

10.07.2023


Learned counsel for the appellant present. Mr. Gul Zameen, Inspector (Legal) alongwith Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

Learned counsel for the appellant sought adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 15.09.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED  
KUST  
Peshawar

\*Naeem Amin\*

  
(Rashida Bano)  
Member (J)

  
(Salah-ud-Din)  
Member (J)

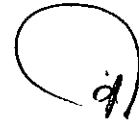
26.04.2023

Appellant present through counsel.

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

**SCANNED**  
**KPST**  
**Peshawar**

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.



(Rozina Rehman)  
Member (J)


\*Mutazem Shah\*

23<sup>rd</sup> May, 2023

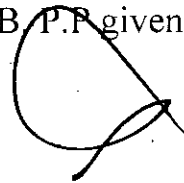
1. Learned counsel for appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General for respondents present.

2. 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.

**SCANNED**  
**KPST**  
**Peshawar**



(Fareeha Paul)  
Member (E)



(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah\*

09.01.2023

Counsel for the appellant present. Mr. Asif Masood Ali Shah,

Deputy District Attorney for the respondents present.

SCANNED  
KPST  
Peshawar

Learned Member Executive (Miss Fareeha Paul) left the court at 12.00 Noon in order to attend a meeting in the Law Department; Government of Khyber Pakhtunkhwa, therefore, this case is adjourned to 10.02.2023 for arguments before the D.B.



(ROZINA REHMAN)  
Member (J)

10.02.2023

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. Advocate General for the respondents present.

SCANNED  
KPST  
Peshawar

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.



(FAREEHA PAUL)  
Member (E)





(ROZINA REHMAN)  
Member (J)

11<sup>th</sup> Oct., 2022

Counsel for the appellant present. M. Muhammad Adeel Butt, Addl. A.G alongwith Muhammad Riaz, Inspecial (Legal) for the respondents present.

Learned counsel for the appellant requests for adjournment..  
Adjourned. To come up for arguments on 10.11.2022 before the D.B.

  
(Fareeha Paul)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

10.11.2022


Counsel for the appellant present.

Mr. Muhammad Adeel Butt, learned Additional Advocate General alongwith Riaz Inspector for the respondents present.

Former requested for adjournment on the ground that he has not made preparation of the case. Adjourned. To come up for arguments on 09.01.2023 before the D.B.

SCANNED  
KPST  
Peshawar

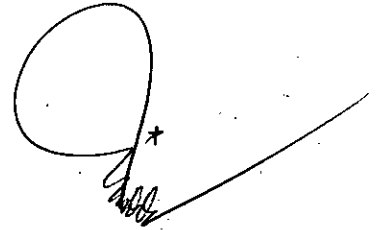
  
(Fareeha Paul)  
Member (E)

  
(Rozina Rehman)  
Member (J)

01.12.2021

Appellant in person present. Mr. Kabirullah Khattak, Addl: AG  
alongwith Mr. Hidayat Ullah, ASI (Legal) for respondents present.

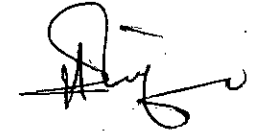
Written reply/comments on behalf of respondents submitted  
which is placed on file. A copy of the same is also handed over  
the appellant. Adjourned. To come up for arguments on  
28.03.2022 before D.B.



(MIAN MUHAMMAD)  
MEMBER (E)

28-3-2022

Proper DB not available the case  
is adjourned to come up for the  
same as before on 1-7-2022



Reader

01.07.2022

Nemo for the appellant. Mr. Kabirullah Khattak, Additional  
Advocate General for the respondents present.

Previous date was changed on Reader Note, therefore,  
notice for prosecution of the appeal be issued to the appellant as  
well as his counsel through registered post and to come up for  
arguments on 11.10.2022 before the D.B.



(Rozina Rehman)  
Member (J)



(Salah-ud-Din)  
Member (J)

For Rozina  
11-10-2022  
AG

14.07.2021

Counsel for the appellant present. Preliminary arguments heard.

As far as the impugned order, departmental appeal as well as service appeal are concerned there is inordinate delay in between the dates of departmental appeal and of the service appeal. The departmental appeal was filed on 26.07.2011 while service appeal has been filed on 19.09.2019. No application for condonation of delay has been filed. Learned counsel contends that this Tribunal in similar nature cases has granted relief and in support of the said contention reference has been made to copies of certain judgments of this Tribunal annexed with the appeal. Keeping the question of limitation intact for determination in the course of full hearing, this appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 01.12.2021 before the D.B.

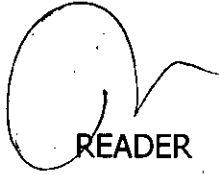
Appellant Deposited  
Security & Process Fee

14/7/21

Chairman

07.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 14.07.2021 for the same as before.

  
READER

14.07.2021

Counsel for the appellant present. Preliminary arguments heard.

As far as the impugned order, departmental appeal as well as service appeal are concerned there is inordinate delay in between the dates of departmental appeal and of the service appeal. The departmental appeal was filed on 26.07.2011 while service appeal has been filed on 19.09.2019. No application for condonation of delay has been filed. Learned counsel contends that this Tribunal in similar nature cases has granted relief and in support of the said contention reference has been made to copies of certain judgments of this Tribunal annexed with the appeal. Keeping the question of limitation intact for determination in the course of full hearing, this appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through

*Printed on fresh page.*

05.08.2020

Neither appellant nor his counsel is present. The appeal was adjourned due to COVID-19, therefore, notices be issued to appellant and his respective counsel for 28.10.2020. File to come up for preliminary hearing before S.B.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER

28.10.2020

Appellant present through representative.

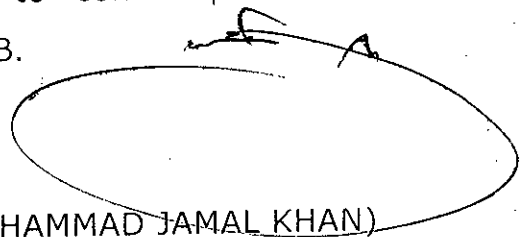
Lawyers are on general strike, therefore, case is adjourned to 12.01.2021 for preliminary hearing, before S.B.

  
(Rozina Rehman)  
Member (J)

12.01.2021

Mr. Arbab Saif-ul-Kamal, Advocate, for appellant is present.

Learned counsel for appellant while making reference to impugned order dated 20.06.2011 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 07.04.2021 before S.B.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)



17.12.2019

Junior to counsel for the appellant present.

Requests for adjournment due to non-availability of learned counsel for the appellant owing to general strike of the Bar. Adjourned to 28.01.2020 before S.B.

  
Chairman

28.01.2020

Clerk to counsel for the appellant present and seeks adjournment on the ground that learned counsel for the appellant is not available. Adjourn. To come up for preliminary hearing on 16.03.2020 before S.B.

  
Member

16.03.2020

Nemo for the appellant. Lawyers community is on strike on the call of Peshawar Bar Association. Adjourn. To come up for preliminary hearing on 30.04.2020 before S.B.

  
Member

**SCANNED  
KPST  
Peshawar**

04.05.2020

Due to COVID-19, the case is adjourned to 05.08.2020 for the same, before S.B.

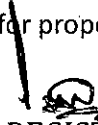


  
Reader

Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 1216/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	02/10/2019	<p>The appeal of Mr. Sher Wali Khan resubmitted today by Mr. Saadullah Khan Marwat Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 2/10/19</p> <p>2-</p>	04/10/19.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>05/11/19</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>05.11.2019</p> <p>Counsel for the appellant present.</p> <p>Learned counsel requests for adjournment as she is not in possession of brief of instant matter. Adjourned to 17.12.2019 before S.B.</p> <p style="text-align: right;"> Chairman</p>


P-b

The appeal of Mr. Sher Wali Khan son of Habibullah Jan Ex-Constable No. 319 Police Station, Gandigar Upper Dir received today i.e. on 19.09.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Annexures of the appeal may be attested.
- 3- Annexures of the appeal may be flagged.
- 4- Annexures of the appeal are illegible which may be replaced by legible/better one.
- 5- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- 6- Wakalat nama in favour of appellant be placed on file.
- 7- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1628 /S.T,

Dt. 20-9-2019.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Saadullah Khan Marwat Adv. Pesh.

2ix

Re-submitted after completion.

  
1-10-19.

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

S.A No. 1216 / 2019

Sher Wali Khan

versus

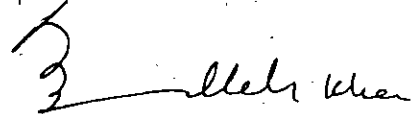
D.P.O & Others

**I N D E X**

S. No	Documents	Annex	P. No.
1.	Memo of Appeal		1-4
2.	Charge Sheet Dated 18-05-2011	"A"	5
3.	Dismissal order dated 20-06-2011	"B"	6
4.	Representation	"C"	7
5.	Reinstatement of other constables	"D"	8-18
6.	Judgments in similar cases	"E"	19-25

Through

Appellant

  
Saadullah Khan Marwat  
Advocate.  
21-A Nasir Mansion,  
Shoba Bazaar, Peshawar  
Ph: 0300-5872676  
0311-9266609

Dated.03-09-2019

**BEFORE KPK SERVICE TRIBUNAL PESHAWAR**

S.A No. \_\_\_\_\_/2017

Sher Wali Khan S/O Habib Ullah Jan,  
R/o Doro, Upper Dir,  
Ex-Constable. No: 319,  
Police Station, Gandigar,  
Upper Dir . . . . . Appellant

**Khyber Pakhtunkhwa  
Service Tribunal**

Diary No. 12180

Dated 19/9/2019

**Versus**

1. District Police Officer,  
Upper Dir.
2. Deputy Inspector General  
of Police, Malakand Region,  
at Mingora Swat.
3. Provincial Police Officer,  
KP, Peshawar. . . . . Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974  
AGAINST O.B NO. 346 DATED 20-06-2011 OF R. NO.  
01 WHEREBY APPELLANT WAS DISMISSED FROM  
SERVICE WITH EFFECT FROM 01-09-2009:**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Filed to-day

  
Registrar

19/9/19 **Respectfully Sheweth;**

1. That appellant was enlisted in service in the year 2003 as Constable and served the department till the date of removal from service.
2. That appellant was deputed to Police Training Centre Hangu, in the year 2004 and qualified the training.

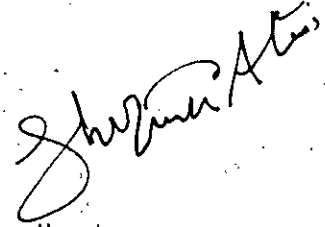
3. That in the year 2005 appellant was transferred to his own district Dir Upper and posted at Police Line. Thereafter appellant was transferred to Police Station Thal Kohistan and served there for about three years.
4. That in the year 2009, appellant was selected for Elite Training Course Centre Nowshera and undergone for one month in the training.
5. That appellant allowed leave but there he became ill, yet after two months he reported to Police Line Upper Dir for duty and transferred to Police Station Gandigar.
6. That on 18-05-2010, Charge Sheet was issued by R. No. 01 for service upon appellant with allegation that he while posted at Police Station Gandigar absented himself from duty with effect from 01-09-2009 till date without any permission of the authority. The said Charge Sheet could not be replied as the same was not served upon him. (Copy as annex "A")
7. That without conduction proper enquiry appellant was dismissed from service on 20-06-2011 with effect from 01-09-2009 on the score of absence from service. (Copy as annex "B")
8. That the said order was not endorsed to appellant so on 25-07-2011, the same was received from the office and thereafter submitted representation before R. no. 02 but without any response. (Copy as annex "C")
9. That not only appellant was dismissed from service on the score of absence but numerous others were also dismissed from service on the said score and they were reinstated into their services vide order dated 30-11-2010, 15-03-2017 and 09-08-2017, etc. (Copies as Annex "D")
10. That apart from the aforesaid fact, the subject matter came up for consideration before the hon'ble Tribunal and after thorough probe, their appeal's were accepted vide judgments dated 02-05-2016 and 07-12-2017, etc. (Copies as Annex "E")

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

**GROUND S:**

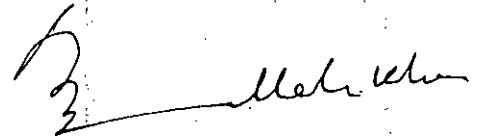
1. That appellant was enlisted in service in the year 2003 and served the department till the date of removal from service.
2. That appellant was removed from service on the score of absence but absence does not constitute misconduct and more so, no one can be awarded major punishment on the score of absence from service but a minor punishment.
3. That in the circumstances, the department reinstated numerous constables, etc. into their services regarding absence but appellant was not treated at par with them.
4. That similarly and equally placed servants be treated similarly and equally and not to discriminate them inter-se.
5. That appellant was dismissed from service on the score of absence but such absence was not willful but was due to the compelling circumstances.
6. That absence does not constitute any misconduct when the same is not willful and as stated earlier, hundreds and thousands similarly and equally placed employees have been reinstated into their services not only by the department but also by the hon'ble Tribunal / courts which judgments were upheld by the apex court.
7. That during the said period the whole Malakand was facing abnormal situation.
8. That no administrative order could be affected with retrospective effect as is done in the case in hand. The original order of removal from service was with retrospective effect, so the same is ab-initio void and illegal.
9. That codal formalities enumerated in the Rules were never observed, being mandatory. The impugned order not per the mandate of Law and based on malafide.

It is, therefore, most humbly prayed that on acceptance of appeal, order dated 20-06-2011 of the respondents be set aside and appellant be reinstated in service with all consequential / back benefits, with such other relief as may be deemed proper and just in circumstances of the case.



Appellant

Through



Saadullah Khan Marwat



Amjad Nawaz  
Advocates.

Dated 03-09-2019



A 5

641 P.S. Khan  
No 19-5-11

CHARGE SHEET

1. Mir Qasim Khan, District Police Officer, Dir Upper, as competent authority, hereby charged you Constable Sher Wali No. 319 as follows:-

Where as you Constable Sher Wali No. 319 while posted in Police Station Gandigar, absented your self w.e.f 1.9.2009 to date without prior permission of your superiors.

All there based on your malafied intention, negligence, omission and disinterest in duty which is gross misconduct on your part.

2. By reason of the above, you appear to be guilty of misconduct under section 3 of the NWFP Removal from service (Special Powers) ordinance 2000 and have rendered yourself liable to all or any of the penalties specified in Section-3 of the Ordinance ibid.

3. You are therefore, directed to submit your written defence within 07 days of the receipt of this charge sheet to the enquiry officer/committee.

4. Your written defence, if any should reach to the enquiry committee within the specified period, failing which it should be presumed that you have no defence to offer and in that case the ex-patre will be taken against you.

5. Statement of allegations is enclosed.

(Mir Qasim Khan)  
District Police Officer,  
Dir Upper.

No. 469-70 /CC, Dated Dir Upper the 18 105 /2011  
Copy to Constable Sher Wali No. 319 to submit your reply to the charge sheet within stipulated period.

Reader  
For n/n  
12/8  
59/0-11111  
19-5-11

20-6-11

B 6

ORDER.

This order will dispose off an enquiry against constable Sher Wali No. 319. The above named constable absented himself from his lawful duty from PS Gandigar with out any prior permission from his superiors w.e. from 01.9.2009.

Charge Sheet and summary of allegation was issued to him vide this office Endst: No. 469-70/CC, Dated 18.5.2011, and an enquiry committee comprising of Mr. Mohammad Nawaz Khan SDPO Wari was constituted.


The enquiry committee conducted enquiry and submitted that as per the statements of his father in-laws the above named constable has proceeded to Saudi Arabia for lively hood about 17 months ago. It is also no hope that he will rejoin Police Deptt: in future and recommended him for dismissal.

Therefore keeping view his long absence and recommendation of enquiry committee the above mentioned constable is hereby dismissed from service w.e. from his dated of absence i.e 01.09.2009.

Order announced.

OB.No. 346

Dated. 20/6/2011

s/c.   
District Police Officer,  
Dir Upper

مخبریت جناب ڈپٹی انسپکٹر جنرل آف پولیس فلائڈ سوات

درخواست نمبر سابقہ بجائی

جناب جان!

سائل ذیل گزارش کرتا ہے۔

1- یہ سائل 2003 میں پولیس میں بھرتی ہوا تھا۔ مختلف مقاموں میں تعینات کیا گیا۔ ڈپٹی خوش اسلوبی سے سرانجام دی۔

2- یہ سائل 2009 میں ایلیٹ ٹریننگ سنٹر نوشیہ نو کورس، لیج بھیجا گیا۔ پروہیما رہا اور ایک مہینہ کی چھٹی میں آیا۔

3- یہ ناعاعد اور کسٹمر بلوں خلاف کی وجہ سے سائل کو غیر حاضر قرار دیا گیا۔ کلونی (قانون کی تعلیم) لفسٹروس سے ڈسکس کیا گیا۔ چونکہ فلائڈ، فلائڈ قبیلہ خیر بھجے اور پورے فلائڈ کے طالبانوں کا فہرہ تھا جس کی وجہ سے سائل دوبارہ حاضر کی نہ سکا۔

3- یہ سائل کی نمبر حاضر کی قدر نہ تھی بلکہ مجبوری تھی نہ لڑا ہر فائدہ نہ بلکہ نا اہل شہرہ میں نے ایسی فلائڈ میں بینا گولیوں کو سروس پر بحال کیا ہے۔

اسٹریٹ ایڈیشن حکم فوراً 26-06-11 کو کالعدم قرار دیا۔ سروس پر بحال کرنے کی حکم صادر کیا جاوے۔ مشورہ رسید گا۔

فوراً 26/07/2011

سائل

شریفی ولد حبیب اللہ

بندہ دور دور ہے۔ اس پر دستخط کرنا اور دوسرے سائل نمبر 319 کی نمبر پر آدھار دینا۔

Similarly placed  
Retrospectively  
by the  
Deptt.

ORDER

WHEREAS as per the approval of the Provincial Police Officer, Khyber Pakhtunkhwa a Committee had been constituted vide this office No: 9871-77/E dated 16/11/2010, headed by DPO Swat to reconsider the cases of the personnel dismissed during militancy.

AND WHEREAS the Committee has, after thorough deliberations and scrutiny of the relevant record, submitted its findings vide No: 14732/E dated 29/11/2010 wherein 253 personnel have been recommended for reinstatement in service.

NOW THEREFORE as per the approval of the Provincial Police Officer, the following personnel recommended by the Committee are hereby reinstated in service with effect from the date of their dismissal. The period during which they remained out of service after dismissal and the period of their absence will be treated as leave without pay.

S.No.	Name and No.
1.	Ex-Constable Bahader Khan No. 1322
2.	Ex-HC Mian Said Rehman No. 582
3.	Ex-Constable Muhammad Saeed No. 1543
4.	Ex-Constable Fida Hussain No. 751
5.	Ex-Constable Zia-ud-din No. 1581
6.	Ex-Constable Sami Ullah No. 103
7.	Ex-Constable Sadiq Akbar No. 340
8.	Ex-Constable Ayaz Ali No. 1482
9.	Ex-PASI Ijaz Ali No. 3 5 (Shaheed Son)
10.	Ex-Constable Farman Ali No. 757
11.	Ex-Constable Shafullah No. 298
12.	Ex-Constable Sher Ali Khan No. 443
13.	Ex-Constable Sabir Hussain No. 1421
14.	Ex-Constable Sharafat Khan No. 776
15.	Ex-Constable Fazal Anwar No. 1091
16.	Ex-Constable Asmat Ali No. 1304
17.	Ex-Constable Niaz Mond No. 822
18.	Ex-Constable Abdul Wadud No. 151
19.	Ex-Constable Muhammad Shoab No. 112/RR
20.	Ex-Constable Shah Hussain No. 1257
21.	Ex-HC Abdul Wali Khan No. 378
22.	Ex-Constable Naseer Un-din No. 1415
23.	Ex-Constable Ajmal Khan No. 1524

Amir

24.	Ex-Constable Gul Faraz Khan No. 1512
25.	Ex-Constable Fazal Wadood No. 12311
26.	Ex-Constable Sultanat Khan No. 556
27.	Ex-Constable Bakht Nawab No. 141/RR
28.	Ex-Constable Saeed ullah No. 1043
29.	Ex-Constable Nasir Ali No. 1074
30.	Ex-Constable Zahoor Ahmad No. 1038
31.	Ex-Constable Said Akbar No. 1118
32.	Ex-Constable Muhammad Ali No. 1850
33.	Ex-Constable Falak Zeb No. 887
34.	Ex-Constable Adalat Khan No. 1254
35.	Ex-Constable Malak Zarda No. 953
36.	Ex-Constable Zahoor Ahmad No. 165/RR
37.	Ex-Constable Akhtar Ali No. 49
38.	Ex-Constable Shakir Hussain No. 290
39.	Ex-Constable Akbar Ali No. 1306
40.	Ex-Constable Akber Ali No. 1528
41.	Ex-Constable Zoor Muhammad Khan No. 549
42.	Ex-Constable Muhammad Alam No. 512
43.	Ex-Constable Amir Khatam No. 30
44.	Ex-Constable Naseer-Ullah Khan No. 1428
45.	Ex-Constable Muhammad Zeb Khan No. 371
46.	Ex-Constable Hayat Muhd Khan No. 143
47.	Ex-Constable Subhan Ullah No. 106/RR
48.	Ex-Constable Asad-ullah Jan No. 1226
49.	Ex-Constable Rasheed Khan No. 33/RR
50.	Ex-Constable Habib-ur-Rehman No. 205/RR
51.	Ex-Constable Abdullah No. 885
52.	Ex-Constable Niaz Ali Shah No. 120/RR
53.	Ex-Constable Sher Alam Khan No. 144/RR
54.	Ex-Constable Said Mahmood Jan No. 615
55.	Ex-Constable Muhammad Shoaib No. 645
56.	Ex-Constable Ajab Khan No. 172
57.	Ex-Constable Tariq No. 1534
58.	Ex-Constable Karim Ullah Khan No. 608
59.	Ex-Constable Shafi Ullah No. 1506
60.	Ex-Constable Bashir Ahmad No. 1457
61.	Ex-Constable Izzat Mond No. 1244
62.	Ex-Constable Shehzada No. 364
63.	Ex-Constable Umar Zaib No. 1448
64.	Ex-Constable Majeed Khan No. 81

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65.	Ex-Constable Shamshey Khan No. 508
66.	Ex-Constable Sabz Ali Khan No. 1447
67.	Ex-Constable Baktawar Khan No. 1251
68.	Ex-Constable Bacha Wali No. 1434
69.	Ex-Constable Rasheed Ahmad No. 1791
70.	Ex-Constable Muhd Sher Ali Khan No. 463
71.	Ex-Constable Adalat Khan No. 275
72.	Ex-Constable Mian Said Parvez No. 752
73.	Ex-Constable Jahan Parvez No. 293
74.	Ex-Constable Rehmat Ali No. 927
75.	Ex-Constable Abdul Hayceed No. 206
76.	Ex-Constable Bakht Ullah No. 92
77.	Ex-Constable Shokat Ali No. 1371
78.	Ex-Constable Zikriya No. 421
79.	Ex-Constable Zahir Ahmad No. 1450
80.	Ex-Constable Said Ahmad Khan No. 917
81.	Ex-Constable Bakht Zavin No. 1694
82.	Ex-Constable Rizaz Muhammad No. 1467
83.	Ex-Constable Zahid Ullah No. 1394
84.	Ex-Constable Bakht Namroz No. 667
85.	Ex-Constable Mian Said Gul No. 311
86.	Ex-Constable Hidayat Ullah Khan No. 335
87.	Ex-Constable Umar Rehman No. 729
88.	Ex-Constable Gohar Ali No. 625
89.	Ex-Constable Said Azam No. 12/RIR
90.	Ex-ASI Aman Khan
91.	Ex-Constable Najib Ullah No. 1481
92.	Ex-Constable Aftab Ullah No. 1514
93.	Ex-Constable Feroz Khan No. 961
94.	Ex-Constable Ubaid Ullah No. 190
95.	Ex-Constable Akbar Bach No. 852
96.	Ex-Constable Sher Alam No. 996
97.	Ex-Constable Muhammad Ayaz No. 488
98.	Ex-Constable Anwar-ul-Haq No. 572
99.	Ex-Constable Muhammad Iqbal No. 369
100.	Ex-Constable Gohar Ali No. 642
101.	Ex-Constable Rizwan Ullah No. 1454
102.	Ex-Constable Yousaf Khan No. 350
103.	Ex-Constable Farooq No. 13
104.	Ex-Constable Muhammad Shoaib No. 1528
105.	Ex-Constable Ali Muhammad No. 1456

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106.	Ex-Constable Muhtaz Ali No. 62
107.	Ex-Constable Shah Wali Khan No. 1502
108.	Ex-Constable Miqan Khaliq Jan No. 303
109.	Ex-Constable Luqman Ali No. 95
110.	Ex-Constable Jehan Ali No. 195
111.	Ex-Constable Musharraf Khan No. 1113
112.	Ex-Constable Amir Muhammad No. 176/RR
113.	Ex-Constable Alam Khan No. 1078
114.	Ex-Constable Sher Shah No. 862
115.	Ex-Constable Arjid Ali No. 1044
116.	Ex-Constable Sher Ali Khan No. 1353
117.	Ex-Constable Iftikhar No. 564
118.	Ex-Constable Bakht Akbar No. 1288
119.	Ex-Constable Taj Muhd. No. 1111
120.	Ex-Constable Alam Dadshah No. 1196
121.	Ex-Constable Liaqat Ali No. 225
122.	Ex-Constable Liaqat Ali No. 253
123.	Ex-Constable Azam Khan No. 1427
124.	Ex-Constable Habib Ullah No. 1446
125.	Ex-Constable Yar Badshah No. 933
126.	Ex-Constable Nadar Shah No. 468
127.	Ex-Constable Nazir Muhd No. 1379
128.	Ex-HC Asghar Khan No. 31
129.	Ex-Constable Ali Rasheed No. 1480
130.	Ex-Constable Fazal Rehman No. 784
131.	Ex-Constable Bakhtaj No. 1329
132.	Ex-Constable Ibrar Hussain No. 420
133.	Ex-Constable Zafar Alam No. 653
134.	Ex-Constable Muhd Rafiq No. 1633
135.	Ex-Constable Sajjad Khan No. 1518
136.	Ex-Constable Umar Khilab No. 1109
137.	Ex-Constable Ahmad Ali No. 1318
138.	Ex-Constable Rehmat Ali No. 175
139.	Ex-Constable Iqbal Hussain No. 1466
140.	Ex-Constable Rehman Ullah No. 1466
141.	Ex-Constable Ayaz Ahmad No. 320
142.	Ex-Constable Sadq No. 1470
143.	Ex-Constable Shafiq-ur-Rehman No. 851
144.	Ex-Constable Bashir Ahmad No. 1377
145.	Ex-Constable Liaqat Ali No. 1345
146.	Ex-Constable Aziz-ul-Hassan No. 1170

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147.	Ex-Constable Zakir Hussain No. 308
148.	Ex-Constable Midrarullah No. 533
149.	Ex-Constable Muslim Khan No. 101/RR
150.	Ex-Constable Zafar Ali Khan No. 74
151.	Ex-Constable Najib Ullah Khan No. 1439
152.	Ex-Constable Rahim Khan No. 571
153.	Ex-Constable Azam Khan No. 45
154.	Ex-Constable Mian Said Bacha No. 1362
155.	Ex-Constable Hazrat Alam No. 1570
156.	Ex-Constable Irfan Ud Din No. 1549
157.	Ex-Constable Sher Hassan Khan No. 685
158.	Ex-Constable Muhd Raza No. 131/RR
159.	Ex-Constable Mian Said Farooq No. 333
160.	Ex-Constable Muhammad Tahir No. 1703
161.	Ex-Constable Bahadur Nawab Khan No. 1625
162.	Ex-Constable Amir Khan No. 1614
163.	Ex-Constable Sami Ullah No. 1500
164.	Ex-Constable Muhammad Qasim No. 1600
165.	Ex-Constable Muhd. Arif Khan No. 1393
166.	Ex-Constable Asmat Ali No. 1723
167.	Ex-Constable Farhad Ali No. 1761
168.	Ex-Constable Mian Said Ghani No. 1689
169.	Ex-Constable Inam Ullah No. 1145
170.	Ex-Constable Umar Farooq No. 1677
171.	Ex-Constable Israr Ahmad No. 1622
172.	Ex-Constable Amal Khan No. 1569
173.	Ex-Constable Rehmat Ali No. 496
174.	Ex-Constable Zara Wali No. 134
175.	Ex-Constable Anwar Ullah No. 1656
176.	Ex-Constable Bakht Kayam No. 1800
177.	Ex-Constable Anwar Ali No. 1574
178.	Ex-Constable Aziz Ullah Khan No. 1591
179.	Ex-Constable Hazrat Bilal No. 1776
180.	Ex-Constable Farman Ali No. 217/RR
181.	Ex-Constable Muhd Alam Khan No. 1774
182.	Ex-Constable Asghar Khan No. 1720
183.	Ex-Constable Abdullah No. 1661
184.	Ex-Constable Mohammad Azim No. 971
185.	Ex-Constable Said Sarfullah No. 1600
186.	Ex-Constable Samin Khan No. 1724
187.	Ex-Constable Salim Asghar No. 1575



188.	Ex-Constable Hayat Ali No. 1614
189.	Ex-Constable Liaqat Ali Khan No. 1414
190.	Ex-Constable Yaqub Khan No. 1601
191.	Ex-Constable Farman Ali No. 1069
192.	Ex-Constable Rehmat Zaib No. 1679
193.	Ex-Constable Fayaz Ali No. 914
194.	Ex-Constable Wali Ahmād No. 841
195.	Ex-Constable Barkat Ali Khan No. 190/RR
196.	Ex-Constable Nazir Mahmood No. 1771
197.	Ex-Constable Mohim Bacha No. 1608
198.	Ex-Constable Muhd. Kashif No. 1579
199.	Ex-Constable Nisar Ahmad No. 1565
200.	Ex-Constable Fazal Haq No. 1589
201.	Ex-Constable Ajab Khan No. 1553
202.	Ex-Constable Shah Ali Yar Khan No. 1645
203.	Ex-Constable Hazrat Ali No. 1797
204.	Ex-Constable Zia Ullah No. 104/RR
205.	Ex-Constable Naeem Iqbal No. 1716
206.	Ex-Constable Amjad Ali No. 1624
207.	Ex-Constable Farhad Ali No. 127
208.	Ex-Constable Hazrat Usman No. 1691
209.	Ex-Constable Umar Zaman No. 160/RR
210.	Ex-Constable Zafar Ali No. 159
211.	Ex-Constable Saeed Ullah No. 1513
212.	Ex-Constable Sher Bahadar Shah No. 211/RR
213.	Ex-Constable Amir Ali Shah No. 828
214.	Ex-Constable Fazal Ali No. 1647
215.	Ex-Constable Abdur Rehman No. 1607
216.	Ex-Constable Muhammad Ikram No. 240
217.	Ex-Constable Inayat Ullah No. 1665
218.	Ex-Constable Sajid Ullah No. 1672
219.	Ex-Constable Karim Ullah No. 1788
220.	Ex-Constable Umar Muhammad No. 1361
221.	Ex-Constable Nawab Rehman No. 1664
222.	Ex-Constable Zai Ullah Khan No. 9/RR
223.	Ex-Constable Qayum Khan No. 1586
224.	Ex-Constable Imran Ali No. 531
225.	Ex-Constable Nasir Ali No. 1623
226.	Ex-Constable Riaz Ali No. 1559
227.	Ex-Constable Haider Ali No. 1667
228.	Ex-Constable Badshah Muhammad No. 142/RR

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229.	Ex-Constable Sher Zaman No. 1167
230.	Ex-Constable Muhammad Jan No. 1708
231.	Ex-Constable Miran Gill Bichri No. 1696
232.	Ex-Constable Saif Ullah No. 1769
233.	Ex-Constable Zahir Ullah No. 1644
234.	Ex-Constable Parvez Khan No. 65/RR
235.	Ex-Constable Muhammad Nacem No. 1746
236.	Ex-Constable Fazal Bacha No. 605
237.	Ex-Constable Barkat Ali No. 1312
238.	Ex-Constable Amir Zeb No. 1787
239.	Ex-Constable Kalim Ullah Jan No. 1656
240.	Ex-Constable Zai-ur-Rehman No. 1694
241.	Ex-Constable Muhammad Alam No. 1730
242.	Ex-Constable Fazal Hayat No. 1658
243.	Ex-Constable Hazrat Nawaz Khan No. 721
244.	Ex-Constable Ikram Ullah No. 1606
245.	Ex-Constable Tariq Rahim No. 1782
246.	Ex-Constable Wali Khan No. 212/RR
247.	Ex-Constable Abdali Khan No. 188/RR
248.	Ex-Constable Muhammad Parvez No. 63/RR
249.	Ex-Constable Muhammad Zahid No. 71/RR
250.	Ex-Constable Sardar Ali No. 45/RR
251.	Ex-Constable Luqman No. 95
252.	Ex-Constable Bahad Ali No. 4688/FRP
253.	Ex-Constable Sher Afzal No. 1388/FRP

Order announced.

(GAZI JAMIL-UR-REHMAN)  
Deputy Inspector General of Police  
Malakand Region, Saidu Sharif, Swat

No. 102.14-16/E,  
Dated 30/11/2010.

Copy for information and necessary action to the:-

1. Provincial Police Officer, Khyber Pukhtoon Khwa, Peshawar.
2. District Police Officer, Swat.
3. Superintendent of Police, FRP, Swat.

*[Signature]*

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Reinstatement  
by  
Dy Insp

OFFICE ORDER

WHEREAS as per the approval of the Provincial Police Officer, FR, Pakhtunkhwa a Committee had been constituted vide this office No:9871 dated 16/11/2010, headed by DPO Swat to reconsider the cases of the persons absented during mandatory.

AND WHEREAS, the Committee has, after thorough deliberation scrutiny of the relevant record, submitted its findings vide No:89/OASI, 04/01/2012 wherein 12 personnel have been recommended for reinstatement service.

NOW THEREFORE as per the approval of the Provincial Police Officer, following personnel recommended by the Committee are hereby reinstated service with effect from the date of their dismissal. The period during which remained out of service after dismissal and the period of their absence will be treated as leave without pay.

S.No	Name and No.
1.	Ex-Constable Minhaj-ud-Din No.139
2.	Ex-Constable Zahoor Hussain No.1738
3.	Ex-Constable Ali Bazz No.501
4.	Ex-Constable Muhammad Israr No.118
5.	Ex-Constable Attaullah No.924
6.	Ex-Constable Muhammad Ali No.1673
7.	Ex-Constable Fazal Hameed No.1504
8.	Ex-Constable Ikram No.1189
9.	Ex-Constable Qasim Ali Shah No.675
10.	Ex-Constable Bashir Ahmad No.270
11.	Ex-Constable Parwanat Khan No.30
12.	Ex-Constable Fazal Rabbi No.579

Order announced.

(AKHTAR HAYAT KHAN)  
Deputy Inspector General of Police  
Malakand Region, Faisalabad, Punjab

No. \_\_\_\_\_ /E.

Dated 07/02/2012

Copy for information and necessary action to the

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. District Police Officer, Swat.

AKHTAR  
Dy Insp  
by



OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
PESHAWAR

No. SI/ 1656 /17, dated Peshawar the 15/3/2017

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Constable Noor Khan No. 462. The appellant was dismissed from service by DPO, Dir Lower vide OB No. 361, dated 16.03.2009 for the charge of absence from duty for 02 months and 04 days.

Meeting of Appellate Board was held on 02.03.2017 wherein appellant was heard in person. During hearing petitioner contended that he was posted at Malakand Region as DFC. He could not bring Summon and Warrants to the area because of terrorism. Terrorists and Taliban threatened him time and again on his cell phone.

The Board examined his service record which revealed that appellant has no bad entry during his service. Moreover, he has qualified Recruit Course and A-1 examination.

Keeping in view 07 years, 11 months and 12 days service at the credit of petitioner free from threats from Terrorists and Taliban, the Board decided that the petitioner is hereby re-instated in service, however, the intervening period including period of absence from duty is considered as leave without pay in service but not on duty and he will not be entitled for salary of the intervening period. He remains under special watch for one year.

This order is issued with the approval by the Competent Authority.

*[Signature]*

(NAJEEB-UR-REHMAN BUGTI)  
AIG/Establishment,  
For Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.

1657-6417.

Copy of the above is forwarded to the:

1. Regional Police Officer, Malakand at Swat.
2. District Police Officer, Dir Lower.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.
8. Central Registry Cell, CPO

*Final copy placed  
in file  
Discontinued in 2009  
Reinstated by Deptt. 2017*

*Amended  
Board  
order*

ORDER

This order shall dispose of departmental appeal under Article 10 of the Police Rules 1975, submitted by Ex-constable Sadiq-ur-Rehman No. 4881 of FRP Malakand Range, against the order of SP FRP Malakand Range, Swat, wherein he was removed from service.

Brief facts of the case are that Ex-constable Sadiq-ur-Rehman No. 4881 of FRP Malakand Range was enlisted as constable on 26.07.2007. Later on during the course of duty he was absent himself from duty with effect from 20.07.2008, till the date of his removal from service.

In this regard he was issued charge sheet and statement of allegations, but neither he reported for duty, nor replied to charge sheet within stipulated period. Thereafter, on 08.11.2008 he was issued Urdu Parwan, but he failed to do so, therefore, the Enquiry Committee recommended him for major punishment of removal from service. Later on he was issued final show cause notice but his reply was not received within stipulated period.

In the light of recommendation of Enquiry Committee and other material available on record he was removed from service by the SP FRP Malakand Range, Swat vide office OB No. 151, dated 14.11.2009.

After going through the available record it has pointed out that the appellant has neither participated with enquiry proceedings, nor provided opportunity of personal hearing.

The applicant has heard in person in orderly room held on 03.08.2017 during the course of hearing he contended that at those days the Swat valley was under control of miscreants/Taliban and were kidnapping, killing the Government employees, specially of Police department. He further stated that being a member of the Force (Police Department) he was received threat from Taliban, they harassment to his family members were compulsively shifted to other safe place (i.e. Punjab Province) and he added that his removal from service order was not communicated to him. His plea was found plausible and satisfactory.

Keeping in view the above, with a view his duty as a constable in the force is hereby retained. The (Ex-constable Sadiq-ur-Rehman No. 4881 of FRP Malakand Range) is hereby modified and converted into major punishment of deduction of 11 months scale (constable). The period of his absence from duty and the intervening period are considered as period in service but not on duty, and he will not be entitled for salary of his absence and intervening period.

Order announced

*(Handwritten signature)*

Copy of above is forwarded to the S.A. Malakand Range Swat for information and necessary action. His service record shall be maintained accordingly.

This order shall dispose of departmental appeal under rule 11 of Khyber Pakhtunkhwa Police Rules 1975, submitted by Ex-constable Tahir Bhandar No. 4899 of FRP Malakand Range against the order of SP FRP Malakand Range Swat, wherein he was removed from service.

Brief facts of the case are that constable Tahir Bhandar No. 4899 of FRP Malakand Range was enlisted as constable on 26.07.2007. He was absented himself from duty with effect from 01.04.2009 till the date of his removal from service.

In this regard he was issued charge sheet and statement of allegations, but neither he report/arrived for duty nor replied to charge sheet within stipulated period. Thereafter on 28.04.2009 he was issued unduly warning. He failed to do so. Therefore the Enquiry Committee recommended him for major punishment of removal from service. Later on he was issued final show cause notice but his reply was not received within stipulated period.

In the light of recommendation of Enquiry Committee and material available on record he was removed from service by the SP FRP Malakand Range Swat vide office O8 No: 294, dated 21.02.2009.

After going through the available record it has pointed out that during the course of enquiry the applicant has neither participated with enquiry proceedings nor provided opportunity of personal hearing.

The applicant was heard in person in orderly room held on 03.09.2017. During the course of hearing he contended that at those days the Swat valley was under control of miscreants/Taliban and were kidnapping, killing the Government employees especially of Police department. He further stated that being a member of the Force (Police Department) he was received threat from Taliban, then he along with his family members were compulsively shifted to other safe place i.e. Karachi. He further pleaded that his removal from service order was not communicated to him. His plea was found plausible and satisfactory.

Keeping in view the above vis-a-vis his unblemished service record, also a trained soldier he (Ex-constable Tahir Bhandar No. 4899 of FRP Malakand Range) is hereby reinstated in service and the punishment of his removal from service is hereby withdrawn and converted into major punishment of deduction of salary for the period of his absence from duty and the intervening period are considered as period in service but not on duty and he will not be entitled for salary of his absence and intervening period.

Order announced

*[Handwritten signature]*

Commandant  
Frontier Reserve Police  
Shaher Pakhtunkhwa, Peshawar

No. 2115/RC, dated 21.02.2009

Copy of above order is being sent to Malakand Range Swat for information and necessary communication. Record sent here with

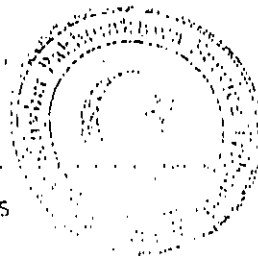
23-5-12

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A NO. 588 /2012

W. C. S. Peshawar  
District: Swat  
Page No. 562  
Date: 23/05/12

Munir Ali S/o Muhammad Mashai Khan,  
R/o Char Bagh, Ex-C. No. 4708, FRP,  
Police Station Matta, Swat



Appellant

Versus

1. Commandant, FRP, KPK, Peshawar.
2. Superintendent of Police, FRP, Malakand Region, Swat.
3. Provincial Police Officer, KPK, Peshawar. Respondents

APPEAL AGAINST OFFICE ORDER  
NO.1964-65/EC DATED 09.04.2012 OF  
R.NO.1 (APPELLATE AUTHORITY)  
WHEREBY REPRESENTATION OF  
APPELLANT WAS REJECTED AGAINST OR  
NO.138 DATED 10.10.2008 OF R.NO.2  
DEFERENTIAL AUTHORITY) WHO  
DISMISSED APPELLANT FROM SERVICE  
FOR NO LEGAL REASON.

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Respectfully Showeth,

1. That on 25.07.2007, appellant was enlisted as FRP constable in Malakand Range by R.No.1.
2. That it was an admitted fact that the whole Swat valley was under the control of mercenaries/Taliban. Merind R/O was absolutely ineffective. Mercenaries/Taliban were kidnaping, abducting and behaving Government employees, especially of

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2-5-16

Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
CAMP COURT SWAT

APPEAL NO. 588/2012

(Murad Ali Vs. Commandant FRP, KPK Peshawar & 2 others.)

JUDGMENT

02.05.2016

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:

Appellant with counsel and Mr. Muhammad Zubair, Senior Government Pleader alongwith Mushtaq Ahmad, Inspector (Legal) for the respondents present..

Murad Ali son of Muhammad Mashal Khan hereinafter referred to as the appellant has preferred the instant appeal against order dated 09.4.2012 communicated to the appellant on 02.5.2012 vide which his departmental appeal against original order dated 10.10.2008 of removal from service was regretted.

Brief facts giving rise to the present appeal are that the appellant was appointed as Constable in FRP Malakand Range vide appointment order dated 23.07.2007. While working, he was found absent from duty for a period of 3 months and 8 days and after conducting enquiry removed from service vide order dated 10.10.2008 where-against departmental appeal of the appellant was rejected on 09.4.2012 and hence the instant service appeal on 23.05.2012.

*Ahmed Ali*  
*E.*



We have heard arguments of the learned counsel for the parties and perused the record.

Perusal of the record would suggest that charge sheet dated 09.08.2008 was communicated to the appellant on the allegations of wilful absence, however, according to findings/report of the enquiry committee appellant had not turned up in response to notice issued to the appellant for resuming duty and facing an enquiry. It is evident from the record that enquiry procedure was not followed by the enquiry committee as the appellant was neither associated with the enquiry proceedings nor any opportunity of hearing afforded to him and, furthermore, in case of absence, publication of any notice in prescribed manners was not made in the newspapers. Furthermore the alleged period of absence was during the days of militancy and, according to the stance of the appellant, similarly placed employees were reinstated in service and that appellant was also entitled to same treatment.

Since the appellant was subjected to enquiry wherein neither prescribed procedure was followed nor appellant associated with the same as such we deem it more appropriate to set aside the impugned original order dated 10.10.2008 as well as that order dated 09.10.2012 and as consequence thereof reinstate the appellant in service, placing the respondents at liberty to departmentally proceed against the appellant afresh, if need be, and that the plea of the appellant, in respect of reinstatement of similarly placed persons in service shall also be taken into account during the enquiry which shall be concluded within the period of 2 month from the date of receipt of this judgment. In case the



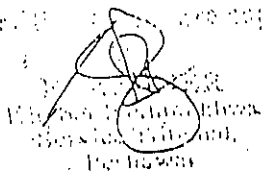
Attestes  
[Signature]

enquiry is not conducted then the period of absence till reinstatement be treated as leave of the kind due. The appeal is disposed of accordingly. Parties are however left to bear their own costs. File be consigned to the record room.

Announced sdt- M. Azim Khan Afridi,  
02-05-2016 Chairman

sdt- Abdul Latif,  
Member

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12-05-2016

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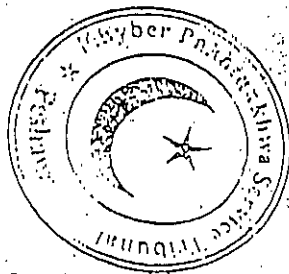
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
CAMP COURT SWAT

Service Appeal No. 957/2016

Date of Institution... 04.08.2016

Date of decision... 07.12.2017



Shoukat Ali son of Muhammad Shafiq, R/O Kokari Mingora Swat Ex-Constable  
No. 4741, FRP Platoon No. 83, P.S Mingora Swat. (Appellant)

Versus

1. Superintendent of Police, FRP Malakand Region, Malakand and two others.  
(Respondents)

ARBAB SAIFUL KAMAL,  
Advocate

For appellant.

MR. KABIRULLAH KHATTAK,  
Addl Advocate General

For respondents.

MR. NIAZ MUHAMMAD KHAN,  
MR. MUHAMMAD HAMID MUGHAL,

CHAIRMAN  
MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - This judgment shall also  
disposed of other connected appeals No. 697/2016 Muhammad Said, No.  
958/2016 Fazal Yaseen, No. 959/2016 Afzal Khan, and No. 961/2016 Umar Ali  
as in all the appeals common questions of law and facts are involved.

2. Arguments of the learned counsel for the parties heard and record perused.

FACTS

3. The appellant Shaukat Ali, Umar Ali and Afzal Khan were removed  
from service on 28.08.2016, the appellant Fazal Yaseen was removed from

ATTESTED

service on 02.02.2009 and the appellant Muhammad Saeed was removed from service on 21.09.2009. The appellants then filed departmental appeals belatedly which were rejected then the appellant also approached this Tribunal belatedly not within the stipulated time.

ARGUMENTS

4. The learned counsel for the appellants argued that the very orders of removal from service are void because all these orders have been given retrospective effect. That in view of judgment reported as 1985-SCMR-1178 no limitation shall run against void order.

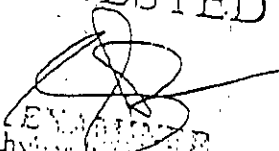
5. On the other hand the learned Addl. Advocate General argued that the departmental appeals are hopelessly time barred. That the revision within the meaning of Rule 11 -A of Khyber Pakhtunkhwa Police Rules, 1975 could not enlarge the period of limitation. That all the codal formalities were fulfilled by the department.

CONCLUSION

6. Regardless of other merits of the case it is an admitted position that all these orders have been given retrospective effect and in view of so many judgments delivered by this Tribunal on the basis of judgment reported in 1985-SCMR-1178 the retrospective order is a void order and no limitation shall run against void order.

7. Since no limitation runs against a void order, any successive appeals or revision would not curtail the rights of the appellants qua the limitation or in other

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal

respect. Presuming that all other elements of due processes have been complied with, the void order cannot be sustained on this score alone.

8. As a sequel to the above discussion, the present appeals are accepted and the appellants are reinstated in service. The department is however, at liberty to hold denovo proceedings in accordance with law within a period of ninety days. The intervening period shall be subject to the final outcome of the denovo proceedings. Parties are left to bear their own costs. File be consigned to the record room.

Announced sdf - Niaz Muhammad Khan,  
07-12-2017 Chairman  
Camp Court Swat

sdf M. Hamid Mughal  
Member

CeAF  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar  
true copy

Date of Presentation of Petition 13-12-17  
Number of Petitions 1250  
Copying Charges 8  
Urgent \_\_\_\_\_  
Total 8  
Name of Officer [Signature]  
Date of Copy 15-12-17  
Date of Delivery of Copy 15-12-17

بعد الت جواب سرسٹریٹس ٹریڈ پورٹل صوبہ سرحد پشاور

مخاتب امپلائٹ

بنام محکمہ

دعوی اپیل

باعضرت سرسٹریٹس ٹریڈ پورٹل

مترجم سند جو عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دیکل کاروائی متعلقہ آئن مقام پشاور کیسٹبل سید احمد خان سرور سے ایڈوکیٹ ہائی کورٹ کو وکیل مقرر کر کے اتر کر کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے راہنہ نامہ و تقرر ثالث و فیصلہ بتلف یہیے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک در پیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تعلیق اور اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور سسٹمی اینرز دایر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تفرک کا اختیار ہوگا اور اس مقدمہ مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا سائنٹہ پروا فٹہ منظور قبول ہوگا و دوران مقدمہ میں جو خرچہ و ہرجانہ التواء مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام درود پر ہو یا مدت باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔  
لہذا نکالت نامہ رکھ دیا کہ سند ہے۔

المترجم

العقد

القائد

العقد

ارباب سٹیم انجینئر  
ایڈوکیٹ

سید احمد خان سرور  
ایڈوکیٹ

Signature

حسن رؤف بیگ  
ایڈوکیٹ

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

*S-Appeal* 1216-M of 2019.

Sher Wali khan s/o Habibullah Jan, r/o Doro, Upper Dir, EX constable  
No, 319

(Petitioner)


**Versus**

Provincial police officer Khyberpakhtunkhwa Peshawar & others.

(Respondents).

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**Respondents Through**  
**DSP legal, Upper Dir.**

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

S. Appeal. 1216-M of 2019.

Sher Wali khan s/o Habibullah Jan, r/o Doro, Upper Dir, EX constable  
No, 319

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**Versus**

Provincial police officer Khyberpakhtunkhwa Peshawar & others.

(Respondents).

**Para wise reply by respondents**

**Respectfully sheweth:-**

**PRELIMINARY OBJECTIONS.**

1. That the instant appeal is not maintainable in the present form and liable to be dismissed.
2. That the appellant has got no cause of action and locus standi to file the instant appeal.
3. That the appellant estopped due to his own conduct.
4. That the appellant has concealed the material facts from the Honorable Court.
5. That the jurisdiction of this Honorable tribunal has wrongly been invoked.
6. That the appeal is bad due to mis-joinder and non-joinder of necessary parties.
7. That no cause of action is arise as the appellant is still not demoted/reverted to his original rank and the subject appeal is pre-mature at this stage.

**ON FACTS.**

1. Incorrect, the appellant was enlisted in service while he remained absent from service from 01/09/2009 till to the dismissal order dated 20/06/2011.
2. Pertain to the record as he was deputed for training on his own turn by the district.
3. Pertain to the record of transfer posting.



5. Incorrect the appellant remained absent from his lawful duty w.e.f 28/09/2008 to 05/10/2008 and from 06/04/2009 to 13/06/2009 which was followed by a departmental enquiry, resultantly an increment of the appellant was stopped.
6. Incorrect the appellant was called for duty on 01/09/2009 but he failed to attend his duty whereupon a report of his absence was registered in daily dairy on the same date on 18:05 O'clock and on 18/05/2010 charge sheet was served upon the appellant and a reasonable opportunity was been provided to him but he never replied nor he presented himself before the competent authority.(report and charge sheet are annexed as A &B).
- 7.Incorrect a proper departmental enquiry was conducted against the appellant and several notices were issued for his appearance and statements of his father and father in law were recorded by stating that the appellant was not interested in service anymore and proceeded to Saudi Arabia for 17/18 months ago.( Statement and Notices are annexed as C & D)
8. Incorrect as mentioned in the above Para that appellant was preceded to Saudi Arabia and was not interested in service.
9. Incorrect the case of the appellant is completely different from other cases.
10. Incorrect every case has its different facts, circumstances and the appellant case has completely different from other cases.

### ON GROUNDS

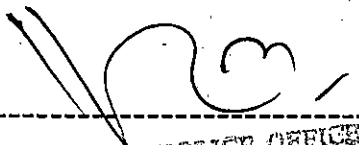
- A. Incorrect, the appellant was dismissed from service in accordance with law rules on 20.6.2011 while he remained absent form service from 01.09.2009 till to date without any sanctioned leave.
- B. Incorrect, the appellant was thoroughly informed/called for duty through several notices but he willfully remained absent from service which shows his malafide intention, negligence, omission and disinterest in service which is a gross misconduct on his part resultantly the appellant was dismissed from service.
- C. Incorrect the appellant was called for duty time and again but did not appear and later on after recording statements of his father and father in

- law it is confirmed that the appellant was not interested in service anymore and was preceded to Saudi Arabia about 18 months ago.
- D. Incorrect the case of appellant is differ from other case.
- E. Incorrect, the appellant willfully remained absent from service and proceeded to Saudi Arabia and was not interested to join the department anymore.
- F. Incorrect, according to the statement of the father and father in law of appellant wherein they stated that the appellant was not interested in service anymore and preceded to Saudi Arabia.
- G. Incorrect the order of respondents are based on facts and in accordance with law and rules.
- H. Incorrect no malafide intention was shown on the part of respondents and the order is legal, lawful and in accordance with law/rules.
- I. Incorrect all the formalities were fulfilled and no malafide intention has shown by respondents.

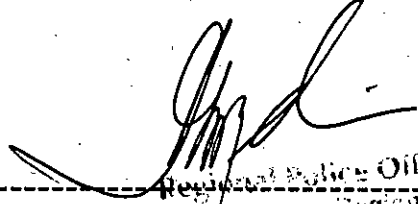
### Prayer

Keeping in view the above facts it is prayed that on acceptance of this Para Wise reply on facts and on grounds the instant appeal may kindly be dismissed with costs please.

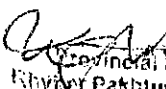
District police officer Dir.

  
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DISTRICT POLICE OFFICER  
DIR U.P.F.R.

Regional police officer Malakand,  
at Saidu Sharif, Swat

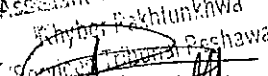
  
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Regional Police Officer,  
Malakand Region,  
Saidu Sharif, Swat.

Provincial Police Officer, Khyber  
Pakhtunkhwa, Peshawar.

  
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Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.

Vetted subject to  
Annexed all relevant documents

Assistant Advocate General  
Khyber Pakhtunkhwa  
Peshawar



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

S- Appeal, 1216-M of 2019.

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No, 319

(Petitioner)

**Versus**

Provincial police officer Khyberpakhtunkhwa Peshawar & others.

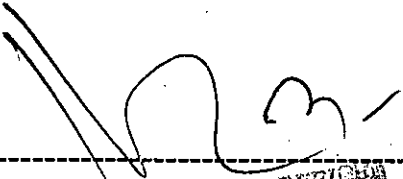
(Respondents).

**POWER OF ATTORNEY.**

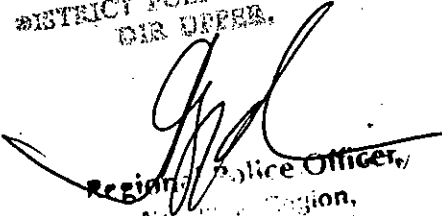
We, the undersigned do hereby authorized and appoint Mr. Zewar Khan, DSP/Legal Dir Upper to appear in the above mentioned appeal on each and every date fixed by the Honorable Service Tribunal.

He is also authorized to file para-wise comments and all relevant documents before the Tribunal.

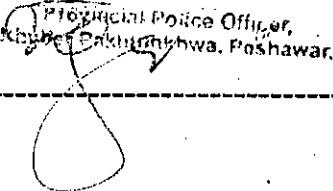
**District Police Officer  
Dir Upper.**

  
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DISTRICT POLICE OFFICER  
DIR UPPER.

**Regional Police Officer,  
Malakand, at swat.**

  
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Regional Police Officer,  
Malakand Region,  
Sana Shari, Swat.

**Provincial Police Officer, Khyber  
Pakhtunkhwa, Peshawar.**

  
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Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
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(Respondents).

**AFFIDAVIT**

I the undersigned do hereby solemnly affirm and declared that the contents of para wise reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable court.



Deponent,  
Zewar khan,  
DSP/LEGAL Dir upper.

CHARGE SHEET.

I, Mir Qasim Khan, District Police Officer, Dir Upper, competent authority, hereby charged you Constable Sher Wali No. 319 as follows:-

Where as you Constable Sher Wali No. 319 while posted in Police Station Gandigar, absented your self w.e.f 1.9.2009 to date without prior permission of your superiors.


All there based on your malafied intention, negligence, omission and disinterest in duty which is gross misconduct on your part.

2. By reason of the above, you appear to be guilty of misconduct under section 3 of the NWFP Removal from service (Special Powers) ordinance 2000 and have rendered yourself liable to all or any of the penalties specified in Section 4 of the Ordinance ibid.

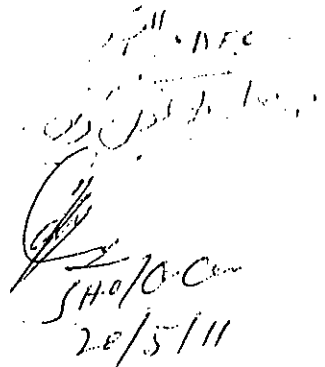
3. You are therefore, directed to submit your written defence with 07 days of the receipt of this charge sheet to the enquiry officer/committee.

4. Your written defence, if any should reach to the enquiry committee within the specified period, failing which it should be presumed that you have no defence to offer and in that case the ex-patre will be taken against you.

5. Statement of allegations is enclosed.

  
(Mir Qasim Khan)  
District Police Officer,  
Dir Upper.

No. 469-70 /CC, Dated Dir Upper the 18 105/2011.  
Copy to Constable Sher Wali No. 319 to submit your reply to the charge sheet within stipulated period.

  
SHO/CC  
28/5/11

۱۹/۵/۰۹

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Issue charge sheet for emergency SOPo wari.

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D/O. Dir. W. 13. 5. 011

علی میرزا محمد شریف قاسم خان بن علی محمد خان (1845-1895) سے دور  
 کے ایک خط اور شہزادہ درجہ شریف علی خان دور میرزا دادا خان  
 جو علی میرزا محمد شریف قاسم خان بن علی محمد خان (1845-1895)  
 سے علی میرزا محمد شریف قاسم خان بن علی محمد خان (1845-1895)  
 سے علی میرزا محمد شریف قاسم خان بن علی محمد خان (1845-1895)  
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 سے علی میرزا محمد شریف قاسم خان بن علی محمد خان (1845-1895)  
 سے علی میرزا محمد شریف قاسم خان بن علی محمد خان (1845-1895)

(علی میرزا)

علی میرزا محمد شریف قاسم خان بن علی محمد خان (1845-1895)  
 1-53853-53853-1

Attested  
 (Seal)  
 H.C.P.S. Seal  
 22-5-011

کے

صیت لیا گیا اور شہر کے لوگوں کو قوم باندھ دیا گیا اور ان کو قتل کرنے کے لئے  
 دیکھ کر لوگوں نے یہ کہا کہ یہ لوگوں کو قتل کرنے کے لئے لیا گیا ہے۔ 319  
 پانچ - پانچ برس تک یہ لوگوں کو قتل کرنے کے لئے لیا گیا ہے۔  
 یہ لوگوں کو قتل کرنے کے لئے لیا گیا ہے۔ ان کو قتل کرنے کے لئے  
 قتل کرنے کے لئے لیا گیا ہے۔ 1-6  
 قتل کرنے کے لئے لیا گیا ہے۔ ان کو قتل کرنے کے لئے  
 قتل کرنے کے لئے لیا گیا ہے۔ ان کو قتل کرنے کے لئے  
 قتل کرنے کے لئے لیا گیا ہے۔ ان کو قتل کرنے کے لئے  
 قتل کرنے کے لئے لیا گیا ہے۔ ان کو قتل کرنے کے لئے



15701-0367597-1  
 22-5-011

Attested  
 (Signature)  
 P.H.C. P.S. S. Gaud.  
 22-5-011



آزاد دفتر ASD صاحب سرین داڑی  
کمرت 140 صاحب شیرینگل

کار کا خریدیہ کانسٹیبل شیرولی عمر 319  
ولد حبیب اللہ ساکن شیرینگل کو طلاق کر کے کہ 09 سالہ  
حکمانہ ننگوٹریں لغرض قلمبند بیان بابت شیر حاضری  
نورج 5-23 کو وقت 09:00 بجے دفتر ہذا پیش ہوئے  
011 لعودت عدم موجودگی کانسٹیبل کو والد ماجد یا  
ذریعہ رشتہ دار سے تحریر و قلمبند بیان لیا جا کہ  
قلمبند سندہ لغرض بیان دفتر ہذا حاضر ہوئے۔

مزدور ہے۔

Sd/- Wari

19-5-011

بسم الله الرحمن الرحيم  
الحمد لله الذي هدانا لهذا  
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