

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO 1641 of 2022.

Niaz Shah s/o Syed Rahim Shah Ex. Constable No. 456 Tehsil and District Mansehra.

.....Appellant

VERSUS

- 1) District Police Officer, Mansehra.
- 2) Regional Police Officer Hazara Region Abbottabad.
- 3) Provincial Police officer KPK Peshawar.

..... Respondents

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25/7/23

A. Abad


Deponent

①

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Mansehra.

.....Appellant

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 6507
Dated 17/07/23

VERSUS

- 1) District Police Officer, Mansehra.
- 2) Regional Police Officer Hazara Region Abbottabad.
- 3) Provincial Police officer KPK Peshawar.

..... Respondents

Parawise/Comments On Behalf Of Respondents 1 to 3

RESPECTFULLY SHEWETH:-

PRELIMINARY OBJECTION:-

- a) The appeal is not based on facts and appellant has got no cause of action or locus standi.
- b) That appeal is not maintainable in the present form.
- c) The appeal is bad for non- joinder of necessary and mis-joinder unnecessary parties.
- d) The appellant is estopped by his own conduct to file the appeal.
- e) The appeal is barred by the law and limitation.
- f) The appellant has not come to the Honorable Tribunal with clean hands.
- g) The appellant is still living abroad (England). Hence his appeal is not maintainable as he is not interest in the job which he deliberately left.

FACTS:-

- 1) Pertains to record.
- 2) Incorrect. The appellant was proceeded against departmentally with the allegation that vide DD No. 23 dated 27.05.2015 Police Lines it has been reported that he was granted following Ex. Pakistan Leaves.
 - 1st grant of Ex-Pakistan leave = 1 Year
 - 2nd grant of Ex-Pakistan leave = 2 years

His leave was expired on 27.05.2015 but he did not make his arrival and deliberately absented himself from duty. **(Copy of DD No. 23 dated 27.05.2015 police Lines Mansehra is attached as annexure A).**

- 3) Pertains to record.
- 4) Incorrect. No application was received by the appellant for extension of two years leave. The appellant was properly charge sheeted and enquiry was entrusted to DSP Headquarters. During the enquiry proceedings the appellant did not reply to the charge sheet nor did appear before the enquiry officer. Therefore, ex Parte proceedings were initiated against the appellant. Final Show Cause Notice was issued to appellant but he failed to reply the same and competent authority awarded him major punishment of dismissal from service Vide OB No. 62 dated 12.04.2016. **(Copy of charge sheet, enquiry finding report & dismissal order are attached as annexure B, C & D).**
- 5) The appeal was badly time barred due to which rejected by the respondent No. 02 vide memo No. 824/PA dated 15.09.2022 **(Copy of rejection order is attached as annexure E).**
- 6) Pertains to record.
- 7) The appellant has been living in England since long and wanted to get financial benefits which he is not entitled under any law.

GROUND:-

- A. Incorrect. All proceedings against him were conducted in accordance with law and he was dismissed after due process of law.
- B. Incorrect. The appellant was properly charge sheeted and statement of allegation was issued to appellant. Copy of charge sheet is already attached in above Para.
- C. Incorrect. Final Show Cause Notice was issued to appellant but he did not reply. Copy of Final Show Cause Notice is already attached in above Para.
- D. Incorrect. A proper departmental enquiry was conducted against the appellant but he did not join the enquiry proceedings. Therefore, enquiry proceedings was conducted expartee.
- E. Incorrect. The punishment awarded to appellant is genuine and in accordance with law and rules.
- F. Incorrect. No application has been received to competent authority for extension of two years leave.

G. Incorrect. The order was legal and according to law. Before passing any order, all the legal formalities were fulfilled. The appeal is not maintainable.

PRAYER:

In view of the above mentioned facts, the appeal in hand may kindly be dismissed being devoid of any legal force and badly time barred case.

**District Police Officer
Mansehra
(Respondent No. 1)**

ATTESTED
EJAZ ALI SHAH
Advocate High Court
No. 12-01
Date 12-01-23
Distt. Mansehra

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

**Provincial Police Officer
Khyber Pakhtunkhwa Peshawar
(Respondent No. 3)**

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BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO 1641 of 2022.

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.....Appellant

VERSUS

- 1. District Police Officer, Mansehra.
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- 3. Provincial Police officer KPK Peshawar.

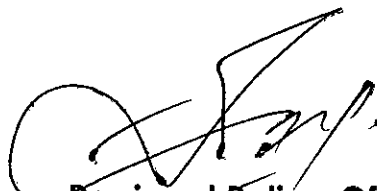
..... Respondents

AFFIDAVIT

We respondents do hereby solemnly affirm and declare that the contents of comments are true and correct to the best of our knowledge and belief and nothing has been concealed or suppressed from this Honorable Tribunal. *It is further stated on oath that in this appeal the answering respondents have been placed ex parte nor there defense has been shown.*

ATTESTED
NIJAZ ALI SHAH
 Advocate, District Court
 Notary Public
 Date _____
 Distt. Mansehra
 12/23


 District Police Officer
 Mansehra
 (Respondent No. 1)


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


 Provincial Police Officer
 Khyber Pakhtunkhwa Peshawar
 (Respondent No. 3)

Annexure (A)

پولیس اسٹیشن (5)

تفصیلی رپورٹ نمبر 27/5-2015

23 آگسٹ 2015ء کو 27/5-2015 نمبر پر (سرف) SRL کے تحت
 راجہ محمد حنفی کے بارے میں 456 نمبر پر 3 سالہ
 بزرگ بچہ کی اطلاع دی گئی کہ وہ 27/5-2015 کو 27/5-2015
 لاہور پولیس اسٹیشن پر بیان کیا تھا کہ اس نے 27/5-2015 کو
 حافز آباد کے علاقہ میں ایک گاڑی میں بیٹا کی طرف سے
 مدد کے لئے درخواست کی تھی اور اسے اطلاع دینے سے
 کی پولیس نے مدد کی ہے۔ اس کے بعد پولیس نے اسے
 سٹیٹ پولیس اسٹیشن پر لے گیا اور اسے اس کے ساتھ

فایل
 قلمی طور پر
 M. M. Police Line NA
 27-5-2015

Sr. Farooq
 RT - Police Line
 28-5-2015

DBND-100
 01-06-15

Sir,
 Forwarded
 please
 Deputy Superintendent
 of Police HQ Mansehra
 1-6-2015

Attached
 DSP LEGAL
 MANSEHRA

issue charge sheet
 pay stopped
 Najab
 D/O Mansehra

Annexure (B)

(B)

CHARGE SHEET

I, Najeeb ur Rehman, District Police Officer, Mansehra as Competent Authority, hereby charge you Constable ^{Najeeb Hussain No. 488} ~~Waqar No. 732 PS Khaki~~ as follows.

Vide DD No. 23 dated 27-05-2015 Police Lines it has been reported that you were proceeded for 03 years ex-Pakistan leave. Your leave was expired on 27-05-2015 but you have not made your arrival so far and deliberately absented yourself from duty. It amounts to gross misconduct.

Due to reasons stated above you appear to be guilty of misconduct under Khyber Pakhtunkhawa Police Disciplinary Rules 1975 and have rendered yourself liable to all or any of the penalties specified in the said Police Disciplinary Rules.

You are, therefore, required to submit your written defense within 07 days of the receipt of this charge sheet to the enquiry officer.

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 exparte action shall follow against you.

Intimate whether you desire to be heard in person or otherwise.

Statement of allegation is also enclosed.

Najeeb
District Police Officer,
Mansehra

Attested,



**DSP LEGAL
MANSEHRA**

7

DISCIPLINARY ACTION

I, Najeeb ur Rehman, District Police Officer Mansehra, as Competent Authority of the opinion that you Constable Niaz Hussain Shah No. 456 Police Lines has rendered himself liable to be proceeded against as he committed the following act/omissions within the meaning of Khyber Pakhtunkhawa Police Disciplinary Rules 1975.

Vide DD No. 23 dated 27-05-2015 Police Lines it has been reported that you were proceeded for 03 years ex-Pakistan leave. Your leave was expired on 27-05-2015 but you have not made your arrival so far and deliberately absented yourself from duty. It amounts to gross misconduct.

For the purpose of scrutinizing the conduct of the said accused Officer with reference to the above allegations. Mr. DSP 14/0 is deputed to conduct formal departmental enquiry against Constable Niaz Hussain Shah No. 456 Police Lines

The Enquiry Officer shall in accordance with the provisions of the Khyber Pakhtunkhawa Police Disciplinary Rules 1975, provide reasonable opportunity of hearing the accused, record findings and make recommendations as to punishment or other appropriate action against the accused.

The accused and a well conversant representative of the department shall in the proceedings on the date, time and place fixed by the Enquiry Officer.

Najeeb

District Police Officer,
Mansehra

No. 3738-39/PA dated Mansehra the 3-11-2015.

A copy of the above is forwarded to: -

1. The Enquiry Officer for initiating proceedings against the defaulter officer under the provisions of the Khyber Pakhtunkhawa Police Disciplinary Rules 1975. (Copy of DD No. 23 dated 27-05-2015 is enclosed).
2. Constable Niaz Hussain Shah No. 456 Police Lines with the direction to submit his written statement to the Enquiry Officer within 7 days of the receipt of this charge sheet/statement of allegations and also to appear before the Enquiry Officer on the date, time and place fixed for the purposes of departmental proceedings.

Abulhasan

DSP LEGAL
MANSEHRA

Najeeb

District Police Officer,
Mansehra

Annex (C)

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POLICE DEPARTMENT

DISTRICT MANSEHRA

From The Deputy Superintendent of Police,
HQrs: Mansehra.
To The District Police Officer,
Mansehra.
No. 121 DSP HQrs, Mansehra Dated the 22 /02/2016.
Subject: FORMAL DEPARTMENTAL ENQUIRY REPORT

Mansehra
[Signature]

Memorandum.

Kindly refer to your office Endst No.3738-39/ PA dated, 03-11-2015.

An enquiry under hand was entrusted to the undersigned by the competent authority for digging out the real facts about the charges leveled against alleged constable Niaz Hussain Shah No.456 Police Lines Mansehra that vide D.D No.23 dated 27-05-2015 Police Lines he were proceeded for 03 years ex-Pakistan leave. His leave was expired on 27 05 2015 but he has not made his arrival so far and deliberately absented himself from duty. It amounts to gross misconduct on his part and made him liable for proceeding under Police Disciplinary Rules 1975.

In this regard enquiry against alleged Constable Niaz Hussain Shah No.456 Police Lines was held in the office of the undersigned. For this purpose alleged official was summoned time and again through Muharrar Police Lines Mansehra but the accused official did not appear before the undersigned nor submit his written reply to the charge sheet for the purpose of enquiry proceedings. The Muharrar Police Lines asked to submit detail report who submitted that the accused official absented himself from duty vide D.D No.23 dated 27-05-2015 and did not turn-up and still absented himself form duty. I have recorded the statement of the following official.

1. SRC Muhammad Jamshaid DPO Office Mansehra.

In view of above, the conduct of accused official reveals that he is not interested in his job, hence Ex-party proceedings recommended to be initiated against him after issuing final show cause notice and advertisement in news papers and after completion of this procedure he may be awarded major punishment.

Submitted for kind perusal and order, please.

Mansehra
[Signature]
**DSP LEGAL
MANSEHRA**

P.A
[Signature]
DPO Mansehra

[Signature]
(Hafeez-ur-Rehman)
Deputy Superintendent of Police
HQrs Mansehra.

Annex. (10)

9

OFFICE OF THE DISTRICT POLICE OFFICER MANSEHRA

ORDER

This office order will dispose off the departmental enquiry proceeding against Constable Niaz Shah No. 456 who was proceeded against departmentally with the allegations that vide DD No. 23 dated 27.05.2015 Police Lines it has been reported that he was proceeded for 03 years ex-Pakistan leave. His leave was expired on 27.05.2015 but he has not made his arrival so far and deliberately absented himself from duty.

The Enquiry Officer i.e. Mr. Hafeez-ur-Rehman DSP Hqrs Mansehra after conducting proper departmental enquiry has submitted his report stating therein that despite repeated summons the delinquent Constable neither appear before the enquiry officer nor submit his written reply. Hence expartee action was initiated by the Enquiry Officer. A final show cause notice was also issued to the delinquent Constable Niaz Shah no. 456 but he failed to reply the same. The Constable is absent from duty with effect from 27.05.2015 and has turned a deaf ear to the summons for his reply/appearance. He willfully avoided his appearance before enquiry officer and undersigned.

I, the District Police Officer, Mansehra therefore, award major punishment of "Dismissal from service" to the delinquent Constable Niaz Shah No. 456 under Khyber Pakhtunkhwa Police, Disciplinary Rules 1975 with effect from 27.05.2015. His period of absence will be treated as leave without pay.

Ordered announced in absentia.

District Police Officer
Mansehra

OB No. 62

Dated 12-4- /2016

M. Hafeez
DSP LEGAL
MANSEHRA

Annex (E)

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OFFICE OF THE REGIONAL POLICE OFFICER
HAZARA REGION, ABBOTTABAD

0992-9310021-22

0992-9310023

r.rpohazara@gmail.com

NO: 824 /PA DATED 15/9/2022

ORDER

The competent authority has examined and *filed* the instant appeal submitted by Ex. Constable Niaz Shah No. 456 of Mansehra district against the punishment of **Dismissal from service** awarded by District Police Officer, Mansehra vide OB No. 62 dated 12.04.2016 being badly time barred.

July
For REGIONAL POLICE OFFICER
HAZARA REGION, ABBOTTABAD

CC.

The District Police Officer, Mansehra to inform the appellant accordingly.

SRI
for information

DP O Mansehra
20/9

6094
21/9/22

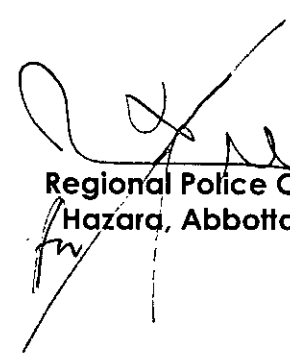
Attsted

DSP LEGAL
MANSEHRA

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AUTHORITY LETTER

I, Regional Police Officer, Hazara, hereby authorized Amaad Jadoon, reader DSP Legal to submit the comments on my behalf in service appeal No-1641/2022 titled Niaz shah VS District Police Officer and others.



Regional Police Officer,
Hazara, Abbottabad