BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR hyber Pakhtukhwa

Service Appeal No. 100/2023

Sajjad Khan Constable No. 6065 Police Lines Bajaur.....Appellant VERSUS

Inspector General KP & others......Respondents.

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District Police Officer, Bajaur at Khar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 100/2023

Sajjad Khan Constable No. 6065 Police Line Bajaur.....Appellant

VERSUS

Inspector General KP & others......Respondents.

PARA-WISE COMMENTS BY RESPONDENT NO. 01 to 03.

Respectfully Sheweth:

Preliminary Objections:-

- I. That the appellant has no locus standi to file the present appeal.
- II. That the appellant has not come to this august Tribunal with clean hands.
- III. That the present service appeal is not maintainable in its present form.
- IV. That the appellant has suppressed and concealed the material facts from this Honorable Tribunal.
- V. That the instant appeal is bad for mis joinder and non joinder of necessary parties.
- VI. That this service appeal is barred by law & limitations.

ON FACTS:

1. Incorrect & misleading. Performance of the appellant was not up to the satisfaction of his superior officers was in habit of making absences. He was reportedly marked as absent from government duty and was also earlier subjected to departmental action wherein appellant was awarded with minor punishment vide order dated 28.07.2020 (Copy attached as Annexure A). Similarly as per Daily Diary report of Line Officer Police Lines Bajaur dated 06.10.2021, appellant was marked absent from his duty post hence explanation was called vide No. 4081/B.P dated 05.11.2021. He was suspended from his service vide order No. 4074/B.P dated 05.11.2021 and Charge Sheeted Vide No. 601/B.P dated 23.02.2022 wherein Sub Divisional Police Officer, Khar was nominated as enquiry officer who vide report dated 29.03.20222 recommended appellant for major punishment of reduction of increment for period of three years. However, Respondent No. 03 i.e. District Police Officer Bajaur did not agree with recommendations of Enquiry Officer and entrusted the enquiry to Inspector Mazoom Khan. The 2nd Enquiry Officer vide report dated 19.04.2022 recommended that Major Punishment may be imposed on the appellant for his

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involvement in 03 criminal cases of moral turpitude; Therefore, he was removed from service vide order No. 1317/B.P OB No. 119 dated 25.04.2022 (Copy of Report dated 06.10.2021 attached as Annexure B, Explanation as Annexure C, Suspension Order as Annexure D, Charge Sheet as Annexure E, 1st Recommendations of EO as Annexure F & 2nd Recommendations as Annexure G).

- 2. Incorrect. Report of Investigation Officer PS Khar District Bajaur dated 28.02.2022 was received suggesting that departmental action may be initiated against the appellant due to his involvement/nomination in case FIR No. 15 dated 25.02.2022 under sections 381A-34 PPC & FIR No. 13 dated 23.02.2022 under sections 380-34 PPC which was marked to the Enquiry Officer as the appellant was already undergoing his enquiry of absence was charge sheeted for his willful absence from duty (Copy of Report attached as Annexure H).
- 3. Incorrect. The appellant was well aware of the proceedings initiated against him as his statement was also recorded by the enquiry officer during the course of enquiry.
- 4. Correct to the extent that the appellant had filed revision petition which is pending adjudication before Respondent No. 01 i.e. Inspector General of Police Khyber Pakhtunkhwa.
- 5. The appellant has got no cause of action to file the instant service appeal.

 Therefore, the instant appeal may be dismissed on following grounds.

ON GROUNDS:

- A. Incorrect. All the orders passed by the respondents are based on facts, norms of natural justice, law and materials on the record.
- B. Incorrect. The appellant has been treated in accordance with law and rules by the respondents as the appellant, despite being member of disciplined organization was involved in criminal cases of moral turpitude.
- C. Incorrect. Charge sheet and statement of allegation has been duly served upon the appellant (Copy already been attached as Annexure E).
- D. Incorrect. The appellant was issued with showcause notice dated 05.11.2021 however the appellant neither tendered reply to the showcause nor resumed his

duty; therefore, he was subjected to further departmental proceedings (Copy already been attached as Annexure C).

E. Incorrect. The appellant was afforded opportunity of personal hearing and his statement was properly recorded; however, he failed to produce cogent reasons to defend the charges leveled against him (Copy of Statement attached as Annexure I).

- F. Incorrect. Regular enquiry was conducted in the matter as discussed in the preceeding para 01 of facts.
- G. Incorrect. The appellant was dealt in accordance with law and rules and no malafide on part of respondents was involved.
- H. The respondents may also be allowed to adduce additional grounds at the time of arguments/hearing.

PRAYERS:-

Keeping in view the facts and law, it is therefore humbly prayed; that the appeal being devoid of merits may kindly be dismissed with cost, please.

District Police Officer, Bajaur at Khar.

Respondent No. 03

Regional Police Officer, Malakand at Saidu Sharif Swat.

Respondent No. 02

Inspector General of Police,

Khyber Pakhtunkhwa,

Peshawar.

Respondent No. 01

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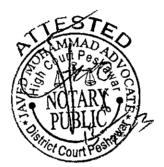
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 100/2023

Sajjad Khan Constable No. 6065 Police Line Bajaur.....Appellant VERSUS
Inspector General KP & others......Respondents.

AFFIDAVIT

I, Gul Shahzada, Head Constable Litigation Section, District Police Office, Bajaur CNIC No. 17301-9543505-5 do hereby affirm and declare that the contents of the accompanying comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



Deponent

CNIC# 17301-9543505-5 Mobile# 0302-8358525

It is further stated on oath that in this appeal the arswaing respondents have niether been placed exparts now their defence has been skruk off.

Cs flot

OFFICE OF THE DISTRICT POLICE OFFICER BAJAUR TRIBAL DISTRICT.

No. 180//Litigation/DPO(B)

Dated 06 / 06/2023

AUTHORITY:

Mr. Gul Shahzada, Head Constable Litigation Section, District Police Office Bajaur CNIC# 17301-9543505-5 is hereby authorized to submit comments in Khyber Pakhtunkhwa Service Tribunal Peshawar in Service Appeal No. 100 of 2023 titled as Sajjad Khan Vs Inspector General of Police Khyber Pakhtunkhwa at Peshawar & others.

District Police Officer, Bajaur at Khar.

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OFFICE OF THE DISTRICT POLICE OFFICER BAJAUR AT KHAR.

ORDER

This order will dispose of the departmental enquiry conducted against Constable Sajjad Belt No.6056/2223, that he while posted at Police Lines Khar absented himself from duty with effect from 02-07-2020 to 08/07/2020 without any leave prior permission from his superior, which is gross misconduct on his part. Therefore he was issued Charge Sheet / Statement of Allegation and Inspector Mazoom Khan was appointed as Enquiry Officer, to conduct proper departmental enquiry against him and submit his finding report.

The Enquiry Officer, during the course of enquiry recorded the statements of all concerned as well as the official concerned. The Enquiry Officer in his finding report recommended that the absence period with effect from 02-07-2020 to 08-07-2020 total 06 days may be counted as leave of kind due and warned to be careful in future.

Therefore I, Shahzada Kaukab Farooq, District Police Officer, Bajaur in exercise of power vested to me under Police Rules 1975 with amendment 2014, protected by Khyber Pakhtunkhwa Police Act 2017, agreed with the finding report of enquiry Officer, the interviewing period with effect from 02-07-2020 to 08-07-2020 (Total of days) shall be treated counted as leave and Warned to be careful in future.

ORDER ANNOUNCED

OB No. 188 1

Dated 28 / 07/2020

No. 2738-40/21/07-12-2-

Copies to:

- 1- Accountant Bajaur Police.
- 2- OASI DPO Office Bajaur.

District rolles Officer,

Bajaurat Khar

cu a lu 1/19 ans 12:30 ce 9 06/10, 20198 LO E) مرکان جو سر مطور سکوال ایجارے لائل تیک دفتر دورنائی الرساي هوا مر مار ساكر متعن دا كر ما المر متعن دا كر ما المر م Unin is Who ois by the ofice will the Which we film was by the biglio and of Winter of Sund only on the state of the stat ()1.4. hold albelle H. W. S. N HCPL 06-10-021

از دفتر ڈسٹرکٹ پولیس آفیسر باجوڑایٹ خیال

مورخد 12021 المار

نبر مره / 1804 باجور پولیس

وضاحت طلي

عنوان:

كانشيبل سجاد نمبر 6056 آف باجوز بوليس

بنام:

بحواله نقلمد نمبر 13 بتاریخ 06.10.2021 اور رپورث OHC

07.10.2021 آب پولیس لائنز گیٹ سے بمورخہ 04.10.2021 مے غیر ماضر

مال سرکاری ڈیوٹی سے غیر ماضر ہو۔ حالانکہ اس سے پہلے بھی آپ غیر ماضرر پورٹ ہو

-2

لطذااس سلسلے آپ کوبذر بعیدنوٹس طذامطلع کیاجا تا ہے۔ کہاس نوٹس کے اجر سات (7) دن کے اندراندا بنی غیر حاضری کی وضاحت کرے۔ کیوں نہ آپ کے خلاف کارواوئی عمل لائی جا پیمگی۔

زیرد تخطی کے مہراورد سخط سے آج مورجہ 2021/110/2021 کوجا

ڈسٹرکٹ پولیس ﴿آفیسر باجــوڑایٹ خــار OPO B.

OFFICE OF THE DISTRICT POLICE OFFICE BAJAUR AT KHAR.

Dated05_/19/2021.

/B.P

OFFICE ORDER.

Constable Sajjad No. 6056 of this district police is hereby placed unde

suspension with immediate effect.

DISTRICT POLICE OFFICER, BATAUR AT KHAR.

No 2025-78/B.P

Copy forwarded to the:

- 1. SDPO Khar.
- 2. Line Officer, Police Lines Bajaur.
- 3. OASI/OHC, District Police Office, Bajaur.
- 4. File.

DISTRICT POLICE OFFICER, BAJAUR AT KHAR.

DPO Balaur

CHARGE SHEET



1. I Abdul Samad District Police Officer as competent authority, hereby charge you Sajjad Constable No. 6056 of Bajaur Police as follow:

That while you were transferred from MTO section Bajaur to Police Lines Gate but you remained absent; hence, committed the following:

- a. You are guilty of willful breach of orders bound to obey.
- b. You are guilty of violation of duty.
- c. Insubordinate to superior officers.
- 2. By reason of the above, you appear to be guilty of breach of orders, violation of duty and insubordinate to superior officer, under Police rules 1934 amended in 1975 and further amended Police rules 2014, protected by Police Act 2017 under section 118.
- 3. You are, therefore, required to submit your written reply/defense within 07-days of the receipt of this charge sheet to the inquiry officer failing which shall be presumed that you have no defense to put in and that case ex-parte action shall be taken against you.
- 4. Intimate whether you desire to be heard in person.
- 5. A statement of allegation is enclosed.

No 60/B.P dated 23 /02/2022

DISTRICT POLICE OFFICER BAJAUR AT KHAR.

DISCIPLINARY ACTION

1. I Abdul Samad, District Police Officer, Bajaur as competent authority of the opinion that Constable Sajjad No.6056 has rendered himself liable to be proceeded against, as he committed the following acts/omission, within the meaning rule 118, 1 (c), (d) & (g) of the Police rules 1934 amended in 1975 and further amended Police rules 2014, protected by Police Act 2017.

STATEMENT OF ALLEGATION.

- a. You are guilty of willful breach of orders bound to obey.
- b. You are guilty of violation of duty.
- c. <u>Insubordinate to superior officer.</u>
- 2. For the purpose of inquiry against the said accused with reference to the above allegations, Mr. Gul Zar Khan SDPO Khar is hereby nominated as an inquiry officer under rules 06 of the rules ibid.
- 3. The enquiry officer shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within seven (07) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused.

4. The accused shall join the proceeding on the date, time and place fixed by the inquiry officer.

DISTRICT POLICE OFFICER BAJAUR AT KHAR



OFFICE OF THE SUB DIVISIONAL POLICE OFFICER KHAR

<u>/ И.</u> _/SDPO/K dated **_39/**03/022

The District Police Officer Bajaur at Khar

Subject:

INQUIRY REPORT AGAINST CONSTABLE SALIAD NO.6056.

Memo:

Kindly to your Charge Sheet No.601 BP dated 23/02/2022 on the subject noted

åbove.

In this context during the course of inquiry it was concluded that the forementioned police constable involved in serious incidents like theft, and this connection FIR o.15 dated 25/02/022 lodged under section 381A-34 PPC and FIR No.13 dated 23/2/022 lodged under section 380-34 PPC Police Station Khar, due to which in the eyes of the people the image of the Police badly affected.

It is recommended that major penalty imposed on him i.e reduction increments for the period of 3 years.

Sub Divisional Police Officer

Spelle Department of were

OPO Balauri

والرف اللوى طورات الحالف كا دام 6056 وف دوت ك 2 16 10 50po - 10 3/6 2/1 C3) (3) عادر ریکزی اوس کے زیکری سے (AGREE) مزیر ری اور كفلف قمارض فخالف لولمت والم عومات عب الداور 38/A-34 p3 25/22 (622) 5 15 10 18 380-34 p3 23/022 1,500 (51,60,0 3/2 con 1/6) as sil مرونون استا و کارن ، دیگر سر بارش مات دار دیگر (6 de 2 Cm, 06 de Colom, 60 15 july 60) نرب المرفع وال مال فارما ور فرس فوت مادی ور فارساندول 1000/ 25/2004 /36 1960 1960 11 زردی ما اس از از از این می من عامی زر مردنی ا (روتر المراب المراب المراب المراب المال في الربا عامره والر シーグルンリックロン/ヒックところがころ جروزان اسرات المال المحال المال الما الماخیں سے معام وے کا معاقد تھا ترن سے زور بردسی

ادراك في برافي وطركا المسار هي روفره سال موت من الله العام الحارى الله المراقعة 60, 60 13 13 /392-34 /3 12/22 17 icu عر ورفارم مرزن السرفرس مارى وركامل برا مرحی مرکز و ترمات بس رکر ریزه (ماک مازمافت) فی آجا من المعرف المراق وجوب عن مركم مروك المعالم الله سنا- دوست ملك شن فرما درج محرام أوب م ارت برناطع كى قواس راون اور شرنى تولوس كى الما نا مورنا عارات . في الرامل فروطومات سى مزورة کارور می افتی ایس می و مزیروس می رکسانی اس فریس - (2 3) Light مالت وقع اور ناوی سے مارایت کے مار و تاری ربورط مرت و کردماله ایسا کردماله ایسان کردماله کاردماله inglification mayor Drawissal of Services 19-4-622 Supoti

brils المروانه نفرع الحسالة كاردني برقالف 194/19 6056 je (16) melcol) in 195 \$381A-34 (1025/02-Pg (5) (00 denien/15) / jed is le Chan Bight illes leuristin 1-0/HC PS KHAR farmanded 28-02-2022 Alance . Enquiry Officer The rules as the Court is fact 3/50 f. where where enquiry vide charge 2022 20nder enguny vide 23.02 20-02-2022 No. 601/8 P dated 23.02 011/3/22 K.K 43.022

6056; 55 miss P-16 28/02/022 0/360/ 100 7/10 1/5 بان کوت میں ماری اینا محرول سرائی ریکا تھا۔ العدویں صرا عادر بولسه داند رام رام العراب دوران عدم الم طور برد اور عوان مي ريك ماي تداييا دودي مراني ري. سل رس روران میرے زیرف ری می سار سرای میں نے مال معالی کے گئے۔ خادر سنبال عرف جان م و دادن تد نم علاج محتی ویان پر ان کے ماں بھی بیس موں اور وہاں سے میم کو کوسی اج کی رہے اور تعرک والی مرت بیلی کیم کی زول اور یک طال وار کیس اور میں اہم علاج معالی کے کی نگرام اور مان ور کانا مرا الراس فين لفريها 40 مام مرا له اور ليروس بحل وفات سرتی اور اس ورکر سے ص این کولوں سے فیرط فر سرگی -سي عد أب ك زور بيمار من لو أب ي راي وي بال أوران تعلى من بدالعم در فواست مها تا لاتے على كر تھے جھے رہا جا ہے جواب میں میں نے الساکی درفواست مغیر میں دی مرجمر کو برا اس کے بارے قب دیکا کی فرق ہے

العيم طان مادليث مي اين قاري مين ط) مرسا كا كه امري سيار عراس سے فرید کی ۔ اور کھا آپنا عرباس فون ریامرہ الله عبى عارفين تو طل كرو عالم وه قال الدر تروي الها قال مراب عن من الله المن فوالل وما الور المرسى كو كال كه . ادر عنوس لعبر طن ماركت الى . نويم دولون يه اس طاف كه نازس عادی مساتھ العبر کی اور اس عالی کو عنابت ملی میں نازمین کے تھی مين كويرا لي . اور اس ك لعد قين ما اين كور دالي ، اس ك لعد كَوْرِينًا كَ مِن لَجِمْ تَعَامِدَ مِن كُولُ إِنَّا كَمْ الْمِنْ كُولُولُونَ فَيْنِ وَلِي الْمُ فَيْنِ وَلِي · حالم آبي اور رهر مين جي حيك منتقل کي .