

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 878/2019

Date of Institution ... 03.07.2019  
Date of Decision ... 10.06.2021

Farhad Ali Constable No.1005 Khair Abad District Nowshera.

... (Appellant)

**VERSUS**

Regional Police Officer, Mardan and three others.

... (Respondents)

Roeeda Khan,  
Advocate

... For appellant.

Asif Masood Ali Shah,  
Deputy District Attorney

... For respondents.

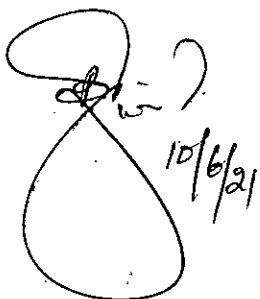
AHMAD SULTAN TAREEN  
ROZINA REHMAN

... CHAIRMAN  
... MEMBER (J)

**JUDGMENT**

ROZINA REHMAN, MEMBER: Appellant was a constable. He was awarded punishment of stoppage of one increment with accumulative effect. It is the legality and validity of this order which has been challenged by him in the instant service appeal U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

2. The relevant facts leading to the instant appeal are that appellant was enlisted as Constable at District Nowshera. He was awarded minor punishment of stoppage of one increment with accumulative effect on the allegations that he remained absent from

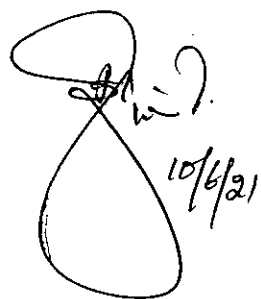
  
10/6/21

duty on 23.07.2010. He came to know about the said punishment in April, 2018 when deductions were made from his salary. He, therefore, preferred departmental appeal which was rejected, hence, the present service appeal.

3. We have heard Ms. Roeda Khan Advocate and Mr. Asif Masood Ali Shah learned Deputy District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Ms. Roeda Khan Advocate learned counsel appearing on behalf of appellant, inter-alia, argued that the impugned orders are illegal and against law as mandatory provisions of law were badly violated by the respondents and appellant was not treated according to law. Learned counsel argued that neither charge sheet nor show cause notice was served upon appellant who was condemned unheard. It was further argued that no inquiry was conducted in order to find out the real facts of the case and the impugned order was passed which is not maintainable in the eyes of law.

5. Conversely, learned D.D.A argued that the order passed by the competent authority is in accordance with law. He argued that strict directions had been issued by the competent authority in respect of performance of duties, therefore, the appellant was informed for compliance of the said orders but he did not bother to ensure his arrival at Police Lines Nowshera and that after fulfillment of all legal

A handwritten signature in black ink, followed by the date '10/6/21' written in a similar style.

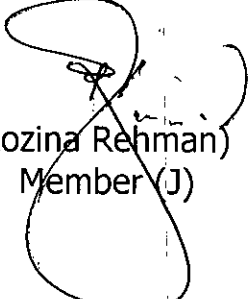
and codal formalities, he was awarded appropriate punishment which does commensurate with the gravity of misconduct of the appellant.


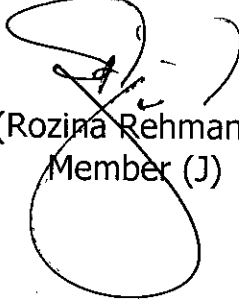
6. Perusal of record would reveal that vide order dated 23.07.2010 appellant was awarded minor punishment of stoppage of one increment with accumulative effect as he did not bother to obey the lawful orders of the senior and absented himself from his duties. Nothing was brought on record that any show cause notice, charge sheet or statement of allegations were ever served upon appellant. Similarly, not an iota of evidence was produced before this Bench in order to show that before awarding punishment, any inquiry was conducted according to law. As per record, the deductions from the salary of the appellant was made in April, 2018, therefore, the stance of appellant is very much clear that the impugned order dated 23.07.2010 was never communicated to the appellant for the reasons best known to the respondents and after getting knowledge regarding deduction from his salary, he preferred departmental appeal which was rejected on 12.11.2018. It is even otherwise a matter of recurring pecuniary benefits, the appellant has a continual cause of action.

7. In view of the foregoing reasons, we allow this appeal as prayed for. No order as to costs. File be consigned to the record room.

ANNOUNCED.  
10.06.2021

  
(Ahmad Sultan Tareen)  
Chairman

  
(Rozina Rehman)  
Member (J)

S.No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	10.06.2021	<p><u>Present.</u></p> <p>Roeeda Khan, Advocate ... For Appellant</p> <p>Asif Masood Ali Shah, Deputy District Attorney ... For respondents</p> <p>Vide our detailed judgment of today of this Tribunal placed on file, instant service appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.</p> <p><u>ANNOUNCED.</u> 10.06.2021</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">               (Ahmad Sultan Tareen)              Chairman         </div> <div style="text-align: center;">               (Rozina Rehman)              Member (J)         </div> </div>


31.05.2021

Appellant present through counsel.

Asif Masood Ali Shah learned Deputy District Attorney alongwith Fayyaz H.C for respondents present.

Arguments heard. To come up for order on 01.06.2021 before D.B.

(Mian Muhammad)  
Member (E)

  
(Rozina Rehman)  
Member (J)

01.06.2021

Appellant present through counsel.

Asif Masood Ali Shah learned Deputy District Attorney for respondents present.

Bench is incomplete as learned Member Executive (Mian Muhammad) is on leave, therefore, order could not be announced and the case is adjourned to 10.06.2021 before D.B.

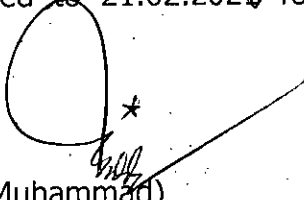
  
(Rozina Rehman)  
Member(J)

01.12.2020

Counsel for the appellant and Addl. AG alongwith Fayaz Khan, ASI for the respondents present.

Former requests for adjournment in order to further prepare the brief.

Adjourned to 21.02.2021 for hearing before the D.B.

  
(Mian Muhammad)  
Member(E)

  
Chairman

21.12.2020

Junior to counsel for the appellant present. Addl: AG for respondents present.

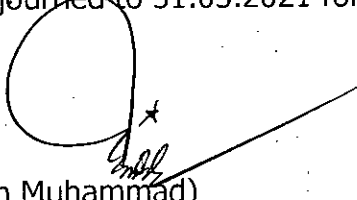
Due to pandemic of Covid-19, the case is adjourned to 22.02.2021 for the same.

  
Reader

22.02.2021

Appellant in person and Asif Masood, DDA for the respondents present.

Former requests for adjournment as his learned counsel is engaged before the Honourable High Court in many cases today. Adjourned to 31.05.2021 for hearing before the D.B.

  
(Mian Muhammad)  
Member(E)

  
Chairman

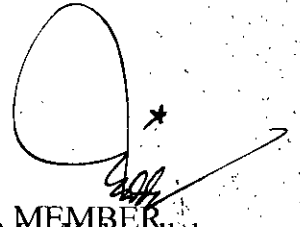
25.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 17.06.2020 before S.B.

  
Reader

17.06.2020

Counsel for the appellant and Asst: AG alongwith mr. Fayaz, H.C for respondents present. Written reply submitted which is placed on file. To come up for arguments on 10.09.2020 before D.B.

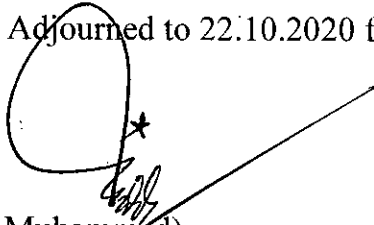


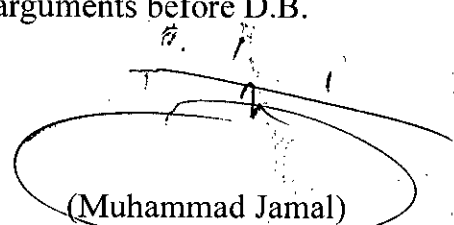
10.09.2020

Counsel for the appellant is present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Learned counsel for the appellant requested for adjournment on the ground that she has not prepared the case.

Adjourned to 22.10.2020 for arguments before D.B.

  
(Mian Muhammad)  
Member (E)

  
(Muhammad Jamal)  
Member(J)

22.10.2020

Junior to counsel for the appellant and Zara Tajwar, DDA for the respondents present.

The Bar is observing general strike today, therefore, the matter is adjourned to 04.12.2020 for hearing before the D.B.

  
(Mian Muhammad)  
Member

  
Chairman

11.12.2019

Junior to counsel for the appellant present.

Requests for adjournment due to general strike of the Bar today. Adjourned to 31.12.2019 before S.B.

Chairman



31.12.2019

Counsel for the appellant present.

On the strength of admitting note handed down in Service Appeal No. 1152/2019, instant appeal is admitted to regular hearing subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 10.02.2020 before S.B.

Appellant Deposited  
Security & Process Fee

2/1

Chairman



10.02.2020

Learned counsel for the appellant present. Written reply not submitted. Fayaz H.C representative of respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 25.03.2020 before S.B.

Member





26.07.2019

Counsel for the appellant present.

It is one of the contentions of the learned counsel that stoppage of one increment in pursuance to the impugned order came to the knowledge of appellant in the year 2018 when it was revealed from his salary slip. In order to substantiate the arguments, learned counsel requests for time to further document the brief.

May do so on next date of hearing. Adjourned to 16.09.2019 before S.B.

  
Chairman

16.09.2019

Junior to counsel for the appellant present.


A request for adjournment is made due to general strike of the bar. Adjourned to 29.10.2019 for further documentation of the brief/preliminary hearing before S.B.

  
Chairman

29.10.2019

Junior to counsel for the petitioner present.

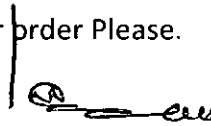

Requests for adjournment due to general strike on the call of Provincial Bar Council. Adjourned to 11.12.2019 before S.B.

  
Chairman

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 878/2019

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	04.07.2019	<p>The appeal of Mr. Farhad Ali resubmitted today Roaida Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order Please.</p> <p> REGISTRAR 4/7/19</p>
2		<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>26/07/19</u>.</p> <p> CHAIRMAN</p>

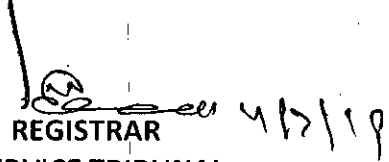
P-16/12  
fine bonded

The appeal of Mr. Farhad Ali Constable No. 1005 Khair Abad District Nowshera received today i.e. on 03.07.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copies of charge sheet, statement of allegation, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 2- Copy of impugned order dated 23.07.2010 mentioned in the memo of appeal is not attached with the appeal which may be placed on it.
- 3- Annexure-A of the appeal is illegible which may be replaced by legible/better one.

No. 1158 /S.T,

Dt. 4-7- /2019.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Roeeda Khan Adv.Pesh.

I removed the  
objection? No charge sheet  
② → Impugned show cause  
4/7/19 notice has been  
served & received  
by u' appellant.

**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**

In Re S.A.No. **878** 2019

Farhad Ali

**VERSUS**

Regional police Officer and Others

**INDEX**

<b>S#</b>	<b>Description of Documents</b>	<b>Annex</b>	<b>Pages</b>
1.	Grounds of Petition.		1-6
2.	Affidavit.		7
3.	Addresses of parties		8
4.	Application for the Condonation of Delay		9-10
5.	Copy of impugned order dated 23/07/2010	"A"	11 & 12
6.	Copy of departmental appeal and rejection order	"B & C"	13 & 14
7.	Copy of mercy petition and rejection order	"D & E"	15 & 16
8.	Wakalat Nama		

(F)  
**APPELLANT**

Through

(R)  
**Roeeda Khan**  
Advocate, High Court  
Peshawar.

Dated: 02/07/2019

**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

In Re S.A No. 878/2019

Diary No. 916

Dated 03-7-2019

Farhad Ali Constable No. 1005 Khair Abad District  
Nowshera.

*....Appellant*

***VERSUS***

1. Regional Police Officer, Mardan.
2. District Police officer Nowshera.
3. Provincial Police Officer Khyber Pakhtunkhwa  
Peshawar.
4. The inspector General of police Mardan Region-1,  
Mardan

*....Respondents*

APPEAL U/S-4 OF THE KHYBER  
PAKHTUNKHWA SERVICES TRIBUNAL ACT  
1974 AGAINST THE ORDER DATED 27/11/2018  
COMMUNICATED TO THE APPELLANT ON  
05/06/2019 PASSED BY RESPONDENT NO.1  
WHEREBY THE DEPARTMENTAL APPEAL OF  
THE APPELLANT FILED AGAINST THE ORDER  
DATED 23/07/2010 OF RESPONDENT NO.2 HAS  
BEEN REJECTED ON NO GOOD GROUNDS

*Filed to-day  
Registrar  
3/7/19.*

*Re-submitted to -day  
and filed.*

*Registrar  
4/7/19*

2

Prayer:-

ON ACCEPTANCE OF THIS SERVICE APPEAL THE IMPUGNED ORDER DATED 12/11/2018 OF RESPONDENT NO.1 AND ORDER DATED 23/07/2010 OF RESPONDENT NO.2 MAY KINDLY BE SET ASIDE AND THE APPELLANT MAY KINDLY BE ORDER TO BE RESTORED HIS ONE INCREMENTS ALONGWITH ALL BACK BENEFITS.

Respectfully Sheweth,

1. That the Appellant was enlisted as Constble in District Police Nowshera, remained posted to various stations and since then he performed his duties with honesty and full devotion.
2. That in the year 2010 the appellant while posted in district Nowshera was awarded minor punishment of stoppage of one increments with accumulative effect on the allegations that the appellant absented himself from special duty by Respondent No.2 vide order dated 23/07/2010 however the appellant was never informed about the same. Furthermore the said absentee was not deliberate or intentionally but due to sever illness of the appellant. (Copy of

(3)

impugned order dated 23/07/2010 is annexed as annexure "A")

3. That the appellant after come to know of the punishment on when deductions started from his salary, preferred departmental appeal before Respondent No.1 which was rejected on 12/11/2018. (Copy of departmental appeal and rejection order is annexed as annexure "B & C" respectively)
4. That the appellant submitted a mercy petition within one month of rejection order of Respondent No.1 which has been rejected on 27/11/2018 communicated to the appellant on 05/06/2019. (Copy of mercy petition and rejection order are annexed as annexure "D & E" respectively)
5. That the impugned order dated 27/11/2018 of Respondent No.1 and order dated 23/07/2010 of Respondent No.2 are against the law facts and principal of justice on grounds inter alia as follows:-

**GROUNDS:-**

- A. That the impugned orders are illegal and void-ab-initio.

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B. That mandatory provisions of law and Rules have badly been violated by the Respondents and the appellant has not been treated according to law and Rules and the appellant did nothing that amounts to misconduct.

C. That no charge sheet and show cause notice were served upon the appellant.

D. That exparte action has been taken against the appellant and he has been condemned unheard.

E. That no inquiry was conducted to find out the true facts and circumstances.

F. That the impugned order is defective as per FR 29 and as such not maintainable in the eyes of law.



(S)

G. That even otherwise the absence from duty was neither willful nor deliberate rather the same was because of illness of the appellant which circumstances were compelling in nature and were beyond the control of the appellant as well.

H. That the impugned orders are not speaking orders and thus not tenable in the eyes of law.

I. That the appellant was not provided the opportunity of personal hearing and the impugned order is defective as well.

J. That the punishment is harsh being in contrary to the principal of proportionality of sentence.

K. That the Respondent department committed discrimination which is clear cut violation of article 25 of the constitution of Islamic republic of Pakistan 1972.

L. That any other ground not raised here may graciously be allowed to be raised at the

(6)

time full of arguments on the instant service appeal.


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

*Any other relief not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.*

Dated: 02/07/2019

  
APPELLANT

Through

  
**Roeeda Khan**  
Advocate, High Court  
Peshawar.

NOTE:-

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

  
Advocate.

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**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**

In Re S.A No. \_\_\_\_\_/2019

Farhad Ali

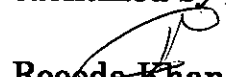
**VERSUS**

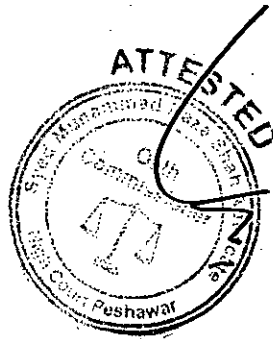
Secretary Government of Khyber Pakhtunkhwa Health  
Department and Others

**AFFIDAVIT**

I, **Farhad Ali Constable No. 1005 Khair Abad District Nowshera**, 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.

*Identified by:*

  
**Roeda Khan**  
Advocate High Court  
Peshawar.



  
**DEPONENT**

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**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**

In Re S.A No. \_\_\_\_/2019

Farhad Ali

**VERSUS**

Regional police Officer and Others

**ADDRESSES OF PARTIES**

***PETITIONER.***


Farhad Ali Constable No.1005 Khair Abad  
District Nowshera.

**ADDRESSES OF RESPONDENTS**

1. Regional Police Officer, Mardan.
2. District Police officer Nowshera.
3. Provincial Police Officer Khyber Pakhtunkhwa  
Peshawar.
4. The inspector General of police Mardan Region-1,  
Mardan.

  
***APPELLANT***

Through

  
**Roeda Khan**  
Advocate, High Court  
Peshawar.

**Dated: 02/07/2019**

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**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**

In Re S.A No. \_\_\_\_/2019

Farhad Ali

**VERSUS**

Regional police Officer and 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 ground of the appeal be consider as integral part of this application
3. That the appellant after come to know of the punishment on when deductions started from his salary preferred departmental appeal before Respondent No.1 which was rejected on 12/11/2018'

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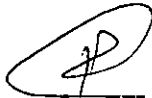
4. That the final impugned order dated 27/11/2018 has been communicated to the appellant on 05/06/2019 and the absentee of the appellant was not deliberately, intentionally but due to sever illness.
5. That there are many judgment of the superior court that the cases should be decided on merit rather than on technically.

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: 02/07/2019

BETTER COPY NO. 11

(ORDER)

Appeal preferred by FC Farhad Ali No. 1005 against the order of DPO Nowshera, wherein he was awarded minor punishment of stoppage of one increment with the cumulative effect vide OB.NO 816 dated 23/07/2010.

He was called in Or on 08-11-2018 the appellant did not produce any cogent reason for his absence. Therefore, the appeal is being badly time barred vide DIG Mardan No. 7308/ES dated 12-11-2018.

Appeal regarding lodged by him against the order of \_\_\_\_\_ S/o. dated 23.7.2010 being badly time barred in the DIG Mardan order No; 7597/ES dtd 28-11-2018.

BETTER COPY NO. 12

Awarded a CC III in connection of good as token of appreciation

Cash Reward Rs. 300/-

OBNO. 747

Dt: 15-6-07

(C-II)

Name brought as promotion list C-II with immediate effect

OBNO. 526

Dt: 13-5-08

Awarded as CC-III for his good performance in case FIR No. 145 dt  
22-2-09 U/s 3/ 4 PO Ps Risalpur. Cash Reward Rs. 200

OBNO. 411

Dt: 5-3-09

Charge – Absent from Special Duty.

Awarded him minor punishment stoppage of increment one year  
with accumulated effect

OBNO. 810

Dt: 23-7-10



Amn A

(11)

15-CENSURES AND PUNISHMENTS-contd.

Serial No.

(Order)  
Appeal preferred by FC Farhat Ali No. 1005  
against the order of DPO Nowshera, wherein  
he was awarded minor punishment of  
stoppage of one increment with cumulative  
effect vide OB No. 816 dated 23-07-2010.

He was called in OR on 08-11-2018  
the appelland did not produce any cogent  
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appeal is being badly time passed vide DGI  
Morden No. 7308/ES dated 12-11-2018.

DP

DP/NSR

Appeal regarding lodged by him  
against the order of DPO/NSR  
dated 23.7.2010 being  
badly time passed vide DGI

order No. 7597/ES  
dt. 28-11-2018

MS  
CMT

DP/NSR

DP/NSR

F

200 11 2018



To

Subject

Memo

14. COMMENDATORY ENTRIES—contd.

(2) Awarded a CC III in connection of good as a token of appreciation.

Cash Reward Rs-300/-

OB No. 747

dt 15-6-07

DP/NSR

(C-II)

Name Brought to promotion list C-II with immediate effect.

OB No. 526

dt 13-5-08

DP/NSR

(7)

Awarded a CC-III for his good performance in case FIR no 145 dt 22-2-09 u/s 3/4 PO P.S. Rival pur. Cash Reward Rs-200/-

OB No. 411

dt 5-3-2009

DP/NSR

Charge absent from special duty.

Awarded him a 10% increment of increment of 1000/- with effect from 1-1-08

P

OB No. 870

dt 23-7-08

DP/NSR

...

Amir B<sup>03</sup>

137

To: - The Provincial Police Officer,  
Khyber Pakhtunkhwa Peshawar.

Through:- Proper Channel

Subject: - APPEAL FOR RE-INSTATEMENT IN SERVICE.

Respected Sir,

With due respect I beg to submit that I have been awarded a Minor punishment of stoppage of 1 year increment with cumulative effect by the then District Police Officer Nowshera, vide OB No.810 dated 23/07/2010 for the allegations of absence from special duty, against which I have submitted an Appeal before the DIG Police Mardan Region- I Mardan but it was not entertained/filed. Therefore, I am going to submit the present Mercy Petition for favorable consideration.

I was suffering from Fever + Headache and was lying on bed in those days therefore, I could not perform the duty.

Therefore, I approach your good self to kindly accept my Mercy Petition and the order of dismissal from service may kindly be withdrawn.

1. I was neither issued any show cause notice/charge sheet nor any inquiry was conducted in this regard and the punishment order was straightway issued.
2. The punishment is so harsh which has damaged my service career and is permanent financial loss to me.
3. I was not informed about the said punishment and it was noticed recently during checking of service roll.
4. I am performing my duties up to the entire satisfaction of my superiors.
5. I had tried to attend the special duty in time but unfortunately reached late and I was awarded the above mentioned sever and harsh punishment.
6. I was not given any opportunity either to submit reply/explanation during personal hearing.
7. Due to this punishment order, I have been put to great financial loss and my service career has also been damaged.
8. I am drawing less pay from my colleagues which is great loss for ever.

Therefore, I approach your good self to kindly accept my Appeal the order of punishment of stoppage of 1 year increment with cumulative effect awarded by the then DPO Nowshera vide OB No.810 dated 23/07/2010 may kindly be withdrawn, so that my service career may not be damaged.

I shall be highly obliged and will pray for your long life and prosperity.

**ATTESTED**

Your Obediently,

(Farhad Ali)

Constable No.1005 Khair Abad Pul  
District Nowshera.

1005

(14)

Amir B

ORDER.

This order will dispose-off the departmental appeal preferred by **Constable Furhad Ali No. 1005** of Nowshera District Police against the order of District Police Officer, Nowshera, wherein he was awarded Minor punishment of stoppage of one increment with cumulative effect vide OB No. 816 dated 23.07.2010

Brief facts of the case are that the appellant absented from Special duty on 23.07.2010.

He was called in orderly room held in this office on **08.11.2018** and heard in person. The appellant did not produce any cogent reason for his absence. Therefore, I find no grounds to intervene into the order passed by the then District Police Officer, Nowshera.

Besides, the appeal is filed being badly time barred.

ORDER ANNOUNCED.

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

No. 7308 /ES,

Dated Mardan the 12/11 /2018.

Copy to District Police Officer, Nowshera for information and necessary action w/r to his office Memo: No. 7284/PA dated 19.10.2018. The Service Record is returned herewith.

(\*\*\*\*\*)

*EC / PMC  
For: n action*

*(Signature)  
PPONSAR  
12/11/18*

No. 2736  
PA. D.F.O. NSR  
d. 13-11-18  
By: \_\_\_\_\_

**ATTESTED**

15 Am

To: - The Deputy Inspector General of Police;  
Mardan Region- I Mardan.

Through:- Proper Channel

Subject: - APPEAL FOR RE-INSTATEMENT IN SERVICE.

Respected Sir,

With due respect I beg to submit that I have been awarded a Minor punishment of stoppage of 1 year increment with cumulative effect by the then District Police Officer Nowshera, vide OB No.810 dated 23/07/2010 for the allegations of absence from special duty, against which I have submitted an Appeal before the DIG Police Mardan Region- I Mardan but it was not entertained/filed. Therefore, I am going to submit the present Mercy Petition for favorable consideration.

I was suffering from Fever + Headache and was lying on bed in those days therefore, I could not perform the duty.

Therefore, I approach your good self to kindly accept my Mercy Petition and the order of dismissal from service may kindly be withdrawn.

1. I was neither issued any show cause notice/charge sheet nor any inquiry was conducted in this regard and the punishment order was straightway issued.
2. The punishment is so harsh which has damaged my service career and is permanent financial loss to me.
3. I was not informed about the said punishment and it was noticed recently during checking of service roll.
4. I am performing my duties up to the entire satisfaction of my superiors.
5. I had tried to attend the special duty in time but unfortunately reached late and I was awarded the above mentioned server and harsh punishment.
6. I was not given any opportunity either to submit reply/explanation during personal hearing.
7. Due to this punishment order, I have been put to great financial loss and my service career has also been damaged.
8. I am drawing less pay from my colleagues which is great loss for ever.

Therefore, I approach your good self to kindly accept my Appeal the order of punishment of stoppage of 1 year increment with cumulative effect awarded by the then DPO Nowshera vide OB No.810 dated 23/07/2010 may kindly be withdrawn, so that my service career may not be damaged.

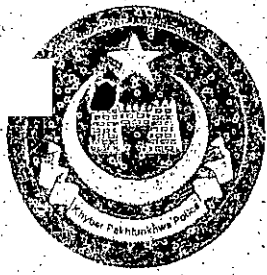
I shall be highly obliged and will pray for your long life and prosperity.

Your Obediently,

(Farhad Ali)

Constable No.1005 Khair Abad Pul.  
District Nowshera.

  
**ATTESTED**



(16)

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

2585  
28-11-18

No. S/ 475 /18, dated Peshawar the 27/11/2018.

To : The Regional Police Officer,  
Mardan.

Subject: APPEAL (EC FARHAD ALI NO.1005)

Memo :  
The Competent Authority has examined and filed the appeal submitted by Constable Farhad Ali No. 1005 of Nowshera District Police against the punishment of stoppage of 01-year increment with cumulative effect awarded by the District Police Officer, Nowshera vide OB No.810 dated 23.07.2010 being badly time barred.

The applicant please be informed accordingly.

NO. 7597/ES, DT, 28-11-18  
EC/DPO Nowshera

(SYED ANIS-UL-HASSAN),  
Registrar,  
For Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.

For n. action  
28/11/18

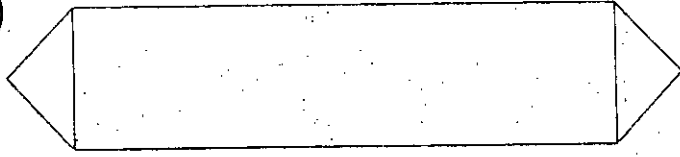
EC/FMC  
FOR D. action.

29/11/18

File No. 2870  
SA, D.P.O.  
dt. 30-11-2018  
Encl:

S  
**ATTESTED**

بعدالت منابج لاروسہ



2012ء منابج

فہاد علی بنام

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 کے لیے روٹ کے ایک اور دوکے

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 دیئے 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 پرداختہ منظور و 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 سندر ہے۔

2012ء

ماہ 10

3

المرقوم

العبد

کے لئے منظور ہے۔

فہاد

مقام

فہاد علی

S

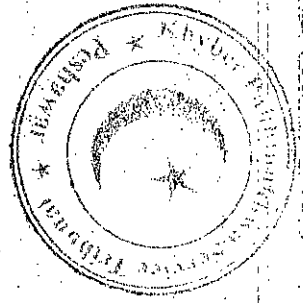
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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1493/2018

Date of Institution ... 05.12.2018  
Date of Decision ... 29.03.2021



Suleman Ahmad, Constable No.32, District Police Nowshera.  
... (Appellant)

VERSUS

Regional Police Officer, Mardan and two others.  
... (Respondents)

Fazal Shah Mohmand,  
Advocate ... For appellant.

Kabir Ullah Khattak,  
Additional Advocate General ... For respondents.

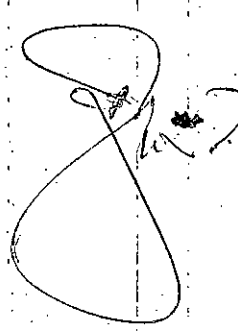
ROZINA REHMAN ... MEMBER (J)  
ATIQU UR REHMAN WAZIR ... MEMBER (E)

JUDGMENT

ROZINA REHMAN, MEMBER: Appellant was a constable. He was awarded punishment of stoppage of two increments with fine of Rs.1000-/. It is the legality and validity of this order which has been challenged by him in the instant service appeal U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

2. The relevant facts leading to the instant appeal are that appellant was enlisted as Constable who was posted as Gunman with S.S.P in the year 2009. He was awarded minor punishment of

**ATTESTED**

  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar




stoppage of two increments with accumulative effect with Fine of Rs. 1000/- on the allegations that he remained absent from Moharram duty on 19.12.2009. He came to know about the said punishment in April, 2018 when deductions were made from his salary. He, therefore, preferred departmental appeal which was rejected, hence, the present service appeal.

3. We have heard Mr. Fazal Shah Mohmand Advocate and Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Mr. Fazal Shah Mohmand Advocate learned counsel appearing on behalf of appellant, inter-alia, argued that the impugned orders are illegal and against law as mandatory provisions of law were badly violated by the respondents and appellant was not treated according to law. Learned counsel argued that neither charge sheet nor show cause notice was served upon appellant who was condemned unheard. It was further argued that no inquiry was conducted in order to find out the real facts of the case and the impugned order was passed which is not maintainable in the eyes of law.

5. Conversely, learned A.A.G argued that the order passed by the competent authority is in accordance with law. He argued that strict directions had been issued by the competent authority in respect of performance of duties during Muharram, therefore, the appellant was informed for compliance of the said orders but he did not bother to

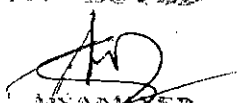
ATTESTED

  
 THE ATTORNEY GENERAL  
 FEDERAL BUREAU OF INVESTIGATION  
 ISLAMABAD

ensure his arrival at Police Lines Nowshera and that after fulfillment of all legal and codal formalities, he was awarded appropriate punishment which does commensurate with the gravity of misconduct of the appellant.

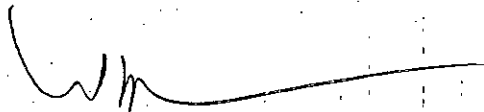
6. Perusal of record would reveal that vide order dated 25.01.2010 appellant was awarded minor punishment of stoppage of two increments with accumulative effect and fine of Rs. 1000/- as he did not bother to obey the lawful orders of the senior and absented himself from his duties. Nothing was brought on record that any show cause notice, charge sheet or statement of allegations were ever served upon appellant. Similarly, not an iota of evidence was produced before this Bench in order to show that before awarding punishment, any inquiry was conducted according to law. As per record, the deductions from the salary of the appellant was made in April, 2018, therefore, the stance of appellant is very much clear that the impugned order dated 25.01.2010 was never communicated to the appellant for the reasons best known to the respondents and after getting knowledge regarding deduction from his salary, he preferred departmental appeal which was rejected on 07.09.2018. Learned A.A.G produced different documents in shape of different Naqalmads at this belated stage when case was fixed for arguments and order. It is even otherwise a matter of recurring pecuniary benefits, the appellant has a continual cause of action.

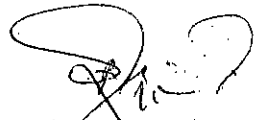
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EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

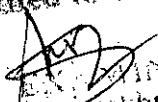
7. In view of the foregoing reasons, we allow this appeal as prayed for. No order as to costs. File be consigned to the record room.

ANNOUNCED.  
29.03.2021

  
(ATIQ UR REHMAN WAZIR)  
MEMBER (E)

  
(ROZINA REHMAN)  
MEMBER (J)

**Certified to be true copy**

  
MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application	29-03-21
Number of Copies	2000
Copy Charges	22.00
Urgent	✓
Total	22.00
Name of Officer	←
Date of Completion of Copy	22-04-21
Date of Delivery of Copy	22-04-21

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**KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR**

No. 1071 /ST

Dated 23/06 / 2021

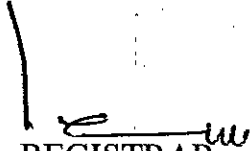
To

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

Subject: - **JUDGMENT IN APPEAL NO. 878/2019, MR. FARHAD ALI.**

I am directed to forward herewith a certified copy of Judgement dated 10.06.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

جنگل کے لئے  
Increment

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**



Service Appeal No.391/2011

Date of Institution: 28.02.2011

Date of Decision: 16.12.2020

Hayat Ullah Warder, Central Prison Kohat

... (Appellant)

**VERSUS**

Inspector General of Prisons KPK and 2 others

... (Respondents)

**Present:**

Aslam Khan Khattak

Advocate

... For Appellant

Zara Tajwar

Deputy District Attorney

... For Official Respondents

Rozina Rehman

... Member (J)

Atiq Ur Rehman Wazir

... Member (E)

**JUDGEMENT:**

ROZINA REHMAN MEMBER (J): Appellant, Hayat Ullah was a Warder in the Prison Department. He was awarded penalty of stoppage of annual increments for two years vide order dated 27.01.2011 without future effect. It is the legality and validity of this order which has been challenged by him in the present service appeal filed U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

2. Brief facts of the case are that appellant, Hayat Ullah was initially appointed as Warder in Prison Department, while serving in central jail Bannu, he along with 22 other warders were awarded penalty of stoppage of annual

increments for three years vide order dated 25.10.2010 without future effect.

The appellant filed departmental appeal on 24.11.2010, which was partially accepted and the penalty was modified into stoppage of two increments vide impugned order dated 27-01-2011. Feeling aggrieved, the appellant filed the instant appeal with prayers that the impugned order dated 27.01.2011 up to the extent of appellant may be set aside being illegal under the law.

3. Written reply/comments were submitted by respondents.

4. Arguments heard and record perused.

5. Learned counsel for the appellant contended that the penalty of stoppage of increment was awarded without conducting any inquiry, nor any charge sheet, statement of allegations and show cause notice were served upon the appellant.

The appellant was also not afforded an opportunity of personal hearing.

Therefore, the impugned order is liable to be set aside on this score alone. He

further argued that most of the warders have already been excused and the

appellant also stands entitled for the same treatment, otherwise it is

discrimination, which is against Article 25 of the Constitution of Islamic Republic

of Pakistan 1973.

The learned D.D.A appeared on behalf of the respondents opposed the contention of the appellant and contended that the appellant was properly proceeded against, where proper inquiry was conducted and all codal formalities were fulfilled. She further stated that no relief has been granted to any other warder as claimed by the appellant. The respondents however, did not produce any record pertaining to proceedings as well as documentary evidence on denial of relief to other warders.

7. We have heard learned counsel for the parties and perused the record. It was noted that the instant appeal lingered for the long years for want of record.

In spite of repeated warnings, the record was not made available. In order to resolve the issue, superintendent Headquarter Prisons was summoned by court to bring forth the relevant record, who stated at bar that due to jail break in 2012 in Bannu Jail, the relevant record was destroyed and is not traceable. A written document to this effect was also submitted, which is placed on file. There is nothing in the impugned order to ascertain as to why and on which ground the penalty was awarded. Grant of relief to other wardens as claimed by the appellant was also not proved otherwise by the respondents. In absence of record pertaining to disciplinary proceedings against the appellant, we are constrained to rely on the available record and to accept the instant appeal as prayed for. No orders as to costs. File be consigned to record room.

ANNOUNCED  
16.12.2020

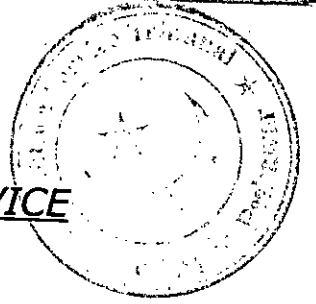
(Atiq ur Rehman Wazir)  
Member (E)

(Rozina Benman)  
Member (J)

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SENATI NIKI  
Khadim Pakhankhwa  
Service Tribunal  
Peshawar

محمد اشفاق



BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR

Service Appeal No. 1152 /2019

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1262

Dated 17/9/2019

Muhammad Ashfaq, Constable No.218, Nowshera  
District Police, Nowshera.

.....Appellant

VERSUS

1. Deputy Inspector General of Police, Regional  
Police Officer, Mardan
2. Superintendent of Police FRP, Peshawar.
3. District Police Officer, Nowshera.
4. Inspector General of Police, Police  
Headquarters, Police Line, Peshawar.

.....Respondents

**SERVICE APPEAL U/S 4 OF SERVICE  
TRIBUNAL ACT, 1974 AGAINST  
IMPUGNED ORDER DATED 22.08.2019  
PASSED BY RESPONDENT NO.1,  
WHEREBY THE ORDER DATED  
10.02.1998 WAS MAINTAINED AND  
APPEAL OF THE APPELLANT WAS  
DISMISSED BEING WELL WITHIN  
TIME.**

Filed to-day

Registrar

17/9/19

PRAYER

**On acceptance of this instant  
appeal, the impugned order dated  
22.08.2018 and order dated  
10.02.1998 passed by respondents  
No.1 & 2 respectively may very  
graciously be set-aside and  
appellant be granted one year  
approved service alongwith arrear  
of stoppages of one year increments  
alongwith all back benefits**

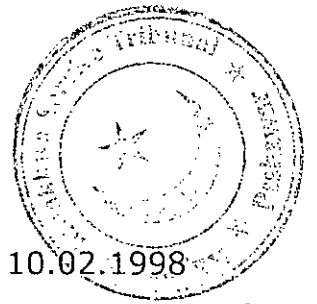
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Registrar  
Peshawar



23.10.2019

Counsel for appellant present,




Contends that the order dated 10.02.1998 awarding penalty against the appellant by stopping of one (01) increment, without cumulative effect, was not conveyed to him at the relevant time. No departmental proceedings were taken before the issuance of impugned order by the respondents. In response to the question regarding delay in submission of departmental appeal against the impugned order, it was contended that the matter pertains to increment in monthly salary of the appellant, therefore, he had recurring cause of action and period of limitation was to be disregarded in the circumstances of the case.

The appeal is admitted subject to all just exceptions in view of arguments by learned counsel and the available record. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/ comments on 24.12.2019 before S.B.

  
Chairman

Certified to be true copy

  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Payment ..... 28-10-19  
 Number of Pages ..... 800  
 Copying ..... 10-00  
 Urgent ..... 4-00  
 Total ..... 14-00  
 Name of .....  
 Date of Copying ..... 28-10-19  
 Date of Delivery of ..... 28-10-19

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

In S.A # 878/2019

Farhad Ali

Versus

Regional Police Officer Mardan & Others

**REJOINDER ON BEHALF OF**  
**APPELLANT**

**Respectfully Sheweth,**

All the Preliminary objection raised by the Respondents are incorrect and baseless and not in accordance with law and rules rather the Respondents are stopped due to their own conduct to raised any objection at the stage on the appeal.

**Facts**

All the facts of the appeal are correct, because the appellant has not been treated accordance with law and rules because the punishment awarded to the appellant on 23.07.2010 on the ground of one day absentee from special duty but the said absentee was not deliberate or intentionally but due to


sever illness of the appellant. Furthermore the appellant have no knowledge regarding the said punishment and not has been handed over the copy of the order dated 23.07.2010 and the appellant came to know regarding the said punishment on 2018 which has been admitted by the respondent department in para No.2 of reply, the punishment has been given to the appellant with cumulative effect which has not been permissible in the eyes of law. The appellant submitted departmental appeal within one month from the date of knowledge which has been rejected on 12.11.2018 after date the appellant filed revision petition within one month from the rejection order dated 12.11.2018 which has been rejected on 27.11.2018 communicated to the appellant on 05.06.2019 which were impugned by the appellant in the instant appeal. Furthermore, the matter pertains to increment in monthlay salary of the appellant, therefore, he had recurring cause of action and period of limitation has not been run against the said punishment.

**ON GROUNDS:-**

All the grounds of the appeal are correct and accordance with law and prevailing rules and that of the Respondents are incorrect baseless because no charge sheet no statement to allegation has been issued to the appellant no show cause notice has been issued against the appellant no opportunity of defense has been provided to the appellant.

*It is, therefore, requested that the appeal may kindly be accepted as prayed for.*

Dated 31/05/2021

Petitioner  
Through   
Roeeeda Khan  
Advocate, High Court  
Peshawar.

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

Service Appeal No. 878/2019

Farhad Ali Constable No. 1005, District Nowshera.

.....Appellant

**V E R S U S**

1. The Regional Police Officer, Mardan Region-I, Mardan.
2. The District Police Officer, Nowshera.
3. The Provincial Police Officer, Khuyber Pakhtunkhwa, Peshawar.

.....Respondents

**REPLY ON BEHALF OF RESPONDENTS No.1,2&3**

**Respectfully Sheweth: -**

**PRELIMINARY OBJECTIONS**

1. That the appellant has got no cause of action.
2. That the appeal is badly time-barred.
3. That the appellant has been estopped by his own conduct to file the instant appeal.
4. That the appeal is not maintainable in its present form.
5. That the appellant has not come to the Honourable Tribunal with clean hands.

**On Facts**

1. Para to the extent of enlistment of appellant in Police Department and subsequent posting pertains to record hence, needs no comments while regarding rest of the para, it is stated that each and every Police Officer/Official is duty bound to perform his duty with honesty and devotion.
2. That appellant on 23-07-2010 absented himself from special duty hence, he was awarded minor punishment of stoppage of 01 annual increment with cumulative effect vide OB No. 810 dated 23-07-2010, but short after the said punishment, district Nowshera was hit by devastating flood of 2010 which washed out all the official record besides, other damages. Therefore, the punishment order was not materialized and the appellant was regularly drawing his regular pay. However, when the year 03-01-2018 the post of constable BPS-05 was upgraded to BPS-07 and basic pay of all the officials was being fixed, during that time it was noticed that though appellant had been awarded the aforementioned

punishment but no deduction had been made. Hence, due to the same fact, increment was stopped on the ground of punishment earlier awarded to the appellant.

3. Correct to the extent that appellant moved departmental appeal before respondent No.01 but the same was filed being time barred.
4. Correct to the extent that appellant also moved mercy petition before the respondent No. 03 which was also filed on the grounds of its being time barred.
5. Incorrect. Order passed by respondent No. 1 and 02 are in accordance with law and rules.

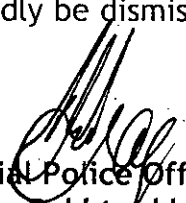
That the appeal of the appellant is liable to be dismissed on the following grounds: -

#### GROUNDS

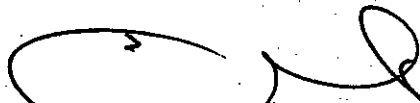
- A. Incorrect. Orders passed by the respondents are in accordance with law, facts and principles of the natural justice, hence, sustainable in the eye of law.
- B. Incorrect. As discussed earlier, appellant willfully and deliberately absented himself from special duty, hence, was awarded minor punishment of stoppage of one annual increment with cumulative effect.
- C. Incorrect. As discussed earlier, this District had been hit by the devastating flood of 2010, therefore, no record is available of the said period.
- D. Incorrect. As explained in the preceding paras, appellant absented himself from special duty without any justification therefore, he was awarded minor punishment mentioned above.
- E. Para already explained needs no comments.
- F. Incorrect. As discussed in the preceding paras that appellant was awarded minor punishment in the year 2010 but as short of the punishment order this district was hit by the devastating flood and all the record of this district was totally destroyed. Therefore, punishment order of the appellant was not materialized and taking advantage of the situation he also kept mum. Now when as per punishment his increment has been stopped he moved departmental appeal as well as mercy petition to the high-ups which were filed due to being badly time barred.

- G. Para already explained hence, no comments.
- H. Incorrect. Orders passed by the respondents are in accordance with law, facts and principles of the natural justice, hence, sustainable in the eye of law.
- I. Para already explained hence, no comments.
- J. Incorrect. A very lenient view was taken against the appellant for his misconduct, as he was only awarded minor punishment of stoppage of one annual increment with cumulative effect.
- K. Incorrect. No discrimination has been made with the appellant by the respondent department.
- L. That the respondents also seek permission of this Honourable Tribunal to advance additional grounds at the time of arguments.

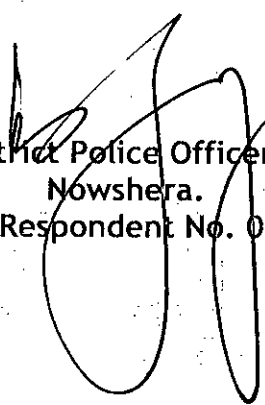
It is, therefore, most humbly prayed that on acceptance of above submissions the appeal of the appellant may very kindly be dismissed with cost.



Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.  
Respondent No.03



Regional Police Officer,  
Mardan Region-I, Mardan.  
Respondent No. 01



District Police Officer,  
Nowshera.  
Respondent No. 02

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

Service Appeal No. 878/2019

Farhad Ali Constable No. 1005, District Nowshera.

.....Appellant


**V E R S U S**


1. The Regional Police Officer, Mardan Region-I, Mardan.
2. The District Police Officer, Nowshera.
3. The Provincial Police Officer, Khuyber Pakhtunkhwa, Peshawar.

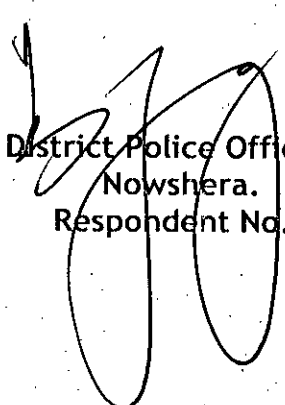
.....Respondents

**AFFIDAVIT**

We the respondents No. 1,2 &3 do hereby solemnly affirm and declare on Oath that the contents of reply to the appeal are true and correct to the best of our knowledge and belief and nothing has been concealed from the Honourable tribunal.

  
Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.  
Respondent No.03

  
Regional Police Officer,  
Mardan Region-I, Mardan.  
Respondent No. 01

  
District Police Officer,  
Nowshera.  
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