

760/18

20.04.2023

Counsel for the appellant present. Mr. Fazal Shah
Mohmand, Addl. A.G for the respondents present.

The Worthy Chairman is on leave today, the bench
is, therefore incomplete. To come up for arguments on
18.05.2023 before the D.B. Parcha Peshi given to the parties.


(FAREEHA PAUL)
Member (E)


Fazle Subhan P.S


01st Dec. 2022

Appellant alongwith counsel present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

SCANNED
KPST
Peshawar

Learned counsel for the appellant sought adjournment in order to further prepare the brief. Granted. To come up for arguments 13.01.2023 before the D.B.


(Farzana Paul)
Member (E)



(Rozina Rehman)
Member (J)


13.01.2023

Clerk of learned counsel for the appellant present. Mr. Arif Saleem, Steno alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for official respondents present.

SCANNED
KPST
Peshawar

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 20.04.2023 before the D.B.


(Mian Muhammad)
Member (E)


(Salah-Ud-Din)
Member (J)

28th July, 2022

Appellant in person present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Waqar, ASI for respondents present.

Appellant submitted an application for adjournment wherein he stated that his learned counsel is indisposed today and unable to attend the Tribunal. Application is placed on file. To come up for arguments on 24.10.2022 before the D.B. P.P given to the parties.



(Salah Ud Din)
Member(Judicial)



(Kalim Arshad Khan)
Chairman

24th Oct., 2022

Lawyers are on strike today.

To come up for arguments on 01.12.2022 before the D.B. Office is directed to notify the next date on the notice board as well as the website of the Tribunal.



(Fareeha Paul)
Member(E)

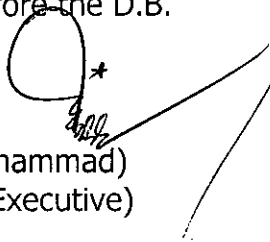


(Kalim Arshad Khan)
Chairman

05.10.2021

Counsel for the appellant and Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Former sought adjournment to prepare the case. Request is accorded. To come up for arguments on 29.11.2021 before the D.B.


(Mian Muhammad)
Member(Executive)



Chairman

29.11.2021 Due to unavailability of DB, the case is adjourned to 07-03-2022.


Reader

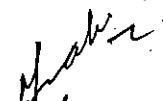
7-3-22

Due to retirement of the Honorable Chairman, the case is adjourned on 5-5-22


Reader

9-5-2022

Due to Holidays of Eid Ul Fitar the case is adjourned to come up for the same as before on 13-7-2022


Reader

30.12.2020

Due to summer vacation, case is adjourned to
17-3.2021 for the same as before.



Reader

17.03.2021

Appellant with counsel and Addl: AG for respondents
present.

Former requests for adjournment as he has not prepared
the brief.

Adjourned to 01/07/2021 for arguments before D.B.

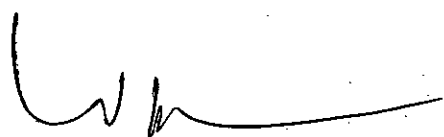

(Mian Muhammad)
Member (E)

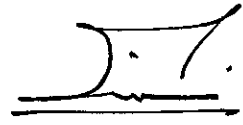

Chairman

01.07.2021

Appellant alongwith his counsel present. Muhammad
Rasheed Khan, Deputy District Attorney for the respondents
present.

We being Members of Larger Bench, remained busy in
hearing arguments in the appeals fixed before the Larger
Bench, therefore, arguments in the instant appeal could not
heard. Adjourned. To come up for arguments before the D.B
on 05.10.2021.


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


(SALAH-UD-DIN)
MEMBER (JUDICIAL)


30.06.2020

Due to COVID-19, the case is adjourned to 25.08.2020
for the same.


Reader

25.08.2020

Due to summer vacation case to come up for the
same on 28.10.2020 before D.B.


Reader

28.10.2020


Proper D.B is on Tour, therefore, the case is
adjourned for the same on 30.12.2020 before D.B.

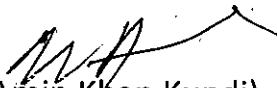

Reader

12.12.2019

Appellant in person and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Ameer Hussain, PSI for the respondents present.


Due to general strike of Khyber Pakhtunkhwa Bar Council learned counsel for the appellant is not available today. Adjourned to 11.02.2020 for arguments before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

11.02.2020

Learned counsel for the appellant present. Mr. Kabirullah Khattak learned Additional AG alongwith Mr. Abid Hussain ASI for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 03.04.2020 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member


03.4.2020

Due to COVID-19, the case is adjourned for same on 30.6.2020.



25.07.2019

Counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 20.09.2019 for arguments before D.B.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

20.09.2019

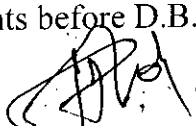
Learned counsel for the appellant present. Mr. Ziaullah, DDA for respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 01.11.2019 before D.B.



Member


Member

01.11.2019

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 12.12.2019 for arguments before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

04.03.2019

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Written reply on behalf of respondents not submitted. Learned Additional AG requested for further adjournment. Last opportunity is granted. Adjourned to 08.04.2019 for written reply/comments before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

08.04.2019

Counsel for the appellant and Addl. AG alongwith Muhammad Fayaz, PTC for the respondents present.

The representative of respondents has submitted parawise comments on behalf of all the respondents which are placed on record.

To come up for arguments before D.B on 10.06.2019. The appellant may furnish rejoinder to the reply within one month, if so advised.

Chairman 

10.06.2019

Counsel for the appellant and Addl. AG alongwith Attaur Rahman, Inspector (Legal) for the respondents present.

Learned counsel for the appellant requests for adjournment as he is not feeling well. Adjourned to 25.07.2019 for arguments before the D.B.


Member


Chairman

Service Appeal No. 760/2018

04.10.2018

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Representative of the department is not in attendance therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply positively on the next date. Adjoined. To come up for written reply/comments on 20.11.2018 before S.B.


(Muhammad Amin Khan Kundi)
Member

20.11.2018

Appellant in person present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Representative of the department is not in attendance, therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjoined. To come up for written reply/comments on 09.01.2019 before S.B.


Muhammad Amin Khan Kundi
Member

09.1.2019

Counsel for the appellant and Addl. AG for the respondents present.

Learned AAG seeks further time for submission of written reply. Adjoined to 04.03.2019 with the warning to respondents for payment of costs in case the needful is not done on the next date.


Chairman

18.07.2018

Counsel for the appellant present. Preliminary arguments heard and case file perused. On account of willful absence from duty, he was dismissed from service from the date of his absence vide impugned order dated 11.12.2012. He preferred departmental appeal on 04.05.2018 which was rejected on 10.05.2018, hence, the instant service appeal. As the impugned order was passed with retrospective effect so the same is void and no limitation runs against a void order. The appellant fell ill and requested for medical leave but was not granted by the competent authority, as such he was not treated according to law and rules.

Points urged need consideration. Admit, subject to limitation. The appellant is directed to deposit of security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 07.09.2018 before S.B.


(AHMAD HASSAN)
MEMBER

07.09.2018

Appellant with counsel and Mr. Kabirullah Khattak, Additional AG for the respondents present. Written reply by respondents not submitted. Learned Additional AG made a request for adjournment for filing of written reply. Adjourned. To come up for written reply/comments on 04.10.2018 before S.B.


(Muhammad Amin Khan Kundi)
Member



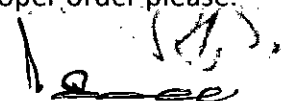


Appellant Deposited
Security & Process Fee

01/07/18

Form -A
FORM OF ORDER SHEET

Court of _____

Case No. 760/2018

| S.No. | Date of Order Proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1 | 30/05/2018 | <p>The appeal of Mr. Yasir Jamal presented today by Mr. Aslam Khan Khattak Advocate may be entered in the Institution register and put up to the Wrothy Chairman for proper order please.</p> <p> REGISTRAR 30/5/18</p> <p>The case is entrusted to S.B Bench for preliminary hearing to be put up there on <u>11/06/18.</u></p> <p> CHAIRMAN</p> <p>11.06.2018</p> <p>Counsel for the appellant Mr. Aslam Khan Khattak, Advocate present and made a request for adjournment. Granted. To come up for preliminary hearing on 18.07.2018 before S.B.</p> <p> Chairman</p> |

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

Appeal No. 760 /2018

Yasir Jamal

VERSUS

Inspector General of Police & Others


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| 5 | Departmental appeal dated 4-5-2018 | "C" | 9 |
| 6 | Final Impugned order dated 10-5-2018 | "D" | 10 |
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Dated: 30/05/2018


Appellant

Through


1. Aslam Khan Khattak
2. Muhammad Khurshid
Advocates Peshawar.

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

Appeal No. _____/2018

Yasir Jamal, Ex Constable No. 315, R/o Manzini Banda, Tehsil
Takht-e-Nasrati, District Karak.

-----(*Appellant*)

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa,
Peshawar.
2. Regional Police Officer, Kohat Region, Kohat.
3. District Police Officer, Karak.

-----(*Respondents*).

**APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL ACT -1974 AGAINST THE
IMPUGNED ORDER DATED 11/12/2012 VIDE
ANNEXURE 'B' WHEREBY THE APPELLANT HAS
BEEN DISMISSED FROM SERVICE W.E.F 5-7-2012
AND ALSO AGAINST THE FINAL IMPUGNED
ORDER DATED 10-5-2018 VIDE ANNEXURE 'D'
WHEREBY THE APPELLANT'S REPRESENTATION
HAS BEEN FILED.**

PRAYER

ON ACCEPTANCE OF APPEAL, BOTH THE
IMPUGNED ORDER VIDE ANNEXURES 'B' AND
'D' MAY BE SET ASIDE AND THE APPELLANT
MAY BE REINSTATED IN SERVICE WITH ALL
BACK BENEFITS.

Respectfully Sheweth;

Brief facts leading to the instant appeal are as under:-

1. That the appellant having been inducted in service as constable on 20-11-2008 vide annexure 'A'.
2. That the appellant throughout his whole service has performed his duty with utmost of his capabilities and to the entire satisfactions of his superiors.
3. That the appellant in the year 2012 suffered from chronic disease and was unable to perform his duties and thereafter he was dismissed from service vide impugned order dated 11-12-2012 with effect from 5-7-2012 at annexure 'B'.
4. That the appellant has filed his departmental appeal on 4-5-2018 vide annexure 'C' which has been filed on 10-5-2018 vide annexure 'D' and hence this appeal inter alia on the following grounds:-

Grounds:

- A. That the impugned order dated 11-12-2012 has been given retrospective effect dated 5-7-2012 which is patently an illegal order which can not be

given any effect to under the law and is liable to be set aside on this score alone.

- B. That the appellant during the period of his absence was sick and was unable to perform his duty. So he was entitled for leave on medical grounds which has not been given to him. Therefore, his dismissal order is liable to be set aside on this score alone.
- C. That the charges of absence from the duty if even proved is a petty misconduct and dismissal from service on such charges is an extreme harsh punishment and so both the impugned orders are liable to be set aside.
- D. That no show cause notice has been served upon the appellant and no regular enquiry in the matter has been conducted which was necessary under the law. So both the impugned orders may be set aside and the appellant may be reinstated in service with all back benefits.
- E. That the respondent No. 3 has acted as authorized officer vide annexure E & F and authority vide annexure 'B' in the instant case which is clear error as per judgments of august Supreme Court of Pakistan
- F. That one Umar Khan, Ex Constable No 646, who was discharged from service vide DB No 1601

dated 1-12-2008 on the charges of absence from duty has been reinstated in service vide No/S 2310/17 dated Peshawar the 7-4-2017 after 8 years 4 months & 6 days vide annexure 'G'. So the appellant is also entitled to same relief under the law. So the appellant's dismissal order from service is illegal under the law and so the appellant is entitled to reinstatement in service under the law.

G. That the last opportunity of personal hearing has not been given to the appellant. To this regard both the impugned orders are not sustainable and may be set aside on this score alone.

H. That both the impugned order vide annexure B and D are illegal, malafide, without jurisdiction and without lawful authority and therefore, may be set aside.


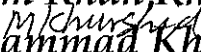
I. That the appellant seeks leave of this Honorable Tribunal to rely on additional grounds at the time of arguments.

It is, therefore, prayed that on acceptance of appeal, both the impugned orders at annexure B and D may be set aside and the appellant may be reinstated in service with all back benefits.

Dated: 30/05/2018


Appellant

Through


1. Aslam Khan Khattak

2. Muhammad Khurshid
Advocates, Peshawar.

5.

BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR

Appeal No. _____/2018

Yasir Jamal

VERSUS

Inspector General of Police & Others

APPLICATION FOR CONDONATION OF DELAY IF ANY

RESPECTFULLY SHEWETH,


GROUNDS:-

1. That the grounds mentioned in appeal may be treated as integral part of this application.
2. That it is the settled law of the august Supreme Court of Pakistan that the cases be decided on merits and not on technicalities such as limitation.
3. That the Petitioner has not committed any misconduct and if the delay if any is not condoned, his whole life shall be destroyed.

It is, therefore, prayed that on acceptance of this application, the delay if any shall be condoned to meet the ends of justice.

Dated: 30/05/2018

Through


Petitioner/Appellant


1. Aslam Khan Khattak


2. Muhammad Khurshid

Advocates Peshawar

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

Appeal No. _____/2018

Yasir Jamal, Ex Constable No 315..... Appellant

VERSUS

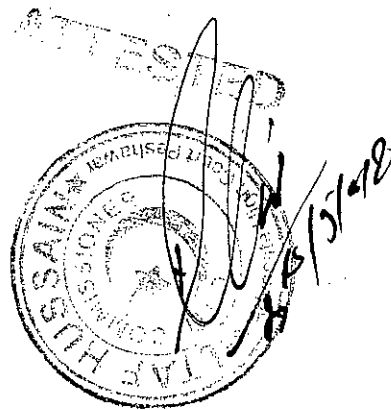
Inspector General of Police & Others

AFFIDAVIT

I, Yasir Jamal, Ex Constable No 315 of District Karak, do hereby solemnly affirm and state on oath that all contents of the application for Condonation of delay if any are true and correct to the best of my knowledge and belief and nothing wrong has been stated by me in the matter.



Deponent



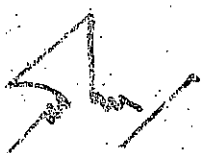
Recruitment Session, November-2008

ORDER

Mr. Yasir Jamal S/O Ali Abbas r/o Manzini Banda, Tehsil Takht-e-Nasrati, District Karak, having Height, 5'-8 1/2", Chest 33"x34 1/2", Education 10th. Date of birth 02.05.1984, is hereby enlisted as Constable, BPS-5 (3340-160-8140) with effect from 20.11.2008 in this District Police. He is medically fit and also verified to be of good character by the local Police. His service is liable to be terminated within 14 days notice with out assigning any reason.

He is allotted constabulary No.315.

OB. No. 1564
Dated 28-11-2008


(NISAR AHMAD KHAN)
PPM, PSP
District Police Officer, Karak.

ORDER

Amn esulre B

8

This Order is passed on the departmental action taken against Constable Yasir Jamal No.315 leading to the present departmental proceedings are as follows:-

According to the charge sheet, Constable Yasir Jamal No.315 absented himself from his lawful duty w.e.from 05.07.2012 till date vide daily diary No.29, dated 05.07.2012 Police Lines Karak. His pay was stopped to this effect.

Charge Sheet and Statement of allegation based on above allegations were issued to Constable Yasir Jamal No.315. Mr. Aman Ullah Khan DSP Hqr Karak was appointed as enquiry Officer to scrutinize the conduct of Constable Yasir Jamal No.315 with reference to the charges leveled against him.

Enquiry Officer submitted finding report and reported that the accused Constable absented himself without any leave or prior permission. He went abroad and the statement of his father placed on file is evident proof that he has gone abroad without permission. The allegation leveled against him has been proved. He is recommended for major Punishment.

Final Show Cause Notice was issued to the defaulter official through daily News Paper "EXPRESS" dated 28.11.2012 on the above allegations and directed to resume his duty or appear before the enquiry Officer but he failed in resuming his duty within the specified time mentioned in Press Clip.

In view of the evidence collected during course of enquiry, recommendation made by the enquiry Officer and adopted all codal procedural formalities, he is hereby "Dismissed from Service" from the date of his absence.

Kit etc be recovered.

5-7-2012

OB No. 1254

Dated 11-12-2012

District Police Officer, Karak

انوار علی مظاہر = 17 عدد
آفسر اور ایڈیٹور فونڈ جاری
سنگھوہل ریج 12/12 جاری

12/12/12

The Honorable

INSPECTOR GENERAL OF POLICE
Peshawar, Khyber Pakhtunkhwa.



Subject: Departmental Appeal

Respected Sir,

With due respect, appellant submits departmental appeal for the restoration of lost service on the following grounds.

1. That appellant joined the police department as constable district Karak qualified Recruit course. Appellant was rendering service to the entire satisfaction of senior officer.
2. That in the year 2012, appellant suffered from chronic disease and was unable to join duties.
3. That the appellant passed dismissal from service order of appellant dated 11-12-2012, without providing chance of defence to appellant, hence this restoration on the following grounds.

Grounds:

- a) That the impugned order dated 11-12-2012 was passed by District Police officer Karak at the back of appellant.
- b) i. That no charge sheet was served on appellant.
ii. No chance of defence was appointed was provided to appellant.
iii. No one was examined as a witness in the presence of appellant.
- c) That appellant was dismissed from service on the basis of ex-parte proceeding.
- d) That the alleged absence from duty was not willful and deliberate but inevitable as the chronic disease did not allow the appellant to join duties.
- e) That the no law and rules allow dismissal from service with retrospective date and the impugned order was passed and made affective from the retrospective date of absence from duty.
- f) That on regaining health appellant paid visit to Police line Karak for joining duties but was told about the impugned order.
- g) That on receipt of copy of the order, the present departmental appellant is submitted.
- h) That appellant possesses good physique and have earnest desire to serve to police department.

It is therefore requested that the impugned order may be set aside and appellant may be reinstated in service with all back benefits.

Yours Appellant
Yasir Jamal
Ex- Constable No 315
District Karak
Cell No: 0345-5456647

S. S
315

| | |
|--|--------------|
| Office of the FPO KPK, Peshawar (Secret Branch) | |
| Dy: No. SI | 1199 / 18 |
| Dated | 04 - 05 - 18 |

Amn... 102

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10

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

No. S/ 1842 /18, dated Peshawar the 10/05/2018.

To : The Regional Police Officer,
Kohat Region, Kohat.

Subject: APPEAL (EX-FC YASIR JAMAL NO. 315)

Memo.

Ex-FC Yasir Jamal No. 315 of District Police Karak had submitted appeal to the Worthy Inspector General, of Police, Khyber Pakhtunkhwa, Peshawar for reinstatement into service. His appeal was processed / examined at Central Police Office, Peshawar and filed by the competent authority being time barred for about 05 years.

The applicant may please be informed accordingly.

(IRFAN ULLAH KHAN) PSP,
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

No. 11063 /BC
Dated 12/9 2012

Ammeouse

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↓
①

CHARGE SHEET

I, Sajjad Khan, District Police Officer, Karak as competent authority, hereby charge you **Constable Yasir Jamal No. 315 Police Lines Karak** as follow:

"You Constable Yasir Jamal No. 315 absented yourself from your lawful duty w-e-from 05.07.2012 till date vide Daily Diary No. 29, dated 05.07.2012 Police Lines Karak. Your pay has been stopped to this effect. Your this act is against service discipline and amount to gross misconduct."


2. By reason of your commission / omission, constitute miss-conduct under Police disciplinary rules-1975 and have rendered your-self liable to all or any of the penalties specified in Police rules-1975 ibid.

You are, therefore, required to submit your written defense within 07 days of the receipt of this charge sheet to the enquiry Officer **Mr. Aman Ullah Khan DSP Hqrs Karak.**

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

4 Intimate whether you desire to be heard in person.

5 A statement of allegation is enclosed.


District Police Officer, Karak

DISCIPLINARY ACTION

Home rule

F
12

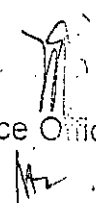
1. I, Sajjad Khan, District Police Officer, Karak as competent authority, is of the opinion that **Constable Yasir Jamal No. 315** has rendered himself liable to be proceeded against on committing the following act / commission within the meaning of Police disciplinary Rule-1975

STATEMENT OF ALLEGATION

"Constable Yasir Jamal No. 315 absented himself from His lawful duty w-e-from 05.07.2012 till date vide Daily Diary No. 29, dated 05.07.2012 Police Lines Karak . His pay has been stopped to this effect. His this act is against service discipline and amount to gross misconduct."

2. The enquiry Officer, **Mr. Aman Ullah Khan DSP Hqrs Karak** in accordance with provision of the Police Disciplinary Rule-1975 may provide reason able opportunity of hearing to the accused official, record his finding and make within 07-days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused.

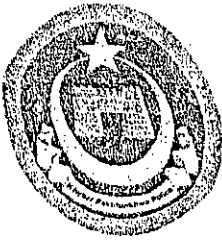
3. The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.


District Police Officer, Karak.

No. 1106465 /EC (enquiry), dated 13/8 /2012.

Copy to:-

1. The enquiry Officer for initiating proceeding against the accused under the Provision of the Police disciplinary Rule-1975.
2. Constable Yasir Jamal No. 315 Police Lines Karak.



Annexure
9
13

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. S/ 23/17 /17, dated Peshawar the 07/04/2017.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Constable Umar Khan No. 646. The appellant was discharged from service by DPO/Karak vide OB No. 1601, dated 01.12.2009 on the charge of absence from Elite Training Center Mardan w.e.f 17.08.2008 to 19.11.2008, 20.11.2008 till date, of discharge from service i.e. 01.12.2008 for a period of 03 months and 14 days.

His appeal was filed / dismissed by Regional Police Officer, Kohat vide order Endst: No. 6824/EC, dated 08.08.2009.

Meeting of Appellate Board was held on 30.03.2017. Petitioner present and heard. Petitioner stated that his absence was not deliberate but the domestic affairs did not allow him to join duty. He further contended that his monthly salary was the sole source of income for running the affairs of his family affairs and he is facing great hardship in earning livelihood for his family.

The petitioner service was less than 03 years therefore he was discharged from service. Hence conversion of the discharge order is not justified. Therefore, the Board decided that petitioner is hereby re-instated into service. However, the intervening period shall not be neither considered towards service nor duty. He will not be entitled for any kind of benefits of intervening period.

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

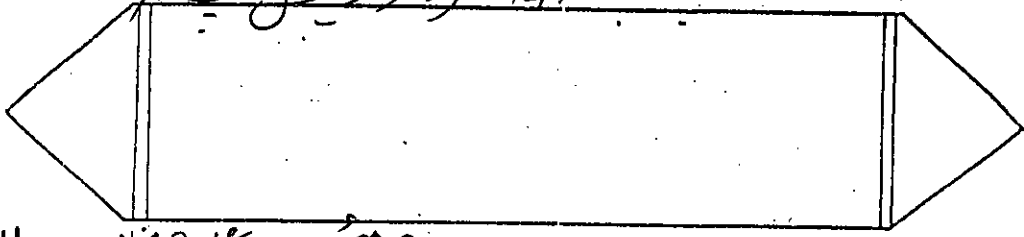
(MASOOD AHMAD KHAILIL)
AIG Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. S/ 23/17 -17 /17,

Copy of the above is forwarded to the:

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

بعد الت جواب کپک سرور ٹریڈ منٹ



30 مئی 2018ء پنجاب اسٹیشن

بنام انسٹیٹیوٹ قذافی آف لیسٹریکٹ
پتہ: دو گڑھ

باصرف حال

سرور کی اسٹیشن

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیردی و جواب دہی و کل کارروائی متعلقہ
آن مقام کے لئے کے لئے کیلئے اسلم خان فٹک، محمد قریب الدین

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقررات ہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برادگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکورہ کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

المرقوم 30 مئی 2018ء

العبد گواہ العبد

کے لئے منظور ہے۔

بکھو

بمقام

attested & accepted

1. Ashu

2. Akhushid

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service appeal No. 760/2018

Yasir Jamal

....Appellant

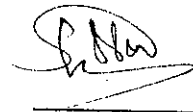
VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa and Others

..... Respondents

INDEX

| S.NO | DESCRIPTION | ANNEXURE | PAGE NO. |
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| 1. | Para wise comments | - | 1-2 |
| 2. | Petition for condonation of delay | - | 3 |
| 3. | Affidavit | - | 4 |
| 4. | Charge Sheet along with acknowledgement Receipt by appellant's Father | A | 5-6 |
| 5. | Press Clipping of Daily Express dated 28.11.2012 | B | 7 |



Respondents
Through Representative

BEFORE THE HONORABLE SERVICE TRIBUNAL

Service appeal No. 760/2018

Yasir Jamal

Versus

Inspector General of Police,
Khyber Pakhtunkhwa and OthersPARAWISE COMMENTS ON BEHALF OF RESPONDENTSRespectively Sheweth:Parawise comments are submitted as under:-Preliminary Objections:

- i. That the appellant has got no cause of action.
- ii. That the appellant is stopped due to his own conduct to file the instant appeal.
- iii. That the appeal is not maintainable in its present form.
- iv. That the appellant has not come to this Hon: Tribunal with clean hands.
- v. That the appeal is badly time barred.

FACTS:

1. Pertains to record, hence no comments.
2. Incorrect, the appellant during his short span of service willfully absented himself from lawful duty vide daily diary No. 29 dated 05.07.2012.
3. Incorrect, the appellant had willfully absented himself from lawful duty vide dairy No. mentioned in the above para and proceeded abroad without any lawful permission. Charge Sheet alongwith statement of allegation was served at his home address which was received by his father named Ali Abbas who submitted that his son ^{was} gone ^{to} Saudi Aribia. Copy is Annexure A.
4. The appellant after a ^{lapse} of about 05 years filed ^a time barred appeal which was processed by the competent authority and filed by the respondent No. 1 being badly time barred.

GROUND:

- A. Incorrect, legal and speaking orders have been passed by the respondents.
- B. Incorrect, the appellant had proceeded abroad as stated by his father on the show cause notice served at his home address, furthermore, the absence of the appellant was also published in daily Urdu news Express dated 28.11.2012, but the appellant did not resume his duty nor report his arrival. Press clipping is annexure B.
- C. Incorrect, the appellant was employee of a disciplined force and his retention, being willful absence from service, was burden on public exchequer and against the law / rules as well.

BEFORE THE HONORABLE SERVICE TRIBUNAL, KHYBR PAKHTUNKHWA, PEHSAWAR

Service appeal No. 760/2018

Yasir jamal

Appellant

VERSUS

Govt: of Khyber Pakhtunkhwa, Through

Inspector General of police, and others

Respondents

PETITION FOR CONDONATION OF DELAY IN FILING DEPARTMENTAL APPEAL

Respectively sheweth:

Parawise comments are submitted as under:-


Preliminary Objections:

- i. That the applicant has got no cause of action.
- ii. That the applicant is estopped due to his own conduct to file the instant appeal.
- iii. That the application is not maintainable in the present form.
- iv. That the appeal has not come to this Hon: Tribunal with clean hands.
- v. That the appeal / application is badly time barred.


FACTS:


1. That the appeal / application is contrary law & facts.
2. Each and every case has its own facts and merits. Furthermore, limitation in filing of appeal is mandatory according to law.
3. Incorrect, the appellant willfully absented himself from lawful duty and despite of issuance charge sheet / publication of notice in daily news Express, the appellant did not resume his duty. Furthermore, the appellant approached in appeals after a laps of about 05 years after return from abroad.

Keeping in view of the above, it is submitted that the application is devoid of merits / law, without and substantiate. It is, therefore, prayed that the instant application of the applicant alongwith appeal are may kindly be dismissed in limine.


District Police Officer
Karak
(Respondent No. 3)

District Police Officer
(Karak)


Regional Police Officer,
Kohat Region, Kohat
(Respondent No. 2)


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

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service appeal No. 760/2018
Yasir Jamal

....Appellant


VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa and Others

..... Respondents

AFFIDAVIT

We the respondents do hereby affirm on oath that the contents of comments prepared in response to the above titled Service Appeal are true and correct to best of our knowledge and belief.


District Police Officer, Karak

No. 11063 /EC
Dated 13/9/2012CHARGE SHEET

I, Sajjad Khan, District Police Officer, Karak as competent authority, hereby charge you Constable Yasir Jamal No. 315 Police Lines Karak as follow:

"You Constable Yasir Jamal No. 315 absented yourself from your lawful duty w-o-from 05.07.2012 till date vide Daily Diary No. 29, dated 05.07.2012 Police Lines Karak. Your pay has been stopped to this effect. Your this act is against service discipline and amount to gross misconduct."


2. By reason of your commission / omission, constitute miss-conduct under Police disciplinary rules-1975 and have rendered your-self liable to all or any of the penalties specified in Police rules-1975 ibid.

You are; therefore, required to submit your written defense within 07 days of the receipt of this charge sheet to the enquiry Officer Mr. Aman Ullah Khan DSP Hqrs Karak.

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

4 Intimate whether you desire to be heard in person.

o A statement of allegation is enclosed


District Police Officer, Karak

DISCIPLINARY ACTION



1. I, Sajjad Khan, District Police Officer, Karak as competent authority, is of the opinion that Constable Yasir Jamal No. 315 has rendered himself liable to be proceeded against on committing the following act / commission within the meaning of Police disciplinary Rule-1975

STATEMENT OF ALLEGATION

"Constable Yasir Jamal No. 315 absented himself from His lawful duty w-e-from 05.07.2012 till date vide Daily Diary No. 29, dated 05.07.2012 Police Lines Karak. His pay has been stopped to this effect. His this act is against service discipline and amount to gross misconduct."

2. The enquiry Officer, Mr. Aman Ullah Khan I SP Hqrs Karak in accordance with provision of the Police Disciplinary Rule-1975 may provide reason able opportunity of hearing to the accused official, record his finding and make within 07-days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused.

3. The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.


District Police Officer, Karak.


No. 11064/65 IEC (enquiry), dated 13/8 /2012.

Copy to:-

1. The enquiry Officer for initiating proceeding against the accused under the Provision of the Police disciplinary Rule-1975.
2. Constable Yasir Jamal No. 315 Police Lines Karak.

اشتہار اظہار وجوہ

کامیاب شہید ایس جلال مسٹر 315 دلدلی ناس خان سکند منزلی، تحصیل تخت نصرتی، ضلع کرک کو بذریعہ اشتہار
 مطلع کیا جاتا ہے کہ آپ پولیس لائن کرک سے مورخہ 5/7/2012 سے بغیر اجازت اپنے ڈیوٹی سے
 غیر حاضر ہوئے ہو۔ آپ کو بحوالہ چارج شیٹ نمبر 1.1063/EC مورخہ 13/08/2012
 بوساطت SHO تھانہ یعقوب خان شہید (تخت نصرتی) آپ کے گھر قریب کے لئے بھیج دی گئی ہے اب
 بذریعہ اشتہار مذکور مطلع کیا جاتا ہے کہ اس اشتہار کی اشاعت کے بعد 10 یوم کے اندر اندر اپنی جائے
 تعیناتی یا انگریزی آفیسر آمان اللہ خان ڈی ایس پی ہیڈ کوارٹر کرک کے دفتر میں حاضر ہو کر اپنی غیر
 حاضری کی وجوہات بیان کریں ورنہ یکطرفہ کارروائی عمل میں لا کر ملازمت سے برخاست کیا جائے گا
 نوٹ: بعد میں کسی قسم کی کوئی عذر قابل قبول نہ ہوگی۔

ڈسٹرکٹ پولیس آفیسر کرک

Also available on www.khyberpakhtunkhwa.gov.pk INF(P)3576

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No: 760/2018

Yasir Jamal, Ex-Constable

Versus

Inspector General of Police KPK Peshawar & Others

APPELLANT'S REJOINDER

Respectfully Sheweth:-

Preliminary Objections:

The 5 Preliminary Objections raised by the Respondents in their written comments are illegal, wrong, incorrect and are denied in every detail. The appellant has a genuine cause of action and his appeal does not suffer from any formal defect whatsoever.

FACTS:

1. Needs no Comments.
2. Incorrect. That the absence of the appellant from duty was not willful but he was seriously sick and was unable to perform the duty.

3. Incorrect. Para 3 of appeal is correct and its reply is incorrect.

4. Incorrect. That the appellant has correctly filed his departmental appeal and as per judgment of August Supreme Court of Pakistan, all issues shall be decided as merits and not on technicalities such as limitation. To this effect his departmental appeal was liable for decision on merit.

GROUND:

A to C: Grounds A to C of appeal are correct and its replies are incorrect.

D: Incorrect. That no show-cause notice has been served on the appellant and as well as on his father.

E: Incorrect. Ground E of appeal is correct and its reply is incorrect.

F: Incorrect. That the appellant was entitled to have been treated alike Umar Khan, Ex- Constable who was absent from duty for 8 years 4 months and 6 days and has been reinstated in service. So to this effect the appellant has not been treated alike him

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No: 760/2018

Yasir Jamal, Ex-Constable

Versus

Inspector General of Police KPK Peshawar & Others

APPELLANT'S REJOINDER IN RESPONSE
TO APPLICATION FOR CONDONATION OF
DELAY IF ANY.

RESPECTFULLY SHEWETH

PRELIMINARY OBJECTIONS:

The 5 Preliminary objections raised by the respondents in their comments are illegal, wrong and incorrect. The appellant has a genuine cause of action and his appeal does not suffer from any formal defect whatsoever.

FACTS:



1 to 3: Incorrect. Paras 1 to 3 of the application for condonation of delay if any are correct and its replies are incorrect.

It is, therefore, prayed that on acceptance of the instant rejoinder, the delay (if any) shall be condoned to meet the ends of justice.

Date: 25/04/2019


Petitioner

Through


1. Aslam Khan Khattak

2. Muhammad Khurshid
Advocates, Peshawar.

بعدالت Services Tribunal KPIC



Appellant 2 جناب
 IG P & others بنام Yabir Jamal

BC No - 17-7618

0333-9918830

| | |
|-----|-------|
| --- | موزخہ |
| --- | مقدمہ |
| --- | دعویٰ |
| --- | یوم |

باعث تحریر آنگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کاروائی متعلقہ
 آج کے مقام شمارہ کیا گیا مستند حکم مستند روای سہ الہ و کس

مقررہ کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار دیا گیا۔ نیز
 وکیل صاحب کو راضی نامہ کر... نے و تقرر رہا ہے فیصلہ برحلف دیے جواب دہی اور اقبال دعویٰ اور
 بسودرت ڈگری کرنے اجراء اور صولی چیک دروپہ ار عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور منسوخی
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
 کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لانا اپنے بجائے تقرر کا اختیار
 ہوگا۔ اور صاحب مقرر شدہ کو کبھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا سہاقت
 یہ واختم منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
 مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

یہ اس حکم کی روایت ہے جس میں اس کا
 مستند ہے اس میں یہ نامہ لکھ دیا کہ سند ہے۔

المرقوم 22 ماہ 12 2021

Attested
 accept
 [Signature]

[Signature]
 [Signature]
 [Signature]

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

PROFORMA FOR EARLY HEARING

FORM 'A'

To be filled by the Counsel/Applicant

| | | | |
|------------------------------|--|------------|------------|
| Case Number | 760/2018. | | |
| Case Title | Yasir Jinnah, Ex Constable vs Inspector General of Police KPK Peshawar + others | | |
| Date of Institution | | | |
| Bench | SB | | DB ✓ |
| Case Status | Fresh | | Pending ✓ |
| Stage | Notice | Reply | Argument ✓ |
| Urgency to clearly stated. | Previously it was adjourned due to leave of Eid-ul-Fitr and now it is fixed on 13/7/2022 which shall be adjourned due to leave of Eid-e-Zaha. It is requested to be fixed for hearing on 18 July 2022 or 19 July 2022. | | |
| Nature of the relief sought. | May be fixed on 18 July 2022 or 19 July 2022. | | |
| Next date of hearing | | | |
| Alleged Target | | | |
| Date | | | |
| Counsel for Appellant | Petitioner | Respondent | In person |

Aslam

Signature of counsel/party

(Aslam Khan Khattak)

Advocate

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

PROFORMA FOR EARLY HEARING

FORM 'B'

Inst#

Early Hearing 19 July 22 - p/20 22

In case No. 760/2018 ^{19 July} p/20

Yasir Jinnah, Ex Constable Vs Inspector General of Police Peshawar ^{others}

Presented by Counsel of appellant on behalf of Appellant. Entered in the relevant register.

Put up alongwith main case _____

| | |
|--|------------------------------------|
| Last date fixed | <u>5-5-2022</u> |
| Reason(S) for last adjournment, if any by the Branch Incharge. | <u>Due to leave of Eid-ul-Fitr</u> |
| Date(s) fixed in the similar matter by the Branch Incharge | <u>13-7-2022</u> |
| Available dates Readers/Assistant Registrar branch. | <u>28/7/2022</u> |

[Signature]
Assistant Registrar 13/7/22

REGISTRAR

Alkand
13/7/22

**BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR**

Appeal No: 760/2018

Yasir Jamal, Ex Constable No. 315 R/o Manzini Banda, Tehsil
Takht Nasrati, District KarakAppellant



VERSUS

Inspector General of Prisons KPK Peshawar & Others
...Respondents

**APPLICATION FOR FIXING AN EARLY DATE OF
HEARING IN ABOVE TITLE APPEAL**

Respectfully Sheweth:

1. That the above title appeal is fixed for hearing on 13-7-2022.
2. That previously 5-5-2022 date was fixed for hearing in above appeal but was adjourned due to leave of Eid-ul-Fitr and now 13-7-2022 date has been fixed for hearing which is not expected to be heard again and it shall be again adjourned due to leave of Eid-ul-Adha.
e-zaka

It is, therefore, most respectfully prayed that the above title appeal may be fixed for an early date.

Dated: ²⁴08-06-2022

Through

Appellant

Aslam Khan Khattak
Advocate, Peshawar.

Before the KPK Service Tribunal Peshawar

Appeal No 760/2018

Yasir Jamal, Ex Constable... vs... Inspector General of Police
KPK & others.

Application for adjournment of above cited
appeal.

Respectfully sheweth!

1. That the above cited appeal is fixed for
arguments before this Hon'ble Tribunal.
2. That the counsel is seriously and is unable
to argue the appeal.

It is, therefore, prayed that the above
noted appeal may be adjourned to
some suitable nearest date.

Dasir
Appellant-
as

Aslam Khan Khattak
Advocate

28.7.2022