

S.No	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	18.10.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR:</u></p> <p style="text-align: center;">APPEAL NO. 376/2012 (Sajid Khan-vs- Provincial Police Officer, Khyber Pakhtunkhwa Peshawar, and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH , MEMBER:</u></p> <p style="text-align: center;">Appellant with counsel (Mr. Asad Jan, Advocate) and Mr. Abd-Ur-Rehman, Inspector alongwith Mr. Kabir Ullah Khattak, Assistant Advocate General for respondents present.</p> <p>2. According to memo of appeal, the appellant who was enlisted as Constable in the Police Department was marked absent from duty w.e.f 25.09.2010 and DPO Hangu(respondent No.3) vide his impugned order dated 02.03.2011 dismissed him from service and his representation/departmental appeal was also filed (rejected) by DIG Kohat Range(respondent No.2) vide is order dated 14.07.2011 hence this service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.</p> <p>3. Arguments heard and record perused.</p> <p>4. Learned counsel for the appellant submitted that the appellant suffered from illness of sciatica and remained under treatment of the doctor</p>

at Leady Reading Hospital Peshawar in which respect OPD chit (annex-C) is available on record. He submitted that absence of the appellant was not willful. It was further submitted that though the appellant was in probation but he was wrongly dismissed under the Police Rules-12.21 of 1934. He also argued that no charge sheet or show cause notice was issued to the appellant and no opportunity of hearing was provided to him therefore, the impugned orders may be set aside and the appellant reinstated into service.

5. Learned Assistant A.G resisted the appeal by submitting that past service record of the appellant would reveal that the appellant was a disinterested, unwilling worker in the Police Department against whom disciplinary proceedings were taken on previous so many occasions including that of his discharge from service which order was modified in appeal on humanitarian ground but he failed to mend his conduct and the respondents were constrained to discharge him from service. He submitted that action taken against the appellant was under Police Rules-12.21 under which the appellant could be discharged from service and the word dismissal used in the impugned order was only a clerical mistake. He also argued that in blatant violation of the police prescribed conduct, the appellant remained willfully absent from duty and as he was also on probation, therefore he was rightly discharged from service. He submitted that the appeal may be dismissed.

6. Admittedly, probation period of the appellant was not yet terminated and he was still a recruit. The past service record of the appellant has been given in the written reply of the respondents relevant portion of which is reproduced as follows:-

“That appellant absented himself deliberately and willfully for a long period of five months without

any prior permission or leave from his senior. He did not apply for any leave or permission so as to proceed in connection with his so called treatment. He has managed to cover his willful absence by producing fake and bogus medical certificates. His service record has proved him as willful absentee who has deliberately remained absent on the following occasions.

a. The appellant deliberately absented himself from initial training for 28 days at P.T.C Hangu w.e.f 09.03.2009 to 06.04.2009 as such he was returned to District Karak as unqualified vide Commandant PTC Hangu signal No. 152-28/GC, dated 28.04.2009(copy enclosed). After the completion of departmental proceedings minor punishment of censure was awarded to him and was again deputed for training on 12.06.2009.

b. The appellant was detailed fro recruit course but he again refused to join the said course and willfully absented himself w.e.f 05.07.2009 to 12.07.2009 for which he was awarded minor punishment of censure and the period of his absence was counted as leave without pay vide order OB No. 1010 dated 30.09.2009.

c. The appellant again deliberately absented himself for the period of 50 days from training program at PTC Hangu and was returned to district as unqualified. After proper departmental enquiry proceedings, he was discharged from service under

Police Rule 12-21 vide OB No. 110 dated

02.03.2011.

The above situation clearly shows that the appellant was not interested to serve in the department so much so that he absented himself from the training programme at PTC Hangu which is essential for becoming a good official. The OPD chit(Annex-C) reveals that the same was indicative of psychological illness of the appellant and not that of sciatica, the ground taken in the appeal. It is thus concluded that the appellant did not deserve for any leniency in view of his past service record which is full of absenteeism and acts of indiscipline depicting him as an unwilling worker. The Tribunal, is therefore, constrained not to interfere in the impugned orders. The same are left intact, however the dismissal of the appellant from service under Police Rule 12.21 of 1934 be treated as discharge from service. Appeal is disposed of in the above terms. Parties are left to bear their own cost. File be consigned to the record room.



(ABDUL LATIF)
MEMBER



(PIR BAKHSH SHAH)
MEMBER

ANNOUNCED
18.10.2016

14.04.2015

Clerk of counsel for the appellant and Mr. Ziaullah, GP for the respondents present. Counsel for the appellant is not available, due to strike of the Bar. Therefore, case is adjourned to 19.11.2015 for arguments.


MEMBER


MEMBER

19.11.2015

Appellant with counsel and Mr. Usman Ghani, Sr.GP for respondents present. Wakalat Nama on behalf of the appellant submitted, which is placed on file. Arguments could not be heard due to shortage of time. To come up for arguments on 8-3-2016.


MEMBER


MEMBER

08.03.2016

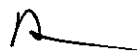
Appellant in person and Mr. Abdur-ur-Rehman, Inspector (Legal) alongwith Addl: AG for respondents present. Due to general strike of the bar counsel for the appellant is not available. Therefore, the case is adjourned to 26.05.2016 for arguments.


Member


Member

26.05.2016

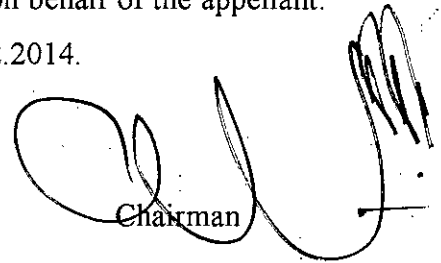
Appellant in person and Mr. Ziaullah, GP for respondents present. Appellant requested for adjournment as his counsel is not available today before the Court. To come up for arguments on 18.10.16 before D.B.


Member


Member

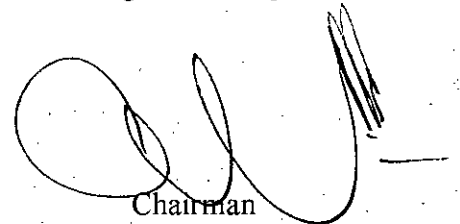
22.11.2013

Appellant in person and Mr. Ibrahim Asghar, Inspector (Legal) Hangu for respondents with AAG present. Rejoinder has not been received, and request for further time made on behalf of the appellant. Another chance is given for rejoinder on 14.2.2014.


Chairman

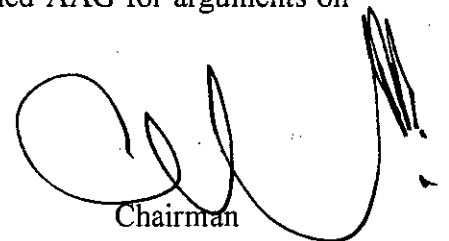
14.2.2014

Neither appellant nor counsel for the appellant present. Rejoinder has not been received despite another chance given for the purpose on the previous date. Mr. Nasrullah, SI on behalf of respondents with AAG present. A last chance is given for rejoinder on 13.5.2014.


Chairman

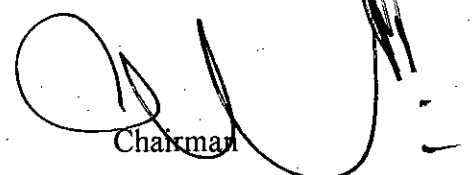
13.5.2014

Appellant in person and Mr. Hamayun, SI for respondents with AAG present. Rejoinder received on behalf of the appellant, copy whereof is handed over to the learned AAG for arguments on 27.10.2014.

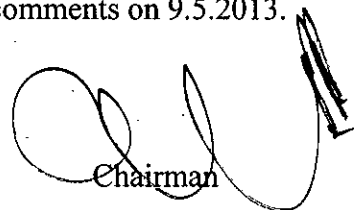

Chairman

27.10.2014

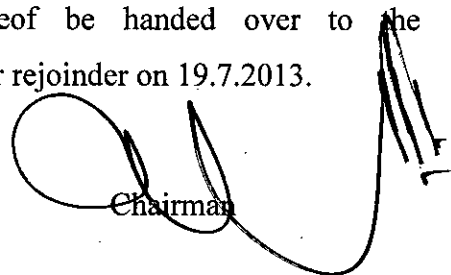
Appellant with counsel and Malik Zada, S.I (legal) on behalf of respondents with Mr. Muhammad Adeel Butt, AAG present. Arguments could not be heard due to incomplete Bench. To come up for arguments on 14.04.2015.


Chairman

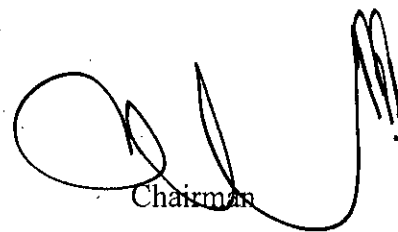
22.2.2013. Appellant in person present. Respondents are not present despite their service through registered post/concerned official, but Mr. Arshad Alam, GP is present on their behalf and would be contacting the respondents for written reply/comments on 9.5.2013.


Chairman

09.5.2013 No one is present on behalf of the appellant. Mr. Aziz-ur-Rehman, Inspector (Legal) Hangu with Mr. Muhammad Jan, GP on behalf of the respondents present. Written reply on behalf of respondents received, copy whereof be handed over to the appellant/counsel for the appellant for rejoinder on 19.7.2013.


Chairman

19.7.2013 Clerk of counsel for the appellant and Mr. Ibrahim Asgher, Inspector (Legal) with Mr. Usman Ghani, Sr. GP for the respondents present. Rejoinder has not been received, and request for further time made on behalf of the appellant. To come up for rejoinder on 22.11.2013.


Chairman

Appeal No. 376/2012.

7. 18.9.2012

Counsel for the appellant present and heard. Contended that the appellant was enlisted in the Police Department as constable. He was suffered from chronic disease of sciatica, therefore, he was relived to manage private treatment, as there was no management in the Police Hospital Peshawar but Respondent No. 3 marked the appellant absent w.e.f. 25.9.2010. He was dismissed from service vide the impugned order dated 2.3.2011. The appellant preferred a departmental appeal which was filed on 14.7.2011, delivered to the appellant on 2.3.2012. Hence, the instant appeal. Counsel for the appellant further contended that the absence of the appellant was not willful but due to the above reason. He has been dismissed from service without fulfilling the legal requirements as required under the law/rules. Points raised at the Bar need consideration. This 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, notice be issued to the respondents. Case adjourned to 1812.2012 for submission of written reply of the respondents.

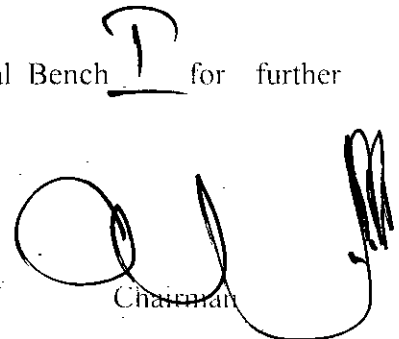
Appellant deposited security
Process fee Rs 1800 Bank receipt
is attached with file




Member.



8. 18.9.2012

This case be put before the Final Bench T for further proceedings.


Chairman

Appellant with counsel present.
No one present for respondent.
The worthy chairman is en route
to Alabad. To come up your written
reply/comments on 22/02/2013.



Serial No. of Order or Proceedings 1	Date of Order or Proceedings 2	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary 3
5-	12-7-2012	<p>Appellant in Person Present. Counsel can not attend The Court due to strike of The Bar. appellant requested for adjournment. Case adjourned to 15-8-2012 for P.H.</p> <p style="text-align: right;"> Member.</p>
6-	15-8-2012	<p>Appellant present and requested for adjournment Case adjourned to 18-9-2012 for P.H.</p> <p style="text-align: right;"> Member</p>

FORM "A"

FORM OF ORDER SHEET

Court of.....

Case No. 376/2012 of.....

Serial No. of Order or Proceedings 1	Date of Order or Proceedings 2	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary 3
1-	17/03/2012	<p>The appeal of Mr. Sajid Khan presented to-day by Syed Mushtaq Ali Shah Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2-	26-3-2012	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>25-4-2012</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
3.	25-4-2012	<p>Appellant present. Request for adjournment To come up for P.H. on 21-5-12</p> <p style="text-align: right;"><i>[Signature]</i> Member</p>
4.	21.5.2012	<p>Appellant present in person and requested for adjournment. Case adjourned to 12.7.2012 for P.H.</p> <p style="text-align: right;"><i>[Signature]</i> Member</p>

BEFORE THE HONOURABLE KHYBER PUKHTOON KHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No 376 /2012

Sajid ~~Khan~~
VERSUS


Provincial Police Officer, KPK and others

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Through:

Appellant


(SYED MUSHTAQ ALI SHAH)
Advocate,
High Court, Peshawar
Office Room No 19,
Razmak Hotel, Cemima Road
Peshawar
Tel # 0300-5913348

Dated: -17th March, 2011

PAKHTUNKHWA, PESHAWAR

Service Appeal No. 376 /2012

Sajid ~~Khan~~ Ex-constable No.835 (Appellant)

Versus

1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. Deputy Inspector General Police Kohat Region Kohat
3. District Police Officer, Hangu..... (Respondents)

[Stamp]
376
17-3-12

APPEAL UNDER SECTION 4 OF THE NWFP (KHYBER PAKHTUNKHWA) SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER OF RESPONDENT NO.3 VIDE WHICH APPELLANT WAS DISMISSED FROM SERVICE AND ORDER OF RESPONDENT NO.2 VIDE WHICH REPRESENTATION OF APPELLANT LODGED AGAINST THE ORDER OF RESPONDENT NO.3 WAS FILED. COPY OF THE IMPUGNED ORDERS IS ENCLOSED AS ANNEXURE – A & B

PRAYER IN APPEAL

On acceptance of the service appeal, the impugned orders of respondent No.2 & 3 may be set aside and appellant may be reinstated in service with all consequential back benefits.

Respectfully Sheweth: -

Facts giving rise to the present service appeal are as follows: -

FACTS

1. That appellant was enlisted in Police department as constable and was posted in District Hangu.
2. That appellant suffered from chronic disease of Sciatica, therefore appellant was relieved for managing private treatment as there were no arrangements in Police department of treatment of such disease. Copies of medical certificates are enclosed as Annexure-C.
3. That respondent No.3 wrongly marked appellant absent with effect from 25.09.2010 and passed impugned order of dismissal from service vides O.B No. 110 dated 02.03.2011. Copy already enclosed as Annexure-A.
4. That appellant filed representation against the order of respondent No.3 before respondent No.2. The representation was filed vide order dated 14.07.2011 and copy thereof was delivered to appellant on 02.03.2012. Copy of order of respondent No.2 is already enclosed as Annexure-B and copy of representation is enclosed as

Hand to-day
[Signature]
17/3/12


Annexure-D. Hence the present service appeal is on the following grounds.

' 2 '

GROUNDS

- a. That the impugned orders were passed against law and facts on record. No chance of defense was provided to appellant. No one was examined as witness against appellant and no chance of cross-examination of the witnesses was provided to appellant. Therefore the impugned orders are illegal, unlawful, void, ineffective and against the principles of natural justice.
 - b. That no charge sheet was served on appellant nor proclamation notice was published in two Urdu dailies as required under the law & rules of departmental action. Therefore the whole departmental file was prepared in violation of law and rules.
 - c. That the authority passed the impugned order without adhering to the prescribed code and completing procedural formalities. The department instead of managing the treatment of appellant, issued dismissal from service order of appellant. The impugned order added salt to the burning injuries of appellant.
 - d. That appellant was outdoors patient of Dr. Waseem Anwar and appellant never absented himself from duty but was managing treatment. The parents told that they had informed the concerned authority about the illness of appellant.
 - e. That appellant was dismissed from service within the meaning of 12-21 Police Rules while under the rules a Police officer could be discharged and not dismissed under 12-21 Police Rules. Therefore the impugned order was discriminatory and it will stop the way of appellant to other services.
 - f. That appellant has not absented himself from duty but the chronic disease did not allow appellant to join duty. The disappearance of appellant was not willful but inevitable because appellant was suffering from chronic disease and was unable to attend duty.
- It is therefore requested that by acceptance of present appeal, appellant may be reinstated in service with all back benefit.

Appellant



(SAJID KHAN)

Through counsel

Syed Mushraf Ali Shah
Advocate



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

3

Service Appeal No. _____/2012

Sajid ~~Khay~~..... (Appellant)

Versus

Provincial Police Officer, Khyber Pakhtunkhwa Peshawar
and two others.....Respondents)

Subject: - **AFFIDAVIT**

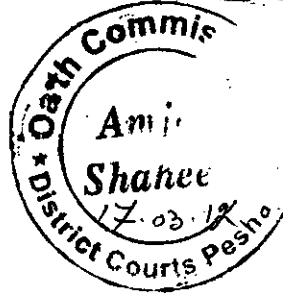
I Sajid ~~Khay~~ appellant do hereby affirm on oath that the contents of service appeal are true and correct to the best of my knowledge and belief. Noting has been concealed from this honourable tribunal.

Deponent




Appellant


(Sajid ~~Khay~~)



BEFORE THE HONOURABLE KHYBER PUKHTOON KHWA
SERVICE TRIBUNAL, PESHAWAR

Sajid Khan

VERSUS

Provincial Police Officer, KPK and others

APPLICATION UNDER SECTION 5 OF LIMITATION ACT
FOR CONDONATION OF DELAY (IF ANY) IN ABOVE
NOTED APPEAL

Respectfully Sheweth:-


- 1) That the above titled appeal is being filed before this Honourable Tribunal with the instant application, in which no date of hearing has been fixed so far.
- 2) That the departmental appeal against the impugned order of dismissal of the Appellant/Applicant has submitted to the concerned authority, well within time i.e. the dismissal order to the Appellant/Applicant was communicated on 02-03-2012, whereas departmental appeal has been filed by the Appellant/Applicant on 02-07-2011.
- 3) That, it was verbally informed by an official of the concerned Appellate authority, that the department appeal of the Appellant/Applicant has been dismissed on 05 March, 2011; whereas nothing there about the departmental appeal in writing or the dismissal of departmental appeal has been received by the Appellant/Applicant.

- 4) That the Appellant was seriously ill and he was unable to collect the attested of order dated 02-03-2011.
- 5) That very valuable right of the Appellant/Applicant is attached with the instant appeal, lying before this Honourable Tribunal.
- 6) That if the delay (if any) is not condoned the Appellant/Applicant would suffer extreme irreparable loss.
- 7) That the present application for condonation of delay is according to the law and there is nothing, which may prevent this Honourable Tribunal to condon the delay, (if any)
- 8) That the Applicants/Appellants seek leave of this Honourable Court to raise other grounds at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of this Application, the delay (if any) may kindly be condoned.

Appellant/Applicant


Through:

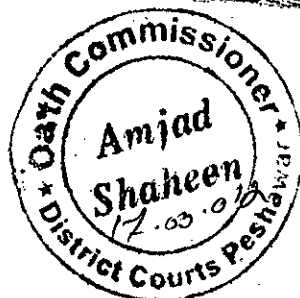

(SYED MUSHTAQ ALI SHAH)
Advocate,
High Court, Peshawar

Dated:-17th March, 2012

AFFIDAVIT!

It is, do hereby solemnly affirm and declare on Oath that the contents of the above Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.


ATTESTED




DEPONENT

ORDER.

Recruit Constable Sajid Ullah No. 794 while posted at Police Lines Hangu had absented himself with effect 25.09.2010 to till now without any leave or prior permission vide DD No. 23 dated 25.09.2010.

Keeping in view the above recruit constable has recently been enlisted and had absented himself for long absence which shows his disinclination towards official job. I, Akbar Rastud, District Police Officer, Hangu in exercise of the powers conferred upon me, awarded him major punishment of Dismissal from Service from the date of his absence under Police Rules 12-21.

Order Announced.

OB No. 110

Dated 2/3/2011.

(ABDUR RASHID)
DISTRICT POLICE OFFICER,
HANGU

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU.

No. 1121-25 /PA dated Hangu, the 3/03/2011.

Copy of above is submitted to the Dy. Inspector General of Police, Kohat Region, Kohat for favour of information, please.

2. Pay Officer, Reader, SDC & CASI for necessary action.

(ABDUR RASHID)
DISTRICT POLICE OFFICER,
HANGU

Attested
Jamal

Sub-District Police Officer

2-3-11

Better Copy

ORDER.

Recruit Constable Sajidullah NO. 794 while posted at Police Lines Hangu had absent himself with effect from 25.09.2010 to till now without any leave or prior permission vide D.D.NO. to dated 25.9.2010 .

Keeping in view the above recruit Constable has recently been enlisted and had absent himself for long absence which shows his dis-interest towards Official Job, I Abdul Rashid District Police Officer Hangu in exercise of the Powers conferred upon me, awarded his major punishment of dismissal from service from the date of his absence under Police Rules 12.21.

Order
Announced.
O.B.NO. 110, Dated 2.3.2011M

Sd/- Abdur Rashid,
District Police Officer,
Hangu.

OFFICE OF THE DISTRICT POLICE OFFICER HANGU.

NO. 1121-25/PA.

Dated Hangu the 3.03/2011.

Deputy

Copy of above is ~~XXXXXX~~ .sulamantely to the/Inspector General, of Blice Kohat Region, Kohat for the expore of information please.

2. The Pay Officer, Reader , SRO & ASI for necessary action.

Sd/- Abdur Rashid),
District Police Officer,
Hangu.

Attended
M/S

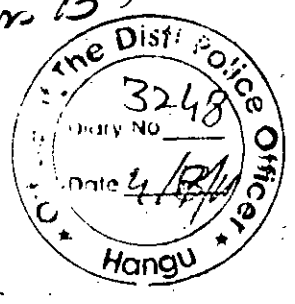
Annexure B

5

From:- The Dy: Inspector General of Police,
Kohat Region, Kohat.

To:- The District Police Officer, Hangu.

No. 6773 /EC, Dated Kohat the 1-8- /2011.



Subject:- REPRESENTATION

Memorandum.

14.07.2011.

Please refer to your Memo: No.3172/Inps: / Legal, dated

The Region Police Chief has recorded the following remarks:-

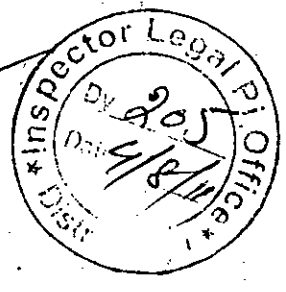
"File"

Issd/legal.
Dr n/a.

(Office Suptd:)

For Dy: Inspector General of Police,
Kohat Region, Kohat.

Jamal
~~District Police Officer~~
Hangu
2/8



Attested
Jamal

Sub-Divisional Police Officer
Hangu

2-3-12



Lady Reading Hospital Peshawar Out-Patients Department

Room:

65

Date: 17-JUN-10 09:43:01

Yearly No: 3230250610

Name: SAJID KHAN

OPD: PSYCHIATRY

فزی ایجوکیشن پروسی کیلئے 137 پرکال کریں۔

C/O

- Low feelings

- Anxious

- Sleep

- Worrying thoughts

R

Tab. Hepaid - 100

Tab. Valium 100

Tab. Valium 100

Tab. Valium 100

Tab. Valium 100

Adm. Res. for 3 days
June 17 (seventeen)
June 15 (fifteen)

Attended
M

MEDICAL OFFICER
PSYCHIATRY UNIT
LRH PESHAWAR

Time
bwd
CALL

12/6/2010

OPD MUHAMMAD ALI

110-411-312

Counter : Main OPD

Duplicate D 31-MAR-10 23:50

Ammerukh - Cal
"9"

1654440410

Room
65

01-APR-10 10:15

SAJID KHAN

PSYCHIATRY

Depressive Illness

27
CITANER
10P

27
Lexotanil
3P

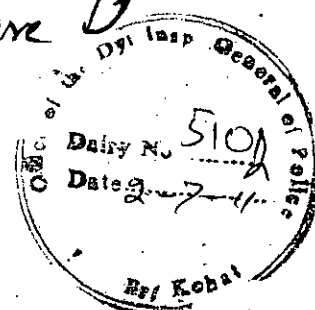
27 - 5V
①
②

Rest 10
day

Attended
M

MEDICAL OFFICER
Psychiatry Unit
ICMR, Peshawar

The Deputy Inspector General of Police,
Kohat Region Kohat



Subject: — REPRESENTATION

Respected Sir,

With due respect appellant submits the present representation against the order of learned District Police Officer, Hangu vide which appellant was dismissed from service.

FACTS

1.

That appellant was posted in District Hangu Police, appellant was suffering from chronic disease of Sciatica, therefore appellant was relieved for arranging private treatment.

That appellant was wrongly marked absent with effect from 25.09.2010 and impugned order of dismissal from service vides OB No. 110 dated 02.03.2011 was passed. Hence the present representation on the following grounds.

GROUNDS

a).

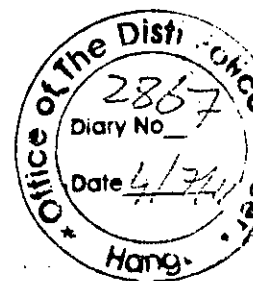
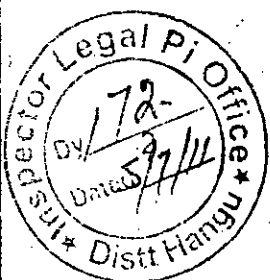
That the impugned order is against law and facts on record. No chance of defence was provided to appellant. No charge sheet was served on appellant. Furthermore, the charge sheet was neither sent to native Police station, nor proclamation notice was published in two Urdu dailies. Therefore the whole departmental file was prepared in violation of law and rules.

b).

That the authority passed the impugned order without adhering to the prescribed code and completing procedural formalities. The department instead of managing the treatment of appellant, issued dismissal from service order of appellant. The impugned order added salt to the burning injuries of appellant.

c).

Appellant was outdoors patient of Dr. Waseem Anwar and appellant never absented himself from duty but was managing treatment. The parents told that they had informed the concerned authority about the illness of appellant; therefore appellant should not worry about the service matter. Appellant was already disturbed, therefore the



Attested
Jamal

Sub-Division Police Officer
Hangu

2-3-12

parents tried to create relaxed atmosphere instead of enhancing the worries of appellant. Copy of medical officer's prescription is enclosed.

- d). That appellant belongs to poor family and penalty of dismissal from service was not less than stopping the ration of the family of appellant. Again appellant was dismissed from service within the meaning of 12-21 Police Rules while under the rules a Police officer could be discharged and not dismissed. Therefore the impugned order is discriminatory and it will stop the way of appellant to other services.
- e). That appellant has not absented himself from duty but the chronic disease did not allow appellant to join duty.
- f). that the absence of appellant was not willful but inevitable because appellant was suffering from chronic disease and was unable to attend the training Program.

It is therefore requested that appellant may be reinstated in service with all back benefit.

- Enclosure: 1. Impugned Order
- 2. Copy of medical prescription.

Yours truly,

Sajid

(SAJID KHAN)

Ex- Constable No. ~~791~~ 835 son of Murtaza Resident of village Payala Banda Tehsil Takht-e-Nasrati District Karak Police station Yaqoob Khan Shaheed

No 5765 B c D J 4-7/2011

DPO Hangu

For Comments along with Service Record Please.

[Signature]
DIG POLICE
KOHAT

Tajp/Agal

Per Comments

[Signature]
District Police Officer
Hangu
1417

Attested
[Signature]
Sub-Division Police Officer
Hangu

وکالت نامہ

جناب جسٹس من سرحدی ٹریبونل کشمیر

ساجد ظفر
 اپنی مدد سے
 اپنی مدد سے
 اپنی مدد سے
 اپنی مدد سے

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں من رہم اپنی طرف سے واسطے پیروی و جوابدہی اور دیگر کل

کارروائی اس کیلئے برائے مقام کشمیر
 سید مشتاق اللہ شاہ

کو وکیل مقرر کر کے اختیار دیتے ہیں کہ میری رہماری جانب سے مقدمہ مذکورہ کی پیروی
 و جوابدہی کرے۔ راضی نامہ کرے۔ فیصلہ ثالثی کرائے کہ فیصلہ کرانے پر حلف منظور
 کرے، ہر قسم کی بیان دیوے، ہر قسم کے سوال و جواب کرے۔ عرضی دعویٰ کرے جواب
 دعویٰ۔ جواب الجواب۔ عذرات۔ اپیل۔ نگرانی۔ نظر ثانی۔ درخواست ہائے متفرق اور دیگر
 ہر قسم کے دستاویزات تحریر و تصدیق کر کے داخل کرے۔ واپس لیوے۔ دست برداری
 کرے۔ ترمیم کرے۔ ہر قسم رقوم مقدمہ۔ جرمانہ۔ ہرجانہ داخل اور وصول کرے۔ ہر قسم
 دستاویز جو بخدم پیروی ڈکس ہو سر بنز کرے۔ کارروائی۔ ڈگری یکطرفہ منسوخ کرے۔ اجرا
 ڈگری کرے۔ زر ڈگری وصول کرے۔ قبضہ جائیداد لیوے دیوے۔ اپنے ہمراہ ایڈوکیٹ
 بیرسٹر یا مختار قانون برائے جزوی یا کل کارروائی مقرر کرے۔ علیحدہ کرے۔ دوران مقدمہ اگر
 جرمانہ۔ ہرجانہ فریق مخالف سے وصول ہو۔ وہ حق وکیل صاحب ہوگا۔ اگر پیشی ایسے مقام پر ہو
 جو صدر مقام سے دور ہو تو وکیل صاحب پیروی کے ذمہ دار نہ ہوں گے۔ اس سلسلے میں جملہ
 ساختہ و پرداختہ وکیل صاحب موصوف منظور و قبول ہوگا۔ لہذا وکالت نامہ ہذا لکھ دیا کہ سند
 رہے۔ نیز وکیل موصوف کو میری جانب سے مقدمہ فوجداری و مال میں بھی مکمل کارروائی کرنے
 کا مکمل اختیار بمضمون بالا حاصل ہوگا۔

فقط مورخہ 2/6/16

ساجد ظفر

العبد

العبد

العبد

Handwritten notes and signature on the left margin.

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

Service Appeal No.376/ 2012

Sajid Khan

Ex-Constable No.835Appellant

VERSUS

1. Provincial Police Officer Khyber Pakhtunkhwa Peshawar
2. Deputy Inspector General of Police Kohat Region, Kohat.
3. District Police Officer Hangu.....Respondents.

WRITTEN REPLY ON BEHALF OF RESPONDENTS.

Preliminary Objection.

1. That appellant has got no cause of action.
2. That, the appeal is liable to be dismissed in limine
3. That, the appellant is estopped from filing appeal due to his own conduct.
4. That, the appeal is barred by time & limitation.
5. That this honourable Service Tribunal has got no jurisdiction to entertain the present badly time barred appeal.
6. That, the appellant has concealed material facts from this Honourable Tribunal.

Parawise Comments.

Facts.

1. Correct. To the extent that the appellant was enlisted in Police Department in District Karak and later on was transferred to District Hangu.
2. Incorrect. That appellant absented himself deliberately and willfully for a long period of five months without any prior permission or leave from his senior. He did not apply for any leave or permission so as to proceed in connection with his so called treatment. He has managed to cover his willful absence by producing fake and bogus medical certificates. His service record has proved him as willful absentee who has deliberately remained absent on the following occasions.
 - a. The appellant deliberately absented himself from initial training for 28 days at P.T.C Hangu w-e-f 09.03.2009 to 06.04.2009 as such he was returned to District Karak as unqualified vide Commandant PTC Hangu signal No.1527-28/GC, dated 28.04.2009 (copy enclosed). After the completion of departmental proceeding minor punishment of censure was awarded to him and was again deputed for training on 12.06.2009 (copy enclosed).
 - b. The appellant was detailed for recruit course but he again refused to join the said course and willfully absented himself w-e-f 05.07.2009 to 12.07.2009 for which he was awarded minor punishment of censure and the period of his absence was counted as leave without pay vide order OB No.1010 dated 30.09.2009 (copy enclosed).
 - c. The appellant again deliberately absented himself for the period of 50 days from training program at PTC Hangu and was returned to district as unqualified. After proper departmental enquiry proceeding, he was discharged

from service under Police Rule 12-21 vide OB No.110 dated 02.03.2011
(copy enclosed).

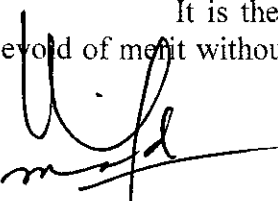
3. Incorrect. The appellant has been rightly marked absent w-e-f 25.09.2010 till the date of his discharge vide OB No.110 dated 02.03.2011. (Copy of Mad No.25 dated 25.09.2012 enclosed).
4. Correct to the extent that the appellant submitted time barred representation on 04.07.2011 against the speaking order of the competent authority dated 02.03.2011 which was filed being time barred and meritless.


Grounds.

- a. Incorrect. That the impugned orders were passed in accordance with law and facts on record. As the appellant was given so many chances to mend his ways but he did not bother to abide by the law and the rules governing the service of disciplined department. He was re-instated in service by DIG Kohat Range Kohat vide Order No.8678-79/EC dated 16.09.20120 after his discharge from service by DPO Karak vide OB No.744 dated 08.07.2010, purely on the basis of humanitarian grounds but he being habitual absentee and having no interest in his official duty again absented himself for long period of five months.
- b. Incorrect. That, taking into consideration the blamish service record of the appellant, he was discharged from service under prevailing rules by the competent authority.
- c. Incorrect. As the appellant showed absolutely disinterest in his official duty as mentioned in Para (2) as such the appellant was discharged from service under prevailing rules.
- d. Incorrect. That the appellant is a habitual absentee who willfully absented himself on different occasions as mentioned in PARA No.(2) who has now managed to cover his willful absence by producing fake medical certificates.
- e. Appellant has been treated in accordance with law and rules and he is not eligible for any service as he is irresponsible and indisciplined person.
- f. Incorrect. The appellant willfully and deliberately absented himself from official duty for a long period of five months without any prior permission from his senior officers. Now, he has managed to cover his absence by producing fake medical certificates, as he had done on earlier occasions.

Prayer.

It is therefore, humbly prayed that the appeal of the appellant being illegal, devoid of merit without any substance and badly time barred may be dismissed with costs.


Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar
(Respondent No.1)


Deputy Inspector General of Police,
Kohat Region, Kohat
(Respondent No.2)


District Police Officer,
Hangu
(Respondent No.3)

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

Service Appeal No.376/ 2012

Sajid Khan

Ex-Constable No.835Appellant

VERSUS

1. Provincial Police Officer Khyber Pakhtunkhwa Peshawar
2. Deputy Inspector General of Police Kohat Region, Kohat.
3. District Police Officer Hangu.....Respondents

WRITTEN REPLY TO APPLICATION

Preliminary Objection.

1. That, the instant application is badly time barred.
2. That, the appellant has got no cause of action to file the present application.
3. That, this Honourable Service Tribunal has got no jurisdiction to entertain the present application.
4. That, the appellant has concealed material facts from this Honourable Service Tribunal.
5. That, the present application is bad in its present form, hence not maintainable and liable to be dismissed.

Parawise Comments.

Respectfully sheweth.

1. Subject to proof.
2. Incorrect, hence denied, however, badly time barred and meritless representation submitted by the appellant was rightly filed by the competent authority.
3. Incorrect, hence denied. Appellant has concealed material facts from this Honourable Service Tribunal.
4. Incorrect, hence denied. Appellant is habitual absentee.
5. Incorrect, hence denied.
6. Incorrect, hence denied. Appellant would not sustain irreparable loss, rather Govt would suffer irreparable loss.
7. Totally incorrect, law does not permit such like frivolous and baseless application. Judgments of the Supreme Court are clear. This Honourable Service Tribunal has got no jurisdiction to condone the present time barred application.
8. That respondents also seek permission to advance more grounds/objections at the time of arguments.

It is therefore, requested to dismiss the present application for condonation of delay please.

Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar

(Respondent No.1)

Deputy Inspector General Of Police,
Kohat Region, Kohat

(Respondent No.2)

District Police Officer,
Hangu
(Respondent No.3)

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

Service Appeal No.376/ 2012

Sajid Khan

Ex-Constable No.835Appellant

VERSUS

District Police Officer Hangu etc..... Respondents

COUNTER AFFIDAVIT

I do hereby solemnly affirm and declare on oath that contents of reply to the application filed by Ex-Constable Sajid Khan No.835 of District Hangu are correct to the best of my knowledge and nothing has been willfully concealed from This Honourable Tribunal.

Riasat
20.2.2013
Syed Riasat Ali Shah
ADVOCATE
ATTESTED
No So (Judl)
Hd4 16-09
Public Distt Courts Hangu

[Signature]
District Police Officer,
Hangu

Affidavit attested

Im. Comdt. Pte HGU 281200/100
For DPO KARAK
W. DSP RTW KHT

NO 1527-28/9C D 28-4-09. SUB: RE
- RN TO DISTT AS UN QUALIFIED RECT M.
- SAJID NO 794 OF YOUR DISTT NOW UNDER
GOING RECT COURSE AT RTW KHT HA.
ABSENTED HIMSELF 27 DAYS OUT OF TRG
PROGRAMME HIS ABSENCE PERIOD AS
AS UNDER 10 ABSENCE WEF 9-3-09 TILL
DATE TOTAL ABSENCE 28 DAYS UP TO 6-4-
HE IS THEREFORE RETURNED TO THE DISTT
AS UN QUALIFIED VIDE THIS OFFICE O.
NO 162 D 24-4-09. DSP RTW KHT FOR IN
AND N/ACTION WIR TO HIS M/NO 21/11C
D 22-4-09.

R 281541
29/4/09

1439
29.4.09

OAS
for action
[Signature]

District Officer
Karak
29/4


Ref attached.

Sir,

In response to final show
 cause notice of constable Muhammed
 Sajid no. 794, who detailed for initial
 recruit course was found absent from
 the subject Training Programme for 28-day
 and returned to District as un-qualified
 vide Commandant P. T. C. Hanger office
 signal no. 1527-2192 dt. 28-4-09. Has
 submitted his reply at plaint at
 P/A

Submitted please.

W/O


 11/6/09

~~where is he~~

where is he
now?

پیش فرساید 794

پولیس ڈیپارٹمنٹ

AOHC/Kamisc

23

11/6/09. Issue Commune
 he detailed for
 course as
 soon as possible
 12/11

15-CENSURES AND PUNISHMENTS.

charge: Returned to instt. initial recruit course un-qualified.

punish: (Censure)

[Signature]
Y 2125001 1/25/08

OB 668
13/6/08.

charge: Absence w.o. from 5.7.08 to 13.7.08 police line.

punish: (Censure)

Absence period leave w/out pay.

OB 10/0
30/9/08.

[Signature]
Y 2125001 1/25/08

ORDER

Recruit Constable Sajid Ullah No. 794 while posted at Police Lines Hangu had absented himself with effect 25.09.2010 to till now without any leave or prior permission vide DD No. 25 dated 25.09.2010.

Keeping in view the above recruit constable has recently been enlisted and had absented himself for long absence which shows his disinterest towards official job. I, Abdur Rashid, District Police Officer, Hangu in exercise of the powers conferred upon me, awarded him major punishment of Dismissal from Service from the date of his absence under Police Rules 12-21.

Order Announced.

OB No. 110

Dated 2 / 3 /2011.


(ABDUR RASHID)
DISTRICT POLICE OFFICER,
HANGU

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU.

No. 1121-25 /PA, dated Hangu, the 03 /03 /2011.

Copy of above is submitted to the Dy: Inspector General of Police, Kohat Region, Kohat for favour of information please.

2. Pay Officer, Reader, SRC & CASI for necessary action.


(ABDUR RASHID)
DISTRICT POLICE OFFICER,
HANGU

نقلمبر 25 اروز ناہم 25 9/10

مرد 25 رورٹا غنیمت غازی کی خدمت 25 9/10 سے 19:30 بجے 77 رورٹا
عظیم الشان ریکورڈ سید محمد اللہ 794 کی غنیمت غازی کی طرف سے
مقامی اہلکار پولیس کانسٹبل میں کافی تفریح کیا۔ عظیم الشان
میں ہماری ہر مذکورہ ریکورڈ ریکورڈ ریکورڈ کے خود گورنر
نکا ہے جسکی آن کی کوئی امید نہیں ہے۔ لہذا مذکورہ
بالا کے خلاف رورٹا غنیمت غازی کی خدمت سے ناہم ہو کر نقلمبر
نقلمبر 25 اروز ناہم 25 9/10 سے 19:30 بجے 77 رورٹا
بالا کے خلاف میں ارسال ہوئی

خانہ عالی
نقل مقامی لاٹھی

خانہ عالی - ریکورڈ سید محمد اللہ 794 سے

25 9/10 سے 19:30 بجے 77 رورٹا

عظیم الشان ریکورڈ غازی کی طرف سے

مقامی اہلکار پولیس کانسٹبل میں کافی تفریح کیا۔

میں ہماری ہر مذکورہ ریکورڈ ریکورڈ ریکورڈ کے خود گورنر

نکا ہے جسکی آن کی کوئی امید نہیں ہے۔ لہذا مذکورہ

بالا کے خلاف رورٹا غنیمت غازی کی خدمت سے ناہم ہو کر نقلمبر

Musa

27-2-11

Muhammad
NANA HANU

~~P. 111~~
Dismissed
Ong...

Before the Service Tribunal, NWFP Peshawar

Service appeal No 376/2012

Sajid Khan

Versus

Provincial Police Officer KPK Peshawar, & others

Rejoinder on behalf of the Appellant

Respectfully Sheweth,

All the preliminary objections of the written reply are incorrect, and baseless.

On facts:-

- 1- That the Para No 1 needs no reply.
- 2- That the Para No 2 of the written reply is totally incorrect the medical officer DHQ Hospital Hangu referred the appellant to Government Lady Leading Hospital Peshawar vide E No 998 dated 27/02/2010 and commandant police training college Hangu request the administrated officer LRH Peshawar through letter No 432/GC, dated Hangu, the 26/02/2010. (Copy of medical report vide E No 998/27/02/2010 and covering letter of commandant PTC Hangu are already attached to the appeal of the appellant as annexure "C" on page 6 & 7).

- 3- That Para No 3 of the written reply is incorrect the detailed reply has already been given in the prior Paras.
- 4- That is response of Para No 4 of the written reply it is submitted that the appellant was seriously sick and therefore the appellant moved an application for condonation of delay along with his appeal and after hearing of the appellant the case was noticed to the respondent.

GROUND

- A) That the Para No A on the comments is incorrect, no rules and regulation were followed for conducting inquiry. It would be right to say that no inquiry what so ever was conducted.
- B) That Para No B of the comments is also incorrect, no charge sheet etc was served upon the appellant hence the impugn order is not maintainable in the eye of law.
- C) That the Para No C of the comments is totally incorrect.
- D) That the Para No D of the comments incorrect.
- E) That the Para No E of the comments is incorrect.
- F) That the Para No F of the comments is incorrect.

It is there fore most humbly requested that the appeal as prayed for in the appeal may kindly be accepted in favor of the appellant against the respondent and the appellant may kindly be reinstated in the services according.

Through

Plaintiff



Syed Mushtaq Ali Shah
Advocate,
High Court Peshawar

Before the Service Tribunal, NWFP Peshawar

Service appeal No 376/2012

Sajid Khan

Versus

Provincial Police Officer KPK Peshawar, & others

Rejoinder on behalf of the Appellant

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- 4- That is response of Para No 4 of the written reply it is submitted that the appellant was seriously sick and therefore the appellant moved an application for condonation of delay along with his appeal and after hearing of the appellant the case was noticed to the respondent.

GROUNDS

- A) That the Para No A on the comments is incorrect, no rules and regulation were followed for conducting inquiry. It would be right to say that no inquiry what so ever was conducted.
- B) That Para No B of the comments is also incorrect, no charge sheet etc was served upon the appellant hence the impugn order is not maintainable in the eye of law.
- C) That the Para No C of the comments is totally incorrect.
- D) That the Para No D of the comments incorrect.
- E) That the Para No E of the comments is incorrect.
- F) That the Para No F of the comments is incorrect.

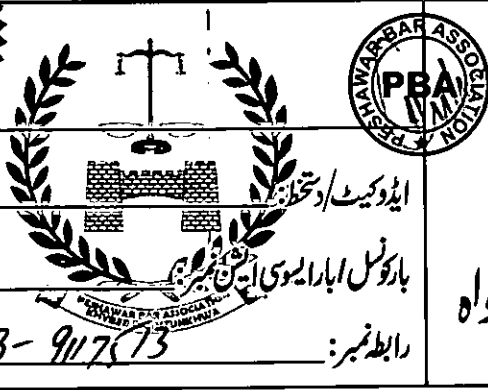
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Through

Plaintiff



Syed Mushtaq Ali Shah
Advocate,
High Court Peshawar



پشاور بار ایسوسی ایشن، خیبر پختونخواہ

ایڈووکیٹ / دستخط: بار کونسل اباد ایسوسی ایشن خیبر پختونخواہ
رابطہ نمبر: 0333-9117573

بعدالت جناب: مسرور مسٹر بیونلج صاحب خیبر پختونخواہ ایشیام

<p>منجانب: ایمپلائٹ</p>  <p>ساحبہ رضوانی بانام مسٹر ایس ایس</p>	<p>دعویٰ: سرکاری اپیل</p>  <p>علت نمبر: مورخہ: جرم: تھانہ:</p>
---	---

بابت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ ان مقام شنبہ صدر ایجنسی / مسرور حانز / ایڈووکیٹ مسٹر بیونلج صاحب کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا مکمل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر جانے و فیصلہ برعلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست ازہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز ضرورت ہوتی ہے کہ پیروی یا اہل کی برآمدگی اور منسوخی، نیز دائر کرنے اہل نگرانی و نظریاتی و پیروی کرنے کا اختیار ہوگا اور ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ملاحظہ ہر داغہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سب سے ہوگا وہ وکیل موصوف و تقرر کرنے کا اختیار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی ایڈووکیٹ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: 18

مقام شنبہ صدر ایجنسی کے لئے منظور ہے۔

نوٹ: اس کاپی کو کوئی بھی نہیں قبول ہوگی

Accepted
Atkand

مختار
Sawab

Police میں بطور Retired Employee apnts. Sepay

پر ہوا تھا سال 2008 میں۔ لفری کے کاغذ ملے نینلو بھوارا

رنگٹ ڈینٹل لیا، جو 9 مہینے پر مشتمل ہوتا ہے۔ میں

بیمار ہو گیا۔ Psychiatry منہ پیرا ہوا۔ مجھے بتایا کہ

علاج کرو۔ PI سے مجھے ضلع واپس لیا۔ میں نے علاج

کیا۔ علاج کے دوران مجھے ضلع واپس لیا۔ SP نے

پر قاضی لیا۔ گاڈ لائیے حال لیا۔ میں

دیگے ضلع لپھل کر کے ضلع لائن حافر ہو گیا۔ ضلع لائن

سے بطور سزا ضلع ضلع بھوارا گیا۔ میں نے ضلع کی لپھل کی

لپھل واپس لے کر جانے سے پہلے میں Accidentant لیا۔

اور یہ Accidentant سال میں لیا۔ اور میں حافر ہو گیا

میں نے۔ لپہر 14 دن کے بعد سبھی علاج وقت لفری انٹواری

لا لفری نوٹس، لفری انٹواری کے علاج وقت حافر لپہر

میں نے صحت کو بہتر بنایا۔ لفری انٹواری کے علاج وقت حافر لپہر

کہ مجھے ہر حالت لیا گیا۔ لفری انٹواری کے علاج وقت حافر لپہر

دی جو نے نقل منڈی لپہر لپہر لپہر لپہر لپہر لپہر

دیگے ضلع لپہر لپہر لپہر لپہر لپہر لپہر

Time based ہیں لپہر لپہر لپہر لپہر لپہر لپہر

⇒ Police Constable was entitled
to show Cause Notice

1992 PLC (CS)
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⇒ Schwärzer

⇒

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

No. 1785 /ST

Dated 28 / 10 / 2016

To


The District Police Officer,
Hangu.

Subject: -

JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 18.10.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

Annexure - "C" "6"

The Commandant,
Police Training College, Hangu.

The Administrative Officer,
Govt; Leady Reading Hospital, Peshawar.

No. 432 /GC, dated Hangu, the 26/09 /2010.

Subject: MEDICAL TREATMENT.

Memorandum:

Recruit Sajid Khan No. 794 of PTC Hangu is suffering from _____ The Medical officer DHQ- Hospital Hangu has referred the patient to your hospital for further necessary treatment yides prescription attached.

He is a Govt. servant and is entitled to get free Medical treatment, X-Ray, Test etc in all Govt. hospitals under the Medical Attendance Rules-1959.

Attended
[Signature]

RECRUITS COURSE

[Signature]
Commandant
Police Training College, Hangu.
Hangu

Case No. 998

10/10/77

9c. 27/2/10.

1. Burden on head

2. Burden on heart

Admission

Refers to
L.R.H

Peshawar

In Enquiry regarding
Treatment on the
Demand of Relative

△ = Anti $\frac{1}{2}$ + Jansin

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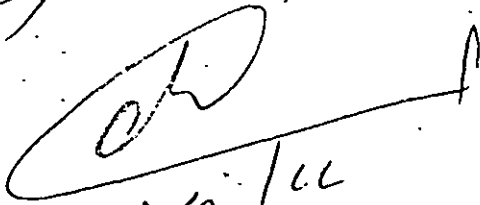
27/2/10

Admitted

MJ

محمد تقی میرزا

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28 روزنامه 27-2-10