

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 7028/2021

BEFORE: SALAH-UD-DIN --- MEMBER(J)
MIAN MUHAMMAD --- MEMBER(E)

**Hazrat Noor S/o Islam Din R/o Afridi Road Mera Masho Gaggar
Badhaber Peshawar.....(Appellant)**

VERSUS

1. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. Deputy Commandant Frontier reserve Police Khyber Pakhtunkhwa, Peshawar.
3. Additional Inspector General of Police Headquarters Khyber Pakhtunkhwa Peshawar(Respondents)

Present:

MISS ROEEDA KHAN,
Advocate, --- For Appellant.

MR. NASEER-UD-DIN SHAH,
Assistant Advocate General --- For respondents.

Date of Institution ... 30.06.2021
Date of hearing ... 22.06.2022
Date of Decision ... 22.06.2022

JUDGEMENT.

MIAN MUHAMMAD, MEMBER(E):- The service appeal has been instituted against the impugned order dated 27.11.2020 whereby major penalty of dismissal from service was imposed on the appellant and his departmental appeal there against was rejected vide appellate order dated 18.06.2021. Both the orders have been assailed and are under scrutiny before us for adjudication.

02. Brief facts leading to submission of the instant service appeal are that the appellant was proceeded against departmentally for absence from duty without any leave or permission of the competent authority. The

proceedings culminated on his dismissal from service w.e.f. 25.05.2020 vide impugned order of respondent No. 2 dated 27.11.2020 and his departmental appeal was also rejected by respondent No. 3 vide appellate order dated 18.06.2021. Thereafter, the appellant approached the Service Tribunal through the instant service appeal for redressal of his grievances on 30.06.2021.

03. On admission of the appeal, the respondents were put on notice to submit reply/Parawise comments. The reply/Parawise comments submitted by the respondents denied plea and assertions made in the appeal. We have heard arguments of the learned counsel for appellant as well as learned Additional Advocate General and gone through the case file with connected documents.

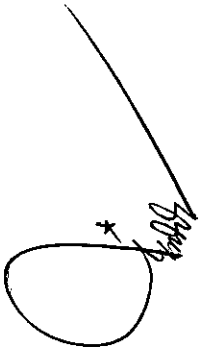
04. Learned counsel for the appellant contended that the appellant was recruited as Constable in the respondent department and while posted in FRP/Headquarter Peshawar, he was proceeded against for absence from duty w.e.f. 25.05.2020. The absence was not intentional but due to the illness of his mother during April, 2020 and being the only male member in the family, he had to look after her. Departmental proceedings were conducted ex-parte against the appellant and he was condemned unheard. No charge sheet/statement of allegations under Rule 6 of Police Rules 1975, was communicated to the appellant. No Show Cause Notice was issued to him and no regular enquiry conducted against the appellant. The impugned order has, therefore, been issued on his back without associating him with the enquiry proceedings. The impugned order is a void order as the penalty of dismissal from service has been imposed with retrospective effect i.e. 25.05.2020 and codal formalities have not been fulfilled. The appellant

submitted departmental appeal against the impugned order within a period of one month but it was also not considered and rejected vide appellate order on 18.06.2021. Moreover, the entire proceedings were conducted in absentia of the appellant and legal rights of the appellant guaranteed under Article 4 and 25 of the constitution have been violated, the appellant has therefore not been treated in accordance with law and rules. The impugned order being illegal and void abinitio, is not maintainable, may graciously be set aside and the appellant be reinstated in service with all back benefits, she concluded.

05. Learned Additional Advocate General argued and controverted assertions of the learned counsel for appellant on the ground that the departmental appeal was time barred by 50 days because departmental appeal against the impugned order dated 27.11.2020 was submitted on 18.01.2021; that is the reason an application for condonation of delay has been submitted alongwith the service appeal. It was further argued and asserted that the appellant has been treated in accordance with law and rules. A proper enquiry has been conducted through DSP FRP/Headquarter Peshawar against the appellant. The appellant was issued charge sheet/summary of allegations duly received by the appellant but he failed to submit reply to the enquiry officer. Final Show Cause Notice was also received by the appellant but he neither submitted reply nor appeared for personal hearing. Ample opportunity of defence was provided to the appellant but he proved to be non serious and disinterested. The impugned order as well as appellate orders have been issued after fulfillment of all codal formalities. The impugned orders are therefore legal, valid and tenable. The appellant has rightly been treated and penalized for

unauthorized absence. The service appeal being devoid of any merit, may be dismissed with costs, he concluded.


06. Perusal of the record reveals that the appellant was appointed as Constable in FRP/Headquarter Peshawar on 31.12.2018. He was absent from duty w.e.f 25.05.2020 without any intimation or sanction of leave from the competent authority. Formal departmental proceedings were initiated against him under the Khyber Pakhtunkhwa Police Rules, 1975. DSP FRP/Headquarter Peshawar was appointed as enquiry officer and charge sheet/statement of allegations also issued to the appellant. According to the enquiry report dated 06.09.2020, the appellant failed to submit written reply within the stipulated period and ex-parte action was recommended to the competent authority. The appellant was issued final Show Cause Notice on 17.09.2020 with the directions to submit reply within fifteen days of its delivery but he did not submit his reply. It is also evident from the record and stands very well established that charge sheet was personally received on 04.09.2020 by the appellant. Similarly, final Show Cause Notice was received on 21.09.2020 by the appellant himself. On both these occasions, names and signature alongwith mobile numbers of the witnesses were obtained/recorded on these vital documents, for authenticity and proof to the effect that the same had been delivered to and received by the appellant. But the appellant despite having received the charge sheet as well as final Show Cause Notice did not bother to submit written reply and appear for personal hearing which negatively reflects on his casual attitude and non-seriousness as a personnel of uniform service. The absence from duty without even applying for leave constitutes misconduct. The service record of appellant spread over a short span of two years, indicates 48 days absence and

A handwritten signature in black ink is located on the left side of the page. Below the signature is a hand-drawn circle with a small asterisk inside it.

stoppage of one increment. So far the plea of the appellant regarding illness of his mother during the month of April, 2020 taken in departmental as well as service appeal is concerned, he failed to prove it with documented evidence. The stance of the appellant regarding illness of his mother appears baseless being not substantiated with any cogent and reliable documentary proof. Rule 12.21 of the Police Rules 1934 stipulates that in case of any inefficiency of a police official at any time within three years of his enrollment, he may be discharged by the Superintendent. Therefore, the proper course of action available to the competent authority was to have discharged the appellant from service and not dismissal from service.

07. As a sequel of the above, we find no infirmity of law in the impugned penalty imposed on the appellant except to modify and convert it from dismissal from service into discharge from service, to be aligned with the governing law in force. Parties are left to bear their own costs. File be consigned to the record room.

08. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 22nd of June, 2022.



(SALAH-UD-DIN)
MEMBER (J)



(MIAN MUHAMMAD)
MEMBER (E)

ORDER
22.06.2022

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgement of today, separately placed on file containing of (05) pages, we find no infirmity of law in the impugned penalty imposed on the appellant except to modify and convert it from dismissal from service into discharge from service, to be aligned with the governing law in force.

03. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 22nd of June, 2022.

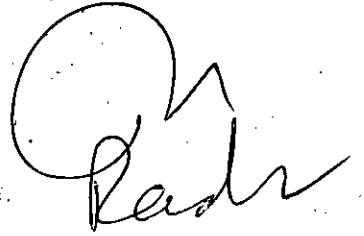


(SALAH-UD-DIN)
MEMBER (J)



(MIAN MUHAMMAD)
MEMBER (E)

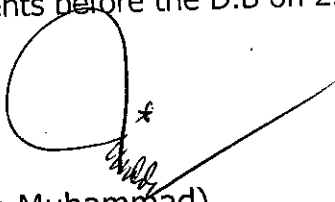
29-12-2021. Due to winter vacations the case is adjourned to 15/4/2022 for the same as before.



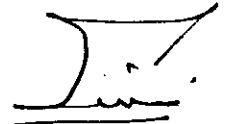
15.04.2022

Counsel for the appellant present. Mr. Muhammad Rashid, DDA for respondents present.

Written reply/comments not submitted. Learned DDA sought time to contact the respondents for submission of written reply/comments. Adjourned. To come up for written reply/comments before the D.B on 22.06.2022.



(Mian Muhammad)
Member(E)



(Salah Ud Din)
Member(J)



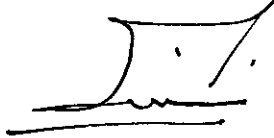
Form- A
FORM OF ORDER SHEET

Court of _____

Case No.-

7028

/2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	12/07/2021	<p>The appeal of MHazrat Noor resubmitted today by Roeeda Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	27.08.2021	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>27/08/2021</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Ms. Roeeda Khan, Advocate, for the appellant present. Preliminary arguments heard.</p> <p>Points raised need consideration, therefore, the appeal is admitted to regular hearing subject to all legal and valid objections. The appellant is directed to deposit security and process fee within 10 days, whereafter 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, the office shall submit the file with a report of non-compliance. File to come up for arguments before the D.B on 29.12.2021.</p> <p style="text-align: right;"> (SALAH-UD-DIN) MEMBER (J)</p>

Appell
Secu
deposited
Process Fee
23/8/21

The appeal of Mr. Hazrat Noor son of Islam Din R/o Afridi Road Mera Masho Gagar Badhaber Peshawar received today i.e. on 30.06.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.


- 1- Copies of charge sheet, statement of allegations, show cause notice, inquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 2- Annexure-B of the appeal is illegible which may be replaced by legible/better one.
- ③ Departmental appeal having no date be dated.
- ④ Index of the appeal may be prepared according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.

No. 1130 /S.T,


Dt. 01/07 /2021



Roeda Khan Adv. Pesh.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

In Response to objection No 1
No charge sheet, statement of allegations, No show cause notice
has been issued to the appellant, No
Departmental inquiry has been conducted
against the appellant. objection No 2, 3, 4
has been removed.


12/17/2021

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2021

Hazrat Noor

VERSUS

Inspector General of Police & others

INDEX

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APPELLANT

Through

Roeeda Khan
Advocate, High Court
Peshawar.

Dated: 30/06/2021

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BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

In Re S.A No. 2028 /2021

Diary No. 6718

Dated 30/6/2021

Hazrat Noor S/o Islam Din R/o Afridi Road Mera
Masho Gagar Badhaber Peshawar.

Appellant

VERSUS

1. Inspector General of Police KPK Peshawar.
2. Deputy Commandant frontier reserve Police KPK Peshawar.
3. Additional Inspector General of Police Headquarters Khyber Pakhtunkhwa Peshawar.

Respondents

SERVICE APPEAL U/S-4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 27/11/2020 WHEREBY THE MAJOR PENALTY OF DISMISSAL FROM SERVICE HAS BEEN AWARDED TO THE APPELLANT BY THE RESPONDENT DEPARTMENT AGAINST WHICH THE APPELLANT FILLED DEPARTMENTAL APPEAL WITHIN ONE MONTH FROM THE DATE OF COMMUNICATION OF THE IMPUGNED ORDER DATED 27.11.2020 WHICH HAS BEEN REJECTED ON 18.06.2021 ON NO GOOD GROUNDS.

Filed to-day

Registrar.

30/6/2021

Prayer:-

ON ACCEPTANCE OF THIS SERVICE
APPEAL BOTH THE IMPUGNED ORDER
DATED 27.11.2020 & 18.06.2021 MAY
VERY KINDLY BE SET ASIDE AND THE
APPELLANT MAY KINDLY BE
REINSTATE INTO HIS SERVICE
ALONGWITH ALL BACK BENEFITS.

Respectfully Sheweth,

1. That the appellant has been appointed as Constable with respondent Department.
2. That after appointment to the appellant perform his duty with full devotion and hard work and no complaint whatsoever has been made against the appellant.
3. That while performing his duty with respondent department the mother of the appellant has becomes ill at the month of April 2020 and there is no other male member in family except the appellant due to the reason above for the medical treatment of the mother, the appellant was unable to perform his duty with respondent department.
4. That the respondent department dismissed the appellant from service on 27.11.2020 on the ground of the said absentee (Copy of dismissal order is attached as annexure "A").
5. That the appellant submitted department appeal within one month from the date of communication of impugned order dated 27.11.2020 which has been rejected on

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18.06.2021. (Copy of departmental appeal and rejection order are attached is annexure "B & C").

6. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following grounds inter alia:-

GROUND:-

- A. That the appellant has not been treated in accordance with law and hence his rights secured and guaranteed under the Constitution of 1973 were badly violated.
- B. That no charge sheet and statement of allegation has been issued or communicated to the appellant which is a clear cut violation of rule 6 of Police Rule 1975.
- C. That no opportunity of defense or personal hearing has been provided to the appellant.
- D. That no show cause notice and final show cause notice has been issued before imposing of major penalty.
- E. That no opportunity of defense has been provided to the appellant.
- F. That no departmental inquiry has been conducted against the appellant by the respondent department.

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G. That the impugned order dated 27.11.2021 is also void because it has been passed for retrospective effect.

H. That the penalty awarded to the appellant is come under the definition of harsh one.

I. That the appellant seeks the permission of this Hon'ble Court to rely on additional grounds at the hearing of this appeal.

It is therefore, most humbly prayed that on acceptance of this service appeal both the impugned order dated 27.11.2020 & 18.06.2021 may very kindly be set aside and the appellant may kindly be reinstate into his service alongwith all back benefits.

Any other relief not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.

[Signature]
APPELLANT

Through

[Signature]
Roeeda Khan

Advocate, High Court
Peshawar.

Dated: 30/06/2020

NOTE:-

As per information furnished by my client, no such like appeal for the same petitioner, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Tribunal.

[Signature]
Advocate.

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BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2021

Hazrat Noor

VERSUS

Inspector General of Police & others

AFFIDAVIT

I, Hazrat Noor S/o Islam Din R/o Afridi Road
Mera Masho Gaggar Badhaber Peshawar, do
hereby solemnly affirm and declare that all the contents
of the instant appeal are true and correct to the best of
my knowledge and belief and nothing has been
concealed or withheld from this Hon'ble Court.

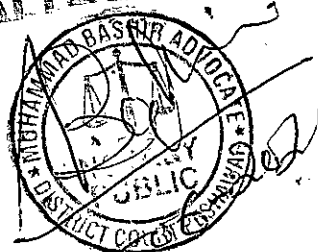
Hazrat

DEPONENT

Identified by:

R
Roeda Khan
Advocate High Court
Peshawar.

ATTESTED



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BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2021

Hazrat Noor

VERSUS

Inspector General of Police & others

ADDRESSES OF PARTIES

PETITIONER.

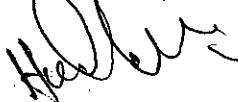
Hazrat Noor S/o Islam Din R/o Afridi Road Mera
Masho Gaggar Badhaber Peshawar.

ADDRESSES OF RESPONDENTS

1. Inspector General of Police KPK Peshawar.
2. Deputy Commandant frontier reserve Police KPK Peshawar.
3. Additional Inspector General of Police Headquarters Khyber Pakhtunkhwa Peshawar..


APPELLANT

Through


Roeda Khan
Advocate, High Court
Peshawar.

Dated: 30/06/2021

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BEFORE THE HON'BLE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA, PESHAWAR.

In Re S.A No. _____/2021

Hazrat Noor

VERSUS

Inspector General of Police & others

APPLICATION FOR CONDONATION OF DELAY (IF ANY)

Respectfully Sheweth,

1. That the petitioner is filing the accompanying appeal the contents of which may graciously be considered as integral part of the instant petition.
2. That the appellant submitted departmental appeal within one month from the communication of the impugned order dated 27.11.2021.
3. That the impugned order dated 27.11.2021 is void because it has been passed without fulfilling the codal formalities.
4. That the impugned order is also void because it has been passed from retrospective.

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5. That the absence of the appellant was not delebrity or intentionally but due to the reason mention in Para 3 of main appeal.
6. That there are many judgment of the superior court that cases should be decided on merit rather than on technicality and there also many judgment to the superior court as well as specific provision in service law that limitation has been counted from the date of knowledge.

It is, therefore, most humbly prayed that on acceptance of the instant petition, the delay if any occurred in filing the accompanying appeal, may graciously be condoned and the accompanying appeal may very graciously be decided on its merits.

Dated: 30.06.2021



Petitioner/Appellant

Through



Council

(A) (9)

ORDER

This order will dispose of the Departmental Enquiry against Constable Hazrat Noor No.786 of FRP/HQrs: Peshawar:

Brief facts of the case are that Constable Hazrat Noor No.786 of FRP HQrs: Peshawar absented himself from duty with effect from 25.05.2020 till date without any leave/permission of the competent authority. In this regard formal departmental proceedings were initiated against him and DSP/FRP/HQrs: Peshawar was appointed as Enquiry Officer. After enquiry, the Inquiry Officer submitted his findings wherein he stated that charge sheet/statement of allegations were duly served upon him but the delinquent official neither appeared before the Enquiry Officer nor reply in response to the Charge Sheet/statement of allegations. At the end enquiry officer recommended the said constable for ex-parte action. He was issued Final Show Cause Notice but he failed to reply within stipulated period. He was called in Orderly Room so many times for personal hearing, but he failed to appear the competent authority. Finally he was informed through written parwana vide this office No. 1673/PA dated 19.11.2020 for appearance before the undersigned, but he failed to do so.

Keeping in view the recommendations of the Enquiry Officers and other material available on record it has come crystal clear that the said Constable has deliberately absented himself from duty with effect from 25.05.2020 till to date large without any leave/permission of the competent authority. From perusal of his past record it has been found that there is 48 days absence period on his credit to which he was awarded the punishment of stoppage of one annual increment and without pay etc.

Based on the findings narrate above, therefore I, Malik Muhammad Tariq, PSP, Deputy Commandant FRP Khyber Pakhtunkhwa, being a competent authority is hereby awarded Major punishment of Dismissal from service to Constable Hazrat Noor No.786 of FRP/HQrs: Peshawar under Police Rules 1975 amended 2014 from the date of his absence i.e 25.05.2020. However the period of his absence is treated as absence from duty without Pay.

Deputy Commandant,
Frontier Reserve Police
Khyber Pakhtunkhwa Peshawar

No. 1711-15 IPA dated Peshawar, the 27 11 2020.

Copy to the:-

1. Worthy Commandant, FRP Khyber Pakhtunkhwa Peshawar for Information please.
2. Accountant /FRP/HQrs: Peshawar.
3. SRC/OASI/FRP HQrs: Peshawar.
4. FMC/ FRP/HQrs: Peshawar with original Enquiry file.

(CSH 1242 / 27/11/20)

(P 1350 / 27-11-20)

[Handwritten Signature]

A.H. Khan
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جناب عالی:

بخدمت جناب انسپکٹر جنرل خیبر پختونخواہ

گزارش ہے کہ سائل 2018ء میں محکمہ پولیس FRP/HQ میں بطور کانسٹیبل بھرتی ہو چکا تھا سائل اپنی ڈیوٹی نہایت خوش اسلوبی اور ایمانداری کے ساتھ دے رہا تھا۔ سائل کی والدہ صاحبہ عرصہ دراز سے مختلف مرضی بیماریوں میں مبتلا تھی جس کی وجہ سے علاج معالجہ بروقت جاری رکھنا لازمی تھا اور گھر میں سائل کے علاوہ کوئی ذمہ دار زینہ فرد موجود نہیں تھا اس لئے سائل مورخہ 25.05.2020 لائن FRP/HQ سے بدستور غیر حاضر تھا اور مورخہ 27.11.2020 کو حسب الحکم افسران بالا صاحبان نے بوجہ بدستور غیر حاضری سائل کو محکمہ ہذا سے برخاست کر کے آرڈر جاری کیا تھا جو کہ ہمراہ لف درخواست ہے۔ سائل نے غیر حاضری جان بوجھ کر نہیں کی ہے بلکہ والدہ صاحبہ کے علاج معالجہ جاری رکھنے کی مجبوری تھی اس لئے سائل گھر کا واحد خود کفیل ہے سائل کے علاوہ گھر میں کوئی زینہ فرد ذرئہ معاش کے لئے موجود نہیں ہے۔

لہذا افسران بالا سے عاجزانہ طور پر التماس کی جاتی ہے کہ من سائل کو محکمہ ہذا میں سروس پر دوبارہ بحال کرنے کا حکم صادر فرما کر مشکور فرمائیں۔ آئندہ کے لئے محتاط رہیگا۔ اور اپنی ہر جائز عرض معروض افسران بالا صاحبان کی خدمت میں پیش کرونگا۔ والدہ صاحبہ کی میڈیکل کاغذات ہمراہ لف قابل ملاحظہ ہے۔

آپ کا تابع الحکم EX کانسٹیبل حضور نور بیٹ نمبر FRP/HQ 786/EX

موبائل نمبر 0349-0872484

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FRP 786
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All
 By
 [Signature]



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. S/ 2651 /21, dated Peshawar the 19/06/2021.

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 Hazrat Noor No. 786. The petitioner was dismissed from service by Deputy Commandant, FRP, Khyber Pakhtunkhwa, Peshawar vide order Endst: No. 1711-15/PA, dated 27.11.2020 on the allegations of absence from duty w.e.f 25.05.2020 till date of dismissal from service i.e. 27.11.2020 for total period of 06 months and 02 days.

Meeting of Appellate Board was held on 06.05.2021 wherein petitioner was heard in person. Petitioner contended that his mother was ill.

Petitioner remained absent for long period of 06 months & 02 days without any leave or permission which shows his disinterest in service. He has earned 07 bad entries during his service. The Board see no ground and reasons for acceptance of his petition, therefore, the Board decided that his petition is hereby rejected.

Sd/-





KASHIF ALAM, PSP
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/ 2652-60/21,

Copy of the above is forwarded to the:

1. Commandant, FRP, Khyber Pakhtunkhwa, Peshawar. One Service Roll and one D-file of the above named Ex-FC received vide your office Memo: No. 1701/SI Legal, dated 19.02.2021 is returned herewith for your office record.
2. Deputy Commandant, FRP, Khyber Pakhtunkhwa, Peshawar.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

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

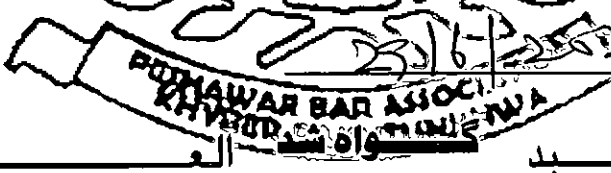
قیمت 50 روپے	88360			
ایڈویکیٹ: 		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل / ایسوسی ایشن نمبر:				
رابطہ نمبر: 03330265900				

بعدالت جناب: حکومت گلستانہ

منجانب: <u>السلطنت</u>	دعویٰ:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:
بامث تحریر آتکہ	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام دلخواہ کے بعد کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کر کے نوٹسز ثالث و فیصلہ برحلف دینے جو اب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل انگریزی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لائے جانے لے کر اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور ان کا سزاختمہ پر داخلہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جاندا تو اے 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 سندر ہے

المرقوم: دلا علی


مقام دلخواہ کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

Accepted
 By 

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 7028/2021.

**Hazrat Noor, S/o Islam Din R/o Afridi Road Mera Masho Gaggar, Bahaber Peshawar
Appellant.**

VERSUS

**Inspector General of Police, Khyber Pakhtunkhwa, Peshawar &
others Respondents.**

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RESPONDENTS

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 7028/2021.

Hazrat Noor, S/o Islam Din R/o Afridi Road Mera Masho Gaggar, Bahaber PeshawarAppellant.

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar & others Respondents.

PARAWISE REPLY BY RESPONDENTS.

RESPECTFULLY SHEWETH.

PRELIMINARY OBJECTIONS

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
3. That the appellant has no cause of action and locus standi to file the instant appeal.
4. That the appellant has not come to this Honorable Tribunal with clean hands.
5. That the appellant is estopped due to his own conduct to file the instant Service Appeal.
6. That the appellant is trying to conceal the material facts from this Honorable Tribunal.

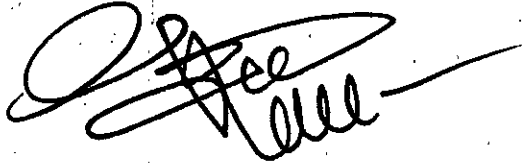
FACTS:-

1. Pertain to the appellant record, needs no comments.
2. Incorrect. The appellant was found an inefficient Police Officer in the line of official duty. (Copy of bad entries attached herewith as annexure "A").
3. Incorrect. The appellant was remained absent from lawful duty with effect from 25.05.2020 till the dated of dismissal from service for a long period of 06 months and 02 days, without any leave or prior permission of the competent authority. The plea taken by the appellant regarding to the illness of his mother is a propounded and baseless story.
4. Incorrect. On the allegations of willful absence the appellant was proceeded against proper departmentally as he was issued Charge Sheet with Summary of Allegations and Enquiry Officer was nominated to conduct proper enquiry against him. After completion of enquiry, the Enquiry Officer submitted his findings report wherein the appellant was found guilty of the charges leveled against him and recommended for ex-parte action. Upon the findings report of Enquiry Officer, he was served with Final Show Cause Notice, but he failed to submit his reply. Subsequently he was also called for personal hearing time and again, but he deliberately failed to appear before the competent authority. After fulfillment of all codal formalities he

The respondents may also be permitted to raise additional grounds at the time of arguments.

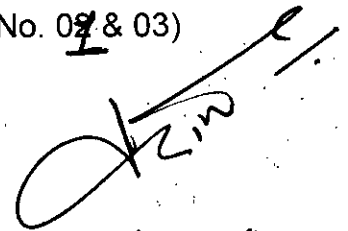
PRAYERS:-

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



Deputy Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 02)

argu
Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 02 & 03)



AAG

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 7028/2021.

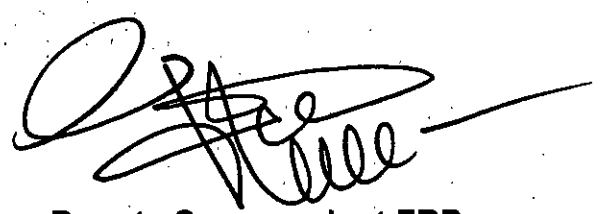
Hazrat Noor, S/o Islam Din R/o Afridi Road Mera Masho Gaggar, Bahaber PeshawarAppellant.

VERSUS


Inspector General of Police, Khyber Pakhtunkhwa, Peshawar & others.....Respondents.

AFFIDAVIT

We respondents No. 1 to 3 do hereby solemnly affirm and declare on oath that the contents of the accompanying Para-wise Comments is correct to the best of our knowledge and belief that nothing has been concealed from this Honorable Court.

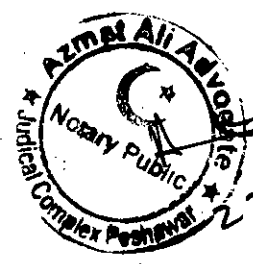


**Deputy Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 02)**



**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 02 & 03)**

ATTESTE



[Handwritten Signature]
22-06-2022

فونی مشیل انڈیکس سبک جوئے فوز ^A 786 / H85 31-12-18

سبک
سلاٹس 0

طہر جاری
02 ایک

سبک
2019

سلاٹس 0 + 1 سلاٹس ایکریٹو + 2 سلاٹس

46 ایک

2020

سلاٹس ایکریٹو + 2 سلاٹس ایکریٹو

48 ایک

فونی

40 ایک ایکریٹو

2019

ما - عالی

2) سبک لیبو - Nil

تاریخ کی حالتی سے کم ایک عدد
فونی مشیل انڈیکس سبک جوئے فوز
سلاٹس ایکریٹو

PMC

20/08/07

C B

(6)

DSP/HQ

CHARGE SHEET U/S 6(1) (A) POLICE RULES 1975

You Charge Constable Hazrat Noor No.786 of FRP HQrs: Peshawar is hereby charged for committing the following omission/commissions.

While posted at FRP HQrs: Peshawar absented himself from duty w.e from 25.05.2020 till date without taking any leave/permission of the competent authority.

You are hereby called upon to submit your written defense against the above charges before the enquiry officer.

Your reply should reach the Enquiry Officer within seven (7) days from date of receipt of this Charge Sheet, failing which ex-parte action shall be taken against you.

Summary of allegations is enclosed herewith.

Handwritten notes in Urdu script, possibly a summary or additional charges.

Deputy Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa Peshawar

Handwritten signature of the Deputy Commandant.

Handwritten signature and notes in Urdu script, likely from the accused or a representative.

1000, 17201-287828-3
0348-0872484

Handwritten notes in Urdu script, possibly a receipt or acknowledgment.

Handwritten signature and notes in Urdu script, possibly from an official.

0348-4353753

4/8/20

Large block of handwritten notes in Urdu script at the bottom of the page, including dates and signatures.

ENQUIRY REPORT.

It was alleged that constable Hazrat Noor No. 786 of FRP/HQrs: Peshawar absented himself w. e. from 25.05.2020 till to date without any leave/permission of the competent authority. He was issued charge sheet and summary of allegation by the Worthy Deputy Commandant of FRP Khyber Pakhtunkhwa, which was duly served upon the said constable on 04.09.2020 by DHC Shakir Ullah and the undersigned was nominated as enquiry officer.

FINDINGS.

Being an enquiry officer it has come to light that the said constable absented himself w. e. from 25.05.2020 till to date.

According to the FMC FRP/HQrs constable Hazrat Noor No. 786 was absented himself for 48 days in previous service which was treated as without pay and one annual increment was stopped.

During the enquiry MM CCP produced a report wherein he stated that Constable Hazrat Noor No. 786 absented himself w. e. from 25.05.2020 till to date.

The said Constable failed to submit his written reply during stipulated period.

Keeping in view the above facts his absence period w. e. from 25.05.2020 till to date is recommended for ex-parte action.

Submitted Please.

DSP/HQrs
FRP HQrs: Peshawar

NO. 238 /R, Peshawar Dated 09.09.2020. Enclosed (. sheets)

Issue Final Show Cause Notice

Dy: Commandant FRP/KP

FINAL SHOW CAUSE NOTICE UNDER POLICE RULES 1975.

I, Deputy Commandant, FRP, KPK as competent authority do hereby serve you Constable Hazrat Noor No.786 of FRP/HQrs, Peshawar.

(1) i- That consequent upon the completion of enquiry conducted against you by DSP FRP HQrs: Peshawar for which you were given full opportunity of hearing, but you failed to submit reply in response to the Charge sheet/statement of allegation and recommend you for Major punishment.

ii- On going through the findings/recommendations of the Enquiry Officers, the material available on record and other connected papers I, am satisfied that you have committed the following acts/omissions per Police Rules 1975:

You Constable Hazrat Noor No.786 of FRP HQrs: Peshawar absented yourself from duty with effect from 25.05.2020 till to date without any leave/permission of the competent authority. In this connection an enquiry was entrusted to DSP FRP HQrs: Peshawar, who after enquiry recommend you for Major punishment.


(2) Therefore, I, Deputy Commandant, FRP, KPK as competent authority has tentatively decided to impose upon you Major/Minor penalty including dismissal from service under the said Rules.

(3) You are, therefore, required to Final Show Cause as to why not the aforesaid penalty should not be imposed upon you.

(4) If no reply to this Final Show Cause Notice is received within fifteen days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and consequently ex-parte action shall be taken against you.

خبر سیکرٹری
ڈیپٹی کمانڈنٹ
ایس ایف ایچ
پشاور

دوستی پور
خود درجہ اول
(21/22)


Deputy Commandant,
Frontier Reserve Police,
Khyber Pakhtunkhwa, Peshawar.

فوری طور پر ایس ایچ ایس ایف ایچ
پشاور

1111-17301-2979828-3
Mob-0349-0872484

No. 1369 /PA, Dated 17.09 /2020

9

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 7028/2021.

Hazrat Noor, S/o Islam Din R/o Afridi Road Mera Masho Gaggar, Bahaber Peshawar.....Appellant.

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar & others.....Respondents.

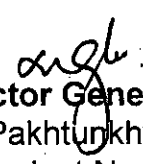
AUTHORITY LETTER

Respectfully Sheweth:-

We respondents No. 1 to 3 do hereby solemnly authorize Mr. Ghassan Ullah ASI FRP HQrs to attend the Honorable Tribunal and submit affidavit/Para-wise comments required for the defense of above Service Appeal on our behalf.



**Deputy Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 02)**



**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 02 & 03)**

2018ء کے سال کے آغاز میں
 کئی مسائل پیش آئے۔
 اس وقت پورے ملک میں
 آسان اور سہل سے
 روٹی، پھل اور دیگر
 اشیاء کی قلت ہو گئی۔
 اس کی وجہ سے
 لوگوں کی زندگی
 بے چارگی میں
 ڈھکی چھپی ہو گئی۔
 حکومت کو
 اس صورتحال سے
 نمٹنے کے لیے
 کئی اقدامات
 اختیار کرنے
 پڑے۔
 لیکن یہ سب
 کافی نہیں ہے۔
 اس لیے
 حکومت کو
 اس صورتحال سے
 نمٹنے کے لیے
 کئی اور
 اقدامات
 اختیار کرنے
 پڑے۔

اگرچہ حکومت
 کئی اقدامات
 کر رہی ہے
 لیکن اس
 صورتحال سے
 نمٹنے کے لیے
 کئی اور
 اقدامات
 اختیار کرنے
 پڑے۔

17/11/2018
 [Signature]
 [Signature]

“B”

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

DB

No.

Appeal No..... 7028 of 20 21
Hazrat Noor Appellant/Petitioner
 Versus
I, S. P. KPK Peshawar Respondent
 Respondent No. 1

Notice to: — Inspector General of Police
KPK Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....29/12/21.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....20/12.....
 Day of.....oct.....2021

(for Reply)

Registrar
 Khyber Pakhtunkhwa Service Tribunal,
 Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

“B”

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR. DB

No.

Appeal No. 7028 of 20 21

Hazrat Noor Appellant/Petitioner

ICP KPK Peshawar Respondent

Respondent No. 2

Notice to: —

Deputy Commandant Frontier Police
Police KPK Peshawar
Re Sen

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 29/12/21 at 8.00 A.M. If you wish to urge anything against the appellants/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No. dated~~

Given under my hand and the seal of this Court, at Peshawar this 20/12

Day of 27th 20 21

(For Reply)

[Signature]
10/12/21

Registrar,
 Khyber Pakhtunkhwa Service Tribunal,
 Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.