S.No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
		KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR. **Service Appeal No. 6172/2021** Noor Badshah, Ex- Head Constable No. 436, Police Lines Timergara, Dir Lower. ... (Appellant) Versus 1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar. 2. The Regional Police Officer, Malakand Region at Saidu Sharif, Swat. 3. The Secretary, Finance Department, Khyber Pakhtunkhwa, Peshawar. 4. The District Accounts Officer, District Peshawar. ... (Respondents) **ORDER** **KALIM ARSHAD KHAN CHAIRMAN.-** Mr. Mir Zaman Safi, Advocate for appellant present and heard.
	3rd June, 2022	2. Learned counsel for the appellant submitted that in an early round of litigation by the appellant, his appeal No: 1001/2019, filed against the order awarding major penalty of dismissal from service on account of absence, was dismissed in limine on 07.11.2019 and he, on 04.03.2021, filed an application to the Inspector General of Police for grant of 2/3rd Compassionate Allowance in the light of Section 19(3) of the Khyber Pakhtunkhwa Civil Servants Act, 1973 or conversion of his dismissal order dated 09.05.2015 into compulsory retirement to him. The said departmental appeal was never responded, compelling the appellant to file this appeal before this Tribunal on 14.06.2021, which, according to him, was within time. 3. When confronted with the situation whether second appeal

would lie after dismissal of the first appeal, the learned counsel submitted that second appeal would maintain because he had a fresh cause of action.

4. It is found that the alleged cause of action, which has been agitated in the present appeal was available to the appellant at the time of his filing the first appeal, which alleged cause of action he had not urged at the relevant point of time. Therefore, this appeal would not be competent/maintainable in view of Rule 23 of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974. Dismissed in limine. Consign.

5. Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal this 3rd day of June, , 2022.

Khyber Pakhtunkhwa Service Tribunal Peshawar

(KALIM ARSHAD KHAN)
Chairman

07.01.2022 Nemo for the appellant.

Notices be issued to appellant and his learned counsel for the next date. Case to come up for preliminary hearing on 03.03.2022 before S.B.

(Rozina Rehman)
Member (J)

3.3.2022 Due to retirement of the Hon'ble Chairman the case is adjourned to come up for the same as before on 3/6/2022

Reader

02.12.2021 Learned counsel for the appellant present. Preliminary arguments heard.

02. The question involved in the instant service appeal is that of maintainability as the appellant who was proceeded against departmentally and awarded the major penalty of dismissal from service vide impugned order dated 09.07.2015 is seeking relief of compassionate allowance under Section 19(3) of the Khyber Pakhtunkhwa Civil Servants Act, 1973 because he has rendered more than 13 years service in respondent-department. His earlier appeal bearing No. 1001/2019 stands dismissed in limine vide judgement dated 07.11.2019. Learned counsel for the appellant argued that the appellant has been dismissed from service under the wrong law i.e Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011 whereas he was Head Constable in Police Department and was required to have been proceeded against under the Khyber Pakhtunkhwa Police Rules 1975. Moreover, to seek relief under Section-19(3) of the Khyber Pakhtunkhwa Civil Servants Act, 1973 precedent is available where such an appeal has been remitted to the orders of departmental authority by the Service Tribunal. In support of his arguments, he relied on Service Tribunal judgement dated 06.02.2018 delivered in service appeal No. 391/2016 titled Ahmad Hussain S/O Irshad Hussain, Ex-ADEO, Elementary and Secondary Education-vs-Government of Khyber Pakhtunkhwa.

03. So far Section-19(3) of the Khyber Pakhtunkhwa Civil Servants Act, 1973 is concerned, the power to grant 2/3 compassionate allowance in cases of dismissal or removal from service, rests and falls in the domain of government which may sanction Compassionate Allowance to such civil servants. It is, therefore, not mandatory and obligatory that the government shall sanction compassionate allowance but it is left to the circumstances, facts and nature of the case upon which the government may sanction such relief i.e Compassionate Allowance. The appellant has availed the opportunity when he submitted departmental appeal to the authority on 04.03.2021 but not responded to by the respondent-department.

04. His service appeal stands dismissed in limine on 07.11.2019 on the legal touchstone of limitation as well as case laws relied on, in support thereof. Moreover, Rule-23 of the Service Tribunal Rules, 1974 is a bar to entertain the instant Service appeal having been decided as restjudicata. .

05. In view of the discussion in the preceding paras, pre-admission notice be issued to the respondents. To come up for preliminary hearing on 07.01.2022 before S.B.

(Mian Muhammad)
Member(E)

06.10.2021 Mr. Kamran Khan, Advocate, as proxy for learned counsel for the appellant present and requested for adjournment on the ground that learned counsel for the appellant is ill today. Adjourned. To come up for arguments on the point of maintainability before the S.B on 02.12.2021.

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 6172 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/06/2021	The appeal of Mr. Noor Badshah presented today by Mr. Mir Zaman Safi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. REGISTRAR
2-		This case is entrusted to S. Bench for preliminary hearing to be put up there on 06/08/2021. CHAIRMAN
	06.08.2021	Nemo for the appellant. Lawyers are on strike today. It is there in the memorandum of appeal that appellant was dismissed from service on 09.07.2015 against which he had filed Service Appeal No. 1001/2019 which also dismissed vide order dated 07.11.2019. Through instant appeal, the appellant has sought compassionate Allowance in the light of Section 19(3) of the Khyber Pakhtunkhwa Civil Servants Act, 1973 and failing to get remedy from the department has approached this Tribunal. Let this appeal be argued on the point of maintainability in the given factual position. Case to come up on 06.10.2021 before S.B. Chairman

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO._____/2021

NOOR BADSHAH VS POLICE DEPTT:

INDEX

APPELLANT

THROUGH:

MIR ZAMAN SAFI
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 6172 /2021

Mr. Noor Badshah, Ex-Head Constable No. 436,
Police Lines Taimergara, Dir Lower.....**APPELLANT**

Khyber Pakhtunkhwa Service Tribunal
Diary No. 6570
Dated 14-6-2021

VERSUS

1- The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2- The Regional Police Officer, Malakand Region at Saidu Sharif, Swat.
3- The Secretary, Finance Department, Khyber Pakhtunkhwa, Peshawar.
4- The District Account Officer, District Peshawar.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF THE RESPONDENTS BY NOT ALLOWING/GRANTING TWO THIRD COMPASSIONATE ALLOWANCE TO APPELLANT IN LIGHT OF SECTION 19(3) OF THE CIVIL SERVANT ACT, 1973 AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the appellant may very kindly be allowed/granted two third compassionate allowance in light of Section 19(3) of the Civil Servant Act, 1973. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:
ON FACTS:

Filed to-day
Registrar
14/6/2021

1- That appellant was the employee of respondent Department and has served the department for more than 13 years as head constable quite efficiently and upto the entire satisfaction of his superiors.

2- That during service the appellant was absented from duty due to some domestic problems and after resolving the said demostic problems the appellant approached the concerned quarter for re-joining of his duty but the same was refused to the appellant.

3- That lastly the appellant submitted an application before the respondents to give any response to the appellant requests. That on the said request of the appellant the respondents finally handed over the impugned order dated 09.07.2015 whereby the appellant was dismissed from service. Copies of

application and impugned dismissal order are attached as annexure.....**A & B.**

4- That appellant feeling aggrieved from the impugned order dated 09.05.2015 preferred departmental appeal followed by service appeal No.1001/2019 but the same was dismissed vide judgment dated 07.11.2019. Copies of the Departmental appeal, service appeal and judgment are attached as annexure.....**C, D & E.**

5- That after dismissal of the aforementioned service appeal the appellant preferred Departmental appeal for the grant of 2/3rd of compassionate allowance in light of Section-19(3) of the Khyber Pakhtunkhwa Civil Servant Act, 1973 but no reply has been received so far. Copy of the Departmental appeal is attached as annexure.....**F.**

6- That appellant feeling aggrieved and having no other remedy but to file the instant service appeal before this august tribunal on the following grounds amongst the others.

GROUNDS:

A- That the inaction of the respondents by allowing/granting two third pension to the appellant is against the law, facts, norms of natural justice and materials on the record hence not tenable in the eye of law.

B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 hence not tenable and liable to be set aside.

C- That appellant had served the Police Department for more than 23 years but inspite of that the respondent Department is not willing to issue two third compassionate allowance in favor of the appellant.

D- That the respondent Department acted in arbitrary and malafide manner while not issuing two third compassionate allowance to the appellant.

E- That the inaction of the respondent Department is discriminatory while not issuing two third compassionate allowance in light of section, 19(3) of the Civil Servant Act, 1973 to the appellant.

F- That in light of section-19 of the Civil Servant Act-1973 the appellant is fully entitle for receiving two third compassionate allowance of his service which is about 24 years.

G- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 14.06.2021.

APPELLANT

NOOR BADSHAH

THROUGH:

MIR ZAMAN SAFI
ADVOCATE

CERTIFICATE:

It is certified that no other earlier appeal was filed between the parties.

DEPONENT

LIST OF BOOKS:

1- CONSTITUTION OF PAKISTAN, 1973
2- SERVICES LAWS BOOKS
3- ANY OTHER CASE LAW AS PER NEED

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO._____/2021

NOOR BADSHAH VS POLICE DEPTT:

AFFIDAVIT

I Mir Zaman Safi, Advocate High Court, Peshawar on the instructions and on behalf of my client do hereby solemnly affirm and declare that the contents of this **service appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

NOTARY PUBLIC ADVOCATE PESHAWAR

MIR ZAMAN SAFI,
Advocate
High Court, Peshawar

بخدمت جناب ڈسٹرکٹ پولیس آفیسر دیر لوئر تیمرگرہ

درخواست برائے دفاتر نامہ ڈیوٹی سرانجام دینے

A-5

جناب عالی!

گزارش ہے کہ میں محکمہ پولیس میں بطور ہیڈ کانسٹیبل ڈیوٹی سرانجام دے رہا تھا کہ دوران ڈیوٹی کچھ گھریلو مسائل کی بناء پر دفتر حاضر رہا۔ جناب والا! میں کافی عرصے سے دفتر کے چکر لگا رہا ہوں تاکہ اپنی ڈیوٹی دوبارہ جاری رکھ سکوں لیکن دفتر نہ آنے سے مجھے کوئی خاطر خواہ جواب نہیں مل رہا۔ میں تاحال پولیس محکمے کا ملازم ہوں کیونکہ اب تک میرے خلاف کوئی کارروائی عمل میں نہیں لائی گئی۔ اور نہ ہی مجھے نوکری سے برخاست کیا گیا ہے۔ اس لئے میری دلی خواہش ہے کہ میں ڈیوٹی سرانجام کر کے اسی طرح اپنے ملک و قوم کی خدمت کروں اور آئندہ میں آپ صاحبان کو کسی قسم کی شکایت کا موقع نہیں دونگا۔ لہٰذا آپ صاحبان سے التجا ہے کہ مجھے ڈیوٹی جاری رکھنے کا موقع دے کر مشکور فرمائیں۔ ہمیشہ دعاگو رہونگا۔

المرقوم: 5/6/2018

ATTESTED

العارض

نور بادشاہ

ہیڈ کانسٹیبل نمبر 436

دیر لوئر تیمرگرہ

E-(6)

B-(6)

OFFICE OF THE DISTRICT POLICE OFFICER, DIR LOWER AT TIMERGARA

ORDER

This order will dispose of the departmental enquiry conducted against Head Constable Noor Badshah No.436 ,who while posted at Police Lines Timergara absented himself from his lawful duty with effect from 03/01/2015 to 22/01/2015 (19 days), 27/03/2015 to 01/04/2015 (04 days), 04/04/2015 to 08/04/2015 (04 days) and from 16/05/2015 to date ,therefore he was served charge sheet coupled with statement of allegation and Mr. Aqiq Hussain DSP HQrs, was appointed as enquiry officer to conduct proper departmental enquiry and submit his finding.

The enquiry officer during the course of enquiry recorded the statement of all concerned, as well as the delinquent official. The Enquiry Officer in his finding report recommended him for major Punishment and also suggested that his absence period may be counted is leave without pay.

Therefore, I **Qasim Ali (PSP)**, District Police Officer, Dir Lower in exercise of power vested to me under (E & D) Rules 1975 with amendment 2014, agree with the finding report of the enquiry officer, and awarded him a **major punishment of Dismissal from service** with immediate effect and the period of absence with effect from 03/01/2015 to 22/01/2015 (19 days), 27/03/2015 to 01/04/2015 (05 days), 04/04/2015 to 08/04/2015 (04 days), 16/05/2015 to 24/06/2015 (38 days) and 02/07/2015 to date is counted as leave without pay.

ORDER ANNOUNCED

District Police Officer,
Dir Lower at Timergara

OB No. 627 /EC,
Dated 9-7- 2015.

ATTESTED

بخدمت جناب سوبیدار صاحب پولیس اسٹیشن سوہدرہ ضلع سیالکوٹ

درخواست ہمراہ عدالت نمبر دوبارہ حالی درخواست

C-7

جناب عالی!

گزارش ہے کہ سائل کو پولیس ڈیوٹی میں بدست کنبل 13 جولائی 2000 کو بھرتی کیا گیا ہے۔ سائل نہایت ایمانداری، فرض شناسی سے فرائض ادا کرتا رہا ہے۔ دوران ملازمت ہم ڈیوٹی کرتے ہوئے ایک بارودی سرنگ IED ناکارہ بنا دی ہے۔ جس کا سائل کا علاقہ گواہ ہے۔ اس کی کوششوں کی وجہ سے ضلعی حکومت اور ضروریات کے پیش نظر غیر حاضر ہو کر دکھا آنکھوں کی خدمات سے محروم کیا گیا ہے۔

حوالہ OB 627 مورخہ 9/7/2015 ڈسمس ہو چکا ہے۔

جناب عالی! سائل ایک شریف اور غریب گھرانے سے تعلق رکھتا ہے۔ معاش کا واحد ذریعہ سائل کی تنخواہ تھا۔ جو اب بند ہو گئی ہے۔ سائل FA تک تعلیم یافتہ ہے۔ اس کا کوئی ذریعہ آمدنی نہیں ہے۔ سائل بطور ڈیوٹی کورٹس ڈیوٹی سرانجام دیتا رہا ہے۔ جسمانی لحاظ سے تندرست اور توانا ہے۔ محکمہ پولیس سے ازحد لگاؤ رکھتا ہے۔ سائل کو اپنے کیے پر احساس ہو چکا ہے۔ اور برات بھی قابل قبول ہے۔ سائل کو معافی غیر حاضری جو کہ سزا میں 38 روپے ڈسمس کیا گیا ہے۔ حالانکہ غیر حاضری کے سائل کو قبل از سزا بلا تنخواہ کیا گیا ہے۔ سائل کو احساس ہے۔ بحال ہونے سے خدمات انجام دے گا۔ آئندہ کوئی شکایت کا موقع نہیں دے گا۔

لہٰذا بذریعہ درخواست استدعا ہے کہ مندرجہ بالا وجوہات سائل کے غربت اور سابقہ کارکردگی اور صبر و ملازمت کو مدنظر رکھتے ہوئے سائل کو دوبارہ ڈسٹرکٹ ہیڈ کوارٹر پولیس ضلع ڈیرہ غازی خان میں بحال کرنے سے ادارہ کا مورال بلند ہوگا۔

عرض گزار ہوں گا۔

03/04/2019

العارض

محمد بلال ولد بادشاہ عمر 436 کانسٹیبل پولیس ضلع ڈیرہ غازی خان ملازمت 3 سال

HC/BDU

0344-9474709

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

D-8

APPEAL NO._____/2019

Mr. Noor Badshah, Ex- Head Constable No. 436,
Police Lines Timergara, Dir Lower.....**APPELLANT**

VERSUS

1- The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2- The District Police Officer, District Dir Lower.
.....**RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 09.07.2015 COMMUNICATED TO THE APPELLANT ON 13.06.2018 WHEREBY MAJOR PENALTY OF DISMISSAL FROM SERVICE WAS IMPOSED ON THE APPELLANT AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned order dated 09.07.2015 communicated to the appellant on 13.6.2018 may very kindly be set aside and the appellant may be re-instated into service with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

ATTESTED

R/SHEWETH:
ON FACTS:

1- That appellant the employee of the respondent Department and has served the Department as Head Constable for more than 13 years quite efficiently and up to the entire satisfaction of his superiors.

2- That during service the appellant was absented himself from his lawful duty due to some domestic problems. That when the said domestic problems were resolved the appellant approached the concerned quarter for re-joining his duty but the same was refused to the appellant.

3- That lastly the appellant submitted an application before the respondents to give any response to the appellant requests. That on the said request of the appellant the respondents finally handed over the impugned order dated 09.07.2015 communicated to the appellant on 13.06.2018. Copies of the application and impugned order are attached as annexure.....**A & B.**

4- That appellant feeling aggrieved from the impugned order dated 09.07.2015 communicated to the appellant on 13.6.2018 filed Departmental appeal but no reply has been received so far. Copy of the Departmental appeal is attached as annexure.....**C.**

5- That appellant feeling aggrieved and having no other remedy filed the instant service appeal on the following grounds amongst the others.

GROUNDS:

A- That impugned orders dated 09.07.2015 communicated to the appellant on 13.06.2018 is against the law, facts, norms of natural justice and materials on record and hence not tenable and liable to be set aside.

B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

C- That the codal formalities required for the major penalty was not fulfilled by the respondents while issuing the impugned order dated 09-07-2015.

D- That no charge sheet and statement of allegation has been issued to the appellant by the respondents.

E- That no show cause notice has been served on the appellant before issuing the impugned order dated 09.07.2015.

F- That no publication has whatsoever been made by the respondents before issuing the impugned order dated 09-07-2019 which is necessary as per Rule-9 of the Efficiency and disciplinary Rules, 2011.

G- That, the impugned order dated 09-07-2019 is issued in a hasty manner by the respondents, hence the respondents have acted in an arbitrary & malafide manner.

H- That, no chance of personal hearing/defense was given to the appellant while issuing the impugned order dated 09-07-2019.

I- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

ATTESTED

It is therefore, most humbly prayed that the appeal of the appellant may kindly be accepted as prayed for.

Dated: 25-07-2019

(10)

APPELLANT

NOOR BADSHAH

THROUGH:
NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI
&
MIR ZAMAN SAFI
ADVOCATES

ATTESTED

E-(11).

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal No. 1001/2019

Date of institution ... 31.07.2019
Date of decision 07.11.2019

Mr. Noor Badshah, Ex-Head Constable No. 436, Police Lines, Timergara, Dir Lower. ... (Appellant)

Versus

The Inspector General of Police, Khyber Pakhtunkhwa Peshawar and one other. ... (Respondents)

Present

Mr. Mir Zaman Safi,
Advocate ... For appellant.

MR. HAMID FAROOQ DURRANI, ... CHAIRMAN

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

1. The appellant is aggrieved of order dated 09.07.2015 passed by respondent No. 2/District Police Officer, Dir Lower at Timergara, whereby, he was awarded major penalty of dismissal from service on account of absence without leave, at different intervals. The period of absence was counted as leave without pay. He is also aggrieved of inaction on the part of respondent No. 1 in responding to his departmental appeal/revision dated 03.04.2019.

2. Learned counsel for the appellant heard and available record gone through.

It was mainly contended that the impugned order of dismissal from service was not communicated to the appellant and upon gaining knowledge the requisite departmental appeal was preferred. He was of

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(12)

the view that the delay on the part of the appellant in submission of appeal was to be overlooked in the case in hand. Reference was made to 2012-TD(Service)348, PLD 2002-Supreme Court-84 and 2002-PLC(C.S) 218. As an alternative, the appellant was entitled to Compassionate Allowance as provided in Section 19 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, it was added.

3. On one hand, the contents of departmental appeal dated 03.04.2019 nowhere suggest that the impugned order was conveyed/communicated to the appellant with such enormous delay while, on the other, it is beyond perception that having been dismissed from service in the year 2015 the appellant remained unaware of termination of his service till filing of departmental appeal. Obviously, he was not performing any duty nor was paid any salary during such period. The departmental appeal was clearly and formidably barred by time, therefore, the appeal in hand would not be competent. Guidance is sought from judgments reported as 2006-SCMR-453 and 2012-SCMR-195.

4. In view of the above, the appeal in hand does not merit admission for regular hearing, therefore, is dismissed in limine. The appellant shall, however, be at liberty to seek remedy by way of award of compassionate allowance in accordance with law.

File be consigned to the record.

SD/-

(HAMID FAROOQ DURRANI)
Chairman

ANNOUNCED
07.11.2019

Certified to be ture copy
Ex-
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 04/03/21
Number of Words 1250
Copying Fee 14-00
Urgent 4-00
Total 18-00
Name of Copyist
Date of Completion of Copy 04/3/21
Date of Delivery of Copy 04/3/21

To,

The Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

F-(13)

Subject: **DEPARTMENTAL APPEAL FOR THE GRANT OF 2/3RD OF COMPASSIONATE ALLOWANCE IN LIGHT OF SECTION 19(3) OF THE KHYBER PAKHTUNKHWA CIVIL SERVANT ACT, 1973 OR THE IMPUGNED DISMISSAL ORDER DATED 09.05.2015 COVERTED INTO COMPULSORY RETIREMENT**

Respected Sir,

With due respect it is stated that i was the employee of your good self-department and had served the department as Head Constable No.436 for more than thirteen (13) years quite efficiently and up to the entire satisfaction of my superiors. That during service I was absented from duty due to my some domestic problems. That when the aforementioned domestic problems were resolved I approached the concerned quarter for re-joining of my duty but the same was refused by the authorities. That lastly I was submitted an application before the worthy District Police Officer, Dir Lower for giving any response on the repeated requests of the undersigned and lastly the concerned authority handed over the order dated 09.07.2015 whereby major penalty of dismissal from service has been imposed on the undersigned. That feeling aggrieved I preferred Departmental appeal before your good self but no response was received from the quarter concerned. That subsequently I filed service appeal 1001/2019 but the same has been dismissed vide judgment/order dated 07.11.2019. That, above all, I have 14 years of service at my credit, therefore, the undersigned is fully entitle for the grant of 2/3rd of compassionate allowance in light of Section 19(3) of the Khyber Pakhtunkhwa Civil Servant Act, 1973.

It is therefore, most humbly prayed that on acceptance of this Departmental appeal 2/3rd of compassionate allowance may very kindly be granted to the undersigned in light of Section 19(3) Khyber Pakhtunkhwa Civil Servant Act, 1973. Any other remedy which your good self deems fit that may also be awarded in favor of the undersigned.

Dated: 04.03.2021

ATTESTED

Your Obediently

NOOR BADSHAH, Ex- Head Constable,
Police Lines Timergara, Dir Lower

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

_____ *OF 2021*

Noor Badshah _____ *(APPELLANT)* *(PLAINTIFF)* *(PETITIONER)*

VERSUS

Police Deptt: _____ *(RESPONDENT)* *(DEFENDANT)*

I/We Noor Badshah

Do hereby appoint and constitute ***MIR ZAMAN SAFI, Advocate, Peshawar*** *to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.*

*Dated.*_____/_____/*2021*

CLIENT

ACCEPTED
MIR ZAMAN SAFI
ADVOCATE

OFFICE:
Room No.6-E, 5th Floor,
Rahim Medical Centre, G.T Road,
Hashtnagri, Peshawar.
Mobile No.0323-9295295

Sr. No.	Date of Order/ Proceeding	Order or other proceedings with signature of Judge or Magistrate
	2	3

Khyber Pakhtunkhwa Service Tribunal Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal No. 391/2016

Date of Institution 04.04.2016
Date of Decision ... 06.02.2018

Ahmad Hussain son of Irshad Hussain resident of village & P.O Kalu Khan District Swabi, Ex. E.D.O Elementary &Secondary Education, Mardan.

Appellant

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
2. Secretary Government of Khyber Pakhtunkhwa, Elementaty &Secondary Education Department, Civil Secretariat Peshawar.
3. Director Elementary & Secondary Education Department, Dabgari Garden, Peshawar.
4. Noor Zada District Officer BPS-18 of Education Department, Mardan.

Respondents

06.02.2018

JUDGMENT

MUHAMMAD HAMID MUGHAL, MEMBER: Learned counsel for the appellant present. Mr. Muhammad Jan, Learned Deputy District Attorney for official respondents present.

2. Learned counsel for the appellant stated that the present service appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 is confined to extent of the prayer of the appellant for the grant of compassionate allowance not exceeding two third of the pension.

3. Record perused, in the light of arguments of the parties and it

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

transpired that vide order dated 06.08.2009 the appellant "Ex E.D.O (E&SE) Mardan" was awarded major penalty of dismissal from service on the charge of illegal appointments and financial irregularities. Appeal of the appellant before the Service Tribunal was dismissed vide order dated 31.05.2011. Petitioner filed CIVIL PETITION before august Supreme Court against the judgment of Service Tribunal, which was also dismissed vide order dated 16.12.2011. The appellant also filed Writ Petition bearing No.2727-P/2015 before Hon'ble Peshawar High Court Peshawar which Writ Petition was also dismissed in *limini* vide judgment/order dated 09.02.2016. Where after, the appellant again approached this Tribunal on 04.04.2016 and now as per contention of the learned counsel for the appellant the only issue before this Tribunal is the entitlement of the appellant for the grant of companionate allowance not exceeding two third of the pension.

4. Learned counsel for the appellant argued that under Sub Section 3 of Section 19 of the Khyber Pakhtunkhwa Civil Servant Act 1973 the government may sanction compassionate allowance not exceeding than two third of the pension to such civil servant who is dismissed from service for the reason of discipline. Learned counsel for the appellant also contended that it is within the domain of the Provincial Government to allow compassionate allowance and for that purpose the appellant has already submitted application/representation dated 06.06.2015 but the application/representation of the appellant was not responded.

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

5. As against that learned Deputy District Attorney while opposing the present service appeal, controverted the arguments of learned counsel for the appellant and stated that in view of the dismissal of appellant from service on serious charges the appellant is not entitled to any compassionate allowance.

6. Arguments heard. File perused.

7. Nothing found available on record to suggest that the representation of the appellant for the grant of compassionate allowance was examined by the departmental authority as no order of the departmental authority is available on file.

8. In the stated circumstances this Tribunal is of the considered view to remit the case of the appellant to the departmental authority with the direction to examine the case of the appellant and to decide his representation dated 06.06.2015 with speaking order within a period of three (03) months of the receipt of this judgment. The present appeal is disposed of accordingly. Parties are left to bear their own costs. Copy of record of the present case including the application/representation of the appellant dated 06.06.2015 alongwith copy of this judgment be sent to departmental authority/respondent department. File be consigned to the record room.

ANNOUNCED
06.02.2018

Sd/- Muhammad Hamid Mughal, Member

Sd/- Gul Zeb Khan, Member

Date of Presentation of Application 03/6/21
Number of Words 1200
Copying Fee 60.00
Urgent
Total 180.00
Name of Copyist
Date of Completion of Copy 03/6/21
Date of Delivery of Copy 03/6/21

Certified to be ture copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.**6172/2021**

Noor Badshah Ex-Head Constable ..... Appellant.

VERSUS.

1) Provincial Police Officer, Khyber Pakhtunkhawa Peshawar.
2) Regional Police Officer Malakand at Saidu Sharif, Swat.
3) Secretary Finance Khyber Pakhtunkhawa
4) District Accounts Officer Peshawar..... .....Respondents.

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S.#	Description of documents	Annexure.	Pages
1.	Para wise comments	-	1-2
2.	Power of Attorney.	-	3
3.	Affidavit.	-	4
4.	Copies of bed entries.	"A" to "G"	5-11
5.	Copy of finding report.	"H"	12-13
6	Copy of dismissal order.	"I"	14

(MUQADAR KHAN)
Inspector Legal
Dir Lower

(3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.**6172/2021**

Noor Badshah Ex-Head Constable ..... Appellant.

VERSUS.

1) Provincial Police Officer, Khyber Pakhtunkhawa Peshawar.
2) Regional Police Officer Malakand at Saidu Sharif, Swat.
3) Secretary Finance Khyber Pakhtunkhawa....
4) District Accounts Officer Peshawar..... .....Respondents.

POWER OF ATTORNEY

Mr. Muqadar Khan Inspector Legal Dir Lower is hereby authorized to appear on our behalf before the Honorable service Tribunal in the above Service appeal and pursue the case on each and every date.

He is also authorized to submit all the relevant documents in connection with the above Service Appeal.

(Respondent No. 01) **Provincial Police Officer,** **Khyber Pakhtunkhwa.** **Peshawar**	Regional Police Officer, Malakand Region, Saidu Sharif, Swat. (Respondent No. 02) **Regional Police Officer,** **Malakand at Saidu Sharif** **Swat**	(Respondent No. 03) **Secretary Finance** **Khyber Pakhtunkhwa** **Peshawar**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.**6172/2021**

Noor Badshah Ex-Head Constable ..... Appellant.

VERSUS.

1) Provincial Police Officer, Khyber Pakhtunkhawa Peshawar.
2) Regional Police Officer Malakand at Saidu Sharif, Swat.
3) Secretary Finance Khyber Pakhtunkhawa
4) District Accounts Officer Peshawar..... .....Respondents.

INDEX

(MUQADAR KHAN)
Inspector Legal
Dir Lower

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.**6172/2021**

Noor Badshah Ex-Head Constable ..... Appellant.

Khyber Pakhtunkhwa Service Tribunal
Diary No. 148
Dated 3/6/2022

VERSUS.

1) Provincial Police Officer, Khyber Pakhtunkhawa Peshawar.
2) Regional Police Officer Malakand at Saidu Sharif, Swat.
3) Secretary Finance Khyber Pakhtunkhawa....
4) District Accounts Officer Peshawar.....Respondents.

PARA WISE REPLY BY RESPONDENTS.
Respectfully Sheweth:

PRELIMINARY OBJECTIONS.

1) That the present service appeal is not maintainable in its present form.
2) That the appellant has not come to this August Tribunal with clean hands.
3) That the present appeal is barred by law and limitation.
4) That this Honorable Service Tribunal has no jurisdiction to entertain the present Appeal.
5) That the appellant has got no cause of action and locus standi to file the instant appeal.
6) That the appellant has suppressed the material facts from this Honorable Tribunal.

ON FACTS:

1. Correct to the extent that appellant remained employee of the department but his service period tainted with bed entries (Copies of bed entries enclosed as annexure "A" to "G")
2. Incorrect, the appellant is habitual absentee, men of indiscipline attitude, involved in deliberate absence, fraudulent deals in sale purchase of vehicles and therefore he was proceeded against departmentally for his own conduct.
3. Incorrect, proper enquiry against the appellant was conducted to scrutinize the conduct of appellant and the enquiry officer in his detail finding report recommended for major penalty. The competent authority issued dismissal order vide OB No. 627 dated 09.07.2015 after observing all codel formalities under the rules. (Copy of finding report and dismissal order enclosed as annexure "H" and "I")
4. Departmental appeal of the appellant was found groundless, therefore rightly filed under the law/rules.
5. Incorrect, the record is silent.

6. The appellant has got no cause of action to file the present appeal and the Service Tribunal has no jurisdiction to entertain the present appeal.

GROUNDS.

A) Incorrect, the 15 years service carrier of the appellant is full of bed entries. Moreover the service period of the appellant is less than qualifying service for pension and all the process carried out by the respondents is in accordance with law /rules and no illegality is committed by the respondents.

B) Incorrect, the appellant was treated by the respondents in accordance with law/rules and no violation of the Constitution of Pakistan is committed by the respondents.

C) Incorrect, the service period of the appellant is about 14/15 years including period of absence etc, therefore he is not entitled as per rules.

D) Incorrect, no malafide is committed by the respondents with appellant.

E) Incorrect, no discrimination has been committed by the respondents with the appellant.

F) Incorrect, the service period of appellant is not 24 years but only 14/15 years including the period of absence. Moreover qualifying service is 25 years with age of 55 years under the new amendment in pension rules by government of Khyber Pakhtunkhawa.

G) 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 service appeal being not maintainable may graciously be dismissed with costs.

(Respondent No. 01)
Provincial Police Officer,
Khyber Pakhtunkhwa.
Peshawar

(Respondent No. 02)
Regional Police Officer,
Malakand at Saidu Sharif
Swat

(Respondent No. 03)
Secretary Finance
Khyber Pakhtunkhwa
Peshawar.

(4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.**6172/2021**

Noor Badshah Ex-Head Constable ..... Appellant.

VERSUS.

1) Provincial Police Officer, Khyber Pakhtunkhawa Peshawar.
2) Regional Police Officer Malakand at Saidu Sharif, Swat.
3) Secretary Finance Khyber Pakhtunkhawa
4) District Accounts Officer Peshawar..... .....Respondents

AFFIDAVIT.

I Muqadar Khan Inspector Legal Dir Lower do hereby solemnly affirm and declare on oath, that the contents of the Para wise reply is true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Court.

ATTESTED
Ahmad Mustafa Advocate
NOTARY PUBLIC
District Court Peshawar

(MUQADAR KHAN)
Inspector Legal
Dir Lower
0344-8978897

(5)

Annex "A"

ضلع دیر پائین

پولیس لائن تیمرگرہ

نقل 57 روزنامچہ 22/01/15

436

حاضری HC نور بادشاہ موجودہ 22/01/15 وقت 20:55 اس وقت ملزم غیر حاضر شدہ بحوالہ مد 37 روزنامچہ 03/01/15 سے حاضر ایکٹر۔

الحق سپیشل انگریزی

جناب عالی!

نقل بمطابق اصل ہے

MMAL Tgara
28-01-015

جناب عالی!

مذکورہ HC کل (19) یوم غیر حاضر رہا ہے
سفارش سخت سزا کی سفارش کی جاتی ہے

Zahir Gul
26-01-015

(19)

جناب عالی!

مذکورہ ملزم کل (19) یوم
مد نمبر 37 روزنامچہ میں غیر حاضر رہا ہے
سزا دینے کی سفارش کی جاتی ہے۔

DSP Hqrs.
30.1.015

تاریخ جرم

سابقہ غیر حاضری =

مجموعہ = (19) + 5 + 4 = 28 یوم

کل 28 = 4+5+19

Attested

E.O

436 (6)

Annex "B"

ضلع ڈیرہ غازی خان

پولیس لائن تھانہ ٹاہرا

تھانہ ٹاہرا روزنامچہ 16/2/015

ہیڈ کانسٹیبل ٹاہرا موجود 16/2/015 وقت 09:15 بجے اس وقت خود بجانب HC بیکار سروار دفتر محرر لائن کے عدم موجود پا کر سپرد ہوئی۔ بغرض رپورٹ غیر حاضری درج روزنامچہ کیا گیا۔

جناب عالی!

نقل بمطابق اصل ہے۔

MM PC-T gara
18-2-015

نقل

تھانہ 12 روزنامچہ 18/2/015

حاضری خود بجانب HC مورخہ 18/2/015 وقت 08:50 بجے اس وقت میں غیر حاضر شدہ بعد الدرج روزنامچہ 16/2/015 سے حاضر کیا گیا۔

جناب عالی!

نقل بمطابق اصل ہے

MM PC-T gara
18-2-015

Sir For Orderly

LO-L-T gara
18-2-015

جناب عالی!

مذکورہ کنسٹیبل کل دو یوم غیر حاضر رہ چکا ہے۔ لہٰذا خواہ میں شمار کرنے کی سفارش کیجاتی ہے۔

RI-Police line-T gara
23-2-015

جناب عالی!

دو یوم غیر حاضری بلا تنخواہ شمار کرنے اور ساتھ ہی دو یوم انکوائری کھول دینے کی سفارش کیجاتی ہے۔

DSP HQrs
10-03-015

Approved

DPO DIK

OR No. 259

(17) Annex

ضلع دیر پائین

436

نقلمد 47 روز نامچہ 20/03/15

لاریاں ایجرنسی حاضری مورخہ 20/03/15 وقت 18:30 بجہ اس وقت گنتی ملازمان کیگئی
جملہ ملازمان ڈیوٹی ملازمان گنتی میں موجود پائے گئے ماسوائے ہیڈ کنسٹبل نور باچا HC جو غیر
موجود پائے جس کیخلاف رپورٹ غیر حاضری درج روزنامچہ کیگئی۔ جناب عالی!

نقل مطابق اصل ہے

Mno P. Line T. Gara
23.03.15

نقلمد 23 روز نامچہ 23/03/15

23 حاضری نور باچا HC مورخہ 23/03/15 وقت 10:10 بجہ اس وقت میں غیر حاضر شدہ بحوالہ مد 47
روزنامچہ 20/03/15 سے حاضر آکر اپنا حاضری درج روزنامچہ کیگئی الدستخط انگریزی۔

جناب عالی!

نقل مطابق اصل ہے

Mno. P Line. T. Gara
23.03.15

Sir

Formwarded

Lo. P. Line. T Gara
24.03.15

Sir,

— Three days w/on pay,
— Three days extra drill is suggested

جناب عالی!

مذکورہ ہیڈ کنسٹبل کل دو (2) یوم پندرہ (15) گھنٹے اور بیس (20) منٹ غیر حاضر رہا ہے۔ بدانحواہ میں شمار کرنے کی سفارش کیجاتی ہے۔

Ri. Police line. T gara.
27.3.15

D.S.P (H.Qrs)
Timergara
Dir (Lower).

03 days absence period treated as leave with out pay and awarded 03 days extra Drill

DPO/Dir (L)

(8)

Annex (D)

ضلع دیر لوئیر

436 نقلمد 46 مورخہ 25/3/015

گنتی ملازمان 461

رپورٹ غیر حاضری

46 مورخہ 25/3/015 وقت 8:00 بجے اس وقت گنتی ملازمان کیگئی جملہ ملازمان ڈسٹرکٹ لوئیر میں موجود پائے گئے سوائے نور باچہ خان HC غیر موجود پاکر جن کیخلاف رپورٹ غیر حاضری مرتب درنامچہ کیگئی۔

جناب عالی!

نقل مطابق اصل ہے۔

MMHT Gma

29-03-015

نقلمد 25 مورخہ 26/3/015

25 حاضری 46 مورخہ 26/3/015 وقت 10:20 بجے اسوقت نور باچہ خان HC غیر حاضر شدہ بحوالہ 46 درنامچہ 25/3/015 سے حاضر اگر بیانی جبکہ میں بوجہ مجبوری غیر حاضر ہو چکا ہوں۔ اب حاضر آیا۔ میری حاضری لگادیں الوقت اگر نہیں ہے تو کل کی حاضری کے درنامچہ کیگئی۔

جناب عالی!

نقل مطابق اصل ہے۔

MMHT Gma

29-03-015

SI(O)

Forwarded

to line T Ga

31-03-20

جناب عالی!

مذکورہ کنسٹبل کل 16 گھنٹے 20 منٹ غیر حاضر رہ چکا ہے۔ مناسب سزا دینے کی سفارش کیجاتی ہے

Ri- Police line T Gara

31-3-015

- one day L/i pay
- one day e. drill is Bug.

one day absence Period Treated as leave with out pay and awarded one day Extra drill

OB No 354

15/4/15

DPO/DIR L.

ضلع دیر لوئیر

436 (9) Annex "E"

لائن گرگرہ

نقل مد 48 روزنامچہ 23/02/015

مد 48 گشتی ملازمان / رپورٹ غیر حاضری 07 مورخہ 23/02/015 وقت 18:10 بجے اس وقت گشتی ملازمان گشتی
جملہ ملازمان گشتی میں موجود پا کر ماسوائے نور بادشاہ HC جو عدم موجود پا کر جس کیخلاف رپورٹ
غیر حاضری درج 2 روزنامچہ کیگئی۔

جناب عالی!

نقل مطابق اصل ہے

MM PL Tgarra
26 02 015

نقل مد 10 روزنامچہ 26/02/015

حاضری نور بادشاہ HC مورخہ 26/02/015 وقت 08:40 بجے اس وقت میں غیر حاضر شدہ بحوالہ
مد 48 روزنامچہ 23/02/015 سے حاضر آیا الا دستخط اگر غیر گشتی بدوران پیشی
جواب دونگا۔

جناب عالی!

نقل مطابق اصل ہے

MM PL Tgarra
26 02 015

جناب عالی!
مذکورہ ہیڈ کنسٹبل (3) یوم غیر حاضری کے
دوران میں حاضر ہے برائے سفارش کی سفارش کی جاتی ہے

Ri Pol Line Tgarra
02-03-015

(3)
جناب عالی۔
مذکورہ کنسٹبل کا آیام غیر حاضری کل تین
یوم تنخواہ میں شمار کرنے کی سفارش
کیجاتی ہے۔

Ri-Police Line Tgarra.
03-3-015

جناب عالی،
(3) آیام غیر حاضری کل تین یوم
بلا تنخواہ میں شمار کرنے اور
سات (7) یوم کوارٹر گارڈ
دینے کی سفارش کیجاتی ہے۔

DSP - HQrs.
5-3-015

Approved.

SDPO Dir

OB-NO 259
10/3/15

(10)

Annex C

Entry made & to be suspended

OFFICE OF THE DISTRICT POLICE OFFICER, DIR LOWER AT TIMERGARA

ORDER

This order will dispose of the departmental enquiry conducted against Head Constable Noor Badshah No.436 ,who while at BDS Stat Police Lines Timergara found absented from duty without any leave or prior permission from his superior and also involved in case FIR No.604, dated 06/11/2014 u/s 419/420/468/471 PPC, PS Ocuh. Therefore, he was served charge sheet coupled with statement of allegation and Mr. Hidayat Ullah Shah SDPO Adenzai, was appointed as Enquiry Officer to conduct proper departmental enquiry and submit his finding.

The enquiry officer during the course of enquiry recorded the statement of all concerned as well as the delinquent official. Thus Enquiry Officer in his finding report suggested that the period of absence is counted as leave out pay and also recommended him for suitable punishment.

Therefore, **I Qasim Ali (PSP)**, District Police Officer, Dir Lower in exercise of power vested to me under Police (E& D) Rules 1975, with amendment 2014, agree with finding report of the enquiry officer, and awarded him **a punishment of forfeiture of his two annual increment with cumulative effect** , the period of absence with effect from 02/12/2014 to 02/01/2015 **total 31 days is counted as leave without pay** and **re-instated** him into service from the date of suspension, also **Pay released** .

ORDER ANNOUNCED

District Police Officer,
Dir Lower at Timergara

OB No. 400 /EC,
Dated 17.5. 2015.

5/5

Entry made for
Fine & pay
5/5/15

5/5/15

(11)

فائنڈنگ رپورٹ

(انکوائری برخلاف ہیڈ کنسٹیبل نور بادشاہ 436 پولیس لائن ترگزئی)

جناب عالی!

بحوالہ انکوائری نمبری 1513/EB 30-5-14 برخلاف ہیڈ کنسٹیبل نور بادشاہ 436 جناب DPO صاحب معروض ہوں کہ مذکورہ 7/2002 کا بھرتی شدہ ہے۔ BDU پولیس لائن میں تعینات ہے جہاں مذکورہ بحوالہ سند 54 روزنامچہ 12 4/14 پر غیر حاضر مذکورہ کی تنخواہ بحوالہ OB 494 23-4-14 تاریخ غیر حاضری سے بند کی گئی ہے۔ مذکورہ بدستور غیر حاضر رہنے پر جناب DPO صاحب نے مذکورہ کے خلاف انکوائری میں DSP کو مارک کی ہے۔

حسب قاعدہ انکوائری شروع کرکے ہیڈ کنسٹیبل مذکورہ کی طلبی کیلئے پروانہ صدر پولیس لائن کو جاری کیا گیا۔ ہیڈ کنسٹیبل نور بادشاہ 436 مورخہ 04 پیش ہوکر جسکا بیان قلمبند کرکے مذکورہ بیان کیا کہ میں سال 2002 سے ڈیوٹی سکواڈ میں تعینات ہوں مورخہ 09 4/14 پر روٹین شب باسی پر گھر خود گیا تھا۔ دوران شب باسی کمر درد کی تکلیف میں مبتلا ہوکر ڈاکٹر غلام حسین ہسپتال تھانہ ملاکنڈ ایجنسی سے رجوع کرکے ڈاکٹر صاحب نے دوائی تجویز کی اور آرام کرنے کا مشورہ دیا ساتھ ہی دوبارہ معائنہ کرنے کیلئے پندرہ 15 دن بعد آنے کی ہدایت کی وقتاً فوقتاً ڈاکٹر غلام حسین سے معائنہ کرتا رہا ہوں۔ اسی بناء غیر حاضر ہو چکا ہوں۔ جملہ غیر حاضری اپنے علاج معالجہ کی خاطر کر چکا ہوں۔ میڈیکل کاغذات گھر خود میں رہ چکے ہیں۔ جملہ میڈیکل لیو کاغذات کل پیش کرونگا۔ سائل کی بیماری کو مدنظر رکھکر معافی دیجاوے۔

اسی طرح صدر پولیس لائن، انچارج B.D.S جمشید Asi کے بیانات قلمبند کرکے لف انکوائری ہے۔ ہیڈ کنسٹیبل مذکورہ نے مورخہ 03 4/14 پر حاضری کی ہے۔ قلمبند حاضری / غیر حاضری بھی شامل انکوائری کی ہے۔

محصہ قلمبندی بیانات میں SDPO اس نتیجہ پر پہنچا کہ ہیڈ کنسٹیبل نور بادشاہ 436 شب باسی پر گھر خود گیا تھا۔ دوران شب باسی بیمار ہوکر حسب ڈاکٹر غلام حسین ہسپتال تھانہ ملاکنڈ ایجنسی سے اپنا علاج معالجہ کیا ہے۔ جملہ عرصہ غیر حاضری کی میڈیکل لیو کاغذات پیش کی ہے۔ جو لف انکوائری ہذا ہے۔ چونکہ مذکورہ دوران شب باسی کمر درد کی بیماری میں مبتلا ہوکر پولیس لائن سے حسب قاعدہ روانگی / واپسی پیش کی ہے۔ لہذا ہیڈ کانسٹیبل نور بادشاہ 436 کی ایام غیر حاضری 52 دن بدوم میڈیکل لیو یا رخصت کلاں میں شمار کرنیکی سفارش کیجاتی ہے۔ فائنڈنگ رپورٹ گزارش ہے۔

ORDER

1. Period 7 days absence in service
2. E Leave
3. Pay reduce

DPO Lower Dir

EL

Date 7 days sick
Bad Fortune

only one day absence

Asi
20/6

Entry in S.Roll

OR

(12)

Annex: "A"

POLICE DEPARTMENT

DIR LOWER

ENQUIRY REPORT

REFERENCE	**ENQUIRY NO.1632/EB DATED 16-06-2015**, marked under No.12894-95/EC, dated 16-06-2015.
ACCUSED	HC Noor Badshah-436.
ALLEGATIONS	That he while posted at Police lines Timergara absented himself from his lawful duty w.e.f 03-01-2015 to 22-01-2015 (19) days , 27-03-2015 to 01-04-2015 (05) days, 04-04-2015 to 08-04-2015 (04) days & from 16-05-2015 to date without any leave or prior permission from his superior, which is a gross misconduct on his part.
APPOINTMENT	05-07-2000
PRESENT RECORD	**ABSENCE** 03-01-2015 to 22-01-2015 (19) days, 27-03-2015 to 01-04-2015 (05) days, 04-04-2015 to 08-04-2015 (04) days & from 16-05-2015 to 24-06-2015 (38) days. From 02-07-2015 to date.
CHARGE SHEET	HC Noor Badshah-436 was charge sheeted vide No.12896/EC, dated 16-06-2015 & Enquiry was entrusted to the undersigned vide NO.12896-95/EC, dated 16-06-2015.
PREVIOUS RECORD	As per OSI report dated 23-06-2015; HC Noor Badshah-436 has already been punished with following details; ➢ OB No.757, dated 02-0007-2014, his 32 days absence was counted as leave without pay. ➢ OB No.259, dated 17-03-2015, his 02 days absence was counted as leave without pay with 02 days extra dill. ➢ OB No.259 dated 17-03-2015, his 03 days was counted as leave without pay with 03 days extra drill. ➢ OB No.333, dated 08-03-20156, his 03 days absence was counted as leave without pay with 03 days extra drill. ➢ OB No.354, dated 15-04-2015, his 01 day absence was counted as leave without pay with 01 day extra drills ➢ OB NO.400, dated 05-05-2015, his 31 days absence was counted as leave without pay with stoppage of two increments.

Annex "H"

- OB NO.461, dated 01-06-2015, his 02 days absence was counted as leave without pay with 02 days extra drill.

OBSERVATION

The aforementioned HC replied to charge sheet & he stated therein, that he was admitted in LRH Peshawar due to his two years old injuries in his ribs.

Cross

HC told in response to question that he cannot produce medical leave or relevant medical papers.

He further told that on 27-06-2015 he will produce medical papers.

He further stated that he is being posted in BDS Timergara.

He further disclosed that he did not make departure from Police Lines Timergara to hospital.

CONLUSION

HC Noor Badshah-436 remained absent from duty w.e.f;

a) 03-01-2015 to 22-01-2015 (19) days,
b) 27-03-2015 to 01-04-2015 (05) days,
c) 04-04-2015 to 08-04-2015 (04) days &
d) from 16-05-2015 to 24-06-2015 (38) days.
e) From 02-07-2015 to date.

Being a habitual absentee, holder of an undisciplined attitude, involved in deliberate absence, fraudulent dealing in purchase and sale of the vehicles as observed in previous enquiry, therefore the said HC is recommended for ***major penalty*** & also his absence period, mentioned above, may be counted as leave without pay, please.

(18) Pages.

8/7/15.
(Enquiry Officer)
Deputy Superintendent of Police, HQrs,
District Dir Lower at Timergara.

W/DPO

(14)

Annex G

OFFICE OF THE DISTRICT POLICE OFFICER, DIR LOWER AT TIMERGARA

ORDER

This order will dispose of the departmental enquiry conducted against Head Constable Noor Badshah No.436 ,who while posted at Police Lines Timergara absented himself from his lawful duty with effect from 03/01/2015 to 22/01/2015 (19 days), 27/03/2015 to 01/04/2015 (04 days), 04/04/2015 to 08/04/2015 (04 days) and from 16/05/2015 to date ,therefore he was served charge sheet coupled with statement of allegation and Mr. Aqiq Hussain DSP HQrs, was appointed as enquiry officer to conduct proper departmental enquiry and submit his finding.

The enquiry officer during the course of enquiry recorded the statement of all concerned, as well as the delinquent official. The Enquiry Officer in his finding report recommended him for major Punishment and also suggested that his absence period may be counted is leave without pay.

Therefore, **I Qasim Ali (PSP),** District Police Officer, Dir Lower in exercise of power vested to me under (E & D) Rules 1975 with amendment 2014, agree with the finding report of the enquiry officer, and awarded him a **major punishment of Dismissal from service** with immediate effect and the period of absence with effect from 03/01/2015 to 22/01/2015 (19 days), 27/03/2015 to 01/04/2015 (05 days), 04/04/2015 to 08/04/2015 (04 days), 16/05/2015 to 24/06/2015 (38 days) and 02/07/2015 to date is counted as leave without pay.

ORDER ANNOUNCED

Agree with findings

District Police Officer,
Dir Lower at Timergara

OB No. 627 /EC,
Dated 9-7-2015.

Entry made
Rlz & MC file

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