

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT SWAT

Service Appeal No 895/2015

Date of Institution... 07.08.2015

Date of decision... 06.09.2017

Habibullah Constable No. 470, R/O village Puran District Shangla.

... (Appellant)

Versus

1. District Police Officer, Shangla and 2 others.

... (Respondents)

MR. SHAMSUL HADI,
Advocate

...

For appellant.

MR. MUHAMMAD ZUBAIR,
District Attorney

...

For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. AHMAD HASSAN,

...

...

CHAIRMAN
MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellant was removed from service by the impugned order dated 23.4.2015 due to his absence for 40 days. Against this impugned order he filed a departmental appeal on 28.04.2015 which was not responded to and hence the present appeal on 07.08.2015.

ARGUMENTS

3. The learned counsel for the appellant argued that the appellant was ill during the period of absence. That he did produce documentary evidence before the enquiry officer in this regard. That the enquiry officer after considering his illness

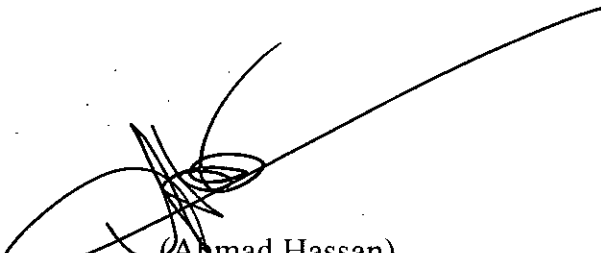
did recommend any of the 3 penalties i.e. major, treating 40 days medical leave or leave without pay. That the authority instead of taking a lenient view, removed the appellant from service. That no show cause notice was given to the appellant.


4. On the other hand, the learned District Attorney argued that the appellant was habitual absentee. That all the procedural steps have been fulfilled before awarding penalty to the appellant.

CONCLUSION

5. The report of the enquiry officer is clear regarding the proof of illness of the appellant. However, he opined that the appellant being habitual absentee may be awarded any of the penalties mentioned above. This Tribunal after going through the record and findings of the enquiry officer is of the view that illness of the appellant was proved before the enquiry officer and in such circumstances there was no justification for imposition of major penalty rather the appellant could have been awarded minor penalty in the circumstances of the case.

6. In view of the above discussion, this Tribunal while accepting the appeal of the appellant converts the major penalty of removal from service of the appellant into minor penalty of stoppage of increments for a period of 3 years without cumulative effect. The appellant is reinstated in service. Parties are left to bear their own costs. File be consigned to the record room.


(Ahmad Hassan)
Member


(Niaz Muhammad Khan)
Chairman
Camp Court, Swat

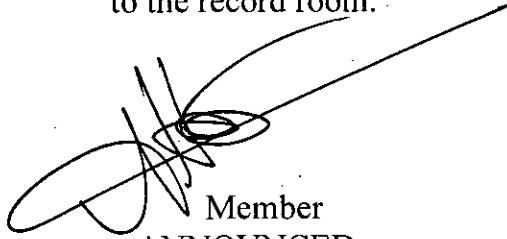
ANNOUNCED
06.09.2017

895/15

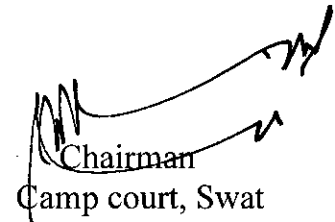
06.09.2017

Counsel for the appellant and Mr. Muhammad Zubair, District Attorney for the respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment of today. Parties are left to bear their own costs. File be consigned to the record room.



Member
ANNOUNCED
06.09.2017




Chairman
Camp court, Swat

895/15

04.10.2016

Counsel for the appellant and Mr. Muhammad Muzaffar Khan, S.I (Legal) alongwith Mr. Muhammad Zubair, Senior Government Pleader for the respondents present. Learned Sr.GP submitted application to submit written reply. Learned counsel for the appellant has raised no objection and stated at the bar that it would be beneficial for just decision of the appeal. As such written reply placed on file. Cost of Rs. 1000/- paid and receipt thereof obtained from the learned counsel for the appellant. To come up for rejoinder and final hearing before the D.B on 04.1.2017 at camp court, Swat.



Member


Chairman
Camp court, Swat

04.1.2017


Agent of counsel for the appellant and Mr. Muhammad Zubair, Senior Government Pleader for the respondents present. Counsel for the appellant is not in attendance as he has gone to Karachi. Adjourned for rejoinder and final hearing to 02.05.2017 before D.B at camp court, Swat.


Member


Chairman
Camp court, Swat


02.05.2017

Clerk of the counsel for appellant present. Mr. Muhammad Zubair, District Attorney for the respondents also present. Rejoinder submitted. Due to non-availability of learned counsel for the appellant as well as incomplete bench arguments could not be heard. To come up for arguments on 06.09.2017 before D.B at Camp Court Swat.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
Camp Court Swat.

3.2.2016

Mr. Imdadullah, Advocate on behalf of counsel for the appellant and Mr. Ameer Qadir, GP for respondents present. Requested for adjournment as the respondents are not in contact with him. Last opportunity granted. To come up for written reply/comments on 6.4.2016 before S.B at Camp Court Swat.


Chairman
Camp Court Swat

06.04.2016

Appellant in person and Mr. Muhammad Zubair, Sr.GP for the respondents present. The learned Sr.GP informed the Tribunal that he has contacted the respondents. Written reply not submitted despite last opportunity Requested for further time. Last opportunity is extended subject to payment of cost of Rs. 1000/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments and cost on 13.07.2016 before S.B at camp court, Swat.


Chairman
Camp Court, Swat.

13.7.2016

Counsel for the appellant and Mian Amir Qadar, GP for the respondents present. Written reply not submitted despite repeated opportunities including last opportunity which was further extended subject to payment of cost of Rs. 1000/-. No further opportunity is granted to the respondents. The appeal is assigned to D.B for rejoinder and final hearing for 04.10.2016 at camp court, Swat.


Chairman
Camp Court, Swat

27.08.2015

None present for appellant. Notice not issued. Office is warned to be careful in future. Notice to counsel for the appellant be issued for 23.9.2015 for preliminary hearing before S.B.


Chairman

23.09.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable when subjected to inquiry on the allegations of wilful absence from duty for 13 days and removed from service vide impugned order dated 23.4.2015 regarding which appellant preferred departmental appeal on 28.4.2015 which remained un-responded and hence the instant service appeal on 7.8.2015.

That the absence of the appellant was not wilful and, moreover, no codal formalities were complied with during the departmental inquiry.

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/comments for 7.12.2015 before S.B at Camp Court Swat as the matter pertains to the territorial limits of Malakand Division.


Chairman

7.12.2015

Counsel for the appellant and Assistant A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 3.2.2016 before S.B at Camp Court Swat.


Chairman
Camp Court Swat

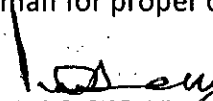


Appellant Deposited
Security & Process Fee



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 895/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	07.08.2015	<p>The appeal of Mr. Habibullah presented today by Mr. Shamsul Hadi 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	10-8-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>13-8-15</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3	13.08.2015	<p>None present for appellant. Notice to counsel for the appellant be issued for 27.8.2015 for preliminary hearing before S.B.</p> <p style="text-align: right;"> Chairman</p>

7

BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. 895 /2015

Habibullah (constable No.479)Appellant

V E R S U S

District Police Officer and others.....Respondents

INDEX

S.N	Description of Documents	Annex	Pages
1.	Memo of Appeal.		1---4
2.	Affidavit.		5.
3.	Addresses of the Parties.		6
4.	Copies of Medical Certificates.	A	7--18
5.	Copies of Naqal mads, inquiry report and impugned office order dated:23.04.2015.	B	19--25
6.	Copy of Departmental appeal.	C	26
	Wakalat Nama		27

Habibullah (Police Constable No.479)



Appellant

Through



Shams ul Hadi

Advocate, Peshawar.

Office: St/3 Abshar Colony

Warsak Road Peshawar.

Cell No. 0313-9772262

Dated: 06/08/2015.

1

**BEFORE THE KHYBER PAKHTOON KHWA SERVICES
TRIBUNAL, PESHAWAR**

Service Appeal No. 895 /2015.

**G.W.F. Province
Service Tribunal**

Diary No. 947

Dated 07-8-15

Habibullah (Police Constable No.479)

Earlier posted at Police Station Martung

R/O Village Puran District Shangla.....Appellant

V E R S U S

- ✓1. District Police Officer, Shangla.
2. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
3. Deputy Inspector General of Police, Malakand Region, Saidu Sharif Swat.....Respondents.

**APPEAL UNDER SECTION 4 OF KHYBER
PUKHTUNKHWA SERVICES TRIBUNAL ACT
1974 AGAINST THE IMPUGNED OFFICE
ORDERS DATED:23.04.2015.**

PRAYER IN APPEAL:

On acceptance of this appeal the impugned Orders dated: 23.04.2015 regarding major penalty i-e removal of service of appellant may kindly be set aside and the appellant may kindly be re-instated to his service with all back benefits of service.

*No further
opportunity
13-7-15*

[Signature]
7/8/15

Respectfully Sheweth:

1. That initially the appellant joined the respondent/department since long and as such performed his duties with zeal and zest and till date no compliant what so ever has been recorded from any quarter.
2. That during his service the appellant suffers from some minor kind of Psychiatric issues and as such 29.12.2014 the appellant due to severe illness, with permission of concerned SHO, visited a doctor at THO Hospital Puran, Shangla, where six week complete bed rest was advised to him by the doctors so the appellant brought the same in the knowledge of the concerned SHO.(Copies of medical certificates are annexure-A)
3. That during his illness period of the appellant, the concerned SHO with ill intention absented the appellant from duty and as such a so called inquiry was initiated against the appellant by the Resp No.1 ,where finally major penalty i-e removal from service was imposed upon appellant vide impugned order dated:23.04.2015.(Copies of Naqal mads, inquiry report and impugned office order dated:23.04.2015 are annexure-B)

4. That against the impugned order dated:23.04.2015 the appellant filed departmental appeal before the Resp No.3 but the same was not decided within statutory period.(Copy of Departmental appeal is annexure-C)

That being aggrieved from the impugned order, the appellant approached this Hon'ble Tribunal on the following grounds amongst other inter alia:

GROUNDS:

- A. That the impugned office order is against the facts, law and procedure, hence, untenable being unjust and unfair.
- B. That the appellant was not treated in accordance with law and rules, thus acted in violation of the relevant laws laid down for the purpose.
- C. That the whole departmental proceedings against the appellant was based on personal ill will and with ill intention a harsh and illegal penalty was imposed on the appellant.
- D. That no opportunity in shape of personal hearing was afforded to the appellant during enquiry proceedings and

as such the statement and evidence was recorded in absence of the appellant which clearly showing the ill intention of the appellant.

E. That any other ground may be adduced during the course of argument, with the kind permission of this Hon'ble Court.

It is, therefore, most humbly prayed that On acceptance of this appeal, impugned Orders dated: 23.04.2015 regarding major penalty i-e removal of service of appellant may kindly be set aside and the appellant may kindly be re-instated to his service with all back benefits of service.

Habibullah (Police constable No.479)


Appellant

Through


Shams ul Hadi
Advocate, Peshawar.

Dated: 06/08/2015

BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2015.

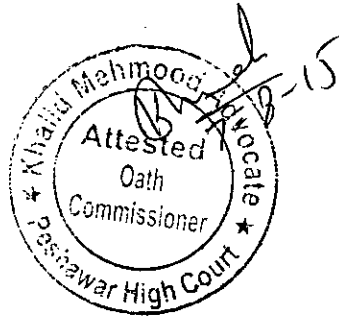
Habibullah (constable No.479)Appellant

V E R S U S

District Police Officer and others.....Respondents

AFFIDAVIT

I, **Shams ul Hadi**, Advocate, Peshawar do hereby as per information conveyed to me by my client solemnly affirm and declare that the contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



ADVOCATE

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2015.

Habibullah (constable No.479)Appellant

V E R S U S

District Police Officer and others.....Respondents

ADDRESSES OF THE PARTIES

APPELLANT:

Habibullah (Police Constable No.479)

Earlier posted at Police Station Martung


R/O Village Puran District Shangla.

Cell No.0344-2228783

RESPONDENTS:

1. District Police Officer, Shangla.
2. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
3. Deputy Inspector General of Police, Malakand Region, Saidu Sharif Swat

Appellant

Through 

Shams ul Hadi
Advocate, Peshawar.

Dated: 06/08/2015

OUT DOOR PATIENT TICKET

(7)

Shangla

CRP No: _____

Name

T/HQ(H) Piran

Age: 29

Sex: M

Father's/Husband's Name _____

Monthly OPD Serial No. _____

3547

Provisional Diagnosis: _____

Clinical Findings / Investigations / Treatment / Referred / Test Findings

Date

29-12-14

To whom it may concern!

It is to certify that I examined Mr. Habibullah of Age 29 yrs. He is having some psychiatric issue and had multiple visits with the doctors.

I advised him medication and complete Bed Rest for six weeks with effect from 29-12-15 to 10-02-15

(A)

[Signature]
Dr. Ghaffoor Ahmed,
INCHARGE MEDICAL OFFICER,
T.H.Q. Hospital, Piran Shangla.

50-114

(Q)

[Signature]
Ameer

Ameer
A

8

DHIS - 02 (F)

Sent To: _____

OUT DOOR PATIENT TICKET

District Shangla CRP No: _____


Facility Name T.H.Q. (H) Qid


Name حاجی محمد Age: 29 Sex: M

Father's/Husband's Name _____

Monthly OPD Serial No. 1097

Provisional Diagnosis: _____

Date	Clinical Findings / Investigations / Treatment / Referred / Test Findings
11-2-15	<p>To whom it may concern!</p> <p>It is certified & examined, my Habibullahs - he is having H. pylori +ve and i advised medication and complete home Bed Rest for 02 wks with effect from 11-2-15 to 24-2-15.</p> <p style="text-align: right;">  Dr. Ghaffoor Ahmed, INCHARGE MEDICAL OFFICER, T.H.Q. Hospital, Puran Shangla. </p>

Attested


9

M.B.B.S F.C.P.S F.A.C.P
(PESH) (PAK) (USA)

CONSULTANT PSYCHIATRIST, PSYCHOTHERAPIST

Karwan-e-Hayat Opposite Lady Griffith
Girls School, Dabgari Garden Peshawar.
Tel. Clinic #: 091-2568085
E-mail: wajidpsy@hotmail.com

Handwritten notes in Urdu, including a date: 27/12/2014

(a) TAB. Paroxa

Handwritten notes and arrows pointing to the right, possibly indicating dosage or frequency.

(a) TAB. MENTAL

Handwritten notes and arrows pointing to the right.

(a) TAB. clomipn.L

Handwritten notes and arrows pointing to the right.

(a) TAB. Olanpa

Handwritten notes and arrows pointing to the right.

Vertical handwritten notes on the left side of the page, including the word "Tension".

Handwritten notes including "P 50 114" and "BN 120/80"

Handwritten notes including "Panic attack" and a circled number "1"

Official stamps and text in Urdu, including "پشاور" (Peshawar) and "پاکستان" (Pakistan).

Handwritten text: "کلینک: کاروان حیات، مقابل ایڈی گریڈ گرلز سکول، ڈبگری گارڈن پشاور، 27/12/2014"

Handwritten signature and name in Urdu.

OFFICER against COMRADE HADID ULLAH
No 479 is enclosed for further order please

Handwritten numbers "015" and "001"

Handwritten numbers "81" and "61"

(11)

AI-Noor Medical Complex

Near Saidu Teaching Hospital (Central Wing),
Opp: Allah-o-Akbar Masjid, Saidu Sharif, Swat.
Ph: 0946-729940 / 729944
0300-5883283

میڈیکل اینڈ جنرل پیٹرنٹ
Consultation (By Appointment only)
NOT VALID FOR ANY SORT OF MEDICAL LEGAL ASPECT

ڈاکٹر واصل خان

اسٹنڈنگ ہڈسٹرکٹ سید روپ آف پیچ-ایم ایچ (میڈیکل وارڈ)
سید میڈیکل کالج سید شریف سوات

Dr. Wasil Khan
MBBS (Pesh) MCPS (Medicine)
FCPS (Medicine) FCPS (Pulmonology)
Assistant Professor, Senior Consultant
Saidu Group of Teaching Hospitals (Medical Ward)
SAIDU MEDICAL COLLEGE Saidu Sharif Swat.



Date 26/6/13

Name Habibullah Age & Gender 28 / F Address گیت سائڈ

Clinical Record

AIN

Panic attacks

AFIB

AI
Asch
openers

Rx

Tas depost 10mg
ایس ڈی پی 10

Tas yanax 0.5g
ایس یاناکس 0.5

Tas Lero 500
ایس لرو 500

SYP Eplazime
ایس ایپلازمین

Applied complete bed / Home rest
for three (3) days from
today on word.
w Okus

Amir

دوباره مانگی کیے دن بعد شریف لائیں

Officer against Constable Habibullah

OPB 26/6/13

de nantun?

(13)

1/24/60

Handwritten signature

OFFICE of ... enclosed for further order ...

14

R. SHAWAR MEDICAL LABORATORY



Opp: Dr.Amanullah Clinic (Aloch) Pura
District Shangla

Date: 05/02/2015

Name: Dr. Amanullah Age: 7 Sex: 09

Examination Required: Bio-Chemistry Serology

TEST	NORMAL RANGES	RESULT	TEST	RESULT				
Glucose (Fasting)	55-115mg/dl		RA Factor					
Glucose (Random)	70-150mg/dl		ASO Titre					
Cholesterol	up to 200mg/dl		Toxo Plasma Titre					
Triglycerides	up to 200mg/dl		Blood Group					
Blood Urea	10-50mg/dl		RH Factor					
S. Creatinine	0.5-1.2mg/dl		Typhidot	1gM 1gG				
S. URIC Acid	M:3.4-7.0 F:2.4-5.7 mg/dl		Dengue	1gM 1gG				
S. bilirubin (Total)	Up to 1.0mg/dl		WIDAL TEST					
S. bilirubin (Direct)	Up to 0.25mg/dl		Dilution	1/20	1/40	1/80	1/160	1/320
S. bilirubin (indirect)	Up to 0.75mg/dl		TO					
S. calcium	8.5-10.4mg/dl		TH					
SGPT/ALT	Up to 40U/L		AH					
S.ALK. Phosphates	80-365U/L		BH					
MP:			BPI CELLA TEST					
IMMUNO CHROMATOGRAPHIC ASSAYS			Dilution	1/2	1/40	1/80	1/160	1/320
Anti HCV			R. Abortus					
Hbs Ag			B. Maltitensis					
HIV (AIDS Test)			Comments:					
Anti. H. Pylori		(MEDICALLY POSITIVE)						
ICT By TB								
Dengue N.S1								
Pregnancy								

Lab. Technician: Numan Bacha
0300-9046160 - 0347-2614998

پشاور میڈیکل لیبارٹری بالقابل ڈاکٹر انان اللہ ٹیک (الوج) پورا ڈسٹرکٹ شنگلا

Alexander

Office against Constable Habib Ullah
No 479 is enclosed for further order please.

124
08.02.15
06/02/15

15

DRUG POINT PHARMACY
OPP. LADY GRIFFIN SCHOOL DABGARI PESHAWAR
PH.091-2568085--2214086

INVOICE

Customer : W/A
Address : ABC
City : PESHAWAR
Invoice No : 6207

Date : 27-03-2014
Time : 7:55:32 PM

ITEM NAME	QTY	TRADE	STAX	DISC	NET AMOUNT
Prolexa 20Mg	2	450.00			900.00
Inderal 10Mg	2	65.00			130.00
Clomipril 25Mg	10	30.50			305.00
Olepra 5Mg	2	124.00			248.00
Totals : 4		1583.00		0.00	1583.00
Invoice Total :					1583.00

Amir

Officer against Constable Habibullah
No 479 is enclosed for further order please.

015

16

AL-NOOR MEDICAL COMPLEX

PATHOLOGY DEPARTMENT

Lab No: 205

Date & Time: 26 June, 2013

Patient Name: HABIBULLAH

REPORT

Test	Result	Units	Normal Value
Glucose Random	94	mg /dl	Upto 170

24 hours a day ~~6 days a week~~

Note: We preserve the tests samples till late night

Zafar Ali
(Technologist)
D.M.L.T (NIH)

F.KARIM
(Technologist)
D.M.L.T (Pesh Faculty)

M. Furqan
(Technologist)
D.M.L.T (Jams Pesh)

M. Furqan
[Signature]

Officer against
No 479 is enclosed for further order please.

6/1

(17)

AL-SHIFA CT SCAN

Near Allaho Akbar Masjid Saidu Sharif Swat.

Email: alshifascans@yahoo.com

Ph: 0946-710810

Patient's Name: Habibullah
Age: 27 YEARS
Sex: MALE
Date: 4 July 2013
Ref: by: Dr. Liaqat Ali Sb

CT BRAIN WITHOUT CONTRAST

Comments:

- There is no evidence of abnormal attenuation, mass or mass effect / midline shift.
- Normal ventricular system.

Conclusion:
Normal CT brain study.

Ali Sher

M. Ishtiaq Khattak
DR. M. Ishtiaq Khattak
M.B.B.S MCPS (RAD) DMRD
Senior Radiologist C. Wing
Saidu Teaching Hospital Swat

OFFICE of
No 479 is enclosed for further order

8
61

Dr. Arshad Iqbal

M.B.B.S., M.C.P.S., F.C.P.S.

EYE SPECIALIST



Assistant Professor
Saidu Teaching Hospital
Saidu Medical College
Saidu Sharif, Swat.

Clinic: Shifa Medical Center,
Saidu Sharif, Swat.
Appointment: 712482, 710929
Phone Clinic: 712297

Patient's Name Habib Ullah Age 57 Sex M Date 09 JUN 2012

VAR 6/6
VAL 6/6

انکھوں کو گرد و غبار دھوئیں اور دھوپ سے بچائیں
دھوپ میں کالی عینک کا استعمال کریں
انکھوں کو ہاتھ سے منے سے پرہیز کریں
زیادہ جارحی کے رفت انکھوں کو تھنڈے پانی سے دھوئیں

V.S

① Emadine Dps 141

② FOAL Dps 141

Attest

دوبارہ معائنہ 2 لار بعد

OFFICER
No 479 is enclosed for further order

psm 17/2/15

فروع خدمت ہوں گے جس حبیب اللہ منہ 479

رفتہ ہواں فر 12 روز ناچہ 11/15 سے بدستور غیر حاضر جلا آرہا ہے

حکے حاضر کے امکانات نزدیک وقت میں نظر نہیں آتے ہیں۔ کچھ مذکورہ ایڈھے غیر حاضر ہو کر حکے غیر حاضری کے تقدمات تفریح کا ادائیگی سرکل کیے نہیں

بورڈ درخواست استدعا حکے کچھ مذکورہ کی

شکوہ ثابت ماہ فروری اندر کے کا حکم تیار فرمائیں
تعمیر غیر حاضری لف درخواست تیار ہے
الکھال

تالیہ دار سر حفا شمارتوں

17/2/15 (امروم)

Forwarded

صبا عالی!

اندرین سید انوار سہری DSP صبا
سید فوٹر سید فوٹر

SDPO's mark

17-2-15

R/OPD/shanglu
23.2.015

DSP/HQ
for report with
in Threedays.

Forwarded

Amir

OPD/shanglu
23.2.015

SDPO/Pulan
23-2-015

جو الہامی نائل سو کا زکوٰۃ ٹرسٹ کے ذریعہ انکو اسٹریٹیجی طور پر

40 یوم عرصہ میں خدمت ہوں گے میں کافی عرصہ سے بیمار ہوں۔

میرے بعد میں تکلیف ہے۔ اور ایسی وجہ سے زہنی طور پر

بھی ڈپریشن کا شکار ہوا تھا۔ مختلف ہسپتالوں میں ڈاکٹروں

سے علاج، اعلاج، میڈیکل ٹیسٹ کروا کر زبیر علی خان رہا۔ اللہ

تعالیٰ کے فضل، کرم پر بیماری سے اہت یاب ہو چکے ہوں۔

حاضری یوم بیمار ہوئی ہے۔ صحت کا قاعدہ طور پر میرے ساتھ

میڈیکل ریپٹ تحریر کردہ ڈاکٹر صاحب ہسپتال یورن ہو چکے

اور نائل انکو اسٹریٹیجی سے نائل ٹیگا۔ میں اب گھر کا واحد خود کفیل

ہوں۔ اور غریب گھرانے سے تعلق رکھتا ہوں۔ اور حکم پورے

میں اب تک 8 سال سروس کر چکے ہوں۔ اور تاحال ایجابی

کیا تھا اپنے فرائض سر انجام دے چکے ہوں۔ لیکن حالیہ بیماری

کی وجہ سے جو علاج حاضری ہوئی ہے، وہ شہوری کی بیماری

میرا حکم پورے کیا تھا اور عوامی خدمت کا دل سے جذبہ ہے

میرا امید ہے کہ اگر ان بالا میں سے بیماری کو مد نظر رکھتے ہوئے

کرم فرمائیں گے۔ اور میں خود بھی ائمہ سے بحثا طور پر

اس بار دعا کی اس دعا کرتا ہوں صاف فرمائی جاوے۔

Handwritten signature/initials

15-04-15

کونسل جسٹس الرہیم 479 مقصد PS ماہانہ

استغفار

فائینڈنگ رپورٹ انکوائری
برخلاف کنسٹیبل حبیب اللہ 479

جناب عالی!

بحوالہ مشمولہ انکوائری رپورٹ اذان کنسٹیبل حبیب اللہ 479 متعینہ تھانہ مار تو نگ معروض خدمت ہوں کہ کنسٹیبل کی غیر حاضری 40 یوم از مورخہ 29-12-2014 تا 08-02-2015 مجھے بغرض انکوائری حوالہ ہوئی ہے۔

جس میں قبل ازیں DSP/HQ صاحب نے انکوائری کی ہے۔ جس میں ملزم کنسٹیبل کی تاریخ بھرتی سے اب تک ملازمت کا جمع نقشہ پیش کیا ہے۔ جس میں کنسٹیبل کی سابقہ غیر حاضریاں، سزائیں اور معافیاں شامل ہیں۔ اور آخر میں ڈیپارٹمنٹل انکوائری کرنیکی سفارش کی ہے۔ اپنی حتمی رائے پیش نہیں کی ہے۔ جس طرح انکوائری ہوئی ہے۔ میرے خیال میں اس میں مزید ڈیپارٹمنٹل انکوائری کرنے کی گنجائش باقی نہیں رہی۔ لیکن انکوائری افسر نے اپنی حتمی رائے قائم نہیں کی ہے۔

تاہم کنسٹیبل کو طلب کر کے سنا گیا۔ گویاں ہے کہ وہ کافی عرصہ سے بیمار رہا ہے۔ اور مختلف ڈاکٹرز سے علاج معالجہ کر رہا ہے۔ اب تقریباً ایک ماہ سے وہ صحت یاب ہوا ہے۔ تو اپنی فرائض خوش اسلوبی سے انجام دے رہا ہے۔ اور آئندہ غیر حاضری کی شکایت نہ دینے کا وعدہ کرتا ہے۔ اور تھانہ مار تو نگ سے کبھی دوسرے تھانہ میں تبادلہ کا خواہش ظاہر کیا اور مزید کہا کہ اس نے پہلے بھی افسران بالا کو اپنی عرض معروض اور بیماری کے بارے میں آگاہ کر کے جس نے اسے معاف کر کے میڈیکل منظور کیا ہے۔

کنسٹیبل کے پاس 2013 کے میڈیکل کاغذات بھی ہے جو کنسٹیبل کے پہلے سے بیمار ہونا ظاہر کرتا ہے۔ DSP/HQ صاحب نے ملزم کنسٹیبل کا سابقہ پورے حالات سزائیں، جزائیں۔ صفحہ انکوائری پر لاپچھے ہیں۔ اگر ان حالات کو دیکھا جائے۔ تو کنسٹیبل بڑی سزا کا مستحق پایا جاتا ہے۔ لیکن وقتاً فوقتاً افسران بالانے ان پر جو مناسب سمجھا۔ کاروائی کی ہے۔ اب چونکہ کنسٹیبل کی چالیس یوم/40 غیر حاضری از مورخہ 29-12-2014 تا 08-02-2015 کا معاملہ ہے جس کیلئے اس نے میڈیکل کاغذات شہید پیر محمد خان ہسپتال کے ڈاکٹر غفور احمد کا عطاء کردہ پیش کیا ہے۔ جو افسران بالا کا اختیار ہے۔ کہ وہ

(1): 1975ء پولیس روڈز کے تحت بڑی سزا دے۔

(2): میڈیکل لیو چالیس 40 یوم کی منظوری کا حکم صادر کریں۔ یا

(3): چالیس/40 یوم بلا تنخواہ کرنے کی سزا۔

انکوائری رپورٹ عرض ہو کر ہمراہ مناسب حکم گزارش ہے۔

مسعود علی

مسعود علی

SDPO PURAN

31-03-2015


Issue final
notice

(25)

ORDER

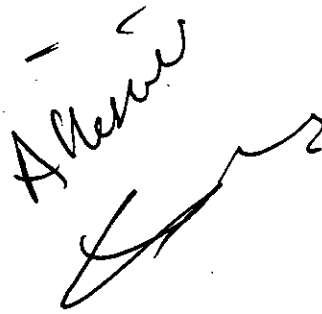
1. This is departmental proceeding against Constable Habibullah No. 479 who while posted at PS Martung willfully absented himself from his lawful duty with effect from 29/12/2014 to 08/02/2015.
2. He was properly Charge Sheeted with Summary of Allegations Mr. Murad Ali, SDPO Puran was appointed as Enquiry Officer.
3. The Enquiry Officer in his finding recommended him for major punishment. Henceforth the delinquent official was served with Final Show Cause Notice vide No. 6/E, dated 08/04/2015. Who submitted his reply accordingly.
4. Finally he was summoned in the office of the undersigned in Orderly Room but he failed to produce any cogent evidence to rebut the charges leveled against him. I have gone through the record placed on file, the charges stand proved without any shadow of doubt. It is also clear from the available record that he is in habit of absenting himself from lawful duty
5. Henceforth, I **Faisal Shahzad PSP** District Police Officer, Shangla being competent authority, under Khyber Pakhtunkhwa, E&D Rules 1973 (Amended in 2011) and Police Rules 1975 hereby award him **major punishment i.e. removal from service** with immediate effect.

Order announced.


(FAISAL SHAHZAD)
PSP
District Police Officer,
Shangla

OB NO. 55

Dated 23/4/2015



بخدمت جناب ریجنل پولیس آفیسر ملا کنڈر پنچ سوات

26

Arrears
"C"
عنوان:-

اپیل برائے بحالی ملازمت

جناب عالی!

مودبانہ گزارش ہے۔ کہ سائیل بحیثیت کنسٹیبل مورخہ 26-07-2007 سے شانگلہ پولیس میں بھرتی ہوا ہے۔ اور اب پورن تحصیل کے تھانہ مار تو نگ میں تعینات تھا۔ کہ بوجہ بیماری ڈیوٹی سے قاصر رہا۔ اور تھانہ سے غیر حاضر رہا۔ بیماری کے کاغذات پیش کر چکا ہے۔ کل غیر حاضری چالیس/40 یوم بنتی ہے۔

اس سلسلہ میں ایک سینئر آفسر نے انکوائری بھی کی ہے۔ جس نے بھی میڈیکل کی منظوری یا عرصہ غیر حاضری بلا تنخواہ کرنے کی سفارشات کی ہے۔ اور تیسرا آپشن سزا کی تحریر کی ہے۔ لیکن جناب DPO صاحب شانگلہ نے مورخہ 23-04-2015 کو بحوالہ OB نمبر 53 من سائیل کو ملازمت سے برخاست کیا ہے۔

سائیل نے صحت یابی پر اپنی ڈیوٹی خوش اسلوبی سے انجام دی ہے۔ اور افسران بالا کو شکایت کا موقع نہیں دیا ہے۔

سائیل کے خلاف کرپشن بد اخلاقی اور دیگر غیر اخلاقی سرگرمیوں کا کوئی الزام نہیں ہے۔ اور صرف بیماری کی وجہ سے غیر حاضر ہوا ہے۔

سائیل جوان العمر اور نہایت غریب بندہ ہے۔ اور بال بچہ دار بھی ہے۔ اور عرصہ ملازمت آٹھ/8 سال پانچ/5 مہینے اور پانچ/5 دنوں پر محیط ہے۔

استدعا ہے کہ درج بالا خاصیت کو مد نظر رکھتے ہوئے سائیل کو اپنے سابقہ ملازمت پر دوبارہ بحال کر نیک حکم صادر فرمایا جاویں۔
تو سائیل اور سائیل کے بچے ساری عمر دعا گو رہینگے۔

العارض

آپ کا تابع دار حبیب اللہ 479

نام: حبیب اللہ

ولدیت: مہمبر

سکونت:- گاؤں سندوی تحصیل پورن ضلع شانگلہ۔

NIC نمبر:- 15505-6590638-3

رابطہ نمبر:- 0344-2228783

کس اللہ

(27)

بعدالت سرورس ٹریبونل کے جج صاحب محترم

قیمت ایک روپیہ	کورٹ فیس
----------------	----------

۲۰/۱۱/۲۰۱۵ منجانب

مورخہ

مقدمہ

دعویٰ

جرم

صیب اسٹاٹ نام ڈی. بی. او شافق و دیگر

باعث تحریر آنکے

مقدمہ مندرجہ بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ آن مقام سرورس ٹریبونل کے جج صاحب محترم کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب

دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زر اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ ڈائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ بصورت ضرورت مذکور کے نسل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔

اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برواختہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہر جانہ التوائے مقدمہ کے سبب سے ہا گا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہو تو وکیل

صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا ک سند رہے

المرقوم ۲۸ ماہ جولائی ۲۰۱۵


العبد گواہ شدہ العبد
بمقام سرورس ٹریبونل کے جج صاحب محترم

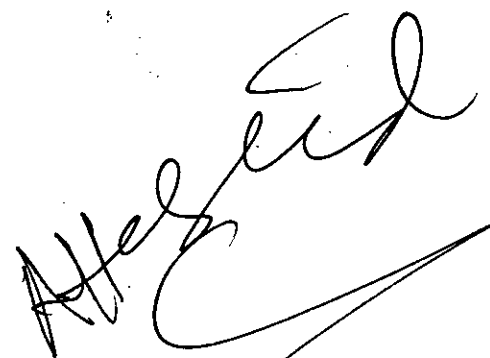
Attested and accepted by
Shams ul Hedi Advocate.

صیب اسٹاٹ و لم کے جج صاحب محترم
NIC-15505-9690638-3

Receipt

I have received Rs, 1000/- (one thousand)
as fine from official respondents, the same
was imposed ~~and~~ ^{by} the Honorable Service
Tribunal.


Shri. H. S. Hoshi
Advocate.


~~04/07/16~~

Before the Honorable Khyber Pakhtunkhwa
Service Tribunal at Camp court court
Saidu Sharif Court

Service Appeal No. 395/2015

Habibullah ----- (Appellant)
vers

District Police Officer Shangla etc ----- (Respondent)

Application for doing away with Forfeiture
Right of defense of Respondents.

Respectfully Submitted

- a. that the above case/Appell is pending adjudication and fixed for hearing on 01/10/2016 (today)
- b. that right of defense of Respondents has been forfeited by this Honorable Tribunal.
- c. that due falling vacant the Seat of Legal Branch in Shangla, reply couldn't be prepared in time on behalf of respondents.


d. that now the reply/parawise comments are ready submissions before this Tribunal.

e. that delay in submission of comments was ~~beyond~~ due to non-availability of legal officers which resulted into ex-parte and forfeiture right of defence proceedings.

f. that delay in submission parawise comments was not deliberate.

prayer. in view of the above grounds, it is respectfully submitted/prayed that forfeiture right of defence may be done away with and reply of the respondents may be accepted.

Dated. 01/10/16


Musaffar Khan
S.I / Legal
Distt: Shamla

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

Service Appeal No. 895/2015

Ex-Constable Habib Ullah of District Shangla.....(Appellant)

Versus

1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer, Malakand at Saidu Sharif, Swat.
3. District Police Officer, Shangla.

Para-wise comments on behalf of respondents are as under:-

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action and locus standi.
2. That the appeal is barred by law of limitation.
3. That the appeal is not maintainable in its present form.
4. That the appellant is stopped by his own conduct to file the instant appeal.
5. That the appeal is bad due to Miss joineder and non joineder of necessary parties.
6. That the appellant has not come to this honorable tribunal with clean hands.

FACTS:

Para No. 1 Relates to service record of the appellant, therefore, no comments.

Para No. 2 Incorrect, the appellant has remained habitual absentee during his service period. He has been awarded 12 times minor/major punishments (detail as tabulated below) due to his misconduct willfully absenting himself from Lawful duty. Besides the above, the appellant has not reformed himself and finally he was charge sheeted on 06.03.2015 for misconduct/negligence and willfully absence from Lawful duty. Proper departmental proceeding was initiated against him. The entire allegation level fell against him stood proved and resultantly he was awarded major punishment i.e removal from service on 23.04.2016. Moreover the appellant has not brought anything into the notice of the competent authority about his illness. The concerned SHO has reported him absent from duty in daily diary.

S. No	Charges	Punishment	OB No. and Date
1.	Refused to join training.	Forfeiture of 3 years approved service.	101 dated 10.09.2009
2.	Absented 10 Hours and 45 minutes.	Treated as leave service.	54 dated 27.04.2010
3.	Absented with effect from 11.04.2010 to 19.04.2010.	Treated as leave out pay.	115 dated 08.09.2010
4.	Absent from Elite Course Selection.	1 day & 22 Hours leave out pay.	153 dated 15.12.2010
5.	Absented 45 minutes.	Warning	40 dated 26.03.2011
6.	Absented 7 days & 22 Hours.	Treated as leave out pay.	51 dated 19.04.2011
7.	Absented from duty.	Warning	133 dated 12.10.2011
8.	Absented 12 Hours & 45 Minutes	Treated as leave out pay.	134 dated 26.11.2011
9.	Absented 3 days; 17 Hours & 55 minutes.	Treated as leave out pay.	155 dated 26.11.2011
10.	Absented 39 days, 2 Hours & 5 Minutes	Treated as leave out pay.	52 dated 18.04.2014
11.	Absented 6 months & 22 days	Counted as M/leave	18 dated 14.02.2015
12.	Absented with effect from 29.12.2014 to 08.02.2015	Removal from service.	53 dated 23.04.2015

Para No. 3 Incorrect, no ill will of the concerned SHO has ever been noticed by the competent authority with the appellant. The appellant service roll is full of bad/red entries due to his habitual absentee/misconduct.

Para No. 4 Incorrect, the departmental appeal was also found baseless. The appellant was called in orderly room on 15.12.2015 and heard him in person even then the appellant did not produce any substantial material in his defense before respondents' No. 2. Therefore, his appeal was rejected.

GROUND:-

- A. Incorrect, that the office order is based on facts, law and procedure, hence. Tenable, being just and fair.
- B. Incorrect, the appellant was treated an accordance with law rules on the subject.
- C. Incorrect, the departmental proceeding against the appellant was based on facts, evidence and a lot of other materials available against the appellant, no ill will has ever been noticed or proved anywhere.

D. Incorrect, ample opportunity of personal hearing was afforded to the appellant but he failed to produce any plausible defense.

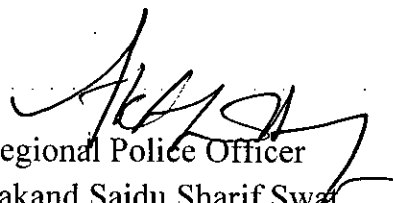
E. That the respondents also seek permission of this honorable tribunal to advance further grounds and all the available materials against the appellant during the course of arguments i.e service roll, original enquiry file, finding report and daily dairy reports.

In view of the above facts and circumstance the appeal of the appellant may kindly be dismissed with cost.

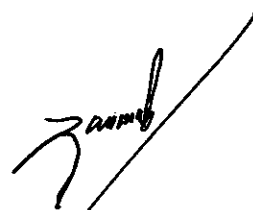


Provincial Police Officer
Khyber Pakhtunkhwa Peshawar
(Respondent No. 01)

11



Regional Police Officer
Malakand Saidu Sharif Swat
(Respondent No. 02)
~~Regional Police Officer~~
~~Malakand, at Saidu Sharif Swat~~



District Police Officer
Shangla
(Respondent No. 03)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

Service Appeal No. 895/2015

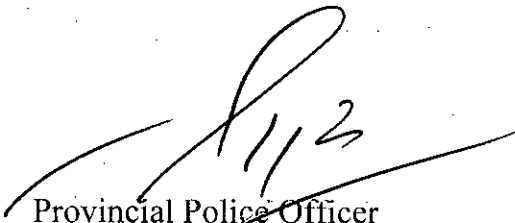
Ex-Constable Habib-Ullah of District Shangla.....(Appellant)


Versus.

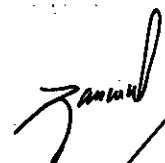
1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer, Malakand at Saidu Sharif, Swat.
3. District Police Officer, Shangla.

POWER OF ATTORNEY

We, the following undersign respondent doe hereby authorized the Mr. Mohammad Muzafar Khan SI-Legal Shangla as representative on our behalf in the above noted appeal. He is authorized to represent us before the honorable tribunal.


Provincial Police Officer
Khyber Pakhtunkhwa Peshawar
(Respondent No. 01)


Regional Police Officer
Malakand Saidu, Sharif Swat
(Respondent No. 02)
Regional Police Officer,
Malakand, at Saidu Sharif Swat.


District Police Officer
Shangla
(Respondent No. 03)

فائینڈنگ رپورٹ انکوائری

(78)

(B)

جناب عالی!

بحوالہ انکوائری اذان کنسٹیبل حبیب اللہ نمبر 479 تھانہ مارٹونگ معروض خدمت ہوں کہ مذکورہ کا

بحوالہ OB نمبر 75 مورخہ 04-06-2014 DSB-04-06-2014 مارٹونگ سے DFC فارسٹ مارٹونگ ہو چکا تھا۔ جو کنسٹیبل مذکورہ نے تھانہ میں کسی قسم کی حاضری نہیں کی اور تاحال بدستور غیر حاضر چلا آ رہا ہے۔ نقل مدہمراہ لف ہے۔

مورخہ 29-12-2014 کو SHO تھانہ مارٹونگ نے کنسٹیبل حبیب اللہ 479 کی غیر حاضری کی رپورٹ درج کی ہے۔ جس میں مذکورہ کنسٹیبل کی چھ/6 ماہ قبل سے غیر حاضر تصور کیا گیا ہے۔ محرر تھانہ مارٹونگ محمد امین اور فرمان علی کے بیانات لئے گئے ہیں۔ اور کنسٹیبل تاحال غیر حاضر چلا آ رہا ہے۔ اور کنسٹیبل کی کل غیر حاضری آٹھ/8 ماہ کے لگ بھگ بنتی ہے۔

کنسٹیبل کی خود بیانی ہے۔ کہ وہ بسلسلہ ڈیوٹی روزمرہ کی بنیاد پر عدالت آتا جاتا تھا۔ لیکن تھانہ مارٹونگ کا کوئی مقدمہ متعلق فارسٹ موجود نہ تھا۔ اسی وجہ سے تھانہ سے رابطہ نہیں کیا گیا ہے۔ چونکہ محرر فرمان علی کا بیان اس سلسلہ میں واضح ہے۔ کہ پولیس کی روزمرہ سرگرمیوں کا اندراج رجسٹر نمبر 2 روزنامچہ میں ہوا کرتے ہیں۔ اور کنسٹیبل کا اندراج روزنامچہ میں نہیں ہے۔ انکوائری سے کنسٹیبل حبیب اللہ نمبر 479 قصور وار ٹھہرایا گیا۔ جو 1975 پولیس روز کے تحت قابل سزا ہے۔ لیکن افسران بالا عرصہ ملازمت اور گھریلو حالات کو مد نظر رکھ کر غیر حاضری کو رخصت کلاں میں شمار کرنے کی رعایت دیتا ہے۔ تو یہ افسران بالا کے رحم و کرم پر ہے۔ ورنہ کنسٹیبل مذکورہ 1975 پولیس روز کے تحت قابل سزا ہے۔

انکوائری رپورٹ بمرد مناسب حکم ارسال خدمت ہے۔

R/sir
According to the leave rules 1981 leave on full pay at a time with Medical Certificate in cantine service 365 days.
Submitted for order please
06-02-2015
مراد علی
SDPO PURAN

E/c
Absence Period be treated as medical w/ DPO/ Shanghai leave, Enquiry filed and Salary released

R/sir
Pending report of the enquiry officer against Constable Habib uliah No 479 is enclosed for further order please.
6/2/14
6/1

OB No. 18
06/02/14

328 (2)

DISCIPLINARY ACTION

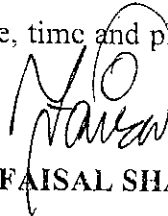
I **Faisal Shahzad (PS)**, District Police Officer, Shangla as competent authority, is of the opinion that Constable **Habibullah No. 479** while posted at **Police Station Martung** have rendered yourself liable to be proceeded against departmentally as you have committed the following acts/omission as defined in Rule-2 (iii) of Police Rules 1975.

STATEMENT OF ALLEGATIONS

That it has been reported against you that you while posted in **Police Station Martung** committed the following act/acts which is/are gross misconduct on your part as defined in Rule-2 (iii) of Police Rules 1975

You Constable Habibullah No. 479 while posted at Police Station Martung absented yourself from your lawful duty with effect from 29.12.2014 to 08.02.2015. Your this act gross misconduct/negligence on your part, which rendering you liable to be proceeded against departmentally.

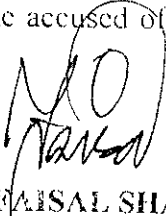
2. For the purpose of scrutinizing the conduct of said officer with reference to the above allegations **Mr. Murad Ali Khan, SDPO Puran** is appointed as Enquiry Officer.
3. The Enquiry Officer shall conduct proceedings in accordance with provision of Police Rules 1975 and shall provide reasonable opportunity of defence and hearing to the accused officer, record its findings and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.
4. The accused officer shall join the proceeding on the date, time and place fixed by the Enquiry Officer.


(FAISAL SHAHZAD)
PSP
District Police Officer,
Shangla

OFFICE OF THE DISTRICT POLICE OFFICER, SHANGLA

No. **2065-66** /E, Dated Alpuri the **06 - 03** /2015
Copy of above is sent to:

1. The Enquiry Officer for initiating proceeding against the accused officer namely under Police Rules, 1975.
2. Concerned defaulter official.


(FAISAL SHAHZAD)
PSP
District Police Officer,
Shangla

جناب عالی!

3

3

بحوالہ مشمولہ نقل مدات نمبری 191 مورخہ 16.02.015 ریڈر برانچ معروض ہو کہ کنسٹیبل حبیب اللہ نمبر 79 بحوالہ مد

16 روز نامہ 29.12.014 غیر حاضر ہو کر مورخہ 08.02.015 کو حاضری کی رپورٹ کر کے کل 40 یوم 21 گھنٹے اور 10 منٹ غیر حاضری کا مرتب ہو کر دوران حاضرگیوں بیان کیا کہ وہ بیمار ہو کر جناب DPO صاحب کے ساتھ انکوائیری تھی جو فائنل ہو کر لیکن مذکورہ نے مزید بیمار ہونا بیان کیا۔

اس سلسلے میں حسب الحکم جناب DPO صاحب شروع کر کے مذکورہ کا تحریری بیان قلمبند کیا جس میں مذکورہ نے واضح کیا کہ وہ بیمار ہو کر پشاور ڈگری گارڈن میں ڈاکٹر واجد علی سے علاج معالجہ کر کے میڈیکل کاغذات پیش کیے۔ لیکن ڈاکٹر صاحب نے مورخہ 26.06.013 کو صرف 03 یوم ریٹ تحریر کیا ہے۔ مورخہ 23.02.015 کو OPD نمبر THQ.3547 ہسپتال پورن ڈاکٹر غفور احمد نے مورخہ 29.12.014 تا مورخہ 10.02.015 ریٹ تحریر کر کے OPD ہمراہ لف ہے۔ مورخہ 11.02.015 مذکورہ ایک مرتبہ پھر غیر حاضر ہو کر SHO مارتونگ نے بندش تنخواہ درخواست ارسال کر کے یوں تحریر کیا کہ مستقبل میں مذکورہ کے حاضری کے امکانات نہیں آتے اور تنخواہ بند کرنے کی استدعا کی۔ اس طرح مذکورہ کے سابقہ سروس ریکارڈ طلب کر کے جو سال 2007 کا بھرنی شدہ ہے اور ریکورڈ کورس پاس ہے۔ سابقہ سروس ریکارڈ پر مذکورہ کی کافی غیر حاضریاں اور سزائیں ہیں۔ جس میں نمایاں سزائیں 2009 میں 03 سال سروس کی ضبطگی ہیں۔ جبکہ غیر حاضریوں میں نمایاں 39 یوم جو بحوالہ آرڈر بک 52 مورخہ 18.04.014 بلاتنخواہ کی گئی ہیں۔ اسکے علاوہ سابقہ ریکارڈ میں اس کے جلسہ سازی اور دھوکہ بازی کا ثبوت ایک یہ ہے کہ مورخہ 04.06.014 کو مذکورہ بحوالہ آرڈر بک 75 مورخہ 04.06.014 بحیثیت DFC فارسیٹ تبدیل ہو کر لیکن مذکورہ نے مورخہ 26.12.014 تک گھر خور میں بیٹھ کر مفت تنخواہ لیکر کل 06 ماہ 22 دن محکمہ پولیس کے نظروں سے غائب، غیر حاضر رہ کر اس نسبت SDPO صاحب پورن نے مفصل انکوائیری کر کے مذکورہ کو پولیس روٹز 1975 کے تحت قابل سزا ثابت کیا تھا۔ لیکن افسران بالا نے خاص مہربانی کر کے مذکورہ کی دورانہ غیر حاضری بغیر میڈیکل کاغذات کے اور بغیر تجویز کرنے میڈیکل ریٹ مجاز میڈیکل افسر بحوالہ آرڈر بک 18 مورخہ 06.02.015 میڈیکل لیو میں شمار کر کے خاص رجم فرمایا ہے۔ FIA

1.1.015
28.2.015

6

اس کے علاوہ بھی مذکورہ اپنے عادات بد کو جاری رکھتے ہوئے مورخہ 04.06.014 کے بعد 06 ماہ 22 دن گھر بیٹھ کر تنخواہ لینے کے باوجود مورخہ 26.12.014 پر حاضری کر کے 29.12.014 تک صرف 03 یوم ڈیوٹی انجام دے کر پھر مورخہ 29.12.014 تا مورخہ 08.02.015 گھنٹے غیر حاضر ہو کر پھر 03 یوم تھانہ میں حاضر رہ کر پھر بحوالہ مد 12 روز نامہ 11.02.015 سے تاحال غیر حاضر ہے۔ یعنی مورخہ 04.06.014 سے تاحال صرف 06 یوم تھانہ میں حاضر رہ کر SHO تھانہ مارتونگ کی رپورٹ کے مطابق بحیثیت DFC رجسٹر نمبر 5 سمن وارنٹ بلکل خاموش ہے اور کوئی تمیل نہیں کی ہے۔ جس سے یہ واضح ہوتا ہے کہ مذکورہ نے 04.06.014 سے تاحال بغیر کسی کارسہ کار کی انجام دہی کے مفت تنخواہ لے کر جس سے مذکورہ ایک کالا بھیڑا ثابت ہوتا ہے یہ بات بھی واضح رہے جو OPD بالا اور دیگر میڈیکل کاغذات انکوائیری کے دوران زبردستی کو پیش کیے ہیں اس میں کوئی حقیقت نہیں ہے۔ اگر مذکورہ محکمہ پولیس میں مذکورہ جائے تو دیگر اہلکاران پر بڑے اثرات مرتب ہو سکتے ہیں۔

لہذا مذکورہ کو پولیس لائن کلوز کرنے، تنخواہ بند کرنے کے ساتھ ساتھ بحوالہ نقل مدات 16 روز نامہ 29.12.014 تا 10 روز نامہ 08.02.015 تک 40 یوم اور بحوالہ مد 12 روز نامہ 11.02.015 تھانہ مارتونگ سے بدستور غیر حاضر ہے نقل مدات ہمراہ لف ہے حکمانہ انکوائیری کی سفارش کی جاتی ہے۔ رپورٹ عرض ہے۔

ڈی ایس پی ہیڈ کوارٹر
ضلع شانگلہ

NO. 26 /E. 384


Dated 6/3/2015

CHARGE SHEET

I **Faisal Shahzad (PSP)**, District Police Officer, Shangla as competent authority, hereby charge you Constable **Habibullah No. 479** while posted at **Police Station Martung** as follow:

You Constable Habibullah No. 479 while posted at Police Station Martung absented yourself from your lawful duty with effect from 29.12.2014 to 08.02.2015. Your this act gross misconduct/negligence on your part, which rendering you liable to be proceeded against departmentally.

2. By reasons of the above, you appear to be guilty of misconduct and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Disciplinary Rules, 1975.
3. You are, therefore, require to submit your written reply within **07 days** of the receipt of this Charge Sheet to the Enquiry Officer.
4. Your written reply, if any, should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.
5. Intimate as to whether you desire to be heard in person or not?
6. A statement of allegations is enclosed


(FAISAL SHAHZAD)
PSP
District Police Officer,
Shangla


5

5

ORDER

1. This is departmental proceeding against Constable Habibullah No. 479 who while posted at PS Martung willfully absented himself from his lawful duty with effect from 29/12/2014 to 08/02/2015.
2. He was properly Charge Sheeted with Summary of Allegations Mr. Murad Ali, SDPO Puran was appointed as Enquiry Officer.
3. The Enquiry Officer in his finding recommended him for major punishment. Henceforth the delinquent official was served with Final Show Cause Notice vide No. 6/E, dated 08/04/2015. Who submitted his reply accordingly.
4. Finally he was summoned in the office of the undersigned in Orderly Room but he failed to produce any cogent evidence to rebut the charges leveled against him. I have gone through the record placed on file, the charges stand proved without any shadow of doubt. It is also clear from the available record that he is in habit of absenting himself from lawful duty
5. Henceforth, I **Faisal Shahzad PSP** District Police Officer, Shangla being competent authority, under Khyber Pakhtunkhwa, F&D Rules 1973 (Amended in 2011) and Police Rules 1975 hereby award him **major punishment i.e. removal from service** with immediate effect.

Order announced.


(FAISAL SHAHZAD)
PSP
District Police Officer,
Shangla.

OB NO. 53

Dated 23/04/2015

6

CHARACTER ROLL OF

15-CENSURES AND PUNISHMENTS.—Contd.

Serial No.

(4)

charge: Absent from selection white course

dated 23-10-10 police lines.

punishment of days 22 course live with out pay.

OB No 153

15/12/10

[Signature]
ppp/shangla.

(5)

charge: Absent from duty 45 mins dated 14-03-11

PS Alpurai

punishment

(warning)

OB No 60
26/2/11

[Signature]
ppp/shangla.

(6)

charge: Absented from duty seven (7) days, 22 hours.
dated 29/03/11 PS Alpurai.

punishment the Absence period counted as live
with out pay.

OB No 51
19/04/11

[Signature]
ppp/shangla.

charge: Absent from duty.

punish warned to be careful in future.

OB No 133
12-10-11

[Signature]
ppp/shangla.

6

CHARACTER ROLL OF

15—CENSURES AND PUNISHMENTS.—Contd.

Serial No.

Charge: - Absented himself from his lawful
duty with 29.12.2014 to 08.2.2015

Punish: - Awarded a Major's punishment i.e
Dismissal from Service.

OB No 53
Dt 23/04/2015

W.A.S.
District Police Officer,
SHANGLA.
h

15-CENSURES AND PUNISHMENTS.—Contd.

charge: Absent from duty dt 29-09-011. PS Alakh.

punish: 12 hours. 45 minute live with out pay.

OB No $\frac{134}{14-10-011}$

[Signature]
DPP/Shangla.

charge: Absent from duty dated 15-11-011 PS Alperan.

punish: (03) days (17) hours 55 minite live with out pay.

OB No $\frac{155}{26-11-011}$

[Signature]
DPP/Shangla.

charge: Absent From duty ~~from~~ dt: 14/04/04. PS Manting.

punish: 39 days. 02 hours. 05 minite Leave with out pay.

OB No $\frac{52}{18/04/04}$

[Signature]
DPP/Shangla.

charge: A departmental Enquiry initiated against eick
charge sheet NO. 01/E dated 09/01/015.

punish: The Recommendation of Eo's Absence period (06)
month (22) days Counted as on/leave on full pay.
and Enquiry was filed.

OB No $\frac{18}{06-02-015}$

[Signature]
DPP/Shangla.

SHANGLA D.P.O. 0.9.0

SHANGLA D.P.O. 0.9.0

Order

Constable Habibullah No. 979

D.P.O. SHANGLA

The District Police Officer was absent from his normal duty with effect from 29.12.2014 to 08.02.2015. His absence was duly recorded in his Major Punishment record. He is hereby awarded minor punishment with immediate effect. Orders attached.

OB No. 153
23/04/2015

[Signature]
District Police Officer,
SHANGLA.

He submitted appeal to RPO, MBD Suit
His appeal was rejected under RPOs
MBD Suit Order No. 9817/B, dt.
17.12.2015

District Police Officer,
SHANGLA.

Pay fixed in the Revised
Basic Pay Scale on 1-7-2011
in Light of Govt. of N.W.F.P.
Finance Department letter No.

~~Pay Increase @ Rs.
Raising Pay from to PM
w.e. from~~

Dated: w.e.f. 1-7-2011
Pay fixed Rs. (5900/-) per 6180/PM

D.P.O. SHANGLA

D.P.O./Shangla

S.V.C.
Service from 1-12-2010 to 30-11-2011
verified as per Acq. Roll and Record Maintained
in the office.

D. P. O. SHANGLA.

2008
OFFICE OF THE ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA PESHAWAR
PAY FIXED IN THE ADJ. B.P.S 2008

OF RS. 3340-160-8140 B. 05
AT RS. 3340/- P.M.W.E.F. 1-07-2008
With Next Increment on 1-12-2008

3-5
3340/08
6180/011

Accounts Officer
Pay Fixation Party K Pakhtunkhwa
Peshawar

Pay Increase @ Rs. 260
Raising Pay from 6180 to 6440 PM
1-12-2010

D.P.O. SHANGLA

BASIC PAY SCALES 2011
OFFICE OF THE ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA PESHAWAR
PAY FIXED IN THE R.B.P.S 2011

OF RS. 5400-250-13200 B. 05
AT RS. 6180/- P.M.W.E.F. 1-07-2011
With Next Increment on 1-12-2011

Accounts Officer
Pay Fixation Party K Pakhtunkhwa
Peshawar

Pay Increase @ Rs. 260
Raising Pay from 6440 to 6700 PM
1-12-2012

D.P.O. SHANGLA

S.V.C.
Service from 1-12-2011 to 30-11-2012
verified as per Acq. Roll and Record Maintained
in the office.

D.P.O. SHANGLA.

S.V.C.
Service from 1-12-2012 to 30-11-2013
verified as per Acq. Roll and Record Maintained
in the office.

D.P.O. SHANGLA.

Pay Increase @ Rs. 260
Raising Pay from 6700 to 6960 PM
1-12-2013

D.P.O. SHANGLA

December 2013
LA (POLICE PRO
in & Estate

SH 249

SH4023

1,000.00
3,000.00
573.00
1,392.00
1,044.00

24,677.00

539.00
24,138.00

fic duties.

ted.

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. 895/2015

Habibullah (constable No.479)Appellant

V E R S U S

District Police Officer and others.....Respondents

REJOINER ON BEHALF OF APPELLANT IN RESPONSE TO THE

REPLY FILED BY RESPONDENTS

Respectfully Sheweth:

Preliminary Objections:

1. Para No. 1 to 6 of the comments is Incorrect.

FACTS:

Para No.1 needs no comments.

Para No.2 of the comments is totally incorrect because the appellant never remained habitual absentee as the same is evident from the record that the appellant has suffered some psychiatric issues and now the appellant has get rid from the said illness, further the appellant was not personally heard by the inquiry officer and on the basis of one-sided inquiry the appellant was removed from service which is illegal and is also against the natural justice.

Para No.3 of the reply is incorrect because when the doctor advise him bed rest so the appellant will within time brought in to the notice of concerned SHO .

Para No.4 incorrect because against the impugned order dated:23.04.2015 the appellant filed departmental appeal before the Resp No.3 but the same was not decided within statutory period, further the appellant was never called in orderly room on 15.12.2005 and as such he was never heard in-person so this plea of the respondents is totally baseless.

Grounds:

- A. Incorrect.
- B. Incorrect.
- C. Incorrect, already explained in preceding paras.
- D. Incorrect.
- E. Needs no reply.

It is, therefore prayed that on acceptance of this rejoinder this Hon'ble Tribunal may be pleased to accept the appeal as prayed for and the respondents be burdened with heavy cast.

Through

Appellant

Shams-ul-Hadi

Advocate High Court,

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA
SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 895/2015

Habibullah (constable No.479)Appellant

V E R S U S

District Police Officer and others.....Respondents

AFFIDAVIT

I, **Habibullah Khan** do hereby solemnly affirm and declare that the contents of the **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

DEPONENT

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA
SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 895/2015

Habibullah (constable No.479)Appellant

V E R S U S

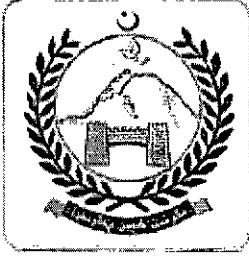
District Police Officer and others.....Respondents

AFFIDAVIT

I, **Shams-ul-Hadi**, Advocate, Peshawar do hereby as per information conveyed to me by my client solemnly affirm and declare that the contents of the **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



A D V O C A T E



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 2100 /ST Dated: 15/9 /2017

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

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


To,

The District Police Officer,
Government of Khyber Paktunkhwa,
Shangla.

Subject: - **JUDGMENT IN APPEAL NO. 895/2015, HABIBULLAH.**

I am directed to forward herewith a certified copy of judgment dated 06/09/2017 passed by this tribunal on the above subject for strict compliance.

Encl: as above


REGISTRAR -
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR