

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
		<p align="center"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> <u>AT CAMP COURT SWAT</u> Service Appeal No. 1320/2017</p> <p align="center">Date of Institution ... 1311.2017 Date of Decision ... 06.12.2018</p> <p>Zahoor Ahmad S/o Noor Ahmad R/o Haryan Koat, Tehsil Dargai District Malakand (Ex-Constable No.3180).</p> <p align="right">Appellant</p> <p align="center">Versus</p> <p>2. Provincial Police Officer Government of Khyber Pakhtunkhwa Central Police Office (CPO) Peshawar. 3. Deputy Inspector General of Police/Regional Police Officer (RPO) Malakand Division at Saidu Sharif. 4. District Police Officer Swat at Saidu Sharif Swat.</p> <p align="right">Respondents</p> <p>Mr. Muhammad Hamid Mughal-----Member (J) Mr. Hussain Shah-----Member (E)</p> <p>06.12.2018</p> <p><u>JUDGMENT</u> <u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Learned counsel for the appellant and Mr. Usman Ghani Learned District Attorney present.</p> <p>2. The appellant (Ex-Constable) has filed the present appeal u/s 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 29.10.2011 whereby the appellant was dismissed from service on the ground of absence from duty. The appellant has also challenged the order of the appellate authority whereby the departmental appeal/application dated 05.07.2017 for his reappointment in the Police Department was not entertained being</p>

time barred.

3. Learned counsel for the appellant argued that due to domestic and financial problems the appellant could not continue his service and resultantly he was dismissed from service vide order dated 29.10.2011. Learned counsel for the appellant argued that the order of appellate authority is discriminatory, as the appellant has not been treated equally with other similarly dismissed constables who were later on reinstated by the department and in support of his plea regarding discriminatory treatment, the learned counsel furnished copies of three (03) reinstatement orders dated 04.03.2016, 18.03.2016 and 03.03.2016 of three (03) constables of FRP/Malakand Range, issued by the departmental authority. Further argued that the impugned order is retrospective in nature and as such is void. Further argued that the impugned orders are against law and facts.

4. As against that learned District Attorney argued that the appellant remained intentionally absent from duty ;that charge sheet was issued and the inquiry officer also conducted inquiry. Further argued that the appellant dismissed from service in the year 2011, filed departmental appeal/application for his reappointment in the year 2017 and then the present service appeal, which is indicative of the fact that the appellant had himself abandoned his service.


5. Arguments heard. File perused.

6. In his service appeal the appellant has averred that due to domestic and financial problems he could not continue his service

which resulted in his dismissal from service. Perusal of the departmental appeal/application of the appellant would show that the appellant has not questioned/challenged his dismissal from service order dated 29.10.2011 rather stated that the appellant was keen to rejoin the Police Department. Meaning thereby that the appellant had himself decided to quit the job. The original order of dismissal from service was issued in the year 2011 and the appellant submitted departmental appeal/application for his reappointment as well as the present service appeal in the year 2017. Learned counsel for the appellant remained unable to point out any justifiable reason in not approaching the departmental authority and this Tribunal within the reasonable time. Learned counsel for the appellant could not substantiate his plea that the appellant is also entitled to his reinstatement in service on the strength of the aforementioned reinstatement orders of three (03) FRP constables.

7. In view of above the appellant has not been able to seek indulgence of this Tribunal. Consequently the prayer of the appellant for his reinstatement in service is rejected, however the impugned order of dismissal from service shall take effect from the date of its issuance i.e. w.e.f. 29.10.2011. Absence period shall be treated as unauthorized absence without pay. The present service appeal is disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.



(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

03.12.2018

Appellant, absent. Learned counsel for the appellant absent. Mr. Usman Ghani learned District Attorney present. Adjourn. To come up for arguments tomorrow i.e. on 04.12.2018 before D.B at Camp Court Swat.


Member


Member
Camp Court, Swat

04.12.2018

Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney alongwith Mr. Khawas Khan S.I legal for the respondents present. Arguments heard. To come up for order on 06.12.2018 before D.B at Camp Court Swat.

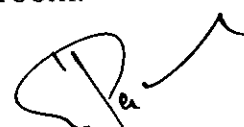

Member


Member
Camp Court, Swat

06.12.2018

Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney present. Vide separate judgment of today of this Tribunal placed on file, the prayer of the appellant for his reinstatement in service is rejected, however the impugned order of dismissal from service shall take effect from the date of its issuance i.e. w.e.f. 29.10.2011. Absence period shall be treated as unauthorized absence without pay. The present service appeal is disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

Camp Court, Swat.

ANNOUNCED

06.12.2018

04.06.2018

Neither the appellant nor his counsel is present. Mr. Khawas Khan, S.I (Legal) alongwith Mr. Usman Ghani, District Attorney for the respondents present. Written reply submitted. To come up for rejoinder, if any, and arguments on 06.08.2018 before the D.B at camp court, Swat.


Chairman
Camp Court, Swat

06.08.2018


Appellant in person present. Mr. Usman Ghani, District Attorney for respondents present. Due to summer vacation the case is adjourned to 01.10.2018 for the same at camp court Swat.


Reader

01.10.2018

Appellant Zahoor Ahmad in person present. Mr. Khawas Khan, S.I (Legal) alongwith Mr. Usman Ghani, District Attorney for respondents present. Appellant made a request for adjournment as his counsel is not in attendance. Case is adjourned to .03.12.2018 before D.B at camp court Swat.


Member


Chairman
Camp Court Swat

29.01.2018

Appellant in person present and Addl; AG
alongwith Mr. Khwas Khas, SI (Legal) for the respondents
present. Written reply not submitted. Learned Additional
AG requested for adjournment. Adjourned. Last Opportunity
is granted. To come up for written reply/comments on
05.03.2018 before S.B at Camp Court, Swat.


Chairman
Camp Court, Swat


05.03.2018

Clerk to counsel for the appellant and Addl. AG alongwith
Mr. Khawas Khan, S.I (Legal) for the respondents present. Written
reply not submitted. Requested for adjournment. Adjourned. To come
up for written reply on 02.04.2018 before S.B at camp court Swat


Chairman
Camp court, Swat

02.04.2018

Appellant in person and Mr. Usman Ghani, District
Attorney alongwith Khawas Khan, SI (L) for respondents
present. D.A seeks adjournment for submission of written
reply. To come up for written reply on 07.05.2018. before
S.B at camp court, Swat.


Chairman
Camp court, Swat

09.05.2018

Due to retirement of the Worthy Chairman, the Tribunal
become non-functional. To come up for the same on 04.06.2018
before the S.B at camp court, Swat.


Reader

FORM OF ORDERSHEET

Court of _____

Case No. 1390/2017

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	24/11/2017	<p>The appeal of Mr. Zahoor Ahmad resubmitted today by Mr. Muhammad Javaid Khan Advocate, may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 24/11/17</p>
2	12-12-2017	<p>This case is entrusted to Touring S. Bench at Swat for preliminary hearing to be put up there on <u>05-1-2018</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
	05.01.2018	<p>Learned counsel for the appellant present. Preliminary arguments heard.</p> <p>Learned counsel for the appellant argued that argued, inter alia that the appellant (Ex-Constable) was dismissed from service on the ground of absence and that the order of dismissal of appellant from service is unlawful, unconstitutional, void ab initio and nullity in the eye of law. Learned counsel for the appellant further argued that the appellant has also annexed application for condonation for delay with his appeal.</p> <p>Order of dismissal of appellant from service is not available on file, however in the interest of justice the present appeal is admitted for regular hearing, subject to all legal/just objections including limitation.</p> <p>The appellant is directed to deposit security and process fees within 10 days thereafter, notices be issued to respondents for written reply/comments. To come up for written reply/comments on ²⁹01.2018 before S.B at camp court Swat.</p>

Appellant Deposited
Security & Process Fee

[Signature]

[Signature]
(Muhammad Hamid Mughal)
Member


Camp Court Swat

The appeal of Mr. Zahoor Ahmad son of Noor Ahmad Resident of Haryan Kohat Tehsil Dargai Distt. Malakand Ex-Constable Built No. 3180 received today i.e. on 13.11.2017 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 2- Copy of dismissal order mentioned in para-3 of the memo of appeal (Annexure-A) is not attached with the appeal which may be placed on it.
- 3- Copy of proper rejection order of departmental appeal is not attached with the appeal which may be placed on it.

No. 2459 /S.T,

Dt. 14/11/2017


REGISTRAR 14/11/17
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Javed Khan Adv. Swat.

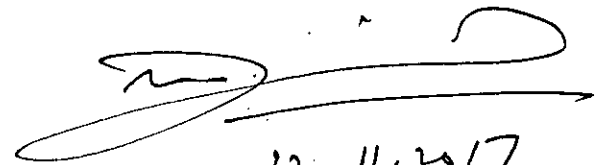
Respected Sir,

It is submitted as under

- (i) That no proper charge sheet, statement of allegations, show cause notice nor proper enquiry has been conducted in the case, this illegality & has been challenged in this appeal, and has been mentioned at ground V.
- (ii) That no proper dismissal order was issued, the order at page 13 is the order of dismissal.

(iii) That the rejection order of the departmental appeal at page 14 is the order passed, there is no proper rejection order in the records.

In light of the above submission, this appeal is re-submitted for onward fixation, before the Tribunal and the Camp Court, Surat, please



22-11-2017
M. Javid Khan
Advocate, High Court

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 1320 /2017

Zahoor Ahmad S/o Noor Ahmad Resident of Haryan Koat, Tehsil
Dargai District Malakand (Ex-Constable Built No. 3180)

.....Appellant

VERSUS

Provincial Police Officer Government of Khyber-Pakhtunkhwa and
others

..... Respondents

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7	Copy of precedent SCMR, 2007 Page 834	C-	15-18
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Appellant

Through Counsel


Muhammad Javaid Khan

Advocate High Court

Office: Allah-o-Akbar Masjid,

College Colony, Saidu Sharif, swat

Cell: 0343-9607492

①

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 1320 /2017

Diary No. 1298

Dated 13-11-2017

Zahoor Ahmad S/o Noor Ahmad Resident of Haryan Koat,
Tehsil Dargai District Malakand (Ex-Constable Built No.
3180)Appellant

VERSUS

- 1) Provincial Police Officer Government of Khyber
Pakhtunkhwa at Central Police Office (CPO) Peshawar
- 2) Deputy Inspector General of Police / Regional Police Officer
Malakand Division at Saidu Sharif.
- 3) District Police Officer Swat at Saidu Sharif Swat

.....Respondents

Service Appeal Under Section 4 of Service
Tribunal Act read with other relevant provisions
against the impugned order dated: NIL of
respondent No.2 on the departmental appeal dated:

Filed to-day

Qaseem
Registrar

13/11/17

Re-submitted to -day 05/07/2017 of the appellant.
and filed.

Qaseem
Registrar

24/11/17

2

PRAYER:

On acceptance of this service appeal the impugned order Dated: NIL passed by respondent No.2 may kindly be set aside, and by accepting the departmental appeal the appellant may be reinstated with all back benefits since 04/01/2011 OR in the alternative, the respondents may be directed to decide the issue of limitation (being mixed question of facts and law), after pro and contra evidence and then decide the case of the petitioner on merits.

Any other relief, deemed fit and necessary in the given circumstances of the case may also be awarded in favor of appellant against respondents.

Respectfully Sheweth:

The appellant submits as under;

1. That the appellant was appointed as a Constable in the Police Department on 01/01/2002.

2. That from the date of appointment to 04/01/2011 the appellant performed his duties honestly, bravely (specially during the era of insurgency) to the utmost satisfaction of superior officers.

3. That due to domestic and financial problems the appellant could not continue his service, which resulted in dismissal of the appellant from the service vide order dated: 03/11/2011. (Copy of dismissal order dated: 03/11/2011 is attached herewith as annexure "A").

4. That the appellant filed departmental appeal before the respondent No.2 on

6

05/07/2017. (Copy of the departmental appeal dated: 05/07/2017 is attached herewith as annexure "B").

5. That the respondent No.2 / appellate authority has passed an order dated: NIL on the departmental appeal dated: 05/07/2017 of the appellant. The said order dated; NIL of the departmental authority is present on the departmental appeal of the appellant dated: 05/07/2017.

6. That the impugned order dated: NIL of respondent No.2, is illegal, unlawful and void ib initio, which is not tenable inter alia on the following grounds.

GROUND:

i) That the impugned order dated: NIL is illegal, unlawful, unconstitutional and liable to be set aside.

- ii) That the impugned order has been passed in violation of the relevant provision of the limitation Act coupled with the phenomena of natural justice.
- iii) That all the proceedings initiated against the appellant are void-ib-initio, hence nullity in the eye of law.
- iv) That the impugned order has been passed in violation of Article 10 (A) of Constitution of Islamic Republic of Pakistan.
- v) That no statement of allegation, notice, proper inquiry, advertisement, final show cause notice has been conducted in the case of the appellant.

v) That no limitation runs against an void ab initio order. In this regard, wisdom may be drawn from the precedent SCMR, 2007 Page 834. (Copy of precedent SCMR, 2007 Page 834 is attached herewith as annexure "C").

vii) That vide police rules 1934 the DSP Rank Officer was not competent to conduct ex-parte proceedings against the appellant.

viii) That other grounds not specifically raised will be argued with the permission of this Honorable Court at the time of arguments.

7. That this appeal is being filed against the order Dated: NIL issued by respondent

No.2, hence this Honorable Tribunal has got the jurisdiction.

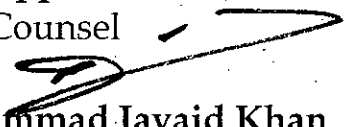
It is therefore humbly prayed that on acceptance of this service appeal the impugned order Dated: NIL passed by respondent No.2 may kindly be set aside, and by accepting the departmental appeal the appellant may be reinstated with all back benefits since 04/01/2011 OR, in the alternative, the respondents may be directed to decide the issue of limitation (being mixed question of facts and law), after pro and contra evidence and then decide the case of the petitioner on merits, please.

⑧

Any other remedy which is just, appropriate and efficacious may also be awarded in favor of the appellant please.

Muhammad

Appellant
Through Counsel


Muhammad Javaid Khan
Advocate High Court

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

Service Appeal No. _____/2017

Zahoor Ahmad S/o Noor Ahmad Resident of Haryan Koat, Tehsil Dargai District Malakand (Ex-Constable Built No. 3180)

.....Appellant

VERSUS


Provincial Police Officer Government of Khyber Pakhtunkhwa and others

..... Respondents

AFFIDAVIT

I, Zahoor Ahmad S/o Noor Ahmad Resident of Haryan Koat, Tehsil Dargai District Malakand (Ex-Constable Built No. 3180), do hereby solemnly affirm and declare on oath that all the contents of this Service Appeal are true and correct to the best of my knowledge and belief, and nothing has been concealed from this Honorable Court.

Identified by,

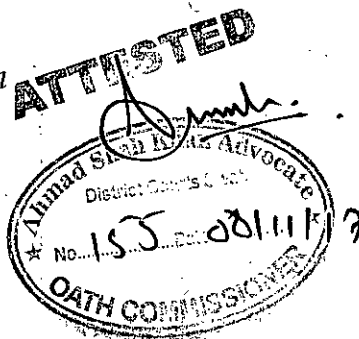


Muhammad Javaid Khan
Advocate High Court

DEPONENT



Zahoor Ahmad



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

Service Appeal No. _____/2017

Zahoor Ahmad S/o Noor Ahmad Resident of Haryan Koat, Tehsil Dargai District Malakand (Ex-Constable Built No. 3180)

.....Appellant

VERSUS

Provincial Police Officer Government of Khyber Pakhtunkhwa and others
..... Respondents

ADDRESSES OF THE PARTIES

ADDRESSES OF THE APPELLANT

Zahoor Ahmad S/o Noor Ahmad Resident of Haryan Koat, Tehsil Dargai District Malakand (Ex-Constable Built No. 3180)

CNIC: 15401-7845796-9

Cell: 0333-8332308

ADDRESS OF THE RESPONDENTS

- 1) Provincial Police Officer Government of Khyber Pakhtunkhwa at Central Police Office (CPO) Peshawar
- 2) Deputy Inspector General of Police / Regional Police Officer Malakand Division at Saidu Sharif.
- 3) District Police Officer Swat at Saidu Sharif Swat

APPELLANT
Through Counsel

Muhammad Javaid Khan
Advocate High Court

(11)

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. _____/2017

Zahoor Ahmad S/o Noor Ahmad Resident of Haryan Koat, Tehsil
Dargai District Malakand (Ex-Constable Built No. 3180)

.....Appellant

VERSUS

Provincial Police Officer Government of Khyber Pakhtunkhwa and
others

..... Respondents

APPLICATION FOR CONDONATION OF DELAY OF FEW
DAYS (if any) IN FILING THE INSTANT SERVICE APPEAL.

Respectfully Sheweth:

The applicant / appellant submits as under:-

1. That the above Service appeal has been filed before this Hon'ble Tribunal, in which no date of hearing has yet been fixed.
2. That the contents of the above mentioned Service Appeal along with the contents of the annexures may be considered as an integral part of this application.
3. That the date of the impugned order of the respondent No.2 is not available on record, hence there is ambiguity that whether this appeal is in time or otherwise.

- 4. That valuable rights of the appellant are involved in the present service appeal.
- 5. That if the condonation prayed for is not granted, then there will be an irreparable loss to the applicant / Appellant.

It is therefore respectfully prayed that on acceptance of this application an order prayed for may be passed.

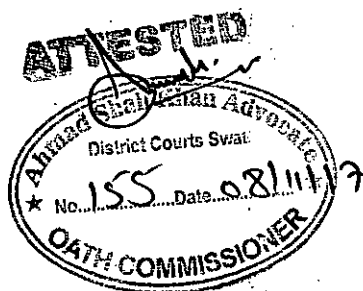
Any other remedy which is just, appropriate and efficacious may also be awarded in favor of Appellant please.

[Handwritten Signature]

APPELLANT
Through Counsel
[Handwritten Signature]
Muhammad Javaid Khan
Advocate High Court

Affidavit:

It is stated on oath that contents of this application are true and correct to the best of my knowledge and belief, and nothing has been concealed from this Hon'ble Court.



[Handwritten Signature]

Deponent

Annex "A"

13

(26) pages

OFFICE OF THE DISTRICT POLICE OFFICER, SWAT

**ORDER SHEET IN CONNECTION WITH ENQUIRY AGAINST
CONSTABLE ZAHOOR AHMAD NO. 3180**

ALLEGATION:-

That the Constable Zahoor Ahmad No. 3180 while posted at Police Post Miandam absented himself from duty w-e-f 14/01/2011 till to date without prior permission or leave vide D.D No. 18 dated 20/01/2011 as per report of SHO Police Station Khwaza Khela dated 30/07/2011. DSP/City, Swat was appointed as Enquiry Officer to conduct departmental enquiry against him. Charge Sheet No. 311/EB dated 13/08/2011 was issued to him.

**RECOMMENDATION OF
ENQUIRY COMMITTEE:-**

The Enquiry officer DSP/City, Swat in his finding report dated 29/10/2011 intimated that the above named Constable is remained absent from duty w.e.f 14/01/2011 till to date (**Eleven Months**), which shows disinterest in service, hence recommended that Constable Zahoor Ahmad may be dismissed from service from the date of his absence w.e.f 14/01/2011.

[Handwritten signature]
o/s 3-11-11

QB.No. 225
4-11-11

[Handwritten signature]
E.C
29/10/2011

**FINAL DECISION
BY DPO SWAT:-**

Siv,

Submitted for file approval pl.

[Handwritten signature]
o/s
29/10/11

W/DPO/Swat.

[Large handwritten signature]

Annex B

(14)

خدمت جناب DIG ملاکنڈ سید و شریف ضلع سوات

سائل کو محکمہ پولیس میں دوبار تعینات کرنے کا حکم صادر فرمایا جائے۔

عنوان :-

جناب عالی!

گزارش کی جاتی ہے۔ کہ سائل ظہور احمد ولد نور احمد خان ساکن ہریان کوٹ درگئی ضلع ملاکنڈ۔

یہ کہ سائل بمورنہ 01-01-2002 میں محکمہ پولیس میں بحیثیت کانسٹیبل تعینات ہوا تھا۔ سائل کچھ گھریلوں

مجبوریوں کی وجہ سے غیر حاضری کی تھی جس کے بناء پر سائل کو محکمہ پولیس سے بمورنہ 14-01-2011 کو

برخواست کیا گیا تھا۔

یہ کہ سائل اب جسمانی اور منطقی طور پر مکمل فٹ ہے۔ اور سائل وطن اور ملک کے خدمت کے جذبے سے سرشار ہے

اس وجہ سے سائل دوبارہ محکمہ پولیس میں تعینات ہو کر ملک و قوم کے خدمت کرنا چاہتا ہوں۔

لہذا استدعا ہے کہ بمنظوری درخواست ہذا سائل کو دوبارہ محکمہ پولیس میں تعینات کرنے کا حکم صادر فرمایا جائے۔

تو سائل اپنے صاحبان کے لئے تاحیات دعا گو رہیگا۔

المرقوم: 05-07-2017

His application is
time barred hence cannot
be entertained. Inform the
gpp head.

عربض

ظہور احمد۔۔۔۔۔ سابقہ پبلک نمبر 3180 ضلع سوات

ساکن :- ہریان کوٹ درگئی ضلع ملاکنڈ

موبائل نمبر: 0333-8332308

Regional Police Officer,
Malakand at Saidu Sharif, Swat

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.1320/2017

Zahoor Ahmed s/o Noor Ahmed r/o Haryan Kot, Tehsil Dargai District,
Malakand.

----- (Appellant)

Versus

1. The Provincial Police officer, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police/ Regional Police officer, Malakand Division at Saidu Sharif, Swat.
3. The District Police Officer, Swat.

----- (Respondents)

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District Police Officer, Swat
(Respondent No.03)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.1320/2017

Zahoor Ahmed s/o Noor Ahmed r/o Haryan Kot, Tehsil Dargai District,
Malakand.

----- (Appellant)

Versus

1. The Provincial Police officer, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police/ Regional Police officer, Malakand Division at Saidu Sharif, Swat.
3. The District Police Officer, Swat.

----- (Respondents)

Parawise comments on behalf of Respondents.

Respectfully shewith:

Preliminarily objection:-

1. That the service appeal is time barred.
2. That the service appeal is not maintainable in its present form.
3. The instant appeal is bad due to mis-joinder and non-joinder of necessary parties.
4. That the appellant is estopped due to his own conduct.
5. That the appellant has concealed material facts from this Honorable Tribunal.
6. That the appellant has got no cause of action and locus standi to prefer the instant appeal.
7. The appellant has not come to this Tribunal with clean hands.

ON FACTS

1. Para No.1 of appeal pertains to record. Hence needs no comments.
2. Para No.1 of appeal pertains to record. Hence needs no comments.
3. Para No.3 of appeal is correct. To the extent of dismissal of appellant from service on account of willful absence.

- 2
4. Para No.4 of appeal is correct to the extent of filling of departmental appeal, however the same was examined by the office of Respondents No.02 and was found badly time barred, hence returned the same.
 5. The departmental appeal being time barred was rightly returned to appellant.
 6. The order of respondent No.02 is quite legal in accordance with law/rules.

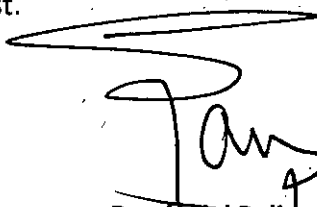
GROUND

- I. Incorrect. The orders of respondents are quite legal in accordance with law & rules.
- II. Incorrect. The respondents have not committed any illegal nor violated any right of appellant.
- III. Incorrect. The proceedings of respondents are carried out strictly in accordance with law/rules, and after fulfillment of all codal formalities, he was awarded major punishment of dismissal from service on account of long willful absence.
- IV. Incorrect. Reply already given vide para above.
- V. Incorrect. Reply already given vide para above.
- VI. Incorrect. The proceedings and orders of respondents are quite legal in accordance with rules; and the appeal of appellant is hit by limitation.
- VII. Incorrect. Interpretation of rules. DSP is competent to conduct enquiry against all officials junior in ranks from him.
- VIII. The respondents will also raised additional grounds at the time of hearing of the case.

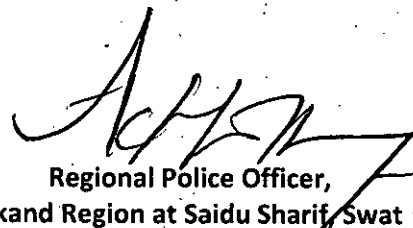
7. The instant appeal has been filed against the time barred departmental appeal and this Tribunal has got no jurisdiction to entertain a time barred appeal, hence liable to be dismissed.

PRAYER:-

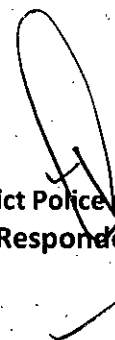
In view of the above comment of answering respondents, it is prayed that instant appeal may be dismissed with cost.



Provincial Police officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No.1)



Regional Police Officer,
Malakand Region at Saidu Sharif, Swat
(Respondent No.2)



District Police Officer, Swat.
(Respondent No.3)

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.1320/2017

Zahoor Ahmed s/o Noor Ahmed r/o Haryan Kot, Tehsil Dargai District,
Malakand.

----- (Appellant)

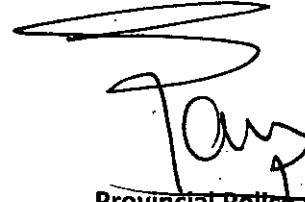
Versus

1. The Provincial Police officer, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police/ Regional Police officer, Malakand Division at Saidu Sharif, Swat.
3. The District Police Officer, Swat.

----- (Respondents)

AFFIDAVIT

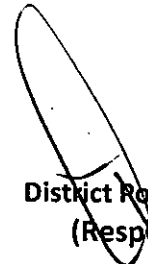
We, the above respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/true to the best of our knowledge/ belief and nothing has been kept secret from this August Tribunal



Provincial Police officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No.1)



Deputy Inspector General of Police,
Malakand Region at Saidu Sharif, Swat
(Respondent No.2)



District Police Officer, Swat.
(Respondent No.3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.1320/2017

Zahoor Ahmed s/o Noor Ahmed r/o Haryan Kot, Tehsil Dargai District,
Malakand.

----- (Appellant)

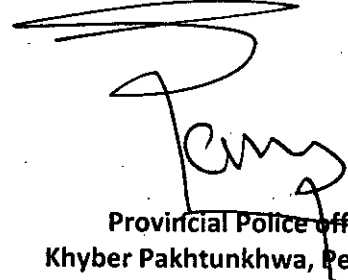
Versus

1. The Provincial Police officer, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police/ Regional Police officer, Malakand Division at Saidu Sharif, Swat.
3. The District Police Officer, Swat.

----- (Respondents)

AUTHORITY LETTER

We, the above respondents do hereby authorize Mr. Khawas Khan SI Legal Swat to appear in the Service Tribunal on our behalf on each date fixed in connection with titled Service Appeal and do whatever is needed.



Provincial Police officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No.1)



Deputy Inspector General of Police,
Malakand Region at Saidu Sharif, Swat
(Respondent No.2)



District Police Officer, Swat.
(Respondent No.3)

جوتی صاحب
تقاریر ۱۸ روزہ الف ۱۸
۲۵/۱۱/۱۱

۱۵ روزہ تقریریں M.A. وقت ۱۸/۱۱/۱۱، صوفت کیشنل صلیوا لہور
۲۵/۱۱/۱۱

سو سترہاری ڈیوٹی میں مابرت کیشنل اور حدود جوتی میں تلاش کر
عمر وجود آیا گیا۔ مملوچ پیراچہ کیشنل مذکورہ نہ اسیا بسترہ اور ماس
ماتہ کر جوتی میں آجلا گیا ہے۔ حسن زوتی اجازت وغیرہ اس میں
اور اور خود گیا ہے۔ مذکورہ مورخ ۱۱/۱۱/۱۱ پرستور، پیراچہ
دیکھ دوں میں اگر صافری کر دوکت دن دوبارہ ۱۴۱۵ سالہ کاری
مجا کیشن خود پیراچہ کر خود جلا گیا ہے خلاف رپورٹ پیراچہ
حزب روزنامہ کیشن تقاریر اور ماس کاروتی آفسران بالاکوٹ
میں ارسال ہوگی

صاحب عالی

تقلیمانی راجل

M.A. P. Maudani

Forwarded

Asst. M.A. Maudani

23/11/11

DISCIPLINARY ACTION

I Mr. Dilawar Khan Bangash DPO Swat as competent authority, am of the opinion that **Constable Zahoor Ahmad No. 3180** has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning of section 3 of the N.W.F.P Removal from Service (Special Powers) Ordinance, 2000.

STATEMENT OF ALLEGATIONS

That the **Constable Zahoor Ahmad No. 3180** while posted at Police Post Miandam absented himself from duty w-e-f 14/01/2011 till to date without prior permission or leave vide D.D No. 18 dated 20/01/2011 as per report of SHO Police Station Khwaza Khela dated 30/07/2011.

All these based on your malafied intention, negligence, omission and disinterest in duty which is gross misconduct on your part.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an Enquiry committee consisting of the following is constituted under section 3 of the Ordinance.

1. DSP/City, Swat

2. _____

3. The enquiry Committee shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make within, 25 Days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place given by the enquiry Committee.


District Police Officer Swat

No. 311 /EB, Dated Gulkada the, 13/8 2011.

Copy of above is forwarded to the:-

1. DSP/City, Swat

2. _____ } for initiating proceeding against the Officer/ Official under the provisions of the NWFP/Removal from Service (Special Powers) Ordinance 2000.

3. Constable Zahoor Ahmad No. 3180 :-

With the direction to appear before the enquiry Committee on the date, time and place fixed by the Committee for the purpose of enquiry proceeding.

CHARGE SHEET

I, Mr. Dilawar Khan Bangash DPO Swat as competent authority, hereby charge you, **Constable Zahoor Ahmad No. 3180** as following that you, while posted to Police Post Miandam, Swat committed the following irregularities:

You Constable Zahoor Ahmad No. 3180 while posted at Police Post Miandam absented yourself from duty w-e-f 14/01/2011 till to date without prior permission or leave vide D.D No. 18 dated 20/01/2011 as per report of SHO Police Station Khwaza Khela dated 30/07/2011.

All these based on your malafied intention, negligence, omission and disinterest in duty which is gross misconduct on your part.

2. By reasons of the above, you appear to be guilty of misconduct under Section-3 of the Khyber Pukhtoon Khwa Peshawar (Removal from Service) Special powers ordinance 2000, and have rendered yourself liable to all or any of penalties specified in section-3 of the ordinance.

3. You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the Enquiry officer / Committee, as the case may be.

4. Your written defense, if any, should reach the Enquiry Officer/ Committee within the specified period, failing which it shall be presumed that you have no defense to put in and in that case exparte action shall follow against you.

5. Intimate whether you desire to be heard in person.

6. A statement of allegations is enclosed.


District Police Officer, Swat
~~04/08/2011~~

No. 311 /EB

Dated 13/8 / 2011

آڈیٹورڈ DS P شیٹی سرکل

فائینل ریویژن

14/11/29

برخلاف انکوائری ٹیل طور پر محمد 3180
ملینہ زوجی بیانم

خانہ بالا والہ چادر شہت منہری 11/5 مورخ 8/13 جاری تھا - 50/50

موت برخلاف ٹیل طور پر محمد 3180 بدروس حضرت پریٹ ٹیل مذکورہ برالنظام 5
کہ مذکورہ کا تبادلہ حسب حکم آئینہ زوجی بیانم پر ہوگی 5 جین مذکورہ
ٹیل نہ صرف زوجی بیانم جاری کر کے لکھ جاری نہیں تھا 5

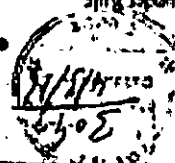
مدرسہ مسلمہ آئینہ زوجی کی طرف سے ٹیل مذکورہ کو چادر شہت اشتیاق
تھا عدہ انکوائری کیلئے جسے مارک کیا گیا۔ انکوائری شروع کر کے مذکورہ ٹیل
فور ہوگی بیانم اور ایاز پر ہوگی بیانم 5140 تھا تاکہ سے خود شہد خان شہد
کو بند لیکر گمپری پروا نہ دینے پر اطلب کرے گا۔ فور ہوگی اور ایاز پر ہوگی
5140 تھا فور شہد خان شہد دینے پر اطلب کرے گا۔ فور ہوگی اور ایاز پر ہوگی
تھا عدہ۔ ٹیل طور پر محمد 3180 جاری تھا۔

بیانات سے واضح ہو چکی 5 کہ ٹیل مذکورہ کا تبادلہ حسب حکم آئینہ بالاولی
لان سے ہو گیا بیانم پر کیا گیا۔ مذکورہ ٹیل والہ بقیہ اور ناخ 11/11 کو ہوگی بیانم
دوائے ثباتی تھا۔ مگر مذکورہ ٹیل حائتمہ اگر مورخ 14 کوئی الرید 14 منہ جعفر ثباتی
مذکورہ ٹیل مورخ 16 کوئی الخالہ مرید 14 کوئی ہوگی بیانم حائتمہ اگر مورخ 20
کوئیند کی اجازت لے کر خود جلائی اور مذکورہ ٹیل خلاف والہ بقیہ 18
اور ناخ 11 کوئی کوئی مورخ 20 کے خلاف 22 مورخ ناخ 11۔ مذکورہ ٹیل حال
بدرست لیکر جاری فرمے۔ اور مذکورہ کا تبادلہ نہ ہوگی۔ جملہ بیانات اور قلمداری
کہ انکوائری نہ ہوگی۔

لکھی بیانات سے معلوم ہو چکی 5 کہ ٹیل طور پر محمد 3180 مورخ 14 سے تا حال بدروس
مورخ 20 کا تبادلہ ہو گیا۔ ظاہر ہے کہ مذکورہ نے اپنے لایق زوجی دور رسر کا تبادلہ کیا اور
اولیٰ کی توڑی کا خواہش نہ کیا۔ مذکورہ ٹیل کوئی لکھی اور لایق سے لکھی سے لکھی سے لکھی سے
کی ہوگی 5۔ فائینل ٹیل اور ٹیل۔

رجسٹری خانہ ملی (مورخ 14/11/29)

Handwritten signature and date: 21/12/16



ORDER

This order is hereby issued in discharge of departmental appeal under Rule 11 of Khyber Pakhtunkhwa Police Rules 1973, submitted by Ex-Constable Imran Khan No. 4279 of FRP Malakand Range against the order of O/S P. R. Khan (Rangp. 311) dated 06.10.2008 till to the date his removal from service i.e. 21-02-2016 without any leave or prior permission of the competent authority for the period of 04 months and 14 days.

He was issued charge sheet along with summary of allegations vide SP FRP Malakand Range Swat Order Encls. No. 775/EC, dated 16-12-2008, but neither he reported for duty nor submitted reply to the charge sheet in the stipulated period. He was also issued Urdu orders to resume his duty but he failed to submit reply in the response of the same within stipulated period. Therefore the debarment was recommended by removal from service by the inquiry Committee.

After completion of the inquiry, the inquiry committee submitted the findings wherein recommending him the major punishment, in the light of recommendations in enquiry Committee he was removed from service vide Office Order Encls. No. 312/EC, dated 31-02-2016.

The enquiry file of the applicant was perused and found that the applicant has not dealt with proper departmental proceedings as he was not participated with the enquiry process in which he was dismissed from service with stipulated manner. He was also heard in person, during the course of hearing he advanced certain reasons in his defence his plea was found plausible and satisfactory.

Keeping in view the above and as well as his poor family background, take a lenient view, the Ex-Constable Imran Khan No. 4279 of FRP Malakand Range is hereby reinstated in service from the date of removal from service. However, the period of absence and the intervening period from service are treated as extra ordinary leave without pay.

Order announced.

Commandant
Frontier Regions Police
Khyber Pakhtunkhwa, Peshawar
for: *[Signature]*
4/12/16

No. 1072/EC, dated Peshawar the 03/03/2016

Copy of above is forwarded for information and necessary action to the SP FRP Malakand Range Swat with R/O his office memo No. 2125/EC, dated 02/12/2015. His service till and from removal same herewith.


This order is hereby issued in response of departmental appeal under Rule 11-a. of Khyber Pakhtunkhwa Police Rules 1975, submitted by Ex-Commander Baiter Khan No. 48377457 of FRP Malakand Range against the order of the SP/FRP Malakand Range Swat, in which the applicant was removed from service. The facts of the case are that Ex-Constable Baiter Khan No. 48377457 of FRP Malakand Range was enlisted in Police Department on 26.07.2007. While he was posted to Station No. 83 FRP/Swat assumed himself from lawful duty w.e.f. from 27.08.2008 till the date of his removal from service i.e. 10.10.2008. He was issued charge sheet and summary allegation vide SP/FRP/Malakand Range Swat office order dated: No. 504/CC dated 04.07.2008, but neither he reported his arrival for duty nor replied to charge sheet at the stipulated period. He was also issued final show cause notice vide this office order No. 504/CC, dated 015.07.2008, but his reply was not received in the stipulated period and the said Constable was recommended for removal from service by the competent authority.

In the light of recommendation of the enquiry committee he was removed from service vide SP/FRP/Swat Range office Order No. 138 dated 10.10.2008.

The enquiry file of the applicant was perused and found that the applicant has not dealt with proper departmental proceedings as he was not participated with the enquiry proceedings while he was removed from service with identified manner. He was also heard in person during the course of showing the advanced copy of reasons in his defence. His plea was found plausible and satisfactory.

Keeping in view the above and as well as his poor family background I take a lenient view the Ex-Constable Baiter Khan No. 48377457 of FRP Malakand Range Swat, is hereby re-instated in service from the date of removal from service. However, the period of absence and the intervening period from service are treated as extra duty leave without pay.

Order announced.


Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar.

1101977/CC, dated Peshawar the 04/03/2016

Copy of above is forwarded for information and necessary action to the SP/FRP Malakand Range Swat with R/O his office memo No. 115/CC, dated 10.01.2016, alongwith service record and other relevant papers sent herewith.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11- of Khyber Pakhtunkhwa Police Rules 1975, submitted by Ex-Constable Khalil-ur-Rahman No.4289 of FRP Malakand Range, against the order of the SP, FRP/Malakand Range, Swat in which the applicant was removed from service.

Brief facts of the case are that Ex-Constable Khalil-ur-Rahman No.4289 of FRP Malakand Range was enlisted on 11-05-2006. He while posted to platoon No.75 district Swat, absented himself from lawful duty w.e.f. 02-12-2008 till to the date of his removal from service i.e. 21-02-2009 without any leave or prior permission of the competent authority for the period of 02 months and 20 days.

He was issued charge sheet along with summary of allegations vide SP FRP Malakand Range Swat office order Encls: No.775/EC, dated 16-12-2008, but neither he reported for duty nor submitted reply to the charge sheet in the stipulated period. He was also issued Urdu parwana to resume his duty but he failed to submit reply in the response of the same within stipulated period. Therefore the defaulter Constable was recommended for removal from service by the enquiry Committee.

In the light of recommendation of enquiry Committee he was removed from service vide office order OB No 23, dated 21-02-2009.

The enquiry file of the applicant was perused and found that the applicant has not dealt with proper departmental proceedings as he was not participated with the enquiry proceedings which he was removed from service unheard.

He was also heard in person, during the course of hearing he advanced certain reasons in his defense his plea was found plausible and satisfactory.

Keeping in view the above and as well as his poor family back ground I take a liberal view, he (Ex-Constable Khalil-ur-Rahman No.4289 of FRP Malakand Range) is hereby re-allowed in service from the date of removal from service. However, the period of absence and the intervening period from service are treated as extra ordinary leave without pay.

Order announced:

[Signature]
Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar.

2328
No. /EC, dated Peshawar the 18/03/2016

Copy of above is forwarded for information and necessary action to the SP FRP Malakand Range Swat with R/O his office memo No. 190/EC, dated 04.02.2016. His Service Roll and D/Files sent herewith.

*5/Record
along with B/papers*
*OB No 163
20/3/2016*