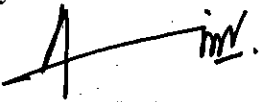


FORM OF ORDER SHEET

Court of _____

Appeal No. 1410/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/06/2023-	<p>The appeal of Mr. Naseeb Zada resubmitted today by Mr. Taimur Ali Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on</p> <p style="text-align: right;">By the order of Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2023

Naseeb Daraz

V/S

Police Department

RESPECTFULLY SHEWETH:

1. That the appellant has filed the instant appeal in this Honorable Tribunal in which date is fixed so fore.
2. That the instant appeal is pertain to the jurisdiction of Camp Court Swat, however the appellant engaged counsel who is doing legal practice at Peshawar and the appellant also wants to pursue his case at Principal Seat at Peshawar.
3. That it will be convenient for appellant as well as his counsel if the instant appeal fix at principal seat at Peshawar.

It is therefore, most humbly prayed that the on the acceptance of this application, the instant appeal may kindly be fixed at principal seat on the basis of above submission.

THROUGH:

APPELLANT



TAIMUR ALI KHAN
ADVOCATE HIGH COURT

The appeal of Mr. Naseeb Daraz Ex-Constable no.305 District Dir Upper received today i.e on 12.06.2023 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Check list is not attached with the appeal.
- 2- Appeal has not been flagged/marked with annexures marks.
- 3- Annexures of the appeal are unattested.
- 4- Affidavit is not attested by the Oath Commissioner.
- 5- Wakalat nama is blank.
- 6- Annexure-L is illegible.
- 7- Four More copies/sets of the appeal along with annexures i.e complete in all respect may also be submitted with the appeal.

No. 1741 /S.T,

Dt. 13/6 /2023.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Taimur Ali Khan Adv.
High Court Peshawar.

Respected Sir,

1- Removed

2- Removed

3- Removed

4- Removed

5- Removed

6- Better copy of Annexure-2 was prepared.

7- Removed

Resubmitted after
compliance



22/06/2023.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1410/2023

Nasseb Daraz

V/S

Police Deptt:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1	Memo of Appeal	-----	01-05
2	Affidavit	-----	06
3	Copies of charge sheet and reply	A&B	07-10
4	Copy of inquiry report	C	11-12
5	Copies of order dated 02.10.2018 order dated 29.01.2019 and order dated 07.01.2020	D,E&F	13-15
6	Copy of judgment	G	16-20
7	Copies of charge sheet and reply	H&I	21-22
8	Copy of denovo inquiry report	J	23-24
9	Copy of show cause notice and reply	K&L	25-26
10	Copies of order dated 23.02.2023 departmental appeal and rejection dated 16.05.2023	M,N&O	27-30
11	Vakalat Nama	-----	31

APPELLANT

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
Cell# 0333-9390916

①

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

SERVICE APPEAL NO/410/2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5926

Dated 12/6/2023

Mr. Naseeb Daraz Ex-Constable No.305,
R/O Akhgram, District Dir Upper.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Malakand Region Swat.
3. The District Police Officer, Dir Upper.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974
AGAINST THE ORDER DATED 23.02.2023, WHEREBY
THE APPELLANT WAS DISMISSED FROM SERVICE
AND AGAINST THE ORDER DATED 16.05.2023,
WHEREBY THE DEPARTMENTAL APPEAL OF THE
APPELLANT WAS REJECTED FOR NO GOOD
GROUNDS.

~~Filed to day~~
my
12/6/23

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE
ORDERS DATED 23.02.2023 AND 16.05.2023 MAY KINDLY
BE SET ASIDE AND APPELLANT MAY BE REINSTATED
INTO HIS SERVICE WITH ALL BACK AND
CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY,
WHICH THIS HONORABLE TRIBUNAL DEEMS FIT AND
APPROPRIATE THAT, MAY ALSO, BE AWARDED IN
FAVOUR OF APPELLANT.

RESPECTFULLY SHEWTH:**FACTS:**

1. That the appellant was appointed as Constable in the year 2013 in the respondent department. The appellant since his appointed has performed his duty with devotion and honesty, whatsoever assigned to him and no complaint has been filed against him regarding his performing.
2. That the mother of the appellant was ill and was engaged in the treatment and look after of his mother during her illness, therefore, he was compelled to remains absent from his duty for some days.
3. That charge sheet was issued to the appellant on 02.01.2018 in which it was mentioned that while posted at Police Lines absented yourself from your lawful duty with effect from 13.10.2017 till date which was properly replied by him in which he mentioned that his mother was ill and he was engaged in the treatment and look after of his mother and also applied for leave and after her recovery he came for duty and has regularly performed his duty. **(Copies of charge sheet and reply are attached as Annexure-A&B)**
4. That inquiry was conducted against the appellant in which the inquiry officer reported in his inquiry report that the appellant was remain absent from his duty from 13.10.2017 and arrived for duty on 30.10.2017 and was remain absent for 17 days and then remain absent for 07 days absent from 11.01.2017 to 17.01.2018 and then again remain absent from for 02 days from 04.02.2018 to 06.02.2018 and mentioned his report that the appellant remained absent only for 26 days and recommended minor punishment for the appellant. **(Copy of inquiry report is attached as Annexure-C)**
5. That without giving reason of not agreeing with the recommendation of inquiry officer, the appellant was dismissed from service vide order dated 02.10.2018 and his absence period treated as leave without pay i. 13.10.2017 till 02.10.2018 and mentioned in the order dated 02.10.2018, that the appellant was remained absent from lawful duty w.e.f 13.10.2017 to till date i.e 02.10.2018 despite the appellant was regularly period his duty in that period w.e.f 13.10.2017 till 02.10.2018 and remained absent for only 26 days, which is also endorsed by the inquiry officer in his inquiry report. The appellant filed departmental appeal and after rejection of his departmental appeal on 29.01.2019 he filed revision which was also rejected on 07.01.2020. **(Copies of order dated 02.10.2018, order dated 29.01.2019 and order 07.01.2020 are attached as Annexure-D,E&F)**
6. That the appellant filed service appeal No.881/2020 for his reinstatement into service by setting aside the order dated

02.10.2018, order dated 29.01.2019 and order dated 07.01.2020 in this Honorable Service Tribunal which was heard and decided on 29.09.2022 in which the Honorable Tribunal partially accepted of the appellant of the appellant and he was reinstated in service for de-novo inquiry to conducted within 60 days and mentioned in the judgment that appellant shall be afforded opportunity of hearing during the proceeding. **(Copy of judgment is attached as Annexure-G)**

7. That on the basis of above judgment charge sheet was issued to the appellant which was replied by him in which he mentioned that he did not willfully remain absent from his duty but his mother was ill and also informed about his high ups about his mother illness and due to engagement in the treatment of his mother he was compel to remain absent from his duty. **(Copies of charge sheet and reply are attached as Annexure-H&I)**
8. That on the basis of judgment dated 29.09.2022, denovo inquiry was conducted against the appellant, however the inquiry committee did not bother to dig out the actual absence period of the appellant as the appellant was remain absent for 26 days which was also endorsed by the inquiry officer in his 1st inquiry report, while in the dismissal order dated 02.10.2018 it was mentioned that appellant was remained absent from duty w.e.f 13.10.2017 to till date i.e 02.10.2018 for the total period of 11 months and 20 days. **(Copy of denovo inquiry report is attached as Annexure-J)**
9. That show cause notice was issued to the appellant which was replied by the appellant in which he gave the same stance as given in reply to the charge sheet. **(Copies of show cause notice and reply to show cause notice are attached as Annexure-K&L)**
10. That without conducting proper inquiry to dig out the actual absence period of the appellant, he was dismissed from service on 23.02.2023n and his intervening period was treated as leave without pay. The appellant filed departmental appeal which was also rejected on 16.05.2023 for no good grounds. **(Copies of order dated 23.02.2023, departmental appeal and rejection order dated 16.05.2023 are attached as Annexure-M,N&O)**
11. That the appellant wants to file the instant appeal in this Honorable Tribunal for redressal of his grievance on the following grounds amongst others.

GROUNDS:


- A) That the impugned orders dated 23.02.2023 and 16.05.2023 are against the law, rules, facts, norms of justice and material on record, therefore, not tenable and liable to be set aside.
- B) That the appellant was remained absent for only 26 days which was also endorsed by the inquiry officer in his inquiry report conducted before his 1st dismissal from service dated 02.10.2018 and in his 1st dismissal order dated 02.10.2018 as well as in the order dated 29.01.2019 and dated 07.01.2020, it was mentioned that the appellant was remained absent from his duty w.e.f 13.10.2017 till 02.10.2018 for the total period of 11 months and 20 days and due to such controversy about the absence period of the appellant, the Honorable Tribunal remand the case of the appellant to the department for proper de novo inquiry with opportunity of defense to the appellant to clarify the actual period of absence of the appellant, but despite that no proper inquiry was conducted against the appellant to clarify the actual period of absence of the appellant, which is clear violation of the judgment dated 29.09.2022 of this Honorable Tribunal.
- C) That de-novo inquiry conducted against the appellant was not proper as the inquiry committee did not bother to dig out the actual absence period of the appellant as the appellant was remain absent for 26 days which was also endorsed by the inquiry officer in his 1st inquiry report, while in the dismissal order dated 02.10.2018 it was mentioned that appellant was remained absent from duty w.e.f 13.10.2017 to till date i.e 02.10.2018 for the total period of 11 months and 20 days, which is clear violation of law and rules and as such the impugned order are liable to be set aside.
- D) That the appellant was shown absent from 13.10.2017 till 02.10.2018 in the 1st dismissal order as well as in rejection orders which amount to 11 months and 20 days, but actually he remained absent from his duty 13.10.2017 to 30.10.2017 (17-days) and from 11.01.2017 to 17.01.2018 (07-Days) and from 04.02.2018 to 06.02.2018 (02-days) which amounts to 26 days, which was also endorsed by the inquiry officer in the 1st inquiry report and the appellant has regularly performed his duty in the period between 13.10.2017 to 02.10.2018 and remained absent for only 26 days, which is shows that the appellant was proceeded on the wrong calculation of the absence period which is against the facts and material on record and as such the impugned orders are liable to be set aside.
- E) That the appellant did not intentionally remain absent from his duty but he was engaged in the treatment and look after of his mother illness and also informed his high ups about the illness of his mother and due to engagement in the treatment and look after in the illness of his mother, he was unable to perform his duty and was compel to

5

remain absent from his duty, therefore, needs to be treated with lenient view.

- F) That the appellant was only 26 days absent and the penalty of dismissal imposed upon the appellant is from service is very harsh, which is passed in violation of law and rule, therefore, the same is not sustainable in eyes of law and hence liable to be set aside.
- G) That the absence period of the appellant was already treated as leave without pay, therefore, there remain no ground the penalize the appellant on that absence and as such the impugned orders are liable to be set aside.
- H) That the appellant has not been treated in accordance with law and rules and has been condemned unheard throughout.
- I) That the appellant seeks permission of this Honorable Tribunal to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.


APPELLANT
Naseeb Daraz

THROUGH:


TAIMUR ALI KHAN
(ADVOCATE HIGH COURT)

6

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2023

Naseeb Daraz

VS

Police Department

AFFIDAVIT

I, Naseeb Daraz Ex-Constable No.305, R/O Akhgram, District Dir Upper, (Appellant) do hereby affirm and declare that the contents of this service appeal are true and correct and nothing has been concealed from this Honorable Tribunal.


DEPONENT

A
⑦

⑧

CHARGE SHEET. Annasab ⑧

I Pir Shahab Ali Shah District Police Officer, Dir Upper, as competent authority, hereby charged you recruit constable Naseeb Daraz No. 205 while posted at Police Lines, absented yourself from your lawful duty with effect from 13.10.2017 to till date without any leave or prior permission from high ups. A preliminary enquiry was conducted through Mr. Zahid Khan SDPO Dir and reported that you're guilty/ liable and habitual in absentia. So this amounts a gross misconduct on your part.

2. By reason of the above, you appear to be guilty of criminal act and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Disciplinary Rules 1975.

3. You are therefore required to submit your written reply within 07 days of the receipt of this charge sheet to the enquiry Officer.

4. Your written reply, if any should reach to the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defence to put in and in that case the ex-parte action shall follow against you.

6. Intimate as to whether you desire to be heard in person or not?
Statement of allegation is enclosed.

P
/

(PIR SHAHAB ALI SHAH)
District Police Officer,
Dir Upper.

No. 29-30 /SB, Dated Dir Upper the 02/01 2018

Copy to recruit constable Naseeb Daraz No. 205 while posted at Police Lines submit your reply to the Charge Sheet with stipulated period.

Attested by
Jalaluddin



Amroha

DISCIPLINARY ACTION.

I, Pir Shahab Ali Shah District Police Officer, Dir Upper, as competent authority, is of the opinion that you recruit constable Naseeb Daraz No. 205 while posted at Police Lines, have rendered him liable to be proceeded against departmentally as you have committed the following acts/omission as defined in Rule-2 (iii) of Police Rule 1975.

STATEMENT OF ALLEGATION.

Whereas recruit constable Naseeb Daraz No. 205 while posted at Police Lines, absented himself from his lawful duty with effect from 13.10.2017 to till date without any leave or prior permission from his superior. A preliminary enquiry was conducted through Mr. Zahid Khan SDPO Dir and reported that he is guilty/ liable and habitual in absentia. So this amounts a gross misconduct on your part.

- 2. For the purpose of scrutinizing of the said accused with reference e to the above allegations, Mr. Zafar Khan DSP HQrs is appointed as the Enquiry Officer under the said Rules.
- 3. The Enquiry Officer shall conduct proceeding in accordance with provision of Police Rule 1975 and shall provide reasonable opportunity of defence and hearing to the accused official, record its findings and make within fifteen days (15) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused official.
- 4. The accused official shall join the proceeding on the date, time and place fixed by the Enquiry Officer.

(PIR SHAHAB ALI SHAH)
District Police Officer,
Dir Upper.

No. 29-30 /SB, Dated Dir Upper the 02/01/2018.
Copy of the above is forwarded to:-

- 1. The Enquiry Officer for initiating proceeding against the accused official under Police Rule, 1975.
- 2. Concerned defaulter official.

9 B
10
10-11

جواب طلبی طرف سے

مذکورہ بیان کے مطابق ہے

1- یہ کہ گوالہ جارج سٹیٹ میں
دیوار اور جواب طرف سے

2- یہ کہ جواب کنندہ کے خلاف جارج سٹیٹ یو جی ٹی کے پاس
29/5/08 سے 29/5/08 تک جانکاری ہے

3- یہ کہ جواب کنندہ یو جی ٹی کے پاس جارج سٹیٹ سے سہری ہونے کے خواستگار ہے
1- یہ کہ جواب کنندہ انبار دہنی ری ایئراری، دیاندراری سے سرانجام
دے رہا ہے اور اس سے قبل جواب کنندہ کے خلاف
کوئی ایسی کارروائی نہیں ہوئی ہے

4- یہ کہ جواب کنندہ ایک جوان تھام باغیہ ہے اور انبار دہنی
مقام پر کھڑے اور ادا کیا ہے

5- یہ کہ جواب کنندہ سرگودھہ ٹی ٹی کے پاس
مقام میں سونے بیٹا رہا ہے اور جواب کنندہ
مقام سے کھڑے ہیں

1

یہ جواب کثیرہ کے لئے ہے *Supervent* کے لئے ہے

یہ جواب کثیرہ کے لئے ہے اس کے انکار کے لئے *Unqualified* کہنے والے ضلع ہے

یہ جواب کثیرہ کے لئے ہے اس کے انکار کے لئے یہ ہے

یہ ہے اس کے لئے اس کے لئے اس کے لئے اس کے لئے اس کے لئے *Unqualified* کہنے والے ضلع ہے

یہ جواب کثیرہ کے لئے ہے 15/5/18 اس کے لئے اس کے لئے اس کے لئے اس کے لئے اس کے لئے

یہ جواب کثیرہ کے لئے ہے اس کے لئے اس کے لئے اس کے لئے اس کے لئے اس کے لئے

یہ جواب کثیرہ کے لئے ہے اس کے لئے اس کے لئے اس کے لئے اس کے لئے اس کے لئے

16/8/18

اس کے لئے اس کے لئے اس کے لئے اس کے لئے اس کے لئے

اس کے لئے اس کے لئے اس کے لئے اس کے لئے اس کے لئے

اس کے لئے اس کے لئے اس کے لئے اس کے لئے اس کے لئے

یہ ہے

یہ جواب کثیرہ کے لئے ہے

No 165/987 Dep Ho Div

dt 13/3/18

فائنڈنگ رپورٹ

جناب عالی:

ریکروٹ کنٹینیل نصیب دراز نمبر 205 بحوالہ مد 27 روزنامہ 13.10.2017 پولیس لائن دیر بالا میں 17 یوم غیر حاضر رہ کر جن کے خلاف SDPO صاحب سرکل دیر نے انکوائری کر کے انکوائری میں SDPO صاحب سرکل دیر نے بر خلاف کنٹینیل مذکورہ Major Punishment کی سفارش کی ہے۔ بعد انکوائری کنٹینیل مذکورہ کے خلاف چارج شیٹ نمبری 29-30/SB مورخہ 02.01.2018 جاری ہو کر جملہ کاغذات بغرض انکوائری من DSP ہیڈ کوارٹر کو حوالہ ہوئی۔

الزام

دوران انکوائری ریکروٹ کنٹینیل نصیب دراز نمبر 205 متعینہ پولیس لائن کو بغرض حصولی چارج شیٹ قلمبندی بیان طلب کر کے جس نے چارج شیٹ کے جواب اور اپنے بیان میں یکساں موقف بیان کیا۔ کہ وہ ریکروٹ کنٹینیل ہے محکمہ پولیس کے قانون سے بخوبی واقف نہیں ہے۔ اس کی والدہ صاحبہ ذہنی بیماری میں مبتلا ہے والدہ کی علاج معالجہ کی خاطر پشاور چکا تھا۔ بدیں وجہ غیر حاضر رہ چکا تھا۔ مذکورہ کنٹینیل اندریں بارہ کسی قسم کی میڈیکل کاغذات پیش نہ کر سکا۔

تحقیقات

اسی طرح ریکروٹ کنٹینیل نصیب دراز نمبر 205 کے متعلق جہان اللہ OASI دیر بالا نے اپنے بیان میں واضح کیا کہ کنٹینیل نصیب دراز نمبر 205 برطابق لانگ رول مورخہ 04.12.2013 کو بحیثیت کنٹینیل بھرتی ہو کر

مورخہ 26.03.2015 کو بحوالہ آرڈر بک نمبر 282 بوجہ غیر حاضری محکمہ پولیس سے برخاست ہوا تھا۔ جو کہ مورخہ 01.06.2016 کو دوبارہ بحال ہوا مورخہ 11.07.2016 کو کنٹینیل مذکورہ ریکروٹ کورس کیلئے پولیس

ٹرینینگ سکول صوابی بھجوا کر مورخہ 02.08.2016 کو Un- Qualified ضلع واپس ہوا۔ اور مورخہ 18.01.2017 کو دوبارہ بوجہ غیر حاضری بحوالہ OB نمبر 30 برخاست ہوا۔ جو کہ لیٹر نمبر 571/E

مورخہ 15.06.2017 کو جناب RPO صاحب سوات نے دوبارہ بحال کیا۔ مورخہ 24.10.2017 کو ریکروٹ کورس کیلئے طلب کر کے اس وقت بھی غیر حاضر رہا تھا۔ کنٹینیل مذکورہ نے تاحال ریکروٹ کورس مکمل نہیں کیا ہے۔

اسی طرح لائن آفیسر رجم بیگ خان SI، اور اعجاز خان AMHC پولیس لائن دیر نے کنٹینیل نصیب دراز نمبر 205 کے متعلق اپنے الگ بیانات میں یکساں موقف بیان کرتے ہوئے بیان کیا۔ کہ ریکروٹ کنٹینیل نصیب دراز نمبر 205 جو کہ

پولیس لائن دیر میں تعینات ہے۔ مورخہ 30.10.2017 کو سرکاری ڈیوٹی کیلئے طلب کرنے پر عدم موجودہ پا کر جس کے

12

12

12

خلاف بحوالہ مد 27 روزنامہ 13.10.2017 رپورٹ غیر حاضری درج روزنامہ کے کنٹینیل مذکورہ نے 17 یوم غیر حاضری کے بعد بحوالہ مد 09 روزنامہ 30.10.2017 حاضری کر کے نقلہ مدت بغرض مناسب کاروائی افسران بالا کو بھجوائے گئے تھے۔ اس طرح بحوالہ مد 05 روزنامہ 11.01.2018 کو غیر حاضر ہو کر 07 یوم غیر حاضری کے بعد بحوالہ مد 08 روزنامہ 17.01.2018 حاضری کی ہے۔ اس کے بعد مورخہ 04.02.2018 کو بحوالہ مد 09 غیر حاضر ہو کر دو یوم غیر حاضری کے بعد بحوالہ مد 11 روزنامہ 06.02.2018 حاضری کی ہے۔

نتیجہ

انکوائری کاغذات بشمول انکوائری SDPO سرکل دیر، بیانات ازاں ریکورڈ کنٹینیل نصیب دراز نمبر 205، لائن آفیسر رحیم بیگ، ایڈیشنل محرر لائن اعجاز خان، OASI جہان اللہ سے میں اس نتیجہ پر پہنچ چکا ہوں۔ کہ مورخہ 13.10.2017 کو ریکورڈ کنٹینیل سرکاری ڈیوٹی کیلئے طلب کر کے عدم موجود ہونے پر جسکے خلاف رپورٹ غیر حاضری درج روزنامہ ہو کر کل 17 یوم غیر حاضر رہا ہے۔ غیر حاضری کی وجہ والدہ آس کی ذہنی بیماری بتلا کر علاج معالجہ کیلئے پشاور میں پرائیویٹ ہسپتال سے علاج کروانا بیان کیا۔ تاہم بطور ثبوت کسی قسم کے میڈیکل کاغذات پیش نہ کر سکا۔ OASI جہان اللہ کے بیان کے مطابق ریکورڈ کنٹینیل 2 بار پہلے بھی بوجہ غیر حاضری درخواست ہو چکا ہے۔ جو بعد میں دوبارہ بحال ہو کر تاحال ریکورڈ کورس مکمل نہیں کیا ہے۔ 17 یوم غیر حاضری کے بعد کنٹینیل مذکورہ 9 یوم غیر حاضر ہو چکا ہے۔ یعنی کنٹینیل مذکورہ کل 26 یوم غیر حاضر ہو چکا ہے۔ جملہ نقلہ مدت لف شامل انکوائری ہے۔ تاہم کنٹینیل مذکورہ کو دفتر خود طلب کر کے جس نے وعدہ کیا کہ برائے آئیندہ وہ کسی قسم کی غیر حاضری نہیں کریگا۔ کنٹینیل مذکورہ کل 26 یوم غیر حاضر رہا ہے۔ ایام غیر حاضری بلا تنخواہ شمار کرنے اور بوجہ مفلسی اور وعدہ کرنے کہ وہ آئیندہ اس قسم کے افعال کا مرتکب نہ ہوگا اس بناء پر چھوٹی سزا دینے کی سفارش کی جاتی ہے۔ باقی آپ صاحبان کے احکامات افضل ہونگے۔ فائنڈنگ رپورٹ مرتب ہو کر ہر اد مناسب حکم پیش خدمت ہے۔

ڈی ایس پی، ہیڈ کوارٹر دیر بالا۔

14

OFFICE OF THE
DISTRICT POLICE OFFICER,
DIR UPPER

ORDER

13
13
13
13

This order is passed on the Departmental Enquiry conducted against recruit Constable Naseeb Daraz No. 305 while posted in Police Lines, absented himself from his lawful duty w.e.f 13.10.2017 to till date without any leave or prior permission from his superior, so this amounts a gross misconduct/negligence on his part.

In order to initiate proper Departmental Enquiry, Charge Sheet and Statement of allegations were served upon him. Mr. Zafar Khan, DSP HQrs was appointed as Enquiry Officer. The Enquiry Officer in its finding report stated that the defaulter constable is guilty in light of PR 16.9 Police Rules 1934 and recommended him for Dismissal from Police Service.

On the receipt of the finding report and other connected papers the same was perused and the defaulter Official was called in Orderly Room but he did not appear before the undersigned, his guilt has been proved beyond any shadow of doubt.

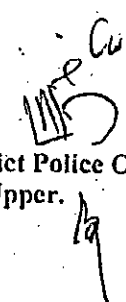
Previous Service record of defaulter constable was also perused, it was found that he was twice dismissed from police service vide this office OB No. 282, dated 26.03.2015 and OB No. 30, dated 18.01.2018. In light of PR 16.9 Police Rules 1934, "they (the official) shall as far as possible, avoid the constant infliction punishment, pass their orders after character and position of the officer punished. If the previous record of an official, against whom charges have been proved, indicates continued misconduct proving incorrigibility and complete unfitness from police service, the punishment awarded will ordinarily be dismissal".

Therefore I, Mian Nasib Jan, District Police Officer, Upper Dir in exercise of powers vested to the undersigned under Efficiency and Discipline Rules-1975 and Police Rules Rules-1975, "being competent authority keeping in view his constant and perpetual bad attitude towards police discipline, He is dismissed from Police Service with effect from date of absence i.e from 13.10.2017. Ex-party action is taken as a result of his non responsiveness and absenteeism and the period of absence i.e 13.10.2017 to till date is treated as without pay.

Order announced.

OB No. 549

Dated: 02-10- /2018.


District Police Officer
Dir Upper.



OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND

AT SAIDU SHARIF SWAT.

Ph: 0946-9240381-88 & Fax No. 0946-9240390

Email: dtgmalakand@yahoo.com

ORDER:

This order will dispose off appeal of Ex-Constable Naseeb Daraz No. 305 of Dir Upper District for reinstatement in service.

Brief facts of the case are that Ex-Constable Naseeb Daraz No. 305 while posted in Police Lines was absented himself from his lawful duty with effect from 13/10/2017 to till the date of dismissal from Police service. He is also repatriated from Police Training School, Kohat to his parent District as unqualified due to absentia. In order to initiate proper departmental enquiry, Charge Sheet and Statement of allegations were served upon him vide his office memo: No. 29-30/SB, dated 02/01/2018. Mr. Zafar Khan the then DSP HQrs was appointed as enquiry officer. The enquiry officer in his finding report stated that the defaulter Constable is liable /guilty and recommended for major punishment. On the report of Director Police Training School, Kohat vide Memo: No. 312/HC, dated 24/05/2018, a separate Departmental enquiry was initiated against the defaulter Constable. Charge Sheet coupled with statement of allegation was served upon him vide his office memo: No. 3108-09/SB, dated 09/08/2018 and Mr. Sher Wazir Khan RI Police Line was appointed as enquiry officer. The enquiry officer in its finding report stated that the defaulter Constable is liable/ guilty and recommended for major punishment. On the receipt of the finding report and other connected papers the same was perused, a Final Show Cause Notice was served upon him. The defaulter officer was also called in Orderly Room but he did not appear before the DPO, his guilt has been proved beyond any shadow of doubt. Previous Service record of defaulter Constable was also perused, it was found that he was twice dismissed from Police Service vide his office OB No. 282, dated 26/03/2015 and OB No. 30, dated 18/01/2018. In the light of PR 16.9 Police Rules 1934 "They (the official) shall as far as possible, avoid the constant infliction punishment, pass their orders after character and position of the officer punished. If the previous record of an official against whom charges have been proved, indicates continued misconduct proving incorrigibility and complete unfitness from Police Service, the punishment awarded will ordinarily be dismissal". Therefore, in exercise of power vested to District Police Officer, Dir Upper under Police efficiency and discipline rules, Constable Naseeb Daraz No. 305 was dismissed vide his office OB No. 549 dated 02/10/2018

He was called in Orderly Room on 23/01/2019 and heard him in person. The appellant could not produce any cogent reason in his defense. Hence, his appeal is hereby filed.

Order announced.

(MUHAMMAD SAIED) PSP
Regional Police Officer,
Malakand, at Saidu Sharif Swat
Naqi

No. 1425 /E,

Dated 29/01 /2019.

Copy of above is forwarded to District Police Officer, Dir Upper for information and necessary action with reference to his office Memo: No. 4763/E, dated 20/11/2018. The service record of the above named officer is returned herewith for record in your office.



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. S/ 281

19, dated Peshawar the 07/01/2019

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-FC Naseeb Daraz No. 305. The petitioner was dismissed from service w.e.f 13.10.2017 by District Police Officer, Dir Upper vide OB No. 549, dated 02.10.2018 on the allegations of absence from duty w.e.f 13.10.2017 till date of dismissal from service i.e. 02.10.2018 for total period of 11 months and 20 days. As per his previous service record he was twice dismissed from service vide OB No. 282, dated 26.03.2015 and OB No. 30, dated 18.01.2017. His appeal was filed by Regional Police Officer, Malakand at Swat vide order Endst: No. 1425/E, dated 29.01.2019.

Meeting of Appellate Board was held on 06.05.2019 wherein petitioner was heard in person. During hearing petitioner contended that his absence was not deliberate but his mother was ill.

Petitioner was heard in detail but he failed to advance any plausible explanation in rebuttal of the charges. Furthermore, perusal of his service dossier revealed that he bears patchy record of service. He earned 16 bad entries during his short service. He was repatriated from PTS Kohat as unqualified from Recruit Course. He was earlier twice dismissed from service in the year 2015 & 2017 on the allegations of absence from duty which establishes that he is habitual absentee and there is no prospects of mending his ways. His present absence is 11 months & 20 days. The DPO has rightly passed the order by fulfilling all codal formalities. Therefore, the Board decided that his petition is hereby rejected.

This order is issued with the approval by the Competent Authority.

(ZAIIB ULLAH KHAN)
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. S/ 282-90

Copy of the above is forwarded to the:

1. Regional Police Officer, Malakand at Swat. One Service Roll and Fauji Missal containing Departmental enquiry file of the above named Ex-FC received vide your office Memo: No. 4660-61/E, dated 16.04.2019 is returned herewith for your office record.
2. District Police Officer, Dir Upper.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

BEFORE THE KHYBER PUKHTOON KHWA SERVICE TRIBUNAL

PESHAWAR.

Service Appeal No. 881/2020

①

Khyber Pukhtoonkhwa Service Tribunal

Case No. 991

Date 6-2-2020

Naseeb Daraz (Ex-Constable Bearing Belt No.305),
Son of Gul Faraz Khan,
R/O Mohallah Akhagram Village Gurkand,
Post Office Akhagram, Tehsil Wari District Dir Upper.....**APPELLANT.**

VERSUS



1. Govt of Khyber Pukhtoonkhwa through Chief Secretary, Civil Secretariat Khyber Pukhtoonkhwa Tehsil & District Peshawar.
2. Inspector General Police Khyber Pukhtoonkhwa Office Civil Secretariat, Khyber Pukhtoonkhwa, Police Line Peshawar.
3. Additional I.G Khyber Pukhtoonkhwa Office Head Quarter CPO, Civil Secretariat, Khyber Pukhtoonkhwa, Police Line Peshawar.
4. District Police Officer (DPO), Dir Upper Office at Police Line Dir Upper
5. D.S.P Officer (DPO), Dir Upper, Office at Police Line Dir Upper
6. D.I.G Malakand Saidu Sharif District Swat
7. Regional Police Officer Malakand, Office at Saidu Sharif, Swat.....**RESPONDENTS.**

APPEAL UNDER SECTION 4 OF THE SERVICES TRIBUNAL ACT, 1973 AGAINST THE IMPUGNED OB NO.549 DATED 02.10.2018 ISSUED BY RESPONDENT NO.4, WHEREBY THE SERVICE OF THE APPELLANT HAS BEEN DISMISSED AS WELL AS AGAINST THE REJECTION ORDER OF THE DEPARTMENTAL APPEAL DATED 29.01.2019 THEREAFTER FINAL REFUSAL LETTER IN REVISION DATED 07.01.2020 OF THE RESPONDENT NO.3, WHICH ARE ILLEGAL AND IN EFFECTIVE UPON THE RIGHT OF THE APPELLANT AND THE IMPUGNED OFFICE ORDERS OF DISMISSAL MAY PLEASE BE DECLARED AS NILL AND VOID AND MAY PLEASE BE SET ASIDE AND APPELLANT MAY BE REINSTATED INTO SERVICE WITH THE ALL BACK BENEFITS.

Filed to - day

Registry

6/2/20

Re-submitted to - day and paid

PRAYER IN APPEAL: On acceptance of this service appeal, the appellant may graciously be reinstated into service with all back benefits by set aside the impugned order of dismissal dated 02.10.2018 as well as the departmental appeal dated 29.01.2019 and final order of rejection dated 07.01.2020.

RESPECTFULLY SHEWETH.

EXAMINER
Khyber Pukhtoonkhwa Service Tribunal

1. That the appellant was initially appointed as constable in the District Police Dir Upper vide appointment letter dated 04.12.2013 and rendered spotless services according to the satisfaction of Higher Ups and without any objection from any Quarter, received the monthly salaries regularly from the respondents. (Copy of CNIC annexed as A).

(17) (13)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.881/2022

Date of Institution ... 06.02.2022
Date of Decision ... 29.09.2022



Naseeb Daraz (Ex-Constable Bearing Belt No.305), Son of Gul Faraz Khan,
R/O Mohallah Akhagram Village Gorkand, Post Office Akhagram, Tehsil
Wari District Dir Upper. (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa, through Chief Secretary, Civil
Secretariat Khyber Pakhtunkhwa Tehsil & District Peshawar and six others.
(Respondents)

Zia-Ud Din, Advocate ... For appellant.

Muhammad Jan, District Attorney ... For respondents.

Rozina Rehman ... Member (J)
Fareeha Paul ... Member (E)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

“On acceptance of this service appeal, the appellant may graciously be reinstated into service with all back benefits by setting aside the impugned order of dismissal dated 02.10.2018 as well as the departmental appeal dated 29.01.2019 and final order of rejection dated 07.01.2020”.

2. Brief facts of the case are that appellant was appointed as Constable in the District Police, Dir Upper on 04.12.2013. He was sent for Basic

ATTESTED

MUNIR
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

18

18

Recruitment Course and he completed his training period according to the satisfaction of his high ups. While performing his duty at Dir Upper, the appellant received charge sheet alongwith statement of allegations on 02.01.2018 on the allegations of absentia. He submitted his reply and Inquiry Officer was appointed and it was on 02.10.2018 when appellant was dismissed from service. He filed appeal which was rejected, where-after, he filed revision which also met the same fate. Hence, the present service appeal.

3. We have heard Zia Ud Din, Advocate learned counsel for the appellant and Muhammad Jan, learned District Attorney for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Zia Ud Din Advocate, learned counsel for appellant argued that the impugned orders are void, arbitrary, without jurisdiction, coram-non-judice, illegal and without any lawful authority hence liable to be set aside. It was submitted that the appellant never remained absent from duty for such a long period as alleged by the respondents and that he just remained absent for 07 days only with the permission of the competent authority, therefore, the harsh penalty imposed by the respondents is not sustainable in the eyes of law. He kept on arguing that the appellant was condemned unheard and his reply was never considered by the respondents which act of the respondents is against law and Police Rules. He, therefore, requested for acceptance of the instant appeal.

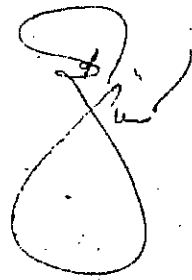
5. Conversely, learned District Attorney submitted that the appellant remained absent seven times in 2014 and that his total absence is 06 months and 17 days and being unqualified, was repatriated to his parent District. He submitted that proper departmental inquiry was initiated against appellant and in this regard final show cause notice was issued to him. He was afforded

ATTESTED


 District Attorney
 Dir Upper
 Ferozpur

opportunity of personal hearing and after completion of all codal formalities, he was awarded major punishment of dismissal from service.

6. After hearing the learned counsel for the parties and going through the record of the case with their assistance and after perusing the precedent cases cited before us, we are of the opinion that while posted in Police Lines, Constable Naseeb Daraz No.305 absented himself from his lawful duty w.e.f 13.10.2017 till the date of dismissal order i.e. 02.10.2018 without any leave or permission from his competent authority. In order to initiate proper departmental inquiry, charge sheet alongwith statement of allegations were served upon him. Mr. Zafar Khan, DSP Headquarter, was appointed as Inquiry Officer and accordingly appellant was dismissed from service w.e.f the date of absence i.e. from 13.10.2017. From the order of DPO Dir Upper it is evident that the appellant was charged for absentia w.e.f. 13.10.2017 till 02.10.2018 (approximately one year absence). He filed departmental appeal on 16.10.2018 which was dismissed on 29.01.2019. It merits a mention here that the inquiry report is available on file as "Annexure-E" which clearly shows that the appellant was charged for 17 days absence vide Nakalmad No.27 of Daily Dairy dated 13.10.2017 and he joined his duty vide Mad No.09 dated 30.10.2017. As per inquiry report he was also charged for 07 days absence vide Mad No.05 of Daily Dairy of 2018 and then for two days absence in the year 2018. He was charged for a total of 26 days absence and recommended for minor punishment. Despite proper inquiry report both the competent authority and the appellate authority referred to the inquiry report by saying that he was recommended for major punishment while infact he had been recommended for minor punishment. Both the impugned orders would reveal that he was charged for one year absence whereas the inquiry



ATTESTED



 CHIEF CLERK
 District Police Office
 Service Tribunal
 Rawalpindi

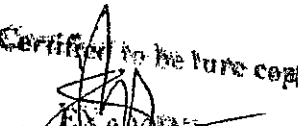
20

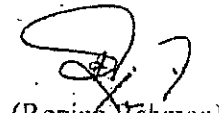
report would reveal total absence of 26 days in the year 2017 as well as in the year 2018. The entire file is silent as to why he was not departmentally proceeded against separately for his alleged absence in the year 2017 and 2018. He filed revision petition under Rule 11-A of the Khyber Pakhtunkhwa Police Rules 1975 as well and it is astonishing that here he was not only charged for a total absence of 11 months and 20 days but also for his previous record of 2015 and 2017 and accordingly his petition was rejected. He was charged for absence from lawful duty w.e.f 13.10.2017 to 02.01.2018. As per charge sheet and statement of allegations, Inquiry Officer charged him for total absence of 26 days. Inspector General of Police in his order dated 07.01.2020 charged him for absence of 11 months and 20 days while Para-02 of the grounds of comments is in respect of his absence in 2014, 2016 and 2018. His present situation was not clearly discussed and all the impugned orders are silent in this regard.

7. In this view of the matter, we are left with no option but to partially accept this appeal. Appellant is reinstated in service for de-novo inquiry to be conducted within 60 days of the receipt of copy of judgment. Needless to mention that the appellant shall be afforded opportunity of hearing during the proceedings. The issue of back benefits shall be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
29.09.2022


(Farzha Paul)
Member (E)

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar


(Rozina Rehman)
Member (J)

H (21)

**OFFICE OF THE
DISTRICT POLICE OFFICER
UPPER DIR**

CHARGE SHEET


I **Tariq Sohail Marwat (PSP), District Police Officer, Dir Upper**, as competent authority, hereby charged you **Constable Naseeb Daraz No. 305** while posted in Police Lines Upper Dir, absented yourself from your lawful duty from 13.10.2017 till the date of dismissal i.e 02.10.2018 without any leave or prior permission from your superior, so this amounts a gross misconduct on your part.

2. By reason of the above, you appear to be guilty of criminal act and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Disciplinary Rules-1975.

3. You are therefore required to submit your written reply within 07 days of the receipt of this charge sheet to the enquiry Officer.

4. Your written reply, if any should reach to 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, the ex-parte action shall follow against you. Intimate as to whether you desire to be heard in person or not?

5. Statement of allegation is enclosed.


(Tariq Sohail Marwat) PSP,
District Police Officer,
Dir Upper.

ذرائع
والجہ کئی طرح سے سب سے زیادہ 3108-9/53 3108-9/53 3108-9/53

دیر اور عرض مدت ہیں۔ میں سے FA کی انڈیکس اور وہاں سے جو کچھ ہے
 ملک سے لے کر ہندوستان تک جو کچھ اس وقت کے لیکچرر کے لیے
 ہے وہ 14-5/18 سے شروع ہو گا اور آخر کے لیے 22-5/18
 سے شروع ہو گا۔ یہاں سے شروع ہو گا کہ وہ عمر کے ساتھ ساتھ
 جو کہ والدین کے ساتھ ساتھ ہو گا۔ یہاں سے اپنے بچے
 والوں کے لئے جس میں لائی جائے گا اس وقت سے کہ وہ بچے سے ہو گا
 سے اپنی زندگی سے ملا کر یہاں سے شروع ہو گا کہ وہ بچے سے ہو گا
 تیار کرنے کے لیے یہاں سے شروع ہو گا کہ وہ بچے سے ہو گا
 میں سے ماں کے علاج سے شروع ہو گا کہ وہ بچے سے ہو گا
 طبعی کیلئے دوران میں طبعی کے ساتھ ساتھ ان کو ایسا کرنے کے لیے
 گا سے وہی کیلئے وہی سے ساتھ ساتھ علاج کے ساتھ ساتھ
 تمام میں اسے ماں کے علاج سے شروع ہو گا کہ وہ بچے سے ہو گا
 میں اسے عزیز کیلئے سے شروع ہو گا کہ وہ بچے سے ہو گا
 اگر کوئی طبعی سے ہے۔ یہ اپنے والدین سے کہیں نہ ہو گا
 سے شروع ہو گا کہ وہ بچے سے ہو گا کہ وہ بچے سے ہو گا
 میں یہاں سے شروع ہو گا کہ وہ بچے سے ہو گا کہ وہ بچے سے ہو گا
 شروع کرنا تو میں یہاں سے شروع ہو گا کہ وہ بچے سے ہو گا
 شروع ہو گا کہ وہ بچے سے ہو گا کہ وہ بچے سے ہو گا

J (23)

DENOVO DEPARTMENTAL ENQUIRY AGAINST CONSTABLE NASEEB DARAZ
NO.305

BRIEF

Brief facts of the case are that Ex-Constable Naseeb Daraz No. 305 while posted to Police Lines, Dir Upper absented himself from his lawful duty with effect from 13/10/2017 to till the date of dismissal from Police service. He was also repatriated from Police Training School, Kohat to his parent District as unqualified due to his absence. He was proceeded departmentally and subsequently dismissed from service vide OB No. 549 dated 02/10/2018 after completing all codal formalities under the law/rules. Later on, he preferred Service Appeal No.881/2020 before the Service Tribunal which was set aside by honorable Tribunal vide Judgment dated 29/09/2022, wherein the honorable Tribunal directed the respondent department to conduct Denovo departmental enquiry. In compliance of the judgment dated 29/09/2022 of Service Tribunal, the appellant was reinstated into service vide OB No. 799 dated 12/12/2022 for the purpose of Denovo departmental enquiry and as per direction of worthy AIG/Enquiry letter No.1775-79/CPO/Lab dated 15/12/2022, SP Investigation, Swat and DSP/Legal Swat were appointed as Enquiry Officers to conduct Denovo Departmental Enquiry against the appellant in accordance with law/rules.

PROCEEDINGS:

In compliance of Judgment dated 28/01/2022 in Service Appeal No.881/2022, Denovo departmental enquiry was conducted against the appellant wherein charge sheet coupled with statement of allegations was issued to the appellant. He was called to appear before the Enquiry Officers and was also heard in person. The appellant also recorded his statement which is as under;

STATEMENT OF CONSTABLE NASEEB DARAZ (APPELLANT)

On 29/12/2022, the concerned official got recorded his statement, wherein he stated that he is FA qualified recruited in Police department and on 14/05/2018 selected for Recruit Training Course Kohat Center. On 22/05/2018 he was informed through an emergency call from his home about the illness of his mother. He further stated that he appeared before Commandant Recruit Training School for granting of leave in respect of his mother illness, however no leave was granted to him, hence he left his training and proceeded to Temargara Hospital. Later on, he showed his presence in Police Line Dir Upper on 29/05/2018 from where he came to know that he was repatriated to the district as unqualified. He further stated he did not intentionally absented himself from official duty rather than it was due to his mother illness.

FINDINGS:

After completing enquiry proceedings against the delinquent Constable, by observing all codal formalities under the law/rules and providing opportunity of

24

personal hearing to the delinquent Constable, it was found that the delinquent Constable could not produced any cogent reason in his defense. Previous Service record of delinquent Constable was also perused which reveals that the delinquent constable was twice dismissed from Police Service vide OB No. 282, dated 26/03/2015 and OB No. 30, dated 18/01/2018. Furthermore, previous record of delinquent constable also reveals that he is not interesting in discharging his official duty and keeping such indiscipline man will put negative impact on other personal of the force.

In view of above facts and circumstances, the Inquiry Officers are of the opinion that the delinquent Constable is guilty of misconduct as he left the training School without permission of his high ups and absented himself from official duty due to which is against the norms of discipline force. The Inquiry Officers also observed that the delinquent official dismissed twice from service, thereby meaning that he is a habitual absentee and did not mend his way, therefore retention of such irresponsible official in discipline force will last negative impact on other Police official, therefore, the delinquent Constable is recommended for major punishment, please.

Submitted if approved, please.

Issue
Swat
07/02/23
SP Investigation, Swat
Deputy Superintendent
of Police, Legal Swat

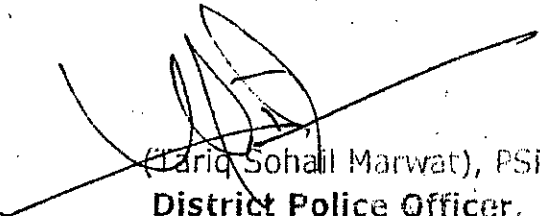
OFFICE OF THE
DISTRICT POLICE OFFICER,
UPPER DIR

FINAL SHOW CAUSE NOTICE.

No. 03 /EB, Dated Upper Dir the: 07 /02/2023.

1. **Whereas**, you Ex-Constable Naseeb Daraz No.305 while posted in Police Lines, committed gross misconduct under section of Police (E&D) Rules, 1975(amended 2014) (defined under rule-4(b)), resultantly Charge Sheet/Statement of Allegation were issued to you and the following Enquiry Committee was constituted to conduct proper De-novo departmental enquiry.
 - i. Mr. Shah Hassan SP/Investigation Swat.
 - ii. Mr. Naseem Hussain DSP/Legal Swat.
2. **Whereas**, The Enquiry Committee finalized the Enquiry proceeding and given you full opportunities of defense. The Enquiry Committee held you guilty of the charge leveled against you as per charge sheet.
3. **And whereas**, Ongoing through the finding and recommendation of Enquiry Committee, the material placed on record and other connected papers including your defense before the said Enquiry Officer. I am satisfied you have committed the misconduct and are guilty of the charge leveled against you as per statement allegation conveyed to you vide this Office Memo: No. 92-93/EB, dated 23.12.2022 which stand proved and render you liable to be awarded punishment under the said rule.
4. Now therefore, **I Tariq Sohail Marwat, PSP, District Police Officer Upper Dir**, as competent authority has tentatively decided to impose upon you, any one or More penalties, including the penalty of Dismissal from service under the said rule.

You are therefore, required to show cause within seven days of the receipt of this notice, as to why the aforesaid penalty should not be imposed upon you, failing it shall be presumed that you have no defense to offer and ex-parte action shall be taken against you. Meanwhile also intimate whether you desired to be heard in person or otherwise.


(Tariq Sohail Marwat), PSP
District Police Officer,
Upper Dir.

جناب عالی

کوالہ مشمولہ فائل شوکار نولڈ ٹری 03.EB مورخہ 7-2-2023

چارہ ۵۲۵ مہرہ پیرالا معروضات میں مذکور ہیں کہ میں FA کو البفائڈ ہو کر اللہ تعالیٰ کے فضل و کرم سے تھیں لوہی میں ایلائی کرتے کثرت کسٹبل ہوتی ہو کر ایلائی کرتا رہا۔ اسی دوران مورخہ 14/5/2018 پر میں ٹریننگ ریکروٹ کیلئے سلیکٹ ہو کر کوپاٹ سینٹر چلا گیا۔ مورخہ 22.5.2018 کو گھر سے کال ہوئی کہ والدہ صاحبہ شدید بیمار ہے۔ بیٹائی طور میں نے اپنے طبی حوالہ دار کے لوٹس میں لائے ہوئے پرنسپل مہرہ کو پیش ہوا لیکن اجازت نہیں ملی۔ والدہ کی بیماری کے وجہ سے جبورا ٹریننگ سینٹر چھوڑ کر اسکی تیماراری کیلئے ہسپتال ٹرگرہ آیا بعدہ 22.5.2018 سے غیر حاضر کر کے ماں کے علاج کے دوران معلوم ہوا کہ آپ کو ضلع والوں کیا گیا ہے۔ علاج معالجہ کے بعد میں نے اپنے ضلع کے لوہی (اس میں بوجہ ان کو البفائڈ تھا ہری کی۔ حلقاً کہہ دیا ہوں کہ غیر حاضر میں نے زہرا عدا نہیں کی ہے۔ لیکن بہ امر جبوری ماں کے علاج معالجہ اور تیماراری کے بناء پر غیر حاضر ہوا ہوں میں اب غریب گھرانے سے تعلق رکھتا ہوں۔ نوکری کے علاوہ میرا دیگر کوئی چارہ نہیں ہے۔ تاکہ اپنے گھرانے کی کفالت کر سکیں آئندہ کیلئے محتاط رہوں گا۔ اگر اسی بار فائل شوکار نولڈ کو فائل دیا گیا۔ تو سائل زندگی بھر احسان مند اور دعا گو رہوں گا۔

ابنہ دعا خیرانہ ہمہ دانہ تحریر ہوا استہ دعا کی جاتی ہے کہ مہنگائی کے دور میں سائل کے مال بچوں کے حال پر رحم فرما کر شوکار نولڈ کو بلاغہ پر کاروائی فائل کی جاوے۔

8-2-2023۔ کسٹبل سب ڈرائر 1326 صدر لوہی



OFFICE OF THE
DISTRICT POLICE OFFICER,
UPPER DIR.

ORDER.

This order will dispose of the De-novo Departmental Enquiry conducted against Constable Naseeb Daraz No. 305 in light of judgment dated 29.09.2022 of Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar vide writ petition No. 881/2020.

Allegations leveled against the above-named defaulter Constable Naseeb Daraz No. 305 while posted in Police Lines Upper Dir, absented himself from his lawful duty from 13.10.2017 till the date of dismissal i.e 02.10.2018 without any leave or prior permission from his superior, so this amounts a gross misconduct on his part.

For the purpose of scrutinize of the defaulter Constable with reference to the above allegations, a fresh charge sheet and statement of allegations were served upon him vide this office No. 92-93/EB, dated 23.12.2022 and Enquiry Committee comprising the following officers was constituted to conduct De-novo enquiry under the said Rules as per the directions of AIC Enquiries IAB CPO Peshawar.

01. Mr. Shah Hassan SP/Investigation Swat.
02. Mr. Naeem Hussain DSP/Legal Swat.

During the course of enquiry, the enquiry Committee recorded the statement of the delinquent official wherein he stated that, during his recruit course training, his mother was ailing. He also preferred an application for the grant of leave to the Officer concerned but no leave was granted to him and subsequently, he was returned to the District as unqualified.

The Enquiry Officers submitted in his finding report that he was provided with ample opportunity of hearing but it was found that the delinquent constable could not produce any cogent reason in his defense. Moreover, his previous record was perused and found that the delinquent constable was twice dismissed from service vide O.B No. 282 dated 26.03.2015 and O.B No. 30, dated 18.01.2017 which reveals that he is not interested in his official duty. The Enquiry Officers further submitted that he is habitual absentee and did not mend his way, therefore retention of such irresponsible official in the discipline Force will have negative impact on other Police Officials. He is guilty of the charges leveled against him and the allegations were proved beyond shadow of any doubt and recommended for Major punishment.

On the perusal of the finding report, the defaulter Constable was issued Final Show cause notice vide this office No. 03/EB, dated 07.02.2023. The reply of the same was perused and found unsatisfactory. Therefore, he was called in orderly room and heard in person but he could not produce any plausible evidence in his defense. Moreover, the following grounds are also observed.

01. The defaulter Constable has been dismissed twice on the same allegations but he did not mend his way.
02. He is habitual absentee.
03. His retention in the Police Force will cause negative impact on other Police officials.

Therefore, keeping in view the above circumstances and material on the record, I, Mushtaq Ahmad, District Police Officer, Upper Dir (The Competent Authority) in exercise of powers vested to the undersigned under Police (E&D) Rules 1975(amended 2014), the defaulter Constable Naseeb Daraz No. 305(now 1326) is hereby awarded the major punishment of "Dismissal" from Police Service. The intervening period is treated as leave without pay.

Order announced.

O/B No. 122

Dated: 23/02/2023.

(MUSHTAQ AHMAD)
District Police Officer
Dir Upper.

No. 724-27 A, dated Upper Dir the 23 / 02 / 2023
Copy submitted for favor of information to the

01. AIC/Enquiries, Internal Accountability Branch CPO Peshawar.
02. Regional Police Officer Mulakand at Saidu Shari, Swat.
03. AIC/Legal Khyber Pakhtunkhwa w/r to his office Memo: No.5200/Legal, dated 17.10.2022

بخدمت جناب RPO صاحب ملاکٹر ریجن سید و شریف سوات۔

درخواست بمراد بحالی محکمہ پولیس بحیثیت کنسٹیبل۔

28/10/2023
جناب عالی

گزارش کی جاتی ہے کہ سائل FA کو ایفائیڈ ہو کر اللہ تعالیٰ کے فضل و کرم سے محکمہ پولیس میں اپلائی کر کے بحیثیت کنسٹیبل بھرتی ہو کر اپنی ڈیوٹی سرانجام دے رہا تھا۔ اسی دوران مورخہ 14.05.2018 کو میں ریکروٹ کورس کیلئے منتخب ہو کر کوہاٹ سنٹر چلا گیا مورخہ 22.05.2018 کو مجھے گھر کے نمبر سے کال موصول ہوئی کہ والدہ صاحبہ شدید بیمار ہے ہنگامی طور میں نے اپنے کمپنی حوالدار کے نوٹس میں لاتے ہوئے پرنسپل صاحب کو پیشی ہوئی لیکن اجازت نہیں ملی۔ والدہ صاحبہ کی بیماری کی وجہ سے میں نے مجبوراً ٹریننگ سنٹر چھوڑ کر اسکی تیمارداری کیلئے ہسپتال تیمر گرہ آیا۔ بعد مجھے مورخہ 22.05.2018 سے غیر حاضر کر کے ماں کے علاج کے دوران معلوم ہوا کہ مجھے ضلع واپس کیا گیا ہے۔ علاج معالجہ کے بعد میں نے اپنے ضلع کے پولیس لائن میں بوجہ ان کو ایفائیڈ حاضری کی۔ حلفاً کہہ رہا ہوں کہ غیر حاضری میں نے قصد اعمد نہیں کی ہے۔ لیکن یہ امر مجبوری ماں کے علاج معالجہ اور تیمارداری کے بناء غیر حاضر ہوا ہوں۔ بعد ڈسٹرکٹ پولیس افسر دیر بالانے سائل کو نوکری سے سال 2018 میں بوجہ ان کو ایفائیڈ ریکروٹ کورس پر درخواست کیا گیا۔

اسی دوران سائل نے سروس ٹریبیونل عدالت سے رجوع کر کے سال 2022 کو دوبارہ نوکری پر بحال کرنے اور ساتھ De-novo انکوائری کرنے کا حکم صادر فرمایا۔ De-novo انکوائری بذریعہ SP انوسٹی گیشن سوات اور DSP لیگل سوات کیا جا کر اس کے رپورٹ پر جناب DPO صاحب دیر بالانے سائل کو بحوالہ آرڈر بک نمبری 122 مورخہ 23.02.2023 کو محکمہ پولیس سے دوبارہ درخواست کیا ہے۔

چونکہ میں ایک غریب گھرانے سے تعلق رکھتا ہوں نوکری کے علاوہ میرا کوئی دیگر ذریعہ معاش نہیں ہے۔ تاکہ اپنے گھرانے کی کفالت کر سکوں۔ سائل نے پہلی برخاستگی سے لیکر تاحال اپنے رشتہ داروں سے لاکھوں پیسے قرض لیکر اپنے بال بچوں کی بمشکل کفالت کی ہے۔ لوگوں نے مجھے اسلئے قرض پیسے دیئے تھے کہ میں دوبارہ نوکری پر بحال ہو کر اپنی ماہانہ تنخواہ سے قرض پیسے واپس ادا کر سکوں۔

لہذا آپ صاحبان کی خدمت میں عاجزانہ ہمدردانہ تحریری استدعا کی جاتی ہے کہ مہنگائی کے اس دور میں سائل کے بال بچوں کے حال پر رحم فرما کر سائل کو دوبارہ نوکری پر بحال کرنے کے احکامات صادر فرمائیں۔ سائل معہ اہل و عیال تاحیات دُعا گورہیگا۔

سابقہ کنسٹیبل نصیب دراز نمبر 305/1326 سکنہ انگرام تحصیل واڑی ضلع دیر بالا۔

موبائل نمبر 0315-9720636/0307-7167406 امرتوم 03 02 2023

Better Copy

ORDER

This order will dispose appeal and major punishment from service District Police Office Dir Upper vide OB No. 122 dated 23.09.2022 of Honourable Service Tribunal Khyber Pakhtukhwa appeal No. 881/2021 wherein the appeal of the appellant was partially accepted with the department to conduct denov inquiry.

Brief facts of the case that the Constable Naseeb while posted to Police Lines Dir Upper deputed has himself without prior permission from high ups leave w.e.f 13.10.2017 till the date and was also returned to the District P.S Kohat absence which is a gross misconduct on his part. He was proceeded against departmentally and dismissed from service vide OB No. dated 02.10.2018 after completed formalities and the law rules later on he preferred service appeal No. 881 before Honorable Service Tribunal , wherein the Honourable Service Tribunal vide Judgmen dated set aside his dismissal order. he was reinstated into service for the purpose of denov departmental proceedings he was issued Charge Sheet coupled with statement of allegation and as per directed inquires CPO Peshawar vide No. 1775/CPO/Lab enquiry committee comprising the following officers was constituted to conduct departmental enquiry under the rules.


1. Mr. Shah Hassan SP Investigation Swat.
2. Mr. Naeem Hussain DSP/legal Swat.

During the course of inquiry, the enquiry committee recorded the statement of the delinquent official wherein he stated that, during his recruit course training his mother was ailing and preferred an application for the grant of leave to his immediate officer but no leave was granted to him and subsequently he was returned to the District as unqualified. the Enquiry Officers in their findings report stated that the delinquent Constable was provided ample opportunities of hearing but it was found that the delinquent constable could not produce any cogent reason in his defense. Moreover, his previous record was perused and found that the delinquent constable was twice dismissed from service vide OB No. 282, dated 26.3.2015 and OB No. 30 dated 18.01.2017 which reveals that he was not interested in his official duty. the Enquiry Officers further stated that he is habitual absentee and did not mend his ways. therefore retention of such irresponsible official in the discipline force will have negative impact on other Police Officials

30/05

On perusal of the findings report, the defunct Constable was issued Final Show Cause Notice by the District Police Officer, Dir Upper vide No.03 EB, dated 07-03-2023. The notice of the same was perused and found unsatisfactory. Therefore, he was called in Orderly Room for explanation but he could not produce any plausible evidence in his defense. Being found guilty of the charges leveled against him, the District Police Officer, Dir Upper awarded him major punishment of "Dismissal from Police Service". The interviewing period is treated as leave without pay.

He was also called in Orderly Room on 10-05-2023 in the office of undersigned and heard him in person, but he could not produce any cogent reason to defend charges leveled against him, therefore, his appeal is hereby rejected.


Regional Police Officer,
Malakand Region Swat
16/05

No. 7380 /B.
Dated 16-05- /2023.

Copy to the District Police Officer, Dir Upper for information and necessary action with reference to his office Memo: No.1090/EB, dated 20-03-2023. Complete enquiry file of above named Ex-Constable, received with your memo: under reference is returned herewith for record in your office.

Encls: Enquiry file

Better Copy

He is made of the charges leveled against him the allegations are proved beyond any therefore the enquiry Committee recommended him for major punishment.

On perusal of the findings report, the defaulter Constable was issued Final Show Cause by the District Police Officer Dir Upper vide No. 03/FB, dated 07.02.2023. the reply of the same was perused and found satisfactory. therefore, he was called in orderly Room card in person but he could not produce any plausible evidence in his defense. being found guilty of the charges leveled against him, the District Police Officer, Dir Upper warded major punishment of Dismissal from Police service". The interviewing period is treated as leave without pay.

He was also called in Orderly Room on 10-05-2023 in the office of undersigned and heard him in person, but he could produce any cogent reason to defend charged leveled against him, therefore, his appeal is hereby rejected.

Regional Police Officer
Malakand Region Swat

No. 7380/E
Dated 16-05-2023

Copy to the District Police Officer Dir Upper for information and necessary action with reference to his office Memo No 1090/E B, dated 20-03-2023. Complete enquiry file of above named Ex-Constable received with your memo under reference is returned herewith for record in your office.

سروس ٹریڈ یونٹ لیسٹیاور

نصب دراز 2 منجانب
نصب دراز بنام محکمہ پولیس

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام لیسٹیاور کیلئے ڈیمورٹری خان ایڈووکیٹ

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے ق تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی پیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے سب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

Accepted

ATTESTED

20

ماہ

المرقوم

العبد د گ د العبد واہ العبد

الحمد لله