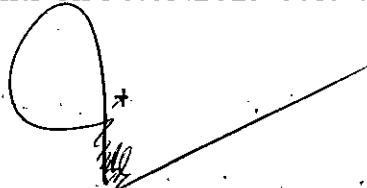


02.01.2023

Junior of learned counsel for the appellant present.
Mr. Muhammad Adeel Butt, Additional Advocate General for
the respondents present.

SCANNED
KPST
Peshawar

Junior of learned counsel for the appellant requested for
adjournment on the ground that learned counsel for the
appellant is not available today. Adjourned. To come up for
arguments on 30.03.2023 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)

30th Mar, 2023

Clerk of learned counsel for the appellant present. Mr.
Fazal Shah Mohmand, Addl: AG alongwith Mr. Abdur
Rehman, Inspector Legal for the respondents present.

Clerk of learned counsel for the appellant seeks
adjournment on the ground that learned counsel was busy
before the Service Tribunal Camp Court Abbottabad. To
come up for arguments on 12.06.2023 before D.B. P.P
given to the parties.



(Salah Ud Din)
Member (Judicial)



(Kalim Arshad Khan)
Chairman

SCANNED
KPST
Peshawar

28.06.2022

Learned counsel for the appellant present. Mr. Kabir Ullah, Additional Advocate General for respondents present.

Learned counsel for the appellant sought adjournment on the ground that being busy in preparation of brief of other cases, she was unable to make preparation for arguments. Adjourned. To come up for arguments on 11.08.2022 before the D.B.



(Rozina Rehman)
Member (J)



(Salah Ud Din)
Member (J)

11.8.22

Proper DB not available the case is adjourned to 3-11-2022.


Reader

3rd Nov. 2022

Counsel for the appellant present. Mr. Naseerud Din Shah, Assistant Advocate General alongwith Mr. Abdur Rehman, Inspector (Legal) for the respondents present.

Learned counsel for the appellant seeks adjournment in order to further prepare the brief. Adjourned. To come up for arguments on 02.01.2023 before the D.B.


(Fareeha Paul)
Member (E)

(Kalim Arshad Khan)
Chairman


Musa Khan, 935/2020

28.09.2021

Counsel for the appellant present. Mr. Kabirullah Khatkhatk, Addl: AG alongwith Mr. Bahadar Sher, SI for respondents present. Preliminary arguments heard.

Learned counsel for the appellant argued that case and assailed the major penalty / punishment of dismissal from service passed vide order dated 08.05.2012 as well as appellate order on his departmental appeal, dated 16.12.2013. In the instant service appeal filed in the Service Tribunal on 11.02.2020, Pre-admission notices were issued to the respondents as per order sheet dated 28.07.2020. The respondent-department has submitted parawise comments/reply alongwith connected documents which are placed on file.

Points raised need consideration. The appeal is provisionally admitted to regular hearing, subject to all just and legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. File to come up for arguments on 01.12.2021 before the D.B.


(Mian Muhammad)
Member(E)

01.12.2021 Due to non-availability of DB, the case is adjourned to 15-03-2022.


Reader

15-03-2022

Due to retirement of the Honorable Chairman the case is adjourned to come up for the same as before on 28-06-2022


Reader

18.02.2021


The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 30.06.2021.


Reader

30.06.2021

Counsel for appellant present.

She made a request for adjournment. Last chance is given. To come up for preliminary hearing on 28.09.2021, before S.B.


(Rozina Rehman)
Member(J)

28.07.2020

Miss. Roeeda Khan, Advocate, for appellant is present.
Preliminary arguments heard. In view of addressed arguments at the bar, it is deemed appropriate to issue pre-admission notice to respondents for 29.09.2020 before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER

29.09.2020

Counsel for the appellant present.

States that some cases of retrospective punishment have already been posted for hearing before the Larger Bench of this Tribunal while the issue in the instant appeal also touches the retrospectivity of impugned order. She, therefore, requests for adjournment of instant matter to a date after the hearing by the Larger Bench.

Adjourned to 03.12.2020 before S.B.


Chairman

03.12.2020

Counsel for the appellant present.

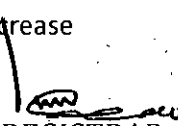


The proposition regarding retrospectivity of penalty has not been decided by the Larger Bench as yet. Instant case is, therefore, adjourned to 18.02.2021 before S.B.


Chairman

FORM OF ORDER SHEET

Court of _____

Case No. - 935 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/02/2020	<p>The appeal of Mr. Musa Khan presented today by Roeeda Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. decrease</p> <p style="text-align: right;">  REGISTRAR 11/2/2020 </p> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>19/02/2020</u>.</p> <p style="text-align: right;">  CHAIRMAN </p> <p>19.03.2020</p> <p>Appellant in person present and seeks adjournment as lawyers community is on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for preliminary hearing on 22.04.2020 before S.B.</p> <p style="text-align: right;">  Member </p> <p style="text-align: center;">MEMBER (MUHAMMAD JAMAL KHAN)</p> <p>22.04.2020</p> <p>Due to public holiday on account of COVID-19, the case respondents for 29.09.2020 before S.B. and appellants for 28.07.2020 before S.B. are adjourned to 28.07.2020 before S.B. Preliminary arguments heard. In view of addressed arguments at Miss. Roeeda Khan, Advocate, for appellant is present. Reader 28.07.2020</p>

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. 935 /2020

Musa Khan Ex Constable

VERSUS

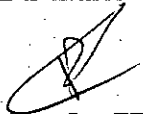
Commandant Campus Police Corps University Campus
Peshawar & Others

INDEX

S#	Description of Documents	Annexure	Pages
1.	Grounds of Petition.		1-6
2.	Affidavit.		7
3.	Addresses of parties.		8
4.	Condonation of delay		9-10
5.	Copy of Dismissal order	"A"	
6.	Copy of departmental appeal rejection order	"B & C"	
7.	Copy of inquiry report	"D"	
8.	Wakalatnama		

(N)
APPELLANT

Through


Roeeza Khan
Advocate, High Court
Peshawar.

Dated: 11/02/2020

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. 935 /2020

Musa Khan Ex Constable No.199 CPC
University Campus Peshawar.

Appellant

VERSUS

1. Commandant Campus Police Corps University Campus Peshawar.
2. Capital City Police Officer Peshawar.
3. Provincial Police Officer Khyber Pakhtunkhwa Peshawar.

Respondents

APPEAL U/S-4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT
1974 AGAINST THE ORDER DATED 08/05/2012
WHEREBY THE APPELLANT HAS BEEN
AWARDED MAJOR PUNISHMENT OF
DISMISSAL FROM SERVICE WHICH HAS
BEEN COMMUNICATED THE APPELLANT ON
15.02.2013 AND AGAINST WHICH THE
APPELLANT FILED DEPARTMENTAL APPEAL
ON 21/03/2013 AGAINST THE ORDERS DATED
08/02/2012 WHICH HAS BEEN REJECTED ON
16/12/2013 WHICH HAS BEEN
COMMUNICATED TO THE APPELLANT ON
2019 ON NO GOOD GROUNDS

Prayer:-

ON ACCEPTANCE OF THIS APPEAL
BOTH THE IMPUGNED ORDERS DATED
08/05/2012 & 16/12/2013 MAY KINDLY BE
SET ASIDE AND THE APPELLANT MAY
KINDLY BE REINSTATED IN SERVICE
ALONG WITH ALL BACK BENEFITS.
ANY OTHER REMEDY WHICH THIS
AUGUST TRIBUNAL DEEMS FIT THAT
MAY ALSO BE ONWARD TRIBUNAL
DEEMS FIT THAT MAY ALSO BE
GRANTED IN FAVOUR APPELLANT.

Respectfully Sheweth,

1. That the Appellant has been appointed as Constable in Police department on 2003.
2. That the appellant performed his duty regularly and with full devotion and no complaint whatsoever has been made against the appellant.
3. That while posted at Commandant Campus Police Corps University Campus Peshawar, some domestic problems created to the appellant due to which the appellant was unable to perform his duty with respondent department and due to un avoidable circumstance the appellant was unable to perform his duty.

4. That on the ground of the said absentee the appellant has been dismissed from service on 08.05.2012 by the respondent department. But the said impugned order has been communicated to the appellant on 15.02.2013 (Copy of dismissal order annexure "A")
5. That the appellant submitted departmental appeal on 21.03.2013 against the impugned order which has been rejected on 16.12.2013 communicated to the appellant on 2019. (Copy of departmental appeal rejection order is attached as annexure "B & C").
6. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following grounds inter alia:-

GROUND:-

- A. That the impugned order 08/05/2012 is void and abinitio order because it has been passed without fulfilling codal formalities.
- B. That no charge sheet has been served or communicated to the appellant in this respect the appellant relied upon a judgment reported on 2009 SCMR page:615

- C. That no final show cause notice has been issued and communicated to the appellant by Respondent department before imposing the major penalty in this respect the appellant relied upon a judgment reported on 2009 PLC (CS) 176.
- D. It is a well settled maxim no one can be condemned unheard because it is against the natural justice of law in this respect the appellant relied upon a judgment reported on 2008 SCMR page:678.
- E. That the punishment has been given by the Respondent department is harsh one and the order has been passed from retrospective effects.
- F. That once sided inquiry has been conducted against the appellant by the respondent department and according to findings of the inquiry report dated 16.03.2012 the inquiry report does not support the impugned order dated 08.05.2012 the said inquiry report has been communicated to the appellant with the impugned order dated 08.05.2012 (Copy of inquiry report is attached annexure "D").
- G. That any other ground not raised here may graciously be allowed to be raised at the time full of arguments on the instant service appeal.

It is therefore, most humbly prayed that on acceptance of this appeal both the impugned order dated 08/05/2012 & 16/12/2013 may kindly be set aside and the

appellant may kindly be reinstated in service with all back benefits.

Any other relief not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.

(M)

APPELLANT

Through



Roeda Khan

Advocate, High Court

Peshawar.

Dated: 11/02/2020

NOTE:-

As per information furnished by my client, no such like appeal for the same petitioner, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Tribunal.



Advocate.

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2020

Musa Khan Ex Constable

VERSUS

Commandant Campus Police Corps University Campus
Peshawar & Others


AFFIDAVIT

I, **Musa Khan Ex Constable No.199 CPC**
University Campus Peshawar do hereby solemnly
affirm and declare that all the contents of the **instant**
appeal are true and correct to the best of my knowledge
and belief and nothing has been concealed or withheld
from this Hon'ble Court.



DEPONENT

Identified by:


Roeeda Khan
Advocate High Court
Peshawar.

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2020

Musa Khan Ex Constable

VERSUS

Commandant Campus Police Corps University Campus
Peshawar & Others

ADDRESSES OF PARTIES

PETITIONER.


Musa Khan Ex Constable No.199 CPC
University Campus Peshawar.

ADDRESSES OF RESPONDENTS

1. Commandant Campus Police Corps University
Campus Peshawar.
2. Capital City Police Officer Peshawar.
3. Provincial Police Officer Khyber Pakhtunkhwa
Peshawar.


APPELLANT

Through


Roeda Khan
Advocate, High Court
Peshawar.

Dated: 11/02/2020

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2020

Musa Khan Ex Constable

VERSUS

Commandant Campus Police Corps University Campus
Peshawar & Others

APPLICATION FOR CONDONATION OF DELAY (if any)

Respectfully Sheweth,

Petitioner submits as under:

1. That the above mentioned appeal is filing before this Hon'ble Tribunal in which no date is fixed for hearing so far.
2. That the impugned order dated 08.05.2012 has been communicated to the appellant on 15.02.2013 and the rejection order dated 16.12.2013 has been communicated to the appellant on 2019.

Grounds:

- a. That the impugned orders are void order and no limitation run against the void orders.

- b. That the final order was communicated to the appellant in the year 2019.
- c. That the impugned order dated 08.05.2012 is void order because it has been passed from retrospective effects and without fulfilling the codal formalities has been passed.
- d. That there are number of precedents of the Supreme Court of Pakistan which provides that the cases shall be decided on merits rather than technicalities.

It is, therefore, requested that the limitation period (if any) may kindly be condone in the interest of justice.



Appellant

Through

Date : 11.02.2020



Roeeeda Khan

Advocate, High Court

Peshawar.

(A) W
ORDER

This is departmental proceedings against Constable Musa Khan No. 199 of CPC on the grounds that he remained absent from lawful duty up to 26 days without any leave/permission from his seniors. He was properly charge sheeted with statement of allegations and SHO/PS Campus was appointed as enquiry officer.

Findings/recommendations of the enquiry officer received and perused. Final Show Cause Notice was issued to the defaulter constable vide this office No. 73/PA dated 21.03.2012 which was served up on him personally but his reply was not received in the stipulated period nor he could impeach the veracity of personal hearing and waste the opportunity.

Reportedly he again remained absent on various dates for 40 and now from 09.04.2012 till to date regularly absent. Besides, his previous service record was checked which shows him a habitual absentee and having 16 bad entries on his credit in his short service, which badly reflect over the other jawans of the force.

Keeping in view the circumstances, recommendation of the enquiry officer, the undersigned came to the conclusion to take stern action against him as exparte and he is dismissed from service from the date of his absent i.e. 26.11.2011 under Police Rules, 1975.

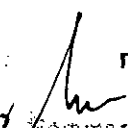
Order announced.

OB No. 137/CPC
Dt: 08.05.2012


COMMANDANT
CAMPUS PEACE CORPS
UNIVERSITY CAMPUS PESHAWAR

No: 126-30 /PA, dated Peshawar, the 8 /May, 2012.

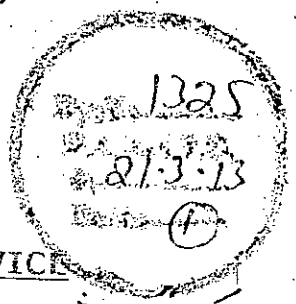
Copies to all concerned for information and necessary action.


Commandant,
Campus Peace Corps
University Campus Peshawar

OB. No — 137/CPC
08/5/2012

1025/PA/1
CPC, University Campus
Peshawar

(B) (V) No 441A-LB
5/4/2013



To: CAPITAL CITY POLICE, PESHAWAR
SUBJECT: APPLICATION FOR REINSTATEMENT IS SERVICE

بجھ مکمل ہوئی مثل
عج مروتوں ذول

Sir,

It is submitted for your kind information that due to some domestic problem and un avoidable circumstances. I remain absent for duty for which necessary application for the grant of leave was applied which was not granted.

I am not habitual absentee and takes keen interest but due to some critical domestic problems remain absented for few days. The punishment of dismissal from service is too harsh. Moreover my period of absence had also been counted as leave with out pay.

It is there fore requested that keep in view of my domestic Problem which has now been solved and poor family back round, having on other source of incom, I may kindly be reinstated in service on humanitarian grounds.

For your this act of kindness I would pray for your long life and prosperity.

At: 21-3-2013

Musa Khan

Your's Obediently.

Ex-Constable Musa Khan No: 199

Of CPC Peshawar

0333-9101914 - 9101914

Enclosed,
Copy of dismissal order.

~~JP-1~~

Comprehensive Cases.

Commandant
Campus Peace Corps
University Campus Peshawar

Si,
Encl. Submitted
25/3/13

21/3

ORDER

11/12/13

137

This office order will dispose off departmental appeal of ex-constable **Musa Khan No. 199** who was awarded major punishment of **Dismissal** from service vide OB No. 137 dated 8/5/2012 under the PR 1975 by Commandant CPC University of Peshawar on the charge of deliberate absence on different intervals for **95-days**.

Proper departmental proceedings were initiated against him and SHO Campus was appointed as the E.O. The Enquiry Officer repeatedly summoned the appellant to attend and face enquiry proceedings but he did not turn up. He also failed to submit reply to the FSCN. As such the competent authority awarded him above major punishment.

The relevant record has been perused along with his explanation and also heard him in person in OR on 6.12.2013. The charge of absence stand proved against him. The undersigned sees no plausible reason to interfere with the order of the Commandant CPC. The order passed by Commandant CPC is upheld and the appeal is rejected/filed.

**CAPITAL CITY POLICE OFFICER,
PESHAWAR.**

No. 2181 /PA, dated Peshawar the 16 /12/13

Copy to Commandant CPC for information and n/a w/r to his office No.543/EC-CPC dated 4.4.13. The official concerned may please be informed accordingly.

Encl: S.Roll
Complete FM

EC/CS!
For m.c.c.
action

2032
17-12-2013

✓
Commandant
Campus Peace Corps
University of Peshawar

Completed
17/12

Appeal file zafar etc

Commandant
CPC, University Campus
Peshawar

(2)

"D" (14)

FACTS

"You Constable Musa Khan No. 199 was deputed for special duty at Peshawar Police Lines but absented yourself vide DD No. 20 dated 26/11/2011 from lawful duty without any permission or leave from your senior till to date.

Your action is against the discipline and makes you liable for the departmental proceeding under the NWFP Removal from Service (Special Power) Ordinance-2000".

PROCEEDING

He was called time and again but did not attend the inquiry proceeding and remained absent from time to time. Lastly he was contacted, submitted his protected the illness of his wife but did not provide any said proof to cover his absence.

FINDINGS




Keeping in view his activities and absence from time to time the undersigned came to the conclusion that the defaulter is not taking interest in his legitimate duty and is a habited absentee. It is therefore recommended that his total period of absence i.e 26days may be counted as leave without pay couple with last warning to be careful in future, otherwise next time he will be recommended for major punishment, please.

[Signature]
SHO/PS CAMPUS

No. 03 /CPC, dated Peshawar, the 16 /03/2012.

[Signature]
Commandant
Campus Peace Corps
University of Peshawar

PA
[Signature]
16/03/2012

50	35647			
ایڈویکیٹ: <i>Pp</i>	بار کونسل ایسوسی ایشن نمبر:	پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
رابطہ نمبر: 03330265900		بعدالت جناب: <i>ٹرانسویلک ریسورس</i>		

منجانب: <i>اندلس</i>	دعویٰ:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:
باعث تحریر آنکہ	

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

آن مقام *دیکھد کیلئے* *دولت خانہ ایڈووکیٹ* کو وکیل 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 تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: *11/2/2020*

المقام: *گواہ شد*

مقام *دیکھد* کے لیے منظور ہے۔



دیکھد

Accessed by Pp

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR.

Service Appeal No.935/2020

Musa khan Constable N.2199..... (Appeal)

Versus


Inspector General of Police, Khyber Pakhtunkhwa

Capital City Police Officer, Peshawar.

Commandant, Campus Peace Corps University Campus, Peshawar.....(Respondents)

AUTHORITY

SI Bahadar Sher No.P/352 is hereby authorized to appear before the service tribunal Khyber Pakhtunkhwa Peshawar on behalf of undersigned in the above cited case. He is authorized to submit and sign all documents pertaining in the present appeal.


COMMANDANT
Campus Peace Corps,
University of Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.935/2020.

Ex- Constable Musa khan No.199 of CPC, Peshawar.....Appellant.

VERSUS.

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Commandant CPC university of Peshawar.....**Respondents.**

Reply by Respondents No. 1, 2, &3.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS.

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties..
3. That the appellant has not come to Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Honorable Tribunal.
7. That the appeal is not maintainable being devoid of any merit.

FACTS:-

- (1) Para pertains to record, hence needs no comments.
- (2) Incorrect. The appellant is a habitual absentee and not interested in his official duty. He earned 16 bad entries in his short service. It is worth to mention here that the present service appeal is badly barred by law & limitation for about 07 years. .
- (3) Incorrect. The appellant while posted at Campus Police Lines Peshawar absented from official and lawful duty without prior permission or leave from the competent authority. In this regard he was issued charge sheet with statement of allegations and SHO Campus Peshawar was appointed as enquiry officer. The enquiry officer repeatedly summoned the appellant to attend the enquiry proceedings, but he did not turn up. After receipt of the finding he was issued Final Show Cause Notice and was served upon him, but his reply was not received. After observing all codal formalities, he was awarded major punishment of dismissal from service. (copy of charge, statement of allegations, enquiry report, and FSCN are annexure as A,B,C,D)
- (4) Para is totally incorrect. In fact the appellant deliberately absented from his lawful duty for long absence period. After fulfilling all the codal formalities, he was awarded the major punishment of dismissal from service.

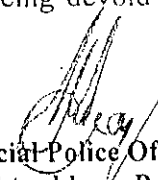
- (5) Incorrect. The appellant preferred departmental appeal on 21.03.2013 after inordinate delay of about 10 months, meaning thereby that he was not interested and his departmental appeal was filed/ rejected on the grounds of facts and limitation.
- (6) That appeal of the appellant being devoid of merits may kindly be dismissed on the following grounds.

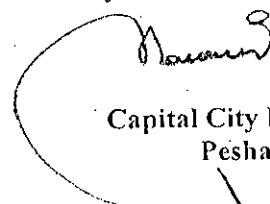
GROUND:-


- A. Incorrect. After fulfilling all the codal formalities he was awarded the major punishment in accordance with law/rules.
- B. Incorrect. Proper charge sheet with statement of allegations was issued to appellant. During course of enquiry he was contacted, but failed to produce any cogent reason in support of his self defense.
- C. Incorrect. The appellant was issued final show cause notice to which was served upon the appellant, but he did not submit his reply.
- D. Incorrect. The appellant was provided the opportunities of defense, but he willfully avoided. He was also heard in person on 06.12.2013 but he could not prove himself innocent with plausible grounds.
- E. Incorrect. The punishment order passed by the competent authority is based on facts & law/rules.
- F. Incorrect. The appellant was associated with the enquiry proceedings. During the course of enquiry, he was contacted, but failed to produce any cogent reasons in support of his self defense.
- G. Respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

PRAYERS:-

In view of the above, and keeping in view the gravity of slackness, willful negligence and misconduct of appellant, it is prayed that appeal being devoid of merit may kindly be dismissed with cost please.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.


Capital City Police Officer,
Peshawar.


Commandant,
Campus Peace Corps,
University of Peshawar.

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.935/2020.

Ex- Constable Musa khan No.199 of CPC, PeshawarAppellant.

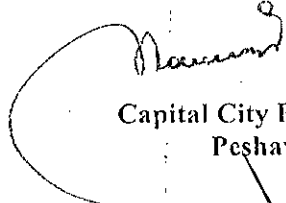
VERSUS.


1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Commandant CPC university of Peshawar..... Respondents.

AFFIDAVIT

We respondents No. 1, 2 & 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.


Capital City Police Officer,
Peshawar.


Commandant,
Campus Peace Corps,
University of Peshawar.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR.

Service Appeal No.935/2020

Musa khan Constable N:2199..... (Appeal)

Versus


Inspector General of Police, Khyber Pakhtunkhwa

Capital City Police Officer, Peshawar.

Commandant, Campus Peace Corps University Campus, Peshawar..... (Respondents)

AUTHORITY

SI Bahadar Sher No.P/352 is hereby authorized to appear before the service tribunal Khyber Pakhtunkhwa Peshawar on behalf of undersigned in the above cited case. He is authorized to submit and sign all documents pertaining in the present appeal.


COMMANDANT
Campus Peace Corps,
University of Peshawar

CHARGE SHEET

I, **Qazi Ghulam Farooq, Commandant CPC** as competent authority, hereby charge you Constable Musa Khan No. 199 as follows:-

"You Constable Musa Khan No. 199 was deputed for special duty at Peshawar Police Lines but absented yourself vide DD No. 20 dated 26.11.2011 from lawful duty without any permission or leave from your seniors till to date."

Your this action is against the discipline and make you liable for the departmental proceedings under the NWFP Removal From Service (Special Powers) Ordinance-2000.

2. By reasons of the above, you appear to be guilty of misconduct under Section 3 of the NWFP Removal from Service (Special Powers) Ordinance-2000 and have rendered yourself liable to all or any of the penalties specified in Section 3 of the Ordinance ibid.

3. You are, therefore, directed to submit your written defence within 7 days of the receipt of this charge sheet to the Enquiry Officer.

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

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

6. A statement of allegations is enclosed.


(QAZI GHULAM FAROOQ)
COMMANDANT CPC
UNIVERSITY CAMPUS PESHAWAR.

No. 225 /PA.
Dated 14/12/2011.

DISCIPLINARY ACTION

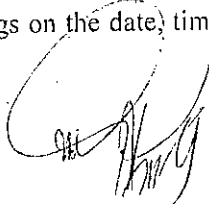
I, **Qazi Ghulam Farooq, Commandant CPC** as competent authority, am of the opinion that Constable Musa Khan No. 199 rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning of Section 3 of the NWFP Removal from Service (Special Powers) Ordinance 2000:-

“Constable Musa Khan No. 199 was deputed for special duty at Peshawar Police Lines but absented himself vide DD No. 20 dated 26.11.2011 from lawful duty without any permission or leave from his seniors till to date.”

For the purpose of scrutinizing the conduct of the said defaulter with reference to the above allegations, DSP/Campus is appointed Enquiry Officer under Section 3 of the Ordinance.

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

The defaulter shall join the proceedings on the date, time and place fixed by the Enquiry Officer.


(QAZI GHULAM FAROOQ)
COMMANDANT CPC
UNIVERSITY CAMPUS PESHAWAR.

No. 295 /PA, dated Peshawar, the 14-12/2011.

Copy to:-

1. DSP/Campus for initiating proceedings against defaulter under the provisions of the NWFP Removal from Service (Special Powers) Ordinance 2000 (all the papers are enclosed).
2. Constable Musa Khan No. 199 with the direction to appear before the Enquiry Officer on the date, time and place fixed by the Officer.

[Faint handwritten notes and a circular stamp are visible in the bottom left corner of the page.]

FINAL SHOW CAUSE NOTICE

I, **Qazi Ghulam Farooq, Commandant CPC** as competent authority under the NWFP Removal from Service (Special Powers) Ordinance 2000, do hereby serve you Constable Musa Khan No. 199 of this unit as follows;

- v) That consequent upon the completion of enquiry conducted against you by the SHO/CPC Inquiry Officer for which you were given opportunity of hearing and
- vi) On going through the findings and recommendations of the Inquiry Officer, the material on record and other connected papers excluding your defence before the said officer.

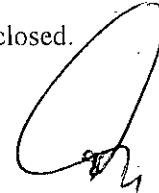
I am satisfied that you have committed the following acts/ omissions specified in section 3 of the said ordinance:-

“While deputed for special duty at Police Lines Peshawar, you Constable Musa Khan No. 199 remained absent from lawful duty vide DD No. 20 dated 26.11.2011 up to 26 days without any leave/ permission of your seniors.”

Your this act amounts to misconduct and hence liable for departmental action.

- 2. As a result thereof, I, as competent authority have tentatively decided to impose upon you the penalty of punishment under section 3 of the said ordinance.
- 3. You are, therefore, directed to show cause as to why the aforesaid penalty should not be imposed upon you.
- 4. If no reply to this notice is received within fifteen (15) days of its delivery, in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case an exparte action shall be taken against you.
- 5. You are at liberty to appear before the undersigned if you want to be heard in person.
- 6. Copy of findings of Inquiry Officer is enclosed.

t/c



(QAZI GHULAM FAROOQ)
Commandant, CPC
University Campus Peshawar.

AE

No. 73 /PA
Dated 21 /March, 2012.
Constable Musa Khan No. 199.

Amul M.
20-04-2012



OFFICE OF THE COMMANDANT,
Campus Peace Corps, University Campus Peshawar

Phone: 091-9216101/Fax: 091-9216103

- 1. Name of Official ✓ Musa Khan s/o Haji Bahadar Khan r/o Palosi Talarzai
- 2. Date of Birth 10-01-1982
- 3. Dated enlistment 19-11-2003
- 4. Education 10th
- 5. Courses Recruit Course
- 6. Total Qualifying Service ✓ 9 years, 7 months, 23 days
- 7. Good Entries Nil
- 8. Punishment (Previous) Nil

Minor Nil	Major 01
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9. Bad Entries

Leave without Pay 44	Extra Drill	Warning 02
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10. Leave Account

Leave on his credit 464 Days	Availed Nil	Balance 464
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[Signature]
EC/CPC

[Signature]
RA

W/CPCO

Filed
[Signature]
cepo

ORDER

This is departmental proceedings against Constable Musa Khan No. 199 of CPC on the grounds that he remained absent from lawful duty up to 26 days without any leave/permission from his seniors. He was properly charge sheeted with statement of allegations and SHO/PS Campus was appointed as enquiry officer.

Findings/recommendations of the enquiry officer received and perused. Final Show Cause Notice was issued to the defaulter constable vide this office No. 73/PA dated 21.03.2012 which was served up on him personally but his reply was not received in the stipulated period nor he could impeach the veracity of personal hearing and waste the opportunity.

Reportedly he again remained absent on various dates for 40 and now from 09.04.2012 till to date regularly absent. Besides, his previous service record was checked which shows him a habitual absentee and having 16 bad entries on his credit in his short service, which badly reflect over the other jawans of the force.

Keeping in view the circumstances, recommendation of the enquiry officer, the undersigned came to the conclusion to take stern action against him as exparte and he is dismissed from service from the date of his absent i.e. 26.11.2011 under Police Rules, 1975.

Order announced.

OB No. 137/CPC
dt: 08.05.2012


COMMANDANT
CAMPUS PEACE CORPS
UNIVERSITY CAMPUS PESHAWAR

No: 126-30 /PA, dated Peshawar, the 8 /May, 2012.

Copies to all concerned for information and necessary action.

OB No — 137/CPC
08/5/2012