

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.891/2022.

Ex-Constable Muhammad Arshad No.5961 of CCP Peshawar..... **Appellant.**

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others..... **Respondents.**

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REPLY BY RESPONDENTS NO. 1 to 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'ble Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi to file instant appeal.
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 Hon'ble Tribunal.
7. That the appeal is not maintainable being devoid of any merit.

REPLY ON FACTS:-

1. Pertains to record.
2. Incorrect. The appellant was appointed as constable in the respondents department in the year 2012. However, the performance of the appellant during service was not upto the mark and earned 20 bad entries at his credit on the charge of wilful absence from duty on different occasions. Further, his service appeal is badly time barred.(copy of bad entries list as annexure "A")
3. Incorrect. the appellant while posted at Police Lines, Peshawar absented himself from lawful duty w.e.from 16.10.2016 to 26.07.2017 (total 09 months & 10 days) without taking permission/leave. In this regard he was issued Charge Sheet with Statement of Allegation. SDPO Chamkani was appointed as Enquiry Officer. During the course of enquiry the appellant was summoned time and again to join the Enquiry proceedings, but he did not turn up. The enquiry officer has finalized the enquiry and submitted his findings report, wherein the charges of wilful absence were proved against him and he was recommended for major punishment.(copy of charge sheet, statement of allegation and enquiry report are annexed as B,C &D).
4. Incorrect. The appellant wilfully absented himself from lawful duty without any prior permission or leave. The appellant is a habitual absentee and not interested in official duty and enjoying his long absence period without any leave/permission. After fulfilling all the codal formalities, he was awarded the major punishment of removal from service vide order dated 26.07.2017.(copy is annexure as E)
5. Incorrect. The appellant preferred time barred departmental appeal on 10.11.2020 after inordinate delay of about 03 years and 03 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 merit and hit by limitation may be dismissed on the following grounds.


REPLY ON GROUNDS:-

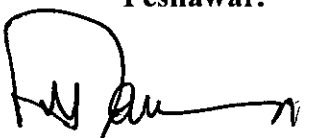
- A. Incorrect. The orders passed by the competent authority are legal and lawful liable to be upheld; further the competent authority completed all codal formalities before passing the said orders.
- B. Incorrect. Proper charge sheet with statement of allegation was issued to the appellant and proper departmental enquiry was conducted against him wherein the charges of deliberately absence were proved. After completion of codal formalities the punishment order was passed in accordance with law/rules.
- C. Incorrect. The competent authority before imposing the punishment order had completed all codal formalities by conducting regular enquiry and also provided proper opportunity of personal hearing, but the appellant failed to defend himself.
- D. Incorrect. The appellant availed the opportunity of defense/personal hearing, but he could not prove his innocence with plausible grounds.
- E. Incorrect. After fulfilling all codal formalities he was awarded the major punishment.
- F. Incorrect. The appellant has deliberately absented himself from his lawful duty for such long period, which is not tolerable in the disciplined force. Therefore, rightly awarded the major punishment.
- G. Incorrect. The punishment order passed by the competent authority are in accordance with law/rules and liable to be upheld.
- H. Incorrect. As per record the appellant was a habitual absentee and had a blemish service by not interested in his official duty. Therefore, the punishment order was passed by competent authority in pursuance of his long absence period.
- I. Respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

Prayers:-

It is therefore most humbly prayed that in light of above facts and submission, the appeal of the appellant being devoid of merits, limitation and legal footing, may kindly be dismissed with costs please.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.


Capital City Police Officer,
Peshawar.


Senior Superintendent of Police,
Operations, Peshawar.

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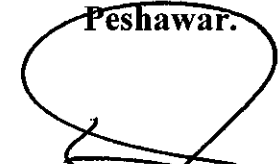
VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others..... **Respondents.**

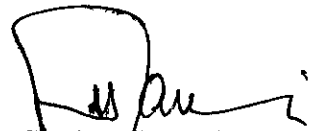
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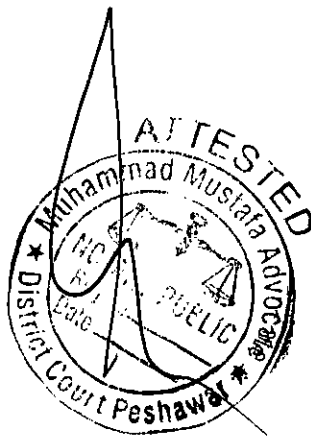
We respondents 01 to 03 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.


Capital City Police Officer,
Peshawar.

*The respondents all neither proceeded
exparte nor any cost is imposed.*


Senior Superintendent of Police,
Operations, Peshawar.



05 JUN 2023

(A)

1. **Name of Official** MUHAMMAD ARSHID NO 5961 S/O NAZAR MUHAMMAD
 R/O Nishter Abad Moh: Islamabad PS Gulbahar Distt: Peshawar
2. **Date of Birth** 13.07.1989
3. **Date of enlistment** 11.01.2012
4. **Education** 10th
5. **Courses Passed** Nil
6. **Total qualifying service** 05 years & 22 days.
7. **Good Entries** Nil

Bad Entries (L.W.O Pay, E/Drill & Warning)

1. 25 days leave without pay vide OB No.4530 dt: 26-12-2012
2. 23 dys leave without pay vide OB No.3857 dt: 22-10-2012.
3. 13 days leave without pay vide OB No.3740 dt: 11-10-2012
4. 11 days leave without pay vide OB No.579 dt:11-02-2013
5. 02 days leave without pay vide OB No.3372 dt.12-09-2012
6. 01 days E/drill vide OB No.895 dt: 19.03.2014
7. 21 days leave without pay vide OB No.908.dt.03-03-2015
8. 01 day E/drill vide OB No.1638 .dt.15-05-2014
9. 01 day Extra Drill vide OB No.1760.dt.26-05-2014
- 10.03 days leave without pay vide OB No.4059 dt.02-11-2013
- 11.07.days leave without pay vide OB No.3573.dt.02-10-2012
- 12.10 days leave without pay vide OB No.877 dt: 17.03.2014
- 13.29 days leave without pay vide OB No.3601 dt.20-09-2015
- 14.22 days leave without pay vide OB No.4108 dt.12-11-2015
- 15.Warning be carefull in future vide OB No.695 dt: 18.02.2015
- 16.01 day Extra Drill vide OB No.639 dt.16-02-2015
- 17.01 day Extra Drill Vde OB No.2662 dt.07-07-2015
- 18.01 day Extra Drill Vde OB No.1914 dt.14-05-2015
- 19.07 day Extra Drill Vde OB NO.2869 dt.26-07-2017
- 20.01 day Extra Drill Vde OB NO.895 dt.19.03.2014

Minor Punishment

Nil

Major Punishment

Nil

8. **Punishment (previous)**

Nil

09. **Punishment (Current)**

• Awarded the major punishment of removed from service on charge of absence w.e.f 16.10.2016 to till date vide OB No. 2869 dated 26.07.2017, the absence period is leave without pay by SP/HQrs Peshawar

10. **Leave Account**

<u>Total leave at his credit</u>	<u>Availed leaves</u>	<u>Balance</u>
240 days	Nil	240 Days

PA *[Signature]*

Attested *[Signature]*

CRC 8/11

B³
W

CHARGE SHEET

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, hereby, charge that Constable Arshid No.5961 of Capital City Police Peshawar with the following irregularities.



"That you Constable Arshid No.5961 while posted at Police Lines, Peshawar were absent from duty w.e.f. 16.10.2016 till date without taking permission or leave. This amounts to gross misconduct on your part and is against the discipline of the force."

You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

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

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.


SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR 

Attested


6C
3

DISCIPLINARY ACTION

I, Superintendent of Police, Headquarters, Capital City Police Peshawar as a competent authority, am of the opinion that Constable Arshid No.5961 has rendered him-self liable to be proceeded against under the provision of Police Disciplinary Rules-1975

STATEMENT OF ALLEGATION

"That Constable Arshid No.5961 while posted at Police Lines, Peshawar absented himself from duty w.e.f 16.10.2016 till date without taking permission or leave. This amounts to gross misconduct on his part and is against the discipline of the force."

For the purpose of scrutinizing the conduct of said accused with reference to the above allegations an enquiry is ordered and SDPO Chamkani is appointed as Enquiry Officer.

2. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused officer, record his finding within 30 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

3. The accused shall join the proceeding on the date time and place fixed by the Enquiry Officer.

Basem
SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR

No. 06 /E/PA, dated Peshawar the 09/01 /2017

1. SDPO Chamkani is directed to finalize the aforementioned departmental proceeding within stipulated period under the provision of Police Rules-1975.

2. Official concerned

*Attested
Saleem*

E

ORDER

This office order relates to the disposal of formal departmental enquiry against Constable Arshid No.5961 of Capital City Police Peshawar on the allegations that he while posted at Police Lines, Peshawar absented himself from lawful duty w.e.f 16.10.2016 till date without taking permission or leave.

In this regard charge sheet & summary of allegation was issued to him. SDPO Chamkani was appointed as Enquiry Officer. He conducted the enquiry proceedings & submitted his report that the defaulter official is not taking interest in his official duty. The E.O further recommended for taking ex-parte decision against defaulter official vides Enquiry Report No.17/ST dated 22.07.2017.

In light of recommendations of E.O, he is hereby removed from service under Police & Disciplinary Rules-1975 with immediate effect. Hence, the period of absence from 16.10.2016 till date is treated as without pay.

Encl (0)

[Signature]
SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR

OB. NO. 2869 / Dated 26/7 /2017

No. 3835-41/PA/SP/dated Peshawar the 27/7 /2017

Copy of above is forwarded for information & n/action to:

- ✓ The Capital City Police Officer, Peshawar.
- ✓ DSP/HQrs, Peshawar.
- ✓ Pay Officer
- ✓ OASI, CRC & FMC along-with complete departmental file.
- ✓ Officials concerned.

[Signature]
3/2017 *[Signature]*

Attested
[Signature]

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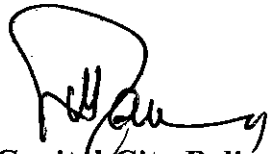
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AUTHORITY.

I, **Capital City Police Officer, Peshawar**, hereby authorize **Mr.Ahmad Jan** SI legal of Capital City Police, Peshawar to attend the Hon'ble Court and submit written reply, statement and affidavit required for the defense of above service appeal on behalf of respondent department.

for 
Capital City Police Officer,
Peshawar.