

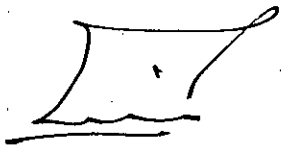
02.02.2023

Clerk of learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Attaur Rehman, Inspector (Legal) for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for arguments on 09.03.2023 before the D.B.

SCANNED
KPST
Peshawar


(FAREEHA PAUL)
Member(E)



(SALAH-UD-DIN)
Member (J)


09th March, 2023

Appellant in person present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Atta-ur-Rehman, Inspector (Legal) for the respondents present.

Appellant requested for adjournment on the ground that his counsel is busy in the Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 15.05.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED
KPST
Peshawar



(Salah-ud-Din)
Member (J)


(Kalim Arshad Khan)
Chairman

26.08.2022

Clerk of learned counsel for the appellant present. Mr. Atta ur Rehman Inspector (Legal) alongwith Mr. Naseer Ud Din Shah, Assistant Advocate General for respondents present.

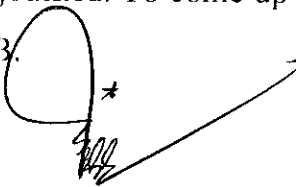
Learned Member (Judicial) Mrs. Rozina Rehman is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments on 06.10.2022 before the D.B.



(Salah-Ud-Din)
Member(J)

06.10.2022

Appellant present in person. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Atta Ur Rehman, Inspector respondents present.

Appellant made a request for adjournment on the ground that senior counsel for the appellant is not available today. Adjourned. To come up for arguments on 07.12.2022 before D.B.



(Mian Muhammad)
Member (F)



(Kalim Arshad Khan)
Chairman

07th Dec. 2022

Junior to counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. Advocate General for the respondents present.

Former seeks adjournment on the ground that learned senior counsel for the appellant is engaged in Honourable Peshawar High Court. Last opportunity is granted. To come up for arguments on 02.02.2023 before the D.B.


(Farceha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

SCANNED
KPST
Peshawar

11.04.2022

Appellant alongwith clerk to his counsel present. Syed Naseer Ud Din Shah, Asst: AG respondents present.

Clerk of learned counsel for the appellant submitted an application for adjournment on the ground that learned counsel for the appellant is unable to appear before the court due to her illness. Adjourned. To come up for arguments before the D.B on 08.06.2022.

(Mian Muhammad)
Member(E)

(Salah Ud Din)
Member(J)

06.22 Proper DB is an Tax, therefore the case is adjourned to 26-8-22 for same.

Handwritten notes at the bottom of the page, including the date 26-8-22 and the name Rashed.

11.03.2021

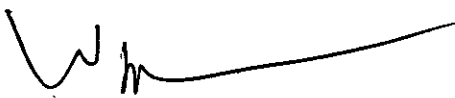
Due to non availability of Bench, the case is adjourned to 15.06.2021 for arguments before D.B.



READER

15.06.2021

Clerk of counsel for the appellant present. Mr. Khayal Roz, Inspector (Legal) alongwith Mr. Javed Ullah, Assistant Advocate General for the respondents present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned To come up for arguments before the D.B. on 16.08.2021


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

16.08.2021

Since 16.08.2021 has been declared as Public holiday on account of Moharram, therefore, case is adjourned to 27.12.2021 for the same as before.


Reader

27-12-2021

Due to winter vacation the Honorable ~~Chairman~~ the case is adjourned to come up for the same as before on 11-04-2022

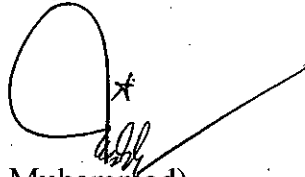

Reader.

15.10.2020

Counsel for the appellant is present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Zaheer Muhammad, PASI for respondents is present.

Request for adjournment was made on behalf of the learned counsel for the appellant as he has not prepared the brief. Request is acceded to and the appeal is adjourned.

Adjourned to 22.12.2020 for arguments before D.B.



(Mian Muhammad)
Member (E)



(Rozina Rehman)
Member(J)

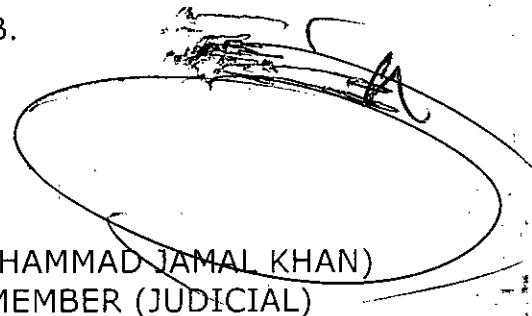
22.12.2020

Miss. Rooeda Khan, Advocate, for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Khayal Roz, Inspector (Legal), for the respondents are also present.

Learned counsel representing appellant while making reference to impugned order dated 14.10.2013 submitted that retrospective effect was given to the referred to order, since the issue with retrospectivity is pending before the Larger Bench of this Tribunal constituted for the purpose, therefore, unless and until judgment is made by the worthy Larger Bench of this Tribunal, this appeal is kept pending. File to come up for further proceedings on 11.03.2021 before D.B.



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

14.01.2020

Appellant absent. Learned counsel for the appellant absent. Mr. Kabirullah Khattak learned Additional Advocate General for the respondent present. Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for further proceedings/arguments on 10.03.2020 before D.B. Appellant be put to notice for the date fixed,


Member


Member

10.03.2020

Appellant in person present. Mr. Riaz Painsdakhel learned Assistant Advocate General alongwith Atta ur Rehman Inspector for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourn. To come up for arguments 23.04.2020 before D.B.


Member


Member

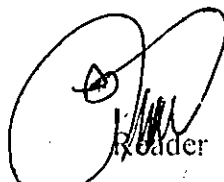
23.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 04.08.2020 before D.B.


Reader

04.08.2020

Due to summer vacation case to come up for the same on 15.10.2020 before D.B.


Reader

25.06.2019

Counsel for the appellant and Addl: AG alongwith Mr. Atta Ur Rehman, SI for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 28.08.2019 before D.B.


Member


Member

28.08.2019

Appellant in person present. Asst: AG alongwith Mr. Atta Ur Rehman, SI for respondents present. Appellant submitted an application for adjournment. Adjourn. Case to come up for arguments on 12.11.2019 before D.B.


Member


Member

12.11.2019

Learned counsel for the appellant present. Mr. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Mr. Atta Ur Rehman SI for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 14.01.2020 before D.B.


Member


Member

23.01.2019

Appellant alongwith Miss. Roeceda, Advocate present and submitted fresh Vakalat Nama. The same is placed on record. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Atta-ur-Rehman, S.I (Legal) for the respondents present. Newly engaged learned counsel for the appellant requested for adjournment. Adjourned to 29.03.2019 for arguments before

D.B.



(HUSSAIN SHAH)
MEMBER



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

29.03.2019

Appellant in person and Mr. Ziaullah, DDA for the respondents present.

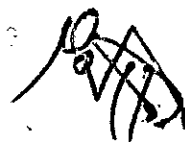
The appellant requests for adjournment due to non-availability of his learned senior counsel. On previous seven occasions hearing in the instant matter was adjourned on the request of appellant or his learned counsel. Today it is adjourned as a last chance but on payment of costs of Rs. 1000/- The case would be decided on the next date irrespective of the availability of learned counsel.

Adjourned to 25.06.2019 before the D.B.




Member

Chairman



27.08.2018


Clerk of the counsel for appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Atta-ur-Rehman, S.I (legal) for the respondents present. Clerk of the counsel for appellant submitted rejoinder requested for adjournment. Adjourned. To come up for arguments on 09.10.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

09.10.2018


Counsel for the appellant present. Mr. Ziaullah, DDA for respondents present. Learned counsel for the appellant seeks adjournment. Granted. Case to come up for arguments on 22.11.2018 before D.B.



(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

22.11.2018

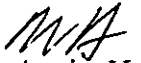
Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney alongwith Mr. Atta-ur-Rehman, S.I (Legal) for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 23.01.2018 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

15.03.2018


Clerk to counsel for the appellant present. Mr. Riaz Paindakheil learned Assistant Advocate General on behalf of the respondents present. Clerk to counsel for the appellant seeks adjournment as counsel is not available. Adjourn. To come up for arguments on 15.05.2018 before D.B.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

15.05.2018

Appellant absent. Counsel for the appellant is also absent. However, clerk of the counsel for appellant present and seeks adjournment. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Atta-ur-Rehman, S.I (legal) for the respondents also present. Adjourned. To come up for arguments on 26.07.2018 before D.B.


(Muhammad Amin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member

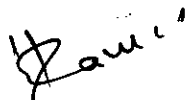
26.07.2018

Due to sickness of learned Member (Executive), further proceedings could not be conducted. Adjourned. To come up for arguments on 27.08.2018 before D.B.


Member

03. 20.07.2017

Clerk of the counsel for the appellant and Mr. Muhammad Adeel Butt, Additional AG alongwith Mr. Atta-ur-Rehman, SI for the respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 28.08.2017 before S.B.


(Muhammad Hamid Mughal)
Member

28.08.2017

None present on behalf of the appellant. Mr. Atta-ur-Rehman, S.I (legal) alongwith Mr. Muhammad Adeel Butt, Additional AG for the respondents also present. Written reply on behalf of respondents submitted. Adjourned. To come up for rejoinder and arguments on 06.11.2017 before D.B. Notice be also issued to appellant and his counsel for attendance for the date already fixed.


(Muhammad Amin Khan Kundi)
Member

06.11.2017


Clerk of the counsel for appellant present. Mr. Muhammad Jan, Deputy District Attorney also present. Clerk of the counsel for appellant requested for adjournment on the ground that learned counsel for the appellant is not in attendance today. Adjourned. To come up for arguments on 15.01.2018 before D.B.

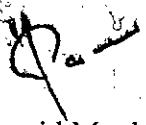

(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

15.01.2018

Clerk of the counsel for appellant present. Mr. Muhammad Jan, DDA alongwith Mr. Atta-Ur-Rehman, SI (Legal) for the respondents present. Lawyer community on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourned. To come up for arguments on 13.03.2018 before D.B.


(Gul Zeb Khan)
Member


(M. Hamid Mughal)
Member

06.06.2017

Counsel for the appellant present. Preliminary arguments heard and case file perused. Learned counsel for the appellant argued that the appellant joined the Police Department as Constable in 2008. On account of willful absence from duty major penalty of dismissal from service was imposed on him vide impugned order dated 14.10.2013. He filed departmental appeal on 14.05.2014 which was rejected on 08.08.2014. There-after review petition was filed on 21.10.2015 and was rejected on 25.04.2016 hence the instant service appeal on 24.05.2016. Learned counsel for the appellant when confronted on the issue of limitation and the appeal being barred by time argued that ex-parte proceedings were initiated against the appellant and impugned order was not communicated to him. Moreover, his departmental appeal was rejected on merit while review petition was rejected on the score of limitation. He further contended that his review petition was rejected on 25.04.2016 and service appeal was filed on 25.05.2016 so the instant appeal was well in time, however, he has submitted an application for condonation of delay giving adequate justification therein.

Appellant Deposited
Security & Process Fee

Points urged need consideration. Admit subject to limitation. Appellant is directed to deposit security and process fee within 10 days, there-after notices be issued to the respondents for written reply/comments for 20.07.2017 before S.B.

(AHMAD HASSAN)
Member

10.04.2017

Clerk of counsel for the appellant present. Seeks adjournment as counsel for the appellant is not in attendance. Adjourned for preliminary hearing to 18.04.2017 before S.B.


Chairman


18.04.2017

Counsel for the appellant present. Counsel for the appellant requested for adjournment. Request accepted. To come up for preliminary hearing on 02.05.2017 before S.B.


(Ahmad Hassan)
Member


02.05.2017

Clerk to counsel for the appellant present and requested for adjournment. Request accepted. To come up for preliminary hearing on 06.06.2017 before S.B.


(Ahmad Hassan)
Member


21.02.2017

Counsel for the appellant present. Counsel for the appellant requested for adjournment to submit application for condonation of delay. Request accepted. To come up for preliminary hearing on 16.03.2017 before S.B.


(AHMAD HASSAN)
MEMBER


16.03.2017

Junior to counsel for the appellant present. Junior to counsel for the appellant submitted application for condonation of delay and requested for adjournment. Request accepted. To come up for preliminary hearing on 10.04.2017 before S.B.


(AHMAD HASSAN)
MEMBER

01.12.2016

Agent of counsel for the appellant present. Seeks adjournment as counsel for the appellant is not in attendance. Adjourned for preliminary hearing to 14.12.2016 before S.B.


Chairman

14.12.2016

Clerk of counsel for the appellant present and requested for adjournment as counsel for the appellant is not in attendance. Adjourned for preliminary hearing to 02.01.2017 before S.B.



Chairman

02.01.2017

None present for the appellant. Notice be issued to the appellant and his counsel. To come up for preliminary hearing on 31.01.2017 before S.B.

31.01.2017

Appellant in person present. Requested for adjournment as his counsel is indisposed. Last opportunity granted. To come up for preliminary hearing on 21.02.2017 before S.B.


Chairman

19.09.2016

Counsel for the appellant present. Counsel for the appellant requested for adjournment. Request accepted. To come up for preliminary hearing on 11-10-16 before S.B.


Member

04.10.2016

Counsel for the appellant present and requested for adjournment. Request accepted. Adjourned for preliminary hearing to 20.10.2016 before S.B.


(PIR BAKHSH SHAH)
MEMBER

20.10.2016

Counsel for the appellant present and requested for adjournment. Request accepted. To come up for preliminary hearing on 14.11.2016 before S.B.


(ABDUL LATIF)
MEMBER

14.11.2016

Appellant present and requested for adjournment as his counsel is stated busy before the Peshawar High Court, Peshawar. To come up for preliminary hearing before S.B on 01.12.2016.


Chairman

18.07.2016

Junior to counsel for the appellant present and requested for adjournment as his senior counsel is not available today before the Court. Adjourned for preliminary hearing to 28.07.2016 before S.B.


MEMBER

28.07.2016

Clerk of counsel for the appellant present. Seeks adjournment. Last opportunity granted. To come up for preliminary hearing on 10.08.2016 before S.B.


Chairman

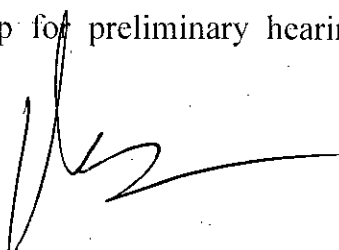
10.08.2016

Clerk to counsel for the appellant present. Due to strike of the Bar, preliminary arguments could not be heard. To come up for preliminary hearing on 01.09.2016.


Member

01.09.2016




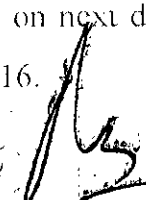
Clerk to counsel for the appellant present. Requested for adjournment. To come up for preliminary hearing on 19.09.2016 before S.B.


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 565/2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	26/05/2016	<p>The appeal of Mr. Fakher-e-Imam resubmitted today by Mr. Asad Zeb Khan Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	27-5-16	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>31-5-16</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3	31.05.2016	<p>None present for the appellant. Appeal be relisted for preliminary hearing for 20.06.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>
4	06.07.2016.	<p>Counsel for appellant present. Learned counsel for the appellant seeks time to assist the court on next date. To come up for preliminary hearing on 18.7.2016.</p> <p style="text-align: right;"> Member</p>

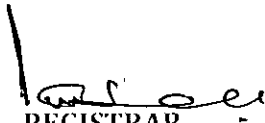
SCANNED
KPST
Peshawar

The appeal of Mr. Fakher-e-Imam Ex-Constable No.2053 received to-day i.e. on 24.05.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ✓ 1- Memorandum of appeal may be got signed by the appellant.
- 2- Address of the appellant is incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- ✓ 3- Annexures of the appeal may be attested.

No. 881 /S.T,

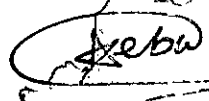
Dt. 24/5 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Azad Zeb Khan Adv. Pesh.

R/sir,

Objection removed and resubmitted


Dt: 26/5/2016 Adv.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. 565 /2016

Fakher-e-Imam Ex-Constable No. 2053.....Appellant
Mohallah Balar Khed, Village & P.O. Gumbat,
Teh & Distt. Mardan.

V E R S U S


Inspector General of police Khyber Pakhtunkhwa,
Peshawar.....Respondents

INDEX

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4.	Impugned order of Respondent No. 2	"B"	7
5.	Copy of representation submitted before respondent No. 2	"C"	8
6.	Copy of petition submitted before Respondent No. 1	"D"	9-11
7.	Impugned order of respondent No. 1	"E"	12

Dated : 23/05/2016

Through


Asad Zeb Khan
Advocate, Peshawar
Cell : 03469800565

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. _____/2016

Fakher-e-Imam Ex-Constable No. 2053.....Appellant
Mohallah Baker Khel, village & P.O. Grumbat,
Teh & Distt. Mardan

V E R S U S

1. Inspector General of police Khyber Pakhtunkhwa, Peshawar
2. Regional Police Officer (DIG) ,Mardan Region, Mardan
3. District Police Officer, Mardan

.....Respondents

APPEAL UNDER SECTION 4 OF THE KPK
SERVICE TRIBUNAL ACT 1974 AGAINST THE
IMPUGNED ORDER OF RESPONDENT NO. 3
DATED 14/10/2013 VIDE WHICH APPELLANT
WAS DISMISSED FROM SERVICE AND ORDER
OF RESPONDENT NO. 2 & 3 DATED 08/08/2014
AND 25/04/2016 RESPECTIVELY VIDE WHICH
THE DEPARTMENT REPRESENTATION AND
REVISION PETITION UNDER RULE 11-A
KHYBER PAKHTUNKHWA POLICE RULE 1975
WERE REJECTED

PRAYER:

On acceptance of the service Appeal, the impugned orders passed by respondents may be set aside and appellant may be reinstated in service with all back and consequent benefits.

Facts:-

1. That the appellant was enlisted in police department as constable district Mardan in the year 2008 and jointed basic recruit course at police Training College Hangu. Appellant after availing sanctioned leave was on way back to the college for rejoining recruit course but was waylaid by the Pak Army personnel at Dara Adam Khel as the Army was carrying out operation against the militants.
2. That appellant was marked absent from training program. Respondent No. 3 without tracing the whereabouts of appellant took ex-parte action against appellant and issued dismissal from service order of appellant vide order dated 14/10/2013. **(Copy enclosed as Annexure "A")**.
3. That appellant filed departmental representation before respondent No. 2 but the same was also rejected vide order dated 14/10/2013 without providing chance of defense including personal hearing to appellant. **(Copy of the representation and order are enclosed as Annexure "B" & "C" respectively)**.
4. That in view of the amendments in police rule 1975, appellant filed petition before respondent No. 1 which was also dismissed vide order dated 25/04/2016. **(Copy of the petition and order are enclosed as Annexure D & E respectively)**

5. That appellant submits the service appeal against the impugned orders inter alia on the following grounds.

GROUNDS:

- A. That the impugned orders dated 08.08.2014 and 25.04.2016, whereby appellant was dismissed from service is based on malafide intentions and against the law and facts on record, therefore, not maintainable in the eyes of law.
- B. That no departmental inquiry, whatsoever was conducted against the appellant to prove the allegation of willful absence from duty, hence the impugned orders are not sustainable in the eyes of law and liable to be set at naught.
- C. That neither the show cause notice nor statement of allegation was given to the appellant to explain his position regarding alleged absence from duty.
- D. That major penalty i.e. dismissal from service has been imposed upon the appellant and that too without affording him an opportunity of hearing, which renders the impugned order nullity in the eyes of law governing the subject matter.
- E. That the punishment so awarded is too severe and does not proportionate to the allegation levelled against the appellant and in such like cases where the allegation is proved, minor penalty could be awarded.

- F. That no notice was served upon the appellant and even the prescribed procedure i.e. publication in the newspaper was not followed, therefore, the impugned order is liable to be set aside.
- G. That the act of the respondents is illegal, without lawful authorities, hence liable to be declared as such.
- H. That the appellant has not been treated in accordance with law and the appellant has discriminately been treated illegally, malafidely, purposely and for ulterior purposes by the respondents, hence the order of respondents is liable to be set aside.
- I. That the instant service appeal of the appellant is well within time after dismissal of his departmental appeal.
- J. That any other ground may be agitated at the time of arguments, with the kind permission of this Honourable Tribunal.

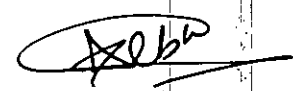
It is, therefore, prayed that on acceptance of the service appeal the impugned order may be set aside and appellant may be reinstated in service with consequently all back benefits.

Any other remedy deemed proper and just in the circumstances may be also granted.

Dated : 23/05/2016

Through

Fakhr-e-Imam
Appellant



Asad Zeb Khan
Advocate, Peshawar

(5)

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

Service Appeal No. _____/2016

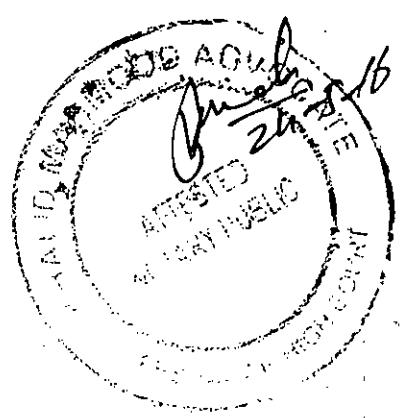
Fakher-e-Imam Ex-Constable No. 2053.....**Appellant**

VERSUS

Inspector General of police Khyber Pakhtunkhwa, Peshawar
.....**Respondents**

AFFIDAVIT

I, Fakher-e-Imam Ex-Constable No. 2053 appellant, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



Fakher Imam
DEPONENT
16101-8114106-3

Fakher-e-Imam
(Appellant)

ORDER.

Being found absented himself from his official duty with effect from 30.09.2009 without any leave/ prior permission from his superior officers. I have reached to the conclusion that his more retention in force will badly affect the other lower subordinates. Therefore ex-parte action against Constable Fakhar Alam No.2053 is taken. By awarding him major punishment of dismissal from Police Force with effect from his continues absence i.e 30.9.2009 with immediate effect. In exercise of the power vested in me under Police Rules 1975.

OB No. 2402

Dated 12/10/2013

[Signature]
District Police Officer,
Mardan.

[Handwritten Urdu text]

7

B

ORDER.

This order will dispose-off the appeal preferred by Ex-Constable Fakhr-e-Imam No. 2053 of Mardan District Police against the order of District Police Officer, Mardan, wherein he was dismissed from service vide District Police Officer Mardan OB: No. 2262 dated 14.10.2013.

Brief facts of the case are that being found absented himself from his official duty with effect from 30.09.2009 without any leave/prior permission from his superior, therefore his more retention in force will badly affect the other lower subordinates for his continues absence with effect from 30.09.2009 therefore he was dismissed from service under Police Rules 1975.

I have perused the record and also heard the appellant in Orderly Room held in this office on 06.08.2014. He failed to justify his absence period and could not advance any cogent reason in his defence. Therefore, I MUHAMMAD SAEED Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal, not interfere in the order passed by the competent authority, thus the appeal is filed.

ORDER ANNOUNCED.

(MUHAMMAD SAEED) PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan.
08/10/2014

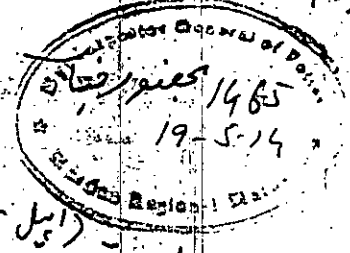
No. 1242 /ES, Dated Mardan

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 661/LB dated 14.07.2014.

His service Roll is returned herewith.

(*****)

D.T.G. مہذب مردان



No. 2804/ES.

دفعہ 19-5-14 (ایمیل) سرسوس

DPO/Moh

سائل فخریام بیٹہ 2053

For Comments pl.

خبا جمالی - گزارش حسب ذیل عد میں ہے -

Digi/Moh

- 1- یہ کہ سائل موضوع ڈسٹرکٹ مردان کا مقامی ہے -
- 2- یہ کہ سائل مورخہ 21 اکتوبر 2008 میں پولیس ڈیپارٹمنٹ میں بمبئی عدرا
- 3- یہ کہ دوران ٹریننگ سائل والدہ رفوت عدت کے لئے سائل والدی فوٹو کیس ہے -
- 4- یہ کہ سائل کی ٹریننگ سٹیشن ڈسٹرکٹ حنڈو تھا -
- 5- یہ کہ سائل والدی فوٹو کیس کے بعد واپس ٹریننگ میں حاضر عدرا
- 6- یہ کہ دوبارہ والدی چیلیم میں آیا لہذا بارہ واپس جائے لگا
- 7- یہ کہ گواہ سائل کے ساتھیوں سے حنڈو داخلہ عدرا بتایا گیا ہے آپ نکلے واپس کر دیا گیا ہے
- 8- یہ کہ سائل کی نہ تو کوئی آپ وہی مگر سرنہ ڈیپارٹمنٹ کی رولز ریگولیشن سے واقف تھا
- 9- یہ کہ سائل بدجنانہ ڈیوی میں حاضر نہیں عدرا لہذا ریڈر میں سائل تنخواہ ماہ جنوری یا فروری 2009
- 10- یہ کہ سائل کو ڈیپارٹمنٹ کی جانب کوئی شوقیہ ڈنٹس نہیں ملا ہے، اگر سروس سے بہ فراموش کیا گیا ہے - سائل ایسے فریب گوانے سے حنڈو انتظامیہ سرخانہ دن لگاوا کر لپٹا جس

Handwritten signature and date: 15.05.14

لغز استہ عامہ سائل کو دوبارہ سروس میں تعینات کیا جائے جسے مناسب حکم صادر فرمایا جائے

سائل فخریام ولد عبداللہ خان ملک 2053

BEFORE THE HONOURABLE ~~BY~~ INSPECTOR GENERAL OF POLICE
GOVERNMENT OF KHYBER PAKHTUNKHAWA, PESHAWAR.

DEPARTMENTAL APPEAL/MERCY PETITION

Respected Sir,

The applicant beg to submit as under:-

1. That the appellant was inducted in KP Police at District Mardan in the year 2008/09.
2. That the appellant joined the training School at Hango immediately for his training in Police.
3. That during training the appellant came on leave to visit his family in village at Distt:Mardan.
4. That on the way back to training School after completion of his leave, the appellant was unable to reach the Training School as on the way in Dara Adam Khel, the Pak Army in connection of operation against the Militens had blocked the passage and no one was allowed to have been passed through Dara Adam Khel, which resulted the appellant returned back to his home/village.
5. That the applicant was asked and informed by his co-trainees, friends not to come, as the way is not open for public and thus the appellant was held that he is no more allowed to join the Training School.
6. That since ~~then~~ the appellant has not committed or violated any disciplinary rules of law deliberately but was unable to join the Training because of the tense-- situation and blocked of passage/road for general public at that time, but the appellant received a letter No.OB No.2262 dated 14.10.2013 for the ~~dismissal~~ dismissal of his service from the Police Department by the hon'ble District Police

Officer, Mardan, which is against Rules and law and settled principles of natural justice as the appellant had not been provided any opportunity to be heard; thus was condemned un-heard.

7.

That the appellant feeling aggrieved from the order of the learned DPO, Mardan preferred an appeal before the honourable DIG, Mardan, but the same has also been dismissed by the hon'ble DIG, Mardan, feeling aggrieved of which the petitioner/appellant submitted the present appeal/mercy petition before your honour to review the order dated 03/08/2014 of the learned DIG, Mardan and order dated 14/10/2013 of the learned DPO, Mardan with pray in view of the above stated facts and to kindly reinstate the petitioner/appellant into service, as the appellant/petitioner belongs to a very poor family

8.

That the appellant/petitioner was selected on merit after having been through the entire recruitment procedure in the Police Department and the appellant/petitioner had joined the Training at Police Training School, but it was due to the prevailing tense situation/curfew which did not allow the appellant to have reached the Training School back within time, inspite of repeated efforts. Although the appellant/petitioner has the ability/quality to be the right person for the Police Department and had always been wish of the applicant/petitioner to become a Police man to serve the country.

(1)

-: 3 :-

It is, therefore, most humbly prayed and requested that by acceptance of this appeal/mercy petition, the orders of the learned DIG/DPO, Mardan may kindly be reviewed and set aside and restored/re-instate the appellant/petition on the service alongwith all the back benefits throughout.

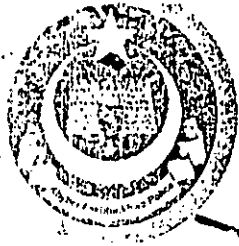
Dated: 21/10/2015.

Yours Obediently,

Fakhr-e-Imam

(FAKHR-E-IMAM)

Ex-Constable B.No. 2053
District Mardan.



(12) P.E. 20

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE,
PESHAWAR.

No. SI/ 3174 /16, dated Peshawar the 25/04/2016.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Constable Fakhr-e-Imam No. 2053. The appellant was awarded punishment of Dismissal from service by DPO, Mardan vide OB No. 2262, dated 14.10.2013, on charges that when he was deputed for training to PTC Hangu, he absented himself from duty for a period of 04 years and 15 days.

He preferred appeal before the RPO, Mardan which was examined and filed vide order No. 5242/ES, dated 08.08.2014.

Meeting of Appeal Board was held on 28.01.2016, wherein the appellant was heard in person. The enquiry papers were also examined. On examination of record, it revealed that his service is less than 01 year. He has also not qualified recruit course. His petition is also badly time barred. Therefore, the petition of the petitioner is barred by law and limitation and worth rejection.

This order is issued with approval by the Competent Authority.

NAJIB
(NAJEEB-UR-RAHMAN)
AIG / Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar. *S*

No. SI/ 3175-82 /16,

Copy of above is forwarded for information and necessary action to the:-

1. Regional Police Officer, Mardan Region, Mardan.
2. District Police Officer, Mardan.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PRO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV, CPO, Peshawar.
8. I/C Central Registry Cell, (CRC), CPO.

ENLISTEMENT ORDER

Name Fakhar Imam

sto Ubaiddullah Khan no Gumbal Bazar Khet

PS SI 367 District Mardan is hereby enlisted as constable time

scale on three years probation with effect from 21.10.2008

and allotted constabulary No. 2053

Height 5 - 9 ¹/₂

Chest 34x36

Education 10th

Date of Birth 20.01.1986

O.B.No. 2323

Dated: 23/10/2008


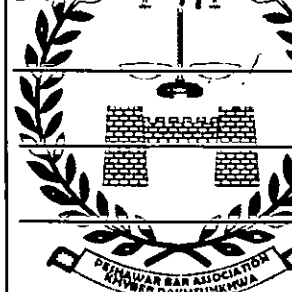
District Police Officer
Mardan

دستور العمل - لکھنؤ

ons, excepted

 ایزو کیٹ / دستخط بار کونسل ابار ایسوسی ایشن رابطہ نمبر: 0346-9800565	 51600 پشاور بار ایسوسی ایشن، خیبر پختونخوا
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بعدالت جناب: خیر بختونخوا سروسز ٹریڈ ہونل میٹلور

Appellant/ Petitioner منجانب: سائل  مختار امام بنام GIP وغیرہ	Service Appeal دعوی: علت نمبر: مورخہ: جرم: تھانہ: 
بابت تحریر آنکہ	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ
 آن مقام پشاور کے ایڈووکیٹ مختار امام نے اسٹڈنٹ زبیر خان اور وکیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب کو
 راضی نامہ کرنے و تقریر حالت و فیصلہ برطنت دینے جواب دعوی اقبال دعوی 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 بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کاروائی کے واسطے آڈیو ویل 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 سامنے چرخواست منظور و قبول ہوگا دوران مقدمہ
 میں جو خرچہ ہر جانہ اتوائے مقدمہ کے نسبت سے ہوگا وہ وکیل موصوف وکیل کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام
 دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: 23/05/2016

_____ واہ شد _____

مقام _____ کے لئے منظور ہے۔

Attested & Accepted by
Kebru
 10/5/16

Federat Imam
 (Appellant)

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

Service Appeal No. 565/2016

Fakhar-e-Imam Ex-Constable No. 2053Appellant.

VERSUS

District Police Officer, District Mardan & othersRespondents.

Parawise comments by respondents are submitted as below:-

Respectfully Sheweth,

PRELIMINARY OBJECTIONS

1. That the appellant has not come to this Honourable Tribunal with clean hands.
2. That the appellant has got no cause of action & locus standi.
3. That the appellant has concealed material facts from this Honourable Tribunal.
4. That the appellant is estopped by his own conduct, by law to bring the instant appeal.
5. That the present appeal is bad in its present form hence not maintainable and liable to be dismissed.
6. That the appeal is bad due to non-joinder of necessary parties and mis-joinder of unnecessary parties.
7. That the present appeal is badly time-barred.

REPLY ON FACTS

1. Correct to the extent of enlistment as constable in the year 2008 and was detailed for recruit course/training to PTC Hangu, wherefrom, he got himself absented till the day of his dismissal from service. The plea/pretext of availed sanctioned leave and of Pak military operation etc. is totally baseless & self-fabricated story. In either way he was bound to have contacted his parent department but he didn't, which proves his disinterest in service.
2. Correct as the appellant did not inform/contact with department & deliberately absented from training till date of dismissal.
3. Correct as the appellant did contact with respondent No. 02 after 04 years which is too much delayed & hit badly by law of limitation. **(Copies of dismissal order & departmental appeal rejection are attached as Annexure A & B).**
4. Correct to the extent of dismissal of petition by respondent No. 01 & the same rejection was based on genuine grounds. **(Copy of appeal rejection by respondent is attached as Annexure-C).**
5. This appeal holds no legal & moral grounds to stand on here in this Honourable Tribunal:

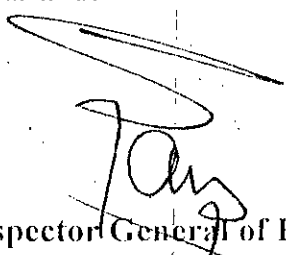
REPLY ON GROUNDS:

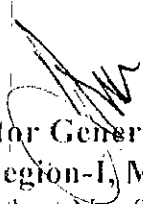
- A. Incorrect. The impugned orders are just, in accordance with law & without malafide, hence, tenable in the eyes of law.
- B. Correct and no departmental enquiry was required as per rule 8(b) of Police Rules, 1975. **Besides,** his service stood less than one year i.e absented himself during **probation period** and could be discharged under Police Rule 12.21. Hence, tenable in the eyes of law. **(Copies of rule 8(b) of Police Rule, 1975 & Rule 12.21 of Police Rule, 1934 are attached as Annexure- D & E).**
- C. Correct as no inquiry was required under rules cited in Para-B above.

- D. Correct and reply to this Para is already detailed in Para-"B" & "C" above.
- E. Incorrect as the punishment awarded was ultimate result of his fault & was, therefore, dealt as per rules/law.
- F. Incorrect as penalty was awarded as per rules/law.
- G. Incorrect & baseless, hence, denied.
- H. Incorrect and baseless, and the impugned orders are just & in accordance with rules/law.
- I. Incorrect as the instant appeal in this Honourable Tribunal has been preferred after almost 03 years of dismissal from service & is, therefore, hit by law of limitation i.e badly time-barred.
- J. The respondents also seek permission of this Honourable Tribunal to present further/additional grounds etc, if any, at the time of arguments.

PRAYER:-

It is therefore, prayed that the appellant's appeal is devoid of merits and may please be dismissed with costs.


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


**Deputy Inspector General of Police,
Mardan Region-I, Mardan**
(Respondent No. 02)


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

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKIWA,
PESHAWAR.

Service Appeal No. 565/2016

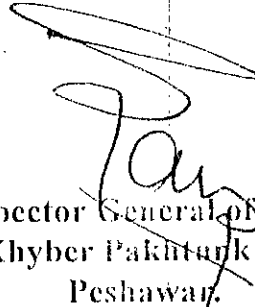
Fakhar-e-Imam Ex-Constable No. 2053Appellant.


VERSUS

District Police Officer, District Mardan & othersRespondents.

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)


Deputy Inspector General of Police,
Mardan Region-I Mardan
(Respondent No. 02)


District Police Officer,
Mardan
(Respondent No. 03)

ORDER.

Being found absented himself from his official duty with effect from 30.09.2009 without any leave/ prior permission from his superior officers. I have reached to the conclusion that his more retention in force will badly affect the other lower subordinates. Therefore ex-parte action against Constable Fakhar Alam No.2053 is taken. By awarding him major punishment of dismissal from Police Force with effect from his continues absence i-e 30.9.2009 with immediate effect. In exercise of the power vested in me under Police Rules 1975.

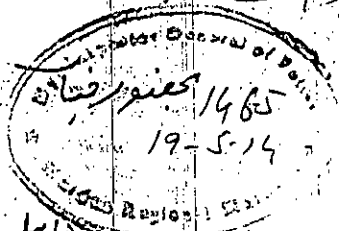
OB No. _____

Dated 11/10/2013.


District Police Officer,
Mardan.

اسی کے اٹوٹیاں
اور فیملی کے
اسی کے پاس

الشولیا



DI.G. صاحب مردان

No. 2804/ES.

dt. 19-5-14

درفٹسٹ بم اد صدر حاکم دوبارہ بحالی سروس (اپیل)

DPO/Mch

سائل فخر ایام سیکٹر 2053

For Comments pl.

جبا بحالی - گزارش حسب ذیل عد میں -

(Signature)

DIG/Mch

- 1- یہ کہ سائل موضوع ڈسٹرکٹ مردان کا مقامی ہے -
 - 2- یہ کہ سائل مورخہ 21 اکتوبر 2008ء کو پولیس ڈیپارٹمنٹ میں بحالی عد میں
 - 3- یہ کہ مردان ٹریننگ سائل والد الفوت عد نے سائل والدی فونٹیکس پر آئے -
 - 4- یہ کہ سائل کی ٹریننگ ٹینن ڈسٹرکٹ حیدر آباد تھا -
 - 5- یہ کہ سائل والدی فونٹیکس کے بندہ واپس ٹریننگ میں حاضر عد میں
 - 6- یہ کہ دوبارہ والدی حیلیم میں آیا لہذا دوبارہ واپس جائے تھا فوڈ اسٹے میں سرٹیفکٹ لے لیا - پٹا دوسرے واپس آیا -
 - 7- یہ کہ گواہ سائل سے سائلوں سے حیدر آباد عد میں آیا گیا ہے آپ نکلے واپس کر دیا گیا ہے -
 - 8- یہ کہ سائل کی نہ تو کوئی اپہ ورج مقرر لہذا ڈیپارٹمنٹ کی رولز ریگولیشن سے واقف تھا -
 - 9- یہ کہ سائل لہذا ڈیپارٹمنٹ میں حاضر لہذا عد میں ریکارڈ میں سائل تنخواہ ماہ جنوری یا فروری 2009ء ریکارڈ میں جاری اور لہذا تنخواہ سائل کی کل لگائی گئی ہے - اس کے بعد سائل کو تنخواہ نہیں مل سکی تقریباً 5-6 ماہ کے بعد اور عد میں ریکارڈ میں موجود ہے -
 - 10- یہ کہ تاحال سائل کو ڈیپارٹمنٹ کی جانب کوئی شواہد گواہ نہیں ملے ، اور سروس سے یہ فراموش کیا گیا ہے - سائل ایسا فریب گوارا سے تعلق لگتا ہے لہذا عد میں واپس لیا جائے -
- لغز اسٹیکسٹ سائل کو دوبارہ سروس میں تعینات کیا جائے جس سے مناسب حکم صادر فرمایا جائے
- 14/5/14
- سائل فخر ایام سیکٹر 2053
- سائل فخر ایام سیکٹر 2053

Handwritten notes and signatures on the right margin, including a signature and the number 1500.


ORDER.

This order will dispose-off the appeal preferred by Ex-Constable Fakhr-e-Imam No. 2053 of Mardan District Police against the order of District Police Officer, Mardan, wherein he was dismissed from service vide District Police Officer, Mardan.OB: No. 2262 dated 14.10.2013.

Brief facts of the case are that being found absented himself from his official duty with effect from 30.09.2009 without any leave/prior permission from his superior, therefore his more retention in force will badly affect the other lower subordinates for his continues absence with effect from 30.09.2009 therefore he was dismissed from service under Police Rules 1975.

I have perused the record and also heard the appellant in Orderly Room held in this office on 06.08.2014. He failed to justify his absence period and could not advance any cogent reason in his defence. Therefore, I MUHAMMAD SAEED Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal, not interfere in the order passed by the competent authority, thus the appeal is filed.

ORDER ANNOUNCED.


(MUHAMMAD SAEED)PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan.

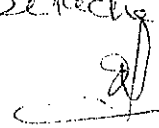
No. 5242 /ES, Dated Mardan the 08/08 /2014.

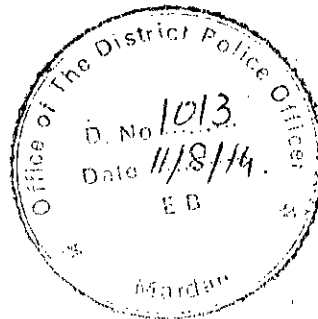
✓ Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 661/LB dated 14.07.2014.


His service Roll is returned herewith.

(*****)

insp/2013 EC/044
For me

SR Detached

878




D.P.O, Mardan

9

11

BEFORE THE HONOURABLE DE INSPECTOR GENERAL OF POLICE
GOVERNMENT OF KHYBER PAKHTUNKHAWA, PESHAWAR.

DEPARTMENTAL APPEAL/MERCY PETITION

Respected Sir,

The applicant beg to submit as under:

1. That the appellant was inducted in KP Police at District Mardan in the year 2008/09.
2. That the appellant joined the training School at Hungo immediately for his training in Police.
3. That during training the appellant came on leave to visit his family in village at District Mardan.
4. That on the way back to training School after completion of his leave, the appellant was unable to reach the Training School as on the way in Dara Adam Khel, the Pak Army in connection of operation against the Militants had blocked the passage and no one was allowed to have been passed through Dara Adam Khel, which resulted the appellant returned back to his home/village.
5. That the applicant was asked and informed by his co-trainees, friends not to come, as the way is not open for public and thus the appellant was held that he is no more allowed to join the Training School.
6. That since then the appellant has not committed or violated any disciplinary rules of law deliberately but was unable to join the Training because of the tense situation and blocked of passage/road for general public at that time, but the appellant received a letter No. OB No. 2262 dated 14.10.2013 for the ~~dismissal~~ dismissal of his service from the Police Department by the hon'ble District Police

Officer, Mardan, which is against Rules and law and settled principles of natural justice as the appellant had not been provided any opportunity to be heard; thus was condemned un-heard.

7.

That the appellant feeling aggrieved from the order of the learned DPO, Mardan preferred an appeal before the honourable DIG, Mardan, but the same has also been dismissed by the hon'ble DIG, Mardan, feeling aggrieved of which the petitioner/appellant submitted the present appeal/mercy petition before your honour to review the order dated 08/08/2014 of the learned DIG, Mardan and order dated 14/10/2013 of the learned DPO, Mardan with pray in view of the above stated facts and to kindly reinstate the petitioner/appellant into service, as the appellant/petitioner belongs to a very poor family

8.

That the appellant/petitioner was selected on merit after having been through the entire recruitment procedure in the Police Department and the appellant/petitioner had joined the Training at Police Training School, but it was due to the prevailing tense situation/curfew which did not allow the appellant to have reached the Training School back within time, in spite of repeated efforts. Although the appellant/petitioner has the ability/quality to be the right person for the Police Department and had always been wish of the applicant/petitioner to become a Police man to serve the country.

(1)

-: 3 :-

It is, therefore, most humbly prayed and requested that by acceptance of this appeal/mercy petition, the orders of the learned DIG/DPO, Mardan may kindly be reviewed and set aside and restored/re-instate the appellant/petition on the service alongwith all the back benefits throughout.

Yours Obediently,

Dated: 21/10/2015.

Fakhr-e-Imam

(FAKHR-E-IMAM)

Ex-Constable B.No. 2053
District Mardan.



1364
28-4-16
No. S/ 3774

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE,
PESHAWAR.
/16, dated Peshawar the 25/04/2016.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by **Ex-Constable Fakhr-e-Imam No. 2053**. The appellant was awarded punishment of **Dismissal** from service by DPO, Mardan vide OB No. 2262, dated 14.10.2013, on charges that when he was deputed for training to PTC Hangu, he absented himself from duty for a period of 04 years and 15 days.

He preferred appeal before the RPO, Mardan which was examined and filed vide order No. 5242 / ES, dated 08.08.2014.

Meeting of Appeal Board was held on **28.01.2016**, wherein the appellant was heard in person. The enquiry papers were also examined. On examination of record, it revealed that his service is less than 01 year. He has also not qualified recruit course. His petition is also badly time barred. Therefore, the petition of the petitioner is barred by law and limitation and worth rejection.

This order is issued with approval by the Competent Authority.

*Read Legal
Place on file*

M. Imple 07/05

Najeeb

(NAJEEB-UR-RAHMAN)
AIG / Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

No. S/ 3175-82 /16,

Copy of above is forwarded for information and necessary action to the:-

1. Regional Police Officer, Mardan Region, Mardan.
2. District Police Officer, Mardan.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PRO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV, CPO, Peshawar.
8. I/C Central Registry Cell, (CRC), CPO.

No - 3641/ES
Dt - 28-4-16
EC / DPO Mardan

For n/ction.

No. 338-18
02-5-16

*S. E. B. H.
EC / O. A. S. (Imp). Legal. Regal.
DPO, Peshawar*

2857
29-4-16
Mardan

*L
DIG Mardan
28/4*

7. **Powers of Inquiry Officer:-**

- 1) For the purpose of departmental inquiry under these rules, the Inquiry Officer shall have the powers of a Civil Court trying a suit under Code of Civil Procedure, 1908 (Act V of 1908) in respect of the following matters, namely:--
 - (a) Summoning and enforcing the attendance of any person and examining him on oath;
 - (b) Requiring the discovery and production of documents;
 - (c) Receiving evidence on affidavits;
 - (d) Issuing commission for the examination of witnesses or documents.
- 2) The proceedings under these rules shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code (Act XLV of 1860).

8. **Rules 5 and 6 not to apply in certain cases.-**

Nothing in rules 5 and 6 shall apply in a case-

- (a) where the accused is dismissed or removed from service or reduced in rank, on the ground of conduct which has led to a sentence of imprisonment; or
- (b) where the authority competent to dismiss or remove a person from service, or to reduce a person in rank, is satisfied that for reasons to be recorded in writing by that authority, it is not reasonably practicable to give the accused an opportunity of showing cause.

9. **Procedure of inquiry against officers lent to other Government or Authority.-**

- i. Where the services of Police Officer to whom these rules apply are lent to any other Government or to a local or other authority, in this rule referred to as the borrowing authority, the borrowing authority shall have the powers of the authority for the purpose of placing him under suspension or requiring him to proceed on leave and of initiating proceedings against him under these rules.
 - ii. Provided that the borrowing authority shall forthwith inform the authority which has lent his services, hereinafter in this rule referred to as the lending authority, of the circumstances leading to the order of his suspension or the commencement of the proceedings, as the case may be.
 - iii. If in the light of the findings in the proceedings taken against the Police Officer in terms of sub-rule (1) the borrowing authority is of opinion that any punishment should be imposed on him, it shall transmit to the lending authority the record of the proceedings and thereupon the lending authority shall take action as prescribed in these rules.
10. No party to any proceedings under the rules before the authority or Inquiry Officer shall be represented by an Advocate.

12.17. Recruits. Enrolment of. When a candidate has been passed by, the Superintendent and the Civil Surgeon under rules 12-12 to 12-16, orders for his enrolment shall be entered in column 14 of form 12.13 and in the order book. The recruit shall be sent to the Lines Officer, who shall personally place him in the charge of the Drill instructor. The latter shall be responsible for explaining to the recruit the necessary order immediately, applicable to him, for arranging for the issue to him of uniform and equipment, and for allotting him to a squad and showing him his quarters in the barracks.

12.18. Recruits. Verification of character of. (1) The character and suitability for enrolment of every recruit shall be ascertained by a reference to the Lambardar of the ward or ward member of the town of which the recruit is a resident. A search slip shall be sent to the Finger Print Bureau in order to establish his freedom or otherwise from conviction. Such Lambardar or ward members shall, if the recruit is of good character, furnish a certificate to that effect which shall be verified and attested by the Superintendent in charge of the local police station. The Sub-Inspector shall also complete the information required by form 12-18 (1).

(2) If the recruit is not a resident of British territory, the Superintendent shall take steps to verify his character through other serving police officers, whose homes are in the same neighbourhood, or by such means as may be most suitable under the circumstances.

(3) Recruits shall be provisionally enrolled pending the result of the reference.

12.19. Recruiting arrangements: (1) When sufficient recruits to fill vacancies in the rank of constable do not present themselves voluntarily at the headquarters of a police station or when other reasons justify such action, police officers proceeding on leave shall be encouraged to enlist recruits at their homes, and selected men may be deputed to recruit parties on recruiting duty.

(2) When police officers are required under the provisions of the above sub-rule to recruit from another district, they shall be provided with a letter to the Superintendent of such district, requesting him to examine candidates brought before him and have those who are considered suitable for enrolment medically examined. A roll of candidates passed as fit shall be prepared in Form 12.13 by the Superintendent and they shall be enlisted on the establishment of the district in which they are to serve with effect the date of their being so passed, and shall be entitled to travelling allowance from the date; provided that they report for duty without delay and by the most direct route. The appointment of candidates enrolled otherwise than under this provision shall in no case be ante-date.

(3) In cases where a police officer has been put to expense on account of the travelling and travelling expenses of a candidate brought by him, and provided such expense is accepted and enrolled, the actual expenses so incurred, up to a maximum of Rs. 10 for each recruit, may be paid by the Superintendent from his grant for rewards.

12.20. Recruits--Dates of Enrolment of: Superintendents of Police shall fill up

parties may be despatched, if necessary, and any Police Officer who produces really good recruits should be given some reward in addition to travelling allowance. The dates of enlistment of recruits shall however, as far as possible, be regulated to ensure that a sufficient number of men are enrolled on the same date to form a training squad to proceed from start to finish of their recruits training according to the prescribed syllabus.

12.21. Discharge of inefficient: A constable who is found unlikely to prove an efficient police officer may be discharged by the Superintendent at any time within three years of enrolment. There shall be no appeal against an order of discharge under this rule.

⁹[Sindh Amendments: In rule 12.21, between the word "Constable" and the word "who" the words "or a Head Constable in the Telecommunication of Sindh Reserve Police recruited by initial appointment"].

¹⁰["12.21-A. Retirement from service: Notwithstanding anything contained in these rules, a subordinate Police Officer shall retire from service.

- (i) On such date after he has completed twenty-five years service qualifying for pension or other retirement benefits as the competent authority may, in the public interest, direct; or
- (ii) Where no direction is given under clause (i), on the completion of the sixty years of his age."]

CASE-LAW

Discharge from service of a Police Constable. Representation. Right to. Order of civil servant's discharge owing to his unauthorized absence, otherwise not falling within precincts of R. 12.21 of Police Rules, 1934. Appeal, even if was barred under R. 12.21 yet civil servant being Constable in Police Department, was within his right to resort to making representation to next higher Authority within thirty days of the impugned order as envisaged under S. 23(2) of act (XIV of 1973). [1992 PLC (C.S.) 666].

Discharge of police constable, could be made under R. 12.21, Police Rules, 1934 when he was unlikely to prove as "efficient police officer", but not in case when a constable was discharged on ground that he was not likely to become "good police officer". There being marked difference between the words "efficient police officer" and "good police officer", it could not be said that order of discharge passed against constable was covered by the said Rule. Constable having been discharged with stigma of having remained absent unauthorisedly he was entitled to show-cause notice. Unauthorised absence being prejudicial to good order or discipline in police force amounted to "misconduct" thus formal disciplinary action should have been taken against constable. [1992 PLC (C.S.) 666].

12.22. Certificate of appointments: (1) Every enrolled officer shall be given a certificate of appointment in the form prescribed by the Police Act (Form 12.22(1)) and shall sign a receipt therefor in his character roll. Such certificate shall be signed by the Gazetted Officer empowered to make the appointment.

BEFORE SERVICE TRIBUNAL KHYBER PAKHTUN
KHTWA, PESHAWAR

S.A. No: 565/2016

FAKHAR E IMAM _____ Appellant.

VERSUS

INSPECTOR GENERAL and others _____ Respondents


INDEX

S.No	Description of documents	Annex	Pages
1	Rejoinder		
2	Affidavit		

Dated: ~~27~~ 03-2018

Through

APPELLANT


ASAD ZEB KHAN,
Advocate, High Court,
Peshawar.

**BEFORE SERVICE TRIBUNAL KHYBER PAKHTUN
KHWA, PESHAWAR**

S.A. No: 565/2016

FAKHAR E IMAM _____ Appellant.

VERSUS

INSPECTOR GENERAL and others _____ Respondents

RE-JOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth:

The appellant most humbly submits as under:-

PRILIMINARY OBJECTIONS:-

1. That the appellant has got a locus standi and has a genuine case in his hand. The appeal of the appellant is well within time, which is evident from the record and this august tribunal has got the power and ample jurisdiction to entertain the matter and to advance relief to the appellant. Further the Hon'ble Tribunal has also the power to condone delay, if any, if the appeal is found time-barred. Whatever, the case may be, the department was bound under the law to follow the departmental procedure before imposing major penalty upon the appellant, but the department badly failed to issue statement of allegation, conduct inquiry or show cause notice, etc. All the preliminary objections taken by the respondents in their written reply are expressly denied.

Reply to facts:

1. Para No. 1 of the written reply is not acceptable. As stated in the departmental appeal, the appellant after attaining funeral ceremonies (chehnam of his father) moved to training centre but in the way to centre, the Pak Army stopped him because of curfew and informed him that due to bad law and order situation, he couldn't proceed further to his destination. So the absence of the appellant was not willful or deliberate but due to the reason mentioned above.
2. In reply to Para No. 2 it is submitted that whatever the case may be, the department was duty bound to follow the mandatory procedure of service law i.e. statement of allegation, charge sheet, proper inquiry, show cause notice etc. but the impugned order is very much clear that the same has been passed exparte without adverting to the mandatory procedure, which order itself is nullity in the eyes of law.
3. Reply to para No.3 is incorrect. The departmental appeal of the appellant was not made after 4 years of the impugned order rather the impugned order was passed on 14-10-2013 but the effect was given to the same since 30-09-2009.
4. Reply to para No. 4 is incorrect to the extent of passing of rejection order of mercy petition on genuine ground. The said order has been passed without applying the service laws over the subject petition. When no procedure has been followed then the orders passed have no force in the eyes of law and the same is termed as illegal order and no limitation is run against same.
5. Reply to para No. 5 needs no further explanation.

Reply to Grounds of written reply filed by respondents:

A-M Reply filed in response to the grounds of the appeal are vague and baseless. The respondents have failed to give any plausible reason while rejecting appellant's prayers: Constitution of Islamic Republic

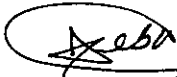
of Pakistan provides fair trial to each and every one but in the present case, the appellant has been deprived of his fundamental right of fair trial. No proper opportunity is given to him to defend himself and to prove his inability to appear in the training centre. The respondents have miserably failed to explain the factum of non fulfilling of legal formalities of service laws in respect of taking harsh punishment against a Govt. servant, for not providing fair opportunity to defend himself. The action taken by the respondents in total disregard of the law, all that have been done in hip hazard manner, which is unwarranted. When the first step taken in respect of the impugned order is illegal then whole structure built upon the same is also illegal. The respondents as allegedly stated in their written reply that the service of the appellant was on probation but the probation doesn't mean that the respondent for initiating some coercive action bypassed mandatory provisions of service law..

In view of the above, and in addition to the main appeal, it is humbly prayed that this Hon'ble Court may graciously be pleased to pass an appropriate order in accordance with the prayers made in the main appeal.

Dated: ~~26~~-07-2018

Through

APPELLANT


ASAD ZEB KHAN,
Advocate, High Court,
Peshawar

BEFORE SERVICE TRIBUNAL KHYBER PAKHTUN
KHWA, PESHAWAR

S.A. No: 565/2016

FAKHAR E IMAM _____ Appellant.

VERSUS

INSPECTOR GENERAL and others _____ Respondents

AFFIDAVIT

I, **Fakhar e Imam** Constable No. 2053, do hereby solemnly affirm and declare upon oath that the contents of the titled rejoinder are true and correct to the best of my knowledge & belief and nothing has been concealed or withheld there from.

Identified By:

Asad Zeb Khan,
Advocate High Court, Peshawar.

Deponent

Before the Ichhapur Panchayat Khanda Sadar Subordinate

Fakhar Imam

vs

Government

Application for adjournment due to non availability
of the counsel of the case

Respectfully Submitted:

1) That the instant appeal is pending before
this honorable tribunal and fixed for today.

2) That the counsel of the case is not attend
the court due to his illness.

It is therefore humbly prayed
on acceptance of this application may
kindly adjourn the instant appeal
to some other convenient date.

Applicant Fakhar Imam

Date 28/3/18

لحدائق جناب شیخ سرور علی بن ابی طالب

فخر الہنگام - تیار - لو لیس

در حدائق جناب شیخ سرور علی

تاریخ ۱۳۰۲

جناب عالی! سائلہ / اسلوب حساب ذیل ہے

رسالت

۱) آدھ ہفت روزہ ہفت روزہ - آدھ ہفت روزہ - آدھ ہفت روزہ

دفعہ ہر ایک کے لئے ہفت روزہ کے حساب سے آدھ ہفت روزہ

۲) ہفت روزہ

۳) آدھ ہفت روزہ / اسلوب حساب ذیل ہے

۴) ہفت روزہ کے لئے ہفت روزہ کے حساب سے آدھ ہفت روزہ

۵) ہفت روزہ کے لئے ہفت روزہ کے حساب سے آدھ ہفت روزہ

۶) آدھ ہفت روزہ کے لئے ہفت روزہ کے حساب سے آدھ ہفت روزہ

۷) ہفت روزہ کے لئے ہفت روزہ کے حساب سے آدھ ہفت روزہ

۸) ہفت روزہ کے لئے ہفت روزہ کے حساب سے آدھ ہفت روزہ



اسلام آباد
ڈسٹریکٹ جج
لاہور

2019ء منجانب

مختار احمد بنام

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق و زرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

محمد امین

Accepted
By
Pleas

2019ء

ماہ جنوری

23

المرقوم

العہدہ گواہ العہدہ

کے لئے منظور ہے۔

مقام