

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,  
PESHAWAR.**

**Appeal No. 418/2022**

**Farman Ali Shah Ex. Constable No. 1172**

**(Appellant)**

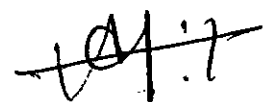
**VERSU**

**IGP etc.**

**(Respondents)**

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**DEPONENT**

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**(Appellant)**

**VERSUS**

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**PARA WISE REPLY/COMMENTS OF RESPONDENTS NO.1 to 3**

Respectfully Sheweth

The respondents respectfully submit as under: -

Khyber Pakhtunkhwa  
Service Tribunal  
Diary No. 7332  
Dated- 29/12/22

**PRELIMINARY OBJECTIONS.**

1. That the Appellant has got no cause of action.
2. That the Appeal is not maintainable under the law.
3. That the Appeal is barred by law & limitation.
4. That the Appellant has not been discriminated in any way.
5. That the Appeal is bad due to mis-joinder and non-joinder of necessary parties.
6. That the Appellant has approached the Honorable Tribunal with unclean hands.
7. That the Appellant has got no cause of action and locus-standi to file the instant Appeal.
8. That the Appellant has been estopped by his own conduct.

**BRIEF FACTS:**

1. Correct to the extent, that the Appellant was appointed as constable in Police Department in the Year 2003 but rest of the Para is incorrect. By thoroughly examining his service record found it black and white. The Appellant was a habitual absentee and did not pay any heed towards his official duty. ( Naqalmads are annexed)
2. Incorrect, the Appellant did not face any domestic problem but has gone abroad wiling fully at the time when the militancy was raised, he absented himself from official duty without any cogent reason and prior permission from the competent Authority.
3. Incorrect, all Codal formalities were adopted during Enquiry proceedings as mentioned in above Para that the Appellant was abroad, summons were served upon his brother ( Bahar Ali Shah) at his home address. His brother stated that the Appellant has gone abroad.
4. Incorrect all the procedure of the Departmental Enquiry was duly followed but due to his absence abroad, there was no option except to take Ex. Part action against the delinquent. Resultantly, the dismissal order was issued vide OB No.800 dated 05.07.20210.  
**It is pertinent to mentioned that the Appellant filed a Service Appeal after 12 years without any justification which is badly time barred.**
5. Pertain to record hence need no comments.

**GROUND:**

- A. Incorrect, the dismissal order was issued according to law, facts, norms of Justice and maintainable before law.
- B. Incorrect, the enquiry procedure was dully followed. The Appellant was not found to associate with the enquiry proceedings.
- C. Incorrect, charge sheet, statement of allegations were dully served and no violation of law/Rules/policy.

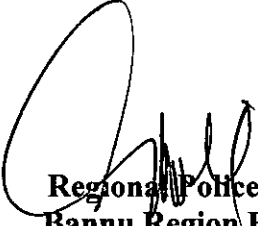
- D. Incorrect, final show cause notice was issued and served, by local Police at his home address upon Bahar Ali Shah (brother of Appellant). The brother of the appellant stated that Farman Ali Shah has gone abroad.
- E. Incorrect, no Law/Rules has violated and all codal formalities were adopted according to Police Rules, 1975.
- F. Incorrect the Appellant did not face any domestic issues but willfully remain absent from his official duty.
- G. Incorrect, the Appellant had been treated according to law/ Rules and Policy.

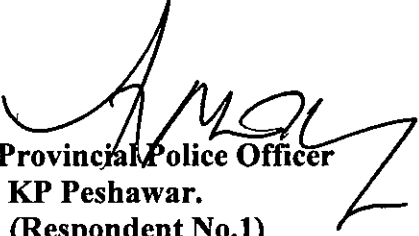
That the respondents, seeks the permission of this Honorable Tribunal for further/ additional grounds at the time of arguments.

**PRAYER:**

In view of the above replies, it is most humbly prayed that the Appeal of the Appellant may kindly be dismissed, with cost.

  
**District Police Officer  
Bannu  
(Respondent No.3)**

  
**Regional Police Officer  
Bannu, Region Bannu  
(Respondent No.2)**

  
**Provincial Police Officer  
KP Peshawar.  
(Respondent No.1)**

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,  
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**(Appellant)**

**VERSUS**

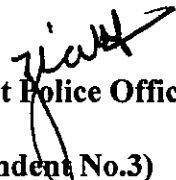
**IGP etc.**

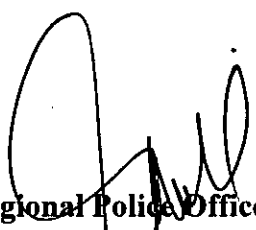
**(Respondents)**

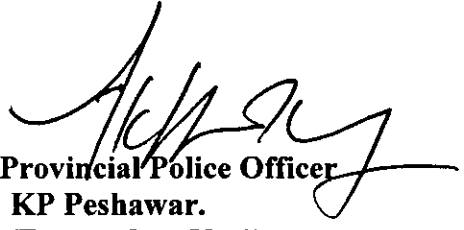
**AUTHORITY LETTER.**

Mr. Muhammad Farooq Khan DSP Legal Bannu, is hereby authorized to appear before Honorable Tribunal on behalf of the undersigned in the above cited Appeal.

He is authorized to submit and sign all documents pertaining to the present Appeal.

  
**District Police Officer  
Bannu  
(Respondent No.3)**

  
**Regional Police Officer  
Bannu, Region Bannu  
(Respondent No.2)**

  
**Provincial Police Officer  
KP Peshawar.  
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**(Appellant)**

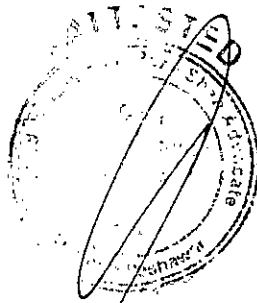
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**IGP etc.**

**(Respondents)**

**AFFIDAVIT.**

I MR. Muhammad Farooq Khan DSP Legal Bannu, representative for Respondent No.1 to 4 do hereby solemnly affirm and declare that the contents of the accompanying comments submitted by us are true and correct to the best of our knowledge and belief and that nothing has been concealed from this Honorable Tribunal.



  
**DEPONENT**

### DISCIPLINARY ACTION

1. I, **Sajjad Khan**, District Police Officer, Bannu being competent authority am of the opinion that **Constable Farhan Ali Shah No. 1172** while posted at Police Lines, Bannu has rendered himself liable to be proceeded against as he committed the following act/omissions within the meaning of section 3 of the N.W.F.P Removal from Service (Special Powers) Ordinance, 2000.

### STATEMENT OF ALLEGATIONS.

- That you were deliberately absented from Govt: duty vide D No. 66 dated 20.11.2009 to till date without any leave or permission from the competent authority and your pay has been stopped vide OB No. 1879 dated 03.12.2009.

2. For the purpose of scrutinizing the conduct of the said official with reference to the above allegations, DSP Hq. Bannu appointed as enquiry officer under section 5 of the said Ordinance.

1. The Enquiry committee shall, in accordance with the provision of the Ordinance, provide reasonable opportunity of hearing to the official, record its findings and make, **within twenty five days** of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.

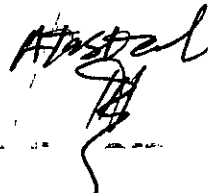
2. The accused Official and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the enquiry committee/Officer.

  
District Police Officer,  
Bannu.

No. 95 /EC Dated Bannu, the 24/02/2010.

### Copy of the above is forwarded to the:-

- a. For initiating proceeding against the accused under the provisions of the NWFP Removal from Service (Special Powers) Ordinance 2000.
- b. **Constable Farhan Ali Shah No. 1172** while posted at Police Lines, Bannu with the direction to appear before the enquiry Officer/Committee, on the date, time and place fixed by the committee, for the purpose of the Inquiry proceeding and also to put in a written statement / defense before the enquiry officer / Committee within a period of seven days.
- c. Establishment Clerk, DPO, Office Bannu for information.



**FINAL SHOW CAUSE NOTICE:**

I, **Sajjad Khan**, District Police Officer, Bannu as competent authority, under the North-West Frontier Province Removal from Service (Special Powers) Ordinance, 2000, do hereby serve you **Constable Farhan Ali No. 1172** as follows:-

- That you deliberately absented yourself from Govt: duty vide JD No. 66 dated 18.12.2009 to date without any leave or permission from the competent authority.

1. On going through the findings and recommendations of the Inquiry Officer, the material on record and other connected papers including your defense before the said Officer.


2. I am satisfied that you have committed the following acts/omissions specified in section 3 of the said Ordinance.

As a result thereof, I, as competent authority have tentatively decided to impose upon you the penalty of punishment under section 3 of the Ordinance.

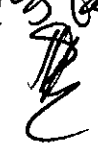
3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you.

4. If no reply to this notice is received within seven days of its deliver, in the normal course of circumstance, 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.

5. The copy of the findings of the Inquiry Officer is enclosed.

  
**District Police Officer,  
Bannu.  
7/6/2010**

*Handwritten notes:*  
17.6.2010  
17.6.2010

*Handwritten signature:*  
Aftab  


INCIDENTION/DESCRIPTION OF THE INCIDENT.

Constable Farhan Ali No.1172 of Police Lines, Bannu was charge sheeted on the basis of which that he was deliberately absented himself from the government duty vide D.D.No. 66 dated 20.11.2009 to till date with out any leave or prior permission from the competent authority and his pay has already been stopped vide O.B.No.1879 dated 3.12.2009.

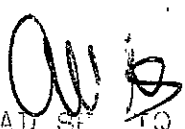
DELIBERATIONS:

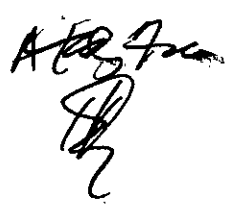
The enquiry was marked to the undersigned to probe into the allegations. The said constable was summoned time and again (Parwanas are enclosed) but he did not appear before the enquiry officers to record his statement nor receive the copy of the charge sheet. As reported by MIC/Lines Officer Police Lines, Bannu that the said constable is still absent.

CONCLUSION:-

Keeping in view of the above facts and circumstances I reach to the conclusion that the said constable absented himself from the government duty vide D.D. No.66 dated 20.11.09. The MIC/Lines Officer Police Lines, Bannu reported that the said constable is still absented from the government duty (report of MIC/Lines Officer is enclosed for perusal). The pay of the said constable Farhan Ali No.1172 has already been stopped vide O.B. No.1879 dated 3.12.09. Therefore he is recommended for exparte action and for awarding major punishment under Removal from service (Special Power) Ordinance 2000.

Submitted please.

  
(MOHAMMAD SAIF-UR-RAQIB KHAN)  
D.S.P.HQrs; BANNU.





**CHARGE SHEET.**

I, **Sajjad Khan**, District Police Officer, Bannu, as competent authority, hereby charge you **Constable Farhan Ali Shah No. 1172** while posted at Police Lines, Bannu as follow:-

You while posted at Police Lines, Bannu were found below :-

a) That you were deliberately absented from Govt: duty vide DD No. 66 dated 20.11.2009 to till date without any leave or permission from the competent authority and your pay has been stopped vide OB No. 1879 dated 03.12.2009.

1. You are therefore, directed to submit your written defense within seven days of the receipt of this charge sheet to the inquiry officer.
2. Your written defense if any, should reach the inquiry Officer/Committee within the stipulated period, failing which it shall be presumed that you have no defense to put in and in that case an exparte action shall follow against you.
3. Intimate whether you desire to be heard in person.
4. A statement of allegations is enclosed.

  
**District Police Officer,  
Bannu.**

