

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA, SERVICE
TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD**

SERVICE APPEAL NO.623/2023

Haq Nawaz, Ex-Constable No.262 District Police Haripur r/o Village Bhaira, Tehsil &
District Haripur.

.....(Appellant)

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar, and others.

.....(Respondents)

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Deponent

26-09-23

abbatabad

①

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD**

SERVICE APPEAL NO.623/2023

Haq Nawaz, Ex-Constable No. 262 District Police Haripur r/o Village Bhaira, Tehsil &
District Haripur.

..... (Appellant)

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar, and others.

..... (Respondents)

Subject: Parawise comments on behalf of respondents No. 1 to 3.

Respectfully Sheweth:

The respondents submit as under:-

7367
06/09/23

PRELIMINARY OBJECTIONS:-

1. That the instant Service Appeal is not maintainable in the present form.
2. That the appellant is estopped by his own conduct.
3. That the appellant has not come to the Honorable Tribunal with clean hands.
4. That the appellant has suppressed material facts from the Honorable Tribunal.
5. That the instant Service Appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
6. That the instant Service Appeal is badly barred by law and limitation.
7. That the appellant has filed the instant service appeal just to pressurize the respondents.
8. That the orders passed by the authorities are based on facts & rules, after fulfilling all the codal formalities, hence, the appeal is liable to be dismissed without any further proceeding.

OBJECTIONS ON FACTS:-

1. Incorrect, it is submitted that the appellant Ex- Constable Haq Nawaz No. 262, while transferred/posted from police lines Haripur to PS Ghazi, absented from legitimate duties without any leave or permission from the competent authority vide DD MAAD No.35 dated 02.07.2022 Police Station Ghazi, with effect from 01.07.2022 to 28.07.2022 for 28 days. The acts and omissions of the appellant were misconduct under Khyber Pakhtunkhwa, Police Efficiency and Discipline Rules 1975 (amended 2014). Therefore, the appellant was issued Charge Sheet and Statement of Allegations by this office Memo: No.232-33/HC dated 21.07.2022. (Copy of charge sheet with statement of allegations is attached as annexure "A"). Mr. Iftikhar Ahmed, Deputy Superintendent of Police, Circle Saddar Haripur was appointed as enquiry officer (E.O), who conducted proper departmental enquiry and submitted his findings vide his office Memo No.321 dated 15.08.2022, in which the Enquiry Officer held the charges proved and recommend him for Major punishment. (Copy of enquiry finding is attached as annexure "B") Therefore, the appellant was awarded major punishment of Dismissal from Service by the then District Police Officer, Haripur vide OB. No.

9

587 dated 01.09.2022. (Copy of order is attached as annexure "C"). The appellant preferred departmental appeal against the punishment order to the Regional Police Officer, Hazara Region, Abbottabad, who filed/rejected departmental appeal of appellant, vide his office order No. 4265/E dated 23.02.2023. (Copy of order is attached as annexure "D").

2. Incorrect, the appellant committed gross misconduct. Therefore, he was served with charged sheet and Statement of Allegations and proper departmental enquiry was conducted. He could not give satisfactory reply of charge sheet and statement of allegations and guilt of the appellant was proved to strong evidence. Having fulfilled legal requirements the appellant was awarded major punishment of dismissal from service.
3. Correct to the extent that the appellant committed misconduct, to which he was awarded major punishment of dismissal from service under the law/ rules.
4. Incorrect, proper departmental enquiry was conducted. The enquiry officer provided the appellant right of personal hearing and self defense. All principles of natural justice were observed and the appellant was awarded quite legal punishment, which commensurate with the gravity of charges.
5. Incorrect, the appellant filed departmental appeal against the punishment order to the Regional Police Officer, Hazara Region, Abbottabad, who filed/rejected departmental appeal of appellant on lawful grounds, vide his office order No. 4265/E dated 23.02.2023. The instant service appeal is not maintainable under the law/rules.

GROUND:-

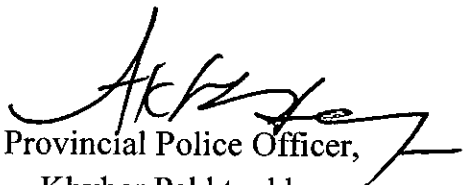
- A) Incorrect, the orders of respondents dated 01.09.2022 and 23.02.2023, are quite legal, based on facts, evidence and justice, hence, the orders are lawful and maintainable.
- B) Incorrect, proper departmental enquiry was conducted. The appellant was given right of personal hearing and self-defense. Having fulfilled all legal requirements were fulfilled the appellant was awarded major punishment of dismissal from service.
- C) Incorrect, the appellant has been dealt in accordance with law, rules and regulations. He committed misconduct, and charges were thoroughly probed in the departmental enquiry. Hence, he was proceeded against departmentally under the law/ rules. Being held guilty of misconduct, the appellant was awarded major punishment of dismissal from service, which is lawful and maintainable.
- D) Incorrect, the appellate departmental authority abided by the law and rules and he filed/rejected departmental appeal of appellant on lawful grounds. The instant service appeal is not maintainable under the law/rules. So, the order of punishment is lawful and maintainable.
- E) Incorrect, the charges of misconduct were probed in the departmental enquiry and appellant was held guilty of misconduct. He neither applied any leave application nor was granted the same by the competent authority. He absented from duties on his own will and there were rendered himself for departmental action. The


allegations were established in the departmental enquiry and he was awarded punishment on cogent evidence.


F) Incorrect, the service appeal is badly barred by law and limitation and not maintainable under the law/rules.

PRAYER:-

In view of above stated facts, it is most humbly prayed that the instant service appeal does not hold any legal force, may kindly be dismissed with costs, please.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar
(Respondent No.1)


Regional Police Officer,
Hazara Region,
Abbottabad
(Respondent No.2)
Hazara-Abbottabad


District Police Officer,
Haripur
(Respondent No.3)

Distric Police Officer
Haripur

(4)

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA, SERVICE
TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD**

SERVICE APPEAL NO.623/2023

Haq Nawaz, Ex-Constable No.262 District Police Haripur r/o Village Bhaira, Tehsil &
District Haripur.

.....(Appellant)

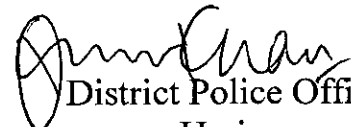
VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar, and others.

.....(Respondents)

COUNTER AFFIDAVIT

I, do hereby solemnly affirm and declare, that the contents of comments / reply, are true to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal. It is further stated on oath that in this appeal, the answering respondents have neither been place ex-parte nor their defense has been struck off/ cost.


District Police Officer,
Haripur
(Respondent No.3)

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR CAMP COURT ABBOTTABAD

SERVICE APPEAL NO.623/2023

Haq Nawaz, Ex-Constable No.262 District Police Haripur r/o Village Bhaira, Tehsil &
District Haripur.

.....(Appellant)


VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar, and others.

.....(Respondents)

AUTHORITY LETTER

I, the undersigned do hereby authorize Mr. Israr Shah, ASI Legal Haripur, to submit reply in the above cited Service Appeal on behalf of answering respondent and legally do whatever is needed in the court regarding the above titled Service Appeal.


District Police Officer,
Haripur
(Respondent No.3)

CHARGE SHEET

Annex 'A' ①

I, Imran Shahid, (PSP) District Police Officer, Haripur as competent authority, hereby charge you FC Hagnawaz No.262 as enclosed statement of allegations.

- (1) You appear to be guilty of misconduct under Khyber Pakhtunkhwa Police Efficiency and Discipline Rules 1975 (amended 2014) and have rendered yourself liable to all or any of the penalties specified in the said Rules.
- (2) You are, therefore, required to submit your written defense within 07 days of the receipt of this charge sheet and statement of allegation to the Enquiry Officer as the case may be.
- (3) Your written defense, if any, should reach the Enquiry Officer within the specified period, failing which it will be presumed that you have no defense to put in and, in that case, ex-parte action will follow against you.
- (4) Intimate whether you desire to be heard in person or otherwise.
- (5) A statement of allegations is enclosed.

Received

[Signature]
22-7-22.

Attested
[Signature]

[Signature]

Imran Shahid, (PSP)
District Police Officer
Haripur 2

CHARGE SHEET

Annex 'A' ⑥

I, Imran Shahid, (PSP) District Police Officer, Haripur as competent authority, hereby charge you FC Haqnawaz No.262 as enclosed statement of allegations.

- (1) You appear to be guilty of misconduct under Khyber Pakhtunkhwa Police Efficiency and Discipline Rules 1975 (amended 2014) and have rendered yourself liable to all or any of the penalties specified in the said Rules.
- (2) You are, therefore, required to submit your written defense within 07 days of the receipt of this charge sheet and statement of allegation to the Enquiry Officer as the case may be.
- (3) Your written defense, if any, should reach the Enquiry Officer within the specified period, failing which it will be presumed that you have no defense to put in and, in that case, ex-parte action will follow against you.
- (4) Intimate whether you desire to be heard in person or otherwise.
- (5) A statement of allegations is enclosed.

Received

PCW
22-7-22.

Allocated
Imran

Imran Shahid

Imran Shahid, (PSP)
District Police Officer
Haripur 2

DISCIPLINARY ACTION

I, Imran Shahid (PSP), District Police Officer, Haripur as competent authority is of the opinion that you FC Haq Nawaz No.262 have rendered yourself liable to be proceeded against you as you have committed the following acts/omissions within the meanings of Khyber Pakhtunkhwa Police Efficiency and Discipline Rules 1975 (amended 2014).

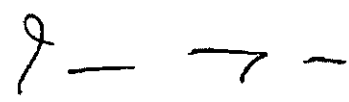
STATEMENT OF ALLEGATION

"It has been reported vide DD No.35 dated 02.07.2022, (PS Ghazi), that you while transferred/posted from Police Lines to PS Ghazi, absented yourself from official duties w.e.f. 01.07.2022 to till date, without obtaining any permission/leave from the competent authority, which is against the discipline and rules. This tantamounts to gross misconduct and indiscipline on your part in terms of KPK Police E and D Rules 1975" (amended 2014).

- (2) For the purpose of scrutinizing the conduct of the said accused officer with reference to the above allegations, following Enquiry officer is appointed to probe the charges.

Mr. Iftikhar Ahmed (DSP Saddar)


- (3) The Enquiry Officer shall in accordance with the provisions of these Rules provide reasonable opportunity of hearing to the accused, record findings and make within 14 days of the receipt of this order, recommendation as to punishment or the appropriate action against the accused.
- (4) The accused and a well conversant representative of department shall attend the proceedings on the date, time and place fixed by the Enquiry Officer.


Imran Shahid, (PSP)
District Police Officer,
Haripur

No: 232-33/HC dated Haripur the 21/07/2022.

Copy of above is submitted to: -

- 1) Enquiry Officer for initiating proceedings against the said accused under Khyber Pakhtunkhwa Police Efficiency and Discipline Rules 1975 (amended 2014).
- 2) FC Haq Nawaz No.262 with the direction to submit his defense within 7 days of the receipt of this statement of allegations and also to appear before the Enquiry Officer on the date, time and place fixed for the purpose of departmental proceedings.


District Police Officer,
Haripur

Attested


منجانب
بجانب
نمبر
عنوان
جناب عالی!

Annex B
سب ڈویژنل پولیس آفیسر سرکل صدر ہری پور
جناب ضلعی پولیس آفیسر صاحب ہری پور
مورخہ 22-07-2022
انکوائری برخلاف کانٹریبل حق نواز نمبر 262

بحوالہ چارج شیٹ نمبر HC/33-232 مورخہ 22-07-2021 انکوائری اذراں کانٹریبل حق نواز نمبر 262 برائے انکوائری
میرے نام مارک ہوئی جس پر انکوائری ہو کر معروض ہوں کہ۔
سمری آف ایلشن۔

کانٹریبل حق نواز متعینہ تھانہ غازی پر چارج شیٹ میں مندرجہ الزام ہیں۔ کہ بحوالہ مد 35 روز نامہ 22-07-02 کے مطابق مذکورہ کا
تبادلہ پولیس لائن سے تھانہ غازی ہوا جو مذکورہ مورخہ 22-07-01 سے تاحال بغیر کسی رخصت، کسی مجاز افسر کی اجازت کے غیر حاضر
ہوا۔ جس کا یہ فعل قانون اور حکمانہ ڈسپلن کے خلاف ہے۔ جو کہ یہ فعل بد کرداری (misconduct) کے زمرے میں آتا ہے۔
انکوائری پروسیڈنگ۔

کانٹریبل حق نواز کو دفتر طلب کر کے سنا گیا جس نے اپنے تحریری دزبانی بیان میں بیان کیا کہ
بیان کانٹریبل حق نواز 262

معروض خدمت ہوں کہ سائل حق نواز نمبر 262 متعینہ غازی جناب کے زیر سایہ کارسرا کار انجام دے رہا ہوں۔ جناب عالی میری
تعمیناتی پولیس لائن سے تھانہ غازی مورخہ 22-07-01 کو ہوئی تھی۔ جناب عالی مورخہ 22-07-02 میری طبیعت سخت خراب
ہو گئی اور بخار نہایت ہی تیز تھا۔ جس وجہ سے میں DHQ ہری پور ہسپتال گیا۔ اور اپنا علاج معالجہ شروع کروایا۔ جناب عالی تقریباً
2 ہفتوں میں علاج معالجہ کروانا رہا۔ طبیعت قدر حال بہتر ہو گئی۔ اور ڈیوٹی جوائن کرنا چاہی تو اس دوران میرا بیٹا اور بیٹی دونوں بیمار ہو
گئے۔ اور میں سخت پریشانی میں مبتلا ہو گیا۔ بیٹے بیٹی کا علاج معالجہ کروایا دونوں کچھ بہتر ہوئے تو میری بیوی بیمار ہوئی۔ جناب عالی
20/25 دن سخت پریشانی میں مبتلا رہا گھر میں میرے علاوہ کوئی بڑا نہیں۔ جو کہ گھر کو سنبھالے اور دیکھ بھال کرے اکیلا ہونے کی وجہ
سے سخت پریشان ہوں اور اپنے گھر کا سربراہ ہوں میرے علاوہ کوئی اور کمانے والا بھی نہیں واحد کنٹریبل ہوں جان بوجہ کر غیر حاضر نہیں
ہوا ہوں۔ اور نہ ہی غیر حاضری کا عادی ہوں میں اپنی ڈیوٹی نہایت ایمانداری اور خوش اسلوبی سے ادا کرتا ہوں۔

جناب عالی دردمندانہ ذریعہ جواب ہذا استدعا ہے کہ میری غیر حاضری کو حاضری میں شامل کرنے کا حکم صادر فرمائیں۔ اور ڈیوٹی پر
حاضر ہونے کے حکم صادر فرمائیں جائیں۔ تاکہ میں اپنے کارسرا کار انجام دے پاؤں۔ سائل آجناب کی عمر دارز کے لئے دعا گو رہے گا۔

فائل فائنلنگ رپورٹ

دوران انکوائری بیان کانٹریبل حق نواز 262 اور مذکورہ کے سابقہ ریکارڈ سے حالات و واقعات یوں پائے گئے کہ مذکورہ کانٹریبل کا تبادلہ
پولیس لائن سے تھانہ غازی ہوا۔ جو کہ مذکورہ نے حاضری نہ کی اور عرصہ 28 دن غیر حاضر رہا اور اس دوران اپنے بیٹے کے میڈیکل
کے کاغذات جن کے مطابق اس کا بچہ مورخہ 22-07-25 کو بیمار ہوا اور اپنے علاج معالجے کی نسبت صرف ایک میڈیکل سلیپ
مورخہ 22-07-09 پیش کی۔ جو میڈیکل ریکارڈ مذکورہ کے بیان کی تائید نہیں کرتا اور متذکرہ ریکارڈ مذکورہ کی غیر حاضری کا تسلی

Attested
by

(9)

بخش جواز نہ ہے۔ جبکہ مذکورہ کا سابقہ ریکارڈ سے بھی عادی غیر حاضر باش پایا گیا ہے۔ لہذا مذکورہ کو میجر پنشنٹ دیئے جانے کی سفارش کی جاتی ہے۔ فائنل فائنڈنگ رپورٹ مرتب ہو کر گزارش ہے۔

سب ڈویژنل آفیسر
سرکل صدر

Dismissed from service
9 31/8/22

Attested
Mukherjee



Amex 10

DISTRICT POLICE OFFICER
HARIPUR

Ph: 0995-920100/01, Fax-0995614714, Email:- dpoharipur1@gmail.com

ORDER

FC Haqnawaz No.262, while transferred/posted from Police Lines to PS Ghazi, absented himself from official duties w.e.f. 01.07.2022 to 28.07.2022 (28 Days) vide DD No.35 dated 02.07.2022 (PS Ghazi), without obtaining any permission/leave from the competent authority, which is against the discipline and rules. This tantamounts to gross misconduct on his part in terms of Khyber Pakhtunkhwa, police efficiency and discipline rules 1975 (amended 2014).

To probe the allegations of misconduct Mr. Iftikhar Ahmed DSP/Saddar; was appointed as Enquiry Officer vide this office memo: No.232-33/IC dated 21.07.2022. The inquiry officer conducted departmental enquiry in which the accused official participated and disclosed that he was suffering from high temperature. Therefore, he proceeded to the DHQ Hospital for treatment. As soon as he improved his son and daughter also fell in illness. He also presented medical record regarding illness. As per provided medical record his son was ill on 25.07.2022, while he got treatment on 09.07.2022. The medical record does not support the stance of delinquent official as his service record was also checked and he was found habitual absentee. The enquiry officer submitted his findings vide his office Memo No.321 dated 15.08.2022, in which he recommended him for "Major Punishment".

Having perused the relevant record and clarification of the defaulter official the charges of misconduct against FC Haqnawaz No.262 stood proved. Therefore, I, Imran Shahid, (PSP), District Police Officer, Haripur being a competent authority under the Khyber Pakhtunkhwa, Police Efficiency and Discipline Rule 1975 (amended 2014), am fully satisfied that FC Haqnawaz No.262, committed gross misconduct. Therefore, he is awarded Major Punishment of "Dismissal from Service", with immediate effect.

OB No. 587

Dated 01-09-2022

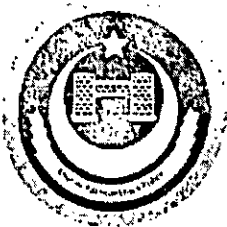
Imran Shahid, PSP

District Police Officer,
Haripur

Received do date 01 27/9/2022

etc. etc. etc.

Attested
[Signature]



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Amred D

OFFICE OF THE REGIONAL POLICE OFFICER, HAZARA REGION, ABBOTTABAD
0992-9310021-22
0992-9310023
r.rpohazara@gmail.com
NO: 4265 / E DATED 23/02-2023


ORDER

This order will dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 submitted by EX-Constable Haqnawaz No.262 of District Haripur against the order of punishment i.e. *Dismissal from Service* awarded by District Police Officer Haripur vide Order Book No. 587, dated 01-09-2022.

Brief facts leading to the punishment are that the appellatant while transferred/posted from Police Lines to PS Ghazi, absented himself from official duties w.e.f 01.07.2022 to 28.07.2022 (28 days) vide DD No. 35 dated 02.07.2022 (PS Ghazi), without obtaining any permission/leave from the competent authority.

The appellatant was issued charge sheet with statement of allegations by District Police Officer, Haripur and SDPO Saddar Haripur was deputed to conduct departmental enquiry. The Enquiry Officer in his findings held the appellatant responsible of misconduct. Consequently, District Police Officer, Haripur awarded him major punishment of *Dismissal from Service*. Hence, the appellatant submitted this present appeal.

After receiving his appeal, comments of District Police Officer, Haripur were sought and examined/perused. The undersigned called the appellatant in OR on 21-02-2023 and heard him in person. The appellatant has been given reasonable opportunity to defend himself against the charges. however he failed to advance any justification in his defense. From the perusal of his service record it transpired that he was dismissed third time from service due to absence. Thus, the disciplinary action taken by the competent authority seems genuine and the appeal is liable to be dismissed. Therefore, in exercise of the powers conferred upon the undersigned under Rule 11-4 (a) of Khyber Pakhtunkhwa Police Rules, 1975 the instant appeal is hereby *filed/rejected* with immediate effect.


TAHIR AYUB KHAN (PSP)
Regional Police Officer,
Hazara Region, Abbottabad.

Copy forwarded to District Police Officer, Haripur for information and necessary action w/r to his office Memo: No.378, dated 31-01-2023. Service Roll and Fauji Missal containing enquiry file of the appellatant is returned herewith for record.

See / copy
of
the
file
is
being
returned
to
the
DPO
Haripur
for
record

858
25/7/2023
DPO 33

Attested


11/2/23