

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL, PESHAWAR

Service appeal No. 14225 / 2020

Saqib Shaheen

.....Appellant


VERSUS

Government of Khyber Pakhtunkhwa
through Chief Secretary & Others

..... Respondents

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Respondents
Through
Representative

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 14225 / 2020
Saqib Shaheen

.....Appellant

VERSUS

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1758

Dated 28/10/22

Government of Khyber Pakhtunkhwa
through Chief Secretary & others

..... Respondents

PARAWISE COMMENTS BY RESPONDENTS.

Respectively Sheweth:-

Preliminary Objections:-

- i. That the appellant has got no cause of action.
- ii. The appellant has got no locus standi to file the instant appeal.
- iii. That the appeal is bad for misjoinder and nonjoinder of necessary parties.
- iv. That the appellant has not approached the honorable Tribunal with clean hands.
- v. That the appellant is estopped to file the instant appeal for his own act.
- vi. That the appeal is badly time barred and liable for dismissal in limine.

Facts:-

1. Pertains to record.
2. Pertains to record.
3. Incorrect, the appellant absented himself from Recruit Training Center, Mansehra time & again (total=173 days). The respondent No. 05, imposed major penalty of dismissal from service vide OB No. 453 dated 08.08.2017, However, the appellant was reinstated on humanitarian grounds by the Inspector General of Police, CPO, Peshawar order No. S/1719/18 dated 08.05.2018 and allowed to rejoin the recruit training course vide AIG, Training, Peshawar order No. 4916/Trg dated 26.06.2019, but the appellant again absented himself from recruit course without any reason and justification and repatriated as unqualified to parent district vide Director, Police Training, School Sawabi, letter No. 441/GB dated 16.07.2019. copy as Annexure-A,B,C & D.
4. That the appellant did not adopt the process of through proper channel for medical examination nor this office has any record of referring the appellant to medical board. Police force has tough and challenging nature of job required mentally and physically fit person.

5. Incorrect, the appellant is a habitual absentee and there is no prospect of mending his ways. The appellant badly failed to advance any plausible reply to the enquiry officer as well as to the appellate authority.
6. Incorrect, the appellant previously was removed from service on the same allegations, however, by accepting his appeal, the appellant was reinstated into service by CPO, Feshawar on humanitarian ground being son of shaheed but the appellant was not interested in discharging of his official duties which rendered him again for major penalty of removal from service and subsequently rejection of appeal from respondent No. 03 & 02 respectively. Copy as **annexure-E & E-1**.
7. Incorrect, the appellant was given an opportunity of personnel hearing in orderly room twice for the same allegations. Detail reply as para-3 & 6.
8. Revision petition of appellant was found meritless thus rejected with cogent reasons by competent forum i-e committee.
9. Needs no comments.

Grounds:-


- A. Incorrect, the appellant was dealt in accordance with the rules & laws.
- B. Incorrect, the appellant is a malingerer and habitual absentee having blemish service record, was proceeded departmentally according to the Police Disciplinary Rules 1975 (amended 2014). Copy of absence reports as **annexure-F & F-1**.
- C. Incorrect, the appellant did not report to his place of duties which compelled the Muharar of police station to lodge a proper report against the appellant reflects his disinterest in discharging of official duties. Copy as **annexure-G**.
- D. Incorrect, respondents have not violated principle of natural justice but acted in accordance with facts and rules.
- E. Incorrect, the appellant being a member of disciplined force was required to prefer an application for leave but he failed to do so and absented himself for a long period time & again which rendered him for major penalty.
- F. Incorrect, the appellant remained absent for long period time which is not justified in a disciplined force without any leave or prior permission from the competent authority.
- G. Incorrect, the appellant was treated in accordance with law & rules.
- H. That the appellant's father was properly compensated as per Shuhada package and the department endorsed his services.
- I. Respondents may also be permitted to raise or add additional grounds / documents at the time of arguments.

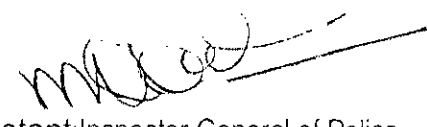
Prayer:-


In view of the above, it is prayed that the appeal being devoid of merits may graciously be dismissed with costs.

Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 02)

24/2/2022
Chief Secretary,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 01)


Deputy Inspector General of Police,
Kohat Region, Kohat.
(Respondent No. 03)


Assistant Inspector General of Police,
Training Directorate, Khyber Pakhtunkhwa,
Peshawar.
(Respondent No.04)


District Police Officer,
Karak
(Respondent No. 05)

ORDER

My this Order will disposed off the departmental enquiry against **Recruit Constable Saqib Shaheen No. 423** of this district Police.

Facts are that recruit Constable Saqib Shaheen No. 423 absented himself from lawful duty w.e from 25.08.2016 to 23.12.2016 (120 days) vide DD No. 04 dated 25.08.2016, from 24.12.2016 to 26.12.2016 (02 days) vide DD No. 27 dated 24.12.2016, from 30.12.2016 to 20.01.2017 (21 days) vide DD No. 11 dated 30.12.2016 without any leave or prior permission. Furthermore, he was also absented himself i.e 17.02.2017 to 19.02.2017 (02 days), from 14.03.2017 to 16.02.2017 (02 days), from 07.04.2017 to 10.04.2017 (03 days) and from 10.04.2017 to 02.05.2017 (23 days) **(Total 30 days)** from PTS Mansehra and returned to district as unqualified vide letter No. 733/ dated 02.05.2017. **(Total absence 173 days).**

He was issued Charge Sheet and Statement of allegation. SI Muhammad Idrees, the then LO, Police Lines Karak was appointed as Enquiry Officer to conduct proper departmental enquiry against him and to submit his findings in the stipulated period.

The Enquiry Officer reported that the accused recruit Constable absented himself from 25.08.2016 to 23.12.2016 i.e 04 months. The Enquiry Officer held him responsible and recommended for major punishment and his absence period may be treated as without pay.

He was issued with Final Show Cause Notice, in response to the Final Show Cause Notice, the accused recruit Constable submitted implausible reply, placed on file.

He was called and heard in person in the Orderly Room held in this office but he could not produce any cogent reason. Enquiry papers perused.

Keeping in view of the above and available record and facts on file, he is found guilty of charges, therefore, he is awarded a major punishment of Removal/discharge from service from the date of his absence under Police Rules 12.21 with immediate effect.

OB No. 453
Dated 08/08/2017

Anasheed
District Police Officer, Karak

Handwritten signatures and notes:
11-08-17
Office use

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27-08-17
11-08-17



(2)
OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. SI 1779- /18, dated Peshawar the 08/05/2018

1915

13-05-18

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-FC Saqib Shaheen No. 423. The petitioner was removed from service by DPO Karak vide OB No. 453, dated 08.08.2017 on the charge of absence from duty w.e.f 25.08.2016 to 23.12.2016 (120 days), 24.12.2016 to 26.12.2016 (02 days), 30.12.2016 to 20.01.2017 (21 days), absence from Recruit Training w.e.f 17.02.2017 to 19.02.2017 (02 days), 14.03.2017 to 16.02.2017 (02 days), 07.04.2017 to 10.04.2017 (03 days) and 10.04.2017 to 02.05.2017 (23 days) from PTS Mansehra and returned to district as un-qualified vide letter No. 733 dated 02.05.2017 (Total absence 173 days).

This appeal was rejected by Regional Police Officer, Kohat vide order Endst: No. 132/EC, dated 04.01.2018.

Meeting of Appellate Board was held on 26.04.2018 wherein petitioner was heard in person. During hearing petitioner contended that his absence was not deliberate but his mother was a psychiatric patient and there was no male member to look after her. He further contended that he is son of Shahced Constable.

In view of the plausible explanations advanced by the petitioner and being son of a Shahced Constable, the Board decided that petitioner is hereby re-instated into service on humanitarian grounds and penalty of removal from service is converted into minor penalty of stoppage of increment for two years. However, the intervening period including absence period shall be counted towards service but not on duty. He will not be entitled for any kind of financial benefits including monthly salary for the said period.

This order is issued with the approval by the Competent Authority.

~~(IRFAN ULLAH KHAN)~~
~~AIG/Establishment~~
~~For Inspector General of Police,~~
~~Khyber Pakhtunkhwa,~~
~~Peshawar.~~

No. SI 1780-86 /18,

Copy of the above is forwarded to the:

1. Regional Police Officer, Kohat.
2. District Police Officer, Karak.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

OHC/SRC/170

for notification





2210
27-6-19

To: The Director,
Police Training School
Swabi.

Subject: **REPATRIATED AS UNQUALIFIED**

Memo

Please refer to your office letter No. 348/GB, dated 14.06.2019 on the subject cited above.

The competent authority has directed that Constable Saqib Shah No. 610 of District Police Karak is allowed to join the ongoing Recruit Training Course and he will be detained for the period lapsed so far.

(Signature)
(IFTIKHAR-UD-DIN) PSP
Asstt: Inspector General of Police
Training Directorate
Khyber Pakhtunkhwa, Peshawar

40/2
No. /Pg
Copy of above is forwarded for information and necessary action to the District Police Officer, Karak.

(Signature)
IFTIKHAR-UD-DIN) PSP
Asstt: Inspector General of Police
Training Directorate
Khyber Pakhtunkhwa, Peshawar

DHC ISRC
for an action.
(Signature)

(Signature)
2019



GOVERNMENT OF KHYBER PAKHTUNKHWA
POLICE TRAINING SCHOOL SWABI
Tel No: 0938-280411 Fax No: 0938-280410.
Email:ptsswabi@gmail.com.

2.1.5?

10-3-16

To: District Police officer Karak.

No. 61611 /GB dated Swabi the, 16 / 07 /2019.

Subject: REPATRIATED AS UNQUALIFIED.

Memo:

It is submitted that Recruit Constable Saqib Shaheen No.610 of your district was selected for basic recruit course and under training in the on-going recruit course at Police Training School Swabi. He has absented vide DD No. 13 dated 04.07.2019 to date absented himself without any leave or prior permission of the competent authority.

Furthermore he has re-joined the on-going the recruit course vide AIG Training Order No.4916/Trg, dated 26.06.2019 (copy of the same is enclosed for your kind perusal). He remained absented for 30 days so far. He is not interesting in training activities.

As per Police Training College Hangu manual Rules No.81 and according to the Minutes of meeting held under the chair of Worthy Inspector General of Police Khyber Pakhtunkhwa vide letter No.8629-50/trg dated 04-09-2015 his out of program period as already been exceeded from 09 days.

Therefore Recruit Saqib Shaheen No.610 is repatriated to his parent District Karak as unqualified.

DIRECTOR
POLICE TRAINING SCHOOL
SWABI

No. /GB

Copy of the above is forwarded to the Worthy Assistant Inspector General of Police Khyber Pakhtunkhwa, Peshawar.

OH/CSAC

DIRECTOR
POLICE TRAINING SCHOOL
SWABI

(14)

(12)

POLICE DEPTT:

KOHAT REGION

ORDER.

This order will dispose of a departmental appeal, moved by Ex-Recruit Constable Saqib Shaheen No. 610 of Operation Staff Karak against the punishment order, passed by DPO Karak vide OB No. 500, dated 14.11.2019 whereby he was awarded major punishment of removal / discharge from service on the following allegations:-

The appellant was detailed for Basic Recruit Training at Swabi, however, as per letter of PTS Swabi vide No. 441/GB, dated 16.07.2019 that the appellant has absented himself from on-going recruit course from 04.07.2019 to 02.08.2019. He was rejoined to the court by AIG/Training but he failed to do so and repatriated as unqualified. It is to mention here that previously he was Removed from Service by DPO Karak on the same allegations and his appeal was rejected by the then DIG/Kohat. However, by accepting his appeal, he was reinstated into service by CPO Peshawar on humanitarian grounds being son of Shaheed.

He preferred an appeal to the undersigned upon which comments were obtained from DPO Karak and his service record was perused. He was also heard in person in Orderly Room, held on 27.02.2020. During hearing, he did not advance any plausible explanation in his defense to prove his innocence and just forwarded lame excuses.

I have gone through the available record and came to the conclusion that the allegations leveled against the appellant are proved beyond any shadow of doubt and the same has also been established by the E.O in his findings. Therefore, his appeal being devoid of merits is hereby rejected.

Order Announced
27.02.2020

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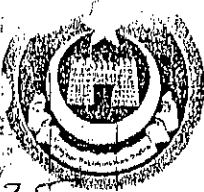
[Handwritten signature]
District Police
Karak

[Handwritten signature]
(TAYYAB HAFEEZ) PSP
Region Police Officer,
Kohat Region.

No. 3247 /EC, dated Kohat the 3-3- /2020.

Copy to District Police Officer, Karak for information w/r to his office Letter No. 195/EC, dated 06.01.2020. His Service Roll & Fauji Missal is returned herewith.

[Handwritten signature]
(TAYYAB HAFEEZ) PSP
Region Police Officer,
Kohat Region.



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

20, dated Peshawar the 27th 9/2020.

7510
No. SI 37-01

2875

08/10/20

ORDER

13-5

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by **Ex-FC Saqib Shabeen No. 610**. The petitioner was removed/discharged from service by District Police Officer, Karak vide OB No. 500, dated 14.11.2019 on the allegations that he was detailed for Basic Recruit Training at Swabi, however, as per letter of Police Training School, Swabi vide No. 441/GB, dated 16.07.2019, he had absented himself from on-going recruit course from 04.07.2019 to 02.08.2019. He was rejoined to the course by AIG/Training but he failed to do so and repatriated as unqualified. He reported arrival on 10.10.2019 in Police Lines, Karak and remained absent for total 97 days. It is to mention here that previously he was removed from service by DPO Karak on the same allegations and his appeal was rejected by the then DIG/Kohat. However, he was reinstated into service by CPO Peshawar on humanitarian grounds being son of shaheed. His appeal was rejected by Regional Police Officer, Kohat vide order Endst: No. 3247/EC, dated 03.03.2020.

Meeting of Appellate Board was held on 24.08.2020 wherein petitioner was heard in person. During hearing petitioner failed to advance plausible explanation in rebuttal of the charges.

Perusal of the record reveals that the petitioner was earlier removed from service vide order bearing OB No. 453, dated 08.08.2017 on the same allegations which establishes that he is habitual absentee and there is no prospects of mending his ways. The Board see no ground and reasons for acceptance of his petition, therefore, the Board decided that his petition is hereby rejected.

This order is issued with the approval by the Competent Authority.

OFFICER / S.P.E

[Handwritten signature]

Sd/-

DR. ISHTIAQ AHMED, PSP/PPM
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

EC
2110

No. SI 37-01-09/20

Copy of the above is forwarded to the:

1. Regional Police Officer, Kohat, One Service Roll and one Fauji Missal of the above named Ex-FC received vide your office Memo: No. 2672/EC, dated 16.06.2020 is returned herewith for your office record.
2. District Police Officer, Karak.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl. IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

DPO/Karak

For n/a along with
Service Roll & Fauji
Missal.

[Handwritten signature]
DIG POLICE
KOHAT

no 14083
date 6/10/20

(KASHIF ZULFIQAR) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

Reference attached F/A.

Reply to the Final Show Cause Notice submitted by Recruit Constable Saqib Shaheen No. 423 Police Lines Karak is at F/B.

Submitted for perusal and further order, please.

M. Ali
Enquiry Clerk
15/3/2017

W/DPO

OP
HC discurs abnd C.S
MCA

423
Handwritten Urdu text

1) 25-8-2016 to 23-12-016 = 120 days
2) 24-12-2016 to 26-12-16 = 02 days
3) 30-12-2016 to 20-1-2017 = 21 days
Total = 143 days
PT.S absence 30 days

Total **173** days

16. LEAVE, ABSENCE AND BREAKS IN SERVICE

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

1		2			3	4
DATE		EXTENT			No. of District Order	Description of leave, i.e. Privilege, hospital, sick leave, or furlough of or of absence, or forfeiture of approved service. All entries to be initialed by Superintendent of Police.
From	To	Years	Months	Days		
6 ⁰⁷ / ₁₆	one day			w/o pay	OB No 519 dt 18.8.16	
24 ⁰⁷ / ₁₆	to 26 ⁰⁷ / ₁₆		3	three days w/o pay	OB No 519 dt 18.8.16	District Police Officer Karak
13 ⁸ / ₁₆	to 15 ⁸ / ₁₆		3	three days w/o pay	OB No 519 dt 18.8.16	District Police Officer Karak
17 ⁷ / ₁₇	one day			w/o pay	OB No 404 dt 27-7-17	District Police Officer Karak
10 ⁸ / ₁₈	one day			w/o pay	OB No 477 dt 17-9-18	District Police Officer Karak
16 ⁸ / ₁₈	to 17 ⁸ / ₁₈		2	two days w/o pay	OB No 477 dt 17-9-18	District Police Officer Karak
26 ⁸ / ₁₈	to 28 ⁸ / ₁₈		3	three days w/o pay	OB No 477 dt 17-9-18	District Police Officer Karak
24 ⁹ / ₁₈	to 28 ⁹ / ₁₈		5	five days w/o pay	OB No 602 dt 8-11-18	District Police Officer Karak
26 ⁵ / ₁₈	to 27 ⁵ / ₁₈		2	two days w/o pay	OB No 345 dt 6-6-18	District Police Officer Karak
27 ⁵ / ₁₈	to 17 ¹ / ₁₈			(22) days w/o pay	OB No 141 dt 14-3-19	District Police Officer Karak
25 ¹ / ₁₉	to 7 ² / ₁₉			(14) days w/o pay	OB No 141 dt 14-3-19	District Police Officer Karak

AMHC PS-LTR
12-03-018

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AMHC PS-LTR

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12-03-2018

AMHC PS-LTR
12-03-2018