


FORM OF ORDER SHEET

Court of _____

Appeal No. 1077 / 2023

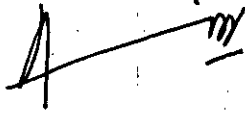
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1-	2	3
1-	15/05/2023	<p>The appeal of Mr. Muhammad Khan resubmitted today by Mr. Mir Zaman Safi Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on-</p> <hr/> <p>By the order of Chairman  For REGISTRAR</p>

The appeal of Mr. Muhammad Khan ex-Constable no. 1780 FRP Headquarters Peshawar
received today i.e. on 10.05.2023 is incomplete on the following score which is returned to the
counsel for the appellant for completion and resubmission within 15 days.

Annexure-D of the appeal is illegible which may be replaced by legible/better one.

No. 1403 /S.T.

Dt. 11-5 /2023.


For REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Mir Zaman Safi Adv.
High Court Peshawar.

Sir,

That copy of annexure D page 11 is
hereby replaced a better one, hence re submitted
today on 15-05-2023.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1077/2023

MUHAMMAD KHAN

VS

POLICE DEPTT:

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APPELLANT

THROUGH:


MIR ZAMAN SAFI
ADVOCATE

Office: Room No. 6-E, 5th Floor,
Rahim Medical Centre, Hashtnagri,
Peshawar.
Cell: 0333-9991564

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 1077 /2023

Mr. Muhammad Khan, Ex-Contable No. 1780,
FRP Headquarters, Peshawar.

.....**APPELLANT**

VERSUS

- 1- The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2- The Commandant, FRP, Khyber Pakhtunkhwa, Peshawar.
- 3- The Deputy Commandant, FRP, Khyber Pakhtunkhwa, Peshawar.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 22.12.2022 WHEREBY MAJOR PENALTY OF REMOVAL FROM SERVICE HAS BEEN IMPOSED UPON THE APPELLANT AND AGAINST THE IMPUGNED APPELLATE ORDER DATED 10.01.2023 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS AND AGAINST NO ACTION TAKEN ON THE REVISION PETITION OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this service appeal the impugned orders dated 22.12.2022 and 10.01.2023 may very kindly be set aside and the appellant be re-instated into service with all back benefits. Any other remedy which this august Tribunal deems fit that may also be granted in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That the appellant was the employee of respondent Department and was serving as Constable No.1780 quite efficiently and up to the entire satisfaction of his superiors.
- 2- That the appellant while performing his duty at the concerned station became seriously ill and due to the said illness the appellant was absented from his lawful duty. That the appellant approached the doctor concerned for medical advice and after detail check up the doctor advised complete bed rest regarding which the appellant verbally informed his high ups.
- 3- That during illness of the appellant the respondent department issued show cause notice which was properly replied by the appellant alongwith medical prescriptions and informed the authorities regarding his illness. Copies of the medical prescriptions are attached as annexure.....**A.**

- 4- That due to the said illness the appellant was not in the position to perform his duty and as such he informed his high ups that after recovery from illness the appellant will bound to properly join his duty but astonishingly the respondent No.3 issued the impugned order dated 22.12.2022 whereby major penalty of removal from service has been imposed upon the appellant. Copy of the impugned order dated 22.12.2022 is attached as annexure.....**B.**
- 5- That the appellant feeling aggrieved from the impugned order dated 22.12.2022 preferred Departmental appeal before the respondent No.2 which was rejected vide appellate order dated 10.01.2023 without touching of the merit. Copies of the departmental appeal & rejection order are attached as annexure.....**C & D.**
- 6- That the appellant feeling aggrieved preferred Revision Petition before the respondent No.1 but no reply has been received so far from the quarter concerned. Hence the present appeal on the following grounds amongst the others. Copies of the revision petition and covering letter are attached as annexure.....**E & F.**

GROUND:

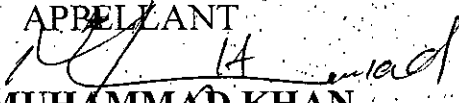
- A- That the impugned orders dated 22.12.2022 & 10.01.2023 are against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.
- B- That appellant has not been treated by the respondent department in accordance with law and rules on the subjected noted above and as such respondents violated the Article 4 and 25 of the Constitution of Islamic Republic of Pakistan.
- C- That no charge sheet and statement of allegation has been served upon the appellant before issuing the impugned order dated 22.12.2022.
- D- That only a show cause notice has been served upon the appellant which was properly replied by the appellant alongwith documentary proofs but inspite that the respondent No.3 issued the impugned order dated 22.12.2022 which is not tenable in the eye of law and the same is liable to be set aside.
- E- That absence of appellant was not willful but due to the cause of illness, therefore, the impugned order dated 22.12.2022 is not tenable in the eye of law and liable to be set aside.
- F- That the absence of appellant was neither deliberate nor intentional but due to cause serious illness regarding which the appellant already informed his high ups.
- G- That no chance of personal hearing/defense has been provided to the appellant before issuing the impugned order dated 22.12.2022 which is necessary as per law and rules and as per Judgment of the Apex Court before taking punitive actions against any civil servant.


H- That no regular inquiry has been conducted in the matter by the respondent department which is necessary before awarding major punishment to the civil servants.

I- That the appellant seeks permission to advance any other ground and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal of appellant may very kindly be accepted as prayed for.

Dated: 10.05.2023.

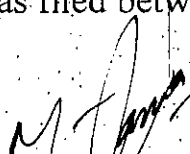
APPELLANT

MUHAMMAD KHAN

THROUGH: 
MIR ZAMAN SAFI
&

ABDULLAH KHAN KHATTAK
ADVOCATES

CERTIFICATE:

It is certified that no other earlier appeal was filed between the parties.


DEPONENT

LIST OF BOOKS:

- 1- CONSTITUTION OF PAKISTAN, 1973
- 2- SERVICES LAWS BOOKS
- 3- ANY OTHER CASE LAW AS PER NEED

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2023


MUHAMMAD KHAN

VS

POLICE DEPTT:

AFFIDAVIT

I Mir Zaman Safi, Advocate High Court, Peshawar on the instructions and on behalf of my client do hereby solemnly affirm and declare that the contents of this **service appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.


MIR ZAMAN SAFI,
Advocate
High Court, Peshawar

A-5

No.

Rs. 10/-

OUT-PATIENTS DEPARTMENT

NAME

17805 U.P.

YEARLY NO.

36902

DATE

13-11-2022

DISEASE

Fitness Certificate

COUNTERSIGNED

FACE VALUE RUPEE

Certified that I have examined Mr. Mahommed Khan No 17805 to duty at Hospital Jordan 13/11/2022

MEDICAL SUPERINTENDENT
HOSPITAL JORDAN

He is now fit to resume his duty

[Signature]

ATTESTED

ORTHOPAEDIC SURGEON
DHO HOSPITAL JORDAN

13/11/2022

6

No. _____ Rs. 10/-
OUT-PATIENTS DEPARTMENT

NAME 1780 S. J. V. P.

YEARLY NO. 16902

DATE 22-9-2022

DISEASE hanta spine pain
Oblique Scapula

FACE VALUE RUPEES 10/- FA

COUNTERSIGNED

[Signature]
MEDICAL SUPERINTENDENT
D.H.G. HOSPITAL MARDAN

[Signature]

[Signature]
V. n. s. a.
[Signature]
M. b. i. l.
[Signature]
C. p. R. v. t. e.
[Signature]
re O. l. u. y.

[Signature]
ATTESTED

[Signature]
C. y. p. T. r. e. s. v. a.
[Signature]
C. y. p. G. o. v. i. c. e. n. i.
[Signature]

ORTHOPAEDIC SURGEON
D.H.G. HOSPITAL MARDAN

*Advised complete home bed rest
Medical leave for 3 weeks
w.e.f 22/9/2022 to 12/10/2022*

7

No. _____ Rs. 10/-

OUT-PATIENTS DEPARTMENT

NAME 1780 S U V N

YEARLY NO. 14735

DATE 13-10-2022

DISEASE Lumbr spine pin LBP
Relief Sciatica

FACE VALUE RUPEES 10/-

Adverse Complic have been met
Medical course for 3 three weeks
w.e.f 13/10/2022 to 2/11/2022

COUNTERSIGNED

MEDICAL SUPERVISOR
D.H.O HOSPITAL MARDAN

Tab. Voltal 1-1-1

Tab. Medic 1-1-1

Tab. Tressop 1-1-1

Tab. Pelluc 1-1-1

Physiotherapy
for one month
Continue

TESTED

ORTHOPAEDIC SURGEON
DHO HOSPITAL MARDAN

8

No.

Rs. 10/-

OUT-PATIENTS DEPARTMENT

NAME

178a Ullat

YEARLY NO.

5413

DATE

3-11-2022

DISEASE

Injury spine per XRD
Rt leg Sciatica

FACE VALUE RUPEES 10/-

COUNTERSIGNED

Ullat

MEDICAL SUPERINTENDENT
DHO HOSPITAL MARDAN

Dr. August B.P. 1-11

Dr. Ullat 1-11

Cop. Nazam 1-11

Cop. Thisto 1-11 ATTESTED

Dr. P. P. 1-11

ORTHOPAEDIC SURGEON
DHO HOSPITAL MARDAN

Advisee Ullat have bed rest
medical leave w.e.f 3/11/2022
to 13/11/2022

B-9

ORDER

This order will dispose of the Departmental Inquiry initiated against Constable Muhammad Khan No. 1780 of FRP HQrs: Peshawar on the score of the following grounds:-

Brief facts of the case are that Constable Muhammad Khan No. 1780 of FRP HQrs: Peshawar absented himself from lawful duty w.e.f 22.09.2022 to 13.11.2022 for a period of total fifty two (52) days without any leave or proper permission of the competent authority. Besides the said official also absented himself on different occasions as noted below:-

S. No.	Year of absence	Total absence period
1.	2016	Thirty one (31) days
2.	2017	Fifty (50) days
3.	2018	Sixteen (16) days
4.	2019	Ninety nine (99) days
5.	2020	Two hundred and five (205) days
6.	2021	Thirty (30) days
7.	2022	One hundred and twenty nine (129) days

In this regard proper departmental inquiry was conducted against him. He was issued Charge Sheet / Statement of allegations and Line Officer FRP HQrs: Peshawar was nominated as Inquiry Officer. After conducting proper departmental inquiry, the Inquiry Officer submitted his findings wherein the accused official was recommended for punishment of leave without pay as well as other suitable punishment.

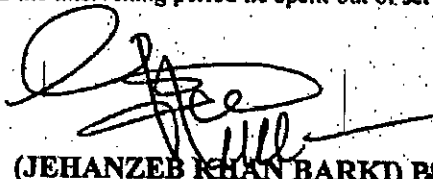
Upon the recommendations of the Inquiry Officer, the said official was issued Final Show Cause Notice, to which he submitted reply but found unsatisfactory.

Later on the said official was called for personal hearing in Orderly Room of the undersigned but he did not appear in the said Orderly Room.

Keeping in view all the above facts and other available record I am satisfied that the accused official does not take interest in his official duties. Therefore, in exercise of powers conferred upon me under the Khyber Pakhtunkhwa Police Rules 1975 amended 2014 I, Jehanzeb Khan Barki PSP Deputy Commandant FRP Khyber Pakhtunkhwa Peshawar being competent authority, have tentatively decided to award Major punishment of Removal from Service to the accused official i.e Constable Muhammad Khan No. 1780 of FRP HQrs: Peshawar with immediate effect.

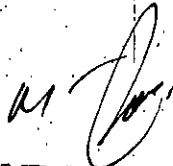
However, his absence period as well as the intervening period he spent out of service is hereby treated as leave without pay.

Order announced.



(JEHANZEB KHAN BARKI) PSP
Deputy Commandant,
Frontier Reserve Police,
Khyber Pakhtunkhwa, Peshawar.

ATTESTED



OS 189
22/11/22

No. 10682-86/PA D.C dated Peshawar, the 22/11/2022.

Copy of above is forwarded:-

For information to the:-

1. Worthy Commandant FRP Khyber Pakhtunkhwa Peshawar.

For necessary action to the:-

2. DSP HQrs: FRP Peshawar.
3. Accountant FRP HQrs: Peshawar.
4. OASI and MHC FRP HQrs: Peshawar.

L-20

اپنی عمر اور سروس پر بحال

ضابطہ عالی

موجودہ گزشتہ کی حالتی صورت مسائل ان کے لیے صحت کو اہل پیشہ اور میں اہلیت کا تھا اور مسائل
 جو صحت کے ساتھ بیماری جو صحت 18 09 تا جو صحت 13 22 تک کل 52 یوم غیر حاضر رہ کر
 جاری صحت کے جواب میں مندرجہ بالا کے ذرا ت کو پیش کیے گئے ہیں۔ لیکن مسائل کو جو اہل اور گزشتہ
 سے تعلق رکھتا اور جو ماواہر کے تعلق ہے۔ جو لیس نواری کے علاوہ مسائل کا اور کوئی ذرا ہے
 مسائل نہیں ہے۔

آپ کے مسائل سے التماس کی جاتی ہے کہ مسائل کی بیماری اور مجموعی کو مدنظر
 رکھ کر مسائل کو نواری پر بحال کر کے مسائل کا منیٹرینگ اور ڈیٹا کیسنگ۔
 عین التوا رہیں ہوگی

الفاظ

آپ کا نام جو زمانہ سے گزرا ہے
 1780/1502
 FRP 19
 1/140

M. H. Ahmed
 ATTESTED

D-11

ORDER

This order will dispose of the departmental appeal preferred by ex-constable Muhammad Khan No. 1780 of FRP HQrs; against the order of Deputy Commandant FRP, Khyber Pakhtunkhwa, Peshawar issued vide Order Endst. No. 10682-86/PA, dated 22.12.2022, wherein he was awarded major punishment of removal from service.

Brief facts of the case are that the applicant was absented himself from lawful duty with effect from 22.09.2022 to 13.11.2022 for total period of 52 days without any leave or prior permission of the competent authority.

In this regard, proper departmental proceedings were initiated against him as he was issued Charge Sheet alongwith Statement of allegations and Line Officer FRP HQrs, Peshawar was nominated as Enquiry Officer to conduct proper enquiry against him. After completion of enquiry, the Enquiry Officer submitted his findings report, wherein the Enquiry Officer recommended him that his absence period may be treated as leave without pay alongwith other suitable punishment.

Upon the findings report of Enquiry Officer, he was issued Final Show Cause Notice, to which he replied, but his reply was found unsatisfactory. He was called in orderly room for personal hearing, but he failed to appear before the competent authority.

Keeping in view the above narrated facts and other material available on record, he was awarded major punishment of removal service vide Order Endst. No. 10682-86/PA, dated 22.12.2022.

Feeling aggrieved against the impugned order of Deputy Commandant FRP, Khyber Pakhtunkhwa, Peshawar, the applicant preferred the instant appeal. The applicant was summoned and heard in person in Orderly Room held on 06.01.2023.

During the course of personal hearing, the applicant failed to present any justification regarding to his prolong absence. From perusal of enquiry file it has been found that the allegations leveled against the appellant were fully established by the Enquiry Officer during the course of enquiry. Perusal of record reveals that the appellant was remained absent from his lawful duty on different occasion for a long period of 560 days previously, to which he was awarded different punishments and in this regard there are 03 bad entries with no good entry in his credit. Thus the applicant has been found to be an irresponsible person in utter disregard the discipline of the force. Therefore any leniency or complacency would further embolden the accused officer and impinge upon adversely on the overall discipline and conduct of the force. There doesn't exist any ground in the order passed by the competent authority, therefore no ground exist to interfere in same.

1. Deputy Commandant FRP, Khyber Pakhtunkhwa, Peshawar, Peshawar, His Service record shows that he was in charge of the unit and he was found to be absent from duty on 22.09.2022 to 13.11.2022. His appeal is hereby rejected. The same is reported and filed being meritorious.
2. Ex-constable Muhammad Khan No. 1780 FRP HQrs, S/o Poor Muhammad Khan R/o Village Shalfah War, Police Station War, District Upper Dir.

[Signature]
Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar.

ATTESTED

No. 313-15 /SI Legal, dated Peshawar dt. 16.1.2023.
Copy of above is forwarded for information and necessary action to

- 1. Deputy Commandant FRP, Khyber Pakhtunkhwa, Peshawar
- 2. S/O in charge, Peshawar
- 3. Ex-constable Muhammad Khan No. 1780 FRP HQrs, S/o Poor Muhammad Khan R/o Village Shalfah War, Police Station War, District Upper Dir.

E (12)

(رحم اپیل برائے سروس بحالی)

جناب عالی!

گزارش ہے کہ سائل FRP/HQrs پشاور میں بطور کنشیل بھرتی ہوا تھا اور ڈیوٹی سرانجام دے رہا تھا۔ دوران ڈیوٹی سائل کو گھریلو مسائل درپیش ہوئی۔ جس کی وجہ سے سائل محکمہ ہذا سے بوجہ مجبوری غیر حاضر ہوا اور افسران بالا صاحبان نے بوجہ غیر حاضری بحوالہ آرڈر نمبر 313-16/SI Legal مورخہ 10-01-2023 پر محکمہ سے درخواست لیا۔ درخواست شدہ آرڈر ہمراہ لف درخواست ہے۔

من سائل ایک غریب و شریف گھرانے سے تعلق رکھتا ہے اور گھر کا واحد سربراہ ہے۔ سائل کے بوڑھے والدین ہے جو کہ ہر وقت بیمار ہوتے رہتے ہیں۔ جس کی علاج معالجہ پر بھی کافی رقم خرچ ہوتی ہے۔ گھر میں سائل کے علاوہ دوسرا کوئی ناریں ذمہ دار فرد ذریعہ معاش کیلئے موجود نہیں ہے۔ سائل جوان العمر اور جسمانی طور پر چاق و چوبند ہے اور محکمہ پولیس میں واپس نوکری پر بحال ہونے کا خواہاں ہے۔ لہذا افسران بالا صاحبان سے عاجزانہ التماس کی جاتی ہے کہ سائل کو محکمہ پولیس FRP/HQrs پشاور میں بحال کر کے آئینہ کیلئے محتاط اور کبھی بھی افسران بالا صاحبان کو شکایت کا موقع اور غیر حاضری کا مرتکب نہیں بنے گا۔ سائل بحیات دعا گور ہے گا۔

عین نوازش ہوگی

الغرض

آپ کا تابع الحکم Ex / کنشیل محمد خان بلیٹ نمبر 1780/Ex FRP/HQrs پشاور

Penitentiary and Security Cell # 0200-0922527

Form No.

Date: 13/1/2023

ATTESTED

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.
No. SI/145
23, dated Peshawar the 17/1/2023.



To : The Commandant,
Frontier Reserve Police,
Khyber Pakhtunkhwa, Peshawar.

Subject: REVISION PETITION

Memo:

Enclosed please find herewith a revision petition submitted by Ex-Constable Muhammad Khan No. 1780 of FRP HQs, Peshawar requesting for resumption of forfeited service for recording of your para-wise comments.
His service record along with copy of complete enquiry file may also be sent to this office as early as possible in connection with his revision petition.
It may please be clarified that whether he has instituted a service appeal in service Tribunal or otherwise.

(ARFAR JAN)
Registrar,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
17/01/23
17/01/23

ATTESTED
[Signature]

[Handwritten initials]

(13)

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

OF 2023

Muhammad Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Police Deptt.

(RESPONDENT)
(DEFENDANT)

I/We Muhammad Khan

Do hereby appoint and constitute **MIR ZAMAN SAFI, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 10 / 05 / 2023

M. H. M. M.

CLIENT

M. Z. M. S.

ACCEPTED

MIR ZAMAN SAFI
ADVOCATE

OFFICE:

Room No.6-E, 5th Floor,
Rahim Medical Centre, G.T Road,
Hashtnagri, Peshawar.

Mobile No.0333-9991564

0317-9743003

Abdullah Khan Khattak
Advocate