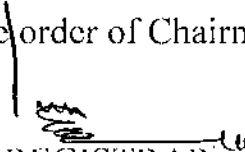


FORM OF ORDER SHEET

Court of _____

Case No. - _____ **275/2023**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	03/02/2023	<p>The appeal of Mr. Tahir Pervaiz presented today by Mr. Kabir Ullah Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Parcha Peshi is given to appellant/counsel.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. 275 /2023

Tahir Pervaiz, Junior Clerk

VERSUS


Inspector General of Police Khyber Pakhtunkhwa
& others & others

INDEX

S#	Description of Documents	Annexure	Pages
1.	Grounds of Petition.		1-4
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4.	Condonation of delay		7-8
5.	Copies of application & medical prescription	"A&B"	9-20
6.	Copies of impugned order, Departmental appeal & rejection order dated 03.01.2023	"C, D & E"	21-23
7.	Wakalatnama		


APPELLANT

Through


Kabir Ullah Khattak
Advocate, High Court
Peshawar.

Dated: 31/01/2023

(V)

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

In Re S.A. 275 /2023

Tahir Pervaiz, Junior Clerk R/o Kotkal Muladad,
Mamash Khel, Nogarhi P/O Bannue Tehsil & District
Bannue

-----(*Appellant*)

VERSUS

1. Inspector General Khyber Pakhtunkhwa Peshawar.
2. Deputy Inspector General of Police, Direction of Training Khyber Pakhtunkhwa.

-----(*Respondents*).

**APPEAL U/S 04 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT
1974 AGAINST THE IMPUGNED ORDER
DATED 27.01.2020, COMMUNICATED TO
THE APPELLANT ON 20.10.2022, WHERE BY
THE APPELLANT HAS BEEN REMOVED
FROM SERVICE AGAINST WHICH THE
APPELLANT FILED DEPARTMENTAL
APPEAL ON 26.11.2022 WHICH WAS
REJECTED ON 03.01.2023 ON NO GOOD
GROUND.**

PRAYER:-

**ON ACCEPTANCE OF THIS SERVICE
APPEAL BOTH THE IMPUGNED ORDERS
DATED 07.01.2020 & 03.01.2023 MAY KINDLY
BE SET ASIDE AND THE APPELLANT MAY
KINDLY BE INSTATED IN SERVICE ALONG
WITH ALL BACK BENEFITS.**

(2)

Respectfully Sheweth

1. That the Appellant was inducted into Clause-IV Cook in Elite Force KP & after that the appellant was promoted to Junior Clerk in 2013 and performed his duties regularly and with full devotion, hard work and no complaints whatsoever has been made against the appellant.
2. That while performing his official duty with respondent department the appellant becomes ill and due to severe illness the appellant was unable to performed his official duty with respondent department and submitted an application for medical leave along with medical prescription to the concerned department. **(Copies of application & medical prescription are attached as annexure A & B).**
3. That after complete recovery from illness the appellant visited to respondent department for performance of duty but surprisingly he was handed over the removal order dated 27.01.2020 on 20.10.2022 against which the appellant filed departmental appeal 16.11.2022 which was rejected on 03.01.2023. **(Copies of impugned order, Departmental appeal & rejection order dated 03.01.2023 are attached as annexure "C, D & E").**

4. That the appellant now files this appeal before this Hon'ble Tribunal inter alia on the following grounds.

GROUND:

- A. That the respondents had not treated the appellant in according with law, rule and policy on the subject and acted in violation Article-4 of the constitution of Islamic Republic of Pakistan 1973, therefore the impugned orders are not sustainable in the eyes of law.
- B. That neither any charge sheet along with statement of allegation was issued or served upon the appellant.
- C. That no departmental and regular inquiry was conducted to substantiate the guilt.
- D. That no show cause notice has been issued or served to the appellant and no opportunity of personal hearing were provided to him thus the appellant was deprived of his fundamental right of fair trial and due process of law as enshrined in Article 10-A of the constitution of Islamic Republic of Pakistan.
- E. That the order has been passed by the incompetent authority.
- F. That there is no prove or evidence regarding the allegation mentioned in para-2 of the impugned order dated 27.01.2020 against the appellant and so concerned the absence of the appellant

(41)

which was neither willful nor intentional but due the circumstances mentioned in the above para's and beyond his control i.e, severe illness to the appellant.

G. That it is a well settled maxim no one can be condemned unheard because it is against the natural justice of law & no opportunity of cross examination has been provided to the appellant.

H. That the punishment awarded to the appellant is a harsh one.

I. That any other ground no raised here may graciously be allowed to be raised at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of this service appeal both the impugned orders dated 07.01.2020 & 03.01.2023 may kindly be set aside and the appellant may kindly be instated in service along with all back benefits.

Dated:31/01/2023


Appellant

Through


Kabir Ullah Khattak

& 
Roeda Khan

Advocates High Court
Peshawar.

(5)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2023

Tahir Pervaiz, Junior Clerk

VERSUS

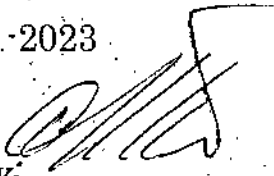
Inspector General of Police Khyber Pakhtunkhwa & others &
others

AFFIDAVIT

I, Tahir Pervaiz, Junior Clerk R/o Kotkal
Muladad, Mamash Khel, Nogarhi P/O Bannue
Tehsil & District Bannue. do hereby solemnly
affirm and declare that all the contents of the instant
appeal are true and correct to the best of my knowledge
and belief and nothing has been concealed or withheld
from this Hon'ble Court.

Dated: 31-01-2023

Identified by:


Kabir Ullah Khattak
Advocate High Court
Peshawar.


DEPONENT

(b)
In Re S.A No. _____/2023

Tahir Pervaiz, Junior Clerk

VERSUS

Inspector General of Police Khyber Pakhtunkhwa & others &
others

ADDRESSES OF PARTIES

PETITIONERS.

Tahir Pervaiz, Junior Clerk R/o Kotkal
Muladad, Mamash Khel, Nogarhi P/O Bannue
Tehsil & District Bannue

ADDRESSES OF RESPONDENTS

1. Inspector General Khyber Pakhtunkhwa
Peshawar.
2. Deputy Inspector General of Police, Direction of
Training Khyber Pakhtunkhwa

Dated: 31/01/2023

Tahir Pervaiz
Appellant

Through

Kabir Ullah Khattak

& *Roeeda Khan*

Advocates High Court
Peshawar.

7)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2023

Tahir Pervaiz, Junior Clerk

VERSUS

Inspector General of Police Khyber Pakhtunkhwa &
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 while performing his official duty with respondent department the appellat becomes ill and due to severe illness the appellat was unable to performed his official duty with respondent department and submitted an application for medical leave along with medical prescription to the concerned department.

- 3. That after complete recovery from illness the appellant visited to respondent department for performance of duty but surprisingly he was handed over the removal order dated 27.01.2020 on 20.10.2022 against which the appellant filed departmental appeal 16.11.2022 which was rejected on 03.01.2023.
- A. That there are many judgment of the Supreme Court as well as specific provision of law that limitation has been counted from the date of communication and there are so many judgment of the Supreme Court that cases should be decided on merit rather than on technicalities.
- B. That the impugned order is also come under the definition of void order because it has been passed without fulfilling the codal formalities.

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

Dated: 30/01/2023

Fateh
Appellant

Through

Kabir Ullah Khattak
& *Roeeda Khan*
Advocates High Court
Peshawar.

To,

The Director Police School of Traffic
Management Kohat

Subject:-

APPLICATION FOR GRANT OF MEDICAL LEAVE W.E.F
14.01.2019 TILL COMPLETE RECOVERY.

Respected Sir,

That the applicant is working as Junior Clerk since long time with respondent department.

That the applicant becomes ill and due to sever illness the applicant was unable to performed his duty with respondent department.
(Medical prescription is attached).

It is therefore, most humbly prayed that medical leave may kindly be granted to the applicant till complete recovery.

Dated: 14/01/2019

Applicant
Tahir
Tahir Peraiz
Junior Clerk

'B' (10)

M.T.I DHQ Teaching Hospital Bannu

Out Patient Department

Name: [Handwritten Name]

OPD No: 1334

Date: 14.1.2019 111833

Jandee

تھوڑا سا
پارہ کھانی
آرام کریں

- 1- Tin Skin
- 2- Same
- 3- Co Amel or
- 4- Tin Sparan
- 5- Co Carb

[Signature]

Bellet 2020000000

[Signature]

Medical Officer
Bannu Headquarter Hospital
Bannu

(11)

M.T.I DHQ Teaching Hospital Bannu

Out-Patient Department

Name: J. J. J. J.

OPD No: 7967

Date: 13/3/2019 111384

Taunder

Handwritten notes on the left side, possibly including a date and some illegible text.

- 1. H. Blue
- 2. S. M. M.
- 3. T. H. H.
- 4. C. M. M.
- 5. S. C. M.

Dr. P. R. R. R.

Handwritten signature

Medical Officer
District Headquarters
Bannu

(12)

M.T.I DHQ Teaching Hospital Bannu

Out Patient Department

Name: 19/1/16

ORD No: 15440 411836

Date: 13/5/2019

Tamela

1- Dr. Sibtain

2- Dr. P. Khan

3- Dr. N. Khan

4- Dr. A. Khan

5- Dr. S. Khan

6- Dr. M. Khan

فوق نالی
نالی

→

Amir

Medical Officer
District Headquarters
Bannu

(13)

M.T.I DHQ Teaching Hospital Bannu

Out Patient Department

Name: M. J. Khan

OPD No: 21427 411887

Date: 12/7/2019

2. Contraceptive pills

1. Co-trimoxazole

2. Zinc

3. Vitamins

4. 2 Oxidant
304 + 0.05

Dr. Abdul Razaq
Erythrocyte clays (45)

Amir

Medical Officer
Dist: Bannu
Teaching Hospital

(10)

M.T.I DHQ Teaching Hospital Bannu

Out Patient Department

Name: 12/1/16

OPD No: 53572 141844

Date: 27/8/2019

Eutanic Fever

Tus Colamax
1/1 625

Tus Panadol
1/1

Tus Falaglin 400 mg
1/1

Sub. Ulsane
11-00 one

Advised Bed rest for 01 Month

Ullah
Med. Officer

(15)

M.T.I DHQ Teaching Hospital Bannu

Out Patient Department

Name: [Handwritten Name]

OPD No: 58672 711839

Date: 27/9/2019

[Handwritten Signature]

1. Cap. Afshan
WJL

2. Z. P. Khan
WJL

3. Z. Khan
WJL

4. Z. Khan
WJL

Dr. Farid Khan
Gen. Surg. (45)
Amir

Dr. Farid Khan
Gen. Surg. (45)
Amir

(16)

M.T.I DHQ Teaching Hospital Bannu

Out Patient Department

Name: Yusuf

OPD No: 66323 161340

Date: 12/10/2019

Examination

1. Cx
WBC

2. Protein
ur

3. Serum
ur

4. Spinal fluid
ur

Do Recheck
45 days

Amir

Assistant Surgeon
M.T.I DHQ Teaching Hospital Bannu

(17)

M.T.I DHQ Teaching Hospital Bannu

Out Patient Department

Name: 19/1/16

OPD No: 61601 711847

Date: 27/11/2019

Examination

- 1- Ca apex
- 2- I.P. 1/2
- 3- Tn Cell
- 4- In. Repr. 1/2

Rest of (01) from 15-

Army

M.T.I DHQ Teaching Hospital Bannu

Out Patient Department

Name: [Handwritten Signature]

OPD No: 76634

Date: 27/12/2019 218875

Enteric Fever

antenna

18

Paracetamol
2+2+2

Ciprofloxacin 500
1+1
10x

Flagyl 400

1+1
10x
on

M.T.I DHQ Teaching Hospital Bannu
[Handwritten Signature]

Adv. Rest for 3 weeks - max
- 100%
- 25-30%
- 1+1
- 25-30% DS

M.T.I DHQ Teaching Hospital Bannu

Out Patient Department

187176

Name:

Sheraz 2184

OPD No.:

Date: 10/11/2020

Relapse of Acute Pancreatitis

Calculation
Admission for two weeks

- Digoxin MP Sump
2 + 2 + 1-770

B - 4v Canada


- rehydrate of 11v

- Play of 11v

- sup Fibroad
4 + 4 + 4 Tst

- Pancreas 11v 502

10/11/2020


Dr. M. M. Khan
Medical Officer
Distt. Headquarter Hospital
Bannu

20

M.T.I DHQ Teaching Hospital Bannu

Out Patient Department

Name: M. Tahir Pervez

OPD No: 5778

111843

Date: 24/1/2020

Fitness Certificate

I examined Mr. Tahir Pervez
and found him fit to
resume his duty

Amy

Medical Officer
District Hospital



Amal Khan
27

**Dy: INSPECTOR GENERAL OF POLICE,
DIRECTORATE OF TRAINING
KHYBER PAKHTUNKHWA, PESHAWAR**

Trg. dated 27 of 2020 Ph: Fax # 091-9211268
Email dsprtrgepr@gmail.com

53
04/02/2020

ORDER

This Order will dispose of the Departmental Proceedings initiated against Junior Clerk Tahir Pervez of Police School of Traffic Management, Kohat who was involved in the following misconduct:-

1. That he was nominated as a committee member for preparation of papers of 153rd Advance Traffic Course which was commenced from 14.01.2019.
2. That he was asked for coming to the office one day before the examination. In this regard, he was contacted by RI Shoukat Hayat on 13.01.2019 on his personal cell number (333-0722711) but instead of arrival he sent a message to RI as follows: "Sorry for not attending your call, bye bye PSTM." "Farewell Khyber Pakhtunkhwa Police".
3. That it was evident from his message, that he was not willing for further service and from the same date i.e 14.01.2019 he absented himself from duty till now.
4. That above act at his part shows efficiency indifference and lack of interest in performing of official duty.

Consequently, Charge Sheet and Statement of Allegations were issued to him for the purpose and the DSP Training was appointed as Enquiry Officer to scrutinize the conduct of the accused officer with reference to the charges levelled against him. The Charge Sheet / Statement of Allegations were sent on his home address through DPO Bannu Office vide No. 269/SRC, dated 07.03.2019, duplicate copy of which was received by his cousin namely Waqar Ahmad S/o Imtiaz Khan. Final Show Cause Notice of Junior Clerk Tahir Pervez was published in Two (02) National Newspapers i.e Daily Mashriq and Daily Aaj. The final Show Cause Notice served upon him through Police Station. He did not put forward any plausible explanation in rebuttal of the charge levelled against him.

Keeping in view the findings and recommendations of the Enquiry Officer as well as his failure to defend himself during the whole process, therefore, I, Awal Khan, Deputy Inspector General of Police, Directorate of Training, Khyber Pakhtunkhwa Peshawar in exercise of powers vested in me under Khyber Pakhtunkhwa-Efficiency & Disciplinary Rules-2011, do hereby award the accused officer (Junior Clerk, Tahir Pervez) major punishment of removal from service with immediate effect.

Order announced.

(AWAL KHAN) PSP
Deputy Inspector General of Police,
Directorate of Training,
Khyber Pakhtunkhwa, Peshawar

No. 241-48 /Trg

Copy of above is forwarded for information and necessary action to the:-

1. Addl: IGP/HQrs, Khyber Pakhtunkhwa, Peshawar.
2. DIG/HQrs, Khyber Pakhtunkhwa, Peshawar.
3. SSP/Traffic Peshawar.
4. AIG / Establishment, Khyber Pakhtunkhwa, Peshawar.
5. Director, Police School of Traffic Management, Kohat w/r to his office Memo No 438/SRC, dated 19.04.2019.
6. PSO to IGP, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-V & CP Branch, CPO Peshawar

Amal Khan
(AWAL KHAN) PSP
Deputy Inspector General of Police,
Directorate of Training,

C/SRC
S. N/A
DIRECTOR,
School of Traffic Management,
Kohat

Aman (1) (22)

16/11/22

To,

The Inspector General of Police
KPK Peshawar.

Subject: APPEAL FOR REINSTATEMENT INTO GOVT: SERVICE

R/Sir,

This is with reference to the honorable Dy; Inspector General of Police Directorate of Training Khyber Pukhtunkhuwa Order No: 841-48/ Trg- dated 27-01-2020.

I was appointed as a Class IV cook in Elite Police Force KP and after some time I was Promoted to Junior Clerk by topping the ETEA exam.

After qualification of eight years service I was removed from Govt Service vide the DIG Trg order no mentioned above due to my long absence from my post.

R/Sir; My absence was not intentional nor willful but due to unavoidable circumstances that mostly included problems related to my health (Medical Chits annexed).

I am son of a very honest police officer; I tried to follow his footsteps all the way. It is therefore, requested and prayed that a lenient view may kindly be taken in order to withdraw the removal from service order, so that the undersigned may very willfully continue to serve.

The undersigned shall be very thankful to you for this act of kindness.



Yours Obediently
Tahir Pervez
Junior Clerk

Amene (F) (28)



OFFICE OF THE
INSPECTOR GENERAL OF POLICE,
CENTRAL POLICE OFFICE,
KHYBER PAKHTUNKHWA PESHAWAR

No. 42-45 /F-V, dated Peshawar the 03 /01 /2023

To: Mr. Tahir Pervoz,
Ex-Junior Clerk,
Police School of Traffic Management, Kohat.

Subject: APPLICATION.

Memo: Please refer to your application dated 28.12.2022 regarding ascertaining present position of your appeal dated 16.11.2022 for re-instatement in service.

Your appeal for re-instatement in service was received to this office on 16.11.2022 against the Order No. 841-48/Trg. dated 27.01.2020 passed by DIG/Training, Khyber Pakhtunkhwa vide which you were removed from service. Your appeal was duly processed under the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 and found being badly time barred and withhold the same under Rule-6 of the said Rules, which is reproduced below:-

Rule-6: Withholding of appeal in certain cases:-An appeal be withheld by the competent authority if-

- (a) It is an appeal in which no appeal lies under these rules; or
 - (b) It does not comply with the requirements of rule 4; or
 - (c) It is not preferred within the time limit specified in sub-rule(1) of Rule 3 and no reason is given for the delay; or
 - (d) It is addressed to an authority or officer to whom no appeal lies under these rules;
- Provided that in every case in which an appeal is withheld, the appellant shall be informed of the fact and reasons for it.*

Provided further that an appeal withheld for failure to comply with the requirements of Rule 4 or clause(d) of this sub-rule may be resubmitted within thirty days of the date on which the appellant is informed of the withholding of the appeal and, if resubmitted properly in accordance with the requirements of these rules, shall be deemed to be an appeal under Rule 3 and shall be dealt with in accordance with the provisions of these rules.

(2) No appeal shall lie against the withholding of an appeal under this rule.

(AFSAR JAN)

Registrar

For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar

Copy forwarded for information to:

- Director, Police School of Traffic Management, Kohat with the request to inform the applicant in this regard.
- Office Superintendent Secret Branch CPO, Peshawar.

(AFSAR JAN)

Registrar

For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar

بعدالت یہاں کروں اور یہاں ختم ہوگا



لہذا 2 منجانب سپرد
طاہر پرویز بنام مجلس

موردہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ و
آن مقام پشاور کیلئے کبیر احمد صاحب روضہ خان ایڈووکیٹ

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے قی تقرر ثالث و فیصلہ پر حلف دیے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی 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 مذکور با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخستہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے سب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند رہے۔

الرقوم 3 ماہ فروری 20

واہ العبد

مقام کار
کے لئے منظور ہے۔
Accepted by
[Signatures]