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## EFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 354/2023

Ishtiaq	Ex-Constable	No.3676 s/o	Hukam	Khan r	/o Sawal	Dher,	District N	1ardan
							Ar	pellant

#### **VERSUS**

The District Police Officer, Mardan and others......Respondents

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## BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

#### Service Appeal No. 354/2023

#### **VERSUS**

The District Police Officer, Mardan and others......Respondents.

#### Para-wise comments on behalf of respondents No. 1 to 3

#### Respectfully Sheweth,

#### PRELIMINARY OBJECTIONS

- 1. That the appellant has not approached this Hon'ble Tribunal with clean hands.
- 2. That the appellant has concealed the actual facts from this Hon'ble Tribunal.
- 3. That the appellant has got no cause of action or locus standi to file the instant appeal.
- 4. That the appellant is estopped by his own conduct to file the instant Service Appeal.
- 5. That the appeal is unjustifiable, baseless, false and vexatious and the same is liable to be dismissed with special compensatory cost in favour of respondents.
- 6. That the appeal is bad for miss-joinder and non-joinder of necessary parties.
- 7. That the appeal is barred by law and limitation.

#### **Reply on Facts**

- 1. Para pertains to record.
- 2. Incorrect. Plea taken by the appellant is not plausible because every police officer /official is under obligation to perform his duty regularly and with devotion, in this department no room lies for lethargy, because his performance was not satisfactory as his long absence from lawful duty previously he had been awarded two times major punishment of dismissal from service vide order book No. 1487, dated 15.04.2011 and as per directions of Honorable Tribunal he was reinstated into service for the purpose of Denovo Enquiry vide judgment dated 07.02.2014 passed in Service Appeal No. 1742/2011. Denovo Enquiry was conducted and the appellant was found guilty and again dismissed from service vide OB No. 1430 dated 19.06.2014 then appellant again filed service appeal No. 1168/2014 which was decided and appeal of appellant was accepted and he is conditionally reinstated into service subject to the outcome of CPLA vide CP. No. 114-P/18, which is still pending adjudication. Now third time again he was removed from service due to the same reason i.e long absence, hence he filed the instant service appeal. Moreover, the perusal of service record of the appellant revealed that due to his lethargic attitude his entire service record is tainted with bad entries (Copy of previous dismissal orders, conditionally reinstatement order, Judgments of Tribunal and list of Bad entries are attached as Annexure "A, B & C").
- 3. Correct to the extent that the appellant was issued show cause notices to which he was bound to submit his reply within stipulated time but he failed to do so, it is also added that the alleged reply to the show cause notices annexed with the appeal by



the appellant seems to be managed one as according to available record in the office of respondent No. 03, no such reply has been submitted by the appellant.

- 4. Incorrect & denid. Stance taken by the appellant is totally baseless rather concocted because he failed to submit his replies to Show Cause Notices.
- 5. Incorrect. Plea taken by the appellant is not plausible because the appellant while posted at Police Station Shahbaz Garh, remained absent from duty on different occasions total 95 days without any leave/permission of the competent authority. Hence, on the basis of aforementioned allegations, the appellant was issued 05 show cause notices and charge sheet with statement of allegations and enquiry was entrusted to SDPO City Mardan. During the course of enquiry, the appellant was contacted time and again to appear before the enquiry officer but neither he appeared before the enquiry officer nor submitted his reply. However, after fulfillment of all legal and codal formalities, the Enquiry Officer recommended for taking ex-parte action against the appellant. In light of above, the appellant was called for Orderly Room held on 06.07.2022, 21.07.2022, 27.07.2022, 17.08.2022, 07.09.2022, 19.10.2022 & 17.11.2022 respectively, but this time too he failed to appear before the competent authority, therefore, he was awarded major punishment of removal from service & counted his (45) days absence's period as leave without pay, which does commensurate with the gravity of misconduct of the appellant (Copy of Charge Sheet with statement of allegations, Enquiry papers, Show Cause Noties and removal order are annexed as annexure D, E & F).
- 6. Correct to the extent that the appellant preferred departmental appeal which was decided on merit because the appellant was provided full-fledged opportunity of defending himself before the appellate authority but he bitterly failed to produce any cogent reasons in his defense. Therefore, the same was rejected and filed, being devoid of merit (Copy of order is attached as annexure-"G").
- 7. That appeal of the appellant is liable to be dismissed on the following grounds amongst the others.

#### **REPLY ON GROUNDS:**

- A. Incorrect. Order passed by the competent authority as well as appellate authority are legal, lawful and according to rules, hence, liable to be maintained.
- B. Incorrect. Stance taken by the appellant is not plausible because he was called for personal hearing during the enquiry proceedings as well as during Orderly Room held on 06.07.2022, 21.07.2022, 27.07.2022, 17.08.2022, 07.09.2022, 19.10.2022 & 17.11.2022 respectively, but he failed to appear before the enquiry officer as well as competent authority. Besides, this the appellant was also called for Orderly Room on 11.01.2023 by the appellate authority but this time too he failed to satisfy his innocence (Copy of Notices attached as annexure -"H").
- C. Incorrect. Plea taken by the appellant is not plausible because the appellant while posted at Police Station Shahbaz Garh, remained absent from duty on different occasions without any leave/permission of the competent authority. Hence, on

basis of aforementioned allegations, the appellant was issued 05 show cause notices and charge sheet with statement of allegations and enquiry was entrusted to SDPO City Mardan. During the course of enquiry, the appellant was contacted time and again to appear before the enquiry officer but neither did he appear before the enquiry officer nor did he submit his reply. However, after fulfillment of all legal and codal formalities, the Enquiry Officer recommended for taking ex-parte action against the appellant. In light of above, the appellant was called for Orderly Room held on 06.07.2022, 21.07.2022, 27.07.2022, 17.08.2022, 07.09.2022, 19.10.2022 & 17.11.2022 respectively, but this time too he failed to appear before the competent authority, therefore, he was awarded major punishment of removal from service & counted his (45) days absence's period as leave without pay, which does commensurate with the gravity of misconduct of the appellant.

- D. Incorrect. Plea taken by the appellant is not plausible, being member of disciplined Force was bound to bring into notice of the senior officers regarding his illness and or leave thereof, but he failed to do so.
- E. Incorrect. Para already explained.
- F. Incorrect. Stance taken by the appellant is not plausible.
- G. The respondents also seek permission of this honorable tribunal to adduce additional grounds at the time of arguments.

#### PRAYER:-

Keeping in view the above narrated facts, it is most humbly prayed that the appeal of the appellant being badly barred by law and limitation, may kindly be dismissed with costs please.

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawan

(Respondent No. 1)

Regional Police Officer, Mardan.

(Respondent No. 2)

District Police Officer, Mardan.

(Respondent No. 3)

#### EFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 354/2023
Ishtiaq Ex-Constable No.3676 s/o Hukam Khan r/o Sawal Dher, District Mardan
Appellant.
VERSUS
The District Police Officer, Mardan and othersRespondents.

#### **COUNTER AFFIDAVIT.**

We, the respondents do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Tribunal. 94 15 Futher Stated oncath that in This Appeal. The Amswering Respondents have neither been placed ex-Parte nor Their defense has / boch struck off.

> cial Police Officer,, Khyber Pakhtunkhwa, Peshawar.

(Respondent Nø. 1)

Regional Police Officer, Mardan. (Respondent No. 2)

Mardan.

(Respondent No. 3)





#### ORDER

This order will dispose off denov Enquiry against Constable Ishtiaq No.1463 as per direction of Service Tribunal, KPK appeal No. 1742/2011 received through Letter No. 236/ST dated 14.02.2014.

In this regard the denov departmental inquiry against Constable Ishtiaq No. 1463 has been initiated through Mian Naseeb Jan DSP/HQrs: Mardam. In order to the completion of denov departmental inquiry against Constable Ishtiaq No. 1463. The inquiry officer was summoned the defaulter official so the defaulter Constable appear before Inquiry officer in connection with his inquiry. His Statement was recorded about his absence period of 78 days but not satisfied. Beside this no good entry and 23 bad entries on his credit during his service. The inquiry officer has recommended the defaulter Constable for major punishment and export action may be taken against him.

The undersigned agreed with the findings of enquiry officer and the alleged Constable Ishtiaq No. 1463, is dismissed from service and his absence period counted as without pay, in exercise of the power vested in me under the quoted rules 1975.

Order an	nounced
O.B No.	1.1.30
Dated	/ / /2014

(Gul Afzal Afridi) District Police Officer, &Mardan.

Copy for information and necessary action to:-

- The Deputy Inspector General of Police Mardan Region-1, Mardan. 1.
- The S.P Investigation, Mardan. 3.
- The S.P Operations, Mardan.
- The DSP/HQrs Mardan.
- The Pay Officer (DPO) Mardan. 5.
- The E.C (DPO) Mardan.
- The OASI (DPO) Mardan.



#### ORDER.

In compliance with the judgment dated 07.02.2014 passed by the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar in Service Appeal No.1742/2011 titled Ex-Constable Mohammad Ishtiaq No.1463 Vs DPO Mardan & others: the said Constable Mohammad Ishtiaq is hereby re-instated for the purpose of denovo departmental enquiry/proceedings.

District Police Officer

### OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

Mo.\_\_\_\_\_\_\_/EC, dated Mardan the, \_\_\_\_\_\_2014.

#### Copy forwarded to the:

- 1. DSP HQRs Mardan with the direction to conduct deonvo departmental enquiry.
- 2. Pay Officer.
- 3. OASI,
- A. Reader to DPO to issue charge sheet/summary of allegation to the defaulter Constable.

Mellel

### BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 1168/2014

Date of Institution...

23.09.2014

Date of decision...

09.01.2018

Ishtiaq (Ex-Constable No. 1463, District Police Mardan) R/O Village Sawal Dher, Tehsil and District Mardan. (Appellant)

#### Versus

1. The District Police Officer, Mardan and another.

(Respondents)

Mr. Adam Khan,

Advocate.

For appellant.

Mr. Muhammad Jan,

Deputy District Attorney

For respondents.

MR. NIAZ MUHAMMAD KHAN,

MR. GUL ZEB KHAN,

CHAIRMAN

MEMBER

#### JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned counsel for the parties heard and record perused.

#### **FACTS**

2. The appellant was dismissed from service due to his absence against which he approached this Tribunal in first round and this Tribunal vide judgment dated 07.02.2014 reinstated the appellant with the direction to the department to hold denovo proceedings within a period of two months. The department then proceeded against the appellant denovo and again dismissed him on 19.06.2014. Against this order, the appellant filed departmental appeal (undated). This departmental appeal was rejected on 25.08.2014 and thereafter, the appellant filed the present service appeal on 23.09.2014.



#### **ARGUMENTS**

- 3. The learned counsel for the appellant argued that the denovo proceedings were not completed within stipulated period of two months as per the directions of this Tribunal. That even in denovo proceedings no charge sheet was issued to the appellant. That no copy of the enquiry report was given to the appellant nor final show cause notice was given to him.
- 4. On the other hand, the learned Deputy District Attorney argued that the appellant was served with charge sheet and statement of allegations on 29.05.2014. That there was no need of any final show cause notice or copy of the enquiry report under the Khyber Pakhtunkhwa Police Rules, 1975. That enquiry was conducted in accordance with law. That the appellant did not question the enquiry proceedings nor he raised the objection of non-issuance of charge sheet/statement of allegations in the departmental appeal.

### CONCLUSION

that no charge sheet was issued to him. In written reply the department did not mention that any charge sheet and statement of allegations were issued to the appellant. The departmental representative wanted to produce the charge sheet and statement of allegations today in the Tribunal. But this Tribunal has not taken into consideration the charge sheet because it was never annexed with the reply of the respondents nor in the reply the same was mentioned. The very impugned order also does not speak about issuance of charge sheet. The only fact mentioned by the authority was that the enquiry officer summoned the appellant and completed his enquiry. Similarly, in the appellate order, there is also mention of summoning of the appellant by the enquiry officer. There is no mention of charge sheet etc. Non-





mentioning of charge sheet or statement of allegations in the departmental appeal by the appellant would not be fatal for his present appeal and it could not be presumed that non-mentioning of the same in the departmental appeal could stop the appellant from agitating his legal right at this stage. This Tribunal in a number of cases has decided that issuance of final show cause notice alongwith copy of enquiry report is mandatory in the Khyber Pakhtunkhwa Police Rules, 1975. One such judgment is dated 23.11.2017 in service appeal No. 1074/2012 entitled "Saqib Gul Vs. District Police Officer, Mansehra and others"

As a consequence of the above discussion, the present appeal is accepted and the appellant is reinstated in service and the period of his absence till 07.02.2014 is to be treated as leave without pay and the period thereafter shall be presumed to be period spent on duty. However, the financial benefits shall be subject to the rules on the subject including gainful employment etc. to be determined by the department. Parties are left to bear their own costs. File be consigned to the record room.

Announced Self-Niaz Muhammael Khan 09.01.2018 Chairman

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dated 7-2-2014 Passed by the Honorable KtK Service tribunal Peshawar in Service appeal No.

1742/2011 titled EX-Constable Mohammad 15 hting No. 1463 Vs DPO Mardan & others. The

Said Constable 13htiag is hereby ge-instated

for the Purpose of denovo departmental Enquing

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#### Final Order

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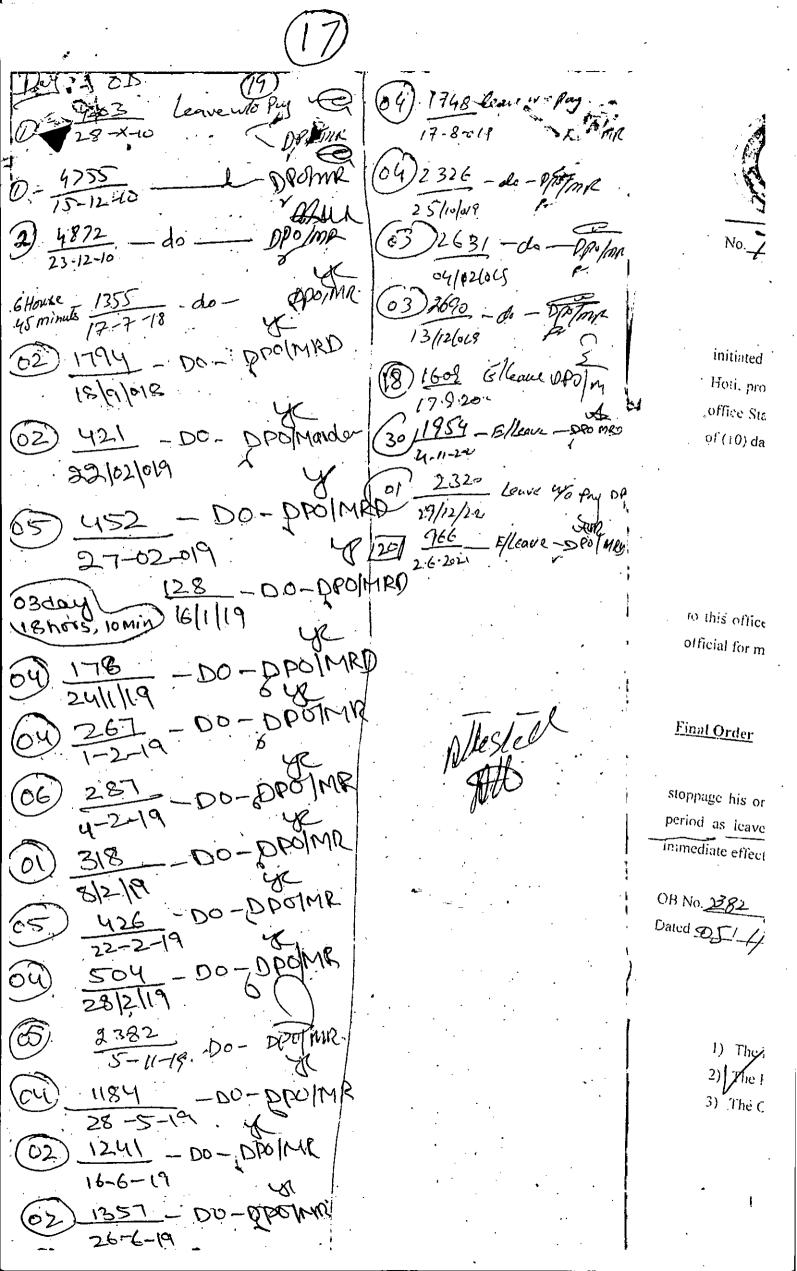
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### 16. LEAVE, ABSENCE AND IN SERVICE

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## OFFICE OF THE DISTRICT POLICE OFFICER,

#### **MARDAN**





2022

#### CHARGE SHEET

- I, <u>DR. ZAHID ULLAH (PSP)</u>, District Police Officer Mardan, as competent authority, hereby charge <u>Constable Muhammad Ishtiaq No.3376</u>, while posted at Police Station Shahbaz Garh, as per attached Statement of Allegations.
- 1. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.
- 2. You are, therefore, required to submit your written defense within <u>07 days</u> of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.
- 3. 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.

4. Intimate whether you desired to be heard in person.

(Dr. Zabid Milam) PSP District Police Officer Mardan





# OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

Annas D

Tel No. 0937-9230109 & Fax No. 0937-9230111

No. 3/ /PA

Dated 31 / 1 /2022

#### DISCIPLINARY ACTION

I, <u>DR. ZAHID ULLAH (PSP)</u>, District Police Officer Mardan, as competent authority am of the opinion that Constable Muhammad Ishtiaq No.3376, himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Police Rules 1975.

#### STATEMENT OF ALLEGATIONS

Whereas, <u>Constable Muhammad Ishtiaq No.3376</u>, while posted at Police Station Shahbaz Garh, remained absent from duty without any leave/permission of the competent authority vide DD report No.18 dated 20-12-2021 till-date.

For the purpose of scrutinizing the conduct of the said accused official with reference to the above allegations, Mr. Inam Jan SDPO/City Mdn is nominated as Enquiry Officer.

The Enquiry Officer shall, in accordance with the provision of Police Rules 1975, provides reasonable opportunity of hearing to the accused Police Official, record/submit his findings and make within (30) days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused Official.

Constable Muhammad Ishtiaq is directed to appear before the Enquiry Officer on the date + time and place fixed by the Enquiry Officer.

(Dr/fahiel Oliah) PSP District Police Officer A Mardan



# OFFICE THE DEPUTY SUPERINTENDENT OF POLICE, CITY CIRCLE MARDAN.

2022

bry No. 569 18.

Phone: 0937-9230129 Email: sdpo.citymdn@gmail.com

Dated: 3//5

3 / / S = /2022

Γo:

The Worthy District Police Officer,

Mardan.

Subject:

DEPARTMENTAL ENQUIRY AGAINST CONSTABLE MUHAMMAD ISHTIAQ NO.3376

Memo:

Kindly refer to your office diary No.31/PA dated 31.01.2022.

#### STATEMENT OF ALLEGATION:

Whereas, Constable Muhammad Ishtiaq No.3376 while posted at Police Station Shahbaz Garh, remained absent from his lawful duty for 04 days vide DD No.18 dated 20.12.2021 till DD No.36 dated 24.12.2021 without any leave / permission of the competent authority.

#### PROCEEDING:

The proceeding of enquiry was conducted in accordance with Police Rules 1934 and during its process, the official under enquiry Constable Muhammad Ishtiaq No.3376 was summoned to the office of undersigned, copy of charge sheet was served upon him but he did not submitted his written statement. He was repeatedly contacted from the office of undersigned but despite repeated contacts / directions, he neither submitted his written statement to the undersigned nor appeared.

#### FINDING:

#### During the process of enquiry it was found that:

- The alleged Constable Muhammad Ishtiaq No.3376 has remained absent for 04 days (DD reports attached).
- ❖ He has not given any information to the concerned quarters of department.
- Similarly, he has not given any application in this regard.
- The alleged constable was repeatedly contacted on his mobile phone to appear before the undersigned and submit his written statement but he intentionally avoided such directions and re-scheduled his appearance day after another.

#### CONCLUSION

In view of the above facts, the enquiry officer reached to the conclusion that the alleged Constable Muhammad Ishtiaq No.3376 has remained absent for 04 days from his lawful duty without any leave/ permission of the competent authority. His service record was taken from Establishment Branch he is enlisted in police department in 12-05-2009 and in his service; he has 49 Bad entries with No Good entry. The alleged official is habitual in absence and does not bother to appear before the enquiry officer after repeated contacts.

#### RECOMMENDATION.

Keeping the above mentioned facts in view, it is recommended that Ex-parte Action may be taken

against him.

Encl: (8") verice

Dremon

Adnam Azara Deputy Superintended of Police, City Circle Maxwell



/PΛ

# OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

**MARDAN**Tel No. 0937-9230109 & Fax No. 0937-9230111

Tel No. 0937-9230109 & Fax No. 0937-9230 Email: <u>dpomdn@gmail.com</u>

Dated 20 // 2021

#### SHOW CAUSE NOTICE

(Under Rule 5 (3) KPK Police Rules, 1975)

1. That you <u>Constable Ishtiaq No.3376</u>, while posted at Police Station City (now PS Shahbaz Garh), have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 for the following misconduct:-

Remained absent from special duty of Polio for one day during Polio Campaign in District Mardan from 20<sup>th</sup> to 24<sup>th</sup> September-2021, as intim-and by DSP/Security Mardan vide his office letter No.543/Security dated 28-09-2021.

- 2. That by reasons of above, as sufficient materials are placed before the undersigned: "a refore, it is decided to proceeds against you in General Police Proceeding without aid of Enquiry Officer.
- 3. That the misconduct on your part is prejudicial to good order of discipline in the Police Force.
- 4. That your retention in the Police Force will amount to encourage inefficiency and unbecoming of good Police Officer.
- 5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules.
- 6. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.
- 7 You should submit reply to this Show Cause Notice within 07 days of the receipt of the notice, failing which an ex-parte action shall be taken against you.
- 8. You are further directed to inform the undersigned that you wish to be heard in person or not.

9. Grounds of action are also enclosed with this notice.

Received by

Dated. 26 · 10/202,

(Dr. Zahid Ollah) PSP District Police Officer Mardan

Copy to SDIO/Rural (Attention Steno) to deliver this notice upon the alleged official and the receipt thereof shall be returned to this office within (05) days positively for further necessary action.

Retioned.

compliance

DPO RECO

26-10-2





## OFFICE OF THE DISTRICT POLICE OFFICER.

0937-9230109 & Fax No. 0937-92

Email: dpomdn@gmail.com

Dated 2-6/ 17/2021

#### SHOW CAUSE NOTICE

(Under Rule 5 (3) KPK Police Rules, 1975)

That you Constable M. Ishtiag No.3376, while posted at Police Station Shabaz Garh, have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 for following misconduct:-

Remained absent from duty for (23) days without any leave/permission of the competent authorities vide DD No.34 dated 02-10-2021 to DD No.04 dated 25-10-2021.

- That by reasons of above, as sufficient materials are placed before the undersigned; therefore, it is decided to proceeds against you in General Police Proceeding without aid of Enquiry Officer.
- That the misconduct on your part is prejudicial to good order of discipline in the Police Force.
- That your retention in the Police Force will amount to encourage inefficiency and unbecoming of good Police Officer.
- That by taking cognizance of the matter under enquiry, the undersigned as competent Kekerned After authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules.
- 6. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.
- 7. You should submit reply to this Show Cause Notice within 07 days of the receipt of the notice, failing which an ex-parte action shall be taken against you.
- 8. You are further directed to inform the undersigned that you wish to be heard in person or not.

Grounds of action are also enclosed with this notice.

Dated: 10/12/2021

Mardan

Copy to SDPO Rural (Attention Steno) to deliver this notice upon the alleged official and the receipt thereof, shall be returned to this office within (05) days positively for further necessary action.

Station Shabaze C

icavel perm dated 25

compliance





## OFFICE OF THE TRICT POLICE OFFICER

9230109 & Fax No. 0937-9230111

ail: dpomdn@gmail.com

Dated \_\_

/PA

### SHOW CAUSE NOTICE

(Under Rule 5 (3) KPK Police Rules, 1975)

1. That you Constable Ishtiaq No.3376, while posted at Police Station Shahbay rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Fakhtunkh Rules 1975 for the following misconduct:-

Remained absent from special duty of Polio for one day duri-Campaign in District Mardan from 10th to 14th December-2021, as intimated by 12.5 Mardan vide his office letter No.662/DSO dated 20-12-2021.

- 2. That by reasons of above, as sufficient materials are placed before the undersigned it is decided to proceeds against you in General Police Proceeding without aid
- 3. That the misconduct on your part is prejudicial to good order of discipline in .
- 4. That your retention in the Police Force will amount to encourage inefficiunbecoming of good Police Officer.
- 5. That by taking cognizance of the matter under enquiry, the undersigned as authority under the said rules, proposes stern action against you by awarding one or in the the kind punishments as provided in the rules.
- 6. You are, therefore, called upon to show cause as to why you should not be dear accordance with the Khyber Pakhtunkhwa Police Rules. 1975 for the misconduct reverre-
- 7. You should submit reply to this Show Cause Notice within 07 days of the receipt of notice, failing which an ex-parte action shall be taken against you.
- 8. You are further directed to inform the undersigned that you wish to be heard in person or ne-
- 9. Grounds of action are also enclosed with this notice. .

Received by

Dated: 경

(Dr. Zahid Ullah) PSP District Police Officer Mardan

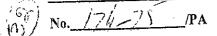
to SDPO Rural Mardan (Attention Steno) to deliver this notice upon the alleged official and the receipt thereof, shall be returned to this office within (05) days positively for further necessary action.





## FFICE OF THE POLICE OFFICER

Email: dpomdn@gmail.com



Dated /

#### SHOW CAUSE NOTICE

(Under Rule 5 (3) KPK Police Rules, 1975)

- 1. That you Constable Ishtiag No.3376, while posted at Police Station Shahbaz Tax rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunking a Rules 1975 for the following misconduct:-
- Remained absent from special duty of Polio for (05) days during Polio Campaign in District Mardan from 21th to 25th October-2021, as intimated by DSP. Securit Mardan vide his office letter No.584/DSO dated 18-11-2021.
- 2. That by reasons of above, as sufficient materials are placed before the undersigned: there it is decided to proceeds against you in General Police Proceeding without aid of rinquir Officer.
- 3. That the misconduct on your part is prejudicial to good order of discipline in the P
- 4. That your retention in the Police Force will amount to encourage inefficiency on unbecoming of good Police Officer.
- 5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of . the kind punishments as provided in the rules.
- 6. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.
- 7. You should submit reply to this Show Cause Notice within 07 days of the receipt of the notice, failing which an ex-parte action shall be taken against you.
- 8. You are further directed to inform the undersigned that you wish to be heard in person or not. Molec

Grounds of action arg also enclosed with this notice.

Received by

Dated: 3

(Dr. Zahid Ullah) PSP District Police Officer \*\ Mardan

Copy to SDPO Rural (Attention Steno) to deliver this notice upon the alleged official and the receipt the reof, shall be returned to this office within (05) days positively for further necessary. action.



## OFFICE OF THE DISTRICT POLICE OFFICER.

Tel No. 0937-9230109 & Fax No. 0937-9230111 Email: dpomdn@gmail.com

Dated 2/17 12022

#### SHOW CAUSE NOTICE

(Under Rule 5 (3) KP Police Rules, 1975)

1. That you, Constable Muhammad Ishtiaq No.3376, while posted at Police Station Shahbaz Garh, have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 for following misconducti-

Remained absent from duty for (11) days without any leave/permission of the competent authority vide DD No.30 dated 02-01-2022 to DD No.07 dated 13-01-2022.

- 2. That by reasons of above, as sufficient materials are placed before the undersigned; therefore, it is decided to proceeds against you in General Police Proceeding without aid of Enquiry Officer.
- 3. That the misconduct on your part is prejudicial to good er of discipline in the Police Force.
- 4. That your retention in the Police Force will amount to encourage inefficiency and unbecoming of good Police Officer.
- 5. That by taking cognizance of the matter under enquiry, the undersigned as competent Reburnal After authority under the said rules, proposes stern action against you by awarding one or more of Compliance the kind punishments as provided in the rules.

6. You are, therefore, called upon to show cause as to why you should not be dealt strictly if accordance with the Khyber Pakhtunkhwa Police Rules. 1975 for the misconduct referred to above.

7. You should submit reply to this Show Cause Notice within 07 days of the receipt of the notice, failing which, an ex-parte action shall be taken against you.

8. You are further directed to inform the undersigned that you wish to be heard in person or not.

9. Grounds of action are also enclosed with this notice.

Dated: 02 / 03 /2022

(Dr. Zahid/Ullah) PSP District Police/Officer

Copy to SDPO Rural (Attention Steno) to deliver this notice upon the alleged official and the receipt thereof, shall be returned to this office within (05) days positively for further necessary action.



# OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111 Email: <u>dpomdn@gmail.com</u> .  $\widehat{F}$ 

No 9780-83 /PA

Dated 7 /12+2022

#### ORDER ON S.C.N/ENQUIRY OF CONSTABLE ISHTIAQ NO.3376

Constable Ishtiaq No.3376, while posted at Police Station Shahbaz Garh was served with the under-mentioned (05) Show Cause Notices, under Khyber Pakhtunkhwa Police Rules-1975, to which, he was bound to submit his reply in compliance of each Show Cause Notice to this office within stipulated time of (07) days, but he failed to comply with till-date, as per details given below:-

S#	S.C.N number & date	Delivery date	Allegations
1.	479/PA dated 20-10-2021	26-10-2021	One day absence's period during
			September-2021's polio campaign in
<u> </u>			Mardan,
2:	733/PA dated 24-11-2021	10-12-2021	(23) days absence's period vide DD
	· .		No.34 dt:02-10-2021 to DD No.04 dt:
			25-10-2021 PS Shahbaz Garh.
3.	123-24/PA dated 07-01-2022	03-02-2022	One day absence's period during
			December-2021' polio campaign in
			Mardan District.
4.	174-75/PA dated 07-01-2022	03-02-2022	(05) days absence's period during
			October-2021' polio campaign in
	•		District Mardan.
3.	1669-70/PA dated 24-02-	02-03-2022	(11) days absence's period vide DD
, ]	2022	2	No.30 dt: 02-01-2022 to DD No.07 dt:
			13-01-2022 PS Shahbaz Garh.

Besides the above gross misconduct, Constable Ishtiaq was also proceeded against departmentally through Mr. Adnan Azam SDPO City Mardan vide this office Statement of Disciplinary Action/Charge Sheet No.31/PA dated 31-01-2022 on account of four days absence's period from duty without any leave/permission of the competent authorities vide DD No.18 dt: 20-12-2021 to DD No.36 dt: 24-12-2021 & the Enqury Officer after fulfillment necessary process, submitted his findings to this office vide his office letter No.569/S dated 31-05-2022, concluding that the alleged Constable didn't bother to appear before him (Enquiry Officer), despite repeated information, while on the other hand, declared him as habitual absentee by earning (50) bad entries with no good entry in his service record, so recommended ex-parte action against him.

#### Final Order

Constable Ishtiaq was called for hearing in OR on 06-07-2022, 21-07-2022, 27-07-2022, 17-08-2022, 07-09-2022, 19-10-2022 & 17-11-2022 respectively, but he failed to comply with, which besides disobedience on his part, also indicated that he has nothing to offer in his defense & is not willing worker, therefore, awarded him major punishment of removal from service in the light of above discussion & counted his (45) days absence's period as leave without pay with immediate effect, in exercise of the power vested in me under Police Rules-1975.

OB No. 2548
Dated 02/12 2022

(Haroon Rashid Khan) T.ST/PSP District Police Officer, Mardan.

Copy forwarded for information & n/action to:- 1/2

- 1) The DSsP/HQrs Rural in Mardan.
- 2) The P.O & E.W (DPO Office) Mardan.
- 3) The In-charge Lab (HRMIS) DPO Office Mardan.
- 4) The OSI (DPO Office) Mardan with ( ) Sheets.

Mostal



Annex (H) BF)

This order will dispose-off the departmental appeal preferred by Ex-Constable Muhammad Ishtiaq No. 3376 of Mardan District Police against the order of District Police Officer, Mardan, whereby he was awarded major punishment of removal from service vide OB No. 2548 dated 2.12.2022. The appellant was proceeded against departmentally on the allegations that he while posted at Police Station Shahbaz Garh District Mardan was served with the under mentioned 05 Show Cause Notices, to which he was bound to submit his reply in compliance of each Show Cause Notice but he failed to submit his reply till date of his removal as per details given below:-

e failed to submit his rep	Delivery date	Allegations September-2021's polio
S.C.N number & date		Allegations One day absence's period during September-2021's polio
479/PA dated 20-10-2021	26-10-2021	campaign in Mardan, (23) days absence's period vide DD No.34 dt:02-10-2021
733/PA dated 24-11-2021	10-12-2021	to DD No.04 dt: 25-10-2021 PS Shahbaz Garh.  One day absence's period during December-2021' police
123-24/PA dated 07-01-2022	03-02-2022	One day absence's period during October-2021' police (05) days absence (05) days a
, 174-75/PA dated 07-01-2022	03-02-2022	(05) days absence of period vide DD No.30 dt: 02-01-202
1669-70/PA dated 24-02-202	02-03-2022	to DD No.07 dt: 13-01-2022 PS Shahbaz Garh.

Besides the above gross misconduct, the delinquent Officer was also proceeded against departmentally through Sub Divisional Police Officer, (SDPO) City, Mardan on account of 04 days absence period from duty without any leave/permission of the competent authority vide daily diary No.18 dated 20.12.2021 to daily diary No.36 dated 24.12.2021 and the Enquiry Officer after fulfillment of necessary process, submitted his findings to District Police Officer, Mardan, concluding that the delinquent Officer didn't bother to appear before him (Enquiry Officer), despite repeated information, while on the other hand, declared him as habitual absentee by earning (50) bad entries with no good entry in his service record, so recommended ex-parte action against him.

In order to further verify his misconduct, he was called for hearing in Orderly Rooms held on 06.07.2022, 21.07.2022, 27.07.2022. 17.08.2022, 07.09.2022, 19.10.2022 and 17.11.2022 respectively, by the District Police Officer, Mardan but he failed to comply with, which clearly depicts his lethargic and casual attitude towards his official duties as he turned a deaf ear because it did indicate that he has nothing to offer in his defense and was not willing worker, therefore, awarded him major Mesta



punishment of removal from service in light of above discussion and counted his 45 days absence's period as leave without pay vide OB: No. 2548 dated 02.12.2022...

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 11.01.2022.

From the perusal of service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. The service record of the appellant revealed that he was enlisted in Police Department on 12.05.2009 and earned 55 bad entries with no good entry. Besides, the appellant in his short span of service remained absent for 01 year, 03 months and 31 days including the instant absence period, on different occasions which depicts his lethargic attitude towards his official duties with paying no attention of the directives of Senior Officers. On perusal of previous service record of the appellant, it was noticed that he is habitual absentee and prior to this, the appellant was also dismissed twice from service on account of same allegations i.e absence. Hence, the very conduct of appellant is unbecoming of a disciplined Police Officer. Therefore, the order passed by the competent authority does not warrant any interference.

Keeping in view the above, I, Muhammad Ali Khan, PSP Regional Police Officer, Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.

Regional Police Officer,

Mardan.

No. 300 /ES,

Dated Mardan the

19.401

12023

Copy forwarded to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 344/LB dated 30.12.2022. His Service Record is returned herewith

(\*\*\*\*<u>\*</u>)

For nocetion.

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## از دفتر ڈی ایس پی رورل ضلع مردان نمبر<u> 2144</u> استينو،مورخه <u>32-12</u>

## بخدمت جناب افسرمهتم تقابنه <u>جهر مهرد در؛</u>

بكارسركاد تحرير بهيك بسلم سلم فار لونش نبر <u>١٦ / ٢٤ تا ٤ توري</u> مورخ <u>تون اي</u> مجارىيد جناب <u>ئى ى كى كە مىنامىي كىردان</u> كىنىپىل <u>مىجىد استىياق ئىس 3376\_</u>جوكە تھان<u>ہ مشہار کٹر رہے۔</u> میں تعینات تھی**ل**اور آپ کے تھانہ کے علاقہ اختیار میں مستقل سکونت رکھتا ہے۔ **ن**د کورہ کو بذر بعیبین منجر لف شدہ <u>سنوم کار او منگل ۔</u> حوالہ کر کے مقررہ وفت میں تحریری جواب کے بابت ہدایت کریں اور پروانه بعداز تنیل دفتر مذاواپس ارسال کریں۔

رابط نمبر: <u>343-71,556</u>

ڈی ایس پی رور ک ، مردان <sub>پ</sub>

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نوث: اگر مذکوره بذات خودموجود نه ہوتو گھر کے کسی ذمه دار فرد سے قبیل یقینی بنا کیں، پروانه بلذا بعداز قبیل واپس ارسال دفتر کی Relational After 160 do (st conf. ()-

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ازونتر DPO/PA صاحب مردان

16-8-2022 Est

انچارج كنرول روم پوليس لائن مردان زيل پوليس لمازمان كوطلع كرين كه بمورند <u>26,09 - 8 - 17</u> بوت <u>17-8 - 9:49.</u>

جناب DPO صاحب مردان كوكلب بوليس لائن ميس بسلسله الكوائري بيشي موگ انجارج كنثر ول روم اس بات كويقيني بنا مينك كراطلاع

ه متعلقه محرر کوبذات خود دینگیاور پیشی نه دونے کی صورت میں متعلقه محرر ذمیدار دوگا اور وه بیر بچرے روز نامچه میں درج کرینگے۔

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Encl: (8) var part (1)

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#### BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service	Appeal	No.	354/	2023
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shtiaq Ex-Constable No.3676 s/o Hukam Khan r/o Sawal Dher, District Mard	an
Appell	ant

#### **VERSUS**

The District Police Officer, Mardan and others......Respondents.

#### **AUTHORITY LETTER.**

Mr. Atta-ur-Rehman Inspector Legal Branch, (Police) Mardan is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above captioned service appeal on behalf of the respondents. He is also authorized to submit all required documents and replies etc. as representative of the respondents through the Addl: Advocate General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

(Respondent No. 1)

Regional Police Officer, Mardan.

(Respondent No. 2)

District Police Officer, Mardan.

(Respondent No. 3)