

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

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 4075

Dated 6/3/2023

SERVICE APPEAL No. 789/2022

Hakeem Khan..... (Appellant)

VERSUS

Regional Police Officer, Mardan & OTHERS.....(Respondents)

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Respondents

Through



Abdul Khaliq

Focal Person for

DPO Mohmand.

Cell: 0345-9426323

CNIC: 17301-1965811-9

Dated: ____/____.2023

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL No. 789/2022

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PARAWISE REPLY BY RESPONDENTS NO 1,2 & 3

RESPECTFULLY SHEWETH:

Preliminary Objections:

1. That the instant service appeal is not maintainable under the law.
2. That the service appeal is not based on facts.
3. That the appellant has got no cause of action.
4. That the appellant has concealed the real fact from the honorable service tribunal.
5. That the appellant is estopped to file the petition by his own conduct.

REPLY ON FACTS:-

1. Pertains to the period of before merger of erstwhile FATA and Answering Respondents not issued appointment order to the Appellant in the year 1998, in fact the appellant absorbed in KP Police on dated 23-07-2020, after merger of erstwhile FATA in to Khyber Pakhtunkhwa .
2. Correct to extent of appellant absorption in KP Police after merger of erstwhile FATA in to Khyber Pakhtunkhwa, while remaining para is incorrect, because the Appellant was selected for basic recruit course and in this regard he was time and again directed via District Control Room to report at respective training center for basic recruit training, but he turned deaf ear to the orders and failed to report at the training center. Proper departmental enquiry proceedings were initiated against him (**Copy of Charge Sheet, Statement of Allegation and Enquiry Report are annexed as Annexure "A"**). The Enquiry Officer after fulfilling all legal and codal formalities submitted his findings, wherein he reported that the appellant was contacted time and again to appear before the inquiry officer, but he failed and remained absent. It is pertinent to mention here that basic recruit training is compulsory for all Khasadars and levy personals after absorption in KP Police.
3. Incorrect, the appellant did not apply for sick leave nor did he get leave and there was no information regarding his illness and hospitalization.
4. Incorrect, instead to appear before the inquiry officer, the appellant submitted an application for retirement through his son in the office of undersigned on 17.08.2021
5. Incorrect, on dated 24.06.2021 a proper inquiry was conducted against the

appellant regarding his absence and not attending the basic recruit course, wherein the inquiry officer reported that the appellant was contacted time and again to appear before the enquiry officer, but he failed and remained absent, which showed that he was no more interested in Police Service, hence dismissed from service according to rule/policy. Moreover the appellant got absorbed in KP Police Department on 23.07.2020 and remained absent from his official duty till order of his dismissal dated 21.12.2021, which clearly depicts the casual and lethargic attitude towards his official duties.

6. Correct to the extent that the appellant approached the office concern, but the appellant failed to provide any cogent justification regarding not attending the basic recruit course and absence from official duty, hence his appeal was rejected on solid grounds.
7. Incorrect, both orders dated 29-04-2022, of Respondent No. 1 and order dated 21-12-2021 of Respondent No. 2, were convincing, based on cogent reasons and in accordance with rules/Policy of Government and the Departmental Appeal being unsatisfactory, hence rejected. Appellant has got no cause of action, therefore, the instant appeal may kindly be dismissed on the following grounds.

REPLY ON GROUNDS:-

- A. Incorrect, both the orders were convincing, based on cogent reasons and in accordance with rules/Policy of Government and the Departmental Appeal being unsatisfactory, hence rejected.
- B. Incorrect, appellant punishment is legal and justified under the existing law/rules/Policy of Government.
- C. Incorrect, the appellant did not apply for sick leave nor did he get leave and there was no information regarding his illness and hospitalization.
- D. Incorrect, charge sheet together with statement of allegation was issued to the appellant dated 24-06-2021.
- E. Incorrect, proper inquiry with all legal and codal formalities was conducted against the appellant.
- F. Incorrect, already explained in preceding paras.
- G. Incorrect, appellant was provided an opportunity for personal hearing, but the appellant failed to provide any cogent justification regarding not attending the basic recruit course and absence from official duty, hence his appeal was rejected on solid grounds.
- H. Incorrect, already explained in preceding paras.
- I. Incorrect, appellant was provided fair opportunity for personal hearing as Article 10-A of the constitution.
- J. Incorrect, the appellant was dismissed according to law/rule/policy of government.
- K. Incorrect, already explained in preceding paras.
- L. Incorrect, appellant is not eligible for premature retirement.
- M. Incorrect, appellant absorbed in KP Police dated 23-07-2020.
- N. Respondent may kindly be allowed to add any other grounds/ documents at the time of hearing.

PRAYERS:

Both the orders dated 29-04-2022, of Respondent No. 1 and order dated 21-12-2021 of Respondent No. 2, were convincing, based on cogent reasons and in accordance with rules/Policy of Government and the Departmental Appeal being unsatisfactory, hence rejected. Keeping in view the above stated facts it is humbly prayed that the appeal being not maintainable, barred by law/ limitation may kindly be dismissed with costs, please.




District Police Officer,
Mohmand
(Respondent No. 2)

District Police Officer
Mohmand



Regional Police Officer,
Mardan, Khyber Pakhtunkhwa,
(Respondent No. 1)



Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 3)

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

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VERSUS

Regional Police Officer, Mardan & Others.....(Respondents)

I, **Abdul Khaliq** Focal Person for, District Police Officer, Mohmand do hereby solemnly affirm on oath that the contents of accompanying comments on behalf of Respondents No. 1, 2 & 3 are correct to the best of my knowledge and belief. Nothing has been concealed from this Honorable Khyber Pakhtunkwa Service Tribunal Peshawar.



DEPONENT

Abdul Khaliq

ABDUL KHALIQ
Focal Person for,
DPO, Mohmand

CNIC: 21407-1965811-9
CELL: 0345-9426323



11/21/67

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OFFICE OF THE DISTRICT POLICE OFFICER,
MOHMAND TRIBAL DISTRICT AT HQ GILALLANAI

Email: dpomohmand@gmail.com
Ph: 0924-290179 Fax: 0924 290056

No. 211 /DPO/M
Dated:- 24/03/2021

AUTHORITY LETTER

I do hereby authorized Mr. Abdul Khaliq No.1154 (Focal Person for District Police Officer Mohmand), to submit legal documents, comments, and affidavit on my behalf before the Honorable Service Tribunal, Peshawar.

(SALAH UD DIN KUNDU)
DISTRICT POLICE OFFICER
MOHMAND TRIBAL DISTRICT

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(6)

CHARGE SHEET

1) I, Salah-Ud-Din, District Police Officer, Mohmand Tribal District, as Competent Authority, hereby charge you Halim Khan as follows:-

I) That you were time and again directed via wireless control room to report at respective center for training. But you gave deaf ear to the order and failed to report at training center. This shows your inefficiency and lack of interest in discharge of official duty.

II) Being a member of discipline force, this act shows gross misconduct on your part.


By reason of the above, you appear to be guilty of misconduct under Police Disciplinary Rules 1975 with amendments 2014 and have rendered yourself liable to all or any of the penalties specified in the Rules:-

2) You are, therefore required to submit your written defense within 05 days of the receipt of this Charge Sheet to the Enquiry Officer as the case may be.

3) Your written defense, if any, should reach to the Enquiry Officer within the specified period failing which it shall be presumed that you have no defense to put in and in that case, ex-parte action will be taken against you.

4) You are also at liberty, if you wish to be heard in person.

5) Statement of allegation is enclosed.


District Police Officer,
Mohmand Tribal District

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SUMMARY OF ALLEGATION.

1). I, Salah-Ud -Din, District Police Officer, Mohmand Tribal District, am of the opinion that Halim Khan No 2999 while posted at Police Line of the district has rendered himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Police Disciplinary Rules, 1975 read with Amendments 2014.

STATEMENT OF ALLEGATIONS.

I) That he was time and again directed via wireless control room to report at respective center for training. But he gave deaf ear to the order and failed to report at training center. This shows his inefficiency and lack of interest in discharge of official duty.

II) Being a member of discipline force this act shows gross misconduct on his part.

2). For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, SDPO Barai Mr Ayaz Khan is appointed as Enquiry Officer, to conduct enquiry under the Rules.

3). The Enquiry Officer shall, in accordance with the provision of the Police Disciplinary Rules, 1975 read with Amendments 2014 provide reasonable opportunity of hearing to the accused, record its findings and make within 05 days of the receipt of this order recommendation as to punishment or other appropriate action against the accused.


District Police Officer,
Mohmand Tribal District

No. 1079-82 /PA

Dated Mohmand the: 24/06/2021

- CC:
- The Regional Police Officer, Mardan for favor of Information.
 - The SDPO Barai Mr Ayaz Khan requested to initiate departmental proceedings against the accused under the Police Disciplinary Rules, 1975 read with Amendments 2014.
 - Halim Khan to appear before the Enquiry Officer on the date, time & place fixed by the Enquiry Officer for the purpose of enquiry proceedings.

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TO

District police officer
Mohmand Tribal District

Subject: INQUIRY

Memorandum:

Reference your office letter No.Nill Dated 24-06-2021, regarding inquiry against the following police constables.

1, Abdul akbar Belt.No 2958, (2) jawad ahmad Belt No. 2959,(3) sartaj khan Belt No. 2964,(4) Muhammad Nazir Belt No.2965,(5) Bahadar Khan Belt No.2966, (6) Zaheer Ullah Belt No 2967, (7) Sultan Shah Belt No.2969, (8) Mir Nawaz Belt No. 2970, (9) Ihsan Ullah Belt No .3000, (10) Rawayat khan Belt No, 3047, (11) Hakim Khan Belt No .2999.

The Above police constables were summoned . They have not been appeared before the undersigned .This office have no record no contact No of the above personels .They may be informed through media to report to their respective stations otherwise strict disciplinary action may be intiated against them. It is to be noted that the above constables have not been reported till date after absorption in kpk police .

Submitted for your kind consideration please.

NO 298 SDPO(U/M)

[Signature]
SDPO(U/M)

Dated 22 /11/2021

Order
29/11/2021

The above mentioned Constables from S.NO I to S.NO 11 are hereby disomised from service due to long absence from law ful duties as after taking disciplinary action recommended by E.O.

[Signature]
DPO Mohmand
29/11/2021