

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 667/2022.

Wahced Ahmad..... Appellant

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar

& Others..... Respondents.

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**Service Appeal No. 667/2022.**

**Waheed Ahmad**..... **Appellant**

**VERSUS**

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar

& Others..... **Respondents.**

**WRITTEN REPLY BY RESPONDENTS.**

Respectfully Sheweth:

**Preliminary Objections.**

1. That the appellant has got no cause of action and locus standi to the instant appeal.
2. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
3. That the appeal is barred by law & limitation.
4. That the appellant has not come to this Tribunal with clean hands.
5. That the instant appeal is not maintainable in its present form.
6. That the appellant concealed the material facts from this Hon'ble Tribunal.
7. That the appellant has been estopped by his own conduct to file the appeal.

**REPLY ON FACTS.**

1. Para No. 01 of appeal pertains to service record, hence need no comments.
2. Para No. 02 of appeal is incorrect. Appellant while posted to Police Line Swabi willfully absented himself from duties with effect from 11.08.2021 to 23.08.2021 and 06.10.2021 to 16.11.2021 without permission/leave on account of which he was proceeded against departmentally **(Copy of Show Cause Notice, Charge Sheet/Summary of Allegations are attached as Annexure "A, B & C")**.
3. Para No. 03 of appeal is incorrect. Appellant during service could not applied for leave on such ground and absented willfully from duties.
4. Para No. 04 of appeal is incorrect. Appellant has not applied for any kind of leave and proceed on self sanctioned leave.
5. Para No. 05 of appeal pertains to appellant, however he is admitting willful absence from duty. Appellant being member of disciplinary instead of applying for leave proceeded on self sanctioned leave and thereby committed misconduct.
6. Para No. 06 of appeal is incorrect. Proper Show Cause Notice, Charge Sheet and Summary of Allegations were issued and proper departmental enquiry through DSP/HQrs was conducted. Appellant despite of service did not joined enquiry proceedings, which shows his disinterest in Police service, hence he was proceeded ex-party **(Copy of Enquiry report is attached as Annexure "D")**.
7. Para No. 07 of appeal is incorrect. Proper enquiry was conducted during which appellant was found guilty and awarded major punishment of dismissal from service **(Copy of dismissal order is attached as Annexure "E")**.


8. Para No. 08 of appeal to the extent of filing departmental appeal is correct, however the same was rejected by the appellate authority through speaking order dated 05.04.2022 (**Copy of order is attached as Annexure "F"**).
9. That the orders of respondents are quite legal and in accordance with law/rules, hence the present appeal is groundless and liable to be dismissed.

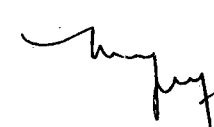
**GROUND.**

- A. Incorrect. The orders of respondents are quite legal in accordance with law/rules.
- B. Incorrect. Reply already given vide para above.
- C. Incorrect. Proper Charge Sheet and Summary of Allegations were issued and after proper departmental enquiry, appellant was dismissed from service in accordance with rules.
- D. Incorrect. Reply already given vide paras above.
- E. Incorrect. Appellant despite of service and information did not bother to join enquiry proceedings, but appellant being not interested in Police Service, failed to join enquiry proceedings.
- F. Incorrect. Reply already given vide paras above.
- G. Incorrect. Appellant being member of disciplinary force instead of applying for leave willfully absented himself from duty which he is admitting.
- H. Incorrect. During enquiry proceedings, appellant was found guilty therefore awarded major punishment of dismissal from service in accordance with rules.
- I. That dismissal from service is due to misconduct on the part of appellant.
- J. That the instant appeal is time barred.
- K. That respondents will also raised additional grounds at the time of arguments.

**Prayer.**

Keeping in view the above narrated facts, it is humbly prayed that the instant appeal being devoid of merits may very kindly be dismissed with costs, please.

  
**Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.  
(Respondent No. 1)**

  
**Regional Police Officer, Mardan  
(Respondent No. 2)**

  
**District Police Officer Swabi,  
(Respondent No. 3)**

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 667/2022.

Wahed Ahmad ..... Appellant

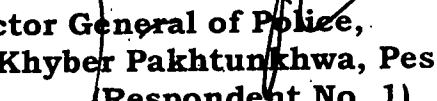
VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar

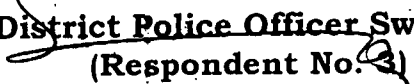
& Others ..... Respondents.

AFFIDAVIT:-

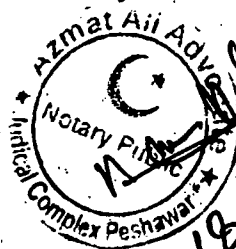
We the respondent No. 1 to 3 do hereby solemnly affirm and declare on oath that the contents of the written reply are correct/true to the best of our knowledge / belief and nothing has been concealed from the honorable Tribunal.

  
Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.  
(Respondent No. 1)

  
Regional Police Officer, Mardan  
(Respondent No. 2)

  
District Police Officer Swabi,  
(Respondent No. 3)

**ATTESTED**



18-10-2022

(4)

(A)

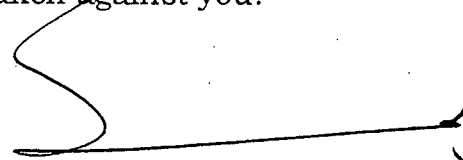
**SHOW CAUSE NOTICE**

**I, Muhammad Shoaib Khan, District Police Officer, Swabi** as competent authority under Police Disciplinary Rules 1975, hereby served upon you, **Constable Waheed No.1156** as follow:

Whereas you Constable Waheed No.1156 while posted to Police Lines Swabi absented yourself from duty w.e. from 06.10.2021 till date without any leave/prior permission of the competent authority, which is against the discipline and amounts to gross mis-conduct.

You are hereby directed to show cause of your irresponsible acts towards performing your professional responsibilities within 07 days, as to whether you will not be punished as defined by Police rules.

In case of none submission of your reply within 07-days of its delivery in the normal course of circumstances, it shall be presumed that you have no defense to offer, and ex-parte action shall be taken against you.

  
**MUHAMMAD SHOAIB KHAN (PSP)**  
DISTRICT POLICE OFFICER,  
SWABI



(5)

(B)

OFFICE OF THE  
DISTRICT POLICE OFFICER SWABI  
PHONE# 0938-920050 FAX# 0938-920054  
EMAIL: [dpo\\_swabi@yahoo.com](mailto:dpo_swabi@yahoo.com)

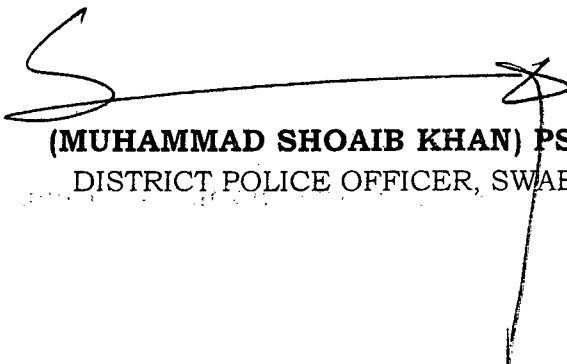
CHARGE SHEET UNDER KPK POLICE RULES-1975

Whereas I am satisfied that formal enquiry as contemplated by Khyber Pakhtunkhwa Police Rules 1975 is necessary and expedient.

And whereas I am of the view that the allegations if established would call for Major/Minor penalty as defined in Rules 4 (b) a & b of the aforesaid Rules.

Now therefore as required by Rules 6(1) of the aforesaid Rules I **Muhammad Shoaib Khan, PSP**, District Police Officer Swabi charge you **Constable Waheed No.1156**, on the basis of statement of allegations attached to this charge sheet.

In case your reply is not received within seven days without sufficient cause it will be presumed that you have no defence to offer and exparte action will be taken against you.

  
(MUHAMMAD SHOAIB KHAN) PSP  
DISTRICT POLICE OFFICER, SWABI



6

C

OFFICE OF THE  
DISTRICT POLICE OFFICER SWABI  
PHONE# 0938-920050 FAX# 0938-920054  
EMAIL: [dpo\\_swabi@yahoo.com](mailto:dpo_swabi@yahoo.com)

DISCIPLINARY ACTION UNDER KPK POLICE RULES-1975

I, **Muhammad Shoaib Khan**, District Police Officer, Swabi as competent authority am of the opinion that **Constable Waheed No.1156**, has rendered himself liable to be proceeded against as he has committed the following acts/omission within the meaning of section 02 (iii) of KPK Police Rules-1975.

STATEMENT OF ALLEGATIONS

That Constable Waheed No.1156 while posted to Police Lines Swabi absented himself from duty w.e. from 11.08.2021 to 23.08.2021 and 06.10.2021 till date without any leave/prior permission of the competent authority. Therefore, he was issued with Show Cause Notice. He has been directed time and again to receive his Show Cause Notice but all these directions fell on deaf ears, hence summary of allegations.

This amounts to grave misconduct on his part, warranting departmental action against him.

For the purpose of scrutinizing the conduct of the said official Mr. Noor ul Amin DSP H.Qrs Swabi is hereby deputed to conduct proper departmental enquiry against the aforesaid official, as contained in section 6 (I) (a) of the afore mentioned rules, The enquiry officer after completing all proceedings shall submit his verdict to this office within (7) days, Constable Waheed No.1156, is directed to appear before the enquiry officer on the date, time and place fixed by the later (enquiry officer) a statement of charge sheets is attached herewith.

  
(MUHAMMAD SHOAIB KHAN) PSP  
DISTRICT POLICE OFFICER, SWABI

No. 133 /CC/PA

Dated: 20/10 /2021



OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE,  
HEADQUARTER, SWABI.

Phone No. 0938-280279, E-Mail: dsphqswabi@gmail.com

To: The District Police Officer,  
Swabi.

No: 483 /HQrs: Swabi dated, 9/11/2021.

Subject: - DEPARTMENTAL ENQUIRY AGAINST CONSTABLE WAHEED NO.1156

**Memo:**

It is submitted that an enquiry against the above named constable was entrusted to the undersigned vide Endst: No. 133/CC/PA, dated 20.10.2021 the allegations are as under: -

**SUMMARY OF ALLEGATIONS: -**

It is alleged that Constable Waheed No.1156, while posted to Police Lines Swabi, absented himself from duty with effect from 11.08.2021 to 23.08.2021 and 06.10.2021 till date without any leave/prior permission of the competent authority. Therefore, he was issued with Show Cause Notice. He has been directed time and again to receive his Show Cause Notice, but all these directions fell on deaf ears, hence summary of allegations.

This amounts to grave misconduct on his part, warranting departmental action against him.

**PROCEEDINGS: -**

The undersigned summoned the delinquent officer for recording of his statement vide this office letter No.457HQrs, dated 21.10.2021 but he did not appear. He was summoned once more vide this office letter No.467/H.Qrs dated 28.10.2021; however, he failed to appear. The undersigned perused all the relevant documents and his absence DD reports. He was contacted through his cell numbers 0300-5195556, 0313-8790636, and was informed to attend the office of undersigned for recording his statement in the subject departmental enquiry. Muharrar Police Lines Swabi was contacted through official telephone for ascertaining the position of the delinquent officer; he responded that Constable Waheed is absent since 12.10.2021. Afterwards, he was issued warning under KP Police rules 1975 (section 5.6) vide this office correspondence 477/HQrs dated 02.11.2021 through DSP, Lahor on his home address, to appear before the undersigned, for recording his statement but he failed to comply, and did not show up. Therefore, upon the expiry of stipulated period of warning notice, ex-parte action was initiated against him.

**FINDINGS: -**

In view of the aforementioned proceedings the instant enquiry is hereby closed with the undersigned reckoning that either the delinquent official has no regards for departmental proceedings or he has nothing to present in his support before the enquiry officer.

**RECOMMENDATIONS:**

He is therefore, recommended for **Ex-Parte proceedings**, if agreed, please.

Enclosed (24Pages)

(NOOR-UL-AMIN KHAN)  
Deputy Superintendent of Police.  
H. Q. Swabi



(8)

(1156)

(E)

**ORDER**

This Order will dispose of the departmental enquiry against **Constable Waheed No.1156**, who while posted to Police Lines Swabi, willfully absented himself from duty w.e.f 11.08.2021 to 23.08.2021 and 06.10.2021 till date without any leave or prior permission of the authority. He was issued with charge sheet alongwith summary of allegations and Mr. Noor ul Amin DSP H.Qrs Swabi was appointed as Enquiry Officer. The enquiry officer conducted proper departmental enquiry, recorded statements of all concerned, collected evidence and submitted his findings, wherein the enquiry officer recommended the defaulter Constable Waheed No.1156 for ex-parte proceedings for the mis-conduct.

The undersigned has gone through the enquiry papers and findings of the enquiry officer and by agreeing with the recommendations of the enquiry officer issued Final Show Cause Notice to defaulter. The Final Show Cause Notice were sent to SHO PS Lahor for service upon him; consequently Final Show Cause Notice was handed over to his relative namely Jehanzeb for service upon him on 09.11.2021. He was clearly directed vide Para No.05 of the Final Show Cause Notice to submit his reply within seven days of the receipt of the Notice, otherwise ex-parte action will be taken against him, however, he did not bother to submit his reply nor appear for personal hearing even after lapse of 08 days which shows his dis-interest in Police service and has nothing to offer in his defence hence ex-parte action.

Therefore, I, **Muhammad Shoaib Khan, PSP**, District Police Officer, Swabi, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules 1975, hereby award **Constable Waheed No.1156**, Major Punishment of dismissal from service with immediate effect. He will not be entitle for payment of any salary for the period of his absence on the principle no work no pay.

(MUHAMMAD SHOAIB KHAN) PSP  
DISTRICT POLICE OFFICER, SWABI

O.B No. 1117

Dated 16/11 /2021.

**OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.**

No. 4708-14 /PA, dated Swabi, the 16/11 /2021.

Copies to the: -

1. DSP Lahor with the directions to recover the government property i.e Arms ammuniton, Bullet proof Jacket if any.
2. DSP H.Qrs Swabi.
3. Establishment Clerk.
4. Fauji Missal Clerk.
5. Pay Officer, Swabi
6. Official concerned.

Handwritten signatures and stamps at the bottom of the page, including names like "روانہ", "نصرت", "لنگرول", "گورنگ", "میسوٹر", "ویلنی", "فوز", and "سید", along with various checkmarks and initials.

(F)

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ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Constable Waheed No. 1156 of Swabi District against the order of District Police Officer, Swabi, whereby he was awarded major punishment of dismissal from service vide OB: No. 1117 dated 16.11.2021 by the District Police Officer, Swabi. The appellant was proceeded against departmentally on the allegations that he while posted at Police Lines, Swabi, absented himself from his lawful duty without any leave/permission of the competent authority with effect from 11.08.2021 to 23.08.2021 and from 06.10.2021 till date of his dismissal.

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

He was issued Final Show Cause Notice but despite lapse of specified time he did not bother either to submit the reply or assume the duty.

Therefore, after perusal of enquiry papers and recommendations of the enquiry Officers the delinquent Officer was awarded major punishment of dismissal from service by the District Police Officer, Swabi vide his office OB: No. 1117 dated 16.11.2021

Feeling aggrieved from the order of District Police Officer, Swabi, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 15.03.2022.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. As the appellant has bitterly failed to produce any cogent reason to justify his absence. Hence, the absence period i.e 53 days of the appellant clearly depicts the casual and lethargic attitude towards his official duties as the very conduct of appellant is unbecoming of a disciplined Police Officer. Hence, order passed by the competent authority does not warrant any interference.

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

Order Announced.

3100 10 B 360  
07/04/22 11.11.2022

Regional Police Officer,  
Mardan.

Dated Mardan the 05/04/2022.

B/E/L

No. 2771 /ES.

7/4

Copy forwarded to District Police Officer, Swabi for information and necessary action w/r to his office Memo: No. 03/Insp: Legal dated 14.01.2022. His Service Record is returned herewith.

(\*\*\*\*\*)