

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Asmat Ali S/O Raza Khan R/O Kokarai Ex-Constable No.1049 District Swat.

----- (Appellant)

Versus

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

----- (Respondents)

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District Police Officer, Swat
(Respondent No.01)



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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.591/2023

Asmat Ali S/O Raza Khan R/O Kokarai Ex-Constable No.1049 District Swat.

----- (Appellant)

Versus

**Khyber Pakhtunkhwa
Service Tribunal**

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

Diary No. 6748

Dated 31/07/23

----- (Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

PRELIMINARY OBJECTIONS.

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

Respectfully Submitted:-

1. Correct to the extent that the appellant joined Police department as Constable on 05-05-2006, however, the appellant absented himself from official duty without prior permission or approved leave of his high ups.
2. Pertains to record.
3. Incorrect. As per KP Police Act, 2017, the duty of every Police Officer is to protect life, property and liberty of citizen. Moreover, that in the year 2007 when militancy in Swat was at its peak and the services of the appellant was direly needed by the department for the protection of lives and properties of the public, he his training and showed cowardice. Furthermore, no such report is available on record where appellant was threatened by the militants or any commander of terrorists.
4. That when the services of appellant were direly needed to department for the sake of to protect the lives and property of public, he remained absent, therefore he was discharge from service in light of Police Rules21-22 as his length of service was less than 03 years from the date of his appointment.PR 21-12 is crystal clear, wherein it is mentioned that " *a constable who is found*

unlikely to prove an efficient Police officer may be discharged by the Superintendent at any time within 03 years of enrollment. There shall be no appeal against an order of discharge under this rule" (annexed "A").

- 5. The length of services of the appellant was less than 03 years, therefore he was not entitled for appeal against the removal order to respondent No.02.
- 6. Pertains to record, however it is pertinent to mention here that the reinstatement orders of similar nature cases mentioned by the appellant in this Para is concerned, in this connection, it is stated that the same reinstatement orders were issued in compliance of Committee constituted by this office Order No.9871-77/E dated 16/11/2010 and after recommendation of the Committee. However their reinstatement orders were issued by the then RPO Malakand vide Order Endst: No.10214-16/E dated 30/11/2010 in the year 2010. As far as this case is concerned, the appellant was discharge from service on 12/11/2007 and after a lapse of 16 years, appellant filed subject service appeal for his reinstatement. Moreover, the case of the appellant cannot be treated alike with those officials who were reinstated into service as discussed earlier because the length of service of appellant was less than 03 years. Worth mentioning here that there is a maxim of law *"that law helps vigilant not indolent"*
- 7. Pertinent to record. Appeal of the appellant is badly time barred and has wrongly challenged the legal and valid orders of the respondents before the honorable tribunal through unsound reasons/grounds.

GROUNDS:

- 1. As explained above in detail.
- 2. As explained above in detail at Para No.03 of Facts.
- 3. As explained above in detail.
- 4. Incorrect. As per KP Police Act, 2017, the duty of every Police Officer is to protect life, property and liberty of citizen. Moreover, that in the year 2007 when militancy in Swat was at its peak and the services of the appellant was direly needed by the department for the protection of lives and properties of the public, he his training and showed cowardice. Furthermore, no such report is available on record where appellant was threatened by the militants or any commander of terrorists.


- 5. Incorrect. As explained above at Para No.06 of Facts.
- 6. As already explained above.
- 7. Incorrect. The appellant has been treated in accordance with law/rule.

PRAYER:

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



District Police Officer Swat
(Respondent No. 01)



Regional Public Officer,
Malakand Region,
(Respondent No. 02)

Service Appeal No.591/2023

Asmat Ali S/O Raza Khan R/O Kokarai Ex-Constable No.1049 District Swat.

----- (Appellant)

Versus

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

----- (Respondents)

AFFIDAVIT

We, the above respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/true to the best of our knowledge/ belief and nothing has been kept secret from the honorable Tribunal. *It is further stated that this appeal, the answering respondents have neither been placed ex-parte nor their defence has been struck off.*

[Signature]
District Police Officer Swat
(Respondent No. 01)

[Signature]
Regional Police Officer,
Malakand Region,
Saidu Sharif, Swat.
(Respondent No. 02)

ATTESTED



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

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Service Appeal No.591/2023

Asmat Ali S/O Raza Khan R/O Kokarai Ex-Constable No.1049 District Swat.

----- (Appellant)

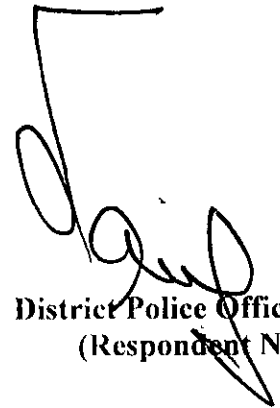
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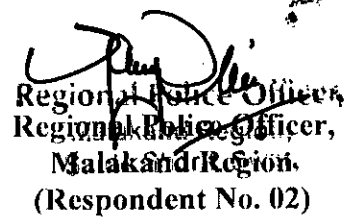
----- (Respondents)

AUTHORITY LETTER

We, the above respondents do hereby authorize Mr. Nacem Hussain DSP/Legal Swat to appear before the Tribunal on our behalf and submit reply etc in connection with titled Service Appeal.



**District Police Officer Swat
(Respondent No. 01)**



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

A

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13; PLD 1994 Lah. 3; 2003 PLC (C.S.) 1537 rel. 2004 PLC (C.S.) 473(a).

Rapid promotion given to civil servant due to his efficiency and excellent work as recommended by high officials of the Department. Such promotion orders were alleged to have been obtained by civil servant in connivance with such high officials. Allegation without proof. Allegations easy to be made but difficult to be proved. 2004 PLC (C.S.) 473(a).

12.19. Recruiting arrangements.--(1) When sufficient recruits to fill vacancies in the rank of constable do not present themselves voluntarily at the headquarters of a district, or when other reasons justify such action, police officers proceeding on leave shall be encouraged to enlist recruits at their homes, and selected men may be deputed singly or in parties on recruiting duty.

(2) When police officers are required under the provisions of the above sub-rule to bring recruits from another district, they shall be provided with a letter to the Superintendent of such district, requesting him to examine candidates brought before him and to have those who are considered suitable for enrolment medically examined. A roll of all candidates passed as fit shall be prepared in Form 12.13 by the Superintendent who examines them, and they shall be enlisted on the establishment of the district in which they are to serve with effect the date of their being so passed, and shall be entitled to pay and travelling allowance from the date; provided that they report for duty without delay and by the most direct route. The appointment of candidates enrolled otherwise than under this provision shall in no case be ante-date.

(3) In cases where a police officer has been put to expense on account of the feeding and travelling expenses of a candidate brought by him, and provided such candidate is accepted and enrolled, the actual expenses so incurred, up to a maximum of Rs. 3, for each recruit, may be paid by the Superintendent from his grant for rewards.

12.20. Recruits.--Dates of Enrolment of.--Superintendents of Police shall fill up vacancies in the rank of constable as and when suitable men are available. Recruiting parties may be despatched, if necessary, and any Police Officer who produces really good recruits should be given some reward in addition to travelling allowance. The dates of enlistment of recruits shall however, as far as possible, be regulated to ensure that a sufficient number of men are enrolled on the same date to form a training squad to proceed from start to finish of their recruits training according to the prescribed syllabus.

12.21. Discharge of inefficient.--A constable who is found unlikely to prove an efficient police officer may be discharged by the Superintendent at any time within three years of enrolment. There shall be no appeal against an order of discharge under this rule.

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Entitlement o
period.--Civil servant ap

8. Inst. vide Notifi. No. S.
Sindh St.31].

ATTESTED

Deputy Superintendent of Police Legal
Swat.