

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 624/2023.

Muhammad Irfan, Ex- Constable No. 542, District Police Abbottabad R/O Village Gajjal,
Tehsil Havelian District Abbottabad.

(Appellant)

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Abbottabad.

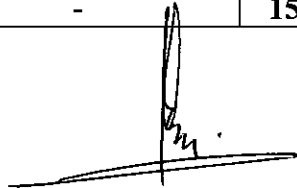
(Respondents)

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Dy: Superintendent of Police,
Legal, Abbottabad.

27/9/23

A. Abad

①

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA, SERVICE Khyber Pakhtunkhwa
TRIBUNAL, PESHAWAR. Service Tribunal**

Diary No. 6505

SERVICE APPEAL NO. 624/2023.

Dated 17/07/23

Muhammad Irfan, Ex- Constable No. 542, District Police Abbottabad R/O Village Gajjal,
Tehsil Havelian District Abbottabad.

(Appellant)

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Abbottabad.

(Respondents)

PARA-WISE COMMENTS BY RESPONDENTS:

Respectfully Sheweth

Respondents submit as under: -

PRELIMINARY OBJECTIONS: -

1. That the instant Service Appeal is not maintainable in the present form.
2. That the appellant is estopped by his own conduct to file the instant appeal.
3. That the appellant has not come to the Hon'ble Tribunal with clean hands.
4. That the appellant has suppressed material facts from the Hon'ble Tribunal.
5. That the instant Service Appeal is not maintainable for non-joinder/ miss-joinder of unnecessary parties.
6. That the appeal is badly barred by law & limitation, hence liable to be dismissed without any further proceeding.

ON FACTS:-

1. That the appellant while posted in ACE involved himself in murder case vide FIR No. 708 dated 17.07.2021 u/s 302 PPC Police station Havelian. Initially, the murder case was registered against unknown accused and after 1-1/2 months' complainant charged the appellant alongwith other co-accused for the commission of murder of his son through statement recorded u/s 164 Cr.P.C. He was properly arrested and thereafter, granted bail by the court of ASJ- Havelian for not being directly charged.
2. That the appellant after involvement in criminal case repatriated to his parent district Abbottabad where he absented himself from duty without any leave or permission.
3. That the appellant was charged by the complainant for the commission of murder of his son. The trial of the case has been commenced. However, he was not declared innocent during the course of investigation.

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4. The appellant was proceeded against departmentally for involvement in murder case due to which he was dismissed from service. He preferred departmental appeal which was also rejected by the appellate authority.
5. Correct.
6. The appellant was in knowledge of all the proceedings which he deliberately avoided and did not applied for any order.
7. That appellant was properly charge sheeted and all the proceedings were conducted according to law. Despite service, he failed to join the proceedings due to which ex-parte proceedings were initiated. (Copies of enquiry file enclosed as Annexure "A").
8. Correct. The order of appellate authority was according to law. The instant appeal is not maintainable on the following grounds:-

GROUND:-

- A. Incorrect, the impugned orders are legal and according to law. Hence, tenable in the eye of law.
- B. Incorrect. A proper enquiry was conducted but appellant deliberately failed to join the proceedings. However, he was presently heard by the appellate authority while deciding his departmental appeal.
- C. Incorrect. He was treated according to law.
- D. Incorrect. The appellate authority acted according to law while deciding departmental appeal.
- E. Correct to the extent of period of service. However, his punishment record is as follow: -

S. No.	Nature of Misconduct	Punishment awarded	Order Book No.	Dated
1.	Due to absence from 03-01-2009 to 27-02-2009	Discharged from service	128	19-03-2009
2.	Absented himself from duty 10-01-2011 to 12-01-2011	02 days leave without pay	47	12-02-2011
3.	Absented himself from duty 25-07-2011 to 26-07-2011	Warning	296	27-08-2011
4.	Absented himself from duty 04-04-2012 to 06-04-2012	03 days leave without pay	233	10-07-2011
5.	Absented himself from duty 14-08-2012 to 15-08-2012	Warned to be careful in future	331	10-10-2012
6.	Absented himself from duty 13-05-2013 to 14-05-2013	02 days extra drill	172	13-06-2013
7.	upon complaint by Muhammad Awais Khan	Censure	123	06-05-2014
8.	Involvement in case FIR No.708, dated 17-07-2021 u/s 302 PPC PS Havelian	Dismissal from Service	Order No.642-44	28-01-2022

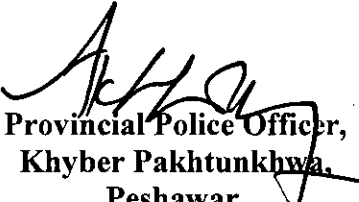
F. Incorrect. The appellant was not condemned un-heard rather he deliberately not appeared before the competent authority despite issuance of final showcause notice.


G. Incorrect. The instant appeal is badly time barred. Hence, liable to be rejected.

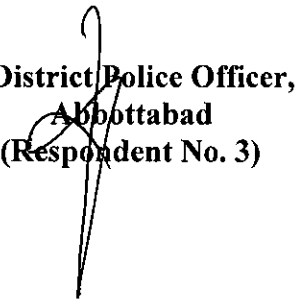
H. Need no comments.

PRAYER.

In view of above, it is most humbly prayed that the instant service appeal does not hold any legal force which may graciously be dismissed with cost.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No.1)


Regional Police Officer,
Hazara Region, Abbottabad
(Respondent No. 2)


District Police Officer,
Abbottabad
(Respondent No. 3)

(4)

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 624/2023.

Muhammad Irfan, Ex- Constable No. 542, District Police Abbottabad R/O Village Gajjal,
Tehsil Havelian District Abbottabad.

(Appellant)

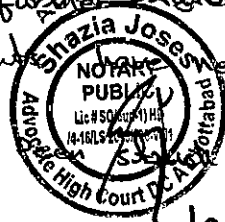
VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Abbottabad.

(Respondents)

AFFIDAVIT.

We, do hereby affirm on oath that the contents of written comments are true to
the best of our knowledge & belief and nothing has been concealed from the Honorable
Service Tribunal. It is further stated on oath that in this appeal the
answering respondents *neither* been placed *ex-parte* nor
their defense was *of* cast.



[Signature]
Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No.1)

[Signature]
Regional Police Officer,
Hazara Region, Abbottabad
(Respondent No. 2)


[Signature]
District Police Officer,
Abbottabad
(Respondent No. 3)


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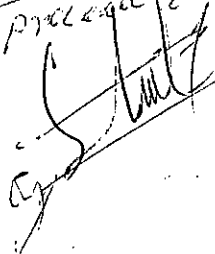
CHARGE SHEET

- 1). I, **Zahoor Babar Afridi (PSP) District Police Officer Abbottabad** as competent authority hereby charge you Constable Muhammad Irfan No. 542 as explained in the attached statement of allegations.
- 2). You appear to be guilty of misconduct under Police Disciplinary Rules 1975 (amended 2014) and have rendered yourself liable to all or any of the penalties specified in the said Police Disciplinary Rules.
- 3). You are therefore, directed to submit your written defense within seven days on the receipt of this Charge Sheet to the Enquiry Officer.
- 4). Your written defense, if any shall reach the Enquiry Officer with in 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.
- 5). Intimate whether you desire to be heard in person or otherwise.
- 6). A statement of allegations is enclosed.

1018
5-11-21


(Zahoor Babar Afridi) PSP
District Police Officer
Abbottabad

Attested

Dy. Superintendent of Police
Leqall Abbottabad

PA
To proceed further

5/11

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9/4

DISCIPLINARY ACTION

I, **Zahoor Babar Afridi (PSP) District Police Officer** Abbottabad as Competent Authority of the opinion that you **Constable Muhammad Irfan No. 542** rendered yourself liable to be proceeded against as you committed the following act/omission within the meaning of Police Disciplinary Rules 1975 (amended 2014).


STATEMENT OF THE ALLEGATIONS

1. You Constable Irfan No. 542 while posted in Anti-Corruption Establishment, repatriated to this district due to your involvement in case vide FIR No. 708 dated 17-07-2021 U/S 302 PPC PS Havelian. Your this illegal act earned bad name for entire police department as well as in the eyes of general public, which is tantamount to gross misconduct on your part being a member of discipline force.

2). For the purpose of scrutinizing your conduct with reference to the above allegations, DSI Havelian is hereby appointed as Enquiry officer.

3). The Enquiry Officer shall in accordance with the provision of this ordinance, provide reasonable opportunity of hearing to you, record finding and make within 25 days of the receipt of this order, recommendation as to punishment or the appropriate action against you.

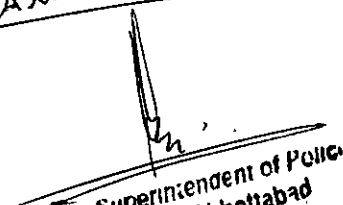
4). You are hereby directed to attend the proceedings on the due date, time and place fixed by the Enquiry Officer.


(Zahoor Babar Afridi) PSP
District Police Officer
Abbottabad

No: 4/4 /PA, Dated Abbottabad the 04/11 /2021.

Copy to:

1. Enquiry Officer for initiating proceedings against the defaulter officer under provisions of the Police Disciplinary Rules 1975 (amended 2014) and submit findings within stipulated period.
2. **Constable Muhammad Irfan No. 542** (delinquent officer/ official).

Attested

Dy. Superintendent of Police
(Legal) Abbottabad

حاجہ حفیظہ بیگم زید خانم 2014 قوف DFC 2 منٹ تحصیل والیہ ضلع 10
 حایہ بیگم امجد بیگم 2014 قوف DFC ضلع 21
 حاجہ حفیظہ بیگم زید خانم 2014 قوف 87 قوف عبدالرشید قاری
 حاجہ حفیظہ بیگم زید خانم 2014 قوف 21 قوف عبدالرشید قاری
 حاجہ حفیظہ بیگم زید خانم 2014 قوف 23 قوف عبدالرشید قاری
 حاجہ حفیظہ بیگم زید خانم 2014 قوف 21 قوف عبدالرشید قاری
 حاجہ حفیظہ بیگم زید خانم 2014 قوف 512 قوف عبدالرشید قاری
 حاجہ حفیظہ بیگم زید خانم 2014 قوف 21 قوف عبدالرشید قاری
 حاجہ حفیظہ بیگم زید خانم 2014 قوف 21 قوف عبدالرشید قاری

18/11/21
 021/14/21
 18/11/21

Attested

 M.

Attested

 M.

Dy. Superintendent of Police
 (Legal) Abbottabad

(11)

From: The Dy: Superintendent of Police,
Havelian.

To: The W/District Police Officer,
Abbottabad.

No. 1645 /Dated Havelian the 1st 1.2. 2021.

Subject: - DEPARTMENTAL ENQUIRY REPORT CONDUCTED AGAINST FC
MUHAMMAD IRFAN NO. 542.

-Kindly refer to your office Dy No. 414/PA dated 04-11-2021

SUMMARY OF ALLEGATIONS.

He constable Irfan no 542 while posted in anti-corruption Establishment, repatriated to this district due to his involvement in case FIR No. 708 dated 17-07-2021 U/S 302 PPC PS Havelian. His this illegal act earned bad name for entire police department as well as in eyes of general public which is tantamount to gross misconduct on his part being of member of discipline force.

PROCEEDINGS OF ENQUIRY.

For the purpose of scrutinizing your conduct with reference to the above allegation undersigned appointed as Enquiry officer and called the delinquent official as well as OII Muhammad Hayat IO of the case FIR No. 708 dated 17-07-2021 U/S 302 PPC PS Havelian summon him also peruse the case file and recorded his statement in which he stated that on 17-07-2021 complainant Safdar Zaman s/o Mir Afzal r/o Gujjal reported as PS Havelian for the murder his son Tahir Mehmood by unknown accused, on the report of complainant the above case was registered and he carried out further investigation in the case arrested many suspect but was no success on 05-09-2021 complainant recorded his statement under section 164 Crpc in the court of civil judge Havelian in which he charged Saqib s/o Pervaiz Constable Muhammad Irfan s/o Muhammad Zaman for the offence accused Saqib was arrested and interrogated during interrogation he admitted his crime and stated that he killed Tahir Mehmood s/o Safdar Zaman with the corporation/coordination of Muhammad Irfan (Constable) who arrange his pre arrest bail by the court of Session Judge Abbottabad on 09-09-2021 in which date of hearing is fix for 27-09-2021 but he did not appear before the court on due date and decamped him some where many raid for his arrest were conducted but in vain after completion of all the legal formality challan under section 512 Crpc was sent to the court against him on 23-10-2021. His statement is enclosed.

RECOMMENDATIONS:

Keeping in view of the above quoted allegation against alleged FC Muhammad Irfan No. 542 regarding involvement in Case FIR No. 708 dated 17-07-2021 U/S 302 PPC PS Havelian are proved.

Submitted please.

Handwritten notes:
A
P.S.N
[Circular stamp with illegible text]

Attested

[Signature]
Dy: Superintendent of Police,
Havelian.

[Signature]
Dy. Superintendent of Police
(Legal) Abbottabad

(12)

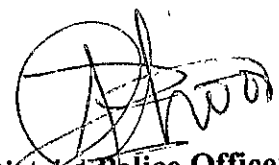
OFFICE OF THE DISTRICT POLICE OFFICER, ABBOTTABAD

No: 469/PA, Dated Abbottabad, the 08/12/2021.

FINAL SHOW CAUSE NOTICE

(Unit Rule (3) KPK Police Rules, 1975 amended 2014)


1. That you **Constable Muhammad Irfan No. 542** rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 (amended 2014) for following misconduct;
 - I. You Constable Irfan No. 542 while posted in Anti-Corruption Establishment, repatriated to this district due to your involvement in case vide FIR No. 708 dated 17-07-2021 U/S 302 PPC PS Havelian. Your this illegal act earned bad name for entire police department as well as in the eyes of general public, which is tantamount to gross misconduct on your part being a member of discipline force:-
 - II. During proper departmental enquiry the allegations have been proved against you.
2. That by reason of above, as sufficient material is placed before the undersigned therefore it is decided to proceed against you in general Police proceedings 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 encouragement of inefficient Police officers;
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 Final Show Cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975(amended 2014) for the misconduct referred to above.
7. You should submit reply to this Final 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.


District Police Officer
Abbottabad

Received by _____

Dated ___/___/2021

Attested


Dy. Superintendent of Police
Legal, Abbottabad

OFFICE OF THE DISTRICT POLICE OFFICER, ABBOTTABAD

No: 469/PA, Dated Abbottabad, the 03/12/2021.

GROUND OF ACTIONThat you **Constable Muhammad Irfan No. 542**, committed following misconduct:-

- I. You Constable Irfan No. 542 while posted in Anti-Corruption Establishment, repatriated to this district due to your involvement in case vide FIR No. 708 dated 17-07-2021 U/S 302 PPC PS Havelian. Your this illegal act earned bad name for entire police department as well as in the eyes of general public, which is tantamount to gross misconduct on your part being a member of discipline force:-
- II. During proper departmental enquiry the allegations have been proved against you.

By reasons of above you have rendered yourself liable to be proceeded under Khyber Pakhtunkhwa Police Rules, 1975 (amended 2014), hence these grounds of action.

Attested

D.Y. Superintendent of Police
Legal Abbottabad
District Police Officer
Abbottabad

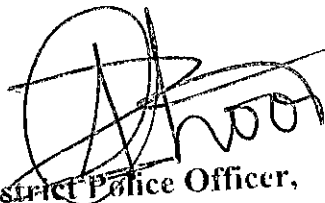
ORDER

This office order will dispose of the departmental enquiry against Constable Irfan No.542 of Anti Corruption. While posted at anti corruption establishment repatriated to this district due to involvement in case vide FIR No.708 dated 17-07-2021 U/S 302 PPC PS Havelian. Your this illegal act earned bad name for entire police department as well as in the eye of general public, which is tantamount to gross misconduct on your part being a member of discipline force.

He was issued Charge Sheet along with statement of allegations and Mr. Sajjad Khan SDPO Havelian was appointed as Enquiry Officer but he did not bother to submit his written reply in response to charge sheet Enquiry Officer called him to join in Enquiry proceedings but he failed to appear in Enquiry proceeding. He conducted departmental enquiry against the delinquent official and recorded statements of all concerned. After conducting departmental enquiry, the Enquiry Officer submitted his findings, wherein allegations have been proved against him by taking Ex party action against him. Consequently, he was served with Final Show Cause Notice, in response to which he did not submit his written explanation. He was summoned to appear in Orderly Room on 26-01-2022 but he again failed to appear in OR.

Therefore, in exercise of the powers vested in the undersigned Police Disciplinary Rules-1975 (Amended 2014). I, Zahoor Babar, Afridi (PSP) District Police Officer, Abbottabad as a competent authority, am constrained to award him major punishment of Dismissal from service. with immediate effect.

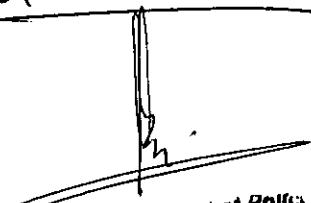
Order announced.

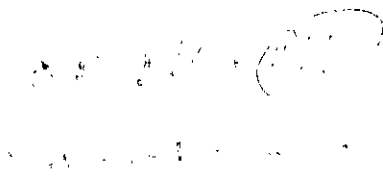

District Police Officer,
Abbottabad

No. 542-44 /dated 28 /01/2022.

Copy to:

- 1. Pay Officer
- 2. EC
- 3. OB

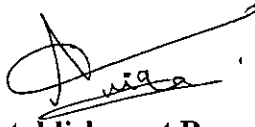
Attested

Dy. Superintendent of Police
Legal) Abbottabad

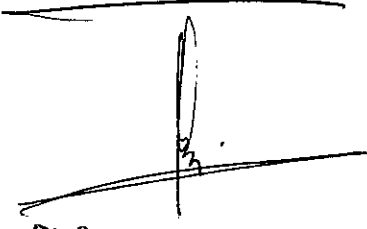


PUNISHMENT RECORD OF EX- CONSTABLE MUHAMMAD IRFAN NO.587

DATE OF ENROLMENT: 25-07-2007

S. No.	Nature of Misconduct	Punishment awarded	Order Book No.	Dated
1.	Due to absence from 03-01-2009 to 27-02-2009	Discharged from service	128	19-03-2009
2.	Absented himself from duty 10-01-2011 to 12-01-2011	02 days leave without pay	47	12-02-2011
3.	Absented himself from duty 25-07-2011 to 26-07-2011	Warning	296	27-08-2011
4.	Absented himself from duty 04-04-2012 to 06-04-2012	03 days leave without pay	233	10-07-2011
5.	Absented himself from duty 14-08-2012 to 15-08-2012	Warned to be careful in future	331	10-10-2012
6.	Absented himself from duty 13-05-2013 to 14-05-2013	02 days extra drill	172	13-06-2013
7.	upon complaint by Muhammad Awais Khan	Censure	123	06-05-2014
8.	Involvement in case FIR No.708, dated 17-07-2021 u/s 302 PPC PS Havelian	Dismissal from Service	Vide order No.642-44	28-01-2022


 For I/C Establishment Branch


Attested

 (Dy. Superintendent of Police
 Legal) Abbottabad

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA, SERVICE
TRIBUNAL PESHAWAR.**

AUTHORITY LETTER.

I, Regional Police Officer, Hazara Region, Abbottabad do hereby authorize to Mr. Hamad Khan, Reader DSP Legal, Abbottabad to file comments/Reply before the Honorable Service Tribunal, Khyber Pakhtunkhwa in the following Service Appeals, on behalf of Respondents.

1. Service Appeal No. 1537/2022 titled Rizwan Habib acting SP Vs IGP and others.
2. Service Appeal No. 1538/2022 titled Jehangir Khan acting SP Vs IGP and others.
3. Service Appeal No. 1521/2022 titled Hafeez ur Rehman Ex-Constable No. 113 Vs IGP and others.
4. Service Appeal No. 624/2023 titled Muhammad Irfan Ex-Constable No. 542 Vs IGP and others.
5. Service Appeal No. 367/2023 titled Abdul Rashid Inspector (R) Vs IGP and others.


**Regional Police Officer,
Hazara Region, Abbottabad.**
**Regional Police Officer
Hazara Abbottabad**