

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 1206/2020

Date of Institution ... 26.02.2020

Date of Decision ... 16.12.2021

Minhaj Hussain, Ex-Constable No. 1295, Police Lines, Swabi.

... (Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and two others.

... (Respondents)

MR. TAIMUR ALI KHAN,
Advocate

--- For appellant.

MR. KABIRULLAH KHATTAK,
Additional Advocate General

--- For respondents.

MR. SALAH-UD-DIN
MR. ATIQ-UR-REHMAN WAZIR

--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:-

Precise facts forming the background of the instant service appeal are that the appellant while posted in Police line Swabi absented himself from duty without any leave or permission of the competent Authority, therefore, disciplinary action was taken against him. On conclusion of the inquiry, the appellant was dismissed from service vide impugned order dated 30.04.2019. The departmental appeal of the appellant was also filed vide order dated 20.06.2019. The appellant then filed revision petition before Inspector General of Police Khyber Pakhtunkhwa Peshawar, which was also rejected vide order dated 06.01.2020, however the penalty of dismissal from service was converted into



removal from service. The appellant has now approached this Tribunal through filing of the instant service appeal for redressal of his grievance.

2. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions made by the appellant in his appeal.

3. Learned counsel for the appellant has contended that the appellant was suffering from acute hemorrhoid, therefore, he was unable to attend his duty; that the inquiry officer has also affirmed the fact of illness of the appellant in his inquiry report, therefore, the absence of the appellant cannot be considered as willful; that final show-cause notice was though issued to the appellant, however copy of the inquiry report has not been provided to him, therefore, the appellant was unable to properly defend himself; that no opportunity of cross-examination of the witnesses was provided to the appellant and the inquiry was conducted in sheer violation of mandatory provisions of Police Rules, 1975. In the last he requested that the impugned orders may be set-aside and the appellant may be reinstated in service with all back benefits.

4. On the other hand, learned Additional Advocate General for the respondents has contended that the appellant had willfully remained absent from duty without any leave or permission of the competent Authority, therefore, he was guilty of misconduct; that a regular inquiry was conducted in the matter by complying all legal and codal formalities; that the medical documents produced by the appellant in support of his stance of illness were found fake on verification; that the impugned orders have been passed in accordance with law, therefore, the same may be kept intact and the appeal in hand may be dismissed with costs.

5. We have heard the arguments of learned counsel for the appellant as well as learned Additional Advocate General for the respondents and have perused the record.

6. A perusal of the record would show that allegations against the appellant were that he had willfully remained absent from

duty with effect from 02.06.2018 to 24.07.2018 and 17.08.2018 to 27.09.2018 without any leave/prior permission of the competent Authority. Charge sheet as well as statement of allegations were issued to the appellant and a regular inquiry was conducted into the matter. The appellant has taken stance that his absence was on account of his illness, however the medical documents so produced by him were found fake on verification from the concerned quarter. It is not disputed that the appellant remained absent from duty without any leave/permission, however inquiry officer has mentioned in his findings that the appellant was suffering from hemorrhoid. Moreover, the appellant was enlisted as Constable in Police Department in the year 2008 and is having considerable service at his credit. Although the charge of absence from duty is proved from the record as the appellant remained absent from duty without any sanctioned leave or prior permission of the competent Authority, however in the given circumstances, the penalty awarded to the appellant is too harsh and does not commensurate with the gravity of the misconduct committed by him.

7. In light of the above discussion, the appeal in hand is partially accepted and the impugned orders are modified by converting major penalty of dismissal from service into minor penalty of stoppage of annual increments for three years without cumulative effect. The appellant stands reinstated into service, however the absence period as well as intervening period shall be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
16.12.2021


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


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

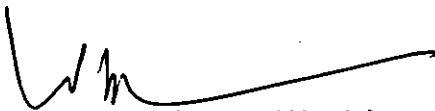
Service Appeal No. 1206/2020


ORDER
16.12.2021

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is partially accepted and the impugned orders are modified by converting major penalty of dismissal from service into minor penalty of stoppage of annual increments for three years without cumulative effect. The appellant stands reinstated into service, however the absence period as well as intervening period shall be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
16.12.2021


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


(Salah-Ud-Din)
Member (J)

29.06.2021

Mr. Taimur Ali Khan, Advocate for the appellant present. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Fazle Subhan H.C for the respondents present.

We being Members of Larger Bench, remained busy in hearing arguments in the appeals fixed before the Larger Bench, therefore, arguments in the instant appeal could not heard. Adjourned. To come up for arguments before the D.B on 07.10.2021



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



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

07.10.2021

Appellant alongwith his counsel present. Mr. Muhammad Rashid, DDA for respondents present.

Learned counsel for the appellant requested for adjournment as he has not prepared the brief. Granted. To come up for arguments on 16.12.2021 before the D.B.



(Mian Muhammad)
Member(E)




Chairman

28.10.2020

Appellant in person present.

Mr. Kabir Ullah Khattak learned Additional Advocate General
alongwith Fazal Subhan H.C for respondents present.

Written reply on behalf of respondents submitted. To come
up for rejoinder, if any, and arguments on 05.01.2021 before
D.B. ✓

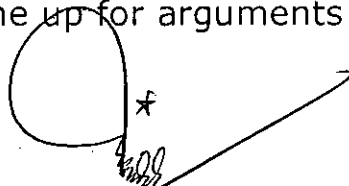


(Rozina Rehman)
Member (J)

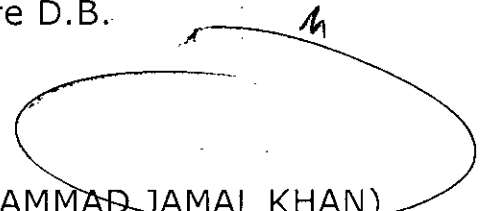
05.01.2021

Mr. Taimur Ali Khan, Advocate, for appellant is
present. Mr. Kabirullah Khattak, Additional Advocate
General, for the respondents is also present.

Learned counsel for appellant submitted rejoinder and
requested for time for arguments. Rejoinder is placed on
file. The appeal is adjourned to 29.03.2021 on which date
file to come up for arguments before D.B.



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

29.03.2021

The concerned D.B is not available today, therefore, the
appeal is adjourned to 29.06.2021 for the same.



Reader

08.07.2020

Counsel for the appellant present. Arguments heard and record perused.

Contends that the appellant joined Police Force in the year 2008. He got Hemorrhoid and was advised complete bed rest, therefore, remained absent on different occasions. He was charge sheeted, inquiry was conducted and ultimately, was dismissed from service. It was submitted that no proper opportunity of defense was provided to the appellant and he was condemned unheard.

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal exceptions. The appellant is directed to deposit security and process fee within 10 days. Notice be issued to the respondents. To come up for written reply/comments on 03.09.2020 before S.B.

Appellant Deposited
Security & Process Fee

Member (J)

03.09.2020

Counsel for the appellant and Addl. AG for the respondents present.

Learned AAG seeks time to furnish reply/comments of the respondents. Adjourned to 28.10.2020 on which date the requisite reply/comments shall positively be furnished.




Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1206 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	26/02/2020	<p>The appeal of Mr. Minhaj Hussain presented today by Mr. Taimur Ali Khan Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR 26/2/2020</p>
2-	02/03/20. 13.04.2020	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>13/04/2020</u></p> <p style="text-align: right;"> MEMBER</p> <p>Due to public holiday on account of COVID-19, the case is adjourned to 08.07.2020 for the same. To come up for the same as before S.B.</p> <p style="text-align: right;"> Reader</p>

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1206/2020

Minhaj Hussain

V/S

Police Deptt:

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S. No.	Documents	Annexure	P. No.
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04	Copy of reply to charge sheet	C	13
05	Copy of inquiry report	D	14-15
07	Copy of order dt: 30.04.2019	E	16
08	Copy of departmental appeal	F	17
09	Copy of order dt: 20.06.2019	G	18
10	Copy of revision	H	19
11	Copy of order dt: 06.01.2020	I	20
12	Vakatlama	-----	21

APPELLANT

THROUGH:


(TAIMUR ALI KHAN)

ADVOCATE HIGH COURT


(ASAD MAHMOOD)

ADVOCATE HIGH COURT

Room No. FF-17, 5th Flour,
Bilour plaza, Peshawar cantt:
Cell# 0333-9390916

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1206/2020

Khyber Pakhtunkhwa
Service Tribunal

Case No. 1351

Dated 26/2/2020

Minhaj Hussain, Ex-Constable, No.1295,
Police Lines, Swabi.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Mardan Region, Mardan.
3. The District Police Officer, Swabi.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 06.01.2020 RECEIVED BY THE APPELLANT ON 10.02.2020 WHEREBY THE REVISION OF THE APPELLANT FOR REINSTATMENT HAS BEEN REJECTED AND AGAINST THE ORDER DATED 20.06.2019 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED AGAINST THE ORDER DATED 30.04.2019, WHEREIN MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE WAS IMPOSED UPON THE APPELLANT, FOR NO GOOD GROUNDS.

Filed to-day

26/2/2020

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 06.01.2020, 26.06.2019 AND 30.04.2019 MAY KINDLY BE SET ASIDE AND THE RESPONDENTS MAY BE DIRECTED TO REINSTATE THE APPELLANT WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWTH:

FACTS:

1. That the appellant joined the police force in the year 2008 and has completed all his due training etc and performed his duty with great devotion and honesty, whatsoever assigned to him and also have good service record throughout.
2. That the appellant was suffering from hemorrhoid due to which he went to different hospitals for treatment and the doctors advised him complete bed rest on several times and he also informed about the concerned Muharrar due to which he was unable to perform his duty and remained absent from different on different occasions. **(Copy of medical prescriptions are attached as Annexure-A)**
3. That charge sheet was issued to the appellant in which he gave the reason of his absence that he was ill several times and was unable to perform his duty due to that illness. **(Copies of charge sheet and reply to charge sheet are attached as annexure-B&C)**
4. That inquiry was conducted against the appellant by SDPO Swabi on 02.07.2018, however another inquiry was conducted against the appellant in which no proper opportunity of defence was provided to the appellant as neither statement of Muharrar was recorded in the presence of the appellant nor gave him opportunity of cross examination of Muharrar, however the inquiry officer admitted in his finding that the undersigned was made satisfied that the appellant has been suffering from hemorrhoid and the medical reports seems to be genuine. **(Copy of inquiry report is attached as Annexure-D)**
5. That without issuing show cause notice, the penalty of dismissal from service was imposed upon appellant on 30.04.2019 without observing the illness of the appellant. **(Copy of order dated 30.04.2019 is attached as Annexure-E)**
6. That against the dismissal order dated 30.04.2019, appellant filed departmental appeal on 06.05.2019, but the same was also rejected for no good ground on 20.06.2019. Then he filed revision under rule 11-A of police rules 1975 which was also rejected on 06.01.2020, which was received by the appellant on 10.02.2020 along with other documents. **(Copies of departmental appeal, order dated 20.06.2019, revision and order dated 06.01.2020 are attached as Annexure-F,G,H&I)**

7. That now the appellant come to this august Service Tribunal for redressal of his grievance on the following grounds amongst others.

GROUND:

- A. That the impugned order dated 06.1.2020, 20.06.2019 and 30.04.2019 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B. That no action has taken on the first inquiry and another inquiry was conducted against the appellant in which no proper opportunity of defence was provided to the appellant as neither statement of Muharrar was recorded in the presence of the appellant nor gave him opportunity of cross examination of Muharrar, however the inquiry officer admitted in his finding that the undersigned was made satisfied that the appellant has been suffering from hemorrhoid and the medical reports seems to be genuine. But despite that he was dismissed from service.
- C. That in the impugned dismissal order it was mentioned that the medical report submitted by the appellant was fake and bogus, but for genuineness of medical report/illness of the appellant it was necessary that proper medical board should be arranged and through that medical report the appellant should be medically examined.
- D. That no show cause notice was issued to the appellant before passing the impugned order, which is violation of law and rules.
- E. That the appellant has been condemned unheard and has not been treated according to law and rules.
- F. That the penalty of dismissal from service is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law.
- G. That the appellant did not intentionally absent from his duties, but he was ill due to which he was unable to perform his duty. As the illness is beyond the control of human, therefore the appellant was compel to remain absent from his duties.
- H. That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

Minhaj
APPELLANT
Minhaj Hussain

THROUGH:

Taimur
(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

&

Asad
(ASAD MAHMOOD)
ADVOCATE HIGH COURT

A
5



SERVICES HOSPITAL PESHAWAR
GOVERNMENT OF KHYBER PAKHTUNKHWA
OPD REGISTRATION

RS-101

Name MUSHAH HUSSAIN Age _____ Sex MALE
Department GENERAL OPD Address PESHAWAR
Hospital Yearly No. _____ Dated 07.06.2018

History

Home Rest for 20 days
Bachache Fistula
Pain Per Rectal
bleeding Tas NA

Clinical Examination

Proctoscopy Tas Nes
Sept NA
GI GI GI

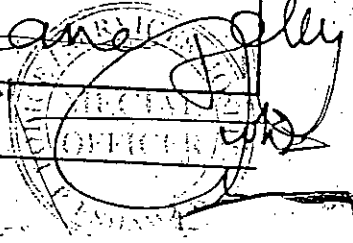
Provisional Diagnosis

OT
GIN foote crea
NA
whp
NA
whp

Investigations
PSWA
in Am

Doctor on Duty

Doctor's Signature



ATTACHED



OUTPATIENT DEPARTMENT (OPD)

Lady Reading Hospital
Medical Teaching Institution,
Peshawar - PAKISTAN

Appointment Time : 10:33

6

Amount Paid : 20.

Invoice No : K02181702254

Invoice Date : 29-JUN-18 09:52:16

IRNo : K0200002832872

Name : MINHAJ HUSSAIN

Father / Husband Name : MUHAMMAD RAFIQ

Gender : Male

Age : 38 Year(s)

District : Nowshera

Visit Type : REGULAR

Clinic : MEDICAL MALE

Room No : 53

Operator : HABIB ULLAH

Counter : MAIN OPD

Complaints:

Fever ever
and
chill +
sweat with

Findings:

Asymptomatic

Rx

Tas Aspirin 1g
1/2

C. 3 171

Tas Aspirin 500

C. 12 171

Investigations:

FBRE mp

Tas Sulfonamide 2
100

- Typhoid

Cab Zovirax 47

- RB

Diagnosis:

- RL
17 MP

MP Aspirin 100

Next Visit:

Consultant Name:

Ad

guzel

Signature of
Medical Officer
Medical OPD
LRH Peshawar

Phone: 9211430

Website: www.lrh.gov.pk

ATTESTED

Wahid Rashid Hussain S/o
Memorial Hospital Pabul
District Nowshera

No.

5124

Dated

20/11/11

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One week as full bed

[Handwritten signature]

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[Handwritten signature]



OUTPATIENT DEPARTMENT (OPD)

Lady Reading Hospital
Medical Teaching Institution,
Peshawar - PAKISTAN

8

Appointment Time : 14:57

Amount Paid : 20

Invoice No : K02181652539

Invoice Date : 25-JUN-18 11:31:59

MRNo : K0200002819526

Name : MINAHAJ HUSSAIN

Father / Husband Name : MOHAMMAD RAFIQ

Gender : Male

Age : 38 Year(s)

District : Peshawar

Visit Type : REGULAR

Clinic : ORTHOPEDICS MALE

Room No : 83

Complaints: RSHAD AHMED

Rx

Ref-84

Courter : MAIN OPD

Findings:

Handwritten notes in Urdu: "کے پاس - نوروں کی" (Ke pas - Noroon ki)

Handwritten note: "21"

Investigations:

Handwritten notes in Urdu: "کے پاس - کالسن - 0" (Ke pas - Kalsan - 0)

Handwritten note: "21"

Diagnosis:

Handwritten notes in Urdu: "کے پاس - موٹا" (Ke pas - Mota)

Next Visit:

Consultant Name:

Signature:

Handwritten signature

Phone: 9211430

Website: www.lrh.gov.pk

ATTENDED

Wazir Kasim Hussain Shah
Memorial Hospital Patul
District Nowshera

No. 5124

Dated 20/11/11

U R C

L
 R
 E.D.M. 30/11
 C.R.S. 20/11
 320
 One week's full bed rest

10

Dated 21/11/11

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 AS ...
 AS ...
 AS ...

[Handwritten notes]
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...
...

[Handwritten notes]
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ACCEPTED

(11)

No. 2035

Dated 21/11/11

M
M. P. P. P.

bed
beds cuff
fixed

PS Myonal Top
C 21 (12)
PS Wonal 8p
C 21 (12)
PS Sajida 30p
C 21 (12)

bed met for
3 days

ADDED

B (12)

CHARGE SHEET

Whereas I am satisfied that formal enquiry as contemplated by Khyber Pakhtunkhwa Police Rules 1975 is necessary and expedient.

And whereas I am of the view that the allegations if established would call for Major/Minor penalty as defined in Rules 4(b) a & b of the aforesaid Rules.

Now therefore as required by Rules 6(1) of the aforesaid Rules I, Syed Khalid Hamdani, PSP,(QPM), District Police Officer, Swabi charge you Constable Menhaj No: 1295 on the basis of statement of allegations attached to this charge sheet.

In case your reply is not received within seven days without sufficient cause it will be presumed that you have no defense to offer and ex-parte action will be taken against you.

[Signature]
District Police Officer,
SWABI.

Certified to be True Copy.

ATTESTED
[Signature]
PIO
District Police Officer, Swabi.

[Handwritten notes and stamps]
DPO Swabi
09.06.18

(13)

بیان اذان کنسیل منہاج حسین نمبر 1295

بدریافت بیان کہ میں مورخہ $2\frac{4}{18}$ تا $24\frac{7}{18}$ اور

$17\frac{8}{18}$ تا $27\frac{9}{18}$ غیر حاضر رہا ہوں عرصہ غیر حاضری

کی وجہ شدید بیماری پیش آئی تھی جسکی میڈیکل

ریسٹ میں نے لی تھی جسکی ضرورت لائٹنگ کو دی

تھی اور ریسٹ بھی دیکھایا تھا۔ عرصہ غیر حاضری

بیماری کیوجہ سے پیش آئی ہے جو حقیقت ہے

سائل کی ضلع صوابی میں تصدیق کے دن سے لیکر اب تک

سائل نے لائٹ لیو/چھٹی نہیں کی ہے۔ اسلئے استریا ہے

کہ عرصہ غیر حاضری لائٹ لیو/چھٹی میں شمار نہیں

اور آئندہ لائٹ صحیح رہے گا

Certified to be True

منہاج
1295
Nihal Hussain

ATTESTED

FIO

District Police Officer, Swabi.

Yusuf

DPO, Swabi
04.06.18

پروانہ

DY: No. 102 IS.
DATED: 18.10.2019.

SUBJECT: DEPARTMENTAL ENQUIRY AGAINST CONSTABLE
Menhaj No. 1295 POLICE LINES, SWABI.

It is submitted that an enquiry against the above named official was entrusted to former SDPO Swabi vide Endst: No. 34/CC/PSO; dated 02.07.2018, which he had conducted once but due to unexpected transfer of the then SDPO, Swabi the subject enquiry remained unprocessed. The same enquiry was put forward to the undersigned on 10.01.2019, allegations of which are as under: -

SUMMARY OF ALLEGATIONS: -

It is alleged that Constable Menhaj No. 1295, while posted to Police Lines Swabi absented himself from duty with effect from 02.06.2018 till date without any leave or prior permission of the competent authority, in this regard, he was issued Show Cause vide this office Endst: No. 322 dated 08.06.2018, despite informing him several times neither he received the Show Cause Notice nor join back his duty, which is highly against the discipline and amounts to gross misconduct,

PROCEEDINGS:-

In this connection, the delinquent constable Menhaj No. 1295 was summoned about his departmental enquiry and called to attend the office of the undersigned. The delinquent constable attended the office and recorded his statement wherein he stated that he has remained absent with effect from 02.06.2018 to 24.07.2018 and 17.08.2018 to 27.09.2018. He added that the period of absence was due to his illness. The delinquent constable added that he was suffering from hemorrhoid. Doctors have advised him bed rest for several times; about which he had also informed Muharrar Police Lines Swabi about and showed him in written. The delinquent official further added that since he has been transferred from District Nowshera and deputed in District Swabi, he has not obtained long leave, it is, therefore, requested that the period of absence may kindly be merged into long leave.

For the purpose of transparent and fair enquiry, Muharrar Police Lines was called to this office; he attended the office and recorded his statement. He stated that the delinquent constable Menhaj No. 1295 was posted on general duty and remained absent from duty with effect from 06.02.2018 to 24.07.2018 and 17.08.2018 to 27.09.2018. He added that the delinquent constable had been transferred from District Nowshera on account of his laxity, lack of interest in official duty and habitual absentee. The defaulter is a habitual absentee and often remains absent from his duty. Muharrar Police Lines Swabi negated the statement of the delinquent regarding medical rest. He further added that neither the

ATTESTED.

PIO
District Police Officer, Swabi

Certified to be True Copy.

DPD Swabi
04.06.18

delinquent has showed any medical rest nor has he informed him about his medical rest.

During the course of enquiry he was reported for absence i.e. 27.12.2018 to 08.01.2019, which is an act of a great disobedience.

FINDINGS: -

The enquiry transpired that the delinquent official has entertained willful absence several times without bringing it into the notice of high ups. The findings of enquiry are as under:

- (I) The delinquent constable remained absent from duty with effect from 20.06.2018 to 24.07.2018, 27.12.2018 to 08.01.2019 and 17.08.2018 to 27.09.2018, without any leave request.
- (II) The undersigned was made satisfied that the delinquent constable has been suffering from hemorrhoid.
- (III) The delinquent constable produced medical reports which were seemingly found genuine and medical rest was allotted by Doctors.
- (IV) The delinquent constable provided medical reports alongwith medical rest about his illness. Number of days in Medical rest reports was tempered for convincing the authority.
- (V) The delinquent official is malingering and not taking interest in official duty.
- (VI) The delinquent constable stated in his statement that he had informed MHC Police lines Swabi about his medical rest. Muharrar Police Lines denied his statement and stated that the delinquent is a habitual absentee and most of the time remains absent.


Certified to be True Copy

RECOMMENDATION:

In the light of above findings, it is concluded that although the delinquent constable Menhaj No. 1295/FC was suffering from illness, he has entertained willful absence for a period of 86 days without any leave request, hence, he is found guilty of misconduct and thereby recommended for Major Punishment.

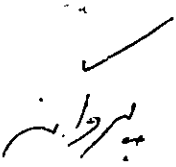

Submitted please.

Encl: (28) pages.


 Sub-Divisional Police Officer,
 SWABI.

ATTESTED

 District Police Officer, Swabi.



 DPO. Swabi
 04.06.18

E (12)



(12-15)

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.

ORDER.

Constable Minhaj No.1295, while posted to Police Lines, Swabi absented himself from duty with effect from 02.06.2018 to 24.07.2018 and 17.08.2018 to 27.09.2018 without any leave/prior permission of competent authority. Therefore, he was issued with Show Cause Notice. He was directed time and again to receive his Show Cause Notice. Therefore, he was served with Charge Sheet and Summery of Allegations and DSP, Swabi was appointed to conduct departmental enquiry against him. The officer conducted enquiry, recorded statements of all concerned, collected evidence and submitted his findings wherein he expressed Constable Minhaj No.1295 guilty for the mis-conduct and recommended him for punishment. The undersigned perused the enquiry papers and findings of the Enquiry Officer and by agreeing with him issued Constable Minhaj No.1295 with Final Show Cause Notice. His reply to the Final Show Cause Notice was received, perused and he was heard in Orderly Room. In response he presented Medical documents of Services Hospital Peshawar and Lady Reading Hospital, Peshawar that his absence was due to illness. His medical documents were sent to the concerned hospitals for verification. Both the hospitals replied vide Memo: No.1763/MS/Admn/2018-19 dated 9.4.2019 and No.7447/LRH/HR-VII dated 25.3.2019 respectively that these are fake and bogus. He was again called in Orderly Room but he failed to give convincing reply.

Certified to be True Copy.

Therefore, I, Syed Khalid Hamdani, PSP, QPM, District Police Officer, Swabi, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules 1975, hereby award Constable Minhaj No.1295, Major Punishment of dismissal from service, with immediate effect. The pay for the period of his absence is hereby deducted from his salary.

O.B No. 355
Dated 30.4 /2019.

(SYED KHALID HAMDANI) PSP, QPM
District Police Officer, Swabi.

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.
No. 961-65 /PA, dated Swabi, the 30/04 /2019.

- Copies to the: -
1. DSP, Swabi.
 2. Pay Officer.
 3. Establishment Clerk.
 4. Fauji Missal Clerk.
 5. Official concerned

Date of Presentation of Application: 10/2/2020
Copying Fee: Nil
Total Page: 18
Name of Copying: Rashid Ali
Date of Completion of: 10-2-2020
Date of Delivery of Copy: 10-2-2020

ATTESTED
[Signature]
District Police Officer, Swabi.

جسٹس (17)

ذرائع سے حاصل کی گئی معلومات

دفعہ 2 برائے 17 - 31

صاحب عالی

گزارشیں جمعہ سہ ماہی 2019ء کے سال سے تعلق رکھنے والی صورتیں

کے درجہ رکھنے والی اور دوران 2019ء میں ایسی صورتیں باقی فوجیں

لیا گیا ہے کہ یہ سہ ماہی جمعہ سہ ماہی سے تعلق رکھنے والی

رہا جس کی وجہ سے صاحب DPO صاحب صلح و صلح کے ذریعے

30/4/19 کو کی گئی ہے یہ صورتیں

سہ ماہی ایک مرتبہ ہوئے ہیں یہ صورتیں اور گورنمنٹ

کے لئے یہ لہذا سہ ماہی کے لئے یہ نظر ثانی کر کے

کیے اور سہ ماہی کو ایک موقع دیا جائے

سہ ماہی صاحب آج کے لئے یہ صورتیں دعا گو رہے گا

NO. 7774/ES

EC/DPO Swabi

From Comments

العلی

سالگرہ کی سبیل فلاح ٹرسٹ 1295

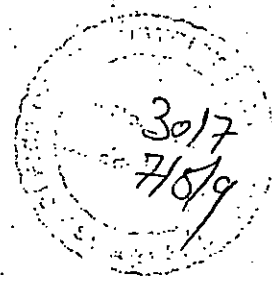
0311-0574690

Maqbool Hussain

Signature

RP/warden

315/19



Signature

EC/OHSI
check record, as to whether
ex-official is posted in this
district previously.

03110574690

Signature
7/5

ORDER

9/18

This order will dispose-off the departmental appeal preferred by Ex-Constable Minhaj No. 1295 of Swabi District Police against the order of the District Police Officer, Swabi, wherein he was awarded Major Punishment of dismissal from Service by the District Police Officer, Swabi vide his office OB: No. 365 dated 30.04.2019.

Brief facts of the case are that the appellant while posted at Police Lines, Swabi absented himself from duty with effect from 02.06.2018 to 24.07.2018 & 17.08.2018 to 27.09.2018 without any leave/prior permission of the competent authority. Therefore he was issued Show Cause Notice. He was directed time and again to receive his Show Cause Notice, but in vain. Therefore, he was served with Charge Sheet and Summary of allegations and Deputy Superintendent of Police, Swabi was appointed to conduct departmental enquiry against him. The Enquiry Officer conducted Enquiry, recorded statements of all concerned, collected evidence and submitted his findings wherein he suggested that Constable Minhaj No. 1295 is found guilty of the misconduct and recommended him for punishment. The District Police Officer, Swabi perused the Enquiry Papers and findings of the Enquiry Officer and by agreeing with him, the delinquent official was served with Final Show Cause Notice to which reply received, perused and also heard in Orderly Room by the District Police Officer, Swabi. In response he produced Medical documents of Services Hospital Peshawar and Lady Reading Hospital, Peshawar that his absence was due to illness. His Medical documents were sent to the concerned Hospitals for verification. Both the Hospitals replied respectively that these are fake and bogus. He was again called in Orderly Room but he failed to convince the competent authority.

Therefore he was awarded Major Punishment of dismissal from service by the District Police Officer, Swabi. The pay for the period of his absence was deducted from his salary.

He was called in orderly room held in this office on 13.06.2019 and heard in person. Due to his lethargic attitude, the appellant got dismissed twice prior to the instant one being habitual absentee. Furthermore, he had no cogent defence for the present long absence for which he has been dismissed by the District Police Officer, Swabi. Therefore, I find no grounds to intervene into the order passed by the District Police Officer, Swabi. Hence field.

Sumit 2019
aimed

APR 24/16

ORDERS ANNOUNCED

Certified to be True Copy.

(Signature)
(MUHAMMAD ALI KHAN)PSP
Regional Police Officer,
Mardan.

Dated Mardan the 20/06/2019.

No. 8975/ES,

Copy to District Police Officer, Swabi for information and necessary action w/r to his office Memo: No. 54/Insp: Legal dated 30.05.2019. His Service Record is returned herewith.

OB/Insp Legal
Ec/Police

(Signature)
24/6

(*****)
510
25/6/19

ATTESTED

(Signature)
District Police Officer, Swabi.

27

19
ذی القعدة 1417ھ

جناب عالی

میں صید مسائل ایک عزیز
گورنمنٹ سے لوج بیماری کیریٹوری
نے سید یعلیٰ کا مذات بیماری کے ساتھ جمع کئے تھے مگر قبول نہ ہو کر
جمع لوزی سے درخواست کیا گیا جو وہ میں گھر کا واحد کنبہ ہوں
اور کوئی دستاویز نہیں ہے۔ میں نے اسے داخل لوزی
کی ہے۔ صحت اور ملنے کے ساتھ کوام اور لوزی اور ان کی خدمت
اور قانون کو کر کے اپنے بچوں کے لئے حلال رزق لایا ہے
اس لئے اہل صاف سے برزلیہ درخواست کا زمانہ اس لئے صید
مجھے اپنی لوزی پر والیہ بحال و بیمار مگر فریادیں مسائل تا حیات

دعا گو رہے گا
الکونین

ایک انکم سالکہ کانٹیل
میں حاجت میں
مستحقہ لوزی لائے گوانی

1295

0311-0574690

Masih Messaie

دستخط

APPROVED



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

I 20

No. S/ 153 /20, dated Peshawar the 06/01/2020.

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-FC Minhaj Hussain No. 1295. The petitioner was dismissed from service by District Police Officer, Swabi vide OB No. 365, dated 30.04.2019 on the allegations of absence from duty w.e.f 02.06.2018 to 24.07.2018 and 17.08.2018 to 27.09.2018 for total period of 03 months & 02 days. He presented medical documents of Services Hospital, Peshawar and Lady Reading Hospital, Peshawar during enquiry which were sent to concerned Hospitals for verification. Both the Hospitals replied vide Memo: No. 1763/MS/Admn/2018-19, dated 09.04.2019 and No. 7447/LRH/HR-VII, dated 25.03.2019 respectively that these are fake and bogus. His appeal was filed by Regional Police Office, Mardan vide order Endst: No. 8975/ES, dated 20.06.2019.

Meeting of Appellate Board was held on 21.10.2019 wherein petitioner was heard in person. During hearing petitioner contended that he was ill.

Perusal of the record reveals that he remained absent for long period of 03 months & 02 days. He has earned 37 bad entries during his service. He was earlier twice dismissed from service in the year 2010 & 2016 on the charges of absence from duty which establishes that he is habitual absentee and there is no prospects of mending his ways. The Board see no ground and reasons for acceptance of his petition, therefore, his petition is hereby rejected. However his penalty of dismissal from service is converted into removal from service.

This order is issued with the approval by the Competent Authority.

Certified to be True Copy.

(ZAIB ULLAH KHAN)
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. S/ 154-160 /20,

Copy of the above is forwarded to the:

1. Regional Police Office, Mardan. One Service Roll alongwith Fauji Missal of the above named Ex-FC received vide your office Memo: No. 11430/ES, dated 24.09.2019 is returned herewith for your office record.
2. District Police Officer, Swabi.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

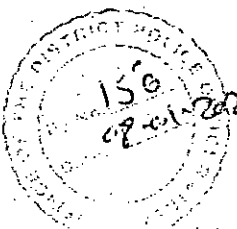
OB/OASi/Ec/PO

F2 m/actw

9
DPO Swabi
08-01-20

OB. No. 30

M. 9-1-2020



ATTESTED

District Police Officer, Swabi.

سرورس ٹریڈ ہیونل لٹشاور

منہاج حسین بنجاب
منہاج حسین بنجاب

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکہ

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

آن مقام لٹشاور کیلئے ایمسورٹیل خان صاحب اور امجد محمود امجدی

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ 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 پرداخت منظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

Accepted
20

المرقوم
ماہ

العہد
مقام
کے لئے منظور ہے۔

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 1206/2020.

Minhaj Hussain Ex-Constable No. 1295..... Appellant

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar
& Others..... **Respondents.**

WRITTEN REPLY BY RESPONDENTS.

1. Preliminary Objections.

1. That the appellant has got no cause of action and locus standi to file the present appeal.
2. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
3. That the appeal is barred by law & limitation.
4. That the appellant has not come to this Tribunal with clean hands.
5. That this Hon'ble Tribunal has got no jurisdiction to entertain the present appeal.
6. That the instant appeal is not maintainable in its present form.
7. That the appellant concealed the material facts from this Hon'ble Tribunal.
8. That the appellant has been estopped by his own conduct to file the appeal.

2. REPLY ON FACTS.

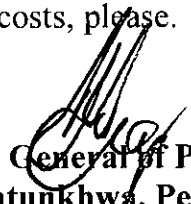
1. Correct to the extent that appellant was enlisted in Police Force in year 2008, but his service record is full of bad/red entries. Furthermore, he was habitual absentee and on account of willful absence, he was awarded different punishment including major punishment of removal/dismissal from service (**List of punishments/bad entries enclosed as Annexure A & B**).
2. Incorrect and false. Appellant being member of discipline force is suppose to follow the rules and it was his responsibility to applied for medical leave, but he deliberately absented from duties without permission.
3. Correct to the extent that Charge Sheet with Summary of allegations were issued to appellant on account of willful absence from duty.
4. Correct to the extent that departmental enquiry against appellant was conducted and during course of enquiry, he was found guilty for mis-conduct, hence he was served with Final Show Cause Notice and heard in person in Orderly Room. In response to which he presented medical documents in his defense which were sent to concerned hospital for verification which were found fake (**Copies of Final Show Cause Notice, letter of verification and report are annexed as Annexure C, D, E, F & G**).
5. Incorrect. As explain in preceding para # 4.
6. Departmental appeal and revision are examined and rejected on convincing reasons, period of limitation start from the date of rejection of departmental appeal.


7. The appellant has got no cause of action to filed the instant appeal, which is meritless and liable to be dismissed on the following grounds.

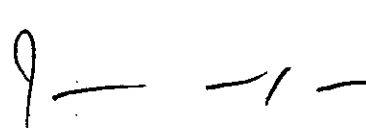
GROUND.

- A. Incorrect. Appellant being habitually absentee was rightly dismissed from service and the orders of respondents are based on facts quite legal in accordance with law/rules.
- B. Incorrect. Proper departmental enquiry in accordance with rules was conducted and before passing final order, appellant was issued Final Show Cause Notice and provided proper opportunity of personal hearing and defense. However, at the time of personal hearing appellant relied on medical documents just to justify his willful absence which upon verification were found fake/bogus.
- C. Incorrect. Appellant was found guilty for the mis-conduct and dis-interested in Police job, hence dismissed from service through speaking order.
- D. Incorrect. Reply already given vide para-A above.
- E. Incorrect. Reply already given vide para-A above.
- F. Incorrect. The appellant being habitual absentee and keeping in view his past track record did not deserve any leniency and the order of dismissal commensurate with his guilt.
- G. Incorrect. Appellant admits his absence, hence the orders of respondents are legal.
- H. That the respondents also seeks permission of this Hon'ble Tribunal to advance other grounds at the time of hearing of appeal.

Keeping in view the above narrated facts, it is humbly prayed that the instant appeal being devoid of merits may very kindly be dismissed with costs, please.


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


Deputy Inspector General of Police,
Mardan Region-I Mardan
(Respondent No. 2)


District Police Officer Swabi,
(Respondent No. 3)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 1206/2020.

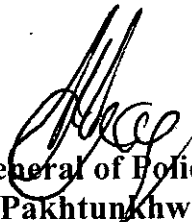
Minhaj Hussain Ex-Constable No. 1295..... Appellant


VERSUS

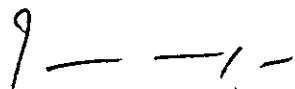
1. **Inspector General of Police, Khyber Pakhtunkhwa, Peshawar
& Others..... Respondents.**

POWER OF ATTORNEY.

We, the respondent No. 1 to 3 do hereby appoint Mr. Faheem Khan Inspector Legal Swabi as special representative on our behalf in the above noted appeal. He is authorized to represent us before the Tribunal on each and every date fixed and to assist the Govt: Pleader attach to Tribunal.


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


**Deputy Inspector General of Police,
Mardan Region-I Mardan
(Respondent No. 2)**


**District Police Officer Swabi,
(Respondent No. 3)**

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 1206/2020.


Minhaj Hussain Ex-Constable No. 1295..... Appellant

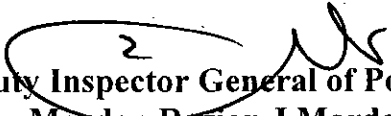
VERSUS

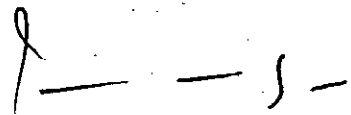
1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar
& Others.....**Respondents.**

AFFIDAVIT:-

We the respondent No. 1 to 3 do hereby solemnly affirm and declare on oath that the contents of the written reply are correct/true to the best of our knowledge / belief and nothing has been concealed from the honorable Tribunal.


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


**Deputy Inspector General of Police,
Mardan Region-I Mardan
(Respondent No. 2)**


**District Police Officer Swabi,
(Respondent No. 3)**

A

ORDER

This office order will dispose on the departmental enquiry proceedings against Recruit Constable Minhaj No.2680, for having absented himself from his lawful duties w.e from 01.08.2009 till to date without any leave or prior permission of his Superior Police Officers.

He was issued Charge Sheet alongwith Summary of Allegations and R/FRP Peshawar Range was deputed as Enquiry Officer to conduct proper departmental enquiry against him under Removal from Service (Special Power) Ordinance 2000.

After completion of the enquiry, the enquiry officer submitted his findings recommending him for major punishment. Consequently he was issued Final Show Cause Notice with the direction to submit his written defense, if any, but he failed to submit his reply. He was called in Orderly Room but he did not turn up.

Keeping in view the above and having gone through available record, the undersigned has come to the conclusion that the delinquent officer had willfully absented himself from duty. This also indicates that he is not interested to serve anymore. Moreover his retention in Police Department is burden on public exchequer. Consequently I, Sher Akbar PSP, S.St. Superintendent of Police FRP Peshawar Range in exercise of the power conferred upon me awarded him major punishment of Removal from service from the date of his absence.

Order announced.

OB No. _____
Dated. _____/01/10.

(SHER AKBAR)PSP, S.St.
Superintendent of Police, FRP
Peshawar Range, Peshawar

OFFICE OF THE SUPERINTENDE OF POLICE FRP, PESHAWA RANGE, PESHAWAR.

No. 129-33 /PA, dated Peshawar the 02/02/2010.

Copy of above is submitted to Commandant FRP N.W. P. Peshawar for favour of information please.

2. LO/SRC/Acctt: & OSI for necessary action


(SHER AKBAR)PSP, S.St.
Superintendent of Police, FRP
Peshawar Range, Peshawar

ORDER.

A/1

273
12/4/10

This order shall dispose off on the appeal preferred by Ex-Recruit Constable Minhaj No. 2680 of FRP Peshawar Range against the order of SP FRP Peshawar Range wherein he was removed from service.

Brief facts of the case are that he absented himself from duty with effect from 01.08.2009 till the date of removal from service without any leave/permission of the competent authority for a total period of 06 months. He was issued charge sheet/statement of allegation and RI/FRP Peshawar Range was appointed as enquiry officer. After conducting enquiry, the enquiry officer submitting his findings wherein the above named official was recommended for major punishment. He was issued Final show Cause Notice, but he failed to submit his reply. He was also called in OR but he did not turn up.

Keeping in view the above his prolong absence as well as recommendation of enquiry officer he was removed from service from the date of his absence by the SP FRP Peshawar Range vide his Endst. No.129-33/FA dated 02.03.2010.

NWFP Police is in a tight grip of terrorism for which effective and trained force is essential. The applicant is a trained constable who has received advanced training. Accordingly he is re-instated. The period of absence in which he remained out of force shall be treated as leave without pay.

SRC/Lo/Accd

2. m/9

[Handwritten signature]

[Handwritten signature]

COMMANDANT
FRONTIER RESERVE POLICE
NWFP, PESHAWAR

[Handwritten initials]
12/4
13/04/2010

MC-2726 IEC dated Peshawar the

Copy of above is forwarded to the Superintendent of Police FRP Peshawar Range for information and necessary action w/r to his Memo. No.416/SRC dated 01.04.2010. His service roll is returned herewith.

No. 511-14/82
PJ-14-04-10

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2. m/9
2. m/9

DISMISSAL ORDER

Constable Minhaj Hussain No. 85, while posted at Police Station Misri Banda, now PS Azakhel, remained absent from duty without any leave/permission of the competent authority vide daily diary No 24 dated 05.09.2016 to DD No.6 dated 08.09.2016 PS Misri Banda.

In this connection, he was served with a Show Cause Notice on 30.09.2016, issued vide this office No.395 dated 30.09.2016. He was bound to submit his reply within stipulated time, but failed. Reportedly, he is habitual absentee and prior to this, he remained absent for 08 different times, to which his absence period were treated as leave without pay. He was transferred from PS Misri Banda to PP Ajab Bagh and was relieved vide DD No.7 dated 22.09.2016 PS Misri Banda with the directions to report at his new place of posting, but also failed to report at PP Ajab Bagh and thus remained absent without any leave/permission of the competent authority vide DD No.42 dated 23.09.2016 PS Azakhel and is still absent. His continuous absence clearly seems that he is no more interested in Police Job.

Previous Record

He was enlisted in Police department on 01.04.2008 and during his short service, earned 14 minor punishments, 27 bad entries with no good entry.

In the light of his such misconduct, I am of the considered opinion that Constable Minhaj Hussain No. 85 is no more interested in Police Service, hence dismissed from service with effect from 23.09.2016, in exercise of the powers vested in me under Police Rules, 1975.

OB No. 1466
Dated 28/10/2016.


(Wahid Mehmood) PSP,
District Police Officer,
Nowshera.

No. 7455-58 /PA, dated Nowshera, the 27.10 /2016.

Copy for information and necessary action to the:-

1. Pay Officer.
2. E.C.
3. OHC.
4. FMC with relevant papers (14 sheets).

85

B/1

①

ORDER.

This order will dispose-off the appeal preferred by **Ex-Constable Minhaj Hussain No. 85** of Nowshera District Police against the order of District Police Officer, Nowshera, wherein he was dismissed from service vide District Police Officer, Nowshera OB No. 1466 dated 28.10.2016

Brief facts of the case are that, he while posted at Police Station Misri Banda, remained absent from duty without any leave/permission of the competent authority vide DD No. 24 dated 05.09.2016 to DD No. 06 dated 08.09.2016 Police Station, Misri Banda. In this connection he was served with a Show Cause Notice on 30.09.2016. He was bound to submit his reply within stipulated time, but he failed. Reportedly he is habitual absentee and prior to this he remained absent for 08 different times, to which his absence period were treated as leave without pay. He was transferred from Police Station Misri Banda to Police Post Ajab Bagh and was relieved vide DD No. 7 dated 22.09.2016 Police Station Misri Banda with the directions to report at his new place of posting, but he failed to report at Police Post Ajab Bagh and thus remained absent without any leave/permission of the competent authority vide DD No. 42 dated 23.09.2016 Police Station Aza Khel till the date of dismissal. His continuous absence proved his disinterest in Police Job. So keeping in view his previous service he was dismissed from service.

He was called in orderly room held in this office on 16.11.2016 and heard him in person. Keeping in view his poor family back grounds, taking a lenient view, his penalty of dismissal from service is converted into minor punishment of stoppage of three increments with accumulative effect. On re-instatement in Service, he is transferred to Swabi District (PP Malak Abad) for a period of one year and kept under watch. The intervening period is treated as leave without pay.

ORDER ANNOUNCED

By No. 3956
P.A. DPO NBR
dt 21-11-16

(IJAZ AHMAD)PSP
Regional Police Officer,
Mardan

No. 10414-15/ES, Dated Mardan the 18 / 11 / 2016.

Copy forwarded for information and necessary action to the:-

- 1. District Police Officer, Nowshera w/r to w/r to his office Memo: No. 7791/PA dated 09.11.2016. The Service Roll is returned herewith.
District Police Officer, Swabi.

(*****)

P.O. EC. OTC OBC FME

For n. action

OB No 1618

21-11-16

DPO NBR

21/11/16

12/12
85
B/2
POLICE DEPARTMENT

NOWSHERA DISTRICT

ORDER

On 25.10.2016, the following Constables remained absent from Polio duty despite repeated directions issued by the undersigned, therefore, they are hereby awarded minor punishment of forfeiture of approved service for two years with immediate effect, in exercise of the powers vested in me under Police Rules, 1975:-

S.No	Name and Number	Place of duty in Polio Campaign
1	FC Ziaullah No. 758	PS Risalpur
2	FC Shahid No. 2980/FRP	PS Risalpur
3	FC Minhaj No. 85	PS Azakhel
4	FC Shehzad No. 673	PS Azakhel
5	FC Sheraz No. 225	PS Akbarpura
6	FC Wahid Islam No. 2711/FRP	PP Jalozai
7	FC Ahsan No. 496	PP Jalozai
8	FC Arshad Ali NO. 2640/FRP	PP Jalozai
9	FC Hamid Shehzad No. 140	PP Jalozai
10	FC Ishfaq No. 139	PS Akbarpura
11	FC Asif No. 1161	PS Akora
12	FC Asif Karim No. 2327/FRP	PS Akora
13	FC Ravaid Khan No. 608	PS Akora

OB No. 1442

Dated 26.10.2016

(Wahid Mahmood) PSP
District Police Officer,
Nowshera.

No. 7389-93 /PA, dated Nowshera, the 26.10 /2016.

Copy for information and necessary action to the:

1. Deputy Commandant FRP, Khyber Pakhtunkhwa, Peshawar.
2. Pay Officer.
3. E.C.
4. OHC.
5. FMC.

FINAL SHOW CAUSE NOTICE

Whereas you **Constable Menhaj No.1295**, while posted to Police Line Swabi, absented yourself from duty with effect from 02.06.2018 to 24.07.2018 and 17.08.2018 to 27.09.2018 with out any leave / prior permission of the competent authority, which is highly against the discipline and amounts to gross misconduct.

In this connection you were charge sheeted and served with summary of allegation and **DSP, Swabi**, was appointed to conduct proper departmental enquiry. The enquiry officer held enquiry and submitted his findings, wherein, he found you **Constable Menhaj No.1295**, guilty for the mis-conduct and recommended for major punishment. During enquiry you again absented yourself from duty with effect from 27.12.2018 to 08.01.2019.

Therefore, it is proposed to impose Major/Minor penalty including dismissal as envisaged under Rules 4(b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence, I, **Syed Khalid Hamdani, PSP,QPM**, District Police Officer, Swabi in exercise of powers vested in me under Rules 5(3) of the Khyber Pakhtunkhwa Police Rules 1975 call upon you **Constable Menhaj No.1295**, to show cause finally as to why the proposed punishment should not be awarded to you.

Your reply should reach to the office of the undersigned within seven days of the receipt of this notice failing which it will be presumed that you have no explanation to offer.

You are also at liberty to appear for personal hearing before the undersigned.

District Police Officer,
Swabi.

12-06-2018 to 24-07-2018 = 53

17-08-2018 to 27-09-2018 = 40

(94) days

keep

check the lines documents
verify

D

Government of Khyber Pakhtunkhawa

Office of the District Police Officer, Swabi

Phone No. 0938-221399, Fax No. 0938-222434

From: The District Police Officer, Swabi.

To: The Medical Superintendent.

Services Hospital, Peshawar.

No. 462 /PA, dated Swabi, the 28/02/2019.

Subject: VERIFICATION OF MEDICAL DOCUMENTS.

Memo:

It is submitted that Constable Minhaj No. 1295 absented himself from duty without any leave/prior permission of competent authority. Therefore, he was served with Show Cause Notice. He submitted the attached Medical prescriptions that he was ill and under treatment.

It is, therefore, requested that the documents may be verified as to whether these are genuine or otherwise, Please.

An early response will be appreciated, please.

Swabi
District Police Officer,
Swabi

Government of Khyber Pukhtunkhawa.

Office of the District Police Officer, Swabi

Phone No. 0938-221399, Fax No. 0938-222434

From: The District Police Officer, Swabi.

To: The Medical Superintendent,
Lady Reading Hospital,

Medical Teaching Hospital, Peshawar.

No. 463 /PA, dated Swabi, the 28/02/2019.

Subject: VERIFICATION OF MEDICAL DOCUMENTS.

Memo:

It is submitted that Constable Minhaj No. 1295 absented himself from duty without any leave/prior permission of competent authority. Therefore, he was served with Show Cause Notice. He submitted the attached Medical prescriptions that he was ill and under treatment.

It is, therefore, requested that the documents may be verified as to whether these are genuine or otherwise, Please.

An early response will be appreciated, please.


District Police Officer,
Swabi.



**OFFICE OF THE
MEDICAL SUPERINTENDANT
SERVICES HOSPITAL, PESHAWAR**

Phone: (Off) 091 9210509 (Exch) 091 9223472 Fax: 091 9210543

No. 1763 /MS/Admn/2018-19

Dated 9/04/2019.

District Police Officer
Swabi

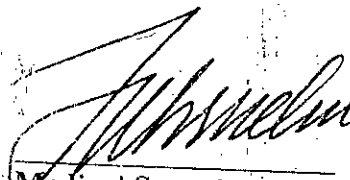
SUBJECT: - VERIFICATION OF MEDICAL PRESCRIPTION.

Memo:- With reference to your office letter No. 462/PA Dated 28/02/2019 on the subject noted above.

The OPD Chit in respect of Constable Minhaj No. 1295 is found fake/bogus. The writing on the OPD chit of medical officer is irrelative and self made. Hence not verified and found **FAKE**.

PA

Swabi
11/4


Medical Superintendent
Services Hospital
Peshawar.

94 days

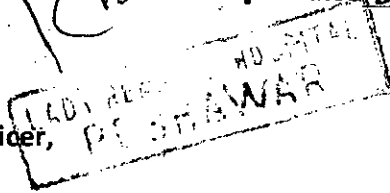


LADY READING HOSPITAL
MEDICAL TEACHING INSTITUTION, PESHAWAR
 To be substitute with the same no and date.

No. 7447 /LRH/HR-VII

Date: 25 /03/2019

GI *R 1332*



To,

The District Police Officer,
Swabi.

Subject: - VERIFICATION OF MEDICAL REST IN RESPECT OF MINHAJ.

Memo:

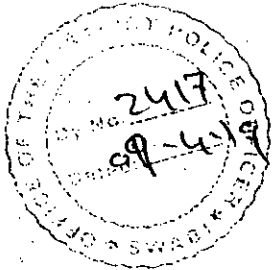
Reference your letter No. 463/PA; dated: 28-02-2019 on the subject noted above. The medical Rest/Sick Leave in respect of Constable Minhaj No 1295 Office of District Police Officer Swabi is hereby returned duly checked by concerned department LRH-MTI, Peshawar and found Fake and Bogus.

PA
for ma.

[Handwritten signature]

[Handwritten signature]

HOSPITAL DIRECTOR
LADY READING HOSPITAL (MTI)
PESHAWAR. *On 25/3/2019*



BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.1206/2020

Minhaj Hussain

VS

Police Deptt:

.....
REJOINDER ON BEHALF OF APPELLANT
.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-8) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

1. First portion of para 1 is admitted correct hence no comments, while the rest of para is incorrect hence denied as previous omissions cannot be based for subsequent omission.
2. Incorrect. The appellant informed the concerned Muharrar about his illness.
3. No comments.
4. Incorrect. While para 4 of the appeal is correct.
5. Incorrect. Show cause notice was never communicated to the appellant before passing the impugned of dismissal from service.
6. Incorrect. The departmental appeal of the appellant as well as the revision were rejected without giving any reason. Moreover as per the limitation start from the date of communication and not from the date of passing order.
7. Incorrect. The appellant has good cause of action and his appeal is liable to be accepted on the grounds mentioned in the appeal.

GROUND:

- A) Incorrect. The impugned orders are not in accordance with law, facts, norms of justice and material therefore not tenable and liable to set aside.

- B) Incorrect. While para B of the appeal is correct.
- C) Not replied according to para C of the appeal. Moreover para C of the appeal is correct.
- D) Not replied according to para D of the appeal. Moreover para D of the appeal is correct.
- E) Incorrect. While para E of the appeal is correct.
- F) Incorrect. While para F of the appeal is correct.
- G) Incorrect. The appellant was not willfully remained absent from duty but he was ill and was compel to remain absent from his duty and still he is suffering hemorrhoid and under treatment. **(Copy of fresh medical prescription are attached as Annexure-R-1)**
- H) Legal.

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


APPELLANT

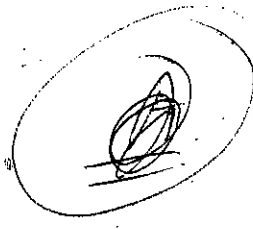
Through:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

AFFIDAVIT

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

DEPONENT

R-I

RASHID HUSSAIN SHAHEED
MEMORIAL HOSPITAL PABBI

No: 3337

Z. Lio

12-8

Clinical Findings/Investigations/Treatment/Referred/Test Findings

95
22

Bleeding PR (10yrs)

Constipation

Cef. Nabo Sep 800 -

verb 1-1-1

Obv

Tab. Den 3er n.s

↓ HB 110 G.S. 1+1

GT N font

Signature

R S MEDICAL LAB & DIAGNOSTIC CENTER

Regd. Health Care Commission KPK

PMDC# 12722-N - Reg.NO 02241

Pat. Name : MINHAJ HUSSAIN

Date: 13-08-2020

Consultant : OPD

Sex : Male

Test Adv : Hbs Ag ,HCV.

Age : ****

Hepatitis B Surface Antigen: **Not detected**

Anti-Hepatitis C Virus : **Not detected**

TEST METHOD: Double antigen immunoassay one step rapid method.

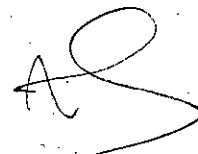
Not Valid For Court

ADD:

P/O Box Janazgah Road, back Mian Rasheed Hussain Hospital Pabbi

Call: Vicky Shahid 0321-9766562

Waqas Khan 0311-8846203



Medical No. 2 Rs. 10/-

No. OUT-PATIENTS DEPARTMENT

NAME

YEARLY NO

DATE

No. Rs. 10/-

OUT-PATIENTS DEPARTMENT

NAME *[Signature]*

YEARLY NO 2226

DATE 6.10

DISEASE

FACE VALUE RUPEES 10/-

Rx. Cap Ulocef 500 - 10

1+1+

101cup Tab Caslum 500

1+1

G T N Font

505 (L & R)

*eye me
eye - Dupalno*

Medical No. 2

Rs. 10/-

No.

OUT-PATIENTS DEPARTMENT

NAME

YEARLY NO.

DATE

No.

Rs. 10/-

OUT-PATIENTS DEPARTMENT

NAME

YEARLY NO.

DATE

DISEASE

FACE VALUE RUPEES 10/-

Rx. Cap Velosef - 500 - 0.6
 1+1+1
 101 cap Tab. Ceflexim 500
 1+1
 GTN Font
 555 (L E)
 Dyp - Dupelino



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 215 /ST

Dated: 31/01 /2022

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

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


To

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

Subject: JUDGMENT IN APPEAL NO. 1206/2020 MR. MINHAJ HUSSAIN.

I am directed to forward herewith a certified copy of Judgement
dated 16.12.2021 passed by this Tribunal on the above subject for strict
compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR