

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

Service Appeal No. 11822/2020

Date of Institution... 01.10.2020

Date of Decision... 29.03.2023

Imran Ullah, Constable/Driver No. 1308, District Police Nowshera, Presently Police Training Centre Kohat.

... (Appellant)

**VERSUS**

Inspector General of Police, Government of Khyber Pakhtunkhwa, Peshawar and 05 others.

... (Respondents)

-----  
MR. MUHAMMAD ZAFAR TAHIRKHELI,  
Advocate

--- For appellant.

MR. FAZAL SHAH MOHMAND,  
Additional Advocate General

--- For respondents.

MR. KALIM ARSHAD KHAN  
MR. SALAH-UD-DIN

--- CHAIRMAN  
--- MEMBER (JUDICIAL)

**JUDGMENT:**

SALAH-UD-DIN, MEMBER:- Precise facts surrounding the instant appeal are that the appellant, while serving as Constable/Driver in District Nowshera, was awarded minor penalty of stoppage of 02 annual increments with cumulative effect vide order bearing O.B No. 2171 dated 30.12.2009 as well as minor penalty of stoppage of one annual increment for one year alongwith fine of Rs. 1000/- vide O.B No. 2159 dated 24.12.2009. The appellant allegedly gained knowledge of the impugned penalties in the month of September 2019 and thus challenged the same by way of filing representation before DIG Mardan Region-I followed by filing of mercy petition before the Inspector General of Police Khyber Pakhtunkhwa, however the same



were rejected. The appellant has now approached to this Tribunal by way of filing of instant service appeal for redressal of his grievance.

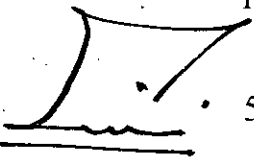
2. On admission of the appeal for regular hearing, notices were issued to the respondents, who contested the appeal by way of filing of reply, wherein they refuted the assertion raised by the appellant in his appeal.

3. Learned counsel for the appellant argued that the appellant was deputed as gunner with Additional District & Sessions Judge-II Nowshera and was on duty with him during the alleged period of his absence; that neither any charge sheet or statement of allegations was issued to the appellant nor he has been provided an opportunity of personal hearing; that the proceedings were conducted in sheer violation of the relevant rules of Khyber Pakhtunkhwa Police Rules, 1975; that the impugned orders of imposition of penalties were never communicated to the appellant and on gaining knowledge of the same in the year 2019, he challenged the same by way of filing of departmental appeal; that the impugned penalties are of financial nature, therefore, being recurring cause of action no limitation would run against the same; that the appellant has been deprived of opportunity of self defence as well as personal hearing and his right guaranteed under Articles 4 & 25 of the constitution of Islamic Republic of Pakistan has been taken away; that certain similarly placed employees had filed departmental appeals after expiry of more than 10 years but the same were accepted, while the appeal as well as mercy petition of the appellant were dismissed on the ground



of limitation by not treating him similar to other employees, which is clear violation on the part of the respondents.

4. On the other hand, learned Additional Advocate General contended that the appellant had not obeyed lawful order of the competent Authority and did not perform Muharram duty, therefore, disciplinary action was taken against him; that the appellant was awarded the impugned penalties after fulfilling of all legal and codal formalities; that the penalties were awarded to the appellant way back in the year 2009, while he filed departmental appeal and after considerable delay, therefore, the same was rightly rejected being badly time barred.



5. We have heard the arguments of learned counsel for the parties and have perused the record.

6. Available on the record is copy of Mad No. 6 dated 23.12.2009, which shows that the appellant as well as certain other constables were conveyed telephonic information that they should ensure their attendance in Police Line Nowshera for the period from 05<sup>th</sup> Muharram till 10<sup>th</sup> Muharram for Muharram duty, however they did not report in Police Line. The aforementioned copy of Mad No. 6 dated 23.12.2009 bears an endorsement that the appellant was awarded penalty of stoppage of one annual increment for one year with cumulative effect vide O.B No. 2159 dated 24.12.2009. Moreover, another endorsement on the same copy of Mad No. 6 would show that the appellant was awarded another penalty of stoppage of increments for two years with cumulative effect alongwith

fine of Rs. 1000/- vide O.B No. 2171 dated 30.12.2009. Entries of both the penalties have been made in the daily diary and nothing is available on record, which could show that any show-cause notice, charge sheet as well as statement of allegations were issued to the appellant prior to imposition of the impugned penalties. Similarly, nothing is available on the record, which could show that any inquiries under Khyber Pakhtunkhwa Police Rules, 1975 were conducted in the matter. The appellant has taken categorical stance that he was not relieved by Additional District & Sessions Judge for Muharram duty, which stance of the appellant was never thrashed out through any inquiry. Even otherwise too, it is the requirement of the concerned rule of Khyber Pakhtunkhwa Police Rules, 1975 that an opportunity is required to be provided to an accused official/officer before awarding him any punishment. The record is, however silent about providing of any opportunity of self defence as well as personal hearing to the appellant. So far as the question of limitation is concerned, the issue being one of financial benefits, therefore, the appeal is not hit by law of limitation.

7. In view of the above discussion, the impugned orders are set-aside and the appeal in hand is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
29.03.2023



(KALIM ARSHAD KHAN)  
CHAIRMAN



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

ORDER  
29.03.2023

Learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the impugned orders are set-aside and the appeal in hand is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room

ANNOUNCED  
29.03.2023



(Kalim Arshad Khan)  
Chairman



(Salah-Ud-Din)  
Member (Judicial)

26.12.2022

Due to winter vacation, the case is adjourned to  
29.03.2023 before the same.




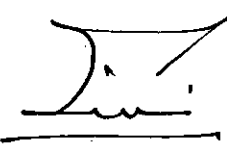
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06.06.2022

Clerk of learned counsel for the appellant present. Mr. Riaz Ahmed Paidakhel, Assistant Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for arguments on 17.08.2022 before the D.B.

  
(Fareeha Paul)  
Member (E)

  
(Salah-ud-Din)  
Member (J)

17-8-22

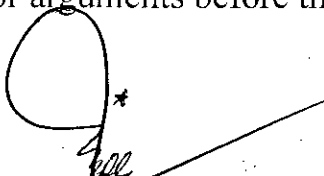
*Due to summer vacation the case is adjourned to 4-11-22 for the hearing.*

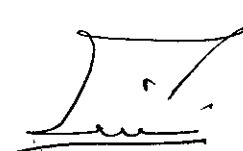


04.11.2022

Clerk of learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for arguments before the D.B on 26.12.2022.

  
(Mian Muhammad)  
Member (E)

  
(Salah-ud-Din)  
Member (J)

SCANNED  
KFOT  
Peshawar

11822/20

21.06.2021

Appellant in person and Mr. Kabirullah Khattak, Addl. AG alongwith Fayaz H.C for the respondents present.

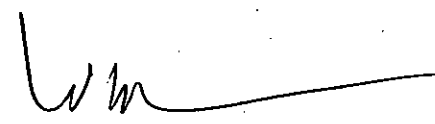
Respondents have submitted reply/comments. The appeal is entrusted to D.B for arguments on 08.11.2021.


  
Chairman

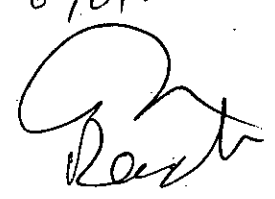
08.11.2021

Clerk of counsel for the appellant present. Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned To come up for arguments before the D.B. on 10.02.2022.

  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

*Due to retirement of  
the Hon'ble Chairman to come  
up for the same on 6/6/22*  




02.02.2021

Counsel for the appellant present.

Contends that the appellant was awarded penalty of stoppage of increment for two years with accumulative effect and also fine of Rs. 1000/- through Daily Diary No. 6 of 23.12.2009, which was never communicated to him. On gaining the knowledge, departmental appeal was submitted which was rejected being delayed/barred by time, on 22.04.2019. His mercy petition was also dismissed on 04.09.2020. Referring to the impugned order in Daily Diary as well as the one passed by appellate authority, it is contended that the so-called statement of facts provided in the two orders was contradictory and could not be relied upon.


Subject to all just exceptions, more particularly, regarding the delay, instant appeal is admitted to regular hearing. Appellant is required to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 30.04.2021 before S.B.

Appellant Deposited  
Security & Process Fee

  
Chairman

30.04.2021

Due to demise of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 21.06.2021 for the same as before.

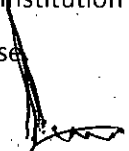

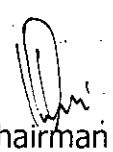
  
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Form- A

# FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 11822 /2020


S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	07/10/2020	<p>The appeal of Mr. Imranullah resubmitted today by Mr. Muhammad Zafar Tahirkheli Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please</p> <p style="text-align: right;"> REGISTRAR <u>07/10/2020</u></p> <p>2-</p>	20.11.2020	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>20/11/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Nemo for the appellant.</p> <p>Notices be issued to appellant/learned counsel for preliminary hearing on 02.02.2021 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Imranullah Constable/Driver No. 1308 District Police Nowshera received today i.e. on 01.10.2020 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Copies of Impugned orders dated 30.12.2009 and 24.12.2009 mentioned in the memo of appeal are not attached with the appeal which may be placed on it.
- 2- Annexures of the appeal are not properly flagged.
- 3- Addresses of respondent no. 2 and 3 are incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.

No. 2830 /S.T,

Dt. 02/10 /2020.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. M.Zafar Tahirkheli Adv. Pesh.

- ① Copies of orders dt: 30/10/2009 & 24/12/2009 available on Page - 6.
- ② Annexures properly flagged.
- ③ Addresses of Respondents are duly completed.

Duly completed & Resubmitted.



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

Service Appeal No. 4822 / 2020

Imran Ullah

**V**ERSUS

Govt of Khyber Pakhtunkhwa etc.


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3	Impugned Orders	"C"	30-12-2009 & 24-12-2009	6-7
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Date:- 01-10-2020

  
(Muhammad Zafar Tahirkheli)  
Advocate, H.C

  
(Ansar Ullah Khan)  
Advocate

①

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

Service Appeal No. \_\_\_\_\_/2020

Imran Ullah,  
Constable / Driver No. 1308,  
District Police Nowshera, Presently,  
Police training Center Kohat

..... Appellant

**Versus**

1. Inspector General of Police,  
Government of Khyber Pakhtunkhwa, Peshawar.
2. AIG, Establishment, Khyber Pakhtunkhwa Peshawar, *C.P.O. Peshawar*.
3. DIG, Mardan Region-I, Mardan, *Circuit House Mardan*.
4. Regional Police Officer, Mardan.
5. Registrar for Inspector General of Police Peshawar.
6. District Police Officer, Nowshera. .... Respondents

=====

**SERVICE APPEAL U/S 4 OF NWFP SERVICE TRIBUNAL ACT, 1974, AGAINST  
THE IMPUGNED REFUSAL ORDERS DATED 04-09-2020 & 22-04-2020,  
WHEREIN THE APPELLANT'S REPRESENTATION AND MERCY PETITION  
AGAINST THE PUNISHMENT FOR STOPPAGE OF INCREMENTS FOR TWO  
YEARS WITH CUMULATIVE EFFECT ALONG WITH FINE OF RS. 1000/- AND  
STOPPAGE OF INCREMENT FOR ONE YEAR WITH CUMULATIVE EFFECT,  
WAS REFUSED.**

=====

**"Prayer"**

- a. By accepting this appeal and setting aside the impugned orders dated 04-09-2020 & 22-04-2020, wherein the appellant's representation and mercy petition against the punishment for stoppage of increments for two years with cumulative effect along with fine of Rs. 1000/- vide order dated 30-12-2009 and one increment for one year with immediate effect with a fine of Rs. 1000/- vide OB No. 2159 dated 24-12-2009 were imposed upon the appellant. (Copies Annexed Marked "A" to "C")

=====

**Respectfully Sheweth,**

1. The appellant was initially appointed as Constable/Driver on 26-05-2008 and has been serving the department honestly and diligently to the utmost satisfaction of his superiors.
2. That while serving as Constable/Driver at Nowshera, the appellant was awarded a minor penalty of stoppage of two increments with cumulative effect vide order dated OB No. 2171 dated 30-12-2009 and one increment for one year with immediate effect with a fine of Rs. 1000/- vide OB No. 2159 dated 24-12-2009 by the respondent No.6.

3

3 Just the appellant was on duty with the Hon'ble AD&SI-II Nowshera Mr. Babar Ali Khan as Gunner who refused to relieve him for Muhammad Ali and directed him to remain at duty with him as his Security Guard / Gunner.

4 The impugned orders dated 30-12-2009 & 24-12-2009, were passed in absence and were never communicated to the appellant.

It is necessary to mention that entire record was destroyed in 2010 floods and the appellant never received a hint about the said penalty.

5 That the petitioner came to know about the impugned order in September 2019 and submitted his representation dated 29-09-2019 before DIG Madan Region I. The order was never communicated to the appellant.

6 Regularly the appellant was constrained to file a mercy petition before the Inspector General of Police KPK on 04-08-2020, which was turned vide order dated 04-08-2020 (Copies Annexed "D" & "E")

7 Being aggrieved and finding no other remedy, the appellant has been constrained to approach the Hon'ble Services Tribunal for the redress of his grievances, inter-alia on the following:

Grounds

(a) The respondent department has acted in a most arbitrary manner while dismissing the appellant's representation and mercy petition, in spite of his clean service record, which needs to be set right by this Hon'ble Tribunal.

(b) That the appellant during the Muhammad period in the year 2009 was serving as Security Guard / Gunner of Mr. Babar Ali Khan, AD&SI-II Nowshera. He was restricted / not allowed to leave his duties to join the Police force for Muhammad duties during the period. The matter was brought into the notice of learned DPO Nowshera by the Hon'ble AD&SI.

(c) That the appellant was neither served with any letter of explanation nor was any disciplinary proceedings ever initiated against him.

The impugned orders dated 30-12-2009 & 24-12-2009 for discharge of two and one increments respectively with fine of Rs. 1000/- were passed in absence and were never communicated to the appellant.

(b) The appellant came to know about the said penalties in the year 2019, when he noticed difference of pay with his colleagues.

It is worth mentioning that the entire record regarding the proceedings against the appellant was destroyed in devastating floods of 2010. The appellant filed a representation / appeal before the worthy DIG Madan dated 29-09-2019, which was rejected vide order 25-04-2020, which never communicated or served upon the appellant. (Copy Annexed "F")

13

- (e) That the appellant then filed a mercy petition before the worthy IGP KPK, which was refused vide impugned order dated 04-09-2020, hence the present appeal.
- (f) That the worthy authority has already graciously accepted the representation of one Constable Sahir Ali No. 1009 after a considerable delay of 10 years. Similarly the representation of Constable Shafeeq Muhammad No. 168, was accepted in spite of delay of 15 years.

The rejection of appellant's appeal being time bard is thus not only arbitrary but also discriminatory as he has not been accorded the same treatment as already allowed other Officials. **(Copies Annexed "G" & "H")**

- (g) That the appellant is suffering from re-occurring loss and his appeal merits acceptance as matter relating to the pay is not hit by the law of limitation.
- (h) The impugned order is thus arbitrary, discriminatory, against the principles of equity, justice, law and propriety, subject to correction by this Hon'ble Tribunal.

Appellant seeks permission to take several other grounds at the time of arguments.

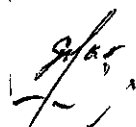
In view of the above, it is humbly requested that by accepting this appeal the impugned orders dated 04-09-2020 & 22-04-2020, wherein the appellant's representation and mercy petition against the punishment for stoppage of increments for two years with cumulative effect along with fine of Rs. 1000/- was imposed upon the appellant vide order dated 30-12-2009 and one increment for one year with immediate effect with a fine of Rs. 1000/- vide OB No. 2159 dated 24-12-2009, may kindly be set aside and the increments may kindly be restored with retrospective effect.

Any other relief deemed appropriate may also be granted

  
Appellant,

Through,

Peshawar, dated  
01-10-2020

  
(Muhammad Zafar Tahirkheli)  
Advocate

  
(Ansar Ullah Khan)  
Advocate

1308

F.C.

9

ANNEXURE A 9



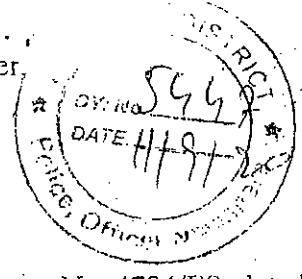
OFFICE OF THE INSPECTOR GENERAL OF POLICE KHYBER PAKHTUNKHWA Central Police Office, Peshawar.

No. SI 3491 /20, dated Peshawar the 04/09/2020

To: The Regional Police Officer, Mardan.

Subject: MERCY PETITION

Memo:



2592  
9/9/20

Please refer to your office Memo: No. 4794/ES, dated 06.08.2020.

The Competent Authority has examined and filed the mercy/revision petition submitted by Driver Constable Inran Ullah No. 1308 against the punishment of stoppage of one increments for one year with cumulative effect and fine of Rs. 1000/- vide OB No. 2159, dated 26.12.2009 and stoppage of two increments for two years with cumulative effect and fine of Rs. 1000/- vide OB No. 2171, dated 30.12.2009, being badly time barred.

The applicant may please be informed accordingly.

100 Attached  
A/B

(SYED ANIS-UL-HASSAN)  
Registrar,  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.

No - 5482/ES  
DL - 9-9-20  
EC/DPO NSR  
For n/action

PA/EC/fmr  
For n. action

RPO/Mdn

DPO NSR  
- 10/9/2020

TRUE COPY  
Dh



ORDER.

This order will dispose-off the departmental appeal preferred by Driver Constable Imran Ullah No. 1308 of Nowshera District Police against the order of District Police Officer, Nowshera, whereby he was awarded minor punishments of stoppage of one increment for one year with cumulative effect and fine of Rs. 1000/- vide OB: No. 2159 dated 26.12.2009 and stoppage of two increments for two years with cumulative effect and fine of Rs. 1000/- vide OB: No. 2171 dated 30.12.2009. The appellant was proceeded against departmentally on the allegations that he while posted at Police Lines, Nowshera failed to join Muharram duty.

Feeling aggrieved from the order of District Police Officer, Nowshera, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 15.04.2020.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. Moreover, the appellant approached this forum at a belated stage without advancing any cogent reason regarding such delay. Hence, order passed by the competent authority does not warrant any interference.

Keeping in view the above, I, Sher Akbar, PSP S.St Regional Police Officer, Mardan, being the appellate authority, finds no substance in the appeal, therefore, the same is rejected and filed, being badly time barred.

Order Announced.

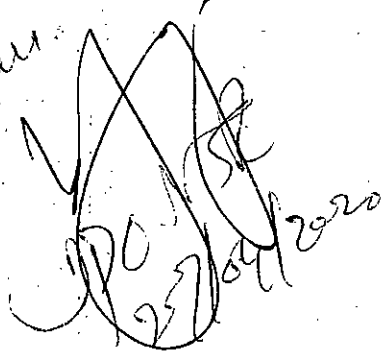


Regional Police Officer,  
Mardan.

0.626/PA No. 3084 /ES, Dated Mardan the 22 - 04 - /2020.

30/04/2020 Copy forwarded to District Police Officer, Nowshera for information and necessary w/r to his office Memo: No. 321/PA dated 29.01.2020. His Service Record is returned herewith.

EC/FMC  
For initiation



TRUE COPY  
DR

Mec

LC  
For initiation  
S

District Police Officer,  
Nowshera.

کاپی درج (6)

روز جمعہ 23/12/09

18-35

Pay stopped  
Absence fine  
Rs 1000/-  
Stopping  
increment  
For 2 years  
with  
accumulative  
effect

OBAB 2171  
30-12-09

Handwritten notes in Urdu, including names like 'محمد علی' and 'نور محمد'.

نور محمد خان  
محمد علی

1719 P/INS/12  
24/12/09

TRUE COPY

Handwritten signature/initials

24/12/09

Handwritten notes in Urdu, including names like 'محمد علی' and 'نور محمد'.

Pay stoppe  
with immediate effect  
One absence means  
fine Rs 1000/-  
More than one absence  
stoppage of increment for  
one year effect

OBAB 2154  
24/12/09

(Better Copy)

د 9 رپورٹ غیر حاضری عمرس ایضاً 5 دفت 18-30 مہینہ 23/09

کنیل زاہد رضا 664 کی ڈیوٹی سیدم عمرس المہریم ناہنڈری  
مانٹھ جون کنیل عمران اللہ 1308 کی ڈیوٹی اجماعاً 18-30  
بلڈنگ سپر کنیل طاہر علی 1196 کی ڈیوٹی ناہنڈری فرد  
نیشنل بینک لگائی گئی تھی۔ مذکورہ کنیل کو نوڈل افسر صاحبان  
فون اٹھے وہ کچھ کم مہریم سے لکیرہ اور عمرس تک پولیس لائن  
میں حاضر کیا کہ رپورٹ کریں کہ کنیل مذکورہ کنیل حاضری  
کنیل حاضری نہیں ہوئے جبکہ صرف رپورٹ غیر حاضری دیے  
اور ناہنڈری کے ٹکٹ لکیرہ صرف ہو کر لگدھن مناسب  
کارروائی اختیار کیا گیا ہے خدمت میں ارسال ہوئے

pay stopped  
Absence Fine  
Rs = 1000  
Stoppage of  
Increment  
for 2 years  
with  
accumulative  
effect

ظہار عالی  
تسل علیا بنی امی  
Hafat Khan  
HM. P. L. NSR

OB No. 2171  
30-12-09

ظہار عالی  
کنیل زاہد رضا 664 کنیل ناہنڈری  
کنیل عمران اللہ 1308 کنیل ناہنڈری  
کنیل طاہر علی 1196 کنیل ناہنڈری  
تفصیلات میں مذکورہ کنیل حاضری کنیل  
پولیس لائن حاضری نہیں ہوئے ہے رپورٹ صرف ہے

ظہار عالی  
24/12/2009

TRUE COPY  
Dr

Pay stopped  
with immediate effect  
one absence fine  
Fine Rs 1000/-

OB No 2151  
24-12-09  
more than one  
absence stoppage of  
increment for one year  
with accumulative effect

CHARACTER ROLL OF

(7) (Con)

15-CENSURES AND PUNISHMENTS - Contd.

Serial No.

Charges - White posted to police line for  
negligence duty but they failed to  
report at police line

Punishment - Awarded for minor punishment  
stoppage of increment for 6 years  
with accumulative effect  
Rs 1000/-

D.B. 2171

20-12-19

TRUE COPY

D

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191

2171 2171  
2171 2171

15-CENSURES AND PUNISHMENTS. – Contd .

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32

(7)

Charge:- While posted to Police Line for Muharram duty but they failed to report at Police Line.

Punishment:- Award him minor punishment stoppage of increment for 02 years with cumulative effect and fine of Rs. 1000/-

OB No. 2171  
30-12-2009

DPO / NSR

TRUE COPY

Pi

ANNEXURE 'D'

(8)

To: - Deputy Inspector General of Police,  
Mardan Region-I Mardan.

Through: - Proper Channel

Subject: - APPEAL

Sir,

With due respect I beg to submit that I have been awarded a minor punishment of stoppage of 1 year increment with accumulative effect and fine of Rs.1000/- by the District Police Officer Nowshera, vide OB No.2159 dated 26/12/2009 for the allegation (failed to report for Muharam duty), against which I am going to submit the present Appeal on the following grounds/justification:-

1. Neither I was issued any show cause notice or CS/SOA, nor any enquiry was conducted and I was awarded the above cited punishment straight away.
2. I was also not given opportunity of personal hearing as required under the rules.
3. I was not informed above the punishment.
4. In this connection, it is worth to be mentioned here that I have performed my duties up to the entire satisfaction of my superiors at all the time for which I have been awarded CCs- iii for my good work in case FIR NO.406 dated 30-06-2009 u/c 302 PPC PS Azakheil vide OB NO.1548 dated 12-08-2009, CC-iii with cash reward Rs.500/- for good work (Arrest of POs) in cases FIR NO.294 dated 23-09-2010 u/c 302 and FIR NO.8 dated 08-01-2012 u/c 13AO PS Nizam Pur vide OB NO.84 dated 21-01-2012 and for good duty in General Election-2017, vide OB No.768 dated 18-05-2007.
5. I have reported for duty late due to an emergency, however, performed the duty, but I was awarded a very severe and harsh punishment.
6. Due to this impugned order, I have put to great financial loss for ever and my service career has also been damaged.
7. I have a long service and am performing my duties up to the entire satisfaction of my superiors with clean & clear record.
8. Delay in submission of Appeal is due to the reason that it was recently known to me during checking of my pay/service roll, which may kindly be condoned.

Therefore, I approach your good self to kindly accept my Appeal, the order of punishment of stoppage of 1 year increment with accumulative effect and Fine of Rs.1000/- awarded by then DPO Nowshera vide OB No.2159 dated 26/12/2009 may kindly be withdrawn, so that my service career may not be damaged.

I shall be highly obliged and will pray for your long life and prosperity.

Sir,  
FORWARDED PLs  
RI. PL. NOWSHERA

Yours Obediently,  
(Imran Ullah)  
Driver Constable No.1308  
Police Lines Nowshera  
20/12/2012

ANNEXURE

To: - Inspector General of Police,  
Khyber Pakhtunkhwa Peshawar

Subject: - APPEAL

Sir,

With due respect I beg to submit that I have been awarded a minor punishment of stoppage of 1 year increment with accumulative effect and fine of Rs.1000/- by the District Police Officer Nowshera, vide OB No.2159 dated 26/12/2009 for the allegation (failed to report for Muharam duty), against which I am going to submit the present Appeal on the following grounds/Justification:-

1. Neither I was issued any show cause notice or CS/SOA, nor any enquiry was conducted and I was awarded the above cited punishment straight away.
2. I was also not given opportunity of personal hearing as required under the rules.
3. I was not informed above the punishment.
4. In this connection, it is worth to be mentioned here that I have performed my duties up to the entire satisfaction of my superiors at all the time for which I have been awarded CCs- iii for my good work in case FIR NO.406 dated 30-06-2009 u/c 302 PPC PS Azakheil vide OB NO.1548 dated 12-08-2009, CC-iii with cash reward Rs.500/- for good work (Arrest of POs) in cases FIR NO.294 dated 23-09-2010 u/c 302 and FIR NO.8 dated 08-01-2012 u/c 13AO PS Nizam Pur vide OB NO.84 dated 21-01-2012 and for good duty in General Election-2017, vide OB No.768 dated 18-05-2007.
5. I have reported for duty late due to an emergency, however, performed the duty, but I was awarded a very severe and harsh punishment.
6. Due to this impugned order, I have put to great financial loss for ever and my service career has also been damaged.
7. I have a long service and am performing my duties up to the entire satisfaction of my superiors with clean & clear record.
8. Delay in submission of Appeal is due to the reason that it was recently known to me during checking of my pay/service roll, which may kindly be condoned.

Therefore, I approach your good self to kindly accept my Appeal, the order of punishment of stoppage of 1 year increment with accumulative effect and Fine of Rs.1000/- awarded by then DPO Nowshera vide OB No.2159 dated 26/12/2009 may kindly be withdrawn, so that my service career may not be damaged.

I shall be highly obliged and will pray for your long life and prosperity.

Yours Obediently,  
(Imran Ullah)  
Driver Constable No.1308  
Police Lines Nowshera

4/08/2020

TRUE COPY

PA

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(10)

Government of Khyber Pakhtunkhwa  
Office of the Regional Police Officer,  
Mardan

Phone No. 0937-9230113, Fax No. 0937-9230115.  
Email Address: - [esrpomardan@gmail.com](mailto:esrpomardan@gmail.com)

To : The Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.

No. **4794** /ES, dated Mardan Region, the **06-108/2020.**

Subject: **MERCY PETITION.**

**Memo:**

It is submitted that the District Police Officer, Nowshera has forwarded mercy petition of Driver Constable Imran Ullah No. 1308 of Nowshera District Police, requesting therein for restoration of three years increments as well fine of Rs. 2000/- .

His mercy petition is submitted herewith for favour of further necessary action please.

Regional Police Officer,  
Mardan.

**CC.**

To the District Police Officer, Nowshera for information w/r to his office Memo: No. 1897/PA dated 29.07.2020.

TRUE COPY  
D



پولیس لائن

ANNEXURE  
مذمتی

نمبر 7

موضوع مذمت ہوں کہ جو صفحہ 12-23 کے تحت درج ہے  
2009

کا ریگڈ لوہے 2010 کے قیام تک سید بابا کی ہم  
سے سے کہ جو ختم ہو گیا ہے پولیس لائن کے درج ہے  
سے کسی قسم کے لگاؤ ہو رہا ہے اور اس میں ہے

پولیس لائن  
POLICE LINE  
2020

TRUE COPY  
Di

ANNEXURE 3  
12

ORDER.

This order will dispose off departmental appeal preferred by constable Sahir Ali No. 1009 whereby he was awarded the minor punishment of stoppage of increment for two years with cumulative effect vide OB No. 190 dated 24.2.2004 by DPO-Nowshera on the charge of absence on 21.10.2003 and from 25.11.2003 to 29.11.2003 (total: 6-days).

The relevant record has been perused and heard the appellant in O.R. on 19.3.2013. The punishment awarded seems harsh. Therefore, the final order passed by DPO-Nowshera is hereby set-aside. Absence period be counted as leave without pay.

*[Signature]*  
CAPITAL CITY POLICE OFFICER,  
PESHAWAR. 21/3/13.

No. 421 /PA dated Peshawar the 22 /03/2013.

Copy to DPO-Nowshera for information and n.a w/r to his office No. 2943/PA dated 27.10.2011. The appellant may be informed accordingly, please.

Encls: -S.Roll  
Appeal papers ( 7 )

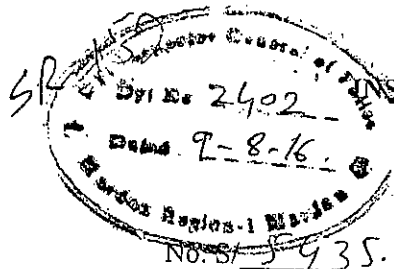
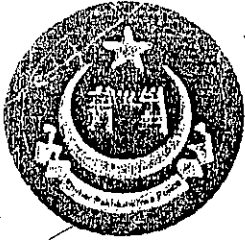
398  
PO-NSR  
3.13

PO/EC/OBSC/FMC  
For n. action  
*[Signature]*

(BBNo 399  
25.3.13)

District Police Officer  
Nowshera

TRUE COPY  
*[Signature]*



ANNEXURE

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

H  
13

No. SI 5435 /16, dated Peshawar the 05-08/2016.

**ORDER**

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Constable Shafeeq Muhammad No. 168. The appellant was awarded punishment of reduction in pay by one stage by SP/Nowshera vide OB No. 187-1, dated 19.03.2002 on the allegations that he while posted at Police Station Nowshera Cantt. was found in dereliction of duty in case FIR No. 721 dated 31.10.2001 u/s 324/147/149 PPC/156/157(89) CA Police Station Nowshera Cantt.

His appeal was filed by Regional Police Officer, Mardan vide order Endst: No. 618/ES, dated 22.01.2016.

Meeting of Appellate Board was held on 14.07.2016 wherein appellant was heard in person. Petitioner contended that he had arrested two cloth smugglers. He also contended that the allegations against him was not proved.

Examination of record revealed that penalty of reduction in pay by one stage has been imposed on petitioner on charges of dereliction of duty in case FIR No. 721 dated 31.10.2001 u/s 324/147/149 PPC/156/157(89) CA Police Station Nowshera Cantt. The permanent reduction in pay by one stage is against the direction contained in FR-29, therefore, the Board modified his penalty of reduction in pay by one stage into reduction in pay by one stage for five years.

This order is issued with the approval by the Competent Authority.

Dy No: 2605  
CA, PESHAWAR

10.8.2016

EM/IS  
No. SI 5438-43/16,

No. 7028/ES,  
dt: 09/8/16

(NAJEEB-UR-REHMAN BUGVI)  
AIG/Establishment,  
For Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan.
2. District Police Officer, Nowshera.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.
8. Central Registry, CPO.

ec/ D/o Nowshera

2  
D/o Mardan  
878

OBC, PO, EC, RMC

For no action

(OBC 1125  
10/8/16)

RECEIVED  
10/8/16

[Signature]

(14)

# VAKALATNAMA

In the Court of

**Khyber Pakhtunkhwa Service Tribunal, Peshawar**

Service Appeal No. \_\_\_\_\_ of 2020

Petitioner  
Plaintiff  
Applicant  
Appellant  
Complainant

**Imran Ullah**

Decree-Holder

**V**ERSUS

Respondent  
Defendant  
Opponent  
Accused

**IGP etc**

Judgment-Debtor

I / We Imran Ullah the above noted Appellant do hereby appointed and constitute, **Muhammad Zafar Tahirkheli & Ansar Ullah Khan, Advocates High Court**, to appear, plead, act, compromise, withdraw or refer to arbitration for me / us as my / our counsels / advocates in the above noted matter, without any liability for his default and with the authority to engage any other Advocate / Counsel at my / our cost.

The Client / Litigant will ensure his presence before the Court on each and every date of hearing and the counsel would not be responsible if the case is proceeded ex-parte or is dismissed in default of appearance. All cost awarded in favour shall be the right of Counsel or his nominee, and if awarded against shall be payable by me/us.

I / We authorize the said Advocates to withdraw and receive on my / our behalf all sums and amounts payable or deposited on my / our account in the above noted matter.

Dated 01-10-2020

Office **ATIQ LAW ASSOCIATES,**  
87, Al-Falah Street, Besides State Life Building,  
Peshawar Cantt, Phone: 091-5279529  
E-mail : [zafartk.advocate@gmail.com](mailto:zafartk.advocate@gmail.com)



Client

**M. Zafar Tahir**

Attested & Accepted (Advocates)

**Ansar Ullah Khan**

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

Service Appeal No. 11822/2020

Imran Ullah, Driver/Constable No. 1308,  
District Police Nowshera, presently, Police Training Center, Kohat.

.....Appellant

**V E R S U S**

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. AIG, Establishment, Khyber Pakhtunkhwa, Peshawar.
3. DIG, Mardan Region-I, Mardan.
4. Registrar for Inspector General of Police, Peshawar.
5. District Police Officer, Nowshera.

.....Respondents

**REPLY ON BEHALF OF RESPONDENTS**

**Respectfully Sheweth: -**

**PRELIMINARY OBJECTIONS**

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

**On Facts**

1. Initial part of the para pertains to enlistment of appellant in Police Department hence, needs no comments while regarding rest of the para, it is stated that each and every Police Officer/Official is duty bound to perform his duty with honesty and devotion.
2. Correct to the extent that appellant was awarded minor penalty of stoppage of 02 annual increments with cumulative effect vide order No. 2171 dated 30-12-2009 and one increment for one year with immediate effect with a fine of Rs. 1000/- vide OB No. 2159 dated 24-12-2009, for the reason that he willfully remained absent during Muharram duty.
3. Incorrect plea taken by the appellant, that he was on duty with the Honourable Ad&SJ-II, Nowshera as gunner who refused to relieve him and directed him to remain with him as security guard, is not plausible, because appellant was the employee of Police Department and was under obligation to obey any order passed by his high-ups.


4. Incorrect. Petitioner was well aware of the orders of punishment passed against him but as district Nowshera was hit by devastating flood of 2010 which washed out all the official record, hence the appellant took this plea that punishment orders were not communicated to him.
5. Incorrect. It is not appealable to a prudent mind that someone's increments are stopped or his pay is deducted but he remains unaware of the same. As departmental appeal of the appellant was badly time barred therefore, he took this plea that he came to know about punishment orders in the year 2019. Departmental appeal as well as mercy petition of the appellant was filed due to being badly time barred. (Copy of orders are annexed as annexure "A" & "B").
6. That the appeal of the appellant is liable to be dismissed on the following grounds: -

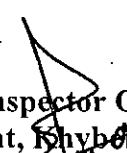
#### 1 **‘GROUNDS**


- A. Incorrect. Departmental appeal as well as mercy petition of the appellant was filed on solid grounds i.e being badly time barred. As far as service record of the appellant is concerned, the same is tainted with bad entries. (Detail of bad entries is annexed as annexure "C").
- B. Incorrect. As discussed earlier, plea of the appellant that he was on duty with the Honourable Ad&SJ-II, Nowshera as gunner who refused to relieve him and directed him to remain with him as security guard, is not plausible, because appellant was the employee of Police Department and was under obligation to obey any order passed by his high-ups.
- C. Incorrect. As discussed above that District Nowshera was hit by the devastating flood of 2010, which destroyed the entire record of this office, therefore, appellant took this plea that no disciplinary proceeding initiated against him. Punishment orders against the appellant had been passed after fulfillment of all legal and codal formalities.
- D. Para already explained needs no comments.
- E. Para already explained needs no comments.
- F. Incorrect. Plea of the appellant is not plausible because any order passed by the appellate authority cannot be generalized for all officials.
- G. Incorrect. Appeal of the appellant is liable to be dismissed by being badly time barred.
- H. Incorrect. Order passed by the competent as well as appellate authority is legal and in accordance with natural justice hence, liable to be maintained.


That the respondents also seek permission of this Honourable Tribunal to advance additional grounds at the time of arguments.

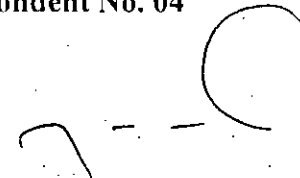
It is, therefore, most humbly prayed that on acceptance of above submissions the appeal of the appellant may very kindly be dismissed with cost, please.

  
**Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.  
Respondent No. 01**

  
**Assistant Inspector General of Police,  
Establishment, Khyber Pakhtunkhwa,  
Peshawar.  
Respondent No. 02**

  
**Deputy Inspector General of Police,  
Mardan Region-I, Mardan.  
Respondent No. 03**

  
**Registrar for Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.  
Respondent No. 04**

  
**District Police Officer,  
Nowshera.  
Respondent No.05**

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

Service Appeal No. 11822/2020

Imran Ullah, Driver/Constable No. 1308,  
District Police Nowshera, presently, Police Training Center, Kohat.

.....Appellant


**V E R S U S**

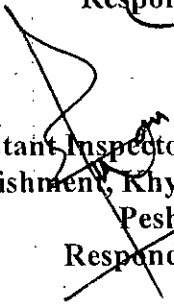
1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. AIG, Establishment, Khyber Pakhtunkhwa, Peshawar.
3. DIG, Mardan Region-I, Mardan.
4. Registrar for Inspector General of Police, Peshawar.
5. District Police Officer, Nowshera.


.....Respondents

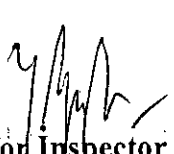
**AFFIDAVIT**

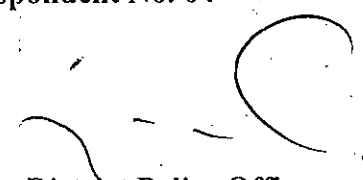
We the respondents No. 1,2,3 ,4 & 5 do hereby solemnly affirm and declare on Oath that the contents of reply to the appeal are true and correct to the best of our knowledge and belief and nothing has been concealed from the Honourable tribunal.

  
Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.  
Respondent No. 01

  
Assistant Inspector General of Police,  
Establishment, Khyber Pakhtunkhwa,  
Peshawar.  
Respondent No. 02

  
Deputy Inspector General of Police,  
Mardan Region-I, Mardan.  
Respondent No. 03

  
Registrar for Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.  
Respondent No. 04

  
District Police Officer,  
Nowshera.  
Respondent No.05



ANNEXURE

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ORDER.

This order will dispose-off the departmental appeal preferred by Driver Constable Imran Ullah No. 1308 of Nowshera District Police against the order of District Police Officer, Nowshera, whereby he was awarded minor punishments of stoppage of one increment for one year with cumulative effect and fine of Rs. 1000/- vide OB: No. 2159 dated 26.12.2009 and stoppage of two increments for two years with cumulative effect and fine of Rs. 1000/- vide OB: No. 2171 dated 30.12.2009. The appellant was proceeded against departmentally on the allegations that he while posted at Police Lines, Nowshera failed to join Muharram duty.

Feeling aggrieved from the order of District Police Officer, Nowshera, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 15.04.2020.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. Moreover, the appellant approached this forum at a belated stage without advancing any cogent reason regarding such delay. Hence, order passed by the competent authority does not warrant any interference.

Keeping in view the above, I, Sher Akbar, PSP S.St Regional Police Officer, Mardan, being the appellate authority, finds no substance in the appeal, therefore, the same is rejected and filed, being badly time barred.

Order Announced.

Regional Police Officer,  
Mardan.

0.626/PA No. 3084 /ES, Dated Mardan the 22 - 04 - /2020.

4 30/04/2020 Copy forwarded to District Police Officer, Nowshera for information and necessary w/r to his office Memo: No. 321/PA dated 29.01.2020. His Service Record is returned herewith.

EC/FAC  
For n. ulhan  
[Signature]  
27/04/2020

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[Signature]  
[Signature]

District Police Officer,  
Nowshera.

1308

EC

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ANNEXURE

OB 3



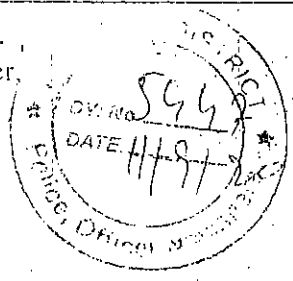
OFFICE OF THE INSPECTOR GENERAL OF POLICE KHYBER PAKHTUNKHWA Central Police Office, Peshawar.

No. SI/ 3491 /20, dated Peshawar the 04/09/2020

To: The Regional Police Officer, Mardan.

Subject:- MERCY PETITION

Memo:



2592  
9/9/20

Please refer to your office Memo: No. 4794/ES, dated 06.08.2020.

The Competent Authority has examined and filed the mercy/revision petition submitted by Driver Constable Imran Ullah No. 1308 against the punishment of stoppage of one increments for one year with cumulative effect and fine of Rs. 1000/- vide OB No. 2159, dated 26.12.2009 and stoppage of two increments for two years with cumulative effect and fine of Rs. 1000/- vide OB No. 2171, dated 30.12.2009, being badly time barred.

The applicant may please be informed accordingly.

IP: Attached to  
N/E

(SYED ANIS-UL-HASSAN)  
Registrar,  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.

No - 5482/ES  
DL - 9-9-20  
EC/DPO NSR  
For n/action

PA/EC/FMR  
FOR n. action

RPO/Mdn

DPO NSR  
- 10/9/2020

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« C »

DETAIL OF BAD ENTRIES OF EX-CONSTABLE IMRAN ULLAH

1. Rs. 1000/- fine vide OB No. 1716 dated 15-09-2009.
2. Rs. 1000/- fine vide OB No. 2154 dated 24-12-2009.
3. Stoppage of one annual increment with fine Rs. 1000/- vide OB No. 2159 dated 26/12/2009.
4. Stoppage of two year annual increments with fine Rs. 1000/- vide OB No. 30-12-2010.
5. Censure vide OB No. 1555 dated 08-12-2015.
6. 01 day leave without pay.
7. 03 days leave without pay.
8. 02 days extra drill.