

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 149/2019

Date of Institution ... 31.01.2019
Date of Decision ... 08.07.2021

Sheraz Ali, Ex-Constable No.1361 R/O Dheri Mian Ishaq, Tehsil
Pabbi, District Nowshera.

... (Appellant)

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and
two others.

... (Respondents)

Aslam Khan Khattak,
Advocate

... For appellant.

Javid Ullah,
Assistant Advocate General

... For respondents.

AHMAD SULTAN TAREEN
ROZINA REHMAN

... CHAIRMAN
... MEMBER (J)

JUDGMENT

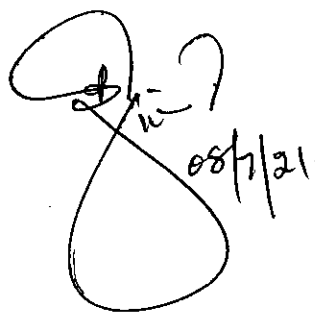
ROZINA REHMAN, MEMBER: Facts gleaned out from the memorandum of appeal are that appellant was inducted in service on 01.09.2010 as Constable. His son met an accident, therefore, the appellant was permitted by his superior to attend his son for proper treatment but in the meanwhile, he was dismissed from service on 15.03.2018. He filed departmental appeal which was rejected, hence, he filed the instant service appeal.

08/7/21

2. Learned counsel for appellant contends that no show cause notice was served upon the appellant and no proper inquiry was conducted. He argued that the appellant was condemned unheard as he was not afforded any opportunity of personal hearing and lastly, he submitted that his absence was not willful rather he was busy in treatment of his son.

3. Conversely, learned A.A.G submitted that appellant while posted at Police Station Nizampur, willfully and deliberately absented himself from his lawful duty without any leave or permission of the competent authority. He argued that being member of disciplined force, appellant was under an obligation to take proper leave or permission and lastly, he submitted that the appellant was heard in Orderly Room by providing opportunity of defense but he failed to produce any cogent reason regarding his innocence, therefore, his appeal was rejected.

4. Perusal of record would reveal that while posted at Police Station Nizampur, appellant remained absent from duty for about twenty days, therefore, he was awarded major punishment of dismissal from service by the District Police Officer, Nowshera vide order dated 15.03.2018. Admittedly, no show cause notice was issued to the appellant. Record is silent in respect of any inquiry proceedings. There is nothing on file which could show that any proper procedure was adopted by the competent authority before awarding major punishment of dismissal from service. Since the appellant has been punished without holding any inquiry and without

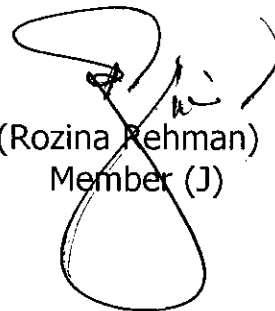
A handwritten signature in black ink, followed by the date '08/7/21' written in a similar style.

affording him any opportunity to clear his position in the prescribed manner, it amounts to denial of natural justice to him. The order dated 15.03.2018 passed by the competent authority was not in accordance with law, the impugned order is, therefore, set aside and the appellant is reinstated in service w.e.f the date of dismissal i.e. 15.03.2018. Absence period of twenty days shall be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.


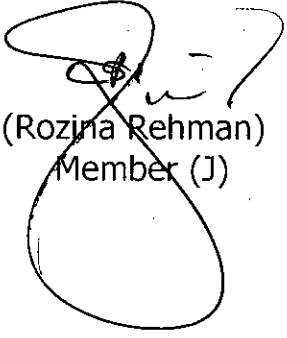
ANNOUNCED.
08.07.2021



(Ahmad Sultan Tareen)
Chairman



(Rozina Rehman)
Member (J)

S.No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	08.07.2021	<p><u>Present:</u></p> <p>Aslam Khan Khattak, Advocate ... For Appellant</p> <p>Javid Ullah, Assistant Advocate General ... For respondents</p> <p>Vide our detailed judgment of today of this Tribunal placed on file, the impugned order is set aside and the appellant is reinstated in service w.e.f the date of dismissal i.e. 15.03.2018. Absence period of twenty days shall be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.</p> <p><u>ANNOUNCED.</u> 08.07.2021</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  (Ahmad Sultan Tareen) Chairman </div> <div style="text-align: center;">  (Rozina Rehman) Member (J) </div> </div>

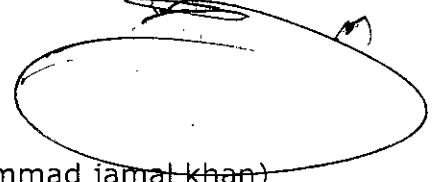
20.01.2021

Appellant alongwith his counsel present. Mr. Riaz Khan Paindakhel learned Assistant AG respondents present.

Learned counsel for appellant while making reference to impugned order dated 15.03.2018 submitted that retrospective effect was given to the referred to order, the issue with retrospectivity is pending before the Larger Bench of this august Tribunal constituted for the purpose therefore, unless and until judgment is made by the worthy Larger Bench, this appeal is kept pending. File to come up for further proceedings on ~~05.04.2021~~ 06.04.2021 before S.B.



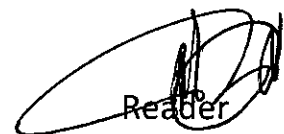
(Atiq Ur Rehman Wazir)
Member (E)



(Muhammad Jamal Khan)
Member (J)

06.04.2021

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



Reader

10.4 2020

Due to COVID19, the case is adjourned to

8/7/2020 for the same as before.


Reader

08.07.2020

Due to COVID19, the case is adjourned to 02.09.2020 for the same as before.

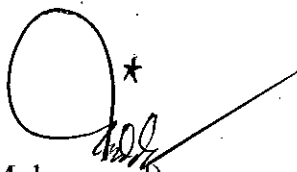

Reader


02.09.2020

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Learned counsel for the appellant seeks adjournment as he has not prepared the case.

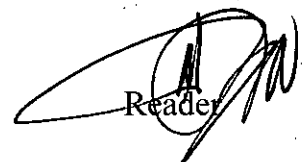
Adjourned to 12.11.2020 before D.B.


(Mian Muhammad)
Member (E)


(Muhammad Jamal)
Member(J)

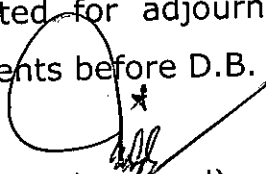
12.11.2020

Proper D.B is not available, therefore, the case is adjourned for the same on 20.01.2021.


Reader

05.03.2020

Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Fayaz, Head Constable for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 10.04.2020 for arguments before D.B.


(Mian Mohammad)
Member


(M. Amin Khan Kundi)
Member

10.4.2020

Due to COVID 19, the case is adjourned to 8.7.2020 for same as before.



149/19

11.09.2019

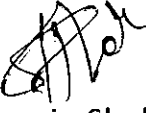
Counsel for the appellant and Addl. AG alongwith Fayaz Khan, H.C for the respondents present.


Parawise comments furnished by the respondents which are placed on record. The matter is assigned to D.B for arguments on 18.11.2019. The appellant may submit rejoinder, within a fortnight, if so advised.


Chairman

18.11.2019

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant submitted rejoinder which is placed on record. Learned counsel for the appellant also requested for adjournment for arguments. Adjourned to 16.01.2020 for arguments before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

16.01.2020

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Kabirullah Khattak, Additional AG for the respondents present. Adjourned to 05.03.2020 for arguments before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

28.05.2019

Counsel for the appellant present.

20/11/19
Learned counsel for the appellant argued that the impugned order dated 15.03.2018 was passed against the appellant with retrospective effect, therefore, it was not maintainable. It was further contended that the decision in departmental appeal was conveyed to the appellant on 08.01.2019 and in that regard an affidavit is duly executed and attached with the memorandum of appeal. It was further the argument of learned counsel that the proceedings, as required by the rules, were not taken against the appellant at the departmental level, therefore too, the delay occurred in submission of service appeal was to be disregarded.

In view of the arguments of learned counsel instant appeal is admitted for regular hearing as absence attributable to the appellant is of 18 days. However, in view of dates of decision of departmental appeal and the filing of instant service appeal the admission of appeal is made subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 22.07.2019 before S.B.

Appellant Deposited
Security & Process Fee


Chairman

22.07.2019

Counsel for the appellant and Mr. Ziaullah, DDA for the respondents present.





Learned DDA requests for time to procure written comments of the respondents. Adjourned to 11.09.2019 for submission of written reply/comments of the respondents.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 149/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	31/1/2019	<p>The appeal of Mr. Sheraz Ali presented today by Mr. Aslam Khan Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 31/1/19</p>
2-	13.03.2019	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>13-3-19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	18.04.2019	<p>Counsel for the appellant present and requested for adjournment. Adjourned to 18.04.2019 for preliminary hearing before S.B.</p> <p style="text-align: right;"> (MUHAMMAD AMIN KHAN KUNDI) MEMBER</p>
	18.04.2019	<p>Due to general strike of the bar, the case is adjourned. to come up for preliminary hearing on 28.05.2019 before S.B.</p> <p style="text-align: right;"> Member</p>

P-7

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL, PESHAWAR

Appeal No. 149/2019

Sheraz Ali, Ex- Constable No. 1361

VERSUS

Inspector General of Police, KPK Peshawar & Others

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S#	Description of Documents	Annexure	Page No's
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3	Impugned order dated 15/03/2018	"A"	7
4	Departmental appeal dated 22/03/2018	"B"	8
5	Final Impugned Order dated 19/04/2018	"C"	9
5	Leave Rules	"D"	10
6	Wakalat Nama	-	-

SAK
Appellant

Through

ashm
Aslam Khan Khattak
Advocate, Peshawar.

Dated: 31/01/2019

- 1 -

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Appeal No. 149 /2019

Diary No. 143

Dated 31-1-2019

Sheraz Ali, Ex-Constable No. 1361 R/o Dheri Mian Ishaq,
Tehsil Pabbi, District Nowshera.

Appellant

VERSUS

1. Inspector General of Police KPK Peshawar.
2. Deputy Inspector of Police, Mardan Region, Mardan
3. District Police Officer, Nowshera.

Respondents

**APPEAL UNDER SECTION 4 OF KPK SERVICE
TRIBUNAL ACT 1974 AGAINST THE IMPUGNED
ORDER NO 330 DATED 15/03/2018 VIDE
ANNEXURE 'A' WHEREBY THE APPELLANT HAS
BEEN DISMISSED FROM SERVICE FROM
24/02/2018 AND ALSO AGAINST THE FINAL
IMPUGNED ORDER DATED 19/04/2018 VIDE
ANNEXURE 'C' REJECTING THE APPELLANT'S
DEPARTMENTAL APPEAL VIDE ANNEXURE 'B'
COMMUNICATED TO HIM ON 08/01/2019.**

Filed to-day
Registrar
31/1/19

PRAYER

**ON ACCEPTANCE OF APPEAL, BOTH THE
IMPUGNED ORDERS VIDE ANNEXURE 'A' & 'C'
MAY BE SET ASIDE AND THE APPELLANT SHALL
BE REINSTATED IN SERVICE WITH ALL BACK
BENEFITS.**

Respectfully Sheweth:

Brief facts leading to the instant appeal are as under:-

1. That the appellant having been inducted in service on 01/09/2010 and has served the department for 8- ½ years with utmost of his capabilities and to the entire satisfaction of his superiors.
2. That the son of the appellant has seriously been injured in motorcycle accident and he was permitted by his superiors to go to his home for treatment of his son and 20 days has been spent on his treatment.
3. That the respondent No. 3 thereafter has dismissed the appellant from service vide impugned order No. 330 dated 15/03/2018 vide annexure "A".
4. That the appellant has filed departmental appeal dated 22/03/2018 vide annexure "B" to respondent No. 2 and which has been rejected vide impugned order dated 19/04/2018 vide annexure "C" communicated to the appellant on 08/01/2019 and hence this appeal inter alia on the following grounds.

GROUND:


- A. That the impugned order dated 15/03/2018 at annexure "A" has been given retrospective effect dated 24/02/2018 which is patently an illegal order and so the same may be set aside and the appellant may be reinstated in service with all back benefits.
- B. That the charges of absence from duty if even proved is a petty misconduct and the dismissal from service on its basis is an extreme harsh punishment and is not permissible under the law.
- C. That no show-cause notice has been served on the appellant and also no inquiry in the matter has been conducted and no personal hearing has been given to him and he has been condemned unheard and so both the impugned orders at annexure "A" & "C" are liable to be set aside on this score alone.

- D. That the appellant has served the department for 8- ½ years and he is entitled to 4 days casual leave in each month with full pay as per leave rules vide annexure "D" and to this regard his 20 days absence can very easily be converted into leave with full pay. So to this regard the appellant is entitled to reinstatement in service with all back benefits.
- E. That it is the settled law of Supreme Court of Pakistan, that the cases shall be decided on merits and not on technicalities, such as limitation. So both of the impugned orders dated 15/03/2018 and 19/04/2018 at annexure "A" & "C" may be set aside on this score as alone.
- F. That both the impugned orders dated 15/03/2018 and 19/04/2018 at annexure "A" & "C" are illegal, malafide, without jurisdiction and without lawful authority and are liable to be set aside.
- G. That the appellant seeks leave of this Hon'ble Tribunal to relay on additional grounds at the time of arguments.

It is, therefore, prayed that on acceptance of appeal, the two impugned orders dated 15/03/2018 & 19/04/2018 at annexure "A" & "C" may be set aside and the appellant shall be reinstated in service with all back benefits.


Appellant

Through


Aslam Khan Khattak
Advocate, Peshawar.

Dated: 31/01/2019

~ 4 ~

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Appeal No. _____/2019

Sheraz Ali, Ex- Constable No. 1361

VERSUS

Inspector General of Police, KPK Peshawar & Others

AFFIDAVIT

I, **Sheraz Ali, Ex- Constable No. 1361**, do hereby solemnly affirm and state on oath that final impugned order dated 19/04/2018 at annexure "C" has been communicated to me on 08/01/2019. My above statement is true and correct to the best of my knowledge and belief and nothing wrong has been stated by me in the matter.

SA Ali
DEPONENT



- 5 -

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Appeal No. _____/2019

Sheraz Ali, Ex- Constable No. 1361

VERSUS

Inspector General of Police, KPK Peshawar & Others

APPLICATION FOR CONDONATION OF DELAY IF ANY

Respectfully Sheweth:

That the Petitioner prays for Condonation of delay if any on the following grounds:-


GROUND:

- A. That the grounds mentioned in appeal may be treated as the integral part of this application.
- B. That it is the settled law of Supreme Court of Pakistan that the cases be decided on merits and not technicalities such as limitation.
- C. That the petitioner has not committed any misconduct and if the delay, if any, is not condoned, his whole life shall be destroyed.

It is, therefore, prayed that on acceptance of this application, the delay if any shall be condoned to meet the ends of justice.


Appellant

Through


Aslam Khan Khattak
Advocate, Peshawar.

Dated: 31/01/2019

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Appeal No. _____/2019

Sheraz Ali, Ex- Constable No. 1361

VERSUS

Inspector General of Police, KPK Peshawar & Others

AFFIDAVIT

I, **Sheraz Ali, Ex- Constable No. 1361**, do hereby solemnly affirm and state on oath that all contents of the application for Condonation of delay if any are true and correct to the best of my knowledge and belief and nothing wrong has been stated by me in the matter.

Sheraz Ali
DEPONENT



1361

Annexure A

17

POLICE DEPARTMENT

NOWSHERA DISTRICT

ORDER

Constable Shiraz Ali No. 1361, while posted at Police Station Nizampur, remained absent from duty without any leave/permission of the competent authority vide DD No. 09 dated 24.02.2018 PS, Nizampur, till date.

Previous Record

He was enlisted in Police Department on 01.09.2010 and during short service, he earned: 04 Minor punishment, 01 Major punishment & 15 bad entries with no good entry.

In the light of above, he is hereby awarded major punishment of dismissal from the date of absence in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules-1975.

OB No. 330

Dated 15/03 /2018


District Police Officer,
Nowshera.

No. 1612-15 /PA, dated Nowshera, the 14.03 /2018.

Copy for information & necessary action to the:-

1. Pay Officer.
2. Establishment Clerk.
3. OHC.
4. FMC with its enclosure (02 sheets).

Attested
asf

Annexure
18/9


ORDER.

This order will dispose-off the appeal preferred by Ex-Constable Sheraz Ali No. 335 of Nowshera District Police against the order of the District Police Officer, Nowshera, whereby he was awarded major punishment of dismissal from service, vide District Police Officer, Nowshera OB No. 330 dated 15.03.2018.

Brief facts of the case are that he while posted at Police Station, Nizampur, remained absent from duty without any leave/permission of the competent authority. That the delinquent official remained absent about 20 days and was no more interested in Police job. That as per the previous record of the delinquent official was enlisted in Police department on 01.09.2010 and during his short service he earned 04 minor punishment, 01 major punishment and 15 bad entries with no good entry and he was a habitual absentee. Therefore he was awarded major punishment of dismissal from service by the District Police Officer, Nowshera.

He was called in orderly room held in this office on 18.04.2018 and heard him in person, but he failed to produced any cogent reason proving himself innocent from the charges leveled against him therefore, I find no grounds to intervene the order passed by the then District Police Officer, Mardan. Hence Appeal is rejected.

ORDER ANNOUNCED.


Gulabammad Alam Shinwari)PSP
Regional Police Officer,
Mardan

No. 2563 /ES. Dated Mardan the 18-4 /2018.

Copy to District Police Officer, Nowshera for information and necessary action w/r to his office Memo: No. 2002/PA dated 10.04.2018. The Service Record is returned herewith.

(*****)

Attested
abl

thereafter he or it is satisfied that the accused is acting in disregard of the warning, he or it shall record a finding to that effect and proceed to complete the enquiry in such manner as he or it thinks best suited to do substantial justice.

(5) The Inquiry Officer or the Committee as the case may be, shall within ten days of the conclusion of the proceedings or such longer period as may be allowed by the authorised Officer, submit his or its findings and the grounds thereof to the authorised Officer.

Note—In the case of staff in grades 1 to 5, the authorised Officer may, at his discretion, permit the accused to be assisted by another Railway servant.

7. Powers of Inquiry Officer and Inquiry Committee—(1) For the purpose of an inquiry under these rules, the Inquiry Officer and the Inquiry Committee shall have the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1933 (Act V of 1933), in respect of the following matters, namely:—

- summoning and enforcing the attendance of any person and examining him on oath;
- requiring the discovery and production of documents;
- receiving evidence on affidavits, and
- issuing commissions for the examination of witnesses or documents.

(2) The proceedings under these rules shall be deemed to be judicial proceedings within the meaning of sections 193 and 223 of the Pakistan Penal Code (Act XI, V of 1860).

8. Rule 5 not to apply in certain cases.—Nothing in rule 5 shall apply to a case:—

- where the accused is dismissed or removed from service or reduced in rank, on the ground of conduct which has led to a sentence of fine or of imprisonment; or
- where the authority competent to dismiss or remove a person from service, or to reduce a person in rank, is satisfied that, for reasons to be recorded in writing by that authority, it is not reasonably practicable to give the accused an opportunity of showing cause.

9. Procedure of inquiry against officers lent to Provincial Government, etc.—(1) Where the services of a Railway servant to whom these rules apply, are lent to a Provincial Government or other authority hereinafter in this rule referred to as the borrowing authority, the borrowing authority shall have the powers of the authority for the purpose of placing him under suspension or requiring him to proceed on leave and of initiating proceedings against him under these rules:

Provided that the borrowing authority shall forthwith inform the authority which has lent his services, hereinafter in this rule referred to as the lending authority, of the circumstances leading to the order of suspension or the commencement of the proceedings as the case may be.

Provided further that the borrowing authority shall obtain prior approval of the President before taking any action under these rules against an All-Pakistan Unified Grades officer in Grade 17 and above.

(2) If in the light of findings in the proceedings against the Railway servant in terms of sub-rule (1), the borrowing authority is of opinion that any penalty should be imposed on him, it shall transmit to the lending authority the record of the proceedings and thereupon the lending authority shall take action as prescribed in the rules.

(3) Appeal.—A person to whom a penalty is imposed shall have such right of appeal as prescribed in rules 1717, 1723, 1731 and 1732 of the Pakistan Railways Establishment Code:

Provided that, where the penalty is imposed by order of the President, there shall be no appeal but the person concerned may apply for review of the order.

11. Appearance of Counsel.—No party to any proceedings under these rules before the authority, the authorised officer, an Inquiry Officer or an Inquiry Committee shall be represented by an advocate.

THE REVISED LEAVE RULES, 1980

S.R.O 1113 (1) 80 Dated 20th December, 1980 (1980) Part I, Pt. II, 31-12-80.—In exercise of the powers conferred by section 25 of the Civil Servants Act, 1973 (LXXI of 1973), the President is pleased to make the following rules, namely:—

1. Short title, application and commencement.—(1) These rules may be called the Revised Leave Rules, 1980.

(2) They shall apply to all civil servants other than those who were employed before the first day of July, 1973, and opted not to be governed by the Revision of Leave Rules issued under the Finance Division's Office Memorandum No. F.1 (2)-Rev. 1/78, dated the 21st September, 1978.

(3) They shall come into force at once.

2. When leave earned.—(1) All service rendered by a Civil servant qualifies him to earn leave in accordance with these rules but shall not be earned during the period of leave.

(2) Any period spent by a civil servant in foreign service qualifies him to earn leave provided that contribution towards leave salary is paid to the Government on account of such period.

3. Earning and accumulation of leave.—(1) A civil servant shall earn leave only on full pay which shall be calculated at the rate of four days for every calendar month of the period of duty rendered and credited to his leave account as "Leave on Full Pay", duty period of fifteen days or less in a calendar month being ignored and those of more than fifteen days being treated as a full calendar month for the purpose.

(2) If a civil servant proceeds on leave during a calendar month and returns from it during another calendar month and the period of duty in either month is more than fifteen days, the leave to be credited for both the incomplete months shall be restricted to that admissible for one full calendar month only.

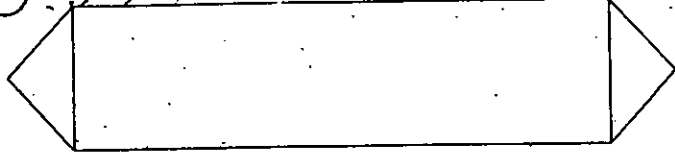
(3) There shall be no maximum limit on the accumulation of such

Amended

D
10

Attested
as per

بعدالت جناب KPK سروسز ٹریڈنگ کمپنی



31 جنوری 2019ء جناب بعدالت
 شیراز علی سائلم کاٹھن بنام السید عبدالصمد آف بوسنس
 پشاور و محرمہ

سروسز

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
 آن مقام پشاور کیلئے اسلم خان صاحب اسزہ کیس
 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 پر خلف دیئے جواب دہی اور اقبال دعویٰ اور
 بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ از عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
 اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
 مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
 تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
 اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
 سبب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
 گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

Attested &
 accepted
 as per

31 جنوری 2019ء

ماہ

المرقوم

Sak

العبد گواہ العبد

کے لئے منظور ہے۔

پشاور

مقام

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

Service Appeal No. 149/2019

Sheraz Ali, Ex-Constable No. 1361 r/o Dheri Mian Ishaq,
Tehsil Pabbi, District Nowshera.

.....Appellant

V E R S U S

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, Mardan Region.
3. District Police Officer, Nowshera.

.....Respondents

REPLY ON BEHALF OF RESPONDENTS

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action.
2. That the appeal is badly time-barred.
3. That the appellant has been estopped by his own conduct to file the appeal.
4. That the appeal is not maintainable in its present form.
5. That the appellant has not come to the Honourable Tribunal with clean hands.

On Facts

1. Para to the extent of induction in Police Department pertains to record needs no comments, while rest of the para is not plausible because every Police Officer/Official is under obligation to discharge his duties to the entire satisfaction of his high-ups, because, in this Department no room lies for lethargy.
2. Incorrect. The appellant while posted at Police Station, Nizampur willfully and deliberately absented himself from his lawful duty without any leave or permission of the competent authority vide daily diary No. 09 dated 24-02-2018, Police Station, Nizampur. Therefore, plea taken by the appellant is not plausible because being member of disciplined force, he was under obligation to take proper leave or permission but he did not bother to do so, rather, absented himself.
3. That on account of his absence and keeping in view his service record, as the present appellant was enlisted in Police Department

on 01-09-2010 and during his short span of service, he earned 04 minor punishment, 01 major punishment and 15 bad entries, hence, he was awarded appropriate punishment of dismissal from service which does commensurate with the gravity of misconduct of appellant.

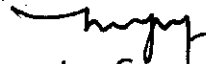
4. Correct to the extent that the appellant filed departmental appeal before the appellant authority and he was also heard in orderly room by providing him right of self defense but he failed to produce any cogent reason regarding his innocence. Therefore, his appeal was also rejected vide OB No. 2563/ES, dated 19-04-2018. However, in order to save his skin in terms of limitation, the appellant took this plea that the same was communicated to him on 08-01-2019. Keeping in view the above, the appeal of appellant is liable to be dismissed on the following grounds: -

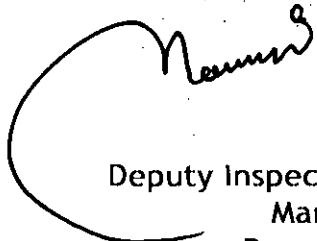
GROUNDS

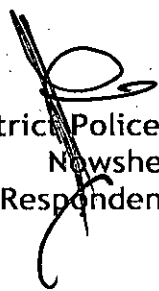
- A. Incorrect. Order passed by the competent authority is legal, lawful and in accordance with law. Therefore, the same is liable to be maintained because, the very conduct of appellant clearly depicted that he is not interested in official duties as prior to the instant dismissal, the appellant was also dismissed in the year 2016 vide OB No. 1444 dated 26-10-2016, on account of willful absence, who was later on reinstated into service and penalty of dismissal from service was converted into major penalty of time scale by 03 stages for 03 years by the Inspector General of Police, Khyber Pakhtunkhwa. Moreover, the service record of appellant is tainted with bad entries including 04 minor punishments and 15 bad entries. (Copies of orders are attached as annexure "A" & "B").
- B. Incorrect. The appellant is habitual absentee and being member of disciplined force, he was under obligation to take proper leave or permission from the competent authority, but he did not bother to do so rather remained absent not only on this occasion but on many occasion and his this act is totally against the norms of disciplined force.
- C. As discussed earlier, the appellant is an habitual absentee and his entire record is tainted with bad entries which clearly depicts his disinterest in official duties. Hence, plea taken by the appellant is not plausible.
- D. Para already explained hence, no comments.

- E. Incorrect. As the apex court of Pakistan has held that the question of limitation cannot be considered a “technicality” simpliciter as it has got its own significance and would have substantial bearing on merits of the case.
- F. Incorrect. The order passed by the competent authority as well as appellate authority are legal and lawful hence, liable to be maintained.
- G. The respondents also seek permission of this Honourable Tribunal to advance additional evidence at the time of arguments.

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


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


Deputy Inspector General of Police,
Mardan Region
Respondent No.02


District Police Officer,
Nowshera.
Respondent No.03

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

Service Appeal No. 149/2019

Sheraz Ali, Ex-Constable No. 1361 r/o Dheri Mian Ishaq,
Tehsil Pabbi, District Nowshera.

.....Applicant

V E R S U S

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, Mardan Region.
3. District Police Officer, Nowshera.

.....Respondents

REPLY TO THE APPLICATION FOR CONDONATION OF DELAY

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS

1. That the applicant has no cause of action to file the instant application.
2. That the application is barred by law.

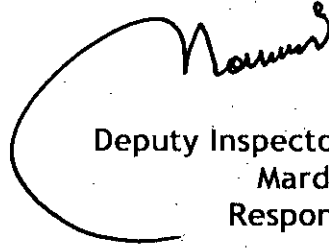
Grounds

- A. That the appeal filed by the applicant before this Honourable Tribunal may kindly be dismissed being a badly time barred.
- B. Incorrect. As the apex court of Pakistan has held that the question of limitation cannot be considered a “technicality” simpliciter as it has got its own significance and would have substantial bearing on merits of the case.
- C. Incorrect. As per Khyber Pakhtunkhwa, Police Rules 1975, amended 2014, misconduct means “conduct prejudicial to good order of discipline in the Police force, or contrary to Government Servant (conduct) Rules or unbecoming of a Police Officer and a gentleman, any commission or omission which violates any of the provisions of law and rules regulating the function and duty of Police Officer to bring or attempt to bring political or other outside influence directly or indirectly to bear on the Government or any Government Officer in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement or other conditions of service of a Police officer” hence, plea taken by the appellant is not plausible.

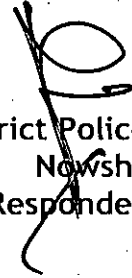
It is therefore, most humbly prayed that on acceptance of above submissions, the instant application may very kindly be dismissed.



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



Deputy Inspector General of Police,
Mardan Region
Respondent No.02



District Police Officer,
Nowshera.
Respondent No.03

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

Service Appeal No. 149/2019

Sheraz Ali, Ex-Constable No. 1361 r/o Dheri Mian Ishaq,
Tehsil Pabbi, District Nowshera.

.....Appellant


V E R S U S

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, Mardan Region.
3. District Police Officer, Nowshera.


.....Respondents

AFFIDAVIT

We the respondents do hereby solemnly affirm and declare on Oath that the contents of reply to the appeal are true and correct to the best of our knowledge and belief and nothing has been concealed from the Honourable Tribunal.


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


Deputy Inspector General of Police,
Mardan Region
Respondent No.02


District Police Officer,
Nowshera.
Respondent No.03

6. As regards the adverse comments relating to the appellant's relationship with the public, his superiors, colleagues and subordinates about the output and quality of his work, no complaints or record of adverse nature were produced before us during the course of the proceedings to substantiate these remarks.

7. The remarks 'reported to be corrupt' is evidently a vague remark as has been held in a number of cases by this Tribunal and the higher Courts. No material or record could be produced by the respondents before us in support of the allegation that the appellant's reputation was not good.

8. Similarly, the respondents were not able to produce any papers showing that the appellant was given counsel or warning in connection with the preparation of bills or statement of returns.

9. Remarks that the appellant is 'not yet fit for promotion' or 'unfit for promotion' could be taken as adverse. The remarks 'not yet fit for promotion' cannot be construed to be adverse as these remarks only denote that the official has to gain some more experience before he may become fit for promotion.

10. As already stated, we have also examined the entire confidential record of the appellant for the period from 16-4-1975 to 29-11-1989 and we find that besides the impugned adverse report he had received adverse report in 1981 only. All the other 18 reports are satisfactory. This proves the contention of the appellant that but for the impugned report of 1986 and that of 1981, against which he did not file any representation, the rest of the reports are satisfactory. Even the report earned by him for the major portion of the same year viz. 1-1-1986 to 6-9-1986 is also quite satisfactory.

11. The learned counsel for the appellant has a point there when he contends that efficiency and honesty are traits of a person's character which become part of his personality and do not change abruptly as supported by a number of judgments given by this Tribunal and the higher Courts. During the period 1975 and 1989 the appellant had earned 20 confidential reports and only in one report for the period 7-9-1986 to 31-12-1986 his integrity has been doubted. Otherwise, he has been reported honest or incorruptible throughout. Even in the adverse confidential report for the year 1981 the appellant's integrity was not doubted.

12. For all these reasons we proceed to accept the appeal, set aside the impugned order dated 16-7-1990 and order that the impugned remarks be expunged. There are no orders as to costs.

H.B.T./389/Sr. P

Appeal accepted.

1992 P L C (C.S.) 571

{Service Tribunal Punjab}

Present: Muhammad Mehmud Aslam Pirzada, Chairman and
Abdul Hamid Khan, Member

ALLAH DITTA

versus

DIRECTOR OF EDUCATION, COLLEGES, BAHAWALPUR DIVISION,
BAHAWALPUR and another

Appeal No. 635 of 1989, decided on 3rd December, 1990.

(a) Punjab Civil Servants Act (VIII of 1974)--

---S. 17---Revised Leave Rules, 1981, Rr. 9 & 11---Extraordinary leave, grant of---Grant of leave was a matter of discretion with competent authority and it could not be deemed as a right---Civil servant had remained on extraordinary leave for period of more than four years---Leave without pay could be granted on any ground upto a maximum period of five years under R. 9 of Rules, 1981, but it would not imply that it was obligatory on competent Authority to sanction such leave in all events---Since competent authority had decided not to grant any extension in extraordinary leave to civil servant, power and competence of competent Authority to refuse leave could not be challenged unless malice was attributed to such authority---Mere fact that civil servant had submitted an application for extension in leave would not give him any right to take the sanction for granted and presume that leave had been sanctioned. [p. 573] A

(b) Civil service---

---Termination of service---Where a Government servant had remained absent even for more than 5 years, termination of his service on ground of such absence, would not be automatic, but could only be brought about through due process of law---Punishment of termination of service on allegation of wilful absence from duty having been awarded to civil servant without holding any enquiry and without affording him opportunity to clear his position in prescribed manner, it would amount to denial of natural justice to civil servant---Orders of Authorities below terminating services of civil servant were set aside being void ab initio and he was reinstated in service: [p. 574] B

M. Saleh Siddiqui for Appellant.

Ch. Manzoor Hussain, D.A. for Respondents.

Date of hearing: 10th October, 1990.

JUDGMENT

ABDUL HAMID KHAN (MEMBER).---The appellant, Allah Ditta, while serving as Junior Lecturer Assistant at Government College, Liaquatpur was granted leave for the period 1-9-1980 to 18-12-1980 on full pay and from 19-12-1980 to 31-12-1984 as extraordinary leave without pay. He then applied

for further extraordinary leave from 1-1-1985 to 31-12-1986 which was rejected. He was served with a notice to join duty followed by another notice and then a notice was published in the daily 'Imroze'. As the appellant did not resume duty in spite of these notices he was dismissed from service vide orders dated 15-12-1985 of the Deputy Director of Education (Colleges) Bahawalpur/respondent No. 2. His appeal filed before the Director of Education (Colleges) Bahawalpur/respondent No. 1 was also dismissed vide orders dated 5-6-1986. He then filed an appeal before this Tribunal against the above impugned orders. As respondent No. 1 had not decided the appeal after affording an opportunity of personal hearing, the Tribunal while allowing the appeal and setting aside the order of respondent No. 1 remanded the case to him to decide the departmental appeal of the appellant in accordance with the law. The appellate Authority after hearing the appellant again upheld the order dated 15-12-1985 of respondent No. 2 and filed the appeal vide orders dated 2-7-1986. The present appeal has been preferred by the appellant against the aforesaid orders dated 2-7-1986 of respondent No. 1.

2. We have heard both the parties and have also examined the original record relating to this case produced before the Tribunal. The learned counsel for the appellant has contended that respondent No. 1 did not reinstate the appellant in spite of the direction given by the Tribunal nor did he give any reason for rejecting the appeal. He further contended that since he had applied for extension of leave he could not, therefore, be considered absent and in any case he was not given any intimation of rejection of his application for leave. He further submitted that since the applicant had about 16 years of service to his credit, extraordinary leave upto five years could easily have been sanctioned which if necessary, could also have been debited to leave due to him in future under rule 11 of the Revised Leave Rules, 1981.

3. The learned District Attorney controverted the contentions of the learned counsel for the appellant on the ground that since leave for the period in question had not been sanctioned by the competent authority, the appellant was, therefore, guilty of wilful absence from duty and rightly punished for the same. He, therefore, prayed that the contentions of the learned counsel for the appellant being without any force the instant appeal may be dismissed out of hand.

4. Following are the details of the leave sanctioned in favour of the appellant and the period for which he has been considered absent:

(a) Leave sanctioned vide Order
No.4/20-80/25503/CE-4,
dated 23-11-1980

Leave on full pay

1-9-1980 to 18-12-1980

Leave without pay

19-12-1980 to 31-12-1980

(b) Leave sanctioned vide Order
No.3/17-82/2054-56/CE-3,
dated 13-3-1982.

E.O.L.

1-1-1981 to 31-12-1982

(c) Leave sanctioned vide Order
No.3/17-82/628/CA-3,
dated 30-1-1983

E.O.L.

1-1-1983 to 31-12-1984

(d) Total leave granted with pay

109 days

Total sanctioned E.O.L.

4 years and 12 days.

(e) Leave not sanctioned
(period of absence)

1-1-1985 to 1-12-1985

(f) Total of (d) & (e)

5 years and 3 months.

5. Grant of leave is a matter of discretion with the competent authority and it cannot be demanded as of right. The appellant had remained on extraordinary leave for the period from 19-12-1980 to 31-12-1984 i.e. for four years and 12 days. Under rule 9 of the Revised Leave Rules, 1981 E.O.L. "without pay may be granted on any ground upto a maximum period of five years at a time.....". That does not, however, imply that it is obligatory on the competent authority to sanction it in all events. Since the competent authority decided not to grant any extension in the E.O.L., its authority and competence to refuse the leave cannot be challenged unless malice is attributed which is not the case here. The mere fact that the appellant had submitted an application for extension in leave does not give him any right to take it for granted and presume that the leave has been sanctioned. Section 17 of the Punjab Civil Servants Act, 1974 provides that "a civil servant shall be allowed leave in accordance with the leave rules applicable to him; provided that the grant of leave shall depend on the exigencies of service and shall be at the discretion of the competent authority." The appellant was specifically served with notices to join duty failing which he was warned to be proceeded against departmentally. When he did not respond to these notices, the authority published a notice in a newspaper also which too did not get any response from the appellant. Thus, he cannot now turn back and say that he was never informed that his request for further extension in E.O.L. had been turned down.

6. The contention of the learned counsel for the appellant that extension in leave could have been granted under rule 11 of the aforesaid rules is fallacious. The said rule provides as under:

(1) Leave not due may be granted on full pay, to be offset against leave to be earned in future, for a maximum period of three hundred and sixty-five days in the entire period of service, subject to the condition that

during the first five years of service it shall not exceed ninety days in all.

- (2) Such leave may be converted into leave on half pay.
- (3) Such leave shall be granted only when there are reasonable chances of the civil servant resuming duty on the expiry of the leave.
- (4) Such leave shall be granted sparingly and to the satisfaction of the sanctioning authority but it shall not be admissible to temporary civil servant.

The above provision has manifestly been made with reference to the earned leave and not extraordinary leave. There is, therefore, absolutely no connection between rule 9 which provides for extraordinary leave and rule 11 which refers to earned leave or leave due.

7. Another issue which has been raised by the appellant is that despite the direction of this Tribunal he was not reinstated in service. This again is a fallacious interpretation of the direction given by this Tribunal. It will be observed that the Tribunal while accepting the appeal had only set aside the impugned order dated 5-6-1986 of respondent No. 1 and remanded the case to him. The order dated 15-12-1985 of respondent No. 2 was not set aside and as such there was no occasion to reinstate the appellant which in any case was not necessary to hear and decide his appeal by the appellate authority/respondent No. 1. Had the entire proceedings, including the order passed by respondent No. 2, been set aside only then it would have been incumbent on the competent authority to issue orders of reinstatement of the appellant.

8. In the written objections filed by the respondents it has been contended by them that the appellant was not allowed to join duty on account of his continuous absence from duty as the period for which he remained continuously absent was more than five years (from 1-9-1980 to 1-12-1985) after which a Government servant ceases to be in service as laid down in rule 3.27 of the CSR (Punjab) Volume I. Perhaps the respondents are not aware of the fact that this rule has since been repealed and is, therefore, no more operative. Thus, if a Government servant overstays beyond five years the termination of his services would not be automatic which can only be brought about through due process of law.

9. This is precisely what the respondents failed to do in this case. It is another thing that this serious omission has neither been taken as one of grounds in the appeal nor the learned counsel for the appellant made even a passing reference to it during his submissions before this Tribunal. Instead of proceeding against the delinquent civil servant under the E&D Rules, the Deputy Director, Colleges/respondent No. 2 dismissed him through a simple order dated 15-12-1985. Since the appellant has been punished without holding any enquiry and without affording him an opportunity to clear his position in the prescribed manner, it amounts to denial of natural justice to him. The

order dated 15-12-1985 is, therefore, declared void ab initio alongwith the subsequent order dated 1-11-1989 passed by the appellate Authority as it was based on an invalid order. The two impugned orders are, therefore, set aside and the appellant reinstated in service with effect from the date of his illegal dismissal i.e. 15-12-1985. No arrears of salary etc. will be paid to the appellant for the period from 15-12-1985 to date. However, the authority shall forthwith initiate departmental proceedings against the appellant strictly in accordance with law and the procedure laid down in the (E&D) Rules, 1975. The matter regarding pay etc. for the period 15-12-1985 to date can be reviewed later, in the light of the final outcome of the departmental proceedings.

10. Before concluding we would like to take this opportunity to make some observations in respect of the officers of the Education Department who passed the two impugned orders in this case without holding a proper enquiry under the E&D Rules. They ignored the mandatory legal requirements before imposing a major penalty despite the fact that all the time the appellant was being threatened through the various notices served on him of action under the E&D Rules if he did not report for duty within the stipulated time. Why then departmental proceedings were not initiated against him? The least the Department may do is to call for the explanation of the officers and then if considered necessary proceed against them departmentally. In case it is eventually decided, as a result of the enquiry to be conducted against the appellant, to pay him the arrears of salary etc. for the period from 15-12-1985 to date it should then seriously be considered if this amount could be recovered from these officers, of course after due process of law. There are no orders as to costs.

H.B.T./421/Sr.P

Appeal allowed/Order accordingly.

1992 P L C (C.S.) 575

[Service Tribunal Punjab]

Present: Muhammad Mehmud Aslam Pirzada, Chairman
and Abdul Hamid Khan, Member

ABDUL RASHID QAYYUM and others

versus

SECRETARY, EDUCATION and 1564 others

Appeals Nos. 501, 513, 514, 507, 508, 512 and 531 of 1985, decided on 15th October, 1991.

(a) Privately Managed Schools and Colleges (Taking over) Regulation, 1972 [M.L.R. 118]---

---Service conditions---Seniority---Entitlement to benefits---Teachers of all privately-managed schools and colleges which were nationalised, were

POLICE DEPARTMENT

NOWSHERA DIST

ORDER

Constable Shiraz Ali No. 1361, while posted at Police Station Nizampur, remained absent from duty without any leave/permission from competent authority vide DD No. 09 dated 24.02.2018 PS, Nizampur, till date


Previous Record

He was enlisted in Police Department on 01.09.2011 during short service, he earned 04 Minor punishment, 01 Major punishment & 15 bad entries with no good entry.

In the light of above, he is hereby awarded punishment of dismissal from the date of absence in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules-1975.

O/B No. 330

Dated 15/03 /2018


District Police Officer
Nowshera.

No. 1612-15 /PA, dated Nowshera, the 14.03 /2018.

Copy for information & necessary action to the:-

1. Pay Officer.
2. Establishment Clerk.
3. OHC.
4. FMC with its enclosure (02 sheets).

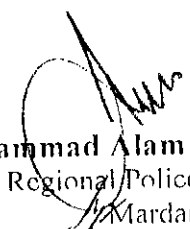
ORDER.

This order will dispose-off the appeal preferred by Ex-Constable Sheraz Ali No. 335 of Nowshera District Police against the order of the District Police Officer, Nowshera, whereby he was awarded major punishment of dismissal from service, vide District Police Officer, Nowshera OB No. 330 dated 15.03.2018.

Brief facts of the case are that he while posted at Police Station, Nizampur, remained absent from duty without any leave/permission of the competent authority. That the delinquent official remained absent about 20 days and was no more interested in Police job. That as per the previous record of the delinquent official was enlisted in Police department on 01.09.2010 and during his short service he earned 04 minor punishment, 01 major punishment and 15 bad entries with no good entry and he was a habitual absentee. Therefore he was awarded major punishment of dismissal from service by the District Police Officer, Nowshera.

He was called in orderly room held in this office on 18.04.2018 and heard him in person, but he failed to produced any cogent reason proving himself innocent from the charges leveled against him therefore, I find no grounds to intervene the order passed by the then District Police Officer, Mardan. Hence Appeal is rejected.

ORDER ANNOUNCED.


(Muhammad Alam Shinwari)PSP
Regional Police Officer,
Mardan

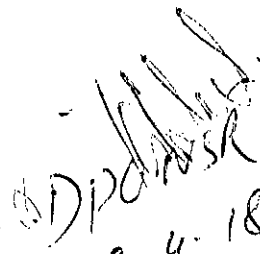
No. 2563 /ES, Dated Mardan the 18-4 /2018.

Copy to District Police Officer, Nowshera for information and necessary action w/r to his office Memo: No. 2002/PA dated 10.04.2018. The Service Record is returned herewith.

(*****)

EC / FMC

For n. action


19-4-18

1029
19-04-18

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

Appeal No: 149/2019

Sheraz Ali, Ex Constable No. 1361

Versus

Inspector General of Police, KPK, Peshawar and Others

APPELLANT'S REJOINDER

Respectfully Sheweth,

Preliminary objections:-

The 5 Preliminary objections raised by the respondents in their written reply are incorrect, wrong, illegal and are denial in every detail. The appellant has a genuine cause of action and his appeal does not suffer from any formal defect, whatsoever.

Facts:-

1. Para No.1 to 4 of appeal are correct and its replies are incorrect.

Grounds:-

- A. Incorrect. Ground A of appeal is correct and its reply is incorrect. It is further submitted that the applicant has been illegally

dismissed from service because a civil servant for mere absence from duty cannot be terminated from service because absence from duty is a petty misconduct and dismissal from service is an extreme harsh punishment which is not permissible under the law.

B-to-F: Incorrect. Ground B to F of appeal are correct and its replies are incorrect.

G. Incorrect. That appellant has more than 9 years service in police department and the instant penalty imposed upon him is very harsh which is not permissible under the law and therefore, the respondents may not be allowed to reply on additional grounds at the time of arguments.

It is, therefore, most respectfully prayed that on acceptance of appeal and rejoinder both the impugned orders at annexure A & C may be set aside and the appellant shall be reinstated in service with all back benefits.

Dated: 15/11/2019

Through

SAK
Appellant
Aslam
Aslam Khan Khattak
Advocate, Peshawar.

**BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR**

Sheraz Ali, Ex Constable No. 1361

Versus

Inspector General of Police, KPK, Peshawar and Others

APPELLANT'S REJOINDER

Respectfully Sheweth,

Preliminary objections:-

That none of the objections raised by the respondents on appellant's application for condonation of delay, are sustainable.

Facts:-

- A. Incorrect. Ground A of appeal is correct and its reply is incorrect.
- B. Incorrect. That as both the impugned orders at annexure A & C are illegal and void and therefore, the limitation does not against a void order.
- C. Incorrect. That as the petitioner's son has seriously been injured in motorcycle accident and therefore his absence was not intentional and so the instant penalty imposed upon him is very harsh and is liable to be set aside.

It is, therefore, prayed that on acceptance of appeal and rejoinder, the two impugned orders may be set aside and the petitioner may be reinstated in service with all back benefits.

Dated: 15/11/2019

Through

Sheraz Ali
Appellant

Aslam Khan Khattak
Aslam Khan Khattak
Advocate, Peshawar.

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

Sheraz Ali, Ex Constable No. 1361

Versus

Inspector General of Police, KPK, Peshawar and Others

AFFIDAVIT

I, **Sheraz Ali Ex- Constable No. 1361**, do hereby solemnly affirm and state on oath that all contents of appeal and rejoinder are true and correct to the best of my knowledge and belief and nothing wrong has been stated by me in the matter.

S.A.

Deponent

Identified By:-

Aslam

Aslam Khan Khattak
Advocate High Court
Peshawar





**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 1437 /ST
Dated: 29/07 /2021

All communications should be
addressed to the Registrar KPK Service
Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To

The District Police Officer,
Government of Khyber Pakhtunkhwa,
Nowshera.

Subject: JUDGMENT IN APPEAL NO. 149/2019, MR. SHERAZ ALI.

I am directed to forward herewith a certified copy of Judgement dated
08.07.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR