

Sr. No	Date of order/proceeding	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	18.10.2017	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p style="text-align: center;">Service Appeal No. 899/2014</p> <p style="text-align: center;">Date of Institution ... 01.07.2014 Date of Decision ... 18.10.2017</p> <p>Haroon Ur Rashid Ex-Driver Constable No. 336 R/o Village Nari Panoos Tehsil BID Shah, District Karak.</p> <p style="text-align: right;">Appellant</p> <p style="text-align: center;">Versus</p> <p>1. The Regional Police Officer, Kohat Region Kohat. 2. The District Police Officer, District Karak</p> <p style="text-align: right;">Respondents</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Learned counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney on behalf of the official respondent present.</p> <p>2. The appellant has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 and made impugned order dated 11.04.2014 of respondent No. 2 whereby the appellant was awarded major punishment of compulsory retirement on the charge of involvement in case FIR No. 116, dated 13.01.2014 under section 17(3) Haraba, 411 PPC, Police Station Karak and absence from duty for 48 days w.e.f 15.01.2014.</p> <p>3. Learned counsel for the appellant contended that the</p>

Hamid

impugned order is illegal and void in as much as no codal formalities were completed before the issuance of impugned order. Further argued that the departmental inquiry was not held in a proper manner. Further argued that the appellant has been acquitted in the criminal case wherein he was falsely involved as such the impugned order no more remains tenable. Further argued that the authority while awarding the punishment also counted the absence period as leave without pay therefore the appellant could not be deemed absent. Learned counsel for the appellant stressed that the impugned order is liable to be set aside and the appellant be reinstated.

4. On the other hand learned Deputy District Attorney argued that due to the involvement of the appellant in the criminal case coupled with his absence from duty without any application and permission, the impugned order was rightly passed. Further argued that all the codal formalities were fulfilled before the issuance of the impugned order and there is no lacunae in the inquiry proceeding. Further argued that the acquittal of the accused in criminal trial is no ground for his exoneration in the departmental proceeding. Further argued that the appellant was found involved in a crime of serious nature, hence the impugned order doesn't warrant any interference.

5. Arguments heard. File perused.

6. In the present case the appellant was awarded major punishment of compulsory retirement on the ground of his involvement in criminal case as mentioned above and absence from

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duty.

7. Perusal of the record would show that the appellant has admitted that due to the criminal/robbery case he left the station. However learned counsel for the appellant remained unable to demonstrate that the appellant abandoned his place of duty with the leave/permission of the competent authority.

8. Admittedly the appellant was served with charge sheet and statement of allegation which he also replied. According to the inquiry report the appellant joined the inquiry proceeding. Final show cause notice was also served upon the appellant which the appellant also responded. The inquiry officer has held in his findings that the allegations leveled against the appellant stood proved.

9. It is also settled that acquittal of the civil servant in the criminal trial is no ground for his exoneration in the departmental action and that the departmental proceeding is quite separate/independent of a criminal case/criminal trial. In a criminal case benefit of doubt, if any, has to be extended to the accused/civil servant. However the departmental proceeding being a civil proceeding is to be decided on the basis of probabilities of preponderance of evidence.

10. The appellant has been awarded punishment not only on the ground of absence from duty but also for his involvement in the crime, hence mere counting the absence period as leave without pay, in the impugned order, would not vitiate the impugned order of the

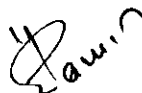
Dr
Dawin

awarding of the punishment

11. In the light of above the appellant could not make out his case fit for the indulgence of this Tribunal. Consequently the present appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room after its completion.



(AHMAD HASSAN)
MEMBER



(MUHAMMAD HAMID MUGHAL)
MEMBER

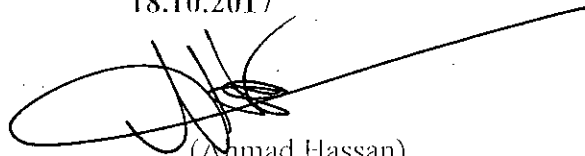
ANNOUNCED
18.10.2017

18.10.2017

Learned counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney on behalf of the official respondent present. Vide separate judgment of today of this Tribunal placed on file the present appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

18.10.2017




(Ahmad Hassan)
Member



(Muhammad Hamid Mughal)
Member

20.03.2017


Counsel for the appellant and Mr. Muhammad Jan, GP alongwith Mr. Saif ur Rehman, ASI for respondents present. Counsel for the appellant submitted Wakalat Nama. Arguments could not be heard due to incomplete bench. To come up for arguments on 29.06.2017 before D.B.


(AHMAD HASSAN)
MEMBER

16. 23.06.2017

Appellant alongwith counsel and Mr. Farmanullah S.I alongwith Mr. Muhammad Jan, Deputy District Attorney for the respondents present. During the course of arguments, this Tribunal has referred to the order admitting this appeal on 27.01.2015 in which the question of appeal being pre-mature was left undecided. The learned counsel for the appellant seeks adjournment to assist the court on this point alongwith arguments on main appeal. Adjourned. To come up for arguments on the point of maintainability as well as main appeal on 18.10.2017 before the D.B.


Member



Chairman

27.04.2016

Appellant in person and Mr. Arif Saleem, ASI alongwith Mr. Muhammad Adeel Butt, AAG for respondents present. Due to general strike of the Bar learned counsel for the appellant is not in attendance. Adjourned for arguments to 27.07.2016 before D.B.



Member



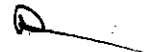
Chairman

27.07.2016

Counsel for the appellant (Mr. Sajid Amin, Advocate) and Mr. Ishaq Gul, Inspector alongwith Mr. Ziaullah, GP for respondents present. Counsel for the appellant requested for adjournment. Adjournment granted. To come up for arguments on 30.11.2016.



Member



Member

30.11.2016

Mr. Saleem Abdullah, Advocate for the appellant and Mr. Farmanullah, ASI alongwith Assistant AG for respondents present. Learned counsel for the appellant requested for adjournment. Adjournment granted. To come up for arguments on 20.3.17 before D.B.



(ABDUL LATIF)
MEMBER



(PIR BAKI SH SHAH)
MEMBER

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27.03.2015

Appellant in person and Addl: A.G for respondents present. Written reply not submitted. Requested for adjournment for submission of written reply. Adjourned to 28.5.2015 before S.B.


Chairman

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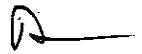
28.05.2015

Appellant in person and Mr. Habib Khan, ASI (legal) alongwith Addl: A.G for respondents present. Para-wise comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 10.11.2015.


Chairman

10.11.2015

Appellant with counsel (Mr. Sajid Amin, Advocate) and Mr. Habibullah, ASI alongwith Mr. Ziaullah, GP for respondents present. Appellant submitted Wakalat Nama as well as rejoinder. Copy of which placed on file. To come up for arguments on 16-2-2016.



Member


Member

16.02.2016

Appellant with counsel and Mr. Ziaullah, GP for respondents present. The learned Member (Executive) is on official tour to Abbottabad, therefore bench is incomplete. To come up for arguments on 27-4-16.


Member


Appeal No. 299/2014
Mr. Haroon - vs - Rashid

27.01.2015

Appellant with counsel and Mr. Kabirullah Khattak, Asst: Advocate General for the respondents present. Preliminary arguments heard and case file perused. Through the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 read with Section 19 of the Khyber Pakhtunkhwa (E&D) Rules, 2011, the appellant has impugned order dated 11.04.2014, vide which the major penalty of compulsory retirement from service has been imposed upon the appellant. Against the above referred impugned order appellant filed departmental appeal on 29.04.2014 which was not responded within the statutory period of 60 days, hence the instant appeal on 01.07.2014:


The learned AAG while assisting the court was of the view that the instant appeal is pre-mature, therefore not maintainable in its present form. He requested that the instant appeal may be dismissed in limine.

Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. To come up for written reply/comments on 05.03.2015 before Bench-III


Member

05.03.2015

Appellant in person and Asst: AG for the respondents present. Learned AAG requested for time to submit written reply/comments. To come up for written reply/comments on 27.03.2015.


Member

6.

Appellant not deposited process fee & security




7.

25.09.2014

Counsel for the appellant present. Preliminary arguments partly heard. The matter required further clarification, therefore, pre-admission notice be issued to the learned AAG/GP with the direction to produce relevant record of the appellant by next date.

To come up for preliminary hearing on 24.11.2014.


Member

Reader Note:

24.11.2014

Clerk of counsel for the appellant and Mr. Kabirullah Khattak, Asst: Advocate General for the respondents present. Since the Tribunal is incomplete, therefore, case is adjourned to 16.01.2015 for the same.


Reader

16.01.2015


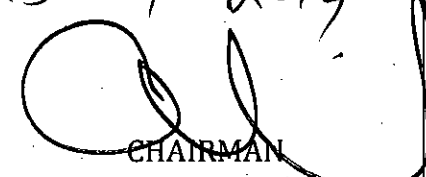
Clerk of counsel for the appellant and Mr. Kabirullah Khattak, Asst: Advocate General for the respondents present. Clerk of counsel for the appellant requested for adjournment due to General Strike of the Bar. To come up for preliminary hearing on 27.01.2015.


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 899/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	01/07/2014	<p>The appeal of Mr. Haroon-ur-Rashid presented today by Mr. Ashraf Ali Khattak Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	8-7-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>25-9-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 899 /2014

Haron Ur Rashid Ex-Driver
Constable No.336
.....Appellant

Versus

The Regional Police Officer
Kohat Region Kohat and other.
.....Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal with Affidavit			1 - 5
2.	Copy of FIR		A	6 - 7
3.	Copy of Charge Sheet, Statement of allegation.		B	8 - 9
4.	Copy of inquiry Report		C	10 - 11
5.	Copy of final Show Cause		D	12
6.	Copy of Order of respondent No.2	17-01-2014	E	13
7.	Copy of departmental appeal		F	14 - 16
8.	Wakalat Nama			17

مادون الرشيد
Appellant

Through

ASHRAF ALI KHATTAK

Ashraf Ali Khattak
ADVOCATE

and

Nawaz Khan Khattak
Advocates, Peshawar

Dated: _____ / 07/ 2014

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 899 /2014

Haroon Ur Rashid Ex-Driver Constable No.336 R/o Village Nari Panoos Tehsil BD Shah,
District KarakPetitioner.

Versus

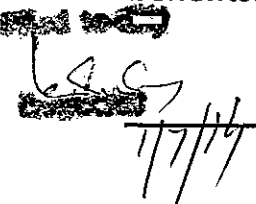
938
01-7-2014

1. The Regional Police Officer, Kohat Region Kohat.
2. The District Police Officer, District KarakRespondents.

Service Appeal under section 4 of the Service Tribunal Act, 1974 read with section 19 of the Khyber Pakhtunkhwa (Efficiency & Conduct) Rules, 2011 against the impugned order of respondent No.2 dated 11-04-2014 (Annexure-E) vide which he appellatant was compulsory retired from service and against which appellatant filed departmental appeal, which is still pending without disposal.

Pray:-

On acceptance of the instant appeal this Honourble Tribunal may graciously be pleased to declare the impugned order as illegal, unlawful, void abinito, without lawful authority and has no adverse effect upon the rights of the appellatant and set aside the same by re-instating the appellatant with all back benefits.


17/1/14

Respectfully Sheweth,

Facts giving rise to the present writ petition are as under:-

1. That appellant has served the Police Force for long 19 years with unblemished and clean sheeted conduct record.
2. That appellant was got involved in a concocted and fabricated criminal case and that too not by complainant of the case but by nominated accused under 161 Cr.P.C Statement (Annexure-A).
3. That appellant was served with charge sheet and statement of allegation (Annexure-B) to which he submitted reply and denied the allegation. The reply of the appellant is available with official respondents, but they have denied providing a copy of the reply to the appellant.
4. That slip shod inquiry was conducted (Annexure-C). The inquiry was conducted in the absence of the appellant. No statement has been recorded in the presence of the appellant; the question of cross examination cannot be raised.
5. That appellant was served with final show cause (Annexure-D), but without providing a copy of the inquiry report/proceedings. Appellant even then submitted reply to the final show cause and once again denied the allegations. Copy of the reply to final show cause is also not available with the appellant as he has been denied to have a copy of the same by the respondents.
6. That it is pertinent to mention here that prosecution failed to bring an iota of evidence to prove the accusation against the appellant. The inquiry report is self explanatory.
7. That respondent No.2 vide order dated 11-04-2014 (Annexure-E) penalized the appellant with major penalty of Compulsory retirement.
8. That appellant being aggrieved of the penal action of the respondent No.2 preferred departmental appeal^(Annexure-F) before the respondent No.1, which is still pending without lawful disposal, hence the statutory has elapsed, therefore, the instant service appeal inter alias on the following grounds:-

GROUNDS:-

- A. That appellant has not been treated in accordance with law, rules and policy and thus Article 4 of the Constitution of Pakistan has been violated. The alleged absence has no factual and legal backing. Appellant has never remained absent from duty rather he has performed his duty vigilantly and devotedly. Moreover the so called absence period has been regularized by treating the same as leave without pay. It is also humbly submitted that the inquiry officer has collected no evidence, which could prima facie connect the appellant with alleged criminal case. The charges leveled against the appellant in criminal proceedings as well as in departmental proceeding has no factual backing and is not proved, therefore, the impugned penalty is not a speaking one and against law, equity and justice and as such liable to be set aside.
- B. That the impugned order has been passed in sheer violation of the rules and laws governing the subject. Inquiry officer has failed to procure an iota of evidence in support of the charge leveled against the appellant. The finding of the inquiry officer is based on conjecture and summarize and speculations, which has evidently value and legal backing therefore, the verdict of the respondent No.2 is illegal, unlawful and without lawful authority and liable to set back and set aside.
- C. Section 16 of the Civil Servant Act, 1973 provides that every civil servant is liable for prescribed disciplinary action and penalty only through prescribed procedure. In the instant case no prescribed procedure has been adopted by the respondents, hence the action taken by them is illegal, coarm non judice and liable to be set aside.
- D. That major penalty has been imposed without giving reason for disregarding appellant's defense constitute violation of Section 24A of the General Clauses Act, 1897, therefore, the impugned order is not sustainable in the eyes of law and liable to be struck down.
- E. That the Honourable Supreme Court of Pakistan has in thousands of cases has held that no major punishment could be imposed without regular inquiry, the subject impugned order based on slipshod inquiry has therefore, no base in the light of the decision of the Apex Court, thus liable to be set aside.
- F. That so called slipshod inquiry has been conducted in the absence and at the back of the appellant. Appellant active participation during inquiry proceeding has been willfully and deliberately ignored. Inquiry proceedings are of judicial in nature in which participation of

accused civil servant as per law condition sine qua non. On this ground the impugned orders are coarm non judice and liable to be set back.

G. That the well-known principle of law "Audi altram Partem" has been violated. This principle of law was always deemed to have embedded in every statute even though there was no express specific or express provision in this regard.

....An adverse order passed against a person without affording him an opportunity of personal hearing was to be treated as void order. Reliance is placed on 2006 PLC(CS) 1140. As no proper personal hearing has been afforded to the appellant before the issuing of the impugned order, therefore, on this ground as well the impugned order is liable to be set aside.

H. That no inquiry report has been provided. Failure to supply copy of inquiry report to a civil servant proceeded against would be sufficient circumstances to hold that either no inquiry was held at all or if inquiry was held, the inquiry report was held as a secret document. Delivery of copy of inquiry report to civil servant proceeded against being a mandatory requirement; disciplinary action taken against a civil servant would not be sustainable in the eyes of law. Reliance is placed on the reported judgment 2010 TD (Service)19.

I. That petitioner is jobless since impugned order, there fore entitled to be re instated with all back benefits.

For the aforesaid reasons it is therefore, very humbly prayed that the appeal may kindly be allowed as prayed for above.

Any other relief which this Court may deem it proper may also be graciously allowed.

یادون الرشید
Appellant

Through

ASHRAF ALI KHATTAK
Ashraf Ali Khattak
ADVOCATE

And

Nawaz Khan Khattak
Advocates, Peshawar.

Dated: _____ / 07/ 2014

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2014

Haroon Ur Rashid Ex-Driver Constable No.336 R/o Village Nari Panoos Tehsil BD Shah,
District KarakPetitioner.

Versus

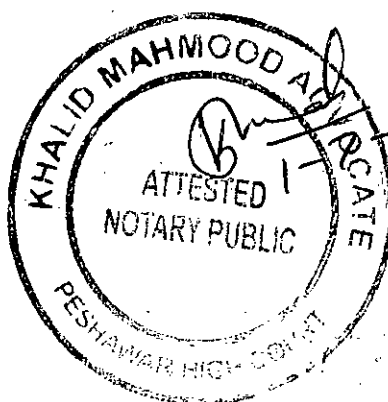
The Regional Police Officer, Kohat Region Kohat and othersRespondents.

Affidavit

I, Haroon Ur Rashid Ex-Driver Constable No.336 R/o Village Nari Panoos Tehsil BD Shah, District Karak, do hereby solemnly affirm and declare on oath that the contents of this writ petition are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Court.

Identified by


ASHRAF ALI KHATTAK
ADVOCATE



Haroon Ur Rashid
Deponent

Ashraf Ali Khattak

Advocate, Peshawar

No. _____
Dated... _____

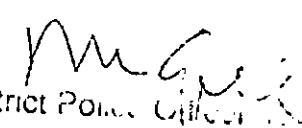
DISCIPLINARY ACTION

1. Enquiry Officer Mr. Qasim Khan, Police Officer, Karakoram, has reported the following opinion that Constable Haroon ur Rasheed No.333 Police Station Kurram is liable to be proceeded against departmentally on the ground of committing misconduct and negligence in duty.

"According to Superintendent of Police Investigation wing, Karakoram letter No.354/inv: dated 23.01.2014, Constable Haroon ur Rasheed No.336 involved in case FIR No. 116, dated 13.01.2014 under section 17(3) Haroon, 411 P/O Police Station Kurram, has absented himself from lawful duty w-o-from 15.01.2014 till date vide order No. 14, dated 15.01.2014. His Pay has been stopped to his credit. His this act is against service discipline and liable to be proceeded against for misconduct / negligence in duty".

The enquiry Officer Mr. Muharamad Iqbal DSP Hqs Kurram in accordance with provision of the Police disciplinary rules 1975 has given reasonable opportunity of hearing to the accused official, records his findings and make within 10-days of the receipt of this order, recommendation as to be proceeded or other appropriate action against the accused.

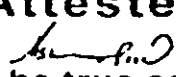
The accused official shall join the proceeding on the date time and place fixed by the enquiry committee.


District Police Officer
2014

10/602-3 (IEC Enquiry), dated 30/1/2014

Copies

The enquiry officer for enquiry proceedings against the accused official under Police disciplinary rules-1975

Attested

To be true copy
Advocate

9

No. 1601
Dated 30/1/2014

CHARGE SHEET

I, Aliq Ullah Khan Wazir, District Police Officer, Karak as competent authority, hereby charge you Constable Haroon ur Rashheed No.336 Police Station Khurram, as follows:

"According to Superintendent of Police Investigation Wing, Karak letter No.354/Inv: dated 23.01.2014, you, Constable Haroon ur Rashheed No.336 involved in case FIR No. 116, dated 15.01.2014 under section 17(3) Haraba, 411 PPC Police Station, Karak, absented yourself from lawful duty w/o from 15.01.2014 till date. Daily Diary No. 14, dated 15.01.2014, Your Pay has been stopped in this effect. Your this act is against service discipline and amount to gross misconduct / negligence in duty".

2. By reason of your commission / omission constitute offence under Police disciplinary rules-1975 and have rendered yourself liable to one of the penalties specified in Police rules-1975 ibid

3. You are, therefore, required to submit your written defence within 07-days of the receipt of this charge sheet to the enquiry Officer Mr. Iqbal DSP Hqre Karak. Your written defence, if any should reach the Enquiry Officers within the specified period, failing which it shall be presented that you have no defence to put in and in that case ex-parte action shall be taken against you.

4. You are also required to state whether you desire to be heard in person.

Attested
To be true copy
of the original

No. 194/44
3-2

[Signature]
District Police Officer, Karak

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Annex - C

No. 167 Hqrs:

Dt; 09 / 04 /2014.

FINDIN

Kindly this is in response to your good Office Charge Sheet No. 1602-03/EC, dated 30-01-2014, issued to Driver Constable Haroon ur Rasheed No.336 Police Station Khurram as follow:-

“According to Superintendent of Police investigation Wing, Karak letter No. 354/Inv: dated 23.01.2014, he constable Haroon ur Rasheed involved in case FIR No. 16 dated 13.01.2014 Police Station Karak and absented himself w.e. from 15.01.2014 till date vide daily dray No. 14 dated 15.01.2014 and his pay was also stopped to this effect. Thus the undersigned was appointed as enquiry officer to enquire the matter.

Accused official was summoned. He submitted his reply in response to the charge sheet, placed on file. He stated in his statement that the accused arrested in Case FIR No.16 dated 13-01-2014 u/s 17(3) Haraba Police Station Karak nominated him as co-accused because he(accused official) sold his landed property and give of Rs.2200000/- to Tahir Nawaz as Qarz-e-Hasana. When he ask for returned his money, than he annoyed. Similarly accused Mozam Sohail was the owner of Flying Coach and was involved in carrying of Narcotic in the said Flying Coach and he (accused official) searched his flying coach on duty hours and the above named accused threatened him on the spot. Due to this both the accused nominated him as co-accused before the investigation officer. Accused official further stated that he was present in the Police Station Khurram, when knowing about his involvement in the above case. As he is patient of Sugar, due to this tension he absented himself and also gets Bail before Arrest from the Court, which was confirmed on 27-02-2014. He denied the allegation.

Similarly for the verification of the statement of accused official, Muhammad Ishfaq was summoned and his statement was recorded. He stated in his statement that he is eye-witness of the Qarz-e-Hasana in between Haroon-u-Rasheed and Tahir Nawaz. He also produces the available record.

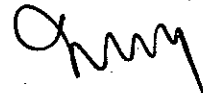
During course of enquiry Noor Bad Shah No.474/IHC, the then MHC PS Khurram and Wali Sher Khan SHO Khurram were also summoned and their statements were recorded, placed on file. They stated in their statement that during posting period of accused official as Driver in Police Station Khurram no bad character person was noticed with him nor the above named accused were seen with him. Similarly accused Tahir Nawaz and Moazam Sohail were summoned through SHO Khurram. Parwana was served upon the father of Moazam Sohail and Kashif Ali relatives of Tahir Nawaz but they did not attend this office so far.

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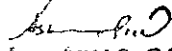
[Signature]
to be true copy
Advocate

(11)

From the perusal of record, it came to light that the learned Additional Session Judge, Takht-e-Nasrati Camp Court, Karak confirmed the ad-interim bail of accused official with the remarks that the main offence for which the present accused/petitioners are charged ~~with~~ is not compoundable as per schedule-II of the Cr.Pc. but keeping in view the affidavit EX,PB, statement of complainant and various dictums of the superior courts on the subject that compromise even in non-compoundable offence can be taken in to consideration if the parties themselves have forgiven and forgotten the offence, the compromise so produced, which is in the best future interest of both the parties. This all means that the accused official accepted his involvement in the case in shape of compromise and the allegation leveled against him is proved and the absence period of accused official may please be considered as leave with out pay and also recommended for Major Punishment if agreed.



(MUHAMMAD IQBAL)
Dy; Superintendent of Police,
Headquarters, Karak.

Attested

To be true copy
Advocate

(12)

Annex D

No. 5514-15 /EC

Dated 10-4 /2013

FINAL SHOW CAUSE NOTICE.

1. I, Sajjad Khan, District Police Officer, Karak as competent authority under the Police Rule-1975 do hereby serve you, **Constable Haroon ur Rasheed No. 336 (suspended) Police Lines Karak** as follow:-

That consequent upon the completion of enquiry conducted against you by Enquiry Officer **Mr. Muhammad Iqbal, DSP Hqrs Karak.**

2. On going through the finding and recommendation of the Enquiry Officer, the materials on the record and other connected papers including your defence before the said Enquiry Officer, I am not satisfied that the charge against you is not proved and you have not committed the following acts / omission specified in Police Rule-1975: -

"According to Superintendent of Police, Investigation Wing Karak, letter No. 354/Inv: dated 23.01.2014, you Constable Haroon ur Rasheed No. 336 involved in case FIR No. 116, dated 13.01.2014 under section 17(3) Haraba, 411 PPC Police Station Karak and absented yourself from lawful duty w-e-from 15.01.2014 to 03.03.2014 (total 48-days)vide daily diary No. 14, dated 04.03.2014 Police Lines Karak. Your pay was stopped to this effect. Your this act is against service discipline and amount to gross misconduct/negligence in duty."

3. As a result thereof I, as competent authority, have tentatively decided to impose upon you the penalty of major punishment under Police Rule-1975.

4. You are therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you, also intimate whether you desire to be heard in person.

5. If no reply to this Notice is received within Seven days of its delivery in the normal course of circumstances, it will be considered/presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

6. Copy of finding of the Enquiry Officer is enclosed.

Attested

To be true copy
Advocate

District Police Officer

ORDER

This Order is passed on the departmental enquiry against Constable Haroon ur Rasheed No. 336 of this District Police leading to the present departmental proceedings are as follows:-

According to the charge sheet Constable Haroon ur Rasheed No. 336 involved in case FIR No. 116, dated 13.01.2014 under section 17 (3) Haraba, 411 PPC Police Station Karak and absented himself from his lawful duty w.e from 15.01.2014 till date vide Daily Diary No. 14, dated 15.01.2014. His pay was stopped to this effect.

Charge Sheet and Statement of allegation based on above allegations were served upon the defaulter Constable Haroon ur Rasheed No. 336. Mr. Muhammad Iqbal DSP Hqrs Karak was appointed as enquiry Officer to scrutinize the conduct of Constable Haroon ur Rasheed No. 336 with reference to the charges leveled against him.

The Enquiry Officer conducted departmental enquiry and reported that the allegations leveled against the defaulter Constable have been proved and he also admitted his involvement in the case in shape of compromise. During course of enquiry the accused Constable reported his arrival at Police Lines Karak vide Daily Diary No. 14, dated 04.03.2014. The above named Constable absented him for 48-days. The enquiry Officer recommended him for award of major punishment and counting of absence as leave without pay.

Final Show Cause Notice was issued to Constable Haroon ur Rasheed No. 336 and properly served on him through local Police. In response to the Final Show Cause Notice the defaulter Official advanced implausible reply, placed on file.

In view of the above it is evident from the entire proceedings that Constable Haroon ur Rasheed No. 336 is found guilty of the charges leveled against him. Hence, in accordance with the finding report of the enquiry Officer and other legal procedure adopted, he is awarded major punishment of compulsory retirement with immediate effect. His absence period of 48-days is counted as leave without pay.

OB No. 372
Dated 11/4 /2014

Attested

[Signature]
District Police Officer, Karak

Attested
[Signature]
To be true copy
Advocate

[Signature]
Inspector
Karak
28/4

Inspector
Karak

(14)

Annex F

EC

DPO/KK

No 4321
DT 2/05/14

for Caccu
of Record and
Enging
Pils

To: The Deputy Inspector General of Police,
Kohat Region, Kohat.

Subject:- Departmental Appeal.

Respectfully Sheweth!

Appellant very humbly submits a departmental appeal against the order dated 11.04.2014 bearing OB No. 372 of learned District Police Officer, Karak vide which appellant was compulsorily retired from service.

FACTS:-

- 1) That appellant was posted as constable in district Karak Police under your kind command. Long unblemished service of about 19 years was at the credit of appellant.
- 2) That in January 2014, appellant was posted in Police Station Khurrum district Karak. On 13.01.2014, Tahir Nawaz real nephew of appellant and Moazan Sohail co-villager of appellant committed robbery vide FIR No. 16 under section 17 (3) Harraba offences against property Hudood ordinance Police Station headquarter Karak.
- 3) That both the accused named above were allegedly arrested on the very day of the occurrence and recovery of stolen vehicle was also made from their possession.
- 4) That appellant had developed differences with Tahir Nawaz accused his real nephew over none payment of huge debt money. Similarly appellant was not on good terms with Moazam Shoal accused.
- 5) That both the accused in order to succumb appellant to their whims and wishes falsely named appellant as accomplice in their statements recorded by Police during interrogation.
- 6) That on receipt of information about the concocted and fabricated statements of the accused before Police wherein efforts were made to implicate appellant in the above mentioned robbery case, appellant left the station with due permission of seniors.
- 7) That appellant had left the station for recording protest with the elders of the family of accused against their biased statement before Police.
- 8) That the parleys between elders of appellant and accused family took long period. Eventually the elders of the accused family agreed that they will pay the entire amount incurring on compromise with victim of the robbery.
- 9) That Mohammad Wajid complainant/victim in the robbery case appeared before court and gave statement on stamp paper to the effect that he has affected compromise with the accused directly charged in FIR and he stated in unequivocal terms that he has neither charged accused Haroon-ur-Rashid

Attested

To be true copy
Advocate

lant) and Haji Bail ullah earlier nor charge them now. Copy of ent is enclosed.

view of the statement of compliance/victim appellant was absolved riminal charges.

In addition to criminal charges, departmental proceedings were also initiated against appellant, which culminated in passing the impugned order. Hence this departmental appeal on the following grounds.

GROUNDS:-

- a) That he impugned order has been passed without adopting the legal, procedural and codal formalities, as enquiry officer has conducted one sided enquiry without associating appellant in the proceedings. Enquiry officer collected no evidence in support of the charges.
- b) That enquiry officer did not examine any witness in the presence of appellant and no chance of cross-examining witnesses was provided to appellant. Enquiry officer has wrongly based the opinion on compromise arrived between complainants and real accused. Enquiry officer has ignored the statement of complaint/victim that he does not charge Haroon-ur-Rashid (appellant).
- c) That appellant has never belied the report of complainant. Appellant still contends that Tahir Nawaz and Moazam Shoail have committed the robbery. Similarly appellant has never denied relationship with Tahir Nawaz accused.
- d) That enquiry officer did not take into account the statement of SHO and Muharur of Police Station Khurrum. Both had stated that appellant was present on duty on the alleged day of occurrence and appellant bear's good reputation.
- e) That enquiry officer based his opinion on conjectures and surmises and failed to properly evaluate facts and evidence on record.
- f) That the alleged absence of appellant from duty was not willful and deliberate. The agony of false charge of heinous offence of robbery did not allow appellant performing duties.
- g) That mere charge in criminal case is no ground for departmental punishment unless and until trial court record conviction order.
- h) That appellant was completely condemned unheard and impugned order as passed ex-parte.
- i) That this is on the record that relations between appellant and Tahir Nawaz were strained prior to the occurrence. Written complaints were made to this effect.

Attested

[Signature]
To be true copy
Advocate

(appellant) and Haji Bail ullah earlier nor charge them now. Copy of statement is enclosed.

- 10) That in view of the statement of compliance/victim appellant was absolved of the criminal charges.
- 11) That in addition to criminal charges, departmental proceedings were also initiated against appellant, which culminated in passing the impugned order. Hence this departmental appeal on the following grounds.

GRUNDS:-

- a) That he impugned order has been passed without adopting the legal, procedural and codal formalities, as enquiry officer has conducted one sided enquiry without associating appellant in the proceedings. Enquiry officer collected no evidence in support of the charges.
- b) Tat enquiry officer did not examine any witness in the presence of appellant and no chance of cross-examining witnesses was provided to appellant. Enquiry officer has wrongly based the opinion on compromise arrived between complainants and real accused. Enquiry officer has ignored the statement of complaint/victim that he does not charge Haroon-ur-Rashid (appellant).
- c) That appellant has never belied the report of complainant. Appellant still contends that Tahir Nawaz and Moazam Shoail have committed the robbery. Similarly appellant has never denied relationship with Tahir Nawaz accused.
- d) That enquiry officer did not take into account the statement of SHO and Muharur of Police Station Khurram. Both had stated that appellant was present on duty on the alleged day of occurrence and appellant bear's good reputation.
- e) That enquiry officer based his opinion on conjectures and surmises and failed to properly evaluate facts and evidence on record.
- f) That the alleged absence of appellant from duty was not willful and deliberate. The agony of false charge of heinous offence of robbery did not allow appellant performing duties.
- g) That mere charge in criminal case is no ground for departmental punishment unless and until trial court record conviction order.
- h) That appellant was completely condemned unheard and impugned order as passed ex-parte.
- i) That this is on the record that relations between appellant and Tahir Nawaz were strained prior to the occurrence. Written complaints were made to this effect.

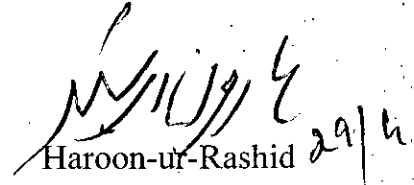
Attested

[Signature]
To be true copy
Advocate

16

It is therefore, prayed that on acceptance of the appeal the impugned order may be set aside and appellatant may be re-instated in service.

Your obediently,


Haroon-ur-Rashid 29/4

Ex-Constable No. 336.

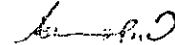
Resident of village of Nari Panoos Police

Station and Tehsil Banda Dauad Shah

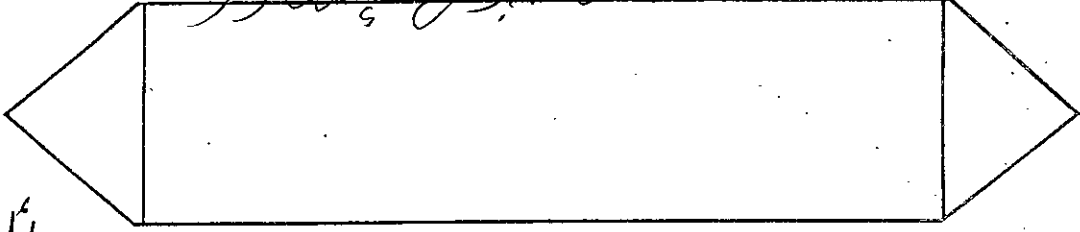
District Karak.

0315-9582343

Attested


To be true copy
Advocate

بعدالت سروس ٹریبونل کشمیر



2014ء منجانب سائل

بارون الٹسٹریڈ بنام ریجنل پولیس آفیسر

موزعہ
مقدمہ
دعوئی
جرم

باعث تحریر آئیکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام سٹیشنر کیلئے اشرف علی خٹک ایسٹریڈ نواز خٹک
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 ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک دروپیا عرضی 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 منسوخ
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار 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
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر 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۔

المرقوم _____ ماہ جولائی 2014ء

کے لئے منظور ہے۔

ASHRAF ALI KHATIAK
ADVOCATE

بمقام

Accepted
Attested
2/7/14

2/7/14

BEFORE THE KHYBER PAKHUTNKHWA SERVICE TRIBUNAL KP, PESHAWAR

Appeal No. 899/2014 Titled

Haroon Rashid EX Driver Constable No. 336 of District Police
Karak..... (Appellant)

D-NO-8019

Versus

26-05-15

1. The Regional Police Officer Kohat Region Kohat..
2. The District Police Officer, Karak.....

(Respondents)

**PARA-WISE COMMENTS/REPLY TO APPEAL ON BEHALF OF RESPONDENTS
NO. 1 TO 2**

Respectfully sheweth,

Para-wise comments/Reply to appeal on behalf of
Respondents No. 1 to 4 are submitted as below,

Preliminary objections

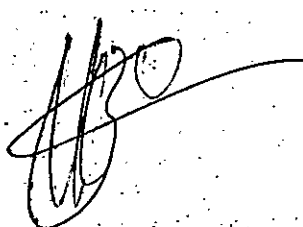
1. The appellant has got no cause of action to file the present appeal.
2. The appellant has not come to this Tribunal with clean hands.
3. The appeal is not maintainable in its present form.
4. The appeal is time barred.
5. The appeal is bad for mis-joinder and non-joinder of necessary parties.

Facts

1. Correct. It Pertain to record.
2. Incorrect. Sp Investigation Karak issued a letter about involvement of the appellant in case vide FIR No. 116 dated 13.01.2014 u/s 17(3) Haraba, 411 PPC PS Karak. Furthermore, appellant absented himself from his lawful duties and is avoided his lawful arrest.
3. Incorrect, appellant was rightly charge sheeted and proper statement of allegations was also served but the reply of appellant found unsatisfactory. Copy of charge sheet and statement of allegation is attached Annexure A and B.

4. Incorrect, proper departmental enquiry was initiated against the appellant and the then DSP Hqrs Muhammad Iqbal was appointed as enquiry officer. Findings of the Enquiry Officer is attached as annexure-C.
5. Incorrect, appellant was served with final Show Cause Notice copy of which is attached (ANNEXURE-D), again the reply of appellant found was un-satisfactory.
6. In-correct, as per contents of the letter issued by the Superintendent of Police Investigation Wing Karak, the appellant was charged in case FIR No. 116 dated 13.01.2014 U/S 17(3) Haraba, 411 PPC Police Station Karak, challaned to court from where he was acquitted on the biases of compromise, which shows his involvement in the instant case.
7. Correct. Respondent No.02 being competent Authority rightly imposed major penalty of compulsory retirement copy of which is enclosed as Ann: E.
8. In-correct, Respondent No. 01 rejected the Service Representation filled by the appellant and uphold the punishment awarded by respondent No. 01.

GROUNDS

- 
- A. In-correct, the appellant was properly served with Statement of allegation, Charge Sheet and departmental enquiry through the then DSP HQrs: Karak, during departmental enquiry the appellant was given full opportunity of self defense, cross examined, then he was recommended for a major punishment. After completion of the departmental enquiry, the competent Authority has issued a Final Show Cause Notice to the appellant, but due to the reply of the appellant was un-satisfactory, this order was passed. *according in accordance with the law*
 - B. In-correct, as noted above, appellant treated *accordingly* and Enquiry Officer has summoned the appellant and provided the chance of cross question to the appellant. Statement of SHO Police Station Khurram and Muharir were recorded by the Enquiry Officer which are self explanatory.
 - C. In-correct, the appellant was treated in accordance with the prescribed procedure/Rules to this effect.

- D. In-correct, as upshot above, all kinds of legal and procedural requirements were fulfilled and proper chance of self defense/ cross question was given to appellant.
- E. Incorrect, appellant was awarded with the major penalty on the basis of departmental enquiry conducted by the then DSP. HQrs and Respondent No. 02 imposed penalty of compulsory retirement.
- F. Incórrrect, appellant was summoned by the Enquiry Officer and proper chances of cross examination were given. Furthermore, Final Show Cause was issued to appellant and written reply to the Final Show Cause notice was again found un-satisfactory.
- G. Incorrect, as noted on para No. "A".
- H. Incorrect, appellant was duly served with statement of allegations, charge sheet and departmental enquiry as discussed above.
- I. Further detail/documentary proof as required by the Honorable Tribunal will be produced if required.

Keeping in view of the above facts and circumstances, it is earnestly prayed that the instant appeal may kindly be please dismissed with cost.

D-NO-8019
26-05-15

Dy. Inspector General of Police,
Kohat Region Kohat.
(Respondent No.1)

District Police Office, Karak
(Respondent No. 2)

AAG please not
[Signature]
26/5/18

AAG/Sr. GP

GP/ff
without subject P. to connections Anwarul
Affidavit cancelled AAG/Sr. GP appeal
Agreed on
[Signature]
26/5/15

BEFORE THE KHYBER PAKHUTNKHWA SERVICE TRIBUNAL KP, PESHAWAR

Appeal No. 899/2014 Titled


Haroon Rashid EX Driver Constable No. 336 of District Police
Karak..... (Appellant)

Versus

1. The Regional Police Officer Kohat Region Kohat..
 2. The District Police Officer, Karak.....
- (Respondents)

Subject: **AUTHORITY LETTER**

We, the respondents' No. 1 to 2 to hereby nominate Mr. Habib Ullah Khan ASI Legal District Karak to represent us before the Service Tribunal Khyber Pakhtunkhwa, Peshawar in the above cited service appeal. He is also authorized to submit comments / reply on our behalf before the Service Tribunal Khyber Pakhtunkhwa, Peshawar and to assist Govt: pleader/ Additional Govt: Pleader attached to August Tribunal till the decision of appeal.


Dy: Inspector General of Police,
Kohat Region Kohat.
(Respondent No.1)


District Police Office, Karak
(Respondent No. 2)

BEFORE THE KHYBER PAKHUTNKHWA SERVICE TRIBUNAL KP, PESHAWAR

Appeal No. 899/2014 Titled


Haroon Rashid EX Driver Constable No. 336 of District Police
Karak..... (Appellant)

Versus

1. The Regional Police Officer Kohat Region Kohat..
2. The District Police Officer, Karak.....
(Respondents) Subject:

AFFIDAVIT

We, the respondents' No. 1 to 2 to hereby affirm and declare on oath that the contents of reply/comments to the above titled service appeal are true and correct to the best of our knowledge and belief and nothing has been concealed from the August Tribunal.


Dy: Inspector General of Police,
Kohat Region Kohat.
(Respondent No.1)


District Police Office, Karak
(Respondent No. 2)

No. _____
Dated _____


DISCIPLINARY ACTION

I, Aliq Ullah Khan Wazir Police Officer, Karak am. competent authority
is of the opinion that Constable Haroon ur Rasheed No.336 Police Station
Karak am. rendered him liable to be proceeded against departmentally on the
of committing misconduct and negligence in duty

"According to Superintendent of Police Investigation Wing, Karak
letter-No.354/Inv: dated:23.01.2014, Constable Haroon ur Rasheed
No.336 involved in case FIR No. 116, dated 13.01.2014 under
section 17(3) Har: 431 PPC Police Station Karak am. absented
himself from lawful duty w-e-from 13.01.2014 till date vide Order
No. 14, dated 15.01.2014. His Pay has been stopped to this effect.
His this act is against service discipline and amount to gross
misconduct / negligence in duty".

The enquiry Officer Mr. Muhammad Iqbal - DSP Hqs Karak in
accordance with provision of the Police disciplinary rules 1975 may provide
reasonable opportunity of hearing to the accused official, record his finding and
make within 10-days of the receipt of this order, recommendation as to punishment
or other appropriate action against the accused.

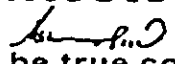
The accused official shall join the proceeding on the date, time and
place fixed by the enquiry committee.


District Police Officer

No/602-3 /EC (enquiry), dated 30/1 /2014

Copy to:

The enquiry officer for initiating proceeding against the accused officer in
provision of Police disciplinary rules-1975.

Attested

To be true copy
Advocate

9

No. 1601
Dated 30/1/2014

CHARGE SHEET

1. Atiq Ullah Khan Wazir, District Police Officer, Karak as competent authority hereby charge you Constable Haroon ur Rasheed No.336 Police Station Khurrana as follows:-

"According to Superintendent of Police Investigation Wing, Karak letter No.354/Inv. dated 23.01.2014, you Constable Haroon Rasheed No.336 involved in case FIR No. 116, dated 13.01.14 under section 17(3) Haraba, 411 PPC Police Station Karak, you absented yourself from lawful duty w-e-from 15.01.2014 till date vide Daily Diary No. 14, dated 15.01.2014. Your pay has been stopped in this effect. Your this act is against service discipline and amount to gross misconduct / negligence in duty".

2. By reason of your commission / omission, constitute misconduct under Police disciplinary rules-1975 and have rendered yourself liable for all or of the penalties specified in Police rules-1975 ibid.

3. You are, therefore, required to submit your written defence within 07-days of the receipt of this charge sheet to the enquiry Officer Mr. Khuram ul Qabal DSP Hqrs Karak. Your written defence if any should reach the Enquiry Officers within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

Intimate whether you desire to be heard in person.

Attested
[Signature]
To be true copy
Advocate

NO. 194/44

3-2

[Signature]
District Police Officer, Karak

No. 167 Hqrs:

Dt: 09 / 04 /2014.

FINDIN

Kindly this is in response to your good Office Charge Sheet No. 1602-03/EC, dated 30-01-2014, issued to Driver Constable Haroon ur Rasheed No.336 Police Station Khurram as follow:-

“According to Superintendent of Police investigation Wing, Karak letter No. 354/Inv: dated 23.01.2014, he constable Haroon ur Rasheed involved in case FIR No. 16 dated 13.01.2014 Police Station Karak and absented himself w.e. from 15.01.2014 till date vide daily dray No. 14 dated 15.01.2014 and his pay was also stopped to this effect. Thus the undersigned was appointed as enquiry officer to enquire the matter.

Accused official was summoned. He submitted his reply in response to the charge sheet, placed on file. He stated in his statement that the accused arrested in Case FIR No.16 dated 13-01-2014 u/s 17(3) Haraba Police Station Karak nominated him as co-accused because he(accused official) sold his landed property and give of Rs.2200000/- to Tahir Nawaz as Qarz-e-Hasana. When he ask for returned his money, than he annoyed. Similarly accused Mozam Sohail was the owner of Flying Coach and was involved in carrying of Narcotic in the said Flying Coach and he (accused official) searched his flying coach on duty hours and the above named accused threatened him on the spot. Due to this both the accused nominated him as co-accused before the investigation officer. Accused official further stated that he was present in the Police Station Khurram, when knowing about his involvement in the above case. As he is patient of Sugar, due to this tension he absented himself and also gets Bail before Arrest from the Court, which was confirmed on 27-02-2014. He denied the allegation.

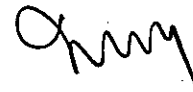
Similarly for the verification of the statement of accused official, Muhammad Ishfaq was summoned and his statement was recorded. He stated in his statement that he is eye-witness of the Qarz-c-Hasana in between Haroon-u-Rasheed and Tahir Nawaz. He also produces the available record.

During course of enquiry Noor Bad Shah No.474/IHC, the then MHC PS Khurram and Wali Sher Khan SHO Khurram were also summoned and their statements were recorded, placed on file. They stated in their statement that during posting period of accused official as Driver in Police Station Khurram no bad character person was noticed with him nor the above named accused were seen with him. Similarly accused Tahir Nawaz and Moazam Sohail were summoned through SHO Khurram. Parwana was served upon the father of Moazam Sohail and Kashif Ali relatives of Tahir Nawaz but they did not attend this office so far.

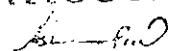
Attested
[Signature]
To be true copy
Advocate

(11)

From the perusal of record, it came to light that the learned Additional Session Judge, Takht-e-Nasrati Camp Court, Karak confirmed the ad-interim bail of accused official with the remarks that the main offence for which the present accused/petitioners are charged ~~with~~ is not compoundable as per schedule-II of the Cr.Pc. but keeping in view the affidavit EX,PB, statement of complainant and various dictums of the superior courts on the subject that compromise even in non-compoundable offence can be taken in to consideration if the parties themselves have forgiven and forgotten the offence, the compromise so produced, which is in the best future interest of both the parties. This all means that the accused official accepted his involvement in the case in shape of compromise and the allegation leveled against him is proved and the absence period of accused official may please be considered as leave with out pay and also recommended for Major Punishment if agreed.



(MUHAMMAD IQBAL)
Dy; Superintendent of Police,
Headquarters, Karak.

Attested

To be true copy
Advocate

(12)

Annex D

No. 5514-15 /EC

Dated 10-4 /2013

FINAL SHOW CAUSE NOTICE.

1. I, Sajjad Khan, District Police Officer, Karak as competent authority under the Police Rule-1975 do hereby serve you, Constable Haroon ur Rasheed No. 336 (suspended) Police Lines Karak as follow:-

That consequent upon the completion of enquiry conducted against you by Enquiry Officer Mr. Muhammad Iqbal, DSP Hqrs Karak.

2. On going through the finding and recommendation of the Enquiry Officer, the materials on the record and other connected papers including your defence before the said Enquiry Officer, I am not satisfied that the charge against you is not proved and you have not committed the following acts / omission specified in Police Rule-1975: -

"According to Superintendent of Police, Investigation Wing Karak, letter No. 354/Inv: dated 23.01.2014, you Constable Haroon ur Rasheed No. 336 involved in case FIR No. 116, dated 13.01.2014 under section 17(3) Haraba, 411 PPC Police Station Karak and absented yourself from lawful duty w-e-from 15.01.2014 to 03.03.2014 (total 48-days)vide daily diary No. 14, dated 04.03.2014 Police Lines Karak. Your pay was stopped to this effect. Your this act is against service discipline and amount to gross misconduct/negligence in duty."

3. As a result thereof I, as competent authority, have tentatively decided to impose upon you the penalty of major punishment under Police Rule-1975.


4. You are therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you, also intimate whether you desire to be heard in person.

5. If no reply to this Notice is received within Seven days of its delivery in the normal course of circumstances, it will be considered/presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

6. Copy of finding of the Enquiry Officer is enclosed.

Attested

To true copy
Advocate


District Police Officer, Karak.

ORDER

This Order is passed on the departmental enquiry against Constable Haroon ur Rasheed No. 336 of this District Police leading to the present departmental proceedings are as follows:-

According to the charge sheet Constable Haroon ur Rasheed No. 336 involved in case FIR No. 116, dated 13.01.2014 under section 17 (3) Haraba, 411 PPC Police Station Karak and absented himself from his lawful duty w.e.from 15.01.2014 till date vide Daily Diary No. 14, dated 15.01.2014. His pay was stopped to this effect.

Charge Sheet and Statement of allegation based on above allegations were served upon the defaulter Constable Haroon ur Rasheed No. 336. Mr. Muhammad Iqbal DSP Hqrs Karak was appointed as enquiry Officer to scrutinize the conduct of Constable Haroon ur Rasheed No. 336 with reference to the charges leveled against him.

The Enquiry Officer conducted departmental enquiry and reported that the allegations leveled against the defaulter Constable have been proved and he also admitted his involvement in the case in shape of compromise. During course of enquiry the accused Constable reported his arrival at Police Lines Karak vide Daily Diary No.14, dated 04.03.2014. The above named Constable absented him for 48-days. The enquiry Officer recommended him for award of major punishment and counting of absence as leave without pay.

Final Show Cause Notice was issued to Constable Haroon ur Rasheed No. 336 and properly served on him through local Police. In response to the Final Show Cause Notice the defaulter Official advanced implausible reply, placed on file.

In view of the above it is evident from the entire proceedings that Constable Haroon ur Rasheed No. 336 is found guilty of the charges leveled against him. Hence, in accordance with the finding report of the enquiry Officer and other legal procedure adopted, he is awarded major punishment of compulsory retirement with immediate effect. His absence period of 48-days is counted as leave without pay.

OB No. 372
Dated 11/4 /2014

Attested

[Signature]
District Police Officer, Karak

Attested
[Signature]
To be true copy
Advocate

[Signature]
Inspector Legal
Karak

[Signature]
28/4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR.

Cr.M. No. ____/2015

In

Service Appeal No. 899/2014.

M.W.P. Province
Service Tribunal
Diary No. 485
Dated 16/6/15

Haroon Rashid.....(Appellant)

VERSUS

Provincial Police Officer and others.....(Respondents)

APPLICATION FOR EARLY HEARING

Respectfully Sheweth:

*Found for rejoinder/arguments
by Chairman.
26/6*

*Be placed before
D.B for orders
22.06.15*

1. That the above mentioned case is pending adjudication before this Hon'ble Tribunal, which is fixed for hearing on 10/11/2015.
2. That the case is regarding service matter, the appellant is terminated from service and the appellant is only source of his family livelihood.


3. That it shall be in the interest of justice to accelerate the date in the above titled case.

It is, therefore, respectfully prayed that on acceptance of this application, the date in the case may kindly be fixed as early as possible, in the best interest of justice.


Appellant

Through

Dated: 16/06/2015


Ashraf Ali Khattak
Advocate High Court,
Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR.

Cr.M. No. ____/2015

In

Service Appeal No. 899/2014

Haroon Rashid.....(Appellant)

VERSUS

Provincial Police Officer and others.....(Respondents)

AFFIDAVIT

I, **Ashraf Ali Khattak** Advocate Peshawar, as per instructions of my client, that the contents of the Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



ADVOCATE

(Handwritten signature)

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

In the matter of
Appeal No. 899/2014

Haroon Rashid Ex Driver Constable No. 336 of District Police
Karak. (Appellant)

VERSUS

Regional Police Officer, Kohat Region Kohat and others.
(Respondents)

REJOINDER ON BEHALF OF THE APPELLANT

Respectfully submitted:

The appellant submit his rejoinder as under:

Preliminary Objections:

1. Contents incorrect and misleading. The appellant has illegally been awarded the major penalty of compulsory retirement form service hence he has got the necessary cause of action to file instant appeal.
2. Contents incorrect and misleading, the appellant has approached this Honourable Tribunal with clean hands.
3. Content incorrect and misleading. The appeal is filed well in accordance with the prescribed rule and procedure, hence maintainable in his present form.
4. Content incorrect and misleading. The appeal is filed well within the prescribed period of limitation.
5. Contract misconceived and incorrect. All the parties necessary for the safe adjudication of this appeal has been arrayed in the appeal.

Facts of the Case:

1. Contents need no reply, however contents of para 1 of the appeal are correct.
2. Contents of Para 2 of the appeal are correct. The reply submitted to the Para is incorrect and false.

3. Contents of Para 3 of the appeal are correct. The reply submitted to the Para is incorrect and false.
4. Contents of Para 4 of the appeal are correct. The reply submitted to the Para is incorrect and false.
5. Contents of Para 5 of the appeal are correct. Reply submitted to the Para is incorrect and misleading.
6. Contents of Para 6 of the appeal are correct. The reply submitted to the Para is incorrect and false.
7. Contents of Para 7 of the appeal are correct. The reply submitted to the Para is incorrect and false. The appellant has wrongly been awarded the major penalty of compulsory retirement from service. The charges leveled against the appellant were never proved against him.
8. Contents of Para 8 of the appeal are correct. The reply submitted to the Para is incorrect and false.

Grounds of Appeal:

The Grounds of appeal taken in the memo of appeal are legal will be substantiated at the hearing of this appeal. Besides the appellant has not been treated in accordance with law, no proper procedure has been followed before awarding the major penalty to the appellant. The penalty imposed is thus in violation of the law & rules. Moreover the charges were never proved against the appellant, he has gained acquittal from criminal charges, it is a well settled law that all acquittals are honorable. The alleged absence is also regularized by treating it as leave without pay, thus there remained no ground for imposition of penalty to the appellant albeit he has been awarded the major penalty. The impugned order is not sustainable in the eye of law and is thus liable to be set aside.

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



Appellant

Through


IJAZ ANWAR

Advocate Peshawar

And


SAJID AMIN

Advocate, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

In the matter of
Appeal No. 899/2014

Haroon Rashid Ex-Driver Constable No. 336 of District Police
Karak. **(Appellant)**

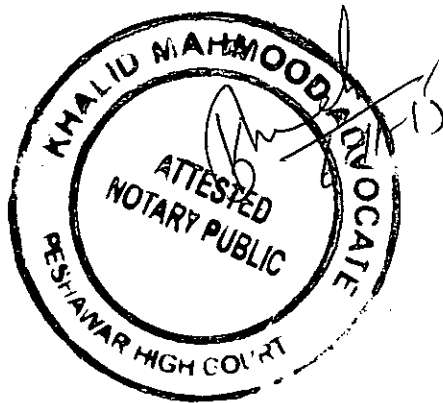
VERSUS

Regional Police Officer, Kohat Region Kohat and others.
(Respondents)

AFFIDAVIT

I do hereby solemnly affirm and declare on oath that the contents of the above rejoinder as well as titled appeal are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.

[Signature]
Deponent



POWER OF ATTORNEY

In the Court of Khyber Pakhtun Khwa Service

Fozand Peshu

Haroon Rashid

- } For
- } Plaintiff
- } Appellant
- } Petitioner
- } Complainant

VERSUS

Provincial Police Officer and

others.

- } Defendant
- } Respondent
- } Accused

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____

Fixed for _____

I/We, the undersigned, do hereby nominate and appoint

IJAZ ANWAR ADVOCATE, SUPREME COURT OF PAKISTAN

and Sajid Amin Advant my true and lawful attorney, for me in my same and on my behalf to appear at Peshu to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or sub-poena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at _____ the _____ day to _____ the year _____

Executant/Executants _____

Accepted subject to the terms regarding fee _____

Sajid Amin
SAJID AMIN
 Advocate, Peshawar.

Ijaz Anwar
Ijaz Anwar

Advocate High Courts & Supreme Court of Pakistan

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-3 & 4, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt
Ph.091-5272154 Mobile-0333-9107225

POWER OF ATTORNEY

In the Court of Physy Pakhuta Chae Same Fakhir Begor
Haseem uz Raheem

} For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

D.P.O and others

} Defendant
} Respondent
} Accused

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____
Fixed for _____

I/We, the undersigned, do hereby nominate and appoint

YASIR SALEEM ADVOCATE, my true and lawful attorney, for me in my same and on my behalf to appear at Peshawar to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromise or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc. and to apply for and issue summons and other writs or sub-poena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at Peshawar
the _____ day to _____ the year _____

Executant/Executants _____
Accepted subject to the terms regarding fee _____

Amad Jan
accepted
of
Executed

YASIR SALEEM
Advocate High Courts
ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-3-4, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt
Ph 091-5272154 Mobile-0331-8892589