

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO 1718 of 2022.

Muhammad Javed s/o Khalil Ur Rehman Mohallah Sarajia near Lari
Adda District Mansehra.


.....Appellant

VERSUS

- 1) District Police Officer, Mansehra.
- 2) Regional Police Officer Hazara Region Abbottabad.
- 3) Provincial Police officer KPK Peshawar.

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Deponent

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..... Respondents

Parawise/Comments On Behalf Of Respondents 1 to 3

RESPECTFULLY SHEWETH:-

PRELIMINARY OBJECTION:-

- a) That the appeal is not based on facts and appellant has got no cause of action or locus standi.
- b) That appeal is not maintainable in the present form.
- c) That the appeal is bad for non- joinder of necessary and mis-joinder necessary parties.
- d) That the appellant is estopped by his own conduct to file the appeal.
- e) That the appeal is barred by the law and limitation.
- f) That the appellant has not come to the Honorable Tribunal with clean hands and concealed the material facts from this Tribunal.

FACTS:-

- 1) Pertains to record.
- 2) That the appellant while posted as technician DPO office Mansehra was proceeded on 15 days medical leave vide

OB No. 178 dated 03.09.2013 but failed to report his arrival and absented himself from duty without any leave or permission till his date of dismissal dated 14.02.2014. He was proceeded against departmentally but he failed to join the proceedings and ex-parte proceedings were conducted against him. The enquiry officer held him guilty due to which he was dismissed from service. **(copy of enquiry report is attached as annexure A)**

- 3) Incorrect. That the appellant has not submitted any information regarding his illness or mental health to concerned office after completion of 15 days medical leave and went absent without any information. It is worth to mention that a case vide FIR No. 178 dated 03.09.2013 u/s 489-F PS City was registered against him due to which he went on hiding.
- 4) That the appellant was not interested in his job and despite information of departmental proceedings and dismissal order failed to participate the same.
- 5) Incorrect. The appellant filed departmental appeal. The departmental appeal of appellant was decided within time. The departmental appeal of appellant was rejected due to time barred appeal.
- 6) That the copy of order of rejection of his appeal was provided to him in time.
- 7) That the appellant was dismissed from service on account of absence from duty. The said allegation is maintained in his charge sheet. The involvement in the criminal case was later surfaced during enquiry proceedings and later on he was acquitted from the criminal charge on the basis of compromise.
- 8) The instant appeal is not maintainable on the following grounds.

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GROUND:-

- A. Incorrect. The orders of dismissal and rejection of departmental appeal are correct and according to law/rules.
- B. Incorrect. All the codal formalities have been fulfilled. He deliberately failed to join the proceedings.
- C. Incorrect. He was given full opportunities of hearing but in vain.
- D. Incorrect.
- E. Incorrect. The appellant was not interested in his job that's why he did not assail the dismissal order in appeal within time.
- F. Incorrect. Detail has been given in above Paras.

PRAYER:

In view of the above mentioned facts, the appeal in hand may kindly be dismissed being devoid of any legal force and badly time barred case.


District Police Officer
Mansehra
(Respondent No. 1)


Regional Police Officer
Hazara Region Abbottabad
(Respondent No. 2)


Provincial Police Officer
Khyber Pakhtunkhwa Peshawar
(Respondent No. 3)

(10)

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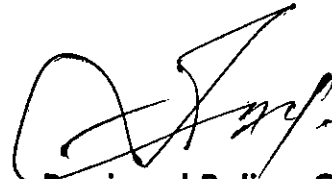
1. District Police Officer, Mansehra.
2. Regional Police Officer Hazara Region Abbottabad.
3. Provincial Police officer KPK Peshawar.

AFFIDAVIT

We respondents do hereby solemnly affirm
and declare that the contents of comments are true and correct to
the best of our knowledge and belief and nothing has been
concealed or suppressed from this Honorable Tribunal.



**District Police Officer
Mansehra
(Respondent No. 1)**



**Regional Police Officer
Hazara Region Abbottabad
(Respondent No. 2)**



**Provincial Police Officer
Khyber Pakhtunkhwa Peshawar
(Respondent No. 3)**



Annex (A)

(5)

**OFFICE OF THE DEPUTY SUPERINTENDENT
OF POLICE CIRCLE SHINKIARI.**

No. 354 Dated 19/12/2013.

To

The District Police Officer,
Mansehra.

Subject FINDING OF DEPARTMENTAL INQUIRY AGAINST CONSTABLE
MUHAMMAD JAVED NO. 618 DPO OFFICE MANSEHRA UNDER
THE K.P.K DISCIPLINARY RULE 1975.

Memorandum.

Please refer to your office Endst: No. 9391-92/PA dated 21-10-2013 attached in original.

The departmental inquiry against Constable Muhammad Javed No. 618 DPO Office Mansehra was received; in which he was alleged that while posted as technician in DPO Office Mansehra, he went on 15 days medical rest/leave vide OB No. 178 dated 03-09-2013. He was suppose to back on duty on 18-09-2013, but he absented himself from duty till date without any leave or permission.

I was appointed as enquiry officer. I initiated the departmental inquiry and issued various summons to the Constable Muhammad Javed No. 618 through DPO Office Mansehra and PS City on his home address, but the delinquent Constable failed to appear for his statement/join inquiry proceeding. On 09-12-2013 SHO PS City was directed that in case of non-service of summon, the MHC PS City should come to record his statement.

On 12-12-2013 Naseem Khan, MHC PS City recorded his statement according to which the brother Haqnawaz of Muhammad Javed Constable reported regarding disappearance of the constable vide DD No. 29 dated 06-09-2013 PS City Mansehra. Furthermore FIR No. 1254 dated 03-12-2013 u/s 489-F PPC PS City Mansehra was also registered against Constable Muhammad Javed and is under investigation with ASI Imtiaz of PS City Mansehra.

➤ **FINDING:-** →

The absentee Constable Muhammad Javed No. 618 is defaulter and a fraud case is already registered against him. His suspicious disappearance and report of his brother is PS City Mansehra made it clear that Constable Muhammad Javed No. 618 is intentionally hiding from the public and police department.

Considering Ex-party proceedings, he may penalized with "MAJOR PUNISHMENT".

OHC/OR.

m.f.
(MUHAMMAD AYAZ MALIK)
Dy: Supdt: of Police,
Circle Shinkhari.

Encls: (16).

DPO Mansehra

*Dismissed
From service
w.e.f. 18.9.13*

(B) (2) ✓ P

CHARGE SHEET

I, Khurram Rashid, District Police Officer, Mansehra as Competent Authority, hereby charge you Constable Muhammad Javed 618 DPO Office as follows.

You while posted as Technician, DPO Office Mansehra went on 15 days medical rest/leave vide OB No. 178 dated 03.09.2013. You were due back on 18.09.2013 but you are absent from duty till date without any leave or permission.

Due to reasons stated above you appear to be guilty of misconduct under Khyber Pakhtunkhawa Police Disciplinary Rules 1975 and have rendered yourself liable to all or any of the penalties specified in the said Police Disciplinary Rules.

You are, therefore, required to submit your written defense within 07 days of the receipt of this charge sheet to the enquiry officer.

Your written defense, if any, should reach the enquiry officer 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 follow against you.

Intimate whether you desire to be heard in person or otherwise.

Statement of allegation is also enclosed.


District Police Officer,
Mansehra

(7)

DISCIPLINARY ACTION

I, Khurram Rashid, District Police Officer Mansehra, as Competent Authority of the opinion that Constable Muhammad Javed 618 DPO Office has rendered himself liable to be proceeded against as he committed the following act/omissions within the meaning of Khyber Pakhtunkhawa Police Disciplinary Rules 1975.

STATEMENT OF ALLEGATION

You while posted as Technician, DPO Office Mansehra went on 15 days medical rest/leave vide OB No. 178 dated 03.09.2013. You were due back on 18.09.2013 but you are absent from duty till date without any leave or permission.

For the purpose of scrutinizing the conduct of the said accused Officer with reference to the above allegations. Mr. DSP Shunkhiani is deputed to conduct formal departmental enquiry Constable Muhammad Javed 618.

The Enquiry Officer shall in accordance with the provisions of the Khyber Pakhtunkhawa Police Disciplinary Rules 1975, provide reasonable opportunity of hearing the accused, record findings and make recommendations as to punishment or other appropriate action against the accused.

The accused and a well conversant representative of the department shall in the proceedings on the date, time and place fixed by the Enquiry Officer.


District Police Officer,
Mansehra

No 9381-22 PA dated Mansehra the 21/10/2013.

A copy of the above is forwarded to: -

1. The Enquiry Officer for initiating proceedings against the defaulter officer under the provisions of the Khyber Pakhtunkhawa Police Disciplinary Rules 1975.
2. Constable Muhammad Javed 618 DPO Office with the direction to submit his written statement to the Enquiry Officer within 7 days of the receipt of this charge sheet/statement of allegations and also to appear before the Enquiry Officer on the date, time and place fixed for the purposes of departmental proceedings.

- 60/1 -
District Police Officer,
Mansehra



"F"

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OFFICE OF THE REGIONAL POLICE OFFICER
HAZARA REGION, ABBOTTABAD

0992-9310021-22

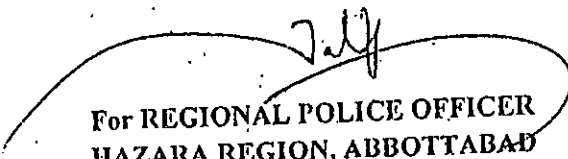
0992-9310023

r.rpohazara@gmail.com

NO: 875 /PA DATED 15/9/2022

ORDER

The competent authority has examined and filed the instant appeal submitted by Ex. Constable Muhammad Javed No:618 of Mansehra district against the punishment of Dismissal from service awarded by District Police Officer, Mansehra vide OB No. 32 dated 14.02.2014 being badly time barred.


For REGIONAL POLICE OFFICER
HAZARA REGION, ABBOTTABAD

CC.

The District Police Officer, Mansehra to inform the appellant accordingly.