

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 208/2018

BEFORE: MR. KALIM ARSHAD KHAN, ... CHAIRMAN
MRS. FAREEHA PAUL, ... MEMBER(E)

Muhammad Hashim S/O Inam Ullah Ex-Constable FRP, Platoon No. 74, Malakand Range Swat, presently R/O Mohallah Qutmeen Khel, P/O Turangzai, Tehsil and District Charsadda. (**Appellant**)

Versus

1. **The Provincial Police Officer**, Khyber Pakhtunkhwa, Peshawar.
2. **The Commandant**, Frontier Reserve Police, Peshawar.
3. **The Superintendent of Police**, FRP Malakand Range, (**Respondents**)

Present:

Mr. Asad Khan Muhammadzai, ... For appellant.
Advocate.

Mr. Kabirullah Khattak, ... For respondents.
Addl. Advocate General

Date of Institution.....06.02.2018
Date of Hearing..... 24.05.2022
Date of Decision..... 24.05.2022


JUDGEMENT

KALIM ARSHAD KHAN CHAIRMAN. This appeal is against the order dated 11.09.2012, whereby the appellant was awarded major punishment of removal from service. It is also against the appellate order dated 21.02.2013, whereby departmental appeal, filed by the appellant against the removal order, was rejected and order dated 01.01.2016, whereby his revision petition was rejected.

2. It is averred in the Memorandum of Appeal that the appellant joined the Police Department as Constable in the year, 2009 and performed his duty to the entire satisfaction of his superiors; that while posted in

FRP District Swat, his mother had been suffering from heart disease and was under treatment from various doctors; that on 24.04.2012 her condition suddenly got worsened and as the appellant was the sole male supporter of the family, therefore, after taking verbal permission from his superiors, he came to village at Charsadda and took her mother for medical treatment to the various hospitals, which continued for four and half months; that when the appellant reported for duty, where he was informed that he had been removed from service by respondent No. 3 on 11.09.2012; that on knowledge of impugned order, the appellant had immediately filed departmental appeal in January, 2013, which was rejected on 21.02.2013; that thereafter, the appellant filed Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975, which was also rejected on 01.01.2016, hence the present appeal.

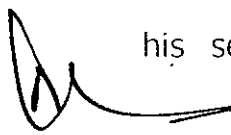
3. On receipt of appeal and its admission to full hearing, the respondents were put on notice, who put appearance and submitted reply by raising various legal as well as factual objections. It was further contended in the written reply that the appellant remained absent for a period of 04 months and 14 days without any information or prior permission of his superiors; that charge sheet alongwith summary of allegations was issued to him and enquiry committee was constituted to conduct enquiry against him; that the appellant was summoned through Daily "Parwana" to report arrival and appear before the enquiry committee but he deliberately did not appear before the enquiry committee; that after completion of the proceedings, the enquiry committee submitted its report on the basis of which the appellant was removed from service.


24-05-22

4. We have heard the learned counsel for the appellant and learned Additional Advocate General for the respondents and have gone through the file with their assistance.

5. Learned counsel for the appellant argued that the appellant had not been treated in accordance with the law/rules and the respondents had acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan; that absence of the appellant was neither deliberate nor intentional but was due to the circumstances beyond his control as he left on verbal permission of his Incharge for the treatment of his ailing mother; that the entire action was taken at the back of the appellant as he was not informed regarding the action proposed to be taken against him; that the enquiry was conducted in a haphazard manner, wherein, no charge sheet and show cause notice were served upon him and that the appellant was proceeded against under the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 which was already repealed in September, 2011. He requested that the appeal might be accepted as prayed.

6. The learned Additional Advocate General for the respondents negated the stance taken by the learned counsel for the appellant. He raised preliminary objection that the appeal was time barred and was liable to be dismissed on that score alone. He further argued that the appellant was issued charge sheet alongwith summary of allegation, enquiry committee was constituted, he was summoned through Daily "Parwana" to appear before the enquiry committee and defend himself but he deliberately not participated in the proceedings; that the appellant was employee of a disciplined force and only a single day absence was fatal for his service; and that the appellant was removed from service after

 20-15-22

observing all codal formalities. Learned AAG requested that the appeal might be dismissed with cost.

7. The appellant had allegedly remained absent from duty for a period 04 months and 14 days w.e.f. 24.04.2012 till his removal from service on 11.09.2012. Charge sheet/summary of allegations as well as show cause notice were issued to the appellant under repealed the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 and finally the appellant was removed from service on 11.09.2012. The absence of the appellant was also subsequent to the repeal of the said Ordinance. During the relevant time, Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 were already come into force on 16th September, 2011. The whole proceedings are, therefore, void and no limitation runs against the void order.

8. Resultantly, the appeal is accepted, the impugned orders are set aside, the case is remanded to the respondent department to conduct denovo enquiry in accordance with law and rules within a period of two months from the date of receipt of copy of this judgment. The issue of back benefits shall be subject to the outcome of deveno proceedings. In the meantime, the appellant is reinstated into service for the purpose of enquiry. Consign.

9. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 24th day of May, 2022.*



(KALIM ARSHAD KHAN)
Chairman


(FAREEHA PAUL)
Member (E)

24th May, 2022 Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG for the respondents present. Arguments heard and record perused.

2. Vide our detailed judgment of today, containing 04 pages, this appeal is accepted, the impugned orders are set aside, the case is remanded to the respondent department to conduct denovo enquiry in accordance with law and rules within a period of two months from the date of receipt of copy of this judgment. The issue of back benefits shall be subject to the outcome of deveno proceedings. In the meantime, the appellant is reinstated into service for the purpose of enquiry. Consign.

3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 24th day of May, 2022.*




(KALIM ARSHAD KHAN)
Chairman



(FAREEHA PAUL)
Member (E)

03.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 24.05.2022 for the same as before.


Reader.

10.08.2021 Since, 1st Moharram has been declared as public holiday, therefore, case is adjourned to 30/12/2021 for the same as before.

30.12.2021


Due to winter vacation, ^{Reader} the case is adjourned. To come up on 20/01/2022.


Reader

20.01.2022

Clerk of counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG for respondents present.

Lawyers are on general strike today, therefore, appellant requests for adjournment. Adjudged. To come up for arguments on 03.03.2022 before the D.B.

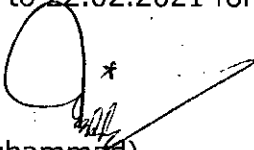

(Atiq-Ur-Rehman Wazir)
Member (E)


Chairman

04.12.2020 Counsel for the appellant and Addl. AG for the respondents present.

It is stated by learned counsel that amongst other issues, the question of retrospectivity of penalty is also involved in the case in hand. He, therefore, requests for adjournment to a date after hearing of similar issue by a Larger Bench.

Adjourned to 22.02.2021 for hearing before the D.B.


(Mian Muhammad)
Member(E)

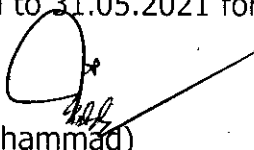

Chairman

22.02.2021

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

Learned counsel states that the Larger Bench has not yet returned the judgment regarding retrospectivity of penalty, therefore, instant matter is required to be adjourned.

Adjourned to 31.05.2021 for hearing before the D.B.


(Mian Muhammad)
Member(E)


Chairman

31.05.2021

Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Issue involved in the instant case is pending before Larger Bench of this Tribunal, therefore, case is adjourned to 10.08.2021 for hearing before D.B.


(Mian Muhammad)
Member (E)


(Rozina Rehman)
Member (J)

10.03.2020

Learned counsel for the appellant present. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 13.05.2020 before D.B.


Member


Member

13.05.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 17.08.2020 before D.B.


Reader

17.08.2020

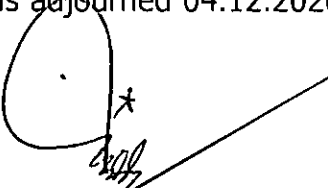
Due to summer vacations, the case is adjourned to 19.10.2020 for the same.


Reader

19.10.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

The Bar is observing general strike today, therefore, the matter is adjourned ^{to} 04.12.2020 for hearing before the D.B.


(Mian Muhammad)
Member


Chairman

07.10.2019

Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney present. ~~Learned counsel for the appellant present.~~ Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 26.11.2019 before D.B


Member


Member

26.11.2019

Learned counsel for the appellant and Mr. Kabirullah Khattak learned AAG present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 28.01.2020 before D.B.


Member


Member

28.01.2020

None for the appellant present. Addl:AG for respondents present. Due to General Strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the instant case is adjourned. To come up for further proceedings/arguments on 10.03.2020 before D.B. Appellant be put on notice for the date fixed.


Member


Member

14.06.2019

Due to general strike by the Pakistan Bar Council, the case is adjourned. To come up for arguments on 11.07.2019 before D.B.


Member


Member

11.07.2019

Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Learned AAG seeks adjournment. Adjourn. To come up for arguments on 06.09.2019 before D.B.


Member


Member

06.09.2019

Appellant in person and Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned to 07.10.2019 for arguments before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

02.01.2019


Appellant in person present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Ihsanullah, ASI for the respondent present. Written reply on behalf of the respondents submitted. The appeal is assigned to D.B-I for rejoinder and arguments for 11.03.2019.



Muhammad Amin Khan Kundi
Member

11.03.2019

Appellant in person and Addl. AG alongwith Ihsanullah, ASI for the respondents present.

Appellant submitted rejoinder to the written reply of respondents. To come up for arguments on 28.05.2019 before the D.B.



Member


Chairman

28.05.2019

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 14.06.2019.


Member


Member

10.07.2018

Appellant Muhammad Hasham in person present. No representative of the respondents present. However, Mr. Usman Ghani, District Attorney put appearance on their behalf. To come up for written reply/comments on 27.08.2018 before S.B.


Chairman

27.08.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present and made a request for adjournment. Last chance is given. To come up for written reply/comments on 10.10.2018 before S.B.


(Ahmad Hassan)
Member

10.10.2018

Appellant Muhammad Hasham in person present. Mr. Kabirullah Khattak, Addl. AG for the respondents present. No representative of the respondents present and Addl. AG again made a request for adjournment. Granted but as a last chance. To come up for written reply/comments on 14.11.2018 before S.B.


Chairman

14.11.2018


Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 02.01.2019. Written reply not received. Mr. Ihsan Ullah SI representative of respondents absent.


READER

26.03.2018

Counsel for the appellant present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Police Department and during service he was imposed major penalty of removal from service vide order dated 11.09.2012 on the allegation of his absence from duty. It was further contended that the appellant was removed from service from the date of his absence i.e retrospectively therefore, the impugned order is void. It was further contended that at the time of impugned order the Efficiency and Disciplinary Rules, 2011 was in field but the appellant was proceeded under the Removal from Service (Special Power) Ordinance, 2000 therefore, the impugned order is illegal and liable to be set-aside. It was further contended that appellant also filed departmental appeal but the same was rejected hence, the present service appeal.


The contention raised by learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days thereafter, notice be issued to the respondents for written reply/comments for 21.05.2018 before S.B.


(Muhammad Amin Khan Kundi)
Member

21.05.2018

Appellant in person present. Security and process fee have also not been deposited by the appellant. The appellant is also directed to deposit the same with seven days, thereafter, notice be issued to the respondents for written reply/comments for 10.07.2018 before S.B.

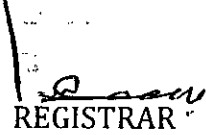



Appellant Deposited
Security & Process Fee


(Muhammad Amin Khan Kundi)
Member

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 208/2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	15/02/2018	<p>The appeal of Mr. Muhammad Hashim resubmitted today by Mr. Asad Khan Mehmoodzai Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	26/02/18.	<p>This case is entrusted to S. Bench or preliminary hearing to be put up there on <u>08/03/18.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	08.03.2018	<p>Counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 26.03.2018 S.B.</p> <p style="text-align: right;"> (Gul Zehra Khan) Member</p> <p style="text-align: right;"></p>

The appeal of Mr. Muhammad Hashim son of Inamaullah Khan Ex-Constable FRP Platoon No. 74 Malakand Range received today i.e. on 06.02.2018 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 and replies thereto are not attached with the appeal which may be placed on it.
- 2- Copies of departmental appeals mentioned in para-3 of the memo of appeal are not attached with the appeal which may be placed on it.
- 3- Orders dated 21.2.2013 and 1.1.2016 are illegible which may be replaced by legible/better one.

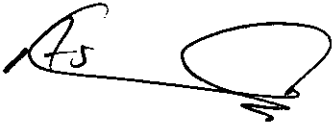
No. 268 /S.T,

Dt. 07/02 /2018


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Asad Khan Mehmoodzai Adv. Pesh.

Note: I have annexed copies of departmental appeal as well as the order of Respondent No 2 and order of Respondent No: 1 clear copies. As 

Further More copies of charge sheet, statement of allegations were not provided by the department to the appellant nor issued to the appellant hence we I have not attached those copies. As 

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT SWAT



Service Appeal No. 529/2014

Date of Institution... 14.04.2014

Date of decision... 05.09.2017

Samiullah, Ex-Constable FRP Platoon No. 77,
Malakand Range, Swat. ... (appellant)

Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and 2
others. ... (Respondents)

Mr. Asad Khan Muhamamd Zai, ... For appellant
Advocate

Mr. Muhammad Zubair, ... For respondents.
District Attorney

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN
MR. AHMAD HASSAN, ... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the
learned counsel for the parties heard and record perused.

FACTS

2. The appellant was removed from service on 24.08.2012 due to his
absence from duty against which he filed departmental appeal on 19.09.2012
which was rejected on 26.4.2013 and thereafter, the appellant filed the
present appeal on 14.4.2014.

ARGUMENTS

3. The learned counsel for the appellant argued that the delay in filing of
appeal was for the reason that copies of the required documents were not

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Camp Court, Swat

provided to the appellant and he then filed an application on 31.3.2014 and on the same very day he was provided the copies and thereafter the present appeal. He also relied upon a judgment reported as 1994-PLC(C.S)46 by arguing that limitation starts from the knowledge of impugned order.

4. On the other hand, the learned District Attorney argued that the present appeal is hopelessly time barred and no condonation application has been submitted by the appellant, hence no relief can be provided to him.

CONCLUSION

5. Though the appeal is hopelessly time barred and limitation cannot be enlarged on the ground that required copies were not provided to the appellant. The judgment relied upon by the learned counsel for the appellant is not relevant to the present appeal as the circumstances of the present case are different from the reported case. In the reported case, the appellant had no knowledge of the outcome of the appeal whereas in the present appeal the stance of the appellant is that he was not supplied the required copies.

6. This Tribunal however, on her own observed that the charge sheet, statement of allegations, final show cause notice and the final order have been issued under the repealed Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000. The period of absence of the appellant is subsequent to the repeal of the said Ordinance. The whole proceedings are therefore, void and no limitation runs against void order.

7. Resultantly, the appeal is accepted and the appellant is reinstated in service. However, the department is at liberty to conduct denovo enquiry in accordance with law and rules within a period of 2 months from the date of receipt of this judgment. The issue of back benefits shall be subject to

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Camp Court, Swat

ATTESTED

outcome of denovo proceedings. Parties are left to bear their own costs. File be consigned to the record.

Sd/ NIAZ MUHAMMAD KHAN, Chairman
Damp Court, Swat

Sd/ Ahmad Hassan, Member.

Announced
05-09-2017

Certified to be true copy

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Camp Court, Swat

Date of Presentation of Application	07-09-17
Number of Words	1200
Copying Fee	8-00
Urgent	2-00
Total	10-00
Name of Applicant	FAZLE SUBHAN
Date of Filing	07-09-17
Date of Disposal	07-09-17

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 208 of 2018

Muhammad Hashim Ex-Constable FRP, Platoon
No.74, Appellant

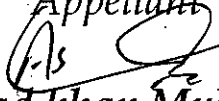
VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa
Peshawar and others Respondents

Index

S.No.	Description of documents	Annexure	Pages
1.	Memo of appeal along with affidavit		1-8
2.	Application for condonation of delay if any with affidavit		9-11
3.	Copies of medical record / prescription of illness appellant mother	"A"	12-19
4.	Copy departmental appeal and order dated 21/02/2013 by respondent No. 2 and departmental appeal and order dated 01/01/2016 by respondent No.1	"B"	20-23
5.	Copy of impugned order dated 11/09/2012	"C"	24-26
6.	Wakalat Nama	In original	

Dated 29/01/2018

Through ^{Appellant}

Asad Khan Muhammadzai
Advocate,
High Court Peshawar
Cell # 0312-6907475

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 208 of 2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 172

Dated 06-2-2018

Muhammad Hashim S/o Inam Ullah Ex-Constable
FRP, Platoon No.74, Malakand Range Swat, presently
R/o Mohallah Qutmeen Khel, PO Turangzai Tehsil &
District Charsadda.

... .. Appellant

VERSUS

- 1- The Provincial Police Officer, Khyber Pakhtunkhwa
Peshawar.
 - 2- The Commandant Frontier Reserve Police
Peshawar.
 - 3- The Superintendent FRP Malakand Range Swat.
- Respondents

APPEAL UNDER SECTION 4 OF KPK
SERVICE TRIBUNAL ACT 1974 R/W SECTION
10 OF THE KHYBER PAKHTUNKHWA
REMOVAL FROM SERVICE (SPECIAL
POWERS) ORDINANCE, 2000 AGAINST THE
IMPUGNED ORDER DATED 11/09/2012
PASSED BY RESPONDENT NO.3, WHEREBY
THE APPELLANT WAS REMOVED FROM
SERVICE AGAINST WHICH HE PREFERRED
DEPARTMENTAL TO APPELLATE
AUTHORITY BUT THE SAME TOO, WAS
REJECTED VIDE IMPUGNED APPELLATE
ORDER DATED 21/02/2013 OF RESPONDENT
NO.2 SIMILARLY ORDER OF DISMISSAL BY
THE RESPONDENT NO.1 DATED 01/01/2016.

Filed to-day

Registrar

6/2/18

Re-submitted to -day
and filed.

Registrar

15/2/18

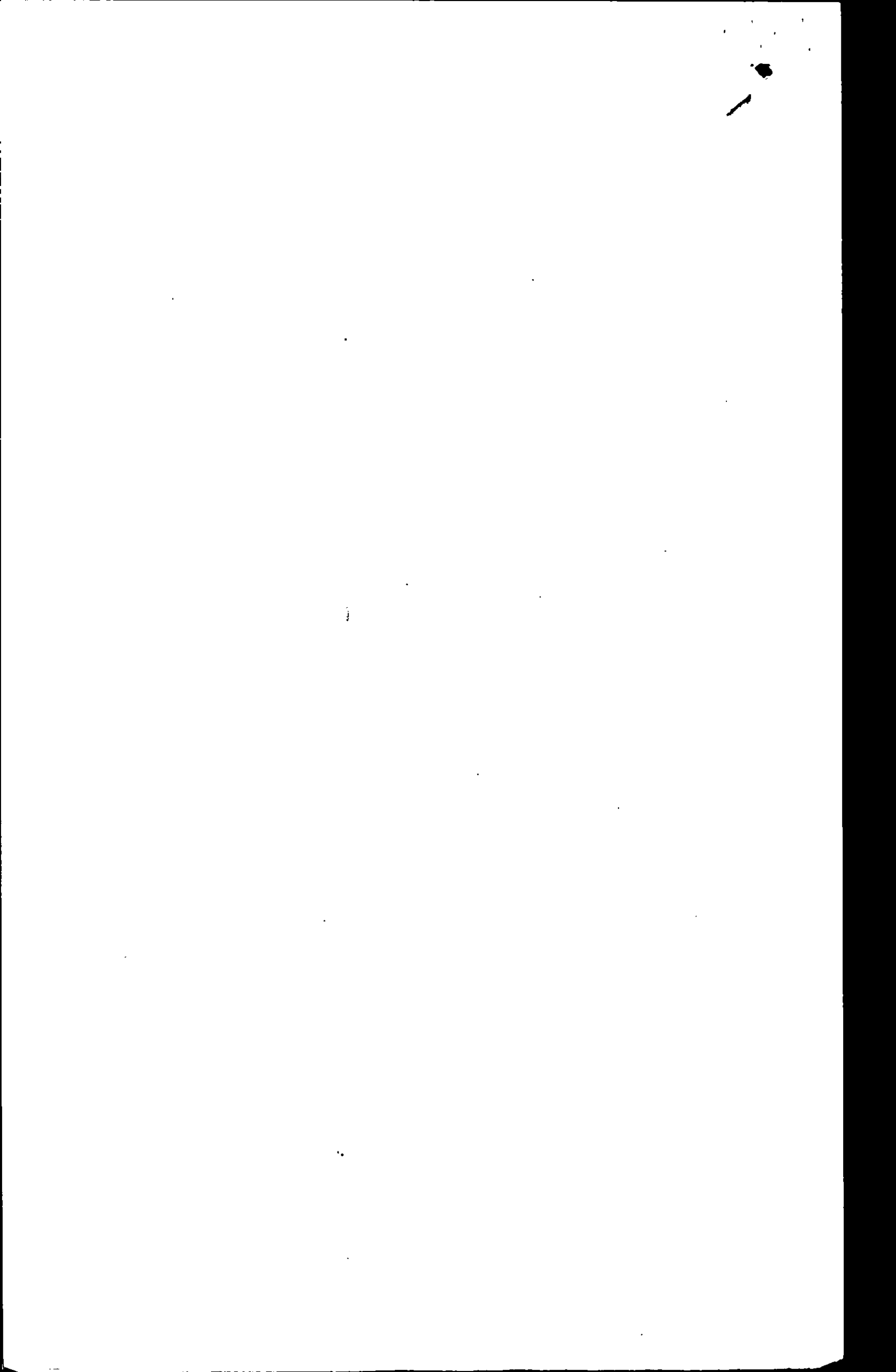
Prayer;

On acceptance of the instant appeal, the impugned order dated 21/02/2013 passed by the respondent No.2 similarly the order of the respondent No.1 dated 01/01/2016 and original order dated 11/09/2012 passed by the respondent No.3 may be set aside and the appellant may be reinstated in service with all back benefits.

Respectfully Sheweth;

Brief facts leading to the instant appeal are as under;

- 1- That the appellant joined the police force as constable FRP in the year 2009 and performed his duty to the satisfaction of this superior and the relevant time he was posted at District Swat.
- 2- That the appellant is the permanent resident of Charsadda and his mother has been suffering from Heart disease and was under treatment from various doctors on 24/04/2012 her condition suddenly got worsened and as the appellant was the sole male supporter of the family, therefore he after taking verbal permission on his request from the incharge came to village and took her mother for medical treatment to the various hospitals, the treatment continues for almost four and half months during which time she under went numerous medical procedure and survived her death with the relentless efforts of the doctors and



luckily regained her health to great extent. (Copies of medical record are annexed as Annexure "A").

- 3- That when appellant took sigh of relief he reported for duties but was shocked to know and he has been unilaterally without information on 11/09/2012, the respondent No.3 on the ground of absence for the period of four months and 19 days accordingly appellant preferred departmental appeal. (Copy of departmental appeal is annexed Annexure "B) immediately the appellant before the appellate authority but the same was later on rejected on 21/02/2013 by the respondent No.2, the appellant aggrieved from the order of the respondents No.2 preferred an appeal to the respondent No.1 which was also rejected vide order dated 01/01/2016.
- 4- That appellant made a lot of efforts to get the relevant documents including the impugned order etc for filing an appeal before the Hon'ble Tribunal but the same were refused by the concerned staff, finally the appellant has got the relevant documents and preferred an appeal before this Hon'ble Forum.
- 5- That the appellant being aggrieved from the impugned order assails the same through this appeal inter-alia on the following grounds:

GROUNDS:

- A- That the respondents have not treated appellant in accordance with law, rules and policy on the

subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan 1973 and unlawfully issued the impugned order, which are unjust, unfair and hence not sustainable in the eye of law.

- B- That the absence of the appellant was neither deliberate nor intentional but it was due to the circumstance beyond the control of appellant.
- C- That the appellant has left for the treatment of his seriously ailing mother with the permission of the incharge on request of the appellant after informing him about the entire situation as there was non else at home.
- D- That the appellant was proceeded against under repealed law and as much as the removal from service (Special Power) Ordinance, 2000 was repealed on 16/11/2011 while the charge has allegedly been issued on 01/03/2012 while the impugned original order was passed on 11/09/2012 thus the entire proceeding including the impugned orders are void ab-initio, coram non judice and hence not sustainable.
- E- That the entire action was taken at the back of appellant and he was not informed regarding the

disciplinary action. No notice was issued to the appellant at home address. Thus the proceeding were carried out unilaterally and appellant was deprived of the defence by the deliberately keeping him unaware of the disciplinary taken against him.

F- That the charge sheet and statement of allegations final show cause notice have not been duly communicated to the appellant nor the inquiry officer has properly informed the appellant regarding the inquiry proceeding.

G- That the inquiry was also conduct in a haphazard and fill in the blank manner as is evident from its report, for imposing major penalty regular inquiry is necessary but in the case in hand and irregular, improper inquiry was rushed and conclusion was drawn that the appellant was guilty of willful absence. Since the inquiry was irregular, therefore, the impugned order based upon the same are unlawful and as such not maintainable.

H- That it also a settle law that where factual controversy is involved in a case then the only alternative is to conduct regular inquiry.

I- That opportunity of personal hearing was also denied to appellant which is against the principle of natural justice.

J- That keeping in view the peculiar facts and circumstances of the case the imposition of the major penalty is quite excessive, unreasonable and does not commensurate with the guilt of the appellant. His absence period is four months and 19 days. Moreover, on humanitarian appellant deserve leniency because he is the sole bread earner of his big family and he has to shoulder the responsibility of his younger brother and sister including his ailing mother.

K- That the appellant seeks leave of this Hon'ble Tribunal to rely on additional grounds at the time of arguments.

It is, therefore, prayed that acceptance of the instant appeal, the impugned order dated 21/02/2013 passed the respondent No.2 similarly the order of the respondent No.1 dated 01/01/2016 and original order dated 11/09/2012 passed by the respondent No.3 may be set aside and the appellant may be reinstated in service with all back benefits.

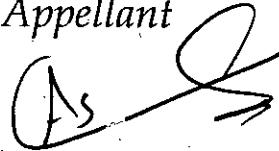
Any other relief as deem appropriate in the circumstances of case no specifically asked for, may be granted to the appellant.

Dated 29/01/2018



Appellant

Through



Asad Khan Muhammadzai
Advocate,
High Court Peshawar

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____ of 2018

Muhammad Hashim Ex-Constable FRP, Platoon
No.74, **Appellant**

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa
Peshawar and others

..... **Respondents**

AFFIDAVIT

I, Muhammad Hashim S/o Inam Ullah Ex-Constable FRP, Platoon No.74, Malakand Range Swat, presently R/o Mohallah Qutmeen Khel, PO Turangzai Tehsil & District Charsadda do hereby solemnly affirm and state on oath that the accompanied appeal are true and correct to the best of my knowledge and belief and nothing has been stated concealed from this Hon'ble Court.

ATTESTED
IRFAN ULLAH ADVOCATE
NOTARY PUBLIC

Hashim
DEPONENT

171014 - 987773-3

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____ of 2018

Muhammad Hashim Ex-Constable FRP, Platoon
No.74, **Appellant**

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa
Peshawar and others

..... **Respondents**

APPLICATION FOR CONDONATION OF
DELAY OF ANY

Respectfully Sheweth:

1- The petitioner prays for condonation of delay if any
on the following grounds:

Grounds:

- A) That the grounds mentioned in appeal may be treated
as the integral part of this application.
- B) That it is the settled law of the august Supreme Court
of Pakistan that the cases be decided on merits and not
on technicalities such as limitation.
- C) That according to the apex Courts decision the
limitation is doesn't run against the void order too.

D) That the petitioner has not committed any misconduct, and if the delay if any is not condoned his whole life shall be destroyed.

It is, therefore, prayed that on acceptance of this application, the delay if any shall be condoned to meet the ends of justice.

Dated 29/01/2018

Heefij
Appellant

Through

As
Asad Khan Muhammadzai
Advocate,
High Court Peshawar

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____ of 2018

Muhammad Hashim Ex-Constable FRP, Platoon
No.74, Appellant

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa
Peshawar and others

..... Respondents

AFFIDAVIT

I, Muhammad Hashim S/o Inam Ullah Ex-Constable FRP, Platoon No.74, Malakand Range Swat, presently R/o Mohallah Qutmeen Khel, PO Turangzai Tehsil & District Charsadda do hereby solemnly affirm and state on oath that the accompanied application for condonation are true and correct to the best of my knowledge and belief and nothing has been stated concealed from this Hon'ble Court.

Hashim
DEPONENT

171514-987775-3

~~ATTESTED~~
SIRFAN ULLAH ADVOCATE
NOTARY PUBLIC
29-7-18

Amma: "A"

(15)

Brigadier (Doctor)
Nazeer Ahmed Qureshi
F.C.P.S., Cert. in Neuro Surgery (Edin)

بریگیڈر ڈاکٹر نذیر احمد قریشی
پروفیسر آف نیوروسرجری - افواج پاکستان

نیوروسرجیکل سنٹر
کمانڈلٹری ہسپتال - راولپنڈی
فون دفتر: 561-30155

Professor of Neuro Surgery
Army Medical College, Rwp.
Head Of Neurosurgical Centre
Combined Military Hospital, Rwp.
Advisor in Nuerosurgery
Pakistan Armed Forces

Date: 24/4/12

M/o Hashim

Flupirtin شوگر اور بلڈ پریشر کنٹرول کے لیے

HA. Dom / HTA
(HTD)

R
100 Nebuvent Pul

Ch
LHA
Pantone
Joint pu
135790

100 Caplexon
100- OPHILETS-04
ALP 0.5

ATTE D

Brigadier (Doctor)
Nazeer Ahmed Qureshi
F.C.P.S., Cert. in Neuro Surgery (Edin)

بریگیڈر ڈاکٹر نذیر احمد قریشی
پروفیسر آف نیوروسرجری - افواج پاکستان

نیوروسرجیکل سنٹر
کمانڈ ملٹری ہسپتال - راولپنڈی
فون دفتر: 561-30155

Professor of Neuro Surgery
Army Medical College, Rwp.
Head Of Neurosurgical Centre
Combined Military Hospital, Rwp.
Advisor in Nuerosurgery
Pakistan Armed Forces

Dated: 27-04-12

M/o Hasham

Mr. DM/ITD
HTN

Echo
→ Cardiomegaly

Cp
Body an
BP 140/100

Ry

Ms. Geeta / 34

نمبر ریکورڈنگ

Ms. VIDAL 3/125

Ms 1/1

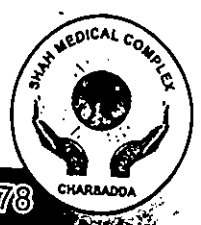
Ms Ebi day 50+

Ms WSP 25+

Ms

A. S. D
ATTE-S-D

Shah Medical Complex



RAJJAR BY PASS ROAD CHARBADDA. PH: 091-6515077-78

M/O Hashim

Dated 8-08-12

Age 60yrs

HTN/DM

Tab Inosita Plus 50/856mg
1-1

B.P. 160/100

Temp 100°C

Tab Triforge 10/160/12.5mg
u, le

Body Painch

Aluse - N

Prev History

Bp
Temp

Tab Ascard 75mg
u, b

AdV: HBA1C - 7.1

RBS - 280

Lipid Profile - N

Tab Rudra 10mg
u, le

Not Valid For Court medico legal purpose

ATTESTED

Shah-Medical Complex



RAJJAR BY PASS ROAD CHARSADDA. PH: 091-6515077-78

No Hashim

Dated: 6-6-12

Age 61yr

HTN/DM

Hypertension

B.p 170/90

Temp 101

ADU: RBS 320

Leantes Insulin
3-1, 20 unit.

Tab Inosita Plus 50/850
1-1

Tab Triforge 10/160/12.5mg
1-1

Tab Ascendin
1-1

Tab Newbron
1-1

Tab Nab-oral
1-1

Not Valid For Court medico legal purpose

[Signature]
DATE

D.H.Q Hospital Charsadda
OUT - PATIENTS DEPARTMENT

NAME **RG-31**

YEARLY NO *628*

DATE *3/8/12*

DISEASE

Re.

*TW: Axcin
250*

1-1

*TW: Nuberal
1-1+1*

[Signature]

[Signature]

D.H.Q Hospital Charsadda
OUT - PATIENTS DEPARTMENT

NAME
YEARLY NO
DATE
DISEASE
Rs=3/

200 R/L 100cc 1/2 stat
200 Graniva 1/2 stat
200 Lantac 1/2 stat
200 Valium in clmp
TW

Tab MOTILIN-V
200 me w 1 7 7
-Cap me w DINTOX 30mg
200 me w C
200 Sup LOSTONIL PAB
200 me w 2 - 2 TW

A. S.

D.H.Q Hospital Charsadda
OUT - PATIENTS DEPARTMENT

NAME *[Signature]* **Rs=3/**
YEARLY NO *3812*
DATE *2/5/72*
DISEASE

- *Phenox 5 1000*
- *y. Nospac 2*
- *y. duxone*
1 g 1

Res. Sany
171 500/16
n A-sting 05
n flegy 65/480
n clp 92

[Signature]
ATTESTED

D.H Q Hospital Charsadda
OUT - PATIENTS DEPARTMENT

NAME [Handwritten Name] R8-3/
YEARLY NO. [Handwritten]
DATE [Handwritten]
DISEASE Mixed Diarrhea / J.F.
Diarrhea

Pa
- 1) Ciproxin 250
- 2) Fluyl 600
- 3) Amoxicillin 250
[Signature]

[Signature]
ATTENDED

To: Police Commandant (P R D)
Peshawar

Subject: APPLICATION FOR RE-INSTATEMENT

Respected Sir,

I have the honour to submit that I MUHAMMAD HASHAM S/O INAM ULLAH Holding National Identity Card No.17101-4987773-3 was enrolled in the police Department on 03-03-2009 vide Belt No. 3987 and was doing my duty in Peshawar Police Line. I have been terminated from service due to absent from duty from 27-7-2012 to 18-09-2012 vide termination order no. (B No. 321.

Sir, Due to my domestic problems as my mother suddenly remain seriously ill and I mentaly very disturb. Due to this disturbance and look after of my mother during her illness I remained absent from my duty..

It is therefore earnestly requested that I am very poor and financially in great trouble. Your Excellency is therefore requested that I may please be re-instate on my duty. For this act of kindness I and my mother will pray for your long lives and prosperity. I hope that the Excellency will disappoint me by turning down my request.

Thanks in anticipation.

Yours Obediently

Muhammad Hasham

MUHAMMAD HASHAM S/O
INAM ULLAH
R/C: Moh QUTMIN KHEL TURANG
Teh & Distt: CHARSADA

Jan 2013

ORDER.

(21)

This order shall dispose off on the appeal of Ex- Constable Mohammad Hasham No. 3987 of FRP Malakand Range against the order of SP FRP Malakand Range.

Brief facts of the case are that he absented himself from duty with effect from 24.04.2012 till the date of removal from service for a total period of 04 months and 19 days without any leave/permission of the competent authority. He was issued Charge Sheet/Statement of Allegation and Inspector, RI and I/O of FRP Malakand Range were nominated as Enquiry Officers. After enquiry the Enquiry Committee submitted their findings and recommended the defaulter Constable for major punishment. He was issued Final Show Cause notice but he did not bother to reply. He was heard in person and given opportunity to join his duty but he failed. Therefore, he was removed from service by SP FRP Malakand Range vide OB No. 889 dated 11.09.2012.

However from the perusal of record and finding of Enquiry Officer there is no cogent reason to interfere in the order of SP FRP Kohat Range. Therefore his appeal is rejected.

My
Add: IGP/Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa Peshawar

No 1360-6/EC

21-2/2013
12012.

1/EC dated Peshawar

05/18/2013
18-2-901

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

1. Superintendent of Police FRP Kohat Range w/r to his Memo: No. 134/EC dated 30.01.2013. His service record and Departmental Enquiry File is returned herewith.
2. Ex-Constable Mohammad Hasham No. 3987 S/o Inam Ullah R/o Tarangzai District Charsadda..

بخدمت جناب آئی جی پی صاحب خیر پختون خواہ پشاور۔

درخواست بمراد بحالی سروں

جناب عالی!

گزارش ہے کہ سائل FRP سوات میں ڈیوٹی سرانجام دے رہا تھا سائل کو سال 1997ء میں درخواست کیا گیا ہے سائل کی والدہ بیمار تھی جو کہ سائل کے گھر پر کوئی فرد نہیں تھا اسی وجہ سے سائل کو مجبوراً والدہ کے علاج معالجہ کیلئے آنا پڑا۔ سائل کو بغیر کسی انکوائری، شوکاژ نوٹس یا وضاحتی بیان کے سائل کو درخواست کیا گیا۔ حالانکہ سائل کی والدہ بیمار تھی۔

بذریعہ درخواست التماس ہے کہ سائل کے درخواست پر غور کر کے سائل کو دوبارہ نوکری پر بحال کرنے کا حکم صادر فرمایا جائے۔ سائل تازیت دعا گور ہے گا۔

عین نوازش ہوگی۔

العارض

آپ کا تابعدار سابقہ کانسٹیبل محمد ہاشم خان نمبر 3987/FRP سوات

H. H. H.

ORDER

Recruit F.C Mohammad Hasham NO: 3987 while posted to FRP, Police Line Duggar Buni has remained absent from lawful duty from 24/4/2012 to date. Vide P.D No 14 dated 27/04/2012.

He was proceeded against departmentally under the K.P.K (Special Power) Ordinance, 2000 with duly constituted inquiry Committee comprising the following Police Officers.

- 1: Inspector Yousaf Ali Khan FRP, line Swat.
- 2: Inspector Rehmat Ali Kjan, RI FRP lines Swat.
- 3: Inspector Bacha Khan, LO FRP Line Swat.

The inquiry committee has completed all the requisite codal formalities and submitted the enquiry report, wherein it has been observed that the defaulter FC M. Hasham NO 3987 was enlisted in FRP on 24/4/2012. The defaulter FC M. Hasham NO 3987 deserted the force and thus demonstrated cowardice in the line of duty, later on he was given the opportunity to join his duty but he failed to do so. In the light guilty of charges and recommended his removal from service.

I, the undersigned, have thoroughly perused the enquiry report and the inquiry papers of the inquiry Committee. The defaulter FC Muhammad Hasham has been provided an ample amount of opportunity for personal hearing but he never availed this Chance. I fully agree with the findings and recommendations of the inquiry Committee. Therefore, the defaulter FC M. Hasham NO 3987 FRP Swat, Malakand Range, is hereby removed from service from the first date of his absence of official duty.

Order announced.

Superintendent of Police, FRP
Malakand Range Swat.

NO 889 Dated 11/09 2012.

Copy to the worthy ADDI: IGP/Commandant FRP K.P.K Peshawar, for favour of kind information, please.

Superintendent of Police, FRP
Malakand Range Swat.

OB NO 321

18-9-2012

Superintendent of Police, FRP
Malakand Range Swat.

204

Annex "C"

(25)

FINAL SHOW CAUSE NOTICE.

I, **Superintendent of Police FRP, Malakand Range Swat**, as competent authority under Removal from Service (Spl: Powers) Ordinance 2000, do hereby serve you Constable Muhammad Hasham No. 3987 of FRP, Malakand Range Swat.

(1) (i) That consequent upon the completion of enquiry conducted against you by the Enquiry committee, for which you were given full opportunity of hearing and.

(ii) On going through the findings and recommendation of the Enquiry Committee, the material available on record and other connected papers, I am satisfied that you have committed the following acts/omissions specified in section-III of the said Ordinance:-

You Constable Muhammad Hashem No. 3987 Platoon No. 74 FRP, Malakand Range, posted to FRP, Bunir Police Lines Daggar absented yourself with effect from 06/01/2012 till to date vide D.D report No. 26 dated 28/01/2012. Your pay has already been stopped vide this office O.B No. 27 dated 28/01/2012. In this connection your have already been charge sheeted vide Endst: NO. 22/EC, dated 01/03/2012 on your home address and also given a chance to resume your duty vide this office urdu version parwana No. 200/EO, dated 05/03/2012, but you not availed this chance. Thus issued Final Show Cause Notice.

(2) As a result therefore, I, Hazrat Ali Khan Superintendent of Police FRP, Malakand Range Swat as competent authority has tentatively decided to impose upon you Major / Minor Penalty including dismissal from service under section - III of the said Ordinance.

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

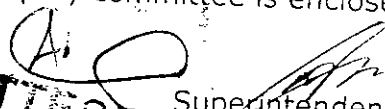
(4) If no reply to this Final Show Cause Notice is receive within fifteen days of it delivery, in the normal course of circumstances, it shall be presumed that you have no defense to put in and in that Cause an ex-party action shall be taken against you.

(5) A copy of finding of the enquiry committee is enclosed.

NO. 22 A EC,

Dated 4-4-2012

NR: 0412/10/01: 6-4-2012


ATTESTED
Superintendent of Police FRP,
Malakand Range, Swat.

از پیشگاه صاحب سپهر شریف

شرفیت صاحب سپهر شریف سپاه پولیس P.S

نقشہ نڈا برائے تھانہ پری سندھ جزیل امورات کے لئے

پاس سب انسپکٹر صاحب تھانہ سے لقمہ لیا گیا

سورخہ 20/09/1941 سپر تھانہ پولیس

Handwritten signature

26/11/41

رپورٹ انسپکشن سپر تھانہ سے تھانہ پولیس

بیانے تھانہ پولیس تھانہ سپر تھانہ سے

نام بیانات لقمہ
کنڈا لٹ جال پور
بھید دستخط

عنا - عالی

لقمہ لیا گیا
محمد یار شہید
شہداء کی خدمت میں
سے لقمہ لیا گیا

اسلام آباد

Handwritten signature

26/11/41

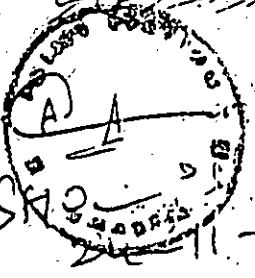
اسلام آباد

Handwritten signature

ASA ALI
Genera Councilor
Turangal Charsadda

14/11/1941 433449507

Handwritten notes and signatures at the bottom of the document.



نام و نام خانوادگی

شماره پرسنلی

مدرسه تقدیراتی چال چالین بگروت بنام محمد باقر

تولد: 1305 شمسی / شهر: تهران

وزارت: فرهنگ و ارشاد اسلامی / رشته: دبیر

سکونت: محله نطفه سوس / شهر: تهران / پلاک: 33

نشانی خاص: انزلی

تاریخ	شرح	ملاحظات	ملاحظات	تایید
بزرگ				
بزرگ				
بزرگ				
بزرگ				
بزرگ				

تاریخ اشتغال در مدرسه

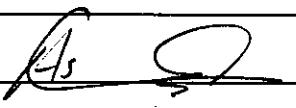
نام مدرسه	مدرسه	مدرسه
-----------	-------	-------

مدرسه تقدیراتی چال چالین بگروت بنام محمد باقر

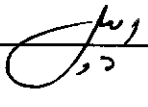
تاریخ اشتغال

مدرسه تقدیراتی چال چالین بگروت بنام محمد باقر

مدرسه تقدیراتی چال چالین بگروت بنام محمد باقر

قیمت 50 روپے	24996
ایڈوکیٹ: 	پشاور بار ایسوسی ایشن، خیبر پختونخواہ
بار کونسل ایسوسی ایشن نمبر: PK-11-1055	
رابطہ نمبر: 0312-6967472	

بعدالت جناب: KPK سروس سٹریٹجی ایشیا

مخانب: اسپینڈکٹ - محمد ہاشم	دعویٰ: 
محمد ہاشم	علت نمبر: _____
بنام	مورخہ: _____
سرویشنل سولیس افسر	جرم: _____
	تھانہ: _____

باعت تحریر آگے

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

آن مقام سور کیلئے محمد رضا محمد 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 بر حلف 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 ساختہ پر داخنتہ 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

المقوم:

مقام _____ کے لیے منظور ہے۔

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

Attested
Accepted



محمد ہاشم ولد انعام اللہ
محمد ہاشم ولد انعام اللہ
محمد ہاشم ولد انعام اللہ
محمد ہاشم ولد انعام اللہ

BEFORE THE SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL NO. 208/2018

Ex Constable Muhammad Hashim.....Petitioner.

VERSUS

**1. Addl: IGP/Commandant FRP Khyber
Pakhtunkhwa Peshawar & Others.....Respondents.**

S. NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGES
1.	Para-wise Comments		03
2.	Charge Sheet & Statement of Ailegations	A &B	02
3.	Enquiry Report	C	01
4.	Copy of Application	D	01
Total			07


RESPONDENTS

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service appeal No.208/2018.

Muhammad Hashim, Ex-Constable FRP Malakand Range, Swat.....Appellant.

VERSUS

1. **Provincial Police Officer**
Khyber Pakhtunkhwa, Peshawar
2. **Commandant,**
Frontier Reserve Police,
Khyber Pakhtunkhwa, Peshawar
3. **Superintendent FRP**
Malakand Range, Swat.....Respondent.

WRITTEN REPLY ON BEHALF OF RESPONDENTS

Respectfully Sheweth:

PRELIMINARY OBJECTIONS

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has no cause of action.
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 this Honorable Court has no jurisdiction to entertain this Service Appeal.

ON FACTS

1. Para No.1, is admitted to the extent that the appellant was enlisted in FRP in the year 2009 as contended by him, however, his contention as regards the satisfactory discharge of his official function is rejected on the grounds that the appellant without any valid permission remained absent for a period of 04 months 14 days, which itself speaks volume about his conduct.
2. Incorrect & rejected as the appellant was remained absented himself from lawful duty vide Daily Diary report No. 14, dated 27.04.2012 till the date of his removal from service i.e 11.09.2012 for a period of 04 months and 14 days without any leave or prior permission of his seniors.
3. Incorrect & rejected. On the allegations of absence the appellant was dealt with proper departmentally as he was issued Charge Sheet alongwith Summary of allegations and Enquiry Committee was constituted to conduct enquiry against him. After completion of enquiry the Enquiry Committee submitted their findings, wherein they reported that the appellant was summoned through Urdu Parwana to report arrival and appear before the Enquiry Committee, but he deliberately failed to submit his written statement or appear before the Enquiry Committee. During the course of enquiry the appellant was found guilty of the charges leveled against him and the enquiry committee recommended for major punishment of removal from service. Departmental appeal of the appellant was thoroughly examined and rejected on sound ground. Moreover, his mercy petition was also examined and

1919
1920
1921

1922
1923
1924

1925
1926
1927

1928
1929
1930

1931
1932
1933

1934
1935
1936

1937
1938
1939

1940
1941
1942

1943
1944
1945

rejected being meritless. (Copy of charge sheet, summary of allegation, enquiry report are annexure A, B, C)

4. Incorrect & rejected, the appellant was submitted **application on 30.11.2017** for obtaining the copies of relevant record, which were already conveyed to him. Copy of his application is attached as annexure (D).
5. Incorrect & rejected, the grounds mentioned vide para No. 3 & 4 ante are submitted.

GROUND


- a. Incorrect & rejected the appellant was treated in accordance with law as preview of article 4 of the constitution and any other law in force on the subject. The enquiry procedure is contemplated under the relevant law was fully adhered to and the appellant was given the opportunity of being heard though the exemption of written PARWANA for appears before the enquiry committee, a right, which who waived.
- b. Incorrect & rejected as the appellant was absented himself from lawful duty willfully and deliberately without prior permission of his seniors, However, he was dealt with proper departmentally as he was summoned time and again by the Enquiry Committee to depend himself, but he did not turn up.
- c. Incorrect & rejected. The appellant was deliberately absented himself from lawful duty without prior permission of his seniors. The plea of illness of his mother taken by the appellant is after thought story, he suppose to have taken this plea before the Enquiry Committee or before the competent authority. Since the contention being a matter of fact which he contentedly ignored at the appellant stages after preferring intra departmental appeal.
- d. Incorrect & rejected. The appellant was proceeded against departmentally under the relevant law/rules. However, the appellant supposed to have taken this plea before the appellate authority in his departmental appeal. The appellant may not raising this point submitted himself to the jurisdiction, thus confined by the said disciplinary rules and hence did not agitate it at any stage of his enquiry.
- e. Incorrect & rejected. While the appellant was remained absent from duty without prior permission, thus he was well known regarding to departmental enquiry against him and it is evident from the Charge Sheet, which was already served upon him.
- f. Incorrect & rejected. The appellant was summoned through Urdu Parwana on his home address to appear before the Enquiry Committee, but he deliberately failed to submit his written statement or appear before the Enquiry Committee to present cogent reason if any before the Enquiry Committee or before the competent authority.
- g. Incorrect & rejected. Proper departmental enquiry was conducted against him, as he was issued Charge Sheet and Statement of Allegations and Enquiry Committee


was constituted to conduct enquiry against him. the appellant was summoned time and again to appear before the Enquiry Committee, but he deliberately failed to submit his reply of Charge Sheet or appear before the Enquiry Committee, by meaning thereof that the appellant was no more interested in the service of police department.


- h. Incorrect & rejected. As a regular enquiry was already conducted against him and after fulfillment of due codal formalities the enquiry was finalized.
- i. Incorrect & rejected. An opportunity of personal hearing was already provided to the appellant, but he failed to avail the opportunity of personal hearing.
- j. Incorrect & rejected. The appellant was absented himself from lawful duty without prior permission of the competent authority. On the allegation of above he was dealt with proper enquiry and the penalty of removal from service awarded to the appellant is commensurate with gravity of the appellant. Moreover, after lapse of more than 7 years, now he desired for reinstatement in service.
- k. The respondents may also be permitted to create additional grounds at the time of arguments.

PRAYERS

It is therefore, most humbly prayed that in the light of afore mentioned facts/submission the service appeal may kindly be dismissed with cost.


Provincial Police Officer
Khyber Pakhtunkhwa, Peshawar.
(Respondent No.1)


Commandant,
Frontier Reserve Police,
Khyber Pakhtunkhwa Peshawar.
(Respondent No.2)


Superintendent of Police,
FRP, Malakand Range, Swat
(Respondent No. 3)

1 A

CHARGE SHEET.

I MR. **HAZRAT ALI KHAN** Supdt: of Police FRP, Malakand Range, Swat as competent authority here by charge you Constable Mohammad Hasham No. 3987 Platoon No. 75 of FRP, Malakand Range Swat posted to FRP Police line Daggar Bunir absented yourself with effect from 24/04/2012 uptill date vide D.D report No. 14 dated 27/04/2012. Your pay has already been stopped vide this office O.B No. 157 dated 22/05/2012 .Thus issued charge Sheet and Statement of allegation.

- 1.) By reasons of the above, you appear to be guilty of misconduct under section - 3 of the K.P.K. (removal from service) special powers ordinance 2000, and have rendered yourself liable to all or any of the penalties specified in section - 3 of the ordinance bid.
- 3.) You are, therefore required to submit your written defense within 07 days of the receipt of this charge sheet to the Enquiry officer / committee, as the case may be.
- 4.) Your written defense if any should reach the Enquiry Officer /committee within the specified period, failing which it shall be presumed that you have no defence to put in and in the case exparte action shall follow against you.
- 5.) Intimate whether you desire to be heard in person.
- 6.) A statement of allegation is enclosed.

No. 66 /EC

Dated: 31-5-2012

Superintendent of Police, FRP
Malakand Range, Swat

MJ 29/5

I Mr. **Hazrat Ali Khan** Supdt: of Police, FRP, MKD Range, as competent authority, is of the opinion that you Constable Mohammad Hasham No. 3987 FRP have rendered yourself liable to proceeded against as you have committed the following action/omissions within the meanings of misconduct under section - 3 of the K.P.K. (removal from service) special powers 2000, and have rendered yourself liable to all or any of the penalties specified in section - 3 of the ordinance bid.


STATEMENT OF ALLEGATIONS.

You Constable Mohammad Hasham No. 3987 Platoon No. 75 of FRP, Malakand Range Swat posted to FRP Police line Daggar Bunir absented yourself with effect from 24/04/2012 uptill date vide D.D report No. 14 dated 27/04/2012. Your pay has already been stopped vide this office O.B No. 157 dated 22/05/2012. Hence issued charge Sheet and Statement of allegation.

2) For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an enquiry committee consisting of the following Police Officers is constituted under section - 3 of the K.P.K., (removal from service) special powers 2000, and to render yourself liable to all or any of the penalties specified in section - 3 of the ordinance bid

3) The Enquiry Committee shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make within twenty five days of the receipt of this Order, recommendations as to punishment or other appropriate action against the accused.

4) The accused and a well conversant representative of the department shall join the proceeding on the date, time and place fixed by the Enquiry committee.


 Superintendent of Police FRP,
 Malakand Range Swat.
 29/5

No. 66 /EC, Dated Saidu Sharif the 31-5-2012.

Copy of above is forwarded to the:-

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. <u>Imp: Yousuf Ali Khan</u> 2. <u>PO: Rahmat Ali Khan</u> 3. <u>SO: Adalat Khan</u> | For initiating proceeding against the officers/
official under the provisions section-3of the K.P.K.,
(removal from service) special powers 2000. |
|--|---|

4. _____

With the direction to appear before the Enquiry Committee on the date time and place fixed by the Committee for the purpose of the proceeding.

فنانیٹنگ رپورٹ ممبرانہ انسٹیٹیوٹ آف سوشل سائنس
 ٹیبل نمبر 75 متعینہ
 محمد حاشم
 3987
 پولیس لائن ڈسٹرکٹ برنس

تاریخ تقریب	تعلیم	ساتھ غیر حاضری	وارننگ	موجودہ غیر حاضری
/	/	/	/	27/4/12 سے بدستور غیر حاضری

جناب عالی!

مذکورہ بالا ملازم مد نمبر 14 روزنامہ 27/4/12 کے مطابق غیر حاضر ہو کر مسلسل غیر حاضری کے بناء بحوالہ آرڈر بک نمبر 157 مورخہ 27/5/12 کو اس کی تنخواہ بند ہو کر چارج شیٹ نمبر 66/EO مورخہ 31/5/12 کو جاری کی گئی جبکہ یہی کاغذات بغرض مزید انکوائری، انکوائری کمیٹی کو مارک ہوئی۔

انکوائری کمیٹی کے جانب سے پروانہ نمبر 66/EO مورخہ 18-6-12 کو غیر حاضر شدہ ملازم کے گھر کے پتے پر جاری ہو کر مذکورہ ملازم کو تاکید کی گئی کہ اپنے ڈیوٹی پر حاضر ہو کر اپنے غیر حاضری کے وجوہات قلمبند کرنے کے واسطے انکوائری کمیٹی کے روبرو پیش ہو جائے مگر تا حال نہ اپنے ڈیوٹی پر حاضری کی اور نہ انکوائری کمیٹی کی روبرو پیش ہوا۔ جس سے معلوم ہوتا ہے کہ یہ ملازم دیدہ دانستہ اپنی ڈیوٹی سے بلا جواز غیر حاضر ہوا ہے۔

جناب والا!

مورخہ 27/4/12 سے بدستور اپنے ڈیوٹی سے بلا جواز غیر حاضر ہونا چارج شیٹ کا جواب نہ دینا اور دیدہ دانستہ اپنے غیر حاضری کے وجوہات قلمبند کرنے کے واسطے انکوائری کمیٹی کے روبرو پیش نہ ہونا ڈسپلین روز کی خلاف ورزی ہے لہذا اس طویل اور مسلسل غیر حاضری کے بناء پولیس آرڈر 2002ء کے آرٹیکل 113 کے تحت تاریخ غیر حاضری از مورخہ 27/4/12 سے ڈسچارج کرنے اور فائنل شو کاز نوٹس جاری کرنے کی سفارش کی جاتی ہے۔ فائنڈنگ رپورٹ مرتب ہو کر بغرض مزید کارروائی پیش خدمت ہے۔

کمیٹی ممبران
 انسپکٹر FRP سوات

لائن آفیسر ایف۔ آر۔ پی سوات

ایف۔ آر۔ پی سوات

Issue final
 show course
 Notice.

11/5/12
 Camp
 zahir

SR FRP MICO

تذکره در خصوص تنظیمات فرم فرم

درخواست براد عطاالله نقوی

ص. ۱

۱- در خصوص تنظیمات فرم 3987 لیون 74 فرم

۲- در خصوص تنظیمات فرم ۱۱ ۲۰۱۲

۳- در خصوص تنظیمات فرم ۱۱ ۲۰۱۲

۴- در خصوص تنظیمات فرم ۱۱ ۲۰۱۲

۵- در خصوص تنظیمات فرم ۱۱ ۲۰۱۲

۶- در خصوص تنظیمات فرم ۱۱ ۲۰۱۲

۷- در خصوص تنظیمات فرم ۱۱ ۲۰۱۲

۸- در خصوص تنظیمات فرم ۱۱ ۲۰۱۲

Steno/Reader

Issue as per Rules

۳۰/۱/۱۸

۱۱/۹

۱- نقل صورت

۲- تنظیمات فرم

۳- تنظیمات فرم

۴- تنظیمات فرم

۵- تنظیمات فرم

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No.208/2018

Muhammad Hasham

VERSUS

The PPO and others

**REJOINDER ON BEHALF OF APPELLANT
IN RESPONSE TO RELY FILED BY
RESPONDENTS.**

Respectfully Sheweth:

Preliminary Objections:

Preliminary objections raised by answering respondents are erroneous and frivolous. The appellant has got strong cause of action and for that matter locus standi to file the appeal. The appeal is in its correct form and shape with all the relevant parties added as respondents. Estopped has no relevancy in the cause in hand. The appeal is within time.

FACTS:

- 1- Being not replied, hence admitted.*
- 2- Incorrect, hence denied. The absence of the appellant was neither deliberate nor willful but it was due to the reasons beyond the control of the appellant. The Incharge of the police station had permitted the appellant.*

3- *Incorrect. The entire proceedings were carried out at the back of the appellant who was deliberately kept ignored of all the proceedings. The inquiry was irregularly conducted in fill-blank manner without observing the prescribed law. The appeal was also rejected in violation of the law as both the impugned orders are not in accordance with law.*

4- *Incorrect.*

5- *Incorrect, hence denied.*

Grounds:

A) *Incorrect. Appellant was not treated according to law.*

B) *Incorrect. The absence of the appellant was not intentionally but it was due to the reasons explained hereinabove.*

C) *Incorrect, hence denied.*

D) *Misconceived. The charge sheet and statement of allegations has never been communicated to the appellant.*

E) *Incorrect.*

F) Incorrect. The entire proceedings were kept secret. No final show cause has been serviced upon the appellant.

G) Incorrect. The inquiry was illegally conducted in violation of the mandatory provisions of law.

H) Incorrect, hence denied.

I) Incorrect. No opportunity of personal hearing has been given.

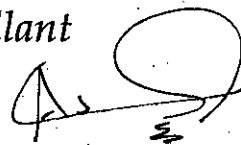
J) Incorrect, hence denied.

K) Needs no reply.

It is, therefore, humbly prayed that the reply of answering respondents may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Dated 28/01/2019

Appellant
Through



Asad Khan Muhammadzai
Advocate
High Court, Peshawar

Affidavit

It is, do hereby solemnly affirm and declare on oath that the contents of the above rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

DEPONENT



BEFORE THE SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL NO. 208/2018

Ex Constable Muhammad Hashim.....Petitioner.

VERSUS

**1. Addl: IGP/Commandant FRP Khyber
Pakhtunkhwa Peshawar & Others.....Respondents.**

S. NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGES
1.	Para-wise Comments		03
2.	Charge Sheet & Statement of Ailegations	A & B	02
3.	Enquiry Report	C	01
4.	Copy of Application	D	01
Total			07


RESPONDENTS

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service appeal No.208/2018.

Muhammad Hashim, Ex-Constable FRP Malakand Range, Swat.....Appellant.

VERSUS

1. Provincial Police Officer
Khyber Pakhtunkhwa, Peshawar
2. Commandant,
Frontier Reserve Police,
Khyber Pakhtunkhwa, Peshawar
3. Superintendent FRP
Malakand Range, Swat.....Respondent.

WRITTEN REPLY ON BEHALF OF RESPONDENTS

Respectfully Sheweth:

PRELIMINARY OBJECTIONS

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has no cause of action.
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 this Honorable Court has no jurisdiction to entertain this Service Appeal.

ON FACTS

1. Para No.1, is admitted to the extent that the appellant was enlisted in FRP in the year 2009 as contended by him, however, his contention as regards the satisfactory discharge of his official function is rejected on the grounds that the appellant without any valid permission remained absent for a period of 04 months 14 days, which itself speaks volume about his conduct.
2. Incorrect & rejected as the appellant was remained absented himself from lawful duty vide Daily Diary report No. 14, dated 27.04.2012 till the date of his removal from service i.e 11.09.2012 for a period of 04 months and 14 days without any leave or prior permission of his seniors.
3. Incorrect & rejected. On the allegations of absence the appellant was dealt with proper departmentally as he was issued Charge Sheet alongwith Summary of allegations and Enquiry Committee was constituted to conduct enquiry against him. After completion of enquiry the Enquiry Committee submitted their findings, wherein they reported that the appellant was summoned through Urdu Parwana to report arrival and appear before the Enquiry Committee, but he deliberately failed to submit his written statement or appear before the Enquiry Committee. During the course of enquiry the appellant was found guilty of the charges leveled against him and the enquiry committee recommended for major punishment of removal from service. Departmental appeal of the appellant was thoroughly examined and rejected on sound ground. Moreover, his mercy petition was also examined and

rejected being meritless. (Copy of charge sheet, summary of allegation, enquiry report are annexure A,B,C).

4. Incorrect & rejected, the appellant was submitted application on 30.11.2017 for obtaining the copies of relevant record, which were already conveyed to him. Copy of his application is attached as annexure (D).
5. Incorrect & rejected, the grounds mentioned vide para No. 3 & 4 ante are submitted.

GROUNDS


- a. Incorrect & rejected the appellant was treated in accordance with law as preview of article 4 of the constitution and any other law in force on the subject. The enquiry procedure is contemplated under the relevant law was fully adhered to and the appellant was given the opportunity of being heard though the exemption of written PARWANA for appears before the enquiry committee, a right, which who waived.
- b. Incorrect & rejected as the appellant was absented himself from lawful duty willfully and deliberately without prior permission of his seniors, However, he was dealt with proper departmentally as he was summoned time and again by the Enquiry Committee to depend himself, but he did not turn up.
- c. Incorrect & rejected. The appellant was deliberately absented himself from lawful duty without prior permission of his seniors. The plea of illness of his mother taken by the appellant is after thought story, he suppose to have taken this plea before the Enquiry Committee or before the competent authority. Since the contention being a matter of fact which he contentedly ignored at the appellant stages after preferring intra departmental appeal.
- d. Incorrect & rejected. The appellant was proceeded against departmentally under the relevant law/rules. However, the appellant supposed to have taken this plea before the appellate authority in his departmental appeal. The appellant may not raising this point submitted himself to the jurisdiction, thus confined by the said disciplinary rules and hence did not agitate it at any stage of his enquiry.
- e. Incorrect & rejected. While the appellant was remained absent from duty without prior permission, thus he was well known regarding to departmental enquiry against him and it is evident from the Charge Sheet, which was already served upon him.
- f. Incorrect & rejected. The appellant was summoned through Urdu Parwana on his home address to appear before the Enquiry Committee, but he deliberately failed to submit his written statement or appear before the Enquiry Committee to present cogent reason if any before the Enquiry Committee or before the competent authority.
- g. Incorrect & rejected. Proper departmental enquiry was conducted against him, as he was issued Charge Sheet and Statement of Allegations and Enquiry Committee


was constituted to conduct enquiry against him. the appellant was summoned time and again to appear before the Enquiry Committee, but he deliberately failed to submit his reply of Charge Sheet or appear before the Enquiry Committee, by meaning thereof that the appellant was no more interested in the service of police department.

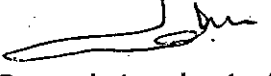
- h. Incorrect & rejected. As a regular enquiry was already conducted against him and after fulfillment of due codal formalities the enquiry was finalized.
- i. Incorrect & rejected. An opportunity of personal hearing was already provided to the appellant, but he failed to avail the opportunity of personal hearing.
- j. Incorrect & rejected. The appellant was absented himself from lawful duty without prior permission of the competent authority. On the allegation of above he was dealt with proper enquiry and the penalty of removal from service awarded to the appellant is commensurate with gravity of the appellant. Moreover, after lapse of more than 7 years, now he desired for reinstatement in service.
- k. The respondents may also be permitted to create additional grounds at the time of arguments.

PRAYERS

It is therefore, most humbly prayed that in the light of afore mentioned facts/submission the service appeal may kindly be dismissed with cost.


Provincial Police Officer
Khyber Pakhtunkhwa, Peshawar.
(Respondent No.1)


Commandant,
Frontier Reserve Police,
Khyber Pakhtunkhwa Peshawar.
(Respondent No.2)


Superintendent of Police,
FRP, Malakand Range, Swat
(Respondent No. 3)

P A 7

CHARGE SHEET.

I MR. **HAZRAT ALI KHAN** Supdt: of Police FRP, Malakand Range, Swat as competent authority here by charge you Constable Mohammad Hasham No. 3987 Platoon No. 75 of FRP, Malakand Range Swat posted to FRP Police line Daggar Bunir absented yourself with effect from 24/04/2012 uptill date vide D.D report No. 14 dated 27/04/2012. Your pay has already been stopped vide this office O.B No. 157 dated 22/05/2012 .Thus issued charge Sheet and Statement of allegation.

- 1.) By reasons of the above, you appear to be guilty of misconduct under section - 3 of the K.P.K. (removal from service) special powers ordinance 2000, and have rendered yourself liable to all or any of the penalties specified in section - 3 of the ordinance bid.
- 3.) You are, therefore required to submit your written defense within 07 days of the receipt of this charge sheet to the Enquiry officer / committee, as the case may be.
- 4.) Your written defense if any should reach the Enquiry Officer /committee within the specified period, failing which it shall be presumed that you have no defence to put in and in the case exparte action shall follow against you.
- 5.) Intimate whether you desire to be heard in person.
- 6.) A statement of allegation is enclosed.

No. 66 /EC

Dated: 31-5-2012

Superintendent of Police, FRP
Malakand Range, Swat

[Signature]
11/24/5

1. B 2

I Mr. **Hazrat Ali Khan** Supdt: of Police, FRP, MKD Range, as competent authority, is of the opinion that you Constable Mohammad Hasham No. 3987 FRP have rendered yourself liable to proceeded against as you have committed the following action/omissions within the meanings of misconduct under section - 3 of the K.P.K. (removal from service) special powers 2000, and have rendered yourself liable to all or any of the penalties specified in section - 3 of the ordinance bid.

STATEMENT OF ALLEGATIONS.

You Constable Mohammad Hasham No. 3987 Platoon No. 75 of FRP, Malakand Range Swat posted to FRP Police line Daggar Bunir absented yourself with effect from 24/04/2012 uptill date vide D.D report No. 14 dated 27/04/2012. Your pay has already been stopped vide this office O.B No. 157 dated 22/05/2012. Hence issued charge Sheet and Statement of allegation.

2) For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an enquiry committee consisting of the following Police Officers is constituted under section - 3 of the K.P.K., (removal from service) special powers 2000, and to render yourself liable to all or any of the penalties specified in section - 3 of the ordinance bid

3) The Enquiry Committee shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make within twenty five days of the receipt of this Order, recommendations as to punishment or other appropriate action against the accused.

4) The accused and a well conversant representative of the department shall join the proceeding on the date, time and place fixed by the Enquiry committee.

Superintendent of Police FRP,
Malakand Range Swat.

M/29/5

No. 66 /EC, Dated Saidu Sharif the 31-5-2012.

Copy of above is forwarded to the:-

1. Imp: Yousuf Ali Khan For initiating proceeding against the officers/
2. Ro: Rahmat Ali Khan official under the provisions section-3of the K.P.K.,
3. Lo: Adalat Khan (removal from service) special powers 2000.

4. _____

With the direction to appear before the Enquiry Committee on the date time and place fixed by the Committee for the purpose of the proceeding.

انٹرنیشنل ڈسٹرکٹ ریپورٹنگ سروس کے ذریعہ انٹرنیشنل ڈسٹرکٹ ریپورٹنگ سروس کے ذریعہ
 کیس نمٹانے کے لیے 3987 پیسٹ لائن نمبر پر
 نمبر 75 متعینہ پولیس لائن ڈسٹرکٹ ریپورٹنگ سروس

تاریخ بھرتی	تعلیم	سابقہ غیر حاضری	وارننگ	موجودہ غیر حاضری
/	/	/	/	27 ⁴ / ₀₁₂ سے بدستور غیر حاضر ہے

جناب عالی!

مذکورہ بالا ملازم بد نمبر 14 روز نامچہ 27⁴/₀₁₂ کے مطابق غیر حاضر ہو کر مسلسل غیر حاضری کے بناء بحوالہ آرڈر بک نمبر 157 مورخہ 27⁰⁵/₀₁₂ کو اس کی تنخواہ بند ہو کر چارج شیٹ نمبر 66/56 مورخہ 31⁰⁵/₀₁₂ کو جاری کی گئی جبکہ یہی کاغذات بغرض مزید انکوائری، انکوائری کمیٹی کو مارک ہوئی۔

انکوائری کمیٹی کے جانب سے پروانہ نمبر 66/56 مورخہ 18-6-012 کو غیر حاضر شدہ ملازم کے گھر کے پتے پر جاری ہو کر مذکورہ ملازم کو تا کید کی گئی کہ اپنے ڈیوٹی پر حاضر ہو کر اپنے غیر حاضری کے وجوہات قلمبند کرنے کے واسطے انکوائری کمیٹی کے روبرو پیش ہو جائے مگر تا حال نہ اپنے ڈیوٹی پر حاضری کی اور نہ انکوائری کمیٹی کی روبرو پیش ہوا۔ جس سے معلوم ہوتا ہے کہ یہ ملازم دیدہ دانستہ اپنی ڈیوٹی سے بلا جواز غیر حاضر ہوا ہے۔

جناب والا!

مورخہ 27⁰⁴/₀₁₂ سے بدستور اپنے ڈیوٹی سے بلا جواز غیر حاضر ہونا چارج شیٹ کا جواب نہ دینا اور دیدہ دانستہ اپنے غیر حاضری کے وجوہات قلمبند کرنے کے واسطے انکوائری کمیٹی کے روبرو پیش نہ ہونا ڈسپلین رولز کی خلاف ورزی ہے لہذا اس طویل اور مسلسل غیر حاضری کے بناء پولیس آرڈر 2002ء کے آرٹیکل 113 کے تحت تاریخ غیر حاضری از مورخہ 27⁰⁴/₀₁₂ سے ڈسچارج کرنے اور فائنل شوکار نوٹس جاری کرنے کی سفارش کی جاتی ہے۔ فائینڈنگ رپورٹ مرتب ہو کر بغرض مزید کارروائی پیش خدمت ہے۔

کمیٹی ممبران
 انسپکٹر FRP سوات

لائسنس آفیسر ایف۔ آر۔ پی سوات

ایف۔ آر۔ پی سوات

Issue final
 show course
 Notice.

11/5/11
 Comp
 Zhalan

SPRIBE MICO

مجلس شورای اسلامی - کمیسیون فرهنگی - فرپ ۷۴

درخواست برای عطا شدن نفوذ مدرسه

صاحب عالی

با احترام عرض می‌نماید که ۳۹۸۷ میلیون نفر فرپ ۷۴

مدرسه تدریس می‌کنند و به همین جهت خواهشمند است

موضوع فراموشی نگردد و در صورت امکان

توسط شما به اطلاع سایر همکاران و مدیران

مدرسه در اختیار سایر همکاران و مدیران

مدرسه در اختیار سایر همکاران و مدیران

مدرسه در اختیار سایر همکاران و مدیران

مدرسه در اختیار سایر همکاران و مدیران

Steno/Reader

Issue as per Rules

۳۰/۱/۸۸

۱۱/۹

۱- نقل صورت

۲- اطلاع رسانی

۳- نقل صورت

۴- ارسال به

۵- اعلام به

۶- اعلام به

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No.208/2018

Muhammad Hasham

VERSUS

The PPO and others

REJOINDER ON BEHALF OF APPELLANT
IN RESPONSE TO RELY FILED BY
RESPONDENTS.

Respectfully Sheweth:

Preliminary Objections:

Preliminary objections raised by answering respondents are erroneous and frivolous. The appellant has got strong cause of action and for that matter locus standi to file the appeal. The appeal is in its correct form and shape with all the relevant parties added as respondents. Estopped has no relevancy in the cause in hand. The appeal is within time.

FACTS:

- 1- Being not replied, hence admitted.
- 2- Incorrect, hence denied. The absence of the appellant was neither deliberate nor willful but it was due to the reasons beyond the control of the appellant. The Incharge of the police station had permitted the appellant.

3- Incorrect. The entire proceedings were carried out at the back of the appellant who was deliberately kept ignored of all the proceedings. The inquiry was irregularly conducted in fill-blank manner without observing the prescribed law. The appeal was also rejected in violation of the law as both the impugned orders are not in accordance with law.

4- Incorrect.

5- Incorrect, hence denied.

Grounds:

A) Incorrect. Appellant was not treated according to law.

B) Incorrect. The absence of the appellant was not intentionally but it was due to the reasons explained hereinabove.

C) Incorrect, hence denied.

D) Misconceived. The charge sheet and statement of allegations has never been communicated to the appellant.

E) Incorrect.

F) Incorrect. The entire proceedings were kept secret. No final show cause has been serviced upon the appellant.

G) Incorrect. The inquiry was illegally conducted in violation of the mandatory provisions of law.

H) Incorrect, hence denied.

I) Incorrect. No opportunity of personal hearing has been given.


J) Incorrect, hence denied.

K) Needs no reply.

It is, therefore, humbly prayed that the reply of answering respondents may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Dated 28/01/2019

Appellant
Through



Asad Khan Muhammadzai
Advocate
High Court, Peshawar

Affidavit

It is, do hereby solemnly affirm and declare on oath that the contents of the above rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

DEPONENT

