

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO. 734/2015

Date of institution ... 01.07.2015

Date of judgment ... 20.07.2017

Shakirullah S/o Shah Jehan
R/o Lakki Banda, Tehsil Takhte Nusrati, District Karak.

... (Appellant)

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General Police (CTD), KPK, Peshawar.
3. District Police Officer, Karak.
4. Govt. of KPK, through Chief Secretary, KPK.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE APPELLATE AUTHORITY, WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE BY THE RESPONDENT NO. 2 THROUGH OFFICE ORDER NO. 3702-08/SRC/CTD, DATED PESHAWAR THE 07.10.2009. WHILE THE APPELLANT DEPARTMENTAL APPEAL DATED 02.02.2015, WAS REJECTED BY THE RESPONDENT NO. 1, DATED 01.06.2015.

Mr. Zia-Ud-Din Khan, Advocate.

.. For appellant.

Mr. Ziaullah, Deputy District Attorney

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. GUL ZEB KHAN

.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - This appeal has been filed under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 07.10.2009 vide which the appellant was dismissed from service for willful absence as well as against the order dated 01.06.2015 vide which the departmental appeal of the appellant was also rejected.

2. Facts of the case as per memo of the appeal are that the appellant was appointed on 27.07.2007 as Constable in Frontier Police and was performing his duty to the

M. Amin
20/7/2017

satisfaction of respondents. That during service his mother was seriously ill, therefore, he remained absent from duty and was dismissed from service vide order dated 07.10.2009. He also filed departmental appeal but the same was also rejected vide order dated 01.06.2015 hence, the present appeal.

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

4. Learned counsel for the appellant contended that neither any charge sheet/statement of allegation and inquiry was conducted against the appellant nor any show-cause notice was issued against him and the appellant was illegally dismissed from service on the ground of willful absence. It was further contended that infact the mother of the appellant was seriously ill and he was busy in her treatment. It was further contended that neither any opportunity of defence was provided to the appellant nor he was personally heard and the alleged charge leveled against the appellant was false/baseless and devoid of facts, therefore, it was vehemently contended that the impugned order passed by the competent authority as well as order passed by the departmental authority are illegal and liable to be se-aside and prayed for acceptance of appeal.

5. On the other hand, learned Deputy District Attorney Mr. Ziaullah opposed the contention of learned counsel for the appellant and contended that the appellant remained absent from duty with effect from 02.02.2009 till his dismissal i.e 07.10.2009. It was further contended that the appellant never denied his absence from duty in the memo of appeal nor in departmental appeal nor justified his absence. It was further contended that proper charge sheet/statement of allegation was served upon the appellant. Thereafter regular inquiry was also conducted and after conducting regular inquiry he was given show-cause notice but he failed to justify his absence period, therefore, he was rightly dismissed from service vide order dated 07.10.2009. It was further contended that the appellant was dismissed from service on 07.10.2009 under NWFP Removal from Service (Special Powers) Ordinance, 2000 and the appellant was required to file departmental appeal within 15 days but he filed the departmental appeal on 02.02.2015 after more than

M Amin
20/7/2017

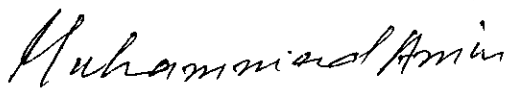
five year, therefore, the same is badly time barred. It was further contended that the present appeal is not maintainable and liable to be dismissed.

6. We have heard the arguments on both side and gone through the record available on file.

7. Perusal of the record reveals that the appellant was appointed as Constable in Frontier Reserve Police on 27.07.2007 and was performing his duty. However, during service he remained absent from duty with effect from 01.02.2009 without permission from superior, therefore, charge sheet was framed he was served with the said charge sheet on 26.05.2009 and also obtain signature on the said charge sheet in receipt of receiving charge sheet and statement of allegation was also served on the appellant. The record further reveals that the competent authority constituted inquiry committee ^{consisting of} ~~name~~ Zaffar Hayat, DSP and Kamal Khan, Inspector to probe the absence period and scrutinizing the conduct of the appellant. The record further reveals ^{that in} after conducting inquiry the inquiry officer came to the conclusion that the appellant remained absent with effect from 02.02.2009 and was not interested in performing duty, therefore, recommended for issuance of show-cause notice to him. The record further reveals that final show-cause notice was served on him but he failed to justify his absence period, therefore, he was rightly dismissed from service vide impugned order dated 07.10.2009. The record further reveals that the appellant was dismissed vide order dated 07.10.2009 and he was required to file departmental appeal within 15 days under NWFP Removal from Service (Special Powers) Ordinance, 2000 but he has challenged the dismissal order in the departmental appeal after more than five years, therefore, the departmental appeal is also badly time barred. AS such the present appeal is also not maintainable hence, the appeal has no force which is hereby dismissed with no order as to cost. Parties are left to bear their own costs. File be consigned to the record room.

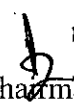
ANNOUNCED
20.07.2017


(GUL ZEB KHAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER


06.04.2017


Counsel for the appellant and Addl: AG for the respondents present. Argument could not be heard due to incomplete bench. To come up for final hearing on 31.05.2017 before D.B.


Chairman

31.05.2017

Counsel for the appellant and Mr. Fazal Diyan, ASI alongwith Mr. Muhammad Adeel Butt, Additional AG for the respondent present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 20.07.2017 before D.B.


(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

20.07.2017

Appellant alongwith his counsel present. Mr. Gul Zada, ASI alongwith Mr. Ziaullah, Deputy District Attorney for the respondents also present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of three pages placed on file, the appeal has no force which is hereby dismissed with no order as to cost. File be consigned to the record room.

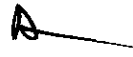
ANNOUNCED
20.07.2017


(GUL ZEB KHAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

26.05.2016

Clerk of counsel for the appellant and Addl. AG for respondents present. Rejoinder not submitted and requested for further time. To come up for rejoinder and arguments on 26.10.16 before D.B.



Member



Member

26.10.2016

None for the appellant present. Mr. Ziaullah, GP for respondents present. Arguments could not be heard due to general strike of the Bar. To come up for argument on 24.02.2017.



(ABDUL LATIF)
MEMBER



(PIR BAKHSH SHAH)
MEMBER

24.02.2017

Counsel for the appellant and Assistant AG for respondents present. Arguments could not be heard ~~due to~~^{as} learned Member (Judicial) is on leave. To come up for arguments on 06.04.2017 before D.B.



(AHMAD HASSAN)
MEMBER

29.07.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable when subjected to inquiry on the allegations of wilful absence and dismissed from service vide impugned order dated 7.10.2009 regarding which he preferred departmental appeal which was rejected on 1.6.2015 and hence the instant service appeal on 1.7.2015.

That the appellant was not associated with the inquiry which was not conducted in the prescribed manners and appellant is extended discriminatory treatment as similarly placed employee namely Muhammad Asghar Iqbal No. 1428 was reinstated in service by the appellate authority.

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 27.10.2015 before S.B.


Chairman

27.10.2015

None present for appellant. Syed Amir Abbass, Inspector (legal) alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 11.02.2016 before S.B.


Chairman

11.02.2016

Counsel for the appellant and Syed Amir Abbas, Inspector (legal) alongwith Addl: A.G for respondents present. Written reply by respondents No. 1 and 2 submitted. The learned Addl: AG relies on the same on behalf of respondents No. 3 and 4. The appeal is assigned to D.B for rejoinder and final hearing for 26.5.2016.


Chairman

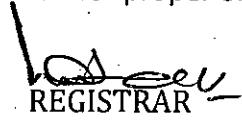


Appellant Deposited
Security & Process Fee



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 734/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	01.07.2015	<p>The appeal of Mr. Shakirullah presented today by Mr. Zia-ud-Din Khan 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>
2	2 -> - 15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>03 -> - 20.15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	03.07.2015	<p>None present for appellant. The appeal be relisted for preliminary hearing for 29.7.2015 before S.B.</p> <p style="text-align: right;"> Chairman</p> <p style="text-align: center;">/</p>

(P)

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

Service Appeal No. 734 /2015

Shakirullah Appellant

Versus


Inspector General and Others Respondents

INDEX

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6.	Copy of Order of Appeal Rejection of Respondent No (1)	"D"	8
7.	Wakalat-Nama		

Dated: 01/07/2015

Appellant
Through
Zia-Ud-Din Khan
Advocate,
High Court.
Cell. No. 0345-9110368
0303-5893180



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 734 /2015

Shakirullah S/o Shah Jehan, R/o Lakki Banda, Tehsil- Takhte Nusrati, District Karak.Appellant

Versus

**A.W.F. Province
Service Tribunal
Diary No. 757
Dated 01-7-2015**

- 1) Inspector General Police, KPK, Peshawar.
- 2) Deputy Inspector General Police (CTD), KPK, Peshawar.
- 3) District Police Officer, Karak.
- 4) Govt of KPK, through Chief Secretary, KPK.

.....Respondents

APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT 1974, AGAINST THE APPELLATE AUTHORITY, WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE BY THE RESPONDENT NO (2) THROUGH OFFICE ORDER NO. 3702-08/SRC/CTD, DATED PESHAWAR THE 07/10/2009. WHILE THE APPELLANT DEPARTMENTAL APPEAL DATED: 02/02/2015, WAS REJECTED BY THE RESPONDENT NO (1), DATED: 01/06/2015.

PRAYER:

On acceptance of this appeal, the impugned office order No.3702-80/SRC/CTD, may please be set aside and the appellant be Re-instated to his Service. Any other relief deemed fit and proper in the circumstances of this case may also be granted.

Filed to-day
17/7/15

Respectfully Sheweth;

FACTS:

- 1) That the appellant have been appointed/recruited as a "Constable (BPS-5)" in the Frontier Police, on Dated: 27/07/2007, by the Respondent No (3), where he render his services with responsibility and honesty to the entire satisfaction of the respondent. (Copy of appointment Order annexed as Annexure- "A")
- 2) That the respondent didn't served upon the appellant any "Final Show-Cause Notice" whatsoever in this behalf which was mandatory upon the respondent to oblige and neither the appellant was informed through any Advertisement in the News Paper by the respondent.
- 3) That the respondent initiated departmental inquiry/proceedings against the appellant to probe into the alleged charges leveled against the appellant. But this is strange enough that the respondent didn't make any charge sheet/statement of allegations against the appellant and neither served any

such like things to the appellant and the appellant was kept in entire ignorance.

- 4) That on Dated: 07/10/2009, the appellant was dismissed from his service by the Respondent No (2) on the ground of absence from duty. (Copy of Dismissal Order annexed as Annexure- "B")
- 5) That the respondent allegation of willful absence from duty against the appellant is false and fabricated. The reason behind the absence of the appellant was the serious illness of his mother and the appellant also put of the same reason before the respondent at the time of appeal. (Copy of Departmental Appeal annexed as Annexure- "C")
- 6) That the Respondent No (1) through Vide Office Order No. 7325-28/E-IV, Dated Peshawar the 01/06/2015, rejected the appeal of the appellant. (Copy of Order of Appeal rejection annexed as Annexure- "D")
- 7) That the appellant after knowing the fact that the respondent initiated the departmental inquiry and other proceedings against him, the appellant appeared several times before the respondent but unfortunately, none of the respondents provide any positive intimation to the appellant.
- 8) That the appellant rebutted and denied the alleged and frivolous allegations as leveled by the respondent against him in the subject matter case. That this Hon'ble Court as well as the Superior Judiciary are also of the opinion that no one should be condemned unheard and the case should be decided on merits alone.
- 9) That the appellant was neither associated with the inquiry nor the appellant granted any opportunity to produce his justification before the respondent. However, despite all this the inquiry officer submitted an adverse report against the appellant purely on presumption and conjecture and in view of the said inquiry report the respondent No (2) passed the dismissal order of the appellant from service which is against the establish service rules.
- 10) That the appellant submitted an application before the respondent No (1) to furnish a copy of the inquiry report, but despite his request the same was refused by the respondent and the appellant couldn't submit his reply to the show-cause notice in question and as a consequence thereof, vide office order noted above the appellant was dismissed from service.
- 11) That the appellant submitted his departmental appeal on Dated: 02/02/2015, before the Respondent No (1) for redresal of his grievance. However, the same was rejected.
- 12) That the appellant dismissal from service by the respondent is illegal, unlawful and the same is liable to be set aside inter-alia on the following grounds:

GROUND:

- A) That the appellant has not been treated in accordance with law, nor he given any proper, fair and meaningful opportunity to defend himself and

thus he was highly prejudiced in the inquiry proceedings conducted against him by the respondent.

- B) That the alleged charges leveled against the appellant are false, frivolous, baseless and devoid of facts. The appellant never deviated himself from his duty nor the appellant had any intention like that.
- C) That the whole inquiry conducted by the respondent against the appellant was defective and was against the spirit of the Service Rules. The appellant was neither associated with the inquiry nor granted any opportunity to produce his justification. Thus he was condemned unheard and the principles of natural justice were violated.
- D) That the appellant has not committed any misconduct. The entire inquiry conducted by the respondent against the appellant was based on malafide and as such is unwarranted in law.
- E) That the appellant being a low paid Government Servant, having no other source of income and deserves to be treated leniently and hence the impugned order being unkind and vindictive and is liable to be set aside.
- F) That the appellant be allowed to add any other ground(s) at the time of arguments.

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

Dated: 01/07/2015

(Handwritten signature)

Appellant

Through

Zia-Ud-Din Khan *(Signature)*

Advocate

High Court,

Zia-ud-Din Khan

Advocate High Court
Peshawar.

Verification:


Verified that the contents of above appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

(Handwritten signature)

Deponent.

ATI-11ED
(Signature)
 Mian Sibghat Ullah Shah
 Advocate
 OATH COMMISSIONER
 High Court Peshawar

01.07.2015



Annexure - "A"

5


Recruitment Session, July-2007
Position in Merit list: CID SI: No.2

ORDER.

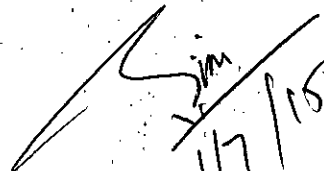
Mr. Shakir Ullah S/O Shah Jehan r/o Lakki Banda, Tehsil Takht-e-Nasrati District Karak, having Height, 6'-03", Chest 33 ½"x36", Education 10th, Date of birth 15.03.1988, is hereby enlisted as Constable, BPS-5 (2415-115-5865) with effect from-27.07.2007 against sanctioned posts for CID NWFP. He is medically fit and also verified to be of good Character by the local Police. His service is liable to be terminated within 14 days notice with out assigning any reason.

He is allotted constabulary No:859.

OB. No. 881
Dated 27-7 /2007


(MUBARAK ZEB)
District Police Officer, Karak.

Attested to
be true copy.


Sim
1/7/15

ORDER

Annexure- "B" ⑥

This is an order passed on the Regular Departmental Enquiry conducted against Constable Shakhir Ullah No. 359 of CTD NWFP, Peshawar (on deputation from District Karak for his willful absence from his legitimate duty with effect from 01.02.2009. The above named Constable was served with Charge Sheet and Statement of Allegations vide this office Endst: No 1073/PA/CTD dated 04.05.2009. An Enquiry Committee consisting of the following Officers of this Unit was constituted and directed for initiating proceeding against him for mis-conduct on his part:

1. Mr. Zaffar Hayat, DSP/Hqs: CTD, Peshawar
2. Mr. Quaid Kamal Khan, Inspector, CTD, Hqs: Peshawar

After observing all codal formalities, on the recommendation of the Enquiry Committee, the delinquent Constable was served with Final Show Cause Notice vide this office Endst: No. 1064/PA/CTD dated 23.06.2009 with the directions to assume his duty within 07 days failing which he will be terminated from Service. Subsequently the Constable was informed through an advertisement in the Daily "MASHRIQ" and the Daily "AAJ" Urdu Edition for assuming his duty within 10 days otherwise the proposed action concerning his dismissal from Service will be taken. Till date the defaulter Constable did not bother to assume his duty, which clearly shows his dis-interest in his Service.

I, therefore in exercise of the powers vested in me vide NWFP, Removal from Service (Special Powers) Ordinance 2000, hereby order dismissal of Constable Shakhir Ullah No. 359 from Service from the date of his continuous absence viz with effect from 02.02.2009.

ORDER ANNOUNCED.

OB No. 243 /CTD/SB:
Dated 07/10/2009

(SAJID AL-KH. NI) PSP

Deputy Inspector General of Police,
400 CTD, SB: NWFP, Peshawar.

No. 3702-08 /SRC/CTD Dated Peshawar the 7/10 /2009.
Copies for information and necessary action to the:

1. District Police Officer, Karak.
2. SSP, Hqs: CTD, Peshawar.
3. DSP, Hqs: CTD, Peshawar.
4. SHO, Police Station CTD, Peshawar.
5. Accountant, CTD, Peshawar.
6. Lines Officer, CTD, Peshawar.
7. Constable concerned through SHO, PS Peshawar.

Attested

Sim
11/7/15

ORDER

This is an order passed on the regular Departmental enquiry conducted against Constable Shakir Ullah No. 359 of CTD NWFP, Peshawar (on Deputation from District Karak for his willful absence from his legitimate duty with effect from 01.02.2009. The above named Constable was served with Charges Sheet and Statement of allegations vides this office Endst: No. 1078/PA/CTD dated 04.05.2009. An Enquiry Committee consisting of the following Officers of this Unit was constituted and directed for initiating proceeding against him for mis-conduct on his part.

1. Mr. Zaffar Hayat, DSP/Hqrs: CTD, Peshawar.
2. Mr. Quaid Kamal Khan, Inspector, CTD, Hqrts: Peshawar.

After observing all codal formalities, on the recommendation of the Enquiry Committee, the delinquent Constable was served with final show Cause Notice vide this Office Endst: No. 1364/PA/CTD dated 23.06.2009 with the directions to assume his duty within 07 days failing which he will be terminated from service. Subsequently the Constable was informed through an advertisement in the daily. "MASHRIQ" and the Daily "AAJ" Urdu Edition for assuming his duty within 10 days otherwise the proposed action concerning his dismissal from service will be taken. Till this day the defaulter Constable did not bother to assume his duty, which clearly shows his dis-interest in his Service.

I therefore, in exercise of the powers vested in me vide NWFP, Removal from Service (Special Powers) Ordinance 2000, hereby order dismissal of Constable Shakir Ullah No. 359 from Service from the date of his continues absence viz with effect from 02.02.2009.

ORDER ANNOUNCED

OB No. 243/CTD/SB:

Dated 07/10/2009

Attested
Sin
17/10

(SAJID ALI KHAN)PSP

Deputy Inspector General of Police,
CTD, SB: NWFP, Peshawar.

No.3702-08/SRC/CTD Dated Peshawar the 7/10/2009.

Copies for information and necessary action to the:-

1. District Police Officer, Karak.
2. SSP, Hqrs: CTD; Peshawar.
3. DSP, Hqrs: CTD, Peshawar.
4. SHO, Police Station CTD. Peshawar.
5. Accountant, CTD, Peshawar.
6. Lines Officer, CTD, Peshawar.
7. Constable concerned through SHO, PS Peshawar.

حضرت جناب ڈی آئی جی ایئر کوارٹرز پشاور (KPK)

درخواست برائے بحالی سروس نیشنل سٹار ایئر 359 CID

جناب عالی:

گزشتہ سال کے سائل حتمہ پولیس ضلع راجہ پور میں سال 2007 میں بطور نیشنل کفر ہوا سائل نے ریکورڈ کورس کی گئی تھی جسکو میں بطریق احسن پاس کیا۔ اور سائل کا تبادلہ ضلع ترک سے CID (D) پشاور ہوا۔

سائل کو دوران ڈیوٹی والدہ صاحبہ کی بیماری کی اطلاع مل کر گھر چلا گیا۔ اور والدہ صاحبہ کی علاج

صالحہ اور بیماری داری کرنا شروع۔ اور 3 ماہ کا علاج

غیر جانوری ہر سال کو اختیار کیا گیا۔

میں میں رہا گیا۔ اس کے بعد سائل بحالی عملزمت تک پہنچے تو

وقف درخواست دے چکا جس پر کارروائی عمل میں نہیں آئی۔

سائل عزیز کفران سے تعلق رکھتا ہے۔ اور نہایت امانت دار

اور جوان التعمیر ہے۔ لہذا استدعا ہے کہ سائل کو

عملزمت اور عزیز کو مدد فرمائی جائے تاکہ اس پر بحالی

سائل تازمت دعا کر رہا ہے۔

Lat 02/02/2015

الفاضل

شاہ عبدالرشید شاہ صاحب

سٹیٹ ایئر 359 CID پشاور

رابطہ نمبر 300404-3043

کنٹرولنگ آفیسر جناب یعقوب پشاور

Attested

Signature

Stamp



(6)

Annexure - "D"

(8)

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

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-a of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Constable Shakirullah No. 359 against the Punishment order i.e dismissal from service passed against the appellant by DIG/CTD KPK vide his order Book No. 243 dated: 07.10.2009.

In the light of recommendations of Appeal Board meeting held on 21.05.2015, 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. The board rejected his appeal as he was absented himself from duty for 08 months and 21 days.

Order announced in the presence of appellant.

Sd/-


MASIR KHAN DURRANI
Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. 7325-28 /E-IV dated Peshawar the 01/06/2015

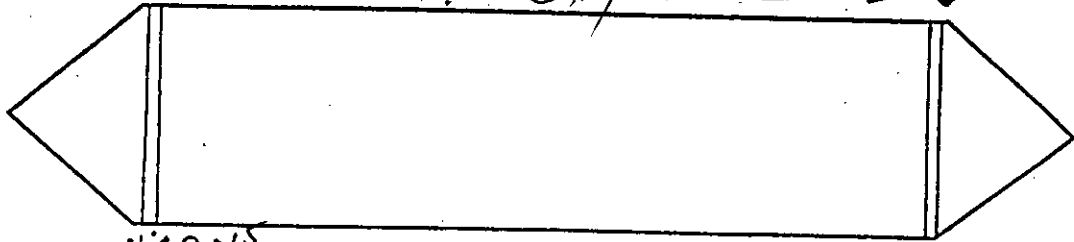
Copy of above is forwarded to the:-

1. Deputy Inspector General of Police CTD KPK. The Service Roll of above named Ex-Constable is returned herewith for record in your office.
2. PSO to IGP/Khyber Pakhtunkhwa Peshawar.
3. PA to Addl: IGP/HQrs Khyber Pakhtunkhwa, Peshawar.
4. PA to DIG/HQrs Khyber Pakhtunkhwa, Peshawar.

Attended
Sim
17/11/15


(SYED FIDA HASSAN SHAH)
DIG/Establishment
For Inspector General of Police,
Khyber Pakhtunkhwa
Peshawar.

بعدالت جسٹس متین خٹہ کھنڈو خواہ اس ٹریبونل کیشاور



2015ء منجانب

مورخہ	01-07-15
مقدمہ	-----
دعویٰ	-----
جرم	-----

بنام شاہ کرم اللہ
بنا علی شاہ کرم اللہ
الکسٹریجنٹ جنرل لوکسین وینٹرن
باعث تحریر آئنگ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ کے
آن مقام کیشاور کیلئے ضیاء الدین خان ایڈووکیٹ یا اس کے
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک در و پیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرفہ 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 کاروائی 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
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے 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 وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم یلیم
ماہ جولائی 2015ء

شاہ کرم اللہ
کسٹریجنٹ جنرل لوکسین وینٹرن
کیشاور

بمقام کیشاور کے لئے منظور ہے۔

Accepted
Zia-ud-Din Khan
Advocate High Court
Peshawar.

01/07/2015

ORDER.

HCO-00-1257 PL-112

This order shall dispose on the appeal of Ex. Constable Muhammad Asghar Iqbal No.1428 against the order of SP FRP Kohat Range wherein he was discharged from service.

Brief facts of the case are that he absented himself from duty w.e.f 22.09.2008 till the date of discharge from service for a total period of 05 months and 01 day without any leave/permission of the competent authority. He was issued charge sheet and statement of allegations and Inspector Gul Raees Khan was appointed as Inquiry Officer. He was served with show cause notice to which his reply was not received. He was also informed through Newspaper Daily "MASHRIQ" dated 16.02.2009 to resume his duty but he did not pay any heed. Therefore he was discharged from service by the SP FRP Kohat Range vide his OB NO.107 dated 23.02.2009.

He was heard in person, I take a lenient view and re-instated him in service and the period of absence is treated as leave without pay.

DIARY 840
12-8-11

My
Add: ICP/Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa Peshawar.

No. 5786 /EC dated Peshawar the 09/08 2011. 8-8-2011

Copy of above is forwarded for information and necessary action to the Superintendent of Police FRP Kohat Range w/r to his Memo: No. 1107/EC dated 23.07.2011. His service record alongwith departmental file are returned herewith.

OHc/SAC/PC

Superintendent of Police,
FRP Kohat Range,
Kohat

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 734/2015.

Shakir Ullah s/o Shah Jahan r/o Lakki Banda, Tehsil Takht e Nusrati, District
Karak..... (Petitioner)

Versus

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, CTD Khyber Pakhtunkhwa,
Peshawar.....(Respondents)

PARAWISE COMMENTS BY RESPONDENTS :-

Preliminary Objections

1. That the appeal is not maintainable in its present form.
2. That the appellant has got no cause of action.
3. That the appellant is estopped by his own conduct to file the present appeal.
4. That the appellant has not come to this Honorable Tribunal with clean hands and has concealed material facts.
5. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
6. That the appeal is barred by law.
7. That the appeal is badly time barred.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No. 7342012


Shakir Ullah s/o Shah Jahan s/o Lakki Banda, Tehsil Takht e Nusrat, District
Karak.....(Petitioner)

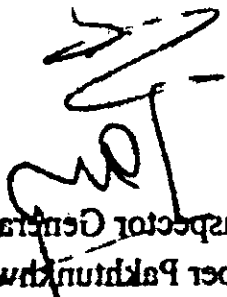
Versus

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, CTD Khyber Pakhtunkhwa,
Peshawar.....(Respondents)

AFFIDAVIT

We the deponents in the above titled service appeal, do here by
solemnly affirm and declare on oath that the contents of para wise
comments/reply are correct and true to the best of our knowledge and belief
and nothing have been kept concealed from this honorable tribunal.


Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
(Deponent No. 1)


Deputy Inspector General of Police, CTD,
Khyber Pakhtunkhwa, Peshawar.
(Deponent No. 2)

Facts:

Respectfully Sheweth:

1. Its pertains to record hence no comments.
2. Incorrect: the appellant willfully absented himself from his lawful duties while posted in CID NWFP/ the appellant was transferred from RCIO Kohat office to CID HQ Peshawar and proper enquiry on the report of RCIO Kohat was initiated against him. (During the period he remained absent for a total period of 16 days). As per enquiry report the appellant was selected for ATS course and he accordingly received ATS kit for ATS course from uniform go down but never joined the course and willfully absented himself again from the lawful duties during his posting in CID HQ. Later on the matter was brought in the kind notice of SP HQ and the kit was recovered through RCIO Kohat and deposited back to uniform godown and never joined his duties. As per enquiry report the appellant absented himself from his lawful duties from 02-02-2009 till 16-05-2009 and he received his charge sheet by himself and put baseless allegation on his officer in his reply.

Moreover he was contacted on his cell number several times with the direction to join his duties but he refused to do so.

The enquiry committee recommended for issuance of final show cause notice by declaring him as absentee and not interested in his official duties.

Furthermore the appellant by himself received a copy of final show cause notice (copy of charge sheet and final show cause notice is attached for ready reference upon which his signature are also available). It is sufficient proof that appellant is trying to conceal material facts from this honourable service tribunal.

Subsequently appellant was informed through an advertisement published in Daily Mashriq and Daily Ajj Urdu addition for assuming his duty within 10 days of the publication but till his dismissal he never joined his duties.

3. Incorrect: the detail reply to this para has already been explained in previous para. More over the appellant once again tried to conceal the material facts from this

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 734/2015.


Shakir Ullah s/o Shah Jahan r/o Lakki Banda, Tehsil Takht e Nusrati, District
Karak..... (Petitioner)


Versus

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, CTD Khyber Pakhtunkhwa,
Peshawar.....(Respondents)

AUTHORITY LETTER

Syed Aamir Abbas, Inspector Legal, CTD, Khyber Pakhtunkhwa, Peshawar is hereby authorized to appear on behalf of the Respondents No.1, 2 before the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar. He is also authorized to submit all required documents and replies etc. pertaining to the appeal through the government pleader.


Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No.1)


Deputy Inspector General of Police, CTD,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 2)

honorable court as it is evident from the copies of charge sheet and final show cause notice which he received by himself.


4. Correct: Brief facts have already been explained in facts of Para No. 2.
5. Incorrect: Nothing regarding the illness of the appellant mother exists on the record. The facts are that he was selected for ATS course. The appellant received course kit for the course from the uniform godown and instead of joining the course proceeded to his home on 02-02-2009. The kit was recovered through Regional Criminal Intelligence Officer, DCT Kohat and deposited back to uniform go down.
6. Correct: No comments.
7. Incorrect: the appellant never bothered to appear before enquiry committee.
8. Incorrect: The appellant was given the chance of personal hearing but failed to convince his high ups.
9. Incorrect: The appellant never appear before enquiry committee beside repeated calls and remained absent till his dismissal.
10. Incorrect: The appellant himself received all the relevant documents as explained above in previous paras.
11. It pertains to record hence no comments.
12. Incorrect: that the punishment awarded to the appellant was legal, lawful and convincing.


GROUND

- A. Incorrect: that the appellant has been treated according to law and he was given an opportunity of personal hearing and to defend himself but failed to convince his high ups.
- B. Incorrect: The appellant was dismissed from service on the ground of his unlawful absence which was proved during enquiry proceeding. (Copy of daily dairy and statement recorded by enquiry committee is enclosed for ready reference).

- C. Incorrect: Proper departmental enquiry was carried out against the appellant. Statements were got recorded. The Appellant was given a chance of personal hearing.
- D. Incorrect: Appellant was never interested in his duties and always remained absent from his lawful duties. Appellant was treated according to law and enquiry officers fairly conducted the whole enquiry proceeding.
- E. Incorrect: the dismissal order is convincing and passed due to the non-serious behavior of the appellant by not taking interest in duties and always remained absent.
- F. That the respondent also seeks permission to raise additional grounds at the time of arguments.

Prayers: it is therefore humbly prayed that appeal of the appellant may kindly be dismissed please.


Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No.1)


Deputy Inspector General of Police, CTD,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 2)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No. 734/2015.


Shakir Ullah s/o Shah Jahan r/o Lakki Banda, Tehsil Takht e Nusrati, District
Karak..... (Petitioner)


Versus

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, CTD Khyber Pakhtunkhwa,
Peshawar.....(Respondents)

AFFIDAVIT

We the deponents in the above titled service appeal, do here by solemnly affirm and declare on oath that the contents of Para wise comments/reply are correct and true to the best of our knowledge and belief and nothing have been kept concealed from this honorable tribunal.


Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
(Deponent No.1)


Deputy Inspector General of Police, CTD,
Khyber Pakhtunkhwa, Peshawar.
(Deponent No. 2)

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

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-a of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Constable Shakirullah No. 359 against the Punishment order i.e dismissal from service passed against the appellant by DIG/CTD KPK vide his order Book No. 243 dated: 07.10.2009.

In the light of recommendations of Appeal Board meeting held on 21.05.2015, 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. The board rejected his appeal as he was absented himself from duty for 08 months and 21 days.

Order announced in the presence of appellant.

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

No. 7325-28 /E-IV dated Peshawar the 01/06/2015

Copy of above is forwarded to the:-

1. Deputy Inspector General of Police CTD KPK. The Service Roll, of above named Ex-Constable is returned herewith for record in your office.
2. PSO to IGP/Khyber Pakhtunkhwa Peshawar.
3. PA to Addl: IGP/HQrs Khyber Pakhtunkhwa, Peshawar.
4. PA to DIG/HQrs Khyber Pakhtunkhwa, Peshawar.

SRL

DIG/CTD
4/6/15

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

(4)

ORDER

This is an order passed on the Regular Departmental Enquiry conducted against Constable Shakhir Ullah No. 359 of CTD NWFP, Peshawar (on deputation from District Karak for his willful absence from his legitimate duty with effect from 01.02.2009. The above named Constable was served with Charge Sheet and Statement of Allegations vide this office Endst: No 1078/PA/CTD dated 04.05.2009. An Enquiry Committee consisting of the following Officers of this Unit was constituted and directed for initiating proceeding against him for mis-conduct on his part.

1. Mr. Zaffar Hayat, DSP/Hqrs: CTD, Peshawar
2. Mr. Quaid Kamal Khan, Inspector, CTD, Hqrs: Peshawar

After observing all codal formalities, on the recommendation of the Enquiry Committee, the delinquent Constable was served with Final Show Cause Notice vide this office Endst: No. 1564/PA/CTD dated 23.06.2009 with the directions to assume his duty within 07 days failing which he will be terminated from Service. Subsequently the Constable was informed through an advertisement in the Daily "MASHRIQ" and the Daily "AAJ" Urdu Edition for assuming his duty within 10 days otherwise the proposed action concerning his dismissal from Service will be taken. Till today the defaulter Constable did not bother to assume his duty, which clearly shows his dis-interest in his Service.

I, therefore in exercise of the powers vested in me vide NWFP, Removal from Service (Special Powers) Ordinance 2000, hereby order dismissal of Constable Shakhir Ullah No. 359 from Service from the date of his continuous absence viz with effect from 02.02.2009.

ORDER ANNOUNCED.

OB.No. 243 /CTD/SB:
Dated 07/10/2009

(SAJID ALI KHAN) PSP
Deputy Inspector General of Police,
CTD, SB: NWFP, Peshawar.

No. 3702-08 /SRC/CTD Dated Peshawar the 7/10 /2009.

Copies for information and necessary action to the: -

1. District Police Officer, Karak.
2. SSP, Hqrs: CTD, Peshawar.
3. DSP, Hqrs: CTD, Peshawar.
4. SHO, Police Station CTD, Peshawar.
5. Accountant, CTD, Peshawar.
6. Lines Officer, CTD, Peshawar.
7. Constable concerned through SHO, PS Peshawar.

CHARGE SHEET

- 1) I, Mohammad Zafar Ali, Assistant Inspector General of Police, CID/NWFP, Peshawar as competent authority hereby charge you Constable Shakir No.359 of CID, NWFP, Peshawar as per the enclosed Statement of Allegations.
- 2) By reasons of the Statement of Allegations, you appear to be guilty of misconduct/negligence under section 3 of the NWFP, Removal from Service (Special Powers) Ordinance 2000 and have rendered yourself liable to all or any of the penalty specified in section 3 of the Ordinance.
- 3) You are therefore, required to submit your written defence within (07) seven days of the receipt of this charge sheet to the Enquiry Committee as the case may be.
- 4) Your written defence, if any should reach the Enquiry Committee within the specified period failing which it shall be presumed that you have no defence to put up and in that case ex-parte action shall follow against you.
- 5) Indicate whether you desire to be heard in person.
- 6) Statement of Allegations is enclosed.

Mohammad Zafar Ali
 (MOHAMMAD ZAFAR ALI)
 Assst: Inspector General of Police,
 CID/NWFP, Peshawar.

جناب عالی!

اصل کاغذی چارج شیٹ
 دستخط آف ایڈیشنل ڈپٹی
 ایگسٹریٹنگ آفیسر

دستخط

نور نام

سیدہ بیگم

تاریخ وصول

ولایت سکونت

پتہ

REPORT OF AN ENQUIRY

1. I, Mr. ... (Inspector General of Police, CID/NWFP, Peshawar) being competent authority, am of the opinion that Constable Shakir No.359 of CID/NWFP has rendered himself liable to be proceeded against as he has committed the following acts/omissions within the meaning of section 3 (Misconduct) of the Promotee Removal from Service (Special Powers) Ordinance 2000.

FACTS OF THE CASE

That while serving as Constable in CID/NWFP, Peshawar he committed the following misdeeds:-

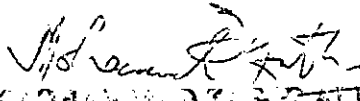
- i. While he was posted with RCIC/Mulla, on 02/02/2009, he was found absent from his duty without obtaining any leave or permission from his superiors.
- ii. His absence from duty was pointed out to him by Station CID, NWFP, Peshawar vide D.O. No. 15 dated 02/02/2009.
- iii. As per report submitted by the Lines Officer CID on 15/02/2009, the above mentioned Constable was selected for Basic NTS Course at NTS Training School, Simly Islamabad. On 07/02/2009, he has collected his special training items from the Clothing Code in CID/Headquarters, Peshawar and left for the course. But instead of joining the NTS Course, he absented himself without any intimation or permission and remained absent from the said date i.e. 07/02/2009.

2. For the purpose of scrutinizing the conduct of the said accused with the reference of the above allegations, an Enquiry Committee consisting of the following officers is constituted under section 3 of the Ordinance:-

- 1) Zahir Hayat Khan, DSP/Headquarters, CID.
- 2) Mr. Kamal Khan, Inspector CID.

3. The Enquiry Committee shall, in accordance with the provision of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make within 25 days of the receipt of this order recommendations as to punishment or propose further disciplinary action.

The accused and a well conversant departmental representative shall join the proceedings on the date, time and place fixed by the Enquiry Committee.


 (Mr. MUHAMMAD ZAHEER RAZA)
 Assistant Inspector General of Police
 CID/NWFP, Peshawar.

No. 1077/2009 CID, Peshawar, the 04/05/2009.

Copy to:-

- 1) Mr. Hayat Khan, DSP/Headquarters CID and Mr. Kamal Khan, Inspector CID (Members of the Enquiry Committee) for initiating proceeding against the accused under the provision of section 3 of the Promotee Removal from Service (Special Powers) Ordinance 2000.
- 2) Constable Shakir No.359 of CID/NWFP, Peshawar to appear before the Enquiry Committee on the date, time and place fixed for the purpose of the enquiry proceedings.

انکوائری رپورٹ غیر حاضر کنسٹیبل شا کر اللہ 359

غیر حاضر کنسٹیبل شا کر اللہ نمبر 359 مورخہ 27/07/07 کا بھرتی شدہ ہے۔ RCIO کوہاٹ میں ڈیوٹی انجام دے رہا تھا۔ ڈیوٹی میں عدم دلچسپی کی بنا پر RCIO کوہاٹ منور خان SI کے تحریری رپورٹ پر افسران بالانے انکوائری شروع کر کے DSP/Hqr کو انکوائری افسر مقرر کیا۔ DSP/HQrs نے مذکورہ کنسٹیبل کو RCIO آفس سے CID ہیڈ کوارٹربدیل کیا۔ اس دوران وہ کل 16 یوم غیر حاضر رہا۔ کچھ عرصہ ATS لائن میں گزارنے کے بعد ATS کورس کیلئے منتخب ہوا۔ لیکن کورس سے چھپنے کیلئے مذکورہ کنسٹیبل مورخہ 02/02/09 کو دوبارہ غیر حاضر ہوا۔ بدوران غیر حاضری ATS کورس کا قیمتی کٹ کو چالاک کی کے ساتھ وردی گودام سے وصول کر کے گھر خود چلا گیا۔ معاملہ کو جناب SP/HQrs صاحب کے نوٹس میں لا کر کٹ کو بذریعہ آفس RCIO کوہاٹ واپس لا کر وردی گودام میں جمع کیا گیا۔

کنسٹیبل شا کر اللہ 359 مورخہ 02/02/09 سے بدستور غیر حاضر ہے جناب AIG صاحب نے مذکورہ کو چارج شیٹ کر کے من DSP اور کمال خان انسپکٹر کو انکوائری افسر مقرر کیے۔ مورخہ 16/05/09 کو اپنا چارج شیٹ خود وصول کر کے تحریری بیان آفس CID بھجوایا ہے جس میں اس نے RCIO کوہاٹ منور خان SI پر الزام عائد کیا ہے کہ RCIO صاحب کوہاٹ مجھے 2500 روپے ماہوار رشوت پر چھوڑا کرتا تھا۔ لیکن اس دفعہ بروقت ادائیگی نہ کرنے کی وجہ سے غیر حاضر کیا گیا۔

ایک انکوائری میں غیر حاضر کنسٹیبل نے دو علیحدہ بیان دیے ہیں۔ جو اس بات کا ثبوت ہے کہ غیر حاضر کنسٹیبل جھوٹ کا سہارا لے رہا ہے۔ اس کے علاوہ غیر حاضر کنسٹیبل شا کر اللہ 359 نے تاحال حاضری کی رپورٹ نہیں کی ہے جسکے موبائل نمبر پر اس کو بسلسلہ انکوائری آفس CID آنے کی ہدایت کی ہے لیکن مذکورہ نے آنے سے معذرت کی۔

فائنڈنگ:

کنسٹیبل شا کر اللہ نمبر 259 مورخہ 02/02/09 سے بدستور غیر حاضر ہے۔ قصداً اپنی ڈیوٹی سے غیر حاضر ہے کارس کارمین دلچسپی نہیں لے رہا۔ بلاتعمد اپنے افسران پر الزامات لگاتا ہے۔ ایک ہی انکوائری میں دو ہرے بیانات دے چکا ہے۔ جولف انکوائری میں فائل شوکا ز نوٹس جاری کرنے کی سفارش کی جا رہی ہے۔

کمال خان
انسپکٹر
سی آئی ڈی، پشاور
03/06/09

ظفر حیات خان
ڈی ایس پی ایڈ کوارٹرز،
سی آئی ڈی، پشاور۔
03/06/09

Proceed
04/06/09

(2)

FINAL SHOW CAUSE NOTICE.

1. WHEREAS, you Constable Shakirullah No.359 of CID, NWFP, Peshawar committed gross misconduct as defined in Section 3 of NWFP, Removal from Service (Special Powers) Ordinance 2000, resultantly you were Charge Sheeted and served with the statement of allegations vide this office No.1078/PA/CID, dated 04/05/2009. An Enquiry Committee constituting of Mr. Zafar Hayat Khan DSP/HQRs: CID and Inspector Kamal Khan of this Unit was also constituted to conduct enquiry into the matter.
2. WHEREAS, THE Enquiry Committee finalized the enquiry proceedings giving you full opportunities of defence i.e; personal hearing as well as cross examination of the witnesses whom statement were recorded, besides audience to relevant record. Consequent upon the completion of enquiry proceeding, the Enquiry Committee held you guilty of the charges leveled against you as per Charge Sheet. A copy of the finding is enclosed.
3. AND WHEREAS, on going through the finding and recommendation of Enquiry Committee, the material placed on record and other connected papers. I am satisfied that you have committed the misconduct and are guilty of the charges leveled against you as per statement of allegations conveyed to you. Which stand proved and render you liable to be awarded punishment under the said rules.
4. NOW THEREFORE, I, Mohammad Zafar Ali, Asstt: Inspector General of Police, CID, NWFP, Peshawar, as Competent Authority have tentatively decided to impose upon you, any one or more penalties including the penalty of "Dismissal from Service" under Section 3 of the said Ordinance and under Police Rules 12.21 being under three years of your service.

You are, therefore, directed to Show Cause within seven days of the receipt of this Notice, as to why the aforesaid penalty should not be imposed upon you, failing which it shall be presumed that you have no defence to offer and exparte action shall be taken against you. Meanwhile also intimate whether you desire to be heard in person or otherwise.

Mohammad Zafar Ali
(MOHAMMAD ZAFAR ALI)
Asstt: Inspector General of Police
CID, NWFP, Peshawar

No. 1564. /CID,
Dated 23/6/2009.

Constable Shakirullah No.359/CID,
Through MHC/PS CID.

Shakirullah
Shahjahan
(02/05/09) 3/03/09
Shakirullah

17/2009

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

Service Appeal No. 734 /2015

ShakirullahAppellant

Versus

Inspector General Police and Others.....Respondents

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Dated: 30/05/2016

Appellant
Through
Zia-Ud-Din Khan
Advocate Zia-ud-Din Khan
High Court. Advocate High Court
Peshawar.
Cell. No: 0345-9110368
0303-5893180

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

Service Appeal No. 734 /2015

Shakirullah Appellant

Versus

Inspector General Police and Others.....Respondents

**REJOINDER ON BEHALF OF APPELLANT TO THE PARA-WISE
COMMENTS OF RESPONDENTS.**

Respectfully Sheweth:

The Appellant humbly submits as under:-

Preliminary Objection

That all the preliminary objections are incorrect, misconceived denied specifically. This Hon'ble Court/Tribunal has ample jurisdiction to re-instate the appellant in accordance with Law. Dismissal of appellant from service by the respondents is based on malafide, ill-will, unlawful and against the basic rights of the appellant.

REPLY ON FACTS.

- 1) *That Para No. 1 of comments needs no rejoinder.*
- 2) *That Para No. 2 of respondent comments is incorrect. The respondent dismissed the appellant from service without granting sufficient opportunity of proper hearing according to the existing rules. The appellant rendered services with honesty and responsibility to the entire satisfaction of the respondents. The respondents making contradictory statements in their own comments as in one Paragraph of comments they stated that the appellant was remained absent from his lawful duties from "02-02-2009 to 16-05-2009 (Three months & Thirteen days)" while in the other Paragraph of the same Para the Respondent No (1) stated that the appellant absented himself from duty for "Eight months and Twenty days". Moreover, the respondents never informed the appellant through any published advertisement in "Daihi Mashria & Aii Urdu Edition" or*

through any other alternative cogent source of information. The appellant never deviated himself from his duties and he was performing his duties as per terms and conditions of his service. Unfortunately, the respondent dismissed the appellant from service with a premeditated and concocted initiative.

- 3) That Para No. 3 of respondent comments is incorrect and baseless. The respondents never issued any "Final Show-Cause Notice" to the appellant and neither the appellant sign any such notice because the stance of the respondents about the receipt and sign of the appellant is fictitious and it has no link with verity. Hence, the appellant concealed nothing from this Hon'ble Court/Tribunal.
- 4) That Para No. 4 of comments is also incorrect and baseless and reply has already been given in Para No. 3.
- 5) That Para No. 5 of comments is also incorrect and baseless. The respondent initiated departmental inquiry/proceedings against the appellant to probe into the alleged charges leveled against the appellant. The appellant mentioned the facts in his departmental appeal that his mother was seriously ill and he was unable to join his duty due to the said reason. But this is strange enough that the respondent didn't make any charge sheet/statement of allegations against the appellant and neither served any such like things to the appellant and the appellant was kept in total ignorance. It was obligatory upon the respondents to probe proper inquiry against the appellant to fulfill the principles of justice. (Copies of Medical certificates annexed as Annexure- "A")
- 6) That Para No. 6 of comments needs no rejoinder.
- 7) That Para No. 7 of the respondent comments is incorrect and misleading the Honorable Court/Tribunal. The respondent dismissed the appellant without conducting any proper inquiry/investigation as well as the respondents initially never granted any proper opportunity of appearance and personal hearing to the appellant.
- 8) That Para No. 8 of comments is also incorrect and baseless. The appellant was called for personal appearance and hearing dated 01-06-2015, before the respondent but unfortunately, the appellant was not granted sufficient time to verify his position and stance in the interest of fair justice on equal footing with other employees of the same department/institution as the one Mr. Muhammad Asghar Iqbal (No. 1428) dated 09-08-2011, against

the order of Superintend Police (FRP) Kohat Range wherein he was discharged from service. (Copy of Re-instatement Order annexed as Annexure- "B")

- 9) That Para No. 9 of comments is incorrect and misleading the Hon'ble Court/Tribunal. The appellant rebutted and denied the alleged and frivolous allegations as leveled by the respondent against him in the subject matter case. That this Hon'ble Court/Tribunal as well as the Superior Judiciary are of the opinion that no one should be condemned unheard and the case should be decided on merits alone. (Copies of High Court Judgments annexed as Annexure- "C")
- 10) That Para No. 10 of comments is incorrect and misleading the Honorable Court/Tribunal. The appellant was neither associated with the inquiry nor the appellant granted any opportunity to produce his justification before the respondent. However, despite all that the inquiry officer submitted an adverse report against the appellant purely on presumption and conjecture and in view of the said inquiry report the respondent No (2) passed the dismissal order of the appellant from service which is against the establish service rules.
- 11) That Para No. 11 of comments needs no rejoinder.
- 12) That Para No. 12 of comments is also baseless and superstitious. The punishment awarded is illegal, unlawful and against the service rules & regulations. Unfortunately, the appellant stance at that time wasn't properly measured and in consequence the appellant face the brunt of dismissal from service.

REPLY ON GROUNDS.

- A) Ground "A" of the respondent comments is absolutely baseless. The respondent dismissed the appellant on grounds of discriminatory approach, biased attitude and malafide intention and not according to the principles of justice. The Honorable Supreme Court of Pakistan in one of its leading judgment precisely mentioned that "An employee or employees shall never be treated with discrimination and malafide intention by the superior authorities".
- B) Ground "B" of comments is also baseless. As previously pointed out in the above Para that the appellant was dismissed on the

grounds of discriminatory approach, biased attitude and malafide intention and not according to the principle of justice. The respondents initially conducted the inquiry proceedings against the appellant but the appellant was kept in complete ignorance about the said proceedings and haven't informed the appellant through any proper service to appear before the inquiry committee and submit his reply.

- C) Ground "C" of comments is also baseless. The respondents carried out their departmental inquiry against the appellant looks like a one sided show and never informed the appellant as per rules required. While, the appellant was just once given an opportunity of hearing during his departmental appeal dated 06-02-2015. The respondents neither treat the appellant within the ambit of legal requirements and nor fulfilled the procedure adopted as mentioned under the "Removal from Service under Special Powers Ordinance, 2000".
- D) Ground "D" of comments is also baseless and against the facts. The appellant never deviated himself from his duties and he was performing his duties as per terms and conditions of his service. But unfortunately, the respondents dismissed the appellant from service with a premeditated and concocted initiative.
- E) Ground "E" of the respondent comments is also baseless and incorrect. The Honorable Supreme Court of Pakistan in the "*Zarai Taraqiati Bank Ltd Vs Hakeem Khan*" 2010 PLC (C.S) 938; clearly stated that "Removal from service (Special Powers Ordinance, 2000) provides that if a person in Government Service or Corporation Service is guilty of being habitually absent from duty in the opinion of the competent authority, he can be proceeded against under the provisions of the Ordinance. Competent authority by not adhering to the provisions of Ordinance, 2000 had deprived the petitioner of safeguards and remedies available to him under the Law--- Adoption of course of passing a relieving order appeared to be a ruse circumvent inquiry proceedings provided for by Ordinance, 2000--- Court could not countenance such a colorable exercise of power--- Supreme Court declared the impugned order to be without lawful authority and ordered for reinstatement of petitioner into service leaving open for Bank to proceed against him under Ordinance, 2000". There are special provisions of Law under which a proper modus operandi shall be adopted before dismissing an employee from service. But the respondents never pursue the same and straight forward dismissed

the appellant from service without conducting any proper inquiry and proceeding. (Copies of Supreme Court Judgments annexed as Annexure- "D")

F) Ground "F" of comments needs no rejoinder.

It is therefore, humbly prayed that keeping in view the above Rejoinder, the appeal may please be accepted.

Dated: 30/05/2016

ذیاء الدین خان

Appellant

Through

Zia-Ud-Din Khan

Advocate

High Court.

Zia-ud-Din Khan

Advocate High Court
Peshawar.

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

Service Appeal No. 734 /2015

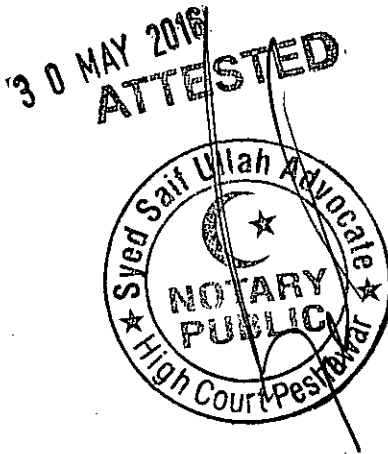
Shakirullah Appellant

Versus

Inspector General Police and Others.....Respondents

Affidavit

I, Zia-Ud-Din Khan Advocate High Court, Peshawar as per instructions of my client, do hereby solemnly affirm and declare on oath that the contents of the accompanying "Rejoinder" are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court/Tribunal.




DEPONENT

Shakir Ullah Khan
MBBS (Pesh), FCPS II (Pak)
CONSULTANT PHYSICIAN

Dr. Zakia Shahir
MBBS (Pesh), M.A.I.U.M



نیشنل ڈاکٹر شاہراہ خان
پشاور
پشاور

ڈاکٹر زکیا شاہیر
پشاور
پشاور
Whenever the art of Medicine is
lost, there is also loss of Humanity

Name Nabzang

Date 28/1/2009

pulmonary tuberculosis,

Cough 2 months,
Fever,
Wheezing

ACZ
Erythrocin
کرسٹالین

" Ethambutol
1000mg
with
INH

" Sulbactam
1000mg
with
AMK

Sul Benzoyl
1100mg
with
AMK

[Handwritten signature]

Shakir Ullah Khan
MBBS (Pesh), FCPS II (Pak)
CONSULTANT PHYSICIAN

Dr. Zakia Shakir
MBBS (Pesh), M.A.L.U.M



Name Habzang

Date 15/3/2009

pulmonary Tuberculosis

Cough
Fever

2. Oxidiazon
پاکو

Chest pain
wheezing

1st Rifampicin
میتھو

" Ethambutol
1000mg

3rd Hydrocortisone
Medrol

9

Shakir Ullah Khan
MBBS (Pesh), FCPS II (Pak)
CONSULTANT PHYSICIAN

Dr. Zakia Shakir
MBBS (Pesh), M.A.L.U.M



ڈاکٹر شاکر اللہ خان ڈاکٹر زکیا شاکر
مہر اہل مہر اہل
مخالف اثر ہو سکتا ہے
Whenever the art of Medicine is
lost, there is the loss of Humanity

Name Nabzong Date 25/16/2009

Malaria

Fever
Chills

Tab Artem Fort
1e1 20/482

" Dolor DE
1e1e1

" Jan Kidney at
11e11

" Masegar V
11e11

Handwritten signature or scribble at the bottom right.

ORDER.

MEMO-000-1257

This order shall dispose on the appeal of Ex. Constable Muhammad Asghar Iqbal No. 1428 against the order of SP FRP Kohat Range wherein he was discharged from service.

Brief facts of the case are that he absented himself from duty since 22.09.2008 till the date of discharge from service for a total period of 05 months and 01 day without any leave/permission of the competent authority. He was issued charge sheet and statement of allegations and Inspector Gul Raees Khan was appointed as Inquiry Officer. He was served with show cause notice to which his reply was not received. He was also informed through Newspaper Daily "MASHRIQ" dated 16.02.2009 to resume his duty but he did not pay any heed. Therefore he was discharged from service by the SP FRP Kohat Range vide his OB NO. 107 dated 23.02.2009.

He was heard in person. I take a lenient view and re-instated him in service and the period of absence is treated as leave without pay.

DIAD-840
DATE
12-8-11

Add: ICP/Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa Peshawar

No. 3786 /EC dated Peshawar the

09/08/2011

Copy of above is forwarded for information and necessary action to the Superintendent of Police FRP Kohat Range w/r to his Memo: No. 1107/EC dated 23.07.2011. His service record alongwith departmental file are returned herewith.

CHC/SRC/PO

Superintendent of Police,
FRP Kohat Range,
Kohat

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Nasir-ul-Mulk, HCJ
Mr. Justice Amir Hani Muslim
Mr. Justice Ijaz Ahmed Chaudhry

**Civil Appeals No.1122, 1123, 1107 of 2013
& 173 and 174 of 2015.**

(On appeal from judgment dated 9.5.2013 of the Peshawar High Court, Peshawar, passed in W.Ps.No.2987, 2764 of 2011 & 818-P/2012). And against judgment dated 10.9.2014 of the Peshawar High Court, Abbottabad Bench, passed in W.Ps.No.3219 & 475-P of 2014).

The Commandant, Khyber Pakhtunkhwa Constabulary,
Headquarters Peshawar and another. ...Appellants.
(in all Appeals)

VS

Muhammad Nasir and others. (in C.A.No.1122/2013).

Sarad Khan and others (in C.A.No.1123/2013).

Muhammad Arif and others (in C.A.No.1107/2013).

Najeebullah and others (in C.A.No.173/2015).

Zakirullah and another (in C.A.No.174 of 2015) ...Respondents.

For the Appellants: Ms. Shireen Imran, ASC.
Syed Razaqat Hussain Shah, AOR.
(in C.As.No.1122, 1123 and 1107 of 2013).

Mian Shafaqat Jan, ASC.
Mr. M.S. Khattak, AOR.
(in C.As.No.173 & 174/2015).

For the respondents: Hafiz S.A. Rehman, Sr.ASC.
1-40 in C.A.No.1122/2013)
1-34 in C.A.No.1123/2013)

1-18, 20-25, 27, 28, 30, 31 Mr. Abdul Latif Afridi, ASC.
33, 35, 37, 38, 40, 41, 43-51,
53-65 in C.A.No.173/2015
and for Respondent No.1 in
C.A.No.174/2015).

Date of hearing: 31.3.2015

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JUDGMENT

AMIR HANI MUSLIM, J. – The relevant facts for the purpose of disposal of these Appeals are that the Appellants were posted in different Platoons of Frontier Constabulary which were deployed in different areas of F.R Peshawar and F.R Kohat. They were dismissed from service on the allegations of insubordination and cowardice. The Respondents filed Appeals before the Federal Service Tribunal, Islamabad, which were allowed, by various judgments passed on different dates and they were reinstated in service with direction to the Appellants to hold de novo inquiries against them and conclude the same within four months, providing them full opportunity of hearing.

2. After receipt of the judgments of the Federal Service Tribunal, the Appellants without formally reinstating the Respondents, conducted de novo inquiry in the light of directions of the Tribunal and dismissed all the Respondents from service. The record shows that a second de novo inquiry upon the direction of the Tribunal was conducted against some of the Respondents, but they too were dismissed. The record further reveals that even 5th de novo inquiry was conducted against some of the Respondents, who were dismissed after such inquiries.

3. Feeling aggrieved, this time the Respondents approached the High Court, pleading therein that the orders of dismissal from service were illegal and passed without affording them opportunity of hearing. The learned High Court allowed all the Writ Petitions holding as under:-

"In case in hand, no doubt serious allegation were levelled against the Petitioners but the standard of proof as well as

the procedure adopted by the respondents, which is otherwise too noticeable, from the comments filed by respondents before this Court, without proper documentation and proper and elaborate answer to the objections raised by the petitioners in their writ petitions give no other reference but to hold that dismissal orders resulted into miscarriage of justice. The remand of these writ petitions would serve no good purpose too as respondents have already conducted a number of inquiries against the petitioners and another de novo inquiries would do nothing except to increase more agonies while petitioners have already suffered for more than four years which was a sufficient punishment for any lapses on their part (if any).

30. This while allowing these writ petitions, we set aside the impugned orders of dismissal of the petitioners from their services and order their re-instatement into service from the date when they were dismissed with all consequential benefit of the posts from the said date except the salary as there is no proof that petitioners remained jobless for the whole duration of their dismissal.

4. The Appellants challenged the judgments of the learned High Court before this Court and leave was granted in these appeals, *inter alia*, to consider whether the Respondents are Civil Servants. Hence these Appeals.

5. The learned Counsel for the Appellants has contended that the Respondents are Civil Servants and the jurisdiction of High Court was barred under Article 212 of the Constitution. He submitted that once the Respondents had obtained relief from the Federal Service Tribunal, they could not have approached the High Court for the same relief. He next contended that the findings of the High Court were erroneous on the point that the Appellants had failed to comply with the provisions of Rule 18 of the North West Frontier Constabulary Rules, 1958. In support of his

submissions, he has relied upon the case of IG Frontier Corps and others vs Ghulam Hussain (2004 SCMR 1397).

6. On the other hand, the learned Counsel for the Respondents have contended that the Respondents are not Civil Servants and their terms and conditions of service are regulated by the North-West Frontier Constabulary Act, 1915, and the Rules framed there-under. They contended that the learned High Court did have the jurisdiction to adjudicate upon the matters relating to terms and conditions of service of the Respondent. They next contended that the Appellants had recorded findings in violation of the procedure prescribed under Rule 18 of the North West Frontier Constabulary Rules of 1958 (hereinafter referred to as the Rules of 1958), therefore, the learned High Court was justified in ordering their reinstatement.

7. The Respondents' Counsel next contended that the Appeals are barred by time and should have been dismissed on the point of limitation, as the grounds taken for condonation of delay are not plausible.

8. We have heard the learned Counsel for the parties at length and have perused the record. The Appellants are not Civil Servants as their terms and conditions of service are regulated by the provisions of the North West Frontier Constabulary Rules of 1958. The case law cited by the learned Counsel for the Appellants is not relevant after the judgment of this Court in the case of Muhammad Mubeen-us-Salam and others vs. Federation of Pakistan (PLD 2006 SC 602), where this Court has held that the status of a Civil Servant cannot be conferred on an employee of the organization by a deeming clause which has its own statutory service Rules. The terms and

conditions of service of the Respondents are regulated by the Act of 1915 which authorizes the Appellants to frame Rules. The Rules were framed in 1958 and are duly notified which regulates the terms and conditions of service of the Respondents. The plea of the Appellants that the Respondents are Civil Servants is without force in view of the judgment in the case of Muhammad Mubeen-us-Salam and others (supra)

9. The contention of the learned Counsel for the Appellants that proper procedure was followed while dismissing the Respondents from service, we have examined the procedure provided in Rule 18 (*ibid*) and the material brought on record by the parties. The orders which were impugned before the learned High Court are indicative of the fact that procedure as defined in Rule 18 of the Rules of 1958 was not followed. Even the learned High Court has observed in the impugned judgment that *de novo* inquiries were conducted by the Appellants without following the procedure provided in Rule 18 of the Rules of 1958. Once the learned High Court has held that the procedure prescribed in Rule 18 (*ibid*) has not been followed while dismissing the Respondents from service, it should have remanded the matter to the department after reinstating the Respondents in service for *de novo* inquiry.

10. We, therefore, while partly allowing these Appeals remand the matters to the departmental Authority of the Appellants to hold *de novo* inquiry after reinstating the Respondents in service, by strictly following the procedure provided in Rule 18 of the Rules of 1958 and pass appropriate orders within four months from the date of communication of this judgment.

11. Since the points raised in the Appeals are of public importance, therefore, the delay in filing the Appeals is condoned on the grounds taken in the Applications for condonation of delay. The above are the reasons for our short order of even date which reads as under:-

"For reasons to be recorded later, these appeals are partially allowed and the impugned judgments of the High Court are set aside to the extent of setting aside the order of dismissal of the respondents by the Commandant Frontier Constabulary. However, since the procedure laid down in Rule 18 of the NWFP Frontier Constabulary Rules, 1958, had not been followed during the inquiry conducted against the respondents, a de novo inquiry according to the said Rule may be conducted against the respondents. In order to hold the inquiry the respondents have to be reinstated. Since three inquiries have already been held, the fresh inquiry shall be concluded within a period of four months."

Chief Justice

Judge

Judge

Islamabad the,
25th March 2015.

Approved for Reporting.

Sohail/**

(11-19)

①

2016 P L C (C.S.) 296

[Lahore High Court]

Before Muhammad Qasim Khan, J

MUHAMMAD RIAZ

Versus

MEDICAL SUPERINTENDENT, SERVICE HOSPITAL, LAHORE and 2 others

W.P. No.461 of 2014, decided on 12th March, 2015.

(a) Punjab Employees Efficiency, Discipline and Accountability Act (XII of 2006)---

---Ss. 5 & 7---Constitution of Pakistan, Arts. 199 & 10-A---Constitutional petition--- Maintainability---Contract employee---Misconduct and charge of inefficiency---Effect---Show cause notice, issuance of---Termination of service---Regular inquiry, dispensation of---Principles--- Discretion, exercise of---Natural justice, principles of---Reasonable opportunity of showing cause---Right of fair trial---Scope---Services of petitioner, a contract employee were terminated by issuing show cause notice by dispensing with regular inquiry---Validity---Petitioner was a contract employee---Competent authority had right to dispense with regular inquiry---Whenever any discretion was given to an authority it had to be exercised not arbitrarily, but honestly, justly and fairly in consonance with the spirit of law after application of judicious mind and for substantial reasons---Nature of allegations against the employee had to be considered for exercise of such discretion---When allegations could be decided with reference to admitted record or the authority had formed opinion that un-rebutted evidence to prove the charge against the accused/employee was available on record, regular inquiry might be dispensed with, otherwise ends of justice would demand an inquiry through an inquiry officer or inquiry committee---Such discretion had to be made in the nature of judicial decision---Discretion had to be exercised with due care and caution keeping in mind the principles of natural justice, fair trial and transparency---Authority should record reasons with regard to dispensing with regular inquiry---Where recording of evidence was necessary to establish charge then departure from regular inquiry would amount to condemn a person unheard--- Serving of show cause notice and reply thereto in denial of allegations would not amount to affording the employee reasonable opportunity of showing cause---Requirement of reasonable opportunity of showing cause could only be satisfied if particular of charge or charges, substance of evidence in support of charges and specific punishment which would be called for after the charge or charges were established were communicated to the civil servant who was given reasonable time and opportunity to show use---Specific allegations had been leveled against the employee which included inefficiency and misconduct---Petitioner had denied both the charges and authority was bound to order for a regular inquiry---Departure from normal course did not reflect bonafide of Authority rather same would show mechanical application of mind---Authority in fact was biased towards the employee---Right of fair trial had been associated with the fundamental right of access to justice which should be read in every statute even if not expressly provided for, unless specifically excluded---Order terminating service of employee contained stigmatic allegations, therefore, constitutional petition was maintainable---Order of removal from service passed against the petitioner did not stand the test of judicial scrutiny as same was against the spirit of law---Impugned order was set aside and petitioner was reinstated in service---Period between removal till reinstatement should be considered as leave without pay---Constitutional petition was accepted in circumstances.

Rana Asif Nadeem v. Executive District Officer, Education, District Nankana and 2 others

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208 PLC (CS) 715; Rai Zaid Ahmad Kharal v. Water and Power Development Authority, through Chairman WAPDA and another 2008 PLC (CS) 1005 and 1997 SCMR 1543 ref.

2003 SCMR 1110 and PLD 2012 SC 553 rel.

(b) Discretion---

---Exercise of---Principle---Whenever any discretion was given to an Authority it had to be exercised not arbitrarily, but honestly, justly and fairly in consonance with the spirit of law after application of judicious mind and for substantial reasons.

(c) Words and phrases---

---Right of fair trial---Meaning---Fair trial would mean right to proper hearing by an unbiased forum.

(d) Words and phrases---

---"Decision"---Meaning.

Black's Law Dictionary Eighth Edition rel.

Muhammad Iqbal Mohal for Petitioner.

Imtiaz Ahmad Kaifi, Addl. A.G.

ORDER

MUHAMMAD QASIM KHAN, J.--- Briefly the facts of the case are that petitioner was appointed as Driver (BS-4) on contract basis for a period of one year, which could be extended subject to performance and conduct to be evaluated by the competent authority. Subsequently a Silk Cause Notice under the charge of inefficiency as well as misconduct was issued and by dispensing with regular inquiry or affording him opportunity of hearing to him, the order dated 03.02.2008 was passed whereby his services were terminated.

2. Since the petitioner was admittedly a contract employee and furthermore the order terminating his service on the face of it contains stigmatic allegations, therefore, the instant writ petition is held to be entertain-able by this Court. Reliance in this respect is placed on the case "Rana Asif Nadeem versus Executive District Officer, Education, District Nankana and 2 others" (208 PLC (CS) 715) and "Rai Zaid Ahmad Kharal versus Water and Power Development Authority, through Chairman WAPDA and another" (2008 PLC (CS) 1005). In the later judgment, this Court while assuming jurisdiction in clear terms held that "If the termination order would convey a message of any stigma, the employee could not be ousted from service without resorting to the procedure of Efficiency and Disciplinary Rules."

3. The learned counsel for the petitioner has argued that when the petitioner had specifically denied the allegations levelled against him in the Show. Cause Notice, a regular inquiry into the matter was essential, wherein, the petitioner had to be supplied copies of evidence against him, he should have right to produce his defence and during inquiry if any witness appear against him, he had a right to cross-examine such witness. Reliance has been placed on the case reported in 1997 SCMR 1543. Adds that fair trial under Article 10(a) of the Constitution of Islamic Republic of Pakistan, 1973 is inalienable right of the person against whom any allegation is levelled, but in this case neither transparent procedure nor fair trial has been provided to the petitioner, therefore, impugned removal from service order is to be struck down.

(13)

On the other hand, learned Additional Advocate General opposed this petition on all corners by contending that charges were proved against the petitioner, therefore, the order removing him from service is fully justified.

5. I have heard the arguments of learned counsel for the parties and perused the entire available record with the assistance.

6. Without going through the factual aspect or controversy, the fact of the matter is that specific allegations of inefficiency and misconduct had been levelled against the petitioner. It is admitted position that on same charges a Show Cause Notice was issued to the petitioner, he submitted reply thereof but the authority without having recourse to regular inquiry, dispensed with inquiry and proceeded to pass the impugned order of removal from service.

7. To be precise enough, this slipshod act of the respondent/authority dispensing with regular inquiry is the pivotal point in this case. For facility of reference, Section 7 of the Punjab Employees Efficiency, Discipline and Accountability Act, 2006 (hereinafter to be called as PEEDA ACT), are attached with judgment at "FLAG-A".

8. By bare perusal of Section 7 of PEEDA Act, it is apparent that authority has been vested with a right to dispense with regular inquiry against an employee, but one must not lose sight of the fact that whenever any discretion is given to an authority, it has to be exercised not arbitrarily but honestly, justly, and fairly right in consonance with the spirit of law, after application of judicious mind and for substantial reasons. For this purpose, the nature of allegations against the accused has to be considered. In a case when it is clear to the authority that the allegations could be decided with reference to admitted record or he forms an opinion that un-rebuttable evidence on the touchstone of QANUN-E-SHAHADAT, to prove the charge against the accused/employee is available on the record, the procedure for regular inquiry (Section 5 of the PEEDA Act), may be dispensed with, otherwise, the ends justice demand an inquiry through an Inquiry Officer or Inquiry Committee. Although, to dispense with regular inquiry is discretion left for the authority to be gauged, yet, the word "decision" has been used in the said section, and the definition of word "decision" has been given in BLACK'S Law Dictionary Eighth Edition (Bryan A. Garnder), as under:-

"A judicial or agency determination after consideration of the facts and the law; esp., a ruling, order, or judgment pronounced by a court when considering or disposing of a case. "

Thus, as a matter of fact this discretion has been made in the nature of judicial decision, which has to be exercised with due care and caution keeping in mind the principles of natural justice, fair trial and transparency, so that no prejudice should be caused to the accused/employee. There can be a situation where real fate of allegations can only be adjudged by a regular inquiry and not by mere textual proof. The legislatures further emphasized that if the authority after considering the nature of charge or charges and the material before him, concludes that regular inquiry is to be dispensed with, then the authority shall record reasons in that respect. The sole object behind careful drafting of said provision is indicative of the fact that legislature intended that the discretion which was being left up to the authority, must be exercised judiciously and not arbitrarily. It is for the above reasons that the Hon'ble Supreme Court of Pakistan in the case reported in 2003 SCMR 1110 held that requirement of regular inquiry could be dispensed with in exceptional circumstances. Where recording of evidence was necessary to establish the charges, then departure from requirement of regular inquiry under the Rules would amount to condemn a person unheard.

9. In this case the defence put by the respondent authorities is that proper and lawful procedure was adopted by dispensing with regular inquiry, a Show Cause Notice was issued to the petitioner, he submitted reply to the same and thereafter, the authority being convinced that charges had worth, the

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removal from service order was passed, but I am afraid, serving of Show Cause Notice and reply thereto in denial of allegations on mere questions and answers do not amount to affording the accused reasonable opportunity of showing cause as required under PEEDA Act. The requirement of reasonable opportunity of showing cause against proposed action can only be satisfied if particulars of charges or charges, substance of evidence in support of the charges and specific punishment which would be called for after the charge or charges are established are communicated to the civil servant who is given reasonable time and opportunity to show cause. As detailed above, in this case specific allegations had been levelled against the petitioner which included inefficiency and misconduct. When the petitioner in response to Show Cause Notice, had specifically denied both the charges against him and furthermore, considering the nature of charges, all those allegations required evidence under each head, then it had become incumbent upon the authority to have ordered for a regular inquiry and in the above given situation departure from normal course does not reflect bonafides on the part of the authority, rather shows mechanical application of mind on his part, consequently the petitioner appears to be justified in pleading that the authority was in fact biased towards him.

10. It is by now well settled that right to a fair trial means right to a proper hearing by an unbiased competent forum. Right to a fair trial has been associated with the fundamental right of access to justice, which should be read in every statute even if not expressly provided for unless specifically excluded. While incorporating Article 10A in the Constitution and making the right, to a fair trial a fundamental right, the legislature did not define or describe the requisites of a fair trial, which showed that perhaps the intention was to give it the same meaning as is broadly universally recognized and embedded in jurisprudence in Pakistan. While holding so, guideline has been derived from the case reported in PLD 2012 SC 553.

11. For what has been discussed above, the impugned removal from service order passed against the petitioner does not stand the test of judicial scrutiny, as it runs against the spirit of law. Consequently, this petition is allowed, the impugned order dated 03.02.2008 is set-aside and petitioner is reinstated in service. The period between his removal till reinstatement shall be considered as leave without pay.

ZC/M-113/L

Petition allowed.

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2011 PLC (C.S.) 77

[Peshawar High Court]

Before: Ejaz Afzal Khan, C.J. and Mazhar Alam Khan Miankhel, J.

ZIAULLAH KHAN

Versus

GOVERNMENT OF PAKISTAN through Secretary Law, Justice and Human Rights,
Islamabad and 3 others

Writ Petition No.2509 of 2009 and C.M. No.273 of 2010, decided on 27th August, 2010.

(a) National Accountability Ordinance (XVIII of 1999)---

---S. 28---Constitution of Pakistan, Art.199---Constitutional petition---Civil service---Appointment and regularization of service---Petitioner initially worked with the National Accountability Bureau as private investigator for 6 years; and then he worked for 2 years as a contract employee in BPS-18---Services of petitioner once again were hired as such for another period of six months---Petitioner, being a qualified, skilful and experienced person sought regularization of his service---Petitioner had further asserted that he deserved alike treatment as was meted out to one of his colleagues who being contract employee in BPS-18, was inducted in regular service of the department in BPS-19 on the directive/ratification issued by the Prime Minister---Petitioner had also submitted that his name was not considered by the Chairman for the regular post of BPS-18 advertised by the department, despite strong recommendations of Director-General, while still forty sanctioned posts of BPS-18 were lying vacant for the last so many years---When a similarly placed person i.e. person employed on contract basis; and that too having no basic qualification for initial recruitment, could be inducted as a regular employee; qualified and experienced person like petitioner, who had worked in the department, having many commendations at his credit, could also be inducted as a regular employee, when he had a sufficient experience with the department at his credit---Petitioner being qualified, eligible and experienced person, also deserved the alike treatment of regularization of his service---Authorities were directed to consider the name of the petitioner for regularization of his service.

(b) Constitution of Pakistan---

----Art. 25--Equality before law--Principles--Equality before law, was the basic concept of Islam and that concept had been borrowed by English, American and European

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Constitutions from Islam---Two similarly placed persons could not be treated differently---? Principle of equality before law and prohibition of discrimination between the similarly placed persons, was the essence of rule of law---Even selective, discriminatory and distinctive treatment by the Government was also prohibited---Two similarly and equally placed persons, could not be treated differently.

M. Zahid Aman and Shakeel Ahmad for Petitioner.

Nemo for Respondents.

Date of hearing: 15th July, 2010.

JUDGMENT

MAZHAR ALAM KHAN MIANKHEL, J.---The petitioner' herein seeks issuance of appropriate writ by directing the respondents to regularize his service in the NAB as he has served the NAB initially as private investigator from 2000 to 2006 and then from 2006 to 2008 as a contract employee in (BPS-18). His services were once again hired as such for another period of six months with effect from April 7, 2009 to October 6, 2009. Being a qualified, skilful and experienced person, he too deserves alike treatment as was meted out to one Miss Aaliya Rasheed who being contract employee in BPS-18 was inducted in regular service of the NAB in BPS-19 on the directive/notification issued by the Prime Minister.

2. The learned counsel for the petitioner, in support of his petition further submitted that the name of the petitioner was not considered by the respondent No.2 for the regular post of BPS-18 advertised by the NAB in spite of strong recommendations of respondent No.3. He added that still forty sanctioned posts of BPS-18 are lying vacant for the last so many years.

3. As against that, the learned counsel for the respondents submitted that the case of the petitioner can, in no terms be equated with that of Mst. Aaliya Rasheed as she was working on contract against a sanctioned establishment post whereas the petitioner was appointed, on contract on lump sum basis under section 28(0 of National Accountability Ordinance, 1999 whereas regular appointment is made under Employees Terms and Conditions of Services (TCS), 2002. The petitioner also lacked the prerequisite five years post academic qualification in BPS-17 or equivalent in the fields of investigation or inquiries etc. as provided in the schedule provided in the TCS. He further submitted that the present petition is barred under explanation IV of section 11 and Order II, rule 2 of C.P.C. as his earlier writ petition was dismissed and the present one is barred under the above provisions of C.P.C.

4. We have considered the submissions of the learned counsel for the parties and have gone through the available record. The same would reveal that the petitioner initially was working with the NAB as private investigator from 2000 to 2006 and then was appointed as investigation officer on contract for a period of two years from 2006 to 2008. His status was equivalent to that of BPS-18 for the purposes of T.A./D.A. only. Then once again he served



for a period of six months as such. During this period, he completed several professional courses and the record would reflect his satisfactory performance in the NAB and nothing adverse was pointed out by the respondents. This would reflect his experience and efficiency. During his attachment with the NAB, certain regular posts of BPS-18 were advertised and in spite, of recommendations for his appointment by respondent No.3, .he was refused regular induction. The record available on file and not denied by the respondents would further reveal that on his application, the Prime Minister of Pakistan also recommended his case for consideration as per rules/policy vide P.M.'s Sectt U.O. No.2(37)DS(Imp.II)/ 4737/09 dated 11-7-2009.

5. Appointments in NAB are made on contract/temporary basis by the Chairman NAB under section 28 of National Accountability Ordinance, 1999 and under Employees Terms and Conditions of Services (TCS), 2002. The academic qualification and requirements for regular appointments are given in the schedule of TCS. The relevant portion of the schedule is reproduced as under:---

S. No of the post	Nomenclature	BPS	Age Limit Min. Max.	Academic Qualification	Experience
1	Director-General	21	40 50	Second Class or Grade 'C' Master's Degree in Business Administration/Commerce/Economics/Statistics/Defence of Strategic Studies Law/Computer Science from a recognized University or a Chartered Accountant or B.E./B.Sc. (Civil/Mechanical/ Electrical/Petroleum or any qualification approved by the competent authority	22 years post academic qualification experience in BPS-17 and above or equivalent in Investigation or Inquiries or Research or Legal Matters or in the field to be specified at the time of advertisement
2					
3	Additional Director/ Deputy Secretary	19	30 40	-do-	12 years post academic quantization experience in BPS-17 and above of equivalent in the fields specified against, S.No.1.
4	Deputy Director/ Sr. Investigation Officer/Section Officer	18	25 35	-do-	5 years post academic qualification experience in BPS-17 or equivalent in the fields specified against S.No.1.

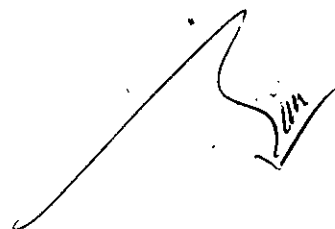
6. The petitioner has sought regularization of his service in the light of a contract employee of BPS-18 of NAB whose services were regularized as Additional Director with effect from 26-6-2003 in (BPS-19) in pursuance of the approval of Prime Minister of Pakistan. Departmental Selection Committee of NAB was also in accord with the approval of the Prime Minister and accordingly a notification was issued in this regard. Though the requisite experience appears to be there but the qualification of Miss Aaliya Rasheed though not available on the record but submissions made at the bar were not denied that she is M. A. History. If the schedule is seen, then M.A. History is not a qualification for any post from BPS-16 to 21.

7. This case was also heard at length on 13-7-2010 but we were unable to understand that when a similarly placed person i.e. on contract and that too having no basic qualification for initial recruitment, can be inducted as a regular employee, and on the other side, a qualified and experienced person like petitioner who has worked within the NAB having many commendations at his credit, cannot be inducted as a regular employee when he has a sufficient experience with the NAB at his credit. If such a person is not considered for his regular induction in the department with which he has worked for more than eight years then who else would consider him when such a long span of his attachment with the NAB has blocked other ways for him as at present his age would be the first impediment in his way for any such application for regular appointment as he is more than 35 years of age by now. The argument of the learned counsel for the respondents that the initial appointment of the petitioner was under section 28(f) of National Accountability Ordinance, 1999 and not against a sanctioned establishment post would not be so forceful to convince us as to why the petitioner is not a fit person to be regularized specially when the terms and conditions of service of the petitioner and that of the lady are almost similar. He was even not allowed to appear in the examination for regular advertised posts of BPS-18 as stated above. The procedure adopted for the regularization of service of the lady in the given circumstances can well be adopted for the petitioner as he being qualified and fit person for regularization of service also deserves the alike treatment. Article 25 of the Constitution of Islamic Republic of Pakistan unequivocally and expressly provides equality before law and equal protection of law to the equally placed persons. The status and experience of the two if considered, that is at par with an edge to the petitioner i.e. his requisite qualification for the job which is missing in the case of lady. There is no cavil to the proposition that equality before law is the basic concept of Islam and this concept has been borrowed by English, Americans and European Constitutions from Islam. Two similarly placed persons cannot be treated differently. The principle of equality before law and prohibition of discrimination between the similarly placed persons is the essence of rule of law. Even selective, discriminatory and distinctive treatment by the Government is also prohibited. So, the two similarly and equally placed persons cannot be treated differently and the petitioner in the circumstances not only deserves but is entitled to be treated alike.

8. As far as bar under section 11 or Order II, Rule 2 of C.P.C. is concerned, that would not become a legal hurdle in the way of petitioner as his earlier petition was not decided on its merits and was only dismissed being not maintainable. The relevant portion of the same is reproduced below:---

"2. ... Since the contract period of the petitioner has already been expired and the contract was not renewed, we in our constitutional jurisdiction cannot force the respondents either to extend his contract or to regularize his service.

3. Resultantly, this writ petition is misconceived which is hereby dismissed in limine along with interim."



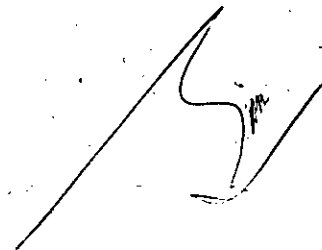
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This question can also be replied in other words that his fresh appointment in the year 2009 after the dismissal of the above writ petition would also give him a fresh cause of action and as such his instant petition would not be barred by section 11 or Order II, Rule-2 of C.P.C.

9. For what has been discussed above, we have no hesitation to hold that the petitioner being qualified, eligible and experienced person also deserves the alike treatment of regularization of his service. So, in the circumstances of the case by allowing this writ petition, we would direct the respondents to consider the name of the petitioner for regularization of his service as discussed above.

H.B.T./292/P

Petition allowed.

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2011 SCMR 577

[Supreme Court of Pakistan]

Present: Javed Iqbal, Sayed Zahid Hussain and Muhammad Sair Ali, JJ

ZARAI TARAQIATI BANK LTD.---Petitioner

Versus

HAKEEM KILAN---Respondent

Constitution Petition No. 646 of 2009, decided on 8th May, 2009.

(On appeal from the judgment dated 25-2-2009 of the Islamabad High Court, Islamabad passed in W.P. No. 798 of 2008).

Zarai Taraqiati Bank's Staff Service Regulations, 2005---

---Regln.7(b)---Agricultural Development Bank of Pakistan (Re-organization and Conversion) Ordinance (LX of 2002), S. 6---Removal from Service (Special Powers) Ordinance (XVII of 2000), Ss.1 (4), 2(c), 3, 5, 9 & 10---Constitution of Pakistan, Art.185(3)---Order of relieving from service---Inefficiency and absence from duty, charges of--Imposition of such penalty by competent authority in terms of Regln.7(b) of Zarai Taraqiati Bank's Staff Service Regulations, 2005 without resorting to provisions of Removal from Service (Special Powers) Ordinance, 2000---Validity---Practical effect of word "relieved" from service as used in impugned order was deprivation of petitioner from source of his livelihood---Respondent-Bank was a corporate body owned, managed and controlled by Federal Government for purposes of Removal from Service (Special Powers) Ordinance, 2000 even after enforcement of Agricultural Development Bank of Pakistan (Re-organization and Conversion) Ordinance, 2002---Provisions of said Ordinance, 2000 were applicable to Bank as per its own Circular dated 31-1-2008 having revised thereby delegation of powers to its various officers under Ordinance, 2000---Competent authority had special powers under Ordinance, 2000 to proceed against petitioner being in Corporation Service---Petitioner under Ss.3 and 5 of Ordinance, 2000 was entitled to defend himself and explain his position in inquiry; and upon any action taken against him under Ordinance, 2000 had right to avail remedy of representation and file appeal before Service Tribunal--Competent authority by not adhering to provisions of Ordinance, 2000 had deprived petitioner safeguards and remedies available to him under law---Adoption of course of passing a relieving order appeared to be a ruse to circumvent inquiry proceedings provided for by Ordinance, 2000---Court could not countenance such a colourable exercise of power---Supreme Court declared impugned order to be without lawful authority and ordered for reinstatement of petitioner into service leaving open for Bank for proceeding against him under Ordinance, 2000.

Azizullah Memon v. Province of Sindh 2007 SCMR 229 rel.

Haider Hussain, Advocate Supreme Court and M.S. Khattak, Advocate-on-Record for Petitioner.

Respondent in person.

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ORDER

SAYED ZAHID HUSSAIN, J.---This is a petition under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973, qua the order passed by the Islamabad High Court, Islamabad, dated 25-2-2009 in Writ Petition No.798 of 2008, whereby the petition filed by the respondent under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, was accepted.

2. The case of the respondent before the High Court and before this Court is that in response to the Advertisement published in the Press on 30-10-2005 and the subsequent interview with the Selection Board comprising one of the Board of Directors (BODs) of the defendant Bank, Ex-Managing Director Standard Chartered Bank, the then Banking Ombudsman, Head HR ZTBL and President ZTBL, he was offered employment as Senior Vice-President in the Department vide offer of employment letter No.PAD (RP&C)/1(162)/2006/380, dated 27-7-2006 and consequent upon his appointment as Area Specialist in the Rank of Senior Vice-President vide Notification dated 13-9-2006 and posted as Credit Risk Manager at ZTBL Head Office. On completion of probation period, he was confirmed vide office memorandum dated 1-3-2007 enunciating therein his pay, allowances, perks including vehicle at his disposal as a part of his terms and conditions.

3. Undisputedly, the respondent was a Senior Vice-President in the petitioner-Bank, who claims to, have been performing duties diligently with full devotion and dedication when on 26-1-2008 he received a letter informing him that he had "ceased to be productive for the bank" and that the "competent authority, considering it expedient and viable, do hereby relieve you from the Bank's services in terms of clause 7(B) of SR-2005 with immediate effect." This order was assailed by the respondent by filing a review petition which remained unresponded. He eventually approached the Islamabad High Court, Islamabad by means of the writ petition referred to above, which was accepted by the learned Judge of the High Court observing inter alia "that S.3(1)(b) of the Ordinance, 2000 i.e. Removal from Service (Special Powers) Ordinance, 2000 provides that if a person in Government service or Corporation service is guilty of being habitually absent from duty in the opinion of the competent authority, he can be proceeded against under the provisions of the Ordinance. As has already been mentioned, the petitioner was removed from service on the ground of absence from duty without leave. The petitioner is a person in Corporation Service within the meaning of Clause (c) of section 2.....". It was thus observed that "the petitioner is a person in Corporation Service and the disciplinary proceedings in respect of person in corporation service is covered by the provisions of Removal from Service (Special Powers) Ordinance, 2000 and that he cannot be removed from service without resorting to the provisions of Removal from Service (Special Powers) Ordinance, 2000." The order was declared to be without lawful authority and he was ordered to be reinstated into service leaving it open for the petitioner before us to proceed against him under the provisions of Removal from Service (Special Powers) Ordinance, 2000.

4. Assailing the order of the High Court, it is sought to be contended by the learned counsel that the High Court has incorrectly and illegally proceeded on the premises as if the respondent was liable to be proceeded only under the provisions of Removal from Service (Special Powers) Ordinance, 2000, whereas according to him the Bank's Staff Regulation, 2005, particularly Regulation 7(B) thereof was rightly invoked for dispensing with the service of the respondent. Further contends that the provisions of the Ordinance could only be applicable if the said respondent was to be dismissed, removed or compulsorily retired from service or was to be reduced to lower post or pay scale and not in a case like this.

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5. We have considered the contentions of the learned counsel for the petitioner in the light of the material placed before us and would like to observe that the Office Memorandum dated 26-1-2008 indeed narrated incidents and events reflecting upon the inefficiency of the respondent including his absence from duty which was made basis by the competent authority to "relieve", him from Bank's service. Before us the applicability and significance of Staff Service Regulation, 2005, is sought to be highlighted empowering the competent authority to relieve any employee from the service. But the same have neither been placed on record nor produced before us. The mere use of the word "relieved" from service, would not make any difference inasmuch as this, was the mode adopted by the petitioner for sending home the said respondent. In reality and pragmatically the respondent lost his job/employment. The practical effect is one and the same i.e. deprivation of source of livelihood.

6. Adverting now to the crucial issue as to whether provisions of Removal from Service (Special Powers) Ordinance, 2000, were applicable or not. It may be observed that as per S.1(4) of the Removal from Service (Special Powers) Ordinance, 2000, it applies to "persons in government service and corporation service." A "person in Corporation Service" is defined as per clause (c) of S.2 as follows:

"(c) "Person in corporation service" means every person in the employment of a Corporation, corporate body, authority, statutory body or other organizations or institutions set up, established, owned, managed or controlled by the Federal Government, or by or under any law for the time being in force or a body or organization in which the Federal Government has controlling share or interest and includes the Chairman and the Managing Director, and the holder of any other office therein."

The petitioner admittedly is a body corporate owned, managed and controlled by the Federal Government, for the purpose of Ordinance even after the enforcement of Agricultural Development Bank of Pakistan (Re-Organization and Conversion) Ordinance, 2002. It also stands substantiated by Circular No.DPD/02/2008 dated 31-1-2008, whereby the delegation of powers to various officers under Removal from Service (Special Powers) Ordinance, 2000 was revised. There can thus be no cavil that the provisions of Removal from Service (Special Powers) Ordinance, 2000 are applicable as per the petitioner's own circular and stance.

7. Having observed that the provisions of the Removal from Service (Special Powers) Ordinance, 2000, were applicable, the further question that arises is whether the respondent was liable to be proceeded against under the relevant provisions of the said Ordinance. It may be observed that whereas special powers were given to the competent authority as per the said Ordinance for disciplinary proceedings against the persons in Government Service or Corporation Service; it contained certain safeguards to such persons as envisaged by sections 3 and 5 of the Ordinance. Firstly, he was entitled to defend himself and explain his position in the inquiry, when instituted against him, unless dispensed with on due application of mind. Secondly, upon any action taken under the said Ordinance, the person concerned had the right to avail the remedy of representation as per section 9 and file appeal under section 10 before the Federal Service Tribunal. By not adhering to the provisions of the Ordinance, the respondent stood denuded of the safeguards and remedies, available to him under the law. The adoption of course of passing a relieving order appear to be a ruse to circumvent the inquiry, procedure provided for by the Ordinance. Such a colourable exercise of power cannot be countenanced by Court.

8. In the case of Azizullah Memon v. Province of Sindh 2007 SCMR 229, the import and effect of the provisions of the Ordinance was reiterated by observing:--

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"3. In the presence of express and specific language employed in the Ordinance neither the departmental authorities nor the Tribunal bothered to notice that after the date of promulgation of the Ordinance all disciplinary proceedings should have been initiated under Ordinance rather than the old Rules enforced in 1973. This Court has already ruled in a number of judgments that this Ordinance has the overriding effect over all other laws on the subject except in case of proceedings, which were already pending before promulgation of the Ordinance. Since the impugned action was initiated and taken to its logical conclusion under a misconception of law and under a wrong law, it has vitiated the entire proceedings, including the final order, which cannot be sustained under the law. The proceedings as well as final order is, therefore, liable to be set aside."

The petition in that case was converted into appeal, reinstating the petitioner into service leaving it open for the department to initiate fresh proceedings against him. Similar course has been adopted by the High Court in the present case which is consistent with the legal position obtaining in the matter.

8. No case for interference by this Court has been made out. Leave to appeal is declined accordingly.

S.A.K./Z-6/SC

Leave refused?

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