

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.**

Service Appeal No. 917/2019

Muhammad Usman (Constable) Belt No.131 s/o Muhammad Ayaz r/o Painsa Khel
Charsadda Town, Tehsil & District Charsadda.

.....Appellant

V E R S U S

The Regional Police Officer, Mardan & others

.....Respondents

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RESPONDENTS

Through


Shah Jehan, ASI
Charsadda

(1)

BEFORE THE HONOURABLE, KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 917/2019

Muhammad Usman (Constable) Belt No.131 s/o Muhammad Ayaz r/o Painsa Khel
Charsadda Town, Tehsil & District Charsadda.

.....Appellant

V E R S U S

The Regional Police Officer, Mardan & others

.....Respondents

REPLY BY RESPONDENTS NO.1 TO 4

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action.
2. That the appeal is badly barred by law and limitation.
3. That the appellant has been estopped by his own conduct to file the instant appeal.
4. That the appeal is not maintainable in its present form.
5. That the appellant has not come to the Honourable Tribunal with clean hands.
6. That the appeal is bad for mis-joinder and non-joinder of necessary parties.

On Facts

- A. Initial part of the para pertains to record while rest of the para is incorrect. As record of the appellant is tainted with bad entries including major punishments of dismissal twice from service. **Details of bad entries are annexed as annexure "A"**.
- B. Incorrect. The appellant while posted at Police Station Tarnab was deputed for POLIO duty but he left his duty point without any plausible reason or intimation and remained absent w.e.from 18.09.2017 to 22.09.2017. In the meanwhile he was transferred from PS Tarnab to Police Lines Charsadda and was relieved vide DD No.19 dated 22.09.2017 but he did not report his arrival at Police Lines Charsadda and remained absent w.e.from 22.09.2017 till the time of dismissal i.e 06.02.2018. In this regard he was issued Charge sheet alongwith statement of allegation and enquiry was conducted through the then DSP Charsadda. **Copy of Charge Sheet, Statement of allegation and enquiry report is annexed as annexure "B, C & D"**. As appellant did not bother to appear before the enquiry officer, therefore, the enquiry officer recommended exparte action against him. Similarly regarding absence

w.e.from 22.09.2017 till the order of dismissal, enquiry was conducted through the then DSP Tangi and this time too appellant did not bother to appear before the enquiry officer, hence the enquiry officer recommended him for major punishment. (2nd enquiry report is annexed as "E"). On recommendation of both the enquiry officers appellant was dismissed from service vide order O.B No. 107 dated 06.02.2018 (copy of dismissal order is annexed as "F").

- C. Para already explained above.
- D. Para correct to the extent that appellant against the order of dismissal, moved departmental appeal on 07.03.2019 before the appellate authority i.e RPO Mardan, however, the same was filed being badly time barred. It is worth to mention that appellant was dismissed from service on 06.02.2018 while he moved departmental appeal on 07.03.2019 i.e with a delay of almost 13-months. Copy of departmental appeal and rejection order are annexed as "G & H".
- E. Incorrect. Departmental appeal of the appellant was dismissed on merit as the same was time barred by almost 13-months.
- F. Para correct to the extent that appellant moved revision petition but the same was also filed, being badly time barred.
- G. That the appeal of the appellant is liable to be dismissed on the following grounds: -

GROUND'S

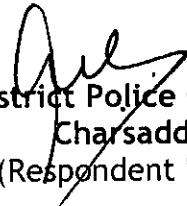
1. Incorrect. Order passed by the respondent No.2 dated 06.02.2018 is in accordance with law & rules, hence, is liable to be maintained.
2. Incorrect. As explained in the preceding paras that appellant did not bother to join the enquiry proceeding.
3. Incorrect. No violation has been made by the respondents as a speaking order in respect of the appellant has been passed.
4. Para already explained.
5. Para already explained.
6. Para already explained.
7. Incorrect. Appellant during his entire service had never been regular and devoted to his duties which are reflected from his service record.
8. Not related.
9. Incorrect. In order to cover his absence period, appellant has concocted this story of his mother's illness.
10. Incorrect. The appellant had earlier been reinstated in service on departmental appeal but he did not mend his way. (Copy of reinstatement order is annexed as "I").

3

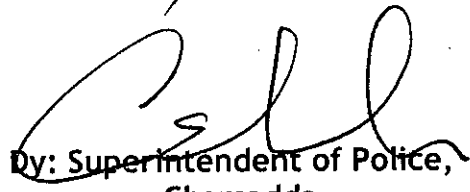
It is, therefore, most humbly prayed that on acceptance of above submissions the appeal of the appellant may very kindly be dismissed, being badly time barred, with cost, please.



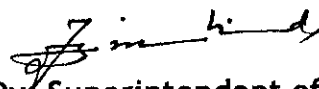
Regional Police Officer,
Mardan.
(Respondent No. 01)



District Police Officer,
Charsadda.
(Respondent No.02)



Dy: Superintendent of Police,
Charsadda
(Respondent No.3)



Dy. Superintendent of Police,
Tangi
(Respondent No.4)

ORDER

(4)

Annexure - A

This order will be disposed of the departmental enquiry against Constable Usman No.1264, while posted at Police Lines Charsadda, absented yourself from lawful duty w.e from 09.10.2013 to 18.10.2013 (09-days). Absence report recorded vide DD No.30 dated 09.10.2013. This shows his inefficiency, lack of interest in the performance of official duty.

In the above allegation he was issued Charge Sheet together with statement of allegation under Sub Section 3, Section 5 of Police Rules 1975. Enquiry Officer Mr. Iqbal Ahmad, DSP Tangi was nominated for conducting departmental enquiry against him. The enquiry officer after conducting proper departmental enquiry submitted findings.

Subsequently, the delinquent Constable Usman No.1264,, was issued Final Show Cause Notice U/S 5(3) Police Rules 1975 reply to it was received.

After going through the enquiry papers & recommendation of the enquiry officer, he is hereby awarded the minor punishment of "censure" and strictly warned to be careful in future. his absence period i.e 09-days is counted as without pay, his remaining pay already stopped vide this office O.B No.1288 dated 29.10.2013 is also released with immediate effect.

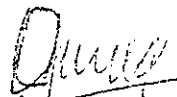
O.B No 1443

Date 02/12/2013

9/11-01 /HC, dated Charsadda the 02.12.2013

Copy for information and necessary action to the:-

1. pay Officer/OHC
2. EC/PMC


District Police Officer,
Charsadda

ARC


ORDER

This order will disposed off the departmental enquiry against **Constable Usman No. 1264**, while posted at Police lines Charsadda, absented himself from lawful duty w.e from 14.12.2013 to 23.12.2013 (09-days) & from 23.12.2013 to 08.01.2014 (16-days) without any leave or prior permission from his senior officers. Absence report vide DD No. 02, dated 14.12.2013 & D.D No.02 dated 23.12.2013. This shows his inefficiency, lack of interest in the performance of official duty.

In the above allegation he was issued Charge Sheet together with statement of allegation under Sub Section 3, section 5 of Police Rules 1975. Enquiry Officer **Mr. Raza Muhammad Khan DSP Charsadda** was nominated for conducting departmental enquiry against him. The enquiry officer after conducting proper departmental enquiry submitted findings, recommend him for minor punishment.

Subsequently Constable Usman No. 1264, was issued Final Show Cause Notice, reply to which was no received so far.

After going through the enquiry papers and recommendations of the enquiry officer, he is hereby awarded the minor punishment of stoppage of 01-annual increment without accumulative effect, his absence period i.e 25 days is also counted as without pay, his remaining pay already stopped vide this office O.B No.548 dated 26.03.2014 is also released with immediate effect.


**District Police Officer,
Charsadda**

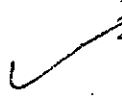
O. No 828

Dte 20/05/2014

to. 1036-39 /HC, dated Charsadda the 21/05 /2014

Copy for information and necessary action to the:-

- 1. Pay Officer/OHC
- 2. EC/FMC



⑥

17

ORDER

This order will disposed off the departmental enquiry against **Constable Usman No. 1264**, while posted at Police lines Charsadda, absented himself from lawful duty w.e from 05.07.2014 to 13.07.2014 (08-days) without any leave or prior permission from his senior officers. Absence report recorded vide DD No. 12, dated 05.07.2014. This shows his inefficiency, lack of interest in the performance of official duty.

In the above allegation he was issued Charge Sheet together with statement of allegation under Sub Section 3, Section 5 of Police Rules 1975. Enquiry Officer **Mr. Izhar Ahmad DSP Tangi**, was nominated for conducting departmental enquiry against him. The enquiry officer after conducting proper departmental enquiry submitted his findings.

Subsequently, Constable Usman No. 1264, was issued Final Show Cause Notice U/S 5(3) Police Rules 1975 reply to it was received.

After going through the enquiry papers & recommendation of the enquiry officer, he is hereby awarded the Minor Punishment of Censure & strictly warned to be careful in future his absence period is counted as without pay and his remaining pay already stopped vide this office O.B No.1127 dated 06.08.2014 is also released with immediate effect.


**District Police Officer,
Charsadda**

O.B No 1357

Date 22/08/2014

No. 1949-52 /HC. dated Charsadda the 22/08 /2014

Copy for information and necessary action to the:-

1. Pay Officer/OHC
- ✓ 2. EC/FMC

7

ORDER

This order will disposed off the departmental enquiry against **Constable Usman No. 1264**, while posted at Police lines Charsadda, absented himself from lawful duty w.e from 19.02.2014 to 19.03.2014 (30-days) without any leave or prior permission from his senior officers. Absence report recorded vide D.D No. 20, dated 19.02.2014. This shows his inefficiency, lack of interest in the performance of official duty.

In the above allegation he was issued Charge Sheet together with statement of allegation under Sub Section 3, Section 5 of Police Rules 1975. Enquiry Officer **Mr. Izhar Ahmad DSP Tangi** was nominated for conducting departmental enquiry against him. The enquiry officer after conducting proper departmental enquiry submitted findings.

Subsequently Constable Usman No. 1264, was issued Final Show Cause Notice, reply to which was not received so far.

After the perusal of the enquiry papers and recommendation of the Enquiry officer, he is hereby awarded the Major Punishment of timescale in a lower stage for the period of one year, his absence period i.e 30 days is counted as without pay and his pay already stopped vide this office O B No. 476 dated 10.03.2014 is also released with immediate effect.


District Police Officer,
Charsadda

O.D No. 1060

Date 9/7 /2014

No. 1419-22 /HC, dated Charsadda the 09-07 /2014

Copy for information and necessary action to the:-

1. Pay Officer/OHC

✓ 2. EC/FMC

4

(8)

ORDER

This order will disposed off the departmental enquiry against **Constable Usman No. 1264**, while posted at Police Station Sardheri, absented himself from his lawful duty w.e from 27.09.2014 to 24.10.2014 (27-days) from 07.11.2014 to 04.12.2014 (27-days) & from 04.12.2014 to 19.12.2014 (15-days) without any leave or prior permission from his senior officers, as evident vide DD's No. 22, dated 27.09.2014, No. 25, dated 07.11.2014, 50, dated 04.12.2014. This shows his inefficiency, lack of interest in the performance of official duty.

In the above allegation he was issued Charge Sheet together with statement of allegation under Sub Section 3, Section 5 of Police Rules 1975. Enquiry Officer **Mr. Raza Muhammad Khan, DSP Charsadda** was nominated for conducting departmental enquiry against him. The enquiry officer after conducting proper departmental enquiry submitted findings.

Subsequently, Constable Usman No. 1264, was issued Final Show Cause Notice U/S 5(3) Police Rules 1975 reply to it was not received so far.

After going through the enquiry papers & recommendation of the enquiry officer, he is hereby awarded the Major Punishment of Time Scale in service for the Period of One Year and his period of absence i.e 69 days is also counted as without pay, his pay already stopped vide this office O.B No. 1708 dated 18.12.2014 is also released with immediate effect.

O.B No 168

Date 10/2/2015

No. 1526-29 /HC, dated Charsadda the 11/02 /2015

Copy for information and necessary action to the/-

1. Pay Officer/OHC

✓ 2. EC/FMC


District Police Officer,
Charsadda

This order will disposed off the departmental enquiry against **Constable Usman No. 131**, while posted at Police Lines Charsadda, absented himself from his lawful duty w.e from 15.08.2016 to 21.08.2016 (06-days) and on 21.08.2016 he was transferred from police lines Charsadda to PS Shabqadar but he badly failed to report his arrival at his new place of posting and thus absented himself w.e from 21.08.2016 to 03.05.2017 (258-days) without any leave or prior permission from his senior officers, as evident vide D.D No. 36, dated 25.08.2016. This shows his inefficiency, lack of interest in the performance of his official duty.

In the above allegation he was issued Charge Sheet together with statement of allegation under Sub Section 3, Section 5 of Police Rules 1975. Enquiry Officer **Mr. Nazir Khan, the then DSP Charsadda** was nominated for conducting departmental enquiry against him. The enquiry officer after conducting proper departmental enquiry submitted findings.

Subsequently, Constable Usman No. 131, was issued Final Show Cause Notice U/S 5(3) Police Rules 1975 reply to it was received.

After perusal of enquiry papers and recommendation of the enquiry officer, the undersigned reached to the conclusion that although the enquiry Officer has recommended him for major punishment, but after hearing him in person in orderly room and keeping in view his pathetic family condition, the undersigned is taking a lenient view, therefore his absence period i.e 132 days is counted as Long leave while remaining 132-days counted as without pay and his pay already stopped vide this office O.B No. 1085 dated 20.09.2016 is also released with immediate effect.


**District Police Officer,
 Charsadda**

O.B No 603

Date 24/5/2017

No 5755-58 /HC, dated Charsadda the 25/05 /2017

Copy for information and necessary action to the:-

- 1. Pay Officer/OASI
- 2. EC/FMO

enclose = (45) Pages

reaso

(10)

Annexure B


CHARGE SHEET UNDER KPK POLICE RULES 1975

I, Zahoor Babar Afridi, District Police Officer Charsadda, as competent authority hereby charge you Constable Usman No. 131 as follows.

That you Constable Usman No. 131, while posted at Police Lines Charsadda, On 22.09.2017 you were relieved from PS Tarnab to Police Lines vide D.D No. 19, but you did not report your arrival at Police Lines Charsadda well in-time and thus absented yourself from your lawful duty w.e from 22.09.2017 till date without any leave or prior permission from your senior officers. Absence report recorded vides D.D No. 28, dated 24.09.2017. This shows your inefficiency and lack of interest in the performance of your official duty.

This amounts to grave misconduct on your part, warranting Departmental action against you as defined in section-6(I) (a) of the KPK Police Rules 1975.

1. By reason of the above, you appear to be guilty of misconduct under section 02(III) of the KPK Police Rules 1975 and has render your self liable to all or any of the penalties as specified in section 04 (I) a & b of the said rules.
2. You are therefore, directed to submit your written defense within seven days of the receipt of this Charge Sheet to the Enquiry Officer.
3. Your written defense, if any should reach to the enquiry officer within the specified period, in case of failure, it shall be presumed that you have no defense to put-in and in that case an ex-parte action shall follow against you.
4. Intimate, whether you desired to be heard in person.


District Police Officer,
Charsadda

(11)

Annexure C

Government of Khyber Pakhtunkhwa
Office of the District Police Officer
Charsadda

DISCIPLINARY ACTION UNDER KPK POLICE RULES -1975

I, Zahoor Babar Afridi, District Police Officer Charsadda, as competent authority am of the opinion that Constable Usman No. 131, has rendered himself liable to be proceeded against as he has comitted the following acts/omissions within the meaning of section -02 (iii) of KPK Police Rules-1975.

STATEMENT OF ALLEGATIONS

That he **Constable Usman No. 131**, while posted at Police Lines Charsadda, On 22.09.2017 he was relieved from PS Tarnab to Police Lines vide D.D No. 19, but he did not report his arrival at Police Lines Charsadda well in-time and thus absented himself from his lawful duty w.c from 22.09.2017 till date without any leave or prior permission from his senior officers. Absence report recorded vides D.D No. 28, dated 24.09.2017. This amounts to grave misconduct on his part, warranting Departmental action against him.

For the purpose scrutinizing the conduct of the said official **Mr. Sajjad Hussain DSP Tangi** is hereby deputed to conduct proper departmental enquiry against the aforesaid official, as contained in section -6 (I) (a) of the afore mentioned rules. The enquiry officer after completing all proceedings shall submit his verdict to this office within stipulated period of (10) days. Constable Usman No. 131 is directed to appear before the enquiry officer on the date, time and placed fixed by the later (enquiry officer) a statement of charge sheet is attached herewith.


District Police Officer,
Charsadda

o/c

No. 6738-39/HC, dated Charsadda the 06/12 /2017.

Copies for Information to the:

1. Mr. Sajjad Hussain DSP Tangi
2. R.I Lines

(12)

Annexure D

NO. 907 /ST

DT: 28/10 /2017

Subject

**DEPARTMENTAL ENQUIRY REPORT AGAINST CONSTABLE USMAN
NO.131 POLICE LINES CHARSAKDA**

REFERENCE ATTACHED

ALLEGATIONS Constable Usman No.131 while posted at Police Lines Charsakda, absented himself from duty w-e-from 22-09-2017 till date without any permission or leave which shows his inefficiency and lack of interest in his official duty.

Upon which he was served with charge sheet and summary of allegations by the W/DPO Charsakda as a competent authority and the enquiry was marked to the undersigned for the purpose to scrutinize the conduct of defaulter constable.

PROCEEDINGS The defaulter constable was summoned time and again but he did not appear before the undersigned. Moreover, RI Police Lines Charsakda submitted another report vide DD No.15 dated 13-12-2017 (attached) which shows that the alleged constable is still absent from his duty, which transpired that the accused official is no more interested to discharge his official duties.

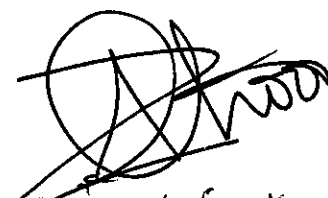
Keeping in view the above facts, the defaulter constable is hereby recommended for "MAJOR PUNISHMENT" if approved please.

Submitted please

Dy: Superintendent of Police
Tangi

Worthy DPO/Charsakda

Issue F.S.C.N


D/O Chief II
02-01-2018

(13)

Annexure - E

DEPARTMENTAL ENQUIRY AGAINST CONSTABLE USMAN NO. 131

The instant enquiry against Constable Usman No.131 was ordered vide Endst: No. 6437-38/HC dated 16.10.2017 with the allegations that he while deputed for polio duty at Tarnab and his thus absented himself from his lawful duty w.e from 18.09.2017 to 22.09.2017 (04-days) without any leave or prior permission from his senior officers. In the mean while he has been transferred from PS Tarnab to Police Lines and was relived vide DD No. 19 dated 22.09.2017 but he did not report his arrival at Police Lines Charsadda and also absented himself w.e from 22.09.2017 till date. This shows his inefficiency and lack of interest in the performance of his official duties. Which amount to grave misconduct on his part and rendered him liable for Minor /Major punishment under Police rules, 1975.

In this regard, the concerned official was charge sheeted and the undersigned was nominated to probe into the matter.

PROCEEDINGS:-

In this regard, Moharrar Police Lines was directed to inform the official to appear before the enquiry officer. But he recorded that Cell Phone of the said official is powered off and still absent from his duty. Furthermore, service book of the official was perused and found 06 bad entries including punishment of dismissal as well as time scale.

FINDINGS:-

The circumstances explained above, reveals that Constable Usman No. 131 is not more interested in his official duties. Therefore, the undersigned recommend that ex-parte action may be taken against FC Usman No. 131.

(Iftikhar Shah)
Dy: Superintendent of Police,
Charsadda.

No. 915 /S

Dated 22/12 /2017

He
Usman F. Sen

[Signature]

26-12-2017

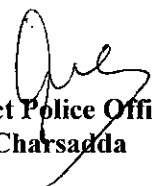
CHARGE SHEET UNDER KPK POLICE RULES 1975

I **Sohail Khalid**, District Police Officer Charsadda, as competent authority hereby charge you **Constable Usman No. 131** as follows.

That you **Constable Usman No. 131**, while posted at Police Station Tarnab, On 18.09.2017 you left your duty point while deputed for polio duty at Tranab and thus absented yourself from your lawful duty w.e from 18.09.2017 to 22.09.2017 (04-days) without any leave or prior permission from your senior officers. In the meanwhile you were transferred from PS Tarnab to Police Lines and were relieved vide D.D No. 19 dated 22.09.2017 but did not report your arrival at Police lines Charsadda and also absented yourself w.e from 22.09.2017 till date. This shows your inefficiency and lack of interest in the performance of your official duties.

This amounts to grave misconduct on your part, warranting Departmental action against you as defined in section-6(I) (a) of the KPK Police Rules 1975.

1. By reason of the above, you appear to be guilty of misconduct under section 02(III) of the KPK Police Rules 1975 and has render your self liable to all or any of the penalties as specified in section 04 (I) a & b of the said rules.
2. You are therefore, directed to submit your written defense within seven days of the receipt of this Charge Sheet to the Enquiry Officer.
3. Your written defense, if any should reach to the enquiry officer within the specified period, in case of failure, it shall be presumed that you have no defense to put-in and in that case an ex-parte action shall follow against you.
4. Intimate, whether you desired to be heard in person.


District Police Officer,
Charsadda

15

2

Government of Khyber Pakhtunkhwa
Office of the District Police Officer
Charsadda


DISCIPLINARY ACTION UNDER KPK POLICE RULES -1975

I, Sohail Khalid, District Police Officer Charsadda, as competent authority am of the opinion that Constable Usman No. 131, has rendered himself liable to be proceeded against as he has committed the following acts/omissions within the meaning of section -02 (iii) of KPK Police Rules-1975.

STATEMENT OF ALLEGATIONS

That he **Constable Usman No. 131**, while posted at Police Station Tarnab, On 18.09.2017 he left his duty point while deputed for polio duty at Tranab and thus absented himself from his lawful duty w.e from 18.09.2017 to 22.09.2017 (04-days) without any leave or prior permission from his senior officers. In the meanwhile has been transferred from PS Tarnab to Police Lines and was relieved vide D.D No. 19 dated 22.09.2017 but did not report his arrival at Police lines Charsadda and also absented himself w.e from 22.09.2017 till date. This shows his inefficiency and lack of interest in the performance of his official duties. This amounts to grave misconduct on his part, warranting Departmental action against him.

For the purpose scrutinizing the conduct of the said official **Mr. Iftikhar Shah Khan DSP Charsadda** is hereby deputed to conduct proper departmental enquiry against the aforesaid official, as contained in section -6 (1) (a) of the afore mentioned rules. The enquiry officer after completing all proceedings shall submit his verdict to this office within stipulated period of (10) days. Constable Usman No. 131, is directed to appear before the enquiry officer on the date, time and place fixed by the later (enquiry officer) a statement of charge sheet is attached herewith.


District Police Officer,
Charsadda

No. 6437-38/HC, dated Charsadda the 16/10 2017.

Copies for Information to the:

- ✓ 1. Mr. Iftikhar Shah Khan DSP Charsadda
2. R.I Lines

16

Annexure F

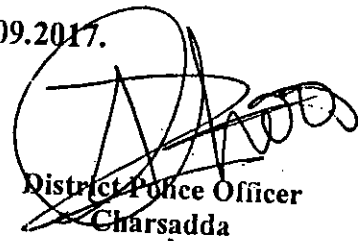
ORDER

This order will dispose off the departmental enquiry against Constable Usman No. 131, while posted at Police Station Tarnab, On 18.09.2017 he left his duty point while deputed for polio duty at Tarnab and thus absented himself from his lawful duty w.e from 18.09.2017 to 22.09.2017 (04-days) without any leave or prior permission from his senior officers. In the meanwhile he was transferred from PS Tarnab to Police Lines and was relieved vide D.D No. 19 dated 22.09.2017 but he did not report his arrival at Police lines Charsadda well in-time and also absented himself from 22.09.2017 to 23.01.2018 (04 Months). On 24.01.2018 he was relieved to PS Khanmai vide D.D No. 07 of Police Lines Charsadda but he did not report his arrival at PS Khanmai and again absented himself w.e from 24.01.2018 till date. Being a member of discipline force his act is highly objectionable and against the rules and regulations of the discipline force. This shows his inefficiency, lack of interest in the performance of his official duty.

In the above allegation he was issued Charge Sheet together with statement of allegation under Section 6(l) (a) of KPK Police Rules 1975. Enquiry Officer Mr. Iftikhar Shah Khan DSP Charsadda was nominated for conducting departmental enquiry against him. The enquiry officer after conducting proper departmental enquiry submitted his findings and recommended him for Ex-Parte action. While another enquiry had also been initiated against him and Mr. Sajjad Hussain Khan the then DSP Tangi was nominated as Enquiry Officer, but after his transfer from the district the enquiry was marked to Mr. Taj Muhammad Khan DSP Tangi and he after conducting departmental enquiry submitted his findings and recommends him for major punishment.

Subsequently Constable Usman No. 131, was issued Final Show Cause Notices, replies to which were not received so far.

After going through the enquiry papers & recommendation of the enquiry officer, the undersigned reached to the conclusion that the delinquent constable in no way is interested to continue his job, therefore he is hereby awarded the **Major punishment of Dismissal from service from the date of his absence i.e 18.09.2017.**


District Police Officer
Charsadda

O.B No. 107

Date 6/2 /2018

No. 202-05 /HC, dated Charsadda the 06/02 /2018

Copy for information and necessary action to the:-

1. Pay Officer/OASI
2. EC/FMC

To

The Regional Police Officer,
Mardan Region, Mardan

Subject: Appeal against the office order No. OB. No. 107 dated 06-02-2018 of District Police Officer, Charsadda, whereby Major Punishment of dismissal from service was awarded to the appellant in disregard of law and justice

Prayers: On acceptance of this departmental appeal, the impugned order of dismissal from service dated 06-02-2018 may please be set aside and the appellant be reinstated to his service with all back benefits.

Respected Sir,

The appellant submits as under:-

- 1- That the impugned order of dismissal from service is illegal against facts of the case therefore, liable to be set aside.
- 2- That the appellant never absented intentionally from duty but the mother of appellant was suffering from abdominal problem, she was required surgery and admitted in Rehman Medical Institute (RMI) and appellant applied for leave through his concerned in charge by whom saying that the application for leave has been sent to the competent authority. (Copy of Medical treatment is attached).
- 3- That the appellant was marked absent instead of leave without intimating to the appellant.
- 4- That no shows cause notice has issued to the appellant regarding the alleged absentia.
- 5- That the appellant mother was in critical condition and the father of appellant is also old person and suffering from different diseases and unable to look after the appellants mother.
- 6- That the appellant was sole family member who could look after his ill mother and despite the fact that appellant have leave on his credit but even then the appellant was marked absent instead of proper leave.
- 7- That the alleged charge sheet along with statement of allegation are false proceeding and no departmental proceeding were initiated against the

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appellant even the dismissal order was not conveyed to the appellant, which too is against the law and justice.

- 8- That the appellant has long service at his credit and the dismissal order is very much harsh and also on the back of appellant and the absentee does not entail major punishment of dismissal from service.
- 9- That from the perusal of the order it does not clarify that on which of the charge the appellant has been dismissed from service.
- 10- That the alleged guilt/so called misconduct is not of the nature which entails Major punishment of dismissal from service.
- 11- That the appellant is sole bread earner for his old ill mother and father, therefore the appellant request for his reinstatement in to service.

It is requested that on acceptance of this departmental appeal the order No. OB No. 107 dated 06-02-2018 of District Police Officer, Charsadda may kindly be set aside and the appellant be reinstated in to his service.

N/O. 1925/ES,
DT: 07-03-2019.
in ⑤ EC/DPO Charsadda.

True Comments

Nauman
RPO/mardan
7/3/19

Appellant

M. U. Usman

Usman Ex-Constable No. 131 s/o
Muhammad Ayaz
District Police Charsadda
R/O Mohallah Painda Khel
Charsadda Town, Tehsil & District
Charsadda. 0300 93 200 200

E-C
For objection

DPO Charsadda
08-03-19

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Constable Usman No. 131 of Charsadda District Police against the order of the District Police Officer, Charsadda, wherein he was awarded Major Punishment of dismissal from Service by the District Police Officer, Charsadda vide his office OS: No. 107 dated 06.02.2018.

Brief facts of the case are that the appellant while posted at Police Station Tarnab on 18.09.2017 he left his duty point while deputed for Polio Duty at Tarnab and thus absented himself from his lawful duty with effect from 18.09.2017 to 22.09.2017 (04 days) without any leave or prior permission from his senior Officers. In the meanwhile he was transferred from PS Tarnab to Police Lines and was relieved vide daily diary No. 19 dated 22.09.2017 but he did not report his arrival at Police Lines, Charsadda well in time and also absented himself from 22.09.2017 to 23.01.2017 (04 months). On 24.01.2018 he was relieved to PS Khanmai vide daily diary No. 07 of Police Lines Charsadda but he did not report his arrival at PS Khanmai and again absented himself with effect from 24.01.2018 till date of his dismissal. Being a member of discipline force his act is highly objectionable and against the rules and regulations of the discipline force. This shows his inefficiency, lack of interest in the performance of his official duty.

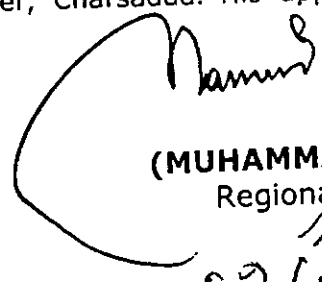
In the above allegation he was issued charge sheet together with statement of allegation and Mr. Iftikhar Shah Khan the then DSP Charsadda was nominated for conducting departmental enquiry against him. The Enquiry Officer after conducting proper departmental enquiry submitted his findings and recommended him for Ex-parte action. While another enquiry had also been initiated against him and Mr. Sajjad Hussain Khan the then DSP Tangi was nominated as Enquiry Officer, but after his transfer from the District the Enquiry was marked to Mr. Taj Muhammad Khan DSP/Tangi and he after conducting departmental enquiry submitted his findings and recommends him for Major Punishment. Subsequently he was Issued Final Show Cause Notice replies to which were not received.

After going through the enquiry papers & recommendations of the Enquiry Officer the District Police Officer, Charsadda reached to the conclusion that the delinquent Constable not interested to continue his job, therefore awarded Major Punishment of dismissal from service from the date of his absence i.e 18.09.2017.

He was called in orderly room held in this office on 28.03.2019 and heard in person. The appellant did not produce any cogent reason for his prolong absence. On perusal of previous service record it was noticed that he is habitual absentee and prior to this, the appellant was also dismissed from service for his disinterest in the official duty Therefore, I find no grounds to intervene into the order passed by the District Police Officer, Charsadda. His appeal is also time barred.

Hence field.

ORDER ANNOUNCED.



(MUHAMMAD ALI KHAN)PSP
Regional Police Officer,
Mardan.

No. 2526/ES,

Dated Mardan the 02/04 /2019.

Copy to District Police Officer, Charsadda for information and
Memo. No. 538/EC dated 18.03.2019. -s Service

(20)

ORDER

In continuation of this office order endorsement No. 3424/ES dated 08.06.2015 a plea of mercy was preferred by the appellant and stated that he is a poor person and the sole earning hand of his entire family and absence from duty was not intentional but due to un avoidable circumstances. The appellant remained absent from his lawful duties as his mother was seriously ill and during her services in Hospital the appellant himself become seriously ill and got admitted in Hospital. The appellant repentant over his absence and seems committed to perform his lawful duties with for devotion in future.

He was appeared before the undersigned in orderly room held in the office 17.06.2015, heard him in person. In view of Police Rules 16.32, the above mentioned order stands amended and taking a lenient view, Ex-Constable Muhammad Usman NO. 1264 is re-instated in service with immediate effect, the period he remained out from service is treated as leave without pay.

ORDER ANNOUNCED.

(MUHAMMAD SAIED) PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan.

No. 3763 /ES, Dated Mardan the 23-6- /2015.

Copy to District Police Officer, Charsadda for information and necessary action w/r to this office endorsement No. quoted above.

(*****)

Inspector Legal / EC

For information.

DDO / Chd
24-6-2015

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BEFORE THE HONOURABLE KPK SERVICES TRIBUNAL PESHAWAR

Service Appeal No. 917/2019

Muhammad Usman (Constable) Belt No.131 s/o Muhammad Ayaz r/o Painda Khel
Charsadda Town, Tehsil & District Charsadda.

.....Appellant

V E R S U S

The Regional Police Officer, Mardan & others

.....Respondents

AFFIDAVIT

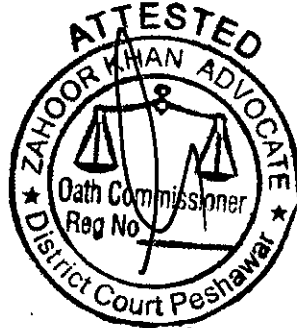
I, Shah Jehan, ASI (representative of the department) do hereby solemnly affirm and declare on Oath that contents of the parawise comments are true and nothing has been concealed from this Hon'ble Tribunal.

Shah Jehan

DEPONENT:

CNIC No.17101-9377155-1

Cell # 0310-9898096



2/2/23



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GOVERNMENT OF KHYBER PAKHTUNKHWA
OFFICE OF THE DISTRICT POLICE OFFICER CHARSADDA
PHONE# 091/9220400 FAX# 091-9220401
EMAIL: charsaddadpo@yahoo.com

AUTHORITY IN SERVICE APPEAL No.917/2019 TITLED MUHAMMAD USMAN (EX-CONSTABLE) VS RPO/MARDAN ETC.

Mr. Shah Jehan, Assistant Sub-Inspector Legal, is hereby authorized to appear before the Honorable Service Tribunal, Peshawar in the above captioned Service Appeal on behalf of answering respondents. He is also authorized to submit all required documents and replies etc as representative of the answering respondents through the Additional Advocate General, Khyber Pakhtunkhwa Peshawar.

Regional Police Officer,
Mardan.
(Respondent No. 01)

District Police Officer,
Charsadda.
(Respondent No.02)

Dy: Superintendent of Police,
Charsadda
(Respondent No.3)

Dy: Superintendent of Police,
Tangi
(Respondent No.4)