


26-17-22 . . . Due to winter vacation the  
case is adjourned to 3-4-23  
for the same

J  
Reader

30.06.2022

Appellant alongwith his counsel present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments on restoration application heard and record perused.

Vide our order of today passed in restoration application bearing No. 356/2022 titled "Muhammad Zubair Versus Police Department", the appeal in hand stands restored on its original number. To come up for arguments before the D.B on 06.10.2022.



(Rozina Rehman)  
Member (J)

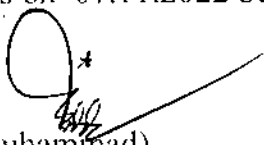


(Salah-ud-Din)  
Member (J)

06.10.2022

Junior to counsel for the appellant present. Mr. Kabir Ullah Khattak, Additional Advocate general for respondents present.

Junior to counsel for the appellant requested for adjournment on the ground that his senior counsel is busy before Hon'ble Peshawar High Court. To come up for arguments on 07.11.2022 before D.B.



(Mian Muhammad)  
Member (E)



(Kalim Arshad Khan)  
Chairman

07.11.2022

Counsel for the appellant present.

Naseer Ud Din Shah learned Assistant Advocate General alongwith Yahya SI (Legal) for the respondents present.

Former requested for adjournment in order to further prepare the brief. Last chance is given. Adjourned. To come up for arguments on 27.12.2022 before D.B.

SCANNED  
KPST  
Peshawar



(Fareeha Paul)  
Member (E)



(Rozina Rehman)  
Member (J)

31<sup>st</sup> May, 2022

1. None present for the appellant. Mr. Kabirullah Khattak, Addl. AG alongwith Mr. Atta Ur Rehman, Inspector for the respondents present.

2. Called several times till last hours of the court but nobody turned up on behalf of the appellant. In view of the above, the appeal is dismissed in default. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 31<sup>st</sup> day of May, 2022.*

(Mian Muhammad)  
Member(E)

Kalim Arshad Khan  
Chairman

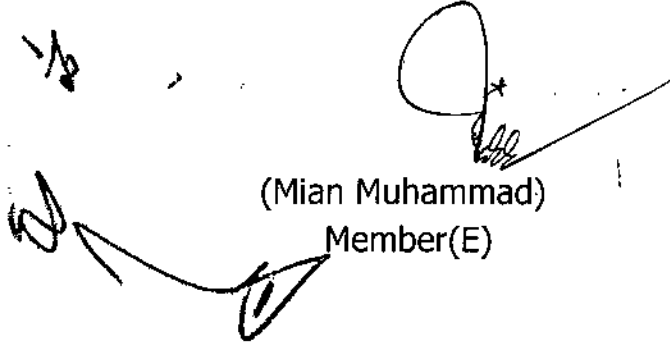


D

04.10.2021

Learned counsel for the appellant present. Mr. Javedullah, Assistant Advocate General alongwith Mr. Beyaz Ud Din, IHC for respondents present.

Learned counsel for the appellant seeks adjournment on the ground that he has not prepared the brief. Granted. To come up for arguments on 06.01.2022 before the D.B.

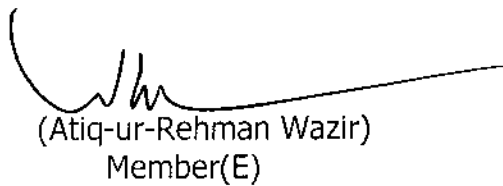
  
(Mian Muhammad)  
Member(E)

  
Chairman

06.01.2022

Clerk to counsel for the appellant present. Mr. Javed Ullah, Assistant AG for the respondents present.

Clerk to counsel for the appellant requested for adjournment on the ground that his counsel is not available today, due to general strike of the bar. Adjourned. To come up for arguments before the D.B on 18.04.2022.

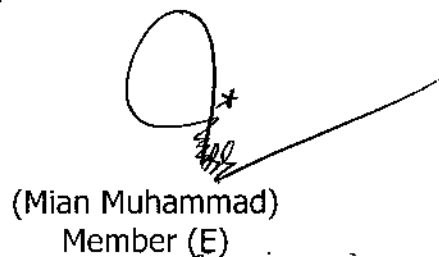
  
(Atiq-ur-Rehman Wazir)  
Member(E)

  
Chairman

18.04.2022

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment to assist the Tribunal. Last opportunity is granted. To come up for arguments before the D.B on ~~31.05~~ 2022.

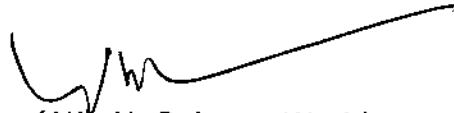
  
(Mian Muhammad)  
Member (E)


  
Chairman

23.12.2020

Counsel for appellant and Mr. Kabirullah Khattak learned Additional Advocate General alongwith Gul Shehzad SI (legal) for respondents present.

Learned counsel requested for adjournment, the request is acceded and the case is adjourned to 11.03.2021 for arguments before D.B.

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

  
(M. Jamal Khan)  
Member (J)

11.03.2021


Due to non availability of Bench, the case is adjourned to 15.06.2021 for arguments before D.B


  
**READER**

15.06.2021

Clerk of counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned. To come up for arguments before the D.B on 04.10.2021.

  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

30.04.2020

Due to COVID-19, the case is adjourned to 14.07.2020 before the same as before.



Reader


14.07.2020

Counsel for appellant present.

Mr. Muhammad Jan learned Deputy District Attorney for respondents present.

Learned counsel for the appellant requests for adjournment. Adjourned. To come up for arguments on 13.10.2020 before D.B.

(Atiq ur Rehman Wazir)  
Member (E)



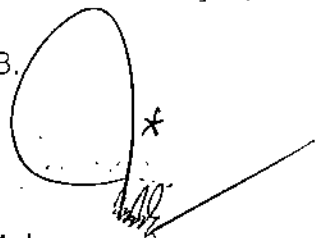
(Rozina Rehman)  
Member (J)

13.10.2020

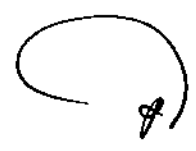
Counsel for appellant present.

Mr. Muhammad Jan learned Deputy District Attorney for respondents present.

Counsel for appellant requests for adjournment on the ground that trial of the appellant has not been concluded at the Court of CNSA. Adjourned to 23.12.2020 for arguments, before D.B.




(Mian Muhammad)  
Member (E)



(Rozina Rehman)  
Member (J)

27.12.2019 Vide order of today i.e. 27.12.2019 passed in restoration application bearing No.249/2019, the present service appeal has been restored. To come up for further proceedings/arguments on 04.03.2020 before D.B.

Member

  
Member


04.03.2020 Counsel for the appellant present. Addl: AG alongwith Mr. Shakeel Ahmad, SI for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 30.04.2020 before D.B.


  
Member

  
Member

05.03.2019

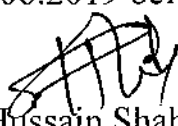
Learned counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General alongwith Mian Rashid Ali SI (Legal) for the respondents present. Learned counsel for the appellant request for adjournment. Adjourned. To come up for arguments on 18.04.2019 before D.B.


  
Member

  
Member

18.04.2019

Nemo for the appellant. Mr. Kabirullah Khattak learned Additional Advocate General alongwith Mr. Siraj Ul Haq H.C for the respondents present. Due to general strike of the bar-council learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 13.06.2019 before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

13.06.2019

None present on behalf of the appellant. Mr. Kabirullah Khattak, Additional AG alongwith Mian Rashid Ali, S.I (Legal) for the respondents present. Called several times till 4:00 PM but no one appeared on behalf of the appellant nor he was present in person. Therefore, the appeal in hand is dismissed in default. File be consigned to the record room.

ANNOUNCED  
13.06.2019

  
(AHMAD HASSAN)  
MEMBER

  
(M. AMIN KHAN KUNDI)  
MEMBER



08.08.2018

Mr. Taimur Ali Khan, Advocate counsel for the appellant present. Mr. Ziaullah, DDA for respondents present. Counsel for the appellant made a request for adjournment. Granted. Case to come up for arguments on 03.10.2018 before D.B.

  
Member

  
Chairman

03.10.2018

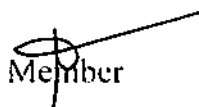
Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney alongwith Mr. Arshad Ali ASI legal for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 09.11.2018 before D.B.

  
(Hussain Shah)  
Member

  
(Muhammad Hamid Mughal)  
Member

19.11.2018

Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney alongwith Mian Rashid Ali, S.I (Legal) for the respondents present. Counsel for the appellant requests for adjournment on the ground that trial of the appellant has not been concluded at the court of CNSA. Adjourned to 08.01.2019 for arguments before the D.B.

  
Member

  
Chairman

08.01.2019

Clerk to counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney alongwith Mr. Mian Rashid Ali ASI for the respondents present. Due to general strike of the bar, the case is adjourned. To come up for arguments on 05.03.2019 before D.B

  
Member

  
Member

**13.03.2018** Counsel for the appellant present. Mr. Riaz Paindakhel, Assistant AG alongwith Mr. Wajid Ali, S.I for the respondents present. Written reply not submitted. Learned Assistant AG requested for adjournment. Adjourned. To come up for written reply/comments on 26.03.2018 before **D.B.**




(M. Hamid Mughal)  
Member

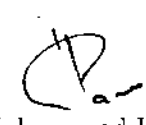
**26.03.2018** Appellant absent. Clerk of the counsel present on behalf of appellant. Mr. Kabir Ullah Khattak, Addl: AG alongwith Mr. Wajid Ali, S.I for the respondent present. Written reply submitted. To come up for rejoinder and arguments on 04.06.2018 before D.B.

04.06.2018

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 08.08.2018 before D.B.



(Ahmad Hassan)  
Member



(Muhammad Hamid Mughal)  
Member

12.01.2018

Counsel for the appellant present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Police Department. It was further contended that later on he was dismissed from service vide order dated 28.09.2016 on the allegation of his involvement in criminal case under narcotic. It was further contended that the appellant has been released on bail by the Worthy Peshawar High Court but the trial of the appellant has not been completed. It was further contended that neither proper inquiry was conducted nor opportunity of personal hearing and defence was provided to the appellant therefore, the impugned order is illegal and liable to be set-aside.

(11/01/18)

Appellant Deposited  
Security & Process Fee

The contentions raised by learned counsel for the appellant need consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days, thereafter notice be issued to the respondents for written reply/comments for 26.02.2018 before S.B.

*MA*  
(Muhammad Amin Khan Kundi)  
Member

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KPST  
Peshawar

26.02.2018


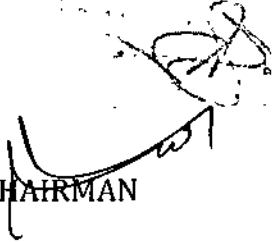
Counsel for the appellant and Addl: AG for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply on 13.03.2018 before S.B.

*AH*  
(Ahmad Hassan)  
Member(E)

Form-A  
FORM OF ORDERSHEET

Court of \_\_\_\_\_

Case No. 1425/2017

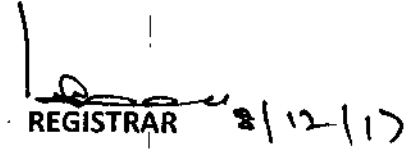
| S.No. | Date of order proceedings | Order or other proceedings with signature of judge  |
|-------|---------------------------|---|
| 1     | 2                         | 3   |
| 1     | 29/12/2017                | <p>The appeal of Mr. Muhammad Zubair resubmitted today by Mr. Taimur Ali Khan Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"><br/>REGISTRAR 29/12/17</p> |
| 2-    | 04/01/18.                 | <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>12/01/18.</u></p> <p style="text-align: right;"><br/>CHAIRMAN</p>   |

The appeal of Mr. Muhammad Zubair ex-constable no. 198 Police Station Darbani received today i.e. on 08.12.2017 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Index of the appeal may be prepared according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Memorandum of appeal is unsigned which may be got signed.
- 3- Copy of impugned order and departmental appeal against it are not attached with the appeal which may be placed on it.
- 4- Documents /Annexures referred to in the memo of Appeal are not attached with the appeal which may be placed on it.
- 5- Annexures of the appeal may be flagged.
- 6- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 2627 /S.T,

Dt. 08/12 /2017

  
REGISTRAR 8/12/17  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Taimur Ali Khan Adv. Pesh.

*Respected Sir*

- 1- Removed
- 2- Removed
- 3- Removed
- 4- Removed
- 5- Removed
- 6- Removed

*Resubmitted after  
compliance*



**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 1425 /2017

Muhammad zubair

V/S

Police Deptt:

.....  
**INDEX**  
.....

| S.No. | Documents                                 | Annexure | Page No. |
|-------|---|----------|----------|
| 1.    | Memo of Appeal                            | -----    | 1-4      |
| 2.    | Copy of FIR                               | A        | 5        |
| 3.    | Copy of order dt:7.7.2017                 | B        | 6-8      |
| 4.    | Copy of dismissal order                   | C        | 9        |
| 5.    | Copy of departmental appeal               | D        | 10       |
| 6.    | Copy of rejection order                   | E        | 11       |
| 7.    | Copy of 1 <sup>st</sup> inquiry report    | F        | 12       |
| 8.    | Copy of 1 <sup>st</sup> show cause notice | G        | 13       |
| 9.    | Copy of statement of lilegation           | H        | 14       |
| 10.   | Copy of 2 <sup>nd</sup> inquiry report    | I        | 15       |
| 11.   | Copy of 2 <sup>nd</sup> show cause notice | J        | 16       |
| 12.   | Vakalat nama                              | -----    | 17       |

**APPELLANT**

THROUGH:

  
**(TAIMUR ALI KHAN)**  
**(ADVOCATE HIGH COURT)**

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 1425 /2017

Khyber Pakhtukhwa  
Service Tribunal

Diary No. 1396

Dated 08/12/2017

Muhammad Zubair, Ex-Constable, No.198,  
Police station Darbani.

.....(Appellant)

**VERSUS**

1. The Provincial Police Officer, KPK Peshawar.
2. The Regional Police Officer Hazara, Region Abbotabad.
3. The District Police Officer Torghar.

.....(Respondents)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 14.11.2017 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED AGAINST THE ORDER DATED 28.09.2016 FOR NO GOOD GROUNDS.

**PRAAYER:**

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 14.11.2017 AND 28.09.2016 MAY BE SET ASIDE AND THE RESPONDENTS MAY BE DIRECTED TO REINSTATE THE APPELLANT WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

Filed to-day

Registrar

27/12/17

Re-submitted to-day  
and filed.

Registrar **RESPECTFULLY SHEWETH:**

29/12/17

**FACTS:**

1. That the appellant was appointed as Constable on 26.09.2011 in the Police Deptt: and completed his due training etc and also has good service record throughout.

2. That the appellant was falsely charged under the criminal case and the FIR No.53/15 dated 2.9.2015, u/s CNSA/ANF was registered against the appellant. **(Copy of the FIR is attached as Annexure-A)**
3. That on the basis of above mentioned reason, the appellant was arrested and behind the bar when one-sided inquiry was conducted against the appellant on dated 28.10.2015 in which the inquiry officer recommended that as the appellant is involved in criminal case and behind the bar, therefore the appellant should be suspended and when the appellant bailout or when the criminal case decide, then departmental proceeding can be initiated against the appellant, but despite that show cause notice against the appellant has issued on 19.11.2015, but not communicated to the appellant as he was behind the bar.
4. That against the appellant statement of allegations has issued on 04.01.2016 but not communicated to the appellant as he was behind the bar and again one-sided 2<sup>nd</sup> inquiry on dated 15.07.2016 was conducted against the appellant without keeping the recommendation of 1<sup>st</sup> inquiry report as at the time of 2<sup>nd</sup> inquiry the appellant was still behind the bar and could associated him in the inquiry proceeding.
5. That 2<sup>nd</sup> show cause notice was issued on 21.07.2016 but was not communicated to the appellant as he behind the bar at that time.
6. That the appellant was bailout on 07.07.2017 by the Honourable Peshawar High Court. **(Copy of order dated 07.07.2017 is attached as Annexure-B)**
7. That after releasing from jail, the appellant came to department, but he was informed that he dismissed from service on 28.09.2016 and handed over the only dismissal order to the appellant. **(copy of order dated 28.09.2016 is attached s Annexure-C)**
8. That the appellant filed departmental appeal against the dismissal order which was rejected in fanciful manner vide order dated 14.11.2017. It is pertinent to mentioned here that RPO called record of the appellant from the concerned office and the RPO office handed over the 1<sup>st</sup> inquiry report, 1<sup>st</sup> show cause notice, and statement of allegations, 2nd inquiry report, show cause notice and along with rejection order to the appellant. **(Copy of departmental appeal, rejection order, 1<sup>st</sup> inquiry report, 1<sup>st</sup> show cause notice, statement**



**of allegation, 2<sup>nd</sup> inquiry report and 2<sup>nd</sup> show cause notice are attached as Annexure-D,E,F,G,H,I&J)**


9. That now the appellant have no other adequate remedy and constraint to file the instant appeal on the following grounds amongst others.

**GROUND:**

- A) That the impugned order dated 14.11.2017 and 28.09.2016 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That one sided inquiry was conducted against the appellant as he was behind the bar at the time of departmental proceeding and was not associated in the inquiry proceeding, but despite that the appellant was dismissed from service on one sided inquiry which is violation of law and rules.
- C) That in the first inquiry report, the inquiry officer recommended that as the appellant is involved in criminal case and behind the bar therefore the appellant should be suspended and when the appellant bailout or when the criminal case decide, then departmental proceeding can be initiated against the appellant, but the appellant was dismissed from service by the respondents without waiting to the decision in criminal case pending against the appellant, which is clear violation rule 194-A of CSR as well as first inquiry recommendation.
- D) That charge sheet/ statement of allegations against the appellant was issued, but not communicated to the appellant as the appellant was behind the bar and the communication of charge sheet is mandatory before imposing major punishment of dismissal from service, therefore the impugned order passed by the respondents was not accordance with law and rules and liable to set aside.
- E) That show cause notice against the appellant was also issued, but not communicated to the appellant as the appellant was behind the bar and the communication of show cause is necessary before imposing major punishment of dismissal from service therefore the impugned order passed by the respondents was not accordance with law and rules and liable to set aside.
- F) That the appellant was bailout by the Peshawar High Court Peshawar due to the baseless charges leveled against the appellant, which means that the appellant was not involved any illegal activity, therefore the dismissal from service on the basis of baseless allegation is not permissible under the law. Which is liable to be set aside.

- G) That the appellant has been condemned unheard and has not been treated according to law and rules.
- H) That the penalty of dismissal from service is very harsh which is passed in violation of law and rules, therefore, the same is not sustainable in the eyes of law and liable to be set aside.
- I) That no chance of personal hearing was provided to the appellant and as such the appellant has been condemned unheard throughout.
- J) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

  
**APPELLANT**  
Muhammad Zubair

THROUGH:

  
**(TAIMUR ALI KHAN)**  
**ADVOCATE HIGH COURT**



JUDGMENT SHEET  
IN THE PESHAWAR HIGH COURT, PESHAWAR  
JUDICIAL DEPARTMENT

Bail Petition No.1274-P/2017.

**ORDER**



Date of hearing: 7<sup>th</sup> July, 2017

Petitioner( Muhammad Zubair) : By: Mr.Shaiber Khan,  
Advocate.

Respondent:  
State By: Mr.Asghar Khan Kundi,  
Special Prosecutor.

**QAISER RASHID KHAN, J:-** Through the present bail petition, the accused/petitioner seeks his release on bail on the statutory ground of delay in the conclusion of the trial in case FIR No. 53, dated 2.9.2015 under Section 9 (c) Control of Narcotic Substances Act, 1997 of Police Station ANI, Peshawar, as earlier his bail petition was dismissed by

**ATTESTED**  
A

**ATTESTED**  
EXAMINER  
Peshawar High Court  
08 JUL 2017

32

(7)

this court vide order dated 9.10.2015 in Cr. Misc.  
No.1697-P/2015.

2. Arguments heard and the available records perused.

3. In a situation when the accused/petitioner was arrested on 2.9.2015, where bail was declined to him by this court on 9.10.2015, where he has almost spent over 22 months behind the bars, where the prosecution is not coming up with its evidence as 4 PWs are yet to be examined and where the early conclusion of the trial is not in sight, then keeping the accused/petitioner in jail for further period would tantamount to his pre-trial conviction. As such, I hold him entitled to the concession of bail solely on the statutory ground of delay in the conclusion of his trial.

4. Accordingly, this petition is allowed and the petitioner is admitted to bail provided he furnishes bail bonds in the sum of Rs.2,00,000/- (Rupees Two

ATTESTED

*AC*

ATTESTED

EXAMINER,  
Peshawar High Court

28 JUL 2017

lae), with two sureties, each in the like amount to the satisfaction of the Illaqa/Judicial Magistrate who shall ensure that the sureties are local, reliable and men of means.

6. Needless to mention that the observations recorded in this order are tentative in nature and shall not prejudice the proceedings before the learned trial court where the case be decided on its own merits after recording evidence.

*Signature of Judge*

*Signature of Judge*  
JUDGE

Announced on  
7th July, 2017.

Shah



CERTIFIED TO BE TRUE COPY

Examiner  
And  
The  
Order 1984

08 JUL 2017

ATTESTED

7/17

755

Date of Presentation of Application 08/7/17

No of Pages 01

Copying fee

Urgent Fee

Total 01/-

Date of Preparation of Copy 08/7/17

Date Given for Copy 08/7/17

Date of Delivery of Copy 08/7/17

*Signature*

② C ⑨

# District Police Officer, Torghar

## DISMISSAL ORDER

The order will dispose off the departmental proceedings conducted against Constable Muhammad Zubair No.198 posted at police station darbani on the following grounds.

The Constable Muhammad Zubair No.198 presently posted at Police Station Darbani, found involved in case FIR NO.53/15 u/s 9-CNSA/ANF Feshawar allegation leveled against you fake supply of Poppy which is shameful for you as well create bad manners in police department which amount to gross negligence in the performance of Govt. duty.

A Charge Sheet/Disciplinary Action was served upon him vide this office Memo. No.03/PA dated, 04.01.2016 and entrusted to DSP/Hqrs for enquiry. On 15.07.2016, the Enquiry Officer in his finding report stated that Muhammad Zubair No.198 he was stated that the suggested him major punishment.

A Final Show Cause Notice was served upon him vide this office Memo. No.352/PA dated, 21.07.2016. He received Final Show Cause notice on 05.08.2016 BUT the said Constable failed to provide reply in stipulated period.

I, Malik Ejaz Khan, District Police Officer, Torghar competent authority in exercise of power under the NWFP Police Rules 1975 is hereby awarded him major punishment i.e. dismissed from service with immediate effect.

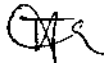
  
District Police Officer,  
Torghar.

OB No. 429 / dated, Torghar, the 28/09 /2016.

Copies to the :-

1. SRC Torghar
2. Pay Officer Torghar
3. ORG

**ATTESTED**



بخدمت جناب ڈپٹی انسپکٹر جنرل آف پولیس ہزارہ ریجن ایبٹ آباد

اپیل:-

مذکورہ بالا گزارش ہے کہ سائل کا فیصلہ محمد زبیر نمبر 198 تھانہ دار بنی ضلع تورغر میں تعینات تھا۔ یہ کہ سائل کو نا کردہ گناہ میں مقدمہ نمبر 53/15، مجرم 9CNSA، تھانہ پولیس ANF پشاور میں ملوث کر کے جیل بھیج دیا گیا۔ مورخہ 07/07/2017 کو رہائی کے احکامات جاری ہوئے اور سائل مورخہ 13/07/2017 کو جیل سے رہا ہو کر باہر آیا۔ بعد ازاں سائل کو علم ہوا کہ سائل کو محکمہ پولیس سے فارغ کر دیا گیا حالانکہ اس سے پہلے سائل کو کوئی بھی علم نہ تھا اور نہ ہی سائل کو کوئی نوٹس ملا کیونکہ سائل جیل میں تھا۔ حضور والا سائل ایک غریب آدمی ہے بوڑھے والدین چھوٹے بہن بھائیوں اور اپنے بیوی بچوں کا واحد سہارا ہے۔ آمدن کے کوئی بھی ذرائع نہ ہے گزاران زندگی انتہائی کمپرسی سے ہو رہی ہے اور سائل کو کردہ گناہ میں جیل بھیج دیا گیا تھا قبل ازیں سائل عرصہ چار سال سے اپنی ڈیوٹی احسن طریقہ سے سرانجام دیتا رہا اور دوران ڈیوٹی کسی قسم کی کوئی بھی شکایت پیدا نہ ہونے دی۔ لہذا اندریں حالات بالا استدعا ہے کہ سائل کے حال پر رحم فرماتے ہوئے ڈیوٹی پر بحال کیے جانے کے احکامات صادر فرمائیں جاویں۔ سائل آپ کی دراز عمری کیلئے ہمیشہ دعا گو رہے گا۔

عین نوازش ہوگی

محمد زبیر

العارض

محمد زبیر ولد گل ملک

نمبر 198 تھانہ دار بنی تورغر

موبائل: 0313-6298080

ATTESTED

Al




ORDER

E (11)

This order is hereby passed to dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules 1975 submitted by Ex-Constable Muhammad Zubair No: 198 of Torghar District against the order of major punishment i.e. **Dismissal from service** awarded by the DPO Torghar vide his OB No.429 dated 28.09.2016.

Facts leading to his punishment are <sup>that</sup> he while posted at PS Darbani involved himself in case FIR No: 53/15 u/s 9C-CNSA PS ANF Peshawar. 2400 grams Opium was recovered from him. Case is under trial.

After receiving his appeal, comments of DPO were obtained. The comments of DPO were examined /perused. The undersigned called him in OR on 08.11.2017 and heard in person where he failed to explain any plausible reason in his defence. Therefore the punishment awarded to him by the DPO Torghar i.e. **Dismissal from service** seems to be genuine, hence his appeal is filed.

  
REGIONAL POLICE OFFICER  
Hazara Region Abbottabad

No. 4311 /PA Dated Abbottabad the 14 - 11 /2017.

Copy of above is forwarded to the DPO Torghar w/r to his Memo: No. 4108/Legal dated 20.09.2017 for information and necessary action.

  
REGIONAL POLICE OFFICER  
Hazara Region Abbottabad

ATTESTED



منشی انگریزی ازان کاٹیل نمبر 198 ایف بی سی ٹی وی کے پاس کٹاؤں کے بارے میں  
 15 اگوست 2015 کو ایکسپریس ٹیلی ویژن کے ساتھ ملائے گئے۔  
 FSI اور ایف بی سی کے ساتھ ملائے گئے۔ 2/15 کو ایف بی سی کے ساتھ ملائے گئے۔  
 ایف بی سی اور نمبر 4/15 کو ایف بی سی کے ساتھ ملائے گئے۔  
 ایف بی سی کے ساتھ ملائے گئے۔ 5/15 کو ایف بی سی کے ساتھ ملائے گئے۔  
 ایف بی سی کے ساتھ ملائے گئے۔ 6/15 کو ایف بی سی کے ساتھ ملائے گئے۔  
 ایف بی سی کے ساتھ ملائے گئے۔ 7/15 کو ایف بی سی کے ساتھ ملائے گئے۔  
 ایف بی سی کے ساتھ ملائے گئے۔ 8/15 کو ایف بی سی کے ساتھ ملائے گئے۔  
 ایف بی سی کے ساتھ ملائے گئے۔ 9/15 کو ایف بی سی کے ساتھ ملائے گئے۔  
 ایف بی سی کے ساتھ ملائے گئے۔ 10/15 کو ایف بی سی کے ساتھ ملائے گئے۔  
 ایف بی سی کے ساتھ ملائے گئے۔ 11/15 کو ایف بی سی کے ساتھ ملائے گئے۔  
 ایف بی سی کے ساتھ ملائے گئے۔ 12/15 کو ایف بی سی کے ساتھ ملائے گئے۔  
 ایف بی سی کے ساتھ ملائے گئے۔ 13/15 کو ایف بی سی کے ساتھ ملائے گئے۔  
 ایف بی سی کے ساتھ ملائے گئے۔ 14/15 کو ایف بی سی کے ساتھ ملائے گئے۔  
 ایف بی سی کے ساتھ ملائے گئے۔ 15/15 کو ایف بی سی کے ساتھ ملائے گئے۔

SDPO KANDAR CIRCLE  
 28-10-2015

ATTESTED  
 [Signature]

OFFICE OF THE DISTRICT POLICE OFFICER, TORGHAR

9 (13)

No. 430 /PA dated, Torghar the 19 / 11 /2015.

SHOW CAUSE NOTICE

You Constable Muhammad Zubair No.198 you while Posted at Police Station Darbani found involved in Case FIR No.53/15 U/S 9C-CNSA/ANF Peshawar on the allegation leveled against you for supply of poppy which is shameful for you as well create bad manners in Police Department, which amount to gross negligence in the performance of Govt: Duty.

You are directed to submit your written defense within a period of 05 days of the receipt of this show cause notice. Failing, shall be presumed that you have no cogent reason to for defense expertly action shall be taken against you.

*Handwritten notes:*  
Name Change sheet  
DOP  
[Signature]  
DPO  
11-12

District Police Officer,  
Torghar

ATTESTED

*[Handwritten signature]*

(H) (14)


I, **Malik Ejaz Khan, District Police Officer**, and **Torghar** as Competent Authority of the opinion that you Constable **Muhammad Zubair No 198** presently posted at Police Station **Darbani**, has rendered himself liable to be proceeded against as you committed the following act/omission within the meaning under the Police Disciplinary Rules 1975.

### STATEMENT OF ALLEGATION

You Constable **Muhammad Zubair No 198** presently posted at Police Station **Darbani**, found involved in Case **Fire No.53/15 u/s 9C-CNSA/ANF Peshawar** allegation leveled against you for supply of **Poppy** which is shameful for you as well create bad manners in police department which amount to gross negligence in the performance of **Govt: Duty**.

You are therefore, required to submit your written defense within 07 days of the receipt of this charge sheet to the enquiry officer for the purpose of scrutinizing the conduct of the said accused Officer with reference to the above allegation **Mr. Ejaz Khan DSP/Hqrs** is deputed to conduct formal department enquiry against the accused.

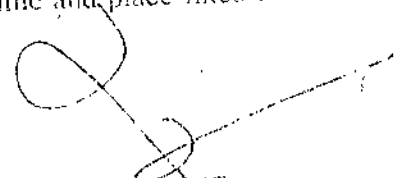
The accused and a well conversant representation of the departmental shall in the proceedings on the date, time and place fixed by the enquiry officer.

  
District Police Officer,  
Torghar

No. CR/PA dated **Torghar** the 01/01/2016

Copy of the above is forwarded to:-

1. **Mr. Ejaz Khan DSP/Hqrs** (Enquiry Officer) for initiating proceedings against the defaulter officer under the provision of Police disciplinary rules 1975.
2. Constable **Muhammad Zubair No 198** presently posted at Police Station **Darbani**, with the direction to submit his written statement to the Enquiry Officer within 07 days of the receipt of this charge sheet/statement of allegations and also to appear before Enquiry Officer on the date, time and place fixed for purpose of departmental proceedings.

  
District Police Officer,  
Torghar

**ATTESTED**





No. 352 /PA dated, Torghar the 21 /07 /2016.

**FINAL SHOW CAUSE NOTICE.**

I, Malik Ejaz Khan , District Police Officer, Torghar as competent authority under relevant rules, issue this Show Cause Notice to you Constable Muhammad Zubair No.198 posted at Police Station Darbani on the following grounds.

You Constable Muhammad Zubair No.198 presentntly posted at Police Station Darbani, found involved in case FIR No.53/15 u/s 9CNSA/ANF Peshawar allegation leveled against you fokr supply of poppy which is shameful for you as well create bad manners in police department which amont to gross neglegince in the performance of Govt: Duty.

A charge Sheet /Disciplinary action vide No.03PA dated 04.01.2015 was serve upon you and DSP/Hqr nominated as Enquiry officer, according to the report of Enquiry Officer you are habitual absentee and request you for punishment .

Now a Final Show cause Notice is serve upon to you due to your ~~Regular~~ Duty absence period in which a minor punishment can also given to you in the light of Enquiry Officer as dismissal from service.

It seems that you did not interest in your duty.

You are directed to submit your written defense within 07 days of the receipt of this final show cause notice, failing which it shall be presumed that you have no defense to put in your defense and expertly action shall taken against you.



*Handwritten notes in Urdu:*  
9CNSA/ANF  
27-07-2016  
District Police Officer, Torghar

District Police Officer,  
Torghar

ATTESTED

*Handwritten signature:* D. M. Khan

*Handwritten initials:* D. M. Khan

|                              |  |       |
|------------------------------|--|-------|
| قیمت<br>50 روپے              |   | 18346 |
| ایڈوکیٹ: <u>دھمو علی خان</u> | پشاور بار ایسوسی ایشن، خیبر پختونخواہ  |       |
| بار کونسل ایسوسی ایشن نمبر:  |  |       |
| رابطہ نمبر:                  |  |       |

بعدالت جناب:

|                                   |                     |
|-----------------------------------|---------------------|
| مخانب: <u>محمد زبیر (ایڈوکیٹ)</u> | دعویٰ: <u>مستحق</u> |
| <u>محمد زبیر بنام عسکر پولیس</u>  | علت نمبر:           |
|                                   | مورخہ:              |
|                                   | جرم:                |
|                                   | تھانہ:              |

**باعت تحریر آنکہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام کنیٹا کیلئے دھمو علی خان ایڈوکیٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظرتانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داخبت منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم:

العبد \_\_\_\_\_ واہ شد \_\_\_\_\_ العبد

مقام \_\_\_\_\_ کے لیے منظور ہے۔

*(Handwritten Signature)*

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

Attested & Accepted  
*(Handwritten Signature)*

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**PESHAWAR**

**Service Appeal No.1425/2017**

**Ex. Constable Muhammad Zubair No.198**

**.....(PETITIONER)**

**VERSUS**

**1. The Provincial Police Officer, KPK Peshawar.**

**2. Regional Police Officer Hazara Region Abbottabad.**

**3. District Police Officer Torghar.**

**.....(RESPONDENTS)**

**Subject: - COMMENTS ON BEHALF OF RESPONDENTS**

**Respectfully Sheweth:**

**PRELIMINARY OBJECTIONS:-**

1. That the appeal has not been based on facts.
2. That the appeal is not maintainable in its present form.
3. That the appeal is bad for non-joinder of necessary and mis-joinder of unnecessary parties.
4. That the appellant is estopped by his own conduct to file the appeal.
5. That the appeal is barred by law and limitation.
6. That the appellant has not come to the Honorable Tribunal with clean hands.
7. That appellant has suppressed the material facts from this Honorable Tribunal, hence not entitled for any relief and appeal is liable to be dismissed.
8. That appellant has been treated as per Law & Rules.
9. That order passed by the authorities is correct & legal hence appeal is liable to be dismissed.



### **Factual Objections:-**

1. Pertains to record.
2. The appellant while posted as Police Station Darbani, found involved in case FIR No. 53/15 U/S 9-CNSA/ANF Peshawar and huge quantity of 2400 Gm opium was recovered from his possession.
3. The appellant was arrested on the spot and huge quantity of opium/ Narcotics was recovered from him due to which his bail application was rejected and later on released by the Honourable High Court Abbottabad bench vide order dated 07/07/2017. The appellant remained suspended and proper departmental enquiry was initiated against him.
4. Correct to the instant of enquiry proceeding. The appellant was given the chance to defend his case in both the enquiry proceedings.
5. Incorrect. Show cause notice was properly served upon the appellant .
6. Correct. The case is still sub judice in the trial court.
7. The appellant was properly informed regarding his dismissal and after release from jail he was given copy of the order.
8. The appellant preferred appeal against the order of dismissal which was rejected by the appellant authority vide letter No. 4811/PA dated 14/11/2017.
9. The appeal is not maintainable on the following ground:-

#### **Grounds :-**

A. Incorrect, The impugned orders are perfectly in accordance with law, hence tenable in eye of law.

B. Incorrect, proper departmental enquiry was initiated against appellant and was properly awarded major punishment of dismissal.

C. Incorrect, The appellant was involved in the case of moral turpitude and huge quantity of narcotics was recovered from him due to which he was punished as per law/ rules.

D. Incorrect, The impugned order is legal and passed after fulfillment of all codai formalities.

E. Incorrect, Proper show cause notice was issued and served upon the appellant hence, the impugned order is maintainable in eye of law.

F. Incorrect The bail is allowed on to tentative assessment and he was found guilty during the investigation of the case.

G. Incorrect, full opportunity of hearing was given to the appellant .


H. Incorrect, the act of the appellant falls within the ambit of moral turpitude, therefore the punishment is quite commensurate.

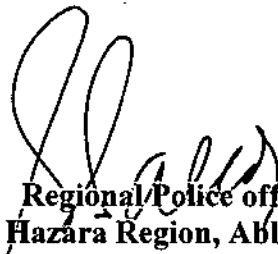
I. incorrect.


J. the appellant is not entitled for any relief.

**Prayer :-**

It is therefore, humbly prayed that the appeal in hand may be dismissed with costs.

  
Provincial Police Officer  
Khyber Pakhtunkhwa Peshawar  
(Respondent No.1)

  
Regional Police officer  
Hazara Region, Abbottabad  
(Respondent No.2)

  
District Police Officer  
Torghar  
(Respondent No.3)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**PESHAWAR**

**Service Appeal No.1425/2017**

**Ex. Constable Muhammad Zubair No.198**

.....(PETITIONER)

**VERSUS**

**1. The Provincial Police Officer, KPK Peshawar.**

**2. Regional Police Officer Hazara Region Abbottabad.**

**3. District Police Officer Torghar.**

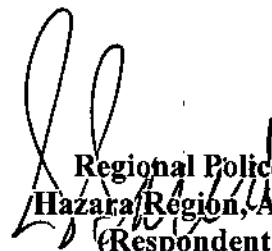
.....(RESPONDENTS)

**AFFIDAVIT**

We respondents do here by solemnly affirm on oath that the contents of the written reply comments are correct and true to the best of my knowledge and beliefs and that nothing has been concealed from this honorable tribunal.



**Provincial Police Officer  
Khyber Pakhtunkhwa Peshawar  
(Respondent No. 1)**



**Regional Police officer  
Hazara Region, Abbottabad  
(Respondent No.2)**



**Dis**

ORDER  
30.06.2022


Petitioner alongwith his counsel present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments on restoration application heard and record perused.

The Service Appeal bearing 1425/2017 titled "Muhammad Zubair Versus The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar and two others", was dismissed in default vide order dated 31.05.2022. The ground as agitated in the restoration application is that as learned counsel for the petitioner was busy in other courts, therefore, at the time of calling of the case, he could not appears before the Tribunal, which resulted into dismissal of the appeal. The petitioner has submitted application for restoration of appeal on 17.06.2022. Although the application for restoration of appeal has not been submitted within time, however the stance taken by petitioner in the restoration application is supported by duly sworn affidavit. Moreover, law also favours adjudication on merit by avoiding technicalities.

The application in hand is, therefore, allowed and the Service Appeal bearing no. 1425/2017 stands restored on its original number. Copy of this order be placed on file of Service Appeal bearing No. 1425/2017. File be consigned to the record room after necessary completion and compilation.

ANNOUNCED  
30.06.2022

  
(Rozina Rehman)  
Member (J)



  
(Salah-ud-Din)  
Member (J)

# Form-A

## FORM OF ORDER SHEET

Court of \_\_\_\_\_

Restoration Application No. 356 /2022

| S.No. | Date of order Proceedings  | Order or other proceedings with signature of judge   |
|-------|--|--|
| 1     | 2  | 3  |
| 1     | 17.06.2022   | <p>The application for restoration of appeal No. 1425/2017 submitted today by Mr. Taimur Ali Khan Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> <br/>                     REGISTRAR                 </p>                           |
| 2     | <p>22.6.22</p> <p><i>Noted for counsel advised<br/>M. Khan<br/>23.6.22</i></p> | <p>This restoration application is entrusted to Division Bench at Peshawar to be put up there on <u>30.6.22</u>. Original file be requisitioned. Notices to the appellant and his counsel be also issued for the date fixed.</p> <p style="text-align: right;"> <br/>                     CHAIRMAN                 </p> |

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

*Restoration Application No. 356/2022*  
Service Appeal No. 1425/2017

Muhammad Zubair

V/S

Police Deptt:

**APPLICATION FOR RESTORATION OF INSTANT**  
**APPEAL WHICH WAS DISMISSED IN DEFAULT ON**  
**31.05.2022.**

Khyber Pakhtunkhwa  
Service Tribunal

336

Date

17-6-2022

Filed

**RESPECTFULLY SHEWETH:**

1. That the instant appeal was fixed on 31.05.2022 in arguments before this Honourable august Service Tribunal.
2. That the counsel for the appellant was busy in other court at the time of the calling of the case due to which he was unable to appear before this august Tribunal at the time of the calling of the case on 31.05.2022 and the instant appeal was dismissed in default due to non appearance on behalf of the appellant. (Copy of order dated sheet dated 31.05.2022 is attached as Annexure-A)
3. That the application is within time for restoration of instant appeal and it is interest of justice to decide the instant appeal on merit rather to be dismissed in default.

It is, therefore, most humbly prayed that on acceptance of this application, the instant appeal may kindly be restored to decide the case on merit to meet the ends of justice.

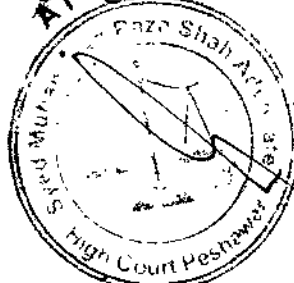
*M. Zubair*  
APPELLANT

THROUGH:

*Taimur Ali Khan*  
TAIMUR ALI KHAN  
ADVOCATE HIGH COURT

**AFFIDAVIT**

It is affirmed and declared that the contents of the Application are true and correct to the best of my knowledge and belief.



*M. Zubair*  
DEPONENT

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**



APPEAL NO. 1425 /2017

Khyber Pakhtunkhwa Service Tribunal

Diary No. 1396

Dated 08/12/2017

Muhammad Zubair, Ex-Constable, No.198,  
Police station Darbani.

.....(Appellant)

**VERSUS**

1. The Provincial Police Officer, KPK Peshawar.
2. The Regional Police Officer Hazara, Region Abbotabad.
3. The District Police Officer Torghar.

.....(Respondents)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 14.11.2017 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED AGAINST THE ORDER DATED 28.09.2016 FOR NO GOOD GROUNDS.

**PRAYER:**

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 14.11.2017 AND 28.09.2016 MAY BE SET ASIDE AND THE RESPONDENTS MAY BE DIRECTED TO REINSTATE THE APPELANT WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

Filed to-day

Registrar

29/12/17

No. submitted to -day

**RESPECTFULLY SHEWETH:**

29/12/17

**FACTS:**

1. That the appellant was appointed as Constable on 26.09.2011 in the Police Deptt: and completed his due training etc and also has good service record throughout.

**Certified to be true copy**

**MINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

31<sup>st</sup> May, 2022



1. None present for the appellant. Mr. Kabirullah Khattak, Addl. AG alongwith Mr. Atta Ur Rehman, Inspector for the respondents present.


2. Called several times till last hours of the court but nobody turned up on behalf of the appellant. In view of the above, the appeal is dismissed in default. Consign.

3. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 31<sup>st</sup> day of May, 2022.

  
SD/ (Mian Muhammad)  
Member(E)

  
SD/ (Kallm Arshad Khan)  
Chairman



Certified to be true copy  
  
EX. DIR. (NF) /  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 07/6-22  
Number 800  
Copy No. 10/5  
Urgency  
Time  
No.  
Date 16-6-22  
Date of Delivery of Copy 16-6-22