



10.07.2023

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

Learned counsel for the appellant seeks time for preparation of arguments. Adjourned. To come up for arguments on 15.09.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED
K.P. ST
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.

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
F.P.S.T
Peshawar

Mutazem Shah



(Rozina Rehman)
Member (J)

23rd 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
F.P.S.T
Peshawar

Mutazem Shah


(Fareeha Paul)
Member (E)

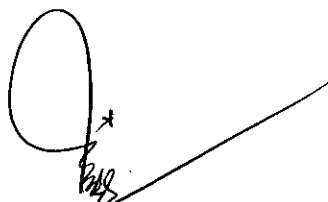

(Kalim Arshad Khan)
Chairman

04.01.2023

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

To come up alongwith connected Service Appeal bearing No. 515/2018 titled "Abdul Tawab Versus Superintendent of Police, FRP, Malakand Range, Swat and 02 others", on 10.02.2023 before the D.B.

SCANNED
K-1
Peshawar



(Mian Muhammad)
Member (E)




(Salah-Ud-Din)
Member (J)

10.02.2023

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. Advocate General alongwith Inamul Haq, Inspector 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
K-1
Peshawar




(FAREEHA PAUL)
Member (E)



(ROZINA REHMAN)
Member (J)


10.06.2022

Bench is incomplete. Therefore,
the case is adjourned to 30.08.2022
before the same.


READER.

30.08.2022

Bench is incomplete, therefore, case is adjourned to
07.11.2022 for the same as before.

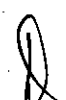

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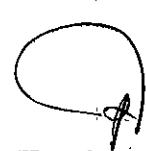
07.11.2022

Appellant present in person. Mr. Kabirullah Khattak,
Additional Advocate for the respondents present.

Former requested for adjournment due to engagement of
learned senior counsel for the appellant before Honourable
Peshawar High Court today. Adjourned. To come up for
arguments on 04.01.2023 before the D.B.

SCANNED
KPST
Peshawar


(Fareeha Paul)
Member (E)

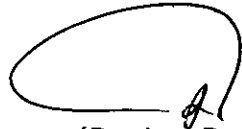

(Rozina Rehman)
Member(J)

29.07.2021

Appellant present through counsel.

Muhammad Adeel Butt learned Additional Advocate General
Zubair A.S.I for respondents present.

Former made a request for adjournment. Request is accorded.
To come up for arguments on 22.11.2021 before D.B.



(Rozina Rehman)
Member (J)



Chairman

22.11.2021

Nemo for the appellant.

Mr. Noor Zaman Khattak, District Attorney for the
respondents present.

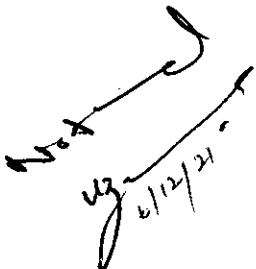
Appellant/counsel be put on notice for 14.03.2022
for arguments before D.B.



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



(Rozina Rehman)
Member (J)



uz
6/12/21

14.03.2022

Due to retirement of the Worthy Chairman, the
Tribunal is defunct, therefore, case is adjourned to
10.06.2022 for the same as before.

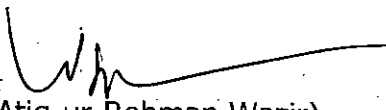


Reader

29.10.2020

Junior to counsel for the appellant, Zara Tajwar, DDA for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 06.01.2021 for hearing before the D.B.


(Atiq-ur-Rehman Wazir)
Member

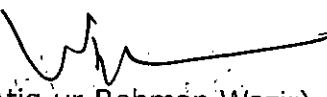

Chairman

06.01.2021

Counsel for the appellant and Asstt. A.G alongwith Noshawan, Inspector (Legal) for the respondents present.

Learned counsel referred to the impugned order dated 06.12.2008 and stated that the same was given effect from 13.10.2018. She, therefore, requests for adjournment of instant appeal to a date after the hearing of proposition regarding retrospective applicability of penalty by a Larger Bench of this Tribunal.

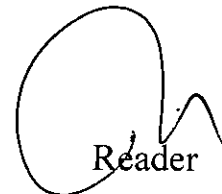
Adjourned to 14.4.2021 for hearing before the D.B.


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


Chairman

14.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 29.07.2021 for the same as before.



Reader

29.01.2020 No one present on behalf of appellant. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Taj Fareen Khan S.I representative of respondent department present and submitted written reply/comments. Adjourn. To come up for rejoinder if any and arguments on 01.04.2020 before D.B. Appellant be put to notice for the date fixed.


Member

1-04-2020- Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on

24-06-2020-


Reader

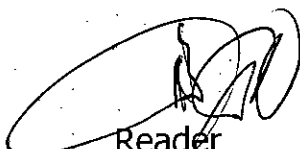
24-6-20

Due to public holiday, the case is adjourned. To come up for the same on 25-8-20


Reader

25.08.2020

Due to summer vacation case to come up for the same on 29.10.2020 before D.B.


Reader

06.09.2019

Counsel for the appellant present.

On the strength of judgments of this Tribunal handed down in Appeal No. 1385/2017 and No. 264/2012 instant appeal is admitted for regular hearing subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 05.11.2019 before S.B.

Appellant Deposited
Security & Process Fee

4/9/19


Chairman

05.11.2019

Counsel for the appellant and Addl. AG alongwith Hamshed ASI for the respondents present.

Representative of respondents seek time to furnish the comments. Adjourned to 17.12.2019 on which date the requisite reply/comments shall positively be submitted.

SCANNED
KPST
Peshawar


Chairman

17.12.2019

Nemo for appellant. Addl. AG alongwith Daud Shah, S.I for the respondents present.

Representative of respondents seeks time to furnish reply/comments. Adjourned to 29.01.2020 on which date the requisite reply/comments shall positively be submitted.

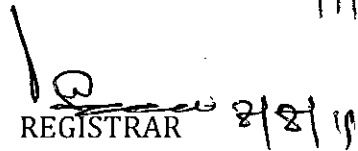


Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1046/2019


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
<p>1-</p> <p>2-</p>	<p>08/08/2019</p> <p>SCANNED KEST Peshawar</p> <p>16/08/19</p>	<p>The appeal of Mr. Shafiq Khan resubmitted today by Uzma Syed 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 2/8/19 </p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>06/09/19</u></p> <p style="text-align: right;">  CHAIRMAN </p>

The appeal of Shafiq Khan received today i.e. on 22-07-2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexure-A, B, C & E of the appeal are illegible which may be replaced by legible/better one.

No. 1277 /S.T,

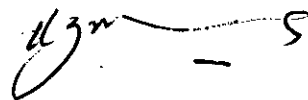
Dt. 26-7- /2019


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mst. Uzma Syed Advocate,
Peshawar.

Sir,

all objections were removed & resubmitted.

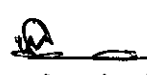


5-8-2019

Objections are still stand and the appeal in hand is returned again to the counsel for the appellant for completion and resubmission within 15 days.

No. 1374 /S.T

Dt. 05/8/2019


Registrar

Six.

all objections ^(Auto E) removed & resubmitted
the file

[Signature]
FBI
8-8-2019
-F-28

2

06.01.2021

Counsel for the appellant and Asstt. A.G alongwith Noshawan, Inspector (Legal) for the respondents present.

Learned counsel referred to the impugned order dated 06.12.2008 and stated that the same was given effect from 13.10.2018. She, therefore, requests for adjournment of instant appeal to a date after the hearing of proposition regarding retrospective applicability of penalty by a Larger Bench of this Tribunal.

Adjourned to 14.4.2021 for hearing before the D.B.

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

Chairman

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1046 /2019

Shafiq Khan

V/S

Police Deptt:

INDEX

S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	1-4
2.	Copy impugned order	-A-	5
3.	Copy of tribunal judgment	B & C	6-13
4.	Copy of departmental appeal	-D-	14
5.	copy of rejection order	-E-	15
6.	Vakalat Nama	-----	16


APPELLANT

THROUGH:


(UZMA SYED)

&

SYED NOMAN ALI BUKHARI
(ADVOCATES, PESHAWAR)

①

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2019

Shafiq Khan Ex-Constable No. 576
District Buner

.....(Appellant)

VERSUS

1. Inspector General of Police ,KP Peshawar.
2. The Regional Police officer, Malakand, at Saidu Sharif Swat .
3. District Police Officer Buner.

.....(Respondents)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 25.06.2019 RECEIVED BY APPELANT ON 1.7.2019 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT AGAINST THE ORDER DATED 06.12.2008 WAS REJECTED FOR NO GOOD GROUNDS.

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 25.06.2019 and 06.12.2008 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

Facts giving rise to the present service appeal are as under:

1. That the appellant was the employee of the police and was on the strength of the police force Buner.
2. That during Taliban Militancy in Buner appellant was dismissed from the service by the respondent no.3 vide order dated 06.12.2008. **Copy of impugned order is attached as Annexure-A.**
3. That, neither any show cause, charge sheet, statement of allegation, inquiry, opportunity of defense, final show cause notice, opportunity of personal hearing has been served and provided respectively nor any publication has ever been made calling him for assumption of his duty.
4. That some of the colleagues of the appellant have been re-instated by the Service tribunal, Peshawar . **Copy of Judgments is attached as Annexure-B & C**
5. That appellant Feeling Aggrieved, immediately preferred departmental appeal before respondent no.1 & requested therein that case of the appellant is at par with those police officer, who have been re-instated in to service by service tribunal Peshawar, so the appellant has also entitled to re-instatement in principle of natural justice. **Copy of departmental appeal is attached as Annexure - D .**
6. That the departmental appeal of the appellant was rejected by respondent no.1 vide order dated 25.06.2019 received by the Appellant on 01.07.2019 for no good grounds. **Copy of rejection order is attached as Annexure- E.**
7. That appellant being aggrieved of the impugned order of respondent and having no other adequate and efficacious remedy, file this service appeal inter-alia on the following grounds amongst others.

FOUNDATIONS:

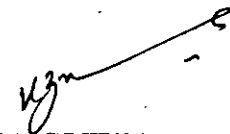
- A) That the appellant has not been treated in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan 1973 by the respondents and the appellant has been dismissed from his legal service without adopting legal Pre-requisite mandatory Legal procedure. The order passed in violating of mandatory provision of law, such order is void and illegal order according to superior court judgment reported as 2007 SCMR 834. Hence the impugned order is liable to be set aside.
- B) That the impugned order was retrospective order which was void in the eye of law and also void according to Superiors Court Judgment reported as 2002 SCMR 1129, 2006 PLC 221 and KPK Service Tribunal Judgment titled as Abdul Shakoore Vs Govt of KPK.
- C) That the appeal of the appellant was rejected on the ground that the appeal is time barred but according to superior court judgment reported as 2015 SCMR 795 there is no limitation was run against the void order. Moreover, the Supreme court of Pakistan has laid down vide reported judgment PLD 2003 SC 724 and 2003 PLC (CS) 796 that the delay if any shall be condoned in respect of employee where delay already condoned in identical circumstances. All the person shall be treated equally who are sailing in the same board,
- D) That the appellant has highly been discriminated. Other police officials, who were also dismissed with appellant have been reinstated by the respondent No 1 and kp service tribunal, whereas, appellant has been denied the same treatment. The case of the appellant is similar and identical in all respect with those, who have been reinstated.
- E) That neither charge sheet, statement of allegation, show cause notice was not served upon the appellant nor was inquiry conducted against the appellant, which was necessary and mandatory in law before imposing major punishment which is violation of law, rules and norms of justice.
- F) That the appellant has not been treated according to law despite he was a civil servant of the province, therefore, the impugned order is liable to be set aside on this score alone.
- G) That no chance of personal hearing was provided to the appellant and as such the appellant has been condemned unheard throughout.
- H) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

5

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


APPELLANT
Shafiq Khan

THROUGH:


(UZMA SYED)
&

(SYED NOMAN ALI BUKHARI)
ADVOCATES, PESHAWAR

C R D E R.

(A)

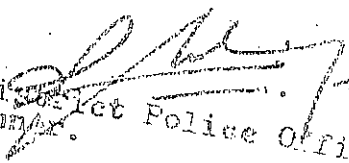
(6)

As reported you Constable Shafiq Khan NO. 575 was posted at Police Lines Dagher According to the report received in this office you absented your-self from lawful duty vide D.D.NO. 15 dated 2.9.2008 Daily Diary Police Lines and remain absent till this date.

You were informed and directed to assume your duty immediately and report to your place of duty but you deliberately did not report your arrival and remain absent. Again on 13.10.2008 you were informed through a written notice with the direction to join your duty but again you fail to report.

Your this act is highly irresponsible, indisciplined and misconduct on your part which is liable U/S 5 Sub Section (4) of the Removal from Service (Special Power) Ordinance 2000 (Amendment) Ordinance 2001.

I, as competent authority, am, therefore, satisfied to proceed under Section 5 of Sub-Section (4) of the Removal from Service (Special Powers) Ordinance 2000 (Amendment) Ordinance 2001 and dispense with the enquiry proceedings as laid down in the said ordinance and am further satisfied that there is no need of holding departmental enquiry since the accused Police Official Constable Shafiq Khan NO. 575 has been found guilty of ~~gross~~ misconduct as defined in the said Ordinance, I, Syed Zubair Shah D.P.O. Buner as competent authority therefore impose major penalty by dismissed him from service from the date of his absence.


District Police Officer,
Buner.

O.B.NO. 117
Dated. 6/11 2008.

8 7

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 1385/2017

Date of Institution ... 11.12.2017

Date of Decision ... 29.01.2019



Aurangzeb Ex-Constable No. 390 District Buner. ... (Appellant)

VERSUS

The Regional Police Officer, Malakand Saidu Sharif, Swat and another.
... (Respondents)

Present.

Miss Uzma Syed & S. Nauman Ali Bukhari,
Advocates

... For appellant

Mr. Muhammad Riaz Paindakhel,
Asstt. Advocate General

... For respondents.

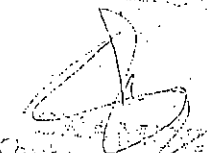
MR. HAMID FAROOQ DURRANI,
MR. HUSSAIN SHAH,

... CHAIRMAN
... MEMBER(E)

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

ATTESTED


Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

1. Appellant is aggrieved of orders dated 30.05.2009 and 29.11.2017 passed by the respondents No. 2 and 1, respectively. The former order pertains to dismissal of service of appellant while the latter is regarding rejection of his departmental appeal.

2. The facts, as gatherable from record, are that th appellant, while posted at Kingargalai was found absent from duty w.e.t. 05.05.2009. He


was, therefore, proceeded against departmentally and the order dated 30.05.2009 was passed under the provisions of Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000. Pertinently, the enquiry proceedings were dispensed with in the matter. The departmental appeal of appellant was rejected on the sole ground of being barred by time.

3. We have heard learned counsel for the appellant and learned Assistant Advocate General on behalf of the respondents.

It was the contention of learned counsel for the appellant that the impugned order of dismissal from service, though passed on 30.05.2009, was given effect from the date of absence of appellant i.e. 05.05.2009. In her view the order was, therefore, void and the delay in submission of departmental appeal was not to be counted to the detriment of appellant. It was further contended that admittedly no enquiry was conducted against the appellant, however, he was awarded major punishment of dismissal from service and there was consistent view of the Apex Court requiring holding of proper enquiry in similar matters. She relied on judgments reported as 2000-SCMR-1743 and 2008-SCMR-609.

On the other hand, learned Asstt. Advocate General argued that the departmental appeal of appellant was hopelessly time-barred and in view of the travel history of appellant starting from 20.08.2009 and ending on 15.06.2017, his appeal was rightly dismissed:

ATTESTED


Secretary
Tribunal
Peshawar

4. It is conspicuously noted that proceedings against the appellant were held under the erstwhile Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 which, no doubt, contained provisions for dispensing with the enquiry but ^{for} reasons to be recorded in writing. At the same time, the provisions contained in Section 3 of the Ordinance *ibid* made it mandatory for the departmental authority to issue order in writing and inform the accused of the action proposed to be taken with regard to him and the grounds of the action. Reasonable opportunity of showing cause against the proposed action was also to be given to the accused under the law *ibid*. The exceptions to the said mandatory provisions were in terms that where the competent authority was satisfied that in the interest of security of Pakistan or any part thereof it was not expedient to give such opportunity or in cases where a person, being proceeded against upon conviction by a court of law, was sentenced to imprisonment or fine.

ATTESTED

In the case in hand the enquiry proceedings were admittedly not held against the appellant while the dispensing with of such proceedings was not supported by reasons as required by the law. It is also a fact that no show cause notice, as obligated by Section 3 of Khyber Pakhtunkhwa Removal from Service (Special Power) Ordinance, 2000 was served upon the appellant before imposing major penalty of dismissal from service. In the circumstances, it can be safely held that the illegality on the part of departmental authority was not curable without setting aside the impugned orders regardless the delay in submission of departmental appeal.

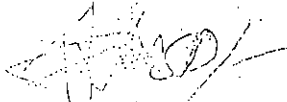
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5. In view of the above facts and also following the judgment of this Tribunal passed in Appeal No. 264/2012, decided on 06.10.2017, we allow the appeal in hand and remit the matter to departmental appellate authority for re-deciding the appeal of appellant, within three months, on its merits and in accordance with law.

Parties are left to bear their respective costs. File be consigned to the record room.


(HUSSAIN SHAHI)
MEMBER (E)


(HAMID FAROOQ DURRANI)
CHAIRMAN

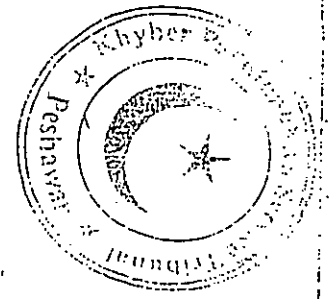
ANNOUNCED
29.01.2019

Certified to be a true copy

Secretary
Service Tribunal
Peshawar

Date of Presentation of Application 29-01-19
Number of Wards 2000
Copping Fee 12
Urgent —
Total 12
Name of Applicant [Signature]
Date of Completion of Work 14-2-19
Date of Delivery of Copy 14-2-19

Date of
order/
proceeding

Order or other proceedings with signature of Judge or Magistrate



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 264/2012

Date of Institution ... 21.02.2012

Date of Decision ... 06.10.2017

Amanat Khan Ex Constable No. 11871/C, District Buner

Appellant

Versus

1. The Deputy Inspector General of Police, Malakand, Region
Saidu Sharif, Swat.

2. The District Police Officer, Buner.

Respondents

06.10.2017

JUDGMENT

MUHAMMAD HAMID MUGHAL, MEMBER: - Appellant

present. Learned counsel for the appellant and Mr. Kabir Ullah
Khanik, Assistant Advocate General for the respondents present;

2. The appellant Amanat Khan Ex Constable, who was recruited
in the year 2007, has filed the present appeal u/s 4 of the Khyber
Pakhtunkhwa Service Tribunal Act, 1971 against the respondents
and challenged therein the impugned order dated 26.08.2008 passed
by respondent No. 2, whereby the appellant was awarded major
punishment of reprimand and suspension from the post of Constable
for 30 days with loss of pay and allowances. The order

ATTESTED

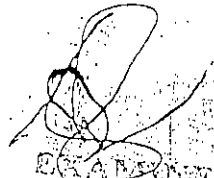
dated 20.08.2012 whereby his application for reinstatement in service was filed by respondent No. 1 being time barred.

3. Learned counsel for the appellant contended that before the issuance of impugned order of removal from service neither any charge sheet and statement of allegations were drafted, nor inquiry conducted, nor opportunity of defence was afforded nor final show cause notice and opportunity of personal hearing was given to the appellant. Further argued that no limitation runs against the illegal/void order. Further argued that the appellant has not been treated in accordance with law as such the impugned orders are liable to be set aside and the appellant be reinstated in service.

4. Learned Assistant Advocate General while opposing the present appeal argued that the present appeal is time barred. Further argued that the appellant was reported to have gone abroad without securing ex-Pakistan leave and the competent authority was satisfied with the dispensing with the inquiry proceeding against the appellant as provided in Removal From Service (Special Power) ordinance 2000 (Amendment) 2001. Further argued that the appellant was disinterested towards his duties and escaped there from. Further argued the impugned orders were validly passed and doesn't warrant any interference.

5. Arguments heard, File perused.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

18

6. Perusal of the record shows that the appellant was removed from his service vide order dated 26.08.2008 and after a deep slumber he preferred appeal/representation on 08.04.2011 which was dismissed by the respondent No. 1 vide order dated 14.05.2011. The appellant then filed another application before respondent No. 1 for his reinstatement which application was rejected being time barred.

7. Apparently the present appeal of the appellant is badly time barred, which fact also shows volumes about the conduct of the appellant that he was not at all interested to join the service. However, the fact cannot be lost sight of that serious irregularities/illegality were committed by the respondent in the impugned order and in the proceeding culminating in the passage of the impugned order which go to the roots of the matter. No proper show cause notice was served upon the appellant prior to the issuance of the impugned order of Removal from Service. Similarly the appellant was awarded punishment of Removal from service with retrospective effect. Consequently the impugned order of Removal from Service is set aside and the appellant is reinstated. The present appeal is decided on technical grounds, more so, while keeping in view the conduct of the appellant, he shall not be entitled to any back benefit hence the absence period as well as the intervening period during which the appellant has not performed

Done

ATTESTED
[Signature]
Secretary

duty shall be treated as extra-ordinary leave without pay. The department is at liberty to conduct de-novo proceedings/inquiry against the appellant in accordance with law. The present appeal is decided in the above terms. Parties are left to bear their own costs. File be consigned to the record room after its completion.

Announced SD/- M. Hamid Mughal,
06.10.2017 *Number*

SD/- Ahmad Hassan,
Number

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 12-10-2017
Number of Words 1600
Copying Fee 10
Urgent 2
Total 12
Name of Copy [Signature]
Date of Completion of Copy 12-10-2017
Date of Delivery of Copy 12-10-2017

(5) (15)

TO THE HONORABLE INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA

Departmental Appeal (Through proper channel) against the order Dated
06/12/2008 where by the appellant was Dismissed From The Service.

The Appellant submits as follows

1. That the appellant was appointed as police Constable and was allotted Constables No 576 and was placed on the strength of District Police Buner (appointment order attached as annex ,A)
2. That Due to the Talibanisation in District Buner and due to Threats to the appellant and his family he left District Buner in Emergency Condition.
3. That vide impugned order Dated 06/12/2008 the appellant dismissed from service without issuing any show case Notice and without even informing him (Dismissal order is attached as annex ,B)
4. That the impugned order has been passed at the back of the appellant and rule of natural justice i-e audi altrum partem has been violated while dismissing the appellant from service .
5. That other similarly placed candidates have already been re-appointed by the competent authority .
6. That the impugned order is illegal ,voide and against the natural justice.

it is therefore kindly requested that the appellant be re-instated is service with all back benefits.

Appellant

Shafiq Khan s/o Amir Ahmad khan District Buner

Dated:17/06/2019



2027/E
1-7-19
2202

(E)

(K)

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.

/19, dated Peshawar the 25/06 /2019.

To: The Regional Police Officer,
Malakand at Swat.

Subject: APPEAL.

Memorandum

The Competent Authority has examined and filed the appeal submitted by Ex-Constable Shafiq Khan No. 576 of Buner District Police against the punishment of dismissal from service awarded by DPO, Buner vide OB No. 117, dated 06.12.2008, being badly time barred.

The applicant may please be informed accordingly.

(Signature)
(SYED HASAN UL-HASSAN)
Registrar,

For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

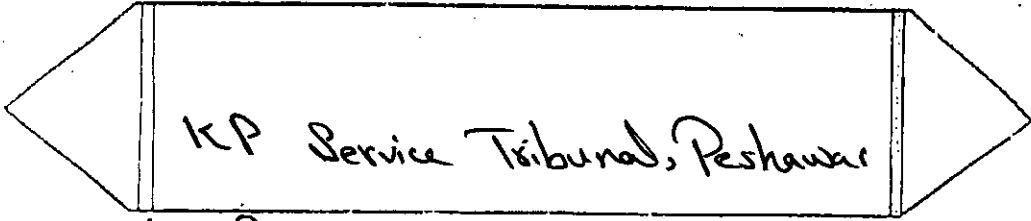
No 7104/E,
dt 01-07-19

EC/DPO Buner

For information the concerned
may be informed accordingly
please.

(Signature)
Officer Suptd:
For: Registrar/Police Officer,
Malakand at Swat Swat

بعدالت



2019ء منجانب

شفیق خان بنام

Pedia

موزخہ

مقدمہ

دعویٰ

بزم

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
 آن مقام ~~پیشاد~~ کیلئے ~~عظمت~~ سپرد ~~ہو~~ ~~ایڈووکیٹ~~
 مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
 وکیل صاحب کو رضی نامہ کرنے و تفریق ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
 لاء ورت ڈگری کرنے اجراء اور صولی چیک، ورد پیہ ار عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرائس پر دستخط کرنے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کیلٹرنہ یا اپیل کی براندگی اور منسوخی
 نیز دائر کرنے اپیل ٹرانس و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
 کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے جگہ تفریق کا اختیار
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا سہاقت
 و اخذ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب ~~ہوگا~~
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
 مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

Attested

Accepted

19 - 7 - 2019

Peshawar

شفیق خان و لیا میر احمد خان سانی سانی
 بوئیر 15101-9517802-7

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No. 1046/2019

Shafiq Khan Ex-Constable No. 576 District Buner

..... Appellant

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer, Malakand Region at Saidu Sharif Swat.
3. District Police officer Buner.

..... Respondents

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5.	Copy of written notice & Show Cause Notice	B, C	6 - 7

DISTRICT POLICE OFFICER,
BUNER.
(Respondent No. 03)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1046/2019

Shafiq Khan Ex-Constable No. 576 District Buner

..... Appellant

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer, Malakand Region at Saidu Sharif Swat.
3. District Police officer Buner.

..... Respondents

PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS.

Respectfully sheweth:

Preliminary Objections:-

1. That the present service appeal is badly time barred.
2. That the service appeal is not maintainable in its present form.
3. That the appellant has not come to this Honorable Tribunal with clean hands.
4. That the appellant has concealed material facts from this august tribunal.
5. That the appellant has got no cause of action and locus standi to file instant appeal.
6. That the appellant has been estopped due to his own conduct.

ON FACTS:

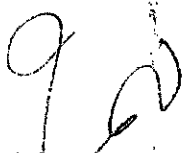
1. Correct to the extent that the appellant was enlisted on 26.07.2007 as Constable in District Buner but in his initial stage of service he remained absent for a period of more than 03 months.
2. Incorrect. That the appellant was absented from his law full duty on 02.09.2008, without any leave or prior permission of his senior and was remained absent for a period of more than 03 months. Therefore he was rightly dismissed from service. **(Copy of absence report DD No. 19 dated 02.09.2008 as Annexure "A")**.
3. Incorrect. That the appellant was informed through written notice about his absence with the direction to ensure his presence in the respondent department for his law full duty but he did not complied the same there after he was issued proper show cause notice but neither he submitted his reply to the show cause notice nor he made his presence in the respondent department to explain his compulsion / position. **(Copy of written notice and Show Cause Notice are Annexed as Annexure "B & C")**.
4. Pertains to record.
5. Correct to the extent that the appellant filed department appeal before the respondent No. 01 after a long period of 11 years.
6. Correct to the extent that the departmental appeal of the appellant was rejected, being badly time barred.
7. That the service appeal of the appellant is liable to dismissed on the following grounds.

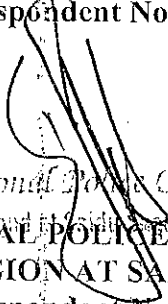
GROUNDS

- a. Incorrect. That the appellant has treated in accordance with law / rules & policy and the respondent have not committed any violation of constitution of Pakistan. Therefore the dismissal order of the appellant is legal, being passed according to the law & rules.
- b. Incorrect. That the impugned order being passed according to the law rules & policy of the Government therefore it is not a void order.
- c. Incorrect. That the appellant has filed departmental appeal after a long period of 11 years. Therefore the same has rejected in according with law and rules being badly time barred.
- d. Incorrect. That the appellant has not being discriminated but he has estopped due to his own conduct.
- e. Incorrect. That after fulfilling all codal formalities, the appellant was dismissed from service.
- f. As explained in the above proceeding Paras, the appellant has treated in accordance with law rules and policy. Therefore the impugned order is legal.
- g. Incorrect. That the appellant was offered for personnel hearing but he could not appear to respondent No. 03 to explain his compulsion / position.
- h. That the respondents also seek permission of this Honorable Tribunal to adduce more points / grounds at the time of arguments.

✓ PRAYER:

In view of the above facts and grounds it is most humbly prayed that the service appeal of the appellant may graciously be dismissed with costs.


**INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA PESHAWAR
(Respondent No. 01)**


Regional Police Officer,
**REGIONAL POLICE OFFICER,
MALAKAND REGION AT SAIDU SHARIF SWAT
(Respondent No. 02)**


**DISTRICT POLICE OFFICER,
BUNER.
(Respondent No. 03)**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. 10-6/2019

Shafiq Khan Ex-Constable No. 576 District Buner

..... **Appellant**


VERSUS

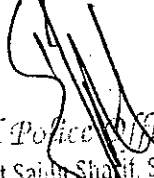
1. Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer, Malakand Region at Saidu Sharif Swat.
3. District Police officer Buner.


..... **Respondents**

AFFIDAVIT

We the above respondents do hereby solemnly affirm and state on oath that the whole contents of the accompany Para-wise comments are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honorable Tribunal.


**INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA PESHAWAR
(Respondent No. 01)**


*Regional Police Officer,
Malakand at Saidu Sharif Swat*
**REGIONAL POLICE OFFICER,
MALAKAND REGION AT SAIDU SHARIF SWAT
(Respondent No. 02)**


**DISTRICT POLICE OFFICER,
BUNER.
(Respondent No. 03)**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No. 1046/2019

Shafiq Khan Ex-Constable No. 576 District Buner

..... Appellant

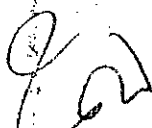
VERSUS


1. Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer, Malakand Region at Saidu Sharif Swat.
3. District Police officer Buner.


..... Respondents

AUTHORITY LETTER

We, the above respondent do hereby authorize and allow Mr. Nowsherwan Inspector Legal District Buner to file the accompany Para wise comments in Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar on our behalf and do whatever is needed in the court.


INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA PESHAWAR
(Respondent No. 01)


Regional Police Officer,
Malakand at Saidu Sharif Swat
REGIONAL POLICE OFFICER,
MALAKAND REGION AT SAIDU SHARIF SWAT
(Respondent No. 02)


DISTRICT POLICE OFFICER,
BUNER.
(Respondent No. 03)

تاریخ 19 دسمبر 2008

فونال مللاہ
 19 دسمبر 2008 کو
 50 وقت 3:30 بجے 2/9 کو سید جیل
 میں افغان ڈپو منتقلہ دپو میں برکچہ فون اطلاع دیا کہ
 وہ سابق ڈپو میں کنسٹبل شفیق جاہا 576 تعینات ہے۔ جس پر
 وہی اجازت مع بنی جلا کیے۔ لہذا کنسٹبل فزولہ زور زبانی
 ڈپو میں غیر حاضر کرے۔ اس سے اطلاع فون کنسٹبل فزولہ کو
 دیا گیا۔ ڈپو میں غیر حاضر فزولہ کو فون سے مطلع کیا
 گیا۔

جہاں علی

تخلیہ شدہ فونال مللاہ

MM. PZ Dageri

5-9-08

نوٹس پر اٹھے چاضری (13-10-08)

بنام: کنشیل شیفتی خان 576 سیکر سٹیٹ ٹرانسپورٹ ٹھکانہ ڈگر

تم کو بذریعہ نوٹس ہذا مطلع کیا جاتا ہے کہ تم ڈولیس رائسن میں تعینات تھے۔ بدوران ایمر جنسی ڈیوٹی مورخہ 2/9/2008 کو از خود بلاوجہ غیر حاضر ہو کر بدستور غیر حاضر ہو۔ تمہیں بار بار مطلع کرنے کے باوجود تم نے ابھی تک اپنی حاضری کی رپورٹ نہیں کی۔

اس لئے تمہیں بذریعہ نوٹس ہذا آخری بار مطلع کیا جاتا ہے کہ تم پانچ دن کے اندر اندر اپنی حاضری کی رپورٹ ڈولیس رائسن ڈگر میں کریں۔ بصورت دیگر تمہارے خلاف ایک طرفہ کارروائی عمل میں لائی جائیگی اور تمہیں ملازمت سے برطرف کیا جائیگا۔

[Handwritten signature]

ضلعی پولیس آفیسر

پونپیر۔ سب نوٹس عدالت محلہ

[Handwritten signature]

کنشیل شیفتی خان 576

ضلع عالی

کنشیل شیفتی خان سے خوردگیٹ سٹیٹ لائسنس ہول والی ایس ایس ڈی

PP Annexure 7

کمزائشیں والی ایس ایس ڈی 1314108

7

INSP/PP/Gagga 15-08-08

الٹا گارڈ امنور

سب جہانگیر لکھنؤ کریں

[Handwritten signature]

INSP/PP/Gagga 13/10/08

سب ضلع عالی

[Handwritten signature]

S.M. Shafiq

9.10.08

SHOW CAUSE NOTICE

1. WHEREAS, in the light of the facts, I am satisfied that no formal enquiry as contemplated by Removal from Service (Special Powers) Ordinance 2000 (Amendment) Ordinance 2001 is necessary and therefore, I am of the opinion that the allegations / misconduct call for any one or more punishments as defined in the aforesaid Rules.

2. Now, therefore, I Syed. Zubair. Shah District Police Officer, Buner under N.W.F.P. Removal from Service (Special Powers) Ordinance 2000 (Amendment) Ordinance 2001 on the following grounds of action, being authority call upon you Const:Shafiq Khan NO. 576 to show cause within 7 days of the receipt of this notice, as to why the proposed punishment should not be awarded to you and also to state at the same time, whether you desired to be heard in person.

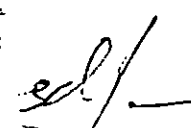
3. In case your reply is not received within stipulated period, it shall be presumed that you have nothing to offer in your defence. In that case, an ex parte action shall be taken against you.

GROUND OF ACTION.

You Const:Shafiq Khan NO. 576 while posted Const:Shafiq Khan NO. 576 intentionally absented yourself from duty with effect from 2.9.2008 vide Daily Dairy No. 15 dated 2.9.2008 of Police lines till now with out leave and prior permission.

All this negligence and indiscipline on your part amounts to gross misconduct.

And in case your reply is not received within stipulated period, it shall be presumed that you have nothing to say in your defence and ex-parte decision shall be taken.


District Police Officer,
Buner.

No. 15 /EC,

Dated 20.11 /2008.