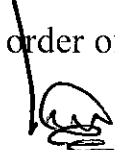


FORM OF ORDER SHEET

Court of _____

Case No.- 1762/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/12/2022	<p>The appeal of Mr. Bashir Ahmad presented today by Mr. Mir Zaman Safi Advocate. It is fixed for preliminary hearing before touring Single Bench at Swat on _____. Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 172 2022

BASHIR AHMED

VS

POLICE DEPTT:

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3	Medical prescription	A	6.
4	Medical prescriptions	B	7- 9.
5	Dismissal order	C	10.
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7	Order	E	14.
8	Departmental appeal	F	15.
9	Service appeal	G	16- 18.
10	Impugned order	H	19.
11	Withdrawal order	I	20.
12	Departmental appeal	J	21- 22.
13	Wakalat Nama	23.

APPELLANT

THROUGH:

Mir Zaman Safi
MIR ZAMAN SAFI
ADVOCATE

Office: Room No. 6-E, 5th Floor,
Rahim Medical Centre, Hashtnagri,
Peshawar.
Cell: 0333-9991564

BEFORE THE KHYBER PAKHTUNJHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1762 /2022

Mr. Bashir Ahmed, Ex-Constable No.1093,
Police Line, Dir-Lower at Timergara.....APPELLANT

VERSUS

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Malakand Region at Saidu Sharif Swat.
3. The District Police Officer, District Dir Lower.
4. The District Account officer, District Lower Dir.

.....RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE IMPUGNED ORDER DATED 18.05.2015
COMMUNICATED TO THE APPELLANT ON 25.07.2022
DURING THE COURT PROCEEDINGS IN APPEAL NO.
889/2018 WHEREBY MINOR PUNISHMENT OF
FORFEITURE OF TWO YEARS APPROVED SERVICE AND
ONE ANNUAL INCREMENT HAS BEEN AWARDED TO
THE APPELLANT AND AGAINST NO ACTION TAKEN ON
THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN
THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the impugned order dated 10.01.2018 may very kindly be set aside and forfeited service of two years may very kindly be restored with all back benefits, and the annual increment which has been stopped by the department may also be released w.e.f the date of withholding. Any other relief which this August Tribunal deems appropriate that may also be granted in favor of Appellant.

R/SHEWETH:

ON FACTS:

- 1) That the appellant was appointed as Constable in the respondent department and has served the respondent Department for quite considerable time quite efficiently and up to the entire satisfaction of his superiors.
- 2) That while posted at Police Station Haya Seri District Lower Dir had become ill and due to that reason, the appellant visited the District Headquarters Hospital Timergara for treatment. That after proper checkup the Doctor concerned advised complete bed rest to the appellant and on the

said advise of the Doctor, the appellant requested the authority concerned for leave, but no reply was received from the quarter concerned. Copy of Medical prescription is attached as annexureA.

- 3) That due to the above-mentioned reason the appellant was unable to attend his duty. That after recovery from illness, the appellant visited the quarter concerned, started performing his duty with all zeal and zest.
- 4) That after few months once again affected by the illness, the appellant approached the doctor for proper check up and the doctor concerned advised complete bed rest to the appellant for early recovery from the said illness. That after recovery from the above mentioned illness the appellant visited the quarter concerned for rejoining of his duty where he was handed over dismissal order dated 01-10-2016 under the misconception of law. Copies of the 2nd medical record and dismissal order are attached as annexureB & C.
- 5) That appellant feeling aggrieved from the order dated 01-10-2015 filed service appeal No. 30/2016 before this august Tribunal, which was accepted vide judgment dated 08-11-2017. Copy of the judgment is attached as annexure..... D.
- 6) That in implementation of the judgment dated 08-11-2017, the respondent department re-instated the appellant vide order dated 10-01-2018 but with the minor penalty of stoppage of one annual increment and the intervening period is treated leaved of the kind due i.e. counted as leave on full pay and leave without pay. Copy of order is attached as annexure.....E.
- 7) That the appellant feeling aggrieved from the order dated 10-01-2018, preferred departmental appeal followed by service appeal No. 889/2018 and during pendency of afore-mentioned service appeal it came into the knowledge of appellant that he had been awarded with minor penalty of forfeiture of two years approved service and stoppage of one annual increment vide order dated 18-05-2015 on the basis of 1st absence of 32 days and the same has been communicated to the appellant during the court proceedings in appeal No.889/2018. Copies of the departmental appeal, Service appeal and impugned order dated 18-05-21015 are attached as annexure.....F, G & H.
- 8) That after communication of the impugned order dated 18-05-2015, the appellant withdrew the service appeal No.889/2018 with the permission to file fresh service appeal against the order dated 18-05-2015. Copy of the order is attached as annexure.....I.
- 9) That appellant feeling aggrieved from the impugned order dated 18-05-2015 preferred departmental appeal before the appellate authority but no reply has been received so far. Hence, the appellant preferred the instant service

appeal on the following grounds among others. Copy of the departmental appeal is attached as annexure.....J

GROUND:

- A- That the impugned order dated 18.05.2015 issued by the respondents is against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents violated Article- 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- C- That the respondents acted in arbitrary and malafide manner while issuing the impugned order dated 18.05.2015 which is not tenable in the eye of law and liable to be set aside.
- D- That the absence of appellant was neither deliberate nor intentional but due to cause illness, therefore, the impugned order dated 18.05.2015 is not tenable and the same is liable to be set aside.
- E- That no charge sheet and statement of allegation has been served upon the appellant before issuing the impugned order dated 18.05.2015.
- F- That no show cause notice has been served upon the appellant before taking punitive action against the appellant.
- G- That no chance of personal hearing/defence has been provided to the appellant, which is necessary as per rule and judgment of the Superior Court before taking punitive action against any civil servant.
- H- That the impugned order dated 18.05.2015 is violative of the principle of natural justice.
- I- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 07.12.2022.

APPELLANT

Bashir
BASHIR AHMED

THROUGH: *M. Zaman Safi*
MIR ZAMAN SAFI
ADVOCATE

CERTIFICATE:

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


DEPONENT

LIST OF BOOKS:

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

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2022

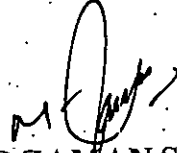
BASHIR AHMED

VS

POLICE DEPTT:

AFFIDAVIT

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



MIR ZAMAN SAFI,
Advocate
High Court, Peshawar.

A-6



AMIN MEDICAL CENTER

DR. SHER AMIN
B.S.C., M.B.B.S.
M.C.P.S FAMILY (MED)
M.R.C.G.P.

آمین میڈیکل سنٹر

DR. ABDUL HAKEEM
M.B.B.S., M.D (Med)

DR. ASMA USMAN
Gynaecologist
Ultrasounologist

Name: MR. Bashir Ahmad Age: _____ Date: 3-2-2015

Medic - XRay LLS spine = ^{compression} 9/15
L4/L5
- CRB -
LFCS } WNL
RFCS

severe back and
pain radiat. to
legs -
not able to
walk beyond stand
due to severe pain

Cap - Gabapen 75mg
10 tabs - 6 wks

Tab - Deltacortril 50
4+4 - 4 days
3+3 - 4 days
2+2 - 4 days
1+1 - 3 days
1+1 - 3 days

DR LLS spine
trauma
med compression of
of L5/S1 on L4
L5
B. Bil secretion

Tab - Comoflex P10 B10 - 8 wks

Tab - Nimesulide 100mg + B10 -

Cell: 0332-9867290

cap - Nimesulide 100mg + B10 -

ATTESTED

1 => complet bedrest for 6 wks.
avoid walking and long standing, posture
avoid complication -
Bil secretion

B-2

Dr. Noor Islam

M.B.B.S (Pesh), D.L.O (Pak)
M.C.P.S, F.C.P.S

ENT Specialist

Clinic: Near DRQ Hospital Timergara

Mob: 0346-9392523
0344-9778388



ڈاکٹر نور اسلام

ایم بی بی ایس (پشاور)، ڈی ایچ او (پاک)
ایم سی پی ایس، ایف سی پی ایس
ماہر امراض ناک، کان، گھٹ
کلینک، رہائش گاہ ڈی ایچ کیو ہسپتال، تیمرگرا

Name: Bashir Ahmad Age: Adult Sex: M Date: 7/8/2015

Clinical Record

Pae

Co. Pain left ear

= Irritability

= Vomiting

= Headache

of Normal eye

of Normal eye

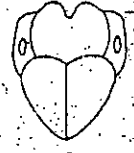
of Normal eye

of Normal eye

of Normal eye

Lignocip ear drops

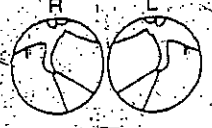
of Normal eye



that congested



Ear drum is red
and congested



of External
Vertebral



of Normal eye

of Normal eye

of Normal eye

of Normal eye

Advise complete bed rest
and medical care for 02

ATTESTED

ATTESTED

[Signature]

ATTESTED

[Signature]

[Signature]

7/8/2015

8

Rs. 5/-

Medical No. 2

No. OUT PATIENTS DEPARTMENT

NAME

YEARLY NO.

DATE

FACE VALUE RUPEES 5/-

No. OUT PATIENTS DEPARTMENT

Rs. 3/-

NAME

YEARLY NO.

DATE

DISEASE

Rashid Ahmad
216763
20/11

Dr. Niaz
Dr. Niaz

Dr. Niaz
Dr. Niaz

Dr. Niaz
Dr. Niaz
Dr. Niaz
Dr. Niaz
Dr. Niaz
Dr. Niaz

Dr. Niaz

ATTESTED

ATTESTED

ATTESTE
M.D.

9

صلى الله عليه وسلم

تعاظمتا

تقاریر ۵۵ - روزنامه ۳۰ ۵۷ ۱۵ ۹

۵۶ روزنامه آسی فور ۳۰ ۵۷ ۱۵ ۹ وقت ۱۰:۰۸ کی جرحہ اس وقت
کامیابی بنان وقتہ میرا وقت میں آدھ تھا اور سناچ ہی شہرہ کی ہے
لغویں علانہ صلاقی میں حال مگر تہہ ہر ضلع عاوان روانہ کرتے
پہاڑی صلاقی کیشی

ضیاء علی

تقریرات

M.M. 15 H. 2081
02 09 015

ATTESTED

Handwritten signature

ATTESTED

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ATTESTED

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10

(26)

قلمی خانہ ڈاکٹر عبدالستار ہسپتال

کنٹرول نمبر 1093 کو پیکٹ کرنا اور پیکٹ کرنا

30 روزوں کے لیے 50 روپے سے زیادہ

مسٹر / ماسٹر
Hafiz



D.P.

Ad. home bed
Rest for 7 days

Medical Officer
O.H.U. Hospital Ferozpora
Dr. Lower

ATTESTED

ATTESTED

ATTESTED

M-10

OFFICE OF THE DISTRICT POLICE OFFICER, DIR LOWER AT TIMERGARA

D 11

ORDER

This order will dispose of the departmental enquiry conducted against Constable Muhammad Bashir No. 1093, that he while posted to Police Station Haya Seri, absconded himself from his lawful duty with effect from 19/07/2015 to 21/07/2015 (02 days), and 30/07/2015 to 17/08/2015 (18 days) Total 20 days absent, which is gross misconduct on his part. Therefore he was served charge sheet coupled with statement of allegation and Muhammad Nazeem Khan SDPO Jandool was appointed as enquiry officer to conduct proper departmental enquiry and submit his finding.

The enquiry officer during the course of enquiry recorded the statement of all concerned, as well as the delinquent Officer/Officials. The Enquiry Officer in his finding report recommended him for appropriate Punishment.

Therefore, I Qasim Ali (PSF), District Police Officer, Dir Lower in exercise of power vested to me under (E & D) Rules 1975 with amendment 2014, dismissed him from Service with immediate effect and period of absence is treated as leave without → ?

ORDER ANNOUNCED

District Police Officer,
Dir Lower at Timergara.

OB No. 576 sec.
Dated 1/11 2015.

ATTESTED

ATTESTED

Entry made

in S-ROLL

ATTESTED

[Signature]

[Signature]
2/11

[Handwritten notes and signatures]

12

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT SWAT

Service Appeal No. 30/2016

Date of Institution... 07.01.2016

Date of Tdecision..... 08.11.2017



Muhammad Bashir, Ex-Constable No. 1093; Police Line, Dir Lower at Timergara
(Appellant)

Versus

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and 3 others
(Respondents)

MR. NOOR MUHAMMAD KHATTAK,
Advocate

For appellant.

MR. KABEERULLAH KHATTAK,
District Attorney

For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. MUHAMMAD HAMID MUGHAL,

CHAIRMAN
MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned

counsel for the parties heard and record perused.

ATTESTED

FACTS

2. The appellant was dismissed from service on his absence from duty on
01.10.2015, against which he filed departmental appeal on 06.10.2015 which was
rejected on 17.12.2015 and thereafter, he filed the present service appeal on
07.01.2016.

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ARGUMENTS

3. The learned counsel for the appellant argued that in the impugned order the
law under which the dismissal was made is mentioned (E&D) Rules, 1975. That in
view of judgment reported as 2007-SCMR-299 such departmental proceedings are
illegal. He further argued that in the very dismissal order, the period of absence was

13

treated as leave without pay which means that the absence period has been legalized and in view of the judgment reported as 2006-SCMR-434 no dismissal order could be passed. He next argued that no charge sheet and statement of allegations were issued to the appellant nor regular enquiry was conducted and thus the department violated Rule 6 of the Khyber Pakhtunkhwa Police Rules, 1975. In this regard he relied upon a judgment reported as 2008-SCMR-1369.

4. On the other hand, the learned Addl. Advocate General argued that the appellant committed gross misconduct by absenting himself without leave or permission. He further argued that charge sheet and statement of allegations were issued to the appellant and proper enquiry was conducted.

CONCLUSION

5. Regarding the proceedings under wrong law, this Tribunal is not in agreement with the learned counsel for the appellant because the quoted judgments on the subject laid down the principle in a case where the whole proceedings including show cause notice, charge sheet and statement of allegations etc. were undertaken under the repealed rules. In the present case the situation is not the same. Only in the final order name of rules has wrongly been written. In the impugned order the words "(E&D) Rules, 1975 with amendment in 2014" clearly suggests the intention of the authority was that the proceedings were taken under the Khyber Pakhtunkhwa Police Rules, 1975 as amended in 2014. In this regard this Tribunal has already delivered judgment entitled "*Muhammad Qayum Versus Executive District Officer and others*" bearing appeal No. 670/2014 decided on 12.09.2017 by discussing the relevant judgments of the Superior Courts and held that even if a wrong law is mentioned in the proceedings but the spirit of the law is adhered to then the same would amount to clerical mistake and would not affect the legality of procedure. But the present case is lies at lower pedestal because only due to clerical mistake the words are used as "E&D Rules, 1975" The second

APPEALED

13

2013/15

of the learned counsel is fatal to the proceedings. In the final order of dismissal the Authority has legalized the absence by treating the same as leave without pay and in view of judgment referred to by the learned counsel for the appellant wherein it has been held down that no departmental action could be taken for the period treated as leave. There is no need to discuss the objection regarding non holding of enquiry because when the authority has treated the absence as leave then holding of enquiry or otherwise has no bearing on the date of the case.

6. In view of the above discussion this appeal is accepted and the appellant is reinstated in service. The intervening period may be treated leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

Approved
08-11-2017

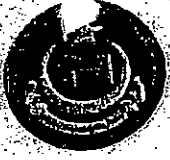
Sd/- Muz Muhammad Khan,
Chairman
Camp, Ghat Road

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Sd/- M. Hameed Mughal,
Member

Date of Presentation 16-11-17
Number of Words 1200
Copying Fee 8/-
Urgent 8
Total 8
Name of Applicant Muz Muhammad Khan
Date of Filing 21-11-17
Date of Delivery 21-11-17

Muz Muhammad Khan



OFFICE OF THE
DISTRICT POLICE OFFICER
DIR LOWER

Ph#.0945-9250005 Fax#. 0945-9250049
E-mail: dpolowerdir@gmail.com

(14)
E-

ORDER

In the light of judgment of August Service Tribunal, Khyber Pakhtunkhwa letter No.2442/ST, dated 14-11-2017 and Judgment dated 08/11/2017 passed by Service Tribunal Khyber Pakhtunkhwa, and opinion of AIG Legal CPO Peshawar received vides Endst: No.51/Legal, dated 03/01/2018 as well as on the opinion of Inspector Legal Dir Lower, Ex Constable Bashir Ahmad is hereby re-instated in service and his intervening period is treated leave of kind dues as under and the remaining portion is counted as leave without pay as there is no further leave on his credit. He is allotted Constabulary No: 2082.

Total leave at his credit =262 days
Leave on full pay =120 days
Leave on half pay =142 days

On re-instatement his pay is fixed @, **Rs.12760/-PM**, w, e, from 10-01-2018 i.e the date of his joining duty. Therefore, his pay is hereby re-fixed as under: -

1	Pay revised on 01-07-2015 in BPS-05(6985-340-17185)	@RS:8685/-
2	Stopped his one annual increment of 01-12-2015 with cumulative effect vide OB No:435, dated 18-05-2015	@ Rs: 8685/-
3	Pay revised on 01-07-2016 in BPS-05(8590-420-21190)	@Rs:10690/-
4	Pay revised on 01-07-2017 in BPS-05(10260-500-25260)	@Rs:12760/-

OB No. 47

Dated 10 /01/2018

District Police Officer,
Dir Lower.

No. 1163-05 /E, Dated Timergara the, 10 /01/2018

Copies for information and necessary action to the:-

1. District Accounts Officer, Dir Lower.
2. Pay Officer.
3. OASI

ATTESTED

ATTESTED

TO,

The Inspector General of Police,
Police line, Peshawar.

F-4-15

Subject: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED
ORDER DATED 10/01/2018

Respected Sir,

Most respectfully, it is stated, that I am the employee of your good self department and is serving as constable before your kind control. The I while serving as constable remain absent from duties due to illness and during that period I was dismissed from the service on 01/10/2015, wherefrom, I feeling aggrieved from the impugned dismissal order dated 01/10/2015, preferred departmental appeal and then after filed service appeal no.30/2016 before the august service tribunal Peshawar. The august service tribunal accepted the above mentioned service appeal and re-instated me in to the service. The competent authority implemented the judgment of august service tribunal and re-instated me in to service but the intervening period of my absence has been treated as leave without pay as well as stopped one annual increment with cumulative effect vide order dated 10/01/2018. I feeling aggrieved from the impugned order dated 10/01/2018 preferred this departmental appeal before your good self for redressal of my grievances.

It is, therefore, most humbly prayed that on accepting of this departmental appeal the impugned order dated 10/01/2018 my very kindly be modified by treating the intervening period as leave on full pay and also restored the annual increment with all back benefits.

Dated: 15.3.2018

ATTESTED

M

Your Obediently

Bashir

BASHIR AHMAD

CONSTABLE,

POLICE LINE, DIR LOWER

ATTESTED

A

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

9-16

APPEAL NO. _____/2018

Mr. Muhammad Bashir, Ex-Constable No.1093,
Police Line, Dir Lower at Timergara.

..... APPELLANT

VERSUS

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, Malakand Region at Saidu Sharif Swat.
3. The District Police Officer, District Dir Lower.

..... RESPONDENTS

**APPEAL UNDER SECTION- 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE IMPUGNED ORDER DATED 10-01-2018
WHEREBY ONE ANNUAL INCREMENT FOR THE YEAR
1.12.2015 HAS BEEN STOPPED WITH CUMULATIVE
EFFECT AND THE INTERVENING PERIOD HAS ALSO
BEEN TREATED AS LEAVE WITHOUT AND AGAINST NOT
TAKING ACTION ON THE DEPARTMENTAL APPEAL OF
THE APPELLANT WITHIN THE STATUTORY PERIOD OF
NINETY DAYS**

PRAYERS

That on acceptance of this appeal the impugned order dated 10.01.2018 may very kindly be set aside to the extent that the annual increment for the year 2015 may be restored with all back benefits and the remaining intervening period may also be treated as earned leave. Any other remedy which this Tribunal deems fit that may also be awarded in favor of the appellant.

**R/SHEWETH:
ON FACTS:**

- 1- That the appellant was appointed as Constable in the respondent Department and has served the respondent Department for quite considerable time efficiently and up to the entire satisfaction of his superiors.
- 2- That the appellant while posted at police Station Haya Seri District Dir Lower has become ill and due to that reason the appellant visited the District Headquarters Hospital for treatment. That after proper check up the

ATTESTE

M (V)

17

concern Doctor advised complete bed rest to the appellant and as such on the said advised the appellant requested the concerned authority for leave but no reply was received from the concern quarter. Copy of Medical prescription is attached as annexure A.

3- That due to the above mentioned reason the appellant was unable to attend his duty. That after recovery from illness the appellant visited the concerned quarter, where he was handed over the impugned order dated 01-10-2016 whereby Major Penalty of Dismissal from service was imposed on the appellant under the misconception of law. Copy of the impugned order is attached as annexure B.

4- That appellant feeling aggrieved from the impugned order dated 01-10-2015 filed Departmental appeal but the same was rejected on no good grounds vide order dated 17-12-2015 then after the appellant filed service appeal No.30/2016 before this august Tribunal which was accepted vide judgment dated 08.11.2017. Copies of the Departmental appeal, rejection order and judgment are attached as annexure C, D & E.

5- That the respondent Department implemented the judgment of this august Tribunal and re-instated the appellant into service but some portion of the intervening period has been treated as leave without pay along with minor punishment of stoppage of one annual increment with cumulative effect vide order dated 10.01.2018. Copy of the order is attached as annexure F.

6- That appellant feeling aggrieved from the impugned order dated 10.01.2018 filed Departmental appeal before the respondent No.1 but no reply has been received so far. Hence the present appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure G.

GROUND:

A- That the impugned orders dated 10.01.2018 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be modified.

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


ATTESTED



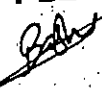
- C- That the respondents discriminated the appellant on the subject noted above i.e. by converting the punishment of major punishment to that of stoppage of one annual increment for the year 2015 with cumulative effect as well as some portion of the intervening period has been treated as leave without pay.
- D- That the respondents acted in arbitrary and malafide manner while converting the punishment of major punishment to that of stoppage of one annual increment for the year 2015 with cumulative effect as well as some portion of the intervening period has been treated as leave without pay.
- E- That the action and inaction of the respondents are not in accordance with law and rules, therefore the impugned order dated 10.1.2018 is liable to be modify/rectify to the extent of one annual increment and EOL.
- F- That seeks permission to advance other grounds and proofs at the time of hearing.

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

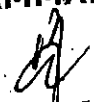
Dated: 6.1.2018 .

ATTESTED


APPELLANT


 MUHAMMAD BASHIR

THROUGH:


 NOOR MOHAMMAD KHATTAK
 ADVOCATE

H-19

OFFICE OF THE DISTRICT POLICE OFFICER, DISTRICT LOWER TIMURGARA


ORDER

This order will dispose of the departmental enquiry conducted against Constable Basim Vande No. 1293 who while at Police Station Haya Soti absented himself from his law abiding duty with effect from 08.02.2015 to 12.03.2015 total 32 days without any leave or prior permission from his superior. Therefore he was served charge sheet compiled with statement of allegation and Mr. Asif Hussain PSI HQrs. was appointed as Enquiry Officer to conduct proper departmental enquiry and submit his findings.

The enquiry officer during the course of enquiry recorded the statement of all concerned as well as the delinquent official. Thus Enquiry Officer in his findings report recommended him for major punishment.


Therefore Mr. Qasim Ali (PSP), District Police Officer, District Lower Timurgara in exercise of power vested in him under Police Act No. 19 of 1975 with amendment 2011 and under Section 10(a) a punishment of forfeiture of his two year approved service and stopped one annual increment with cumulative effect. The period of absence from duty from 08.02.2015 to 12.03.2015 total 32 days is counted as leave without pay and Pay released.

ORDER ANNOUNCED


District Police Officer,
D.L. Lower at Timurgara

Of No. 1293 FC
Dated 12/03/15 2015

RECEIVED
12/03/15


12/03/15

120

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 889 / 2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1158

Mr. Muhammad Bashir, Ex-Constable No.1093
Police Line, Dir Lower at Timergara.



13-7-2018
APPELLANT

VERSUS

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, Malakand Region at Saidu Sharif Swat.
3. The District Police Officer, District Dir Lower.

..... **RESPONDENTS**

**APPEAL UNDER SECTION- 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE IMPUGNED ORDER DATED 10-01-2018
WHEREBY ONE ANNUAL INCREMENT FOR THE YEAR
1.12.2015 HAS BEEN STOPPED WITH CUMULATIVE
EFFECT AND THE INTERVENING PERIOD HAS ALSO
BEEN TREATED AS LEAVE WITHOUT AND AGAINST NOT
TAKING ACTION ON THE DEPARTMENTAL APPEAL OF
THE APPELLANT WITHIN THE STATUTORY PERIOD OF
NINETY DAYS**

PRAYERS

That on acceptance of this appeal the impugned order dated 10.01.2018 may very kindly be set aside to the extent that the annual increment for the year 2015 may be restored with all back benefits and the remaining intervening period may also be treated as earned leave. Any other remedy which this Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

1- That the appellant was appointed as Constable in the respondent Department and has served the respondent Department for quite considerable time efficiently and up to the entire satisfaction of his superiors.

2- That the appellant while posted at police Station Haya Seri District Dir Lower has become ill and due to that reason the appellant visited the District Headquarters Hospital Timargara for treatment. That after proper check up the

Filed by
Registrar
13/7/18

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Service Appeal No. 889/2018

25th July, 2022


Learned counsel for the appellant present: Mr. Kabirullah Khattak, Additional Advocate General for respondents present

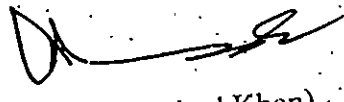
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2. Learned counsel for the appellant submitted an application for withdrawal of the instant service appeal with the permission to file afresh on the grounds that some new cause of action had arisen because of which the appellant wanted to withdraw the instant appeal. This appeal is dismissed as withdrawn in view the application. The appellant may file fresh appeal if he is so advised or desirous, which, if filed, will be decided on its own merits and limitation/ restriction etc. Consign.


3. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 25th day of July, 2022.


(Salah Ud Din)
Member(J)


(Kalim Arshad Khan)
Chairman



Certified to be true copy


CLERK
Kyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 16/8/22

Number of Words 800

Copying Fee 10/-

Pageant 5/-

Total 15/-

Name of Copyist _____

Date of Completion of Copy 16/8/22

Date of Delivery of Copy 16/8/22

J-21

To,

The Regional Police Officer,
Malakand Region at Saidu Sharif, Swat.

Subject:

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER DATED 18.05.2015 COMMUNICATED TO THE APPLICANT DURING COURT PROCEEDING IN APPEAL NO.889/2018 WHEREBY PENALTY OF FORFEITURE OF TWO YEARS APPROVED SERVICE AND ONE ANNUAL INCREMENT HAS BEEN IMPOSED UPON THE APPLICANT

Respected Sir:

With due respect it is stated that the applicant is the employee of your good self-Department and is serving as constable No.2082 quite efficiently and upto the entire satisfaction of his superiors.

That during service the applicant was absented from duty due to illness in the year 2015 and due to that reason the applicant awarded for minor punishment of forfeiture of two year approved service alongwith stoppage of one annual increment vide order dated 18.05.2015 but the order was not communicated to the applicant.

That it is pertinent to mention here that after 2 months the applicant once again affected by illness due to which the applicant was unable to perform his duty and for 20 days. That after recovery from illness the applicant appeared before the competent authority alongwith his medical prescriptions but the authority concerned issued dismissal order of the applicant dated 01.10.2015. **Copy of dismissal order is attached.**

That applicant feeling aggrieved from the dismissal order dated 01.10.2015 filed service appeal No.30/2016 before the august Service Tribunal, Peshawar which was accepted vide judgment dated 08.11.2017. That after obtaining copy of the judgment dated 08.11.2018 submitted the same before the authorities which was implemented and re-instated the applicant on his service vide order dated 10.01.2018 but minor penalty of stoppage of one annual increment awarded and some portion of the intervening period has been treated as leave without pay.

That feeling aggrieved from the order dated 10.01.2018 the applicant once again approached the august Service Tribunal, Peshawar in appeal No. 889/2018 and during pendency of the aforementioned service appeal it came into the knowledge of applicant that he had been also awarded minor punishment of forfeiture of two year approved service alongwith stoppage of one annual increment vide order dated 18.05.2015 on the basis of absence from service. **Copy of the order is attached.**

ATTESTED
M

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That it is also pertinent to mention here that the applicant was absented from service due his serious illness and after a little recovery from the said illness the appellant join his service and produced copies of the medical prescriptions before the authority concerned.

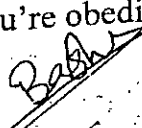
That absence of the appellant was not willful but due to cause illness, therefore, the impugned order dated 18.05.2015 is not tenable and liable to be set aside.

That the applicant feeling aggrieved from the impugned order dated 18.05.2015 came into the knowledge of applicant during pendency of service appeal No.889/2018 preferred the instant departmental appeal before your good self.


It is, therefore, most humbly prayed that on acceptance of this Departmental appeal the impugned order dated 18.05.2018 may very kindly be set aside and forfeited two years approved service be counted into service of the applicant and as such annual increment stopped in the year 2015 also released with all other consequential benefits. Any other remedy which your good self deems fit that may also be awarded in favor of the undersigned.

Dated: 17.08.2022.

You're obediently


MUHAMMAD BASHIR, Constable No.2082
Police Lines, Dir Lower at Timergara

ATTESTED



VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2022

Bashir Ahmad

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Police Deptt:

(RESPONDENT)
(DEFENDANT)

I/We Bashir Ahmad

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

Dated. ____/____/2022

Bashir

CLIENT

Mir Zaman Safi

ACCEPTED

MIR ZAMAN SAFI
ADVOCATE

OFFICE:

Room No.6-E, 5th Floor,
Rahim Medical Centre, G.T Road,
Hashtnagri, Peshawar.

Mobile No.0323-9295295
0317-9743003