



29th Nov, 2022

Junior to counsel for the appellant present. Mr. Muhammad Adeel Butt: Addl: AG for respondents present.

Junior to counsel for the appellant seeks adjournment on the ground that learned senior counsel is not available today. Last chance is given to the appellant to argue the case on the next date positively failing which the case will be decided on the available record without the arguments. To come up for arguments on 15.02.2023 before D.B.

SCANNED
KP3T
Peshawar


(Fareeha Paul)
Member(Executive)



(Kalim Arshad Khan)
Chairman


15.02.2023

Appellant in person present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 14.04.2023 before the D.B.

SCANNED
KP3T
Peshawar


(Fareeha Paul)
Member (E)


(Salah-ud-Din)
Member (J)

26th July 2022

Learned counsel for the appellant present. Mr. Riaz Ahmad Paindakhel, Assistant Advocate General for the respondents present.

Para-wise comments on behalf of respondents submitted, copy of which handed over to learned counsel for the appellant, who sought adjournment on the ground that she has not gone through the para-wise comments submitted by respondents today. Adjourned. To come up for arguments on 19.09.2022 before the D.B.



(Salah-Ud-Din)
Member (J)

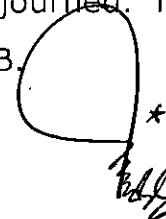


(Kalim Arshad Khan)
Chairman

19.09.2022

Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Learned Member (Judicial) Mr. Salah-ud-Din is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments on 29.11.2022 before the D.B.



(Mian Muhammad)
Member (Executive)

Stipulated period passed reply not submitted.

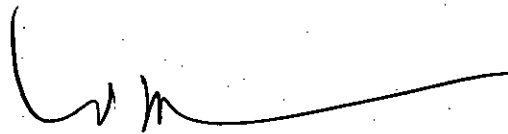
16.08.2021

Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.

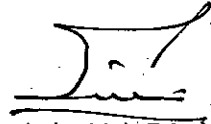
Chairman

11.11.2021

Ms. Roeeda Khan, Advocate, for the appellant present. Mr. Mazhar, Constable alongwith Mr. Javed Ali, Assistant Advocate General for the respondents present and sought time for submission of reply/comments. Adjourned. To come up for submission of reply/comments as well as arguments on 03.02.2022 before the D.B.



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



(Salah-Ud-Din)
Member (J)

03.02.2022

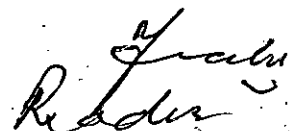
The Tribunal is non-functional, therefore, the case is adjourned to 13.05.2022 before D.B for the same.



Reader

13-5-22

Proper DB not available the case is adjourned on 26-7-22



Reader

Shah Faisal 9268/2020

29.06.2021 Counsel for the appellant present. Preliminary arguments heard.

The appellant has impugned order dated 16.05.2019, whereby he was dismissed from service. He has also annexed with the appeal copy of order No. 10532-33/E-IV, dated 22.10.2019 signed by AIG/Establishment for the respondent No. 2. Accordingly, the appellant is shown to have been transferred from District Police Hangu to CCP, Peshawar with immediate effect. If the appellant was dismissed from service vide order O.B No. 203, dated 16.05.2019 prior to the transfer order mentioned before, then how have it come that the person already dismissed from service was transferred later on by the respondent No. 2. Obviously, this is an anomaly requiring its clearance on part of respondents. So, the admission of this appeal for regular hearing has become expedient. Subject to all just and legal objections, including limitation, instant appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 11.11.2021 before the D.B.

Appellant Deposited
Security & Process Fee

5/11/21

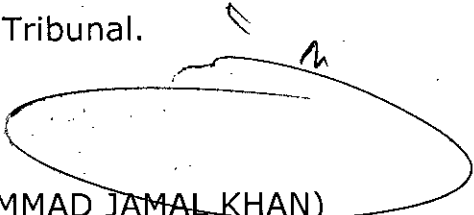

Chairman

02.12.2020

Counsel for appellant is present.

Learned counsel requests for adjournment to a date after the decision of proposition regarding retrospective punishment by a Larger Bench of this Tribunal.

Adjourned to 17.02.2021 before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

17.02.2021

The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer; therefore, the case is adjourned. To come up for the same before S.B on 29.06.2021.

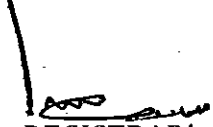



Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 9268 /2020


S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	11/08/2020	<p>The appeal of Mr. Shah Faisal Khan resubmitted today by Roeeda Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p>	30.09.2020	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>30/09/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Counsel for the appellant present.</p> <p>Learned counsel states that in the instant case punishment to the appellant has been awarded with retrospective effect. Propriety demands that hearing in instant matter may be adjourned to a date after the decision of Larger Bench regarding similar issue.</p> <p>Adjourned to 02.12.2020 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Shah Faisal Khan Ex-Constable No. 143 District police Hango received today i.e. on 06.08.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of departmental appeal preferred by the appellant to R.P.O Kohat which has been rejected on 06.7.2020 is not attached with the appeal which may be placed on it.
- 2- Copy of forwarding letter mentioned in para-8 of the memo of appeal is not attached with the appeal which may be placed on it. Annexure-D is not forwarding letter because departmental appeal was made on 16.12.2019 and forwarding letter date is 17.05.2019 which cannot be possible.

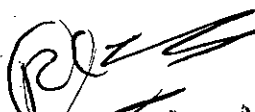
No. 2345/S.T,

Dt. 6/8 /2020


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Roeeda Khan Adv. Pesh.

- ① In Response of objection No 1
copy of departmental appeal dated 16/12/19
is forwarded to Rpo which has been
Rejected by Rpo on 6/7/2020
- ② copy of forwarding letter was
not available with the appellant


NT 8/2020

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. 9268 2020

Shah Faisal Khan

VERSUS

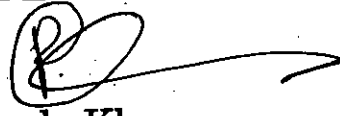
DPO Hangu & Others

INDEX

S#	Description of Documents	Annexure	Pages
1.	Grounds of Petition.		1-5
2.	Affidavit		6
3.	Addresses of Parties		7
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5.	Copy of Transfer Order	"A"	19
6.	Copy of Dismissal Order	"B"	12
7.	Copy of Departmental Appeal	"C"	12, 13
8.	Copy of Rejection orders	"D"	14
9.	Wakalatnama		


APPELLANT

Through


Roeda Khan
Advocate, High Court
Peshawar.

Dated: 06/08/2020

(1)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2020

Mr. Shah Faisal Khan S/o Sheerin, Ex- Constable No:
143, R/o Charsadda Road, Khan Pur, P.O Nahaqi
Daudzai, Tehsil & District Peshawar.

Appellant

VERSUS

1. District Police Officer, Hangu.
2. Inspector General of Police, KPK, Peshawar
3. Region Police Officer, Kohat Region.
4. Provincial Police Officer, KPK, Peshawar.

Respondents

APPEAL U/S-4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL
ACT 1974 AGAINST THE ORDER DATED
16/05/2019, WHEREBY THE APPELLANT
HAS BEEN AWARDED MAJOR PENALTY
OF DISMISSAL FROM SERVICE
AGAINST WHICH THE APPELLANT
FILED A DEPARTMENTAL APPEAL ON
16/12/2019, WHICH HAS BEEN
REJECTED ON 25/06/2020,
COMMUNICATED TO THE APPELLANT
ON 06/07/2020.

Prayer:-

ON ACCEPTANCE OF THIS SERVICE
APPEAL BOTH THE IMPUGNED

2

ORDERS DATED 16/05/2019 AND
25/06/2020 MAY KINDLY BE SET ASIDE
AND THE APPELLANT MAY KINDLY BE
REINSTATED INTO SERVICE
ALONGWITH ALL BACK BENEFITS,
ANY OTHER REMEDY WHICH THIS
TRIBUNAL DEEMS FIT MAY ALSO BE
GRANTED IN FAVOR OF THE
APPELLANT.

Respectfully Sheweth,

1. That the appellant has been appointed as Constable in 2006 with the Respondent department and performed his duty with full devotion.
2. That the appellant performed his duty with hard work and no complaint what so ever has been made against the appellant.
3. That at the end of 2018, some domestic problem has been arises to the appellant, due to which the appellant was unable to perform his duty with the respondent department.
4. That on 22/10/2019, the appellant has been transferred from District Hangu to CCP Peshawar. (Copy of Transfer order is attached as Annexure "A").
5. That on 16/05/2019, the appellant was dismissed from service on the ground of

(3)

absentee by the respondent department.
(Copy of dismissal order is annexure "B").

6. That the appellant came to know regarding the said dismissal order on 18/11/2019, when the appellant went to concern department for the transfer order dated 22/10/2019.
7. That the appellant submitted departmental appeal to respondent No:2 on 16/12/2019. (Copy of Departmental Appeal is annexure "C").
8. That the said departmental appeal has been forwarded / submitted to respondent No:3, and lastly rejected on 25/06/2020, communicated to the appellant on 06/07/2020. (Copy of Rejection orders are annexure "D").
9. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following grounds inter alia:-

GROUNDS:-

- A. That the appellant has not been treated in accordance with law and hence his rights

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secured and guaranteed under the Constitution of 1973 were badly violated.

B. That no charge sheet & statement of allegation has been issued or served to the appellant.

C. That no final show cause notice has been issued to the appellant by the Respondent department.

D. That no opportunity of defense and cross examination has been provided to the appellant.

E. That no departmental inquiry has been conducted by the Respondent department.

F. That the impugned order is void, because it has been passed from retrospective effect.

G. That the absentee of the appellant was not intentionally or deliberately but due to the reason mentioned above.

H. That no statement of witness has been recorded by the inquiry officer.

5

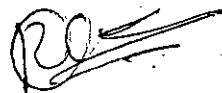
I. That the punishment is harsh one.

J. That any other ground not raised here may graciously be allowed to be raised at the time full of arguments on the instant service appeal.

It is therefore, most humbly prayed that on acceptance of this service appeal both the impugned orders dated 16/05/2019 and 06/07/2020 may kindly be set aside and the appellant may kindly be reinstated into service alongwith all back benefits, any other remedy which this tribunal deems fit may also be granted in favor of the appellant

APPELLANT

Through



Roeeda Khan
Advocate, High Court
Peshawar.

Dated: 06/08/2020

NOTE:-

As per information furnished by my client, no such like appeal for the same appellant, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Tribunal.



Advocate.

6

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2020

Shah Faisal Khan

VERSUS

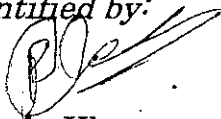
DPO Hangu & Others

AFFIDAVIT

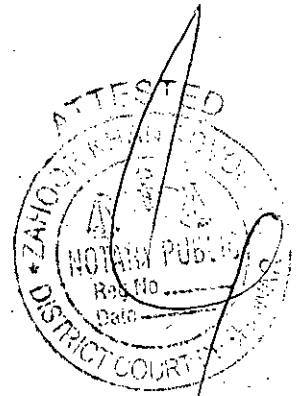
I, Mr. Shah Faisal Khan S/o Sheerin, Ex-Constable No: 143, R/o Charsadda Road, Khan Pur, P.O Nahaqi Daudzai, Tehsil & District Peshawar, do hereby solemnly affirm and declare that all the contents of the **instant appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Court.

DEPONENT

Identified by:



Roeeda Khan
Advocate High Court
Peshawar.



08 AUG 2020

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BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2020

Shah Faisal Khan

VERSUS

DPO Hangu & Others

ADDRESSES OF PARTIES

PETITIONER.

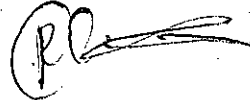
Mr. Shah Faisal Khan S/o Sheerin, Ex- Constable No:
143, R/o Charsadda Road, Khan Pur, P.O Nahaqi
Daudzai, Tehsil & District Peshawar.

ADDRESSES OF RESPONDENTS

1. District Police Officer, Hangu.
2. Inspector General of Police, KPK, Peshawar
3. Region Police Officer, Kohat Region.
4. Provincial Police Officer, KPK, Peshawar.

APPELLANT

Through



Roeda Khan
Advocate, High Court
Peshawar.

Dated: 06/08/2020

(2)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2020

Shah Faisal Khan

VERSUS

DPO Hangu & Others

APPLICATION FOR CONDONATION OF DELAY (IF ANY)

Respectfully Sheweth,

Petitioner submits as under:

1. That the above mentioned appeal is filing before this Hon'ble Tribunal in which no date is fixed for hearing so far.
2. That the appellant came to know regarding the said dismissal order on 18/11/2019, when the appellant went to concern department for the transfer order dated 22/10/2019.
3. That the appellant filed departmental appeal within one month from the date of communication, which has been rejected on 25/06/2020, the rejection order has been communicated on 06/07/2020.

9

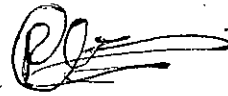
Grounds:

- A. That the impugned order is void and illegal and no limitation run against the void orders because the impugned order has been passed from retrospective effect.
- B. That there are number of precedents of the Supreme Court of Pakistan which provides that the cases shall be decided on merits rather than technicalities.

It is, therefore, requested that the limitation period (if any) may kindly be condone in the interest of justice.

APPELLANT

Through



Roeda Khan
Advocate, High Court
Peshawar.

Dated: 06/08/2020

Amul "A" 23

(12)



10070 → 1170
23/10/19 ← 24/10/19

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE, PESHAWAR

ORDER

Constable Shah Faisal No. 143 of District Police Hangu is hereby transferred and posted to CCP, Peshawar with immediate effect.

(SADIQ BALOCH) PSP
AIG/Establishment

Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
22.10.2019

No. 10532-33 /F-IV dated Peshawar the 22nd / 10 / 2019

Copy of above is forwarded for information and necessary action to the:-

1. Capital City Police Officer, Peshawar.
2. District Police Officer, Hangu.

AWM/B³⁷

(71)

ORDER

This order of mine will dispose off the departmental enquiry against Constable Shah Faisal No. 143 on the basis of allegations that he while posted at Police Lines Hangu, absented himself from official duty on different occasion i.e from 14.09.2018 to 03.12.2018 vide DD No. 37 dated 14.09.2018, 29.12.2018 to 08.01.2019 vide DD No. 19 dated 29.12.2018 & 17.02.2019 till to date without any leave or prior permission of his senior vide DD No. 16 dated 17.02.2019 Police Lines Hangu. His continues absence shows his negligence, disinterest and also amount to gross misconduct on his part.

He was served with Charge Sheet vide No. 101 dated 05.10.2018 under Police Disciplinary Rules 1975, Mr. Umar Hayat SDPO Hangu was appointed as Enquiry Officer to conduct departmental enquiry against him under Police Disciplinary Rules-1975. He was time and again called by enquiry officer to submit his reply but he intentionally did not appear before Enquiry Officer as well as not received his Charge Sheet. After the completion of enquiry, the Enquiry Officer submitted his findings on 11.02.2019 and recommended him for major punishment.

Thereafter, Final Show Cause Notice issued to him vide this office No. 04 dated 22.02.2019. As such time and again he informed through certain Parwanas but he could not appear to receive his Final Show Cause Notice. After that a notice was sent on his home address but neither he came forward for receiving his Final Show Cause Notice nor submit any cogent reason. Thereafter his absence notice was published in Daily Newspaper AUSAF (Peshawar) on 26th April 2019 with the direction to make his arrival at place of his duty within 15 days: He did not do so within stipulated period, which depict his disinterest in official duty.

Keeping in view of above and after gone through available record, the undersigned has arrived at the conclusion that, the defaulter Constable is habitual absentee and due to his prolong absence from official duty, not unwilling in discharge of his lawful duty as well as has no interest to serve the Police Department. Therefore, I, Ihsan. Ullah. Khan, District Police Officer, Hangu in exercise of the powers conferred upon me, **awarded him major punishment of Dismissal from Service from the date of 14.09.2018.**

Order Announced.

OB No. 203

Dated 16/05/2019.

DISTRICT POLICE OFFICER,
HANGU

Amal (e³)

(12)

To:

The Honourable IGP,
Khyber Pakhtunkhwa,
Peshawar.

Subject: -

APPLICATION FOR IMPLEMENTATION OF ORDER
NO. 10532-33 DATED: 22-10-2019 ISSUED BY
THIS WORTHY OFFICE; AND FOR SETTING ASIDE
THE ORDER DATED: 16-05-2019 PASSED BY
WORTHY DPO HANGU.

Respected Sir,

The applicant very humbly submits as under:-

1. That the petitioner is serving this department since 2006 and has performed his duty with full commitment and zeal throughout the career.
2. That the applicant was serving in District Hangu and was performing his duties.
3. That on 22-10-2019 this Honourable office passed the above order for the transfer of applicant (Copy of order is attached).
4. That when the applicant went to concerned quarters for the implementation of the mentioned order, the applicant was shocked to know about the impugned order, passed at the back of applicant, on dated 16-05-2019 passed by DPO Hangu whereby applicant was awarded major punishment of dismissal from service from the date 14-09-2018 (Copy attached).
5. That it is not appealable to a prudent mind that this Honourable office will transfer a dismissed personnel.

6. That the applicant has performed his duty continuously and the said order is based on malafide and misconceptions.
7. That the applicant is not dealt with in accordance with law.
8. That the impugned order is not sustainable in the eyes of law.
9. That this job is passion of the applicant as well as a source of lively hood for his family.

It is therefore, very humbly requested that the order of this office dated: 22-10-2019 may kindly be implemented and the impugned order dated: 16-05-2019 of worth DPO Hangu may kindly be set aside being void and abinitio.

Dated: 16-12-2019

Applicant

Name: Shah Faisal Khan
S/O Shireen

R/O Charsadda Road, Khan
Pur, P/O Nahaqi Daudzai,
Tehsil & District Peshawar
Ex-Constable Belt No. 143

1 BXL, 103447 - 10X19 3000 11.35

Am'D (19)

POLICE DEPTT:

KOHAT REGION

ORDER.

This order will dispose of a departmental appeal, moved by Ex-Constable Shah Faisal No. 203 of Operation Staff Hangu against the punishment order, passed by DPO Hangu vide OB No. 203, dated 16.05.2019 whereby he was awarded major punishment of dismissal from service on the allegations of his long absence from lawful duty without any leave or prior permission.

He preferred an appeal to the undersigned upon which comments were obtained from DPO Hangu and his service documents were perused. He was also heard in person in Orderly Room, held on 25.06.2020. During hearing, he did not advance any plausible explanation in his defense to prove his innocence and just forwarded lame excuses.

I have gone through the available record and came to the conclusion that the allegations leveled against the appellant are proved beyond any shadow of doubt and the same has also been established by the E.O in his findings. Moreover, the appellant had also been dismissed previously on the same charges by SSP/HQrs: CCP and later on reinstated by CCPO Peshawar but still he did not mend his ways. Therefore, his appeal being devoid of merits is hereby rejected.

Order Announced
25.06.2020

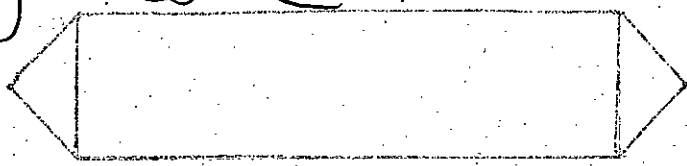
(TAYYAB HAFEEZ) PSP
Region Police Officer,
Kohat Region.

No. 6878 /EC, dated Kohat the 6/7 /2020.

Copy to District Police Officer, Hangu for information w/r to his office Letter No. 1032/LB, dated 22.01.2020. His Service Roll & Enquiry File is returned herewith.

(TAYYAB HAFEEZ) PSP
Region Police Officer,
Kohat Region.

W/



2020 پنجاب

شاہ فیصل نام
خانک

مورد
مقدمہ
دعوئی
جرم

اس کے لئے
لو اس کے
ڈسٹریبیوٹ

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام کے لئے رسیدہ ہے اور اس کے لئے روٹہ خانک اور اس کے
مقرر کرنے کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا مکمل 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 درپیدا عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا نیز صورت عدم پیروی یا ڈگری یک طرف 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 با اختیارات حاصل ہوں گے
اور اس کا ساختہ پر داختم منظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے
سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو وکیل صاحب پابند ہوں
گئے کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

شاہ فیصل
2020

المرقوم 6 ماہ الست 2020

العباد گم العباد

کے لئے منظور ہے۔

Accepted
By
Pleed

مقام

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

**Service Appeal No. 9268/2021
Shah Faisal Ex-Constable No. 143**

..... Appellant

VERSUS

District Police Officer,
Hangu & others

..... Respondents

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**Deponent
SI Legal, Hangu**

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
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..... Appellant

VERSUS

District Police Officer,
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..... Respondents

PARAWISE COMMENTS BY RESPONDENTS.

Respectfully Sheweth:-

Preliminary Objections:-

- i. That the appellant has got no cause of action.
- ii. The appellant has got no locus standi.
- iii. That the appellant is estopped to file the instant appeal for his own act.
- iv. That the appeal is bad in eyes of law and not maintainable.
- v. That the appellant has not approached the honorable Tribunal with clean hands.
- vi. That the appeal is badly time barred.
- vii. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.

Reply on Facts:-

1. Appointment of appellant as constable in Police department pertains to record.
2. Incorrect, the appellant during his initial stage of service i.e training remained absent for 15 days and awarded punishment of 19 days extra drill. Further submitted that the appellant willfully absented himself from lawful duty on different occasions and awarded different kind of punishment, but he did not mend his way. The appellant was previously removed from service for his misconduct. Copy of PTC certificate and details of previous absence is **Annexure A.**

3. Incorrect, the appellant willfully absented himself from lawful duty. He was also habitual absentee and remained absent on various occasions. Detail of his previous absentee is already annexed.
4. The appellant was at the strength of district Police Hangu and under command of respondent No. 1, who initiated departmental inquiry against the appellant (**inquiry report is annexure B**), which culminated into his dismissal vide order dated 16.05.2019 (**Copy of order is annexure C**), in the meanwhile his transfer to other district was under process, which was neither in the knowledge of competent authority and due to misunderstanding the transfer order of the appellant was passed after his dismissal, as the appellant was a lower subordinate and intimation of order to higher authorities was not admissible / warranted.
5. The appellant willfully absented himself from lawful duty, hence a regular departmental inquiry was initiated against the appellant with appointment of inquiry officer. The appellant remained absent, the proceedings were intimated to the appellant through different sources lastly directed to resume his duty within 15 days vide show cause notice published in Daily Urdu newspaper "**AUSAF**" dated 26.04.2019, but he neither resumed his duty nor join the department proceedings. Hence, there was no other option and the respondent No. 1 passed the impugned order of dismissal from service of appellant. Copy of show cause notice published in newspaper is **annexure D**.
6. Incorrect, the appellant willfully concealed the facts as he was in knowledge of the impugned order and he had filed an application for grant of copy of the impugned order on 28.10.2019. Copy is **annexure E**.
7. The department appeal of the appellant was processed by respondent No. 2, which was found devoid of merit and correctly rejected.
8. The appellant was heard in person by respondent No. 2 on 25.06.2020 and the rejection order of his departmental appeal was announced in his presence by the respondent No. 2.
9. The appellant is estopped to file the present appeal for his own act.


Grounds:-


- A. Incorrect, the appellant was treated in accordance with law / rules, but he deliberately did not join the departmental proceedings, nor resumed his duty despite publication of notice in Daily Urdu Newspaper.

- B. Incorrect, the charge sheet was issued by the respondent No. 1 on the allegation of his willful absence, which was communicated to the appellant through Capital City Police Officer, Peshawar vide letter No. 3759/PA dated 30.07.2018, but no response was received to the competent authority. Copy of letter is **annexure F**.
- C. The appellant was again afforded an opportunity to show cause for his willful absence vide final show cause notice No. 4/PA dated 22.02.2019 (**Copy of show cause notice is annexure G**), which was sent at his home address, but he did not respond. Furthermore, he was also informed by concerned on his cell No. 0300-5931744, but the situation remained same. Copy of report is **annexure H**.
- D. Incorrect, reply in details is submitted in the above paras.
- E. Incorrect, as replied above a regular inquiry was conducted against the appellant, but the appellant willfully did not join the proceedings.
- F. Incorrect, legal and speaking orders were passed in accordance with law / rules.
- G. Incorrect, as replied above the appellant was a habitual absentee.
- H. Incorrect, the daily diary reports regarding absence of the appellant are self-explanatory, which is a cogent evidence, brought on record and established against the appellant.
- I. The appellant is a habitual absentee, inefficient official, and his retention in a disciplined department was burden on public exchequer.
- J. Other grounds shall be raised during arguments with permission of Honorable Tribunal.

Prayer:-

In view of the above, it is prayed that the appeal may graciously be dismissed with cost.


Regional Police Officer,
Kohat
(Respondent No. 2)
Regional Police Officer
Kohat Region Kohat


Inspector General of Police/PPO,
Khyber Pakhtunkhwa,
(Respondent No. 1/4)


District Police Officer,
Hangu
(Respondent No. 3)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 9268/2021
Shah Faisal No. 143

..... Appellant

VERSUS

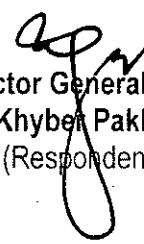
District Police Officer,
Hangu & others

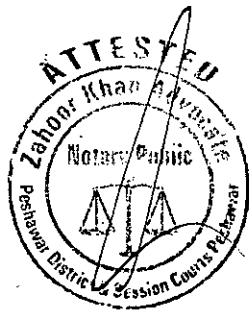
..... Respondents

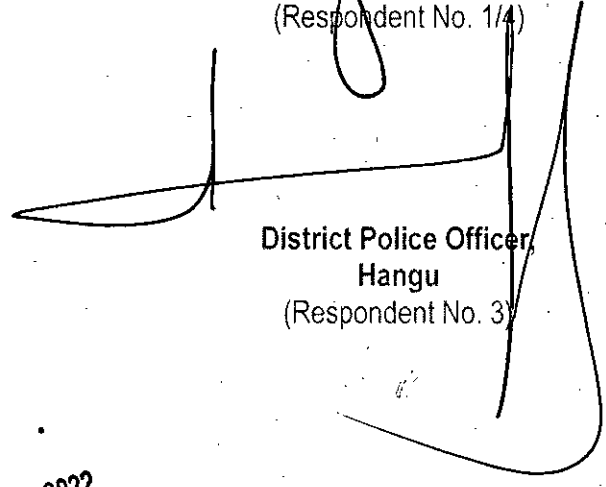
COUNTER AFFIDAVIT

We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Tribunal.


Regional Police Officer,
Kohat
(Respondent No. 2)


Inspector General of Police/PPO,
Khyber Pakhtunkhwa,
(Respondent No. 1/4)




District Police Officer,
Hangu
(Respondent No. 3)

26 JUL 2022

Police Training College Hangu



Estb 1935

History Sheet / Detail Marks Certificate Recruit's Course

College Course : Recruit Name : *Shah Faisal*
 Rank : Constable Belt No. : 500
 Comp# : A 702 District : *Peshawar*
 Starting Date : 01.07.06 Ending Date : 20-03-07
 Merit : 86 /903

LAW			DRILL			REMARKS
PPC	69	/100	SD	47	/70	
PPW/GPD	67	/100	RF	52	/80	
LSL, QS	76	/100	SF	21	/35	
Sec, WT, FP, GK	76	/100	MD	19	/30	
CrPC	79	/100	TFC	13	/20	
IST/HR	78	/100	PT	13	/20	
PR	77	/100	UC	13	/20	
			BNT	7	/10	
			AC	81	/150	

522.00 / 700 266.00 / 435
 G-Total: 788.00 / 1135 % age: 69.43

Declared as PASSED

Leave Obtained: 2 days Medical Rest : Nil days Absence: 15 days
 Punishment : 19 days ED.

Shah Faisal
 Commandant,
 Police Training College Hangu.

ANNEXURE "A"**DETAILS/ PREVIOUS RECORD OF EX-CONSTABLE SHAH FAISAL**

S. #	Charges/ willful absence from duty	Absence period	Punishment awarded
1.	OB No. 1823, dt: 25.06.2007	02 days	Leave without pay
2.	OB No. 2192, dt: 02.08.2007	02 days	Leave without pay
3.	OB No.3202, dt: 12.11.2007	02 days	Warned
4.	OB No.3428, dt: 04.12.2007	03 days	Leave without pay
5.	OB No. 3506, dt: 12.12.2007	03 days	Leave without pay
6.	OB No.3535, dt: 15.12.2007	01 day	Leave without pay
7.	OB No.396, dt: 19.02.2008	12 days	Leave without pay
8.	OB No. 565, dt: 07.03.2008	01 day	Leave without pay
9.	OB No.571, dt: 08.03.2008	03 days	Leave without pay
10.	OB No.592, dt: 11.03.2008	01 day	Leave without pay
11.	OB No.970, dt: 24.04.2008	01 day	Leave without pay
12.	OB No.955, dt: 28.04.2008	01 day	Leave without pay
13.	OB No.1073, dt: 05.05.2008	01 day	Leave without pay
14.	OB No.1115, dt: 08.05.2008	01 day	Leave without pay
15.	OB No.1141, dt:10.05.2008	01 day	Leave without pay
16.	OB No.1437, dt: 02.06.2008	02 days	Leave without pay
17.	OB No.2832, dt: 18.09.200	01 day	Leave without pay
18.	OB No.2896, dt: 23.09.2008	02 days	Leave without pay
19.	OB No.2966, dt: 27.09.2008	01 day	Leave without pay
20.	OB No.2967, dt: 27.09.2008	01 day	Leave without pay
21.	OB No.1741, dt: 17.05.2010	05 days	Leave without pay
22.	OB No.2048, dt: 10.06.2010	05 days	Leave without pay
23.	OB No.1937, dt: 11.06.2014	16 days	Leave without pay
24.	OB No.30, dt: 05.01.2016	15 days	Stoppage of two annual increment without cumulative effect.
25.	DD No. 37, dt: 14.09.2018 to 03.12.2018	02 months & 21 days	
26.	DD No. 19, dt: 27.12.2018 to 08.01.2019	11 days	
27.	With effect from 17.02.2019 till to date i.e 16.05.2019		Dismissed

انکوائری آزاں کنشیل شاہ فیصل نمبر 143 متعینہ پولیس لائن ہنگو

جناب عالی!

بحوالہ چارج شیٹ نمبر 101/PA مورخہ 05.10.2018 دفتر جناب DPO صاحب ہنگو، انکوائری آزاں کنشیل شاہ فیصل نمبر 143 متعینہ پولیس لائن ہنگو معروض خدمت ہوں۔ چارج شیٹ ہذا میں مذکورہ کنشیل پر ذیل الزام لگایا گیا ہے۔
کہ مذکورہ کنشیل بحوالہ مد 37 روزنامہ 14.09.2018 پولیس لائن ہنگو مورخہ 14.09.2018 سے بغیر اجازت اور رخصت شدگی بدستور غیر حاضر ہے۔

اس سلسلے میں کنشیل شاہ فیصل نمبر 143 متعینہ پولیس لائن ہنگو کو طلب کرنے کیلئے ہیڈ کنشیل آصف رشید سابقہ محرر پولیس لائن سے رابطہ کر کے جس نے مورخہ 23.10.2018 کو اپنا بیان ارسال کر کے جس کے مطابق مذکورہ مورخہ 14.09.2018 سے بدستور غیر حاضر ہے۔
انکوائری ہذا کے سلسلے میں جناب DPO صاحب نے ایک تحریری لیٹر بابت نقل چارج شیٹ حوالہ کرنے مذکورہ کنشیل جناب کپٹل شی پولیس ایفسر پشاور کو ارسال کیا۔ جولف ہذا ہے۔

اصل حقائق:-

انکوائری ہذا میں حسب ضابطہ کارروائی شروع کر کے کنشیل شاہ فیصل نمبر 143 متعینہ پولیس لائن ہنگو کے رے میں سابقہ محرر پولیس لائن ہنگو سے معلومات کی گئی۔ جس پر وہ گویاں ہوا کہ مذکورہ کنشیل مورخہ 14.09.2018 سے بدستور غیر حاضر ہے۔ اس سلسلے میں سابقہ محرر پولیس لائن آصف رشید نے اپنا تحریری بیان بھی ارسال کیا جولف ہذا ہے۔ اس کے بعد مورخہ 30.10.2018 کو بحوالہ ڈاڑی نمبر 3759/PA مورخہ 30.10.2018 جناب DPO صاحب ہنگو نے تحریری لیٹر بابت نقل چارج شیٹ حوالہ کرنے مذکورہ کنشیل جناب کپٹل شی پولیس ایفسر پشاور کو ارسال کیا۔ جہاں تک حقیقت کا تعلق ہے۔ مذکورہ کنشیل مورخہ 14.09.2018 سے 03.12.2018 تک غیر حاضر ہوا ہے۔ مذکورہ کنشیل کو بسلسلہ انکوائری بار بار طلب کیا گیا مگر مذکورہ کنشیل نے دفتر ہذا آنا گوارہ نہیں کیا اور نہ ہی اپنا بیان ارسال کیا۔ جس سے ثابت ہوتا ہے کہ مذکورہ کنشیل اپنی انکوائری اور سرکاری ڈیوٹی میں کسی قسم کی دلچسپی نہیں رکھتا۔

کنشیل شاہ فیصل نمبر 143 کی ٹوٹل عرصہ غیر حاضری تقریباً 79 یوم ہیں جو معافی کے قابل نہیں ہیں۔ بدیں وجہ مذکورہ کنشیل کو Major Punishment دینے کی سفارش کی جاتی ہے۔

سب ڈویژنل پولیس ایفسر ہنگو

Issue Fund
Change Secret

18/2/19

(2)

ORDER

This order of mine will dispose off the departmental enquiry against Constable Shah Faisal No. 143 on the basis of allegations that he while posted at Police Lines Hangu, absented himself from official duty on different occasion i.e from 14.09.2018 to 03.12.2018 vide DD No. 37 dated 14.09.2018, 29.12.2018 to 08.01.2019 vide DD No. 19 dated 29.12.2018 & 17.02.2019 till to date without any leave or prior permission of his senior vide DD No. 16 dated 17.02.2019 Police Lines Hangu. His continues absence shows his negligence, disinterest and also amount to gross misconduct on his part.

He was served with Charge Sheet vide No. 101 dated 05.10.2018 under Police Disciplinary Rules 1975, Mr. Umar Hayat SDPO Hangu was appointed as Enquiry Officer to conduct departmental enquiry against him under Police Disciplinary Rules-1975. He was time and again called by enquiry officer to submit his reply but he intentionally did not appear before Enquiry Officer as well as not received his Charge Sheet. After the completion of enquiry, the Enquiry Officer submitted his findings on 11.02.2019 and recommended him for major punishment.

Thereafter, Final Show Cause Notice issued to him vide this office No. 04 dated 22.02.2019. As such time and again he informed through certain Parwanas but he could not appear to receive his Final Show Cause Notice. After that a notice was sent on his home address but neither he came forward for receiving his Final Show Cause Notice nor submit any cogent reason. Thereafter his absence notice was published in Daily Newspaper AUSAF (Peshawar) on 26th April 2019 with the direction to make his arrival at place of his duty within 15 days. He did not do so within stipulated period, which depict his disinterest in official duty.

Keeping in view of above and after gone through available record, the undersigned has arrived at the conclusion that the defaulter Constable is habitual absentee and due to his prolong absence from official duty, not unwilling in discharge of his lawful duty as well as has no interest to serve the Police Department. Therefore, I, Ihsan Ullah Khan, District Police Officer, Hangu in exercise of the powers conferred upon me, **awarded him major punishment of Dismissal from Service from the date of 14.09.2018.**

Order Announced.

OB No. 203
Dated 16/05/2019.


**DISTRICT POLICE OFFICER,
HANGU**

⑦

قسم کے طبعی اور جو حکم لکھتے ہیں القرآن

091-252021: شمارہ نمبر
091-606315: فون نمبر

ABC CERTIFIED

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علی سحافی اوصاف کا مدیر دار

پشاور

DAILY AUSAF PESHAWAR

پشاور

جلد: 4 نمبر: 20 مئی 2019ء تک 1440 صفحات 26 روپے 13 سہ ماہیہ 2076 روپے 12 ماہیہ 20 روپے 289 روپے

غیر ماضی

ذیل اعداد میں نگر پبلس سے غیر ماضی ہیں ان کو بھی بار بڑھو
میں ان اعلانوں کی اور مگر پبلس سے کچھ نہیں
تاسر میں ہونے ان آفری بار بڑھو پبلس میں کیا جاتا ہے

کہ 15 روپے کے اندر نگر پبلس میں ماضی یعنی تا میں ہم نگر کی صورت میں آپ کے خلاف مروجہ قانون کے
تحت تفریق ان اعلانوں کا روز آئی کی جائی جو آپ کی کاروبار سے برعکس پرج ہو سکتی ہے۔

نمبر شمارہ	نام و پتہ	مستقل	تاریخ غیر ماضی	فائل نمبر
1	نیشنل سٹور خان نمبر 600	دن ٹیلی ویژن تلخ مگر	05-06-018	نمبر 53/PA موزی 04-07-2018
2	پریس کونسل خان	ملا کونسل جاری تلخ کی صورت	27-09-018	نمبر 94/PA موزی 30-11-018
3	نیشنل شاہ نمبر 101	غائبہ وارڈنی تلخ پشاور	14-09-018	نمبر 04/PA موزی 22-02-019

المشہور ایسٹان اللہ خان ایسٹان پبلس ایسٹان

Dismissed
from service.

DPO (H).

ضابط عالی -

تذکرہ میں سائل کے لیے نکتہ ہوگی ہے
بمقامت سونے ماظم سوانح - سائل دوبارہ بحال ہونے
پر اس کے لئے اپنی زنا جاننا ہے - ہذا پر راجہ در خواست
استر عاصم سائل کو بہ ظاہر سٹی آرڈر کی مالی
دینے ماظم ہمارے فرمائش خاصات وفاق اور سوانح

عین کو ازین سون

الغرض

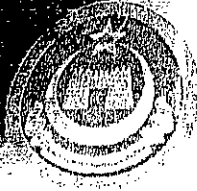
28/10/19

ایضاً باہر فرماں ~~تذکرہ~~ 143 سون سائل

therefore.
Ex madm
as per records



✓
DPO Bahauddin
28/10/19



OFFICE OF THE
DISTRICT POLICE OFFICER,
HANGU

Tel No. 0925-623026 & Fax No. 0925-620135
Email: dpo_hangu@yahoo.com

No. 3759 /PA

Dated 30/10 /2018.

To: The Capital City Police Officer, Peshawar.

Subject: - **CHARGE SHEET & STATEMENT OF ALLEGATIONS.**

Memorandum:

Kindly refer to the subject cited above.

It is submitted that Charge Sheet (in duplicate) initiated against Constable Shah Faisal No. 143 s/o Shireen r/o Khan Pur Police Station Daudzai, Peshawar is sent herewith for delivery upon him. A copy of the same duly signed by him may be returned to this office for further necessary action, please.

Encl: (04)

DISTRICT POLICE OFFICER,
HANGU

(28)

FINAL SHOW CAUSE NOTICE

WHEREAS, you Constable Shah Faisal No. 143 proceeded against departmentally on the basis of allegations that you while posted at Police Lines Hangu had absented yourself from official duty with effect from 14.09.2018 to 03.12.2018 vide DD No. 37 dated 14.09.2018 of Police Lines Hangu without any leave or prior permission from his senior officer. His absentee shows his negligence, disinterest and also amount to gross misconduct on his part.

THEREFORE, you were served with Charge Sheet and statements of allegations under Police Disciplinary Rules 1975 vide No. 101/PA, dated 05.10.2018. Mr. Umar Hayat SDPO, Hangu was appointed as Enquiry Officer to conduct departmental enquiry against you, to which you failed to submit your reply. After completion of enquiry, the Enquiry Officer submitted findings on 11.02.2019 which you were summoned time to time to appear before the Enquiry Officer for recording your statement but you did not appear. Therefore, the Enquiry Officer recommended you for Major Punishment.

NOW, THEREFORE, I, Pir Shahab Ali Shah, District Police Officer, Hangu have vested the power under Police Disciplinary Rules, 1975 liable to take action against you, which will render you.

Your reply to this Final Show Cause Notice must reach to the office of the undersigned within **7 days** of the receipt of Final Show Cause Notice. In case your reply is not received within the stipulated period, it shall be presumed that you have no defence and ex-parte action will be taken against you. Also state, whether you desire to be heard in person?

No. 04 /PA,

Dt: 22/02/2019.


**DISTRICT POLICE OFFICER,
HANGU**

(20)

حوالہ نوٹس بنام کنیل سہ ماہی فصل 143 حروف خدایت حوالہ

مذکورہ کنیل حورم 17/02/2019 سے نار دستور غیر حرام ہے

نوٹس 597/PA حورم 16/03/2019 کو بذریعہ ڈاک مذکورہ کنیل

کے حورم اندر لیس پر کھینچا مگر نا حال جواب حوالہ کنیل

اسلئے عدوہ مذکورہ کنیل کے ذاتی جواب میں 5931744-0300

پر کھی گئی بار اطلاع دی مگر مذکورہ کنیل نا حال حوالہ

سے کام لے دھایے اور حرام میں حورم راجح ہے

N/PA

Official

23-04-09

→

submitted

for for & for

PA

Amir

PA-Dpec