

Battagram, which were found fake and did not reflect that the petitioner had ever taken treatment as the chits were also not backed by relevant documents or prescriptions. The reasons for absence of the appellant are not alleged to be sudden, serious illness or unexpected bereavement in the family, thus, his absence can be treated as willful. It is not an absolute proposition in law that whenever there is a long unauthorized absence, it is obligatory on the part of disciplinary authority to record a finding of willful absence even if the employee fails to show the compelling circumstances to remain absent.

6. Therefore, we find no force in this appeal and will dismiss it with costs. Consign.

7. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 21st day of June, 2023.*

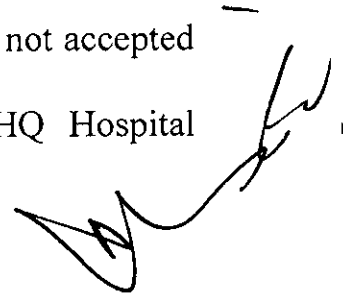


KALIM ARSHAD KHAN
Chairman
Camp Court Abbottabad



RASHIDA BANO
Member (Judicial)
Camp Court Abbottabad

by an illiterate person because it also contains spelling mistakes. The other is of 21.08.2015 with the same situation. The next is of 05.09.2015 but with no difference. The other is of 26.09.2015 and with no change. The next is of 26.10.2015 with same situation. The other is of 10.11.2015 with spelling mistakes and appears to be by the same person and containing spelling mistakes. The others are of 11.10.2015, 01.12.2015, 16.12.2015, 01.01.2016, 22.01.2016, 01.02.2016, all in the same handwriting and with same spelling mistakes repeated. It seems that almost all these documents are self prepared. The last one is of 13.06.2018 but with no signature of any doctor. None of these medical documents were otherwise worth consideration and the disciplinary authority has rightly not considered. Acquittal of the appellant from the case is not because the criminal court found that the prescription chits were genuine but that was on totally different grounds, mainly on the contradictions noticed in the statements of the prosecution witnesses. The Disciplinary Authority proceeded in accordance with law and has dealt with the appellant in accordance with law especially when the appellant admitted his prolonged and unexplained absence and his not applying for any leave. The appellant relied only upon the alleged medical chits in defence which were considered by the authorities but were not accepted as the chits were twice verified from the DHQ Hospital

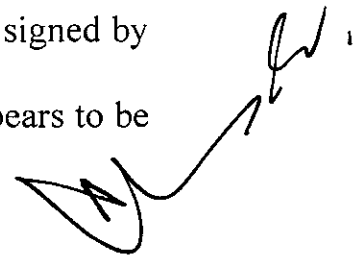


2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and submitted written reply despite raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant and learned Assistant Advocate General for the respondents.

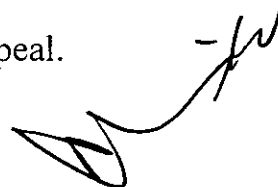
4. The Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Assistant Advocate General refuted the arguments of the learned counsel for the appellant and supported the impugned order.

5. The absence of the appellant and his not applying or obtaining the leave are admitted facts. The appellant contended that he had fallen ill and had submitted medical documents to his superiors but those were not considered. Let us first take the medical documents annexed by the appellant with the appeal. The first document is shown to be of 07.08.2015. The writing on this document shows that it is by some illiterate person as there are numerous spelling mistakes besides it is not signed by any doctor. The second is of 14.08.2015. That too appears to be



JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: The facts as enumerated in the memorandum and grounds of this appeal are that the appellant was appointed as Constable in the Police Department on 04.04.2011; that the appellant fell ill and remained absent from duty and he produced medical documents to his superiors but those were not considered and the appellant was dismissed from service on 25.11.2016; that the appellant filed departmental appeal but that was dismissed on 01.03.2017; that on the revision petition filed by the appellant a de novo enquiry was ordered and the appellant was reinstated in service; that during the de novo enquiry, the medical produced by the appellant was suspected by the authorities and an FIR No.378, dated 02.10.2018, under sections 419/420/468/471 PPC, was lodged against the appellant; that the appellant was arrested and ultimately acquitted by learned Senior Civil Judge/Judicial Magistrate, Battagram on 28.08.2019; that the appellant then moved an application to the District Police Officer (DPO) Battagram for his reinstatement but respondent No.4 dismissed the appellant from service once again on 19.10.2018; that aggrieved of the dismissal order, the appellant filed departmental appeal, which was dismissed on 19.03.2020; that the appellant then filed revision petition to respondent No.3 but that was also dismissed, hence, this appeal.



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT ABBOTTABAD.**

BEFORE: **KALIM ARSHAD KHAN ...CHAIRMAN**
RASHIDA BANO ...MEMBER (Judicial)

Service Appeal No.4902/2021

Date of presentation of appeal.....05.04.2021
Dates of Hearing.....20.06.2023
Date of Decision.....21.06.2023

Muhammad Sohail, son of Fakhar Zaman, Ex-Constable No.315/272
resident of DheriPhagora, Tehsil & District Battagram.....**Appellant**

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat, Peshawar.
2. Secretary Finance, Government of Khyber Pakhtunkhwa, Peshawar.

(Names of Respondents No.1 & 2 deleted vide order dated 20.06.2023 being unnecessary parties)

3. Inspector General of Police, Khyber Pakhtunkhwa, Police Lines, Peshawar.
4. District Police Officer, Battagram.
5. Regional Police Officer, Hazara Region, Abbottabad.
.....**(Respondents)**

Present:

Mr. Asadullah Khan Yousafzai, Advocate.....For appellant.

Mr. Asad Ali Khan
Assistant Advocate General.....For respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR SETTING ASIDE THE IMPUGNED ORDER NO.S/941/2021 DATED 04.03.2021 PASSED BY THE INSPECTOR GENERAL OF POLICE, KHYBER PAKHTUNKHWA WHEREBY THE REVISION PETITION, OF THE APPELLANT, AGAINST DEPARTMENTAL APPELLATE ORDER DATED 19.03.2020, WAS REJECTED AND DISMISSAL ORDER,PASSED BY THE DISCIPLINARY AUTHORITY ON 19.10.2018, WAS MAINTAINED.

