

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

**SERVICE APPEAL NO. 1032/2015**

Date of institution ... 08.09.2015  
Date of judgment ... 19.12.2016

Amin-ul-Haq, Ex-Constable No. 2629,  
Police Line Mardan.

... (Appellant)

**VERSUS**

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, Mardan Region-I, Mardan.
3. The District Police Officer Mardan.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 12.08.2015, WHEREBY THE APPEAL/REVISION UNDER RULES-11(A) OF THE KPK POLICE RULES, 1975 HAS BEEN AGAINST THE ORDER OF DIG MARDAN DATED 06.02.2015 WHEREBY HE MAINTAINED THE PENALTY ORDER DATED 21.11.2014 PASSED BY THE DISTRICT POLICE OFFICER, MARDAN.

Mr. Muhammad Asif Yousafzai, Advocate.  
Mr. Kabirullah Khattak, Assistant Advocate General

.. For appellant.  
.. For respondents.

MR. ASHFAQUE TAJ  
MR. MUHAMMAD AAMIR NAZIR

.. MEMBER (JUDICIAL)  
.. MEMBER (JUDICIAL)

**JUDGMENT**

ASHFAQUE TAJ, MEMBER:-

The appellant Mr. Amin-ul-Haq has preferred appeal under section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 21.11.2014 vide which he was dismissed from service and order dated 12.08.2015 vide which the dismissal order of the appellant was modified into that of removal from service. Against the impugned order dated 21.11.2014 appellant filed departmental appeal but the same was rejected vide order dated 06.01.2015 which culminated in shape of filing of the appeal in hand.

*D. M. J. e.*  
*19.12.16*

2. Brief facts of the case are that the appellant joined the Police Force in the year 2009. That the appellant got ill and doctor advised him ten days complete bed rest. That after recovery appellant joined his duty and performed duty for about two months. That during the service appellant was called by RI/Police and showed him charge sheet against him which was not handed over to the appellant, however, appellant submitted his reply to the charge-sheet and mentioned the reason of his absence. That the Reserve Inspector of Police conducted verbal inquiry in shape of questionnaire without providing proper opportunity of defence to the appellant. That vide order 21.11.2014 appellant was dismissed from service under Police Rules, 1975 without conducting regular inquiry and without serving show-cause notice upon the appellant and his absence period was declared as leave without pay. That against the impugned order dated 21.11.2014 appellant filed departmental appeal but the same was rejected vide order dated 06.01.2015. That after rejection of departmental appeal appellant filed appeal/mercy petition/revision to the Provincial Police Officer which was partly accepted by modifying penalty of dismissal from service to removal from service vide order dated 12.08.2015 and hence the instant appeal with a prayer that on acceptances of this appeal orders dated 12.08.2015, 06.01.2014 and 21.11.2014 may be set-aside and the appellant be reinstated into service with all back benefits.

19.12.16  
 3. The learned counsel for the appellant argued before the court that the impugned orders dated 12.08.2015 and 21.11.2014 were against the law, facts, norms of justice and material on record were not tenable and liable to be set-aside. He further argued that no regular inquiry was conducted against the appellant and Reserve Inspector of Police only asked verbal question from the appellant which was not permissible in the eye of law. He contended that inquiry officer had recommended the absence period of the appellant as leave without pay but DPO Mardan dismissed the appellant from service vide order dated 21.11.2014 and hence the appellant was penalized twice for the same offence. He further contended that no show-cause notice was issued to the appellant before imposing major punishment of dismissal from service. He prayed that the impugned orders dated

12.08.2015, 06.01.2014 and 21.11.2014 may be set-aside and the appellant may be reinstated into service with all back benefits.

4. The learned Government Pleader resisted the appeal and argued before the court that the appellant absented himself from the lawful duty without any permission/leave of the competent authority. He further argued that departmental inquiry was initiated against the appellant in which he was held guilty. That after fulfillment of all codal formalities the competent authority has rightly awarded the major punishment of removal from service to the appellant hence, the instant appeal being devoid of merits may be dismissed.

5. We have heard the arguments of learned counsel for the appellant and Learned Government Pleader for the respondents and have gone through the record available on file.

6. From perusal of the record it transpires that the appellant while posted at Police Lines absented himself from the lawful duty with effect from 31.08.2014 to 09.09.2014 without leave/permission of the competent authority. That vide order dated 21.11.2014 the appellant was dismissed from service and this absence period was counted as leave without pay hence, the appellant was penalized twice for the same offence and it tantamount to double jeopardy which is not permissible under the law. The apex court has laid down:-

“Removal from service on account of absence from duty ----

Absence period was regularized/condoned----Effect----Competent authority on the one hand had imposed a penalty of removal from service upon the petitioner for remaining absent from duty but on the other hand, the said absence had been treated as leave without pay and allowance----After condoning/regularizing the period of absence, the competent authority was not justified to impose major penalty of removal from service on the employee.

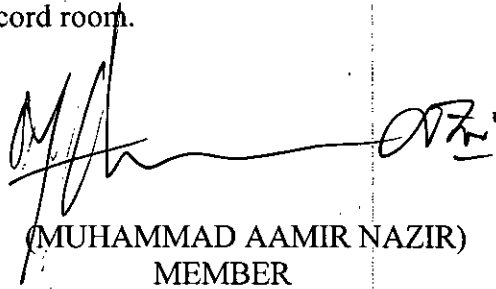
(Reliance is placed from 2015 PLC (C.S) 117.


7. In addition to this it is found that no regular inquiry was conducted in the matter nor final show-cause notice was issued against the appellant. That proper and full opportunity of defence was necessary which has not been accorded to the appellant.

19.12.16

8. In view of the above scenario, we are constrained to set-aside the impugned orders dated 12.08.2015, 06.01.2014 and 21.11.2014. The appellant is reinstated. The respondents are however at liberty to conduct de-novo inquiry if desired and advised so, but that inquiry shall be conducted within the span of sixty days. In de-novo inquiry proper opportunity of defence be extended to the appellant and all back benefits will be subject to the result of de-novo inquiry if any. In case of non-compliance the back benefits to the appellant will stand restored after two months automatically. Parties are left to bear their own costs. File be consigned to the record room.

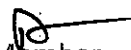
ANNOUNCED  
19.12.2016


  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

  
(ASHFAQUE TAJ)  
MEMBER

23.08.2016

Agent to counsel for the appellant and Mr. Muhammad Ghani, S.I alongwith Mr. Muhammad Jan, GP for respondents present. Learned counsel for the appellant was busy before another Bench of Service Tribunal and requested for adjournment. Request accepted. To come up for arguments on 19-12-16 before D.B.

  
Member

  
Member

19.12.2016

Counsel for appellant and Mr. Muhammad Ghani, S.I alongwith Mr. Kabirullah Khattak, Assistant Advocate General for the respondents present. Arguments heard and case file perused.

Vide our detailed judgment of today consisting of four pages placed on file, we are constrained to set-aside the impugned orders dated 12.08.2015, 06.01.2014 and 21.11.2014. The appellant is reinstated. The respondents are however at liberty to conduct de-novo inquiry if desired and advised so, but that inquiry shall be conducted within the span of sixty days. In de-novo inquiry proper opportunity of defence be extended to the appellant and all back benefits will be subject to the result of de-novo inquiry if any. In case of non-compliance the back benefits to the appellant will stand restored after two months automatically. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

19.12.2016

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

  
(ASHFAQUE TAJ)  
MEMBER

12.10.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable when dismissed from service vide impugned order dated 21.11.2014 on the allegations of wilful absence for 9 days and the said period of absence was treated leave without pay. That the appellant preferred departmental appeal which was rejected on 6.1.2015 followed by review petition under Rule 11-A of Police Rules which was dismissed on 12.8.2015 and hence the instant service appeal on 8.9.2015.

That the inquiry was not conducted in the prescribed manners as the ground of ailment of appellant was not taken into account nor associated with the same and, furthermore, the absence period was treated as leave without pay and as such the penalty of dismissal from service was not warranted under the law.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 26.01.2016 before S.B.

- P - 3 - 5

Appellant Deposited  
Security & Process Fee



  
Chairman


26.1.2016

Appellant with counsel and Mr. Muhammad Ghani, SI alongwith Addl: A.G for respondents present. Para-wise comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 9.5.2016.

  
Chairman

09.05.2016

Agent of counsel for the appellant and Mr. Muhammad Gahni, SI alongwith Asstt. AG for the respondents present. Rejoinder submitted. Due to strike of the bar arguments could not heard. To come up for final hearing on 23.08.2016 before D.B.

  
Member

  
Chairman

FORM-A

FORM OF ORDER SHEET

Court \_\_\_\_\_

Case No. 1032/2015

	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	18.09.2015	<p>The appeal of Mr. Aminul Haq resubmitted to-day by Mr. Muhammad Asif Yousafzai, Advocate, may be entered in the institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	21-9-15	<p>This case be put up before the S.Bench for preliminary hearing on <u>28-9-15</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
	28.09.2015	<p>Counsel for the appellant present. Seeks adjournment. Adjourned to 12.10.2015 for preliminary hearing before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> Chairman</p>

The appeal of Mr. Aminul Haq Ex-Constable No. 2629, Police Line Mardan received to-day i.e. on 8.09.2015, is incomplete on the following scores, which is returned to him for completion and resubmission within 15 days:-

1. Copies of charge sheet, enquiry report and show cause notice have not been attached with the appeal, which may be placed on file.

No. 1386 /ST,

Dated 10/9 /2015

*10/9*  
REGISTRAR  
KPK SERVICE TRIBUNAL,  
PESHAWAR.

MR. MUHAMMAD ASIF YOUSAFZAI, ADV/

*Sir,*  
*charge sheet, enquiry report and show cause notice not served on appellavit. Therefore the same may be requisitioned from Deptt.*

*Re-submitted*  
*Asif Yai*



**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 1032 /2015

Amin Ul Haq

V/S

Police Deptt:

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S.NO.	DOCUMENTS	ANNEXURE	PAGE
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2.	Copy of medical prescriptions	A	5
3.	Copy of order dated 21.11.2014	B	6
4.	Copy of departmental appeal	C	7-8
5.	Copy of rejection order	D	9
6.	Copy of mercy petition/ revision	E	10-11
7.	Copy of partly acceptance petition/revision order	F	12
8.	Vakalat Nama	-----	13

APPELLANT

THROUGH:

  
(M. ASIF YOUSAFZAI)

&

  
(TAIMUR ALI KHAN)  
ADVOCATES, PESHAWAR

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 1032/2015

Amin Ul Haq Ex- constable, No.2629,

Police Line Mardan.

**W.P. Provincial  
Service Tribunal**  
Diary No. 1032  
Dated 8-9-15

(APPELLANT)

VERSUS

1. The Provincial Police Officer, KPK, Peshawar.
2. The Deputy Inspector General of Police, Mardan Region-I, Mardan.
3. The District Police Officer Mardan.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 12.08.2015, WHEREBY THE APPEAL/REVISION UNDER RULES-11(A) OF THE KPK POLICE RULES, 1975 HAS BEEN AGAINST THE ORDER OF THE DIG MARDAN DATED 06.02.2015 WHEREBY HE MAINTAINED THE PENALTY ORDER DATED 21.11.2014 PASSED BY THE DISTRICT POLICE OFFICER, MARDAN.

*be*  
8/9/15

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 12.08.2015, 06.01.2014 AND 21.11.2014 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED WITH ALL BACK BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

**RESPECTFULLY SHEWETH:**

**FACTS:**

1. That the appellant joined the police force in the year 2009 and completed all his due training etc and also have good service record throughout.
2. That the appellant become ill and the illness became severe due to which the appellant rushed to Doctor and the doctor advised complete bed rest for ten days. (Copy of the medical prescription is attached as Annexure-A)
3. That as the appellant was on bed rest, therefore the appellant could not performed his duty and remained absent for nine days from the duty.
4. That after recovery the appellant joined his duty and performed for about 2 months.
5. That during his performing his duty. The appellant was called by RI/Police and showed his charge sheet to the appellant without handing over charge sheet to the appellant, however the appellant replied to the charge sheet and mentioned the reason of his absence in the reply to the charge sheet and handed over that to RI/Police without keeping a copy of that with himself.
6. That Then RI/Police conduct verbal inquiry in questionnaire form without providing opportunity of defence to the appellant. Even inquiry report was <sup>not</sup> hand over to the appellant.
7. That on dated 21.11.2014, the appellant was dismissed from the service under Police Rule 1975 without conducting regular inquiry and without serving show cause notice to the appellant and the absence period was declared as leave without pay.(Copy of order dated 21.11.2014 is attached as Annexure-B)
8. That against the order dated 21.11.2014, the appellant filed departmental appeal but the same was rejected for no good ground on dated 6.01.2015. Then the appellant filed appeal/ mercy petition/ revision to the PPO which was also partly accepted by modifying penalty of dismissal to removal from service on dated 12.08.2015 (Copy of departmental appeal, rejection order, mercy

petition/revision and partly acceptance of mercy petition/revision order are attached as Annexure-C,D,E&F)

9. That now the appellant come to this august tribunal on the following grounds amongst others.

**GROUNDS:**


- A) That the impugned order dated 12.08.2015 and 21.11.2014 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That the appellant has been condemned unheard and has not been treated according to law and rules.
- C) That no regular inquiry was conducted against the appellant and RI/Police only asked verbal question from the appellant. Which is not permissible in law. Therefore the impugned order is liable to be set aside on this ground alone.
- D) That the inquiry officer took lenient view about the appellant, but the DPO Mardan did not agree with the finding of the inquiry officer and dismissed the appellant from service with <sup>out</sup> showing reasons for the enhancement of penalty.
- E) That no show cause notice was issued to the appellate before imposing major punishment of dismissal from service. Which is violation of law and rules.
- F) That the absence period has already been declared as leave without pay, therefore there remained no ground to penalize the appellant.
- G) That in the partly accepted revision order of the appellant, the competent authority mentioned 222 days absentia of the appellant, however the appellant remained absent for nine days on which the appellant was dismissed from service, while he remained absent for 213 days in the year 2012 on which the appellant was previously penalized by considering his absence period as leave without pay. Therefore the appellant could not be punished for past transaction.

- H) That the appellant has joined his duty again after recovery and serve for about two months, but despite that the appellant was dismissed from service after performing duty for about two months
- I) That the appellant has not been treated under proper law despite he was a civil servant of the province, therefore, the impugned order is liable to be set aside on this score alone.
- J) That the penalty of removal from service is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law.
- K) That the appellant did not intentionally absent from his duties but he was ill. As the illness is beyond the control of human, therefore the appellant was compel to remain absent from his duties.
- L) That the appellant seeks permission to advance others 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.

APPELLANT <sup>Amin</sup>  
Amin Ul Haq

THROUGH:

  
(M. ASIF YOUSAFZAI)

&   
(TAIMUR ALI KHAN)

ADVOCATES, PESHAWAR

5

A

No.

Rs. 5

OUT PATIENTS DEPARTMENT

NAME

GEN. Q. B.D. MARDAN

YEARLY

NO. HOSP: 8975

DATE

3.8.2014

DISEASE

Intestinal infection

FACE VALUE RUPEES 5

COUNTERSIGNED

Stork R/B  
W.R/B

Medical Superintendent

D.H.Q Hospital, Mardan

Asst. Surgeon B.D.  
171

Tab. Plagglwer  
171

Cap. Nexas  
171

Sy. Tisima  
171

Sy. Gorbun  
171

"Visiting Surgeon"  
D.H.Q. Hospital Mardan

ATTESTED

advised female has been next  
for 10 ten days

[Signature]

ORDER

Constable Amin Ul Haq No. 2629, while posted at Police Lines Mardan committed the following acts, which leads to gross misconduct on his part as defined in Rules 02 (iii) of Police Rules 1975.

Brief facts are that Constable Amin Ul Haq No. 2629, while posted at Police Lines, absented himself from the lawful duty without any permission/leave vide DD No. 13 dated 31.08.2014 to DD No. 56 dated 09.09.2014 without any leave/permission of the competent authority. He is recommended for departmental proceedings by the DSP/HQrs: vide his office letter No. 479/R, dated 21.10.2014. His previous absentees are 213 days.

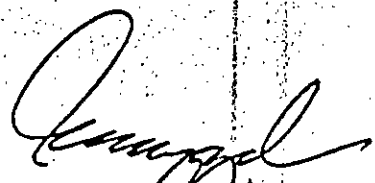
In this connection, Constable Amin Ul Haq No. 2629, was charge sheeted vide this office No. 751/R, date 05.11.2014 and he was also proceeded against departmentally through inquiry officer, Hayatullah Khan RI/Police Lines Mardan who after fulfilling necessary process, submitted his findings to the undersigned vide his office endorsement No. 585/RI dated 19.11.2014, in which the allegations has been established against the defaulter constable.

After perusal the service record the undersigned reached to the conclusion that the defaulter constable is habitual absentee, therefore the undersigned not agreed with the findings of enquiry officer and the alleged Constable Amin Ul Haq No. 2629, is hereby dismissed from service, his absence period will counted as leave without pay, in exercise of the power vested in me under the above quoted rules.

Order announced

O.B No. 2341

Dated 21/11/2014

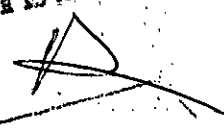
  
(Gul Afzal Afridi),  
District Police Officer,  
Mardan.

No. 1767-72 R dated Mardan the 24.11 /2014

Copy for information and necessary action to:-

1. The Deputy Inspector General of Police Mardan Region-1
2. The S.P Operations. Mardan.
3. The DSP/HQrs Mardan.
4. The Pay Officer (DPO) Mardan.
5. The E.C (DPO) Mardan.

RECEIVED



خدمت خاص - DIG ماہ - مردان رنج مردان

MERCY Petition برائے بھالی دلہنوں سے آزادان

ساتھ کریں اس میں الحق 2629 مردان پولیس

ڈسٹریکٹ D.P.O مردان بھالہ 2341

21-11-14

بھالی درخواست سے ذیل غرض ہے

1 یہ کہ سائل نے 19 سال پہلے بھالی دلہنوں سے نکاح کیا ہے

مردان پولیس میں انجام دیا ہے

2 یہ کہ سائل نے بھالی دلہنوں سے 2341 فرقہ 9 یوم عیسوی اور

21-11-14

اور ساتھ ہی بھالی دلہنوں سے نکاح کیا ہے

3 یہ کہ سائل نے بھالی دلہنوں سے نکاح کیا ہے

بھالی دلہنوں سے نکاح کیا ہے

بھالی دلہنوں سے نکاح کیا ہے

بھالی دلہنوں سے نکاح کیا ہے

بھالی دلہنوں سے نکاح کیا ہے

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بھالی دلہنوں سے نکاح کیا ہے

ATTESTED

بھالی دلہنوں سے نکاح کیا ہے

بھالی دلہنوں سے نکاح کیا ہے

بھالی دلہنوں سے نکاح کیا ہے

Amir

29

29



8) صائب عالی

مؤدبانہ ڈرائنگ کے لئے والد بھائی  
تعارف علاج عالم راہ النوری کے جا نا مقصود  
نہرے درخواسی اسکا صبح سائل کو  
صحت دینے کے لئے کادرو مانا جاوے  
عین نواز کے لئے

اللہ

3

آئی اے آئی اے آئی اے 2629  
Amir

صائب عالی  
تعارف علاج عالم راہ النوری کے جا نا مقصود  
نہرے درخواسی اسکا صبح سائل کو  
صحت دینے کے لئے کادرو مانا جاوے  
عین نواز کے لئے

5 days all Allah

Signature

DSP/R

ATTACHED

Signature

ORDER.

This order will dispose-off the appeal preferred by Ex-Constable Amin Ul Haq No. 2629 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. 2341 dated 21.11.2014.

Brief facts of the case are that he while posted Police Lines, Mardan, absented himself from the lawful duty without any permission/ leave vide daily diary No. 13 dated 31.08.2014 to daily diary No. 56 dated 09.09.2014 without any leave/permission of the competent authority. He was recommended for departmental proceedings by the then Deputy Superintendent of Police Headquarter, Mardan, his previous absentee are 233 days. In this connection he was charge sheeted and was also proceeded against departmentally through inquiry Officer, Mr. Hayatullah Khan RI/Police Lines, Mardan, who after fulfilling necessary process submitted his findings to District Police Officer, Mardan, in which the allegations were established against him. After perusal of service record District Police Officer, Mardan reached to the conclusion that the appellant is habitual absentee, therefore District Police Officer, Mardan agreed with the findings of inquiry Officer and the alleged Constable was dismissed from service.

I have perused the record and also heard the appellant in Orderly Room held in this office on 31.12.2014, but he failed to justify his absence period and could not produce any cogent reason about his absence. Therefore, I MUHAMMAD SAEED Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal and do 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. 113 /ES, Dated Mardan the 06/01 /2015.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo. No. 1063/L3 dated 15.12.2014. His service record is returned herewith.

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(10)

(10)

BEFORE THE INSPECTOR GENERAL OF POLICE KPK, PESHAWAR.

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Sub: APPEAL FOR RE-INSTATEMENT IN RESPECT OF  
EX-CONSTABLE AMINUL HAQ NO. 2629 MARDAN POLICE  
DISMISSED BY THE LEARNED DPO, MARDAN VIDE  
OB NO. 2341 DATED 21.11.2014.

RESPECTFULLY SHEWETH:

F A C T S

I was inlisted in Police force in the year 2009 and completed six years unblemished service with the satisfaction of my superiors.

During those days I was posted in Police Lines, Mardan. I was feeling fever and was allowed to go to my house for 23 hours leave on the following day on 31.08.2014 I visited the hospital at Mardan for medical treatment, so after the examination, I was advised some medicines and complete bed rest for ten days. After the expiry of medical rest, I made my arrival at my duties, thereafter I was dismissed from service, without any cogent reasons, so as it was mentioned that my previous absence of 213 days, and the salaries of that period have been forfeited, and also awarded some other punishment.

My medical certificate is attached for your kind perusal. My appeal was dismissed by the worth DIG, Mardan.

Hence aggrieved this appeal.

G R O U N D S

A: That I have served in Police Force for the last 06 years, which was totally ignored by the authority, which is against law and justice.

B: That my absence was not intentionally but was due to my serious illness, medical certificate is attached for perusal; please.

ATTN: DIG  
*[Signature]*

11

C: That my previous absence 213 days have been mentioned in my dismissal. In this respect, I have already been awarded as cutting of salaries and these absence were before the year 2012, and after this 09 days are due to my serious illness and the medical certificate was also produced which was not accepted.

D: That I have served for six years in Police Department and having no other source of income, only this service was the source, which was snatched.

E: That I am married one and having School going Childrens and old aged parents, who are also supporting by me. My childrenes and parents are also effecting from my dismissal.

So in view of the above grounds, it is humbly prayed that the order of D.P.O. and DIG, Mardan, may kindly be set aside and I may be re-instated into service with back benefits.

I shall pray for your long life and prosperity.

Yours Obediently,

Dated: 16/01/2015.

*Aminul*  
(EX-CONSTABLE AMINUL HAQ)  
No. 2629 Mardan Police  
R/O Abdur Rehman Killi-Takht Bhai,  
District Mardan.

ATTESTED





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

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-a of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex- Constable Amin ul Haq No. 2629 of District Police Mardan against the Punishment Order i.e dismissal from service passed against the appellatant by DPO/Mardan vide order dated 21.11.2014.

In the light of recommendations of Appeal Board meeting held on 06.08.2015, the board examined the enquiry in detail & other relevant documents. It revealed that the appellatant was served with Charge Sheet/Statement of Allegations and punishment order was announced on the basis of reply to the Charge Sheet and Statement of Allegations.

The appellatant was heard in detail. Record perused. The above Ex-official has absented himself from lawful duty for 222 days. He also got 29 bad entries having no good entry. The board converted his punishment of dismissal from service into removal from service.


Order announced in the presence of appellatant.

Sd/-  
NASIR KHAN DURRANI  
Inspector General of Police,  
Khyber Pakhtunkhwa Peshawar.


No. 9811-15 /E-IV dated Peshawar the 12/08 /2015

Copy of above is forwarded to the:-

1. Regional Police Officer, Mardan Region.
2. District Police Officer, Mardan. The service Roll, Fauji Missal and Enquiry File of the above named official are returned herewith.
3. PSO to IGP/Khyber Pakhtunkhwa Peshawar.
4. PA to Addl: IGP/HQrs Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs Khyber Pakhtunkhwa, Peshawar.

  
(SYED FIDA HASSAN SHAH)  
AIG/Establishment  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar  
12/8/15

ATTESTED



# VAKALAT NAMA

NO. \_\_\_\_\_/20

IN THE COURT OF Service Tribunal, Peshawar

Amin ul Haq

(Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Police Deptt:

(Respondent)  
(Defendant)

I/We Amin ul Haq

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/20

\_\_\_\_\_  
( CLIENT )

ACCEPTED

M. ASIF YOUSAFZAI  
Advocate

TAIMUR ALI KHAN  
Advocate

**M. ASIF YOUSAFZAI**  
Advocate High Court,  
Peshawar.

**OFFICE:**

Room No.1, Upper Floor,  
Islamia Club Building,  
Khyber Bazar Peshawar.  
Ph.091-2211391-  
0333-9103240

C

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

Service Appeal No. 1097/2015.

Ex-Constable Amin-ul-Haq No. 2629 .....Appellant.

**VERSUS.**

District Police officer, Mardan & others.....Respondents.

**Parawise Comments on behalf of respondents No. 01, 02 & 03 are submitted as under:-**

**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.
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 party and mis-joinder of unnecessary parties.
7. That the instant appeal is badly time-barred.

**REPLY ON FACTS:-**

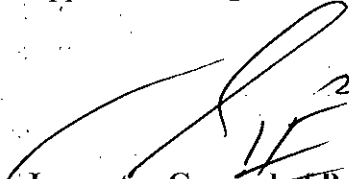
1. Pertains to record, hence, no comments.
2. Incorrect. The appellant is taking a false plea of his illness. Infact, he is a habitual absentee and has been repeatedly warned earliar to be careful but he did not mend his ways. Availing medical prescriptions has become an easy practice, now a days, for the Govt. officials and the later do submit the same during enquiries or departmental or judicial proceedings with the hope to provide grounds for his case/service appeal to stand on. **(Copies of red entrics/warnings issued by the undersigned are enclosed as Annexure-A & B).**
3. Incorrect. The appellant, if was ill & on bed rest, was required to have adopted proper procedure for taking medical leave from the competent authority but he did not bother even to submit a simple application for leave.
4. Correct, however, his enquiry was in progress and later on resulted into his dismissal from service.
5. Incorrect. The Enquiry Officer has followed proper procedure and all codal formalities of the enquiry has been complied with.
6. Incorrect & baseless. Already replied in preceding Para 5 above.
7. Incorrect. The appellant was properly treated under relevant rules/law and punished as he deserved. Besides, the absence period was treated as leave without pay for reasons that he did not perform duty during his days of absence, so, cannot be paid thereof. **(Copy of Enquiry report is enclosed as Annexure-C)**
8. Correct to the extent of rejection of departmental appeal & mercy petition by Worthy DIG Mardan and Worthy IGP respectively, however, the rejections were based on valid grounds, detailed in their respective orders. **(copy of appeal rejection orders are enclosed as Annexure- D & E)**

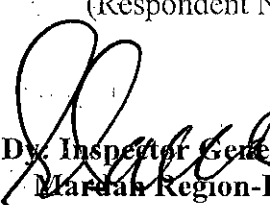
**REPLY ON GROUNDS:-**

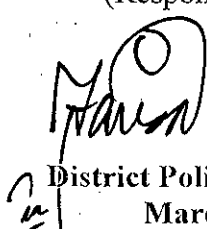
- A. Incorrect. The impugned orders are in accordance with facts, law & norms of justice and based on material on record, hence, tenable in the eyes of law.
- B. Incorrect. The appellant was heard in person as evident from appeal rejection orders.
- C. Incorrect. Proper Departmental Enquiry was conducted in accordance with rules/law.
- D. Incorrect. The enquiry officer just digout the facts & make recommendations about delinquent official. It is, infact, the competent authority who describe the nature of penalty and same is the case here.
- E. Incorrect. Proper procedure has been adopted & all codal formalities have been complied with.
- F. Incorrect. The appellant has not performed duty, so, cannot be paid for the days he remained absent therein.
- G. Correct, however, the appellant has been shown/proved habitual absentee for more than 200 days from his service record. Besides, 09 days absence in Police, being a disciplined force, is too long and A even & B single moment absence of any official could cause a huge misshape. The appellant is, therefore, rightly been punished.
- H. Correct, however, his enquiry was in progress after resuming his duty and concluded thereafter as well.
- I. Incorrect. The appellant is a member of Police Force & is being treated under Special Law i.e Police Rules.
- J. Incorrect. The punishment awarded is in accordance with rules/law and sustainable in the eyes of law.
- K. Incorrect. The appellant's absence was deliberate and also failed to adopt proper procedure for leave, medical or otherwise.
- L. The respondents also seek permission of presenting further documents etc, if any, at the time of arguments.

**PRAYER:-**

It is, therefore, prayed that the appeal of the appellant, being devoid of merits, is liable to be dismissed with costs.

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

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

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



Serial No.

14. COMMENDATORY ENTRIES—Concl'd.

ORDER

The Punishment dismissal from service awarded by DPO/Marda is hereby converted into Removal from service vide IGP KPK Peshawar Enclt. No. 9811-15/E-10, dt. 12-8-15.

  
DPO/Marda

15-CENSURES AND PUNISHMENTS.

He is hereby warned  
to be careful in future -

OB No: 903

26-3-12

~~DPo/MR~~  
2

① Fined Rs: 200/= for his Absence.

OB No: 778

15-3-013

~~DPo/MR~~  
2

He is hereby warned  
to be careful in future and one  
day absent period counted as c/leave.

OB No. 1803

dt 26.8.013

~~DPo/MR~~

②

order

He is hereby dismissed from service his  
absence period will counted as leave without pay  
in exercise of the power vested in me under Police  
Rules-1975

OB No 2341  
21/11/14

~~DPo/MR~~  
S D Ponnaradan

CHARACTER ROLL OF

(CACTE

Serial No.

15-CENSURES AND PUNISHMENTS.—Contd.

order

Appeal rejected by DIG/1  
Mardan vide Enclt. No. 113/BS  
dt. 6/1/15.

~~OP~~ P. Mardan

(Continued)

"A",

LEAVE ABSENCE AND IN SERVICE

All periods not counting "approved service" to entered in red ink.

1		2			3	4
DATE		EXTENT			No. of District Order	Description of leave i.e. Privilege, hospital, sick leave, or furlough, or of absence, or forfeiture of approved service.  All entries to be initialed, by Superintendent of Police.
From	To	Years	Months	Days		
				(6)	1262 17/7/09	Leave w/o pay DPO/MR
				(4)	17/4 18-5-10	do DPO/MR
				(11)	1868 27-5-10	do DPO/MR
				(2)	2163 16-6-10	do DPO/MR
				(2)	2165 16-6-10	do DPO/MR
				(15)	2467 2-7-10	do DPO/MR
				(3)	3122 16-8-10	do DPO/MR
				3	3286 27-8-10	do DPO/MR
				(1)	3896	NAH DPO/MR
				(1)	4022	do DPO/MR
				(1)	4154	do DPO/MR
				(1)	4215	do DPO/MR

TRICT

(12)  $\frac{13}{8-1-11}$  ...

~~DP/MR~~

(3)  $\frac{147}{8-1-11}$  -- do --

~~DP/MR~~

(17)  $\frac{161}{11-1-11}$  -- do --

~~DP/MR~~

(1)  $\frac{589}{2-2-11}$  -- do --

~~DP/MR~~

(2)  $\frac{593}{2-2-11}$  -- do --

~~DP/MR~~

(1)  $\frac{1094}{7-3-11}$  -- do --

~~DP/MR~~

(4)  $\frac{1149}{0-1-11}$  -- do --

~~DP/MR~~

( )  $\frac{15-3}{...}$

~~DP/MR~~

(4)  $\frac{16-4}{25-4-1}$

~~DP/MR~~

(6)  $\frac{1812}{6-5-11}$  -- do --

~~DP/MR~~

(4)  $\frac{2016}{23-5-11}$  -- do --

~~DP/MR~~

(32)  $\frac{904}{26-3-12}$  -- do --

~~DP/MR~~

(4)  $\frac{1084}{6-4-12}$  -- do --

~~DP/MR~~

(3)  $\frac{3015}{8-11-12}$  -- do --

~~DP/MR~~

(2)  $\frac{3204}{5-2-12}$  -- do --

~~DP/MR~~

(15)  $\frac{1096}{12-5-2014}$  El leave -

~~DP/MR~~

(1)  $\frac{1944}{12-9-14}$  Leave w/o pay -

~~DP/MR~~

"A)

POLICE DEPARTMENT

MARDAN DISTRICT

ORDER-WARNING

Constable Ameen-ul-Haq No. 2629, while posted at Police Station Toru, was deputed to Police Lines in connection with Polio duty, but he remained absent without any leave/permission of the competent authority vide DD report No. 40 dated 26.06.2013 Police Lines.

In this connection, he was served with a Show Cause Notice, under NWFP Police Rules 1975, issued vide this office No. 452/PA/SCN/R dated 16.08.2013, to which, his reply was received and found not satisfactory, therefore he is hereby warned to be careful in future with counting his one day absence's period as casual leave and his pay released with immediate effect, in exercise of the power vested in me under NWFP Police Rules 1975.

**ORDER ANNOUNCED**

OBNo. 1803 /

Dated \_\_\_\_\_ /2013

No. 7621-25 / PA Dated 27.8 /2013.

  
District Police Officer,  
Mardan

Copy forwarded for information and necessary action to:-

1. The SP Operations, Mardan.
2. The DSP/SMT, Mardan.
3. The Pay Officer (DPO) Mardan
4. The E.C (DPO) Mardan.
5. The OASI (DPO) Mardan with (4) enclosures

**OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN**

No. 751 /R/D.A-P.R-1975.

Dated 5-11- /2014

**DISCIPLINARY ACTION UNDER NWFP POLICE RULES - 1975**

I, **Gul Afzal Khan** District Police Officer, Mardan as competent authority am of the opinion that **Constable Amin Ul Haq No. 2629**, has rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of section-02 (iii) of NWFP Police Rules 1975.

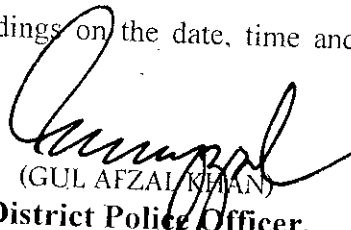
**STATEMENT OF ALLEGATIONS**

That **Constable Amin Ul Haq No. 2629**, while posted at Police Lines, deliberately absented himself from the lawful duty vide DD No. 13 dated 31.08.14 to DD No. 56 dated 09.09.2014 without any leave / permission of the competent authority. He is recommended for departmental proceedings by the DSP/HQrs; Mardan vide his office letter No. 479/R, dated 21.10.2014.

2. For the purpose of scrutinizing the conduct of the said official with reference to the above allegations **Hayatullah Khan R.I Police Lines Mardan** is appointed as Enquiry Officer.

3. The enquiry officer shall conduct proceedings in accordance with provisions of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused official, record its findings and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.

4. The accused officer shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

  
(GUL AFZAL KHAN)  
District Police Officer,  
Mardan.

**OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN.**

No. 751 /R, dated Mardan the 5-11- /2014.

Copy of above is forwarded to the:

1. R.I/Police Lines Mardan for initiating proceedings against the accused official / Officer namely Constable Amin Ul Haq No. 2629, under Police Rules, 1975.
2. Constable Amin Ul Haq No. 2629, with the directions to appear before the Enquiry Officer on the date, time and place fixed by the enquiry officer for the purpose of enquiry proceedings.

\*\*\*\*\* !!! \*\*\*\*\*


## CHARGE SHEET UNDER NWFP POLICE RULES 1975

I, **Gul Afzal Khan** District Police Officer, Mardan as competent authority hereby charge you **Constable Amin Ul Haq No. 2629**, as follows.

That you constable, while posted at Police Lines, deliberately absented yourself from the lawful duty vide DD No. 13 dated 31.08.14 to DD No. 56 dated 09.09.2014, without any leave / permission of the competent authority. You are recommended for departmental proceedings by the DSP/HQrs: Mardan vide his office letter No. 479/R, dated 21.10.2014.

This amounts to grave misconduct on your part, warranting departmental action against you, as defined in section - 6 (1) (a) of the NWFP Police Rules 1975.

1. By reason of the above, you appear to be guilty of misconduct under section - 02 (iii) of the NWFP Police Rules 1975 and has rendered yourself liable to all or any of the penalties as specified in section - 04 (i) a & b of the said Rules.
2. You are therefore, directed to submit your written defense **within seven days** of the receipt of this charge sheet to the enquiry officer.
3. Your written defence if any, should reach to the enquiry officer within the specified period, failing which, it shall be presumed that you have no defense to put-in and in that case, an ex-parte action shall follow against you.
4. Intimate whether you desired to be heard in persons.

  
(GUL AFZAL KHAN)  
District Police Officer,  
Mardan.



# فائل انکوائری ازاں کنسٹیبل امین الحق 2629 متعینہ پولیس لائن

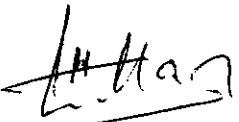
جناب عالی!

بحوالہ چارج شیٹ نمبر 751/R مورخہ 05-11-2014 کنسٹیبل امین الحق 2629 کے انکوائری کاغذات موصول ہو کر جس میں کنسٹیبل مذکورہ پر الزام لگایا گیا ہے کہ وہ پولیس لائن سے بحوالہ مد 13 مورخہ 31-08-2014 تا مد 56 مورخہ 09-09-2014 غیر حاضر ہو کر کل 09 یوم غیر حاضر رہ چکا ہے۔

کنسٹیبل امین الحق 2629 پر چارج شیٹ مورخہ 10.11.2014 کو تقسیم ہو کر کنسٹیبل مذکورہ نے اپنا تحریری جواب داخل دفتر کر کے جس میں اُس نے بیان کیا کہ میں 31.08.2014 سے شارٹ ATS کورس میں بیمار ہو کر جو کہ تقریباً 10 یوم تک بیماری میں مبتلا تھا اور اپنے گاؤں کے ایک پرائیویٹ ڈاکٹر سے علاج معالجہ کر رہا تھا اور اپنی چارج شیٹ کو بغیر کسی کارروائی کے داخل دفتر کرنے کی استدعا کی ہے۔

دوران انکوائری کنسٹیبل امین الحق 2629 کو دفتر ہذا طلب کر کے ان سے بیان لیا گیا اور ان پر جرح بھی کیا گیا اس کے ساتھ ساتھ مذکورہ کا سروس ریکارڈ چیک کر کے جس میں 30 Bad Entry اور کوئی Good Entry نہیں پائی گئی۔ کنسٹیبل مذکورہ نے اپنی غیر حاضری کی بڑی وجہ اپنی بیماری بیان کی۔ کنسٹیبل امین الحق 2629 نے اپنی بیماری کے مطلق نہ کوئی ڈاکٹری کاغذات پیش کی اس سے واضح ہوا کہ کنسٹیبل مذکورہ نے قصداً عداً غیر حاضری کی ہے۔

انکوائری سے پایا گیا کہ کنسٹیبل امین الحق 2629 قصداً عداً غیر حاضر رہ چکا ہے اور بیماری ایک بہانہ ہے۔ لہذا کنسٹیبل امین الحق 2629 کی کل 09 یوم غیر حاضری کو باآئخواہ کرنے کی سفارش کی جاتی ہے۔

  
ریزرو انسپکٹر پولیس لائن

مردان

کل قطعات (9)

Dismissed from  
Service  
By  
20.11.014  
Pi - 585  
19-11-14

کنسٹیبل امین الحق 2629  
11-10-14

" D 2 (1)


ORDER.

This order will dispose off the appeal preferred by Ex-Constable Amin Ul Haq No. 2629 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. 2341 dated 21.11.2014.

Brief facts of the case are that he while posted Police Lines, Mardan, absented himself from the lawful duty without any permission/ leave vide daily diary No. 13 dated 31.08.2014 to daily diary No. 56 dated 09.09.2014 without any leave/permission of the competent authority. He was recommended for departmental proceedings by the then Deputy Superintendent of Police Headquarter, Mardan, his previous absentee are 213 days. In this connection he was charge sheeted and was also proceeded against departmentally through inquiry Officer, Mr. Hayatullah Khan RI/Police Lines, Mardan, who after fulfilling necessary process submitted his findings to District Police Officer, Mardan, in which the allegations were established against him. After perusal of service record District Police Officer, Mardan reached to the conclusion that the appellant is habitual absentee, therefore District Police Officer, Mardan agreed with the findings of inquiry Officer and the alleged Constable was dismissed from service.

I have perused the record and also heard the appellant in Orderly Room held in this office on 31.12.2014, but he failed to justify his absence period and could not produce any cogent reason about his absence. Therefore, I MUHAMMAD SAEED Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal and do 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. 113 /ES, Dated Mardan the 06/01 /2015.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 1043/LB dated 15.12.2014. His service record is returned herewith.

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



"E"

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

**ORDER**

This order is hereby passed to dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex- Constable Amin ul Haq No. 2629 of District Police Mardan against the Punishment Order i.e dismissal from service passed against the appellant by DPO/Mardan vide order dated 21.11.2014.

In the light of recommendations of Appeal Board meeting held on 06.08.2015, the board examined the enquiry in detail & other relevant documents. It revealed that the appellant was served with Charge Sheet/Statement of Allegations and punishment order was announced on the basis of reply to the Charge Sheet and Statement of Allegations.

The appellant was heard in detail. Record perused. The above Ex-official has absented himself from lawful duty for 222 days. He also got 29 bad entries having no good entry. The board converted his punishment of dismissal from service into removal from service.

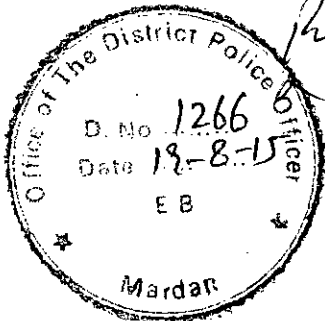
Order announced in the presence of appellant.

Sd/-  
**NASIR KHAN DURRANI**  
Inspector General of Police,  
Khyber Pakhtunkhwa Peshawar.

No. 9811-15 /E-IV dated Peshawar the 12/08/2015

Copy of above is forwarded to the:-

1. Regional Police Officer, Mardan Region.
2. District Police Officer, Mardan. The service Roll, Fauji Missal and Enquiry File of the above named official are returned herewith.
3. PSO to IGP/Khyber Pakhtunkhwa Peshawar.
4. PA to Addl: IGP/HQrs Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs Khyber Pakhtunkhwa, Peshawar.



**(SYED FIDA HASSAN SHAH)**  
AIG/Establishment  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar  
12/8/15

DPO/Mardan  
17/8/15

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

**Service Appeal No. 1097/2015.**

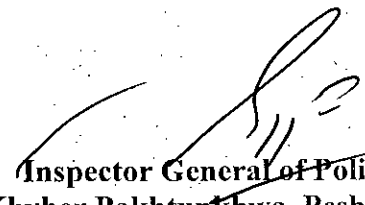
Ex-Constable Amin-ul-Haq No. 2629 .....Appellant.


**VERSUS.**

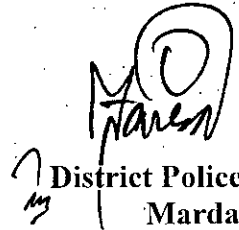
District Police officer, Mardan & others.....Respondents.

**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)

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

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

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

Service Appeal No. 1097/2015.


Ex-Constable Amin-ul-Haq No. 2629 .....Appellant.

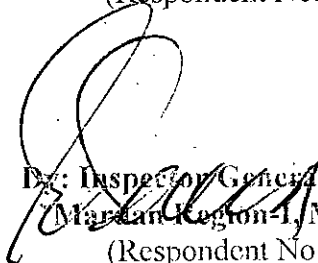
**VERSUS.**


District Police officer, Mardan & others.....Respondents.

**AUTHORITY LETTER.**

Mr. Muhammad Shafiq 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)

  
Inspector General of Police,  
Mardan Region-1, Mardan.  
(Respondent No. 02)

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

**BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 1032/2015

*Amm-ul-Haq*

VS

Police Deptt:

.....

**REJOINDER ON BEHALF OF APPELLANT**

.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(1-7) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

- 1 Admitted correct as the service record of the appellant is in the custody of the Deptt:
- 2 Incorrect. the appellant is not habitual absentee but he was ill due to which he rushed to doctor which advised complete bed rest for ten days which is evident from the medical prescription. Moreover the appellant should not be guilty for the past events in the present case.
- 3 Incorrect. While the Para-3 of the appeal is correct. Moreover, appeal is not in position to submit an application due to severe illness.
- 4 Para-4 of the appeal was admitted correct by the respondent's department. Moreover, not replied according to the Para-4 of the appeal.
- 5 Incorrect. While the Para-5 of the appeal is correct. Moreover, the respondents not fulfill codal

formalities if the proper inquiry which is against the law.

- 6 Incorrect. While Para-6 of the appeal is correct.
- 7 Incorrect. While Para-7 of the appeal is correct. Moreover, defective inquiry was conducted and the absence period was already treated as leave without pay which means that authority had condoned the absence and there remain no ground to penalize the appellant on the basis of absence.
- 8 First portion of Para-8 of the appeal was admitted correct by the respondents that to extent of rejection of departmental appeal and review petition. Moreover, remaining reply of the respondent is incorrect because the department appeal of the appellant was rejected for no good grounds.
- 9 Not replied by the respondents which mean that have admitted Para-9 of the appeal as correct. Moreover, the appellant has good cause of action to file the instant appeal.

**GROUND:**

- A) Incorrect. The impugned orders are against the law and rules, therefore not tenable and liable to be set aside.
- B) Incorrect. The appellant was not treated as per and rules.
- C) Incorrect. There is no regular inquiry was conducted hence the impugned order is liable to be set aside.
- D) Incorrect. While Para-D of the appeal is correct.
- E) Incorrect. While Para-E of the appeal is correct. Moreover, no codal formalities were fulfilled by the respondents before imposing major penalty.

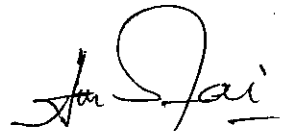
- F) Incorrect. The appellant had already declared the absence period as leave without pay, which means that the authority had condoned the absence and there remain no grounds to penalize the appellant on the basis of absence.
- G) Incorrect. While Para-G of the appeal is correct.
- H) Admitted correct by the Respondents hence needs no comments.
- I) Incorrect. While Para-I of the appeal is correct.
- J) Incorrect. While Para-J of the appeal is correct. Moreover, as explained in the Para-3 of the rejoinder.
- K) Legal.

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

**APPELLANT**

Amin ul Haq

Through:



**(M. ASIF YOUSAFZAI)**

&



**(TAIMUR ALI KHAN)  
ADVOCATE, PESHAWAR.**

**AFFIDAVIT**

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.

  
DEPONENT





KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 19 /ST

Dated 2 / 1 / 2017


To

The District Police Officer,  
Government of Khyber Pakhtunkhwa,  
Mardan.

Subject: - JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 19.12.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.