

BEFORE THE HONOURABLE, KHYBER PAKHTUNKHWA, SERVICE
TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 643/2022

Registry No. 3488

Waqar Hussain Ex-LHC/Police No. 1233
r/o village Dheri Mian Ishaq Pabbi District Nowshera.

Date: 9-2-2023

.....Appellant

V E R S U S

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others.

.....Respondents

I N D E X

S.No.	Description of documents	Annexure	Pages
1.	Reply of Respondents	-	1-3
2.	Affidavit	-	04
3.	Copy of detail of bad entries	A	05-06
4.	Copy of reply of Charge Sheet	B	07
5.	Copy of daily diary reports 21 & 17 (with better copies)	C	08-11
6.	Copy of daily diary reports 24 & 28 (with better copies)	D	12-15
7.	Copy of departmental appeal and rejection order	E	16-17
8.	Copy of revision petition	F	18
9.	Copy of enquiry report	G	19
10.	Copy of Final Show Cause Notice	H	20


Inspector Legal,
Nowshera

**BEFORE THE HONOURABLE, KHYBER PAKHTUNKHWA, SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. 643/2022

Waqar Hussain Ex-LHC/Police No. 1233
r/o village Dheri Mian Ishaq Pabbi District Nowshera.

.....Appellant

V E R S U S

1. District Police Officer, Nowshera.
2. Regional Police Officer, Mardan.
3. Provincial Plice Officer, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

REPLY ON BEHALF OF RESPONDENTS

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS: -

1. That the appellant has got no cause of action and locus standi to file the appeal.
2. That the appeal is badly barred by law and limitation.
3. That the appellant is estopped by his own conduct to file the instant appeal.
4. That the appeal is not maintainable in its present form.
5. That the appellant has not come to the Honourable Tribunal with clean hands.
6. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.

Reply on Facts: -

1. Para pertains to record, hence, needs no comments.
2. Incorrect. Service record of the appellant is tainted with bad entries. (Detail of bad entries is annexure "A").
3. Incorrect. Plea of the appellant is not appealable to a prudent mind as appellant stated that due to some domestic problem he was unable to perform his duty while in his reply to the charge sheet he stated that he was suffering from backache. (Copy of reply to the charge sheet is annexure "B").

Facts are that, appellant while posted at Casualty Mian Rashid Hussain Shaheed Hospital Pabbi on 23-12-2013, he was transferred to Police Station, Akora Khattak but he did not report at Police Station, Akora Khattak and thus he willfully/deliberately absented himself from lawful duty from 23-12-2013 to 20-01-2014. (Copy of daily diary reports No. 21 dated 10-01-2014 and 17 dated 20-01-2014 is annexure "C"). Later on he

was transferred to Police Station, Azakhel on 17-04-2014 and again absented himself from duty with effect from 21-05-2014 and reported on 26-05-2014, however, on the same day i.e 26-05-2014 he remained absent from duty till the date of his dismissal. (Copy of daily diary report No. 24 dated 21-05-2014 and No. 28 dated 26-05-2014 are annexure "D").

4. Para correct to the extent that appellant was dismissed from service on 12-01-2015.
5. Incorrect. Plea of the appellant is not plausible that he within one month from the communication of dismissal order submitted departmental appeal. As appellant was dismissed from service on 12-01-2015 while he moved departmental appeal on 14-12-2017, which was dismissed on 19-02-2018 by the appellate authority. (Copy of departmental appeal and rejection order is annexure "E").
6. Incorrect. Departmental appeal of the appellant was rejected being badly time barred on 19-02-2018, while he moved revision petition before the respondent No. 03 on 08-03-2022 with a delay of almost 04 years. (Copy of revision petition is annexed as annexure "F").
7. Appeal of the appellant is liable to be dismissed inter alia on the following grounds: -

Reply on GROUNDS

- A. Incorrect. Orders passed by the respondents are in accordance with law and rules and were passed after fulfillment of all legal and codal formalities.
- B. Incorrect. Before awarding penalty, proper departmental enquiry was conducted against the appellant. (Copy of enquiry report is annexure "G").
- C. Incorrect. Before awarding punishment, appellant was issued Final Show Cause Notice to which he did not bother to submit his reply. (Copy of Final Show Cause Notice is annexure "H"). Moreover, he was also heard in person by the appellate authority in Orderly Room on 14-02-2018, but he did not produce any cogent reason for his long absence.
- D. Para already explained above.
- E. Incorrect. Charge Sheet and statement of allegation were communicated to the appellant to which he also submitted his reply. The same has already been annexed as annexure-B.
- F. Incorrect. Despite providing so many opportunities, appellant did not mend his way as he was habitual absentee. Hence, punishment awarded to the appellant does commensurate with the gravity of his misconduct.

3

- G. The respondents also seek permission of this Honourable Tribunal to advance additional grounds at the time of arguments.

Prayers

It is, therefore, most humbly prayed that on acceptance of above submissions, the appeal of the appellant may very kindly be dismissed with costs, please.

Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
Respondent No. 03

Regional Police Officer,
Mardan.
Respondent No. 02

District Police Officer,
Nowshera.
Respondent No.01

(4)

**BEFORE THE HONOURABLE, KHYBER PAKHTUNKHWA, SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. 643/2022

Waqar Ahmad Ex-LHC/Police No. 1233
r/o village Dheri Mian Ishaq Pabbi District Nowshera.

.....Appellant

V E R S U S

1. District Police Officer, Nowshera.
2. Regional Police Officer, Mardan.
3. Provincial Plice Officer, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

AFFIDAVIT

We the respondents No. 1, 2 &3 do hereby solemnly affirm and declare on Oath that the contents of reply to the appeal are true and correct to the best of our knowledge and belief and nothing has been concealed from the Honourable tribunal.



18 FEB 2023

[Signature]
Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
Respondent No. 03

[Signature]
Regional Police Officer,
Mardan.
Respondent No. 02

[Signature]
District Police Officer,
Nowshera.
Respondent No.01



133 حالات کا خلاصہ

5/11/17	ماریٹائم	1000 1000 1000 1000 1000	1000 1000 1000 1000 1000
1	1. اعلیٰ درجے کے عملے کے افراد 2. وکیلین اور دیگر پیشہ ورانہ 3. برادرین اور دیگر پیشہ ورانہ 4. جہاز کے عملے کے افراد	901 26720	1000 1000 1000 1000
2	2. اعلیٰ درجے کے عملے کے افراد 3. جہاز کے عملے کے افراد	16708 05-10-2017	1000 1000 1000 1000
3	3. اعلیٰ درجے کے عملے کے افراد 4. جہاز کے عملے کے افراد	22705 19/11/2017	1000 1000 1000 1000
4	4. اعلیٰ درجے کے عملے کے افراد 5. جہاز کے عملے کے افراد	27 29-11-2017	1000 1000 1000 1000
5	5. اعلیٰ درجے کے عملے کے افراد 6. جہاز کے عملے کے افراد	24 25/10/2017	1000 1000 1000 1000
6	6. اعلیٰ درجے کے عملے کے افراد 7. جہاز کے عملے کے افراد	415 28-03-2011	1000 1000 1000 1000
7	7. اعلیٰ درجے کے عملے کے افراد 8. جہاز کے عملے کے افراد	1335 19-4-211	1000 1000 1000 1000
8	8. اعلیٰ درجے کے عملے کے افراد 9. جہاز کے عملے کے افراد	1611 05-11-211	1000 1000 1000 1000

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۱۵-۰۵-۲۰۱۶
تاریخ پیدائش: ۲۳/۱۲/۱۹۷۳
نام: [نام نامک]

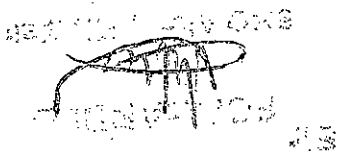
پتہ: [پتہ نامک]

محترم سر،
میں اپنی پوری زندگی میں آپ کی رہنمائی اور ہمدردی سے بہت کچھ سیکھ سکا ہوں۔
آج میں آپ کو اپنی زندگی کے بارے میں کچھ بتانا چاہتا ہوں۔
میں نے اپنی تعلیم مکمل کی ہے اور اب ایک کامیاب پیشہ ور ہوں۔
میں نے اپنی زندگی میں آپ کی نصیحتوں کو ہمیشہ یاد رکھا ہے۔
میں نے اپنی زندگی میں آپ کی رہنمائی سے بہت کچھ سیکھ سکا ہے۔

میں نے اپنی زندگی میں آپ کی رہنمائی سے بہت کچھ سیکھ سکا ہے۔
میں نے اپنی زندگی میں آپ کی نصیحتوں کو ہمیشہ یاد رکھا ہے۔
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میں نے اپنی زندگی میں آپ کی نصیحتوں کو ہمیشہ یاد رکھا ہے۔

10-11-91
M. S. S. S.

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بہتر کا پی

ضلع نوشہرہ

مد 21 روز نامچہ 10-01-2014

تھانہ اکوڑہ

مد 21 رپورٹ غیر حاضری محمد اعجاز MHC وقت 16:10 بجہ مورخہ 10-01-2014 درج کر کے کنسٹیبلان عالم زیب 47 کا تبادلہ مورخہ 23-12-2013 پولیس لائنز نوشہرہ جب کہ کنسٹیبل وقار حسین نمبر 1233 کا تبادلہ مورخہ 23-12-2013 کچولٹی ہی سے تھانہ اکوڑہ حسب الحکم افسران بالا ہو چکے ہیں۔ لیکن مذکورہ کنسٹیبلان نے اپنی حاضری کی رپورٹ تھانہ ہذا میں نہیں کی ہے۔ جو کہ ڈسپلن فورس کے ناطے انتہائی غیر ڈسپلن حرکت کی ہے جو کہ سرکاری کام میں دلچسپی نہ لینے اور موجودہ حالات کو دیکھتے ہوئے یہ پہل کرنا دیگر خواص کے لیے انتہائی ناقص ہے۔ ہر دو کنسٹیبلان کے خلاف رپورٹ غیر حاضری درج روز نامچہ ہو کر نقل مد افسران بالا کی خدمت میں ارسال کی جائیگی۔

جناب عالی نقل بمطابق اصل ہے۔

sd/

MM PS Akora

مورخہ 10-01-2014

17-50-11

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بہتر کاپی

تھانہ اکوڑہ

مد 17 روز نامچہ 20-01-2014

ضلع نوشہرہ

مد 17 رپورٹ حاضری محمد اعجاز MHC وقت 1400 بجہ مورخہ 20-01-2014 کنسٹیبل وقار
حسین نمبر 1233 غیر حاضر شدہ بحوالہ مد نمبر 21 روز نامچہ 2014-01-10 حاضر آیا جس کی حاضری درج روز نامچہ
کر کے نقل مد افسران بالا کی خدمت میں ارسال کی جائے گی۔

جناب عالی نقل بمطابق اصل ہے۔

sd/

MM PS Akora

MAR 25 25-05-14

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1039-P

Formal stamp: Sd/-, Form No. 733 (CBN 29/5/14), dated 25/5/14.

26-5-14

Signature and stamp of an official.

25-05-14

Signature and stamp of another official.

Stamp: Inspector Police Officer, Muzaffargarh.

Signature and stamp of the Inspector Police Officer.

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Five day absence period

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بہتر کاپی

تھانہ اضاحیل

مد 24 روز نامچہ 2014-05-21

ضلع نوشہرہ

مد 24 رپورٹ غیر حاضری غلام علی SI وقت 1700 بجہ مورخہ 2014-05-21 اس وقت نورشید
 HC انچارج چوکی عجب باغ نے بذریعہ فون اطلاع دی کہ کنسٹیبل وقار حسین نمبر 1233 جسکی ڈیوٹی لگائی گئی تھی کو
 بارک کنسٹیبلان حدود چوکی میں چیک کر کے عدم موجود پایا گیا۔ جس کے خلاف رپورٹ غیر حاضری درج روز نامچہ کر کے
 حسب اطلاع رپورٹ غیر حاضری درج بالا ہو کر نقل مد افسران بالا ارسال کی جائے گی۔

جناب عالی نقل برطابق اصل ہے۔

sd/

MM PS Azakhel

مورخہ 2014-05-25

DEPARTMENT OF
SOCIAL SERVICES

[Handwritten signature]

1/18/14
10:00 AM

out pay
period is treated as leave
for the purpose of the
absence

815
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بہتر کاپی

ضلع نوشہرہ

مد 28 روز نامچہ 26-05-2014

تھانہ اضاخیل

مد 28 رپورٹ ہمیش خان محرر SI وقت 22:30 بجے مورخہ 26-05-2014 اس وقت ذاکر HC نے چوکی عجب باغ سے اطلاع دی کہ کنسٹیبل وقار حسین 1233 جو کہ آج ہی 05 یوم غیر حاضری سے حاضر آیا تھا کو بکار سرکار چوکی عمارت میں چیک کر کے عدم موجود پایا گیا۔ جس کے خلاف رپورٹ غیر حاضری درج روز نامچہ کر کے نقل مد بعرض مناسب حکم و احکام افسران بالا کی خدمت میں ارسال ہے۔

جناب عالی نقل بمطابق اصل ہے۔

sd/

MM PS Azakhel

مورخہ 26-05-2014

بہتر کاپی

ضلع نوشہرہ

مد 32 روز نامچہ 07-06-2014

تھانہ اضاخیل

مد 32 حاضری بحوالہ مد نمبر 08 وقت 23:55 بجے مورخہ 07-06-2014 کنسٹیبل وقار حسین 1233 غیر حاضر شدہ بحوالہ مد 28 روز نامچہ 26-05-2014 حاضر آ کر تحریر بیان کیا کہ وہ دوران پیشی اپنا بیان دونگا حاضری کی جائے مذکورہ کی حاضری درج کر کے نقل مد افسران بالا کو ارسال کی جائے گی۔ جناب عالی نقل بمطابق اصل ہے۔

sd/

MM PS Azakhel

مورخہ 07-06-2014

بخدمت جناب ڈپٹی انسپکٹر جنرل آف پولیس مردان ریجن ون مردان

درخواست برآمد بحالی

جناب عالی!

پاکستان پولیس نے کہہ رکھا ہے کہ پولیس کے ماتحتی میں رہنے والے افراد کو باہر نکال دینا ہے۔

حوالہ OB نمبر 57-سورہ-12-01-2015 کے تحت DPD کے تحت عمل درآمد کیا گیا ہے۔

پہلے ہی درخواستیں امداد کے لیے دی گئی ہیں، وہ بار بار حال نہ کرنے کا حکم صادر کیا گیا ہے۔

تمام نئیات دیکھ کر دیکھیے۔

نوٹ: برخواستی آرڈر ہمراہ لف ہے۔

العارضی

آپکا تابع فرمان Ex-Constable وقار احمد نمبر 1233 گاؤں ڈھیری میاں اسحاق ہی ضلع نوشہرہ

رابطہ نمبر 0333-7840639/0332-2233131

No. 7064/ES-CH-14-12-17

EC / DPo / Newmans

For Comments please

Office Supdt:
For Regional Police Officer
Mardan

EX
1233

ORDER.

This order will dispose-off the appeal preferred by Ex- Constable Waqar Hussain No. 1233 of Nowshera District Police against the order of District Police Officer, Nowshera, whereby he was awarded Major punishment of dismissal from service vide District Police Officer, Nowshera OB No. 57 dated 12.01.2015.

Brief facts of the case are that the appellant while posted at Casualty Mian Rashid Hussain Shaheed Hospital Pabbi on 23.12.2013 he was transferred to Police Station Akora but he did not report at Police Station Akora and thus he willfully/deliberately absented himself from lawful duty from 23.12.2013 to 10.01.2014. Later on he was transferred to Police Station Azakhel on 17.04.2014 & again absented from duty with effect from 26.05.2014 till the date of his dismissal. On account of which he was issued charge Sheet and statement of allegations & Committee consisting of Mr. Waqar Ahmad the then Deputy Superintendent of Police Pabbi and Inspector Mehar Ali the then SHO Police Station Pabbi was constituted to conduct departmental enquiry against the alleged Constable. The Enquiry Committee submitted his finding report wherein the defaulter official was found guilty of misconduct and recommended for Major Punishment. He was issued Final.Show Cause Notice and served upon him on 17.12.2014. He was bound to submit his written reply in the stipulated time but he failed. It is pertinent to mention here that the alleged Constable is habitual absentee and is still absent. His continuous absence clearly indicates disinterest disobedience and he was no more interest in Police Job. Therefore he was awarded Major punishment of dismissal from service.

He was called in orderly room held in this office on 14.02.2018 and heard him in person. The appellant did not produce any cogent reason for his long absence. Therefore, I find no grounds to intervene the order passed by District Police Officer, Nowshera. Appeal is rejected being badly time barred.

ORDER ANNOUNCED.


DA No. 520
P.A. D.P.O. NSR
dt 22/02/18
Encls: _____

(Muhammad Alam Shinwari)PSP
Regional Police Officer,
Mardan

No. 1064 /ES, Dated Mardan the 19/02 /2018.

Copy to District Police Officer, Nowshera for information and necessary action w/r to his office Memo: No. 10246/PA dated 24.12.2017. The Service Record is returned herewith.

(*****)

EC, FMC
For m-action

DPO - NSR
19-2-18

Dated: 08/03/2022
 DY: No. SI/315/22
 (Secret Branch)
 Inspector General of Police, Peshawar

Inspector General of Police	
Khyber Pakhtunkhwa	
<input type="checkbox"/>	Adl. IGP Hrs
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<input type="checkbox"/>	Adl. IGP (M/DS)
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<input type="checkbox"/>	Comdt. SSU
<input type="checkbox"/>	Dir. IT
<input type="checkbox"/>	Comdt. Elite Force
<input type="checkbox"/>	Dir. PR
<input type="checkbox"/>	OSP PAS
<input type="checkbox"/>	DIG F&P
<input type="checkbox"/>	PSO to IGP
<input type="checkbox"/>	DIG PCU
<input type="checkbox"/>	DIG Training
<input type="checkbox"/>	Engineer CPO
<input type="checkbox"/>	DIG Inv (Admin)
<input type="checkbox"/>	Judget Officer
<input type="checkbox"/>	Registrar
<input type="checkbox"/>	PK to IGP
<input type="checkbox"/>	Work Section
<input type="checkbox"/>	AG Legal
<input type="checkbox"/>	AG Estb.
Signature	
Date: 08/03/2022	

For M.A. Q.A.
 AS
 08/03/22

For action
 08/secret

0333-7840639 / 0332-2233131

1233/21/2022
 Inspector General of Police
 Peshawar

The following information is received from the ...
 ...

On 08/03/2022 at 12:01 PM ...

...

...

No. 2520/PPD
 Dt: 08/03/2022

Annex: F
 (18)

Annex: - G

19

DEPARTMENT

DISTRICT NOWSHERA

4

DEPARTMENTAL ENQUIRY AGAINST CONSTABLE WAQAR HUSSAIN 1233.

This enquiry was conducted against Constable Waqar Hussain No.1233, who posted at Casualty MRHS Hospital Pabbi was transferred to Police Station Akora on 23.12.2013 but he did not bother to report there.

In the light of the above allegations, he was issued Charge Sheet/Summary of allegations and the undersigned Police Officers were appointed to conduct an enquiry against him under the Police Rules 1975.

The defaulter official was summoned and the Charge Sheet/Summary of allegations was served upon him. He submitted his reply in response to Charge Sheet/Summary of allegations which is enclosed.

He was also called and his statement was recorded which is on the file.

According to his reply/statement, he was suffering from Backache and was unable to attend the duty. He was unable to attend the duty. He has produced Medical Certificates issued vide OPD No.1053 dated 23.12.2013 wherein he has been advised bed rest of 16 days from 23.12.2013 to 08.01.2014. However, he has resumed his duty on 26.01.2014.

During the course of enquiry, it was noticed that the defaulter official was then transferred from Police Station Akora to Police Station Azakhel and reported arrival there, but absented himself from duty for 5 days and after making he again absented himself from duty on the same day and is absent tilj date. In this connection, copy of DD No.28 dated 26.5.2014 is attached herewith which is worth perusal.

From the above details the Enquiry Committee has revealed to the conclusion that the defaulter official (Constable Waqar Hussain No.1233) has not adopted proper way for getting treatment/medical leave which is a misconduct on his part. Moreover, he is still absent from 26.5.2014 to date and there is no likelihood of his resuming duty in the near future. Therefore, the Enquiry Committee recommends that he may be awarded a major punishment.

[Signature]
Inspector of Police
Pabbi

[Signature]
(WAQAR AHMED)
Deputy Superintendent of Police
Pabbi Circle.

No. 588-5 of 3-12-14
Encl-(10)

PA
Issue him and
show come notice

issued
on 03-12-14


[Signature]
District Police Officer
Nowshera

Annex (H)
(20)

FINAL SHOW CAUSE NOTICE

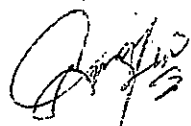
I, RABNAWAZ KHAN, District Police Officer, Nowshera as competent authority under Police Rules-1975 do hereby serve you Constable Waqar Hussain No. 1233 while posted to Police Station Akora:-

1. That consequent upon the completion of departmental enquiry against you by Mr. Waqar Ahmad DSP Pabbi & Inspector Mehar Ali SHO Pabbi. It has been transpired in the finding that you did not adopt a proper way to get treatment/medical leave, which is misconduct on your part. You are still absent and there is no likelihood of your coming back for duty.
2. I am satisfied that you have committed the following acts/omission as specified in Police Rules-1975.
3. You are, therefore, required to Show Cause as to why the punishment under Police Rules 1975 should not be imposed upon you.
4. If, no reply to this notice is received within 07 days, it will be presumed that you have no defence to put and in that case ex-parte action shall be taken against you.


District Police Officer,
Nowshera.

No. 184 /PA,

Dated 12-12 /2014.


17-12-14