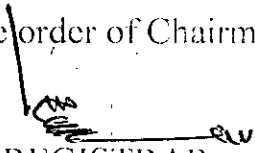


# FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- \_\_\_\_\_

712/2023

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge  |
|-------|---------------------------|---|
| 1     | 2                         | 3   |
| 1-    | 29/03/2023                | <p>The appeal of Mr. Muhammad Shahid presented today by Mr. Rizwan Ullah Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Parcha Peshi is given to appellant/counsel for the date fixed.</p> <p>By the order of Chairman</p> <p><br/>REGISTRAR</p> |

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR**

In the matter

Service Appeal No. 712 /2023

1. Muhammad Shahid Ex- Constable No. 1299/FRP s/o Taj Ali Khan r/o Post Office,  
Risalpur, Kalanjer Tehsil and District Nowshera.

**APPELLANT**

**VERSUS**

1. The Superintendent of Police, Frontier Reserve Police, Kohat Range Kohat etc.

**RESPONDENTS**

**I N D E X**

| S.No | Description of documents                               | Annexure | Pages # |
|------|--|----------|---------|
| 1    | Service Appeal   | —        | 1-8     |
| 2    | Affidavit  | —        | 09      |
| 3    | Copy of application for leave                          | “A”      | 10-11   |
| 4    | Copy of medical certificates/documents                 | “B”      | 12-15   |
| 5    | Copy of impugned order dated 12-05-2022                | “C”      | 16      |
| 6    | Copy of departmental appeal dated<br>13-09-2022        | “D”      | 17      |
| 7    | Copy of rejection order dated 07-11-2022               | “E”      | 18      |
| 8    | Copy of revision petition dated 30-11-2022             | “F”      | 19      |
| 9    | Application for condonation of delay with<br>affidavit | —        | 20-23   |
| 10   | Wakalatnama  | —        | —       |

  
Appellant

Through

  
Rizwanullah

Dated: 28-03-2023

Advocate High Court, Peshawar

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 712 /2023

1. Muhammad Shahid Ex- Constable No. 1299/FRP s/o Taj Ali Khan r/o Post Office, Risalpur, Kalanjer Tehsil and District Nowshera

**APPELLANT**

**VERSUS**

1. The Superintendent of Police, Frontier Reserve Police, Kohat Range Kohat.
2. The Commandant, Frontier Reserve Police, Khyber Pakhtunkhwa, Peshawar
3. The Inspector General of Police, Government of Khyber Pakhtunkhwa, Peshawar.
4. The Deputy Commandant, Frontier Reserve Police, HQrs; Peshawar.

**RESPONDENTS**

**APPEAL UNDER SECTION 4 OF THE  
KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL ACT, 1974 AGAINST THE  
IMPUGNED ORDER DATED 12-05-2022  
PASSED BY THE SUPERINTENDENT  
OF POLICE FRONTIER RESERVE  
POLICE, KOHAT RANGE KOHAT  
(RESPONDENT NO.1) WHEREBY THE  
APPELLANT WAS AWARDED MAJOR  
PENALTY OF REMOVAL FROM  
SERVICE AGAINST WHICH A  
DEPARTMENTAL APPEAL WAS  
FILED WITH THE COMMANDANT  
FRONTIER RESERVE POLICE  
KHYBER PAKHTUNKHWA**

**(RESPONDENT NO. 2) ON 13-09-2022  
BUT THE SAME WAS REJECTED ON  
07-11-2022. HE THEN FILED REVISION  
PETITION BEFORE THE INSPECTOR  
GENERAL OF POLICE, KHYBER  
PAKHTUNKHWA (RESPONDENT  
NO. 3) ON 30-11-2022 HOWEVER, THE  
SAME WAS NOT RESPONDED.**

**Prayer in Appeal**

By accepting this appeal, the impugned orders dated 12-05-2022 and 07-11-2022 passed by the respondents No. 1 and 2 may very graciously be set aside and the appellant may kindly be reinstated in service with full back wages and benefits.

Any other relief deemed appropriate in the circumstances of the case, not specifically asked for, may also be granted to the appellant.

**Respectfully Sheweth,**

***Short facts giving rise to the present appeal are as under:-***

1. That the appellant was serving as constable at the relevant time when his father was seriously ill and confined to bed for a long time. There was no other person to look after him except appellant as his elder brother Shah Khalid constable embraced Shahadat alongwith Malik Muhammad Saad Khan (Shaheed) DIG during suicide bombing at Peshawar. Therefore, appellant submitted an application for grant of four months leave on the above grounds. But it was indeed unfortunate that the request of appellant was not taken into consideration and instead, he was transferred from FRP HQrs Peshawar to FRP Lines Kohat on the pretext of complaint vide order dated 26-01-2022 and then, relieved from duty on 16-02-2022 as is evident from the impugned order. However, the appellant could not join duty on account of severe illness of his father.

**(Copy of application and  
medical certificates /**

**document are appended as Annex-A & B).**

2. That the Superintendent of Police FRP, Kohat Range, Kohat (respondent No. 1) initiated the so called disciplinary proceedings at the back of appellant. Ultimately, he was awarded harsh and extreme penalty of removal from service and his absence period w.e.f. 16-02-2022 till date was converted/treated as leave without pay vide order dated 12-05-2022 passed by respondent No. 1.

**(Copy of impugned order is appended as Annex-C).**

3. That the above impugned order was neither endorsed nor sent to the appellant through registered post by virtue of section 27 of the General Clause Act, 1897 to enable him to seek legal remedy against the same. However, he collected the said order through personal efforts on 24-08-2022. Thereafter, he filed a Departmental appeal with the commandant Frontier Reserve Police Khyber Pakhtunkhwa Peshawar (respondent No. 2) on 13-09-2022 but the same was rejected on 07-11-2022. He then filed revision petition under Rule 11-A (4) of Khyber Pakhtunkhwa Police Rules, 1975 before the Inspector General of Police Khyber Pakhtunkhwa Peshawar (respondent No. 3) on 30-11-2022 but the same was not responded.

**(Copy of departmental appeal, rejection order and revision petition are appended as Annex-D, E & F).**

4. That no charge sheet alongwith statement of allegation was served on the appellant to explain his position regarding the so-called allegation. Similarly, neither fair and impartial inquiry was conducted nor any show cause notice was given to him. He was also not provided any opportunity of personal hearing before passing the impugned order being the mandatory requirement of law.
5. That the appellant is jobless since his removal from service.

6. That the appellant now files this appeal before this Hon'ble Tribunal inter-alia on the following grounds.

**GROUND OF APPEAL**

- A. That respondents have not treated appellant in accordance with law, rules and policy on the subject and acted in violation of **Article 4 of the Constitution of Islamic Republic of Pakistan, 1973**. Therefore, the impugned orders are not sustainable in the eye of law.
- B. That father of appellant had faced the sacrifice of his elder son (Shah Khalid) constable during suicide attack at Peshawar in which Malik Muhammad Saad Khan, DIG also embraced Shahdaat but when he was ailing and needed care to save his life from disease, ironically, the application of his son (appellant) for grant of leave to serve his father was turned down. Needless to add that the solemn sacrifice of appellant's family was also not taken into consideration. Above all, his son (appellant) was removed from service notwithstanding the facts that he was ~~was~~ left as the sole earner of family after shahdaat of his elder brother on one hand, while on the other, the appellant had rendered more than four years service and as such, he was also legally entitled to avail such leave by virtue of **Rule 12 of the Khyber Pakhtunkhwa Civil Servants Revised Leave Rules, 1981**. Thus, the impugned orders are against the spirit of administration of justice.
- C. That prior to the enquiry, the competent Authority (respondent No. 1) was under statutory obligation to have served the appellant with charge sheet along with statement of allegation so as to enable him to explain his position regarding the so-called misconduct as required by virtue of Rule 6(1)(a) of the Khyber Pakhtunkhwa Police Rules, 1975 (amended in 2014) as well as law laid down by august Supreme Court of Pakistan reported in **2000-SCMR-page-1743 citation a**. It would be advantageous to reproduce herein the relevant citation for facility of reference: -

**2000-SCMR-1743**

**Dismissal from service---Framing of charge and its communication to civil servant alongwith statement of**

**allegations was not mere a formality but was a mandatory requisite which was to be followed.**

- D.** That the regular enquiry was conducted in utter violation of law as neither the appellant was served with a notice nor any publication was given in the leading Newspapers so as to fulfil the requirement of law. But he failed to do so and ex-parte proceedings were held against him notwithstanding the fact that right of fair trial is a fundamental right by dint of which a person is entitled to a fair trial and due process of law. The appellant has been deprived of his indispensable fundamental right of fair trial as enshrined in **Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973**. Thus, the impugned orders are bad in law.
- E.** That the absence of appellant was neither willful nor intentional. But the same was beyond his control due to protracted illness of his father. Moreover, the appellant was entitled for the grant of said leave under the Rules as referred to earlier. Therefore, the impugned orders are not maintainable in the eyes of law.
- F.** That the appellant was neither involved in any corruption, embezzlement and immoral turpitude, therefore, such harsh and extreme penalty of removal from service did not commensurate to the nature of allegation of absence from duty. Hence, the impugned orders are not tenable under the law.
- G.** That the appellate Authority (respondent No.2) was under statutory obligation to have applied his independent mind to the merit of the case by taking notice about the illegality and lapses committed by the inquiry officers as well as by the Competent Authority as enumerated in earlier paras. Nevertheless, he failed to do so and rejected the departmental appeal without any cogent reasons. Therefore, the impugned orders are not tenable under the law.
- H.** That the Revisional Authority (respondent No. 3) was under statutory obligation to have decided the revision petition filed by the appellant after application of mind with cogent reasons within reasonable time

as per law laid down by august Supreme Court of Pakistan reported in 2011-SCMR-page-1. It would be advantageous to reproduce herein the relevant citation for facility of reference: -

**2011-SCMR-page-1**

**Citation-b**

**S. 24-A---Speaking order-Public functionaries are bound to decide cases of their subordinates after application of mind with cogent reasons within reasonable time.**

But the respondent No. 1 failed to adhere the above law. Hence, the impugned orders are liable to set aside on this count alone

- I. That the respondent No. 1 was legally bound to have served a show cause notice on the appellant before awarding major penalty of removal from service but he failed to do so and patently violated the law laid down by august Supreme Court of Pakistan reported in 1989-SCMR-1690 (citation-a) & 2009-SCMR-605 (citation-c). The relevant citations of the judgments are as under:-

**1989 S C M R 1690**  
**(citation-a)**

**---S.6--Constitution of Pakistan (1973), Art. 203-F--Repugnancy to Injunctions of Islam--Disclosure by a show-cause notice of grounds on which action under of the Act was proposed to be taken and of an opportunity of hearing to the person concerned against whom an action was required to be taken, held, was necessary and its absence from a statute was repugnant to the Injunctions of Islam.**

**2009 S C M R 605**  
**(citation-c)**

**----Misconduct, charge of-- Employee's right to show-cause notice before passing of termination order against him by competent authority---**



Hence, the impugned orders are not tenable under the law.

- J.** That it was also incumbent upon the respondent No.1 to have provided an opportunity of personal hearing to the appellant before awarding major penalty but he failed to do so and blatantly violated the law laid down by august Supreme Court of Pakistan reported in **2006-SCMR-1641 (citation-c)**. The relevant citation is mentioned below: -

**2006-SCMR-1641**

**(citation-c).**

**---Rr. 4(b), 5 & 6---Inquiry proceedings---Major penalty, imposition of---Personal hearing to civil servant, opportunity of---Scope---Such opportunity must be afforded by the authority competent to impose major penalty or his delegatee.**

Therefore, the impugned orders are required to be reversed on this count alone.

- K.** That the impugned orders are against law, facts of the case and norms of natural justice. Therefore, the same are not tenable under the law.

- L.** That it is crystal clear from the impugned order of removal from service that the Competent Authority (respondent No.1) on the one hand had treated the absence of appellant as leave without pay but on the other side, he had awarded him major penalty of removal from service. This amounts to double-jeopardy and violation of Article 13 of the Constitution of Islamic Republic of Pakistan, 1973 as well as Section 403 CrPC & Section 26 of the General Clauses Act, 1897. It is also well settled law that no person can be prosecuted and punished twice for the same offence. Reliance can be placed on **2006-SCMR-434 (citation-a)** as well as judgment of this Hon'ble Tribunal dated 17/6/2016 passed in appeal No. 1200/2014 "Aziz-ur-Rehman (ex-constable) VS Police Department etc.". This judgment was also upheld by the august Supreme Court of Pakistan vide order dated 3/2/2017 in **CPLA No. 455-P/2016**. Thus, the impugned orders are bad in law.

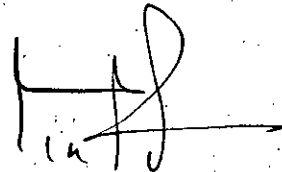
- M. That the respondents have passed the impugned orders in mechanical manner and the same are perfunctory as well as non-speaking and also against the basic principle of administration of justice. Thus, the same are not warranted under the law.
- N. That the impugned orders are based on conjectures and surmises. Hence, the same are against the legal norms of justice.
- O. That the appellant would like to seek the permission of this Hon'ble Tribunal to advance some more grounds at the time of arguments.

In view of the above narrated facts and grounds, it is, therefore, humbly prayed that the impugned orders dated 12-05-2022 and 07-11-2022 passed by the respondents No. 1 and 2 may very graciously be set aside and the appellant may kindly be reinstated in service with full back wages and benefits.

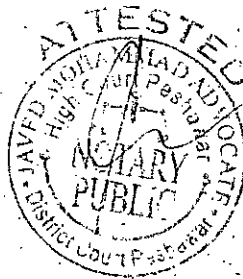
Any other relief deemed proper and just in the circumstances of the case, may also be granted.

  
Appellant

Through



Dated: 28-03-2023



Rizwanullah  
M.A. LL.B  
Advocate High Court, Peshawar.  
03005965843  
advocate.rizwanullah@gmail.com

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

1. Muhammad Shahid Ex- Constable No. 1299/FRP s/o Taj Ali Khan r/o Post Office, Risalpur, Kalanjer Tehsil and District Nowshera.

**APPELLANT**

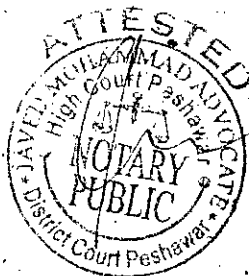
**VERSUS**

1. The Superintendent of Police, Frontier Reserve Police, Kohat Range Kohat.
2. The Commandant, Frontier Reserve Police, Khyber Pakhtunkhwa, Peshawar
3. The Inspector General of Police, Government of Khyber Pakhtunkhwa, Peshawar.
4. The Deputy Commandant, Frontier Reserve Police, HQrs; Peshawar.

**RESPONDENTS**

**AFFIDAVIT**

I, Muhammad Shahid Ex- Constable No. 1299/FRP s/o Taj Ali Khan r/o Post Office, Risalpur, Kalanjer Tehsil and District Nowshera, do hereby solemnly affirm and declare that the contents of the accompanied Service Appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.



*M. Shahid*  
**DEPONENT**

Annex-A (10) افسر، خدمات نرسٹ فاک ڈیپٹی ایگمانڈنٹ

مقامی F.R.P. پتہ

محمد شاہد 1299 B (سیا سی)

ولد سر سراج علی خان مسلم ڈاکٹر، سالکپور

تحصیل و اعلیٰ لوسٹریٹو / سائیل / درخواست گزار

درخواست گزار محمد در عطا بیٹی اعزازت سر ایڈووکیٹ (59) چار  
مہینے پورے پتہ جاری من سائیل کے والد صاحب کا۔

~~my~~  
ppellcent

حساب عالی

1. یہ کہ سائل آپ صاحبان کے زیر اثر بطور سیا سی

شمارہ 05 سال سے ڈیوٹی سر انجام دے رہا ہے

2. یہ کہ آج تک سائل نے اپنی ڈیوٹی مکمل ایمانداری اور

مقالوں کے مطالعاتی ہے اور آئندہ بھی کرے گا۔

3. یہ کہ یہی وجہ ہے کہ آج تک سائل کے خلاف ایک معمولی

مشکلات بھی نہیں ہے

(12)

یہ کہ مگر صرف اللہ تعالیٰ ہی ذات مبارک ہے  
انسان ناقص و پست ہے

یہ کہ سائل کا والد شدید مد علیہ ہے اور علاج معالجہ  
کلیہ کفر ہے دوسرا کوئی ایسا فرد نہ ہے جو کہ والد صاحب  
کو علاج معالجہ کرنے میں فائز ہو سوائے خواجہ صاحب سے

یہ کہ سائل نوزاد و بیوردی مالک ہے (بھئی) لیتا چاہتا ہے  
کہ کہ کسی اور فقہ و غیرہ لکھ

یہ کہ بقول مستند عالم و والد سائل نے پاس ایک ماہر  
فرد کا بیرون ضروری ہے اسلئے آپ صاحبان سے التماس  
کہ فرمائیں کہ مجھے چار (04) مہینے کی طبیعت و عیادت فرمادے

سائل آپ صاحبان کا ہمیشہ کا ہمدرد رہے گا

محمد شاہد  
mskhat

Mob:- 0313-9084593

Attested

mskhat

Applicant

مورث

23/01/2022

Annex-B (12)

D.H.Q. HOSPITAL NOWSHERA  
OUT. DOOR PATIENTS TICKET



Rs. 10

S.No: 55693

Yearly OPD No: 7857

Name: (A. G. 26) Date: 20-1-22

Tans. Sulfate 20mg - 2  
→ (P)

- Tans. Contrace 25mg  
- (D.V.) (1)

- Tans. Tocoprent

Attested  
msk  
Appellant

(D.V.) (1) Fray

Cardiologist Tans. Karam  
D.H.Q. Hospital Nowshera  
- (D.V.) (1) long

13

D.H.Q. HOSPITAL NOWSHERA  
OUT DOOR PATIENTS TICKET



Rs. 10

S.No: 55602

Yearly OPD No: 9184

Name U. S. 2.6 Date 20-02-22

Time Surge 2.6 E  
P

Time Consult 2.6  
- 1.6 P. ①

Time W.D. 7.5  
- 1.6 P. ①

Time Calculus 10.0  
- 1.6 P. ①

Attested  
*[Signature]*  
Appellant

Cardiologist  
D.H.Q. Hospital  
Nowshera

(14)

# D.H.Q. HOSPITAL NOWSHERA

## OUT DOOR PATIENTS TICKET



Rs. 10

S.No: 55835

Yearly OPD No: 9918

Name Mr. Ghazal Date 20-03-22

Tam. Sulta 26.5 C

Tam. Conduc. 2.0ms

→ 1.6ms (1)

Tam. WP/PR/RT 7ms

→ 1.6ms (1)

Attashed  
ms  
Appellent

- Tam. Paraventricular

Cardiologist  
D.H.Q. Hospital Nowshera



15

# D.H.Q. HOSPITAL NOWSHERA

OUT. DOOR PATIENTS TICKET



Rs. 10

S.No: 55634

Yearly OPD No: 12870

Name Ust. 2.17 Date 20-4-22

Time 8:30-26 → R  
→ (R)

Time 10:00-28  
→ (R)

Alto

Appellant

Time 10:30-28  
→ (R)

Time 11:00-28

Cardiologist  
D.H.Q. Hospital  
Nowshera

Time 11:30-28 (R) (R)

Annex - C (16)

**ORDER**

This order will dispose off departmental inquiry conducted against Constable Shahid No. 1299/FRP, under Khyber Pakhtunkhwa Police Disciplinary Rules 1975 (Amended in 2014).

The allegations against him are that he was transferred from FRP HQrs Peshawar on complaint basis to this Range vide Deputy Commandant FRP Order No. 156-59/PA dated 26.01.2022. He was relieved from FRP HQrs: Peshawar vide DD No. 16 dated 16.02.2022 with the direction to report at FRP Lines Kohat but he failed to do so and was reported absent vide DD No. 13 dated 16.02.2022 till date. Proper departmental enquiry was conducted against him through LO/E.O FRP Kohat who, in his finding, stated that the said constable turned deaf ear towards his calls/directions and did not care to join the enquiry. Thereafter, final show cause notice vide this office No. 192/PA dated 12.04.2022 was issued to him, despite being directed time and again, he failed to receive the copy of F.S.C.N and is still absent till date. In this regard, detail report of Muharrar FRP Lines Kohat was perused and placed in enquiry file. His absence period w.e.f 16.02.2022 till date is 84 days and on.

His Service record perused which revealed that he was enlisted as Constable on 31.12.2018. There are 04 bad entries against him with no good entry in his credit. He has also been dismissed from service once by Commandant FRP Khyber Pakhtunkhwa Peshawar vide Order Endst; No. 1448-52/PA dated 20.08.2021 and later on reinstated. It is evident from his prolonged absence that he is not interested in his services.

Based on perusal of material in hand, finding report of E.O. his non joining the enquiry proceedings despite being directed time and again, I have no other option except to take ex-parte action against him.

Therefore, I, Amanullah Khan, SP FRP Kohat Range, Kohat in exercise of powers vested to me under Rule 5(5) of Khyber Pakhtunkhwa Police Rules-1975 (Amended in 2014), award him a major punishment of "Removal from Service" with immediate effect. His absence period w.e.f 16.02.2022 till date is treated as absence from duty i.e. without pay.

OB No. 228

Superintendent of Police, FRP,  
Kohat Range, Kohat.

Dated 12-05-2022

**OFFICE OF THE SUPERINTENDENT OF POLICE, FRP, KOHAT RANGE, KOHAT**

NO. 234 /PA DATED, KOHAT THE 12-05-2022  
Copy of the above is submitted to:  
1. The Commandant FRP Khyber Pakhtunkhwa Peshawar for favour of information please  
2. Pay Officer  
3. Reader  
4. OHC  
5. SRC } for further necessary action

Alleged  
in 228  
Appellant

Superintendent of Police, FRP,  
Kohat Range, Kohat



**ORDER**

This order will dispose of the departmental appeal preferred by Ex-constable Shahid No 1299 of FRP Kohat Range, against the order of SP FRP Kohat Range, Kohat issued vide OB No 228, dated 12.05.2022, wherein he was awarded major punishment of removal from service. The applicant was proceeded against on the allegations that he was transferred from FRP HQrs, Peshawar to FRP Kohat Range on complaint basis vide order Endst: No 156-159/PA, dated 26.01.2022. He was relieved from FRP HQrs, Peshawar vide DD report No 16, dated 16.02.2022 with the direction to report at FRP Lines Kohat, but he failed to do so and remained absent from lawful duty vide DD report No. 13, dated 16.02.2022 till the date of removal from service i.e. 12.05.2022 for total period of (85) days, without any leave or prior permission of the competent authority.

In this regard, proper departmental proceedings were initiated against him and LO/FRP Kohat Range was nominated as Enquiry Officer to conduct proper enquiry against him. After completion of enquiry, the Enquiry Officer submitted his finding report, wherein he reported that for association with the enquiry the delinquent constable was summoned time and again, but he did not bother to join the enquiry proceedings.

Upon the findings of Enquiry Officer, he was issued Final Show Cause Notice vide office memo No. 192/PA, dated 12.04.2022, but he failed to submit his reply or to appear before the competent authority.

Keeping in view the above narrated facts and other material available on record, he was awarded major punishment of removal from service vide OB No. 228, dated 12.05.2022.

Feeling aggrieved against the impugned order of SP FRP Kohat Range, Kohat, the applicant preferred the instant appeal. The applicant was summoned and heard in person in Orderly Room held on 01.11.2022.

During the course of personal hearing, the applicant failed to present any justification regarding to his prolong absence. From perusal of enquiry file it has been found that the allegations of wilful absence were fully established against him by the Enquiry Officer during the course of enquiry. Thus the applicant has been found to be an irresponsible person in utter disregard the discipline of the force. Therefore any leniency or complacency would further embolden the accused officer and impinge upon adversely on the overall discipline and conduct of the force. There doesn't seem any infirmity in the order passed by the competent authority, therefore no ground exist to interfere in same.

Based on the findings narrated above, Commandant FRP Khyber Pakhtunkhwa, Peshawar, being the competent authority, has found no substance in the appeal, therefore the same is rejected and filed being meritless.

Order Announced

*OK*  
Commandant  
Frontier Reserve Police  
Khyber Pakhtunkhwa, Peshawar.

Copy of the order dated Peshawar the 07/11/2022.  
Copies of the above are forwarded for information and necessary action to

SP FRP Kohat Range, Kohat. His Service record alongwith D-file sent herewith.  
Ex-constable Shahid No. 1299 S/o Taj Mali Khan R/o Village Kalinjar, Police  
Station Peshawar, District Nowshera.

*rested*  
*rested*  
*appellant*

10570/56

Annex-F (19)

Handwritten notes at the top of the page, including the number 10570/56 and the label Annex-F (19). The text is partially obscured and difficult to decipher.

Main body of handwritten text in Urdu script, covering the majority of the page. The text is dense and appears to be a detailed report or letter.

tested  
ms  
ppellant

Ministry of Information & Public Relations  
Islamabad

1. No. B. 111/22

Handwritten signature and date: 25/11/22

Handwritten signature and date: 25/11/22

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR**

In the matter

Service Appeal No. \_\_\_\_\_/2023

1. Muhammad Shahid Ex- Constable No. 1299/FRP s/o Taj Ali Khan r/o Post Office, Risalpur, Kalanjer Tehsil and District Nowshera.

**APPELLANT/APPLICANT**

**VERSUS**

1. The Superintendent of Police, Frontier Reserve Police, Kohat Range Kohat etc.

**RESPONDENTS**

**APPLICATION FOR CONDONATION OF DELAY**

1. That the appellant / applicant has filed Service appeal alongwith above captioned application for condonation of delay.
2. That the facts enumerated and grounds taken in the body of Service appeal may kindly be considered as an integral part of this application which makes out a sufficient cause in favour of appellant in order to condone the delay if any, caused bonafildely.
3. That the appellant was serving as constable at the relevant time when his father was seriously ill and confined to bed for a long time. There was no other person to look after him except appellant as his elder brother Shah Khalid constable embraced Shahadat alongwith Malik Muhammad Saad Khan (Shaheed) DIG during suicide bombing at Peshawar. Therefore, appellant submitted an application for grant of four months leave on the above grounds. But it was indeed unfortunate that the request of appellant was not taken into consideration and instead, he was transferred from FRP HQrs Peshawar to FRP Lines Kohat on the pretext of complaint vide order dated 26-01-2022. and then, relieved from duty on 16-02-2022. However, the


appellant could not join duty on account of severe illness of his father. Moreover, father of appellant had faced the sacrifice of his elder son as stated earlier but when he was ailing and needed care to save his life from disease, ironically, the application of his son (appellant) for grant of leave to serve his father was turned down. Needless to add that the solemn sacrifice of appellant's family was also not taken into consideration. Above all, his son (appellant) was removed from service notwithstanding the facts that he was left as the sole earner of family after shahdaat of his elder brother on one hand, while on the other, the appellant had rendered more than four years service and as such, he was also legally entitled to avail such leave by virtue of **Rule 12 of the Khyber Pakhtunkhwa Civil Servants Revised Leave Rules, 1981**.

4. That the impugned order was neither endorsed nor sent to the appellant through registered post by virtue of section 27 of the General Clause Act, 1897 to enable him to seek legal remedy against the same. However, he collected the said order through personal efforts on 24-08-2022. Thereafter, he filed a Departmental appeal with the commandant Frontier Reserve Police Khyber Pakhtunkhwa Peshawar (respondent No. 2) on 13-09-2022 but the same was rejected on 07-11-2022. He then filed revision petition under Rule 11-A (4) of Khyber Pakhtunkhwa Police Rules, 1975 before the Inspector General of Police Khyber Pakhtunkhwa Peshawar (respondent No. 3) on 30-11-2022 but the same was not responded. It is well settled law that limitation would start from the date of receipt of impugned order and not from the date born on the said order as per law laid down by august Supreme Court of Pakistan in various judgments.
5. That the appellant was not treated in accordance with the mandate of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 as prior to the enquiry the Competent Authority (respondent No.1) was under statutory obligation to have served the appellant with charge sheet along with statement of allegation so as to enable him to explain his position regarding the so-called misconduct as required by virtue of Rule 6(1)(a) of the Khyber Pakhtunkhwa Police Rules, 1975 (amended in 2014) as well as law laid down by august Supreme Court of Pakistan reported in 2000-SCMR-page-1743. Moreover, the regular enquiry was also not conducted in a manner prescribed by law as neither the appellant was served with a notice nor any publication was given in the leading Newspapers so as to fulfil the requirement


of law. But he failed to do so and ex-parte proceedings were held against him notwithstanding the fact that right of fair trial is a fundamental right by dint of which a person is entitled to a fair trial and due process of law. The appellant has been deprived of his indispensable fundamental right of fair trial as enshrined in **Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973**. Besides, appellant was neither served with a show cause notice nor he was provided any opportunity of personal hearing being the mandatory requirements of law. It is well settled law that when any order is passed in violation of mandatory provision of law, no period of limitation would run for challenging such order.

6. That when the Appellate Authority did not dismiss/reject the departmental appeal on the ground of limitation but on merits, then it would be deemed/presumed that the delay stood condoned. This view was taken by the august Supreme Court of Pakistan in various judgments.

In view of the above narrated facts and grounds, it is, therefore, humbly prayed that on acceptance of this application, the delay if any may kindly be condoned to meet the ends of justice.

  
(Muhammad Shahid)  
Appellant/Applicant

Through:

  
Rizwanullah  
M.A. LL.B  
Advocate High Court, Peshawar



**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR**

In the matter

Service Appeal No. \_\_\_\_\_/2023

1. Muhammad Shahid Ex- Constable No. 1299/FRP s/o Taj Ali Khan r/o Post Office,  
Risalpür, Kalanjer Tehsil and District Nowshera

**APPELLANT**

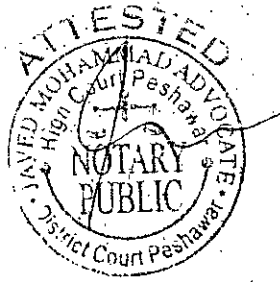
**VERSUS**

1. The Superintendent of Police, Frontier Reserve Police, Kohat Range Kohat etc.

**RESPONDENTS**

**AFFIDAVIT**

I, Muhammad Shahid Ex- Constable No. 1299/FRP s/o Taj Ali Khan r/o Post Office, Risalpur, Kalanjer Tehsil and District Nowshera, do hereby solemnly affirm and declare that the contents of the instant application are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.



*[Signature]*  
**DEPONENT**

Before the Hon'ble Chairman, KPK Service Tribunal,  
Peshawar.

بجراالت

Service Appeal

Appellant 2023

Muhammad Shahid

VS

SP (FRP) Kohat Range Kohat etc

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ  
Peshawar کیلئے Pignwanullah

آن مقام مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک درو پیا عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ  
پر داخلہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر چاہا نہ تو ائے مقدمہ کے سبب سے وہ ہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکور کریں۔ لہذا کالت نامہ لکھ دیا کہ سند ہے۔

M. S. Shahid  
Appellant

الرقوم 27th

March 2023

واہ الع

گ

بمقام

Peshawar only کے لئے منظور ہے۔

All as above accepted