

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 272/2023.

Nasar Ali S/O Sher Ali Khan R/O Barkalay Saidu Sharif Tehsil Babozai District Swat.

..... Appellants

VERSUS

Inspector General of Police, Khyber Pukhtunkhwa, Peshawar & others:

..... Respondents

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6 copy of reinstatement

8/6/2023

Swat

District Police Officer, Swat
(Respondent No.02)

⑧

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 272/2023.

Nasar Ali S/O Sher Ali Khan R/O Barkalay Saidu Sharif Tehsil Babozai District
Swat.

..... Appellant

VERSUS

Inspector General of Police, Khyber Pukhtunkhwa, Peshawar & others.

..... Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.

Respectfully Shewith,

Preliminary Objections.

1. That the appellant has got no Cause of action and locus standi to file the present appeal.
2. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
3. That the appeal is barred by law & limitation.
4. That the appellant has not come to the Tribunal with clean hands.
5. That this Hon'ble Tribunal has got no jurisdiction to entertain the present appeal.
6. That the instant appeal is not maintainable in its present form.
7. That the appellant concealed the material facts from this Hon'ble Tribunal.

FACTS:

1. Pertains to record, hence needs no comments.
2. Correct to the extent that the appellant was appointed as Constable in Police Department in the year 2007.
3. Incorrect. That no such report or application is available on record regarding illness of the appellant. The appellant during his service in Police department did not inform his high ups about his severe illness. The appellant was habitual absentee and remained absent from duty on many occasions. Absentee detail is annexed as **annexure A**. Before this, the appellant had earlier awarded major punishment of removal from service on accounts of absentee from official duty without prior permission or approved leave vide this office Order No.136 dated 13/08/2015.
(Annexed B)
4. Incorrect. As stated above, the appellant neither approached his high ups nor submit any application regarding his illness, being a member of discipline force. applicant was required to submit proper application with supported medical documents for

obtaining proper leave, but he did not bother to do the same, which showed his disinterest and irresponsible attitude towards his duties.

5. Incorrect. The appellant did not submit any application for leave, rather absented himself from official duty without prior permission or approved leave of his high ups.
6. Incorrect. As stated above in detail.
7. Incorrect. As stated above in detail.
8. Incorrect. As per report of SHO Police Station Saidu Sharif vide DD No.42 dated 02/08/2020, the appellant absented himself from official duty without prior permission or approved leave of his high ups w.e.f 02/08/2020 to 09/09/2020 and again absented himself from duty vide DD No.35 w.e.f 25/09/2020 till the date of dismissal. Resultantly, he was issued Show Cause Notice to explain his position, but the appellant did not bother to submit his reply. He was also called in orderly room to hear in person but he did not appear to defend the charges leveled against him. Hence he was dismissed from service vide OB No.45 dated 21/03/2022 after observing all codal formalities under the law/rules.
9. Pertains to record, hence needs no comments.
10. Correct to the extent the appellant moved departmental appeal before the Regional Police Officer Malakand, whereby after taking lenient view, his order of dismissal was modified and converted into forfeiture of three years approved service while the period of absence was treated as leave without pay vide Region office Order NO.9962/E dated 19/09/2022.
11. This Para explained above at Para No.10 in detail.
12. Pertains to record, hence needs no comments.
13. Pertains to record, hence needs no comments.
14. That his first appeal was thoroughly examined by respondent NO.02 whereby his order of dismissal was converted into forfeiture of three years approved service, however his second departmental appeal was badly time barred, hence filed the same.
15. The appellant has wrongly challenged the legal and valid orders of the respondents before the honorable Tribunal through unsound reasons/grounds.


GROUND:

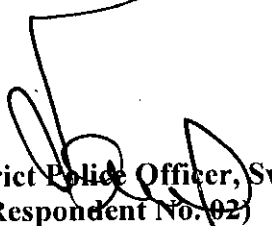
- a. Incorrect. The order of the respondents is legal, lawful and in accordance with law/rules. The appellant was dismissed from service after observing all codal formalities under the law/rules.


- b. Incorrect. The appellãnt was habitual absentee and was rightly awarded proper punishment.
- c. Incorrect. That all codal formalities under the law/rules have been adopted by the respondents.
- d. Incorrect. As stated above.
- e. Incorrect. No rights of the appellant have been ignored by the respondents.
- f. Incorrect. As stated above.
- g. Incorrect. As stated above.
- h. Incorrect. That the order of respondents is legal, lawful and in accordance with law/rues.
- i. Incorrect. The appellant had not applied for any sort of leave, rather, he was a habitual absentee and was remained absent from official duty on many occasions.
- j. Incorrect. As stated above.
- k. That other grounds not specifically answered in the reply, will be agitated with the permission of honorable Tribunal at the time of arguments.
- l. This Para needs no comments.

PRAYER:

It is therefore requested that the appeal of appellant may kindly be dismissed with cost being devoid of merits and without any legal substance.


Inspector General of Police
Khyber Pukhtunkhwa, Peshawar
(Respondent No. 01)


District Police Officer, Swat
(Respondent No. 02)


Regional Police Officer
Malakand Region
(Respondent No. 03)

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Service Appeal No. 272/2023.

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..... Appellant


VERSUS

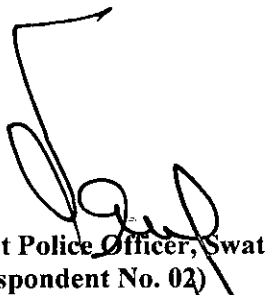
Inspector General of Police, Khyber Pukhtunkhwa, Peshawar & others.


..... Respondents

AUTHORITY LETTER

We, the above respondents do hereby authorize Mr. Naeem Hussain DSP/Legal Swat to appear before the Tribunal on our behalf and submit reply etc in connection with titled Service Appeal.


Inspector General of Police
Khyber Pukhtunkhwa, Peshawar
(Respondent No. 01)


District Police Officer, Swat
(Respondent No. 02)


Regional Police Officer
Malakand Region
(Respondent No. 03)

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VERSUS

Inspector General of Police, Khyber Pukhtunkhwa, Peshawar & others.

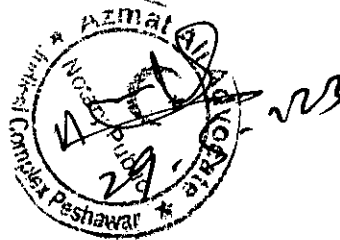
..... Respondents

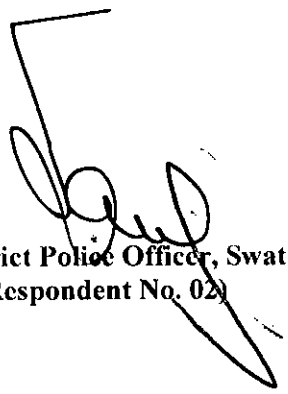
AFFIDAVIT


We, the above respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/true to the best of our knowledge/ belief and nothing has been kept secret from the honorable Tribunal.


Inspector General of Police
Khyber Pukhtunkhwa, Peshawar
(Respondent No. 01)

ATTESTED




District Police Officer, Swat
(Respondent No. 02)


Regional Police Officer
Malakand Region
(Respondent No. 03)

A (6)

TOTAL ABSENTEE OF CONSTABLE NASAR ALI No.3183

S No	Absented from duty w.e.f	Total absentee
1	25-01-09 to 29-01-09	4 days
2	02-02-09 to 23-02-09	21 days
3	06-02-09 to 11-02-09	5 days
4	28-06-09 to 02-07-09	4 days
5	20-08-012 to 22-08-012	2 days
6	17-10-021 to 21-10-021	4 days
7	04-02-013 to 08-02-013	4 days
8	07-03-013 to 08-03-013	1 day
9	26-03-013 to 27-03-013	1 day
10	10-04-013 to 14-04-013	4 days
11	27-04-013 to 02-05-013	5 days
12	03-07-013 to 14-07-013	11 days
13	13-06-014 to 14-06-014	1 days
14	09-11-013 to 12-11-013	2 days
15	22-09-014 to 24-09-014	4 days
16	22-09-014 to 24-09-014	2 days
17	11-05-015 to 17-05-015	5 days
18	02-06-015 to 06-06-015	4 days
19	17-11-015 to 20-11-015	3 days
20	09-01-016 to 12-01-016	3 days
21	21-07-015 to 24-07-015	2 days
22	06-05-016 to 07-05-016	2 days
23	04-06-016 to 10-06-016	5 days
24	07-08-016 to 09-08-016	2 days
25	26-12-016 to 31-12-016	4 days
26	05-04-017 to 13-04-017	7 days
27	06-09-017 to 18-09-017	11 days
28	22-09-017 to 27-09-017	4 days
29	28-09-010 to 08-10-017	9 days
30	27-05-017 to 04-07-017	37 days
31	28-12-017 to 06-01-018	8 days
32	29-01-018 to 08-02-018	9 days
33	26-03-019 to 03-04-019	8 days
34	17-04-019 to 26-04-019	8 days
35	24-05-019 to 31-05-019	6 days
36	13-08-019 to 17-08-019	3 days
37	16-10-019 to 26-10-019	9 days
38	17-11-019 to 23-11-019	5 days
39	03-12-019 to 05-12-019	2 days
40	26-12-019 to 01-01-2020	5 days
41	26-01-020 to 30-01-020	3 days
42	01-05-020 to 05-05-020	3 days
43	22-02-020 to 10-03-020	18 days
44	11-07-020 to 21-07-020	10 days
45	11-09-020 to 14-09-020	3 days
46	12-10-2014 to 04-12-2014	52 days
47	05-02-2015 to 24-04-2015	79 days
48	13-06-2015 to 24-07-2015	41 days
TOTAL ABSENTEE =445 Days		

Attested
(AS) (HIKMAT)

ASI

Legal

Dep

DPG SWGA

18/4/2023

Establishment Clerk

B
7

OFFICE OF THE DISTRICT POLICE OFFICER, SWAT

ORDER

This order will dispose off the departmental enquiries against Constable Nasar Ali No.3183 while posted to Police Station Khurshid Khan Shaheed have absented yourself from duty without prior permission or leave vide DD No.38 w.e.f. 12-10-2014 to 04-12-2014 (Total 01 month 22 days 14 Hours 25 Minutes) as per report of SHO Police Station Khurshid Khan Shaheed dated 17-10-2014 and absented himself from duty vide DD No.43, w.e.f. 05-02-2015 to 24-04-2015 (Total 79 Days) Vide DD No.35 13-06-2015 to 24-07-2015 (Total 41 days) as per report of SHO Police Station Khurshid Khan Shaheed Dated 18-06-2015.

He was issued Charge Sheets alongwith statement of Allegations and WFO/Madyan Circle, DSP/Headquarter and SDPO/Barikot, Swat was appointed as Enquiry Officers. The Enquiry Officers conducted proper departmental enquiries against the delinquent officer and recorded the statements of all concerned officers. He was provided ample opportunity for his defense for the absence rendered by him. After conducting proper departmental enquiry, the Enquiries Officers submitted his findings wherein he recommended the delinquent Officer for Major Punishment. He was called in Orderly Room but he could not any plausible defense against his long absence.

Having been perused his service record, and found Eighteen Bad Entries, it was patently evident that the delinquent Constable Nasar Ali No.3183 is addicted to a chronic absence and is not interested to continue his service. Forgoing in view the undersigned is of considered opinion that there are no chance that Constable Nasar Ali No.3183 become an efficient Police officer. His further retention in service is bound to affect the discipline of the entire force. Therefore, in exercise of the powers vested in the undersigned under Rules 2 (iii) of Police Discipline, Rules-1975, I, Muhammad Saleem Marwat, P.S.P District Police Officer, Swat as a competent authority, am constrained to award him the punishment of Removal from service from the date of absence.

Order announced.

O.B. No. 136

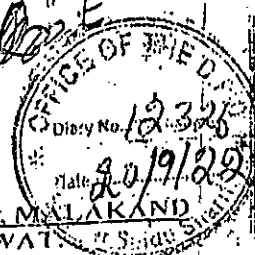
Dated 13/08/2015.


District Police Officer, Swat

Attested
by
(HIKMAT)
ASJ
by
Dps Swat



17 Ann



OFFICE OF THE REGIONAL POLICE OFFICER, MALAKAND AT SAIDU SHARIF SWAT Ph: 0946-9240388 & Fax No. 0946-9240390 Email: ebmalakandregion@gmail.com

ORDER

This order will dispose of appeal of Ex-Constable Nasar Ali No.3183 of Swat District, in connection with major punishments awarded by the District Police Officer, Swat vide OB No.45, dated 21-03-2022, i.e. dismissal from service from the date of his absence.

Brief facts of the case are that Ex-Constable Nasar Ali No.3183 of Swat District while posted at Police Station Saidu Sharif had absented himself from lawful duty without prior permission or leave from his immediate officer vide DD No.42 w.e.f 02-08-2020 to 09-09-2020 and again vide DD No.35 w.e.f 25-09-2020 to up till dismissal. He was issued Show Cause Notice vide No.803/Inq. dated 01-09-2020 to explain his position but he did not bother to submit his reply to justify his willful absence. He was called in orderly room by the District Police Officer, Swat to hear in person but he did not appear in orderly room to produce any plausible defense for his absence. Being found guilty of the charge leveled against him, the District Police Officer, Swat awarded him major punishment of dismissal from service from the date of his absence vide OB No.45, dated 21-03-2022.

He was called in Orderly Room on 07-09-2022 and heard him in person. The appellant explained his innocence into the matter, therefore, taking a lenient view, his appeal is accepted. Punishment awarded by the District Police Officer, Swat i.e. Dismissal from service is converted into "Forfeiture of three (03) years approved service" while the period of absence as well as intervening period are treated as leave without pay.

Z. Asghar Regional Police Officer, Malakand Region Swat

No. 9952 /E, Dated 19-9-2022.

Copy to the District Police Officer, Swat with reference to his office Memo No.10184/E, dated 22-07-2022, His Service Roll and Full Missal received with the memo under reference are returned herewith for record in your office.

Reclosed/Action
N. H. Khan
19/9/22

OB No. 131
21-9-22

Attested
A. H. Khan
(H. Khan)
ASJ
Legal rep of
Sulman CTC
DPO
Sulman
Ahmed Advocate High Court