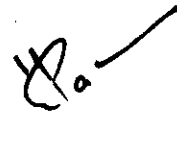
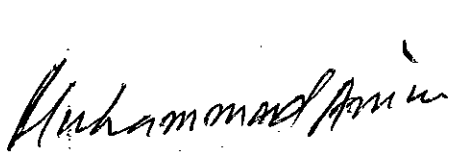


Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	03.09.2018	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p style="text-align: center;">Service Appeal No. 314/2015</p> <p>Date of Institution ... 10.04.2015 Date of Decision ... 03.09.2018</p> <p>Babar Khan son of Sarwar Khan Ex-Constable Service No.666 resident of Ghula Dher, PS Charsadda, District Charsadda.</p> <p style="text-align: right;">Appellant</p> <p style="text-align: center;">Versus</p> <p>1. District Police Officer, Charsadda. 2. Deputy Inspector General of Police, Mardan Region-I Mardan. 3. Inspector General of Police, Khyber Pakhtunkhwa Peshawar.</p> <p style="text-align: right;">Respondents</p> <p>Mr. Muhammad Hamid Mughal-----Member Mr. Muhammad Amin Kundi -----Member</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> -. Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General Present.</p> <p>2. The appellant (Ex-Constable) has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 26.11.2014 whereby he was awarded major punishment of dismissal from service on the ground of absence from duty and against the order dated 09.03.2015 whereby his departmental appeal against the order of his dismissal from service</p>

was rejected.

3. Learned counsel for the appellant argued that though the charge sheet/statement of allegation was not served upon the appellant however perusal of the same would show that the competent authority deputed Raza Muhammad Khan DSP Charsadda to conduct departmental inquiry in the matter however from the original impugned order as well as appellate order it is evident that the inquiry was not conducted by the Police Officer concerned but by some other Police Officer namely Saleem Raza Khan DSP Headquarters Charsadda. Further argued that The respondent department has also admitted in his written reply that the inquiry was conducted by Mr. Saleem Riaz Khan DSP Headquarter Charsadda. Learned Additional Advocate General remained unable to defend the impugned orders when confronted with this aspect of the case that in the statement of allegation the competent authority deputed Mr. Raza Muhammad Khan DSP Charsadda for conducting departmental inquiry, however the appellant was awarded major punishment of dismissal from service on the basis of inquiry conducted by Mr. Saleem Riaz Khan DSP Headquarters Charsadda. Consequently the impugned orders are set aside and the appellant is reinstated in service for the purpose of denovo inquiry. The departmental action against the appellant shall be deemed pending, as such the respondent department is directed that proper charge sheet/statement of allegation be served upon the appellant and conduct the denovo inquiry against the appellant strictly in

accordance with law/rules on the subject. The issue of back benefits shall be subject to the outcome of denovo inquiry. Parties are left to bear their own costs. File be consigned to the record room after its completion.



(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

ANNOUNCED
03.09.2018

was rejected.

3. Learned counsel for the appellant argued that though the charge sheet/statement of allegation was not served upon the appellant however perusal of the same would show that the competent authority deputed Raza Muhammad Khan DSP Charsadda to conduct departmental inquiry in the matter however from the original impugned order as well as appellate order it is evident that the inquiry was not conducted by the Police Officer concerned but by some other Police Officer namely Saleem Raza Khan DSP Headquarters Charsadda. Further argued that The respondent department has also admitted in his written reply that the inquiry was conducted by Mr. Saleem Riaz Khan DSP Headquarter Charsadda. Learned Additional Advocate General remained unable to defend the impugned orders when confronted with this aspect of the case that in the statement of allegation the competent authority deputed Mr. Raza Muhammad Khan DSP Charsadda for conducting departmental inquiry, however the appellant was awarded major punishment of dismissal from service on the basis of inquiry conducted by Mr. Saleem Riaz Khan DSP Headquarters Charsadda. Consequently the impugned orders are set aside and the appellant is reinstated in service for the purpose of denovo inquiry. The departmental action against the appellant shall be deemed pending, as such the respondent department is directed that proper charge sheet/statement of allegation be served upon the appellant and conduct the denovo inquiry against the appellant strictly in

ATTESTED


 Attesting Officer
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

accordance with law/rules on the subject. The issue of back benefits shall be subject to the outcome of denovo inquiry. Parties are left to bear their own costs. File be consigned to the record room after its completion.

Muhammad Amin *H.*

(Muhammad Amin Kundi)
Member

(Muhammad Hamid Mughal)
Member


ANNOUNCED
03.09.2018

Certified to be true copy
[Signature]
Khuzdar
Service Tribunal,
Peshawar

Date of Presentation of Application 03-09-18
Number of Vols 1200
Copying Fee 8.00
Urgent _____
Total 8.00
Name of Copyist [Signature]
Date of Completion 27-09-18
Date of Delivery 27-09-18

06.07.2018

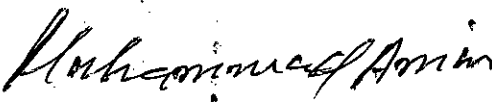
Appellant in person present. Mr. Sardar Shoukat Hayat,
Addl: AG for respondents present. Arguments could not be heard
due to incomplete bench. To come up for arguments on 03.09.2018
before D.B.



(Muhammad Amin Kundi)
Member

03.09.2018

Learned counsel for the appellant and Mr. Kabir Ullah Khattak
learned Additional Advocate General present.

Vide separate judgment of today of this Tribunal placed on file,
the impugned orders are set aside and the appellant is reinstated in
service for the purpose of denovo inquiry. The departmental action
against the appellant shall be deemed pending, as such the respondent
department is directed that proper charge sheet/statement of allegation
be served upon the appellant and conduct the denovo inquiry against
the appellant strictly in accordance with law/rules on the subject. The
issue of back benefits shall be subject to the outcome of denovo
inquiry. Parties are left to bear their own costs. File be consigned to
the record room.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

ANNOUNCED

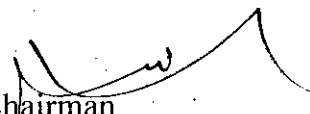
03.09.2018

13.09.2017 Counsel for the appellant present. Mr. Kabirullah Khattak, Assistant AG for the respondents present. The learned Member Executive, Mr. Gul Zeb Khan is on leave therefore, arguments could not be heard. Adjourned. To come up for arguments on 13.12.2017 before D.B.


Chairman

13.12.2017 Counsel for the appellant and Addl. AG alongwith Shah Jehan, S.I (Legal) for the respondents present. The court time is over. To come up for arguments on 19.02.2018 before this D.B.


Member



Chairman

19.02.2018 Due to non availability of D.B. Adjourned. To come up on 23.04.2018 before D.B.


(Gul Zeb Khan)
Member


23.04.2018 Appellant in person present. Mr. Muhammad Jan, Learned Deputy District Attorney alongwith Mr. Shajahan S.I (legal) for the respondents present. Appellant seeks adjournment as his counsel is not available. Adjourn. To come up for arguments on 06.07.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

26.09.2016

Counsel for the appellant and Mr. Shah Jehan, ASI alongwith Usman Ghabi, Sr. GP for respondents present. Learned Sr. GP requested for adjournment as he intends to produce record alongwith copies on or before next date of hearing. Adjourned for arguments on 31.01.2017 before D.B.


Member


Chairman

30.01.2017

Counsel for the appellant and Mr. Usman Ghani, Sr. GP alongwith Mr. Saeed Khan, Inspector for respondents present. Record not produced. Learned Sr. GP requested for further time to produce the same. Request accepted. To come up for such record and arguments on 23.05.2017 before D.B.


(ASHFAQUE TAJ)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

23.05.2017

Appellant alongwith his counsel present. Mr. Shah jehan, AD (Litigation) with Mr. Muhammad Jan, Deputy District Attorney for the respondents also present. Representative of the respondent-department submitted record. The same is placed on file. To come up for arguments on 13.09.2017 before D.B.


(GUL ZEB KHAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

12.11.2015

Appellant with counsel and Mr. Shah Jehan, Assistant to DSP (legal) 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 Rs. 1000/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments on 10.2.2016 before S.B.


Chairman

10.02.2016

Appellant in person and Mr. Usman Khan, DSP (legal) alongwith Addl: A.G for respondents present. Written reply submitted. Cost of Rs.1000/- paid and receipt thereof obtained. The appeal is assigned to D.B for rejoinder and final hearing for 27.5.2016.


Chairman

27.05.2016

Counsel for the appellant and Mr. Kabirullah Khan Khattak, Assistant AG for respondents present. Rejoinder submitted, copy whereof handed over to learned Assistant AG. To come up for arguments on 26.9.16 before D.B.


Member


Member

3 16.04.2015

Counsel for the appellant present. Learned counsel for the appellant argued that appellant was charged for absence without leave for one day i.e. 11.08.2014 in the charge sheet but was punished vide impugned order dated 26.11.2014 as habitual absentee on many times. That the appellant preferred departmental appeal against the impugned order which was rejected on 09.03.2015 but communicated to the appellant on 06.04.2015 where-after, he preferred service appeal on 10.04.2015.

That the punishment not only harsh but also against facts and law and, moreover, the enquiry was not conducted in the prescribed manners.

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/comments for 14.07.2015 before S.B.


Chairman

4 14.07.2015

Appellant in person and Addl. A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 31.8.2015 before S.B.


Chairman

31.08.2015

Appellant in person and Assistant A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 12.11.2015 before S.B.


Chairman

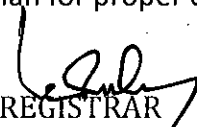

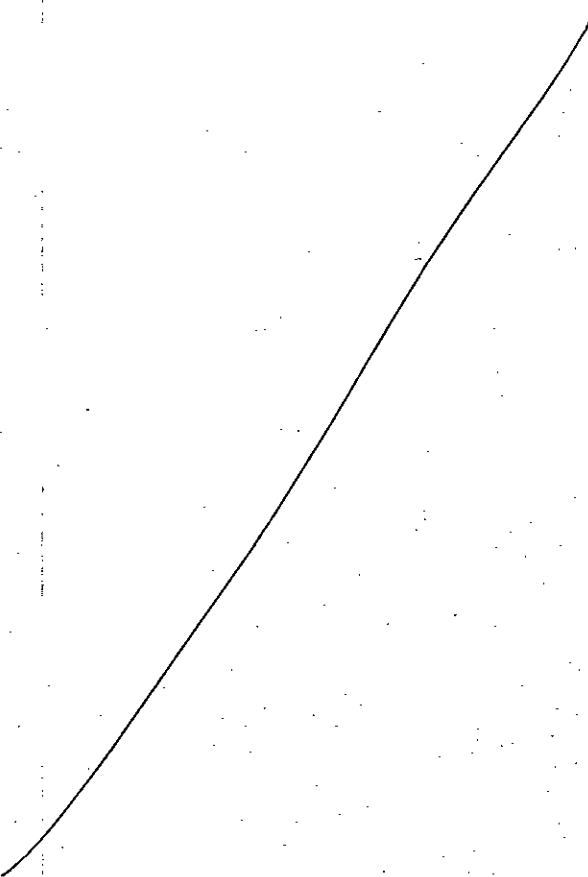
Appellant Deposited
Security & Process Fee



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 314/2015


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	13.04.2015	<p>The appeal of Mr. Babar Khan resubmitted today by Mr. Fazli Mahmood 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	13-4-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>16-4-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> 

The appeal of Mr. Babar Khan son of Sarwar Khan Ex-Constable Police Department received to-day i.e. on 10.04.2015 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Copy of departmental appeal is not attached with the appeal which may be placed on it.
- 2- Annexure-A of the appeal is illegible which may be replaced by legible/better one.


No. 485 /S.T,

Dt. 13/4 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Fazli Mahmood Adv. Pesh.

After having made amendments in accordance with office requirement, it is re-submitted for action pl.


(FAZZI MAHMOOD)
Advocate

13/12 April, 2015

**Before The Khyber Pakhtunkhwa Province Service
Tribunal, Peshawar**

Service Appeal No. 314 2015

Babar Ex-constable,
Vs
DPO, Charsadda & others

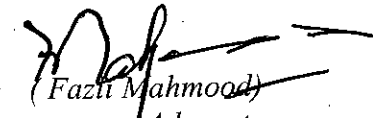
**Service Appeal Under Sec 4,
KPK Service Tribunal Act, 1974**

INDEX

<u>S No</u>	<u>Description of Documents</u>	<u>Annexures</u>	<u>Page</u>
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2.	Affidavit	-	6
3.	Impugned Orders/ Appeal	A & B, B ₁	7-8, 9A
4.	Commendation Certificates	C-I	9-15
5.	Recomm. out of turn Promotion	J	16
6.	Charge Sheet 1	K	17-18
7.	Charge sheet 2	L	19-20
8.	Wakalatnama	-	20


Appellant

Through Counsel


(Fazli Mahmood)
Advocate
Cell # 0314 907 2882

Before The Khyber Pakhtunkhwa Province Service Tribunal, Peshawar

Service Appeal No 314... 2015

K.W.F. Province Service Tribunal
Diary No 324
Dated 10-4-2015

1. Babar Khan s/o Sarwar Khan, Ex-Constable, Service No 666, R/O Ghula Dher, P S, Charsadda, District Charsadda.
.....Appellant

Vs

1. District Police Officer, Charsadda;
 2. Deputy Inspector General of Police, Mardan Region -I, Mardan; and,
 3. Inspector General of Police, KPK, Peshawar.
-Respondents

Service Appeal Under Sec 4, KPK Service Tribunal Act, 1974 Against The Impugned Orders Nos. 2305-08/HC, Dated Charsadda the 21st November, 2014 And 1534/ES, Dated Mardan the 9th March, 2015 (Ann. A & B) For Their Setting Aside As Invalid.

[Signature]
6/4/15

Honourable Tribunal;

Leap Out Facts Of The Case

Putting baldly, the appellant states:

co-submitted to-day and filed.

[Signature]
13/4/15

1. *The appellant had been in service - with Respondents' Department from 1st April, 2008 till his services were terminated on 26th November, 2014 as constable.*
2. *For Exceptional Performance /Gallantry and dedication beyond the call of duty, the appellant earned appreciation and secured number of commendation certificates, Ann C - I; appellant was also recommended for out of turn promotion by the authorities, Ann J.*
3. *The appellant was charge sheeted on 22nd July, 2014 (Ann K) on account of his being a member of a disciplined force helped his brother who was arrested for having recovered the stolen property from his possession, by a local police of P S Charsadda; also pressurized the complainant party for compromise. THEREFORE:*
 - (a) *Mr Saleem Riaz Khan, DSP, H Qrs Charsadda was detailed as enquiry officer to probe into the said charges; but without having brought into the knowledge of appellant to enter his appearance and defend himself before enquiry officer.*
4. *On 4th September, 2014, (Ann L) was served upon the appellant on the charges that he absented himself from duty from 11th August, 2014 without any leave from senior officers. However, it does not show the period of absentee; nor it was ever brought into the knowledge of appellant to enter his appearance and defend himself before enquiry officer. Whereas:*
 - (a) *Mr Raza Muhammad Khan, DSP, Charsadda was appointed as Enquiry Officer for probing into the charges of*

absence from duty w e f 11th August, 2014 for unknown period.

5. Following the so-called proceedings, the appellant was dismissed from service vide dismissal order No 2305-08, dated 26th November, 2014, Ann A. Upon departmental appeal, the dismissal order was subsequently upheld by appellate authority order, dated 9th March, 2015, which order was communicated to the appellant on 6th April, 2015, Ann B.
6. Appellant is a civil servant; other available remedies were availed of within the statutory bounds; therefore, this appeal is well within the competence of this Hon'ble Tribunal.
7. Aggrieved of both the orders, *ibid*, the appellant prefers this appeal, *inter alia*, on these grounds:

Legitimate Grounds

The entire disciplinary proceedings being based on **conjectures and surmises**, are void as an act of *mala fide* on the part of respondents; **THEREFORE**, the impugned orders are not sustainable:

- A. The original impugned order, dated 26th November, 2014 says, "Enquiry Officer, Mr Saleem Riaz Khan, DSP, HQrs, Charsadda was nominated for conducting departmental enquiry against appellant" as to the effect of his absence. **INFACT:**
 - (i) No documentary evidence could be produced to the satisfaction of this Hon'ble Commission that Mr Saleem Riaz Khan, DSP, HQrs, Charsadda was ever nominated

as enquiry officer for conducting departmental enquiry against appellant" as to the effect of his absence.

- (ii) NO PROOF has been shown that appellant was ever associated with enquiry proceedings, if any. Infact, impugned order is based on personal opinion of terminating authority.
- (iii) The impugned order, dated 26th November, 2014 and the charge sheet of absence are not in agreement with each-other; therefore it is not a speaking order; rather it is bad in the eyes of law.
- (iv) Charge sheet is defective; which could not be made use of to award any punishment.


B. Final impugned order, dated 9th March, 2015 which was received at the appellant's end on 6th April, 2015 has been passed in a mechanical way; without any application of judicial mind. Infact:

- (i) The appellant's termination is an outcome of erroneous considerations; he has been victimized for his brother being involved in criminal activities and which charges had never been a part of original impugned order. Such punishment is not permissible in law.


C. To clarify his position on evidence etc, if any, no copy of the so-called inquiry was ever provided. Thus, mandatory provision was violated.

Prayer

*GIVEN the above illegalities in proceedings, this Hon'ble Tribunal is most humbly requested that the impugned orders, dated 26th November, 2014 and of 9th March, 2015 may kindly be set at naught by passing an order to the effect of appellant being reinstated on his previous **position - prior to the impugned order**, unconditionally; to promote the concept of good governance.*


Appellant

Through Counsel


(Fazli Mahmood)
Advocate, Peshawar

**Before The Khyber Pakhtunkhwa Province
Service Tribunal, Peshawar.**

Appeal No..... 2014

Babar Khan,
Vs
DPO, Charsadda & others

Service Appeal Under Sec 4,
Service Tribunal Act, 1973

Affidavit

Honourable Tribunal,

1, I, Babar Khan, Ex-constable, service No 666, Charsadda, the appellant solemnly affirm and state on oath at Peshawar on this 9th day of April, 2015 that the contents of appeal and other accompaniments are true and correct to the best of knowledge and belief; and that at present no appeal against this impugned orders does lie before any other forum.

Verification

2. Verified on oath at Peshawar on this 9th day of May, 2014 that the contents of the affidavit are true and correct.


Appellant

Identified by


(Fazli Mahmood)
Advocate



ORDER

B-7 Ann A

This order will disposed off the departmental enquiry against Constable Babar No. 666, while posted at Police Lines Charsadda, absented himself from his lawful duty w.e from 28.07.2014 to 11.08.2014 (14-days) & from 11.08.2014 to 02.10.2014 (51-days) and from 06.10.2014 to date without any leave or prior permission from his senior officers, as evident vide DD No 19 dated 28.07.2014, dated 11.09.2014 & 09. dated 06.10.2014. It means that he is habitual absentee which shows his inefficiency, lack of interest in the performance of his official duty.

In the above allegation he was issued Charge Sheet together with statement of allegation under Sub Section 3, Section 5 of Police Rules 1975 Enquiry Officer Mr. Saleem Riaz Khan, DSP HQrs Charsadda was nominated for conducting departmental enquiry against him. The enquiry officer after conducting proper departmental enquiry submitted findings.

Subsequently, Constable Babar No. 666 was issued Final Show Cause Notice U/S 5(3) Police Rules 1975 reply to it was not received so far.

After going through the enquiry papers & recommendation of the enquiry officer, he is hereby awarded the Major Punishment of dismissal from service with immediate effect and his period of absence also counted as without pay.

O.B No 1597

Date 25/11/2014

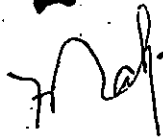
No 2305-08 /HC, dated Charsadda the 26/11/2014

Copy for information and necessary action to the:-

1. Pay Officer/OASI
- ✓ 2. EC/FMC


District Police Officer,
Charsadda

ATTESTED



8

Ann. B

ORDER.

This order will dispose-off the appeal preferred by Ex-Constable Babar No. 666 of Charsadda District Police against the order of District Police Officer, Charsadda, wherein he was dismissed from service vide District Police Officer, Charsadda OB No. 1597 dated 25.11.2014.

Brief facts of the case are that, he while posted at Police Lines, Charsadda absented himself from his lawful duty with effect from 28.07.2014 to 11.08.2014 (14 days), from 11.08.2014 to 02.10.2014 (51 days) and from 06.10.2014 to the date of dismissal without any leave or prior permission from his senior officers, it means that he is habitual absentee which shows his inefficiency lack of interest in the performance of his official duty.


In this regard departmental enquiry was initiated against him and charge sheet alongwith with summary of allegation was issued and the then Deputy Superintendent of Police, Headquarter, Charsadda Mr. Saleem Riaz Khan was nominated as enquiry Officer with the direction to conduct proper departmental enquiry into the allegations who after following the formalities recommended him for major punishment. It may be added here that the appellant did not join the enquiry proceeding despite repeated summons to him by enquiry Officer. He was also issued Final Show Cause Notice by the District Police Officer, Charsadda reply whereof has not been submitted by the appellant.

It is also worth to mention here that brother of accused Constable is a notorious criminal and involved in case FIR No. 303 dated 15.06.2014 u/s 17(3) Haraba PS Charsadda. Further this fact cannot be discarded that the accused Constable Babar is a criminal mind person and is closely associated with car lifters including his brother which was charged in the above stated case and duly proved in the enquiry. That his practices reflect bad impact upon the services of other discipline officials. Moreover he is a black stigma on the Police department.

I have perused the record and also heard the appellant in Orderly Room held in this office on 04.03.2015, but he failed to justify his absence and could not produce any cogent reason about his absence, he is a habitual absentee. Therefore, I MUHAMMAD SAEED Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal and do not interfere in the order passed by the competent authority, thus the appeal is filed forthwith.

ORDER ANNOUNCED

ATTESTED


(MUHAMMAD SAEED)PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan.

No. 1534 /ES, Dated Mardan the 9-3- /2015.

Copy to District Police Officer, Charsadda for information and necessary action w/r to his office Memo: No. 121/LB dated 20.02.2015.

محترم مہتاب ڈیپوٹ انسپکٹر جنرل صاحبت سردان سرکل

Annex B1

8A

اپیل کے بحال ملازمت

مہتاب عالی !

سائل / اپیلانٹ حسب ذیل عمر و رسالہ ہے

۱۔ یہ کہ آج سائل / اپیلانٹ کو معلوم ہوا کہ اپیلانٹ کو فونکری سے درخواست کیا گیا ہے

۲۔ یہ کہ سائل / اپیلانٹ کو یقینہ کسی ایکو اٹری اور بقید کسی وجہ کے ملازمت سے فارغ کیا گیا ہے

لہذا آپ صاحبان سے اپیل کہ جاتی ہے

کہ سائل / اپیلانٹ کو ملازمت پر بحال کیا جائے

سائل / اپیلانٹ

آریکاتا کبدر

مادرخان کنٹیل 666

ضلع چارسدہ

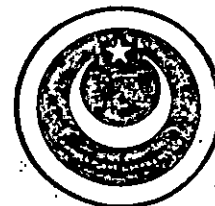
ATTESTED

9

Ann. C

B-267

Ann. C



KHYBER PUKHTOONKHWA POLICE Commendation Certificate

Class-III

Granted to FC Babar No.666 P.S Charsadda.

Son of _____ Resident of _____ Village _____
Police Station Charsadda. District _____

in recognition of His excellent performance of duty, arrested accused involved in heinous cases & recovered 10-Hand Grenades vide case FIR No.439 dt:4-4-2011 u/s 5-ESA & FIR No.463 dt: 11-4-2011 u/s 365-A PS Charsadda, with cash reward Rs.500/- only.

O.B No 992

Dated 22-06-2011

Distt: Police Officer
Charsadda

Hand Attested

Ann. D

10

Handwritten signature

ATTESTED



Ann. D

Babar

KHYBER PUKHTOONKHWA POLICE Commendation Certificate

Class-III

Granted to Constable Babar Khan No. 666 P.S Charsadda.

Son of _____ Resident of _____ Village _____
Police Station Charsadda. District _____

in recognition of His excellent performance of duty, arrested the accused involved in heinous cases, recovered heavy weapon & the snatched motor car from their possession, with cash reward Rs. 300/- only...

O.B No 301

Dated 14-03-2011

Signature
Distt. Police Officer
District Police Office
Charsadda

Am. 2



Am. 2

N.W.F.P. POLICE CHARASADDA

Commendation Certificate Class-III

Granted to _____

Son of _____ Resident of _____ Village _____

Police Station _____ District _____

in recognition of _____

Dated 23-2-50

The D. & S. 203

Dist. Police Officer

Charasadda

[Signature]

Am. 2

DETENTION

21

21

Ann. E

Bonty

Ann. E



KHYBER PUKHTOONKHWA POLICE

Commendation Certificate

Class-III

Granted to Constable Babar Khan No.666 P.S Charsadda.

Son of _____ Resident of _____ Village

_____ Police Station Charsadda. District

in recognition of His excellent performance of duty, arrested the accused

involved in case FIR No.1332 dated 29-8-2011 u/s 460-PPC PS Charsadda
& recovered 01-Kalashinkove, 01-Repeater, 04-Pistols (weapon of offence)
with cashreward Rs.300/- only.

O.B No 1297

Dated 16.8.2011.

Saul
Distt: Police Officer

Charsadda
Distt: Police Officer

ATTESTED

M. J. Khan

12
13
Ann F

ATTESTED

H. Jafar



KHYBER PUKHTOONKHWA POLICE Commendation Certificate Class-III

Ann. F
W. J. J.
with cert. 07/11
Ca.
07/11

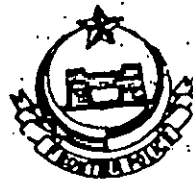
Granted to H.C Baber Khan No.656 P.S Charsadda.
Son of _____ Resident of _____ Village
_____ Police Station _____ Charsadda. _____ District in
recognition of His excellent performance of duty.

O.B NO _____
Dated _____

Ca.
Distt: Police Officer
Charsadda

Ann. G

Entry



N.W.F.P. POLICE CHARSADDA
COMMENDATION CERTIFICATED
Class III

Granted to Constable Babar Ali No.2286 P. S Charsadda.

Son of _____ Resident of _____ Village,
_____ Police Station, Charsadda. _____ District,

in recognition of His excellent performance of duty, arrested accuse
& recovered the kidnappee in case FIR No.407/2010, u/s 365-A/382
PPG PS Khanmai with cash reward Rs.500/-only.

Dated _____
The _____

[Signature]
Distt: Police Officer
Charsadda.

ATTESTED

[Signature]

13 Ann. G

Ann. H

14/5

ATTESTED

[Handwritten signature]

[Handwritten signature]



Ann. H

KHYBER PUKHTOONKHWA POLICE

Commendation Certificate

Class-III

Granted to Babar No.666

Son of _____ Resident of _____ Village _____

Police Station Charsadda. District _____

in recognition of His excellent performance of during campaign, awarded

CO-III with cash reward Rs.1000/-

O.B No _____

Dated _____

[Signature]
Distt. Police Officer
Charsadda

15 46
Ann. J
ATTESTED

Entry

Ann. J



N.W.F.P POLICE CHARSAKDA

Commendation Certificate
Class-III

Granted to Constable Babar Khan No.6 of P.S Charsadda.

Son of _____ Resident of _____ Village
_____ Police Station _____ Charsadda. _____ District

in recognition of His excellent performance of duty, arrested 03-POs, recovered
Arms/Ammunition and Narcotics during combing gasht on 21-2-2010, with cash reward
Rs.500/- only.

Dated 23-2-2010

The D.B no.203

Bauk,
Distt: Police Officer
District Police Officer
Charsadda

16 17

Ann. J

MINUTES OF THE MEETING FOR CONSIDERATION OF OFFICIATING PROMOTION TO CONSTABLE BABAR KHAN NO. 666 PS CHARSAJDA

The undersigned, held a meeting on 30.01.2012, consulted and examined record of the case u/s 5 Exp: Sub: Act vide FIR No. 590, dated 14.05.2009 PS Charsajda and also attached recommendation roll for Police party including constable Babar Khan vide letter No. 2192/EC, dated 19.05.2009, further supplemented by worthy Capital City Police Officer vide letter No. 11672/EC-I dated 28.08.2009. Record clearly indicates that applicant Babar Khan No. 666 has been shown as acted beyond call of duty, in risk of his life, performed extraordinary/exceptionally. The 02 other officers of the party, have been given incentives while the applicant remained deprived, for reason not recorded.

The Standing order No. 06/2008 clearly reflects that an officer showing exceptional performance/gallantry beyond the call of duty, he/they are entitled to be given accelerated/out of turn promotion.

In circumstances, the applicant constable deserves step up promotion, therefore this committee recommends that his case be forwarded to the competent authority for step up promotion. in accordance with provision (commitment), contained in the Standing Order No. 06/2008..

ll
Mr. Shahid Ahmad
DSP Tangi

ATTESTED

M Raf
Sir,

P3
Mr. Muhammad Saad
DSP Legal

Constable Babar Khan No. 666
was recommended by Committee
for step up promotion.

Submitted for further

Yes. d. -

orders etc.

Shahid
for

2/2/12

w/ DFO et al's

17 18 Ann. K

Government of Khyber Pakhtunkhwa
Office of the District Police Officer
Charsadda

DISCIPLINARY ACTION UNDER KPK POLICE RULES -1975

I, Shafiullah Khan, District Police Officer Charsadda, as competent authority am of the opinion that Constable Babar No. 666 has rendered himself liable to be proceeded against as he has committed the following acts/omissions within the meaning of section -02 (iii) of KPK Police Rules-1975.

STATEMENT OF ALLEGATIONS

That he Constable Babar No. 666, while posted at PS Prang, his brother namely Amir s/o Sarwar r/o Kuladher is a notorious criminal and also involved in case vide FIR No. 303 dated 15.06.2014 u/s 17(3) Haraba PS Charsadda. He was arrested by the local Police of PS Charsadda and the stolen property was recovered from his possession, he being a member of discipline force support him and also pressurize the complainant party for compromise. His act is highly objectionable. This shows his inefficiency, lack of interest in the performance of his official duty.

This amounts to grave misconduct on his part, warranting Departmental action against him.

For the purpose scrutinizing the conduct of the said official Mr. Saleem Riaz Khan DSP HQrs Charsadda is hereby deputed to conduct proper departmental enquiry against the aforesaid official, as contained in section -6 (I) (a) of the afore mentioned rules. The enquiry officer after completing all proceedings shall submit his verdict to this office within stipulated period of (10) days. Constable Babar No. 666, is directed to appear before the enquiry officer on the date, time and place fixed by the later (enquiry officer) a statement of charge sheet is attached herewith.


District Police Officer,
Charsadda


No. 1508-9 /HC

Dated Charsadda the 22-7 /2014.

Copies for Information to the:

1. Saleem Riaz Khan DSP Hqrs Charsadda
2. SHO PS Prang

ATTESTED



CHARGE SHEET UNDER KPK POLICE RULES 1975


18

I SHAFIULLAH KHAN, District Police Officer Charsadda, as competent authority hereby charge you **Constable Babar No. 666** as follows.


That you **Constable Babar No. 666**, while posted at PS Prang, your brother namely Amir s/o Sarwar r/o Kuladher is a notorious criminal and also involved in case vide FIR No. 303 dated 15.06.2014 u/s 17(3) Haraba PS Charsadda. He was arrested by the local Police of PS Charsadda and the stolen property was recovered from his possession, you being a member of discipline force support him and also pressurize the complainant party for compromise. Your act is highly objectionable. This shows your inefficiency, lack of interest in the performance of your official duty.

This amounts to grave misconduct on your part, warranting Departmental action against you as defined in section-6(1) (a) of the KPK Police Rules 1975.

1. By reason of the above, you appear to be guilty of misconduct under section 02(III) of the KPK Police Rules 1975 and has render your self liable to all or any of the penalties as specified in section 04 (I) a & b of the said rules.
2. You are therefore, directed to submit your written defense within seven days of the receipt of this Charge Sheet to the Enquiry Officer.
3. Your written defense, if any should reach to the enquiry officer within the specified period, in case of failure, it shall be presumed that you have no defense to put-in and in that case an ex-parte action shall follow against you.
4. Intimate, whether you desired to be heard in person.


District Police Officer,
Charsadda

ATTESTED



CHARGE SHEET UNDER KPK POLICE RULES 1975

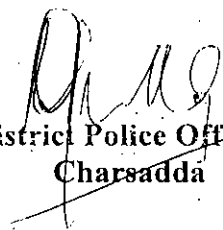
20 . 19
Ann. 2

I SHAFIULLAH KHAN, District Police Officer Charsadda, as competent authority hereby charge you **Constable Babar No. 666** as follows.

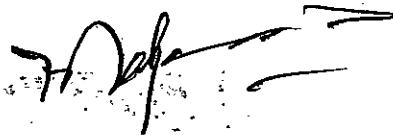
That you **Constable Babar No. 666**, while posted at Police Lines Charsadda, absented yourself from lawful duty w.e from 11.08.2014 to date without any leave or prior permission from your senior officers, as evident vide DD No. 31, dated 11.08.2014. This shows your inefficiency, lack of interest in the performance of your official duty.

This amounts to grave misconduct on your part, warranting Departmental action against you as defined in section-6(I) (a) of the KPK Police Rules 1975.

1. By reason of the above, you appear to be guilty of misconduct under section 02(III) of the KPK Police Rules 1975 and has render your self liable to all or any of the penalties as specified in section 04 (I) a & b of the said rules.
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3. Your written defense, if any should reach to the enquiry officer within the specified period, in case of failure, it shall be presumed that you have no defense to put-in and in that case an ex-parte action shall follow against you.
4. Intimate, whether you desired to be heard in person.


District Police Officer,
Charsadda

ATTESTED



Government of Khyber Pakhtunkhwa
Office of the District Police Officer
Charsadda

20

DISCIPLINARY ACTION UNDER KPK POLICE RULES -1975


I, Shafiullah Khan, District Police Officer Charsadda, as competent authority am of the opinion that Constable Babar No. 666 has rendered himself liable to be proceeded against as he has committed the following acts/omissions within the meaning of section -02 (iii) of KPK Police Rules-1975.

STATEMENT OF ALLEGATIONS

That he **Constable Babar No. 666**, while posted at Police Lines Charsadda, absented himself from lawful duty w.e from 11.08.2014 to date without any leave or prior permission from his senior officers, as evident vide DD No. 31, dated 11.08.2014. This shows his inefficiency, lack of interest in the performance of his official duty.

This amounts to grave misconduct on his part, warranting Departmental action against him.

For the purpose scrutinizing the conduct of the said official **Mr. Raza Muhammad Khan DSP Charsadda**, is hereby deputed to conduct proper departmental enquiry against the aforesaid official, as contained in section -6 (I) (a) of the afore mentioned rules. The enquiry officer after completing all proceedings shall submit his verdict to this office within stipulated period of (10) days. Constable Babar No. 666 is directed to appear before the enquiry officer on the date, time and place fixed by the later (enquiry officer) a statement of charge sheet is attached herewith.


District Police Officer,
Charsadda

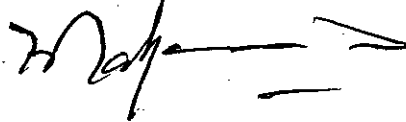
No. 1786-87 /HC

Dated Charsadda the 04-09 /2014.

Copies for Information to the:

1. Raza Muhammad Khan DSP Charsadda
- ✓ 2. R.I Police Lines Charsadda

ATTESTED



21

WAKALATNAMA

Wing Commander (Retd)

FAZLI MAHMOOD, Advocate High Court,
B.Sc (Hons), I.T Cum Supervisory Course, M.A. (Eco), LL.B., Certificate in Sharia,
Certificate of Proficiency in Enhanced Legal Skills (Sponsored by Embassy of Germany),
Certificate on International Protection Organized by UNHCR for Lawyers,
Certificate Course Organized by National Democratic Institute for International Affairs,
Advisor on Industrial Agreements, and Industrial Relation Consultant,
Management and Labour Laws Practitioner.

**Before The Khyber Pakhtunkhwa Province
Service Tribunal, Peshawar.**

Appeal No..... 2014

Babar Khan, Ex Constable,
Vs
DPO, Charsadda & Others

**Service Appeal Under Sec 4,
KPK Service Tribunal Act, 1974**

Mr. Fazli Mahmood, Advocate, is hereby empowered to institute, conduct, defend, compound, or abandon the legal proceedings, and to do on my behalf all other matters connected with the case before this Hon'ble Forum. Ab initio responsibility for keeping abreast of the case and attend thereto shall, however, lie upon the undersigned. Dismissal in default or for non-prosecution shall not, in any way, be attributed to the counsels. Wakalatnama was read over to me and I fully understood the contents thereof; and were found to the entire satisfaction of mine.


Appellant

I hereby accept the case.


(Fazli Mahmood)
Advocate, Peshawar.
Cell # 0314 907 2882

Before KPK Service Tribunal, Peshawar

S. Appeal no. 2015


Daber, ex-constable
vs

DDP Chasadda & others


Receipt of Rs. 1000/- as fine

Hon'ble Tribunal,

It is submitted that Rs. 1000/-
fine by this Hon'ble Tribunal on
last date has been received.


(FAZLI MAMMAD)
Advocate

10 Feb, 2016

Accepted

10.02.16

BEFORE THE HONOURABLE KPK SERVICES TRIBUNAL PESHAWAR

**Babar Khan s/o Sarwar Khan, Ex-Constable No. 666 r/o Ghula Dher PS Charsadda,
District CharsaddaAppellant**

VS

DPO etc:Respondents

**Reply/Parawise comments on
Behalf of Respondent No. 1
to 3 in appeal No. 314/2015.**

Respectfully Sheweth:

Preliminary Objections:

1. That the appeal of appellant is not maintainable in the present form.
2. That appellant has not approached this Hon'ble court with clean hands.
3. That appellant has suppressed actual facts/factual position from this Hon'ble Court.
4. That the appeal of appellant is not based on facts.
5. That the appeal of appellant is bad for non-joinder of necessary parties.
6. That the appellant is estopped by his own conduct to file the present appeal.

Reply on facts:

1. Para-1, relates to record, hence no comments.
2. Para-2, incorrect, commendation certificates cannot be made as a ground for exoneration if an official is charged for only illegal act or misconduct.
3. Para-3, incorrect, the appellant was charge sheeted on 04.09.2014, on account of long absence from duty without permission from his seniors, which is evident from DD No. 31 dated 11.08.2014.
(a) In the above allegations he was charge sheeted & DSP HQrs Charsadda Mr. Saleem Riaz Khan was nominated as enquiry officer for conducting proper departmental enquiry. It may also be added here that the appellant brother is a notorious criminal and also involved in several cases like in case FIR No. 303 dated 15.06.2014 u/s 17(3) Haraba PS Charsadda. The stolen property was also recovered from his possession. It is believed that the appellant is a criminal minded person and is closely associated with car lifters including his brother.
4. Para-4, incorrect, he was served upon charge sheet of absence. Absence report is evident from DD No. 31 dated 11.08.2014 and DSP HQrs was nominated as enquiry officer.
5. Para-5, incorrect, the appellant was repeated summoned by the enquiry officer but despite repeated summons, he (appellant) did not join the enquiry proceeding, subsequently, final show cause was also issued to the appellant, but the reply was not received. Therefore he was dismissed from service in accordance with law.

6. Para-6, needs no comments.
7. The appellant has got no cause of action to file instant appeal.


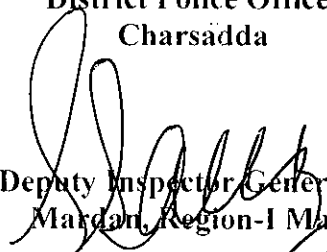
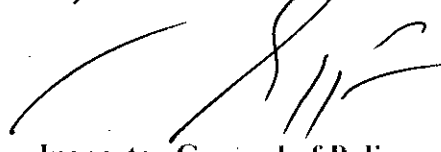
Legitimate Grounds:

The entire disciplinary proceedings being based on merit and accordance with the law and the order passed by the authority is sustainable.

- A. Correct to the extent that DSP Hqrs Mr. Saleem Riaz Khan was nominated as enquiry officer against the appellant on the charges of long absence.
 - (i) Incorrect, all the relevant evidence is annexed to the satisfaction of this Hon'able Court.
 - (ii) Incorrect, despite repeated summons to the appellant by the enquiry officer but the appellant did not bother to join the enquiry proceedings.
 - (iii) Incorrect, the order dated 26.11.2014 and the charge of absence are speaking & well reason order.
 - (iv) Incorrect, the charge sheet alongwith summary of allegation was issued vide Endst: No.1786-87/HC dated 04.09.2014.
- B. Incorrect, the order dated 09.03.2015 is in accordance with the law, rules & policy.
 - (i) Incorrect, the appellant was dismissed from service, only on the charge of absence and on the recommendation of enquiry officer.
- C. Incorrect, to clarify the position of appellant inquiry report will be submitted before the Hon'able Court.

It is therefore humbly prayed that the instant appeal, being without substance, unmerited and may be dismissed with cost.

Respondents:

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

*Before The Khyber Pakhtunkhwa Province Service
Tribunal, Peshawar.*

Appeal No314/2015

*Babar Khan,
Vs
DPO, Charsadda & others*

Rejoinder To Written Reply By Respondents

Hon'ble Tribunal:

Preliminary Objections:

1. *All the preliminary objections being not maintainable, are specifically denied and refused.*

On Facts & Legitimate Grounds:

2. *To ensconce itself, written statement by Respondents is a web of paradoxes: However, the admitted issues are:*
 - (a) *Para 3& 4 of the (facts) and B(i) of the (legitimate Grounds): If they are read with Ann L at page 19 of appeal, appellant was dismissed from service on a charge of a single day absence, that is, 11th August, 2014.*
 - (b) *Admittedly, no enquiry could be shown ever held by Saleem Riaz Khan, DSP Hqs, Charsadda on the charges of absence.*

3. *Whereas, in contrary, vide Ann A, page 7 of appeal, appellant was dismissed from service on account of 110 days,*
4. *On the other, the original order, ibid, of appellant's dismissal from service was upheld by appellate authority, vide final order, Ann B at page 8; with the improvement in charges that appellant is a criminal mind person and is a black stigma on police department.*
5. *Follows from the facts above, it can confidently be said that:*
 - (a) *Appellant was dismissed from service only on the charges of a single day absence;*
 - (b) *Dismissal without having conducted any regular inquiry, is the outcome of mala fide on the part of police authorities; and,*
 - (c) *Final order is based on extraneous consideration, beyond the terms of charge sheet; thus impugned orders are coram non judice.*

Prayer

The written statement is requested to be taken out of consideration, and case may kindly be decided on the contents made in service appeal.

[Signature]
Appellant,

Through Counsel:

[Signature]
Fazli Mahmood,
Advocate

27th May, 2016

ATTESTED

