

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1074/2017

Date of Institution ... 15.09.2017

Date of Decision ... 28.01.2022

Atta Ur Rehman S/o Said Rehman Ex-Constable at District Lower Dir R/o Village Palosadag Tehsil Munda District Lower Dir.

... (Appellant)

VERSUS

District Police Distt: Lower Dir and others.

... (Respondents)

Appellant ... In Person

Muhammad Adeel Butt,
Additional Advocate General ... For respondents

AHMAD SULTAN TAREEN ... **CHAIRMAN**
ATIQU-UR-REHMAN WAZIR ... **MEMBER (EXECUTIVE)**

JUDGMENT

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

Brief facts of the

case are that the appellant while serving as Constable in Police Department was proceeded against on the charges of absence from duty and was ultimately dismissed from service vide order dated 10-07-2015. Feeling aggrieved, the appellant filed departmental appeal, which was accepted in terms that penalty of dismissal was converted into removal from service vide order dated 28-01-2016. The appellant filed revision petition, which was also rejected vide order dated 09-03-2017, hence the instant service appeal with prayers that the impugned order dated 10-07-2015, 28-01-2016 and 09-03-2017 may be set aside and the appellant may be re-instated in service with all back benefits.

02. Appellant has contended that the he has been proceeded against in absentia, without affording him appropriate opportunity of defense, which is illegal, unlawful and contrary to norms of natural justice; that his absence was not willful, but due to illness of his father and absence on medical grounds does not constitute gross misconduct; that the illness of his father was well in the knowledge of the respondents, but such stance of the appellant was not taken into consideration, which was arbitrary in nature; that it is settled principal of law that regular inquiry is must before imposition of major penalty of dismissal from service; that his absence period was treated as leave without pay, hence there remains no ground to further penalize the appellant.

03. Learned Additional Advocate General for the respondents has contended that the appellant is a habitual absentee and always remained absent from duty on the pretext of illness of his father; that prior to this , the appellant was discharged from service in probation period, but was re-instated upon his departmental appeal; that short service record of the appellant is full of entries regarding willful absence; that the appellant was required to seek leave or permission from his seniors and bring the matter timely in the notice of his seniors, but he failed to do so; that the appellant has rightly been penalized as he is least interested in his job.

04. We have heard both the parties and have perused the record.


05. Placed before us is case of a police constable, who alongwith many other police personnel had deserted their jobs in the wake of insurgency. Police department had constituted a committee for cases of desertion and taking humanitarian view, re-instated such personnel into service in large number. Even this tribunal has already granted relief in similar nature cases on the principle of consistency. Appellant was one among those, who was re-instated into service vide order dated 10-08-2011 by the police department. The appellant resumed his duty and served for another three years, when he was again dismissed from

service on the issue of absence from duty and his dismissal later on was converted into removal from service. It is un-disputed that the appellant remained absent from duty, but stance of illness of his father, which has been debated in the inquiry report as well as in comments of the respondents, which shows some weight in stance of the appellant, which could be taken in favor of the appellant. Coupled with this are dents in the departmental proceedings, which has not been conducted as per mandate of law, as the appellant in case of willful absence was required to be proceeded under general law i.e. Rule-9 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. Regular inquiry is also must before imposition of major punishment of dismissal from service, which also was not conducted. So much so that the impugned order of dismissal is also not in order. The impugned order would suggest that the appellant was proceeded against on the ground of absence for the mentioned period, however the authority has treated the mentioned period as leave without pay, as such the very ground, on the basis of which the appellant was proceeded against, has vanished away and on this score alone, the impugned order is liable to be set aside. Wisdom in this respect derived from the judgment of the august supreme court of Pakistan, reported as 2006 SCMR 434 and 2012 TD (Services) 348.

06. In view of the situation mentioned above and keeping in view the principle of consistency, we are inclined to partially accept the instant appeal by converting the major penalty of removal from service into minor penalty of stoppage of increments for two years. The intervening period is treated as leave without pay. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
28.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


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

ORDER

28.01.2022


Appellant in person present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondent 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 by converting the major penalty of removal from service into minor penalty of stoppage of increments for two years. The intervening period is treated as leave without pay. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

28.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


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

1-10-21

DB is on Taud case to come up
For the same on Dated. 20-1-22

R. Reader

20.01.2022

Appellant in person present. Mr. Asif Masood Ali
Shah, Deputy District Attorney for respondents present.

Arguments heard. To come up for order on
28.01.2022 before D.B.



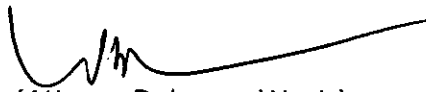
(Atiq-Ur-Rehman Wazir)
Member (E)

Chairman

11.01.2021

Counsel for the appellant and Mr. Muhammad Rashid, DDA alongwith Zewar Khan, Inspector (Legal) for the respondents present.

Former requests for adjournment in order to further prepare the brief. Adjourned to 25.03.2021 for hearing before the D.B.



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


Chairman

25.03.2021

Junior to counsel for the appellant present. Mr. Riaz Khan Paindakhel learned Asst. AG for respondents present.

The Worthy Chairman is on leave, therefore, the case is adjourned to 24.06.2021 for arguments before D.B.


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

24.06.2021

Counsel for the appellant present.

Muhammad Adeel Butt learned A.A.G alongwith Fazal Ghafoor S.I for respondents present.

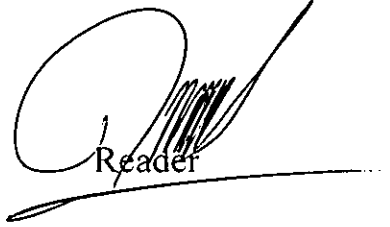
Former made a request for adjournment. Adjourned. To come up for arguments on 01.10.2021 before D.B.


(Rozina Rehman)
Member (J)


Chairman

24.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 08.06.2020 before D.B.




Reader

08.06.2020 Bench is incomplete as learned Member (J) is on leave, therefore, the case is adjourned. To come up for the same on 19.08.2020 before D.B.



Reader

19.08.2020 Due to summer vacations, the case is adjourned to 21.10.2020 for the same.



Reader

21.10.2020 Junior to counsel for the appellant and Addl. AG alongwith Zewar Khan, Inspector for the respondents present.

The Bar is observing general strike today, therefore, the matter is adjourned to 11.01.2021 for hearing before the D.B.



(Mian Muhammad)
Member



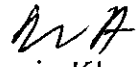
Chairman

16.07.2019

Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney alongwith Zewar Khan SI for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 07.10.2019 before D.B



(Hussain Shah)
Member



(M. Amin Khan Kundi)
Member

2-10-2019

Due to. tours of Honble

members to camp court Suiat

The case is adjourned to

16-12-2019



Reads

16.12.2019

Learned counsel for the appellant and Mr. Riaz Paindakheil learned Assistant Advocate General alongwith Zewar Khan S.I (Legal) present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 29.01.2020 before D.B.


Member

Member

29.01.2020

Junior to counsel for the appellant and Addl. AG alongwith Zewar Khan, S.I for the respondents present.

Former requests for adjournment due to general strike of the Bar. Adjourned to 24.03.2020 for arguments before the D.B.


Member

Member

28.12.2018

Counsel for the appellant, Addl. AG alongwith Zewar Khan, S.I (Legal) for the respondents present.

It is stated that Mr. Muhammad Riaz Paindakhel, Asstt. AG was entrusted this case, however, he had to proceed to attend funeral of a near relative, therefore, request for adjournment is made. Adjourned to 13.02.2019 for arguments before the D.B.


Member


Chairman

13.02.2019

Appellant in person and Addl. AG alongwith Rashid Ahmad, DSP (Legal) for the respondents present.

The appellant requests for adjournment as he desires to substitute his existing counsel. Adjourned to 30.04.2019 before the D.B.


Member


Chairman

30.04.2019

Roida Khan Advocate present and submitted wakalat nama in favor of appellant. Mr. Muhammad Jan learned Deputy District Attorney alongwith Zewar Khan SI for the respondents present. Being freshly engaged, learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 16.07.2019 before D.B.


Member


Member


14.05.2018

Due to retirement of the worthy Chairman, the Tribunal is incomplete. therefore the case is adjourned. To come up for the same on 30.07.2018


Reader

30.07.2018


Appellant with counsel and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Zewar Khan, S.I (legal) for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 19.09.2018 before D.B.

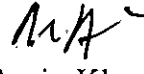

(Ahmad Hassan)
Member (E)


(Muhammad Hamid Mughal)
Member (J)

19.09.2018

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Zewar Khan, S.I (legal) for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 07.11.2018 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

07.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 31.12.2018


Reader

20.12.2017

Learned counsel for the appellant present. Mr. Muhammad Jan, Learned Deputy District Attorney along with Mr. Fazal Mabood, Inspector for the respondents present. Reply not submitted by the respondents. Representative of the respondents seeks time file written reply/comments. Granted. To come up for written reply/comments on 08.01.2018 before S.B



(Muhammad Hamid Mughal)

MEMBER

08.01.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Zavar Khan, Sub-Inspector for the respondents also present. Written reply on behalf of respondents submitted. Adjourned. To come up for rejoinder and arguments on 12.03.2018 before D.B.



(Muhammad Amin Khan Kundi)

Member

12.03.2018

Appellant in person and Mr. Riaz Ahmed Painsa Kheil, Assistant AG for the respondents present. Appellant submitted rejoinder and seeks adjournment for arguments on the ground that his counsel is not available today. Adjourned. To come up for arguments on 14.05.2018 before D.B.



(Muhammad Amin Khan Kundi)
Member



(Muhammad Hamid Mughal)
Member

12.10.2017

Counsel for the appellant present. Preliminary arguments heard and case file perused. The appellant joined the Police Department as Constable on 28.07.2007. On account of willful absence from duty disciplinary proceedings were initiated and vide impugned order dated 10.07.2015 major penalty of dismissal from service was imposed on him. He preferred departmental appeal on 30.11.2015 which was rejected on 28.01.2016, hence, the instant service appeal on 15.09.2017. When learned counsel for the appellant was confronted on the point of limitation and departmental appeal as well as service appeal being time barred, he was unable to give any plausible explanation. Application for condonation of delay has also not been submitted. He has not been treated according to law and rules.

Appellant Deposited
Security & Process Fee

Points urged need consideration. Admit subject to limitation. Appellant is directed to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 22.11.2017 before S.B.


(AHMAD HASSAN)
MEMBER

22.11.2017

Counsel for the appellant present. Mr. Usman Ghani, District Attorney alongwith Mr. Zawar Khan, S.I (legal) for the respondents also present. Written reply on behalf of respondents not submitted. Learned District Attorney requested for adjournment. Adjourned. To come up for written reply/comments on 20.12.2017 before S.B.


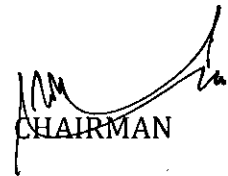

(MUHAMMAD AMIN KHAN KUNDI)

MEMBER

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 1074/2017


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	26/09/2017	<p>The appeal of Mr. Atta-Ur-Rehman resubmitted today by Mr. Attiq-ur-Rehman Advocate, may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 26/9/17</p>
2-	28/9/17	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>12-10-2017</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Atta-ur-Rehman son of Said Rehman Ex-Constable No. 595 of Distt. Dir Lower received today i.e. on 15.09.2017 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of impugned removal order dated 19.11.2008 mentioned in para-4 of the memo of appeal is not attached with the appeal which may be placed on it.
- 2- Copy of departmental appeal mentioned in para-9 of the memo of appeal is not attached with the appeal which may be placed on it.

No. 1227/S.T,

Dt. 15/9/2017

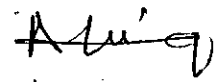

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Attiq-ur-Rehman adv. pesh.

1. Copy of removal order dated 19.11-2008 is submitted and is mark as annexur B Page 8.
2. Copy of departmental appeal mentioned in - Para-9 will be produce of 1st hearing in court.

Hence Re submitted.

Dated 26-09-17


Attiq-ur-Rehman
Advocate High
Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1074 /2017

Atta Ur Rehman S/O Said Rehman

Ex-Constable at District Lower Dir

R/O Village Palosadag Tehsil Munda District Lower Dir.

PETITIONER

VERSUS

District Police District Lower Dir

RESPONDENTS

Index of Documents

S.No	Descriptions	Annexure	Pages
01	Appeal - Affidavit - Address of Parties.		01 - 06
02	Copy of appointment letter	A	07
03	Copy of removal order	B	08
04	Copy of application, reinstatement order	C-C1	09-10
05	Copy of the Order	D	11
06	Copy of Order	E	12
07	Copy of appeal & Impugned order	F-F1	13
	Wakalatnama		

AUR
Appellant

Through:

AUR
Rehman Ullah Shah & Attiq Ur Rehman

MA, LL.M

Advocates

Ibn e Abdullah Law Associates

11, Azam Tower, University Road, Peshawar

E-Mail Infoila56@gmail.com.

Ph. 091-570 2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1074 /2017

Atta Ur Rehman S/O Said Rehman
Ex-Constable at District Lower Dir
R/O Village Palosadag Tehsil Munda District Lower Dir.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1075

Dated 15/9/2017

PETITIONER

VERSUS

- ✓1. District Police Distt. Lower Dir
- ✓2. Regional Police Officer Malakand Division
- ✓3. Inspector General of Police Khyber Pakhtunkhwa
4. Deputy Inspector General of Police, Malakand Division Swat

RESPONDENTS

APPEAL UNDER SECTION 04 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER OF INSPECTOR GENERAL OF POLICE DATED MARCH 15, 2017 (APPELLATE AUTHORITY) WHERE BY THE DEPARTMENT APPEAL OF THE APPELLANT WAS DISMISSED/REJECTED. AND AGAINST THE ORDER OF RPO DATED 28-01-2016 AND DPO DATED 10-07-2015 PRAYER IN APPEAL,

ON ACCEPTANCE OF THIS APPEAL, THIS HONORABLE TRIBUNAL MAY VERY GRACIOUSLY BE PLEASED TO SET ASIDE THE IMPUGNED ORDER DATED 15-03-2017, RPO ORDER DATED 28-01-2016 AND DPO ORDER DATED 10-07-15 AND THE APPELLANT MAY VERY GRACIOUSLY BE REINSTATED INTO THE SERVICE FROM THE DATED 10-07-15 WITH ALL SERVICE BENEFITS.

Respectfully submitted as under:

1. That the appellant was appointed as Constable on dated 26-07-2007 by the Respondents was assigned the duties in Village Palosa Dag Plice Station Munda District Dir Lower.

[Copy of appointment letter is annexure A]

2. That the appellant served the department with commitment and always remained on duty at various stations in the time when terrorism in Malakand division was at peak and the Government of Pakistan was

Filed today

Registrar

and filed.

Re-submitted to-day

Registrar

26/9/17

fighting an operation against the militants particularly in District Lower Dir.

3. That appellant never remained absent from his duties and successfully completed his probation period from the date of appointment appellant a young age qualified person, always remained at threat and risk but his commitment towards duties as constable never resisted by regular suicide bomber, bomb blast and attacks on Police Officials.
4. That the appellant's father felt seriously ill due to ailment and there was no male member in his family who could take care of him. Therefore he remained absent from duties upon recovery of his father he came to join his duties there he was told by one of the official that an inquiry has been conducted and he has been removed from service.

[Copy of ~~discharged order dated 19-11-2008~~ is annexure B]

5. That thereafter the appellant made an application for his reinstatement to Respondent No. 04. It is worth to mention here that Respondent was pleased to allow the said application and the appellant was reinstated into service. This was based on solid reason of alimant and a reasonable justification was given.

[Copy of application and reinstatement order is annexure C-C1]

6. That after reinstatement the appellant assumed to his duties without any delay but unfortunately nature was not kind to him and his father got serious ill so the appellant was having no way but to look after his father with full responsibility.
7. That the appellant communicated about his absence to the concern official but they heard it with deaf ear. The Respondents initiated inquiry against the appellant was by a major penalty was imposed and he was dismissed from his service.

[Copy of the Order is annexure D]

8. That there after the appellant made a second application to Respondent No. 04 for his reinstatement due this time it was turn down and dismissal order was converted into removal order

[Copy of Order is annexure E]

9. That the appellant file departmental appeal before the Respondent No. 3 which was dismissed on dated 15-03-2017.

[Copy appeal of impugned order is annexure F]

10. That feeling aggrieved from the order of Respondent No. 03 which was dismissed. Hence the instant appeal on the following amongst other grounds inter-alias:

GROUNDS

- A. That the law on the subject has been violated altogether, in that neither any show cause or for that matter any charge sheet was served upon the appellant nor was he required to put in a written defense as contemplated under the law.
- B. That a major penalty of removal from service has been imposed on the appellant without conducting any proper inquiry which was mandatory under the law, hence the punishment awarded to the appellant is a nullity in the eye of law.
- C. That the law on the subject provides for a charge sheet to be served on the accused civil servant. he shall be required to put in a written defense within seven days of the communication of the charge sheet and a regular inquiry shall be conducted in concern official therewith giving him the opportunity to cross examine the witness produced against him and he shall be allowed to record evidence in his defense. These legal requirements contemplated by the law put aside and the impugned order was passed in a vacuum, which has never been the mandate of law.
- D. That the appellant was not given the opportunity being heard.
- E. That the appellant served the department for almost several years he remained faithful to his duties and served the department with full devotions commitment and enthusiasm. This could be confirmed from his service record.
- F. That Respondent has adopted harsh methods and impose major penalty without adopting proper mechanism. Hence the order of removal is liable to be set aside.

G. That with the permission of these Hon'ble tribunal further grounds may be raised when the stance of the respondents comes in black and white.

PRAYER

It is therefore humbly prayed that on acceptance of this appeal the Honorable Tribunal may very graciously be pleased to set aside the impugned order dated 15-03-2017 and the appellant may very graciously be reinstated into service from the date of his removal with all service benefits.

Any other remedy deemed proper may also be allowed.

~~AH MA~~
Appellant

Through,

~~A U R~~
Rehman Ullah Shah, Attiq Ur Rehman

MA, LLM

Advocates

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2017

Atta Ur Rehman S/O Said Rehman

Ex-Constable at District Lower Dir

R/O Village Palosadag Tehsil Munda District Lower Dir.

_____ PETITIONER

VERSUS

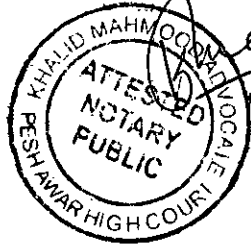
District Police District Lower Dir

_____ RESPONDENTS

AFFIDAVIT

I Atta Ur Rehman S/O Said Rehman R/O Village Palosadag Tehsil Munda District Lower Dir do hereby solemnly affirm and declare on oath that the content of the accompanying appeal are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Tribunal.

~~AK~~ ~~AU~~
Deponent



~~AK~~ ~~AU~~
Identified By:

Attiq Ur Rehman

Advocate High Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2017

Atta Ur Rehman S/O Said Rehman

Ex-Constable at District Lower Dir

R/O Village Palosadag Tehsil Munda District Lower Dir.

PETITIONER

VERSUS

District Police District Lower Dir

RESPONDENTS

ADDRESSES OF THE PARTIES

PETITIONER

Atta Ur Rehman S/O Said Rehman

Ex-Constable at District Lower Dir

R/O Village Palosadag Tehsil Munda District Lower Dir

RESPONDENTS

1. District Police Distt. Lower Dir at Timergara
2. Regional Police Officer Malakand Division
3. Inspector General of Police Khyber Pakhtunkhwa
4. Deputy Inspector General of Police, Malakand Division Swat

~~AH~~ ~~AW~~
Appellant

Through

AW
Advocates

تعداد

اداری بری 828 مورخہ 23 مارچ 1908

1908

مسئلہ فرمایا گیا تھا کہ شرعاً غیر حاضر ہو کر تو 08 مارچ 1908
تعمیر ہو گیا ہے۔ کہ عدالت میں حکماء کوئی نہیں مگر
حکم میں مافوقہ کاٹھیل مذکورہ درمستحقین کے لئے یہ ثابت ہے

E v P. No. 10
4/10/08

1. 570 قہر جبکہ قہر نمبر 1 سے بیان کیا کہ کانٹیل مینا پر
مستحق دریا ہے جو الہ آباد مورخہ 26 مارچ سے دستور غیر شرعی
پر لکھ لکھ ہے

4-10/08
4/10/08

2. محمد قاسم قہر نمبر 1 سے بیان کیا کہ کانٹیل مذکورہ قہر 26 مارچ
قہر نمبر 1 سے دستور غیر شرعی لا آریا ہے۔ آج تک حاکم کی
رپورٹ میں لکھے ہیں لکھے ہیں

3. کانٹیل علیہ الرحمٰن 1208 سے بیان کیا کہ وہ مورخہ 7 مارچ 1908
مورخہ 20 مارچ سے غیر حاضر ہے اس کے گھر میں اس کے علاوہ کوئی نہیں
تعمیر ہو گیا اور دریا آتش محبت ہندو کی بھی لکھ لکھے ہیں۔

Agreed with the
findings of the enquiry
committee. The default
constable is under
203 years and he is
unwilling to serve
the police department.

ملاحظہ فرماتے ہوئے کہ کانٹیل علیہ الرحمٰن 1208
مورخہ 20 مارچ سے غیر حاضر ہے۔ لہذا کانٹیل مذکورہ کو معذور کر دیا گیا ہے

Shafiq, he is found
discharged from service
Mohammad Syed
SAC D.S. Shodra is date of his
absence.

Mohammad Saadique
Sd/- Sandak S. Singh

AB No. 1386
19-11-2008

19/11/08



حکومت خیاب و پٹی الہیہ سیکر جنرل صاحب حکم پوسٹنگ حکام و دیگر ترقی یافتہ عہدہ داروں کو سوات

درخواست برادہ جالی بر حلازرت سائل
یکسٹ پوسٹنگ کنٹریبل پوسٹنگ ڈیپارٹمنٹ

جناب عالی اس سائل ذیل عرض رہا ہے۔

۱۔ ایک سائل نے قبل اس حکم پوسٹنگ ڈیپارٹمنٹ میں بھرتی ہو کر
سائل نے پوسٹنگ ٹریننگ مکمل کی ہے۔

۲۔ ایک سائل نے وقت سائل کو کچھ گھنٹوں میں روٹیاں دست کلات
درپیش کر کے حلازرت سے حاضر کیا۔ اور کوئی
سائل حکم لہذا میں غیر حاضر ہو کر سائل کو درخواست کیا گیا ہے۔

۳۔ ایک سائل ایف اے پاس تو ہے مگر پوسٹنگ ڈیپارٹمنٹ میں ہے۔

۴۔ ایک سائل ایک تندرست اور صحت مند نوجوان ہے۔

۵۔ ایک سائل عزیز اور بہرہ فرما ہے۔

۶۔ ایک سائل ان حالات میں سائل کی جالی بر سائل پوسٹنگ کے

احکامات صادر فرمانا ضروری اور قرن الفاضل ہے۔

1067/10
9/2-1000

D.P./CIV-1000

For Command
Muzaffarabad, P.O. Civil.

سائل عرض کیا کہ درخواست لہذا حسب الترتیب
منظور فرمایا جاوے۔ مورخہ 29/12/2010

سائل عطا والا حکام کے سوا کسی اور حکام کو سائل کی جالی بر سائل پوسٹنگ ڈیپارٹمنٹ میں نہیں
AP

C.I.E.C
Comments

CDIC: 15304-6619386-9

1208

D.I.G. of Police,
Mkd: Region, Swat.

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Attested
i.c. Jmm

For reinstatement order I

10

4488
Diary No. 11/08/2011
Dated 11/08/2011
OFFICE OF THE DISTRICT POLICE OFFICER, DIR LOWER

ORDER

WHEREAS as per the approval of the Provincial Police Officer, Khyber Pukhtunkhwa a Committee had been constituted vide this office No: 10041-45/E dated 24/11/2010, headed by DPO Dir Lower to reconsider the cases of the personnel dismissed during militancy.

AND WHEREAS the Committee has, after thorough deliberations and scrutiny of the relevant record, submitted its findings vide No: 2129/EB dated 31/01/2011 and 15772 EB dated 27/07/2011 wherein 12 personnel have been recommended for reinstatement in service.

NOW THEREFORE as per the approval of the Provincial Police Officer, the following personnel recommended by the Committee with the exception of Sr. No. 1 HC Behram Khan No. 137 who has already been reinstated by the Services Tribunal, Khyber Pukhtunkhwa, Peshawar, are hereby reinstated in service with effect from the date of their dismissal. The period of absence and they remained out of service after dismissal will be treated as leave without pay.

S.No	Name and No.
1.	Ex-Constable Azizullah No. 642
2.	Ex-Constable Nisarul Ahmad No. 1058
3.	Ex-Constable Rafiul Haq No. 1322
4.	Ex-Constable Muhammad Hamayun No. 931
5.	Ex-Constable Naeemullah No. 442
6.	Ex-Constable Manzoor No. 1217
7.	Ex-Constable Ibrahim No. 592
8.	Ex-Constable Anwarullah No. 1103
9.	Ex-Constable Dawood Khan No. 695
10.	Ex-Constable Imranullah No. 65
11.	Ex-Constable Attaur Rahman No. 1208

595

Order announced.

DOB / OAG / EC

District Police Officer, (AKHTAR HAYAT KHAN) PSP
Dir Lower at Timergara Deputy Inspector General of Police,
Malakand Region, Saidu Sharif, Swat.
SAIF

No. 2695-86 E,
Dated 10/8/2011

Copy for information and necessary action to the:-

1. Provincial Police Officer, Khyber Pukhtoonkhwa, Peshawar.
2. District Police Office Dir Lower.

SBNO = 1168

Date: 11-8-11

Akhtar Hayat
T. J. M.

Second dismissal

(11)

OFFICE OF THE DISTRICT POLICE OFFICER, DIR LOWER AT TIMERGARA


ORDER

This order will dispose of the departmental enquiry conducted against Constable Attaur Rahman No.595, who while posted at Police Station Talash, absented himself from his lawful duty with effect from 23/05/2015 to date without any leave or prior permission from his superior, therefore he was served charge sheet coupled with statement of allegation and Mr. Aqiq Hussain DSP HQrs, was appointed as enquiry officer to conduct proper departmental enquiry and submit his finding.

The enquiry officer during the course of enquiry recorded the statement of all concerned, as well as the delinquent official, but could not produce any cogent reason in his self-defense. The Enquiry Officer in his finding report recommended him for major Punishment.

Therefore, I Qasim Ali (PSP), District Police Officer, Dir Lower in exercise of power vested to me under (E & D) Rules 1975 with amendment 2014, agree with the finding report of the enquiry officer, and **Dismissed him from service**, with immediate effect and the period of absence with effect from 23/04/2015 to 18/06/2015 (56 days) and from 20/06/2015 to 26/06/2015 (06 days) **Total 62 days** is counted as leave without pay.

ORDER ANNOUNCED


District Police Officer,
Dir Lower at Timergara

OB No. 631 /EC,
Dated 10-07/ 2015.

7
of

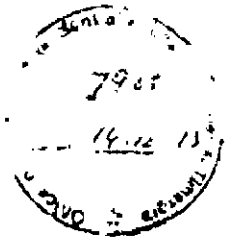
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cl

Attested
T. G. Jinn

"F"
Annexed

کہ مت جاب ڈپٹی انسپکٹر جنرل صاحب فکھ پوئیس ملکنڈ ڈیڑن بٹا پتلف بوت

مڈرمانہ اسل برائے عالی ہر ملزمت سائل
عطا دارون پوئیس کنسبل نمبر 595 ڈر لوکر



خا عالی اسائل ذیل برضی راس سے

راہیک سائل فکھ پوئیس ڈر لوکر میں لکچر کنسبل نمبر 595
خدمات انجام سے رہا تھا

رہی یہ کہ سائل کی والدہ شدید بیمار تھی اور اس سائل نے اسے
علاج معالجہ کراچی لیجا کر وہاں کافی وقت واا سائل
کا علاج جاری تھا اور یوں سائل بہ امر جمہوری ڈپٹی خود
سے غیر حاضر رہا

رہی یہ کہ سائل کے گھر میں دیگر نرسز افراد موجود نہیں اور
والدہ خود کا علاج انتہائی خودی تھا

رہی یہ کہ بدوران غیر حاضری صاحب DPc صاحبہ ڈر لوکر
نے تقریباً تین ماہ سائل کو ملزمت سے برضا
کیا ہے ذیل order لکھی ہے

No. 9637
Date 15-12-

رہی یہ کہ سائل تمام امتحانی غریب و لاچار خود سے اور ملزمت
کے علاوہ کوئی ذریعہ معاش نہیں اور ان حالات
میں سائل کو ملزمت سے برضا لکھی و سربراہ الفیہ
سائل تاصیبات دیا گیا ہے

For DP (DP)
Not Committed
Signature

اس لیے ملاحظہ کیجئے سائل کا اسل نمبر ظہور مانا جاوے

Regional Police Office

30/11/2015
ATC
سی ایم عطا دارون ڈپٹی انسپکٹر جنرل صاحب فکھ پوئیس ملکنڈ ڈیڑن بٹا پتلف بوت

9/12

AHe steel
T.G
[Signature]

Appeal dismissed

13

OFFICE OF THE REGIONAL POLICE OFFICER, MALAKAND REGION,
AT SAIDU SHARIF SWAT

ORDER:

This order will dispose off application of Ex-Constable Atta Ur Rehman No. 595 of Dir Lower District for reinstatement in service.

Brief facts of the case are that he while posted to Police Station Talash, absented himself from his lawful duty with effect from 23/05/2015 to date, without any leave or prior permission from his superior, which is gross misconduct on his part, therefore he was issued charge sheet with coupled of statement of allegations and Mr. Aqiq Hussain DSP/HQrs: was appointed as Enquiry Officer. The Enquiry Officer during the course of enquiry recorded the statement of all concerned, as well as the delinquent official. The Enquiry Officer in his finding report, recommended him for major punishment. Therefore, the District Police Officer, Dir Lower awarded him a major punishment of Dismissal from service, with immediate effect and the period of absence with effect from 23/04/2015 to 18/06/2015 (56 days), and from 20/06/2015 to 26/06/2015 (06 days) total 62 days was counted as leave without pay vide his office OB No. 631, dated 10/07/2015.

He was called in Orderly Room on 26/01/2016 and heard him in person. The applicant could not produce any substantial material in his defense. Therefore, his appeal is rejected. However, keeping in view his future career the punishment of dismissal is converted into removal from service on humanitarian grounds.

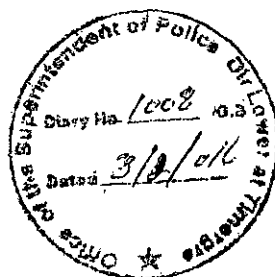
Order announced

(AZAD KHAN) TSt, PSP
Regional Police Officer,
Malakand, at Saidu Sharif Swat

No. 984 /E,
dated 28-1- /2016. ✓

Copy to District Police Officer, ^{Dir Lower} for information and necessary action with reference to his office Memo: No. 30754/EB, dated 17/12/2015. His service record is returned herewith r record in your office.

rel'd S-Roll
F. Missd
E. File



Returned
01/07/2016

3/2/2016

ATT-595
25/10/2016

Handwritten signatures and initials on the right side of the page.

Attested
T.C
Jam



85717

Attig us Rehman

بار کونسل ایسوسی ایشن نمبر: 10-bc-0541

رابطہ نمبر: 0334 9124534

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

Before The Khyber Pakhtunkhwa Service Tribunal, Peshawar

Petitioner/Appellant	مخاندان: _____
	علت نمبر: _____
Atta us Rehman	موضوع: _____
District Police Lower Dis	جرم: _____
	تھانہ: _____

باعت تحریر آگے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی کارروائی متعلقہ آن مقام Peshawar کیلئے Attig us Rehman اور Rehman ullah کو وکیل 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 تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق و زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظارتی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ 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 وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

PESHAWAR BAR ASSOCIATION
KHYBER PAKHTUNKHWA

المرقوم: _____

المقام: Peshawar

نوٹ: اس وکالت نامہ کی فوٹو کاپی نامتامل قبول ہوگی۔

Attested
Accepted

Atta us Rehman

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal 1074/2017.

Ex Constable Atta -ur- Rehman r/o Lower Dir.....Appellant.

VERSUS

- 1) *Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.*
- 2) *Regional Police Officer Malakand at Saidu Sharif, Swat.*
- 3) *District Police Officer Dir Lower.....Respondents.*

PARA WISE REPLY ON BEHALF OF RESPONDENTS.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS.

- 1) *That the present service appeal is not maintainable in its form.*
- 2) *That the appellant has not come to this August Tribunal with clean hands.*
- 3) *That the present appeal is badly time barred.*
- 4) *That this Honorable Service Tribunal has no jurisdiction to entertain the present service Appeal.*
- 5) *That the appellant has got no cause of action.*
- 6) *That the appellant has suppressed the material facts from this Honorable Tribunal.*

ON FACTS:

1. *Pertains to record, hence needs no comments.*
2. *Incorrect, the appellant was habitual absentee and always remained absent from duty with either pretext of father illness or some other problems. Prior to this the appellant absented himself from duty, without any cogent reason and had discharged from service. Order attached.*
3. *Incorrect, as already discussed that the appellant was habitual absentee and during the period of probation, he was discharged from service on account of willful*

absence. The short service record of the appellant is full of entries regarding willful absence.

4. Incorrect, the appellant was required to seek leave or permission from his seniors and bring the matter timely in the notice of his seniors, but he failed to do so. Moreover he in his statement clearly mentioned that he is not ready to serve more in police department and consequently he was discharged from service under PR-12-21.
5. pertains to record, hence needs no comments.
6. Incorrect, the appellant again absented himself from duty without giving any intimation to his seniors for a period of 62 days. Infact he was busy in harvesting of wheat Crops, but pretended that his father is ill. The appellant is habitual absentee and always remained absent from duties wilfully.
7. Incorrect, the appellant did not convey the actual problem faced by him to his seniors and the respondent carried out enquiry in line with allegations and rightly issued the dismissal order.
8. Pertains to record, hence needs no comments.
9. Pertains to record, hence needs no comments.
- 10 Incorrect, the appellant has got no Jurisdiction to entertain the instant appeal.

ON GROUND

- A. Incorrect, charge sheet+ statement of allegations have been issued by the competent authority and the charge sheet duly served upon the appellant. He was provided proper opportunity of personal hearing as well as to put

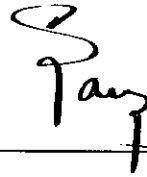
forward writtenly in self defence, but he failed to advance any solid proofs in defence.

- B. Incorrect, proper departmental enquiry has been conducted in the matter and the appellant was found guilty of misconduct and recommended for major penalty. The punishment awarded to appellant is in accordance with law and based on facts.
- C. Incorrect, proper charge sheet issued, duly served upon the appellant, written statement of appellant has been recorded also and was cross examined properly. Departmental enquiry has been conducted against the appellant giving him proper opportunity of personal hearing in self defence, but he failed to advance any cogent reason in self defence. Moreover the proceedings have been carried out in accordance with law and the dismissal order was passed after fulfillment of all legal requirements.
- D. Incorrect, as discussed in above paras, that opportunity of personal hearing was given to the appellant properly in self defence, but he failed to advance any solid reasons to that effect.
- E. Incorrect, As already discussed that the appellant was dismissed from service on account of willful absence and he is habitual absentee, as evident from record.
- F. Incorrect, the order of dismissal i.e charge sheet, statement of allegation, proper enquiry, recording statement of appellant, giving opportunity of personal hearing, that covering all the aspect.
- G. The respondents also seeks leave of this Honourable Tribunal to rely on additional grounds at the time of arguments/hearing.

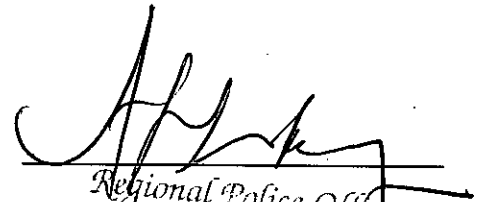
PRAYER:

It is therefore humbly prayed that on acceptance of this Parawise reply the service appeal may graciously be set aside along with costs.

Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar.




Regional Police Officer,
Malakand at Saidu Sharif, Swat.



Regional Police Officer,
Malakand at Saidu Sharif, Swat.

District Police Officer,
Dir Lower



District Police Officer
Dir Lower.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal 1074/2017.

Ex Constable Atta -ur- Rehman r/o Lower Dir.....Appellant.

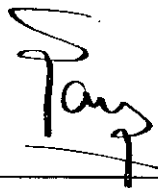
VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer Malakand at Saidu Sharif, Swat.
3. District Police Officer Dir Lower.....Respondents.


AFFIDAVIT

We the following respondents do hereby solemnly affirm and declare on Oath that the contents of Para-wise comments are true and correct to the best of our knowledge and belief and that nothing has been concealed from this Honorable Tribunal.

Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar.

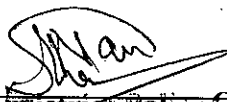


Regional Police Officer,
Malakand at Saidu Sherif, Swat.



Regional Police Officer,
Malakand at Saidu Sharif, Swat.

District Police Officer,
Dir Lower.



District Police Officer,
Dir Lower,

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal 1074/2017.

Ex Constable Atta -ur- Rehman r/o Lower Dir.....Appellant.

VERSUS

- 1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.*
- 2. Regional Police Officer Malakand at Saidu Sharif, Swat.*
- 3. District Police Officer Dir Lower.....Respondents.*

POWER OF ATTORNEY

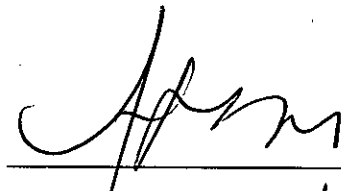
We the following respondents do hereby authorize Mr. Ziwar Khan SI Legal Dir Lower to appear on our behalf before the Honourable service Tribunal in the above Service appeal and pursue the case on each and every date.

He is also authorized to submit all the relevant documents in connection with the above case.

Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar.

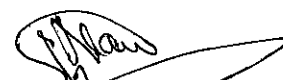


Regional Police Officer,
Malakand at Saidu Sharif, Swat.



Regional Police Officer,
Malakand at Saidu Sharif, Swat.

District Police Officer,
Dir lower.



District Police Officer
Dir Lower.

OFFICE OF THE DISTRICT POLICE OFFICER, DIR LOWER AT TIMERGARA

ORDER

This order will dispose of the departmental enquiry conducted against Constable Attaur Rahman No.595, who while posted at Police Station Talash, absented himself from his lawful duty with effect from 23/05/2015 to date without any leave or prior permission from his superior, therefore he was served charge sheet coupled with statement of allegation and Mr. Aqiq Hussain DSP HQrs, was appointed as enquiry officer to conduct proper departmental enquiry and submit his finding.

The enquiry officer during the course of enquiry recorded the statement of all concerned, as well as the delinquent official, but could not produce any cogent reason in his self-defense. The Enquiry Officer in his finding report recommended him for major Punishment.

Therefore, I Qasim Ali (PSP), District Police Officer, Dir Lower in exercise of power vested to me under (E & D) Rules 1975 with amendment 2014, agree with the finding report of the enquiry officer, and **Dismissed him from service**, with immediate effect and the period of absence with effect from 23/04/2015 to 18/06/2015 (56 days) and from 20/06/2015 to 26/06/2015 (06 days) Total 62 days is counted as leave without pay.

ORDER ANNOUNCED

District Police Officer,
Dir Lower at Timergara

18

OB No. 631 /EC.

Dated 10-07/ 2015.

Siv

Enquiry made

Rt2 FMC File

Handwritten notes and signatures on the right side of the page, including "GA-B" and other illegible scribbles.

POLICE DEPARTMENT

Secret
DIR LOWER

ENQUIRY REPORT

REFERENCE	ENQUIRY NO.1631/EB DATED 16-06-2015, marked under No.12891-92/EC, dated 16-06-2015.
ACCUSED	Constrable Attaur Rehman-595.
ALLEGATIONS	"that he while posted at police station Talash absented himself from his lawful duty with effect from 23-04-2015 to date without any leave or prior permission from his superior, which is gross misconduct on his part"
APPOINTMENT	26-07-2007.
PRESENT RECORD	The aforementioned constable remained absent from 23-04-2015 to 18-06-2015 (56 days). He also remained absent form 20-06-2015 to 26-06-2015 vide DD NO.41 & 25 from PS Talash respectively.
CHARGE SHEET	He was charge sheeted vide No.12893/EC, dated 16-06-2015.
PREVIOUS RECORD	Previously he remained absent for 160 days as per OSI report. He was dismissed from service vide OB NO.1386, dated 19-11-2008 after conducting a departmental enquiry on the ground of his absence. He was re-instated in service by the order of worthy DIG Malakand Region, Swat and subsequently order vides Order Book No.1168, dated 11-08-2011 was made.
OBSERVATION	He replied to charge sheet, in which he stated that his father was ill and he is the only responsible person while during that time he was busy in harvesting of wheat crop and he admitted his absence from duty from 23-04-2015 to 18-06-2015. <u>Cross.</u> He replied that again he absented himself from duty on 20-06-2015.

CONCLUSION

Constable Attaur Rehman-555 is a habitual absentee. He was dismissed from service on the ground of his willful absence from duty and in the present case; he failed in adducing any cogent reason for his absence from 23-04-2015 to 18-06-2015 (56 days) and from 20-06-2015 to 26-06-2015 (06 days) total 62 days, therefore he is recommended for major punishment, please.

①7 Pages.

W/DPO

↓

8/7/15

(Enquiry Officer)

Deputy Superintendent of Police, HQrs,
District Dir Lower at Timergara.

Discharged.

all

9/7/15

Enquiry No. 1631 /EB
Dated Timergara the 16-06 /2015

DISCIPLINARY ACTION

I, **Qasim Ali (PSP)**, District Police Officer, Dir Lower at Timergara as competent authority as of the opinion that you **Constable Atta Ur Rehman No.595** have rendered yourself liable to be proceeded against departmentally as you have committed the following acts /omission in the Rule 2 (iii) of Police Rules 1975


STATEMENT OF ALLIGATION

That he while posted at Police Station Talash absented himself from his lawful duty with effect from **23/04/2015 to date** without any leave or prior permission from his superior, which is gross misconduct on his part.

2. For the purpose of scrutinizing the conduct of said office, with reference to the above allegation **Mr Aqig Hussian DSP/HQs** is appointed as enquiry officer.

3. The enquiry officer shall conducted proceedings in accordance with provisions of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused officer, record its findings and make within twenty five (25) days of the receipt of his order, recommendation as to punishment or other appropriate action against the accused officer.

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


**District Police Officer,
Dir Lower at timergara**

No. 12891-92 /EC,

dated 16-6 /2015

1. **Mr Aqig Hussian DSP/HQs**, (Enquiry Officer) for initiating proceeding against above defaulter official within 25 days, under Police Rules 1975 in the Light of attached 05 documents.

2 Above named defaulter official.

Enquiry No. 1631 /EB

Dated Timergara the 16-06 /2015

CHARGE SHEET

I, **Qasim Ali (PSP)**, District Police Officer, Dir Lower at Timergara as competent authority, hereby charge you **Constable Atta Ur Rehman No.595** committed as follows:-

That you while posted at Police Station Talash absented yourself from your lawful duty with effect from **23/04/2015 to date** without any leave or prior permission from your superior, which is gross misconduct on your part.


By the reason of above, you appear to be guilty of miss-conduct and have rendered yourself liable to all or any penalties specified in Rule-4 of the disciplinary Rules, 1975.

2- You are: therefore, required to submit your written reply within 07 days of the receipt of this charge sheet to the enquiry officer.

3- Your written reply, if any, should reach to the enquiry officer, within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.

4- Intimation as to whether you desire to be heard in person or not?

5- A statement of allegation is enclosed.


District Police Officer,
Dir Lower at timergara

No. 12893 /EC,

Dated 16-6 /2015.

Copy to Constable Atta Ur Rehman No.595 s/o Said Rahman r/o Paloso Dag PS/Munda though PS Munda

جہاں عالی

کیا جارح سید غریب / Ec / 2893 / 1 فرج 18/6

معرض ہوں۔ فرج 23/9/015 سے من سائل عنبر صلاہ اذاع
 وکہ سائل کا والدین گورنر بیارے اور کافی عرصہ سے طار
 ہے اور اس کے ہی من سائل اپنے گورنر واحد نارینہ
 سے سائل کا کافی حائید ہے جس پر گندم کا فصل لگایا
 ہوا تھا۔ لیکن فصل کاٹے سے گورنر کو گارنٹ دار وجود
 تھا کیونکہ والدین نے کاروبار کے لئے زمین کا آرام کا
 رہا ہے۔ لہذا فصل بیکھ اور وہ اپنے گارنٹ دار
 نے کاروبار کی 55 ہجرتیں یوم عنبر صلاہ کے لئے اور اب اس
 نے قیام کی ہے فرج 18/6/015 کو قیام نامہ سے اپنی طرف
 روئے درجہ فرج کا ہے۔ اس بار صلاہ کا قیام اس
 سے احتیاط وون

ATC
 عطاء الرحمن فر 595
 8046946-0306 PR

ساراج نے کھانہ بلائی جس کی خاطر کی
 فرج 18/6 کو طار کی ہے
 سے کہ کب کھانہ بندش سے فرج 18/6
 فرج 22/6 کو فرج سے اول

ATC
 015

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

In S.A # 1074/2017

Atta-Ur-Rehman

Versus

PPO Khyber Pakhtunkhwa Peshawar & anothers

REJOINDER ON BEHALF OF
APPELLANT

Respectfully Sheweth,

All the Preliminary objection raised by the Respondents are incorrect and baseless and not in accordance with law and rules rather the Respondents are stopped due to their own conduct to raised any objection at the stage on the appeal.

Facts

1. Para No.1 of appeal is correct.
2. Para No.2 of appeal is correct while reply is incorrect which is not relevant with the instant issue.
3. Para No.3 of reply is correct while appeal is incorrect, already explain in Para No.2.
4. Para No.4 & 5 of appeal is correct while reply is incorrect.
5. Para No.6 of appeal is correct while reply is incorrect to the extents that the appellant was busy in harvesting of wheat crops, as well as to the extent of habitual and willful absentee as the absence of the appellant was not deliberate

or intentionally but due to savoir illness of father of the appellant.

6. Para No.7 of the appeal is correct in the appellant conveyed the actual problems facing by him to his senior they heard it with deaf ear and without providing opportunity of personal hearing dismissed the appellant on 10.07.2015.
7. In response of Para No.8 of reply, the appellant submitted departmental appeal to respondent No.4 on 30.11.2015 within one month from the date of communication of the impugned order dated 10.07.2015 which has been rejected on 28.01.2016 whereby dismissal order has been converted into removal order.
8. In response of Para No.9 of reply the appellant submitted 11A petition within one month from the rejection order dated 28.01.2016 which has been rejected on 09.03.2017 but the said rejection order has been communicated to the appellant at the month of August of 2017. (Copy of 11A petition is attached).
9. Para No.10 of the appeal is correct while reply is incorrect.

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

Petitioner

Through

Rehman Ullah Shah

&

Attiq Ur Rehman

MA. LLM

Advocates, Peshawar.

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

In Re S.A _____/2017

Atta Ur Rehman

Versus

District Police Dir & others

APPLICATION FOR CONDONATION OF DELAY (if any)

Respectfully Sheweth,

Petitioner submits as under:

1. That the above mentioned appeal is filing before this Hon'ble Tribunal in which no date is fixed for hearing so far.
2. That the appellant filed departmental appeal to respondent No.4 on 30.11.2015 within one month from the date of communication of the impugned order 10.07.2015 which has been rejected on 28.01.2016 whereby the dismissal order has been converted into removal order.

Grounds:

- A. That the appellant filed 11-A petition to respondent No.3 within 1 month from the rejection order dated 28.01.2016 which has been rejected on 09.03.2017. The said rejection order has been communicated to the appellant at the month of August 2017.
- B. That the impugned order is void because it has been passed without fulfilling the codal formalities.
- C. That it has been the consistent view of the Superior Courts that cause should be decided on merit rather than technicalities included limitation.

It is, therefore, requested that the limitation period (if any) may kindly be condone in the interest of justice.

Through

Appellant.

Rehman Ullah Shah

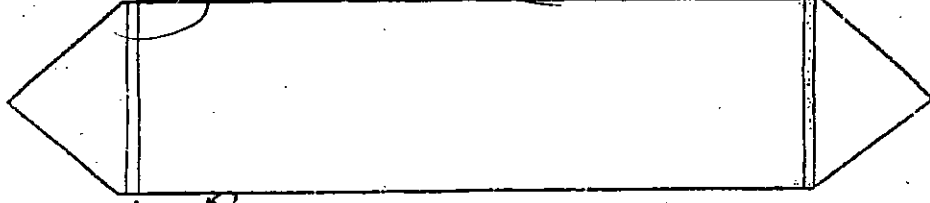
&

Attiq Ur Rehman

MA. LLM

Advocates, Peshawar.

بعدالت صاحب سروس کے لئے درخواست



2019ء منجانب

عطاء الحق خان نام
لوہے
ڈیپارٹمنٹ

مورخہ
مقدمہ
دعویٰ
نظم

باعث تحریر آنگہ

مقدمہ مندرجہ عنوان بالاس میں اپنی طرف سے واسطے پیروی اور جواب دہی وکل کارروائی متعلقہ

وقایع

آج مقام کے لئے روئے ہوئے

مقررہ کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
 وکیل صاحب کو راضی نامہ کرنے و تقریر ثالثہ فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور
 باسورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
 نیز دائر کرنے اپیل نمائی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
 کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقریر کا اختیار
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساتھ
 یہ روایت منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائے التوائے مقدمہ کے سبب سے رہوگا۔
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
 مذکور کریں۔ لہذا اوقات نامہ لکھ دیا کہ سند ہے۔

Accepted
B
A

AMM
کٹالی انجمن

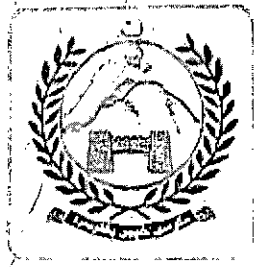
المزوم 30
اہ اپریل 2019

واہ الب

کے لئے بخیر ہے۔

بلا

مقام



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 924 /ST

Dated: 25-4- /2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To

The District Police Officer,
Government of Khyber Pakhtunkhwa,
Dir Lower.

Subject: JUDGMENT IN APPEAL NO. 1074/2017, MR. ATTA UR REHMAN

I am directed to forward herewith a certified copy of Judgement dated 28.01.2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR