

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 1028/2015

Date of Institution ... 09.07.2015

Date of Decision ... 13.11.2017

Khalid Khan, Ex-Constable no. 568,  
District Police Hangu.

... (Appellant)

VERSUS1. The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar,  
and 2 others.

... (Respondents)

MR. YASIR SALEEM,  
Advocate

--- For appellant.

MR. ZIAULLAH,  
Deputy District Attorney

... For respondents.

MR. AHMAD HASSAN,  
MR. MUHAMMAD HAMID MUGHAL... MEMBER(Executive)  
... MEMBER(Judicial)JUDGMENT

AHMAD HASSAN, MEMBER.- Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The brief facts are that the appellant was serving as Constable in Police Department. Disciplinary proceedings were initiated against the appellant and upon conclusion of inquiry major penalty of "Discharge from Service" was imposed on him vide impugned order dated 09.12.2014. He preferred departmental appeal on which date is not mentioned. It was rejected on 18.02.2015. There-after appellant preferred mercy petition under Rule-11-A of Police Rule-1975 which was not responded, hence, the instant service appeal.

ARGUMENTS

3. Learned counsel for the appellant argued that he was deputed to work with Chairman DDAC District Hangu. Letter dated 06.11.2017 produced during hearing indicates that the appellant used to perform duty with Mr. Shad Muhammad Shinwari associated with the above Chairman. On 16.10.2014 while on duty with Mr. Shad Muhammad Shinwari the Intelligence Agency took both of them into their custody. They remained in their custody for twenty one days. During the said period enquiry was conducted and vide impugned order dated 09.12.2014 penalty of "Discharge from Service" was imposed on the appellant. Enquiry was not conducted in the mode and manner prescribed in the rules. The appellant never remained absent from duty. The period during which he has been shown absent from duty was actually the one in which he was in the custody of Intelligence Agency. Penalty of "Discharge from Service" is not reflected in the list of major penalties contained in Rule-4(b) of Police Rules 1975. Moreover, he was awarded punishment with retrospective effect in violation of rules.

4. On the other hand learned Deputy District Attorney argued that the appellant remained absent from duty w.e.f 16.10.2014 without permission of the competent authority. Reportedly he joined Mr. Shad Muhammad Shinwari(Forth Schedule) at his own and while travelling they were arrested by the Intelligence Agency. Proper inquiry was conducted and penalty was imposed after observance of all codal formalities. He remained absent from 16.10.2014 to 06.11.2014. He further contended that term "Discharge from Service" is provided in Rule-12-21 of Police Rules-1934 and penalty was rightly imposed on him.

CONCLUSION.

5. Careful perusal of record would reveal that the period in which the respondents showed the appellant absent from duty but actually he was in the custody of Intelligence Agency during the said period. Moreover, Mr. Shad Muhammad Shinwari was attached with Chairman DDAK as per letter dated 06.11.2017 produced before the Tribunal. Learned Deputy District Attorney when confronted on the point that term "Discharge from Service" was not included in the list if penalty contained in Rule-4(b) of Police Rules 1975 was unable to give any plausible explanation. Imposition of penalty with retrospective effect is not permissible under the law. Inquiry was not conducted in the mode and manner prescribed in the rules. Misconduct could not be proved against the appellant and the appellant was condemned unheard.

6. In view of the foregoing, we are constrained to accept the instant appeal and reinstate the appellant by setting aside the impugned order. The period of absence and intervening period may be treated as leave of the kind due. However, the respondents placed are at liberty to conduct de-novo inquiry as per law. In case *de-novo* inquiry is conducted then issue of back benefits shall be subject to the final outcome of the inquiry proceedings. Parties are left to bear their own costs. File be consigned to the record room.



(MUHAMMAD HAMID MUGHAL)  
MEMBER



(AHMAD HASSAN)  
MEMBER

ANNOUNCED  
13.11.2017

31.03.2017

Agent to counsel for the appellant and Mr. Ziaullah, GP alongwith Mr. Abdur Rehman, Inspector for respondents present. Agent to counsel for the appellant submitted Wakalat Nama on behalf of the appellant and requested for adjournment. Learned GP submitted some relevant record which is placed on file. To come up for arguments on 13.07.2017 before D.B.



(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER



(AHMAD HASSAN)  
MEMBER

13.07.2017

Junior to counsel for the appellant and Asstt. AG alongwith Zahidur Rahman, Inspector (Legal) for the respondents present. Seeks adjournment as learned counsel for the appellant is busy in Peshawar High Court. Adjourned. To come up for arguments on 13.11.2017 before the D.B

Order

Member

Chairman

13.11.2017

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Zahid ur Rehman, S.I(Legal) for respondents present. Arguments heard and record perused.

Vide detailed judgment of today of this Tribunal placed on file we are constrained to accept the instant appeal and reinstate the appellam by setting aside the impugned order. The period of absence <sup>and intervening period</sup> may be treated as leave of the kind due. However, the respondents placed are at liberty to conduct de-novo inquiry as per law. Incase de-novo inquiry is conducted then issue of back benefits shall be subject to the final outcome of the inquiry proceedings. Parties are left to bear their own costs. File be consigned to the record room.

Announced:  
13.11.2017



(MUHAMMAD HAMID MUGHAL)  
Member



(AHMAD HASSAN)  
Member

*Khaliid Khan vs Police Deptt*

1028/15

30.05.2016

Counsel for the appellant and Addl. AG for the respondents present. Written reply not submitted despite last opportunity. Requested for further adjournment. Last opportunity is further extended subject to cost of Rs. 1000/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments and cost on 28.07.2016.

  
Chairman

28.07.2016

Counsel for the appellant and Mr. Abdur Rahman, Inspector (Legal) alongwith Addl. AG for the respondents present. Written reply submitted. Cost of Rs. 1000/- paid and receipt thereof obtained. The appeal is assigned to D.B for rejoinder and final hearing for 23.11.2016.

  
Chairman

23.11.2016

Clerk to counsel for the appellant and Mr. Abdur Rehman, Inspector (legal) alongwith Additional AG for respondents present. Rejoinder on behalf of the appellant submitted, copy whereof handed over to learned Additional AG. To come up for arguments on 31.3.17 before D.B.

  
(ABDUL LATIF)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

12.10.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable when subjected to inquiry and discharged from service vide impugned order dated 9.12.2014 regarding which he preferred departmental appeal which was rejected on 18.2.2015 where-after appellant preferred mercy petition under Rule-11-A of Police Rule which was not responded and hence the instant appeal on 18.9.2015.

That the appellant was retained in custody by Thall Malatia and as such his absence was not intentional. That the impugned order is against facts and law.

Points urged need consideration. Admit, subject to limitation. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 27.01.2016 before S.B. Notice of application for condonation of delay be also issued for the date fixed.

Chairman

27.1.2016

None present for appellant. Mr. Abdur Rehman, Inspector alongwith Assistant AG for respondents present. Requested for adjournment. To come up for written reply/comments on 11.4.2016 before S.B.

Chairman

11.04.2016

Agent of counsel for the appellant and Mr. Abdur Rahman, Inspector (Legal) alongwith Sr.GP for the respondents present. Reply not submitted. Requested for adjournment. Last opportunity granted To come up for written reply/comments on 30.5.2016 before S.B.

Chairman

Appellant Deposited  
Security & Process Fee



FORM-A

FORM OF ORDER SHEET

Court \_\_\_\_\_

Case No. 1028/2015

1	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1.	18.09.2015	<p>The appeal of Mr. Khalid Khan resubmitted to-day by Mr. Ijaz Anwar, Advocate, may be entered in the institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	21-9-15	<p>This case be put up before the S.Bench for preliminary hearing on <u>28-9-15</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
	28.09.2015	<p>Counsel for the appellant present. Seeks adjournment. Adjourned to 12.10.2015 for preliminary hearing before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> Chairman</p>

The appeal of Mr. Khalid Khan received on 10.7.2015 was returned to counsel for the appellant for removing objections No. 1 to 8 and resubmission within 15. To-day i.e. on 08.09.2015 he resubmitted the appeal. All Objections have been removed except objection No. 6. The case is once again returned to counsel for the appellant for removing objection No. 6 properly and re-submission within 10 days.

No. 1394/ST  
Dt: 10-9-2015

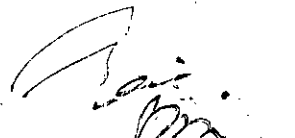
  
REGISTRAR  
KPK SERVICE TRIBUNAL,  
PESHAWAR.

Mr. Ijaz Anwar, Advocate, Peshawar

Sus.

Re submitted after completion

as per para 6 of Reply.  
of the Council.

  
Sajid Amir  
18/9/2015




The appeal of Mr. Khaled Khan Ex-Constable No. 568 Distt. Police Hango received to-day i.e. on 09.07.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Affidavit may be got attested by the Oath Commissioner.
- 3- Appeal may be page marked according to the Index of the appeal.
- 4- Annexures of the appeal may be attested.
- 5- Copy of first departmental appeal mentioned in the memo of appeal is not attached with the appeal may be placed on it.
- 6- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 7- Wakalat nama in favour of appellant may be placed on file.
- 8- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.


No. 1057 /S.T,

Dt. 10/7 /2015

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Sajid Amin Adv. Pesh.

- 1) Appeal signed by the appellant
- 2) Affidavit attested by the oath Commissioner
- 3) Appeal page marked according to the Index
- 4) Annexure also attested
- 5) First D.A. attested with appeal
- 6) Charge sheet, Statement of allegations, Show cause notice, enquiry report not attached in appeal
- 7) Wakalat nama also attested with appeal
- 8) objection on 8 & removed

  
10/7/15  
8-9

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

Appeal No. 1028/2015

Khlid khan Ex-Constable No. 568, District Police Hangu.  
(Appellant)

**VERSUS**

The Provincial Police Officer, Khyber Pakhtunkhwa,  
Peshawar and others.

(Respondents)

**INDEX**

S. No	Description of Documents	Annexure	Page No
1	Memo of Appeal & Affidavit		1-6
2	Reply to the show Cause notice	A	7
3	Impugned order dated 09.12.2014	B	8
4	Copies of Departmental Appeal and rejection order dated 18.02.2015	C& D	9-10 <sup>A</sup>
5	Review/Mercy Petition	E	11-18
	Vakalatnama.		19

*Appellant*

Through



**IJAZ ANWAR**  
Advocate Peshawar

&



**SAJID AMIN**  
Advocate, Peshawar

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

Appeal No. 1028/2015

A.W.P. Province  
Service Tribunal  
Diary No. 818  
Dated 9-7-2015

Khalid Khan Ex-Constable No. 568, District Police Hangu.  
(Appellant)

**VERSUS**

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, Kohat Region, Kohat
3. District Police Officer, Hangu.

(Respondents)

Appeal under Section 4 of the ~~Khyber~~ Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 09.12.2014, whereby the appellant has been awarded major punishment of Discharge from service, against which his Departmental Appeal has also been rejected vide order dated 18.02.2015, against which the review /Mercy petition of the appellant has not been responded despite the lapse of statutory period.

Prayer in Appeal: -

On acceptance of this appeal both the orders dated 09.12.2014, and 18.02.2015, may please be set-aside and the appellant may please be re-instated in service with full back wages and benefits of service.

*[Handwritten signature]*  
9/7/15

Respectfully Submitted:

1. That the appellant was enlisted as Constable in the Police Department in the year 2011, ever since his enlistment the appellant performed his duties as assigned with zeal and devotion and there was no complaint whatsoever regarding his performance.
2. That the appellant while posted at Thall Police Station, was informed by the then reader of the DPO Hangu namely Waqas that the appellant has been deputed with one Shad Muhammad Shinwari (placed on Schedule-IV). The appellant reported to police line Hangu and after confirmation from concerned Moharrar Hussain Khan, about his newly assignment/duty, the appellant left the police line and assumed his new duty as per the orders of the DPO Hangu.
3. That while the appellant was posted for security duty/Gunner, he performed his duties as such when on 16.10.2014, ( In the Month of Moharram) the said Shah Muhammad Shinwari, along with the appellant were taken into custody by the Thall Militia Squad allegedly due to security reasons. The appellant also remained in their custody for 21 days. Thereafter he was released.
4. That soon after release the appellant duly reported to Police Lines, however to the great surprise of the appellant, departmental proceedings were initiated against him allegedly on the ground of absence. The appellant was served with charge sheet and statement of allegation containing the baseless allegation of absence from duty the appellant replied the charge sheet and refuted the allegation.
5. That a partial inquiry was conducted and the inquiry officer while submitting his findings recommended the appellant for major punishment.
6. That thereafter the appellant was served with a final show cause notice which too was replied by the appellant. *(Copy of reply to the Show cause notice is attached as Annexure A).*
7. That the competent authority without applying his prudent mind awarded the appellant major penalty of discharge from service from date of absence vide order dated 09.12.2014. *(Copy of impugned order dated 09.12.2014, is attached as Annexure B)*
8. That the appellant submitted his departmental appeal against the order dated 09.12.2014, however, his departmental appeal has also been rejected vide order dated 19.02.2015. *(Copies of the*

***Departmental Appeal and Rejection Order dated 19.02.2015 are attached as Annexure C & D)***

9. That thereafter the appellant also submitted his review/mercy petition dated 11.03.2015, however it has not been responded despite the lapse of statutory period. **(Copy of the review petition is attached as Annexure E)**
10. That the impugned order are illegal unlawful against the law and facts hence liable to be set aside inter alia on the following grounds.

**GROUND OF APPEAL:**

- A. That the appellant has not been treated in accordance with law, hence his rights secured and guaranteed under the law are badly violated.
- B. That no proper procedure has been followed before awarding the penalty of discharge from Service *to the* appellant, he was not properly associated with the with the enquiry proceedings, statement of witnesses were never recorded in his presence nor was he allowed opportunity of Cross examination thus the whole proceedings are defective in the eyes of law.
- C. That the appellant has not been allowed opportunity of personal hearing before the imposition of penalty upon him, thus he has been condemned unheard.
- D. That the appellant did not absent himself nor he ever involved in any anti social activities, he was performing duty with the said Shah Muhammad Shinwari, upon the order of the DPO, later he was illegally taken into custody by the Thall Malatia Squad and illegally confined for 21 days.
- E. That neither any witness has been examined nor the appellant has been given opportunity to cross examined witness if any examined, during the inquiry proceedings.
- F. That the appellant has been awarded the penalty of discharge from service with retrospective effect, since no penalty order can be made with retrospective effect, therefore the penalty order is not tenable in the eye of law.
- G. That the punishment awarded to the appellant is not proportionate to the charge leveled against the appellant.

- H. That the charges leveled against the appellant were never proved in the enquiry, the enquiry officer gave his findings on surmises and conjunctures.
- I. That the appellant never committed an act or omission which could be termed as misconduct, albeit he has been awarded the penalty. He never absented himself willfully, rather he was illegally confined by the Thall Malatia Squad.
- J. That since the appellant is jobless since his illegal discharge from service he has a large family dependant upon him, due to his illegal dismissal his whole family is suffering.
- K. That the appellant has at his credit a spotless service career, the penalty imposed upon him is too harsh and liable to be set aside.
- L. That the appellant seeks permission of this Honourable Tribunal to rely on additional grounds at the hearing of the appeal.

*It is, therefore, humbly prayed that on acceptance of this appeal both the orders dated 09.12.2014, and 18.02.2015, may please be set-aside and the appellant may please be re-instated in service with full back wages and benefits of service.*

  
Appellant

Through



**IJAZ ANWAR**  
Advocate Peshawar

&

  
**SAJID AMIN**

Advocate, Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR**

Appeal No. \_\_\_\_\_/2015

Khlid khan Ex-Constable No. 568, District Police Hangu.  
**(Appellant)**

VERSUS

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

***APPLICATION FOR CONDONATION OF DELAY,  
IF ANY IN FILING THE TITLED APPEAL***

*Respectfully submitted:*

1. That the appellant has today filed the accompanied appeal before this honorable tribunal in which no date of hearing is fixed so far.
2. That the applicant prays for condonation of delay if any in filing the instant appeal inter alia on the following grounds:-

**GROUND OF APPLICATION**

- A. That the appellant throughout agitated the matter before the departmental authority and never remained negligent in perusing his remedy, the appellant submitted his departmental appeal in time, which remained under consideration, however it was lastly rejected vide order dated 18.02.2015, thereafter he with bonafide intention filed mercy/review petition, however the same was not responded till the lapse of 90 days statutory period. Thus delay if any was not willful and deserves to be condoned.
- B. That no proper procedure has been followed before the imposition of penalty upon the appellant, moreover the penalty order has been made with retrospective effect therefore, the whole proceedings as well as the order of penalty is illegal and void ab initio and no limitation run against such an illegal and void order.
- C. That valuable rights of the appellant are involved in the instant case in the instant case, hence the delay if any in filing the instant case deserves to be condoned.

D. That it has been the consistent view of the Superior Courts that causes should be decided on merit rather than technicalities including limitation. The same is reported in 2014 PLC (CS) 1014 2003 PLC (CS) 769.

*It is therefore humbly prayed that on acceptance of this application the delay if any in filing the instant appeal may please be condoned.*

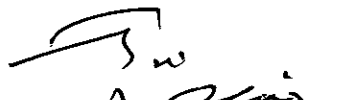
  
Applicant

Through



**IJAZ ANWAR**  
Advocate Peshawar

&

  
**SAIB AMIN**  
Advocate, Peshawar

**AFFIDAVIT**

I, **Khliid khan Ex-Constable No. 568, District Police Hangu**, do hereby solemnly affirm and declare on oath that the contents of the above noted appeal as well as accompanied application for condonation of delay are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.

  
Deponent





صفور رضا ڈسٹرکٹ ایس ایف جی میں

7

جواب نامت فائنل نوٹس ایوارڈ اور فنانس ڈیپارٹمنٹ

568

خطی جواب۔

نہ اس سائل پر میں کانٹریبیٹ ہے۔

1. یہ سائل سال 2011 سے قبل تھا۔ اس لیے اس کا جواب نہیں دیا گیا۔
2. یہ سائل اس وقت کی ایوارڈ اور فنانس ڈیپارٹمنٹ سے لیا گیا ہے۔
3. یہ سائل اس وقت کی ایوارڈ اور فنانس ڈیپارٹمنٹ سے لیا گیا ہے۔
4. یہ سائل اس وقت کی ایوارڈ اور فنانس ڈیپارٹمنٹ سے لیا گیا ہے۔
5. یہ سائل اس وقت کی ایوارڈ اور فنانس ڈیپارٹمنٹ سے لیا گیا ہے۔

Non professional discipline کی تعریف اور اس کے معنی

جواب نامت فائنل نوٹس ایوارڈ اور فنانس ڈیپارٹمنٹ

1. 12. 2014

خامد خان ایس ایف جی میں 568

(Signature)

(Signature)

ORDER

⑧ Anwar ⑧

Constable Khalid Khan No. 568, had absented himself from lawful duty with effect from 16.10.2014 to 06.11.2014 without any leave or prior permission from your senior vide D.D No. 45 dated 16.10.2014 of Police Lines Hangu. His above act shows indiscipline, nonprofessional government servant which amounts to gross misconduct on his part.

Charge Sheet together with statement of allegations under Police Disciplinary Rules 1975 was initiated against him vide No. 4235/PA, dated 23.10.2014 under Police Disciplinary Rules, 1975 in which you submit your reply. Inspector Gul Sarwar R.I Police Lines appointed as enquiry officer, after completion of enquiry the enquiry officer submit finding on 26.11.2014, in which he recommended you for major punishment and absent period 21 days without pay.

Thereafter, Final Show Cause notice served upon him to which he submit his reply and found unsatisfactory.

Keeping in view of above and having gone through available record the undersigned has come to the conclusion that the defaulter Constable was posted with MPA Shah Faisal at D.DAK Office but he willingly perform duty with Shad Muhammad Shinwari (placed on Schedule-IV) and was took away by Frontier Corps being involved in Anti-Social misconduct. Moreover, in these circumstances his retention in Police Department is burden on public exchequer, therefore, I, Anwar Saeed Kundi (PSP) District Police Officer, Hangu in exercise of the powers conferred upon me award him major punishment of "Discharge from Service" from the date of his absence i.e. 16.10.2014.

Order Announced.

OB No. 707

Dated 9/12/2014.

DISTRICT POLICE OFFICER,  
HANGU.

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU.

No. 41836-40/PA, dated Hangu, the 9/12/2014

Copy of above is submitted to the Regional Police Officer, Kohat for favour of information please.

- 2. Pay Officer, Reader, SRC & OASI for necessary action.
- 3. Ex- Constable Khalid Khan No. 568

DISTRICT POLICE OFFICER,  
HANGU.

*[Handwritten signature]*

*[Handwritten signature]*

*[Handwritten initials]*

BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE  
KOHAT REGION, KOHAT

ANNEX-C  
9

SUBJECT: APPEAL AGAINST THE ORDER OF DPO MANGU  
BEARING OB No. 707 DATED 9.12.2014  
WHEREBY THE APPELLANT EX-CONSTABLE  
KHALID KHAN No. 368 OF DISTT. POLICE  
MANGU WAS DISCHARGED FROM SERVICE  
W.O. 7 16.10.2014

Respected sir,

with veneration, the appellant submits the  
instant appeal against the impugned  
order of DPO Mangu on the basis of the  
following facts and grounds:

FACTS:-

Briefly to state that the appellant  
while posted at PS Thall in the year 2013  
was summoned by ASI Waqar Khan then  
reader to DPO Kohat to Mangu Police line.  
As such the appellant reported his  
arrival at Police line Mangu on 16.2.2014  
on that very day, I was directed by the  
said ASI Waqar to report to Shad Muhammad  
Shinwari for duty guard duty with him.  
I was on duty with Shad Muhammad  
Shinwari since 16.2.2014. ~~...~~  
on 16.10.2014, the Frontier Corps authorities  
picked me and Shad Muhammad Shinwari  
and confined us in Agency HQ Nowruz  
agency till 6.11.2014.

Ally

~~Altho~~ I was marked absent w.e.f. 16.10.2014  
Hence the discharge of the appellant from  
service by DPO Hanga vide the impugned order.  
Photocopy of the order is enclosed.

Grounds

1. That the ~~petitioner~~ <sup>appellant had</sup> never remained absent from official duty. The petitioner was on duty with Shad Muhammad Shinwari w.e.f. 16.2.2014 as per direction of ASI Waqar then posted to DPO Hanga.
2. That the appellant was confined by FC authorities with along with Shad Muhammad Shinwari w.e.f. 16.10.2014 till 6.11.2014 i.e. ~~Twenty~~ Twenty one days.
3. That the departmental enquiry was not conducted properly and in accordance with law by the enquiry officer as the material witnesses namely Shad Muhammad Shinwari and ASI Waqar were not examined by him to arrive at correct conclusion.
4. That copy of the findings of the E.O. was not provided to the appellant along with the final show cause notice and in this way the appellant was deprived of his right to defend himself.
5. That the appellant had four years of unblemished service to his credit.
6. That the appellant never remained absent from duty during the period of four years of his service.

Atty  
J

Approved: D  
10A

ORDER

This order will dispose of a departmental appeal, filled by Ex-Constable Khalid Khan No. 568 of Hangu district (hereinafter referred appellant) against the impugned order of DPO Hangu vide O.B No. 707, dated 09.12.2014, wherein the appellant was discharged from service

Facts arising of the case are that the appellant deliberately absented himself from lawful duty w.e.f 16.10.2014 to 06.11.2014. To this effect a report was entered in daily diary No. 45 dated 16.10.2014 in Police Lines

He was served with charge sheet alongwith statement of allegations by the DPO Hangu and RI Police Lines was appointed as enquiry officer to scrutinize the conduct of the appellant / accused official. The charge leveled against him was established by the E.O and recommended him for awarding major punishment. After fulfilling all codal formalities a major punishment i.e discharge from service was imposed on him by the DPO Hangu (competent authority)

Feeling aggrieved the appellant filed the instant appeal requested therein for reinstatement in service.

The appellant was called in Orderly Room held on 18.02.2015 and heard in person. He failed to advance any plausible explanation for his misconduct.

Record gone through, which indicates that the appellant was deployed at District Development Advisory Committee Office Hangu for security duty, he was bound to make his arrival and departure at Police Lines, but he did not and absented himself from the duty. Record further indicates that the appellant was performing duty as a gunman with schedule-IV person, Anti Shia activist and reportedly, posted on information regarding police activities to Anti State Elements. Besides this his service record is indifferent and awarded minor punishments on various occasions.

In view of the above and available record the undersigned came to the conclusion that the appellant is a dubious character and retention of such like element in Police can cause harm to force. The appellant committed a gross misconduct during a short period of his service. Hence the charges leveled against him have been established beyond any shadow of doubt and the undersigned doesn't seem to interfere the order passed by the DPO Hangu, which is upheld. The appeal being devoid of merit / substance is hereby rejected.

Announced  
18.02.2015

(DR. ISHTIAQ AHMAD MARWAT)  
Dy: Inspector General of Police,  
Kohat Region, Kohat.

No. 1309 /EC, dated Kohat the 19-2- /2015.

Copy to the District Police Officer, Hangu for information and necessary action. His service record is enclosed herewith.

✓ 2. Appellant

(DR. ISHTIAQ AHMAD MARWAT)  
Dy: Inspector General of Police,  
Kohat Region, Kohat.

*Alleged*

~~ARRESTED~~  
*11/2/15*

BEFORE THE HON'BLE INSPECTOR-GENERAL OF POLICE,

KHYBER PUKHTUNKHWA, PESHAWAR

DEPARTMENTAL APPEAL

NO. \_\_\_\_\_ / OF 2015

EX-NO.568 KHALID KHAN, EX-CONSTABLE SON OF YAHYA KHAN  
R/O DISTRICT HANGU.

.... APPELLANT

V E R S U S

- 1) THE DEPUTY INSPECTOR-GENERAL OF POLICE  
KOHAT REGION, KOHAT.
- 2) DISTRICT POLICE OFFICER (D.P.O), DISTRICT HANGU.
- 3) DISTRICT DEVELOPMENT ADVISORY COMMITTEE, OFFICE  
AT HANGU.

.... RESPONDENTS

DEPARTMENTAL SERVICE APPEAL-CUM-MERCY PETITION

DEPARTMENTAL APPEAL-CUM-MERCY PETITION  
AGAINST THE ORDER OF THE D.I.G POLICE,  
KOHAT REGION, KOHAT VIDE NO.2309/E.C  
DATED 19-02-2015, WHEREBY THE RESPDT:NO.1  
REJECTED THE APPEAL OF THE APPELLANT AND

*[Handwritten signature]*

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11

*[Handwritten notes: DYN No 1654/E-15, 11-3-05]*

THE ORDER OF THE D.P.O HANGU (RESPDT:NO.2)  
VIDE ORDER NO.O.B.NO.707 DATED 09-12-2014  
IS UPHELD.

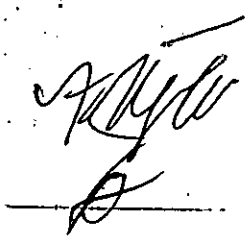
PRAYER IN APPEAL :-

ON ACCEPTANCE OF THE INSTANT  
DEPARTMENTAL SERVICE APPEAL-CUM-MERCY  
PETITION OF THE APPEAL, THE IMPUGNED  
JUDGEMENT/ORDER OF THE RESPDT:NO.1  
DATED 18-02-2015 AND OF THE RESPDT:NO.2  
DATED 09-12-2014 MAY GRACIOUSLY BE  
SET ASIDE AND THE APPELLANT MAY KINDLY  
BE RE-INSTATED IN POLICE SERVICE AGAIN  
WITH FULL BACK BENEFITS AND SENIORITY.

RESPECTFULLY SHEWETH:-

That the appellant respectfully submits the  
following:-

- 1) That the appellant was enlisted in the Police  
Force of Khyber Pukhtunkhwa and the appellant  
was deputed for his official duties at the  
office of the District Development Adviser





Committee, office at Hangu (Respdt:No.3) for security duties.

- 2) That the appellant was performing duties as a gunman with Schedule-IV person. Anti Shia activist and reportedly, posted on information regarding police activities to Anti State Elements.
- 3) That the allegations levelled against the appellant that he was deliberately absented himself from lawful duty w.e.f., 16-10-2014 to 06-11-2014 (22 days).
- 4) That an inquiry was conducted to this effect and then he was dismissed from service vide D.P.O HANGU (RESPDT:NO.2) order dated 09-12-2014.
- 5) That then the appellant filed his departmental appeal with the Hon'ble office of the Deputy Inspector-General of Police Kohat Region, Kohat but he also rejected the appeal of the Appellant vide order dated 18-02-2015 and the order of the D.P.O Hangu District was upheld. Copy of the order of Respdt:No.1 dated 18-02-2015 is annexed herewith.

m

That now the appellant approaches your kind honour on the following inter-alia grounds through the instant service departmental.



appeal-cum-mercy petition :-

G R O U N D S

- A) That the order of the Respdts:No.1 and 2 are against law, facts and material evidence, which has already been placed on case file of the appellant, hence untenable.
- B) That the appellant was never absented himself deliberately from the police duties during past while serving in the police department.
- C) That where the High Ups of my District Police deputed for security or official duties of police I performed my duties to the abilities and capabilities to the entire satisfaction of my superiors.
- D) That initially my duties was in Thall Police Station. The reader WAQAS of the D.P.O Hangu concerned telephonically informed the appellant that the D.P.O Hangu deputed the appellant with SHAD MUHAMMAD SHINWARI.
- E) That in the mean-while I came to the Hangu Police Lines and reported there personally, where MOHARRIR HUSSAIN KHAN told me that you are deputed for security duties with SHAD MUHAMMAD SHINWARI and to this effect when the entries has been made in the ROZNAMCHA (DAILY DAIRY) then I left the police line

and assumed my duties with new assignment with the order of the D.P.O Hangu.

- F) That I was deputed for security duties there for about 08 months and in the meanwhile when the month of MOHARRAM AL-HARAM came then, the THALL MILITIA SQUAD came to the place where I was performing my duties with the said person SHAH MUHAMMAD SHINWARI, The Thall Militia Squad took him the said person in their custody and I was also brought by them along with him in my police uniform, where the appellant spent 21 days and on the other hand, the D.P.O Hangu (the police department) shown the appellant as absented himself deliberately from his security duties.
- G) That when the appellant came to the police lines Hangu after releasing from that place, where I, (the appellant) was informed that after conducting an inquiry, the appellant was dismissed from the service, resulting in, the order of D.P.O: Hangu dated 09-12-2014 was in progress.
- H) That the appellant tried his best to resolve his grievances with police department regarding his dismissal from service, which is very unjust and in harsh manner and not in accordance with law, but could not succeeded in this regards.



- I) That then the appellant submitted his departmental appeal to his nearest Boss, i.e., Respdt:No.1 (D.I.G. of Police Kohat Rigion, Kohat) but he also ignored the factual facts of the case of the appellant and although he given an opportunity for personal hearing to the appellant in this behalf but he could not convinced the arguments of the appellant's in right path/way, thus he also upheld the D.P.O Hangu order about the dismissal of his service and rejected the departmental appeal of the appellant.
- J) That the appellant has got no show cause notice, nor served properly in accordance with law.
- K) That no opportunity was given to the appellant during the process of the inquiry and ex-parte proceedings was conducted in the name of Inquiry and the appellant has got no statements of allegations nor served with any charge sheet in this respect, and as well as no opportunity to cross examine the witnesses/during the alleged inquiry and also not provided by the Inquiry officer for his personal hearing, thus the whole procedure of the dismissal of appellant from his service is against law, facts and material available on case file.
- E) That the appellant belongs to a respectable family of his locality and also a poor person and having a huge family members dependant upon him and there

-: 7 :-

is no other source of his income for providing him their bread daily except the service of police and the same has also clinchised from his hands and now day by day the home affairs of the appellent is going to be very wrost.

(A) That the appellent is also requestes your kind honour to please give an opportunity for persona! hearing of him before your kind honour in accordance with prevsilling laws of the country in this behalf.

It is, therefore, most humbly prayed that on acceptance of the instant service departmental appeal of the appellent, the appellent may kindly be re-instated in service agsin with full back benefits and seniority after setting aside the impugned orders of Respdts: No.1 & 2 vide dated 18-02-2015 and 09-12-2014 respectively.

APPELLANT

*[Signature]*

(KHALID KHAN)  
EX-CONSTABLE NO. 568, S/O YAHYA KHAN  
DISTRICT HANGU  
CELL NO. 0332-9524045

DATED:- 11-03-2015

NOTE:- (As per my knowledge and belief) No such like departmental appeal is preferred by the appellent or on his behalf before this Hon'ble forum.

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*[Signature]*

KHALID KHAN

18

--: 8 :-

BEFORE THE HON'BLE INSPECTOR-GENERAL OF POLICE, KHYBER

PUKHTUNKHWA, PESHAWAR

IN RE:  
DEPARTMENTAL SERVICE APPEAL  
NO. \_\_\_\_\_/CF 2015

KHALID KHAN                      VERSUS      THE D.I.G POLICE  
EX-NO.568 CONSTABLE                      KOHAT REGION, KOHAT ETC

AFFIDAVIT

I, KHALID KHAN EX-NO.568, CONSTABLE  
S/O YAHYA KHAN, R/O HANGU, do hereby stated and declare  
on solemn affirmation that the contents of my attached  
service appeal is true and correct to the best of my  
knowledge and belief and that nothing has been kept  
concealed from this Hon'ble Forum.

*[Signature]*  
DEPONENT

KHALID KHAN  
CNIC NO. 14101

~~RESTRICTED~~  
KHALID KHAN  
ADVOCATE  
11/3/2015  
*[Signature]*

**POWER OF ATTORNEY**

In the Court of ICPE Service Tribunal Peshawar  
Mahid Khan

} For  
} Plaintiff  
} Appellant  
} Petitioner  
} Complainant

**VERSUS**

Provincial Police Officers  
and others

} Defendant  
} Respondent  
} Accused  
}

Appeal/Revision/Suit/Application/Petition/Case No. \_\_\_\_\_ of \_\_\_\_\_  
Fixed for \_\_\_\_\_

I/We, the undersigned, do hereby nominate and appoint

**IJAZ ANWAR ADVOCATE, SUPREME COURT OF PAKISTAN**

Syed Amin Yousaf my true and lawful attorney, for me  
in my same and on my behalf to appear at ICPE to appear, plead, act and  
answer in the above Court or any Court to which the business is transferred in the above  
matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits.  
Compromises or other documents whatsoever, in connection with the said matter or any  
matter arising there from and also to apply for and receive all documents or copies of  
documents, depositions etc. and to apply for and issue summons and other writs or sub-  
poena and to apply for and get issued and arrest, attachment or other executions, warrants  
or order and to conduct any proceeding that may arise there out; and to apply for and  
receive payment of any or all sums or submit for the above matter to arbitration, and to  
employee any other Legal Practitioner authorizing him to exercise the power and  
authorizes hereby conferred on the Advocate wherever he may think fit to do so. any other  
lawyer may be appointed by my said counsel to conduct the case who shall have the same  
powers.

AND to all acts legally necessary to manage and conduct the said case in all  
respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf  
under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the  
Court/my authorized agent shall inform the Advocate and make him appear in Court, if the  
case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be  
held responsible for the same. All costs awarded in favour shall be the right of the counsel  
or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at Peshawar  
the \_\_\_\_\_ day to \_\_\_\_\_ the year \_\_\_\_\_

Executant/Executants \_\_\_\_\_  
Accepted subject to the terms regarding fee \_\_\_\_\_

*Accepted*  
*[Handwritten signatures]*

*[Signature]*

**Ijaz Anwar**

Advocate High-Courts & Supreme Court of Pakistan

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

Service Appeal No. 1028/15

Khalid Khan, Ex-Constable No. 568  
District Police Hangu

..... Appellant.

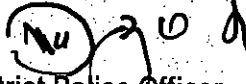
**VERSUS**

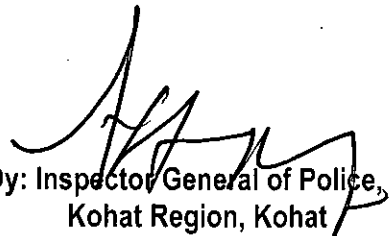
Provincial Police Officer,  
Khyber Pakhtunkhwa, and others


..... Respondents:

**COUNTER AFFIDAVIT**

We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Court.

  
District Police Officer,  
Hangu  
(Respondent No. 3)

  
Dy: Inspector General of Police,  
Kohat Region, Kohat  
(Respondent No. 2)

  
Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 1)

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

Service Appeal No. 1028/15

Khalid Khan Ex-Constable No. 568  
District Police Hangu

..... Appellant.

**VERSUS**

Provincial Police Officer,  
Khyber Pakhtunkhwa, and others

..... Respondents.

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.**

**Respectively Sheweth:-**

Parawise comments are submitted as under:-

**Preliminary objections:-**

1. That the appeal is not maintainable in the present form.
2. That the appellant has got no cause of action and locus standi.
3. That the appellant has not come to this Hon: Tribunal with clean hands.
4. That the appeal is badly time barred.
5. That the appeal is bad for misjoinder of unnecessary parties and non-joinder of necessary parties.

**Reply on Facts:-**


1. Pertains to record.
2. Incorrect. Infact the appellant while posted at DEDAC office of MPA Shah Faisal absented himself from lawful duty w.e.from 16.10.2014 till the disposal of departmental inquiry without any leave or permission from the concerned Authority.
3. Incorrect. Infact the appellant while posted at DEDAC office of MPA Shah Faisal for security duty absented himself from lawful duty w.e.from 16.10.2014 without any leave or permission from the concerned Authority. Reportedly he joined Shad Muhammad Shinwari 4<sup>th</sup> Scheduler r/o Mohallah Nagar Privately at his own and went to Bhagato with him where he was taken away by intelligence agencies. This act of the appellant was highly doubtful and of dubious character.
4. Incorrect. Infact a proper departmental inquiry was initiated against the appellant on account of his willful absence from duty and he was held guilty of will full absence. (Copy of charge sheet and statement of allegation are A & B while copy of the inquiry report is "C").
5. Incorrect. A proper departmental inquiry was initiated against the appellant in accordance with law & rules in which he was held guilty.
6. Pertains to record.
7. Incorrect. The competent Authority issued the impugned order in accordance with law.
8. Pertains to record.
9. Pertains to record. However, there is no second departmental appeal or mercy petition under the law.
10. Incorrect. The impugned order are in accordance with law and rules.

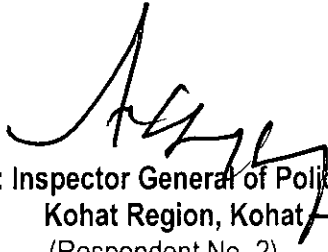



**Grounds of Appeal:-**

- A. Incorrect. A proper departmental proceedings were initiated against appellant on account of his willful absence in accordance with law & rules.
- B. Incorrect. Proper departmental proceedings initiated in accordance with law & rules. The appellant intentionally and deliberately did not join enquiry proceedings despite repeated summons and notices even upon service of charge sheet and statement of allegation.
- C. Incorrect. Infact on conclusion of inquiry final show cause notice was served upon the appellant. He has submitted his reply which was found unsatisfactory. The authority examined the inquiry papers and come to the conclusion that the appellant willingly performed his duty with Shad Muhammad 4<sup>th</sup> Scheduler at his own without the permission of concerned Authorities and was taken away by intelligence agencies being involved in Anti Social activities, therefore, he was awarded major punishment of discharge from service.
- D. Incorrect. The appellant absented himself from lawful duty w.e.from 16.10.2014 to 06.11.2014 without any leave or permission and willingly associated with Shad Muhammad Shinwari 4<sup>th</sup> Scheduler. Moreover, he was taken away by the intelligence agencies being involved in anti social activities.
- E. Incorrect. All the codal formalities were fulfilled.
- F. Incorrect. The order was passed by the authorities in accordance with law & rules, thus is maintainable.
- G. Incorrect. The order was passed by the authorities in accordance with law & rules.
- H. Incorrect. The allegations leveled against the appellant have been proved against him in a proper departmental proceedings initiated purely on merits and in accordance with law & rules.
- I. Incorrect. The appellant has committed professional misconduct which was proved in a proper departmental proceedings conducted purely on merits and in accordance with law & rules.
- J. Incorrect. The allegations leveled against the appellant have been proved in a proper departmental proceedings and was awarded punishment in accordance with law & rules by the Authorities.
- K. Incorrect. The allegations leveled against the appellant have been proved in a departmental proceedings and was held guilty.
- L. The respondent may also be allowed to advance additional grounds at the time the hearing.

In view of the above, it is prayed that on acceptance of this reply, the instant appeal may kindly be dismissed with cost.

  
District Police Officer,  
Hangu  
(Respondent No. 3)

  
Dy: Inspector General of Police,  
Kohat Region, Kohat  
(Respondent No. 2)

  
Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 1)

Before KPR Service Tribunal Peshawar

Appeal No. 1028/2015

Khalid Khan N/S Police Deptt:

Respected Sirs,

That I have received Rs/500/-  
in the above titled case.

Said  
Amin

Said Amin

Police

Attested  
28.07.16

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

In the matter of  
 Appeal No. 1028/2015

Khalid Khan..... (Appellant)

***VERSUS***

Provincial Police Officer Khyber Pakhtunkhwa, Peshawar &  
 others..... (Respondents)

<b><u>REJOINDER TO THE PARA WISE REPLY ON</u></b> <b><u>BEHALF OF THE APPELLANT</u></b>
--

Respectfully submitted:

The appellant submits his rejoinder as under:

**ON PRELIMINARY OBJECTIONS:**

1. Contents incorrect and misleading, the instant appeal is well maintainable in its present form.
2. Contents incorrect and misleading, the appellant has illegally been discharge from service hence he has got the necessary cause action to file the instant appeal.
3. Contents incorrect and misleading, the appellant has come to this Honorable Tribunal with clean hands.
4. Contents incorrect and misleading. The instant appeal is filed well within the prescribed period of limitation.
5. Contents incorrect and misleading, all the parties necessary for the disposal of the appeal are arrayed in the instant appeal.

**ON FACTS**

1. No comments.
2. Contents incorrect and misleading, however contents of Para-2 of the appeal are true and correct.
3. Contents incorrect and misleading, however contents of Para-3 of the appeal are true and correct.

4. Contents incorrect and misleading, however contents of Para-4 of the appeal are true and correct.
5. Contents incorrect and misleading, however contents of Para-5 of the appeal are true and correct.
6. No comments.
7. Contents incorrect and misleading, however contents of Para-7 of the appeal are true and correct.
8. No comments.
9. Contents incorrect and misleading, however contents of Para-9 of the appeal are true and correct. Review/ mercy petition is admissible under the law.
10. Contents incorrect and misleading, however contents of Para-10 of the appeal are true and correct.

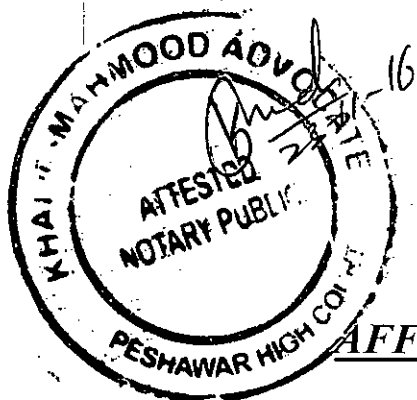
### GROUNDS

The Grounds (A to L) taken in the memo of appeal are legal and will be substantiated at the time of arguments.

*It is therefore humbly prayed that the appeal of the appellant may please be accepted as prayed for.*

*Appellant*

Through



*IJAZ ANWAR*  
Advocate, Peshawar.

&

*YASIR SALEEM*  
Advocate, Peshawar.

AFFIDAVIT

I do, hereby solemnly affirm and declare on oath that the contents of the above rejoinder as well as titled appeal are true and correct and nothing has been kept back or concealed from this Honourable Tribunal.

*Depositor*

**CHARGE SHEET.**

I, **Mr. Arwar Saeed Kundi, D.P.O, HANGU** as competent authority hereby charge you Constable Khalid Khan No. 568 while posted at D-Dal office of MPA Shah Faisal committed the following irregularities :-

a) You had absented himself from lawful duty with effect from 16.10.2014 to till now without any leave or prior permission from your seniors vide D.D No 45 dated 16.10.2014 Police Lines Hangu.

b) Your above act shows that you are indisciplined, nonprofessiona government servant which amounts to gross misconduct on your part.

2. By reasons of the above, you appear to be guilty of misconduct Under Police Disciplinary Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in the above rules.

3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Enquiry Officer/Committees, as the case may be.

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

5. Intimate whether you desire to be heard in person.

6. A statement of allegation is enclosed.

  
DISTRICT POLICE OFFICER,  
HANGU

No. 4235 /PA,

Dated 23/10/2014.

**DISCIPLINARY ACTION.**

I, **Mr. Anwar Saeed Kundi, D.P.O, HANGU** as competent authority, am of the opinion that **Constable Khalid Khan No. 568** has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning Under Police Disciplinary Rules, 1975 :-

**STATEMENT OF ALLEGATIONS.**

a). You had absented himself from lawful duty with effect from 16.10.2014 to till now without any leave or prior permission from your seniors vide D.D No. 45 dated 16.10.2014 Police Lines Hangu.

b) Your above act shows that you are indisciplined, nonprofessional government servant which amounts to gross misconduct on your part.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an Enquiry Officer consisting of the following is constituted in the above rules: -

i. Mr. Gul Sarwar Khan R.I Police Lines Hangu

3. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

  
DISTRICT POLICE OFFICER,  
HANGU

A copy of the above is forwarded to :-

1. Mr. Gul Sarwar Khan R.I Police Lines Hangu. The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Disciplinary Rules, 1975.

2. Constable Khalid Khan No. 568. The concerned officer with the directions to appear before the Enquiry Officer, on the date, time and place fixed by the Officer, for the purpose of the enquiry proceedings.

علی علی

از دستہ ری

انڈاری احقر = سکرٹری ان ری

فائل نمبر

جائے پالی = کینا صاحب خان 568 جو ڈیپٹمنٹ انسپشن شاہ منیل MPA کینا کو ڈیپٹمنٹ سربراہ  
 دے دیا تھا۔ اپنی ڈیپٹمنٹ سے غیر قانونی کر کے صرف بحال مر 42 روزانہ  $\frac{15}{014}$  16 آئی ہے  
 روٹ بننے کا وجہ کیا گیا۔ تیار کرنے کی وجہ سے وہ وقت ہو کر لکھنؤ میں گیا۔ اس کے  
 پاسکے عدالت میں ارسال کر کے حوالہ دیا۔ وہ وہاں سے مذکورہ کالکولیشن کے  
 N. 4235/PA حوالہ کر کے نہیں تو وہ اور کیا

Date 23-10-2019

کوپریشن انڈاری کینا کے سکرٹری ان ری اور انڈاری انسپشن

کینا مذکورہ بیان کینا کے بار بار لکھا گیا کہ وہ سب سے پہلے ہی وہاں گیا وہ  $\frac{15}{014}$  سے  $\frac{29}{14}$   
 کو لکھ گیا۔ مگر کینا کے پاس سے پہلے وہاں سے  $\frac{11}{014}$  کو لکھا گیا۔ مگر کینا کے پاس  
 اور وہ پہلے ہی وہاں سے  $\frac{11}{014}$  کو لکھا گیا۔ مگر کینا کے پاس سے پہلے وہاں سے

کینا مذکورہ کالکولیشن مر 28 روزانہ  $\frac{11}{014}$  کا کالکولیشن ہے

وہاں سے حوالہ دیا اور اس کے بیان کے بارے میں انڈاری ہے۔

کینا صاحب خان 568 نے طے پانٹ سے  $\frac{17}{014}$  کو حوالہ کیا ہے۔ جولائی انڈاری ہے

جس کا تعلق ہے۔ کینا مذکورہ ڈیپٹمنٹ انسپشن شاہ منیل MPA کینا کو

ڈیپٹمنٹ سربراہ کے پاس لکھا گیا اور اس کے ساتھ ساتھ کینا کو بھی لکھا گیا

وہاں سے کینا کو حوالہ دیا گیا اور اس کے ساتھ ساتھ کینا کو بھی لکھا گیا

مقدم حکام کے لئے ہے۔ چونکہ کینا مذکورہ سہ ماہی میں ہے۔ ڈیپٹمنٹ کے دوران میں انڈاری

کینا کو بھی لکھا گیا اور اس کے ساتھ ساتھ کینا کو بھی لکھا گیا

کینا کو بھی لکھا گیا اور اس کے ساتھ ساتھ کینا کو بھی لکھا گیا

17/11/2014 کو پولیس نے 25/11/2014 کو  
 ایک ایسا بیان پیش کیا اور اسے ایسا بیان قرار دیا گیا  
 کہ ایسا بیان ہے (2) ایسا بیان نہ دینا اس بات  
 کو کہ لیا ہے کہ مذکورہ بیان یا کوئی اور جرم پر مبنی ہے جو عدالت  
 دہریہ کر رہا ہے۔ ایسا مذکورہ ہر تفصیل ذیل بیان ہے۔  
 مہتمم ایس ایچ او

ایسا بیان 26/11/2014 کو ایس ایچ او کے ایسا بیان میں لکھا  
 ہے کہ (7) ایسا بیان ہے ایسا بیان پیش کیا گیا  
 ایسی صورت میں جو 16/11/2014 تا 6/11/2014 (27) ایسا بیان اور Major punishment

Gul Sarwar Khan

INSPECTOR  
 GUL SARWAR KHAN  
 R.I. POLICE LINE HANGU

26-11-2014

User Final  
 Job Case  
 Jan mic conduct  
 And arrival for  
 self in observation  
 illegal activities

[Signature]  
 12/10

submitted for  
 of Pansal Pbs

[Signature]



**FINAL SHOW CAUSE NOTICE.**

WHEREAS, You Constable Khalid Khan No. 568 while posted at D-Dak Office of MPA Shah Faisal, had absented himself from lawful duty with effect from 16.10.2014 to 06.11.2014 without any leave or prior permission from your seniors vide D.D No. 45 dated 16.10.2014 Police Lines Hangu. Your above act shows that you are indisciplined, nonprofessional government servant which amounts to gross misconduct on your part.

THEREFORE, you are served Charge Sheet vide No. 4235/PA, dated 23.10.2014 under Police Disciplinary Rules, 1975 in which you submit your reply. Inspector Gul Sarwar R. I Police Lines appointed as enquiry officer, after completion of enquiry the enquiry officer submit finding on 26.11.2014, in which he recommended you for major punishment and absent period 21 days without pay.

Now, therefore, I, **Anwar Saeed Kundi (PSP), District Police Officer, Hangu** have vested the power under Police Disciplinary Rules, 1975 liable to take action against you, which will render you.

Your reply to this Final Show Cause Notice must reach to the office of the undersigned within **7 days** of the receipt of Final Show Cause Notice. In case your reply is not received within the stipulated period, it shall be presumed that you have no defence and ex-parte action will be taken against you. Also state, whether you desire to be heard in person?

No. 4661 /PA,

Dt: 28/11/2014.

  
**DISTRICT POLICE OFFICER,  
HANGU**

ORDER.

Constable Khalid Khan No. 568, had absented himself from lawful duty with effect from 16.10.2014 to 06.11.2014 without any leave or prior permission from your senior vide D.D No. 45 dated 16.10.2014 of Police Lines Hangu. His above act shows indisciplined, nonprofessional government servant which amounts to gross misconduct on his part.

Charge Sheet together-with statement of allegations under Police Disciplinary Rules 1975 was initiated against him vide No. 4235/PA, dated 23.10.2014 under Police Disciplinary Rules, 1975 in which you submit your reply. Inspector Gul Sarwar R.I Police Lines appointed as enquiry officer, after completion of enquiry the enquiry officer submit finding on 26.11.2014, in which he recommended you for major punishment and absent period 21 days without pay.

Thereafter, Final Show Cause notice served upon him to which he submit his reply and found unsatisfactory.

Keeping in view of above and having gone through available record, the undersigned has come to the conclusion that the defaulter Constable was posted with MPA Shah Faisal at D.DAK Office but he willingly perform duty with Shad Muhammad Shinwari (placed on Schedule-IV) and was took away by Frontier Corps being involved in Anti-Social misconduct. Moreover, in these circumstances his retention in Police Department is burden on public exchequer, therefore, I, Anwar Saeed Kundi (PSP), District Police Officer, Hangu in exercise of the powers conferred upon me, *award him major punishment of "Discharge from Service" from the date of his absence i.e 16.10.2014.*

Order Announced.

OB No. 707

Dated 9 / 12 / 2014.

  
DISTRICT POLICE OFFICER,  
HANGU.

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU.

No. 4836-40/PA, dated Hangu, the 9 / 12 / 2014

Copy of above is submitted to the Regional Police Officer, Kohat for favour of information please.

2. Pay Officer, Reader, SRC & OASI for necessary action.
3. Ex- Constable Khalid Khan No. 568

  
DISTRICT POLICE OFFICER,  
HANGU.

*J. M. S. P. I.*



78060

ایڈووکیٹ/دستخط:

بار کونسل ابار ایسوسی ایشن نمبر:

رابطہ نمبر: 0331-8892508

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب:

منجانب: Appellant	دعوی:
	علت نمبر:
صاحب خان بنام <del>محمد علی</del> P.P.O	مورخہ:
	جرم:
	تھانہ:

## بامث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام سار بیلے یا سار بیلے یا سار بیلے جو ادا / کل وکیل 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 حالت و فیصلہ برصن دینے جواب دعوی اقبال دعوی اور درخواست از ہر قسم کی تصدیق زریں ہر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: 31/3/17

الع بد ————— واہ شد ————— الع بد

مقام سار کے لئے منظور ہے۔

نوٹ: اس وکالت نامہ کی ذمہ داری ناقابل قبول ہوگی۔

  
Javed us Rehman Advocate

**CHARGE SHEET.**

I, **Mr. Anwar Saeed Kundi, D.P.O, HANGU** as competent authority hereby charge you **Constable Khalid Khan No. 568** while posted at D-Dal office of **MPA Shah Faisal** committed the following irregularities :-

a) You had absented himself from lawful duty with effect from 16.10.2014 to till now without any leave or prior permission from your seniors vide D.D No 45 dated 16.10.2014 Police Lines Hanqu.

b) Your above act shows that you are indisciplined, nonprofessiona government servant which amounts to gross misconduct on your part.

2. By reasons of the above, you appear to be guilty of misconduct Under Police Disciplinary Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in the above rules.

3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Enquiry Officer/Committees, as the case may be.

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

5. Intimate whether you desire to be heard in person.

6. A statement of allegation is enclosed.

  
DISTRICT POLICE OFFICER,  
HANGU

No. 4235 /PA,

Dated 23/10/2014.

**DISCIPLINARY ACTION.**

I, **Mr. Anwar Saeed Kundi, D.P.O, HANGU** as competent authority, am of the opinion that **Constable Khalid Khan No. 568** has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning Under Police Disciplinary Rules, 1975 :-

**STATEMENT OF ALLEGATIONS.**

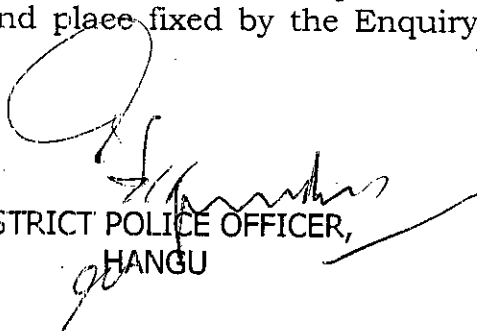
- a) You had absented himself from lawful duty with effect from 16.10.2014 to till now without any leave or prior permission from your seniors vide D.D No. 45 dated 16.10.2014 Police Lines Hangu.
- b) Your above act shows that you are indisciplined, nonprofessional government servant which amounts to gross misconduct on your part.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an Enquiry Officer consisting of the following is constituted in the above rules: -

- i. Mr. Gul Sarwar Khan R.I Police Lines Hangu

3. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

  
DISTRICT POLICE OFFICER,  
HANGU

A copy of the above is forwarded to :-

1. Mr. Gul Sarwar Khan R.I Police Lines Hangu. The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Disciplinary Rules, 1975.
2. Constable Khalid Khan No. 568. The concerned officer with the directions to appear before the Enquiry Officer, on the date, time and place fixed by the Officer, for the purpose of the enquiry proceedings.

انڈیا اری افسر = سرورین R (1977)

فائل نمبر

فائل نمبر 568 سرورین انڈیا اری افسر کے لیے کیا تو سرورین  
 دے دیا گیا۔ اپنی کاپی سے غیر متعلقہ جگہ صدف بحال 42 روزانہ 16/10/14  
 رپورٹ میں مذکور ہے کہ - تعلقہ میں نئی عیدہ ریت ہو کر لکڑی تیار کیا گیا ہے  
 اس کے بعد سب سے پہلے اس کے حوالے سے - 16/10/14 کو لکڑی تیار  
 N. 4235/PA حوالہ نمبر 1 اور

Date 23-10-2014

سرورین انڈیا اری افسر کے لیے

کیا مذکورہ بیان کیسے تیار کیا گیا ہے  
 کو لکڑی تیار کیے جانے کے لیے 11/10/14 کو لکڑی تیار کیے جانے کے لیے  
 اور 11/10/14 کو لکڑی تیار کیے جانے کے لیے

سرورین انڈیا اری افسر کے لیے

سرورین انڈیا اری افسر کے لیے

سرورین انڈیا اری افسر کے لیے

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سرورین انڈیا اری افسر کے لیے

سرورین انڈیا اری افسر کے لیے

- کئی مذکورہ نے تاریخ 17/11/2014 کو عدالت میں حاضری کی۔  
 - کئی مذکورہ نے تاریخ 16/11/2014 کو عدالت میں حاضری کی۔  
 - کئی مذکورہ نے تاریخ 15/11/2014 کو عدالت میں حاضری کی۔  
 - کئی مذکورہ نے تاریخ 14/11/2014 کو عدالت میں حاضری کی۔  
 - کئی مذکورہ نے تاریخ 13/11/2014 کو عدالت میں حاضری کی۔  
 - کئی مذکورہ نے تاریخ 12/11/2014 کو عدالت میں حاضری کی۔  
 - کئی مذکورہ نے تاریخ 11/11/2014 کو عدالت میں حاضری کی۔  
 - کئی مذکورہ نے تاریخ 10/11/2014 کو عدالت میں حاضری کی۔  
 - کئی مذکورہ نے تاریخ 09/11/2014 کو عدالت میں حاضری کی۔  
 - کئی مذکورہ نے تاریخ 08/11/2014 کو عدالت میں حاضری کی۔  
 - کئی مذکورہ نے تاریخ 07/11/2014 کو عدالت میں حاضری کی۔  
 - کئی مذکورہ نے تاریخ 06/11/2014 کو عدالت میں حاضری کی۔  
 - کئی مذکورہ نے تاریخ 05/11/2014 کو عدالت میں حاضری کی۔  
 - کئی مذکورہ نے تاریخ 04/11/2014 کو عدالت میں حاضری کی۔  
 - کئی مذکورہ نے تاریخ 03/11/2014 کو عدالت میں حاضری کی۔  
 - کئی مذکورہ نے تاریخ 02/11/2014 کو عدالت میں حاضری کی۔  
 - کئی مذکورہ نے تاریخ 01/11/2014 کو عدالت میں حاضری کی۔

- کئی مذکورہ نے تاریخ 17/11/2014 کو عدالت میں حاضری کی۔  
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 - کئی مذکورہ نے تاریخ 13/11/2014 کو عدالت میں حاضری کی۔  
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Inspector  
 Gul Sarwar Khan  
 R.I. Police Lane Hangu  
 26-11-2014

User Final  
 Job Case  
 Jan mic conduct  
 And arrival at  
 Self in illegal activities

submitted for  
 of Pansal Pbs  
 (Signature)

(Signature)  
 12/10

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Now, therefore, I, **Anwar Saeed Kundi (PSP), District Police Officer, Hangu** have vested the power under Police Disciplinary Rules, 1975 liable to take action against you, which will render you.

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No. 4661 /PA,

Dt: 28/11/2014.

  
**DISTRICT POLICE OFFICER,  
HANGU**  




ORDER.

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Order Announced.

OB No. 707.

Dated 9 / 12 / 2014.

  
DISTRICT POLICE OFFICER,  
HANGU.

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU.

No. 4836-40/PA, dated Hangu, the 9 / 12 / 2014

Copy of above is submitted to the Regional Police Officer, Kohat for favour of information please.

2. Pay Officer, Reader, SRC & OASI for necessary action.
3. Ex- Constable Khalid Khan No. 568

  
DISTRICT POLICE OFFICER,  
HANGU.

3  
MS/PA

قالہ نیا پولیس



*Shah Faisal Khan*

MEMBER PROVINCIAL ASSEMBLY  
KHYBER PAKHTUNKHWA  
PK-42 HANGU

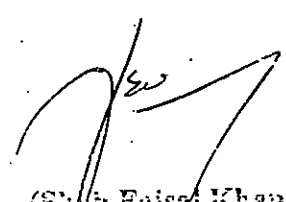
Office # 0925-620340 / Mob:0331-9292917

No. 495 /Asstt:/DDAC/H

Date. 06 / 11 /2017

**'TO WHOM IT MAY CONCERN.**

Certified that Mr.Khalid Khan (Constable Belt No.568) was placed at the disposal of undersigned through order book No.OB-91 dated 03.02.2014 from Police Line Hangu to DDAC (District Development Advisory Committee) Office on 15/02/2014. It is further added that Mr.Shad Muhammad Shinwari was in DDAC office and assisted in monitoring and identification of developmental schemes there was no direct linkage of Mr.Shad Muhammad Shinwari with Constable MrKhalid Khan however , Mr.Shad Muhammad Sinwari use to attend the Office regularly and Mr.Khalid (Constable) was permanently in the Office of the under signed. It is clarified tht he was not the security guard of Mr.Shad Muhammad Shinwari and therefore never performed his duty withhim. The charge sheet by DPO is baseless and is based on misconception, it is worthmentiong that the period of absence mentioned in charge sheet 16/10/2014 to 06/11/2014 (21 days) is actually period of verification by Thall scouts which is vivid from their correspondence i.e he was in custody of Thall scouts for 21 days and after declaring him clear, he reported to-Police line Hangu on 07/11/2014.

  
(Shah Faisal Khan)  
Chairman DDAC  
MPA, PK-42, District Hangu

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No 2485 /ST

Dated 30 /11/2017


To

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

Subject: **JUDGEMENT IN APPEAL NO. 1028//15 MR. KHALID KHAN.**

I am directed to forward herewith a certified copy of Order dated 13/11/2017 passed by this Tribunal on the above subject for strict compliance.

**Encl: As above**

  
REGISTRAR *O/c*  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.