BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.590/2023

Maaz Khan S/O Wali Bahadar Khan R/O Islampur Saidu Sharif Swat Ex-Constable No.2264 Police Station Kanju Swat

---------- **(Appellant)**

Versus

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

---------- **(Respondents)**

INDEX

S.No	Description of Documents	Annexure	Page
1	Parawise reply	-	1-2
2	Affidavit	-	3
3	Authority Letter	-	4
4	Copy of Enquiry report	"A"	5
5	Dismissal Order vide OB No.169 dated 17/10/2017	"B"	6
6	Dismissal Order vide OB No.42 dated 11-03-2015	"C"	7
7	Copy of Region office Order No.5443-44/E dated 25/05/2022	"D"	8

District Police Officer, Swat
(Respondent No.01)

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.590/2023

Maaz Khan S/O Wali Bahadar Khan R/O Islampur Saidu Sharif Swat Ex-Constable No.2264 Police Station Kanju Swat

---------- **(Appellant)**

Versus

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

--------- ------- **(Respondents)**

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.

Respectfully shewith:
Preliminarily objection:-

1. That the service appeal is time barred.
2. That the service appeal is not maintainable in its present form.
3. The instant appeal is bad due to mis-joinder and non-joinder of necessary parties.
4. That the appellant is estopped due to his own conduct.
5. That the appellant has concealed material facts from this Honorable Tribunal.
6. That the appellant has got no cause of action and locus standi to prefer the instant appeal.
7. The appellant has not come to this Tribunal with clean hands.

ON FACTS

1. Pertains to record. hence need no comments.

2. Pertains to record, hence need no comments.

3. Incorrect. That the appellant while posted to JIS Police Lines had absented himself from lawful duty without prior permission or leave vide DD No.34 w.e.f. 21-04-2017 for 19 days, DD No.41 w.e.f. 11-05-2014 for 02 months and 13 days, DD No.10 w.e.f. 07-07-2017 for 01 month and 10 days and DDNo.50 w.e.f. 18-08-2017 up till the date of dismissal. The appellant was issued Charge Sheets coupled with Statements of allegations and SDPOs City and Barikot Circles were deputed as Enquiry Officers. The Enquiry Officers conducted proper departmental enquiries against the appellant and recorded statements of all concerned. The Enquiry Officers provided ample opportunity to the appellant to defend the charges leveled against him. After conducting proper departmental enquiries, the Enquiry

Officers submitted their Enquiries reports and found that allegations leveled against the appellant were proved during enquiry and recommended for awarding major punishment **(Enquiry report annexed as "A")**. Consequently, the appellant was issued Final Show Cause Notice but he did not bother to submit his reply. The appellant was also called in Orderly Room to be heard in person but he did not appeared to produced any plausible defense for the charges leveled against him, hence awarded major punishment of dismissal from service vide OB No.169 dated 17/10/2017. **(Enquiry report annexed as "B")**

4. That the appellant was dismissed from service on account of willful absence from official duty without prior permission or approved leave after completing all legal formalities. The appellant was a habitual absentee and had also earlier been dismissed from service due to willful absence without any permission vide OB No.42 dated 11-03-2015 **(Order annexed as "C")** but was later on reinstated. On completion another enquiry of absence, he was warned to be careful in future and in case of any future misconduct he shall be dismissed from service after proper departmental proceedings.

5. That departmental appeal of the appellant was thoroughly examined by the respondent No.2, wherein he was called and heard in person but he failed to produce any cogent reason in his defense, hence his appeal was rejected as per rules. **(annexed as "D")**

6. Pertain to record, hence needs no comments.

7. That each and every case has its own facts and circumstances, the case of instant appellant is different from that of others, hence the plea taken by the appellant is not plausible under the law.

8. Pertain to record, appeal of the appellant is liable to be dismissed on the following grounds.

GROUNDS

1. Pertain to record, hence needs no comments.

2. Incorrect. That the appellant was a habitual absentee and dismissed from service on account of willful absence from official duty without prior permission or approved leave after completing all legal formalities. The appellant was a habitual absentee and had also earlier been dismissed from service due to willful absence without any permission vide OB No.42

dated 11-03-2015but was later on reinstated. On completion another enquiry of absence, he was warned to be careful in future and in case of any future misconduct he shall be dismissed from service after proper departmental proceedings.

3. This Para explained above in detail.

4. This Para explained above in detail.

5. Incorrect. That the order passed by the competent authority is legal and lawful which was passed after fulfillment of codal formalities.

6. Incorrect. That the order passed by the competent authority is legal and lawful which was passed after fulfillment of codal formalities.

PRAYER:-

In view of the above comments of answering respondents, it is prayed that instant appeal may be dismissed with cost.

Regional Police Officer,
Malakand Region
(Respondent No.2)

District Police Officer,
Swat
(Respondent No.1)

(4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.590/2023

Maaz Khan S/O Wali Bahadar Khan R/O Islampur Saidu Sharif Swat Ex- Constable No.2264 Police Station Kanju Swat

---------- **(Appellant)**

Versus

1. District Police Officer, Swat.
2. Regional Police Officer, Malakand Region 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 placed neither ex-parte nor their defence has been struck off.

Regional Police Officer,
Malakand Region,
Saidu Sharif, Swat.

Regional Police Officer,
Malakand Region at Saidu Sharif,
Swat
(Respondent No.2)

ATTESTED

Azmat Ali Advocate
Notary Public
Judicial Complex Peshawar
4.9.023

District Police Officer, Swat
(Respondent No. 01)

(49)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.590/2023

Maaz Khan S/O Wali Bahadar Khan R/O Islampur Saidu Sharif Swat Ex- Constable No.2264 Police Station Kanju Swat

---------- **(Appellant)**

Versus

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

---------- **(Respondents)**

AUTHORITY LETTER

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

Regional Police Officer,
Malakand Region at Saidu Sharif,
Saidu Sharif, Swat.
(Respondent No.2)

District Police Officer, Swat
(Respondent No. 1)

(5)

"A"

(فائنڈنگ رپورٹ)

انکوائیری برخلاف کنسٹیبل معاذ خان نمبر 2264

متعینہ پولیس سٹیشن کانجو

خلاصہ الزام:۔

کنسٹیبل معاذ خان نمبر 2264 پر الزام ھیکہ مورخہ: 20-11-2014 سے بدستور غیر حاضر ہے۔ اس حرکت کی بناء پر جناب DPO صاحب سوات نے چارج شیٹ نمبری 01/E محررہ 05-01-205 کو جاری کر کے من SDPO سرکل بریکوٹ کو انکوائیری آفیسر مقرر کیا ہے۔

تفصیل تحقیق:۔

بسلسلہ انکوائیری SHO اور محرر پولیس سٹیشن کانجو کے بیانات لئے جا کر الف انکوائیری ہذا ہے۔ کہ کنسٹیبل مذکورہ عادی غیر حاضر باش ہے۔ کنسٹیبل مذکورہ کو بسلسلہ قلمبندی بیانات کیلئے پروانہ ریڈ نمبری 03 مورخہ: 22-01-2015 کو متعلقہ تھانہ کانجو بھجوایا گیا ہے۔ کنسٹیبل مذکورہ نے اپنی حاضری کی رپورٹ تھانہ کانجو میں بحوالہ مد 29 روزنامچہ 28-12-2014 کو درج روزنامچہ کی ہے۔ اور بعدہ کنسٹیبل مذکورہ پھر سے بحوالہ مد 34 روزنامچہ 07-01-2015 سے غیر حاضر ہو کر تا حال غیر حاضر ہے۔

نتیجہ:۔

بعد از انکوائیری و قلمبندی بیانات SHO، اور محرر تھانہ کانجو سے میں اس نتیجہ پر پہنچ چکا ہوں۔ کہ کنسٹیبل مذکورہ عادی غیر حاضر باش ہے۔ اور سال 2010 کا بھرتی شدہ ہے۔ کنسٹیبل مذکورہ کا یہ فعل قواعد پولیس کے مطابق نہیں ہے۔ اور اپنے عادتوں سے باز نہیں آتے۔ کنسٹیبل مذکورہ کل (1) ماہ اور 08 دِن غیر حاضر رہ چکا ہے۔ اور بدستور غیر حاضر ہے۔

سفارش:۔

اگر اتفاق ہو تو کنسٹیبل معاذ خان نمبر 2264 کو (Major Punishment) کی سفارش کی جاتی ہے۔

فائینڈنگ رپورٹ مرتب ہو کر گزارش ہے۔

Sd
SDPO [illegible]

ATTESTED

Deputy Superintendent of Police Legal
Swat.

6 B

ORDER

This order will dispose of the departmental enquiry conducted against Constable Maaz No.2264. He while posted to HS Police Lines has absented himself from lawful duty without prior permission or leave vide DD No.31 w.e.f. 21-04-2017 for 19 days, DD No.41 w.e.f. [illegible] for 02 months and 13 days, DD No.10 w.e.f. 07-07-2017 for 01 month and 10 days and DD No. [illegible] w.e.f. 15-08-2017 up till now.

He was issued Charge Sheets coupled with Statements of Allegations vide this office No.102/EB, dated 01-06-2017 No.109/EB, dated 20-06-2017 and No.156/EB, dated 07-08-2017 and SDPOs City and Barikot Circles were deputed as Enquiry Officers. The Enquiry Officers conducted proper departmental enquiries against the delinquent Constable and recorded statements of all concerned. The Enquiry Officers provided ample opportunity to the delinquent Constable to defend the charges leveled against him. After conducting proper departmental enquiries, the Enquiry Officers submitted their Enquiries reports and found that allegations leveled against the above named delinquent [illegible] have been proved during enquiry and recommended for awarding major punishment. Consequently he was issued Final Show Cause Notice vide this office No.13885/EB, dated 18-09-2017 but he did not bothered to submit his reply. He was called in Orderly Room to be heard in person but did not appeared to produced any plausible defense for the charges leveled against him.

Having perused his service record, it has been found that delinquent Constable Maaz No.2264 has got a habit of willful absence and has 44 bad entries during his short service. He had also earlier been dismissed from service due to willful absence vide OB No.42 dated 11-03-2015 but was later on reinstated. On completion another enquiry of absence he was warned to be careful in future and in case of any future misconduct he shall be dismissed from service after proper departmental proceedings. Foregoing in view, the undersigned is of considered opinion that there are no chances that Constable Maaz No.2264 will become an efficient Police Official. His further retention in service is bound to affect the discipline of the entire force. Therefore, in exercise of the powers vested in the undersigned under Rules 2 (iii) of Police Disciplinary Rules-1975, I, Muhammad Ijaz [illegible] District Police Officer, Swat as a competent authority am constrained to take Ex-Parte action and award him major punishment of Dismissal from service from the date of his first absence i.e. 21-04-2017.

Order announced.

ATTESTED

District Police Officer, Swat.

O.B. No. 169
Dated 17/10/2017.

****

Deputy Superintendent of Police Legal
Swat.

(7)

ORDER.

This order will dispose off the departmental enquiry against Maaz Khan No. 2264 who while posted to Police Station Kanju has absented himself from duty without prior permission or leave vide DD No.27 w.e.f. 20-11 -2014 to 28-12-2014.

He was issued Charge Sheet alongwith statement of Allegations and SDPO/Kabal, Circle was deputed as Enquiry Officer. The Enquiry Officer conducted proper departmental enquiry against the delinquent officer and recorded the statements of all concerned officers. He has provided ample opportunity to the delinquent officer to defense the absence rendered by him. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings wherein he recommended the delinquent Officer for Major punishment and was called in Orderly Room but he has not provide any plausible defense.

Having perused his service record, it was patently evident that the delinquent officer Constable Maaz Khan No. 2264 is addicted to a chronic absentee and is not interested to continue his service .Forgoing in view the undersigned is of considered opinion that there are no chance that Constable Maaz Khan No. 2264 become an efficient Police officer. His further retention in service is bound to affect the discipline of the entire force. Therefore, in exercise of the powers vested in the undersigned under Rules 2 (iii) of Police Disciplinary Rules-1975, I, Muhammad Saleem Marwat, P.S.P, District Police Officer, Swat as a competent authority, am constrained to award him the punishment of Removal from service from the date of absence i.e. 20-11-2014.

Order announced.

District Police Officer, Swat

O.B. No. 42

Dated 11/03/2015.

****

ATTESTED

Deputy Superintendent of Police Legal
Swat

D 7

25-5-22 D. (8)

OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND
AT SAIDU SHARIF SWAT.
Ph: 0946-9240388 & Fax No. 0946-9240390
Email: ebmalakandregion@gmail.com

ORDER

This order will dispose of appeal of Ex-Constable Maaz Khan No.2264 of Swat District for reinstatement in service, who has been dismissed from service by the then District Police Officer, Swat OB No.169 dated 17/10/2017, received from CPO, Peshawar vide Memo: No.S/175/22, dated 16-02-2022.

Brief facts of the case are that Ex-Constable Maaz Khan No.2264 of Swat District while posted to HS Police Lines absented from lawful duty for 05 months and 23 days with effect from 21/4/2017 to 11/05/2017, 11/5/2017 to 04/07/2017, 07/07/2017 to 17/08/2017 and 18/08/2017 to 17/10/2017 without prior permission or approved leave. Consequently he was issued Charge Sheet coupled with statement of allegations and SDPO City Circle was appointed as Enquiry Officer. The Enquiry conducted proper departmental enquiry against the delinquent constable and recorded the statements of all concerned. The Enquiry Officer after conducting proper departmental enquiry submitted his finding report holding the delinquent Constable guilty of willful absence and recommended him for major punishment. The delinquent Constable had also been earlier removed from service due to willful absence but he did not give up his indiscipline attitude. Being found guilty of the charges the then District Police Officer, Swat "Dismissed" him from service vide his office OB No.169 dated 17/10/2017 under Rule 2 (iii) of Police Disciplinary Rules 1975.

He was called in Orderly Room on 20/05/2022 and heard him in person, but he did not produced any cogent reason to defend his willful absence, therefore, his appeal is hereby rejected.

Regional Police Officer,
Malakand Region Swat

No. 5443-44 /E,
Dated 25-5-/2022.

****

Copy for information and necessary action to the:-

1) Inspector General of Police, Khyber Pakhtunkhwa, Peshawar with reference to CPO, Peshawar Memo: No.quoted above, please.
2) District Police Officer, Swat with reference to his office Memo: No.17025/E, dated 19/09/2018.

ATTESTED

Deputy Superintendent of Police Legal
Swat