

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1765 /2022

Abdul Aziz Ex-Constable No.501 Police Post Chinglai Buner

.....Appellant

**Versus**

1. Inspector General of Police Khyber Pakhtunkhwa Peshawar
2. Regional Police Officer Malakand at Saidu Sharif Swat,
3. District Police Officer Buner.

.....Respondents

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SI Lega Buner

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**Service Appeal No. 1765/2022**

Abdul Aziz Ex-Constable No. 501 Police Post Chinglai District Buner

..... Appellant

**VERSUS**

1. Inspector General of Police KP Peshawar
2. Regional Police Officer Malakand at Saidu Sharif Swat.
3. District Police Officer Buner

..... Respondents

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS** *No 2 and 3*

**Respectfully Sheweth:-**

**Preliminary objections.**

1. That the appeal is badly barred by Law & limitation.
2. That the appellant has got no cause of action and locus standi to file the present appeal.
3. That the appeal is bad due to mis-joinder and non-joinder of necessary parties.
4. That the appellant has not come to the Tribunal with clean hands.
5. That the instant appeal is not maintainable in its present form.
6. That the appellant has concealed the material facts from this Hon'ble Tribunal.

**Reply on facts:-**

1. Pertain to record, hence needs no comments.
2. That the appellant while posted to P.P Chinglai was found guilty of gross misconduct as it was reported vide DD No.09 dated 09/08/2008 P.P Chinglai, that the appellant had left the place of duty and absented himself from official duty without prior permission or approved leave of his high ups till the date of dismissal vide OB No.89 dated 26/08/2008. (Copies of DD report & Dismissal Order as Annexure "A" & "B"). On 20/08/2008 again the appellant was informed & directed through written notice to report in your place of duty but he failed to report. Moreover, that in the year 2008 when militancy was at its peak and the services of the appellant were direly needed by the department for the protection of lives and properties of the public, he showed cowardice and left his place of duty without any permission of his high ups.

3. Incorrect. In some cases as per rules, removal from service special power Ordinance 2000 the competent authority has mandate to dispense the enquiry proceeding.
4. That every case has its different footing, however the case of present appellant is different from those of others appellants.
5. Incorrect. As stated above, every case has its different footings. Furthermore, The appellant has not preferred any departmental appeal before the appellate authority i.e Regional Police Office, Malakand Region within the statutory period of 03 month nor any record is available is in this regard. **(certificate of Respondent No 2 is attached as annexure"C")**.
6. Incorrect. As stated above, the appellant has not preferred any departmental appeal before the appellate authority within the statutory period of 03 month i.e Regional Police Office, Malakand Region. Furthermore, Appeal of the appellant is badly time barred and has wrongly challenged the legal and valid orders of the respondents before the honorable tribunal through unsound reasons/grounds.


**GROUND:**


- A. Incorrect. That the order passed by the respondents is legal and in accordance with law/rules and no violation of the article of Islamic Republic of Pakistan has been made by the respondents.
- B. Incorrect. That the order of respondents is legal, lawful and in accordance with law/rules.
- C. Incorrect. That the order passed by the respondents is legal and in accordance with law/rules and no violation of the article of Islamic Republic of Pakistan has been made by the respondents.
- D. Incorrect. The appellant has not been discriminated but he has estopped due to his own conduct because he was absented from his lawful duty without prior permission of senior and failed to make his arrival to the respondent department. (Every case has its own footings, however the case of present appellant is different from those of other appellants).
- E. Incorrect. In some cases the department has mandate to dispense the enquiry proceeding as per rules removal special power Ordinance 2000.
- F. Incorrect. This Para already explained above in detail.
- G. As explained above in detail.
- H. That other grounds not specifically answered in the reply, will be agitated with the permission of honorable Tribunal at the time of arguments.

**PRAYER:**

Keeping in view the above facts and circumstances, it is humbly prayed that the appeal of appellant being devoid of legal force may kindly be dismissed with costs.

**Inspector General of Police,  
KPK, Peshawar  
(Respondent No. 01)**

  
**Regional Police Officer,  
Regional Police Officer,  
Mafakand Region  
(Respondent No. 02)**

  
**District Police Officer,  
District Police Officer  
Buner  
(Respondent No. 03)**

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2. Regional Police Officer Malakand at Saidu Sharif Swat,
3. District Police Officer Buner.


.....Respondents

**AFFIDAVIT**

We the above respondents do hereby solemnly affirm and declare on oath that the whole contents of this Para-wise comments is true and correct to the best of our knowledge and belief and nothing has been kept secret from this honorable Tribunal.

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

  
**Regional Police Officer,  
Regional Police Officer  
Malakand at Saidu Sharif Swat  
(Respondent No.02)**

  
**District Police Officer  
Buner Police Officer  
(Respondent No:03)**  
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1765 /2022

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.....Respondents

AUTHORITY LETTER

We the above respondents do hereby authorize and allow Mr. Zahir Shah SI Legal Buner to file the accompany para-wise comments on our behalf in the Honorable tribunal and do whatever is needed in the court.

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

  
Regional Police Officer,  
Regional Police Officer  
Malakand Region,  
Malakand at Saidu Sharif Swat  
(Respondent No.02)

  
District Police Officer  
District Police Officer  
Buner  
Buner  
(Respondent No.03)

ORDER

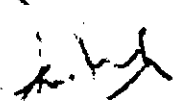
Whereas you, Const: Abdul Aziz, N.C. 505 was posted at PP Chinglari. According to the report received in this office you absented your self from lawful duty vide D.D.No. 9 dated 9.3.2008 Daily Dairy Chinglari and remained absent till this date.

You were informed and directed to assume your duty immediately and report to your place of duty but you deliberately did not report your arrival and remain absent. Again on 20.3.2008 you were informed through a written notice the directions to join your duty but again you fail to report.

Your this act is highly irresponsible and indiscipline and misconduct on your part which is liable U/s 5 Sub Section (4) of the Removal from Service (Special Power) Ordinance 2000 (Amendment) Ordinance 2001.

Now I have come to the conclusion that you escaped from the operational duty during the war against terrorism. Your this act is cowardice and shameful. You are not fit for Police Service.

I, as competent authority, am, therefore, satisfied to proceed under Section 5 of Sub Section (4) of the Removal from Service (Special Powers) Ordinance 2000(Amendment) Ordinance 2001 and dispense with the enquiry proceedings as laid down in the said ordinance and am further satisfied that there is no need of holding departmental enquiry. Since the accused Police Official Const: Abdul Aziz NO. 505 has been found guilty of gross misconduct as defined in the said Ordinance. I Muhammad Khaliq D.P.O Buner as competent authority, therefore impose major penalty by removing him from service from the date of his absence.

  
District Police Officer,  
Buner.

OB No. 89  
Dated 26/3/2008

By Israr Buner

فوقین پرانیے حاضرین

بنام:- کنشیل عبدالعزیز آریہ سکتہ کوٹہ تھانہ ۱۰۰۰ گج

تم کو بذریعہ نوٹس ہذا مطلع کیا جاتا ہے۔ کہ تم چوکی صیقلی میں تعینات تھے۔ بدوران ایمر ضعی ذیوٹی مورخہ ۱۹/۵/۱۹۷۲ء کو از خود بلاوجہ غیر حاضر ہو کر بدستور غیر حاضر ہو۔ تمہیں بار بار مطلع کرنے کے باوجود تم نے ابھی تک اپنی حاضری کی رپورٹ نہیں کی۔

اس لئے میں بذریعہ نوٹس ہذا آخر کار مطلع کیا جاتا ہے۔ کہ تم پانچ دن کے اندر اندر اپنی حاضری کی رپورٹ چوکی صیقلی میں کریں۔ بصورت دیگر تمہارے خلاف یکطرفہ کارروائی عمل میں لائی جائیگی اور تمہیں ملازمت سے برطرف کیا جائیگا۔

ضلعی پولیس آفیسر

بونیر

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۱۱۱۲

۱۱۰ جی اے

ذرا ہذا کی جگہ پر آئیے

سب سے پہلے تمہیں یہ نوٹس دیا گیا ہے

Sir

Sir

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۱۱۰ جی اے  
۲۱-۸-۷۳





**OFFICE OF THE  
REGIONAL POLICE OFFICER, MALAKAND  
SAIDU SHARIF SWAT.**

**Ph: 0946-9240381-82 & Fax No. 0946-9240390**

**Email: digmalakand@yahoo.com**

No. 12998 /E, dated Saidu Sharif the 08 / 03 / 2023


To: **The District Police Officer, Buner**

Subject: **1. SA No. 1401/2022 OF EX-CONSTABLE SAJJAD HUSSAIN NO. 522**  
**2. SA No. 1765/2022 OF EX-CONSTABLE ABDUL AZIZ NO. 501.**  
**3. SA No. 1766/2022 OF EX-CONSTABLE FAYAZ AHMAD NO. 282.**  
**4. SA No. 1767/2022 OF EX-CONSTABLE RASHID KHAN NO. 523**

Memorandum:

Reference your office Memo: No. 956/Legal dated 06/03/2023 on the subject cited above.

According to this office record none of the subject Police personnel have preferred departmental appeal for reinstatement into service in this office

  
**Regional Police Officer,  
Malakand, at Saidu Sharif Swat**

Insp. Legal



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