

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

**Service Appeal No.1294 /2022.**

Ex-Constable Shakeel Anwar No.241 of CCP Peshawar..... **Appellant.**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 4686

Dated 4/4/2023

**VERSUS**

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others. . **Respondents.**

**I n d e x**

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**VERSUS**

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**REPLY BY RESPONDENTS NO. 1 to 3.**

**Respectfully Sheweth:-**

**PRELIMINARY OBJECTIONS:-**

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to Hon'ble Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi to file instant appeal.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from this Hon'ble Tribunal.
7. That the appeal is not maintainable being devoid of any merit.
8. That appellant did not approach to the appellate authority.

**REPLY ON FACTS:-**

1. Incorrect. The appellant was appointed as constable in the respondent department. However, the performance of the appellant during service was not upto the mark. Further his service appeal is badly time barred.
2. Incorrect. The appellant was proceeded departmentally on the charges that a complaint was submitted by Mr. Khaista Gul s/o Zeyarat Gul r/o Hazar Khwani, Peshawar for the recovery of outstanding dues worth 3,50,000/- taken by the appellant as advance for selling a house. The complainant later on, came to know that the ownership of the said house was registered in the name of another person. Then the applicant demanded for returning of his amount out of which the appellant paid Rs. 70,000/- through local jirga while a cheque of the remaining amount worth 2, 80,000/- was given to the complainant by the appellant which was found dishonoured due to insufficient account/Balance. The appellant was also absented himself from his lawful duties w. e. from 09.08.2017 to 16.11.2017 without prior permission or leave from the competent authority. In this regard he was issued charge sheet with statement of allegations and Inspector Yousaf Jan of Police Line Peshawar was appointed as enquiry officer. During the course of enquiry the appellant was called time and again as well as through his cell phone No.03219180964, but he did not bothered to attend the enquiry proceedings. The enquiry officer has finalized the enquiry and submitted his findings, wherein the allegations of fraud & willful absence were proved against him.(copy of charge sheet, statement of allegation, enquiry report are attached as A,B,C).

- 3. Para already explained in the above Para. Further the competent authority before imposing the major penalty had completed all the codal formalities of departmental proceedings by issuing him charge sheet with summary of allegations wherein, the charges of fraud & absence from lawful duties were proved hence penalized. As per record the appellant did not file departmental appeal.
- 4. Incorrect. As per record the appellant was a habitual absentee and disinterested in his official duty. The appellant had earlier absented himself from lawful duty w, e, from 03.05.2017 to 05.07.2017 without any leave/permission. In this regard, he was issued charge sheet with statement of allegations and DSP Town was appointed as enquiry officer wherein the allegation was proved against him. Therefore, his period of absence from duty was also included in his punishment order dated 15.11.2017. Further the appellant did not file any departmental appeal before the appellate authority. (copy of charge sheet, statement of allegations enquiry report are attached as D,E,F).
- 5. Incorrect. Punishment Orders passed by the competent authority are legal and lawful, hence is liable to be maintained. Moreover, appeal of the appellant being devoid of merits and limitation may be dismissed on the following grounds.


**REPLY ON GROUNDS:-**


- A. Incorrect. The punishment orders passed by the competent authority are just legal, lawful and according to law/rules.
- B. Incorrect. No violation of law/rules & Constitution of Pakistan 1973 has been done by the respondents and the punishment was in consonance with the gravity of misconduct.
- C. Incorrect. The punishment order was rightly passed by competent authority in the charges of misconduct and absence.
- D. Incorrect. The appellant was provided the opportunities of defense, called time and again and also contacted on his cell phone but he willfully avoided.
- E. Incorrect. The allegations were proved beyond any shadow of doubt by the enquiry officer. The enquiry officer found the appellant guilty of the charges. Therefore the punishment order was passed.
- F. Incorrect. The appellant was treated as per law/rules and no violation of principle of natural justice has been done by the replying respondent.
- G. Incorrect. Proper departmental enquiry was conducted against him wherein the charges of deliberately absence period from his lawful duty were proved, hence the punishment orders are liable to be upheld.
- H. Incorrect. The appellant being a member of a disciplined force, committed gross misconduct by taking debt from many persons i.e. Khaista Gul through fraud hence the penalty is just legal and passed in accordance with law/rules and liable to be upheld.(Copy of complaint is annexed as G).

- I. Incorrect. The appellant willfully absented himself from his lawful duty without proper permission/leave from the competent authority.
- J. Incorrect. Proper charge sheet with statement of allegations was issued to him but failed to submit his reply.
- K. Incorrect. The appellant was provided full opportunity of personal hearing but failed to defend himself and no violation of Constitution of Pakistan 1973 has been done by the replying respondent.
- L. Incorrect. The appellant was treated as per law/rules and rightly awarded the major punishment by the competent authority.
- M. Incorrect. The appellant himself is responsible for the situation by involving in fraud and his prolong absence period from lawful duty without any leave/permission, hence the punishment orders were passed.
- N. That the replying respondents also seek permission of this Hon'ble Tribunal to raise additional grounds at the time of arguments.

**PRAYERS:-**

Keeping in view the above stated facts & reasons it is, most humbly prayed that the appeal of the appellant being devoid of merits and limitation, may kindly be dismissed with costs please.

  
**Provincial Police Officer,  
 Khyber Pakhtunkhwa, Peshawar.**

  
**Capital City Police Officer,  
 Peshawar.**

**Superintendent of Police,  
 HQrs: Peshawar.**

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

**Service Appeal No.1294 /2022.**

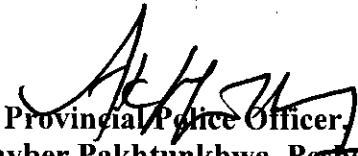
Ex-Constable Shakeel Anwar No.241 of CCP Peshawar..... **Appellant.**


**VERSUS**


Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar & other..... **Respondents**

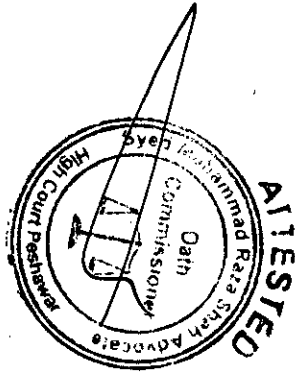
**AFFIDAVIT.**

We respondents 1, 2 and 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.

  
**Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.**

  
**Capital City Police Officer,  
Peshawar.**

  
**Superintendent of Police,  
HQrs: Peshawar.**



04 APR 2023

Annexure A<sub>2</sub> (5)

**CHARGE SHEET**

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, hereby, charge that Constable Shakil Anwar No.241 of Capital City Police Peshawar with the following irregularities.

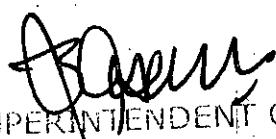
"It has been reported by DSP-HQrs that you Constable Shakil Anwar No.241 while posted at Police Lines, Peshawar were called time & again in connection with enquiry/complaint but you deliberately avoiding appearance before the Enquiry Officer & also absented yourself w.e.f 09.08.2017 till date. This amounts to gross misconduct on your part and is against the discipline of the force."

You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

Your written defence, if any, should reach the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that have no defence to put in and in that case ex-parte action shall follow against you.

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.

  
SUPERINTENDENT OF POLICE,  
HEADQUARTERS, PESHAWAR

18. 8. 2017

Annexure B (B)

**DISCIPLINARY ACTION**

I, Superintendent of Police, Headquarters, Capital City Police Peshawar as a competent authority, am of the opinion that Constable Shakil Anwar No.241 has rendered him-self liable to be proceeded against under the provision of Police Disciplinary Rules-1975


**STATEMENT OF ALLEGATION**

"It has been reported by DSP-HQrs that Constable Shakil Anwar No.241 while posted at Police Lines, Peshawar was called time & again in connection with enquiry/complaint but he deliberately avoiding appearance before the Enquiry Officer & also absented himself w.e.f 09.08.2017 till date. This amounts to gross misconduct on his part and is against the discipline of the force."

For the purpose of scrutinizing the conduct of said accused with reference to the above allegations an enquiry is ordered and ~~Inspector Yousaf Jan~~ is appointed as Enquiry Officer. Inspector Yousaf Jan

2. The Enquiry Officer shall, in accordance with the provisions of the Police Disciplinary Rules, 1975, provide reasonable opportunity of hearing to the accused officer, record his finding within 30 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

3. The accused shall join the proceeding on the date time and place fixed by the Enquiry Officer.

  
SUPERINTENDENT OF POLICE,  
HEADQUARTERS, PESHAWAR

No. 220 /E/PA, dated Peshawar the 19/8 /2017.

1. Inspector Yousaf Jan is directed to finalize the aforementioned departmental proceeding within stipulated period under the provision of Police Rules-1975.
2. Official concerned

...NCE ATTACHED

Annexure (8) (8)

Subject: ENQUIRY AGAINST FC SHAKEEL ANWAR NO.241

Please refer to the attached enquiry papers received from your good vide: No.220/PA, dated 19.09.2017 against FC Shakeel Anwar No.241 on the grounds;

### LEGATION

"That he while posted at Police Lines, Peshawar was called time & again in connection with enquiry/complaint but he deliberately avoiding appearance before the Enquiry Officer & also absented himself w.e.f 09.08.2017 till date without taking permission or leave.

### PROCEEDINGS

Brief fact of the enquiry is that a complaint was submitted by Mr. Khaista Gul s/o Zeyart Gul r/o Hazar Khwani Peshawar for the recovery of Rs.3,50,000/- outstanding against the alleged FC Shakeel Anwar No.241 taken as advance for selling a house. The applicant later came to know that the ownership of the said house was registered of another person. The applicant demanded for returning of his amount out of which the alleged official paid Rs.70,000/- through Jirga while a cheque of remaining amount of Rs, 2,80,000/- was given to the applicant by the alleged official which found dishonoured due to insufficient account.

In this connection, preliminary enquiry was conducted by DSP-HQrs who submitted his report/finding that the alleged official deliberately avoiding his appearance before him. He further reported that DSP/Legal may offer his legal comments, upon which the W/SP-HQrs ordered for initiating departmental enquiry & the undersigned was appointed as Enquiry Officer.

In order to dig-out the real facts, served charge sheet & summary of allegation upon him, he was called time & again but he deliberately avoiding his appearance before the undersigned. He was contact on his cell No.0321-9180964 & 0321-9075581 but his phone was constantly coming off.

During the course of enquiry it came to light that the alleged official has been temporarily shifted to unknown place & could not be traced out his whereabouts.

Furthermore, the alleged official was found absent w.e.f 09.08.2017 & still continued absent.

### RECOMMENDATIONS

In view of the statement recorded & other material available on record, the undersigned suggested that:-

- i. Complainant Khaista Gul s/o Zeyart Gul r/o Hazar Khwani Peshawar may be directed to pursue his case through court concerned regarding dishonour cheque given by the alleged official FC Shakeel Anwar 240.



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the alleged official violated Police Rules chapter 14-25 & chapter 14-33 as well as found guilty under section 118 (d) Police Act, 2017 fell in grievances by taking debt from many persons through fraud which resulted his absconding. He was found unwilling worker & disinterest in his official duties. Therefore, he is recommended for major punishment by taking ex-parte decision, if agreed please.

*Jal*  
20/1/17  
(YOUSAF JAN) 17  
INSPECTOR POLICE LINES  
CCP PESHAWAR

/SP/HQrs

PA SD  
Process the Case

*BQSM*

13.11.2017.

**CHARGE SHEET**

Annexure (D) (10)

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, hereby, charge that Constable Shakeel Anwar No.241 of Capital City Police Peshawar with the following irregularities.


"That you Constable Shakeel Anwar No.241 while posted at Police Lines, Peshawar were absent from duty w.e.f 03.05.2017 till date without taking permission or leave. This amounts to gross misconduct on your part and is against the discipline of the force."

You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

Your written defence, if any, should reach the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall follow against you.

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.

  
SUPERINTENDENT OF POLICE,  
HEADQUARTERS, PESHAWAR

**DISCIPLINARY ACTION**

Annexure (3) (11)

I, Superintendent of Police, Headquarters, Capital City Police Peshawar as a competent authority, am of the opinion that Constable Shakeel Anwar No.241 has rendered him-self liable to be proceeded against under the provision of Police Disciplinary Rules-1975

OFFICE OF DSP  
Town Circle Peshawar  
Diry No. 26 F  
Dated: 8-7-017

**STATEMENT OF ALLEGATION**

"That Constable Shakeel Anwar No.241 while posted at Police Lines, Peshawar absented himself from duty w.e.f 03.05.2017 till date without taking permission or leave. This amounts to gross misconduct on his part and is against the discipline of the force."

For the purpose of scrutinizing the conduct of said accused with reference to the above allegations an enquiry is ordered and SDPO TOWN is appointed as Enquiry Officer.

2. The Enquiry Officer shall, in accordance with the provisions of the Police Disciplinary Rules, 1975, provide reasonable opportunity of hearing to the accused officer, record his finding within 30 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

3. The accused shall join the proceeding on the date time and place fixed by the Enquiry Officer.

*[Signature]*  
SUPERINTENDENT OF POLICE  
HEADQUARTERS, PESHAWAR

No. 174 /E/PA, dated Peshawar the 6/7 - /2017

1. SDPO TOWN is directed to finalize the aforementioned departmental proceeding within stipulated period under the provision of Police Rules-1975.

2. Official concerned

PA  
For *[Signature]*

*[Signature]*  
BY SUPERINTENDENT OF POLICE  
Town Circle Peshawar

Annexure F (12)

Capital City Police.

Town Sub-Division

From: - Superintendent of Police,  
          HQrs Peshawar.  
          Deputy: Superintendent of Police,  
          Town Peshawar.  
No. 26-E /PA  
Dated. 20 November, 2017.  
Subject: - Departmental Inquiry against Constable Shakeel Anwar No.241  
Memo: Please refer to your office No.174/E/PA- SP/HQrs dated 6/07/2017 on the subject

(1)

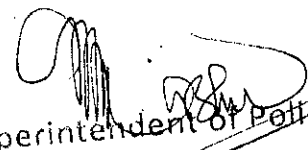
cited above,

A departmental inquiry against Constable Shakeel Anwar No.241 is here conducted with the allegations that during his posting at Police lines Peshawar, he was absent from legitimate duty with effect from 03/05/2017 to till date, without any proper leave from senior officer. Subsequently, proper charge sheet and summary of allegations were issued to him by the W/SP-HQrs Peshawar. The inquiry papers were marked to the undersigned for inquiry and to find out the real facts.

Constable Shakeel Anwar No.241 was repeatedly summoned to the office. He did not bother to attend this office for statement/ personal hearing. He was informed by the Muharir staff but he did not attend the office on the given dates for hearing. However, this was confirmed from the report of Muharir Police Lines Peshawar, that the Said Constable was absent from 03/05/2017 to 5/7/2017 for a period of 62-days. At last his brother Adil was contacted on his cell No.0333-9215674 and 03219075581. He ensured that he will inform his brother and he will attend the office. But he was not appeared till now. Due to this the statement of the said Constable could not be recorded. However, report of Muharir is attached regarding his absence period regarding his 62-days absence as mentioned above.

From the perusal of record and inquiry conducted it revealed that constable Shakeel Anwar was absent from his duty w.e.f 03/05/2017 to 5/7/2017 for a period of 63-days, without any leave or prior permission from his senior officer, which is his serious negligence and against the discipline of the Police force.

In the light of the above circumstances, I enquiry officer recommend Constable Shakeel Anwar No.241 for major punishment after issuance of final show cause notice. Relevant record is attached).


  
Deputy: Superintendent of Police,  
Town Sub-Division Peshawar.

Encl (15)

SP ML  
PA 84  
issue  
F.S. A

R/Sir,

The said Constable has already been dismissed from service vide order of PIA. approved. my include remaining absence in a dismissal of order. PA 25

  
Superintendent of Police  
HQrs: CCF Peshawar.

جناب ای سی صاحب خیر دکنوں کو

(14) (12)

جناب عالی

گزارش ہے کہ آپ نے محلے میں ایک ملازم  
 شکیل انور ولد محمد انور حال ٹھکانہ کٹری  
 صدر ہے۔ اس کے پاس میرا بچہ قرض بنتا تھا  
 اس نے جمع جعلی چیک دیا میں نے FIR درج نہیں  
 حکم کی بنیادی نہ ہو چکہ پولیس کے کسی افسر  
 درخواست دینے بلکہ کیوں نہ بنا آپ آفسی میں  
 میں ایک ٹریڈ آرڈر میں اور وہ اسٹور  
 والا بندہ ہے۔ آپ ان سے میری رقم  
 کھیر کر آپ کا مسئلہ ریوٹ کیا

6

انصار

فائینہ گل

ولد

نہایت گل

سکنہ گزار خواہی

صوف 2017-8-6

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

**Service Appeal No.1294 /2022.**

Ex-Constable Shakeel Anwar No.241 of CCP Peshawar..... **Appellant.**

**VERSUS**

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar & other..... **Respondents.**

**AUTHORITY.**

I, **Capital City Police Officer, Peshawar**, hereby authorize **Mr.Ahmad Jan** SI legal of Capital City Police, Peshawar to attend the Hon'ble Court and submit written reply, statement and affidavit required for the defense of above service appeal on behalf of respondent department.

**Capital City Police Officer,  
Peshawar.**

