

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

**SERVICE APPEAL NO. 1219/2014**

Date of institution ... 10.10.2014

Date of judgment ... 12.10.2017

Mohammad Riaz Ex-Wireless Operator,  
No. 818, Police Tele: & Transport Peshawar.

... (Appellant)

**VERSUS**

1. The Provincial Police Officer, KPK Peshawar.
2. The D.I.G Telecom: & Transport, CPO Peshawar.
3. The S.P MF & Tele: CPO Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST  
THE ORDER DATED 12.09.2014 WHEREBY THE  
DEPARTMENTAL APPEAL OF APPELLANT AGAINST THE  
REMOVAL FROM SERVICE ORDER DATED 30.05.2014 HAS  
BEEN REJECTED FOR NO GOOD GROUNDS.

Mr. Muhammad Asif Yousafzai, Advocate.

.. For appellant.

Mr. Ziaullah, Deputy District Attorney

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. MUHAMMAD HAMID MUGHAL

.. MEMBER (JUDICIAL)

**JUDGMENT**

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - This appeal has been filed under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 30.05.2014 whereby the appellant was dismissed from service on the allegation of registration of FIR No. 875 dated 8.12.2013 under section 489-F PPC Police Station D.I.Khan Cantt and his absence with effect from 06.03.2014 as well as the departmental appeal which was rejected on 12.09.2014.

2. Learned counsel for the appellant contended that the appellant was serving in Police Department. It was further contended that during service the appellant fell ill and he was unable to attend the duty. It was further contended that in this regard the copies

*M. Amin  
12.10.2017*

of medical prescriptions are also available on the record. It was further contended that the appellant was advised for bed rest and in this regard the respondents were also informed and the entry in this regard is also available on the record whereby the D.I.G Telecommunication and Transport also sanctioned leave without pay on the basis of 14 days bed rest from 20.02.2014 to 05.03.2014 vide order dated 10.03.2014. It was further contended that the appellant was also acquitted by the competent court of law in the aforesaid criminal case. It was further contended that neither proper inquiry was conducted nor he was given opportunity of defence and personal hearing nor he was given any show-cause notice before passing the impugned order. It was further contended that the appellant was also removed from service with effect from 06.03.2014 i.e retrospectively vide order dated 30.05.2014 and the same was communicated to appellant on 15.06.2014 as asserted in Para-3 of the appeal. It was further contended that appellant also filed departmental appeal within time from the date of communication on 09.07.2014. It was further contended that the departmental authority while disposing the departmental appeal has not discussed the merit of the case but in slip shod manner disposed of the departmental appeal of the appellant vide order dated 12.09.2014 and thereafter filed service appeal within time on 10.10.2014. It was further contended that the competent authority was District Police Officer but the appellant was removed from service by the D.I.G Police Telecommunication and Transport Khyber Pakhtunkhwa vide impugned order dated 30.05.2014 therefore, the impugned order is without jurisdiction, illegal and liable to be set-aside.

3. On the other hand, the learned Deputy District Attorney Mr. Ziaullah opposed the contention of learned counsel for the appellant and contended that the appellant was involved in the aforesaid criminal case. It was further contended that the appellant was also absent from duty with effect from 06.03.2014. It was further contended that a proper inquiry was conducted but the appellant did not justify his absence and involvement in the criminal case. It was further contended that the appeal was time barred therefore, he was rightly removed from service.


4. Arguments of learned counsel for the parties heard and record perused.

*M. Khan*  
12.10.2017

5. Perusal of the record reveals that the appellant was serving in Police Department. The Record further reveals that on 28.03.2014 he was charge sheeted for absence from lawful duty with effect from 06.03.2014 and registration of criminal case vide FIR No. 875 dated 08.12.2013 under section 489-F PPC Police Station D.I.Khan Cantt and after inquiry the appellant was removed from service by the D.I.G of Police Telecommunication and Transport Khyber Pakhtunkhwa vide order dated 30.05.2014 but the record reveals that the medical officer had issued prescriptions and also advised the appellant for bed rest and the concerned D.I.G also sanctioned leave without pay from 20.02.2014 to 05.03.2014 vide order dated 10.03.2014. The record further reveals that neither the appellant was informed from the departmental proceedings nor he was associated in the said proceedings rather all the proceedings were conducted in his absentia. The record further reveals that after inquiry the appellant was straightaway removed from service without issuing show-cause notice. The record further reveals that the appellant was removed from service vide order dated 30.05.2014 with effect from 06.03.2014 i.e retrospectively. It is also well settled law that removal from service with retrospective effect is illegal and void ab-initio. In this regard reference is made to 2002 SCMR 1124 and 1985 SCMR 1178 therefore, we are constrained to accept the appeal set-aside the impugned order and reinstate the appellant in service. Absence period and the intervening period shall be treated as leave of the kind due. However, the department is at liberty to conduct a denovo inquiry in accordance with law and in case of denovo inquiry the issue of back benefits will be subject to the outcome of denovo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
12.10.2017


  
(MUHAMMAD HAMID MUGHAL)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

20.09.2017

Clerk to counsel for the appellant present.  
Learned Deputy District Attorney for the respondents  
present. Clerk to counsel for the appellant seeks  
adjournment. Adjourned. To come up for arguments on  
12.10.2017 before D.B.

  
Member  
(Executive)

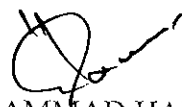
  
Member  
(Judicial)

12.10.2017

Appellant with counsel present. Mr. Ziaullah, Deputy District Attorney  
for the respondents also present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of three pages placed on  
file, we are constrained to accept the appeal set-aside the impugned order and  
reinstate the appellant in service. Absence period and the intervening period shall  
be treated as leave of the kind due. However, the department is at liberty to  
conduct a denovo inquiry in accordance with law and in case of denovo inquiry  
the issue of back benefits will be subject to the outcome of denovo inquiry.  
Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
12.10.2017


  
(MUHAMMAD HAMID MUGHAL)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

24.05.2017

Clerk of the counsel for appellant and Mr. Sher Wali, Inspector Mr. Kabir Ullah Khattak Assistant AG for the respondent present. Clerk of the counsel for appellant requested for adjournment. Adjourned. To come up for arguments on 12.07.2017 before D.B.


  
(Gul Zeb Khan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

12.07.2017

Counsel for the appellant and Asstt. AG alongwith Sher Wali, Inspector for the respondents present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 19.07.2017 before the D.B.

  
(Gul Zeb Khan)  
Member(E)

  
(M. Amin Khan Kundi)  
Member(J)

19.07.2017

Clerk of the counsel for appellant present. Mr. Sher Wali, Inspector alongwith Mr. Muhammad Adeel Butt, Additional AG for the respondents also present. Due to strike of the bar learned counsel for the appellant is not available today. Adjourned. To come up for arguments on 20.09.2017 before D.B.

  
(Gul Zeb Khan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

6

13.07.2015

None present for appellant. Mr. Zaminullah, S.I alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 31.8.2015 before S.B.

  
Chairman

7

31.08.2015

None present for appellant. Mr. Zaminullah, S.I alongwith Assistant A.G for respondents present. Comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 2.12.2015.

  
Chairman

02.12.2015

Counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Rejoinder submitted on behalf of the appellant which is place on file. To come up for arguments on

22.4.2016



Member



Member

22.04.2016

Junior to counsel for the appellant and Mr. Sher Wali Khan, SI alongwith Mr. Muhammad Jan, GP for respondents present. Junior to counsel for the appellant requested for adjournment. To come up for arguments on 16.06.2016.



Member




Member

16.06.2016

Counsel for appellant and Mr. Zameenullah, Inspector alongwith Kabirullah Khan Khattak, Assistant AG for respondents present. Learned counsel for the appellant requested for adjournment. To come up for arguments on 7.11.2016.

  
Member

  
Member

07.11.2016

Counsel for the appellant and Zameenullah, Inspector alongwith Addl. AG for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 8.3.17.

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

  
(PIR BAKHSH SHAH)  
MEMBER

08.03.2017

Counsel for the appellant and Mr. Ziaullah, GP alongwith Mr. Zameen Ullah, Inspector for respondents present. Counsel for the appellant requested for adjournment. To come up for ~~second~~ arguments on 24.05.2017.

  
(ASHFAQUE TAJ)  
MEMBER


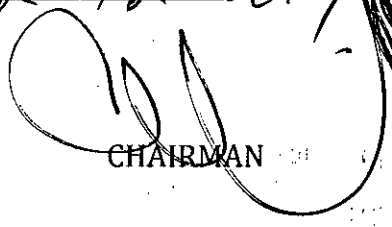
  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

Form- A

FORM OF ORDER SHEET

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

Case No. 1219 /2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	10/10/2014	<p>The appeal of Mr. Muhammad Riaz presented today by Mr. Muhammad Asif Yousafzai 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	16-10-2014,	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>22-12-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>



3.  
Reader Note:

22.12.2014

Clerk of counsel for the appellant. Since the Tribunal is incomplete, therefore, case is adjourned to 03.03.2015 for the same.

4.  
03.03.2013

Counsel for the appellant present. Preliminary arguments partly heard. The matter required further elucidation, therefore, pre-admission notice be issued to the AAG/GP to assist the Tribunal. To come up for preliminary hearing on 14.04.2015.

  
Member

5.  
14.04.2015

Counsel for the appellant and Asstt: AG for the respondents present. Learned counsel for the appellant argued that appellant was serving as Wireless Operator in Police Department when removed from service vide impugned order dated 30.05.2014 regarding which he preferred departmental appeal on 09.07.2014 which was rejected on 12.09.2014 and hence the instant service appeal on 10.10.2014.

That the enquiry was conducted on the back of the appellant and no opportunity of hearing was afforded to him.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 13.07.2015 before S.B.

  
Chairman

Appellant Deposited  
Security & Process Fee



**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**

APPEAL NO. 1219 /2014.

Mohammad Riaz.

Vs

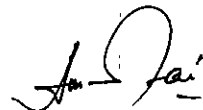
Police Deptt:

**INDEX.**

S.NO	DOCUMENTS	ANNEXURE	PAGE
1-	Memo of appeal.	---	1-4
2-	Medical certificates.	<b>A</b>	5-5D
3-	Removal from service order	<b>B</b>	6-7
4-	Appeal.	<b>C</b>	8-9
5-	Rejection order	<b>D</b>	10
6-	Vakalat nama	---	11

APPELLANT

THROUGH:



M.ASIF YOUSAFZAI

ADVOCATE

& 

TAIMUR ALI KHAN

ADVOCATE.

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**

APPEAL NO. 1219 /2014.

**A.W.P. Peshawar**  
**1251**  
**10-10-2014**

Mohammad Riaz Ex- Wireless Operator,  
NO.818, Police Tele: & Transport Peshawar.....Appellant.

**VERSUS**

- 1- The Provincial Police Officer, KPK Peshawar.
- 2- The D.I.G Telecom: & Transport, CPO Peshawar.
- 3- The S.P MT & Tele: CPO Peshawar.....Respondents.

**APPEAL UNDER SECTION 4 OF THE KPK SERVICE  
TRIBUNALS ACT 1974 AGAINST THE ORDER DATED.  
12.09.2014 WHEREBY THE DEPARTMENTAL APPEAL OF  
APPELLANT AGAINST THE REMOVAL FROM SERVICE  
ORDER DATED. 30.05.2014 HAS BEEN REJECTED FRO  
NO GOOD GROUNDS.**

**PRAYER:**

That on acceptance of this appeal the order dated. 12.09.2014 and 30.05.2014 may be set-aside and the appellant may be reinstated with all back benefits. Any other remedy, which this august Tribunal deems fit that may also be awarded in favour of appellant.

**10/10/14**

**R.SHEWETH.**

1. That the appellant joined the Police Deptt: in the year 2002 and always performed his duty with full devotion and honesty. The appellant has more than 12 years service at his credit.
2. That while performing duties at Traffic Control Peshawar, he fell ill and as result of doctor's advice, the appellant remained on bed rest but the respondent Deptt: treated the appellant absent despite the fact that the appellant also informed his in-charge on telephone. Copy of medical certificates are attached as Annexure – A .
3. That after recovery of health the appellant reported his arrival but astonished to know that the appellant was removed from service vide order dated. 30.05.2014 w.e.from 06.03.2014. The appellant was communicated with the said order on 15.06.2014. Copy of the order is attached as Annexure – B.
4. That the appellant filed departmental appeal within 30 days of the communication of removal from service order but the same has been rejected for no good grounds on 12.09.2014. Copies of appeal and rejection order are attached as Annexure – C & D.
5. That now the appellant comes to this august Tribunal on the following grounds amongst the others.

**GROUND:**

- A- That the order dated. 12.09.2014 and 30.05.2014 are against the law, norms of justice and material on record, therefore not tenable.

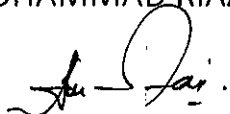
- B- That the appellant has not been treated according to law and rules and has been condemned unheard throughout.
- C- That no charge sheet, statement of allegation served on appellant nor the appellant was associated with the inquiry proceedings. Even no final show cause notice was served upon appellant. Thus major penalty has been imposed upon appellant without regular inquiry and without observing codal formalities.
- D- That the removal from service order has been passed with retrospective effect, 06.03.2014 which under the law and Superior Courts rulings an authority cannot do. Thus the order is nullity in the eyes of law.
- E- That the appellant submitted all his medical prescription and medical certificates to the authority but despite that the appellant was removed from service and his medical record was not even inquired into by the authority which amounts to an act of arbitrariness on the part of respondent Deptt:
- F- That the final rejection order is not a speaking order which is not only in violation of section 24-A of the General Clauses Act but also of the judgment of the Supreme Court of Pakistan, reported as 1991 SCMR- 2330.
- G- That the penalty imposed upon the appellant is very harsh punishment and does not commensurate with the guilt of appellant.


H- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that the appellant of the appellant may be accepted as prayed for.

APPELLANT  
MOHAMMAD RIAZ 

THROUGH:

  
M.ASIF YOUSAFZAI

ADVOCATE  
&   
TAIMUR ALI KHAN  
ADVOCATE.



# Khyber Teaching Hospital, Peshawar OUT - PATIENTS DEPARTMENT

RS: 10/-



S.No: 18252

Patient ID: 16781780314

OPD

Name: RIAZ

Gender: MALE

30 YEARS

Rate: 10

Referred To: MEDICINE

Date: 21-MAR-14

Time: 11:51:58

Address: PESHAWAR

C/C  
 fever  
 Vomiting  
 Abdominal pain  
 O/E pulse 110/80mm  
 B.P  $\frac{100}{70}$  mmHg  
 Temp 100 F  
 Hepatomegaly  
 C/I T  
 Chest - NAD  
 CVS -  
 Ad: Complete bed rest for two weeks

Med (M)  
 Tab Moxibact 400mg  
 Tab Panadol  
 Tab Maxolon

(10) (5) (5) (5)

118  
21/3/14

ATTESTED

A



# Khyber Teaching Hospital, Peshawar OUT - PATIENTS DEPARTMENT

RS: 10/-



S.No: 976

Patient 16193640414

ID:

Name: MUHAMMAD RIAZ

Gender: MALE

30 YEARS

Rate: 10

Referred To: MEDICINE

Date: 07-APR-14

Time: 10:35:46

Address: Peshawar

9/c pain in (RT) Hypochondrium  
Fever & chills.

O/E pulse 105/min B/P 120/80 mmHg. Temp 104 F  
A/T Spleno megaly.

CVS - NAD  
CNS - NAD  
Chest -

Tab Arthroget EZ 80  
480

Tab Calpal 500 mg

Ad: Complete bed rest for two weeks

7/4/14

ATTESTED

*[Signature]*

# Khyber Teaching Hospital, Peshawar OUT - PATIENTS DEPARTMENT

Rs: 10/-



S.No: 070

Patient 16193640414

ID:

Name: MUHAMMAD RIAZ

Gender: MALE

30 YEARS

Rate: 10

Referred To: MEDICINE

Date: 07-APR-14

Time: 10:35:46

Address: Peshawar

9/c pain in RT Hypochondrium  
Fever & chills.

O/E pulse 105/min B/P 120/80 mmHg. Temp 104 F  
GIT Spleno megaly.

CVI  
CMV - NAD  
Clunk

Tab Ashteret EZ 80  
480

و 3 (L) 7/5/5  
Tab Calpal 500 mg

و 3 (L) 7/5/5  
Ad: Complete bed rest for two weeks

7/4/14

ATTESTED

*[Signature]*

# Khyber Teaching Hospital, Peshawar OUT - PATIENTS DEPARTMENT

RS: 10/-



S.No: 4075

Patient ID: 17232590414

ID:

Name: MUHAMMAD RIAZ

Gender: MALE

30 YEARS

Rate: 10

Referred To: MEDICINE

Date: 22-APR-14

Time: 9:22:45

Address: Peshawar

QC  
Productive Cough  
Fever

OTE pulse 100/min B. P. 130/80 mmHg Temp 102°F  
Chest: Bronchial breathy (RT) lower lobe.

CVS  
A.I.T. - NAD  
CNS

Cap Cefixim 400mg

U.P. - 1000 ml/day

Syr Mucosyl expect  
C. 1000 ml/day

Tab Dextropropriofen

Ad! Complete bed rest for two weeks

22/4/14

ATTESTED

*[Signature]*

5D

Khyber Teaching Hospital, Peshawar

# Khyber Teaching Hospital, Peshawar OUT - PATIENTS DEPARTMENT

RS: 10/-



S.No: 4077

Patient: 17457004571

ID:

Name: MUHAMMAD RIAZ

Gender: FEMALE

30 YEARS

Rate: 10

Referred To: MEDICINE

Date: 06-MAY-13

Time: 09:35:46

Address: Peshawar

Q/c  
Sore throat

Fever

STE pulse 94/min BIP 130 mmHg. Temp 100.5  
Congested throat.

C.V.I.

CARD-NAB

C.V.I.

Clut

Tab Noridate 500mg

Tab Nubunol forte

Chimka mouth wash

Ad: bed rest for 2 weeks

ATTESTED

Signature and date: 6/5/13

BACKGROUND.

1. Constable Wireless Operator Muhammad Riaz No.818 of this unit while posted at Traffic Control District Peshawar had received a sum of Rs.4,50,000/- as loan from one Muhammad Bilal s/o-Ajmal R/O Mulazai District Tank. When the said Muhammad Bilal demanded for the return of loan amount, the accused constable handed over him a cheque bearing No.14037563 dated 23.10.2013, which was later on dishonoured from the concerned bank and to this effect on the application of said Muhammad Bilal a criminal case vide FIR No.875 dated 18.12.2013 u/s 489-F PPC was registered at Police Station DIKhan Cantt against the accused constable.

DISCIPLINARY PROCEEDINGS.

2. On receipt of information about the registration of criminal case against the accused constable was placed under suspension with effect from 18.12.2013, vide this office order No.4250-50/Tele/OHC, dated 25.03.2014, consequently the accused constable has absented himself from his duty with effect from 06.03.2014. He was issued Charge Sheet along with Statement of Allegations and Sub-Inspector Faras Khan was appointed as Enquiry Officer to conduct departmental enquiry into the matter vide this office order No.4621-23/Tele/OHC, dated 28.03.2014.
3. The accused constable was required to submit his reply within (07) days but he failed to submit the same. Thereafter a Final Notice was also issued at his home address through District Police Officer Tank vide this office letter No.5136/Tele/OHC dated 09.04.2014. In response to our above quoted reference, DPO Tank has reported that the accused constable is not present at home, however his relatives have been informed with the direction to contact the accused constable to appear before the SP/Investigation Tank vide DPO Tank letter No.3749/Tank, dated 06.05.2014.
4. In the meanwhile DIG/DIK Region DIK has informed the worthy Inspector General of Police Khyber Pakhtunkhwa that accused obtained BBA from ASI-I DIKhan but he did not appear before the I.O as well as to the competent court on 27.03.2014 as fixed for confirmation. So the competent court cancelled BBA and proclamation proceedings have been started against him, Vide his letter No.302/C-Cell DIK, dated 11.04.2014.
5. In order to fulfill the legal formalities, the Absence Notices were published in the Daily Newspapers "Mashrin & AJJ" dated 02.05.2014 but the accused constable has neither surrendered himself to local police of D.I.Khan nor appeared before the Enquiry Officer so far.

ATTESTED

(7)

The accused Constable Muhammad Riaz No.818 is to date avoiding Enquiry proceedings, and despite that repeated calls/Summons as well as advertisement of his absence in two leading Daily Newspapers, he did not join the enquiry to explain his position.

DECISION

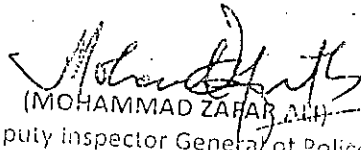
7. Keeping in view the above, I Mohammad Zafar Ali Deputy Inspector General of Police Telecommunication & Transport Khyber Pakhtunkhwa Peshawar being competent authority take ex-parte action and impose Major Punishment (Removal from Service) upon Constable Muhammad Riaz No.818 and Removed from Service with effect from 06.03.2014 under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011.

Announced on 30.05.2014


(MOHAMMAD ZAFAR ALI)  
Deputy Inspector General of Police,  
Telecomm: & Transport Khyber Pakhtunkhwa,  
Peshawar.

No

- Tele/OHC, dated Peshawar the 30/5 /2014.
- Copies forwarded for information and necessary action to the:-
1. Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
  2. Accountant General of Khyber Pakhtunkhwa, Peshawar.
  3. Accountant Tele Peshawar.
  4. SP/MT & Tele Khyber Pakhtunkhwa, Peshawar.
  5. DSP/Tele, Peshawar.
  6. OI/C Tele Control Peshawar.
  7. SRC/Tele Peshawar.
  8. GASI/Tele Peshawar.
  9. Line officer Tele Peshawar.
  10. Enquiry Officer Shams Khan (OI/C PW13)
  11. Legal Assistant Tele.
  12. Accused concerned in c/o OI/C Tele Tank with the direction to deliver the aforesaid order at his home address and return one spare copy duly signed by him.
  13. OB No. 277 /2014.

  
(MOHAMMAD ZAFAR ALI)  
Deputy Inspector General of Police,  
Telecomm: & Transport Khyber Pakhtunkhwa,  
Peshawar.

**ATTESTED**



C  
8

BEFORE THE PROVINCIAL POLICE OFFICER KPK PESHAWAR.

Subject:- Departmental appeal against the order dated 30-05-2014 passed by the Deputy Inspector General of Police, Telecom & Transport whereby the appellant has been removed from service with effect from 06-03-2014.

**Respectfully Submitted:-**

1. That the appellant joined Police department as Constable in Telecom on 14-09-2002, and since the he performed his duties with honesty and full devotion and to the entire satisfaction of his superior officers.
2. That the appellant while lastly posted at traffic Control District Peshawar, became seriously ill and was unable to has performed his duties, therefore visited the Medical Office, who advised him Medicines and bed rest at various times. (Copies of Medical Chits are enclosed as Annexure A).
3. That the appellant informed his Incharge through telephone, it is also pertinent to mention here that the appellant was also involved in a false case by one Muhammad Bilal S/O Ajmal, the appellant requested for Bail Before Arrest which was confirmed on the basis of compromise vide order dated 30-06-2014. (Copy of the order is enclosed as Annexure B).
4. That after recovery the appellant arrived for duty but he was shocked to know that he was removed from service from 06-03-2014 by the Deputy Inspector General of Police, Telecom & Transport KPK Peshawar vide order dated 30-05-2014, copy of which was communicated to the appellant on 15-06-2014. (Copy of the order I enclosed as Annexure C).
5. That the impugned order dated 30-05-2014 of the Deputy Inspector General of Police, Telecom & Transport KPK Peshawar is against the law, facts and principles of justice on grounds interalia as follows:-

GROUND:-

- A. That the impugned order is illegal and void abinitio.

ATTESTED

△

RR

- B. That the appellant has not been treated in accordance with law and rules on the subject.
- C. That no charge sheet and show cause notice were communicated to the appellant.
- D. That no inquiry was conducted in the matter to find out the true facts and circumstances.
- E. That exparte action has been taken against the appellant and he has been condemned unheard.
- F. That even otherwise the absence from duty was not willful and deliberate rather the same was because of circumstances compelling in nature which were beyond the control of the appellant a well.
- G. That so far the criminal case is concerned, the appellant assured the complainant of the case about his innocence and thus the mater has been patched up and the appellant has been released on bail.
- H. That even otherwise the order is defective being retrospectively.
- I. That the department has failed to show as top what loss was caused to them due to the action of the appellant.
- J. That the appellant has about twelve years of service with unblemished service record and is jobless since his illegal removal from service.

It is therefore requested that on acceptance of this appeal, the impugned order dated 30-05-2014 may kindly be set a side and the appellant may kindly be ordered to be reinstated in service with all back benefits.

Dated: 09-07-2014.

*Muhammad Riaz*  
 Muhammad Riaz Ex. Wireless Operator  
 No 818, Telecomm & Transport KPK  
 Peshawar, Cell# 0300 9006366

ATTESTED

*Received*  
*Office supply = 90000*  
*14/7/2014*



D (10)

From : The Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.

To : The Deputy Inspector General of Police,  
Telecommunication Khyber Pakhtunkhwa,  
Peshawar.

No. 6616 /E-IV dated Peshawar the 22/9 /2014.

Subject **DEPARTMENTAL APPEAL**

Memo.

Please refer to your letter No. 31378/Tele/OHC dated 12.08.2014 on the subject cited above.

The departmental appeal of Ex-Constable Muhammad Riaz No. 818 of Telecommunication Khyber Pakhtunkhwa was examined by the competent authority and filed.

(FARHAD ALI)  
Registrar  
For Inspector General of Police,  
Khyber Pakhtunkhwa  
Peshawar.

ATTESTED

**VAKALAT NAMA**

NO. \_\_\_\_\_/20

IN THE COURT OF Service Tribunal Peshawar.

Mohammad Riaz

(Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Police Depu.

(Respondent)  
(Defendant)

I/We, Mohammad Riaz (Appellant).

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate, Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

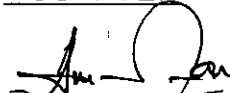
Timur Ali Khan (Adv)

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/20


  
(CLIENT)

ACCEPTED

  
**M. ASIF YOUSAFZAI**  
Advocate.

**OFFICE:**

Room # FR-8, 4<sup>th</sup> Floor,  
Bilour Plaza, Peshawar,  
Cantt: Peshawar  
Cell: (0333-9103240)

  
Timur Ali Khan  
Adv.

13/7

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**

Appeal No.1219/2014

**Muhammad Riaz-VS-Police Department.**

Subject: **APPLICATION FOR ALLOWING EXTENSION OF TIME IN SUBMITTING SECURITY & PROCESS FEE**

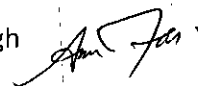
R/Sheweth:-

1. That the above mentioned appeal was admitted for regular on dated 14/4/2014.
2. That appellant was <sup>not</sup> contacted due to certain reasons due to which he did not submit his security and process fee well in time.
3. That Now the appellant want to submit security and process fee.

It is, therefore, most humbly prayed that allow extension of time in submitting security and process fee.

Appellant

Through



Mr. Muhammad Asif Yousafzai  
Advocate

*Handwritten notes:*  
Muhammad Riaz  
09.06.15

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR.**

Service Appeal No. 1219/2014

Muhammad Riaz.....(Appellant)

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and two  
others.....(Respondents)

**INDEX**

S.No.	Description of documents	Annex	Pages
1.	Written Reply on behalf of Respondents with Affidavit		1-5
2.	Copy of charge sheet	A	6
3.	Copy of statement of Allegations	B	7
4.	Copy of Enquiry Report	C	8-9
5.	Proclamation Notices	D	10-11
6.	Copy of Final Notice	E	12-14
7.	Copy of FIR No.875	F	15
8.	Copy of Absence Record	F/1	16-19
9.	Copy of FIR No.529	G	20
10.	Copy of FIR No.171	H	21

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR.**

Service Appeal No. 1219/2014

Muhammad Riaz.....Appellant

**VERSUS**

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and two others.....Respondents

**COMMENTS ON BEHALF OF RESPONDENTS.**

**Respectfully Sheweth**

**Preliminary Objections:-**

- a) That the Appellant has no cause of action and locus standi to file the Appeal.
- b) The appeal is not based on facts.
- c) The appeal is not maintainable in the present form.
- d) The appeal is bad for non-joinder of necessary and mis-joinder of unnecessary parties.
- e) The Appellant is estopped to file the Appeal by his own conduct.
- f) The appeal is barred by law and limitation.
- g) The Appellant has not come to the Honorable Tribunal with clean hands.

**FACTS:-**

- 1. Correct to the extent that Appellant was enlisted in Police department as constable in the year 2002. However, he was habitual absentee and earned 12 bad entries on charges of absence from duty. He was granted

23 days earned leave with effect from 21.01.2014 to 12.02.2014 and he did not resume his duty on expiry of leave period and submitted medical reports. He also failed to join duties on expiry of medical rest period on 06.03.2014. He was proceeded against departmentally on charges of absence from duty and involvement in a criminal case vide FIR No.875 dated 18.12.2013 u/s 489-F P.S D.I.Khan Cantt. Charge sheet and statement of allegations were served on his home address but he did not turn up to defend himself. Enquiry officer submitted finding report and recommended award of penalty to the Appellant. Proclamation notices were published in two Urdu dailies "Mashriq & Aaj" dated 02.05.2014 but he did not join duty within the stipulated period. Furthermore, during course of enquiry it came to light that the competent court had initiated absconding proceedings against the Appellant in the above mentioned case. In view of the long absence of Appellant from duty and avoiding defense of the departmental charges Appellant was removed from service vide order dated 30.05.2014. **(Copies of charge sheet, statement of allegations, finding report of enquiry officer, proclamation notices, Final Notice, FIR and Absence Record are enclosed as Annexure-A, B, C, D, E, F & F/1 respectively)**

2. Incorrect. The Appellant has advanced lame excuses to substantiate his long absence from duty. Furthermore, Appellant is involved in exploiting and deceiving innocent persons by receiving huge amount on the pretext of grant of employment. In addition to the case cited above he was also charged in identical cases vide FIR No.529 dated 22.10.2013 charge u/s 489-F, Police Station West Cantt Peshawar and FIR No.171 dated 21.06.2014, charge u/s 489-F Police Station Dera Town District D.IKhan. **(Copies of FIR are enclosed as Annexure-G & H)**
3. Incorrect, the Appellant avoided joining departmental proceedings initiated against him despite the fact that charge sheet was served on him at home address and proclamation was published in Urdu Dailies as explained in reply to Para (01) of the fact of the appeal.

- 4. Incorrect, Appellant failed to explain his long absence. Furthermore, his service record was blemished and he was involved in extra departmental activities as explained above, therefore, his departmental appeal was correctly rejected.
- 5. Incorrect, the appeal of Appellant on the grounds advanced in the appeal is not tenable.

**GROUND:-**

- A. Incorrect, the impugned orders are just, legal and have been passed in accordance with law and rules after evaluating the facts and evidence placed on file and collected during enquiry proceedings and passed after fulfilling all the codal formalities.
- B. Incorrect, Appellant has been treated in accordance with law and rules. He was avoiding defence of the charges leveled against him despite knowledge of the charges.
- C. Incorrect, charge sheet, statement of allegations, were served on Appellant at home address. He did not respond to the proclamation notices published in two leading Newspapers. Copies have already been enclosed.
- D. Incorrect, the impugned order is according to law and rules.
- E. Incorrect, Appellant never applied for medical leave. Furthermore, according to rules Appellant should have applied for sanction of medical leave well in time whereas the Appellant has wrongly and falsely contended illness long after his absence from duty. Actually he was absconder in criminal case.
- F. Incorrect, there was no force and substance in the departmental appeal of Appellant therefore, the same was filed.

- G. Incorrect, penalty commensurate with the gravity of the charges leveled against Appellant was imposed on him.
- H. Respondents may also be allowed to raise other grounds during course of Arguments.

**It is therefore, requested that the appeal of the Appellant may kindly be dismissed with costs.**



Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.  
(Respondent No.1)



Deputy Inspector General, of Police,  
Telecomm: & Transport,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No.2)



Superintendent of Police,  
MT & Telecomm:  
Khyber Pakhtunkhwa,  
Peshawar.  
(Respondent No.3)



**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR.**

Service Appeal No. 1219/2014

Muhammad Riaz.....(Appellant)

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and two  
others.....(Respondents)

**AFFIDAVIT**

I, Zameen Ullah, Inspector Police Telecommunication, KPK Peshawar  
(Representative of Respondents/Department) do hereby solemnly declare that  
the accompanying **Written Reply** is true and correct to the best of my knowledge  
and belief and nothing has been concealed from this Hon'ble Tribunal.

  
DEPONENT

**CHARGE SHEET**

I, **MOHAMMAD ZAFAR ALI** Deputy Inspector General of Police Tele communication Khyber pakhtunkhwa Peshawar as competent authority hereby charge you Constable Muhammad Riaz No.818 as follow:-

That you, while posted as wireless Operator at Traffic Control Peshawar committed the following irregularities:-

- a) That you absented yourself from your lawful duty with effect from 06.03.2014.
- b) That you involved in Case FIR No.875 Dated 18.12.2013 U/S 489-F PPC PS Cantt: DIKhan.

2. By reason of the above, you appear to be guilty of charge under rules 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules. 2011 and have rendered yourself liable to all or any of the penalties specified in rules 4 of the rules ibid.
3. You are, therefore, required to submit you written defense within seven days of the receipt of this Charge Sheet to the inquiry officer as the case may be.
4. Your written defense if any, should reach the inquiry officer/inquiry committee within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.
5. Intimate whether you desire to be heard in person.
6. **A, statement of allegations is enclosed.**

  
(MOHAMMAD ZAFAR ALI)

Deputy Inspector General of Police,  
Telecomm: Khyber Pakhtunkhwa, Peshawar.

No.

4621-23

/Tele/OHC, dated Peshawar the 28/3 /2014.

Copies forwarded for information & N/Action to the:-

1. Enquiry Officer.
2. FC/629 Qaisar Hussain (Legal Assistant Tele)
3. OI/C Tele Tank to deliver the said Charge Sheet at his home address and returned one spare copy duly signed from him through fax immediately.

(Address: S/O Habib-Ullah R/O Village Muhammad Akbar PS Mulazai, District Tank).

**DISCIPLINARY ACTION**

Annexure-B

7

1. **MOHAMMAD ZAFAR ALI** Deputy Inspector General of Police Tele communication Khyber pakhtunkhwa Peshawar as competent authority, am of the opinion that Constable Muhammad Riaz No.818 has rendered himself liable to be proceeded against, as he committed the following acts/omission, within the meaning of rule 3 of the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules 2011.

**STATEMENT OF ALLEGATION**


- a) That you absented yourself from your lawful duty with effect from 06.03.2014.
- b) That you involved in Case FIR No.875 dated 18.12.2013 U/S 489-F PPC PS Cantt: DIKhan.

2. For the above purpose of inquiry against the said accused with reference to the above allegation, an inquiry officer is appointed under rules 10(I) (a) of the ibid rules.

**Sub-Inspector Faras Khan (OI/C PWTS) as enquiry officer.**

3. The inquiry officer/inquiry committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused,.

4. The accused and a well conversant representative of the department shall join the proceeding on the date, time and place fixed by the inquiry officer.

  
(MOHAMMAD ZAFAR ALI)  
Deputy Inspector General of Police,  
Telecomm: Khyber Pakhtunkhwa, Peshawar.

Subject:- **DISCIPLINARY PROCEEDINGS AGAINST CONSTABLE MUHAMMAD RIAZ NO.818 OF POLICE TELECOMMUNICATION.**

1. Brief facts of the instant case are that, the accused constable Muhammad Riaz No.818 of this unit while posted as Wireless Operator at Traffic Control Peshawar had received a sum of Rs.4,50,000/- as loan from one Muhammad Bilal s/o Ajmal R/O Mulazai District Tank. When the said Muhammad Bilal demanded for the return of loan amount, the accused constable handed over him a cheque bearing No.14037563 dated 23.10.2013, which was later on dishonoured from the concerned bank and to this effect on the application of said Muhammad Bilal a criminal case vide FIR No.875 dated 18.12.2013 u/s 489-F PPC was registered at Police Station DIKhan Cantt against the accused constable.

2. On receipt of information about the registration of criminal case against the accused constable, this office has placed him under suspension. Consequently the accused constable has absented himself from his duty with effect from 06.03.2014. He was issued charge sheet along with statement of allegations and I was appointed to conduct departmental enquiry into the matter vide this office order No.4621-23/Tele/OHC, dated 28.03.2014.

3. The accused constable was required to submit his reply to the charge sheet within seven days but he failed to submit the same. Thereafter a Final Notice was also issued at his home address through District Police Officer Tank vide this office letter No.5136/Tele/OHC dated 09.04.2014. In response to our above quoted reference, the DPO/Tank vide his letter No.3749 dated 06.05.2014 has reported that the accused constable is not present at home, however his relatives have been informed with the direction to contact the accused constable to appear before the SP/Investigation Tank.

4. It is worth mentioning here that the Deputy Inspector General of Police D.I.Khan vide his letter No.302/C-Cell dated 11.04.2014 has informed the worthy Inspector General of Police Khyber Pakhtunkhwa about the matter as follow:-

"According to the report of DPO/DIKhan on receipt of complaint against constable Muhammad Riaz, a case vide FIR No.875, dated 18.12.2013 u/s 489-F PPC was registered at PS Cantt: DIKhan, after getting legal opinion from DPP. During course of investigation, application for permission of arrest of accused Riaz s/o Habib Khan R/O Abizar Tank now serving in Police Department Wireless Control at Traffic Headquarter Peshawar was sent. On 19.03.2014, accused obtained BBA from ASJ-I DIKhan but he did not appear before the

I.O as well as before the competent court on 27.03.2014 fixed for confirmation. So the competent court cancelled BBA and proclamation proceedings have been started against him. "

5. After perusal of said report, the worthy IGP has recorded the following remarks:-

" I hope that officers have been placed him under suspension and departmental proceedings are in process"

6. That thereafter in order to fulfill the legal formalities, the Absence Notices were published in the Daily Newspapers " Mashriq & AJJ" dated 02.05.2014 but the accused constable has neither surrendered himself to local police of Dikhan nor appeared before the Enquiry Officer so far.

7. As explained above, the accused constable Muhammad Riaz No.818 is avoiding from the enquiry proceedings, despite making repeated calls as well as advertisement of his absence in Newspapers, he did not join the enquiry to explain his position. His guilt has been proved without any shadow of doubt, hence recommended to be proceeded under Rule-4 (b) of Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules 2011.

*Qaiser Hussain*  
FC/629 Qaisar Hussain.  
Legal Assistant  
Tele/HQrs: Peshawar.  
15-5-2014

*Muhammad Sifaras Khan*  
(SIFARAS KHAN)  
Enquiry Officer  
Police Telecomm: Peshawar  
15-5-2014

*W/DIG/Atk*

*The Proceedings of EO is submitted for  
favour of personal and order please.* *R Otk*  
*15/5*

*Approved proceed as proposed*

*Jal -*  
*16/5/14*

پشاور ایسٹ آباد اسلام آباد اور کراچی سے نیک وقت شائع ہونے والا کثیر الاشاعت قومی روزنامہ

روشن قلب کی خدمات ان کا سبب امین

روزنامہ

پشاور

پاکستان

ایڈیٹر  
عبدالواحد لوہی

جلد 2 نمبر 2014ء تک نمبر 1435، قیمت 12 روپے، شمارہ نمبر 113

پشاور قومی روزنامہ کے ایڈیٹر عبدالواحد لوہی کی زیر نگرانی شائع ہوا ہے

**پولیس حاضری**

1- آپ کنستبل محمد رباض نمبر 818 پولیس ٹیلی کمیونیکیشن ایجنسی منگھور شہر، چیمپی کے سوری 06-03-2014 سے اپنی ذمہ داری سے غیر حاضر ہو اس کے علاوہ آپ کے خلاف تخریبات پاکستان کے تحت یہ حوالہ نمبر 875-F/2 489-سوری 12-18-2013 پولیس سٹیشن ڈی آئی ٹاؤن کینٹ میں مقدمہ چلایا گیا ہے۔

2- یہ کہ آپ کو گھر کے پتے پر دو مرتبہ نوٹس ارسال کئے گئے لیکن اس کے باوجود تم نے وہ نوٹس نہ پڑھا اور کوئی آفیسر کو پیش ہوئے اور نہ اپنی حاضری کی رپورٹ کی۔

لہذا آپ کو بذریعہ اشتہار بذراطلاع کیا جا رہا ہے کہ آپ اس نوٹس کے اشاعت کے پندرہ دن کے اندر اندر حاضری کی رپورٹ کر کے جوڈیشیئر حاضری پیش کرے یا اپنے آپ کو ذرا لٹو آفیس میں قانون کے حوالہ کرے ورنہ آپ کے خلاف E&D روٹر کے تحت یکطرفہ کارروائی میں لائی جائے گی جس میں آپ کی تنقید ہذا سے برعکس بھی ہو سکتی ہے۔

ڈپٹی انسپکٹر جنرل آف پولیس ٹیلی کمیونیکیشن خیبر پختونخوا پشاور

INF(P) 1658 Also available on www.khyberpaktunkhwa.gov.pk

اللہ ہی کیلئے ہیں مشرق و مغرب القرآن

# DAILY MASHRIQ PESHAWAR

پشاور

ہندو کے بانی

سید تاج میر شاہ

روزنامہ

# مشرق

سلسلہ اشاعت کے 47 سال

پشاور اور اسلام آباد سبکدوش شائع ہونے والے کثیر الاشاعت قومی اخبار

ABC CERTIFIED

شمارہ 255

منگل 17 مئی 2014ء 17 مئی 2014ء کوئی 12 روزے

جلد 47

## نوٹس غیر حاضری

(1) آپ کا شیلڈ نمبر ریاض نمبر 818 پولیس ٹیلی کمیونیکیشن ایجنسی کی منظر شدہ جہتی کے سورت  
 6/3/2014 سے اپنی ڈیوٹی سے غیر حاضر ہو۔ اس کے علاوہ آپ کے خلاف تخریبات پاکستان  
 کے تحت بحوالہ عدالت نمبر 2875-F-489 سورت 18/12/2013 پولیس سیشن ڈی آئی خان  
 کینٹ میں مقدمہ درج ہوا ہے۔ (2) یہ کہ آپ کو گھر کے پتہ پر درمیانہ نوٹس ارسال کئے گئے لیکن  
 اس کے باوجود تم واپس نہ آئے اور نہ ہی کوئی پیش ہوئے اور نہ ہی حاضری کی رپورٹ کی  
 لہذا آپ کو بذریعہ اشتہار مطلع کیا جاتا ہے کہ آپ اس نوٹس کے اشاعت کے چند روزہ دن کے  
 اندر اندر حاضری کی رپورٹ کر کے وجہ غیر حاضری پیش کرے یا اپنے آپ کو زیر التواء بیس میں  
 قانون کے حوالے کرے۔ ورنہ آپ کے خلاف E&D روڈز کے تحت یکطرفہ کارروائی عمل میں  
 لائی جائیگی۔ جس میں آپ کی جگہ ہذا سے برعاطفی بھی ہو سکتی ہے۔

ڈپٹی انسپکٹر جنرل آف پولیس ٹیلی

کمیونیکیشن خیبر پختونخوا پشاور

INF:1698274120:Valj@id:www.khyberpaktunkhwa.gov.pk

Annexure "E"

12

**SIGNAL**

FROM : DIG/TELE KHYBER PAKHTUNKHWA, PESHAWAR (.)  
TO : DPO/TANK (.)  
(W) SP/INVESTIGATION D.I.K (.)  
NO. 5136 /TELE/OHC DATED PESHAWAR THE 9 /04/2014.

SUBJECT: **FINAL NOTICE/ARREST** (.)CONSTABLE MUHAMMAD RIAZ NO.818 OF POLICE TELECOMMUNICATION HAS INVOLVED IN CASE FIR NO.875 DATED 18.12.2013 U/S 489-F PPC SP CANTT DIKHAN AND SUBSEQUENTLY ABSENTED HIMSELF FROM DUTY (.)IT IS THEREFORE, REQUESTED THAT THE ACCUSED CONSTABLE MAY BE ARRESTED AND HANDED TO SP/INVESTIGATION D.I.K IN CASE THE ACCUSED HAS GRANTED B.B.A HE MAY BE JOIN THE ENQUIRY PROCEEDINGS at Tele HQrs: Peshawar WITHOUT FURTHER DELAY, OTHERWISE EX-PARTE ACTION WILL BE INITIATED AGAINST HIM (.) HOME ADDRESS (.) S/O HABIB ULLAH VILLAGE MUHAMMAD AKBAR P.O PAI P.S MULAZAI TAH: & DISTRICT TANK.

*ae*  
DIG/TELECOMM:  
KHYBER PAKHTUNKHWA, PESHAWAR  
9/4/2014

No. 5137-38 /Tele/OHC dated Peshawar

Copies forwarded for information to the:-

1. Enquiry Officer.
2. Legal Assistant (Tele)





OFFICE OF THE  
DISTRICT POLICE OFFICER  
DISTRICT TANK

Ph: No. 0963-510257.  
Fax no. 0963-510565.

No. 3749 dated Tank the 6-5 /2014.

To :- The Deputy Inspector General of Police,  
Tele-Communication, Khyber PakhtunKhwa, Peshawar.

Subject:- **FINAL NOTICE OF ARREST.**

Memo:-

Kindly refer to your office Signal No 5136/Tele-OHC, dated 09.04.2014.

It is submitted that as per report of SHO PS Gul Imam, the charged accused namely Constable Mohammad Riaz No. 818 is not present at his home and reportedly proceeded to Peshawar, however his relatives were informed about the circumstances and with the direction to contact the charged accused for appearance before the SP/Investigation, DI Khan for joining the investigation of the case. The report of SHO PS Gul Imam is also enclosed herewith for kind perusal as desired please.

*[Signature]*  
District Police Officer,  
Tank.

*RR*  
*Placed with file. [Signature] 2/5*

SP/Tele  
SP/IT  
Dy Dir/Tech  
DSP/MT  
DSP/Tele  
OS/Tele  
PA/  
PSO/  
Acct/Tele  
SRC/Tele  
OASI/Tele ✓  
E/Branch/Tele  
ACR/Clerk Tele  
GSI/Tele

*[Signature]*  
DIG/Tele

محمد ریاض ولد حبیب اللہ قوم کنڑی سیکرٹری (فہرہ)  
میرا بھائی ہے۔ ضد دنوں کے گھر خود آنا ہوتا تھا۔  
کسین والی دکان پر چلے گئے۔ گھر پر موجود  
ہیں ہے۔ نام نذیرا ہو سکتا ہے خون اٹلے ہاں رہا ہوگا  
فہرہ SP/میرا کو پیش کر جائیگا۔ اللہ تعالیٰ

0344  
9391171  
صفت خان سکس فورڈ  
صفت خان ولد حبیب خان قوم کنڑی سیکرٹری (فہرہ)  
3-5954411-12201

صفت خان

محمد ریاض ولد حبیب اللہ قوم کنڑی سیکرٹری (فہرہ)  
کی گھر سے میرا رہا کھلی۔ مدغم ہو جاتا تھا۔  
دن کے ہرگز ان کے پاس صفت خان نے بالاسیان  
رہا ہے۔ محمد ریاض مذکورہ گاہ پر میں موجود  
موت مہاں خاں کے۔ (پورے صفت خان)

شخص BBA کنڑی میں مددگار ہے  
15/12/2014  
PS - Al. Imamu.  
14-04-14

صفت خان

دیورنگ 14 صفت خان اہل صفت خان  
14 صفت خان دیورنگ ایڈزری گنا تھا  
رنگ دیا تھو کہ صورت حال سے مطلع بنا  
وہ دیورنگ موجود نہ پایا فہرہ سیکرٹری  
صفت خان  
Stto/Culogman



LEAVE, ABSENCE AND BREAKS IN SERVICE

All periods not counting "approved service" to be entered in red ink.

1		2			3	4
DATE		EXTENT			No. of District Order	
From	To	Years	Months	Days		

description of leave i. e., privilege, hospital, sick leave, or furlough, or of absence, or forfeiture of approved service.  
 All entries to be initialled, by Superintendent of Police.

12 days Lwo Pay  
 24 days E/L debited  
 OB 137/2003  
 5-4-2003

msd al.  
 AIR TELE NWFP

5 <sup>6</sup>/<sub>2003</sub> To 10 <sup>6</sup>/<sub>2003</sub>

6 DAYS E/L M/L ON A/PAY  
 OB 238  
 17-6-2003

msd al.  
 AIR TELE NWFP

8 <sup>3</sup>/<sub>04</sub> To 14 <sup>3</sup>/<sub>04</sub>

7 DAYS M/L ON A/PAY  
 OB 161  
 20-3-2004

msd al.  
 AIR TELE NWFP

9 <sup>4</sup>/<sub>2004</sub> To 18 <sup>4</sup>/<sub>2004</sub>

10 DAYS E/L on full Pay

OB NO 211/2004  
 10-4-2004

msd al.  
 AIR TELE NWFP

24 <sup>5</sup>/<sub>2004</sub>

ONE DAY ABSENCE PERIOD LEAVE W/OUT PAY  
 2 DAY E/L DEBITED.

OB 334  
 5-6-2004

msd al.  
 AIR TELE NWFP

1 day absence period 19 <sup>2</sup>/<sub>04</sub> treated as C/L and warned

OB 36/2004 To be more Careful in future ex AIR TEL  
 15-6-2004

8 <sup>11</sup>/<sub>05</sub> To 9 <sup>11</sup>/<sub>05</sub>

TWO DAYS ABSENCE PERIOD IS HEREBY

WARNED TO BE MORE CAREFULL INFUTURE.

OB NO 757/05  
 9-7-12-2005

msd al.  
 AIR TELE NWFP

9 <sup>1</sup>/<sub>2006</sub> To 24 <sup>1</sup>/<sub>2006</sub> 16 DAYS E/L ON F/PAY

OB 28  
22-1-2006

usali  
DIGITEL NWA

24 <sup>5</sup>/<sub>2007</sub> To 25 <sup>5</sup>/<sub>2007</sub> 2 DAYS ABSENCE PERIOD IS HEREBY TREATED AS C/L AND WARNED TO BE MORE CAREFULL IN FUTURE.

OB 466  
25-7-2007

usali  
DIGITEL NWA

9 <sup>11</sup>/<sub>2009</sub> To 10 <sup>11</sup>/<sub>2009</sub> 2 DAYS ABSENCE PERIOD IS HEREBY TREATED AS C/L AND WARNED TO BE MORE CAREFULL IN FUTURE.

OB 654  
24-11-2009

~~usali  
DIGITEL NWA~~

26 <sup>2</sup>/<sub>2011</sub> To 12 <sup>3</sup>/<sub>2011</sub> 15 DAYS E/LEAVE M/G ON F/PAY.

12 <sup>3</sup>/<sub>2011</sub> To 26 <sup>3</sup>/<sub>2011</sub> 15 DAYS E/LEAVE M/G ON F/PAY.

26 <sup>3</sup>/<sub>2011</sub> To 9 <sup>4</sup>/<sub>2011</sub> 15 DAY E/LEAVE M/G ON F/PAY.

OB 198  
30-3-2011

~~usali  
DIGITEL NWA~~

9 <sup>4</sup>/<sub>2011</sub> To 20 <sup>4</sup>/<sub>2011</sub> 12 d/ys E/LEAVE M/G ON F/PAY

OB No 236/2011  
19-4-2011

~~usali  
DIGITEL NWA~~

7 <sup>4</sup>/<sub>2012</sub> To 26 <sup>4</sup>/<sub>2012</sub> 20 DAYS E/LEAVE ON F/PAY.

OB 270  
9-4-2012

~~usali  
DIGITEL NWA~~

27 <sup>4</sup>/<sub>2012</sub> To 6 <sup>5</sup>/<sub>2012</sub> 10 DAYS E/LEAVE EXTENDED ON F/PAY.

OB 313  
28-4-2012

~~usali  
DIGITEL NWA~~

conceded  
31/2

2 <sup>1</sup>/<sub>2013</sub>

31 <sup>1</sup>/<sub>2013</sub>

8 <sup>3</sup>/<sub>2013</sub> To

27 <sup>4</sup>/<sub>2013</sub>

13 <sup>5</sup>/<sub>2013</sub>

25 <sup>6</sup>/<sub>2013</sub> t

29 <sup>7</sup>/<sub>2013</sub> to 1

conceded  $2\frac{1}{2013}$  To  $31\frac{1}{2013}$  30 DAYS ELLEAVE ON F/PAY.  
 OB 21  
 15-1-2013  
 H. RAIG TELE K.P.K. PESH.

$31\frac{1}{2013}$  To  $6\frac{3}{2013}$  35 DAYS M/G ON F/PAY.  
 OB 107  
 4-3-2013  
 H. RAIG TELE K.P.K. PESH.

$2\frac{1}{2013}$  To  $30\frac{1}{2013}$  29 DAYS ELLEAVE ON F/PAY.

$31\frac{1}{2013}$  To  $6\frac{3}{2013}$  35 DAYS ELLEAVE ON M/G ON F/PAY.  
 $7\frac{3}{2013}$  OF DAYS ABSENCE PERIOD IS HEREBY TREATED AS WITH OUT PAY.

$8\frac{3}{2013}$  To  $25\frac{4}{2013}$  48 DAYS ELLEAVE ON M/G ON F/PAY.

$26\frac{4}{2013}$  ONE DAY ABSENCE PERIOD IS HEREBY TREATED AS WITH OUT PAY.

$27\frac{4}{2013}$  To  $12\frac{5}{2013}$  16 DAYS ELLEAVE ON M/G ON F/PAY.

$13\frac{5}{2013}$  To  $14\frac{5}{2013}$  02 DAYS ABSENCE PERIOD IS HEREBY TREATED AS WITH OUT PAY.

OB 264  
 27-5-2013  
 H. RAIG TELE K.P.K. PESH.

$25\frac{6}{2013}$  to  $8\frac{7}{2013}$  14 days on M/G on F-Pay

OB No. 317  
 5-7-2013  
 H. RAIG TELE K.P.K. PESH.

$9\frac{7}{2013}$  to  $15\frac{7}{2013}$  7 days PA/Leave on F/Pay  
 OB No. 335  
 18-7-2013  
 H. RAIG TELE K.P.K. PESH.

19  $\frac{12}{2013}$  to 17  $\frac{1}{2014}$

30 days of leave on P/Pay

ORB No 38  
21-1-2014

HP. I. G. G. P. K. K.  
Perkumar

21  $\frac{01}{2014}$  to 4  $\frac{02}{2014}$

15 Days R/Leave on P/Pay

ORB No. 45  
29-1-014

DIG TEL K.P.K. PESH:

5  $\frac{2}{2014}$  to 12  $\frac{2}{2014}$

2-days S/Leave on P/Pay

ORB No. 67  
12-2-14

DIG/Tele, KPK, Per

20  $\frac{2}{2014}$  to 5  $\frac{3}{2014}$

14 days lead rest is here by sanctioned as leave with out pay.

ORB No 114/2014  
10-3-14.

DIG  
DIG TELE KPK







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

Service Appeal No. \_\_1219 /2014

Mr. Muhammad Riaz                      V/S                      Government of KPK etc.  
.....

**REJOINDER ON BEHALF OF APPELLANT**  
.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(a-g) All objections raised by the respondents are incorrect. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

- 1 Partially admitted correct by the respondents. It is added that the appellant was fell ill and the doctor advised him for complete bed rest, the medical prescriptions have already been attached as Annexure with the Appeal.
- 2 Incorrect. The appellant was not intentionally remained absent from duty. He was seriously fell ill due to which the appellant was remained absent.
- 3 Incorrect. The appellant was not treated according to law and rules. The removal order of the appellant has been passed by the respondent department without cordal formalities and against the law and rules.
- 4 Incorrect. The appellant preferred Department Appeal in accordance with law and rules. The respondent department rejected the departmental appeal of the appellant for no good grounds.

5 Incorrect, while Para-5 of the appeal is correct.

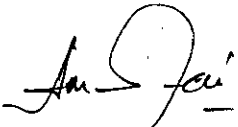
**GROUND:**

- A) Incorrect, while Para-A of appeal is correct. It is added that the impugned order has been passed by the respondent department in violation of law and rules.
- B) Incorrect. The appellant was not treated according to law and rules.
- C) Incorrect. Neither charge sheet, statement of allegations was served upon the appellant nor the appellant was associated with the inquiry proceedings and no final show cause notice was served upon the appellant, while the whole action of the respondent department has been taken against the appellant is not in accordance with law and rules.
- D) Incorrect, while the contents of Para-D of appeal are correct.
- E) Incorrect. The appellant submitted all his medical prescriptions and medical certificates to the authority which was attached with appeal of the appellant.
- F) Incorrect. The department appeal of the appellant was submitted to the authority which was under the law and was rejected for no good grounds.
- G) Incorrect. The penalty imposed upon the appellant by the respondent department which was not commensurate with the guilt of appellant.
- H) Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for:

APPELLANT  
Muhammad Riaz

Through:

  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

**AFFIDAVIT**

It is affirmed and declared that the contents of appeal and rejoinder are true and correct to the best of my knowledge and belief.

  
DEPONENT

In the court of  
**SAQIB KHAN JUDICIAL MAGISTRATE-II,**  
Dera Ismail Khan

Case No. 119/2  
 Case FIR#: 171  
 U/ Sec:/Art: 489F

Year: 2017  
 Dated: 21-6-17  
 PS: DT

The State Versus Ullah

Order No. & Dated	Order Sheet
-------------------	-------------

Or.....01  
 / /2017

Supplementary Complete challan put in Court by the Prosecution Branch, D.I.Khan. Be registered in its relevant register. Accused and complainant be summoned for 30-3-17 original record be also registered.

S.  
**SAQIB KHAN**  
 Judicial Magistrate-II,  
 Dera Ismail Khan

0-2  
30-3-17

S.

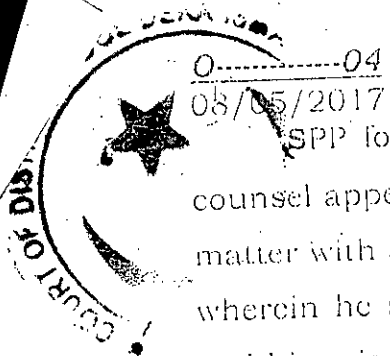
**SAQIB KHAN**  
 Judicial Magistrate-II  
 Dera Ismail Khan

0-3  
18-4-17

S.

S.  
**SAQIB KHAN**  
 Judicial Magistrate-II  
 Dera Ismail Khan

**ATTESTED**  
 Examiner



SPP for state present. Accused is absent. Complainant along with counsel appeared before the court and stated that he has patched up the matter with accused. In this regard statement of complainant is recorded wherein he stated that he has patched up the matter with the accused and his grievance has been redressed. Therefore, he has got no objection if the accused is acquitted from the charges levelled against him. Photocopy of ID card of complainant is Ex. PA.

Keeping in view the statement of complainant and as the offence under Section 489-F PPC for which the accused is charged is compoundable and the compromise is in the best interest of both the parties, therefore, on the basis of compromise accused is acquitted from the charges levelled against him. His sureties are discharged from the liabilities of bail bonds.

File be consigned to Record Room after its completion.

**ANNOUNCED**  
08/05/2017

*Handwritten notes:*  
Dera Ismail Khan  
8/5/17  
17/2  
1200

*Signature*  
**SAQIB KHAN,**  
Judicial Magistrate-II, Dera Ismail Khan

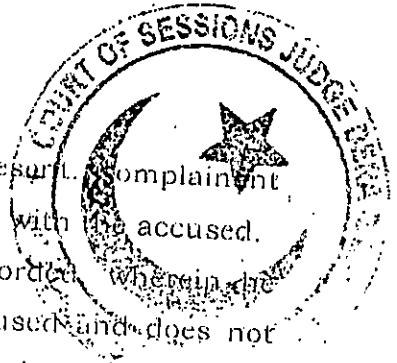
**RECORDED TO BE MADE COPY**

*Signature*  
**and Sessions Judge**  
Dera Ismail Khan

6768

Application Received	08/05/17
Date of Copying	08/05/17
Date of Delivery	10/05/17
No. of Pages	1200
Copying Charges	
Stamp Charges	
Total Charges	
Name of Copyist	
Copying Delivery Date	10/05/17

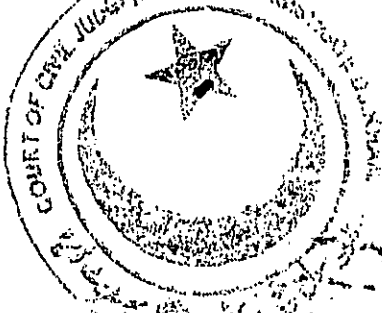
OS-----03  
12/04/2017



SPP for the state present. Accused on bail present. Complainant also present and stated that he has patched up the matter with the accused. In this regard statement of complainant recorded wherein he stated that he has patched up the matter with the accused and does not want to pursue instant case against them anymore. His grievance has been redressed so he has got no objection if the accused are acquitted in the light of compromise, from the charge levelled against him. Photocopy of CNIC of complainant is Ex.PA.

Keeping in view the above mentioned reasons, the accused facing trial is hereby acquitted on the basis of compromise from the charges levelled against him. Sureties of the accused are also discharged from their liabilities. File be consigned to Record Room after its completion.

ANNOUNCED  
12/04/2017



SAQIB KHAN,  
Judicial Magistrate-II, D.I. Khan

ATTESTED TO BE TRUE COPY

District and Sessions Judge  
D.I. Khan

دکٹر مسعود احمد صاحب  
12/4/2017

480 S  
D.J.M-II

17

2013

**MIAN ZAHID ULLAH JAN**  
**JUDICIAL MAGISTRATE-X, PESHAWAR**

FIR No. 529  
Under Section 489-F PPC  
State ....vs ..... Riaz

Dated:- 22/10/2013  
Police Station West Cantt

Order...02  
25/04/2017

APP for the State present.

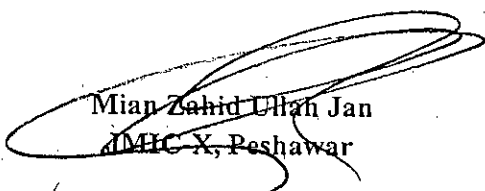
The record unveils that complainant **Khalid Khan** registered the present case against accused Riaz for bouncing of cheque No.14037566 amounting to Rs.800000/- (Rupees Eight Lac only). During the pre-arrest bail proceedings in the court of learned ASJ-IX, Peshawar, a compromise was struck and complainant admitted that he has received the outstanding amount from the accused Riaz and complainant got no objection on the acquittal of the accused during the stage of trial.

It comes to surface from the available record that the complainant has pardoned the accused unconditionally and also raising no objection on the acquittal of the accused during the stage of trial. The order of learned ASJ-IX, Peshawar dated 17<sup>th</sup> January 2014 is reflective of the compromise.

The compromise so affected between the parties is in their best interest for restoration of the peace and tranquility disturbed by the occurrence erupted between them. The offence u/s 489-F PPC is compoundable within the meaning of section 345 Cr.PC and also enlisted in the sub-section-1 of Section 345 Cr.PC, which can be compounded without the permission of the court, thus further proceedings in the case would not yield any positive result and the acquittal of accused appears inevitable. So much so, the compromise at bail stage would ensue acquittal of the accused within the meaning of Sub-Section 6 of Section 345 Cr.PC.

To sum up, the accused has been pardoned by the complainant at the pre-arrest bail stage and the complainant is not interested to proceed further against the accused, therefore, the accused Riaz stands acquitted of the charges leveled against him by the prosecution on the basis of compromise already made at bail stage. Sureties of the accused also stand discharged from the liability of the bail bonds. File be consigned to record room after its compilation and completion.

Announced  
25/04/2017

  
Mian Zahid Ullah Jan  
JMC X, Peshawar



KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 2402 /ST

Dated 2 / 11 / 2017

To

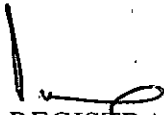
The Deputy Inspector General of Police,  
elecom: & Transport Department,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 1219/2014, MR. MUHAMMAD RIAZ.

I am directed to forward herewith a certified copy of Judgement dated 12.10.2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.