

BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA AT PESHAWAR.

Service Appeal No: 4982/2021.

Hanif Ullah s/o Muhammad Zaman r/o Shenkarai Tehsil Wari District Dir Upper, Sepoy

Regimental No. 212 Provincial Levies Dir Upper.....**Appellant.**

Vs

1. Secretary Home Khyber Pakhtunkhwa at Peshawar.
2. Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar.
3. Commandant Dir Levies/Deputy Commissioner Dir Upper.....**Respondents.**

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Date of hearing 4⁹/₂₀₂₃.

Raza Ullah



Superintendent DC Office
Upper Dir
MOB# 03065748800

BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA AT PESHAWAR.

1

Service Appeal No: 4982/2021.

Hanif Ullah s/o Muhammad Zaman r/o Shenkarai Tehsil Wari District Dir Upper, Sepoy

Regimental No. 212 Provincial Levies Dir Upper.....Appellant **Khyber Pakhtunkhwa Service Tribunal**

Vs

Diary No. 7070

1. Secretary Home Khyber Pakhtunkhwa at Peshawar.
2. Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar.
3. Commandant Dir Levies/Deputy Commissioner Dir Upper.....Respondents.

Dated 17/8/2023

AFFIDAVIT

I, Raza Ullah Superintendent, office of the Deputy Commissioner/Commandant Dir Levies District Dir Upper, do hereby solemnly affirm and declare on oath that the contents of the accompanying Para wise Comments on behalf of Respondent No. 01, 02 & 03 are true and correct to the best of my knowledge and behalf that nothing has been concealed from this Honorable Court.



Deponent

CNIC 15702-2500720-3
MOB# 03065748800

It is further stated on oath that in this appeal, the answering respondents have neither been placed ex parte nor their defense has been struck off cost.

ATTESTED
Amal Ali Advocate
Notary Public
District Dir Upper, Peshawar

17-08-2023

BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA AT PESHAWAR.

2

Service Appeal No: 4982/2021.

Hanif Ullah s/o Muhammad Zaman r/o Shenkarai Tehsil Wari District Dir Upper, Sepoy
Regimental No. 212 Provincial Levies Dir Upper.....**Appellant.**

Vs

1. Secretary Home Khyber Pakhtunkhwa at Peshawar.
2. Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar.
3. Commandant Dir Levies/Deputy Commissioner Dir Upper.....**Respondents.**

JOINT PARA -WISE COMMENTS ON BEHALF OF RESPONDENT NO.1, 02 & 03

RESPECTFULLY SHE WITH THAT THE RESPONDENTS SUBMIT AS UNDER.

PRELIMINARY OBJECTIONS:

1. That the appellant is not maintainable in its present form.
2. That the appellant has got no locus standi to file the instant appeal.
3. That the appeal is not maintainable due to Mis-Joinder and Non-Joinder of necessary parties.
4. That the appellant does not come to the honorable Service Tribunal with clean hands.
5. That the appellant concealed the material fact from the Honorable Tribunal.
6. That the appeal is based on by law and limitation.

ON FACTS

1. Correct to the extent of appointment/posting.
2. **Incorrect.** The Incharge Naib Subidar Levy Post Wari reported dated 14-10-2009 that a month before while Sepoy Hanif Ullah/Appellant was at home and due to some unknown reasons he assassinated a man and run away from the spot resultantly FIR has been lodged against him under U/S 302 PS Wari. Further reported that neither the accused has surrendered to police nor appeared for duty (copy enclosed at **Annexure "A"**).
3. **Correct.** Owing to the reason above proper charge sheet and statement of allegation was issued against the appellant vide letter No. 1600 dated 21-11-2009 and No. 15996-99/DCO/Inquiry dated 21-11-2009 and at the same time the Executive District Officer F&P Dir Upper was nominated/appointed as inquiry officer to conduct inquiry into the matter and submit report recommendations (copies enclosed at **Annexure B & C** respectively). The inquiry officer recommended that major penalty may be imposed against the accused under the provision of NWFP Removal from Service (Special Powers) Ordinance 2000 (Amended 2001). The then District Coordination Officer Dir Upper/Commandant Dir Levies/Respondent No. 03 was then satisfied to imposed major penalty of Removal from Service against the accused vide order No. 16353-55/DC/LHC dated 10-12-2009 (copy enclosed at **Annexure D**)
4. **Correct.** The Secretary Home & Tribal Affairs Department Khyber Pakhtunkhwa Peshawar/Respondent No. 01 re-instated the appellant vide order at **Annexure "E"**.
5. **No comment.**
6. **In correct.** The Incgarge Hawaldar Levy Line Dir reported that sepoy Hanif Ullah who has recently been re-instated by the Home Department has failed to make his presence for duty from the date of his re-instatement order. Owing to the reason above explanation

and show cause notice was issued against the accused vide No. 1337-39/DC/LHC/Exp dated 04-02-2014 and No. 1727/DC/LHC dated 18-02-2014 respectively with the directions to submit reply of the same within 07 days positively but the accused failed to submit the same (copies enclosed at **Annexure F, G & H**). As a sequel thereof the Additional Assistant Commissioner Dir/EM Dir was nominated as inquiry officer to conduct proper inquiry into the matter and submit report/recommendations vide order No. 2010-12/DC/LHC/Provincial Levies dated 26-02-2014. The inquiry office after conducting fact finding inquiry recommended that **Major Penalty of Removal from Service may be imposed against the accused under Section 3(d) of E & D Rules 2011 read with Rule 10 Scheduled -IV(a) Para 10 of the Levy Rules 2013** vide letter No562/AAC/EM/Levy dated 14-07-2014. The then Commandant Dir Levies/Deputy Commissioner Dir Upper was then satisfied to imposed major penalty of Removal from Service vide order No. 9438-41/DC/LHC dated 16-07-2014 (copies enclosed at **Annexure I, J & K**).

7. **Correct.** The departmental appeal of the appellant was rejected by the Home Department/ Respondent No. 01 on the grounds that the same was carrying no weight and was badly time barred and not covered the Rules vide order No. SO (Levies)/HD/6-7/017 dated 19-10-2017 (copy enclosed at **Annexure "M"**).

8. **No comments.**

9. **Correct** pertain to record.

10. **No Comments**

ON GROUNDS:-

Incorrect. As explained in the above paras the orders of the respondent No 1 & 3 are legal and according to Law/Rules.

a. **Incorrect.** As explained in above paras.

b. **Incorrect.** As explained in above paras disciplinary proceedings were initiated against the appellant as per standing Law/Rules.

c. **Incorrect.** As explained earlier major penalty was imposed against the appellant after fulfillment of all codal formalities.

d. **Incorrect.** As explained in above paras.

e. The respondents seek leave to raise additional grounds at the time of arguments.

In light of the above, it is prayed that the appeal is not based on facts having no merit consideration and may be dismissed with cost please.

Secretary Home & Tribal Affairs Department
Khyber Pakhtunkhwa Peshawar
Respondent No. 01

Home Secretary,
Khyber Pakhtunkhwa

Chief Secretary
Khyber Pakhtunkhwa Peshawar
Respondent No. 02

Commandant Dir Levies/
Deputy Commissioner
Dir Upper
Respondent No. 03
Commandant
Dir Levies

Handwritten signature and date: 20/10/14

علوان ڈائری رپورٹ میں ملائی جاتی ہے صرف ایف ڈی کے ساتھ
حال ڈیوٹی کی ویسٹ ڈائری

صاف علی گزیشن کے لئے ایک وقت پر مقررہ ہونے والا ہے

سالہ 2014ء میں ایک وقت پر مقررہ ہونے والا ہے

سالہ ڈیوٹی پر لگائی جاتی ہے تاکہ تعلق یا اسٹیشن پر لگائی جاتی ہے
یہ مقررہ ہونے والا ہے تاکہ ایف ڈی کے ساتھ ہو جو ڈیوٹی پر لگائی

جاری ہے ان کا تعلق ایف ڈی اور مقررہ ہونے والا ہے تاکہ ایف ڈی پر
ملتی ملائی جاتی ہے جو کہ مقررہ ہونے والا ہے تاکہ ایف ڈی پر
صاف ہونے والا ہے تاکہ ایف ڈی کے ساتھ ہو

ان کے لئے مقررہ ہونے والا ہے تاکہ ایف ڈی کے ساتھ ہو

مقررہ ہونے والا ہے تاکہ ایف ڈی کے ساتھ ہو

مقررہ ہونے والا ہے تاکہ ایف ڈی کے ساتھ ہو

Handwritten signature: علی

ایف ڈی کے ساتھ ہونے والا ہے تاکہ ایف ڈی کے ساتھ ہو

Date: 14-10-14

ATTESTED

Deputy Commissioner Office
Dir Upper

OFFICE OF THE DISTRICT COORDINATION OFFICER UPPER DIR.

STATEMENT OF ALLEGATIONS.

Whereas I, **Muhammad Javed Marwat**, District Coordination Officer Upper Dir, as competent authority, am of the opinion that the following Levy Sepoy Upper Dir has rendered himself liable to be proceeded against as he committed the following acts of omissions within the meaning of section 3(1) (a) of the North West Frontier Province Removal from Service (Special Powers) Ordinance 2000 as amended vide NWFP Removal from Service (Special Powers) (Amendment) Ordinance 2001:-

1) **Hanifullah Sepoy Reg: No.212 (Provincial side)**

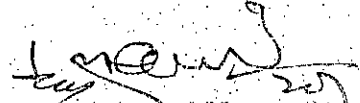
"That he is absent from duty since 31-08-2009 without sanctioning leave from the competent authority. This act on the part of the official concerned is against the discipline of the force and amounts to mis-conduct"

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an inquiry officer consisting of the following is appointed/constituted under section 5 of the Ordinance.

Mr. Fida Muhammad Executive District Officer F&P Upper Dir.

3. The Inquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make, within seven days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused


4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/committee.


(Muhammad Javed Marwat)
District Coordination Officer
Upper Dir (Competent Authority)
Dated Dir the 21-11-2009

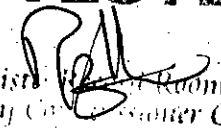
No. 15996-99/DCO/Inquiry,

A copy of the above is forwarded to:-

1. Mr. Fida Muhammad Executive District Officer F&P Upper Dir (Being the Inquiry Officer for initiating proceedings against the accused under the provisions of the NWFP Removal from Service (Special Powers) Ordinance 2000 (Amendment) Ordinance 2001)
2. Subedar Dir Levies Dir.
3. Official concerned with the directions to appear before the inquiry Officer, on the date, time and place fixed by him for the purpose of inquiry proceedings.


District Coordination Officer
Upper Dir

ATTESTED


Deputy Commissioner
Upper Office
Dir Upper

CHARGE SHEET.

I, Muhammad Javed Marwat, District Coordination Officer Upper Dir, as competent authority, hereby charge you Mr. Hanifullah Sepoy Reg. No. 212 (Provincial side) as under:-

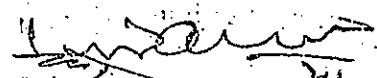
That you, while posted as Levy Sepoy committed the following irregularities:-

"That you are absent from duty since 31-08-2009 without sanctioning leave from the competent authority. This act on your part is against the discipline of the force and amounts to mis-conduct".

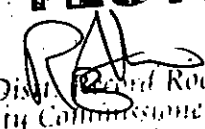
- By reasons of the above, you are guilty of misconduct under Section-3(1)(a) of the NWFP (Removal from service) Special Powers Ordinance 2000, and have rendered yourself liable to all or any of the penalties specified in Section-3 of the Ordinance ibid.
- You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the Inquiry Officer.
- Your written defense, if any, should reach the Inquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.
- Intimate whether you desire to be heard in person.
- Statement of allegation is enclosed.

No. /6000 /

Dated 21 /11/2009.


District Coordination Officer
Upper Dir (Competent Authority)

ATTESTED


Dist. Record Room
Deputy Commissioner Office,
Dir Upper.

OFFICE OF THE DISTRICT COORDINATION OFFICER UPPER DIR

OFFICER ORDER

Where as I Muhammad Javed Marwat District Coordination Officer Upper Dir in the capacity of competent authority under Section 3 (a) of the West Frontier Province Removal from Service (Special Powers) Ordinance, 2000 as amended vide NWFP Removal from Service (Special Powers) (Amended) Ordinance, 2001 read with Notification No SOR-II(S&GAD)2000-Vol-III dated 23-09-2000. I am of the considered that Mr. Hanifullah Levy Sepoy (Provincial) Regimental No. 1234 Upper Dir was guilty of misconduct on account of the conduct as prescribed in section 3 of the said Ordinance for the following acts of omission and commission

"That he is absent from duty since 31/08/2009 without sanctioning leave from the competent authority as reported by Subedar Major Dir Levies. This act on the part of the official is against the office discipline and amounts to misconduct."

And whereas, for the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, Mr. Fida Muhammad Executive District Finance & Planning Upper Dir was appointed as Inquiry Officer under Section 5 of the ordinance

And, whereas, the Inquiry Officer recorded his findings and recommendations in his report "recommended him for removal from service". The charge against the accused has been proved in the meaning of section 3 of the said ordinance.

Now therefore, I Muhammad Javed Marwat DCO Upper Dir in the capacity of competent authority am satisfied that the charge against the accused has been proved beyond any doubt. I as a competent authority, under the power conferred upon me under Section 3 of the NWFP S&GAD Peshawar Notification bearing No SOR-III(S&GAD)1-80/73 dated 30-11-1973 impose major penalty of removal from service upon Mr. Hanifullah Levy Sepoy (Provincial) Regimental No. 1234 Upper Dir with immediate effect. Recovery of salary for the absence period shall be made from the official concerned.

(Muhammad Javed Marwat)
District Coordination Officer
Upper Dir

No 16353-55/DCO/LHC

Dated Dir the 10/12/2009

Copy forwarded to the:

- 1. The District Accounts Officer Upper Dir.
- 2. The Subedar Major Dir Levies.
- 3. Mr. Hanifullah Levy Sepoy (Provincial) Regimental No. 1234 Upper Dir.

(Signature)
District Coordination Officer
Upper Dir

ATTESTED
(Signature)
District Accounts Room
Deputy Commissioner Office
Dir Upper.

OFFICE OF THE DISTRICT COORDINATION OFFICER UPPER DIR.

OFFICE ORDER

Whereas I Muhammad Javed Marwat, District Coordination Officer Upper Dir in the capacity of competent authority under Section 2 (a) of North West Frontier Province Removal from Service (Special Powers) Ordinance, 2000 as amended vide NWFP Removal from Service (Special Powers) (Amended) Ordinance 2001, read with notification No. SOR-II(S&GAD) 2000-Vol-III dated 28-09-2000, am of the considered opinion that Mr. Hanif Ullah Levy Sepoy (Provincial) Regimental No 212 Upper Dir has been proceeded against on account of mis-conduct as prescribed in section 3 of the said ordinance for the following acts of omission and commission

"That he is absent from duty since 31.08.2009 without sanctioning leave from the competent authority as reported by Subidar Major Dir Levies. This act on the part of the official is against the office discipline and amounts to misconduct."

And whereas, for the purpose of scrutinizing the conduct of the said accused with reference to the above allegations Mr. Fida Muhammad Executive District Officer Finance & Planning Upper Dir was appointed as Inquiry Officer under Section-5 of the ordinance.

And whereas, the inquiry officer recorded his findings and recommendations in his report "recommended him for removal from service". The charge against the accused has been proved in the meaning of section of the said ordinance.

Now therefore, I Muhammad Javed Marwat DCO Upper Dir in the capacity of competent authority am satisfied that the charge against the accused has been proved beyond any doubt. I, as a competent authority under the powers conferred upon me under Section 3 of the NWFP S & GAD Peshawar Notification bearing No. SOS-III (S&GAD)1-80/73 dated 30.11.1973 impose major penalty of removal from service upon Hanif Ullah Levy Sepoy (Provincial) Regimental No 212 Upper Dir with immediate effect. Recovery of salary for the absence period shall be made from the official concerned.


DISTRICT COORDINATION OFFICER
UPPER DIR

No. 16353-55 DCO/LHC

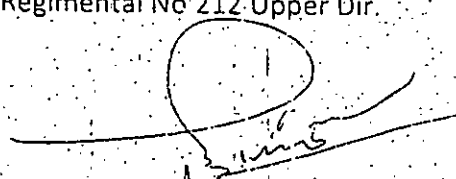
Dated Dir. the 10/12/2009

Copy forwarded to the:

1. The District Accounts Officer Upper Dir.
2. The Subedar Major Dir Levies.
3. Mr. Hanif Ullah Lev Sepoy (Provincial) Regimental No 212 Upper Dir.

ATTESTED


Dist. Commr. in Office
Dir Upper.


DISTRICT COORDINATION OFFICER
UPPER DIR

IN THE COURT OF SECRETARY HOME KHYBER PAKHTUNKHWA
(APPELLATE AUTHORITY)

APPELLANT: HANIFULLAH

V/S

COMMANDANT LEVIES DIR (UPPER)

ORDER

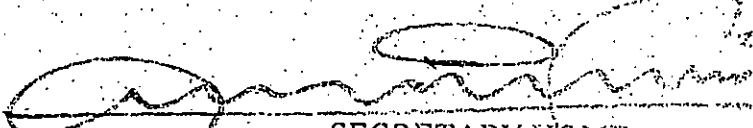
This order will dispose off the departmental appeal filed by Mr. Hanifullah S/O Muhammad Zaman resident of Shenkari, Tehsil Wari, District Upper Dir, (Sepoy Regiment No.212 Provincial Levies; Dir Upper) against the order of Deputy Commissioner Dir Upper dated 10.12.2009.

2. Mr. Hanifullah was appointed on 29.06.2005 and was removed from service by DC/Commandant Levies, Dir Upper on 10.12.2009, (upon absence from duty for the period from 31.08.2009 to 10.12.2009) due to implication in murder case. Comments of the Deputy Commissioner Dir (Upper) were obtained. The appeal was processed in this department at appropriate level and it was felt that the appellant has honourably been acquitted by the court, so it was required that Deputy Commissioner / Commandant Levies to reinstate the appellant in service upon the judgment of the court.

3. The competent authority therefore accepted his appeal and reinstated the appellant in service with immediate effect subject to the condition that the absence period be treated as extra ordinary leave without pay.

ATTESTED


 Deputy Commissioner Office
 Dir Upper.


 SECRETARY HOME
 KHYBER PAKHTUNKHWA

Announced

Dated 18.04.2013

محکمہ خزانہ کوئٹہ ڈسٹرکٹ
 ریورنڈ سیکریٹری
 سب ڈسٹرکٹ آفیسر
 کوئٹہ ڈسٹرکٹ

محکمہ خزانہ
 ڈسٹرکٹ آفیسر
 کوئٹہ ڈسٹرکٹ
 سے دو سالہ گرانٹ کی رقم
 کی رقم کی رقم کی رقم
 کی رقم کی رقم کی رقم
 کی رقم کی رقم کی رقم

الحق

ریورنڈ سیکریٹری
 کوئٹہ ڈسٹرکٹ

Remarks

The report of discharge HC Levylime Dir
 based on fact the mentioned above
 official has not received his
 since in Levylime line so for
 strictly action may kindly be
 against the official above
 forwarded to commandant sb Dir Levylime
 further n/action Incharge Sub.

ATTESTED
 Deputy District Officer
 Dir Upper

Handwritten signature and date
 12/2/2014

OFFICE OF THE DEPUTY COMMISSIONER / COMMANDANT LEVIES UPPER DIR

No: 1337-39 DC/LHC/Explanation Dated Upper Dir the: 4/2/2014

To,

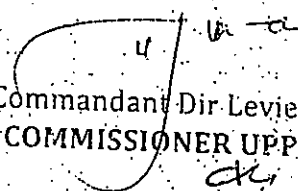
- 1. Hanifullah S/O Muhammad Zaman
Levy Sepoy Provincial at Levy Line Dir

Subject: EXPLANATION

Memo:

With reference to the report of incharge Subidar Levy Line Dir on 4-02-2014, you were remained absent from duty without any prior permission of the competent authority. This act on your part is against the discipline of the force and amounts to mis-conduct.

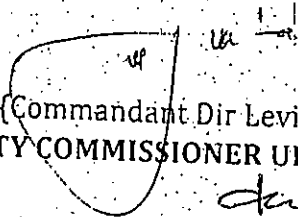
You are therefore, directed to explain your position in this regard within 07 days after the receipt of this explanation otherwise strict action will be taken against you under levy Rules & Regulations.


 {Commandant Dir Levies}
 DEPUTY COMMISSIONER UPPER DIR.


Even No & Dated:

Copy forwarded to:-

- 1. The District Account Officer Dir Upper with the direction to stop the pay of the official.
- 2. The Incharge Subidar Levy Line Dir


 {Commandant Dir Levies}
 DEPUTY COMMISSIONER UPPER DIR.

ATTESTED


 Deputy Commissioner Office
 Dir Upper.

حصہ - عالی

گزارش عالی ہے کہ سید مسیحی محمد اللہ سیاحی حیدرآباد
۲ خود کار لکھنے سپاہی تھے صنف اللہ کی "Explanations" کا
کاپی ان کے پاس تھی کہ حوالہ بنا۔ لہذا حیدرآباد میں
کے لیے رپورٹ اور عمل کاپی "Explanations" کو درج ذیل
ورس ہو۔

Muhammad

محمد اللہ علی
دستور

Annex "H"

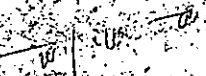
11

SHOW CAUSE NOTICE


I Muhammad Abid Khan Wazir Deputy Commissioner/Commandant Dir Levies, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, do hereby serve you, Mr. Hanifullah S/o Muhammad Zaman Sepoy Provincial Dir Levies as follows.

1. (a) As per rule 5(a) read with 5(b)(2) and information placed before the undersigned, on going through the material of the record and other connected papers, I am satisfied that you have committed the following acts of omission specified in rule 3 of the said rules.
 - a. Reference incharge Subidar Levy Line Dir report that you Mr. Hanifullah periodically remained absent from duty without prior permission from the competent authority.
 - b. Explanation notice was issued vide order no 1337-39DC/LHC dated 4-02-2014 to explain his position but you remained failed.
2. As a result therefore, I the undersigned have tentatively decided to impose upon you the Major Penalty of "Removal from service" under rule 4 of the E&D Rules 2011.
3. You are therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desired to be heard in person.
4. If no reply to this notice is received within seven days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

No: 1727 /DC/LHC/Dated 18/02/2014


 Commandant Dir Levies
 DEPUTY COMMISSIONER
 DIR UPPER

ATTESTED


 Deputy Commissioner Office
 Dir Upper.

گزارش ہے جس میں DFC اور دیگر اداروں کی طرف سے لکھی گئی

تعمیل سے متعلق ہونے والی ہمدردی کی کارروائی اور 20/2/14ء کو

حوا سے قطعاً ہوا اور لکھی گئی ہے۔

اس میں ہے اور حکومت ہمدردی سے متعلقہ امور کے بارے میں

میں سب سے زیادہ متاثر ہو گیا اور اس کے ساتھ ہی ہمدردی سے

اور شوکارا کے لئے کامیاب ہو گیا اور شوکارا کے لئے دستخط

کئے گئے ہیں۔

تعمیل کنندہ

20/2/14

حکومت عالی

جو کہ نام لکھی گئی ہے

DFC کے لئے 014-3-01

تعمیل کنندہ

حکومت عالی

تعمیل کنندہ

تعمیل کنندہ

تعمیل کنندہ

تعمیل کنندہ

تعمیل کنندہ

تعمیل کنندہ

Subdar
Distt. Dir. Upper
Date-20-2-14

ATTESTED

Distt. Deputy Commr. Dir Upper

OFFICE OF DEPUTY COMMISSIONER, COMMANDANT DIR LEVIES
DIR UPPER

Whereas I, Muhammad Abid Khan Wazir, Deputy Commissioner /Commandant Dir Levies Dir Upper, am of the opinion that the Levy Sepoy (Provincial) Upper Dir has rendered himself liable to proceed against as he committed the following acts of omissions within the meaning rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

1. Hanifullah Levy Sepoy Provincial Levy Line Dir.

1. "That he remained absent from duty since 04-02-2014 without sanctioned leave from the competent authority. This act on the part of the official concerned is against the discipline of the force and amounts to mis-conduct".

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations. Mr. Abdul Wali Khan AAC -1 /Executive Magistrate Dir is designated as Inquiry Officer.

3. The Inquiry Officer shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/inquiry committee.

(Muhammad Abid Khan Wazir)
Commandant Dir Levies
DEPUTY COMMISSIONER
DIR UPPER

NO 2016-12 DC/LHC/Provincial Levies Dated the 20/2/2014

A copy of the above is forwarded to:-

1. Mr. Abdul Wali Khan AAC-1 Dir /Executive Magistrate Dir (being the inquiry officer for initiating proceedings against the accused under the provisions of the Khyber Pakhtunkhwa Government Servants Efficiency and Discipline Rules, 2011).
2. The Subidar Major Dir Levies
3. The Official concerned with the directions to appear before the inquiry officer, on the date, time and place fixed by him for the purpose of inquiry proceedings.

Commandant Dir Levies
DEPUTY COMMISSIONER
DIR UPPER

ATTESTED

Distt. Room
Deputy
Dir Upper



**OFFICE OF THE
ADDL: ASSISTANT COMMISSIONER/EM,
DIR UPPER.**

No. 562 /ATC/EM/Dir
Dated: 14 /07/2014.

To The Deputy Commissioner/
Commandant Dir Levies,
Dir Upper.

Subject: **INQUIRY**
Memo:

Please refer to your office letter bearing No. 5090-92/DC/LHC/Upper Dir dated 09-05-2014 on the subject noted above.

In compliance of the order in the letter under reference the defaulting constables were summoned to attend this office for recording their statements on 12-05-2014. The constables concerned were turned up on the date fixed and their statements were got recorded.

1) **STATEMENT OF QAYUM KHAN.**

Stated that he was performing his duty as a gun man to the Assistant Commissioner, Sheringal. On 20-02-2014 his transfer order has been made by the worthy Deputy Commissioner, Dir Upper from Sheringal to Dir. After that the Assistant Commissioner, Sheringal directed him to perform his duty with him at sheringal and told him that he will discuss the issue with the Deputy Commissioner Dir Upper. In this regard the Assistant Commissioner, Sheringal has also taken up the case with the worthy Deputy Commissioner, Dir Upper vide letter bearing No. 96 dated 28-02-2014 for cancellation of the said order. As he was supposed to obey the order of his immediate Boss i.e the Assistant Commissioner Sheringal. Since then he is performing his duty regularly. Himself stated that the charges leveled against him may kindly be exonerated.

2) **STATEMENT OF Mr. MUHAMMAD AYAZ LEVY SEPOY**

Stated that he was performing his duties as a levy sepoy with Subidar Saleh Hussain at Bachelor Hostel Dir while the complaint has been made against him by the Subidar serving in levy line Dir. There is lying an attendance register in which daily roll is called. If the said register is checked and he found absent from duty on that very day he may be punished. As levy is a disciplined force, therefore, he had never imagined to avail "French Leave". Now he is performing his duty in the office of the

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Dist. Deputy Commissioner Office
Dir Upper

Deputy Commissioner, Dir Upper as Camera man. He further requested to file his case without any further action.

3) STATEMENT OF MR ZAHID (LEVY SEPOY)

Stated that he was performing his duty as levy sepoy at Bachelor Hostel under the supervision of Subidar Saleh Hussain. While the complaint has been made against him by the Subedar serving in the levy line. An attendance register has been maintained in which daily roll is called. If in the said register he was found absent then may be punished under the rules. Thus, there was no deficiency on his part and he is regularly performing his duties at bachelor hostel Dir. He further stated that the charges leveled against him is baseless and unsounded and requested to file the same without further action.

4) STATEMENT OF MR. JAVED IQBAL (LEVY SEPOY):

Stated that he is performing his duty in "Band wing" Dir Levies since long. On 27-03-2014 he attended his routine duty at late hours due to pre engagement in his private cases subjudiced in the Civil Court Dir. After attending the court when he returned back to his duty place, he was told that the Subedar Major has sent complaint to the Commandant Dir Levies showing him absent from duty. On court question he admitted that he was required to get prior permission from his immediate Boss but he could not do so. He further stated that he will not repeat this practice again and be careful in future.

5) STATEMENT OF MUHAMMAD ILYAS LEVY SEPOY:

Stated that he is serving in Dir levies as a sepoy. He has taken his mother to Peshawar for treatment after getting approval of leave from the competent authority. But due to the serious illness of her mother he could not spare himself and had to spent 03 days more at Peshawar. On his return he came to know that he was sought explanation of the additional period spent on that behalf. He further stated that there was no other male member in his house to assist his ill mother that is why he was supposed to single out himself to serve his ill mother. However, stated that he will not avail any leave without prior permission from his immediate boss in future and will be careful.

On court question he admitted that he was supposed to get informed to the competent authority about his three days absence but he could not do so.

6) STATEMENT OF MR. HANIFULLAH LEVY CONSTABLE:

A summon was issued to the defaulting constable through DFC to attend this office for recording his statement on 24-04-2014. Due to

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Distt Deputy Commissioner Office
Dir Upper

his absence the same was delivered to his brother present on the occasion. During the service of summon his brother namely Mr. Bahadar Khan s/o Muhammad Zaman r/o Shankari (Karo Dara) Tehsil Wari disclosed and confirmed that his brother has been proceeded to Saudi Arabia for earning livelihood. The statement of his brother got recorded on the overleaf of the summon/notice by the DFC concerned. From the examination of the statement of his brother it transpires that the defaulting constable has availed a "French Leave" by travelling beyond the scope of his limitation which is not only gross violation of the levies rules but also falls under the ambit of dis-subordination which is bad in the eyes of law by marring discipline and decorum of levy force. The constable concerned was supposed to get proper leave from the competent authority before going to Saudi Arabia, which he could not do so.

FINDINGS

Facts on record revealed that the levy personnel are basically a force and they were bound to observe the strict discipline. Accordingly, they cannot avail willful leave at random. Though in cases of special situation they can avail leave with prior approval of the competent Authority.

Besides, there is lack of coordination, supervision and control on the part of incharge subedars who showed negligence to keep abreast the competent authority about the trend of "French Leave" well in time. All this was found result of lack of command.

The competent authority took notice of the anomaly adopted in the matter at the spur of moment of emergency when a number of levy personnel were found absent. Later on inquiry they were stated to gone abroad for labor.

Circumstances as mentioned above leads to the undersigned to propose penalties to the defaulting constables as detailed below:

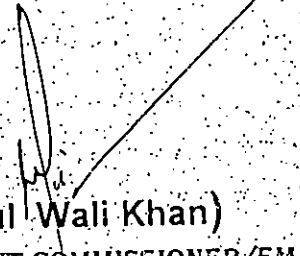
S.No	Name of Accused with designation	Proposed penalties
1	Mr. Qayyum Khan (Levy Sepoy)	The charges against the accused at S.No 2 to 5 has been proved to be held. Hence, the undersigned recommends minor penalty by deducting of their salaries for the period of absentia. While the constable at serial No.1 is proved innocent.
2	Mr. Muhammad Ayaz (levy Sepoy)	
3	Mr. Zahid (levy Sepoy)	
4	Mr. Javed Iqbal Levy (Levy Sepoy)	
5	Mr. Muhammad Ilyas (Levy Sepoy)	
6	Mr. Hanifullah (Levy Sepoy)	Proposed major penalty from removal of service enunciated under Section: 3(d) of E & D Rules 2011 read with rule 10 schedule-IV(a) Para 10 of the Levy Rules 2013

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Deputy Officer
Dir Upper

RECOMMENDATION:

With a view to the above facts and figures it can be easily concluded that the charges leveled against the levy constable at serial No. 6 has been proved to be held. Therefore, he is recommended to be awarded punishment of major penalty under Section:3(d) of E & D Rules 2011 read with rule 10 schedule-IV(a) Para 10 of the Levy Rules 2013 from removal of service.


(Abdul Wali Khan)

ADDL. ASSISTANT COMMISSIONER/EM/
DEPUTY COMMANDANT (ADMN)
INQUIRY OFFICER
DIR UPPER

ATTESTED

Distt. West Koon
Deputy Commissioner Office
Dir Upper.

OFFICE OF THE DEPUTY COMMISSIONER/COMMANDANT DIR LEVIES DIR UPPER

No: 9438-41/DC/LHC/

Dated Upper Dir the: 16/7/2014.

To,


Mr. Hanifullah S/o Muhamamd Zaman
Levy Sepoy (Provincial)

Subject:- REMOVAL FROM SERVICE.

Memo:

As per inquiry report received from the AAC/EM Dir vide his memo No, 562 AAC/EM /Levy dated 14-07-2014.

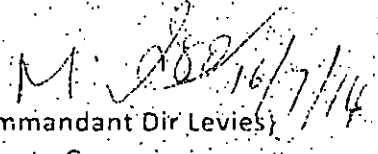
In light of the above, the undersigned has decided to impose upon you Mr. Hanifullah Levy Sepoy (Provincial) the major penalty of removal from service w.e.f 04-02-2014 under the provisions of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline Rules) 2011 in interest of public service.


(Commandant Dir Levies)
Deputy Commissioner
Dir Upper

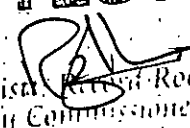
Even No. & Dated:-

Copy forwarded to the:-

1. The District Accounts Officer Dir Upper for information and necessary action
2. Subidar Major Dir Levies
3. File


(Commandant Dir Levies)
Deputy Commissioner
Dir Upper

ATTESTED


Dist. Recs. Room
Deputy Commissioner Office
Dir Upper.



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

No. SO (Levies)/HD/6-7/017
Dated Peshawar the 19/10/2017.

To,

Mr. Hanif Ullah s/o Muhammad Zaman Khan,
P.O. Kano Darul Uloom Waraj,
District, Dir Upper.

Subject: - DEPARTMENTAL APPEAL FOR REINSTATEMENT IN SERVICE.

Memo:

Please refer to your application dated nil on the subject noted above.

Your request for reinstatement in service was processed in the department at appropriate level and rejected on the grounds that the appeal carries no weight, badly time barred and not covered under the Rules.

Section Officer (Police-II)
P.O. No. 091-9210503 / P.O. No. 9210201

Encl: No & date of even

Copy forwarded to:-

1. The Deputy Commissioner / Commandant Levies, Dir Upper.
2. PS to Home Secretary, Khyber Pakhtunkhwa.

6-11-17

LHC
[Signature]

Section Officer (Police-II)

ATTESTED

[Signature]
Dist. Record Room
Deputy Commissioner Office
Dir Upper.



IN THE COURT OF SECRETARY HOME
KHYBER PAKHTUNKHWA
(APPELLATE AUTHORITY)

20

CASE TITLE:

APPELLANT: HANIF ULLAH, DIR UPPER LEVIES
VERSUS
COMMANDANT LEVIES, DIR UPPER.

INTRODUCTION:-

The applicant submitted an appeal before the Competent Authority on 22.11.2017 for reinstatement into service.

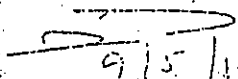
The representative of Deputy Commissioner / Commandant Levies Dir Upper submitted that the applicant was absent from duty without any prior permission of the competent authority. It was confirmed from reliable sources that applicant had gone abroad to Saudi Arab and recommended strict disciplinary action due to which, he was terminated from service w.e.f 04.02.2014.

PROCEEDINGS:-

The applicant was heard in person and supporting documents were also checked / scrutinized in details. He also produced a copy of FIR and judgment of Additional District and Session Judge/Dir Upper pertaining to his domestic/ family feud. The plea is time barred but the applicant was unaware of the proper procedure. In this regard he also submitted condonation application and prayed for reinstatement into service.

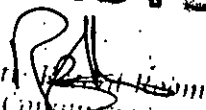
DECISION:-

After perusal of available record and statement of the appellant, the appeal is rejected in light of the comments / views of DC / Commandant Levies Dir Upper. The appellant may be informed accordingly.


(IKRAM ULLAH)
SECRETARY HOME
KHYBER PAKHTUNKHWA

Announced
Dated 16.04.2018

ATTESTED


Deputy Commissioner Office
Dir Upper.



OFFICE OF THE
DEPUTY COMMISSIONER/COMMANDANT DIR
LEVIES UPPER DIR



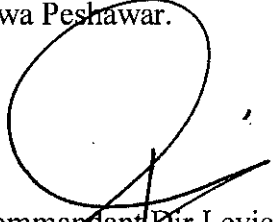
21

No: 11970 /DC/Dir(U)/LHC

Dated Dir the 16/08/2023

AUTHORITY LETTER

Mr. Raza Ullah Superintendent Dir Levies office of the Deputy Commissioner/Commandant Levies Dir Upper is hereby authorized to attend Home & Tribal Affairs Department Khyber Pakhtunkhwa Peshawar for collection of joint parawise comments in service appeal No. 4982/2021 titled as Hanif Ullah vs Secretary Home & others and submit the same in the honorable Provincial Service Tribunal Khyber Pakhtunkhwa Peshawar.


Commandant Dir Levies/
Deputy Commissioner
Dir Upper.

Even No & Date.

Copy forwarded to Mr. Raza Ullah Superintendent local office for information & necessary action.


Commandant Dir Levies/
Deputy Commissioner
Dir Upper.