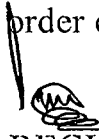


FORM OF ORDER SHEET

Court of _____

Case No.- 1679/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	28/11/2022	<p>The appeal of Mr. Watan Badshah presented today by Naila Jan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 1679/2022

Watan Badsha (Ex Constable No 391 District Kohat)Appellant

Vs

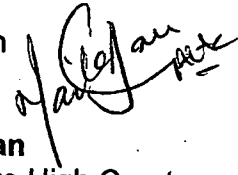
1. Inspector General of Police Khyber Pukhtunkhwa Peshawar
2. Regional Police Officer (RPO) District Kohat.
3. District Police Officer (DPO) Kohat.....Respondents

INDEX

S#	Description of Documents	Annex	Pages
1.	Grounds of Appeal		1-2
2.	Application for condonation of delay		3
3.	Affidavit		4
4.	Addresses of Parties		5
5.	Copy of the order dated 22-12-2017	"A"	6
6.	Copy of the departmental appeal and appellate order dated 10-06-2022	"B" & C	7, 8
7.	Copy of the order dated 05-09-2022 and merged petition	"D" "E"	9, 10
8.	Wakalat Nama		11

Appellant

Through



Naila Jan
Advocate High Court
Peshawar.

Dated: 11/11/2022

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO 1079/2022

Watan Badsha (Ex Constable No 391 District Kohat)Appellant

Vs

1. Inspector General of Police Khyber Pukhtunkhwa Peshawar
2. Regional Police Officer (RPO) District Kohat.
3. District Police Officer (DPO) Kohat.....Respondents

Appeal under section 4 of the Khyber Pukhtunkhwa Service Tribunal Act 1974 against the impugned order OB No. 1088 dated 22-12-2017 of respondent No 03 whereby the appellant was imposed major penalty of **Compulsory Retirement** and order dated 10-06-2022 whereby Respondent No 02 Rejected departmental Appeal of the appellant and order dated 05-09-2022 of Respondent No. 01 (Communicated on 07-11-2022) whereby Mercy Petition of the appellant was rejected for no good Grounds which is utter violation of law, Rules and Principles of Natural justice hence, not sustainable in the eye of law.

PRAYERS:

On Acceptance of the instant appeal both the impugned orders dated 22-12-2017, 10-06-2022 and 05-09-2022 may kindly be declared illegal void ab initio, set aside the impugned orders and the appellant may kindly be reinstated into service with all back benefits.

Respectfully sheweth;

1. That the appellant was enlisted in the respondent department and since his appointment the appellant performed his duties with full devotion, enthusiasm and to the entire satisfaction of the respondents.
2. That the appellant has 02 disable girl children at home who fell ill on 02-12-2017 and there was no other male who could care of them therefore, on the verbal permission of his high ups the appellant went home for look after of their children.
3. That the appellant was proceeded departmentally at his back and without conducting regular inquiry the appellant was compulsory retired from service on the allegation of 20 days absence vide order dated 22-12-2017 however the same was never communicated to the appellant. (Copy of the order dated 22-12-2017 is annexure A)
4. That the appellant filed a departmental appeal on dated 11-02-2022 however, the same was rejected vide order dated 10-06-2022 through a non-speaking order however the same was never communicated to the appellant. (Copy of the order dated 10-06-2022 and departmental appeal are annexure-B & C)

5. That feeling aggrieved from the impugned orders 22-12-2017 and order dated 10-06-2022, the appellant filed Mercy Petition under rule 11-A of the Police Rules 1975 which was also rejected vide order dated 05-09-2022 (Communicated on 07-11-2022) in violation of law and rules (Copy of the order dated 05-09-2022 and copy of mercy petition are annexed D & E).
6. That the appellant feeling aggrieved from the impugned orders having no other adequate remedy hence filing the instant appeal on the following grounds

Grounds

- A. That the impugned orders are against the law, rules and Principles of natural justice vide abi nitio hence liable to be seaside.
- B. That no opportunity of personal haring or defense has been provided to the appellant hence the appellant has been condemned unheard.
- C. That no charge sheet along with statement of allegation or show cause notice had been issued/served on the appellant which are mandatory under the Police Rules 1975.
- D. That according to the dictum laid down by the Apex Court that without regular inquiry major penalty cannot be imposed however, the respondents violated the dictum and awarded major penalty without conducting regular inquiry 2008 SCMR 1369 and 2008 PLD SC 451.
- E. That the absence of the appellant was not willful but for the reason mentioned above therefore, the same does not constitute misconduct hence awarding the major penalty does not commensurate with the act of the appellant.
- F. That opportunity of FAIR TRAIL, as guaranteed by art 10 A of the constitution has not been provided to the appellant.
- G. That the appellant has not been treated in accordance with Art 4&25 of the constitution.
- H. That though a show cause notice was issued however, the same has not been served on the appellant.
- I. That since the impugned order the appellant is jobless and facing hardship.
- J. That the appellant sought permission of this honorable tribunal to adduce other ground during final hearing of the instant appeal.

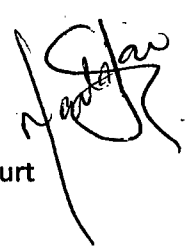
It is therefore requested that the appeal may kindly be accepted as prayed for.

Appellant

Through

Naila jan

Advocate High Court
Peshawar.



3

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. _____/2022

Watan Badsha (Ex Constable No 391) District Kohat.....**Appellant**

Vs

1. Inspector General of Police Khyber Pakhtunkhwa Peshawar
2. Regional Police Officer (RPO) District Kohat.
3. District Police Officer (DPO) Kohat**Respondents**

APPLICATION FOR CONDONATION OF DELAY

Respectfully sheweth;

1. That the above titled appeal is filing today in which no date has been fixed so far.
2. That the final order dated 05-09-2022 was Communicated on 07-11-2022 therefore the instant appeal is within time as per section 4 of the Khyber Pakhtunkhwa Act 1974.
3. That the impugned orders have been issued in violation of law and constitution of Islamic republic of Pakistan 1973 therefore, the impugned orders are void order and as per dictum laid down by superior court no limitation runs against void order reference is made to 2019 SCMR 648,2019 PLCCS S.C 928
4. That the Supreme Court also laid down the dictum that cases are to be decided on merits rather than technicalities.
5. That valuable rights of the appellant is involved which may not be take away on the basis of technicalities

It is therefore requested that the delay in filing the instant appeal may kindly be condoned for the end of justice.

Appellant

Through

Naila jan

Advocate High Court
Peshawar

4

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO _____/2022

Watan Badsha (Ex Constable No 391) District Kohat.....Appellant

Vs

1. Inspector General of Police Khyber Pakhtunkhwa Peshawar
2. Regional Police Officer (RPO) District Kohat.
3. District Police Officer (DPO) KohatRespondents

AFFIDAVIT

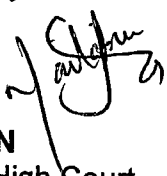
I, Watan Badsha S/O Gulsha Din, Ex-Constable , Regiment No. 391, District Kohat do hereby solemnly affirm and declare that all the contents of the **accompanied appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.

DEPONENT

CNIC:

Cell No:

Identified By;


NAILA JAN
Advocate High Court
Peshawar.



(5)

**BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO ____/2022

Watan Badsha

VS

Inspector General of police and others

ADDRESS OF PARTIES

APPELLANT

Watan Badsha (Ex Constable No 391) District Kohat.

RESPONDENTS

1. Inspector General of Police Khyber Pakhtunkhwa Peshawar
2. Regional Police Officer (RPO) District Kohat.
3. District Police Officer (DPO) Kohat.

Dated: ____/11/2022

Appellant

Through

Naila jan
Advocate High Court
Peshawar

(6)
A

DISTRICT KOHAT

ORDER

This order is passed on the Show Cause Notice against Constable Watan Badshah No: 391 under the Khyber Pakhtunkhwa Police Rules, 1975 (Amendment 2014)

Brief facts are that he while posted at Police Lines Kohat had absented himself from official duty vide L/D No: 18 dated 02.12.2017 till date, without any leave or permission from the competent authority and did not taking interest in his official duty, which shows his in-efficiency and lack of interest in the discharge of government duties.

He was served with Show Cause Notice. Reply of Show Cause Notice received and found un-satisfactory. He was called in OR and heard in person but he did not satisfy the undersigned about his innocence. He is habitual absentee and his further retention in the force is a burden on Govt: exchequer. The allegation leveled against him have substantially been proved.

In view of above I, Javed Iqbal District Police Officer, Kohat being a competent authority under KPK Police Rules 1975 Amendment 2014, hereby award a major punishment of "Compulsory retirement" with immediate effect.

OB No. 1088
Date 22/12/2017

(A)
DISTRICT POLICE OFFICER,
KOHAT

No. 40330-811 PA, dated 25/12/2017.

Copy of above is forwarded to the Reader/PO/EC/OHC for necessary action.

04/01/18

لبر

نیک

لو

AR

بھصور جناب DIG صاحب کوہاٹ ریجن کوہاٹ

صحت
B

اپیل برائے بحالی ملازمت پر جو کہ سائل کو بحوالہ OB نمبر 1088 مورخہ 22.02.2017 کو سروس جبری ریٹائرڈ کیا گیا ہے۔

جناب عالی!

سائل ذیل گزارش کرتا ہے۔

- ۱۔ یہ کہ سائل منکمہ پولیس کوہاٹ میں بطور کنابل ہیٹ نمبری 391 اپنے خدمات سرانجام دے رہا تھا۔
 - ۲۔ یہ کہ سائل بوجہ گھریلوں مجبوریوں کی وجہ سے اپنی ڈیوٹی سے کچھ روز غیر حاضر رہا تھا اور سائل کو بوجہ غیر حاضری سروس سے جبری ریٹائرڈ کر دیا گیا تھا۔
 - ۳۔ سائل غریب شہری ہے اور اس مہنگائی کے دور میں سائل کا پنشن کے رقم سے گزارہ بمشکل ہوتا ہے۔
 - ۴۔ سائل بھال بچے دار ہے اور اس مہنگائی کے دور میں سخت پریشان ہے۔
 - ۵۔ سائل کی غیر حاضری عہدہ تھی۔
 - ۶۔ سائل اپنے ملازمت پر بحال ہونا چاہتا ہے۔
- اندریں حالات استدعا ہے کہ سائل کو اپنے ملازمت پر بحال فرمایا جا کر مشکور فرماوے۔
- سائل جناب کی ترقی و تہنمائی کے لئے تاحیات دعا گو ہے گا۔

نقطہ: 11.02.2022

آپکا تابعدار: سابقہ نمبر 391 کنسٹیبل وطن بادشاہ ولد گل شاہ دین سکنہ OTS روڈ نزد عید گاہ جنگل خیل کوہاٹ

موبائل نمبر 0343-9244754

POLICE DEPTT:

KOHAT REGION


ORDER.

This order will dispose of a departmental appeal, moved by the Ex-Constable Watan Badshah of district Kohat against the punishment order, passed by DPO Kohat vide OB No. 1088, dated 22.12.2017 whereby he was awarded major punishment of **compulsory retirement from service** on the allegations of willful and long absence from lawful duties without any leave or prior permission from his seniors.

He preferred appeal to the undersigned, upon which comments were obtained from DPO Kohat and his service record were perused.

I have gone through the available record which indicates that the allegations leveled against the appellants are proved beyond any shadow of doubt. Moreover, the appellant has already been granted pension benefits since his compulsory retirement from service and his appeal is also badly time-barred about **05-years** which is hereby **rejected** being devoid of merits.

Order Announced
10.06.2022

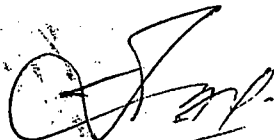

(TAHIR AYUB KHAN) PSP
Region Police Officer,
Kohat Region.

No. 8908 /EC, dated Kohat the 19/6/2022.

Copy to District Police Officer Kohat for information and necessary action w/r to his office Letter No. 4719/LB, dated 25.05.2022. His Service Record is returned herewith.

OHC/589
15/6/2022
15/6/2022




(TAHIR AYUB KHAN) PSP
Region Police Officer,
Kohat Region.

Ex کنستبل وطن بادشاہ کوہاٹ
03439244759

21-06-2022
OHC-KI

9

15

بھجور جناب انسپکٹر جنرل آف پولیس خیبر پختونخواہ پشاور

رحم اپیل

جناب عالی! سائل حسب ذیل عرض گزار ہے۔

- ۱۔ یہ کہ سائل محکمہ پولیس کوہاٹ سے مورخہ 22.12.2017 کو ملازمت سے جبری ریٹائرڈ کیا گیا ہے۔
- ۲۔ یہ کہ سائل کو بوجہ گھریلو مجبوریوں کی وجہ سے اپنی ڈیوٹی سے غیر حاضر رہا تھا جس کی وجہ سے سائل کو ملازمت سے جبری ریٹائرڈ کیا گیا ہے۔ اور سائل عمداً اپنی ڈیوٹی سے غیر حاضر نہ رہا ہے۔
- ۳۔ سائل دوبارہ اپنے ملازمت پر بحال ہونا چاہتا ہے۔
- ۴۔ سائل نے اس بابت DIG صاحب کوہاٹ کو درخواست برائے بحالی دی مگر سائل کے درخواست کو فائل بغیر کسی کارروائی کے داخل دفتر فرمایا ہے اور سائل کو اپنے ملازمت پر بحال نہیں کیا گیا ہے۔
- ۵۔ سائل جناب سے رحم کی اپیل کرتا ہے اور استدعا کرتا ہے کہ سائل کو اپنے ملازمت بحال کیا جاوے۔

اندریں حالات استدعا ہے کہ سائل کے درخواست پر ہمدردانہ غور فرما کر متعلقہ حکام کو سائل کے سروس پر بحالی کے بابت احکامات صادر فرما کر مشکور فرماوے۔

فقط: 06.07.2022

رض
بیلٹ نمبر 391 کنسٹیبل (ریٹائرڈ) وطن بادشاہ ولد گل شاہ دین سکھہ OTS روڈ نزد عید گاہ جنگل خیل کوہاٹ
موبائل نمبر 0343-9244754

AS



8/30
7/9/22

10
OFFICE OF THE
INSPECTOR GENERAL OF

KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.

No. S/ 2014

122, dated Peshawar the 05/09/2022.

To : The Regional Police Officer,
Kohat.

Subject: MERCY PETITION.

Memo:

The Competent Authority has examined and filed the mercy petition submitted by Ex-FC Watan Badshah No. 391 of Kohat district Police against the punishment of compulsory retirement from service awarded by District Police Officer, Kohat vide OB No. 1088, dated 22.12.2017, being badly time barred.

The applicant may please be informed accordingly.

(AFSAR JAN)

Registrar,

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

96
07/9

No 13186 / EC
cc 7/8/22

DPO Kohat

In information & N/A action, also
left from the appellant concerned
accordingly.

Subject
7/9/22

OFFICER
for 7/9/22

District Police Officer
9/2022 Kohat

5847
12/9/22

52512	پشاور بار ایسوسی ایشن PESHAWAR BAR ASSOCIATION PBA	پشاور ہائی کورٹ PESHAWAR HIGH COURT	QR Code
ایڈوکیٹ: <u>Haide Jan</u>	پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل / ایسوسی ایشن نمبر: <u>Bc-13-472</u>			
رابطہ نمبر: <u>0312 92 1577</u>			

بعدالت جناب: سر جسٹس گلبرگ لیتھام

منجانب: <u>ریبرٹ</u>	دعویٰ:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

باعث تحریر آنکہ

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

المرقوم: 28/11/2022
 PESHAWAR BAR ASSOCIATION
 KHYBER PAKHTUNKHWA
 واہ

مقام لیٹھام کے لیے منظور ہے۔

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

Attested
 Naila Jan Advocate
 Peshawar High Court

Accepted

وطن بادشاہ (اعلانہ)