

23rd May, 2023


1. Learned counsel for appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General for respondents present.


2. Being not prepared, learned counsel for appellant requested for adjournment in order to prepare the brief.

Adjourned. To come up for arguments on 10.07.2023 before D.B.

P.P given to the parties.

CANNED
K.P.S.T
Peshawar


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman


Mutazem Shah

10th July, 2023

1. Counsel for the appellant present. Mr. Fazal Shah Mohmand, Addl. Advocate General for the respondents present.

2. Counsel for the appellant seeks adjournment in order to further prepare the brief. Granted. To come up for arguments on 15.09.2023 before the D.B. Parcha Peshi given to the parties.

CANNED
K.P.S.T
Peshawar


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

Fazle Subhan P.S

10.02.2023

Learned counsel for the appellant present. Mr. Naseerud Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment in order to further prepare the brief. Granted. To come up for arguments on 26.04.2023 before the D.B.

SCANNED
KPST
Peshawar

(FAREEHA PAUL)
Member (E)

(ROZINA REHMAN)
Member (J)

26.04.2023

Appellant present through counsel.

Fazal Shah Mohmand, learned Additional Advocate General for respondents present.

Learned Member Executive (Mr. Muhammad Akbar Khan) is on leave, therefore, case is adjourned. To come up for arguments on 23.05.2023 before D.B. Parcha Peshi given to the parties.

SCANNED
KPST
Peshawar

(Rozina Rehman)
Member (J)

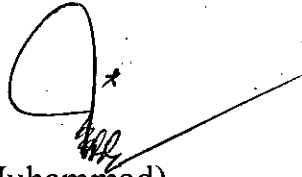
Mutazem Shah

22.12.2022

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant sought time for preparation of arguments. Adjourned. To come up for arguments on 04.01.2023 before D.B.

SCANNED
K.P.S.T
Peshawar



(Mian Muhammad)
Member (E)



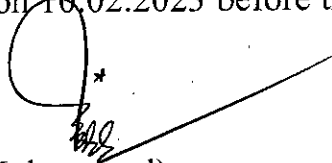
(Salah-ud-Din)
Member (J)

04.01.2023

Learned counsel for the appellant present. Mr. Noor Muhammad, S.I. alongwith Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Inquiry record has neither been submitted by the appellant nor by the respondents, therefore, respondents shall positively submit copy of complete inquiry record within 10 days and to come up for arguments on 10.02.2023 before the D.B.

SCANNED
K.P.S.T
Peshawar



(Mian Muhammad)
Member (E)



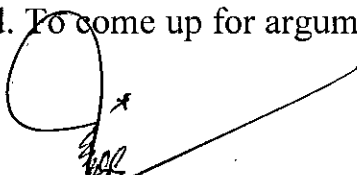
(Salah-Ud-Din)
Member (J)


08.12.2022

Learned counsel for the appellant present. Mr. Arif Saleem, ASI alongwith Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 13.12.2022 before the D.B.

SCANNED
MUST
Peshawar



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

13.12.2022

Junior to counsel for the appellant present. Muhammad Adeel Butt learned Additional Advocate General for respondents present.

Former made a request for adjournment on the ground that senior counsel for the appellant is busy in Hon'ble Peshawar High Court, Peshawar. Last chance is given. To come up for argument on 22.12.2022 before D.B.


(Fareeha Paul)
Member (E)



(Rozina Rehman)
Member (J)

30th Nov. 2022

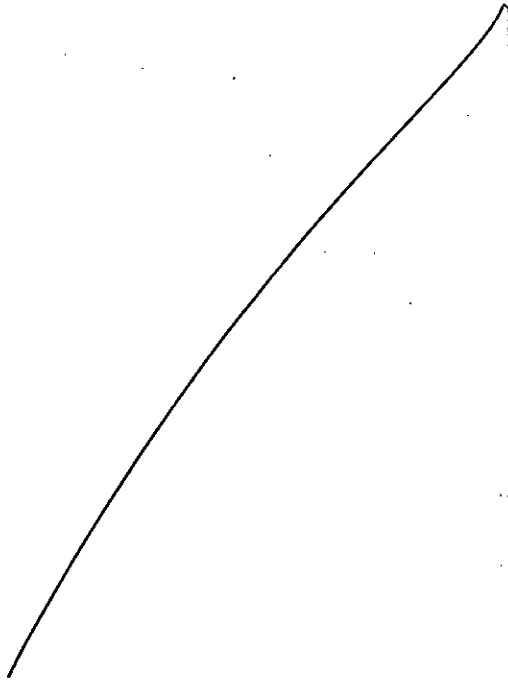
Learned counsel for the appellant present. Mr. Naseerud Din Shah, Assistant Advocate General for the respondents present.

File received from the learned D.B-II with the observation that the matter was heard by both of us (the undersigned) but vide order sheet dated 31.05.2022 in connected Service Appeal No. 1369/2018 titled "Farman Ali Vs. DPO, Swat and others", the bench sought some clarification which were not made, therefore, let it be fixed before any available D.B. To come up for arguments on 08.12.2022 before the D.B.

SCANNED
KPST
Peshawar


(Fareeha Paul)
Member (E)

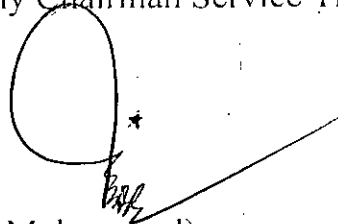

(Kalim Arshad Khan)
Chairman



30.11.2022

Learned counsel for the appellant present. Mr. Hikmat Khan, Head Constable alongwith Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned Assistant Advocate General stated that arguments in similar nature appeal have been heard by a bench comprising of worthy Chairman and Miss. Fareeha Paul learned Member (Executive) and the appeal was fixed for order, therefore, the appeal in hand may also be fixed before the said bench. The appeal in hand is, therefore, sent to worthy Chairman Service Tribunal for further appropriate order. Learned counsel for the parties shall appear before the worthy Chairman Service Tribunal today at 12:55 P.M.



(Mian Muhammad)
Member (E)





(Salah-Ud-Din)
Member (J)

06.06.2022

Clerk of learned counsel for the appellant present. Muhammad Fayaz, Head Constable alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for arguments on 18.08.2022 before the D.B.


(Fareeha Paul)
Member (E)


(Salah-ud-Din)
Member (J)

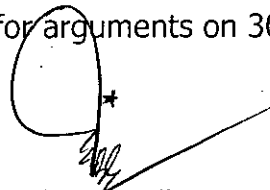
18.8.22


Due to summer vacation the case is adjourned to 16-9-22 for the same.

16.09.2022

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 30.11.2022 before the D.B.

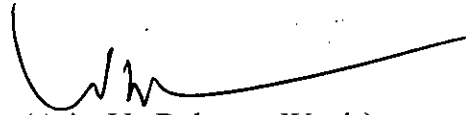

(Mian Muhammad)
Member (E)


(Salah-Ud-Din)
Member (J)

13.01.2022

Learned counsel for the appellant present. Mr. Javed Ullah, Assistant Advocate General for respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not gone through the record. Adjourned. To come up for arguments before the D.B on 10.05.2022.



(Atiq-Ur-Rehman Wazir)
Member (E)



Chairman

10th May, 2022

Learned counsel for the appellant present Mr. Muhammad Riaz Khan Paindakheil, Asstt. AG for the respondents present.

Learned counsel for the appellant requested for adjournment in order to assist the court. To come up for arguments before the D.B on 06.06.2022.



(Fareeha Paul)
Member(E)




(Kalim Arshad Khan)
Chairman


29.06.2021

Appellant alongwith his counsel present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

We being Members of Larger Bench, remained busy in hearing arguments in the appeals fixed before the Larger Bench, therefore, arguments in the instant appeal could not heard. Adjourned. To come up for arguments before the D.B on 18.10.2021



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

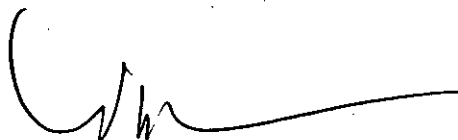
18.10.2021

Appellant present through representative.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Lawyers are on general strike, therefore, case is adjourned. To come up for arguments on 13.01.2022 before D.B.

D



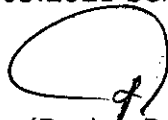
(Atiq-Ur-Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

09.12.2020 Counsel for the appellant and Addl. AG for the respondents present.

The issue of retrospective application of orders has not yet been decided by the Larger Bench of this Tribunal. The hearing is, therefore, adjourned to 03.03.2021 before the D.B.



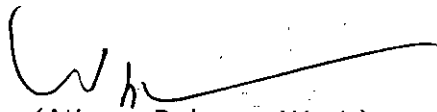
(Rozina Rehman)
Member(J)



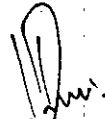
Chairman

03.03.2021 Counsel for the appellant and Asif Masood Ali Shah, DDA for the respondents present.

The issue of retrospective application of order is yet to be decided by the Larger Bench, therefore, instant matter is adjourned to 09.06.2021 for hearing before the D.B.



(Atiq-ur-Rehman Wazir)
Member(E)



Chairman

09.06.2021 Appellant present through counsel.

Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Request for adjournment was made on behalf of appellant as issue involved in the instant case is pending before Larger Bench of this Tribunal. Adjourned. To come up for arguments on 29.06.2021 before D.B.



(Rozina Rehman)
Member (J)

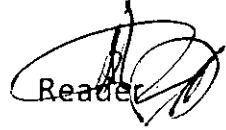


Chairman

_____.2020

Due to COVID19, the case is adjourned to

12/8/2020 for the same as before.


Reader

12.08.2020


Due to summer vacations case to come up for the same on
15.10.2020 before D.B.

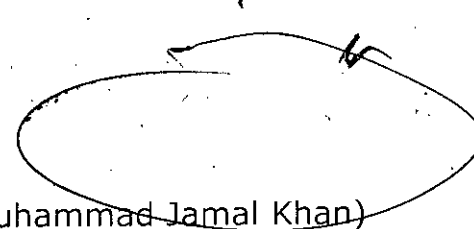

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15.10.2020

Miss. Uzma Syed, Advocate for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General alongwith representative of the department Mr. Abdur Rauf, Head Constable, are also present.

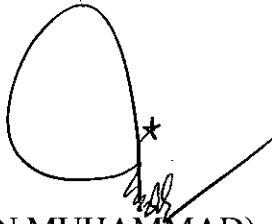
Learned Additional Advocate General while making reference to impugned order dated 17.04.2009 submitted that retrospective effect was given to the referred to order, the issue with retrospectivity is pending before the Larger Bench of this august Tribunal constituted for the purpose therefore, unless and until judgment is made by the worthy Larger Bench of this Tribunal, this appeal is kept pending. File to come up for further proceedings on 09.12.2020 before D.B.


(Atiq-ur-Rehman Wazir)
Member (Executive)


(Muhammad Jamal Khan)
Member (Judicial)

19.03.2020

None for the appellant present. Addl: AG alongwith Mr. Zahid Ur Rehman, Inspector for respondents present. Due to general strike on the call of Peshawar Bar Council, the case is adjourned. To come up for arguments on 20.05.2020 before D.B.

A handwritten signature consisting of a large, stylized loop followed by a vertical line and a diagonal stroke.

(MAIN MUHAMMAD)
MEMBER

A handwritten signature consisting of the letters 'M-A' followed by a wavy line.

(M.AMIN KHAN KUNDI)
MEMBER

27.10.2019

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Zahid-ur-Rehman, Inspector (Legal) for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 04.12.2019 for arguments before D.B.



(Ahmad Hassan)
Member



(M. Amin Khan Kundi)
Member

04.12.2019

Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney alongwith Mr. Zahid Ur Rehman Inspector for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 03.02.2020 before D.B.



(Hussain Shah)
Member



(M. Amin Khan Kundi)
Member

03.02.2020

Learned counsel for the appellant present. Mr. Ziaullah, DDA alongwith Mr. Zahid ur Rehman, Inspector for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 19.03.2020 before D.B.



Member



Member


09.05.2019

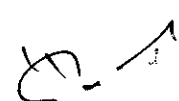
Nemo for the appellant. Mr. Riaz Paindakhel learned Assistant Advocate General alongwith Mr. Atif ASI for the respondents present. The learned Member (Executive) Mr. Hussain Shah is on leave, therefore, the bench is incomplete. Adjourned. To come up for rejoinder/arguments on 08.07.2019 before D.B.


(Muhammad Amin Khan Kundi)
Member

08.07.2019

Junior to counsel for the appellant and Addl: AG for respondents present. Junior to counsel for the appellant submitted rejoinder which is placed on file. Adjourned. Case to come up for arguments on 02.09.2019 before D.B.



Member

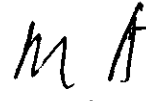

Member

02.09.2019

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mr. Zahid-ur-Rehman, Inspector (Legal) for the respondents present.

Learned District Attorney states that the present appeal was assigned to Mr. Kabirullah Khattak, Additional Advocate General who is not available today due to death of his father. He therefore requested for adjournment. Adjourned to 17.10.2019 for arguments before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

03.01.2019

Counsel for the appellant Shah Afzal present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Police Department, he was imposed major penalty of dismissal from service vide order dated 17.04.2009 on the allegation of absence from duty with effect from 20.08.2008. It was further contended that the appellant filed departmental appeal on 15.05.2009 which was rejected on 19.04.2010 thereafter, the appellant filed revision petition on 24.04.2010 which was not responded hence, the present service appeal on 03.10.2018. Learned counsel for the appellant further contended that the appellant was ill and it was beyond the control of the appellant to attend the duty. It was further contended that the impugned order of dismissal from service of the appellant was passed retrospectively from the date of absence therefore, the impugned order is illegal and liable to be set-aside.

The contention raised by the learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to limitation and all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notice be issued to the respondents for written reply/comments for 14.03.2019 before S.B.

Appellant Deposited
Security & Process Fee

(Muhammad Amin Khan Kundi)
Member

14.03.2019

Appellant alongwith counsel present. Mr. Saleem Superintendent representative of the respondents present and submitted written reply. Adjourn. To come up for rejoinder/arguments on 09.05.2019 before D.B.


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1215/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	03/10/2018	<p>The appeal of Mr. Shah Afzal presented today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 3/10/18</p>
2-	<p>4-10-18</p> <p>15-11-2018</p>	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>15-11-2018</u></p> <p style="text-align: right;"><i>MA</i> MEMBER</p> <p><i>Due to Retirement of Honorable Chairman the Tribunal is non functional therefore the case is adjourned to come up for the same on 3-1-2019</i></p> <p style="text-align: right;"><i>[Signature]</i> Reader</p>

SCANNED
KPST
Peshawar

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S.A No. 1215 /2018

Shah Afzal

versus

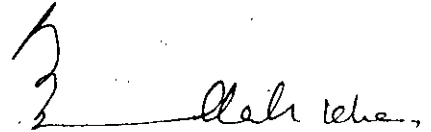
D.P.O & Others

I N D E X

S.#	Description of Documents	Anne	Page
1.	Memo of Appeal		1-3
2.	Medical Receipts	"A"	4-14
3.	Dismissal from service dated 17-04-2009	"B"	15
4.	Representation dated 15-05-2009	"C"	16
5.	Rejection order dated 19-04-2010	"D"	17
6.	Revision Petition dated 26-04-2016	"E"	18
7.	Reminder dated 18-09-2018	"F"	19

Appellant:

Through



Saadullah Khan Marwat
Advocate
21-A Nasir Mansion,
Shoba Bazaar, Peshawar.

Ph: 0300-5872676
0311-9266609

Dated: 22-09-2018

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. _____/2018

Shah Afzal S/O Khan Afzal,
R/o Darband Hangu,
Ex-Constable No. 196,
Police Line, Hangu Appellant

VERSUS

1. District Police Officer, Hangu.
2. Deputy Inspector General of Police,
Kohat Region Kohat.
3. Provincial Police Officer,
KP, Peshawar. Respondents

⊕<=>⊕<=>⊕<=>⊕<=>⊕

**APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT,
1974 AGAINST OFFICE ORDER NO. 277 DATED 17-
14-2009 OF R. NO. 1 WHEREBY APPELLANT WAS
AWARDED MAJOR PUNISHMENT OF DISMISSAL
FROM SERVICE FROM THE DATE OF HIS ABSENCE
OR OFFICE ORDER NO. 3778-79 / EC DATED 29-
04-2010 OF R. NO. 02 WHEREBY
REPRESENTATION OF APPELLANT WAS FILED:**

⊕<=>⊕<=>⊕<=>⊕<=>⊕

Respectfully Sheweth:

Short facts giving rise to the present appeal are as under:-

1. That appellant was appointed as Constable in June 2007 and served the department to the best of his ability and with devotion.
2. That in the year 2008, appellant got training from Police Training Centre Kohat and thereafter reported to police line kohat.

3. That appellant was transferred to Police Station Sadar and after serving the said station for one year he was deputed to Elite Course and on return he was directed to report to Police Line Hangu.
4. That appellant became ill and started treatment as per Medical receipts since 18-02-2009 till 15-02-2010. Finally the same was diagnosed a case of Hepatitis B as per Medical specialist report dated 15-02-2010, etc. (Copies as annex "A")
5. That on 17-04-2009 major punishment of dismissal from service from the date of absence i.e. 20-08-2008 was imposed by R. No. 01. (Copy as annex "B")
6. That on 15-05-2009, appellant submitted departmental appeal for reinstatement in service before R. No. 02, followed by subsequent application which was filed / rejected on 19-04-2010. (Copies as annex "C" & "D")
7. That appellant submitted Revision petition before R. No. 03 for reinstatement in service, followed by reminder dated 18-09-2018 for the said purpose but in vain. (Copies as annex "E" & "F")

Hence this appeal, inter alia, on the following grounds:-

GROUND S

- a. That appellant never absented from duty willfully but he was and was diagnosed as a case of Hepatitis B as per Medical specialist.
- b. That appellant was neither served with any Notice, Charge Sheet, Final Show Cause Notice, so he was condemned unheard.
- c. That neither any enquiry was conducted nor any statement was recorded in presence of appellant nor he was afforded opportunity of cross-examination.
- d. That the impugned order was passed with retrospective effect while on the other hand, no such order could be passed in the aforesaid manner.

- e. That the impugned order is illegal and ab-initio void, so the same was effected retrospectively, so no limitation runs against void order.
- f. That absence, if any, and that too not willful, does not constitute misconduct. The impugned orders are not per the mandate of Law, so are based on malafide and requires interference.

It is, therefore, most humbly prayed that on acceptance of the appeal, orders dated 17-04-2009 and 19-04-2010 of the respondents be set aside and appellant be reinstated in service with all back benefits, with such other relief as may be deemed proper and just in circumstances of the case.

شاه

Appellant

Through

شاه

Saadullah Khan Marwat

شاه

Amjad Nawaz
Advocates,

Dated 22--09-2018

A

4

18-2-0



H No: 825/19, F-Block
 Satellite Town Rawalpindi.
 Tel: 92-51-8087616/4580304
 Mob: 0321-5000616
 Fax: 92-51-4580204

FMDC No **8429-19**

Name.	Shah Afzal	Age	23 Years	Sex	Male
Referred by	Dr Noor ul Iman	Contact	-	Reporting Date	25/02/09
Source Of Sample	Blood(sample was brought to the lab)	Receiving Date			18/02/09
Request	HBV DNA GENOTYPING				

Interpretation	HBV GENOTYPE "UNTYPLABLE"
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METHODOLOGY:

DNA extracted from 200ul of serum and was subjected to two rounds of PCR amplification with nested pairs of primer. The 1st round utilized the outer primers specific for the PreS1 & S regions of HBV genome. The 2nd round was performed with one universal inner-sense and genotype-specific anti-sense primers. The amplified specific target sequence for particular genotypes was detected by agarose gel electrophoresis.

COMMENTS:

Presently, HBV can classified into eight (A-H) major genotypes and a series of subtypes. Different hepatitis B virus (HBV) genotypes are associated with different profiles of pathogenicity, infectivity, and response to antiviral therapy (*Kao et. al., 2002 Hepato! 17:643-650*). HBV genotype C has been associated with Hepatocellular carcinoma (*Orito et. al., 2001 Hepatology 34:590-594*) and genetic recombination with this genotype might render genotype B strains more pathogenic and more carcinogenic. Genotypic effects on the treatment response shows that genotype B is associated with better response to interferon compared with genotype C while patients with genotype D have a lower response rate to Interferon compared with genotype A. Genotype D is the most widely distributed genotype and has been found universally but predominates in the Mediterranean area. Genotype A infected patients responded better to Interferon treatment than those infected with genotype D or E (*Zhang et. al., 1996*)

Electronically verified report requires no signature

Real-Time PCR, Histopathology, Cytopathology, Hematology, Microbiology, Chemical Pathology, Immunology, Endocrinology, Viral Markers, Drug Monitoring

COLLECTION CENTER
 Rescue 15
 G-3/A Islamabad

COLLECTION CENTER
 Shop: 2678, Near
 Milled Chowk,
 Saddar Rawalpindi.

INCORRECT RESULT
 Please feel free to call within 48 hours
 for a free repeat of any blood test

This report is solely based on the sample received and needs clinical correlation.
 The referring physician may contact reporting pathologist for detailed discussion.
 Not valid for court use.

Web : www.fatimalabs.com e-mail : info@fatimalabs.com



18-2-09

H No: 825/19, F-Block
Satellite Town, Rawalpindi.
Tel: 92-51-8097616/4580304
Mob: 0321-5000616
Fax: 92-51-4580204

FMDC No. 8429-19
Name Shah Afzal Age 23 Years Sex Male
Referred by Dr Noor-ul-Iman Contact - Reporting Date 25/02/09
Source Of Sample Blood(sample was brought to the lab) Receiving Date 18/02/09

Request HBV DNA QUANTIFICATION

Interpretation < 3.8 IU/ml

Method (ROTOR-GENE™ RT-PCR)

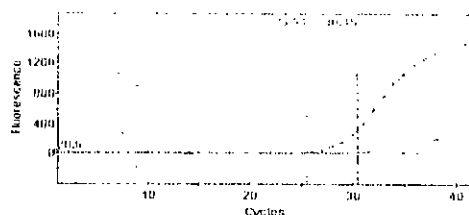
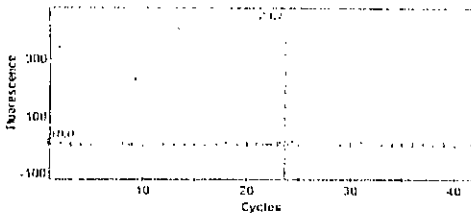
HBV DNA was extracted from patient plasma and amplified by Real-Time PCR. Amplification and detection was carried out simultaneously by ROTOR GENE 6000 the world's only rotary real-time thermo-optical analyser using kits from QIAGEN, Germany an ISO Certified manufacturer of In-Vitro Real-Time PCR kits (ISO 9001, ISO 13485, ISO 17025).

Positive, Negative & Internal Controls were applied

Comments

By using Real-Time PCR, we developed & validated a rapid, sensitive, specific and reproducible method for the detection and quantification of Hepatitis B Virus (HBV) DNA in Plasma. This method allowed us to screen plasma & Serum Samples over a range 3.8 IU/ml to 4x10⁹ IU/ml

Graph



Electronically verified report requires no signature

Real-Time PCR, Histopathology, Cytopathology, Hematology, Microbiology, Chemical Pathology, Immunology, Endocrinology, Viral Markers, Drug Monitoring

COLLECTION CENTER
Rescue 4/5
G-04 Islamabad

COLLECTION CENTER
Shop: 2679, Near
Miltad Chowk
Saddar Rawalpindi.

INCORRECT RESULT
Please feel free to call within 48 hours
for a free repeat of any blood test

This report is solely based on the sample received and needs clinical correlation
The referring physician may contact reporting pathologist for detailed discussion
Not valid for court use
Web: www.fatimalabs.com mail: info@fatimalabs.com

6

18-2-09



H No: 825/19, F-Block
 Satellite Town, Rawalpindi.
 Tel: 92-51-8087616/4580304
 Mob: 0321-5000616
 Fax: 92-51-4580204

FMDC No: 8429-19
 Name: Shah Afzal Age: 23 Years Sex: Male
 Referred by: Dr. Noor Ul Iman Contact: Reporting Date: 25/02/09
 Source Of Sample: Blood (The sample was brought to the lab) Receiving Date: 18/02/09

VIROLOGY REPORT

HBeAg: Non-Reactive
 Cut Off Value: 1.00
 Patient value: 0.641

Anti HBe: Reactive
 Cut Off Value: 1.00
 Patient value: 0.665

Interpretation of results for Anti HBe: Patient value less than cut off value.
 Result considered reactive. Patient value greater than cut off value, result
 considered non-reactive.

Pathologist
 Prof. Dr. Waqar Iqbal
 MBBS, MCPS, M.Phil, PhD
 Chief Pathologist/Hematologist

Asst. Prof Dr. Sami Saeed
 MBBS, MCPS, M.Phil, PhD
 Chemical Pathologist

Dr. Masood Khan
 MBBS, MCPS, M.Phil
 Histopathologist

Real-Time PCR, Histopathology, Cytopathology, Hematology, Microbiology, Chemical Pathology, Immunology, Endocrinology, Viral Markers, Drug Monitoring

COLLECTION CENTER
 Rescue - 1
 G-8/4 Islamabad

COLLECTION CENTER
 Shop: 2678, Near
 Millau Chowk,
 Saadgarh Rawalpindi

INCORRECT RESULT
 Please feel free to call within 48 hours
 for a free repeat of any blood test

This report is solely based on the sample received and needs clinical correlation.
 The referring physician may contact reporting pathologist for detailed discussion.
 Not valid for court use.

Web: www.fatimalabs.com; e-mail: info@fatimalabs.com



7

18-2-09

H No: 825/19, F-Block
Satellite Town, Rawalpindi.
Tel: 92-51-8087616/4580304
Mob: 0321-5000616
Fax: 92-51-4580204

FMDC No. 8429-19
Name Shah Afzal Age 23 Years Sex Male
Referred by Dr. Noor Ul Iman Contact Reporting Date 23/02/09
Source Of Sample Blood (The sample was brought to the lab) Receiving Date 18/02/09

VIROLOGY REPORT

Anti HDV:
(IgM + IgG) Negative
Patient value: 0.602
Negative: > 0.455
Gray Zone: 0.35 - 0.455
Positive: < 0.35

Pathologist
Prof Dr. Waseem Iqbal
MBBS, MCPS, M.Phil, PhD
Chief Pathologist/Hematologist

Asst. Prof Dr. Sami Saeed
MBBS, MCPS, M.Phil, PhD
Chemical Pathologist

Dr. Masood Khan
MBBS, MCPS, M.Phil
Histopathologist

Real-Time PCR, Histopathology, Cytopathology, Hematology, Microbiology, Chemical Pathology, Immunology, Endocrinology, Viral Markers, Drug Monitoring

COLLECTION CENTER
Rasool - 15
G-3/4 Islamabad

COLLECTION CENTER
Shop: 3678, Near
Millaad Chowk,
Sardar Rawalpindi.

INCORRECT RESULT
Please feel free to call within 48 hours
for a free repeat of any blood test

This report is solely based on the sample received and needs clinical correlation.
The referring physician may contact reporting pathologist for detailed discussion.
Not valid for court use.

Web : www.fatimalabs.com E-mail: info@fatimalabs.com

ITTEHAD

Computerized Clinical Laboratory

Near DHQ Hospital Hangu
Ph: 0925-620202



TECHNICAL STAFF

Technologist

Lab Incharge

Lab. Asstt:

Date

```

*****
NAME:SHAHZIB                               AGE: 2                               SEX: MALE
TEST REQUESTED: HBSAg BY ELISA.            DATE: 13-Mar-09
ADVISED BY: SHARIF LAB HANGU
*****

```

HBS Ag By Elisa

```

HBS Ag TEST IS ..... (REACTIVE)
PATIENT INDEX VALUE ..... (0.0)
CUT OFF INDEX FOR NON REACTIVE ..... 2.0

```

NOTE: NOW AVAILABLE HBSAg RUC BY ELISA 3RD GENERATION

Signature

اتحاد کمپیوٹر ایزڈ کلینیکل لیبارٹری اینڈ بلڈ ٹرانسفیوژن سنٹر نزد ڈسٹرکٹ ہیڈ کوارٹر ہسپتال ہنگو۔ فون: 620202

City Medical Laboratory

G.75, 76, 77, Auqaf Plaza, Daigari Garden Peshawar.
Phone: 091-2219651 Fax. 091-256-8690
E-mail: info@citylab.com.pk URL: www.citylab.com.pk



ADMINISTRATOR
A. Latif Malik
Microbiologist
MIASCP, CLS (INCAI) MTISFHI USA

CONSULTANTS:
Dr. Nizam ud Din Khan
MBBS, FCPS, Ph. D. (Histopathology)
Prof. Dr. Liaqat Ali
MBBS, DCP, M. Phil (Microbiology)
Dr. Fazal-ur-Rehman
MBBS, DCP, M. Phil (Haematology)

9

17-3-09

PATIENT ID	: 903024099	REPORT NO	: 103443
PATIENT	: SHAH AFZAL	DATE / TIME	: 17/03/09 17:49:47
SEX	: Male	AGE	: 23 Yr
REFERRED BY	: TTEHAD LAB	SPECIMEN	: Blood
TEST REQUIRED	: HBsAg/HBeAg/HBeAb		

RESULT

HBsAg Reactive(120)
Cut of index for Non-Reactive HBsAg..... 2
METHOD: Microparticle Enzyme Immunoassay (MEIA)
(3rd Generation ELISA)

HBeAg Non_Reactive(0.21)
Cut of index HBeAg..... 1
METHOD: Microparticle Enzyme Immunoassay (MEIA)
(3rd Generation ELISA)

ANTI HBe ANTIBODY Reactive(0.01)
Cut of Index for Reactive Anti HBeAB Total..... <1
METHOD: Microparticle Enzyme Immunoassay (MEIA)
(3rd Generation ELISA)



Haematologist
Dr. FAZAL-UR-REHMAN
M.B.B.S., D.C.P.
M. Phil (Haematology)

All queries/Discrepancies if any may be referred to our lab, within 24 Hrs. of reporting for re-evaluation / confirmation.

Collection Points

- PESHAWAR Karachi Market, Shop No 08, Ph: 091-2563876
- PESHAWAR Ali Medical Centre Opposite LRH OPD, Ph: 091-2554022
- PESHAWAR Noor Plaza University Road, Ph: 091-5701918
- PESHAWAR BLOUR Plaza, Hashtnagh G.T. Road, Ph: 091-5004259
- KOHAT Behram Medical Centre Opposite Company Bldg Hangu Road, Ph: 0922-522291
- MARDAN Gul Market Near Municipal Committee Shamsi Road, Ph: 0937-876491
- SAWABI Near Jamal Medical Centre, Ph: 0938-223691
- PABBI Opposite Pudo: Hospital, GT Road, Peshawar, Ph: 0923-529400
- KOWSHERA Raheel Plaza, Cavalry Road, Nowshera Cantt Ph: 0923-613402

Note : See Reverse for Terms & Conditions.

City Medical Laboratory

G.75, 76, 77, Auqaf Plaza, Dabgari Garden Peshawar,
Phone: 091-2219651 Fax: 091-256-8690
E-mail: info@citylab.com.pk URL: www.citylab.com.pk



ADMINISTRATOR
A. Latif Malik
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MIASCP) CLS (NCA) MT(SFH) USA

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Prof. Dr. Liaqat Ali
MBBS, DCP, M. Phil (Microbiology)
Dr. Fazal-ur-Rehman
MBBS, DCP, M. Phil (Haematology)

PATIENT ID : 903024100	REPORT NO : 11781
PATIENT NAME : SHAH AFZAL	DATE/TIME : 28/03/09 11:18:30
SEX : Male	AGE : 23 Yr 0 /M
REFERRED BY : ITEHAD LAB	SPECIMEN : Blood

P C R REPORT

Result: Hepatitis B Virus DNA Detected

METHOD

This assay involves isolation of HBV DNA from 100ul serum, hemi-nested PCR amplification of target sequence and screening. After the amplification of target DNA by the 1st set of external HBV specific oligonucleotide primers, a second round of PCR was performed using oligonucleotide primers out of which was nested to the first set of primers. This set was also specific to the HBV sequence. Amplimers were subjected to Agarose gel electrophoresis, stained with ethidium bromide and visualized on UV transilluminator. When HBV specific bands were visualized in lanes corresponding to the positive HBV control products were observed in lanes corresponding to patient's specimen. This result suggests the presence of detectable HBV in the 100ul serum aliquot that analyzed in this assay.

COMMENTS/NOTE

This hemi-nested PCR test has a sensitivity of about 92% and specificity of sometimes, a false negative result may occur if: 1) the patient strain HBV has mutated in target sequence, 2) the titer of virus is below the sensitivity of the assay. It is also important to note that a negative HBV-DNA PCR does not rule out a past HBV infection, for which serological tests may be positive.



MICROBIOLOGIST
A. LATIF MALIK
MT (ASCP) USA
CLS (NCA) USA

All queries/Discrepancies if any may be referred to our lab, within 24 Hrs. of reporting for re-evaluation / confirmation.

Collection Points

- PESHAWAR
Karachi Market,
Shop No 08
Ph: 091-2563676
- PESHAWAR
Ali Medical Centre
Opposite LRH OPD
Ph: 091-255-022
- PESHAWAR
Noor Plaza
University Road
Ph: 091-5701914
- PESHAWAR
Bilour Plaza,
Hashtnagri G.I. Road,
091-5004259
- KOHAT
Behram Medical Centre
Opposite Company Bagh
Hangu Road
Ph: 0922-522291
- MARDAN
Gul Market Near
Municipal Committee
Shamsi Road,
Ph: 0937-876191
- SAWABI
Near Jamai Medical
Centre,
Ph: 0928-223691
- PABBI
Opposite Fudor
Hospital, GT Road,
Peshawar
Ph: 0923-525400
- NOWSHERA
Rabeel Plaza,
Cavary Road
Nowshera Cantt
Ph: 0923-615402

Note : See Reverse for Terms & Conditions

11

15-5-09

ITTEHAD

COMPUTERIZED MEDICAL LABORATORY

NEAR D.H.Q. HOSPITAL HANGU

PH: 0925-620202



TECHNICAL STAFF

Technologist
Farman Asad
Lab. Assitt:
Saif Sohail

NAME: SHAH AFZAL AGE: 00Yrs SEX: MALE
TEST REQUESTED: HBS Ag. DATE: 15-May-09
ADVISED BY: Dr: FIDA MUHAMMAD (MEDICAL SPECIALIST).

TEST:	RESULT:
HBS Ag:	(POSITIVE)

NOTE: NOW AVAILABLE HBSAg & HCV BY ELISA 3rd GENERATION.

[Handwritten Signature]
Signature

اتحاد کمپیوٹرائزڈ میڈیکل لیبارٹری - نزد سول ہسپتال ہنگو فون: 0925-620202

12

31-5-09

ITTEHAD

Computerized Clinical Laboratory

Near DHQ Hospital Hangu

Ph: 0925-620202



TECHNICAL STAFF

Technologist

Lab Incharge.

Lab. Asstt.

Date:

NAME: SHAH AFZAL AGE: 00Yrs SEX: MALE

TEST REQUESTED: SGPT DATE: 31-Mar-09

ADVISED BY: Dr. FIDA MUHAMMAD (MEDICAL SPECIALIST).

TEST:	RESULT	NORMAL VALUE
SGPT (ALT)	25 U/L	UPTO----- 40 U/L

NOTE: NOW AVAILABLE TB SAq & TR V BY ELISA 3rd GENERATION


Signature

اتحاد کمپیوٹرائزڈ کلینیکل لیبارٹری اینڈ بلڈ ٹرانسفیوژن سنٹر نزد ڈسٹرکٹ ہیڈ کوارٹر ہسپتال ہنگو۔ فون: 620202

ITTEHAD
COMPUTERIZED MEDICAL LABORATORY
NEAR D.H.Q. HOSPITAL HANGU
PH: 0925-620202



17-8-09

TECHNICAL STAFF
Technologist
Farman Asad
Lab. Assitt:
Saif Sohail

NAME: SHAH AFZAL AGE: 00Yrs SEX: MALE
TEST REQUESTED: HBS Ag. DATE: 17-Aug-09
ADVISED BY: Dr. FIDA MUHAMMAD (MEDICAL SPECIALIST).

TEST:	RESULT:
HBS Ag:	(POSITIVE)

NOTE: NOW AVAILABLE HBSAg & HCV BY ELISA 3rd GENERATION

Signature
Signature:

0925-620202: نزد سول ہسپتال ہنگونون: اتحاد کمپیوٹرائزڈ میڈیکل لیبارٹری

14

15.2.10



Dr. Fida Muhammad

MBBS, FCPS

Medical Specialist

Liaquat Memorial Hospital Kohat.

Clinic: Near Civil Hospital Hangu.

Mob # 0333-9679879

MEDICAL FITNESS CERTIFICATE

It is certified that Mr. Shah Afzal s/o Khan Afzal visited our clinic on 15/09/2008 with the following complains.

Fever with yellow discoloration of eyes for 10 days

Generalized aches & pains for 07 days

Asthenai for 05 days

He was investigated and diagnosed as a case of **Hepatitis B**.

Then certain specialized investigations were advised.

Treatment was given for 06 months with success like clearance of **HBeAg** and appearance of anti **HB e** (seroconversion) but clearance of **HBsAg** did not occur.

He was given tablet adefovir dipivoxil (Hepsera) for 06 months.

Now certain advanced investigation like **HBV DNA VIRUS LOAD** is awaited.

ڈاکٹر فدا محمد

Dr Fida Muhammad
Medical Specialist
LMH, Kohat.

Dated 15/02/2010

ڈاکٹر فدا محمد

میڈیکل سپیشلسٹ

لیاقت میموریل ہسپتال کوہاٹ

کلینک: نزد سول ہسپتال ہنگو

B

15
ORDER

17-4-09

This order of mine will dispose off the departmental enquiry initiated against Constable Shah Afzal No. 196 on the basis of allegations that he while nominated for Elite Course at Punjab Regiment Mardan absented himself from the said course with effect from 20.08.2008 till now without prior permission or leave.

Charge sheet together with statement of allegations was issued to him, to which he failed to submit his reply. Mr. Shah Ali Kiyani, DSP (HQrs), Hangu was appointed as Enquiry Officer to conduct departmental enquiry against him under NWFP Removal from Service (SPECIAL POWERS) Ordinance 2000. Consequent upon the transfer of Enquiry Officer, the enquiry file was entrusted to Inspector Legal Ishaq Gul for further proceedings. After completion of enquiry, the Enquiry Officer submitted his findings on 10.04.2009 and recommended him for major punishment.


Thereafter, Final Show Cause Notice was issued to him but he failed to submit his reply. He was called in Orderly Room, but did not turn up.

Keeping in view of above and having gone through available record, the undersigned has come to the conclusion that the defaulter constable absented himself from duty, failed to appear and defend himself, which indicates that he was not interested to serve further. Moreover, in these circumstances his retention in Police Department is burden on public exchequer, therefore, I, Sher Akbar, PSP, S.St District Police Officer, Hangu in exercise of the powers conferred upon me, awarded him major punishment of Dismissal from Service from the date of his absence.

Order Announced.

OB No. 277

Dated 17-4/2009.


(SHER AKBAR)
PSP, S.St
DISTRICT POLICE OFFICER,
HANGU.

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU.

No. 2684-87 /PA, dated Hangu, the 18/04/2009.

Copy of above is submitted to the Dy: Inspector General of Police, Kohat Region, Kohat for favour of information please.

2. Pay Officer, Reader, SRC & OHC for necessary action.


DISTRICT POLICE OFFICER,
HANGU.

پروفیسر صاحب دہلی (جی ایم ایف) کوٹہ

بھائی بھائی ملازمت

طیاب علی

۱۔ گزشتہ سال ۲۰۰۷ میں بحیثیت کپٹن
بھرتی ہوا۔ اور پھر سال ۲۰۰۸ء میں پولیس ٹریننگ کالج
سے ٹریننگ حاصل کی۔ بعد ازاں ایلیٹ کورس کے لئے منتخب ہوا۔

۲۔ یہ سائبل سائبل نرفان بیمار لگا کا شکار ہوا۔ اور
مورخہ ۱۷/۰۹ کو غیر فوری طور پر ۲۰/۰۸ سے ہر طرف کیا۔

۳۔ یہ سائبل کی غیر فوری تعداد نہ تھی بلکہ بیمار کا تھی
تیز حرکت تو اندر و خواہد پر عمل نہ کیا اور سیدھا سرکار سے
پرکھنی کا حکم جاری کیا۔

۴۔ یہ حکم مورخہ ۱۷/۰۹ کو سابقہ کوارج سے جاری کیا گیا۔
جو سر انسپکٹوریہ میں دیا گیا۔

۵۔ یہ حکم مورخہ ۱۷/۰۹ کو کالعدم قرار دیکر سائبل
سائبرنگ کے لئے کو سرکار پر بحال کرنا کا حکم صادر فرمایا جاوے۔

الکافور شاہ افضل مورخہ ۱۵-۵-۰۹

شاہ افضل ولد خان افضل سکنہ درنیدہ پٹنلو،
سالینہ کپٹن عمر ۱۹۶۶، پولیس لائن، پٹنلو

POLICE DEPARTMENT

KOHAT REGION.

ORDER.

This order will dispose off the application of Ex. Constable Shah Afzal No.196 of District Police Hangu. Wherein he requested that the punishment awarded to him e.g dismissal from Service vide DPO Hangu, OB No.277 dated 17.04.2009 may be set-aside and he may kindly be reinstated in service.

Brief facts of the allegation are that the defaulter constable while nominated for Elite course at PRC Center Mardan absented himself from the said course w.e.f 20.08.2008 till the date of dismissal i.e. 17.04.2009.

He was dealt departmentally Under Removal from Service (Special Powers), Ordinance 2000. Charge Sheet & Statement of Allegation was issued and Inspector Legal Ishaq Gul, was appointed as Enquiry Officer. The Enquiry Officer submitted his findings and recommended him for one of the major punishment as laid down in the aforesaid ordinance.

Final Show Cause Notice was issued to him but he failed to reply. He was called in Orderly Room by the DPO Hangu but he did not turn up.

On the recommendation of Enquiry Officer the DPO Hangu vide OB No.277 dated 17.04.2009 awarded him a major punishment of dismissal from service.

He was heard in person on 19.04.2010 in Orderly Room held in this office but he failed to give any satisfactory account in his defence.

From the perusal of his Service Record and other relevant papers, the undersigned has examined the application and the same is hereby filed being time barred.

ORDER ANNOUNCED.
19.04.2010

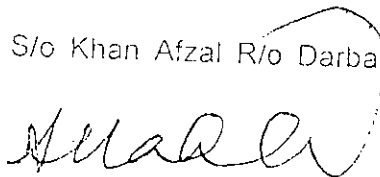
(ABDULLAH KHAN) PSP
Dy: Inspector General of Police,
Kohat Region, Kohat.

No. 3778-78 /EC, dated Kohat the 29/04 /2010.

Copy of above for information and necessary action to the District Police Officer, Hangu w/r to his Memo: No.1290/LB, dated 05.04.2010. His service record is also enclosed herewith for record which may please be acknowledged.

2
District Hangu.

Ex-Constable Shah Afzal No.195 S/o Khan Afzal R/o Darband


(ABDULLAH KHAN) PSP
Dy: Inspector General of Police,
Kohat Region, Kohat.

E 18

To,

Provincial Police Officer/
Appeal Revision Board,
KP, Peshawar.

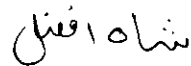
Subject: REQUEST FOR REINSTATEMENT IN SERVICE:

Respectfully Sir,

1. That after observing the due codel formalities of Law, appellant was enlisted in service in June 2007. He also qualified his training from Police Training Centre Kohat.
2. That thereafter appellant served in various Police Stations for about five (03) years without any complaint.
3. That appellant fell seriously ill and was unable to perform his duties.
4. That on account of the aforesaid score appellant was dismissed from service vide order dated 19-04-2009.
5. That after recovery, appellant submitted representation before Regional Police Officer, Kohat which was rejected on 19-04-2010.
6. That appellant was neither served with Charge Sheet, Statement of Allegation nor any enquiry was conducted, appellant was never associated with enquiry proceedings and was also not served with Final Show Cause Notice, so the impugned orders are ab-initio-void.

It is therefore most humbly requested that the impugned orders mentioned above be set aside and I be reinstated in service with all back benefits.

Yours obediently,



Shah Afzal S/O Khan Afzal,
R/o Darband Hangu,
Ex-Constable No. 196,
Police Line, Hangu

Dated 26-04-2010

F 19

To,

Provincial Police Officer
KP, Peshawar.

Subject: REMINDER / REINSTATEMENT IN SERVICE:

Respectfully Sir,

1. That applicant was enlisted in service June 2007 and served the department till the date of removal from service.
2. That applicant submitted departmental appeal on 26-04-2010 for reinstatement in service to the Appeal / Review Board but so far no action was taken. (Copy Attached)
3. That details for reinstatement in service have been fully mentioned in the departmental appeal which requires my honor kind consideration.

It is therefore most humbly requested that the impugned orders mentioned in my departmental appeal be set aside and I be reinstated in service with all benefits.

Yours obediently,

Shah Afzal

Shah Afzal S/O Khan Afzal,
R/o Darband Hangu,
Ex-Constable No. 196,
Police Line, Hangu
Cell No. 0333-9677803

Dated 18-09-2018

No. 629

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgment is due.

Received a registered* addressed to _____

Shah Afzal Date-Stamp

Initials of Receiving Officer _____ *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) _____ (in words) _____

insured { Insurance fee Rs. _____ Weight _____ Kilo _____ Grams _____ } Name and address _____

یعدالت جناب سرسٹریٹجیٹل صوبہ سندھ پشاور

منجانب ایڈوائٹ

بنام محکمہ پولیس

شاہ افضل

دعویٰ اپیل

پسندیدہ شکر یہ ایٹک

مستندہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکیل کاروائی متعلقہ آن مقام پشاور کیسٹم اسٹیشن آفیسر خان سرودتے ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہو گا نیز وکیل صاحب کو کرنے راضی نامہ و تقرر ثالث و فیصلہ بر عطف دینے جواب دہی اور اقبال دعویٰ اور لکھنؤ ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور مرضی دعویٰ اور درخواست ہر قسم کی تعلیق اور اس پر دستخط کرنے کا اختیار ہو گا نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور مستردی نیز دائر کرنے اپیل نگران و نظر ثانی و پیروی کرنے کا اختیار ہو گا اور بصورت ضرورت مقدمہ بیکار کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہو گا اور اس میں مقرر شاہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پیر واختہ منظر اول قبول ہو گا و دوران مقدمہ میں جو خرچہ و پر جانہ التوا مقدمہ کے سبب سے ہو گا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہو گا اگر کوئی تاریخ پیشی مقام روہہ پر ہو یا عدت سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔

لکھنؤ وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم

العبد

العبد

العبد

ارباب آف اکمال
ایڈووکیٹ

del dia
مسندہ اللہ محمد خان مرشد
ایڈووکیٹ

شاہ افضل

من رویتہ تاریخ
ایڈووکیٹ

محمد
وکیل نواز ایڈووکیٹ

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service appeal No. 1215/2018
Shah Afzal No. 196

.....Appellant

VERSUS

District Police Officer, Hangu & others

..... Respondents

INDEX

S N	Description of documents	Annexure	pages
1.	Reply Parawise comments	-	01-03
2.	Counter affidavit	-	04
3.	Copy of DD No. 5 dated 17.08.2008	A	05
4.	Copy of order on second departmental appeal	B	06
5.	Copy of letter No. 3932-33 dated 03.10.2018	C	07

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1215/2018
Shah Afzal No. 196

..... Appellant


VERSUS

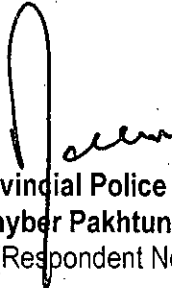
District Police Officer, Hangu & others


..... Respondents

COUNTER AFFIDAVIT

We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Tribunal.


Dy: Inspector General of Police,
Kohat Region Kohat
(Respondent No. 2)
Deputy Inspector General of Police
Regional Police Officer
Kohat Region


Provincial Police Officer,
Khyber Pakhtunkhwa,
(Respondent No. 3)


District Police Officer,
Hangu
(Respondent No. 1)

**BEFOURE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR**

Service Appeal No. 1215/2018

Shah Afzal.....(Appellant)

Versus

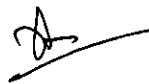
District Police Officer, Hangu & others.....(Respondents)

PARAWISE COMMENT ON BEHALF OF RESPONDENTS.



Para-wise Comments & Counter Affidavit prepared by Legal Branch of District Police Officer, Hangu and signed by remaining respondents is submitted for favour of signature as Respondent No.03 (Worthy Inspector General of Police Khyber Pakhtunkhwa Peshawar) The drafted vetted by Assistant Advocate General Khyber Pakhtunkhwa Service Tribunal Peshawar placed at F/A please.


SP Court & Litigation

DIG/HQrs: please.



W/IGP please.



27/2/15

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service appeal No. 1215/2018
Shah Afzal No. 196

.....Appellant

VERSUS

District Police Officer, Hangu & others

..... Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.

Respectively Sheweth:-

Parawise comments are submitted as under:-

Preliminary Objections:-

- a) That the appellant has got no cause of action.
- b) That the appellant has got no locus standi.
- c) That the appeal is not maintainable in the present form.
- d) That the appellant is estopped to file the instant appeal for his own act.
- e) That the appellant has not come to this Hon. Tribunal with clean hands.
- f) That the second departmental appeal of the appellant was dismissed on 08.03.2011, against which the appellant has not sought any relief / remedy. Therefore, the appeal is not maintainable.
- g) That the appellant willfully slept over his rights, if any and did not approach this Honorable Tribunal in time, therefore, the appeal is badly time barred.
- h) That the appellant has not filed application for condonation of willful delay in lodging service appeal.

FACTS:-

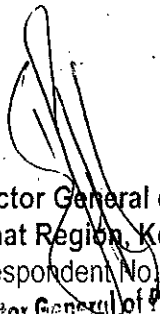
1. The appellant was enlisted as constable on 25.07.2007. During his one year service, the appellant willfully absented himself i.e 20.08.2008. Furthermore, the appellant was sent for basic recruit course and failed the said course.
2. The appellant failed basic recruit course held at Police Training College Hangu for the term ending 05.01.2008.
3. The appellant was detailed for Elite course, he deliberately did not attend the course and reported absent vide Police Lines Hangu, daily diary No. 5 dated 17.08.2008. Copy is **annexure A**.
4. Incorrect, the appellant made a concocted story of his illness. The appellant did not submit any application for leave. The appellant was required to follow the law and rules, but failed.

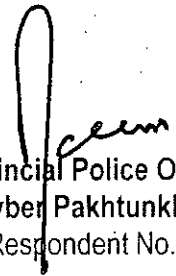
5. The appellant neither made his arrival report to his place of posting, nor joined the inquiry proceedings. On completion of all codal formalities, the appellant was awarded punishment of dismissal from service. It is added that the appellant had about only one year service.
6. The appellant filed a time barred departmental appeal to the respondent No. 2, which was processed. He was called for personal hearing in orderly room on 19.04.2010, but the appellant did not appear before the appellate authority. Therefore, the departmental appeal was filed. The appellant again failed second departmental appeal to the same authority. The appellant was heard in person on 08.03.2011, but could not submit any satisfactory account in his defense. The same was dismissed vide order dated 08.03.2011. Copy of order on second departmental appeal of the appellant is **annexure B**.
7. Incorrect, the revision petition of the appellant dated 26.04.2010 seems fake, however, the appellant submitted remainder dated 18.09.2018 only to cover the limitation, however, the same was filed being time barred vide order dated 03.10.2018 and the appellant was informed accordingly. Copy is **annexure C**.


GROUNDS:-

- a. Incorrect, the appellant willfully absented himself from duty, did not make his arrival report to his place of posting, nor join the departmental proceedings and did not appear before the appellate authority.
- b. Incorrect, charge sheet alongwith statement of allegation was issued against the appellant but his whereabouts was not ascertained.
- c. Incorrect, proper departmental inquiry was conducted against the appellant under the law & rules.
- d. The appellant deliberately did not join the inquiry proceedings till the disposal of inquiry by the competent authority. Therefore, there was no other option except to pass the impugned order in the interest of department.
- e. Incorrect, the impugned orders were passed in accordance with law & rules.
- f. Incorrect, the appellant deliberately / willfully absented himself from lawful duty. Furthermore, filing of delayed departmental and service appeal also speaks of disinterest of the appellant in serving.

In view of the above, it is submitted that the appellants had served about **one year** in Police department (from the date of appointment and absent date 20.08.2008), failed basic recruit course. The appeal is devoid of merits without any substantiate and badly time barred. It is, therefore, prayed that the appeal may kindly be dismissed with cost please.


Dy: Inspector General of Police,
Kohat Region, Kohat
(Respondent No. 2)
Deputy Inspector General of Police
Regional Police Officer
Kohat Region


Provincial Police Officer,
Khyber Pakhtunkhwa,
(Respondent No. 3)


District Police Officer,
Hangu
(Respondent No. 1)

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S. A. No. 1215 /2018

Shah Afzal

versus

D.P.O & Others

REPLICATION**Respectfully Sheweth,****Preliminary Objections:**

All the preliminary objections are illegal and incorrect. No reason in support of the same is ever given as to why appellant has no cause of action, locus standi, appeal is not maintainable, estoppel, unclean hands, relief was sought, being void order, appellant can approach any time for relief to the Tribunal and void order needs no limitation.

ON FACTS

1. Not correct and if he absented himself in initial period of service of one year as stated by the respondents then he should not be dismissed from service but to discharge him as such.
2. As above.
3. Not correct. He attended the course and remained there for one year.
4. Not correct. The para not concocted but the same is supported by proof of medical receipts by Medical Specialist diagnosing the same as Hepatitis.
5. Not correct. The para is without proof regarding conduct of enquiry and more so, he should have been discharged from service and not to dismiss him as per law.
6. Not correct. Representation was filed well within time which was not decided, so subsequent application was filed which was rejected.
7. Not correct. The revision petition of appellant is quite genuine preferred to the authority with postal receipt.

GROUNDS:

All the grounds of the appeal are legal and correct, while that of the comments are illegal and incorrect. The same are once again relied upon. The impugned order is void as is evident from the same which does not hit by limitation.

It is, therefore, most humbly prayed that the appeal be accepted as prayed for.

شہ آفzul

Appellant

Through

شہ آفzul

Saadullah Khan Marwat

Advocate,

Dated: 08-05-2019

AFFIDAVIT

I, **Shah Afzal**, appellant do hereby solemnly affirm and declare that contents of the **Appeal & replication** are true and correct to the best of my knowledge and belief while that of reply of respondents are illegal and incorrect.

I reaffirm the same on oath once again to be true and correct as per the available record.

شہ آفzul

DEPONENT