

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 1269/2015

Date of institution ... 16.10.2015

Date of judgment ... 13.02.2020

Abdullah F.C No. 1007 S/o Jehanzeb Khan
Resident of Toru, Tehsil & District Mardan

... (Appellant)

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police District Mardan.
3. The District Police Officer Mardan.
4. Superintendent of Police Mardan.
5. Superintendent of Police District Mardan.

... (Respondents)

APPEAL UNDER SECTION 4 OF THE SERVICES TRIBUNAL ACT, 1974.

Mr. Nasir ud Din, Advocate.

.. For appellant.

Mr. Kabirullah Khattak, Additional Advocate General

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. HUSSAIN SHAH

.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Appellant alongwith

his counsel and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Atta-ur-Rehman, Inspector (Legal) for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present appeal are that the appellant was serving in Police Department as Constable. He was imposed major penalty of dismissal from service vide order dated 15.10.2014 on the allegation of absence from duty. The appellant filed departmental appeal on 21.10.2014

M. Amin in
13.2.2020

which was rejected on 28.11.2014 thereafter, the appellant filed revision petition on 07.01.2015 which was decided on 18.09.2015 and the punishment of dismissal from service was converted into removal from service hence, the present service appeal on 16.10.2015.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant was serving in Police Department since 2009. It was further contended that the appellant was regularly performing his duty. It was further contended that the appellant became ill and due to illness he was unable to attend the duty with effect from 11.05.2014 to 26.05.2014. It was further contended that the appellant was imposed major penalty for a total absence period of 15/16 days.

It was further contended that the appellant also produced medical prescriptions for the alleged absence period but the competent authority as well as departmental authority has not considered the same. It was further contended that the appellant was having more than five years service but the same was also not considered by the respondent-department. It was further contended that neither absence notice was issued to the appellant nor proper inquiry was conducted nor the appellant was associated in any proper inquiry, therefore, the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside. It was further contended that the appellant is a poor person and the only person to look after his family, therefore, it was vehemently contended that the major penalty of removal from service on the allegation of 15/16 days is harsh and prayed for acceptance of appeal.

M. Anwar
13.12.2020

5. On the other hand, learned Additional Advocate General for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving in Police Department. It was further contended that the appellant remained absent from duty without the permission of lawful authority. It was further contended that the appellant was properly charge sheeted and he also submitted reply to the same. It was further contended that a proper inquiry was conducted and the appellant was properly associated in the inquiry proceeding but the appellant did not satisfy the competent authority regarding his absence, therefore, it was vehemently contended that the appellant was rightly imposed major penalty of removal from service and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was serving in Police Department since 2009. He was imposed major penalty of dismissal from service vide order dated 15.10.2014 on the allegation of absence for a period of 15/16 days. The record further reveals that the appellant has also claimed in departmental appeal as well as in service appeal that he became seriously ill and it was beyond his control to attend the duty. The record further reveals that the appellant has also annexed medical prescriptions regarding his illness. The record also reveals that the appellant was having 5/6 years service in his credit but the same was also not considered by the respondent-department. Moreover, neither the appellant was given opportunity of any proper defence by the inquiry officer nor he was issued show-cause notice nor handed over copy of inquiry report with the show-cause notice, therefore, the appellant was condemned unheard. Furthermore, the major penalty of removal from service for total absence period of 15/16 days that too when the appellant has taken plea that he was seriously ill appear to be harsh. As such, we partially

M. Arun
13.12.2020

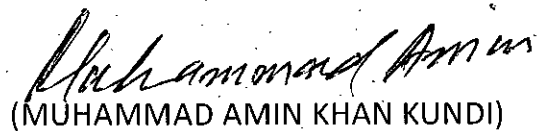
accept the appeal, set-aside the impugned order, and modify the major penalty of removal from service into withholding of one increment for a period of three years while the absence period as well as intervening period is treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

13.02.2020



(HUSSAIN SHAH)
MEMBER



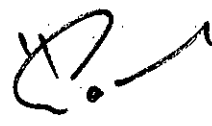
(MUHAMMAD AMIN KHAN KUNDI)

MEMBER

07.01.2020

Vide order of today i.e. 07.01.2020 passed in restoration application No.200/2019, the present service appeal has been restored. To come up for arguments on 13.02.2020 before D.B.


Member


Member

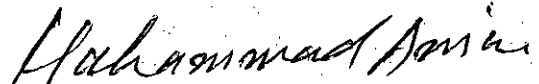
13.02.2020

Appellant alongwith his counsel and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Atta-ur-Rehman, Inspector (Legal) for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of four pages placed on file, we partially accept the appeal, set-aside the impugned order, and modify the major penalty of removal from service into withholding of one increment for a period of three years while the absence period as well as intervening period is treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
13.02.2020


(HUSSAIN SHAH)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

02.11.2018

Neither appellant nor his counsel present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Due to retirement of Hon'ble Chairman, the Tribunal is incomplete. Therefore, the case is adjourned. To come up for the same on 24.12.2018.


Reader

24.12.2018

Learned counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Learned counsel for the appellant requested for adjournment Adjourned. To come for arguments on 18.02.2019 before D.B.


Member


Member

18.02.2019

Nemo for the appellant. Learned Additional Advocate General for the respondents present.

It is already 4:00 PM and the case has been called more than once. Despite, no one is in attendance on behalf of appellant. Dismissed for want of prosecution. File be consigned to the record room.


Member


Chairman

ANNOUNCED.
18.02.2019

1269/15

29.05.2018


Appellant Abdullah Khan in person present. Khalid Mahmood, H.C alongwith Mr. Kabirullah Khattak, Addl. AG for the respondents present. Appellant requested for adjournment as his counsel is not in attendance. Granted. To come up for arguments 06.08.2018 before the D.B.

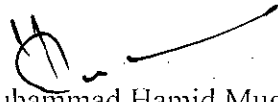

Member


Chairman

06.08.2018


Learned counsel for the appellant and Mr. Zia Ullah, learned Deputy District Attorney alongwith Mr. Atta Ur Rehman S.I legal for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 25.09.2018 before D.B.



(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

25.09.2018

Appellant in person present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Atta-ur-Rehman, S.I (Legal) for the respondents present. Appellant made a request for adjournment. Granted. Case to come up for arguments on 02.11.2018 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

14/9/2017

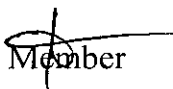
Appellant in person and Mr. Kabirullah Khattak, Assistant AG alongwith Mr. Khalid Mehmood, HC for the respondents present. Appellant seeks adjournment. Adjourned. To come up for rejoinder and arguments on 18/12/2017 before D.B.


MEMBER


Chairman

18.12.2017

Appellant in person and Mr. Muhammad Jan, alongwith Khalid Mehmood, H.C for the respondents present. Appellant seeks adjournment. To come up for rejoinder and arguments on 07.02.2018 before the D.B.


Member


Chairman

07.02.2018


Appellant in person present. Mr. Kabir Ullah Khattak, Learned Additional Advocate General for the respondents present. Appellant seeks adjournment as his counsel is not available. Adjourned. To come up for arguments on 27.03.2018 before D.B.

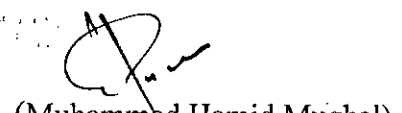

(Gul Zeb Khan)
MEMBER


(Muhammad Hamid Mughal)
MEMBER

27.03.2018

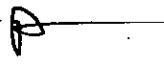
Appellant present. Learned counsel for the appellant is absent. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Atta-ur-Rehman, S.I (legal) for the respondents present. Appellant seeks adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 29.05.2018 before D.B.


(Muhammad Anis Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member

19.09.2016

Appellant in person and Mr. Muhammad Jan, GP for respondents present. Rejoinder not submitted. Requested for time to file rejoinder. Request accepted. To come up for rejoinder and arguments on 19-1-17.


Member


Member

19.01.2017


Appellant in person and Mr. Muhammad Shafique, DSP (legal) alongwith Mr. Kabirullah Khattak, Assistant AG for respondents present. Rejoinder not submitted. Appellant requested for further time for filing rejoinder. Adjourned. To come up for filing of rejoinder and arguments on 12.06.2017 before D.B.


(AHMAD HASSAN)
MEMBER


(ASHFAQUE TAJ)
MEMBER

12.06.2017

Appellant in person present. Mr. Muhammad Adeel Butt, Additional AG for the respondents present. Appellant requested for time to file rejoinder. Request accepted. To come up for rejoinder and arguments on 14.09.2017 before D.B.


(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

26.1.2016

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 wilful absence and dismissed from service vide impugned order dated 15.10.2014 where-against he preferred departmental appeal on 21.10.2014 which was rejected on 28.11.2014 where-after mercy petition was preferred on 7.1.2015 and therein the penalty of dismissal from service was converted into removal from service vide final impugned order dated 18.9.2015 and hence the instant service appeal on 16.10.2015.

Appellant Deposited
Security & Process Fee

That the appellant was not absent wilfully. That the inquiry was not conducted in the prescribed manners and, furthermore, opportunity of hearing was not extended to him during the inquiry.

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 29.3.2016 before S.B.

Chairman

29.03.2016

Appellant in person and Mr. Khalid Mehmood, H.C alongwith Assistant A.G for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 26.5.2016 before S.B.

Chairman

26.05.2016

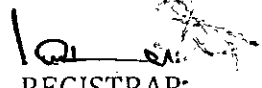



Appellant in person and Mr. Muhammad Gahni, S.I alongwith Addl. AG for the respondents present. Written reply filed. The appeal is assigned to D.B for rejoinder and final hearing for 19.09.2016.

Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1269/2015


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11.11.2015	<p>The appeal of Mr. Abdullah Khan resubmitted today by Mr. S.K Khattak Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>24-11-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2	24.11.2015	<p>Appellant in person present. Seeks adjournment. Adjourned for preliminary hearing to 23.12.2015 before S.B.</p> <p style="text-align: right;"> Chairman</p>
	23.12.2015	<p>Appellant in person present. Seeks adjournment. Adjourned for preliminary hearing to 26.1.2016 before S.B.</p> <p style="text-align: right;"> Member</p>

The appeal of Mr. Abdullah F.C No. 1007 S/O Jehanzeb Khan r/o Toru Tehsil and District, Mardan received to-day i.e. on 16.10.2015 is incomplete on the following score which is returned to his counsel for completion and resubmission within 15 days.

1. The appeal may be got signed from the appellant.
2. Annexures of the appeal may be pagewise/annexexurewise, duly attested by the appellant or his counsel.
3. Enquiry report may be placed on file.

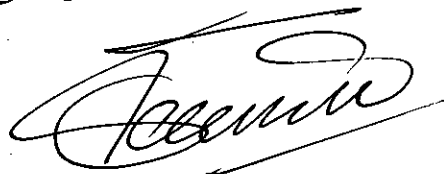
No. 1589 /ST,

Dated 16/10 /2015


REGISTRAR
KPK SERVICE TRIBUNAL,
PESHAWAR.


MR. S.K Khattak, Advocate, Mardan.

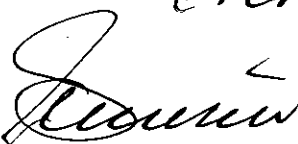
Re Submitted



29/10/15

One week time
extended.


29/10/2015

Note - I have applied
for enquiry report from the
police Dept. Serial numbered
that the report and all the
documents will be sent to
Service Tribunal when demanded


BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 1269/2015

Abdullah

.....Appellant

Versus

Inspector General of Police etc.

.....Respondents.

INDEX OF APPEAL.

S.N	Description of documents	Annex.	Pages
1.	Grounds of appeal		1 - 4
2.	Charge sheet with S/Allegations.	A	5 - 6
3.	Reply of the appellant.	B	7
4	Dismissal order from service	C	8
5..	Appeal dated 21.10.2014	D	9 - 10
6.	Rejection order dated 28.11.2014	E	11
7.	Appeal to IGP dated 07.1.2015.	F	12-13
8.	Impugned order dated 18.09.15	G	14
9.	Medical prescriptions.	H	15-20
10.	Wakalatnama		21

Through:

Appellant

Counsel

Before The K.P.K Service Tribunal Peshawar

K.P.K. Province
Service Tribunal
Diary No. 1254
dated 16-10-15

Service Appeal No 1269 /2015

Abdullah F.C No.1007 S/o o Jehanzeb Khan resident of
Toru, Tehsil & District MardanAppellant

VERSUS

1. Inspector General of Police, KPK, Peshawar
2. The Deputy Inspector General of Police Distt: Mardan
3. The District Police Officer Mardan
4. Superintendent of Police Mardan
5. Superintendent of Police Distt: Mardan.....Respondents

Service Appeal U/S-4 of Service Tribunal Act 1974

Sir,

Appellant humbly submits as under

1. That appellant appointed in the KPK police department in the year of 2009 as Constable and joint his duty at Distt: Mardan.

Handwritten notes:
16/10/15
to-day

re-submitted to-~~day~~
and filed;

Registrar
11/11/15

2. That appellant performed his duty with honesty and regularly, in this regard no complaint has been received to the officials concerned.
3. That the appellant has been issued charge sheet alongwith statement of allegations (Annexure-A), duly replied by the appellant annexure-B.
4. That without conducting proper enquiry, the appellant has been dismissed from service, vide order dated 15.10.2014. (Annexure-C).
5. That the appellant filed appeal against the said order passed by the respondent No.3, before respondent No. 2 but the same was also dismissed vide order dated 28.11.2014. Copies of the appeal and order are attached as annexure-D&E).
6. That feeling aggrieved from the said orders, the appellant challenged the same before respondent No.1, which was also met with the same fate vide order dated 19.09.2015, hence the appellant approaches this Hon'ble Tribunal on following grounds inter alia. (Copies of the appeal and order dated 18.09.2015 are attached as annexures -F&G).

G R O U N D S

- A. Because appellant has regularly performed his duty since 2009 with honesty and regularly.

- B Because appellant remained some days absence due to his illness, permission has also been granted to the appellant for rest, but the same has not been considered and dismissed the appellant from the service.
- C because the appellant was seriously ill and the doctors has also advised him for complete rest on bed at his home.
- D because the inquiry officer has not been served any notice to appear before him for recording his statement in connection of absence nor he contact the appellant in this regard.
- E because the appellant himself went by foot to the office fo inquiry officer in connection of his statement but the inquiry officer was not present on the same day, therefore, the appellant joint his duty at P.S Garhi kapora till the dismissalal order.
- F Because the inquiry has been completed in the absence of the appellant, no statement of the appellant has been recorded, no any information has collected, the same has been prepared in his own office, which has got no value in the eye of law. Moreover, the appellant has not been heard and he has condemned unheard.
- G the petitioner has applied for the inquiry report O.A.S I police but they denied to handed over to the petitioner and that the inquiry report along with judicial file will sent when the service tribunal summoned for it.

- H. Because the appellant is a very poor man, he is the only source of his family for income.

It is therefore humbly prayed that appellant may please be re-instated on his duty and the orders passed by the respondents may kindly be set aside. Any other relief deemed fit may also be graciously granted.

Appellant, 

Abdullah

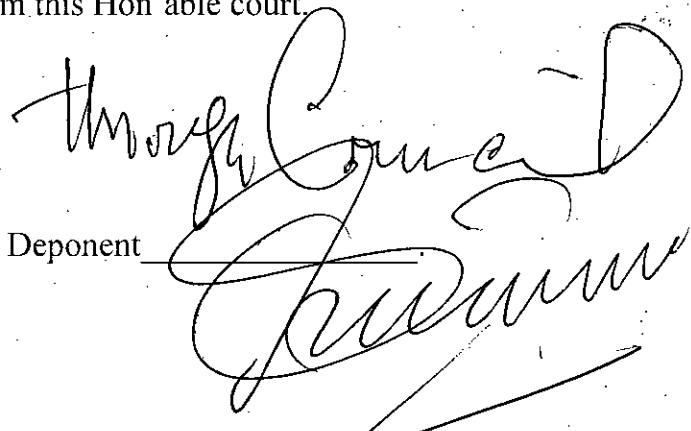
Trough counsel

S.K Khattak Advocate
High Court at Distt:
courts Mardan.

Dated 14/10/2015

AFFIDAVITE

I, do hereby solemnly and affirm that the contents of appeal are true and correct to the best of my knowledge and nothing has been concealed from this Hon'able court.

Deponent 

Annex-A
OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

(6) (F)
(5)

Charg Sheet

No. 622 /RI/A.P.R-1975

Date 17-6-2014

DISCIPLINARY ACTION UNDER NWFP POLICE RULES - 1975

I, Gul Afzal Khan District Police Officer, Mardan as competent authority am of the opinion that Constable Abdullah No. 1007, has rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of section-02 (iii) of NWFP Police Rules 1975.

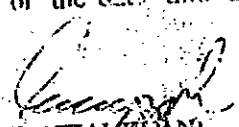
STATEMENT OF ALLEGATIONS

That Constable Abdullah No. 1007, while posted at Police Station Gahi Kapura Mardan, deliberately absented himself from the lawful duty without any leave/permission vide DD No. 33 dated 01.05.2014 to DD No. 06 dated 26.05.2014. He is recommended for departmental proceedings by AS/SMT vide his office letter No. AS/SMT dated 05.06.2014.

2. For the purpose of scrutinizing the conduct of the said official with reference to the above allegations Jhalab Zee Khan DSP, City Mardan is appointed as Enquiry Officer without any permission/leave.

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. 622 /R, dated Mardan the 17-6-2014

Copy of above is forwarded to the:

1. DSP/City Mardan for initiating proceedings against the accused official / Officer namely Constable Abdullah No. 1007, under Police Rules, 1975.
2. Constable Abdullah No. 1007, 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.

*** III ***

(7) (b)

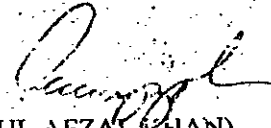
CHARGE SHEET UNDER NWFP POLICE RULES 1975

I, Gul Afzal Khan District Police Officer, Mardan as competent authority hereby charge you Constable Abdullah No. 1007, as follows:

That you Constable, while posted at Police Station Garhi Kapura Mardan, deliberately absented yourself from the lawful duty without any leave/permission vide DD No. 33 dated 01.05.2014 to DD No. 06 dated 26.05.2014. you are recommended for departmental proceedings by ASP/SMT vide his office letter No.159/SMT dated 05.06.2014.

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

1. By reason of the above, you appear to be guilty of misconduct under section - 02 (i) of the NWFP Police Rules 1975 and are 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 defence 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 defence to put-in and in that case, an ex-parte action shall follow against you.
4. Intimate whether you desired to be heard in person.


(GUL AFZAL KHAN)
District Police Officer,
Mardan

8

ORDER

Annex - A C

Constable Abdullah No. 1007, while posted at Police Lines committed the following acts, which is gross misconduct on his part as defined in Rules 02 (iii) of Police Rules 1975.

Brief facts are that you Constable Abdullah No. 1007, while posted at Police Station Garhi Kapoora Mardan has deliberately absented yourself from the lawful duty without prior permission or leaves vide DD No. 33 dated 11.05.2014 to DD No. 06 dated 26.05.2014, DD No. 09 dated 05.07.2014 to DD No. 09 dated 06.07.2014, DD No. 09 dated 20.07.2014 to DD No. 10 dated 21.07.2014 and DD No. 11 dated 01.07.2014 to DD No. 12 dated 05.08.2014.


In this connection, Constable Abdullah No. 1007, was charge sheeted vide this office No. 632/R, date 17.06.2014 and No. 695/R, date 25.08.2014, and he proceeded against departmentally through Inquiry officer (Mr. Jehanzeb Khan DSP/City Mardan, who after fulfilling necessary process, submitted his findings to the undersigned vide his office endorsement No. 621, dated 09.10.2014 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 Abdullah No. 1007, is hereby dismissed from service while the absence period counted as leave without pay, in exercise of the power vested in me under the above quoted rules.

Order announced

O.B No. 2079

Dated 15/10/2014


(Gul Nazim Sydi)
District Police Officer,
Mardan

No. 10366-63 dated Mardan the 15/10/2014

Copy for information and necessary action to -

1. The S.P Operations, Mardan.
2. The DSP/HQrs Mardan.
3. The Pay Officer (DPO) Mardan.
4. The E.C (DPO) Mardan.
5. The OASI (DPO) Mardan.

(E)

ORDER.

(Signature)

Signature

This order will dispose-off the appeal preferred by Ex-Const Abdullah No. 1007 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. 2079 dated 13.10.2014.

Brief facts of the case are that he while posted at Police Station Garhi Kapoora, deliberately absented himself from the lawful duty vide daily diary No. 33 dated 11.05.2014 to daily diary No. 6 dated 26.05.2014, daily diary No. 7 dated 05.07.2014 to daily diary No. 09 dated 06.07.2014, daily diary No. 09 dated 20.07.2014 to daily diary No. 10 dated 21.07.2014 & daily diary No. 11 dated 01.07.2014 to daily diary No. 12 dated 05.08.2014. In this connection, he was checked and was also proceeded against departmentally through the then Deputy Superintendent of Police City, Mardan, who after fulfilling necessary procedure submitted his findings to the District Police Officer, Mardan & the allegation established against him after going through inquiry file to District Police Officer Mardan agreed with the findings of enquiry Officer as the alleged appellant habitual absentee, therefore he was dismissed from service.

I have perused the record and also heard the appellant in the Orderly Room held in this office on 26.11.2014, but he failed to justify his absence period and could not produce any cogent reason about his absence. Therefore, I, **MUHAMMAD SAEED** Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal and do not interfere in the order passed by the competent authority, thus the appeal is filed.

ORDER ANNOUNCED.

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

No. 7863 /ES, Dated Mardan the 28 /11 /2014.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 957/LB dated 21.11.2014. His service record is returned herewith.

(*****)

5	5	-do-	2635 dated 13.07.10
6	1	-do-	3935 dated 06.10.10
7	2	-do-	4556 dated 30.11.10
			4738 dated 15.12.10

12

B

Annexure F appeal along with order

BEFORE THE INSPECTOR GENERAL POLICE KPK PESHAWAR

Appeal against the order of the
Deputy Inspector General Police
Mardan dated 28/11/2014.

PRAYER IN APPEAL:

WITH THE ACCEPTANCE OF THIS APPEAL, THE
ORDER OF THE LEARNED DEPUTY INSPECTOR GENERAL
POLICE MARDAN MAY PLEASE BE SET ASIDE AND THE
APPELLANT/PETITIONER MAY KINDLY BE RE-INSTATED
INTO SERVICE WITH BACK BENEFITS.

RESPECTFULLY SHEWETH:


1. That the appellant has joined the Police Department in 2009 as a constable after three years complete period of the applicant in Police Department, he was confirmed as a constable and three years complete service certificate is attached with the appellant's service Book.
2. That the appellant was on duty in the Police Station Garhi Kapura, Mardan. That on 15.10.2014 the appellant received dismissal order from the D.P.O. Mardan, due to absence from his duty. (Copy of order attached).
3. That on 12.5.2014, I became ill and the doctor give the appellant bed rest of 07 days and after expiry of the said period, the appellant again visited the said doctor and he again advicse me medicines and give me 07 days further rest. (Medical Reports and Tests are attached).

4. That the appellant was charge sheeted by the Police Department and called the DSP City for inquiry namely Jehanzeb Khan.
5. That the appellant went to the DSP City, Mardan and on that date, the DSP was not present in his office and ~~he~~ waited for him in his office but the clerk of the DSP told me and informed the appellant that I will be summoned again. In the meanwhile the appellant received the dismissal order and have been condemned un-heard and without giving me any notice by the DSP City, Mardan.
6. That the impugned order of the dismissal of the appellant is wrong, illegal, against law & facts and is liable to be set-aside.

It is, therefore, humbly prayed that on acceptance of this appeal, the impugned order of the learned DIG Mardan may please be set aside and the appellant may be re-instated into service with back service benefits.

Dated: 07/01/2015..

Yours Obediently,


(ABDULLAH-FC NO. 1007)
S/O Jehanzeb Khan R/O Toru, Mardan
(Appellant).



17 AmmeJure M

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

14

AmmeJure
along with appeal

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-a of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-FC Abdullah No. 1007 of District Police Mardan against the Punishment Order i.e dismissed from service passed against the appellant by DPO/Mardan vide OB No. 2079 dated 13.10.2015.

In the light of recommendations of Appeal Board meeting held on 10.09.2015, the board examined the enquiry in detail & other relevant documents. It revealed that the appellant was served with Charge Sheet/Statement of Allegations and punishment order was announced on the basis of reply to the Charge Sheet and Statement of Allegations.

The appellant was also heard in person. Record perused. The applicant earned 29 bad entries according to his service record due to habitual absentee and he was dismissed from service.

The Board decided that the punishment of dismissal be converted into removal from service.

Order announced in the presence of appellant.

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

No. 11562-66 /E-IV dated Peshawar the 18/9 /2015

Copy of above is forwarded to the:-

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

(ASIF IQBAL MOHMAND)
AIG/Establishment
For Inspector General of Police,
Khyber Pakhtunkhwa Peshawar.

17/9/15

(15)

Extra Copies
of Medical
Amnestie
H

No. _____ Rs. 5
OUT-PATIENTS DEPARTMENT
NAME _____
YEARLY NO. _____
DATE 1975/2/24
DISEASE _____

EACH VALUE RUPES 5

MP
- Urin Re

705 Splor 2000

705 Influen

705 Anem AS

705 Cedex

Advice bed rest
of days. A. B. C.
SMO Incharge
Type N Hospital
For Medical

15

Extra Copies of Medical

TYPE-D
Civil Hospital Toru Mardam

Date 12/5/16

Name *N/A*

HEMATOLOGY	
Hb	TLC
M.P	<i>Positive</i>
Platelets	<i>DWG</i>
Dlc	
Polys	
Lymphos	
Monos	
Eosins	
ESR	
Typhidot: IgG	
	IgM
URINE	
Albumin	<i>DWL</i>
Pus Cells	<i>10-15</i>
RBCs	<i>15-20</i>
Epith	
Others	
B.Salt	
B.Pegment	
Pregnancy	

SEROLOGY	
Toxoplasma	
Ra Factor	
ASO Titre	
Hbs Ag	
HCV	
Brucella	
B.A	B.M
Widal	
To	TM
B.Group	
R.H.Factor	
CHEMISTRY	
1. Sugar (Fg)	
2. Sugar	
3. BIL	
4. SGPT (ALT)	
Al Phosph	
Urea	
Creatinine	
Uric Acid	
Cholesterol	
H. Pylori	

Technologist

(16)

Extra Copies
of special

DEPARTMENT.

RS. 5

FACE VALUE BUFFERS

DISEASE

Advice

U.S.P. 1978

1978/224

Signature

(17)

- 125 Leonoflex Suro

- 125 Panada Seal

Rep. Coule C.

Rep. C. H. H. H.

Advice - bed. Sec. 1
of days

Dr. P. H. H.
SMO incharge
Type D. Hospital
Joru Mirza

(18)

Extra Copies of Medical

TYPE-D

Civil Hospital Toru Mardan

Name *M. J. Khan*

Date *12/5/16*

File No. *Abdullah No*

HEMATOLOGY	
TLC	
<i>W.S. for (C) (E) (D)</i>	
Platelets	<i>D.W</i>
Polys	
Lymphos	
Monos	
Eosins	
ESR	
Typhidot: IgG	
IgM	

SEROLOGY	
Toxoplasma	
Ra Factor	
ASO Titre	
Hbs Ag	
HCV	
Brucella	
B.A	B.M
Widal	
To	TH
S.Group	
R.H.Factor	

URINE	
Albumin	<i>Nil</i>
Pus Cells	<i>10-15</i>
RBCs	<i>15-20</i>
Epith	
Others	
B.Salt	<i>1-2</i>
B.Pegment	
Pregnancy	

CHEMISTRY	
1. Sugar (FO)	
2. Sugar	
3. Bil.	
4. SGPT (ALT)	
All Phosph	
Urea	
Creatinine	
Uric Acid	
Cholesterol	
H. Pylori	

Technologist

page (19) (19)

Extra Copies of
Medical

TYPE-D

Civil Hospital Toru Mardam
Ad/med

Date

19/5/74

Name		Date	
HEMATOLOGY		SEROLOGY	
Hb	TLC	Toxoplasma	
M.P. <i>NO MA SEED</i>		Ra Factor	
Platelets		ASO Titre	
Dic		Hbs Ag	
Polys		HCV	
Lymphos		Brucella	B. Ag
Monos		B.A	
Esoins		Widal	TH
ESR		To	
Typhidot: IgG		B.Group	
IgM		R.H.Factor	
URINE		CHEMISTRY	
Albumin	<i>NIL</i>	1. Sugar (FO)	
Pus Cells	<i>04-08</i>	2. Sugar	
RBCs	<i>08-10</i>	3. BIL	
Epith		4. SGPT (ACT)	
Others		All Phosph	
B.Salt		Urea	
B.Pegment		Creatinine	
Pregnancy		Uric Acid	
		Cholesterol	
		H. Pylori	

Technologist

Page 20

Rs. 3

POSTS DEPARTMENT

POSTAGE

FACE VALUE RUPEES 5

125 9c

125 9c

125 9c

125 9c

125 9c

125 9c

125 9c

Advice Deduct
of days

S.M.O. Incharge
Type D. Hospital
T. Marda

Baron
15/14
Copper
of Medical
Cases

Technologist

بعدالت

صاحب محترم سرپرست کاروبار

کورٹ فیس

مورخہ:

16/10/15

20/10/15

مقدمہ:

عبدالرحمن

بنام:

دعویٰ:

جرم:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب دہی وکل کارروائی متعلقہ آن مقام سے لئے سے لے کر 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 و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرانے اجراء اور وصولی چیک روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زراس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمد ہوگی اور منسوخ دائر کرنے کی اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مذکور کے عمل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برداشتہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ دہر جائد التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا اوکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 16/10/15

العبد گواہ شدہ العبد

بمقام: کے لئے منظور ہے۔

Ali Javed
Chaudhary

C

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

Service Appeal No. 1269/2015

Abdullah Ex-Constable No. 1007.....Appellant.

VERSUS.

District Police Officer, Mardan

& others.....Respondents.

Parawise comments on behalf of respondents are submitted as under:-.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:-

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

REPLY ON FACTS.

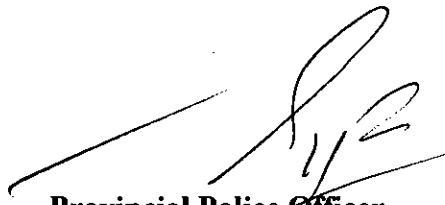
1. Pertains to record, hence, no comments.
2. Incorrect. The appellant's short service carrier is filled with a series of red/bad entries (almost 29) and is found a habitual absentee. **(Copies of red/bad entries are attached as Annexure-A).**
3. Correct, hence, no comments.
4. Incorrect. Proper departmental enquiry was conducted, wherein, the appellant was found guilty of repeated misconducts.
5. Correct, hence, no comments.
6. Part 1st of this Para is correct, however, the later part is incorrect as the appellant's appeal holds no grounds to stand on in the instant case.


REPLY ON GROUNDS:-


- A. Incorrect. Already replied in Para-2 above.
- B. Incorrect. The appellant just presently a false pretext of his illness. The appellant could avail, if required to him, medical leave from the competent authority.
- C. Incorrect. The appellant, if infact was sick, could avail medical leave from the competent authority.
- D. Incorrect. All codal formalities have been complied with by Enquiry Officer.
- E. Incorrect & baseless, hence, denied.
- F. Incorrect. Proper departmental enquiry has been conducted as per rules/law and the appellant was also given all opportunities of his defence. Further, he was also called upon & heard by the respondent No. 2, as competent departmental appellate authority, whereat, he was heard but he could not justify his innocence.
- G. Incorrect. All the relevant record were provided.
- H. No comments.

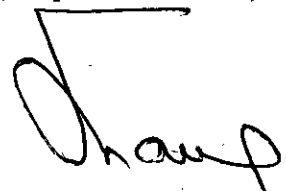
PRAYER:-

The appellant has committed misconduct by proving himself a habitual absentee and disinterested in service. His plea of re-instatement 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)


**Superintendent of Police,
District Mardan.**
(Respondent No. 04)

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

Service Appeal No. 1269/2015

Abdullah Ex-Constable No. 1007.....Appellant.


VERSUS.


District Police Officer, Mardan


& others.....Respondents.

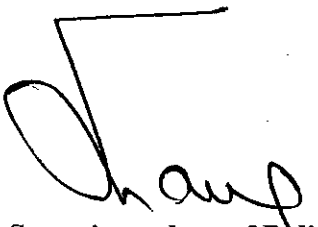
COUNTER AFFIDAVIT.

We, the respondents do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Tribunal.


**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)**


**Superintendent of Police,
District Mardan.
(Respondent No. 04)**

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

Service Appeal No. 1269/2015

Abdullah Ex-Constable No. 1007.....Appellant.

VERSUS.


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

AUTHORITY LETTER.

Mr. Muhammad Shafiq Inspector Legal, (Police) Mardan is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above captioned service appeal on behalf of the respondents. He is also authorized to submit all required documents and replies etc. as representative of the respondents through the Addl: Advocate General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal, Peshawar.



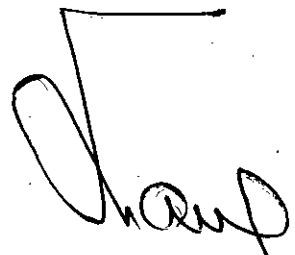
**Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 01)**



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



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



**Superintendent of Police,
District Mardan.
(Respondent No. 04)**

15-CENSURES AND PUNISHMENTS.

He is hereby warned to be careful in future for his 08 hours absence from duty.

OB No: 4907

24-12-10

~~M. K.~~
DPO/MP

① Awarded 2 minor punishment of censure and warned to be careful in future.

OB No: 3390

21-9-2011

~~M. K.~~
DPO/MP

② Fined Rs: ~~500/-~~ for his not existing name plate and wearing private uniform.

OB No: 2723

18-7-11

~~M. K.~~
DPO/MP

CHARACTER ROLL OF

15-CENSURES AND PUNISHMENTS.—Contd.

Serial No.

3

Three days extra drill for his absence.


OB No 1736
dt 19.8.013


DPO/MR
r

4

Two days Extra drill for his absence.


OB No 1369
dt 21.6.013


DPO/MR
r

5

2 days extra drill for his absence

OB No 1147
16-5-14


DPO/MR
r

Order

He is hereby dismissed from service while the absence period counted as leave without pay, in exercise of the power vested in me under the rules-1975.

OB No 2079
13/10/14


DPO/Mardan
r

ER ROLL OF

15-CENSURES AND PUNISHMENTS.—Contd.


Order

Appeal rejected by DIG Mardani
 vide Enclst. No. 7863/ES dt. 28/11/14.


 D.P. Mardani

ORDER

The punishment of dismissal be
 converted into removal from service vide
 14 P KPlk Pasikandan Enclst. No. 11562-64E-IV
 dt. 18/9/2015.


 D.P. Mardani

16. LEAVE, ABSENCE AND IN SERVICE

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

1		2			3	4
DATE		EXTENT			No. of District Order	Description of leave i.e. Privilege, hospital, sick leave, or furlough, or of absence, or forfeiture of approved service. All entries to be initialed, by Superintendent of Police.
From	To	Years	Months	Days		
				(2)	1828 5-5-10	Leave w/o pay DPo/MR
				(5)	1531 5-5-10	do DPo/MR
				(10)	1821 25-5-10	M/Leave DPo/MR
				(5)	1843 2-6-10	leave w/o pay DPo/MR
				(4)	2635 13-7-10	do DPo/MR
				(5)	3935 6-10-10	do NAL DPo/MR
				(1)	4556 30-1-10	do DPo/MR
				(2)	4738 15-12-10	do NAL DPo/MR
				(10)	365 21-1-11	do DPo/MR
				(2)	1014 7-3-11	do DPo/MR
				(3)	1115 4-1-11	do DPo/MR

① $\frac{1594}{22-4-11}$ - Leave w/o pay - DPO/MR

② $\frac{2015}{23-5-11}$ - do - DPO/MR

⑦ $\frac{2122}{1-6-11}$ - do - DPO/MR

⑧ $\frac{3866}{26-10-11}$ - do - DPO/MR

⑩ $\frac{3077}{15-11-12}$ - do - DPO/MR

⑩ $\frac{3369}{21-12-12}$ - do - DPO/MR

③⑩ $\frac{52}{4-1-13}$ - do - DPO/MR

⑥ $\frac{251}{29-1-13}$ - do - DPO/MR

③ $\frac{1736}{19-8-05}$ - do - DPO/MR

③ $\frac{1691}{07-8-13}$ - do - DPO/MR

⑩ $\frac{2448}{7-11-13}$ - do - DPO/MR

⑮ $\frac{2736}{11-12-13}$ - do - DPO/MR

② $\frac{627}{10-3-14}$ - do - DPO/MR

① $\frac{1147}{16-5-14}$ - do - DPO/MR

$\frac{207}{30}$
 $\frac{117}{46}$
 $\frac{163}{163}$

$\frac{12}{28}$
 $\frac{12}{12}$
 $\frac{16}{16}$

5
 $\frac{30}{1636}$
 $\frac{150}{13}$

شماره گزینہ ۲۰۰۰

نقل و حرکت 33 روز تا 11/5/14

انور علی خان

حقیقت حال ۱۱/۱۱/۱۴ وقت ۱۶:۰۰ بجے تاریخ ۱۱/۵/۱۴
 سید علی احمد ۱۵۰۷ (نمبر امتحان) سوی و سین کورس (پولیس)
 ایشن و دیان سے بحوالہ 76 روز تا 5/14 گھر حوالہ
 کی مدت سوئی تھی کہ بعد امتحان اخصت ایف ایف میں حاصل
 کرنے صحتی آج ۱۵/۱۱/۱۴ صحتوں تھی، مگر یہ جان حاصل نہیں آتا۔
 میں مذکورہ کوشش کے خلاف انور علی خان (پولیس) ۱۱/۵/۱۴
 کے لئے نقل و حرکت کا روائی آئینہ ان کی خدمت میں ارسال
 ہوئی۔

سید علی احمد

صاف علی

نقل و حرکت 33 روز تا 11/5/14
 PS-414
 11-5-14

Forwarded PL

S.H.O. PS/IGK

12.5.14

(15)

جہانگیر گڑھی کھورہ
نمبر 3 - روزنامہ 26/5
14

کے کاہنری باورخان ASI وقت 1830 بجے تاریخ 26/5/14
کشتل عدوانہ 1007 علیہ عدوانہ عدوانہ عدوانہ عدوانہ
کے کاہنری اگر بیان کیا کہ وہ بیماری علیہ عدوانہ عدوانہ
ہوں کاہنری کی حالت سو مذکورہ کشتل کی کاہنری اور
روزنامہ کر کے علیہ عدوانہ عدوانہ عدوانہ عدوانہ
میں ارسال ہوئی۔

جہاں علی

فصل عدوانہ عدوانہ

Forwarded
AMAR S. GILL
26-5-14

Forwarded PL

S.H.O. PS/GK
26-5-14

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. 632 /R/D.A-P.R-1975.

Dated 17-6- /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 Abdullah No. 1007**, has rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of section-02 (iii) of NWFP Police Rules 1975.

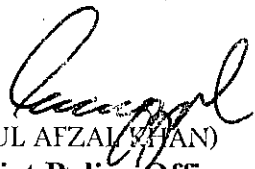
STATEMENT OF ALLEGATIONS

That **Constable Abdullah No. 1007**, while posted at Police Station Garhi Kapura Mardan, deliberately absented himself from the lawful duty without any leave/permission vide DD No. 33 dated 01.05.2014 to DD No. 06 dated 26.05.2014. He is recommended for departmental proceedings by ASP/SMT vide his office letter No.159/SMT dated 05.06.2014.

2. For the purpose of scrutinizing the conduct of the said official with reference to the above allegations **Jehab Zeb Khan DSP/City Mardan** is appointed as Enquiry Officer without any permission/leave.

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. 632 /R, dated Mardan the 17-6- /2014.

Copy of above is forwarded to the:

1. DSP/City Mardan for initiating proceedings against the accused official / Officer namely **Constable Abdullah No. 1007**, under Police Rules, 1975.
2. **Constable Abdullah No. 1007**, 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 Abdullah No. 1007**, as follows.

That you **Constable**, while posted at Police Station Garhi Kapura Mardan, deliberately absented yourself from the lawful duty without any leave/permission vide DD No. 33 dated 01.05.2014 to DD No. 06 dated 26.05.2014. you are recommended for departmental proceedings by ASP/SMT vide his office letter No.159/SMT dated 05.06.2014.

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

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


(GUL AFZAL KHAN)
District Police Officer,
Mardan

REPORT OF CONSTABLE ABDULLAH NO.1007.

Undersigned was deputed to conduct Enquiry of Constable AbdUllah No 1007 by worthy District Police Officer-Mardan through office Letter No.632/R/D.A.P.R-1975 dated 17/6/2014.

BRIEF FACTS.

That Constable AbdUllah No. 1007, while posted at Police Station Garhi Kapura Mardan, deliberately absented himself from the lawful duty without any leave / permission vide DD. No. 33 dated 11/5/2014 to DD. No. 06 dated 26/5/2014. He is recommended for departmental proceedings by ASP/SMT vide his office letter No. 159/SMT dated 5/6/2014.

ROCEEDINGS.

The proceedings of the enquiry have been conducted strictly in accordance with the NWFP Police Rules 1975.

STATEMENT OF CONSTABLE ABDULLAH NO. 1007.


To ascertain facts of enquiry, the alleged constable was summoned to appear before the undersigned, thus he appeared and was heard in person, wherein he stated that on 4/5/2014 after completion of short course, he went home on 02 days "Shabbash" but due to sickness he was unable to make his arrival report in the concerned police station because he was suffering from disease (Malaria). He the alleged constable produced medical treatment report / bed reset recommended by Doctor from Type D Civil Hospital Toru Mardan.

FINDINGS.

The alleged constable was found guilty because he didn't bring this into the notice of High Ups and got himself absented from official duties. Service record of the alleged constable was checked and 30 bad entries were found.

RECOMMENDATION.

Keeping in view finding of the enquiry, the undersigned has reached to the conclusion that the alleged constable is guilty but keeping in view his sickness and medical report, the undersigned recommends that if agreed he may be given minor punishment leave without pay for 10 days please.


Deputy Superintendent of Police,
City Circle, Mardan.

No. 621
9-10-14

56+10

16

OKE
put up his previous
absence record
10/10

He is habitua
absentee and doe
not taking interest
in his duties.
He is dismissed
from service

بیان ازان سٹیل عبدالرحمن 1007 صیفہ نظام گرجی کمرہ

* بیان کیا کہ جو رقم $\frac{5}{14}$ کو شارٹ کورس سے فارم سوکرا ایلارہ نے
 دوایم شامی گزارنے کا لکھد تھا وہ میں حاضر کی رہی اور پھر لکھد کر گیا
 ڈاکٹر صاحب نے علاج معالجہ کیا کہ ایک ہفتہ بیڈ ریٹ دیا کہ آرام کا
 مشورہ دیا۔ ایک ہفتہ گزار جائیگا بعد جب بیماری سے ٹھیک ہو گیا
 کو فیر نزدیکی ہسپتال طورو BHA گیا۔ ڈاکٹر صاحب ٹیٹا کو آٹھ گھنٹہ
 ٹیٹا دیکھارہ دوڑی شہری اور ایک ہفتہ بیڈ ریٹ کا مشورہ دیا کہ
 شہری ہی دے دیا۔ چونکہ میں دن دن شہر حاضر نہیں ہو سکتا
 لہذا بیماری شہر حاضر ہوا تھا۔ میری لکھل کانڈان پیش کر چکا ہوں۔
 اسد صاحبہ انتوائزی لکھنے کسی کاروائی داخل دفتر ضروری حالت۔

صیفہ نظام 19

الر

سٹیل عبدالرحمن 1007 صیفہ نظام گرجی کمرہ
 0315-9318475

Good Entry = 1112
 Bad Entry = 24 + 6 = 30

ENQUIRY REPORT OF CONSTABLE ABDULLAH NO.1007.

The undersigned was deputed to conduct Enquiry of Constable Abdullah No.1007, by the worthy District Police Officer Mardan through office Letter No.695/R/D.A.P.R-1975 Dated 28/08/2014.

BRIEF FACTS.

That Constable Abdullah No.1007, while posted at Police Station Garhi Kapura Mardan, deliberately absented himself from the lawful duty vide DD No.09 dated 05-7-2014 to DD No.09 dated 06-07-2014, DD No.09 dated 20-7-2014 to DD No.10 dated 21-7-2014 and DD No.11 dated 1-8-2014 to DD No.12 dated 5-8-2014 without any leave / Permission of the competent authority. He is recommended for departmental action by ASP/SMT Mardan, vide his office letter No.223, dated 21-08-2014.

ROCEEDINGS

The proceedings of the enquiry have been conducted strictly in accordance with the NWFP Police Rules 1975.

STATEMENT OF CONSTABLE ABDULLAH NO. 1007.

To ascertain facts of enquiry, the alleged constable was summoned to appear before the undersigned, thus he appeared and was heard in person, wherein he stated that he was suffering from fever and several times went for medical checkup but he was not advised for bed rest by doctor concerned. due to this reason he was absent from official duties.

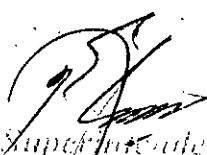
FINDINGS.

The alleged constable was found guilty because he didn't bring this into the notice of High Ups and got himself absented from official duties. Service record of the alleged constable was checked and 30 bad entries were found.

RECOMMENDATION.

Keeping in view finding of the enquiry, the undersigned has reached to the conclusion that the alleged constable is guilty. Therefore if agreed, he may be given minor punishment leave without pay for 06 days & one week quarter guard please.

No. 622
9-10-14


Deputy Superintendent of Police,
City Circle, Mardan.

Officer
put up his previous
absence records

10/10

بیان ارزان کنٹریل سید الہام علیہ السلام 1007 حضرت عماد الحسنی کپورہ

نے بیان کیا کہ میں بیمار تھا۔ اور بیمار فیوری بیمار ہوا تھا۔
میں دم سید حاضر ہوا تھا۔ اس سے بیماری کئی ڈیڑھ دن ہمارے
سے جیک اپ کروا چکا ہے۔ مگر اس کی کوجم تاکوئی نہیں ہے۔
میں بہت ہے۔

اسد عاصی، مری بیماری کو مد نظر رکھ کر انکواری کھینکے
کاروائی کے ذریعہ دفتر خیرات کا حکم صادر فرمائیں۔ 11 آگست 61
فناطری سوجن لگا۔ مگر طاہری نہیں روز نظام

مترجم 2
14



Handwritten signature

سید الہام علیہ السلام 1007 حضرت عماد الحسنی کپورہ
0315-9368475

Good Entry = NIL

Bad Entry = (30)

DEPARTMENT

MARDAN DISTRICT

ORDER

Constable Abdullah No. 1007, while posted at Police Lines committed the following acts, which is gross misconduct on his part as defined in Rules 02 (iii) of Police Rules 1975.

Brief facts are that you Constable Abdullah No. 1007, while posted at Police Station Garhi Kapoora Mardan has deliberately absented yourself from the lawful duty without prior permission or leaves vide DD No. 33 dated 11.05.2014 to DD No. 06 dated 26.05.2014, DD No. 09 dated 05.07.2014 to DD No. 09 dated 06.07.2014, DD No. 09 dated 20.07.2014 to DD No. 10 dated 21.07.2014 and DD No. 11 dated 01.07.2014 to DD No. 12 dated 05.08.2014.

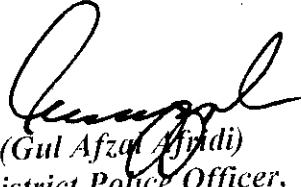
In this connection, Constable Abdullah No. 1007, was charge sheeted vide this office No. 632/R, date 17.06.2014 and No. 695/R, date 28.08.2014, and he proceeded against departmentally through Inquiry officer Mr. Jehanzeb Khan DSP/City Mardan, who after fulfilling necessary process, submitted his findings to the undersigned vide his office endorsement No. 621, dated 09.10.2014 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 Abdullah No. 1007, is hereby dismissed from service while the absence period counted as leave without pay. in exercise of the power vested in me under the above quoted rules.

Order announced

O.B No. 2079

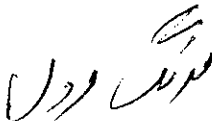
Dated 13 / 10 / 2014


(Gul Afzal Afzidi)
District Police Officer,
Mardan.

No. 10364-68 dated Mardan the 15/10/2014

Copy for information and necessary action to:-

1. The S.P Operations, Mardan.
2. The DSP/HQrs Mardan.
3. The Pay Officer (DPO) Mardan.
4. The E.C (DPO) Mardan.
5. The OASI (DPO) Mardan.



①

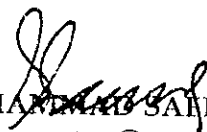
ORDER.

This order will dispose-off the appeal preferred by **Ex-Constable Abdullah No. 1007** 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. 2079 dated 13.10.2014.

Brief facts of the case are that he while posted at Police Station Garhi Kapoora, deliberately absented himself from the lawful duty vide daily diary No. 33 dated 11.05.2014 to daily diary No. 6 dated 26.05.2014, daily diary No. 09 dated 05.07.2014 to daily diary No. 09 dated 06.07.2014, daily diary No. 09 dated 20.07.2014 to daily diary No. 10 dated 21.07.2014 & daily diary No. 11 dated 01.07.2014 to daily diary No. 12 dated 05.08.2014. In this connection he was charge sheeted and was also proceeded against departmentally through the then Deputy Superintendent of Police City, Mardan, who after fulfilling necessary process, submitted his findings to the District Police Officer, Mardan & the allegation was established against him after going through inquiry file to District Police Officer, Mardan agreed with the findings of enquiry Officer as the alleged appellant a habitual absentee, therefore he was dismissed from service.

I have perused the record and also heard the appellant in Orderly Room held in this office on **26.11.2014**, but he failed to justify his absence period and could not produce any cogent reason about his absence. Therefore, I **MUHAMMAD SAEED** Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal and do not interfere in the order passed by the competent authority, thus the appeal is filed.


ORDER ANNOUNCED.

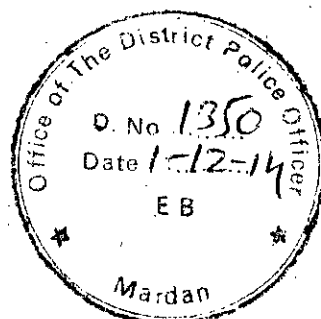

(**MUHAMMAD SAEED**)PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan.

No. 7863 /ES, Dated Mardan the 28 /11 /2014.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 957/LB dated 21.11.2014. His service record is returned herewith.

(*****)

OB/EC/PT/07/11
DS/1/10/10

Mardan



5.	5	-do-	3935 dated 06.10.10
6.	1	-do-	4556 dated 30.11.10
7.	2	-do-	4738 dated 15.12.10



7

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

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-a of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-FC Abdullah No. 1007 of District Police Mardan against the Punishment Order i.e dismissed from service passed against the appellant by DPO/Mardan vide OB No. 2079 dated 13.10.215.

In the light of recommendations of Appeal Board meeting held on 10.09.2015, the board examined the enquiry in detail & other relevant documents. It revealed that the appellant was served with Charge Sheet/Statement of Allegations and punishment order was announced on the basis of reply to the Charge Sheet and Statement of Allegations.

The appellant was also heard in person. Record perused. The applicant earned 29 bad entries according to his service record due to habitual absentee and he was dismissed from service.

The Board decided that the punishment of dismissal be converted into removal from service.

Order announced in the presence of appellant.

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

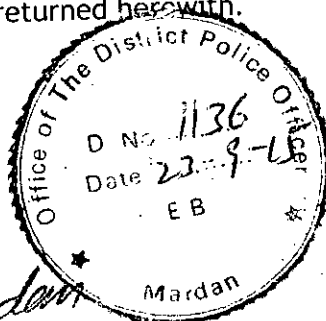
No. 11562-66 /E-IV dated Peshawar the 18/9 /2015


Copy of above is forwarded to the:-

1. Deputy Inspector General of Police, Mardan Region, Mardan
2. PSO to IGP/Khyber Pakhtunkhwa Peshawar.
3. PA to Addl: IGP/HQrs Khyber Pakhtunkhwa, Peshawar.
4. PA to DIG/HQrs Khyber Pakhtunkhwa, Peshawar.
- ✓ 5. DPO/Mardan. The service Roll, Fauji Missal and Enquiry File of the above named official are also returned herewith.

C
inaction

DPO/Mardan
22/9/15




(ASIF IQBAL MOHMAND)
AIG/Establishment
For Inspector General of Police,
Khyber Pakhtunkhwa Peshawar. 17/9/15

G:\My documents\DELL\document\E-II server 1\re-instatement orders.docx

5.	5	-do-	3935 dated 06.10.10
6.	1	-do-	4556 dated 30.11.10
7.	2	-do-	4738 dated 15.12.10

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
P E S H A W A R

Service Appeal No. 1269/2015

Abdullah Ex-Constable No.1007 V/S D.P.O.,Mardan & others.
(Appellant) (Respondents).

—
SERVICE APPEAL
—

REPLICATION ON BEHALF OF APPELLANT.

—
RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS:

1. Para No.1 is incorrect.
2. Para No.2 is also incorrect.The Service Tribunal constituted to decide such like appeals.
3. Para No.3 is also incorrect.Nothing has been concealed from this hon'ble Tribunal.
4. Para No.4 is baseless,so denied.
5. Para No.5 is also incorrect.
6. Para No.6 is also icorrect,as all the necessary parties has been arrayed in the appeal.
7. Para No.7 is also incorrect.The appeal ofthe Appellant is within time.

B: REPLY TO THE FACTS.

1. According to the record;~~regarding this para~~ needs no comments.
2. Para No.2 is also incorrect.The 29th read/bad entries are incorrect.The appellant after completing Heavy Weapon Course in Police Lines,Mardan,reported in P.S.Garhi Kapura and the concerned Officer give him two days leave from 09/05/2014 to 11/05/2014 and the appellant came to his house where he became ill. He went to BHU Toru,where he has been examined by a competent Doctor.After medical test,it become clear that the appellant has a Maliriya.The Doctor give him Medicines and also advised seven days bad rest.After that when he does not recovered from his disease the Doctor again advised him seven days complete rest.

After the recovery, the appellant joined his duties. The Medical reports of appellant are placed on judicial file. So 14 days of appellant's absence was due to illness and two days his official leave. The remaining 13 days absence, the appellant was given physical punishment. (Three days extra Drill for his absence vide O.B.No.1736 dated 19/08/2013,)

(Two days extra Drill for his absence vide O.B.No.1369 dated 21/06/2013) and

(Two days extra Drill for his absence vide O.B.No.1147 dated 16.5.2014.).

3. Para No.3 is admitted as correct.
4. The D.S.P.Circule Mardan has conducted the inquiry, regarding the absence of the appellant from his duties and he submitted his report on 09/10/2014, the appellant was examined in person by the DSP City, Mardan. His statement was recorded and he had admitted in his report that the appellant was suffering from *Viewer fever* i.e. Maliriya and he has suggested minor punishment leave without pay for 06 days and one week quarter guard.
5. Para No.5 is admitted as correct; hence needs no comments.
6. Para No.1 of this para is correct and the later part of the appeal of the appellant, is also correct, because the appeal submitted by the appellant before this Hon'ble Court, is on ~~it~~ solid grounds and the appellant is illegally dismissed by the D.P.O., Mardan.

REPLY ON GROUNDS:

All paras "Reply on grounds" taken by the respondents are incorrect, baseless; hence denied. The detail reply regarding red bed entries, Inquiry Report given in reply of FACTS.

So it is humbly prayed that the appellant may graciously be re-instated into service and the order passed by the respondents may kindly be set aside. Any other relief deemed fit may also be graciously granted.

Dated: 16/12/2017.

Appellant Abdullah
through counsel;


(S.K. KHATTAK)

Advocate District Courts, Mardan.

A F F I D A V I T

I, Abdullah, the appellant do hereby state on solemn affirmation that the contents of the replication are true and correct to the best of my knowledge and belief. Moreover, nothing has been concealed from this honourable Tribunal.

Dated: 16/12/2017.


Deponent

ABDULLAH

ATTESTED

43
Oath Commissioner
Fazal Ghafour
Advocate
Distt. Courts Mardan

16/12
D

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 559 /ST

Dated 12-03 / 2020

To


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

Subject: -

JUDGMENT IN APPEAL NO. 1269/2015, MR.ABDULLAH.

I am directed to forward herewith a certified copy of Judgement dated 13.02.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.