

27.03.2019

Counsel for the petitioner and Mr. Farhaj Sikandar, District for the respondents present.

Learned District Attorney has produced copy of order dated 15.02.2017 passed by Superintendent of Police, FRP, D.I.Khan Range, D.Khan, whereby, the departmental enquiry against the appellant was filed while his absence of 77 days was treated as without pay. Simultaneously the period during which the appellant remained out of service was also treated as without pay.

Learned counsel for the petitioner, on the other hand, stated that although the petitioner was reinstated into service on 30.01.2017 subject to denovo enquiry in accordance with the judgment of the Tribunal dated 26.09.2016 but it was not communicated to the petitioner and the order dated 15.02.2017 came to surface in the court today. In the circumstances, learned counsel for the petitioner requests for transmission of instant petition to the departmental appellate authority/Commandant FRP, Peshawar for treating the same as departmental appeal of the petitioner against the order dated 15.02.2017.

In view of the request of learned counsel for the petitioner, instant execution petition shall be sent to respondent No. 3 for its decision as departmental appeal in accordance with law. A copy of the record shall be retained in the office.

Disposed of accordingly.


Chairman
Camp Court, D.I.Khan

ANNOUNCED
27.03.2019

19.12.2018

As per direction of the worthy Chairman Khyber Pakhtunkhwa Service Tribunal, D.I.Khan tour dated 19.12.2018 has been rescheduled and the case is re-fixed for 28.12.2018.

Reader

28.12.2018

Counsel for the petitioner present. Mr. Farhaj Sikandar, District Attorney for the respondents present. Representative of the department is not in attendance therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and implementation report on the next date positively. Adjourned. To come up for implementation report on 27.02.2019 before S.B at Camp Court D.I.Khan.

21/01/19



(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan

27.02.2019

Counsel for the petitioner present. Mr. Farhaj Sikandar, District Attorney for the respondents present. Representative of the department is not present therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit implementation report on the next date positively. Adjourned. To come up for implementation report on 27.03.2019 before S.B at Camp Court D.I.Khan.






(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. _ 394/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	31.10.2018	<p>The execution petition of Mr. Muhammad Ismail received by post through Mr. Gul Tiaz Khan Marwat Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR 31/10/18</p>
2-	20.11.18	<p>This execution petition be put up before touring S. Bench at D.I.Khan on <u>29.11.18</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	29.11.2018	<p>Neither appellant nor his counsel present. Notice be issued to appellant and his counsel as well as respondents for 19.12.2018 before S.B at Camp Court D.I.Khan.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member Camp Court D.I.Khan</p> <p style="text-align: center; font-size: 2em;">/</p>

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Execution petition no. 394/2018

CMA No. _____/2018

Muhammad Ismail

..... **Petitioner**

VERSUS

Govt: of KPK through Secretary Home Civil Secretariat
Peshawar and others. **Respondents**

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Dated: *29*/08/2018

Your Humble Petitioner

Muhammad Ismail
**Muhammad Ismail
Through Counsel**

Gul Tiaz Khan Marwat
**GUL TIAZ KHAN MARWAT
Advocate High Court DIKhan**

03009092488

I

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Execution Petition No. 394/18

Khyber Pakhtunkhwa
Service Tribunal

CMA No. _____/2018

Diary No. 1590

Dated 31-10-2018

Muhammad Ismail Constable No. 8170 FRP D.I.Khan

03439295237

..... **Petitioner**

VERSUS

1. Govt: of KPK through Secretary Home Civil Secretariat Peshawar.
2. The Inspector General of Police KPK Peshawar.
3. Commandant FRP/ Additional Inspector General of Police KPK Peshawar.
4. The Superintendent of Police FRP D.I.Khan

.....**Respondents**

PETITION CONTAINING THE REQUEST FOR IMPLEMENTATION OF JUDGMENT / ORDER OF THIS LEARNED TRIBUNAL CAMP COURT D.I.KHAN DATED 26.09.2016 PASSED IN SERVICE APPEAL NO. 461/2013 TITLED AS "MUHAMMAD ISMAIL V/S GOVT. OF KPK THROUGH SECRETARY HOME KPK PESHAWAR AND OTHERS".

Respected Sir,

1. That the Petitioner was appointed as Constable in FRP D.I.Khan.

Amir

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2. That the Petitioner was removed from service vide order dated 23.08.2011 passed by Respondent No. 4 on the basis of absent from duty for 77 days i.e. w.e.f 06.06.2011 to 10.08.2011.
3. That against the imposition of major penalty of removal from service, the petitioner filed service appeal before this learned tribunal which came up for hearing on 26.09.2016 and this learned tribunal was pleased accept the appeal of petitioner and set aside the impugned order of removal from service dated 23.08.2011 and remanded the case back to the department for conducting de-novo inquiry however, the issue of salary and back benefits to the petitioner were ordered subject to de-novo inquiry. Copy of judgment is enclosed as **Annexure-A**.
4. That after the decision of appeal, the petitioner was reinstated into service vide office order No. 181-83/FRP dated 30.01.2017. Copy of Order is enclosed as **Annexure-B**
5. That the petitioner was served with charge sheet and statement of allegations to which the petitioner filed reply explaining his position and also prayed for payment of back benefits of the period for which the petitioner remained out of service due to issuance of order of removal from service dated 23.08.2011. Copies of Charge

gaur

sheet, statement of allegations and reply are enclosed as **Annexure C,D&E** respectively.

6. That after submission of reply to the charge sheet and statement of allegations by the Petitioner neither any final show cause notice has been issued to the petitioner nor an opportunity of personal hearing has been provided to the petitioner and nor any final order has so far been communicated to the petitioner and the petitioner is anxiously waiting for the result of the inquiry conducted de-novo.
7. That the Petitioner having no other remedy seeks the indulgence of this learned tribunal for implementation of its judgment / order under its inherent jurisdiction inter alia on the following grounds.

GROUND:-

- A. That it is/ was the legal, statutory and moral obligations of departmental Authority to implement the judgment / order of this learned Tribunal and to grant benefits of service for the period commencing from date i.e. 23.08.2011 on which date the petitioner was removed upto date of decision of appeal i.e. 26.09.2016 as it was not the fault of petitioner but it was the lapses of departmental Authorities due to which the petitioner remained out of service being jobless.

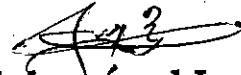
Sumit

- B. That the actions/in actions, conduct and modus operandi of Respondents to disobey and violate the judgment/ order is tantamount to abuse and obstruct the process of Court to disobey the order of Court of law/tribunal which is a visible contempt of Court for which he is liable to be proceeded under the law.
- C. That the Petitioner is not responsible for the acts, lapses and misdeed as well as wrong order of removal from service passed by the departmental Authorities/ Respondents due to which the petitioner was ousted from service who remained jobless from the date of removal of service i.e. 23.08.2011 upto acceptance of appeal on 26.09.2016 and thus the petitioner was deprived to serve the State.
- D. That the Petitioner has no other remedy for implementation of judgment of the Honourable Tribunal except to knock the door of this Honourable Tribunal for implementation of judgment.
- E. That the Honourable Tribunal got powers and jurisdiction to take cognizance in the matter and to implement the judgment and order so passed by this Honourable Tribunal.
- F. That counsel for the Petitioner may please be allowed to raise additional ground during the course of arguments.

Sumit

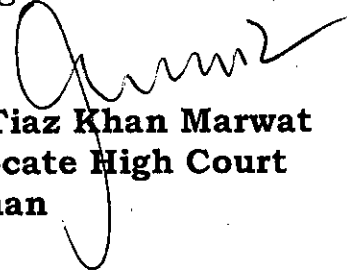
It is, therefore, humbly prayed on acceptance this Petition, this Honorable Tribunal may very graciously be pleased to issue direction to respondents to implement the judgment/ order of this Honourable Tribunal in letter and spirit so as to meet the ends of justice.

Your humble Petitioner,



Muhammad Ismail

Through Counsel



**Gul Tiaz Khan Marwat
Advocate High Court
DIKhan**

Dated: 29/09/2018

AFFIDAVIT

Muhammad Ismail Constable No. 7902 FRP D.I.Khan do hereby solemnly affirm and declare on Oath that the contents of Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Attested by
U. S. Khan
SALIM BANGAL ADV
RO BANGAL
Oath Commissioner D.I.Khan



DEPONENT

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT D.I.KHAN.

A

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SERVICE APPEAL NO. 461/2013

Date of institution ... 17.01.2013

Date of judgment ... 26.09.2016



Muhammad Ismail, Ex-Constable # 8170, FRP
R/o Ama Khel, Tehsil & District Tank.

... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Home, Civil Secretariat, Peshawar.
2. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. Commandant, Frontier Reserve Police/Additional Inspector General of Police, Peshawar.
4. Superintendent of Police, Frontier Reserve Police, D.I.Khan.
5. Gul Manan, the then Line Officer/Inquiry Officer, FRP D.I.Khan.
6. Alao-ud-Din, Line Officer/Inquiry Officer, FRP, D.I.Khan.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER BEARING # 3630 DATED 13.12.2012 OF RESPONDENT-2 AND ORDER BEARING # 994-95/EC DATED 15.02.2012 PASSED BY RESPONDENT-3 VIDE WHICH APPEAL OF THE APPELLANT FOR REINSTATEMENT IN SERVICE AGAINST THE ORDER BEARING # OB# 801/FRP DATED 23.08.2011 PASSED BY RESPONDENT-4 WAS REJECTED/FILED.

Mr. Gul Tiaz Khan Marwat, Advocate.
Mr. Farhaj Sikandar, Government Pleader

.. For appellant.
.. For official respondents No. 1 to 4.

MR. MUHAMMAD AAMIR NAZIR
MR. ABDUL LATIF

.. MEMBER (JUDICIAL)
.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AAMIR NAZIR, MEMBER:- Muhammad Ismail, ex-

Constable Frontier Reserve Police, District Tank hereinafter called the appellant, through instant appeal under Section-4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 has impugned order dated 23.08.2011 vide which the appellant was awarded major punishment of removal from service and his absence period with effect from 06.06.2011 was treated as leave without pay. Against the impugned order referred above, the appellant filed a

departmental appeal which was also rejected by the Appellate Authority vide order dated 15.02.2012.

2. Brief stated facts giving rise to the appeal are that the appellant was appointed as constable in Frontier Reserve Police, D.I.Khan and was performing his duty to the satisfaction of his superiors. That on 06.06.2011 the appellant fell ill and the doctor advised him for one month bed rest. That the appellant was bed ridden but the respondents issued him charge-sheet alongwith statement of allegations on the charges of absence from duty. That the appellant submitted reply to the charge-sheet and statement of allegations accompanied by medical certificates. That thereafter, a one sided inquiry was conducted and the competent authority, on the basis of one sided inquiry awarded him major punishment of removal from service vide and his absence period was treated as leave without pay vide order dated 23.08.2011. That against the impugned order, the appellant filed a departmental appeal which was also rejected by the Appellate Authority vide order dated 15.02.2012, hence the instant service appeal.

3. We have heard the arguments of learned counsel for the appellant and learned Government Pleader for official respondents No. 1 to 4 and have gone through the record available on file.

4. Learned counsel for the appellant argued before the court that despite the facts that the appellant was ill and was bed ridden, he was proceeded against without taking into consideration his medical certificates. That a one sided inquiry was conducted against the appellant and Competent Authority without any justification ordered his removal from service and also treated his absence period as leave without pay which fall within the preview of double jeopardy. That since the impugned order is illegal, therefore the same may be set-aside and the appellant be reinstated into service with all back benefits.

5. The learned Government Pleader on contrary argued before the court that the appellant was rightly removed from service as he willfully absented himself from duty. That the Competent Authority has adopted all the legal requirements before awarding him major punishment. That the appeal in hand is without any merits, hence may be dismissed.

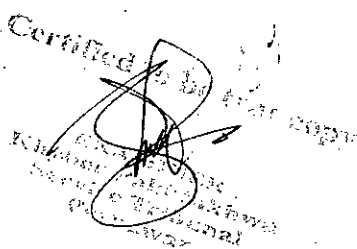
6. Perusal of the case file reveals that the appellant while serving as Frontier Reserve Police, D.I.Khan was issued charge sheet alongwith statement of allegations on the ground

of his willful absence from duty with effect from 06.06.2011 till date. The appellant in response to charge-sheet and statement of allegations, submitted a reply stating therein that due to serious ailment, the doctor had advised him complete bed rest. Though the application of appellant was supported medical certificate yet, the Competent Authority initiated an inquiry against the appellant. The inquiry officer conducted a one sided inquiry without associating the appellant with inquiry proceedings. The inquiry officer has also not taken into consideration of plea of illness of the appellant and recommended him for major punishment. Similarly, the Competent Authority while considering the defective inquiry report, awarded the appellant major punishment of removal from service and has also treated the absence period of the appellant as leave without pay which is not justifiable under the law as it comes within the preview of double jeopardy. The Appellate Authority has also not considered the plea of ailment of the appellant and has rejected the departmental appeal vide order dated 15.02.2012. The respondents were bound to have associated the appellant with the inquiry proceedings while providing him full opportunity of defense and there-after should have passed an appropriate order justifiable under the law. The impugned removal order suffered illegality on two scores, firstly, the impugned order is based on one sided inquiry and secondly in the impugned order, appellant was awarded two punishment for single act of absence, one removal from service and other treating his absence period as leave without pay which is illegal and not warranted under the law. Hence, we are inclined to set-aside the impugned order dated 23.08.2011 and reinstate the appellant in service, while remand the case to the Competent Authority to conduct a de-novo inquiry against the appellant within two months for the date of receipt of this order by providing him full opportunity of defense and thereafter passed an appropriate order. The issue of salary and back benefits of the appellant will be subject to the de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
26.09.2016

Sd/- Muhammad Amir Nazir,
Member

Sd/- Abdul Latif,
Member

Certified to be true copy


ORDER.

B

9

On his re-instatement in Service subject to denove Enquiry vide Commandant FRP KPK Peshawar order endst: No. 503/SI Legal , dated 17.01.2017, and arrival in FRP Police Line D.I.Khan vide daily diary report Mad No. 07, dated 26.01.2017, Ex: Recruit Constable Mohammad Ismail No. 8170 is hereby allotted Constabulary No. 7902 of FRP D.I.Khan Range from the date of his arrival and posted in Platoon No. 187 FRP Police Line D.I.Khan with immediate effect.

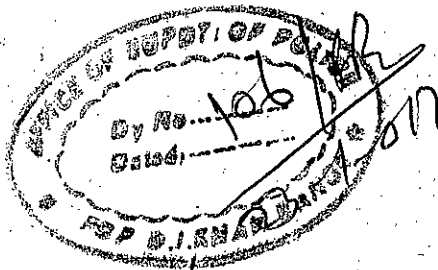
**Superintendent of Police,
FRP, D.I.Khan Range, D.I.Khan.**

No. 181-83. /FRP, Dated of D.I.Khan 30 /01/2017.

Copy of above is submitted to the:-

1. Commandant FRP KPK Peshawar for kind information please.
2. Pay Officer FRP D.I.Khan.
3. OHC/SRC FRP D.I.Khan. ✓

**Superintendent of Police,
FRP, D.I.Khan Range, D.I.Khan.**
30-01-2017



10

ORDER

As per directions of Inspector General of Police Khyber Pakhtunkhwa, Peshawar issued vide CPO letter No. 3141/E&I, dated 26.12.2016, the decision of Khyber Pakhtunkhwa, Service Tribunal, Peshawar dated 26.09.2016, in Service Appeal No. 461/2013 is hereby implemented, Ex-constable Muhammad Ismail No.8870 of FRP/DIKhan Range, is hereby reinstated in service subject to denove enquiry.

[Signature]
COMMANDANT,
Frontier Reserve Police,
Khyber Pakhtunkhwa, Peshawar
[Signature]

No. S-3 /SI Legal, dated Peshawar the 17/01/2017.

Copy of above is forwarded for information and necessary action to the SP/FRP, DIK Range, DIK with directions to conduct denove enquiry into the matter and decided the case on merit and their outcome may be communicated to this office for onward submission to CPO, Peshawar. *His service roll along with D. file sent herewith.*

OB/CHC/SRC/PO *[Signature]*
Prj Active
02-03-017

For n/action, Issue Change sheet & Statement of Allegation DSP/Muhammad Ashraf is appointed as Enquiry Officer.

[Signature]

Superintendent of Police
FRP, D.I.Khan Range
23/01/2017

OB-67
23-01-2017

C 11

CHARGE SHEET.

WHERE AS, I am satisfied that a formal enquiry as contemplated by Khyber Pakhtunkhwa Police Disciplinary Rules-1975 with amendment-2014 is necessary and expedient to be conducted into the allegation contained in the statement attached herewith.

AND WHEREAS, I am of the view that the allegation if established would call for award of a major penalty including dismissal from service as defined in Rules 4(i)(B) of the aforesaid rules.

a. according to daily diary report No.10 dated 06.06.2011 of FRP Police Line DIKhan, you absented yourself from law full duties with effect from 06.06.2011 to the date of Removal from service i.e 23.08.2011 without any leave or permission.

This act on your part reflects lack interest towards the performance of your duties and also gross misconduct which is punishable under the rules.

b. For the above you were proper Charge Sheeted and Enquiry Officer was appointed. The Enquiry Officer found you guilty of the charges and recommended for awarding major punishment. Final Show cause notice was issued and subsequently on finalization of proceeding you were Removed from service vide this office OB No.801/FRP dated 23.08.2011.


c. You lodged a petition in the Honorable service Tribunal KPK Peshawar to set aside the above said punishment order of your Removal from service. After hearing the Honorable court directed for your re-instatement in service and initiating denovo proceeding against you vide judgment dated 26.09.2016, hence you were re-instated in service vide Commandant FRP Khyber Pakhtunkhwa Peshawar order endst: No.503/SI-Legal dated 17.01.2017 subject to denovo enquiry with immediate effect and denovo proceeding initiated for the afore mentioned grave misconduct on your part which is punishable under the rules.

AND WHEREAS, as required by Police Rules 6(I) of the aforesaid rules,

I, Mr. HAMEED ULLAH BALOCH, Superintendent of Police FRP, D.I.Khan Range D.I.Khan, hereby charge you Recruit Constable Muhammad Ismail No.8170/FRP, with the misconduct on the basis of the statement attached to this charge sheet.

AND, hereby directed you further, under rules 6 (I) (B) of the said rules to put in written defence with-in 7-days of receipt of this Charge sheet as to why you proposed action should not be taken against you and also state at the same time whether you desire to be heard in person.

In case your reply is not received with-in the prescribed period, without sufficient cause, it would be presumed that you have no defence to offer and the proceedings will be completed against you ex-parte.


(HAMEED ULLAH BALOCH)
Superintendent of Police,
FRP, D.I.Khan Range, D.I.Khan.

27/01/017

DISCIPLINARY ACTION.

D

12

I, Mr. HAMEED ULLAH BALOCH, Superintendent of Police FRP, D.I.Khan Range D.I.Khan, as a competent authority am of the opinion that you Recruit Constable Muhammad Ismail No.8170/FRP, have rendered yourself liable to be proceeded against and committed the following acts/omissions within the meaning of the Khyber Pakhtunkhwa Police Rules-1975 with amendment-2014.

STATEMENT OF ALLEGATION.

a. according to daily diary report No.10 dated 06.06.2011 of FRP Police Line DIKhan, you absented yourself from law full duties with effect from 06.06.2011 to the date of Removal from service i.e 23.08.2011 without any leave or permission.

This act on your part reflects lack interest towards the performance of your duties and also gross misconduct which is punishable under the rules.

b. For the above you were proper Charge Sheeted and Enquiry Officer was appointed. The Enquiry Officer found you guilty of the charges and recommended for awarding major punishment. Final Show cause notice was issued and subsequently on finalization of proceeding you were Removed from service vide this office OB No.801/FRP dated 23.08.2011.

c. You lodged a petition in the Honorable service Tribunal KPK Peshawar to set aside the above said punishment order of your Removal from service. After hearing the Honorable court directed for your re-instatement in service and initiating denovo proceeding against you vide judgment dated 26.09.2016, hence you were re-instated in service vide Commandant FRP Khyber Pakhtunkhwa Peshawar order endst: No.503/SI-Legal dated 17.01.2017 subject to denovo enquiry with immediate effect and denovo proceeding initiated for the afore mentioned grave misconduct on your part which is punishable under the rules.

This act on your part amounts to gross misconduct punishable under Khyber Pakhtunkhwa Police Rules-1975 with amendment-2014.

Hence the statement of allegation.

1. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegation Mr. Muhammad Ashraf DSP/FRP DIKhan Range is appointed as enquiry Officer to conduct proper departmental enquiry Khyber Pakhtunkhwa Police Rules-1975 with amendment-2014.
2. The enquiry Officer shall in accordance with the provision of the ordinance, provided reasonable opportunity of the hearing to the accused, record its findings and make, within ten (10) days of the receipt of this order recommendations as to punishment or other appropriate action against accused.
3. The accused and a well conversant representative of the department shall join the proceedings on the date time and place fixed by the enquiry officers.



(HAMEED ULLAH BALOCH)
Superintendent of Police,
FRP, D.I.Khan Range, D.I.Khan.

No. 173-74 /FRP, dated D.I.Khan the 27 /01/2017.

Copy to:-

1. Mr. Muhammad Ashraf DSP/FRP DIKhan Range. The enquiry officer for initiating proceeding against the defaulter under the provision of NWFP Police Rules 1975. Enquiry papers containing ___ pages are enclosed.
2. Recruit Constable Muhammad Ismail No.8170/FRP, with the direction to appear before the E.O on the date, time and place fixed by the E.O, for the purpose of enquiry proceeding.



(HAMEED ULLAH BALOCH)
Superintendent of Police

عنوان:- جواب Statement of allegation ازاں کنشیل محمد اسماعیل نمبر 8170

جناب عالی!

سائل بجواب Statement of allegation مورخہ 27/01/2017 حسب ذیل جواب پیش کرتا ہے
 ۱۔ یہ کہ مورخہ 06/06/2011 کو سائل کی اچانک طبیعت خراب ہو گئی تھی تو سائل کو پولیس / ایف سی ہسپتال ٹانک میڈیکل چیک اپ کے لئے گھر والے لے گئے اور جب سائل نے جناب ڈاکٹر صاحب سے چیک اپ کرایا تو ڈاکٹر صاحب نے سائل کو یرقان کی بیماری میں مبتلا پاتے ہوئے دوائی دی اور ساتھ ریٹ کرنے کی ہدایت کی اور جناب ڈاکٹر صاحب نے سائل کو میڈیکل سرٹیفیکیٹس جس پر مندرجہ ذیل تاریخ ہائے / عرصہ کے لئے بیڈ ریٹ تجویز کیا اصل میڈیکل سرٹیفیکیٹس قبل ازیں انکوائری کے وقت سائل نے اپنے جواب کے ساتھ لف کی تھی تاہم نقول لف ہیں۔

۱۔ 06/06/2011 تا 06/07/2011 30 یوم

۲۔ 06/07/2011 تا 06/08/2011 30 یوم

۲۔ یہ کہ قبل ازیں انکوائری میں سائل کو مکمل طور پر شنوائی کا موقع نہیں دیا گیا تھا اور نہ ہی ہسپتال کے کسی انکار یا داکٹر کے بیان قلم بند کیا تھا جس نے سائل کا علاج کیا تھا یا سائل کو بیڈ ریٹ لکھ کر دیا تھا اور جلدی میں انصاف کے تقاضے پورا کرتے ہوئے سائل کے خلاف انکوائری مکمل کر کے سائل کو مزاد دی گئی تھی۔

۳۔ یہ کہ سائل نے سروس ٹریبونل میں اپیل دائر کی جو کہ عرصہ پانچ سال سے زیادہ زیر تجویز رہا اور اس دوران سائل نے روزگار رہا جس کا سائل قصور وار نہیں اور یوں سائل پانچ سال سے زیادہ عرصہ / بیڈ ریٹ کے تحت مالی مراعات سے محروم رہا۔

۴۔ یہ کہ سائل نے غیر حاضری و انسنتہ طور پر نہیں کی تھی بلکہ با امر مجبوری بوجہ بیماری غیر حاضری سرزد ہوئی تھی اور آنجناب کو غیر حاضری کو میڈیکل لیو میں تبدیل و شمار کرنے کا وسیع اختیار حاصل ہے

لہذا استدعا ہے کہ Statement of allegation کو داخل دفتر فرمائی جا کر سائل کی غیر حاضری کو میڈیکل لیو میں شمار کئے جانے کے احکامات صادر فرمائی جاوے اور سائل کو تمام سابقہ مالی مراعات کے ساتھ سروس پر بحالی کا حکم صادر فرمایا جاوے۔ سائل آئندہ کے لئے محتاط رہے گا۔

مورخہ 03/02/2017

سائل کو ذاتی طور پر شنوائی کا موقع بھی دیا جائے

ارضی

ریکورڈ کنشیل محمد اسماعیل نمبر 8170 متعینہ پولیس لائن ضلع ڈیرہ اسماعیل خان

محمد اسماعیل

14

VAKALATNAMA

IN THE COURT OF KPK Service Tribunal Peshawar ^{D.I.Khan}

Mohammad Ismail VERSUS Govt. of KPK BZ

Title C.M.A


I/we Mohammad Ismail

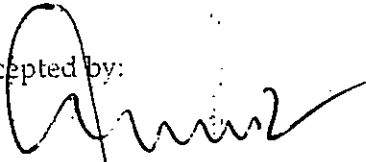
The above named Petitioner hereby appoint Gul Tiaz Khan Marwat Advocate High Court D.I.Khan, in the above mentioned case to all or any of the following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this court/tribunal in which the same may be tried or heard or any other proceedings out of our connected therewith.
 2. To sign and verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal, or for the submission to arbitration of the said case or any other documents, may be deemed necessary or advisable by them by the conduct, prosecution or defense of the said case at all its stages.
 3. To receive payments of and issue receipts for all moneys that may be or become due and payable to us during the course on conclusion of the proceeding.
To do all other acts and things, which may deemed necessary or advisable during the course of proceedings.
- AND hereby agree:
- a. To ratify whatever advocates may do the proceedings.
 - b. Not to hold the advocates responsible if the said case be proceed ex-parte or dismissed in default in consequence of their absence from the court when it is called for hearing.
 - c. That the advocates shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains un-paid.
 - d. That advocates may be permitted to argue any other point at the time of arguments.

In witness whereof I/we have signed this vakalatnama here under the contents of which have been read/explained to me/us which is fully understood by me/us.

Date: 29/9 /2018


Signature of Executants (s)

Accepted by:

Gul Tiaz Khan Marwat
Advocate High Court D.I.Khan (KPK)
Cell No. 0300-9092488 / 0345-9853488

Mohammad Ismail
Petitioner

ORDER:-

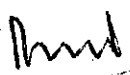
This Order is aimed to dispose off the denovo enquiry initiated against Recruit Constable Muhammad Ismail No.8170 of FRP D.I.Khan on the allegation that according to daily diary report No.10 dated 06.06.2011 of FRP Police Line DIKhan, he absented himself from law full duties with effect from 06.06.2011 without any leave or permission.


He was served with charge sheet and statement of allegation. SI/PC Alau Ud Din Line Officer, FRP D.I.Khan was nominated as Enquiry Officer. After completion of enquiry the Enquiry Officer found him guilty of the charges and recommended him for major punishment of removal from service. He was served with final Show Cause Notice, reply received which was found not satisfactory. Hence he was removed from Service vide order bearing O.B No.801/FRP, dated 23.08.2011. Later on lodged an appeal before the KPK Service Tribunal Peshawar bearing No.461/2013 which was subsequently accepted vide judgment dated 26.09.2016, whereby the honouable service tribunal directed to re-instate the appellant in service subject to denovo enquiry. Therefore denovo proceeding was initiated and Mr. Muhammad Ashraf DSP/FRP D.I.Khan, was deputed to conduct denovo enquiry as per rules. After completion of all codal formalities, the Enquiry Officer submitted his finding report wherein he recommended the absence period from 06.06.2016 to 23.08.2016 i.e (77) days and period the defaulter constable remained out of service be treated as without pay. He was also provided opportunity of personal hearing.

Keeping in view the facts stated above as well as recommendation of enquiry officer and by taking lenient view, I MR. HAMEED ULLAH BALOCH, Superintendent of Police FRP D.I.Khan Range, D.I.Khan, in exercise of powers vested in me under Khyber Pakhtunkhwa Rules 1975 with amendments-2014 hereby file the departmental enquiry paper and the absence period from 06.06.2011 to 23.08.2011 i.e (77) days is treated as with-out pay. Similarly the period he remained out of service is also treated as without pay.

ORDER ANNOUNCED.**Dated 14.02.2017.**OB No. 153 /FRP
Dated 15 /02/2017No. 310 / dated DIKhan the 15 /02/2017.

Copy of above is submitted to Commandant FRP Khyber Pakhtunkhwa Peshawar for favour of information with reference to his office order endst: No.503/SI-legal dated 17.01.2017.


(HAMEED ULLAH BALOCH)
Superintendent of Police,
FRP, DIKhan Range DIKhan.


Superintendent of Police,
FRP, DIKhan Range DIKhan.

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ORDER.

On his re-instatement in Service subject to denove Enquiry vide Commandant FRP KPK Peshawar order endst: No. 503/SI Legal, dated 17.01.2017, and arrival in FRP Police Line D.I.Khan vide daily diary report Mad No. 07, dated 26.01.2017, Ex: Recruit Constable Mohammad Ismail No. 8170 is hereby allotted Constabulary No. 7902 of FRP D.I.Khan Range from the date of his arrival and posted in Platoon No. 187 FRP Police Line D.I.Khan with immediate effect.

**Superintendent of Police,
FRP, D.I.Khan Range, D.I.Khan.**

No. 181-83 /FRP, Dated of D.I.Khan 30 /01/2017.

Copy of above is submitted to the:-

- ✓ 1. Commandant FRP KPK Peshawar for kind information please.
2. Pay Officer FRP D.I.Khan.
3. OHC/SRC FRP D.I.Khan.

**Superintendent of Police,
FRP, D.I.Khan Range, D.I.Khan.**

30-01-2017

S/I Legal

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-mp
-03/02-
COMMANDANT,
Frontier Police
Khyber Pakhtunkhwa Peshawar