

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 559/2018

Date of Institution ... 19.04.2018

Date of Decision ... 01.02.2022

Ihsan Ullah, Ex-Constable, No.88 District Hangu.

... (Appellant)

VERSUS

The Regional Police Officer, Kohat Region, Kohat and one another.

... (Respondents)

Uzma Syed,
Advocate

... For Appellant

Noor Zaman Khattak,
District Attorney

... For respondents

AHMAD SULTAN TAREEN ...
ATIQ-UR-REHMAN WAZIR ...

CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):-

Brief facts of the case

are that the appellant was appointed as Constable in Police Department in the year 2009. During the course of his service, the appellant was proceeded against on the charges of absence from duty and was ultimately dismissed from service vide order dated 04.01.2013. Feeling aggrieved, the appellant filed departmental appeal which was rejected vide order dated 20.03.2018, hence the instant service appeal with the prayers that the orders dated 20.03.2018 and 04.01.2013 may be set aside and the appellant may be reinstated in service with all back benefits.

02 Learned counsel for the appellant has contended that the appellant has not been treated in accordance with law, rule and policy on the subject and acted in

violation of Article-4 of the Constitution and the appellant has been dismissed from service without adhering to the legal process as prescribed by law; that absence of the appellant was not willful but was due to compelling reason of his illness and such stance has already been taken by the appellant in his departmental appeal, but the respondents did not take into consideration the reason of his illness and in this regard the appellant had also submitted medical prescriptions; that neither charge sheet/statement of allegations was served upon the appellant nor any regular enquiry was conducted into the matter and the appellant was also not provided opportunity of personal hearing therefore, the appellant was condemned unheard; that the impugned order was passed with retrospective effect which is void in the eye of law as per judgments of Superior Court reported as 1985 SCMR 1178 and 2006 PLC 221; that the impugned order is void, therefore, no limitation run against void order as per judgment of august Supreme Court of Pakistan reported as 2015 SCMR 795; that the impugned orders passed by the respondents are illegal and liable to be set aside. Reliance was placed on 2007 SCMR 834, PLD 2002 Supreme Court 84, PLC (C.S) 161, 2009 SCMR 339, 2009 SCMR 412 & 2008 SCMR 214.

03. Learned District Attorney for the respondents has contended that the appellant was dismissed from service vide order 04.01.2013 on the allegation of absence from lawful duty without permission of the competent authority; that the appellant was issued charge sheet and statement of allegations but the appellant did not submit reply of the same nor did he join the enquiry proceedings till completion of departmental proceedings; that the appellant filed department appeal (undated) which was rejected on 20.03.2018 being badly barred by time for about 05 years, therefore, the present service appeal is not maintainable and liable to be dismissed on this ground alone; that the impugned order was passed after observing all the legal and codal formalities, therefore, the appeal in hand may be dismissed with cost.


04. We have heard learned counsel for the parties and have perused the record.


05. Record reveals that the appellant was dismissed from service vide order dated 04-01-2013 on the allegation of absence from duty. The appellant filed departmental appeal, though with considerable delay, which was also rejected vide order dated 20-03-2018 on the issue of limitation. Record would suggest that the appellant was proceeded against in absentia and nothing is available on record to suggest that charge sheet/statement of allegation was served upon the appellant. Similarly no regular inquiry was conducted against the appellant, hence the appellant was kept deprived of the opportunity to defend his cause. Since the proceedings were conducted without adhering to the method prescribed in law, hence no limitation runs against such appeal. The appellant had taken the stance of his illness, which was also was not taken into consideration, which however was not warranted as the leave without permission of the competent authority on medical grounds does not constitute gross misconduct entailing major punishment of dismissal from service. Even otherwise, regular inquiry is must before imposition of major penalty of dismissal from service, which however was not done in case of the appellant.

06. In circumstance, we are inclined to partially accept the instant appeal. The appellant is re-instated in service for the purpose of de-novo inquiry with direction to the respondents to conduct de-novo inquiry in accordance with law and rule. Needless to mention that the appellant shall be afforded appropriate opportunity of defense and the proceedings should be completed within 90 days from the date of receipt of the said judgment. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

01.02.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


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

ORDER
01.02.2022

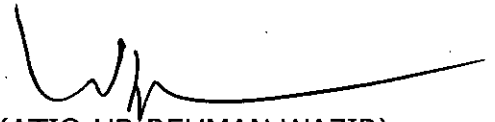
Learned counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, we are inclined to partially accept the instant appeal. The appellant is re-instated in service for the purpose of de-novo inquiry with direction to the respondents to conduct de-novo inquiry in accordance with law and rule. Needless to mention that the appellant shall be afforded appropriate opportunity of defense and the proceedings should be completed within 90 days from the date of receipt of the said judgment. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
01.02.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN



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

15-12-21

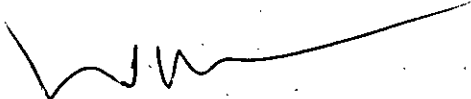
DB is on Tour case to come up
For the same on Dated. 31-1-22

Reader

31.01.2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Due to paucity of time, arguments could not be heard. To come up for arguments on 01.02.2022 before the D.B.


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


Chairman

559/18

26.10.2020 Junior to counsel for the appellant and Addl. AG for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 31.12.2020 for hearing before the D.B.



(Atiq-ur-Rehman Wazir)
Member



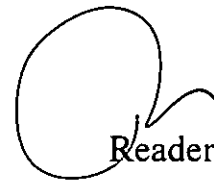
Chairman

31.12.2020 Due to summer vacation, case is adjourned to 12.04.2021 for the same as before.



Reader

12.04.2021 Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 26.07.2021 for the same as before.



Reader

26.07.2021 Appellant present through counsel.

Mr. Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Former made a request for adjournment. Adjourned. To come up for arguments on 15.12.2021 before D.B.




(Rozina Rehman)
Member (J)



Chairman

02.01.2020

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 09.03.2020 for arguments before D.B.



(Hussain Shah)
Member



(Mr. Amin Khan Kundi)
Member

09.03.2020

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 11.05.2020 before D.B.



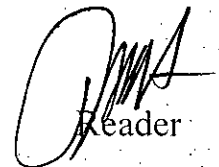
Member



Member

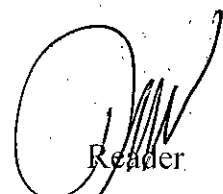
11.05.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 06.08.2020 before D.B.


Reader

06.08.2020

Due to summer vacation case to come up for the same on 26.10.2020 before D.B.


Reader

559/18

11.06.2019

Appellant alongwith counsel and Mr. Ziaullah DDA alongwith Zahidur Rahman, Inspector (Legal) for the respondents present.

Due to paucity of time the matter is adjourned to 02.08.2019 for arguments before the D.B.


Member


Chairman

02.08.2019

Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 24.10.2019 before D.B.


Member


Member

24.10.2019

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Abdur Rauf, Steno for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 02.01.2020 for arguments before D.B.

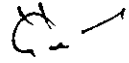

(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

04.01.2019

Learned counsel for the appellant and Mr. Riaz Khan Paindakheil learned Assistant Advocate General present. Learned counsel for the appellant submitted rejoinder which is placed on file and seeks adjournment. Adjourn. To come up for arguments on 04.03.2019 before D.B



Member



Member

04.03.2019

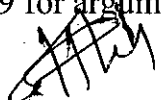
Counsel for the appellant present. Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Zahid-ur-Rehman, Inspector (Legal) for the respondents present. Learned counsel for the appellant submitted rejoinder. Copy of the same is handed over to learned Assistant AG. Adjourn. To come up for arguments on 17.04.2019 before D.B.


(M. HAMID MUGHAL)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

17.04.2019

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Zahid-ur-Rehman, Inspector (Legal) for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned to 11.06.2019 for arguments before D.B.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

08.08.2018

Counsel for the appellant and Mr. Kabirullah Khattak, AAG for the respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 03.10.2018 before S.B.



Muhammad Amin Khan Kundi
Member

03.10.2018

Appellant alongwith his counsel present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Representative of the department is not in attendance therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply positively on the next date. Adjourned. To come up for written reply/comments on 16.11.2018 before S.B.

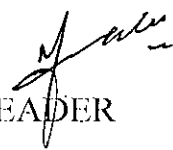


(Muhammad Amin Khan Kundi)
Member

ACA

16.11.2018

The learned Chairman has not yet assumed the charge. Therefore, the case is adjourned. To come up on 04.01.2019. Written reply received on behalf of respondents by Mr. Zahid Ur Rehman Inspector and placed on file.


READER

26.06.2018

Counsel for the appellant Ihsanullah present. Preliminary arguments heard. Learned counsel for the appellant contended that the appellant was serving in Police Department however during service he was dismissed from service on the allegation of his absence from duty vide order dated 14.01.2013. It was further contended that the impugned order was passed by the competent authority from the date of his absence i.e retrospectively therefore, the impugned order is void and no limitation run against the impugned order. It was further contended that the appellant file departmental appeal which was rejected hence the present service appeal. It was further contended that neither proper inquiry was conducted nor any opportunity of personal hearing was provided to the appellant therefore, the impugned order is illegal and liable to be set-aside.

The contention raised by learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days thereafter notice be issued to the respondents for written reply/comments for 08.08.2018 before S.B.

Appellant Deposited
Security & Process Fee


(Muhammad Amin Khan Kundi)
Member

reply/comments on 03.10.2018 before S.B.
Requested for adjournment. Adjournd. To come up for written
AAG for the respondents present. Written reply not submitted.
FORM OF ORDERSHEET
Counsel for the appellant and Mr. Kabirullah Khattak,
Court of

08.08.2018

Case No. 559/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	19/04/2018	<p>The appeal of Mr. Ihsanullah presented today by Uzma Syed Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 19/4/18</p>
2-	23/04/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>07/05/18</u>.</p> <p style="text-align: right;"><i>[Signature]</i> MEMBER</p>
	07.05.2018	<p>The Tribunal is non functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on <u>26.06.2018</u> before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> Reader</p>

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 559 /2018

Ihsan Ullah

V/S

Police Deptt:

INDEX

S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	1-4
2.	Copy of impugned order	-A-	05
3.	copy of departmental appeal	-B -	06
4.	Copy of rejection order	-C-	07
5.	Vakalat Nama	-----	08

APPELLANT

THROUGH:


(UZMA SYED)


SYED NOMAN ALI BUKHARI
(ADVOCATES, PESHAWAR)

Date: 19 / 4 /2018

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 559 /2018

Ihsan Ullah , EX- Constable, No.88
District Hangu.

Khyber Pakhtukhwa
Service Tribunal

Diary No. 595

Dated 19-4-2018

.....(Appellant)

VERSUS

1. The Regional Police Officer, Kohat region, Kohat.
2. The District Poice officer, Hangu.

.....(Respondents)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE REJECTION ORDER DATED 20.03.2018 OF RESPONDENT NO. 1, WHEREBY THE DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 04.01.2013 HAS BEEN REJECTED FOR NO GOOD GROUNDS.

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDERS DATED 20.03.2018 AND 14.01.2013 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED IN TO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

Filed to-day
Registrar
19/4/18

RESPECTFULLY SHEWETH:

FACTS:

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

1. That the appellant was appointed as Constable in Police and the appellant performed his duties with entire satisfaction of his superiors and also has good service record throughout.
2. That the appellant had been seriously ill due to which appellant didn't perform his duties so the absence of the appellant was not willing full but due to serious illness.
3. That, thereafter, the appellant was departmentally proceeded, without charge sheet, statement of allegation, regular inquiry and even without showcause notice, the impugned order dated 04.01.2013 was passed against the appellant whereby the appellant was dismissed from service with retrospective effect. The appellant was aggrieved from the impugned dismissal order preferred departmental appeal but the departmental appeal of the appellant was rejected vide order dated 20.03.2018 for no good grounds. **Copy of impugned order, departmental appeal and rejection order is attached as Annexure-A, B & C.**
4. That now the appellant comes to this august Tribunal on the following grounds amongst others.

GROUND:

- A) That the appellant has not been treated in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan 1973 by the respondents and the appellant has been dismissed from his legal service without adopting legal Pre-requisite mandatory Legal procedure. The order passed in violation of mandatory provision of law, such order is void and illegal order according to larger Bench Decision of this Hon'able Tribunal. Hence the impugned order is liable to be set aside.
- B) That the impugned order was retrospective order which was void in the eye of law and also void according to Superior Court Judgment reported as 1985 SCMR 1178, 2006 PLC 221 and KPK Service Tribunal Judgment titled as Abdul Shakoore Vs Govt of KPK.

- C) That the appeal of the appellant was rejected on the ground that the appeal is time barred but according to superior court judgment reported as 2015 SCMR 795 and judgment of larger bench of this Hon'able Tribunal there is no limitation was run against the void order.
- D) That neither charge sheet, statement of allegation, show cause notice was not served upon the appellant nor was inquiry conducted against the appellant, which was necessary and mandatory in law before imposing major punishment which is violation of law, rules and norms of justice.
- E) That the appellant has not been treated according to law despite he was a civil servant of the province, therefore, the impugned order is liable to be set aside on this score alone.
- F) That no chance of personal hearing was provided to the appellant and as such the appellant has been condemned unheard throughout.
- G) That according to superior Court Judgment, where any law provided and not followed by the authority and penalty order was passed such order is void order.
- H) That no regular enquiry has been conducted nor the enquiry office is rebutted the plea of illness of the appellant because as medical prescription have not been cross examined from the concerned Doctor, and in case of any doubt the authority was required to refer the matter to Medical Board for their opinion. therefore, without adopting that procedure the impugned penalty order has been passed which is not sustainable in the eyes of law.
- I) That there is no order in black and white form to dispense with the regular inquiry which is violation of law and rules and without charge sheet, statement of allegation and proper inquiry the appellant was dismissed from the service vide order dated 04.01.2013 without given personal hearing which is necessary and mandatory in law and rules before imposing major penalty. So the whole procedure conducted has nullity in the eye of law. So the impugned order is liable to be set aside.
- J) That the appellant has been condemned unheard and has not been treated according to law and rules.
- K) That neither charge sheet, statement of allegation, show cause notice was served upon the appellant nor inquiry was conducted against the appellant, which was necessary and mandatory in law before imposing major punishment which is violation of law, rules and norms of justice.

- L) 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.
- M) That no chance of personal hearing was provided to the appellant and as such the appellant has been condemned unheard throughout.
- N) 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.

احسان ullah
APPELLANT
Ihsan Ullah

THROUGH:

uzma
(UZMA SYED)
Syed Noman Ali Bukhari &
(SYED NOMAN ALI BUKHARI)
ADVOCATES, PESHAWAR

Date: 19 / 4 / 2018

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Annex - A

ORDER

This order of mine will dispose off the departmental enquiry initiated against Constable Ihsanullah No. 88 while posted at Abdul Ali Post Jowzara absented himself from official duty without any leave or prior permission from his senior with effect fro 25.10.2012 to till now which shows his negligence, disinterest and gross misconduct on his part which can not be ignored.

Charge sheet together with statement of allegations was issued to him, to which he failed to submit his reply. Inspector Sona Khan ASDPO Hangu was appointed as Enquiry Officer to conduct departmental enquiry against him under Police Disciplinary Rules 1975. After completion of enquiry, the Enquiry Officer submitted his findings on 18.12.2012 and recommended him for major punishment.

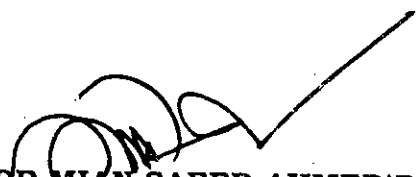
Thereafter, he was called for Orderly Room on 01.01.2013 but he deliberately did not appear before the undersigned.

Keeping in view of above and having gone through available record, the undersigned has come to the conclusion that the defaulter constable absented himself from duty, failed to appear and defend himself, which indicates that he was not interested to serve further. Moreover, in these circumstances his retention in Police Department is burden on public exchequer, therefore, I, Dr. Mian Saeed Ahmed, PSP District Police Officer, Hangu in exercise of the powers conferred upon me, awarded him major punishment of Dismissal from Service from the date of his absence.

Order Announced.

OB No. 06

Dated 4/1 /2013.


(DR MIAN SAEED AHMED)PSP
DISTRICT POLICE OFFICER,
HANGU.


OFFICE OF THE DISTRICT POLICE OFFICER, HANGU.

No. 36-40 /PA, dated Hangu, the 07/01/2013.

Copy of above is submitted to the Regional Police Officer, Kohat Region, Kohat for favour of information please.

2. Accounts Clerk, Reader, SRC & OHC for necessary action.


(DR MIAN SAEED AHMED)PSP
DISTRICT POLICE OFFICER,
HANGU.


ATTESTED

To:-

The Regional Police Officer, Kohat.

Subject:- Application Re-instatement.

With profound respect I have the honour to submit the following few lines for your kind consideration:-

1. That I was enlisted in Police Department on 16.09.2009.
2. That I have served in Police Department up to the satisfaction of my senior officers.
3. That the appellatant while posted at Abdul Ali Post Jowzara in the year 2012.
4. That unfortunately I fell ill at home and could not report to his senior.
5. That I have been awarded exemplary and harsh punishment dismissed from service.

Prayer:- it is therefore, requested that the order of District Police Officer Hangu dated 04.01.2013 may kindly be set-aside and I being the poorest Ex-Constable of District Police Hangu may be re-instated in service so as to save the poor family from starvation please.

ایمان ullaہ

Ex-Constable Ihsan Ullah No. 88

District Police Hangu

Dated:-

ATTESTED

Phone No: 9260112.

Fax No: 9260114.

Annex - c (7)

From: - The Regional Police Officer,
Kohat Region, Kohat.

To: - The District Police Officer, Hangu.

No. 2935 /EC, Dated Kohat the 20 / 3 /2018.

Subject: - APPEAL.

MEMO:

The attached appeal, preferred by Ex-FC Ihsan Ullah No. 88 of Hangu district Police, was examined and filed by W/RPO Kohat being badly time-barred about 05-years.

He may be informed accordingly please.

Jar
Regional Police Officer,
Kohat Region

20/03/2018

S
ATTESTED

بعدالت

Service Tribunal, Peshawar

۲۰۱۷ء منجانب
اصناف اللہ بنام

دولیس

موردہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکہ

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

آن مقام پشاور کے لیے عطا شدہ نوٹس اور جواب

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقریر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زر میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی

اور منسوخی نیز دائر کرے، اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے

اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے

سب سے دہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں

گے۔ کہ پیروی مذکور کریں۔ لہذا کالت نامہ لکھد یا کہ سندر ہے۔

Attested

Accepted

۲۰۱۷

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ماہ

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المرقوم

العہدہ

کے لئے منظور ہے۔ Peshawar

مقام

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

Service Appeal No.559/2018

Ihsan Ullah

..... Appellant.

VERSUS

Regional Police Officer, Kohat and other

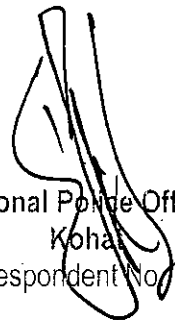
..... Respondents.

COUNTER AFFIDAVIT

We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Tribunal.



District Police Officer,
Hangu
(Respondent No. 2)



Regional Police Officer,
Kohat
(Respondent No. 1)

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

Service appeal No. 559/2018
Ihsan Ullah

..... Appellant.

VERSUS

Regional Police, Officer, Kohat and other

..... Respondents..

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Respectively Sheweth:-

Parawise comments are submitted as under:-

Preliminary Objections:-

- a. That the appellant has got no cause of action.
- b. That the appellant has got no locus standi.
- c. That the appeal is not maintainable in the present form.
- d. That the appellant has not come to this Hon: Tribunal with clean hands.
- e. That the appeal is bad for non-joinder of necessary parties.
- f. That the appeal is badly time barred for the period of about 05 years.

FACTS:-

1. The appellant was enlisted as constable on 16.02.2009 and during his short span of service about 03 years, he willfully absented from lawful duty.
2. Incorrect, the appellant willfully absented from lawful duty. The appellant did not make proper request for any kind of leave.
3. Incorrect. Proper Charge Sheet and statement of allegation was issued and the appellant was proceeded with departmentally in accordance with law & rules. The appellant neither reported his arrival nor join inquiry proceedings till the disposal of departmental inquiry. Furthermore, the departmental appeal of the appellant was found badly time barred for about 05 years.
4. Incorrect, the appellant has not approached the Honorable Tribunal with clean hands.

GROUND:-

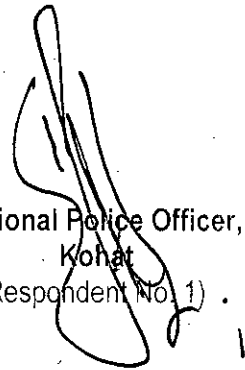
- A. Incorrect, the appellant was treated departmentally in accordance with law & rules.
- B. The appellant did not report his arrival during the inquiry proceedings, therefore, the order was correctly passed according to law and rules.
- C. Correct, the departmental appeal was rejected /filed on limitation. Furthermore, each and every case has its own merit and facts.

- D. Incorrect, the charge sheet alongwith statement of allegation was issued accordingly but the appellant was not found at his home and the appellant was fully in knowledge of departmental proceedings initiated against him.
- E. Incorrect, the appellant was treated in accordance with law & rules.
- F. The appellant was willfully absent and did not bother to join the proceedings willfully.
- G. Each and every case has its own facts and merits.
- H. Incorrect, proper departmental inquiry was conducted against the appellant.
- I. Incorrect, the appellant willfully absented himself from lawful duty w.e.from 25.02.2012 till the final order of proceedings dated 04.01.2013. Furthermore, the delay of about 05 years in filling appeals also speaks the willful delay on the part of appellant and his disinterest in service.
- J. Incorrect, as submitted in the above para, the delay speaks of his disinterest in service.
- K. Incorrect, the appellant was not found at his home.
- L. Incorrect, the appellant was treated in accordance with law & rules.
- M. Detail reply is submitted in para No. I & J.
- N. The respondents may also be allowed to advance grounds at the time of arguments.

Keeping in view of the above, the appeal is badly time barred, without merit and not substantiated. It is, therefore, prayed that the appeal may kindly be dismissed with cost please.



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District Police Officer,
Hangu
(Respondent No. 2)



Regional Police Officer,
Kohat
(Respondent No. 1)

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

In S.A# _____/2019

Ihsan ullah

Versus

Police Deptt

INDEX

S#	Description of documents	Page No
1	Rejoinder	1-5
2	Affidavit	6

Dated: 04/01/2019

Appellant

Through


UZMA SAYED
Advocates Peshawar

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

In S.A# _____/2019

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REJOINDER ON BEHALF OF THE
APPELLANT

Respectfully Sheweth,

Preliminary objections:-

(A-G) All objections raised by the respondents are incorrect and baseless. Rather the respondents are stopped to raise any objection due to their own conduct.

Facts:-

1. Admitted correct by the respondents as the service record is lying in the custody of the respondents.

2. Incorrect, while Para-2 of the appeal is correct as mentioned in the main appeal of the appellant.

3. Incorrect, while Para-3 of the appeal is correct as mentioned in the main appeal of the appellant.

4. Incorrect, hence denied misleading, while Para-4 of the appeal is correct as mentioned in the main appeal of appellant.

Grounds:-

A. Incorrect, the orders of the respondents are against the law and norms of Justice, 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.

C. Incorrect, while Para-C of the appeal is correct as mentioned in the main appeal of the appellant.

D. Incorrect, while Para-D of the appeal is correct as mentioned in the main appeal of the appellant.

E. Incorrect, 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.

I. Incorrect, while Para-I of the appeal is correct as mentioned in the main appeal of the appellant.

J. Incorrect, while Para-J of the appeal is correct as mentioned in the main appeal of the appellant.

K. Incorrect, while Para-K of the appeal is correct as mentioned in the main appeal of the appellant.

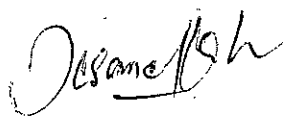
L. Incorrect, while Para-L of the appeal is correct as mentioned in the main appeal of the appellant.

M. Incorrect, while Para-M of the appeal is correct as mentioned in the main appeal of the appellant.

N. Incorrect, while Para-N of the appeal is correct as mentioned in the main appeal of the appellant.

It is, therefore, most humbly prayed that on acceptance of instant rejoinder, the appeal of the appellant may graciously be allowed, as prayed for therein.

Dated: 04/01/2019


Appellant

Through


UZMA SAYED
Advocates Peshawar

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

In S.A# _____/2019

Ihsan ullah

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AFFIDAVIT

I, Ihsan ullah S/o Gull Muhammad R/o Ajgharo Banda P/o Hangu, Tehsil and District Hangu, do hereby solemnly affirm and declare on oath that contents of the Rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.



Deponent

CNIC:14101-0990443-1

1/2/2022 DB. Pesh T,

Ihsanullah

Impugned order. 7/1/2013
(Dismissal)

D.A -
Rejected

un-dated.
20/3/18.