

C
BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR.

SCANNED
KPST
Peshawar

Service Appeal No. 938/2022

Amir Muhammad Constable No. 1513 Police Lines, Mardan

.....Appellant

VERSUS

The Inspector General of Police , Khyber Pakhtunkhwa, Peshawar and
others.....Respondents

INDEX

S. No.	Description of Documents	Annexure	Pages.
1.	Written Reply.	--	1-3
2.	Affidavit.	--	4
3.	Copies of Bad Entries	A	5-8
4.	Copies of Charge Sheet with statement of allegations, Enquiry & Final Show Cause Notice	B & C	9-17
5.	Copy of Authority Letter.	--	18

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

Service Appeal No. 938/2022

Amir Muhammad Constable No. 1513 Police Lines, Mardan

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1774

Dated 28/10/22
Appellant

VERSUS

The Inspector General of Police , Khyber Pakhtunkhwa, Peshawar and
others.....Respondents

Para-wise comments on behalf of respondents:-

Respectfully Sheweth,

PRELIMINARY OBJECTIONS

1. That the appellant has not approached this Hon'ble Tribunal with clean hands.
2. That the appellant has concealed the actual facts from this Hon'ble Tribunal.
3. That the appellant has got no cause of action or locus standi to file the instant appeal.
4. That the appellant is estopped by his own conduct to file the instant Service Appeal.
5. That the appeal is unjustifiable, baseless, false, flawless and vexatious and the same is liable to be dismissed with special compensatory cost in favour of respondents.
6. That the appeal is barred by law & limitation.

REPLY ON FACTS

1. Para to the extent of enlistment and serving in Police Department of appellant pertains to record needs no comments.
2. Incorrect. Stance taken by the appellant is not plausible because every Police Officer is under obligation to perform his duty upto the entire satisfaction of his superiors. Moreover, the perusal of service record of the appellant revealed that due to his lethargic attitude his entire service record is tainted with bad entries. Besides, non receipt of complaint against the appellant does not mean a clean chit for the future wrong deeds **(Copy of list of bad entries is attached as Annexure "A")**.
3. Incorrect. Stance taken by the appellant is not plausible, because being a member of discipline force he was supposed to inform his seniors about his mother illness or submit application for leave but he failed to do so and remained absent from duty without any leave/permission of the competent authority.
4. Incorrect. Stance taken by the appellant is totally devoid of merit because he has been properly proceeded against departmentally by

issuing him Charge Sheet with Statement of Allegations and Enquiry was entrusted to the then DSP City Mardan for probing into the matter. The enquiry officer during the course of enquiry provided full-fledged opportunity to the appellant to produce evidence/grounds in his defense. However, after fulfillment of all legal and codal formalities, the Enquiry Officer submitted his finding report to the competent authority. In light of enquiry proceedings, he was issued Final Show Cause Notice to which his reply was received and found unsatisfactory. Besides, the appellant was summoned & heard in Orderly Room on 17.09.2007, but this time too he failed to justify his innocence, therefore he was awarded minor punishment of stoppage of his two increments with cumulative effect, which does commensurate with the gravity of misconduct of the appellant **(Copies of charge sheet with statement of allegations and Final Show Cause Notice are attached as annexure "B & C")**.

5. Correct to the extent that the appellant preferred departmental appeal which was decided on merit because the appellant was provided full-fledged opportunity of defending himself before the appellate authority but he bitterly failed to produce any cogent reasons in his defense. **Therefore, the same was rejected and filed, being badly time barred for 14 years.**
6. That appeal of the appellant is liable to be dismissed on the following grounds amongst the others.

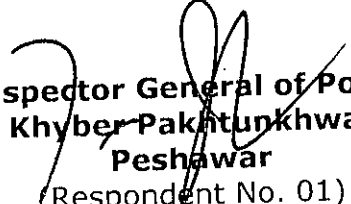
REPLY ON GROUNDS:

- A. Incorrect. Order passed by the competent authority as well as appellate authority are legal, lawful and according to norms of natural justice hence, liable to be maintained.
- B. Incorrect the appellant has been treated in accordance with law, rules, policy and the respondents did not violate any Article of the Constitution of Islamic Republic of Pakistan.
- C. Incorrect. The respondent department has no grudges against the appellant, therefore, stance of the appellant is devoid of legal footing.
- D. Incorrect. Stance taken by the appellant is not plausible, because being a member of disciplined force he was supposed to inform his seniors about his mother's illness or submit application for leave but he failed to do so and remained absent from duty without any leave/permission of the competent authority. The order is liable to be maintainable into the eye of law.
- E. Incorrect. The impugned Order did not violate any principle of natural justice, hence, liable to be maintained.

- F. Incorrect. Stance taken by the appellant is not plausible, because being a member of disciplined force he was supposed to inform his seniors about his mother's illness or submit application for leave but he failed to do so and remained absent from duty without any leave/permission of the competent authority. However, after conducting proper enquiry and fulfillment of all legal and codal formalities, the said order was passed.
- G. Incorrect. Para already explained needs no comments.
- H. That the respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

PRAYER:-

It is therefore, most humbly prayed that on acceptance of above submissions, appeal of the appellant may very kindly be dismissed **being a badly time-barred and devoid of merits.**


Inspector General of Police
Khyber Pakhtunkhwa,
Peshawar
(Respondent No. 01)


Regional Police Officer,
Mardan
(Respondent No. 02)


District Police Officer,
Mardan.
(Respondent No. 03)

15-CENSURES AND PUNISHMENTS.

... ..
... ..

✓

D. Mandan

charges for his 3 days absence

Punishment:- leave w/o pay.

Sl. No. 582

11/06

(D/Mandan)

2

ORDER

He was heard in person on 5.10.2006 but he failed to satisfy the Under-Signed. Keeping in view his above misconduct he is hereby fined Rs:-15 and he will also be Present a duty Certificate for ... months.

Sl. No. 1837
DT: 5/10/2006.

u

D. Mandan

BAD
ENTRY

IO

BAD
ENTRY

CHARACTER ROLL OF

(2)

Serial No.

15--CEI TURES AND PUNISHMENTS -contd.

He is hereby awarded
a minor punishment of Censure and
warned to be careful in future,
in exercise of the power vested in me
under RPK removal from service,
(special power) Ordinance 2000.

OB No: 1119
8-3-11

M-11
DPO/MR

(6) days leave w/o pay and warned be careful
in future by DPO's order letter no. 1119
dt 6-10-2012.

LEAVE - UNEXPLAINED BREAKS IN SERVICE

(3)

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

DATE		EXTENT	No. of District Order	Description of leave (i.e., privilege, unpaid, sick leave, or forfeiture of approved service)
To	Years			
9-1-06	To 10-1-06	2 days	75	Leave w/o pay
1-3-07	To 4-1-07	4 days	446	
		(1) day	03 No 34	Leave with
		(4)	673	Leave w/o pay
		(14)	675	Elav
		(16)	1172	
		(3)	1506	
		(22)	2710	E/Leave
		(15)	2885	Leave
		(23)	418	E/Leave
			62-10	
			15-	

Pys
 (12) 434 - Leave DPM
 10-11-10
 (35) 4340 M/Leave DPM
 10-11-10
 432 Leave w/o Pay DPM
 12-10
 4754 DPM
 5-12-12
 4461 do DPM
 30-12-10
 (18) 1119 do DPM
 8-3-11

(9)

(26) day E/leave EB No. 185
 all 5-4-17
 10/10 10/10 2 days w/w pay vide
 EB No. 16559-64/EF Dated 11-2-19

(11)

02.06.2020 to 02.04.2020 (90) days
 medical leave on full pay vide
 EB No. 818-74/EF Dated 27.01.20

By [Signature] EF

Amir Muhammad B
(5)

7

DISCIPLINARY ACTION

I Akhtar Hayat Khan, District Police Officer, Mardan as competent authority am of the opinion that Constable Amir Muhammad No. 1513 while posted to Police Lines has rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of Section 5 of the NW Removal From Service (Special Power) Ordinance 2000.

STATEMENT OF ALLEGATIONS

It is alleged that Constable Amir Muhammad No. 1513 while posted to Police Lines remained absent for the following periods without any information or prior permission from the competent authority.

1. 10.04.2007 to 12.04.2007
2. 16.04.2007 to 19.04.2007
3. 14.05.2007 to 17.05.2007
4. 23.05.2007 to 31.05.2007

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

For the purpose of scrutinizing the conduct of the said officer with reference to the above allegations, an enquiry committee consisting of Mr. Muhammad Quraish Khan DSP/City Mardan is constituted under section 5 of the Ordinance to carry out the enquiry for the purpose to bring real facts to the light.

The enquiry officer shall in accordance with the provision of the Ordinance provide reasonable opportunity of the hearing to the officer, record its findings within thirty days of the receipt of this order, recommendation as to punishment or other appropriate action against the official.

Constable Amir Muhammad No. 1513 is directed to appear before the enquiry officer on the date, time and place fixed by the enquiry officer/committee.

(Akhtar Hayat Khan) PSP
District Police Officer,
Mardan

No. 33 /PA.

Dated 16/6 /2007

Copies for information and necessary action to

1. ✓ Mr. Muhammad Quraish Khan DSP/City. Mardan.
2. Constable Amir Muhammad No. 1513 Police Lines.

Stero
Amir
18/6/07

period be considered as long leave
a certificate of attendance for 04 months and his absentee
compassionate view. In addition, the constable should
support of his absence plea. The Enquiry Officer suggest
However, he has submitted various medical prescriptions in
senior and thus he has violated the rules and regulations.
constable he remained absent without prior approval of his
After going through the statement of the

is not intentional but due to extreme emergency.
times and lastly she had under gone surgery. So his absentee
mother. His mother was admitted to the hospital for many
old age. There is no one except him to take care of his
he is taking care of his mother. His mother is of extremely
of April and May. The reason is that his mother is ill and
Lines, Mardan. He remained absent for 03 days in the month
Department. Presently he is performing his duties in Police
of years he is serving as a constable in Police
Department.

Handwritten: Enquiry against constable Amir Muhammad
Muhammad and order
P.H.H.

Handwritten: W/DPO
M.Y.
E. P. S. H.

I: Superintendent of Police,
City, Mardan.

Handwritten signature: M. M. Khan

Encl: (56)

For your kind perusal please.

No. 1513 alongwith finding report of the enquiry officer
mental enquiry file in respect of constable Amir Muhammad
Enclosed please find herewith the details

dated 16.04.2007

Kindly refer to your office No. 327/A,

Memorandum.

DEPARTMENTAL ENQUIRY AGAINST IN SENIOR
AMIR MUHAMMAD NO. 1513 OF POLICE LINES,
MARDAN.

Subject:-

No. 1513

/City, Date: Mardan the, 03-04-2007

The District Police Officer,
Mardan

To :

The Dy: Superintendent of Police,
City, Mardan.

From:

Handwritten mark: 3

Handwritten mark: (17)

(MUHAMMAD OMRAISH KHAN)
 Dy: Superintendent of Police,
 City, Madras.

M. S. Khan

ENQUIRY OFFICER,

Submitted please.

period be considered as long leave. a certificate of attendance for 04 months and his absence support of his absence plea. The Enquiry Officer suggest however, he has submitted various medical prescriptions in senior and thus he has violated the rules and regulations. constable he remained absent without prior approval of his After going through the statement of the

is not intentional but due to extreme emergency. times and lastly she had under gone surgery. So his absentee mother. His mother was admitted to the hospital for many old age. There is no one except him to take care of his he is taking care of his mother. His mother is of extremely of April and May. The reason is that his mother is ill and Lines, Madras. He remained absent for 03 days in the month Department. Presently he is performing his duties in Police the last 04 years he is serving as a constable in Police to the statement of constable Amir Mohammed No. 1513 that for statement in writing. He was summoned and heard. According The accused constable Amir Mohammed No. 1513 submitted the The undersigned initiated the proceedings.

In order to conduct proper departmental enquiry. upon him and the undersigned was appointed as enquiry officer charge sheet alongwith statement of allegation was served M.W.P.P, Removal from service (Special Power) Ord: 2000. The and a statement of allegation was issued as envisaged under Officer, Madras being competent authority charge sheeted him For the aforesaid allegation the District Police

1.	From	10.04.2007	to	12.04.2007
2.	"	16.04.2007	to	19.04.2007
3.	"	14.05.2007	to	17.05.2007
4.	"	23.05.2007	to	31.05.2007

his seniors for the period given below :-
 toward duty without taking any leave or prior permission to Madras. As per allegation that he remained absent from his constable Amir Mohammed No. 1513, this posted to Police Line This is a departmental enquiry initiated against

F I N D I N G .

5

2

/ 611

(9)

(3)

FINAL SHOW CAUSE

I, Akhtar Hayat, District Police Officer Mardan as competent authority under the NWFP Removal From Service (Special J. Order) Ordinance 2000 do hereby serve you Constable Amir Muhammad No. 1513 while posted at Police Lines, as follows:

- i) That consequent upon the completion of enquiry conducted against you by the enquiry Committee/Officer for which you were given opportunity of hearing vide office communication No. 33/PA dated 16.06.2007
- ii) On going through the findings and recommendations of the enquiry Officer/Committee, the material on record and other connected papers including your defence before the said committee, I am satisfied that you have committed the following acts/omission specified in Section 3 of the said Ordinance.

It is alleged that you Constable Amir Muhammad No. 1513 while posted at Police Lines Mardan remained absent for the following period without any information or prior permission from the competent authority.

1. 10.04.2007 to 12.04.2007.
2. 16.04.2007 to 19.04.2007.
3. 14.05.2007 to 17.05.2007.
4. 23.05.2007 to 31.05.2007.

This amounts to grave misconduct on your part amounting to departmental action against you.

1. As a result thereof I, AKHTAR HAYAT, District Police Officer, Mardan as competent authority has tentatively decided to impose upon you, the penalty of Major/Minor Punishment under Section 3 of the said Ordinance.
2. You are therefore, required to show Cause as to why the aforesaid penalty should not be imposed upon you, also intimate whether you desire to be heard in person.
3. If no reply to this notice is received within fifteen days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.
4. The copy of the findings of the Enquiry Officer/Committee is enclosed.

No. 25 /PA,

Dated 21/8 /2007

(Akhtar Hayat Khan (PSP)
District Police Officer,
Mardan.

I

5/1/2007

27/9

Dip. M. A.

[Handwritten signature]

Absent 1 period
16 days

O.R.

for comd as

1513

الطريق

[Handwritten text in Arabic script]

[Large handwritten text in Arabic script, possibly a letter or report]

طريق

①

①

[Faded handwritten notes and scribbles]

1-380

1513
(14)

ORDER

This order will dispose-off a departmental enquiry, under NWFP. Removal From Service (Special Power) Ordinance 2000, initiated against Constable Amir Muhammad No. 1513, under the allegations that he was posted at Police Lines Mardan, proceeded against departmentally under the above quoted rules through Mr. Muhammad Quraish Khan DSP City Mardan on account of his absence for the following periods:-

1. 10.04.2007 to 12.04.2007.
 2. 16.04.2007 to 19.04.2007.
 3. 14.05.2007 to 17.05.2007.
 4. 23.05.2007 to 31.05.2007.
- [16 days]

The enquiry officer completed the enquiry, and concluded that the defaulter Constable has submitted various prescriptions of his mother's illness in support of his absence's plea, so the E.O suggested a compassionate view in this regard.

The defaulter Constable was served with final show cause notice issued vide this office Endst: No. 25/PA dated 21.08.2007 to which his reply was received and considered but found not satisfactory, therefore, he was heard in person on 17.09.2007 in O.R. but he did not highlight any plausible/cogent reasons in his defence, therefore, his two increments are hereby forfeited with a cumulative effect, while keeping in view his family back ground, the absence's period counted as earned leave and his pay released.

ORDER ANNOUNCED

O.B. No. 1518
Dated 20 / 9 / 2007

(Umar Hayat Khan (PSP))
District Police Officer,
Mardan.

No. 563-33 / PA Dated 22 / 9 / 2007

Copy for information and necessary action to:-

1. The DSP Hqrs: Mardan
2. The Pay Officer (DPO) Mardan.
3. The Estt: Clerk (DPO) Mardan.
4. The OHC (DPO) Mardan with (63) Enclosures

(Handwritten signature)

(12)

ORDER.

This order will dispose-off the departmental appeal preferred by Constable Amir Muhammad No. 1513 of Mardan District Police Officer, Mardan, whereby he was awarded minor punishment of forfeiture of two increments with cumulative effect vide OB: No. 1518 dated 22.09.2007. The appellant was proceeded against departmentally on the allegation that he while posted at Police Lines, Mardan willfully and deliberately absented himself from his lawful duty for the following periods:-

1. 10.04.2007 to 12.04.2007.
2. 16.04.2007 to 19.04.2007.
3. 14.05.2007 to 17.05.2007.
4. 23.05.2007 to 31.05.2007.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and then Sub Divisional Police Officer, (SDPO) City, Mardan was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities, submitted his findings wherein he highlighted that the delinquent Officer has remained absent without proper approval of his Seniors and thus has violated the rules. However, suggested to take a compassionate view in light of medical prescriptions produced by the delinquent Officer.

He was served with Final Show Cause Notice to which he submitted his reply. perused by the then District Police Officer, Mardan and found unsatisfactory.

The delinquent Officer was heard in Orderly Room by the then District Police Officer, Mardan on 17.09.2007, wherein he failed to produce any cogent reason in his defense. Therefore, he was awarded minor punishment of forfeiture of two increments with cumulative effect absence vide OB: No. 1518 dated 22.09.2007.

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 30.05.2022.

From the perusal of the enquiry file and service record of the appellant, it has been found that the allegations of misconduct against the appellant have been proved beyond any shadow of doubt. As the perusal of his service record revealed that he remained absent on many occasions. It is worthwhile that the appellant approached

departmental appeal preferred by Police, against the order of minor punishment of forfeiture of two increments with cumulative effect vide OB: No. 1518 dated 22.09.2007. The appellant that he while posted at Police Lines, Mardan willfully and deliberately absented himself from his lawful duty for the following periods:-

were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and then Sub Divisional Enquiry Officer. The Enquiry Officer after fulfilling codal formalities, submitted his findings wherein he highlighted that the delinquent Officer has remained absent without proper approval of his Seniors and thus has violated the rules. However, suggested to take a compassionate view in light of medical prescriptions produced by the delinquent Officer.

Notice to which he submitted his reply. perused by the then District Police Officer, Mardan and found unsatisfactory.

by the then District Police Officer, Mardan on 17.09.2007, wherein he failed to produce any cogent reason in his defense. Therefore, he was awarded minor punishment of forfeiture of two increments with cumulative effect absence vide OB: No. 1518 dated 22.09.2007.

the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 30.05.2022.

From the perusal of the enquiry file and service record of the appellant, it has been found that the allegations of misconduct against the appellant have been proved beyond any shadow of doubt. As the perusal of his service record revealed that he remained absent on many occasions. It is worthwhile that the appellant approached

13

this forum with the delay of 14 years and 06 months without advancing any cogent reason, hence, badly time barred. Therefore, order passed by the competent authority does not warrant any interference and I find it a case of habitual absentee

Based on the above, I, Yaseen Farooq, PSP Regional Police Officer, Mardan, being the appellate authority, finds no substance in the appeal, therefore, the same is rejected and filed being badly time barred for 14 years and 06 months.

Order Announced.

[Signature]
Regional Police Officer,
Mardan.

No. 3988 /ES, Dated Mardan the 07/06 /2022.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 86/LB dated 12.04.2022. His Service Record is returned herewith.

(*****)

607/LB
07-6-22

copy on Received

[Signature]
DSPIL

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

Service Appeal No. 938/2022

Amir Muhammad Constable No. 1513 Police Lines, Mardan

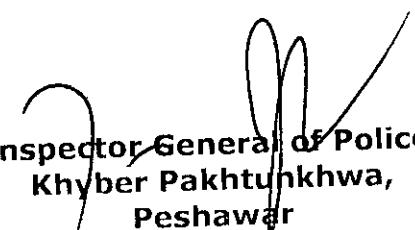
.....Appellant

VERSUS

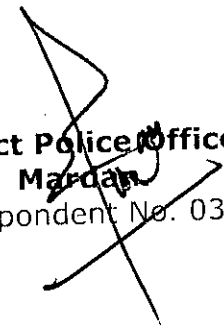
The Inspector General of Police , Khyber Pakhtunkhwa, Peshawar and
others.....Respondents

AUTHORITY LETTER.

Mr. Atta-ur-Rehman Inspector Legal, (Police) Mardan is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above captioned service appeal on behalf of the respondents. He is also authorized to submit all required documents and replies etc. as representative of the respondents through the Addl: Advocate General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal, Peshawar.


**Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar**
(Respondent No. 01)


**Regional Police Officer,
Mardan**
(Respondent No. 02)


**District Police Officer,
Mardan**
(Respondent No. 03)

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

Service Appeal No. 938/2022

Amir Muhammad Constable No. 1513 Police Lines, Mardan

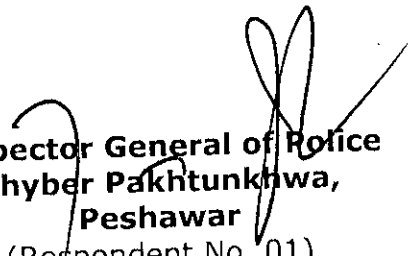
.....Appellant

VERSUS

The Inspector General of Police , Khyber Pakhtunkhwa, Peshawar and
others.....Respondents

COUNTER AFFIDAVIT

We, the respondents do hereby declare and
solemnly affirm on oath that the contents of the Para-wise comments in the
service appeal cited as subject are true and correct to the best of our
knowledge and belief and nothing has been concealed from this Honourable
Tribunal.


**Inspector General of Police
Khyber Pakhtunkhwa,
Peshawar**
(Respondent No. 01)


**Regional Police Officer,
Mardan**
(Respondent No. 02)


**District Police Officer,
Mardan**
(Respondent No. 03)