

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 116/2019

Muhammad Ghaffar S/O Gul Aziz Ex-Constable No.606 District Swat.

..... Appellant

VERSUS

1. District Police Officer Swat.
2. Regional Police Officer Malakand at Saidu Sharif Swat.
3. Provincial Police Officer KPK Peshawar

**Khyber Pakhtunkhwa
Service Tribunal**

Binary No. 3436

Date: 7-2-2023

..... Respondents

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District Police Officer Swat
(Respondent No. 01)

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..... **Respondents**

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

PRELIMINARY OBJECTIONS.

1. That the appeal is badly barred by Law & limitation.
2. That the appellant has got no cause of action and locus standi to file the present appeal.
3. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
4. That the appellant has not come to the Tribunal with clean hands.
5. That the instant appeal is not maintainable in its present form.
6. That the appellant has concealed the material facts from this Hon'ble Tribunal.

Respectfully Submitted:-

1. Correct to the extent that the appellant joined Police department as Constable in the year 1991, however during his posting, he never performed his duty honestly and with devotion, rather the appellant absented himself from official duty on many occasion as evident from his service record. **Annexed "A"**
2. Incorrect. As per KP Police Act, 2017, the duty of every Police Officer is to protect life, property and liberty of citizen. Moreover, that in the year 2007 when militancy in Swat was at its peak and the services of the appellant were direly needed by the department for the protection of lives and properties of the public, he left for Ex-Pakistan leave by showing cowardice. Furthermore, no such report is available on record where appellant was threatened by the militants or any commander of terrorists.
3. Correct to the extent the FIR No.1487 was registered at Police Station Mingora but it does not mean that the appellant would left his duty and absent himself from official duty. The appellant showed cowardice, did not face the situation and willfully absented himself from official duty and did not report back for his duty.

4. Incorrect. As stated above, appellant had neither received any threat from militants nor is any report available on record in this respect. The appellant was granted Ex-Pakistan Leave, however he did not report back for his duty and willfully absented himself from official duty which showed disinterest in performing his official duties. Being part of discipline force appellant was supposed to report back to his duty but he did not bother to do so, therefore he was rightly proceeded departmentally and awarded punishment of dismissal from service.
5. Incorrect. The appellant was dismissed from service as he was found guilty of misconduct by absenting himself from official duty without prior permission or approved leave. Proper enquiry was conducted in the matter wherein it was found that the appellant was proceeded on Ex-Pakistan leave and did not report back for his duty and willfully absented himself from official duty which showed his disinterest towards his duty, hence dismissed from service on the recommendation of Enquiry Officer after completing all codal formalities under the law/rules. **Finding report Annexed "B"**.
6. Incorrect. Departmental appeal of the appellant was filed by appellate authority being badly time barred vide Order No.1133/E dated 27/01/2020. **Annexed "C"**.
7. Appeal of the appellant is badly time barred and has wrongly challenged the legal and valid orders of the respondents before the honorable tribunal through unsound reasons/grounds.

GROUND:

- A. Incorrect. That the order passed by the respondents is legal and in accordance with law/rules.
- B. Incorrect. The appellant has been treated in accordance with law/rules and no rules have been violated by the respondents.
- C. Incorrect. Charge Sheet coupled with statement of allegations were issued to the appellant and after proper departmental enquiry, he was dismissed from service as per law/rules.
- D. Incorrect. As stated above all the opportunities of self defense were provided to the appellant but he deliberately absented himself from the enquiry proceedings and did not appear before the enquiry officer.


- E. This Para already explained above in detail.
- F. Incorrect. That the order of the respondent is legal and in accordance with law/rules.
- G. Incorrect. The appellant willfully and deliberately absented himself from official duty and no compelling situations were faced by the appellant.
- H. As explained above.
- I. As explained above.
- J. Incorrect. The appellant was found guilty of misconduct and remained absent from official duty without prior permission or approved leave.
- K. Incorrect. That the appellant has legally and lawfully dismissed from service.
- L. That other grounds not specifically answered in the reply, will be agitated with the permission of honorable Tribunal at the time of arguments.

PRAYER:

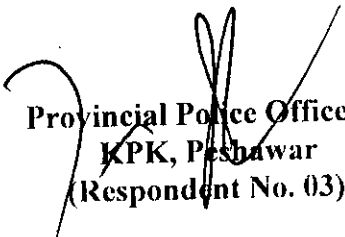
Keeping in view the above facts and circumstances, it is humbly prayed that the appeal of appellant being devoid of legal force may kindly be dismissed with costs.



District Police Officer Swat
(Respondent No. 01)



Regional Police Officer,
Malakand Region
(Respondent No. 02)



Provincial Police Officer,
KPK, Peshawar
(Respondent No. 03)

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..... **Appellant**

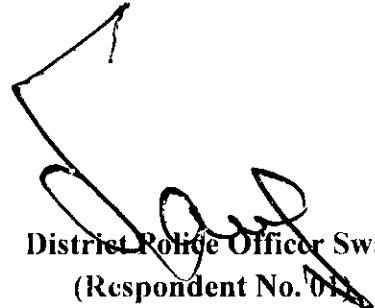
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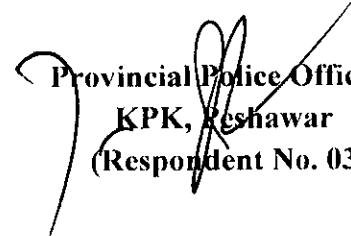
.....**Respondents**

AUTHORITY LETTER

We, the above respondents do hereby authorize Mr. Nacem Hussain DSP/Legal Swat to appear before the Tribunal on our behalf and submit reply etc in connection with titled Service Appeal.


District Police Officer Swat
(Respondent No. 01)


Regional Police Officer,
Malakand Region
(Respondent No. 02)
~~Regional Police Officer,~~
~~Malakand Region,~~
~~Saidu Sharif Swat.~~


Provincial Police Officer,
KPK, Peshawar
(Respondent No. 03)

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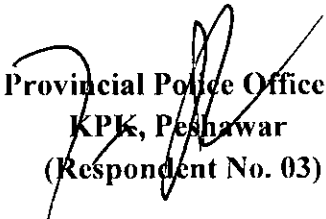
AFFIDAVIT

We, the above respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/truc to the best of our knowledge/ belief and nothing has been kept secret from the honorable Tribunal.


District Police Officer Swat
(Respondent No. 01)


Regional Police Officer,
Malakand Region
(Respondent No. 02)

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


Provincial Police Officer,
KPK, Peshawar
(Respondent No. 03)