our permission.

The appellant was issued charge sheet alongwith summary of allegations and DSP Pallas was deputed to conduct departmental enquiry. The charge sheet and summary of allegation was served upon the official through local police of PS Nawansher, Abbottabad. However the appellant failed to join enquiry proceeding or submit reply of charge sheet. Consequently the EO recommended him for major punishment. The appellant was called in OR, however he failed to appear. Keeping in view the above DPO Kolai Pallas awarded him major punishment of dismissal from service.


After receiving his appeal, comments of DPO Kolai Pallas were obtained and examined/perused. The undersigned called the official in OR however he failed to appear before undersigned. As per report of SHO PS Nawansher the appellant proceeded aboard and no family member ^{was} willing to receive summon. Moreover perusal of his service record transpires that appellant is a habitual absentee and also remained involved in illegal activities and ^{became a} source of defamation for Police department. Therefore in exercise of the powers conferred upon the undersigned under Rule 11-4 (a) of Khyber Pakhtunkhwa Police Rules, 1975 appeal of the official is hereby *filed* with immediate effect.

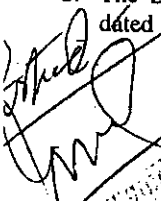

Qazi Jamil ur Rehman (PSP)
Regional Police Officer
Hazara Region, Abbottabad

No. 7966 /PA, dated Abbottabad the 13-03/2020.

CC.

1. The District Police Officer, Kolai Pallas Kohistan for information and necessary action with reference to his office Memo No 145/SRC dated 11-02-2020. Service Roll and Fuji Missal containing enquiry file of the appellant is returned herewith for record.
2. The District Police Officer, Torghar with reference to his office Memo No. 75/OHC dated 17-01-2020 for information.

Attested



District Police Officer
Hazara Region, Abbottabad
06/03/2020

cer
lan

حواہ انکوٹری برخلاف کنیشن باسرخوام 1429 لسلسلہ غیرحافری
جنا عالی -
دل معروض عدوت ہوں -

بدوزن انکوٹری پایا گیا کنیشن باسرخوام 1429 حوالہ آرڈر نمبر 25-21 حوالہ 01-01-01

قاریہ RPO صاحب ہزارہ ایٹ آباد ضلع سے ضلع کوٹلی پالسن تیار کیا گیا۔
منزورہ نے حوالہ 30⁰¹/₁₉ کو بوقت 10.50 بجے لاٹن کوٹلی پالسن کو بیان میں حاضر کیا۔


اسی روز بوقت 18.00 بجے گنتی شام سے عدم موجود پایا جا کر رپورٹ غیر حافری درج
روزنامہ ہوئی۔ اور بدستور غیر حافری رہنے پر حوالہ 18⁰³/₁₉ جاری شدت نمبری 394
PA

منزورہ کے خلاف جاری ہو کر انکوٹری کے نام مارک ہوئی۔ جاری شدت لوبالیت
DPO صاحب ایٹ آباد نبرہم مقامی تمام منزورہ کنیشن سے دستخط وصول شدت ہو کر حصول
ہو چکے ہیں۔ اسی طرح انکوٹری کے عدم میں پیش ہو کر بیان رکھا اور کرنہ کئے
منزورہ کو نوٹس جاری ہوا۔ متعدد بار منزورہ کے حوالہ نمبر 03449453326
والطی کی کوشش کئے گئے لیکن Not Responding۔

منزورہ کنیشن حوالہ 30⁰¹/₁₉ سے تا حال بغیر کسی اجازت یا اطلاع کے ہم بدستور
غیر حافری ہے اور مستقبل قریب میں بھی منزورہ کے عدالت پر حافری آنے
کے امکانات انتہائی کم نظر آتے ہیں۔ منزورہ کا عدم غیر حافری 07 ماہ
ہو چکے ہیں۔ انکوٹری کو منبر التوا میں رکھنے سے سود ہے۔ لہذا منزورہ
کے خلاف بلکہ رقم پڑی سزا دینے کی سفارش کی جاتی ہے۔ انکوٹری
رپورٹ گزاریں ہے۔

OR


DPO KRL


DSP/Pales
28/8/19


219119

اردو صحیفہ OHC کوہستان

(2)

ذمت سال - یوگین اٹن والی - Annexure G

✓
 لغات سرکاری پرنٹنگ پریس یا سر فوائف 1429
 9/19 بجوٹ 10155 اور دی روم میں حساب 500
 مقرر ہے۔ آپ مطلع دھارے دورہ کو ہدایت کریں کہ وہ مکمل
 آبادی پر زانیہ پٹی کو لے کر جائیں۔ اگر وہ دستور
 کا مندرجہ ذیل آؤں تو دورہ کی جھم ایڈریس پر بذریعہ
 سب سے زیادہ ہدایتی قبیل کروائیں و شہادت فرم کریں۔


 OHC. MP KH
 2.9.19

ذات
 زہن یا سر فوائف 1429
 کو اسٹیشن آفیسر

CNIC No. 1301-7973028-3
 mob. no. = 03449453326

فصل اول
۵۰۰

فصل اول

مجلس شورای اسلامی
۱۱

۹) آفیسر ایوانی MHC ۱۱-۹ وقت ۵۹:۴۰ ع اس وقت کنسل عبدالرحمن ۵۰۶ ڈسٹرکٹ کونسل
تھان پالک عارفانہ ہے جو سیاسی تعلیم کنسل نادر جو ۱۴۲۹ جو آئے
تھان فی حدود عارفانہ کی بیٹی ضارہ ۵۰۶ ڈسٹرکٹ کونسل آئے ہے جو
کی تعلیم کے لیے میں روانہ کر رہا ہوں جو مذکورہ کنسل عبدالرحمن، کنگڑو
علاقہ کنگڑو سٹیشن پورے بعد تھان پالک عارفانہ کی
۱۰) عارفانہ کی

0342-9572890

ضارہ کی
تعلیم کے لیے



mm ps
۱۱-۹

Amixture ۶
3

4

Annexure G

صبا علی

حکمرین کی تفصیل کے پندرہ میں کنیشن ٹیڈ ایشور SOG کے ساتھ ہے
ایڈس آباد فائر فوریہ کے سو بائیل نمبر 0344-9453326 برائے

ایڈس آباد فوریہ کے ایڈس آباد فوریہ کے ایڈس آباد فوریہ کے
فوریہ کے ایڈس آباد فوریہ کے ایڈس آباد فوریہ کے

ایڈس آباد فوریہ کے ایڈس آباد فوریہ کے ایڈس آباد فوریہ کے
ایڈس آباد فوریہ کے ایڈس آباد فوریہ کے ایڈس آباد فوریہ کے

ایڈس آباد فوریہ کے ایڈس آباد فوریہ کے ایڈس آباد فوریہ کے
ایڈس آباد فوریہ کے ایڈس آباد فوریہ کے ایڈس آباد فوریہ کے

MH 67/57/2014

15



OFFICE OF THE DISTRICT POLICE OFFICER,
KOLAI PALLAS KOHISTAN

No. 145 /SRC, KP Kohistan dated the 11 /02 /2020.

To : The Regional Police Officer,
Hazara Region Abbottabad.

Subject: APPLICATION OF EX-CONSTABLE YASIR KHAWAJA NO.1429.
Memo:

Kindly refer to your good office Endstt: No. 33763/PA dated 19-12-2019.


It is submitted that the appellant Ex- constable Yasir Khawaja No.1429 was transferred on complaint basis to this District vide Regional Police Officer Hazara Region order Enstt: No.121-25/E Dated 01-01-2019. He reported his arrival at Police line Kolai Pallas Kohistan vide Daily Diary No.04 Dated 30-01-2019.

He willfully and deliberately absented himself from same very day vide daily diary No.08 Dated 30-01-2019 of Police line Kolai Pallas Kohistan without any leave information or permission of his superiors. He was informed time and again to resume his duties but he moved deaf ear and never turned up. He was proceeded against disciplinary. There was no likelihood of his becoming a good police officer or to ameliorate his attitude towards service. The rotten eggs like him are source to pave way for other employees. Police department is a disciplinary department. Therefore his services were retrenched. Perusal of his service record it transpired that he never served with zeal and fervor rather he remained potential source for the defamation of police department. Due to this certain acts and activities good images of police force have always been shattered and tarnished. The following table will reflect his previous details of punishment from which it is evident that he never mend himself.

S#	Allegations	Nature of punishment	OB No.	Date	Authority awarding punishment
1	Absence	Without pay	322	2-9-2008	DPO Abbottabad
2	Absence	02 days without pay 01 day extra drill	225	5-8-2010	DPO Abbottabad
3	Absence	Warning	374	2-11-2011	DPO Abbottabad
4	Absence	01 day quarter guard	138	20-5-2014	DPO Abbottabad

5	Absence	01 day quarter guard	176	1-7-2014	DPO Abbottabad
6	Absence	Warning	110	6-5-2016	DPO Abbottabad
7	Absence	Warning	129	6-6-2016	DPO Abbottabad
8	Absence	Warning	154	4-7-2014	DPO Abbottabad
9	Transporting alcohol from Hasan Abdal to ATD	Warning	185	11-08-2016	DPO Abbottabad
10	Absence	Leave without pay (18 hrs)	208	2-9-2016	DPO Abbottabad
11	Absence (1day & 11 hrs)	Fine 1000	272	8-12-2016	DPO Abbottabad
12	Involved in selling of drugs	Dismissal from service later on converted to Forfeiture of 6 months approved service	-	27-09-2017	DPO Abbottabad
13	Contradictory statement before the court	Censure	84	18-10-2017	DPO Abbottabad
14	Absence	Pay stopped	95	21-3-2019	DPO Abbottabad
15	Absence	1 day w/o pay	297	24-11-2017	DPO Abbottabad
16	Taking of illegal gratification	Censure	119-21/PA	9-1-2018	DPO Abbottabad
17	Absence	1 day leave w/o pay	283	22-10-2018	DPO Abbottabad
18	Absence from foot patrolling	Fine RS.500 and 1 day w/o pay	342	24-12-2018	DPO Abbottabad
19	Absence	Dismissal from service	38	22-11-2019	Undersigned

Keeping in view above it merits that the appeal of appellant may be rejected and filed, please.


(Iftikhar Ahmad) PSP
District Police Officer,
Kolai Pallas Kohistan

O/C

Annexure G

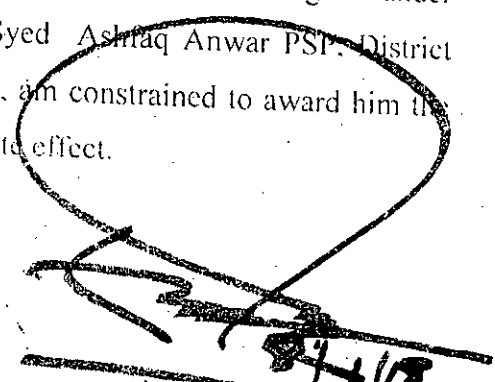
ORDER

This office order will dispose of the departmental enquiry against **FC Yasir Khawaja No. 1429 Police Station Bakot**. That he while posted in Police Station Bakot, reportedly got involved in selling of drugs through Ghafran S/O Haroon R/O Jalal Baba Chowk.

He was issued Charge Sheet along with statement of allegations. **Mr. Muhammad Ishtiaq DSP Cantt: Abbottabad** was appointed as Enquiry Officer. He conducted proper departmental enquiry against the delinquent officer and recorded statements of all concerned. He was provided ample opportunity to defend himself and rebut the allegations leveled against him. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings, wherein allegations have been proved. Consequently he was issued Final Show Cause Notice. He was summoned to appear in Orderly Room on 04-01-2018. He was given a patient hearing but he had nothing plausible to state in his defence.

Therefore, in exercise of the powers vested in the undersigned under rules 2 (iii) of Police Disciplinary Rules-1975, I, Syed Ashfaq Anwar PSP, District Police Officer, Abbottabad as a competent authority, am constrained to award him the punishment of Dismissal from service with immediate effect.

Order announced.


District Police Officer
Abbottabad

No. 92-94/PA 9-1-20 18

CC.

1. Establishment Assistant.
2. Pay Officer, DPO Office Abbottabad.
3. OASI DPO Office alongwith complete Enquiry File containing 18 pages for completion of record.

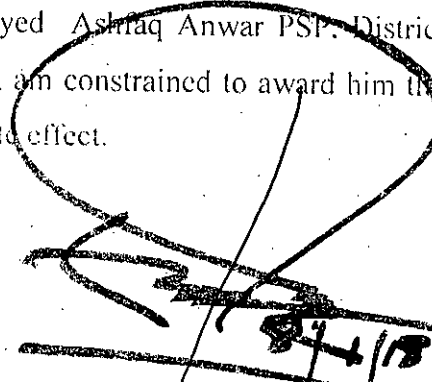
ORDER

This office order will dispose of the departmental enquiry against **FC Yasir Khawaja No. 1429 Police Station Bakot**. That he while posted in Police Station Bakot, reportedly got involved in selling of drugs through Ghafran S/O Haroo R/O Jalal Baba Chowk.

He was issued Charge Sheet along with statement of allegation: **Mr. Muhammad Ishtiaq DSP Cantt: Abbottabad** was appointed as Enquiry Officer. He conducted proper departmental enquiry against the delinquent officer and recorded statements of all concerned. He was provided ample opportunity to defend himself and rebut the allegations leveled against him. After conducting proper departmental enquiry the Enquiry Officer submitted his findings, wherein allegations have been proved. Consequently he was issued Final Show Cause Notice. He was summoned to appear in Orderly Room on 04-01-2018. He was given a patient hearing but he had nothing plausible to state in his defence.

Therefore, in exercise of the powers vested in the undersigned under rules 2 (iii) of Police Disciplinary Rules-1975; I, Syed Ashraf Anwar PSP, District Police Officer, Abbottabad as a competent authority, am constrained to award him the punishment of Dismissal from service with immediate effect.

Order announced.


District Police Officer
Abbottabad

No. 92-94/PA 9-1-20 '18

CC.

1. Establishment Assistant.
2. Pay Officer, DPO Office Abbottabad.
3. OASI DPO Office along with complete Enquiry File containing 18 pages for completion of record.



Annex: (1)

(15)

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE, PESHAWAR

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-a of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Constable Sarfaraz No. 1237 of District Abbottabad against the Punishment order i.e Discharge from service passed against the appellant by DPO/Abbottabad vide his Order Book No. 311 dated 04.10.2009.

In the light of recommendations of Appeal Board meeting held on 02.04.2015, the board examined the enquiry in detail & other relevant documents. It revealed that the appellant was served with Charge Sheet/Statement of Allegations and punishment order was announced on the basis of reply to the Charge Sheet and Statement of Allegations.

Present in person and was heard in detail. Record perused. The said official was absented from duty for 06 months and 05 days due to the illness of his father. The board accepted his appeal and his punishment of discharge from service is converted into stoppage of increments for two years. He is re-instated in service with no back benefits.

Order announced in the presence of appellant.

Sd/-
NASIR KHAN DURRANI
Inspector General of Police,
Khyber Pakhtunkhwa
Peshawar.

No. 4886-90 IE-IV dated Peshawar the 17/4/2015

Copy of above is forwarded to the:-

1. Deputy Inspector General of Police, Hazara Region, Abbottabad. The service Roll, Fauji Missal and Enquiry File of the above named official are returned herewith.
2. District Police Officer, Abbottabad.
3. PSO to IGP/Khyber Pakhtunkhwa Peshawar.
4. PA to Addl: IGP/HQrs Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs Khyber Pakhtunkhwa, Peshawar.

Sarfaraz
Sarfaraz Azeem
Advocate Abbottabad

Syed Fida Hassan Shah
(SYED FIDA HASSAN SHAH)
AIG/Establishment
For Inspector General of Police,
Khyber Pakhtunkhwa Peshawar.

ORDER

This is an order on the representation preferred by Ex-Constable Muhammad Sohail No. 1311 of Abbottabad against the order of discharge from service vide OB No. 352 dated 15-09-2008.

Facts leading to his discharge from service are that while posted at Police Lines Abbottabad absented himself w.e. from 21-05-2008 to 07-08-2008 (Total 79 days) without any leave or permission and information.

He was charge sheeted under removal from service (Special Powers) Ordinance 2000 and DSP Lines Abbottabad was appointed as an enquiry Officer. The Enquiry Officer in his findings held him guilty and recommended him for major punishment. Agreeing with the Enquiry Officer District Police Officer, Abbottabad discharged him from service vide OB No. referred above.

The Enquiry file of the appellant was perused which reveals that ex-parte action was taken against him and he has not given any opportunity to offer his defence which is against the rules and in justice.

Therefore, taking into consideration the above facts, I take lenient view of the matter and set-aside order of discharge from service issued by the District Police Officer Abbottabad vide OB No. 352 dated 15-09-2008. He is re-instated in service from the date of discharge. The period of his absence and he remained out of service is treated as leave without

Sd/-
Azeem
Sardar Muhammad
Azeem
Advocate Abbottabad

Azeem

Annex: 'K' (17)

ORDER

This is an order on the representation preferred by Ex-Constable Imtiaz Sultan No. 1342 of Abbottabad District against the order of discharge from service vide OB No. 149 dated 29-04-08.

Facts leading to his punishment are that while he was posted at Police Line Abbottabad absented himself from duty without any permission information with effect from 01-02-08 to 10-03-08 (Total 39 days).

The defaulter Ex-Constable was proceeded against departmentally under removal from service (Special Power) ordinance 2000 and RI Line Abbottabad was appointed as Enquiry Officer. The Enquiry Officer held him responsible for his negligence in the performance of Official duty. Therefore District Police Officer, Abbottabad discharged him from service vide OB No. 149 dated 29-04-08.

The Enquiry file and service record of the appellant was perused minutely. He is a youngman and only source of livelihood for his poor family. He has submitted Medical Certificate for the said absence period duly verified by Deputy Medical Superintendent Ayub Teaching Hospital Abbottabad.

Therefore taking into consideration the above facts, I take lenient view of the matter, the order passed by the District Police Officer, Abbottabad vide OB No. 149 dated 29-04-08 is set aside on humanitarian grounds and he is re-instated in service from the date of his discharge. His period of absence and the period he remained out of service is treated as leave without pay. However he is ~~reprimanded with a last~~ warning to remain careful in future.

Attested
Sardar Muhammad
Azeem
Advocate Abbottabad

[Signature]
Deputy Inspector General of Police
Hazara (Abbottabad)

ATTESTED
[Signature]

Annex 2 L =

18

ORDER

This is an order on the representation of Ex-Constable Shahzeb No. 120 of Abbottabad District.

Facts leading to his discharge from service are that he while posted in Police Lines Abbottabad was caught red handed when carrying iron pipe from General Gaudown to his home dishonestly. He also absented himself from duty with effect from 02-05-2007 to 08-05-2007 i.e. 7 days.

The defaulter constable was proceeded against departmentally under removal from service (Special Power) Ordinance 2000 and DSP, Headquarters, Abbottabad held him responsible for the misconduct, therefore, District Police Officer, Abbottabad discharged him from service under PR-12-21, vide OB No. 204-A, dated 08-05-2007.

The enquiry file was perused, heard him in person in orderly room held on 03-07-2007. His explanation was found plausible. He is a young man and is a source of livelihood for his poor and miserable family.

Therefore taking into consideration the above facts, I take a lenient view ~~of the matter.~~ The order passed by District Police Officer, Abbottabad, is set-a-side. He ~~is re-~~instated in service from the date of his discharge. The period he remained out of ~~service is~~ treated as leave without pay.

He should be detailed for recruit course/ training immediately.

ATTESTED

[Signature]

[Signature]
Deputy Inspector General of Police,
Hazara (Abbottabad)

attested
[Signature]

Sardar Muhammad
Azeem
Advocate Abbottabad

(63)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT ABBOTTABAD



APPEAL NO. 1371/2008

Date of institution ... 13.9.2008
Date of judgment ... 29.8.2012

Ex-Constable Fiaz Ali No. 68 of Abbottabad Police,
S/o Ali Akbar resident of Banda Sapan Tehsil & District,
Abbottabad. ... (Appellant)

VERSUS

1. Superintendent of Police Headquarters Abbottabad.
2. District Police Officer (DPO) Abbottabad.
3. Regional Police Officer (D.I.G) Hazara Region, Abbottabad.
4. Provincial Police Officer (I.G.P) NWFP (KPK), Peshawar.
5. Secretary Home Department, Govt. of NWFP(KPK),
Peshawar. ... (Respondents)

APPEAL U/S 4 OF NWFP(KPK) SERVICE TRIBUNALS ACT, 1974
READ WITH SECTION 10 OF NWFP (KPK) REMOVAL FROM SERVICE
(SPECIAL POWERS) ORDINANCE, 2000 AS AMENDED UPTO DATE
AGAINST OFFICE ORDER BEARING NO.OB 6 DATED 02.01.2002
PASSED BY RESPONDENT NO.1 WHEREIN PENALTY OF
DISCHARGE FROM SERVICE WAS IMPOSED ON THE APPELLANT
AND PRAYING THAT THE IMPUGNED ORDER BE GRACIOUSLY SET
ASIDE AS ILLEGAL, UNLAWFUL, AGAINST THE LAW AND
WITHOUT JURISDICTION AND APPELLANT BE REINSTATED IN
SERVICE WITH ALL BACK BENEFITS.

Sardar Lal Khan Anwar,
Advocate,
Mr. Arshad Alam, AGP

.. For appellant
For respondents

Mr. Qalandar Ali Khan,
Syed Manzoor Ali Shah

... Chairman
Member

JUDGMENT

QALANDAR ALI KHAN, CHAIRMAN:-

This appeal by Ex-Constable,

Fiaz Ali (Appellant) is directed against his discharge from service by the order dated 02.01.2002 of the Superintendent of Police, Headquarters, Abbottabad (Respondent No.1).

2. The brief facts of the case, as gleaned from the appeal, are that after having been recruited as Constable in the Police Department in 1998, the appellant was posted on guard duty at DIIQ Hospital, Abbottabad, when an accused, namely, Mazir Khan son of Hajjoo Khan, involved in murder case under sections 302/34 PPC and other two cases, escaped from the surgical ward of DIIQ Hospital, Abbottabad. A case under sections

ATTESTED

EX-AMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(60)

223/224 PPC was registered in P.S Cantt, District Abbottabad, vide FIR No. 957 dated

17.12.2001, and the appellant was arrested and also suspended and served with a show cause notice while he was in police custody. According to the appellant, he was made to submit reply to the show cause notice; and finally discharged from service under Police Rules 12-21 with effect from 17.12.2001, vide impugned order dated 02.01.2002. He was, however, acquitted of the charges by the Judicial Magistrate-I, Abbottabad, vide his judgment dated 31.10.2007, where-after he preferred departmental appeal to the D.I.G of Police, Hazara Region, Abbottabad on 16.5.2008, but received no response there-from, and ultimately lodged this appeal on 13.9.2008.

3. The appeal has been lodged on the grounds that accused Nazir Khan escaped from the hospital by deceiving the guards; that besides the appellant there were three other Constables and Guard Commander on duty in the surgical ward in DHQ Hospital, Abbottabad, where the accused was brought from jail for treatment; that the appellant was on duty at the relevant time all alone as the Guard Commander and the other three Constables had left the premises to enjoy/celebrate Eid; that the Guard Commander had instructed him not to hand cuff accused Nazir Khan as he was under surgical treatment and was also his friend; that the accused patient made good his escape on the pretext of call of nature when he went to the bath room and then escaped there-from; that the order of discharge was passed without a final show cause notice and without adopting procedure prescribed in the law; that he has been acquitted of the criminal charges against him after trial in the court of law, vide judgment of Judicial Magistrate-I, Abbottabad, dated 31.10.2007; that after receiving copy of judgment on acquittal, he preferred departmental appeal to the appellate authority but when received no response within the statutory period of ninety days, he lodged this appeal; that the law applicable to the case i.e. Removal from Service (Special Powers) Ordinance, 2000 was not applied and instead he was removed from service under Police Rules, 1975; that the punishment was awarded with retrospective effect which was against the provision of law and, as such, not sustainable; that the appellant was awarded the harsh penalty of discharge from service while the other persons on duty were exonerated from the charges; that the charge on the basis of which the appellant has been discharged from

[Handwritten signature and scribbles on the left margin]

service has not been proved against him and that he was acquitted by competent court of law; and that he was awarded the harsh penalty of discharge from service without giving him the chance of cross-examination, personal hearing and opportunity of final show cause notice and thus the provisions of law and natural justice were violated.

4. The appeal was resisted by the respondents, who filed their written reply/comments to the appeal, wherein, they defended the impugned action against the appellant on the ground of his involvement by showing negligence in the performance of his duty at DHQ Hospital resulting in escape of accused Nazir Khan involved in a murder case and other two cases under sections 3/4 EHO P.S Cantt: Abbottabad. The respondents further defended the impugned action against the appellant on the ground that he was discharged from service under Police Rules 12-21 as he was having less than three years service. They claimed that the appellant was acquitted by the Trial Court on technical grounds, and, thus, was not entitled to reinstatement. They raised objection of limitation, and alleged that the departmental appeal of the appellant was time barred as he was discharged from service on 02.01.2002 but he preferred departmental appeal with considerable delay and lodged this appeal in the year 2008, after lapse of six years. They pointed out that only the appellant was on duty at the relevant time. They maintained that the appellant failed to prove his innocence during departmental proceedings. According to the respondents, the appellant was responsible for adopting security measures while taking the accused to the toilet, but he had removed hand cuffs of the accused.

5. The appellant also filed rejoinder to the written reply/comments of the respondents thereby refuting contentions of the latter; where-after, the parties not only submitted written arguments but also addressed further arguments on the question of limitation. Written arguments of the parties and record perused.

6. The record would show that the appellant, a Constable in the Police Department and on guard duty at the surgical ward of DHQ Hospital, Abbottabad, was charged for showing negligence in the performance of his duty, resulting in the escape from custody of accused Nazir Khan involved in murder case besides two other cases. The appellant

(bb)

was served with a show cause notice containing the above allegation and found guilty of 'grave mis-conduct' and also liable for disciplinary action as laid down in the Police Rules, 1975. According to the appellant, he received the show cause notice while in police custody, and was made to reply thereto, where-after he was discharged from service under Police Rules 12-21 with effect from 17.12.2001, vide impugned order dated 02.01.2002. The impugned order dated 02.01.2002 would show that after service of show cause notice on 21.12.2001 and receipt of reply thereto from the appellant on 23.12.2001, DSP Cantt. was deputed as Inquiry Officer who held the appellant responsible for escape of the accused from police custody due to his negligence, in his findings, and recommended the appellant for major penalty as provided in Police Rules 12-21. The findings of the said Inquiry Officer were not made available either by the appellant or by the respondents with their respective pleadings, but obtained from record available with the representative of the respondents during the course of arguments. The findings of the so-called Inquiry Officer clearly show that though statements of HC Khurshed as Guard Commander and other Constables were recorded during the departmental proceedings but without associating the appellant with the so-called proceedings and thus depriving him of the opportunity of defence and cross-examination on the witnesses. Ironically, the so-called Inquiry Officer shifted the burden of proving himself innocent to the appellant instead of bringing on record evidence against him. The findings of the Inquiry Officer are, interestingly, based on his personal visit to the place of occurrence which, in his view, endorsed negligence of the appellant. It may also be pointed out here that even the said Inquiry Officer found HC Khurshed also responsible for showing negligence who, in the words of Inquiry Officer, 'being incharge of the guard handed over the key of hand cuffs to the Constable, deserves departmental action'.

3
 WITNESSED
 BY
 THE
 INQUIRY
 OFFICER

→
 12/21

7. Undoubtedly, the appellant has been discharged from service under Police Rules 12-21 for showing negligence in the performance of duty, resulting in escape of accused Nazir Khan involved in murder and other cases and thus 'guilty of grave mis-conduct' in the words of the competent authority; but it is by now a settled principle of law that when a specific charge of mis-conduct is brought against a civil servant, the provisions

Reliance (1)

of Police Rules 12-21 could not be invoked, in view of judgments reported as 1997 PLC (C.S) 693 (Punjab Service Tribunal) and 2000 SCMR 75 (Supreme Court of Pakistan).

It has consistently been held by the superior courts that even in a case of civil servant on probation, he is entitled to proper show cause notice and departmental proceedings under the law. (2003 SCMR 830 (Supreme Court of Pakistan).

8. [Redacted text]

57(Supreme Court of Pakistan), 2001 SCMR 269 (Supreme Court of Pakistan), 2008 PLC(C.S)855 (Federal Service Tribunal), 2005 PLC (C.S) 1197 (Punjab Service Tribunal), 2007 PLC (C.S) 1327(Federal Service Tribunal) and unreported judgment dated 25.7.2008 of this Tribunal in Appeal No. 1275/2007 titled 'Rashid Mahmood (Appellant)-vs-District Police Officer (DPO) Abbottabad and others (Respondents).

Moreover, the same appellate authority i.e. D.I.G of Police Hazara (Abbottabad) reinstated another Ex-Constable, Almas Saleem, involved in a similar case of escape from police custody of accused Muzammil Shah, admitted in DHQ Hospital, Abbottabad, vide his order dated 20.11.2009. Therefore, the denial of similar treatment to the appellant would certainly amount to discrimination, not acceptable under law and the Constitution.

10. As regards the question of limitation, so vehemently raised by the respondents in their written reply/comments, and their written arguments submitted by the learned AGP, suffice it to say that there is no limitation against a void order, in accordance with consistently held view of superior courts (1993 PLC (C.S) 308 (Federal Service Tribunal), 2007 PLC (C.S) 997 (Supreme Court of Pakistan); 2009 PLD 67 (Karachi), 2004 PLC (C.S) 1014(Supreme Court of Pakistan), 2000 PLC (C.S) 166 (Peshawar High Court), 2000 PLC (C.S) 33 (Federal Service Tribunal), 1997 PLC(C.S) 577 (Karachi High Court), 2000 PLC(C.S) 346 (Supreme Court of Pakistan) and judgments of this Tribunal in Appeal No. 544/2004 dated 24.01.2006 and Appeal No. 980/2009 dated 22.8.2011.

(R) After Acquit

(3) 12/21 12/21

Limitation

ATTORNEY GENERAL

11. Needless to say that no executive order could be made to operate with retrospective effect and the impugned order of discharge from service dated 02.01.2002 made effective from 17.12.2001, therefore, suffers from material irregularity and, as such, warrants interference. (1993 PLC (C.S) 308 (b) (Federal Service Tribunal).

12. In the light of above discussion, the impugned order is not sustainable in law and, therefore, while setting aside the impugned order dated 02.01.2002, and on the acceptance of the appeal, the appellant is reinstated in service with all consequential/ back benefits.

13. However, in view of the fact that an accused, involved in heinous criminal cases, made good his escape from police custody; therefore, the respondent-department may, if deemed appropriate, conduct detailed inquiry into the incident of escape and bring to book responsible police officers and take disciplinary action against them, but strictly in accordance with law by also providing them opportunity of defence.

14. There shall, however, be no order as to costs.

ANNOUNCED
29.08.2012

(SYED MANZOOR ALI SHAH)
MEMBER

(QALANDAR ALI KHAN)
CHAIRMAN

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 11-9-2012
Number of Pages 2400
Copying 1400
Urgent 2
Total 1600
Name of Applicant [Signature]
Date of Receipt of Copy 11-9-2012
Date of Delivery of Copy 11-9-2012