

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

Service Appeal No 415/2022

Shah Zubir Qazi, Constable District Dir Lower ..... Appellant.

**VERSUS.**

- 1) Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
- 2) Regional Police Officer Malakand at Saidu Sharif, Swat.
- 3) District Police Officer Dir Lower..... Respondents.

Khyber Pakhtunkhwa  
Service Tribunal  
Diary No. 1849  
Dated 3/11/22

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(ZEWAR KHAN)  
Inspector Dir Lower

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
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Service Appeal No 415/2022

Shah Zubair Qazi, Constable, office of District Police Officer Dir Lower  
..... Appellant.

**VERSUS.**

- 1) Provincial Police Officer, Khyber Pakhtunkhawa Peshawar.
- 2) Regional Police Officer Malakand at Saidu Sharif, Swat.
- 3) District Police Officer Dir Lower..... Respondents.

**PARA WISE REPLY ON BEHALF OF RESPONDENTS.**

Respectfully Sheweth:

**PRELIMINARY OBJECTIONS.**

- 1) That the present service appeal is not maintainable in its form.
- 2) That the appellant has not come to this August Tribunal with clean hands.
- 3) That the present appeal is badly time barred.
- 4) That this Honorable Service Tribunal has no jurisdiction to entertain the present service Appeal.
- 5) That the appellant has got no cause of action.
- 6) That the appellant has suppressed the material facts from this Honorable Tribunal.
- 7) That the appellant deliberately concealed the real facts from this August Tribunal.

**ON FACTS:**

1. Pertains to record, hence needs no comments.
2. Pertains to record.
3. Needs no comments.
4. Incorrect, the appellant involved in criminal case vide FIR No. 788 dated 18.10.2018 u/s 337A(ii)/L-(ii)/506/34 PPC PS Khall and the case of appellant was under trial at the time of selection process of ETEA qualified candidates to the posts of constable, therefore in light of circular order No. 8/2007 now, revised Circular Order 01/2020; his name was dropped from selection process. After acquittal from criminal case, the appellant was enlisted as per directions in judgment passed by Peshawar High Court Mingora bench in Writ Petition No. 81-M/2012 filed by the appellant. The appellant was involved in criminal case and the case was pending at that time therefore the appellant was not enlisted as per policy. Circular Order is attached as annexure "A".

5. Incorrect, the appellant's short service period is full of bad entries. Beside this, the appellant was deputed for basic training at PTS Swat but he deliberately absented himself from training program and the Director PTS Swat return the appellant as unqualified to the home District. Copies of bad entries & order of return are enclosed as annexure "B".
6. Incorrect, the official record is silent, about this aspect.
7. The appellant has no cause of action to file the instant appeal.

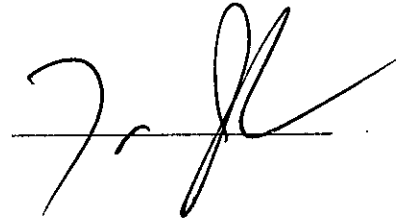
### **GROUND**

- (A) Incorrect, as already discussed in preceding para's, that appellant was charged in criminal case and at the time of selection process of ETEA qualified candidates, in the year 2018, the case was pending trial. On acquittal from case, appellant was enlisted as constable. The order of enlistment dated 30.11.2020 passed by the respondent No. 03 is in accordance with law/rules and based on natural justice.
- (B) Incorrect, the appellant was treated in accordance with law/ rules and no violation of any article of the constitution of Islamic Republic of Pakistan 1973 has been committed by the respondents.
- (C) Incorrect, no malafide exist on the part of respondents while issuing appointment order, of the appellant.
- (D) Incorrect, all the actions of the respondents, regarding appointment order of appellant, are legal and no discrimination has been committed in whole proceedings.
- (E) Incorrect, the actions of respondents regarding appointment order of appellant, are in accordance with law/ rules.
- (F) Correct, to the extent that as per apex court of the country, every acquittal is honorable acquittal but in the present case, the appellant was directly charged in FIR and the lower Court convicted the accused. On appeal, the Court of Additional Sessions Judge, Timergara, acquitted the accused including appellant giving them benefit of doubt rising from minor discrepancies. No violation of law has been committed by the respondents in issuance of enlistment order.
- (G) Incorrect, the action of respondents is in accordance with rules and no violation of the constitution of Pakistan has been committed by respondents.
- (H) The respondents also seek leave of this honorable Tribunal to rely on additional grounds, at the time of arguments/ hearing.

**PRAYER:**

It is therefore humbly prayed that on acceptance of this Para-wise reply, the appeal may graciously be dismissed with cost.

**Provincial Police Officer,  
Khyber Pakhtunkhwa Peshawar.**



**Regional Police Officer,  
Malakand at Saidu Sharif Swat.**

**Z. Adnan  
Regional Police Officer,  
Malakand Region,  
Saidu Sharif, Swat.**

**District Police Officer,  
Dir Lower.**



**District Police Officer  
Dir Lower**

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

Service Appeal No 415/2022

Shah Zubir Qazi, Constable office of District Dir Lower ..... Appellant.

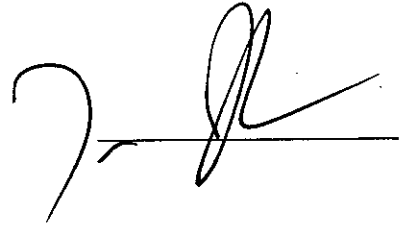
**VERSUS.**

1. Provincial Police Officer, Khyber Pakhtunkhawa Peshawar.
2. Regional Police Officer Malakand at Saidu Sharif, Swat.
3. District Police Officer Dir Upper..... Respondents.

**POWER OF ATTORNEY**

Mr. Zewar Khan Inspector Legal Dir Lower is hereby authorized to appear on our behalf and submit all the relevant documents as required by the Honorable Service Tribunal in the above Service Appeal.


**Provincial Police Officer,**  
Khyber Pakhtunkhwa Peshawar.



**Regional Police Officer,**  
Malakand at Saidu Sharif Swat.

*Z. Arshad*  
**Regional Police Officer,**  
Malakand Region,  
Saidu Sharif, Swat.

**District Police Officer,**  
Dir Lower.



**District Police Officer**  
Dir Lower

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
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- 2) Regional Police Officer Malakand at Saidu Sharif, Swat.
- 3) District Police Officer Dir Upper..... Respondents

**AFFIDAVIT.**

I, Zewar Khan Inspector Legal Dir Lower, do hereby solemnly affirm and declare on oath, that the contents of accompanying comments on behalf of Respondents is correct to the best of my knowledge and belief and that nothing has been concealed from this honourable Court.



DEPONENT.  
(ZEWAR KHAN)  
Inspector Dir Lower



Annex "A" (6)

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

CIRCULAR ORDER NO. 01/2020

To ensure transparency and merit, the Khyber Pakhtunkhwa Police has outsourced the process of recruitment of Constables through accredited testing agency.

After enlistment of qualified candidates as Constable when necessary verification of their character antecedents was made, number of individuals found involved in different categories of criminal offences recommended by the Regional Selection Board in the year 2019.

The cases were examined in light of relevant rules/law by the committee constituted for the purpose, vide this office order No. 768-72/E-IV dated 17.02.2020 and submitted its recommendations. After approval of the Worthy Inspector General of Police, Khyber Pakhtunkhwa, the following clarification/guidance has been made to all concerned:-

- a. Any person involved in a criminal case *"but acquitted by the Court will be eligible for enlistment as Constable."*
- b. Convicted person will not be eligible for enlistment in Police Department *"Except in offences under Motor Vehicle Ordinance, u/s 279 PPC and 13AO/15AA when only a single weapon has been recovered being unlicensed and no further incriminating allegations"*.
- c. As already circulated vide this Office Indst: No. 20461-99/E-II dated 06.10.2004, no military deserter or any other person dismissed from government service shall not be considered for enlistment as Constable in the Police.
- d. The persons involved in the criminal cases which are still pending trial will be considered for enlistment after their acquittal from the criminal charge by the court concerned before validation of merit list according to Sub-Rule-10 of Rule-12.15 of Amended Police Rules -2017.
- e. Any person involved in *"Heinous Crime or Moral Turpitude will not be eligible for enlistment as Constable."*

Circular Order No. 08/2007 issued vide this Office Indst: No. 4807-72-C-I dated 16.06.2007 in the matter is hereby repealed.

-sd-  
(Dr. Samaulah Abbasi) PSP  
Inspector General of Police,  
Khyber Pakhtunkhwa

No. 768-72/E-IV dated Peshawar the 17/02/2020.

- Copy to the:-
- 1. All Heads of Police Offices in Khyber Pakhtunkhwa.
  - 2. All Branches in Central Police Office, Peshawar.

Copy to CAS/EC  
and si. legal for information  
-s/Action.

(Zaibullah Khan) PSP  
ACG Establishment,  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar

ORDER  
three days absence leave  
10-0-pay-1  
DPO-DP (1)

DSP/HQ  
10-01-022

for action  
SS  
2/1/2022

SN  
forwarded  
to DL  
2/1/2022

Change  
MPL  
2/1/2022

31/12/2021  
31/12/2021  
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31/12/2021



DSP/H033  
01-01-022

OB No 83  
21-01-2022

ORDER ②  
Two days absence leave  
W-O-Pay

~~for action~~  
OHC  
10-01-022

Forwarded  
Jin

21/01/2022  
09-01-022

21/01/2022

108 GB/101 - 11:10 - 07/01 per 10 GB 19  
05/01 - 05/01 - 07/01 per 10 GB 19  
05/01 - 05/01 - 07/01 per 10 GB 19

07/01 21/01/2022

09-01-022

10-01-022

21/01/2022

21/01/2022

108 GB/101 - 10:20 - 05/01 per 10 GB 19

108 GB/101 - 10:20 - 05/01 per 10 GB 19

05/01 21/01/2022

Amex B  
1/2

21/01/2022

09-03-2029  
03/03/2029

OB No 97

~~MR. J. J. J.~~  
~~MR. J. J. J.~~  
~~MR. J. J. J.~~

etc

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Bridges  
20/01/2012  
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one day absence less  
14-0-pay  
ORDER

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Answer 'B'

105 20/01/2012

105 20/01/2012

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Amner "B"

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14-10-021

~~DSL/Hors~~

Forwarded please

13-10-021  
K-PL - T-21

Forwarded  
Sir

میں نے اسے بھیج دیا ہے

اللہ ہی

13-10-021

میں نے اسے بھیج دیا ہے

میں نے اسے بھیج دیا ہے

میں نے اسے بھیج دیا ہے

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میں نے اسے بھیج دیا ہے

اللہ ہی

میں نے اسے بھیج دیا ہے

اللہ ہی



Amex "B"

ORDER  
one day absence  
w-o-pay

OFF  
w-o-pay

No. 256

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27-10-87

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19-8-87  
60.07.1987

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19-8-87  
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10-21

DSP/H022

Recorded Please

14-10-21

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14-10-21  
M.M.P. 17-21

14-10-21

2. 14-10-21

14-10-21

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14-10-21

انکوائری برخلاف ریکروٹ شاہ زویر 108 متعینہ PTS سوات حال پولیس لائن تیرہ

جناب عالی!

معروض ہوں کہ ریکروٹ کنسٹیبل شاہ زویر 108/FC مورخہ 30.11.020 کو بحیثیت ریکروٹ / کنسٹیبل بھرتی ہو کر پولیس لائن میں تعینات تھا۔ جہاں سے مذکورہ کو بحوالہ چھٹی نمبری ITRG / 20-7220 مورخہ 30.08.021 مجاریہ جناب ڈائریکٹر ٹریننگ خیبر پختونخواہ پولیس ٹریننگ کی خاطر زیر نگرانی رحیم ذادہ CDI پولیس ٹریننگ سکول سوات / PTS Swat بھیجوا گیا تھا۔ مذکورہ کے متعلق چھٹی نمبری Secrecy / 961 مورخہ 21.09.021 مجاریہ ڈائریکٹر پولیس ٹریننگ سکول سوات موصول ہو کر کنسٹیبل مذکورہ ٹریننگ کے آغاز کے دن سے غیر حاضری کے بناء پر آن کو ایفائیڈ ضلع واپس کیا گیا ہے۔ جس پر جناب DPO صاحب نے مذکورہ کے خلاف شوکاژ جاری کر کے ساتھ ہی ان کے خلاف انکوائری کرنے کا حکم صادر فرما کر انکوائری کاغذات من DSP ہیڈ کوارٹر کو حوالہ ہوئی۔

حسب ضابطہ انکوائری شروع ہو کر بدوران انکوائری لائن آفسر مجرر بن علی MASI اور ریکروٹ مذکورہ کا بیان قلمبند ہو کر لف انکوائری قابل ملاحظہ ہے۔

ریکروٹ شاہ زویر 108 نے اپنے بیان میں کہا ہے کہ اُسے پہلے ہی رات کو بخار کھانسی اور سینہ کی بیماری لاحق ہوئی تھی۔ کل مورخہ 11.09.021 کو اُس نے کمپنی حوالدار سے علاج معالجہ کی اجازت طلب کی۔ اجازت ملنے پر وہ ہوم ڈسٹرکٹ ہسپتال راجہ خورشید پورہ آ کر مورخہ 13.09.021 کو وہ RHC خال جا کر وہاں ڈاکٹر صاحب نے چیک اپ کر کے ٹیسٹ کرنے کا کہا۔ ٹیسٹ کرنے کے بعد ڈاکٹر صاحب نے ٹیسٹ ملاحظہ کر کے ملیریا بخار ہونے کا بتلا کر ساتھ ہی دو تحریر کر کے ساتھ ہی ایک ہفتہ بیڈ ریٹ تحریر کی۔ وہ بوجہ ملیریا بخار ٹریننگ پر واپس نہ جاسکا۔ اب معلوم ہوا ہے کہ اُسے ضلع واپس کیا گیا ہے۔ اس نے پولیس لائن میں مورخہ 30.09.021 کو پولیس لائن میں اپنی حاضری کی رپورٹ درج روزنامچہ کی ہے۔

### نتیجہ و تحقیق

بعد قلمبندی بیانات و معلومات انکوائری سے پایا گیا کہ ریکروٹ مذکورہ برائے ٹریننگ مورخہ 10.09.021 کو ضلع ہذا سے PTS سوات بھیجوا گیا تھا۔ کل مورخہ 11.09.021 کو مذکورہ بغیر اجازت PTS سوات سے ہوم ڈسٹرکٹ آ کر مورخہ 13.09.021 بحوالہ OPD نمبری 1007 مورخہ 13.09.021 RHC ہسپتال رباط سے ڈاکٹر سے معائنہ کر کے ڈاکٹر صاحب نے چیک اپ کر کے علاج معالجہ کے لئے دو تحریر کر کے ساتھ ایک ہفتہ کا میڈیکل ریٹ بھی تحریر کیا ہے۔ اسی طرح مورخہ 14.09.021 کو ڈاکٹر شوکت اللہ حیات (گولڈ میڈلسٹ) انچارج میڈیکل سپیشلسٹ DHQ ہسپتال تیرہ گرہ سے علاج معالجہ بھی کی ہے۔ میڈیکل کاغذات ہمراہ لف انکوائری ہذا ہیں۔

جناب والا: عام طور پر ٹریننگ سنٹرز میں اگر کسی اہلکار کو بیماری وغیرہ لاحق ہوتی ہے تو اُسے پہلے اوٹ ڈور لینا ہوتا ہے اور بعد میں اُسکو حسب حکم آفسران بالا DO کے زیر نگرانی علاج معالجہ کی خاطر متعلقہ ڈاکٹر ہسپتال لے جایا جاتا ہے۔ اگر کسی کو شدید بیماری لاحق ہو تو اسے دو ایسا تھریٹ ریٹ تحریر کیا جاتا ہے اور ریٹ ایڈ ریٹ وغیرہ تحریر ہونے کی صورت میں ٹرینی اہلکار ٹریننگ سنٹر کے اندر اپنے ہی بارک اور بسترہ میں بیڈ ریٹ گزارنا ہوتا ہے۔ اور بعد اختتام بیڈ ریٹ یا صحت یابی ٹرینی کو دوبارہ ٹریننگ کے سرگرمیوں شامل کیا جاتا ہے۔ لیکن ریکروٹ مذکورہ نے اپنی ہی مرضی سے پولیس کی بنیادی ٹریننگ اتر بیت ادارے سے جان چھڑا کر غفلت اور لاپرواہی کا مظاہرہ کر کے خلاف ڈسپلن فعل کامرتکب پایا گیا ہے۔

لہذا ریکروٹ شاہ زویر 108 کے خلاف محکمانہ انکوائری کرنے کی سفارش کی جاتی ہے۔ یا جس طرح آفسران بالا چاہے۔

== HQrs

تعمیراتی



Amed "B" (16)



108

OFFICE OF THE  
DISTRICT POLICE OFFICER  
DIR LOWER

**ORDER**

1. This order will dispose of the Show Cause Notice against Recruit Constable Shah Zubair No. 108 that he was undergoing in Basic Recruit Course at Police Training School Swat. As per letter No. 1961/Secrecy dated 21-09-2021 received from Director Police Training School Swat, that he was absented with effect from 11-09-2021 to date from the said Training program without any leave or prior permission from his superior as well as returned to the District as unqualified. Which shows gross misconduct on his part.
2. Therefore, he was issued Show Cause Notice No. 132/EC, dated 28-09-2021 and Mr. Fakhre Alam Khan DSP Head Quarter Dir Lower was appointed as enquiry officer, to conduct preliminary enquiry against him and submit his finding report.
3. The enquiry officer, during the course of enquiry recorded the statements of all concerned as well as the officer concerned. The enquiry officer in his finding report stated that he produce medical documents, but that's not the way to got out from Training program and recommended him for departmental enquiry.
4. He was called in orderly room for personal hearing on 04-11-2021, full opportunity was given to him to explain his position.
5. Therefore I, **Irfan Ullah Khan (PSP)** District Police Officer, Dir Lower in exercise of power vested under (E & D) Rules 1975, with Amendment-2014, awarded "**Warning**" to Recruit Constable Shah Zubair No. 108 and also pay release.

**ORDER ANNOUNCED**

\*\*\*\*\*

OB No. \_\_\_\_\_

Dated \_\_\_\_\_/2021

**IRFAN ULLAH KHAN (PSP)**  
District Police Officer  
Dir Lower

No. 18275-16 /EB.

Copies submitted for information and necessary action to: -

1. DSP Head Quarter Dir Lower.
2. OHC Local Office.

Anuxer "B" (17)



OFFICE OF THE DIRECTOR  
POLICE TRAINING SCHOOL, SWAT  
Phone No: 0946-811720 Fax: 0946-811721  
Email: ptsswat2014@gmail.com



2014 6300

NO: 961 /Secrecy, Dated Swat The 21/09/2021 22/9/21

**Order:-**

The Following recruit constable undergoing 06 months Police basic training at Police Training School, Swat commenced from 11.09.2021, have got out of program as per detail note against each:-

S.No	Name /Belt No.	Company	District	Absence	Leave	Rest	Total days
1	Shah Zubair 108	Tariq	Dir Lower	11.09.2021	-	-	11
2	Hayat Ullah 385	Qasim	-do-	-do-	-	-	11
3	Abdul Jabar 585	-do-	-do-	-do-	-	-	11

According to PTC Hangu, Manual Rule No.81, "Absence from training program in any manner i.e leave of kind due/absence on duty at the ratio 03-days per months for the whole period specified for the particular course will render a trainee disqualified to appear in the final test."

Keeping in view the above mentioned trainee is required to be returned unqualified to their parent districts.

Therefore the above mentioned recruits are returned to their parent district Dir Lower as unqualified with immediate effect.

*Handwritten notes:*  
eng...  
21/9/21  
NO. 962-63 /HC

*Signature*  
DIRECTOR  
Police Training School,  
Swat.

Copy of above is forwarded for favour of information to the:-

1. Deputy Inspector General of Police, Training, Khyber Pakhtunkhwa, Peshawar, please.
2. District Police Officer, Dir Lower.

*Handwritten notes:*  
CB No 1054  
32-09-2021

*Signature*  
OB/DHC  
District Police Officer  
Dir Lower of Swat  
21/9

*Signature*  
DIRECTOR  
Police Training School,  
Swat.