


19.05.2022

Learned counsel for appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Mr. Ihsan Ullah ASI (Legal) for the respondents present.

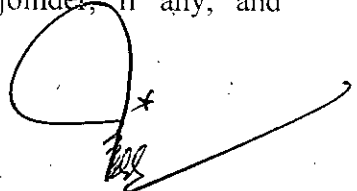
Written reply/comments on behalf of respondent not submitted. Representative of respondents seeks time for submission of written reply/comments. Granted. To come up for written reply/comments on 18.07.2022 before S.B.

  
(Mian Muhammad)  
Member (E)

18.07.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Ihsan Ullah, ASI for the respondents present.

Reply/comments on behalf of respondents submitted which is placed on file and copy of the same is handed over to learned counsel for the appellant. Adjourned. To come up for rejoinder, if any, and arguments on 19.12.2022 before S.B.

  
(Mian Muhammad)  
Member (E)

08.11.2021

Appellant present in person.

Needless to say that the appellant has challenged the order of his dismissal from service after an unreasonable long time but the said order on its face is deficient to disclose the reference of any particular disciplinary provisions having been invoked for issuing of the impugned order. Keeping the question of limitation intact for disposal during regular hearing, this appeal is admitted mainly for the reason that the impugned order has been passed to dismiss the appellant on the ground of willful absence which penalty on its face seems not come within the ambit of respective provisions of disciplinary rules dealing with the willful absence. Let the respondents be heard, this appeal is admitted for full hearing, subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 02.03.2022 before the D.B.

Appellant Deposited  
Security Process Fee

2-3-2022

Due to retirement of  Chairman

the Honorable Chairman the case is adjourned to come up for the same as before on 19-5-2022

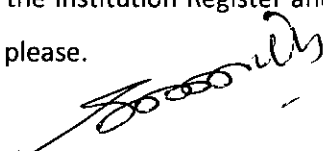

 Reader

Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 7415 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	15/09/2021	<p>The appeal of Mr. Sajjad-ur-Rehman presented today by Syed Noman Ali Bukhari Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>08/11/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

7415  
APPEAL NO. \_\_\_\_\_ /2021

Sajad ur Rehman

V/S

Police Deptt:

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2.	Copy of condonation of delay		07
3.	Copy of FIR	A	8-9
4.	Copy of medical report	B	10-12
5.	Copy of impugned order	C	19
6.	Copy of departmental appeal	D	
7.	Vakalat nama	-----	

7415  
APPELLANT

Sajad ur Rehman

THROUGH:

7415  
(SYED NOMAN ALI BUKHARI)

ADVOCATES, HIGH COURT

PESHAWAR

(1)

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. \_\_\_\_\_/2021

Sajjad ur Rehman, EX- Constable, no;6666/2364/  
FRP, Bannu Range Bannu.

.....(Appellant)

**VERSUS**

1. The Provincial Police officer, KP Peshawar.
2. Commandant Frontier Reserve Police, KP, Peshawar.
3. The Superintendent of police FRP Bannu.

.....(Respondents)

**APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER of RESPONDENT NO. 3 DATED 09.06.2011 received by the APPELLANT ON 24 MARCH 2020 WHEREBY, THE APPELLANT DISMISSED FROM SERVICE AND AGAINST NOT RESPONDED DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD OF 90 DAYS.**

**PRAYER:**

**THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 09.06.2011 NEVER COMMUNICATED TO THE APPELLANT MAY PLEASE BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED IN TO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.**

**RESPECTFULLY SHEWETH:**

**FACTS:**

Facts giving rise to the present service appeal are as under:

1. That the appellant was appointed as constable Police Deptt and had been serving at District Bannu.
2. That the during February 2011, the appellant fell victim to a terrorist activity involving a bomb blast at police lines Bannu wherein many other police officer got injured and embraced martyrdom, the incident left serious physical and mental repercussion on the appellant who had to seek persistent medical care and advice thus remained under treatment for a protracted period of time. Therefore, appellant didn't perform his duties so the absentia of the appellant was not willing full but due to above mentioned reasons. **Copy of FIR and medical report is attached as annexure-A & B.**
3. That, thereafter, the appellant was departmentally proceeded, without charge sheet, statement of allegation, regular inquiry and even without showcase notice and in violation of rule-8a of the E&D rules 1973 the impugned order dated 09.06.2011 was passed against the appellant whereby the appellant was dismissed from service with retrospective effect but the impugned order never communicated to the appellant. The appellant after recovery from the illness, ask about the duty from the respondent dept, in response the department handed over the impugned order to the appellant on 24 march 2020 The appellant been aggrieved from the impugned dismissal order preferred departmental appeal within month after communication, the same was not responded within statutory period of 90 days. **(Copy of impugned order and departmental appeal is attached as Annexure-C & D).**
4. That now the appellant come to this august Tribunal on the following grounds amongst others.

3

**GROUNDS:**

- A) That the impugned orders dated 9.06.2011 is against the law, facts, norms of justice and void-ab-initio as has been passed with retrospective effect and material on record, therefore not tenable and liable to be set aside.
- B) That the impugned order was retrospective order which was void in the eye of law and according to Superior Court Judgment reported as 2002 SCMR, 1129 and 2006 PLC 221 and in willful absence also retrospective order is void held by the full bench of Service Tribunal in Judgment titled as Rahim-ud-Din vs police deptt And no limitation run against the void order.
- C) That the appellant has been condemned unheard in violation of Article 10-A of the Constitution of Islamic republic of Pakistan and in violation of maxim "Audi Alterum Partum" and has not been treated according to law and rules. That according to reported judgment cited as **2019 CLC 1750** stated that Audi Alterum Partum" shall be read as part and parcel of the every statute. The same principle held in the Superior Court judgments cited as **2016 SCMR 943, 2010 SCMR 1554 and 2020 PLC(cs) 67**, where in clearly stated that the penalty awarded in violation of maxim "Audi Alterum Partum" is not sustainable in the eye of law.
- D) That impugned order was based on willful absence, so, for the willful absence procedure is provided in Rule 8-A of the E&D rule 1973, which is so much crystal clear. The authority before imposing major penalty also violates the procedure of Rule 8-A. So the impugned order is defected in eye of law.
- E) That according to Federal Shariyat court Judgment cited as **PLD 1989 FSC 39** the show cause notice is must before taking any adverse action, non-issuance of show cause notice is against the injunction of Islam. Hence the impugned order is liable to be set-aside.
- F) That the show cause is the demand of natural justice before taking adverse action and also necessary for fair trial and also necessary in light of injunction of Quran and Sunnah but show cause was not served to the appellant ( show cause given to the appellant but with the impugned order) which is malafide on the part of the deptt. So, fair trail denied to the appellant which is also violation of Article 10-A of the constitution. Further it is added that according to reported judgment cited as **1997 PLD page 617** stated that every action against natural justice treated to be void and unlawfully order. Hence impugned order is liable to be set-aside. The natural justice should be considered as part and parcel according to

(2)

superior court judgment cited as 2017 PLD 173 and 1990 PLC cs 727.

- G) That no charge sheet was issued to the appellant on the allegation appellant was dismissed from service. if inquiry was conducted in absence of charge sheet that is to be treated as fact finding inquiry and awarded major penalty on fact finding inquiry is against the law, rules and norms of justice, because in case of imposing major penalty proper regular inquiry and proper procedure has to be conducted but in case of the appellant same was violated which is also violation of Supreme Court judgment Cited as 2008 SCMR 609 wherein clearly stated that inquiry conducted in absence of charge sheet is void-ab-initio and also violation of this tribunal judgment in appeal no: 905/2016 decided on 20.02.2018.
- H) That there is no order in black and white form to dispense with the regular inquiry which is violation of law and rules and without charge sheet, statement of allegation and proper inquiry the appellant was dismissed from the service vide order dated 09.06.2011, without given personal hearing which is necessary and mandatory in law and rules before imposing major penalty. So the whole procedure conducted has nullity in the eye of law. So the impugned order is liable to be set aside.
- I) That the appellant has been condemned unheard and has not been treated according to law and rules.
- J) That the appellant has not been treated under proper law despite he was a civil servant of the province, therefore, the impugned order is liable to be set aside on this score alone.
- K) That the appellant has been condemned unheard which is violation of 'Audi Alterum Paltrum' and has not been treated according to law and rules.
- L) That according to the Supreme Court judgment and Service tribunal Judgment 134/2016 the impugned order passed in mandatory provision of law is void order and no limitation runs against the same.
- M) That the absent of the appellant was not intestinally but due to serious illness. So the penalty imposed upon the appellant was so harshed.
- N) That no chance of personal hearing was provided to the appellant and as such the appellant has been condemned unheard throughout.
- O) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.



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

*az/bl*  
**APPELLANT**  
Sajad ur Rehman

THROUGH:

*Nu*  
**(SYED NOMAN ALI BUKHARI)**  
ADVOCATES, HIGH COURT  
PESHAWAR

**CERTIFICATE:**

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.

*Asu*  
DEFONENT

**LIT OF BOOKS:**

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE.
3. Any other case law as per need.

*Nu*  
**(SYED NOMAN ALI BUKHARI)**  
ADVOCATE HIGH COURT

6

**BEFORE THE KP SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. \_\_\_\_\_ /2021

Sajad ur Rehman

V/S

Police Deptt:

**AFFIDAVIT**

I, Sajad ur Rehman, (Appellant) do hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this honorable Tribunal.

DEPONENT

*Sajad ur Rehman*  
Sajad ur Rehman

7

**BEFORE THE KP SERVICE TRIBUNAL PESHAWAR**

**APPEAL NO. \_\_\_\_\_/2021**

Falak Niaz

V/S

Govt Of KP

**APPLICATION FOR CONDONATION**  
**OF DELAY IN THE INSTANT APPEAL**

**RESPECTFULLY SHEWETH:**

1. That the instant appeal is pending before this Honorable Tribunal in which no date has been fixed.
2. That the august Supreme Court of Pakistan has held that decision on merit should be encouraged rather than knocking-out the litigants on technicalities including limitation. Therefore, appeal needs to be decided on merit (2003, PLD (SC) 724.
3. That the impugned order was passed with retrospective effect which was not admissible and void order according to Supreme Court Judgment reported as 2007 PLD (CS) 52(F) & 1985, SCMR, 1178.
4. That according to Superior Court Judgment there is no limitation run against the void order. So there is in interest of justice the limitation may be condoned
5. That due to spread of the pandemic disease the appellant was unable to submit appeal in time therefore it is requested to treat the limitation under S-30 of KP Epidemic Control And Emergency Relief Act 2020, otherwise, the appeal of the appellant on merit is good enough to be decided on merits.

It is therefore most humbly prayed that the instant appeal may be decided on merit by condoning the delay under S-30 of KP Epidemic Control And Emergency Relief Act 2020,, to meet the ends of justice.

**APPELLANT**

Sajad ur Rehman

THROUGH:

**(SYED NOMAN ALI BUKHARI)**  
**ADVOCATES, HIGH COURT**  
**PESHAWAR**



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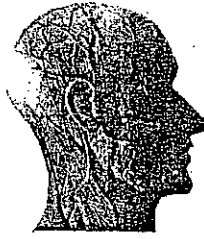


کلینک مارکیٹ، بالمقابل حق نواز پارک  
سرگزر روڈ، ڈیرہ اسماعیل خان

کلینک: 710229



PMDC Reg No. 715-N



B 10

ڈاکٹر خورشید احمد

ایم بی بی ایس (پاک) - ایم سی بی ایس (پاک)  
مشقیات امراض نفسیہ چوگان - میسوری پونیورسٹی (کولمبیا)

ماہر نفسیات و دماغی امراض  
سر درد، ہرگی، جنیبات، منشیات

تاریخ 12-03-2011

حوالہ نمبر 1

نام Sajjad ur Rehman 09/2847

Clinical Record



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Re. Dr. Chyval  
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Advised to rest  
for two weeks

Dr. Khurshed Ahmed  
M.B.B.S-M.C.P.S (Psy)  
Consultant Psychiatrist  
D.I. Khan

بروز اتوار چھٹی ہوگی۔

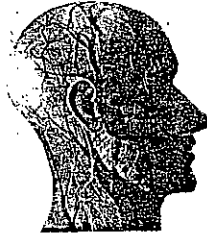
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دوائی میں خود تہیابی یا بند نہ کریں

(۱۱)  
ڈاکٹر خورشید احمد

ایم بی بی ایس (پاک) - ایم سی پی ایس (پاک)  
سرٹیفکیٹ امراض نفسیہ، پشاور - مسوری یونیورسٹی (کولمبیا)

ماہر نفسیات و دماغی امراض  
سرور، مرگی، جنسیات، نشیات



کلینک

کلینک مارکیٹ، بالمقابل حق نواز پارک  
سرکلر روڈ، ڈیرہ اسماعیل خان

710229: کلینک



PMDC Reg No. 715-N

تاریخ ۱۲ (۵) ۱۵

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Clinical Record



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two months

Dr. Khurshid Ahmed  
M.B.B.S-M.C.P.S (Psy)  
Consultant Psychiatrist  
D.I.Khan

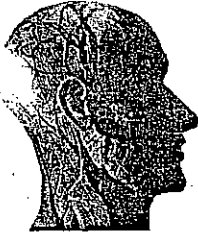
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جمعتہ المبارک علی ہسپتال بھکر

دوائی میں خود تبدیلی یا بند نہ کریں



کلینک مارکیٹ، بالمقابل حق نواز پارک  
سرکلر روڈ، ڈیرہ اسماعیل خان



12

ڈاکٹر خورشید احمد

ایم بی بی ایس (پاک) - ایم سی پی ایس (پاک)  
سرٹیفکیٹ امراض نفسیہ بھنگان - سینٹری یونیورسٹی (کولمبیا)

کلینک: 710229



PMDC Reg No. 715-N

ماہر نفسیات و دماغی امراض  
سرور، ہرگی، جنسیات، منشیات

تاریخ 20-03-13

حوالہ نمبر

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Dr. Khurshid Ahmed  
M.B.B.S.M.C.P.S (Psy)  
Consultant Psychiatrist  
D.I.Khan

بروز اتوار چھٹی ہوگی۔

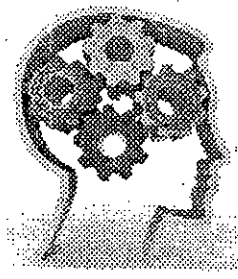
جمعتہ المبارک علی ہسپتال بھکر

دوائی میں خود تبدیلی یا بند نہ کریں



کلینک

کینٹ مارکیٹ، بالمقابل حق نواز پارک  
سرکلر روڈ ڈیرہ اسماعیل خان  
کلینک: 0966-710229  
بھکر کلینک 0453 - 515253



PMDC Reg No 715-N  
AL-NIGHTLY CLINIC  
MILLS OFFICE COLONY  
OSPITAL  
BHAZZAR

13  
ڈاکٹر خورشید احمد

ایم۔بی۔بی۔ایس (پاک) ایم۔سی۔پی۔ایس (پاک)

سرورڈ کلینک، اسوائس انفیسیات، ایچکان

میسوری یونیورسٹی (کولمبیا)

ماہر نفسیات و دوائی امراض  
سرورڈ مرگی، جنسیات، منشیات

Date: 14-08-14

Clinical Record

Sejjad u-Rikana

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Dr. Khurshid Ahmed  
M.B.B.S-M.C.P.S (Psy)  
Consultant Psychiatrist  
D.I.Khan

0333-7787930 رابطہ نمبر بھکر

بروز جمعہ المبارک علی ہسپتال ملز روڈ بھکر

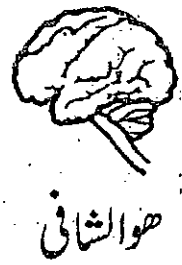
دوائی میں خود تبدیلی یا بند نہ کریں

Dr. Khurshid Ahmed

M.B.B.S (PAK), M.C.P.S. Psy (PAK)  
C.C.P (Columbia)

**SPECIAL INTEREST**

- Neuro Psychiatric Disorder
- Epilepsy
- Headaches
- Drug Abuse
- Children / oldage,
- Psychiatric Disorders



14

**CLINIC ADDRESS**

Cantt: Market Opposite  
Haqnawaz Park Circular  
Road, D.I.Khan

**CONTACT NUMBER**

Clinic: 0966-710229  
Reg: 0966-714133  
Cell: 0333-9977804  
E-Mail:seyalbrain@gmail.com

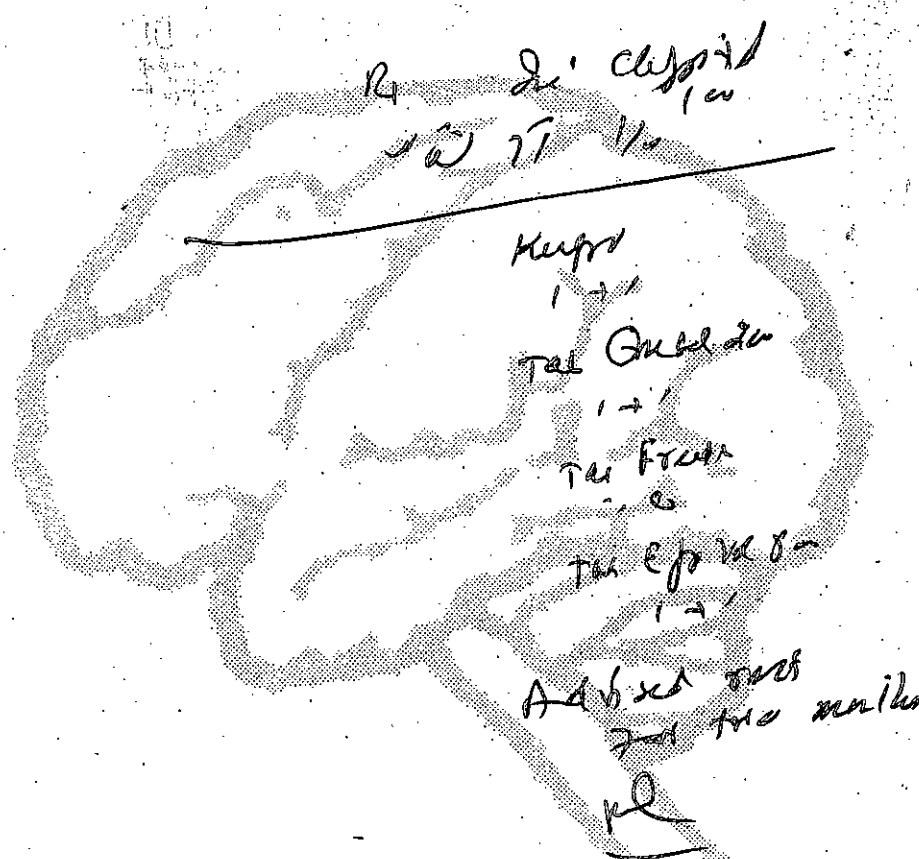
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Reference No. \_\_\_\_\_ NAME Sajjad ur Rehman Age. 28y Sex \_\_\_\_\_  
 Address \_\_\_\_\_ Date 20-07-16

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**Clinical Record**

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Mani-  
chen



Dr. Khurshid Ahmed  
M.B.B.S, M.C.P.S. (Psy)  
Consultant Psychiatrist  
D.I.Khan

FRIDAY:- ALI HOSPITAL, MILLS COLONY, BHAKKAR

Office  
K.C.C.  
0966-710229  
0966-714133  
0333-9977804

کلینک

کینٹ مارکیٹ، بالمقابل حق نواز پارک

سرکلر روڈ ڈیرہ اسماعیل خان

کلینک: 0966-710229

بھکر کلینک 0453 - 515253

Date: 12-2-17



PMDC Reg No 715-N



15

ڈاکٹر خورشید احمد

ایم۔بی۔بی۔ایس (پاک) ایم۔سی۔بی۔ایس (پاک)

سینئر سائیکھت اسائنمنٹ اسپتال بہمان

میسوری پرنسپل (کولمبیا)

ماہر نفسیات و دوائی امراض  
سرور، مری، منشیات، منشیات

Clinical Record

سہ ماہی و لڑکھن

نام

Not Valid For Court



BAD

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Admitted out  
for two months

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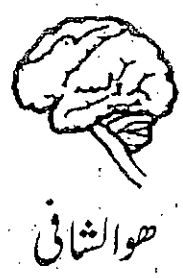
Dr. Khurshed Ahmed  
M.B.B.S-M.C.P.S (Psy)  
Consultant Psychiatrist  
D.I. Khan

بروز جمعہ المبارک علی ہسپتال ملز روڈ بھکر

0333-7787930 رابطہ نمبر بھکر

دوائی میں خود تبدیلی یا بند نہ کریں

Dr. Khurshid Ahmed  
M.B.B.S (PAK), M.C.P.S. Psy (PAK)  
C.C.P (Columbia)



16

**CLINIC ADDRESS**

Cantt: Market Opposite  
Haqnawaz Park Circular  
Road, D.I.Khan

**CONTACT NUMBER**

Clinic: 0966-710229  
Reg: 0966-714133  
Cell: 0333-9977804  
E-Mail: seyalbrain@gmail.com

**SPECIAL INTEREST**

- \* Neuro Psychiatric Disorder
- \* Epilepsy
- \* Headaches
- \* Drug Abuse
- \* Children / oldage, Psychiatric Disorders

Not Valid For Court

Reference No. \_\_\_\_\_ NAME Sajjad ur Rahman Age. \_\_\_\_\_ Sex \_\_\_\_\_  
 Address \_\_\_\_\_ Date 12-4-18

Rx

**Clinical Record**

BAD  
bedis

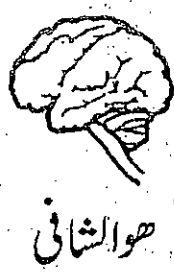
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M.B.B.S (PAK), M.C.P.S. Psy (PAK)  
C.C.P (Columbia)



17

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**SPECIAL INTEREST**

- Neuro Psychiatric Disorder
- Epilepsy
- Headaches
- Drug Abuse
- Children / oldage,
- Psychiatric Disorders

**Not Valid For Court**

Reference No. \_\_\_\_\_ NAME Sayjad Ali Rehman Age. \_\_\_\_\_ Sex \_\_\_\_\_  
 Address \_\_\_\_\_ Date 15-2-19

Rx

**Clinical Record**

Improved

R Epilepsy son  
 (Cantt D.I.Khan)  
 Certified that above  
 named patient remained  
 under my treatment  
 for Bipolar Affective  
 Disorder since 2011  
 and now he has improved  
 enough to resume  
 duties.

ml  
 Dr. Khurshid Ahmed  
 M.B.B.S (PAK), M.C.P.S. (Psy)  
 Consultant Psychiatrist  
 D.I. Khan

**FRIDAY:- ALI HOSPITAL, MILLS COLONY, BHAKKAR**

0966-710229  
 0966-714133  
 0333-9977804  
 seyalbrain@gmail.com

SINA  
**CITY HOSPITAL LAKKI MARWAT**

**OUT DOOR PATIENT TICKET**



12

District LAKKI MARWAT

OPD No: 3619

Date: 28/01/14

Name 6

Age: \_\_\_\_\_

Sex: \_\_\_\_\_

Father's/Husband's Name 6

Provisional Diagnosis: \_\_\_\_\_

Clinical  
Findings  
/investigations

*Rx*  
*af*  
*sig*  
*dy*  
*h*

Senior Medical Officer  
City Hospital, Lakki Marwat

+

ORDER:-

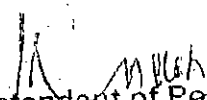
9 19

My this order shall dispose off the inquiry proceedings pending against Recruit Constable Sajjad Rehman No.6666/2364/FRP. The accused official was charge sheeted on the below scribed allegations.

Recruit Constable Sajjad Rehman No. 6666/2364/FRP absented himself from the Govt: duty as per clear vide Dally Diary No. 12 dated 11-11-2010 without prior permission of the competent authority and till date failed to make his arrival to his duty station.

He was charge Sheeted based upon summary of allegations, duly served upon accused Official but with no reply. Enquiry Officer was nominated to further probe in the matter who in report dated 17-04-2011 submitted final report, that accused official no longer interested in his service. the accused Official submitted written statement to this effect. His finding is placed on record

Keeping in view the above said facts, I Farid Ullah Khan, Superintendent of Police/FRP, Bannu, do agree with the recommendations of the enquiry officers & straight away dismissed the accused official, named above, from service, effective from the date of his absence from duty, no other option was left with the undersigned, except the one taken.

  
Superintendent of Police,  
FRP, Bannu.

*Recd by mail on 24/03/2011*

OB No. 412  
Dated 09 /06/2011.

**Copies to all concerned for completion of record.**

To:

The Worthy Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.

APPEAL AGAINST ORDER DTD 09.06.2011 WHEREBY THE  
APPELLANT WAS REMOVED FROM SERVICE BY  
SUPERINTENDENT OF POLICE-FRP, BANNU.

Respectfully Sheweth: -

The appellant very humbly submits as under: -

1. That the petitioner was inducted in Police Department / FRP as Constable. Prior to the implementation of the impugned order the petitioner had been serving at District Bannu.
2. That the appellant always striven hard to discharge and fulfill the duties and tasks assigned with due diligence and dedication. Service record of the appellant is otherwise unblemished, clean and devoid of any adverse marking since nothing of the sort has ever been conveyed to the appellant in this respect.
3. That during Feb, 2011 the appellant fell victim to a terrorist activity involving a bomb blast at Police Lines, Bannu wherein many other police officials got injured and embraced martyrdom. The incident left serious physical and mental repercussions on the appellant who had to seek persistent medical care and advice thus remained under treatment for a protracted period of time. Copies of relevant records are placed at Annex-A.
4. That while ignoring the physical and mental conditions of the appellant he was subjected to departmental action by the authority on the allegation of absence from duties. The matter was assigned for inquiry to the Inquiry Officer who pushed the proceedings in a slipshod manner and recommended award of punishment to the appellant.
5. That the matter having put-up for consideration to the authority i.e Superintendent of Police-FRP, Bannu culminated in award of punishment to the appellant of Dismissal from service after a cursory proceedings as are apparent from the impugned order. Copy of order of SP/FRP, is attached herewith at Annex-B.
6. That after retaining his mental and physical health and on learning about the passage of an ex-parte order, being aggrieved from it the appellant moves instant appeal seeking reinstatement in service on the grounds mentioned therein.

Grounds:

1. That the order passed by Superintendent of Police-FRP, Bannu, as impugned hereby, is discriminatory, arbitrary in nature, legally and factually incorrect, ultra-vires, void ab-initio and militates against the principles of natural justice thus is liable to be set-aside and nullified.
2. That the appellant is innocent and has been subjected to the penalty for no fault on his part. SP/FRP, Bannu failed to regulate the departmental inquiry in accordance with the law & procedures prescribed for the purpose and as such erred at the very outset of the proceedings thereby causing grave miscarriage of justice as well as prejudice to the appellant in making his defence.



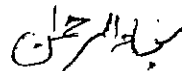
3. That it is a matter of record that the appellant has been vexed in clear defiance of the law and principle natural justice as could be gathered from the facts and circumstances of the case.
4. That the departmental proceedings were disposed of in a slipshod manner through the non-speaking order impugned hereby thus the award of impugned punishment is patently unwarranted, illegal, ultra-vires, nullity in law and apparently not maintainable in law.
5. While adjudicating in the matter SP-FRP/Bannu utterly ignored not only the provisions of law on the point but the rights too, of the appellant including fringe benefits and by imposing the harshest of the penalties in defiance of law as aforesaid, deprived the family of the appellant of its only means of earning livelihood.
6. That the order passed by SP-FRP/Bannu on holding of departmental proceedings including the order on award of punishment as impugned hereby, has infringed the rights and have caused grave miscarriage of justice to the appellant without any lawful excuse.
7. That your gracious office is competent and has ample powers to adjudge the matter under reference and grant the relief sought hereby.

**Prayer:**

In view of the fore mentioned submissions, it is very humbly requested that the impugned order dated 09.06.2011 passed by SP/FRP, Bannu may be very graciously set aside and the petitioner may in consequence thereof be very kindly reinstated in service with allowance of all back benefits.

Dated: 15-4-22

Humble Appellant,



(Sajjad Rehman) Appellant,  
Ex Constable No.6666/2364/FRP,

**VAKALATNAMA**

NO. \_\_\_\_\_ /20

IN THE COURT OF KP SERVICE TRIBUNAL PESHAWAR

Sujad UR Rehman

Appellant  
Petitioner  
Plaintiff

VERSUS

Police

Respondent (s)  
Defendants (s)

I/WE Sujad UR Rehman

do hereby appoint and constitute the **SYED NOMAN ALI BUKHARI Advocate High Court** for the aforesaid Appellant(s), Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party to commence and prosecute / to appear and defend this action / appeal / petition / reference on my / our behalf and all proceedings that may be taken in respect of any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take documents, to accept the process of the court, to appoint and instruct council, to represent the aforesaid Appellant, Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party agree(s) ratify all the acts done by the aforesaid.

DATE \_\_\_\_\_ /20

Sujad UR Rehman

(CLIENT)

ACCEPTED

Syed Noman Ali Bukhari  
SYED NOMAN ALI BUKHARI  
ADVOCATE HIGH COURT

CELL NO: 0306-5109438

**"B"**

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

No.

*Regd*

Appeal No. 7415 of 20 21

Sajjad ur Rehman Appellant/Petitioner

Versus

P.P.O KPK Pesh. Respondent

Respondent No. 3

Notice to: — The Superintendent of Police FRP  
Bannu.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 2/3/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this~~

office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 14<sup>th</sup>

Day of Dec 20 21

*(For Reply)*

*[Signature]*  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

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

**"B"**

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

No.

Appeal No. 7415 of 21 of 2021  
Sattad us Rehman Appellant/Petitioner

P. P-o KP Pesh. Versus Respondent

Respondent No. 1

Notice to: —

The Provincial Police Officer KP Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 21/3/2021 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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

Given under my hand and the seal of this Court, at Peshawar this 14<sup>th</sup>

Day of Dec 20

(For Reply)

[Signature]  
20/12/21

[Signature]  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

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

**“B”**

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

No.

Appeal No. 7415 of 20 21  
Sajjad Ur Rehman Appellant/Petitioner  
 Versus  
P.P.O KPK Pesh Respondent  
 Respondent No. 2

Notice to: — Commandant Frontier Reserve Police  
KPK Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 2/3/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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

Given under my hand and the seal of this Court, at Peshawar this..... 14<sup>th</sup>

Day of..... Dec 20 21

(For Reply)

20/12/2021

[Signature]  
 Registrar,  
 Khyber Pakhtunkhwa Service Tribunal,  
 Peshawar.

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

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 7415/2021.

Sajjad Ur Rehman, (Ex-constable No. 6666/2364/FRP Bannu Range  
Bannu.....Appellant.

**VERSUS**

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar &  
others.....Respondent  
s.

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3.	Enquiry Report	"B"	01
4.	Final Show Cause	"C"	01
5.	Reply	"D"	01
6.	Rejection Order	"E"	01
7.	Affidavit	01	01
8.	Authority Letter		01
Total			11

  
**RESPONDENTS**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No. 7415/2021.**

**Sajjad Ur Rehman, (Ex-constable No. 6666/2364/FRP Bannu Range  
Bannu.....Appellant.**

**VERSUS**

**Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar &  
others.....Respondents.**

**PARAWISE REPLY BY RESPONDENTS 1 to 3.**

**RESPECTFULLY SHEWETH;**

**PRELIMINARY OBJECTIONS**

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

**FACTS:-**

1. Para No. 01 pertains to record.
2. Incorrect. The appellant remained absent from his lawful duty with effect from 16.11.2010 till the date of his dismissal from service i.e 09.06.2011 for total period of 06 months and 23 days without any leave or prior permission of the competent authority.
3. Incorrect. The allegations are false and baseless. On the allegations of willful absence, the appellant was dealt with proper departmental enquiry as he was issued Charge Sheet with Summary of allegations and Enquiry Officer was nominated. The Charge Sheet was properly served upon his brother on his home address through special messenger by the Enquiry Officer, but the appellant deliberately failed to submit his reply within stipulated period. After completion of enquiry, the Enquiry Officer submitted his findings report, wherein the appellant was found guilty of the charges leveled against him and recommended for major punishment. Upon the findings report of Enquiry Officer, the appellant was served with Final Show Cause Notice to which he replied, wherein he stated that he is no more interested in the service of Police department due to his some domestic problems. After fulfillment of all codal formalities, he was awarded major punishment of dismissal from service by the competent authority. (Copies of Charge Sheet, Enquiry report, Final Show

- Cause Notice and his reply are attached herewith as annexure "A","B","C" & "D"). Moreover, the appellant was well aware from the enquiry proceeding as well as from the order of his dismissal from service and it is evident from the Charge Sheet and Final Show Cause Notice and subsequent submission of departmental appeal. Furthermore, the departmental appeal was timely submitted by the appellant, which was thoroughly examined and rejected on sound grounds on 24.08.2011 and a copy of which had already been communicated to the appellant vide office order Endst; No. 5469-70/EC, dated 24.08.2011. (Copy of rejection order attached herewith as annexure "E").
4. As explained in the preceding Para No. 03 above, a copy of rejection order had already provided to the appellant in the year 2011 and after lapse of more than 11 years, now he desired for reinstatement in service and file the instant Service Appeal which is barred by law and limitation.


**GROUND:-**

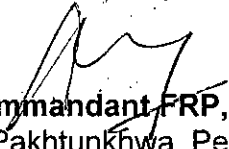
- A. Incorrect. The punishment order dated 09.06.2011 passed by the competent authority is legally justified and in accordance with law/rules as the same was passed after fulfillment of all codal formalities required as per law/rules.
- B. Incorrect. As the appellant willfully remained absent from his lawful duty without any leave or prior permission of the competent authority. In this regard he was dealt with proper enquiry and after fulfillment of all codal formalities he was awarded major punishment of dismissal from service. Moreover, the cases mentioned by the appellant in the Para are not at par with the case of the appellant.
- C. Incorrect. The appellant was absolutely treated in accordance with law/rules within the meaning of Article 4 of the constitution by giving him sufficient and proper opportunities at every level of defense and that the entire proceedings were carried out in accordance with existing laws and rules. Thus the judgments mentioned by the appellant in the Para are not applicable to the case of appellant.
- D. Incorrect. The appellant was concerned to executive staff of Police department; therefore, he was proceeded under RSO, Special Power Ordinance 2000, which was applicable to the case of appellant. Thus the respondents did not violated any rules in the case of the appellant.
- E. Incorrect. The Final Show Cause Notice was already issued and served upon the appellant. He narrated in the reply of Final Show Cause Notice that due to some domestic problems, he is unable to continue further service in police department and requested for termination of his service. The copies of Final Show Cause Notice and his reply have already been annexed with the instant reply as annexure "C & D").



**PRAYERS:-**

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

  
**Superintendent of Police FRP,**  
Bannu Range, Bannu  
(Respondent No. 03)

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

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

CA

6666  
2364

S. M. Khan

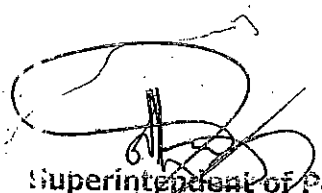
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CHARGE SHEET

I. RAJIV KHAN, Superintendent of Police FRP, Bannu Range Bannu, as competent authority charge that Recruit Constable Sajjad Rehman No.6666/2364 for the allegations stated in the attached statements of allegations.

- i. By reasons of the above, you appear to be guilty of mis-conduct under section 3 of the K.F.K. (Removal from Service) Special Powers Ord: 2000, and have rendered yourself liable to all or any of the penalties specified in section 3 of the Ordinance ibid.
- ii. You are, therefore, required to submit your written defense within **seven days** of the receipt of this charge sheet to the Enquiry Officer, as the case may be.
- iii. Your written defense, if any, should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.
- iv. Intimate whether you desire to be heard in person.
- v. A statement of allegations is enclosed.

مستند  
 11201-1338787-7  
 12-4-01

  
 Superintendent of Police  
 FRP, Bannu

A/B

DISCIPLINARY ACTION

I, RAQIAZ KHAN, Superintendent of Police, FRP Bannu Range Bannu as competent authority, am of the opinion that Recruit Constable Sajjad Rehman No.666/2364 has rendered himself liable to be proceeded against as he committed the following mis-conduct within the meaning of section 5 of the KPK Removal from service (Special Powers) Ordinance, 2000.

STATEMENT OF ALLEGATIONS

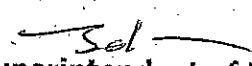
1. That you Recruit Constable Sajjad Rehman No.666/2364 absented himself from the Govt: duty vide **DD No.12 dated 16-11-2010** without any leave or permission of the competent authority & still absent.
2. Ceased to become a good police officer.

For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations SI/PC Syed Rasool Khan is appointed as Enquiry Officer under section 5 of the said Ordinance.

The Enquiry Officer shall, in accordance with the provision of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make within 25 days of the receipt of this order, recommendations as to punishments or other appropriate action against the accused.

The accused and well conversant representative of the department shall join the proceedings on the dated, time and place fixed by the Enquiry Officer.

No 449-50  
dt 01-03-2011

  
**Superintendent of Police**  
**FRP, Bannu**

**Copy of above to:-**

- 1- SI/PC Syed Rasool Khan for initiating proceedings against the accused under the provision of the KPK, Removal from Service (S.P) Ordinance, 2000.
- 2- The Concerned Recruit Constable with the directions to appear before the Enquiry Officer, on the date, time & place fixed by the Enquiry Officer, for the purpose of the Enquiry proceeding.

  
**Superintendent of Police**  
**FRP, Bannu**

D/O  
16

مکتوبہ انٹرنیشنل اسلام آباد

مکتوبہ انٹرنیشنل اسلام آباد

مکتوبہ انٹرنیشنل اسلام آباد

مکتوبہ انٹرنیشنل اسلام آباد

مکتوبہ انٹرنیشنل اسلام آباد

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مکتوبہ انٹرنیشنل اسلام آباد

SP  
10-5-72  
17-4-011

" C "

FINAL SHOW CAUSE

I, FARID ULLAH KHAN, Superintendent of Police, FRP Bannu Range Bannu as competent authority, under the KPK Removal from Service (Special Powers) Ordinance 2000, do hereby serve upon you this Final Show Cause Notice, Recruit Constable Sajjad Rehman No.6666/2364 as follows.

- 1- (i) That consequent upon the completion of inquiry conducted against you by an Enquiry Officer for which you were given opportunity of hearing.
- (ii) On going through the findings and recommendations of the Enquiry Officer and the material on record and other connected papers including your defense before the said Enquiry Officer.

I am satisfied that you have committed the following acts/omissions specified in section 3 of the said Ordinance.

a) That you Recruit Constable Sajjad Rehman No.6666/2364 absented himself from the Govt. duty vide DO No.12 dated 16-11-2010 without any leave or prior permission of the competent authority & still absent.

b) Ceased to become a good Police Officer.

2- As a result thereof, I, FARID ULLAH KHAN, Superintendent of Police, FRP Bannu Range Bannu as competent authority have tentatively decided to impose upon you the penalty of minor/major punishment under section 3 of the said Ordinance.


3- You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you.


4- If no reply to this notice is received within seven days of the receipt of this final show cause notice, in the normal course of circumstances, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.


5- The copy of the findings of the Enquiry Officer is enclosed.

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18/5-11

  
Superintendent of Police  
FRP, Bannu

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جناب عالی

مردوں میں سے کہ میں حکم دے رہا ہوں FRP میں رہو۔ انٹرنیشنل بھارتی میٹروپولیٹن  
میں سے گھریلو تنازعات کے امور میں حکم دے رہا ہوں میں نوکری میں تھیں کہ  
سکتا۔ جبکہ مجھ کو حکم دے رہا ہوں FRP سے خارج کیا جائے۔ میرا  
بیان حقیقت پر مبنی ہے

سجاد الرحمن نسیم خاں

سجاد الرحمن ولد سید عالم حسن سیدہ روزہہ حکیم لاہور

11201-1338787-7

Nestel  
Green  
EO SI FRP  
Lahore  
20-5-11

Sir Faruq R

Faruq R  
EO L M FRP  
20/5/2011

۵/۲۱ بیان اذان مساجد جامعہ

مصرف بنوں کہ میں ہوں  
تقسیم آن دیکھو کسٹیل سا درجن کا گاہ ہے گھر کا  
گیا وہاں دیکھو کسٹیل کے گورہ موجود ہے جس میں وہ سے فائل ہے  
انہ کے فائل پر تقسیم کیا گیا ہے اور یہ ہے کہ کسٹیل کے گورہ  
مذکورہ خود ہے، جسکو چھوڑنا ہے تو گورہ کا وہاں سے آگاہ کیا گیا  
کسٹیل کے گورہ کے لئے خود گورہ میں آگاہ کیا گیا ہے کہ وہاں سے فائل  
ہے جس میں وہ سے میں چھوڑ لوں گا، تو کسٹیل کے گورہ کے لئے  
سے تاریخ ۱۵/۱۱/۲۰۰۷ء کو گورہ میں آگاہ کیا گیا ہے۔

تقسیم  
۱۵/۱۱/۲۰۰۷  
۲۱-۵-۰۷

۱۵/۱۱/۲۰۰۷



**ORDER.**

This order shall dispose off on the appeal of Ex: Rec: Constable Sajjad Rahman No.6066/2364 of FRP Bannu against the order of SP FRP Bannu Range wherein he was dismissed from service.

Brief facts of the case are that during the course of duties in FRP Line-II Bannu absented himself from duty with effect from 16.11.2010 till the date of dismissal from service for a total period of 06 months & 23 days without any leave/permission of the competent authority. He was issued Charge sheet/statement of allegation and SI/PC S/o Rasool Khan of FRP Bannu was appointed as enquiry officer. After enquiry the EO submitted findings wherein he recommended the defaulter for ex-parte action. He was served with show cause notice but he did not bother to reply. Therefore an ex-parte action taken by SP FRP Bannu Range and dismissed from service vide his OB No.412 dated 19.06.2011.

However from the perusal of record and finding of enquiry officer there are no cogent reasons to interfere in the order of SP FRP Bannu Range. Therefore his appeal is rejected.

A-Off: IGP/Commandant  
Frontier Reserve Police  
Khyber Pakhtunkhwa Peshawar.

No. 5468-70 /EC dated Peshawar the

24/08 2011. 19-8-2011

Copy of above is forwarded to the:-

- 1. Superintendent of Police FRP Bannu Range for information and necessary action w/r to his Memo: No. 1708 dated 19.08.2011. His service record is returned herewith.
- 2. Ex. Rec: Constable Sajjad-Ur-Rahman No. 6066/2364 S/o Mir Alam Khan R/o Village & P/S Hakeem Toop, District Lakki Marwat

SRE/OSI  
with of Record.

Superintendent of Police  
FRP Bannu

27/8



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 7415/2021.

Sajjad Ur Rehman, (Ex-constable No. 6666/2364/FRP Bannu Range  
Bannu.....Appellant.


**VERSUS**


Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar &  
others.....Respondents.


**AUTHORITY LETTER**

Respectfully Sheweth:-

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

  
Superintendent of Police FRP,  
Bannu Range, Bannu  
(Respondent No. 03)

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

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

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 7415/2021.

Sajjad Ur Rehman, (Ex-constable No. 6666/2364/FRP Bannu Range  
Bannu.....Appellant.

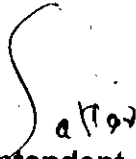
**VERSUS**


Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar &  
others.....Respondents.

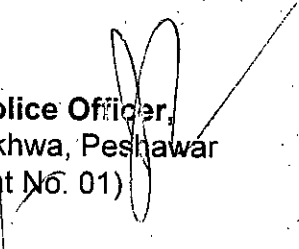
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Bannu Range, Bannu  
(Respondent No. 03)

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

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