


SA 83/2015

14<sup>th</sup> July, 2022

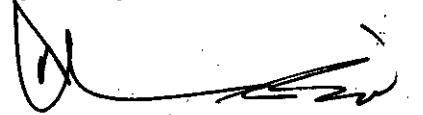
None present on behalf of the appellant. Mr. Kabirullah Khattak, Addl. AG alongwith Muhammad Raziq, HC for the respondents present.

On previous date last opportunity was granted to the appellant for arguments with observation that ample opportunities were afforded to both the parties for arguments but arguments could not be advanced by them. It was further observed that in case of failure of any of the parties to advance the arguments, the case would be decided on the basis of available record. To foster the ends of justice, instead of decision of merits, as that would be a decision without hearing the parties, let this appeal be dismissed in default. Consign.

Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 14<sup>th</sup> day of July, 2022.

  
(FAREEHA PAUL)  
Member (E)



  
(KALIM ARSHAD KHAN)  
Chairman

10.01.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present.

Due to non-availability of Hon'able Member (J), the case could not be heard. Adjourned. To come up for arguments on 22.04.2022 before D.B

  
(MIAN MUHAMMAD)  
MEMBER (E)

22<sup>nd</sup> April, 2022

Appellant in person present. Mr. Naseer ud din Shah, Asst. AG for the respondents present.

Appellant seeks adjournment due to non availability of senior counsel. Last opportunity is granted otherwise it will be decided on the available record as ample opportunities were afforded to both parties. To come up for arguments before D.B on 14.07.2022.

  
(MIAN MUHAMMAD)

  
Chairman

14<sup>th</sup> July, 2022

Member (E) present on behalf of the appellant. Mr. Kabirullah Khattak, Addl. AG alongwith Muhammad Raziq, HC for the respondents present.

On previous date last opportunity was granted to the appellant for arguments with observation that ample opportunities were afforded to both the parties for arguments but arguments could not be advanced by them. It was further observed that in case of failure of any of the parties to advance the arguments, the case would be decided on the basis of available record. To foster the ends of justice, instead of decision of merits, as that would be a decision without hearing the parties, let this appeal be dismissed in default. Consign.

Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 14<sup>th</sup> day of July, 2022.

(FAREEHA PAUL)  
Member (E)

(KALIM ARSHAD KHAN)  
Chairman

*Reprinted on fresh page.*

28.06.2021

Syed Noman Ali Bukhari, junior of learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Junior of learned counsel for the appellant sought adjournment on the ground that learned counsel for appellant is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments before the D.B on 08.10.2021.



(ATIQ-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)




(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

08.10.2021

None for the appellant present. Mr. Kabirullah Khattak, Add. AG for the respondents present.

Notice be issued to the appellant and his counsel. To come up for arguments on 10.01.2022 before the D.B.



(Mian Muhammad)  
Member(Executive)




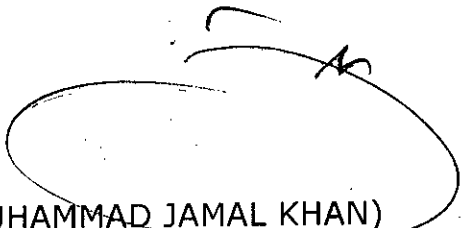
Chairman

03.02.2021

Mr. Taimur Ali Khan, Advocate, for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General, for the respondents is also present.

Junior to the senior counsel requested for adjournment that the learned senior counsel is busy in the Hon'ble Supreme Court of Pakistan and cannot attend the Tribunal today. Another last chance is given to the learned counsel for appellant with the direction to argue the case on the next date positively, failing which, appeal will be decided in the light of available record. Adjourned to 22.03.2021 on which date file to come up for arguments before D.B.

  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)

  
(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

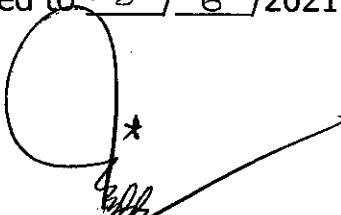
22.03.2021

Counsel for the appellant present.

Addl: AG for respondents present.

Former requests for adjournment as he has not prepared the brief.

Adjourned to 28 / 6 / 2021 before D.B.

  
(Mian Muhammad)  
Member (E)

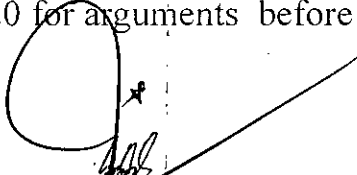
  
(Rozina Rehman)  
Member(J)


28.09.2020

Nemo for appellant.

Mr. Muhammad Jan learned Deputy District Attorney for respondents present.

Notice be issued to appellant and his counsel for 16.12.2020 for arguments before D.B.

  
(Mian Muhammad)  
Member (E)

  
(Rozina Rehman)  
Member (J)


16.12.2020

Appellant is absent. Noman Ali, Advocate Junior counsel present.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

As per record, last chance had been given to the counsel for appellant on 30.06.2020 but neither the appellant nor his counsel attended the Tribunal on the next date of hearing i.e. on 28.09.2020 and today, once again a request for adjournment was made. Last chance is given with direction to argue the case positively, failing which, appeal will be decided in the light of available record.

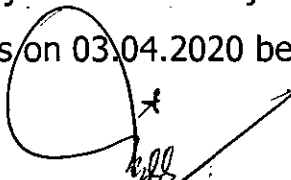
Adjourned to 02.02.2021 for arguments, before D.B.

  
(Atiq ur Rehman Wazir)  
Member (E)

  
(Rozina Rehman)  
Member (J)

04.03.2020


Counsel for the appellant present. Addl: AG for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 03.04.2020 before D.B.

  
Member

  
Member


31.4.2020

*Due to COVID 19, the case is adjourned for the same on 30.6.2020.*

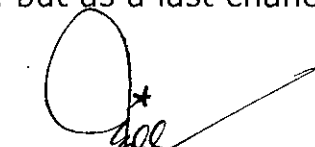



30.06.2020

Learned counsel for the appellant and Mr. Kabirullah Khattak learned Addl. AG for the respondents present.

 Learned counsel requests for time to seek fresh instructions <sup>from</sup> for appellant.

Adjourned to 28.09.2020 for arguments before D.B. but as a last chance.

  
Member

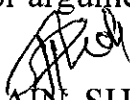
  
Chairman

08.10.2019 Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 11.10.2019 before D.B.

  
Member

  
Member

11.10.2019 Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG ~~for the respondents~~ for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 15.11.2019 for arguments before D.B.

  
(HUSSAIN SHAH)  
MEMBER

  
(M. AMIN KHAN KUNDI)  
MEMBER

15.11.2019 Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 09.01.2020 for arguments before D.B.

  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

09.01.2020 Due to general strike of the Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for arguments on 04.03.2020 before D.B.

  
Member

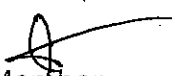
  
Member

07.05.2019

Appellant in person and Addl. AG for the respondents present.

Appellant states that his learned is not feeling well and is unable to argue the matter.


Adjourned to 19.06.2019 for arguments before the D.B.


  
Member

  
Chairman

19.06.2019


Junior to counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Junior to counsel for the appellant requested for adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 19.08.2019 before D.B.


  
Member

  
Member

19.08.2019

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney or the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 08.10.2019 before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member



26.10.2018

Due to retirement of Hon'able Chairman, the Tribunal is defunct. Therefore, the case is adjourned for the same on 14.12.2018 before D.B.




Reader

11.12.2018

None for the appellant present. Mr. Kabirullah Khattak, Addl. AG for respondents present. Adjourned. To come up for arguments on 31.01.2019 before D.B.



Member



Member

31.01.2019

Appellant with counsel and Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 20.03.2019 before D.B.



Member



Member

20.03.2019

Mr. Nadeem Khan, clerk of counsel for the appellant and Addl. AG for the respondents present.

Due to general strike on the call of Bar Council, learned counsel for the appellant is not in attendance.

Adjourned to 07.05.2019 before the D.B.



Member



Chairman

02.03.2018

Counsel for the appellant and Addl. AG for the respondents present. Learned counsel for the appellant seeks adjournment. To come up for arguments on 09.05.2018 before the D.B.

  
(Ahmad Hassan)  
Member

  
Chairman

09.05.2018

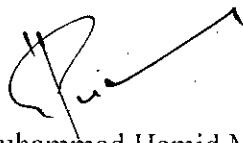
Due to retirement of the worthy Chairman, the Tribunal is incomplete, therefore the case is adjourned. To come up for same on 18.07.2018.

  
Reader

18.07.2018


Counsel for the appellant present. Mr. Sardar Shoukat Hayat, Addl. AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 07.09.2018 before D.B.

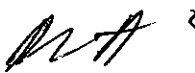
  
(Ahmad Hassan)  
Member

  
(Muhammad Hamid Mughal)  
Member

07.09.2018

Junior counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Raziq, Head Constable for the respondents present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is busy before the Hon'ble Peshawar High Court. Adjourned. To come up for arguments on 26.10.2018 before D.B.

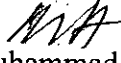
  
(Shah Hussain)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

18.07.2017

Clerk of the counsel for appellant present. Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Clerk of the counsel for appellant requested for adjournment. Adjourned. To come up for arguments on 13.11.2017 before D.B.

  
(Gul Zeb Khan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

13.11.2017


Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for final hearing on 01.01.2018 before D.B.


  
(AHMAD HASSAN)  
Member

  
(Muhammad Hamid Mughal)  
Member

01.01.2018

Counsel for the appellant present. Mr. Muhammad Jan, DDA for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 02.03.2018 before D.B.


  
(Ahmad Hassan)  
Member(E)

  
(M.Amin Khan Kundi)  
Member (J)

22.06.2016

Clerk to counsel for the appellant and Mr. Ziaullah, GP for respondents present. Rejoinder submitted. To come up for arguments on 10.11.2016.

  
Member

  
Member

10.11.2016

Counsel for the appellant and Asst: AG for respondent present. Leaned AAG requested that since they have not been provided copy of rejoinder. Appellant is directed to provide copy of rejoinder. To come up for arguments on 20.03.2017.

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

  
(PIR BAKHSH SHAH)  
MEMBER

20.03.2017

Counsel for the appellant and Mr. Kabir Ullah Khattak Assistant AG, for respondents present. Arguments could not be heard due to incomplete bench. To come up for final hearing on 18.07.2017 before D.B.

  
Chairman

5

27.07.2015

Counsel for the appellant and Addl: A.G for respondents present. Requested for further adjournment. To come up for written reply/comments on 27.8.2015 before S.B.

  
Chairman

6

27.08.2015

Counsel for the appellant and Addl: A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 24.11.2015 before S.B.

  
Chairman


24.11.2015

Appellant in person and Mr. Hayat Muhammad, Reader alongwith Addl: A.G for respondents present. Written reply not submitted despite last opportunity. Requested for further adjournment. Last opportunity is extended subject to payment of cost of Rs. 1000/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments and cost on 1.3.2016 before S.B.

  
Chairman

01.03.2016

Counsel for the appellant and Mr. Hayat Muhammad, Reader alongwith Addl: A.G for respondents present. Written reply submitted. Cost of Rs. 1000/- paid and receipt thereof obtained. The appeal is assigned to D.B for rejoinder and final hearing for 22.6.2016.

  
Chairman

3

12.02.2015

Appellant with counsel present. Argued that the appellant, while serving as Constable, applied for ex-Pakistan leave for 180 days which was sanctioned vide CPO order dated 18.5.2011. That later on the appellant applied for extension of the leave for further 2 years which application of the appellant was rejected but not communicated to the appellant and thereafter, vide order dated 26.03.2012, the appellant was removed from service on the ground of wilful absence for 2 years and the period of absence was also treated as leave without pay. That against the said order, appellant preferred departmental appeal on 17.9.2014 which was rejected on 12.01.2015 and hence the present appeal on 28.1.2015.

That neither order of rejection of the leave application was conveyed to the appellant nor any opportunity of hearing was extended and moreover the inquiry was not conducted in the prescribed manners.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 12.05.2015 before S.B.

  
Chairman

4

12.05.2015

Counsel for the appellant and Addl: A.G for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply on 27.7.2015 before S.B.

  
Chairman



*Appellant deposited process fee & security.*

*[Handwritten mark]*

Form- A  
FORM OF ORDER SHEET

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

Case No. \_\_\_\_\_ 83/2015


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	04.02.2015	<p>The appeal of Mr. Shahidullah resubmitted today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	9-2-15	<p>This case is entrusted to Bench <u>I</u> for preliminary hearing to be put up thereon <u>12-02-2015</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Shahidullah Ex-Constable No.3753 Distt. Police Peshawar received to-day i.e. on 28.01.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Annexure-B of the appeal is illegible which may be replaced by legible/better one.
- 3- Copies of charge sheet, statement of allegations, show cause notice and replies thereto are not attached with the appeal which may be placed on it.

No. 104 /S.T,

Dt. 29/1 /2015

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Muhammad Asif Yousafzai Adv. Pesh.

1. Removed.

2. Removed.

3. The mentioned documents are not served on appellant, therefore couldn't be attached.

Re-submitted  
Asif



**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 83 /2013

Shahid Ullah

V/S

Police Deptt:

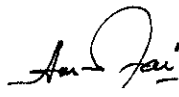
**INDEX**

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Mamo of Appeal	-----	1-3
2.	Copy of notification dated 18.5.2011	A	4
3.	Copy of inquiry report	B	5
4.	Copy of order dated 26.03.2012	C	6
5.	Copy of departmental appeal	D	7
6.	Copy of rejection order	E	8
9.	Vakalat Nama	-----	9

APPELLANT

Shahid Ullah

THROUGH:

  
M.ASIF YOUSAFZAI

  
TAIMUR ALI KHAN

&   
GOHER SAJJAD KHAN

(ADVOCATES, PESHAWAR)

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 83 /2015

Shahid ullah Ex- Constable No.3753,

Capital Police Peshawar.

68  
28-1-2015

VERSUS

1. The Provincial Police Officer, KPK, Peshawar.
2. The Capital City Police, Officer, Peshawar.
3. The Superintendent of Police, Headquarters, Peshawar.

**APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 12.01.2015, WHEREBY THE DEPARTMENT APPEAL OF THE APPELLANT AGAINST THE ORDER DATED 26.03.2012 HAS BEEN REJECTED FOR NO GROUNDS.**

**PRAYER:**

**THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 12.01.2015 AND 26.03.2014 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED WITH ALL BACK BENEFITS. AND ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.**


**R. SHEWETH:**

1. That the appellant joined the police force in the year 1999 and completed all his due trainings etc and also have good service record throughout.
2. That the appellant' mother was ill and her treatment was under process in Saudi Arabia, therefore he applied for Ex- Pakistan leave which was accepted and granted 180 days (6 Months) Ex-Pakistan leave by notification dated 18.5.2011. (Copy of the notification is attached as Annexure-A)

28/1/15

Submitted to  
and filed;

Registered  
28/1/15

- 
3. That the treatment of appellant' mother took longer time, therefore he stayed there and did not come back to Pakistan to join his duty in time. He submitted anther application for extension of Ex- Pakistan leave for a period of 2 years which was not accepted, however the non-acceptance of application for extension of Ex-Pakistan leave was not communicated to the appellant.
  4. That then one sided inquiry was conducted against the appellant but none of the statement was recorded or record examine in presence of the appellant. However ,the appellant was held responsible by the inquiry officer. (Copy of the inquiry report is attached as Annexure-B)
  5. That on 26.03.2012 the penalty of removal from service was imposed upon appellant with out chance of personal hearing and with out serving charge sheet and final show cause notice to the appellant. More the removal from service order was not communicated to appellant till coming back to Pakistan.(Copy of order is attached as Annexure-C)
  5. That on obtaining the copy of order the appellant filed departmental appeal but the same was rejected for no good ground on 12.01.2015. (Copies of departmental appeal and rejection order are attached as Annexure D&E).
  6. That now the appellant come to this august tribunal on the following grounds amongst others

**GROUND:**

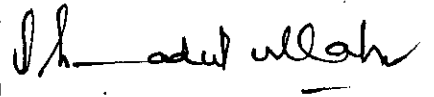
- A) That the impugned order dated 12.01.2015 and 26.03.2012 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That no charge sheet and statement of allegations was served to the appellant which is against the law and rules.
- C) That the appellant has been condemned unheard and has not been treated according to law and rules.
- D) That neither the appellant was associated with the enquiry proceedings nor has any statement of witnesses been recorded in the presence of appellant. Even a chance of cross examination was

also not provided to the appellant which is violation of norms of justice.

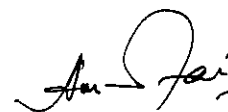
- E) That even no final show cause notice was served on appellant before imposing major penalty of dismissal from service which is the violation of principal of personal hearing and fair play.
- F) That the appellant has not been treated under proper law despite he was a civil servant of the province, therefore, the impugned order is liable to be set aside on this score alone.
- G) That the penalty of removal from service is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law.
- H) That the appellant did not intentionally absented himself from duties but his mother was ill due to which he could reported back for duty in time. As the illness of appellant's mother was beyond his control, therefore the appellant was remained absent from his duties due to compelling circumstances.
- I) 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.

APPELLANT  
Shahidullah



THROUGH:



M.ASIF YOUSAFZAI



TAIMUR ALI KHAN

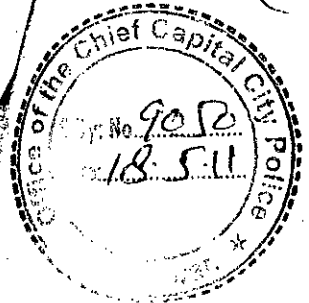
&   
GOHER SAJJAD KHAN

(ADVOCATES, PESHAWAR)

A (4) P

FOR PUBLICATION IN THE KHYBER  
PAKHTUNKHWA, POLICE GAZETTE PART-II  
ORDERS BY THE PROVINCIAL POLICE OFFICER  
KHYBER PAKHTUNKHWA, PESHAWAR.

in Roll (



NOTIFICATION

Dated: 18/5/2011

No. 11453 /E-II, EX-PAKISTAN LEAVE: Constable Shahidullah  
No. 3753 of Capital City Police Peshawar is hereby granted 180 days (6  
months) Ex-Pakistan leave from the date of availing under the Civil  
Servant Revised Leave Rules 1981 on the following conditions.

1.	Leave on full pay	=	120 days.
2.	Leave on half (1/2) pay	=	60 days
	<b>Total</b>	=	<b>180 days</b>

He is allowed to proceed abroad.

Sd/-

**KHALID MASOOD**

Add: IGP/Headquarters,  
For Provincial Police Officer,  
Khyber Pakhtunkhwa  
Peshawar

No. 11454 /E-II

Copy of above is forwarded for information and necessary  
action to the Capital City Police Officer Peshawar w/r to his Memo  
No. 8064/CRC dated: 16.05.2011. His service roll is returned herewith  
for record in your office.

- C.C.P.O. \_\_\_\_\_
- SSP/O \_\_\_\_\_
- SSP/A \_\_\_\_\_
- SP/Cantt \_\_\_\_\_
- SP/City \_\_\_\_\_
- SP/Rural \_\_\_\_\_
- SP/Sec \_\_\_\_\_
- SP/HQ \_\_\_\_\_
- SP/T.O \_\_\_\_\_
- SP/T. HQ \_\_\_\_\_
- DSP/L/OS \_\_\_\_\_
- P.O./C.C. \_\_\_\_\_
- PA/EC-II \_\_\_\_\_
- AS./C.Cs!! \_\_\_\_\_

CRC ✓  
18/5/11

*Handwritten signature*

*oBC*

pp3 attached  
above

*Handwritten signature*  
(NAIK AHMAD)

Registrar  
For Provincial Police Officer,  
Khyber Pakhtunkhwa  
Peshawar

**ATTACHED**

RECEIVED  
DATE: 12-5-11

*Handwritten notes:*  
Received to be kept in the book  
of order 11453  
PK  
to be kept in the book

B (5) ~~10/11/11~~  
H  
(37)

To: - The Superintendent of Police  
Head Quarters, Peshawar

Subject: - DISCIPLINARY ACTION AGAINST CONSTABLE SHAHID NO  
3753 OF DAR, PESHAWAR

MEMO:

Please refer to your office Endorsement No 496 E/PA dated  
01.12.2011 on the subject noted above.

The instant enquiry has been initiated against Constable Shahid No  
3753, on the order of SP/HQ, Peshawar vide letter No 496/E/PA dated  
01.12.2011, on the charge that while posted at Police Line Peshawar he  
absented himself from lawful duty w.e.f 20.11.2011 to till-date without leave  
or permission. The undersigned was appointed as Enquiry Officer to enquire into  
the conduct of the accused official.

A summons Nos. No. 01/ST dated 06.01.2012 was issued to  
R.I/L.C. to inform the under-enquiry constable to appear before the under-  
signed & to record his statement. In reply the concerned officer by date in  
summon that the defaulter police official after Ex-Pakistan leave he remained  
absent w.e.f. 22.11.2011 to till-date vide DP No 16, dated 22.11.2011

FINDING

It is evident from the reply of R.I/L.C. that besides the above  
absence duration the defaulter police official also remained absent w.e.f  
22.11.2011 & did not bother to report at his place of posting so far. It means that  
the under-enquiry police official is not keen in his official duty. The under-enquiry  
therefore, constrained to award him the major punishment - "Dismissal from  
Service". Submitted please.

(GUL NAWAZ JADOONI)  
Enquiry Officer  
Assistant Commissioner of Police  
Township Peshawar

No 10/E/ST/DT/11

Issue fined  
Show Enquiry Officer

ATTESTED

13/11/11

**BETTER COPY**

**Annexue-B**  
**(Page-5)**

To

The Superintendent of Police,  
Head Quarters, Peshawar.

Subject: **Disciplinary Action against Constable Shahid No.3753**  
**of DAR Peshawar**

Memo:

Please refer to your office Endorsement No.496/E/PA; dated 01.12.2011 on the subject cited above.

The instant enquiry has been initiated against Constable Shahid No.3753, on the order of SP/HQ, Peshawar vide letter No.496/E/PA; dated 01.02.2011, on the charge that while posted at Police Line, Peshawar be absented himself from lawful duty w.e.from 20.11.2011 to till date without leave or permission. The undersigned was appointed as Enquiry Officer to scrutinize the conduct of the accused official.


A summon order No.01/ST; dated 06.01.2012 was issued to R.I/L.O. to inform the under enquiry constable for appearing before the undersigned and to record his statement. In reply the concerned authority stated in summon that the defaulter police official after Ex-Pakistan leave be remained absent w.e.from 22.11.2011 to till-date vides DD No.16, dated 22.11.2011.

**FINDINGS:**

It is evident from the reply of R.I/D.O. that besides the above absence duration the defaulter police official also remained absent w.e.from 22.11.2011 and did not bother to report at his place of posing so far. It means that the under enquiry police official is not keen in his official duty. The undersigned is, therefore, constrained to award him the major punishment of Dismissal from Service" Submitted please.

Sd/- (Gul Nawaz Jadoon)  
Enquiry Officer,  
Sub Divisional Police Officer,  
Town Circle, Peshawar.

**ATTESTED**



ORDER.

This office order relates to the disposal of formal departmental enquiry against Constable Shahid Ullah No.3753 of Capital City Police Peshawar on the allegations that he was proceeded on Ex-Pakistan leave for 180-days vide CPO Order Endst: No.11454/E-II dated 17.05.2011. He submitted another application to W/PPO KPK Peshawar for extension of Ex-Pakistan leave for a period of 02-years vides Endst: No.240-48/E-II dated 05.11.2011. The same application was filed by the competent authority vide letter NO.2639/E-II dated 21.12.201. He was required to be reported arrival after expiry of Ex-Pakistan leave but he remained absent from 20.11.2011 till date without taking permission or leave.

In this regard, he was issued charge sheet and summary of allegations vide No:15/E/PA/SP/H.Qrs, dated 10.01.2012. DSP Civil Secretariat Peshawar was appointed as Enquiry Officer. He conducted the enquiry proceedings and submitted his report that the alleged official is in Suadi Arabia and not present in village. The E.O further recommended for taking ex-parte action against aboved named official vides Enquiry Report No.70-C-S/R dated 29.02.2012.

Moreover, another departmental enquiry was also initiated in the allegation of absence form duty w.e.f 22.11.2011 till date. The said enquiry has been conducted by SDPO Town. He conducted the enquiry and submitted findings that the alleged official found guilty of the charges. The E.O. further recommended major punishment for the accused official vide Enquiry Report No.102-E/ST dated 12.01.2012.

Upon the finding of E.O, he was issued final show cause notice and sent to him on home address through local Police Station, wherein the local Naib Nazim stated that he is presently in Saudi Araia.

In light of the findings of E.O and other metarial available on record, the undersigned came to conclusion that the alleged official has no interest in his official duties and found guilty of the misconduct. Therefore, in exercise of the power vested to me under Police Disciplinary Ruies, 1975, he is removed from service with immediate effect. Hence, the period he remained absent from 20.11.2011 till date is treated without pay.

*Gari*  
SUPERINTENDENT OF POLICE  
HEADQUARTERS, PESHAWAR

OB. NO. 1208 / Dated 26/3/2012

No. 1310-16 PA/SP/dated Peshawar the 26/3/2012

Copy of above is forwarded for information & n/action to:

- ✓ Capital City Police Officer, Peshawar.
- ✓ DSP/HQrs, Peshawar.
- ✓ Pay Office, OASI, CRC & FMC along-with complete departmental file.
- ✓ Officials concerned.

SP/HQrs Punishment folder/Disposal order

**ATTESTED**

SP/HQrs Punishment folder/FINAL SHOW CAUSE NOTICE



خدمتِ جناب سے سی۔ سی۔ بی۔ او مہلے لے کر

جناب عالی!

اپنی بہرائے بجالی سروں

گزارش ہے کہ سائٹ کی والدہ مددگارہ بیگم اور بیٹی پرکاش میں  
انکا علاج حوالہ نہیں ہو سکا تھا۔ اسلئے والدہ کی علاج حوالہ کے لئے سسرور  
عمر زیادہ ہوئی کی ہورت میں سائٹ کے علاج سے غیر حاضر ہونا پڑا  
سائٹ نے سسرور عمر سے بھی لینے کی بھی کافی کوشش کی تھی لیکن بھی  
اسلئے سائٹ کو چھوڑا غیر حاضر ہونا پڑا۔ بائیں وچ سائٹ کے علاج بتایا  
26/3/2012 درخواست حوالہ۔

اسلئے بزرگ در خواست اسلئے کہ سائٹ کو دوبارہ اپنی دیکری پر بحال کرنے  
کا حکم صادر فرمادیں۔ تا کہ سائٹ کی مشکلات میں آسانی ہو۔

بندہ نامیات دعا گو ہے گا۔

العارض

17/9/2014

تقریر

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

آئیڈیا بیج دار ایکس کسٹیل سائید اللہ خان سالفہ نمبر 3753  
موبائل نمبر 03111954480

ATTESTED

ORDER

E (8)

This order will dispose off departmental appeal of ex-constable **Shahid Ullah No. 3753** who was awarded the major punishment of **Removal** from service under PR 1975 by SP/HQRs: vide OB.No. 1208 dated 26.3.2012.

The allegations levelled against him were that the appellant was granted 180-days ex-pakistan leave on his request vide order endst: No. 11454/E-II dated 17.5.2011. on its expiry the appellant submitted another application for extension in the said leave for a period of 02 years, which was processed and examined by the Competent Authority but further leave was not allowed. The appellant then deliberately failed to make his arrival for duty and remined absent from his legitimate duty. 20.11.2011 till his Removal i.e 26.3.2012 (total absence 4-months & 6-days)

Departmental proceedings were initiated against him and DSP-Civil Sectt: was appointed as the E.O. On receipt of the findings of the Enquiry Officer, the SP-HQRs: issued FSCN to the appellant at his home address through local Police, but the appellant being settled in the Saudi Arabia was reluctant to appear.

The relevant record has been perused along with his explanation and also heard him in person in OR on 8/1/2015 but he could not defend himself. The charge of absence stand proved against him. The appeal is also time barred for 2 years and 5 months. The order passed by SP-HQRs: Peshawar is upheld and the appeal is rejected/filed.

*MS*

**CAPITAL CITY POLICE OFFICER,  
PESHAWAR.**

No. 50-55 /PA dated Peshawar the 12.1.2015.

Copies for inf and n/a to the:-

- 1/ SP-HQRs: Peshawar.
- 2/ PO/OASI
- 3/ CRC along with S.R. for making necessary entry.
- 4/ FMC end: complete FM.
- 5/ Official concerned.

APPROVED  
*[Signature]*

# VAKALAT NAMA

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

IN THE COURT OF Service Tribunal Peshawar

Shahid ullah

(Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Police Deptt.

(Respondent)  
(Defendant)

I/We Shahid ullah

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar**, <sup>9 Taimur Ali Khan</sup> to appear, plead, act, compromise, withdraw or refer to arbitration for me/us <sup>3. Goher Sajjad Khan Adv</sup> 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/20

Shahid ullah  
( CLIENT )

ACCEPTED

M. ASIF YOUSAFZAI  
Advocate

TAIMUR ALI KHAN  
Advocate

GOHER SAJJAD KHAN  
Advocate

**M. ASIF YOUSAFZAI**  
Advocate High Court,  
Peshawar.

**OFFICE:**

Room No.1, Upper Floor,  
Islamia Club Building,  
Khyber Bazar Peshawar.  
Ph.091-2211391-  
0333-9103240

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

**Service Appeal No.83/2015.**

Shahid Ullah Ex- Constable No.3753 Police Line Peshawar.....Appellant.

**VERSUS.**

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Superintendent of Police, Hqrs, Peshawar.....Respondents.

**Reply on behalf of Respondents No. 1, 2, & 3.**

**Respectfully shewth:-**

**PRELIMINARY OBJECTIONS.**

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.
3. That the appellant has not come to this Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Honorable Tribunal.
7. That this Hon'able Tribunal has no jurisdiction to entertain the appeal.

**FACTS:-**

- (1) Para No.1 pertains to record, hence needs no comments.
- (2) Para No.2 is correct to the extent that the appellant applied for ex-Pakistan leave which was accepted and he was granted 180 days (06 months) ex-Pakistan leave vide office order No.11453 dated 18.05.2011.
- (3) Para No.3 is correct to the extent that the appellant applied for extension of ex- Pakistan leave but his application was rejected/filed vide letter No.2639/E.II dated 21.12.2011.
- (4) Para No.4 is incorrect. In fact proper departmental enquiry was conducted against him on allegations of willful absence from duty. In this regard, he was issued Charge Sheet and Summary of allegations. DSP Civil Secretariate was appointed as E.O. he conducted the enquiry and submitted his report that the alleged official is found guilty of the allegations leveled against him. The E.O recommended him for ex-Parte action vide enquiry report No.70-C S/R dated 29.02.2012. Another departmental enquiry was also conducted by SDPO town in which he was also recommended for major punishment vide enquiry report No.102-E/ST dated 12.01.2012. Upon the findings of E.Os. He was issued Final Show Cause and sent to him on home address thorough local police station, wherein the local Naib Nazim stated that he is presently in Saudi Arabia. As the allegations leveled against him were stand proved,

No.1208 dated 26.03.2012 by SP Hqrs Peshawar:(copy of inquiry report annexed "A" copy of charge sheet and summary of allegation are annexed "B").


- (5) Para No. 5 is incorrect. In fact the appellant was given full opportunity to defend himself. He was called time and again to defend himself but he did not turn up. Hence he was awarded major punishment of removal from service.
- (6) Para No.6 is correct to the extent that the appellant filed a departmental appeal after a period of about 02 years and 05 months. But after due consideration was filed/rejected vide office order No.50-55/PA dated 12.01.2015.
- (7) That appeal of the appellant being devoid of merits may kindly be dismissed.

**GROUND:-**

- A) Incorrect. The punishment orders are in accordance with law/rules.
- B) Incorrect. The appellant was issued Charge Sheet, summary of allegations but he failed to appear before the E.O.
- C) Incorrect. The appellant was called and heard in person in Orderly Room on 8.01.2015 but he failed to defend himself.
- D) Incorrect. In fact the appellant was given full opportunity to defend himself but he failed to appear before the E.O.
- E) Incorrect. In fact the appellant was issued FSCN and was sent on his home address but he failed to submit his reply to FSCN.(copy annexure "C").
- F) Incorrect. The appellant was rightly proceeded under PR 1975.
- G) Incorrect. The punishment order is lawful and liable to be upheld.
- H) Incorrect. The appellant willfully absented himself from his lawful duty.
- I) Respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

**PRAYER.**

It is therefore most humbly prayed that in light of above facts and submissions, the appeal of the appellant being devoid of merits and legal footing, may kindly be dismissed with cost.



**Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.**



**Capital City Police Officer  
Peshawar.**



**Superintendent of Police  
HQrs, Peshawar.**

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

**Service Appeal No.83/2015.**

Shahid Ullah Ex- Constable No.3753 Police Line Peshawar.....Appellant.

**VERSUS.**

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Superintendent of Police, Hqrs, Peshawar.....Respondents.

**AFFIDAVIT**

We respondents 1, 2, &3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.

  
**Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.**

  
**Capital City Police Officer,  
Peshawar.**

  
**Superintendent of Police  
HQrs:, Peshawar.**

(4)

## CHARGE SHEET

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, hereby, charge that Constable Shahidullah Jan No.3753 City Police Peshawar with the following irregularities.

"That you Constable Shahidullah Jan No.3753 of Capital City Police Peshawar, were proceeded on Ex-Pakistan leave for 180-days vide CPO Order Endst: No.11454/E-II dated 17.05.2011. You submitted another application to PPO KPK Peshawar for extention of Ex-Pakistan Leave for a period of 02 years vide Endst No. 240-48/E-II dated 05.11.2011. The same application was filed by the competent authority vide letter No. 26397/E-II dated 21.12.2011 and you were required to be reported arrival on the expiry of Ex-Pakistan Leave i.e. 11.11.2011 and remained absent till date. This amounts to gross misconduct on your part and is against the discipline of the force."

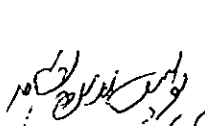
You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

Your written defence, if any, should reach the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that have no defence to put in and in that case exparte action shall follow against you.

Intimate whether you desire to be heard in person.

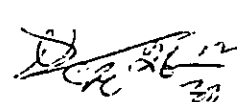
A statement of allegation is enclosed.

  
SUPERINTENDENT OF POLICE,  
HEADQUARTERS, PESHAWAR

 3753  
سید شاہد اللہ خان  
کنستبل

S/P HQ.rs Punishment folder

any documents DELLdocumentsassssssssIE-ITNo Extension is allowed doc

  
26/12/11



(3)

**DISCIPLINARY ACTION**

I, Superintendent of Police, Headquarters, Capital City Police Peshawar as a competent authority, am of the opinion that Constable Shahidullah Jan No.3753 has rendered him-self liable to be proceeded against under Section-3 of NWFP, Removal from Service (Special Power) Ordinance 2000.

**STATEMENT OF ALLEGATION**

"That Constable Shahidullah Jan No.3753 of Capital City Police Peshawar was proceeded on Ex-Pakistan leave for 180-days vide CPO Order Endst: No.11454/E-II dated 17.05.2011. He submitted another application to PPO KPK Peshawar for extention of Ex-Pakistan Leave for a period of 02 years vide Endst No. 240-48/E-II dated 05.11.2011. The same application was filed by the competent authority vide letter No. 26397/E-II dated 21.12.2011 and he was required to be reported arrival on the expiry of Ex-Pakistan Leave i.e. 21.11.2011 and remained absent till date. This amounts to gross misconduct on his part and is against the discipline of the force."

For the purpose of scrutinizing the conduct of said accused with reference to the above allegations an enquiry is ordered and DSP/civil sect is appointed as Enquiry Officer.

2. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused officer, record his finding within 30 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

3. The accused shall join the proceeding on the date time and place fixed by the Enquiry Officer.

*gorkh*  
SUPERINTENDENT OF POLICE,  
HEADQUARTERS, PESHAWAR

No. 15. /E/PA, dated Peshawar the 10/01 /2012

1 DSP/civil sect. is directed to finalize the aforementioned departmental proceeding within stipulated period under the Rule.

2. Official concerned

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15  
12

**FINDINGS:**

I have been appointed as enquiry Officer vide No. 15/E/PA, dated: 10.1.2012 by SP/HQrs to scrutinize the conduct of Constable Shahidullah Jan No. 3753 of Capital City Police, Peshawar was proceeded on Ex-Pakistan leave for 180 days vide CPO Order Endst. No. 11454/E-II, dated: 17.5.2011. He submitted another application to P.P.O Khyber Pakhtunkhwa for extension of Ex-Pakistan leave for a period of 2 years, vide Endst. No. 240-48/E-II, dated: 5.11.2011. The same application was filed by the Competent Authority vide letter No. 26397/E-II, dated: 21.12.2011 and he was required to be reported arrival on the expiry of Ex-Pakistan leave i.e. 20.11.2011 and remained absent till date. His pay was stopped vide OB. No. 117, dated: 8.1.2012 and ordered to initiate Departmental Enquiry by SSP HQrs. He was informed through local police DPO Charsadda vide No. 273/CRC, dated: 5.1.2012 on his home address. But he did not report back till now.

He was summoned through DPO Charsadda to receive the charge-sheet vide this office No. 33-34CS/R, dated: 19.1.2012 but in vain. He was again summoned vide this office letter No. 56-57CS/R, dated: 11.2.2012 through DPO Charsadda. The reply of DPO Charsadda received vide No. 536/GB, dated: 14.2.2012. That according to the report of local police of P/S prang that Constable Shahidullah Jan No. 3753 has gone to Saudi Arabia and not found at his village. In this connection statement of his brother namely Asif was recorded his contact Mobile No. is 03369984196. On 21.2.2012 at 1350 Hrs we contact on above mobile No. of his brother. He was informed about his brother absence. He told that he is on Saudi and not present in village I will inform him by telephone to come back and submit his arrival with in two days. We wait upto date but he did not come to receive charge-sheet in stipulated period which is contrary to rules. He deliberately absented. I come to conclusion that he is not interest to continuance his service being abroad. I take ex-party discussion against him.

It is recommended that he may be awarded major punishment after completion of codal legal formalities, please.

Soke  
Shaw  
multia  
final  
Cans

Supintendent of Police HQrs  
Capital City Police Peshawar

SP-HQrs  
29/2/12

D.S.P (Security),  
Civil Secretariat,  
Peshawar.

4  
27

12K  
Leave  
order

249

## FINAL SHOW CAUSE NOTICE

I Superintendent of Police, Headquarters, Capital City Police, Peshawar as competent authority, under the provision of Police Disciplinary Rules 1975 do hereby serve you Constable Shahid Jan No.3753 of Capital City Police, Peshawar as follows.

1 (i) That consequent upon the completion of enquiry conducted against you by the enquiry officer for which you were given opportunity of hearing.

(ii) On going through the findings and recommendation of the enquiry Officer, the material on record and other connected papers produced before the E.O.

I am satisfied that you have committed the following acts/omissions specified in Police Disciplinary Rules 1975 of the said Ordinance.

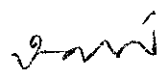
"That you Constable Shahid Ullah No.3753 of Capital City Police Peshawar, were proceeded on Ex-Pakistan leave for 180-days vide CPO Order Endst: No.11454/E-II dated 17.05.2011. You submitted another application to PPO KPK Peshawar for extension of Ex-Pakistan leave for a period of 02 years vides Endst: No.240-48/E-II dated 05.11.2011. The same application was filed by the competent authority vide letter No.26397/E-II dated 21.12.2011 and you were required to be reported arrival on the expiry of Ex-Pakistan leave i.e 20.11.2011 and remained absent till date. This act amounts to gross misconduct on your part and against the discipline of the force"

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of major punishment under Police Disciplinary Rules 1975 for absence willfully performing duty away from place of posting.

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within 7 days of its delivery, in normal course of circumstances, it shall, be presumed that you have no defence to put in and in that case as ex-parate action be taken against you.

5. The copy of the finding of the enquiry officer is enclosed.

  
SUPERINTENDENT OF POLICE,  
HEADQUARTERS, PESHAWAR

No. 15 /PA, SP/HQrs: dated Peshawar the 3-3 /2012.

Copy to official concerned

**BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.**

**Service Appeal No. 83/2015**

Shahid Ullah

VS

Police Deptt:

.....

**JOINT REJOINDER ON BEHALF OF APPELLANT**

.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(1-7) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

- 1 No comments endorsed by the respondent's department which mean that they have admitted Para-1 of the appeal as correct. Moreover, the appellant record is already in custody of respondent's department.
- 2 In his Para replying respondents admitted correct Para-2 of the appeal as mentioned in the main appeal of the appellant. Moreover, appellant acquired Ex-Pakistan Leave for his mother illness because appellant's mother treatment was under process in Saudi Arabia.
- 3 In his Para replying respondents admitted correct Para-3 of the appeal as mentioned in the main appeal of the appellant while remaining Para-3 of the appeal is not denied by the respondents which mean that they have also admitted remaining Para-3 of the appeal as correct. Moreover, rejection of application for extension of Ex-Pakistan Leave was not communicated to the appellant.

- 4 Incorrect. While Para-4 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, no proper inquiry was conducted and no codal formalities were fulfilled before imposing major penalty.
- 5 Incorrect. While Para-5 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, appellant condemned unheard which is violation of principal "Audi Alteram Palteram".
- 6 In first portion of his reply replying respondents admitted half Para-6 of the appeal as correct. Moreover, remaining Para-6 of the reply is incorrect while Para-6 of the appeal is correct as mentioned in the main appeal of the appellant.
- 7 Incorrect. The appellant has good cause of action and his appeal is liable to be accepting on the following grounds.

**GROUND:**


- A) Incorrect. While Para-A of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, order dated 12.1.2015 and 26.3.2012 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) Incorrect. While Para-B of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, no charge sheet and statement of allegation were served upon the appellant.
- C) Incorrect. While Para-C of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, appellant was not treated according to law and appellant condemned unheard which is violation of principal "Audi Alteram Palteram".
- D) Incorrect. While Para-D of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, no opportunity was provided to the appellant to defend himself and Ex-party proceeding was taken against the appellant which is against the law and rules.

- E) Incorrect and misconceived. While Para-E of the appeal is correct as mentioned in the main appeal of the appellant.
- F) Incorrect. While Para-F of the appeal is correct as mentioned in the main appeal of the appellant.
- G) Incorrect. While Para-G of the appeal is correct as mentioned in the main appeal of the appellant.
- H) Incorrect. While Para-H of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, appellant never remained absent willfully.
- I) Legal.

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

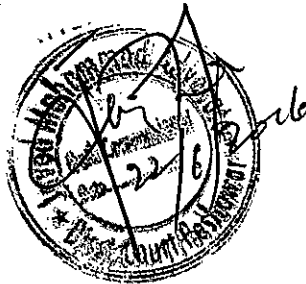
**APPELLANT**

**Through:**

  
**(M. ASIF YOUSAFZAI)**  
**ADVOCATE, PESHAWAR.**

**AFFIDAVIT**

It is affirmed and declared that the contents of rejoinder and appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from the Hon'able Tribunal.



  
**DEPONENT**