

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	13.11.2017	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p style="text-align: center;">Service Appeal No. 1088/2015</p> <p style="text-align: center;">Date of Institution ... 09.09.2015 Date of Decision ... 13.11.2017</p> <p>Junaid Khan, (Ex-Constable # 260:Police Lines, Peshawar) R/o Mohallah Amokhel, Mayar, Tehsil & District Mardan</p> <p style="text-align: right;">Appellant</p> <p style="text-align: center;">Versus</p> <ol style="list-style-type: none"> 1. The Government of Khyber Pakhtunkhwa through Provincial Police Officer/ Inspector General of Police, Police Lines Peshawar. 2. The Deputy Inspector General Police Mardan Region, Mardan. 3. The District Police Officer Mardan. <p style="text-align: right;">Respondents</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Learned counsel for the appellant present. Learned Deputy District Attorney on behalf of the official respondents present.</p> <p>2. The appellant has filed the present appeal under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the respondents and made impugned order dated 30.10.2014 whereby the appellant was Dismissed from Service on the ground of absence from duties. The appellant has also challenged the appellate order dated 05.06.2015 whereby the departmental appeal of the appellant was filed.</p>

13.11.2017

3. Learned counsel for the appellant argued that he impugned order of dismissal of service is void. Further argued that the impugned order was issued without observing the codal formalities and is also harsh one. Further argued that vide the impugned order, the competent authority has also regularized the absence period of appellant as leave without pay hence the impugned order of dismissal from service is not tenable in the eyes of law hence liable to be set aside.

4. On the other hand learned Deputy District Attorney while opposing the present appeal argued that the appellant remained willfully absent without any application or permission and codal formalities were also completed, as such the impugned order doesn't warrant any interference.

5. Arguments heard. File perused.

6. Perusal of the impugned order dated 30.10.2014 would show that the competent authority while awarding the major punishment of dismissal of service on the charge of absence from duties, also treated the period of absence of appellant as leave without pay. The concluding para of the impugned order dated 30.10.2014 is reproduced as under:-

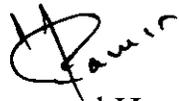
"after going through inquiry file the undersigned agree with the findings of enquiry officer and the alleged Constable Junaid No. 260, is not interested in service, so he is hereby dismissed from service while

10/11/17

his absence period counted as leave without pay, in exercise of my power vested in under Police Rules 1975.

The authority while passing the order of dismissal of the appellant from service treated the period of absence of the appellant as leave without pay and in this way regularized his absence, hence the very ground has vanished on which the appellant had been proceeded against. When appellant was treated on leave without pay then he could not have been considered absent. In this regard judgment of august Supreme Court of Pakistan titled LAHORE DEVELOPMENT AUTHORITY and others---- Petitioners Versus MUHAMMAD NADEEM KACHLOO and another----Respondents (2006 S C M R 434) may be quoted as a reference. Consequently the present appeal is accepted and the impugned orders to the extent of punishment of Dismissal of appellant from service are set aside and resultantly the appellant is reinstated. The intervening period shall be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.


(Ahmad Hassan)
MEMBER


(Muhammad Hamid Mughal)
MEMBER

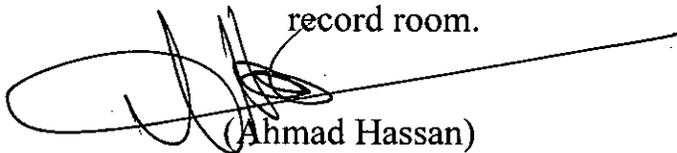
ANNOUNCED
13.11.2017

13.11.2017

Learned Counsel for the appellant and learned

Deputy District Attorney for the respondents present. Vide separate judgment of this Tribunal of today placed on file, the present appeal is accepted and the impugned orders to the extent of punishment of Dismissal of appellant from service are set aside and resultantly the appellant is reinstated. The intervening period shall be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the

record room.



(Ahmad Hassan)

MEMBER

ANNOUNCED

13.11.2017



(Muhammad Hamid Mughal)

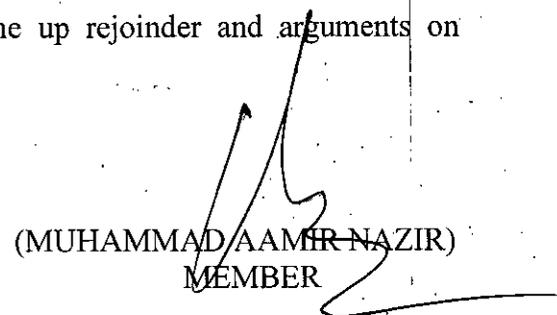
MEMBER

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3

10.02.2017

Appellant in person and Mr. Khalid Mehmood, H.C alongwith Mr. Kabirullah Khattak, Assistant AG for respondents present. Rejoinder not submitted. Appellant requested for adjournment as his counsel is not in attendance today. Adjourned. To come up rejoinder and arguments on 27.03.2017 before D.B.


(ASHFAQUE TAHIR)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

27.03.2017

Counsel for appellant and Assistant AG for respondents present. Rejoinder not submitted. Learned counsel for appellant seeks adjournment. Adjourned for rejoinder and final hearing to 18.07.2017 before D.B.


Member


Chairman

18.07.2017

Counsel for the appellant present. Mr. Atta-ur-Rehman, S.I (legal) alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for rejoinder and arguments on 13.11.2017 before D.B.

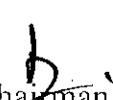

(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

1088/2015

28.4.2016

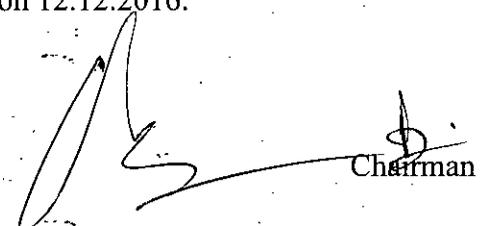
Appellant in person and Mr. Muhammad Ghani, SI
alongwith Addl: A.G for respondents present. Written reply
by the respondents submitted. The appeal is assigned to D.B
for rejoinder and final hearing for 22.08.2016.


Chairman

22.08.2016

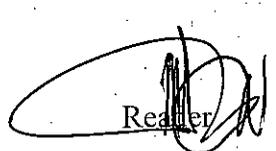
Appellant in person and Mr. Muhammad Ghani, SI
alongwith Mr. Ziaullah, GP for respondents present. Appellant
requested for adjournment. Request accepted. To come up for
rejoinder and arguments on 12.12.2016.

Member


Chairman

12.12.2016

Since 12th December, 2016 has been declared as a public
holiday an account of 12th Rabi-ul-awal. Case is adjourned to
10.02.2017 before D.B.


Reader

14.10.2015

Counsel for the appellant present. Seeks adjournment. Adjourned to 29.10.2015 for preliminary hearing before S.B.


Chairman

29.10.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable when subjected to inquiry on the allegations of involvement in a criminal case registered under section 364-A/PPC registered FIR No. 83 dated 13.3.2013 at PS Batagram Charsadda and dismissed from service vide impugned order dated 30.10.2014 where against departmental appeal was preferred which was rejected on 5.6.2015 but communicated to appellant on 11.8.2015 and hence the instant service appeal on 9.9.2015.

That apart from false implication of the appellant and subsequent acquittal, no charge sheet or statement of allegations were served nor any show cause notice issued to the appellant and hence the impugned order of dismissal is unwarranted.

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 25.2.2016 before S.B.


Chairman

25.02.2016

Appellant in person and Mr. Muhammad Ghani, SI alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 28.4.2016 before S.B.


Member

Appellant Deposited
Security & Process Fee



FORM-A

FORM OF ORDER SHEET

Court _____

Case No. 1088/2015

	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	6.10.2015	<p>The appeal of Mr. Junaid Khan resubmitted to-day by Mr. Bilal Ahmad Kakaizai, 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> <p>This case be put up before the S.B for preliminary hearing on <u>09-10-15</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
	09.10.2015	<p>Counsel for the appellant present Seeks adjournment. Adjourned to 14.10.2015 for preliminary hearing before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> Chairman</p>

The appeal of Mr. Junaid Khan Ex-Constable No. 260 Police Line, Peshawar received to-day i.e. on 09.09.2015, is incomplete on the following scores, which is returned to his counsel for completion and resubmission within 15 days:-

1. Pages 9 and 10 of the appeal are illegible, which may be replaced by legible one.

No. 1392 /ST,

Dated 10-9 /2015

10/9/15
REGISTRAR
KPK SERVICE TRIBUNAL,
PESHAWAR.

MR. BILAL AHMAD KAKAIZAI, Advocate

For the completion of
case file kindly may
extend one week.

23/9/15

one week time is extended

23/9/15

In Order to completion of
satisfaction of objection required one week
further time due to not contact to client
because he in Tabledgh, kindly extend one
week time.

01/10/15

one week time further extended
as per request of counsel.

21/10/15

BEFORE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Service Appeal No. 1088 / 2015.

JUNAID KHAN

VS

Provincial Police Officer etc

I N D E X

Description of Documents		Page
Memo of Service Appeal		1 - 4
Affidavit		5
Addresses Sheet		6
<i>Annexure-A</i>	FIR and other relevant documents.	7
<i>Annexure-B</i>	Acquittal Order dated 15.02.2014 / <i>Better Copy</i>	8 - 9-9A
<i>Annexure-C</i>	Impugned Order. / <i>Better Copy</i>	10-10-A
<i>Annexure-D</i>	Departmental Appeal.	11 - 13
<i>Annexure-E</i>	Impugned Appellate Order.	14
Wakalat Nama		<i>Nil</i>


Appellant

Through,


MUHAMMAD NASIR KHAN

(Advocate, Peshawar)

Al-Mansoor Mansion,

Main G.T. Road,

Opposite PS Gulbahar,

Peshawar.

0345-9080805

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

A.W.P. Province
Service Tribunal
Diary No. 1059
dated 22/11

Service Appeal No. 1088 / 2015.

JUNAID KHAN,
Ex-Constable, No. 260,
Police Lines, Peshawar.
R/o Mohallah Amokhel, Mayar,
Tehsil & District, Mardan.

..... Appellant

VERSUS

1. GOVERNMENT OF KHYBER PAKHTUNKHWA,
Through Provincial Police Officer / Inspector General of Police,
Police Lines, Peshawar.
2. DEPUTY INSPECTOR GENERAL OF POLICE,
Mardan Region, Mardan.
- ✓ 3. DISTRICT POLICE OFFICER,
Mardan.

..... Respondents

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST OFFICE ORDER NO. 2191 DATED 30.10.2014 WHEREBY THE APPELLANT HAS BEEN DISMISSED FROM SERVICE WITH IMMEDIATE EFFECT, AND APPELLATE ORDER NO. 3353/ES DATED 05.06.2015, HANDED OVER TO THE APPELLANT ON 11.08.2015 WHEREBY THE DEPARTMENTAL APPEAL / REPRESENTATION OF THE APPELLANT WAS FILED.

re-submitted
to-day
6/10/2015

Prayer: On Acceptance of this Appeal the Impugned Dismissal Order dated 30.10.2014 as well as Impugned Appellate Order dated 05.06.2015 handed over to the Appellant on 11.08.2015 be set-aside being illegal, unlawful, void and ineffective and the Appellant be reinstated into service with all back wages and benefits with such other relief as may deem fit in the circumstances of the case may also be granted.

Respectfully Sheweth,

Short facts giving rise to the present Service Appeal, are as under:

1. That, Appellant was enlisted in the Respondent's Department in the year 2010.
2. That, during the course of employment a case was registered against some accused under section 364-A PPC vide FIR No. 384 dated 13.03.2013, at Police Station Charsadda, Battagram. One of the Accused charged in the FIR in his statement recorded under section 164 CrPC, disclosed the name of the Appellant.
3. That, thereafter, the Appellant was called by the DSP (HQ) and asked about the statement / occurrence. Since the Appellant was not in knowledge of the occurrence hence the Appellant denied the charges however Appellant was directed to face the Trial, copies of the FIR and other relevant documents are attached as Annexure-A.
4. That, vide Order dated 15.02.2014, the Appellant was acquitted by the Competent Court of Law, copy of the Order is attached as Annexure B.
5. That, vide OB No. 204-HQ dated 06.03.2014 and DD No. 15 dated 10.03.2014, the Appellant was asked to join the duties at Police Station Par Hoti.
6. That, thereafter, the Appellant was transferred to different Police Stations / Office of the DPP, Mardan and was not absent from duties.
7. That, astonishingly, on 30.10.2014, the Appellant was dismissed from services without observing the codal formalities, copy of the Impugned Order is attached as Annexure C.
8. That, Appellant preferred Departmental Appeal against the Order dated 30.10.2014, copy of the Departmental Appeal is attached as Annexure D.

9. That, the Competent Authority filed the Appeal of the Appellant vide Order dated 05.06.2015. It is important to mention here that the Impugned Appellate Order was handed over to the Appellant on 11.08.2015; copy of the Impugned Appellate Order is attached as Annexure E. Hence, this Service Appeal on following amongst other grounds.

GROUNDS:

1. That, the Impugned Order as well as Impugned Appellate Order is illegal, unlawful, void and ineffective.
2. That, same is against the principles of Natural Justice, also.
3. That, no Charge Sheet, Statement of Allegation or Show Cause Notice was served upon the Appellant before passing the Impugned Order.
4. That, no Enquiry was conducted against the Appellant nor was he summoned by the Inquiry Officer during the proceedings in order to separate chaff from the grain.
5. That, Appellant was not confronted with any documents used against him nor any chance of personal hearing was ever provided to him.
6. That, before passing the Appellate Order, Deputy Superintendent of Police was ordered to hold denovo inquiry against the Appellant vide Endorsement No. 2081/ES dated 03.04.2015 but the said Officer also did not bothered to summon or give personal hearing the Appellant.
7. That, as per law the Respondents were bound to issue Charge Sheet etc to the Appellant under Efficiency & discipline Rules, 2011.
8. That, the Inquiry proceeding as conducted and concluded were totally against the prescribed procedure wherein neither any prosecution witness was examined before the Appellant nor he was confronted with any alleged documentary proof.
9. That procedure as adopted by the Enquiry Committee against the Appellant is alien to the ESTACODE and Rules governing the enquiry proceedings hence same is not tenable in the eye of law.

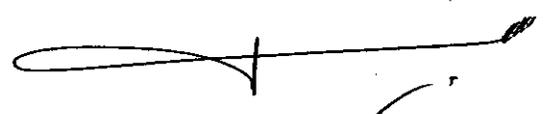
10. That there is nothing on record to connect the Appellant with the alleged charges mentioned in the Orders.
11. That, the Punishment Order is not based on true facts and figures; rather the same is based on surmises & conjectures.
12. That, Appellant has to his credit unblemished service carrier of more than 4 years, during which period he was never / ever reported adverse or penalized / punished.
13. That, Appellant never remained absent nor he denied the performance of duties on any station.
14. That, the act of the Respondents is vioaltive of section 4, 25 & 27 of the Constitution of Islamic Republic of Pakistan, 1973.

It is therefore requested that the Appeal be accepted as prayed for.

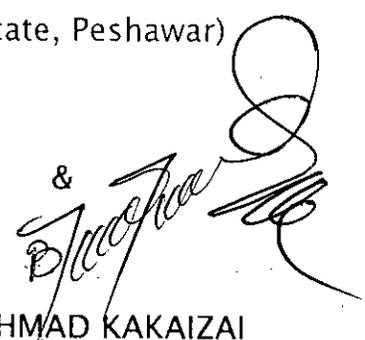


Appellant

Through,



MUHAMMAD NASIR GHILZAI
(Advocate, Peshawar)

&


BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

BEFORE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Service Appeal No. _____ / 2015.

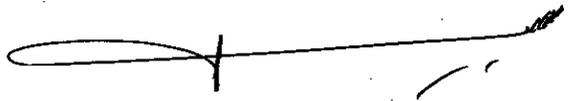
JUNAID KHAN VS Provincial Police Officer etc

AFFIDAVIT

I, JUNAID KHAN, Ex-Constable, No. 260, Police Lines, Peshawar. R/o Mohallah Amokhel, Mayar, Tehsil & District, Mardan, Appellant do hereby on oath affirm and declare that the contents of the Service Appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.


Deponent.

Identified by:-



MUHAMMAD NASIR GHILZAI
(Advocate, Peshawar)



6

BEFORE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Service Appeal No. _____ / 2015.

JUNAID KHAN VS Provincial Police Officer etc

ADDRESSES OF PARTIES.

APPELLANT:

JUNAID KHAN, Ex-Constable, No. 260, Police Lines, Peshawar.
R/o Mohallah Amokhel, Mayar, Tehsil & District, Mardan.

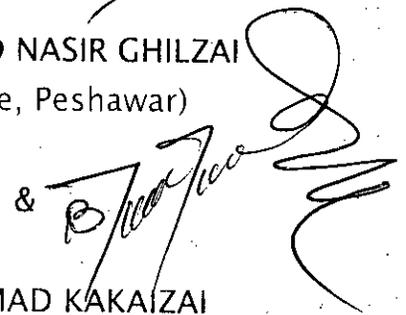
RESPONDENTS:

1. Government of Khyber Pakhtunkhwa, Through Provincial Police Officer / Inspector General of Police, Police Lines, Peshawar.
2. Deputy Inspector General of Police, Mardan Region, Mardan.
3. District Police Officer, Mardan.


Appellant

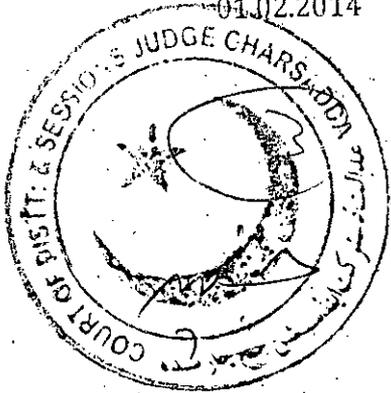
Through,


MUHAMMAD NASIR GHILZAI
(Advocate, Peshawar)


&
BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

• GPA (G) ... (8)
 ... to ASJ ... B-
ANNEXURE

ORDER-04
 01.02.2014



Petitioner Junaid at ad-interim bail with his learned counsel present. APP for the state and complainant Naveed Khan present as well. Complainant of the case submitted compromise deed, with regard to which his statement was recorded. Since, neither the minor abductee Awais nor his parents are present in the Court while status of the complainant in the instant case is as of informer, therefore, the compromise is incomplete, however, learned counsel for the accused sought time to produce the minor abductee Awais and his parent for compromise. Given. To come up for compromise on 15-2-2014

BBA
 28/1/14
 2/1/14

15/2/14

28/2/14

BBA
 3/2
 14

ASGHAR SHAH KHILJI,
 Additional Sessions Judge,
 Shabqadar

Asghar Shah
 Additional Sessions Judge

ORDER-05
 15.02.2014

Petitioner Junaid at ad-interim bail with his learned counsel Mr. Arif Ullah Khan Advocate present. APP for the state present as well. Since, the accused has been acquitted in the main trial, therefore, the instant BBA petition has become infructuous and is disposed of accordingly in case FIR No.83 dated 13.03.2013 under section 364-A PPC of Police Station Battagram.

File be consigned to Record Room after compilation.

Announced:
 15.02.2014

ASGHAR SHAH KHILJI,
 Additional Sessions Judge,
 Shabqadar

Asghar Shah
 Additional Sessions Judge
 Shabqadar

ATTESTED
 EXAMINER
 Cognate Agency Officer
 Court of Sitt & Sessions Judge
 Shabqadar

01/3/14

Statement of Naveed Khan s/o Saeedatullah r/o Dera Sikandar Khan
On Oath

Stated that on 13.3.2013 I had lodged report against un-known accused for the abduction of my nephew Awais son of Naeemullah. Now after search I am fully satisfied that my nephew named above was abducted by Muhammad Ali alias Mand Ali son of Abdullah, Khaliq Dad son of Safdar Khan, Samad son of Muhammad Jan r/o Daula Pura, Faizullah son of Jan Muhammad r/o Dheri Sikandar Khan, Rashid son of Abdur Rehman r/o Mayar near Abdul Haq Karay Mardan I charge the above mentioned persons for the commission of offence.

R.O. & A.C.
18.03.2013

Under Section-164 Cr.P.C.
Naveed Khan
NIC No. 17101-4267075-9

Max

[Signature]

SHERAZ TARIQ
C/Judicial Magistrate,
Charsadda

ATTESTED

Statement of Naveed Khan s/o Saeedullah v/o
Sikandar Khan On Oath

stated that on 13.3.2013 I had lodged report
against un-known accused for the abduction
of my nephew Awaiz son of Naeemullah.
Now after search I am fully satisfied
that my nephew named above was abducted
by Muhammad Ali alias Mand Ali son of
Abdullah, Khaliq Dad son of Sajdar Khan
Samad son of Muhammad Jan v/o Dawlat
Pura, Faizullah son of Jan Muhammad
v/o Dheri Sikandar Khan, Rashid son of
Abdur Rehman v/o Mayas near Abdul Haq
Karay Mardan I charge the above mentioned
persons for the commission of offence.

RO & AC

18.03.2013

Under Section 164, - Cr P C

Naveed Khan.

NIC No. 17104 4267075-9.

Sheraz Tariq
CJ / Judicial Magistrate
sd / xx Charsadda.
C

Better Copy .

10-A

ANX: (C)

POLICE DEPARTMENT

MARDAN DISTRICT

ORDER

Constable Junaid No. 260, while posted at Police Station Par Hoti Mardan committed the following act which is gross misconduct on his part as defined in Rules 02 (iii) Police Rules 1975.

Brief facts are that Constable Junaid No. 260, Police Station Par Hoti Mardan, deliberately absented himself from the lawful duty vide DD No. 24 dated 07.10.2013 to-date.

In this connection, Constable Junaid No. 260, was charged sheeted vide this office No: 452/R, dated 11.02.2014 and he was also proceeded against departmentally through Mr: Sajjad Ahmad DSP/TBI: Mardan, who after finishing necessary process, submitted his findings to The undersigned vide his office endorsement No 4/1/S, dated 29.10.2014, in which the allegations have been established against him.

After going through inquiry file the undersigned agree with the findings of enquiry officer and the alleged Constable Junaid No. 260, is not intrusted in Service So, he is hereby dismissed from service while his absence period counted to date without pay, in exercise of the power vested in me under Police Rules 1975.

Order announced

O.B No. 2191

Dated 30/10/2014


District Police Officer,
Mardan.

No. 11046-51 dated Mardan the 5/11/2014

Copy for information and necessary action to:

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

ANNEXURE

ORDER

Constable Junaid No. 260, while posted at Police Station Par Hoti Mardan committed the following act which is gross misconduct on his part as defined in Rules 02 (iii) Police Rules 1975.

Brief facts are that Constable Junaid No. 260, Police Station Par Hoti Mardan, deliberately absented himself from the lawful duty vide DD No. 24 dated 07.10.2014 to-date.

In this connection, Constable Junaid No. 260, was charged sheeted vide this office No. 452/R, dated 11.02.2014 and he was also proceeded against departmentally through Mr. Sajjad Ahmad DSP/BS, Mardan, who after fulfilling necessary process, submitted his findings to the undersigned vide his office endorsement No.471/S, dated 29.10.2014, in which the allegations have been established against him.

After going through inquiry file the undersigned agree with the findings of enquiry officer and the alleged Constable Junaid No. 260, is not interested in Service So, he is hereby dismissed from service with his absence period counted as leave without pay, in exercise of the power vested in me under Police Rules 1975.

Order announced

O.B No. 2191

Dated 30/10/2014

(Signature)
(Sub-Officer)
District Police Officer,
Mardan.

No. 11046-S1 dated Mardan the 30/10/2014

Copy for information and necessary action to:

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

ATTESTED

(11) 1

BEFORE THE WORTHY DY: INSPECTOR GENERAL OF POLICE,
MARDAN REGION I, MARDAN.

ANNEXURE

Subject: APPEAL FOR RE-INSTATEMENT IN SERVICE IN
RESPECT OF EX.CONSTABLE JUNAID NO. 260
DISMISSED VIDE OB NO. 2191 DATED 30.10.2014
BY THE DISTRICT POLICE OFFICER, MARDAN.

Respectfully Sheweth:-

FACTS.

I, was inlisted in the year of 2010 as
Constable in Police force, and completed four years
un-blamished Service in Police force. During those
days of I was posted in Police Station Par Moti.

A case u/s 564A PPC vide FIR NO. 83
dated 13.03.2013 Police Station Charsadda Batagram was
registered against some accused. Accused Samad who was
charged by the complainant in his statment recorded u/s
164 Cr.p.c. disclosed my name (Junaid) s/o Unknow.

On 07.10.2013 I was called by the DSP/HQ, Mardan and
asked ~~about~~ ^{about} the the occurrance. I was not in the knowledge
about the occurrance. DSP/HQ, Mardan also inquired
into the matter and I was found innocent, in the case and
was directed by the DSP/HQ, Mardan to face the case. On
20.1.2014 I admitted BBA from the concerned Court which
was confirmed by the ASJ, Charsadda Batagram on 15.2.2014
and my case was decided by the Court. I proceeded the

WITNESSED

the acquittal documents to the DSP/HQrs, Mardan. The
 OB NO. 204-HQ dated 06.03.2014 I was directed join my duty.
 On D.D. NO. 15 dated 10.03.2014 at Police Station Par Hoti.
 During this period I was transferred to P.S. Lund Khwar
 and from Lund Khwar to Police Lines, Mardan and on 19.08.2014
 Gunner to DPP, Mardan. I did not remain absent from duty.
 Enquiry of DSP HQrs, Mardan as well as in case are attached
 for kind perusal. I was ^{am} totally innocent in the case, I had
 not remained absent from duty.

GROUND.

1. That I was inlisted in the year of 2011 and completed four years Service un blamished in police force.
2. That neither I remained absent nor committed any criminal case. Both enquiry report are attached with the appeal.
3. That neither I was issued any show Cause Notice ^{and} is called in orderly room for hearing.
4. That the dismissal order ^{was} un careful and insprictic.
5. That I had served in various Police Stations and recently serving as gunner with the DPP, Mardan.

ATTESTED

...3....

and I was also getting my monthly salaries

In view of the above grounds it is humbly prayed that I may kindly be re-instated in Service with back benefit.

I shall pray for your long life and Prosperity.

Yours Obediently

Junaid
(JUNAID) NO.260
Ex. Constable
Police Linces, Mardan.

[Signature]
ATTESTED

ORDER.

ORIGINAL (14) E

This order will dispose-off the appeal preferred by Ex-Constable Junaid Khan No. 260 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. 2191 dated 30.10.2014.

Brief facts of the case are that he while posted at Police Station Par Hoti, a case vide FIR No. 83 dated 13.03.2013 u/s 364-A PPC regarding taking away of a minor school going boy aged about 07 years was registered in Police Station Batagram District Charsadda. On the report of complainant Naveed charged 03 unknown accused. Accused Sarnad was arrested in the case who confessed his guilt before local Magistrate, Charsadda that besides other Co-accused, he disclosed the name of the appellant Junaid. He was granted bail by the court as the said complainant did not charge him for the offence after nominating as accused in the above quoted case. He absented himself from duty and remained absent for 30 days. In this regard, an enquiry was conducted against him through the then Deputy Superintendent of Police, Headquarter, Mardan who in his findings report suggested the absence period (30 days) as leave without pay. Thus vide OB: No. 607 dated 07.03.2014, his absence period of 30 days was counted as leave without pay and he was also awarded punishment of Extra Drill for 03 weeks. During his posting in Police Station Par Hoti, the appellant absented himself from duty vide daily diary No. 24 dated 07.10.2013 till 11.02.2014 and he was recommended for departmental action by the then ASP City vide his office letter No. 177 dated 24.10.2013. He was issued charge sheet with summary of allegation and Deputy Superintendent of Police Takht Bhai, Mardan was appointed as enquiry officer. The enquiry officer summoned the appellant, during course of enquiry time and again but he did not attend his office, despite the fact that charge sheet had already been delivered upon him. The enquiry officer found him guilty and recommended him for punishment. On account of his willful absence from duty as well as his previous record, he was dismissed from service vide OB No. 2191 dated 30.10.2014.

He preferred an appeal against the above mentioned order passed by the District Police Officer, Mardan & appeared before the undersigned in orderly room held on 01.04.2015.

The appeal was referred to Deputy Superintendent of Police Legal, Mardan, for conducting denovo enquiry vide this office endorsement No. 2081/ES dated 03.04.2015, who conducted, finalized & submitted finding reports which revealed that he is guilty and recommended that his appeal may be filed.

I have perused the record and heard the appellant in Orderly Room held in this office on 27.05.2015 & his case was also secretly verified from Incharge DSB, Mardan. He reported that defaulter official was found guilty of the misconduct and also reported that he is not fit for further service as he earned bad name for the Police department. Therefore,

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. 3353 I I/ES, Dated Mardan the 05/06 /2015.

Copy to District Police Officer, Mardan for information and necessary action u/s to his office Memo No. 470/LB dated 17.04.2015

~~ATTESTED~~

		12036
ایڈووکیٹ/دستخط: بارکول ابار ایسوسی ایشن نمبر: رابطہ نمبر: 0345-9080805	پشاور بار ایسوسی ایشن، خیبر پختونخواہ	

بعدالت جناب: سرکس ٹریبونل KPK لٹاؤ

petitioner / Appellant حجاب	دعوی:
حنیضان بنام حکومت گلزنہ	علت نمبر: مورثہ: جرم: تھانہ:

بامث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ
 ان مقام لٹاؤ میں محمد ناصر گلزنہ کی دست بردارگی کو 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 تقرر حالت و فیصلہ برصفت دینے جواب دعوی اقبال دعوی اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا تاخیر کی نظر فرما یا اہیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اہیل نگرانی و نظرتانی و پیروی کرتے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب
 مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ پرداخت منظور قبول ہوگا دوران مقدمہ
 میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرنے کا اختیار 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: 9/09/15

العبد _____

مقام لٹاؤ

العبد _____

کے لئے منظور ہے۔

Accepted by _____

نوٹ: اس کالت نامہ کی نوکری کا حامل قبول ہوگی۔

9. Correct to the extent of filing/rejection of appellant's appeal, however, rest of the para is incorrect.

REPLY ON GROUNDS:-

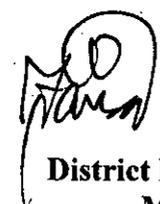
1. The impugned orders are legal, lawful & effective as per rules/law.
2. Incorrect as the same are in accordance with principles of natural justice.
3. Incorrect. Proper de-novo enquiry was conducted by DSP Legal Mardan by observing all codal formalities.
4. Already replied in the preceding para No. 3 above.
5. Incorrect. The appellant was provided all opportunities of self-defence & was also heard in person by the Departmental Appellate Authority in orderly room on 27.05.2015.
6. Incorrect & baseless as the copy of enquiry is attached, which is self-explanatory.
7. Correct & the appellant has been issued the same.
8. Incorrect & baseless, hence, need no comments.
9. Incorrect. Police is a disciplined force & is dealt under Special Law i.e Police Rules. Hence, the impugned orders are tenable in the eyes of law/rules.
10. Incorrect. The appellant is habitual absentee & has faced numerous enquiries earlier to this too. This time he was again found guilty of misconduct.
11. Incorrect & baseless, hence, no comments.
12. Incorrect. The appellant has 03 years & 07 months service, comprising a series of red/bad entries. **(Copies of red/bad entries are attached as Annexure-F)**
13. Incorrect. The appellant has stained his service record with a number of red/bad entries and does not deserve further retention in service.
14. Incorrect. There is no violation of any article of the Constitution of Islamic Re-public of Pakistan.

PRAYER:-

It is, therefore, prayed that the appellant's plea holds no legal grounds to stand on in the instant appeal for reasons: of his habitual absentees, stained service carrier & being properly proceeded against under relevant rules/law during departmental enquiries. His appeal may please be dismissed with costs.


**Provincial Police Officer,
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. 1088/2015

Junaid Khan Ex-Constable No. 260.....Appellant.

VERSUS.

District Police Officer, Mardan

& others.....Respondents.

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 parties and mis-joinder of unnecessary parties.
7. That the instant appeal is barred by law & limitation.

REPLY ON FACTS.

1. Incorrect. The appellant was enlisted as constable on 04.04.2011 in Police Department.
2. Correct, however, the appellant was awarded punishment by the then DPO Mardan in this regard vide OB No. 607 dated 07.03.2014 on the ground of his 30 days deliberate absence. But, the penalty of dismissal from service awarded to the appellant as pleaded against in the instant service appeal stands on separate grounds of prolonged & deliberate absence. **(Copies of Enquiry & order vide OB No. 607 dated 07.03.2014 are attached as Annexure-A & B)**
3. Incorrect. The calling upon of the appellant by DSP/HQrs: in connection with enquiry was a separate chapter i.e on the ground of his absence after being nominated co-accused in a criminal case vide FIR No. 83 dated 13.03.2013 and the same was closed/disposed of vide OB No. 607, cited above in the preceding Para No. 2 above. **Infact**, the appellant soon after that once again had deliberately absented himself vide DD No. 24 dated 07.10.2013 upto DD No. 15 dated 10.03.2014 Police Station Par Hoti (total absence 05 months & 03 days). In this regard the appellant was recommended for departmental action by the then ASP City vide his office letter No. 177 dated 24.10.2013. To proceed against the appellant departmentally the then DSP Takht Bhai, being Enquiry Officer, issued him charge sheet etc fulfilling all codal formalities & called upon the appellant to appear before him but he did not appear and thus, the then DPO Mardan had no alternative than the impugned punishment vide OB No.2191 dated 30.10.2014. The appellant **then preferred departmental appeal**, whereat, de-novo departmental enquiry was marked to DSP Legal Mardan, who after all codal formalities found the appellant guilty and recommended that his appeal may be filed. **(Copies of letter by ASP City, appeal rejection & De-novo Enquiry by DSP Legal are attached as Annexure-C, D & E).**
4. Incorrect. The story carried in this para is separate one & has already been disposed of vide OB No.607, cited in the preceding para-2 above.
5. Incorrect as this para relates to the version disposed of vide OB No.607, cited above.
6. Incorrect. The appellant is very tactful & habitual absentee.
7. Correct to the extent of dismissal vide order dated 30.10.2014, while the later para is totally incorrect.
8. Correct & the Departmental Appellate Authority ordered for de-novo departmental enquiry which was conducted properly by DSP Legal & found the appellant guilty.

خانہ باری

تعداد = 24 روز 10/07/013

منسلک

24 رپورٹ عبدالغفور بختیاری خان کو وقت 12.10 بجے دور 10/07/013
 اصل وقت کٹیل سنہ 260 کی رپورٹ عطا لیں رپورٹ جاک لگائی گئی
 قحی صدر محمد رفیق خانہ جو بازار گڈان جا کر لفظ رپورٹ چائنا رہی کٹیل
 مذکورہ ماہ عدم موجودگی یا گیا صدر خانہ بلڈنگ کے صدر میں تلاش کیا
 کٹیل عدم موجودگی یا گیا بلڈنگ صدر مذکورہ ماہ کے خلاف رپورٹ عبدالغفور
 "7 روزہ رپورٹ کو تعداد علیحدہ سے لفظ لفظ مناسب ماروا بی افغان
 ماہ کی صورت میں ارسال کی جائیگی

صا عالی

منسل عطا لیں اصل



mm-PS. PRAOTI
 12-04-013

قائد پارٹی

نمبر 15 روزانہ 10/3
014

میلو ڈال

15 مارچ 1973
ریورٹ حاضرہ جہانگیر خان 540 وقت 15:07 بجے 10/3
014
درج ذیل کتب 260 غیر حاضر شدہ وقت 24 مارچ
1973 سے حاضرہ خانہ آکر دوران حاضرہ کیوں بیان کرنا ہے
دوران سٹی اور ان ماہ کو کوئی غیر حاضرہ جواب روگ نہیں
سرپرست کتب خانہ کی حاضرہ پر 7 روزانہ جو کہ نمبر علیحدہ مدنی
کے بعد مل مناسب ماہروں اور ان ماہ کی خدمت میں ارسال کی جائے

سنا عالی

نقل عطا علی اصل

mm PS. PIAOTI
197-04-015

انکوائری اذان جنید 260 متعینہ تھانہ پارہوتی

جناب عالی

بحوالہ رپورٹ ریڈر جناب DPO صاحب مردان برخلاف کنسٹیبل جنید 260 جس پر DPO صاحب مردان نے انکوائری کرنے کیلئے ارسال فرمایا۔ رپورٹ میں کنسٹیبل کے خلاف تحریر کیا گیا ہے۔ کہ کنسٹیبل جنید 260 کیخلاف مقدمہ علت 83 مورخہ 13-03-13 جرم 364-A تھانہ بنگرام چارسدہ میں ملزمان نے عدالت میں ریکارڈ کر کے ملزم ہے۔ اور اسکے علاوہ تھانہ پارہوتی سے دوران تعیناتی غیر حاضر ہو کر جسکے خلاف شوکاژ نوٹس جاری ہو کر جس نے اپنا بیان داخل دفتر نہ کر کے کنسٹیبل جنید کو محکمہ پولیس سے برطرف کرنے کا حکم اس وقت کے DPO صاحب نے دستخط کیا۔ مگر اب تک اس پر آرڈر بگ نہیں ہوا ہے۔ اور کنسٹیبل مذکورہ بدستور محکمہ پولیس میں موجود تنخواہ لے رہا ہے۔ اب تک انکوائری سابقہ PA کے پاس نامعلوم مقصد کیلئے پڑا تھا۔

دوران انکوائری کنسٹیبل جنید، تفتیشی آفیسر ارشد ASI تھانہ بنگرام کے بیانات لئے گئے۔ کنسٹیبل جنید کے بیان کے مطابق مورخہ 5-06-13 کو تھانہ پارہوتی سے رخصت شب باشی پر گھر خود گیا تھا۔ گھر میں بیمار ہو کر ڈاکٹر کے پاس گیا ڈاکٹر نے بعد معائنہ ادویات تحریر کر کے ساتھ ہی 7 یوم میڈیکل ریٹ تجویز کیا۔ بوجہ بیماری غیر حاضر ہو کر ڈاکٹر صاحب کی تجویز کردہ ادویات استعمال کر رہا تھا۔ اور ڈاکٹر صاحب نے دھوپ میں چلنے پھرنے سے منع کرنے کی ہدایت کی تھی۔ اسلئے ریٹ ختم ہونے پر بھی ڈیوٹی کیلئے حاضر نہ ہو سکا۔ اور کل 27 یوم تک غیر حاضر رہا۔ اور شوکاژ نوٹس اسے نہیں ملا۔ اور نہ ہی اسے پیشی کے متعلق کوئی اطلاع موصول ہوئی۔ مورخہ 8-11-13 کو اسے اپنے برخاستگی کے متعلق اطلاع موصول ہوئی۔ اپنے جواب میں کنسٹیبل مذکورہ نے اپنے غریبی بیان کر کے مذکورہ انکوائری کو بلا کسی کاروائی کے داخل دفتر کرنے کی استدعا کی ہے۔ اور بیان کیا ہے۔ کہ اسکے بعد مورخہ 8-11-13 تک وہ اپنی ڈیوٹی ایمانداری کے ساتھ سرانجام دے رہا تھا۔ کوئی غفلت یا بے احتیاطی کامرتکب نہیں ہوا ہے۔ اور اپنے خلاف مقدمہ میں ملوث ہونے کے بارے میں بیان کیا۔ کہ وہ بوقت وقوع بحوالہ مد 23 مورخہ 13-03-13 کو پولیو کی ڈیوٹی پر موجود تھا۔ اسلئے اسے بے گناہ طور پر پھنسا یا گیا ہے۔ مدعی مقدمہ سمسو نوید ولد سعید اللہ سکنہ ڈھیری سکندر خان تحصیل شہد رنے سٹامپ نمبری 4463 مورخہ 20-12-13 پر تحریر کیا ہے۔ کہ اسے نہ تو کنسٹیبل جنید پر مقدمہ ہذا میں دعویٰ جاری کی ہے۔ نہ ہی وہ اسے جانتا ہے۔ اور اگر کسی وجہ سے کنسٹیبل جنید کو مقدمہ میں پھنسا یا گیا ہے۔ تو اسکے بارے میں وہ نہیں جانتا ہے۔ اور اسکے خلاف وہ کوئی بھی کاروائی کرنا نہیں چاہتا۔ کنسٹیبل جنید نے عدالت سے BBA کر کے جو کہ کفرم ہو کر عدالت سے ضمانت پر ہے۔ دوران انکوائری مثل مقدمہ اور انکوائری ہذا کو بغور پڑھنے کے بعد اس نتیجہ پر پہنچا ہوں۔ کہ کنسٹیبل جنید مورخہ 24-04-13 سے 27-04-13 اور مورخہ 06-06-13 سے 03-07-13 تک کل 30 یوم غیر حاضر رہ کر اس دوران کنسٹیبل مذکورہ کے خلاف چارج شیٹ جاری ہو کر جو کہ کنسٹیبل نے جواب داخل دفتر نہ کر کے اس وقت کے DPO صاحب نے بغیر کسی انکوائری کے برخاستگی کا حکم صادر فرمایا۔ لیکن چونکہ اس پر آرڈر بگ نہیں ہوا۔ اور تاحال پنڈنگ تھا۔

اسلئے کنسٹیبل مذکورہ نے اس دوران تھانہ پارہوتی میں باقاعدہ ڈیوٹی سرانجام دے رہا تھا۔ اور تنخواہ لیتا رہا۔
 DPO صاحب نے سابقہ PA کا تبادلہ کر کے اسکے ساتھ پنڈنگ انکوائریاں چیک کی۔ تو انکوائری ہذا کا کارروائی کے ملا۔ جو کہ دوبارہ اسکی انکوائری ہو کر کنسٹیبل جنید نے صرف 7 یوم غیر حاضری کے متعلق اپنا میڈیکل پیش کیا۔ اور بقایا غیر حاضری کے متعلق کوئی جواز پیش نہ کر سکا۔ لیکن کنسٹیبل مذکورہ حقیقتاً بیمار تھا۔ جسکی وجہ سے غیر حاضر ہوا۔ لیکن کنسٹیبل جنید نے پولیس رولز کے مطابق قانونی طریقہ کار نہیں اپنایا۔ اور کنسٹیبل جنید کے خلاف مقدمہ میں ملوث ہونے کے متعلق عدالت نے جو حکم صادر فرمایا۔ ویسا ہی کارروائی عمل میں لائی جائے گی۔ اسلئے کنسٹیبل جنید نمبر 260 کی عرصہ غیر حاضری 30 یوم کو بلا تنخواہ کرنے اور بحال رکھنے کی سفارش کی جاتی ہے۔

میاں نصیب جان

میاں نصیب جان

ڈپٹی سپرنٹنڈنٹ آف پولیس ہیڈ کوارٹر مردان

No :- 204 - HORS
 06-03-14

تصدیق - (33)

counted without pay and
 x-drill for 3 weeks.

(Ph)
 7.3

58607
 7-3-14

بیان عقربان الہدیہ $\frac{H.C}{1380}$ مدرسہ نظام یار سید

بیان کیا کہ حسیہ $\frac{F.C}{260}$ جو مدرسہ یار سید 10-3-15
عزیز خان و سواتی جی کے ہفت روزہ مدرسہ علم حارہ
پورٹل درج کی گئی تھی۔ جو کہ مدرسہ حارف سوک
رہنما کی جگہ مدرسہ 15 عوارفہ 10-3-15 روزنامہ
میں حارف میں درج کی گئی تھی۔
اس بابت میں سرمدیوں نے حرافت پیش کرنا ہے

Signature
10-4-15

Attested
Signature
10/4

حوالہ نقل درجہ 15، قورس 10⁵³/₂₀₁₄، تھانہ پارہ پور، ضلع مردان، بابہ علیہ صہری قورس

10⁵³/₂₀₁₄ قورس حدیث سول - 2013

کہ جس بطور کنسٹیبل تھانہ پارہ پور، مردان سے اپنی ڈیوٹی سرانجام دے رہا تھا۔ اسی دوران

لوئید ولد سعید اللہ سکند ڈھیر، سکند خان سے اپنے بھائی طفیل ولد نعیم کی انوائسٹی کا

موضوع میں کسان ملزمان اسم ممکن نامعلوم دعویداری کی جھگی میں پر مقدم

ملنے پر 83 قورس 13⁵³/₂₀₁₃، صہم 364-8، تھانہ ٹٹگرام درجہ پورا۔ جو کہ بعد میں

مستفیت کی دعویداری پر اسم ولد سعید اللہ وغیرہ قورس سے گرفتار ہوئے۔ جو کہ مردان

انٹارگیشن ملزم مذکورہ نے بھی اپنے ساتھ شریک واردات بنایا۔ اور ملزم مذکورہ

نے بھی بدعتی اور ذاتی عناد کی بنیاد پر ملزم میں ماحق طور پر ملوث کیا۔ جو کہ D.S.P

کواریٹر کے عیادت کے مطابق میں نے ملزم کے پاس BBA کیا۔ اور اپنے بگناہ ثابت کرنے

کے لیے دوڑھو سے شروع کی۔ اس سے میں نے اس کی انوائسٹی گیشن، ضلع پارہ سے کو

دخواست دی، جس پر غیر جانبدارانہ لفتیشن ہو کر مجھے ملزم کے بگناہ قرار پایا۔

جسکی فوٹو اسٹیٹ لے لی۔

چونکہ قورس ملزمان بابہ میں دعویداری کے لیے میں نے کامیابی کے لیے رہائی سے عیبلا تھا۔ اور میرا

زبانہ عزم ملزم میں اپنے بگناہی کرنے پر صہری ہوا۔ جسکی وجہ سے مجھے ڈیوٹی سے علیہ طائف

کیا گیا ہے۔ میں والدہ طور پر اپنے ڈیوٹی سے علیہ صاف نہیں ہوا ہوں۔ علیہ طائف

کی صورتوں کے جوہر میں ڈیوٹی سے علیہ کام رہا ہوں۔

اس سے پہلے سے لے کر کسی شکایت اور نفع کے لیے ڈیڑھ گھنٹے کی حالت میں

سے سزا جاری ہے۔

سزا انڈس مالک جوہانے کی پیادہ اسد کا کھانچ ہے۔

مجھے اس بار معافی دی جائے۔ آئندہ کیلئے محتاط رہوں گا۔ اور اپنے

افسران مالک کو کسی سے شکایت کا موقع نہیں دوں گا۔ جس کیلئے میں اپنے افسران

مالک کا تاج دیا گیا رہوں گا۔

الہ خیر

سابقہ ڈپٹی کمشنر علی

No. 260

Attested.

10/4/2015

From: The Deputy Superintendent of Police,
Legal, Mardan.

To: The Deputy Inspector General of Police,
Mardan Region-I, Mardan.

No: 470 /LB dated Mardan the 17-4- /2015.

Subject: DE-NOVO ENQUIRY IN RESPECT OF EX-CONSTABLE JUNAID NO. 260
DISMISSED VIDE OB NO. 2191 DATED 30.10.2014 BY THE DISTRICT POLICE
OFFICER, MARDAN.

Memò:

Kindly refer to your office Endst: No. 2081/ES dated 03.04.2015 on the case noted above in the subject.

As directed, I conducted de-novo enquiry into the matter and submit my report as under:-

1. It is submitted that appellant/Ex-Constable Muhammad Junaid No. 260 was summoned and on his attendance, he was directed to submit in writing reason of his absence from official duty recorded vide D.D No. 24 dated 07.10.2013 to D.D No. 15 dated 10.03.2014.
2. Applicant gave a written reply wherein he alleged that due to his involvement in case FIR No. 83 dated 13.03.2013 u/s 364-A PPC PS Batgram District Charssada, he was mentally disturbed and due to this fact he remained absent. He further stated that in that case he was found innocent by investigation officer and he was granted bail before arrest by court.
3. It is correct that applicant was implicated in the said case on the statement of co-accused Asad which he had made before the court but the concerned complainant submitted an affidavit regarding his innocence before the court of Additional Sessions Judge Shabqadar & due to the affidavit of concerned complainant, his bail before arrest was confirmed. That case has no links with the present absence of appellant because previously due to his involvement in the said case, the appellant had remained absent from 08.06.2013 to 03.07.2013 and on account of that absence he was dismissed from service by the then W/DPO Mardan vide the enclosed order but no order book was issued in this regard and the case was lying with the then PA to DPO that it was submitted by Reader before the W/DPO vide his report enclosed herewith and thus case was again marked to the then DSP HQrs for enquiry and regarding that absence period an enquiry was conducted against him through the then DSP HQrs who found him guilty in his report dated 06.03.2014 and hence he was awarded punishment of 03 weeks Extra Drill and absence period was treated as leave without pay vide OB No. 607 dated 07.03.2014.
4. It is worth mentioning here that he again absented himself from 07.10.2013 to 10.03.2014 and on account of that absence period he was dismissed from service vide OB No. 2191 dated 24.10.2014 after conducting proper departmental enquiry against him through DSP Takht Bhai.

se of de-novo enquiry I recorded statement of Ghufuran-ud-Din Additional

5. HC No. 1380 PS Par Hoti who produced copies of DD No. 24 dated 07.10.2013 and
o. 15 dated 10.03.2014 showing recording of absence report and arrival of appellant
respectively. Applicant was also given a chance to explain the said absence period but he failed
to give any reasons regarding his absence from duty on 07.10.2013 to 10.03.2014. From
perusal of his service book, I came to the conclusion that he is malingerer as he seems to a
habitual absentee and had remained absent from duty during his short service of about 03
years on one pretext or other. As per his service book, he had remained absent from duty on
below mentioned dates and he was awarded punishment for the same by competent authority.

S. No.	Days	Kind of Punishment	OB No. and Date
1	01	Leave without pay by DPO Mardan	358 dated 07.02.2012
2	18	-do-	1751 dated 12.06.2012
3	11	-do-	3164 dated 29.11.2012
4	03	-do-	3204 dated 05.12.2012
5	02	-do-	3431 dated 28.12.2012
6	07	-do-	906 dated 08.04.2013
7	06	-do-	1654 dated 07.05.2013
8	04	04 days extra drill	1608 dated 15.07.2014
9	06	06 days extra drill	1696 dated 07.08.2014
10	Absence	Fine Rs. 200/-	379 dated 08.02.2013
11	Absence	-do-	802 dated 18.03.2013
12	-do-	Extra drill 01 hours	1050 dated 07.05.2013
13	-do-	-do-	1119 dated 14.05.2014

He was enlisted on 04.04.2011 and during his short service of three years he has earned no
good entry while there are 13 bad entries against him.

6. **RECOMMENDATION:-** In view of above explanation and facts on record he is found
guilty, it is recommended that his appeal may be filed.

7. Submitted please.


Deputy Superintendent of Police,
Legal, Mardan.

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. 452 /R/D.A-P.R-1975.

Dated 11. 2. /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 **Junaid No. 260**, 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.

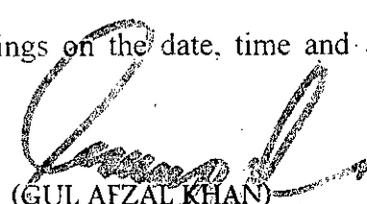
STATEMENT OF ALLEGATIONS

That Constable **Junaid No. 260**, while posted at Police Station Par Hoti, deliberately absented himself from the lawful duty vide DD No. 24 dated 07.10.2013 to-Date without any leave / permission of the competent authority. He is recommended for departmental action by ASP/City, Mardan vide his office latter No.177, dated 24.10.2013.

2. For the purpose of scrutinizing the conduct of the said official with reference to the above allegations **Sajjad Ahmad DSP/TBI: 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. _____ /R, dated Mardan the _____ /2014.

Copy of above is forwarded to the:

1. DSP/TBI Mardan for initiating proceedings against the accused official / Officer namely Constable **Junaid No. 260**, under Police Rules, 1975.
2. Constable **Junaid No. 260**, 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 Junaid No. 260**, as follows.

That you constable, while posted at Police Station Par Hoti, deliberately absented yourself from the lawful duty vide DD No. 24 dated 07.10.2013 to-Date without any leave / permission of the competent authority. You are recommended for departmental action by ASP/City, Mardan vide his office letter No.177, dated 24.10.2013.

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.

The District Police Officer, Mardan.

Subject:-

DEPARTMENTAL ENQUIRY AGAINST CONSTABLE JUNAID
NO.260 OF POLICE STATION PAR HOTI.

Memor:-

Kindly refer to your office No:452/R/d.a-P.R-1975, dated 11.2.2014.

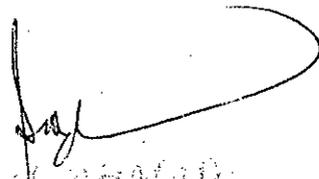
This is a finding to a departmental enquiry conducted against constable Junaid No.260, while posted to Police Station Par Hoti, absented himself from the lawful duty vide DD No.24 dated 07.10.2013 to till date without information/leave. He was issued charge Sheet/statement of allegations and the undersigned was appointed as enquiry Officer, by the DPO/Mardan to conduct an enquiry against him.

The charge sheet/statement of allegations was already delivered upon the defaulter official, yet he has not submitted his reply in response to the charge sheet/statement of allegations. He was repeatedly informed but he turned it with deaf ears.

It is therefore requested that an appropriate action may be taken against him under the rules.

Finding submitted please.

He is not interested
in service and remained
for absent for indefinite period.
So, he is dismissed from
service
Dhs
30/10


(SAJJAD AHMAD)
Deputy Superintendent of Police,
Tukki Bhai

ORDER

Constable Junaid No. 260, while posted at Police Station Par Hoti Mardan committed the following act, which is gross misconduct on his part as defined in Rules 02 (iii) Police Rules 1975.

Brief facts are that Constable Junaid No. 260, Police Station Par Hoti Mardan, deliberately absented himself from the lawful duty vide DD No. 24 dated 07.10.2013 to date.

In this connection, Constable Junaid No. 260, was charged sheeted vide this office No. 452/R, dated 11.02.2014 and he was also proceeded against departmentally through Mr: Sajjad Ahmad DSP/TBI: Mardan, who after fulfilling necessary process, submitted his findings to the undersigned vide his office endorsement No.471/S, dated 29.10.2014, in which the allegations have been established against him.

After going through inquiry file the undersigned agree with the findings of enquiry officer and the alleged Constable Junaid No. 260, is not interested in Service So, he is hereby dismissed from service while his absence period counted as leave without pay, in exercise of the power vested in me under Police Rules 1975.

Order announced

O.B No. 2191

Dated 30 / 10 / 2014


(Gul Afzal Afandi)
District Police Officer,
Mardan.

No. 11046-51 dated Mardan the 5 / 11 / 2014

Copy for information and necessary action to:-

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

لکھنؤ

11

BEFORE THE WORTHY DY: INSPECTOR GENERAL OF POLICE,
MARDAN REGION I, MARDAN.

Subject: APPEAL FOR RE-INSTATEMENT IN SERVICE IN
RESPECT OF EX.CONSTABLE JUNAID NO. 260
DISMISSED VIDE OB NO. 2191 DATED 30.10.2014
BY THE DISTRICT POLICE OFFICER, MARDAN.

Respectfully Sheweth:-

FACTS.

I, was inlisted in the year of 2010 as
Constable in Police force, and completed four years
un-blamished Service in Police force. During those
days ~~of~~ I was posted in Police Station Par Moti.

A case u/s 364A PPC vide FIR NO. 83

dated 13.03.2013 Police Station Charsadda Batagram was

registered against some accused. Accused Samad who was

charged by the complainant in his statment recorded u/s

164 Cr.p.c. disclosed my name (Junaid) s/o Unknow.

On 07.10.2013 I was called by the DSP/HQ, Mardan and

asked ~~about~~ ^{advised} the the occurrance. I was not in the knowledge

about the occurrance. DSP/HQ, Mardan also inquired

into the matter and I was found innocent, in the case and

was directed by the DSP/HQ, Mardan to face the case. On

20.1.2014 I admitted SBA from the concerned Court which

was confirmed by the ASJ, Charsadda Batagram on 15.2.2014

and my case was decided by the Court. I proceeded the

Reader/...
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out up ...

2202
12-11-14

EC/D.P.O Mardan.
For Comments Please
Meezan
Pd DIG Mardan
7/11/2014
NO. 7303/ES
dt: 07/11/14
Papers

DSP Legal
For Comments
DPs, Mardan
D.G.No - 673-673

the acquittal documents to the DSP/HQrs, Mardan. The
OB NO. 204-HQ dated 06.03.2014 I was directed join my duty.
On D.D. NO. 15 dated 10.03.2014 at Police Station Par Hoti.
During this period I was transferred to P.S. Lund Khwar
and from Lund Khwar to Police Lines, Mardan and on 19.08.2014
gunner to DPP, Mardan. I did not remain absent from duty.
Enquiry of DSP HQrs, Mardan as well as in case are attached
for kind perusal. I was ^{am} totally innocent in the case, I had
not remained absent from duty.

GROUNDS.

1. That I was inlisted in the year of 2011 and completed four years service unblemished in police force.
2. That neither I remained absent nor committed any criminal case. Both enquiry report are attached with the appeal.
3. That neither I was issued any show Cause Notice ^{and} is called in orderly room for hearing.
4. That the dismissal order ^{was done} un ^{careful} and ^{instructive}.
5. That I had served in various Police Stations and recently serving as gunner with the DPP, Mardan.

1

...3....

and I was also getting my monthly salaries

In view of the above grounds it is humbly prayed
that I may kindly be re-instated in service with back
benefit.

I shall pray for your long life and Prosperity.

Yours Obediently

Junaid
(JUNAID) NO.260
Ex. Constable
Police Linces, Mardan.

REGISTER ROLL OF

15. CENSURES AND PUNISHMENTS.

Warned to be careful
in future.

OB No: 1751
12-6-12


DPO/MR

Fined Rs: 200/= for his Absence.

OB No: 379
8-2-013


DPO/MR

Fined Rs: 200/= for his
Absence.

OB No: 802
18-3-013


DPO/MR

Warned to be careful
in future.

OB No 906
dt 8-4-013

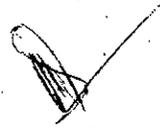

DPO/MR

Serial No.

15. CENSURES AND PUNISHMENTS. -- Contd.

ORDER

In exercise of the power conferred upon me reject the appeal not interfere in the order passed by the competent authority thus the appeal is filed vide DIG/mandan order Enst: NO 3353/ES dt. 5/6/15


DPO/mandan

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16. LEAVE, ABSENCE AND BREAKS IN SERVICE.
All Periods not counting as "approved service" to be entered in red ink.

1.		2.			3.	4.
Date		Extent			No. Of District Order	Description of leave i.e privilege hospital, sick leave or of absence, or forfeiture of approved service.
From	To	Years	Months	Days		
				①	358 7-2-12	leave w/o pay - DPO/MR
				⑱	1751 12-6-12	do - DPO/MR
				⑫	3154 29-11-12	do - DPO/MR
				③	3204 5-12-12	do - DPO/MR
				②	3431 28-12-12	do - DPO/MR
				⑦	906 8-4-013	do - DPO/MR
				⑥	1654 7-5-013	do - DPO/MR
				④	1608 15-7-14	d - DPO/MR
				⑥	1696 7-8-14	d - DPO/MR

(1)

ORDER.

This order will dispose off the appeal preferred by Ex-Constable Junaid Khan No. 260 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. 2191 dated 30.10.2014.

Brief facts of the case are that he while posted at Police Station Par Hoti, a case vide FIR No. 83 dated 13.03.2013 u/s 304-A PPC regarding taking away of a minor school going boy aged about 07 years was registered in Police Station Batagram District Charsadda. On the report of complainant Naveed charged 03 unknown accused. Accused Samad was arrested in the case who confessed his guilt before local Magistrate, Charsadda that besides other Co-accused, he disclosed the name of the appellant Junaid. He was granted bail by the court as the said complainant did not charge him for the offence after nominating as accused in the above quoted case. He absented himself from duty and remained absent for 30 days. In this regard, an enquiry was conducted against him through the then Deputy Superintendent of Police, Headquarter, Mardan who in his findings report suggested the absence period (30 days) as leave without pay. Thus vide OB. No. 607 dated 07.03.2014, his absence period of 30 days was counted as leave without pay and he was also awarded punishment of Extra Drill for 03 weeks. During his posting in Police Station Par Hoti, the appellant absented himself from duty vide daily diary No. 24 dated 07.10.2013 till 11.02.2014 and he was recommended for departmental action by the then ASP City vide his office letter No. 177 dated 24.10.2013. He was issued charge sheet with summary of allegation and Deputy Superintendent of Police Takht Bhai, Mardan was appointed as enquiry officer. The enquiry officer summoned the appellant, during course of enquiry time and again but he did not attend his office, despite the fact that charge sheet had already been delivered upon him. The enquiry officer found him guilty and recommended him for punishment. On account of his willful absence from duty as well as his previous record, he was dismissed from service vide OB No. 2191 dated 30.10.2014.

He preferred an appeal against the above mentioned order passed by the District Police Officer, Mardan & appeared before the undersigned in orderly room held on 01.04.2015. The appeal was referred to Deputy Superintendent of Police Legal, Mardan, for conducting denovo enquiry vide this office endorsement No. 2081/ES dated 03.04.2015, who conducted, finalized & submitted finding reports which revealed that he is guilty and recommended that his appeal may be filed.

I have perused the record and heard the appellant in Orderly Room held in this office on 27.05.2015 & his case was also secretly verified from Incharge DSB, Mardan. He reported that defaulter official was found guilty of the misconduct and also reported that he is not fit for further service as he earned bad name for the Police department. 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.

*DSP Legal
in Mardan*

(**MUHAMMAD SAEED**) P.S.P.
Deputy Inspector General of Police,
Mardan Region-I, Mardan

OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE
No. 3911
Date 8-6-15

*DPO Mardan
at 05/06/15*

No. 3353 /ES, Dated Mardan the 05/06 /2015.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 470/LB dated 17.04.2015

His service record is returned herewith.

(*****)

*Reader
E-C
For action
N DSB
8/6*

*815-LB
8-6-15*

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 2497 /ST

Dated 20 /11/2017

To

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

Subject: **JUDGEMENT IN APPEAL NO. 1088/15 MR. JUNAID KHAN.**

I am directed to forward herewith a certified copy of Order dated 13/11/2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

Soocheh
REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR. *o/c*