

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

**Service Appeal No. 1401/2022**

Sajjad Hussain Ex-Constable No.522 P.S Totali District Buner.

..... Appellant


**VERSUS**

1. Inspector General of Police KP Peshawar
2. Regional Police Officer Malakand at Saidu Sharif Swat.
3. District Police Officer Buner

..... Respondents

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**Inspector Legal Buner**

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**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS 01 TO 03**

**PRELIMINARY OBJECTIONS.**

1. That the appeal is badly barred by Law & limitation.
2. That the appellant has got no cause of action and locus standi to file the present appeal.
3. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
4. That the appellant has not come to the Tribunal with clean hands.
5. That the instant appeal is not maintainable in its present form.
6. That the appellant has concealed the material facts from this Hon'ble Tribunal.

**Respectfully Sheweth:-**

1. Pertain to record.
2. That the appellant while posted <sup>to</sup> P.S Totalai was found guilty of gross misconduct as it was reported vide DD No.07 dated 24/04/2009 P.S Totalai that the appellant had left the place of duty and absented himself from official duty without prior permission or approved leave of his high ups till the date of dismissal vide OB No.49 dated 15/05/2009. **(Copies of DD report and dismissal order attached as annexure A & B)**. Moreover, that in the year 2009 when militancy was at its peak and the services of the appellant were direly needed by the department for the protection of lives and properties of the public, he showed cowardice and left his place of duty without ~~any~~ the permission of his high ups. Besides this, the appellant had absented himself for 101 days vide DD No.22 dated 30/09/2008 **(annexure "C")**, wherein his 101 day absentee were treated as leave without pay vide OB No.03 dated 16/01/2009. The service record of the appellant showed that he was habitual absentee and <sup>is</sup> not interested in his job.

3. Incorrect. In some cases as per rules, removal from service special Ordinance 2000 amended 2001 the competent authority has mandate to dispense the enquiry proceeding. That the appellant willfully absented himself from official duty without any permission or approved leave and did not want to continue his job, hence he was dismissed from service as per law/rules.
4. That every case has its different footing, however the case of present appellant is different from those of others appellants.
5. Incorrect. As stated above, every case has its different footings. Furthermore, the appellant has not preferred any departmental appeal before the appellate authority i.e Regional Police Office, Malakand Region within the statutory period nor any record is available is in this regard. **(copy of Regional police Officer Malakand Swat letter No. 2998/E dated 08.03.2023 is attached as annexure "D")**
6. Incorrect. As stated above, the appellant has not preferred any departmental appeal before the appellate authority within the statutory period. Furthermore, Appeal of the appellant is badly time barred and has wrongly challenged the legal and valid orders of the respondents before the honorable tribunal through unsound reasons/grounds.

**GROUND:**

- A. Incorrect. That the order passed by the respondents is legal and in accordance with law/rules and no violation of the article of Islamic Republic of Pakistan has been made by the respondents.
- B. Incorrect. That the order of respondents is legal, lawful and in accordance with law/rules.
- C. Incorrect: As explained above in various paras.
- D. Incorrect. The appellant has not been discriminating and every case has its own footing, however the case of present appellant is different from those of other appellants.
- E. In some cases as per rules, removal from service special Ordinance 2000 amended 2001 the competent authority has mandate to dispense the enquiry proceeding. That the appellant willfully absented himself from official duty

without any permission or approved leave and did not want to continue his job, hence he was dismissed from service as per law/rules.


F. Incorrect. This Para already explained above in detail.

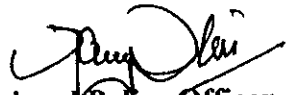
G. As explained above in detail.


H. That other grounds not specifically answered in the reply, will be agitated with the permission of honorable Tribunal at the time of arguments.

**PRAYER:**

Keeping in view the above facts and circumstances, it is humbly prayed that the appeal of appellant being devoid of legal force may kindly be dismissed with costs.

  
**Inspector General of Police**  
**KPK, Peshawar**  
(Respondent No. 01)

  
**Regional Police Officer,**  
**Malakand Swat**  
**Reg. (Respondent No. 02)**  
**Malakand Region.**  
**Saidu Sharif, Swat.**

  
**District Police Officer Buner**  
(Respondent No. 03)  
**District Police Officer**  
**Buner**

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..... Appellant

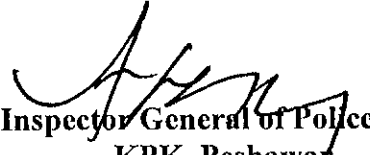
**VERSUS**


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2. Regional Police Officer Malakand at Saidu Sharif Swat.
3. District Police Officer Buner


..... Respondents

**AUTHORITY LETTER**

We the above respondents do hereby authorize and allow Mr. Sher Ali Khan Inspector Legal Buner to file the accompany Para-wise comments on our behalf in honorable Tribunal and do whatever is needed in honorable Tribunal.

  
Inspector General of Police  
KPK, Peshawar  
(Respondent No. 01)

  
Regional Police Officer  
Regional Police Officer,  
Malakand Region  
(Respondent No. 02)

  
District Police Officer Buner  
(Respondent No. 03)  
District Police Officer  
Buner

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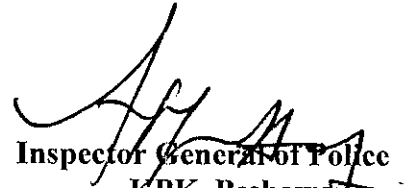
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..... Respondents

**AFFIDAVIT**

We the above respondents do hereby solemnly affirm and state on oath that the contents of whole Para-wise comments are true and correct to the best of our knowledge and belief and nothing has been concealed from this honorable Tribunal.

  
**Inspector General of Police**  
**KPK, Peshawar**  
(Respondent No. 01)

  
**Regional Police Officer,**  
**Malakand Region**  
**Saidu Sharif Swat.**  
(Respondent No. 02)

  
**District Police Officer Buner**  
(Respondent No. 03)

**District Police Officer**  
**Buner**

تھانہ صوفیائی      نمبر 07 روزنامہ 24<sup>04</sup>/<sub>2009</sub>      صلح جوئی

07 رپورٹ غیر حاضری سیکرٹری ناہ 11:40 بجے وقت 10:30 بجے 24<sup>04</sup>/<sub>2009</sub> روزنامہ  
دن صبح دھشت گرد طالبان نے صوفیوں کو جوئی دستگیر کیا اور انہیں لے گیا اور انہیں  
اسلم ایجنسی کے دفتر لے گیا اور انہیں ساتھ لے جانا اور جوئی صبح  
کی رپورٹ کو نقصان پہنچایا ہے۔ انہیں سلسلہ فقہاء 52<sup>04</sup>/<sub>2009</sub> روزنامہ 23<sup>04</sup>/<sub>2009</sub>

17 رقی حرام تھانہ صوفیائی دن دستگیر ہو گیا ہے۔ جوئی دستگیر ماسٹر 137 سجاد حسین 522  
353 P2-7A7A  
کشمیر تاجپور خان 240، کتاج اکبر 351 جاوید اختر 137 سجاد حسین 522  
جو جوئی میں موجود ہے۔ بہ اسرار ایسٹین دیکر دستگیر وہاں خان میں ماسٹر جوئی  
صوفیوں کے ساتھ رہتا ہے نہ پتہ ہے جو بائبل فون فریڈ آف ڈاؤن لائن کے ایجنٹوں میں  
کھیریت موجود ہے۔ یہ حالات تیس تھانہ صوفیوں کے ساتھ ہیں ماضی کے حالات خاص  
ہیں لہذا انہیں سلسلہ امتیاز رپورٹ دن روزنامہ کی جاتی ہے

صاف علی  
نقل مطابق اصل ہے

AMHC-PS TATAI  
3-2-023

Sir  
3-2-023  
POLICE STATION TATAI BUREAU  
005005-888  
TATAI

(b) 'B'

Phone # 0939-510470  
Fax # 0939-510501

ORDER.

Where is you Constable Sajjad Hussain No.522  
While posted P.S Totalai according to the report received in this office vide D D No 7 dated 24.4.2009 you left the place of duty with out valid cause and intimation to your office in charge ,since then you have been un authorized absence from duty that is from this constitute mis conduct on your part and a such you are liable to action under section 5 sub section(4) of the removal from service (Special Power ordinance 2000)(Amended )Ordinance.2001.

I have come to the conclusion that either the accused police officer has ceased to be efficient and exhibit cowardice or reasonably suspected of being associated with those engaged in subversive activities during operation of the militants in Buner District.

I, as competent authority ,am ,therefore, satisfied to proceed under section (5) of sub section (4) of the removal from service (Special power ordinance 2000) (Amendment )ordnance 2001 and dispense with the enquiry proceeding as laid down in the said ordinance and am further satisfied that there is no need of holding departmental enquiry .since the accused Police Officer Constable Sajjad Hussasin No 522 has been found guilty of gross misconduct as defined in the ordinance , I,Mr .ABDUR RASHID D.P.O,Buner as competent authority ,therefore impose major penalty by dismissing him from service from the date of his absence.

  
DISTRICT POLICE OFFICER  
BUNER.

OB No 49

Dated : 15.5.09

**Attested**

  
**SDPO-Daggur**



(7) 'C'

تنز ۲۲ روزانہ 30-9-08

30/9/08

ضلع جہلم

درجہ 22 دیوید غیر حاضر 170 وقت 17.45 بجے صدر قلم نشین  
 30.9.08  
 سجاد حسین 522 جوہر کمان پتہ سے تفتیش ہے۔ مذکورہ  
 کے نسبت معلوم ہو رہا ہے مذکورہ کئی بغیر حصول اجازت  
 گھر خود صلائی ہے۔ مذکورہ کیسے مذکورہ کئی مابعد 546  
 رابطہ ہو رہا معلوم ہو رہا ہے مذکورہ کوئی ہے۔ کہ وہ مذکورہ  
 میں کئی خالی ہے۔ سرپرست مذکورہ کئی سجاد حسین 522  
 کے خلاف دیوید غیر حاضر 22 روزانہ 30-9-08  
 مذکورہ کارروائی رفقوں بلکہ ضروری میں درج ہوئی ہے۔

ضلع جہلم

تنز علی محمد صاحب

Signature  
 1717  
 10.1.09

101 days leave without  
 pay.  
 Release pay.

OB. 101-3

dt. 16/1/09

Attested

Signature  
 16/1/09

Signature  
 16/1/09



**OFFICE OF THE  
REGIONAL POLICE OFFICER, MALAKAND  
SAIDU SHARIF SWAT.  
Ph: 0946-9240381-82 & Fax No. 0946-9240390  
Email: digmalakand@yahoo.com**

No. 2998 /E, dated Saidu Sharif the 08 / 03 / 2023


To: **The District Police Officer, Buner**

Subject: **1. SA No. 1401/2022 OF EX-CONSTABLE SAJJAD HUSSAIN NO. 522  
2. SA No. 1765/2022 OF EX-CONSTABLE ABDUL AZIZ NO. 501.  
3. SA No. 1766/2022 OF EX-CONSTABLE FAYAZ AHMAD NO. 282.  
4. SA No. 1767/2022 OF EX-CONSTABLE RASHID KHAN NO. 523**

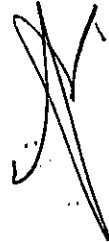
Memorandum:

Reference your office Memo: No. 956/Legal dated 06/03/2023 on the subject cited above.

According to this office record none of the subject Police personnel have preferred departmental appeal for reinstatement into service in this office

  
**Regional Police Officer,  
Malakand, at Saidu Sharif Swat**

Insp. Legal



1080  
08-03-2023