

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No.663/2019

Date of Institution	...	21.05.2019
Date of Decision	...	08.07.2021

Ajmeer Shah , Ex-F.C No.837, Police Lines, Swabi.

... (Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and
two others. ... (Respondents)

Akhunzada Asad Iqbal,
Advocate

... For appellant.

Javid Ullah,
Assistant Advocate General

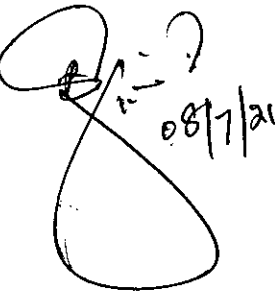
... For respondents.

AHMAD SULTAN TAREEN
ROZINA REHMAN

... CHAIRMAN
... MEMBER (J)

JUDGMENT

ROZINA REHMAN, MEMBER : The relevant facts leading to the filing of the instant appeal are that appellant was appointed as Foot Constable in 2009. He was seriously ill in September, 2015 and was advised complete bed rest by Medical Officer. He joined his duty after recovery from ailment, however, he fell ill once again, therefore, he was once again, advised bed rest. He applied for leave on each occasion. After recovery, he reported for duty but he was proceeded departmentally for absence from duty. He appeared before the Inquiry Officer and produced his medical record but was dismissed from service vide order dated 14.06.2016. He filed departmental appeal which was rejected.


08/7/21

2. We have heard Akhunzada Asad Iqbal Advocate learned counsel for appellant and Javid Ullah learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Akhunzada Asad Iqbal Advocate appearing on behalf of appellant, inter-alia, contended that the appellant was not treated in accordance with law and his rights were badly violated. He submitted that he was not served with any charge sheet and statement of allegations nor any regular inquiry was conducted in order to dig out the real facts before passing the impugned order. He argued that the appellant was not provided with proper opportunity of personal hearing before awarding him the penalty and that he was condemned unheard. He submitted that his absence was never willful but due to his prolonged illness which forced him to remain away from his duty. He contended that he has a spotless service career at his credit and the penalty imposed upon him is harsh.

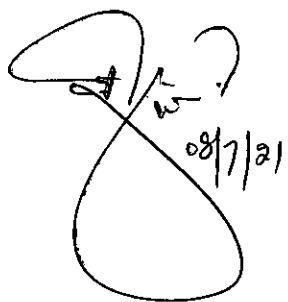
4. Conversely, learned A.A.G submitted that appellant absented himself from duty without any permission of the competent authority, therefore, he was proceeded against departmentally in accordance with the provisions of disciplinary rules. He argued that appellant was associated with inquiry and proper opportunity of personal hearing was provided with. He was also served with final show cause notice but he failed to submit reply.

5. Perusal of record would reveal that two different inquiries were initiated against the appellant. He was issued charge sheet and statement of allegation for his alleged absence from 08.09.2015 to

08/7/21

13.10.2015 and Izhar Shah Khan D.S.P Lahor was appointed as Inquiry Officer to conduct inquiry against him on 02.12.2015. Similarly, charge sheet and statement of allegations were issued on 14.04.2016 for his absence from 19.01.2016 to 14.02.2016 and one Haider Ali D.S.P Headquarters Swabi was appointed as Inquiry Officer vide order dated 14.04.2016 of District Police Officer, Swabi. Reply was submitted by the appellant. Two different inquiry reports have been annexed by the respondents with their comments as "Annexure-G" and "Annexure-H". Inquiry for his absence from 08.09.2015 to 13.10.2015 was conducted by one Pasham Gul Khan S.D.P.O Lahor, whereas, the record shows that one Izhar Shah, D.S.P had been appointed as Inquiry Officer. As per findings of the inquiry report dated 20.04.2016, the appellant was not held willful absentee as he produced Medical Certificates which were duly verified from the concerned Hospitals and he was recommended for suitable punishment. The other inquiry report submitted by the D.S.P Headquarters Swabi on 13.05.2016 shows that ailment of the appellant was not denied, however, it was held that being cops of the disciplined force, he was supposed to take prior permission from the competent authority which he did not, therefore, the Inquiry Officer recommended absence period of 26 days to be treated as leave without pay.

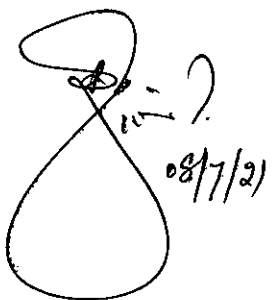
6. From the record, it is evident that two different inquiries were initiated against the appellant in respect of his willful absence for different periods. The inquiry conducted by Pasham Gul Khan S.D.P.O Lahor clearly shows that the medical record produced by the appellant during inquiry proceedings, was duly verified from the concerned hospital which means that ailment of the appellant was admitted and considered,

A handwritten signature in black ink, followed by the date '08/7/21' written in the same ink.

therefore, it was recommended by the Inquiry Officer in view of the submissions that suitable punishment may be awarded. The inquiry conducted by the D.S.P Headquarter Swabi shows that he too, admitted his illness but being cops of the disciplined force, his period of absence of 26 days was recommended to be treated as leave without pay. After getting the inquiry reports by the District Police Officer, the impugned order of dismissal from service was passed.

7. The competent authority while not agreeing with the recommendations of the inquiry report, failed to take mandatory steps in accordance with law and rules by virtue of which, the competent authority was required to record the reasons in writing either to remand the inquiry to the inquiry officer or the inquiry committee, as the case may be, with such directions, as the competent authority may like to give or may order a de-novo inquiry through different inquiry officer or different inquiry committee, but in the instant case, the competent authority skipped and violated such provision of law. We also did not find on record any other ground or material in support of overweening approach of the competent authority to dissent with the findings of the inquiry officers. Departure from the said pattern and that too without a cogent reason in the present case caused irreparable damage to the appellant at the cost of substantial justice.

8. From the record, it is crystal clear that the absence of appellant was not deliberate. His absence was not regularized. His illness coupled with medical record was not taken into consideration despite the fact that the entire medical record was fully verified from the concerned hospital. Punishments are always used as deterrence and with a view to reform



08/7/21

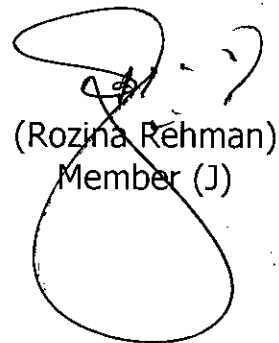
the delinquent officials. An employee having rendered more than six years regular service was not treated according to law and rules in order to ensure substantial justice, there is strong justification for modification of penalty referred to above.

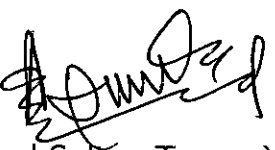
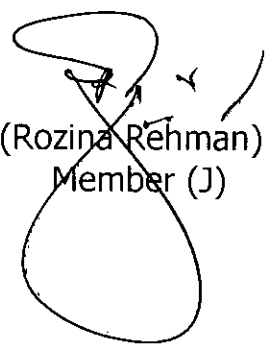
9. Keeping in view the above discussion, the instant appeal is partially accepted. Appellant is reinstated into service. The penalty of dismissal from service is modified and converted into withholding of two increments and entire absence be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

08.07.2021


(Ahmad Sultan Tareen)
Chairman


(Rozina Rehman)
Member (J)


S.No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	08.07.2021	<p><u>Present:</u></p> <p>Akhunzada Asad Iqbal, Advocate ... For Appellant</p> <p>Javid Ullah, Assistant Advocate General ... For respondents</p> <p>Vide our detailed judgment of today of this Tribunal placed on file, the instant appeal is partially accepted. Appellant is reinstated into service. The penalty of dismissal from service is modified and converted into withholding of two increments and entire absence be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.</p> <p><u>ANNOUNCED.</u> 08.07.2021</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  (Ahmad Sultan Tareen) Chairman </div> <div style="text-align: center;">  (Rozina Rehman) Member (J) </div> </div>


02.12.2020

Appellant in person present.

Kabirullah Khattak learned Additional Advocate General present.

Former requests for adjournment as his counsel is not available. Adjourned. To come up for arguments on 05.02.2021 before D.B


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


(Rozina Rehman)
Member (J)

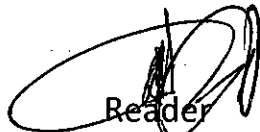
05.02.2021

On account of Public Holiday (Kashmir Day), the case is adjourned to 06.04.2021 for the same.


Reader

06.04.2021


Due to demise of Hon'able Chairman, the Tribunal is defunct, therefore, the case is adjourned to 08.07.2021 for the same.


Reader

14-5.2020


Due to COVID19, the case is adjourned to

07/8/2020 for the same as before.


Reader

07.08.2020

Due to summer vacation case to come up for the same on
08.10.2020 before D.B.

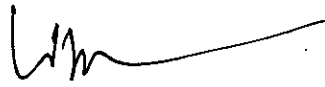

Reader


08.10.2020

Appellant present in person.

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

Former requests for adjournment as his counsel is not
available. Adjourned. To come up for arguments on
02.12.2020 before D.B.


(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

Service Appeal No. 663/2019

12.02.2020

Junior counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Neither written reply on behalf of respondents submitted nor representative of the department is present, therefore, notices be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Last opportunity is granted to the respondents for filing of written reply/comments. Adjourned to 17.03.2020 for written reply/comments before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

17.03.2020

Appellant in person present. Mr. Kabirullah Khattak learned Addl. AG alongwith Mr. Atta Ur Rehman Inspector for respondents present and submitted written reply/comments. Adjourned. To come up for rejoinder if any, and arguments on 14.05.2020 before D.B.


Member

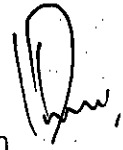
19.11.2019

Counsel for the appellant and Addl. AG present.

The District Police Officer Kohat has sent a memo dated 15.10.2019, wherein, it is stated that the appellant was at the strength of District Police Swabi and was awarded penalty by District Police Officer, Swabi while his departmental appeal was rejected by Regional Police Officer, Mardan. The DPO Kohat, therefore, has no nexus with the appeal in hand.

On the other hand, the appellant has submitted an application today whereby a prayer for substitution of respondents No. 2 & 3 has been made. Since the appeal is at initial stage, therefore, the application is allowed. Office is directed to substitute Regional Police Officer, Mardan Region Mardan and District Police Officer, Swabi as respondents No. 2 and 3 respectively in the memorandum of appeal. Notices be issued to ~~said~~ substituted respondents for submission of requisite reply/comments on 01.01.2020 before S.B.

Chairman



01.01.2020

Appellant in person and District Attorney for the respondents present.

Learned District Attorney seeks time to contact the respondents and furnish the requisite reply/comments. Adjourned to 12.02.2020 on which date reply/comments shall positively be furnished.

Chairman



663/2019

20.08.2019

Counsel for the appellant present.

Contends that the absence of the appellant was due to illness evidence ~~u~~hereof was submitted during departmental proceedings. The said fact was noted in the departmental appeal as well as mercy petition submitted before the respondent No. 1. It was further contended that the order dated 08.05.2017 passed under Rule-11-A of Khyber Pakhtunkhwa Police Rules, 1975 was communicated to the appellant on 12.03.2019 where-after the mercy petition was submitted on 10.04.2019 which was dismissed on 03.05.2019, hence the appeal in hand. Regarding the merits of the case of appellant, it was argued that no proper departmental enquiry was conducted while the penalty awarded to appellant was harsh in the circumstances of the case. The impugned order dated 14.06.2016 was given retrospective effect which was also not allowable, it was added.

In view of arguments of learned counsel and available record, the appeal is admitted for regular hearing subject to all just exceptions and objections regarding delay. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 15.10.2019 before S.B.

Appellant Deposited
Security & Process Fee

2/9/19


Chairman

15.10.2019

Appellant in person and Addl. AG for the respondents.

Learned AAG seeks time to contact the respondents and submit the comments/reply. Adjourned to 19.11.2019 on which date the requisite reply shall positively be submitted.


Chairman

28.06.2019

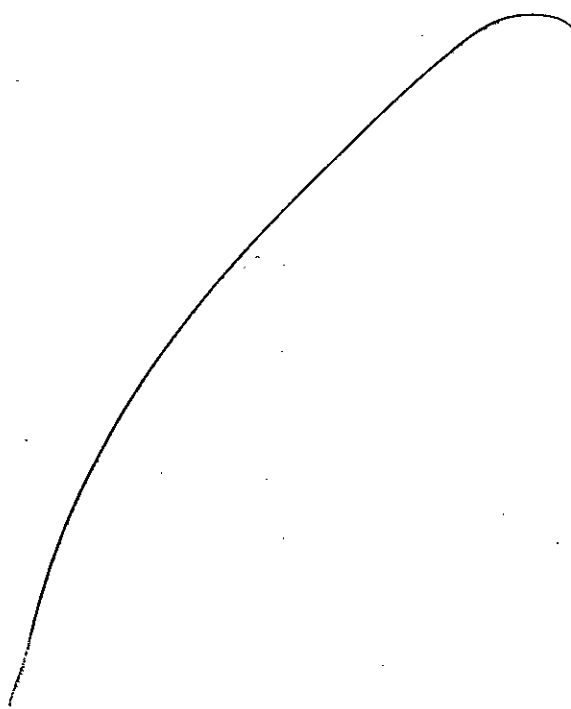
Learned counsel for the appellant present.

The impugned order of dismissal from service was issued on 14.06.2016. The departmental appeal filed by the appellant under Rule 11-A of the Khyber Pakhtunkhwa Police Rules 1975 was rejected vide order dated 08.05.2017 on merit as well as being Time barred. Perusal of order dated 08.05.2017 mentioned above would show that the departmental appeal filed by the appellant before Regional Police Officer was filed vide order dated 19.08.2016. On the other hand the present service appeal was instituted on 21.05.2019.

Learned counsel for the appellant was confronted with the situation that the present service appeal is time barred/incompetent. Learned counsel for the appellant seeks adjournment for preliminary hearing. Adjourn. To come up for preliminary hearing on 20.08.2019 before S.B.





Member



Form-A
FORM OF ORDER SHEET

Court of _____

Case No.- _____ 663/2019 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/05/2019	<p>The appeal of Mr. Ajmeer Shah presented today by Mr. Yasir Saleem Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	22/05/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>28/06/19</u></p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Appeal No. 663 /2019

Ajmeer Shah, Ex-FC No. 837, Police Lines Swabi

(Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others

(Respondents)

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5	Copies of the departmental appeal dated 11.07.2016 & and rejection order dated 08.05.2017	D & E	12-14
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Appellant

Through


YASIR SALEEM

Advocate Peshawar.

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

Appeal No. 663 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 791

Dated 21/5/2019

Ajmeer Shah, Ex-FC No. 837, Police Lines Swabi

(Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
 2. ~~Regional Police Officer Kohat, Region Kohat.~~ ^{Regional police officer, Mardan,}
 3. ~~District Police Officer Kohat.~~ ^{Region Mardan}

3. DPO Swabi.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 14.06.2016, whereby the appellant has been awarded the Major Punishment of dismissal from Service beside the recovery of salaries received by him during the alleged absence, against which his departmental appeal dated 11.07.2016 has been rejected vide office order dated 08.05.2017. while his mercy petition dated 10.04.2019 has also been regretted vide Order dated 03.05.2019

Filed to Registrar
21/5/19

Prayer in Appeal: -

On acceptance of this appeal the impugned orders dated 14.06.2016, 08.05.2017 and 03.05.2019, may kindly be set aside and the appellant may be re-instated into service with all back benefits and wages of service.

Respectfully Sheweth,

The appellant humbly submit as under.

1. That appellant was appointed as Foot Constable in the Respondent Department in the year 2009.
2. That ever since his appointment, the appellant had performed his duties as assigned with zeal and devotion and has never given any chance of complaint whatsoever regarding his performance.
3. That while performing his duties in the said capacity the appellant suffered from illness (Yarqaan) and pain in Stomach in the month of September 2015. The doctor advised complete bed rest for at least a month. As soon as he recovered from ailment, he joined his duty. However as he did not recover fully he again got ill therefore as per doctor advice he took bed rest in the month of Jan 2016. It is pertinent to mention here that he duly applied for leave on each occasion and the department assured he would be granted leave of kind due and it was the reason neither any charge sheet nor any show cause notice was served upon him.
4. That the appellant again in April 2016 the appellant got the medical treatment and as per doctor advise, he took complete bed rest from 16.04.2016 to 25.04.2016. all the medical documents were handed over to the inquiry officer. After the recovery, the appellant reported for duty and started performing his duties.
5. That later the appellant was proceeded departmentally for absence from duty. Charge sheet though issued, however never communicated.

to the Appellant. He was called upon by the Mirza to appear before the inquiry officer, however when he appeared he was asked just to provide medical documents and in this way the inquiry concluded. The inquiry office even did not bother to meet the appellant and sought documents from him through Reader.

6. That thereafter appellant was served with show cause notice dated 16.05.2016 was issued containing the allegations of wilful and deliberate absence from duty. The appellant duly replied to the show cause notice and explained the matter. *(Copies of show cause notice dated 16.05.2016 and reply thereof are attached as Annexure A & B).*
7. That without considering his defense, quite illegally, the appellant was dismissed from service vide order dated 14.06.2016. *(Copy of the office order dated 14.06.2016 is attached as Annexure C)*
8. That the appellant submitted his departmental appeal dated 11.07.2016, However the same has been rejected vide order dated 08.05.2017. it is pertinent to mention here that the appellant was never informed about the faith of his department appeal, he approached time and again to the respondent to inform but all in vain. Later in the year 2018 (mid), he was verbally informed that his departmental appeal has been rejected vide order dated 08.05.2017 however again he was not provided the rejection order. Lastly the rejection order was communicated to the appellant 12.03.2019. *(Copies of the departmental appeal dated 11.07.2016 & and rejection order dated 08.05.2017 are attached as Annexure D & E)*

9. That the appellant also submitted his mercy petition before the competent authority vide his application dated 10.04.2019, however the same was also regretted vide office order dated 03.05.2019. *(Copies of the Mercy petition dated 10.04.2019 & and rejection order dated 03.05.2019 are attached as Annexure F & G)*
10. That the impugned orders dated 14.06.2016, 08.05.2017 and 03.05.2019 are illegal unlawful against the law and facts hence liable to be set aside inter alia on the following grounds:

GROUND OF APPEAL.

- A. That the appellant has not been treated in accordance with law hence his rights secured and guaranteed under the law are badly violated.
- B. That no procedure has been followed before his dismissal from service. He has never been served any charge sheet and statement of allegations nor any regular/ impartial inquiry has been conducted to dig out the facts before passing the impugned order of dismissal, thus the impugned order is defective in the eyes of law.
- C. That the appellant has not been provided proper opportunity of personal hearing before awarding him the penalty hence the appellant have been condemned unheard.
- D. That no charge sheet or statement of allegations as prescribed under the law and rules has been served upon him hence the appellant have not been provided fair opportunity to defend his self


against the charges leveled. The impugned order is thus passed in violation of the principles of natural justice.

- E. That the appellant has never committed an act or omission which could be termed as misconduct, albeit he has been awarded the penalty. His absence was never willful but was due to his prolonged illness, which forced him to remain away from his duty.
- F. That it has been consistently held by the superior courts that punishment must commensurate to the magnitude of guilt.
- G. That it is also pertinent to mention here that the inquiry report (if any) has never been provided to the appellant, thus whole proceedings before the imposition of penalty are defective in the eye of law.
- H. That it is pertinent to mention here that on previous two occasions the appellant after recovery joined the duty and he was not proceeded as the department knew that he was badly suffering from stomach pain and Yarqan. So he cannot be proceeded later on for the sais period.
- I. That the appellant has at his credit a spotless service career, the penalty imposed upon him is harsh and liable to be set aside.
- J. That the appellant is jobless since his illegal Removal from Service.
- K. That the appellant seeks the permission of this Honorable Tribunal to rely on additional ground at the hearing of this appeal

It is, therefore, humbly prayed that on acceptance of this appeal the impugned orders dated 14.06.2016, 08.05.2017 and 03.05.2019, may kindly be set aside and the appellant may be re-instated into service with all back benefits and wages of service.



Appellant

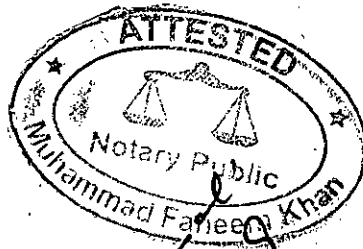
Through


YASIR SAEEM
Advocate Peshawar

AFFIDAVIT

I, *Ajmeer Shah, Ex-FC No. 837, Police Lines Swabi*, do hereby solemnly affirm and declare on oath that the contents of the above noted appeal as well as accompanied application for condonation of delay are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.


Deponent



BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. _____/2019

Ajmeer Shah, Ex-FC No. 837, Police Lines Swabi

(Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and
others

(Respondents)

Application for condonation of delay if any in
filing the above noted Appeal

Respectfully Submitted:

1. That the applicant has filed the accompanied service appeal in which no date has been fixed so far.
2. That the applicant prays for the condonation of delay in filling the above noted appeal inter alia on the following grounds: -

Grounds of Application:

- A. That the appellant duly filed his departmental appeal within the stipulated period of time. However he was never informed about the fate of his departmental appeal, he approached time and again to the respondent to inform but all in vain. Later in the year 2018 (mid), he was verbally informed that his departmental appeal has been rejected vide order dated 08.05.2017 however again he was not provided the rejection order. Lastly the rejection order was communicated to the appellant 12.03.2019. Since the order of rejection was never communicated to him in time, therefore, the delay if any is condonable.
- B. That if at all there were any delay it cannot be attributed to the applicant as the order of rejection was not communicated to him in time. After communication, he duly filed his mercy petition to the Respondent No.1 within one month and after rejection of mercy petition the instant appeal is being filed within the statutory period.



- C. That the proceedings conducted against the applicant are illegal, void and nullity in the eyes of law, no inquiry has been conducted nor the appellant has been given any opportunity of hearing. Thus the whole proceedings are nullity in the eye of law and hence no period of limitation run against an order based on illegal / defective proceedings.
- D. That the delay if any was not because of negligence of the appellant but it was due to the reluctant behavior of the respondents that they never communicated the rejection order to him.
- E. That the appellant never remained negligent while pursuing his remedy thus the delay if any is condonable.
- F. That valuable rights of the appellant are involved in the case hence this Service Appeal deserves to be decided on merit.
- G. That the delay if any was not willful or contumacious hence deserve leniency.
- H. That it has been the consistent view of the superior courts that causes should be decided on merit rather on technicalities including the limitation. The same is reported in 2004 PLC (CS) 1014 & 2003 PLC (CS) 769.

It is therefore prayed that on acceptance of this application the delay in filling the above appeal may please be condoned.

Applicant

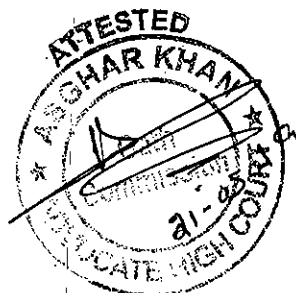
Through

YASIR SALEEM

Advocate Peshawar

AFFIDAVIT

I, do hereby solemnly affirm and declare on oath that the contents of the above application are true and correct and that nothing has been kept back or concealed from this Honourable Tribunal.



Deponent

A
Ajmeer
9

FINAL SHOW CAUSE NOTICE

Whereas, you Constable Ajmeer Shah No.837, while posted Police Post Saleem Khan absented yourself from duty with effect from 19.01.2016 to 14.02.2016 and while posted to Police Lines, Swabi absented yourself from duty with effect from 08.09.2015 to 13.10.2015 and from 16.04.2016 to 25.04.2016 without any leave/prior permission of the competent authority, which is against the discipline and amounts to gross mis-conduct.

In this connection you were charge sheeted and served with summary of allegation and DSP, Lahor and DSP, H.Qrs, Swabi were appointed to conduct proper departmental enquiry. The enquiry officers held enquiry and submitted their findings, wherein, they held you Constable Ajmeer Shah No.837 guilty for the mis-conduct.

Therefore, it is proposed to impose Major/Minor penalty, including dismissal as envisaged under Rules 4(b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence I Javed Iqbal PSP, District Police Officer, Swabi in exercise of power vested in me under Rules 5(3) of the Khyber Pakhtunkhwa Police Rules 1975 call upon you to show cause finally as to why the proposed punishment should not be awarded to you.

Your reply should reach to the office of the undersigned within seven days of the receipt of this notice failing which it will be presumed that you have no explanation to offer.

You are also at liberty to appear for personal hearing before the undersigned.


District Police Officer,
Swabi.

Date: 16.05.2016

ASI [Signature]

SAO P.S. [Signature]
20/5/16

بشمول شوکانہ نرس تری صدف بہ سال ۱۹۱۵ء کو شہر میں
 میں ڈیڑھ سال کا دورانیہ تھا۔ سال ۱۹۱۵ء کو شہر میں
 گھوڑے اور سورج ۱۹۱۵ء میں سال کا طبیعت اچھا نہ
 تھا۔ صوفیوں کے دورانیہ کا حساب ہے کہ وہ صاف
 ہے۔ اس لیے کہ اس صاف ہے کہ تین ٹکڑے روا
 کہ صدف کے زخم اور پرمان کا بندھا۔ اور
 مذکورہ بیماری کے دوائی تجویز کرے کہ
 سے آرام کرنے کا مشورہ دیا۔ اس طرح تکلیف
 اور نمانے سے دور رکھا گیا اور اسے بہت تھکا کر مطلق
 میں کیے۔ اس کے بعد بہتر ہو گیا اور صاف ہو گیا
 ہے۔ اس کے بعد بہتر ہو گیا اور صاف ہو گیا
 زینت کا جو ہے اور اس میں کاروبار داخل
 ہم نے اس کے کائنات پر توجہ دے کر
 اس کے بعد بہتر ہو گیا اور صاف ہو گیا

۸۳۷
 ۲۱۲۷۲۲۵

Anwar 11

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI

ORDER

Constable Ajmeer Shah No.837, while posted to Police Post Salcem Khan absented himself from duty with effect from 19.01.2016 to 14.02.2016 and while posted to Police Lines, Swabi absented himself from duty with effect from 08.09.2015 to 13.10.2015 and from 16.04.2016 to 25.04.2016 without any leave/prior permission of the competent authority, which is against the discipline and amounts to gross mis-conduct.

Therefore, he was issued Show Cause Notices. His replies to the Show Cause Notices were received, perused, but was found unsatisfactory. Therefore, he was served with Charge Sheet and Summary of allegations. DSP, II.Qrs, Swabi and DSP Lahor were appointed as Enquiry Officers. The Officers conducted proper departmental enquiries, collected evidence and recorded statements of all concerned. They submitted their findings, wherein they found Constable Ajmeer Shah No.837, guilty for the mis-conduct and recommended him for suitable punishment. During enquiry he again absented himself from duty with effect from 03.05.2016 till date. The undersigned perused the enquiry papers, findings, and by agreeing with the Enquiry Officers served him with Final Show Cause Notice. He was directed to submit his reply to the Final Show Cause Notice within seven days but he did not submit his reply, which means that he has nothing to offer in his defence and deserve ex-parte action.

Therefore, I, Javed Iqbal, PSP, District Police Officer, Swabi, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules 1975, hereby award Constable Ajmeer Shah No.837 Major Punishment of Dismissal from service with effect from 03.05.2016. The pay for the period of his absence is hereby deducted from his salary.

O.B No. 722

Dated 13/05/2016

District Police Officer,
Swabi.

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI
No. 1999-53, PA, dated Swabi, the 19/06/2016.

Copies to the: -

1. DSP, II.Qrs, Swabi.
2. Pay Officer.
3. Establishment Clerk.
4. Fauji Missal Clerk.
5. Official concerned.

گدھت مناب ڈیٹا انسٹیٹوٹ نزل آف پولیس فردان زمین آف فردان

مغفون: گمانہ اول برائے جمالی ملازمت بر طرف ملک ڈیٹا پی او
مناب بحوالہ ادیس ڈیٹا 722 ورہ 016.06.14

مناب عالی: مغفون اول مناب ڈیٹا ہے

- 1) یہ کہ سائل قلم بند میں سال 2010 میں کوئی پروگرام مختلف گمانہ جات میں ڈیٹا سرانجام دے رہا تھا۔
- 2) یہ کہ سائل بد دوران نصابی گمانہ آئندہ شدید بیمار ہوا جسکی وجہ سے بااثر چھوڑی غر حاضر رہا۔
- 3) یہ کہ سائل کا تبادلہ گمانہ آئندہ سے اپنی ہوگی بلکہ خان کوئی بیان پر سائل کی بیماری کو شدت اختیار کئے جسکی وجہ سے منہ یوم غر حاضر رہا جسے لیم سائل کا تبادلہ لائن ہوا۔
- 4) یہ کہ سائل بد دوران نصابی پوٹن لائن اپنا علاج جاری رکھا اور تسمی سے پتہ چلا کہ سائل کو پرقان کی بیماری ہے جسکی وجہ سے معالجہ آرام کا مشورہ دیا گیا۔
- 5) یہ کہ سائل کے خلاف مندرجہ بالا غر خافریوں پر انکو تسمی سے وع ہوئی جو بد دوران انکو تسمی سائل نے انکو تسمی افسر کو جمع علاج معالجہ کے کاغذوں میں لکھے لیکن کوئی سائل کی فہوار رقم رہا گیا ہے۔
- 6) یہ کہ سائل کو مناب DPo مناب بحوالہ ادیس ڈیٹا 722 ورہ 016.06.14 کو ڈیٹا سے ڈسمنس کر دیا۔

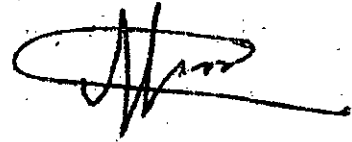
سائیں ایسا غریب گھرانے سے نکلے رہتا ہے۔ اور والد کا
سیارا ہیں سر پر نہیں ہے

آپ صاحبان میرا بی ڈکے سائیں کے فال پر رقم فرما کر
سائیں کو خوشی پر بحال کرانے کا اقدار مادد فرما کر
مکمل فرماویں۔

3/11/16

ع


سائیں کا تیل اجیر خان ولد آمان خان کے پاس ہے وہ اس سے
بیشمار 837
کریں شہر سے سائیں کو دیکھ کر دیا۔

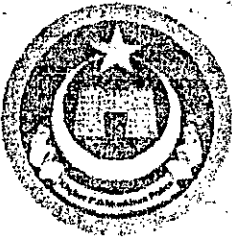


Dr. A. P. G. S. / Comments R.

No. 6260/ES,

dt: 11/7/16


D. G. Morda
11/7



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. S/ 2758 /17, dated Peshawar the 08/05/2017.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-FC Ajmeer Khan No. 837. The appellant was dismissed from service w.e.f 03.05.2016 by DPO, Swabi vide OB No. 722, dated 14.06.2016 on the charge of absence from duty for 03 months and 23 days.

His appeal was filed by Regional Police Officer, Mardan vide order Endst: No. 7327/ES, dated 19.08.2016.

Meeting of Appellate Board was held on 20.04.2017 wherein petitioner was heard in person. During hearing petitioner contended that his absence was not deliberate but he was suffering from illness. He produced medical certificates.

Perusal of record reveals that petitioner was dismissed from service on charges of willful and deliberate absence from duty. He failed to advance any plausible explanation behind his absence besides his service record contains 04 bad entries. The petition is also time barred. Therefore, the Board decided that his petition is hereby rejected.

This order is issued with the approval by the Competent Authority.

(MASOOD AHMAD KHANIL)
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. S/2758-66 /17,

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan.
2. District Police Officer, Swabi.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt-E-IV CPO Peshawar.
8. Central Registry Cell, CPO.

F
Amir

15

گرامی نقاد رخصتور صاحب ڈاکٹر محمد نعیم خان صاحب آئی جی پی صیبر چٹوخواہ پشاور
مخضو ان - رقم درخواست بابت دوبارہ بجالی سروس

جناب عالی!

گزارش خدمت ہے کہ مسائل آجیناب کے زیر سایہ حکمہ لپٹس میں مورخہ
01/01/2010 کو بطور کنیشنل بھرتی ہوا اور اپنی ڈیوٹی ایمانداری و جانفشانی سے سرانجام دیتا
رہا۔ مسائل ماہ ستمبر 2015 میں اچانک بیمار ہوا جب ڈاکٹر کے پاس گیا تو ڈاکٹر صاحب
نے یرقان تشخیص کیا اور آرام بخوید کیا جس کی وجہ سے مسائل ڈیوٹی پر حاضر نہ ہو سکا۔
مسائل کے والد صاحب وفات پا چکے ہیں اور گھر میں اور کوئی نرنیہ فرد موجود نہیں تھا جو کہ حکمہ
کو بروقت مطلع کرتا۔ اتفاقاً ہونے پر مسائل ڈیوٹی کیلئے حاضر ہوا اور ڈاکٹری نسخہ جات بعد
میں لیکل پیش کیں۔ پھر کچھ عرصہ بعد دوبارہ بیمار ہوا اور ڈاکٹر کی ہدایت پر ٹیڈ لیکل لیو نزارا
بعد ازاں ڈیوٹی پر حاضر ہوا۔ اس طرح تیسری بار بھی بوجہ بیماری 10 ایوم گھر خود میں گزارا۔
مسائل کو DPO صاحب کے حکم پر بحالہ 08 فر 7222 مورخہ 2016/06/14 نوکری سے برخواست
کر دیا گیا حالانکہ مسائل نے انکوائری افسر DSP ہیڈ کوارٹرز اور DSP لایور صوابی کو تمام
ڈاکٹری نسخہ جات اور ٹیڈ لیکل لیو اصل حالت میں حوالہ کیئے تھے۔

مسائل نے جناب دیو حران رحین کو حکمانہ اپیل جمع کی تھی جو کہ انہوں
نے خائل کر کے CPO پشاور سے رابطہ کرنے کی تلقین فرمائی تھی۔ CPO پشاور سے مسائل
کی اپیل بحالہ فر 2758/17 مورخہ 2017/05/08 خارج ہوئی۔

جناب عالی!

مسائل ایک غریب خاندان سے تعلق رکھتا ہے اور ایک بڑے کنبے کا واحد
کفیل ہے۔ مسائل بال بچوں والا ہے۔ مسائل کے والد فوت ہو چکے ہیں اور والدہ دل
اور شوگر کی مرلضہ ہے، اسکے علاوہ 3 بھائی اور 2 بہنیں ہیں اور ان سب کی کفالت
مسائل کے زقمہ ہے۔ مسائل بوجہ بیروزگاری اپنا اور اپنے اہل و عیال کا پیٹ پالنے سے
قاصر ہے اور فاقہ کشی پر مجبور ہیں۔ مسائل ہر آئندہ محتاط رہنے کا وعدہ کرتا ہے۔

استدعا ہے کہ مسائل کی درخواست پر سمندر دانہ غور فرماتے ہوئے مسائل
کو نوکری پر بحال فرمائے جانے کے اوصیات صادر فرمادیں۔ مورخہ 15/4/19
تاجیات دعا گو رہیں گے۔

آپ کا ناظم فرمان و دعا گو،

صلی

انجمن خیر خاں سابقہ کنیشنل بڈ 837 ضلع صوابی 2127225-0300 Cell No. 16202-7886816-9 CNIC No.
سکنہ ولہ خواجہ وہں خیل تحصیل رزر ضلع صوابی



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.

No. SI/ 1415 /19, dated Peshawar the 03/05/2019.

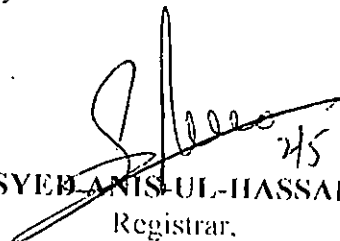
To The Regional Police Officer,
Mardan.

Subject: MERCY PETITION.

Memo:

The Competent Authority has examined in the light of Police Rule 16.32 and filed the mercy petition submitted by Ex-Constable Ajmeer Khan No. 837 of Swabi District Police against the punishment of dismissal from service awarded by DPO/Swabi vide OB No. 722, dated 14.06.2016 being badly time barred.

The applicant may please be informed accordingly.


(SYED ANIS-UL-HASSAN)

Registrar,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.



2 منجانب
اجمیر سٹاٹ بنام گورنمنٹ

مورخ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام سٹیٹ اور کیلئے یا سر تسلیم ایڈووکیٹ
مقرر 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 تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زر میں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سبب سے ہوگا۔ 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 سندر ہے۔

2019

05

ماہ

21

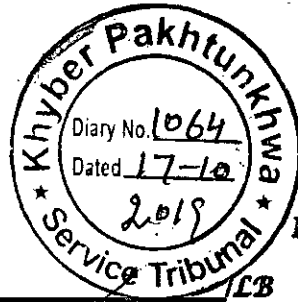
المرقوم

العبد گداہ العبد

کے لئے منظور ہے۔

مقام

amrpk
Jh



Office of the
District Police Officer,
Kohat

Ph: 0. 0922-9260116 Fax 0. 0922-9260125

No. _____/LB dated Kohat the 15. 20/2019

To: The Regional Police Officer, Kohat

Sub: SERVICE APPEAL NO. 663/2019 TITLED AJMEER SHAH EX-FC NO. 837 VS PROVINCIAL POLICE OFFICER, KP AND OTHERS

Memo:

Kindly refer to your good office Endst: 9102/EC dated 10.10.2019.

It is submitted that appellant was at the strength of district Police Sawabi and awarded punishment by District Police Officer, Sawabi. His service appeal was rejected by Regional Police Officer, Mardan.

The undersigned and your good office have been wrongly impleaded as respondents in the subject appeal. Therefore, this region has got no concern with the subject appeal.

Submitted for information please.

DISTRICT POLICE OFFICER,
KOHAT

No. 18394 /

Copy of above is submitted for favour of information to the:-

1. Assistant Inspector General of Police, Legal, Khyber Pakhtunkhwa please.
2. ✓ Registrar, Khyber Pakhtunkhwa, Service Tribunal, Peshawar please.

put up to the court with relevant appeal.

Reader

[Signature]
17/10/19.

DISTRICT POLICE OFFICER,
KOHAT

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No. 8/10

Appeal No. 663 2018

Mr. Ajmeela Shiekh Appellant/Petitioner

Versus

P.P.O, K.P., Peshawar etc Respondent

Respondent No. 3

District Police Officers
Kohat

Notice to: Distt Police officer Kohat

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 15-10-2019 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you via this office~~ Notice No. dated

Given under my hand and the seal of this Court, at Peshawar this 20th Day of Sep 2018

8160
8/10/14

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Appeal No. 663/2019

Ajmeer Shah, Ex-FC No. 837, Police Lines Swabi

(Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others

(Respondents)

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3	Copies of show cause notice dated 16.05.2016 and reply thereof	A & B	9-10
4	Copy of the office order dated 14.06.2016	C	11
5	Copies of the departmental appeal dated 11.07.2016 & and rejection order dated 08.05.2017	D & E	12-14
6.	Copies of the Mercy petition dated 10.04.2019 & and rejection order dated 03.05.2019	F & G	15-16
14.	Vakalatnama		17

Ajmeer Shah
Appellant

Through

Yasir Saleem
YASIR SALEEM

Advocate Peshawar.

1

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Appeal No. _____/2019

Ajmeer Shah, Ex-FC No. 837, Police Lines Swabi

(Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer Kohat, Region Kohat.
3. District Police Officer Kohat.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 14.06.2016, whereby the appellant has been awarded the Major Punishment of dismissal from Service beside the recovery of salaries received by him during the alleged absence, against which his departmental appeal dated 11.07.2016 has been rejected vide office order dated 08.05.2017. while his mercy petition dated 10.04.2019 has also been regretted vide Order dated 03.05.2019

Prayer in Appeal: -

On acceptance of this appeal the impugned orders dated 14.06.2016, 08.05.2017 and 03.05.2019, may kindly be set aside and the appellant may be re-instated into service with all back benefits and wages of service.

Respectfully Sheweth,

The appellant humbly submit as under.

1. That appellant was appointed as Foot Constable in the Respondent Department in the year 2009.
2. That ever since his appointment, the appellant had performed his duties as assigned with zeal and devotion and has never given any chance of complaint whatsoever regarding his performance.
3. That while performing his duties in the said capacity the appellant suffered from illness (Yarqaan) and pain in Stomach in the month of September 2015. The doctor advised complete bed rest for at least a month. As soon as he recovered from ailment, he joined his duty. However as he did not recover fully he again got ill therefore as per doctor advice he took bed rest in the month of Jan 2016. It is pertinent to mention here that he duly applied for leave on each occasion and the department assured he would be granted leave of kind due and it was the reason neither any charge sheet nor any show cause notice was served upon him.
4. That the appellant again in April 2016 the appellant got the medical treatment and as per doctor advise, he took complete bed rest from 16.04.2016 to 25.04.2016. all the medical documents were handed over to the inquiry officer. After the recovery, the appellant reported for duty and started performing his duties.
5. That later the appellant was proceeded departmentally for absence from duty. Charge sheet though issued, however never communicated.

to the Appellant. He was called upon by the Mirza to appear before the inquiry officer, however when he appeared he was asked just to provide medical documents and in this way the inquiry concluded. The inquiry office even did not bother to meet the appellant and sought documents from him through Reader.

6. That thereafter appellant was served with show cause notice dated 16.05.2016 was issued containing the allegations of wilful and deliberate absence from duty. The appellant duly replied to the show cause notice and explained the matter. *(Copies of show cause notice dated 16.05.2016 and reply thereof are attached as Annexure A & B).*
7. That without considering his defense, quite illegally, the appellant was dismissed from service vide order dated 14.06.2016. *(Copy of the office order dated 14.06.2016 is attached as Annexure C)*
8. That the appellant submitted his departmental appeal dated 11.07.2016, However the same has been rejected vide order dated 08.05.2017. it is pertinent to mention here that the appellant was never informed about the faith of his department appeal, he approached time and again to the respondent to inform but all in vain. Later in the year 2018 (mid), he was verbally informed that his departmental appeal has been rejected vide order dated 08.05.2017 however again he was not provided the rejection order. Lastly the rejection order was communicated to the appellant 12.03.2019. *(Copies of the departmental appeal dated 11.07.2016 & and rejection order dated 08.05.2017 are attached as Annexure D & E)*

9. That the appellant also submitted his mercy petition before the competent authority vide his application dated 10.04.2019, however the same was also regretted vide office order dated 03.05.2019. *(Copies of the Mercy petition dated 10.04.2019 & and rejection order dated 03.05.2019 are attached as Annexure F & G)*
10. That the impugned orders dated 14.06.2016, 08.05.2017 and 03.05.2019 are illegal unlawful against the law and facts hence liable to be set aside inter alia on the following grounds:

GROUND OF APPEAL.

- A. That the appellant has not been treated in accordance with law hence his rights secured and guaranteed under the law are badly violated.
- B. That no procedure has been followed before his dismissal from service. He has never been served any charge sheet and statement of allegations nor any regular/ impartial inquiry has been conducted to dig out the facts before passing the impugned order of dismissal, thus the impugned order is defective in the eyes of law.
- C. That the appellant has not been provided proper opportunity of personal hearing before awarding him the penalty hence the appellant have been condemned unheard.
- D. That no charge sheet or statement of allegations as prescribed under the law and rules has been served upon him hence the appellant have not been provided fair opportunity to defend his self.

against the charges leveled. The impugned order is thus passed in violation of the principles of natural justice.

- E. That the appellant has never committed an act or omission which could be termed as misconduct, albeit he has been awarded the penalty. His absence was never willful but was due to his prolonged illness, which forced him to remain away from his duty.
- F. That it has been consistently held by the superior courts that punishment must commensurate to the magnitude of guilt.
- G. That it is also pertinent to mention here that the inquiry report (if any) has never been provided to the appellant, thus whole proceedings before the imposition of penalty are defective in the eye of law.
- H. That it is pertinent to mention here that on previous two occasions the appellant after recovery joined the duty and he was not proceeded as the department knew that he was badly suffering from stomach pain and Yarqan. So he cannot be proceeded later on for the sais period.
- I. That the appellant has at his credit a spotless service career, the penalty imposed upon him is harsh and liable to be set aside.
- J. That the appellant is jobless since his illegal Removal from Service.
- K. That the appellant seeks the permission of this Honorable Tribunal to rely on additional ground at the hearing of this appeal

It is, therefore, humbly prayed that on acceptance of this appeal the impugned orders dated 14.06.2016, 08.05.2017 and 03.05.2019, may kindly be set aside and the appellant may be re-instated into service with all back benefits and wages of service.



Appellant

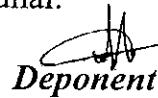
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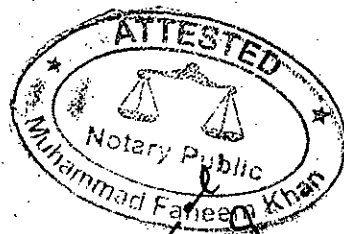
YASIR SAEEM
Advocate Peshawar

AFFIDAVIT

I, *Ajmeer Shah, Ex-FC No. 837, Police Lines Swabi*, do hereby solemnly affirm and declare on oath that the contents of the above noted appeal as well as accompanied application for condonation of delay are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.



Deponent



6/5/17

(7)

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. ____/2019

Ajmeer Shah, -Ex-FC No. 837, Police Lines Swabi

(Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others

(Respondents)

Application for condonation of delay if any in
filing the above noted Appeal

Respectfully Submitted:

1. That the applicant has filed the accompanied service appeal in which no date has been fixed so far.
2. That the applicant prays for the condonation of delay in filling the above noted appeal inter alia on the following grounds: -

Grounds of Application:

- A. That the appellant duly filed his departmental appeal within the stipulated period of time. However he was never informed about the fate of his departmental appeal, he approached time and again to the respondent to inform but all in vain. Later in the year 2018 (mid), he was verbally informed that his departmental appeal has been rejected vide order dated 08.05.2017 however again he was not provided the rejection order. Lastly the rejection order was communicated to the appellant 12.03.2019. Since the order of rejection was never communicated to him in time, therefore, the delay if any is condonable.
- B. That if at all there were any delay it cannot be attributed to the applicant as the order of rejection was not communicated to him in time. After communication, he duly filed his mercy petition to the Respondent No.1 within one month and after rejection of mercy petition the instant appeal is being filed within the statutory period.




- C. That the proceedings conducted against the applicant are illegal, void and nullity in the eyes of law, no inquiry has been conducted nor the appellant has been given any opportunity of hearing. Thus the whole proceedings are nullity in the eye of law and hence no period of limitation run against an order based on illegal / defective proceedings.
- D. That the delay if any was not because of negligence of the appellant but it was due to the reluctant behavior of the respondents that they never communicated the rejection order to him.
- E. That the appellant never remained negligent while pursuing his remedy thus the delay if any is condonable.
- F. That valuable rights of the appellant are involved in the case hence this Service Appeal deserves to be decided on merit.
- G. That the delay if any was not willful or contumacious hence deserve leniency.
- H. That it has been the consistent view of the superior courts that causes should be decided on merit rather on technicalities including the limitation. The same is reported in 2004 PLC (CS) 1014 & 2003 PLC (CS) 769.

It is therefore prayed that on acceptance of this application the delay in filling the above appeal may please be condoned.

Applicant

Through


YASIR SALEEM

Advocate Peshawar

AFFIDAVIT

I, do hereby solemnly affirm and declare on oath that the contents of the above application are true and correct and that nothing has been kept back or concealed from this Honourable Tribunal.

Deponent

A
Ajmeer
9

FINAL SHOW CAUSE NOTICE

Whereas, you Constable Ajmeer Shah No.837, while posted Police Post Saleem Khan absented yourself from duty with effect from 19.01.2016 to 14.02.2016 and while posted to Police Lines, Swabi absented yourself from duty with effect from 08.09.2015 to 13.10.2015 and from 16.04.2016 to 25.04.2016 without any leave/prior permission of the competent authority, which is against the discipline and amounts to gross mis-conduct.

In this connection you were charge sheeted and served with summary of allegation and DSP, Lahor and DSP, H.Qrs, Swabi were appointed to conduct proper departmental enquiry. The enquiry officers held enquiry and submitted their findings, wherein, they held you Constable Ajmeer Shah No.837 guilty for the mis-conduct.

Therefore, it is proposed to impose Major/Minor penalty including dismissal as envisaged under Rules 4(b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence I Javed Iqbal PSP, District Police Officer, Swabi in exercise of power vested in me under Rules 5(3) of the Khyber Pakhtunkhwa Police Rules 1975 call upon you to show cause finally as to why the proposed punishment should not be awarded to you.

Your reply should reach to the office of the undersigned within seven days of the receipt of this notice failing which it will be presumed that you have no explanation to offer.

You are also at liberty to appear for personal hearing before the

undersigned.


District Police Officer,
Swabi.

Date: 16.05.2016

ASI [Signature]

[Signature]

SAO P. Lalala

20/5/16

Anwar (11)

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI

ORDER

Constable Ajmeer Shah No.837, while posted to Police Post Saleem Khan absented himself from duty with effect from 19.01.2016 to 14.02.2016 and while posted to Police Lines, Swabi absented himself from duty with effect from 08.09.2015 to 13.10.2015 and from 16.04.2016 to 25.04.2016 without any leave/prior permission of the competent authority, which is against the discipline and amounts to gross mis-conduct.

Therefore, he was issued Show Cause Notices. His replies to the Show Cause Notices were received, perused, but was found unsatisfactory. Therefore, he was served with Charge Sheet and Summary of allegations. DSP, II.Qrs, Swabi and DSP Lahor were appointed as Enquiry Officers. The Officers conducted proper departmental enquiries, collected evidence and recorded statements of all concerned. They submitted their findings, wherein they found Constable Ajmeer Shah No.837, guilty for the mis-conduct and recommended him for suitable punishment. During enquiry he again absented himself from duty with effect from 03.05.2016 till date. The undersigned perused the enquiry papers, findings and by agreeing with the Enquiry Officers served him with Final Show Cause Notice. He was directed to submit his reply to the Final Show Cause Notice within seven days but he did not submit his reply, which means that he has nothing to offer in his defence and deserve ex-parte action.

Therefore, I, Javed Iqbal, PSP, District Police Officer, Swabi, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules 1975, hereby award Constable Ajmeer Shah No.837 Major Punishment of Dismissal from service with effect from 03.05.2015. The pay for the Period of his absence is hereby deducted from his salary.

O.B No. 722

Dated 19/06/2016

District Police Officer,
Swabi.

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI
No. 1999-53 /PA, dated S...b, the 19/06/2016.

Copies to the:-

1. DSP, II.Qrs, Swabi.
2. Pay Officer.
3. Establishment Clerk.
4. Fauji Missal Clerk.
5. Official concerned.

گرفت مناب ڈیٹا انڈیا نزل آف پولیس فردان ری ای آر

مغنونہ کا تعلق برائے بجالی ملازمت برطرف حکم ڈی پی او

مناب جوالہ اڈریس 722 فوراً 14.6.06

مناب عالی: مغنونہ اپنی سب ڈی پی

- 1) یہ کہ سائل قلم نڈا میں سال 2010 میں برائی ہو کر قلم نڈا مناب میں ڈی پی سر انجام دے رہا تھا
- 2) یہ کہ سائل بدوران نصابی نڈا آئندہ شدید بیمار ہوا جسکی وجہ سے بااثر بیماری غیر حاضر رہا
- 3) یہ کہ سائل کا تبادلہ نڈا آئندہ سے پورے چوکاٹ خان برائی جہاں پر سائل کی بیماری کو شدت اختیار گئی جسکی وجہ سے منہ یوم غیر حاضر رہا جسے سائل کا تبادلہ اس میں ہوا
- 4) یہ کہ سائل بدوران نصابی پورے لائن اپنا علاج جاری رکھا اور تیس دن سے پیٹ پلا کہ سائل کی بیماری ہے جسکی وجہ سے معالجہ آرام کا مشورہ دیا گیا
- 5) یہ کہ سائل کے طرف مندرجہ بالا غیر حاضر یوں پر انکو تری مشورہ ہوئی جو بدوران انکو تری سائل نے انکو تری اشیر کی جہ علاج معالجے کے کاغذوں میں لکھے لیکن پھر بھی سائل کی فہوار کھرا یا گیا ہے
- 6) یہ کہ سائل کی مناجا DPO مناب جوالہ اڈریس 722 فوراً 14.6.06 کو نوکری سے ڈسمنس کر دیا

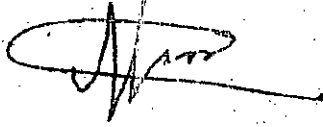
سائیں ایسا فریب گوارانے سے نکلنے رکھنا ہے۔ اور والد کا
سیادہ ہیں سر پر نہیں ہے

آپ صاحبان میرا بی کر کے سائیں کے فال پر رقم فرما کر
سائیں کو نوکری پر بحال کرانے کا اطمینان مادر فرما کر
مکمل فرماویں۔

3/11/16

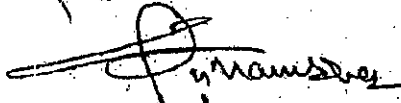
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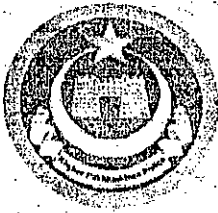
سائیں کا تیل جسے گانا والا آغا خان صاحب نے فرمایا ہے
تیسفہ 837
کریں شریعت کے مطابق راز رکھو ہو گیا۔



محمد امجد علی صاحب
20/11/16

No. 6260/ES,
11/11/16


D. G. Morda
11/11



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. S/ 2758 /17, dated Peshawar the 08/05/2017.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-FC Ajmeer Khan No. 837. The appellant was dismissed from service w.e.f 03.05.2016 by DPO, Swabi vide OB No. 722, dated 14.06.2016 on the charge of absence from duty for 03 months and 23 days.

His appeal was filed by Regional Police Officer, Mardan vide order Endst: No. 7327/ES, dated 19.08.2016.

Meeting of Appellate Board was held on 20.04.2017 wherein petitioner was heard in person. During hearing petitioner contended that his absence was not deliberate but he was suffering from illness. He produced medical certificates.

Perusal of record reveals that petitioner was dismissed from service on charges of willful and deliberate absence from duty. He failed to advance any plausible explanation behind his absence besides his service record contains 04 bad entries. The petition is also time barred. Therefore, the Board decided that his petition is hereby rejected.

This order is issued with the approval by the Competent Authority.

(MASOOD AHMAD KHALIL)
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. S/ 2758-66 /17.

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan.
2. District Police Officer, Swabi.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt-E-IV CPO Peshawar.
8. Central Registry Cell, CPO.

F
Amir

15

گرامی اقدار حضور جناب ڈاکٹر محمد نعیم خان صاحب آئی جی بی جسپر جیٹو خواہ پشاور
رجم درخواست بابت دوبارہ بحالی سروس

جناب عالی!

گزارش خدمت ہے کہ مسائل آجیناب کے زہر سایہ شکہ پولیس میں مورخہ
01/01/2010 کو بطور کنیشنل بھرتی ہوا اور انہی ڈیوٹی ایمانداری و جانفشانی سے سہرا انجام دیتا
رہا۔ مسائل ماہ ستمبر 2015 میں ایچانک بیمار ہوا جب ڈاکٹر کے پاس گیا تو ڈاکٹر صاحب
نے یزقان تشخیص کیا اور آرام بخوید کیا جس کی وجہ سے مسائل ڈیوٹی پر حاضر نہ ہو سکا۔
مسائل کے والد صاحب وفات پا چکے ہیں اور گھر میں اور کوئی فریڈ فرد موجود نہیں تھا جو کہ شکہ
کو بر وقت مطلع کرتا۔ اتفاقاً ہونے پر مسائل ڈیوٹی کیلئے حاضر ہوا اور ڈاکٹر کی تشخیصات بعد
بیڈ ٹیکلیشن پر کیں۔ پھر کچھ عرصہ بعد دوبارہ بیمار ہوا اور ڈاکٹر کی ہدایت پر ٹیڈ ٹیکلیشن پر گزارا
ہوا اور ان ڈیوٹی پر حاضر ہوا۔ اس طرح تیسری بار بھی بوجہ بیماری 10 ایوم گھر خود میں گزارا۔
مسائل کو IPO صاحب کے حکم پر بحالہ 08 فر 7222 مورخہ 2016/06/14 نوکری سے درخواست
کے دیا گیا حالانکہ مسائل نے انکوائری افسر DSP ہیڈ کوارٹرز اور DSP لایو سروس والی کو حکام
ڈاکٹر کی تشخیصات اور ٹیڈ ٹیکلیشن پر اصل حالت میں حوالہ کیئے تھے۔

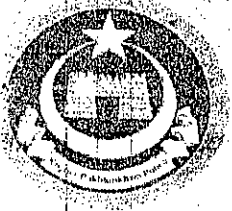
مسائل نے جناب DIG مردان رحیم کو حکمانہ اپیل جمع کی تھی جو کہ انہوں
نے قابل ذکر کے CPO پشاور سے رابطہ کرنے کی تلقین فرمائی تھی۔ CPO پشاور سے مسائل
کی اپیل بحالہ 17/05/2017 مورخہ S/2758/17 سے 08/05/2017 مورخہ 08/05/2017 سے

جناب عالی!

مسائل ایک غریب خاندان سے تعلق رکھتا ہے اور ایک بڑے کنبے کا واحد
کنبیل ہے۔ مسائل بال بچوں والا ہے۔ مسائل کے والد فوت ہو چکے ہیں اور والدہ دل
اور تشوگر کی مرہضہ ہے، اسکی علاوہ 3 بھائی اور 2 بہنیں ہیں اور ان سب کی کفالت
مسائل کے ذمہ ہے۔ مسائل بوجہ بیماری روزگاری اپنا اور اپنے اہل و عیال کا پیٹ پالنے سے
قاصر ہے اور قاعدگی پر مجبور ہیں۔ مسائل برائے آئندہ محتاط رہنے کا وعدہ کرتا ہے۔

استدعا ہے کہ مسائل کی درخواست پر ہمدردانہ طور فرماتے ہوئے مسائل
کو نوکری پر بحال فرمائے جانے کے احکامات صادر فرمادیں۔ مورخہ 10/4/19
تقاضیات دعا گو رہیں گے۔

آجیناب اہم فرمان و دعاؤں،
CNIC No. 16202-7886816-9
اجمیر خان سابقہ کنیشنل بل 837 ضلع صوابی 2127225-0300-Cell No.
سائنڈ فو نوآجہ وین خیل تحصیل رزٹ ضلع صوابی



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.

No. S/ 145 /19, dated Peshawar the 03/05/2019.

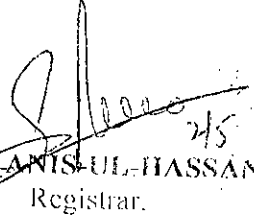
To: The Regional Police Officer,
Mardan.

Subject: MERCY PETITION.

Memo:

The Competent Authority has examined in the light of Police Rule 16.52 and filed the mercy petition submitted by Ex-Constable Ajmeer Khan No. 837 of Swabi District Police against the punishment of dismissal from service awarded by DPO/Swabi vide OB No. 722, dated 14.06.2016 being badly time barred.

The applicant may please be informed accordingly.


(SYED ANIS-UL-HASSAN)
Registrar,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

Before the Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

C.M. — 1201P

in S. Appeal — 1201P.


Ajmeer Shah Vs. P.P.O & others

Respectfully Sheweth,

1. That the captioned Service Appeal is pending before this Hon'ble Tribunal in which today is fixed for hearing.
2. That, inadvertently, Respondent No. 2 & No. 3 has wrongly been impleaded as party.
3. That in place of them the following may kindly be arrayed as Respondent No. 2 & 3.
 1. Regional Police Officer, Mardan Region, Mardan
 2. District Police Officer, Swabi
4. That there is no legal impediment in allowing the application.
It is therefore requested that application may be accepted.

Appellant

through


YASIR SAIZEM
Advocate High Court
Peshawar

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

Service Appeal No. 663/2019.

Ajmeer Shah Ex-Constable No. 837..... Appellant

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar
& Others.....**Respondents.**

WRITTEN REPLY ON BEHALF OF RESPONDENTS.

1. **Preliminary Objections.**

1. That the appellant has got no cause of action and locus standi to file the present appeal.
2. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
3. That the appeal is time barred.
4. That the appellant has not come to this Tribunal with clean hands.
5. That this Hon'ble Tribunal has got no jurisdiction to entertain the present appeal.
6. That the instant appeal is not maintainable in its present form.
7. That the appellant concealed the material facts from this Hon'ble Tribunal.
8. That the appellant has been estopped by his own conduct to file the appeal.

2. **REPLY ON FACTS.**

1. Para No. 01 of appeal pertains to record, hence need no comments.
2. Para No. 02 of appeal pertains to service record, hence need no comments.
3. Para No. 03 of appeal is incorrect and against the real facts. Appellant absented himself from duties without any prior permission of the competent authority on account of which appellant was proceeded against departmentally in accordance with the provisions of disciplinary rules (**Copies of Show Cause Notice, Charge Sheet/Summary of Allegations are annexed as Annexure A, B & C.**)
4. Para No. 04 of appeal is incorrect. Appellant got willful absence without any permission on account of which he was proceeded against departmentally (**Copies of Show Cause Notice, Charge Sheet and Summary of Allegations are annexed as Annexure D, E & F.**)

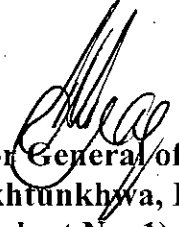
5. Para No. 05 of appeal is incorrect. Appellant was associated in enquiry proceedings and proper opportunity of hearing was also provided, however during departmental proceedings, he was found guilty for willful absence from duty **(Copies of enquiries are annexed as Annexure G & H).**
6. Para No. 06 of appeal to the extent of service of Final Show Cause Notice dated 16.05.2016 is correct, however despite of service, appellant did not submit his reply nor appear in Orderly Room **(Copy of Final Show Cause Notice is annexed as Annexure I).**
7. Para No. 07 of appeal is incorrect. After proper departmental enquiry on recommendation of Enquiry Officer and service of Final Show Cause Notice appellant was dismissed from service vide order dated 14.06.2016 **(Copy of order is annexed as Annexure J).**
8. Para No. 08 of appeal to the extent of filing of departmental appeal is correct, however the same was rejected on 19.08.2016. Feeling aggrieved from order of appellant authority, he filed review petition which was also rejected being time barred on 08.05.2017. Appellant also filed mercy petition which was also rejected on 03.05.2019 **(Copies of rejection of departmental appeal, revision and mercy petitions are annexed as Annexure K, L & M).**
9. Para No. 09 of appeal is correct, however reply has already been given vide para above.
10. That the orders of respondents are quite legal in accordance with law and facts.

GROUND.


- A. Incorrect. Appellant has been treated in accordance with law/rules.
- B. Incorrect. Proper procedure has been followed before awarding punishment to the appellant. Proper departmental proceeding were initiated and appellant was associated with enquiry proceedings.
- C. Incorrect. Proper opportunity of personal hearing was provided to the appellant and before awarding punishment, he was served with Final Show Cause Notice, besides he was also called in Orderly Room, but he fails to prove himself innocent.
- D. Incorrect. Proper Show Cause Notice, Charge Sheet/Statement of Allegations were served and after proper departmental proceedings, keeping in view the principle of natural justice he was dismissed from service.
- E. Incorrect. Appellant was found guilty for willful absence from duty without any proper leave of the authority.
- F. The punishment of appellant commensurate with the guilt of appellant.
- G. Incorrect. Appellant was associated with the enquiry proceedings and enquiry report was also provided to the appellant.

- H. Incorrect. Reply has already given vide para above.
- I. Incorrect. Appellant is habitually absentee and disinterested in Police service, on account of which, after proper departmental proceedings dismissed from service.
- J. Incorrect. Appellant was dismissed from service on sound reasons in accordance with the law/rules.
- K. That the respondents also seeks the permission of this Hon'ble Tribunal to relay on additional grounds at the time of hearing of appeal.

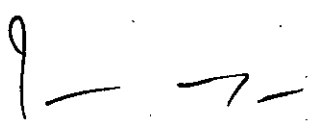
It is therefore humbly prayed that the instant appeal may very kindly be dismissed being devoid of merits and time barred.



**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 1)**



**Deputy Inspector General of Police,
Mardan Region-I Mardan
(Respondent No. 2)**



**District Police Officer Swabi,
(Respondent No. 3)**

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

Service Appeal No. 663/2019.

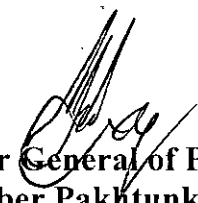
Ajmeer Shah Ex-Constable No. 837..... Appellant

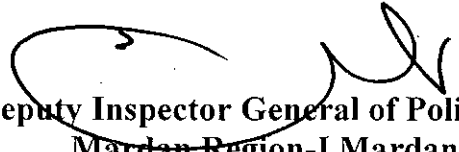
VERSUS

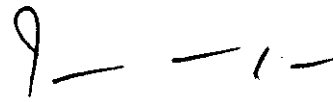
**1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar
& Others..... Respondents.**

AFFIDAVIT:-

We the respondent No. 1 to 3 do hereby solemnly affirm and declare on oath that the contents of the written reply are correct/true to the best of our knowledge / belief and nothing has been concealed from the honorable Tribunal.


**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
Respondent No. 1)**


**Deputy Inspector General of Police,
Mardan Region-I Mardan
(Respondent No. 2)**


**District Police Officer Swabi,
(Respondent No. 3)**

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

Service Appeal No. 663/2019.

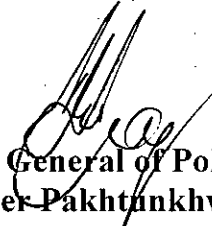
Ajmeer Shah Ex-Constable No. 837..... Appellant

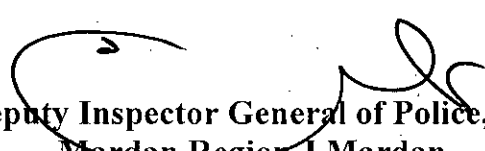
VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar
& Others.....**Respondents.**

POWER OF ATTORNEY.

We, the respondent No. 1 to 3 do hereby appoint Mr. Faheem Khan Inspector Legal Swabi as special representative on our behalf in the above noted appeal. He is authorized to represent us before the Tribunal on each and every date fixed and to assist the Govt: Pleader attach to Tribunal.


**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
Respondent No. 1)**


**Deputy Inspector General of Police,
Mardan Region-I Mardan
(Respondent No. 2)**


**District Police Officer Swabi,
(Respondent No. 3)**

Annexure (A)

OFFICE OF THE DISTRICT POLICE OFFICER DISTRICT, SWABI, KPK

SHOW CAUSE NOTICE.

Whereas, you Constable Ajmeer Shah No.837, while posted to Police Station, Ulla absented yourself from duty with effect from 08.09.2015 till date without any leave/prior permission of the competent authority, which is highly against the discipline and amounts to gross mis-conduct.

Therefore it is proposed to impose a Major/Minor penalty including dismissal as envisaged under Rules 4(b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence I, Javed Iqbal PSP, District Police Officer, Swabi in exercise of powers vested in me under Rules 5(3) of the Khyber Pakhtunkhwa Police Rules 1975 call upon you Constable Ajmeer Shah No.837, to show cause as to why the proposed punishment should not be awarded to you.

Your reply should reach to the office of the undersigned within seven days of the receipt of this notice failing which it will be presumed that you have no explanation to make.

You are also at liberty to appear for personal hearing.

District Police Officer,
Swabi.


11/11/15

C-32

Annexure (B)

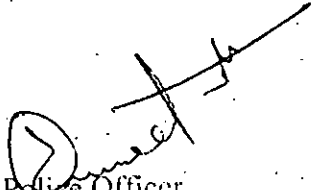
CHARGE SHEET

Whereas I am satisfied that formal enquiry as contemplated by Khyber Pakhtunkhwa Police Rules 1975 is necessary and expedient.

And whereas I am of the view that the allegations if established would call for Major/Minor penalty as defined in Rules 4(b) a & b of the aforesaid Rules.

Now therefore as required by Rules 6(1) of the aforesaid Rules I Javed Iqbal PSP, District Police Officer, Swabi charge you Constable Ajmeer Shah No.837 on the basis of statement of allegations attached to this charge sheet.

In case your reply is not received within seven days without sufficient cause it will be presumed that you have no defence to offer and exparte action will be taken against you.

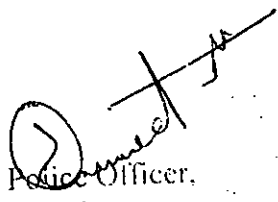

District Police Officer.
Swabi.

Annexure (C)

SUMMARY OF ALLEGATIONS

It is alleged that Constable Ajmeer Shah No.837, while posted to Police Lines, Ulla absented himself from duty with effect from 08.09.2015 till date without any leave/prior permission of the competent authority, which is highly against the discipline and amounts to gross mis-conduct, hence statement of allegation.

Mr. Izhar Shah Khan, DSP, Lahor is appointed to conduct proper departmental enquiry against him.


District Police Officer,
Swabi.

No. 182 /CC/PA,
Dated. 12/12 /2015

جنا عالی

شعبہ شوکانوس ٹرہ صرف ہے کے سال بھانہ
 میں کڑی سرانجام دے رہا تھا۔ سال جون ۱۹۷۵ء کو شہر
 گورنر آف فورس ۱۵/۹ ۱۹۷۵ء میں سال کا طبیعت اجاند
 وارہ جو کہ سال ڈار کا صحت سے دیکھ کر
 کے بارے میں ڈار صاف و شہرت سے
 کہ وہاں زخم اور دیکھان کا بندھا۔ اور
 مذکورہ بیماری سے دو سال جوڑ کر
 میں آرام نہ کیا گیا۔ اور
 اور بھانہ سے دور رکھا جانے سے بہت بھانہ کو مطلع
 میں کی کہ۔ میں بہتر فیور کا غیر فانی
 ہے۔ سال کا شوکانوس میں کارکن داخل
 زخم کا جوڑ اور سال ۱۹۷۵ء میں
 جسم میں کئی کاغذات سے
 جس کا علاج کرنا ہے

۱۹۷۵ء
 ۵۳۷
 ۰۸۰۰-۲۱۲۷۲۲۵

Annexure (D)

OFFICE OF THE DISTRICT POLICE OFFICER DISTRICT, SWABI, KPK

SHOW CAUSE NOTICE.

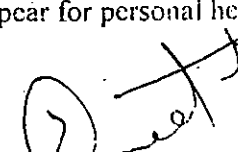
whereas, you Constable Ajmeer Khan No.837, while posted to Police Post Saleem Khan absented yourself from duty with effect from 19.01.2016 till date without any leave/prior permission of the competent authority, which is highly against the discipline and amounts to gross mis-conduct.


Therefore it is proposed to impose a Major/Minor penalty including dismissal as envisaged under Rules 4(b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence I, Javed Iqbal PSP, District Police Officer, Swabi in exercise of powers vested in me under Rules 5(3) of the Khyber Pakhtunkhwa Police Rules 1975 call upon you Constable Ajmeer Khan No.837, to show cause as to why the proposed punishment should not be awarded to you.

Your reply should reach to the office of the undersigned within seven days of the receipt of this notice failing which it will be presumed that you have no explanation to make.

You are also at liberty to appear for personal hearing.


District Police Officer,
Swabi.

Muzamir DDP 170

12/14

18.1. to 14.2

25 days

Annexure (E)

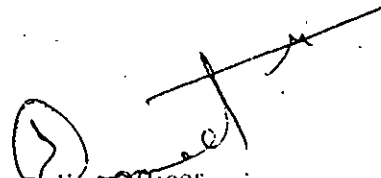
CHARGE SHEET

Whereas I am satisfied that formal enquiry as contemplated by Khyber Pakhtunkhwa Police Rules 1975 is necessary and expedient.

And whereas I am of the view that the allegations if established would call for Major/Minor penalty as defined in Rules 4(b) a & b of the aforesaid Rules.

Now therefore as required by Rules 6(1) of the aforesaid Rules I **Javed Iqbal PSP**, District Police Officer, Swabi charge you Constable Ajmeer Khan No.837 on the basis of statement of allegations attached to this charge sheet.

In case your reply is not received within seven days without sufficient cause it will be presumed that you have no defence to offer and ex parte action will be taken against you.

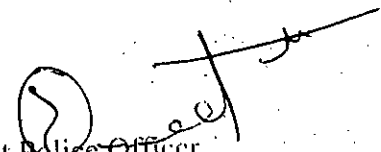

District Police Officer,
Swabi.

Annexure (F)

SUMMARY OF ALLEGATIONS

It is alleged that Constable Ajmeer Khan No.837, while posted to Police Post Saleem Khan absented himself from duty with effect from 19.01.2016 to 14.02.2016 without any leave/prior permission of the competent authority, which is against the discipline and amounts to gross mis-conduct, hence statement of allegations.

Mr. Haidar Ali, DSP, II.Qrs, Swabi is appointed to conduct proper departmental enquiry against him.


District Police Officer,
Swabi.

No. 52 /CC/PA,
Dated 14/02/2016

جناب عالی!

محوالہ شوکار نوٹس مجاریہ جناب DPO

صاحب صوابی ضروری خدمت ہیوں کہ سائل کے خلاف
 حوالہ الزام بات شیر حاضری عائد کیا گیا ہے تو اس ضمن
 میں مرض ہے کہ سائل بدورین نقینانی جوگی سلیم خان شدید
 بیمار ہو گیا جسکی وجہ سے سائل مورخہ $\frac{05}{16}$ ۱۹ نو شیر حاضری
 کیا گیا۔ سائل نے اپنا علاج معالجہ رحمان سید بیکل سنٹر
 سے کر لیا اور جب بیماری سے مقور آفاہ ہو تو سائل
 نے مورخہ $\frac{02}{16}$ ۱۴ کو محوالہ رد ۸ جوگی سلیم خان میں
 حاضری کی۔ بیان پر سائل کی معلوم ہوا کہ مذکورہ شوکار
 نوٹس سائل کے خلاف جاری ہو چکا ہے۔

جناب عالی سائل نے جملہ شیر حاضری بوجہ بیماری کی ہے
 نہ کہ دیدہ دانستہ کی ہے۔

لہذا شیر حاضری وفاق سائل کے خلاف جاری شوکار

نوٹس منسوخ کرنے کے احکامات صادر فرمائیں۔

السلامتہ

کاتبین احمد خان 831

Annexure (G)

No. 549 IL,
Dated 20/09/2016.

**DEPARTMENTAL ENQUIRY AGAINST CONSTABLE AJMEER SHAH NO.837
PP SALEEM KHAN.**

Allegations:

According to the statement of allegation Constable Ajmeer Shah No.837, while posted to Police Station Utlā absented himself from duty with effect from 08.09.2015 till date without any leave/prior permission of the competent authority, which is highly against the discipline and amounts to gross mis-conduct.

In the light of above allegation the undersigned was appointed as enquiry officer vide letter No.182-CC/PA dated 02.12.2015.

The undersigned conducted enquiry and summoned alleged Constable Ajmeer Shah No.837 to this office, heard him in person and his statement was recorded.

He stated in his statement that on 07.09.2015, he went to his home after duty, where he become seriously ill and started treatment from doctors and did not come back for his duty on time. He further stated that he was not absented deliberately from his duty, but due to illness he absented. In the end, he prayed for exoneration from the charges leveled against him. His statement is attached herewith.

FINDINGS


From the perusal of statements and enquiry papers it revealed that the Constable Ajmeer Shah No.837, has not absented himself deliberately but he was absented for **1 month and 05 days with effect from 08.09.2015 to 13.10.2015** due to illness. In this connection he produced medical certificate. The medical certificates are verified by concerned hospital. The Daily Diaries, medical certificate and verification of medical certificate are attached herewith.

RECOMMENDATION.

In view of the above, the undersigned is of the view, that the alleged Constable Ajmeer Shah may be awarded **suitable Punishment**, if agreed please.

Submitted please.

(Enclosed-21)


(PASHAM GUL KHAN)
Sub-Divisional Police Officer,
Lahor.



Annexure (H)

Government of Khyber Pakhtun Khwa:
Phone No. 0938-280279, E-Mail: dsphqswabi@gmail.com
Office of the Deputy Superintendent of Police, H.Qrs, Swabi:

DEPARTMENTAL ENQUIRY AGAINST
CONSTABLE AJMEER KHAN NO.837

ALLEGATION:

It is alleged that Constable Ajmeer Khan No.837, while posted to Police Post Saleem Khan absented himself from duty with effect from 19.01.2016 to 14.02.2016 without any leave prior/permission of competent authority, which is highly against the discipline and amounts to gross miss-conduct, hence statement of allegation.

STATEMENT OF CONSTABLE AJMEER KHAN NO.837:

Constable Ajmeer Khan No.837 was called and his statement was recorded. He stated that he has posted in P.P Saleem Khan PS Swabi, there he fell ill and he has absented on 19/01/2016. He got his treatment in Rehman Medical Center KSK, Swabi. When he recovered a little soon he was arrived in P.P on Dated 14.02.2016.

He said that there he received a show cause notice. He further stated that he did not absent himself deliberately but due to his illness.


STATEMENT OF MHC NAEEM AKBAR PP SALEEM KHAN:

MHC Naeem Akbar was called and his statement was recorded. He stated that the above constable absented himself Vide DD No.06 dated 19.01.2016 and made his arrival Vide DD No.08 dated 14.02.2016 PP Saleem Khan PS Swabi.

FINDINGS:

From the above statements and delving into the matter, the undersigned reached to the conclusion that the statement of Constable Ajmeer Khan No.837 is based on beating about the bush and strived his best as to save his skin but it is evident that he remained absent due to his illness but at the same time being cops of disciplined force he was supposed to take prior leave from the competent authority, which he did not.

According to the statement of MHC the defaulter absented himself from his lawful duty with effect from 19.01.2016 to 14.02.2016 without permission. Beside this he is also a habitual absentee and does not take interest in his official work, therefore the constable Ajmeer Khan No.837 is found guilty and he is recommended that his period of absence 26 days to be treated as without pay please.


Deputy Superintendent of Police,
H.Qrs Swabi

No. 47 /H.Qrs Swabi,

dated 13/05/2016

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Annexure (I)

FINAL SHOW CAUSE NOTICE

Whereas, you Constable Ajmeer Shah No.837. while posted Police Post Saleem Khan absented yourself from duty with effect from 19.01.2016 to 14.02.2016 and while posted to Police Lines, Swabi absented yourself from duty with effect from 08.09.2015 to 13.10.2015 and from 16.04.2016 to 25.04.2016 without any leave/prior permission of the competent authority, which is against the discipline and amounts to gross mis-conduct.

In this connection you were charge sheeted and served with summary of allegation and **DSP, Lahor and DSP, H.Qrs, Swabi** were appointed to conduct proper departmental enquiry. The enquiry officers held enquiry and submitted their findings, wherein, they held you Constable Ajmeer Shah No.837 guilty for the mis-conduct.

Therefore, it is proposed to impose Major/Minor penalty including dismissal as envisaged under Rules 4(b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence I Javed Iqbal PSP, District Police Officer, Swabi in exercise of power vested in me under Rules 5(3) of the Khyber Pakhtunkhwa Police Rules 1975 call upon you to show cause finally as to why the proposed punishment should not be awarded to you.

Your reply should reach to the office of the undersigned within seven days of the receipt of this notice failing which it will be presumed that you have no explanation to offer.

You are also at liberty to appear for personal hearing before the undersigned.


District Police Officer,
Swabi.

Date: 16.05.2016

Annexure (J)

837

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI

ORDER

Constable Ajmeer Shah No.837, while posted to Police Post Saleem Khan absented himself from duty with effect from 19.01.2016 to 14.02.2016 and while posted to Police Lines, Swabi absented himself from duty with effect from 08.09.2015 to 13.10.2015 and from 16.04.2016 to 25.04.2016 without any leave/prior permission of the competent authority, which is against the discipline and amounts to gross mis-conduct.

Therefore, he was issued Show Cause Notices. His replies to the Show Cause Notices were received, perused, but was found unsatisfactory. Therefore, he was served with Charge Sheet and Summary of allegations. DSP, H.Qrs, Swabi and DSP Lahor were appointed as Enquiry Officers. The Officers conducted proper departmental enquiries, collected evidence and recorded statements of all concerned. They submitted their findings, wherein they found Constable Ajmeer Shah No.837, guilty for the mis-conduct and recommended him for suitable punishment. During enquiry he again absented himself from duty with effect from 03.05.2016 till date. The undersigned perused the enquiry papers, findings and by agreeing with the Enquiry Officers served him with Final Show Cause Notice. He was directed to submit his reply to the Final Show Cause Notice within seven days, but he did not submit his reply, which means that he has nothing to offer in his defence and deserve ex-parte action.

Therefore, I, Javed Iqbal, PSP, District Police Officer, Swabi, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules 1975, hereby award Constable Ajmeer Shah No.837 Major Punishment of Dismissal from service with effect from 03.05.2016. The pay for the Period of his absence is hereby deducted from his salary.

O.B No. 797

Dated 19.05 /2016

District Police Officer,
Swabi.

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI
No. 1999-53 /PA, dated Swabi, the 19/06 /2016.

Copies to the: -

1. DSP, H.Qrs, Swabi.
2. Pay Officer.
3. Establishment Clerk.
4. Fauji Missal Clerk.
5. Official concerned.

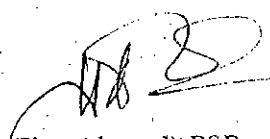
ORDER.

This order will dispose-off the appeal preferred by Ex-Constable Ajmeer Shah No. 837 of Swabi District Police against the order of District Police Officer, Swabi, wherein he was dismissed from service vide OB: No. 722 dated 14.06.2016.

Brief facts of the case are that, he while posted to Police Post Saleem Khan absented himself from duty with effect from 08.09.2015 to 13.10.2015 and from 16.04.2016 to 25.04.2016 without any leave/prior permission of the competent authority, which is against the discipline and amounts to gross misconduct. He was issued Show Cause Notice, his reply to the Show Cause Notice was received perused, but was found unsatisfactory. Therefore he was served with charge sheet and summary of allegation & Deputy Superintendent of Police Headquarter, Swabi and Deputy Superintendent of Police, Lahor were appointed as enquiry Officers. The Officers conducted proper departmental enquiries, collected evidence and recorded statements of all concerned. They submitted their findings, wherein they found the appellant guilty for the misconduct and recommended him for suitable punishment. During enquiry he again absented himself from duty with effect from 03.05.2016 till date of his dismissal. The District Police Officer, Swabi perused the enquiry papers findings and by agreeing with the enquiry Officers served him with the Final Show Cause Notice but he did not submit his reply which means that he has nothing to offer in his defence and deserve ex-parte action. Therefore he was dismissed from service.

I have perused the record and heard the appellant in Orderly Room held in this office on 17.08.2016 but he failed to justify his innocence/ absence and could not produce any cogent reason. Therefore, I Ijaz Ahmed Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal and do not interfere in the order passed by the competent authority, thus the appeal is filed forthwith.

ORDER ANNOUNCED.

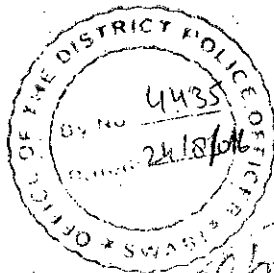

(Ijaz Ahmed) PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan. *AL*

No. 7327 /ES, Date d Mardan the 18/08 /2016.

Copy to District Police Officer, Swabi for information and necessary action w/r to his office Memo: No. 189/Insp: Legal dated 11.08.2016. His service record is returned herewith for record in your office.

(*****)

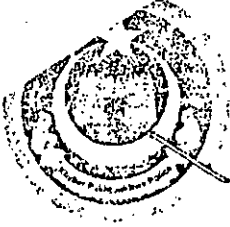
Service record received
Asst
Pc
23/8



OB/EC/OAS

996
25/8
DPo Swabi
23/8/2016

Annexure (L)



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. S/ 2758 /17, dated Peshawar the 08/05 /2017.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-FC Ajmeer Khan No. 837. The appellant was dismissed from service w.e.f 03.05.2016 by DPO, Swabi vide OB No. 722, dated 14.06.2016 on the charge of absence from duty for 03 months and 23 days.

His appeal was filed by Regional Police Officer, Mardan vide order Endst: No 7327/ES, dated 19.08.2016.

Meeting of Appellate Board was held on 20.04.2017 wherein petitioner was heard in person. During hearing petitioner contended that his absence was not deliberate but he was suffering from illness. He produced medical certificates.

Perusal of record reveals that petitioner was dismissed from service on charges of willful and deliberate absence from duty. He failed to advance any plausible explanation behind his absence besides his service record contains 04 bad entries. The petition is also time barred. Therefore, the Board decided that his petition is hereby rejected.

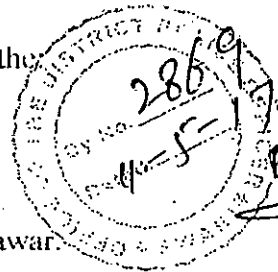
This order is issued with the approval by the Competent Authority.

(MASOOD AHMAD KHAN)
AIG/Establishment.
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

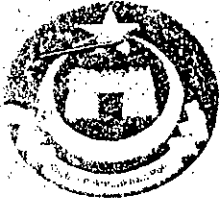
No. S/ 2758-66 /17,

Copy of the above is forwarded to the

1. Regional Police Officer, Mardan.
2. District Police Officer, Swabi.
3. PSO to IGP/Khyber Pakhtunkhwa. CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.
8. Central Registry Cell, CPO.



[Handwritten signature]
DPO Swabi
8/5



Annexure (M)

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.

1776
10-5-19

No. S/ 1415 /19, dated Peshawar the 03/05/2019.

To : The Regional Police Officer,
Mardan.

Subject: MERCY PETITION.

Memo:

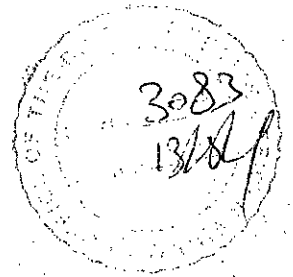
The Competent Authority has examined in the light of Police Rule 16.32 and filed a mercy petition submitted by Ex-Constable Ajmeer Khan No. 837 of Swabi District Police against punishment of dismissal from service awarded by DPO/Swabi vide OB No. 722, dated 14.06.2019 being badly time barred.

The applicant may please be informed accordingly.

EC
PPS
7/5
Sir,
PPS Attached,
A/EC

(Signature)
2/5
(SYEBANIS-UL-HASSAN)
Registrar,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. 7820/ES dt: 10/5/19



EC/DPO Swabi

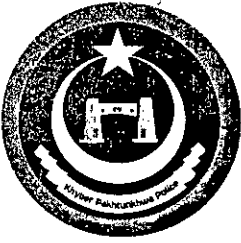
OB/EC

Trans of certifi W/R to this
office NO. 5206/ES dt 16/6/17.

(Signature)
RPO/Mardan
6/5/19

(Signature)
13/5

(Signature)



**OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN**

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com

2020

No. /GB

Dated 04/03/2020

To: The District Police Officer,
Swabi.

Subject: **ORDER IN APPEAL NO.663/2019, MR. AJMEER SHAH**

Memo: -

Please refer to your office letter No.457-59, dated 21.02.2020, on the subject noted above.

It is intimated that, according to the report of DSP/Legal Mardan that the subject appeal is related to Swabi District, therefore the same is forwarded for further necessary action and compliance.

Encls: (18)

*District Police Officer
Mardan*

No 1444/GB ✓

Copy to the Registrar Khyber Pakhtunkhwa, Service Tribunal Peshawar for information w/r to his office letter No.457-59/ST dated 21.02.2020.

*District Police Officer
Mardan*

Put up to the court with relevant appeal.

6/3/2020

Search.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 457-59 /ST

Dated 21/02/2020

To


1. The Provincial Police Officer,
Government of Khyber Pakhtunkhwa,
Peshawar.
2. Regional Police Officer,
Government of Khyber Pakhtunkhwa,
Mardan.
3. The District Police Officer,
Government of Khyber Pakhtunkhwa,
Mardan.

266/LB
27.2.20


SUBJECT:- ORDER IN APPEAL NO. 663/2019, MR. AJMEER SHAH.

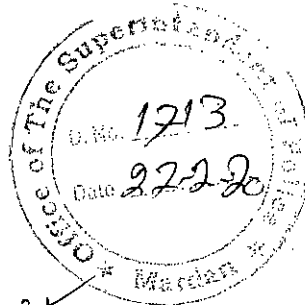
I am directed to forward herewith a certified copy of order dated 12.02.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

DSP legal
In memory act.


DPO Mardan
26-2-2020



+
Inspector legal

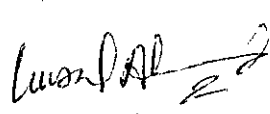
For necessary action as directed and update the undersigned about appeal.


DSP/L

27-02-2020

O.S.

Matter in issue before
= to Distt Swabi.


02/03/2020

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

Appeal No. 663 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 791

Dated 21/5/2019

Ajmeer Shah, Ex-FC No. 837, Police Lines Swabi

(Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
 2. ~~Regional Police Officer Kohat, Region Kohat.~~ ^{Regional police officer, Mardan,}
 3. ~~District Police Officer Kohat.~~ ^{Region Mardan}
 3. DPO Swabi.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 14.06.2016, whereby the appellant has been awarded the Major Punishment of dismissal from Service beside the recovery of salaries received by him during the alleged absence, against which his departmental appeal dated 11.07.2016 has been rejected vide office order dated 08.05.2017. while his mercy petition dated 10.04.2019 has also been regretted vide Order dated 03.05.2019

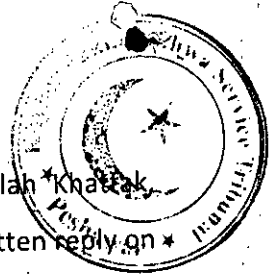
Filed to Registrar
 21/5/19

Prayer in Appeal: -

On acceptance of this appeal the impugned orders dated 14.06.2016, 08.05.2017 and 03.05.2019, may kindly be set aside and the appellant may be re-instated into service with all back benefits and wages of service.


[Signature]
 REGISTRAR

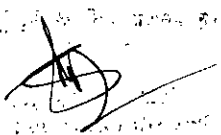
Service Appeal No. 663/2019



12.02.2020

Junior counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Neither written reply on behalf of respondents submitted nor representative of the department is present, therefore, notices be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Last opportunity is granted to the respondents for filing of written reply/comments. Adjourned to 17.03.2020 for written reply/comments before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER


S. B.

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. 663/2019

Ajmeer Shah, Ex-FC No. 837, Police Lines Swabi

(Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others

(Respondents)

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4	Copy of the office order dated 14.06.2016	C	11
5	Copies of the departmental appeal dated 11.07.2016 & and rejection order dated 08.05.2017	D & E	12-14
6.	Copies of the Mercy petition dated 10.04.2019 & and rejection order dated 03.05.2019	F & G	15-16
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Appellant

Through


YASIR SALEEM

Advocate Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Appeal No. _____/2019

Ajmeer Shah, Ex-FC No. 837, Police Lines Swabi

(Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer Kohat, Region Kohat.
3. District Police Officer Kohat.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 14.06.2016, whereby the appellant has been awarded the Major Punishment of dismissal from Service beside the recovery of salaries received by him during the alleged absence, against which his departmental appeal dated 11.07.2016 has been rejected vide office order dated 08.05.2017. while his mercy petition dated 10.04.2019 has also been regretted vide Order dated 03.05.2019

Prayer in Appeal: -

On acceptance of this appeal the impugned orders dated 14.06.2016, 08.05.2017 and 03.05.2019, may kindly be set aside and the appellant may be re-instated into service with all back benefits and wages of service.

Respectfully Sheweth,

The appellant humbly submit as under.

1. That appellant was appointed as Foot Constable in the Respondent Department in the year 2009.
2. That ever since his appointment, the appellant had performed his duties as assigned with zeal and devotion and has never given any chance of complaint whatsoever regarding his performance.
3. That while performing his duties in the said capacity the appellant suffered from illness (Yarqaan) and pain in Stomach in the month of September 2015. The doctor advised complete bed rest for at least a month. As soon as he recovered from ailment, he joined his duty. However as he did not recover fully he again got ill therefore as per doctor advice he took bed rest in the month of Jan 2016. It is pertinent to mention here that he duly applied for leave on each occasion and the department assured he would be granted leave of kind due and it was the reason neither any charge sheet nor any show cause notice was served upon him.
4. That the appellant again in April 2016 the appellant got the medical treatment and as per doctor advise, he took complete bed rest from 16.04.2016 to 25.04.2016. all the medical documents were handed over to the inquiry officer. After the recovery, the appellant reported for duty and started performing his duties.
5. That later the appellant was proceeded departmentally for absence from duty. Charge sheet though issued, however never communicated

to the Appellant. He was called upon by the Mirza to appear before the inquiry officer, however when he appeared he was asked just to provide medical documents and in this way the inquiry concluded. The inquiry office even did not bother to meet the appellant and sought documents from him through Reader.

6. That thereafter appellant was served with show cause notice dated 16.05.2016 was issued containing the allegations of wilful and deliberate absence from duty. The appellant duly replied to the show cause notice and explained the matter. *(Copies of show cause notice dated 16.05.2016 and reply thereof are attached as Annexure A & B).*
7. That without considering his defense, quite illegally, the appellant was dismissed from service vide order dated 14.06.2016. *(Copy of the office order dated 14.06.2016 is attached as Annexure C)*
8. That the appellant submitted his departmental appeal dated 11.07.2016, However the same has been rejected vide order dated 08.05.2017. it is pertinent to mention here that the appellant was never informed about the faith of his department appeal, he approached time and again to the respondent to inform but all in vain. Later in the year 2018 (mid), he was verbally informed that his departmental appeal has been rejected vide order dated 08.05.2017 however again he was not provided the rejection order. Lastly the rejection order was communicated to the appellant 12.03.2019. *(Copies of the departmental appeal dated 11.07.2016 & and rejection order dated 08.05.2017 are attached as Annexure D & E)*

9. That the appellant also submitted his mercy petition before the competent authority vide his application dated 10.04.2019, however the same was also regretted vide office order dated 03.05.2019. *(Copies of the Mercy petition dated 10.04.2019 & and rejection order dated 03.05.2019 are attached as Annexure F & G)*
10. That the impugned orders dated 14.06.2016, 08.05.2017 and 03.05.2019 are illegal unlawful against the law and facts hence liable to be set aside inter alia on the following grounds:

GROUND OF APPEAL.

- A. That the appellant has not been treated in accordance with law hence his rights secured and guaranteed under the law are badly violated.
- B. That no procedure has been followed before his dismissal from service. He has never been served any charge sheet and statement of allegations nor any regular/ impartial inquiry has been conducted to dig out the facts before passing the impugned order of dismissal, thus the impugned order is defective in the eyes of law.
- C. That the appellant has not been provided proper opportunity of personal hearing before awarding him the penalty hence the appellant have been condemned unheard.
- D. That no charge sheet or statement of allegations as prescribed under the law and rules has been served upon him hence the appellant have not been provided fair opportunity to defend his self

against the charges leveled. The impugned order is thus passed in violation of the principles of natural justice.

- E. That the appellant has never committed an act or omission which could be termed as misconduct, albeit he has been awarded the penalty. His absence was never willful but was due to his prolonged illness, which forced him to remain away from his duty.
- F. That it has been consistently held by the superior courts that punishment must commensurate to the magnitude of guilt.
- G. That it is also pertinent to mention here that the inquiry report (if any) has never been provided to the appellant, thus whole proceedings before the imposition of penalty are defective in the eye of law.
- H. That it is pertinent to mention here that on previous two occasions the appellant after recovery joined the duty and he was not proceeded as the department knew that he was badly suffering from stomach pain and Yarqan. So he cannot be proceeded later on for the sais period.
- I. That the appellant has at his credit a spotless service career, the penalty imposed upon him is harsh and liable to be set aside.
- J. That the appellant is jobless since his illegal Removal from Service.
- K. That the appellant seeks the permission of this Honorable Tribunal to rely on additional ground at the hearing of this appeal

It is, therefore, humbly prayed that on acceptance of this appeal the impugned orders dated 14.06.2016, 08.05.2017 and 03.05.2019, may kindly be set aside and the appellant may be re-instated into service with all back benefits and wages of service.

A
Appellant.

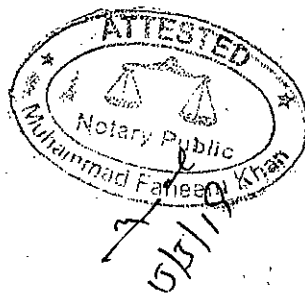
Through

Y
YASIR SAEEM
Advocate Peshawar

AFFIDAVIT

I, *Ajmeer Shah, Ex-FC No. 837, Police Lines Swabi*, do hereby solemnly affirm and declare on oath that the contents of the above noted appeal as well as accompanied application for condonation of delay are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.

A
Deponent



BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. ____/2019

Ajmeer Shah, Ex-FC No. 837, Police Lines Swabi

(Appellant)

VERSUS

*The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and
others

(Respondents)

Application for condonation of delay if any in
filing the above noted Appeal

Respectfully Submitted:

1. That the applicant has filed the accompanied service appeal in which no date has been fixed so far.
2. That the applicant prays for the condonation of delay in filling the above noted appeal inter alia on the following grounds: -

Grounds of Application:

- A. That the appellant duly filed his departmental appeal within the stipulated period of time. However he was never informed about the fate of his department appeal, he approached time and again to the respondent to inform but all in vain. Later in the year 2018 (mid), he was verbally informed that his departmental appeal has been rejected vide order dated 08.05.2017 however again he was not provided the rejection order. Lastly the rejection order was communicated to the appellant 12.03.2019. Since the order of rejection was never communicated to him in time, therefore, the delay if any is condonable.
- B. That if at all there were any delay it cannot be attributed to the applicant as the order of rejection was not communicated to him in time. After communication, he duly filed his mercy petition to the Respondent No.1 within one month and after rejection of mercy petition the instant appeal is being filed within the statutory period.



- C. That the proceedings conducted against the applicant are illegal, void and nullity in the eyes of law, no inquiry has been conducted nor the appellant has been given any opportunity of hearing. Thus the whole proceedings are nullity in the eye of law and hence no period of limitation run against an order based on illegal / defective proceedings.
- D. That the delay if any was not because of negligence of the appellant but it was due to the reluctant behavior of the respondents that they never communicated the rejection order to him.
- E. That the appellant never remained negligent while pursuing his remedy thus the delay if any is condonable.
- F. That valuable rights of the appellant are involved in the case hence this Service Appeal deserves to be decided on merit.
- G. That the delay if any was not willful or contumacious hence deserve leniency.
- H. That it has been the consistent view of the superior courts that causes should be decided on merit rather on technicalities including the limitation. The same is reported in 2004 PLC (CS) 1014 & 2003 PLC (CS) 769.

It is therefore prayed that on acceptance of this application the delay in filling the above appeal may please be condoned.

Applicant

Through


YASIR SALEEM

Advocate Peshawar

AFFIDAVIT

I, do hereby solemnly affirm and declare on oath that the contents of the above application are true and correct and that nothing has been kept back or concealed from this Honourable Tribunal.

Deponent

FINAL SHOW CAUSE NOTICE

Ajmeer
9

Whereas, you Constable Ajmeer Shah No.837, while posted Police Post Saleem Khan absented yourself from duty with effect from 19.01.2016 to 14.02.2016 and while posted to Police Lines, Swabi absented yourself from duty with effect from 08.09.2015 to 13.10.2015 and from 16.04.2016 to 25.04.2016 without any leave/prior permission of the competent authority, which is against the discipline and amounts to gross mis-conduct.

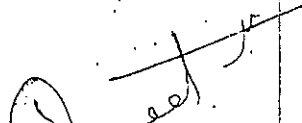
In this connection you were charge sheeted and served with summary of allegation and DSP, Lahor and DSP, H.Qrs, Swabi were appointed to conduct proper departmental enquiry. The enquiry officers held enquiry and submitted their findings, wherein, they held you Constable Ajmeer Shah No.837 guilty for the mis-conduct.

Therefore, it is proposed to impose Major/Minor penalty including dismissal as envisaged under Rules 4(b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence I Javed Iqbal PSP, District Police Officer, Swabi in exercise of power vested in me under Rules 5(3) of the Khyber Pakhtunkhwa Police Rules 1975 call upon you to show cause finally as to why the proposed punishment should not be awarded to you.

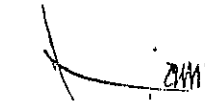
Your reply should reach to the office of the undersigned within seven days of the receipt of this notice failing which it will be presumed that you have no explanation to offer.

You are also at liberty to appear for personal hearing before the undersigned.


District Police Officer,
Swabi.

Date: 16.05.2016

ASI



SHO P.S. Iqbal
20/5/16

بشمول شوکانہ تونس شہر کے صدر
یہ ڈیڑھی سے باقی رہا۔ سال فوراً 15
تعمیر اور فوراً 15
18/9 کے مہینے میں کیا جلیبت اچھا ہے
18/9 کے مہینے میں کیا جلیبت اچھا ہے
18/9 کے مہینے میں کیا جلیبت اچھا ہے

کر سہ قہے زخم اور پیرمان اچھا بندھا۔ اور
دو تیرہ سال کی تھی وہاں کی جوڑ کرے گھر
سے آرام نہ اچھا ہے دیا۔ سال میں روح تکلیف

اور تمنا سے دو دکھا کہ وج سے ہر انت تھا کہ مطلع
تین کے لیے۔ مہینے میں اور فیسور کا عہدہ قائم کر دیا

سال کا مہینے میں اور فیسور کا عہدہ قائم کر دیا
زینت کا عہدہ اور سال کے مہینے میں اور فیسور کا عہدہ
جما نہ ہو گا عہدہ اور سال کے مہینے میں اور فیسور کا عہدہ

کامیابی کا عہدہ اور سال کے مہینے میں اور فیسور کا عہدہ
2022-23-24

(Ajmeer) (11)

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI

ORDER

Constable Ajmeer Shah No.837, while posted to Police Post Salcem Khan absented himself from duty with effect from 19.01.2016 to 14.02.2016 and while posted to Police Lines, Swabi absented himself from duty with effect from 08.09.2015 to 13.10.2015 and from 16.04.2016 to 25.04.2016 without any leave/prior permission of the competent authority, which is against the discipline and amounts to gross mis-conduct.

Therefore, he was issued Show Cause Notices. His replies to the Show Cause Notices were received, perused, but was found unsatisfactory. Therefore, he was served with Charge Sheet and Summary of allegations. DSP, H.Qrs, Swabi and DSP Lahor were appointed as Enquiry Officers. The Officers conducted proper departmental enquiries, collected evidence and recorded statements of all concerned. They submitted their findings, wherein they found Constable Ajmeer Shah No.837, guilty for the mis-conduct and recommended him for suitable punishment. During enquiry he again absented himself from duty with effect from 03.05.2016 till date. The undersigned perused the enquiry papers, findings, and by agreeing with the Enquiry Officers served him with Final Show Cause Notice. He was directed to submit his reply to the Final Show Cause Notice within seven days but he did not submit his reply, which means that he has nothing to offer in his defence and deserve ex-parte action.

Therefore, I, Javed Iqbal, PSP, District Police Officer, Swabi, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules 1975, hereby award Constable Ajmeer Shah No.837 Major Punishment of Dismissal from service with effect from 03.05.2015, The pay for the Period of his absence is hereby deducted from his salary.

O.B No. 727

Dated 14/06/2016

District Police Officer,
Swabi.

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.

No. 1999-53, P.A, dated Swabi, the 19/06/2016.

Copies to the:-

1. DSP, H.Qrs, Swabi.
2. Pay Officer.
3. Establishment Clerk.
4. Fauji Missal Clerk.
5. Official concerned.

گرفت مناب ڈیٹا انڈسٹریز لٹریچر آف پولیس مردان زمین

مغفون، قحطانہ اول برائے جانی ملازمت بر مغراف ملکہ ڈیٹا پی او

مناب بحوالہ اد ڈیٹا ڈسٹریبیوٹرز 722 فوراً 016.06.14

مناب عالی: مغفون اول مناب ڈیٹا پی او

- 1) یہ کہ سائل قحطانہ 2015 میں کھولے ہوئے قحطانہ جات میں ڈیٹا سائل سے انجام دے دیا گیا۔
- 2) یہ کہ سائل بد دوران لٹریچر قحطانہ آئندہ شدتد بیمار ہوا جسکی وجہ سے بالآخر چھوڑی غر حاضر رہا۔
- 3) یہ کہ سائل کا تبادلہ قحطانہ آئندہ سے اپنی پوری کاپی جان پہچان پر سائل کی بیماری کو شدتد اختیار کنگی جسکی وجہ سے منہ یوم غر حاضر رہا جسکے لیے سائل کا تبادلہ لائن ہوا۔
- 4) یہ کہ سائل بد دوران لٹریچر پورے لائن اپنا علاج جاری رکھا اور سائل سے پتہ چلا کہ سائل کی پر قحطانہ کی بیماری ہے جسکی وجہ سے صحابنے ارم کا مشورہ دیا گیا۔
- 5) یہ کہ سائل کے مغراف مندر بہ بالا غر حاضر لوں پر الٹی لٹریچر سے وضع ہوئی جو بد دوران الٹی لٹریچر سائل نے انویسٹی اٹو کی جہ علاج صحابنے کے کا مغراف مہیا کیے۔ لکن پھر بھی سائل کی قحطانہ کو برائیا بنا دیا۔
- 6) یہ کہ سائل کی مناب DPo مناب بحوالہ اد ڈیٹا ڈسٹریبیوٹرز 722 فوراً 016.06.14 کو نو کرہ سے ڈسٹنس کرنا۔

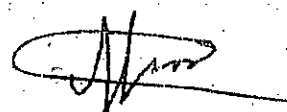
سائیل ایسا خراب گوانے سے نکلنے رکنا ہے۔ اور والد کا
سیا دادا ہیں سر پر نہیں ہے

آپ صاحبان میرا بی ڈکے سائیل سے فال پر رقم فرما کر
سائیل کو نوکر ہی پر جمال کرانے کا اطمینان مادر فرما کر
نگھور فرماویں۔

3rd 11/07/16


2

سائیل کا ٹیل اجسٹریٹا اور والد آمان خان سائیل سے رقم و سائیل
بیتیلہ 837
کریں مشورے سے سائیل پر رقم فرمائی۔



Dr. P. S. ...
Comments ...

No. 6260/ES,
dt: 11/7/16


Dr. Morda
11/7



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

14

No. S/ 2758 /17, dated Peshawar the 08/05/2017.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-FC Ajmeer Khan No. 837. The appellant was dismissed from service w.e.f 03.05.2016 by DPO, Swabi vide OIB No. 722, dated 14.06.2016 on the charge of absence from duty for 03 months and 23 days.

His appeal was filed by Regional Police Officer, Mardan vide order Endst: No. 7327/ES, dated 19.08.2016.

Meeting of Appellate Board was held on 20.04.2017 wherein petitioner was heard in person. During hearing petitioner contended that his absence was not deliberate but he was suffering from illness. He produced medical certificates.

Perusal of record reveals that petitioner was dismissed from service on charges of willful and deliberate absence from duty. He failed to advance any plausible explanation behind his absence besides his service record contains 04 bad entries. The petition is also time barred. Therefore, the Board decided that his petition is hereby rejected.

This order is issued with the approval by the Competent Authority.

(MASOOD AHMAD KHAILIL)
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. S/2758-66 /17.

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan.
2. District Police Officer, Swabi.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt-E-IV CPO Peshawar.
8. Central Registry Cell, CPO.



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.

No. S/ 1415 /19, dated Peshawar the 03/05/2019.

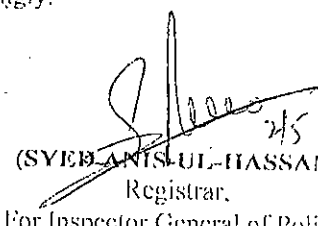
To: The Regional Police Officer,
Mardan.

Subject: MERCY PETITION.

Memo:

The Competent Authority has examined in the light of Police Rule 16.32 and filed the mercy petition submitted by Ex-Constable Ajmeer Khan No. 837 of Swabi District Police against the punishment of dismissal from service awarded by DPO/Swabi vide OB No. 722, dated 14.06.2016 being badly time barred.

The applicant may please be informed accordingly.


(SYED ANIS-UL-HASSAN)
Registrar,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.