

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL NO. 466/2015

Date of institution ... 14.05.2015

Date of judgment ... 29.06.2018

Johar Rahman, FC No. 770-T, Son of Qazi Gohar Rahman,
Resident of Mohallah Qazyan, Budhni, Peshawar.

... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa, Peshawar through Secretary Home and Tribal Affairs Department and three others.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORIGINAL OFFICE ORDER NO. 4601, DATED 31.12.2012, THROUGH WHICH THE APPELLANT HAS BEEN REMOVED FROM SERVICES AND AGAINST THE APPELLATE DEPARTMENTAL ORDER DATED 29.04.2015, VIDE WHICH DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN DISMISSED.

Mr. Saif Ullah Khalil, Advocate

.. For appellant.

Mr. Muhammad Jan, Deputy District Attorney

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. MUHAMMAD HAMID MUGHAL

.. MEMBER (JUDICIAL)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Appellant

alongwith his counsel present. Mr. Muhammad Jan, Deputy District Attorney

with Mr. Aziz Shah, Head Constable for the respondents also present.

Arguments heard and record perused.

M. Amin
29.6.2018

2. Brief facts of the case as per present service appeal are that the appellant was serving in Police Department and during service he was removed from service vide order dated 31.12.2012 on the allegation of his absence from duty. The appellant filed departmental appeal on 24.03.2015 which was rejected on 29.04.2015 hence, the present service appeal on 14.05.2015.

3. Learned counsel for the appellant contended that the appellant was serving in Police Department, however during service he was falsely involved in two criminal cases i.e FIR No. 217 dated 03.08.2012 under sections 506/452/427/148/149 PPC Police Station Akbar Pura, Nowshera and case FIR No. 965 dated 05.10.2012 under sections 302/324/34 PPC Police Station Chamkani, Peshawar. It was further contended that due to involvement in criminal cases the appellant could not attend his duty. It was further contended that the appellant was acquitted by the competent court from the charges leveled against him in criminal cases vide detailed judgments. It was further contended that neither any absence notice was sent at his home address by the respondent-department nor any charge sheet/statement of allegation and proper inquiry was conducted therefore, the appellant was condemned unheard. As such the whole proceeding is illegal and liable to be set-aside and prayed for acceptance of appeal.

4. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was willfully absent from duty without any permission of the higher authority. It was further contended that the appellant was involved in criminal cases and remained absconder for sufficient time. It was further contended that a proper inquiry was conducted against the appellant. It was further contended that the appellant was also


M. Anwar
29.6.2018

sent summoned/Parwana to attend the office of the inquiry officer but he did not appear^m before the inquiry officer therefore, the appellant was rightly imposed major penalty of dismissal from service.

5. Perusal of the record reveals that the appellant was serving in Police Department. The record further reveals that the appellant remained absent from duty due to his involvement in two criminal cases. The record further reveals that the appellant remained absconder for sufficient time therefore, disciplinary proceeding was initiated and he was called by the inquiry officer through summoned/parwana to attend the office but he did not appear before inquiry officer. The record further reveals that the appellant was removed from service vide order dated 31.12.2012 while the appellant has filed departmental appeal on 24.03.2015 after more than two years. The record further reveals that the departmental appeal of the appellant has also dismissed by the departmental authority on the ground that the allegation against the appellant stand proved and the appeal was also held barred for two years. Since the departmental appeal is time barred as such the present service appeal is also not maintainable. Hence the appeal has no force which is hereby dismissed with no order as to costs. File be consigned to the record room.

ANNOUNCED
29.06.2018


(MUHAMMAD HAMID MUGHAL)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

Service Appeal No. 466/2015

29.06.2018

Appellant alongwith his counsel present. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Aziz Shah, Head Constable for the respondents also present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of three pages placed on file, the appeal has no force which is hereby dismissed with no order as to costs. File be consigned to the record room.

ANNOUNCED

29.06.2018

Hamid

(MUHAMMAD HAMID MUGHAL)
MEMBER

Muhammad Amin

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

03.05.2018

Due to retirement of the worthy Chairman, the Tribunal is incomplete, therefore the case is adjourned. To come up for same on 17.07.2018 before D.B


Reader

31.05.2018

Counsel for the appellant Mr. Saifullah Khan, Advocate submitted an application for early hearing instead of 17.7.2018. Be fixed on 25.6.2018 for arguments before the D.B. Notice be issued to the respondents for the date fixed.



Chairman

25.06.2018

Appellant alongwith his counsel and Mr. Muhammad Jan, Deputy District Attorney with Mr. Aziz Shah, Head Constable for the respondents present. Arguments heard. To come up for order on 29.06.2018.




(Muhammad Amin Kundi)
Member



(Muhammad Hamid Mughal)
Member

15.09.2017


Junior to counsel for the appellant and Mr. Muhammad Jan, DDA for respondents present. Junior to counsel for the appellant seeks adjournment as senior counsel was indisposed. Adjourned. To come up for rejoinder and arguments on 04.12.2017 before D.B.



Member
(Executive)


Member
(Judicial)

04.12.2017


Counsel for the appellant and Mr. Usman Ghani, D.A for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 29.01.2018 before D.B.


Member
(Executive)


Member
(Judicial)

29.01.2018


Appellant in person present. Mr. Riaz Painsa Kheil, learned Assistant Advocate General for the respondents present. Appellant seeks adjournment on the ground of non availability of his counsel. Adjourned. To come up for arguments on 30.03.2018 before D.B.


(Muhammad Amin Kundi)
MEMBER


(Muhammad Hamid Mughal)
MEMBER

30.03.2018

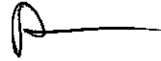
Appellant in person and Addl. AG for the respondents present. Appellant seeks adjournment as his counsel is not in attendance. Adjourned. To come up for arguments on 03.05.2018 before the D.B.


Member


Chairman

17.11.2016

Appellant in person and Asst: AG for respondents present. Rejoinder submitted. To come up for arguments on 14.03.2017.



(ABDUL LATIF)
MEMBER



(PIR BAKHSH SHAH)
MEMBER

14.03.2017

Appellant in person and Mr. Muhammad Adeel Butt, Additional AG for respondents present. Appellant seeks adjournment as his counsel is not available today before the Tribunal. Adjournment granted. To come up for arguments on 07.06.2017 before D.B.



(ASHFAQUE TAJ)
MEMBER



(MUHAMMAD AAMIR NAZIR)
MEMBER

07.06.2017

Appellant alongwith his counsel present. Mr. Muhammad Adeel Butt, Additional AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for rejoinder and arguments on 15.09.2017 before D.B.



(GUL ZEB KHAN)
MEMBER



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

11.11.2015

Appellant in person and Addl: A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 26.1.2016 before S.B.


Member

26.1.2016

Appellant in person and Mr. Aziz Shah, Reader alongwith Addl: A.G for respondents present. Written reply not submitted despite last opportunity. Requested for further adjournment. Last opportunity is extended subject to payment of cost of Rs. 1000/- which shall be the borne by the respondents from their own pockets. To come up for written reply/comments and cost on 31.3.2016 before S.B.


Chairman

31.03.2016

Appellant in person and Mr. Aziz Shah, Reader alongwith Addl: A.G for respondents present. Written statement of respondents No. 2 to 4 submitted. The learned Addl: AG relies on the same behalf of respondent No. 1. Cost paid and receipt thereof obtained. The appeal is assigned to D.B for rejoinder and final hearing for 20.7.2016. The appeal has been assigned to D.B for rejoinder and final hearing for 20.07.2016.


Chairman

20.07.2016

Junior to counsel for the appellant and Mr. Abdur Raziq, H.C alongwith Additional AG for the respondents present. Rejoinder not submitted and requested for further time to file rejoinder. To come up for rejoinder and arguments on 17.11.16.


MEMBER


MEMBER

3

27.05.2015

Appellant with counsel present. Learned counsel for the appellant argued that the appellant is serving as Constable in Police Department since 2009 when charged vide FIR No. 217 dated 3.8.2012 under section 506/PPC at PS Akbar Pura District Nowshera followed by another FIR No. 965 dated 5.10.2012 under section 302/PPC at PS Chamkani. That the appellant was removed from service on the ground of wilful absence vide impugned order dated 31.12.2012 which had come into the notice of the appellant on 20.3.2015 where-after he preferred departmental appeal on 24.3.2015 which was rejected on 29.4.2015 and hence the instant service appeal on 14.5.2015.

That the appellant was neither given any opportunity of hearing nor associated with the inquiry and, additionally, the appellant has been acquitted of the case registered under section 506/PPC and that pre-arrest bail stood confirmed vide order dated 9.3.2015 passed by the learned Additional Sessions Judge-VII, Peshawar.

That the impugned order of removal of appellant from service is against facts and law.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 24.8.2015 before S.B.


Chairman

4

24.08.2015

Appellant in person and Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 11.11.2015 before S.B.


Chairman



Appellant Deposited
Security & Process Fee



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 466 / 2015


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	20.05.2015	<p>The appeal of Mr. Johar Rehman resubmitted today by Mr. Saifullah Khalil Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2		<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>27-5-2015</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Johar Rehman FC No. 770-T son of Qazi Gohar Rahman received to-day i.e. on 14.05.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 2- Annexure-B of the appeal is illegible which may be replaced by legible/better one.

No. 733 /S.T,

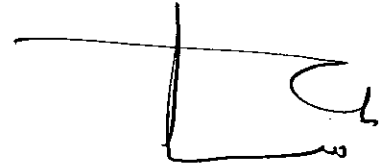
Dt. 14-5 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR. 14/5/15

Mr. Saifullah Khalil Adv. Pesh.

Sir,
19-5-15

The above documents were not provided by the deptt. No Show Cause and no inquiry was conducted. In this respect the plea is taken in ground "H" of the appeal. Re-submitted
Please!



BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER

PAKHTUNKHWA, PESHAWAR

Services Appeal No. 466 /2015

JOHAR RAHMAN

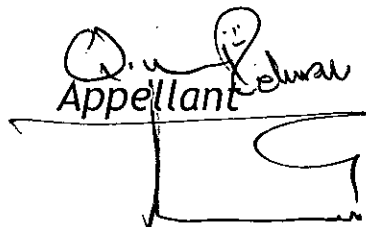
VERSUS

Govt of Khyber Pakhtunkhwa etc

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6.	Copy of departmental appeal and order dated 29/04/2015	C, D	12-15
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Through


Appellant

SAIF ULLAH KHALIL (SENIOR

Advocate, High court Peshawar

Cell # 0300 5941431

Office Address: - Zabeel Palace Hotel, G.T. Road, Peshawar

1

BEFORE THE HONORUABLE SERVICES TRIBUNAL KHYBER

PAKHTUNKHWA PESHAWAR

Services appeal No. 466 /2015

K.W.P. Province
Service Tribunal
Diary No Spb
Dated 14-5-2015

JOHAR RAHMAN, FC No. 770-T, Son of Qazi Gohar Rahman,
Resident of Mohallah Qazyan, Budhni, Peshawar.

... appellant

VERSUS

1. Government of Khyber Pakhtunkhwa, Peshawar through secretary Home and Tribal Affairs Department.
2. Inspector General of Police, Peshawar.
3. Chief Capital City Police Peshawar.
4. Superintendent of police Head Quarter, Peshawar.

... RESPONDENTS

~~14/5/15~~

14/5/15

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT 1973, AGAINST
THE ORIGINAL ORDER NO. 4601, DATED 31/12/2012,
THROUGH WHICH THE APPELLANT HAS BEEN REMOVED
FROM SERVICES AND AGAINST THE APPELLATE
DEPARTMENTAL ORDER DATED 29/04/2015, VIDE
WHICH DEPARTMENTAL APPEAL OF THE APPELLANT
HAS BEEN DISMISSED

re-submitted to-489
and filed.

Registers
2015/10

PRAYER:

ON ACCEPTANCE OF THIS APPEAL BOTH THE
IMPUGNED ORDERS MENTIONED ABOVE MAY
VERY KIND VERY KINDLY BE SET ASIDE AND THE
APPELLANT MAY VERY KINDLY BE RE-INSTATED
IN SERVICE ALONG WITH ALL BACK BENEFITS

RESPECTFULLY SHEWETH,

The appellant submit as under: -

1. That the appellant joined the police department as constable No. 770-T as constable in the year 2009. (Copy of service card of the appellant is annexure A).
2. That the appellant remained absented from his duty due to registration of various false and concocted against the appellant, including FIR No. 217, dated 03/08/2012, under section 506 PPC etc, police station Akbar Pura, Nowshera, and case FIR No.965, dated 05/10/2012, under section 302 PPC, Police station Chamkani, Peshawar.
3. That due to above false and concocted cases the appellant could not continue his services and as such without serving any show cause, statement of allegations or conducting any inquiry against the appellant the appellant was removed from his services vide the impugned order dated 31/12/2012. (Copy of the order dated 31/12/2012 is annexure B).

4. That the appellant got information in respect of the above order, which was served upon the appellant on 20/03/2015, as such the appellant without any delay filed departmental appeal before the competent authority, which was dismissed vide the impugned order dated 29/04/2015. (Copy of departmental appeal and order dated 29/04/2015 are annexure C & D, respectively).
5. That now the appellant impugns both the above orders before this Honourable Tribunal on the following grounds inter alia:-

GROUND: -

- A. That both the impugned orders are against the law and facts, cannon of natural justice, hence liable to be set aside.
- B. That the appellant has been condemned unheard and on this score along both the impugned orders needs to be set at naught.
- C. That the appellant has an unblemished service record and has served the department to the entire satisfaction of his superiors, neither is involved previously in any criminal case, nor remained absent from his services, nor has refused any adverse remarks throughout his services.
- D. That unfortunately the appellant was charged in a false and concocted criminal case by his cousin vide FIR No. 217,

dated 03/08/2012 under section 506 etc, police station Akbar Pura District Nowshera and thereafter in another false and concocted FIR number 965, dated 05/10/2012 under section 302, 324 PPC, police station Chamkani Peshawar.

E. That not only the appellant but the entire male members of his family have been enroped in the above false and concocted cases by cousin of the appellant with the intention to deprive the appellant and his family members from their properties.

F. That due to fear of police the appellant could not continue with his services with police department.

G. That the appellant was proceeded in his absence and the impugned order NO. 4601/dated 03/12/2012, and No. 5035-42/PA/SP, dated Peshawar the 31/12/2012 of Superintendent of police Head Quarters Peshawar was passed against the appellant ex-part through which the appellant was removed from his service without any plausible cause.



H. That before issuance of impugned order, the appellant was not served upon with any show cause notice, statement of allegations, charge, neither any publication has been made against the appellant, as such the appellant has been condemned unheard, which is not only against the law, but is also against the golden principles of Natural justice.

- I. That no inquiry whatsoever can be conducted against the appellant in his absence and as such he cannot be removed from his services under the impugned rules through the impugned order.
- J. That absence of the appellant from his duty was not willful but was due to the unavoidable circumstances mentioned above, as such the impugned order is liable to be set aside on this sole score.
- K. That the appellant has been acquitted in case FIR NO. 217, dated 03/08/2012 by the learned JMJC-II, Nowshera, vide order dated 07/03/2015. (Copy of acquittal dated 07/03/2015 is attached as annexure E).
- L. That bail before arrest of the appellant in case FIR No. 965, dated 05/10/2012 has been confirmed by the learned ASJ-VII, Peshawar, vide order dated 09/03/2015. (Copy of order dated 09/03/2015 is attached as annexure F).
- M. That keeping in view the above orders of the court the appellant is entitled for re-instatement in his services along with all back benefits, keeping in view the facts that impugned order of removal is totally against the law and facts, hence liable to be set aside.
- N. That the appeal in hand as well as departmental appeal is still pending as the appellant was informed of the impugned order on 20/03/2015. On this score alone the

appellant needs to be re-instated in service, along with back benefits.

It is, therefore, most humbly prayed that on acceptance of this appeal both the impugned orders mentioned above may very kind very kindly be set aside and the appellant may very kindly be re-instated in service along with all back benefits.

Dated: 14/05/2015

Appellant 
Through 
SAIF ULLAH KHALIL (SENIOR)
Advocate, High Court Peshawar

Certificate:

Certified that no such like appeal has earlier been filed before this Honourable Court.


Advocate

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Services Appeal No. _____/2014

JOHAR RAHMAN

VERSUS

Govt of Khyber Pakhtunkhwa etc

ADDRESSES OF PARTIES

ADDRESS OF APPELLANT:

JOHAR RAHMAN, FC No. 770-T, Son of Qazi Gohar Rahman,
Resident of Mohallah Qazyan, Budhni, Peshawar.

ADDRESSES OF RESPONDENTS:

1. Government of Khyber Pakhtunkhwa, Peshawar through secretary Home and Tribal Affairs Department.
2. Inspector General of Police, Peshawar.
3. Chief Capital City Police Peshawar.
4. Superintendent of police Head Quarter, Peshawar

Through


Appellant



SAIF ULLAH KHALIL (SENIOR)

Advocate, High court Peshawar

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Services Appeal No. _____ / 2014

JOHAR RAHMAN

VERSUS

Govt of Khyber Pakhtunkhwa etc

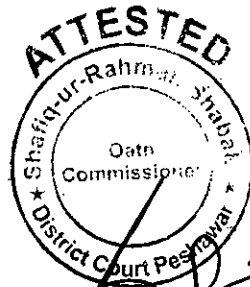
AFFIDAVIT

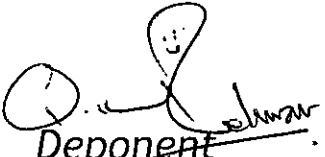
I, JOHAR RAHMAN, FC No. 770-T, Son of Qazi Gohar Rahman, Resident of Mohallah Qazyar, Budhni, Peshawar do hereby solemnly affirm and declare on oath that the contents of the instant appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Identified by:

SAIF ULLAH KHALIL (SENIOR)

Advocate, High Court Peshawar




Deponent

14-05-2015

ORDER

This office order relates to the disposal of formal departmental enquiry against Constable Ichar No. 770-I of Capital City Police Peshawar on the allegations that he was posted at Police Lines, Peshawar involved in a criminal case vide FIR No. 217 dated 03.08.2012 u/s SIDP/452/427/148/149-PPC PS Akbar Pura (District Nowshera) and also stand absent from duty with effect from 01.08.2012 till date.

In this regard, he was issued charge sheet and summary of allegation. SDPO Hayatabad was appointed as I.O. He conducted the enquiry proceedings and submitted report that the alleged constable is not interested in his official duty. He further recommended for major punishment vide Enquiry No 95/E/S, dated 03.10.2012.

Upon the finding of E.O, he was issued final show cause notice & delivered him on home address through local Police Station Charrikani. On which, the SHO PS Chamkani reported that the accused official has been declared as PO in another case vide FIR No.965 dated 10.2012 u/s 302/324/34/512 Cr.P.C PS Chamkani.

Similarly, DSP Civil Secretariat also conducted an enquiry in his absence period from 14.04.2012 to 12.06.2012 (02-months). He conducted the enquiry proceeding & submitted his report/finding that the said official did not adopted proper procedure for obtaining of medical leave. He E.O further recommended that his absence period may be treated as leave without pay vide Enquiry Report No.203-C-S/R dated 24.07.2012.

On receiving the finding of E.Os, he was issued final show cause notice to which he received and replied but his explanation was found unsatisfactory while the MASI Police Lines also reported that the delinquent official still remained absent w.e.f 27.06.2012 till date.

In light of the findings of E.Os, and other material available on record, the undersigned came to conclusion that the alleged official found guilty of the charges being involved in two criminal cases and willfull absence from lawful duty. Therefore, he is hereby removed from service under Police Disciplinary Rules-1975 with immediate effect. Hence, the period he remained absence from 14.04.2012 to 12.06.2012 & 01.08.2012 till date is treated without pay.

**SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR**

OB. NO. 4601 / Dated 31/12/2012

No. 5035-427PA/SP dated Peshawar the 31/12/2012

Copy of above is forwarded for Information & n/action to:

- ✓ Capital City Police Officer, Peshawar.
- ✓ SP/Traffic, Peshawar
- ✓ SP/HQrs, Peshawar.
- ✓ P.O. Office/OASI/ACC & FMC along-with complete departmental file.
- ✓ Officials concerned.

Attested
[Signature]

22
2/11/2013
CPC, OSI
Information
Action
[Signature]

11a

Better copy
ANx-B

ORDER

This office order relates to the disposal of Forman departmental enquiry against constable Johar No.770-T of Capital City Police Peshawar on the allegations that he while posted at Police Lines, Peshawar was involved in a criminal case vide FIR No.217, dated 03/08/2012 under section 506/452/427/148/149 PPC PS Akbar Pura (District Nowshera) and also remained absent from duty with effect from 01/08/2012 till date.

In this regard, he was issued charge sheet and summary of allegations SDPO Hayatabad was appointed as I.O. He conducted the enquiry proceedings and submitted receipt that the alleged constable is no more interested in his official duty. He further recommended for Major punishment vides Enquiry No. 95/E/S, dated 03/10/2012.

Upon the finding of E.O., he was issued final show cause notice and delivered him on home address through local police station Chamkani. On which, the SHO PS Chamkani reported that the accused official has been declared as PO in another case vide FIR No. 965, dated 05/10/2012 under section 302/324/34/512 Cr.P.C PS Chamkani.

Similarly, DSP Civil Secretariat also conducted an enquiry in matter absence period from 14.04.2012 to 12.06.2012 (02 months). He conducted the enquiry proceedings and submitted his report / finding that the said official did not adopted property procedure for obtaining medical leave the E.O. further recommended that his absence period may be treated as leave without pay vides Enquiry report No. 203-C-S/R, dated 27/07/2012.

On receiving the findings of E.Cs, he was issued frequent show cause notice to which he received a replied but explanation was out of satisfactory which the MASI police Lines also reported that the delinquent official remained absent w.e.f 27/06/2012 till date.

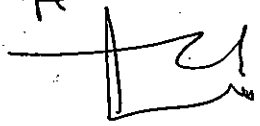
In light of findings of E.Os, and other material available on record, the undersigned came to conclusion that the alleged official found guilty fo the charges being involved in two criminal cases and willful absence from lawful duty. Therefore, he is hereby removed from service under Police Disciplinary Rules 1975 with immediate effect. Hence the period he remained absence from 14.04.2012 to 12.06.2012 & 01.08.2012 till date be treated as without pay.

**SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR**

**O.B NO.406/dated 03/12/2012
NO.5035-42/PA/SP, dated Peshawar 13/12/2012**

Copy of above is forwarded to for information & N/action to:

1. Capital City Police Officer, Peshawar.
2. SSP/Traffic / Peshawar.
3. SSP / HQrs, Peshawar.
4. Office / OASI/& FMC along with complete departmental file.
5. Officials Concerned.

Attested


10,

THE CHIEF CAPITAL CITY POLICE,
PESHAWAR

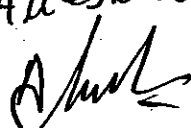
Subject: DEPARTMENTAL APPEAL AGAINST ORDER NO.
4601/DATED 03/12/2012, AND NO. 5035-
42/PA/SP, DATED PESHAWAR THE
31/12/2012 OF SUPERINTENDENT OF POLICE
HEAD QUARTERS PESHAWAR VIDE WHICH THE
APPELLANT HAS BEEN REMOVED FROM
SERVICES UNDER THE POLICE DISCIPLINARY
RULES 1975 WITH IMMEDIATE EFFECT

Respectfully Sir,
The appellant submit as under: -

1. That the appellant joined the police department as constable No. 770-T as constable in the year 2009.
2. That the appellant has an unblemished service record and has served the department to the entire satisfaction of his superiors, neither is involved previously in any criminal case, nor remained absent from his services, nor has refused any adverse remarks throughout his services.
3. That unfortunately the appellant was charged in a false and concocted criminal case by his cousin vide FIR No. 217, dated 03/08/2012 under section 506 etc, police station Akbar Pura District Nowshera and thereafter in another false and concocted FIR number 965, dated 05/10/2012 under section 302, 324 PPC, police station Chamkani Peshawar. (Copies are attached).
4. That not only the appellant but the entire male members of his family have been enroped in the above false and concocted cases by cousin of the appellant with the intention to deprive the appellant and his family members from their properties.

Attested
[Signature]

5. That due to fear of police the appellant could not continue with his services with police department.
6. That the appellant was proceeded in his absence and the impugned order NO. 4601/dated 03/12/2012, and No. 5035-42/PA/SP, dated Peshawar the 31/12/2012 of Superintendent of police Head Quarters Peshawar was passed against the appellant ex-part through which the appellant was removed from his service without any plausible cause.
7. That before issuance of impugned order, the appellant was not served upon with any show cause notice, statement of allegations, charge, neither any publication has been made against the appellant, as such the appellant has been condemned unheard, which is not only against the law, but is also against the golden principles of Natural justice.
8. That no inquiry whatsoever can be conducted against the appellant in his absence and as such he cannot be removed from his services under the impugned rules through the impugned order.
9. That absence of the appellant from his duty was not willful but was due to the unavoidable circumstances mentioned above, as such the impugned order is liable to be set aside on this sole score.
10. That the appellant has been acquitted in case FIR NO. 217, dated 03/08/2012 by the learned JMIC-II, Nowshera, vide order dated 07/03/2015. (Copy of acquittal dated 07/03/2015 is attached).
11. That bail before arrest of the appellant in case FIR No. 965, dated 05/10/2012 has been confirmed by the learned ASJ-VII, Peshawar, vide order dated 09/03/2015. (Copy is attached).

Attested.


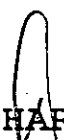
12. That keeping in view the above orders of the court the appellant is entitled for reinstatement in his services along with all back benefits, keeping in view the facts that the impugned order of removal is totally against the law and facts, hence liable to be set aside.

13. That the appeal in hand is well within time as the appellant was informed of the impugned order on 20/03/2015, as such the instant appeal.

It is, therefore, most humbly prayed that on acceptance of this appeal the impugned order of removal NO. 4601/dated 03/12/2012, and No. 5035-42/PA/SP, dated Peshawar the 31/12/2012 of Superintendent of police Head Quarters Peshawar may very kindly be set aside and the appellant be restored on his services along with all back benefits.

Dated: 24.3.15

Appellant


JOHAR RAHMAN

FC No. 770-T

Son of Qazi Gohar Rahman

Resident of Mohallah Qazyar,

Budhni, Peshawar

Contact No. 0301 5949300

Attested



ORDER

This order will dispose off appeal filed by ex-constable **Johar Rahman No. 770-T** who was awarded major punishment of **Removed** from service by SP/HQrs: vide OB No. 4601 dated 13/12/2014.

The allegations levelled against him were that:-

- i) He while posted at Police Lines Peshawar involved him in case FIR. 217 dated 3.8.2012 u/s 506/452/427/148/149/ PPC PS Akbar Pura (Absence: 1.8.2012 till his Removal from service i.e 31.12.2012= **5 months**).
- ii) Involved in case FIR No. 965 dated 25.10.2012 u/s 302/324/34/512 PPC PS Chamkani.
- iii) Found Absent from Police Lines w.e.f 14.4.2012 to 12.6.2012= **2 months**)

Departmental proceedings were initiated against him and DSP/Hayatabad Peshawar was appointed as the E.O. The Enquiry Officer summoned the appellant but he did not turn up to defend himself. On receipt of the findings of the E.O., the Competent Authority issued him FSCN at his home address through SHO PS Chamkani who reported back that the accused official has been declared as Proclaimed Offender in case FIR No. 965 dated 25.10.2012 u/s 302/324/34/512 PPC PS Chamkani. Hence the Competent Authority awarded him the above major punishment.

The relevant record was perused along with his explanation. He was also heard in person in OR on 24/4/2015. He could not defend himself. The allegations stand proved against him. He deserves no leniency. The appeal is also time barred for 2-years. The order of SP-HQrs: is upheld and his appeal for re-instatement in service is rejected/filed.

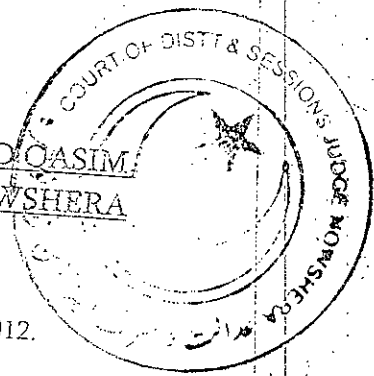
**CAPITAL CITY POLICE OFFICER
PESHAWAR.**

No. 2300-2305 /PA dated Peshawar the 29 / 4 /2015.

Copies for information and n/a to the :-

- 1/ SP/HQrs: Peshawar.
- 2/ PO/ OSI
- 3/ CRC for making n/entry in his S.Roll.
- 4/ FMC alongwith FM.
- 5/ Official concerned.

Attested



IN THE COURT OF SYED HAMID QASIM, JUDICIAL MAGISTRATE-II, NOWSHERA

FORMAL CHARGE

In case FIR No. 217 dated 03.08.2012.

I, Syed Hamid Qasim, Judicial Magistrate-II, Nowshera do hereby charge you i) Qazi Qohar Zaman 2. Johar Ali 3. Faisal 4. Fazal Amin R/o Daud Zai Akbarpura 5. Co-absconding accused Aamir Ali and other three accused r/o Kodnai, Distt Peshawar, as follows.

Firstly, that on 03.08.2012 at 11:30 hours, in the criminal jurisdiction of PS: Akbarpura at village Jaba Daud Zai, you accused along with absconding co-accused namely Aamir Ali entered into the house of complainant and an aerial firing upon him to deter him and also committed the offence of criminal intimidation which is under section 506 and 452 PPC within the cognizance of this court.

Secondly, that on the above mentioned date, time and place you all the accused along with your co-absconding accused Aamir Ali damage the car of the complainant parked inside the house and furtherness of common intention and for the purpose of common object therefore, you have committed under section 427,148,149 PPC within the cognizance of this court.

And I hereby direct that you be tried by this Court on the said charge.

Dated: 31.10.2013.

Syed Hamid Qasim, Judicial Magistrate-II Nowshera

The charge has been read over and explained to the accused.

- Q. No.1. Have you heard and understood the charge? Ans: Yes. Q.No.2. Do you plead guilty? Ans: No. we claim trial.

Dated. 31.10.2013.

ATTESTED

Certified U/S 164 Cr.PC.

Examiner Copying Agency Branch, D.S.J. Nowshera

28 MAR 2015

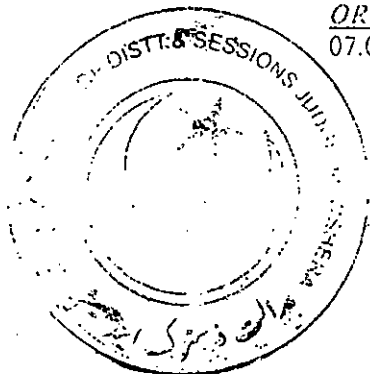
RO & AO Syed Hamid Qasim, Judicial Magistrate-II Nowshera

Attested [Signature]

Handwritten notes on the left margin: 224, 2, 10/11/12, 07/03/15, 11/20/15

IN THE COURT OF SYED HAMID QASIM, JUDICIAL
MAGISTRATE-II, NOWSHERA.

ORD- 36:-
07.03.2015.



APP for state present. Accused present on bail. Record received. Perth be made part of the Judicial record.

Complainant submitted an affidavit of compromise stating therein that he has patched up the matter with the accused and pardoned them in the name of Almighty Allah and has also got no objection on their acquittal from the charge. In this respect the statement of complainant recorded overleaf affidavit of compromise. Affidavit is EXPA, The complainant admitted the contents of his compromise as correct.

The Section 506 and 427 PPC are compoundable whereas section 452 PPC is not compoundable. As the complainant has patched up the matter with the accused and he is not interested to prosecute the accused, due to the compromise, there is no probability of the conviction of the accused. In light of the compromise effected between the parties, the accused are acquitted from the charge under Section 506 and 427 PPC on the basis of compromise whereas; accused stand acquitted from the charge under Sec 452 PPC in terms of Sec 249A Cr.P.C. Sureties of the accused are absolved from the liability of their bail bonds.

File be consigned to record room.

Announced.
07.03.2015.

ATTESTED

Examiner Copying Agency
Branch, D.S.J. Nowshera

MAR 2015

Syed Hamid Qasim,
Judicial Magistrate-II,
Nowshera

Attested
[Signature]

(U)

BEFORE THE COURT OF LEARNED SESSIONS JUDGE PESHAWAR

B.B.A No. _____/2014

C-1
 Superintendent
 Sessions Judge Peshawar
 20/2/15

Johar Rahman son of Qazi Gohar Rahman resident of Budhni,
 Peshawar.

.....ACCUSED / PETITIONER

VERSUS

1. The State.

2. Qazi Khalid Rahman Son of Qazi Meher Rahman resident of
 Budhni, Mohalah Qaziyan, Peshawar

... RESPONDENTS

CASE FIR NO 965, DATED 05/10/2012,
UNDER SECTION 302, 324, 34 PPC,
POLICE STATION CHAMKANI, PESHAWAR

APPLICATION FOR THE GRANT OF PRE ARREST
BAIL TO THE ACCUSED / PETITIONER TILL THE
DISPOSAL OF THE CASE, ON THE GROUND OF
COMPROMISE

RESPECTFULLY SHEWETH,

1. That the accused / petitioner is charged in the above titled case and the local police is after his arrest.
 (Copy of FIR is attached).

Attested
 [Signature]

2. That the accused / petitioner seeks his grant and confirmation on pre arrest bail before this Honourable Court on the following grounds inter alia:

GROUNDS; -

- A. That the accused / petitioner is totally innocent and has falsely been dragged in the captioned case.
- B. That case of accused / petitioner is one of the further inquiry, on more than one grounds.
- C. That co-accused in the instant case Mr. Qazi Gohar Rahman is already on bail in the instant case.
- D. That prosecution have no evidence regarding the guilt and involvement of the accused / petitioner.
- E. That accused / petitioner is local and have no past criminal history.
- F. That a genuine compromise has been effected between the accused / petitioner and complainant and the complainant is no more interested in further litigation.
- G. That the accused / petitioner is ready to furnish reliable sureties to the entire satisfaction of this Honorable Court if grant pre arrest bail.

Attested
Date

Special Judge
20/2/18

H. That other grounds may be agitated at the time of arguments with the permission of this Honourable Court.

Subscribed
20/2/15

It is, therefore, most humbly prayed that on acceptance of this application the accused / petitioners may be granted pre arrest bail till the final decision of the case.

Dated: - 20/02/2015

Accused / petitioner
Through *Asghar Khan*
SAIF ULLAH KHALIL
&
ASGHAR KHAN
Advocates, High Court Peshawar

Certificate: -

Certified that, as per instructions of my client, no such like application has earlier been filed before this Honourable Court.

AK
Advocate

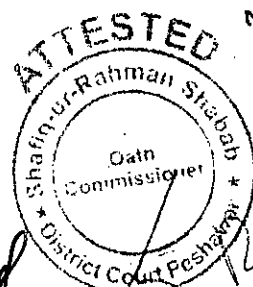
AFFIDAVIT: -

I, accused / petitioner do hereby solemnly affirm and declare on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Q. in Deh
DEPONENT

Identified by:

QAZI GOHAR
Son of Fazal Rahman
R/o Budhni, Peshawar
CNIC NO. 17301-4583316-9



NOTE:- The same ^{case} trial is pending before this Honourable court date 12-03-2015

Attested
Asghar Khan

20-02-2015

**IN THE COURT OF AZHAR ALI, ADDITIONAL
SESSIONS JUDGE-VII, PESHAWAR.**
Case No. 52/BBA of 2015
JOHAR REHMAN ...VS... THE STATE

ORDER
09-03-2015

Miss Huma Fareed, APP for state present. Counsel of accused alongwith accused on ad interim bail and complainant in person present.

The accused/petitioner Johar Rahman S/O Qazi Gohar seeking confirmation of ad interim pre arrest bail in case FIR No. 965 dated 05-10-2012 u/s 302/324/34 PPC of Police Station Chamkani, District Peshawar.

Today Qazi Khalid Rehman S/O Qazi Meher Rehman complainant appeared and informed the court regarding the factum of compromise effected with the accused party. His statement recorded wherein he stated he had charged accused and now he has got no objection if the pre arrest bail of the accused is confirmed.

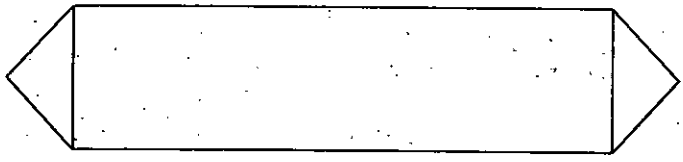
Particularly, when the complainant has forgiven the accused petitioner, then the court cannot question the credibility of the compromise. The offence with which petitioner is charged is compoundable as provided by section 345 Cr.P.C, hence, keeping in view the statement of the complainant, the court is satisfied that accepting the compromise would be for welfare and in the larger interest of the parties. Accordingly the ad-interim pre arrest bail granted to the accused petitioner is hereby confirmed on the existing bail bonds. Complainant is directed to join the investigation.

Record be returned. File be consigned to record room after completion of compilation.

Announced:
09-03-2015

(Azhar Ali Khan),
 Addl; Sessions Judge-VII,
 Peshawar

Attested



مورثہ 15-5-14

2015ء منجانب
جمیر رحمان بنام

مقدمہ
دعویٰ
جرم

اپیل

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام لیسٹاور کیلئے سیف اللہ خلیل ایدو لیسٹاور مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک دروپیہ ارضی 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 وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم 14 ماہ صفر 2015

اپیل منٹ
گورنمنٹ ڈپارٹمنٹ K.P.K ڈیپارٹمنٹ

ادوار الی صاحب

Accepted

جمیر رحمان
العواہ العواہ

کے لئے منظور ہے۔

مقام لیسٹاور

میں نے سروس ٹرانسفر کے 1000 روپے وصول کئے

اس کے جوہر ادرخان بنام آئی سی بی وغیرہ

سروس ٹرانسفر نمبر 466/2015

31/03/2016
مقرر

جوہر ادرخان
اس کے

Attest
31.03.16

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.466/2015.

Johar Rehman Ex- Constable No.770 T CCP Peshawar.....Appellant.

VERSUS.

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Superintendent of Police, Head Quarter, Peshawar.....Respondents.

Reply on behalf of Respondents No. 1, 2, &3.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS.

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to this Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Honorable Tribunal.
7. That this Hon'ble tribunal has no jurisdiction to entertain the appeal.

FACTS:-

- (1) Para No.1 pertains to record hence needs no comments.
- (2) Para No.2 is correct to the extent that the appellant while posted at police line Peshawar involved himself in a case vide FIR No.217 dated 03.08.2012 u/s 506/452/427/148/149 PPC PS Akbar Pura, and also remained absent from duty w.e.f 14.04.2012 to 12.06.2012 & 01.08.2012 till 31.12.2012 (total 07 months). In this regard, he was issued charge sheet and summary of allegations, and proper departmental enquiry was conducted against him by SDPO Hayatabad Peshawar. The E.O after fulfilling all codal formalities recommended him for major punishment. Upon the findings of E.O, he was issued a FSCN and delivered him on home address through local police PS Chamkani. On which the SHO PS Chamkani reported that the accused official has been declared as PO in another criminal case vide FIR No.965 dated 25.10.2012 u/s 302/324/34/512 Cr.P.C PS Chamkani. Hence, he was awarded major punishment of removal from service under PR 1975 vide OB No.4601 dated 31.12.2012. (Charge Sheet, Statement of Allegation, FSCN, and finding report are annexed)
- (3) Para No.3 is incorrect. The appellant was awarded full opportunity to defend himself but he avoided to attend the enquiry proceedings.

- (5) That appeal of the appellant being devoid of merits may kindly be dismissed on the following grounds.

GROUND:-

- A. Incorrect. The punishment orders are in accordance with law/rules.
- B. Incorrect. The appellant was called and heard in person in OR on 24.04.2015.
- C. Incorrect. The appellant was involved in two criminal cases and also remained absent for about 07 months from his lawful duty.
- D. Incorrect. Para already explained above in detail.
- E. Incorrect. Para already explained above in detail.
- F. Incorrect. Being a member of a disciplined force, the appellant committed gross misconduct.
- G. Incorrect. The appellant was awarded full opportunity to defend himself but he failed to appear before the E.O to defend himself.
- H. Incorrect. The appellant was awarded full opportunity to defend himself and all codal formalities were fulfilled.
- I. Incorrect. Proper departmental proceedings were conducted against him.
- J. Incorrect. The appellant willfully absented himself from his lawful duty.
- K. Para pertains to court. Hence no comments.
- L. Para pertains to court. Needs no comments.
- M. Incorrect. Appeal of the appellant being devoid of merits may kindly be dismissed.
- N. Incorrect. Departmental appeal of appellant is time barred for about 02 years.

PRAYER.

Keeping in view the above, it is humbly prayed that the subject appeal may kindly be dismissed please.


**Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.**


**Capital City Police Officer,
Peshawar.**


**Superintendent of Police
HQrs, Peshawar.**

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.466/2015.


Johar Rehman Ex- Constable No.770 T CCP Peshawar.....Appellant.


VERSUS.

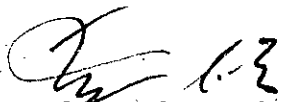
1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Superintendent of Police, Head Quarter, Peshawar.....Respondents.

AFFIDAVIT.

We respondents 1, 2, &3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.


**Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.**


**Capital City Police Officer
Peshawar.**


**Superintendent of Police
HQrs, Peshawar.**

13

CHARGE SHEET

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, hereby, charge that Constable Johar Ali No.770-T of Capital City Police Peshawar with the following irregularities.

"That you Constable Johar Ali No.770-T while posted at Police Lines, Peshawar were involved in a criminal case vide FIR No.217 dated 03.08.2012 U/S 506/452/427/148/149-PPC PS Akbar Pura District Nowshera and also remained absent from lawful duty w.e.f 01.08.2012 till date. This amounts to gross misconduct on your part and against the discipline of the force."

You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

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

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.

JAM
SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

(121)

DISCIPLINARY ACTION

I, Superintendent of Police, Headquarters, Capital City Police Peshawar as a competent authority, am of the opinion that Constable Johar Ali No.770-T has rendered him-self liable to be proceeded against under the provision of Police Disciplinary Rules-1975

STATEMENT OF ALLEGATION

86/5/13
17/9/13

"That Constable Johar Ali No.770-T while posted at Police Lines, Peshawar was involved in a criminal case vide FIR No.217 dated 03.08.2012 U/S 506/452/427/148/149-PPC PS Akbar Pura District Nowshera and also remained absent from lawful duty w.e.f 01.08.2012 till date. This amounts to gross misconduct on his part and against the discipline of the force."

For the purpose of scrutinizing the conduct of said accused with reference to the above allegations an enquiry is ordered and SDPO - Hayat abad. is appointed as Enquiry Officer.

2. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused officer, record his finding within 30 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

3. The accused shall join the proceeding on the date, time and place fixed by the Enquiry Officer.

Govind
SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

No. 826 /E/PA, dated Peshawar the 12/9 /2012

1. SDPO - Hayat abad. is directed to finalize the aforementioned departmental proceeding within stipulated period under the provision of Police Rules-1975.
2. Official concerned

*Call the alleged
Constable*

[Signature]
SDPO Hayatabad Circle
Peshawar

Findings

DSP

3298/5

08/10/12

سید نور محمد

6

FINAL SHOW CAUSE NOTICE

I Superintendent of Police, Headquarters, Capital City Police, Peshawar as competent authority, under the provision of Police Disciplinary Rules 1975 do hereby serve you Constable Johar No.770-T of Capital City Police, Peshawar as follows.

1 (i) That consequent upon the completion of enquiry conducted against you by the enquiry officer for which you were given opportunity of hearing.

(ii) On going through the findings and recommendation of the enquiry Officer, the material on record and other connected papers produced before the E.O.

I am satisfied that you have committed the following acts/omissions specified in Police Disciplinary Rules 1975 of the said Ordinance.

"That you Constable Johar No.770-T while posted at Police Lines, Peshawar were involved in a criminal case vide FIR No.217 dated 03.08.2012 u/s 506/452/427/148/149-PPC PS Akbar Pura (District Nowshera) and also remained absent from lawful duty w.e.f 01.08.2012 till date. This act amounts to gross misconduct on your part and against the discipline of the force"

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of major punishment under Police Disciplinary Rules 1975 for absence willfully performing duty away from place of posting.

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within 7 days of its delivery, in normal course of circumstances, it shall, be presumed that you have no defence to put in and in that case as ex-parate action be taken against you.

5. The copy of the finding of the enquiry officer is enclosed.

[Handwritten Signature]

SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

No. 826 /PA, SP/HQrs: dated Peshawar the 7/11/12 2012.

Copy to official concerned

Issue final

DEPUTY SUPERINTENDENT OF POLICE,
PESHAWAR

Findings

OFFICE OF THE
DEPUTY SUPERINTENDENT OF POLICE
HAYATABAD CIRCLE PESHAWAR

DSP
3299/S
08/10/12
05

NO. 96/E/S, DATED PESHAWAR THE

Subject: - DISCIPLINARY ACTION AGAINST CONSTABLE JOHAR NO.770-T OF POLICE LINES PESHAWAR.

Memo:

Please refer to your office Memo: No. 826/E/PA (SP/HQRs), dated 12/09/2012 on the subject cited above.

STATEMENT OF ALLEGATIONS

Constable Johar No.77-T while posted at Police Lines Peshawar committed the following irregularities:-

"That Constable Johar No.77-T while posted at Police Lines Peshawar was involved in a criminal case vide FIR No.217 dated 03/8/12 u/s 506/452/427/148/149-PPC PS/Akbar Pura District Nowshera and also remained absent from lawful duty w.e.f 01.08.2012-till-date. His act amounts to gross misconduct and against the discipline of the force".

On the basis of the above allegations he was charge sheeted and summary of allegations by the Worthy Superintendent of Police Headquarters Peshawar and the undersigned was appointed as enquiry officer.

FINDING:-

With reference to the allegations leveled against him, he was called through summoned/parwanas (copies attached) to attend the office of the undersigned, but he did not appear before the undersigned. **Furthermore as per the report of MM Police Lines Peshawar that the said constable is absent from his duty vide DD No.06 dated 01/8/12 till to date (repor is also attached).** This shows a totally lack of interest in the duty and showed slackness. Being a person of the discipline force, his this act of non-appearance before the undersigned is high objectionable, condemnable and amounts to gross misconduct on his part.

RECOMMENDATION:-

Keeping in view of the above mentioned circumstances, the undersigned is of the opinion that the alleged constable is no more interested in his official duty & required to be dealt with Ex-Parte action as he intentionally avoided his appearance before the undersigned inspite of repeated summons/parwanas. It is therefore he is recommended for major punishment. If approved please.

issue final show
Cmnr notice

DEPUTY SUPERINTENDENT OF POLICE,
HAYATABAD CIRCLE PESHAWAR

Supr
08/10/12

Cee

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Services Appeal No. 466/2015

Johar Rahman
Versus
Govt. of KPK etc

INDEX

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3.	COPY OF ACQUITTAL ORDER DATED 18/10/2016	A/1	7-12

Dated: 17/11/2016

Through

Appellant

SAIF ULLAH KHALIL (SR).

Advocate,

High Court Peshawar

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Services Appeal No. 466/2015

Johar Rahman
Versus
Govt. of KPK etc

REJOINDER TO THE COMMENTS FILED BY RESPONDENTS NO. 1,2 AND 3

Respectfully Sheweth,

Reply to the preliminary objections:

- i. Para No.1 of the preliminary objection is incorrect, hence denied. The appeal in hand is will within time, as the impugned order was served upon the appellant on 20/3/2015 against which the departmental appeal was filed on 24/03/2015, which is will within time.
- ii. Para No.2 of the preliminary objection is incorrect, hence denied. There is no other necessary party to be impleaded in the instant appeal.
- iii. Para No.3 of the preliminary objection is incorrect, hence denied. The appellant has come to this Honourable Tribunal with clean hands.

- iv. Para No.4 of the preliminary objection is incorrect, hence denied. The appellant has got a cause of action to file the instant appeal.
- v. Para No.5 of the preliminary objection is incorrect, hence denied. The appellant is not estopped by his own conduct to file the instant appeal.
- vi. Para No.6 of the preliminary objection is incorrect, hence denied. The entire material facts have been given in the appeal and nothing is concealed from this Honourable Tribunal.
- vii. Para No.7 of the preliminary objection is incorrect, hence denied. This Honourable tribunal has got jurisdiction to adjudicate upon the instant appeal.

Rejoinder to facts:

1. Para No. 1 needs no comments.
2. Para No.2 of the reply is incorrect, and that of the appeal is correct. The appellant never involved himself in the criminal cases mentioned in the appeal as well as in the reply, but he was falsely implicated by the opponent, just to deprive him of his job. The competent court has already acquitted the appellant in case FIR No. 217, as well in case FIR No. 965, u/s 302 PPC, PS

Chamkani vide order dated 18/10/2016 by the Honourable ASJ-VII, Peshawar. (Copy of the same is annexure A/1).

3. That the appellant was not served with any charge sheet or summary of allegations, nor any proper departmental inquiry has been conducted against the appellant. The alleged inquiry officer has not fulfilled the legal and codal formalities, as such cannot recommend Major punishment against the appellant, after the inquiry no final show cause notice was served upon the appellant, nor the same has been delivered at the house address of the appellant, nor any statement of the concerned SHO PS Chamkani or any police official is available on file to show that the appellant was properly served upon before awarding major penalty of removal from service. As such the entire process is illegal against the law and facts, and hence liable to be set aside.
4. Para No.43 of the reply of facts is incorrect, hence denied. It is stated in this para that the appellant was awarded full opportunity to defend himself, but in para no.2 it is stated that the appellant absented himself and never appeared before the inquiry officers, as such both the pleas taken by respondents are destructive to each other, which clearly shows that the appellant has been condemned unheard.

5. Para no. 5 of appeal is correct while that of reply is incorrect, hence denied.

Rejoinder to Grounds: -

A. Para No. A of the grounds is correct while that of reply is incorrect. The impugned order passed is against the law and facts and principle of natural justice, hence liable to be set aside.

B. Para no .B of the reply to grounds incorrect, and that of mentioned in appeal is correct. It is pertinent to mention here that the impugned order of removal from service was passed against the appellant in his absence on 31/12/2012, then how the appellant was given an opportunity of hearing on 24/04/2015, it means that the impugned order of removal from service dated 31/12/2012 was actually served upon the appellant on 20/03/2015 and thereafter the appellant filed departmental appeal against the above original order on 24/03/2015, which was dismissed by the respondents on 29/04/2015 copy of which are annexure C & D of the appeal, which clearly shows that the departmental appeal of the appellant was well within time, which was filed before the respondents on 24/03/2015, just 4 days after the impugned order of dismissal dated 31/12/2015 was served upon the appellant on 20/03/2015, as such both the departmental appeal as well as appeal before

this Honorable Tribunal are well within time and never time barred.

C. Para C to Para N of the reply to grounds incorrect, and that of mentioned in appeal is correct. The detailed reply in respect of these Paras are given above as well as in the appeal.

It is, therefore, most humbly prayed that the appeal of the appellant may very kindly be allowed and the appellant be directed to be re-instated in service with all back benefits.

Dated: 17/11/2016

Through

Appellant

SAIF ULLAH KHALIL (SR),

Advocate,

High Court Peshawar

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER

PAKHTUNKHWA, PESHAWAR

Services Appeal No. 466/2015

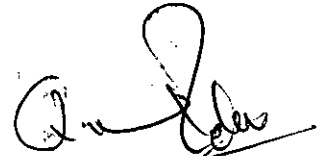
Johar Rahman

Versus

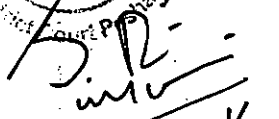
Govt. of KPK etc

AFFIDAVIT

I, appellant do hereby solemnly affirm and declare on oath that the contents of the rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this respected tribunal.


DEPONENT




16-11-16

In the court of Mr. Azhar Ali Khan, Additional Sessions Judge-VII, Peshawar.

10
18/16

State.....vs.....Qazi Gohar etc

CHARGE

18-1-13

90/82

189

FIR No. 965 dated 05.10.2012 U/S 302-324-34 PPC of PS Chamkani.

1044
16

1. Mr. Azhar Ali, Additional Sessions Judge VII, Peshawar do hereby charge you accused.

1. Qazi Gohar ur Rehman s/o Qazi Fazal ur Rehman aged about 40 years.
2. Qazi Johar Rehman s/o Qazi Gohar Rehman aged about 24 years.
3. Qazi Faisal Rehman s/o Qazi Gohar Rehman aged about 22 years (through counsel) all R/O Budhni, Peshawar as follows.



Firstly:

That you accused alongwith absconding co-accused Qazi Amir Rehman on 05.10.20123 at 07:15 hours at Motorway near Northern By-Pass situated within the criminal jurisdiction of Police Station Chamkani, Peshawar, in furtherance of your common intention, you accused Qazi Gohar Rehman with the intention to commit qatl-e-amd, ordered co-accused Qazi Johar Rehman, Qazi Faisal Rehman and absconding co-accused Qazi Amir Rehman to fire upon the complainant Qazi Khalid ur Rehman and deceased Qazi Abid ur Rehman, resultanty Qazi Abid ur Rehman was hit and died and you thereby committed an offence punishable u/s 302/34 PPC, within the cognizance of this court.

Secondly:

That you accused, on the same date, time and place in furtherance of your common intention to commit qatl-e-amd, you accused Qazi Gohar Rehman ordered co-accused Qazi Johar Rehman, Qazi Faisal Rehman and absconding co-accused Qazi Amir Rehman, to fire upon the complainant Qazi Khalid ur Rehman, but he escaped unhurt and you thereby committed an offence punishable u/s 324/34 PPC, within the cognizance of this court.

And I hereby direct that you be tried by me/this court on the said charge.

RO & AC
12.12.2015.

Azhar Ali Khan,
Addl: Sessions Judge-VII, Peshawar.
12/12/15

The charge has been read over and explained to accused.

- Q. Have you heard and understood the charge?
A. Yes.
Q. Do you want to plead guilty or claim trial?
A. No, we plead not guilty and claim trial.

RO & AC
12.12.2015.

Azhar Ali Khan,
Addl: Sessions Judge-VII, Peshawar.
12/12/15

Accused Qazi Gohar ur Rehman

Johar Rehman

Faisal Rehman (through counsel Saif Ullah Khalil Advocate).

Certificate

Certified that the charge has been framed in presence of accused under my dictation. The same has been read over and explained to them who signed the same.

ATTESTED

22 OCT 2016

(Signature)
Sessions Judge Peshawar

22/10/16

Azhar Ali Khan,
Addl: Sessions Judge-VII, Peshawar.
12/12/15

NK
24/9/2016

PO is on leave - D one of
29/9/2016

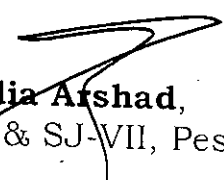
issued

186

Or.....
29/9/2016

APP for the state present. Accused Gohar
Rehman and Johar Rehman present on bail.
Defense counsel also in attendance. Process
issued returned with the report that widow of
the deceased does not have objection on the
acquittal of the accused. Hence file to come up
for order on 18.10.16. Remaining PWs if any
be summoned for the date fixed.

is


Sadia Arshad,
AD & SJ-VII, Peshawar.

ATTESTED

22 OCT 2016

(Examiner)
Session Court Peshawar

BEFORE THE COURT OF SADIA ARSHAD
ADDITIONAL SESSIONS JUDGE-VII, PESHAWAR

Contd...
ORDER
18/10/2016

Case No. 90/SC of 2013
State ...VS... Gohar Rehman etc

ORDER
18/10/2016

APP for the state present. Accused Qazi Gohar Rehman and Qazi Johar Rehman on bail in person alongwith counsel present. Co-accused Qazi Faisal Rehman through counsel present being permanently exempted from personal appearance vide order dated 08/12/2015, while another co-accused Qazi Amir Rehman is absconding.

2. Through order in hand, I intend to dispose of application u/s 265-K Cr.PC dated 18/04/2016, whereby the accused facing trial seek their acquittal of the charges levelled against them u/s 302/324/34 PPC vide FIR No. 965 dated 05/10/2012 of PS Chamkani, Peshawar.

3. Precisely, accused facing trial have been charged for committing qatl-e-amd of Qazi Abid-ur-Rehman and attempting at the life of Qazi Khalid-ur-Rehman by firing at them with deadly firearms.

4. Complete challan against the accused was submitted on 02/01/2013 before the court of learned Sessions Judge, Peshawar, which was eventually received by this Court. After procuring attendance of accused facing trial and complying with the provisions of section 265-C Cr.PC, accused facing trial were charge sheeted, to which, they pleaded not guilty

ATTESTED

Sadiah Arshad

id...
ORDER
18/10/2016

and claimed trial, hence, prosecution was directed to produce its evidence. (187)

5. The case was at evidence stage and 04 PWs were produced and examined by the prosecution when, on 18/04/2016, learned counsel for accused submitted an application for acquittal of accused u/s 265-K Cr.PC.

6. Learned counsel for the accused argued that the complainant party has affected compromise with the accused; that neither the prosecution witnesses are appearing before the court nor is any evidence available on record against the accused; that main prosecution witnesses have exonerated the accused facing trial from the charges in the instant cases, therefore, there is no possibility of the conviction of accused facing trial even if the entire evidence is produced, hence, requested for acquittal of the accused facing trial u/s 265-K Cr.PC.

7. On the contrary, learned APP for the state argued that the witnesses are police officials who have appeared on various dates and recorded their statements while rest of the PWs shall be produced on next dates of hearing; and that prosecution should be given enough chance to prove its charges against the accused, hence, prayed for dismissal of the application.

8. I have heard the arguments and perused the available record. R

APPROVED

2016

Contd...
ORDER
18/10/2016

9. Perusal of available record transpires that vide FIR No. 965 dated 05/10/2012, complainant Qazi Khalid Rehman s/o Qazi Meher Rehman charged the accused facing trial namely Qazi Gohar Rehman s/o Qazi Fazal-ur-Rehman, Qazi Johar Rehman & Qazi Faisal Rehman both sons of Qazi Gohar Rehman, alongwith their absconding co-accused Qazi Faisal Rehman, for committing qatl-e-amd of deceased Qazi Abid-ur-Rehman and attempting at the life of Qazi Khalid-ur-Rehman by firing at them, for which, they were charged u/s 302/324/34 PPC. In the instant case, so far 04 PWs have been examined, out of whom, PW-2 is the statement of Khalid ur Rehman while PW-3 is the statement of Qazi Meher Rehman who, being complainant and eye witnesses of the case, are important & star witnesses, however, if their statements are perused, they both in their cross examination have categorically stated that they had charged the accused facing trial for murder of deceased Qazi Abid on the basis of suspicion. Now they do not want to charge them anymore as well as expressed their no objection if the accused are acquitted from the charges levelled against them. They in their cross examination, have further admitted that it is correct that Qazi Meher Rehman and other PWs were not present on the spot at the time of occurrence but they came later on; that they had charged the accused on suspicion. Both these PWs have further shattered the whole prosecution case by stating that the offence was committed by some unknown assailants whom they had not identified. Moreover, widow of deceased namely Mst: Somia was served through

7

X

No. ~~5~~
Contd...
ORDER
18/10/2016

notice for attendance but the same returned with the report that she is not interested to attend the court or prosecute the case as well as she had no objection on the compromise affected between the parties. To this effect, statement of DFC concerned namely Israel No. 2216 of PS Chamkani was recorded as CW-I, and placed on file. Furthermore, neither any recovery (weapon of offence etc) has been affected from the possession of accused nor they have confessed regarding the offence in hand; similarly, no evidence has been brought on record by the prosecution to connect the accused facing trial with the commission of offence, and it seems that the accused has been charged merely on the basis of suspicion.

10. From the above discussion, it transpires that star witness of the case i.e. the complainant and eye witnesses, on whose testimony, the whole prosecution case rested, had in their statements totally exonerated the accused facing trial, rather destroyed whole prosecution case by stating that the alleged offence was not committed by the accused facing trial but by some unknown assailants, and they had charged the accused merely on the basis of suspicion, while they have been now satisfied by accused about their innocence, hence, not interested to charge the accused anymore; while widow of deceased also showed her disinterest in attending the Court and also expressed her no-objection on compromise by making endorsement on the back of process issued for her attendance. In these circumstances, when neither there is any direct evidence against the accused facing trial nor any circumstantial evidence in the shape of recovery etc, further

ATTESTED

22 OCT 2016

(Examiner)

Session Court, Peshawar

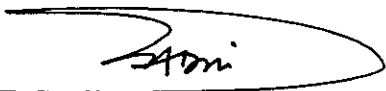
Contd...
ORDER
18/10/2016

prosecution of the instant case would be nothing but just a futile exercise and if the remaining prosecution evidence is summoned (which are mostly formal witnesses), there seems to be no chances of conviction of accused facing trial, thus, will be just wastage of precious time and resources.

11. For the reasons stated above, while accepting their application, all the accused facing trial i.e. Qazi Gohar Rehman s/o Qazi Fazal-ur-Rehman, Qazi Johar Rehman & Qazi Faisal Rehman both sons of Qazi Gohar Rehman all r/o Budhni, Peshawar are hereby acquitted u/s 265-K Cr.PC of the charges levelled against them u/s 302/324/34 PPC. Accused are on bail, their bail bonds are cancelled and sureties are discharged of their liabilities.

12. So far as case of absconding co-accused Qazi Amir Rehman is concerned, a prima facie case exists against him, therefore, he is declared as proclaimed offender on the basis of available record. Perpetual non-bailable warrant of arrest be issued against him under intimation to the DPP, Peshawar to enter his name in the relevant registers of POs. Case property, if any, be kept intact till the expiry period of appeal/revision and arrest/trial of the absconding co-accused. Police record alongwith copy of this judgment be returned while file of this court be consigned to record room after completion.

Announced
18/10/2016


Sadia Arshad
ASJ-VII, Peshawar

ATTESTED

22 OCT 2016


Session Court, Peshawar

No: 14228
Dated of Application: 12-10-16
Name of Applicant: Gulraj Singh
Word: 2800
Fee: _____
Signature of Copyist & Date: [Signature] 22/10/16
Dated of Preparation: 22/10/16
Date of Delivery: 22/10/16

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16

11

BEFORE THE HONOURABLE SERVICES TRIBUNAL, PESHAWAR

CM NO. _____/2017

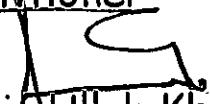
IN
Appeal No. _____/201

Johar
VERSUS
IGP etc

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2.	Affidavit		3

Dated: 06/10/2017

Through Petitioner

Saif Ullah Khalil (Senior),
Advocate, High Court Peshawar

Put up to the court with
relevant appeal.

1 seen
6/10/17.

Reader:

Rejected by
Chairman on
12/10/2017

BEFORE THE HONOURABLE SERVICES TRIBUNAL, PESHAWAR

CM NO. _____/2017

Khyber Pakhtunkhwa
Service Tribunal

Appeal No. ^{IN} 466 /2015

Diary No. 308

Dated 6-10-17

Johar
VERSUS
IGP etc

CIVIL MISCELLANEOUS PETITION FOR FIXATION OF EARLY DATE
IN THE ABOVE TITLED APPEAL PETITION

RESPECTFULLY SHEWETH,

1. That the above titled appeal petition is pending adjudication before this Honourable court and is fixed for 04/12/2017.
2. That the matter in question is a service matter and needs early disposal.
3. That the date fixed is an extremely long one, hence needs to be fixed for any earlier date so that the grievance of petitioner may be redressed.
4. That valuable rights of petitioner are involved in the instant case, which needs to be accelerated to any earlier date.
5. That there is no bar in allowing the present petition rather the same is in the interest of justice.

It is, therefore, most humbly prayed that on acceptance of this petition, the appeal petition may kindly be accelerated from 04/12/2017 to an earlier date.

DATED 06/10/2017

Through

Petitioner


SAIF ULLAH KHALIL (SENIOR),
Advocate, High Court Peshawar

BEFORE THE HONOURABLE SERVICES TRIBUNAL, PESHAWAR

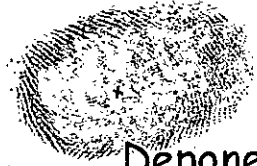
CM NO. _____ /2017

IN
Appeal No. _____ /201_____

Johar
VERSUS
IGP etc

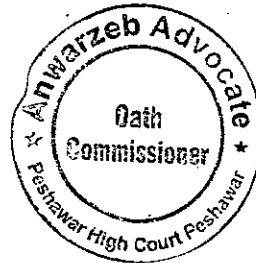
AFFIDAVIT

I, Qazi Gohar (Father of petitioner) do hereby solemnly affirm and declare on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.



Deponent

ATTESTED



LA
6/10/17

[Handwritten signature]

BEFORE THE HONOURABLE SERVICES TRIBUNAL, PESHAWAR

CM NO. _____/2017


IN
Appeal No. _____/201_____

Johar
VERSUS
IGP etc

INDEX

S.NO	DESCRIPTION	ANNEXURE	PAGES
1.	Petition for early hearing		1-2
2.	Affidavit		3

Dated: 06/10/2017

Petitioner
Through 
Saif Ullah Khalil (Senior),
Advocate, High Court Peshawar

BEFORE THE HONOURABLE SERVICES TRIBUNAL, PESHAWAR

CM NO. _____/2017

IN
Appeal No. _____/2017

Johar
VERSUS
IGP etc

CIVIL MISCELLANEOUS PETITION FOR FIXATION OF EARLY DATE
IN THE ABOVE TITLED APPEAL PETITION

RESPECTFULLY SHEWETH,

1. That the above titled appeal petition is pending adjudication before this Honourable court and is fixed for 04/12/2017.
2. That the matter in question is a service matter and needs early disposal.
3. That the date fixed is an extremely long one, hence needs to be fixed for any earlier date so that the grievance of petitioner may be redressed.
4. That valuable rights of petitioner are involved in the instant case, which needs to be accelerated to any earlier date.
5. That there is no bar in allowing the present petition rather the same is in the interest of justice.

It is, therefore, most humbly prayed that on acceptance of this petition, the appeal petition may kindly be accelerated from 04/12/2017 to an earlier date.

DATED 06/10/2017

Through

Petitioner

SAIF ULLAH KHALIL (SENIOR)
Advocate, High Court Peshawar

BEFORE THE HONOURABLE SERVICES TRIBUNAL, PESHAWAR

CM NO. _____/2017

IN
Appeal No. _____/201__

Johar
VERSUS
IGP etc

AFFIDAVIT

I, Qazi Gohar (Father of petitioner) do hereby solemnly affirm and declare on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Deponent

ATTESTED



12/10/17

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER

PAKHTUNKHWA, PESHAWAR

CM No. _____/2018

IN

Services Appeal No. 466/2015

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 116

Dated 29/01/2018

JOHAR RAHMAN

VERSUS

Put up to the court with
relevant appeal.

Govt of Khyber Pakhtunkhwa etc

MISC PETITION FOR CONDONATION OF DELAY U/S 5 OF THE

30/1/18 LIMITATION ACT, IN FILING OF DEPARTMENTAL APPEAL

Reader

Respectfully Sheweth,

The appellants submit as under:

1. That the above titled appeal is fixed for today i.e. 29/01/2018 before this Honourable Tribunal.
2. That the appellants were not present in his village and house due to his false involvement in criminal cases.
3. That there is no proof or source in written shape through with the order of dismissal dated 31/12/2012 was communicated to the appellants, as such the instant appeal is within time.

Reliance is place on:


PLJ 2017 Tr.C (Services) 214

4. That if there is any delay in filing of the departmental appeal the same is due to non communication of the dismissal order will within time, which is beyond the

control of the appellant, as such the appellant requests for condonation of the same delay, if any.

5. That law favors adjudications on merits, rather than on technicalities.

It is, therefore, most humbly prayed that on acceptance of this petition the delay if any in filing of the departmental appeal may kindly be condoned in favour of the appellant and in the large interest of justice.

Through  Appellant
SAIF ULLAH KHALIL (SENIOR),
Advocate, High Court, Peshawar



BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER

PAKHTUNKHWA, PESHAWAR

CM No. _____/2018

IN

Services Appeal No. 466/2015

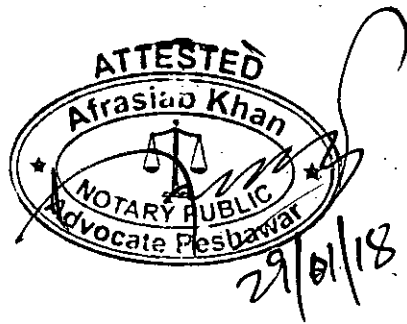
JOHAR RAHMAN

VERSUS

Govt of Khyber Pakhtunkhwa etc

AFFIDAVIT

I, JOHAR RAHMAN DO hereby solemnly affirm and declare on oath that the contents of the instant appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



DEPONENT

A handwritten signature in black ink, appearing to be "Johar Rahman", written below the word "DEPONENT".

BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

CM No. _____/2018

IN

Services Appeal No. 466/2015

JOHAR RAHMAN

VERSUS

Govt of Khyber Pakhtunkhwa etc

MISC PETITION FOR CONDONATION OF DELAY U/S 5 OF THE
LIMITATION ACT, IN FILING OF DEPARTMENTAL APPEAL

Respectfully Sheweth,

The appellant submit as under:

1. That the above titled appeal is fixed for today i.e. 29/01/2018 before this Honourable Tribunal.
2. That the appellant was not present in his village and house due to his false involvement in criminal cases.
3. That there is no proof or source in written shape through with the order of dismissal dated 31/12/2012 was communicated to the appellant, as such the instant appeal is within time.

Reliance is place on:

PLJ 2017 Tr.C (Services) 214

4. That if there is any delay in filing of the departmental appeal the same is due to non communication of the dismissal order will within time, which is beyond the

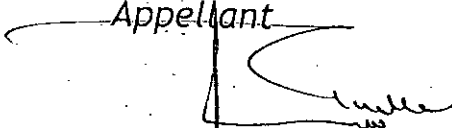
control of the appellant, as such the appellant requests for condonation of the same delay, if any.

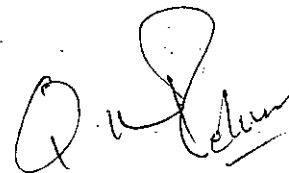
5. That law favors adjudications on merits, rather than on technicalities.

It is, therefore, most humbly prayed that on acceptance of this petition the delay if any in filing of the departmental appeal may kindly be condoned in favour of the appellant and in the large interest of justice.

Through

Appellant


SAIF ULLAH KHALIL (SENIOR),
Advocate, High Court, Peshawar



BEFORE THE HONOURABLE SERVICES TRIBUNAL KHYBER

PAKHTUNKHWA, PESHAWAR

CM No. _____/2018

IN

Services Appeal No. 466/2015

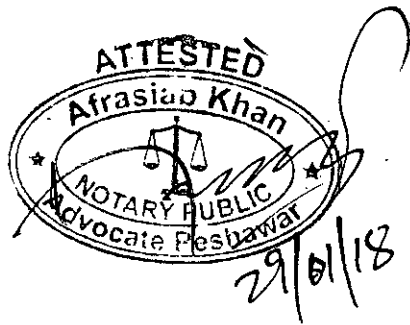
JOHAR RAHMAN

VERSUS

Govt of Khyber Pakhtunkhwa etc

AFFIDAVIT

I, JOHAR RAHMAN DO hereby solemnly affirm and declare on oath that the contents of the instant appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



DEPONENT

[Handwritten Signature]

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

Misc Petition # _____/2018

In

Appeal # _____ / _____

Johar Rehman

Versus

IGP and Others

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*Put up to the court
with relevant appmt.*

30/5/18

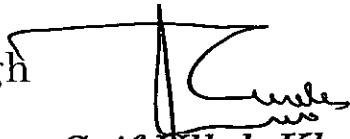
Read

S#	Description of Documents	Annex	Page#
1	Early Hearing Application		1
2	Affidavit		2

Dated: 30/05/2018

Petitioner

Through



Saif Ullah Khalil (SR)
Advocate, High Court
Peshawar

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

Misc Petition # _____/2018

In

Appeal # _____/_____

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 606

Dated 30/05/2018

Johar Rehman

Versus

IGP and Others

APPLICATION FOR FIXATION OF EARLY DATE OF HEARING
IN THE ABOE APPEAL

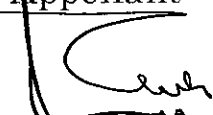
Respectfully Sheweth,

The appellcant submits as under:-

1. That the above titled appeal is fixed for 17/07/2018 before this Hon'ble Tribunal.
2. That the above appeal is fixed for arguments
3. That Petitioner is a poor person and the only source of income of his family members.
4. That a very lengthy date is fixed in the above appeal which needs to be accelerated to an early date.
5. That there is no bar in acceptance of this application.

It is, therefore, most humbly prayed that on acceptance of the instant petition, date in the above appeal may very graciously be accelerated from 17/07/2018 to early date.

Dated: 30/05/2018

Appellant
Through 
Saif Ullah Khalil (SR)
Advocate, High Court
Peshawar.

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

Misc Petition # _____/2018

In

Appeal # _____ / _____

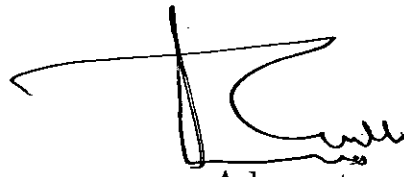
Johar Rehman

Versus

IGP and Others

AFFIDAVIT

I, Saif Ullah khalil Advocate, on the instruction of my client, do hereby solemnly affirm and declare on oath that the contents of this accompanying **application** are true and correct to the best my knowledge and belief and nothing has been concealed from this honorable Court.


Advocate

