

88/2015

19.07.2018

Counsel for the appellant Mr. Muhammad Arshad Khan Tanoli, advocate and Mr. Usman Ghani, District Attorney for the respondents present.

Arguments heard and file perused.

Vide our detailed judgment of today placed on file, v this appeal is partially allowed to the extent that the impugned order passed by the appellate authority dated 26.12.2014 is set aside and the case is remanded back to the said authority for decision afresh, with the direction to take into consideration facts and circumstances of the case and give full opportunity of hearing to the appellant. So, for this purpose the departmental appeal before the appellate authority is deemed to be pending. The appellate authority is further directed to dispose of the appeal within a period of three months, from the date of receipt of this judgment. In the circumstances, parties are left to bear their own costs. File be consigned to the record room.

Muhammad Amin
Member

Q. A. Khan
Chairman
19.7.2018
Camp court, A/Abad


ANNOUNCED
19.07.2018

21.02.2018

Appellant in person and Addl AG alongwith Shamraiz Khan, H.C for the respondents present. Counsel for the appellant is not in attendance. Seeks adjournment. To come up for arguments on 23.05.2018 before the D.B at camp court, Abbottabad.



Member



Chairman
Camp court, A/Abad.

23.05.2018

Appellant in person and Mr. Usman Ghani learned District Attorney present. Appellant seeks adjournment as his counsel is not available. Adjourned. To come up for arguments on 19.07.2018 before the D.B at camp court A/Abad.



Member



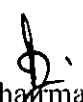
Chairman
Camp court, A/Abad

17.01.2017

Counsel for the appellant and Mr. Muhammad Siddique, Sr.GP with Mr. Aurangzeb, DSP Kohistan for respondents present. Learned Sr. GP requested for adjournment as he is not prepare the case. To come up for final hearing on 19.06.2017 before D.B at camp court A/Abad.



Member



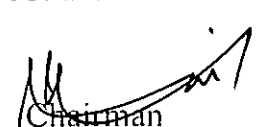
Chairman
Camp court A/Abad.

19.06.2017

Clerk of counsel for the appellant and Mr. Muhammad Siddique, Sr. GP for the respondents present. Counsel for the appellant is not in attendance. Clerk of counsel for the appellant requested for adjournment. Adjourned for final hearing before the D.B on 18.12.2017 at camp court. Abbottabad.




Member



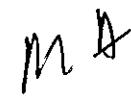
Chairman
Camp court, A/Abad

18.12.2017

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents also present. Learned Additional AG requested for adjournment for furnishing relevant record of inquiry. Adjourned. To come up for all relevant inquiry record and arguments on 21.02.2018 before D.B at Camp Court Abbottabad.



(Gul Zeb Khan)
Member (Executive)
Camp Court Abbottabad



(Muhammad Amin Khan Kundi)
Member (Judicial)
Camp Court Abbottabad

04 17.03.2015

Counsel for the appellant present. Learned counsel for the appellant argued that vide impugned order dated 9.9.2014 appellant was compulsorily retired from service on the allegations of one month absence from duty against which departmental appeal was preferred on 11.9.2014 which was rejected on 26.12.2014 and hence the instant service appeal on 26.01.2015.

That the appellant was innocent and the inquiry was not conducted in the prescribed manners and, furthermore, the appellate authority failed to appreciate the true facts of the case and consider the punishment of compulsory retirement as dismissal from service.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 21.5.2015 before S.B at camp court A/Abad.

Appellant Deposited
Security & Process Fee A




Chairman
Camp Court A/Abad


5 21.05.2015

Appellant in person and Mr. Amjad Hussain, DSP alongwith Muhammad Tahir Aurangzeb, G.P for respondents present. Comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 21.10.2015 at Camp Court Abbottabad.


Chairman
Camp Court Abbottabad


21.10.2015

Appellant in person and Mr. Muhammad Itaf, DSP Pattan alongwith Mr. Muhammad Tahir Aurangzeb, G.P for respondents present. Due to non-availability of D.B, arguments could not be heard. To come up for rejoinder and final hearing before D.B on 14.3.2016 at Camp Court A/Abad.


Chairman
Camp Court A/Abad.

14.03.2016


Appellant with counsel and Mr. Muhammad Saddique, Sr.G.P for respondents present. Arguments could not be heard due to non-availability of D.B. Adjourned for rejoinder and final hearing before D.B to 16.8.2016 at Camp Court A/Abad.


Chairman
Camp Court A/Abad

16.08.2016

Appellant with counsel and Mr. Muhammad Siddique Sr.GP for the respondents present. Rejoinder submitted. Learned Sr.GP seeks adjournment due to non-availability of representative and departmental record. Adjourned for final hearing before D.B on 17.1.2017 at camp court, Abbottabad.


Member





Chairman
Camp court, A/Abad

Form-A

FORM OF ORDER SHEET

Court of _____

Case No. 88/2015


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	09.02.2015	<p>The appeal of Mr. Badar Jameel presented today by Mr. Muhammad Arshad Khan Tanoli Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;">  REGISTRAR </p>
2	13-2-15	<p>This case is entrusted to Touring Bench A.Abad for preliminary hearing to be put up thereon <u>16-2-2015</u></p> <p style="text-align: right;">  CHAIRMAN </p>
3	16.2.2015	<p>Counsel for the appellant present.</p> <p>Requested for adjournment as he was not in the notice of the appeal. Adjourned for preliminary hearing before S.B to 17.3.2015 at camp court A/Abad.</p> <p style="text-align: right;">  Chairman Camp Court A/Abad </p>

The appeal of Mr. Badar Jameel Ex-SI/PC Lower Kohistan received to-day i.e. on 26.01.2015 is incomplete on the following score which is returned to the counsel for the appellants for completion and resubmission within 15 days.

- 1- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 2- Annexures of the appeal may be attested.
- 3- Annexure-B (impugned order dated 9.9.2014) is illegible which may be replaced by legible/better one.
- 4- Two more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 85 /S.T,

Dt. 26/01 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

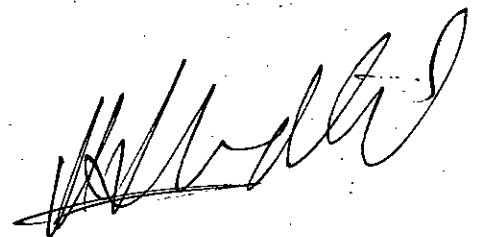
Mr. M. Arshad Khan Tanoli Adv.
High Court Abbottabad.

Siv,

1. The captioned appeal is resubmitted duly completed as per available record. It is further submitted that the appellants has not been provided the documents mentioned in para I.

2. Submitted

Date:- 4/2/2015



BEFORE HONOURABLE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 88 /2015

Badar Jameel, Ex-S.I / P.C, Lower Kohistan.

...APPELLANT

VERSUS

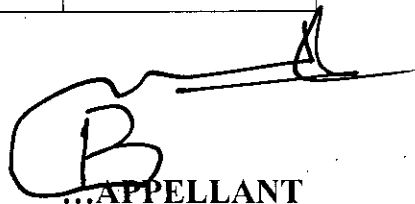
Govt. of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs KPK,
Peshawar & others.

....RESPONDENTS

APPEAL


INDEX

S.#	Description	Page No.	Annexure
1.	Appeal along with Certificate	1 to 10	
2.	List of Books.	11	
3.	Addresses of the parties	12	
4.	Copy of O.P.D tickets	13 - 17	"A"
5.	Copy of impugned compulsory retirement	18	"B"
6.	Copy of departmental appeal	19 - 20	"C"
7.	Copy of impugned rejection letter	21 - 23	"D"
8.	Wakalatnama.	24	


...APPELLANT

Through

Dated: 23/11 /2015


(Muhammad Arshad Khan Tanoli)
Advocate High Court, Abbottabad

BEFORE HONOURABLE SERVICE TRIBUNAL
KHYBER PAKHTUNKHAWA, PESHAWAR

Service Appeal No. 88 /2015

64
26-1-2015

Badar Jameel, Ex-S.I / P.C, Lower Kohistan.

...APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs KPK, Peshawar.
2. Provincial Police Officer KPK, Peshawar.
3. Regional Police Officer Hazara Range, Abbottabad.
4. District Police Officer, Lower Kohistan.

...RESPONDENTS

SERVICE APPEAL

APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT 1974 FOR DECLARATION TO THE EFFECT THAT APPELLANT WAS SUFFERING FROM KIDNEY DECEASE AND WAS UNABLE TO SERVE FROM 07/08/2014 TO 09/09/2014, HENCE, RESPONDENT NO. 4 ILLEGALLY AWARDED MAJOR PUNISHMENT OF COMPULSORY

re-submitted to ~~...~~
and filed.

26/1/15.
9/2/15

RETIREMENT FROM SERVICE TO THE APPELLANT VIDE IMPUGNED ORDER NO. 960-61/PA DATED 09/09/2014 PASSED BY RESPONDENT NO. 4. FOLLOWING THIS, THE APPELLANT FILED DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER TO RESPONDENT NO. 3 FOR CONVERTING OF MAJOR PENALTY OF COMPULSORY RETIREMENT TO REINSTATEMENT IN SERVICE, BUT RESPONDENT NO. 3 WHILE REJECTING DEPARTMENTAL APPEAL, DISMISSED THE APPELLANT VIDE IMPUGNED ORDER NO. 11381/PA DATED 26/12/2004, WHICH IS ILLEGAL, PERVERSE, ARBITRARY, AGAINST THE LAW, WITHOUT LAWFUL JUSTIFICATION AND AS A RESULT OF NON-READING OF RECORD AND SERVICE APPEAL AND THE SAME IS LIABLE TO BE SET ASIDE.

PRAYER: ON ACCEPTANCE OF THE INSTANT APPEAL, IMPUGNED COMPULSORY RETIREMENT ORDER AND IMPUGNED REJECTION LETTER NO. 11381/PA DATED 26/12/2014 BE DECLARED VOID, ILLEGAL AND

RESPONDENTS NO. 2 TO 4 MAY GRACIOUSLY BE DIRECTED TO REINSTATE THE PETITIONER IN SERVICE WITH ALL SERVICE BENEFITS IN TERMS OF PAY ETC.

ORDER NO. 5023-35/SEI DATED 11/09/2014 MAY BE DECLARED ILLEGAL, WITHOUT LAWFUL JUSTIFICATION, DEVOID OF CODAL FORMALITIES, WITHOUT ORDERING OF PROPER BOARD OF INQUIRY TO ENQUIRE AS TO WHETHER, THE APPELLANT DID NOT conduct PROPER INVESTIGATED THE CASE TITLED "STATE V/S BANARAS etc." Or not AND IMPUGNED Reversion ORDER DATED 11/09/2014 OF THE APPELLANT FROM DSP TO INSPECTOR MAY BE SET ASIDE AND RESPONDENT NO. 2 MAY GRACIOUSLY BE DIRECTED TO RESTORE RANK OF DSP OF THE APPELLANT W.E.F THE DATE OF REVERSION I.E. 11/09/2014 WITH ALL BACK BENEFITS IN TERMS OF PAY, ALLOWANCES AND SENIORITY ETC.

Respectfully Sheweth: -

It may please your lordship.

1. That the appellant served in the Police Department for 29 years and served the department with complete devotion and dedication.
2. That, the appellant was suffering from multifarious kidney deceases and remain under treatment w.e.f 07/08/2014 to 09/09/2014. (Copy of O.P.D tickets are attached as annexure "A").
3. That, following this, respondent No. 4 without issuing charge sheet, show cause notice and conducting enquiry regarding absence period of the appellant and illegally awarded major punishment i.e. compulsory retirement from service vide impugned order No. 960-61/PA dated 09/09/2014. (Copy of impugned compulsory retirement is annexed as Annexure "B").
4. That, following this, the appellant filed departmental appeal to the next higher authority i.e. respondent No. 3 for converting of compulsory retirement of the appellant into his reinstatement vide departmental appeal dated 11/09/2014. (Copy

of departmental appeal is annexed as Annexure "C").

5. That, respondent No. 3 without reading appeal of the appellant rejected departmental appeal of the appellant and also hold "After thorough probe into the enquiry report and the comments of DPO Lower Kohistan, it came to light that the punishment given to him by the DPO Lower Kohistan i.e dismissal from service is genuine. Therefore, appeal is dismissed and filed" vide impugned order No. 11381/PA dated 26/12/2014. (Copy of impugned rejection letter is attached as Annexure "D").
6. That, the act of respondent No. 3 is illegal and as a result of non-reading of record and departmental appeal of the appellant. Hence, impugned rejection letter is liable to be set-aside.
7. That, feeling aggrieved, the instant departmental appeal is filed, inter-alia, on the following amongst many others grounds:-

GROUND:-

- a. That, as per Revised Leave Rules, 1981, once medical documents regarding illness of an employee is submitted, the competent authorities are bound to consider and grant medical leave to the ailing employee.
- b. That, in case, it appears to the competent authority that the medical documents of an employee are fake, the same are to be submitted to the next medical authority as per KPK Revised leave Rules, 1981. But, respondents did not comply with the rules and leave impugned orders of compulsory retirement and rejection letter of departmental appeal are liable to be set-aside.
- c. That, no charge sheet, show cause notice and enquiry conducted in the case of the appellant. Therefore, the appellant is entitled to be reinstated in service.
- d. That, the appellant was on the posted strength of District Police Officer, Upper

Kohistan, whereas order of compulsory retirement has been passed by District Police Officer, Lower Kohistan which is not maintainable at law.

- e. That, respondent No. 3 did not considered appeal of the appellant at appropriate remedy even he did not go through the appeal and dismissed departmental appeal holding "After thorough probe into the enquiry report and the comments of DPO Lower Kohistan, it came to light that the punishment given to him by the DPO Lower Kohistan i.e dismissal from service is genuine. Therefore, appeal is dismissed and filed" which is arbitrary and against the law. Hence, the same is liable to be dismissed.

- f. That, this Honourable Court should not fold up its hand while granting relief to the aggrieved appellant as per law.

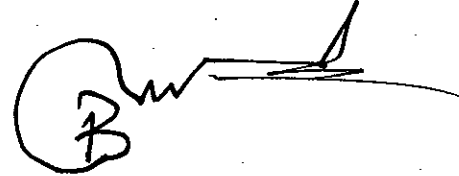
- g. That, this fact may not be left to fade in obedient that respondent No. 3 decided

departmental appeal of the appellant at his own whims and wishes without resorting to his judicious mind.

- h. That, the respondents have led the appellant to placed which is utterly unknown to the principal of juris-prudence and good administration of justice. Justice demand that when law on the subject prescribed something which is to be done in a particularly manner that must be done in that manner and not otherwise.
- i. That, the appeal of the appellant is within time and this Honourable Tribunal has jurisdiction to entertain the same.
- j. That, other points would be agitated at the time of arguments.

It is, therefore, humbly prayed that on acceptance of the instant appeal, impugned compulsory retirement order and impugned rejection letter No. 11381/PA dated 26/12/2014 be declared void, illegal and respondents No.

2 to 4 may graciously be directed to reinstate the petitioner in service with all service benefits in terms of pay etc.



...APPELLANT

Dated: 23/1/2015

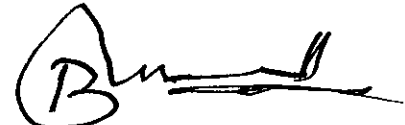
Through;



(Muhammad Arshad Khan Panoli)
Advocate High Court, Abbottabad

VERIFICATION: -

Verified on oath that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court



...APPELLANT

BEFORE HONOURABLE SERVICE TRIBUNAL
KHYBER PAKHTUNKHAWA, PESHAWAR

Service Appeal No. _____/2015

Badar Jameel, Ex-S.I / P.C, Lower Kohistan.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs KPK,
Peshawar & others.

....RESPONDENTS

APPEAL

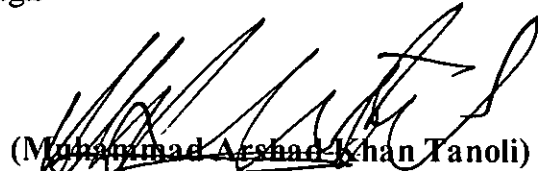
CERTIFICATE

*Certified that no such like appeal has earlier been filed before this
Honourable Tribunal by the appellant.*

...APPELLANT

Dated: 23/1 /2015

Through


(Muhammad Arshad Khan Tanoli)
Advocate High Court, Abbottabad

BEFORE HONOURABLE SERVICE TRIBUNAL
KHYBER PAKHTUNKHAWA, PESHAWAR

Service Appeal No. _____/2015

Badar Jameel, Ex-S.I / P.C, Lower Kohistan.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs KPK,
Peshawar & others.

....RESPONDENTS

APPEAL

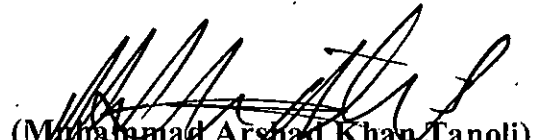
LIST OF BOOKS

1. Constitution of Islamic Republic of Pakistan 1973.
2. Civil Servant Regulation
3. Other law books are cited at Bar.

...APPELLANT

Dated: 23/1/2015

Through


(Muhammad Arshad Khan Tanoli)
Advocate High Court, Abbottabad

BEFORE HONOURABLE SERVICE TRIBUNAL
KHYBER PAKHTUNKHAWA, PESHAWAR

Service Appeal No. _____/2015

Badar Jameel, Ex-S.I / P.C, Lower Kohistan.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs KPK,
Peshawar & others.

...RESPONDENTS

APPEAL

ADDRESSES OF THE PARTIES

Respectfully Sheweth:-

Addresses of the parties are as under:-

Badar Jameel, Ex-S.I / P.C, Lower Kohistan.

...APPELLANT

VERSUS

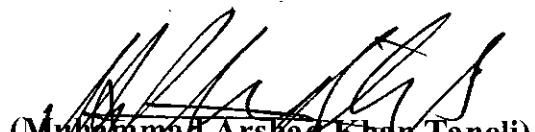
1. Govt. of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs KPK, Peshawar.
2. Provincial Police Officer KPK, Peshawar.
3. Regional Police Officer Hazara Range, Abbottabad.
4. District Police Officer, Lower Kohistan.

...RESPONDENTS

...APPELLANT

Dated: 23/1/2015

Through;


 (Muhammad Arshad Khan Tanoli)
 Advocate High Court, Abbottabad

(14)

DHIS -02 (F)

Sent To

OUT DOOR PATIENT TICKET

District _____ CRP No: _____

Facility Name _____

Name Sidhu Age: 29 Sex: M

Father's/Husband's Name _____

Monthly OPD Serial No. _____

Provisional Diagnosis: Colic pain

Date	Clinical Findings / Investigations/ Treatment / Referred / Test Findings
26/4 0/4	<p>1) Tab Norixon 100mg 1 + 1</p>
	<p>2) Tab Nostra 1 + 1</p>
<p>Arrested Advocate High Court Abbotabad</p>	<p>3) Citardol 50mg 1 + 1 + 1</p> <p>4) Di Ruzastecton 100mg Di Decadron Di Anafolan } IV</p>
	<p>5) Di Rocaphu 100mg (5)</p> <p>Completed bed rest for four weeks</p>

15

DHS-32 (F)

Sent To: _____

OUT DOOR PATIENT TICKET

District _____

CRP No: _____

Facility Name _____

Name Si Jua N Age: 39 Sex: M

Father's/Husband's Name _____

Monthly OPD Serial No. _____

Provisional Diagnosis: Renal pain

46

Date →

Clinical Findings / Investigations / Treatment / Referred / Test Findings

15 ⁵/_{2/6}

- 1) Tab Gemsoni Pote 1-1-1
 - 2) Tab Navedate 1-1-1
 - 3) Tab Buscopan Plus 1-1-1
 - 4) Tab Anafostan 1-1-1
 - 5) 1/2 Coceptin ④
 - 6) Symp Urodantol 2-2-2
- U/S 6/10/22
 Complete lab test for
 4 weeks

Attested

[Signature]

Maharaja Arshad Khan Farzi
 Arshad High School
 [Signature]

17

DHIS - 02 (b)

OUT-DOOR PATIENT TICKET

Sent To: _____

District _____ CRP No: _____

Facility Name _____ Name: S. J. ... Age: 39 Sex: M

Father's/Husband's Name _____

Monthly OPD Serial No. _____

Provisional Diagnosis: Renal Calculi

Date	Clinical Findings / Investigation / Treatment / Referred / Test Findings
28/6 24	1) Tab. Nostri 100
Admitted	2) Tab. Gentamicin forte 100
[Signature]	3) 9. Roplen - 800mg 100
[Signature]	4) Cefuroxime 100
[Signature]	5) 9. Ringer Lact. 1000ml 9. Anafortan @ 9. Decadron @
[Signature]	Ad. Ciprofloxacin 500mg bid x 7 days for urine culture

Advocate High Court
Abbottabad

ORDER

Brief Facts of the enquiry are that S/PC Badar Jamil absented him from his law full duty Vide DD No. 22 dated 12-03-2014 Police station [unclear] from his lawfull duty. The officer was charge sheeted Vide No. 343-46-PA dated 22-04-2014 and Nazir Ahmad Khan S/PO Pallas was Appointed as enqur officer. The enquiry officer proved him guilty and recommended him for major punishment.

On 19-06-2014 the officer was issued final Show cause notice. The officer submitted reply to the Show Cause Notice and stated in his reply that due to leave he felt kidney problem and also produced medical Description S.No. dated 12-03-2014, 85 dated 26-04-2014, 46 dated 14-05-2014, 838 dated 25-06-2014, and S.No. 67 dated 13-08-2014. The same were sent to the Incharge medical officer RHC Pattan for verification. According to the report of medical officer concerned the said medical Description as well as his signatures are [unclear] and bogus.

His previous record also shows that he was awarded [unclear] punishment two or one time due to his absence in the previous which shows that the respondent officer is an habitual absentee. The respondent was heard personally, but his explanation was unsatisfactory.

He enjoyed a long absence of 145 days. his previous record submission of fake medical rest totally proved his mala-fideism being a member of a disciplined force.

Keeping in view the aforesaid ground, the accused officer is found guilty of gross misconduct, therefore I Muhammad Irshad District Police Officer Kohistan Lower, power conferred upon me under section [71] of the Police Rule 1975 awarded major punishment as compulsory retirement with immediate effect and period of absence treated as leave out pay.

Attested
[Signature]

[Signature]

DISTRICT POLICE OFFICER
Lower Kohistan

Abbottabad No. 960-61/PA dated 09/09/2014

Copy of above is forwarded to the:-

- 1. Regional Police Officer Huzara Region Abbottabad for necessary information please.
- 2. District Police Officer Upper Kohistan for necessary action please.

OB. NO 48
dd: 09/09/2014

[Signature]

DISTRICT POLICE OFFICER
Lower Kohistan

18A

(Better copy)

ORDER

Brief facts of the inquiry are that SI/PC Badar Jamil absented from his law full duty vide DD No. 22 dated 12-03-2014 Police Station from is lawful duty. The officer was charge sheeted vide No. 343-46-PA dated 22- -2014 and Nazir Ahmad Khan SDPO Pallas was appointed as Inquiry Officer. The inquiry officer proved him guilty and recommended him for major punishment.

On 19-06-2014 the officer was issued final show cause notice. The official submitted reply to the show cause notice and stated in his reply that the leave he felt kidney problem and also produced medical description S.No. dated 12-03-2014. 85 dated 26-04-2014. 838 dated 25-04-2014 and S. No. 67 dated 13-08-2014. the same were sent to the Incharge Medical Officer RHC Pattan for verification. According to the report of Inquiry officer concerned the said medical description as well as his signatures are fake and bogus.

His previous record also shows that he was awarded punishment one time due to his absence in the previous which shows that the respondent officer is an habitual absentee. The respondent was heard personally but explanation was satisfactory.

He stayed a long absence of 145 days his previous record submission of fake medical rest totally proved his malafidism being of a disciplined force.

Keeping in view the aforesaid ground, the accused officer is found of gross misconduct, therefore, I Muhammad Irshad District Police officer Kohistan Lower, power conferred upon me under section 7 of the Police Rule 1975 awarded major punishment as compulsory retirement with immediate and period of absence treated as leave out pay.

**DISTRICT POLICE OFFICER
LOWER KOHISTAN**

No. 960-61/PA dated 09/09/2014

Copy of above is forwarded to the:-

1. Regional Police Officer, Hazara Region Abbottabad for information please.
2. District Police Officer Upper Kohistan for necessary action please.

**DISTRICT POLICE OFFICER
LOWER KOHISTAN**

Muhammad Irshad
District Police Officer
Lower Kohistan
Abbottabad
COURTS ABBOTTABAD

BEFORE THE REGIONAL POLICE OFFICER, HAZARA REGION
ABBOTTABAD.

Subject:- APPEAL AGAINST THE PUNISHMENT ORDER VIDE OB NO. 48
DATED 09.09.2014 BY DPO LOWER KOHISTAN, WHEREBY
THE APPELLANT WAS AWARDED THE MAJOR PUNISHMENT
OF COMPULSORY RETIREMENT.

Respected Sir,

With due respect it is submitted that I have been awarded the major punishment of compulsory retirement from service by DPO lower Kohistan vide OB No. 48 dated 09.09.2014. (Copy attached as Annex: "A")

That no charge sheet etc as alleged in the order was served upon the applicant not any regular departmental enquiry was conducted however, only preliminary enquiry has been conducted by Nazir Ahmed Khan SDPO Palas in my absence.

That I was served upon only show cause notice on my return from medical leave. In response to which I submitted my explanation alongwith copy of DD report No. 7 dated 07.08.2014 coupled with authentic medical certificates (Copies attached at Annex "B" six papers)

After my arrival from medical leave I performed my duty in PS Pattan as Platoon Commander from 07.08.2014 to 09.09.2014, when I received the order of punishment of compulsory retirement from service on 09.09.2014.

FACTS.

I was enlisted as constable in Kohistan District in 1985. In 1992 I have undergone the PC course and according to my seniority on promotion list C-II I was firstly promoted as ASI / PC in 2002 and then as SI / PC in 2009, in order of merit.

That during my service I have suffered serious Kidney problems and remained under treatment off and on. Besides this problem I performed my duty devotedly, efficiently, correctly and punctually besides medical leave for short period twice on account of medical treatment I have never been absented nor awarded any punishment.

GROUND.

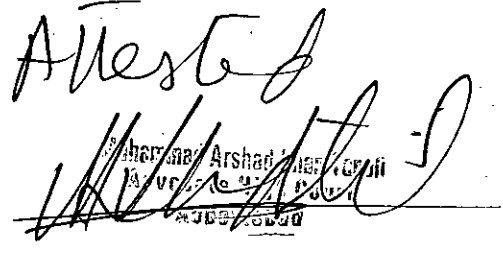
1. No charge sheet was served upon me or any regular enquiry was conducted which is mandatory for award of major punishment.
2. That only preliminary enquiry was conducted by Nazir Khan SDPO Palas in my absence.


Attested
Nazir Ahmed Khan
Nazir Ahmed Khan
SDPO Palas
Abbottabad

3. That I have never been given the chance of my self defence in any enquiry if conducted in my absence and was thus deprived of the basic rights of my self defence.
4. That I have not been allowed personal hearing by DPO Lower Kohistan to explain my position.
5. For sanctioning my medical leave I was given the task for arrest of 03 POs by DPO Lower Kohistan after using personal influence and making efforts I apprehended 15 POs and recovered 2600 gram Charas but of no avail as per commitment of the DPO Lower Kohistan.
6. That the medical certificates are quite authentic and genuine which can be re verified from the register of the RHC Lower Kohistan. I may point out that the DPO Lower Kohistan personally approached the Medical Officer of the Hospital and put pressure on him to deny to have given the medical certificate.
7. That I am on the strength of Upper Kohistan and receiving pay from there. I was only attached to lower Kohistan temporarily for duty. As such only the DPO Upper Kohistan is the competent authority for taking departmental action against me.
8. That the so called departmental proceeding is full of defection and deviation under the rule and is required to be treated as Nul and void.
9. That the episode behind the action is wrong, perverse arbitrary, without legal Jurisdiction and against cannon of law and justice.
10. That I have under gone 29 year service with untarnished service record, rather I have always performed extra ordinary duty and earned a lot of commendation certificates by worthy DIG and worthy DPO which can be verified from my service record.

In view of the above facts and circumstances it is most earnestly prayed that my case may kindly be given sympathetic consideration and be reinstated in service after granting medical leave on the bases of the authentic medical certificates from the date of compulsory retirement.

I shall be thankful for this act of kindness and pray for your long life and prosperity.

Attest

 M. Arshad
 M. Arshad
 M. Arshad


 Your's Obediently,
 Baddar Jamil
 Ex- SI / PC,
 Lower Kohistan
 11.9.14

Annex'd

ORDER

This is an order on the representation of *Ex-SI/PC Baddar Jamil* of Lower Kohistan District against the order of major punishment i.e. dismissal from service by the District Police Officer, Lower Kohistan vide his OB No.48 dated 09-09-2014.

Facts leading to his punishment are that he absented himself from his lawful duty vide DD.No.22 dated 12-03-2014 without any permission/leave: The DPO Lower Kohistan has also mentioned in the comments asked for by this office on his appeal that he produced medical descriptions which were verified by the concerned medical officer and reported to be bogus.

Proper departmental enquiry was conducted by Mr. Nazir Ahmad Khan SDPO Pallas. After conducting a detailed enquiry, the E.O proved him guilty. On the recommendation of E.O, the District Police Officer Lower Kohistan awarded him major punishment dismissal from service.

He preferred an appeal to the undersigned upon which the comments of the DPO Lower Kohistan were obtained. He was heard in OR where he offered no plausible explanation in his defence to prove him innocent. After thorough probe into the enquiry report and the comments of the DPO Lower Kohistan, it came to light that the punishment given to him by the DPO Lower Kohistan i.e. dismissal from service is genuine. Therefore, appeal is dismissed & filed.

REGIONAL POLICE OFFICER
Hazara Region Abbottabad

11381

No. /PA Dated Abbottabad the 26/12/ 2014.

Copy of above is forwarded to the District Police Officer, Lower Kohistan for information and necessary action with reference to his Memo: No.1090 dated 25-09-2014. The Service Roll & Fauji Missal containing enquiry file of the appellant are returned herewith.

ADVOCATE
Court Abbottabad

REGIONAL POLICE OFFICER
Hazara Region Abbottabad

بسم اللہ العالی

۱۔ کہ جو کاروبار میں فروغ دینے کے لیے

۲۔ یہ ہے جو وقت کو خود نیا بنا کر دے

۳۔ ہر وقت اجابت دہی کی بیاریاں سے مستعد رہے

۴۔ عساکرِ صالحہ کے لیے RHC اور ڈائریکٹوریٹ کے ساتھ

۵۔ روابط جو اس طرح سے لے کر جاننے والی رہے

۶۔ ملکہ کی اور ادویات کے احوال سے بھی خبر رکھے

۷۔ دوران بیماری مختلف ادویات میں جاننے والا رہے

۸۔ وقتاً فوقتاً حیرت انگیز لیکن عطا کارانہ اور نئے نئے

۹۔ اشیاء کے کامیابیوں سے

۱۰۔ یہ لیکن علاج کو افاج سے والی جاننے والا رہے

۱۱۔ جو اس کے لیے باخفا و باجہ

۱۲۔ اس کے لیے کہ وہ کاروبار میں فروغ دے

۱۳۔ اس کے لیے کہ وہ کامیابی سے

۱۴۔ اس کے لیے کہ وہ کامیابی سے

Attested
Muhammad Arshad Khan Tanoli
Advocate
Distt. Courts Abul Khasim

17/8
14

کامیاب

گورنمنٹ ہسپتال، لاہور، 7/14/8

میر 7 مارچ 2014ء کو وقت 10:00 بجے پورے سیکشن میں طلبہ اور
 اساتذہ کرام کے ساتھ ملا کر ایک اجلاس منعقد کیا گیا جس میں
 اساتذہ کرام نے اپنی رپورٹیں پڑھیں اور ان پر بحث ہوئی۔ اس موقع پر
 اساتذہ کرام نے اساتذہ کرام کی تنہا جاننے سے اساتذہ کرام کی
 اساتذہ کرام کی تنہا جاننے سے اساتذہ کرام کی اساتذہ کرام کی
 اساتذہ کرام کی تنہا جاننے سے اساتذہ کرام کی اساتذہ کرام کی
 اساتذہ کرام کی تنہا جاننے سے اساتذہ کرام کی اساتذہ کرام کی
 اساتذہ کرام کی تنہا جاننے سے اساتذہ کرام کی اساتذہ کرام کی
 اساتذہ کرام کی تنہا جاننے سے اساتذہ کرام کی اساتذہ کرام کی
 اساتذہ کرام کی تنہا جاننے سے اساتذہ کرام کی اساتذہ کرام کی
 اساتذہ کرام کی تنہا جاننے سے اساتذہ کرام کی اساتذہ کرام کی

جی ایم ای
 نیشنل ایجوکیشن اتھارٹی

Suo Petition
 07-08-14

Forwarded to

Suo Petition

Forwarded

Suo Petition
 08-08-14

Muhammad A. Shah Khan Talib
 Adm. Officer
 Talib Court, Islamabad

کورٹ فیس

وکالت نامہ

بعدالت جناب سر جسٹس کمرال سٹیٹل پبلسک اسٹریٹ لاہور
 عنوان: نہر جسٹس بنام حکومت پنجاب لاہور
 منجانب: Appellant
 نوعیت مقدمہ:

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آں مقام
محمد ارسوز خان تنویری ایدہ و ایکس پراجیکٹس
 کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب
 موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ بر حلف دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء
 وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور
 کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار
 بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پرداختہ مجھ کو منظور و
 قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہر جانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔
 نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف
 پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزو بقایا ہو تو وکیل صاحب موصوف
 مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد استجارت ناش بیضہ مفلسی کے دائرہ کرنے اور اس کی
 پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المرقوم: 22/1/2015
 بمقام: Accepted
 (Signature)

العبد

BEFORE THE HONORABLE SERVICE TRIBUNAL K.P.K, PESHAWAR.

Service Appeal No. 88/2015.

Badar Jamil Ex- SI/PC Lower Kohistan.

(Appellant)

VERSUS

1. Regional Police Officer, Hazara Region, Abbottabad.
2. District Police Officer, Lower Kohistan.

(Respondents)

Para wise comments on behalf of Respondents

Preliminary objections.

1. That the appellant has no cause of action.
2. That the appellant has not come to this Tribunal with clean hands.
3. That the appeal is bad for misjoinder and non joinder of necessary parties.
4. That the appellant is estopped by his own conduct.
5. That the appeal is barred by law of limitation.

COMMENTS.

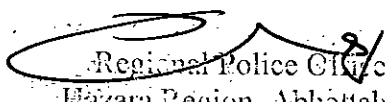
- 1 Correct to the extent of 29 year service only.
- 2 Para No. is incorrect that the appellant brought the documents, out door, tickets bearing the date 12.03.2014, it annex OPD chit which can be procured for extraneous consideration moreover, the alleged OPD chits were never produced to the department for probe.
- 3 Strongly denied that all the legal proceedings as contained in service rules 1973 were fully observed and all rules and laws were strictly adhered too before passing the impugned order.
4. No comments..
- 5 Incorrect, that the appellate authority exercise its jurisdiction with full application of judicial mind, hence no exception can be taken to it. The act of respondent is totally in accordance with law, rules and regulation.
6. Incorrect, tat respondent No. 3 exercise all legal formalities within the ambit of law.
7. That the appellant is not an aggrieved person because he has been dealt with in accordance with law and after providing full opportunity of hearing as contemplated by rules, so he remained no more an aggrieved person.


0-1
21-05-15

GROUNDS.

- a. Incorrect, that neither he applied nor he was granted any leave by competent authority.
- b. Incorrect, that the appellant never applied for leave so there is no question of its submission to next higher authority and the instant para is absurd article and baseless.
- c. Incorrect, that all the legal formalities duly observed in accordance with law.
- d. Incorrect, that after bifurcation of district Kohistan into two separate districts i-e Upper & Lower Kohistan the appellant was placed at the disposal of District Police Officer, Lower Kohistan and only he was the competent to proceed against the appellant moreover no prejudice whatsoever has been caused to the appellant.
- e. Incorrect that respondent No. 3 exercised his power in accordance with law, rules by fully application of judicial mind.
- f. That the appellant is not entitled for any relief from honourable court.
- g. Strongly denied that the appellate authority exercise its power by fully observing the rules, law and by fully observation of judicial mind.
- h. Incorrect, that respondent acted what the law and natural justice command and no any prejudice has been caused to the appellant.
- i. That the appeal of the appellant is not maintainable at this forum because the appellant has also substitute forum is available that is appeal to the next higher authority.
- j. No comments.

It is therefore, requested that the appeal of the appellant being devoid its legal footing may graciously be dismissed with cost.


Regional Police Officer,
Hazara Region, Abbottabad.
(Respondent No. 1)


District Police Officer,
Lower Kohistan.
(Respondent No. 2)

BEFORE THE HONORABLE SERVICE TRIBUNAL K.P.K, PESHAWAR.

Service Appeal No. 88/2015.

Badar Jamil Ex- SI/PC Lower Kohistan.

(Appellant)

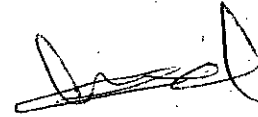
VERSUS

1. Regional Police Officer, Hazara Region, Abbottabad.
2. District Police Officer, Lower Kohistan.

(Respondents)

AFFIDAVIT.

It is solemnly affirmed and declared that the contents of the para-wise comments to the appellant file by SI/PC Badar Jamil of this district are correct to the best of my knowledge and nothing has been concealed from this honourable Tribunal.



District Police Officer,
Lower Kohistan.
(Respondent)

Pb# 0998-405123

Mail Add: lkp405123@gmail.com

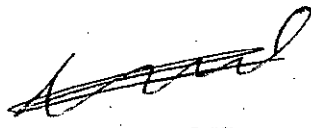
OFFICE OF THE DISTRICT POLICE OFFICER, LOWER KOHISTAN

No _____ /PA dated Lower Kohistan the _____ / _____ /2014

Final **SHOW CAUSE NOTICE**

(Under Rule 5(3) KPK Police Rules 1975)

1. That you SI/ Pc Badar Jameel while posted as ASHO P/S Pattan have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police (E&D) Rules 1975 for following misconduct:
 - a. Your absent himself from the duty
 - b.
 - c. Charge sheet and summery of allegation was prepared against you and pride to serve upon you unfortunately you was not present in your house nor attending your phone summary of allegation and charge sheet handed over to your wife but no response has so far been received, and again efforts will be made to deliver upon you in case of refusing ex-parte action will taken against you.
 - d.
2. That by reason of the above as sufficient material is placed before the undersigned therefore it is decided to proceed against your in general police proceeding without aid of enquiry officer;
3. That the misconduct on your part is prejudicial to good order of discipline in the police force.
4. That your retention in the police force will amount to encourage in efficient and unbecoming of good police officers.
5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said Rule, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules.
6. You are therefore called upon to show causes as to why you should not be dealt strictly in accordance with the KPK police Rule 1975 for the misconduct referred to above.
7. You should submit reply to this show cause notice within 07 days of the receipt of the notice failing which in ex- parte action shall be taken against you.
8. You are further directed to inform the undersigned that you wish to be heard in person or not.
9. Grounds of action are also enclosed with this notice.


District Police Officer,
Lower Kohistan

No 577/PA dated Lower Kohistan the 19 / 06 /2014

Copy of above is forwarded to;
SHO Pattan with the direction to serve upon the final show cause of the above named officer and duplicate copy may be returned to this office as a the token of receipt.

PA
In action

District Police Officer,
Lower Kohistan.

دستور مشرف اور وزیر اور لگانا الزام
رنگ دہلی تار ہوتا ہے۔ ریشہ سے لے کر
کھائی ہے

DSP Pallas
10/6/14

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

Service Appeal No. 88/2015

Badar Jamil Ex-SI/ PC Low Kohistan.

...APPELLANT

VERSUS

Regional Police Officer, Hazara Division, Abbottabad.

...RESPONDENTS

SERVICE APPEAL

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth;-

PRELIMINARY OBJECTIONS:

1. Para No. 1 to 5 are incorrect and denied. The appellant was compulsory retired from service but appellate authority without going through the record, dismissed the appellant from service.

REJOINDER FACTUAL OBJECTIONS:-

1. Para No. 1 of the comments need no reply.
2. Para No. 2 of the comments are incorrect and denied. The competent authority was supposed to submit the medical chits to next higher medical authorities.
3. Para No. 3 of the comments is denied being incorrect.
4. Para No. 4 need no reply.
5. Para No. 5 of the comments is incorrect as the competent authority did not go through the departmental appeal as well as the service record of the appellant. Hence, impugned rejection letter is liable to be set aside.
6. Para No. 6 of the comments is denied.
7. Para No. 7 of the comments is incorrect and denied.

REJOINDER ON GROUNDS:-

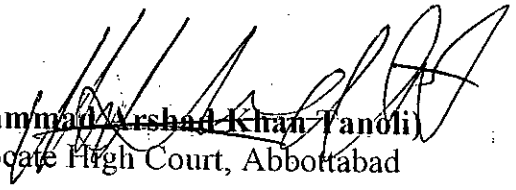
- a. Para-a of the comments is incorrect.
- b. Para-b of the comments is incorrect.
- c. Para-c is incorrect.
- d. Para-d is incorrect and denied.
- e. Para-e to i are incorrect and denied.

It is, prayed that appeal of the appellant may graciously be accepted and respondents may be directed to reinstate the appellant in service with all back benefits.


...APPELLANT

Dated: 16/8 /2016

Through


(Muhammad Arshad Khan Tandli)
Advocate High Court, Abbottabad

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

Service Appeal No. 88/2015

Badar Jamil Ex-SI/ PC Low Kohistan.

...APPELLANT

VERSUS

Regional Police Officer, Hazara Division, Abbottabad.

...RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, Badar Jamil Ex-SI/ PC Low Kohistan, do hereby solemnly affirm and declare that the contents of forgoing rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.



DEPONENT

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 1484 /ST

Dated 24 /07/2018

To

The District Police Officer,
Government of Khyber Pakhtunkhwa,
Lower Kohistan.

Subject: ORDER/ JUDGEMENT IN APPEAL NO. 88/2015, MR. BADAR JAMEEL.

I am directed to forward herewith a certified copy of Order/Judgement dated 19/07/2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

ole
REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

~~Copy forwarded to District Police Officer, Abbottabad, for necessary action.~~

please.

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.