

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.881/2022

Date of Institution ... 06.02.2022

Date of Decision ... 29.09.2022

Naseeb Daraz (Ex-Constable Bearing Belt No.305), Son of Gul Faraz Khan,
R/O Mohallah Akhagram Village Gurkand, Post Office Akhagram, Tehsil
Wari District Dir Upper. ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa, through Chief Secretary, Civil
Secretariat Khyber Pakhtunkhwa Tehsil & District Peshawar and six others.
... (Respondents)

Zia Ud Din, ...
Advocate ... For appellant.

Muhammad Jan,
District Attorney ... For respondents.

Rozina Rehman ... Member (J)
Fareeha Paul ... Member (E)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The appellant has invoked the
jurisdiction of this Tribunal through above titled appeal with the prayer as
copied below:

**“On acceptance of this service appeal, the appellant may
graciously be reinstated into service with all back benefits
by setting aside the impugned order of dismissal dated
02.10.2018 as well as the departmental appeal dated
29.01.2019 and final order of rejection dated 07.01.2020”.**

2. Brief facts of the case are that appellant was appointed as Constable in
the District Police Dir Upper on 04.12.2013. He was sent for Basic

Recruitment Course and he completed his training period according to the satisfaction of his high ups. While performing his duty at Dir Upper, the appellant received charge sheet alongwith statement of allegations on 02.01.2018 on the allegations of absentia. He submitted his reply and Inquiry Officer was appointed and it was on 02.10.2018 when appellant was dismissed from service. He filed appeal which was rejected, where-after, he filed revision which also met the same fate. Hence, the present service appeal.

3. We have heard Zia Ud Din, Advocate learned counsel for the appellant and Muhammad Jan, learned District Attorney for respondents and have gone through the record and the proceedings of the case in minute particulars.

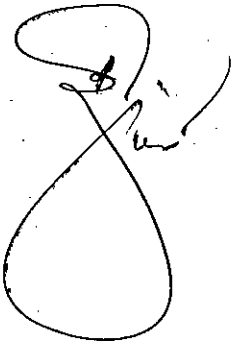
4. Zia Ud Din Advocate, learned counsel for appellant argued that the impugned orders are void, arbitrary, without jurisdiction, coram-non-judice, illegal and without any lawful authority hence liable to be set aside. It was submitted that the appellant never remained absent from duty for such a long period as alleged by the respondents and that he just remained absent for 07 days only with the permission of the competent authority, therefore, the harsh penalty imposed by the respondents is not sustainable in the eyes of law. He kept on arguing that the appellant was condemned unheard and his reply was never considered by the respondents which act of the respondents is against law and Police Rules. He, therefore, requested for acceptance of the instant appeal.

5. Conversely, learned District Attorney submitted that the appellant remained absent seven times in 2014 and that his total absence is 06 months and 17 days and being unqualified, was repatriated to his parent District. He submitted that proper departmental inquiry was initiated against appellant and in this regard final show cause notice was issued to him. He was afforded



opportunity of personal hearing and after completion of all codal formalities, he was awarded major punishment of dismissal from service.

6. After hearing the learned counsel for the parties and going through the record of the case with their assistance and after perusing the precedent cases cited before us, we are of the opinion that while posted in Police Lines, Constable Naseeb Daraz No.305 absented himself from his lawful duty w.e.f 13.10.2017 till the date of dismissal order i.e. 02.10.2018 without any leave or permission from his competent authority. In order to initiate proper departmental inquiry, charge sheet alongwith statement of allegations were served upon him. Mr. Zafar Khan, DSP Headquarter, was appointed as Inquiry Officer and accordingly appellant was dismissed from service w.e.f the date of absence i.e. from 13.10.2017. From the order of DPO Dir Upper it is evident that the appellant was charged for absentia w.e.f. 13.10.2017 till 02.10.2018 (approximately one year absence). He filed departmental appeal on 16.10.2018 which was dismissed on 29.01.2019. It merits a mention here that the inquiry report is available on file as "Annexure-E" which clearly shows that the appellant was charged for 17 days absence vide Nakal mad No.27 of Daily Dairy dated 13.10.2017 and he joined his duty vide Mad No.09 dated 30.10.2017. As per inquiry report he was also charged for 07 days absence vide Mad No.05 of Daily Dairy of 2018 and then for two days absence in the year 2018. He was charged for a total of 26 days absence and recommended for minor punishment. Despite proper inquiry report both the competent authority and the appellate authority referred to the inquiry report by saying that he was recommended for major punishment while infact he had been recommended for minor punishment. Both the impugned orders would reveal that he was charged for one year absence whereas the inquiry




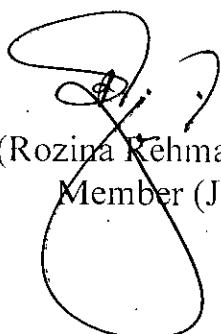
report would reveal total absence of 26 days in the year 2017 as well as in the year 2018. The entire file is silent as to why he was not departmentally proceeded against separately for his alleged absence in the year 2017 and 2018. He filed revision petition under Rule 11-A of the Khyber Pakhtunkhwa Police Rules 1975 as well and it is astonishing that here he was not only charged for a total absence of 11 months and 20 days but also for his previous record of 2015 and 2017 and accordingly his petition was rejected. He was charged for absence from lawful duty w.e.f 13.10.2017 to 02.01.2018. As per charge sheet and statement of allegations, Inquiry Officer charged him for total absence of 26 days. Inspector General of Police in his order dated 07.01.2020 charged him for absence of 11 months and 20 days while Para-02 of the grounds of comments is in respect of his absence in 2014, 2016 and 2018. His present situation was not clearly discussed and all the impugned orders are silent in this regard.

7. In this view of the matter, we are left with no option but to partially accept this appeal. Appellant is reinstated in service for de-novo inquiry to be conducted within 60 days of the receipt of copy of judgment. Needless to mention that the appellant shall be afforded opportunity of hearing during the proceedings. The issue of back benefits shall be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

29.09.2022


(Farzeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

13.09.2022

Appellant present in person.

Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

Case was fixed for orders but certain points need clarification, therefore, both the parties are directed to make sure the presence of their counsel for clarification of some points.

Adjourned to 29.09.2022 for re-arguments and orders before D.B.



(Fareeha Paul) /
Member(E)



(Rozina Rehman)
Member(J)

ORDER

29.09.2022

Appellant present through counsel.

Muhammad Jan, learned District Attorney for respondents present. Arguments heard. Record perused.

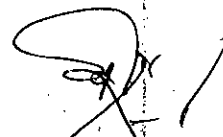
Vide our detailed judgment of today of this Tribunal placed on file, we are left with no option but to partially accept this appeal. Appellant is reinstated in service for de-novo inquiry to be conducted within 60 days of the receipt of copy of judgment. Needless to mention that the appellant shall be afforded opportunity of hearing during the proceedings. The issue of back benefits shall be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

29.09.2022



(Fareeha Paul)
Member (E)




(Rozina Rehman)
Member (J)

24.03.2022

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Amanullah, ASI for the respondents present.

Written reply on behalf of the respondents not submitted. Representative of the respondents seeks time to submit written reply/comments on the next date. Adjourned. To come up for written reply/comments on 22.06.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER(E)

22nd June, 2022

Counsel for the appellant present. Mr. Naseerud Din Shah, Asstt. A.G alongwith Zewar Khan, Inspector (Legal) for the respondents present.

Respondents have submitted reply/comments, which is placed on file. To come up for arguments on 08.09.2022 before the D.B.



(Kalim Arshad Khan)
Chairman

08.09.2022

~~Learned~~ counsel for appellant present.

Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

Arguments heard. To come up for order on 15.09.2022 before D.B.


(Fareeha Paul)
Member(E)


(Rozina Rehman)
Member(J)

02.12.2021

Counsel for the appellant present.

Appellant Deposited
Security Process Fee

[Handwritten signature]

Learned counsel for the appellant submitted an application for grant of permission for deposit of Security and process fee. Request is acceded to and the security and process fee be deposited within two days, thereafter notices be issued to the respondents for submission of written reply/comments. To come up for further proceedings on 25.01.2022 before S.B.

[Handwritten signature]

(MIAN MUHAMMAD)
MEMBER (E)

25.01.2022

Nemo for the appellant. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mazhar Shah Senior Clerk for respondents present.

Reply/comments on behalf of respondents are still awaited. Representative of respondents sought time for submission of reply/comments. Granted. To come up for reply/comments before the S.B on 24.03.2022.

[Handwritten signature]

(Atiq-Ur-Rehman Wazir)
Member (E)

S.A No. 881/2020

13.07.2021 Counsel for the appellant present. Preliminary arguments heard.

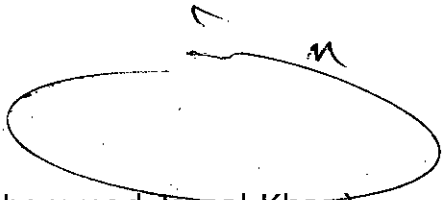
Points raised need consideration. Subject to all just and legal objections, including limitation, this appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 02.12.2021 before the D.B.


Chairman

06.11.2020

Junior counsel for the appellant is present.

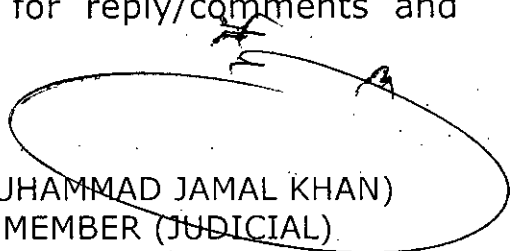
Since the Members of the High Court as well as of the District Bar Association, Peshawar, are observing strike today, therefore, learned senior counsel for appellant is not available today. Adjourned to 06.01.2021 on which date to come up for preliminary hearing before S.B.


(Muhammad Jamal Khan)
Member (Judicial)

06.01.2021

Mr. Jalal-ud-Din, Advocate, for appellant is present. Mr. Noor Zaman Khattak, District Attorney, for the respondents is also present.

Let reply/comments of respondents be called before conducting of preliminary hearing. Adjourned to 06.04.2021 on which date file to come up for reply/comments and preliminary arguments before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

06.04.2021

Due to demise of the learned Chairman, the Tribunal is non-functional, therefore, case is adjourned to 13.07.2021 for the same as before.


Reader

22.06.2020

Counsel for the appellant present. Heard.

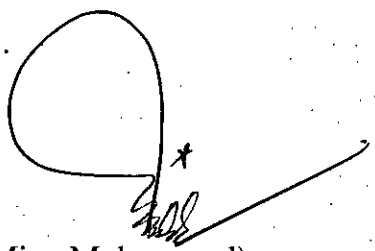
For clarification of few points, let pre-admission notice be issued to learned Additional Advocate General. Learned counsel is directed to make sure the presence of appellant on 19.08.2020 before S.B.

19.08.2020

Counsel for the appellant present. Addl. AG for respondents present.

Former requests for adjournment as he has not prepared the case.

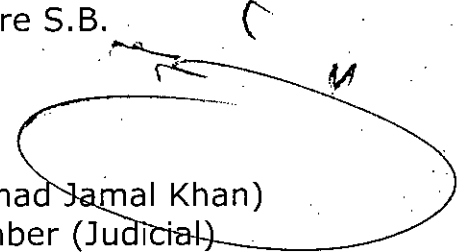
Adjourned to 23.10.2020 before S.B.


(Mian Muhammad)
Member(E)

23.10.2020

Mr. Kabirullah Khattak, Additional Advocate General for the respondents is present.





Since the Members of the High Court as well as of the District Bar Association Peshawar are observing strike today, therefore, the case is adjourned to 06.11.2020 on which date to come up for preliminary arguments before S.B.


(Muhammad Jamal Khan)
Member (Judicial)

Form- A

FORM OF ORDER SHEET

Court of _____
Case No. - 881 /2020


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	06/02/2020	<p>The appeal of Mr. Naseeb Zada resubmitted today by Mr. Jalal-ud-Din Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. decrease</p> <p> REGISTRAR 6/2/2020</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>16/03/2020</u>.</p> <p> CHAIRMAN</p>
16.03.2020		<p>Nemo for the appellant. Lawyers community is on strike on the call of Peshawar Bar Association. Adjourn. To come up for preliminary hearing on 30.04.2020 before S.B.</p> <p> Member</p>
<u>Post Script</u> 16.03.2020		<p>Later on, appellant appeared and requested for fixation early date of hearing. Request acceded. ^{to} To come up for preliminary hearing on 31.03.2020 before S.B.</p> <p> Member</p>

The appeal of Mr. Naseeb Daraz Ex Constable No. 305, Distt Dir Upper received to-day i.e. on 06.02.2020 is incomplete on the following score which is returned to the counsel for the appellat for completion and resubmission within 15 days.

1. Annexures of the appeal may be flaged
2. Annexures of the appeal may be attested.

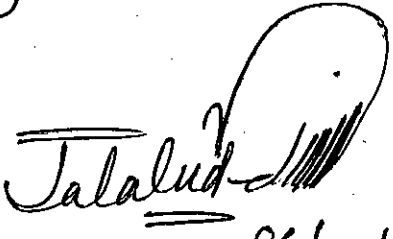
No. 318 /S.T,

Dt. 06-02 /2020


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Jalal Ud Din Adv.
Peshawar

Sir The objections has been removed and the instant appeal is re-submitted for adjudication please.


Jalal Ud Din
Counsel 06/02/2020

BEFORE THE KHYBER PUKHTOON KHWA SERVICE TRIBUNAL

PESHAWAR.

Service Appeal No-⁸⁸¹-----/2020

Naseeb DarazVSGovernment & Others

I N D E X

S.No	Documents	Annexure	Pages
1.	Grounds of Appeal along with affidavit		1-4
2.	Addresses of parties		5
3.	Copy of CNIC	A	6-7
4.	Copy of Charge Sheet, Statement of allegations	B & C	8-9
5.	Copy of reply	D	10-11
6.	Copy of finding of inquiry report	E	12-13
7.	Copy of impugned dismissal office order dated 02.10.2018	F	14
8.	Copy of departmental appeal, order dated 29.01.2019, departmental revision and final order dated 07.01.2020	G,H,I & J	15-18
9.	Wakalatnama		19

THROUGH

APPELLANT,

Jalaluddin

JALALUDDIN
ADVOCATES, HIGH COURT
PESHAWAR &

Saqibullah Khan
SAQIBULLAH KHAN
Advocate Peshawar

Flat No.16, Second Floor, Al-
Syed Plaza, Abdara Chowk
University Road, Peshawar.
Cell # 0333-9216527

BEFORE THE KHYBER PUKHTOON KHWA SERVICE TRIBUNAL,

PESHAWAR.

Service Appeal No-----⁸⁸¹/2020

(1)

Khyber Pakhtunkhwa
Service Tribunal

Naseeb Daraz (Ex-Constable Bearing Belt No.305),
Son of Gul Faraz Khan,
R/O Mohallah Akhagram Village Gurkand,
Post Office Akhagram, Tehsil Wari District Dir Upper.....**APPELLANT.**

Case No. 991

Dated 6-2-2020

VERSUS

1. Govt of Khyber Pukhtoonkhwa
through Chief Secretary, Civil Secretariat
Khyber Pukhtoonkhwa Tehsil & District Peshawar.
2. **Inspector General Police** Khyber Pukhtoonkhwa
Office Civil Secretariat, Khyber Pukhtoonkhwa,
Police Line Peshawar.
3. **Additional I.G** Khyber Pukhtoonkhwa
Office Head Quarter CPO, Civil Secretariat,
Khyber Pukhtoonkhwa, Police Line Peshawar .
4. **District Police Officer** (DPO), Dir Upper
Office at Police Line Dir Upper
5. **D.S.P Officer** (DPO), Dir Upper, Office at Police Line Dir Upper
6. **D.I.G Malakand** Saidu Sharif District Swat
7. **Regional Police Officer** Malakand,
Office at Saidu Sharif, Swat**RESPONDENTS.**

**APPEAL UNDER SECTION 4 OF THE SERVICES TRIBUNAL ACT, 1973
AGAINST THE IMPUGNED OB NO.549 DATED 02.10.2018 ISSUED BY
RESPONDENT NO.4, WHEREBY THE SERVICE OF THE APPELLANT HAS
BEEN DISMISSED AS WELL AS AGAINST THE REJECTION ORDER OF
THE DEPARTMENTAL APPEAL DATED 29.01.2019 THEREAFTER FINAL
REFUSAL LETTER IN REVISION DATED 07.01.2010 OF THE
RESPONDENT NO.3, WHICH ARE ILLEGAL AND IN EFFECTIVE UPON
THE RIGHT OF THE APPELLANT AND THE IMPUGNED OFFICE ORDERS
OF DISMISSAL MAY PLEASE BE DECLARED AS NILL AND VOID AND
MAY PLEASE BE SET ASIDE AND APPELLANT MAY BE REINSTATED
INTO SERVICE WITH THE ALL BACK BENEFITS.**

Filed to day

PRAYER IN APPEAL: On acceptance of this service appeal, the appellant may graciously be reinstated into service with all back benefits by set aside the impugned order of dismissal dated 02.10.2018 as well as the departmental appeal dated 29.01.2019 and final order of rejection dated 07.01.2020.

RESPECTFULLY SHEWETH.

1. That the appellant was initially appointed as constable in the District Police Dir Upper vide appointment letter dated 04.12.2013 and rendered spotless services according to the satisfaction of Higher Ups and without any objection from any Quarter, received the monthly salaries regularly from the respondents. **(Copy of CNIC annexed as A).**

Registered

6/2/20

Re-submitted to day
and filed

6/2/20
2020

2

2. That thereafter, the appellant was sent for the basic recruitment course/ training at Recruitment training wing and almost complete their training period according to the satisfaction of the High ups without any complaint or objection from any quarter and was appreciated by the high ups.
3. That while performing his duty at Upper Dir, the appellant received Charge sheet with statement of allegations on 02.01.2018 with the allegation that the appellant was absent from duty without prior approval from the competent authority. **(Copy of Charge sheet and statement of allegation annexed as B & C).**
4. That appellant submitted his reply to the charge sheet and statement of allegation leveled against him and requested for withdrawal of the charge sheet. **(Copy of the reply annexed as D).**
5. That on the strength of the alleged in the Charge sheet and statement of allegations, the respondent No.5 was appointed as inquiry officer who submitted his inquiry report to the higher authority and suggested to award minor punishment /plenty to the appellant vide inquiry report dated 13.03.2018. **(Copy of the Finding of inquiry report annexed as E).**
6. That astonishing to note here that the respondent No.4 without touching and looked the finding of the finding of the inquiry officer /respondent No.5, the respondent No.4/ DPO Upper Dir dismissed the appellant from services vide dismissal order dated 02.10.2018. **(Copy of the Impugned Office Order of dismissal dated 02.10.2018 F).**
7. That against the impugned office order of dismissal, the Appellant preferred Departmental Appeal on 16.10.2018 to the respondent No.6, which was refused by respondent No.7 on 29.01.2019, however as per law, the appellant submitted departmental revision to the Respondent No.1 on 12.02.2019, which was too un-successful and was rejected by the respondent No.2 vide rejection order dated 07.01.2020. **(Copy of Departmental Appeal, rejection order of departmental appeal dated 29.01.2019, departmental revision and final rejection order dated 07.01.2020 are annexed G,H,I & J).**
8. That the appellant being aggrieved from the impugned dismissal order dated 02.10.2018 as well as from the impugned final rejection office order dated 07.01.2020 has approached this Hon' able Tribunal on the following ground inter alia.

GROUNDS :-

- a. That the order of dismissal of the appellant from services of the respondent No.4 dated 02.10.2018 as well as final departmental appeal dated 07.01.2020, are void, arbitrary, without jurisdiction, Coram-non-judice, illegal and without any lawful authority hence liable to set aside and the appellant is liable to be reinstated into services with all back benefits.

3

- b. That the contents narrated in the impugned order is baseless and the appellant was never absent from duty with such a long time but in fact was absent from duty since 22.05.2018 to 29.05.2018 for the treatment of her mother who was seriously ill and was brought to hospital at Timargara Dir for only 07 days, which permission was granted by the competent authority i.e. D.P.O, hence the major penalty imposed by the respondent No.4, is highly harsh and not sustainable in the eyes of law.
- c. That the inquiry officer/ respondent No.5 in his finding recommended the competent authority for awarding minor punishment and plenty to the appellant but this aspect of the case has not been looked by the respondent No.4 and the appellant was terminated from services.
- d. That the appellant condemn unheard furthermore the reply filed by the appellant was not considered by the respondents and awarded major punishment / plenty from dismissal from services hence on this grounds alone, the order of dismissal dated 02.10.2018 is premature and be liable set saide because the impugned office order of dismissal is against the police rules and natural justice and fair play.
- e. That appellant never ever absent from the duty and appellant got permission for leave since 22.05.2018 to 29.05.2018 from the competent authority hence the appellant has been dismissed without serving any notice.
- f. That the appellant has been proceeded against without any show cause notice, final show cause and without providing any opportunity of personal hearing and a chance of defense and thus the impugned order as well as the other impugned orders are against the rule of natural justice and fair play and propriety.
- g. That impugned order of dismissal of the appellant has been issued without taking into consideration the finding of the inquiry officer which shows discrimination on the part of the respondents.
- h. That the appellant has not committed any immoral crimes and does not come under the moral turpitude.
- i. That only Charge sheet, statement of allegation and inquiry was conducted however no explanation notice served upon the appellant neither proper procedure of law has been adopted by the respondent, but the appellant has been dismissed vide impugned order dated 02.10.2018 on the grounds of absentia etc which is against the natural justice, fair play and equity.
- j. That the competent authority has wrongly declined to agreed with the recommendation of the inquiry officer and has disagreed without any rhyme and reasons which is miscarriage of Justice
- k. That the appellant has got an utmost interest with police service to serve the nation and police and since his dismissal, the appellant is jobless.

4

I. That any other ground would be adduced by Appellant during arguments on the instant appeal with the permission of this Hon' able Tribunal.

It is, therefore, most humbly prayed that on acceptance of this service appeal, the appellant may graciously be reinstated into service with all back benefits by set aside the impugned order of dismissal dated 02.10.2018 as well as the departmental appeal dated 29.01.2019 and final order of rejection dated 07.01.2020. Any other relief not specifically asked by the Appellant may be pleased be granted to the Appellant in the circumstances.

THROUGH

APPELLANT

JALALUDDIN
ADVOCATES, HIGH COURT
PESHAWAR &

SAQIBULLAH KHAN
Advocate Peshawar

AFFIDAVIT:-

I, **Naseeb Daraz** (Ex-Constable Bearing Belt No.305), Son of Gul Faraz Khan, R/O Mohallah Akhagram Village Gurkand, Post Office Akhagram, Tehsil Wari District Dir Upper do hereby solemnly affirm and declare on Oath that the contents of the above Appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Hon' able Tribunal.

DEPONENT

IDENTIFY BY

JALAL-UD-DIN
Advocate

ATTESTED



06/07/2020

BEFORE THE KHYBER PUKHTOON KHWA SERVICE TRIBUNAL

PESHAWAR.

5

Service Appeal No-----/2020

Naseeb DarazVSGovernment & Others

MEMO OF ADDRESSES OF PARTIES

APPELLANT.


Naseeb Daraz (Ex-Constable Bearing Belt No.305),
Son of Gul Faraz Khan,
R/O Mohllah Akhagram Village Gurkand,
Post Office Akhagram, Tehsil Wari District Dir Upper

RESPONDENTS.

1. Govt of Khyber Pukhtoonkhwa
through Chief Secretary, Civil Secretariat
Khyber Pukhtoonkhwa Tehsil & District Peshawar.
2. **Inspector General Police** Khyber Pukhtoonkhwa
Office Civil Secretariat, Khyber Pukhtoonkhwa,
Police Line Peshawar.
3. **Additional I.G** Khyber Pukhtoonkhwa
Office Head Quarter CPO, Civil Secretariat,
Khyber Pukhtoonkhwa, Police Line Peshawar .
4. **District Police Officer** (DPO), Dir Upper
Office at Police Line Dir Upper
5. **D.S.P Officer** (DPO), Dir Upper
Office at Police Line Dir Upper
6. **D.I.G Malakand** Saidu Sharif District Swat
7. **Regional Police Officer** Malakand,
Office at Saidu Sharif, Swat

THROUGH

APPELLANT.


JALALUDDIN
ADVOCATES, HIGH COURT
PESHAWAR &


SAQIBULLAH KHAN
Advocate Peshawar

(6)

Amended-A

Amended-A



جمہوریہ پاکستان

قومی شناختی کارڈ
42501-9772363-5



03/01/1992

JH

دستخط مال کارڈ

محمد رفیق شاہ
سیکرٹری جنرل

Attested by
Talaluddin
Council

44985 42501-9772363-5
20/12/2023 20/12/2013
Barcode

Attested by
Tahalud
Counsel

(9)

Amxed-c

DISCIPLINARY ACTION.

I, Pir Shahab Ali Shah District Police Officer, Dir Upper, as competent authority, is of the opinion that you recruit constable Naseeb Daraz No. 205 while posted at Police Lines, have rendered him liable to be proceeded against departmentally as you have committed the following acts/omission as defined in Rule-2 (iii) of Police Rule 1975.

STATEMENT OF ALLEGATION.

Whereas recruit constable Naseeb Daraz No. 205 while posted at Police Lines, absented himself from his lawful duty with effect from 13.10.2017 to till date without any leave or prior permission from his superior. A preliminary enquiry was conducted through Mr. Zahid Khan SDPO Dir and reported that he is guilty/ liable and habitual in absentia. So this amounts a gross misconduct on your part.

2. For the purpose of scrutinizing of the said accused with reference e to the above allegations, Mr. Zafar Khan DSP HQrs is appointed as the Enquiry Officer under the said Rules.

3. The Enquiry Officer shall conduct proceeding in accordance with provision of Police Rule 1975 and shall provide reasonable opportunity of defence and hearing to the accused official, record its findings and make within fifteen days (15) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused official.

4. The accused official shall join the proceeding on the date, time and place fixed by the Enquiry Officer.



(PIR SHAHAB ALI SHAH)
District Police Officer,
Dir Upper.

No. 29-30 /SB, Dated Dir Upper the 02/01/2018.

Copy of the above is forwarded to:-

1. The Enquiry Officer for initiating proceeding against the accused official under Police Rule, 1975.
2. Concerned defaulter official.

Attested by
Talaud
Counsel

(10)

کمیٹی کے DPO کے سر نوٹ

Annexed - D

جوائنٹ جوائنٹ

جنہ عالیٰ زین العرفین ہے

1۔ یہ نوٹ کو الٹا جانے کے لئے 9-3/108/SB/18/9

دیئے اور جوائنٹ ہے

2۔ یہ نوٹ جوائنٹ کے خلاف جوائنٹ کو غیر ملکی

29/5/08 سے 29/5/08 تک جاری ہے

3۔ یہ نوٹ جوائنٹ کو جوائنٹ کے خلاف جوائنٹ سے ملنے والے نوٹ ہے

4۔ یہ نوٹ جوائنٹ کے خلاف جوائنٹ کے خلاف جوائنٹ سے ملنے والے نوٹ ہے

دے رہا ہے اور اس کے قتل جوائنٹ کے خلاف کوئی ایسی کارروائی نہیں ہوئی ہے

5۔ یہ نوٹ جوائنٹ کے خلاف جوائنٹ کے خلاف جوائنٹ سے ملنے والے نوٹ ہے

باقاعدہ طور پر آوازی ہے

6۔ یہ نوٹ جوائنٹ کے خلاف جوائنٹ کے خلاف جوائنٹ سے ملنے والے نوٹ ہے

یہ نوٹ جوائنٹ کے خلاف جوائنٹ کے خلاف جوائنٹ سے ملنے والے نوٹ ہے

Attested by

Talukda

Council

①
②
IV - یہ جو کتبہ کے ساتھ میں *Supervent* کے ساتھ ہے

یہ جو کتبہ کے ساتھ میں *Unqualified* کے ساتھ ہے
- یہ جو کتبہ کے ساتھ میں *Unqualified* کے ساتھ ہے

یہ جو کتبہ کے ساتھ میں *Unqualified* کے ساتھ ہے
- یہ جو کتبہ کے ساتھ میں *Unqualified* کے ساتھ ہے

IV - یہ جو کتبہ کے ساتھ میں *Unqualified* کے ساتھ ہے
- یہ جو کتبہ کے ساتھ میں *Unqualified* کے ساتھ ہے

V - یہ جو کتبہ کے ساتھ میں *Unqualified* کے ساتھ ہے
- یہ جو کتبہ کے ساتھ میں *Unqualified* کے ساتھ ہے

VI - یہ جو کتبہ کے ساتھ میں *Unqualified* کے ساتھ ہے
- یہ جو کتبہ کے ساتھ میں *Unqualified* کے ساتھ ہے

16/8/018

یہ جو کتبہ کے ساتھ میں *Unqualified* کے ساتھ ہے

یہ جو کتبہ کے ساتھ میں *Unqualified* کے ساتھ ہے

یہ جو کتبہ کے ساتھ میں *Unqualified* کے ساتھ ہے

یہ جو کتبہ کے ساتھ میں *Unqualified* کے ساتھ ہے

یہ جو کتبہ کے ساتھ میں *Unqualified* کے ساتھ ہے

Attested by
Tala Ludal
counsel

No 165/98 Dep Hon Div

dt 13/3/18

(12)

Amneral E

فائنڈنگ رپورٹ

جناب عالی:

ریکروٹ کنسٹیبل نصیب دراز نمبر 205 بحوالہ مد 27 روزنامہ 13.10.2017 پولیس لائن دیر بالا میں 17 یوم غیر حاضر رہ کر جن کے خلاف SDPO صاحب سرکل دیر نے انکوائری کر کے انکوائری میں SDPO صاحب سرکل دیر نے بر خلاف کنسٹیبل مذکورہ Major Punishment کی سفارش کی ہے۔ بعد انکوائری کنسٹیبل مذکورہ کے خلاف چارج شیٹ نمبری 29-30/SB مورخہ 02.01.2018 جاری ہو کر جملہ کاغذات بغرض انکوائری من DSP ہیڈ کوارٹر کو حوالہ ہوئی۔

الزام

دوران انکوائری ریکروٹ کنسٹیبل نصیب دراز نمبر 205 متعینہ پولیس لائن کو بغرض حصولی چارج شیٹ، قلمبندی بیان طلب کر کے جس نے چارج شیٹ کے جواب اور اپنے بیان میں یکساں موقف بیان کیا۔ کہ وہ ریکروٹ کنسٹیبل ہے محکمہ پولیس کے قانون سے بخوبی واقف نہیں ہے۔ اس کی والدہ صاحبہ ذہنی بیماری میں مبتلا ہے والدہ کی علاج معالجہ کی خاطر پشاور جا چکا تھا۔ بدیں وجہ غیر حاضر رہ چکا تھا۔ مذکورہ کنسٹیبل اندریں بارہ کسی قسم کی میڈیکل کاغذات پیش نہ کر سکا۔

تحقیقات

اسی طرح ریکروٹ کنسٹیبل نصیب دراز نمبر 205 کے متعلق جہان اللہ OASI دیر بالانے اپنے بیان میں واضح کیا کہ کنسٹیبل نصیب دراز نمبر 205 بمطابق لاگ رول مورخہ 04.12.2013 کو بحیثیت کنسٹیبل بھرتی ہو کر مورخہ 26.03.2015 کو بحوالہ آرڈر بک نمبر 282 بوجہ غیر حاضری محکمہ پولیس سے برخاست ہوا تھا۔ جو کہ مورخہ 01.06.2016 کو دوبارہ بحال ہوا مورخہ 11.07.2016 کو کنسٹیبل مذکورہ ریکروٹ کورس کیلئے پولیس ٹریننگ سکول صوابی بھجوا کر مورخہ 02.08.2016 کو Un- Qualified ضلع واپس ہوا۔ اور

مورخہ 18.01.2017 کو دوبارہ بوجہ غیر حاضری بحوالہ OB نمبر 30 برخاست ہوا۔ جو کہ لیٹر نمبر 571/E

مورخہ 15.06.2017 کو جناب RPO صاحب سوات نے دوبارہ بحال کیا۔ مورخہ 24.10.2017 کو ریکروٹ

کورس کیلئے طلب کر کے اس وقت بھی غیر حاضر رہا تھا۔ کنسٹیبل مذکورہ نے تا حال ریکروٹ کورس مکمل نہیں کیا ہے۔

اسی طرح لائن آفیسر رحم بیگ خان SI، اور اعجاز خان AMHC پولیس لائن دیر نے کنسٹیبل نصیب دراز نمبر 205 کے متعلق

اپنے الگ الگ بیانات میں یکساں موقف بیان کرتے ہوئے بیان کیا۔ کہ ریکروٹ کنسٹیبل نصیب دراز نمبر 205 جو کہ

پولیس لائن دیر میں تعینات ہے۔ مورخہ 30.10.2017 کو سرکاری ڈیوٹی کیلئے طلب کرنے پر عدم موجود پانچ کر جس کے

Attested by
Talat
Council

خلاف بحوالہ مد 27 روزنامہ 13.10.2017 رپورٹ غیر حاضری درج روزنامہ کر کے کنسٹیبل مذکورہ نے 17 یوم غیر حاضری کے بعد بحوالہ مد 09 روزنامہ 30.10.2017 حاضری کر کے تقدمات بغرض مناسب کاروائی افسران بالا کو بھجوائے گئے تھے۔ اس طرح بحوالہ مد 05 روزنامہ 11.01.2018 کو غیر حاضر ہو کر 07 یوم غیر حاضری کے بعد بحوالہ مد 08 روزنامہ 17.01.2018 حاضری کی ہے۔ اس کے بعد مورخہ 04.02.2018 کو بحوالہ مد 09 غیر حاضر ہو کر دو یوم غیر حاضری کے بعد بحوالہ مد 11 روزنامہ 06.02.2018 حاضری کی ہے۔

انکوائری کاغذات بشمول انکوائری SDPO سرکل دیر، بیانات ازاں ریکروٹ کنسٹیبل نصیب دراز نمبر 205، لائن آفیسر رحیم بیگ، ایڈیشنل محرر لائن اعجاز خان، OASI جھان اللہ سے میں اس نتیجہ پر پہنچ چکا ہوں۔ کہ مورخہ 13.10.2017 کو ریکروٹ کنسٹیبل سرکاری ڈیوٹی کیلئے طلب کر کے عدم موجودہ ہونے پر جسکے خلاف رپورٹ غیر حاضری درج روزنامہ ہو کر کل 17 یوم غیر حاضر رہا ہے۔ غیر حاضری کی وجہ والدہ آس کی ذہنی بیماری بتلا کر علاج معالجہ کیلئے پشاور میں پرائیویٹ ہسپتال سے علاج کروانا بیان کیا۔ تاہم بطور ثبوت کسی قسم کے میڈیکل کاغذات پیش نہ کر سکا۔ OASI جھان اللہ کے بیان کے مطابق ریکروٹ کنسٹیبل 2 بار پہلے بھی بوجہ غیر حاضری برخواست ہو چکا ہے۔ جو بعد میں دوبارہ بحال ہو کر تاحال ریکروٹ کورس مکمل نہیں کیا ہے۔ 17 یوم غیر حاضری کے بعد کنسٹیبل مذکورہ 9 یوم غیر حاضر ہو چکا ہے۔ یعنی کنسٹیبل مذکورہ کل 26 یوم غیر حاضر ہو چکا ہے۔ جملہ تقدمات لف شامل انکوائری ہے۔ تاہم کنسٹیبل مذکورہ کو دفتر خود طلب کر کے جس نے وعدہ کیا کہ برائے آئیندہ وہ کسی قسم کی غیر حاضری نہیں کریگا۔ کنسٹیبل مذکورہ کل 26 یوم غیر حاضر رہا ہے۔ ایام غیر حاضری بلا تخواہ شمار کرنے اور بوجہ مفلسی اور وعدہ کرنے کہ وہ آئیندہ اس قسم کے افعال کا مرتکب نہ ہوگا اس بناء پر چھوٹی سزا دینے کی سفارش کی جاتی ہے۔ باقی آپ صاحبان کے احکامات افضل ہونگے۔ فائنڈنگ رپورٹ مرتب ہو کر بمراد مناسب حکم پیش خدمت ہے۔

ڈی ایس پی، ہیڈ کوارٹر دیر بالا۔

Attested by
Tajalud
Counsel

14

OFFICE OF THE
DISTRICT POLICE OFFICER,
DIR UPPER

ORDER

Annexed - F

This order is passed on the Departmental Enquiry conducted against recruit Constable Naseeb Daraz No. 305 while posted in Police Lines, absented himself from his lawful duty w.e.f 13.10.2017 to till date without any leave or prior permission from his superior, so this amounts a gross misconduct /negligence on his part.

In order to initiate proper Departmental Enquiry, Charge Sheet and Statement of allegations were served upon him. Mr. Zafar Khan, DSP HQrs was appointed as Enquiry Officer. The Enquiry Officer in its finding report stated that the defaulter constable is guilty in light of PR 16.9 Police Rules 1934 and recommended him for Dismissal from Police Service.

On the receipt of the finding report and other connected papers the same was perused and the defaulter Official was called in Orderly Room but he did not appear before the undersigned, his guilt has been proved beyond any shadow of doubt.

Previous Service record of defaulter constable was also perused, it was found that he was twice dismissed from police service vide this office OB No. 282, dated 26.03.2015 and OB No. 30, dated 18.01.2018. In light of PR 16.9 Police Rules 1934, "they (the official) shall as far as possible, avoid the constant infliction punishment, pass their orders after character and position of the officer punished. If the previous record of an official, against whom charges have been proved, indicates continued misconduct proving incorrigibility and complete unfitness from police service, the punishment awarded will ordinarily be dismissal".

Therefore I, Mian Nasib Jan, District Police Officer, Upper Dir in exercise of powers vested to the undersigned under Efficiency and Discipline Rules-1975 and Police Rules Rules-1975, "being competent authority keeping in view his constant and perpetual bad attitude towards police discipline. He is dismissed from Police Service with effect from date of absence i.e from 13.10.2017. Ex-party action is taken as a result of his non responsiveness and absenteeism and the period of absence i.e 13.10.2017 to till date is treated as without pay.

Order announced.

OB No. 549

Dated: 02-10- /2018.

M.P. Cu
[Signature]

District Police Officer
Dir Upper.

Attested by
[Signature]
Talatullah
Council

(۱۵)

Amended - G

بکھنور جناب ڈی۔ آئی۔ جی صاحب ملاکنڈ ڈویژن بمقام سید و شریف ضلع سوات۔

عنوان: اپیل ارحم درخواست بمراد دُبارہ تعیناتی بحثیت ریگولر پولیس کنسٹبل بیلٹ نمبر 305

جناب عالی۔

سائل ذیل عرض رساں ہے۔

۱۔ یہ کہ سائل موضع گورکن انگرام تحصیل واڑی ضلع اپر دیر کا مستقل اور سکونتی باشندہ ہے۔
۲۔ یہ کہ سائل محکمہ پولیس میں بحثیت ریگولر پولیس کنسٹبل نمبر 305 پولیس لائن اپر دیر میں سرکاری ملازم تھا۔ من سائل کو مورخہ 10.5.2018 کو دیر اپر پولیس لائن سے کوہاٹ ٹریڈنگ سنز کو روانگی ہوئی۔ 21.5.2018 من سائل کو گھر سے اطلاع ہوئی۔ کمانڈنٹ صاحب کو رخصتی کی درخواست کی۔ لیکن کمانڈنٹ نے من سائل کو Un-Qualified پر دیر پولیس لائن واپس بھیج دیا۔ لیکن والدہ صاحبہ کی بیماری کی وجہ سے غیر حاضر رہا۔ غیر حاضری کے دوران من سائل کو ملازمت ہذہ سے برخاست کیا گیا۔

۳۔ یہ کہ سائل نے محکمہ ہذہ میں تقریباً پانچ سال ملازمت نہایت ایمانداری اور خوش اسلوبی سے سرانجام دے رہا تھا۔
۴۔ یہ کہ سائل کی والدہ ماجدہ بیمار تھی۔ جسکی علاج معالجہ کی وجہ سے سائل ڈیوٹی پر حاضر ہونے سے قاصر تھا۔
۵۔ یہ کہ سائل ریکروٹس ہے۔ پولیس رولز سے واقف نہیں ہے۔ اور من سائل کی غیر حاضری قصداً عمداً نہیں تھی۔ بلکہ ماہ کی چھٹی کی وجہ سے تھی۔ اور سائل OB No.549 مورخہ 2.10.2018 کو ملازمت ہذہ سے سبکدوش ہوا ہے۔
۶۔ یہ کہ سائل نہایت غریب ہے۔ اور والد صاحب ضعیف العمر ہے۔ اور من سائل کے علاوہ کمانے والا کا کوئی بھی دوسرا سہارا نہیں ہے۔

۷۔ یہ کہ سائل دُبارہ مذکورہ ملازمت کا خواہاں ہے۔ اور ملازمت نہایت ایمانداری اور خوش اسلوبی سے سرانجام دیگا۔ کسی قسم کی غیر حاضری نہیں کریگا۔ پولیس رولز کی ہر قسم قواعد، ضوابط کا پابند ہوگا۔
لہذا یہ منظوری درخواست ہذہ استدعا کیجاتی ہے۔ کہ سائل کو مذکورہ ملازمت پر دُبارہ تعیناتی کا حکم صادر کرنے کا حکم صادر فرمایا جائے۔

Attested by

مورخہ 16.10.2018

عریضہ

Talabud

Conseel

سائل: نصیب دراز ولد گلفر از خان سکند گورکن انگرام تحصیل واڑی ضلع اپر دیر۔
شناختی کارڈ نمبر 5-9772363-42501 سابقہ ریگولر پولیس کنسٹبل۔

موبائل نمبر 03077167406



16

OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND

AT SAIDU SHARIF SWAT.

Ph: 0946-9240381-88 & Fax No. 0946-9240390

Email: digmalakand@yahoo.com

Annexed - 4

ORDER:

This order will dispose off appeal of Ex-Constable Naseeb Daraz No. 305 of Dir Upper District for reinstatement in service.

Brief facts of the case are that Ex-Constable Naseeb Daraz No. 305 while posted in Police Lines was absented himself from his lawful duty with effect from 13/10/2017 to till the date of dismissal from Police service. He is also repatriated from Police Training School, Kohat to his parent District as unqualified due to absentia. In order to initiate proper departmental enquiry, Charge Sheet and Statement of allegations were served upon him vide his office memo: No. 29-30/SB, dated 02/01/2018. Mr. Zafar Khan the then DSP HQrs was appointed as enquiry officer. The enquiry officer in his finding report stated that the defaulter Constable is liable /guilty and recommended for major punishment. On the report of Director Police Training School, Kohat vide Memo: No. 312/HC, dated 24/05/2018, a separate Departmental enquiry was initiated against the defaulter Constable. Charge Sheet coupled with statement of allegation was served upon him vide his office memo: No. 3108-09/SB, dated 09/08/2018 and Mr. Sher Wazir Khan RI Police Line was appointed as enquiry officer. The enquiry officer in its finding report stated that the defaulter Constable is liable/ guilty and recommended for major punishment. On the receipt of the finding report and other connected papers the same was perused, a Final Show Cause Notice was served upon him. The defaulter officer was also called in Orderly Room but he did not appear before the DPO, his guilt has been proved beyond any shadow of doubt. Previous Service record of defaulter Constable was also perused, it was found that he was twice dismissed from Police Service vide his office OB No. 282, dated 26/03/2015 and OB No. 30, dated 18/01/2018. In the light of PR 16.9 Police Rules 1934 "They (the official) shall as far as possible, avoid the constant infliction punishment, pass their orders after character and position of the officer punished. If the previous record of an official against whom charges have been proved, indicates continued misconduct proving incorrigibility and complete unfitness from Police Service, the punishment awarded will ordinarily be dismissal". Therefore, in exercise of power vested to District Police Officer, Dir Upper under Police efficiency and discipline rules, Constable Naseeb Daraz No. 305 was dismissed vide his office OB No. 549 dated 02/10/2018

He was called in Orderly Room on 23/01/2019 and heard him in person. The appellant could not produce any cogent reason in his defense. Hence, his appeal is hereby filed.

Order announced.

(MUHAMMAD SAIED) PSP
Regional Police Officer,
Malakand, at Saidu Sharif Swat
Naqi

No. 1425 /E,

Dated 29/01 /2019.

Copy of above is forwarded to District Police Officer, Dir Upper for information and necessary action with reference to his office Memo: No. 4763/E, dated 20/11/2018. The service record of the above named officer is returned herewith for record in your office.

Attested by
Tajalud
Connec

بخدمت جناب انسپکٹر جنرل آف پولیس خیبر پختونخواہ، پشاور

17

Amended

اپیل رحم درخواست بمراد دوبارہ تعیناتی بحیثیت ریگولر پولیس کنسٹیبل بیلٹ نمبر 305

جناب عالی!

سائل حسب ذیل عرض رساں ہے۔

- ۱- یہ کہ سائل موضع گوررکن انگرام تحصیل واڑی، ضلع اپر دیر کا مستقل اور سکوتی باشندہ ہے۔
- ۲- یہ کہ سائل محکمہ پولیس میں بحیثیت ریگولر پولیس کنسٹیبل بیلٹ نمبر 305 پولیس لائن اپر دیر میں سرکاری ملازم تھا۔ من سائل کو مورخہ 10/5/2018 کو اپر دیر پولیس لائن سے کوہاٹ ٹریڈنگ سنٹر کو روانگی ہوئی مورخہ 21/5/2018 من سائل کو گھر سے اطلاع ہوئی کہ کمانڈنٹ صاحب کو رخصتی کی درخواست کی۔ لیکن کمانڈنٹ نے من سائل کو Un-Qualified اپر دیر پولیس لائن واپس بھیج دیا لیکن والدہ صاحبہ کی بیماری کی وجہ سے غیر حاضر رہا۔ غیر حاضری کے دوران من سائل کو ملازمت ہذا سے برخاست کیا گیا۔
- ۳- یہ کہ سائل نے محکمہ ہذا میں تقریباً پانچ سال ملازمت نہایت ایمانداری اور خوش اسلوبی سے سرانجام دیر ہاتھا۔
- ۴- یہ کہ سائل کی والدہ ماجدہ بیمار تھی۔ جس کی علاج معالجہ کی وجہ سے سائل ڈیوٹی پر حاضر ہونے سے قاصر تھا۔
- ۵- یہ کہ سائل ریکورٹس ہے پولیس روز سے واقف نہیں ہے اور من سائل کی غیر حاضری قصداً عہد انہیں تھی۔ بلکہ ماہ کی بیماری کی وجہ سے تھی۔ اور سائل OB NO. 549 مورخہ 02/10/2018 کو ملازمت ہذا سے سبکدوش کر دیا گیا۔
- ۶- یہ کہ سائل نہایت غریب ہے اور والد صاحب ضعیف العمر ہے اور من سائل کے علاوہ کمانے والا کا کوئی بھی دوسرا سہارا نہیں ہے۔
- ۷- یہ کہ سائل دوبارہ مذکورہ ملازمت کا خواہاں ہے اور ملازمت نہایت ایمانداری اور خوش اسلوبی سے سرانجام دیگا۔ کسی قسم کی غیر حاضری نہیں کریگا۔ پولیس روز کی ہر قسم قواعد و ضوابط پابند ہوگا۔
- ۸- یہ کہ ایک درخواست بمراد بحالی ملازمت ڈی۔ آجی صاحب ملاکنڈ ڈویژن ضلع سوات کو دی تھی جو کہ انہوں نے سائل کی اپیل مورخہ 29/1/19 کو خارج کر دی بدینہ وجہ درخواست ہذا دینے کی ضرورت لاحق ہوئی۔ (کاپی لف ہے)

لہذا منظور درخواست ہذا استدعا کی جاتی ہے کہ سائل کو مذکورہ ملازمت پر دوبارہ تعیناتی کا حکم صادر کرنے کا

حکم صادر فرمایا جائے۔

سائل

(المرقوم: 12/02/2019)

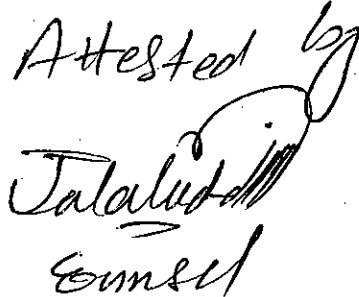


نصیب دراز ولد گل فر از خان

سکنہ گوررکن انگرام تحصیل واڑی ضلع اپر دیر

شناختی کارڈ نمبر: 5-42501-9772363

موبائل نمبر: 0307-7167406

Attested by

Jalal
Council



(18)

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

Amended - J

No. S/ 281 /19, dated Peshawar the 07/01/2020

7-1-2020

ORDER

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 Naseeb Daraz No. 305. The petitioner was dismissed from service w.e.f 13.10.2017 by District Police Officer, Dir Upper vide OB No. 549, dated 02.10.2018 on the allegations of absence from duty w.e.f 13.10.2017 till date of dismissal from service i.e. 02.10.2018 for total period of 11 months and 20 days. As per his previous service record he was twice dismissed from service vide OB No. 282, dated 26.03.2015 and OB No. 30, dated 18.01.2017. His appeal was filed by Regional Police Officer, Malakand at Swat vide order Endst: No. 1425/E, dated 29.01.2019.

Meeting of Appellate Board was held on 06.05.2019 wherein petitioner was heard in person. During hearing petitioner contended that his absence was not deliberate but his mother was ill.

Petitioner was heard in detail but he failed to advance any plausible explanation in rebuttal of the charges. Furthermore, perusal of his service dossier revealed that he bears patchy record of service. He earned 16 bad entries during his short service. He was repatriated from PTS Kohat as unqualified from Recruit Course. He was earlier twice dismissed from service in the year 2015 & 2017 on the allegations of absence from duty which establishes that he is habitual absentee and there is no prospects of mending his ways. His present absence is 11 months & 20 days. The DPO has rightly passed the order by fulfilling all codal formalities. Therefore, the Board decided that his petition is hereby rejected.

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

(ZAIB ULLAH KHAN)



AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. S/ 282-90 19

Copy of the above is forwarded to the:

1. Regional Police Officer, Malakand at Swat. One Service Roll and Fauji Missal containing Departmental enquiry file of the above named Ex-FC received vide your office Memo: No. 4660-61/E, dated 16.04.2019 is returned herewith for your office record.
2. District Police Officer, Dir Upper.
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.

Attested
Tahaseer
Council

قیمت 50 روپے	25031	PESHAWAR BAR ASSOCIATION PBA		
Jalalud-din	ایڈوکیٹ:	پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
BE-09-0287	بار کونسل/ایسوسی ایشن نمبر:			
03339216527	رابطہ نمبر:			

بعدالت جناب: چیئر پرسن مسٹر جسٹس کراہیل کیم لیتاؤر

مخانب: اسپرائٹ	دعویٰ: Service Appeal
کسب دراز بنام حکومت و عدلیہ	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

باعث تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی کارروائی متعلقہ
آن مقام کسٹاور کیلئے جلال الدین احمد صاحب الزمان کو وکیل مقرر
کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا مکمل اختیار ہوگا، نیز وکیل صاحب کو
راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
زیریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 06-02-2020

Attested & Accepted by
Jalalud-din
نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔
JALAL-UD-DIN ADVOCATE
High Court Peshawar
Cell: 0333-9216527

مقام
کسٹاور
Sagibullah Khan
Advocate Peshawar

کسب دراز ولید گل خان صاحب و دیگر

Before the Services Tribunal ICP at Peshawar.

Naseeb Daraz -vs- Govt and others.

Application for grant of permission for deposit
of the process as per order of this Hon'ble
Tribunal and extension of time.

Respectfully sheweth:

- 1). That the above titled Tribunal is pending before this Hon'ble Court today on 02-12-2021.
- 2). That on previous date of hearing this Hon'ble Tribunal was pleased to order the appellant to deposit the process fee amount and admitted the appeal, however the appellant having no knowledge regarding issuance of such directions.
- 3). That today Reader of this Hon'ble Tribunal was informed the appellant regarding the directions for deposit of process amount, hence the present application for grant of time for depositing of process fee amount.

It is therefore, requested that the appellant may please be allowed time for depositing of process fee/amount.

through

Appellant

Jalal-ud-Din
Jalal-ud-Din
Advocate Peshawar
02-12-2021

**BEFORE THE COURT OF HONORABLE DISTRICT JUDGE,
PESHAWAR.**

Rent Appeal. No...../2021.

**Lalbaz Khan S/o Shahbaz Khan,
R/o Shahnawaz Town Pakha Ghulam,
Tehsil and District, Peshawar.....APPELLANT/LANDLORD**

V E R S U S

**M/s LMK Resources Pakistan Private limited
Office at Flat No. 9th Floor, 55-C, Ufone/ PTET Tower,
Jinnah Avenue Islamabad Presently office at Plot No.119,
120,121, Industrial Estate,
Hayatabad Peshawar.....RESPONDENT/TENANT.**

**APPEAL UNDER SECTION 15 OF THE KHYBER PUKHTUNKHWA
RENT RESTRICTION ORDINANCE 1959, AGAINST THE IMPUGNED
JUDGMENT AND ORDER DATED 12.01.2021 OF THE LEARNED
RENT CONTROLLER, (MR.KHURAM SHAHZAD)-1, PESHAWAR,
WHEREBY THE LEARNED RENT CONTROLLER, PESHAWAR
DISMISSED THE EVICTION APPLICATION OF THE APPELLANT
/LANDLORD, IN FAVOR OF THE RESPONDENT/TENANT, WHICH
IS ILLEGAL, UNLAWFUL, AGAINST THE LAW AND AGREEMENT
EXECUTED BETWEEN THE PARTIES.**

PRAYER IN APPEAL:-

On acceptance of this appeal, the impugned order/judgment dated 12.01.2021 of the Learned Rent Controller may please be set aside and in alternate the case may please be decree as prayer for. Any other relief which is proper and deemed in the circumstances of the instant case may also be granted in favor of the appellant/Landlord against the respondent / tenant.

RESPECTFULLY SHEWETH:-

Facts of the instant Appeal are that:-.

1. That an eviction petition has been filed by the present appellant alongwith outstanding monthly defaulted rent since May, 2019 to till expiry of the rent agreement dated 10.05.2019 for monthly rent of Rs.1,50,000/- and other expensive on renovation against the respondent/tenant for premises in-question bearing No.119,120,121 Situated at Industrial estate Hayatabad Peshawar on grounds of personal bonafide needs before Learned Senior Civil Judge Peshawar, and the same was entrusted to Learned Rent Controller-1, Peshawar for disposal.
2. That the respondent/tenant appeared before the Learned Rent Controller, Peshawar and contested the case by filing a written reply to the application for eviction petition and partially denied from handover possession of the suit premises however, the respondents admitted the execution of the Rent deed and payment of cheque in advance as security.
3. That thereafter, the parties were directed to produce their evidence without framing of issues by the learned Rent Controller Peshawar which is mandatory provision under the law to framed issues in the light of the pleadings of the parties, however the appellant/landlord appeared as PW-1 and his partial statement was recorded.

(a) Civil service---

لے، با، بی، کی، جو

---Reinstatement in service---No specific allegation proved through evidence---Orders of the competent authority as well as departmental appeal were on the basis that they agreed with the recommendation of the Inquiry Officer; they had not scrutinized the evidence available on the file themselves, but awarded major penalty of dismissal from service by relying upon the recommendation of the Inquiry Officer and ignored the fact that no specific allegation through evidence was proved against the respondent-civil servant---Prosecution was duty bound to prove the allegations for which the respondent was charge sheeted---Service Tribunal had rightly reinstated the respondent in service---Appeal was dismissed.

(b) Civil service---

For Appeal

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Handwritten marks

S.No	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	17.06.2015	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO.152/2015</p> <p style="text-align: center;">(Qaisar Jamal-vs-District Police Officer Mardan and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH, MEMBER:</u></p> <p>Appellant with counsel. (Mr. Muhammad Adam Khan, Advocate) and Mr. Muhammad Ghani, SI alongwith Mr. Usman Ghani, Sr.GP for respondents present.</p> <p>2. Appointed as Constable on 15.11.2008, appellant was dismissed from service vide order dated 24.07.2014 on the ground of absence from duty which was stated to be <u>59 days in total</u>. His departmental appeal was also rejected which according to the appellant was communicated to the appellant on 12.01.2015, hence this appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, is within time.</p> <p>3. Arguments heard and record perused.</p> <p>4. Learned counsel for the appellant submitted that the impugned order is void as no charge sheet was served upon the appellant, nor copy of the enquiry report was provided to the appellant, and thus no opportunity of defense has been provided to him. He further submitted that infact wife of the appellant was seriously ill in which respect medical papers are on</p>

record and as parents of the appellant had already died, there was none even to take his spouse to the hospital. He further submitted that problem of the appellant was not properly heard or considered by the respondent-department, therefore, the impugned orders may be set aside in the interest of justice.

6. The appeal was resisted by learned Sr. GP who submitted that the appellant remained absent for fifty nine (59) days which absence was willful absence where-after all codal formalities of charge sheet and enquiry was fulfilled. He argued that absence of the appellant is proved on record therefore the impugned order was rightly passed in accordance with law.

7. We have considered pro & contra arguments of learned counsel for the appellant and learned Sr. GP and have carefully perused the record with their assistance. Copy of the charge sheet or enquiry report was not appended with the written comments on behalf of official respondents. The appellant has denied that he was served with charge sheet and this denial has been stated even in his rejoinder. A careful perusal of the record shows that plea of the appellant of illness of his wife has not been considered by the official respondents at all. Even if it is admitted that absence of the appellant from duty is proved, the penalty of dismissal from service for fifty nine(59) absence seems to be too harsh. As stated by learned counsel for the appellant that the appellant was appointed as constable on 15.11.2008, therefore, the absence period might not exceed his entitlement for leave of the kind due and thus the penalty of dismissal for absence of 59 days was too harsh. For the afore-stated reasons, the Tribunal while concluding that the penalty of the dismissal from service is harsh, is inclined to modify the same. Hence he is reinstated into service

and the penalty of dismissal from service is converted into stoppage of one increment for a period of two years without cumulative effect. The intervening period be treated as leave of the kind due. Parties are left to bear their own cost. File be consigned to the record room.

ANNOUNCED

17.06.2016

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

Service Appeal No. 881 of 2020.

Nasib Daraz S/O Gul Faraz Khan R/O Akhgram, District Dir Upper Ex- Constable, No 305.

(Appellant)

Versus

1. The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
3. Additional IG Khyber Pakhtunkhwa.
4. District Police Officer Dir Upper.
5. D.S.P Dir Upper.
6. DIG Malakand at Saidu Sharif Swat.
7. The Regional Police Officer, Malakand Division At Swat.

..... (Respondents).

Index.

S: No.	Documents	Annexure	Pages
1	Para wise Comments	-	1-3
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4	D.D Report	-A-	6
5	Order	-B-	7-8
6	Final Show Cause Notice	-C-	9


**Inspector Legal,
Dir Upper.**

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.



Service Appeal No. 881 of 2020.

Nasib Daraz S/O Gul Faraz Khan R/O Akhgram, District Dir Upper
Ex- Constable, No 305.

(Appellant)

Versus

1. The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
3. Additional IG Khyber Pakhtunkhwa.
4. District Police Officer Dir Upper.
5. D.S.P Dir Upper.
6. DIG Malakand at Saidu Sharif Swat.
7. The Regional Police Officer, Malakand Division At Swat.

..... (Respondents).

PARA WISE REPLY BY RESPONDENTS.

Respectfully Sheweth :

Preliminary objections:

1. That the instant service Appeal is not maintainable in the present form and liable to be dismissed.
2. That the Appellant has got no cause of action and locus standi to file the instant Appeal.
3. That the Appellant is stopped due to his own conduct.
4. That the Appellant has concealed the material facts from the Honorable Service Tribunal.
5. That jurisdiction of this Honorable service Tribunal has wrongly been invoked.
6. That the Appeal is bad due to mis-joinder and non-joinder of necessary parties.
7. That the Appeal is barred by law & limitation.

ON FACTS.

- 1) Pertains to the record hence need no comments.
- 2) Pertains to the record hence need no comments.
- 3) Pertains to the record hence need no comments.
- 4) Incorrect, the appellant remained absent from service since 13.10.2017 till to date without prior Permission from his Superior (D.D Report is annexed as A).
- 5) Incorrect, the appellant was terminated twice on the basis of the same Allegations in 2015 & in 2016 but Keeping in view the poor family back ground the worthy Inspector General Police Khyber Pakhtunkhwa reinstated the appellant vide order No 4235/2016 & 281/2019 and vide Order No 281-90(Order are annexed as B).
- 6) Incorrect, as mentioned in the preceding Para that the appellant was not interested to serve the department more as he was twice dismissed from service.
- 7) Incorrect, the appellant is a habitual absentee and is not liable to be reinstated into service for 3rd time.
- 8) Incorrect, the appellant has not able to serve the department any more on the following Grounds.

GROUND.

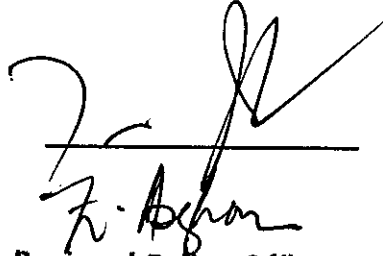
- A. Incorrect, the order of respondent No: 4 are valid and the departmental appeal is void as mentioned by the appellant.
- B. Incorrect, that the impugned order is legal, lawful and in accordance with law/ rules and the appellant remained absent seven times in 2014 and the total absence is six months and 17 days and remained absent w.e.f 15.07.2016 till to date vide D.D No. 37 dated 15.07.2016 and was unqualified repatriated to parent district.
- C. Incorrect, the past record of the appellant is totally unsatisfactory and is not liable to be reinstated.
- D. Incorrect, a proper departmental inquiry was initiated against the appellant and in this regard final show cause notice was issued to him vide DY No.3243/SB Dated 28.08.2018.

- E. Incorrect, the appellant remained absent for many time as much clear from his service record.
- F. Incorrect, the appellant was issued final show cause notice Vide No 3738 dated 09.10.2018 and reasonable opportunity was provided for his personal hearing but he failed to advance any plausible explanation in rebuttal of the charges (Final Show cause is annexed as C).
- G. Incorrect, the impugned order is in accordance with law/rules and issued by the competent authority.
- H. Incorrect, the appellant was dismissed from service due to misconduct, negligence, omission on his part.
- I. Incorrect, the appellant was been served a proper show cause notice but he failed to defend himself.
- J. Incorrect, the competent authority rightly dismissed the appellant following the past record of the appellant.
- K. Incorrect, the appellant has no interest in service as clear from his past record.
- L. That any other grounds may be advanced by the respondents during arguments by the permission of this honorable tribunal.

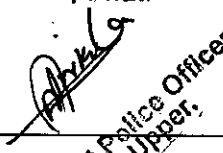
Prayer.

Keeping in view the above facts and reasons, it is humbly prayed that the appeal being not maintainable may kindly be dismissed with costs, please.

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



Regional Police Officer,
Malakand Region,
Saidu Sharif, Swat.



District Police Officer,
Dir Upper.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 881 of 2020.

Nasib Daraz S/O Gul Faraz Khan R/O Akhgram, District Dir Upper Ex- Constable, No 305.

(Appellant)

Versus

- 1. The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhaw Peshawar.
- 2. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
- 3. Additional IG Khyber Pakhtunkhwa.
- 4. District Police Officer Dir Upper.
- 5. D.S.P Dir Upper.
- 6. DIG Malakand at Saidu Sharif Swat.
- 7. The Regional Police Officer, Malakand Devison At Swat.

..... (Respondents).

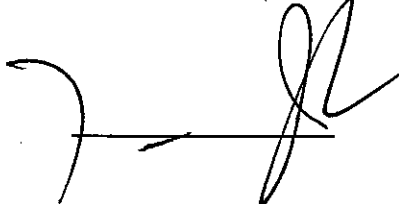
Power of Attorney

We, the undersigned do hereby authorized Zewar Khan Inspector Legal to appear on our behalf before the honorable Court in the cited above case on each and every date.

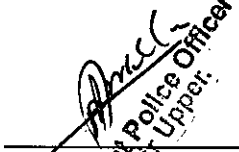
He is also authorized to file para wise comments/ reply, prefer appeal and to submit the relevant documents before the court.

Respondents:

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



 Z. Afghan
 Regional Police Officer,
 Malakand Region,
 Saidu Sharif, Swat.



 District Police Officer
 Dir Upper.

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

Service Appeal No. 881 of 2020.

Nasib Daraz S/O Gul Faraz Khan R/O Akhgram, District Dir Upper Ex- Constable, No 305.

(Appellant)

Versus

8. The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
9. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
10. Additional IG Khyber Pakhtunkhwa.
11. District Police Officer Dir Upper.
12. D.S.P Dir Upper.
13. DIG Malakand at Saidu Sharif Swat.
14. The Regional Police Officer, Malakand Division At Swat.

..... (Respondents).

Affidavit

I, Zewar Khan, Inspector/ Legal do hereby solemnly affirm and declared that the contents of parawise reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable court.



DEPONENT
Zewar Khan Inspector Legal,
Upper Dir.



⑥ نقل در 37 فروری 13/17

Amerce Fl. کوئٹہ

در 37 فروری غیر ملکی ای سی فورم 13/17 وقت 19:00 بجے اس وقت

کے واپس لائے گئے اور کوئٹہ کی طرف سے کوئٹہ کے لیے ٹکٹ کیلئے

درود کوئٹہ میں عدم موجودگی پر دست کیلئے فروری 13/17 کے خلاف ایجنسیوں کی

ی درج روز نامہ کی گئی۔

در 9 ماہری صی فورم 13/17 وقت 09:10 بجے اس وقت ایجنسیوں کیلئے غیر

کیا درج 37 فروری کوئٹہ سے 13/17 سے ماہری بیانی کیلئے غیر ملکی

ماہری بیمار کی اسکو علاج و معالجہ کیلئے ہسپتال پشاور لے گیا تھا۔ درج غیر

ماہری چاہیوں اب ماہری ایجنسیوں سے ماہری کیلئے ایجنسیوں سے

کیلئے فروری کی ماہری درج روز نامہ کی گئی۔ جی۔ عالی!

نقل بحالہ ایل سی

~~13/17~~

M.M.P.L.DIR(U)

30-10-17

نقل غیر ملکی (17) یوم

(2)

Siva

Forwarded

DIR(U)

03-11-17

Forwarded M.

Without Pay

@day

Signature

7/11/17

Dyn Hon
8/11/17

OB NO: 743

07.11.2017

11 10 9 8 7 6 5 4 3 2 1

Annex B,



16

25/05/16

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

No. SI/ 4235 /16, dated Peshawar the 24/05/2016.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Constable Nasib Daraz No. 988. The appellant was awarded punishment of dismissal from service by DPO, Dir Upper vide OB No. 282, dated 26.03.2015, on charges that absence from duty for a period of 06 months and 17 days.

He preferred appeal before the RPO, Malakand which was examined and filed / rejected vide Order Endst: No. 7899/E, dated 08.10.2015.

Meeting of Appeal Board was held on 28.04.2016, wherein the appellant was heard in person. The enquiry papers were also examined. It was found that the appellant was suffering from chronic disease and on recovery he joined duties. He also provided medical documents.

Keeping in view his plea of illness and pathetic family condition, the board re-instated him into service and the intervening period including period of absence from duty be considered in service but not on duty. He will not be entitled for salary of the intervening period and will remain under special report for one year.

This order is issued with approval by the Competent Authority.

OB 368
27.5.016

Najeeb

(NAJEEB-UR-RAHMAN)
AIG / Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar. S

No. SI/ 4236-42 /16.

Copy of above is forwarded for information and necessary action to the:-

1. Regional Police Officer, Malakand Region, Swat.
2. District Police Officer, Dir Upper.
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. Office Supdt: E-IV, CPO, Peshawar.
7. I/C Central Registry Cell, (CRC), CPO.

OB/EC/OAS1
for n/a

DPO DIR U
25-5-016



8

Annex B2

OFFICE OF THE
INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA
PESHAWAR

No. SI/ 281 /19, dated Peshawar the 27/1/2019

ORDER

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 Naseeb Daraz No. 305. The petitioner was dismissed from service w.e.f 13.10.2017 by District Police Officer, Dir Upper vide OB No. 549, dated 02.10.2018 on the allegations of absence from duty w.e.f 13.10.2017 till date of dismissal from service i.e. 02.10.2018 for total period of 11 months and 20 days. As per his previous service record he was twice dismissed from service vide OB No. 282, dated 25.03.2015 and OB No. 30, dated 18.01.2017. His appeal was filed by Regional Police Officer, Malakand at Swat vide order Endst: No. 1425/E, dated 29.01.2019.

Meeting of Appellate Board was held on 06.05.2019 wherein petitioner was heard in person. During hearing petitioner contended that his absence was not deliberate but his mother was ill.

Petitioner was heard in detail but he failed to advance any plausible explanation in rebuttal of the charges. Furthermore, perusal of his service dossier revealed that he bears patchy record of service. He earned 16 bad entries during his short service. He was repatriated from PTS Kohat as unqualified from Recruit Course. He was earlier twice dismissed from service in the year 2015 & 2017 on the allegations of absence from duty which establishes that he is habitual absentee and there is no prospects of mending his ways. His present absence is 11 months & 20 days. The DPO has rightly passed the order by fulfilling all codal formalities. Therefore, the Board decided that his petition is hereby rejected.

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

OFFICE OF THE DPO
Dy: 381
Date 22-1-2020
UPPER DIR.

(Zaib Ullah Khan)
AIG/Establishment,
for Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. SI/ 282-70 /19

Copy of the above is forwarded to the:

1. Regional Police Officer, Malakand at Swat. One Service Roll and Fauji Missal containing Departmental enquiry file of the above named Ex-FC received vide your office Memo: No. 4660-61/E, dated 16.04.2019 is returned herewith for your office record.
2. District Police Officer, Dir Upper.
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.

EC, DPO Dir Upper

No 548/E,
14/01/20

OB/EC
Form-4

OB No: 53
23-01-2020

DPO Dir Upper
17-1-2020

Regional Police Officer,
Malakand at Swat
Khyber Pakhtunkhwa

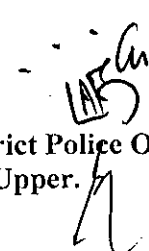
9 Annex C,

OFFICE OF THE
DISTRICT POLICE OFFICER,
DIR UPPER

FINAL SHOW CAUSE NOTICE.

No. 3243 /SB, Dated Dir Upper the 28 / 8 / 2018.

41. Whereas, you recruit Constable Naseeb Daraz No. 305 while posted in Police Lines committed gross misconduct as defined in section of Khyber Pakhtunkhwa Removal from Service (Special power) Ordinance (2000) resultantly your was Charge Sheet/Statement of Allegation were issued and Mr. Zafar Khan DSP HQrs was appointed as Enquiry Officer to conduct proper departmental enquiry.
42. Whereas, The Enquiry Officer finalized the Enquiry proceeding given you full opportunities of defence. The Enquiry Officer held you guilty of the charge leveled against you as per charge sheet.
43. And whereas, Ongoing through the finding and recommendation of Enquiry Officer. The material placed on record and other connected papers including your defence before the said Enquiry Officer. I am satisfied you have committed the misconduct and are guilty of the charge leveled against you as per statement allegation conveyed to you vide this Office Memo: No. 29-30/SB dated 02.01.2018 which stand proved and render you liable to be awarded punishment under section 3 of the said Ordinance.
44. Now therefore, I Mian Naseeb Jan, District Police Officer Dir Upper, as competent authority have tentatively decided to impose upon you, any one or More penalties, including the penalty of Dismissal form service under section 3 of the said Ordinance.
You are therefore, required to show cause within seven days of the receipt of this notice, as to why the aforesaid penalty should not be imposed upon you, failing it shall be presumed that you have no defence to offer and ex- parte action shall be taken against you. Meanwhile also intimate whether you desired to be heard in person or otherwise.


District Police Officer,
Dir Upper.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

Service Appeal No. 881 of 2020.

Nasib Daraz S/O Gul Faraz Khan R/O Akhgram, District Dir Upper Ex- Constable, No 305.

(Appellant)


Versus

1. The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
3. Additional IG Khyber Pakhtunkhwa.
4. District Police Officer Dir Upper.
5. D.S.P Dir Upper.
6. DIG Malakand at Saidu Sharif Swat.
7. The Regional Police Officer, Malakand Division At Swat.

..... (Respondents).

Index.

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1	Para wise Comments	-	1-3
2	Power of Attorney	-	4
3	Affidavit	-	5
4	D.D Report	-A-	6
5	Order	-B-	7-8
6	Final Show Cause Notice	-C-	9


**Inspector Legal,
Dir Upper.**

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

Service Appeal No. 881 of 2020.

Nasib Daraz S/O Gul Faraz Khan R/O Akhgram, District Dir Upper
Ex- Constable, No 305.

(Appellant)

Versus

1. The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
3. Additional IG Khyber Pakhtunkhwa.
4. District Police Officer Dir Upper.
5. D.S.P Dir Upper.
6. DIG Malakand at Saidu Sharif Swat.
7. The Regional Police Officer, Malakand Division At Swat.

..... (Respondents).

PARA WISE REPLY BY RESPONDENTS.

Respectfully Sheweth :

Preliminary objections:

1. That the instant service Appeal is not maintainable in the present form and liable to be dismissed.
2. That the Appellant has got no cause of action and locus standi to file the instant Appeal.
3. That the Appellant is stopped due to his own conduct.
4. That the Appellant has concealed the material facts from the Honorable Service Tribunal.
5. That jurisdiction of this Honorable service Tribunal has wrongly been invoked.
6. That the Appeal is bad due to mis-joinder and non-joinder of necessary parties.
7. That the Appeal is barred by law & limitation.

ON FACTS.

- 1) Pertains to the record hence need no comments.
- 2) Pertains to the record hence need no comments.
- 3) Pertains to the record hence need no comments.
- 4) Incorrect, the appellant remained absent from service since 13.10.2017 till to date without prior Permission from his Superior (D.D Report is annexed as A).
- 5) Incorrect, the appellant was terminated twice on the basis of the same Allegations in 2015 & in 2016 but Keeping in view the poor family back ground the worthy Inspector General Police Khyber Pakhtunkhwa reinstated the appellant vide order No 4235/2016 & 281/2019 and vide Order No 281-90(Order are annexed as B).
- 6) Incorrect, as mentioned in the preceding Para that the appellant was not intrested to serve the department more as he was twice dismissed from service.
- 7) Incorrect, the appellant is a habitual absentee and is not liable to be reinstated into service for 3rd time.
- 8) Incorrect, the appellant has not able to serve the department any more on the following Grounds.

GROUND.

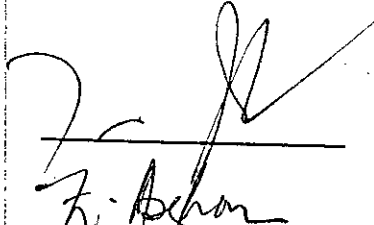
- A. Incorrect, the order of respondent No: 4 are valid and the departmental appeal is void as mentioned by the appellant.
- B. Incorrect, that the impugned order is legal, lawful and in accordance with law/ rules and the appellant remained absent seven times in 2014 and the total absence is six months and 17 days and remained absent w.e.f 15.07.2016 till to date vide D:D No. 37 dated 15.07.2016 and was unqualified repatriated to parent district.
- C. Incorrect, the past record of the appellant is totally unsatisfactory and is not liable to be reinstated.
- D. Incorrect, a proper departmental inquiry was initiated against the appellant and in this regard final show cause notice was issued to him vide DY No.3243/SB Dated 28.08.2018.

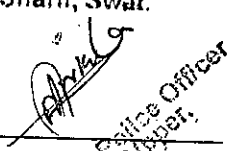
- 3
- E. Incorrect, the appellant remained absent for many time as much clear from his service record.
- F. Incorrect, the appellant was issued final show cause notice Vide No 3738 dated 09.10.2018 and reasonable opportunity was provided for his personal hearing but he failed to advance any plausible explanation in rebuttal of the charges (Final Show cause is annexed as C).
- G. Incorrect, the impugned order is in accordance with law/rules and issued by the competent authority.
- H. Incorrect, the appellant was dismissed from service due to misconduct, negligence, omission on his part.
- I. Incorrect, the appellant was been served a proper show cause notice but he failed to defend himself.
- J. Incorrect, the competent authority rightly dismissed the appellant following the past record of the appellant.
- K. Incorrect, the appellant has no interest in service as clear from his past record.
- L. That any other grounds may be advanced by the respondents during arguments by the permission of this honorable tribunal.

Prayer.

Keeping in view the above facts and reasons, it is humbly prayed that the appeal being not maintainable may kindly be dismissed with costs, please.

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


Regional Police Officer,
Malakand Region,
Saidu Sharif, Swat.


District Police Officer,
Dir Upper.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 881 of 2020.

Nasib Daraz S/O Gul Faraz Khan R/O Akhgram, District Dir Upper Ex- Constable, No 305.

(Appellant)

Versus

1. The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
3. Additional IG Khyber Pakhtunkhwa.
4. District Police Officer Dir Upper.
5. D.S.P Dir Upper.
6. DIG Malakand at Saidu Sharif Swat.
7. The Regional Police Officer, Malakand Division At Swat.

..... (Respondents).

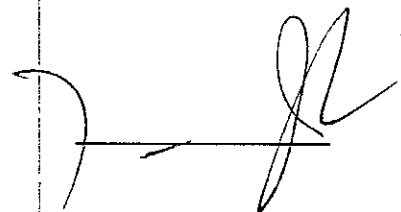
Power of Attorney

We, the undersigned do hereby authorized Zewar Khan Inspector Legal to appear on our behalf before the honorable Court in the cited above case on each and every date.

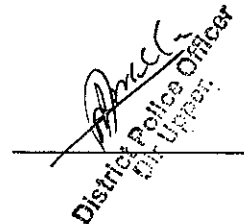
He is also authorized to file para wise comments/ reply, prefer appeal and to submit the relevant documents before the court.

Respondents:

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



Z. Khan
Regional Police Officer,
Malakand Region,
Saidu Sharif, Swat.



District Police Officer
Dir Upper

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 881 of 2020.

Nasib Daraz S/O Gul Faraz Khan R/O Akhgram, District Dir Upper Ex- Constable, No 305.

(Appellant)

Versus

- 8. The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
- 9. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
- 10. Additional IG Khyber Pakhtunkhwa.
- 11. District Police Officer Dir Upper.
- 12. D.S.P Dir Upper.
- 13. DIG Malakand at Saidu Sharif Swat.
- 14. The Regional Police Officer, Malakand Division At Swat.

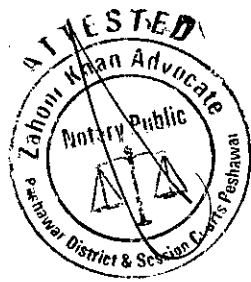
..... (Respondents).

Affidavit

I, Zewar Khan, Inspector/ Legal do hereby solemnly affirm and declared that the contents of parawise reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable court.



DEPONENT
Zewar Khan Inspector Legal,
Upper Dir.



Amneeep "A" گورنمنٹ ہسپتال (6) نقل در 37 مورخہ 13/10/17

در 37 مورخہ 13/10/17 صبح 10:00 بجے اس وقت
553 واٹر زونڈ 2977 کو صحت کی جانچ کی گئی مگر کئی
درد کی شکایات تھیں۔ درم جو خود پائرسورسٹ کیمپلر ان فنکشن کو رہا جانے کے بعد اس کے
ی درج روز نامہ کی گئی۔

در 9 ماہانہ صبح مورخہ 10/10/30 صبح 09:10 بجے اس وقت کیمپلر اور کیمپلر کیمپلر
نسیا لورڈ کے ساتھ ماہانہ طور پر 37 روز نامہ 13/10/17 سے ماہانہ اثر بیانیہ تھیک ویرا والا
م راجہ بیمار تھے اور علاج و حالہ کیا گیا اور ہسپتال پیشا ور لے گیا گیا۔ درم و درم
ماہانہ طور پر اب ماہانہ ماہانہ صحت ماہانہ کی گئی اور اس کے ساتھ ساتھ
کیمپلر فنکشن کی ماہانہ درج روز نامہ کی گئی۔ جتنا۔ عالی!

نقل بمطابق اپیل 20
#7/8/17

M.M.P.L.DIR(U)
30-10-17

کل ماہانہ (17) مورخہ

Siv
Forwards

DIR(U)
03-11-17

Water out Pay
@ day

Forwarded M.

Handwritten signature
7/11/17

Handwritten signature
8/11/17

OB NO: 743
07.11.2017

25/05/2016

0344880493

Annex "B"



16

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

No. S/ 4235 /16, dated Peshawar the 24/05/2016.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Constable Nasib Daraz No. 988. The appellant was awarded punishment of dismissal from service by DPO, Dir Upper vide OB No. 282, dated 26.03.2015, on charges that absence from duty for a period of 06 months and 17 days.

He preferred appeal before the RPO, Malakand which was examined and filed / rejected vide Order Endst: No. 7899/E, dated 08.10.2015.

Meeting of Appeal Board was held on 28.04.2016, wherein the appellant was heard in person. The enquiry papers were also examined. On medical grounds, it was stated that the appellant was suffering from chronic disease and on recovery he joined duties. He also provided medical documents.

Keeping in view his plea of illness and pathetic family condition, the board re-instated him into service and the intervening period including period of absence from duty be considered in service but not on duty. He will not be entitled for salary of the intervening period and will remain under special report for one year.

This order is issued with approval by the Competent Authority.

OB 368
27.5.016

Nasib
(NATEEB-UR-RAHMAN)
AIG / Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar. 2

No. S/ 4236-42 /16.

Copy of above is forwarded for information and necessary action to the:-

1. Regional Police Officer, Malakand Region, Swat.
2. District Police Officer, Dir Upper.
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. Office Supdt: E-IV, CPO, Peshawar.
7. I/C Central Registry Cell, (CRC), CPO.

OB / EC / OAS I
For n/a

... DPO DIR U
25-5-016



Annex "B"

OFFICE OF THE
INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA
PESHAWAR

No. S/ 281 /19, dated Peshawar the 27/1/2020

ORDER

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 Naseeb Daraz No. 305. The petitioner was dismissed from service w.e.f 13.10.2017 by District Police Officer, Dir Upper vide OB No. 549, dated 02.10.2018 on the allegations of absence from duty w.e.f 13.10.2017 till date of dismissal from service i.e. 02.10.2018 for total period of 11 months and 20 days. As per his previous service record he was twice dismissed from service vide OB No. 282, dated 25.03.2015 and OB No. 30, dated 18.01.2017. His appeal was filed by Regional Police Officer, Malakand at Swat vide order Endst: No. 1425/E, dated 29.01.2019.

Meeting of Appellate Board was held on 06.05.2019 wherein petitioner was heard in person. During hearing petitioner contended that his absence was not deliberate but his mother was ill.

Petitioner was heard in detail but he failed to advance any plausible explanation in rebuttal of the charges. Furthermore, perusal of his service dossier revealed that he bears patchy record of service. He earned 16 bad entries during his short service. He was repatriated from PTS Kohat as unqualified from Recruit Course. He was earlier twice dismissed from service in the year 2015 & 2017 on the allegations of absence from duty which establishes that he is habitual absentee and there is no prospects of mending his ways. His present absence is 11 months & 20 days. The DPO has rightly passed the order by fulfilling all codal formalities. Therefore, the Board decided that his petition is hereby rejected.

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

OFFICE OF THE DPO
Dy: 381
Date 22-1-2020
UPPER DIR

(A7)
(ZAIB ULLAH KHAN)
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. S/ 282-90 /1920

Copy of the above is forwarded to the:

1. Regional Police Officer, Malakand at Swat. One Service Roll and Fauji Missal containing Departmental enquiry file of the above named Ex-FC received vide your office Memo: No. 4660-6143, dated 16.04.2019 is returned herewith for your office record.
2. District Police Officer, Dir Upper.
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.

OB NO: 53
23-01-2020

OB/EC
For n-a
DPO Dir Upper
17-1-2020

EC DPO Dir Upper

No. 548/E,
19/01/20
Regional Police Officer,
Malakand at Swat
and Enquiry File

(7)

Annex C,

**OFFICE OF THE
DISTRICT POLICE OFFICER,
DIR UPPER

FINAL SHOW CAUSE NOTICE.

No. 3243 /SB, Dated Dir Upper the 28 / 8 /2018.

41. Whereas, you recruit Constable Naseeb Daraz No. 305 while posted in Police Lines committed gross misconduct as defined in section of Khyber Pakhtunkhwa Removal from Service (Special power) Ordinance (2000) resultantly your was Charge Sheet/Statement of Allegation were issued and Mr. Zafar Khan DSP HQrs was appointed as Enquiry Officer to conduct proper departmental enquiry.
42. Whereas, The Enquiry Officer finalized the Enquiry proceeding given you full opportunities of defence. The Enquiry Officer held you guilty of the charge leveled against you as per charge sheet.
43. And whereas, Ongoing through the finding and recommendation of Enquiry Officer. The material placed on record and other connected papers including your defence before the said Enquiry Officer. I am satisfied you have committed the misconduct and are guilty of the charge leveled against you as per statement allegation conveyed to you vide this Office Memo: No. 29-30/SB dated 02.01.2018 which stand proved and render you liable to be awarded punishment under section 3 of the said Ordinance.
44. Now therefore, I Mian Naseeb Jan, District Police Officer Dir Upper, as competent authority have tentatively decided to impose upon you, any one or More penalties, including the penalty of Dismissal form service under section 3 of the said Ordinance.
- You are therefore, required to show cause within seven days of the receipt of this notice, as to why the aforesaid penalty should not be imposed upon you, failing it shall be presumed that you have no defence to offer and ex- parte action shall be taken against you. Meanwhile also intimate whether you desired to be heard in person or otherwise.

MNS
District Police Officer,
Dir Upper.