

13.12.2022

Counsel for the appellant present.

Mr. Naseerud Din Shah, Assistant Advocate General alongwith Attaur Rehman, Inspector (Legal) for the respondents present.

Learned counsel for the appellant requested for adjournment in order to further prepare the brief. Granted. To come up for arguments on 01.03.2023 before the D.B.



(FAREEHA PAUL)  
Member(E)




(ROZINA REHMAN)  
Member (J)

1<sup>st</sup> Mar, 2023

Clerk of learned counsel for appellant present. Mr. Muhammad Jan, District Attorney for respondents present.

Counsel are on strike. The case is adjourned. To come up for arguments on 15.05.2023 before D.B. PP given to the parties.



(Rozina Rehman)  
Member (J)



(Kalim Arshad Khan)  
Chairman

SCANNED  
KPST  
Peshawar

SCANNED  
KPST  
Peshawar

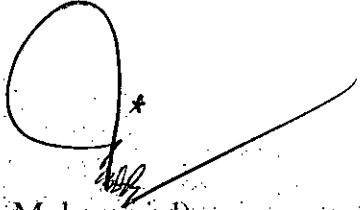
21.07.2022

Mr. Mir Zaman Khan, Advocate for the appellant present.

Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments. To come up for reply/comments before the S.B on 19.09.2022.

Rs: 500/-  
Appellant Deposited  
Security & Process Fee  
27/7/2022

  
(Mian Muhammad)  
Member (E)

19.09.2022

Learned Member (Judicial) Mr. Salah-ud-Din is on leave; therefore, the case is adjourned to 28.10.2022 before S.B.


  
Reader

28.10.2022

Counsel for the appellant present.

Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Attaur Rehman, Inspector (Legal) for the respondents present.

Reply/comments on behalf of the respondents have been submitted, which are placed on file and a copy whereof handed over to learned counsel for the appellant. To come up for rejoinder/arguments on 13.12.2022 before the D.B.

  
(Fareeha Paul)  
Member (E)



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

APPEAL NO. 938 /2022

AMIR MUHAMMAD

VS

POLICE DEPTT:

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APPELLANT

THROUGH:

  
MIR ZAMAN SAFI  
ADVOCATE

Office: Room No. 6-E, 5<sup>th</sup> Floor,  
Rahim Medical Centre, Hashtnagri,  
Peshawar.

Cell: 0333-9991564

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

APPEAL NO. \_\_\_\_\_/2022

Mr. Amir Muhammad, Constable No. 1513,  
Police Line Mardan.....APPELLANT

VERSUS

- 1- The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2- The Regional Police Officer Mardan Region at Mardan.
- 3- The District Police Officer, District Mardan.

.....RESPONDENTS

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 22.09.2007 WHEREBY MINOR PENALTY OF FORFEITURE OF TWO ANNUAL INCREMENTS HAS BEEN IMPOSED UPON THE APPELLANT AND AGAINST THE IMPUGNED APPELLATE ORDER DATED 07.06.2022 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS**

**PRAYER:**

That on acceptance of this appeal the impugned orders dated 22.09.2007 and 07.06.2022 may very kindly be set aside and the respondents please be directed to restore/release the annual increments of the appellant. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

**R/SHEWETH:**

**ON FACTS:**

- 1- That appellant is the employee of respondent Department and is serving as constable No. 1513 quite efficiently and up to the entire satisfaction of his superiors.
- 2- That the appellant has served the respondent department from the date of 1<sup>st</sup> appointment with full devotion and honesty and during his entire service no complaint whatsoever received to the high ups against him.
- 3- That appellant while posted at Police Lines Mardan, mother of the appellant became seriously ill and for her treatment and care the appellant absented from his lawful duty for a few days.
- 4- That on the basis of aforementioned absence from duty the appellant proceeded departmentally and during the course of proceedings the appellant produced all documentary proofs regarding illness of her mother but despite that the respondent department imposed minor penalty of forfeiture of two annual increment with accumulative effect upon the appellant vide

impugned order dated 22.09.2007. Copy of the impugned order is attached as annexure.....A.

5- That feeling aggrieved from the impugned order dated 22.09.2007 the appellant preferred departmental appeal before the respondent No.2 but the same has been rejected on no good grounds vide appellate order dated 07.06.2022. Copies of the Departmental appeal and rejection order are attached as annexure.....B & C.

6- That appellant feeling aggrieved and having no other remedy filed the instant service appeal on the following grounds amongst the others.

**GROUND:**

A- That the impugned orders dated 22.09.2007 and 07.06.2022 are against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.

B- That the appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

C- That the respondents acted in arbitrary and malafide manner while issuing the impugned order dated 22.09.2007.

D- That absence of the appellant was not willful but due to cause serious illness of her mother, therefore, the impugned order dated 22.09.2007 is not tenable in the eye of law and the same is liable to be set aside.

E- That the impugned order dated 22.09.2007 is clear violation of the principle of natural justice, hence not tenable and liable to be set aside.

F- That after gone through the documentary evidence and perusal of the record the respondents admitted illness of mother of the appellant but despite that the respondents issued the impugned order dated 22.09.2007.

G- That the impugned order dated 22.09.2007 has been issued by the respondents in violation of FR-29, therefore, the impugned order dated 22.09.2007 is not tenable and liable to be set aside.

H- That appellant seeks permission to other grounds and proofs at the time of hearing.

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

Dated: 22.06.2022

APPELLANT

*Amir Muhammad*

AMIR MUHAMMAD

THROUGH:

*Mir Zaman Safi*

MIR ZAMAN SAFI  
ADVOCATE

**CERTIFICATE:**

It is certified that no other earlier appeal was filed between the parties.

*Mir Zaman Safi*  
DEPONENT

**LIST OF BOOKS:**

- 1- CONSTITUTION OF PAKISTAN, 1973
- 2- SERVICES LAWS BOOKS
- 3- ANY OTHER CASE LAW AS PER NEED

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

APPEAL NO. \_\_\_\_\_/2022

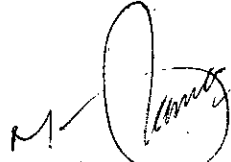
AMIR MUHAMMAD

VS

POLICE DEPTT:

**AFFIDAVIT**

I Mir Zaman Safi, Advocate High Court, Peshawar on the instructions and on behalf of my client do hereby solemnly affirm and declare that the contents of this **service appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

  
MIR ZAMAN SAFI,  
Advocate  
High Court, Peshawar



A-5

**ORDER**

This order will dispose-off a departmental enquiry, under NWFP. Removal From Service (Special Power) Ordinance 2000, initiated against Constable Amir Muhammad No. 1513, under the allegations that he while posted at Police Lines Mardan, proceeded against departmentally under the above quoted rules through Mr. Muhammad Quraish Khan DSP City Mardan on account of his absence for the following periods:-

1. 10.04.2007 to 12.04.2007.
  2. 16.04.2007 to 19.04.2007.
  3. 14.05.2007 to 17.05.2007.
  4. 23.05.2007 to 31.05.2007.
- [ 16 days ]

The enquiry officer completed the enquiry and concluded that the defaulter Constable has submitted various prescriptions of his mother's illness in support of his absence's plea, so the E.O suggested a compassionate view in this regard.

The defaulter Constable was served with final show cause notice issued vide this office Endst: No. 25/PA dated 21.08.2007, to which his reply was received and considered but found not satisfactory, therefore, he was heard in person on 17.09.2007 in O.R, but he did not highlight any plausible/cogent reasons in his defence, therefore, his two increments are hereby forfeited with accumulative effect, while keeping in view his family back ground, the absence's period counted as earned leave and his pay released.

ORDER ANNOUNCED

O.B. No. 1518

Dated      /      / 2007

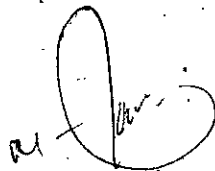
(Akhtar Hayat Khan (PSP)  
District Police Officer,  
Mardan.

No. 5630-33 / PA      Dated 28 / 9 / 2007.

Copy for information and necessary action to:-

1. The DSP Hqrs: Mardan
2. The Pay Officer (DPO) Mardan.
3. The Estt: Clerk (DPO) Mardan.
4. The OHC (DPO) Mardan with (      ) Enclosures.

File  
    



To,

B-6


The Regional Police Officer,  
Mardan Region, District Mardan.

Application/Departmental appeal against the  
order dated 22.9.2007

Rt Sir,

With due respect, it is stated that I am serving  
as constable in your good self department from  
long time and I am performing my duties with  
honesty and devotion. That during service my  
mother was seriously ill and due to illness I  
was absented from duty to take her to the  
doctor for treatment and I was remain at home  
for her care because there was no one was  
available for her care about.

That, during her illness I was also join my  
duty and not absented regularly from my lawful  
duties but the authority imposed penalty of  
stoppage of two annual increments despite  
of knowing the fact.

M. 

It is, therefore, most humbly requested  
that order dated 22.9.2007 may kindly be  
set aside and release the annual increments.  
Your obediently  
Amir Muhammad  
constable No. 1573.

C-7

ORDER.

This order will dispose-off the departmental appeal preferred by **Constable Amir Muhammad No. 1513** of Mardan District Police, against the order of District Police Officer, Mardan, whereby he was awarded minor punishment of forfeiture of two increments with cumulative vide OB: No. 1518 dated 22.09.2007. The appellant was proceeded against departmentally on the allegations that he while posted at Police Lines, Mardan willfully and deliberately absented himself from his lawful duty for the following periods:-

1. 10.04.2007 to 12.04.2007.
2. 16.04.2007 to 19.04.2007.
3. 14.05.2007 to 17.05.2007.
4. 23.05.2007 to 31.05.2007.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and then Sub Divisional Police Officer, (SDPO) City, Mardan was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities, submitted his findings wherein he highlighted that the delinquent Officer has remained absent without proper approval of his Seniors and thus has violated the rules. However, suggested to take compassionate view in light of medical prescriptions produced by the delinquent Officer.


He was served with Final Show Cause Notice to which he submitted his reply, perused by the then District Police Officer, Mardan and found unsatisfactory.

The delinquent Officer was heard in Orderly Room by the then District Police Officer, Mardan on 17.09.2007, wherein he failed to produce any cogent reason in his defense. Therefore, he was awarded minor punishment of forfeiture of two increments with cumulative effect absence vide OB: No. 1518 dated 22.09.2007.

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 30.05.2022.

From the perusal of the enquiry file and service record of the appellant, it has been found that the allegations of misconduct against the appellant have been proved beyond any shadow of doubt. As the perusal of his service record revealed that he remained absent on many occasions. It is worthwhile that the appellant approached

AT

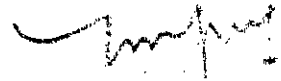
M - 

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this forum with the delay of 14 years and 06 months without advancing any cogent reason, hence, badly time barred. Therefore, order passed by the competent authority does not warrant any interference and I find it a case of habitual absentee.

Based on the above, I, Yaseen Farooq, PSP Regional Police Officer, Mardan, being the appellate authority, finds no substance in the appeal, therefore, the same is rejected and filed, being badly time barred for 14 years and 06 months.

Order Announced.

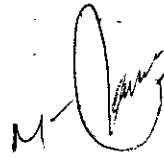


Regional Police Officer,  
Mardan.

No. 3988 /ES, Dated Mardan the 07/06 /2022.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 86/LB dated 12.04.2022. His Service Record is returned herewith.

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



WAKALAT NAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

\_\_\_\_\_ OF 2022

Anis Muhammad

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

VERSUS

Police Deptt.

(RESPONDENT)  
(DEFENDANT)

I/We Anis Muhammad

Do hereby appoint and constitute **MIR ZAMAN SAFI, Advocate, High Court, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. \_\_\_\_\_ / \_\_\_\_\_ /2022

Anis Muhammad

CLIENT

Mir Zaman Safi

ACCEPTED

MIR ZAMAN SAFI  
ADVOCATE

OFFICE:

Room No.6-E, 5<sup>th</sup> Floor,  
Rahim Medical Centre, G.T Road,  
Hashtnagri, Peshawar.  
Mobile No.0333-9991564  
0317-9743003

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

**Service Appeal No. 938/2022**

Amir Muhammad Constable No. 1513 Police Lines, Mardan

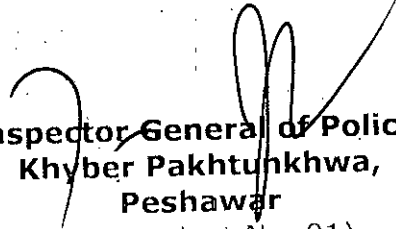
.....Appellant

**VERSUS**

The Inspector General of Police , Khyber Pakhtunkhwa, Peshawar and  
others.....Respondents

**AUTHORITY LETTER.**

Mr. Atta-ur-Rehman Inspector Legal, (Police) Mardan is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above captioned service appeal on behalf of the respondents. He is also authorized to submit all required documents and replies etc. as representative of the respondents through the Addl: Advocate General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

  
**Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar**  
(Respondent No. 01)

  
**Regional Police Officer,  
Mardan**  
(Respondent No. 02)

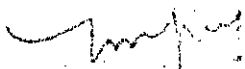
  
**District Police Officer,  
Mardan**  
(Respondent No. 03)

13

this forum with the delay, 14 years and 06 months without advancing any cogent reason, hence, badly time barred. Therefore, order passed by the competent authority does not warrant any interference and I find it a case of habitual absentee.

Based on the above, I, Yaseen Farooq, PSP Regional Police Officer, Mardan, being the appellate authority, finds no substance in the appeal, therefore, the same is rejected and filed being badly time barred for 14 years and 06 months.

Order Announced.

  
Regional Police Officer,  
Mardan.

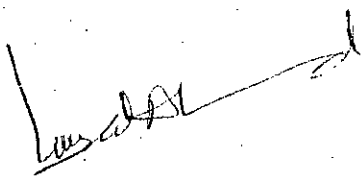
No. 3988 /ES, Dated Mardan the 07/06 /2022.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 86/LB dated 12.04.2022. His Service Record is returned herewith.

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

607/LB  
07-6-22

copy on Record

  
DSPIL

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

**Service Appeal No. 938/2022**

Amir Muhammad Constable No. 1513 Police Lines, Mardan

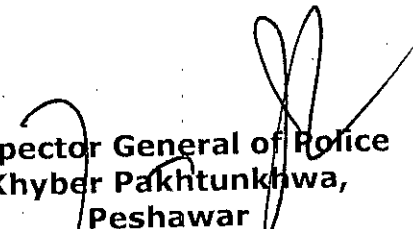
.....Appellant

**VERSUS**

The Inspector General of Police , Khyber Pakhtunkhwa, Peshawar and  
others.....Respondents

**COUNTER AFFIDAVIT**

We, the respondents do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Tribunal.

  
**Inspector General of Police  
Khyber Pakhtunkhwa,  
Peshawar**  
(Respondent No. 01)

  
**Regional Police Officer,  
Mardan**  
(Respondent No. 02)

  
**District Police Officer,  
Mardan**  
(Respondent No. 03)



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

C.M NO. \_\_\_\_\_/2022

IN

APPEAL NO. \_\_\_\_\_/2022

AMIR MUHAMMAD

VS

POLICE DEPTT:

**APPLICATION FOR CONDONATION OF  
DELAY IN FILING THE ABOVE NOTED  
APPEAL**

**R.SHEWETH:**

- 1- That the appellant has filed the above mentioned appeal before this august Tribunal which is fixed for hearing today on 21.07.2022.
- 2- That the appellant prays for the condonation of delay in filing the above noted appeal inter alia on the following grounds:

**GROUND OF APPLICATION:**

- A- That valuable rights of the appellant are involved in the case hence the appeal deserve to decide on merit.
- B- That it has been the consistent view of the Superior Courts that cases should be decided on merit rather on technicalities including the limitation. The same are reported in 2004 PLC (CS) 1014 and 2003 PLC (CS) 76.
- C- That it has also been the consistent view of the Superior Court that no limitation runs in matters of financial matter and the same are reported in 2002 PLC (C.S) 1388 and 2021 SCMR 1230.

It is, therefore, prayed that on acceptance of this application the delay in filing the above noted appeal may please be condoned.

APPELLANT

THROUGH:

  
MIR ZAMAN SAFI  
ADVOCATE

*20AS*  
**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA, PESHAWAR.**

**Service Appeal No. 938/2022**

Amir Muhammad Constable No. 1513 Police Lines, Mardan

.....Appellant

**VERSUS**

The Inspector General of Police , Khyber Pakhtunkhwa, Peshawar and  
others.....Respondents

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<b>S. No.</b>	<b>Description of Documents</b>	<b>Annexure</b>	<b>Pages.</b>
1.	Written Reply.	--	1-3
2.	Affidavit.	--	4
3.	Copies of Bad Entries	A	5-8
4.	Copies of Charge Sheet with statement of allegations, Enquiry & Final Show Cause Notice	B & C	9-17
5.	Copy of Authority Letter.	--	18

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

**Service Appeal No. 938/2022**

Amir Muhammad Constable No. 1513 Police Lines, Mardan

.....Appellant

**VERSUS**

The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and  
others.....Respondents

**Para-wise comments on behalf of respondents:-**

**Respectfully Sheweth,**

**PRELIMINARY OBJECTIONS**

1. That the appellant has not approached this Hon'ble Tribunal with clean hands.
2. That the appellant has concealed the actual facts from this Hon'ble Tribunal.
3. That the appellant has got no cause of action or locus standi to file the instant appeal.
4. That the appellant is estopped by his own conduct to file the instant Service Appeal.
5. That the appeal is unjustifiable, baseless, false, flawless and vexatious and the same is liable to be dismissed with special compensatory cost in favour of respondents.
6. That the appeal is barred by law & limitation.

**REPLY ON FACTS**

1. Para to the extent of enlistment and serving in Police Department of appellant pertains to record needs no comments.
2. Incorrect. Stance taken by the appellant is not plausible because every Police Officer is under obligation to perform his duty upto the entire satisfaction of his superiors. Moreover, the perusal of service record of the appellant revealed that due to his lethargic attitude his entire service record is tainted with bad entries. Besides, non receipt of complaint against the appellant does not mean a clean chit for the future wrong deeds (**Copy of list of bad entries is attached as Annexure "A"**).
3. Incorrect. Stance taken by the appellant is not plausible, because being a member of discipline force he was supposed to inform his seniors about his mother illness or submit application for leave but he failed to do so and remained absent from duty without any leave/permission of the competent authority.
4. Incorrect. Stance taken by the appellant is totally devoid of merit because he has been properly proceeded against departmentally by

issuing him Charge Sheet with Statement of Allegations and Enquiry was entrusted to the then DSP City Garden for probing into the matter. The enquiry officer during the course of enquiry provided full-fledged opportunity to the appellant to produce evidence/grounds in his defense. However, after fulfillment of all legal and codal formalities, the Enquiry Officer submitted his finding report to the competent authority. In light of enquiry proceedings, he was issued Final Show Cause Notice to which his reply was received and found unsatisfactory. Besides, the appellant was summoned & heard in Orderly Room on 17.09.2007, but this time too he failed to justify his innocence, therefore he was awarded minor punishment of stoppage of his two increments with cumulative effect, which does commensurate with the gravity of misconduct of the appellant **(Copies of charge sheet with statement of allegations and Final Show Cause Notice are attached as annexure "B & C")**.

5. Correct to the extent that the appellant preferred departmental appeal which was decided on merit because the appellant was provided full-fledged opportunity of defending himself before the appellate authority but he bitterly failed to produce any cogent reasons in his defense. **Therefore, the same was rejected and filed, being badly time barred for 14 years.**
6. That appeal of the appellant is liable to be dismissed on the following grounds amongst the others.

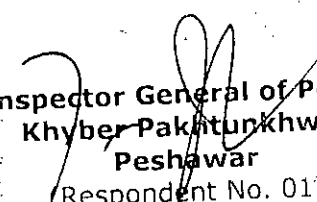
#### **REPLY ON GROUNDS:**

- A. Incorrect. Order passed by the competent authority as well as appellate authority are legal, lawful and according to norms of natural justice hence, liable to be maintained.
- B. Incorrect the appellant **has been** treated in accordance with law, rules, policy and the **respondents** did not violate any Article of the Constitution of Islamic Republic of Pakistan.
- C. Incorrect. The respondent **department** has no grudges against the appellant, therefore, **stance of the appellant** is devoid of legal footing.
- D. Incorrect. Stance taken by the appellant is not plausible, because being a member of disciplined force he was supposed to inform his seniors about his mother's illness or submit application for leave but he failed to do so and remained absent from duty without any leave/permission of the competent authority. The order is liable to be maintainable into the eye of law.
- E. Incorrect. The impugned Order did not violate any principle of natural justice, hence, liable to be maintained.

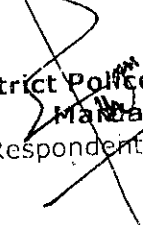
- F. Incorrect. Stance taken by the appellant is not plausible, because being a member of disciplined force he was supposed to inform his seniors about his mother's illness or submit application for leave but he failed to do so and remained absent from duty without any leave/permission of the competent authority. However, after conducting proper enquiry and fulfillment of all legal and codal formalities, the said order was passed.
- G. Incorrect. Para already explained needs no comments.
- H. That the respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

**PRAYER:-**

It is therefore, most humbly prayed that on acceptance of above submissions, appeal of the appellant may very kindly be dismissed **being a badly time-barred and devoid of merits.**

  
Inspector General of Police  
Khyber Pakhtunkhwa,  
Peshawar  
(Respondent No. 01)

  
Regional Police Officer,  
Mardan  
(Respondent No. 02)

  
District Police Officer,  
Mardan.  
(Respondent No. 03)

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

**Service Appeal No. 938/2022**

Amir Muhammad Constable No. 1513 Police Lines, Mardan

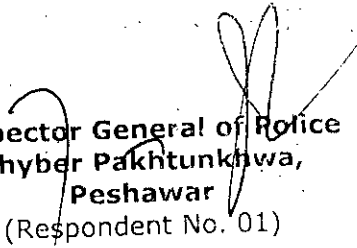
Appellant

**VERSUS**

The Inspector General of Police , Khyber Pakhtunkhwa, Peshawar and  
others Respondents

**COUNTER AFFIDAVIT**

We, the respondents do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Tribunal.

  
**Inspector General of Police  
Khyber Pakhtunkhwa,  
Peshawar**  
(Respondent No. 01)

  
**Regional Police Officer,  
Mardan**  
(Respondent No. 02)

  
**District Police Officer,  
Mardan**  
(Respondent No. 03)

15-CENSURES AND PUNISHMENTS.

...

...

...

...

Charges: for his 3 days absence

Punishment: Leave w/o pay.

CS No- 182

11/10/06

(De/marda)

CRIME

He was heard in person on 5.10.2006 but he failed to satisfy the undersigned. Keeping in view his above misconduct he is hereby fined Rs:-15 and he will also be present a duty Certificate for 3 months.

CS No. 1837

11/10/2006

u

(De/marda)

Serial No.

REGULATIONS AND PUNISHMENTS

He is hereby advised  
 a minor punishment of Censure is  
 warned to be careful in future  
 in exercise of the power vested in me  
 under RPK removal from service  
 (special power), Ordinance 2000.

OB No: 1119  
 8-3-011

*[Signature]*  
*[Signature]*

(6) days leave w/o pay and should be  
 in future by D.P. order letter  
 dt 6-10-2012.

*[Signature]*



All periods not counting "approved service" to be covered in red ink

DATE	EXTENT	No. of Days Off	Description of leave (e.g., sick leave, vacation, etc.)	Signature of Superintendent of Police
7-1-66 to 10-1-66	2 days	73	Leave with pay	
		2/1/66		
10-1-66 to 1-1-67	4 days	416		
	1 day	130	Leave with pay	
	14	673	Leave with pay	
	14	673	Leave	
	16	1172		
	3	19		
	22	2710	E/Leave	
	14	415		
	23	415	L/Leave	

174  
(172) 434  
12-11-10 Leave DP/11 -E

(175) 4340 M/Leave DP/11R -E

Leave into 10 DP/11R -E

10 10 - do - DP/11R

276 10 - do - DP/11R

(178) 1119 - do - 1300/11R

(26) day E/leave. OB No. 185

at 5-11-13  
6 days L/W pay rate  
OB No. 185 - 6/11/13 Date 6/11/13  
d

at 200102000000 (172) days  
L/W pay rate  
OB No. 212-74111 dated 6/17/13  
By [Signature]

(5) (7)

**DISCIPLINARY ACTION**

I Akhtar Hayat Khan, District Police Officer, Mardan as competent authority am of the opinion that Constable Amir Muhammad No. 1513 while posted to Police Lines has rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of Section 5 of the NW Removal From Service (Special Power) Ordinance 2000.

**STATEMENT OF ALLEGATIONS**

It is alleged that Constable Amir Muhammad No. 1513 while posted to Police Lines remained absent for the following periods without any information or prior permission from the competent authority.

1. 10.04.2007 to 12.04.2007
2. 16.04.2007 to 19.04.2007
3. 14.05.2007 to 17.05.2007
4. 23.05.2007 to 31.05.2007

This amounts to grave misconduct on his part and warranting to departmental action against him.

For the purpose of scrutinizing the conduct of the said officer with reference to the above allegations, an enquiry committee consisting on Mr. Muhammad Quraish Khan DSP/City Mardan is constituted under section 5 of the Ordinance to carry out the enquiry for the purpose to bring real facts to the light.

The enquiry officer shall in accordance with the provision of the Ordinance provide reasonable opportunity of the hearing to the officer, record its findings within thirty days of the receipt of this order, recommendation as to punishment or other appropriate action against the official.

Constable Amir Muhammad No. 1513 is directed to appear before the enquiry officer on the date, time and place fixed by the enquiry officer/committee.

(Akhtar Hayat Khan) PSP  
District Police Officer,  
Mardan

No. 33 /PA.

Dated 16/6 /2007

Copies for information and necessary action to the

1. ✓ Mr. Muhammad Quraish Khan DSP/City, Mardan.
2. Constable Amir Muhammad No. 1513 Police Lines.

Stereo  
Mansoor  
18/2/08

(6)

(8)

**CHARGE SHEET**

I, **AKHTAR HAYAT KHAN**, District Police Officer, Mardan as competent authority hereby charge you Constable **Amir Muhammad No. 1513** as follows.

That you while posted at **Police Lines Mardan** has committed the following irregularities:-

**STATEMENT OF ALLEGATIONS**

It is alleged that you Constable Amir Muhammad No. 1513 while posted to Police Lines remained absent for the following periods without any information or prior permission from the competent authority:

1. 10.04.2007 to 12.04.2007
2. 16.04.2007 to 19.04.2007
3. 14.05.2007 to 17.05.2007
4. 23.05.2007 to 31.05.2007

This amounts to grave misconduct on your part and warranting to departmental action against you.

1. By reason of the above, you appear to be guilty of misconduct under section 3 of the NWFP Removal From service (Special power) ordinance 2000 and has rendered your self liable to all or any of the penalties as specified in section 3 of the Ordinance ibid.
2. You are therefore, directed to submit your written defence within seven days of the receipt of this charge sheet to the enquiry officer/committee as the case may be.
3. Your written defence if any should reach to the enquiry officer/committee within the specified period, failing which it shall be presumed that you have no defence to put-in and in that case an ex-parte action shall follow against you.
4. Intimate whether you desired to be heard in persons.
5. A statement of allegations is enclosed.

**(Akhtar Hayat Khan) PSJ**  
**District Police Officer,**  
**Mardan**

From: The Dy. Superintendent of Police,  
City, Mardan.

To: The District Police Officer,  
Mardan.

No. 159 / City, Date Mardan the, 03-06-07

Subject:- DEPARTMENTAL ENQUIRY AGAINST CONSTABLE AMIR MUHAMMAD NO. 1513 OF POLICE LINES, MARDAN.

Memorandum.

Kindly refer to your office No. 159, dated 16.06.2007

Enclosed please find herewith the departmental enquiry file in respect of constable Amir Muhammad No. 1513 alongwith finding report of the enquiry officer for your kind perusal please.

Encl: ( 56 )

*[Signature]*  
Dy. Superintendent of Police,  
City, Mardan.

*ESM FSN*  
*A*  
*W/DPO.*

Sir,  
Findings of departmental enquiry against constable Amir Muhammad is submitted for perusal and order please.

04 years he is serving as a constable in Police Department. Presently he is performing his duties in Police Lines, Mardan. He remained absent for 03 days in the month of April and May. The reason is that his mother is ill and he is taking care of his mother. His mother is of extremely old age. There is no one except him to take care of his mother. His mother was admitted to the hospital for many times and lastly she had undergone surgery. So his absenteeism is not intentional but due to extreme emergency.

After going through the statement of the constable he remained absent without prior approval of his senior and thus he has violated the rules and regulations. However, he has submitted various medical prescriptions in support of his absence plea. The Enquiry Officer suggest from compassionate view. In addition, the constable should furnish a certificate of attendance for 04 months and his absenteeism period be considered as long leave.

Subscribed

(4)

(5)

FINDING.

This is a departmental enquiry initiated against constable Amir Muhammed No. 1513, while posted to Police Lines Mardan. As per allegation that he remained absent from his lawful duty without taking any leave or prior permission from his seniors for the period given below :-

1. From 10.04.2007 to 12.04.2007
2. " 16.04.2007 to 19.04.2007
3. " 14.05.2007 to 17.05.2007
4. " 23.05.2007 to 31.05.2007

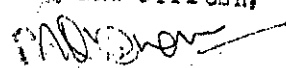
For the aforesaid allegation the District Police Officer, Mardan being competent authority charge sheeted him and a statement of allegation was issued as envisaged under N.W.F.P, Removal from service (Special Power) Ord: 2000. The charge sheet alongwith statement of allegation was served upon him and the undersigned was appointed as enquiry officer in order to conduct proper departmental enquiry.

The undersigned initiated the proceedings. The accused constable Amir Mohammad No. 1513 submitted his statement in writing. He was summoned and heard. According to the statement of constable Amir Mohammad No. 1513 that for the last 04 years he is serving as a constable in Police Department. Presently he is performing his duties in Police Lines, Mardan. He remained absent for 03 days in the month of April and May. The reason is that his mother is ill and he is taking care of his mother. His mother is of extremely old age. There is no one except him to take care of his mother. His mother was admitted to the hospital for many times and lastly she had under gone surgery. So his absentee is not intentional but due to extreme emergency.

After going through the statement of the constable he remained absent without prior approval of his senior and thus he has violated the rules and regulations. However, he has submitted various medical prescriptions in support of his absence plea. The Enquiry Officer suggest compassionate view. In addition, the constable should furnish a certificate of attendance for 04 months and his absentee period be considered as long leave.

Submitted please.

ENQUIRY OFFICER,

  
( MUZAMMIL QURAIISH KHAN )  
Dy: Superintendent of Police,  
City, Mardan.

Amir (9) (3)

FINAL SHOW CAUSE

I, Akhtar Hayat, District Police Officer, Mardan as competent authority under the NWFP Removal From Service (Special Power) Ordinance 2000 do hereby serve you Constable Amir Muhammad No. 1513 while posted at Police Lines, as follows:

- i) That consequent upon the completion of enquiry conducted against you by the enquiry Committee/Officer for which you were given opportunity of hearing vide office communication No. 33/PA dated 16.06.2007
  - ii) On going through the findings and recommendations of the enquiry Officer/Committee, the material on records and other connected papers including your defence before the said committee.
- I am satisfied that you have committed the following acts/omission specified in Section 3 of the said Ordinance.

It is alleged that you Constable Amir Muhammad No. 1513 while posted at Police Lines Mardan remained absent for the following periods without any information or prior permission from the competent authority.

1. 10.04.2007 to 12.04.2007.
2. 16.04.2007 to 19.04.2007.
3. 14.05.2007 to 17.05.2007.
4. 23.05.2007 to 31.05.2007.

This amounts to grave misconduct on your part and warranting to departmental action against you.

1. As a result thereof I, AKHTAR HAYAT, District Police Officer, Mardan as competent authority has tentatively decided to impose upon you, the penalty of Major/Minor Punishment under Section 3 of the said Ordinance.
2. You are therefore, required to show Cause as to why the aforesaid penalty should not be imposed upon you, also intimate whether you desire to be heard in person.
3. If no reply to this notice is received within fifteen days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case an ex-parte decision shall be taken against you.
4. The copy of the findings of the Enquiry Officer/Committee is enclosed.

No. 25 /PA.

Dated 21/8 /2007

Akhtar Hayat Khan (PSP)  
District Police Officer,  
Mardan.

*(Signature)*

داعی

کوالا کابل شوکا زوٹس مشمولہ حضور  
 خدمت میں کہ قبل ازین خارج ہوا تھا  
 فوجی گھرانے میں کس وقت ہوا  
 والدہ جو کہ نصف العمر اور ہمارے بی بی  
 فعال کی بنیاد پر غرضاً ہری ہو چکی  
 جو کہ دالینہ ایس بلکہ لوجہ بشیر  
 تاج لعتن دلاتا ہوں کہ سزا  
 کوئی ایس کروگے

اس دفعہ درگزر فرمائیں غلطی ہو گیا

العارضات

کلیات احمد محمد 1513

Absara's Pen'ae  
16 days

O.R.

*[Handwritten signature]*

D.P.O. M.P.N

27/9

Forfeiture  
 information  
 occurred  
*[Handwritten notes and signatures]*



1518  
N.A.  
(14)

**ORDER**

This order will dispose-off a departmental enquiry, under NWFP Removal From Service (Special Power) Ordinance 2000, initiated against Constable Amir Muhammad No. 1513, under the allegations that he while posted at Police Lines Mardan, proceeded against departmentally under the above quoted rules through Mr. Muhammad Quraish Khan DSP City Mardan on account of his absence for the following periods:-

1. 10.04.2007 to 12.04.2007.
  2. 16.04.2007 to 19.04.2007.
  3. 14.05.2007 to 17.05.2007.
  4. 23.05.2007 to 31.05.2007.
- [ 16 days ]

The enquiry officer completed the enquiry and concluded that the defaulter Constable has submitted various prescriptions of his mother's illness in support of his absence's plea, so the E.O suggested a compassionate view in this regard.

The defaulter Constable was served with final show cause notice issued vide this office Endst: No. 25/PA dated 21.08.2007 to which his reply was received and considered but found not satisfactory, therefore, he was heard in person on 17.09.2007 in O.R. but he did not highlight any plausible/cogent reasons in his defence, therefore, his two increments are hereby forfeited with accumulative effect, while keeping in view his family back ground, the absence's period counted as earned leave and his pay released.

ORDER ANNOUNCED

O.B. No. 1518

Dated 20 / 9 / 2007

(Akhtar Hayat Khan (PSP))  
District Police Officer,  
Mardan.

No. 5630-33 / PA      Dated 22 / 9 / 2007

Copy for information and necessary action to:-

1. The DSP Hqrs: Mardan
2. The Pay Officer (DPO) Mardan.
3. The Estt: Clerk (DPO) Mardan.
4. The OHC (DPO) Mardan with (63) Enclosures.

*(Handwritten signature)*

ORDER.

This order will dispose-off the departmental appeal preferred by Constable Amir Muhammad No. 1513 of Mardan District Police, against the order of District Police Officer, Mardan, whereby he was awarded minor punishment of forfeiture of two increments with cumulative vide OB: No. 1518 dated 22.09.2007. The appellant was proceeded against departmentally on the allegations that he while posted at Police Lines, Mardan willfully and deliberately absented himself from his lawful duty for the following periods:-

- 1. 10.04.2007 to 12.04.2007.
- 2. 16.04.2007 to 19.04.2007.
- 3. 14.05.2007 to 17.05.2007.
- 4. 23.05.2007 to 31.05.2007.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and then Sub Divisional Police Officer, (SDPO) City, Mardan was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities, submitted his findings wherein he highlighted that the delinquent Officer has remained absent without proper approval of his Seniors and thus has violated the rules. However, suggested to take compassionate view in light of medical prescriptions produced by the delinquent Officer.

He was served with Final Show Cause Notice to which he submitted his reply, perused by the then District Police Officer, Mardan and found unsatisfactory.

The delinquent Officer was heard in Orderly Room by the then District Police Officer, Mardan on 17.09.2007, where he failed to produce any cogent reason in his defense. Therefore, he was awarded minor punishment of forfeiture of two increments with cumulative effect absence vide OB: No. 1518 dated 22.09.2007.

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 30.05.2022.

From the perusal of the enquiry file and service record of the appellant, it has been found that the allegations of misconduct against the appellant have been proved beyond any shadow of doubt. As the perusal of his service record revealed that he remained absent on many occasions. It is worthwhile that the appellant approached

13

this forum with the delay of 14 years and 06 months without advancing any cogent reason, hence, badly time barred. Therefore, order passed by the competent authority does not warrant any interference and I find it a case of habitual absentee

Based on the above, I, Yaseen Farooq, PSP Regional Police Officer Mardan, being the appellate authority, finds no substance in the appeal, therefore, the same is rejected and filed, being badly time barred for 14 years and 06 months.

Order Announced.

*[Signature]*  
Regional Police Officer,  
Mardan.

No. 3988 /ES, Dated Mardan the 07/06 /2022.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo No. 86/LB dated 12.04.2022. His Service Record is returned herewith.

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

607/LB  
07-6-22

Keep on Record

*[Signature]*  
DSPIC

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

**Service Appeal No. 938/2022**

Amir Muhammad Constable No. 1513 Police Lines, Mardan

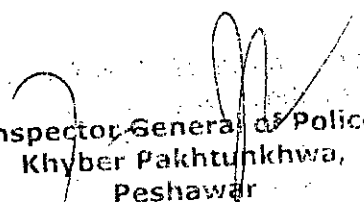
Appellant

**VERSUS**

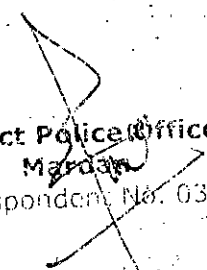
The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and  
others Respondents

**AUTHORITY LETTER.**

Mr. Atta-ur-Rehman Inspector Legal, (Police) Mardan is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above captioned service appeal on behalf of the respondents. He is also authorized to submit all required documents and replies etc. as representative of the respondents through the Addl: Advocate General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

  
Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar  
(Respondent No. 01)

  
Regional Police Officer,  
Mardan  
(Respondent No. 02)

  
District Police Officer,  
Mardan  
(Respondent No. 03)